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PROCEEDINGS AND DEBATES OF THE 93d CONGRESS, SECOND SESSION

HOUSE OF REPRESENTATIVES—*Thursday, May 9, 1974*

The House met at 12 o'clock noon.

Rev. Melvin C. Swann, Waters A.M.E. Church, Baltimore, Md., offered the following prayer:

Eternal God, our Father, creator of all things, giver of every good and perfect gift, hear us this day as we seek Thy blessings upon the deliberations of these men and women. In the midst of the complicated situations of life and the unsolved problems of the world, deliver these Thy servants from any sense of futility. May they not break faith with any of yesterday's promises, nor leave unrepaired any of yesterday's wrongs.

Help America in her deep moral, social, economical, political, and spiritual trouble, to repent, lest she perish. Standing as we are on the threshold of divine judgment, guide us and give us the strength to face our sins that hath beset us in high and low places, so that we might reorder our priorities, thus giving integrity and justice a chance.

Make us all builders of peace, to do whatever may be required of us—no matter how small a thing it may be—to bring forth peace—not "somewhere" but here, not "sometime" but now.

Send forth Thy grace upon us, O Lord, that each man and woman sent by the people may believe that they can do all things through Christ which strengthened them.

Bless us now as we would give ourselves to Your way in the midst of the conflicts of our day.

We ask it in His name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 5035. An act to amend Public Law 90–335 (82 Stat. 174) relating to the purchase, sale, and exchange of certain lands on the Spokane Indian Reservation; and

H.R. 5525. An act to declare that certain mineral interests are held by the United States in trust for the Chippewa Cree Tribe of the Rocky Boy's Reservation, Mont.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 1769) entitled "An act to reduce the burden on interstate commerce caused by avoidable fires and fire losses, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MAGNUSON, Mr. PASTORE, Mr. MOSS, Mr. STEVENS, and Mr. BEALL to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 3031. An act to change the title of the Under Secretary of Agriculture to the Deputy Secretary of Agriculture; to provide for two additional Assistant Secretaries of Agriculture; and for other purposes.

REV. MELVIN C. SWANN

(Mr. MITCHELL of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MITCHELL of Maryland. Mr. Speaker, it was a distinct pleasure to have with me this morning, at my invitation, the Reverend Melvin C. Swann of the Waters A.M.E. Church of Baltimore. This is one of the oldest A.M.E. churches in the Nation. This is a church which in the face of urban renewal and urban change decided to remain in the city, not only to give spiritual guidance to those that needed it, but to give social service to those who need it.

Reverend Swann is well beloved by his congregation because he has dedicated his life to social change and spiritual enrichment.

I, for one, am honored that he was here to give this moving and eloquent prayer at a time when this Nation so desperately needs that kind of prayer.

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON PUBLIC WORKS

The SPEAKER laid before the House the following communication from the chairman of the Committee on Public Works; which was read and referred to the Committee on Appropriations:

WASHINGTON, D.C.,
May 7, 1974.

Hon. CARL ALBERT,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the provisions of Section 2 of the Watershed Protection and Flood Prevention Act, as amended, the Committee on Public Works has approved the work plans transmitted to you which were referred to this committee. The work plans involved are the following:

State, project, executive communication, and date of approval

Colorado and Wyoming; Boxelder Creek; 770; 4/11/74.

Kentucky; Banklick Creek; 997; 4/11/74.

Nebraska; Winters Creek; 770; 4/11/74.

Pennsylvania; Nescopeck Creek; 1369; 4/11/74.

Texas and New Mexico; Cornudas, North and Culp Draws; 1369; 4/11/74.

Texas; Hitson, C and L and Washburn Draws; 1369; 4/11/74.

Kindest personal regards.

Sincerely,

JOHN A. BLATNIK,
Member of Congress,
Chairman, Committee on Public Works.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO FILE REPORTS

Mr. POAGE. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture have until midnight tonight to file reports on the bills H.R. 12000, H.R. 12526, and S. 3231.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERSONAL EXPLANATION

Mr. BRADEMAS. Mr. Speaker, I insert in the RECORD at this point a statement regarding four recorded votes that I missed recently and an indication of how I would have voted had I been present.

I refer to the following recorded votes:

APRIL 29, 1974

Rollcall No. 189—the vote on final passage of the conference report on H.R. 11793, the Federal Energy Administration bill. The report was passed 356 to 9. I was paired for the conference report and, had I been present, would have voted in favor of it.

Rollcall No. 190—the vote on final passage of H.R. 11989, the Fire Prevention and Control Act of 1974. The bill was passed 352 to 12. I was paired for this bill, and, had I been present, would have voted in favor of it.

MAY 6, 1974

Rollcall No. 205—a motion to suspend the rules and pass H.R. 296, to amend the Historical and Archeological Data Preservation Act of 1960. The motion carried 296 to 3, and the bill was passed. I was paired for this motion, and, had I been present, would have vote in favor of it.

Rollcall No. 206—a motion to suspend the rules and concur in the Senate amendment to the House amendments to S. 1125, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act. The motion carried 301 to 17, and the measure was passed. I was paired for this motion, and, had I been present, would have voted in favor of it.

TAX BENEFITS AND TAPES

(Mr. BINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BINGHAM. Mr. Speaker, according to media reports, when President Nixon inaugurated the system of having tapes made of conversations in his office, he had in mind that at some subsequent time a gift of such tapes would be deductible for tax purposes.

If it is true that the law Congress passed eliminating tax deductions for papers and files, et cetera, does not include tapes, then the law should quickly be amended to correct that obvious loophole, and I am introducing legislation to that effect today.

RESIGNATION OF MR. JENNER CALLED FOR

(Mr. LANDGREBE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANDGREBE. Mr. Speaker, it may not seem to be in good taste to bring to the floor intraparty squabbles. However, the magnitude of the present situation requires that I speak out.

For more than a year now the President has been under vicious attack. That this biased and partisan attack comes in large measure from members of the Democratic Party is to be expected. That this attack in large part comes from all the various factions of the liberal-left, who are attempting to overturn the overwhelming election mandate of 1972, is also to be expected. That many members of the Republican Party are acquiescing, following along, and not standing up in defense of the President is reprehensible.

I think it is inexcusable for Republicans not to be defending the leader of their party when he is being subjected to hostile and unjust attacks which are weakening and threaten to destroy our republican form of government with its system of checks and balances and separation of power between the executive and legislative branch.

Even though millions of dollars have been squandered in what has been to date a futile attempt to find an offense of an impeachable nature with which to hang our President, nothing of that nature has been brought to light.

Consider, in this context, the actions of the minority members of the House Judiciary Committee. The very least that the President could expect is that the members of his own party leave no stone unturned to insure that he has a fair hearing. Thus the role of the Republicans on this committee should be similar to that of a defense attorney—continually subjecting the charges of the prosecution to close cross-examination.

Therefore, it is important that the minority counsel on the Judiciary Committee be capable of standing up to the charges and attacks of the committee majority to insure that the impeachment investigation is honest and just.

The actions of Mr. Bert Jenner, as outlined in the following letter, make it clear that he is totally incapable of meeting this challenge. I join my colleague, Representative LAWRENCE J. HOGAN, in urging Representative EDWARD HUTCHINSON to request the resignation of Mr. Jenner as minority counsel on the Judiciary Committee's impeachment inquiry. The letter follows:

WASHINGTON, D.C., *May 6, 1974.*

Hon. EDWARD HUTCHINSON,
Rayburn Building,
Washington, D.C.

DEAR ED: I strongly urge that you request the resignation of Bert Jenner as our Minority Counsel on the Judiciary Committee's Impeachment Inquiry.

As we begin the most important part of our work, it is vitally important that we have reliable staff support. In effect, we do not have a Minority Counsel; we have an assistant Majority Counsel.

You will recall that a number of us on the Committee were upset over his lack of candor in not telling you before he was hired that he had contributed $1,000 to Senator Adlai E. Stevenson III's campaign and had participated in a fund-raising breakfast. That could have been overlooked, but his subsequent activities I find inexcusable.

We were also disturbed that, immediately after his appointment, he had gone on television publicly stating his views on impeachable offenses. We later questioned his statement that the President can be impeached for acts of his subordinates as well as the appropriateness of his making such a statement publicly. You will recall that we chastised him in our caucus and told him that he had been hired to advise us, not to make public statements on impeachment. He assured us he would not do it again.

In this context, I also quote from the "Rules for the Impeachment Inquiry Staff": "1) The staff of the impeachment inquiry shall not discuss with anyone outside the staff either the substance or procedure of their work or that of the Committee."

In spite of this rule and our specific instructions, he has traveled to various parts of the country making speeches on impeachment. I previously called to your attention the article from the April 12, 1974 *Austin American-Statesman* which reported on a speech Mr. Jenner made at the University of Texas Law School. The story was headlined: "Watergate Grand Jury's Report 'Loaded'; Committee Lawyer Joyful at Issuance of Subpoena".

I quote from this news story:

"One of the handful of people who know what is inside a confidential report from the Watergate grand jury to the House Judiciary Committee said in Austin Thursday 'it is loaded.'

"As he spoke to law students at the University of Texas, Albert Jenner, minority counsel to the House committee, heard the news that the group had voted to subpoena all of the tapes and documents it has requested from President Nixon.

"As he read a note slipped to him during his speech, Jenner raised his arm into the air, clenching his fist and said, 'it was issued.'

"His announcement met with immediate cheering and applause. With a big smile on his face, the attorney took off his coat, turned back toward the crowd and said, 'I've been working on that for months.'

"Before the interruption, Jenner had been telling the students of the many questions and problems that confront a lawyer placed in the position of heading up an impeachment investigation.

"Sticking to the confidentiality rules adopted by the Committee, he made no comments on a number of the more controversial issues involved in the case.

"He said if the President refuses to comply with the subpoena, the House will probably vote him in contempt. 'They will then bring to bear the judgment and anger of the people of the country and include the contempt charge in the articles of impeachment,' Jenner said.

" 'In our opinion', Jenner said, speaking of the staff of 44 lawyers and 58 other workers, 'we feel the President must be guilty of gross misuse of power' to be impeached. 'It must be extremely serious.'

"But, he said he doesn't feel the constitutional statement that the President can only be impeached and convicted for 'treason, bribery or other high crimes and misdemeanors' means that impeachable offenses are limited to 'crimes.'

" 'We feel it extends to serious abuses and offenses against the system of government in the United States of America,' Jenner said.

"Impeachment is an inquiry, not a trial, he told the students. 'It is a political function given solely to the House and . . . (by implication) gives the right to exercise any power to obtain information the House feels necessary to carry out the inquiry.'

" 'This is a Grand Inquiry, with a capital G and I,' Jenner said. And because of this, he said, he doubts the committee will compromise on the materials it seeks from the President . . ."

I not only object to his improper remarks in violation of our instructions and the Committee's rules, but also the fact that he has missed important committee meetings and Republican caucuses, apparently because he was out of the city making speeches.

I suggest that you ascertain if he is the anonymous "source in Congress" who was quoted in the *Los Angeles Times* March 23 as saying:

" 'When you hear the tape,' one source said, 'you have a lot more respect for Dean's integrity and what he told the Senate Watergate committee. It is that explosive. It is not ambiguous.' "

I further question whether or not he should have met with editors of the *Washington Star-News* in an off-the-record session or whether he should talk to any media representatives "off the record" or on.

In a number of instances Mr. Jenner has impeded the work of Republicans on the Committee. You will recall that he supported the Majority's brief on impeachable offenses and when we learned in advance of the thrust of this brief, we asked him for a broader brief stressing criminality. He said he would have it prepared for us. I specifically requested that we have this brief before, or at least at the same time, the Majority's brief was presented. I did not get it until several days after the Majority brief was made public and only after I specifically demanded it from Mr. Jenner.

Obviously there are different legal views on virtually every legal principle, but we have been getting only one view because Mr. Jenner goes along with the Majority on all matters to the detriment of Republican members of the Committee.

As you know we have requested Mr. Jenner to do research on a number of important matters and, as far as I can determine, this work has never been done.

We have the right to expect that our Minority staff will give us the kind of assistance and research support which we need to carry out our responsibilities. We have not been getting it.

He joined with the Majority on whether or not the President's lawyer should have the right to participate in our inquiry. He also joined in recommending that the staff take affidavits instead of depositions from witnesses so it would not be necessary to give the President's lawyer the right to participate.

The Democrats refused to give us one-third the staff and funds, but the least we should have is the benefit of the labors of the Republican staff we do have. We get no assistance from them whatsoever because the fourteen Republican lawyers are working under the supervision of Democratic lawyers. They are offering *no* Republican contribution.

You will remember that I previously questioned the appropriateness of Mr. Jenner hiring as his chief aide a man who had openly demonstrated his bias against the President. It was our understanding that this man would leave the staff, but we learned recently that he is still being employed in a consulting capacity.

While we do not expect our Republican Counsel to be the President's defender, we should be able to expect unbiased, professional objectivity from our Minority Counsel. We have not been getting it.

In short, Mr. Jenner has not been satisfactorily carrying out his duties in this vitally important inquiry. He has demonstrated his lack of objectivity. He has repeatedly been unresponsive to requests from Republican members for research material. He has violated the rules of the Committee as well as our instructions regarding public statements. He has, in general, been derelict in serving our needs. For these reasons, I urge that you request Mr. Jenner's resignation before we get into the important and sensitive work on which we are about to embark.

Sincerely,

LAWRENCE J. HOGAN,
Member of Congress.

TRIBUTE TO WILLIAM J. HARVIE

(Mr. ROBERT W. DANIEL, JR., asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROBERT W. DANIEL, JR. Mr. Speaker, I would like to take this opportunity to offer my personal congratulations to Mr. William J. Harvie of 3104 River Road, Hopewell, Va., who according to Mrs. Jean Asbury, the head of the American Red Cross chapter in Hopewell, Va., became the Nation's largest donor or contributor of blood to the American Red Cross, as of May 1, 1974.

Mr. Harvie has contributed 133 pints or 16 gallons of blood to the American Red Cross. He has contributed blood in Hopewell since 1942 and is eligible to continue donating blood until he reaches 65 years of age this September.

Mr. Harvie is retired from the Allied Chemical Corp. in Hopewell and is presently teaching at the Bollingbrook Day School in Petersburg, Va.

For all those persons who have benefited from his life-giving blood which Mr. Harvie has donated without any expectation of monetary benefit, I wish to extend their thanks to this gentleman whose civic-mindedness, I hope, will set an example for others to follow not only in my district but across this Nation.

When Mr. Harvie reaches 65 in September and is no longer eligible to donate his blood, his life-giving efforts will be sorely missed by the American Red Cross chapter in Hopewell.

I commend to my colleagues attention this personal story in hope that it will encourage many more Americans to give blood voluntarily to their local American Red Cross chapter throughout the Nation.

AMENDING UNITED STATES CODE TO ENCOURAGE PERSONS TO JOIN AND REMAIN IN RESERVES AND NATIONAL GUARD

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 6574) an act to amend title 38, United States Code, to encourage persons to join and remain in the Reserves and National Guard by providing full-time coverage under servicemen's group life insurance for such members and certain members of the Retired Reserve, and for other purposes, with Senate amendments thereto, and concur in the Senate amendment?

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert: That this Act may be cited as the "Veterans' Insurance Act of 1974".

SEC. 2. (a) That section 723 of title 38, United States Code, is amended as follows:

(1) The catchline is amended to read as follows:

"Veterans' Special Life Insurance".

(2) Clause (4) of subsection (a) is amended to read as follows: "(4) all premiums and other collections on such insurance and any total disability provisions added thereto shall be credited to a revolving fund in the Treasury of the United States, which, together with interest earned thereon, shall be available for the payment of liabilities under such insurance and any total disability provisions added thereto, including payments of dividends and refunds of unearned premiums".

(3) Clause (5) of subsection (b) is amended to read as follows: "(5) all premiums and other collections on insurance issued under this subsection and any total disability income provisions added thereto shall be credited directly to the revolving fund referred to in subsection (a) of this section, which together with interest earned thereon, shall be available for payment of liabilities under such insurance and any total disability provisions added thereto, including payments of dividends and refunds of unearned premiums".

(4) Subsections (d) and (e) are hereby repealed.

(b) The analysis of chapter 19 of title 38, United States Code, is amended by deleting
"723. Veterans' special term insurance."
and inserting in lieu thereof the following:
"723. Veterans' Special Life Insurance.".

SEC. 3. Clause (5) of section 765 of title 38, United States Code, is amended to read as follows:

"(5) The term 'member' means—

"(A) a person on active duty, active duty for training, or inactive duty training in the uniformed services in a commissioned, warrant, or enlisted rank, or grade, or as a cadet or midshipman of the United States Military Academy, United States Naval Academy, United States Air Force Academy, or the United States Coast Guard Academy;

"(B) a person who volunteers for assignment to the Ready Reserve of a uniformed service and is assigned to a unit or position in which he may be required to perform active duty, or active duty for training, and each year will be scheduled to perform at least twelve periods of inactive duty training that is creditable for retirement purposes under chapter 67 of title 10;

"(C) a person assigned to, or who upon application would be eligible for assignment to, the Retired Reserve of a uniformed service who has not received the first increment of retirement pay or has not yet reached sixty-one years of age and has completed at least twenty years of satisfactory service creditable for retirement purposes under chapter 67 of title 10; and

"(D) a member, cadet, or midshipman of the Reserve Officers Training Corps while attending field training or practice cruises."

SEC. 4. Section 767 of title 38, United States Code, is amended as follows:

(1) Subsection (a) is amended to read as follows:

"(a) Any policy of insurance purchased by the Administrator under section 766 of this title shall automatically insure against death—

"(1) any member of a uniformed service on active duty, active duty for training, or inactive duty training scheduled in advance by competent authority;

"(2) any member of the Ready Reserve of a uniformed service who meets the qualifications set forth in section 765(5)(B) of this title; and

"(3) any member assigned to, or who upon application would be eligible for assignment to, the Retired Reserve of a uniformed service who meets the qualifications set forth in section 765(5)(C) of this title;

in the amount of $20,000 unless such member elects in writing (A) not to be insured under this subchapter, or (B) to be insured in the amount of $15,000, $10,000, or $5,000. The insurance shall be effective the first day of active duty or active duty for training, or the beginning of a period of inactive duty training scheduled in advance by competent authority, or the first day a member of the Ready Reserve meets the qualifications set forth in section 765(5)(B) of this title, or the first day a member of the Reserves, whether or not assigned to the Retired Reserve of a uniformed service, meets the qualifications of section 765(5)(C) of this title, or the date certified by the Administrator to the Secretary concerned as the date Servicemen's Group Life Insurance under this subchapter for the class or group concerned takes effect, whichever is the later date."

(2) Subsection (b) is amended by deleting "ninety days" wherever it appears therein and inserting in lieu thereof "one hundred and twenty days".

(3) Subsection (c) is amended to read as follows:

"(c) If any member elects not to be insured under this subchapter or to be insured in the amount of $15,000, $10,000, or $5,000, he may thereafter be insured under this subchapter or insured in the amount of $20,000, $15,000, or $10,000 under this subchapter, as the case may be, upon written application, proof of good health, and compliance with such other terms and conditions as may be prescribed by the Administrator. Any former member insured under Veterans' Group Life Insurance who again becomes eligible for Servicemen's Group Life Insurance and declines such coverage solely for the purpose of maintaining his Veterans' Group Life Insurance in effect shall upon termination of coverage under Veterans' Group Life Insurance be automatically insured under Servicemen's Group Life Insurance, if otherwise eligible therefor."

SEC. 5. (a) Section 768 of title 38, United States Code, is amended as follows:

(1) Subsection (a) is amended by inserting "or while the member meets the qualifications set forth in section 765(5) (B) or (C) of this title," immediately before "and such insurance shall cease".

(2) Clauses (2) and (3) of subsection (a) are each amended by deleting "ninety days"

wherever it appears therein and inserting in lieu thereof "one hundred and twenty days".

(3) Subsection (a) is further amended by adding at the end thereof the following:

"(4) with respect to a member of the Ready Reserve of a uniformed service who meets the qualifications set forth in section 765 (5) (B) of this title, one hundred and twenty days after separation or release from such assignment—

"(A) unless on the date of such separation or release the member is totally disabled, under criteria established by the Administrator, in which event the insurance shall cease one year after the date of separation or release from such assignment, or on the date the insured ceases to be totally disabled, whichever is the earlier date, but in no event prior to the expiration of one hundred and twenty days after separation or release from such assignment; or

"(B) unless on the date of such separation or release the member has completed at least twenty years of satisfactory service creditable for retirement purposes under chapter 67 of title 10 and would upon application be eligible for assignment to or is assigned to the Retired Reserve, in which event the insurance, unless converted to an individual policy under terms and conditions set forth in section 777(e) of this title, shall, upon timely payment of premiums under terms prescribed by the Administrator directly to the administrative office established under section 766(b) of this title, continue in force until receipt of the first increment of retirement pay by the member or the member's sixty-first birthday, whichever occurs earlier.

"(5) with respect to a member of the Retired Reserve who meets the qualifications of section 765(5)(C) of this title, and who was assigned to the Retired Reserve prior to the date insurance under this amendment is placed in effect for members of the Retired Reserve, at such time as the member receives the first increment of retirement pay, or the member's sixty-first birthday, whichever occurs earlier, subject to the timely payment of the initial and subsequent premiums, under terms prescribed by the Administrator, directly to the administrative office established under section 766(b) of this title."

(4) Subsection (b) is amended to read as follows:

"(b) Each policy purchased under this subchapter shall contain a provision, in terms approved by the Administrator, that, except as hereinafter provided, Servicemen's Group Life Insurance which is continued in force after expiration of the period of duty or travel under section 767(b) or 768(a) of this title, effective the day after the date such insurance would cease, shall be automatically converted to Veterans' Group Life Insurance subject to (1) the timely payment of the initial premium under terms prescribed by the Administrator, and (2) the terms and conditions set forth in section 777 of this title. Such automatic conversion shall be effective only in the case of an otherwise eligible member or former member who is separated or released from a period of active duty or active duty for training or inactive duty training on or after the date on which the Veterans' Group Life Insurance program (provided for under section 777 of this title) becomes effective. Servicemen's Group Life Insurance continued in force under section 768(a) (4)(B) or (5) of this title shall not be converted to Veteran's Group Life Insurance. However, a member whose insurance could be continued in force under section 768(a)(4)(B) of this title, but is not so continued, may, effective the day after his insurance otherwise would cease, convert such insurance to an individual policy under the terms and conditions set forth in section 777(e) of this title."

(5) Section 768(c) is hereby repealed.

(b) The amendments made by this Act shall not be construed to deprive any person discharged or released from the uniformed services of the United States prior to the date on which the Veterans' Group Life Insurance program (provided for under section 777 of title 38, United States Code) becomes effective of the right to convert Servicemen's Group Life Insurance to an individual policy under the provisions of law in effect prior to such effective date.

Sec. 6. Section 769 of title 38, United States Code, is amended as follows:

(1) By deleting from paragraphs (1) and (2) of subsection (a) "is insured under a policy of insurance purchased by the Administrator, under section 766 of this title" and inserting in lieu thereof "is insured under Servicemen's Group Life Insurance".

(2) By redesignating paragraphs (2) and (3) of subsection (a) as paragraphs (3) and (4), respectively, and by adding after paragraph (1) a new paragraph (2) as follows:

"(2) During any month in which a member is assigned to the Ready Reserve of a uniformed service under conditions which meet the qualifications of section 765(5)(B) of this title, or is assigned to the Reserve (other than the Retired Reserve) and meets the qualifications of section 765(5)(C) of this title, and is insured under a policy of insurance purchased by the Administrator, under section 766 of this title, there shall be contributed from the appropriation made for active duty pay of the uniformed service concerned an amount determined by the Administrator (which shall be the same for all such members) as the share of the cost attributable to insuring such member under this policy, less any costs traceable to the extra hazards of such duty in the uniformed services. Any amounts so contributed on behalf of any individual shall be collected by the Secretary concerned from such individual (by deduction from pay or otherwise) and shall be credited to the appropriation from which such contribution was made."

(3) By deleting from the second sentence of paragraph (4) of subsection (a) "subsection (1) hereof, or fiscal year amount under subsection (2) hereof" and inserting in lieu thereof "paragraph (1) or (2) hereof, or fiscal year amount under paragraph (3) hereof"; and by deleting in such paragraph (4) "this suchapter" each time it appears and "insurance under this subchapter" and inserting in lieu thereof "Servicemen's Group Life Insurance".

(4) The first sentence of subsection (b) is amended by deleting "such insurance" and inserting in lieu thereof "Servicemen's Group Life Insurance"; and the second sentence of such subsection is amended by deleting "this subchapter" and inserting in lieu thereof "Servicemen's Group Life Insurance".

(5) Subsection (c) is amended by deleting "any such insurance" and inserting in lieu thereof "Servicemen's Group Life Insurance."

(6) The last sentence of subsection (d) (1) is amended to read as follows: "All premium payments and extra hazard costs on Servicemen's Group Life Insurance and the administrative cost to the Veteran's Administration of insurance issued under this subchapter shall be paid from the revolving fund.".

(7) By adding at the end of such section a new subsection as follows:

"(e) The premiums for Servicemen's Group Life Insurance placed in effect or continued in force for a member assigned to the Retired Reserve of a uniformed service who meets the qualifications of section 765(5)(C) of this title, shall be established under the criteria set forth in sections 771 (a) and (c) of this title, except that the Administrator may provide for average premiums for such various age groupings as he may determine to be necessary according to sound actuarial principles, and shall include an amount necessary to cover the administrative cost of such insurance to the company or companies issuing or continuing such insurance. Such premiums shall be payable by the insureds thereunder as provided by the Administrator directly to the administrative office established for such insurance under section 766(b) of this title. The provisions of sections 771 (d) and (e) of this title shall be applicable to Servicemen's Group Life Insurance continued in force or issued to a member assigned to the Retired Reserve of a uniformed service. However, a separate accounting may be required by the Administrator for insurance issued to or continued in force on the lives of members assigned to the Retired Reserve and for other insurance in force under this subchapter. In such accounting, the Administrator is authorized to allocate claims and other costs among such programs of insurance according to accepted actuarial principles."

Sec. 7. Section 770 of title 38, United States Code, is amended as follows:

(1) The first clause following the colon in subsection (a) is amended to read as follows:

"First, to the beneficiary or beneficiaries as the member or former member may have designated by a writing received prior to death (1) in the uniformed services if insured under Servicemen's Group Life Insurance, or (2) in the administrative office established under section 766(b) of this title if separated or released from service, or if assigned to the Retired Reserve, and insured under Servicemen's Group Life Insurance, or if insured under Veterans' Group Life Insurance;".

(2) Subsection (e) is amended by deleting therefrom the words "this amendatory Act" and inserting in lieu thereof "the Veterans' Insurance Act of 1974".

(3) Subsections (f) and (g) are amended by adding after "Servicemen's Group Life Insurance" wherever it appears therein "or Veterans' Group Life Insurance".

Sec. 8. Section 771 of title 38, United States Code, is amended as follows:

(1) Subsection (b) is amended by deleting "the policy or policies" and inserting in lieu thereof "Servicemen's Group Life Insurance".

(2) The third sentence of subsection (e) is amended by deleting "section 766" and inserting in lieu thereof "section 769(d)(1)".

Sec. 9. (a) Subchapter III of chapter 19 of title 38, United States Code, is amended by adding at the end thereof the following new sections:

"§ 777. Veterans' Group Life Insurance

"(a) Veterans' Group Life Insurance shall be issued in the amount of $5,000, $10,000, $15,000, or $20,000 only. No person may carry a combined amount of Servicemen's Group Life Insurance and Veterans' Group Life Insurance in excess of $20,000 at any one time. Any person insured under Veterans' Group Life Insurance who again becomes insured under Servicemen's Group Life Insurance may within sixty days after becoming so insured convert any or all of his Veterans' Group Life Insurance to an individual policy of insurance under subsection (e) of this section. However, if such a person dies within the sixty-day period and before converting his Veterans' Group Life Insurance, Veterans' Group Life Insurance will be payable only if he is insured for less than $20,000 under Servicemen's Group Life Insurance, and then only in an amount which when added to the amount of Servicemen's Group Life Insurance payable shall not exceed $20,000.

"(b) Veterans' Group Life Insurance shall (1) provide protection against death; (2) be issued on a non-renewable five-year term basis; (3) have no cash, loan, paid-up, or extended values; (4) except as otherwise provided, lapse for nonpayment of premiums; and (5) contain such other terms and conditions as the Administrator determines to be reasonable and practicable which are not specifically provided for in this section, including any provisions of this subchapter not specifically made inapplicable by the provisions of this section.

"(c) The premiums for Veterans' Group Life Insurance shall be established under the criteria set forth in sections 771 (a) and (c) of this title, except that the Administrator may provide for average premiums for such various age groupings as he may decide to be necessary according to sound actuarial principles, and shall include an amount necessary to cover the administrative cost of such insurance to the company or companies issuing such insurance. Such premiums shall be payable by the insureds thereunder as provided by the Administrator directly to the administrative office established for such insurance under section 766(b) of this title. In any case in which a member or former member who was mentally incompetent on the date he first became insured under Veterans' Group Life Insurance dies within one year of such date, such insurance shall be deemed not to have lapsed for nonpayment of premiums and to have been in force on the date of death. Where insurance is in force under the preceding sentence, any unpaid premiums may be deducted from the proceeds of the insurance. Any person who claims eligibility for Veterans' Group Life Insurance based on disability incurred during a period of duty shall be required to submit evidence of qualifying health conditions and, if required, to submit to physical examinations at their own expense.

"(d) Any amount of Veterans' Group Life Insurance in force on any person on the date of his death shall be paid, upon the establishment of a valid claim therefor, pursuant to the provisions of section 770 of this title. However, any designation of beneficiary or beneficiaries for Servicemen's Group Life Insurance filed with a uniformed service until changed, shall be considered a designation of beneficiary or beneficiaries for Veterans' Group Life Insurance, but not for more than sixty days after the effective date of the insured's Veterans' Group Life Insurance, unless at the end of such sixty-day period, the insured is incompetent in which event such designation may continue in force until the disability is removed but not for more than five years after the effective date of the insured's Veterans' Group Life Insurance. Except as indicated above in incompetent cases, after such sixty-day period, any designation of beneficiary or beneficiaries for Veterans' Group Life Insurance to be effective must be by a writing signed by the insured and received by the administrative office established under section 766(b) of this title.

"(e) An insured under Veterans' Group Life Insurance shall have the right to convert such insurance to an individual policy of life insurance upon written application for conversion made to the participating company he selects and payment of the required premiums. The individual policy will be issued without medical examination on a plan then currently written by such company which does not provide for the payment of any sum less than the face value thereof or for the payment of an additional amount as premiums in the event the insured performs active duty, active duty for training, or inactive duty training. The individual policy will be effective the day after the insured's Veterans' Group Life Insurance terminates by expiration of the five-year term period, except in a case where the insured is eligible to convert at an earlier date by reason of again having become insured under Servicemen's Group Life Insurance, in which event the effective date of the individual policy may not be later than the sixty-first day after he again became so insured. Upon request to the administrative office established under section 766(b) of this title, an insured under Veterans' Group Life Insurance shall be furnished a list of life insurance companies participating in the program established under this subchapter. In addition to the life insurance companies participating in the program established under this subchapter the list furnished to an insured under this section shall include additional life insurance companies (not so participating) which meet qualifying criteria, terms, and conditions established by the Administrator and agree to sell insurance to former members in accordance with the provisions of this section.

"(f) The provisions of sections 771 (d) and (e) of this title shall be applicable to Veterans' Group Life Insurance. However, a separate accounting shall be required for each program of insurance authorized under this subchapter. In such accounting, the Administrator is authorized to allocate claims and other costs among such programs of insurance according to accepted actuarial principles.

"(g) Any person whose Servicemen's Group Life Insurance was continued in force after termination of duty or discharge from service under the law as in effect prior to the date on which the Veterans' Group Life Insurance program (provided for under section 777 of this title) became effective, and whose coverage under Servicemen's Group Life Insurance terminated less than four years prior to such date, shall be eligible within one year from the effective date of the Veterans' Group Life Insurance program to apply for and be granted Veterans' Group Life Insurance in an amount equal to the amount of his Servicemen's Group Life Insurance which was not converted to an individual policy under prior law. Veterans' Group Life Insurance issued under this subsection shall be issued for a term period equal to five years, less the time elapsing between the termination of the applicant's Servicemen's Group Life Insurance and the effective date on which the Veteran's Group Life Insurance program became effective. Veterans' Group Life Insurance under this subsection shall only be issued upon application to the administrative office established under section 766(b) of this title, payment of the required premium, and proof of good health satisfactory to that office, which proof shall be submitted at the applicant's own expense. Any person who cannot meet the good health requirements for insurance under this subsection solely because of a service-connected disability shall have such disability waived. For each month for which any eligible veteran, whose service-connected disabilities are waived, is insured under this subsection there shall be contributed to the insurer or insurers issuing the policy or policies from the appropriation 'Compensation and Pensions, Veterans' Administration' an amount necessary to cover the cost of the insurance in excess of the premiums established for eligible veterans, including the cost of the excess mortality attributable to such veteran's service-connected disabilties. The Administrator may establish, as he may determine to be necessary according to sound actuarial principles, a separate premium, age groupings for premium purposes, accounting, and reserves, for persons granted insurance under this subsection different from those established for other persons granted insurance under this section. Appropriations to carry out the purpose of this section are hereby authorized.

"§ 778. Reinstatement

"Reinstatement of insurance coverage granted under this subchapter but lapsed for nonpayment of premiums shall be under terms and conditions prescribed by the Administrator.

"§ 779. Incontestability

"Subject to the provision of section 773 of this title, insurance coverage granted under this subchapter shall be incontestable from the date of issue, reinstatement, or conversion except for fraud or nonpayment of premium."

(b) The analysis of subchapter III of chapter 19 of title 38, United States Code, is amended by adding at the end thereof the following:

"777. Veterans' Group Life Insurance.
"778. Reinstatement.
"779. Incontestability.".

SEC. 10. Chapter 19 of title 38, United States Code, is amended as follows:

(1) By striking out "Environmental Science Services Administration" wherever it appears in section 765 and inserting in lieu thereof "National Oceanic and Atmospheric Administration".

(2) By striking out "General operating expenses, Veterans' Administration" in clause 3 of subsection (d) of section 769 and inserting in lieu thereof "General Operating Expenses, Veterans' Administration".

(3) By striking out "Bureau of the Budget" in section 774 and inserting in lieu thereof "Office of Management and Budget".

SEC. 11. (a) Chapter 13 of title 37, United States Code, is amended by adding at the end thereof a new section as follows:

"§ 707. Allotments: members of the National Guard

"(a) The Secretary of the Army or the Secretary of the Air Force, as the case may be, may allow a member of the National Guard who is not on active duty to make allotments from his pay under sections 204 and 206 of this title for the payment of premiums under a group life insurance program sponsored by the military department of the State in which such member holds his National Guard membership or by the National Guard association of such State if the State or association concerned has agreed in writing to reimburse the United States for all costs incurred by the United States in providing for such allotments. The amount of such costs and procedures for reimbursements shall be determined by the Secretary of Defense and his determination shall be conclusive. All amounts of reimbursements for such costs received by the United States from a State or an association shall be credited to the appropriations or funds against which charges have been made for such costs."

(b) The United States shall not be liable for any losses or damages suffered by any person as the result of any error made by any officer or employee of the United States in administering the allotment program authorized under subsection (a).

(c) The table of sections at the beginning of chapter 13 of such title is amended by adding at the end thereof a new item as follows:

"707. Allotments: members of the National Guard.".

SEC. 12. This Act shall become effective as follows:

(1) The amendments made by section 2, relating to Veterans' Special Life Insurance, shall become effective upon the date of enactment of this Act except that no dividend on such insurance shall be paid prior to January 1, 1974.

(2) The amendments relating to Servicemen's Group Life Insurance coverage on a full-time basis for certain members of the Reserve and National Guard shall become effective upon the date of enactment of this Act.

(3) The amendments increasing the maximum amount of Servicemen's Group Life Insurance shall become effective upon the date of enactment of this Act.

(4) The amendments made by sections 5 (a) (4) and (5) of this Act, and those enacting a Veterans' Group Life Insurance program shall become effective on the first day of the third calendar month following the month in which this Act is enacted.

Amend the title so as to read: "An Act to amend title 38, United States Code, to increase the maximum amount of Servicemen's Group Life Insurance to $20,000, to provide full-time coverage thereunder for certain members of the Reserves and National Guard, to authorize the conversion of such insurance to Veterans' Group Life Insurance, to authorize allotments from the pay of members of the National Guard of the United States for group life insurance premiums, and for other purposes."

Mr. MONTGOMERY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, and I do not intend to object, I would like to ask the gentleman from Mississippi, the distinguished chairman of the Subcommittee on Insurance and Veterans Affairs, to explain the Senate amendments.

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman for giving me the opportunity to explain this piece of legislation, which is a landmark and far reaching in helping to preserve the National Guard and regular forces of this country.

Mr. Speaker, the Senate amendment is germane to the bill. In the first session of this Congress the Committee on Veterans' Affairs favorably reported and the House passed H.R. 6574. The House version of the bill seeks to provide full-time coverage under servicemen's group life insurance, SGLI, for persons who volunteer for assignment to the Ready Reserve of a uniformed service and are assigned to a unit or position in which they may be required to perform active duty or active duty for training, and each year will be scheduled to perform at least 12 periods of inactive duty training that is creditable for retirement purposes under chapter 67 of title 16, United States Code.

At the present time this group, along with other reserves are covered under SGLI only on the days they are on active duty or active duty for training under a call or order to duty that specifies a period of less than 31 days, during the hours of scheduled inactive duty training, while traveling to or from such duties.

The second purpose of the bill is to provide full-time coverage under SGLI for persons assigned to, or who, upon application, would be eligible for assignment to the Retired Reserve of a uniformed service who are under 60 years of age and have completed at least 20 years of satisfactory service creditable for retirement purposes under chapter 67 of title 10, United States Code.

At the present time, members of the Retired Reserves have no eligibiilty for SGLI.

In reporting to our committee, the Department of Defense strongly recommended the enactment of legislation with this objective "as a positive and visible incentive for service in the National Guard and Ready Reserve forces, particularly the Selected Reserve."

I am pleased to note that the Senate version of the bill as returned to the House contains the same provisions affording this greatly needed additional insurance protection for members of our Reserves and National Guard.

I will now briefly explain the Senate amendments and give the reasons why we feel that it would be appropriate for the House to concur in them.

First, the present maximum coverage for servicemen's group life insurance for persons in the active service and others in a training status is $15,000. The Senate amendment would increase this to $20,000 in all cases. We note that this increase was endorsed by the Department of Defense and would be self-sustaining by reason of appropriate premium adjustment. With the current inflation and uniform recognition of the greater need for survivor protection, I am sure the Members will agree that this increase in coverage can be fully justified.

Second the Senate version would provide for a new type of group life insurance called "veterans group life insurance" which would be effective after the SGLI coverage ceases. This group insurance would be in the form of a nonrenewable, 5-year term policy and can be made available at very low premiums.

It is interesting to note that legislation to authorize this new type of post-service insurance coverage was initiated in the House of Representatives in the 92d Congress. Our committee favorably reported and the House passed a bill (H.R. 14752) but it was not acted upon by the other body. This proposal was included in the VA's legislative program in the first session of the 93d Congress and, accordingly, has the endorsement of the administration.

Third, the House bill provided that the Secretary of the Army and the Air Force may allow a member of the National Guard who is not on active duty to make allotments from his training pay for the payment of premiums under any group life insurance program sponsored by the military department of the State in which such member holds his National Guard membership or by the National Guard Association of such State.

The Senate version adopts such allotment authorization but adds an amendment which would require that the State or association concerned agree in writing to reimburse the United States for all costs incurred in providing such allotments.

Fourth, during the Korean conflict and for a period thereafter we authorized a special nonparticipating term insurance available to veterans for a short period after their discharge. Experience has shown that the premiums were excessive and periodically the profit earned on this program was turned over to the general fund of the Treasury.

We agree with the Senate that there is no valid excuse for continuing the collection of excess premiums, particularly since the vast bulk of all other Government insurance is participating and such an excess is returned to the insureds in the form of dividends each year. This provision would make the so-called veterans' special term life insurance participating and thereby permit payment of dividends.

Mr. Speaker, as I indicated at the outset, the Senate version of H.R. 6574 maintains the basic thrust and objective of our original bill. We have analyzed the Senate amendments, and as I have explained, they appear to be reasonable and I believe represent sound and beneficial improvements in the Government insurance program.

Mr. HAMMERSCHMIDT. Mr. Speaker, I thank the gentleman from Mississippi for his very fine explanation.

Mr. Speaker, I rise in support of H.R. 6574 as amended by the Senate. Initially, this bill passed the House on May 7, 1973. It was designed to provide full-time coverage under the servicemen's group life insurance program for members of the Ready Reserve, who at present are insured under the program only at those times they are on active duty for less than 31 days, or while traveling to or from such duties.

Coverage was proposed also for members of the Retired Reserve who are under 60 years of age and have completed 20 years of qualifying service for Reserve retired pay at age 60.

I concur in the amendments offered by the Senate. The first of these would increase the maximum insurance coverage to $20,000 for all insureds under the servicemen's group life insuance program. Under existing law the maximum amount is $15,000.

Another amendment provides for the automatic conversion of SGLI to a nonrenewable 5-year term policy effective 120 days after discharge from military service, the day that coverage under the serviceman's policy ceases. The new plan would be designated as veterans group life insurance. Those veterans whose SGLI terminated less than 4 years prior to the effective date of enactment of the VGLI will be eligible for the insurance coverage for the balance of the 5-year period upon a showing of good health. Any service-connected disability would be waived.

Finally, authorization is granted for the return of excess premiums paid by veterans of the Korean conflict for veterans special term life insurance. These payments would be made in the form of a dividend to the insureds.

I believe these amendments add merit to the bill and I am in favor of them.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. ZWACH. Mr. Speaker, I concur with the amendments offered by the Senate to H.R. 6574. The first of these would increase the maximum insurance coverage to $20,000 for all insureds under the servicemens' group life insurance program. Under existing law the maximum amount is $15,000.

Another amendment provides for the automatic conversion of SGLI to a nonrenewable 5-year term policy effective

120 days after discharge from military service, the day that coverage under the serviceman's policy ceases. The new plan would be designated as veterans group life insurance. Those veterans whose SGLI terminated less than 4 years prior to the effective date of enactment of the VGLI will be eligible for the insurance coverage for the balance of the 5-year period upon a showing of good health. Any service-connected disability would be waived.

Finally, authorization is granted for the return of excess premiums paid by veterans of the Korean conflict for veterans' special term life insurance. These payments would be made in the form of a dividend to the insureds.

I believe these amendments are reasonable and I am in complete accord with them.

Mr. DORN. Mr. Speaker, I strongly support H.R. 6574. This legislation is part of a program designed to create incentives, and to make more attractive, service in our Reserve and National Guard programs, both of which are so essential to the national defense of our country. The bill we are considering today would provide full-time coverage under servicemen's group life insurance for those persons who volunteer for assignment to the Ready Reserve and the National Guard. This goes hand in hand with the administration's volunteer service program now in effect in that it will encourage persons to join and remain in these two great defense organizations.

For Reservists who may retire after 20 years of service but are ineligible to receive retirement pay until they reach age 60, this legislation will strengthen their survivor protection by extending insurance coverage during such a period. After a retired reservist is himself eligible for retirement pay, he then may elect an annuity option for his widow under the armed services family protection plan.

The Veterans' Administration has advised our committee that the benefits proposed by this legislation are practical and actuarially sound.

Mr. Speaker, another important part of the legislation is that it would increase the maximum coverage under servicemen's group life insurance from $15,000 to $20,000. This is certainly justified in view of the present rate of inflation existing in every segment of our economy. This increased coverage will be available to active members of the Armed Forces as well as reserve and National Guard.

There are two other provisions in the bill that I would like to mention. The bill would provide for the automatic conversion of SGLI to a nonrenewable 5-year term policy to be known as veterans' group life insurance effective the day coverage under SGLI expires for the veteran. The present law allows the veteran 120 days after discharge from military service to convert to a private insurance program. It is felt that the returning veteran should have available to him low-cost insurance protection during the readjustment period experienced by Vietnam era veterans following their separation from active military duty.

Experience has shown that upon discharge, many young men are concerned with matters other than life insurance protection and consequently, the 120-day conversion period has often expired before he realizes it. By allowing the veteran this 5-year period of time, he will have more time to get himself settled and will have ample time to make adequate plans to provide proper security for his family.

Finally, the bill would authorize the payment of dividends on veterans' special term life insurance. As most of you know, the Government provided Korean conflict servicemen with a $10,000 indemnity policy during their active duty service. The VSLI program was first authorized beginning April 24, 1951, to allow Korean conflict veterans to purchase Government sponsored life insurance following their military duty. It was closed to new issues on December 31, 1956.

The premiums charged to these Korean war veterans with term policies are in excess of mortality experience. I understand premiums charged are up to about 70 percent more than are needed to pay for the cost of claims, mortality, and administrative charges. This excess, rather than returned as dividends to the veteran policyholder, is now retained by the Federal Government. According to reports we have received, since 1961, in excess of $47 million has been transferred to the U.S. Treasury. This legislation would allow payment of dividends to the veteran rather than turning the funds over to the Treasury.

Mr. Speaker, Congress never intended that the Federal Government overcharge war veterans for insurance and make a profit on that overcharge. The action we take today in passing this bill will correct this situation. It is a matter of simple justice.

Mr. Speaker, I have long advocated a strong national defense posture for our country. My voting record and policy statements during my years in the Congress will bear this out. A vital part of our overall national defense program has been our National Guard and our Ready Reserve programs. I need not remind you of the war record of the men and women who served in these units during every national crisis, both foreign and domestic. I want to continue to provide incentives that will keep these programs strong. This legislation will go a long way in doing this and I urge that it be adopted.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on Senate amendments to H.R. 6574, Veterans' Insurance Act of 1974, just concurred in.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute.)

Mr. RHODES. Mr. Speaker, I take this time for the purpose of inquiring of the distinguished majority leader the program for the balance of the week and for next week, if the gentleman is prepared to give it to us.

Mr. O'NEILL. Mr. Speaker, if the distinguished minority leader will yield, I will be happy to respond to his request.

Mr. RHODES. I yield to the gentleman from Massachusetts.

Mr. O'NEILL. Mr. Speaker, there is no further legislative business for today.

The program for the House of Representatives for the week of May 13, 1974 is as follows:

Monday is District day, and no bills are scheduled.

On Tuesday, we will consider S. 1752, National Commission on Productivity and Work Quality, under an open rule, with 1 hour of debate.

On Wednesday, we have scheduled H.R. 12000, Egg Research and Consumer Information Act, subject to a rule being granted; and

S. 3231, poultry indemnity payments, subject to a rule being granted.

For Thursday and the balance of the week:

H.R. 13973, Overseas Private Investment Corporation, subject to a rule being granted.

Mr. Speaker, may I repeat my statement of last week that we are anticipating eight appropriation bills will be scheduled for the last 2 weeks of June. So again may I repeat that we anticipate there will be Friday sessions in the last 2 weeks of June, so the Members should make their plans accordingly.

ADJOURNMENT OVER TO MONDAY NEXT

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. GROSS. Mr. Speaker, reserving the right to object, I wonder; we would have one bill next week if the Committee on Rules also went on strike. Is that not correct? It seems to me that the House is going on strike the way this legislative program reads.

Mr. O'NEILL. There are about three matters that are subject to rules being granted on Tuesday and Wednesday next.

Mr. GROSS. So you would have one bill next week and if they failed to grant rules on the three other bills, we would only have that one.

Mr. O'NEILL. The answer to the gentleman is the gentleman is correct.

Mr. GROSS. Next week I take it we will find out, judging from these bills, whether the egg or the chicken came first.

Mr. O'NEILL. Well, that has been a weighty problem in the world for years, and probably we will get a response on that.

Mr. GROSS. And you think next week with the sparse program we have here we will be able to settle that?

Mr. O'NEILL. Well, I hope the chairman of the Committee on Agriculture will come back with a satisfactory answer to the gentleman.

Mr. GROSS. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday of next week.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PANAMA CANAL AND OAS MEETING IN ATLANTA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, two of the "combustible" issues discussed at the annual meeting of the Foreign Ministers of the Organization of American States in Atlanta were Cuba and Panama. Of these, the latter is one of world significance because of the thousands of vessels of many nations that transit the Panama Canal annually and have to pay tolls.

In the case of the U.S. Canal Zone and the Republic of Panama, relations have never been static but subject to constant modification, mostly by administrative actions. In addition, there have been a number of changes in the basic 1903 treaty as a result of which the United States has withdrawn its activities to the limits of the Canal Zone territory.

As to sovereignty over this protective frame, there can be no compromise as long as the United States maintains, operates, sanitates, and protects the canal but there are means by which the United States can help Panama. These include the construction of a bridge across the Atlantic end of the canal to correspond with that across the Pacific end; and assisting Panama to relocate or extend its Colon Free Zone in Panamanian territory east of the Canal Zone. These important changes together will make a great impact on isthmian life.

There are two other nations to which the United States has treaty obligations regarding the canal: Great Britain and Colombia. Both of these countries are following canal matters closely and will be prepared to protect their interests. Under the rules governing the operation of the Panama Canal all nations, including Panama, are entitled to equal treatment in the use of Canal Zone facilities, and this includes the docks at each end of the canal.

Mr. Speaker, I trust that these views will be of assistance to the Foreign Ministers recently meeting in Atlanta.

WATER POLLUTION CONTROL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. OWENS) is recognized for 10 minutes.

Mr. OWENS. Mr. Speaker, several years ago this Nation committed itself to restore and maintain the integrity of its waters. The goal established by Public Law 92-500, the Federal Water Pollution Control Act Amendments of 1972, envisioned eliminating the discharge of pollutants into our navigable waterways by 1985. The most important part of this landmark legislation, passed over a Presidential veto, called for an $18 billion grant program to the States for assistance in the construction and upgrading of municipal waste treatment facilities.

The drive toward meeting clean-water goals, which the act was designed to accelerate, has been thwarted at every turn by an administration determined to scuttle any congressionally mandated program not to their liking. First, the President vetoed the legislation. The veto was then overridden by the House on a vote of 247 to 23, a 10-to-1 margin which is almost unprecedented. Despite this clear mandate, the President then impounded half of the $18 billion which was authorized. In essence, this act was an extraconstitutional Presidential override of the congressional override of his veto.

The saga, unfortunately, does not end there. Not content with a partial emasculation of the clean water program through the impoundment process, the Environmental Protection Agency, acting under orders from the Office of Management and Budget, immediately embarked on a monumental bureaucratic slowdown in the processing of waste treatment facility construction grants which were arriving by the thousands from cities all over the United States. As a result, by the end of calendar 1973, the administration had spent only $17.3 million of the $5 billion Congress had intended to be the first increment in the concerted effort to clean our Nation's waters.

The broader question of the President's authority to impound funds is in the courts. Several weeks ago, the Supreme Court agreed to hear several suits challenging the President's authority to impound funds authorized by Congress under the 1972 Water Pollution Control Act. The funding aspects of this program can be summarized as follows:

[In billions of dollars]

Fiscal year—	Authorized by Public Law 92-500	Presidential impoundments	Current funding levels
1973	5	3	2
1974	6	3	3
1975	7	3	4
Total	18	9	9

I suppose that it will take a definitive decision from the Court a year or so from now to force release of these funds within the time frame intended by Congress.

But what can be done today in order to force the Environmental Protection Agency to expeditiously process requests for grants used by localities to construct municipal waste treatment facilities? Mr. Speaker, there can be no doubt that a severe problem exists.

In February, the House Public Works Subcommittee on Investigations and Review, under the capable leadership of Chairman Jim Wright, held hearings inquiring into the inordinate delays being created by EPA in the approval of waste treatment facility grants. The findings of the subcommittee read like Alice-in-Wonderland revisited. Here are some of the conclusions.

A fantastic maze of baffling guidelines, burgeoning regulations, bewildering paperwork and ever-changing directives have brought what was an ongoing program to a virtual halt.

Between August 1 and December 31, 1973, $33 million worth of projects were approved for the entire Nation. This is paltry compared to the $5 billion authorized by the Congress for the entire year.

One community official showed the subcommittee a 13-inch stack of written reports his community was required to have by EPA to support one grant application.

One large city rewrote its application nine times in order to meet EPA requirements.

Unfortunately, these are not isolated examples. Similar "horror stories" are being repeated thousands of times across the Nation. As the subcommittee points out:

> Meanwhile nothing happens. The backlog grows. Our Nation's waters get filthier, our streams more clogged with pollution.

I certainly agree with those who so succinctly state that EPA is more interested in clean paper than clean water.

I believe that the hearings held by the Public Works Committee at which EPA officials testified were useful in that they expressed congressional concern over administration of the clean water program—or should I say the lack of it. I have written a letter to Russell Train, the EPA Administrator, expressing my concern over the program's snail's pace implementation. The text of the letter is as follows:

Congress of the United States,
House of Representatives,
Washington, D.C., May 8, 1974.

Mr. Russell Train,
Administrator, Environmental Protection Agency, Washington, D.C.

Dear Mr. Train: During the past several months I have become increasingly concerned about the inordinate delays created by the Environmental Protection Agency in the processing of construction grants for water treatment facilities. The Congress, in passing PL 92-500, authorized a total of $18 billion for fiscal years 1973, 1974, and 1975 for grants to be made to municipalities in constructing and upgrading waste treatment facilities. The objective, of course, was to accelerate our drive toward cleaning up the nation's waters by mid-1985.

Leaving aside the issue of Presidential impoundment of half of the $18 billion authorized for the program, there appears to be ample evidence available to conclude that the Environmental Protection Agency is deliberately engaged in an effort to slow down the pace of the program. Recent hearings by the House Public Works Subcommittee on Investigations and Review revealed that:

1. Regulations used for guidance by municipalities and the standards which grant applications must meet are constantly changing.

2. Documentation required from applicants is inordinately complex and voluminous.

3. Obligation of funds and approval of grants are miniscule compared to available funding authority and community needs.

As a result, the Subcommittee stated, there were thousands of grant applications backlogged in EPA awaiting approval. The above problems and many others were documented in great detail during the hearings and in a subsequent statement made in the House of Representatives by Chairman Wright. What is not clear, however, are the steps that EPA intends to take to put the clean water program on the accelerated pace Congress mandated in the Clean Water Act Amendments of 1972.

Mr. Quarles testified during the February hearings that EPA would study the feasibility of simplifying the regulations, decentralizing the grant-approval level and taking other steps to expedite the process by which grants are approved. It has been some three months since this commitment was made. I understand that while some limited improvement has taken place, the majority of the problems still exist.

In order to provide me with information to assess the progress EPA has made in streamlining the grant approval process for waste treatment facilities, I would appreciate answers to the following:

1. The number of communities by state which have applied for construction grants for all categories of municipal waste treatment facilities under the provisions of the 1972 amendments.

a. The dollar value of grant applications by states.

b. The average processing time from grant receipt to application approval on a month by month basis during calendar years 1973 and 1974.

2. The specific actions taken by EPA since January 1, 1974 to reduce the amount of documentation required for grant approval.

3. The specific steps taken since January 1, 1974 to decentralize grant approval levels.

4. Other actions taken since the hearings to expedite the grant approval process.

I agree with Chairman Wright that a large part of the year and one half since the Act was passed has been irretrievably wasted. However, I am hopeful that responses to the above questions will lead me to conclude that the Clean Water Program has finally begun to move in the direction and at the pace Congress intended.

With all best wishes,
Sincerely,
Wayne Owens.

Mr. Speaker, the deadline for municipalities and industry to meet the first interim stages for effluent discharge is mid 1977. The footdragging by the administration in releasing construction grants to municipalities for waste treatment facilities forces the Congress to either extend the interim deadlines and thus renege on its commitment or to keep them in effect and thereby force cities all over the United States to violate the law. This is the bind the administration has put us in.

Industry must also meet these interim standards. Since the Environmental Protection Agency was created some 3½ years ago it has been under considerable pressure to relax congressionally imposed air and water quality standards. The most persistant sources of pressure appear to come from the White House and the Office of Management and Budget, acting in response to the pleas of special interest groups. These groups represent various industrial, manufacturing, processing, and commercial concerns whose economic self-interests would be affected by application and enforcement of congressionally imposed air and water quality standards. They appear to have more than considerable influence in this administration.

Clean water is too important to this Nation's well-being to become an area dictated by special interest groups. I understand that Chairman Wright will continue the hearings on the implementation of the Clean Water Act in the near future. There may indeed be legitimate reasons to change congressionally imposed goals and standards for programs as bold and innovative as this one. I hope that the forthcoming hearings will take an objective look at the need to change certain of the effluent discharge and water quality standards established in the 1972 act. The subcommittee will be under great pressure from the administration and from industry lobbies to set back the timetables.

It is a sorry day when the foresight of the Congress of the United States is blunted by such illegitimate processes as impoundment, bureaucratic delay and the self-centered interest. I am confident that the subcommittee will slash through the rhetoric, the self-serving testimony and the emotional arguments in order to objectively determine whether our drive toward clean water should proceed with our foot on the accelerator or our foot on the brake.

PROPOSES OPEN HEARINGS ON IMPEACHMENT PROCEEDINGS

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, in 1944 I introduced in the Senate a resolution providing for radio coverage of the proceedings of the Senate and House of Representatives. At that time, of course, we did not have television. A number of times since I have introduced resolutions providing for both radio coverage of the regular proceedings and the committee hearings of the Senate and the House of Representatives. It just seems to me wrong for us to allow in the press gallery of both the Senate and House of Representatives newspaper reporters and not to allow similarly to observe the proceedings of the Congress representatives of television and radio. There is no question now of the ability of the television and radio media to cover the proceedings of the Congress without in any way, by lights or otherwise, interfering with the deliberations of the Congress. Why should the people of this great country, only a few of whom will ever get to Washington to enjoy seeing the Congress in session from the gallery, be denied the privilege of seeing the proceedings of both Houses of the Congress by television and hearing those proceedings by radio? In the beginning the media themselves would, I think, be adequate safeguards against abuse for they would exercise their discretion as to what they would put on the air and bring to the people. This would deny exploitation of such media to the demagog or the actor, in most cases at least.

I have a resolution pending now with others before the House to open the hearings of the Judiciary Committee on impeachment proceedings and the proceedings of the House upon impeachment to radio and television as well as press coverage. Surely a matter of such immense import should be carried to the people by all the media.

Varying views of whether the impeachment proceedings in the House should be carried by television and radio have been presented in the Washington Post by outstanding authorities, some pro, some con. Due to the importance of this proceeding, I include the views of Jerome Barron and George Reedy appearing in the Washington Post of April 29 and of Hon. Paul A. Porter and Fred W. Friendly appearing in the Washington Post of May 4 to appear in the Record following my remarks:

Impeachment on TV: Two Views

PUBLICITY WOULD BECOME ALL PERVASIVE

(By Jerome Barron)

Impeachment trials, fortunately, are such events in this country that there is little direct, authoritative guidance on whether impeachment of a President should be televised: We have no experience on the question of mixing impeachment with television.

When the Billie Sol Estes case came before the Supreme Court in 1965, Justice Tom C. Clark, speaking for the court, said that the "chief function" of judicial machinery was to "ascertain the truth." Rather tartly, the court said: "The use of television, however, cannot be said to contribute materially to this objective."

In an impeachment proceeding, the senators are the jurors.

"If the community be hostile to an accused, a televised juror, realizing that he must return to neighbors who saw the trial themselves, may well be led 'not to hold the balance nice, clear and true between the state and the accused,'" the Supreme Court said. Furthermore, is there any real answer to the court's anxiety that television inevitably fixes the jury's eyes on the camera rather than on the testimony?

In an era when the law has extended due process concepts to more and more areas of American life, surely it is hard to argue that due process and its implications for criminal trials should not also apply to the question of televising an impeachment.

It may be said that hearings of the Senate Watergate Committee were televised, and that if the proceedings of the committee that led to an impeachment could be televised, why shouldn't the impeachment trial itself also be televised?

The two are not comparable. Only at the outerpost perimeters of its legislative responsibilities did the Watergate Committee touch on questions of guilt or innocence as they might affect criminal defendants, the *raison d'etre* of the impeachment trial, however, is the guilt or innocence of the accused.

Excluding the television cameras would not deprive the public of its right to know. Coverage by the print press of any impeachment will be continuous, extensive and freewheeling. News and commentary on radio and television would be similarly free and extensive. That is our tradition, and the precedent of the Andrew Johnson trial. But televising an impeachment would allow publicity to become all pervasive.

In an impeachment, the Senate is, in effect, a courtroom, and we therefore should remember the counsel of Chief Justice Earl Warren in his separate opinion in the Estes case: "We must take notice of the inherent unfairness of television in the courtroom and rule that its presence is inconsistent with the 'fundamental conception' of what a trial should be."

I think the conclusion is clear: Televising the national torment of a President's impeachment would be unwise.

No Barriers Between Public and the Facts

(By George Reedy)

Even though Congress still has to decide whether President Nixon should be impeached and tried, it is not too early to give careful—and, I hope, favorable—consideration to allowing full, live television coverage of the proceedings.

There are issues of public confidence at stake which go beyond the usual questions of press freedom and access to news—and the decision should not be made casually.

Traditionally, both Congress and the judiciary have been reluctant to admit television cameras to their proceedings. I can concede that there are coherent reasons for this reluctance even though I am not certain the reasons are wise. But impeachment is an extraordinary procedure, and whatever may be the merits of the precedents, they cannot be made to apply without some unusual logical acrobatics.

After all, impeachment is a device whereby 535 men and women—435 through indictment and 100 through trial—can take from a man a grant of ultimate power which was given to him by all the people. In the best of circumstances, it would be hazardous for a small group to reverse a decision made by the entire electorate. Our constitution provides no method for direct public participation in the deliberations. But television provides a method for direct public witnessing of the proceedings, and there are values to this that are incalculable.

Admittedly, no device can make the final decision satisfactory to everyone. President Nixon's implacable foes—those who hated him even before Watergate—would regard anything less than 100 per cent impeachment and conviction as evidence of legislative cowardice. His last-ditch defenders would regard anything less than 100 per cent acquittal as evidence of a sinister plot to railroad their hero. A Senate vote somewhere between 50 per cent and the two-thirds required to convict would open upon nightmares of recriminations.

But the ultimate popular verdict will rest upon the majority which is in between the two poles. This is a group which can render a reasonable judgment—especially when its members have seen events with their own eyes. In terms of the future of American unity, the popular verdict is fully as important as the legislative verdict. There should be no barriers whatsoever between the public and the facts.

Legislators, of course, have always resisted the presence of television cameras during legislative session. The reason is simply that floor sessions are only a small part of the legislative process and here the lens can distort because it makes one—and not the most interesting—part look like the whole. But an impeachment session would be not be a legislative session. All of the events of major importance would take place right on the floors of the House and Senate chambers. The legislators could be relied upon to be present and to listen to the arguments. The speeches would be relevant and cogent. And finally, there would be no precedent established other than the presence of television during an impeachment session—not during a legislative session.

When everything is added together, it seems to me that there is more than ample justification for televising the proceedings in both the House and the Senate. The President should have an interest in having his side of the case stated directly to the people as well as to the Congress. The Congress should have an interest in giving the people an opportunity to see for themselves that the legislative conduct is rigidly fair. The print media should have an interest in permitting the readers to observe for themselves that interpretation and backgrounding is based upon fact and not distortion.

But the most important interest to be served is that of the people themselves. The presidency belongs to them—not to the Congress or to the media. If Congress is to direct a change in the occupancy of the office, they have the right to be present, at least as spectators, and there could be grave consequences were they to be denied a right so readily available.

TV and Impeachment

IMPEDING THE PROCESS OF JUSTICE

(By Paul A. Porter)

I respectfully dissent from the position of the Post that the impeachment trial of the President in the Senate, if the House votes a bill, should be televised. I agree with Professor Barron's conclusion that "televising the national torment of a President's impeachment would be unwise." This in spite of Dean George Reedy's contention that "the presidency belong to the people . . . and they have the right to be present at least as spectators."

This writer was present at the creation of national television and Chairman of the F.C.C. when the initial allocation of frequencies was made. Through the succeeding years, I have watched the fantastic development of this media with admiration for its growth and an awe bordering on terror for its impact. As a lawyer interested in the basic elements of due process and the right to a fair trial, it is submitted that televising the Senate proceedings could raise serious impediments to the process whether intended or not. I will not particularize the obvious.

A trial before the Senate presided over by the Chief Justice will indeed be a historic and momentous proceeding as George Reedy described. With the Chief Justice presiding, the managers for the House will have the burden of presenting their case presumably in accordance with evidentiary standards as if in court and counsel for the respondent will hopefully have the right to test that case by cross-examination and then produce probative evidence on the President's behalf as in the traditional adversary proceeding. The hundred members of the Senate will be sitting as jurors in the conventional sense. Hopefully this will be a carefully constructed, orderly procedure devoid of histrionics and sensationalism. The issues are too grave and fundamental to be exposed to such televised techniques of a Perry Mason or a Mr. District Attorney which give a superficial image of our processes of justice. In short, it could indeed be a dull event for a national television audience.

This is not a new phenomenon. In the early days of television, the famous Kefauver hearings were covered on live television. This prompted the late Judge Thurman Arnold to write a penetrating and provocative essay in the June, 1951, issue of the Atlantic Monthly entitled "Mob Justice and Television." Some of Judge Arnold's points seem appropriate today. A few of these are summarized:

"Trials in our courts of justice are public but the audience is so limited that the ordinary housewife can't see the show because, as we go to press, cameras are banned. I suggest that if this rule can't be changed, all the judge had to do is to hold a trial like that of Alger Hiss in the Yankee Stadium.

". . . This kind of presentation [television] makes the problems of government simple enough to be understood by readers of comic strips. It eliminates the bores who are unable to discuss a public issue as a matter of black and white. When ex-Mayor O'Dwyer was testifying about the problem of crime from his vast experience as a prosecutor and a mayor, I am informed the stations were flooded with calls to get him off and put Virginia Hill back on. . . .

"The thing which I believe is overlooked by those who argue that television is a legitimate extension of our traditional public hearing is this. The reason that a criminal trial is public is not to obtain the maximum publicity for judges or prosecutors. It was not intended to make a cause celebre out of criminal prosecutions. It is for the protection of the accused against star-chamber methods, and for the protection of the public against secret deals and alliances.

Finally, Judge Arnold reached this conclusion which seems relevant to the current discussion as to whether the Senate impeachment hearings, if convened, should be televised:

"The vice of this television proceeding is not in the way this particular committee conducted it, but in the proceeding itself. Any tribunal which takes on the trappings and aspects of a judicial hearing, particularly where there is compulsory examination of witnesses, must conform to our judicial traditions, or sooner or later it will develop into a monstrosity that demands reform. Those traditions are:—

"1. It must be public and at the same time not a device for publicity.

"2. It must protect the innocent even at the cost of letting the guilty escape.

"Television has no place in such a picture. For witnesses it is an ordeal not unlike the third degree. On those who sit as judges it imposes the demoralizing necessity of also being actors. For the accused it offers no protection whatever. Former Federal Judge Rifkind recently said that our judicial procedure, 'forged through the generations to the single end that issues shall be impartially determined on relevant evidence alone, works fairly well in all cases but one—the celebrated cause. As soon as the cause celebre comes in, the judges and lawyers no longer enjoy a monopoly. They have a partner in the enterprise, and that partner is the press.' I would add that when television is utilized in investigation or trial, cause celebre will increase like guinea pig and still another partner will be added—to wit, the mob."

An Obligation To Communicate Directly

(By Fred W. Friendly)

Permit me to begin with quotations from two distinguished colleagues, one who practiced my profession, the other yours.

"When a man is really important the worst adviser he can have is a flatterer." That's the scripture from Gerald Johnson, the Baltimore editor and historian, and I hope it applies to our dialogue here today.

The second quote, in 1808, is from a lame duck President. Thomas Jefferson, who, in an attempt to recruit barrister William Wirth of Virginia into running for office, wrote: "The object of this letter is to propose to you to come into Congress. That is the great commanding theatre of this nation. . . ."

My unflattering question is—have you let Mr. Jefferson down, have you permitted technology and the natural inclination and central motivation of Presidents to move "the great commanding theatre of this nation" to the other end of Pennsylvania Avenue?

And whose fault is that—not Marconi's, or Murrow's, or Cronkite's or Chancellor's, not even Coolidge's, or Kennedy's or Nixon's. They merely invented or exploited new forms of communications which the Senate and the House chose to ignore or to regard as a howling sideshow instead of an electronic extension of the spectators galleries of 426 seats in the Senate and 732 seats in the House. You closed your eyes and ears to a miracle permitting your gallery to be filled by three or four sightseers and lobbyists from each of your constituencies while the Executive Branch transformed its "Bully Pulpit" into an electronic throne. Presidents have used broadcasting as a magic political carpet, transporting the citizenry to the Oval Office, to the ancient wall of China, ironically even to the floor of your joint sessions while you, with few exceptions, have relegated these miracles to the status of a kind of over-the-transom, Peeping Tom, too theatrical or "too dangerous" to be allowed in. . . .

I wonder if you and your colleagues are aware of what's going on in other republics? Let's take West Germany. Later this month the Bundestag will be conducting a historic debate on proposed reforms of the abortion laws. It is an inflamed issue, but there is no controversy over the reality that Germans from the North Sea to Bavaria will be watching every minute of it on television. Indeed, nations which were not even born when television was a political fact of life in the United States, now permit and provide live coverage of their legislative process. Because the Security Council of the United Nations provides live coverage of its debates, many Americans understand more about the voting and deliberative process of that body than they do of their own nation's. . . .

The hidden agenda item in all your deliberations, of course, is the growing concern, over the possibilities of impeachment and a Senate trial involving the President. One of America's most respected newspapermen, James Reston, has pronounced that such events of government should be closed to television because it might turn the trial into a nightmare; Senator Buckley and others fear a three-ring circus. My conviction, Mr. Chairman, is that the public's presence via the television camera will preserve decorum and dignity but certainly if this trial occurs, the American people will require a first-person, unabridged view of so historic an event without having it strained and filtered through the eyes and ears of even the most responsible newspapers. Much of the confusion over the impeachment and subsequent trial of Andrew Johnson exist today because print journalists alone, no matter how skilled cannot preserve the essence and dynamics of such complex procedures. None of us here today can know whether such a trial will take place, but I can assure you that neither history nor the American public will accept surrogate witnesses to so monentous an event . . .

What you need is a plan of action, not just a removal of restrictions. Of all the more than 30 resolutions over the past 30 years from Senator Pepper to Representative Pepper, the most stimulating and potentially productive plan is S.R. 136, proposed by Senator Byrd of West Virginia. Simply stated, it suggests "a full and complete study and investigation with respect to the broadcasting and telecasting (including closed-circuit telecasting) of the proceedings of the Senate." I trust that the Senator will consider it a friendly if unofficial amendment if I add the phrase—and House of Representatives.

The wired Congress, if I may use that as shorthand for putting cameras and microphones in both chambers, and all hearing rooms, and connecting them by coaxial cable to every office, dining room, lobby and a videotape center will be expensive but will cost far less than building a modern destroyer or celebrating the bicentennial. Operating it will be less expensive than running a destroyer or an atomic submarine per year. Senator Byrd's resolution needs to be costed out and studied—now. Such a survey could be accomplished with an economy of time and funds. . . .

Now, Mr. Chairman, you will ask, "But how does wiring the Congress ultimately reach the nation? Live or delayed coverage will still be subject to the gatekeeper function of the commercial networks and even of public broadcasting." That is true although the performance of public television and radio during the Watergate hearings was a major breakthrough in prime time coverage.

My proposal is not only to make the wired Congress available to all networks, but to leap over all those gatekeepers with their varied values and priorities and deliver the signal direct to 200 American communities. If telephone company long line and microwave distribution is too expensive, synchronous satellites made possible by this nation's maximum, costly effort in the space program will this year and in the next three years make it possible to spray television signals into every time zone simultaneously. . . .

One may ask: Why will these local broadcasters relay them to regional audiences if the networks won't? My response is—for the same series of reasons that cause some 500 different newspapers to send correspondents to Washington. These editors know that political reporting from the nation's Capitol is like regional accents and customs—different for various communities.

Debates on farm subsidies will find their audiences in Kansas, Iowa and Louisiana, while New York and Massachusetts would be more attentive to the hearings on mass transportation and urban blight. . . .

To sum up, take Senator Byrd's proposal of June 1973 seriously, combining it with Senator Pastore's proposal to commemorate our 200th birthday by opening Congress to the nation. A study on costs and feasibility would take less than six months, a decision to go could be possible in time for 1976.

SUBVERSIVE ACTIVITIES OF "ZERO"

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, one of the distinguished television commentators on channel 4, the CBS outlet in the Greater Miami area, delivered an able address before the Tiger Bay Club of Miami on May 1. Dr. Reyes discussed the subversive activities in the United States of a sinister organization named "Zero." By some strange but evil sources a Cuban exile living in Miami was recently shot down in his own livingroom while he and his wife looked at television. Another Cuban exile residing in New York was in a similar dastardly manner assassinated. Dr. Reyes discusses this critical subject in an able address. Mr. Speaker, I include Dr. Reyes' very informative address to appear in the body of the Record following these remarks:

Speech of Dr. Manolo Reyes

My life has supposedly been threatened. But I will not leave this city or this County . . . or this State . . . I won't leave, despite all the threats I've had or those yet to come.

I am a man who has absolute trust in the United States of America, and its system.

I am a man who believes in each and every law enforcement agency in this country.

I am a man who believes in the due process of law and condemn all terrorist attacks—and attacks which break the law.

I am a man who believes in you. And I will keep on working. I will keep on leading a normal life and essentially I will keep on defending the cause for Cuba's liberty because no threat in the world can keep me from fighting for my ideals and my principles.

For the first time in fifteen years, a seemingly political murder was executed in this area. I speak of the murder of Jose Elias de la Torriente.

I can say without any exceptions, that organizations, revolutionary movements, associations and the Cuban people in exile as a whole have condemned Torriente's death which occurred on Holy Friday.

Several days later, I presented a denouncement before Congressman Claude Pepper, Vice-Chairman of the Internal Security Subcommittee of the United States in Washington, D.C.

This denouncement was based on these two facts:

1) On April 5th, 1974, at the celebration of Armed Forces Day in Cuba, Raul Castro said in his speech that the Cuban military youth were guarding Cuban territory or were acting inside their enemies bellies.

As I've said on many occasions, Fidel Castro himself has stated that his enemies are the United States and the Cuban exiles.

Raul Castro's phrase: "and those who are acting inside our enemies bellies", is very significant.

It is even more so in these times when terrorism has flared up in different parts of the nation.

In the past, we said that the Soviet Union was increasing its military movements in Cuba. We said this before legislators in Washington.

The 12th naval squadron of the Soviet Union, which went to the Island after our denouncement of this situation, is stationed in Cuba today.

Today, there are more than 25 thousand

Russian troops on the Island and several major airports in the hands of the Soviets.

Several months ago we said in Washington that if a stop to the coming and goings of the Venceremos Brigade to Cuba and several flows of American citizens was not enforced, this situation could bring a wave of terrorism throughout the country.

We are now facing this situation.

On the Cuban side, we can clarify that in fifteen years we never faced a political crime in our colony.

Now it has happened, and the majority of the Cubans feel that this came directly from Cuba. In any event, whether they were exiled Cubans or directed by Castro, they should be punished.

There are two facts pointing out that Castro is behind this situation.

1) I received a letter which implied a communist threat before Torriente was assassinated. This letter was sent from New York and I enclosed it to Congressman Pepper together with the denouncement.

2) Recently Castro said publicly that after Torriente's death, hysteria had taken place among the Cuban colony in Miami. He was deliberately making fun of the Cuban exiles.

I can say in all honesty that it isn't so. Every Cuban is performing his normal tasks.

And they have to fight against the complex of terror which followed them from Cuba . . . a terror that Castro imbeds in them through death, prison and the violation of every human right.

I must also point out that during the past fifteen years, the Cuban colony in exile has been faithfully keeping the law in a majority sense and have helped the agents in charge by preserving the law and helping to carry it out. The criminal index among the Cuban colony has always been very low.

This is a bad situation for everyone. And I believe that as in the past . . . working together . . . we are going to overcome this crisis.

Here in exile there are Cubans with great experience in investigation, prominent lawyers and criminologists, who know all the different fronts of the Cuban exiles. Maybe they could be called in to cooperate with the national authorities to give a solution to this problem as soon as possible.

I urge the Internal Security Subcommittee of the House in Washington, D.C. to initiate a full investigation and to hold a hearing here in Miami or in Washington, D.C. to confirm if the regime of Fidel Castro has had any direct participation in creating a stage of tension among the Cuban colony. It would be worthwhile to investigate also if they are taking advantage of a situation created by others and maybe without knowing it . . . are helping Castro by following his tactics of terrorism with anonymous letters to divide the exiled Cuban colony.

At the beginning of my words I said "my life is supposedly being threatened". And I am saying this because those of us who project our lives in the public eye are sometimes subject to threats.

In this specific case, up to the present I have not received any threats on my life by the so-called "Zero" organization. Incidentally . . . in Venezuela there is a guerrilla organization, Marxist in character, called "Point-Zero" to which the latest acts of terrorism in Venezuela have been credited.

On the alleged threats and with the greatest respect for my colleagues in the press,—I must point out that what they wrote and broadcast was not true on my part. Of the six persons mentioned, four said that they have not received the letter and the other two persons couldn't produce it.

I can affirm that the report referring specifically to me was blown up out of proportion. I repeat,—with due respect—that this pseudo-news, which is not true, . . . was not ratified by the majority of the persons mentioned—and should not be widespread because of the damage it can cause, and the tension it can produce.

In my specific case, my wife, my children and especially my mother have suffered greatly during the past few days.

I think that as a preventive measure, . . . with this new tension wave producing acts of terrorism, strong precautions should be taken to confirm any type of threat.

I remember that when the riots were at their boiling point, some were produced by false rumors.

We must apply the same principle in order to avoid what is happening now since neither the threatened nor the police have proof of what is being said. Those who want to create terror and tension among us—can try to use the news media for their own benefit.

Finally,—a great President of this nation once sad: The only thing to fear . . . is fear itself. So . . . I will stay in my place . . . without retreating an inch.

THE RELATIONSHIP BETWEEN THE NATION'S PROBLEMS AND EDUCATION

(Mrs. GREEN of Oregon asked and was given permission to extend her remarks at this point in the RECORD and to include extraneous matter.)

Mrs. GREEN of Oregon. Mr. Speaker, the revelations of the past year have been shocking to us all. We have reacted in disgust to the seeming lack of morality and disdain for the law and disdain for the unwritten rules of democracy. But Watergate and all the attendant troubles are only symtomatic of a deeper disease—the disease of an affluent society—born of money and easy living and the resulting lack of self-discipline, high moral values, and commitment to honest hard work.

As someone who has been concerned over the quality of education in our country for many years I have watched with sorrow as these attitudes have permeated our educational institutions at all levels. There are many indications now that the quality of our education is slipping dangerously. In my view this is an ominous sign of a nation whose stature in the world community has depended upon the vitality, creativity, and perserverance of her people.

One of the best speeches I have ever read was given recently by Bill West before the Executive Club in Chicago. Mr. West is the headmaster of St. John's Military Academy there. He poignantly describes what he believes is the real problem with education today. I urge my colleagues to give his remarks the very serious consideration which I believe is their due.

The speech follows:

EXECUTIVES' CLUB SPEECH

(Remarks by Bill West)

As we scan the national and international scene over the past six months, we are quick to focus on certain events which dominate the horizon, events which we have been forced to reckon with and which have caused us to react with anger, disgust, disbelief, fear and/or concern. Permit me to name a few, the more obvious: *Watergate,* which has paralyzed our federal law making process; *Agnew,* which has caused the public to become more distrustful of our elected government officials; *Inflation,* which has become a matter of deep concern since the Administration's tampering with wage and price controls over a year ago; *Middle East,* which was timed to test the strength of the Nixon Administration following its total involvement with Watergate; and *Truck Strikes,* which are an outgrowth of the Middle East affair and a true indicator of how vulnerable our economy and our government is to the pressures of a very small segment of our labor force.

How can we as individuals be proud of our society? A self-respecting person can only feel inherent disgust for the direction in which our society has been moving. How can we combat the disrespect for authority and the distrust for our elected officials that have become so prevalent in the past decade? How can we change the course of events which headline our daily newspapers? A good physician is always careful to distinguish between symptoms and the disease. In the case of a boil, he may apply a bandage; at the proper time he may lance it; but he knows the real trouble is in the blood stream.

Even so with America! The symptoms of our national illness appear on the surface, but the disease is deeper. There is pollution in the blood stream. Greed is the disease, an avaricious desire for money, success and pleasure; an inordinate grasping after the prizes of this life; an unreasoned acceptance of the philosophy that a man's life consists of the things he possesses, regardless of the means which he uses to gain them. Thus, expediency replaces morality, politics pushes aside principles and greed rules over all.

The result: Our nation as a first-rate nation is in deadly peril. America is faced with increased international competition from without and deterioration of its educational system from within. To maintain such a collision course would be disastrous, but to deviate from such a course requires discipline.

My philosophy on life in general and education in particular is founded on the need for discipline, or better stated, self-discipline. Those who believe in Bible Doctrine have learned that the sequence in the disintegration of a nation is the decline of social life, an attack on the military and the restriction on industry. In America right now we see all three phases of the disintegration in a rather advanced stage, which can only lead one to believe that America is going to be recorded in the history of man as the most powerful nation with the shortest period of dominance. Why? Because America has been the most undisciplined nation in the history of man. America's blood stream is "iron deficient". It lacks a strong, challenging, competitive educational system.

Man is a creature of many failings and weaknesses, as witnessed by the recent headlines. But man was blessed with the ability to overcome his failings and weaknesses—through education, a meaningful education that consists of leadership, integrity, spiritual development, responsibility, physical fitness, as well as academic proficiency. Each should be an integral part of education, both public and private. But are they? No.

I make a bold prediction: If education in America is permitted to run its present course, in 25 years we as a nation will no longer dominate the world scene simply because we have failed to develop our most precious natural resource—our youth—through our complacency and neglect of our most important product—education.

In the 1960's America was rocked by the unprecedented violence and destruction on the college campuses, which eventually spilled over onto the high school campuses. Vietnam was quick to be blamed. Many of the rabble rousers were using college as a means to dodge the draft. But even more important was the fact that only few college administrators, and one in particular, Dr. Hayakawa, had the courage to take a stand in opposition to the violence, destruction and demands of the undisciplined ring leaders of the student body. Why? Because the teaching ranks in education since WWII have been infiltrated by liberals, those who supported anarchy on campus and resisted authority.

The liberal attitude which has been cultivated on campuses of the large and state supported universities has permeated the faculties of the public high schools across this great land of ours. The liberal approach to education has left its mark through lack of achievement, to wit: A definite national decline in the SAT scores of college bound high school seniors and the reading test scores of students at all grade levels. But there is a paradox. The grade point average at the college level is on the rise. The decline of the SAT scores and the rise of the GPA should never be in conflict but are as a direct outgrowth of the liberal attitude and approach that exists overwhelmingly in education today. And, I might add, that the overbuild by many state universities has caused economics to temper the grade point average.

The SAT's, or better known as the "college boards", are still considered the best test to measure a high school student's intellectual curiosity, a curiosity that cannot be satisfied without the ability and the unsatiated desire to read. There is a "dilemma" among the experts as to why the decline in the SAT scores over the past five years. The cause should be quite obvious. Students are not being challenged! They are not being required to come to class prepared in each subject every day! They have not been forced, yes *forced*, to go to *work!* The decline in both the SAT and the reading scores should be regarded as a danger signal and should have the same impact on education in this country as Sputnik in 1957.

If you recall, Sputnik was the catalyst that prompted Congress to provide federal funds through the National Science Foundation for high school math and science teachers to return to college on government grants to up-grade the teaching of math and science at the high school level with one purpose in mind: to keep America first in technological and scientific development. The outcome: America won the race to the moon.

In the same College Board News of January 1974 that reported a decline in the SAT scores it was also reported "nearly half of the students want 'special assistance' or help in developing good study techniques. Nearly as many want help in improving mathematical skills, increasing reading skills, and improving writing skills, while fewer students feel a need for counseling about 'personal problems'." It becomes quite evident that the foundation for education, the "three R's", still needs the same emphasis and attention it has always needed.

Unfortunately, due to the large classes found in the large public school systems in the cities and suburbs today, reading, writing and arithmetic are neglected or have been deemphasized. They are the fundamentals of education! They must be learned by drill and repetition! As Vince Lombardi proved so vividly with the Packer team in the late '50's and early '60's, a return to fundamentals is mandatory, for without them one cannot succeed in football, business or education.

Here I would like to hesitate before I tackle reading, writing and arithmetic for I wish to soften the image I must be creating as I discuss the relationship of work and discipline with education. I do believe in play. I am a very strong supporter of athletics, in fact, compulsory athletics. And, I believe in leisure time. But, I believe it is important that a young man develop the ability to put his priorities in their proper order.

There is a time to play hard and a time to work hard, but play and work should never be in conflict. An active life improves the grasp of the fundamentals and reduces the need for "counseling about 'personal problems'". And, it is time we benefit from history, the study of man's successes and failures and have impressed upon us the repeated cycle of nations and societies—hard work and discipline mean success; success means affluency and leisure time; affluency and leisure time mean lack of discipline and lack of discipline means failure.

With each year I have noted an increase in the number of boys applying for admission to St. John's needing help in reading. Many of the applicants for 9th and 10th grades are still reading at the 4th and 5th grade level. Not because they are stupid, but because they have failed to receive the proper instruction and encouragement to read and because TV has become a very poor substitute for reading and intellectual discussion.

Recognizing this definite handicap, we at St. John's have employed a full-time remedial teacher and a part-time reading specialist. Approximately 25 percent of the student body is involved in a reading program. We could use a second full-time remedial reading teacher in order to keep pace with a major deficiency that is so prevalent. Those of us in education who are as equally concerned with discipline and academics have noted a direct correlation between reading and discipline. A poor reader becomes frustrated academically, and his frustration leads to a disciplinary problem.

Therefore, it is important that steps be taken to correct the reading problem with haste. I would dare say that a percentage of the students graduating from college today are still reading at a 6th or 7th grade level. This is a very poor commentary on the whole national educational system.

As for the teaching of writing and arithmetic, they too need strengthening. It seems rather ironic that in an allegedly English speaking nation the poorest taught subject, generally speaking, is English. It has become almost traditional for the young teacher of English to race through the fundamentals of English, such as spelling, grammar, sentence structure, punctuation and word usage, to devote a major portion of the course to his "specialty", which could be poetry, American literature, English literature, et cetera.

At a time when the English language is being so brutally treated, even by English teachers with saying like "me and him did so and so", "like I said", "different than" and referring to a person with "that" instead of "who" or "whom", there should be a concentrated effort in our English courses more than ever to retain the preciseness and exactness of our native tongue. But at a time when long hair and grubby look are socially accepted, it is easy to understand why we Americans can become sloppy in areas as important as communication.

With the advent of the so called "modern math" some fifteen years ago to give more "relevancy" to the teaching of high school math, we have again witnessed a deemphasis of the fundamentals. The fault in traditional math does not lie in the area of relevancy, but in the structure of the manner in which math is taught. Math, as you well know, is a very structured subject. The structure in which it is taught has been somewhat defeating. Mental attitudes have developed over such course titles as "Algebra I", "Plane Geometry", "Algebra II". In a very transitory population, it becomes next to impossible to implement a satisfactory five year math program nationally which would eliminate the boundaries that now exist within the accepted math programs. Being a math major and having worked with the "modern math", I concur with the verdict shared by many: "modern math has flunked".

The whole educational system is bound to flunk if we fail to fill the teaching ranks in both public and private school systems with *well qualified teachers*. Teachers who can teach! Teachers who command respect! Teachers who challenge! And teachers who are willing to work, willing to get involved and willing to give of themselves. Today, so many job applicants seek positions with beautiful credentials, but so few support the credentials with loyalty, trust, performance—*and hard work*. The basic unit of our society, the family, has failed to maintain discipline.

Because of the failure of the family to maintain discipline, education should have been the likely substitute, and could have been had the educational ranks been filled with men and women spelled with a capital "M" and "W", respectively. But, no, public education succumbed to the permissive pressures of our society. 45 minutes of a 60 minute block of instruction became devoted to maintaining order in the classroom *and not to the subject*. The administrators surrendered to the desires of the students. And "open campuses" became a reality and not just a teenage dream.

It is time the "do your own thing" attitude be overcome. It is time educators take their work seriously and do away with "open campuses", as a "cop out". It is time the judiciary branch of our government support the educational administrator in his efforts to maintain law and order in our schools. It is time that "discipline" and "punishment" cease being synonymous in our society. And, it is time for teachers to quit picking and choosing those rules and regulations they wish to enforce. There must be consistency within a faculty, for inconsistency is quick to destroy the good that takes time to construct.

The teacher is the most influencial member of our society in the training and development of your son or daughter, outside of the parent, and, therefore, should be outstanding in the truest sense. Those of us who have had the privilege of serving our country in the military forces know that the best teacher is the one who can lead by example. We need men and women in education who are strong in character, mentally alert and wise through experience.

And yet, far too often, the college student in choosing his vocation chooses the field of education by the process of elimination. Upon reaching college, and still searching for a major, the college student is quick to realize he is either not qualified or not willing to enter the very challenging fields of engineering, law, medicine, dentistry or architecture. So, he finds himself taking the course of least resistance, education. Having secured a degree in education, which includes many needless and nonchallenging courses, but good for credits, he moves directly from the campus as a student to a campus as a teacher. He is now "qualified" to teach, advise and counsel your son or daughter about his or her future in the world of business, competition and abuse—even without any personal practical experience in the "outside" world. How can this be? It can't and be successful!

I strongly recommend that the requirements to teach be stiffened by substituting for the recognized educational "gut" courses at the college level, courses that are more meaningful and more demanding. I strongly recommend that a candidate for education be required to serve successfully a minimum of two years in industry or the armed forces before being permitted to enter the field of education. I strongly recommend that salary scales for teachers based on longevity, credits and degrees be eliminated, for a self-respecting teacher soon realizes that such a pay scale is benefitting the lazy and penalizing the "totally involved". And, of course, I strongly recommend that tenure also be eliminated, for it is a definite obstacle in the path for improvement.

In the realm of private, or independent, education, we face some of the same problems which are plaguing the public schools. But, we are not confronted with bussing, an irresponsible expediency to correct the disparity that has traditionally existed between the educational standards of the inner city and its adjoining suburbs; with teacher strikes, a process for gaining more pay in return for doing less out of devotion; with pay scales, a system that fails to reward the dedicated; with large classroom, an underlying cause for the decline in the "three R's" and the resulting mediocrity in education; with delayed disciplinary problems, a neutralizer to the disciplinary system of any school from lack of support from the courts; and with unconcerned parents, an element of our society that is largely responsible for the decline in our public educational systems.

However, there is an area of deep concern to every headmaster of every prep school—and that is *funds*. Because we are "independent," we are not supported by the taxpayer. Because we are independent, we must seek our operating revenue through tuition and donations from alumni, parents, foundations and corporations. As the football coach must recruit to win, a headmaster must raise funds to survive. With the sharp rise in salaries, wages and cost of material, tuition revenue is falling short of operational expenditures, and if permitted to continue, means one thing. By 1980, 50% of the private educational institutions of this country, college and secondary, will have vanished from the American scene.

This, of course, would be a damaging blow to the once proud educational system of America. It would mean that the now overcrowded public school systems that are already being reduced in effectiveness through numbers would definitely be overtaxed. It would mean that the privilege and glory in diversity of method inherent in a democratic way of life would be greatly reduced. And, it would mean that those strongholds in education unselfishly dedicated to the development of men through programs which stress leadership, integrity, responsibility, faith, patriotism, physical fitness and academic excellence would rapidly be becoming a beautiful and tremendously successful segment of education of the past. It would be a tragedy this country can ill afford.

As Headmaster of a military academy that has enjoyed a very favorable reputation in education since 1884, I would like to make a few comments concerning the military. Unfortunately, the military academies of this country have been looked upon by the public as dumping grounds for problem kids or as a rich man's reform school. For the past 3½ years I have dedicated my whole life, at the sacrifice of my family and my personal pleasures, to one purpose: To make St. John's the epitome of education. It has not been easy. It has been necessary to weed out weak and liberal educators; to dismiss those cadets who failed to adjust to a demanding and challenging program; to up-grade the curriculum and increase the academic load from four to five solid subjects; to eliminate the physical hazing; to reestablish an honored and respected military program; to establish respected cadet leadership within the Corps of Cadets and to give guidance and direction to the life of each cadet.

It takes hard work. It takes team work. And, it takes convincing to demonstrate that the ideals upon which St. John's was founded in 1884 by Dr. Smythe are every bit as effective in the 1970's as they were almost 100 years ago. There are those who feel that the military mind is not flexible, but I challenge this. Since WWII, at the last report I had, there were more Rhodes Scholars from West Point than any other university or college in this country. I look at Japan to point to the great success that nation has enjoyed as a world leader in industry because of General MacArthur's great leadership from 1945–51.

In an article about Doug Kenna, quarterback of Army's 1944 National Championship Team, and now President of the National Association of Manufacturers, it was stated, "It is not as unusual as it might appear for a West Pointer to follow a business career after fulfilling his military obligations. At least one study shows that service academy personnel, on a per graduate basis, occupy more top corporation jobs than the product of any top business school."

And, I wish to remind you, that my good friend and classmate, General Alexander M. Haig, Jr., with whom I had lunch in the White House on Monday of this week, was the first man President Nixon called to the White House immediately following the dismissal of Mr. Nixon's top two aides as a result of Watergate, to lend stability, continuity and trust to Mr. Nixon's program.

The military has suffered as a result of Vietnam, but we fail to realize it was our politicians who got us into Vietnam, it was our politicians who tried to direct the war in Vietnam, it was our "dove" politicians who aided and abetted the enemy, and it was our politicians who extracted us from Vietnam under the cloak of "with honor". Let me remind you of the underlying cause for the great success of this country since WWII economically, socially, scientifically and industrially.

During WW II, this country had 2½ million men and women in uniform and millions of others in support of the war effort. There were no 8 hour days. There were no 5 day weeks. America in those days had not fallen into the strangle hold of the unions. If it took 48 hours to do a job, we rolled up our sleeves and went to work. We learned to put the success of our unit first and our personal needs last. We were willing to make sacrifices to ensure the success of our outfit. We were quick to realize that the leadership habits we developed could be applied to our civilian jobs upon the completion of the war. That is why America has been so successful!

Education is the life blood of America. Private education has been a stimulant to education. It has provided diversity. It has provided an alternate to those parents who need a motivating force for their son or daughter. It has provided education with the development of the "whole student" concept.

Within the past two weeks I have been very pleased, and flattered, to find a nationally syndicated article written by Jenkin Lloyd Jones, Editor and Publisher of the Tulsa Tribune, on St. John's Military Academy in which he quotes from a recent annual report of mine. In this article, Mr. Jones in his own poignant manner describes the drastic steps I have taken at St. John's to correct the problems that have crept into education everywhere as a result of the liberal and laissez-faire attitude in America over the past 10–20 years. I would like to close by quoting two paragraphs from Mr. Jones' article:

"Maybe he's right. Maybe not. It is not really terribly important whether the little school survives, for redistributing 225 boys is not a big thing in this huge land."

"In the outcome of the struggle of the little military school to keep afloat in a cockleshell of standards on a vast sea of permissiveness, one might be able to make some guesses about the future of America."

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Rogers, for the period May 13 through May 17 on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. Guyer), and to revise and extend his remarks and include extraneous matter:)

Mr. Broomfield, for 10 minutes, today.

(The following Members (at the request of Mr. Davis of South Carolina), to revise and extend their remarks, and to include extraneous matter to:)

Mr. Gonzalez, for 5 minutes, today.
Mr. Flood, for 5 minutes, today.
Mr. Alexander, for 5 minutes, today.
Mr. Owens, for 10 minutes, today.
Mr. Wolff, for 15 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Madden.

(The following Members (at the request of Mr. Guyer), and to include extraneous matter:)

Mr. Conte.
Mr. Archer.
Mr. Brown of Michigan.
Mr. Burgener.
Mr. Whalen in two instances.
Mr. Rousselot.

(The following Members (at the request of Mr. Davis of South Carolina), and to include extraneous matter:)

Mr. Gonzalez in three instances.
Mr. Rarick in three instances.
Mr. Riegle in two instances.
Mr. Flood.
Mr. Dulski in five instances.
Mr. James V. Stanton.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 3031. An act to change the title of the Under Secretary of Agriculture to the Deputy Secretary of Agriculture; to provide for two additional Assistant Secretaries of Agriculture; and for other purposes; to the Committee on Agriculture.

ENROLLED BILLS SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 5035. An act to amend Public Law 90–335 (82 Stat. 174) relating to the purchase, sale, and exchange of certain lands on the Spokane Indian Reservation; and

H.R. 5525. An act to declare that certain mineral interests are held by the United States in trust for the Chippewa Cree Tribe of the Rocky Boy's Reservation, Mont.

ADJOURNMENT

Mr. DAVIS of South Carolina. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 22 minutes p.m.), under its previous order, the House adjourned until Monday, May 13, 1974, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2294. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in the cases of certain aliens found admissible to the United States, pursuant to section 212(a)(28)(I)(ii) of the Immigration and Nationality Act [8 U.S.C. 1182(a)(28)(I)(ii)(b)]; to the Committee on the Judiciary.

2295. A letter from the Chairman, Board of Directors, Future Farmers of America, transmitting a report on the audit of the accounts of the National Future Farmers of America Alumni Association for the fiscal year ended June 30, 1973, pursuant to Public Laws 81–740 and 88–504; to the Committee on the Judiciary.

2296. A letter from the president, board of trustees, Future Farmers of America Foundation, Inc., transmitting a report on the audit of the accounts of the Foundation for calendar year 1973, pursuant to Public Laws 81–740 and 88–504; to the Committee on the Judiciary.

2297. A letter from the Acting Administrator of General Services, transmitting a prospectus proposing the acquisition of space under lease arrangement in an office building to be constructed in Jackson, Miss.; to the Committee on Public Works.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BINGHAM:

H.R. 14709. A bill to amend the Internal Revenue Code of 1954 relating to capital asset defined, and for other purposes; to the Committee on Ways and Means.

By Mr. BROWN of Michigan:

H.R. 14710. A bill to direct the Secretary of Health, Education and Welfare to develop and implement a system for the issuance of social security benefit checks on a staggered or cyclical basis; to the Committee on Ways and Means.

By Mr. CAREY of New York:

H.R. 14711. A bill to require the establishment of an agricultural service center in each county of a State as part of the implementation of any plan for the establishment of such centers on a nationwide basis; to the Committee on Agriculture.

By Mr. CORMAN:

H.R. 14712. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for optometric and medical vision care; to the Committee on Ways and Means.

By Mr. de LUGO (for himself and Mr. Burton):

H.R. 14713. A bill to provide cost-of-living adjustments in retirement pay of certain Federal judges; to the Committee on the Judiciary.

By Mr. DULSKI:

H.R. 14714. A bill to provide for the acquisition of career status by certain employees of the Federal Government serving under overseas limited appointments; to the Committee on Post Office and Civil Service.

By Mr. DULSKI (by request):

H.R. 14715. A bill to clarify existing authority for employment of White House Office and Executive Residence personnel, and employment of personnel by the President in emergencies involving the national security and defense, and for other purposes, to the Committee on Post Office and Civil Service.

H.R. 14716. A bill to amend subchapter II of chapter 53 of title 5, United States Code, with respect to the rates of pay for levels III, IV and V of the Executive Schedule; to the Committee on Post Office and Civil Service.

By Mr. GILMAN (for himself, Mr. Murphy of New York, Mr. Edwards of California, Mr. Lagomarsino, Mr. Butler, Mr. Riegle, Mr. Froehlich, Mr. Burgener, Mrs. Burke of California, Mr. Murtha, Mr. Patman, and Mr. Hogan):

H.R. 14717. A bill to amend title II of the Social Security Act to increase to $7,500 the amount of outside earnings which (subject to further increases under the automatic adjustment provisions) is permitted each year without any deductions from benefits thereunder; to the Committee on Ways and Means.

By Mr. HOLIFIELD (for himself and Mr. Horton):

H.R. 14718. A bill to discontinue or modify certain reporting requirements of law; to the Committee on Government Operations.

By Mr. QUIE (for himself and Mrs. Heckler of Massachusetts):

H.R. 14719. A bill to amend section 428 of the Higher Education Act of 1965 to better assure that students will have reasonable access to loans to meet their postsecondary education costs; to the Committee on Education and Labor.

H.R. 14720. A bill to prohibit discrimination on the basis of sex or marital status in the granting of credit; to the Committee on Banking and Currency.

By Mr. ROGERS (for himself, Mr. Kyros, Mr. Symington, Mr. Hastings, Mr. Heinz, and Mr. Hudnut):

H.R. 14721. A bill to amend the Public Health Service Act to revise and extend the programs of assistance under title VII for training in the health and allied health professions, to revise the National Health Service Corps program and the National Health Service Corps scholarship training program, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROGERS (for himself, Mr. Kyros, Mr. Preyer, Mr. Symington, Mr. Hastings, Mr. Heinz, and Mr. Hudnut):

H.R. 14722. A bill to amend title VIII of the Public Health Service Act to revise and extend the programs of assistance under that title for nurse training; to the Committee on Interstate and Foreign Commerce.

By Mr. SEBELIUS (for himself and Mr. Alexander):

H.R. 14723. A bill to amend the Agricultural Act of 1970 to change the date on which the President must report to Congress concerning Government assisted services to rural areas; to the Committee on Agriculture.

By Mr. STEELMAN (for himself, Mr. Murphy of New York, Mr. Gunter, and Mr. Riegle):

H.R. 14724. A bill to amend section 552 of title 5, United State Code (known as the Freedom of Information Act), to provide for increased public access to certain Federal agency records; to the Committee on Government Operations.

H.R. 14725. A bill to amend section 552 of title 5, United States Code (known as the Freedom of Information Act), to provide for an in-camera inspection by the appropriate court of certain agency records; to the Committee on Government Operations.

H.R. 14726. A bill to amend section 552 of title 5, United States Code (known as the Freedom of Informaton Act), to require Federal agencies to respond to requests for certain information no later than 15 days after the receipt of each such request; to the Committee on Government Operations.

H.R. 14727. A bill to amend section 552 of title 5, United States Code (known as the Freedom of Information Act), to provide for the award of court costs and reasonable attorney's fees to successful complainants that seek certain Federal agency information; to the Committee on Government Operations.

H.R. 14728. A bill to amend section 552 of title 5, United States Code (known as the Freedom of Information Act) to specify those matters which in the interest of the national defense may be withheld from public disclosure by a Federal agency; to the Committee on Government Operations.

By Mr. STEELMAN (for himself, Mr. Steele, Mr. Fraser, and Mr. Gilman):

H.R. 14729. A bill to amend the Public Health Service Act to provide for the making of grants to assist in the establishment and initial operation of agencies and expanding the services available in existing agencies which will provide home health services, and to provide grants to public and private agencies to train professional and paraprofessional personnel to provide home health services; to the Committee on Interstate and Foreign Commerce.

By Mr. STEELMAN (for himself, Mr. Murphy of New York, Mr. Gunter, and Mr. Riegle):

H.R. 14730. A bill to provide standards of fair personal information practices; to the Committee on the Judiciary.

By Mr. STEELMAN (for himself, Mr. Gunter and Mr. Riegle):

H.R. 14731. A bill to amend the Social Security Act to prohibit the disclosure of an individual's social security number or related records for any purpose without his consent unless specifically required by law, and to provide that (unless so required) no individual may be compelled to disclose or furnish his social security number for any purpose not directly related to the operation of the old-age, survivors, and disability insurance program; to the Committee on Ways and Means.

By Mr. WYDLER:

H.R. 14732. A bill to amend the Internal Revenue Code of 1954 to temporarily reduce the excise tax on gasoline by 2 cents per gallon; to the Committee on Ways and Means.

H.R. 14733. A bill to amend the Internal Revenue Code of 1954 so as to reduce by 8 percent the amount of individual income tax withheld at the source; to the Committee on Ways and Means.

By Mr. ROUSSELOT:

H. Res. 1098. Resolution to amend the House rules to require that the report of each House committee on each public bill or joint resolution reported by the committee shall contain a statement as to the inflationary impact on the national economy of the enactment of such legislation; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII,

474. The SPEAKER presented a memorial of the Legislature of the State of Florida, relative to the establishment of veterans' cemeteries in central and south Florida; to the Committee on Veterans' Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. DANIELSON introduced a bill (H.R. 14734) for the relief of Marisa Marzano; to the Committee on the Judiciary.

SENATE—*Thursday, May 9, 1974*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Lord, send us to our tasks this day with a sense of Thy presence and an inward assurance of Thy guidance. Give direction to our program, inform our minds, sharpen our judgment, and enable us to do only those things which are pleasing in Thy sight. In weakness refresh us, in stress quiet us, in temptation guard us. When evening comes, grant us the rest of those who have followed Thee with a pure heart.

Through Jesus Christ, our Lord. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, May 8, 1974, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar.

There being no objection, the Senate proceeded to consider executive business.

U.S. POSTAL SERVICE

The PRESIDENT pro tempore. The clerk will state the first nomination.

The second assistant legislative clerk read the nomination of Hayes Robertson, of Illinois, to be Governor of the U.S. Postal Service.

The PRESIDENT pro tempore. Without objection, the nomination will be considered and confirmed.

DEPARTMENT OF JUSTICE

The second assistant legislative clerk proceeded to read nominations in the Department of Justice.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that those nominations be considered en bloc.

The PRESIDENT pro tempore. Without objection, the nominations will be considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I request that the President be immediately notified of the confirmation of the nominations.

The PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

There being no objection, the Senate resumed the consideration of legislative business.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATIONS, 1975

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 796, H.R. 13998.

The PRESIDENT pro tempore. The clerk will state the bill by title.

The legislative clerk read the bill by title, as follows:

A bill (H.R. 13998) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Aeronautical and Space Sciences with an amendment to strike out all after the enacting clause and insert:

That there is hereby authorized to be appropriated to the National Aeronautics and Space Administration:

(a) For "Research and development," for the following programs:

(1) Space Shuttle, $800,000,000;

(2) Space flight operations, $318,300,000;

(3) Advanced missions, $1,500,000;

(4) Physics and astronomy, $140,515,000;

(5) Lunar and planetary exploration, $264,000,000;

(6) Launch vehicle procurement, $143,500,000;

(7) Space applications, $200,500,000;

(8) Aeronautical research and technology, $171,500,000;

(9) Space and nuclear research and technology, $74,800,000;

(10) Tracking and data acquisition, $250,000,000;

(11) Technology utilization, $5,500,000;

(b) For "Construction of facilities," including land acquisition, as follows:

(1) Addition to flight and guidance simulation laboratory, Ames Research Center, $3,660,000;

(2) Rehabilitation and modification of science and applications laboratories, Goddard Space Flight Center, $890,000;

(3) Modifications for fire protection and safety, Goddard Space Flight Center, $1,220,000;

(4) Acquisition of land, Jet Propulsion Laboratory, $150,000;

(5) Addition to systems development laboratory, Jet Propulsion Laboratory, $4,880,000;

(6) Addition for integrated systems testing facility, Jet Propulsion Laboratory, $3,790,000;

(7) Modification of water supply system, Lyndon B. Johnson Space Center, $935,000;

(8) Modification of 6,000 pounds per square inch air storage system, Langley Research Center, $515,000;

(9) Rehabilitation of 16-foot transonic wind tunnel, Langley Research Center, $2,990,000;

(10) Modification of propulsion systems laboratory, Lewis Research Center, $2,580,000;

(11) Modification of rocket engine test facility, Lewis Research Center, $660,000;

(12) Construction of X-ray telescope facility, Marshall Space Flight Center, $4,060,000;

(13) Modification of beach protection system, Wallops Station, $1,370,000;

(14) Construction of infrared telescope facility, Mauna Kea, Hawaii, $6,040,000;

(15) Modifications for fire protection and safety at various tracking and data stations, $1,430,000;

(16) Space Shuttle facilities at various locations as follows:

(A) Construction of Orbiter landing facilities, John F. Kennedy Space Center, $15,880,000;

(B) Construction of Orbiter processing facility, John F. Kennedy Space Center, $13,380,000;

(C) Modifications to launch complex 39, John F. Kennedy Space Center, $42,690,000;

(D) Modifications for dynamic test facilities, Marshall Space Flight Center, and National Aeronautics and Space Administration Industrial Plant, Downey, California, $3,920,000;

(E) Construction of Orbiter horizontal flight test facilities, Flight Research Center, $1,940,000;

(F) Modifications for crew training facilities, Lyndon B. Johnson Space Center, $420,000;

(G) Modification of the vibration and acoustic test facility, Lyndon B. Johnson Space Center, $410,000;

(H) Construction of materials test facility, White Sands Test Facility, $790,000;

(I) Modifications for solid rocket booster structural test facilities, Marshall Space Flight Center, $2,590,000;

(17) Rehabilitation and modification of facilities at various locations, not in excess of $500,000 per project, $14,900,000;

(18) Minor construction of new facilities and additions to existing facilities at various locations not in excess of $250,000 per project, $4,500,000.

(19) Facility planning and design not otherwise provided for, $10,900,000.

(c) For "Research and program management," $749,624,000, and such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

(d) Notwithstanding the provisions of subsection 1(g), appropriations for "Research and development" may be used (1) for any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the Administration for the performance of research and development contracts, and (2) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities, and title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to insure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" pursuant to this Act may be used in accordance with this subsection for the construction of any major facility, the estimated cost of which, including collateral equipment, exceeds $250,000, unless the Administrator or his designee has notified the Speaker of the House of Representatives and the President of the Senate and the Committee on Science and Astronautics of the House of Representatives and the Committee on Aeronautical and Space Sciences of the Senate of the nature, location, and estimated cost of such facility.

(e) When so specified in an appropriation Act, (1) any amount appropriated for "Research and development" or for "Construction of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities, and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of twelve months beginning at any time during the fiscal year.

(f) Appropriations made pursuant to subsection 1(c) may be used, but not to exceed $35,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator and his determination shall be final and conclusive upon the accounting officers of the Government.

(g) Of the funds appropriated pursuant to subsections 1(a) and 1(c), not in excess of $10,000 for each project, including collateral equipment, may be used for construction of new facilities and additions to existing facilities, and not in excess of $25,000 for each project, including collateral equipment, may be used for rehabilitation or modification of facilities: *Provided*, That of the funds appropriated pursuant to subsection 1(a), not in excess of $250,000 for each project, including collateral equipment, may be used for any of the foregoing for unforeseen programmatic needs.

SEC. 2. Authorization is hereby granted whereby any of the amounts prescribed in paragraphs (1) through (18), inclusive, of subsection 1(b) may, in the discretion of the Administrator or his designee, be varied upward 10 per centum to meet unusual cost variations, but the total cost of all work authorized under such paragraphs shall not exceed the total of the amounts specified in such paragraphs.

SEC. 3. Not to exceed one-half of 1 per centum of the funds appropriated pursuant to subsection 1(a) hereof may be transferred to the "Construction of facilities" appropriation, and, when so transferred, together with $10,000,000 of the funds appropriated pursuant to subsection 1(b) hereof (other than funds appropriated pursuant to paragraph (19) of such subsection) shall be available for expenditure to construct, expand, or modify laboratories and other installations at any location (including locations specified in subsection 1(b)), if (1) the Administrator determines such action to be necessary because of changes in the national program of aeronautical and space activities or new scientific or engineering developments, and (2) he determines that deferral of such action until the enactment of the next Authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities. The funds so made available may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No portion of such sums may be obligated for expenditure, or expended to construct, expand, or modify laboratories and other installations unless (A) a period of thirty days has passed after the Administrator or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate and to the Committee on Science and Astronautics of the House of Representatives and to the Committee on Aeronautical and Space Sciences of the Senate a written report containing a full and complete statement concerning (1) the nature of such construction, expansion, or modification, (2) the cost thereof including the cost of any real estate action pertaining thereto, and (3) the reason why such construction, expansion, or modification is necessary in the national interest, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has not objection to the proposed action.

SEC. 4. Notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the House Committee on Science and Astronautics or the Senate Committee on Aeronautical and Space Sciences,

(2) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by sections 1(a) and 1(c), and

(3) no amount appropriated pursuant to this Act may be used for any program which has not been presented to or requested of either such committee,

unless (A) a period of thirty days has passed after the receipt by the Speaker of the House of Representatives and the President of the Senate and each such committee of notice given by the Administrator or his designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objecion to the proposed action.

SEC. 5. It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

SEC. 6. Section 203(b)(9) of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2473(b)(9)), is amended to read as follows:

"(9) to obtain services as authorized by section 3109 of title 5, United States Code, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18;".

SEC. 7. The National Aeronautics and Space Administration is authorized, when so provided in an appropriation Act, to enter into a contract for tracking and data relay satellite services. Such services shall be furnished to the National Aeronautics and Space Administration in accordance with applicable authorization and appropriation Acts. The Government shall incur no costs under such contract prior to the furnishing of such services except that the contract may provide for the payment for contingent liability of the Government which may accrue in the event the Government should decide for its convenience to terminate the contract before the end of the period of the contract. Title to any facilities which may be required in the performance of the contract and constructed on Government-owned land shall vest in the United States upon the termination of the contract. The Administrator shall in January of each year report to the Committee on Science and Astronautics and the Committee on Appropriations of the House of Representatives and the Committee on Aeronautical and Space Sciences and the Committee on Appropriations of the Senate the projected aggregate contingent liability of the Government under termination provisions of any contract authorized in this section through the next fiscal year. The authority of the National Aeronautics and Space Administration to enter into and to maintain the contract authorized hereunder shall remain in effect as long as provision therefor is included in Acts authorizing appropriations to the National Aeronautics and Space Administration for subsequent fiscal years.

SEC. 8. This Act may be cited as the "National Aeronautics and Space Administration Authorization Act, 1975."

Mr. MOSS. Mr. President, H.R. 13998, as reported by your committee with an amendment and now before the Senate, would authorize appropriations to the National Aeronautics and Space Administration—NASA—for fiscal year 1975.

Before proceeding further, I would like to acknowledge the hard work of the members of the committee and particularly of the ranking minority member, the Senator from Arizona (Mr. GOLDWATER) during the hearings, the markup, and other deliberations on this bill. Their wise counsel and complete cooperation have improved the bill, and simplified the task of bringing it to the floor. No chairman could ever wish a more knowledgeable and cooperative ranking member than BARRY GOLDWATER.

I would also like to acknowledge the superb and skillful work of the committee staff who have worked with great diligence to assist the committee on this bill.

Mr. President, the programs spelled out in H.R. 13998 require appropriations totaling $3,267,229,000 for NASA in the coming fiscal year, $20,100,000 more than requested by the administration and $8,145,000 more than approved by the House.

This bill involves about 1 percent of the total Federal budget for the coming fiscal year. But that is not to say we should approve it simply because it is only 1 percent, or because it is so sharply lower than the aeronautics and space budgets of a few years ago. The real question is "What do we get for that 1 percent?"

Mr. President, I submit that this bill deals with the most productive 1 percent of the Federal budget. Programs authorized by this bill provide both the high technology we need for the future and the direct benefits we urgently need today. It is increasingly evident that knowledge and capabilities produced by NASA programs over the past 16 years are affecting virtually every part of our daily lives. Through this capability we are finding new sources of energy and learning how to use energy more prudently. We are able to monitor the effects our activities have on the environment and to conserve our resources. We are learning more and more about the weather. We are communicating more rapidly and far more economically around the world. We are learning to make worldwide crop predictions, to predict earthquakes and tornadoes and perhaps even how to control them. In the field of health, we are developing better diagnostic tools and better methods of treatment. And the list could go on.

The appropriations authorized by this bill would be over one-half billion dollars below the "constant level" NASA budget endorsed by the Congress 2 years ago. We were pleased to note that the Administration budget request for fiscal year 1975 reverses, in absolute dollars, the downward trend of recent years. But the increase recommended—about 3 percent over the budget plan for the current year—will not keep pace with inflation.

The funding which this bill would authorize is barely adequate, in my view, to maintain a viable research and development effort in aeronautics and space. Continued funding at this level will not provide the kind of aeronautics and space effort this Nation should have and can afford. More and more observers are suggesting that a few years from now we will look back on the early 1970's and wonder why we paid so little attention to the benefits that space activities offer not only for the United States but for all mankind.

Nevertheless, within these harsh funding restraints, the authorization recommended would support a balanced program of great value to the Nation. Essential ongoing programs would be continued, and important new starts made in space science and applications programs.

The details of all programs and major projects are discussed in the committee's report to the Senate, Senate Report No. 93–818. Therefore, in this statement I will only summarize important features of the bill.

Under research and development, there are 11 programs. Your committee, after careful deliberation, recommends that the Senate approve six of those as requested; that two of the programs—space flight operations and lunar and planetary exploration—be reduced; and that three programs—launch vehicle procurement, space applications, and aeronautical research and technology—be increased.

The committee recommends that the Apollo-Soyuz Test project in the space flight operations program be reduced by $5 million, as the testimony shows that the project is being underrun. We also recommend a $2 million decrease in the lunar and planetary program as the committee believes that economies should be made, particularly in light of the 7- to 10-percent overrun in the Viking project.

Mr. President, your committee has recommended that NASA proceed with a third Earth Resource Technology Satellite, referred to as ERTS–C. For that purpose, the committee recommends an increase in the applications program of $13 million for the ERTS–C spacecraft and $3 million for the Delta launch vehicle in the launch vehicle procurement program. In addition, your committee recommends that an additional $2 million be provided in applications program to improve the processing, distribution and utility of ERTS data. The Earth Resource Technology Satellite project has proven to be of immense benefit to a large number of users, both in the United States and other parts of the world. ERTS data has improved man's understanding of the earth's geology, of its agriculture, of its hydrology, of its land and water use and, of course, has provided the data for rapidly making new and updated maps of all kinds.

The ERTS–B satellite, insisted on by the Congress last year, is now scheduled to be launched early in 1975 with a design life of only a year. If ERTS–B lasts as long as ERTS–A, it would continue coverage for about 2 years; but there still would be a gap in providing coverage, since ERTS–C cannot be launched until 3 years after decision to go ahead; this means that the earliest launch date for ERTS–C would be sometime in the latter half of calendar year 1977. Your committee believes that NASA must proceed with a third ERTS satellite during fiscal year 1975 to assure continuity of data to the many users in the Federal Government, in the State and local governments, and in the private sector who are now learning to use ERTS to provide basic data on the world's resources and its environment. To continue to provide this data after ERTS–C, the committee again urges the executive branch of the Government to create the institutional arrangements necessary for managing a fully operational earth resource satellite system.

Mr. President, the committee recommends two other additions to the applications program. We recommend that $2 million be added to the program to expand the NASA research and technology on short duration, violent weather phenomena and so agree with the House in identifying this need as underscored by recent events. The committee also recommends that an additional $6 million be provided for energy-related activities within NASA. Testimony presented to the committee shows that NASA has many meaningful energy efforts underway that have the potential to make significant contributions to the solution of our national energy problems.

Your committee recommends that $5,100,000 be added to NASA's aeronautical research and technology program. Of this amount, the committee identified $1.1 million for increased effort on advanced supersonic technology, with the remainder of $4 million to be applied to the areas of general aviation, aviation safety, and hydrogen fuel technology.

Mr. President, your committee has taken a significant action with respect to the tracking and data acquisition program. On March 8, 1974, the Administrator of NASA requested of the Congress that the National Aeronautics and Space Act of 1958 be amended to permit NASA to enter into a contract to lease tracking and data relay satellite services. This service would permit real time communications with Earth orbital spacecraft and permit closing most of the present ground stations in the worldwide tracking and data network supporting spacecraft in Earth orbit, which would result in substantial savings.

Moreover, as the space program matures, the amount of data being sent back to Earth from spacecraft in Earth orbit is increasing rapidly. With the present system of ground based stations, this means that more and more data must be stored in the spacecraft to be "dumped" as the spacecraft passes over a ground station. These onboard storage systems have been one of the least reliable elements in spacecraft. The tracking and data relay satellite system—TDRSS—would transmit data immediately on acquisition from the Earth satellite to the TDRSS and directly to a ground station in the United States, thereby greatly reducing the onboard storage of the data.

Mr. President, the committee strongly endorses the prompt deployment of a tracking and data relay satellite system.

However, it is less clear whether NASA should contract for the development and operation of a Government-owned system, or for services provided through a private owned TDRSS.

In its action on this bill, the committee recommends that a new section 7 be included to provide authority for NASA to enter into the proposed long-term contract—the lease arrangement—but to specify also that such authority shall remain in effect only as long as provision therefor is included in NASA authorization acts for fiscal year 1976 and subsequent fiscal years. This would mean that NASA would be required to terminate any such contract if, at the time of enactment of the fiscal year 1976 authorization act, that act did not provide continuing authority. The committee has requested, and NASA has agreed, to furnish a detailed analysis comparing the cost of a lease arrangement with the projected cost of a NASA-owned TDRSS during the consideration of the fiscal year 1976 authorization bill, and prior to entering into any long-term contract.

Mr. President, the bill recommended by your committee includes 27 construction projects. In summary, your committee agreed with all of the requests for construction except that it recommends cutting from the bill $4 million requested for the construction of space shuttle solid rocket motor production and test facilities. The solid rocket motor award for the Space Shuttle has been protested to the General Accounting Office. It is your committee's view that if the award finally goes to the contractor selected by NASA, $4 million is not needed whereas, if it should go to the contractor contesting the award, $4 million would not be sufficient. Accordingly, your committee found that the NASA request for this project should be deferred.

There are two other significant actions recommended by your committee with respect to construction of facilities which should be brought to the attention of the Senate. The first is that the committee, as it has in past years, recommends that Space Shuttle construction projects be itemized by dollar amount in the bill. Second, the administration requested that the construction of facilities cost variation of individual projects be increased from 5 to 10 percent to meet unusual cost increases such as significant cost increases in materials. Your committee believes that this is a reasonable request under current economic conditions. It does not increase the total authorization for construction of facilities projects. It merely permits the agency to increase the authorized ceiling for any individual facility project upward by as much as 10 percent, while commensurately reducing the authorized cost of other construction projects.

Mr. President, the administration requested $749,624,000 for research and program management. Your committee agrees with this request and recommends that it be authorized. Approximately three-fourths of this appropriation is required to pay the salaries and related personnel costs for NASA employees during fiscal year 1975. The NASA work force at the close of fiscal year 1975 is scheduled to have 24,616 permanent positions, requiring a further reduction of 354 positions during the fiscal year. The remaining funds under this authorization are for travel, facility services, technical services, and administrative support, and will be slightly lower than equivalent costs for fiscal year 1974 despite inflation and an increase of $9.4 million due to the requirement that NASA, beginning in fiscal year 1975, reimburse the General Services Administration for all facility space and related services provided by the GSA.

In the bill sent to the Congress, the administration requested that NASA be permitted to obtain the services of consultants at rates not in excess of the daily rate equivalent for a GS–18 civil servant or about $138 per day. Current legislation establishes a ceiling of $100 per day for such services. Your committee believes that this increase is necessary if NASA is to be in a position to obtain appropriate consultant services. Several other Government agencies are authorized to pay up to the equivalent of the GS–18 rate, which is a maximum rate and will not be paid to all consultants.

Mr. President, the NASA authorization bill recommended by your committee for fiscal year 1975 does not provide for all of the programs which many on the committee would like to see NASA undertake. However, the committee believes that the bill recommended by your committee provides a well-balanced program that can meet the minimum needs of our country in space and aeronautics during the next fiscal year.

In closing, Mr. President, let me say that during the last year the NASA programs have provided our country with many magnificent scientific and technological accomplishments. We need only recall the brilliant performance of the Skylab program, the pictures of Jupiter, of Venus and Mercury, with details never before seen by man, the impressive performance of our applications satellites, such as ERTS–A, and new aeronautical technology, such as the test flights of the supercritical wing and fly-by-wire systems which will revolutionize future aircraft.

I think it is important that we all recognize that the rampant inflation and the energy crisis which are impacting every facet of our lives are having a particularly severe impact on high technology programs like those authorized in this bill. Every program that requires scarce or exotic materials, or components and subsystems manufactured "on the bench" rather than by mass production, is beginning to feel the effects of cost increases two or three or more times as rapid as those we have seen so far in the supermarket. We should not be sanguine that long-term cost projections made today, or indeed in recent months, will prove to be accurate, and I do not want my colleagues to act on this bill today on the sublime assumption that every program can be carried out on schedule and within projected costs. But I can assure you that every program in this bill will be worth its actual cost to the American people.

Mr. President, every American can be proud of the accomplishments of NASA, and I urge my colleagues in the Senate to support this authorization bill as reported by your committee.

Mr. President, I ask unanimous consent that a statement prepared by the ranking minority member of the committee, the Senator from Arizona (Mr. GOLDWATER), may appear in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR GOLDWATER

I fully support the remarks made by the distinguished Chairman of the Senate Committee on Aeronautical and Space Sciences.

In 1972, the Executive proposed and the Congress agreed to a constant level budget for NASA. The dollar value of this budget was $3.4 billion measured in 1971 dollars. Before us today is a bill that authorizes $3,267,229,000 which is substantially below the constant level budget—especially when inflation is considered.

Since the Senate last considered NASA's budget, there has been at least one important development on the space shuttle program. Commercial markets amounting to at least $2 billion a year have been identified for the space shuttle. These markets include:

Space processing area:	*Annual value (in millions)*
10 typical vaccines	over $1, 000
Livestock sperm	422
DC rectification and regulation crystals	100
Tungsten carbide components for oil pumps and valves	60–85
Aircraft turbine blades	36
Acoustic wave devices	100
X-ray targets	18
Glasses (scientific and optical)	10
Computer memory devices	380
Development of small electric motors	56
Total	2, 182

Now, the important point is that this $2 billion market is one that exists for space processing and manufacturing. As we move along, I believe further commercial markets for the space shuttle will emerge.

It is becoming a distinct possibility that the space shuttle will repay its R. & D. costs many times over.

Unfortunately, the NASA authorization only provides $17,500,000 for aeronautical research and technology.

In hearings held before the Senate Committee on Aeronautic and Space Sciences on H.R. 13998, it was amply demonstrated that America's global aircraft market is under assault. The Russians, the French, the Germans, the British, and the Japanese are beginning to move out.

If we fail to provide the necessary aeronautical R. & D., there will come a time when America's export of aviation products will be wiped out. Currently, aeronautical exports amount to about $4 billion a year. With the cost of energy going up, we cannot afford to lose these markets.

Mr. President, the aerospace R. & D. of this Nation has yielded tremendous benefits over the past four decades:

Aviation played a decisive role in a global war.

Routine air travel was established across the oceans and around the world.

The sound barrier was broken and supersonic flight became routine.

And man set foot on the moon.

The advancement in technology has been staggering and the benefit to mankind incalculable.

In a world evermore competitive in aerospace development, I submit these should be our national goals:

We must push advanced propulsion.

We must build modern aeronautical research facilities.

We must pursue research in supersonic and hypersonic aircraft.

We must put as much emphasis on performance as we do on pollution and noise.

The economic and spiritual well-being of the Nation demand that we push the frontiers of knowledge and technology. Most important of all, we can provide a better and fuller life for all Americans.

Mr. President, I commend to my colleagues H.R. 13998 as reported to the Senate. It is a worthy measure deserving of support.

The PRESIDENT pro tempore. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I do not seek recognition. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

TRANSCRIPTS OF TAPES SUBMITTED BY THE PRESIDENT: PUBLIC TRANSCRIPTS—V

Appendix 14. Meeting: The President, Haldeman and Ehrlichman, EOB Office, April 14, 1973. (8:55–11:31 a.m.):

(Material unrelated to Presidential actions deleted.)

P. Did you reach any conclusions as to where we are.

E. No conclusions. Dick Wilson, I think, has an interesting column this morning (unintelligible). It's all a money problem. Unintelligible. Well, yes—

P. Wilson's in the Star.

E. (Unintelligible)

P. So what—?

H. (Unintelligible) is really the essence of this whole thing is too much money. Too much was spent. And so I—

P. Yeah. My point, everybody—

H. No not everybody. Let's say, one group, pieces that (unintelligible) has on that side and more like (unintelligible) says that his, you know, solving Watergate doesn't take care of it.

P. Lots of people, I think want the President to speak out on the whole general issue of money and campaign and all that.

E. Generally, but he gets specific on this. He says also (unintelligible)

P. Is that what you think, go out and make a speech?

E. I'll tell you what I think. I think that the President's personal involvement in this is important. And I know——

P. I don't think it's a speech. Well, that's a point. I think there are other ways you can get at it. Now I was thinking of the—before we get into that though let's get back. I'd like to go in, if I could, to what your conversation with Colson was and in essence, what did he and the lawyer tell you about?

E. That visit was to tell me that Hunt was going to testify on Monday afternoon.

P. How does he know that? How does he get such information?

E. Undoubtedly through Bittman.

P. Right.

E. Or Bittman to Shapiro(?)

P. Now why is Hunt testifying? Did he say?

E. He said, I'll tell you what he said and then I'll tell you what I think the fact is. He said Hunt was testifying because there was no longer any point in being silent. That so many other people were testifying, that there was no—he wasn't really keeping any (unintelligible).

P. Yeah.

E. It wouldn't add much. My feeling is that Bittman got very nasty.

P. Why.

E. This grand jury started focusing on the aftermath and he might be involved.

H. Exactly.

P. What did he say?

E. He went to the U.S. Attorney and he said, "Maybe I can persuade my client to talk."

P. What do Colson et al, Colson and Shapiro, think we ought to do under these circumstances? Get busy and nail Mitchell in a hurry?

E. Yes.

P. How is that going to help?

E. Well, they feel that after he testifies that the whole thing is going to fall in in short order.

P. Right.

E. Mitchell and Magruder will involuntarily be indicted. Both will say you have lost any possibility of initiative for participation in the process.

P. What does Colson want us to do?

E. He wants you to do several things. He wants you to persuade Liddy to talk.

P. Me?

E. Yes, sir, That's his—I didn't bring my notes, but, basically

P. Oh. Last night you didn't mention that.

E. I thought I had.

P. Maybe you did, maybe you did. I would need to let—bring Liddy in and tell him to talk?

E. You can't bring him in. He's in jail.

P. Oh.

E. You would send, you send word to him, of course through a spokesman or in some way you would be activist on this score.

H. There's no, that doesn't involve any real problem. As Dean points out, he is not talking 'cause he thinks he's supposed not to talk. If he is supposed to talk, he will. All he needs is a signal, if you want to turn Liddy on.

P. Yeah. But the point—that Colson wants to call the signals. Is that right?

E. He wants you to be able to say afterward that you cracked the case.

P. Go ahead. What else?

E. Well I forget what else. You remember, Bob, when I was busy (unintelligible). He feels that the next forty-eight hours are the last chance for the White House to get out in front of this and that once Hunt goes on, that's the ball game.

P. But you've got to be out in front earlier?

E. Well,—

P. But, I mean to go public—

E. Either publicly, or with provable, identifiable steps which can be referred to later as having been the proximate cause.

P. He's not talking because he thinks the President doesn't want him to talk? Is that the point?

E. He's—according to them, Mitchell's given him a promise of a pardon.

P. Bittman?

E. According to Colson and Shapiro.

P. I don't know where they get that. Mitchell has promised Liddy a pardon?

E. Yes, sir.

P. Another point that Colson may not have mentioned, I have an uneasy feeling that that Magruder story may have been planted.

H. No.

P. Is it true?

H. There is a third Magruder phone call which I have heard that says—

P. That he did talk to the reporter?

H. Says he did talk to a reporter on Monday, and did not say any of the things he is reported to have said; that what he, that it wasn't an important conversation. He said he gave the reporter the same line.

P. Yeah.

H. That you know. In listening to Magruder's thing, I was convinced he wasn't completely telling the truth (unintelligible) what he was saying. As you get into it, I'm convinced that its, (unintelligible) that part was pretty much (unintelligible). However—

P. Yeah. But you come—and these people you put together now. But if you come to Magruder, where in the hell does Colson get such a thing? Or is Colson a liar or—

E. Shapiro says he has a very good press contact who has proved very reliable to him. He says his practice in this town depends on his knowing what is going on. And he's told his press contact, This is one of the

P. He says he's talked to Magruder, Magruder said——

E. And they've now told us—we'll never get the chance—unintelligible

P. Does Magruder know about—

E. Magruder may have talked to some of the press and that that was (unintelligible)

P. But in a great detail, Colson (unintelligible) that he nailed Bob Haldeman. The way Colson said, he said he had Colson and two, but not any way that's particularly bad. Right?

E. Well I think, I think like on so many things this got, this got planted as a little seed by Shapiro with Colson and that it grew and apparently

P. Uh, uh.

H. I would guess what's happened is he's got this report from, Colson does, from Danny Hofgren that at the bar in the Bahamas with (unintelligible) someone (unintelligible) one night said to Hofgren everybody was involved in this. He didn't—

E. Everybody knew about it?

H. Mitchell, Haldeman, Colson, Dean, the President

P. Magruder—

E. He said, he specifically said the President.

P. Magruder does believe that, does he?

H. No. I've got it—

P. I just wonder if he believes (unintelligible). Does he believe it, John?

E. No. He tape recorded this thing. Higby handled it so well that Magruder has closed all his doors now with this tape.

P. What good will that do John?

E. Sir, it beats the socks off him if he ever gets off the reservation.

P. Can you use the tape?

E. Well no. You can use Higby.

P. Why not—

E. Well, it's illegal.

H. No, it's not. It is not.

P. Don't you have to tell somebody—

E. Put a beeper.

H. There is no beeper required. Check the Washington law.

P. Yeah.

H. District of Columbia is under federal law and the federal law does not require disclosure to the other party of the recording of phone conversations. The phone call was made to Magruder's lawyer's office which is also in the District of Columbia so both ends of the conversation were in the District of Columbia and there is no law requiring disclosure.

E. (Unintelligible.)

P. Well, anyway—

H. It cannot be admissible, but it's legal.

P. That's interesting. That's a new one. (Unintelligible) now and then, any way. I never heard anybody beep and I know that—

H. No. It all depends on where you are. The basic law in most states is that you must disclose to the other party that you're recording the conversation.

P. Yeah. What is the situation—I'll get past this in a hurry. What is the situation, John, in your opinion on what was Colson's and/or Shapiro's motive in building up the Magruder story? Maybe they believe it?

E. Their innuendo is that Mitchell has put Magruder up to this.

P. I guess not. OK. There is the motive. Now, let me come to something else.

H. I don't believe that Magruder's—

P. I don't either. Not at all.

H. I believe Mitchell has tried to.

P. Huh?

H. I believe Mitchell tried to. To keep Magruder's faith because he refers to Mitchell and says now that I have decided to talk I am going to have to tell Mr. Mitchell and he's going to be very unhappy with me because he's told me not to.

E. (Unintelligible) Magruder's an emotional fellow ready to crack. I have no doubt that he's ready to talk.

P. What is it? He hasn't been subpoenaed, has he?

E. Well, he won't be. But he's already been there.

P. But they won't give him a chance to

E. He doesn't think they'll give him a chance to go back unless he comes running at them and strokes them.

H. Let's say they don't call the suspects and—and (b) they don't recall perjured witnesses.

P. What would you do if you were his lawyer? Wouldn't you advise him to go in and try and purge himself? At least gets rid of one charge, doesn't he?

E. I'm not sure he's rid of it, but it certainly reduces it when he comes in voluntarily.

P. The way I understand it under the law, John, if he were to under the—

E. Well, you don't—you see there's contrary evidence already here—

P. I see.

E. In other words, —

P. Strachan—Strachan got in before there was contrary evidence.

E. Exactly. Exactly

P. John,—

H. I want to talk to Magruder.

E. And you take the circumstances, now

P. They better have—

E. If it's known, if it's known, for instance, that Hunt is going to come in and testify then Magruder comes rushing in and says I want to tell all, it's, you know

P. Magruder's got no hope now?

E. Yeah, but I think he could improve it. I think he really could help and purge himself.

P. Turn Bob on him. I come to the other things that you talked to Colson about. I was going to talk—what is Hunt going to say? Do we have any idea?

E. Yes—

P. He says, for example, will he say that Colson promised him clemency?

E. No. Apparently not.

P. You see the only possible involvement of the President in this is that, now apparently John, either you or Bob or Dean, somebody told me they said, told Colson not to discuss it with me.

E. I did.

P. You did? How did it get to you then John? How did you know that the matter had to be discussed with Bittman or something like that?

E. Well, I—

P. When did this happen? As I remember a conversation this day was about five thirty or six o'clock that Colson only dropped it in sort of parenthetically, said I had a little problem today, talking about Hunt, and said I sought to reassure him, you know, and so forth. And I said, well. Told me about Hunt's wife. I said it was a terrible thing and I said obviously we will do just, we will take that into consideration. That was the total of the conversation.

E. Well, I had, we had had a couple of conversations in my office—

P. With Colson?

E. I had with Colson. Yeah.

P. Well how was, who was getting, was Bittman getting to Colson? Was that the point? Who—

E. Hunt had written to Colson.

P. Oh?

E. Hunt wrote Colson a very, I think a I've been abandoned kind of letter.

P. When was this, John?

E. I am sorry—

P. After the election?

E. Oh yes. Yeah.

P. Oh. And Colson, you knew about this letter?

E. Colson came in to tell me about it. And he said, "What shall I do?" And I said, "Well, better talk to him." I thought somebody had better talk to him, the guy is obviously very distraught.

P. Right.

E. And has a feeling abandoned.

P. Right.

E. And he said, "What can I tell him about clemency or pardon." And I said, "You can't tell him anything about clemency or pardon." And I said, "Under no circumstances should this ever be raised with the President."

P. (Unintelligible). Well, he raised it, I must say, in a tangential way. Now he denies that, as I understand it, that he said they'd be out by Christmas. He says—

E. I've never talked to Chuck about that, have you?

P. What did he say he said? Well, I'll tell you what I, what Dean, or somebody, tells me he said he said. He said that he didn't. He just talked or saw Bittman casually—were off on (unintelligible) or something of that sort.

E. Bittman?

P. That was it.

E. Oh.

P. And he said to Bittman, he said, "I—

E. Well, now, that—

P. He said, "I, I had given," he said, "I know about Hunt's concern about clemency. I, Chuck Colson feel terrible about it, 'cause I knew his wife." And he said, "I will go to bat for him and I have reason to believe that my views would be listened to." Well its the last part that might in any way remain, although—

E. He says he talked with Bittman, that he was very skillful in avoiding any commitment. He says that Bittman was pitching him, but that he wasn't catching 'em. And he might have a tape of that meeting or a tape of the conversaton or some such thing.

H. That's where he lost his thread, then. He said you and Dean told him to promise clemency, but that he was smarter than you and didn't.

P. He doesn't say you and Dean promised?

H. That Ehrlichman and Dean told him to promise Bittman.

P. Well, anyway. I better change my (unintelligible). Let me ask the question.

H. This is a little strange.

P. Well, just so you—let's see, does he indicate that Hunt's going to talk to that subject, for example? The promise of clemency?

E. He didn't say that. He didn't say that. I didn't ask him.

H. Well we've got to go on the basis, John—as I recall, they don't have anything to indicate—we don't know how they know what Hunt's going to testify. We assume that Bittman told them.

E. Right.

H. We don't, they don't have any indication based on their knowledge that Hunt's going to testify, of what Hunt is going to testify to, except on the basis of Shapiro's meeting with Hunt—

E. The other day.

H. The other day. And that is assuming what Hunt told Shapiro is what he will tell the Grand Jury, but I don't know why they'd have any reason to assume that.

E. Shapiro's general comment was that Hunt would corroborate a lot of McCord's hearsay.

P. Yeah.

E. But that it also would be hearsay.

P. All right. Hunt, however, and this is where Colson comes in right? Hard. Hunt could testify on Colson's (unintelligible).

H. Yeah—but what they said he said,

P. Has it—

H. On the coverup, what he said.

P. Now wait a minute. I'm talking about something else. We're talking about when he and Liddy are in the office with Colson. Colson picked up the phone and calls Magruder. All right?

H. Sure.

P. Now, Colson says that they didn't discuss the (unintelligible) then. But Hunt could say, I went in and I showed this whole thing to Colson and Colson told me—picked up the phone and talked to Magruder. Does Colson realize his vulnerability there?

E. Well, Colson claims he has no vulnerability, because when Hunt and Liddy came in to talk to him they talked in very general terms.

P. I understand that.

E. So, he doesn't acknowledge that there's any possibility.

P. I understand that, but I am just simply saying,

E. I think you're right.

P. That Hunt and Liddy could assert, could charge that—that's the point. If they talk, I would assume they would get into that point with them, any cross-examiner.

E. I've asked Colson specifically about that conversation and he maintains that they were talking in general terms about intelligence and when they said intelligence he meant one thing and apparently they meant another.

P. Question, for example, is Hunt prepared to talk on other activities that he engaged in?

E. Well, I think, I couldn't derive that.

P. You mean is he going to blow the White House on the—

E. I couldn't get that at all.

P. The U.S. Attorney, I would assume, would not be pressing on that.

E. Ordinarily not. McCord volunteered this Hank Greenspun thing, gratuitously apparently, not—

P. Can you tell me is that a serious thing? Did they really try to get into Hank Greenspun?

E. I guess they actually got in.

P. What in the name of (expletive deleted) though, has Hank Greenspun got with anything to do with Mitchell or anybody else?

E. Nothing. Well, now, Mitchell. Here's—Hughes. And these two fellows, Colson and Shapiro, Colson threw that out.

P. Hughes on whom?

E. Well, you know the Hughes thing is cut into two factions—I don't even know—but they're fighting.

P. Yeah.

E. Bennett, Senator Bennett's son, for whom Hunt worked.

P. Oh?

E. Represents one of those factions.

P. So he ordered the bugging?

E. I don't know. I know the (unintelligible) say it's a bag job.

H. They busted his safe to get something out of it. Wasn't that it?

E. No. They flew out, broke his safe, got something out (unintelligible). Now as they sat there in my office—

P. Other delicate things, too. You've got apart from my, from my poor brother, which unfortunately or fortunately was a long time ago but, more recently, you've got Hubert Humphrey's son works for him and, of course, they're tied in with O'Brien I suppose. But maybe they were trying to get it for that reason.

E. I don't know why. The two of them put on a little charade for me in the office.

P. Shapiro and Colson?

E. Yes, we talked about this and it may have been genuine and it may not.

P. But they didn't know anything about it?

E. No. They said, one said to the other, "Say, that may have something to do with the New York Grand Jury," meaning the Vesco Grand Jury which is a runaway and which is into—

P. You think Colson knew about that?

E. I don't know. I don't say he knew about it. I said, he says he doesn't know even who Hank Greenspun is.

P. (Unintelligible.)

E. I'll take him at face value on that one.

P. You didn't know that either?

E. I know very well who he is.

P. All right. Let me just take a minute further and run out the Hunt thing, and then the Grand Jury, I want to get all the pieces in my mind if I can.

E. Sure.

P. Hunt's testimony on pay-off, of course, would be very important.

E. Right.

P. Is he prepared to testify on that?

E. Apparently so, that's what they say, that he will, and that he will implicate O'Brien and Parkinson. And then, of course—

P. O'Brien and Parkinson?

E. The lawyers.

P. Were they the ones that talked to Hunt?

E. Well, he says they were and that they handed him the money. He in turn handed it to his wife and she was the go-between for the Cubans.

P. Yeah. For what purpose?

E. Well, I think he'll hang 'em up on obstruction of justice.

P. Can Hunt do that?

H. How can he do that? Why would he simply—why doesn't he accomplish his purpose simply by saying they gave them money to handle their legal fees?

E. Well, (unintelligible) out there apparently.

P. Now this is—I don't think you—this is what Colson tells you guys?

H. Right.

E. I don't have any other information on this.

P. Hunt then is going to go. Now that raises the problem on Hunt with regard to Kalmbach. He has possible vulnerability as to whether he was aware, in other words, the motive, the motive,—

E. This doesn't add anything to do with Kalmbach's problem at all.

P. What happened on that? Dean called Kalmbach? And what did Dean call Kalmbach about?

E. He said we have to raise some money in connection with the aftermath, and I don't know how he described it. Herb said how much do you need, and

P. It was never discussed then?

E. Presumably Dean told him, and Herb went to a couple of donors and got some money and sent it back.

H. Dean says very flatly that Kalmbach did not know the purpose of the money and has no problem.

P. Dean did know the purpose? Hunt testifies—so basically then Hunt will testify that it was so-called hush money. Right?

E. I think so. Now again, my water can't rise any higher than source.

P. I understand.

E. But that's what—

P. Where does that serve him, let me ask?

H. John,—Would it serve him?

E. The only thing it serves him is to—

P. Would it reduce his sentence?

E. Have his sentence reduced.

H. He'd served the same purpose by not saying it was hush money, by saying it gave it to these guys I had recruited for this job and I

P. I know.

E. I agree.

H. —was concerned about their family—

P. That's right, that's what it ought to be and that's got to be the story that

H. Unintelligible.

P. Will be the defense of these people, right?

E. Only defense they have, (unintelligible) and so forth.

H. That was the line they used around here.

P. What?

H. That was the line they used around here. That we've got to have money for their legal fees and family.

P. Support. Well, I heard something about that at a much later time.

H. Yeah.

P. And, frankly, not knowing much about obstruction of justice, I thought it was perfectly proper.

E. Well, it's like—

P. Would it be perfectly proper?

E. The defense of the—

P. Berrigans?

E. The Chicago Seven.

P. The Chicago Seven?

H. They have a defense fund for everybody.

P. Not only a defense fund—they take care of the living expenses, too ... Despite all this about legal fees, they take care of themselves. They raise—you remember the Scottsboro case? The Communist front raised a million dollars for the Scottsboro people. Nine hundred thousand went into the pockets of the Communists. So it's common practice.

E. Yeah.

P. Nevertheless, that Hunt then saying there was a pay-off. All right. Hunt, on other activities—Hunt then according to Colson was not—I don't know what Colson meant about the door of the Oval Office.

E. I'll have to get back on that. Shapiro was there and I didn't want to get into it.

P. Right.

H. (Unintelligible).

P. No, not. It was an earlier conversation about the Magruder conversation when Colson—I think the Magruder conversation from what I have seen related—

H. Magruder doesn't go to the door of the Oval Office. He doesn't even come to visit me in the White House.

P. I know. But he—it is Colson's view that Magruder's talking would have the effect of bringing it there because of the—I think what he is really referring to, John, is that by reason of Colson, by reason of Magruder nailing Haldeman and Colson, that that's the door of the Oval Office. I don't know what else because there's nobody else around, nobody physically around.

H. Magruder isn't going to nail Haldeman and Colson.

P. Well, let's see. I don't think so either but—

H. (Unintelligible).

P. Well that, that tape is invaluable, is it not?

E. Then I would suggest, Bob, that you keep it.

H. And I'll disregard (unintelligible).

P. Let me just say a couple of things that we have to get there.

H. When we come to that, he'd say.

P. With regard to your, regard to your views, and so forth, John, now I was told the other day, last night, John, you and Bob or somebody—I guess you and I were talking about somebody going to see Mitchell. You suggested Rogers. Got any other better names?

E. Well, I've been up and down the list.

P. Why did you suggest Rogers?

E. Well, I suggested Rogers because—

P. First let me tell you—the purpose of the mission and tell me what it is.

E. The purpose of the mission is to go up and bring him to a focus on this: The jig is up. And the President strongly feels that the only way that this thing can end up being even a little net plus for the Administration and for the Presidency and preserve some thread is for you to go in and voluntarily make a statement.

P. A statement (unintelligible).

E. A statement that basically says—

H. He's got to go beyond that.

E. "I am both morally and legally responsible."

P. Yeah.

E. Now, the reason for Rogers is that he is clean, number one. He has been both Attorney General and has this other investigatory and Senatorial background. And there isn't anybody that Mitchell trusts, except Haldeman.

P. He hates Rogers.

E. I understand.

H. Doesn't trust Rogers but he would know if Rogers came that it was you.

E. Now, the only other alternative, going up and down the list.

H. From a public viewpoint Rogers is the dean of the Cabinet and is the logical man as an attorney, and former Attorney General.

P. From a public viewpoint, that may be but also

E. Take the reasons not to do this——

P. You thought of those?

E. Oh, yeah. Yeah. There have consistently been—you go back to the history of this——

P. I know, now is the time to do something. I agree with you.

E. Now is the only time, probably, and I am persuaded by that argument.

P. Oh, I am too. I am not arguing about not doing it. I am just saying, what about the names?

E. OK. In going down the list, John Alexander is the only other one that I have come to that in any way could bridge it. Garment can't do it.

P. Let me give you another name.

P. Ken Rush. He is a fine lawyer, utterly clean. A longtime friend of Mitchell. Not a close friend, but he's known him, you know, in New York and that group, up there you know, they sort of ran together. Rush would understand it all. Mitchell does not hate him.

E. I just don't know how able Rush is. You've got—I just don't know. Another name, there are two other names that have occurred to me that I'll throw out. One's Elliot Richardson and the other is Kleindienst. There is another possibility and that's Henry Petersen. That, of course, well,

H. But he's in the prosecutorial end.

P. That's right. And so is Kleindienst.

E. Yeah.

P. Kleindienst revealing to Mitchell that he had contact with the Grand Jury and all of that is wrong.

E. I must say I am impressed with the argument that the President should be personally involved in it at this stage.

P. Right. I agree.

E. Old John Dean had an interesting—got a phone call from him about twelve-thirty.

P. And you were here—

E. Oh, no. I was working on something I'll tell you about here.

P. What did you do?

E. Well, not much last night.

P. You mean another subject?

E. Oh, no.

H. There is no other subject?

E. No. I'll tell you. Last night I got home I decided that I would sit down and try to put on paper a report to you what I have been doing since you asked me to get into this.

P. Right.

E. I am concerned about the overall aspect of this and I want to talk about that before—I don't know what your timing is like.

P. No problem.

E. We'll probably get back to it.

P. Got plenty of time.

E. But Dean called and he said, "All right, here's a scenario which we've all been trying to figure out to make this go." He says, "The President calls Mitchell into his office on Saturday. He says, "John, you got to do this. And here are the facts. bing, bing, bing, bing." And you pull this paper out here. "And you've got to go do this. And Mitchell stonewalls you. So then, John says, "I don't know why you're asking me down here. You can't ask a man to do a thing like that. I need a lawyer. I don't know what I am facing—you just really can't expect me to do this." So the President says, "Well, John, I have no alternative." And with that the President calls the U.S. Attorney and says, "I, the President of the United States of America and leader of the free world want to go before the Grand Jury on Monday."

P. I won't even comment on that.

H. That's a silly—

P. Typical of the thinking of—

E. We're running out every line. So that was 12:30 this morning. I, but I—

P. I go before the Grand Jury. That's like putting Bob on national television,—

H. With Dan Rather.

P. What?

H. With Dan Rather.

P. Well by putting it on national television, period. (unintelligible)

E. Let's take it just as far as you call Mitchell to the oval office, as a—

P. No.

E. I'm essentially convinced that Mitchell will understand this thing.

P. Right.

E. And that if he goes in it redounds to the Administration's advantage. If he doesn't then we're—

P. How does it redound to our advantage?

E. That you have a report from me based on three weeks' work; that when you got it, you immediately acted to call Mitchell in as the provable wrong-doer, and you say, "My God, I've got a report here. And it's clear from this report that you are guilty as hell. Now, John, for (expletive deleted) sake go on in there and do what you should. And let's get this thing cleared up and get it off the country's back and move on." And—

H. Plus the other side of this is that that's the only way to beat it now.

P. Well,—

H. From John Mitchell's personal viewpoint that's the only salvation for John Mitchell. I see no other way. And, obviously, once you've had it, you've got to admit—

P. How can he make it, anyway.

H. Another factor, in that, to consider, for what it's worth, is the point Connally made to me in that conversation we had.

P. I ought to talk to Mitchell?

H. I don't know whether he said that to you or not. He made the point that you had to get this laid out and that the only way it could hurt you is if it ultimately went to Mitchell. And that that would be the one man you couldn't afford to let get hung on this.

P. Even worse than (unintelligible) thought.

H. He thought so.

P. That's true. Yeah.

H. It seemed to me, because he's the epitome of your hard-line.

P. I think he's wrong about that. I think this is the worst one, well, due to the closeness to the President at the time of the crime. Would you agree, John?

E. (unintelligible) the—

H. But, what Connally also said was unless it's the President himself who nails him. Then the President is (unintelligible)

E. Can I put in a larger picture on this? We kind of live day to day for these things, and forget.

P. Yeah.

E. the perspective then will be put on this period.

H. Yeah.

E. three months later.

P. The point is whether or not, I think I've got the larger picture, alright, and I mean, in this regard, the point is this that we need some action before, in other words, is like my feeling about having the Grand Jury do it and the court system do it rather than Ervin Committee. Now we want the President to do it rather than the Grand Jury.

E. No.

P. And I agree with that.

E. Well, you're doing it in aid of the Grand Jury.

P. No. I didn't mean rather than the Grand Jury but I mean to worm the truth, now look, the Grand Jury doesn't drag him in, he goes in as a result of the President's asking him to go in.

H. Ok—but while you're on that point could I argue a contrary view for a minute? Because I don't agree with that.

P. Yeah.

H. I strong feel, thinking it through, with all the stuff we talked about last night, that we don't want the President in it, and that the solution here, if we can find it—maybe it's impossible—

P. Is for (unintelligible) to come voluntarily?

H. Well, or for Magruder to come voluntarily and nail it. But if the solution is—I agree with some—

P. Where does Magruder come to? To me?

H. No. The U.S. Attorney.

P. Why does, what if I urged Magruder to—I mean, let me look at this. The urging of Liddy to testify, the urging of Magruder to testify and Mitchell. John run those by. I didn't mean to stop your analysis but I think I know what you're—isn't that really the essence of it?

E. I'm trying to write the news magazine story for next Monday.

P. Right.

E. Monday week. And if it is that "Grand Jury indicts Mitchell"

P. Right.

E. "The White House may have its cover up finally collapse last week when the Grand Jury indicted John Mitchell and Jeb Magruder"

P. Right.

E. "Cracking the case was the testimony of a number of peripheral witnesses who, each of whom contributed to developing a cross triangulation and permitted the Grand Jury to analyze it" and so on and so forth. The final straw that broke the camel's back was the investigators discovery of this and that and the other thing." That's one set of facts. And then the tag on that, is "White House Press Secretary Ron Ziegler said that the White House would have no comment."

P. I know. I know. It can't be done.

E. The other one goes: "Events moved swiftly last week, after the President was presented with a report indicating for the first time that suspicion of John Mitchell and Jeb Magruder as ringleaders in the Watergate break-in were facts substantiated by considerable evidence. The President then dispatched so and so to do this and that and maybe to see Mitchell or something of that kind and these efforts resulted in Mitchell going to the U.S. Attorney's office on Monday morning at nine o'clock, asking to testify before the Grand Jury. Charges of cover-up by the White House were materially dispelled by the diligent efforts of the President and his aides in moving on evidence which came to their hands in the closing days of the previous week."

P. I'd buy that.

E. OK.

P. You won't, so get down to the tactics?

E. Now, I've been concerned because since the end of March, I have turned up a fair amount of hearsay evidence that points at this (unintelligible). Now, just take—

P. So did Dean.

E. So did John.

P. So did Dean.

E. Now taking this.

P. Yet he tried, very honestly, he tried to look at it the best way he could. Maybe he could and maybe he really didn't know.

E. Well, its hearsay. And so, you don't hang a guy, you don't hang a guy—

P. And, also, we are going to remember Mitchell has denied it.

E. But I sit over there in Bob's office and listen to that tape of one of the co-actors saying flat out on the tape that he was guilty and that Mitchell was (unintelligible) going to force our fall, and—

P. Did he say that? Did he say that?

E. Yeah.

P. Well, we can't—

E. And I said to myself, "My God. You know, I'm a United States citizen. I'm standing here listening to this, what is my duty?"

P. Well the point is you've now told me. That's the problem.

E. That's correct. That's correct.

P. See the difference is that the problem of my position up to this time has been quite frankly, nobody ever told me a damn bit of this, that Mitchell was guilty.

E. That's right.

H. Well we still don't know. I will still argue that I think the scenario that was spun out, that Dean spun out on Mitchell is basically the right one. I don't think Mitchell did order the Watergate bugging and I don't think he was specifically aware of the Watergate bugging at the time it was instituted. I honestly don't.

E. That may be.

(Material unrelated to Presidential actions deleted.)

P. What did he say? What did he tell Moore?

E. Well, remember I asked Moore to find out what Mitchell had testified to.

P. Yeah. Moore heard the testimony and said well you're not—

E. He was never asked the right questions. Now, as far as he

H. He probably didn't to the Grand Jury, either.

E. That's right. As far as the quality of the evidence is concerned—

(Material unrelated to Presidential actions deleted.)

E. Well, to go back to the

P. All right. I only mentioned (unintelligible) because, let me,—go ahead with your—

E. Well, all I was going to say is that—

P. All right. I now have evidence that—

E. You don't have evidence if I—

P. I'm not convinced he's guilty but I am convinced that he ought to go before a Grand Jury.

E. What I did last night and this morning was to write out what would in effect be a report to you.

P. Right.

E. Of this (unintelligible) deliver it to you.

P. John,

(Material unrelated to Presidential actions deleted.)

P. I know. All right. Let's come around again, though. You know the case. You conducted the investigation for me. You have reported to me, and I have asked you to go up and lay it on the ground to Mitchell and to tell Mitchell, look, there is only one thing that can save him. I think John's got to hear that kind of talk and I think he's got to hear it from somebody that doesn't have—I was thinking of bringing Rogers in and telling him all of this stuff, but Mitchell will wind him around his finger. Well, there's our problem.

E. If you want me to go, I'll go.

P. (unintelligible) But the message to Garcia has got to be carried.

E. Bob has a pretty good feel of Mitchell's attitude toward me that I don't have.

P. Well, Mitchell's attitude toward you is not going to be hurt—it isn't going to be any better for Rogers. It would be toward Rush, but how can you—Rush is smart and he is tough. He's a good man and he's a man, incidentally, that we can consider—

E. He can't argue the facts of this case.

P. The point is, Rush, is a man that if you need a special man in the White House. I was thinking last night that he is the best man I can think of to bring over to advise the President on this thing and examine all the White House things, to look at all the FBI files, to look at the Jury report, Dean report, FBI files and give me a report. He is articulate, he's (unintelligible), he's respected. He's one of the towering figures in the Ambassadorial world and in the bar. He's no slouch.

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E. "He has not involved himself in this matter as your counsel for several months and properly so. I should not continue to fill in for him," meaning me, "for several reasons, including the impermissable demands on my time that were involved. You need a full time special counsel to follow these related problems who can advise you of the legal niceties from his experience in constitutional, criminal and (unintelligible) law practice. I'll be happy to continue to consult with him, etc. I do not recommend that Dean take a leave. That is neither in nor out. He has involved himself to the extent described above. Either that requires dismissal, or it does not. And that choice should be made at once. If he is discharged, the U.S. Attorney and the Grand Jury should be (unintelligible)." But I think you've got to bite the bullet on Dean, one way or the other, pretty quick.

H. All right, but recognize that that kills him. Dean's reaction, basically he says that that kills him.

(Material unrelated to Presidential actions deleted.)

P. Well, let's see what does Dean say when you tell him that?

E. He doesn't agree with that.

P. I know he doesn't agree, but what does he do?

E. He wants to stay and just disconnect himself from this case. And he says, yes, that's right. Make your decision now, but make your decision that I should stay. He needn't decide that right this minute; I would encourage him not to. But in talking about Rush, that relates to this general subject. I think I would pass it for the moment.

P. But the only thing that I was—I agree.

E. And get back to the Mitchell thing which really is.

P. Like today. I know.

E. Like this morning.

P. I don't think there's anybody that can talk to Mitchell except somebody that knows this case. There's one of two people. I can verse myself in it enough to know the thing, but I am not sure that I want to know. I want to say Mitchell, look, I think that the attorneys for the Committee, O'Brien, and I found this out, and I found out that, and I found out that, and the Grand Jury has told me this that—I just don't know.

P. You know what I mean. They talk about my going out—I am not trying to duck it. I just, John—and, I'll take this one on. The thing, John, is that there's nobody really that can do it except you. And I know how Mitchell feels. But you conducted this investigation. I would, the way I would do it—Bob, you critique this—I'd go up, and I'd say the President has asked me to see you. That you have come today with this report; that these are the total facts indicating, of course, that the Grand Jury is moving swiftly; Magruder will be indicted, you think. Under the circumstances, I am suggesting—can't be in a position—that you (unintelligible) the Grand Jury and say I am responsible. I did not know, but I assume the responsibility. Nobody in the White House is involved, etc., and so on. We did try to help these defendants afterwards, yes.

P. He probably would not deny that anyway. He probably was not asked that at an earlier time. But the defendants are entitled to that——

E. But you're glossing it. I don't think you can do that.

P. All right.

E. I wouldn't want to—

P. All right.

E. I wouldn't want to have you—

P. All right. Fine, Fine. What would you say to him?

E. I'd say, ah—

P. (Unintelligible.)

E. I'd say, you know, face up to it John. And, you know, I've listened to Magruder, and he's, in my opinion he's about to blow and that's the last straw.

P. And, also, Hunt is going to testify, too, Monday, we understand.

E. We've got to think of this thing from the standpoint of the President and I know you have been right along and that's the reason you've been conducting yourself as you have.

P. Right.

E. It's now time, I think, to rethink what best serves the President and also what best serves you in the ultimate outcome of this thing.

P. Right.

E. I think we have to recognize that you are not going to escape indictment. There's no way. Far better that you should be prosecuted on information from the U.S. Attorney based on your conversation with the U.S. Attorney, than on an indictment by a Grand Jury of 15 blacks and 3 whites after this kind of an investigation.

P. Right. And the door of the White House. We're trying to protect it.

E. If the Grand Jury goes this way you've been dragged in by the heels. If you go down first thing Monday morning or yet this afternoon, and talk to the U.S. Attorney, and say OK, "I want to make a statement." Then, two things happen. One, you get credit for coming forward. Two, you serve the President's interest. And I am here in behalf of the President—

H. Well, and, three, you have the dignified opportunity to discuss this in the office of Earl Silbert instead of in the (unintelligible) watching (unintelligible).

E. And I'm here at the President's request to ask you to do that.

P. Yeah.

E. He has reviewed the facts now.

P. That's right.

E. He has no alternative, John, but to send me here and ask you to do this.

P. Right. If you want to hear it personally—

E. Pick up the phone.

P. No. Come down and see him.

H. I have a couple of modifications to that. One, a minor change not to what you say but in setting it up. It would be helpful in doing that if I call Mitchell and said that the President wanted you to talk with him. Then there's no question on his mind that you're operating unilaterally.

P. Right. Right.

H. And, secondly, that if at all possible, he should come down here. My reason for it is—A—you get him here under your circumstances. B—if you make your case which you may be able to do—in his mind he may be on the same track, maybe at the same point.

P. Yeah.

H. If he is you might be able then to swing a let's get Silbert right now and go on over. See, he may say, "I've got to talk to the President before I do this."

P. Yeah.

H. And then (unintelligible) to do it.

P. Let me say this. I've run through my mind the thoughts. Believe me the idea of Rogers, as you, John—as Bob will tell you, is not one that I don't think is potentially good. I had hoped to get him in. But I know Rogers like the back of my hand and Rogers does not like real, mean tough problems and will not do it.

H. The trouble with Rogers is that Mitchell will over-run him. Mitchell will say, "Here, Rogers, we've got this problem. You know what I think? Those kids over at the White House are really on the (unintelligible).

P. What if you knew when I know. What about then?

E. Well, he'd roll his eyes and Rogers wouldn't know one way or the other.

P. You see, John, somebody has to talk to him who knows the facts. That's the point.

H. (Unintelligible) one part of your scenario really worries me. You say I listened to Magruder.

E. Well, I can't say it quite that way.

H. You can say what Magruder is going to do.

E. I can say—

P. We have learned that Magruder is going to testify.

E. I can say—well I can start out by saying, "Look, I can't vouch for any of this first hand. A tremendous amount of what I know is second-hand, like my conversation with Paul O'Brien, but I have every reason to think that Magruder is in a frame of mind right now to go down there and tell everything he knows."

P. "That Hunt's going to go Monday."

E. "Hunt's going to go Monday."

P. And Liddy—well, you can't say Liddy. Maybe Mitchell has a feel—

E. I have reason to think Liddy has already talked.

H. You know (unintelligible) so they're obviously moving on the cover-up.

P. Yeah.

E. If Mitchell went in, that might knock that whole week into a cocked hat.

P. Why?

H. Well, I'm not sure then they care about the cover-up any more.

P. Well, they might.

E. If Mitchell gave them a complete statement—

P. I wish they wouldn't, but I think they would, Bob.

E. If Mitchell gave them a complete statement.

P. They shouldn't. You're right. The cover up, he said that—well, basically it's a second crime. Isn't that right, John?

E. Yes.

P. Do you think they would keep going on the cover up even if Mitchell went in?

E. Well, I would assume so. I would certainly assume so. You see, they've got to explain to the Ervin Committee some day why they do things and they've got a hell of a lead. They're really not in shape to stop them at this point. They would certainly be diverted.

H. Everything relating to this and all the fringes of it and all the—well, maybe other—

E. I think they're in a position to—I just don't know.

P. Yeah, that's right. But the point is what they have that they're relating to primarily is Dean.

H. I don't know about (unintelligible).

P. Dean. I have to bite the Dean bullet today.

E. I didn't say that. I didn't say that. But I think it is a dependent question, and if you are in a situation where Mitchell stonewalls you, and walks out and says, "To hell with you guys, I've got to live my own life."

P. Let's say—we could—when I look at my watch, it's not because of an appointment.

H. You've got a dentist appointment.

P. I've been here since 8 o'clock this morning.

E. That's why?

P. (Unintelligible.) Don't worry about that. No, that's no problem. (Unintelligible) John out to the Grand Jury.

E. Let me get around that by suggesting what I think his response would be.

P. Yeah.

E. His response will be, "Look, Ehrlichman, you're supposed to be a lawyer. You know better. Somebody who is a target in an inquiry of this kind and tries pressure into giving up his rights is sort of antithesis of what rights I would have if I were a defendant. You're in the executive branch, a government official. You're supposed to tell me that I have a right to counsel and read me the Supreme Court thing and so forth. Instead of that you just suggested that I divest myself of all my rights and you asked me down here for a highly improper conversation. You haven't even suggested that I bring my attorney. And I think that what you are doing, you're acting as the prosecutor in this case."

H. How do you come off doing that?

P. He won't do that, in my opinion. He is more likely to say, "Oh, damn it. Look John, you know that there are people in the White House who are deeply involved in this and you know that Colson and Haldeman"—he may say this—"pressured this poor boy over here." I think Mitchell will take the offensive. Don't you agree, Bob?

H. You see, I am not at all sure but what Mitchell may think I am involved. I am sure he probably thinks Colson's involved, because Magruder has used that. I would guess that's the line Magruder has used with Mitchell, and you might have to play Magruder's tape recording for him.

E. Well if John thinks—I don't think that will happen. I just don't.

P. Is Magruder planning to go see Mitchell?

H. Yes, sir, if he decides to go, if he decides to talk.

P. If he decides to talk—

H. And he is about on the verge. I just assume from that conversation that what he has decided, he is either going to talk or he's going to take the Fifth. He's not going to lie.

P. You're not (unintelligible). They may not call him back.

H. That's correct. (Unintelligible.)

E. He says, I know I'm going to be arrested. I know I'm on my way to jail. If Mitchell comes back with a line like that, "You're not serving the President, well, that if you made any kind of investigation surely you knew people in the White House are involved."

P. What do you say?

E. I say, "Look, John, we're past the point where we can be concerned about whether people in the White House are involved. We're not protecting the President by hoping this thing is going to go away."

P. The people in the White House are going to testify.

E. "The thing is not going to go away, John, and by your sitting up there in New York pretending that it is, is just making it worse. And it's been getting steadily worse, by your sitting up there for the last couple of months. We're at the point now where we had no choice but to ask you to do this."

H. And you could say, "We have a whole series of people who have remained mum in order not to create problems for you, who, it's now clear, can no longer remain mum. They don't intend to create problems for you but, I mean—

P. Who do you mean? Liddy?

H. No. I mean his calls to Dean.

E. I could say that, "When I got into this I discovered that there were all kinds of people sitting around here who had bits of information. They were hanging on to them, because they didn't know where they led."

P. Well—

E. "And because they were afraid they would hurt John Mitchell. And I've had to put this whole thing together. And, now, having put it together, you guys know there's no escaping from it.

H. There's no escape. It's got to be proved whether—

P. Confident as a lawyer—

H. There's nobody that can do it that would be able to persuade anyone else.

P. There's nobody else that can do it. Also. Let me digress a moment before we get to the (unintelligible). Another indication of the problem we've got here is, which is related to what we talked about last night on getting out a statement (unintelligible). I just think we are in an impossible position, frankly, with regard to White House people on the Segretti thing. Now you've gone over that with Ziegler and he still thinks we should stonewall it?

H. Yes, sir.

E. I have not talked with him at length for a day.

P. Now here you've got the—I was just looking in the paper this morning. Saxbe, Mathias, Johnny Rhodes, John Anderson, other persons. Two or three of those names are not new, but they're all there. They are trying to build that up as a chorus of Republicans and more to come.

E. It'll be five a day until next month.

H. But they don't.

But its interesting. It is not a universal chorus he must appear before the Committee.

P. Well—

H. If you've got some saying they've got to set up a way to take secret testimony—(unintelligible) and John Williams says.

E. Or, else, even Baker.

P. Yeah.

E. But Baker does not say (unintelligible) him. He's protecting us on that.

H. (Unintelligible) and look into it.

P. Everybody's for himself. Then of course our own people are out saying we are having a hell of a time (unintelligible) May 9th dinner. I think that's—

E. I think a lot of that is bull, frankly, on the money thing.

P. We heard that at the time, you know, when we did Cambodia. They said, you remember (unintelligible).

H. But that's not true. We've had no problem. Even the papers are saying it's not true.

P. What in the name of—Bob, let me ask you quickly a rather curious question. I thought our relations with MacGregor were not strained. I thought he felt pretty good.

H. He does.

P. Why does he go out and say that it cost a million and a half votes? And what did you want to win by? Want to win by 20 million? No, that's—They say, well——

P. But, you realize that that plays?

The question that I have, there John, and let's come back to the Congressional Committee, what is Ziegler's—what does Ziegler suggest as an alternative? Stonewall the Committee?

E. Well, when you get to that with him, he recognizes that there's a problem.

P. You see the point is, the point is, I believe that cooperation with the Committee might at least indicate no cover up. That's what I'm trying to do.

E. Well, and that story will come out. We're going to go through a period now where we take some gas. For instance, Kilpatrick was on my radio this morning just taking Kleindienst apart something terrible on executive privilege.

P. Yeah.

E. Now that was a tactic. Kleindienst took a hard line up there.

P. Yeah.

E. Because if he had softened at all, that would have really hurt our negotiations. And so we are going to take some temporary gas on this. But I think in the long haul, it'll come out OK. Now I may be wrong on that, but I think it will.

P. What do you think Bob?

P. You think we should continue to negotiate?

H. Yep.

P. What is your view, John, as to how the Committee and how do you want it to come out during the negotiation? I'm going to be a little busy tomorrow.

E. I know that. I am going to see a draft Monday. And then, I have already reserved Blair House and I'm.

P. What do you want?

E. Going to call a meeting.

P. What are you going to (unintelligible).

E. Well, I am going to go to our executive session and

P. And set this up for a historic way that we can do it for all these.

E. Right.

P. Cover Kissinger—

E. And take the poison out of the relationship and so on. They're going to say to me. "Well, it's been nice meeting with you and we appreciate your courtesy, and the hors d'oeuvres have been great. We're now going to go up and write our own set of rules. You understand we can't be bound by your point of view."

P. Right.

E. "And then you guys at the White House are just going to have to decide whether you can live with our rules or not. Take it or leave it."

P. Then you'll say—

E. "Well, let's then talk about procedures for a law suit. Cause I think that's where we're headed. Let's "—I'm going to gig them about Mr. Lipschitz and soften him up a little bit if I can, but then I am going to say, "Let's not—

P. What will you say about Mr. Lipschitz?

E. Well, I think we'll have quite a lot of fun with that in terms of double standard.

P. Yeah. And misdemeanor.

E. But I'm going to—

P. And, incidentally, Dash knew it.

E. Yeah. I am going to try to work out a process where Dash to Garment, if they want a test case, we'll frame a test case. They will serve a subpoena, we'll either move to quash it or they can go through the contempt process. But I think the motion to quash is the best way to go.

P. Right.

E. And figure out how we can go stipulated record.

P. And do it fast.

E. And do it before the Federal District Court. Now I think they'll agree with that. We certainly have not given them any reason to be antagonistic. That may be the one—

P. What—

E. Way to agree on process.

P. I know, but do we want to—

E. Well, now, here's the—

P. We don't want a Court case—

E. Well, now, here's what I'm getting at. The Court case will delay any appearance by any White House people. We'll agree that we'll abide the outcome of the case. Then if Mitchell does get indicted, Mitchell's lawyers are going to somehow move to stop the Ervin hearing.

P. Who is—that's your analysis isn't it or is that Colson and Shapiro?

E. That's Shapiro's analysis, also, and I have respect for his ability.

P. Do you quash the—on what ground?

E. On the point that they can't get a fair trial.

P. Yeah. What if they say, "Well, how about Mr. Segretti? What about him?"

H. Why can't they limit their—why can't they—

P. Say nothing about Watergate.

H. Leave out Watergate, but let them go with everything else but—

E. How could you do that?

P. Well, the problem you've got here is that they've got Mitchell and the other people.

H. Sure (unintelligible) all that they've got is the press says "inextricably linked." Of course.

E. And all they have to do is take a look at their big, long resolution. "Let's go." And the Judge would take a look at that and say, "I can't let this go on while (unintelligible) investigates your charge."

P. John, is that better than just caving?

E. Well, we've got the option of caving at any time.

P. You don't want to cave now? Let me put it this way—

E. Yes I do.

P. Let me put it this way. I can't watch (unintelligible).

Mitchell—this is going to break him up.

H. As to Watergate

P. Oh, I know, I know and I don't think so. My idea is—it would be better, frankly, after Mitchell is indicted and then if we care—I don't think that is very good. I think it is a lot better for us to be forthcoming before he is indicted, not after. That problem for you to consider.

E. You asked me, "Do I want to cave now?" My feeling about this whole thing is that we ought to be looking at every nook and cranny for every device that there is to be forthcoming.

P. Right.

E. And this is a place where we could do it. My sense of this whole case is that our best defense is that the President always wanted this to happen, and that we weren't being cute about this at all.

P. All right—let's come to this. Ah, regarding the other side—he said, "well, see our heads up there on the dock, and act like convicted criminals and it'd be bad for the White House. You're going to have that continuing thing—"cover-up, cover-up, cover-up."

H. Rape is inevitable.

P. That's the problem.

H. Well, I'm not sure you are going to have a continuing thing in cover-up when you bust—The Ervin thing goes on. They got a procedure and all that. But, you are down to a different level of staff if you busted in the Watergate case. You're down to a level of "Who hired Segretti?" and I think I've got to get out in front on that before it goes up there.

P. Well, I think Chapin gets out in front on that.

H. No sir because I think—

P. Do you think you can make a statement? How does that come along with Henry's thing? What do you think? Can I digress a moment to Segretti? I would like to get that out of the way, but what would you do? What's you're—

H. I think, just turn it out. If the Mitchell thing breaks, like on Monday, and if (unintelligible) and that starts breaking and you get into a big bottling up of Watergate. It seems to me that's the best possible time, place and atmosphere for my statements to come out debunking Dean. "Obviously, I couldn't go out publicly and say that I've been sitting here wanting to tell my story waiting for the Senate Committee to get off its ass and nothings happening here. And I couldn't go out unilaterally and do this while the process was running at the Grand Jury. But now they've come to their conclusions and the people in Watergate are done. Now, let's get the rest of this story covered too, because that doesn't—the rest of it doesn't involve criminal stuff to my knowledge."

P. Except you've got—

E. There's a problem.

P. That's it.

H. You've got a kid that's taken the 5th on that.

E. Here's what you might do. Let's assume that Tuesday the Ervin Committee comes up with its rules. They will also set their date for hearing on Tuesday—the first of May, 5th of May, whatever it is.

P. Do you think they will do that?

E. This is their last regular meeting until after recess.

P. Fine.

E. You could come out then in response to that—and say, "Well, now that they have announced they are not going to have their meeting until May, I have been sitting here waiting. I can't wait any longer. Here's my statement." Send it all to the Grand Jury.

P. I wouldn't (unintelligible) the Grand Jury thing and so forth.

E. That makes it look like it was dragged out of you.

P. Also it gets it all into—the one says, "And also today Bob Haldeman admitted that he was behind the Segretti thing." I'd rather have the story separate, Bob. That's my problem with the other one. Don't you agree?

E. Yeah, I don't feel comfortable with his relating it to the Grand Jury at all. It sounds like, "Well, this is all coming out anyway so now I'm going to make my statement. "

P. What's your reason—in other words, you'd relate it to the Committee and the Committee is not going to hear us until.

E. I want an early hearing—I want it.

P. Why can't Ehrlichman get out and say, "Haldeman et al has urged early hearings?"

E. As soon as we get (unintelligible) or why don't they kiss me off and publish their rules.

H. Ehrlichman doesn't have to get up. I can get up, quote my statement and say that, that I had urged early hearings, that there had been, that these—(unintelligible)

P. I'd like to get that story out right now, frankly, that Ehrlichman is urging early hearings.

E. Well, but you see—

P. We don't want early hearings, huh?

E. No. Number one, I don't want 'em. Number two, I have a commitment to Ervin and Baker.

P. That you won't discuss that?

E. And I won't discuss these negotiations until they're over. And it'll unless I want to blow 'em sky high, I shouldn't do that.

P. All right. Well we just take the gas on that. And coming back to, I think John's scenario, Bob, is better. I'd like to separate the two cases and I'd get the Segretti thing out.

H. Wednesday may be the day next week, because they meet Tuesday.

P. Oh, I see. In other words, the Ervin Committee says (unintelligible) you feel it's not time, that's too long. You could put out a statement which says, "I had nothing to do with Watergate." I think in this instance I would say—"but, second, I want to say what we did. I had this to do with Segretti." I wouldn't worry about the fact that he'd come back and say well now what did you do about this or that at this point. I just think this making a forthcoming statement that we present to everybody. That'll buy us some time and you need to buy a little time now and then.

H. If you do it under the umbrella of the Mitchell indictment—

P. His will come later. Indictment will come. I don't mean indictment—

H. But I'll tell you it could go quite fast. If Mitchell, today, agrees to do this and he and O'Brien and his lawyers went over to see Silbert this afternoon and made a statement, we'd put it out. He could get this thing get this cleared up. Silbert could file an information as early as Monday or Tuesday, you wouldn't have to get an indictment from the Grand Jury.

P. We don't even know yet what Magruder is going to do.

E. Does it really matter? If once you're possessed of this information.

P. Yeah, I see. But, my Gosh. I'm not a mind reader. I'm thinking of those, whether Mitchell gets—you're bargaining with Mitchell. Mitchell's going to say, "Well, I don't know whether Jeb, how do you know Jeb's going to do that?"

E. I don't. I don't. But it doesn't matter.

P. Yeah. They've got other information?

E. That's it.

P. How do you know that John?

E. Well, we've got some sources inside the U.S. Attorney process.

P. That's right.

E. I don't know how good they are, John.

H. You can say, "John, I am sure you do too."

E. You undoubtedly do, too. But everything that I can—

P. You think John's had sources? For that problem: they are trying to give him a little bit of (unintelligible). We don't know what our sources are. Our sources are Shapiro, right?

E. Oh, no. Dean and his lawyers have sources in the U.S. Attorney's office.

P. Silbert, right.

H. Well, then, you've got the other two Grand Juries. How about those?

P. Tell me. Can I spend a minute? That's the thing that I wanted to know. I knew about the New York Grand Jury. What in essence is that? Vesco—

E. It's a, it's a runaway Grand Jury.

P. Yeah.

E. It started out as an SEC action against Vesco for violations of the Securities Act. They then bumped into this two hundred and some thousand dollars donation to the campaign.

P. Right.

E. They have been on that.

P. Right.

E. since. And they've had Stans up and they've had Mitchell in and they're working on the question of whether or not Vesco procured an appointment with the Attorney General of the United States in consideration of a two hundred thousand dollar campaign contribution.

P. Oh. my God. And Harry Sears charges that?

E. Violation of section 201. Now they have a witness, who was sitting in the room with Vesco and Stans.

P. Yeah.

E. Vesco came in and said, "Mr. Stans, how does a guy get to be a big contributor around here." And Stans said, "Well, the word big means two hundred thousand dollars." And 'Vesco said, "Cash or check?" And Maury says, "either one." And he—

P. This was after my poor brother was up there?

E. I'm not sure. I don't know, before or after. I just don't know. But in any event, he said, "Well, how does one work out a quid pro quo?" And Maury said, "Well, what's your problem?" And he said, "Well, I'm afraid the Justice Department is after me on an SEC violation." Maury said, in effect, "I don't know what I can do about that. Let's see." Vesco then got a phone call, allegedly, from John Mitchell. Now, that's enough to indict.

P. It is?

E. They tell me it is. Because Vesco, as a result of the phone call got an appointment.

P. (unintelligible) My God that's dumb. You know what I mean. I can imagine all those (unintelligble) in here trying to get—

E. Now that may not be enough to convict, but it's enough to indict.

(Material unrelated to Presidential actions deleted.)

P. We've come full circle on the Mitchell thing. The Mitchell thing must come first. That is something today. We've got to make this move today. If it fails, just to get back our position I think you ought to talk to Magruder.

H. I agree.

P. And you tell Magruder, now Jeb, this evidence is coming in you ought to go to the Grand Jury. Purge yourself if you're perjured and tell this whole story.

H. I think we have to.

P. Then, well, Bob, you don't agree with that?

H. No. I do.

P. Because I think we do have to. Third, we've got the problem.

H. You should talk to (unintelligble) first though.

E. What really matters, Bob, is that either way—

P. Yeah.

E. Who is ever (unintelligible)

E. You see the point is—

H. But don't use Jeb as a basis for the conversation.

P. Yeah. Say that the evidence is not Jeb. I'd just simply say that these other people are involved in this. With Jeb, although he may blow—

E. I can say that I have come to the conclusion that it is both John and Jeb who are liable.

P. Yeah. But no, I meant. Yeah, go ahead. I was simply going to say that we are not talking to John because Jeb is going to crack or that Dean is going to the Grand Jury. It's past that point. They've got the case made.

H. That's right.

P. He'll say, "Well, I think they're bluffing here." What'll you say?

E. It isn't a question of bluffing. Nobody's made any representations to us at all. Nobody's tried to bluff us. It's just a question of putting together all the facts and any time someone, if the U.S. Attorney's office goes through the process that I've gone through, he'll have all the facts. And there it'll be. And you don't get it all from any one person. It's some from this one, some that one.

H. It's a typical, it's a typical case.

P. How was Dean's—Incidentally, what is the—is the liability of Hunt—I am thinking of the payoff thing.

E. Yeah.

P. This business, somebody in—Dean, Dean. Dean asked, told me about the problem of Hunt's lawyer. This was a few weeks ago. Needed sixty thousand or forty thousand dollars or something like that. You remember? I said I don't know where you can get it. I said, I mean, I frankly felt he might try to get it but I didn't know where. And then, he left it up with Mitchell and Mitchell said it was taken care of and after (unintelligible). Did he talk to you about that?

E. He talked to me about it. I said, John, I wouldn't have the vaguest notion where to get it.

P. Yeah.

E. I saw him later in the day. I saw Mitchell later in the day——

P. What happened?

E. And he just said, "It's taken care of."

H. Mitchell raised the problem to Dean and said, "What have you done about that other problem?" And Dean said, he kind of looked at us, and then said, "Well, you know, I don't know." And Mitchell said, Oh, I guess that's been taken care of." Apparently through LaRue.

P. Apparently who?

H. LaRue. Dean told us, LaRue. Dean talked with LaRue and LaRue said this whole thing is ridiculous now. He said, yeah— He said, "If I were in charge of this now what I would do I'd get a large bus, and I'd put the President at the wheel and I'd tell everybody we've got around here in it and I'd drive up to the Senate and I'd have the President open the door and, say, 'you all get out and tell them everything you know and I'll be back to pick you up when you're through.'" He said, "It's all out now and there's nothing we can do about it." He said LaRue also said, "You know I can't figure out how I got into this, to begin with, but it seems to me all of us have been drawn in here in trying to cover up for John."

P. For Mitchell?

H. Yeah, which is exactly what's happened.

P. LaRue said this?

H. Yes.

P. He's right.

H. And if LaRue is called, LaRue intends to tell the truth about it.

P. Is he?

H. Yeah.

P. Well.

H. I don't know.

P. What instructions?

H. I don't know. I don't know any of that, He doesn't have—

P. No, but his instruction will be, LaRue, that I was helping to get—

E. The way Dean talks LaRue wasn't even thinking about the message.

H. I don't think LaRue cares. I think LaRue figures that the jig is up.

E. I had a bit of incidental intelligence that McCord dropped yesterday with regard to Mardian. Just a small—

P. (unintelligible) back in Phoenix.

E. I heard a cover story which he fed to the New York Times which would lay it all back at the White House. The trouble with that is, sir, (unintelligible) It will only stand so long as Mitchell stands. (unintelligible) at the White House.

E. That's all. I just don't know any other fact and—

P. But he could lay it to the White House?

E. But bear in mind Shapiro was giving me this in a whole litany of things that were persuasive (unintellligible) what he said to me (unintelligible).

P. The point on Mardian, well, let me say I don't think that Mardian or LaRue or Mitchell or Magruder or anybody want to hurt the President.

H. No, sir.

E. I feel that way. Colson? How about Colson?

H. He—of course, I just think he will do everything he can not to hurt the President.

P. Yeah. That has got to be true of everybody because it isn't the man, it's the office.

H. Sure.

P. But also it happens to be true. I wish I knew about the (expletive deleted).

H. They will have asked that doesn't apply and they could, I think rationalize to themselves that hurting or getting anybody else could be.

P. That's right.

H. Good for the President rather than bad.

P. In other words.

H. And that includes Ehrlichman, Haldeman, Dean.

P. Yeah.

H. Certainly Colson. Colson will be at the top of that—Colson first, then Haldeman, then Dean, then Ehrlichman.

P. You see I think a Mardian story to the Times will be frankly that Colson put the heat on. Maybe.

H. But he said at the White House. That could where he—

P. Maybe Haldeman?

H. Mardian. No, Mardian, I don't think has any personal desire to get me. I think, I know he hates Colson.

P. Does he?

H. They all do. And anything that Mitchell does is—

P. You see you can make a hell of a circumstantial case on Colson. He's the guy that you know he's Dean's buddy, and Liddy he knew well—apparently knew well—

H. Wasn't Dean's buddy.

P. I'm sorry. I meant Hunt's buddy.

H. Yeah. Right.

P. Of course. Right. You know, but Colson is closer to this crew of the robbers than anybody else. That's the problem with Colson. Colson's got a very—

H. He has no tie to Liddy.

P. Oh, no. No. OK.

H. That is the (unintelligible), but he has no string on this. His string is to Hunt.

P. Well, then Hunt—

H. Some others—the central background figure—

P. Is it Hunt? Hunt takes this money? He took it for what? To cover up?

H. Immunity. Bet Bittman's given immunity.

P. They're going to give Hunt immunity?

E. I don't know, I suppose—

H. Bittman says their dealings were standard.

P. How do you give him immunity for additional crimes.

E. He's convicted now, you see, so there would be for additional. (unintelligible)

P. So they could give him immunity for, ah—they could cut his sentence and give him immunity for the cover up; the hush money; clemency. How do you handle the problem of clemency, John?

E. (unintelligible)

H. Well, you don't handle it at all. That's Colson's, cause that's where it comes from.

E. That was the line of communication—

P. Colson to Bittman. I guess that's the only thing we have on that—except Mitchell, apparently had said something about clemency to people.

H. To Liddy.

P. And Mitchell has never, never—Has he ever discussed clemency with you?

E. No.

P. Has he ever discussed it with you?

H. No.

P. (unintelligible) We were all here in the room.

H. Well, may have said, "Look we've got to take care of this."

P. But's he's never said, "Look you're going to get a pardon from these people when this is over." Never used any such language around here, has he, John?

E. Not to me.

H. I don't think so.

P. With Dean has he?

E. Well I don't know. That's a question I can't answer.

P. Well, but Dean's never raised it. In fact, Dean told me when he talked about Hunt. I said, John, "where does it all lead?" I said, what's it going to cost. You can't just continue this way. He said, "About a million dollars." (Unintelligible) I said, John, that's the point. (Unintelligible) Unless I could get them up and say look fellows, it's too bad and I give you executive clemency like tomorrow, what the hell do you think, Dean. I mean, you think, the point is, Hunt and the Cubans are going to sit in jail for four years and they are not being taken care of?

H. That's the point. Now where are you going to get the money for that?

P. That's the reason this whole thing falls apart. It's that—It's that that astonishes me about Mitchell and the rest.

E. Big problem.

(Material unrelated to Presidential actions deleted.)

P. The word never came up, but I said, "I appreciate what you're doing." I knew it was for the purpose of helping the poor bastards through the trial, but you can't offer that John. You can't—or could you? I guess you could. Attorneys' fees? Could you go a support program for these people for four years.

E. I haven't any idea. I have no idea.

P. Well, they have supported other people in jail for years.

E. Sure, the Berrigan brothers

P. Huh?

E. I say, I don't know how the Berrigan brothers and some of those—

P. They all have funds.

E. Operate. I think they use them.

P. Yes there are funds if you are (unintelligible). I guess that's true.

E. So that they—

P. But not to hush up.

E. That's right.

P. That's the point. All right. One final thing. Dean. You don't think we have to bite it today?

E. Well, I'm not so sure. I'd be inclined. When you say bite it isn't simply a matter of making a decision, in my opinion—

P. I have made a decision. He's to go.

E. Well, I'm not sure that's the right decision. By forcing the issue, I don't mean to imply that

P. Oh, I see. (Unintelligible.)

E. Uh, (unintelligible).

P. When you said you didn't think you agreed with the decision, I thought that was one of the recommendations you made.

E. No, my recommendation is that you recognize that there's a go no go decision that has to be made because—

P. Oh, I see

E. Here's your situation. Look again at the big picture. You now are possessed of a body of fact.

P. That's right.

E. And you've got to—you can't just sit here.

P. That's right.

E. You've got to act on it. You've got to make some decisions and the Dean thing is one of the decisions that you have to make. You may decide—

P. Bull, please. Steve Bull. All right, fine, fine. Then you're not—

E. Then you've got to dispose of it one way or the other.

P. Put that thing with Haig, what time you got now? Quarter after? I'll be there at EOB.

E. I'll tell you, I am still heavily persuaded that we affect the Grand Jury and U.S. Attorney treatment of Dean favorably by keeping him on.

P. OK.

E. And that that's important, Now—

P. Why is that?—because they like him?

E. No, no. No, no. Because they can treat him differently as the President's Counsel than as a dismissed person.

E. Exactly.

P. Yeah.

E. It's a very heavy psychological factor.

P. Well this will be done because there is another reason too. It isn't like. Dean is not like Mitchell, now, let's face it.

H. That's right.

P. Dean is not like Mitchell in the sense that Dean only tried to do what he could to pick up the pieces and everybody else around here knew it had to be done.

E. Certainly.

P. Let's face it. I'm not blaming anybody else—

E. No, I understand that. I have great trouble in (unintelligible) in the light of the known involvement that he had in the

P. Aftermath?

E. Right, but—

H. But the known involvement he had in that was for what was understood here to be the proper system

P. The question is motive. That's right.

E. That number one. Number two, there is nothing new about that. As I have developed this thing—I want you to read this—

P. Yeah.

E. There were 8 or 10 people around here who knew about this, knew it was going on. Bob knew, I knew, all kinds of people knew.

P. Well, I knew it. I knew it.

E. And it was not a question of whether—

P. I must say though, I didn't know it but I must have assumed it though but you know, fortunately—I thank you both for arranging it that way and it does show the isolation of the President, and here it's not so bad—But the first time that I knew that they had to have the money was the time when Dean told me that they needed forty thousand dollars. I had been, frankly, (unintelligible) papers on those little envelopes. I didn't know about the envelopes (unintelligible) and all that stuff.

E. The point is that if Dean's, if the wrongdoing which justifies Dean's dismissal is his knowledge that that operation was going on, then you can't stop with him. You've got to go through a whole place wholesale.

P. Fire the whole staff.

E. That's right. It's a question of motive. It's a question of role and I don't think Dean's role in the aftermath, at least from the facts that I know now, achieves a level of wrongdoing that requires that you terminate him.

P. I think he made a very powerful point to me that of course, you can be pragmatic and say, (unintelligible) cut your losses and get rid of 'em. Give 'em an hors d'oeuvre and maybe they won't come back for the main course. Well, out, John Dean. On the other hand, it is true that others did know.

E. But more than that. We've made Dean a focal point in the Gray process.

P. Right.

E. And he will become a focal point in the Ervin process.

P. We'll have to—yes, except, yes, if he goes down.

H. And if you dismiss him he'll still be a focal point.

E. He'll be a focal point. He'll be a defrocked (unintelligible)—

H. With with less protection, that's right.

E. And with less incentive.

P. Well the point that I think, I think—

H. What Dean did, he did with all conscience in terms that the higher good.

P. Dean, you've got to have a talk with Dean. I feel that I should not talk to him.

E. I have talked to him.

P. I mean about motive.

E. I have talked to him.

P. What's he say about motive. He says it was hush-up?

E. No. He says he knew, he had to know that people were trying to bring that result about.

P. Right.

E. And he says, you know, the way I got into this was I would go to meetings in campaign headquarters and we'd get through the meeting and Mitchell and LaRue would say to—Mardian and LaRue would say to Mitchell, "You've got to do something about this." And Mitchell's stock answer was, to turn to John Dean and say, "What are you going to do?" And so John said, "I got to be kind of a water carrier. I'd come back from those meetings and I'd come in to see Bob," or me or somebody else, and say, "Well Mitchell's got this big problem." And then he'd say, "They'd say to me, 'well I don't know what I'll do about it.' "

P. When he came in to see Bob and you what would he say was the problem?

E. He'd say, "These guys, Hunt's getting jittery, and says that he's got to have umpty-ump thousand dollars, and Mitchell's terribly worried about it," and it was never expressed, but it was certainly understood—

P. On the question of motive then, though, I guess in those conversations with you with respect to motive was never discussed.

E. Never discussed with me in those terms.

P. Right. The motive was to help defendants who were, by golly, who had worked for the campaign committee.

E. It never really got that far because, we, at least my conversation with John always was, "Well, you know that's interesting, but I just don't know what to do for you."

P. Yeah. He may have gone further with you, Bob. Did he?

H. No. We referred him to Kalmbach. You aimed it at Kalmbach, I aimed it at Mitchell. I said, "John, you can't come here and ask for help, we don't have it." The one thing where it did go further, if you want to argue about it, it was in the sense that the 350,

P. That we had.

H. Which was not our money, we did move back over there.

P. For this purpose?

H. (Unintelligible). Yeah, yeah.

P. Who asked for it?

H. Nobody.

P. I mean how, who asked for the move on the 350?

H. Hunt did.

P. How did you know? Somebody came to you?

H. Gordon Strachan came to me after the election and said you have three hundred and fifty thousand dollars in cash. What do you want to do with it.

P. This was not requested by LaRue?

H. No.

P. Of Gordon?

H. No, the problem was getting them to take it back. They wouldn't take it, cause they didn't know how—

P. Well, that money—

H. LaRue wanted it but Mitchell wouldn't let him take it.

E. They just didn't know how to account for it.

P. Well, then, frankly, he wouldn't have to account for it, in my opinion.

H. Well, but he didn't—he was

P. Nineteen seventy money.

H. He will have to account for it now, because Fred LaRue is in personal receipt under Grand Jury knowledge of three hundred and twenty-eight thousand dollars in cash delivered to him at night at his apartment by Gordon Strachan. The witnesses to that transaction were Strachan and LaRue.

P. LaRue testified—

H. But Strachan just testified that that's what happened. Well, LaRue's got a problem. What did he do with it? At that point, it's income to him. He's got an IRS problem if he can't get that accounted for.

P. He'll use it—what does he say? He says, I used it for hush money?

H. I don't know what he'll say. He'll probably say I packaged it up—

P. That help? But that certainly doesn't help us.

H. Doesn't help anybody but, you know

P. The other thing he says, well, I just—I have retained it in a fund for future campaigns.

H. I'm sure he doesn't have it.

E. I'm not sure, either, but I assume it went right out to pay these people. That's my assumption.

P. You know he used it—

H. Not all of it.

E. Now Dean says this. He says we have only two problems that we have to manage in the White House. One is the fact that we made a referral to Kalmbach, and he said that can be explained. And need not be a major problem, if it's clearly explained. And we have no problem with the aftermath.

H. I'm running the three fifty into my statement, but the question is whether we want it in.

P. Oh yes. Put it in there.

H. Nobody knows about it, but that's another bombshell.

P. I think there's been something written about it.

H. Yeah, but not that I had it. It is eleven o'clock.

P. All right. Eleven o'clock and the armistice is signed so off we go.

E. Mitchell is roughly two hours away, at best.

P. I think, I think he's going to come down and do it today. I think, Bob, I think you have to go out and call him now. And ask him if he can come down.

E. Tell him we'll send an airplane for him.

H. (Unintelligible)

P. Yeah.

H. By the time we get a plane mobilized and up there it takes longer. We'll send it if he is playing golf or something.

P. I know. He may be gone. But the Point that I made was this, if he's out to play golf, just say we have an urgent message, and just say there have been (unintelligible) on the Watergate things.

H. (Unintelligible) him immediately.

P. Tell him he should come down but have him (unintelligible) can you come down? If he says, I can't come then Ehrlichman should go up.

H. Then say John will come up. Where'll you be.

P. Yes. If he says well I've got a dinner tonight and I've got—say, John, John this is very important. The President considers this of the highest urgency that you be aware of these developments.

E. Something that just can't be postponed any longer.

P. Can't be postponed and we—Harder than firing Hickel.

E. Oh, about the same.

P. That it?

H. Yes, sir.

E. OK—anything new? Our last conversation? Can you give it to me now? Ok. I'll see you in a little while.

P. Colson?

E. No, that was Dean.

H. What did he say?

E. (Unintelligible) I think we're going to be—Well, you can put

P. We did not cover up, though, that's what decides, that's what decides.

H. (Unintelligible) to go testify.

P. My point is that if three of us talk here, I realize that, frankly—Mitchell's case is a killer. Dean's case is the question. And I do not consider him guilty. Now that's all there is to that. Because if he—if that's the case, then half the staff is guilty.

E. That's it. He's guilty of really no more except in degree.

P. That's right. Then others

E. Then a lot of

P. And frankly then I have been since a week ago, two weeks ago

E. Well, you see, that isn't, that kind of knowledge that we had was not action knowledge, like the kind of knowledge that I put together last night. I hadn't known really what had been bothering me this week.

P. Yeah.

E. But what's been bothering me is

P. That with knowledge, we're still not doing anything.

E. Right.

P. That's exactly right. The law and order. That's the way I am. You know it's a pain for me to do it—the Mitchell thing is damn painful.

E. Sure.

P. Is he coming?

H. Yes, sir. I said, "Do you want to let us know what plane you're on so we can pick you up? He said, no let me (unintelligible)

P. Run over this. Do you delay your meeting with Magruder until you see him?

E. I don't think it really matters. It runs over this whole thing and having knowledge and having to act on it.

P. My point is that I think you better see Magruder before you see him. No. I guess you're

E. It doesn't matter, in my opinion.

P. You should see Magruder, today. That's the main thing.

E. I think we ought to make a similar call to Magruder.

H. I should do it. I should call Jeb and say that things have developed and all this and—

P. Yeah.

H. Well, I didn't say that to Mitchell.

E. It doesn't matter.

P. Oh, Mitchell. He knows better. Say that to Jeb.

H. When I say it to Jeb it'll take probably thirty-seven seconds for him to turn up on your doorstep.

P. Oh, that's all right. It's all right. I think we should do it before you see Mitchell. Or you, do you feel uncomfortable about telling him?

E. No. As I say I think it's almost immaterial as to which I see first. It's the fact of doing it rather than any particular sequence.

H. Mitchell won't be here, he can't be here until (unintelligible).

P. Yeah. I think, in my view, John, you can't wait to act. You can see Jeb Magruder and say now, Jeb, you're to testify (unintelligible).

E. I wouldn't quite say it that way. I'll say, "I don't know if you know what I've been doing here the last three weeks. I have been ranging over this whole subject matter trying to bring to the President something more than John Dean has turned.

P. Can you tell him as you talk to him that what he says is attorney-client? No? You can't tell him. Ok.

E. I'll simply say that as you know Dean did an investigation which determined whether or not the White House was involved. My responsibility was greater than that. It was to range over the whole thing and try to bring to the President a new body of information on what actually happened, for example, first of what transpired. And from what I have been able to put together I have advised the President and he—this morning—and he has directed me immediately to contact you. Having found a highly accepted point of view in all of this that people should not disclose what they know because it somehow serves the President. It involves, apparently, considerable criminal jeopardy. (Unintelligible) what to do from your own standpoint, I now want you to have as a message from the President. He does not in any way view it as serving his interests for you to remain silent. Decide what to do from your own personal standpoint, and I haven't any right to interfere in that decision. If there ever was an impediment to your coming forward by reason of your impression, assumed or otherwise, of what the President wanted you to do I think it's my job to impart to you what is actually the case.

P. I would, also, though, I'd put a couple of things in and say, Jeb, let me just start here by telling you the President holds great affection for you and for your family. I was just thinking, I was thinking last night, this poor little kid.

H. Yeah, beautiful kids.

P. Lovely wife and all the rest, it just breaks your heart. And say this, this is a very painful message for me to bring—I've been asked to give you, but I must do it and it is that: Put it right out that way. Also, I would first put that in so that he knows I have personal affection. That's the way the so-called clemency's got to be handled. Do you see John?

E. I understand.

H. Do the same thing with Mitchell.

P. Oh, Mitchell? Well you could say to Mitchell, I think you've got to say that this is the toughest decision he's made and its tougher than Cambodia—May 8 and December 18 put together. And that he just can't bring himself to talk to you about it. Just can't do it. And he directed that I talk to you. You see, what I am doing, John, is putting you in the same position as President Eisenhower put me in with Adams. But John Mitchell, let me say, will never go to prison. I agree with that assumption. I think what will happen is that he will put on the damndest defense that—the point you have, your suggestion is that he not put on a defense. You're suggesting he go in and say look I am responsible here? I had no knowledge but I am responsible? And nobody else had—that's it. Myself. That's it, and I want to.

P. This thing has got to stop. Innocent people are being smeared in this thing.

E. He will understand, however it comes out. Once you are possessed of a reasonable body of knowledge, you have an obligation to do something and, rather than simply to turn it over to the U.S. Attorney, the thing that you are doing, in the first instance, is giving him an opportunity to come forward.

P. Rather than having a special prosecutor, say that he comes to a special prosecutor. The President rejects that. The idea that we turn it over to the U.S. Attorney. Call him in, which I could do. Or call in the Attorney General, which I could do, but I think its (unintelligible) to do this because I cannot have this. Now, of course, he's going to ask, "Well, now, John what knowledge do you really have, except hearsay."

E. "I don't have any knowledge, except hearsay, John."

P. But I do know that Magruder

E. I know that John Dean said

P. (Unintelligible) there is no question about what is going to happen.

E. That's right.

H. You won't have to appeal to him on that because he's made the point you know that if Dean testifies it's going to unscramble the whole omelet.

P. That's why I don't want to leave it at the point that Dean's or Magruder's or anyones testimony is essential to Mitchell's—

E. That's right.

P. You see that's the point of that. On the Dean thing, I wouldn't say that the President has stood, frankly, John, on executive privilege thing, because it's up to (unintelligible) and so forth.

E. "It isn't my purpose to prove to your satisfaction you're guilty or that you're going to be indicted, but—it's my purpose to say that the President is now in possession—

P. That I believe we should come to you. What are you going to suggest that he do, John?

E. Well, if he asks me, what do you want me to do? I am going to say, "If you will do what I ask you, what I would suggest, you would pick up the phone or you would allow me to pick it up, and call Earl Silbert and make an appointment today and go over and talk with the U.S. Attorney about this case with counsel."

H. I'll see the President and tell him you're going to go.

E. No.

H. OK.

E. "Well, you're asking me in effect to go down and enter a guilty plea." And I would say, "Look, John, you're the only who knows the basic (unintelligible) to go and to decide whether there's any room with what you know and the ultimate action of the jury through which you might pass unpublished. I can't make that judgment for you and I don't have any right to make it for you. All I'm saying is that if we're looking at this thing from the standpoint of the President, today is probably the last day that you can take that action, if you're ever going to take it to do the President a bit of good."

P. "Do you realize, John, that from the White House, I mean, Colson, maybe Haldeman are going to get involved in this thing too?"

E. Well, here again, we're looking at this thing not from the standpoint of any other individual. "We are looking at it from the standpoint of the Presidency and that's the only way I think you and I can approach this."

P. And I'd go further and say, "The President has said let the chips fall where they may. He will not furnish cover for anybody." I think you ought to say that.

E. That's right.

P. Don't you agree, Bob? That isn't it?

H. He may go. He may get Chuck. He may get you. We asking——

P. We are asking on this thing (unintelligible). Get the White House. You see on the other hand, he may do something else, Bob. I think he would think the latter.

H. That's the thing we've worried about all along, that somebody will get (unintelligible) what we do but we can't live by whether we (unintelligible) the (unintelligible).

P. (Unintelligible).

E. And this is one that will permit him, one that might help the Presidency rather than damage it.

P. Bob, do you think there's something to be said for having John wait to talk to Magruder until after he sees Mitchell? Suppose you get stone-walled with Mitchell.

H. Well, I think John's in a stronger position if he's talked with Magruder than if he hasn't but I, maybe I.

E. I tell you, it is not what Mitchell says that matters today. It is the fact that you have acted on information you have today.

P. Yeah.

E. Now, let's suppose Mitchell turns us down cold, and says I'm going to preserve all my rights. I'm going to fight every inch of turf and so on and so forth. OK. That's right. But at least you, having accumulated all this knowledge this week, have tried to get this thing out, so that sometime two months from now, three months from now, a year from now when there's a panic you can say on the 14th of April—

P. It's on the 13th.

E. 14th—14th day of April.

P. This is the 14th—Saturday.

E. Yeh. Friday was the 13th, yesterday. On April 14th—

P. No, seriously, as I have told both of you, the boil had to be pricked. In a very different sense—that's what December 18th was about. We have to prick the boil and take the heat. Now that's what we are doing here. We're going to prick this boil and take the heat. I—am I overlooking?

E. No. I think that's right. The idea is, this will prick the boil. It may not. The history of this thing has to be though that you did not tuck this under the rug yesterday or today, and hope it would go away.

P. Now. In the scenario. I sort of go out and tell people that I have done this.

E. I don't know. It depends on how it all turns out. If he does not go to the U.S. Attorney, if Magruder decides to stay clammed up—

H. What would you do?

P. Well, that, well, let's suppose they still indict. You don't want them to indict and then have to say that on Saturday, the 14th of April, you, John Ehrlichman—

E. Yeah. But you see the problem there is—

H. (Unintelligible) at least you got the record now.

E. The problem is that if you were to go out on this kind of hearsay and say we know who did it, then you've prejudiced their rights.

P. Then you're thought is to get out beforehand.

E. No, no.

P. Your thought is just to make a record of the decision?

E. When somebody comes to (unintelligible) what the hell was the White House doing all this time? Then you're in a position to say well, we began to investigate personally the external circumstances and we came to some conclusions—we acted on those conclusions.

P. John Ehrlichman conducted an investigation for the President.

E. And we made an effort. Now, it may be that what should happen here is that if they both stonewall, I ought to sit down with Silbert and just say now I don't have a lot of evidence.

P. I agree with that.

E. But I have an accumulation of hearsay—

P. And the President wants you to go forward on this.

E. And I'll turn over to you the report that I made for the President for whatever it's worth. And I want to tell you that I have had contact with two of your targets to make clear to them that nobody in the White House wanted them in any way to be reticent. Beyond that, I don't have anything to say to you.

P. Well, then, let's see what happens.

E. Well, let's see what these guys do.

E. But I think maybe like, tomorrow, I ought to see Silbert.

P. I agree. I think the record should be made we have talked to him so that he knows that the President has moved on this.

E. And that's, that puts—

P. And we saw the U.S. Attorney and turned over our information to him. All the information we had.

E. I would like a record of my conversation with both Magruder and Mitchell. I think personally that maybe I ought to get my office geared up so that I can do that.

P. (Unintelligible), or do you remove that equipment?

E. Yeah.

P. I do here for my meetings with Henry but I don't know.

E. I think it's better if I do it over there.

P. Why don't you just gear it up? Do you know, do you have a way to gear it up?

E. Yeah. I've done it before.

P. Well go gear it. No, no. Well, wait a minute. No, I think that's too—

H. (Unintelligible)

P. Who will? I would just have it so that you will know that what we've got here. I don't want to hear the record, I want to say. So these guys, don't have me hear the record.

H. (Unintelligible) I don't know whether to tell you or not, but there is certainly a purpose for me to sit in on the meeting.

P. I think you should.

H. Maybe that's it. That would give you a witness for one thing. If either of those people were questioned and you don't have anybody else, you've got a problem.

P. And then when Mitchell says, Bob, you know you were in this too. What's Bob Haldeman say?

E. Well, he won't. He won't.

P. I think, Bob, shouldn't sit in because Haldeman is. No. I think so. That gives you the witness. And also Mitchell feels he's got a friend there. And he knows that you're not just doing this on your own, freewheeling it. Bob says we talked it all over. The President said we can't sit on information that's of this nature. Get any information on the White House stuff. It's going to be exactly the same procedure. I think you ought to move on the Jeb thing, Bob.

H. I get him in my office.

P. Give your report to me on it. When you finish your conversation with Jeb, I'll be over.

(Material unrelated to Presidential actions deleted.)

Appendix 15. Meeting: The President and Haldeman, Oval Office, April 14, 1973. (1:55–2:13 pm)

P. Well, you chatted and decided not to take (unintelligible)

H. Yes sir, he said stay on standby—It may be better if it looks like a good idea for you to be there if you can just be available because I may want you to come up fast so I am on standby.

P. Magruder

H. He has had him in there for forty-five minutes, but he still (unintelligible). I called Magruder—it took a long time to get him—he was not available—and I was trying to get him through his office but his lawyer said he could reach him in about an hour which he did and had him call me. Jeb said —I started out by saying now there have been some developments and we have reviewed this whole thing with the President and he thought it was important to have you and your lawyer meet with John Ehrlichman right away and get up-to-date on where things stand from this side. He said—fine, I can do that, I can't make it until about four o'clock. That was the way it was left—but he then said—you know this whole thing—I don't know the situation but it is all done now. I said, what do you mean? He said I decided late last night with my lawyers that I am going to go ahead—you told me to do what my lawyers told me to do. You said you couldn't advise me.

P. Is that what you told him?

H. Yes. You see he called saying, what does Bob want me to do? I told Larry to tell him that I was not in a position to tell him what to do, that that was last week, that that was a decision he had to make and work out with his own advisers. You know—that I wasn't cutting him off—it was simply that it was his area. Well anyway, he said they had decided last night that he would have to tell all and his lawyers met with Silbert today and informed Silbert that Magruder was ready to tell all and requested an opportunity for him to do so. He doesn't know what the timing is but the plan is that he will meet first with Silbert and review what he is going to say and then Silbert will take him to the Grand Jury. Now, the kind of a deal—first—Jeb said I did not ask for immunity—I did not feel I was entitled to it. He said the reason that I tell everything is because they are going to get it anyway. They have witnesses on witnesses now and there is no reason for me to be quiet because they've got everything anyhow.

P. How does he know that? Did Silbert tell him?

H. I guess Silbert told his lawyers.

P. Uh, huh.

H. It is a damn good prosecuting lawyer like Silbert to get a key witness to tumble, but—

P. Immediately?

H. Sure, they've got the facts—they may not be able to prove them but they've got them. Magruder is set to give them the proof. He says the only thing I gain out of this is the hope that I don't go up for all the counts they've got me. He says they've got me for six or eight counts perjury, two counts of conspiracy and two counts of obstruction of justice essentially and that ends up with sentences of 135 to 160 years in jail. He says my lawyers feel that if I open up on this and they have had discussion—they haven't made a deal apparently with Silbert—as to what they will do—that he has been told the way the process will work is that he will give his information and they will determine from the information what counts they will seek to indict him on. They will then take him before the Grand Jury and go forward with Grand Jury indictments on a limited number of counts and they will try to work on cooperation and that sort of stuff to lighten his load and he will then plead guilty on all counts. He will not stand trial—he will not testify in public court—he will only testify to the Grand Jury and whatever they bring as indictments he will take guilty pleas on and go to jail.

P. It isn't a fair trial is it?

H. He told me that whole thing in a broken voice and showed more strength than 1 thought he had, to be perfectly frank. He obviously groped his way through in his own mind.

P. It is terribly hard.

H. It is awfully hard—particularly if you are very sharp.

P. You don't know what is involved—

H. He understands it—he said the other thing that you have to understand, Bob, is that this whole thing is going down the drain—he said everybody is going to crumble. At this point I would suspect these lawyers have talked to each other. He said LaRue, everybody involved here is going to blow with the exception of John—

P. Mitchell?

H. Unfortunately, I had this conversation just as John Mitchell was driving up the driveway—I held Mitchell—had him go up to John Ehrlichman's office but then Ehrlichman heard all of this before he went into Mitchell. Jeb has not told Mitchell of his decision yet—he said, I want to make my decision and then my lawyers are working it out with Silbert this morning and then my next step is to tell John Mitchell which I want to do.

P. How the hell can John Mitchell deny it? He was right on the (unintelligible) spot.

H. Jeb says unfortunately I will to a degree implicate John Dean and to possibly to some degree Bart and I hate to do it, but he said where I am now there is nothing—I can't pull any punches. He said there is no way that anything I do will get to you.

P. John Dean will have to testify (unintelligible).

H. Well, John Dean—that doesn't trouble me—I don't think it troubles Dean—where he gets John Dean is on his attendance at those meetings.

P. That meeting Saturday night?

H. No—the problem there is that the discussion at those meetings clearly and specifically did involve bugging.

P. Oh, Dean never denied it as it has turned out. That's John Dean's stand—but what about the aftermath? Does the aftermath help on Dean?

H. I don't think Magruder knows about the aftermath.

P. Where does he get to Gordon Strachan?

H. He says he gets Gordon on——

P. Sending material to him——

H. He still implies at least that Gordon know about it before you know—he knew everything they did. Larry tells me he did not.

P. He will testify that he sent materials to the White House?

H. If he is asked, he will, yes.

P. He'll be asked—is that something he will say he sent to the White House. What would Strachan say?

H. Strachan has no problem with that. He will say that after the fact there are materials that I can now surmise were what he is referring to but they were not at the time identified in any way as being the result of wiretaps and I did not know they were. They were amongst tons of stuff. Jeb makes the point. He said, I am sure Gordon never sent them to Bob because they were all trash. There was nothing in them. He said the tragedy of this whole thing is that it produced nothing.

P. Who else did he send reports to—Mitchell?

H. I don't know. The thing I got before was that he sent them either to—that one went to him and one went to Strachan.

P. What our problem there is if they claim that the reports came to the White House—basically to your office—what will you say then?

H. They can. This doesn't ever have to come out.

P. I know, but they will ask it in the Grand Jury.

H. If they do ask it in the Grand Jury—the Grand Jury is secret. The only way it will come out is if they decide to indict Strachan and put him up for trial. He, Jeb, is totally convinced that they have no interest in Strachan at all—and they have all this stuff. And I can see how they feel—Strachan is like a secretary—he is useful as a witness.

P. (Unintelligible.)

H. Yeah, he implies—or has in earlier stuff—he doesn't now directly—he doesn't say anything now directly—but did in the earlier stuff that Strachan knew about it beforehand. That Strachan knew they were bugging the Watergate. Strachan says he didn't. Jeb has implied a lot of things that I know aren't true, but I know that a lot of things that other people are saying aren't true so I would have no idea whether he believes now that—one of the problems Jeb has is that he's not sure what is true at this point.

P. He tells you this?

H. He tells me that he is sorry about this because it will probably hurt Dean and it may hurt Bart. You see that is the kind of thing—you know—from his judgment—he is looking at things a little different now.

(Material not related to Presidential actions deleted.)

P. Has anything come out yet—something implies that there are copies of a bill from the Watergate to the White House—or not, or has that not been said? He could have had—but I suppose not (unintelligible).

H. I am sure that it is the thing that follows—all of them had access to everything—involvement—implication is clearly there.

P. Everybody is sure trying to get in the act now. I see a message here from Steve that John (unintelligible) had thought about the Watergate and had some ideas he would like to pass along.

Appendix 16. Meeting: The President, Haldeman and Ehrlichman, Oval Office, April 14, 1973. (2:24–3:55 pm)

P. All finished?

E. Yes sir. He an innocent man in his heart and in his mind and he does not intend to move off that position. He appreciated the message of the good feeling between you and him.

P. He got that, huh?

E. He appreciated my—

P. How did you get him here? Give us a little chapter and verse.

E. Well, I started out by saying that the subject was so difficult for you to talk to him personally about that you had asked me to do this.

P. What did you next say?

E. That you had had me doing this. That I had presented you with a set of conclusions that were admittedly hearsay, but that pointed in the direction of his ex-soldier and Jeb's and other people and that you were having me systematically talk to these people because in the course of this investigation we had discovered a frame of mind on the part of some people that they should stand mute in order to help the President, and that your sense was that the Presidency was not helped by that, and that it was not my purpose to tell anybody what he should do, but only to tell him that as far as your view of the interest of the Presidency were concerned, that they were not served by a person standing mute, for that reason alone. Now, there might be plenty of reasons why a person might want to stand mute to put the government out to prove it. And that wasn't the question. Then he said, "Well, what you say to me is that the President is reserving to me all my options," and I said, "Of course he is, John. The only thing that he doesn't want you to feel is that you don't have the option of going in and coping, if you want to do so. You have completely every option to go in or not to go in." And he said, well he appreciated that but he had not been taking the position he had for the reason that he thought he was necessarily helping or hurting the Presidency, but he said, "You know, these characters pulled this thing off without my knowledge." He said, "I never saw Liddy for months at a time." And he said, "I didn't know what they were up to and nobody was more surprised than I was. We had this meeting," and he lobbed mud balls at the White House at every opportunity—it was very interesting how he dragged it in. One after the other. But first he said, "There were these meetings. These characters came over to my office and Liddy put on this million dollar presentation which was perfectly ridiculous. The origin of that, of course, was in the White House where Bob Haldeman and I talked about something called the Operation Sandwedge that was really the grandfather of this whole thing." He said, "Of course, that was never put together because we couldn't get the right people to do it." They were talking about Joe Woods and people of that kind and so he said, "It never happened."

P. What is Operation Sandwedge?

H. He is right. Jack Caulfield came up with that back in 1971, said we need some fellows to set up our own detail.

E. So then he went on to say that there were only those meetings—he is still hung up on there were only three meetings thing. He made it very clear to me that he did never believe there was a fourth meeting. He said that, of course—

H. He wasn't in the fourth meeting, John. There was no fourth meeting as far as he was concerned.

E. No, no, but he didn't refer to three or four, he referred to the meetings themselves. He argues that there was no meeting after the million dollar meeting.

H. Well, it wasn't that way.

E. Right. That is the sense of what he was saying. I didn't press him on it and I tried to play him with kid gloves. I never asked him to tell me anything. He just told me all this stuff. He says that actually Magruder is going to have a problem with all of this because Dean talked Magruder into saying the wrong things to the Grand Jury, and so Magruder's got a problem.

P. My God, Mitchell was there?

E. Yep.

P. Is that Dean they are referring to?

E. Sure.

H. Sure.

P. Mitchell was there when Dean talked him into saying the wrong things?

E. or H. That's what he says. That is what Mitchell says.

P. What does Dean say about it?

E. Dean says it was Mitchell and Magruder. It must have been the quietest meeting in history. Everybody's version is that the other two guys talked—

P. Go ahead.

E. Well it goes on like that. His characterization of all this is that he was a very busy man, that he wasn't keeping track of what was going on at the Committee—that this was engendered as a result of Hunt and Liddy coming to Colson's office and getting Colson to make a phone call to Magruder and that he, Mitchell, was just not aware that all that happened until Van Shumway brought Liddy into Mitchell's office sometime in June and that's the first he had knowledge of it. It was much later in the conversation before—

H. Before the discovery?

E. I don't know. I don't know. You can listen to it. I've got it taped. Forgive me. But in any event, much later I said that the Grand Jury, or the U.S. Attorney, felt that they had John wired. And he said, "Well, what possible evidence could they have to feel that way?"

P. John Dean or John Mitchell?

E. John Mitchell. Well I said I understand that one version of the fact is that Magruder brought you a memo with a number of targets on it, and that you checked off the targets that you wanted. And he said, "Why nothing could be further from the truth than that."

P. That was John Dean's version.

H. That's right.

P. That's what he said to Mitchell.

H. Right. Then what Mitchell said to me was that he did not—he said I checked—I signed off on it.

P. Go ahead.

H. I said you mean you initialed it and he said no.

E. Then I said they had testimony saying Hunt and Liddy, having a conversation, and Liddy saying to Hunt, "Yes, I know how you don't like this stuff, but we have to do it because Mr. Mitchell insists on it." He said, "I never saw Liddy for five months. From February to June, I never laid eyes on him." He said, "I think Liddy is the source of a lot of my problems here, using my name, etc. So it is very much of (unintelligible) thing. He said, "If I am indicted, it is going to be very hard but," he said, "I have to think of my reputation. I can't let people get away with this kind of thing," and he said, "I am just going to have to defend myself every way I can." He said,"Obviously I can't get a fair trial in the city of Washington by any stretch of the imagination. We'll just have to see how that all comes out." He said, "I am sorry to hear that so much of this is going to come to the White House because it certainly is not in the President's interest to have all this kind of thing come out." He made a great point of the $350,000. He says that his recollection—and he said, "You want to check this because," he said, "I am very vague on the facts of this." I told him about Strachan, because Strachan used to work for him. And I told him that Strachan had been, and has to go back and correct the $350,000 to $328,000. He said, "I wasn't the only (unintelligible) for that money." And I said, "Oh?" And he said, "No, you would have to check with John Dean on this but," he said, "it is my recollection that Dean had Strachan draw other money out of that fund for payments to these defendants." I said, "Well, that is the first I have heard of that. I understood that Strachan had gone to Bob and said this fund—Bob had said send it back to the Committee and that Strachan had taken it to LaRue as a representative of the Committee." He said, "Yes, I think that's the way it all went, but not until some of it had been tapped by the defendants." And I said, "It was not known to anyone over here who was going to receive it." I said, "Was that before the money got to LaRue?" And he said, "Yes, I am sure it was." I said, "Well, who would know about that because I have never heard that before?" He said, "Well, Dean." So—

P. The $328,000 is wrong, too, then?

E. Well if Mitchell is to be believed, that's right, that is the inference. But you don't know of any other withdrawal do you, Bob?

H. Well, I told you the $328,000 was not returned in one trip, but it all went to LaRue.

P. (Unintelligible.)

H. Here is the sequence on that. We wanted to get the money back to the Committee. The Committee wouldn't take it. Mitchell wouldn't let LaRue take it. I said give it all back. Mitchell said no. Then they got desperate for money, and being desperate for money took back—I think it was $40,000. That is all they would take. I still said, "Take it all back, not just a segment of it, and made the point that I didn't see what the problem was. If they needed money and we wanted to get rid of money, it seemed to me it was of mutual interest in working it out. And that, then, was what happened. The balance—

P. Tell Strachan on Monday that he better be clear that he didn't give—

H. Right.

P. Strachan has testified apparently that he gave the whole bundle at once.

H. No, he wasn't asked that.

P. He wasn't asked?

H. His testimony in that area is not wrong.

P. Good.

E. Now, John kept referring to, using the phrase, protecting the rights of people. One of the ways that he used that phrase was in response to my question about what he thought I ought to do with the information that I had collected in the last several weeks. And he said, "Well, you have to first of all consider the rights of individuals." I said, "Yes. At the same time here is the Presidency hindered now with a body of hearsay and not absolute knowledge. Ah, my inclination is to give it to Kleindienst." And he thought about that awhile and he said, "Yes, I guess that is the best thing you could do." I said, "Now you should know that Kleindienst has said that if you in any way get cracked in this case that he is going to step aside, regardless of the case. I understand Henry Petersen also will." And I said, "That the thing Kleindienst is pushing for is a special prosecutor." John said, "That would be a grave mistake because it would be subversive to the orderly process of justice if every time you had an important case you strive to put the matter in an ad hoc process."

P. Well, I particularly—the present prosecutor (unintelligible).

E. So I said, "At least, he thought he should step aside." He got a very wide smile on his face, and he said, "Well, it's great to have friends, isn't it?" He says, "Especially the way we stuck by them"—meaning the ITT business, I assume, because of Kleindienst. So that was an interesting little aside. He said, "I would be very grateful if you would all kind of keep me posted," and I said, "Fine." He knew that we were talking to Chappie Rose. I told him no decision had been made about a Special Counsel, but we were inclined not to appoint a Special Prosecutor; that you were—

P. He doesn't mind a Special Counsel?

E. He thinks it is a good idea to have a Special Counsel. He suggested that maybe the Special Counsel should be the one to go talk to Kleindienst, rather than somebody from the White House staff.

P. I'll be darned.

E. And so that was his only reaction to that. I told him again that I thought he ought to be represented, and that Paul O'Brien was now a target of this Grand Jury and that I thought he really had to think about getting representation. He said he had given it a lot of thought, but that he didn't think that he would want to make a change yet. He thought he would wait and see how O'Brien got along.

H. Which confirms he considers O'Brien to be his attorney.

E. Right.

H. That's interesting.

E. He asked me how he was involved; what I heard about the prosecutor's view of Mitchell's involvement in the obstruction of justice suit. I said that I really had not been able to find anybody who was in a fishing net, who really went to a defendant and said, "Don't talk" or so and so. And he said, "Well I really wonder if you ever will, other than their lawyers." He said, "My impression of this is that they are the ones who are worried about their fees and who will really be coming to us rather than for any of us going to them to bring about a change in testimony. As a matter of fact," he said, "the same that—

H. Dean has been saying that all along. He said, "The thing—that we were talking to Dean about," he says, "I wasn't really worried about what they testified to. I was worried about what they would say to the press."

H. Exactly what Hunt made the challenge.

E. Yep.

H. But somehow Dean doesn't see that that way.

E. Well, we've got to talk to him some more. He, Mitchell, did not mention Martha at all and I didn't raise it. That was just not even in the conversation. I told him that the only way that I knew that he was mentioned, insofar as the aftermath was concerned, was that from time to time he would send Dean over saying, "Hey, we need money for this," and he said, "Who told you that?" And I said, "Well, John, that is common knowledge, and Dean will know that you told him that." I said, "Dean has not been subpoenaed. He has not testified and, as a matter of fact, the way they are proceeding down there, it looks like they are losing interest in him." I said this to John because I wanted him to be impressed with the fact that we were not jobbing him.

P. Oh. I get the point. Now does he know that Magruder is going to confess?

E. I said that in the course of calling to invite people to come talk with me today, and I indicated that there were more than two, that the persons who called was told that Dean intended—pardon—that Magruder intended to make a clean breast of it and that was first-party information and very reliable, and that that would tend to begin to unravel the saint from the sinner in both directions. And he agreed with that. Now he said, "Which version is it that Magruder is going to testify to? Is it the one that he gave Bob and me in Bob's office, or is it some other version?"

H. That's not true.

E. I said—

P. What was the version he gave Bob? Was it another version?

E. Well, let me tell you what Mitchell said. It was another gigging of the White House. He said, "You know in Bob's office, Magruder said that Haldeman had cooked this whole thing up over here at the White House and—"

P. Had he said that?

E. Well that is what he said, and that he had been sort of—

P. Now wait a minute. Your conversation with Mitchell is the one where—

H. I've got my notes on it.

P. —where Mitchell (unintelligible) is one where—Mitchell does—it's good you have the notes, too, but—

E. Mitchell's theory—

P. Whatever his theory is, let me say, one footnote—is that throwing off on the White House won't help him one damn bit.

E. Unless he can peddle the theory that Colson and others were effectively running the Committee through Magruder and freezing him out of the operation which is kind of the story line he was giving me.

H. Did he include me in the others?

E. Yep.

H. That I was freezing him out of the operation?

E. That you, in other words, he didn't say this baldly or flatly, but he accumulated a whole bunch of things: it's Colson, Dean and Bob working with Magruder, and that was sort of the way the line went.

P. No. The White House wasn't running the campaign committee.

H. He's got an impossible problem with that. The poor guy is pretty sad if he gets up there and says that. It is a problem for us, there is no question about it, but there is no way he can prove it.

E. He had a very, very bad tremor—

P. He has always had it.

E. Well, I have never noticed it as bad as this.

P. So you've done your (unintelligible).

H. The next question is whether you see Magruder or not and you are now set to see him at 4 o'clock, and if you are going to cancel him, why don't you do it right now.

E. I see no purpose in seeing him.

P. Why, because Magruder is aware of the fact that—

H. Magruder is already going to do what John is going to tell him to do, so we now know—

P. Our purpose, as I understood it—what I mean Bob, was for making a record.

E. Alright. For that purpose maybe I should. Maybe what I should do—

H. Ask him to tell you what he told me, and then you say, "Good."

P. We would like to get the hell what he is going to say.

E. Alright, alright.

P. I would particularly like to get what the hell he is going to say about Strachan.

E. Alright.

P. You could say, "Look, Jeb, I have to conduct this investigation on the White House. Tell me what you are going to say." If he says Strachan knows, ask him how he knows he knows.

E. Alright.

P. Do you think we should ask him that or do you not want to dig him on that?

H. That's O.K.

E. Once he tells me he intends to go forward to tell the truth, he has nothing to lose in talking to me.

P. Without guiding or leading him, you can at least maybe get that out tonight.

H. Well, his lawyer will be there.

E. Right.

P. The other thing is what about—of course, you realize that if he says something about Strachan then of course that puts an obligation on us to do something about Strachan, doesn't it?

E. Well at least to corroborate it or investigate it or go forward on it.

H. Question John—

E. Well, if it ends up that way, why then you have a sort of a dog fight.

H. Let me say this. I don't think Jeb wants to hang Strachan. I think Jeb is worried about the fact that in going through this, he is going to reveal things that will implicate Strachan. That is the same kind of thinking as Strachan and Chapin, who were both very concerned about getting me into the Segretti thing. In other words, they see any involvement, any mentioning of the name as being a problem.

P. Yeah.

H. I don't think Jeb sees it or understands the question of whether he really got Strachan in or not, and I am not sure how far he intends to go with Strachan.

E. He didn't say, didn't really make it clear?

H. No. He just said unfortunately this whole thing is going to come up and if it comes up, Bob—I said, "What is the problem with Gordon?" And he said, "Well, I don't know. That depends on what other people say."

P. Other people, you mean like a secretary, you mean, or someone like that?

H. Could be.

P. Typing a memorandum. To a degree I think one of the nice things in Strachan's case is the—the other possibility, of course, would be—maybe they are very likely, they might do this Bob, that they are going to ask the question, "Who told you to do this Jeb, or Mr. Magruder?"

H. He stoutly denied that Strachan told him to do it. Larry brought back the exact story that he insists—

P. What about the Colson (unintelligible).

E. He says that he is going to have to hurt Mitchell.

H. He says, "The ones I am going to hurt is Mitchell, and to some degree, John Dean and maybe Gordon.

P. He's obviously thought this through. Isn't it worthwhile to find our—I think we owe it to ourselves to find out about John Dean, for example, what he—now understand that he thinks (unintelligible) this is true from (unintelligible).

H. Alright.

E. I think that's right. This is probably a golden opportunity in a way.

P. Right. To find out—let me put it this way. You've got to find out what the hell he is going to say. (unintelligible) which is frightening to me, (unintelligible) rather than (unintelligible).

H. Right.

P. The interesting thing is—did Bob tell you—are you prepared to say that he says and not Mitchell. That's a hard damn thing, that he, Magruder, says they will indict him. Isn't that what you told me, Bob? Bob, didn't you tell me that?

H. No. He said everybody is going to fall on this. He wasn't meaning indictments. He was meaning going to talk.

P. Oh.

H. Himself, LaRue, everybody is going to drop but John. He didn't mean that Mitchell was going to be indicted.

E. That's correct.

H. He meant that Mitchell was the only one who was going to continue to hardline, because everybody else had given up. And that is why he has given up. His point is that his keeping quiet now or lying now serves no purpose because all it is going to do is get him on a perjury count as well as everything else. If he can clean up anything he can live with himself better. He faced the fact that he has had it.

P. Uh, uh. So that means LaRue, O'Brien. Is that right?

H. Depends on how far they go.

E. That's right.

H. Jeb doesn't know—I don't think—much about that.

P. It's under cover. They'll push him. I think he can put up a pretty good fight on the thing, don't you?

H. I would think so.

P. If they indict him, it is going to be a damn hard case to prove. You've got to prove motive there, don't you, John?

E. Yes. Dean argues that in a conspiracy such as they are trying to build they may not have to prove the same kind of (unintelligible) of some of the participants but only that they were in it. I would have to read the cases. I just don't know what the law is.

P. Of course, you've got there the defendants. They're the same way, too.

H. That's right.

P. In fact, the key witness there is Hunt.

E. Well there are the defendants and the defendants' lawyer, Bitman.

P. Hunt and Bitman. Hunt is to testify tomorrow.

E. My guess is that a fellow like Bitman has probably negotiated immunity for himself, and has—

H. Dean strongly feels they wouldn't give it to him.

P. They would.

H. Will not—

E. He is going to tell them about a lot of conversations he had with a lot of people.

P. Bitman is?

E. Yeah.

P. Do we know that?

E. I don't know that but I know, for instance, that Bitman had a conversation with Colson that was a Watergate conversation. And I know what Colson says about it—that he was brilliant and adroit, avoided any—

H. And he says Bitman's recollection of it would be exactly the same as Colson's—his recollection of the specific conversation—but he says Bitman may draw conclusions from it.

P. This is the clemency conversation? And his conclusion would be that he felt the President had offered clemency?

H. No. His conclusion he, Colson, will have Hunt out by Christmas. He says you know what kind of pull I have at the White House. I will be able to work that. That's what he would have thought. That by saying—

P. How does Colson handle that?

E. He says he has a paper or a memo or something that says exactly what he said.

P. Just a minute.

H. He wrote a memorandum of the conversation immediately after the conversation. That's all it is—his side of the story.

P. You don't think this would lead to an indictment of Colson, do you?

E. I don't know. Dean thinks everybody in the place is going to get indicted.

H. They're all doing the same thing. Look, Dean said just looking at the worst possible side of the coin that you could make a list of everybody who in some way is technically indictable in the cover-up operation. And that list includes, in addition to Mitchell, Haldeman, Ehrlichman, Colson, Dean—

P. Because they all discussed it?

H. Strachan, Kalmbach, Kalmbach's go-between, Kalmbach's source, LaRue, Mardian, O'Brien, Parkinson, Bitman, Hunt and you know just to keep wandering through the impossibles, maybe for everybody on that list to take a guilty plea and get immediate—what do you call it—

E. Clemency.

H. Clemency. That shows you the somewhat incredible way of some of John Dean's analytical thinking.

E. No way.

P. It's a shame. There could be clemency in this case and at the proper time having in mind the extraordinary sentences of Magruder, etc. etc., but you know damn well it is ridiculous to talk about clemency. They all knew that. Colson knew that. I mean when you talked to Colson and he talked to me.

E. The Magruder thing is 4 o'clock and it is still on.

H. I think I have to go confirm it.

E. Alright. Now the question is whether I ought to get hold of Kleindienst for, say 5 o'clock, and get this thing all wrapped up.

P. Have you determined it should be Kleindienst rather than Silbert?

E. Yeah. Dean's right about that, I am sure.

P. How do you know?

E. I asked him for his advice on this. He said Silbert would ask you to wait a minute and he would step out of the room and he would come back to get you and walk you right into the Grand Jury.

P. Oh.

E. And you see, he doesn't dare handle a communication like that personally from the standpoint of the later criticism. He says the better out would be to go to Kleindienst who will probably step aside and refer you to Dean. Dean would in turn say to Henry Petersen they have done this little investigation over at the White House. They have collected a bunch of hearsay. There doesn't seem to be much new but they've got it there if anybody wants it. Petersen would in turn inform Silbert who would say, "I've got more than I can handle here now. We'll wait and interview that guy later."

P. The purpose in doing this is what?

E. The purpose of doing it is—

P. The White House has conducted an investigation and has turned it over to the Grand Jury.

E. Turned it over to the Justice Department.

P. Before the indictments.

E. Right.

P. How much are you going to put out?

E. I think I would let them drag it out of me in a way. I don't know, I just really haven't thought that part through.

P. Because if they say why did the White House wait for Justice Department to do all this—

E. Did the White House know is probably the way this would in turn come.

P. Yes, as a matter of fact.

E. We had been at work on this for some time. President first ordered it.

P. Independent investigation.

E. Needed it known.

P. I had ordered an independent investigation at the time McCord had something to say. Right.

E. Alright.

P. At that time you conducted an investigation.

E. And that a—at the time I was ready to report to you my tentative conclusions, and they were no more than that, you felt that they were sufficiently serious—well, you felt that one overriding aspect of the report was that some people evidently were hanging back feeling that they were somehow doing the President a favor. That the President had me personally transmit to them his views that this ought to be a complete open thing; that may or may not have played some part in—

P. Jeb Magruder's subsequent disclosures to the Grand Jury?

E. In any event, rather than for us simply to hold the information in the White House, we turned it over to the Justice Department for whatever disposition they wanted to make of it.

P. If Mitchell is indicted here, you think he is going to be convicted?

E. Yeah, I think so. I can't guarantee it, but I would be amazed once Magruder goes in there.

P. Well, that's only one man.

E. Well, that is plenty.

P. Is it?

E. Oh, yes, sir.

P. What about the law?

E. Well, with all the other stuff they've got, they—

P. All the other stuff they've got?

E. They have a way of corroborating—

P. All right. So let's go down the road. If Mitchell is indicted, when do you think this is going to happen? With Magruder going in today, it could come sooner.

E. Could be. Could be, although Dean feels it will not be before May 15th at the earliest and now with the glut of people coming in, it may be even later than that.

P. Because they want to make a show.

E. They will want to do it all at once.

Stewart, Yes, sir?

P. I will have some consomme.

E. I might have Dick and Jeb come over at 5 o'clock.

P. Yeah.

E. And tell them what we have done, tell them that I will reduce the report to typewriting, which it is not now.

H. He could probably be over sooner if you wanted him. He is at his lawyer's office.

E. Why don't we do it as soon as we can?

H. 3:30?

E. No sense of sitting around here. Make it 3:30. It looks like we always have a drum on the lawn when these things are going on. We had a band out there when Hickel came in.

H. Oh, really? Would you check Jeb and see if they—why not have it held here?

E. Yes, sir.

P. What is the situation then with Mitchell? Undoubtedly, he will have a change of venue?

H. If he could come at 3:30 it might be even better. Here.

E. Well, I think he would have maybe a better chance of getting a judge in a different venue—concerning the witnesses—than he would certainly here in Washington who would feel the political heat of letting the Senate go on. I don't know how to calculate that. That's—It's a good question. I mean, you would have to have it in a place like Missoula, Montana.

P. It is a national story.

H. Place like Pascagoula, Mississippi might even be better.

E. Yeah, that would be better. Miami would be a pleasant place for it.

P. With you here, you men and Dean, without building stars—well, we have a pretty big bag.

H. Right. (Unintelligible) his opinion is that they will not reach him. He does not think he is a target and he doesn't think he will be. He thinks he might be but he doesn't think he will and if he's not, that means they are just going to be targeting on the White House.

E. Well, I am not so sure of that.

H. That's right. He said they may be after bigger targets.

E. Yeah. The same names are kind of pealing off, like yours truly.

H. Yep. I think he is trying to get attention with that, John.

E. He does believe me.

P. I don't think though—as a matter of fact I can't see that. John Dean has said that we all have to keep our thinking in perspective, but the potential relationship Magruder had with John is nothing compared to Dean's. He sat in on the damn meetings.

H. That's right. As however even at a some what higher level—if he can establish himself in a similar role as that of Gordon Strachan—and say that he was merely a messenger, a conduit, an agent.

E. Boy, Mitchell sure doesn't agree with that. I assume Mitchell will never testify. That would be my assumption.

H. Well one thing that you know we haven't talked about, but I am sure you have thought through and I have talked to him and told him I was reporting to the President, is that the outcome of the Magruder thing is that there will never be any published Magruder testimony.

E. That's right.

H. So the question of what Magruder's testimony amounts to is only—

E. That's not right, Bob. He will be indicted and he will plead guilty and be sentenced.

H. That's right.

E. Then he is available to the Committee or to the Court as a witness in somebody else's case.

P. Oh, he is?

E. He will be brought in his prison denims, change into a business suit and be put in the stand.

P. Oh.

H. Really?

E. Sure.

H. Why doesn't he take the Fifth on additional possible self-incrimination?

E. He's already been doing it.

H. (Unintelligible) must go on anyway. This stuff wasn't hanging on any of those things anyway and we just have to face that fact that whatever the story is it is going to be out anyway.

E. They will have the entire story out, plus probably two other stories that two other guys make up.

H. That's right.

E. And that anything and everything that is said will be believed.

H. And at least some of which will be enormously damaging to us.

E. There would no way—

H. Not provable, but damaging—

E. No way to deny it.

P. It is terrible when they get such a big bag.

H. Yep.

P. What does all this mean with regard to the—our posture here. Would you say let's take the gaff?

H. No, or do you deny it?

P. And cooperating with the committee and so forth. You are now looking at another month of it.

H. I don't think we should take that chance. See if we can—a month or more.

P. I don't want to. I don't want to. Bob, you see the point. I don't want to cooperate with the committee unless I could get a resolution of the entire Republican Caucus in the Senate.

We can't do that. (Unintelligible) based on the (unintelligible) situation. Do you not agree?

H. Well, I don't know, but I think what happened there—

E. Look, what should I say to Ervin and Baker on Monday?

P. That's exactly why I am raising this point.

E. One thing, it's a live actors' show. I think Magruder and Mitchell and others—

H. If they show up at the Senate—

E. Will not be witnesses at the Ervin hearings.

P. They will not? You just told me a moment ago that they could be witnesses at the trial.

E. Well, they can but the point is that—after the trial and their sentencing—

P. Yeah. Of Mitchell.

E. They could be subpoenaed.

P. Yeah.

E. And they would be delivered up to the committee.

P. But by that you mean until Mitchell is tried they can't be.

E. That's right. Until they stand trial, well, it would prejudice their rights.

P. Not only they—but he's already given—pled guilty.

E. Ah. Well then Magruder could be a witness after he's been sentenced. If he wanted to be and—

P. Wanted to be?

E. Here's the tricky point. Whether or not Ervin can grant immunity to someone who has been sentenced and is serving a sentence is something that I don't know, whether that would make any difference or not. I have no doubt that a judge can, but I don't know whether the Senate can. I think Ervin's best bet is to suspend as soon as these indictments are announced. If he were smart that's what he'd do, and then just let this thing (unintelligible) and then come around afterwards and punch up the places that they missed. Just go around the battlefield and get the croix de guerre.

P. Well after they get through, this—this kind of indictment—there isn't going to be that much gas in the Ervin Committee. I mean, they'll go ahead, but I mean they'll say, well now, what the hell. Still Segretti—too small. (Unintelligible.)

E. Just take the leavings.

P. What?

E. He gets the leavings. That's all.

H. They'll delve into it because their whole pitch is that this isn't the Watergate. It's the use, the misuse, of money and all that sort of stuff. They're going to run that money (unintelligible) down. Where did it come from?

E. Yeah.

H. Where did it go?

E. Mitchell said, incidentally—

P. (Unintelligible) million dollars?

H. Well, yeah.

E. Mitchell said that we should take great care to establish that three fifty came from the pre-'72 campaign money.

H. Right.

E. I asked, "Any questions in your mind about that?" And he said, "No. My impression is that that is where it came from," but he said, "Maury Stans and Herb Kalmbach spent a week together trying to tie all these various funds down as the source and that's a big loose end."

P. Well, you better—let's get that one. Well, there's no question about that, was there, Bob?

H. Not in my mind.

E. Well, but you see, Maury and Herb—

H. Was that, there was—well (unintelligible), the question was how much of it would we set aside. (Unintelligible) to three fifty.

E. Maury—

P. (Unintelligible) over here? Maury?

H. No. Gordon Strachan went over there and got it. Well, either Sloan brought it over here or Strachan went over there. I'm not sure which. Strachan took delivery from Sloan.

P. (Unintelligible) this was before the campaign started, in other words?

H. April sixth.

P. April sixth?

E. That may make a problem.

P. After the date of—

H. The day before the seventh.

P. (Unintelligible) it was April seventh. But it was (unintelligible) before.

E. Yeah, it was cash that had been—John (unintelligible) but John implied that they had bigger problems and that they had to use this money to make up shortages someplace else or something. I don't know. He didn't get into all this, but he said—

H. They never told me that.

E. They had problems with making their accountings all come out even—Kalmbach and Stans.

H. Kalmbach assured me all the time that the cash from seventy was intact, except for some that we knew had been used. But what was intact was—there was supposedly about two million. What was intact was about a million six and the question—there was way more than three fifty in other words. Many times that. And the question was how much of that million six—and they convinced me that you don't want a million six—or it could have been restored to two million (unintelligible) but you don't want that because under the new laws and everything there is no way that you could find to spend it. There isn't that much stuff you can spend on that wouldn't be traceable. And so somehow a figure of three fifty was negotiated as being a reasonable figure that might be, you know, would cover what might come up that wouldn't be impossible and wouldn't put exactly a hole in the campaign. So it was (unintelligible). That was money that was not really—

P. Didn't belong to the Committee?

H. Belonged to the Committee. What happened really is that it did. We made a contribution to the Committee.

E. Yeah. That's what it was.

H. The friends of Nixon in seventy.

P. Yeah.

H. Made a million three contribution to the Committee and kept three fifty of what it had of its carryover funds.

E. That's the way to argue that.

H. That's the way it was.

P. I wonder if you'll (unintelligible) then—(unintelligible) I think, Bob.

H. I can't reach Magruder. There's no answer (unintelligible) over something. If he arrives here they'll let us know.

P. We better get the other things out of the way. I think we're going to be—I don't want to be hammered—(unintelligible) I don't want to—I don't (unintelligible) they'll hammer the hell out of us anyway, but I don't (unintelligible) that's a—that's just a (unintelligible) all here. We'll take—we'll take a hell of a beating (unintelligible) in the next thirty days, a lot of heat, we'll take with regard to why we aren't appearing, why we aren't going to appear before the Committee. Now, how do we answer that? Do we answer that by saying the Committee won't agree to our—to the proper ground rules? Is that correct?

E. We say we don't want to turn it into a circus. We want our testimony received in a judicious and prohibitive way. We are willing to have our people go, but only under the right circumstances.

P. Well.

H. You get it by the Kissinger thing—we are releasing the record of your negotiations down channel.

P. Yeah.

H. Simply say that this is what we offer.

P. Yeah.

H. We stand ready to meet this offer whenever the enemy is willing to talk.

E. Seriously.

P. The question would then arise.

H. Tell 'em we'll resume the bombing.

E. I think it will probably not in the light of the heat from the Grand Jury and so on.

H. I still think you can. Maybe it can't be done, but there ought to be a way to turn the Grand Jury thing strongly our way, which is that this proves the rightness of the President's approach of full cooperation with the proper process of justice which is bringing people, even at the very highest level, to account.

P. You (unintelligible) cooperation.

E. Yeah. I think we should do that.

H. And cooperating on the (unintelligible). And the value of that.

P. (Unintelligible) first man out on it should not be favored. You understand the importance of that and so forth and so on. Then I've got to (unintelligible) and get (unintelligible). Trying to think of how to use you effectively in this too, John, is a—

E. I have to be—I have to be unwilling to tell the press what I discovered because of the rights of individuals.

P. Yeah.

E. Unless we want to get Mitchell and Magruder off. I could sure as hell give them an iron clad defense.

P. Oh. Oh, I meant (unintelligible).

E. Just don't defend 'em huh?

P. The time the Grand Jury has indicted.

E. I could prejudice their rights in such a way that they could—will never get a fair trial.

P. I guess you're right. You can't do it. See, Bob, very little you can do (unintelligible) Grand Jury.

E. Well, how about a—

H. What's wrong with prejudicing their rights?

E. Well, I don't know. How about if I were to do this?

H. Get your indictment, but you don't get anybody in jail.

E. I could say that I made a report. I could say that I made a deal. I could say that you instructed me to do certain things. One of the things you instructed me to do was talk to Magruder. Another thing you instructed me to do was to talk to the Attorney General. And I did all those things.

P. And you did, but not Mitchell.

E. And then I wouldn't mention who else. I could say I talked to other people.

P. "Did you talk to Mr. Mitchell, Mr. Ehrlichman?"

E. I am not going to get into any other names of any people.

H. Then why get into Magruder?

P. 'Cause he's testifying. That's the only difference. I don't know. You always come up with what not to do to those people.

E. (Unintelligible) right.

P. Does (unintelligible) know Bob. Aren't we really sort of in a position where it would be better to know whose (unintelligible) in that damn Grand Jury. At least, pull the (unintelligible) on something there. I really think you do. And, they're (unintelligible) happy. It seems to me that a hell of a lot of the issue about do something involves our inability to (unintelligible) back that we're willing to cooperate. That we're willing to waive executive privilege and keeping our people silent. Now that's what I'm really trying to (unintelligible).

E. We will get—

H. I've always heard that that's the right—that's the point—that kind of argument.

P. Is that (unintelligible).

H. (Unintelligible) one day plus story.

P. Yeah.

H. The price for which is weeks of—

P. Disaster.

H. Disaster.

E. But the thing that's wrong with that is that while it's a one day plus story, it's also the illumination of ninety days of negative stories.

P. Before you ever get there. That's the point.

H. And it's setting up ninety days of other negative, more negative stories.

E. Well, maybe. Maybe. That's a very good question.

P. The question is how much more negative is there?

E. You could have—

P. Then have the Senators go out and characterize it and all that.

E. You could have peace with honor if we could get them to agree, as I believe they will, that executive privilege is reserved at the time of questioning.

H. They've pretty much stipulated that, haven't they?

E. That's right.

P. What do you mean reserved?

E. I mean—

P. Negotiated?

E. No.

H. You (unintelligible) regarding the individual question—

E. Right.

H. Evaluate privilege as to appearance.

E. Right.

H. But you also (unintelligible) the merits of each individual question as to whether it relates to privilege or not and ask you question by question. It will be by your representative (unintelligible). And Connally's happy dream that I go up there charging away at the Senate doesn't work.

P. I think Henry has a good point here too and the thought about it is, he doesn't want to go out and be the first witness and if there is an overrule (unintelligible) I think makes sense. Although, let me say I do think that we still ought to consider—are we still considering the possibility of getting out the Segretti story?

E. Yes.

P. No way we could do it?

E. I think getting out the Haldeman story would be more useful in the light of Magruder and others going down to testify.

P. In other words you'd get that out before they testify?

E. If possible.

E. Well, (unintelligible) yeah.

H. The best (unintelligible) story you'd get out would be a White House story.

P. That's right.

E. About how we've been working at—

H. Which meets Henry's objections. Well, it's the Haldeman story, but you add to it—the whole thing. It's the—

E. You say (unintelligible) I have investigated. (Unintelligible) up the whole.

P. What—what I, basically—is having an Ehrlichman report. We've got some of the Dean report. That would be simply we have an Ehrlichman report that he makes and here is the situation with regard to the White House involvement. I haven't gone into the Committee thing.

E. Now the current (unintelligible) the current (unintelligible) on White House involvement primarily are Haldeman's (unintelligible).

P. That's right.

E. Well, I didn't go into White House involvement. I assumed that—

P. No. I (unintelligible).

E. That what you needed to know from me, and this would be what I would say, "What the President needed to know was the truth or falsity of charges that were leaking out with regard to—Committee for the Re-election personnel and any connections to the White House that might exist. That was the area of inquiry rather than whether anybody in the White House was involved."

P. (Unintelligible) trying to get you out there in a way that you didn't have to go into all that stuff, you see.

E. I know. I understand. I understand.

P. The fact that you are going to go before the indictments.

E. Well, I'd do it before the indictments and say, look, we have great confidence in the Grand Jury process.

P. That's right.

E. And I don't want to do anything that is going to in any way impair that process.

P. That's right. A number of people have been called before that Grand Jury, and I'm not going to—

E. The—

H. Say everything I have found has been turned over to the Justice Department.

E. Check.

H. Relating to that.

P. Everything that the Grand Jury is considering.

E. And I doubt seriously that I discovered anything new. What I probably did was simply bring into the White House for the first time a body of information that otherwise was available. Other investigators undoubtedly could do the same thing that I did and maybe a lot better. But we had had no occasion, previously, to bring all that information before us. I talked to Kleindienst, so I got what the Justice Department had. I got stuff from all over and we brought it in and we tried to assemble it in a way that it was meaningful for the President and—

H. Did you review the FBI files?

E. No.

H. Why not? That's the original source you said was the most extensive investigation in history. Why the hell didn't you look at it?

E. I didn't look at it because I didn't need to look at it. I got a summary.

P. Dean (unintelligible) the summary.

E. No, and the Justice Department—

P. Yeah, go ahead.

E. And—

P. I think that's easy enough (unintelligible).

H. I do too.

E. I didn't, I didn't try and duplicate the work of the U.S. Attorney. What I tried to do was simply determine for the President's use—and for the President's use only—whether or not there was substance to charges that we were hearing, and whether or not there was White House involvement with relation to those charges. And to determine whether or not the White House ought to be doing anything about its own personnel or about others that it was not doing. We were not trying to determine what the U.S. Attorney should do or the Grand Jury should do or the Justice Department should do. At the same time it would be (unintelligible) for us to withhold anything from the Justice Department in the thought that some of this information might not have been previously available to them. So I am not going to go into it. I am not going to tell you what I found.

P. Well, but here's the Haldeman story (unintelligible).

E. But—no. I'm not going to tell you specifically what I found because obviously the purpose of my work was simply for the President to form judgments—as the basis for the President to form judgments—with regard to White House personnel and other government personnel. And to determine whether or not the White House was actually in any way impeding the progress of the prosecutorial effort by anything that we were inadvertently doing. And, so that—that's not very fancy and I'd want to think that through.

P. So (unintelligible) what I'm trying to get is how you get his story out That's what I'm (unintelligible).

E. Oh. I see. I think you just put that out—just flat put that out. And do it—hang it on the peg of the Ervin Committee, setting a date for their first day of hearings.

P. You mean you'd ask for an early date?

E. No. They will, they will Wednesday, they will Wednesday.

P. Right.

E. Their hearing schedule.

P. And then Haldeman will make his statement—

E. Haldeman makes his statement and says, well I have been sitting here waiting for a chance to be heard. It's obvious now that it's going to be umpty-ump days before—

P. We think the dates (unintelligible).

E. Well, first of May is the earliest.

H. When they start.

E. Yeah.

H. And they—then when they hear McCord and (unintelligible) witnesses before that.

E. Yeah.

H. Before us.

E. So he could say it now looks like it will be several months before I would get a chance to be heard before the Ervin Committee at best, so I would like to make a statement at this time going into a number of charges that have been—

P. That have been bandied about.

E. Right.

P. Then you—the way I would handle that, I would say, "Now let's take the Segretti matter"—no—"First, let's take Watergate." You say, "I had no knowledge—" (unintelligible). "Let's take the Segretti thing. Now, here are the facts."—Then I would point out—(unintelligible) point out (unintelligible) incrimination?

H. No.

E. Well, we don't know that.

H. Huh?

P. (Unintelligible) OK, John. (Unintelligible) with Segretti?

H. Well, he was clearly (unintelligible) which is totally (unintelligible) that Segretti—Segretti's instructions were that he was to do nothing illegal. And, well then, answer the question how could you launch a guy out—

P. Yeah.

H. And (unintelligible)

P. Yeah.

H. (Unintelligible) that's one of the reasons that they—

P. Now, well yeah.

H. (Unintelligible.)

P. Now—here's my (unintelligible) then, and there are charges of money—cash.

H. I have a whole list of the general charges.

P. Well, the point is on the money, now I'd (unintelligible). I would say, "(Unintelligible) money—yes, there was three hundred and fifty thousand dollars left over from the campaign in 1970. It was delivered to the White House.

H. You see that ties to the same fund that Kalmbach—see you get a question, how could I authorize the expenditure of money to Segretti?

P. Yeah.

H. Well, I've already established in the Segretti thing that Kalmbach had these funds left over for the campaign and that's what I would assume he would use.

P. Right. Right.

H. He was to cut—

P. He decided that these funds were made available for private polling and so forth and so on. "They were used only for—twenty-eight thousand dollars was used for—twenty-two thousand dollars for advertising and the balance of three hundred and twenty-eight was returned.

H. They are going to get very excited about that advertising when, as soon as they find that out, they are going to track that down. And that, we have (unintelligible).

P. Vietnam?

H. It was "Tell it to Hanoi."

P. Hmph.

H. It was a "Tell it to Hanoi" ad countering Vietnam anti-Vietnam veterans.

P. (Unintelligible).

H. Wasn't (unintelligible).

P. That's good.

H. It went to Baroody which was the—

E. Bill or another Baroody?

H. No, Sam or Charlie.

E. Sam.

H. Or Edgar or somebody. One of the others.

P. "Tell it to Hanoi" ads (unintelligible).

H. Whatever it was, it wasn't—I was scared to death it might be something.

P. Yeah.

H. A Colson ad but it wasn't. At least that's according to (unintelligible).

E. Mitchell kept lobbing out little tidbits about Colson's operation.

P. Hmmm.

E. About sending rioters up to the Capitol steps and other things that he knew about.

P. Well, that was separate from all of Mitchell's stuff, though, wasn't it? What Colson did?

E. Well, he was saying it's really too bad that all this is coming out because there's so much sordid stuff that will be (unintelligible) to the White House.

P. But sending rioters to the Capitol steps. What do you mean?

H. They weren't rioters, for heaven's sake.

P. Well, they named demonstrators. Why do you tell me?

E. No, tell it to John Mitchell.

H. I don't think anybody (unintelligible) Colson can (unintelligible) rioters.

P. The point is—that is the (unintelligible) my thought with Bob, though, is not to make the countercharge in his—in the (unintelligible).

E. That's right.

P. I think he should save that for the Committee. Now do you agree with that, Bob?

H. I don't know. It's weak. It's weak if I don't.

P. Yeah. You've got to say—

H. I think I've got to make it in—I don't mean make it—

P. Put it in general terms, but hold the white paper.

H. I say—cite some examples—and say, "All these were done by the others," but I hold off on the thing that I have requested the Committee to look into, and when I'm up there I can say it's a matter of fact, you know (unintelligible).

P. I do feel that we should get this ready and really bounce it and I think that's the day to do it and I'd say (unintelligible) and I'd say—

H. It's ready. Oh, no, it isn't ready but it's close. But it's awful long.

P. Will it be alright?

H. I'm not so sure that (unintelligible).

P. Perfectly alright. Grand Jury. (Unintelligible) the damn (unintelligible) down to it. And if it says if the Committee doesn't, I cannot allow—I cannot allow—the (unintelligible). I mean the—"my effectiveness as an Assistant to the President will be seriously damaged." "Eroded by false charges and so forth and consequently I am making this statement now. I will make this statement under oath. (Unintelligible) I will make this statement under oath and answer questions under oath when the Ervin Committee finally gets around to hearing me." How's that sound to you, John?

E. Sounds pretty good.

P. All right. Now I think—I will say—point out—(unintelligible) it is (unintelligible)—"I do not suggest that—I have only tried to cover in this statement questions of charges to date. That's what I have said and it has not been—and I am sure that others will be made." And (unintelligible)

H. But I can't possibly anticipate what they—

P. "I cannot anticipate them. I do not—I cannot anticipate them, but I'd be prepared to answer them." He won't thereby have answered through me questions why (unintelligible).

P. Now the only question that you have left is, I suppose, sort of the peripheral (unintelligible) Dean rumbling around here and asking you and Haldeman how about getting us some money for Watergate defendants. Damn. I can't believe it. I can't believe they'd (unintelligible) you for conspiracy if you were asked for that. Maybe they could.

H. I—technically, I'm sure they could. Practically, it just seems awfully remote, but maybe that's wishful thinking.

P. Incidentally, could Strachan—I think—be very helpful for him to say what that twenty-two thousand dollars was for before the Grand Jury. Why not?

E. He will have to. I can't imagine that they would—

P. Well, they haven't asked him yet.

E. Yeah, but they will. Because—

P. Twenty-two thousand dollars in (unintelligible).

H. That makes sense.

P. To be sure, you just tell what happened, you mean? Huh?

H. Yeah.

P. Yeah, let's be sure. Well, you could say (unintelligible), it was my (unintelligible).

E. I probably better get up and get set up for (unintelligible).

H. Let me ask you if this—has that been—there was something else on Gordon.

P. Gordon (unintelligible).

E. I'm supposed to ask Gordon whether it was delivered in pieces?

H. Oh, yeah.

P. (Unintelligible) forty thousand dollars to (unintelligible) why did he deliver it (unintelligible) actually it was—it was a large—that's a large amount of money.

E. No, they've already got him on that.

P. Oh, that (unintelligible).

E. It all fit in a suitcase or something and (unintelligible) of support.

H. The reason they were in pieces because it was difficult for them obviously that (unintelligible) to receive back all this cash.

P. Yeah.

H. And they requested that it not be.

P. Requested it in two installments?

H. (Unintelligible) part of it at the time (unintelligible) balance. My interest was delivering all of it as quickly as possible. I don't know what their (unintelligible) was.

P. At the suggestion of (unintelligible) Magruder (unintelligible) everything you can.

H. He's bringing two lawyers.

P. (Unintelligible).

H. What we'll do—the point here—if you want Jeb (unintelligible).

P. Well, as you know (unintelligible) they want Strachan and they want Dean. Right?

H. (Unintelligible).

P. Just trying to get the facts and that's all there is to it.

E. I'll get back to you when—

P. Be sure you convey my warm sentiments.

E. Right.

H. I think I ought to get Strachan squared away.

P. Sure.

H. And if he (unintelligible).

P. Well, we'll see what this finally comes down to here (unintelligible). I firmly think—frankly I should say I don't know, but based on what Ehrlichman tells me about (unintelligible) and that removes him from some other things he said. That's what makes (unintelligible) here. (Unintelligible) is the important thing.

H. Well (unintelligible) Dean. I can't understand because it's in his interest, as well as everyone else's, to see the motive grow with loyalty.

P. I guess we're not surprised at Mitchell, are we?

H. No. It's partly true.

P. Hmh.

H. What he's saying is partly true. I don't think he did put it together

P. He shouldn't—he shouldn't throw the burden over here, Bob, on you. Now, frankly, Colson I understand, Colson certainly put the heat on over there. I don't think John seriously (unintelligible) unless you put them up to this thing.

H. (Unintelligible) I didn't. He knows I didn't. No question of that.

P. I should think he knows it. (Unintelligible) himself. So his (unintelligible), huh?

H. That's what he says.

P. You know he'll never—he'll never (unintelligible). What do you think about that as a possible thing—does a trial of the former Attorney General of the United States bug him? This damn case!

H. I don't know whether he (unintelligible) or not.

P. He'll have to take the stand at some points. (Unintelligible) all this has happened now.

H. That's exactly the point. He's got no defense witness that can deny it.

P. You know in one sense, Bob, it's better to (unintelligible) a couple of these small things but it's much better to hand it to the Grand Jury. McCord may move on the theory that Mitchell will be sorry and the others too (unintelligible) the damn thing—and the Ervin Committee get credit in the Watergate thing?

H. Yeah.

P. I don't know. Am I seeing something (unintelligible) that really isn't (unintelligible) or am I?

H. No, no. That was the thing I was trying to get at this morning. That what that proves is the President's, in my view, the President's course was right. The President wasn't covering up. The President was cooperating with the proper place and the proper place has come to the proper result, which is to find out in an orderly manner without tarring innocent people, to find out what's going on.

Appendix 17. Meeting: The President, Haldeman and Ehrlichman, EOB Office, April 14, 1973. (5:15–6:45 pm)

(Material unrelated to Presidential actions deleted.)

E. Well, he and his two lawyers who are very bright young guys came in. So I said, "Evidently, judging by your phone call earlier this is moot." He said, "Yes we have just come from our informal conference with the U.S. Attorney." He proceeded then to voluntarily give me his whole testimony.

P. (Unintelligible).

H. (Unintelligible) sticky wickets, but no new ones.

E. That's right.

P. Your definition of their (unintelligible).

H. On the other side (unintelligible).

P. On Dean, he told him to lie?

E. Oh, no. He's been a participant, an active participant in this thing right from the very beginning.

H. Talked about the case in the most coherent way we've ever had.

E. And I must say—

H. We finally will know what happened.

E. This has the—this has the ring of truth about it. He is a convincing witness. So, you know. But at the same time it has—

H. It also is not in conflict with anything else you've got, and almost totally corroborates everything else you've got except you get to the end of it this time.

E. This all starts back in September of seventy-one, when Dean, Caulfield and Magruder met and contrived an intelligence effort called Sandwedge. Two months later, Dean had been unable to find the right people to make that thing work. (Unintelligible) and Dean had approved of Liddy. And later in ah, and Dean, Liddy and Magruder met. Liddy, after having some contact with Dean, and Magruder is a little vague on this, came forward with a million dollar proposal. Magruder says that Dean says that a million dollars was the right figure. And that's why he picked that figure. And so the four of them met. They went over it and Mitchell rejected it. A week later, Liddy came back with a budget half as big, the half-million-dollar budget. And that was also rejected—

P. By Mitchell?

E. By Mitchell. Dean went on and said "These kinds of things shouldn't even be run by Mitchell. He's Attorney General of the United States. He is sitting over here in his parochial office and he shouldn't even (unintelligible)"

E. Liddy and Magruder then went off to try and develop a satisfactory project proposal. A quarter million dollar level. Magruder said he was never satisfied with it. He kept sending Liddy back to the drawing boards. Finally, Colson called with Liddy and Hunt in his office—talked vigorously. Finally, although he, and he felt Mitchell, too, were nervous about it and didn't feel comfortable about it, he said, "Well all right, I'll start this moving."

P. (Unintelligible) that he doesn't say that Colson chewed him out? Specifically about this proposal?

E. He said, Gordon Liddy's projects. He did not say wire taps. He used the word "projects." In fact, there was in being a budget for this quarter million dollar proposal. It was in writing. A copy of it had been furnished to Gordon Strachan. And it was very specific in terms of the kinds of equipment to be used.

P. It was furnished to Strachan?

E. Yes sir. There was no follow-up from Strachan. That is he informed Strachan that he was going to go ahead with the so-called Liddy proposal and, "I read his non-response as OK from higher-up. I am not able to say of my own knowledge that there was any knowledge of anyone higher-up." In point of fact the—(unintelligible) was insisting upon was information on Larry O'Brien. That was the thing he called about and that was the thing that he had been driving at. Around the end of March, Magruder and LaRue went to Key Biscayne where John Mitchell was.

P. Magruder? LaRue? Right.

E. They presented to Mitchell Liddy's final proposal. Which was bugs in three places—Watergate—

P. They were on the phone?

E. They were in person.

P. Magruder and Mitchell—and LaRue. Presented it to Mitchell?

E. Yes, sir.

P. In three places, huh?

E. It involved bugging three places—Watergate, McGovern Headquarters and the Fontaine Bleau.

E. In the conversation, Mitchell orally approved it. Now it involved other things besides taps, and he was not specific. He said, "In all honesty this was a kind of a non-decision. Nobody felt comfortable in this thing but we were sort of bull-dozed into it." was the way he put it. Ah—

P. By Colson?

E. That's the inference. (Unintelligible) Liddy's project. I said, "Well now, clear up for me just how well informed was Strachan?" He said, "I informed him orally of it. He had the budget."

P. The budget he prepared himself—

E. Parts started to come out of that thing were junk. We got synopses in the log. He said, "I got the only copy. I, Magruder, got the only copy of that synopsis."

P. Mitchell a copy?

E. He thought they were all junk too, "furnish a junk store". The one copy, that Magruder had, had pictures of the kinds of papers that you'd find around in campaign headquarters. He sent a synopsis of the pictures to Mitchell. He thought it was so bad he picked up the phone and called Liddy and chewed him out. He call 'em "(expletive deleted)" "I told Strachan that the synopses were here. He may have come over and read them." and as I pressed him on that he got less and less sure of that. He says, "I told him they were there."

H. Strachan says, "I stopped reading the synopses, and they were—we had 'em here."

E. Now I've got to skip back a ways and then I'll come back to Mitchell.

H. You sure he made that claim to Strachan?

E. I think March, about the time of the meeting down in Key Biscayne, Liddy threatened Magruder's life. He said he was transferred to the Stans' operation.

P. Yeah.

E. LaRue approached Magruder and said, "We need that operation. You ought to take him back with us. It's dead in the water without him." In fact, from the White House to the headquarters, he says he told the U.S. Attorney, convinced him that they needed the operation. Back to the quality of the work. They—what they were getting was mostly this fellow Oliver phoning his girl friends all over the country lining up assignations. And Flemming, and discussing their young leaders' conference. Liddy was badly embarrassed by the chewing out he got. He met in a meeting with him, and said to John Mitchell, "Mr. Mitchell I'll take care of it." That was all that was said. So the next break-in was entirely on Liddy's own notion. Magruder says neither Mitchell nor Magruder knew that another break-in was contemplated. I said, "What—after the firing of Liddy?" Magruder was very nervous about him. He phoned John Dean and asked Dean to talk to Liddy and try and settle him down because he was acting erratic. I asked, "Who in the White House is involved in this whole thing?" He gave me the names I gave you:

E. Dick Howard, some of Colson's people, and a lot of the secretaries in the EOB, have various information about a lot of different projects, they had pickets—all kinds of things that will come pouring out in the process of this whole thing. Well I said, "Back to the burglary, who else?" He said, "No one else." He said, "The U.S. Attorney is hot after Colson: — they know he was close to Hunt. The only thing they have him on right now is the phone call to Magruder," so far as Jeb knows. But his attorney then chimed in, and said, "I think the U.S. Attorney has a good deal more because the U.S. Attorney told the lawyer that Hunt had re-perjured himself with respect to Colson." — when he was called back in under immunity and testified as to the break-in, and the capture of the burglars, and the cover-up. Mitchell, LaRue, Mardian and the lawyers basically —

P. Plus Magruder.

E. Dean devised a cover story, in concert with these other people, and enlisted Bart Porter who went to the Grand Jury and perjured himself in concert with the cover story. Dean prepared Magruder and others for the testimony at the Grand Jury, cross-examining and getting them ready.

E. Likewise, he leaked out information from the Grand Jury to the people at the Committee for the Re-election. The U.S. Attorney knows that he did that. It is illegal to do so.

P. Did he say where he got it?

E. He got it from a higher-up. Now, I assume that's Henry Petersen, but I don't know. OK, with Magruder and Mitchell in the operation of their—this cover story about these meetings. And they worked out a deal where they had cancelled one meeting — the million dollar meeting — and the second meeting which was the half-million dollar meeting — they told the Grand Jury they —

P. He's testified to all this?

E. Yes. They talked about election laws. Yeah, he's just told the U.S. Attorney all this. He (unintelligible) destroyed his diary, but he couldn't do that. There's a million and a half dollars in cash that was distributed.

P. (expletive deleted)!

E. LaRue and Stans know about it. There is "the famous list" of where that money went. I don't know. I am going to have to check my notes with O'Brien. O'Brien may have told me about that. He may have given some idea of where that went. The three fifty is a part of that. Mitchell says to Magruder, "Don't talk."

P. Discouraged him. What about Haldeman?

E. Haldeman's very much a target of the U.S. Attorney. So far they indicated that he was implicated only by association with other people—meaning Strachan presumably. And the attorney gave me his private evaluation, that it was a little puffing on the part of the U.S. Attorney. He did not think that they had anything. Reisner and Powell Moore—Powell Moore is somebody on Timmons' staff who was at the Committee and who accompanied Liddy on what are called "The Saturday events." The Saturday events are the events that took place the day after the break-in Liddy went out to find Kleindienst at Burning Tree and told him to get them out of jail on orders from John Mitchell. And LaRue, of course, and Mardian, largely on obstruction. They are developing many counts of obstruction of justice. One of the attorneys then, in winding up, I told—I gave Jeb your good wishes and felicitations and so on and one of the attorneys said "Well, you know, in all this there is not a scintilla of evidence that the President was in any way aware of any of these transactions." And he said, "Well I didn't say that for any purpose except just to express to you an impression I have about the way this thing's going." He said, "Literally tens of dozens of people down there crying to be heard by the U.S. Attorney. And he said, "This thing is rapidly deteriorating." But he said, "In all of this I don't see any evidence of the involvement of the President." So that was that and I thanked them and sent them on their way. Now I have the Attorney General of the United States sitting at home waiting to go to this dinner pary and I have the Deputy Attorney General out of town. But as Bob points out, there isn't anything in my report that isn't pretty well covered and expanded on in what we just got from Magruder. But I think what I can do is call the Attorney General, tell him what I was going to tell him, tell him that Magruder has just disclosed to me what he has shown to the U.S. Attorney and that I really don't have anything to add, but that I did want him to be aware of the fact of the work that was done, and what I have done today. And, ah—

H. Meetings which you had with Mitchell and Magruder.

E. Yeah.

H. Purpose of your meetings was to make the point to them that they should not go on—on the misguided assumption that that was for the Presidency, which is what Mitchell is saying.

E. Right. This says that the meetings in Key Biscayne existed long after—

P. What is, what about Strachan? Strachan says you did not know about this.

H. Can I give Strachan a report on this?

P. Sure. What is your view about his perjury?

E. I don't know.

H. He's going to the Grand Jury Monday morning. That's why it's better that he be given this information so he doesn't perjure himself.

P. Right.

H. I don't think he's testified on any of this so I don't think he has any perjury problem. What he has to do is prove the defense that—

P. Meets these points.

H. Meets these points and—

P. Good.

H. And he could—he can keep himself as an office boy, which is what he was. An office boy. If he lied about a thing—he persuaded Gordon to keep Liddy on—Jeb to keep Liddy on—I would think he would argue back that—"Jeb said to me, 'well, what should we do?' and I said, 'I think you better keep him on—he's getting good stuff.'" Don't you think so?

E. I think Gordon knows how to deal with that if you give it to him.

H. Now, I went back to Gordon today on this (unintelligible) and he said, "Absolutely, there was no other money." That the only deal was for a fella to handle that according to what Howard told him—that's who they sent the money over to.

P. For (unintelligible).

E. Well, we got Magruder, now, in this pickle. He's still on the government payroll in the Commerce Department.

P. In Commerce?

E. I think it is Commerce. I thought he was.

H. Now, this has been his second time around. Let me tell you what my concerns are. When he got down to it, he told the truth. And when he is talking about us, at least, he is bringing us into it. He will, for instance, he will want to elaborate on the Sandwedge and say I was involved in it. Now, to the extent that I listened to a presentation, I was. But I, at the time said, "This is something I don't want to be involved in. Something that should not be handled in here. Don't come to me any more with it," and they didn't. And then he will say I was involved in the meetings. That he came to me after that second meeting and said, "They came up with, ah, plans, with a preposterous plan." I told him that, "It can't be done." They shouldn't even be talking about it in the Attorney General's office. I said, "John, get out of it. You stay out of this, too." And he did. He said he would stay out of it from then on, and I suspect he did. They'll tie me in that way—by indirection in a sense but, the problem, he'll, I think, is people with him. Maybe that sounds like "everyone go down with the ship" but, ah, when it comes to this cover up business—

P. Expending on, ah?

H. Yes, he has a feeling—the three fifty. I am not uncomfortable with that, but Dean, Dean is.

P. What do you do about Dean? In other words, John—

E. The U.S. Attorney's got to—

P. But Dean has been—

E. I think this all has broken since. I think they were probably playing their cards closer.

P. And, now—Magruder testifies.

E. I think that's their analysis.

P. Yeah.

E. I think they are after Colson, you, me and by me, I say to the highest level provable—objective.

P. Let me say that this tends to—ah—with the Ervin Committee overhanging—

H. One, with these each day, occurred for months.

E. Well, looking at the time. I should call Kleindienst to be sure I catch him before he gets out.

P. Why don't you call him?

E. If I can find him.

P. All right.

E. That's the only thing I'm thinking about—is that, with the thing on—

P. I see.

E. If it turns out I call him (unintelligible)

P. I don't see how McCord can be put on now without prejudicing the cases of the defendants.

E. That's right.

P. I mean—I would try to go to Ervin and tell him not to do it.

E. Ah, Jeb's attorneys felt that they would do so, and they say that there are cases that would require it.

P. What about negotiations with Ervin on Monday?

H. I have a feeling that Ervin would be delighted. This would give him a chance to prove his case better. "You will have more than you have here."

P. Yeah.

E. He would be delighted to. He's going to think it solves all this stuff.

H. I'm not sure it does this. At least it should get them to the ribbon.

P. Yeah.

E. (Telephone call) Hi, General. How are you?

E. How was the golf?

E. First half good?

E. I want to bring you up to day on what I have been doing. For about the last three weeks—well, since I saw you, before I saw you out in San Clemente—the President has had me trying to gather together, as you know, a certain amount of law and facts to be in a position to kind of substitute for Dean, and to advise him on the White House involvement, but even broader involvement, in this whole transaction. Yesterday, I gave him my summary and, admittedly, it was hearsay, but some of it pretty reliable. And the whole thing fit together pretty well as, at least, a working hypothesis. One of the things that I told him was that I had encountered people who appeared to be reticent to come forward because they somehow felt that the Presidency was served by their not coming forward. So he had me today, in a series of conversations with people, to straighten them around of that point. The first one I talked to was your predecessor. Then I talked to Magruder, and—

E. Well, as it turns out, I was just a little late in talking to Magruder, because he had just come back from telling everything to the U.S. Attorney. He has decided to come clean.

E. Yep. He had his informal conference minutes before he came in to see me.

E. Dramatically inconsistent.

E. And he implicates everybody in all directions up and down in the Committee to Re-Elect.

E. Yep, cold turkey. My instructions after I had completed—well I might say I also talked to a couple of other people who are around here just to pass the word to encourage them to testify, if the only reason they were not testifying was some concern about the Presidency. Also, being very careful to say that I recognized everybody had rights, and that it didn't mean in anyway to indicate that they should not avail themselves of their full rights. Now, Magruder then—

E. Yep.

E. Yep. No question.

E. More than just a participation in a conspiracy, Dick.

E. Yes, they are principals.

E. Well, I must say that my conversation with him was reassuring in that regard. He is very steadfast in his protestations of innocence.

E. Well, the Magruder case is not only testamentary but is circumstantial—is persuasive to me.

E. I saw Mitchell first. I didn't have all of this Magruder business. Now, here I am a citizen of the United States and the designated inquirer of a body of information. My purpose and intent was to advise you of this when I got finished with this process and tender this information for whatever purpose it would serve, recognizing that up until just a few minutes ago it was almost entirely hearsay. Magruder has just unloaded on me the substance of his conversation with the U.S. Attorney—informal conversation. And I find that I now have very little to add to what Magruder had already given the U.S. Attorney.

E. I felt that I should go forward and at least advise you of this and to—

E. Let me spoil your afternoon completely, will you? One of the things Magruder told me was—and his attorney who was with him corroborated—was that they are very concerned about Dean's facility for advising people at the Committee of the proceedings of the Grand Jury.

E. Well, he was apparently informing Magruder and others of what the Grand Jury was saying and doing.

E. And Silbert or someone else said to his attorney, well, we know the source of Dean's information and it was from higher up.

E. Well, anyway, there—

E. there's that. In any event, I remember what you told me before, and I originally had thought that perhaps something would be served by you and Sneed coming in and the three of us visiting, but this thing has taken the Magruder bounce, and I am inclined to think now that you ought to just tell Sneed the substance of this conversation.

E. That is probably just as well, don't you think?

E. Yep.

E. He can make the decisions that need to be made from here on.

E. Well, I think the President's feeling is that Sneed could do that.

E. Well, I think he is pretty firm on that.

E. OK, I think you should on Monday.

E. Alright.

E. I understand.

E. OK. You give it some thought and we will too, and then we should talk on Monday.

E. Uh, huh.

E. Alright.

E. Rogers passed those along to me.

E. Yeah. A list. Ok, my boy. I just wanted you to have a nice time this evening.

E. Don't forget my tender that if there is anyway that any of this hearsay of mine that I have collected is in anyway useful, I would be glad to make it available. My present thinking is that it could add very little to what Magruder just told me.

E. Prejudicing anybody's rights.

E. That is why I am calling you, my dear.

E. Well you are my favorite law enforcement officer.

E. Do you want me to give you anything additional on Monday?

E. What do you mean? Mitchell and Magruder.

E. Well, no I have been talking to people for three weeks. I have talked to everybody but the milkman.

E. And outside, and people's lawyers, and every damn thing.

E. Yes.

E. Alright.

E. The President.

E. You know I have talked to him.

E. Well, I have talked to them and in some cases they know I have talked to other people.

E. Well, they know that because they knew the source of my leads, etc.

E. Dean, LaRue, Mardian, Porter.

E. No. He is largely implicated on the obstruction of justice.

E. Yeah.

E. From stem to stern.

E. Yep.

E. He just was having a terrible time living with it, and he didn't see any point in waiting any longer. His attorneys said they analyzed it very carefully, and see no advantage of getting it in and out.

E. A couple of very bright guys. I have their names over there, but I can't tell you now. Bernbaum and somebody else. Sears, I think is the other guy. I don't have the names right now.

E. Pardon?

E. Sure.

E. Sure.

E. Alright, let me know.

E. Thanks, Pal. I will see you there.

E. Oh yeah. I am going to go and see Bernstein and what's his name, get their awards.

E. Alright.

P. Let me ask you, John, about Colson. Everything that has been said, despite the fact of how accurate—it would be consistent with Colson's not knowing the Watergate defendants?

E. Magruder doesn't lay a glove on him.

P. But he says they're hot after him. Of course, the only thing They would be hot after him is on the—ah—Hunt.

E. His connection with Hunt. Their premise apparently is, according to their lawyers, that everything Hunt knew, Colson knew.

P. But Hunt—then Hunt therefore will—they'll try to get him to come in and lay a glove on Colson.

H. It would be Colson's role (unintelligible)

E. Well, Kleindienst says—for reasons—I have to be *very* careful about who I communicate with, for the next little while.

P. OK.

E. He wants me to meet with Henry Petersen tomorrow. I'm possessed of information establishing the commission of a crime. And I've got to be darn careful about who I talk to.

P. Sure. Oh—ah—things that you've found out.

E. Yeah.

P. Ah—as to who?

E. He says Sneed was detached from Watergate—was in a perfect position to act on it, but he wishes we'd get a special prosecutor.

P. (Unintelligible).

E. He wants to talk about it Monday and

P. Do you still think that's a bad idea?

E. I think it would be very bad. All these people—prosecutor

P. I want you to say that to him tomorrow.

E. I sure will.

P. I have just decided against it. Well, if you could hear me—Why raise this—"he's considered it. Thought it through. He doesn't want a special prosecutor because there's no question with the people you've got. They're doing a hell of a job here. As the cases will point out. And we should throw them out, we'll throw them out now. Let them continue—" Correct?

E. Yeah. I agree. Interesting, the interesting fact—The U.S. Attorney for the District of Columbia has just had Magruder in the office and can sew up the case.

P. Yeah.

H. (unintelligible).

P. Yeah. John, when you get to that, would you let him resign?

E. Well I don't think—

P. I don't think he has to.

E. I think he may want to, and if he does want to, I think he should.

P. If he does want to you could put Sneed in the job?

E. As acting and you get somebody damn good.

P. You wouldn't keep Sneed in the job?

E. I don't think he's, he's—

P. You'd rather have our friend over at HUD?

H. Somebody like him—yeah.

P. Well, we need somebody that's good.

E. You should have a spokesman.

P. Where?

E. Yeah.

P. Ehrlichman should get out the facts that he has made this investigation, that we weren't drug kicking and screaming into this thing. I don't know.

E. I may have a legal problem. I'll talk to Dick tomorrow.

P. Yeah—it may be a real problem.

E. And if it's not a legal problem, I'll have a question Monday for Ziegler on what Mitchell was doing at the White House. "Just say he was here talking to me."

P. "The whole matter has been referred to the proper authorities."

E. Yeah, he'll have to.

P. And he'll say, "Oh that's been given to the proper authorities." That's what I would think.

H. All he has to say is—why can you just say—

E. Huh?

H. Unless you want that authority to say you've been investigating.

P. That's the whole point.

E. Gives you an opportunity to say you've been investigating.

P. With regard to the hearings, shouldn't we—and at least put this one out? First, the hearings when they eventually come are going to be anti-climatic in my opinion.

E. Could be anti-climatic. The networks might just not want 'em.

P. Because of the fact that the big fish have been indicted?

H. Can't tell.

P. And so forth.

E. Or you may have Weicker saying "Why haven't these guys indicted him? And you could say—

P. I think I have reached the conclusion, just the two of you—I know Ziegler will disagree with the conclusion, but it's a loser for us to continue trying to say that—I think you've got to say, "I think we ought to go, to go on that. What do you think Bob? Let's be forthcoming on that and get that out fairly soon. I've got to get some appearance of cooperation. You agree, Bob, or not?

H. I do.

P. Now the question is what do you do about Dean. That may be moot. For that reason I would say—I—

H. Does Magruder guess that Mr. Dean's going to be indicted?

E. Magruder does not link Dean with the break-in and the bugging.

P. No, but he says he was there—

E. He's in the inception.

P. Yeah.

E. But they have that on him.

H. But he's in a wholly (unintelligible) all he had to do—reject this plan—

E. Sir? And he is not a participant in the Liddy, Magruder quarter-million—take it to Florida—plan. He is no link at all to the plan that was carried out.

P. All right then—so they get him for what? They get him for the aftermath, the aftermath, and the obstruction. He has half a chance. Not much. They'll say that he believed that he has a constructive immunity on that.

E. But he doesn't have it any more.

P. No—(unintelligible) This would tend to bear out the Colson story that—It sounds like the story that he gave me.

H. (unintelligible) But Colson's interested, too. (unintelligible) tell us that Magruder had nailed him.

P. That's right.

E. It's established that what he told me was substantially what he told the U.S. Attorney.

P. I understand.

H. Anyhow you see we are interested in giving you all the information.

P. (inaudible)

E. I doubt it. Completely relaxed in this. A smile on his face. He wasn't shaking. He wasn't going to fight it.

H. Every time I've seen him—

E. He just said "I hope this isn't going to be for too long."

P. It's the right thing. We all have to do the right thing. Damn it! We just cannot have this kind of a business, John. Just cannot be.

H. According to Magruder—Magruder said the same thing. Of course, they think I'm just more trapped—

P. I think Mitchell is beyond belief or do you think (unintelligible)

E. Well, that's true. What it basically comes down to, of course, what, sure the circumstances—

P. But LaRue?

H. If LaRue tells the same story about—

P. and Liddy. Liddy, Dean—

H. Well, Liddy can't talk because Liddy's susceptible—

E. But Mitchell says I can see that Liddy has done so and so and so and so. And Liddy says, "Boy that's crazy, look here—" I saw him on this day, and this day, and this day—

P. How about Dean? One other question. About the Haldeman statement: should it be made now?

E. Can't hurt anything, not hurt anything. It would have to be broader on Strachan.

P. The point that I am wondering, you see, I don't know. What does he say of Haldeman?

H. Said that (unintelligible) Strachan did anything.

E. No.

P. Did participate?

E. I suspect Strachan is not going to corroborate anything. "My relationship with the committee was to (unintelligible)

P. Yep. No harm in putting that out. What the hell. You've got to get it out. What do you think, Bob?

H. I don't think it does, but I am somewhat, you know puzzled by it, in my own assurance that it's a good idea. It's the feelings of the Kissingers and Zieglers that it's a disaster for me to be out front.

E. You're not about to be out front.

P. I—the point is Bob, that, you have—

H. to be that far out front before this hits. And then this hits. It puts me in the league with it, is what they would argue.

E. The story of the new found freedom he's made, will run around and tell everyone in town. He just launched into this, you know, I didn't ask him—

H. You can understand that. A guy says—he's been constipated for eight months and all of a sudden was able to take a crap is going to enjoy it.

P. Why don't you make a deal on Monday for this. That because, it'll be (unintelligible) and we'll take all the people, any members of the White House staff, with any privilege, any executive privilege waived reserved to be decided in executive session. How does that sound to you?

E. Well, my position would be that they don't get to decide the question of executive privilege. We decide that.

P. Oh you—you would say—(unintelligible)

E. We say we are going to send our people up there and we don't care if you have television or a night in a damn circus tent. You can send them up there and every question is subject to research under objection for executive privilege. We are not going guilty.

H. What do you do with my knowledge of hearsay—I just throw it all out now?

E. No.

P. You don't do it? Well—

E. I have gone into that in great detail with Ervin and he agrees with the concept that we are conduits to the President, that anything that was given to us is privileged.

P. He agrees with you, in other words.

H. If anything is given to the (unintelligible).

P. I would say, "We will give you Dean in Executive session." How does that stand up? Or, start with Dean.

E. I did.

P. But you see, you get in a position where you can say, they claim precedent because of the nature of the situation—to make the substance part public.

E. I must say that I think part of the trouble with our agreement—

P. Yes.

H. John Dean may be into this where they can't call him anyway.

P. That's what I'm thinking about.

E. Yeah.

P. You see I'm, I'm just thinking it through on this one. It appeared to be forthcoming and that I wouldn't let the Dean thing be a fracas, if not necessary. I just think that that's one move you can make now at the present time. I just go—I think I'm a proponent of the idea that "buy a good headline for a day" and invite Dean back for later on. But we're going to get beat on the head and shoulders. Let's face it. We're going to get it until the Grand Jury indicts and then, that would be maybe another three weeks. After that, when they do indict, then they'll say, "Mr. President, what the hell are you going to hold Dean to the (unintelligible)?" I think we've got to do that. I just feel it's one of those things. To announce it, that I make it tomorrow night. Would you do that?

H. To repudiate that today, you know, that means Tuesday.

(Unintelligible).

P. Maybe we should. I think, I think we've got to get bouncing. There's another thing I'm thinking of, Bob. I'm thinking of the fact that this is here now, may make the hearings a hell of a lot less interesting and also a lot—they sure as hell can't—

P. Sure.

H. I hate to see that stuff keep getting obstructed by Watergate. That isn't the problem. All of this stuff is going to make Watergate. This makes Watergate look a lot worse than it really used to look.

P. This does? Oh, I say it does because it involves many people. And in that way—

H. That's our problem. Shouldn't people leave before this gets out? Is that—Dick was saying before it was going to be made by Dean, but now it's Magruder's on the apple sauce. "What, can they sit around—"

P. Well, for one thing they want to get all the others; if you want to get all the obstructions, you've got to hear all these people.

E. Not all of them, but they have got to, they got about five people—they got Hunt up.

P. Who, who?

E. They make their case from the time that they vote on indictments. They may recess the Grand Jury for a couple of weeks.

P. Well, you have the—a little later we've got the (unintelligible). Say you're not going to do it because of Dean.

H. If the situation's going to get worse, then you maybe have to do something. If this is as bad as it's going to get, then, if this is going to change in a different direction, maybe you're better off not doing anything. Of course, the alternatives are, it's going to get worse. In other words, if you think you're going to swing, there is an actual danger, then the Republican House will meet and pass a resolution calling on the President, and probably a unanimous resolution.

P. I think it's very close to that right now. I think this would trigger it, without question. They would be so horrified about that—

H. Could be. He says it's not going to satisfy them. He says this pretty much establishes the Watergate thing and then you say to people like Goldwater, the people that want this done with are going to—You've got to look at the other possible boxes to say, "Well, thank God, it's all been cleared up now. Let's forget all this other—" And some will say, "It's now clear the White House wasn't involved, and thank God they weren't. And it's clear the President wasn't involved and thank God he wasn't. It's a tragedy that that great man, John Mitchell, was."

P. And that so many people at the Committee were.

H. And then, everybody will dwell on that.

P. Except that you've got a fair chance that Dean will go. A fair chance that someone will break.

E. I would spotlight it as the umbilical cord at the White House and the Committee and the question will be, "What is the other end of those umbilical cords?"

P. Then, you don't think—You don't think there's much—Dean, no, Dean's high enough.

H. The believable mess of it is being answered by this. "There is—somebody higher than Gordon Liddy had to have agreed to spend a quarter of a million dollars to bug the Democratic National Committee."

E. Now you've got that somebody.

P. That's Mitchell.

H. Now that you've got somebody who was, you're got a believable case where you can now say, "Well, so there was some other stuff going on but this was where the problem was."

P. I don't know what the stink—

H. Maybe the answer—

P. I'd just like to get Segretti out in our formal—Don't you think so?

H. Yes, you've got to get it out. (Unintelligible)

P. Haldeman. Just say that Haldeman (unintelligible) and let's see what they say. Huh?

H. If it says Haldeman commits guilt.

P. I know.

H. What I want to do—

P. Yeah.

H. The Ziegler or Kissinger view is very strongly that that's what I shouldn't do. I'm the last guy to decide who to—should do it.

P. Yeah. What do you think, John?

H. John thinks I should.

E. I think we should come out.

P. You come out like I do. Several of the Republicans—

E. Now as I say, I haven't heard Henry's—

P. No, I've—several other Republicans and the like will come out after that and say, "Haldeman should resign because of his involvement in the Segretti matter."

H. You have to say I do have to resign or you defend it.

P. All right. Defend it.

H. Or you defend it. You can't, I don't think you can ignore it. If I've done that you've either got to—you've got to make the judgment that that was sufficient to cause me to resign or it wasn't. That's the first question of the first person. (Unintelligible)

P. You think that Haldeman ought to resign, you mean?

E. Yeah. Ziegler can, the next day. "His connection to this was very remote, was very benign." And he helped unwrap it, knowing that—stepped forward—we established that a crime was committed by Segretti.

P. I would not be as strong for your taking it out, except for his having said "self-incrimination," the fact that that made him—

H. You've got a really—a punchy decision which is whether you want me to resign or whether you don't. That's one you've got to figure out. The problem with that is if I go on the basis of the Segretti matter, you've got to let Dean go on the basis of his implication, which is far worse.

P. Yeah.

H. Strachan's already out of the White House so that's no problem. If he's going to ring Ehrlichman in, you are going to have to let him go.

E. He's got sort of a hypothesis in that he is developing in our conversation that—that—referring him to Kalmbach—which is actual. As a matter of fact, I didn't refer him to Kalmbach. He came to me and said, "May I go to Kalmbach." (Unintelligible)

P. Go to Kalmbach for the purpose of——

E. For the purpose of getting Herb to raise some money. For the purpose of paying the defendants. For the purpose of keeping them "on the reservation."

P. Right. With that they could try to tie you and Bob in a conspiracy to obstruct justice.

E. That's his theory.

P. It's rather questionable.

E. Well, I'm not so sure that makes any difference at this point. The coloring is—the key was in their pocket.

P. Well, (unintelligible).

H. Strachan's position is totally true—without giving him any help.

P. I know. The way you have to handle that, let's face it, it is there, of course. You've got the whole business of the aftermath, as to motive. And there, if you or Bob were asked, what do you say?

E. Well, as far as I can read obstruction and I may be putting favorable (unintelligible) concerned about what these fellows are going to testify to. The Grand Jury (unintelligible) so that they could go out, sell their stories to one magazine or another.

P. Sure, John, you are not particularly concerned about that?

E. I was concerned about that, particularly Hunt who is a kind of an author type and would be inclined to do that kind of thing.

H. And that is no part of who was or wasn't guilty or where the thing led.

P. I see.

H. That's exactly right. We weren't protecting anybody.

E. I'm even willing to buy that.

H. I know, and I said that to John, and John didn't agree with me.

P. I wish we could keep Dean away from that. Magruder—we don't have to get that (unintelligible). Let me say—let's sleep on what we do with the—ah— My view is though, I think that the odds are, that the interest in the Committee is less. What they are after is some of the big fish. The second thing is going to be——

H. "A lot of people are going to say, you solved the Watergate—now, forget it." And not come to this.

P. Some of our people can say, "That's tough, now what do you want to investigate?"

H. To folks out there just say, just give an answer and get it out of the way. That's all. They don't care.

P. It's really such a bad thing. And he'll come in, plead self-incrimination, and clear him.

E. Be lively—copy when they start bringing in all these people from around the country. What they did or who were victims, you know—

P. It'd be lively copy, John, but it's so spongy.

E. Yeah. —Lively.

P. It's not good stuff.

?. (Unintelligible)

P. Well, let me explain my analysis. The— In my opinion, Bob, the forthcoming thing which I think. I tilted against—I think. I am now tilting for. I think any move right now—

H. I think you've got—if you're going to do it though, I think you've got to face the likelihood that Magruder or somebody is going to call for my resignation. I hired Segretti. I did hire Segretti.

P. You and Strachan.

H. Yeah. The stuff over a period of time will have come back with these—

P. This is the first time?

H. You've got a couple of others who should have been caught.

P. We've got to face that.

H. You might want to try to tie it to a resignation at the time I do it. On the basis that, "Well, here is a mistake, and I have no problem with it. But I'm also not going to—not troubled with—don't want to shut down—without my sticking around—"

P. (Unintelligible) ought to resign which I (unintelligible).

H. I'm not suggesting—I'm not suggesting I'd like to resign. I would not like to.

P. Yeah.

H. I'd be willing to, without creating any sticky problems.

P. The duty of our, all our, the duty of our whole staff though is to play their role—

H. I'm free from some other things that I can cut loose, which I could do. The problem that is there on the other side is, there is some pluses to it. What about that?

P. With an Attorney General added in?—And a White House Counsel, possibly.

H. Pretty big bag, John.

E. The biggest.

P. Policy, that's the point.

H. Yeah.

P. As far as equal protection, perspective, but it'll take some time.

H. Assuredly (unintelligible).

P. I see.

H. Well, fire some people, because you cannot—

P. I have given them leave. If they should not fall under indictment, they can continue their duties.

H. If they intend to plead innocent.

P. You know in the United States the chances are, you're going to plead innocent or guilty. And if you're going to plead guilty—innocent—Fine, you are suspended, I'll tell you when you can concentrate on the—

E. Sit out the Ervin negotiations and how we get out the investigation and all this.

P. Well this—as I say—I want to keep Ervin at the (unintelligible) but I kind of feel myself that (unintelligible)—

E. With that being the case, and the Dean material—not to wait for him, to come in—maybe there's no need to grapple with it.

H. If he breaks off, you could be affirmative with the Committee—

P. I think—

E. My exponent—

P. Yes, and what would you say? You could say, "The President is directing this—he's not into (unintelligible)." Say, "Look here." (Unintelligible). I don't think that's needed tomorrow. I think that, I think you ought to meet with Ervin and cut the deal and then even though there isn't much of a compromise. You could say, "We worked on a compromise under which there is an Executive session. Dean goes—

H. Dean goes free.

P. Dean in Executive session is a very nice way to cut a loss, huh?

H. (Unintelligible).

P. Oh, that's not to you, Bob.

P. We put a story out which will keep the enemy a little cool for awhile, huh?

E. Not only that, but you can date it back to negotiations commencing two weeks ago, three weeks ago, whatever it was.

P. Yeah. Yeah.

H. You put it out my statement at the same time?

P. The next day.

H. Wednesday.

E. Wednesday. You should put my statement out on Wednesday also, or wait until Thursday for my statement. I think we better be right out in the open—

P. That's right. I'd put yours out right with it. You're going to have the next day to build it up a little.

H. No—you don't want to build it up.

P. Put it right out. The problem here, let me say, in your case, is not Segretti. I think we should go with the Segretti stuff and then—The problem in your case is Strachan. I mean the—keeping the (unintelligible).

H. (Unintelligible)

P. Oh, yes, you will testify on that.

E. Sure, and it's secret. The question is whether Strachan is indicted or not.

P. If he is indicted?

H. I think I've got to cover myself on the Strachan thing, as you say, in such a way so that if anything does happen it's covered and you can go back and see I said this guy—should not be built up as a central figure, nor should I start to explain his every action. I can't. Some of his actions were obviously carried out unilaterally. I think that's overly objective.

P. I think some of Magruder's stuff could be pretty lively. I think it's probably basically true. How do you remember back that far? Think of that—

H. You can't be that precise—

P. You can't be that precise—You remember the things that you want to remember, pretty much.

H. Well, especially when you've lived through a whole series of varying, very heated drives—

P. Careers.

H. Like he has.

P. Careers. You've got to remember now, Magruder is going to be as potent a witness, and again—

H. Strachan will be a strong witness too, and they're going to—

P. And they will say, "And who's going to lie? I mean, here's a guy who has a record of lying. He lied. Are you going to take his word against Strachan who did not lie. He came back to the U.S. Attorney."

H. We can produce people around here who can give you five different stories that Magruder's told.

P. Who?

H. Don't you think so?

P. What do you think Mr. Colson is going to be doing? You're not going to tell him this, are you? I wouldn't think so.

E. Colson is undoubtedly sending all kinds of signals to Mr. Hunt—

H. And that Chuck is overkill. He is his own worst enemy. Where the hell do you quit?

P. (Unintelligible)

E. He says that the *New York Times* has a story that he was here for a meeting with me yesterday.

H. He acts like it was the first time he has ever been into the White House—(Unintelligible).

P. Well, you fellows need a rest.

H. Rest? There's that damn diner.

E. We'll grin at the White House Correspondents.

H. That's no rest, that's work.

P. Well, a year from now. It will soon be different.

E. Oh, yeah.

P. Nope, seriously—

E. Six months.

P. Nope, sooner than you think. Let me tell you, John, the thing about all this that has concerned me is dragging the damn thing out. Dragging it out and being—and having it be the only issue in town. Now the thing to do now, have done. Indict Mitchell and the rest and there'll be a horrible two weeks—a horrible, terrible scandal, worse than Teapot Dome and so forth. And it isn't—doesn't have anything to do with Teapot.

E. Yeah.

P. I mean there is no venality involved in the damn thing, no thievery or anything of that sort of thing. Nobody got any papers. You know what I mean?

E. Yeah. That's true.

H. Glad to hear it.

P. The bad part of it is the fact that the Attorney General, and the obstruction of justice thing which it appears to be. And yet, they ought to go up fighting, in my view, a fighting position on that. I think they all ought to fight. That this was not an obstruction of justice, we were simply trying to help these defendants. Don't you agree on that or do you think that's my—is that—

E. I agree. I think it's all the defendants, obviously.

P. I know if they could get together on the strategy. It would be pretty good for them.

E. Well, I think, undoubtedly, that will shake down.

P. I would think that the U.S. Attorney's (unintelligible).

H. Thank you, sir.

E. Yes, sir.

Appendix 18. Telephone conversation: Ehrlichman and Kleindienst, April 14, 1973. (Approximately 6:00 p.m.):

K. Hi, John.

E. Hi, General. How are you?

K. Pretty good, how are you?

E. How was the golf?

K. Half good and half bad.

E. First half good?

K. Well, the middle was good and—

E. I want to bring you up to day on what I have been doing. For about the last three weeks—well, since I saw you, before I saw you out in San Clemente—the President has had me trying to gather together, as you know, a certain amount of law and facts to be in a position to kind of substitute for Dean, and to advise him on the White House involvement, but even broader involvement, in this whole transaction. Yesterday, I gave him my summary and, admittedly, it was hearsay, but some of it pretty reliable. And the whole thing fit together pretty well as, at least, a working hypothesis. One of the things that I told him was that I had encountered people who appeared to be reticent to come forward because they somehow felt that the Presidency was served by their not coming forward. So he had me today, in a series of conversations with people, to straighten them around of that point. The first one I talked to was your predecessor. Then I talked to Magruder, and—

K. It's pretty hard to talk to those two when they have testified under oath before a Grand Jury.

E. Well, as it turns out, I was just a little late in talking to Magruder, because he had just come back from telling everything to the U.S. Attorney. He has decided to come clean.

K. No kidding? Magruder?

E. Yep. He had his informal conference minutes before he came in to see me.

K. Would that be inconsistent with his testimony before the Grand Jury?

E. Dramatically inconsistent.

K. (Expletive removed!)

E. And he implicates everybody in all directions up and down in the Committee to Re-Elect.

K. Mitchell?

E. Yep, cold turkey. My instructions after I had completed—well, I might say I also talked to a couple of other people who are around here just to pass the word to encourage them to testify, if the only reason they were not testifying was some concern about the Presidency. Also, being very careful to say that I recognized everybody had rights, and that it didn't mean in anyway to indicate that they should not avail themselves of their full rights. Now, Magruder then—

K. Let me ask one thing—

E. Yep.

K. As a result of what you just told me, it would indicate there is a substantial case of perjury against Mitchell and Magruder in the first instance.

E. Yep. No question.

K. So, complicity in the overall conspiracy?

E. More than just a participation in a conspiracy, Dick.

K. They would be principals?

E. Yes, they are principals.

K. Uh. I can't believe John Mitchell would have ever known that and let it go on.

E. Well, I must say that my conversation with him was reassuring in that regard. He is very steadfast in his protestations of innocence.

Well, the Magruder case is not only testimentary, but is circumstantial—is persuasive to me.

K. But Mitchell denied it?

E. I saw Mitchell first. I didn't have all of this Magruder business. Now, here I am a citizen of the United States and the designated inquirer of a body of information. My purpose and intent was to advise you of this when I got finished with this process and tender this information for whatever purpose it would serve, recognizing that up until just a few minutes ago it was almost entirely hearsay. Magruder has just unloaded on me the substance of this conversation with the U.S. Attorney—informal conversation. And I find that I now have very little to add to what Magruder had already given the U.S. Attorney.

K. That's not good.

E. I felt that I should go forward and at least advise you of this and to—

K. John, at this point, it seems to me that you are going to have to be very careful.

E. Let me spoil your afternoon completely, will you? One of the things Magruder told me was—and his attorney who was with him corroborated—was that they are very concerned about Dean's facility for advising people at the Committee of the proceedings of the Grand Jury.

K. (unintelligible)

E. Well, he was apparently informing Magruder and others of what the Grand Jury was saying and doing.

K. (unintelligible)

E. And Silbert or someone else said to his attorney, well, we know the source of Dean's information and it was from higher up.

K. That is pretty speculative, because I don't think Henry Petersen would have told him.

E. Well, anyway, there—

K. I couldn't have because I didn't know.

E. there's that. In any event, I remember what you told me before, and I originally had thought that perhaps something would be served by you and Sneed coming in and the three of us visiting, but this thing has taken the Magruder bounce, and I am inclined to think now that you ought to just tell Sneed the substance of this conversation.

K. He and I have kind of agreed to stay out of Watergate things. He knows nothing about it, has participated in no conversations.

E. That is probably just as well, don't you think?

K. I think we better have one son-of-a-bitch in that Department—

E. Yep.

K. who's got—

E. He can make the decisions that need to be made from here on.

K. Yeah. I think at this point we ought to think very hard on the suggestion I made to you when I was out in San Clemente.

E. Well, I think the President's feeling is that Sneed could do that.

K. Sneed could do that, but you wouldn't have any credibility with it.

E. Well, I think he is pretty firm on that.

K. I would sure like to talk to him about it.

E. OK, I think you should on Monday.

K. I really would, John.

E. Alright.

K. Because there is no question but that Sneed can do it, not knowing about it. He was never there during any material period of time. He is, however, the Deputy Attorney General—a Presidential appointee.

E. I understand.

K. He is my subordinate. OK?

E. OK. You give it some thought and we will too, and then we should talk on Monday.

K. I've thought of Sneed in this role because he has stayed out of it up to now.

E. Uh, huh.

K. And I think that is why you might need a guy on the outside.

E. Alright.

K. Incidentally, there are two or three people who are suggested for that role. The Chief Justice contributed—

E. Rogers passed those along to me.

K. It's got (unintelligible)

E. Yeah. A list. Ok, my boy. I just wanted you to have a nice time this evening.

K. (expletive removed)

E. Don't forget my tender that if there is any way that any of this hearsay of mine that I have collected is in any way useful, I would be glad to make it available. My present thinking is that it could add very little to what Magruder just told me.

K. Thinking of Magruder as a primary witness type. You better be very careful what you do from here on out, John. Don't put yourself in the position of—

E. Prejudicing anybody's rights.

K. With respect to the Commission—

E. That is why I am calling you, my dear.

K. Yours is a very God damn delicate line as to what you do to get information to give to the President and what you can do in giving information to the Department of Justice, you know, to enforce the law.

E. Well you are my favorite law enforcement officer.

K. (unintelligible)

E. Do you want me to give you anything additional on Monday?

K. Who did you talk to, John?

E. What do you mean? Mitchell and Magruder.

K. Those are the only two?

E. Well, no I have been talking to people for three weeks. I have talked to everybody but the milkman.

K. People on the President's staff?

E. And outside, and people's lawyers, and every damn thing.

K. Until today, when the Magruder came up, did you come across any direct evidence that in your opinion amounted to conduct that violated the law?

E. Yes.

K. You did. Let me talk to Henry Peterson and see what line we ought to follow here.

E. Alright.

K. Who else have you talked to about this besides myself?

E. The President.

K. But also the person that you talked to who would give you information about the commission of a crime, who did you tell that to?

E. You know I have talked to him.

K. No—you talked to people that gave you this information.

E. Well, I have talked to them and in some cases they know I have talked to other people.

K. Yeah.

E. Well, they know that because they knew the source of my leads, etc.

K. Who else does Magruder implicate besides himself and Mitchell?

E. Dean, LaRue, Mardian, Porter.

K. Magruder will say that Mardian knew about this before the discovery?

E. No. He is largely implicated on the obstruction of justice.

K. After the happening?

E. Yeah.

K. He puts LaRue in?

E. From stem to stern.

K. Did he make any statements with respect to the use of campaign monies to pay these guys off? What do you know about that? Fred LaRue is going to go to jail. I guess you know that?

E. Yep.

K. What persuaded him to do that?

E. He just was having a terrible time living with it, and he didn't see any point in waiting any longer. His attorneys said they analyzed it very carefully, and see no advantage to getting in and out.

K. Who is his attorney?

E. A couple of very bright guys. I have their names over there, but I can't tell you now. Bernbaum and somebody else. Sears, I think is the other guy. I don't have the names right now.

K. Are you going to be in town Monday?

E. Pardon?

K. Are you going to be in town Monday?

E. Sure.

K. Are you going to be in town tomorrow?

E. Sure.

K. I might want Henry and I to get together with you, just so we don't make any mistakes.

E. Alright, let me know.

K. Have a nice evening!

E. Thanks, Pal. I will see you there.

K. Are you going to that same dinner?

E. Oh yeah. I am going to go and see Bernstein and what's his name, get their awards.

K. See you tomorrow.

E. Alright.

Appendix 19. Telephone conversation: The President and Haldeman, April 14, 1973. (11:02–11:16 pm):

(Material not related to Presidential actions deleted.)

P. One thing that occurs to me Bob is this and, as I reflect a little on Magruder's stuff—

H. Uh, huh.

P. I'll be damned if I don't think some of that could be, you know, exaggerated. But I don't know—

H. That's right.

P. I don't know. I can't tell. He is obviously flailing around like a wild man at the present time.

H. No, no, he's not really. I think he was earlier. He was frantic, but once he figured out where he was going, I think he—

P. He thinks this is what he remembers now?

H. Yep. Uh, huh.

P. I am not sure that his interpretations on various things—they could be interpreted either way you know, like his interpretation on Dean, his interpretation on Strachan, for example.

H. Yep, yep.

P. Certainly—

H. That's right and there—

P. I just don't know how it is going to come out. That is the whole point, and I just don't know. And I was serious when I said to John at the end there, damn it all, these guys that participated in raising money, etc. have got to stick to their line—that they did not raise this money to obstruct justice.

H. Well, I sure didn't think they were.

P. Huh?

H. I didn't think they were and I don't think they did.

P. Well—

H. With maybe some exceptions.

P. Right, right. Of course, I suppose there they will say, like McCord has said, that that was the purpose. That somebody told him that. That doesn't mean antyhing.

H. Yeah.

P. The question, of course, is Liddy and the others. But we shall see. It is the word of the felons against the word of the men that raised the money, huh?

H. That's right. Well, you just—You don't know how much will come out in what way either. I mean that—

P. No, we, at least I think now, we pretty much know what the worst is. I don't know what the hell else they could have that is any worse. You know what I mean. Unless there is something that I don't know, unless somebody's got a piece of paper that somebody signed or some damn thing, but that I doubt.

H. It doesn't appear that there is such a thing. I mean there has been no hint to that. What you hear is all stuff that has been hinted at. It goes further than what was in some areas, but it's obviously totally consistent, basically, with everything John has developed.

P. Let me ask you this: I wonder if it is not only fair, but in our interest, for either you or John without going into too much detail to fill him in on Magruder? I mean, having in mind Colson could—

H. Who's (unintelligible)

P. Colson. I mean we have no interest—you know what I mean—in getting him up there, you know, guilty on a perjury charge.

H. Of course there is nothing Jeb said that is inconsistent with anything that Chuck has said.

P. Oh, that could be right. Chuck could say, yes, the Liddy project was something else.

H. That's right. That's what he does say.

P. He does, huh?

H. Yeah. And as Elrichman said—under questioning, they specifically said that he didn't get into any specifics on it, and they have nothing that hits him on any specifics. And I think he's probably clear on it.

P. I think he believes that, Bob. I know—

H. I do too.

P. I think he believes that.

H. I have thought that all along.

P. Well, we will sleep on the damn thing and, what is the situation tomorrow? Is Ehrlichman going to sit down with Ziegler again, or something?

H. Yeah.

P. I do think that PR thing we've got to sort of make up our minds on what the hell—

H. Sir, I want to get at getting the statement done.

P. And we've got to get at sort of make this decision with regard to this damn Committee. I don't know—

H. Yep.

P. I still have mixed emotions on it. I don't know, I don't know. I have been one way one time one way another.

H. Well, it's a mixed bag. It has pluses and minuses, and it is hard to be sure which outweighs the other.

P. One more scenario would have been to say they will all come up. Everybody will come up in Executive Session including Dean. Just say that. Make that offer, and that's flat.

H. Yeah and that gets turned down and then we're standing on the question of—The way it will be played is not that the Committee is being unreasonable by insisting on television, but that we are being unreasonable by insisting against it.

P. Well, that would be true unless you go out and hammer that the whole record could be made public.

H. Yeah.

P. It's only that we want information, not a show——

H. Yeah.

P. And that we think it is reasonable.

H. The question then is that you lose something obviously by doing that, and do we really gain enough to make it worth it? How bad is it if we go on television? I am not at all sure it is all that bad. In the first place, it is going to be in the daytime. In the second place, as of now it is not going to be carried live by the networks.

P. Yeah.

H. Now it might be, but I would guess it won't be after this other stuff breaks, it isn't going to be that important any more. The networks don't want to carry it. It would cost them money. What will probably end up happening is, it will be carried on the public broadcasting which has virtually no audience in the daytime.

P. Uh huh. I suppose what happens there is that every new break is carried for five or ten minutes in the evening news.

H. That's right.

P. That's the point.

H. It is going to be carried anyway. It is a question of whether it is carried for five minutes with one of us on camera for a couple of those minutes, or whether it is carried for three minutes with—

P. Weicker—

H. Weicker and John Chancellor and Dan Rather, saying: "trembling with fear and obviously trying to hide the truth, ah, . . ."

P. I wonder if you would do this? Did you discuss public or private thing with two people whose judgment is—Rogers and Connally? What did Connally think? Public?

H. I am not sure.

P. Would you mind?

H. I would have to reopen that.

P. Would it be alright for you to call him tomorrow and say, "Look, we've just got to make a command decision on this—"

H. Sure.

P. And I think you should tell—would you tell him about the Magruder?

H. Nope.

P. No, I guess not.

H. I can say the whole thing looks like it is coming to a conclusion—

P. Before the Grand Jury.

H. Yeah.

P. That's right.

H. Without saying anything specific.

P. Now, the other fellow whose judgment would be pretty good would be Bill Rogers on that.

H. Yeah. I agree.

P. I wish you would give him a call.

H. Right. I will.

P. I think with Bill, though, you could tell him, don't you think?

H. Nope. I don't think I should. In the first place, I am not supposed to know.

P. This isn't from the Grand Jury, Bob.

H. No, I know. But Kleindienst is worried about John giving the information to anybody, and that—

P. I see. You're right.

H. I don't see anything to be gained from telling him, anyway.

P. But you can tell him that our investigations indicate that the Grand Jury is hot on the trail of breaking the thing now.

H. Yeah.

P. And that is the way it is going to come. That—but if you wouldn't mind giving a call in the morning to both of those fellows, and tell them you are calling for the President and that he would like to have their considered judgment, should you be on television.

H. Right. Will do.

P. And it may be on the Dean thing, I am almost inclined to think we ought to give on that. What do you think? The idea of backing down—they are going to take it back down anyway, so what's the difference?

H. That has never bothered me, but I guess I am wrong on it, because it sure bothers other people.

P. It bothers Ziegler and the rest, but—

H. I think we gain more by backing down than we lose. I don't think you have any problem of being the President. We're fighting enough battles anyway.

P. I would just say, because of all of these charges that have been around these men are entitled to be heard in public.

H. That's right.

P. And I want them heard in public, and I want them to tell their story in public. I am almost convinced that that is what we ought to do with the whole damn bunch and not try to stand on the Dean thing and the rest. Get a settlement that way. Well, that's my present view, Bob, and we can go on it. Another point. You do, one person you do tell and I—and he can still say that he just told him to tell the truth. You ought to tell Strachan, but tell him—

H. John is telling him.

P. John is, but not in a way that Strachan indicates that he knows what the other fellow said.

H. That's right.

P. Is Strachan smart enough to do that?

H. Yes.

P. He has to be prepared that he is going to be asked this and is going to be asked that. John should put him through a little wringer there.

H. Yep.

P. John is the one who should do it. He is conducting an investigation for the President.

H. Well, and he's got the information. I don't. I can reconstruct—

P. No.

H. part of it.

P. That's right. I agree. But John will know the questions too.

H. The specific points is what he needs to cover.

(Material not related to Presidential actions deleted.)

Appendix 20. Telephone conversation: The President and Ehrlichman. April 14, 1973. (11:22–11:53 p.m.).

(Material not related to Presidential actions deleted.)

P. I just wanted to see what your plans were for tomorrow?

E. I am going to come in about nine o'clock.

P. Right.

E. And see Strachan.

P. Strachan?

E. And, I have a couple of calls coming in. One from Kalmbach's lawyer and I want to see Dean in the morning also. I've got him coming in and I thought I would see Ziegler if I can work it in.

P. Uh, huh.

E. I would kind of like to cover several bases.

P. Let me say with Ziegler—the more I think about this, John, I think we ought to give him the full court. I don't think it makes a hell of a lot of difference to say hold on Dean. I would say since these charges have been made I think that the men in the White House staff that have been charged, etc. have a right to be heard publicly and that's that—under certain proper ground rules.

E. Ok—let me run that by Ron in the morning and get him accommodated to it, the coverage of it.

P. I know, but isn't that really what we should do?

E. I feel it is.

P. Then you should sort of separate out everything—haggle around and then maybe you could settle the damn thing tomorrow with him.

E. Alright—I am sure I can on that basis.

P. Say because these charges are just flowing around and leaking etc.—give him hell about that—and that we just can't have that thing.

E. Alright.

P. I was talking to Bob—and Bob made the point—he said, well just look at what will happen here. In a sense it will be the evening news basically—you know what I mean—they are not going to run it live—not now on the nets. And also there are chances of how much the committee can do, particularly with Mitchell, if he hires somebody—an attorney enjoining—, it could go on for a while. But the point is—Bob says you will have either seven minutes of John Chancellor and Weicker interpreting what was said in a secret session or do you want four minutes of that and maybe three minutes of Haldeman?

E. Well, that is a good point.

P. Is that something to be considered?

E. It sure is. At least we get a little piece of it that way.

P. You know—you see a man looking honest and earnest etc., denying it in a public forum—

E. Yeah, yeah.

P. Where he just—you know I just have a feeling—

E. There is something to be said for splitting the time with them.

P. Yes and—

E. Are you planning to work tomorrow?

P. Well I tell you—sure—what I plan to do—I have to go to church.

E. Sure.

P. And I have to be around on that in the morning and so I may not get there in the morning. Well, anyway you will be busy all morning.

E. That's right. I've got Kleindienst.

P. So I will be there in the afternoon around 2 o'clock or so if you want to chat with me, I will be around.

E. OK—I'll leave word.

P. We'll see. We'll see. Do your other business, etc. John, too, I wonder if we shouldn't reconsider, if you shouldn't, I mean you have to consider this—rather than having Colson go in there completely blind, give him at least a touch up—or do you think that is too dangerous.

E. Say that again—I didn't quite hear it.

P. Colson—rather than just saying nothing to him, if it isn't just as well as say—look you should know that Magruder is going to testify, etc., or is that dangerous according to Kliendienst?

E. I'm not so sure. I have to call him anyway tomorrow. He has an urgent call in for me. Ah, I don't think I want to say anything at all to him about John. John, incidentally, I understand, was on CBS News and just hardlined them.

P. Oh, I agree on John.

E. Yeah.

P. On Magruder, that is what I meant.

E. Well, I can say something very brief. I don't need to indicate that he said anything to me.

P. Yeah, that you understand that he has talked. I mean, not to the Grand Jury but to—

E. Yeah, I think I could safely go that far.

P. And say that he should know that before he goes, and be prepared.

E. Friday—I will call him in the morning.

P. Let me put it this way: I do think we owe it to Chuck to at least—

E. Sure.

P. So that he doesn't, I mean, go in there and well frankly on a perjury rap—

E. I understand. I don't think he is in any danger on that but——

P. Why wouldn't he be in any danger, because he's got his story and knows pretty well what he is going to say?

E. Yeah, I think he is pretty pat, but I will talk to him in the morning and give him a cautionary note anyway.

P. This urgent call may be just what we know, or it may be more of something on our friend—

E. Uh, huh.

P. What's that other guy—Hunt?

E. Yeah.

P. There isn't a damn thing you can do about that either.

E. No. I will tell you, I am going to probably see Kleindienst sometime tomorrow and for any reason you don't find me there, that's probably where I am.

P. And with him on the Special Prosecutor, say, look Dick, in view of the fact that the U.S. Attorney is now doing such a thorough job and since there is going to be definite results from it, it would be a terrible reflection on the system of justice.

E. Right.

P. And this Administration would be in effect admitting that the Justice Department was so corrupt that it couldn't prosecute.

E. Uh, huh.

P. But if they prosecute a former Attorney General John, what more can you ask?

E. Pretty loose, pretty independent.

P. I really feel that—

E. Yeah.

P. And that the Special Prosecutor thing can only open other avenues potentially. I don't mean that there is anything you want to cover up, but you know. He will just go through and—

E. I think it is folly.

P. Don't you think so?

E. Yes, sir.

P. Dick could just say that there is a difference of opinion, but that is it. That I have decided it, and that he—

E. He wants to talk to you about it, but I think I can take care of it tomorrow without any problem.

P. But if it is necessary for him to come in and for me to tell him that, I will tell him.

E. Well, I think I can handle it.

P. Now wait a minute. I am not adverse to it. My feeling frankly is this: that you know I was just thinking tonight as I was making up to my notes for this little talk, you know, what the hell, it is a little melodramatic, but it is totally true that what happens in this office in these next four years will probably determine whether there is a chance and it's never been done, that you could have some sort of an uneasy peace for the next 25 years.

E. Uh, huh.

P. And that's my—whatever legacy we have, hell, it isn't going to be in getting a cesspool for Winnetka, it is going to be there.

E. Yep, yep.

P. And I just feel that I have to be in a position to be clean and to be forthcoming, etc. That is why I think that on the—

E. I totally agree with that.

P. Committee, out, etc. etc.

E. I totally agree with that.

P. Re-think a little bit more about that Haldeman thing. My present thinking,—he raised it himself you know, this business—but I just think you've got to fight for somebody. I don't know. But what is your feeling at the moment?

E. I don't think he is in that bad shape. I may be kidding myself, but I—

P. The only thing that concerns me is what they said about Strachan, and

E. Yeah, well—

P. You don't think that relates that closely?

E. Let me talk with him tomorrow, and just see how much of that we have to swallow. He may object to some of that, and with good basis. So—

P. You've got to figure this too on Magruder. If I could suggest it, Magruder probably believes he is telling what he knows.

E. Yeah.

P. On the other hand, this happened a long time ago, and Magruder is a very facile liar.

E. Yes.

P. And he could well be thrashing around a bit here and drawing conclusions, etc. etc.

E. He believes his own story.

P. Yes, what do you think? Because some of this—

E. Well, I'll tell you. They told me that he was an extremely credible witness.

P. Oh, definitely.

E. And I can see why. He comes across very sincere, very earnest and very believable. But of course, now you have to balance a lot of what he says. What he says I have no way of corroborating or not corroborating.

P. You have to balance what he says by the fact that he was very believable when he lied.

E. Yeah. That is what I say.

P. Now the question is, how much of this is the truth and how much of it is something he believes to be the truth?

E. About the only thing I can say is that it sounded credible, but I can't vouch for it obviously. And that's one of the reasons I want to get Gordon in.

P. One last thing. How do you see the Mitchell scenario rolling out, John. Put yourself in his position and just sort of ruminate a bit, and tell how you see it rolling out.

E. Well, I would—

P. First, you are convinced he will be indicted, are you?

E. Yes.

P. You are?

E. I don't think there is one chance in fifty that he won't be.

P. Alright, now.

E. The court will open and publish them and he will probably arrange to come down and take delivery of the—

P. Indictment?

E. indictment, and I would guess he will hire F. Lee Bailey. That would be my hunch.

P. Not a bad idea.

E. He's got one problem in that the firm represents one of the other defendants, but he may be able to get around that.

P. Uh, huh.

E. Whoever he gets will immediately move for a change of venue and file 89 motions.

P. Right. Motions to quash—

E. Sure, sure and—motions to disqualify the judge, attacking the legality of the Grand Jury and everything you could imagine.

P. Won't that take a little time?

E. Yes, sir, you bet it will! My hunch is that the soonest you could get a case like that to trial would be the Fall. September or October—

P. Really?

E. Something of that kind.

P. That leaves the Committee hanging for a while, I suppose. I don't know whether that is good or not.

E. Well I don't think they would let the Committee proceed in the meantime.

P. You don't really?

E. They would use every effort to stop it, and I am just guessing, but just common sense tells me they could stop it. I don't know the law.

P. One long shot, should you talk to Ervin?

E. Should I?

P. Yes.

E. Confide in him?

P. (Characterization deleted)

E. Oh, I don't think so. I can't trust him.

P. (Characterization deleted)

E. No, I can't—I just wouldn't dare. Kleindienst might at some time later.

P. He should make the deal. I think, frankly, let's get off of the damn executive privilege.

E. Get a little ride on it huh—while we can?

P. Well at least I do think it would cool a little of the Congressional stuff, you know.

E. Uh, huh.

P. I really do. As I read the Congressional stuff, they say—they can't understand this or that or the other thing. Alright now we are—basically, also, its bold. The President just says there is enough of this nonsense? We are going to fight. You see what I mean?

E. Uh, huh, I get you. Ok, it suits me.

P. It puts the President in the position of being as forthcoming as we can—want the facts out.

E. Yep.

P. And that's that. And I am not concerned about the word backing off, etc. So, sure, we back off and that is the story for about two days.

E. Yeah.

P. Really.

E. I think that is great.

P. We have won lots of things with the Congress. We lose one. But you, in interpreting it, would say we have reached a compromise with the Committee, that we limited it to this, to charges of wrongdoing.

E. Uh, huh.

P. Right?

E. And they came along orally on the rules.

P. And the rules now provide adequate protection for executive privilege and so the President says, let them all go.

E. Yep. I think that's great.

P. But putting in the point that the President directed it and I think the idea that the President has stepped into this thing and has said, let's get this thing done.

E. Yep.

P. And you go out and say the President says, look we have had enough talk, enough—

(Material not related to Presidential actions deleted.)

P. But when you are in a battle, if you are going to fight a battle, you are going to fight it to the finish. And the thing about Bob, as I say, is this: I get back to a fundamental point. Is he guilty or is he not? In my view, he is not, you know.

E. Yep.

P. And if he isn't—even if it means that the whole country and the Congress and all the members of the Senate and House say resign, resign, the President says, No. I will not take a resignation from a man who is innocent. That is wrong. That is contrary to our system, and I am going to fight for him.

E. Uh, huh.

P. If evidence is brought out to the contrary, fine. Then we will take a look at it.

E. Well, that is another reason for putting his statement out, it seems to me. It is the standard that we are flying, so to speak. Sure, they will shoot at it but if they never hit it, why then there is no room for argument.

P. We can get that statement broadly circulated. What about, incidentally, now, about the drill of frankly telling our own leaders that and getting them maybe charged up a little on this?

E. Well, I have been doing a little thinking on that. I am not so sure until we wind out the whole judicial process here, that is the Grand Jury process, that we are really going to be in much a position to do that. I will give that some more thought, but—

P. You mean because something is going to come out of the Grand Jury?

E. Yeah—you have sort of a half-told tale.

P. Well, you can say, look, I am speaking just for the White House staff, and they are going to go up and testify. Now fellows, give them a chance. That is what I meant.

E. Uh, huh, I get you. Well, that at least—sure.

P. And give them a chance. Then you say, they have all given sworn statements on this thing, and we feel that we are due our day in court, etc, etc.

E. Here's a copy of Haldeman's statement—

P. That's right. Uh, huh.

E. Yeah. We could certainly do that without making reference to the other.

P. Including Agnew, etc.

E. And you could trace the history of our attempt to cooperate with Ervin. Tell them about that.

(Material not related to Presidential actions deleted.)

P. Fine. Well, John, you have had a hell of a week—two weeks. And of course poor Bob is going through the tortures of the damned.

E. Yeah. That family thing is rough.

P. I know the family thing. But apart from the family thing, you know, he is a guy that has given his life, hours and hours and hours you know, totally selfless and honest and decent. That is another thing! Damn it to hell, I am just about to say. Well you know you get the argument of some, anybody that has been charged against, you should fire them. I mean you can't do that. Or am I wrong?

E. No you are right.

P. Well, maybe I am not right. I am asking. They say, clean the boards. Well, is that our system?

E. Well that isn't a system. You know, that is a machine. That's—

P. That's right. I feel, honestly,—I mean, apart from the personal feeling we both have for Bob, don't you? But you know, I raised this myself. One way out is to say, well look as long as all these guys have been charged, out they go and they can fight this battle and they can return when they get cleared. It is not good, is it?

E. You know I don't think it is. I don't think that is anyway to run a railroad. I think——

P. I suppose that would probably be the deal of purists. What does Len think of that? Does he think that, or—

E. I don't know. I think you have to show—

P. Well, that is irrelevant—

E. some heart on the thing.

P. Well, the point is, whatever we say about Harry Truman, etc. while it hurt him a lot of people admired the old bastard for standing by people

E. Sure—

P. who were guilty as hell.

E. Yep.

P. and damn it I am that kind of person. I am not one who is going to say, look, while this guy is under attack, I drop him. Is there something to be said for that, or not?

E. I don't think, number one, I don't think you would gain anything by it. The problem doesn't go away.

P. No they will say, oh, that Nixon's top person, closest man to him, in the office four or five hours a day, and out he goes. Everything must be wrong!

E. Yep—that is it. That is liking separating Siamese twins.

P. We have done so many good things, you know, which Bob has worked on so arduously, and damn it, so there will be fragments here and there. Well, people make mistakes, but you don't fire a guy for a mistake do you?

E. No.

P. Not for a well-intentioned mistake. But my whole view of drawing up the line. One point, you are going to talk to Dean?

E. I am.

P. What are you going to say to him?

E. I am going to try to get him around a bit. It is going to be delicate.

P. Get him around in what way?

E. Well to get off this passing the buck business.

P. John, that's—

E. It is a little touchy and I don't know how far I can go.

P. John, that is not going to help you. Look he has to look down the road to one point that there is only one man who could restore him to the ability to practice law in case things go wrong. He's got to have that in the back of his mind.

E. Uh, huh.

P. He's got to know that will happen. You don't tell him, but you know and I know that with him and Mitchell there isn't going to be any damn question, because they got a bad rap.

(Material not related to Presidential actions deleted.)

P. You say that Dick was really shaken?

E. Yeah, he was.

P. Damn it, I told him once, I said, Dick, the real target here is Mitchell. He said, oh, no, it can't be! He's got sort of the idea that probably it is Haldeman or Colson.

E. Well I am sure he is going to call me the first thing in the morning.

P. Yeah, but with him I would be very tough. I would say Dick—just don't mess around—they are after Mitchell, and they are going to get him at the present time. At least, that's what our information indicates and so here is where we go.

E. He is probably doing a little checking with his U.S. Attorney tonight.

P. Would he do that?

E. Oh sure, sure. He has to make the ultimate prosecution decision, or else he has to delegate it to somebody, so he is entitled to——

P. Your point is that he would delegate it to Dean. I think the Dean is the best one to delegate it to, rather than, John, the suggestion that he resign and then we will put in another Attorney General. That would be a hell of an admission that, that we thought——

E. He isn't going to want to do that would be my guess. He isn't going to want to resign at this point.

P. He shouldn't. Well, you know, when I come to think about it, basically, he should for other reasons. If we could get the Ellsberg case over, I would just like to get that FBI fellow. Is there anyway at all—you are going *to talk to Ziegler*—that you can get get out the fact that you have conducted a thorough investigation?

E. We will work on that. I think there is.

P. I think we have to get that out. Don't you?

E. I think so.

P. The President is calling the signals.

E. I suspect that somebody is going to put it together. My hunch is the New York Times will. You see, they have the story that Colson was in yesterday.

P. They know that Mitchell was in.

E. And, of course, all the wires have that Mitchell was in today. So, somebody is going to start stringing all this together.

P. So what would happen? You'd have Ziegler or yourself go out and say yes I have seen them? Or you haven't thought that through yet?

E. I think I wouldn't have to say that I have seen them. We could just say that we have had a job of work going on for several weeks.

P. Well you could say that the President, because of the charges that have been made, wanted an independent investigation made and he directed you to make it. You have made an independent investigation of the situation because the President wants it. If there is anybody who is guilty in this thing, he must through the judicial processes be brought to the bar. Is that what you would say?

E. Or simply to aid you in analyzing the steps that ought to be taken here. You are being asked to do a lot of extraordinary thing—

P. You could say the President wants this matter cleaned up, once for all.

E. Right.

P. It has been hanging around and yakked about. Innocent people have been hurt in the process. Charges have been going around. Now we have a judicial process, and we want this thing finished.

E. Beyond that, you have had all kinds of Senators and Congressmen calling for the appointment of a Special Commission and all that kind of thing.

P. So you're it.

E. For you to come to any sort of a judgment on those kinds of proposals, you have to have a pretty clear understanding of the facts.

P. Right. Well, with Dean I think you can talk to him in confidence about a thing like that, don't you? He isn't going to—

E. I am not sure—I just don't know how much to lean on that reed at the moment.

P. I see.

E. But I will sound it out.

P. Well you start with the proposition, Dean, the President thinks you have carried a tremendous load, and his affection and loyalty to you is just undiminished.

E. Alright.

P. And now, let's see where the hell we go.

E. Uh, huh.

P. We can't get the President involved in this. His people, that is one thing. We don't want to cover up, but there are ways. And then he's got to say, for example? You start with him certainly on the business of obstruction of justice.

E. That's right.

P. Look, John—we need a plan here. And so that LaRue, Mardian and others—I mean,

E. Well, I am not sure I can go that far with him.

P. No. He can make the plan up.

E. I will sound it out.

P. Right. Get a good night's sleep.

E. Thank you, Sir.

P. I'll bet you do. You know in a way it is a curious thing—not curious at all—but, John, while it is terribly painful, of course, to go to that dinner tonight—while it is painful, I just feel better about getting the damn thing done. Or do you agree?

E. Absolutely.

P. I mean, after all, it is my job and I don't want the Presidency tarnished, but also I am a law enforcement man.

E. Yeah.

P. Right.

E. Yeah, and you have to move on to more important things.

P. Yes, that's right. OK, boy, see you tomorrow.

E. Right, sir.

Appendix 21. Meeting: The President and Ehrlichman, Oval Office, April 15, 1973. (10:35–11:15 a.m.):

(Phone ring.)

P. Who all have you seen this morning?

E. Well, I have Strachan up there right now.

P. Yeah. I had a call from Kleindienst.

E. Yeah. I heard you did and I thought you ought to take it. He——

P. Oh sure, sure, I did. I didn't refuse. He said "I should see you, and I'd like to see you alone this afternoon. Today." I said fine. He's coming to the church service.

E. Yeah.

P. I'm going to see him in the EOB. He said he had been up most of the night with Titus. Who is Titus?

E. U.S. Attorney in the District.

P. And what's the other fellow's name?

E. Silbert.

P. No not Silbert.

E. Glanzer?

P. Petersen.

E. Oh Petersen.

P. See if he wants (unintelligible) together. So I would see what he has to say.

E. OK.

P. I assume it's the special prosecutor thing, among other things, but what else I don't know.

E. I don't know either. He obviously got Titus in to find out what the progress is in the Grand Jury; so he's now—he's now better posted than he had been I'm sure, and he's probably a little bitter with Titus for not keeping him better posted if in fact he wasn't.

P. With regard to (unintelligible) this special prosecutor thing, what line do you want to take?

E. Well—let's think about it. He wants a special prosecutor so that he . . .

P. He can stay on as Attorney General.

E. He can stay on and so that he doesn't have any—so that he personally doesn't taint the process by reason of his closeness to Mitchell. And that makes sense. Sneed does not have that problem, and Sneed is controllable within limits, and I think he is credible. I may be wrong about his credibility.

P. I agree with this, I think he's credible. The reason I think he's credible is something else—is that the Grand Jury I assume (unintelligible) come through with some indictments.) I mean, suppose they just indict Magruder and Mitchell (unintelligible).

E. Yeah.

P. Well, that's the fish.

E. Yeah.

P. The big fish.

E. Yeah.

P. Damn it, what more do they want? Now what's the problem with the special prosecutor? As I see it, it just puts another (unintelligible) loose (unintelligible) around there.

E. Well the special prosecutor . . .

P. Reflects on——

E. Will second-guess Silbert. I assume will feel his mandate is to . . .

P. Tear hell out of the place?

E. Yeah—yeah.

P. That's right.

E. And—that's just an additional risk which you wouldn't have with the Dean who's been a part of the process. I just—I don't think.

P. (Unintelligible) with him (unintelligible) myself (unintelligible). If not then, let's face it, he hasn't been very helpful throughout this thing.

E. That's right. (Unintelligible) he stood as far away from it as he could get.

P. And Mitchell let it get away from him. A little (unintelligible). Is that what he said to you?

E. Yeah. He expressed real bitterness.

P. You didn't get Colson yet?

E. Not yet. No. He's at church apparently. Ziegler will be here at church. He's coming over. So I'll see him while you're seeing Kleindienst.

P. I suppose Colson is (unintelligible) Hunt, and Bittman which, of course, could tie Colson in, right?

E. Yeah.

P. Up to his navel. There's not a damn thing you can do about that is there John?

E. No, really not, not at this point. You have to depend on Hunt's natural secrecy and secretiveness.

P. John, there is nothing in it for Hunt. Let me ask this, (unintelligible) go back over everything he's done prior to that time.

E. Well . . .

P. There might be something?

E. Well, he's up on, apparently, he has perjured himself a second time. Gee, he perjured himself at the trial, then he was granted immunity, came back into the Grand Jury, and perjured himself again. The U.S. Attorney is looking down his throat and could say to him look, I can forget some of these counts if you're a good boy now.

P. Yeah, but the point that I make is this—is really, of course, you know, its the limits of his testimony.

E. mmhuh-mmhuh.

P. If he testifies just on Watergate that's fine. He isn't going to get a damn thing more than anybody else.

E. I don't see any incentive for him to go broader, and I haven't heard a whiff of that.

P. (Unintelligible) give him immunity for that? I suppose, or would they?

E. I don't know. I don't think they can give him immunity at this point.

P. (Unintelligible) talked with Strachan?

E. Yes, sir, just about ten minutes ago. And I've been doing all the talking so far.

P. (Unintelligible) trying to talk (unintelligible).

E. What Magruder had said about him and so forth. So.

P. (Unintelligible) any (unintelligible) for removing him?

E. Not yet. Not yet.

P. He's a good man—good man.

E. I think he, I think he'll do fine. You see . . .

P. (Unintelligible) you expect anyone (unintelligible) I was cogitating last night, and we've got the people that can—I mean on the obstruction of justice thing, which I think is our main problem at this time—well of course it is the main problem because it involves the other people.

E. Yeah.

P. Otherwise it's just Chapin.

E. Yes, Chapin.

P. And Mitchell.

E. Yeap.

P. Magruder.

E. Yeah.

P. Possibly Dean, but . . .

E. Mardian and LaRue

P. (Unintelligible) on the (unintelligible) of the case?

E. LaRue.

P. They got him on that too?

E. Yeah. Yeah.

P. You mean Magruder has?

E. Yeah.

P. That's going to be hard. This fellow's lied twice to (unintelligible)?

E. That's right. That's true.

P. The people you've got with obstruction are Hunt and Goldblatt and Bittman, right?

E. Oh, Rothblatt the lawyer.

P. Rothblatt?

E. Yeah, right. Well, I don't think Bittman is going to testify. I would be very surprised if he did.

P. Why?

E. Well.

P. Get him involved in obstruction of justice?

E. Well I just don't think—I think, I'm just guessing here, my guess is that he's worked himself out a haven in all of this.

P. Wouldn't serve his interests to get involving in the obstruction of justice. He's basically almost a bag man, not a bag man, but a message carrier, isn't he?

E. No. No—was an instigator—. He was concerned about his fee. And a . . .

P. Oh really John?

E. Yeah. Yeah. So he was one of the active promoters of that as near as I can tell.

P. (Unintelligible) me what you and (uninteligible) say on the obstruction thing. What was involved? I mean, from our side, our guys.

E. Well you had defendants who were concerned about their families. That's understandable. You had lawyers who were concerned about their fees and that's less understandable.

P. Oh, yes. It's understandable.

E. Well I mean in terms of the end result. You had a campaign organization that was concerned about the success of its campaign . . .

P. Yes

E. and didn't want these fellows to say anything in public that would disrupt the campaign.

P. Is that legitimate to want people not to say it out in public which (unintelligible)?

E. I think so. I think so. And then you had a . . .

P. No, but I mean, say something in public that would disrupt the campaign or because it would embarrass people?

E. Sure.

P. Cover up, you mean?

E. It would impeach the campaign in effect. But at the same time a lot of those same people who had that legitimate motive—Hello (unintelligible) [Voice: Hello, sir. (door opens and closes)] they had the same people who had that legitimate motive had an illegitimate motive because they were involved in protecting their own culpability and here we're talking about LaRue, Magruder, Mitchell possibly.

P. (Unintelligible) they wanted the defendants to shut up in court?

E. Certainly, certainly.

P. So you would say, you could say . . .

E. You have.

P. In other words you have Dean we'll say, now let's take Dean.

E. All right.

P. As a case in point. This says something that Dean was not—we could get him out of it—he could weasel out. I say weasel out; he says he's not involved in the prying.

E. Well see Dean's problem is that he was in touch with these committee people who could to Dean express a benign motive and at the same time had a corrupt motive. If I were Dean, I would develop a defense that I was being manipulated by people who had a corrupt motive for ostensibly a benign motive. And in point of fact. . . .

P. Some did have benign motives.

E. That's right. You take a fellow like Shumway over there for instance. . . .

P. Yeah.

E. Who has to think the PR of the campaign.

P. Making statements. Well for example it's the—it's like in the very tangential, and it's only tangentially that it touches you and Bob. You know what I mean that somebody came to you.

E. Yeah.

P. I mean you said go talk to Kalmbach. If you were talking about keeping (unintelligible) if you know the defendants were guilty, and if you didn't know who else was (unintelligible)

E. That's correct.

P. And you just thought that they (unintelligible).

E. Well you know, the thing that ran through my mind . . .

P. Yeah.

E. Was Howard Hunt has written 40 books, and——

P. Yeah.

E. Howard Hunt was worried about the support of his family. And I could see Howard Hunt writing an inside expose of how he broke into the Democratic National Headquarters at the request of the Committee to Re-elect the President.

P. Yeah.

E. Now, if I had a choice between getting contributions for the support of Howard Hunt's family.

P. Yeah. And that's . . .

E. And that was pretty easy.

P. And I suppose they would say though that . . .

E. Oh, didn't care what Howard Hunt said to the Prosceutor. He can say anything he wanted to the prosecutor in a secret—in a secret session. That didn't hurt us.

P. It was all secret then.

E. The Grand Jury was secret.

P. The Grand Jury was all operating at that time.

E. Sure.

P. It hadn't come to trial?

E. Sure—it didn't come to trial until after the election.

P. Yeah. (Unintelligible)

E. So.

P. I think (unintelligible) it was—nobody was trying to keep him from telling the truth to the Grand Jury—to shut him up to the Grand Jury?

E. I can say in truth and candor that Dean never explained to me that there was any kind of a deal to get these guys to lie or to change their stories or to refuse to testify to the trial of the action or anything of that kind. That was just never discussed. So I don't feel too uncomfortable with this.

P. Another (unintelligible) if Kleindienst resigns.

E. If Kleindienst resigns, that says there is something wrong with the Justice Department.

P. So you would keep him?

E. At this point.

P. Even if he disqualifies himself?

E. That's right—which wouldn't be anything too new.

P. Sure.

E. Now he may have some . . .

P. Other information?

E. Yeah, or technical reason or something of that kind.

P. (Unintelligible) may have some information aside from the Grand Jury that I don't know if (unintelligible).

E. I have a call in for him and the operators left it over here. The reason that I do is that he never did pin down for me what it is that he wants me to do. Now I've tended to him as I think I had to.

P. Good.

E. And he said well I'll check it and be in touch with you tomorrow. So fine. I left word over there that I am here. That's the only, the only reason for my call. And you might ask him if there is anything we ought to do here in the light of developments, but I do feel that—thank you (coffee dishes clattering)—I do feel that there is nothing new in what I have beyond what Magruder has already told me, so I think it's largely academic.

P. (Unintelligible)

E. Yeah.

P. (Unintelligible)

E. Titus would have told him last night what Magruder said, and so he will, this morning, have I think as much knowledge about this thing as we have. There may be one or two—one or two details that—

P. But Magruder said they are hot after Colson.

E. Suspicion.

P. Or Magruder's attorneys say that. Magruder had nothing on Colson.

E. No. The one phone call is the only incident that he has to relate.

P. His attorney says I think they're hot in going after Colson.

E. Yeah.

P. The reason there of course is Hunt.

E. Right—the association.

P. Yeah.

E. And that's natural. You've got a guy in the cast that . . .

P. Well Hunt (unintelligible) Colson.

E. Yeah. Hunt has to know it.

P. What do you do about Colson, John?

E. I don't think there's much to do at this point. He's—

P. Yeah.

E. He's building his own defenses. I assume that he's doing whatever has to be done with Hunt—that only he could do.

P. So, but, but——

E. Well you know he's, I'm sure, has had surreptitious contact with Hunt.

P. Yeah. He says (unintelligible) take care of your kids.

E. And I think Chuck's natural proclivities will.

P. Do everything.

E. Do anything we can possible do.

P. See (unintelligible). There isn't a hell of a lot more they can tell us that Magruder hasn't told (unintelligible).

E. That's right.

P. In other words, there isn't a hell of a lot they can gain by . . . what was the, what could Liddy (unintelligible) to corroborate Magruder?

E. That's all he could do. At this point Magruder gives them everything they could have hoped to get from Liddy.

P. (Unintelligible)—How do you get Liddy's sentence cut down? (Unintelligible.)

E. It may be too late for him.

P. I wonder if it is. Huh? Or is it?

E. Yeah. He was only . . .

P. Why didn't he talk (unintelligible)?

E. I don't know. I really don't.

E. I don't understand him at all and Magruder paints him as really weird—really weird.

P. (Unintelligible) guy.

E. And all kinds of things. And there are all kinds of Liddy stories running around.

P. Well I (unintelligible) down. I want to see what Kleindienst told (unintelligible) and since he's asked I will.

E. I'll be here and if you want me for anything why just holler.

P. Well look, I'll listen to him. He has come in so often.

I can say on ITT, of course, we didn't—my basic responsibility (unintelligible) McClaren settled this case or something like that, and a

E. Yeah.

P. (Unintelligible)

E. No, that wasn't to settle a case.

P. No, not settle.

E. That was not to file an action. You remember they were about to file a law suit and

P. How did we know about it?

E. Flanigan found out about it.

P. You came and told me?

E. I came and told you about it.

P. Why?

E. (Unintelligible) may have forgotten details.

P. Why didn't we think they should file an action?

E. Well.

P. I am sure it was a good reason.

E. Yeah. We had a run.

P. (Unintelligible) we had a runaway antitrust division at that point.

P. Yeah, and I had been raising hell with McClaren.

E. That's right.

P. On all this, and I said now this is a violation of my policy—

E. Not on.

P. (Unintelligible) a violation of rules that I had laid down with McClaren.

E. And I will testify to my dying day that our approach to antitrust cases was (unintelligible) virtually without variation, on policy rather than the merits of the individual case.

P. Wasn't that case (unintelligible)?

E. There was one exception to that and that was that Granite City Steel case where we criticized their analysis—the Council of Economic Advisers did.

P. Yeah.

E. And we went back on them on the specific case rather than just the general policy. That was on a factual issue.

P. What the hell was it, John, that (unintelligible) Kleindienst. Here's this guy, you know, who is really good hearted and worked hard and all that sort of thing and went down to the wire and so forth. His advice has been just wrong.

E. I think he felt, and I have not talked to him about this, but I think he felt that if he involved himself in this case at all in Mitchell's behalf, that eventually it would have tainted the whole proceeding and maybe redounded to Mitchell's disadvantage—

P. Right.

E. And—

P. Oh I suppose that's (unintelligible).

E. And that Mitchell's best chance—

P. I'm not speaking in Mitchell's behalf but I am just thinking of—just so that we would be (unintelligible), or try to know how (unintelligible).

E. Well—yeah—that's true.

P. (Unintelligible.)

E. He.

P. All you were ever asked was the general question, what's going on.

E. Yeah. He—well, this is kind of interesting. I may have told you about this, but the U.S. Attorney now feels that Dean overreached them by providing information out of the Grand Jury to the Committee for the Re-election. I think that may be legitimate criticism if he in fact did that. On the other hand, for him to provide us with information inside, for the orderly operation of the government, is another matter. That's two quite different things. If you peddle information from a Grand Jury to the outside, or if you peddle it inside to people who are responsible.

P. (Unintelligible)

E. Oh that was, let me think.

P. (Unintelligible) Grand Jury at that point.

E. He had information on who was going to be called as witnesses so that apparently Mardian was able to get around and coach witnesses.

P. Did Mardian coach them?

E. In some cases Mardian, I guess, was very heavy-handed about it, and—

P. Well, is there anything wrong with that?

E. Yeah, well there's something wrong with—

P. He was not their attorneys is the problem?

E. Well, no, the problem—the problem is he asked them to say things that weren't true.

P. Oh.

E. When I say coach I use the word loosely, and—

P. (Unintelligible)

E. Well no, a fellow over there named Porter—Bart Porter for one.

P. Where is he now, in jail?

E. No, he's in business somewhere, and he will probably be indicted.

P. They coached him to what, did he say?

E. Say.

P. Was he—he was one of the buggers over there?

E. No—no. Oh no, he worked for the Committee, worked for the Committee, but they asked him about higher-ups and about whether there was any (unintelligible) and so on and so forth.

P. How was he in the deal? How would he know about it?

E. He worked over there in Magruder's office, and he apparently passed money to Liddy from Sloan and was privy to quite a lot of the information.

P. I thought John (unintelligible) Liddy to take money for that (unintelligible).

E. Apparently he did. Well I don't mean after—I mean to pay for equipment and to.

P. Oh (unintelligible)

E. That's right.

P. Why the hell didn't the Grand Jury indict him?

E. Well because they didnt have the, they didn't have the evidence. There was a cover story which Mardian and others cooked up, and Porter, who corroborated the cover story, is now indictable for perjury. He is a little fish who got caught in the net.

P. Poor son of a bitch. It's wrong. It's wrong.

E. The whole thing is just monumentally tragic.

P. It is. Now don't let it get you down.

E. Well that's right, that's right, and it'll pass.

P. Dean is concerned, and concerns me.

E. Yeah.

P. I don't think he could have been that active in the pre—the post yes—the pre things. Magruder, Magruder may be (unintelligible) a little (unintelligible) in some of that stuff.

E. Well, I've got to get him in, and I hope to see him today.

P. He would not (unintelligible) Dean (unintelligible). According to Dean's story about those meetings which he told me is about (unintelligible) Magruder's.

E. That's right. That's right.

P. He says, he says look we shouldn't be talking about such things.

E. I know.

P. particularly in the office of Attorney General. Magruder says he approved the million dollars—that's about right.

E. And that Mitchell was the one who disapproved it.

P. Well this would (unintelligible) Magruder/Dean (unintelligible)?

E. Cause Dean shows up very prominently in the whole Magruder thing.

P. And Dean was in Florida you said on some occasion? Remember the Florida trip you told me about?

E. No, No. The three people there—Mitchell was already down there—Magruder and LaRue went down.

P. For what purpose?

E. Brought him the final Liddy proposal.

P. The two fifty?

E. With the Watergate and the Fontainebleau and the McGovern headquarters spelled out.

P. How did Dean find out? Dean find out that there was a three—three thing on a list? He knew that, and went up and told Mitchell about that.

E. Yeah, and I.

P. How did Dean know that?

E. I don't know. I don't know how he knew that. I assume that at some point in time Magruder told him that.

P. I see. Magruder talks pretty much doesn't he?

E. Mmhum.

P. (Unintelligible)

E. Yeah. And in a lot of these things, of course, he had a lot of different versions of everything, but I think it's reasonable to assume that he passed that along to Dean.

P. Sure.

E. Mitchell phoned me this morning to say that Daniel Schorr had been on the shuttle when he rode back to New York.

P. CBS caught him?

E. Yeah, and well no, they saw him here.

P. Yeah.

E. And then they sent somebody out to the airport.

P. (Unintelligible)

E. And so, he said to Schorr he didn't know anything about the Watergate, and he didn't think anybody cared about the Watergate and he had just been down to the White House and he hadn't seen the President. That was all that he said. He is looking forward to testifying before the Ervin Committee, and so forth. So he called me this morning just to say that.

P. (Unintelligible)

E. He wanted us to know what he had actually said in case there was any press report to the contrary.

P. Well Ziegler should simply say, yes he was here to see you (unintelligible) it's true (unintelligible).

E. Don't have any comment on that.

P. No comment—that's (unintelligible) What do you think?

E. I think that's the only way to handle it.

P. (Unintelligible) handle it (unintelligible). I have no information on the subject. I have no information on the subject.

E. Right.

P. Ziegler (unintelligible)

E. I'm glad you complimented him last night. That's

P. (Unintelligible) stay right at the (unintelligible)

E. (Unintelligible)

P. He is a good man. They know it. They know it. You've got to give them their stories. They respect him for it.

E. I thought you were going to do with the Biblical conclusion that the guy who serves two masters, but a

P. Yeah.

E. he will hate the one and love the other, but a— (laughter).

P. Yeah. (unintelligible)

E. Yeah, that's the one.

P. (Unintelligible) turn around and (unintelligible).

E. We are at kind of an ebb tide right now in this whole thing, in terms of the media, as I see it. They are all a little afraid to get too far out on a limb on this 'cause they think something's going on with the committee negotiations, and there's no new news breaking, and so they are kind of.

P. Waiting.

E. waiting.

P. Yeah—they'll get a full tide when they get to the Grand Jury.

E. Well sure, but now is a good time for us to fill that vacuum.

P. Oh, yes—a little news.

E. Yeah.

P. Sure—let 'em know other things are going on.

E. Yeah.

P. I read (unintelligible) front page the Haynes Johnson (unintelligible) story today about—story on (unintelligible) .

E. I haven't had a chance to read that. I saw the headlines.

P. It's not corroborated of course, but they said their survey of the country and all showed that the President's support that first the support regarding the war was not (unintelligible)—the economy is the problem (unintelligible) but the overriding issues that are (unintelligible) Watergate. (unintelligible), but John that is just not true.

E. Yeah.

P. Of course Gallup comes up tomorrow and show—he'll show that (unintelligible) another poll out there (unintelligible). Look you can't go the the (unintelligible) you can't go to the—you've been around here.

E. That's right—that's right.

P. It's a pervasive issue (unintelligible) Go in and out of the hotel they've—

E. Yeah.

P. Yelling. Watergate, Watergate. Tell us about Watergate. Seriously, it's a hell of a Washington story.

E. And Haynes Johnson, of course, is notorious for finding what's he's looking for.

P. Of course.

E. You remember after the election and that great national survey.

P. Yeah. Yes, and also that he (unintelegible) practically killed him to do it; first, (unintelligible) in this same piece that these people were not (unintelligible).

E. Mmhum.

P. Now—(unintelligible). But then, but it's we have to—we go through these cycles too, I mean this is a little more—more—shall we say a bigger cycle than most because of the enormous—a combination of Watergate it usually is a one issue thing.

E. Yeah.

P. Now it's a combination of the Watergate plus the—these guys say it's the Watergate—(unintelligible).

(Materials not related to presidential actions deleted.)

Appendix 22. Meeting: The President and Kleindienst, EOB Office, April 15, 1973. (1:12 2:22 p.m.):

P. Well.

K. How you feeling?

P. Fine—fine—a little tired—I've been working very hard as you can imagine with everything.

K. Last night after the White House Correspondents' Dinner, at midnight, Henry Petersen called me, quite agitated—after which he and Earl Silbert, who is the Chief Assistant U.S. Attorney who tried the Watergate matter and Harold Titus came over. Titus is the United States Attorney.

P. Like some coffee. Would you like coffee?

K. No, thank you sir.

P. Coca-Cola?

K. Nothing, thank you. I'd like a glass of water if I may.

P. Glass of water—and some coffee—Chief.

K. The purpose of it was to give me the benefit of what had transpired on Thursday, Friday and Saturday with Magruder, and then what had been transpiring for a week with John Dean and his attorneys.

P. They didn't negotiate with Dean I understand.

K. John has some attorneys—I don't recognize the names.

P. Attorneys?

K. Yes.

P. Good, good he's got one.

K. The posture that Dean and his attorney, that they're exploring the legal situation with the understanding if they don't work out some kind of a strong arrangement then anything that is said or represented by either John or the attorney will not be used.

P. Hhmm.

K. Kind of an exploratory situation.

P. Yeah.

K. I wanted to see you and why I wanted to see you immediately, by myself, is that.

P. No problems then—in seeing me by myself. If you want, I mean.

K. Yes, Sir.

P. I guess with Cabinet people and the rest they always can. I have other people in, Dick, as you know, so that nobody keeps the damned notes out of the Cabinet. My understanding is—

K. I talked to John Ehrlichman last night. Also.

P. Yeah—he told me that you wanted to come in, and I said "fine."

K. When I talked to him last week I didn't think there would be much necessity to be here today, Sunday.

P. This is Sunday, certainly.

K. Magruder's conversations and John's conversations with attorneys, with every absolute certainty that Magruder's going to be put on before the Grand Jury.

P. Are they going to call him back?

K. Yeah.

P. Oh, of course, because he's going to plead guilty.

K. He's going to plead guilty and he's going to tell everything he knows.

P. Sure.

K. That kind of information is not going to remain confidential.

P. As you know, the—we have no—I have not and I would not try to get information from the Grand Jury, except from you.

K. Right.

P. And we have not. But the reason—the reason that I am aware about the Dean thing—I have taken Dean off the matter, of course. I had to. As far as what he was reporting here at the present time. I put Ehrlichman on. Ehrlichman's conducted his own investigation which I told him to give you. He says it's now not going to mean much because he says Magruder frankly corroborates everything that he thought (unintelligible)

K. Yeah.

P. Except that Magruder may—you can't tell, in his view, that you can believe everything Magruder says because Magruder's apparently got a——

K. Got a self-interest involved.

P. He's got his self-interest and you don't know whether he's going to drag this fellow or that fellow or whatever the hell is. You know that's the trouble when a guy starts lying and, you know—I mean—wondering whether Magruder is telling the whole truth on John Mitchell—you know, Mitchell—have you talked to Mitchell?

K. No and I'm not going to. I don't think that I can talk to him.

P. I think you should know, Mitchell insists—I didn't talk to him. You know, I have never asked him. Have you ever asked him?

K. No sir. We have never discussed the matter.

P. I never have either. I asked Bill Rogers about that. I said, Bill, should I ask him? No, John Mitchell. And so I asked Ehrlichman. I said, now I want you to ask him.

K. Yeah.

P. What I was going to say—the only information that we have is the Magruder information and the Dean information and that's enough.

K. Yeah—that's what we have here. The difficulty as outlined by.

P. The special prosecutors?

K. No. No. The difficulty with respect to some of the information as outlined. I stayed up until five o'clock this morning with these people going over and over it again.

P. Right.

K. (Unintelligible) basic things where Dean implies—(unintelligible). The basic problem that—its possible that Dean might testify to, what Magruder will testify to, and then you've got Strachan or somebody like that. He was on Haldeman's staff. There is a possible suggestion that Haldeman and Ehrlichman ah, as yet—it looks that way—whether there is legal proof of it so far as that—that they.

P. Indicating what?

K. Well, knowledge in this respect, or knowledge or conduct either before or after the event. But that in any event, whether there's——

P. Both Haldeman and Ehrlichman?

K. Yes. Whether it's sufficient to bring about an indictment as a result of the course the testimony implies. There will be statements made, circumstantial evidence depicted.

P. Right.

K. That could raise a very serious questtion with respect to both of them. That is my primary reason for talking to you (unintelligible).

P. Sure—sure.

K. I thought you ought to know.

P. Who told you this? Silbert?

K. Yeah.

P. So he says he gets his information from whom? Dean?

K. Dean with respect to some statements that Ehrlichman is supposed to have made after the event. There's no suggestion that John Ehrlichman knew anything about it before.

P. Yeah.

K. As to Bob, this fellow Stracken (pronunciation). It that his name?

P. Strachan.

K. Strachan?

P. He worked for him. He's a guy who worked for Haldeman, down in the basement.

K. Well, we haven't really gone all the way with him yet. He's kind of fishing around, you know, as to what he's going to say and what's he's not—he's being a little bit suggestive, but there will be the probability that Strachan might provide testimony that would——

P. Implicate Haldeman?

K. Would implicate Haldeman and it wouldn't be direct, precise testimony.

P. I have asked both Haldeman and Ehrlichman.

K. I know you have.

P. And they have given me absolute—you know what I mean. You can only—it's like—you would, you'd believe John Mitchell, I suppose, wouldn't you? I don't believe Haldeman or Ehrlichman could ever—you know—(unintelligible) hurt to be so close to people and yet I think of—

K. John Mitchell and I were a little off more by ourself. (unintelligible) But the difficulty with respect to Bob and right now they do not think that they are going to have the kind of legal evidence that would lead to indictment. However, they all feel that as a result of the closed testimony—a matter which is going to come out. It will be circumstantial, an association, an involvement, and it's going to be—

P. Why don't you do something about it?

K. Well, I think that that's part of the problem. The evidence with respect to those now who would have knowledge of this before June 17th, 'cause it's going to come out. You take some of the evidence with respect to Dean.

P. Dean was in the meetings. Dean claims that he said no. And Mitchell does too. And that's what you've got to live with.

K. But then they feel the serious aspect of the conduct thereafter came in the, according to this testimony, that, with respect to obstruction of justice

P. Right.

K. —and that is the admission that LaRue, Mardian, Dean say that he was rehearsed and rehearsed and coached and coached by LaRue, Mardian, Mitchell, Dean, all for his initial testimony before the Grand Jury. Well, Magruder could testify that he believed that—there's two things—the obstruction of justice and suborning a witness or perjury.

P. That could get them all on that.

K. And if LaRue, Mardian, Dean, Mitchell said no we didn't do that but were told what the story was—we did nothing.

P. They would question that.

K. Anyway, that's certain to be known to the prosecutor

P. That's right.

K. With respect to the money that was available and used for attorneys supporting these defendants.

P. Mm, huh. The motive I think you passed on to Ehrlichman—after I raised the question. A motive was involved there huh?

K. About the money?

P. Yeah.

K. You know.

P. If the money was raised.

K. If you plead guilty and he's guilty there's no crime committed.

P. What's that?

K. That's. —I don't know.

P. Explain that legal point please.

K. Well, I inquired into it personally.

P. Of course I was thinking of the Berrigans and all the funds that have been raised through the years, Scottsboro, etc. Nobody ever raised any question about it. If you raise money for the defense and it's for support—and Ellsberg—(expletive removed) in Ellsberg, the defense—

K. And likewise in this case. If I had committed a crime and you know about it and you say, "Kleindienst, you go in the Court and plead guilty to the commission of that crime and here is ten thousand dollars, you know, to tide you over and so forth."

P. That isn't a crime?

K. No. On the other hand, if you know that I committed a crime.

P. Right.

K. And you say, "you go in there and plead guilty, and here is twenty-five thousand dollars on the condition that thereafter you'll say nothing. You just make the plea, take the Fifth Amendment, the judge cites you for contempt, you've got to continue to testify you don't. You do not take it." Then you are now in a position of obstructing justice.

P. Excuse me. If you'd explain that again. If you tell 'em—if you tell 'em—if you raise the money for the purpose of telling them *not* to talk.

K. After he's pleaded guilty. Let's take the—

P. Well, they were all before the Grand Jury at this point, Right?

K. And the judge says, "I'm going to give you immunity—I have ordered you to testify to what you know." He refuses, takes the Fifth Amendment and he's punished for contempt. And you give him twenty-five thousand dollars. (unintelligible)

P. There was some thought that—that was all after the election that that happened, huh?

K. I don't know but that happened after the conviction—after Liddy's conviction.

P. Oh, in other words, the obstruction they are talking about is what happened after the conviction?

K. Yes sir.

P. Rather than before the conviction?

K. Yes sir.

P. Well, who the hell would—you mean—but I can't see Haldeman or Ehrlichman or anybody in that (unintelligible)

K. Well.

P. No—I'm just asking. Or Dean, ah, you mean that after that that they raised—they gave money for that purpose?

K. For whatever they gave—let's say that money was given to Liddy in connection with —and.

P. Let me say this—there isn't any question that money that they have had on that or whatever—Mitchell's defense frankly—it would be—you know—these people had worked for the Committee and they were provided with money for their legal fees and for their support. That is—this is before their conviction. Now comes the point of after their conviction. That's when the case may be, that's when you get the jeopardy.

K. Or if people are up for trial, Mr. President, you say.

P. NO—no-no-I'm sorry—not conviction—but after their indictment.

K. Yes. After the indictment "here's fifty thousand dollars. You plead guilty and thereafter take the Fifth Amendment. If they offer you immunity, you know, not testify about anything." If that's——

P. And then you give 'em money?

K. Yes.

P. That's—I agree.

K. Yes—obstruction of justice.

P. Yeah. If the purpose of it is to get them not to talk. In other words, not to carry out what the judge said. I can see that. Sure.

K. What the situation really is, and that's why I wanted to communicate with you immediately, today, to keep this general story off the streets.

P. Oh, hell—don't they know about it?

K. Tomorrow morning it's likely to be all over town. Tuesday noon.

P. Involving Haldeman and Ehrlichman, too?

K. Yeah—just generally. This Sirica, Judge Sirica, is not enforcing the strict requirements of law with respect to secrecy in Grand Jury proceedings.

P. Certainly the one with regard to Mitchell—do they, let me ask you this—do they tell you flatly Mitchell will be indicted?

K. Yes. They do—so will Dean.

P. Will be indicted?

K. Yeah.

P. Even without his testimony—they're talking about it?

K. Magruder's testimony will be enough to indict him.

P. Strachan—will he be indicted?

K. They don't know yet. Incidentally, Dwight Chapin testified with respect to the so-called Segretti affair.

P. Yeah.

K. And said that Haldeman knew about it.

P. That's true. But that's not something they're in—because of Segretti—even though Segretti pleaded the Fifth. It's just bull—the Segretti thing—it's not this—it's just.

K. That has nowhere near the potential of this situation. They only think it does with respect to Bob, it casts a little bit of taint.

P. I know.

K. That reflects upon the rest of it.

P. Now what is your, what is your recommendation, then?

K. Well, first I have this situation. It seems to me that so long as I do anything at the Department of Justice I cannot hereafter be with Haldeman, Ehrlichman, Mitchell, LaRue. They won't believe that we didn't talk about the Watergate case.

P. Who can you have contacts with? Me? I shouldn't be

K. I think it is—I don't know whether I need contact anyone. Incidentally, there's a—there's a weak possible case on Colson.

P. What is that?

K. He knew about and was involved in a conversation pertaining to money for Liddy's projects. Called on Colson to make over there—to somebody else.

P. Yeah, I heard about that.

K. You know, "Where the devil are Liddy's projects?" So.—

P. Colson denies this doesn't he?

K. Yes. He also did the unusual thing of hiring himself a lie detector test.

P. Oh (expletive removed)

K. Isn't that a terrifying thing I've ever heard?

P. Of course, I'm a great supporter of Colson's. He's been a brick as have all these people. But (expletive removed) that was a stupid thing.

K. Just stupid. Crazy. Secondly—

P. They consider there's a weak case on him at this point.

K. Yes—and a very, very peripheral, weak case—probably not an indictable case with respect to Ehrlichman and Haldeman.

P. Yeah.

K. Just learned that.

P. O.K. Your point is that it'll break—that their names have been mentioned?

K. You know—it'll come out in trial and testimony.

P. What's your recommendation on it?

K. Well.

P. Let me tell you what concerns me, if I may. I want to talk to the special prosecution a little bit. You know, it's embarrassing and all the rest, but it'll pass. We've got to—we've got to just ride it through Dick.

K. Yes

P. Do the best we can. Right?

K. Yes sir.

P. We don't run to the hills on this and so forth. The main thing is to handle it right.

K. Those are my inclinations Mr. President.

P. Well you know—we've got to handle it right.

K. That's right.

P. And naturally because of your association with John Mitchell you would have to disqualify yourself.

K. Mardian, LaRue.

P. Oh—you know them all. Right-right-right. Now the difficulty with the special prosecutor—it gets a guy into the (expletive removed) thing. First it's a reflection—it's sort of an admitting mea culpa for our whole system of justice. I don't want to do that. I think what you ought to do—agreed—the Dean doesn't know probably anything about criminal law.

K. He doesn't know anything about this case either.

P. About this case—but I think that the Dean—the Dean is a decent, honorable man and you step aside, say that the Deputy Attorney General of the United States will be in charge of this matter. And you say to him and (unintelligible).

K. Don't understand—I think he ought to (unintelligible)

P. No question about Silbert and those guys going after it. And I—let me tell you. I have never—you know—I have never felt that—I have always told these people around here—I say (expletive removed) don't hold anything back. Just burns me that they did.

K. Last summer the conduct of everybody over here Mr. President—really created great suspicions in the minds of Silbert and Petersen, you know.

P. Right.

K. Instead of being open and frank with you, trying to create an impression of trying to help out, getting things going.

P. This was basically the Dean problem. He was running it.

K. And also I think—well everybody was scared to death. They didn't know where the damn thing was going to end.

P. They thought there was an election—you know—let's face it—that's why—why John.

K. Why sure—I understand—I understand. It'll always be an unanswered question and for that matter they were simply set in motion thereafter you know so aggravating—you know, this little.

P. But after the election, I couldn't think what in the name of (expletive removed) reason did they play around then? Do you?

K. No.

P. You didn't know that they were doing this? I didn't know.

K. No sir—I didn't know.

P. I didn't—you know—as I was—one of the problems here—I have always run my campaigns. I didn't run this one I must say. I was pretty busy. Or—maybe—handling the Russian Summit. And you know, after the election—we were right in the middle of the December eighth bombing—and holding meetings—within the whole Administration. But I just can't imagine—at that point—after the election is when this is supposed to have happened.

K. I think there are two paramount.—

P. Understand—I mean the others—they were involved throughout. But I mean after the election. (Expletive removed) to condone it.

K. It seems to me there's two overriding considerations here. One is yourself and your Presidency and secondly is the institution. Both of which I think have to be protected and preserved by the institution of justice. For me to recuse myself and say the Deputy is now making all the prosecution statements. The thing I have against that Mr. President is that that Deputy is still your appointee. He's my deputy.

P. Yeah.

K. I could be removed until this is cleared up—well that's just an attempt you know to cover his (expletive removed). As this thing goes into trial and when this testimony comes out somebody is going to come to a crescendo real fast.

P. Of course.

K. Then Sneed is going to be under attack. Frankly I don't know enough about Joe Sneed—to know whether he's got the ability to sit there and take it or will he do it. A little bit differently than I and less than partisan for twenty years. He has no particular attitude to you, me or anybody else. He's a good lawyer, a decent man—probably got his future ahead of him but whether he thinks of himself—and I just don't know enough about him.

P. Yeah.

K. At the present time. For one thing whether he's got the ability.

P. Yeah.

K. In a tough situation to sit it out or whether he could.

P. Yeah—but you got anybody else?

K. Well that's why—and then on the other hand, with respect to the special prosecutor, Mr. President. I think when you come down.

P. I'm not going to appoint him. Who would make it? You would make it?

K. I would. This would be my special prosecutor.

P. Got anybody in mind?

K. The Chief Justice, Roger Goff (?) and several other lawyers. And incidentally the Chief Justice and I are very close friends. And I want to get his feeling about the concept of it and also who he would recommend. The one person that everybody kind of comes together on is a guy by the name of Barnabus Sears in Chicago. He is the attorney that was appointed to prosecute the killing of those blacks by the police—you know the thing in Chicago? And prosecuted in Chicago police officers who allegedly, you know, (unintelligible). Barney Sears is a past president of the House of Delegates of the American Bar Association, a "distinguished" lawyer and, you know, has all those—and credentials. He's a very, he's a very independent person. It has one aspect of it that you people realize, but Sears and I have been close freinds for twenty-two years. (Unintelligible) labor case with Motorola back in the early days. Barney Sears came in at one point and another guy.

P. So what would you do? He'd come in and learn the whole case?

K. Yeah—what he would really do—he'd keep Silbert, Titus and Petersen in place and as they progress with the case instead of having the ultimate prosecutor responsibility in me he'd do that in this function in that way.

P. What does that do to Mitchell?

K. I would say Mitchell will be indicted.

P. Oh, they're all going to be indicted. Well, that's my point. I thought, I think if the course just goes like it is they're going to be indicted. You mean you'd have a special prosecutor immediately? Here's my point, if they're going to indict anyway that sort of—that shows that (expletive removed) the thing does work. See that's the thing I wonder. These guys are crowding in—

P. Silbert and the rest—they aren't taking any program—we're not giving them any. You're not giving them any are you?

K. No.

P. Another way you can do it—another way you can do this. I could call in—I'm just thinking out loud. I could call in Titus and Silbert I'd say, look—you are totally independent here and you are to tear this case up. Now go to it. See my point is, you call in a special prosecutor (expletive removed), he's got to learn the whole damn thing.

K. You come down to.

P. Yeah.

K. Little fundamental questions—like do you have enough evidence to go on perjury indictment? When you got one against one, you know, through the ordinary rules of prosecuting policy suggest that you try people for perjury.

P. Right.

K. Even maybe with—and I think that's just because of the climate.

P. Well let me ask you this. Let me think about it Dick.

K. Oh sure.

P. You would suggest Sears. I would say Dean—I mean not Dean but the Dean.

K. Let's both think about it.

P. But with the idea that I really feel that I ought to—that frankly I've got to take the leadership on the thing and I ought to go in and say, look—there's—got the facts and you are to go forward with this—and I don't care who it touches and that's it.

K. Well with respect to the Presidency and I don't presume to advise you with respect to that Mr. President.

P. No—I want to know your input.

K. But I think that you probably would want my views. You understand I have been up all night long and I might not be as (unintelligible). It seems to me that if, as a result of Magruder, Dean (unintelligible) and Hunt.

P. In belief?

K. (unintelligible)

P. This would be direct. Is there enough evidence on Haldeman that I should, that I should say to him, "look Bob you take a leave of absence until this thing is cleared up"?

K. Right now—no—might be any day—that's the question. I think that your options become reduced each day that this thing goes on.

P. What I am getting at is this. Is it also possible that they don't get enough on Haldeman to indict?

K. Well, he could be indicted but then at least his circumstantial participation will presume now with regard—

P. What about—what about Ehrlichman?

K. That's a close one—a situation that would occur after they were arrested based upon the possible projected testimony of Dean in the case.

P. How would—I don't see how he would be in it—in what way?

K. Well, at least now.

P. What will Dean say about Ehrlichman?

K. Keep in mind anything that Dean and his attorneys have told them is a conditional statement. If they don't work something out it's all withdrawn and it's not going to be used. Keep that in mind, Mr. President. But Dean intimated two things with respect to Ehrlichman. One, Dean had in his possession some documents that were taken out of Hunt's office—that's number one.

P. He's told the U.S. Attorney this?

K. Yes. Other item he issued a directive that—to get Hunt out of the country. Instances, standing by themselves—nothing more to say one side or the other can constitute an obstruction of justice. They have the hard evidence right now that would lead to the indictment of John on those two counts. But it couldn't be tomorrow, two days from now away.

P. With respect to Bob—Strachan. Did they tell you—

K. They

P. I thought on that?

K. Yes sir. In fact, I've got some notes here—

P. No—Ehrlichman?

K. He's hooked.

P. Dean?

K. Deep six it and get Hunt out of the country.

P. He said Ehrlichman, John (unintelligible).

K. (unintelligible) before the indictments.

P. Dean's testified that Ehrlichman told him to do that.

K. Right.

P. What Dean—Dean has told 'em, but he hasn't testified?

K. Right—and that other point about Dean's posture with the United States Attorney—that's why I wanted to talk to you about this. That these are conditional statements. If Dean worked out an arrangement satisfactory to Dean the U.S. Attorney's office and Dean agree that they are not going to have knowledge of these statements.

P. So what would happen?

K. Well, in the event they don't work something out then Dean presumably wouldn't testify this way with respect to Ehrlichman or he might, depending upon what (unintelligible). If they work something out, probably it would be for the purpose of—no, no sir. There's going to be no immunity offered.

P. Well, then why would he get it? Work something out—why?

K. Well that's—that hasn't been resolved because Dean and his lawyers are being very, very careful there.

P. I'm sure.

K. (unintelligible) you get these people facing jail and you (unintelligible). The point is that.

P. Haldeman?

K. Haldeman—they believe this fellow Strachan is just about ready to (unintelligible)—on the face of it.

P. Some of this—got some of the take in other words. Haldeman had—if Haldeman was furnished the reports.

K. Either the reports or papers that would indicate that Liddy was doing something like this.

P. Oh—papers?

K. Apparently there was the sum of three hundred fifty thousand dollars.

P. Yeah—I know about that.

K. Transferred from the White House to LaRue.

P. Right.

K. That Bob indeed indicated that the transfer of that money. (unintelligible)

P. I think (unintelligible).

K. Might have just thought that (unintelligible). That would implicate

P. That I would think would mean that that he had some of it—the reports from the bugging.

K. Either the reports or budgetary or—

P. Oh—even budgetary?

K. Or program papers that on the face of it would indicate that Liddy was engaged in an eavesdropping operation and, you know, that Haldeman would have known about it? So he called and said something about it but that's yet another thing you've got to keep in mind.

P. I don't (unintelligible).

K. I don't think so either.

P. Huh?

K. I don't think he did either.

P. Haldeman could tell me though—he's a—I'm sure—Bob would tell me—he's a "don't give a (expletive removed) kind of a guy" anyway and Ehrlichman would tell me too. The deep six thing troubles me. Although—what was that? Oh, I know what that could be—that could be—you see Hunt's operations before—that's what that is. Hunt worked in the White House, you know, on some national security matters and I think that's what that's involved. Not the Watergate.

K. Let's get back to this concept of the Presidency, sir.

P. Right

K. What you do is the right thing to do and then when having done it then it would be recognized as the right thing.

P. Right.

K. And I know—I don't know—but I believe—feel that we should have—I think the options that you have to consider there are two. One do you, the President, what I have told you today, that might be forthcoming. And before that comes out would you ask 'em to step aside until this whole thing blows over? If it all blows over—maybe you're not indicted or culpable. Finally you come back and they do wind up having been indicted, you at least have off of your personal staff—those people who are going to be involved in the criminal justice system. If you don't take that step, and I—really don't pretend to advise you on it sir—and then if it comes out, it's leaked out and then you've got to do it after the disclosure is made publicly, you know, I think it.

P. Let me ask you this—if it should come to a critical point—let us suppose—let's suppose the worst. That it does—that it does come out on Haldeman and Strachan with his testimony that he had papers etc. The question really is basically whether an individual, you know, can be totally, totally—I mean, the point is, if a guy isn't guilty, you shouldn't let him go.

K. That's right—you shouldn't.

P. It's like me—wait now—let's stand up for people if there—even though they are under attack.

K. I know.

P. In Haldeman's case though—I want to ask you—if you think—I just want to ask you your opinion. And the same on Ehrlichman based on this—do you think that—where he had no knowledge of Watergate.

K. I think neither one of them knew about it before. Just judging from leads around here and found himself in this fantastic situation. Could have as a result of his constant communication with John Dean—with John Dean looking for a way to save himself—could have by the remarks that John made that would either circumstantially involve him in or be grounds for an indictment.

P. Increase the chances of their being indicted by letting them go? That's another (unintelligible). When I say let them go, give them a leave which—

K. That'd be all right—it's all right.

P. You find—you find them guilty before they have a chance to prove their innocence, don't you? And another way you could do it is this—you could say if that question is raised, you could move them instantly. You see the point is that—you are suggesting I should do this based on information we have now.

K. Which is not very good, precise.

P. That's the point I am making—can on the basis of this kind of information.

K. I don't suggest anything now—I'm just—

P. No—no—I know—No—I'm just trying—understand—want to know what is the right thing to do and understand we are going to come out of this thing. The Justice Department and the Presidency are going to come out clean because I don't tolerate this kind of stuff. But the point is, Dick, I also. I can't—I can't let an innocent man down. That's my point.

K. I know that. What effect does it have on the discharge of let's say Bob's and Ehrlichman's duties as they'd be the object of speculation and attack in the press. What effect does it have upon their being able to discharge their duties?

P. Well one thing, of course, Bob could put it out first.

K. The three fifty?

P. Right. (unintelligible) testimony and the Strachan work and so forth and so on. In other words, he puts out the story. That's another—one thing—and he puts out the Segretti story too. I really think that's what he has to do.

K. Have him appear before the Grand Jury?

P. Will he be asked?

K. No—except a punitive defense might ask him.

P. (Unintelligible) here—you don't understand (unintelligible).

K. The prosecutor doesn't subpoena a punitive defendant—his attorney doesn't—you know this stuff is going on—now does your guy want to come in and testify.

P. You see, I realize that the fellows like up at the Ervin Committee and now the Grand Jury they're going to smash the likes of Haldeman all the time but you can't let a guy go—without a (unintelligible) if he's guilty, if you know he's innocent.

K. Right. Let me say what I had to do with this Harry Stewart. Remember the United States Attorney in San Diego?

P. Yeah.

K. Was involved in my confirmation hearings. An allegation was made with respect to his obstructive conduct. It started as an administrative investigation by the FBI. While the investigation was going on, Harry Stewart just stepped aside as the United States Attorney. Then ultimately he went back. That whole judgment was a process on my part.

P. Right.

K. I sharply examined it and the hindsight of this stuff is fantastic.

P. What's the name of your man in Chicago?

K. Barnabus Sears.

P. I can sure get that down, but I'm going to get that U.S. Attorney in one way or another.

K. And I've thought for months that something was wrong.

P. Sorry to hear you say that. No—that's my problem—what to do. Poor (expletive removed)—they're all—they've got a right to a fair trial.

K. I've tried about two or three thousand in the last twenty years and I did (unintelligible). The two aspects of this that have an overriding importance beyond them is the institution of (unintelligible) and also the criminal justice system.

P. Right. Only the people have got to have confidence (unintelligible) and frankly you could come out stronger.

K. Yeah.

P. You just prove that you will take on even your friends.

K. That's right.

P. That's what we'll (unintelligible). The only thing that troubles me about the Haldeman/Ehrlichman, Dick is that—I don't—I just wonder about—about—moving on them before.

K. The evidence (unintelligible)

P. See what I mean?

K. Sure, I understand.

P. That indicates that maybe I know something—which I don't.

K. That's right—nor do I—nor do—all that the government knows is what I have given you. I think, based upon what little is now known would be impeded in either. I don't think that John Ehrlichman should have as an assignment for you anything further to do with this, though.

P. Because of the deep six thing?

K. You know, if it turned out, either through circumstantial testimony or other testimony which could lead to a possible indictment that's part of the circumference.

P. Got to have somebody over here to do—the (expletive removed) thing—what the (expletive removed) do you do?

K. What do you do?

P. Garment? He's Mitchell's former law partner. That won't do, will it?

K. You know the burden of the (unintelligible) so far as you are concerned is that you and I would defend him. Anyone else (unintelligible).

P. Oh, I understand. Not going to—don't—job to do it—and this is (unintelligible) Chief Investigator for the Senate Committee—the (expletive removed) was charged with a felony, bargaining pleaded for a misdemeanor—got a suspended sentence.

K. Yeah.

P. For bugging!

K. Yeah—for bugging.

P. Same thing—that's what should have happened here.

K. As a matter of fact, looking at it again, without trying to determine the impact of it with respect to the election, simple (unintelligible) the obstruction of justice.

P. The obstruction of justice is what's bad.

K. And the perjury—the suborning of witnesses, the perjury and perjuring yourself.

P. You don't have Ehrlichman involved in that—you don't have Haldeman involved in any of that?

K. No—no. When you get Mitchell and Magruder and Mardian and, let's say, Dean all having one approach to this problem, and Magruder over there you're going to have a hard time convicting John Mitchell, Bob Haldeman, LaRue, etc. One of the faults these lawyers find is that, you know, because they, if this is true, they will be a (expletive removed) difficult thing to prove.

P. There's a chance Mitchell could beat this?

K. Oh, sure.

P. You do?

K. Oh (expletive removed) yes. It all depends on how this other comes out but, Mr. President, if all you're talking about.

P. Suppose Liddy, suppose Liddy—what's he going to do?

K. Now that's somthing else—now if Liddy comes in and corroborates Magruder and incidentally they are bitter enemies. They are bitter enemies.

K. Magruder is afraid for his life.

P. Yeah?

K. Even tried to—

P. Liddy—you say Liddy has told all, has he?

K. No he hasn't—he hasn't said a word to anybody.

P. Is that right? Did these guys tell you that?

K. Yes sir. He's taken the fifth.

P. They said that he's come in and talked to them. They—that's what they're telling everybody.

K. That's not true, sir.

P. I mean—if Magruder says that—he hasn't?

K. To my knowledge—I'll check that.

P. Find out.

K. Find out but to my knowledge as a result of everything that was said last night Liddy has not said a word.

P. What about Hunt?

K. Hunt doesn't know anything.

P. He knows about the obstruction of justice—somebody gave him the money. Isn't that the one where Mrs. Hunt or somebody—I don't know what that is—I don't know.

K. You know as much about it as I do.

P. (unintelligible) say something (unintelligible) and I don't want to get so deeply involved.

K. Neither do I and you know from the outset, Mr. President, on this one, because of all of us who are involved—our relationship—I determined that I was going to have the broadest kind of an overview. It's just for this very reason I don't want to right now.

P. Yeah.

K. If Liddy doesn't corroborate Magruder—what Liddy does now in view of Magruder's case I don't know but inherent in Magruder's—

P. He and Dean are taking Liddy and Magruder. You've got two guys it's pretty hard for a jury, if you were a good criminal—an F. Lee Bailey—say, are you going to take the word of these two men against all these other men, gentlemen?

K. When you have something besides F. Lee Bailey, but you take LaRue and Mitchell—

P. Let me say—let me say—I only mention F. Lee Bailey because Mitchell is very close to him now, as you know.

K. I know that, yeah.

P. That's probably who he'll use.

K. I don't know.

P. I say probably—I'm just guessing—I haven't talked to him about it, but he and Bailey are—he's going to fight until the end. He's not going to—

K. I hope he does.

P. Would you—his relationship and former Attorney General.

K. And that would be—that would be a trial for him.

P. Sure. Pitch John Dean take (unintelligible). I was so surprised.

K. When Ehrlichman called me last night all he said, mentioned Magruder. And he said what about informing him if I had any notice that John Dean had initiated this. I really don't until his attorney can negotiate with them.

P. If Dean does not testify about deep sixing documents and getting Hunt out of the country they have nobody else that can say that.

K. What they want initially.

P. Yeah—will they work out.

K. I think they'll honor their agreement between them.

P. Well, as you know, Dean put it out for press.

K. No—no sir.

P. They're decent men.

K. Yes they are.

P. Good.

K. Yes sir.

P. But Dean.

K. They raised questions whether or not I should even mention that to you because of the (unintelligible)

P. No, (expletive removed) you should tell me.

K. Oh (expletive removed) I didn't argue with them about that. That's not anything. I'm going to tell you what I have learned.

P. I could call them. Let me run this by you. I think I should call them and I consider it highest devotion. What I want you to have (unintelligible) it up here. I think we have—we haven't denied anybody, (expletive removed). Conducted the investigation. The FBI's conducted the investigation. I said I just want you to know that and you're on your own—on your own. And I am—because Dick Kleindienst was a close associate of John Mitchell's I want you to report to Dean Sneed. Now that's the way that I think I should approach it Dick rather than bringing in a special prosecutor.

K. I have no objection to that.

P. Well, without you being there—I don't think they should work through you anymore due to the fact, although we know you didn't have a (expletive removed) thing to do with it—nobody would ever believe—I don't think that.

K. I could make a fair decision on Mitchell.

P. On John Mitchell. Just like I wouldn't think I could probably make a fair one on Haldeman, but you see—don't you think that's true?

K. Yes sir.

P. And I'll—and the way I would do it—I will say, the Attorney General and I have talked and he recommends this. And I'll say, we have talked about it and this is the best way to do it. So we'll put Sneed.

K. And I think it's a very strong possibility.

P. You see my point?

K. The only—there's only two aspects of it that I'm not sure about. One of those I'm not sure about is Joe Sneed.

P. I know.

K. He's—you know.

P. Well, let's—what the hell—there's really nothing for him to do except just be honest. They're going to do the job. I know they're going to do the job.

K. Second thing, Mr. President, was the other argument that I'm thinking about. The more believable, more acceptable business, this other thing. The problem of this thing as the result of any appointment of you.

P. Yeah.

K. In favor that you might be able to provide later or whether I could. The credibility aspect of this thing on part of yourself soon.

P. Yeah—think it's best to handle it rather than doing it—escalating it—by nine o'clock then it should be done. I have thought about it and I have made—I have said this and that and the other thing and that's that.

K. One aspect of this thing which you can always take and that is, as the President of the United States, your job is to enforce the law.

K. In the case of any, of any investigations and trials—you know, I mean—now that the time has come as a result of blah, blah, blah, you know.

P. Special prosecutor immediately casts a doubt frankly, Dick, on the whole Justice Department.

K. Yeah—right.

P. I don't like that.

K. Neither do I.

P. But you have—there's not need—you understand, I just don't like that.

K. My feeling.

P. I think—you see the other line would be to say—put sort of a (unintelligible) you couldn't do this? You mean the Attorney General has asked—huh?

K. You might wait to have me recuse in this thing when the indictments come up. I think if they indict John Mitchell we can't be criticized for favoritism, you know.

P. Yeah—in other words, you stay in the job.

K. Until the trial. I don't know, I think this is something we ought to explore very carefully. In terms of (unintelligile).

P. You see, there's where your special prosecutor comes in. You want the—you go to the special prosecutor for.

K. No, the special prosecutor would not try the case, Mr. President. What he would do is substitute himself for the Attorney General. Silbert would try the case. What he would do would have overview with respect to what they were doing and participating in the prosecuting decisions that are made from time to time. (unintelligible) believe I (unintelligible) discuss with the—with (unintelligible) might not have it with the Deputy Attorney General and—so I support him. You know, I would do it myself.

P. (unintelligible)

K. And I fully realize by bringing this guy in it's—the effect has a bad reflection upon me, you know, I understand that—that is my recommendation.

P. Yeah. I thought we would—I think we just ought to—after your hard lining the executive privilege I think we ought to make a deal with the Ervin Committee provided the ground rules are proper. Do you agree?

K. Oh sure. Thing about my hard line is, you know,

P. What you're saying is a bargain—the thing by which you are going to work that out. I thought we ought to get something out on that like Monday or Tuesday. That sound good to you? That's a good—a good way to be on the offensive.

K. And I, I understand, Mr. President, you have some thought in mind with respect to John Dean. I would respectfully urge you not to accept—include John Dean in the package with (unintelligible) and those people you are.

P. (unintelligible)

K. Yes.

P. Oh yes, (expletive removed) yes, it's better now.

K. Negotiate with the United States Attorney—I'll tell you—I don't think.

P. No—no. I'm putting him up. The only thing I would say is that—to him—I would say that as President's Counsel (unintelligible) executive (unintelligible) and all that—(expletive removed) I wouldn't even (unintelligible). The Ervin Committee though is going to be as—nothing by the time this thing.

K. Oh by this time (unintelligible) we keep it in the criminal justice system where it belongs.

P. Where it belongs.

K. The Ervin Committee.

P. And incidentally they ought to—whoever is—Silbert ought to get over there right now and tell the Ervin Committee not to go shouldn't he?

K. I don't know.

P. I (unintelligible). How—how can Mitchell, for example, get a fair trial with the Ervin Committee leaking all over the place and so forth and so on. I would—if I were the prosecuting attorney I'd say to the committee, now keep McCord and all these (expletive removed). Don't you agree?

K. Sure—if they'll do it.

P. I really think as a lawyer—as a criminal—as a—you know, a smart lawyer for Mitchell and the other defendants could move to quash.

K. Well they could get the cases dismissed as a result of this horsing around with the Ervin Committee.

P. Yeah.

K. (unintelligible) Ervin Committee going after—their Constituional rights might be so impaired that they could have the indictments quashed. That's what. Any litigation concerning John Mitchell will probably take ten years—you know a couple of years before trial, four or five years appeals, motions, trial. Well I think (unintelligible) and it could be with John Mitchell.

P. (expletive removed) I would want to appeal the Chicago Seven, the Berrigans, and the Ellsbergs and all those (expletive removed). And they've fooled around all this time. Well it's a hard thing, Dick, hard thing. These fellows, even the Cubans—or even perhaps they most of all. They were doing (unintelligible) they were helping the campaign.

K. That's right. Sure.

P. And they just—just showed incredibly bad judgment—right?

K. It's still a fact, Mr. President, it's been two or three months, you know, while you were getting your campaign organization going, and Mitchell was just a puppet. You know John was in a rather awkward situaation being the Attorney General, having talked to those guys.

P. And having very troublesome (unintelligible)

K. Right. Had his own real leadership over there and got (unintelligible) the situation.

P. Yeah, Magruder—and Magruder's sort of a lightweight in a very heavy job.

K. Yeah—and also he had not experience in politics.

P. That's right. And then so they decided that—gee, this is great and this is real fun—(expletive removed)—they see.

K. Yeah.

P. And incidentally you got to—you see—if Haldeman had been running it it wouldn't have happened either. But look what the (expletive removed) he was doing, we were on our way to China and then we were on our way to Russia.

K. I know.

P. We weren't in the campaign—they were. We couldn't and that's why we had no control. Well, anyway, I'm not making excuses. The thing to do now is to.

K. Deal with the facts as you have them.

P. Go forward.

K. It would have to be by you, Mr. President.

P. There's (unintelligible). How about another man that we could bring down? How about a former Circuit Court Judge like Lombard?

K. Well the Chief Justice doesn't like that unless he has completely retired from the judiciary.

P. Says he can serve if we gave him an interim appointment?

K. Yes—yeah.

P. Seventy-one years of age?

K. No-no. What you are doing is having a Federal judiciary.

P. Well it seems to me that's the same.

K. The Chief Justice thinks this fellow Sears—he's the one who recommended Sears.

P. Thinks we should have a special prosecutor?

K. Yes. He does. Yes.

P. Now what does he say—now—I want to get some other judgments because I—I'm open on this. I lean against it and I think it's too much of a reflection on our system of justice and everything else.

K. Yeah—that's.

P. What is Petersen's reasoning?

K. Petersen's reasoning would be that I should recuse myself now that it looks like Mitchell and—

P. Yeah.

K. rest of the boys.

P. Yeah—you should do it right now.

K. And that—yeah—but.

P. You—now wait—you'd do this? You see, you do it now it's based on testimony.

K. When I would do it.

P. Well let me ask you though, you would do it before the story broke? Before the indictments or afterwards?

K. I don't know. We haven't gotten to that point.

P. Or is it the point that should be done before the indictments are drawn up so that the indictments are drawn up properly. Is that the point?

K. Yeah—just so that any aspect of the investigation, presentation to the Grand Jury and indictments could not possibly be changed by.

P. So what would Petersen say—you would withdraw?

K. Yeah—but that would not be in a public, you know, TV statement—

P. Yeah.

K. Internal—administrative.

P. And then—what would happen?

K. Well, I would.

P. What would he advocate?

K. I would do one of two things under that circumstance—would be to delegate the responsibility for the entire matter to Petersen, Assistant Attorney General of the Criminal Division.

P. Petersen is the fellow to approach?

K. Yes he is—yes he is.

P. Would the—would the country respect him on this?

K. Yes—he's a (expletive removed) of a guy (unintelligible).

P. I didn't—he was—he is a career man—I didn't appoint him in the first place.

K. He's the first career Assistant Attorney General I think in the history of the Department.

P. O.K.

K. So—but he.

P. Let's consider that one for a moment.

K. It could either be Petersen—or—Sneed.

P. Petersen would be better than Sneed.

K. (unintelligible). That would be initially handled by an administrative document from me to Petersen.

P. But you do it right now? What you should do in any event, what you should do right now—let me say, I still think my—I ought to consider—my suggestion that I call these people in—maybe with you as a matter of fact and say look I just want you to work with Petersen and get everything done. Correct? But let me—let's think about that.

K. Let's think about that. I think we got to do something pretty quickly before this stuff gets out of hand. In view of the disclosure made to me last night and yesterday afternoon by Ehrlichman I think I've got to do something. I'm now on notice that Magruder, you know.

P. Yeah.

K. Testified to—that.

P. That's right—that's why I told Ehrlichman to tell you. I didn't (unintelligible). In fact he suggested it—he said, look, I've got this stuff. This was even before Magruder talked to him. I think I should turn this over to Kleindienst. I said "do it." And then the events caught up with us and Magruder came in, and said, look, I—almost irrelevant. I don't think Magruder (unintelligible). So that's why, Dick, why we've been scrupulous and your record must show that. Been scrupulous, that Ehrlichman, he called you, he called you before Magruder and afterwards. We didn't wait 'til Magruder—

K. That's right.

P. What I should do

(No more sound—tape runs out.)

Appendix 23. Telephone conversation: The President and Haldeman, April 15, 1973. (3:27–3:44 pm)

Opr. Yes, sir.

P. Mr. Haldeman, please.

Opr. Thank you.

Ppr. —Mr Haldeman.

P. Hello, I hope you are enjoying this lovely day.

H. No, I am afraid not. Got to get out and take a look at it. It really looks beautiful outside.

P. Are you working on your statement?

H. Yeah—and I talked to Bill and—haven't been able to reach—

P. Yeah. I got that message from Bill.

H. Did you talk to him?

P. John Ehrlichman's got it. He talked to you or to Bill, I don't know which.

H. Rogers—I gave John a very quick rundown, but Bill wanted to think about it and talk some more and I think he has gone out to play golf or something. He doesn't seem to be around now, so he will call me later this afternoon. His view—he said it really depends on what the Grand Jury does. In other words, he doesn't come on strongly that we should go up there. He has some real reservations about whether we should. I think you got a real problem in the judicial proceeding with possibly prominent people under indictment and all that, and run a Congressional investigation at the same time. And the problem we have had up to now is the feeling that nothing is being done. This whole feeling is going to change, and if something is being done you don't have to start doing everything and he said if we can work out some safeguards that Congress would live up to, via capitulation and all that maybe we should consider going because people do want things cleared up. He said, I really, I think the Committee is handling themselves poorly. I think if the Grand Jury is going to come out fairly soon with their indictments, I would strongly vote the other way. I would hang tight for an offer to go up and speak to the Committee in Executive Session, but I wouldn't go up on camera. He said, I think your court room rules is basically a sound position and that people will see that.

P. Uh, huh. I just told Ehrlichman to the contrary, but I can change my mind. Ehrlichman had talked to Moore—and Moore says, "Well, hell, everything is really—there is going to be so much flying around it isn't going to make any difference." Moore tends to—well,—

H. I don't think that is necessarily true either.

P. Moore—I think is—

H. If that is true then, why go up on television?

P. It just makes it worse doesn't it? Well his point, I guess, Moore's point is at least have the President be forthcoming. But what does that do? Let the President be forthcoming and let them kill us.

H. That's right. And Roger's view is if you—at least his preliminary view and he wanted to think about it a while—he said if indictments come down at high levels.

P. Yes——

H. Then you have been forthcoming. You have said all along that you would cooperate with the Grand Jury. Now if you cooperated with them, which you said you were doing, and nobody said you weren't, and they produce results, that is what the people are after. The people's concern is that nothing—that everybody is just sitting here doing nothing about the Watergate, which is what they think because they haven't seen any result out of the Grand Jury.

P. Well, we are going to have some.

H. He also made the point, I said—well we may be able to get a victory here without having to pay the price, in the sense that if we agree to go up and the Grand Jury comes down with indictments they will probably turn off the hearings for a time anyway. Then we would have the trials and that sort of stuff. So we would have appeared to be forthcoming but we wouldn't maybe have to go. And he said I don't agree with that because——

P. Bill said what?

H. Bill said I don't agree with that—but he said—he thinks it is inevitable that they have to stop the hearings if there are indictments at a high level.

P. He's right. I agree with that.

H. He says they can't go on with those hearings while those people are pending trial. Until they have been tried and sentenced—you cannot go ahead with the hearings. On that basis, you don't want to know how long that is going to take.

P. Kleindienst just stopped in. He said it will take four or five years.

H. Why in the world does he think that?

P. The trials, appeals, they'll go to the Supreme Court, you know Mitchell is in a fight and these other guys, what the hell?

H. On that basis, you have the judicial process running who are these people. Bill feels strong on this.

P. What about the other things they want to get into?

H. If they can separate them, that's fine. They are the ones who have said they are totally tied together.

P. Yeah, one thing too about the other things. They are going to be denied some of their principal witnesses. I mean Mitchell will not testify. He will never go up there, you know, before the Committee.

H. Right.

P. And Magruder. He won't go up.

H. Nope. Now you are getting the White House people going up and not the other people. Where are you on that? And that is a question. Bill said, don't make a commitment now, you may have to meet in October or something when this thing runs itself out.

P. But he did think we could make the Executive Session commitment?

H. Yes.

P. Puts us in a good forthcoming position.

H. That's his point, that that is a very sound offer, just as your offer to work with the Grand Jury was a sound offer that produced results. You say we will be perfectly willing to work with the Senate.

P. You indicated to Bill there would be indictments at a high level?

H. I said it looks as if they are going to be bringing indictments and that they are higher ups over at the Committee.

P. What did he say?

H. He didn't react at all, but a little later he said, "Well, if Mitchell is indicted, or something, you know." I didn't say that, but he did.

P. OK.

H. And—

P. You know, in a way—I mean in reading the Johnson/Witcover piece in the Washington Post, we are so low now we can't go any lower. Huh?

H. Yeah.

P. What did you think of that? Are they right? Not when they say today there is the over-riding concern today for Watergate. There will be when it comes out, obstruction and all that but—

H. Yeah. You can get that out by, you know, getting hold of a guy and say if President Nixon did the Watergate would you still vote for him and say No.

P. I wonder if they will use the Gallup Poll tomorrow if the damn thing comes out?

H. Well, I haven't seen the Gallup release. I don't know that it went out, but I often don't get it until after it comes out.

P. We did have a hard figure on it didn't we?

H. He said it was a hard figure. 60–33.

P. Anyway, we are glad to have that.

H. So, what does Kleindienst think now? Does he—

P. He's for a Prosecutor.

H. So is Bill.

P. Bill is? Who did he have in mind?

H. He didn't have anyone in mind and I didn't get into that question with him.

P. I have really come to that conclusion, too, Bob.

H. Oh, really?

P. For a reason. This is not to prosecute the case. A special Prosecutor, to look at the indictments to see that the indictments run to everybody they need to run to, so that it isn't just the President's men, you see.

H. In other words, he is above Silbert rather than replacing Silbert?

P. Oh no, Silbert runs the case and that's all. But he is just in there for the purpose of examining all this to see that the indictments cover everybody.

H. Uh, huh. Well that does protect you a lot, because if they don't indict some of us then you have a cover up problem. If you have that guy, then you have a basis—

P. Then he goes out and says, "I have examined all of this, and now let's stop all this. These men are not guilty and these men are not indictable and these are."

H. Yeah.

P. We are thinking about that. We haven't decided that yet. But I lean toward it now in order to just—we've got to get into the proper position there.

H. That would make sense, rather than having Sneed take over.

P. Yep, because he's compromised too—I can do things for him in the future, see? I can for anybody, but—

H. Yeah, but he is your appointee which is a little different. Although any Special Prosecutor is your appointee.

P. Yeah. It is a little different if he is outside. This Wright from Texas is the guy I sort of lean to. You know, the Dean of the Texas Law School.

H. Well, I don't know. Did Dick have any reading on timing on indictments?

P. No.

H. Because that is—

P. He thinks a lot of the stuff may leak with Magruder running around, and—Strachan told an interesting thing to Ehrlichman on Magruder which makes the point that I am—two weeks ago Magruder talked to Strachan, and tried to get Strachan to concoct with him the story that he, Strachan, did walk across the street with Magruder and tell Magruder to go forward with the operation.

H. Which Strachan claims isn't true apparently.

P. No. My point is, don't you see, the devastating thing this is to Magruder, to his credibility?

H. Yeah.

P. I said to John, "Why the hell is he trying to do this?" Because Magruder's defense is that he just doing it because of pressure from higher ups. You see the point?

H. Yep.

P. And Magruder—so I am not so sure that a hell of a lot of Magruder's staff, even on Mitchell, may be open to serious question. Serious question.

H. Ok. But yeah, on some things I think that is true.

P. Some things, I think Mitchell is still in it.

H. But I don't see how you—

P. But I mean, anything Magruder says about you, for example, if he does, you know what I mean. I think, Bob, your analysis of Magruder once that he is a guy that doesn't know the truth, is really true.

H. I really believe that—

P. And I think now he has lied so much is he going to lie again and work with his attorneys and get himself separated from all this thing, etc. I think Strachan will be a damn believable witness when he goes down there. I really feel he will be.

H. He will if he stays to the truth.

P. If he just tells the truth.

H. If he doesn't try to tangle things up at all.

P. Right. Hmm—Magruder was telling Strachan, "Look this should be the story that I would like to tell—"

H. It is kind of ridiculous. Why would Strachan agree to that?

P. Oh, he—it would implicate Strachan, but he is at the same level, too, see, so it wouldn't hurt him. The point of that would be simply—and he said Magruder told him about his family and his concerns and all that, made a great plea about how his personal problems were so serious. And he said, "Please, now, let's go along on this story."

H. Yeah.

P. That is interesting.

H. Well Magruder was bouncing around in desperation, telling all different kinds of stories to different people.

P. That's right. Remember you told me that—

H. Trying to tie something together and I think what happened is he ran that string out and finally just gave up because that wouldn't work and decided to tell the truth, but in the process he probably doesn't know what the truth is. He has made up so many different stories. I can understand that. It is hard for me to remember what's true, having just heard all of these other people's stories. It is difficult to sort the stuff out. If you start lying yourself—

P. Bill may have a point there. I have sort of had this, and I don't think Ehrlichman and particularly Moore didn't agree with it, that—look, if they get a hell of a big fish, that is going to take a lot of the fire out of this thing on the cover up and all that sort. If they get the President's former law partner and Attorney General, you know. Do you agree or not? Am I—

H. Yeah. What I feel is people want something to be done to explain what to them is now a phony looking thing. This will explain it.

P. Explain that they did it, and then of course the cover up comes in and they did that too.

H. And it all makes sense, it is logical, believable, because it's true.

P. Right.

H. And there it is—I can't—it seems to me that there is at least a strong possibility, if not probability or certainly, that public reaction is going to be. Well, thank God that is settled; now let's get away from it. Rather than the reaction of, "Ho, ho, ho, here is something pretty bad; let's spend a lot more time looking into it."

P. That's right. Well—

H. I think people want solutions; they don't want ongoing problems.

P. You know some of that so-called people-polling, and polling. Don't they say that Watergate, didn't you say that Gallup or, well, that it's a concern, it worries them, etc.—considered it a caper, and they want the damn thing explained.

H. That's right. They want it explained and they want to get off of it. There isn't—

P. Kleindienst also comes in with the idea that sometime I've got to go out and make a Checker's Speech at 9:00 o'clock at night. I told him, "Now, Dick, I am not going to do that."

H. Oh, I think that would be crazy. I sure do.

P. I said, "Now, Dick, I am not going to—I am not going to elevate it that way. If its going to be elevated, let the press elevate it. I will go out and say it before the press, in the press room, you know."

H. Yeah. Unless there is—there is nothing now that indicates doing that.

P But when (it comes out), I am going to have to say its rough, but that shows that our judicial system is—we, you know The Special Prosecutor thing helps in another way. It gets one person between me and the whole thing. You see, the Dean report now has been totally discredited and, you see.

H. Yep. That's right, and I think that is a darn good route for it, especially if it can be done I hadn't thought about it, or understood it at the level you are now talking about, and that would seem to me exactly what you are after.

P. Not somebody to presecute Mitchell. I won't have that.

H. That is the other problem. What do you say when they indict Mitchell, and Mitchell doesn't plead guilty? You obviously can't say, I'm sorry,

P. Oh well, we will just say that I will not comment on the case. I'm—let's have the men work up a statement.

H. I won't comment and I have full confidence in the American judicial process.

P. In the process and I—

H. hope it will bring the guilty parties to account and clear the innocent parties

P. He has pled innocent and I think he should have every opportunity to—(I don't know whether I can say I am confident in his innocence)—that will be the key question.

H. That is just what I was going to say. You cannot—

P. It is not proper for me to comment on that because there has been an indictment. It is not proper for me to comment, except that he is a fine man, he is entitled to it. I think we should not judge this case until it has been heard in the judicial process.

H. You don't want to get into the position that Hiss' character witnesses got in.

P. I can't do it. I know.

H. What you can do is express your faith in the system. You know there is a lot to be gained from this if the damn system comes out right.

P. That's right.

H. In restoring people's faith in the system, rather than in this jackass kangaroo court.

P. Yeah. Ok. Incidentally, I wondered if you would talk to John Ehrlichman. I will get him but when you talk to him—

H. I will be talking to him.

P. Be sure to tell him that I think that the way I hear Bill's thing spelled out, that I think it makes a hell of a lot of sense. Ok?

H. Yes, Sir.

P. Alright.

H. Alright.

Appendix 24. Telephone conversation: The President and Kleindienst, April 15, 1973. (3:48–3:49 p.m.)

Oper. Yes, please.

P. Attorney General Kleindienst, please.

Oper. Yes.

P. Hello.

K. Mr. President?

P. Hi, Dick.

K. May I bring Henry Peterson with me?

P. Yeah. I want to ask him to do something.

K. I'll be over there in a couple of minutes. Alright sir.

Appendix 25. Telephone conversation: Higby and Haldeman, April 15, 1973.

P. For Mr. Haldeman?

Opr. Yes.

Opr. Mr. Haldeman, Mr. Higby wants you.

LH. Hello, Bob.

H. Yeah.

LH. John Dean just called me. He had a message he wanted to relay to the President through you. He would not speak directly to you.

H. Alright.

LH. (1) I hope you understand my actions are motivated totally out of loyalty to you, the President.

H. Wait a minute.

LH. totally out of loyalty to you and the President.

H. Yep.

LH. And if it's not clear now—

H. Uh, huh.

LH. it will become clear.

H. Wait a minute.

LH. (2) Ehrlichman requested to meet tonight—

H. Yeah.

LH. but I feel inappropriate at this time.

H. Just a minute. Ok.

LH. I am ready and willing to meet with you, meaning the President, at any time to discuss these matters.

H. Just a minute.

LH. (3) I think you, meaning the President, should take your counsel from Henry Peterson who I assure you does not want the Presidency hurt.

H. Hmph.

LH. That was the end of his message. He was calling you from his home, the operator said.

H. From his home?

LH. That's what the operator said.

H. How long ago was that? Just now?

LH. Yes, sir.

H. Ok. Thank you very much.

LH. Yes sir.

Appendix 26. Telephone conversation: The President and Petersen, April 15, 1973. (8:14—8:18 p.m.)

Opr. Yes sir.

P. The Assistant Attorney General, Mr. Petersen, please—he is probably at home.

Opr. Yes sir.

P. Hello.

HP. Mr. President.

P. Did you get on your boat?

HP. No, no, no—I just came on home.

P. Oh you did. Right. Anything further you want to report tonight before our meeting tomorrow at 12:30?

HP. Not anything that specially, that I didn't give you today.

P. Nothing that adds to what we had earlier, huh?

HP. That's right—they concluded the meeting with Dean. His counsel says he will not permit him to plead; that a—

P. Permit him to plead? What do you mean by that?

HP. To plead guilty. In other words, he will go to trial.

P. He is going to plead not guilty, huh?

HP. That's right, unless we come to some agreement with him. His counsel's position is that it would be a travesty to try Dean and not try Ehrlichman and Haldeman.

P. Uh, huh.

HP. That is the basic information to the extent that it developed in these preliminary negotiations isn't much more than I gave you.

P. Well, let me ask you this. Based on this, though, you mean that inhibits you from using the information then, or do you use it, or how do you do it, or do you use it for leads, but you can't use it unless he pleads? right?

HP. We cannot use it for any purpose unless he pleads.

P. For no purpose?

HP. That's right. That's incorrect, unless we strike some agreement with him.

P. Hmp.

HP. He had a call from Ehrlichman—Ehrlichman wanted to meet with him tonight.

P. I see.

HP. About eight o'clock. We advised him he would have to make his own determination but suggested that he not.

P. I see.

HP. He, then, through his counsel informed us that he was writing a note to you in which he would say (1) that what he was doing was in your best interests and that that would all become apparent as this situation unfolded.

P. Right. Let me ask you this—why don't I get him in now if I can find him and have a talk with him?

HP. I don't see any objection to that, Mr. President.

P. Is that alright with you?

HP. Yes sir.

P. Alright—I am going to get him over cause I am not going to screw around with this thing. As I told you.

HP. Alright.

P. But I want to be sure you understand, that you know we are going to get to the bottom of this thing.

HP. I think the thing that—

P. What do you want me to say to him? Ask him to tell me the whole truth?

HP. Yes, sir. And there is one other thing: that is a signal from you might bring out the truth from Liddy.

P. From Liddy?

HP. Yes sir.

P. A signal from me? What do I do?

HP. He went to John Mitchell, I am told, and indicated that he would do whatever he was told to do.

P. I never met the man. I don't know what I can do with him.

HP. Uh, huh.

P. How do I give him the signal?

HP. Well, I will do it for you.

P. He, Liddy has talked to John Mitchell and said a signal from the President?

HP. No, he said a signal from Mitchell.

P. From Mitchell?

HP. Yes, sir, and so indicated that he was going to stand firm.

P. Then, what I am trying to get at, how do I get—I then would go over Mitchell to you, Liddy and you're telling me that?

HP. No. We just go and say that we have discussed this situation with the President of the United States and he thinks it is vitally important that you tell us everything you know.

P. I get it. Uh huh. OK. Now you will be through with your things you think by 12:30. Right?

HP. Yes, sir.

P. OK. Well, get a good night's sleep, huh?

HP. I will, indeed.

P. As good as you can.

HP. Yes, sir.

P. Ok.

HP. And you too.

P. Fine.

HP. Good night, Sir.

Appendix 27. Telephone conversation: The President and Petersen, April 15, 1973. (8:25–8:26 p.m.)

P. Hello.

Opr. I have Mr. Petersen.

P. Hello.

HP. Yes, sir, Mr. President.

P. I am trying to reach Dean—I think I may be able to get him, I hope. He seems to be in transit from someplace to someplace. But I will report to you after I see him.

HP. Very good.

P. In the meantime, on Liddy—I don't know the man, of course, and have no control over him, but, hell, you are to tell him the President wants everybody involved in this to tell everything they know. Ok?

HP. Indeed so. I will get in touch with his lawyer first thing in the morning.

P. You might do it tonight.

HP. Very good.

P. I don't want to stall around, Ok?

HP. Very good.

P. Don't you think that is the best thing to do?

HP. Indeed so.

P. Fine. One thing I want to be sure of Henry; you understand as far as Liddy is concerned I have no control over him—don't know the man at all and I just want, since he has raised the question, that maybe not talking because of me—

HP. No, no—I don't want to leave that impression.

P. Because of Mitchell, huh?

HP. He is taking orders from higher authority. The decision is mine but since you are the highest authority he will stand in line if we handle it discreetly.

P. I just want him to be sure to understand that as far as the President is concerned everybody in this case is to talk and to tell the truth. You are to tell everybody, and you don't even have to call me on that with anybody. You just say those are your orders.

HP. Yes, sir.

P. Ok.

HP. Alright, thank you, sir.

Appendix 28. Telephone conversation: The President and Peterson, April 15, 1973. (9:39–9:41 p.m.)

Opr. Yes, sir.

P. Mr. Peterson, please, you know, of the Justice Department.

Opr. Yes.

P. Hello.

HP. Mr. President.

P. Henry I have been—I talked to John Dean and haven't quite finished, but he stepped out for a minute. I wanted to ask you this. He says that he thinks it is important that I tell Liddy's attorney—I don't know who he is—by the name of Maroulis do you know him, that what I told you a few minutes ago.

HP. Yes—I have already been trying to get in touch with him.

P. Let me say this. You tell him, if necessary, you haul him in here and I will tell him. Ok?

HP. Alright. Indeed so.

P. You know what I mean. You tell him I have called you directly tonight and that you have it direct from the President if he needs it from me, I will tell him.

HP. Very good.

P. Because you see, John felt that maybe he wouldn't take it from you. But I would think he would—or what do you think? What is your judgment?

HP. Well, we certainly will tell him. He and Liddy are very close friends and I am certain the word would get back to him.

P. Right. Ok you tell Moroulis that the President has directed that you are to talk to him and tell him he is to tell everything he knows. He should have before but my point is, if necessary, if he has to come in to see me—but you come with him. I don't want any things where he comes in and makes any motions—you see what I mean?

HP. I understand.

P. Does this sound like good medicine to you or do you think I should not see him?

HP. I think we ought to reach that question after we see what the reaction is.

P. Right. I would prefer if you could handle it because it ought to be handled at your level rather than having me bring some attorney in and give him an order.

HP. I agree.

P. So you do it on my direction. I think that will do the trick. If it doesn't I will see him myself.

HP. Very well.

Appendix 29. Telephone conversation: The President and Peterson, April 15, 1973. 11:45–11:53 p.m.)

Opr. Yes, please.

P. Would you get me Mr. Henry Petersen of the Justice Department—Assistant Attorney General.

Opr. I certainly will sir, right. Thank you.

P. Hello.

HP. Yes, sir.

P. I hope I didn't wake you up.

HP. No, not at all.

P. I wanted to tell you first, I have—apparently I've got the President of the Rotary International at noon tomorrow. Could you make it 1:30?

HP. Yes, sir.

P. That won't interfere with your lunch or anything?

HP. No.

P. Fine. Second, I have met with Dean. I got him in finally and heard his story and I said directly to him, "Now when do you want to resign?" And, he said, "Well I will resign but I would prefer to wait until I have testified." Now I want to ask your judgment on that. I can bring him in in the morning and tell him, "Look, I want your resignation."

P. But, what do you want me to do? I don't want to interfere with your process?

HP. Mr. President, I don't think that we ought to—

P. Tip our hand?

HP. Not yet. He is the first one who has really come in.

P. Oh, I see.

HP. He came in a week ago Sunday.

P. Right. Let me say this. The main thing Henry we must not have any question, now, on this, you know I am in charge of this thing. You are and I am. Above everything else and I am following it every inch of the way and I don't want any question, that's of the fact that I am a way ahead of the game. You know, I want to stay one step ahead of the curve. You know what I mean?

HP. I understand.

P. So—if you think on Dean——

HP. I think we ought to hold the line.

P. Alright and you will let me know.

HP. Yes, sir. I will indeed.

P. As soon as—then I will call him in and naturally he will have to resign.

HP. Yes, sir.

P. Now Haldeman and Ehrlichman—I have informed both of them of the charges that have been generally made and I have said that if they stand up, and I didn't have to say it. They said well, of course, we will, we don't want to be an embarrassment. They are good guys. But my feeling with both of them, and it is only a question, and we talked today of when—no, it is whether, also, but I think you've got to hear Strachan and I think you've got to hear Dean and then I suppose you would want to hear them or do you think we should move on them before? Or do you want to think of that overnight?

HP. We would like to wait. We would like to wait, Mr. President.

P. Because like today, you were suggesting that we call them all in and have them resign and I just wanted to be sure you didn't think I should do that because I am perfectly prepared to.

HP. That is really your judgment. I think ultimately that is going to have to be done.

P. Yeah. But your point is that as far as the case is concerned, you are telling me now that it is best to wait. Is that the point?

HP. On Dean, yes. And on Ehrlichman/Haldeman—I suppose until we hear their testimony, which is, well we want to put them off until we can fashion all the——

P. All the others.

HP. things into a pattern.

P. How soon would that be, for my own planning, about a week?

HP. I don't think it is going to be less than a week and I would say two weeks or more.

P. Oh, you think it might be two weeks?

HP. I would say so. Yes, sir.

P. It will take that long, huh?

HP. I am afraid so because——

P. Well, by that time, my view is that the damn thing will leak out and I—well, be that as it may, we'll see.

HP. That conceals it.

P. Why don't you and I talk about that tomorrow?

HP. We will.

P. And we will look over the Haldeman/Ehrlichman thing to see what the facts are and maybe you could give me a little sheet of paper on both as to what you feel their vulnerabilities are so that I—could you do that?

HP. I will try indeed. Yes, sir.

P. I mean just say, for these reasons, etc., and then I will be in a position to act on it.

HP. Very good.

P. You understand, there isn't going to be any problem, of course, not with Dean and neither Haldeman nor Ehrlichman. They are perfectly prepared to do whatever I say at a moment's notice because they put the office first. But the only thing I am concerned about is in the prosecution of a case like this, it may be that if you have them move it may have an effect on some of the others you are trying to get to testify. I don't know, but——

HP. That is certainly true with Dean.

P. Certainly true with Dean?

HP. Yes sir.

P. Uh, huh. He is in a mood to resign right now but I will see. I will check him tomorrow.

HP. Are you seeing——

P. Uh huh. And Haldeman/Ehrlichman, you say we'll talk about it tomorrow. Or do you want to think about it?

HP. I want to think about it some more, yes, sir, because we are going to have to weave all of the facts with respect to them into a pattern. It is not going to come out neat and clean——

P. And clear——

HP. with respect to either one of them.

P. Because, in both cases they have a—basically in both of their cases, as I look at the thing since it is basically the obstruction of justice case for the most part, with the possibility of Haldeman of knowledge, although that is questionable to believe. But you have to hear Strachan before you decide that.

HP. Yes, sir.

P. But that's a matter which is going to involve your hearing them too, what they know, I suppose, as well as hearing the others.

HP. Oh, I think that is right and I think with respect to the obstruction of justice thing is concerned, it is easy for me to see how they fell into that, if you like.

P. Yeah. Un, huh. Rather than being directly conspirators?

HP. That's right. That's right.

P. And there is a difference in that respect, I suppose.

HP. That's right. A difference, at least, in moral culpability.

P. Sure. Motive.

HP. In plain terms of ultimate embarrassment, I think that—

P. The embarrassment is there, but in terms—basically in terms of motive which might be the legal culpability, they might be off but in terms of embarrassment they would have to be out of the government?

H.P. Yes, sir.

P. I get your point and, frankly, either one is enough. I understand that totally because that was what was involved in the Adams' case, as you recall.

HP. Yes.

P. He was not legally guilty of a damn thing. Well, he might have been, might have been, I suppose, making the telephone call, if they had ever brought him to trial. But because of the possibility, we had to move on him. Well in any event, I am glad to get your view on it but I want you to know that having talked to Dean and told him to wait, I wanted you to know that I had told him to wait because I had agreed with him that I would not do it until I heard from him, but let me say I am going to wait until I hear from you then, on Dean. Is that fair enough?

HP. Fine, yes, sir.

P. And you will probably hear him Monday or Tuesday, tomorrow—well, you don't know yet.

HP. We don't know yet. Now, it's not going to be that quick. We have Strachan, LaRue and O'Brien—

P. Tomorrow?

HP. Tomorrow. Let's say Monday and Tuesday.

P. Yep. Huh, huh. What about Magruder? You have to get him in there some place, don't you?

HP. We've had him in and we have to get his testimony in before the Grand Jury, and we are trying to work out with his lawyers as to whether or not—

P. Well, he will come in and plead guilty so you can. Because it seems to me, that your idea of getting him on and pleading guilty and beating the damn press and the Ervin Committee to it is a very good one. Otherwise, you know, they are going to say they forced you to do it. And that is very important, don't you agree?

HP. There are negotiations underway with counsel now and obviously they are very much afraid of Sirica. They are afraid Sirica is going to clapp him in jail immediately.

P. Oh.

HP. We have to see Sirica too.

P. Now, Sirica's got to see the point of this. My goodness because the point is Sirica's got to realize he is getting bigger fish.

HP. That's right.

P. Right?

HP. That is it exactly.

P. Alright. Good luck. Good by.

HP. Thank you for calling, Mr. President.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a period for the conduct of routine morning business, with a time limitation of 3 minutes attached thereto, the time not to go beyond the hour of 10 o'clock.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS UNTIL 9:55 A.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 9:55 a.m. today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

At 9:44 a.m. the Senate took a recess until 9:55 a.m., at which time it was called to order by the President pro tempore.

DEVELOPMENT OF OIL SHALE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 797, S. 3009.

The PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 3009) to provide that moneys due the States under the provisions of the Mineral Leasing Act of 1920, as amended, derived from the development of oil shale resources, may be used for purposes other than public roads and schools.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with amendments, on page 1, line 7, after the word "paid", to insert "on or after January 1, 1974,"; on page 2, line 1, after the word "for", to insert "(1)"; in line 2, after the word "planning", insert "(2)"; and, in the same line, after the amendment just stated, to strike out "construction" and insert "construction"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 35 of the Act of February 25, 1920 (41 Stat. 450), as amended (30 U.S.C. 191), is further amended by striking the period at the end of the proviso and inserting in lieu thereof the language as follows: ": *And provided further,* That all moneys paid on or after January 1, 1974, to any State from sales, bonuses, royalties, and rentals of public lands for the purpose of research in or development of shale oil may be used by such State and its subdivisions for (1) planning, (2) construction and maintenance of public facilities, and (3) provision of public services, as the legislature of the State may direct.".

Mr. DOMINICK. Mr. President, it is with great pleasure that I have joined my distinguished colleague, Senator HASKELL, in calling up for consideration S. 3009. This bill amends the Mineral Leasing Act of 1920 to provide that moneys due the States under the provisions of the act, where those funds are derived from the development of oil shale resources, may be used for purposes other than public roads and schools. At the present time these moneys can only be used by the States for roads and schools. This is an unworkable situation.

The State of Colorado, through its legislature, has passed and signed into law a bill that will change the thrust of Federal mineral leasing funds. The measure provides that the mineral leasing funds be put into a trust fund, to be appropriated by the legislature. The language of the State bill authorizes the money to be appropriated beyond spending on highways and schools. The bill before us today is required in order to change the way the money can be used for the State of Colorado.

The State of Colorado has long awaited the development of the vast oil shale deposits contained within the western slope. The development of the oil shale industry will have a tremendous impact upon Colorado and especially the western slope. This overwhelming impact calls for comprehensive planning in order to meet the problems that have surfaced already and those that will certainly come up in the future.

The greatest impact of the oil shale industry will be the people problem—urbanization. Where hundreds live now, thousands will be living shortly. Boom towns are an old story in the West but in this day and age the effects can be much more difficult to cope with, especially in the magnitude in which the problems will occur.

Another equally serious impact will be economic. This is due not only to the leasing of Federal oil shale lands but also because the Federal Government is the biggest land owner in Garfield, Mesa, and Rio Blanco Counties, owning 61 percent of all the lands in Garfield; 73 percent of all the lands in Mesa; and 73 percent of all the land in Rio Blanco County. Because the Federal Government does not pay real property taxes on its lands to the counties, the few existing taxpayers bear a heavy burden to provide the services and facilities financed by the local real property tax base. The counties' real property tax base could be called upon to supply increased facilities and services as a result of the leasing of Federal oil shale lands.

The Department of the Interior has offered two 5,000 acre tracts in Colorado for lease. These tracts have been leased to a combined total of six oil companies. These oil companies bid over $327 million for the development rights to these tracts. This money will go to the Federal and State governments as a bonus.

The State of Colorado will receive 37½ percent of the bonus bid moneys. The rest of the funds go to the Federal Government with 52½ percent earmarked for the Bureau of Reclamation and 10 percent credited to "miscellaneous receipts for the Department of Interior general fund.

Of the $327 million, the State of Colorado will receive at least $73.5 million. This money under the Mineral Leasing Act of 1920 could only be used for roads and schools. This bill, S. 3009, allows, as stated earlier, the State to use the funds for the broad range of services that will be required to meet the demand caused by growth in the area.

The thousands of new residents will call upon the local communties to provide the services that will be needed. Water and sewer treatment plants, health and emergency services, police and fire protection—all must be considered, planned, and funded.

Mr. President, by passing S. 3009 local governments in the affected area can begin using available funds to plan for and provide these services. The flexibility provided by S. 3009 must be implemented to allow this planning of public facilities and public services.

I urge the passage of this bill and call upon my colleagues in the Senate for their support.

Mr. HASKELL. Mr. President, the bill before us today, S. 3009, will provide that moneys due the States under the provisions of the Mineral Leasing Act of 1920 which are derived from the development of oil shale resources may be used to help the States plan for and cope with the impact of oil shale development.

The bill is absolutely crucial to the

future of those communities which are going to be hit the hardest by the impact of oil shale development.

Section 191 of the Mineral Leasing Act of 1920 limits the States to using their portion of the bonus bid moneys, "to be used by such State or subdivisions thereof for the construction and maintenance of public roads or for the support of public schools or other public educational institutions, as the legislature of the State may direct."

This provision hamstrings the State and makes it impossible to initiate the comprehensive planning for development which is so necessary if the "people impact" of oil shale development is to be handled wisely.

I originally introduced the bill on February 18, 1974, after conducting a 1-day hearing on the impact of oil shale development. The hearing was held in Grand Junction, Colo., and was the first hearing a subcommittee of the U.S. Senate has ever held in Grand Junction. The people who testified are vitally aware of both the promise and problems associated with oil shale. Over 25 people testified and the Grand Junction Civic Auditorium was filled from morning to evening with people who had come to listen and to speak about their plans and problems.

As I have said before I came away tremendously impressed with the willingness and the ability of local government to prepare for an oil shale boom—if we give them the necessary funds to do the job.

Those funds will be provided by S. 3009.

The Subcommittee on Minerals, Materials and Fuels, chaired by my colleague from Montana, Mr. METCALFE, held a hearing on S. 3009 and S. 3010. The latter bill would have provided that all revenues due the States from leasing of public lands under the Mineral Leasing Act would have been freed from the old constraints on use of the funds. The subcommittee decided that since the impact of shale development is imminent and of a great magnitude that passage of S. 3009 was an appropriate first step. The other bill is still pending before the Interior Committee.

The Colorado Legislature has already passed HB 1046 which will permit it to direct oil shale revenues to those areas of need resulting from the impact of proposed oil shale development. The State has been both active and far-sighted in making plans to live with the effects of the development.

Researchers at the University of Denver Research Institute have forecast that the development of a mature oil shale industry will add 160,000 people to the area in the next 15 years. The nonoil shale population will likely be around 147,600 for a total population of over 300,000. The magnitude of the potential effect can only be understood when one considers that the current population in the affected area is near 80,000 so the resulting increase will be 3½ times the current figure.

Several of my colleagues from the Western States have joined me in pushing for the legislation. The bill has been cosponsored by my colleague from Colorado, Senator DOMINICK, and by two of the senior members of the Committee on Interior and Insular Affairs, Senator FANNIN and Senator HANSEN. As the United States moves toward becoming energy self-sufficient all of the Western States will feel the crunch. Montana and Wyoming are rich in coal; Idaho and California both have a tremendous potential to supply geothermal energy; Colorado and Utah both have oil shale and natural gas deposits which will no doubt be tapped—the list goes on and on.

I am extremely pleased with the favorable response to this legislation. The Governor of Colorado, John Vanderhoof, challenged the Congress when he testified in Grand Junction by saying:

> But Congress does need to move and move rapidly to give us those tools that we can use to do the situation right for once.

The mayor of Grand Junction, Stanley Anderson, put the need succinctly:

> If, as has been suggested, the national energy crisis is the result of poor planning and miscalculation at the national level, where virtually unlimited funds have been available, how can we now expect or require that limited local resources are equal to the task of its solution? The single point of contention at the outset of impacted growth will be for the allocation of front end monies.

Mr. President, I feel pleased and honored that the Senate intends to act today on this legislation. It is the single most important piece of legislation for Colorado that I have been involved in since coming to the Senate.

I ask unanimous consent that excerpts from the report on legislation, No. 93–828, be printed at this point in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

EXCERPTS FROM REPORT NO. 93–828

[To accompany S. 3009]

The Committee on Interior and Insular Affairs, to which was referred the bill (S. 3009) to provide that moneys due the States under the provisions of the Mineral Leasing Act of 1920, as amended, derived from the development of oil shale resources, may be used for purposes other than public roads and schools. Having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

The amendments are as follows:

On page 1, line 7, insert "on or after January 1, 1974," between "paid" and "to".

On page 2, line 1, delete the comma after "construction" and insert "(1)" before "planning" and "(2)" before "construction".

On page 2, line 2, insert "(3)" before "provision".

I. PURPOSE

Section 35 of the Mineral Leasing Act of 1920 (30 U.S.C. 191) provides that 37½ percent of the revenues from mineral leasing are paid to the State in which the public lands involved are located. The law requires that the States use this money "for the instruction and maintenance of public roads or for the support of public schools or other public institutions, as the legislature of the State may direct."

S. 3009 would amend Section 35 with respect to revenues from oil shale leases. It would permit each State to use its share of oil shale revenues for "(1) planning, (2) construction and maintenance of public facilities, and (3) provision of public services."

II. NEED

The oil shale reserves in the Green River formation in Colorado, Utah, and Wyoming contain the equivalent of 600 billion barrels of oil—a quantity approximately equivalent to the entire known world reserves of oil. Others estimate the reserves may be as high as 1.8 trillion barrels, a total which would be 47 times the total U.S. reserves.

The vast majority of these deposits—approximately 80 percent—is on public lands.

This Nation has recently embarked on a program of leasing those public lands for the development of our shale resources. Through its prototype leasing program the Department of the Interior has offered two 5,000-acre tracts in Colorado and two 5,000-acre tracts in Utah. Two more tracts in Wyoming will be offered in May and June of this year.

If, as seems likely, there is a substantial oil shale boom, state and local governments will have to provide a wide range of community service to large numbers of new residents. Roads and schools are just part of such services.

Water and sewer treatment plants, health and emergency services, police and fire protection all must be considered, planned, and funded.

Once the Federal law is changed, and assuming a comparable change is made in State law, local governments in the affected area can immediately begin using available funds to plan and provide the entire range of services growth will demand.

The need to provide the necessary flexibility to State and local governments to use funds derived from sales, bonuses, royalties, and rentals of public lands for oil shale development is obvious. The local people will bear the impact of helping to meet national energy needs. S. 3009 will help provide the necessary planning and construction funds to help them.

III. EXPLANATION OF AMENDMENTS

The Committee amendments simply clarify the original intent of S. 3009 that it apply to all revenues received from oil shale leasing, including lease sales held in 1974 prior to enactment of S. 3009.

IV. COMMITTEE RECOMMENDATIONS

The Committee on Interior and Insular Affairs, in open Executive Session on May 2, 1974, unanimously recommended that S. 3009, as amended, be approved by the Senate.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

JOINT REFERRAL OF A PROSPECTUS

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the prospectus for a proposed vehicle compliance test facility, as required under the National

Traffic Motor Vehicle Act of 1966, as amended, which was referred to the Commerce Committee on February 19, 1974, be rereferred to the Committee on Commerce and the Committee on Public Works, jointly and simultaneously, as stipulated by that act.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CANNON, from the Committee on Rules and Administration; without amendment:

Senate Resolution 314. Resolution authorizing the printing of the committee print entitled "Freedom of Information Act Source Book" as a Senate document (Rept. No. 93–833).

By Mr. HASKELL, from the Committee on Interior and Insular Affairs, without amendment:

S. 2439. A bill to amend the Wild and Scenic Rivers Act of 1963 by designating a segment of the New River as a potential component of the national wild and scenic rivers system (Rept. No. 93–831).

Mr. HASKELL. Mr. President, today, on behalf of the Committee on Interior and Insular Affairs, I am filing the report on S. 2439, a bill to designate a segment of the New River in North Carolina and Virginia for study for possible inclusion in the national wild and scenic rivers system.

The wild and scenic rivers system is a national resource and the initial responsibility for husbanding and improving that resource is in the hands of the Interior Committee which has jurisdiction over the Wild and Scenic Rivers Act. Of course, we on the committee recognize that the decision on any particular river—whether, first, to study it, or, later, to designate it a wild and scenic river—is not only a national issue but a local and regional issue. Often, as in the case of the New River, the Senators from the region do not sit on the committee and, although they can testify during the hearings, they cannot participate in the committee's final deliberations on the proposed legislation. We, therefore, recognize that the most critical moment in the progress of wild and scenic legislation in the Senate may often occur when it is taken up on the floor. At this point, the affected Senators can more effectively present whatever alternative futures they may have for the river.

Nevertheless, I would like to emphasize that the Interior Committee, in unanimously reporting S. 2439, found the New River to be eminently worthy of study. The New clearly possesses, in abundance, attributes which we look for in designating a river for study.

My colleagues should be aware that an alternative use has been proposed for a portion of the segment of the New River proposed for study. Pending before the FPC for the last 9 years is a proposal by the Appalachian Power Co. for a combination conventional and pumped storage hydroelectric facility. The facility, requiring two impoundments, would, according to Appalachian, generate 385 million kilowatt-hours of electricity per year to be sold in Virginia and States to the west. The FPC administrative law judge has recommended licensing of the facility on three separate occasions, most recently on January 23, 1974.

Opposition to the facility, as expressed in testimony in the hearing on S. 2439, is based in part on the damage to the wild and scenic nature of the river. The impounded water would cover 40,000 acres of land, would eliminate 44 miles of the river and 212 miles of tributary creeks, would, at certain times, leave large stretches of mud flats, and would reduce much of the flora and fauna. Perhaps the most vehement opposition came from the people of the region whose families have lived there for generations. Estimates of the number of residents which would be displaced by the facility vary from 3,000 to 5,000. For 1973, the estimated value of the raw agricultural products from the North Carolina lands to be inundated amounts to $8.5 million.

In regard to this facility, I would like to reiterate a number of points made in the committee report:

The committee and I, in particular, share the concern expressed by the Secretary of the Interior in a letter to Senator Helms of April 4, 1974. In that letter, the Secretary urged enactment of S. 2439 and said:

> I share your belief that the development of adequate energy supplies is a critical national priority; but I believe as you do, that we must weigh carefully the environmental impacts of such development. I am not convinced at this time, without benefit of further study, that it would be in the interest of sound resource management to forego 40,000 acres of land and 70 miles of heretofore free-flowing river for the sake of pumped storage peaking capacity which exceeds projected demand.

The committee clearly does not regard itself competent to fully judge the adequacy of the Blue Ridge project. This, of course, is the responsibility of the Federal Power Commission. However, I do not hesitate to add that serious questions were raised concerning that facility. The Blue Ridge project was proposed nearly a decade ago, way before the recent energy crisis and the shifts in energy policy which that crisis has evoked. Is a pumped storage facility which consumes 3-kilowatt hours in pumping for every 2-kilowatt hours it generates now appropriate? Is a facility which has proposed a two-thirds reduction in its output within 20 years really essential in comparison to a river which can be preserved for the enjoyment of generations to come?

The project was also proposed prior to the enactment of the Wild and Scenic Rivers Act and its new national policy of preserving certain rivers in their free-flowing state. The committee may lack competence to judge a hydroelectric facility, but the FPC certainly has no competence to judge the potential of a river for wild and scenic river status. The FPC proved this in the case of the Blue Ridge project. For example, virtually no attention was given in the FPC impact statement for the Blue Ridge project to the recreational or historic benefits of a free-flowing river. Instead, the statement implied that the only recreational benefits to be found would be those contributed by the project. As the Environmental Protection Agency noted in its comments on the environmental impact statement:

> Even if mechanisms are fully implemented to mitigate the [other] possible detriments cited above, it can be effectively argued that the Blue Ridge project may still entail major adverse impacts on the environment in that it would eliminate a major environmental resource of marked scenic, and recreational and biological value, the upper New River, and replace it with a flatwater expanse having questionable biological productivity.
>
> The fundamental effect of a reservoir project is to replace a flowing stream with a flatwater expanse. Thus, a basic issue which must be addressed is the comparison of the relative scarcity and value of the two environmental resources, stream and reservoir.
>
> * * * * *
>
> Our appreciation of these trends leads us to believe that broad water expanses suitable for recreation will become progressively less scarce as time passes. On the other hand, high quality natural rivers of which we possess a limited number, are becoming relatively less abundant and more valuable. . . . We believe the possibility of preserving this outstanding river reach by developing alternative generating facilities and/or an alternative pumped storage site in and area where the destruction of natural values would be less significant merits serious further study.

In summary, Mr. President, the committee voted unanimously to recommend to the Senate that the approximately 70-mile segment of the New River be studied as a potential component of the wild and scenic rivers system. The committee and I, in particular, firmly believe that a maximum delay of 2 years to complete a study of the New River's potential as a wild and scenic river, after an already lengthy delay of 9 years to study the potential for a pumped storage hydroelectric facility on the river, is wise to insure that the best use of the river for this and succeeding generations is chosen.

I commend this legislation to my colleagues and express my hope for its early enactment.

By Mr. ABOUREZK, from the Committee on Interior and Insular Affairs, with amendments:

S. 1411. A bill to authorize the Sisseton and Wahpeton Sioux Tribe of the Lake Traverse Reservation to consolidate its landholdings in North Dakota and South Dakota, and for other purposes (Rept. No. 93–832).

By Mr. CHURCH, from the Committee on Interior and Insular Affairs, with amendments:

S. 634. A bill to declare that certain federally owned lands shall be held by the United States in trust for the Kootenai Tribe of Idaho, and for other purposes (Rept. No. 93–837).

By Mr. SPARKMAN, from the Committee on Foreign Relations, with an amendment:

Senate Resolution 74. Resolution expressing the sense of the Senate with respect to the submission of United States territorial disputes to the International Court of Justice (Rept. No. 93–842);

Senate Resolution 75. Resolution expressing the sense of the Senate with respect to the adjudication of disputes arising out of the interpretation or application of international agreements (Rept. No. 93–842); and

Senate Resolution 78. Resolution expressing the sense of the Senate with respect to access to the International Court of Justice (Rept. No. 93–842).

By Mr. SPARKMAN, from the Committee on Foreign Relations, with amendments:

S. 2665. A bill to provide for increased participation by the United States in the International Development Association (Rept. No. 93-834); together with supplemental and additional views.

H.R. 12412. An act to amend the Foreign Assistance Act of 1961 to authorize an appropriation to provide disaster relief, rehabilitation, and reconstruction assistance to Pakistan, Nicaragua, and the Sahelian nations of Africa (Rept. No. 93-835);

H.R. 12799. An act to amend the Arms Control and Disarmament Act, as amended, in order to extend the authorization for appropriations, and for other purposes (Rept. No. 93-836).

Senate Resolution 76. Resolution expressing the sense of the Senate with respect to establishing regional courts within the International Court of Justice, increasing the categories of parties which may request advisory opinions from the International Court of Justice, selecting judges of the International Court of Justice, and having the International Court of Justice consider cases outside The Hague (Rept. No. 93-842); and

Senate Resolution 77. Resolution expressing the sense of the Senate with respect to the jurisdiction of the International Court of Justice (Rept. No. 93-842).

By Mr. SPARKMAN, from the Committee on Foreign Relations:

S. 3473. An original bill to authorize appropriations for the Department of State and the U.S. Information Agency, and for other purposes (Rept. No. 93-838), together with supplemental views.

By Mr. HARRY F. BYRD, JR., from the Committee on Armed Services, without amendment:

H.R. 3418. An act to amend section 505 of title 10, United States Code, to establish uniform original enlistment qualifications for male and female persons (Rept. No. 93-839).

By Mr. HARRY F. BYRD, JR., from the Committee on Armed Services, with amendments:

H.R. 5621. An act to amend title 10, United States Code, to provide for the presentation of a flag of the United States for deceased members of the Ready Reserve (Rept. No. 93-840); and

H.R. 12670. An act to amend section 301 of title 37, United State Code, relating to incentive pay, to attract and retain volunteers for aviation crew member duties, and for other purposes (Rept. No. 93-841).

By Mr. HARTKE, from the Committee on Veterans' Affairs, without amendment:

S. 3398. A bill to amend title 38, United States Code to provide a 10-year delimiting period for the pursuit of educational programs by veterans, wives, and widows (Rept. No. 93-843).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced or reported, read the first time and, by unanimous consent, the second time, and referred or placed on the calendar, as indicated:

By Mr. DOMINICK:

S. 3460. A bill to amend the Internal Revenue Code of 1954 with respect to certain charitable contributions. Referred to the Committee on Finance.

By Mr. EASTLAND:

S. 3461. A bill for the relief of Kwan Do Sun. Referred to the Committee on the Judiciary.

By Mr. WEICKER:

S. 3462. A bill to provide for the establishment of a national cemetery in Connecticut or in Standard Federal Region 1. Referred to the Committee on Veterans' Affairs.

By Mr. PASTORE (for himself and Mr. Huddleston):

S. 3463. A bill to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement of section 315 with respect to candidates for President and Vice President. Referred to the Committee on Commerce.

By Mr. LONG:

S. 3464. A bill to amend the Internal Revenue Code of 1954 to allow a deduction from gross income for social agency, legal, and related expenses incurred in connection with the adoption of a child by the taxpayer. Referred to the Committee on Finance.

By Mr. DOLE:

S. 3465. A bill to amend the Consolidated Farmers Home Administration Act. Referred to the Committee on Agriculture and Forestry.

By Mr. INOUYE:

S. 3466. A bill to provide for the conveyance of the island of Kahoolawe to the State of Hawaii, and for other purposes. Referred to the Committee on Armed Services.

By Mr. DOMENICI (for himself, Mr. Bennett, and Mr. Moss):

S. 3467. A bill to amend the Mining and Minerals Policy Act of 1970, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. SPARKMAN (by request):

S. 3468. A bill to provide expanded support for scholarly, cultural and artistic exchange programs between Japan and the United States, and for other purposes. Referred to the Committee on Foreign Relations.

By Mr. PACKWOOD (for himself and Mr. Gravel):

S. 3469. A bill to amend the Internal Revenue Code of 1954 to provide for the adjustment of the individual income tax tables, the standard deduction, and the personal exemption deduction when necessary to reflect inflation. Referred to the Committee on Finance.

By Mr. BROCK:

S. 3470. A bill to amend the Interstate Commerce Act in order to promote consumer interests in transportation. Referred to the Committee on Commerce.

By Mr. STENNIS (for himself and Mr. Thurmond) (by request):

S. 3471. A bill to authorize certain construction at military installations and for other purposes. Referred to the Committee on Armed Services.

S. 3472. A bill to amend title 37, United States Code, to refine the procedures for adjustments in military compensation and for other purposes. Referred to the Committee on Armed Services.

By Mr. SPARKMAN, from the Committee on Foreign Relations:

S. 3473. A bill to authorize appropriations for the Department of State and the United States Information Agency, and for other purposes. Placed on the calendar.

By Mr. EAGLETON:

S. 3474. A bill to amend the District of Columbia Unemployment Compensation Act;

S. 3475. A bill to authorize in the District of Columbia a plan providing for the representation of defendants who are financially unable to obtain an adequate defense in criminal cases in the courts of the District of Columbia, and for other purposes;

S. 3476. A bill to amend section 1291 of the act of March 3, 1901, relating to marriage licenses in the District of Columbia;

S. 3477. A bill to amend the act of August 9, 1955, relating to school fare subsidy for transportation of schoolchildren within the District of Columbia; and

S. 3478. A bill to establish the District of Columbia Defender Service, and for other purposes. Referred to the Committee on the District of Columbia.

By Mr. MOSS:

S. 3479. A bill to authorize the Secretary of the Interior to cooperate with the States and political subdivisions thereof in the enforcement of State and local laws, rules, and regulations on certain lands administered by the Secretary of the Interior. Referred to the Committee on Interior and Insular Affairs.

By Mr. TUNNEY (for himself and Mr. Humphrey):

S. 3480. A bill to authorize a national summer youth sports program. Referred to the Committee on Labor and Public Welfare.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMINICK:

S. 3460. A bill to amend the Internal Revenue Code of 1954 with respect to certain charitable contributions. Referred to the Committee on Finance.

Mr. DOMINICK. Mr. President, on April 4, 1974, I introduced S. 3312, with eight of my colleagues as cosponsors, to provide certain homes for the aged—now classified as private foundations—the same privileged tax status extended to hospitals.

I introduced that bill to mitigate the effects of the Tax Reform Act of 1969, which was responsible for the siphoning off of the top 4 percent of investment income of these homes for the aged, as well as requiring that 4 percent of their assets be disbursed each year. I pointed out at that time that these provisions were forcing the homes to dip into their capital in order to avoid the penalties contained in the Internal Revenue Code, and were leading to the eventual depletion of some of our country's older charitable organizations which have had the misfortune to be included under the definition of "private foundation."

The bill which I am today introducing is an amended version of S. 3312. The Department of the Treasury had raised objections to certain of the technical provisions of S. 3312, but it is my understanding that the bill I am introducing today is acceptable to the Treasury Department.

Mr. President, next week, the Foundations Subcommittee of the Senate Committee on Finance will hold hearings, and Mr. Karl Ross, president of the Myron Stratton Home for the Aged in Colorado Springs, Colo., will present testimony before the subcommittee on the need for the provisions contained in this bill. I am confident that the Finance Committee will be sympathetic to the plight of the Myron Stratton Home, and the many homes across the country in identical straits, and will act promptly to bring this bill before the Senate for passage.

Mr. President, due to the press of time, I have not had the opportunity to contact the original cosponsors of S. 3312—Senators Bayh, Bentsen, Buckley, Dole, Stennis, Taft, Tower, and Tunney—but I welcome their support on this legislation, and I ask that Senator Cranston be added as a cosponsor to S. 3312, and I am hopeful they will again join me in sponsoring this badly needed legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. WEICKER:

S. 3462. A bill to provide for the establishment of a national cemetery in Connecticut or in Standard Federal Region 1. Referred to the Committee on Veterans' Affairs.

Mr. WEICKER. Mr. President, today I am introducing a bill directing the Administrator of the Veterans' Administration to establish a national cemetery in Connecticut or in the New England area.

In a recent comprehensive study of the national cemetery system by Veteran's Administration, pursuant to Public Law 93–43, the inadequacies in present system is clearly evident. At present, there exist no available grave sites in Standard Federal Region 1, which includes Connecticut, Vermont, New Hampshire, Maine, Massachusetts, and Rhode Island. In fact, there is only one national cemetery in the entire region—Togus, Maine—and it has long since been closed out.

According to the study, nationally there are about 29 million veterans eligible for future burial benefits. To effectively meet this demand, an expansion in the present system is essential. To exemplify this point, I would like to refer to some provoking statistics formulated by the Veterans' Administration. In region 1, it is projected that over 800,000 veterans will die by the year 2000. Projected veterans' deaths in my own State of Connecticut have been estimated at over 220,000 during that same time period. In 1975 alone, 5,800 veterans will die in Connecticut and there will be no available national cemetery plots to provide interment for our veterans. Furthermore, the National Center for Health Statistics and Cremation estimate that only 4.3 percent of funeral rites in the Northeast involve cremation.

A close analysis of the detailed State-by-State projections of veteran deaths, compiled by the Veterans' Administration will provide a clearer understanding of the scope of the demand in both Connecticut and New England.

PROJECTED DEATHS OF VETERANS, BY STATE, FISCAL YEARS 1975–2000

Region and State	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988
Region I	22, 085	22, 925	23, 825	24, 256	25, 142	26, 027	27, 326	28, 801	29, 529	30, 401	31, 255	32, 091	32, 383	32, 230
Connecticut	5, 892	6, 166	6, 356	6, 599	6, 840	7, 080	7, 434	7, 835	8, 149	8, 390	8, 632	8, 857	8, 937	8, 987
New Hampshire	1, 383	1, 436	1, 492	1, 553	1, 610	1, 667	1, 750	1, 844	1, 935	1, 992	2, 029	2, 103	2, 122	2, 154
Maine	1, 801	1, 869	1, 942	1, 982	2, 055	2, 127	2, 233	2, 354	2, 431	2, 503	2, 575	2, 642	2, 666	2, 697
Massachusetts	10, 621	11, 025	11, 458	11, 517	11, 938	12, 358	12, 974	13, 675	13, 855	14, 264	14, 674	15, 057	15, 194	14, 963
Rhode Island	1, 605	1, 666	1, 732	1, 725	1, 787	1, 850	1, 943	2, 048	2, 059	2, 120	2, 180	2, 237	2, 258	2, 211
Vermont	783	813	845	880	912	945	992	1, 045	1, 100	1, 132	1, 165	1, 195	1, 206	1, 228

Region and State	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	Total
Region I	32, 345	32, 458	33, 522	34, 612	35, 438	36, 174	36, 572	36, 969	37, 253	37, 175	37, 789	38, 293	816, 876
Connecticut	9, 019	9, 051	9, 344	9, 648	10, 000	10, 208	10, 320	10, 432	10, 512	10, 574	10, 748	10, 892	226, 852
New Hampshire	2, 162	2, 169	2, 219	2, 291	2, 375	2, 424	2, 451	2, 478	2, 497	2, 527	2, 569	2, 603	53, 835
Maine	2, 707	2, 716	2, 803	2, 894	3, 000	3, 062	3, 096	3, 130	3, 154	3, 192	3, 245	3, 288	68, 164
Massachusetts	15, 006	15, 059	15, 593	16, 100	16, 313	16, 652	16, 835	17, 017	17, 148	16, 958	17, 238	17, 468	380, 950
Rhode Island	2, 218	2, 226	2, 278	2, 352	2, 375	2, 424	2, 451	2, 478	2, 497	2, 394	2, 434	2, 466	56, 014
Vermont	1, 233	1, 237	1, 285	1, 327	1, 375	1, 404	1, 419	1, 434	1, 445	1, 530	1, 555	1, 576	31, 061

This disgraceful deficiency comes at a time when burial and funeral costs continue to escalate. Klein and Saks, management consultants, estimate the average cost for a funeral and burial in the Northeast is $2,258. This legislation will help to defray these costs.

In response to this extreme shortage of cemeteries, the Veterans Administration has recommended the establishment of a national cemetery in each of the 10 standard Federal regions. This proposal simply directs the Administrator of the Veterans Administration to give priority consideration to the State of Connecticut in establishing a national cemetery in the New England area.

Since the beginning of our national cemetery policy in the Civil War, we have properly accorded honor, dignity and recognition to our deceased veterans. This vitally needed measure would carry forth this longstanding policy commemorating these individuals and families who faithfully served this Nation.

Furthermore, Mr. President, I am pleased to announce the endorsement of this legislation by the national organization of Veterans of Foreign Wars and the Connecticut chapters of the American Legion and VFW. I ask unanimous consent that the letters and telegrams of support from these organizations be printed in the RECORD.

Mr. President, I ask unanimous consent that certain telegrams and letters, and the full text of the bill be printed in the RECORD.

There being no objection, the bill and letters were ordered to be printed in the RECORD, as follows:

S. 3462

A bill to provide for the establishment of a national cemetery in Connecticut or in Standard Federal Region 1

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of Veterans' Affairs is authorized and directed to (1) establish a national cemetery in the State of Connecticut or in Standard Federal Region 1 as designated by the National Cemetery system study submitted by the Veterans' Administration pursuant to Public Law 93-43 at such location as he determines most appropriate, and (2) with the approval of the appropriate local officials of the site selected, acquire by donation, purchase, condemnation, or otherwise, such land as may be required for the establishment of such cemetery.

SEC. 2. The Administrator of Veterans' Affairs is authorized and directed to provide for the care and maintenance of the national cemetery established under authority of this Act.

SEC. 3. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

VETERANS OF FOREIGN WARS
OF THE UNITED STATES,
Washington, D.C., May 3, 1974.

Hon. LOWELL P. WEICKER, Jr.,
U.S. Senate,
Washington, D.C.

MY DEAR SENATOR: A Priority Legislative Goal of the Veterans of Foreign Wars for a number of years has been the establishment of at least one national cemetery in every State.

It is most regrettable that there is no national cemetery in any one of the six New England States. Accordingly, the Veterans of Foreign Wars is extremely pleased that you intend to introduce legislation calling for the establishment of a national cemetery in one of the New England States.

You may rest assured that the Veterans of Foreign Wars will be extending its fullest support to your bill, with the goal of having your bill favorably considered and approved by the Veterans' Committee and the full Senate. You have the highest commendation of the Veterans of Foreign Wars for introducing this most important and meritorious bill.

With best wishes for continued success as an outstanding member of the United States Congress and with kind personal regards, I am.

Sincerely,

FRANCIS W. STOVER,
Director, National Legislative Service.

TELEGRAM

Hon. LOWELL P. WEICKER Jr.,
New Senate Office Building,
Washington, D.C.

Thirty-two overseas war veterans who are members of VFW in Connecticut applaud you for your decision to introduce legislation to establish a national veterans cemetery in Connecticut if possible or at least in regional area one. This organization wholeheartedly supports your efforts and would request all others interested in the welfare of "he who was borne in the brunt of battle" to give you the same support.

MICHAEL J. SCRICCA,
State Commander, Department of Connecticut Veterans of Foreign Wars of the United States.

TELEGRAM

U.S. SENATOR LOWELL WEICKER,
Washington, D.C.:

Wholeheartedly support your proposed legislation calling for the establishment of a national cemetery in Connecticut.

Deputy Colegislative Chairman John Roberto of Norwalk, Edward Lynch of Waterbury concur with the deputy commander of the American Legion of Connecticut William Mager.

By Mr. PASTORE (for himself and Mr. HUDDLESTON):

S. 3463. A bill to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement of section 315 with respect to candidates for President and Vice President. Referred to the Committee on Commerce.

Mr. PASTORE. Mr. President, the legislation I and Senator HUDDLESTON are introducing today would repeal the equal opportunities requirement of section 315 of the Communications Act insofar as it applies to legally qualified candidates for the offices of President and Vice President in the general election campaign.

Mr. President, in 1976 there will be no incumbent for the office of the Presidency, so many of the arguments that have been urged to defeat this measure in the past will not be applicable.

The networks have again offered substantial amounts of expensive air time free to the major candidates if they are relieved of the requirements of section 315.

Last year the Senate rejected this provision when I offered it as an amendment to the campaign reform legislation (S. 372). It was defeated by a vote of 50 to 43, and I believed then and still do that many of those who voted against it were taken by surprise and did not have time to reflect on what has been a fact of life up until now. Namely, the House has not accepted a repeal of section 315 when it goes beyond the offices of President and Vice President.

Whatever the merits of a broader repeal, and we believe there are many, if we want to reduce the cost of the 1976 Presidential campaign substantially, I believe the Congress should act in this one area which we know from past experience is acceptable to both Houses of Congress.

After all, Mr. President, it is the Presidential election which attracts a large number of candidates. This is the section which inhibits broadcasters from giving free time to the candidates.

I therefore urge the Senate to enact this legislation promptly.

By Mr. LONG:

S. 3464. A bill to amend the Internal Revenue Code of 1954 to allow a deduction from gross income for social agency, legal, and related expenses incurred in connection with the adoption of a child by the taxpayer. Referred to the Committee on Finance.

THE DEDUCTION OF ADOPTION EXPENSES ON TAX RETURNS

Mr. LONG. Mr. President, our present Federal income tax law does not allow taxpayers a personal income tax deduction for expenses incurred in the adoption of a child. However, parents who give birth to a child usually have some type of medical insurance to help with this expense and also this expense can be deducted on tax returns. Today I am here, hopefully, to change this antiquated law by introducing legislation which would allow a deduction for this type of expense.

At the present time, there are approximately 190,000 children who are in public institutions and foster homes. This represents a financial drain on our society as these children must be supported through public funds or charity. My proposal would not only help to ease this financial burden on the taxpayer, but would make more homes available to these homeless children.

An adoption arranged through a private agency could cost as much as $1,000, and sometimes more, and $800 for an independent adoption. Even if adoption proceedings were conducted through a public agency, there would still be the cost of attorneys' fees which could run as high as $450 if not more.

Adoption expenses consist of legal fees, social agency costs—which may include medical care of the natural mother and infant, court costs, and the costs of making the necessary studies that go into seeing that a child is placed in the proper and most loving home.

There are a number of middle- and low-income families who want to adopt a child, but are unable to pay these high expenses. Therefore, it is up to us, the Congress, to try to help these families, as well as these orphans.

Now, most of us here are fathers and as fathers, I am sure we all agree there is nothing sadder than a child without parents or a home. These children cannot help their circumstances; and yet, these children need the love and devotion that only a parent can give them. So, I am asking you as a father and colleague to join with me in insuring the passage of this legislation.

Mr. President, I ask unanimous consent that the text of my bill on the deduction of adoption expenses on tax returns be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3464

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 219 as section 220 and by inserting after section 218 the following new section:

"SEC. 219. ADOPTION EXPENSES:

"(a) ALLOWANCE OF DEDUCTION—There shall be allowed as a deduction the amount of any adoption expenses (as defined in subsection (b) paid by the taxpayer during the taxable year.

"(b) DEFINITION—As used in this section, the term 'adoption expenses' means expenses which pertain to the legal adoption of a child by the taxpayer, and which are incurred in accordance with applicable State or Federal laws, including social or adoption agency fees, court costs, attorneys' fees, and other necessary costs and fees in connection with the adoption of the child.

"(c) EXPENSES OTHERWISE ALLOWABLE AS DEDUCTION—No amount which is allowable as a deduction under any other provision of this part shall be allowed as a deduction under this section."

(b) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking out

"Sec. 219. Cross references." and inserting in lieu thereof

"Sec. 219. Adoption expenses."

"Sec. 220. Cross references."

SEC. 2. The amendments made by this Act shall apply only with respect to taxable years beginning after December 31, 1972.

By Mr. DOLE:

S. 3465. A bill to amend the Consolidated Farmers Home Administration Act. Referred to the Committee on Agriculture and Forestry.

CERTIFICATION OF RURAL DEVELOPMENT PROJECTS

Mr. DOLE. Mr. President, the Rural Development Act, as passed by Congress in 1972, requires the Secretary of Labor to certify within 60 days that certain conditions have been met before the Department of Agriculture can give any financial or other assistance under the rural industrialization assistance section of the act. The effect of this provision has been to delay the approval of rural industrialization assistance projects for nearly 60 days. I believe it was a mistake to require this certification and offer this bill to repeal that provision.

CONDITIONS TO BE CONSIDERED

The conditions which the Secretary of Labor must certify are essentially twofold. First, no rural industrialization project under the act can result in the transfer of jobs or business activity from one area to another. Second, no project is to result in a surplus of products which will be detrimental to competitive enterprises in the area.

I am not quarreling with these conditions. But I am concerned about avoiding unnecessary delays in rural development. My colleagues who have been closely watching rural areas know that precious little has been done under the Rural Development Act. It is essential that we prevent further delay in getting assistance to the rural areas where it is needed.

CERTIFICATION SHOULD BE MADE

I believe that the conditions prescribed in the bill should be considered and my bill states that the Secretary of Agriculture will make an evaluation as specified in the act. I have made an informal check with the Department of Agriculture and the indications are that this can be accomplished. Hopefully, this procedure would be more rational than the present system. After all, the Department of Labor should not be expected to have a large number of offices in rural areas since the bulk of labor is concentrated in metropolitan areas. On the other hand, USDA has over 1,700 local offices in rural areas, and should be able to make this evaluation more effectively and quickly.

Congress mandated a wide range of improvements in the rural environment in 1972 and assistance is long overdue. I hope my colleagues will join me in supporting this measure to expedite assistance under the Rural Development Act.

By Mr. INOUYE:

S. 3466. A bill to provide for the conveyance of the island of Kahoolawe to the State of Hawaii, and for other purposes. Referred to the Committee on Armed Services.

Mr. INOUYE. Mr. President, Kahoolawe is the smallest island of the eight major Hawaiian islands. It is approximately 45 miles square and is located approximately 8 miles off the coast of the island of Maui.

Kahoolawe is also the site of an aerial bombing target and a shore bombardment area. In many respects it is similar to Culebra, which was the subject of Senate debate in previous sessions of Congress. In fact, as a result of the activities conducted by the Navy, Kahoolawe has the dubious distinction of being one of the most bombed islands in the Pacific.

While it is true that there are other areas within the territorial boundaries of the United States used for similar purposes, Kahoolawe is different from these locales. The State of Hawaii retains residual rights over Kahoolawe since it had formerly owned the island, subject only to "temporary" military exigencies enumerated in the Executive order reserving use of the island to the U.S. Government. Furthermore, Kahoolawe is located near populated areas on the island of Maui, and the people of Maui have long complained of the effects of aerial and shore bombardment. Finally, Kahoolawe was once usable for other purposes. It is now rapidly being destroyed and rendered unfit for human habitation. This erosion is an unforgivable waste of resources in a State where land is at a premium.

The Island of Kahoolawe is an integral part of the Hawaiian Archipelago and has always been considered so in the past. Unlike the other major islands, Kahoolawe is presently uninhabited. As a result of naval and air bombardment, the State of Hawaii is currently deprived of Kahoolawe's scenic resources and agricultural space.

However, Kahoolawe has uses other than as a target for aerial and naval bombardment. There still is potential for development as a resort area, with its beaches, valleys, cliffs, and ravines. It was previously used for ranching, and there is reason to believe that the island can again be used for this purpose with proper care. It has also been proposed that Kahoolawe be utilized as a site for a central thermonuclear powerplant and aqua cultural development. At least one company has expressed great interest in conducting a salvage operation on the island to recover casings and unexploded ordnance.

Mr. President, I am reviewing these facts at length in response to the often-made Navy allegation that the island is a "hell hole," unfit for any use except for target practice. It is true that it is becoming unfit for anything except bombardment unless we reverse Navy policies of neglect and destruction.

Kahoolawe was not always the victim of defense demands. Through most of our history as a territory, Kahoolawe was owned by the territorial government and leased to private parties for grazing. In 1919 and again in 1933, the territory leased most of the island to a private ranch. In 1940, the Navy obtained a sublease to the island. Then in 1952 the original lease was canceled by the territory. In 1953 the area that was not being used for a lighthouse, which was already Federal property, was taken by the United States under the controversial Presidential Executive Order 10436.

Under the terms of the Executive order, when the Navy decided that the area was no longer needed, the island would be rendered reasonably safe for human habitation without cost to Hawaii and returned to the latter's jurisdiction. Moreover, the Navy was to either eradicate all goats from the island or strictly control their number. Finally, the Navy was to permit the then territory to enter and inspect the island and take appropriate measures to conduct a program of soil conservation.

What has happened in the years since the Navy secured control of the island? Kahoolawe is rapidly deteriorating due to the Navy's bombardment and the stripping away the natural covering by wild goats. In an era of environmental concern, Kahoolawe stands as mute testimony to the failure of the Federal Government to practice what it preaches. Soon, between the animals and the Navy, Hawaii will be left with nothing except outcroppings of rock from the Pacific.

Kahoolawe was and remains an integral part of Hawaii. Under the terms of the Admission Act, all lands reserved to the United States remained Federal property. However, the Executive order reserved only use, and the order's drafters clearly foresaw eventual return to the State. Thus title remains vested in Hawaii, which has granted the Federal Government use of the island.

The people of Hawaii have shown remarkably good faith and tolerance for the Navy's activities. We have recognized the fact that security requirements can demand a sacrifice on our part. However, the limits of our tolerance have long been exceeded, and the Navy has failed to prove that our defense posture will be undermined by the cessation of the bombardment of Kahoolawe.

Aside from the actual physical ruin of Kahoolawe itself, which is proceeding apace, the bombing constitutes a serious danger to the people of Maui. In September 1969 unexploded ordnance was discovered buried in the pasture of the mayor of the county of Maui. After an investigation, the Navy determined that the bomb had been dropped in 1966 but was in no danger of detonating.

However, this has not been the only incident. Residents have often complained about the noise from aircraft utilizing Kahoolawe. Because the population of Maui is expanding and the use of Kahoolawe is very heavy, the odds of an accidental bombing of Maui are very high. In the interest of the safety and comfort of the citizens of Maui, the policies of the Navy must be reversed.

For several years I have been concerned about the dangers presented by the Navy's bombing of Kahoolawe. I have made several discreet inquiries with the Navy to reach an accommodation that would insure the safety of Hawaii's citizens while meeting any national security needs. Unfortunately, these efforts have been fruitless.

In a letter to me dated December 11, 1969, Rear Adm. D. C. Davis, commander, Hawaiian Sea Frontier, reached the following conclusions: First, he stated that the Navy has taken and will take all possible precautions to prevent undue harassment of the citizens of Maui because of the bombardment.

Second, he alleged that—

> The ravages of over a quarter of a century of air and surface bombardment have probably irrevocably eliminated the possibility of future safe, domestic use of the island.

He continued:

> This element has not been realistically faced in years past.

In his response to my inquiry, Admiral Davis added:

> The time has come to inform the local public that Kahoolawe should remain for the indefinite future an uninhabited monument to the requirements of our national security.

Admiral Davis should be commended for his frankness in stating that Navy utilization has rendered Kahoolawe barren and useless, but this candor was long overdue. I cannot believe that this discovery was suddenly made in 1969 only at my urging. Where was this candor during the previous 29 years of Navy use?

The Navy has claimed that there are no alternate sites available, but no one in the civilian sector really knows what efforts have been made to locate a less objectionable location. In fact the Navy already uses the uninhabited island of Kaula, which is farther away from population centers and which is totally useless for any future development.

Furthermore, Mr. President, what are the people of Hawaii to make of the Executive order which promised to return Kahoolawe to the State after it was no longer required and to provide conservation programs for the island? The Navy Department obviously is saying in effect that it may some day return this ravaged "uninhabited monument" after its renders it sterile, but there is no indication when, if ever, we can expect this action.

We hear much about the credibility gap, and it is precisely this kind of callous disregard for the safety of civilians that contributes to the growing alienation of civilians from the Armed Forces. Regrettably this is not the only instance or example of indifference which the Navy has exhibited toward the interests of the citizens of Hawaii. Prior to dropping its lease in 1970, it also insisted on using the South Kona bombing range, which lies adjacent to the fishing village of Milolii located on the Island of Hawaii. Even if we were to assume—which I am not—that Kahoolawe were absolutely necessary to the defense requirements of our country, the Navy should have consolidated its training by restricting aerial bombardment to Kahoolawe. However, it obstinately refused to take this sensible step.

Througout this entire episode, the Navy has been extremely evasive in facing its responsibilities to the people of Hawaii. Nothing has contributed more to the deteriorating confidence in the Navy than its stubbornness. Indeed, some of Hawaii's citizens feel that its response has been the "height of arrogance."

Therefore, I today reintroduce a bill that would require the Department of the Navy to convey the Island of Kahoolawe to the State of Hawaii by the end of the current calendar year. The bill also authorizes the expenditure of necessary funds in fiscal year 1975 to help clear the island surface of an estimated 10,000 tons of unexploded ordnance.

Mr. President, the people of Hawaii have been patient with the Navy's use of Kahoolawe for 34 years, but that patience has worn thin. I believe that we are entitled to a return of this land, which is so greatly limited in Hawaii, and to security in our homes. I strongly urge that Congress pass this bill as soon as possible.

By Mr. DOMENICI (for himself, Mr. BENNETT, and Mr. MOSS):

S. 3467. A bill to amend the Mining and Minerals Policy Act of 1970, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. DOMENICI. Mr. President, I rise today to introduce legislation to amend the Mining and Minerals Policy Act of 1970.

I believe that many of my colleagues will recall when the Mining and Minerals Policy Act was considered by the Senate and subsequently became Public Law 91–631. This legislation was first introduced in the Senate by a former Member of this body, Gordon Allott, and it had wide bipartisan support, in fact, many Senators present today cosponsored the measure. I believe that this act has fulfilled a basic need. That need being—to alert the Congress to the fact that development of domestic mineral resources is not keeping pace with domestic demand, with unfortunate effects upon the entire economy.

The Mining and Minerals Policy Act is a simple statement of policy which declares:

> The Congress declares that it is the continuing policy of the Federal Government in the National interest to foster and encourage private enterprise in (1) the development of economically sound and stable domestic mining, minerals, metal and mineral reclamation industries; (2) the orderly and economic development of domestic mineral resources, reserves, and reclamation of metals and minerals to help assure satisfaction of industrial, security and environmental needs; (3) mining, mineral, and metallurgical research, including the use and recycling of scrap to promote the wise and efficient use of our natural and reclaimable mineral resources; and (4) the study and development of methods for the disposal, control, and reclamation of mineral waste products, and the reclamation of mined land, so as to lessen any adverse impact of mineral extraction and processing upon the physical environment that may result from mining and mineral activities.

This statement of policy is a good beginning. However, it does not provide the means to bring about "the development of economically sound and stable domestic mining, minerals, metal, and mineral reclamation industries."

Mr. President, I would like to bring to the attention of the Senate the April 29, 1974, Comptroller General's report to the Congress concerning "U.S. Actions Needed To Cope With Commodity Shortages." On page 142, the report addresses policy planning requirements for energy and nonenergy minerals. This section begins by pointing out that policy planning in the minerals area are similar to those associated with agriculture. It states in part:

> Despite recent organizational and policy initiatives, neither area is currently approached with adequate institutional frameworks.

The Secretary of Interior's second annual report under the Mining and Minerals Act, points out the following problem:

> The U.S. Government information base for the conduct of its mineral responsibilities is grossly inadequate.

The solution which is recommended in the report is:

> Government organization must be improved and streamlined, and cooperative measures must be developed so that information available in the public and private sectors can be brought to bear properly upon questions of concern to all.

Mr. President, the bill which I introduce today will establish a council which will provide a single government organization as an information base so that data available in the public and private sectors can be brought to bear properly upon questions of concern to all.

The council will be responsible for coordinating the policy spelled out in the Mining and Minerals Policy Act so that the American people will have a clear understanding of where this Nation stands in the development of domestic mineral resources.

The bill establishes an organization to provide a factual basis for the formulation and implementation of laws. regulations, and policies on the mining industry.

Mr. President, many economists, exploration engineers, and geologists have stressed their concern with our dwindling resources over the past 20 years. Most of these expressions of concern have fallen on deaf ears, even though government experts now predict that the United States could depend on imports for as much as half of its supplies of basic raw materials by 1985.

A recent report from the Joint Committee on Defense Production reveals that since 1940 the United States has consumed an estimated $260 billion worth of minerals—about equal to the amount used by the entire world in all history before 1940.

The United States must begin now to follow a national policy to meet the growing needs for minerals and we must have an equilibrium between supply and demand. The American public must be made aware of its critical dependence on minerals and of the major difficulties of maintaining adequate supplies.

Mr. President, I believe that if my bill is enacted, it will bring into focus the need for development of an economically sound and stable domestic mining industry and will help to stimulate domestic production.

By Mr. SPARKMAN (by request):

S. 3468. A bill to provide expanded support for scholarly, cultural, and artistic exchange programs between Japan and the United States, and for other purposes. Referred to the Committee on Foreign Relations.

JAPAN-UNITED STATES FRIENDSHIP ACT OF 1974

Mr. SPARKMAN. Mr. President, by request I introduce for appropriate reference a bill to provide expanded support for scholarly, cultural, and artistic exchange programs between Japan and the United States, and for other purposes—Japan-United States Friendship Act of 1974.

The bill has been requested by the Department of State and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when it is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the letter from the Assistant Secretary of State for Congressional Relations to the President of the Senate dated May 2, 1974.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 3468

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Section and Sections 2 and 3 of this Act may be cited as the "Japan-United States Friendship Act of 1974".

SEC. 2. The Mutual Educational and Cultural Exchange Act of 1961, as amended, is further amended by adding thereto a new subsection 105(h) to read as follows:

"(h) (1) The Congress hereby finds and declares—

(A) that the evolution of the relationship between Japan and the United States from wartime bitterness to peacetime friendship and partnership is one of the most significant developments of the postwar period;

(B) that the continuation of close United States-Japan friendship and cooperation will make a vital contribution to the prospects for peace, prosperity, and security in Asia and the world;

(C) that an improved understanding between Japan and the United States of the differences in their history, social tradition, cultural background and language is highly important to this friendship and cooperation;

(D) that the steady expansion of close relations at all levels between the United States and Japan calls for a substantially increased commitment by both nations to reduce progressively such differences and to achieve the harmony that our two peoples desire;

(E) that the need for such a commitment has been recognized by the two Governments, most recently in the Joint Communique by President Nixon and Prime Minister Tanaka at Washington on August 1, 1973;

(F) that there are available in the United States accounts in Japan, funds transferred by the Government of Japan to the United States pursuant to United States request made under Article V of the Agreement between the United States of America and Japan concerning the Settlement of Post-War Economic Assistance signed at Tokyo January 9, 1962 and the Exchange of Notes of the same date (13 U.S.T. 1957; T.I.A.S. 5154), which may be used only for educational and cultural exchange between the United States and Japan, subject to the availability of appropriations; and

(G) that it is the purpose of this Act to expand United States support for scholarly, cultural and artistic exchange programs with Japan, by providing a full commitment of the aforesaid available funds and by encouraging a new initiative by Government and private citizens to supplement the existing program for Japan, in order to facilitate the continued growth of the aforesaid relationships of peace, friendship, partnership, cooperation and mutual understanding.

(2) There is authorized to be appropriated, to remain available until expended, the re-

maining amount, as of the date of enactment of this amendment, of those funds referred to in paragraph (1)(F) of this subsection, excepting such amounts as may be required by law to be applied to United States participation in the International Ocean Exposition to be held at Okinawa, Japan, to be used for educational and cultural exchange programs and other activities authorized in subsections 102 (a) and (b), in relation to Japan and the people of Japan.

Sec. 3. The Mutual Educational and Cultural Exchange Act of 1961, as amended, is further amended by adding thereto a new subsection 106(g) to read as follows:

"(g)(1) There is established a Commission to be known as the Japan-United States Friendship Commission (hereinafter referred to as the "Friendship Commission"). The Friendship Commission shall advise the President regarding policies on the use of the funds authorized to be appropriated under subsection 105(h)(2). The Friendship Commission shall appraise the effectiveness of policies and programs carried out in the use of the funds. The Friendship Commission shall be composed of sixteen members, as follows:

(A) four members appointed by the President of the United States from the executive branch of the Government;

(B) two appointed by the President of the Senate, who shall be members of the Senate;

(C) two appointed by the Speaker of the House of Representatives, who shall be members of the House; and

(D) eight members appointed by the President from private life, representing such areas as charitable foundations (public and private non-profit), the professions, the business world, the mass media, the arts and institutions of higher learning.

(E) Any vacancy in the Friendship Commission shall be filled in the same manner in which the original appointment was made. Reappointment shall be permissible.

(2) The term of office of the members of the Friendship Commission shall be three years, except that (a) four members from private life first appointed shall serve as designated by the President for terms of two years and (b) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor is appointed shall be appointed for the remainder of such term.

(3) The President shall appoint one of the members Chairman.

(4) Members of the Friendship Commission may also serve concurrently as members of the United States Panel constituted under the Agreement between the United States of America and Japan on the Joint Committee on Cultural and Educational Cooperation effected by exchange of notes signed at Tokyo November 8, 1968 (10 U.S.T. 7549; T.I.A.S. 6597).

(5) The Friendship Commission shall submit to the Secretary of State for transmission to the President an annual report of its activities.

(6) In the performance of its activities the Friendship Commission shall consult with the Commission established pursuant to subsection 106(b).

(7) The Friendship Commission shall be considered a committee provided for in, or created under, this section for the purposes of subsection 106(e) and (f).

(8) The Friendship Commission shall submit a final report of its activities and shall cease to exist on the thirtieth day after the end of the fiscal year in which the final amount of funds authorized to be appropriated under subsection 105(h)(2) is expended.

Sec. 4. The Mutual Educational and Cultural Exchange Act of 1961, as amended, is further amended by striking out "at rates not in excess of $50 per diem" in Section 106(e) and inserting in lieu thereof "at a rate not in excess of the rate specified for GS–18 of the General Schedule under 5 U.S.C. 5332."

Department of State,
Washington, D.C., May 2, 1974.

Hon. Gerald R. Ford,
President of the Senate,
U.S. Senate.

Dear Mr. President: In accordance with intentions expressed by the President of the United States and the Prime Minister of Japan in the Joint Communique of August 1, 1973, the Department of State has prepared a draft of proposed legislation to amend the Mutual Educational and Cultural Exchange Act of 1961, as amended (MECEA).

This legislation would authorize the use of funds remaining under the Agreement between Japan and the United States of America concerning the Settlement of Post War Economic Assistance (GARIOA) to strengthen and expand educational and cultural exchange between the United States and Japan. It would also establish a Japan-United States Friendship Commission to advise the President regarding policies on the use of these funds. The proposed legislation would be cited as the "Japan-United States Friendship Act of 1974".

The Japan-United States Friendship Act, as proposed, would provide the opportunity for the effective utilization of GARIOA funds through the development of new program activities to supplement regular MECEA programs with Japan. The current yen/dollar parity establishes the value of the GARIOA fund at approximately $17,253,000. Now under Congressional consideration, however, is a proposal for the United States Information Agency to use $2.5 million of the GARIOA funds for U.S. participation in the International Ocean Exposition to be held at Okinawa. Enactment of that proposal would reduce the amount of funds available for the Japan-United States Friendship Program by the same amount. The Department anticipates that the remaining available funds would cover ten years of program activity at the annual levels required for the new Japan-United States Friendship Program.

The Japan-United States Friendship Commission would advise the President regarding policies on the use of the funds authorized to be appropriated by the proposed legislation which would increase United States support for scholarly, cultural and artistic exchange with Japan, and would evaluate the effectiveness of these policies and programs. The Commission would be composed of sixteen members, as follows: (a) four members appointed by the President from the Executive branch; (b) two appointed by the President of the Senate from the Senate; (c) two appointed by the Speaker of the House of Representatives from the House; and (d) eight members appointed by the President from private life. Appointments to the Commission would be for terms of three years. The Commission would cease to exist 30 days after the end of the fiscal year in which the final amount of GARIOA funds is expended.

The proposed bill further provides that members of the Commission may serve concurrently as members of the American Panel of the Joint Committee on Cultural and Educational Cooperation with Japan (CULCON). This Joint Committee, as established by exchange of notes between Japan and the United States on November 8, 1968, is composed of national panels of Japanese and American members. These panels serve to conduct a constant review of activities concerning cultural and educational relations between the two countries and to make recommendations for new initiatives and fields of cultural and educational activities. The Commission members would also be expected to cooperate closely with private American academic and cultural institutions as well as with the National Endowments for the Arts and the Humanities.

The Commission would be charged with a periodic review of the entire range of cultural and informal communications relationships between Japan and the United States, emphasizing progress being made and requirements still wanting, with recommendations for new approaches and programs. The Department believes that such a review would provide important data to support and assist the formulation of foreign policy goals vis-a-vis Japan.

The Commission program would not duplicate the regular MECEA program or any other government programs. In brief, the regular MECEA program would direct its major attention to issues of mutual short-range concern in the social sciences, economics, international relations, urban development, and other areas, including short-term observation grants, while the Commission would initiate longer range programs directed at the more fundamental aspects of cross-cultural appreciation and understanding between the two societies. Greater emphasis would be placed on improving study about the United States in Japan by assisting Japanese organizations and institutions that have a similar goal. The program would also emphasize mutual appreciation and understanding of literature, drama, fine arts and other cultural aspects of both countries through joint study and translations. In addition, it would support broader projects for American understanding of Japanese cultural traditions, and vice versa, through the mass media, the arts, including films, and the humanities.

In view of the fact that compensation rates for members of the Board, Commissions and Committees under the MECEA have not been changed since 1961, the Department of State has included an additional section in the proposed legislation that would amend the MECEA and set such compensation at a daily rate equivalent to that specified for GS–18 of the General Schedule under 5 U.S.C. 5332.

The Office of Management and Budget advises that enactment of this legislation would be in accord with the program of the President.

A draft of the proposed legislation is enclosed.

Sincerely yours,
Linwood Holton,
Assistant Secretary for
Congressional Relations.

By Mr. PACKWOOD (for himself and Mr. Gravel):

S. 3469. A bill to amend the Internal Revenue Code of 1954 to provide for the adjustment of the individual income tax tables, the standard deduction, and the personal exemption deduction when necessary to reflect inflation. Referred to the Committee on Finance.

Mr. PACKWOOD. Mr. President, on behalf of Senator Gravel and myself, I am introducing the Inflation Adjustment Tax Act.

Under present law, the Government benefits under the tax system from the system of inflation that they are the principle cause of. As an individual's income rises, the increase is largely due to inflation adjusters built into labor contracts or other employment agreements. To allow the Government to benefit from these "inflation" increases is simply unfair. It is estimated that this failure to compensate for inflation in the tax laws yields a so-called fiscal dividend of $4 billion annually to the Federal Government.

The idea of the tax inflation adjuster is quite simple. Each year, the Government figures what the rate of inflation was the year before. The present personal exemption and the standard deduction would then each be multiplied by that factor and increased accordingly. For example, if the tax inflation adjuster were in the law today, the personal exemption would be $810 this year instead of the statutory $750. Likewise, the percentage standard deduction would increase from $2,000 to $2,160.

With the tax inflation adjuster in place, it is estimated that the Government would simply have to forgo $2.7 billion in tax money. This is money that will stay in your pockets to help each of you cope with the effect of inflation.

Also it should be pointed out that the tax inflation adjuster will have a substantial and beneficial side effect in terms of simplification. With this change in the law, 1.6 million of the 29 million taxpayers who presently itemize will now elect to use the percentage standard deduction. Because the adjuster will be felt the most in the lower income brackets, a total of 1.7 million taxpayers will be rendered nontaxable.

Finally, the effect of the adjuster will be progressive as the lowest tax bracket will experience a 31.4 percent reduction in taxes, with the highest bracket having only a two-tenths of 1 percent tax decrease.

I ask unanimous consent that a table outlining the impact of my proposal on various income groups be printed along with the text of the Inflation Adjustment Tax Act at this point in the Record.

There being no objection, the bill and table were ordered to be printed in the Record, as follows:

S. 3469

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Inflation Adjustment Tax Act".

(b)(1) At the beginning of the fourth calendar quarter of each calendar year (commencing in 1974), as necessary data become available from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Secretary of the Treasury and publish in the Federal Register the percentage difference between the price index for the 12 months preceding the beginning of such calendar quarter and the price index for the base period.

(2) For purposes of paragraph (1), the term—

(A) "price index" means the average over a 12-month period of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics;

(B) "base period" means the 12-month period beginning October 1, 1972, and ending September 30, 1973.

Sec. 2. (a) Standard Deduction.—Section 141 of the Internal Revenue Code of 1954 (relating to standard deduction) is amended by adding at the end thereof the following new subsection:

"(f) Adjustment for Inflation.—Upon receiving a certification from the Secretary of Labor under the first section of the Inflation Adjustment Tax Act, the Secretary or his delegate shall change each dollar amount set forth in this section by the amount of the percentage change certified to him by the Secretary of Labor. The amount as changed by the Secretary or his delegate shall be the amount in effect for the calendar year during which such certification is received and shall remain in effect until changed by the Secretary or his delegate under this subsection.".

(b) Personal Exemptions.—Section 151 of such Code (relating to allowance of deductions for personal exemptions) is amended by adding at the end thereof the following new subsection:

"(f) Adjustment for Inflation.—Upon receiving a certification from the Secretary of Labor under the first section of the Inflation Adjustment Tax Act, the Secretary or his delegate shall change each dollar amount set forth in this subsection by the amount of the percentage change certified to him by the Secretary of Labor. The amount as changed by the Secretary or his delegate shall be the amount in effect for the calendar year during which such certification is received and shall remain in effect until changed by the Secretary or his delegate under this subsection.".

(c) Effective Date.—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1973.

EFFECT OF PACKWOOD PROPOSAL ON VARIOUS INCOME GROUPS

Adjusted gross income class (thousands)	Total tax payments (millions): Under present law	Total tax payments (millions): Packwood proposal	Percent reduction
0 to $3	$210	$144	31.4
$3 to $5	1,754	1,530	12.8
$5 to $7	3,980	3,679	7.6
$7 to $10	9,629	9,156	4.9
$10 to $15	20,125	19,447	3.4
$15 to $20	16,272	15,810	2.8
$20 to $50	23,205	22,821	1.7
$50 to $100	8,018	7,964	.7
$100 and over	7,825	7,811	.2
Total	91,018	88,362	2.9

Source: U.S. Department of the Treasury, Office of Tax Analysis.

By Mr. BROCK:

S. 3470. A bill to amend the Interstate Commerce Act in order to promote consumer interests in transportation. Referred to the Committee on Commerce.

Mr. BROCK. Mr. President, I am introducing today a piece of legislation which is designed to improve the efficiency and effectiveness of our Nation's transportation system. It does that by attempting to cut through the maze of regulations and restrictions within which our system freight transport now operates. I support the administration's Transportation Improvement Act as a modest forward step, but I do feel we should give much greater consideration to broadening and widening the movement toward deregulation and competition than the act represents.

The unassailable fact, Mr. President, is that our present regulatory structure developed and grew up in times very different from our own. It is now unfitted to modern conditions, so unfitted that we are paying at conservative estimates $3.7 billion a year in terms of misallocated resources, while higher figures range as high as $8 billion a year.

I ask unanimous consent that at this point a table of estimates of economic loss from regulation be included in the Record developed by Prof. Thomas Gale Moore.

There being no objection, the table was ordered to be printed in the Record, as follows:

ESTIMATES OF THE ECONOMIC LOSS FROM ICC REGULATION IN 1968

[In millions of dollars]

Type of loss	Low	Medium	High
Inefficient use of:			
Common carrier trucks	1,400	1,690	1,890
Private trucks	100	200	1,000
Rails	1,700	2,000	2,400
Water carriers	200	300	+300
Subtotal	3,400	4,190	5,590
Loss of traffic carried by:			
Trucks instead of rails	200	1,100	2,900
Water carriers instead of rails	(1)	(1)	(1)
Loss from traffic not carried	175	300	400
Total estimated	3,775	5,590	8,790

[1] Not estimated. Source: Moore, "The Feasibility of Deregulating Surface Freight Transportation," (Washington, D.C.: Brookings Institution).

Mr. BROCK. These are not academic matters, but affect every one of us. The Department of Transportation itself estimates that transportation costs add 5 to 15 percent of the cost of all consumer goods, for example, $200 on a $3,000 car; $3,600 on a $30,000 house. But because of our present regulatory structure, and the inefficiencies which result from it, these costs are much higher than they should be.

A loss of $3.7 to $8 billion a year—and this is at 1968 price levels—means that each of us is, on average, paying $15 to $50 a year extra, or between $60 and $200 for a family of four. Since we all bear this cost we can think of it as much the same as a value added tax—but an unnecessary one. Aside from the direct cost to the consume this burden automatically limits our international competitiveness and thus has in the long run even further negative effects on the Nation's prosperity.

The public also pays in the form of deteriorating service from certain classes of carriers. This is why the bill is entitled "the Consumer Interests Transportation Act"—because it is the consumer which eventually pays for our present inefficiencies and it would be the consumer who would benefit from an improved transportation network.

Let us examine the act in some detail. The first section is designed to reduce the cartel aspects of carrier ratemaking by:

First, protecting individual action;

Second, not allowing single line rates to be affected by group ratemaking bodies, and

Third, by not allowing the rate bureau to oppose an independent action by one of its members at an ICC hearing.

Rate bureaus act collectively in establishing rates and are specifically exempted from antitrust laws. Thus, although their impact has not been totally negative, by their very nature they are inimical to competition and discourage flexibility in ratemaking. Although no carrier is specifically bound to support rate agreements reached in the bureaus, independent action is very uncommon with the result that rates tend to be propped up, above the levels of the more efficient carriers to protect the less efficient. The extra costs, of course, are passed on to the consumer. As Mr. Charles A. Washer, speaking on behalf of the American Retail Federation put in 1972:

> From sad experience, retailers have learned that it is the rate bureaus that destroy rate competitiveness among like carriers and which have made a mockery of the so-called right of independent action.

Section 103 deals with the question of rate levels and flexibility in ratemaking. It establishes the long-run marginal cost of operating a service as the floor below which rates for that service should not fall. This section has two basic thrusts. One, it would prohibit the ICC from requiring any rate below this level. One of the difficulties that the Nation's railroads have faced is their hauling of certain products at a rate which is simply not compensatory—on which they are losing money. The ICC has attempted to make up for this by keeping rates artificially high on other products.

Thus, one has a system of inflexibility on the one hand and uneconomical rates on the other all bound together in an increasingly complex fashion. The answer to this is not to attempt to tinker around any more, but to significantly free up appropriate market mechanisms.

Thus, the second thrust would be to allow carriers to price at the level best suited to the market. The ICC could not prevent a rate from going into effect on the grounds that it is unreasonable, if that rate is above the "marginal cost" floor. A rate would be prohibited as "unreasonable" only if it is below this level.

On the question of maximum rates, too, the direction is toward freeing up the market and allowing maximum flexibility. In fact, maximum rates would only be subject to regulation or conditions where competition is deemed insufficient. Where the ICC determines that, in serving a defined user or group of users, there does exist a level of competition both in or between transportation modes sufficient to control and restrain unreasonable rates, then it shall have no further obligation to regulate maximum rates. The market would do the regulating. Of course, should this situation change or further relevant information become available, then the ICC can step in again, but the principle is that regulation should be the exception when the forces of competition are not working properly and not the rigid rule under all circumstances.

Title I concludes with provisions to modernize the accounting measures of the ICC—to develop a uniform system of accounts applicable to any class of carriers so that proper comparison between modes can be made. This would also relate to standards for abandonment of facilities.

Title II, section 201 deals with the question of efficient integrated intermodal service.

At best, the present situation is contradictory with airlines being permitted interests in surface carriers while the ICC has interpreted certain provisions of the Interstate Commerce Act in such a manner as to restrict close railroad integration with trucking. As far as the railroads are concerned, these constraints have contributed another obstacle to flexibility in operation and particularly to the adoption of the full potential of containerization. Unlike a number of other countries which have a swift and efficient integrated system of container pick-up and delivery, using rail and truck to their best advantage, we do not.

The "Railroad Productivity Study" drew specific attention to the fact that—

First. Loss of direct control over the container's movement lowers equipment utilization and the speed and reliability of deliveries. Motor carriers may be tempted to dispatch drivers to handle this traffic only after their own through traffic has been served. This is especially likely if the rail line is in competition with long-haul truck service and the truck carrier knows that the railroad has no alternative.

Second. This forced reliance on motor carriers to provide pick-ups and delivery also puts the railroads at a disadvantage in bargaining on rate division and interchange agreements applicable to intermodal shipments. All in all, it has discouraged the substitution of modern container and piggyback operation for older conventional service and has also contributed to the excessive decentralization of piggyback terminals.

The Canadian experience in this regard, since the passage of their Transportation Act in 1967 has been a positive one reducing paperwork, inflexibility, and rates for a number of commodities. Such companies, of course, would be subject to antitrust laws in an excessive monopoly situation.

Again, instead of trying to rely on a clumsy system of regulation which has not worked, we would rely on competition and enforcement of antitrust laws to prevent monopoly position.

Section 202 would require the ICC within 2 years to develop new regulations to aid explicit consideration of any cost and rate advantages to be gained from the granting of an application.

Particularly important in this section, however, is the provision that the ICC could not deny an application for operating rights solely on the grounds that existing carriers already provide enough capacity. It may seem strange, indeed, that one would have to legislatively mandate such an outlook but we seem to have almost reached the point where we now consider competition in transportation to be against the public interest. And there is a vast body of persuasive evidence to show that the ICC, in the guise of fostering sound economic conditions in the industry, has protected existing carriers from the rigors of competition and thus guaranteed them an untroubled business environment. It is impossible for us to pretend that these sort of restrictions are in the public interest, and they would be curtailed by this measure.

With the same concern for competition, section 203 mandates the ICC to examine the existing situation as regards regulated operations and determine what factors presently inhibit flexible efficient and economical operation. The ICC would thereafter, in its annual statement to Congress, report on the state of the certificate situation and any discernible effects it has on service so that we can constantly monitor our process toward maximum competition and efficiency. With the new accounting system we also should be much more aware of the full costs of any restrictions in the granting of certificates.

Sections 204 and 205 address themselves to the problems of present inflexibility in regulation by both reducing entry barriers to regulated trucking and modernizing the requirements for contract carriage. In the former case the restriction would be relaxed so as to minimize the difficulties of providing service quickly in areas of immediate need and to make it easier to obtain temporary authority. This is especially important, of course, when viewed in the context of eased procedures for railroad abandonments. As regards contract carriages section 205 would assure that requirements be no stricter than those required of common carriers—a move that would increase flexibility for these groups. This section also insures that any such terms will not impose substantial empty truck movement on the operator—an aspect of our present system which is especially wasteful of time and energy.

In the same vein, section 206 is specifically oriented toward curtailing the waste inherent in ICC regulations regarding backhauls. As I have pointed out to the Senate before, few of the general public realize I am sure, that the ICC can forbid a truck from returning with a full load to its point of origin unless its authority covers that load.

Thus, a trucker could move a particular product out of a State, but often moves back empty part or all of the way, because although loads may be available, he may not be allowed to carry them. This is so wasteful, it sometimes verges on the absurd. It is also a tremendously inefficient way of moving freight, and so this section is designed specifically "for the purpose of avoiding empty movement, light loading, or inefficient use of vehicles."

Section 301, railroad abandonment: The third title focuses on the issue of railroad abandonment and railroad profitability. It basically says two things. Let us allow easier abandonment of uneconomic track, but also recognize that precipitous abandonment of track can have significant impact on communities and particular industries and that there may be very sound reason for subsidizing that line. The bill will allow State or local government or shippers to take over the losses incurred by the line. But as an aid in the transition from one set of economic conditions to another, the bill authorizes a phased out program of Federal support.

The Federal Government will take up 70 percent of the subsidy pay for the first year, 50 percent the second, and 30 percent the third. After that time further legislation would be necessary to continue Federal support. I personally feel that—after that period—the costs should by and large be borne by a level of government other than the Federal—as the State of Maryland, for example, does now, but such matters should be decided then after a full review of the facts of each case.

As part of the knowledge needed for accurate decisionmaking, each railroad shall prepare and file with the commission a diagram of its system describing in particular those rail lines on which revenues have not covered the relevant variable costs for the year prior to filing.

Thus, Mr. President, we can see that taken together, the bill involves a significant movement toward increasing competition in and between transportation modes and a decreasing emphasis on regulation. By allowing the forces of the market to operate, we can reduce the present misallocation of resources in transportation and, at a reduced cost to the consumer, provide an improved service. The provisions regarding railroad abandonment, while increasing flexibility for the railroad, also recognized the potentially high social cost of the change over from one set of economic conditions to another.

Unfortunately, it is also true that despite the large number of official reports and studies which have advocated deregulation, including the 1955 Weeks Report, the 1960 Mueller Report, the 1961 Doyle Report, and most recently the Ash Report, all of which recommended deregulation, there remain a number of perennial objections which are always raised. I would like to conclude by addressing just a few of them and summarizing the evidence in favor of relaxed regulation from other countries and the United States itself.

In Britain, regulation of the trucking industry has been relaxed in small incremental stages, but lower costs, lower rates, and better service have resulted. Canada provides an even better example, for regulation varies from province to province. Those with the strictest regulation have had the highest rate for trucking and less efficient operations, while provinces with essentially unregulated activities have had lower rates, greater efficiency, and at least as good service. Also "chaos" has certainly not transpired from deregulation—a genie opponents of that policy in this country always conjure up.

Australia offers virtually a full-scale test of deregulation. A transition period was noticeable but today the industry is stable and profitable with competitive wages, free entry and exit, and good service with shippers having a wide choice between fixed schedules at higher rates and more flexible schedules at lower rates. Again, no "chaos" has resulted.

Even our own experience in the United States offers positive evidence of the potential benefits—and one should point out that if foreign experience is not appropriate to the United States we should expect those instances of deregulation here to produce different results. Instead we can see that when unprocessed agricultural commodities in the United States were exempted from regulation, rates dropped between 10 and 30 percent and service improved with profitable operation. An even more graphic example is the case of processed chickens for which rates fell and service improved when regulation was lifted, and "reregulated" rates increased and service declined.

All in all, therefore, I feel the case has been made for, at the very least, a movement toward those goals. My bill contains measures which are essentially moderate and fall between the proponents of total deregulation on the one hand, and the "do nothings" on the other. I refuse to accept that the situation is so bad that although almost everyone recognizes that it is far from ideal, we are unable or incapable of improving it. That is a dead end which the American people would refuse to accept. We are supposed to act in the public interest and I most firmly believe that this measure would do so.

By Mr. STENNIS (for himself and
Mr. THURMOND) (by request):

S. 3472. A bill to amend title 37, United States Code, to refine the procedures for adjustments in military compensation and for other purposes. Referred to the Committee on Armed Services.

Mr. STENNIS. Mr. President, by request, for myself and the senior Senator from South Carolina (Mr. THURMOND), I introduce, for appropriate reference, a bill to amend title 37, United States Code, to refine the procedures for adjustments in military compensation and for other purposes.

I ask unanimous consent that a letter of transmittal requesting consideration of the legislation and explaining its purpose be printed in the RECORD immediately following the listing of the bill.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 3472

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 1 of title 37, United States Code, is amended by amending section 101 as follows:

"(25) "Regular Compensation" or "Regular Military Compensation (RMC)" means the total of the following elements that a member of a uniformed service accrues or receives, directly or indirectly, in cash or in kind every payday: basic pay, basic allowance for quarters, basic allowance for subsistence, and Federal tax advantage accruing to the aforementioned allowances because they are not subject to Federal income tax."

SEC. 2. Chapter 3 of title 37, United States Code, is amended by amending section 203 (a) to read as follows:

"(a) The rates of monthly basic pay for members of the uniformed services within each pay grade are those prescribed in accordance with section 1009 of this title."

SEC. 3. Chapter 7 of title 37, United States Code, is amended as follows:

(1) By amending section 402(a) to read as follows:

"(a) Except as otherwise provided by law, each member of a uniformed service who is entitled to basic pay is entitled to a basic allowance for subsistence as set forth in this section."

(2) By amending the fourth sentence of section 402(b) to read as follows:

"The allowance for enlisted members who are on leave, or are otherwise authorized to mess separately, is at the rate prescribed in accordance with section 1009 of this title."

(3) By amending the first sentence of section 402(c) to read as follows:

"An officer of a uniformed service who is entitled to basic pay is, at all times, entitled to the basic allowance for subsistence at the monthly rate prescribed in accordance with section 1009 of this title."

(4) By amending section 402(d) by—

(A) inserting "described below" after "services"; and

(B) striking out the item relating to "Officers".

(5) By amending section 403(a) to read as follows:

"(a) Except as otherwise provided by law, a member of a uniformed service who is entitled to basic pay is entitled to a basic allowance for quarters at the monthly rates prescribed in accordance with section 1009 of this title, according to the pay grade in which he is assigned or distributed for basic pay purposes."

SEC. 4. Chapter 19 of title 37, United States Code, is amended by adding the following new section after section 1008 and inserting a corresponding item in the chapter analysis:

"§ 1009. Adjustments of compensation

"(a) Whenever the General Schedule of compensation for Federal classified employees as contained in section 5332 of title 5, United States Code, is adjusted upwards, the President shall immediately make an upward adjustment in the—

"(1) monthly basic pay authorized members of the uniformed services by section 203(a) of this title;

"(2) basic allowance for subsistence authorized enlisted members on leave or otherwise authorized to mess separately, and officers, by section 402 of this title; and

"(3) basic allowance for quarters authorized members of the uniformed services by section 403(a) of this title.

"(b) An adjustment under this section shall have the force and effect of law and shall—

"(1) carry the same effective date as that applying to the compensation adjustments provided General Schedule employees;

"(2) be based on the rates of the various elements of compensation, as defined in, or made under, section 8 of the Act of December 16, 1967, Pub. L. 90–207 (81 Stat. 654), section 402 or 403 of this title, or this section; and

"(3) provide all eligible members with an increase in each element of compensation, set forth in subsection (a) of this section, which is of the same percentage as the overall average percentage increase in the General Schedule rates of basic pay for civilian employees."

SEC. 5. Until the effective date of the first upward adjustment in the rates of monthly basic pay for members of the uniformed services made by the President under section 1009 of title 37, United States Code, as added by section 4 of this Act, after the effective date of this Act, the rates of monthly basic pay for members of the uniformed services authorized by section 203(a) of that title are those prescribed by Executive Order 11740 of October 3, 1973, which became effective on October 1, 1973.

SEC. 6. Until the effective date of the first upward adjustment in the rates of basic allowance for subsistence for enlisted members on leave or otherwise authorized to mess separately, and officers, made by the President under section 1009 of title 37, United States Code, as added by section 4 of this Act, after the effective date of this Act, the rates prescribed under section 402 of title 37, United States Code, as it existed on the date before the effective date of this Act, shall continue in effect.

SEC. 7. Until the effective date of the first adjustment in the rates of basic allowance for quarters for members of the uniformed services made by the President under section 1009 of title 37, United States Code, as added by section 4, of this Act, after the effective date of this Act, the rates of basic allowance for quarters prescribed in section 403(a) of title 37, United States Code, as it existed on the day before the effective date of this Act, shall continue in effect.

SEC. 8. Section 8 of the Act of December 16, 1967, Pub. L. 90–207 (81 Stat. 654) is repealed.

SEC. 9. This Act is effective upon enactment.

Assistant Secretary of Defense,
Washington, D.C. March 29, 1974.
Hon. Gerald R. Ford,
President of the Senate,
Washington, D.C.

Dear Mr. President: This report on the adequacy of pays and allowances of the uniformed services is submitted in compliance with the provisions of section 1008(a) of title 37, United States Code. This section provides that the President shall direct a review of the adequacy of pays and allowances for members of the uniformed services, and shall submit to the Congress a detailed report summarizing the results of such an annual review together with any recommendations for adjustments in the rates of pays and allowances authorized under title 37, United States Code.

Section 1008(a) of title 37, United States Code was enacted in 1965. In 1967, the Congress modified the scope of its requirements with the passage of section 8 of Public Law 90–207. With this law, the Congress ensured that whenever the General Schedule of compensation for Federal classified employees is *adjusted* upwards, there shall immediately be placed in effect a comparable adjustment in the monthly basic pay authorized members of the uniformed services.

On October 1, 1973, Federal civilian employees were authorized a 4.77 percent pay increase. The operation of Public Law 90–207 initiated an equal increase in the regular compensation of the uniformed services. This increase, when allocated only to the basic pay element of regular compensation, translated to 6.16 percent. The cost of this pay raise will be $830 million for FY 74 (only for nine months) and $1,108 million for FY 75 (twelve *months*). The details of the computation of the October 1, 1973, increase are shown in attachment 1.

The Department of Defense submitted a legislative proposal with last year's annual report which would modify the current pay increase methodology expressed in Public Law 90–207. The proposal was introduced in Congress in September, 1973, as H.R. 10370. It was intended to maintain the quarters and subsistence allowances at a more reasonable relationship to the expenses they are supposed to defray while maintaining the matching increase mechanism embodied in existing law and reducing military personnel costs in future years.

Continued study has been given to this legislative proposal (H.R. 10370) since its submission. As a result we believe the intended purpose of the measure can be best achieved and desired equity ensured, by modification of the previously proposed legislation to specify the precise manner in which future matching military pay increases would be made.

Therefore, attached is proposed legislation which modifies last year's proposal (attachment 2). This proposal if enacted should ensure that both Defense and Congressional intents with regard to equitable pay increases for military personnel are achieved in the future. It would achieve the same objectives as last year's proposal, i.e., maintain matching increases to improve the credibility of the allowances, and reduce costs. The primary change is that it would ensure members of the uniformed services that future increases in their basic pay, basic allowance for subsistence, and basic allowance for quarters will be of the same percentage as the average increase received by Federal civilian employees. If enacted prior to the next general pay increase, a conservative estimate indicates that savings of more than $3 billion will accrue over the next five year period.

The estimated cost savings in the Department of Defense budget during next five fiscal years if the attached legislative proposal is enacted prior to October 1, 1974, are as follows:

Budget savings

[Dollars in millions]

Fiscal year 1975	160.6
Fiscal year 1976	365.4
Fiscal year 1977	582.5
Fiscal year 1978	821.0
Fiscal year 1979	1,085.4

The revised proposal has the full support of the Secretary of Defense. This proposal is a part of the Department of Defense legislative program for the 93rd Congress, and the Office of Management and Budget has advised that the enactment of the proposal would be in accord with the program of the President. It is recommended that the proposed legislation be enacted by the Congress.

There were other legislative proposals submitted during the past year designed to improve the capability of the Department of Defense to fulfill manpower requirements in the most cost effective manner. The annual review of the adequacy of pay and allowances is concluded with a brief discussion of these proposals.

The Uniformed Services Special Pay Act of 1973 was submitted to the Congress as promised in last year's report. Due to the complexity of this proposal and the urgent need for several of its entitlements, that proposal was subdivided and its three most critical provisions were submitted as two separate proposals. These proposals are: (1) "Armed Forces Enlisted Personnel Bonus Revision Act of 1974" (S. 2771), and (2) the Revision of the Special Pay Structure Relating to Medical Officers of the Uniformed Services (S. 2770) which provides for increased incentives for physicians. These two proposals were passed by the Senate in December, 1973, and reported by the House Armed Services Committee on March 1, 1974. Enactment will significantly improve the Department of Defense's ability to compete for required skills and manpower.

Legislation affecting flight pay was forwarded to Congress in May, 1973, and was passed with changes by the House on February 21, 1974, as H.R. 12670. It would restructure flight pay in that junior aviators would receive more money while senior personnel, where performance and retention problems are less, would be paid less. This restructuring should help retain more junior personnel, and reduce the cost of training replacements.

Finally, Public Law 93–64 enacted in July, 1973, made permanent the rates for the basic allowance for quarters for junior enlisted personnel. More importantly, it removed the legal language which stated these personnel were "considered at all times to be without dependents."

Sincerely,

William K. Brehm.

Calculation of Proposed October 1, 1973, Military Pay Increase

Objective: To provide all personnel of the uniformed services with an overall average increase which equates to that provided General Schedule employees, as required by section 8 of Public Law 90–207. That law provides that whenever the general schedule of compensation for Federal classified employees is adjusted upwards, there shall immediately be placed into effect a comparable upward adjustment in the basic pay of members of the uniformed services. This basic pay adjustment must provide all personnel of the uniformed services with an overall increase in regular compensation which equates to the salary increase provided General Schedule employees.

The Office of Management and Budget (OMB) has estimated the average increase in salary for General Schedule employees to be 4.77 per cent effective October 1, 1973. The objective of the following analysis is to determine what percentage increase in basic pay will provide the members of the uniformed services with an average increase in Regular Military Compensation of 4.77 per cent.

The annualized active force Regular Military Compensation for the purpose of this computation is as follows:

	Dollars [millions]
Basic pay	14,724.73
Quarters and subsistence [1]	3,861.34
Federal income tax advantage [2]	880.89
Total	19,466.96

[1] Includes cost of quarters and subsistence furnished.

[2] Does not reflect special tax exemptions for personnel in combat areas.

A 4.77 per cent increase in regular compensation is computed by multiplying 4.77 per cent times $19,466.96 million. This equals $928.6 million which when applied to basic pay results in an increase of 6.16 per cent in Basic Pay across the board.

Attached are cost estimates for FY 1973 and FY 1974.

Cost estimates for a 6.16 percent increase in basic pay effective October 1, 1973

	Dollars [millions]
Fiscal Year 1974 cost (October 1, 1973 to June 30, 1974):	
Basic pay	680.6
Pay related items	134.0
Total DoD cost	814.6
Other uniformed services	15.5
Total fiscal year 1974 costs	830.1
Fiscal year 1975 costs:	
Basic pay	907.4
Pay related items [1]	179.7
Total DoD cost	1,087.1
Other uniformed services	20.6
Total fiscal year 1975 costs	1,107.7

[1] Pay related items vary with changes in basic pay and consist of: reenlistment bonus, FICA, Reserve and National Guard, death gratuities, continuation pay, separation pay, pay of Cadets and Midshipmen, and retired pay.

By Mr. MOSS:

S. 3479. A bill to authorize the Secretary of the Interior to cooperate with the States and political subdivisions thereof in the enforcement of State and local laws, rules, and regulations on certain lands administered by the Secretary of the Interior. Referred to the Committee on Interior and Insular Affairs.

Mr. MOSS. Mr. President, I am introducing today a bill authorizing the Secretary of Interior to contract with local law enforcement agencies for protection of lives and property located in national parks. The measure is similar to the Sisk bill, Public Law 92–82, which allows the U.S. Forest Service to contract with law enforcement agencies for patrol and law enforcement duties.

Presently, many local communities are unable to provide adequate law enforcement personnel to safeguard lives and property on Federal land during the spring, summer, and fall months when there is a heavy influx of highly mobile tourists on Federal lands. Local police agencies all over the country already hold complete law enforcement authority in their respective counties; each has the expertise in the field of law enforcement, and could expand manpower to meet the requirements of law enforcement of Federal lands.

I urge that the Senate review this proposal and take speedy action thereon.

I ask unanimous consent that the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3479

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior, in connection with the administration and regulation of the lands and waters comprising the National Park System and miscellaneous areas administered in connection therewith, is authorized to cooperate with any State or political subdivision thereof, on lands which are within or part of any such National Park System or area, in the enforcement or supervision of the laws or ordinances of a State or subdivision thereof. Such cooperation may include the reimbursement of a State or its subdivision for expenditures incurred in connection with activities on such lands and waters. This Act shall not deprive any State or political subdivision thereof of any right which it has to exercise civil and criminal jurisdiction within or on lands and waters whch are a part of the National Park System or miscellaneous areas administered in connection therewith.

SEC. 2. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. TUNNEY (for himself and Mr. HUMPHREY):

S. 3480. A bill to authorize a national summer youth sports program. Referred to the Committee on Labor and Public Welfare.

THE NATIONAL SUMMER YOUTH SPORTS PROGRAM

Mr. TUNNEY. Mr. President, if Congress fails to take action quickly, the National Summer Youth Sports program will soon be discontinued. This program was founded in 1969 to provide disadvantaged youth, ages 10 to 18, with supervised sports instruction as well as health and nutritional services during the summer months. It has proven a resounding success. This program has been run on a cooperative basis by the President's Council on Physical Fitness and the National Collegiate Athletic Association. It has grown every year until today 105 institutions of higher learning in 36 States participate in the program. Furthermore, over 100 other colleges and universities have indicated that they would like to join if further funding were available.

More than 200,000 youngsters have been served in the 5-year life of the National Summer Youth Sports program. They have received medical examinations, daily nutritious meals, health education and counseling in study and career opportunities along with instruction in supervised sports activities.

Yet, this program apparently is being phased out by the administration which has requested no funding for this program for fiscal year 1975. It is imperative that we continue this program of proven value.

All who have examined this program have commended it highly. President Nixon, in 1972, discussing the national summer youth sports program, wrote:

> When the National Summer Youth Sports Program began in 1969, it was its aim and our determination to provide inner city youngsters with the skills, instruction, competitive opportunities, and health and nutritional services which most of us are able to give to our own children.
>
> By contributing their skilled leadership and splendid athletic facilities to this effort, the nation's institutions of higher education have helped us to advance this goal.
>
> I am especially pleased to congratulate the universities, colleges, and junior colleges that have participated in the National Summer Youth Sports Program and to applaud the National Collegiate Athletic Association for voluntarily bearing a major share of the administrative expenses it has incurred.
>
> The ideals that inspired this program and those that have assured its continuing success are an inspiration for all who are committed to the progress of our society.

Those words are as valid today as they were 2 years ago. Yet, this program will come to an abrupt end unless we take immediate action.

It is for these reasons that Senator HUMPHREY and I today are introducing legislation to reauthorize and expand this worthy program to assure that the more than 40,000 inner city youths who are aided annually by this program will have access to avenues of hope and fulfillment.

This legislation authorizes the expenditure of $5 million for each of the fiscal years 1975, 1976, and 1977. It also mandates that at least 90 percent of the youths participating in each program be selected from families whose income falls below the poverty level. This provision assures that the national summer youth sports program will continue to focus on giving opportunities to youths who otherwise would be unable to gain the experience that this program provides. Also, the legislation calls for the maximum utilization of affected neighborhood groups in program planning and provides that these communities also will be looked to, to provide a large share of the support personnel.

Mr. President, I ask unanimous consent that the text of the bill and a list of the participating institutions in the national summer youth sports program be inserted in the RECORD at the end of my remarks.

There being no objection, the bill and list were ordered to be printed in the RECORD, as follows:

S. 3480

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Summer Youth Sports Program Act of 1974".

STATEMENT OF PURPOSE

SEC. 2. The Congress finds that disadvantaged youth benefit from participation in a program concentrated in the summer months, with an opportunity for continued activities throughout the year, which provides sports instruction and competition in a context of high quality facilities and supervision and includes instruction concerning employment and study and career opportunities, regular association with college instructors and athletes and exposure to college and university campuses. Such a program creates an opportunity to help equip these youth with new skills, enhanced appreciation of their abilities and a broader perspective on the educational and employment opportunities available to them. The Congress further finds that such a program has been successfully conducted in recent years by the National Collegiate Athletic Association and various participating colleges and universities in cooperation with the President's Council on Physical Fitness and Sports, that the combination of Federal funds and college resources offers leaders in education and athletics an opportunity and a challenge to perform a needed service which they are uniquely qualified to provide, and that this program should be authorized on a permanent basis.

PROGRAM AUTHORIZED

SEC. 3. (a) (1) The Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") shall make grants or enter into contracts for the conduct of an annual national summer youth sports program concentrated in the summer months, with opportunity for continued activities throughout the year, designed to offer disadvantaged youth living in areas of concentrated poverty an opportunity to receive educational instruction, sports instruction, and health and nutritional services, and to participate in educational programs and sports competitions.

(2) No assistance may be provided under this section unless satisfactory assurances are received that (A) not less than 90 per centum of the youths participating in each program to be assisted under this section are from families with incomes below the poverty level, as determined by the Secretary, and that such participating youths and other neighborhood residents, through the involvement of the appropriate community action agency or otherwise, will have maximum participation in program planning and operation and (B) all significant segments of the low-income population of the community to be served will be served on an equitable basis in terms of participating youths and instructional and other support personnel.

(b) Programs under this Act shall be administered by the Secretary, through grants or contracts with the National Collegiate Athletic Association or any other qualified national organization of colleges and universities. Each such grant or contract shall contain provisions to assure that the program to be assisted will—

(1) expand educational opportunities for disadvantaged youths, designed to provide an opportunity to engage in competitive sports and benefit from sport skills instruction;

(2) help young people learn good health practices and become better citizens by utilizing the personnel and facilities of higher education;

(3) enable the contractor and institutions of higher education located conveniently to areas of concentrated poverty and their personnel to participate more fully in community life and in the solution of community problems;

(4) provide a combination of employment and on-the-job training in sports instruction and administration; and

(5) serve major metropolitan centers of the United States as well as other areas, within the limits of program resources.

Local projects under any such program will be conducted under approved contracts between the principal contractor or grantee and selected institutions of higher education qualified to carry out a program under this Act.

PAYMENTS

SEC. 4. (a) Except where the Secretary determines that unusual circumstances make a larger percentage necessary to effectuate the purposes of this Act, a contract or grant under this Act with respect to any program may not provide for payment of more than 80 per centum of the direct costs incurred in carrying out the total program. The non-Federal share may be cash or in-kind contributions.

(b) Payments under this Act may be made in advance or by way of reimbursement, and in such installments and on such conditions as the Secretary deems necessary to carry out the purposes of this Act.

LIMITATION ON ADMINISTRATIVE EXPENSES

SEC. 5. (a) No principal grantee or contractor under this Act may charge any fee for general and administrative expenses of supervising a program assisted under this Act. Each such grantee or contractor shall be responsible for financing all of its own expenses from sources other than this Act.

(b) No institution of higher education with which the principal grantee or contractor enters into a contract under this Act may charge any fee for general and administrative expenses incurred in operating a program assisted under this Act.

PARTICIPATING INSTITUTIONS IN THE 1973 NSYSP

ALABAMA

University of Alabama, Birmingham.
Miles College.
Alabama State University.

ARIZONA

Arizona State University.
University of Arizona.
Phoenix College.

ARKANSAS

University of Arkansas, Pine Bluff.

CALIFORNIA

California State College, Hayward.
California State College, Long Beach.
California State University, Los Angeles.
University of California, Riverside.
University of California, San Diego.
Laney College.
Pepperdine University.
University of San Francisco.
California State University, San Francisco.
University of Southern California.

COLORADO

Community College of Denver.
Metropolitan State College.

CONNECTICUT

Trinity College.

DISTRICT OF COLUMBIA

The Catholic University of America.
Howard University.

FLORIDA

Florida A&M University.
Miami-Dade Junior College—North.
Miami-Dade Junior College—South.
The University of South Florida.

GEORGIA

Morehouse College.
Fort Valley State College.

HAWAII

University of Hawaii.

ILLINOIS

Chicago State College.
The University of Chicago.
University of Illinois, Chicago Circle.
University of Illinois, Champaign.
Illinois Institute of Technology.
Southern Illinois University, Edwardsville.

INDIANA

Marian College.

KANSAS

Wichita State University.

LOUISIANA

Southern University, New Orleans.
Southern University A&M College.
Tulane University.

MARYLAND

Community College of Baltimore.
Johns Hopkins University.
Loyola College.
Morgan State College.

MASSACHUSETTS

Boston College.
Boston University.
Springfield College.

MICHIGAN

University of Detroit.
Wayne State University.

MINNESOTA

Macalester College.

MISSISSIPPI

Jackson State College.

MISSOURI

Forest Park Community College.
The Lindenwood Colleges.
University of Missouri, Kansas City.
Harris Teachers College.

MONTANA

University of Montana.

NEBRASKA

Creighton University.

NEW JERSEY

Montclair State College.

NEW MEXICO

University of New Mexico.

NEW YORK

Canisius College.
The City College of New York.
Fordham University.
Herbert H. Lehman College.
Hunter College.
Long Island University.
St. John's University.
Monroe Community College.

NORTH CAROLINA

North Carolina A&T State University.
Fayetteville State College.

OHIO

The University of Akron.
Case Western Reserve University.
University of Cincinnati.
University of Dayton.
Ohio State University.
University of Toledo.

OKLAHOMA

The University of Tulsa.
Northeastern State College.

OREGON

Concordia College.

PENNSYLVANIA

Cheyney State College.
Drexel University.
University of Pennsylvania.
University of Pittsburgh.
University of Scranton.
Temple University.

SOUTH CAROLINA

University of South Carolina.

TENNESSEE

Fisk University.
LeMoyne-Owen College.
Memphis State University.
Southwestern, Memphis.
Tennessee State University.

TEXAS

Bishop College.
Texas Southern University.
University of Texas, El Paso.
Trinity University.
Texas Wesleyan College.

UTAH

Weber State College.

VIRGINIA

Hampton Institute.
Norfolk State College.
Old Dominion University.
Virginia Union University.

WASHINGTON

Seattle University.

WEST VIRGINIA

Marshall University.

WISCONSIN

Alverno College.
University of Wisconsin, Milwaukee.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2690

At the request of Mr. MUSKIE, the Senator from Maine (Mr. HATHAWAY) and the Senator from New Hampshire (Mr. MCINTYRE) were added as cosponsors of S. 2690, a bill to amend title XVIII of the Social Security Act to liberalize the conditions under which post-hospital home health services may be provided under part A thereof, and home health services may be provided under part B thereof.

S. 2695

At the request of Mr. MUSKIE, the Senator from Maine (Mr. HATHAWAY), the Senator from Indiana (Mr. BAYH), and the Senator from New Hampshire (Mr. MCINTYRE) were added as cosponsors to S. 2695, a bill to amend the Public Health Service Act to provide for the making of grants to assist in the establishment and initial operation of agencies which will provide home health services.

S. 3167, S. 3168 AND S. 3169

Mr. TOWER. Mr. President, I ask unanimous consent that the Senator from New Mexico (Mr. DOMENICI) be added as a cosponsor of S. 3167, a bill to amend title II of the Social Security Act to eliminate the special dependency requirements for entitlement to husband's and widower's benefits, so that benefits for husbands and widowers will be payable on the same basis as benefits for wives and widows; S. 3168, to amend title II of the Social Security Act to permit payment of benefits to a married couple on their combined earnings record; S. 3169, to amend title II of the Social Security Act to provide that an insured individual otherwise qualified may retire and receive full old-age benefits, at any time after attaining age 60, if he has been forced to retire at that age by a Federal law, regulation, or order; and S. 3170, to amend title II of the Social Security Act to provide that any individual who has 40 quarters of coverage, whenever acquired, will be insured for disability benefits thereunder.

Mr. BEALL. Mr. President, on March 27, 1974, I introduced S. 3245, which would establish the National Transportation Safety Board as an independent agency in the executive branch of the Government and to provide the board with new and needed authority in the surface transportation area, including pipeline safety.

The recent pipeline explosions underscore again the need to strengthen the role of the National Transportation Safety Board in this regard. At present this agency only has two employees to investigate pipeline accidents. I have been exceedingly impressed with the quality of their work and I believe that Congress should increase the staffing of both the National Transportation Safety Board and the Office of Pipeline Safety. In addition, the Office of Pipeline Safety and the various States for the most part are understaffed. Congress should move to give this subject the priority it merits.

The very safety of our citizens is dependent on our response.

I also ask unanimous consent that a recent editorial from the April 25, 1974, Washington Post commenting on the recent gas explosions and a letter to the editors from Mr. Ben T. Wiggins, president, National Association of Regulatory Utility Commissioners, which appeared in today's Post, critical of the funding of the gas pipeline safety effort, be printed following my remarks.

Mr. President, I ask unanimous consent that Senators DOLE, PERCY, and HUMPHREY be added as cosponsors of S. 3245.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the editorial and letter were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 25, 1974]

GAS LINE EXPLOSIONS

The devastating explosion of a New York City office building earlier this week had officials perplexed only briefly as to the cause of the blast. After going through the wreckage that injured 70 persons in and around the 24-story building, the city's fire chief said the blowup was caused by "a free flow of gas into the basement through a six-inch opening in the pipe." The leaking gas was ignited by a spark and in an instant the building rocked with an estimated $10 million in damage.

Although leaking gas accidents of this particular size are not daily occurrences, accidents of smaller proportions definitely are. According to the Office of Pipeline Safety in the Department of Transportation, 4,963 accidents accurred from 1970 to 1973. The number of deaths totaled 136 and injuries were 1,291; and these figures are only *partial*, owing to limits of federal inquiry. The public seldom hears of this destruction to human life and property, because the accidents occur singly; if attention is given to a blowup—such as the recent ones in Bowie, Md., and in Northern Virginia—it is short-lived and dismissed as "one of those things." Such a dismissal is unwarranted.

The picture that emerges from examining the issue of pipeline safety suggests an attitude of indifference and casualness far out of proportion to the death and injury rates. The Office of Pipeline Safety, for example, has been given funds for only 21 professional staff positions, with a meager budget of $200,000 for research and development. With gas pipelines blowing up people and buildings with alarming frequency—and with about one million miles of these pipelines serving America's cities and towns—Congress acts with unusual calmness. Not since 1971 have oversight hearings been held on pipeline safety. Sen. Glenn Beall Jr. (R-Md.) recently sponsored an amendment to increase DOT appropriations by $1 million for the study of pipeline safety; the amendment passed the Senate but a conference committee reduced the sum to $275,000. It is true that the technology for pipeline safety is often complex, but it is not impossible; this should be a strong argument to seek more funds for staffing and research at both the federal and state level. At the moment, some states have only one person monitoring the dangers.

One group that is eager for increased attention to natural gas safety is the National Transportation Safety Board. Only a few weeks ago, it issued a detailed report on a 1972 Clinton, Mo., explosion that killed eight citizens, demolished one building and partially collapsed another. The ignition of a gas leak from a cast-iron main was the cause. Another recent explosion occurred in El Paso, Texas, killing seven and hospitalizing eight. In reports of both accidents, the board makes recommendations to the Office of Pipeline Safety: for new requirements for telemetering equipment which could give early warning of dangerous leaks in the distributions systems and for a new federal requirement for replacement or reinforcement of uncovered cast-iron natuarl gas pipeline facilities. Whether these recommendations are ever adopted is not known at the moment. An OPS official says they are being "evaluated."

Meanwhile, when and where will the next blowup occur? Until federal and state officials, not to mention the gas companies themselves, take the problem with more seriousness, the accident rate is not likely to go down. It may even go up, like the homes and buildings in the blasts.

[From the Washington Post, May 9, 1974]

FUNDS FOR PROMOTING GAS PIPELINE SAFETY

The association of state regulators heartily endorses the sentiments contained in the editorial entitled "Gas Line Explosions" carried in the April 25 editions of The Washington Post.

In particular we would underscore your observation that too often gas explosions and their attendant loss of life, personal injuries and property damage are shrugged off as "one of those things."

The state regulatory agencies, through their national organization, the National Association of Regulatory Utility Commissioners (NARUC), have for some years been fighting the battle of the budget to wheedle matching grant funds out of the federal government with the aim of mounting an effective national gas pipeline safety program in accord with the mandate of the Natural Gas Pipeline Safety Act passed by Congress in 1968.

The figures thus far are not impressive as you can see from the following list:

Year:	*Federal Grants-in-Aid Amount*
1969	0
1970	0
1971	$500,000
1972	750,000
1973	875,000
1974	1,175,000
1975 (in President's Budget)	1,200,000

Still, for every federal dollar forthcoming far more than one dollar to match it has been spent by the states who, in the process have built up, and are continuing to expand a formidable array of pipeline safety inspection programs and staffs to carry out those programs from less substantial beginnings six years ago.

As of today 49 states, the District of Columbia and Puerto Rico take part in the national gas pipeline safety program, some without federal financial help.

Efforts by the states are of great assistance to the federal government since it is federal standards that are being enforced and the federal agency responsible—the Office of Pipeline Safety—has traditionally been woefully short of manpower to enforce them. Thus the states have, in fact, acted as federal surrogates by means of their expenditures which do far more than match the federal funds. Even if each state in the program received one federal dollar for every state dollar spent on pipeline safety, the program would cost far less than if the federal government tried to go it alone.

What is needed then to provide the public the protection it deserves and that your editorial called for is a nationwide array of programs much expanded over those now in force.

The main stumbling block has been the OMB which traditionally whittles down the badly needed budget request for federal matching grant money.

Each year the states appeal to congress for the maximum money possible, but the nature of the appropriations process makes it difficult to secure an appropriation for an amount greater than that budgeted by the administration.

The safety program fostered thus far as a result of cooperation between the Office of Pipeline Safety and the state regulatory agencies is a good one and could be bigger and better if more federal funds were made available.

In fact, it is far superior to the federal-state rail safety program mandated by Congress in 1970, but nearly smothered by the intransigence of the Federal Railroad Administration which has so far done little to get the program off the ground.

Perhaps the unfortunate accident in New York City will prompt those within the OMB to reconsider their attitude to this subject and help provide our citizens with the safety services they deserve.

BEN T. WIGGINS,
President, National Association of Regulatory Utility Commissioners.
ATLANTA, GA.

S. 3339

At the request of Mr. HUMPHREY, the Senator from New Mexico (Mr. MONTOYA), the Senator from California (Mr. TUNNEY), and the Senator from Tennessee (Mr. BROCK) were added as cosponsors of S. 3339, to amend the program of supplemental security income for the aged, blind, and disabled—established by title XVI of the Social Security Act—to provide for cost-of-living increases in the benefits provided thereunder.

S. 3398

At the request of Mr. HARTKE, the Senator from Arizona (Mr. FANNIN) was added as a cosponsor of S. 3398, to amend title 38, United States Code, to provide a 10-year delimiting period for the pursuit of educational programs by veterans, wives, and widows.

S. 3403

At the request of Mr. DOLE, the Senator from Tennessee (Mr. BROCK) was added as a cosponsor of S. 3403, to amend the act of August 31, 1922, to prevent the introduction and spread of diseases and parasites harmful to honeybees.

SENATE JOINT RESOLUTION 190

At the request of Mr. SPARKMAN, the Senator from Florida (Mr. GURNEY) was added as a cosponsor to Senate Joint Resolution 190, to authorize and request the President to designate the period from May 26, 1974, through June 1, 1974, as "National Stamp Collecting Week."

SENATE CONCURRENT RESOLUTION 84—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO OPIUM PRODUCTION IN TURKEY

(Referred to the Committee on Foreign Relations)

Mr. MONDALE. Mr. President, last week I wrote to President Nixon to urge him to take personal action to stop the Turkish Government from going further toward resumption of legal growing of opium in that country.

The halt of the Turkish opium production 2 years ago has been a major factor in our battle against heroin addiction in this country. It has reduced illegal heroin supplies drastically, driven up the price, and as a consequence, addicts are coming in off the streets and seeking help and treatment.

Before the Turkish ban, an estimated 80 percent of the illegal heroin in this country came from Turkey. Since the Turkish Government imposed a ban on opium production, the number of estimated heroin addicts in the United States has dropped, according to some sources, more than 60 percent.

The time for action is now. The Turkish Government has authorized the germination of seeds, and according to news reports, a decision to go ahead with planting in the fall may take place soon.

During my recent visit to Europe, narcotics officials and foreign government leaders made clear to me that the key to combating illegal narcotics traffic is continued high-level American concern. If we do not make clear that we still care about this problem, then foreign governments, who have been cooperating with us, cannot be expected to maintain their high level of interest and dedication in stopping narcotics traffic.

I would hope that Watergate and the energy crisis and other concerns of the day would not lead us to lose sight of this very important struggle against narcotics addiction. I hope this administration, which has shown such tenacity in other areas, would show the same determination in continuing to fight against narcotics addiction.

Unfortunately this does not seem to be the case. The administration is considering starting up opium production in the United States for legitimate purposes. The drug companies are putting on the pressure and claim a shortage in the availability of opium. The White House seems favorably disposed toward the idea even though the head of the Federal Drug Enforcement Administration has stated that the extent of the opium shortage has been exaggerated by pharmaceutical companies. The White House seems completely indifferent both to the inherent risks of domestic opium production and the fact that this would make it impossible to hold back the floodgates of Turkish production. The administration seems to think it can follow a policy of telling the Turks to "do as I say, not as I do."

The story of the attitude of American officials in Ankara is no more encouraging. They seem to be no longer seriously pressing the Turkish Government to maintain the ban on opium, and worry more about our military bases there—bases which we could not use during the Arab-Israeli war while the Soviets carried on an airlift through Turkish airspace with impunity.

Our diplomats in Turkey seem more concerned about Turkish pride, about the Turkish rights to decide to do whatever they want, than they do about the fact that the lives and future of tens of thousands of Americans may be ruined permanently if the Turkish opium ban is lifted. I am frankly appalled at this attitude.

So at the highest level of this administration, it appears we are more concerned about growing opium ourselves than in maintaining a ban in Turkey. And at the lower levels, in the field, our diplomatics are more concerned about Turkish pride than the lives of the young people who will be destroyed if cheap and plentiful supplies of heroin again flood the American market.

For this reason, in my letter I called the President's attention to the legislation which I introduced and which has become law, 22 U.S.C. sec. 2291. It requires suspension of economic and military assistance, including military sales as well, upon determination by the President that a foreign government has failed to take adequate steps to prevent drugs from unlawfully entering the United States. Last year direct U.S. aid and military sales credit for Turkey was more than $100 million. This year the administration plans to increase this to $140 million.

I can understand Turkish sensitivities and realize that the possibility of an aid cut-off could hurt Turkish pride. That is not the objective. I do not want to infringe on Turkish sovereignty nor make life more difficult for the Turkish Government which is struggling back toward democratic rule. I am against growing opium in this country as well as in Turkey. I recognize that drug addiction is primarily an internal U.S. problem. But the Turkish people and the Turkish Government will have to understand that the growing of opium poppies is not just an internal Turkish problem. It affects the lives of Americans.

We cannot tolerate a situation in which Turkey takes actions which lead to the destruction of lives in this country while we continue to provide funds to protect the lives and improve the well-being of the people of Turkey.

So I have called upon the President to take prompt action and repeat that call today. I have not, however, received a response to my letter. To make clear the broad concern that exists on this issue, I have joined with Senator BUCKLEY, Congressmen RANGEL, RODINO, and WOLFF in sponsoring a Sense of the Congress Resolution that immediate negotiations should be undertaken to maintain the ban on opium in Turkey, and to terminate our assistance if it is not.

Mr. President, I ask unanimous consent that the text of the resolution may appear at this point in the RECORD.

There being no objection, the concurrent resolution was ordered to be printed in the RECORD, as follows:

S. CON. RES. 84

Whereas the President of the United States in 1971 declared that the drug problem in our nation had "assumed the dimensions of a national emergency," and that "heroin addiction was the most difficult to control and the most socially destructive form of addiction"; and

Whereas it has been estimated that prior to 1972, 80 percent of illicit heroin entering the United States was produced from a Turkish opium base; and

Whereas in 1972, the Turkish Government agreed to ban the growing of the opium poppy in exchange for $35.7 million in assistance to be provided by the United States to compensate losses accrued to the Turkish farmers and to assist in developing alternative crops; and

Whereas the Turkish Government's ban on opium reduction in both quantity and quality of heroin available on the streets of America, which has resulted in the reduction of the estimated number of heroin addicts by more than 60 percent; and

Whereas the Turkish Government has permitted the germination of poppy seeds which could be ready for planting this fall; and

Whereas the Turkish Government is presently deliberating over the possibility of lifting the ban on opium poppy production in Turkey; and

Whereas the Foreign Assistance Act authorized the President of the United States to cut off aid to any nation that he determines had not taken adequate measures to prevent illegal drugs from entering the United States; and

Whereas the revocation of the opium ban in Turkey is counter productive to measures precluding illegal heroin from entering the United States; Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), that it is the sense of the Congress that the President should—

(1) immediately initiate negotiations at the highest level of the Turkish Government to prevent the resumption of opium production; and

(2) if such negotiations prove unfruitful, exercise the authority provided by the Congress under the Foreign Assistance Act, to terminate all assistance to the Government of Turkey.

STANDBY ENERGY EMERGENCY AUTHORITIES ACT—AMENDMENTS

AMENDMENTS NOS. 1276 THROUGH 1280

(Ordered to be printed, and to lie on the table.)

Mr. BELLMON. Mr. President, I am today introducing five amendments which I plan to call up next week during consideration of S. 3267, the Standby (Energy) Emergency Authority Act.

That bill like its predecessors is still addressed to the wrong part of our national energy problem. It does nothing to increase supplies of oil and gas. We must do more than simply spread shortages through rationing and other means. We must act to increase supply, otherwise this Nation will increasingly become dependent upon insecure foreign sources for our energy. These proposals are modest and largely noncontroversial. Three of them have previously been introduced separately, and as part of S. 1162.

These are:

First. An antitrust exemption for energy research agreements. I am convinced that more research on energy will bring quick results in terms of achieving the capability for energy self-sufficiency. I am also convinced that research in the private sector will be at least as fruitful and productive as the research purchased with Federal appropriations. Therefore, I would like to remove an inhibition that presently prevents cooperation among companies in pursuing this research.

Second. Authority for the Secretary of Defense to enter into agreements for the purchase of low sulfur hydrocarbons produced from coal or oil shale. Assured purchases of equipment by the Department of Defense has long been the incentive and mainstay for development and production of aircraft and other needed products. This proposal would be a similar means of providing to producers the assurance that their product will find a market. With such assurance, the enormous capital requirements and other undertakings and commitments necessary to get such plants built can be met.

Third. A proposal to change the Joint Committee on Atomic Energy to a Joint Committee on Energy. This is surely an idea whose time has come. It has been debated several times in this Chamber. It seems to me that without further ado we should take this modest step. We will shortly be considering the Energy Research and Development Act by which we will reallocate executive responsibilities in this area and break up the Atomic Energy Commission. The Senate should move now to enlarge the responsibilities of the present committee to encompass the total energy needs of the Nation.

If we had had a properly constituted body which could have considered all energy related matters, we might have been able to anticipate and avoid some of the energy problems we now have. Let us not delay any longer.

Mr. President, two of my proposals are new to this Chamber; but, again, they are sufficiently in the interest of equity that I hope they will meet with acceptance and quick approval.

Mr. President, those of us who represent energy-producing States have long despaired at the neglect and shortsighted attitudes of officials of energy consuming States. They do not want oil produced off their shores; they do not want refineries built in their States; they do not want deep-water ports for tankers. But, they want the energy. This double standard cannot continue. Producing States resent these policies, but we especially feel the unfairness of being required to export our raw materials to other States at prices that do not reflect the value of these materials. Once our natural resources are depleted at these artificially low or controlled prices, producing States will be impoverished.

In no area is this inequity worse than in the control of natural gas prices. I am beginning to despair of any chance of decontrolling these prices. In the meantime much Oklahoma gas is being exported at prices set by the FPC as low as 15 cents per thousand cubic foot when it is being sold intrastate for 75 cents per thousand cubic foot and up. On a Btu basis, compared to $8 a barrel oil, its value is about $1.50 per thousand cubic foot.

At least two groups are seriously disadvantaged by this situation: First, States and local governments whose taxes are based on this artificially low price rather than the true value; and second, the owners and producers of this gas.

It has been estimated that the State of Oklahoma loses about $5 million each year in revenue because of this situation.

From the standpoint of simple justice, if a majority of the representatives in Congress wish to continue this control and these artificially low prices for the benefit of the consumers in their States, then the least they can do is to reimburse the people of Oklahoma and similarly situated States for their loss of income. It is bad enough to be compelled to export the raw material at such low prices; we should not have to provide a tax subsidy to other States, too.

The second amendment is based upon simple justice and equity. If the owners of natural gas are being required to sell their property at artificially low prices for the benefit of consumers, they deserve to be reimbursed for their loss. Either we should decontrol the price on natural gas, or taxpayers-at-large should share this burden, not the owners of the natural gas. Consumers in producing States are paying what gas is worth. Why should consumers in other States not pay the true value of their premium fuel.

In my State of Oklahoma there are thousands of small farmers and landowners who get the royalty owner's customary one-eighth of the income from gas sold. One-eighth of 15 cents is certainly different than one-eighth of 75 cents.

On a recent trip to the southwestern part of my State, I receive many complaints about this situation. In one case, the royalty income check from the oil company and the social security check from the Government was the principal source of income for one of my constituents.

So, I can assure my colleagues that when they embark on punitive measures to "fleece the rich and the fat companies," they unwittingly punish any number of retired people, farmers, laborers, and small businessmen. It is time we started to reverse this trend—from the standpoint of justice—as well as from the standpoint of increasing our supplies of domestic energy through greater incentives to producers.

Mr. President, I ask unanimous consent that the full text of these five amendments be printed in the RECORD.

There being no objeciton, the amendments were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1276

At the end of the bill insert the following new title:

TITLE III—EXEMPTION FROM ANTITRUST LAWS FOR ENERGY RESEARCH AGREEMENTS

SEC. 301. (a) The antitrust laws, as defined in section 1 of the Act of October 15, 1914 (15 U.S.C. 12) and in the Federal Trade Commission Act (15 U.S.C. 41 et seq.) shall not apply to any joint agreement by or among persons engaged in the production or development of energy resources, including but not limited to secondary and tertiary recovery of crude oil and gas and extraction of sulfur from coal, natural gas, and crude oil, if such agreement is solely for the purpose of carrying our research to improve such production or development.

(b) As used in this section "person" means any individual, partnership, corporation, or unincorporated association or any combination or association thereof.

(c) Nothing in this section shall affect any cause of action existing on the date of enactment of this section.

SEC. 302. The amendment made by this title shall take effect on the date of enactment of this Act.

AMENDMENT No. 1277

At the end of the bill insert the following new title:

TITLE III—NATIONAL DEFENSE ENERGY RESOURCE DEVELOPMENT AND PRODUCTION INCENTIVE PROGRAM

SEC. 301. The Secretary of Defense shall enter into contracts or agreements that will guarantee for a fifteen-year period after enactment of this Act the purchase of low sulfur hydrocarbon liquids, produced from coal or oil shale up to the level of Department of Defense annual oil and oil products requirements plus normal reserves at a price adequate to insure the producer a reasonable return on investment.

SEC. 302. The amendment made by this title shall take effect on the date of enactment of this Act.

AMENDMENT No. 1278

At the end of the bill insert the following new title:

TITLE III—CHANGE OF JOINT COMMITTEE ON ATOMIC ENERGY INTO JOINT COMMITTEE ON ENERGY

SEC. 301. Change of Name and Functions.—Chapter 17 of the Atomic Energy Act of 1954 (42 U.S.C. 2251–2257), as amended, is amended—

(1) by striking out "Atomic" in the chapter heading;

(2) by striking out "Atomic" in section 201; and

(3) by strilkng out section 202 and inserting in lieu thereof the following: Sec. 302. Authority and Duty.—

(a) The Joint Committee shall make continuing studies of problems relating to the development, use, and supply of energy for the purpose of making such recommendations to the Congress with respect thereto as it deems advisable in the interests of the national security, the public health and welfare, and the Nation's economic stability. In making such studies the Joint Committee shall hold periodic public hearings. The Commission and other agencies of the Government exercising responsibilities in matters pertaining to the development, use, and supply of all forms of energy, shall keep the Joint Committee fully and currently informed with respect to their activities in such matters.

(b) All bills, resolutions, and other matters in the Senate or House of Representatives relating primarily to the Commission or to the development, use, or control of energy shall be referred to the Joint Committee.

(c) The members of the Joint Committee who are Members of the Senate shall from time to time report to the Senate, and the members of the Joint Committee who are Members of the House of Representatives shall from time to time report to the House (1) their findings and recommendations with respect to problems relating to the development, use and supply of energy, and (2) their recommendations, by bill or otherwise, with respect to matters within the jurisdiction of their respective Houses which are referred to the Joint Committee under subsection (b) or which otherwise relate to energy and are within the jurisdiction of the Joint Committee.

SEC. 303. The amendments made by this title shall take effect on the date of enactment of this Act.

AMENDMENT No. 1279

At the end of the bill insert the following new title:

TITLE III—PAYMENTS TO STATES AND LOCALITIES IN LIEU OF TAXES ON THE TRUE VALUE OF NATURAL GAS

SEC. 301. At the end of each fiscal year the Secretary of the Interior shall cause to be calculated the loss in revenue to states and local jurisdictions from taxes on natural gas because of the area or other rates set by the Federal Power Commission. In making this calculation the true value of the natural gas shall be the average value of natural gas sold in the intra-state market for each state during the preceding fiscal year. The Secretary of the Treasury shall then pay out of funds available to him and without further appropriation such amounts to each state and local jurisdiction.

SEC. 302. The amendment made by this title shall take effect on the date of enactment of this Act.

AMENDMENT No. 1280

At the end of the bill insert the following new title:

TITLE III—PAYMENTS TO PRODUCERS AND ROYALTY OWNERS IN LIEU OF INCOME FROM THE SALE OF NATURAL GAS AT INTERSTATE RATES

SEC. 301. Owners of title to natural gas sold in interstate commerce at area rates set by the Federal Power Commission which are below prices received from natural gas sold intra-state shall be re-imbursed for their loss of income. The Secretary of the Treasury shall by rule and regulation provide proper forms and procedures for royalty owners and producers to make application for re-imbursement and upon proper application shall cause to be paid out of the Treasury from funds not otherwise appropriated and without further appropriation the amounts due. The loss of income shall be calculated yearly by the Secretary of the Interior based on the average price each fiscal year for natural gas sold in intra-state commerce for each state.

SEC. 302. The amendment made by this title shall take effect on the date of enactment of this Act.

AMENDMENT NO. 1281

(Ordered to be printed, and to lie on the table.)

Mr. BELLMON. Mr. President, a great inequity presently exists in connection with this Nation's effort to meet our energy needs. By passage of the Emergency Petroleum Allocation Act of 1973, Congress has endeavored to equitably distribute the limited supplies of petroleum products among consumers in every State in the Union. However, at the same time, several States presently are enforcing prohibition against the development of potential petroleum resources within areas under their jurisdiction and also the construction of petroleum processing facilities.

This Nation can ill afford such a double standard. It makes no sense to say to the citizens of one State that the petroleum resources of that State shall be developed and processed and transferred into another State which will not allow similar development and processing.

I am today introducing an amendment to S. 3267, which I plan to call up next week, and which is intended to end this inequity and in this way hasten the day when the energy needs of citizens of every section of this country can be adequately met.

Mr. President, I ask unanimous consent that the full text of this amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1281

At the end of the bill insert the following new title:

TITLE III—EQUITABLE OIL AND REFINERY PRODUCT ALLOCATION

SEC. 301. Amendment of Emergency Petroleum Allocation Act of 1973. Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following:

(h) In the administration of the provisions of this Act, the President shall take such action as may be necessary to assure that, in carrying out any program allocating refined petroleum products under this Act, any adjustments made with respect thereto involving the diverting from one State or another State for the purpose of relieving shortages of refined petroleum products therein, shall not have the effect of diverting refined petroleum products from a State which allows the development or processing of crude oil resources within areas under its jurisdiction and control to a State which, by its laws or policies, or both, prohibits, substantially limits, or restricts the development or processing of crude oil resources within areas under its jurisdiction or control.

SEC. 302. The Amendment made by this title shall take effect on the date on enactment of this Act.

AMENDMENTS NOS. 1283 THROUGH 1287

(Ordered to be printed, and to lie on the table.)

Mr. TOWER submitted five amendments, intended to be proposed by him, to S. 3267, supra.

AMENDMENT NO. 1296

(Ordered to be printed, and to lie on the table.)

Mr. ABOUREZK submitted an amendment, intended to be proposed by him to S. 3267, supra.

DEPARTMENT OF DEFENSE APPROPRIATION AUTHORIZATION BILL, 1975—AMENDMENT

AMENDMENT NO. 1282

(Ordered to be printed, and referred to the Committee on Armed Services.)

DEFENSE DEPARTMENT BUDGET

Mr. BIDEN. Mr. President, I introduce today an amendment to the fiscal year 1975 Defense Department authorization bill. This amendment is divided into two sections. The first section declares the will of Congress that the Defense Department may not during any fiscal year adjust its budget or budgets to help stimulate or effect a change in the domestic economy. And it expressly prohibits the use of funds in this manner. Second, this amendment requires the Secretary of Defense to submit a written report to the Congress within 30 days of enactment of the fiscal year 1975 Department of Defense budget authorization appropriation specifying and delineating amounts, if any, included for the primary purpose of stimulating or effecting a change in the domestic economy.

I believe that the purpose of this amendment is fairly evident particuarly in light of the press coverage of Secretary of Defense Schlesinger's statements to the House Defense Appropriations Subcommittee in February of 1974. The gist of Mr. Schlesinger's comments to questioning was to admit, "there is an element of economic stimulus in this budget—." and that this was "sound economic policy." On this date, Defense Secretary James Schlesinger acknowledged that as much as $1.5 billion in the fiscal year 1975 defense budget is to stimulate our sagging economy, out of a total obligational authority of $92.6 billion. My amendment would require a strict accounting of such economic devices as well as prohibiting them.

This $1.5 billion—which in reality might be even higher—has been equally represented as a "cushion," economic tool," and a "pump-priming" device meant to stimulate and increase defense spending to prevent recession. I believe that there is no justification for using defense spending, rather than increases in the civilian sector of the budget, to stimulate the economy. Statistics illustrate that rising defense costs contribute to higher prices and that as the major component of the Federal budget, defense costs are in large part responsible for our considerable budget deficits. By stimulating the economy to the tune of $1.5 billion, we are assured of even higher inflation.

Now I would like to share some of the findings with you from a research study prepared by the Center for Defense Information. This paper shows the deleterious effect of increased military spending on inflation. The defense budget is the wrong vehicle to use to spur the economy.

The evidence is quite simple. The Office of Management and Budget states that 56 percent of the Defense Department budget goes for personnel costs. Thus, the impact of defense spending in 1974 is primarily a function of its outlays for personnel rather than procurement, because personnel has the tendency to increase aggregate demand for goods, yet produce nothing in return, thus spurring even more marked spiraling of inflation.

By analyzing outlays for R.D.T. & E., procurement, and personnel, the Center demonstrates how nonproductive military spending can induce increased conditions of excess demand and the inflation it characterizes. The demand generated by the military spending might cause producers in the market sector to expand their operations to meet the increased aggregate demand. Although new jobs would be created, it is unlikely that these efforts would effectively offset the large excess aggregate demand caused by military spending.

What this adds up to is that many of the people who are paid by the Defense Department produce no goods for the market sector of the economy. Yet, they purchase these items, adding to the aggregate demand, thereby worsening inflation.

Another relevant finding shows: "Investment in R.D.T. & E., military procurement, and personnel involves significant opportunity costs. If the United States spends more than necessary on these functions, the country not only wastes the allocated funds, but it also loses opportunities to invest this money that would increase market sector output, thereby helping to reduce excess demand."

This shows that defense industries are relatively capital intensive rather than labor intensive. A Bureau of Labor Statistics report has shown that $1 billion spent on defense generates only 75,817 jobs while the same amount spent at the State and local levels for health care would create 80,041 jobs or 104,019 education jobs.

On March 25, 1974, a report of the Joint Economic Committee recommended that the defense budget not be viewed as a public employment program. They further said that the best road toward economic recovery is to face the problem directly and to spend money where the greatest number of jobs and goods will be created. I agree with the finding that defense spending curbs recession less effectively than some other kinds of budgetary outlays.

This amendment represents a first step in our efforts to curb inflation and set our economy on the road to a healthy recovery.

Mr. President, I ask unanimous consent that the text of the amendment be printed in the Record at this point.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

Amendment No. 1282

Sec. 702. (a) The Congress declares that it is not a proper function of the Department of Defense, in determining the amount of the budget for that department for any fiscal year, to make allowances for amounts needed to help stimulate or otherwise effect a change in the domestic economy. No funds authorized to be appropriated to the Department of Defense by this or any other Act may be expended for the purpose of stimulating or otherwise affecting a change in the domestic economy unless the expenditure of such funds for such purpose is specifically authorized by law enacted after the date of enactment of this Act.

(b) The Secretary of Defense shall submit a written report to the Congress within thirty days after the date of enactment of this Act indicating the specific amounts, if any, requested or included in the budget of the Department of Defense for the fiscal year ending June 30, 1975, which were requested or included for the primary purpose of stimulating or otherwise effecting a change in the domestic economy.

REGULATION OF INTERSTATE AND FOREIGN COMMERCE TRADING OF FUTURES CONTRACTS—AMENDMENT

AMENDMENT NO. 1288

(Ordered to be printed, and referred to the Committee on Agriculture and Forestry.)

Mr. HART. Mr. President, about 1 year ago, the able Senator from Iowa, Mr. Dick Clark, asked the General Accounting Office to study and report on changes needed to be made in the trading of commodity futures contracts. On Monday, an interim report was made public. I ask unanimous consent that this report be printed in full in the Record.

There being no objection, the report was ordered to be printed in the Record, as follows:

Report to the Congress: Interim Report on the Commodity Exchange Authority and on Commodity Futures Trading

Comptroller General of the
United States,
Washington, D.C.

To the President of the Senate and the Speaker of the House of Representatives:

This is our interim report on the Commodity Exchange Authority, Department of Agriculture, and on commodity futures trading.

We made our review pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67).

We are continuing our review of the operations of the Commodity Exchange Authority and plan to issue a final report when our work is completed.

Copies of this report are being sent to the Director, Office of Management and Budget, and to the Secretary of Agriculture.

Elmer B. Staats,
Comptroller General of the United States.

Digest: Comptroller General's Report to the Congress

WHY THE REVIEW WAS MADE

In 1973, agricultural commodity prices increased to record highs causing prices paid for food by American consumers to rise drastically.

Because of the key role commodity futures markets play in establishing commodity prices, the Congress has become concerned as to how effective Agriculture's Commodity Exchange Authority (CEA) has been in supervising commodity exchanges and traders.

There also is concern as to whether additional statutory authority is needed to strengthen this supervision.

Trading in commodity futures is the buying and selling of contracts at fixed prices for delivery of commodities at some future time.

GAO has undertaken a comprehensive review of CEA operations. This is an interim report containing GAO's preliminary observations based on a survey of CEA and recent legislative developments.

FINDINGS AND CONCLUSIONS

Legislative matters

Several major bills affecting futures trading were introduced in 1973 in the Congress. These addressed questions as to

Where regulation of trading in futures belongs in the Federal bureaucracy, and

The need to expand the Government's authority in order to regulate this trading effectively.

Where does regulation of futures trading belong?

This question arose because of concern in Congress regarding the ability of CEA to effectively regulate futures trading, which has had an unprecedented growth, and the need to instill fuller public confidence in this trading.

The Congress considered four alternatives:

Leave the authority in the Department as presently constituted;

Leave the authority in the Department but with independence from it in budgeting and staffing;

Create a new, independent agency; and

Make the authority a part of the Securities and Exchange Commission.

Creating an independent agency, separate from the Department, is the more appropriate alternative because:

It would remove any appearance of a conflict of interest:

Futures markets, vital to the country's economic well-being, should be regulated by a strong, independent agency; and,

Federal regulation could be extended to all types of futures trading encompassing commodities such as metals (copper and silver) and foreign currencies in which the Department has little or no expertise.

A potential conflict of interest exists if the authority remains in the Department because the Secretary is charged by law to influence and maintain the prices of many of the commodities traded in the futures markets.

Should CEA regulate trading in all futures contracts?

Trading in unregulated commodities has increased rapidly. In fiscal year 1973, about 5.8 million contracts (valued at $131 billion) were traded, almost double the number in the previous year. This growth has increased the need for better protection of unregulated commodity customers.

All futures trading should be regulated because individuals and firms who deal in unregulated commodity contracts deserve the same protection provided traders in regulated commodities. This includes:

Segregation of customers' funds, to guard against losses in the event of financial failures of brokerage firms;

Agency ability to investigate customer complaints of trading practices or unusual price fluctuations; and

Suspending or prohibiting individuals from trading who commit serious violations of the act.

Consistency in exchange operations and handling of customer accounts would also be provided.

Should trading by floor brokers for their own account be prohibited?

A floor broker is in the unique position of being able to trade for his own gain or loss on one trade and for a customer's gain or loss on the next. He may at times have a direct conflict of interest because he is in a position to take advantage of the most profitable transactions for himself.

To avoid this, CEA should be authorized to restrict or prohibit trading of floor brokers and Futures Commission Merchants (brokerage firms) for their own account while trading for the accounts of customers.

CEA also should be able to set different trading standards for different contract markets to avoid unwarranted restrictions on trading volume which could result in excessive price fluctuations.

Should CEA have authority to obtain injunctions or administer fines?

CEA can punish violators of the Commodity Exchange Act by issuing cease-and-desist orders or suspending their trading privileges. But these actions generally are either too severe for the violations or too meaningless to act as a deterrent.

CEA should have authority to seek injunctions and to apply civil money penalities in order to effectively deal with, and deter, violations of the act.

Should the CEA have authority to establish margin requirements for futures trading?

This question has been the subject of much discussion stemming primarily from a misunderstanding of the purpose of commodity margin, and the concern that the amount of the margin affects speculation and prices.

Commodity margin is the amount of money which the buyer or seller of a futures contract deposits with its Futures Commission Merchant to guarantee performance on the contract.

Commodity exchanges should continue establishing commodity margin requirements on a day-to-day basis because CEA is not in a position to react as quickly as the exchanges.

CEA, however, should be given authority to establish margin requirements in emergency situations to facilitate orderly trading. CEA should study, in conjunction with the commodity industry, the feasibility of developing a margin formula or margin table as a guide for traders. This would provide CEA criteria by which to measure market operations.

Should CEA have authority to designate delivery points?

CEA officials have testified that inadequate delivery points—where commodities may be delivered in settlement of a futures contract—were a major problem and could cause erratic price fluctuations.

CEA should be authorized to require the exchanges to designate additional delivery points if necessary, or to designate the points if exchanges do not do so.

The exchanges, however, should continue to be primarily responsible for establishing delivery points because of their greater expertise.

Should registration and fitness checks be expended?

Only floor brokers and certain employees of Futures Commission Merchants such as officers or partners are required to register with CEA. They are given fitness checks to insure that only reputable people handle customer orders.

Individuals primarily involved in soliciting, accepting, or handling customers' orders, however, do not have to register. Consequently, CEA has no assurance that commodity customers are dealing with reputable brokerage representatives.

The Commodity Exchange Act should be amended to require registration of all people who handle commodity customer accounts and/or funds. (See p. 28.)

Administrative matters

CEA's task had become more difficult because the size of its staff had remained at about 165 while the volume and value of contracts traded had increased about 73 percent and 189 percent respectively from FY 1970 through FY 1973.

The Department did not request additional staffing until FY 1974 when prompted to do so by Congress. Lack of adequate staff has been a basic management problem.

Commodity exchange rule enforcement

CEA needs to be more aggressive in requiring exchanges to enforce

Rules concerning contract terms and trading; and,

Minimum financial requirement rules as approved by the Secretary of Agriculture.

Five years after the Commodity Exchange Act was amended requiring exchange self regulation the exchanges did not have enforcement programs acceptable to CEA.

CEA investigations

In 1965, GAO pointed out that CEA's trade practice investigations were inadequate to disclose or discourage abusive trade practices on the exchange floors.

In 1971, the Department's Office of Audit reported essentially the same deficiencies. These deficiencies continue.

Market surveillance

CEA has not regularly reviewed the adequacy of speculative trading and position limits, the primary purpose of which is to curb trading of individuals whose trades or positions might cause sudden, unreasonable, or unwarranted price fluctuations.

Registration and audit activities

CEA's regional professional staff spends about 25 percent of its time performing routine audits of Futures Commission Merchants to insure that customer funds are properly segregated from FCMs' funds and that FCMs meet minimum financial requirements. This audit function is vital to insure that customers' funds are adequately protected.

If CEA placed the primary responsibility for audits with the exchanges, CEA could function more meaningfully as an overseer and could also be more effective in other ways.

RECOMMENDATIONS

The Secretary of Agriculture should direct the Administrator, CEA, to

Give exchanges a time limit for implementing CEA's regulation on self-enforcement of trading rules, list penalties if deadlines are not met, and aggressively monitor the exchanges' enforcement programs.

Establish standards for exchanges enforcement of financial requirements and state penalties to be imposed for failure to meet the standards within a specified period.

Investigate trade practices to seek out abusive practices on a planned high priority basis.

Regularly review adequacy of or needs for speculative trading and position limits on regulated commodities.

Consolidate guidance documents on price manipulation investigations and make them available to its regional offices.

Consider giving exchanges primary responsibility for audits of Futures Commission Merchants.

AGENCY COMMENTS

The Administrator, CEA, orally agreed in general with these recommendations and said additional staff had been requested to help alleviate the problems. He pointed out, however, that conducting trade practice investigations as recommended by GAO would require considerable effort. Even with increased staffing, higher priority work might preclude such investigations.

The CEA Administrator disagreed with GAO's recommendation to consider giving exchanges primary responsibility for audits of Futures Commission Merchants with CEA exercising a strong oversight role.

GAO plans to comment further on these matters in its final report.

MATTERS FOR CONSIDERATION BY THE CONGRESS

On April 11 the House of Representatives passed and sent to the Senate H.R. 13113. This provides for a commodity futures trading commission in the Department with independence in staffing and funding.

To remove any appearance of conflict of interest and to instill full public confidence, the Congress should establish an independent agency, separate from the Department, to regulate all futures trading.

Also, if the Government is to regulate futures trading effectively, Congress should amend the Commodity Exchange Act to provide authority for:

Regulating all futures trading.

Restricting trading of floor brokers and Futures Commission Merchants for their own account while trading for accounts of customers.

Seeking injunctions and imposing civil money penalties.

Establishing margin requirements in emergency situations only.

Requiring exchanges to designate additional delivery points or designating such points if the exchanges do not.

Extending registration requirements to all people handling customer accounts and/or funds.

H.R. 13113 would generally provide the above regulatory authority, except for the authority to establish margin requirements in emergency situations.

CHAPTER 1: INTRODUCTION

The Commodity Exchange Act (CE act), as amended (7 U.S.C. 1), authorizes the Secretary of Agriculture to regulate trading in contracts for future delivery of certain specified agricultural commodities on boards of trade (commodity exchanges) designated as contract markets. (A list of the commodities regulated under the act is shown in app. I.)

In 1973, agricultural commodity cash and futures prices increased to record highs. This, in turn, caused the prices paid by the consumers for food to increase drastically. These increases were precipitated by an unusual number of diverse occurrences, such as unanticipated foreign purchases of U.S. commodities, adverse weather conditions which affected crop production worldwide, and two successive devaluations of the U.S. dollar.

Because of the large increases in commodity prices and the role played by the commodity futures markets in establishing such prices, there has been an increasing awareness and use of these markets by businessmen and the general public. As a result, the number and value of transactions on the nation's commodity exchanges have increased substantially from year to year. Trading activity in regulated and unregulated commodities in 1972—15.5 million contracts (valued at $189 billion)—was more than three times the level 10 years earlier. Fiscal year 1973 trading activity totaled 23.6 million contracts (valued at almost $400 billion)—more than 50 percent higher than the activity in the previous year.

The Congress has expressed concern over the increase in futures prices and in futures trading in general. Several major bills affecting futures trading have been introduced in both the Senate and the House, but, as of April 1974, none had been enacted into law. Hearings involving futures trading were held in 1973 and 1974 by the Permanent Subcommittee on Investigations of the Senate Committee on Government Operations; the Subcommittee on Special Small Business Problems of the House Select Committee on Small Business; and the House Committee on Agriculture. Several Members of Congress have expressed concern over such matters as the Department of Agriculture's effectiveness in supervising commodity exchanges and traders, whether the Department needs additional statutory authority, and the effect of commodity exchanges and trading on food prices.

This interim report contains preliminary observations based on our survey of operations of the Commodity Exchange Authority (CEA) and on recent legislative developments affecting CEA. We are continuing to examine CEA operations and will issue a final report when our review is finished. We previously isued a report on CEA entitled "Need to Strengthen Regulatory Practices and Study Certain Trading Activities Relating to Commodity Futures Markets" (B–146770, July 16, 1965).

In evaluating CEA's current policies, procedures, and practices in carrying out its responsibilities under the law, we are doing work at the CEA headquarters office in Washington, D.C., and its regional offices in New York City, Chicago, and Kansas City. Also, we are interviewing officials of, and obtaining information from, the following commodity exchanges: Chicago Board of Trade; Chicago Mercantile Exchange; New York Mercantile Exchange; New York Cotton Exchange and Associates; and the Board of Trade of Kansas City, Missouri, Inc. To help us in our study we hired three consultants with expertise in the operations of the futures market.

RESPONSIBILITIES UNDER THE COMMODITY EXCHANGE ACT

The major responsibilities of the Secretary of Agriculture in regulating and supervising the commodity exchanges and futures trading are to:

Prevent commodity manipulation and market corners in both cash and futures markets.

Curb excessive speculation by large traders, which results in unwarranted changes in price.

Prevent dissemination of false and misleading crop and market information affecting commodity prices.

Protect users of the commodity futures markets against cheating, fraud, and other abusive practices.

Insure the benefits of membership privileges on contract markets to cooperative associations of producers.

Provide minimum financial standards for brokerage firms and safeguard margin moneys and equities of other traders to prevent misuse of such funds by futures commission merchants.

Designate contract markets and register brokerage firms and floor brokers.

Provide information to the public regarding trading operations and contract markets.

Insure enforcement of contract markets' rules on contract terms and other trading requirements and on minimum financial standards and related reporting requirements approved by the Secretary of Agriculture.

The Secretary of Agriculture established CEA to administer the CE act, and gave CEA all his authority under the act, except for his authority to (1) approve commodity exchanges to trade in futures contracts for regulated commodities, (2) promulgate regulations, and (3) conduct disciplinary proceedings for apparent violations of the CE act or regulations. The Secretary, or his designee, serves as Chairman of the Commodity Exchange Commission, which was established by the CE act and which includes the Secretary of Commerce and the Attorney General, or their designees. The Commission is authorized to establish limits on speculative trading in regulated commodities and to order disciplinary action against commodity exchanges that trade futures contracts in regulated commodities.

DEFINITION AND PURPOSES OF FUTURES TRADING

Futures trading consists of buying and selling contracts for delivery in some future month of certain quantities of specified commodities at fixed prices. The physical commodity itself is not bought and sold on the futures markets, however, these markets play an important role in the marketing of the physical commodities. The primary purpose of the futures market is to help establish prices for commodities and to permit members of the trade to hedge or protect themselves against major losses in the event of adverse price movements for the physical commodities in the cash market.

Hedging

The futures market provides a means whereby producers, merchandisers, and processors can transfer at least some of the risks of adverse price movements of the physical commodity to speculators. This process is known as hedging. The hedger, unlike the speculator, has a financial interest in a commodity. That is, the hedger owns or has a firm commitment to buy a quantity of the physical commodity or has a future need for the commodity. There are two types of hedge used in the futures market, the buying (long) hedge and the selling (short) hedge.

The buying hedge consists of buying futures contracts for quantities of the commodity approximately equal to the quantity of the physical commodity needed to fulfill future processing requirements or other commitments. This hedge may be used by flour millers and cattle feeders or by grain merchants having firm cash sales commitments for future delivery which are in excess of inventories. The buying hedge protects the hedger from any future advances in the price of the commodity on the cash market and allows him to project his materials costs and price his product with the lowest possible profit margins.

The selling hedge consists of selling futures contracts for quantities of the commodity approximately equal to the quantity of the physical commodity owned and/or firmly committed to be purchased. This hedge may be used by farmers or by grain merchants having inventories which are not committed in the cash market. The selling hedge, therefore, provides the hedger with a guaranteed price for his inventory and protects the value of his inventory from any future decline in the price of the commodity on the cash market. A second advantage of the selling hedge is that lending institutions normally will loan a higher percentage of the estimated value of the inventory if it is protected by a selling hedge.

Speculating

The speculators in the futures market do not own or deal in the physical commodities in which they trade. These traders hope to realize a profit by assuming the risks of price fluctuations which the hedgers seek to avoid. The speculator buys futures contracts when he thinks prices are too low and sells futures contracts when he thinks prices are too high. The speculators are considered by the futures trading industry to be an integral part of the futures market because the additional volume of trading generated by the speculators reduces the price disturbances which can result from placement of hedges for any large quantities of a commodity and improves the possibilities of effecting a transaction for a hedge order limited to a specific price.

COMMODITY EXCHANGES

The primary responsibility of a commodity exchange is to insure a competitive market free of attempts at price manipulation. The exchanges are generally responsible for developing and enforcing trading rules; establishing contract terms, including delivery months; supervising traders and trading; establishing margin requirements, brokerage fees, and commissions; establishing price fluctuation limits (the permissible price change during the day); and inspecting all commodities tendered for delivery. The exchange may also establish limits on speculative trading.

The Secretary must designate an exchange as a contract market for a regulated commodity before the exchange can engage in futures trading in that commodity. To be designated a contract market, the exchange must maintain certain records and file reports, as prescribed by the Secretary; prevent dissemination of false, misleading, or inaccurate commodity information; prevent manipulation of prices and the cornering of any commodity; comply with the Secretary's final orders and decisions concerning violations of the CE act; and enforce exchange trading rules and contract terms.

As of October 1973, 18 commodity exchanges had been approved by the Secretary to trade in futures contracts for 1 or more of the 25 regulated commodities. These exchanges had a total of 90 approved contract markets, however, only 10 exchanges and 31 contract markets were actively trading at that time. Appendix I shows the status of exchanges and contract markets as of October 1973.

The CE act specifies that any individual, association, partnership, corporation, or trust (1) soliciting or accepting orders to buy and sell regulated commodity futures and (2) accepting any money, securities, or property or extending credit to margin trades on contracts must register each year with CEA as a futures commission merchant (FCM). FCMs are more commonly referred to as brokerage firms. An FCM charges a commission for filling customers' orders.

Futures contracts are bought and sold on the trading floor of the exchange by a floor broker, who may buy or sell futures contracts for others, for his own account, or for an account which he controls. He may trade on a commission basis for more than one FCM or for other exchange members or may be compensated as an employee or as an official of an FCM. Floor brokers must register each year with CEA. A floor trader may buy or sell contracts only for his own account and is not required to be registered with the CEA.

Chapter 2—Regulation of Futures Trading: Where Does It Belong in the Federal Bureaucracy?

This question arose because of the Congress' concern regarding the ability of CEA to effectively regulate futures trading, which has had an unprecedented growth, and the need to instill the fullest public confidence in such trading. The Congress has considered four alternatives: (1) leave the authority in the Department as presently constituted, (2) leave the authority in the Department but with independence from the Department in budgeting and staffing, (3) create a new, independent agency, or (4) make the authority a part of the Securities and Exchange Commission (SEC).

The idea of giving the futures trading authority to SEC was rejected by the House Committee on Agriculture and others as having little advantage and many disadvantages. The principal advantage was that SEC has an existing regulatory structure and is supervising some brokerage firms that also trade in the commodity futures markets. The overriding disadvantage was the pronounced difference between CEA and SEC in fundamental orientation and purpose, which would pose different regulatory problems. For example, a futures contract is not a security; hence, the laws applicable to securities would not apply to futures contracts.

One of the principal views discussed was to leave the authority in the Department but with independence from the Department in budgeting and staffing. This concept was incorporated in H.R. 11955 (93d Cong. 1st sess.) on which extensive hearings were held in January 1974. On the basis of these hearings, a new bill, H.R. 13113, was introduced in February 1974. On April 11, 1974, the House passed H.R. 13113, and forwarded it to the Senate for consideration. This bill would create a new five-member regulatory commission within the Department to be called the Commodity Futures Trading Commission. The Secretary of Agriculture or his designee would be a permanent member of the commission, and all authority under the CE act and all existing CEA employees would be transferred to the new commission. Commission budgets would be prepared independently and forwarded to the Secretary of Agriculture solely for transmittal with the Department's budget request, but would not be subject to the Secretary's approval.

These provisions apparently are intended to allow the commission to be independent in budgeting and staffing but still have the Department's technical and administrative experience and support. The structure of this proposed futures trading authority appears to be an improvement over that of CEA because the authority would no longer be subject to the Department's staffing and funding restrictions.

The Department and six of the exchanges testified in favor of leaving CEA, without independent budgeting and staffing, in the Department, primarily because the Department has much experience in supervising the futures markets and because most futures trading is in agricultural commodities.

Certain Members of Congress and persons knowledgeable in the futures market favor the independent agency concept. Four major legislative proposals concerning futures trading authority called for an independent agency. Our view is that an independent agency would be a more appropriate solution. Our principal reasons for advocating an independent agency rather than leaving the authority in the Department follow:

1. In the past, the Congress has established independent commissions, such as SEC, the Interstate Commerce Commission, and the Federal Communications Commission, to perform primarily regulatory functions. At present, the Congress is considering legislation to separate the regulatory function from the research and development activities of the Atomic Energy Commission, primarily to minimize potential conflicts of interest.

Also, the National Transportation Safety Board, which was established as an independent agency within the Department of Transportation, has apparently experienced some problems in its efforts to function independently. The Congressional Record of September 11, 1973, stated that the administration had tried to intervene in the Board's affairs and to exert undue pressure on it.

In 1971 and 1972, the Board itself asked for new legislation to make it completely independent of the Department of Transportation. The Board pointed out that its status within the Department has been misunderstood by the media, the public, and other Government agencies who assumed that the Board was not independent but a subordinate part of the Department even though the law (49 U.S.C. 1654) clearly stated that "In the exercise of its functions, powers, and duties, the Board shall be independent of the Secretary and the other offices and officers of the Department." Bills have been introduced in the House and Senate calling for a completely independent National Agency for Transportation Safety to replace the National Transportation Safety Board.

A potential conflict of interest would exist if the proposed commission were in the Department of Agriculture with the Secretary, or his designee, as a permanent member, because the Secretary is charged by law to influence and maintain the prices of many of the commodities traded in the futures markets. Also, the Department needs the cooperation of many commercial firms to perform some of its assigned tasks, such as disseminating market news and promoting exports. These same firms use futures markets and are subject to CEA regulations. Removing any appearance of conflict of interest is necessary to instill the fullest public confidence.

2. Extending Federal regulation to all futures trading would encompass many commodities other than agricultural, such as metals (copper and silver) and foreign currencies. It is also expected that noncommodities, such as ocean freight, residential mortgages, and others soon will be traded in the futures markets. Because the Department has little or no expertise regarding many of these items and because of the anticipated increase in futures trading in nonagricultural areas, it is at least questionable whether the proposed commission should be in the Department.

3. One of the principal arguments advanced by the proponents of Departmental control is that the Department's long and valuable experience in supervising the futures markets would be retained. We do not believe this is a valid argument because present CEA employees would be transferred to the new commission. This experience could remain intact no matter where the trading authority was placed in the Federal structure. Moreover, the law could specifically provide that the Department and any other *Government* agency which has information which might affect the orderly trading of futures contracts immediately report such information to the commission.

Because the futures markets play a vital role in the economic well-being of our country and to instill the fullest public confidence, the markets should be regulated by a strong and prestigious agency. In June 1973, a CEA management study team reported that CEA was having difficulty retaining its personnel and that the present grade and salary structure might be adversely affecting the recruitment and retention of qualified staff.

The top positions in CEA's grade structure are among the lowest of the Department's agencies and as much as three grades lower than the top positions of many of the independent regulatory agencies. For example, SEC's top position is three levels higher than CEA's.

An independent agency with a higher grade structure should be created to regulate futures trading and to facilitate the hiring and keeping of the high quality employees necessary to build a good reputation and instill public confidence in futures trading.

MATTERS FOR CONSIDERATION BY THE CONGRESS

To remove any appearance of conflict of interest and to instill the fullest public confidence, the Congress should establish an independent agency, separate from the Department, to regulate all futures trading.

CHAPTER 3: SOME QUESTIONS ON THE NEED TO STRENGTHEN REGULATION OF COMMODITY EXCHANGES AND FUTURES TRADING

Several major bills to strengthen the regulation of commodity exchanges and futures trading have been introduced in the Congress. All of the bills are addressed to several major questions primarily concerning the need to expand the Federal Government's authority to effectively regulate futures trading. Our observations on some of these questions follow.

SHOULD CEA REGULATE TRADING IN ALL FUTURES CONTRACTS?

In recent years, activity in the nonregulated futures markets has been increasing rapidly, just as it has been in the regulated markets. One of the best indicators is the number of contracts traded. (See table.)

The estimated dollar value of the 5.8 million contracts for nonregulated commodities traded in fiscal year 1973 was $131 billion, compared with $268 billion for regulated commodities during the same period.

Both exchange and CEA officials have estimated that the futures markets will continue to increase in value and volume in the coming years. Exchange and other knowledgeable officials said that new contract markets were planned to be established soon in such areas as ocean freight rates, mortgages, and possibly petroleum products.

Views of agency, exchanges and other officials and our evaluation

For the past 2 years CEA has proposed that the CE act be amended to bring all futures trading under Government regulation. The two largest exchanges—the Chicago Board of Trade and the Chicago Mercantile Exchange, both of which deal in regulated and unregulated commodities—strongly favor the Government's regulating all futures trading. Two reasons are that it would increase public confidence by providing better protection to individual traders in unregulated commodities and would provide consistency in exchange operations and handling of customer accounts.

FUTURES CONTRACTS TRADED

[In thousands]

Commodity group	Fiscal year—	
	1973	1972
Total regulated commodities	17,821	12,577
Nonregulated agricultural and forest commodities:		
Broilers, iced	141	29
Cocoa	394	217
Coffee	133	(1)
Fishmeal	10	(1)
Lumber	125	69
Plywood	275	160
Pepper		2
Sugar	1,093	693
Tomato paste		(1)
Total	2,171	1,170
All other nonregulated commodities:		
Copper	440	221
Diamonds	3	1
Foreign currencies	306	57
Mercury		(1)
Palladium	1	(1)
Platinum	153	139
Propane gas	4	1
Silver	2,562	1,378
Silver coins	169	37
Tin		(1)
Total	3,638	1,834
Total nonregulated commodities	5,809	3,004
Total	23,630	15,581

[1] Less than 500 contracts traded.

The National Grain and Feed Association, which, nationwide, represents every aspect of the grain and feed industry (elevators, exporters, feed manufacturers, millers, and processors), supports Federal regulation of all futures trading. Association spokesmen stated in congressional testimony that the grain markets have flourished under Federal regulation and that unregulated markets have nothing to fear and everything to gain from such regulation. They cited two cases which they said underline their reason for favoring Federal regulation.

One case in 1972 concerned the extensive fraudulent practices by sellers of commodity options, which are rights to buy and/or sell futures contracts at prevailing prices within a specified time. Such options were traded only in unregulated commodities because they are prohibited for regulated commodities by the CE act. According to the spokesmen, this prohibition has been fully supported by the grain industry.

The second case referred to price behavior in futures contracts expiring in 1973. In July 1973 the corn future expired with explosive price action. In March 1973 the coffee future in New York, after a precipitous price rise, declined the limit for 7 successive market days. The grain association representatives said they did not want to make an interpretation or allegation in either case but merely wanted to point out that CEA had the authority to make, and was making, an investigation of the corn price behavior but had no authority to investigate the coffee price behavior.

The only significant opposition to regulation of all futures trading was voiced in congressional testimony by the exchanges which trade in "world commodities" (commodities deliverable under futures contracts which are produced primarily in foreign countries). These commodities include coffee, cocoa, sugar, silver, and copper.

The principal arguments posed by these exchanges were that (1) because world commodities are produced almost entirely abroad, it is unnecessary and inappropriate for the Government to regulate them, and (2) the exchanges' self-regulatory programs have been tested over many years and have proved successful without additional governmental regulation. The exchanges expressed the view that Federal regulations would impair the orderly workings of the U.S. exchanges and would entail substantial costs for compliance; as a consequence, foreign exchanges would become more attractive to traders and cause many of them to divert their business from U.S. exchanges to foreign exchanges.

We believe that Federal regulation of trading in world commodities is necessary and appropriate if such commodities are traded on U.S. exchanges. Processors and other users of the futures markets in these commodities are entitled to the same protection as those who use futures markets in regulated commodities. We believe any loss of business caused by Federal regulation might be offset by new traders who would enter these world markets because of the increased public confidence brought about by Federal regulation.

Regulated commodity customers protected better

Customers trading in regulated commodities are better protected than those in nonregulated commodities. The CE act requires that regulated commodity customers' funds be segregated (a separate bank account must be maintained for customer funds) from the FCM's funds. Nonregulated-commodity customer funds, however, may be commingled with the FCM's funds. Thus, if an FCM fails financially, the nonregulated commodity customer is more likely to sustain a loss. For example, one FCM which petitioned for bankruptcy in 1970 had claims of about $740,000 filed against it. The attorney for the FCM said that about 90 percent of these claims had been filed by nonregulated commodity customers. Only 10 percent of the $740,000 had been paid as of December 1973.

Customers trading in regulated commodities can ask CEA to investigate complaints but customers in nonregulated commodities have no such recourse. At each of the three CEA regional offices several nonregulated-commodity customers complained to CEA but CEA could do nothing about their complaints. For example, a customer trading in sugar contracts alleged that his broker had initiated trades without proper authorization. He first complained directly to his broker but received no response. Then, in turn, he wrote the Chicago Mercantile Exchange (with a courtesy copy of the letter to the brokerage house involved), the New York Coffee and Sugar Exchange, the Better Business Bureau of Chicago, and the Chicago Tribune which referred the problem to SEC and CEA. Both exchanges, CEA, and SEC denied jurisdiction in the case. The complainant, therefore, had exhausted all possible sources of assistance, except legal action, without gaining any satisfaction.

A trader in regulated commodities who seriously violates the CE act or who has a history of fraudulent action may be suspended from trading in regulated commodities. However, such individuals can continue to trade in nonregulated commodities. Thus, the public is not protected from dealing with traders of questionable character. For example, certain traders in regulated commodities on one exchange were prohibited from trading on all regulated contract markets for 2 years because they failed to meet minimum financial requirements prescribed by CEA and made false reports to CEA regarding such financial requirements. These individuals became large traders in nonregulated commodities in another city. As of March 1974, they were still trading in that city and have been severely criticized by traders and State investigatory agencies because of questionable trading practices.

On the basis of the foregoing discussion, we believe that the advantages of Federal regulation of all futures trading far outweigh the disadvantages. Several bills have been introduced in both houses of Congress to extend Federal regulation to all futures trading. We believe that the CE act should be amended to provide for such regulation. House bill 13113, 93d Congress, 1st session, would provide for regulation of all futures trading.

SHOULD TRADING BY FLOOR BROKERS AND FCM'S FOR THEIR OWN ACCOUNT BE PROHIBITED?

The trading of floor brokers and FCMs for their own account while trading for customers' accounts should be strictly regulated to avoid any possible conflicts of interest. Any member of a commodity exchange is entitled to trade futures contracts on the floor of the exchange for himself, a customer, or any other member of the exchange. He may be referred to as a floor broker, floor trader, scalper (one who trades in and out of the market on small price fluctuations), or position trader, depending on the type of trades he is making. We use the term "floor broker" to indicate any person who is buying and selling futures contracts on the exchange floor.

Although the floor broker's activities are subject to exchange and CEA rules, he is nevertheless in the unique position of being able to trade for his own gain or loss on one trade and for another person's gain or loss on the next trade. Thus, he may at times be directly competing with his own personal objectives.

In 1965, we reported to the Congress (see p. 8) that members of a commodity exchange who trade for their own accounts enjoy special privileges and advantages over the trading public. They are able to react instantly to market situations and to take prompt advantage by executing their own trades. In addition, the fees charged the broker for executing his trades are much less than the fees charged to the general public; thus, he can profit from smaller price changes.

There are very few floor brokers who do not trade for themselves. The exchanges, brokers, and FCMs contend that prohibiting brokers or FCMs from trading for their own account would materially reduce the market's liquidity to the extent that the market's normal functions would be adversely affected. (A market is considered sufficiently liquid when the number and volume of trades and traders is adequate to enable brokers to fill orders without significant price fluctuations.) They also contend that reduced liquidity would seriously affect the operations of smaller exchanges.

House bill 13113 would authorize establishing regulations to restrict or prohibit the trading of floor brokers and FCMs for their own accounts while trading for their customers' accounts. The bill provides that such regulations avoid undue restrictions on market liquidity and permit different trading standards to be set for different contract markets. For example, traders in large, active markets could be required by regulation to decide whether to trade only for their own accounts or for customers' accounts while traders in smaller, less active markets could be permitted to trade for both their own and customers' accounts. Also, a regulation similar to SEC's could be adopted. SEC does not permit a member of a national securities exchange to initiate, while on the exchange floor, any transaction in any security trading on the exchange for any account over which he has discretion or in which he has an interest.

We believe that, if such regulations were established and properly implemented, they would provide the necessary conditions to safeguard the customers' interest and provide sufficient liquidity for the smaller exchanges. The Department also favors the regulation of trading of floor brokers and FCMs for their own account.

Some knowledgeable officials stated that rules governing floor brokers trading for their own accounts were already being adequately enforced because of (1) the exchanges' own enforcement procedures and (2) the self-policing nature of floor trading whereby brokers realize that their livelihoods depend on honest dealings with each other.

However, as discussed in the following chapter on p. 32, some exchanges have not established continuous programs to enforce their trading rules; CEA's enforcement of those self-regulation programs that do exist has not been aggressive; and CEA's program to investigate trading practices has not been adequate to deter abusive practices.

We believe the CE act should be amended to give CEA authority to (1) restrict the trading of floor brokers and FCMs for their own accounts while trading for customers' accounts, and (2) establish the terms and conditions for such trading on the different markets.

SHOULD CEA HAVE AUTHORITY TO OBTAIN INJUNCTIONS AND/OR ADMINISTER FINES?

To do its job effectively, CEA must be able to identify and deter violations of the CE act. Although CEA can punish violators in several ways, we believe the penalties are generally either too severe for the violations or too meaningless to act as a deterrent. Additional enforcement authority is needed.

Injunctive authority

CEA takes the position that the Congress has never specifically authorized injunctions and that, without specific legislative authority, CEA will not seek injunctions from the courts. In 1969, 1970, and 1973, the Administrator, CEA, recommended to the Department that the CE act be amended to authorize the Secretary to obtain district court injunctions through the Department of Justice. He said this would enable CEA to move rapidly and effectively to protect the public against cheating, fraud, and mishandling of funds. For example, CEA could obtain an injunction prohibiting a brokerage firm that was insolvent or that failed to meet minimum financial requirements from accepting orders and funds from new customers until it met the requirement. Without injunctive authority CEA could either issue a cease and desist order, which might not prevent the firm from accepting new customers, or suspend the firm from trading which might put it out of business. House bill 13113, 93d Congress, 1st session, would provide for injunctive authority.

Civil penalties

Although injunctive authority would give CEA a way to stop or prevent violations or limit their impact, an intermediate action is also needed. Penalties available to CEA range from suspension or revocation of trading privileges—tantamount to putting some firms out of business—to cease-and-desist orders which, in effect, may have little impact. If, however, a cease-and-desist order were accompanied by an appropriate fine, the penalty might have a deterrent effect. Likewise, when suspension of trading privileges for a period of time would not have any substantial effect, an accompanying fine might. For example, if a broker was found to have committed trading practice violations and was suspended for a short time, he might merely arrange to take his vacation to coincide with his suspension. Thus, the suspension would have little effect, but it could have a significant effect if accompanied by a fine. House bill 13113 would provide for money penalties up to $100,000.

In 1973 the CEA Administrator recommended to the Department that the CE act be amended to authorize civil money penalties for violations.

In testimony at congressional hearings in late 1973 and early 1974 some of the witnesses opposed injunctive authority if CEA would use it on the basis of CEA's ability to foresee or predict market action or price change—such as preventing a trader from maintaining or increasing his share of the outstanding contracts because CEA believes that such actions might have an undue effect on price. Some had no objection to injunctive authority if it was to be applied to identifiable violations of the statute or regulations. Most parties did not object to amending the CE act to provide for civil penalties (fines) in administrative proceedings, provided that these fines were limited by statute.

Being able to impose civil money penalties and to obtain injunctions would allow CEA greater flexibility in enforcing the rules and regulations. We believe the CE act should be amended to give CEA such authority.

SHOULD CEA HAVE AUTHORITY TO ESTABLISH MARGIN REQUIREMENTS FOR FUTURES TRADING?

The need for CEA or another Federal agency to have authority to establish commodity margin requirements has been the subject of much controversy and misunderstanding, primarily because commodity margins have been compared with security margins, when, in fact, they are not comparable. Commodity margin is the amount of money which the buyer or seller of a futures contract deposits with its FCM to guarantee performance on the contract. The margin is required to protect the FCM against losses incurred by a customer due to adverse price movements. It is not a partial payment on the futures contract. The FCM has to make settlement each day for profits or losses incurred by its customers. The margin money, plus or minus any gains or losses on the customer's trades, is returned to the customer when his account is closed. In a normal market, commodity margins are generally less than 10 percent of the value of the contracts bought.

Security margin is directly related to the amount of credit a broker is permitted to extend to customers for buying securities. This amount of credit is regulated by the Board of Governors of the Federal Reserve System and is 50 percent or more of the value of the securities bought. A securities transaction using margin establishes a debtor-creditor relationship for the amount of the loan, and the customers' cash downpayment is equated to the customer's equity in the security.

Purpose of regulation

Those who advocated Government regulation of commodity margins did so in the belief that raising margins would help control speculation in the futures market and thus keep commodity prices from rising as drastically as they did in 1973. However, as shown in Department studies and in expert testimony, higher margins could interfere with the hedging function of the futures market and could increase the cost of merchandising and processing inventories.

In 1967 a report on margins speculation and prices in grain futures markets was prepared by a private research firm under contract with the Department's Economic Research Service. The study concluded that, given the present state of market data collection and analysis, CEA would find it difficult to determine whether, when, and how to apply margin controls to limit price volatility and that CEA could have numerous and important administrative problems if it were to administer margin controls.

In 1973 the commodity futures markets experienced an unprecedented volume of trading at record prices. For example, the futures price for soybeans to be delivered in July 1973 increased from $4.20 a bushel in January 1973 to $12.90 a bushel in June 1973. The futures price for wheat to be delivered in December 1973 ranged from $1.97½ bushel in March 1973 to $5.78 a bushel in December 1973. These increases were precipitated by an unusual number of occurrences, such as unanticipated foreign purchases of U.S. commodities, adverse weather conditions which affected crop production worldwide, and two successive devaluations of the U.S. dollar—all of which happened about the same time.

Subsequently, because of concern over *fluctuating* commodity prices, hearings were held to determine what to do to strengthen the regulation of the futures markets. One tool considered was to provide the Government with statutory authority to set margin requirements and thus provide the means to limit speculative activity.

Testimony indicated that the exchanges could react more quickly and appropriately than CEA to the daily price changes that were occurring. The testimony emphasized that the purpose of margins was to safeguard FCMs and guarantee contract performance but not influence the level of participation in the market. The testimony pointed out that speculators were needed to provide the liquidity necessary for an efficient futures market.

Hedging on the futures markets gives the grower, shipper, merchant, and manufacturer the opportunity to reduce their marketing costs. Because an imbalance exists between hedgers wishing to buy or sell futures contracts, speculators are needed to take the opposite position and assume the risk of price movements. If speculators are discouraged from trading because margins are raised, commercial firms' ability to use the futures markets could be limited. This could cause financing problems for those firms because banks are less likely to grant credit if inventories are not hedged.

The exchanges, therefore, should continue to determine their margin needs on a day-to-day basis because the Government does not have the capability or expertise to establish and monitor margins without spending a large amount of manpower and funds. However, certain alternatives should be pursued in an effort to quiet the uncertainty surrounding commodity margins.

Alternative proposals

One alternative would be to identify those factors which the exchanges consider and evaluate in establishing and adjusting their margin requirements. Testimony by National Grain and Feed Association representatives before the House Committe on Agriculture in October 1973 pointed out that a careful study would reveal safe margin levels to be a function of current price trading conditions. They suggested that exchanges develop margin formulas or tables specifying the margin level according to price level, price volatility, trading volume, and whatever additional influences were deemed significant. Such tables would be submitted to CEA for approval. Association representatives stated that such a formula or table for each commodity would put all traders on notice of any automatic margin changes which would go into effect under given circumstances and would preclude any complaints about discriminatory margin changes. The CEA Administrator agreed that margin tables have definite merit and said the matter should be studied. Conversely, however, the President, Chicago Board of Trade, did not believe margin tables were practicable because he could not see how the table could adequately recognize the many factors considered in changing margins.

A second alternative would be to give the Government authority to establish margin requirements in emergency situations, such as war and export embargoes. Certain safeguards would be established to prevent the Government from being involved with the normal margin requirements for day-to-day operations and to identify more specifically what constitutes emergency situations.

We believe that the commodity exchanges should continue to establish commodity margin requirements on a day-to-day basis because CEA is not in a position to react as quickly as the exchanges and does not have the capability or expertise to establish and monitor margin requirements without spending a large amount of manpower and funds. We believe, however, that the CE act should be amended to give CEA authority to establish margin requirements in emergency situations to facilitate orderly trading in or liquidation of any futures market. We believe also that CEA should study, in conjunction with the commodity industry, the feasibility of developing a margin formula or margin table which would be a guide to margin requirements for traders and which would provide CEA with criteria by which to measure market operations.

SHOULD CEA HAVE AUTHORITY TO DESIGNATE DELIVERY POINTS?

The number of locations where a commodity may be delivered to fulfill a futures contract must be adequate to prevent unusual market situations. Price distortion, manipulation, and control, which are detrimental to the public interest and the national economy, are made easier, and in some cases encouraged, when a futures contract calls for delivery at a point or points which are no longer centers for trading in the cash commodity deliverable on that contract.

During recent years the production of certain commodities, such as soybeans and corn, has increased significantly as has the volume of futures trading. Despite these increases the number of delivery points for certain commodities on futures contracts has not changed. The number of approved delivery points can vary significantly depending on the commodity. For example, as of September 1973, corn and soybeans had only 1 delivery point while eggs had 175.

In August 1973 two associate professors at Iowa State University submitted a proposal to CEA and the Chicago Board of Trade that additional delivery points for corn and soybean contracts be established to facilitate deliveries. At the time, Chicago was the only approved delivery point for corn and soybeans. The proposal cited a recent example of where delivery problems affected the cash-futures price relationship and caused an expiring corn futures contract to close at $1.13¼ per bushel above the closing Chicago cash price, where normally the two should have been about the same. Several Iowa grain elevator operators verified that it had been difficult if not impossible to deliver corn and soybeans on futures contracts at that time because of full warehouses in Chicago, heavy Chicago export movement, and congestion in the railroad system. It was not until February 1974 that Toledo, Ohio, and St. Louis, Missouri, were designated by the Chicago Board of Trade as additional delivery points for corn and soybeans. As of March 1974, this designation was awaiting CEA approval.

Another example of exchanges' delay in establishing needed delivery points involved wheat on the Chicago Board of Trade. A CEA central region official told us that an apparent price manipulation in the May 1971 wheat futures contract, on which CEA issued a complaint in June 1972, was aided by a Chicago-only delivery point. As of April 1, 1974, administrative action on the case was still pending. In a much earlier case, a price manipulation in the May 1963 wheat futures contract was made possible because Chicago was the only delivery point. The principal problem resulting from having only one delivery point is that it makes control of the deliverable supply easier and makes it difficult, if not impossible, for sellers to deliver on their contracts. The CEA official stated that only after about 2 years of negotiations between CEA and the Chicago Board of Trade did the board add a second delivery point for wheat in 1972.

In August 1972, a CEA official testified before the Subcommittee on Domestic Marketing and Consumer Relations, House Committee on Agriculture, that too few delivery points or improper delivery points, together with restricted storage or holding capacity, could result in market congestion or arbitrary supply conditions which, in turn, could create erratic price fluctuations. More recently, in October 1973, the CEA Administrator testified before the House Committee on Agriculture that the failure of some exchanges to provide adequate delivery provisions was a major problem in the commodity futures industry.

The commodity exchanges have full responsibility for designating delivery points, subject to the approval of the Secretary of Agriculture. Extensive research is involved in determining delivery points, such as determining whether an area has adequate facilities, accessibility, transportation outlets, proper financing and insurance, and other essential characteristics. Because exchanges have gerater expertise and flexibility than CEA in doing such research, we believe they should continue to be primarily responsible for designating delivery points. Because of the importance of sufficient delivery points, however, we believe the CE act should be amended to authorize CEA, after a need is determined, to require the exchanges to designate additional delivery points or to designate the points if the exchanges do not do so. House bill 13113 would provide for such authority.

SHOULD REGISTRATION AND FITNESS CHECKS BE EXPANDED TO INCLUDE ALL PEOPLE WHO HANDLE CUSTOMERS' FUNDS OR ACCOUNTS?

The CE act requires only floor brokers and certain employees of FCMs, such as officers or partners, to register with CEA. Registrants are given fitness checks to insure that only reputable people handle customer orders. However, commodity futures representatives, the individuals primarily involved in soliciting, accepting, or handling customers' orders, do not have to register. Consequently, CEA has no assurance that commodity customers are dealing with brokerage representatives of good character.

The Chicago Board of Trade and the Chicago Mercantile Exchange require employees of member FCMs to register with them before they solicit or handle customer orders. Officials of the exchanges told us that each of their exchanges had over 20,000 registered commodity representatives. Also, both exchanges subject applicants to fitness checks which normally include reviews of court and credit records. In contrast, CEA fitness checks may include reviews of investigative records maintained by the Department, SEC, and the Federal Bureau of Investigation, which are not available to private investigative organizations.

Other exchanges have only limited requirements or none at all. For example, the Mid-America Commodity Exchange requires registration only for clearing members' representatives and does not subject them to fitness checks. The Minneapolis Grain Exchange, the New York Mercantile Exchange, and the New York Cotton Exchange have no registration requirements for commodity futures representatives. Thus, it is evident that a person of undesirable character could be employed as a futures representative by a member of an exchange that does not require registration and/or fitness checks.

The CEA Administrator and representatives of the two largest exchanges testified in October 1973 before the House Committee on Agriculture that they favoring having CEA expand its registration and fitness check program to include all individuals handling commodity customers' accounts. The CEA Administrator also said:

"There is a need to keep all unfit persons from handling customers' accounts and this can best be done through a registration and fitness program. It has been the CEA's experience that dishonest individuals go from one brokerage firm to another. Often they are hired without the brokerage firm having any knowledge of their unsavory background. If the CEA is to give real protection to traders in the markets, it should have this authority."

In addition, CEA, by letter dated August 16, 1973, recommended to the Department that, in its 1974 legislative program for the Congress, it include a proposal that brokerage firm employees handling customers' accounts be required to register with CEA and that the Secretary of Agriculture be given the authority to deny, suspend, or revoke such registrations.

We believe that, to insure that commodity customers deal with reputable people, the CE act should be amended to extend the registration requirements to all people who handle customer accounts. House bill 13113 would provide for such extension of the registration requirements.

On March 22, 1974, the CEA Administrator pointed out a possible problem in making future fitness checks. He told us that the Department of Justice had proposed legislation which would deny access to criminal justice information to noncriminal justice agencies. He said that if this legislation, known as the "Criminal Justice Information Systems Act of 1974," is passed, it would seriously impair the effectiveness of CEA's fitness program.

MATTERS FOR CONSIDERATION BY THE CONGRESS

If the Government is to effectively regulate futures trading, the Congress should amend the Commodity Exchange Act to provide authority to

Regulate all futures trading.

Restrict trading of floor brokers and FCMs for their own account while trading for customers' accounts.

Seek injunctions and impose civil money penalties.

Establish margin requirements in emergency situations only.

Require exchanges to designate additional delivery points or to designate such points if the exchanges do not do so.

Extend registration requirements to all people handling customer accounts and/or funds.

CHAPTER 4. PRELIMINARY OBSERVATIONS ON CEA OPERATIONS

CEA's responsibilities include (1) commodity exchange rule enforcement and CEA investigations, (2) market surveillance and economic analyses, and (3) registration and audit activities. Our preliminary observations and specific suggestions on these CEA operations are included in this chapter.

One of the basic problems underlying CEA's management deficiencies is the lack of adequate staff. CEA's task has become more difficult because the size of its staff has remained about the same while the volume and value of futures trading has increased tremendously in recent years, as shown in the following table.

Fiscal year	Number of employees (end of year)	CEA appropriation (millions)	Number of contracts traded (millions)	Value of contracts traded (billions)
1969	152	$1.9	8.6	$67.5
1970	165	2.5	10.3	92.9
1971	166	2.7	11.8	114.4
1972	160	2.8	12.6	148.0
1973	165	2.9	17.8	268.3

In commenting on this matter in March 1974, the CEA Administrator agreed that additional staff was needed and said that staff had been requested for fiscal year 1975 to help alleviate their problems.

The Department's fiscal 1974 appropriation request did not ask for any additional staff or funds. The House Committee on Appropriations' report on the Agriculture-Environmental and Consumer Protection Appropriation bill for fiscal year 1974 states that the Department was requested to furnish information on additional personnel and funds needed to increase surveillance and enforcement because of the increased volume of trading on the commodity exchanges.

The Department reported that 13 positions costing an additional $234,000 would be needed; however, the Committee believed this estimate too conservative and provided 20 positions and an additional $351,000. The Department has estimated that CEA would have 188 employees at the end of fiscal year 1974 and has requested an additional 29 positions for fiscal year 1975. Comments on CEA's grade structure are discussed earlier.

COMMODITY EXCHANGE RULE ENFORCEMENT AND CEA INVESTIGATIONS

CEA supervises exchanges' programs for enforcing rules and investigates floor trading practices to (1) insure a free and open market and (2) give the public maximum protection in its contacts with the exchanges and their members.

CEA should aggressively monitor the exchanges enforcement programs

CEA has experienced long delays in getting exchanges to establish the necessary self-enforcement programs and to correct certain deficiencies. CEA needs to be more aggressive in requiring exchanges to enforce their (1) rules concerning contract terms and trading and (2) minimum financial requirement rules as approved by the Secretary of Agriculture.

A 1968 amendment to the CE act required that applicants for registration as FCMs demonstrate reasonable capital resources. An applicant met the requirement if he was a member of an exchange whose financial standards had been approved by the Secretary of Agriculture. Other applicants had to meet requirements established by the Secretary of Agriculture. The amendment also required each exchange to enforce its rules on (1) contract terms and other trading requirements and (2) minimum financial requirements for members who were FCMs.

Enforcing exchange trading rules

A 1971 audit report by the Department's Office of Audit (formerly the Office of Inspector General) repeatedly stressed the need for CEA to require exchanges to enforce their rules more vigorously. Further, a CEA study team concluded in 1971 that the exchanges were not adequately policing floor trading practices and recommended that CEA require each exchange to establish a program for that purpose. The CEA study team recommended also that CEA periodically review the exchanges' self-policing programs to insure their adequacy. The CEA Administrator agreed to advise each exchange that it was required to have an affirmative self-policing program adequate to deter violations of its trading rules; however, CEA apparently took no action at that time.

Since 1971 CEA has formally reviewed the rule enforcement activities of 6 of the 10 active regulated exchanges—4 in New York City and 2 in Chicago. These reviews were often made over extended periods of time—ranging from 6 to over 15 months—because employees periodically were diverted to higher priority work. This practice disrupted the continuity of the review work and in some cases necessitated more work to update data and information. CEA advised the exchanges of the deficiencies observed in their programs but was not aggressive in insuring that corrective action was taken.

CEA's reviews showed various deficiencies in the exchanges' enforcement programs.

Exchanges did not have programs for continually enforcing rules.

Self-initiated investigations of customer complaints turned up only minor infractions, if any, but investigations made as a result of CEA referrals of customer complaints disclosed a high percentage of infractions.

Corrective actions for infractions were delayed in many cases.

On July 11, 1973, CEA proposed a regulation under the CE act requiring each exchange to have a program for enforcing its own trading rules. That regulation was adopted and became effective December 1, 1973, more than 2 years after the study team had recognized the need for such action and 5 years after the CE act was amended requiring exchange self-regulation.

The December 1973 regulation requires each exchange to:

Monitor market activity for indications of possible congestion or other market situations conducive to possible price distortion;

Monitor trading practices on the floor of the exchange;

Investigate all customer complaints concerning the handling of accounts or orders;

Investigate all other alleged or apparent violations of its bylaws, rules, regulations, and resolutions; and

Establish a procedure for taking prompt, effective, disciplinary action for violations.

In commenting on the need to promptly implement this regulation, the CEA Administrator informed us on March 22, 1974, that CEA is providing exchanges with guidance on what is required of them. CEA regional directors met with exchange officials and explained the requirements of the regulation and confirmed these discussions in writing to the exchanges. The Administrator told us that CEA's enforcement guideline contemplates that guidance will be given to each individual exchange on the basis of CEA's review of the exchange's program. The guideline provides that each regional office bring to the exchange's attention such procedures considered necessary to bring the exchange enforcement program up to a satisfactory level.

We believe the regulation and guidance being provided to the exchanges is a step in the right direction and will provide CEA a standard for appraising the exchanges' performance. However, we noted that only one CEA regional office had specified a time limit for implementing the regulation. In view of the long delays experienced by CEA in getting the exchanges to establish self-enforcement programs, we believe CEA should (1) give each exchange a specific time limit for implementing the regulation and state what penalties will be imposed if such time limits are not met and (2) aggressively monitor the exchanges' programs to insure compliance.

Enforcing exchanges' minimum financial requirement rules

The Chicago Board of Trade and the Chicago Mercantile Exchange are the only two exchanges which have requested and obtained the Secretary of Agriculture's approval of the financial requirements established for their FCMs. The two exchanges became responsible for enforcing their respective requirements in March 1969. Since then, CEA has often expressed concern about the two exchanges' inadequate enforcement programs.

CEA reviewed the two exchanges' programs for enforcing minimum financial requirements and discussed the areas needing improvement with exchange officials. In August 1971 and January 1972 CEA advised the Chicago Board of Trade that it needed to increase its audit staff and the number of onsite audits of FCMs to verify compliance with exchange requirements. CEA discussions with the Chicago Mercantile Exchange in December 1971 indicated these same improvements were needed in its program.

In May 1972 CEA was informed that the Chicago Board of Trade's audit staff would be increased so that 50 percent of the 130 member FCMs could be audited each year. This program was to begin by the end of October 1972; however, a CEA review found that the Chicago Board of Trade made only four field audits of FCMs between January 1, 1972, and June 30, 1973.

In addition, on June 18, 1973, the Commodity Exchange Commission, on CEA's recommendation, issued a complaint against the Chicago Board of Trade for failing to enforce its minimum financial requirement rules for one of its FCMs. The complaint resulted because the Chicago Board of Trade allegedly failed and refused to enforce its minimum financial requirements for that FCM even though the board (1) had determined on numerous occasions that the FCM failed to meet such requirements and (2) had been notified by CEA that the board was not complying with the CE act. A CEA official told us that, as of April 5, 1974, this case was still under review by the Commodity Exchange Commission and that final action was imminent.

In August 1973 the Director, Registration and Audit Division, CEA, reported that both exchanges had to improve their programs to bring them to an acceptable performance level. He pointed out that the Chicago Mercantile Exchange had shown an improvement over prior years; however, the number of field audits could still be increased. Between January 1 and September 5, 1973, the Chicago Mercantile Exchange audited 28 of 94 FCMs.

On the other hand, the Director, Registration and Audits Division, CEA, reported that the Chicago Board of Trade's field audit efforts were meager, and that the board's audit efforts seldom went beyond a desk review of financial statements received from member firms and information received from other exchanges and other outside sources.

We believe CEA should act more forcefully to insure that the Chicago Board of Trade and the Chicago Mercantile Exchange programs are improved to an acceptable level. CEA should establish guidelines indicating acceptable performance standards for the exchanges' surveillance and investigative functions and should clearly state what penalties will be imposed for failure to meet the standards within a specified period. We believe that CEA's lack of aggressiveness is clearly demonstrated by the fact that, 5 years after the act requiring such programs was enacted, the exchanges still do not have acceptable self-enforcement programs.

Continued deficiencies in CEA's trade practice investigation programs

In a report to the Congress in 1965 (see p. 8), we pointed out that CEA's trade practice investigations were inadequate to disclose or discourage abusive trade practices on the exchange floors and that these investigations were not conducted on a planned basis to insure periodic review of each futures market. In 1971, the Department's Office of Audit reported essentially the same deficiencies. On the basis of our review of all trade practice investigations initiated by CEA in fiscal year 1973, we believe the deficiencies continue.

At the time of our earlier review, CEA's trade practice investigations generally involved detailed examinations and analyses of all trades of futures contracts made for a particular commodity or commodities at a contract market during a specified period. Because of the time consuming nature of the work, which was done manually, and the lack of manpower, CEA, following our review, tried to make such analyses, at least partially, through the use of computer programs but failed because it could not design the programs to appropriately identify suspect trades.

To use its limited manpower more effectively, CEA adopted a new program in 1971 for conducting trade practice investigations. The new program called for investigations of suspect situations or of individuals on firms trading in one or more commodities. A CEA study team recommended that CEA use the exchanges' trade registers (a listing of all trades made) to identify suspect situations and that CEA assign the program an adequate priority in relationship to the other work of the agency.

The Administrator of CEA adopted the study team's recommendations in August 1971 and indicated that the following actions would be taken when time permitted.

The regulations under the CE act would be amended to require additional information in exchange trade registers.

As soon as current computer programs were operational, the central region would study the feasibility of developing a program to identify apparent noncompetitive trades.

A guideline for trade practice investigations would be prepared.

These actions, however, had not been taken at the time of our survey in November 1973.

Our review of the 16 trade practice investigations initiated by CEA during fiscal year 1973 showed that 10 of them had not been completed at the time of our survey, primarily because of repeated delays due to higher priority work. For example, in the CEA central region, only 2 of 10 investigations had been completed. Also, some of the six completed cases were significantly delayed for the same reason. In the eastern region two investigations that were scheduled for completion in 1 and 2 months were actually completed in 7 and 11 months, respectively. CEA's western region made no trade practice investigations in fiscal year 1973 because, according to regional office officials, the region's limited manpower was heavily involved in investigating an alleged price manipulation.

In March 1973 a CEA headquarters audit report on the eastern regional office's compliance program concluded that the trade practice investigation program had not been given proper priority. The audit report also stated that the estimated completion dates of investigations had been pushed back many times and that no exchange trade registers had been examined so far during the fiscal year.

Besides being assigned low priority, some of the cases classified as trade practice investigations under the selective program were of very narrow scope, involving a single trade or trades on which a complaint had been received or which had been referred by other CEA regional office branches. In the central region, only two investigations, one of which was requested by CEA headquarters, involved relatively broad reviews of the trading in a specific commodity and analysis of exchange trade registers.

CEA has acknowledged that trade practice investigations are the best means it has for detecting noncompetitive trading on futures exchanges. For such investigations to be successful deterrents, however, they should be designed to seek out such practices and not rely primarily on complaints or referrals from individuals or other CEA branches. Also, these investigations should be conducted on a planned basis and given high priority if they are to be effective.

In commenting on this matter in March 1974, the Administrator, CEA, said he agreed with our conclusions but reiterated that staffing would continue to be a problem in the future. He said that conducting trade practice investigations designed as we suggested would require considerable effort and that, even with increased staffing, higher priority work might preclude such investigations, at least to some extent.

We told the Administrator that we are continuing our review in this area and that we planned to comment further in our final report on the type and timeliness of trade practice investigations.

MARKET SURVEILLANCE AND ECONOMIC ANALYSES

The purpose of market surveillance is to enforce speculative limit requirements and to detect and prevent market disruption such as manipulative practices. Market surveillance involves analysis of data obtained from daily and weekly reports of trades filed by traders in the commodity futures markets. CEA processed 632,000 of these reports during fiscal year 1973. Economic analyses are designed to show that manipulation has occurred and include analyses of price relationships, supply, demand, transportation, and other factors affecting the marketing of commodities.

Our preliminary observations regarding these activities follow; however, we have not completed our review of this area.

Need for periodic reviews of adequacy of speculative limits

CEA should regularly review the adequacy of or need for speculative trading and position limits on regulated commodities. The primary purpose of such limits is to curb the trading of individuals whose trades or positions might unduly affect price. Without adequate limits, sudden, unreasonable, or unwarranted price fluctuations are more likely to occur.

Speculative limits cover both the number of contracts that may be bought and sold daily (trading limit) and the number of contracts that may be owned or controlled by one person (position limits). At present, regulated commodities either (1) have speculative trading and position limits which were established by the Commodity Exchange Commission, (2) have limits established by one of the exchanges, or (3) have no limits.

CEA believes that limits on speculative trading and positions are one means of giving economic forces the fullest possible opportunity for maintaining free and competitive markets.

Over the past 10 years, the volume of trading in futures contracts for regulated commodities has increased significantly and the annual trading volume has fluctuated widely among individual commodities. Despite this situation, CEA has not regularly reviewed the adequacy of speculative limits or the need to establish such limits for commodities without them.

For example, the current speculative trading and position limit on cotton—unchanged since 1947—is 300 contracts. The adequacy of this limit has not been reviewed since 1947, although the volume of trading in cotton futures and the number of open contracts has fluctuated widely during the past 11 years. For example, in fiscal year 1962, the annual average open interest (number of contracts outstanding) amounted to about 4,100 contracts and the volume of trading was about 35,000 contracts. In fiscal year 1972, the annual average open interest was more than 16,000 contracts and the volume of trading was about 411,000 contracts. The statistics for fiscal year 1972 were greater than those for the preceding 3 fiscal years combined.

Frozen concentrated orange juice is an example of a commodity for which no speculative limits have been set. A study completed by CEA's eastern region in March 1972 recommended that the Commodity Exchange Commission set trading and position limits for orange juice to diminish or prevent excessive speculation. In December 1971, a CEA headquarters official told us that no action had been taken on the recommendation and that the study had been returned to the region for updating.

In June 1973, a CEA management study team recommended that CEA (1) consider establishing speculative limits for all regulated commodities and (2) periodically review the validity of existing speculative limits. On March 22, 1974, the Administrator, CEA, informed us that resources to implement the study team recommendations were requested in CEA's 1974–75 budget request.

The Director of CEA's Trading Division acknowledged to us that CEA had not regularly reviewed speculative trading and position limits and that there was no future schedule for making these analyses regularly. He said that CEA would not be able to take action in this area until the staff was increased. We are examining this matter further as part of our review.

Need for consolidating guidance documents on identifying and investigating price manipulations

CEA's formal guideline on market surveillance identifies the factors and information important to an analyst in detecting price manipulations. Most of the guidance on how to interpret and structure this information for investigative purposes, however, is scattered in memoranda, outlines, and instruction papers prepared by CEA officials during the past several years, and not all of these documents have been made available to CEA's three regional offices. As a result, CEA has no assurance that its regional personnel are using all pertinent data in assessing possible price manipulations.

A memorandum on the inadequacies of a regional report on a price manipulation case stated the need for planning analysis work and for better use of investigative and analytical skills. The memorandum suggested questions that should be answered in a properly structured analysis-investigation of a possible price manipulation. Our contacts with officials at the three regional offices disclosed that this memorandum had been made available only to central and eastern region economists and investigators.

Furthermore, only the central and eastern regions had four other informal guidance documents which were used as references for assessing possible price manipulations. The documents covered the following areas.

The need to know the commodity.

Information needed on production, supply, movement of supply, market demand, functions of a market, a futures contract and its provisions, delivery problems, price and price relationships, and tricks of the trade.

Types of futures market manipulations and their characteristics.

Factors required for there to be a manipulative situation and their characteristics.

General outline of an approach to investigating a possible manipulation.

In addition, the central region had developed two more outline approaches for investigating price manipulations.

The only guidance document on price manipulation available to the western regional office was the formal CEA guideline. Because most of the guidance on how to structure an investigation is contained in the informal documents, personnel in the western region may not be in the best position to properly assess manipulative situations.

A central region official stated that the informal guidance documents had been a valuable aid in investigating price manipulations. These documents are based on experience gained from investigating price manipulations and considerable time has been spent in developing them.

We believe that all guidance documents on price manipulation should be consolidated and made available to all CEA regional offices.

In commenting on this matter in March 1974, the CEA Administrator said that he agreed with our suggestion and that consolidated guidelines were being prepared for dissemination to all regional offices.

REGISTRATION AND AUDIT ACTIVITIES

CEA is responsible for registering all FCMs and floor brokers each year. As a part of registration, CEA investigates the general character of each floor broker and FCM and FCMs' principals and branch managers. CEA completed 2,904 of these investigations in fiscal year 1973 and registered or reregistered 250 FCMs and 1,357 floor brokers. (The need to expand the registration and character investigations to include all individuals who handle customers' funds or accounts is discussed previously.)

The CE act requires FCMs to meet minimum financial requirements at all times and to separately account for customers' funds invested in regulated commodities and specifies that these funds not be commingled with other funds. CEA attempts to audit all FCMs each year to insure compliance with the segregrated fund provisions. CEA's regular financial requirements audits are limited to those FCMs that are not members of the Chicago Board of Trade or the Chicago Mercantile Exchange—the two largest exchanges—because these exchanges are approved by the Secretary of Agriculture to enforce their financial requirements. CEA made a total of 253 audits during fiscal year 1973. Our observations on CEA's audit activities follow.

Need to consider giving exchanges primary responsibility for audits

CEA's regional professional staff spends about 25 percent of its time making routine audits of FCMs to insure that customer funds are properly segregated and that FCMs meet minimum financial requirements. CEA should consider giving exchanges primary responsibility for such audits. CEA could then function more meaningfully as an overseer, much as it does in appraising exchanges' enforcement of their own rules and regulations. By limiting itself to such a role, CEA could concentrate more effort on known or suspected noncompliance cases and increase its effort in other enforcement areas.

The practicability of the exchanges' assuming more responsibility for audits of FCMs is enhanced by the fact that the two largest exchanges, whose memberships comprise about 75 percent of all FCMs, are already responsible for insuring that these member FCMs meet minimum financial requirements.

To assist them in their enforcement duties, the two largest exchanges require their members to submit periodic financial statements, including annual financial statements certified by an independent certified public accountant (CPA) or financial statements submitted to and in accordance with the requirements of the New York, Midwest, or American Stock Exchanges. The financial statements submitted by CPAs include a comparison of segregation requirements with segregated funds on deposit. Segregated fund audits made by CEA are apparently more detailed. FCMs who are not members of either of the two largest exchanges are required to semiannually submit financial statements to CEA that also include a comparison of segregation requirements with segregated funds on deposit.

Because most FCMs already use CPAs in the financial requirement and segregated fund audit areas, it appears practicable to extend the CPAs' services to satisfy CEA audit requirements.

Our suggestion to use CPA work more extensively is similar to one made in a September 1971 report on CEA operations by the Department's Office of Audit. The report recommended that CEA, in auditing FCMs, rely as much as possible on reports from CPAs or reports required by SEC. The report also stated that CEA should require the exchanges to enforce the CE act and its regulations relating to minimum financial requirements and segregation of customer funds. It further stated that, even though CEA's regulatory philosophy was self-regulation by exchanges, CEA, by auditing each FCM's segregation funds, had assumed full responsibility for determining FCM's compliance with the segregation provisions of the CE act and CEA regulations. The report expressed the opinion that protecting customer funds was a primary responsibility of the exchanges and that CEA should place emphasis on insuring that contract markets can enforce the act's minimum financial requirements and funds segregation provisions.

In our opinion, any exchange which CEA has approved to deal in regulated commodities should be capable of insuring that its member FCMs comply with the CE act and CEA regulations or other rules approved by the Secretary of Agriculture regarding segregation of funds and minimum financial requirements. We recognize that the segregation audit function is vital to insure that customers' funds are adequately protected and that it should not in any way be downgraded in importance. We believe, however, that, with proper guidance, exchanges and CEA could rely on CPAs' work.

We are not advocating that the CEA relinquish all responsibility for this audit function. On the contrary, CEA should exercise a strong oversight role. It should continue to audit FCMs when known or suspected noncompliance is evident and to test the reliability of the CPAs' audits.

In commenting on our suggestion in March 1974, the CEA Administrator said that he disagreed with our views. He again pointed out, as he did in a reply to the Office of Audit's September 1971 report, that CEA experience has shown that CPAs' reports cannot be relied on and that outside auditors have difficulty with CEA's segregation concepts and do not seem to concern themselves with the ramifications brought about by commingling funds. He also said that it is unrealistic to expect the smaller exchanges to bear the staffing expense necessary to assume this audit responsibility.

Although we recognize that this transfer of audit responsibility would not be a simple task because of the importance of insuring that the exchanges and the CPAs understand the importance of the segregation and financial requirement audits and know how to make such audits effectively, we still see no overriding reason why CPAs cannot do effective audits of FCMs. It seems unreasonable to believe that professionally trained auditors cannot be motivated to submit accurate reports on segregated funds and minimum financial requirements.

All approved exchanges, even the smaller ones, should be capable of insuring that their member FCMs comply with the CE act. Moreover, in its efforts to get exchanges to enforce their trading rules CEA said that an exchange's lack of resources is not adequate justification for failure to enforce the rules. We believe the same reasoning should be applied to exchanges enforcement of segregated fund and minimum financial requirements. It is not reasonable to expect the Government to continue to bear these costs which should be considered a necessary cost of the exchanges' doing business.

On April 2, 1974, officials of the two largest exchanges agreed with our suggestion and expressed their willingness to accept this additional audit responsibility. They said that much of the required work was already being done by their own audit staffs and by CPAs. They said also that a proposal was being considered to establish an independent audit group to do the required audits of all FCMs. The audit group's cost would be shared by all the exchanges. We believe that adopting such a proposal would ease the financial burden of smaller exchanges and eliminate much of the duplicative audit work at FCMs.

Because of the importance of this audit function in protecting customers, we are continuing our inquiries into this matter and plan to comment on it further in our final report.

RECOMMENDATIONS TO THE SECRETARY OF AGRICULTURE

The Secretary of Agriculture should direct the Administrator, CEA, to—

Give exchanges a time limit for implementing CEA's regulation on self-enforcement of trading rules and state what penalties will be imposed if the deadlines are not met, and aggressively monitor the exchanges' enforcement programs;

Establish standards for exchanges' enforcement of financial requirements and state what penalties will be imposed for failure to meet such standards within a specified period;

Make trade practice investigations that (1) seek out abusive practices, (2) are conducted on a planned basis, and (3) are given high priority;

Regularly review the adequacy of or need for speculative trading and position limits on regulated commodities;

Consolidate all guidance documents on price manipulation investigations and make them available to its regional offices; and

Consider giving exchanges primary responsibility for audits of FCMs.

AGENCY COMMENTS

We obtained oral comments from the Administrator, CEA, to expedite issuance of the report to the Congress. His comments are included in the appropriate sections of this chapter. He generally agreed with our recommendations and stated that additional staff had been requested to help alleviate the problems. He pointed out, however, that conducting trade practice investigations as we suggest would require considerable effort and that, even with increased staffing, higher priority work might preclude such investigations.

The CEA Administrator disagreed with our recommendation to consider giving exchanges primary responsibility for audits of FCMs, with CEA exercising a strong oversight role.

We are continuing our review of these matters and plan to comment on them further in our final report.

APPENDIX I

COMMODITY FUTURES MARKETS—OCTOBER 1973

Exchange	Regulated commodities[1]		Nonregulated commodities
	Actively traded	Not actively traded	
New York Mercantile Exchange	Potatoes, boneless beef, butter	Rice, shell eggs	Aluminum, apples, nickel, palladium, platinum, plywood, U.S. silver coins.
New York Cotton Exchange	Cotton		
Citrus Associates of New York, Cotton Exchange, Inc	Frozen concentrated orange juice		
Wool Associates of New York, Cotton Exchange, Inc	Wool	Wool tops	
Chicago Board of Trade	Corn, soybeans, soybean meal, soybean oil, wheat, oats.	Rye, barley, flaxseed, grain sorghums, cotton, cottonseed oil, lard, choice steers.	Iced broilers, plywood, silver.
Chicsgo Mercantile Exchange	Frozen pork bellies, live beef cattle, feeder cattle, live hogs, fresh shell eggs, frozen eggs, potatoes, grain sorghums.	Butter, frozen bonless beef, frozen skinned hams.	Lumber.
The Board of Trade of Kansas City, Mo., Inc	Wheat, corn	Soybeans, oats, rye, barley, flaxseed, millfeed, live feeder cattle, grain sorghums.	
Mid-America Commodity Exchange, Chicago	Corn, soybeans, wheat, live hogs, oats	Rye, barley, flaxseed, grain sorghums	Silver, U.S. coins.
Minneapolis Grain Exchange	Wheat	Corn, oats, rye, barley, flaxseed, grain sorghums, soybeans, frozen pork bellies.	
Pacific Commodities Exchange, Inc., San Francisco	Coconut oil, western shell eggs, western live cattle.		
Commodity Exchange, Inc., New York		Hides	Copper, mercury, silver.
Memphis Board of Trade Clearing Association		Soybeans, soybean meal, cottonseed meal	
New Orleans Cotton Exchange		Cotton, cottonseed oil	
Milwaukee Grain Exchange		Barley, corn, flaxseed, grain sorghums, oats, rye, wheat.	
Merchants' Exchange of St. Louis		Wheat, corn, oats, rye, barley, flaxseed, grain sorghums, millfeed.	
Northern California Grain Exchange, Sacramento		Wheat, barley	
Portland Grain Exchange		Wheat	
Seattle Grain Exchange		do	
LPG Associates of the New York Cotton Exchange, Inc			Propane gas.
Tomato Products Associates of the New York Cotton Exchange, Inc.			Tomato paste.
New York Cocoa Exchange, Inc			Cocoa.
New York Coffee and Sugar Exchange			Coffee, sugar—domestic (No. 10), sugar (No. 11).
West Coast Commodity Exchange, Los Angeles			Cocoa, copper, silver, sugar, "put and call" options.
International Commercial Exchange, Inc. New York			Currency, fishmeal.
International Monetary Market, Chicago			Currency.

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[1] The Commodity Exchange Act (sec. 2) defines regulated commodities as barley, butter, corn, cotton, cottonseed, cottonseed meal, eggs, fats and oils (including lard, tallow, cottonseed oil, peanut oil, soybean oil, and all other fats and oils), flaxseed, frozen concentrated orange juice, grain sorghums, Irish potatoes, livestock, livestock products, millfeeds, oats, onions, peanuts, rice, rye, soybeans, soybean meal, wheat, wool, and wool tops. Futures trading in onions was prohibited by law in 1958 (72 Stat. 1013).

PRINCIPAL OFFICIALS OF THE DEPARTMENT OF AGRICULTURE AND MEMBERS OF THE COMMODITY EXCHANGE COMMISSION RESPONSIBLE FOR ACTIVITIES DISCUSSED IN THIS REPORT WITH TERMS OF OFFICE

DEPARTMENT OF AGRICULTURE

Secretary of Agriculture

Earl L. Butz, from Dec. 1971 to present.

Clifford M. Hardin, from Jan. 1969 to Nov. 1971.

Orville L. Freeman, from Jan. 1961 to Jan. 1969.

Assistant Secretary, Marketing and Consumer Services

Richard L. Feltner, from Apr. 1974 to present.

Clayton K. Yuetter, from Jan. 1973 to Mar. 1974.

Richard E. Lyng, from Mar. 1969 to Jan. 1973.

COMMODITY EXCHANGE AUTHORITY

Administrator

Alex C. Caldwell, from Jan. 1960 to present.

COMMODITY EXCHANGE COMMISSION

Secretary of Agriculture, chairman

Earl L. Butz, from Dec. 1971 to present.

Clifford M. Hardin, from Jan. 1969 to Nov. 1971.

Orville L. Freeman, from Jan. 1961 to Jan. 1969.

Secretary of Commerce

Frederick B. Dent, from Feb. 1973 to present.

Peter G. Peterson, from Feb. 1972 to Feb. 1973.

Maurice H. Stans, from Jan. 1969 to Feb. 1972.

Attorney General

William B. Saxbe, from Jan. 1974 to present.

Robert H. Bork (acting), from Oct. 1973 to Jan. 1974.

Elliot L. Richardson, from May 1973 to Oct. 1973.

Richard G. Kleindienst, from Jun. 1972 to May 1973.

Richard G. Kleindienst (acting), from Mar. 1972 to Jun. 1972.

John N. Mitchell, from Jan. 1969 to Feb. 1972.

NOTE

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When ordering a GAO report please use the B-Number, Date and Title, if available, to expedite filling your order.

Copies of GAO reports are provided without charge to Members of Congress, congressional committee staff members, Government officials, news media, college libraries, faculty members and students.

Mr. HART. That report recommends many of the legislative changes which are in S. 2837, which Senators SCOTT of Pennsylvania, CASE of New Jersey and CLARK and I introduced on December 20.

Today, I and the cosponsors of S. 2837 are reintroducing that bill, incorporating the recommendations of the General Accounting Office that were not in the first bill.

Those changes are:

Granting the Commission power to assess civil money penalties;

Granting the Commission power to suspend persons from trading on exchanges who violate the act or rules or regulations promulgated pursuant to it; and

Provision for 20 positions at GS–16, GS–17, and GS–18. GAO recommended a higher grade structure to attract and retain qualified staff.

GAO recommended that the Commission be given power to prohibit floor brokers from trading for their own account and that of a customer at the same time. S. 2837 provides that such dual trading is illegal except to correct errors. The substitute bill provides that such trading is illegal unless the Commission finds that a contract with a small volume of trading needs brokers trading for their own account to provide adequate liquidity. A market is considered sufficiently liquid when the number and volume of trades and traders is adequate to enable brokers to fill orders without significant price fluctuations. Certainly it is clear that the large contracts in wheat, corn, and soybeans have sufficient liquidity. New contracts and those that are small may have an insufficient number of traders. If this can be proven to the Commission, it should permit brokers to trade for themselves and customers at the same time.

This substitute bill also requires the Commission to make a study of the feasibility of computerized trading and report its findings to the Congress. The potential for trading abuses on the floor of an exchange are innumerable—even if dual trading was banned. Floor traders, trading for their own account could enter into schemes with floor brokers, handling customers accounts, to the benefit of the trader. The market could continue to function on the basis of rumor—such as a drought in the Midwest—as it does now. It would seem that one solution to these problems may well be computerized trading. The CEA has recommended before the House Appropriations Committee and the Subcommittee on Special Small Business Problems that a study be made of the feasibility of such trading. We consider this to be an excellent proposal and one which we hope the Senate committee will give its careful attention.

Futures trading has grown to a one-half-trillion-dollar-a-year business. Not only does its size make it important, but the fact that it affects the farmer, the middleman, and the consumer. In paying the farmer, the country elevator operator refers to the futures price. And the grain company refers to the futures price in purchasing from the grain elevator and in selling grain abroad or to the miller or the final processor. So up and down the line from farmer to the finished product, the futures price is used in setting prices. If the futures price is manipulated or distorted, the cash price is also.

During past years, the Commodity Exchange Authority has been criticized severely by GAO, the Inspector General of the U.S. Department of Agriculture, editors and commentators, and congressional committees for its ineffective regulation. The evidence is now available and stopgap measures will not do to repair the system. It needs a complete overhaul—as this legislation I have prepared makes clear.

EDUCATION AMENDMENTS OF 1974—AMENDMENTS

AMENDMENT NO. 1289

(Ordered to be printed, and to lie on the table.)

PROTECTION OF THE RIGHTS AND PRIVACY OF PARENTS AND STUDENTS

Mr. BUCKLEY. Mr. President, in the last few years a considerable amount of effort has been expended to investigate and expose the dangers and injustices created by the secret compilation and dissemination of data and files on the personal lives and business affairs of millions of Americans, who have had no opportunity to review the material in these files and to correct the many errors and hearsay that are often found therein.

We are all familiar with stories of both serious outrages and humorous foulups caused by erroneous material stored in various data banks or credit department computers. Trivial or erroneous material kept in such files can harm and haunt individuals throughout their lives.

The public has also become aware of the genuine danger to the privacy and civil liberties of all Americans posed by the growth of such secret files and computer banks. Several bills have been introduced in Congress to attempt to deal with this problem, and I am pleased to be a cosponsor of one of the most significant ones, S. 2883, the Fair Credit Reporting Act of 1974.

But, Mr. President, in spite of this evidence of increased awareness and concern over these dangers, hardly any public outcry has been heard about the systematic violation of privacy and personal rights, through the existence of secret files, of two of the largest classes of Americans.

I speak of the right of privacy of millions of children in the schools across our Nation whose school records are routinely made available to governmental and other busybodies, and the rights of their parents, who are too often denied access to such information.

The serious problems and dangers posed by secret files in our schools were well described in a recent article by Diane Divoky in Parade magazine entitled, "How Secret School Records Can Hurt Your Child." I ask unanimous consent that the article be printed at the end of my remarks.

Miss Divoky notes that—

> Recent surveys of representative school systems throughout the country found that CIA and FBI agents and juvenile court and health department officials had access to the entire records in more than half the schools systems; local police in 33 percent and parents in less than 10 percent.

These records contain not only test scores and medical reports, but also many so-called anecdotal comments which can haunt a child throughout his school years and beyond. A staff member of the New York Civil Liberties Union has stated that—

> There is tremendous abuse in the preparation of these records. Teachers will think nothing of inserting comments like, "I feel sorry for the teacher who gets this kid next year," or "This one is really a gem."

As a result, children may become permament victims of their teachers' prejudices or misconceptions.

But the issue of secret school records is only a part of a larger problem of the violation of privacy and other rights of children and their parents that increasingly pervades our schools.

Many schools do not ask parents' permission to give personality or psychiatric tests to their children, or to obtain data from the children on their parents and family life. Some of these tests include questions dealing with the most personal feelings and habits of children and their families. Some of these data, in personally identifiable form, is given to other government agencies or to private organizations. Some of it ends up on Federal computers in the caverns of the Department of Health, Education, and Welfare. Just this past March a Federal office demanded personally identifiable educational, ethnic, and family information on over 100,000 New York City's elementary school pupils. Fortunately, the city board of education adamantly refused, even in the face of a reported threat to cut off all Federal education funds—over $200 million a year—to the city.

Attempts are, of course, made to excuse the collection and dissemination of such "data," which is in most cases not accessible for review by parents or students, on the basis that this is all done "in the best interest of the student." In my own State, the Parent-Teachers Association has rejected such assertions, and has taken a strong stand against these abuses, and has called for their correction.

But there have been additional abuses of the rights of children and their parents. In some instances children are required to participate in experimental education programs, in medical research, or in programs or activities designed to affect their personal behavior, values, or social development—without their parents' adequate knowledge or consent. The Children's Defense Fund, headquartered here in Washington, has documented many disturbing cases of such abuses across the country.

Often the instructional materials in experimental and other school programs and courses are not readily available to parents for inspection and review. In those cases where parents have been able to obtain copies of restricted materials, they have frequently found them to contain items and ideas that are not only controversial, but also in direct opposition to the moral values and beliefs of many parents.

Such secrecy, such denials of the right of parents to find out what is being taught and done to their children in school, reflect an elitist arrogance on the part of many in the educational establishment which is shocking.

Some educators seem to have forgotten that parents have the primary legal and moral responsibility for the upbringing of their children and only entrust them to the schools for basic educational purposes. This entrusting to the schools is not an abdication of parental rights and responsibilities, but rather a sharing of them by the parents.

Yet, some educators seem to feel that they know much more about the welfare and best interests of the child than do the parents, and therefore, once a child comes under their sway, they think they have the right to do what they themselves think is best for the child, without regard for values and beliefs of the parents.

Mr. President, it is time we take the lid off secrecy in our schools. We have passed a Freedom of Information Act to remove much of the secrecy involved in the activities of the Federal bureaucracy and to make information available to the public which should rightly be theirs. It is high time that we pass a Freedom of Information Act for children and parents.

Therefore, Mr. President, I propose an amendment to S. 1539, which will add a new section to the bill, entitled, "Protection of the Rights and Privacy of Parents and Students." I send it to the desk and ask that it be printed. I also ask unanimous consent that the amendment be inserted in the Record at the end of my remarks.

I am happy to say that in offering this amendment I am joined by the distinguished senior Senator from North Carolina, Senator Ervin, as well as Senator Curtis, Senator Goldwater, Senator Tower, Senator Dole, Senator Brock, Senator McClure, Senator Gurney, Senator Helms, Senator Thurmond, and Senator Biden.

I want to add that after I first circulated this amendment last week, I received several suggestions and helpful criticisms from other Senators and some interested organizations, such as the National School Boards Association and the Children's Defense Fund of the Washington research project, about certain problematic portions or omissions in the amendment. I have taken these suggestions into consideration, and have made several modifications in some of the language which I think should satisfy many of the basic concerns which were raised.

Some may ask: "Why talk about problems and abuses of local school administration? Why should this be a concern of Federal legislation to aid education?"

First, let me note that programs of Federal aid to the States and localities have almost always required that the recipients meet certain conditions—the area of civil rights and nondiscrimination being one of the most prominent examples—in order to be eligible for assistance. My amendment serves to make the protection of civil rights more comprehensive.

Second, the fact is that in many cases, the collection and dissemination of various personal data and the development of various experimental and attitude—affecting programs have been not only encouraged and sponsored, but often mandated as a condition for assistance by HEW and the Federal Office of Education, acting under the broad and vague authority granted them by Congress. The aforementioned affair in New York City is a case in point, as is a recent case in Howard County, Md., where an NIE grant to Johns Hopkins University resulted in testing there in the public schools for extensive personal and family information, without parental knowledge or consent. And just this week the Washington papers reported that the District of Columbia school board has refused to administer a test to its students which the Federal Office of Education has demanded that it give.

Thus, the Federal Government is directly involved in perpetrating and perpetuating many of the abuses of which I have spoken. My amendment specifically relates to school programs, projects, and activities which are sponsored or assisted by the Federal Government under the various education law being amended by S. 1539.

My amendment will help to provide parents with access to their children's school records, to prevent the abuse and improper disclosure of such records and data, and to restore the rights of privacy to both students and their parents.

In addition, it will reinforce the rights and responsibilities of parents with respect to the education of their children by requiring parents' permission before their children are made to undergo certain forms of testing or partake in certain experimental or attitude-affecting programs or activities, and by requiring that instructional materials used in school be available to parents, upon reasonable request, for their inspection and review.

In addition, my amendment requires the Secretary of Health, Education, and Welfare to adopt appropriate safeguards to protect the rights of privacy of students and their families in regard to Government-authorized surveys and other data gathering activities.

In the wake of recent scandals over Government spying and secrecy, President Nixon announced the establishment of a high-level committee to provide a "personal shield for every American" against all invasions of privacy. Surely we must not exclude our children from this protection. Mr. President, the Senate can act now to affirm the privacy and rights of children and their parents by adopting my amendment.

Mr. President, I ask unanimous consent that excerpts of an interview with Marian Edelman, director of the Children's Defense Fund of the Washington Research Project, be inserted at this point in the Record, as well as sample "parental consent" forms prepared by the Russell Sage Foundation.

There being no objection, the amendment and material were ordered to be printed in the Record, as follows:

AMENDMENT NO. 1289

On page 330, between lines 17 and 18, insert the following new section:

PROTECTION OF THE RIGHTS AND PRIVACY OF PARENTS AND STUDENTS

"Sec. 437. (a) Right of Access and of a Hearing.—(1) No funds shall be made available under any applicable program to any State or local educational agency, any institution of higher education, any community college, any school, pre-school, or any other educational institution which has a policy of denying, or which effectively prevents the parents of students under 18 years of age attending any school of such agency, or attending such institution of higher education, community college, school, pre-school or other educational institution, the right to inspect and review any and all official records, files, and data directly related to their children, including all material that is incorporated into each student's cumulative record folder, and intended for school use or to be available to parties outside the school or school system, and specifically including, but not necessarily limited to, identifying data, academic work completed, level of achievement (grades, standardized achievement test scores), attendance data, scores on standardized intelligence, aptitude, and psychological tests, interest inventory results, health data, family background information, teacher or counselor ratings and observations, and verified reports of serious or recurrent behavior patterns. Where such records or data include information on more than one student, the parents of any student shall be entitled to receive, or be informed of, that part of such record or data as pertains to their child. Each recipient shall establish appropriate procedures for the granting of a request by parents for access to their child's school records within a reasonable period of time, but in no case more than 45 days after the request has been made.

"(2) Parents shall have an opportunity for a hearing to challenge the content of their child's school records, to ensure that the Records are not inaccurate, misleading or otherwise in violation of the privacy or other rights of students, and to provide an opportunity for the correction or deletion of any such inaccurate, misleading, or otherwise inappropriate data contained therein.

"(b) Parental Consent.—(1) No student shall, as a part of an applicable program, be required to undergo medical, psychological, or psychiatric examination, testing, or treatment, or immunization (except to the extent necessary to protect the public from epidemics of contagious diseases), or to reveal information about his or her personal or family life without the prior, informed, written consent of the student's parents.

"(2) No student shall, as a part of any applicable program, be required, without the prior, informed, written consent of the student's parents, to participate in any project program, or course, the primary purpose or principle effect of which is to affect or alter the personal behavior or personal values of a student, or to explore and develop teaching techniques or courses primarily intended to affect such behavior and values.

"(3) Parents shall be informed, reasonably in advance and in writing, of the intended participation of their child in any research or experimenation project which is a part of an applicable program. No child shall participate in such a project if the parents of such child object to such participation.

"(4) As used in this subsection the term research or experimentation project means any project or program which is a part of an applicable program, and which is authorized by an administrative officer of an education agency, a State or local education agency, or any education institution, including preschools, for the purposes of research or experimentation, except that research or experimentation projects shall not include projects in the field of reading or bilingual education, as determined by the Commissioner.

"(c) Conditions for the Release of Personal Data.—(1) No funds shall be made available under any applicable program to any State of local education agency, any institution of higher education, any community college, any school, preschool or any other educational institution which has a policy of permitting the release of records or files (or personal information contained therein) of students without the written consent of their parents to any individual, agency, or organization, other than the following—

"(A) other school officials, including teachers within the educational institution or local educational agency who have a legitimate educational interests;

"(B) to officials of other schools or school systems in which the student intends to enroll, upon condition that the student's parents be notified of the transfer, receive a copy of the record if desired, and have an opportunity for a hearing to challenge the content of the record.

"(2) No funds shall be made available under any applicable program to any State or local educational agency, any institution of higher education, any community college, any school, preschool, or any other education institution which has a policy or practice of furnishing, in any form, any information contained in personal school records, to any persons other than those listed in subsection (c)(1) unless—

"(A) there is written consent from the student's parents specifying records to be released, the reasons for such release, and to whom, and with a copy of the records to be released to the student's parents and the student if desired by the parents, or

"(B) such information is furnished in compliance with judicial order, or pursuant to any lawfully issued subpoena, upon condition that parents and the students are notified of all such orders or subpoenas in advance of the compliance therewith by the education institution of agency.

"(3) In any case in which the Secretary or an administrative head of an education agency is authorized under any applicable program to request or require any State or local educational agency, any institution of higher education, any community college, any school, preschool or any other educational institution to submit to a third party (or to the Secretary or an administrative head of an education agency, as defined in section 409 of this Act) any data from personal statistics or records of students, such data shall not include the names of students or their parents (in code or otherwise) without the written consent of the student's parents, except—

"(A) in connection with a student's application for financial aid;

"(B) in compliance with any court order, or pursuant to any lawfully issued subpena, if the parents and students are notified of any such order in advance of the compliance therewith by the State or local educational agency, the institution of higher education, the community college, the school, preschool, or other educational institution.

"(4)(A) With respect to subsections (c)(1) and (c)(2) and (c)(3), all persons, agencies, or organizations desiring access to the records of a student shall be required to sign a written form which shall be kept permanently with the file of the student, but only for inspection by the parents or student, indicating specifically the legitimate educational or other interest that each person, agency, or organizaiton has in seeking this information. Such form shall be available to parents and to the school official responsible for record maintenance as a means of auditing the operation of the system.

"(4)(B) With respect to this subsection, personal information shall only be transferred to a third party on the condition that such party will not permit any other party to have access to such information without the written consent of the parents of the student.

"(d) Protection of Personal Data.—The Secretary shall adopt appropriate regulations to protect the rights or privacy of students and their families in connection with any surveys or data-gathering activities conducted, assisted or authorized by the Secretary or an administrative head of an education agency as defined in section 409 of this Act). Regulations established under this subsection shall include provisions controlling the use, dissemination, and protection of such data. No survey or data-gathering activities shall be conducted by the Secretary, or an administrative head of an education agency have responsibilities under an applicable program unless such activities are authorized by the Act establishing such a program.

"(e) For the purposes of this section, whenever a student has attained 18 years of age, the permission or consent required of and the rights accorded to the parents of the student shall thereafter only be required of and accorded to the student.

"(f) No funds shall be made available under any applicable program unless the recipient of such funds informs the parents of students or the students, if they are 18 years of age or older, of the rights accorded them by this section.

"(g) The Secretary, or an administrative head of an education agency, shall take appropriate actions to enforce provisions of this section and to deal with violations of this section, according to the provisions of this Act.

"(h) The Secretary shall establish or designate an office and review board within the Department of Health, Education and Welfare for the purpose of investigating, processing, reviewing, and adjudicating violations of the provisions of this section and complaints which may be filed concerning alleged violations of this section, according to the procedures contained in subsections (c) and (d) of section 421 of this Act.

"(i) With respect to any funds obligated prior to the effective data of this section to any State or local educational agency, any institution of higher education, any community college, any school, pre-school, or any other educational institution, continued furnishing of such funds shall cease January 1, 1975 if the recipient has failed to meet the conditions for funding established by this section.

"(j) The provisions of this section shall become effective 90 days after the date of enactment of this Act.

"(k) This section may be cited as the 'Family Educational Rights and Privacy Act of 1974.' "

On page 122, in the Table of Contents, after the item "Sec. 512" insert the following:

"Sec. 513. Protection of the rights and privacy of parents and students."

[From the Parade magazine, Mar. 31, 1974]

How Secret School Records Can Hurt Your Child

(By Diane Divoky)

"An habitual liar and a real sickie." "Ego-impaired and maladaptive." "Unnaturally interested in girls." "A real show-off in class, probably because of serious problems at home."

Who are these problem students? They're your children and mine, as described in increasingly fat folders maintained by the schools.

Student records—any teacher or school counselor will tell you—are used more and more to get a picture of the "whole child," his family, and his psychological, social and academic development. So besides hard data, such as IQ scores, medical records, and grades, schools are now collecting files of soft data: teachers, anecdotes, personality rating profile, reports on interviews with parents, and "high security" psychological, disciplinary and delinquency reports. These are routinely filed away in school offices or stored in computer data banks.

You, the parent, probably can't see most of these records, or control what goes into them, much less challenge any untrue or embarrassing information they might contain. But a lot of other people—the school office clerk, potential employers, probation officers, welfare and health department workers, Selective Service board representatives, and just about any policeman who walks into the school and flashes a badge—have carte blanche to these dossiers on your child. And to top it all off, parents are never told who's been spying on their children.

OTHERS HAVE ACCESS

Recent surveys of representative school systems throughout the country found that CIA and FBI agents and juvenile court and health department officials had access to the entire records in more than half the school systems; local police in 33 percent and parents in less than 10 percent.

Even in the rare states or districts where parents have a legal right to inspect records, that right is often denied in practice. As a principal in a California suburb put it: "I know what the law is here in California. Parents are supposed to be able to see the cumulative record. But if a parent comes in and asks to see a record, first I ask why. If there's a really good reason, I'll share some of it with them—but there are certain items I'll always withhold."

OFFICIAL ARROGANCE

The schools argue that student records are their records, to share with whom they choose "for the benefit of the child." Forgetting that parents have the basic legal and moral responsibility for their child and only entrust the child to the school for educational purposes, many school officials arrogantly assume that somehow they know more about the welfare of the child.

A third of the schools do not ask parents for permission before collecting personality test data, and half don't get parents' permission before collecting data on families. Sixteen percent of the systems don't get any form of parental consent before submitting students to psychiatric tests. School counselors, who keep some of the most sensitive records, insist that they'll have to water down their records if they know parents may see them, an argument that raises provocative questions about what goes into those records, and about the school's attitudes toward parents. The results of the school's attitudes, in practice:

A community tutoring projects' secretary calls an elementary school to check on a student's grade placement, and the principal gratuitously reads from the record that the child is a bed-wetter, and that his mother is an alcoholic with a different boyfriend in the house each night.

A mother sneaks a look at her junior high school son's record, and sees that back in second grade an anonymous teacher had written: "exhibitionist tendencies." After several months of work running down the teacher, who no longer taught in the school system, she discovered that the comment was based on a single incident when the youngster had hurriedly returned from the lavatory unzippered.

A black father who works for the school

his daughter attends gets to see her file, and finds five pages of notes about his and his wife's "political activity."

A parent is informed by a guidance counselor, about to write a college recommendation for her son, that his "psychological" file labeled him a "possible schizophrenic" back in elementary school. The mother didn't know such a file existed.

The parents of a junior high student are told their daughter won't be able to attend graduation ceremonies because she's a "bad citizen." What has she done that's bad, the parents ask. Well, the principal says, the school had a whole file on her "poor citizenship," but the parents can't know what's in that file. In this Catch-22 case, one of the few to get a legal hearing, the New York State Commissioner of Education, Ewald B. Nyquist, stated flatly that the school's argument—that it was acting in the best interest of the student in refusing to reveal the information to the parents—had "no merit." The commissioner concluded: "It is readily apparent that no one had a greater right to such information than the parents."

TREMENDOUS ABUSE

"Most people don't even know their rights on this issue," says a staff member of the New York Civil Liberties Union.

"There is tremendous abuse in the preparation of these records. Teachers will think nothing of inserting comments like, 'I feel sorry for the teacher who gets this kid next year,' or 'This one is really a gem.' "

A 9-year-old boy who once hugged a classmate had "homosexual tendencies" written into his permanent record.

Even an affectionate, harmless kiss on the cheek can be interpreted by an overzealous teacher as an "unnatural interest in girls."

In one case, the parents of a 7-year-old boy who was killed accidentally obtained his school records in the litigation that ensued. Some of the comments they found: "Can read and do numbers, but is too immature"—this at the end of the first grade; and "Refuses to use left hand—dislikes being reminded to try." Not mentioned was the fact that the boy had an orthopedic problem on his left hand.

A high school student who criticized his principal on a radio station had "radical tendencies" placed in his record.

"It's an insidious problem," says the NYCLU official, "because most people don't even know who has seen their records and if they are being discriminated against as a result."

Concerned about the growing potential for abuses in school record keeping, the Russell Sage Foundation published in 1969 a widely distributed set of guidelines to aid school systems in establishing fair policies and practices. But five years later, the vast majority of school systems haven't gotten the message. The New York City Board of Education finally established good policies, but few parents or students there seem to know about the protections.

PROTECTIVE LEGISLATION

Des Moines, Iowa, and Jefferson City, Mo., have taken steps to safeguard records, and at the state level, Oregon and New Mexico have passed legislation to give parents and older students access to records, and to protect records from outsiders. New Hampshire bans records that tell of students' political beliefs and activities, and Delaware gives students control of their own records once they are 14 years of age. Elsewhere, the easy flow of information and misinformation—from school to police to social agency—goes unchecked.

One group that is concerned about the problem, the National Committee for Citizens in Education, headquartered in Columbia, Md., urges parents to take a stand—to find out if you can see all of your children's school records, and what provisions your school has to protect records from outsiders' eyes. The committee is preparing a state-by-state guide of school record laws to tell parents where they stand, plus a handbook to guide parents and citizens in asking the questions that will give you the answers on school records policies and practices in your district. It will also provide you with model codes that your state board of education or school system might adopt.

If all else fails, the committee will even tell you how to proceed with legal action. You can write to the National Committee for Citizens in Education, Suite 410, Wilde Lake Village Green, Columbia, Md. 21044.

Last month President Nixon announced that he was setting up a top priority committee headed by Vice President Ford to provide a "personal shield for every American" against invasions of privacy from any source; surely this must apply to our children, too.

[Sample form A]

Routine Information Letter To Be Sent Home at the Beginning of Each School Year or at Time Student Enrolls During Year

Dear Parent, In accordance with the recommendations of the Superintendent of Schools and the Director of Measurement and Evaluation, the Board of Education has approved a city-wide testing program designed to provide information concerning the proficiency of all children in the district on standardized tests of academic achievement and aptitude.

The results of these tests provide a continuing record of each child's academic progress in comparison with national norms. They are also an invaluable aid to your child's teacher and counselor in diagnosing individual strengths and weaknesses in order to provide more effective individualized instruction. During the coming school year the following tests will be administered to your child as part of this program:

(Example)

Name of test: Iowa Tests of Educational Development, Grade 10.

Purpose: Measurement of achievement in mathematics, English, basic science.

Name of test: Terman-McNemar Test of Mental Ability.

Purpose: Measurement of verbal and mathematical aptitude.

Your child's scores on these tests will be checked carefully and maintained in the school record as long as your child attends school in this system. Should your child transfer to another school system, you will be notified of the transfer of his or her permanent record to the new school system. No individual or agency outside of the school system will be permitted to inspect your child's school record without your written permission.

Should you wish to examine your child's record file at any time you may arrange to do so by making an appointment with the principal's office. [In addition, a routine report and interpretation of your child's scores on the above-mentioned tests will be included as part of the second term grade report.]

Sincerely,

———— ————,
Superintendent of Schools.

[Sample form B]

Request for Permission To Collect Personal Data

SPECIAL REQUEST FOR PERMISSION TO COLLECT PERSONAL INFORMATION

In order to provide your child with more effective guidance and counseling services, your permission is requested for the collection of the following kinds of personal information from your child.

(Example)

Type of Information or Test:

Minnesota Multiphasic Personality Inventory.

Kuder Preference Record.

Wrenn Study Inventory.

Family Background Information.

(Note.—Space provided for description and purpose; permission granted; permission denied.)

Because of the sensitive nature of this information, all test scores and related information will be treated with complete confidentiality. Only parents and authorized school personnel will be permitted access to this information without parental consent.

Please check the appropriate box signifying your approval or disapproval of this request, sign the form in the space provided below, and return in the enclosed envelope.

[Sample form C]

Record of Inspection of Pupil Records

Date —.

Records examined —. (Name of pupil or pupils).

Records examined by —

Purpose —.

[Sample form D]

Notification of Transfer of Permanent Pupil Record to Another School System

Dear Parent, You are hereby notified of the pending transfer of (name of pupil)'s permanent school record to (name of school district in (location).

Should you wish to receive a copy of the record to be transferred please return the bottom portion of this form with your signature by (date).

Sincerely,

———— ————,
Principal.

I wish to receive a copy of the school record of (Please print name of pupil) who is my (son) (daughter) (legal ward).

Parent's signature and date.

Address to which transcript should be sent:

[Sample form E]

Request for Permission To Release Permanent School Record to Third Party

Dear Parent, We have received a request from (name of requesting individual, agency, etc.) for a copy of (access to) (name of pupil)'s school record.

Please indicate in the space below whether you are willing for us to comply with this request.

(Name of requesting party) may have a copy of (access to) the following parts of (name of pupil)'s record:

Official Administrative Record (name, address, birthdate, grade level completed, grades, class standing, attendance record).—

Standardized Achievement Test Scores.—

Intelligence and Aptitude Test Scores.—

Personality and Interest Test Scores.—

Teacher and Counselor Observations and Ratings.—

Record of Extracurricular Activities.—

Family Background Data.—

Parent's signature and date.

[From Harvard Educational Review, February 1974]

Excerpts From an Interview With Marian Wright Edelman*

Marian Wright Edelman, as Director of the Children's Defense Fund of the Washington Research Project, has added child advocacy to her agenda of action for social change. Beginning as an attorney in the civil rights movement, she directed Jackson, Mississippi's office of the NAACP Legal Defense and Education Fund, Inc. Headstart, children, and education were large issues for community development, and her involvement with the Child Development Group of Mississippi focused her concern on the welfare of poor and minority children. One of the principal architects of the Comprehensive Child Development Act of 1971, she has broadened her commitment to advocate the rights of all children. She has selected several specific areas on which to concentrate: the exclusion of children from school, labeling and treatment of children with special needs, the use of children in medical experimentation, their right to privacy with regard to school and juvenile court records, reform of the juvenile justice system, and children's right to day care of high quality. Ms. Edelman talked about these and other issues with HER.

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*Interviewers were Rochelle Beck and John Butler of the HER Editorial Board.

Marian, you recently announced the formation of a new organization, the Children's Defense Fund. Can you tell us what it is and why it was created?

The Children's Defense Fund (CDF) is an attempt to create a viable, long-range institution to bring about reforms for children. If they are to receive fair treatment and recognition in this country, children require the same kind of planned, systematic, and sustained advocacy, legal and otherwise, that the NAACP Legal Defense and Education Fund, for example, instigated for blacks three decades or more ago. We hope to bridge two large gaps. One is between people in local communities and advocates at the federal level. The former care about kids but have no larger strategies into which they can fit their local action, and the latter may be politically savvy but need support from local groups to implement any kind of change. Professional child advocates may know a great deal about federal legislation and administrative processes, but unless we can transmit such knowledge to local groups who can educate their constituencies and provide the political muscle, we will continue to lose much of our effectiveness.

The second gap is among people in various disciplines. Researchers and academics have gone off in one direction and those of us who have been involved in policy have gone off in another. As a result, there is often no useful evidence on the particular issues policymakers need to make decisions about. I think there is a lack of understanding from the academic community of what we need to know and do for children with immediate needs. Similarly, lawyers have spent a lot of time filing suits and winning legal victories but have not paid adequate attention to the problems of remedy or the involvement of the community. For example, a right to a hearing is hollow unless people know they have it and are helped to take advantage of it.

CDF is attempting to cut down on the usual fragmentation of effort by molding a staff of people from various disciplines who will seek a unified approach to change. We have litigators and researchers, federal administrative monitors, and community liaison back-up people. We have contracted with local organizing groups like the American Friends Service Committee to provide us with eyes and ears sensitive to local people and problems. We are also retaining local attorneys whom we can use to help identify, where possible, those effective local action groups working in behalf of children.

There is also a separate national entity, the Washington Research Project Action Council, which has a legislative agenda and can lobby on behalf of children—with child development and child health legislation at the top of the list.

What are the specific issues CDF has chosen to pursue?

CDF is premised on the assumption that effective advocacy is specialized; global approaches to change on behalf of children are doomed. We have selected six priority issues for change which could affect broad numbers of children and which are easily understood by large segments of the public. They are: One, the exclusion of children from school; two, classification and treatment of children with special needs; three, the use of children in medical, particularly drug, research and experimentation; four, the child's right to privacy in the face of growing computerization and data banks; five, reform of the juvenile justice system, and six, child development and day care. These issues are subject to attack from a number of vantage points—local, state, and federal—as well as through a combination of strategies, such as litigation, monitoring, model legislation, or efforts at exposure which might in turn provoke congressional hearings, local organizing efforts, and so forth.

What are the other priorities for CDF?

One is what we call the "Guinea Pig Project," where we are investigating the extent to which children, particularly institutionalized children, are used for medical experimentation without the provision of adequate informed consent procedures or other protections. It is an extremely interesting area. We have found it difficult for two reasons: First, medical research has been conducted largely in secrecy, without public knowledge or accountability, even while much of it is done with public funds; and second, doctors, like lawyers and other professionals, think that only they should regulate themselves—even in the face of information showing substantial abuse. The Tuskegee syphilis experiment and the South Carolina sterilization case dramatically illustrate the need for public attention in this area.

We recently won an important case in the Federal District Court of the District of Columbia under the federal Freedom of Information Act. This decision allowed us access to NIMH grant applications and research protocols, including so-called pink sheets and site visit reports, which contain the conclusions and comments of peer review groups whose approval is required of all federal research applicants. The Court also ordered HEW to revise its regulations and grant application procedures to assure that such materials are made available to the public in the future. This decision, if sustained on appeal, will go far in demystifying medical research and building some public accountability into federally funded research grants affecting children. Our investigation of the medical practices in this area will result in a report later this year.

It is a sad fact that there is a better government policy to protect animals than children from experimentation. It is only in the aftermath of blatant abuses that government panels have been assembled to discuss and draft more specific guidelines for human experimentation. I am especially concerned about preventing institutionalized children from being used for experimentation. It still remains to be seen when, and in what form, guidelines in this area will emerge. CDF has monitored the guideline drafting process carefully, and we have prepared and are advocating our own draft regulations.

How are the current guidelines for human experimentation insufficient to protect children?

The current guidelines governing human experimentation are inadequate on the informed consent issue. They completely ignore the problems of consent among the institutionalized. CDF's top priority in this area is to safeguard the child who is least protected—the orphan, the retarded, the neglected and dependent, the institutionalized and the poor—from being guinea pigs in the marketing of new drugs. The consent issue is different for adults and children, particularly children who are under the control of the state or third parties. I feel differently about an adult prisoner consenting to participating in a drug experiment than I do about such an experiment being performed on a child in an institution for the mentally retarded or in a home for the orphaned and neglected.

Isn't the notion of consent problematic with children anyway?

Yes. At what age should a child have to be involved in giving consent, rather than simply consulting the child's parent. Should institutions be permitted to give constructive consent for purposes of experimentation? I would not want any jailer in Alabama or elsewhere to have the right to consent on behalf of juvenile wards on such matters.

Whether protections and procedures are implemented is another crucial but difficult issue. Researchers may give lip-service to paper procedures but ignore them in reality. A substantial consent question was raised in an experiment conducted by a Dr. Dimascio through Boston State Hospital.

What was the experiment?

It involved administering drugs to school children in certain Boston public schools who supposedly reflected behavioral problems which were very broadly defined. The early proposal suggested the experiment was more an attempt to test the effect of the drugs rather than a treatment for specifically identified medical problems. The proposal described a potpouri of symptoms such as restlessness or inattentiveness that could have resulted from a variety of social causes like poverty or hunger, as well as from medical causes. Yet the approach in the proposal, apparently directed at poor children, first explored therapeutic rather than social solutions to the symptoms. If a child is restless because he's hungry, adequate nutrition ought to be the first level of inquiry and response—not the administration of some drug. Further, it was unclear just what the parents were told about the experiment or how the content procedure worked. I know as a parent I would never have consented to my child participating in such a poorly designed experiment. But when we tried to find out more, we were turned down. It was to get this proposal and others that we sued NIMH under the Freedom of Information Act and which resulted in the decision I mentioned earlier.

We have met with a great deal of defensiveness and concern among some of our friends in the medical profession who fear that we are out to (or may inadvertently) destroy medical research. That is the farthest thing from our intentions. We do believe that it is important to enforce public accountability on these important issues. This is an issue which involves very complex judgments, but a total policy vacuum or reliance on self-regulation within the medical profession in the face of increasing evidence of abuse is not a desirable solution.

To give you a specific example, it is necessary, in my opinion, for more people to be aware of and question the frequency with which drugs like Ritalin are employed in the treatment of children's problems. The use of amphetamines on children is far more widespread and promiscuous than has been suspected or documented. And for imprecisely defined medical problems. What is a hyperactive child? How much misdiagnosis is involved? Who should diagnose the child? A physician? A teacher? A parent? What is the impact of long-term use of such drugs? Is the availability of drugs an incentive for easy, maybe incorrect, labels and treatments which serve as substitutes for more costly, complex, or demanding services for children?

You mentioned that a child's right to privacy in the face of growing use of computerization and data banks was a CDF interest. What are you doing in this area?

We have begun what we call our 1948 Project, which focuses on behavioral screening for the purpose of identifying and labeling children with alleged criminal or other behavioral problems and on exploring the use of computerized record keeping of information on children.

This project examines the crucial issues of privacy and classification, to say nothing of raising more fundamental issues about what kind of country we are or ought to be. I have very strong feelings about how much the government or other officials ought to be allowed to know about individuals. Indiscriminate data banking and careless sharing of information can subject those children who are most disliked and most prone to be mislabeled—the poor minority child, the neglected child—to unfair scapegoating by governmental authorities. Children may gain a stigma at a very early age that can never be shaken. For example, a young person picked up for speeding at sixteen might be checked through some centralized data bank and found to have a history of school problems or contacts with the juvenile court. He or she will, in all likelihood, be treated differently once this information is known.

Accessibility of school records also presents problems. Some information fed into a child's records (to which she or he may not have had access) may be of questionable nature. For example, suppose a principal or teacher thought the child was on drugs but could not prove it. Suppose this observation was included in a school file which was later turned over to the juvenile court when the child was picked up for truancy. This information might later go into a data bank accessible to police authorities. The ramifications of the unsubstantiated charges could go on and on and the child would never have the opportunity to refute them.

Some say that various kinds of specialists in the schools should have access to all information about the child and use it at their discretion. Others say that this kind of information should be withheld from school personnel and reserved for the parents, unless they want to divulge it, thus arguing for something more like a formal doctor-patient relationship between the specialist and the child. How do you see it?

It seems to me that if there is a counseling service at a school, the counselor should have access to the records necessary to do his or her job. This is true of any specialists attempting to deal with special problems. The information sought and collected, however, should be appropriate and necessary to the service being performed. None of the data should go outside the school, for any purpose, without the parents' or the child's consent (depending on age).

Unfortunately, it is still the practice in many places to deny parents and children access to school records. A new law giving parents access to their children's records was recently passed in Massachusetts. This right does not exist in many other states. Like welfare recipients' records, all files are confidential. Even the person on whom files are kept may not see them. Who is being protected from whom? One of the reasons it's so important to give parents and student access to their own files is to cut down on the hearsay evidence and rumor that often serves as the basis for labeling a child. In instances when a child is on trial, stands to be expended or expelled from school, or otherwise has his status negatively altered in a serious way, his parents and counsel should certainly have access to all information or records upon which the charges were based.

AMENDMENTS NOS. 1290 THROUGH 1295

(Ordered to be printed, and to lie on the table.)

Mr. HELMS submitted six amendments, intended to be proposed by him to Senate bill 1539, supra.

AMENDMENT NO. 1299

(Ordered to be printed, and to lie on the table.)

Mr. COOK. Mr. President, last month, in the wake of the destruction wrought by tornadoes which hit Kentucky and 10 other States, I introduced legislation aimed at strengthening one of the important components of our current Federal disaster relief effort—school reconstruction legislation.

S. 3407 amends the language of Public Law 81–815 relating to the restoration or replacement of school facilities to provide that additional moneys might be spent in order to insure reasonable and adequate emergency protection in the case of future disasters. The Commissioner of Education is given the authority to approve additional expenditures "in order to assure that the facilities, as restored or replaced, will afford maximum protection against personal injuries resulting from a disaster."

Surely this is not an unreasonable proposal. It makes little sense to replace a building that might only be a hazard in any future emergency situation. The cost of reasonable modifications during a building's renovation will be well worth the security of knowing that schoolchildren are well protected for any future disaster.

I am introducing this legislation again as an amendment to S. 1539, the Education Amendments of 1974, and I urge its favorable consideration by my colleagues. I ask that this proposal be printed in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

Amendment No. 1299

On page 214, line 24, insert the following:

EXTENSION OF AUTHORITY TO RESTORE SCHOOL BUILDINGS FOLLOWING A NATIONAL DISASTER

Sec. 204. (a) Section 16(a) of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress) is amended by inserting before the last sentence thereof the following new sentence: "For the purpose of the preceding sentence, the phrase 'cost of construction incident to the restoration or replacement of the school facilities' includes such additional amounts as the Commissioner may approve in order to assure that the facilities, as restored or replaced, will afford maximum protection against personal injuries resulting from a disaster."

On page 215, line 4, strike out "204" and insert in lieu thereof "205".

EXTENSION OF AUTHORITY FOR REGULATION OF EXPORTS—AMENDMENT

AMENDMENT NO. 1297

(Ordered to be printed, and referred to the Committee on Banking, Housing and Urban Affairs.)

Mr. BENTSEN. Mr. President, I am today introducing an amendment to S. 3282, a bill to amend the Export Administration Act of 1969 and ask that the amendment be printed at the end of my remarks.

My amendment, which has the support of the grain trade, would require the President to fully consider established and historical trading patterns before imposing any export controls which may be necessary as a result of abnormal foreign demand or domestic scarcity.

The amendment does not establish rigid historical quotas. Rather it is a clear expression of congressional intent that, if our exports must be limited—and there may indeed be cases where limits are necessary—established markets are to be given some preference over new and uncertain ones.

Mr. President, I am a strong advocate of expanding U.S. export markets, not restricting them. But we must be in a position to adjust to world economic conditions when periodic foreign demand threatens to drain the U.S. cupboard bare. I believe that our agricultural section can expand its production to meet our domestic needs as well as a substantial portion of the needs of the rest of the world. Nevertheless, bad harvests resulting from droughts and flooding in many areas of the world have combined with a great increase in demand for protein and grain to place pressure on U.S. supplies and aggravate already high food prices.

Last year we were forced to impose export controls on soybean and oil seed products and we witnessed the havoc that move wreaked in the consumption pattern and markets of our traditional trading partners. If export controls must be imposed on these products, who should be denied access? In a hungry world, whose order should go unfilled?

Mr. President, I believe that the equitable way to distribute prime commodities is to give consideration to previous trade patterns. Article XIII of the General Agreements on Tariff and Trade says that when all buyers cannot be served, the most equitable way of allocating supplies is on an historic basis. Japan, England, and Germany have long been purchasers of American farm produce. While our trade must be flexible enough to meet demands for new markets such as China and the Soviet Union, we must not forget our traditional trading partners with whom we have spent decades building commercial ties. For example, we have furnished over 90 percent of the soybeans consumed in Japan for the last 10 years, but we were forced to ration soybeans to Japan last year because the Soviet Union had purchased 40 million bushels from us. These export controls will have an adverse effect on our exports for some time. If we cannot guarantee a continuing supply to our established customers, other countries are more than ready to step into our markets. Brazil is already planting soybeans at such a rate that some Brazilian officials are warning that the country's coffee production is being reduced in order to plant soybeans. Brazil is actively seeking new markets at a time that we are limiting sales to the Japanese.

In addition, if export controls are extended to wheat and other grains without consideration of existing trading patterns, the Japanese may turn to the Australians with whom China has recently suspended purchases for political reasons. Mr. President, last year this country experienced a trade deficit with Japan of over $4 billion. We need to not only maintain, but to increase the levels of our exports to that country.

If agriculture is to bear an increasing role in balancing our trade accounts, then stable and reliable markets must be found and maintained.

If trade relations are suspended, there is no guarantee that they will be reestablished. Export controls under the best circumstances cause our traditional foreign buyers to look elsewhere. But export controls which do not give proper consideration to existing trading patterns will permanently damage American exports. What country wants to place its reliance in a trading partner who, after demanding that you purchase more of its products for years, suddenly imposes restrictions without some preference for previous trading relations?

Mr. President, we must assure Japan, as well as our other established trading partners, that we are serious about protecting our commercial ties during periods of shortages. I believe that my amendment, if adopted and complied with, will give those trading partners that assurance.

The application of shortrun controls should not be allowed to undermine the long-range advantage to our Nation of continuing mutually beneficial exchanges in world trade.

MORTGAGE CREDIT FOR FINANCING OF HOUSE—AMENDMENTS

AMENDMENT NO. 1298

(Ordered to be printed, and referred to the Committee on Banking, Housing and Urban Affairs.)

Mr. BEALL. Mr. President, I send to the desk an amendment to S. 2735.

This amendment would permit FNMA to purchase conventional mortgages which are insured by nonprivate insurers. There are at least five States now which have authorized State agencies to insure mortgages, and there is no reason why State-insured mortgages should be ineligible for purchase while privately insured mortgages are eligible. State-insured mortgages are now eligible for purchase by the Federal Home Loan Mortgage Corporation—FHLMC. The enactment of this change would tend to make the authorities of FNMA and FHLMC more nearly equal.

This amendment has been consistently included in FNMA legislative proposals since 1972, and was included in the Housing and Urban Development Act of 1972 as passed the Senate, and in the House-reported legislation of that year. It has also been included in S. 1329 and S. 2449, both of which have been introduced in this Congress by Chairman SPARKMAN and the ranking minority member, Mr. TOWER. It is included as section 813(d) of S. 3066 as passed the Senate on March 11, 1974.

Mr. President, this amendment was called to my attention by Mr. Joseph G. Anastasi, Secretary, Department of Economic and Community Development.

This amendment would certainly be a big boost to the Maryland housing funds, perhaps even encourage other States to involve themselves in the important housing area also.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 1026

At the request of Mr. MCGOVERN, the Senator from Nebraska (Mr. CURTIS) and the Senator from New Mexico (Mr. DOMEMICI) were added as cosponsors of amendment No. 1026, to S. 1539 relating to Federal assistance to school districts with a high concentration of students whose parents live and work on a Federal installation.

AMENDMENT NO. 1198

At the request of Mr. BEALL, the Senator from Maryland (Mr. MATHIAS), the Senator from Colorado (Mr. DOMINICK), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of amendment No. 1198, intended to be proposed by him, to the bill (S. 411) to amend title 39, United States Code, relating to the Postal Service, and for other purposes.

AMENDMENT NO. 1239

At the request of Mr. ERVIN, the Senator from Arkansas (Mr. MCCLELLAN) was added as a cosponsor of amendment No. 1239 to S. 1539, the Education Amendments of 1974.

AMENDMENT NO. 1248

At the request of Mr. HANSEN, the Senator from Kansas (Mr. PEARSON) was added as a cosponsor of amendment No. 1248 to S. 1539.

AMENDMENT NO. 1265

At the request of Mr. DOLE, the Senator from California (Mr. TUNNEY), the Senator from New Mexico (Mr. DOMENICI), and the Senator from North Dakota (Mr. YOUNG) were added as cosponsors of amendment No. 1265 to S. 3267.

NOTICE OF JOINT COMMITTEE HEARINGS ON CONGRESSIONAL INFORMATION RESOURCES

Mr. METCALF. Mr. President, the Joint Committee on Congressional Operations will open hearings May 15 on the availability to Congress of quality policy research and other necessary information support.

As Senators recall, a major objective of the 1970 Legislative Reorganization Act was to strengthen congressional information capability. Aside from an increase in staff and consultant services available to committees, the primary responsibility for meeting this objective was to be assumed by two agencies—the Congressional Research Service of the Library of Congress and the General Accounting Office. Briefly stated, CRS was directed to supply to the committees "massive aid in policy analysis," to assist them in examining and evaluating legislative proposals and alternatives.

For its part, GAO's new responsibilities included first, assistance to Congress and the committees in evaluating results of ongoing Federal programs and activities, and second, serving as agent of Congress in development within the executive of improved systems for reporting fiscal, budgetary, and program data and information.

The joint committee's hearings opening on May 15 will focus initially on the availability of policy analysis and related information support, including a review of CRS activities and performance of responsibilities assigned to it by the 1970 act. The tentative witness list follows:

May 15:

Kermit Gordon, President, The Brookings Institution.

Robert Seamans, President, National Association of Engineering and Vice Chairman, National Research Council.

Alton Frye, Institute for Congress.

Harvey C. Mansfield, Sr., Professor of Public Law and Government, Columbia University; and Roy W. Crawley, Executive Director, National Academy of Public Administration.

May 16:

Lester Jayson, Director, Congressional Research Service.

The hearings on both days will begin at 10 a.m. in room 1318 of the Dirksen Senate Office Building. Subsequent hearings, to be held in June and July, will deal with program evaluation and the responsibilities of GAO in this area, with the functions of the new Office of Technology Assessment, and with automatic data processing applications in the Congress.

Mr. President, how well we are equipped to acquire and use information—from sources within as well as outside Congress—is a matter of intense concern to Members of both Houses. All of us are acutely aware that without access to information and analysis of the highest quality—readily available and in a form which we can use—Congress cannot hope to fulfill its constitutional responsibilities as a coequal branch of the Federal Government. Many of us believe that our resources remain woefully inadequate, despite efforts to augment them in recent years.

To assess our present and future needs for information support, the joint committee will be inviting testimony from users as well as suppliers of policy research and other information services. We expect to hear not only from the congressional agencies, but from other governmental agencies, the academic community, and private research organizations as well. We also hope to hear from the broadest possible cross section of Members of the House and Senate who have suggestions for improving congressional information capability.

Mr. President, in preparation for these hearings, the joint committee has compiled documents and background material describing relevant duties and responsibilities of CRS and GAO, the functions of the Office of Technology Assessment, the applications of automatic data processing in being or in prospect within Congress, and selected proposals for reorganizing existing congressional agencies or establishing new research and information agencies.

Members may secure a copy of this committee print by calling the joint committee, x8267.

NOTICE OF HEARINGS RELATED TO SMALL BUSINESS PROCUREMENT

Mr. HATHAWAY. Mr. President, I wish to announce that, on May 21, 1974, at 10 a.m. in room 318 of the Russell Senate Office Building, the Subcommittee on Government Procurement of the Senate Select Committee on Small Business will conduct a hearing on current difficulties being faced by small businesses in performing contracts with the Federal Government. Particular attention will be directed to such performance problems as the impact of inflation, energy shortages, and availability of supplies and raw materials.

Testifying at the hearings will be small businessmen whose firms have Government contracts, small business associations, and an attorney-lecturer.

Further information may be obtained from the Senate Small Business Committee, room 424, telephone No. 225-5175.

ADDITIONAL STATEMENTS

IMPEACHABLE OFFENSES: TREASON, BRIBERY, AND HIGH CRIMES AND MISDEMEANORS

Mr. ERVIN. Mr. President, William Van Alstyne, a distinguished professor of constitutional law at Duke University, has written an exceedingly lucid statement setting forth the meaning of impeachable offenses as described in article II, section 4, of the Constitution of the United States. In view of the timeliness of Professor Alstyne's constitutional views on this subject, I ask unanimous consent that a copy of this article be printed in the body of the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NO DOUBTFUL AUTHORITY OUGHT TO BE EXERCISED—THE IMPEACHMENT OF RICHARD NIXON

Less than three years ago, Gerald Ford moved for the impeachment of Justice William O. Douglas on grounds not constituting any federal crime. At that time, there were many who immediately urged that the House Judiciary Committee should reject Mr. Ford's loose, self-serving construction of the impeachment clause. Admitting that the clause was subject to more than one reasonable view, we argued for a strict construction because of the ease with which the clause would otherwise lend itself to political abuse, and because of the inherent difficulty of drawing any stable line at all if it were not confined to specific criminal acts.

Today, the cause is different and the names are not the same. The object of outrage is Richard Nixon, not William O. Douglas. The cause is different in that there is significant public evidence for the House to consider Mr. Nixon's possible commission of federal crimes; there was never any basis to impeach Justice Douglas by that standard. Again, however, we hear that whether or not Mr. Nixon can be shown to the satisfaction of the Senate to have committed any criminal offense whatever, the impeachment clause does not require it. Rather, the clause is said to contemplate removal for scandalous misconduct or maladministration, or for "subverting the Constitution" (whatever that may mean).

The legal staff of the House Judiciary Committee, now takes this view, including minority counsel for the Republican Members, the A.C.L.U. adopts much of it in a recently published handbook, and scholars as thoughtful as Raoul Berger have given it their professional endorsement. They all make a strong showing for their position, and I cannot say that they are necessarily wrong. Rather, I say that they are far from being necessarily right and that we shall do a great injustice if we repeat the historical mistake of acting on such doubtful grounds in any matter of such obvious national importance. I also believe that much of their argument rests on grounds which they themselves would not wish to see sustained in other circumstances. In this instance, as in many others, the national interest will be far better served by a strict construction of the Constitution.

A LITERAL AND STRICT CONSTRUCTION

Senator Ervin, like the late Mr. Justice Black, reads the Constitution carefully—and strictly. Highly regarded as the Chairman of the Senate Subcommittee on Constitutional Rights (as well as Chairman of the Subcommitteee on Separation of Powers and of the Watergate Select Committee), Ervin is not known as a sycophant or captive of the White House. Relying on the language of the Constitution itself, he has recently concluded that only a specification of federal criminal wrongdoing can properly provide grounds for removal by impeachment.

Reading the Constitution is scarcely ever the terminal point of understanding, of course, but it is a good place to begin. The specific clause, and others too, do appear to favor the Senator's view. The impeachment clause itself provides:

"The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, *Treason, Bribery, or other high Crimes and Misdemeanors.*"

Treason is a criminal offense defined in the Constitution itself. Bribery was a well-established common law crime subsequently enacted as a statutory felony by Congress. "Other high Crimes and Misdemeanors," surely implies that additional grounds for impeachment besides treason and bribery must, like them, be crimes as well. By a well-settled rule of *ejusdem generis* (that a general provision following a specific listing is to be construed in keeping with that specific listing), it is also plausible that the "other high Crimes and Misdemeanors" must not only be criminal offenses like treason and bribery, but like them, they must also be serious criminal offenses ("high" crimes and "high" misdemeanors).

The constitutional close association of grounds for impeachment with crimes is repeated in the specific language of other articles as well. In guaranteeing the right to trial by jury for "all crimes, except in cases of Impeachment," and in providing that a "party convicted [in an impeachment proceeding] shall nevertheless be liable and subject to Indictment, Trial, Judgment, and Punishment, according to law," the Constitution furnishes consistent support for Senator Ervin's view. In sum, the strict construction of the impeachment clause holds that proper grounds for impeachment must be based on evidence satisfying the Senate that the person to be removed has committed a serious criminal offense reflecting directly upon the office from which he is to be removed. It is not the only possible view of the impeachment clause, but it will warrant our most sympathetic consideration in comparison with the slippery slopes of other views.

THE PITFALLS OF LOOSE CONSTRUCTION

Against this proffered strict construction of the impeachment power, there are principally two lines of "authority" which have been invoked in support of a different view—that something the House and Senate may believe to constitute a serious offense, albeit not a crime, would be sufficient grounds to remove the President by impeachment. The first of these is drawn from English history and practice, some portion of which was arguably approved in the formulation of our impeachment clause. The second line of authority is drawn from congressional practice, i.e., from the manner in which Congress has previously presumed to apply the clause.

As to the first, it is indisputable that English history furnishes numerous examples of Parliament removing officers of the Crown for a vast variety of alleged political affronts to Parliament and for actions which Parliament deemed to be outrageous instances of maladministration. But the difficulty with using this history to impose a broad (and highly uncertain) meaning on our own Constitution rests in the questionable assumption that our impeachment clause meant to adopt, rather than to narrow, an English practice which had been used to establish parliamentary supremacy by impeachments on grounds specifically rejected in the making of our Constitution.

Parliament impeached Warren Hastings in 1786 (within a year of our Philadelphia Constitutional Convention) for "gross maladministration," a term also included at the time in six of the thirteen state constitutions of this country. Yet, at Philadelphia, when George Mason of Virginia proposed to add the word "maladministration" to "treason and bribery" as grounds for impeachment, the proposal was at once rejected—as too vague and too broad. The rejection of Mason's "English" suggestion was followed at once without debate, by adding only "other high Crimes and Misdemeanors" to "treason" and "bribery" as the exclusive grounds for removal by impeachment. Thus, the extent to which English practice and English "understandings" were attached to (rather than rejected in) the impeachment clause of our Constitution is by no means clear.

So far as the unexamined habit of construing our Constitutions by reference to English practice and usage is concerned, moreover, it must be recognized at once how treacherous that rule of construction can be. It was once believed that the First Amendment's protection of "the freedom of speech" which Congress is forbidden to abridge was to be determined by looking to English law of the same period, so as to establish the same degree of protection here. The result was immediately disastrous. Seditious libel (basically, any statement deeply critical of government whether or not true) was unprotected under English law and, accordingly, an early Congress presumed to adopt Alien and Sedition Acts which put critics in jail, with the full approval of the lower federal courts. Not until the 1920s did the Supreme Court even begin to consider seriously the possibility that the First Amendment did not accept the English law, but that it greatly narrowed that law and virtually repudiated it. Thus, those inclined to lean heavily on English usages for "clarification" of our Constitution must be made to feel the difficulty they may suffer when it is not Mr. Nixon, but some interest of their own, which is involved.

The other line of argument that would spread apart the narrow net of the impeachment clause is based upon past congressional practice—that Congress has invoked the clause thirteen times, and often on grounds unrelated to any crime. But aside from being weak on the merits (ten of the thirteen instances involved federal judges who hold office on "good behavior"), this is the worst possible source of argument for those most eager to impeach Mr. Nixon, an argument they should shudder to use. It was the very argument he himself partly relied upon to explain why no declaration of war was required for Vietnam—that several Presidents had presumed to wage undeclared war in the past, and that this practice was itself some evidence that no formal declaration by Congress was constitutionally required.

That this style of argument is often largely a bootstrap has recently been acknowledged by the Supreme Court. A few years ago, the House defended its action in denying Adam Clayton Powell his seat in Congress partly on the basis that it had previously acted the same way against other elected Representatives and that the longevity of this practice (about one hundred years' worth) itself furnished evidence of its constitutional authority. The Supreme Court took a different view:

"That an unconstitutional action has been taken before surely does not render that same action any less unconstitutional at a later date."

Harry Truman ran into the same response when he sought to justify his authority for seizing certain steel mills partly on the basis of similar actions by other presidents:

"[I]t is difficult to follow the argument that several prior acts apparently unauthorized by law, but never questioned in the courts, by repetition clothe a later unauthorized act with the cloak of legality."

Besides all this, the actual history of the impeachment clause teaches us something very different when Congress has used it loosely: that in fact they tend to demean themselves and to martyr the object of their effort. Andrew Johnson was impeached for something clearly *not* a crime, and conviction failed in the Senate where Johnson was defended by a former Supreme Court Justice who argued that impeachment lay only for crime. Sixty years earlier, Jefferson capitulated to politics, lending his support to the impeachment of Justice Chase on noncriminal grounds—and Chase was acquitted. (Chase's counsel also argued that impeachment lay only for crimes.) What, then, can we truly say of past congressional practice as a guide to the impeachment of Richard Nixon?

NO DOUBTFUL AUTHORITY OUGHT TO BE EXERCISED

The guide for Congress to follow was suggested long ago by Alexander Hamilton in the advice he gave a President on an issue of similar gravity, advice Mr. Nixon himself should have taken more frequently than he has. "In so delicate a case," Hamilton suggested, "in one which involves so important a consequence . . . my opinion is that no doubtful authority ought to be exercised."

The question here ultimately is not what clever argument can make out of the impeachment clause, but what we say about ourselves in how we treat this matter. Shall those among us who use one mode of construction (a strict construction) for the First Amendment or the Declaration of War clause now urge a different one in respect to the power of impeachment? Are we so unconvinced that Mr. Nixon is truly subject to removal for a clearly defined "high Crime or Misdemeanor" that we think it well to strain, and in our zeal to "get him," thereby to confess a weakness and a political motive, ironically undermining the gravity of the charges otherwise to be raised against him?

Without pausing here to detail the list, I think it is clear that the House Judiciary Committee has ample specific cause to pursue its inquiry into the President's possible complicity in specific high crimes and misdemeanors. We may, however, seriously degrade that inquiry as well as the impeachment power itself by going a single step beyond.

SMALLTOWN OKLAHOMA PRIDE

Mr. BELLMON. Mr. President, as a lifelong resident of rural Oklahoma, I have a great deal of pride in the farming areas and the small towns of our country.

Many of the Nation's leading citizens have had their beginnings in small communities. Oklahoma has produced more than its share of achievers in government, business, sports, entertainment, space, and other areas of endeavor, who have smalltown backgrounds.

My concern has been that the rural-to-urban migration which has been occurring is draining these areas of their most able, productive citizens. Especially disturbing is the fact that large numbers of young people have been leaving the rural areas to go to the cities. This concern has been shared by other members of the Senate such as the distinguished chairman of the Agriculture Committee, Mr. Talmadge.

As a result a Rural Development Subcommittee was formed and I am proud to have served as a member of that subcommittee and to have been involved in developing the Rural Development Act of 1972. This act, when funded properly, will go a long way toward making rural areas safe, pleasant and attractive places to live.

Many problems still remain, including the shortage of doctors and the lack of adequate health services in the rural areas. In an effort to improve that situation, I have introduced S. 3045, the Rural Health Care Delivery Act of 1974.

It has taken the Federal Government a long time to recognize that positive action was needed to stop rural areas and small cities and towns from dying. But the Congress is finally beginning to provide the tools to revitalize rural America and bring about the rural-urban balanced growth that is essential to keeping our country strong.

Mr. President, in order that my colleagues may better appreciate the values of smalltown living, I ask unanimous consent to have printed in the Record two recent articles from the Tulsa Tribune regarding Perry, Okla., the county seat of Noble County, which is my home.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Tulsa (Okla.) Tribune,
May 1, 1974]

To Its Citizens, Perry Not Just Average—Pride Abundant In "Small Town, Oklahoma"

(By Sam Fox)

Perry.—The bandstand in Perry's town square is seldom used for summer concerts. But it stands as a reminder of a delightful past and a symbol of a small-town life style that many Americans would like to recapture.

One of the bandstand's most frequent guests was Buster Keaton who entertained his fellow townspeople as a youngster years before he became a movie star.

Keaton also appeared numerous times at the old Perry Opera House as did Tom Mix and Will Rogers. The opera house, which like the bandstand was symbolic of a bygone era, has been torn down.

The town's 18 churches preach a sort of conservative-to-moderate theology that is typical of the small town in mid-America.

With a population of 5,341 persons, Perry could well qualify numerically as "Average Small Town, Oklahoma."

But folks at Perry object to being termed "average."

"We are above average," they say of their town, the Noble County Seat. They offer their reasons:

"Perry is the wrestling capital of the world . . . has a home-grown industry that helps keep its young people from moving off . . . has a terrific school band program . . . is crossed by two railroads . . . is home of one former governor and near the home of another . . . has an outstanding recreation program for its youth . . .

The Cherokee Strip Museum, located west of town just off Interstate 35, tells the story of Sept. 16, 1893, when Perry was born.

On that day, about 100,000 people gathered at the border of the Cherokee Outlet, poised to stake claims in the biggest land rush of them all. The area was 58 miles wide and 226 miles long.

The rush began and by nightfall, Perry (originally named Wharton) was a tent city of about 25,000 population.

Early day settlers recall that Perry landed two railroads—the Santa Fe and Frisco—because of the aggressiveness of Perry's leaders. Stillwater had lost in competition for the railroads, but was selected over Perry as site of a college, now Oklahoma State University.

The railroads gave Perry access to booking of major New York stage plays for the opera house, according to Mrs. Alma Simmons, daughter of Joe B. Tate, who operated the house.

Mrs. Simmons said the opera house opened about 1901 and was converted for silent movies, vaudeville and later to talkies. After about 40 years of operation, the house was damaged by storm and fire, subsequently to be closed and torn down.

Although other communities may challenge Perry's claim as wrestling capital, townspeople point proudly to Olympic champion Jack Vanbebber (1932) and Olympic team member Danny Hodge (1952 and 1956) as examples of the town's claim.

Coach Leonard Shelton is still putting out championship wrestlers, they say.

Frank Briscoe, a student of Ed Gallagher (Gallagher Hall at OSU), is credited with the start of Perry's wrestling tradition. The town's Chamber of Commerce manager, John Divine, was wrestling coach for 33 years.

Wrestling is part of a larger youth program provided by the town each year. Ball leagues are organized each year, and citizens say their scouting program is one of the best.

Each year, the band wins many honors. Newspaper editor Milo Watson said the outstanding music tradiiton was started by Leopold Radgowsky, a czar loyalist who had to flee Russia.

The classical musician, Watson said, went to work with the 101 Ranch Wild West show. The Russians, the story goes, tried to get him back to their country and efforts were made by the United States to deport him.

But friends got Radgowsky into Mexico long enough for him to qualify for re-entry into the country.

Perry citizens are proud of their school system. Byard Anderson started in the system as an elementary school teacher in 1934. Now he is superintendent for the system that has an enrollment of 1,250.

The school, he said, is vitally interested in the summer youth programs, which is "the oldest supervised play program in the state."

Bank executive Kenneth Coldiron says the school and youth programs help avoid a serious drug problem and keep the delinquency rate low.

Oil, wheat and cattle dominate the economic scene in the Perry area. The largest town employer, however, is Charles Machine Works, better known as the builder of a trenching machine called "Ditch Witch."

Owner-manager Ed Malzahn, a Perry native, describes the firm as a "home-grown company."

Ditch Witch, with a $6 million payroll and about 600 employes, gave bonuses last year of about 26 per cent, and production incentive payments of about 10 per cent.

Malzahn's grandfather started a blacksmith shop and in 1949, the firm started manufacturing its trenching machine. An oil equipment repair business was phased out in 1959.

Because of Ditch Witch's expansion and the existence of several other industries, Perry is keeping a lot of its young people who might otherwise move to larger towns.

Bob Davis, planner-in-charge for the Northern Oklahoma Development Association, said that after the initial settlement and leveling off, the town's population growth has been slow and continuous since 1910.

"The birth rate, as shown on the population pyramid," he said, "is relatively high, and has not decreased significantly the past two decades.

"The city has been able to retain a large portion of its young people beyond graduation, reflecting ample employment opportunities."

Davis said, "There is a large number of persons in the reproductive years, indicating that the city will continue to see a birth rate necessary for continued growth."

Perry is proud of its trees, and honors with a plaque in the town square William T. Little, "who planted our city park." Oldtimers also remember another planter, Orlando Walking.

In mid-September, Perry will relieve its origin with observance of the famed Cherokee Strip run, with all the traditional events and contests.

In between celebrations, though, folks at Perry will go about work, play, worship and all those other things people do in Small Town, Oklahoma.

GOOD NEWS FOR TOWN: DOCTOR PLANS TO STAY

PERRY.—The waiting room at the doctor's office is filled with people. . . .

. . . A little girl with a high fever, a coughing, teen-age girl wearing a "P" (for Perry) jacket, an expectant mother, a burly farmer who won't let his illness show and a mother with a sick boy.

A man enters with a hand injury.

In the corner of the office is a small table with children's books and a Charlie Brown soap bottle. But the children are too sick to enjoy them.

Some of these patients will be seen by Dr. William Corporon, whose tight schedule makes it difficult to see anyone without an appointment.

Just a few years ago, Perry was nearing a doctor shortage. Then Perry citizens made a decision.

The Perry Community Medical Foundation, Inc., formed in 1970, began raising funds to help support medical students, in exchange for a commitment to practice for two years at Perry.

Corporon is first evidence that Perry's decision and its investment in its medical future is paying off.

Good news for Perry: Dr. Corporon announces, "I plan to stay."

Perry leaders had looked at its doctor situation some time ago and saw that the town could one day be without any doctors.

"We had some doctors," said Kenneth Coldiron, bank executive. "Some were beginning to get past 65 . . . a community poll showed a shortage of doctors."

Corporon, a native of Independence, Kan., who had attended schools in Enid and Ponca City, was first to take advantage of the offer.

Since 1970, two other medical students have been helped by the foundation. They are Raymond Jackson, in residency in pediatrics, and John C. Sayre, a Pawnee High School graduate.

"I promised to come to Perry . . . to practice here for a given amount of time," Dr. Corporon said. "Perry supported me through my first year at school.

"I wouldn't have gotten into the program unless I anticipated staying . . . I started in September and am doing all right.

"General practice in a small city is the way I want to practice medicine. This has been my goal since I chose the profession.

"North central Oklahoma has been home for my wife and me for more than 10 years. We like the country and the people.

"We want to live in a community where we can be sure of the kind of education, churches and total environment which we want for our family.

"When we visited Perry, we looked at the hospital, the schools, the churches, the residential areas and the business district. We like the town."

Corporon said the hospital is taking bids for a two-bed intensive care unit and the medical foundation is setting up funding for nurses' post-graduate training.

It pays salary and tuition during training at Stillwater, he said. "It was my suggestion . . . another first."

COMMENTS OF VERMONT ROYSTER RESPECTING SENATOR SAM J. ERVIN, JR.

Mr. RANDOLPH. Mr. President, Vermont Royster, former editor of the Wall Street Journal and now Kenan Professor of Journalism at the University of North Carolina at Chapel Hill, N.C., made some comments upon our colleague Senator SAM J. ERVIN, JR., in a column entitled "Thinking Things Over," which appeared in the Wall Street Journal on April 3, 1974. I ask unanimous consent that a copy of these comments be printed in the body of the RECORD.

There being no objection, the comments were ordered to be printed in the RECORD, as follows:

THINKING THINGS OVER

(By Vermont Royster)

SERMON FROM SENATOR SAM

Senator Sam Ervin of North Carolina is matched by few men in his devotion to those First Amendment rights of free speech and freedom of the press. Indeed, he is the nearest thing we in the craft have today to a patron saint.

So when Senator Sam rises to remind those of us in the press—and the media in general—that with those First Amendment rights there also come some responsibilities, it behooves us to listen.

And that is what the Senator has been doing of late, most recently in some remarks before a media symposium at North Carolina State University in which he mixed a staunch defense of a free press with some stern warnings against its abuse.

"Freedom of speech and of the press expressly confer upon the press and the broadcast media great rights," he observed. "In so doing they implicitly impose upon the press and the broadcast media great responsibilities."

No single provision of the Constitution, including that First Amendment, should be construed as to nullify or impair any other provision of the Constitution, the Senator said. That is, freedom of the press is not absolute when it conflicts with some other right in the Constitution, as for example the right of a fair trial.

"If the words which state that Congress shall make no law abridging freedom of speech and of the press should be interpreted literally," he continued, "the First Amendment would put it beyond the power of government to restrain or punish those whose slanderous tongues impute larceny to honest men or whoredom to virtuous women. . . . those whose disorderly words obstruct courts in the administration of justice or legislative bodies in their law-making functions."

So it follows, he said, that "government may subject to civil or criminal penalties an expression which directly encourages or incites others to violate existing laws, falsely slander or libel others . . . or tends to obstruct courts in the administration of justice."

The Senator wasn't delivering his sermon and his warning in a vacuum. The occasion was one in which Watergate and its handling by the media were much on everyone's mind. It came at a time when many people, if we may judge by the polls, are critical of the media. And also at a time when many within the media are having some uneasy feelings about the way the media are carrying out their responsibilities.

The Washington Post has hardly been derelict in its investigative zeal; it won a Pulitzer Prize for digging into the Watergate cover-up. Yet the Post's managing editor, Howard Simons, has begun to wonder about the eagerness of some newsmen in the Nixon scandals "to rush in to get a bite of that bleeding body in the water."

Columnist Joseph Kraft, no partisan of President Nixon, has lately criticized some of the coverage of the Watergate grand jury's confidential report to Judge Sirica, the one which was widely reported as if it were an indictment of the President. What worries Mr. Kraft is "the spirit of rivalrous competition and self-important narcissism now so rampant in the Fourth Estate."

There have been other self-questioning voices within the craft. The Columbia Journalism Review has published a number of articles criticizing the press. In the current issue there's a devastating critique of media efforts to "psychoanalyze" President Nixon, an effort the author says is "characterized by blind items, innuendo, murky attribution and the shifting of the burden of the discussion to others."

Not long ago Harry Reasoner, in one of his evening news commentaries, took the unusual step of criticizing his colleagues on the news magazines for just this sort of innuendo. And Walter Lippmann has deplored the abuses that come from the competitive desire to get "scoops." This desire, he has said, is "corrupting the whole journalistic process."

Corruption may be too strong a word. Yet it is true enough that as the Watergate investigations have proceeded what these critics fear has sometimes come to pass.

The pressure for scoops has led to reports of what congressional witnesses might testify on the morrow—sometimes correctly, sometimes not. Grand jury testimony, taken in secret, has been reported second-hand, relying on anonymous sources, often of dubious motive, so that no man knows whether it is correct or not. And all too often it seems that many reporters have cast themselves in the role of prosecutors.

None of this is comforting to men who, like Senator Ervin, believe there are some rights besides freedom of the press that have something to do with preserving liberty. The Messrs. Mitchell, Haldeman and company may be venal fellows, the President himself may be impeachable, but it is possible to wonder whether justice is served by this sort of media performance.

There is cause, then, for concern purely on ethical grounds, and the responsible editors in the press and the broadcast media ought to give it some attention in the daily handling of the news. But there is an extra bite to Senator Ervin's words.

For in warning that in certain circumstances the government may constitutionally subject the press to "civil or criminal penalties" when it interferes with other rights, he is reminding us that this freedom of the press is not something handed down to Moses on Mount Sinai but is rather a civil privilege granted us by the people when they approved the First Amendment. And what the people can grant the people can take away.

It's hard to imagine this happening. Senator Ervin does not think it ever will, being convinced that on the whole the media have discharged their responsibilities in highly commendable wasion. Still, if that freedom is to be preserved it requires not only eternal vigilance to defend it against its enemies but also, in the Senator's words, engendering in the public mind "the confidence that the media are fair as well as free."

All in all, a splendid sermon. But as always with even the best of sermons, the question is how much of the congregation is listening.

SENATE PARLIAMENTARIAN, DR. FLOYD RIDDICK, COMMENDED FOR PREPARING "SENATE PROCEDURE" VOLUME

Mr. HELMS. Mr. President, a few days ago each Member of the Senate was presented with a copy of a remarkable manual prepared by the distinguished Parliamentarian of the Senate, Dr. Floyd M. Riddick. This volume of 1,076 pages bears the title, "Senate Procedure."

The printing and binding of this book was authorized by a joint resolution adopted by the 92d Congress.

Mr. President, I want to commend Dr. Riddick for a great service to every Member of this Senate. I know that he devoted an enormous amount of time and arduous work to researching the rules and precedents of the Senate. It is a task that he could easily have avoided. But Dr. Riddick loves the Senate, he is thoroughly respectful of the traditions of this body; he recognizes the wisdom of orderly procedure in the consideration and enactment of legislation.

Dr. Riddick's manual, "Senate Procedure," has already been helpful to me. I have already spent several evening hours studying it. I am confident that it will be even more helpful to me, and to other Senators, in the days and years to come.

My late friend, the great Senator from Georgia, Richard B. Russell, shared Dr. Riddick's devotion and dedication to the orderly procedures of the Senate. Indeed, the greatest compliment I could pay Dr. Riddick—and I do pay it to him in all sincerity—is that he and Senator Russell are two of a kind.

Senator Russell once told me that a Member of the Senate is, effectively, not much more than what Senator Russell called "a 50-percent Senator" unless he knows, understands, and respects the rules and procedures of the Senate. He also told me that the best way to learn those rules and procedures is to be willing to preside over the Senate, and participate in the multitude of rulings which the Presiding Officer must make—with, of course, the table assistance of the Parliamentarian.

Senator Russell was right. That is why, Mr. President, I spent something like 117 hours in the Chair last year, observing the able majority leader (Mr. MANSFIELD), the able majority whip (Mr. ROBERT C. BYRD), the able minority leader (Mr. HUGH SCOTT), the able assistant minority leader (Mr. GRIFFIN), the distinguished junior Senator from Alabama (Mr. ALLEN), and other distinguished Senators who participate in the Senate's affairs with such skill, and in such gentlemanly fashion.

I cannot pretend that I will ever equal these distinguished Senators whom I have named, nor those whom I have not named. But Dr. Riddick's manual, "Senate Procedure," will enable me to try.

And that, Mr. President, is why I am personally very grateful to Dr. Riddick for the preparation of this manual. I am very proud of him, and I am proud that he is a fellow North Carolinian. I am delighted to pay my respects to him at this time.

SCHOOLS BILLS AUTHORED OR COSPONSORED IN THE 93D CONGRESS

Mr. ALLEN. Mr. President, in response to inquiries from my Alabama constituents and in response to questions from citizens in other parts of the country, I have compiled a list of bills I have authored or cosponsored during this Congress dealing with the neighborhood school system. The compilation does not, of course, include the amendments to other legislation I have supported in this Congress dealing with the subjects of antibusing, desegregation, racial isolation, and the host of topics connected with educational policy. The list follows:

SENATE JOINT RESOLUTION 14

Cosponsor with 14 Senators: January 11, 1973. Brief description: Proposing an amendment to the Constitution of the United States relating to open admissions to public schools.

S. 416

Author with 10 cosponsors: January 18, 1973. Brief description: To further the achievement of equal educational opportunities.

SENATE JOINT RESOLUTION 28

Author with 11 cosponsors: January 23, 1973. Brief description: Proposing an amendment to the Constitution of the United States relative to neighborhood schools.

S. 619

Author with nine cosponsors: January 31, 1973. Brief description: To prescribe uniform criteria for formulating judicial remedies for the elimination of dual school systems.

S. 1737

Cosponsor with Senator ERVIN: May 8, 1973. Brief description: To amend the Civil Rights Act of 1964 to provide for freedom of choice in student assignments in public schools.

S. 2336

Cosponsor with four Senators: August 3, 1973. Brief description: To provide objective definitions of unitary school systems for uniform court enforcement of the Civil Rights Act, and to relieve the congestion of court calendars by providing for the orderly release of continuing Federal jurisdiction over desegregated schools.

SENATE JOINT RESOLUTION 161

Author: October 9, 1973. Brief description: Proposing an amendment to the Constitution of the United States relative to the assignment of students to public schools.

S. 2555

Author: October 10, 1973. Brief description: To provide guidelines for the application of certain provisions of law to the assignment of students in order to carry out a plan of racial desegregation of elementary and secondary schools and to prohibit the involuntary assignment and transportation of students and teachers in order to carry out a plan of racial desegregation—Placed on Senate Calendar, October 10, 1973.

AMENDMENT TO S. 1539

Coauthor: May 1, 1974. Brief description: Proposing a new title to certain acts relating to elementary and secondary education programs; title to be cited as the "Student Freedom of Choice Act."

ADMINISTRATION OF OUR FEDERAL COURT SYSTEM

Mr. HRUSKA. Mr. President, the problems which exist in the administration of our Federal court system are well-known to my colleagues. Much work is being done in the Congress and the judiciary to improve its structure and its workings.

I draw the attention of my colleagues to a court which has experienced a great degree of success in keeping pace with the rapid developments and changing dynamics in Federal law: that of the U.S. Court of Customs and Patent Appeals.

The recent accomplishments of this court are, in my view, an excellent example of how Federal court administration can be effectively improved. It is my hope that the experience gained in revising this court can lead to similar results throughout all of our Federal court system.

Few people realize that highly significant issues affecting all Americans are decided by the Court of Customs and Patent Appeals. A large number of appeals are filed in and processed by this court each term. Yet this court has virtually eliminated its case backlog in the past 2 years. At the same time, the court has reduced its personnel and actually returned money to the U.S. Treasury. The credit for these noteworthy achievements must be given to Chief Judge Howard T. Markey and the other distinguished jurists on this court—among whom is our former colleague, the Honorable Jack Miller.

Many of my colleagues are well aware of the great strides that have been made over the past few years in the area of customs law since passage of the Customs Court Act of 1970. A similar reform move is now underway in the field of patent law. Several legislative proposals are currently pending before the Subcommittee on Patents, Trademarks, and Copyrights, chaired by my distinguished colleague, Mr. McClellan. I understand that the entire Senate may have the opportunity to consider this important matter during the remaining months of this Congress.

The matter of reform for the Court of Customs and Patent Appeals is under active consideration by the Commission on Revision of the Appellate Court System, of which I am Chairman. I am hopeful that the members of the patent and customs bar will offer comments and suggestions to the Commission and thereby help to shape the recommendations which may be forthcoming from the Commission in this regard.

Mr. President, I ask unanimous consent for printing in the Record the text of Chief Judge Markey's opening statement before the First Judicial Conference of the U.S. Court of Customs and Patent Appeals, held on April 30, 1974, followed by my luncheon remarks at that recent event.

There being no objection, the material was ordered to be printed in the Record, as follows:

Remarks of Chief Judge Howard T. Markey

Welcome, ladies and gentlemen, to the First Judicial Conference in the 65-year history of the United States Court of Customs and Patent Appeals. The theme of the conference is "Improvement in the Administration of Justice" in the court. A subtheme is an effort to pierce, in a proper and productive manner, what I have called the "iron curtain" between the bench and the bar. The presence of almost 600 prominent lawyers, who specialize in customs, patent and trademark law, from all over the country and even from foreign branches of United States companies, testifies to your recognition of the importance of these themes.

Notice that I referred to "the" court. The United States Court of Customs and Patent Appeals is not the Markey court. It is not the judges court. It is not the Government's court. It is, as its title states, a court of the United States. And that means you and me and 210,000,000 Americans.

You are entitled, therefore, to a report on stewardship of this public institution, which I have had the honor to head since June, 1972. At that time the court's backlog was such that decisions were handed down almost three *years* after appeals were filed. We set a goal. We would become current in our work by June, 1974. We were told by experts that five years, plus a miracle or two, would be required. Through the magnificent cooperation of the judges and the fine staff of the court, I am pleased to announce that the court fully expects to be current on June 30, 1974! Eight weeks of work remain until that magic day, but we are exactly on the power curve. If no unforseen events occur, our goal will be achieved. If we miss, it cannot be by more than a case or two.

In these two years the court has written and, after review by the bar, promulgated its first new rules in 20 years; it has adopted many new procedures, in order to preserve old values; it has acquired, for each chamber, the first dictation equipment it ever had; it has replaced two outmoded copiers with three new machines; it has acquired Selectric typewriters for each of its secretaries; it has arranged for emergency interchange with the judges of the Court of Claims; for the first time, all of the court's judges are scheduled (next December) to sit with a Circuit Court of Appeals; the court has a full staff for the first time in many years; it has supplied each judge with an extra set of report volumes, for his use at home in the evenings and on week ends; it has eliminated unproductive and expensive practices of the past; for the first time in history, the court is scheduled to sit outside of Washington, D.C.; and today it conducts the first Judicial Conference in its history.

As taxpayers, you will be glad to know that, in doing all of this, the court *returned* to the Treasury of the United States a portion of the budget which had already been provided by the Congress for fiscal year 1972–73 and then requested from the Congress for the current fiscal year a budget totaling substantially *less* than that provided the year before. I am told by Congressional friends that this was a totally unique event in these inflationary days!

This short outline cannot reflect all of the unusual and overly strenuous efforts of the judges who, as you know, are faced with questions not only of law, but of extremely complex technology in almost every case. The abnormal pace of the past two years cannot be expected forever from mere human beings. The court, which has struggled for 65 years with a single assistant for each judge, while its workload multiplied, is currently requesting from the Congress the authority to hire a second technical advisor for each judge as the need arises. In 25 years, the court has added only 7 people to its staff, the last, a librarian, being requested 8 years ago. The second law clerk provided some years ago to the Courts of Appeals of the Circuits proved to be a most economical means of substantially reducing the interval from appeal to decision in those courts and we know such action will have the same effect in our court.

We have no illusions that we have found all the answers. As an officer of the court, each of you, along with each of the more than 5,000 other members of our bar, has not only the right, but the *duty* to develop and to suggest new ways by which this court can meet its obligation to the people, whose court it is. Help us to achieve the goal—which haunts the days and dreams of every judge—of deciding every case as correctly and as promptly as possible. Justice delayed is justice denied, as we all know. But we want no "production line" attempt at justice. As I see it, justice-rushed is justice-roulette. Hence, when we say "as correctly and promptly as possible" we simply mean that we be *just* in every case.

Similarly, we all, judges and lawyers, whose lives are devoted to public service, have the duty to exert ourselves toward an increased capability and capacity to accept additional burdens and to make that additional capacity known to the Congress and others attempting to solve the public service problem of massive backlogs in the courts.

We all have themes we live by. I have a favorite, which originated with B. W. Jackson and which you may like because it refers to the area of the unknown, where you spend your professional lives. My version is:

"In all that man does, we are still camped on the beachheads. The future is unknown and unknowable. But this time is meant for men who dare greatly—and dream greatly—and let our work catch up—with our dreams."

And now we have a great program today—with expert lecturers and with Senator Roman L. Hruska as our luncheon speaker. So let's get to it.

Remarks by Roman L. Hruska

It is my great pleasure to speak today before the first Judicial Conference of the United States Court of Customs and Patent Appeals.

I am honored by the invitation extended to me for this purpose. Frankly, I must admit that although I have been wedded to the Senate Judiciary Committee for a number of years, my knowledge in the field of customs and patent law is far below that of those gathered here today. To attempt to speak with any authority is somewhat embarrassing—a little like *Mrs.* Henry Kissinger addressing the United Nations!

Undaunted, however, by my own limitations, I would like to offer my thoughts to you on the immense progress that has been made in the past few years in the administration of customs and patent law.

THE CUSTOMS COURT

First, a few comments on the Customs Court, under the present leadership of a man with great ability, Nils Boe. Too few people are aware that the U.S. Customs Court is an article III court and that it is one of the busiest courts in the federal judicial system. The issues it decides affect the economic well-being of many Americans. Nevertheless, customs attorneys normally project a low profile and are hard to find. I am astonished, frankly, to see so many of you here in open daylight at high noon! Seriously, I am informed that this is the largest gathering of those devoted professionally to customs law in this nation's history.

We can all recall the circumstances which led to Congressional passage of the Customs Court Act of 1970.

During the hearings, it became apparent that very little had been done since 1926 to revise the Customs Court practices required to process a customs case. Until 1970, the Customs Court used the same procedures it had used since the establishment of the Board of General Appraisers, an administrative agency, in 1889.

As we all know, developments other than the outmoded procedures and rules of the court itself helped to create a situation of problems. First, there was a significant increase in the volume of imports into this country. Second, a new set of tariff schedules had been adopted. Third, a more aggressive attitude had been adopted by American importers and manufacturers in challenging customs decisions.

The Customs Court Act became effective October 1, 1970. It required the Customs Court to "retool" virtually all of its practices and procedures.

The result has been dramatic. I understand that the pending caseload of the Customs Court has, in the past three years, been reduced by more than 50 percent and that a further reduction is anticipated in the future. At the same time, the court has been able to reduce its personnel. I am confident that further significant improvement will continue to occur.

In the future, for example, it may be possible for the Customs Court to utilize electronic data processing. The groundwork for this important development has already been laid.

It is demonstrated by the experience of the Department of Justice, Customs Section of the Civil Division which has a computer terminal available to it in New York City. Each docketed case in the Customs Court is fed into that computer.

I understand that the use of this computer has enabled the consolidation of a large number of customs cases for trial. Additionally, it has served as a good management tool, permitting the government to keep abreast of each docketed case and the developments which are occurring in the field of customs law.

Such benefits prove the worth of an electronic data processing system for this court.

PATENT LAW CHANGES

It is quite possible that the Senate this year will pass a bill which will be the most sweeping revision and reform of patent laws since 1836. Generally, the reforms are designed to modernize the procedures of the Patent Office to permit greater participation by the public in the process of patenting new products, and to make the Patent Office function much like a traditional federal agency.

The current center of legislative activity is the Senate Judiciary Subcommittee on Patents, Trademarks and Copyrights, chaired by my distinguished colleague, Senator John McClellan.

An intensive review of pending bills has been conducted by the subcommittee staff in recent months. The members will be meeting within the very near future to consider this subject. A very intensive study was conducted by both the Justice Department's Antitrust Division and the Commerce Department in this field.

Many of the conflicting viewpoints between the two agencies have been resolved. Although certain issues remain open for debate, I am hopeful that this important legislation can be brought to the attention of the entire Senate within the near future.

There is no dearth of other proposals relating to patent law. The literature continues to grow rapidly. The problems of judicial administration in this field are viewed by some as persistent and serious. I recently had occasion to study a paper presented by Roy H. Wepner earlier this year at a Seminar on the Federal Court Appellate System given at the University of Pennsylvania Law School under the direction of Professor A. Leo Levin.

Mr. Wepner undertook to examine the function of various appellate courts in the area of patent law, a subject not unknown to members of this audience. I mention this paper not only because it is certainly one of the most recent works in the field, but also because of its timely and direct connection to the work being done by the Commission on Revision of the Federal Court of Appellate System, of which I am Chairman and Professor Levin is Executive Director.

Mr. Wepner reviews the problems encountered by generalist judges in dealing not only with what are viewed as esoteric doctrines of patent law, but also with complex technical issues—without even the benefit of Technical Assistants as are provided to Court of Customs and Patent Appeals judges. He argues that appellate review of patent issues places severe strains on the courts of appeal, already overburdened. In addition, he discusses the problem of inter-circuit conflict on questions of patent validity. Some circuits, he notes, are much more likely than others to hold patents invalid.

Prior to 1971, a patentee could bring unlimited infringement actions on the same patent because the mutuality doctrine prevented different defendants from pleading an estoppel. Thus, a patent might be valid in some parts of the country but invalid in others. In 1971, the Supmeme Court, attempting to correct this long-standing problem, handed down its decision in *Blonder-Tongue Laboratories, Inc.* v. *University of Illinois Foundation*, 402 U.S. 313 (1971). This case stringently limits the mutuality doctrine in patent infringement actions. Thus, a patentee is now bound by the first judgment of invalidity rendered against him, assuming, of course, that he has received a full and fair hearing.

This development, however, has resulted in forum shopping. In the words of Judge Friendly, "mad and undignified races . . . between a patentee who wishes to sue for infringement in one circuit believed to be benign toward patents, and a user who wants to obtain a declaration of invalidity or noninfringement in one believed to be hostile to them."

Therefore, Wepner points out that neither allowing relitigation, nor eliminating the mutuality doctrine is a sufficient answer. He suggests that a better cure to the problems of inter-circuit conflicts is to have one court ultimately decide all patent cases: the Court of Customs and Patent Appeals, with ultimate power of review in the Supreme Court.

Another area of potential change is found is this: Today there are alternate routes for obtaining judicial review of Patent Office action (1) appeal to the Court of Customs and Patent Appeals or (2) what is termed trial de novo in the U.S. District Court for the District of Columbia. This dual system of review, in my judgment, has not made for uniformity or dependability in the federal patent law. It has been urged that the best solution in this area is to abolish the civil action in the district court, and vest jurisdiction of all judicial review on Patent Office actions in the Court of Customs and Patent Appeals.

In my view, these are matters which should be given serious consideration. They are subjects appropriate for study and recommendation by the Commission on Revision of the Federal Court Appellate System.

I believe, speaking for the Commission, that each of you should be partners in our work, giving us the benefit of your own rich experience and long consideration of the problems as they affect you, your clients and the citizens of this country generally, for whose ultimate benefit the patent system was devised.

We have already received from the judges of this court a detailed and thoughtful analysis of possible solutions to these problems and of the capability of the Court of Customs and Patent Appeals to deal with them. The memorandum to which I refer was prepared in response to a scientific request by the Commission through its Executive Director. I should like to pay tribute at this time to Chief Judge Howard T. Markey, a highly distinguished jurist, and all of the other members of this court as well for the help they are providing the Commission on this matter. Indeed, let me extend that tribute to encompass the remarkable achievement reported by Chief Judge Markey earlier today: the success of this court in virtually eliminating its backlog.

As I indicated earlier, the members of the Commission seek the advice of the bar, as well as of the judiciary, in proceeding with the task assigned us by the Congress. In a very real sense, we think of this venture as a partnership designed to improve the operation of the Federal court appellate system. Perhaps the nature of that partnership, as I envision it, can best be indicated by a brief report on the work of the Commission up to this time, for we already have had the benefit of significant input from lawyers all over the country. Let me elaborate.

Congress, in establishing the Commission, divided its task into two major assignments. The purpose of Phase I, now completed, was to study the circuit court geographic boundaries. The Commission held hearings in ten cities. Many valuable ideas and opinions were presented to the Commission by judges and members of the bar. Pending in the Senate are bills containing the Commission's recommended changes for boundaries of the several circuits—notably in the 5th and 9th, and perhaps in the 8th.

Phase II, the more ambitious and challenging assignment, is now underway. For the next several months—and hopefully longer—the Commission will be studying the structure and internal procedures of the Federal courts of appeal and preparing recommendations for change in those broad areas. Our next series of hearings is scheduled to be held in Washington, D.C. on May 20 and 21. I would encourage any of you who wish to offer comments on this subject to contact Professor Levin. We heartily welcome your able assistance in tackling this most important project.

I would like to mention in passing a few of my own thoughts on expanding the jurisdiction of the Court of Customs and Patent Appeals to other important areas of federal law. For example, the field of atomic energy or disputes which arise out of the "most favored nation" rule. In the latter instance, perhaps thought should be given to having appeals from the Tariff Commission go to the Court of Customs and Patent Appeals on an expanded jurisdictional basis, instead of to the White House, where they are presently docketed.

An example of this type of approach can be found in a law, the Plant Variety Protection Act, authored by Jack Miller, while a member of the Senate in 1970. This law protects the inventor of new species of plants. In the case of a dispute over authorship, the Secretary of Agriculture makes an initial determination which an aggrieved party can appeal directly to the Court of Customs and Patent Appeals. No appeals have yet been taken under this new law, but the procedure is there if such an instance arises. In my view, it is a good procedure, one which adds certainty and uniformity to the administration of federal remedies.

These ideas and many others, I believe, are worthy of thorough exploration with a view toward expanding the operations and responsibility of the Court of Customs and Patent Appeals in such a way as to more fully utilize this court and its valuable resources.

At this, the first Judicial Conference of the Court of Customs and Patent Appeals, it is appropriate, I believe, to refer to a history of the court, one which was published some years ago as part of the larger study, The History of American Customs Jurisprudence. The author, William H. Futrell, details the problems which led to the creation of what was earlier known as the Court of Customs Appeals. In many ways, the problems he describes with respect to customs litigation at the turn of the century, read as though it were an account by a contemporary patent lawyer. More important, he reports on the success which the new Court achieved.

I mention this not only to applaud the wisdom of those who acted in the early years of this century. I mention it because today, too, we are examining the wisdom, or lack of wisdom, inherent in a variety of proposals for change. The ultimate test of a pudding is at the table. Likewise, the ultimate evaluation of any change must lie in what it achieves. The judgment can only come in the perspective of history. Whatever changes may result with respect to patent law, customs law or the scope of litigation entrusted to the Court of Customs and Patent Appeals, I hope that they prove as wise as did the creation of this court.

I have greatly enjoyed the opportunity to offer these comments at this important point in the history of the Court of Customs and Patent Appeals. I rejoice with you in the significant accomplishments which have been made to date.

Finally, I wish you well in the proceedings of this First Judicial Conference. It is a wholesome and ambitious undertaking, one which has the prospect of developing into a valuable tradition. I maintain the highest confidence that this event will serve that important purpose.

THE FOOD FOR PEACE PROGRAM

Mr. ABOUREZK. Mr. President, according to numerous reports, the United States *is using* nearly half of its $1 billion food for peace program budget to supply South Vietnam and Cambodia with commodities which can be converted into money for military purposes.

Despite the world wide food shortage, shipments of rice to Korea and Indonesia have been canceled in order to send 600,000 tons of rice promised to Indochina.

John Maclean, of the Chicago Tribune, quotes a Nixon administration official as saying:

> Indochina is top priority because of our security relationship with those countries.

In Cambodia, the Nixon administration has given the Nol regime special permission to use up to 80 percent of the proceeds from the sale of American food for "common defense" and "internal security." In South Vietnam, the Thieu regime is permitted to spend a full 100 percent of the food proceeds on military buildups.

For years, the food for peace program has won friends for the United States among the world's poor, but this, Mr. President, is now almost a thing of the past. We have indelibly marred the image and purpose of this once valuable program with the perverted policy changes which have been manipulated for Indochina.

Certainly, the time has come to give a full review to this program. I sincerely hope that the House and Senate committees will give the food for peace program a hard look before any additional funds are approved for fiscal year 1975.

Recently, Mr. William Goodfellow, currently the Director of Research at the Indochina Resource Center, testified before the House Appropriations Subcommittee on Agriculture on the food for peace program. The statement which Mr. Goodfellow provided to the committee at that time presents an excellent discussion of the program now being implemented in Indochina.

I ask unanimous consent that the report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

TESTIMONY OF WILLIAM C. GOODFELLOW

The Food for Peace program in South Vietnam and Cambodia can be evaluated only in the context of the continuing hostilities in both countries. Peace is a necessary prerequisite for any move toward agricultural self-sufficiency for either South Vietnam or Cambodia, and hence the PL 480 program should be administered in a manner that encourages the peaceful resolution of hostilities as prescribed by the Paris Agreement on Ending the War and Restoring Peace in Vietnam, signed January 27, 1973.

I shall endeavor to illustrate how the PL 480 program fails to meet the urgent needs of the people of South Vietnam and Cambodia and further, actually contributes to the conflict through counterpart funds that are used for military purposes.

Section 40 of the fiscal year 1974 Foreign Assistance Authorization bill which prohibits the continued use of PL 480-generated currencies for "common defense" purposes is a very significant step toward de-politicizing the Food for Peace program, although the continued high level of Title I sales agreements with South Vietnam and Cambodia still provides massive subsidies to President Thieu's and Premier Lon Nol's budgets.

In South Vietnam and Cambodia the PL 480 priorities are being established by the National Security Council. Commodity levels have become a function of "security considerations," and are used by the Administration to maintain President Thieu of South Vietnam and Premier Lon Nol of Cambodia in power.

Of course the PL 480 program is only a small component of an elaborate program of massive U.S. aid to maintain the status quo in Indochina, a status quo that insures the continuation of hostilities. A change in the PL 480 program must be accompanied by a similar change in the entire U.S. aid structure. In Indochina our aid should be given in accordance with the provisions of the Paris Agreement. Food for Peace should be programmed to meet the needs of the people of Indochina, and should not be used for military objectives.

CURRENT AGRICULTURAL SITUATION IN SOUTH VIETNAM AND CAMBODIA

Indochina, once called the rice-bowl of Asia, is today dependent on massive amounts of U.S.-supplied agricultural commodities to feed its people. This situation is the result of a war that has displaced or made refugees at one time or another over one-half of the area's population, a war that continues to this day. Before the war 80 per cent of all South Vietnamese and 87 per cent of all Cambodians lived in rural areas and were employed in the agricultural sector. Today, as a result of a deliberate policy on the part of the Government of [South] Vietnam (GVN) and the United States of forced urbanization, as well as an attempt by people living in the countryside to flee the fighting, the bombs, and vast tracts of the countryside that have been defoliated, there has been an enormous move of rural people into the already over-crowded urban areas. Once in the cities the displaced persons are no longer able to produce food for their own consumption and are thus rendered completely dependent on the government.

In Cambodia, as in Vietnam, over half of the population has been forced to move as refugees since the beginning of the war. However, in Cambodia, this has been accomplished in the span of four years, while in South Vietnam the war has been continuing for almost ten years. The pro-U.S. government of Mrashal Lon Nol now controls an estimated 10 to 15 percent of that country's territory. Crowded into this small area is over 50 per cent of Cambodia's population. The city of Phnom Penh has grown from 400,000 in 1970 to between one-and-one-half to two million in 1974. Cambodia, before the overthrow of Sihanouk and the subsequent U.S.-South Vietnamese invasion, had an economy that was able to export $40 million annually worth of rice and rubber. The rice shortage today in Cambodia is described by the January 27, 1974, report of the Subcommittee to Investigate Problems Connected with Refugees and Escapees:

"Rice has become in short supply everywhere as a result of the war and the country's stagnating agricultural economy. Many refugees are fleeing to government held areas in hope of securing food. Despite the fact that the United States is supplying nearly all of the rice consumed in areas under government control, these new refugees may be moving in vain. For a serious nationwide shortage of rice is now compounded in many provincial areas by the government's inability to move rice from Phnom Penh to outlying areas."[1]

THE WAR'S END IS A PREREQUISITE FOR PROGRESS TOWARD AGRICULTURAL SELF-SUFFICIENCY

The shortages of foodstuffs in South Vietnam and Cambodia is a function of the continuing conflict in both countries. No new economic policies, however enlightened, nor no amount of "miracle rice" and fertilizer will enable either South Vietnam or Cambodia to feed its people so long as the hostilities continue.

Once the prerequisite of peace is established both South Vietnam and Cambodia in a very short time will become self-sufficient in rice and most other cereals and in a few years both countries should again be able to export large quantities of rice.

Neither country can be considered overpopulated, therefore their potential to feed themselves should easily be realized.

An in-depth study of the economy of South Vietnam was conducted by the World Bank. The study's report (Report No. 315–VN), dated January 18, 1974, points out that "out of 17 million hectares total land area (in South Vietnam), only about 3 million, or 17 percent, are cultivated, including an estimated 0.3 million under double cropping. Total arable land however is placed at approximately 6 million hectares. This indicates that there is room for major expansion."[2]

The report concludes, however, that there are major obstacles to limiting the South Vietnamese Government's (GVN) efforts to expand land under cultivation: "Lack of security is the main constraint. While the program of resettling refugees on new and abandoned lands is proceeding, the Government is finding it difficult to locate secure areas suitable for farming."[3]

The World Bank study developed an index of agricultural production for South Vietnam that illustrates dramatically how the hostilities have retarded agricultural development.

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[1] p. 90.

[2] p. 36.

[3] p. 43.

Index of agricultural production[4]

(1960=100)

1963	108.3
1966	92.5
1967	96.9
1968	87.1
1969	97.6
1970	106.3
1971	117.0
1972	114.3

From 1960 to 1972 agricultural production increased by about 14 percent. During that same period South Vietnam's population increased by 6 million people, an increase of 42 percent.

The situation in Cambodia is even more desperate. According to figures released in March, 1974, by the U.S. Department of Agriculture's Economic Research Service, Cambodia, during the years 1967–1971, cultivating an average yearly acreage of 2,246,000, was able to produce an average of 2,810,000 metric tons of rice. In 1973, Cambodia's acreage had fallen to only 750,000 and its yearly crop of rice to 955,000 metric tons, in both cases a precipitous drop of almost two-thirds.[5]

In calendar year 1974 the acreage in both South Vietnam and Cambodia planted in "miracle rice" will decrease as a result of two developments. First, the price of petroleum fuels has risen so dramatically that farmers can no longer afford to operate the mechanized equipment to till their paddies. And second, the cost of fertilizer, an essential ingredient for the cultivation of "miracle rice", has risen to prohibitive levels. The only solution to the food shortage in Indochina involves getting the refugees and many former rural people now living in the cities back in the countryside and again producing agricultural products. The shortages will continue until farmers return to their farms and greatly increase the acreage presently under cultivation, that is, until there is an end to the hostilities.

PUBLIC LAW 480 TITLE I AND TITLE II DISTRIBUTION

Food for Peace commodities are channeled to South Vietnam and Cambodia through two different programs, or titles. Title I commodities, which account for almost all of South Vietnam's and Cambodia's share of the program, are sold to the recipient government by the United States on extremely easy credit terms, which include a 10 year period of grace from the time the agreement is signed until the recipient government must begin to repay the loan. The recipient government then sells the commodities to local merchants, who pay in local currency (piasters in Vietnam and riels in Cambodia) and in turn sell the commodities to those people able to pay.

Title II of PL 480 is a grant program. Commodities are given on a grant basis by the U.S. government to either the recipient government or to voluntary agencies operating in-country for distribution to refugees and others in need.

In fiscal year 1968 the Title II grant program, used primarily to feed refugees, totalled $41.7 million. In fiscal year 1971 it had been cut back to $23.1 million, in fiscal year 1974 it amounted to only $700,000 and for fiscal year 1975 the Administration's proposal for Title II is a mere $553,000, or less than $0.70 worth of commodities for each refugee officially registered in South Vietnam during calendar year 1973.[6]

According to A.I.D. officials who administer the PL 480 program, the switch away from Title II programs was a result of the corruption and consequent inefficiency of the GVN's administration of the food giveaways, which very often ended up on the black market.

Title I sales, on the other hand, have been greatly increased. In fiscal year 1972 the Title I total for South Vietnam was $63.3 million, and in 1973 $179 million. Last year the Administration, in its annual Congressional Presentation, projected a Title I total for Vietnam of $175 million. As a result of increased amounts of commodities shipped and dramatically increased prices for both the commodities and the shipping, the Vietnam total has increased to $304.8 million.

The increase in Title I shipments to Cambodia has been even more dramatic. Before fiscal year 1971 Cambodia received almost no PL 480 commodities. In fiscal year 1971 the Title I program totalled $8.5 million, and by fiscal year 1973 it had grown to $25.8 million. The Administration's Fiscal Year 1974 Congressional Presentation last May projected Title I PL 480 for Cambodia at $30 million. The current Title I total for fiscal year 1974 is well over six times that original projection, $194.2 million.

Meanwhile Title II grants to Cambodia have continued at an almost insignificant level. From fiscal year 1969 to fiscal year 1973 Title II grants to Cambodia, all in milk distributed by UNICEF, ranged from $11,000 to $19,000. In fiscal year 1974 the total will reach about $30,000, mostly in the form of corn-soy mix, a milk substitute.

The argument for Title I sales of commodities over Title II grants has been the preference for a free-market distribution system over a corrupt and inefficient government-run distribution apparatus. A sales program can be justified only when a free market is properly working and when those in need possess enough money to purchase the rice and other foodstuffs being brought into the country. The following two articles, reprinted in their entirety from Vietnamese language newspapers translated by the American Embassy in Saigon, graphically illustrate the insufficiency and inequity of such a distribution system.

Starvation in the central area

Cong Luan (Independent), March 27:

"For the first time, the RVN Ministry of Social Welfare has affirmed that starvation exists in the Central Area . . . The reasons for this situation are numerous, and the responsibility for it obvious. According to the Minister for Trade and Industry, rice is available in large quantities, but the people cannot buy it because they have no money. This statement by an economic leader shows the real economic situation of the people: They have no money. That is not strange—Vietnam has always been a weak and poor nation. Despite this fact, however, until this date the people always had enough money to buy their rice. So why do they now have no more money to buy rice? We reserve the answer to the Minister for Trade and Industry, because once the problem is posed, the answer becomes evident.

"Concerning the situation in Thua Thien and in the other provinces of the Central Area . . . the responsibility for the present tragedy must be laid primarily on the regional leaders: The province chiefs in MR–1 must be held directly responsible for this state of things, since they have been unable to settle the economic problems of the people in their localities . . . In the case of the Thua Thien province, the province chief, concurrently Mayor of Hue, must bear all the responsibility. Either he and his subordinate district chiefs have been inefficient in coping with starvation problems, or they have displayed complicity with or impotence toward dishonest trade practices, thus causing starvation among the people.

"We have twice sounded the alarm concerning the tragic situation in the Central Area, and we have called on the central government to care for the situation there urgently before a disaster takes place. We are posing the problem once more, and we sound the bell to awaken every person responsible for the lives of the people of the Central Area before the necessity for urgent salvation—and not merely relief—in regard to economic measures."

Progovernment Senator optimistic: Exportation of rice possible but not permitted by Americans

Dien Tin (Opposition):

SAIGON, March 22.—Progovernment Senator Tran Tan Toan, confirmed Monday at the Senate that the Ministry of Agriculture was capable of exporting rice in 1974, but it had to postpone the exportation to avoid a conflict of interests with the US.

He said it was true that this Ministry intended to export 50,000 tons in a preliminary phase, but at present several other countries were increasing their consumption of American rice, so that it would be hard not to provoke a clash with the US by carrying out that plan.

Answering the question as to how exportation would be possible while the population did not have enough to eat, he said the production of in-land rice was more than sufficient but the population was too poor to buy. He quoted a number of social tragedies occurring in the past few years, which could be explained by extreme poverty. (NTD)

Obviously refugees, the unemployed and the under-employed are not going to be able to buy rice if they do not have necessary money. During the past year the world price of rice has risen 162 percent, although the retail price in South Vietnam has tripled along with a 65 percent inflation rate for the economy as a whole.

On March 6, 1974, the *Baltimore Sun*, in a story datelined Phnom Penh by Arnold R. Isaacs, reported that U.S. voluntary relief agencies in Cambodia—CARE, Catholic Relief Services, World Vision and the International Red Cross—must buy PL 480 rice from the Cambodian government in order to feed refugees, Mr. Isaacs writes:

"'Food for Peace' rice is purchased at market prices by the U.S. government in the U.S. or elsewhere abroad.

"The voluntary agencies, using . . . 'counterpart funds' generated by U.S. aid, then purchase the rice back from the Cambodian government at a subsidized price of about $148 a ton—currently less than half the world price.

"Thus, in effect the U.S. is buying it twice, once abroad on the world market for dollars and again in Cambodia for counterpart Cambodian riels."

Clearly the problems facing the refugees and the unemployed and the under-employed in South Vietnam and Cambodia will continue as long as the hostilities continue. However, it seems urgent that a comprehensive and efficient system of private refugee assistance organizations be set up to handle vastly increased Title II grants of commodities. The disintegration of the South Vietnamese piaster and the Cambodian riel is such that the free-market system no longer operates effectively in either country.

HOW PUBLIC LAW 480 LEVELS ARE DETERMINED

The PL 480 program was started in 1954 by the 83rd Congress as the Agricultural Trade Development and Assistance Act of 1954. Its legislated purpose was "To increase the consumption of United States agricultural commodities in foreign countries, to improve the foreign relations of the United States, and for other purposes."

The Food for Peace program in South Vietnam and Cambodia is being used primarily to augment the U.S. military effort in those countries. PL 480 levels, according to officials at the U.S. Department of Agriculture, are being programmed for "strategic security." Priorities and commodity levels are being determined by the National Security Council rather than the Agriculture Department or even A.I.D.

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[4] p. 38.

[5] "Rice Situation" (RS–23), March 1974, p. 21.

[6] 818.700 newly registered refugees in CY 1973 (January 27, 1974 Report of Subcommittee to Investigate Problems Connected with Refugees and Escapees, p. 6).

Faced with problems of commodity availability in the United States and dramatically rising prices, the Agriculture Department determined that there was no need "to increase the consumption of United States agricultural commodities in foreign countries," and hence submitted a request for a zero dollar budget level for PL 480 in fiscal year 1975.

In submitting a request for no PL 480 funds for the next fiscal year, the Agriculture Department was merely acknowledging that no export commodities were needed to strengthen the commodity market in the United States. The Department was not trying to do away with the program. However, many officials at the Agriculture Department are resentful of the PL 480 program in South Vietnam and Cambodia. They say that the White House agencies, primarily the National Security Council, are responsible for determining the size of the programs in those two countries and uses for which counterpart currencies may be used, while it is the Agriculture Department that "gets the flack" from Congress and the press for the program's abuses.

In past years PL 480 levels in Indochina were the result of input by three government agencies. A.I.D. would submit its request for country needs based on requests from the recipient country and voluntary agencies, plus A.I.D.'s own assessment of in-country commercial needs. The Agriculture Department would submit its request based on commodity availability and the need to stimulate U.S. markets. The Office of Management and Budget (OMB) would then determine how much money was available for the entire program. A final program came out of an Interagency Staff Committee made up of representatives of the above department.

Beginning in fiscal year 1974 a number of White House agencies were added to the decision-making process, including the Council of International Economic Policy and the National Security Council, to constitute what is referred to as the Augmented Interagency Staff Committee. Department of Agriculture officials say, with some bitterness, that the White House agencies, with more prestige and influence, are now "calling the shots." The widespread feeling among officials in the Agriculture Department who work on the PL 480 program for South Vietnam and Cambodia is that the Department is being used by the Administration as a conduit for commodities and funds in counterpart currencies that serve a primarily strategic military purpose rather than a commercial or humanitarian purpose.

USE OF COUNTERPART CURRENCIES

South Vietnam and Cambodia, under Section 104(c) of the PL 480 legislation, have been able to use 80 percent of the local (counterpart) currencies generated from the sale of Title I commodities "to procure equipment, materials, facilities, and services for the common defense including internal security." In October 1973 an adjustment of the program was made by the Administration that increased South Vietnam's amount available for "common defense" to 100 percent of the currencies generated from PL 480 Title I sales.

Section 104(c) will make available $300 million in fiscal year 1974 for South Vietnam to use for "common defense including internal security." South Vietnam's cumulative total under section 104(c) is $1,200 million. Cambodia in fiscal year 1974 is eligible for $155 million in "common defense" funds bringing its cumulative total to $199 million.

However, Section 40 of the Foreign Assistance Authorization bill, signed into law December 17, 1973, provides language prohibiting the expenditure of counterpart, PL 480—generated currencies unless such use is expressly authorized by Congress. Since the Administration has not come back to Congress for such authorization, which they would have little or no chance of getting, the use of counterpart funds for military purposes must end by the beginning of fiscal year 1975, July 1, 1974. Most observers in and out of government feel that the July 1 deadline on Section 104(c) agreements[7] is at least in part responsible for the dramatic increase in Title I program totals for both South Vietnam and Cambodia.

Section 104(c) essentially just writes off the debt incurred by the recipient countries in procuring PL 480 commodities. It allows South Vietnam and Cambodia to use the piasters and riels paid to them for PL 480 commodities by local merchants to enlarge their military and police budgets.

The new language in Section 40 of the Authorization bill means that the PL 480 debt may no longer be just written off. However, both South Vietnam and Cambodia will be eligible for very generous credit terms that provide for an initial 10 year period of grace on principle at 2 percent interest and 40 years in which to repay the "loan" at 3 percent interest.

The effect of providing a 10-year period of grace before repayment must begin will be to provide the governments of South Vietnam and Cambodia with a loan that may be used for "development" and general budgetary support. Thus freeing an equal amount of money that may be spent as the recipient governments see fit. An official in the Agriculture Department remarked, "Once they have the commodities its their money." Because PL 480 monies are so fungible, the effect of the section 40 prohibition on their use for "common defense" will be negligible, easily circumvented by adjustments in bookkeeping. The same Agriculture Department official remarked, "These debts will not come due for another 10 years. Right now in Vietnam and Cambodia they are worried about how they are going to get through next week. They do not have time to worry about 1984."

PUBLIC LAW 480 LEVELS FOR FISCAL YEAR 1975

The official projections for fiscal year 1975 country by country Food For Peace levels will be made public when A.I.D. sends to Congress its annual Congressional Presentation books.

In November 1973 the U.S. Embassy in Saigon sent to Washington its request for PL 480 Title I commodities totalling $283.4 million. The Embassy requested 350,000 metric tons in fiscal year 1974 and 420,000 metric tons of wheat, up from 150,000 metric tons in fiscal year 1974.

An advance look at A.I.D. Congressional Presentation book for fiscal year 1975 reveals that the Administration's projection for Title I commodities is $160 million, and for Title II a mere $553,000. Since the Embassy's request was for more commodities in fiscal year 1975 than in the previous year, the lower A.I.D. projections raise some new questions. Is Congress being misled by an unrealistically low projection for fiscal year 1975 that as the year progresses will climb dramatically, or has the program been given a lower priority now that counter-part currencies can no longer be channeled directly into South Vietnam's and Cambodia's defense budgets?

The fiscal year 1975 projections for Cambodia as revealed by the Congressional Presentation book are $77 million for Title I sales and only $11,000 for Title II grants for refugees.

CONCLUSION

The Food for Peace program must be drastically restructured in South Vietnam and Cambodia to prevent its continued use by the Administration for "security considerations" in both countries.

The Title I sales program should be sharply reduced, if not suspended, in conjunction with a general suspension of non-humanitarian U.S. aid to any party in South Vietnam who fails to act in accordance with the provisions of the Paris Agreement. Until peace is restored in South Vietnam and Cambodia the United States will find itself being relied upon to ship huge amounts of grains and other commodities to Indochina while shortages and rising prices prevail at home.

The Food for Peace program has no country-by-country ceilings. There is nothing to prevent the Administration from diverting huge amounts of PL 480 commodities from other parts of the world to Indochina this next year, as they did in fiscal year 1974.

It is imperative that Congress impose a ceiling on the total amount of Food for Peace commodities that may be obligated for South Vietnam and Cambodia during the next fiscal year.

The refugees, the unemployed and the under-employed who most need the PL 480 foodstuffs do not have the money with which to buy them. The free-market system in South Vietnam today is not functioning efficiently and is not distributing PL 480 commodities to those in need. In South Vietnam today there is actually an excess of rice in the Thieu government's warehouses and open talk of exporting as much as 50,000 metric tons. A rather sizeable pipeline of undelivered commodities exists. This results in part from the Administration's rush to get the maximum number of agreements signed before the July 1 prohibition on common defense use of PL 480-generated currencies became effective.

When all parties in Indochina begin to act in accordance with the provisions of the Paris Agreement, Congress should re-examine the Title I program in South Vietnam and Cambodia in an attempt to determine if the Title I program is the best way to distribute PL 480 commodities to those in need. The advent of peace and the subsequent return of the refugees to their homes and farm lands should within a year put both South Vietnam and Cambodia on the road to self-sufficiency in terms of foodstuffs and thus will free limited PL 480 commodities for use in other areas of the world where the demand is caused by a calamity of nature, rather than by a political conflict.

To meet the immediate needs of South Vietnam's and Cambodia's people the Title II grant program should be increased and some mechanism developed utilizing voluntary agencies and multilateral organizations, that will distribute the commodities to those most in need, especially refugees. But this program need by of only short duration, for soon after they leave the refugee and "resettlement" camps and return to their homes the refugees will again become productive members of the society and will start providing their own food.

The world is experiencing a severe food shortage in the less-developed countries. World surplus grain stocks are at a 20-year low, and a series of droughts in the Sub-Sahara region of Africa could cause the deaths of millions of people as a result of starvation and of diseases rendered fatal by malnutrition.

In the face of such desperate needs the United States can no longer justify diverting 45 percent of total PL 480 commodities to South Vietnam and Cambodia under a program that is poorly administered, politically short-sighted, and inimical to the implementation of a peaceful settlement to the conflict that continues in Indochina.

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[7] The July 1 deadline applies to the date on which agreements for commodities are signed and funds obligated, not to the date the funds are actually expended. Therefore currencies may continue to be generated from PL 480 expenditures many months after the deadline.

JOHN F. GRINER

Mr. ERVIN. Mr. President, with the recent death of John F. Griner, we have lost a champion of the rights of individuals and Federal employees everywhere.

I recall the valuable assistance that Mr. Griner gave me and the Constitutional Rights Subcommittee in our efforts on behalf of Federal employees while he was president of the American Federation of Government Employees between 1962 and 1972. Mr. Griner was always willing to spend his time and efforts in promoting the cause of Federal employees and was always available to give advice whenever we called upon him.

I join my colleagues and fellow citizens in expressing condolences over John Griner's untimely death to his widow, family, friends, and associates.

EXTENSION OF TIME FOR THE GI BILL

Mr. THURMOND. Mr. President, the extension of the current period from 8 to 10 years in which veterans can use their GI bill eligibility, requires our urgent action. I urge passage of S. 3398.

I am pleased to coauthor this provision with other members of the Veterans' Affairs Committee, and believe it is significant that a majority of our colleagues have asked to join as cosponsors.

On February 21, the House of Representatives passed the 1974 GI bill amendments. Their bill included an identical provision. Unfortunately, Senate action cannot be completed by May 31, because of the comprehensive nature of the bill. Unless S. 3398 is enacted immediately, it will not accomplish its purpose.

It is estimated that 4.1 million veterans will have their GI bill eligibility expire on May 31. Of this group, approximately 2.6 million veterans have never taken advantage of training under the GI bill. Over 500,000, who trained at some point during fiscal year 1974, will be adversely affected on May 31. Around 285,000 veterans actually in training on May 31, will lose their benefits if the extension is not adopted.

Obviously, many veterans have been late in taking advantage of GI bill education benefits. The reasons are simple. When the current GI bill was enacted into law in June 1966, each veteran was given 8 years from his date of discharge to use his GI bill eligibility. The GI bill was made retroactive to include post-Korean war veterans who served from 1955 to 1966. For many of them, the 8-year delimiting period, if measured from date of discharge, would have automatically precluded their eligibility. Consequently, the law was written to read: 8 years from date of discharge or 8 years after enactment of the law, whichever is later.

Mr. President, in 1966, such a provision appeared to be more than adequate; but measured against subsequent developments, there is no question that the law must be amended.

First, when the eligibility was retroactively provided to post-Korean veterans, most of these men were already established in a job. It took a significant time, and in some instances a sacrifice, for them to move from their jobs into the academic sector. In many instances, they waited until the benefit levels were raised before they decided to go back to school.

Second, our educational system has changed greatly in the past 8 years. Now advanced degrees are required. In the area of technical education, some students require longer than 8 years to accomplish their educational objectives.

Mr. President, I have received more mail on this particular provision than any other provision dealing with the GI bill. Each writer has spoken of the urgency of the need for an extension.

On April 20, I held an open field hearing in Columbia, S.C., on veterans education benefits. Every witnesses supported the extension. No one opposed it.

Mr. President, we are not conferring additional benefits on anyone. We are merely extending the time period within which a veteran may use the benefits which have already accrued to him.

Given the extraordinary way these benefits were conferred on the post-Korean war veterans; that is, retroactively, I think they merit the additional 2 years to complete their educational objectives. Given the increasingly complex educational structure with which our Vietnam veterans must contend, they, too, should be given 10 years, instead of 8 years, to pursue their education goals.

Mr. President, two other points remain.

First, the projected first year cost is in excess of $500 million. Until hours before the committee marked up this bill, VA cost estimates were given as $175 million.

In any event, we should note these benefits were conferred by prior law, and already "belong" to the veteran. S. 3398 merely extends the time period for the veteran to use his benefits.

Second, severing the extension provision from the comprehensive bill in no way tempers the urgency for passing a comprehensive bill as soon as hearings are completed and as soon as a markup session can be held. I am hopeful this can be done within the next several weeks.

We must give our young veterans enough time to make plans for summer school, and the VA time to program the computers to take into account the extension. Otherwise, disastrous consequences will ensue for those student-veterans who must plan for the summer session.

Mr. President, I urge my colleagues to approve S. 3398. I hope the House will act expeditiously on a similar measure, and I hope the President will sign this provision into law.

A NEW COMMODITY COMMISSION

Mr. CLARK. Mr. President, next week, the Senate Agriculture Committee will hold a series of hearings on the commodity futures trade and the Government regulation of it. Given the unprecedented fluctuations in the price of food over the last year and the unprecedented controversy over the commodity trade and the Federal Government's Commodity Exchange Authority, the hearings are very timely and very important.

The commodity future trade involves a great deal of money. Right now, there are 14 active commodity exchanges, and last year alone, $290 billion in regulated commodities were bought and sold on those exchanges. When unregulated commodities are included, the total exceeds $500 billion, and that is more than double the volume of the New York Stock Exchange.

It is a very big business, and in one way or another, everyone feels its impact.

The commodity futures trade involves this country's most basic products—cotton, corn, soybeans, wheat, silver, propane, copper. Contracts to buy and sell these commodities are traded on the exchanges, much like a stock. And like a stock, the price of a futures contract changes—often dramatically in a matter of minutes or hours. It affects the price the farmer receives for his product, the price middlemen pay for raw goods, and the price the housewife pays for goods on the supermarket shelf.

Yet the importance of the commodity futures trade never has been reflected in the Federal Government's interest, concern, or regulation of it. And the need for that attention surely has been apparent. One thing is certain: the commodity exchanges can no longer be permitted to regulate themselves as they have done for the last 100 years.

In part because of the commodity trade's importance, in part because of the reports of abuse and manipulation in the commodity trade itself, a number of bills have been introduced to replace the Commodity Exchange Authority—CEA—with a new agency, an agency with more manpower, more authority, and more independence. The House of Representatives already has passed legislation (H.R. 13113) which represents a significant step forward. But when it comes to authority and independence, it does not go far enough. The new agency still is dependent on the Department of Agriculture under the House bill.

The legislation that we are introducing today does take that extra step. It gives the new Commodity Futures Exchange Commission the authority and total independence necessary to protect the farmer, the retailer, and the consumer while, at the same time, enabling the commodity exchanges to operate as efficiently as possible.

This legislation is a revised version of a bill introduced by Senator HART last December. But there is an important difference this time. The proposal we are introducing today reflects the results of a year-long investigation by the General Accounting Office of the commodity futures trade and the Government regulation of it through the CEA. It is a thorough and comprehensive report. It makes a compelling case for new legislation—and for an independent commission with full-time commissioners. When I first asked the GAO to make this investigation, there was strong evidence for reform—from many sources.

Now, in our judgment, the case for reform has been made.

We will be testifying on the bill before the Senate Agriculture Committee next week, and we hope that the committee will give it every consideration.

Mr. President, I ask unanimous consent that a summary of S. 2837 and an article from the Des Moines Register or the GAO report be printed in the Record.

There being no objection, the summary and article were ordered to be printed in the Record, as follows:

Summary of S. 2837: The Futures Exchange Act (Senators Hart, Scott of Pennsylvania, Clark, and Case)

The bill incorporates the existing Commodity Exchange Act (CEA), revising its language and significantly improving many of its provisions. The original Act had been amended 18 separate times, and it has become difficult to understand. S. 2837 clarifies the provisions of the Act, but more importantly, it enlarges the scope of the government regulatory agency, giving the commission greater authority and independence to carry out the provisions of the Act.

These are the bill's most significant provisions:

It establishes a five-member, full-time independent commission, appointed by the President subject to the confirmation of the Senate (sec. 104(a), p. 9). The new commission will assume all of the functions and property of the present Commodity Exchange Authority (sec. 603(a)).

Regulates, all futures contracts, not just the few agricultural products regulated today (Sec. 102(3), p. 5). It does this by defining the term "futures contract" broadly enough to cover all futures.

Creates an independent regulatory agency to regulate futures (Sections 103–107, pp. 7–13). These provisions are modeled after those establishing existing regulatory agencies, such as the Securities and Exchange Commission and the Federal Trade Commission. A truly independent agency is essential for a variety of reasons.

First and foremost, a futures contract is not only a transaction in agricultural products. When commodity exchanges were opened in the United States in the 1700s, they did indeed serve as a marketplace for the actual exchange of goods. Gradually, that function has all but vanished. Delivery of goods now takes place less than three percent of the time. In reality, futures contracts are a bet, a bet on what the price will be in the future. They certainly are not identical to a security or an insurance policy, but they are more like them than a transaction for the purchase or sale of agricultural products. Because a futures contract is so unique, it is important that the market be regulated by an independent body. Secondly, about 30 percent of futures contracts cover products such as plywood, silver, copper, diamonds and foreign currency, all totally unrelated to agriculture—and not appropriate for Department of Agriculture regulation. Thirdly, the volume of futures trading is so large—close to $500 million that it requires a separate organization. Finally, the impact of futures trading is so great—affecting farmers, middlemen and consumers—that it deserves the attention of a fulltime, independent commission with the stature of the Securities and Exchange Commission.

Requires the Commission to maintain liaison with all government agencies, including the Department of Agriculture, which may have information regarding futures trading (Sec. 210). So, to the extent the Department of Agriculture has information bearing on futures trading, such as crop reports, the Commission will have access to it. Any government agency with information affecting the orderly trading of futures contracts will report it to the Commission.

Requires the Commission to conduct surveys of market conditions and cooperate with other Federal agencies in market investigations to avoid duplicating work (Sec. 211). The purpose of this section is to require the collection of data which affects futures markets which the Department of Agriculture does not presently collect.

Requires registration of exchanges, clearinghouses and all persons trading in futures (Section 201, 204 and 205). This is similar to current law, except that more persons are required to register and the qualifications vary.

Gives the Commission power to act ex parte in emergency situation (Sec. 305, p. 28). An emergency is carefully defined as war, natural disaster, severe financial crisis or an event threatening orderly trading of futures.

Permits the Commission to seek injunctions through its own attorneys (Sec. 502, p. 38). This power is essential to the effectiveness of the Commission. It allows the Commission to obtain a court order to stop activities which violate the Act or regulations issued thereunder before the damage is done.

Requires exporters and importers to report to the Commission information relating to the initiation, completion or termination of negotiations for exports or imports (Sec. 209, p. 22). The purpose of this section is to keep the Commission informed of the size of exports or imports so that if the amount is so substantial that it may cause a chaotic market, the Commission may take action in the public interest. This provision is aimed at preventing the feverish trading—and distorted prices—which followed announcement of the Soviet grain sale.

Requires the clearinghouse or the exchange to make a daily record showing the time of each trade, the contract, the price, the delivery months, and the name of the trader (Sec. 207, p. 21).

While some exchanges make part of this information available, none of them identify the trader because the broker is not required to give the name of the trader to the exchange. This bill requires him to do so. Certainly a case can be made that the name of the trader should not be made public, or else other traders might take unfair advantage of such information. And this bill does not require that this information be public. Rather it permits the Commission to examine the information. This would allow the Commission to learn who had made what transactions during a given day and might well alert it to a potential manipulation of the market.

—forbids foreign traders from trading on American futures markets unless they post a surety bond which will be forfeited if they refuse to submit to the jurisdiction of the courts, the Commission or an exchange (Sec. 303(b), p. 27). Recently, increasing numbers of foreign individuals and companies have begun to trade on U.S. futures markets. Indeed, there has been speculation that the Russians trading on futures markets contributed to the rise in wheat prices after the Soviet wheat deal. If those companies do not do business in the United States, there is no way to obtain jurisdiction over them should they violate a law of the United States. This provision would insure that they submit to the jurisdiction of U.S. authorities or forfeit a sum of money.

—requires that a broker only take orders from persons he has reasonable grounds to believe are financially suited to deal in futures contracts and who sign a statement indicating that they understand the high probability of loss (Sec. 303(a), p. 26). Similarly, it requires advertisements and promotional literature to state that the trading of futures contracts is highly speculative. Studies indicate that futures trading is highly hazardous, and these provisions would discourage anyone from dealing in futures contracts unless they are financially able to do so. This protects both the potential trader and the marketplace.

—requires that all persons who deal with the public—brokers, salesmen investment advisers and contract analysts—take examinations to demonstrate an understanding of the futures market (Sec. 201(c), p. 14). This should protect the public and the market from uninformed traders.

Prohibits any person from engaging in unfair and deceptive practices (Sec. 308, p. 29). This provision was made broad so that the Commission, either by rule or in court, would have the power to prohibit unfair and deceptive schemes as they are devised.

Prevents the fixing of Commission rates (Sec. 307, p. 29). In the past, members of exchanges have price-fixed the amount of commission rates. This practice is being challenged in a suit by the Department of Justice. This provision makes price-fixing of all commissions illegal, which would seem in accordance with the antitrust laws.

Permits the Commission to make exceptions for so-called world contracts—products which are produced primarily outside the United States and traded on foreign and U.S. exchanges (Sec. 213, p. 25). Exchanges trading such products contend they need certain exceptions. If this is true, the Commission may make such exceptions.

Requires that the Commission approve the subject matter and the terms of all new contracts before they may be traded (Sec. 302, p. 25). This provision requires the Commission to determine whether or not the goods, service, or intangible is economically justifiable as the subject of a futures contract and also lets the Commission change or modify terms of the contract, including the number of delivery points. There has been widespread criticism of the exchanges for designating too few delivery points—resulting in squeezes which have driven prices unjustifiably high.

With certain exceptions, it prohibits floor brokers, salesmen and others who handle customer accounts from trading for their own account (Sec. 308(b) (8) (9), p. 30). This would prevent manipulation of the market by floor brokers and others for their own benefit—and to the detriment of their customers and the public. Under the bill, such "dual" trading is illegal unless the Commission finds that a small exchange or a new futures contract needs brokers trading for their own account to provide adequate liquidity. A market is considered sufficiently liquid when the number and volume of trades and traders is adequate to enable brokers to fill orders without significant price fluctuations. Certainly, it is clear that the large contracts in wheat, corn, and soybeans have sufficient liquidity. New smaller contracts may have an insufficient number of traders. If this can be proved to the Commission, it should permit futures traders to trade for themselves and customers at the same time.

Authorizes private treble damage suits (Sec. 505, p. 40). Often the most effective enforcement tool is private suits where the plaintiff can recover three times his actual damages.

Requires a jail sentence of up to 10 days for commission of certain unfair or deceptive practices as defined by the Act and a dollar fine up to $500,000 (Sec. 503, p. 40). Because of the huge volume involved in some trades, and the potential damage to others by violation of the Act, a large fine is justified. The amount of any individual fine is in the discretion of the judge based on the seriousness of the offense. The bill also enables the Commission to assess civil penalties and suspend individuals from trading if they violate the Act or regulations issued under it.

Requires the Commission to charge an annual registration fee to each exchange equivalent to 75% to 85% of the operating costs of the Commission (Section 601). The exchange may pass the cost on to traders. Based on 1970 trading, $10 million which may be enough to finance the new Commission, could be raised by charging each buyer and seller 20 cents per contract traded.

Requires the Commission to make a study of the feasibility of computerized trading and report its findings to the Congress. The potential for trading abuses on the floor of an exchange are innumerable—even if dual trading were banned. Floor traders trading for their own account can enter into schemes with floor brokers, handling customers accounts, to the benefit of the trader. The market would continue to function as it does now—often on the basis of rumors. The current CEA has already recommended to the House Appropriations Committee and the Subcommittee on Special Small Business Problems that a study be made of the feasibility of such trading.

Ask New Commodity Agency

(By Clark Mollenhoff and George Anthan)

Washington, D.C.—The nation's $400-billion-a-year commodities futures industry continues to operate under lax federal regulation, with little protection for investors, consumers and farmers, the General Accounting Office (GAO) will report to Congress Monday.

A GAO report to be released Monday says that the failure by the Department of Agriculture's (USDA) to disclose and discourage abusive trade practices at commodities exchanges—as outlined by a GAO report nine years ago—continues today.

The GAO, the congressional investigating agency, recommends strongly that Congress remove authority for regulating the markets from the USDA and create a fully independent commission.

COMMISSION AUTHORITY

"To remove any appearance of conflict of interest and to instill the fullest public confidence," the report states, "the Congress should establish an independent agency, separate from the (Agriculture) Department, to regulate all futures trading."

Such a commission, the report continues, should have authority to:

Prohibit commodity traders and brokers from dealing for themselves at the same time they are trading for their customers.

Seek court injunctions to stop price manipulations and other abusive practices.

Require commodity exchanges to designate additional delivery points to help prevent market "corners" and "squeezes."

The investigation was requested last spring by Senator Dick Clark (Dem., Ia.) after a series of articles on federal regulation of the markets by The Register.

Clark asked the GAO specifically to determine if the Commodity Exchange Authority (CEA), the USDA agency that is charged with regulating the markets, had followed recommendations set down in 1955 after an earlier investigation.

The report outlines many steps strongly opposed a year ago by CEA Administrator Alex Caldwell. However, Caldwell has accepted some proposals for strengthening federal regulation after an independent congressional probe by Representative Neal Smith (Dem., Ia.) and his subcommittee on small business problems.

LESS REGULATIONS

The report says the CEA has done little to improve its regulatory activities and that, in some key areas, surveillance of the futures markets actually has deteriorated.

In many areas, the report pointed to the same weaknesses in the CEA's regulatory activities as outlined by The Register last year.

"In a report to the Congress in 1955, we pointed out that CEA's trade practice investigations were inadequate to disclose or discourage abusive trade practices on the exchange floors and that these investigations were not conducted on a planned basis to insure periodic review of each future market," the report says.

The report notes that a 1971 investigation by the USDA's inspector general, "reported essentially the same deficiencies" and says that "on the basis of our review of all trade practice investigations initiated by CEA in fiscal year 1973, we believe the deficiencies continue."

The GAO studied 16 trade practice investigations conducted by the CEA, but noted repeatedly "due to higher priority work."

INVESTIGATIONS DELAYED

In the CEA's eastern region, which covers commondity exchanges in New York City, trade practice investigations were delayed so many times that "no exchange trade registers had been examined so far during the fiscal year."

The report says the CEA has not reviewed the speculative limits on cotton futures since 1947, even though volume of trading in cotton futures had increased more than ten fold in the last decade alone.

The report also notes that, despite a recommendation from a CEA advisory team that speculative limits be set up for trading in frozen organge juice to help prevent price manipulations, Caldwell took no action except to order further study.

The report also says the CEA has relied largely on the major commodity exchanges to police themselves and that a CEA official had informed the GAO that "the Chicago Board of Trade's field audit efforts were meager," that audit efforts seldom went beyond a "desk review of financial statements received from member firms and information received from other exchanges and other outside sources."

The report continues, "We believe CEA should act more forcefully to insure that the Chicago Board of Trade and the Chicago Mercantile Exchange programs are improved to an acceptable level.

"We believe CEA's lack of aggressiveness is clearly demonstrated" by the fact that, five years after Congress mandated that standards be set up for surveillance and investigations, "the exchanges still do not have acceptable self-enforcement, programs."

The House has passed a bill to tighten federal commodity regulation by creating a semi-independent commission within the Agriculture Department. However, a battle is expected in the Senate where several bills call for a fully independent agency.

The report says futures trading should be regulated by a "strong and prestigious agency" and that a potential conflict of interest would exist if the secretary of Agriculture were to be placed on the new regulatory body, as the House bill provides.

This is because, the report states, the Agriculture secretary, through his official actions, can affect the prices of farm and other commodities.

GET-RICH-QUICK OIL MAN

Mr. BARTLETT. Mr. President, I have an editorial written by Mr. Jenkin Lloyd Jones, editor and publisher of the Tulsa Tribune, and a well-known syndicated columnist, which tells the story of the get-rich-quick oil man.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Me and the Oil Rip-Off

(By Jenkin Lloyd Jones)

Last fall I got into the oil business. It seemed like a good idea, what with the energy crunch and the price going up and Senator Jackson and Ralph Nader and practically all college professors hollering about what a big rip-off the business was.

So when my financial wizard at the bank called up and said he could get me in on one-sixteenth of a gas prospect down in Ouachita Parish, La. I caught fire.

The prospectus, all wrapped up in a neat red imitation leather cover, contained a diagrammatic stratigraphic cross section A–A with a lot of seismic squiggles which I studied carefully.

There was a map pointing out how the proposed location was on top of the Sligo sand, the Davis sand, and the Pettet Porosity. That was good, it says here.

What I understood best were two pages of enthusiasm by some geologist in Shreveport who thought we might hit on all three sands. So I told my friend at the bank to put me in the pot.

It was a long tooth-pulling. It rained and the rig bogged down and the drill pipe was late. But finally the bit began churning and it went down and down through Mississippi meander muds and the ancient sea beaches and our anticipation steamed as we approached the Sligo. It was more sterile than a frozen virgin.

So we went on bravely down and down to the Davis and—eureka! gas at last. You could have even lit a cigar with it.

On we pressed to the Pettet Porosity, which proved as porous as Hoover Dam. That night one of my fellow crapshooters called me on another matter. "To bad about the well," he added, parenthetically.

But our promoters were undaunted. They ordered expensive tests. They set casing. They perforated. And finally they opined that the well might yet be saved by hydraulic fracturing, a Tiffany-priced device for breaking tight formations under fantastic pressure.

One of our partners announced he would throw away no more money. But the rest of us said, "In for a penny, in for a pound," and picked up his tab.

So the hydraulic fracturing worked and we got a modest gas well. The faint-hearted defector wanted back in, and we let him—at a price.

Drunken with this success, I got involved in Stubblefield 1, an oil prospect down in Victoria County, Texas. A brilliant Houston geologist had figured that one out and I read with mounting excitement several pages of his prospectus—all written in Swahili.

What I gathered was that the big boys who had picked over the field earlier had stupidly overlooked a fold in the fault.

The best thing about Stubblefield 1 was that it didn't keep its backers in suspense. It was just nine days from spudding in to plugging. My fifteen thousand bucks—zap! The fault had folded, or the fold had faulted.

Now my wizard up at the bank has told me what I already know, and that is that a tyro who hits one out of two is batting above Hank Aaron and is a child of the gods. He figures that if that Louisiana gasser keeps going flat out at half a million cubic feet a day I'll get my $17,000 back in about two years, and then it can start eating on the disaster of Stubblefield 1.

Maybe four years from now I'll begin to show a profit, which is nice because my Uncle Samuel will take dollar-for-dollar and that will help pay the salaries of Senator Jackson and all those Wisconsin congressmen who are letting everyone in on what a license to steal the oil business is, and also those New Hampshire solons who like to use gasoline but don't want any refineries.

By the time the well gets me in the black, assuming it doesn't poop out earlier, the depletion allowance will have been killed by Congress and oil fields will be taxed just like wheat fields, which, of course, can produce forever.

In the meantime, too, some friend of the common man might roll back the price.

With the oil business being such a big steal and all it's amazing how many Americans have overlooked it.

It's an open-ended rip-off. The woods are full of guys with leases in their hats. The fabulous profits are available to Nader's Raiders, Senator Jackson, the S.D.S., and all those left-wing professors who want the industry nationalized.

It's also the simplest business in the world. All you have to do is position yourself over some oil or gas and drill down.

DEEP SEABED MINING: ANOTHER CONSORTIUM ANNOUNCED

Mr. METCALF. Mr. President, when I announced a continuation of hearings on deep seabed mining legislation in March, I included in my statement a press release from the Kennecott Copper Corp.

My statement and the press release appear at pages 1578–1579 of the CONGRESSIONAL RECORD of January 31, 1974.

The press release announced that Kennecott and four other major corporations—one Japanese, two British and one Canadian—had joined in a 5-year multimillion-dollar research and development program to determine the feasibility of mining manganese nodules from the deep seabed and extracting minerals from them.

I used the announcement of the formation of this consortium to emphasize the need for action on legislation to promote the conservation and orderly development of the hard mineral resources of the deep seabed, pending adoption of an international regime relating thereto.

This week another major U.S. company interested in discovery and recovery of needed minerals on the bottom of the ocean announced that it had joined with three Japanese firms in "plans to begin the development and evaluation of a Pacific Ocean site for the recovery of marketable metals from the ocean floor."

The announcement came from Deepsea Ventures of Gloucester Point, Va. Deepsea, a subsidiary of Tenneco Inc., a multi-industry firm headquartered in Houston, Tex., is joining in a consortium with Nichimen Co. Ltd., C. Itoh & Co. Ltd., and Kanematsu-Gosho Ltd., all of Tokyo. The announcement says there will be "an additional participant, to be selected in the near future."

As I have said before, industry is reaching out to the bottom of the world's oceans for the minerals we must have. Whether political institutions can keep pace with technology may be determined at the United Nations Law of the Sea Conference June 20 to August 29 in Caracas, Venezuela.

Mr. President, I ask unanimous consent that the Deepsea Ventures press release of May 6 and two articles from the May 7 issue of the Newport News, Va., Daily Press be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEEPSEA

The following is for simultaneous release in Houston, Texas, and Tokyo, Japan.

For information contact: George Jackson, (713) 229-3430.

HOUSTON, MAY 6, 1974—3 P.M.

A major U.S. natural resource company and a group of leading Japanese trading firms today announced plans to begin the development and evaluation of a Pacific Ocean site for the recovery of marketable metals from the ocean floor.

The companies are Tenneco Inc., a multi-industry firm headquartered in Houston, Texas; Nichimen Co., Ltd.; C. Itoh & Co. Ltd.; and Kanematsu-Gosho Ltd., all of Tokyo.

The group has signed an agreement leading to a joint venture which will utilize Tenneco's ocean mining subsidiary, Deepsea Ventures, Inc., of Gloucester Point, Virginia, for the assessment of a selected Pacific Ocean orebody, the testing of mining and processing systems and the market testing of the products recovered. The development and evaluation will involve up to three years and $20 million.

The objective is to produce copper, nickel, cobalt, and manganese from a manganese nodule site discovered during a decade of exploring the seabottom in mid-ocean depths exceeding 2½ miles. Deepsea Ventures has been developing marine science and technology related to the commercial use of the marine ores for approximately 12 years.

Commercialization of the program by Tenneco, the Japanese group and an additional participant, to be selected in the near future, will be achieved through equal equity positions in Deepsea Ventures, which will become the marine mining and processing company while the national groups will have the opportunity to use proportionate shares of the metal products in their respective domestic economies or in worldwide trade.

A spokesman for the group said, "the companies involved are acutely aware of the need in the industrialized world for security of supply of these marine-derived metals in a period when traditional raw material supplies are decreasing and the countries which supply them are looking increasingly to mineral exports as a source of political and economic leverage."

"The total project, from the development and evaluation stage through the commercialization stage, has a potential of approximately $200 million of expenditures," the spokesman said.

"The U.S. and Japanese companies have entered this joint program in order to achieve the benefits of diverse capabilities, pooled investments, shared risk, and broadened government support," he said.

"The agreement recognizes the added benefit to be brought to the joint program by additional sources of international talent and funds and seeks to create a broadly based private effort to partially satisfy the current needs of industrial economies of the U.S., Japan and Europe, as well as those of the resource-poor developing countries of the world."

TENNECO, JAPANESE FIRMS JOIN IN OCEAN METALS VENTURE

(By Robert L. Marble)

GLOUCESTER POINT.—Tenneco, Inc., and three leading Japanese trading firms revealed plans Monday to join forces in development and evaluation of a Pacific Ocean site for the recovery of marketable metals from the ocean floor.

The new joint venture will utilize Tenneco's ocean mining subsidiary, Deepsea Ventures, Inc., located here, for the assessment of a selected Pacific ore body, testing of mining and processing systems and the market testing of the products to be recovered.

Signing of an agreement leading to the joint venture was announced simultaneously at Tenneco's headquarters in Houston, Tex., and in Tokyo.

Joining Tenneco in the agreement are Nichimen Co., Ltd.; C. Itoh & Co., Ltd., and Kanematsu-Gosho Ltd., all of Tokyo.

The development and evaluation will involve up to three years and expenditures of about $20 million

The announcement said the objective is to produce copper, nickel, cobalt and manganese from a nodule site discovered during a decade of exploring the sea bottom in mid-ocean depths greater than two and a half miles.

Deepsea President John E. Flipse has described the development and evaluation as the second phase of the bold new ocean mining venture. The first phase had its beginning about 12 years ago when the Newport News Shipbuilding and Dry Dock Co. began studies of ocean floor mineral potentials.

Ocean explorations plus design, engineering and process research and economic studies which followed resulted in establishment of Deepsea Ventures, Inc., in 1968 as a wholly-owned subsidiary of Tenneco, Inc., following that firm's acquisition of the shipyard.

Since establishment of Deepsea's headquarters at Gloucester Point in 1970 research was continued in all facets of the ocean mining program. Extensive tests of equipment designed to recover nodules from the ocean floor were conducted on the Blake Plateau in the Atlantic and the firm's Research Vessel Prospector has logged thousands of hours in the Pacific mapping potential mining sites and conducting other research.

A pilot processing plant has been in operation at Gloucester Point testing and perfecting chemical hydrometallurgical methods for separation of the various metals from the nodules.

In 1971 the firm announced successful extraction in its plant here of manganese, copper, nickel and cobalt from ocean nodules.

Commercialization of the program by Tenneco, the Japanese group and an additional participant yet to be named, will be achieved through equal equity positions in Deepsea Ventures, which will become the Marine Mining and Processing Co.

The national groups will have the opportunity to use proportionate shares of the metal products in their respective domestic economies or in world wide trade.

A spokesman for the group said the companies involved are acutely aware of the need in the industrialized world for security of supply of these marine-derived metals in a period when traditional raw material supplies are decreasing and the countries which supply them are looking increasingly to mineral exports as a source of political and economic leverage.

"The total project, from the development and evaluation stage through the commercialization stage, has a potential of approximately $200 million of expenditures," the spokesman said.

"The U.S. and Japanese companies have entered this joint program in order to achieve the benefits of diverse capabilities, pooled investments, shared risk and broadened government support," he said.

The announcement said the agreement recognizes the added benefit to be brought to the joint prorgam by additional sources of international talent and funds and seeks to create a broadly-based private effort to partially satisfy the current needs of industrial economies of the U.S., Japan and Europe, as well as those of the resource-poor developing countries of the world.

The three Japanese companies joining Tenneco in the Venture have combined annual revenues of about $18 billion and each, like Tenneco, is widely diversified.

The largest of the three, C. Itoh, was established in 1858 and has 95 offices throughout the world, employs over 8,000 and has annual revenues of about $10.3 billion.

Kanematsu-Gosho dates back to 1889. The firm operates over 80 branches in many major cities and does about $3.9 billion business annually.

Nichimen, its origin dating to 1892, operates 100 offices in major international cities, employs 5,000 and has revenues of approximately $3.8 billion.

Among the commodities of the three Japanese firms are textiles, petroleum, nonferrous metals, ores, iron and steel, chemicals, plastics, lumber, pulp and paper grain and foodstuffs, machinery, farm products, electronics, nuclear energy, construction, real estate, insurance, transport, credit and finance.

Nodules from the ocean floor, once considered a mere oddity, are now being looked to as a source of some of the world's most needed metals. The nodules generally contain over one per cent copper and a similar amount of nickel.

Manganese which makes up over 25 per cent of the nodules is of particular importance to both the United States and Japan which import it in large quantities for steel making.

Joint Venture To Increase Deepsea's Staff, Activities

(By Robert L. Marble)

Gloucester Point.—The announcement Monday of the agreement between Tenneco Inc. and three Japanese firms will mean increased staff and activities for Deepsea Ventures Inc. which has its headquarters here.

The joint venture will utilize the firm here for the assessment of a selected Pacific ocean orebody, the testing of mining and processing systems and the market testing of the recovered metals.

The $20 million development and evaluation phase will draw heavily on data gathered in past research conducted by Deepsea.

With future commercialization of the program and Deepsea becoming the marine mining and processing company, officials said management, research and marketing will likely continue to be centered here.

John E. Flipse, president of the Tenneco ocean mining subsidiary which established its headquarters here in 1970, said the new phase will probably about double the staff but many of those will be involved in work at sea.

Flipse said the phase will involve a detailed survey of the mining site in the Pacific and preparation of a mining plan.

The R. V. Prospector, used extensively in previous surveys and exploration of potential mining sites, but berthed for the past year at Gloucester Point, will be sailing for the Pacific again.

Deepsea will acquire another ship, considerably larger than the 320 foot R. V. Deepsea Miner, a converted cargo ship used in testing of mining equipment on the Blake Plateau in the Atlantic in 1970.

Flipse said the new ship, probably in the 500 to 600 foot class, will be used for testing of mining equipment and recovery of nodules from the Pacific Ocean floor at depths of more than two and half miles.

A pilot processing plant here which, in 1971, produced what is believed to be the world's first metals derived from the ocean floor, will be substantially expanded to accommodate extraction of larger quantities of manganese, nickel, copper and cobalt to further test systems already developed by Deepsea.

Flipse indicated the on-shore expansion here will occur within the confines of Deepsea's existing property.

Flipse said decisions on the third phase, the actual one-line commercial operation, will depend on results of the evaluation and development phase.

Development of the full scale mining equipment and on-shore processing facilities which would probably be in the Gulf Coast area—and getting the metals into the market are expected to take another three years.

Deepsea and Tenneco officials have previously estimated expenditures of about $200 million will be involved by the time the ocean floor metals reach the market.

VETERAN AND TECHNICAL EDUCATION

Mr. THURMOND. Mr. President, as the Senate prepares to take up the GI bill amendments of 1974, I believe it is worthwhile to call to the attention of my colleagues an article on veterans and comprehensive technical education. It appeared in the April, 1974, edition of "Impact," the official publication of the South Carolina State Board for Technical and Comprehensive Education.

The analysis was prepared by Mr. Jim Kiser, coordinator of student services programs for the State board. It shows the important relationship between the GI bill, the well-being of technical education, and increased opportunities for student veterans.

Mr. President, I am particularly impressed by the leadership positions which student-veterans occupy in the technical schools in South Carolina. It confirms my belief that our young veterans have a great contribution to offer the civilian sector of American society.

Mr. President, I ask unanimous consent that the article, "Impact on the Tec Veteran," be printed in the Record at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the Record, as follows:

Impact on the TEC Veteran

(By Jim Kiser)

In 1973 almost a half million American men and women were separated from the armed forces. This is an average of over 9500 each week. Most of these people went into civilian occupations, many continued their education either full- or part-time, others are walking in the streets unemployed. Obviously, this is not a homogeneous group. They have multiple interests, persuasions, aspirations, and problems. But society in-general has given them a common label—the "Vietnam era veteran." They are given this label because they either spent time in Vietnam or served during the Vietnam war period.

Higher education, on the other hand, has attempted to put many tags on veterans attending the plethora of institutions that comprise American post-secondary education. This is done by comparing him (the female veteran falls in this category to lesser degree) to his non-veteran counterpart. Accordingly, the college-going veteran is characterized as being far more interested in occupational applications of education than his non-veteran associates, less involved in campus life, occupies a marginal role in shaping student activities, and is more resistant to change.

Moreover, he is reputed to be less flexible in his personality and less able to cope scholastically with the rigor of academic courses. Generally, he feels estranged from other students. To non-veteran students he has returned, not as victor of a military campaign won in the name of freedom, but as the victim of an unpopular war that had no victory. The veteran sometimes is made to feel that he is forced to join many of the very articulate, boisterous students who denounced the war through open demonstrations and "civil disobedience."

Until recently there has been little activity on most campuses to attract the Vietnam veteran. In fact, many colleges have assumed a passive and, sometimes, resistant posture regarding enrolling veterans.

THE TEC VETERAN

But what about the veteran enrolled in South Carolina's technical education system? Does this general description fit him? Is his image consistent with that of other colleges throughout the country? Not so according to the evidence. Community-centered institutions in general, and TEC in particular, have reached out enthusiastically to serve veterans—and TEC veterans certainly are not a minority group having a marginal impact. During the fall of 1973 TEC's veteran constituency accounted for almost 50 percent of the total enrollment. But what really is the impact of the TEC vet? Percentages alone are not predictors of campus influence and involvement. The evidence reveals that veterans are very much a part of TEC life. For example this year at 11 institutions in the TEC system at least one student government officer is a veteran and at six of these, two or more officers are veterans. Also, at six institutions a veteran is president of the student government.

The record indicates that veterans are as active in campus organizations as their non-veteran associates. Of course at TEC there is little disparity between veteran and non-veteran students in age, marital status, interests, and aspirations. These factors are major contributors in absorbing veterans into the college life at TEC. This is not to say that TEC veterans are not concerned about the cool reception they sometimes receive from a small, though vocal, radical minority. Moreover, the TEC veteran, like his counterpart over the country, feels that partly because of the unpopularity of the Vietnam war, he has been shortchanged on benefits as compared to veterans of previous generations. He becomes incensed when the processing of forms becomes snarled causing delays in receiving his entitlement checks. But TEC veterans definitely are not a minority, they are not estranged from their non-veteran counterparts, and they are not inhibited about assuming active participation in campus life.

SAMPLE SCOREBOARD OF 2,551 VETERANS ATTENDING FIVE TEC CENTERS

Average age, 29 years.

	Percent
Male	98
Female	2
White	64
Nonwhite	36
Full-time students	58
Part-time students	42
Married	70
1st year students	60
2d year students	40
Previous postsecondary education	14

Data provided by TEC's Management Information System.

CAMPUS ACTIVITIES

Specific instances of campus involvement by veterans and veterans groups are too numerous to mention here. Several centers have strong veterans clubs which assume a leadership position as service agencies for the entire institution. In one center the veterans organization has gained such high respect from other students that the student government president, a non-veteran, urges veteran students to become active in their club. One veterans club, as a community project, gives baskets of food to needy families at Christmas. A most encouraging observation is the participation of large numbers of veterans in club work. At one center it is not unusual to see between 80 and 100 veterans in attendance at regular meetings.

OUTREACH AND RECRUITMENT AT TEC

Meeting the needs of veterans and military people has been a special mission of the TEC system from its inception. This effort received a shot in the arm in October, 1972, when Congress passed the most recent GI Bill. This bill included a significant amendment authored by Senator Alan Cranston of California. The Cranston amendment, called the Veterans Cost of Instruction Program (VCIP), allowed for entitlements paid directly to colleges to be used for services to veterans and to help defray instructional costs. The major condition that an institution had to meet, however, to qualify for this entitlement was to realize a ten percent increase in veteran enrollment over the preceding year. This was a boon to the TEC system and its already vigorous effort to serve veterans. All nineteen institutions in the system were eligible for funding and received combined entitlements in excess of $325,000. Of the funds alloted to all post-secondary institutions in South Carolina, TEC received over 70 percent of the total due to the high veteran enrollment within the system.

One of the chief conditions placed on the expenditure of VCIP funds was that a minimum of 50 percent of an institution's entitlement had to be used for direct services to veterans. Emphasis had to be placed on services like outreach and special on-campus programs such as career counseling, remediation, and employment placement. The remaining 50 percent could be used for instructional services. Interestingly, so strong has been the commitment to serve veterans that many centers have been using 100 percent of their entitlements for this purpose. They have used the funds to hire additional staff personnel for outreach programs and to prepare brochures addressed specifically to veterans. Further, to supplement this program strong campaigns have been put into operation to reach returning veterans by advertising through the mass media, using TEC's two Mobile Information Centers, and making personal contacts. Of course, the chief objective of this program is to help each veteran establish a meaningful career and educational objective and to assist him toward its fulfillment. Through this effort the multiple-purpose institutions that comprise the TEC system stand ready to serve veterans by enrolling them in programs that are compatible with their ambitions and persuasions.

Outreach activities have resulted, also, in bringing many veterans to TEC campuses who already have well-defined career goals. Many of these students attended college prior to and during the period they were in service. Some have college degrees and elect to pursue a curriculum at TEC because of the need for greater specificity in their preparation than previous education afforded. Still other veterans are embarking on new career fields either because their interests have changed or because employment opportunities in a former occupational area are now limited or nonexistent.

COMPONENTS OF OUTREACH PROGRAM FOR VETERANS

(Presented by Lee Betts, Assistant Director for Project for Servicemen and Veterans, AACJC)

1. Outreach board representing veterans, faculty, and agencies.
2. Full-time outreach coordinator
3. Program for staff training and development
4. Implement program by:
   a. Identifying population
   b. Personalizing contacts
   c. Developing demonstrations for use at military bases and occupational fairs
5. On-campus counseling and referral services
6. Coordinate program with other nearby colleges and agencies (Consortium)

THE "SERVICEMEN'S OPPORTUNITY COLLEGE"

This report thus far has focused on TEC services that are largely concerned with counseling, admissions, career decision-making, and employment placement. These functions for the most part are the responsibility of a single division in each TEC center called Student Services. Serving the veteran, however, requires a total effort from the college including instructional services, learning resources, business services, and the administration as well as student services. Here again, TEC has risen to the challenge in a dynamic way by permitting veterans to move into educational programs allowing as much credit as possible to previous experience and preparation. Naturally this practice is consistent with an attitude which prevails throughout the TEC family in meeting its responsibility to all students and is not confined to veterans alone.

Though all centers staunchly support this concept, six of them have achieved special recognition from the American Association of Community and Junior Colleges (AACJC) by being designated as a "Servicemen's Opportunity College" (SOC). To achieve this distinction these institutions agreed to meet numerous objectives relating to admissions, transfer of credits, and residency requirements. As of this date 250 colleges in the nation (175 two-year and 75 four-year) have been designated by AACJC as SOC colleges. Of this number only eight are in South Carolina and, as was indicated, six of those are in the TEC system.

SEVERAL CRITERIA FOR SERVICEMEN'S OPPORTUNITY COLLEGES

(From guidelines of American Association of Community and Junior Colleges)

1. Offers maximum credit for previous educational experiences.
   Examples:
   a. U.S. Armed Force Institute courses
   b. College Level Examination Program
   c. Appropriate service-connected courses
   d. Military experience
2. Residency requirements serve needs of itinerant students.
   Examples:
   a. Requirements may be filled in any sequence
   b. Contract for Degree concept: Working with his advisor a person may complete requirements for a program taking approved courses wherever he may be located.
3. Liberal entrance requirements
4. Transfers traditional and nontraditional learning obtained at other institutions.
5. Special academic assistance to students:
   Examples:
   a. Tutorial services
   b. Counseling services
   c. PREP and developmental programs

LEGISLATION

Congress passed the last bill involving educational benefits for veterans in October, 1972. This bill provided a raise in monthly allowance to $220 for single veterans who are full-time students with proportionate increases for veterans with dependents. Other features of this legislation included creation of a VA "work-study" component, changes in the PREP and tutorial programs, and development of the Veterans Cost of Instruction Program.

CURRENT EFFORTS

A bill, written and approved on February 5, 1974 by the House Subcommittee on Veterans Education, provides for several changes in the present law including (a) a 13.6 percent increase in the monthly allowance, (b) annual cost of living adjustments in various GI Bill rates, (c) permitting veterans with 10 percent or more disability to be entitled to VA vocational rehabilitation (present law requires 30%), (d) extension to 10 years the time limitation to complete a program, and (e) use of credit hours to measure full-time status for veterans pursuing non-degree programs. The Senate Subcommittee on Veterans Education has approved a measure which is similar to the House bill. The major difference between the two bills is that the Senate version calls for a minimum monthly allowance of $270 for a single veteran.

A LOOK IN THE CRYSTAL BALL

What does the future hold for TEC's interest in veterans? There are predictions that veteran enrollment will decline sharply as soon as the present influx of Vietnam veterans subsides. Another prediction that is equally as plausible could result in the continuation of a significantly large number of veterans enrolling in South Carolina's TEC centers. Over 8500 South Carolinians were separated from military service last year. Of this number 50 percent enrolled in GI educational programs. Many who did not are undecided about career objectives and TEC stands ready and prepared to serve them at any time. Several agencies such as the Employment Security Commission, American Legion, and Department of Defense provide lists on request of South Carolina men and women leaving military services. These lists serve as aids in identifying individuals who may benefit from opportunities offered at TEC. Many who do not enroll immediately will elect to do so later. Consequently, it is entirely possible that the impact of veterans will continue to be felt at TEC for several years to come.

TEC INSTITUTIONS DESIGNATED BY AACJC AS SOC COLLEGES (AS OF JANUARY 1, 1974)

Berkeley-Charleston-Dorchester TEC
Greenville TEC
Midlands TEC
Palmer College-Charleston
Palmer College-Columbia
Tri-County TEC

Jim Kiser has been with TEC since July 1, 1973 as Coordinator of Student Services Programs. Prior to that he was Vice President for Student Services at Central Piedmont Community College in Charlotte, a position he held since the college was established in 1963. His education includes degrees from Lenoir Rhyne College and the University of North Carolina at Chapel Hill. He is currently an Ed. D. candidate at the University of California at Berkeley.

LAST CHANCE FOR THE HAVASUPAIS

Mr. KENNEDY. Mr. President, an issue of fundamental importance to an ancient American Indian people—the Havasupai Indians of northern Arizona—is moving toward final resolution in this Congress after a century of delay. I wish to add my voice in behalf of justice for the Havasupai.

I first became aware of the Havasupai struggle for survival in 1971 after receiving a letter from Lee Marshall, chairman of the Havasupai Tribal Council. Chairman Marshall's letter was incorporated in the record of the hearings held by my Subcommittee on Administrative Practice and Procedure on Federal protection of Indian natural resources. Briefly stated, the issue involves the security of the Havasupai land base and thus the future of the Havasupai tribe.

Historically, from about 700 A.D., the tribe—known as "the people of the Grand Canyon"—roamed over more than 2 million acres in the vicinity of the Grand Canyon. In the early 1880's the

United States, as an emergency measure, acted to protect Havasupai Canyon lands from the encroachment of miners, leaving unsettled the question of a final determination of Havasupai rights to the rest of their traditional homeland. For over 90 years the tribe has continued to use and occupy a minimum of 251,000 acres for a variety of traditional purposes—including residence, agriculture, grazing, burial grounds, and religious shrines—and the tribe and concerned Federal officials have repeatedly recommended that the tiny 518-acre Havasupai reservation be enlarged to provide for their urgent social needs.

In 1942, a Department of Interior Secretarial Order held that Havasupai "Indian title" to this use area had never been extinguished, and that the tribe retained exclusive rights of use and occupancy to this area. In 1919 the Grand Canyon National Park was established, and since the mid-1920's, contrary to the intent of Congress, the tribe has increasingly been excluded from the use area by the unreasonable and arbitrary administration of governmental permits, and its access to the plateau lands above Havasu Canyon has been largely confined to the single purpose of grazing a modest number of horses and cattle.

The 251,000-acre use area, encompassing parts of the Grand Canyon National Park and the Kaibab National Forest, constitutes the present Havasupai land base. Without it the tribe cannot possibly continue to exist. As Alvin M. Josephy, Jr., senior editor of American Heritage and a distinguished authority on American Indian history, has said:

> Today, down in the Canyon, the Havasupai people face extinction from disease, poverty, and the eventual collapse of their society, their culture and their religion.

The question of the Havasupai future is before Congress today because of S. 1296, a popular and generally noncontroversial bill to roughly double the size of the Grand Canyon National Park, which passed the Senate several months ago and is now pending before the House Interior Committee. Certain provisions of S. 1296, both as passed by the Senate and as reported by the House National Park Subcommittee, threaten to bury the problem in yet another study or to remove substantial portions of the Havasupai use area and simply to continue, on the portions remaining, the unsatisfactory and debilitating permit system which is largely responsible for the extreme privation in which the tribe now lives. It is clear to me that, unfortunately, this aspect of S. 1296 received inadequate attention when it was before this body.

Mr. President, the obvious alternative to erosion of the Havasupai land base is to take the course advocated by the tribe and recommended in repeated studies dating back to the last century: Confirmation of the entire 251,000-acre use area in trust for the Havasupai tribe. I strongly associate myself with this position, and urge that it be adopted by the House and ratified when a House and Senate conference committee meets to resolve differences on S. 1296.

Such a solution would be far from radical—essentially the same course was recommended by the Interior Department as recently as 1972, and just last Friday, while in Phoenix, accompanied by both of my distinguished colleagues from Arizona, the President called for "up to" 251,000 acres in trust for the tribe. The day before, Congressman MORRIS K. UDALL, chairman of the House Environment Subcommittee, endorsed the concept of a trust title transfer of a substantial portion of the Havasupai use area. In my judgment there is no valid reason for not confirming Havasupai trust title to the entire use area.

There will in all likelihood be occasions when the aspirations of an Indian people with respect to traditionally used land will come in conflict with the need to maintain environmental quality. This, however, is not such a case. The Havasupai have absolutely no desire or intention to use their land base for any purpose other than those which they have pursued for nearly 1,300 years. They are not going to build a dam, or put up a factory, or launch a tourist extravaganza, or undertake any other environmentally unsound project. Rather, they are intent upon preserving and protecting the natural, undeveloped, and unspoiled beauty of their homeland, and are perfectly prepared to accept language to provide comprehensive land use planning for the new trust area or any other reasonable requirements Congress might impose to assure environmental protection and consistency of use with the adjacent and enlarged Grand Canyon National Park. Justice for the Havasupai is in no way inconsistent with enhanced environmental protection for the entire Grand Canyon area.

Mr. President, the 251,000-acre use area upon which the Havasupai depend for survival is the core of their immemorial homeland. It should be confirmed to them now in trust title, and their fears for the future laid to rest.

ECONOMIC CHOICES

Mr. PACKWOOD. Mr. President, recently, the president of Linfield College in McMinnville, Oreg., presented a paper at the Senior Executive Conference in New York. His thesis was a topic very much in the news these days: the economic choices forced upon this Nation by the energy crisis.

In his discussion, Dr. Gordon Bjork points out that a fundamental principle of economics is rapidly coming into play in response to the price inflation brought on by the energy policies of the Arab nations. He points out that—

> In our century, the rising price of oil is going to stimulate the coal industry and lead to technology to extract oil from shale. It will also lead to increased research and development in nuclear and solar energy systems. At the beginning of the industrial revolution, it was necessary to make large investments to create new sources of energy and harness them to productive activity. We will have to make the same investments. This is one of the important implications of the energy shortage. . . . The demand for capital is going to increase.

Later in his paper, Gordon proceeds to discuss some of the factors contributing to the high rate of inflation with which we must come to grips. Paramount among the culprits, he casts an appropriately stern warning in the direction of the Federal Government. As he points out, it is conventional wisdom to point a finger of blame to Federal fiscal and monetary policies. What Gordon does, however, is look in addition to the inflationary bias of many Government programs and of Government itself. In his words—

> Large corporations are a frequent target of popular ideology. They are the villains who supposedly conspire to raise prices and profits. Likewise, large industrial unions . . . are thought to use their strong bargaining positions to raise their incomes at the expense of the economy as a whole. These explanations may capture the popular imagination, but they don't square with the facts. The really inflationary sectors of the economy in recent years have been those dominated by the monopoly par excellence—the federal government.

All in all, this is an excellent paper addressed to the economic problems we face. I strongly urge each of my colleagues to study what Gordon has so capably put into words. Each of us stands to profit immensely by an understanding of the problems we face, and the extent to which those problems find their roots in actions taken at the Federal level in years past, present, and future.

I ask unanimous consent that Dr. Bjork's paper be printed in its entirety in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ECONOMY DISTORTED BY ENERGY CRISIS AND FEDERAL OVERSPENDING

(By Gordon C. Bjork)

What is happening to the economy? Some very fundamental changes—changes which transcend Arab oil diplomacy, Russian wheat sales, Penn-Central bankruptcies, or Wall Street bear markets. I want to share with you some comments on changes of two sorts: first, changes which are due to the limitations placed on the economy by ecology and, second, changes due to what might be called the "maturation" of the economy. The changes due to ecological constraints are much more fundamental. They pose physical and technological problems capable of solution—but with real costs.

Did you ever reflect on the etymological origins of the term "economics" or "economy"? Or note the relationship to the recently popularized term, "ecology"? Both come from the same Greek root—oikos—the word for house. "Economics" refers to the science of managing the affairs of the "household of man" and "ecology" refers to the science which explores the relationships and interactions of the inhabitants of our terrestrial household with "spaceship earth" which is our "house."

Now your reaction at this point may be, "Oh, no! Another environmentalist zealot from Oregon who is going to lecture us on recycling returnable beverage cans and cleaning up the rivers so the salmon can be caught by eagles and vacationing mortgage bankers." But please relax. You aren't going to get a lecture on ecology. Or perhaps you should relax because you are going to get a lecture in fundamental economics—which we all know is a dismal science.

Let me put my first thesis simply and

baldly—economic growth, as we have known it in the Western world since the beginning of the Industrial Revolution, is going to decline. I am not talking about temporary cessation of the sort which may be precipitated this year by the Arabs, or by the federal energy czar (although either of them could cause troubles). I am concerned with fundamental changes in the technology which has contributed to a compound rate of increase in per capita output of goods and services in our economy over the last 150 years.

TECHNOLOGY HELPED

Consider briefly, the nature of the technology which has made our economic growth possible. In agriculture, it has been the development of sophisticated equipment which has increased a hundredfold, even a thousandfold, the amount of land which one man can cultivate, and it has been the use of artificial fertilizers to allow the replacement of nutrients which would otherwise have been exhausted by intensive cropping.

American housing, and the conveniences of the American home, have benefited enormously from technological change during the past century. We sometimes romanticize the log cabin or sod house of the American frontier, but we don't seriously compare the dank, dark 200 square feet of the frontier residence with the warm, light 1200 square feet of the modern American home. Nor do we reflect on the enormous amounts of energy which went into the manufacture of the steel and concrete of American cities or the amount of power which is necessary to heat and cool the spaces of our artificial habitats.

The automobile and the jet plane are a vast improvement on the horse and wagon, but they consume considerable amounts of fossil fuel in their locomotion. And as one skeptical farmer noted when considering the exchange of his mule for a Model T, "Fords, don't foal."

Economic growth is far too complex to be categorized simply, but the primary characteristic of the industrial revolution which has transformed our life during the last century has been the substitution of fossil fuels for natural processes in the production of food, fuel, fibre, and fun.

ECOLOGY CONFLICT

Our technology is coming into conflict with our ecology. Ecological constraints are going to necessitate the reorganization of the total human household—our economy. Some very eminent scientists are amassing an increasing body of data which indicates that we can't go on increasing our rate of utilization of fossil fuels indefinitely. The Club of Rome's *Limits to Growth* may have used some questionable and arbitrary assumptions, but the mathematics of exponential growth are inescapable.

Malthus demonstrated over a century ago the consequences of rapid population growth where land was limited. The masses of the Western world never heard of Malthus, but they did start to limit the birth rate. Our present problem in the U.S. and Europe is not the growth of population but the energy-consuming bias of modern technology. I am sure you are all acquainted with examples of this. One that gave me pause was electrical consumption on our campus. Between 1962 and 1972, the per student consumption of electricity trebled! And we don't have air conditioning. The real source of the increase in energy consumption in our economy as a whole is not the introduction of color TVs and electric toothbrushes, but the production of steel and aluminum and cement and petrochemicals and artificial fibres and space heating and cooling and passenger miles in station wagons and jetliners.

For the past century we have operated on a "cheap-energy" technology to power a high rate of growth in per capita production and consumption. This is going to come to an end—not cataclysmically, but with the deliberate speed as rational men begin to consider the economic consequences of scarcity and take appropriate action. The Arab-Israeli war has provided a convenient excuse for the Arabs, the oil companies, and our government to pretend that they were caught unaware by political events. But the handwriting on the energy crunch has been on the wall for a long time for anyone who wanted to take appropriate notice and start planning for the future.

Shortage is a relative term—it means that demand for a commodity is increasing relative to supply. Shortage of wood was one of the contributing causes of the industrial revolution. In 18th century England, a shortage of wood to heat houses and make iron drove up the price of wood and the price of coal. The increase in the price of coal led to the development of pumps and the Newcomen steam engine to power the pumps to drain the pits, and thence to a canal system and railroad system to haul the coal.

In our century, the rising price of oil is going to stimulate the coal industry and lead to technology to extract oil from shale. It will also lead to increased research and development in nuclear and solar energy systems. At the beginning of the industrial revolution, it was necessary to make large investments to create new sources of energy and harness them to productive activity. We will have to make the same investments. This is one of the important implications of the energy shortage which you should be aware of. The demand for capital is going to increase.

A rise in the relative cost of energy is a signal that the labor and capital necessary to produce it are increasing. As an example, the cost per kilowatt hour of electricity of a nuclear reactor may be significantly higher than the cost of a kwh from an oil-fired turbine because the capital costs are higher. There is only so much productive capacity in the form of capital and labor in an economy at any given time, and if you have to divert more of the productive capacity to a particular form of production, there will be less of other things produced. Another way of looking at our consumption of fossil fuels over the last century is to say that we have been consuming nautral capital. When that capital is gone, we will have to reduce energy consumption to the productive level of our ecosystem.

INCREASING INTENSITY

The most important economic consequence of the energy crunch will be the increasing capital intensity of our economic system. If we build buildings which use less energy to heat and cool, the initial construction costs will be higher. If we substitute nuclear for coal-fired generators, the capital costs will be higher. If we reduce the use of petrochemicals in agriculture, we will have to cultivate more land for the same output. To summarize these trends into one important ratio—the capital/output ratio is going to rise. For the capital/output ratio to rise, the ratio of saving and investment to national income will have to rise. A rise in the saving ratio means a fall in the consumption ratio.

Raising the saving ratio and the flow of savings into needed investment is not going to be easy. Already we are lagging substantially behind demand in the provision of consumer housing. For the past five years, corporate profits and reinvestment have not kept up with the growth of the economy or the rate of inflation. Government expenditures in excess of revenues have led to a staggering increase in public indebtedness after the past 10 years. It needs to be hammered home again and again that government deficits are either financed by borrowing funds, which are thus unavailable for capital formation, or those deficits are financed by the printing of money. The energy crunch is going to make the old capitalist virtues of thrift and efficiency once again of paramount importance. The Age of Affluence is coming to an end.

The rise in energy costs is going to have adverse effects on both our balance of trade and balance of payments. The terms of trade are also shifting dramatically in favor of energy-exporting countries. The U.S. is much more favorably placed in this respect than either Japan or our Western European trading partners. These countries are facing even more severe challenges to their economic systems than the U.S. Their trade with us and the general prosperity of the international economy will be seriously affected.

The increasing price of energy will also start to change some of the fundamental economic determinants of commercial and residential construction—both locational and architectural. In the 19th century, urban and suburban development followed the railway and streetcar lines. It may do so once again. The modern highrise is a response to the low price of energy. Tenants will revise their decisionmaking matrix when the energy costs for heating and cooling their glass envelopes and transporting employees many miles each day start to double and treble.

SOCIAL CHANGE

Technological change and changes in relative prices will have extensive ramifications for social change. Consider, for example, the impact of the private automobile on the American way of life over the past 50 years. Take it away over the next 10 years and try to visualize what 1984 will be like.

The energy crisis is one aspect of a larger ecological problem and perspective. Rather than attempt a lengthy explanation, let me use a parable. Once there was a cowboy who settled down on his own spread. He cut down all the trees to build himself a house and barns, and what was left he burned to heat the house and barns. He overgrazed his pastures until they were barren in order to raise the maximum number of cattle to exchange for consumer goods and adventures in exotic places. He polluted his stream and lowered his water table. But he didn't care, because part of the cowboy ethic was to move on, so he moved on and repeated the process. Who among you thinks the cowboy mentality is a workable philosophy in the 20th century?

The long-run economic consequences of the termination of the cowboy economy and the advent of a more ecologically-sound economy will be pervasive for the United States. There will be economic consequences which you should start planning for. We never had it so good, and we are not likely ever to have it so good again. I am talking about energy consumption, but I am also talking about our standard of living. Insofar as our standard of living is geared to energy consumption, that standard of living is not going to rise so fast in the future and may even fall for some groups. The social and political implications of "no growth" and declines in living standards are going to be very unsettling, domestically and internationally.

The other basic change in our economy which I want to discuss is "maturation." That maturation will lead to an increasing inflationary bias. We are no longer developing—we are developed. An underdeveloped economy is largely geared to the production of food, fibre, and fuel. A developed economy can produce those commodities with a small part of its labor force and concentrate an increasing proportion of its attention on education, recreation, medical care, and the employment of an ever-increasing bureaucracy. In a primitive economy—agriculture, forestry, fishing, mining—the primary sector dominates the economy. In a developing economy the secondary sector—manufacturing and construction—plays the dominant role. Only when these sectors have reached a high level of productivity does the tertiary or service sector become large. Partly because productivity growth is lower in the service sector and partly because wages in the tertiary sector are not subject to market discipline, we are going to be subject to increasing inflationary pressures in our economy in the future.

But, you might object, look at the important elements of inflation in the American economy in 1973—food, fuel, and clothing. That seems to contradict my thesis. Yes, but 1973 was an extraordinary year. The economy was adjusting to the devaluation of our currency relative to the currencies of our major trading partners. Devaluation makes the prices of internationally-traded commodities rise in the devaluing country and, in 1973, we had the additional extraordinary effects of the Russian wheat sale and widespread crop failures in Asia to create a great leap in domestic food prices. The rise in commodity prices last year was due largely to devaluation. Devaluation was necessitated by government deficits over the last 10 years, the accumulating foreign dollar balances which financed our fiscal profligacy in general, and overseas defense expenditures in particular.

FEDERAL OVERSPENDING

Overall fiscal policy is not the only creator of inflation. If you really want to identify the culprit behind wage push inflation over the last 10 years—look to Washington. Last summer during the beef shortage and housewives' boycott, an advertisement was run in a local paper by the Cattlemen's Association which read "Don't boycott beef—boycott postage stamps. The price of first-class mail has risen three times as fast as the price of beef over the last 20 years." Behind that ad was a profound truth—the government, as the major employer and purchaser of services in our economy, has been far and away the most important contributor to domestic inflation. It has set the inflationary pace with its own personnel and purchasing policies.

During the last 10 years, the wages and salaries of the federal civil service have gone up faster than practically every other group in the economy. And what is even more ominous for the future is that federal employees have a nonfunded pension system which is far more generous than most of those with which I am familiar. When large numbers of federal civil servants start to retire, federal labor costs will soar still further.

Federal civil service compensation has risen dramatically over the past 10 years, and it has been followed, and in some cases exceeded, by state and municipal employees.

Ask yourself what other sectors of the economy have been highly inflationary in recent years. Two that are close to the top are contract construction and medical care. Who are the major customers in both industries? State and federal governments. In construction, the operation of the Davis-Bacon Act has given the construction unions virtually carte blanche to drive up construction costs, which are passed on to consumers. In the medical areas, we can applaud extended medical care under various state and federal programs, but government has given the hospitals and the medical profession virtually free rein to pass on rapidly rising costs.

Large corporations are a frequent target of popular ideology. They are the villains who supposedly conspire to raise prices and profits. Likewise, large industrial unions—the autoworkers, the teamsters, the steelworkers—are thought to use their strong bargaining positions to raise their incomes at the expense of the economy as a whole. These explanations may capture the popular imagination, but they don't square with the facts. The really inflationary sectors of the economy in recent years have been those dominated by the monopoly par excellence—the federal government.

Not only have wage increases in the government-dominated sectors of the economy been the highest, they have also been the areas in which productivity growth has been the slowest. Admittedly, it is difficult to measure "productivity" in the Department of Health, Education and Welfare or in the Pentagon. The one study I know of in the government sector was in the Post Office, and there productivity growth was negative—a conclusion some of you may have reached without elaborate statistical analysis by observing your postage costs and the speed and dependability of your mail service.

ACTIONS NOT WORDS

I'm sorry if this sounds like a panegyric. What distresses me more than the amoral behavior of some of our political leaders is their failure to square their rhetoric with their actions. John Kennedy asked us to consider "not what your country can do for you—but what you can do for your country," and it was his administration which built escalation into the wages of the federal civil service through the so-called "parity" system. Lyndon Johnson told us we could repeal the laws of economics and have both "guns and butter" and in the process fueled the inflation which we have yet to bring under control. Richard Nixon has preached the Puritan ethic to us and run the largest fiscal deficits of any President in history. After 10 years of devaluing the political currency, the American people no longer believe anything that anybody says, but they do blame the government for inflation, and they are right. I wonder when people will start to realize that one of the important reasons for poverty in America—inadequate provision of food, housing, clothing, medical care, and education for many of our people—is the diversion of an ever-increasing share of our labor force to manning a bureaucracy and foreign legion which produces no goods, and services of questionable ability.

POLITICAL FACTORS

Even if we were to continue a rapid rise in productivity in the agricultural and manufacturing sectors (and for reasons connected with the energy crunch and ecology I don't think we will), and even if we were to experience rapid productivity growth in these sectors, their contribution to price stability would be smaller because our economy has "matured" and an ever-increasing sector of the economy is in the low-growth or "no-growth-in-productivity" service sector of the economy. As a result of maturation, costs are politically determined rather than controlled by the competition of markets—inflation is going to continue and increase.

Let me sum up the two main thrusts of my comments: (1) The energy crisis is not a temporary or short-lived phenomenon. It will result in fundamental changes in the operation of our economy. Over the longer run, the necessity of creating new sources of energy and new technology will increase the ratio of capital to output and of capital to labor in the economy. We will have to increase the percentage of saving and investment in the economy to maintain the present level of per capita output. We face the prospect of lower consumption levels in the future. (2) The rate of inflation is not likely to debate in the immediate future unless every strong political action is taken to deal with it. And I regard that as unlikely. Even in the Soviet Union, where the government is the sole producer and employer and economic crimes are punished by exile to Siberia, inflation is a chronic problem because expectations exceed the capacity of the economy to produce consumer goods and investment goods, while supporting heavy defense expenditures and a burgeoning bureaucracy. Inflation, like the poor, will always be with us.

I would like to conclude by suggesting some immediate and practical consequences of my analysis for your business as mortgage bankers. First, the demands for capital are going to increase relatively and that is going to drive up the "real" rate of interest the monetary rate minus the rate of inflation). Second, interest rates are going to be higher than they have been the last 10 years, or the continuing impact of inflation is going to leave the "real" rate of interest too low to attract investors into fixed interest debt instruments. All of this is extremely discouraging for residential housing, which has to be one of our number one priorities.

I have three suggestions, and there is little you can do about the first two except in your capacity as influencial private citizens. The first suggestion is to create a tax and subsidy system for the public control of the economic and ecological use of urban, suburban, and residential land. Yes, I am talking about a return to some of the principles of Henry George. I can think of no factor which has more powerfully and needlessly skewed the distribution of income and frustrated the "American dream" than our present convention of treating land as a private commodity. This has allowed great fortunes to be amassed from land speculation and no more socially useful role for the landowner than being in the path of progress. It has been aided and abetted by our tax system. It has been the rising price of land which has priced many American families out of decent homes. I challenge you to use your influence to deal with this problem.

Second, we need a rationalization of construction technology. A national standard uniform building code designed to insure safety rather than safeguard craft unions from competition is very badly needed. Can you imagine where the auto industry would be today if they had to meet a different set of obsolete standards for every municipality in which they sold autos? Perhaps the mortgage industry could take the lead in the drive for a national building code. I challenge you to do something about it.

Third, and this is within your power as mortgage bankers, we need to devise new forms of debt instruments to finance the long-term purchase of homes and to assure an adequate inflow of capital into the industry. I know that many of you have studied "variable interest" mortgages. If investors are to be attracted to residential mortgages, they are going to have to have some assurance that their rate of return after inflation is attractive. The homebuyer has another problem. He has to match his monthly payment with his income. Has anyone thought seriously about "variable payment" mortgages? Homeowners and mortgagees would be much more able and willing to bear high interest rates if monthly payments started lower and increased with incomes and inflation. Constant payment mortgages do not make sense when inflation becomes a permanent feature of economic life.

There are very complex economic and financial problems involved in a proposal such as "variable interest," "variable payment" mortgages, but I believe them to be well within the scope of your ingenuity and organizational abilities. There is a parallel in my proposal here with the system which Yale University has devised to finance educational investment with repayments geared to future income. I personally believe that the sociological and economic consequences of creating a nation of homeowners are of sufficient importance to make a new type of "variable interest" "variable payment" mortgage a prime element of national policy. I personally think it is a lot more important that going to the moon.

If my predictions are correct and the energy crunch drives up the "real" rate of interest while the "maturation" of the economy leads to higher rates of inflation, something creative will have to be done by our nation, if we are to continue to be a nation of homeowners.

I leave you with the parting observation of a sage student that in economics the questions never change—only the answers.

TELEVISION AND IMPEACHMENT

Mr. CLARK. Mr. President, Senator Mansfield already has expressed his support for television coverage of the impeachment process, and he included in the Record of May 6 a Los Angeles Times editorial to that effect.

I agree with the majority leader.

If the constitutional process begun by the House Judiciary Committee should reach the stage of an impeachment trial in the Senate, the widest possible coverage of those proceedings would be in the best interests of the Nation. We have the technological ability to bring this most serious of constitutional processes directly to the people. The President, appearing on network television, chose to make public transcripts of his conversations. I hope the Senate also will choose to make as public as possible any impeachment proceedings.

A decision about whether or not to allow live television coverage must be considered carefully, and to further discussion on that subject I ask unanimous consent to have printed in the Record several articles representing different viewpoints on that issue.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Washington Post, Apr. 26, 1974]

Impeachment: A Prime Time for TV

(By Marquis Childs)

Whether television will or will not be allowed to report the final phases of the impeachment process is one of those debates curiously outdated. Like it or not television is a fact of life and millions of Americans get their entire knowledge of public events, limited though it is, from the little screen.

The objection is that the television would turn the whole business into a circus with members hamming it up for the folks back home. House Speaker Carl Albert is saying privately he is determined there shall be no repetition in the House of the Senate Watergate hearings which he considered a travesty of orderly procedure.

A test is soon to come when the House Judiciary Committee starts taking evidence looking to an impeachment resolution. Whether this will be entirely behind closed doors is still undetermined. But if reporters are admitted for all or part of the testimony it would seem impossible to keep out TV cameras.

The real test will come, however, when and if the Senate tries President Nixon on the charges presented in a resolution of impeachment coming from the House. At that point, in my opinion, the nation is entitled to live continuous television coverage.

This, say the opponents, would turn the most important trial in the nation's history into a Roman gladiatorial spectacle. That assumes there can be no careful, controlled use of the camera in a formal atmosphere. The United Nations offers evidence to the contrary.

Television cameras are invisible in the General Assembly hall and in the Security Council chambers when an important debate is going on. The signal goes out without the principals being aware of it. TV specialists complain that the lighting in the Assembly hall is inadequate and that therefore the picture is not as sharp as it might be. So far as the viewing public goes this is unimportant.

Granted the UN headquarters was built in the television era; with comparative little outlay a sound proof booth could be built into the Senate chamber to hold the television apparatus. It could be almost as unobtrusive as at the UN. With rules governing the privileges of each Senator, of defense lawyers and the managers of the impeachment, the opportunities for hamming it up will be non-existent.

Here is an opportunity for television to prove that it is a mature public service and not just a money machine designed to exploit violence and fear. It must be a pool operation. Sponsors are surely out. At intervals of an hour or half an hour there could be dignified commercial announcements.

Sen. Mike Mansfield, the Senate majority leader, favors televising a trial. But he has talked to several of his colleagues who are opposed and, since the Senate by a majority vote must approve, Mansfield is doubtful that the cameras will be admitted.

Consider what is likely to happen in that event. Senators coming off the floor during the trial would give reporters their own versions of how it is going and those versions, needless to add, will not be without prejudice. Transcripts of the testimony carried in full by some newspapers would not be the equivalent of what the viewer could see and hear on his own screen.

At best it is a bad business. At best it is certain to churn up emotions already deeply stirred. But to witness it through a medium that has access to at least 100,000,000 homes is a warrant that the whole truth can be known to those who watch.

Television is not entirely a stranger in the halls of Congress. Presidential addresses have been televised live since the advent of the camera. And now and then committee hearings are opened to TV.

Problems can be overcome. One is how to light the Senate which normally is bathed in a subdued radiance. Surely that can be mastered without drenching the chamber in such brilliance as to drive each Senator to dark glasses.

Network tycoons seem to assume at times that they own the airways. The channels belong to the public and are assigned through an agency duly constituted by law. Here is an opportunity for this fantastic giant of communications to prove that it is a public instrument for the public good.

[From the Washington Post, May 4, 1974]

TV and Impeachment

Impeding the Process of Justice

(By Paul A. Porter, a Washington attorney, who was formerly chairman of the Federal Communications Commission)

I respectfully dissent from the position of the Post that the impeachment trial of the President in the Senate, if the House votes a bill, should be televised. I agree with Professor Barron's conclusion that "televising the national torment of a President's impeachment would be unwise." This in spite of Dean George Reedy's contention that "the presidency belongs to the people . . . and they have the right to be present at least as spectators.

This writer was present at the creation of national television and Chairman of the F.C.C. when the initial allocation of frequencies was made. Through the succeeding years, I have watched the fantastic development of this media with admiration for its growth and an awe bordering on terror for its impact. As a lawyer interested in the basic elements of due process and the right to a fair trial, it is submitted that televising the Senate proceedings could raise serious impediments to the process whether intended or not. I will not particularize the obvious.

A trial before the Senate presided over by the Chief Justice will indeed be a historic and momentous proceeding as George Reedy described. With the Chief Justice presiding, the managers for the House will have the burden of presenting their case presumably in accordance with evidentiary standards as if in court and counsel for the respondent will hopefully have the right to test that case by cross-examination and then produce probative evidence on the President's behalf as in the traditional adversary proceeding. The hundred members of the Senate will be sitting as jurors in the conventional sense. Hopefully this will be a carefully constructed, orderly procedure devoid of histrionics and sensationalism. The issues are too grave and fundamental to be exposed to such televised techniques of a Perry Mason or a Mr. District Attorney which give a superficial image of our processes of justice. In short, it could indeed be a dull event for a national television audience.

This is not a new phenomenon. In the early days of television, the famous Kefauver hearings were covered on live television. This prompted the late Judge Thurman Arnold to write a penetrating and provocative essay in the June, 1951, issue of the Atlantic Monthly entitled "Mob Justice and Television." Some of Judge Arnold's points seem appropriate today. A few of these are summarized:

"Trials in our courts of justice are public but the audience is so limited that the ordinary housewife can't see the show because, as we go to press, cameras are banned. I suggest that if this rule can't be changed, all the judge had to do is to hold a trial like that of Alger Hiss in the Yankee Stadium. . . .

". . . This kind of presentation [television] makes the problems of government simple enough to be understood by readers of comic strips. It eliminates the bores who are unable to discuss a public issue as a matter of black and white. When ex-Mayor O'Dwyer was testifying about the problem of crime from his vast experience as a prosecutor and a mayor, I am informed the stations were flooded with calls to get him off and put Virginia Hill back on. . . .

"The thing which I believe is overlooked by those who argue that television is a legitimate extension of our traditional public hearing is this. The reason that a criminal trial is public is not to obtain the maximum publicity for judges or prosecutors. It was not intended to make a *cause celebre* out of criminal prosecutions. It is for the protection of the accused against star chamber methods, and for the protection of the public against secret deals and alliances.

Finally, Judge Arnold reached this conclusion which seems relevant to the current discussion as to whether the Senate impeachment hearings, if convened, should be televised:

"The vice of this television proceeding is not in the way this particular committee conducted it, but in the proceeding itself. Any tribunal which takes on the trappings and aspects of a judicial hearing, particularly where there is compulsory examination of witnesses, must conform to our judicial traditions, or sooner or later it will develop into a monstrosity that demands reform. Those traditions are:—

1. It must be public and at the same time not a device for publicity.

2. It must protect the innocent even at the cost of letting the guilty escape.

Television has no place in such a picture. For witnesses it is an ordeal not unlike the third degree. On those who sit as judges it imposes the demoralizing necessity of also being actors. For the accused it offers no protection whatever. Former Federal Judge Rifkind recently said that our judicial procedure, 'forged through the generations to the single end that issues shall be impartially determined on relevant evidence alone, works fairly well in all cases but one—the celebrated cause. As soon as the *cause celebre* comes in, the judges and lawyers no longer enjoy a monopoly. They have a partner in the enterprise, and that partner is the press.' I would add that when television is utilized in investigations or trials, *causes celebres* will increase like guinea pigs and still another partner will be added—to wit, the mob."

An Obligation To Communicate Directly

(By Fred W. Friendly, former president of CBS, and a professor at the Columbia University Graduate School of Journalism. This article is adapted from his testimony before the Joint Committee on Congressional Operations)

Permit me to begin with quotations from two distinguished colleagues, one who practiced my profession, the other yours.

"When a man is really important the worst adviser he can have is a flatterer." That's the scripture from Gerald Johnson, the Baltimore editor and historian, and I hope it applies to our dialogue here today.

The second quote, in 1808, is from a lame duck President, Thomas Jefferson, who, in an attempt to recruit barrister William Wirth of Virginia into running for office, wrote: "The object of this letter is to propose to you to come into Congress. That is the great commanding theatre of this nation . . ."

My unflattering question is—have you let Mr. Jefferson down, have you permitted technology and the natural inclination and central motivation of Presidents to move "the great commanding theatre of this nation" to the other end of Pennsylvania Avenue?

And whose fault is that—not Marconi's, or Murrow's, or Cronkite's or Chancellor's, not even Coolidge's, or Kennedy's or Nixon's. They merely invented or exploited new forms of communications which the Senate and the House chose to ignore or to regard as a howling sideshow instead of an electronic extension of the spectators galleries of 426 seats in the Senate and 732 seats in the House. You closed your eyes and ears to a miracle permitting your gallery to be filled by three or four sightseers and lobbyists from each of your constituencies while the Executive Branch transformed its "Bully Pulpit" into an electronic throne. Presidents have used broadcasting as a magic political carpet, transporting the citizenry to the oval Office, to the ancient wall of China, ironically even to the floor of your joint sessions while you, with few exceptions, have relegated these miracles to the status of a kind of over-the-transom, Peeping Tom, too theatrical or "too dangerous" to be allowed in . . .

I wonder if you and your colleagues are aware of what's going on in our republics? Let's take West Germany. Later this month the Bundestag will be conducting a historic debate on proposed reforms of the abortion laws. It is an inflamed issue, but there is no controversy over the reality that Germans from the North Sea to Bavaria will be watching every minute of it on television. Indeed, nations which were not even born when television was a political fact of life in the United States, now permit and provide live coverage of their legislative process. Because the Security Council of the United Nations provides live coverage of its debates, many Americans understand more about the voting and deliberative process of that body than they do of their own nation's. . .

The hidden agenda item in all your deliberations, of course, is the growing concern over the possibilities of impeachment and a Senate trial involving the President. One of America's most respected newspapermen, James Reston, has pronounced that such events of government should be closed to television because it might turn the trial into a nightmare; Senator Buckley and others fear a three-ring circus. My conviction, Mr. Chairman, is that the public's presence via the television camera will preserve decorum and dignity but certainly if this trial occurs, the American people will require a first-person, unabridged view of so historic an event without having it strained and filtered through the eyes and ears of even the most responsible newspapers. Much of the confusion over the impeachment and subsequent trial of Andrew Johnson exist today because print journalists alone, no matter how skilled cannot preserve the essence and dynamics of such complex procedures. None of us here today can know whether such a trial will take place, but I can assure you that neither history nor the American public will accept surrogate witnesses to so momentous an event . . .

What you need is a plan of action, not just a removal of restrictions. Of all the more than 30 resolutions over the past 30 years from Senator Pepper to Representative Pepper, the most stimulating and potentially productive plan is S.R. 136, proposed by Senator Byrd of West Virginia. Simply stated, it suggests "a full and complete study and investigation with respect to the broadcasting and telecasting (including closed-circuit telecasting) of the proceedings of the Senate." I trust that the Senator will consider it a friendly if unofficial amendment if I add the phrase—and House of Representatives.

The wired Congress, if I may use that as shorthand for putting cameras and microphones in both chambers, and all hearing rooms, and connecting them by coaxial cable to every office, dining room, lobby and a videotape center will be expensive but will cost far less than building a modern destroyer or celebrating the bicentennial. Operating it will be less expensive than running a destroyer or an atomic submarine per year. Senator Byrd's resolution needs to be costed out and studied—now. Such a survey could be accomplished with an economy of time and funds. . . .

Now, Mr. Chairman, you will ask, "But how does wiring the Congress ultimately reach the nation? Live or delayed coverage will still be subject to the gatekeeper function of the commercial networks and even of public broadcasting." That is true although the performance of public television and radio during the Watergate hearings was a major breakthrough in prime time coverage.

My proposal is not only to make the wired Congress available to all networks, but to leap over all those gatekeepers with their varied values and priorities and deliver the signal direct to 200 American communities. If telephone company long line and microwave distribution is too expensive, synchronous satellites made possible by this nation's maximum, costly effort in the space program will this year, and in the next three years make it possible to spray television signals into every time zone simultaneously. . . .

One may ask: Why will these local broadcasters relay them to regional audiences if the networks won't? My response is—for the same series of reasons that cause some 500 different newspapers to send correspondents to Washington. These editors know that political reporting from the nation's Capitol is like regional accents and customs—different for various communities.

Debates on farm subsidies will find their audiences in Kansas, Iowa and Louisiana, while New York and Massachusetts would be more attentive to the hearings on mass transportation and urban blight. . . .

To sum up, take Senator Byrd's proposal of June 1973 seriously, combining it with Senator Pastore's proposal to commemorate our 200th birthday by opening Congress to the nation. A study on costs and feasibility would take less than six months, a decision to go could be possible in time for 1976.

Impeachment on TV: Two Views

(By Jerome Barron)

Impeachment trials, fortunately, are such rare events in this country that there is little direct, authoritative guidance on whether impeachment of a President should be televised: We have no experience on the question of mixing impeachment with television.

When the Billie Sol Estes case came before the Supreme Court in 1965, Justice Tom C. Clark, speaking for the court, said that the "chief function" of judicial machinery was to "ascertain the truth." Rather tartly, the court said: "The use of television, however, cannot be said to contribute materially to this objective."

In an impeachment proceeding, the senators are the jurors.

"If the community be hostile to an accused, a televised juror, realizing that he must return to neighbors who saw the trial themselves, may well be led 'not to hold the balance nice, clear and true between the state and the accused,' " the Supreme Court said. Furthermore, is there any real answer to the court's anxiety that television inevitably fixes the jury's eyes on the camera rather than on the testimony?

In an era when the law has extended due process concepts to more and more areas of American life, surely it is hard to argue that due process and its implications for criminal trials should not also apply to the question of televising an impeachment.

It may be said that hearings of the Senate Watergate Committee were televised, and that if the proceedings of the committee that led to an impeachment could be televised, why shouldn't the impeachment trial itself also be televised?

The two are not comparable. Only at the outermost perimeters of its legislative responsibilities did the Watergate Committee touch on questions of guilt or innocence as they might affect criminal defendants, the *raison d'etre* of the impeachment trial, however, is the guilt or innocence of the accused.

Excluding the television cameras would not deprive the public of its right to know. Coverage by the print press of any impeachment will be continuous, extensive and free-wheeling. News and commentary on radio and television would be similarly free and extensive. That is our tradition, and the precedent of the Andrew Johnson trial. But televising an impeachment would allow publicity to become all pervasive.

In an impeachment, the Senate is, in effect, a courtroom, and we therefore should remember the counsel of Chief Justice Earl Warren in his separate opinion in the Estes case: "We must take notice of the inherent unfairness of television in the courtroom and rule that its presence is inconsistent with the 'fundamental conception' of what a trial should be."

I think the conclusion is clear: Televising the national torment of a President's impeachment would be unwise.

No Barriers Between Public and the Facts

(By George Reedy)

Even though Congress still has to decide whether President Nixon should be impeached and tried, it is not too early to give careful—and, I hope, favorable—consideration to allowing full, live television coverage of the proceedings.

There are issues of public confidence at stake which go beyond the usual questions of press freedom and access to news—and the decision should not be made casually.

Traditionally, both Congress and the judiciary have been reluctant to admit television cameras to their proceedings. I can concede that there are coherent reasons for this reluctance even though I am not certain the reasons are wise. But impeachment is an extraordinary procedure, and whatever may be the merits of the precedents, they cannot be made to apply without some unusual logical acrobatics.

After all, impeachment is a device whereby 535 men and women—435 through indictment and 100 through trial—can take from a man a grant of ultimate power which was given to him by all the people. In the best of circumstances, it would be hazardous for a small group to reverse a decision made by the entire electorate. Our constitution provides no method for direct public participation in the deliberations. But television provides a method for direct public witnessing of the proceedings, and there are values to this that are incalculable.

Admittedly, no device can make the final decision satisfactory to everyone. President Nixon's implacable foes—those who hated him even before Watergate—would regard anything less than 100 per cent impeachment and conviction as evidence of legislative cowardice. His last-ditch defenders would regard anything less than 100 per cent acquittal as evidence of a sinister plot to railroad their hero. A Senate vote somewhere between 50 per cent and the two-thirds required to convict would open up nightmares of recriminations.

But the ultimate popular verdict will rest upon the majority which is in between the two poles. This is a group which can render a reasonable judgment—especially when its members have seen events with their own eyes. In terms of the future of American unity, the popular verdict is fully as important as the legislative verdict. There should be no barriers whatsoever between the public and the facts.

Legislators, of course, have always resisted the presence of television cameras during legislative sessions. The reason is simply that floor sessions are only a small part of the legislative process and here the lens can distort because it makes one—and not the most interesting—part look like the whole. But an impeachment session would not be a legislative session. All of the events of major importance would take place right on the floors of the House and Senate chambers. The legislators could be relied upon to be present and to listen to the arguments. The speeches would be relevant and cogent. And finally, there would be no precedent established other than the presence of television during an impeachment session—not during a legislative session.

When everything is added together, it seems to me that there is more than ample justification for televising the proceedings in both the House and the Senate. The President should have an interest in having his side of the case stated directly to the people as well as to the Congress. The Congress should have an interest in giving the people an opportunity to see for themselves that the legislative conduct is rigidly fair. The print media should have an interest in permitting the readers to observe for themselves that interpretation and backgrounding is based upon fact and not distortion.

But the most important interest to be served is that of people themselves. The presidency belongs to them—not to the Congress or to the media. If Congress is to direct a change in the occupancy of the office, they have the right to be present, at least as spectators, and there could be grave consequences were they to be denied a right so readily available.

[From the Wall Street Journal, May 1, 1974]

THE FUTURE OF CONGRESS

(By Arthur Schlesinger, Jr.)

There has been much lamentation recently over public opinion polls showing that Congress rates as low as or even lower than President Nixon in the esteem and confidence of the American people (or at least of the thousand or so among them who responded to the poll). This result, however, could not have been less of a surprise to historians.

Congress has never done well in winning the hearts and minds of the people. "It could probably be shown by facts and figures," wrote Mark Twain, "that there is no distinctly native American criminal class except Congress"; or, in another mood, "Reader, suppose you were an idiot. And suppose you were a member of Congress. But I repeat myself." "Who are they as bats and night-dogs askant in the capitol?" asked Walt Whitman. ". . . Are those really Congressmen?" "You can't use tact with a Congressman," a member of Grant's Cabinet told Henry Adams. "A Congressman is a hog. You must take a stick and hit him on the snout." "Some statesmen go to Congress and some go to jail," wrote the gentle Eugene Field. "It is the same thing, after all." "After a man has been out of Congress awhile," wrote the sardonic Ed Howe, "people say, 'You wouldn't think that man had been in Congress, would you?' "

In short, the abuse of Congress is an old and honorable American tradition. Every Congress has its strutters and ranters, its sharpers and pettifoggers, its fools and rogues. Every electorate has its tendency toward synecdochet—taking the part of the whole—and therefore cheerfully identifies Congress as an institution with the fecklessness or knavery of a tiny minority of its members. As a large, amorphous, shapeless body embracing a wide divesity of opinion and temperament, Congress can be plausibly blamed for almost everything. Congress, we all know, is myopic; it is venal; it is cowardly; it is ineffectual. And Congress, of course, is even worse when it is effectual. Then we have that alarming state of affairs described by Woodrow Wilson as "congressional government" when Congress, as he wrote in 1885, "has entered more and more into the details of administration, until it has virtually taken into its own hands all the substantial powers of government."

RESTORING A BALANCE

In those days the Constitution was out of balance in the direction of Congress. In our day it is out of balance in the opposite direction. Our problem is a presidency that has virtually taken into its own hands all the substantial powers of government, and our need is to restore the balance of the Constitution by reestablishing the congressional role. The results thus far, even after Watergate, have been disappointing. With the presidency on the run as it has not been for a long time, Congress, outside the area of direct presidential culpability, remains generally feeble and complaining respecting presidential wishes, sustain presidential vetoes, cautiously holding back from any aggressive use of its own constitutional powers.

Hubert Humphrey summed it up in a poignant outburst on the floor of the Senate last October, "I have served in the Executive Branch," he began (Senator Humphrey is wrong—or at least President as recent as Truman and Eisenhower would disagree with him—in supposing that the Vice President is a member of the Executive Branch, but that is another story), "and I want to tell you, it is easy to roll this body [Congress], because the Executive Branch comes in with power, comes in with information, is able to mobilize public opinion. . . . The Congress, lacking staff, expertise, information, and will, has been overwhelmed by the Executive juggernaut." Sen. Humphrey had tough words for his colleagues: "When it comes to ourselves, we are afraid. We are fearful men. We are afraid to go home and face our constituents. We will not even provide a parking lot. And yet we will provide for the Executive Branch of government marble halls."

What is Congress' trouble? Why after Watergate should it still linger in this condition of impotence? Even Congress cannot escape its responsibilities with regard to impeachment; for a decision not to impeach would represent a solemn congressional judgment that Mr. Nixon had done nothing to warrant impeachment and would therefore license his successors to do what he has done. But, apart from impeachment, the post-Watergate Congress, even though controlled by the opposition party, seems rather less consequential than the so-called "rubber-stamp" Congresses of New Deal Days.

It is saddening to reflect on the decline of Congress over the last 40 years. It is not a decline in the quality of its membership. Congress has rarely had a higher average level of intelligence and concern than it has today. Anyone who spends much time testifying before congressional committees is impressed by the thoughtful questions and by the serious desire to get at the substance of problems. But Congress as a whole matters less in the balance of government than it did 40 years ago.

The so-called rubber-stamp Congresses of the 1930s, for example, imposed a number of important laws on the Roosevelt administration. The Federal Deposit Insurance Act and the Wagner Labor Relations Act both originated in Congress. Moreover, though the average ability may be higher today, there were many more men of real power and will in Congress then—men whose views, whose very whims, even Franklin Roosevelt had to take into account. Can one imagine a Majority Leader resigning today because he disapproved of a presidential action as Alban Barkley did in 1944? In those years the Senate contained men like Norris, La Follette, Borah, Carter Glass, Hugo Black, Burton K. Wheeler, Jimmy Byrnes and Joe Robinson, Vandenberg and Taft, Wagner and Barkley, McNary and Truman, William Gibbs McAdoo and Huey Long. They were proud, independent and self-reliant men, like barons in the days before the king had broken the feudal system and created the modern state. FDR worried about them, talked to them, propitiated them, in short took them very seriously indeed.

The present crowd is less egotistical, better informed and probably more responsible than the Congresses of 30 years ago; but far from easier for Presidents to ignore. Congress itself, in its periodic fits of bemoaning lost powers, likes to go in for mechanical explanations of its low state. If only Congress had more information, more staff, more computers and so on, then at last it would be equipped to take on the Executive. I am all in favor of Congress having more information, staff and computers, but I do not think this is the problem. Of Hubert Humphrey's four points—staff, expertise, information and will—the last is vital. The others are alibis. Congress can get all the staff, expertise and information it needs. What it lacks is the will to use the power it has. The fault, as usual, is not in their stars, but in themselves that they are underlings.

A CONSPICUOUS EXCEPTION

The barone of 40 years ago did not have computers. What they had was a willingness to challenge Presidents. Today all too few Senators are ready to take on Presidents in a sustained and purposeful way and least of all in the field of foreign affairs. A conspicuous exception is Sen. J. William Fulbright of Arkansas. He is one of the few Senators whom contemporary Presidents have to take into account—one of the few who make a difference to the constitutional balance. His courage, his knowledge, his grace and clarity of expression have been a strong congressional weapon against a foreign policy run imperiously out of the Oval Office. As Sam Ervin educated the country about the Constitution, Bill Fulbright educated us about the Indochina war. One may disagree with things Sen. Fulbright has done or positions he has taken, but he has been steadily on the side of reason and restraint in foreign policy, and he has made Congress matter in the conduct of our foreign affairs.

There is a strong possibility that Sen. Fulbright's time may be over. The popular governor of Arkansas, Dale Bumpers, has challenged him in the Democratic primaries. The election is on May 28. Gov. Bumpers is well ahead in the polls. From all one hears, Gov. Bumpers is an attractive and liberal-minded man. But, for those who care about restoring the balance of the Constitution, the defeat of Sen. Fulbright would be a grave setback. Congress cannot afford to lose those few among its members whom Presidents have to take into account. If Sen. Fulbright is beaten, Sen. Sparkman of Alabama is next in line to become chairman of the Foreign Relations Committee. John Sparkman has served the Republic well. But he will be 75-years-old this year; his best years are behind him; and he has never had Sen. Fulbright's skeptical and inquiring mind in international relations.

The voters of Arkansas will make their own decision for their own reasons. But if they care about the effort to reestablish Congress as an effective partner in the American process of government, they will send Mr. Fulbright back to the Senate. And unless Congress recovers a sense of its own powers and the courage to use them, the imperial presidency will survive even the conviction and removal of Richard Nixon.

ECONOMIC ANALYSIS

Mr. **BROCK**. Mr. President, the issue of free trade is a difficult one for all of us. Nevertheless, it is one of great concern to the entire Nation. This is clearly discussed in last week's Wall Street Journal.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AUTO INDUSTRY PROTECTIONISM HIT

A number of influential Congressmen are making noises about imposing quotas on foreign car imports into the United States, although so far only one has actually introduced legislation to that effect. Nevertheless, protectionist sentiment is clearly growing on Capitol Hill. And officials of the United Auto Workers, in a significant departure from their usual trade position, are seeking to persuade foreign manufacturers to voluntarily restrict their exports of motor vehicles to the U.S.

The reason free trade is losing ground this time around is because of the recent slump in U.S. auto production, which during the second quarter is expected to be the lowest in more than a decade. But overall production figures can be misleading. Output is down not so much because the demand for new cars has fallen, but because Detroit hasn't yet completed its changeover to meet the widespread demand for little cars brought about by the energy shortage.

Nevertheless, the UAW and its congressional allies propose to meet the nationwide demand for small cars by restricting the importation of small foreign cars. Somehow the logic of that decision eludes us. So does the logic of trying to limit small car imports at a time when the need to conserve fuel has never been more urgent.

The trouble with protectionist arguments is that they view economic questions from the narrow, short-term perspective of producers who feel their interests are threatened. While the concerns of the producers are sometimes valid and certainly understandable, the nation's long-term interests of producers are served as well, since competition forces them to adapt to changing conditions and thereby remain vigorous enough to survive.

The world has come a long way towards free international trade in the last 15 years or so, with enormous economic benefits to everyone who has participated. There indeed have been adjustment problems and those problems have at times become acute in some industries both in the U.S. and abroad. Recent attempts by primary producers, particularly the oil nations, to interfere with free markets have posed a threat to those gains. But a retreat from free trade at this point led by the United States could be disastrous to the world economy. The interests of U.S. auto workers and everyone else will be better served by adaptation and competition for the small car market.

CONGRESS SHOULD HELP EMPLOYERS HELP EMPLOYEES

Mr. **HANSEN**. Mr. President, by tabling the Dominick amendment to revise the Occupational Safety and Health Act, the Senate refused an opportunity to correct some serious inequities affecting employers which this act has imposed, and to make it easier for them to provide conditions for their employees which comply fully with the provisions of the act. It was the original intent, after all, of the Congress, to guarantee safe and healthful working conditions for employees in this country. That is what the Occupational Safety and Health Act was and is all about. Placing impossible obstacles in front of employers and imposing unnecessarily harsh punishment on them will not better the lot of employees.

The Dominick amendment, which embodied the provisions of S. 1147 did not alter the intent of the Occupational Safety and Health Act to protect the working people of this country. To the contrary, it enhanced this objective, and facilitated compliance by employers with the requirements written to protect employees. It was a very good amendment, and I hope my colleagues will consider it again in the future and approve its passage.

The act, as presently written, places too much emphasis on punishing employers for noncompliance, and not nearly enough on assisting employers with compliance so that workers will be fully protected.

Certainly, it is reasonable to penalize employers who neglect to provide safe working conditions, or who decline to correct identifiably hazardous conditions which represent a threat to employees. But it does not make sense to punish employers for the sake of punishment, particularly when almost all of them are willing to comply, but in some cases are unable to do so, because of inability to determine their responsibilities.

What Congress must do now that we have observed for a reasonable period the operation of OSHA and the inequities that some of its provisions cause, is revise the act where needed in order better to achieve its intent: the protection of the health and safety of employees.

Instead of coercing and harassing employers into compliance, it would make more sense and result in greater success to take steps to inform them first of their obligations, so that lack of knowledge and understanding will not be the basis of noncompliance. As presently written, the Occupational Safety and Health Act actually does a disservice to the employees it was designed to protect, because it does not enable employers to do the best job of protecting their workers. The act imposes on employers hundreds of complicated and in many cases vague requirements which must be met under threat of citation and possible punishment, but denies them the help that would permit them to comply and thereby to provide the ideal working environment the act seeks for employees. If an employer is unable to comprehend what the act requires of him, citations and fines will not necessarily increase his understanding of the rules; nor will these punitive actions enhance his ability to comply. The Dominick provision to permit onsite consultation would greatly increase the ability of small employers to learn what their obligations are and to bring their operations into compliance.

Also, Mr. President, the Dominick proposal would rescind OSHA's discretionary authority to assess penalties for nonserious violations on the first inspection. It is not reasonable to subject employers to fines up to $1,000 for nonserious violations discovered during the first visit to the premises.

Further, the Dominick amendment would change the penalty for serious violations from mandatory to permissive, requiring OSHA to take into account the seriousness of the violation, the good faith of the employer, and his record. Under our system of justice, judges imposing sentences on those convicted by a jury for committing a crime often have authority to consider circumstances in arriving at a sentence. Employers cited under OSHA provisions do not have the benefit of a jury trial, and should not be subjected to mandatory fines regardless of the circumstances of the violation.

The Dominick amendment also permits an employer who has been cited to apply for a variance from the standard violated on the ground that work procedures in operation at the time of the citation are equally effective in protecting his employees. It does not make sense to impose punishment for practices or conditions which do not constitute a threat to the health or safety of employees. The employer should have the right to prove if he can that a variance from the standard is merited.

The Dominick amendment provided

that citations for violations need not be displayed by employers after the violations have been corrected. Such a requirement is ridiculous, and serves absolutely no purpose other than to needlessly punish employers. It contributes nothing toward the safety of employees.

And, the Dominick amendment required the Occupational Safety and Health Administration to consider the economic impact of proposed new standards, and to publish such economic data in the Federal Register along with the standards. Too often, Federal agencies impose requirements and restrictions on individuals or industries which result in substantial compliance costs. When regulations are imposed, OSHA should be required to take into account the potential cost to industry and employers of complying with the regulations. Such a requirement might instill within OSHA a healthy respect for and understanding of the problems faced by employers in meeting the act.

Mr. President, every member of the Senate has heard from constituents who have had problems complying with the Occupational Safety and Health Act, or who tried to comply, but were cited and fined despite their best efforts. We have all read countless articles both pro and con about the act as it presently is written, and about changes some feel should be made. I ask unanimous consent at this time that two articles dealing with OSHA appear in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HANSEN. I hope in the future we will have another opportunity to discuss the Dominick proposal to amend OSHA, or any of the several pending bills designed to correct the inequities in this law. I think it is unfortunate the Senate tabled the amendment during debate on the National Labor Relations Act, and I feel at some point we should face the issue of OSHA and provide the relief to employers that is so clearly deserved.

Exhibit 1

"An Asinine Situation"—New Job-Safety Rules Perplex the Owners of Small Businesses; "Needless" Costs Cited

(By Michael Jett)

Henry Weast of Dahinda, Ill., is quitting the heavy-excavation business. He says he can't afford it any more.

It isn't that the business wasn't profitable. It was a steady money maker, and in Mr. Weast's view, it might have continued that way for a long time. It might have, except for one thing—OSHA—more formally known as the Occupational Safety and Health Act of 1970.

Among other things, that massive piece of safety legislation would have required him to spend $150,000 to install safety devices on his equipment to protect operators in case the machinery toppled over. "It just looked like there would have been no end to spending money," says Mr. Weast. "If I had fixed up one thing, they would probably have found something else."

As a result, Mr. Weast and his two partners have already dismissed 20 employees and they are currently trying to sell their machinery. From now on, they plan to continue selling sand, gravel and other building materials, but that end of the business accounted for only about 20% of their total $1.5 million volume last year.

COSTLY AND "FOOLISH"

The reaction of Mr. Weast and his partners to the stringent new regulations may have been drastic, but their quitting the excavation business illustrates one effect the law has had on countless thinly capitalized small businessmen across the country. In a variety of ways, small businessmen say, the OSHA regulations—covering safety matters ranging from hard hats and guard rails to exit signs and safety posters—are causing widespread confusion, anger and frustration.

At the core of their problem they contend, is the fact that practically every regulation—and they brand many of them foolish—requires them to spend money on measures that don't contribute to either safety or efficiency. Moreover, they complain, many of the highly technical regulations are incomprehensible to the layman. And even if the rules can be understood, these people add, compliance is difficult. In fact, by some estimates, as many as 20,000 specific rules and regulations apply to any single work establishment.

Indeed, the sheer bulk of the regulations is intimidating, and countless businessmen say that after they have waded through them all, they're hopelessly confused. Marvin Krauss, a furniture shop owner in South Amana, Iowa, says: "There are about 300 pages with pretty small print in the construction standards, and it's pretty darned hard to pick out exactly what fits you sometimes. You almost have to have a lawyer to figure it out."

Such complaints are becoming routine for officials charged with overseeing and enforcing the act. An OSHA spokesman says, however, that "some over-reaction" is to be expected. "Most of the complaints from small business people arise not from actual inspections, but from the fear of what might happen should there be one," he says. Unless there has been an accident or a complaint by an employee, the OSHA man says, smaller concerns are much less likely to be inspected than larger firms. He adds that if a small businessman finds himself in a financial pinch as a result of the regulations, he can always apply for a Small Business Administration loan, as provided in the act.

Due in part to the confusion and lack of understanding of some of the overlapping rules, numerous small businessmen are reluctant to talk for attribution—they're worried about what might happen if an OSHA inspector should see their names and then decide to drop by. "I'd hate to meet Mr. OSHA tomorrow because of my discussion with you," says a Midwest farm-equipment dealer who has spent nearly $100,000 on new equipment and repairs to satisfy safety rules. "We'll only know if we can really comply after somebody tears us apart." Like many other businessmen, he replaced a number of round toilet seats with horseshoe-shaped ones before OSHA rescinded the toilet-seat rule.

"AN ASININE SITUATION"

According to Herbert Liebenson, legislative vice president of the National Small Business Association, many of the fears expressed by small businessmen arise "because the Labor Department has done a very poor job of notifying people what to expect under the law." In fact, many businessmen say they still don't understand how the law is administered, and they worry they will have to answer to inspectors who know almost nothing about their particular type of business.

"OSHA worries the hell out of me," says Ralph Zuber, manager of a furniture store in Amana, Iowa. "I want to comply, but I've got to keep making a living. Did you know we've even got to paint the electrical outlets orange? Why, I don't know."

Adds James Curless, an International Harvester franchiser in Fairmount, Ind.: "It becomes an asinine situation. The dangerous facets of our business are virtually beyond anyone's control. One of our employees got hurt when he bumped the automatic transmission lever on a tractor and it rolled over his leg. No laws can cover anything like that."

What angers many small businessmen the most, however, is the cost of complying with the regulations. "I spent about $250,000 for four new punch presses, to enclose a conveyor, some electrical work and other things," says the owner of a metal fabricating shop in the Southeast, "and I don't think it did any good for safety or production. The punch presses, costing $15,000 to $30,000 apiece, had to be replaced only because they were too noisy. Those machines had been declared literally unusable."

COST MAY BE HIGHER

A survey of its members by the National Association of Manufacturers shows small concerns of one to 100 employes estimate it will cost them about $33,000 each to comply with the act. But that figure may not tell the whole story. Kenneth E. Schweiger, the association's director of employe relations, says the real cost to the small businessman is probably much higher. "He doesn't know what's expected of him," says Mr. Schweiger. "Smaller business has grossly understated estimates of the cost."

Further, once the money is spent, employers still can't be sure if they're in compliance. "I spent $125,000 directly to meet the law," complains a Midwestern contractor. "And after I spent the money I was inspected three times and was fined every time for some minor violations. There's no way I can meet the letter of the law as it's written."

When it comes to spending the money, many small businessmen are faced with a dilemma—what to try to get done first and what to try to get by with. "There's no consistency from one plant to another," complains the owner of several small wood-working factories in the Midwest. "I've been fined at one plant for something that has been overlooked at another. One will come through with flying colors and another will be penalized."

Businessmen "don't know which way to jump," Mr. Curless, the Harvester dealer, says. "They try and do a little at a time and hope that when the inspectors come they won't be too severe. We asked our insurance man to come out and inspect us. He said the way interpretations of the rules change so often, he couldn't even give us a decent inspection."

"I'D PROBABLY GO HOME"

"We've got to write our own ticket," says Bruce Martin, assistant executive manager of the National Roofing Contractors Association. "You can't comply with all of it. What we did was take the construction regulations and got it boiled down to about six pages of the most important standards and told our guys to try to comply with these."

And some are going to try to get by without doing anything at all. "I'd just run myself nuts if I tried to comply," says an Illinois heating and air-conditioning contractor. "I've only got three employes, and in a small business everyone has to be a money maker and that (complying with regulations) would be a full-time job. If an inspector walks in here, I'd probably just hand him the keys and go home. It would be giving up a lot, but it's not worth the worry and frustration."

Whatever the problems the act is causing businessmen around the country, there are still some who must be delighted with the law—the safety-equipment companies. "You take a good hard look," says Mr. Liebenson of the National Small Business Association, "and the economic benefits will go to the insurance and safety-equipment companies."

"Many problems for the small businessmen," he adds, "came about because of the sales techniques of companies selling products for OSHA regulations. They became frightened and started protesting.'

"We have spawned new enterprises in a variety of ways," George C. Guenther, former assistant labor secretary, told a House subcommittee on small businesses last June. "We would hope most of them are wholesome, but certainly there may be those whose consultative services are at less than desirable levels."

Still others may find themselves beneficiaries of the law. Many employers are going to be spending a lot of money on lawyers if they want to appeal a fine they feel was undeserved. Small businessmen almost never have a lawyer on their staffs.

W. C. Williamson, co-owner of an Atlanta roofing company, was fined $600 after an employee was killed when he fell through a hole in a one-story building the company was working on. Mr. Williamson says the man was shown the hole and told not to remove the cover unless there was a foreman present. Why he took the cover off and exactly how he fell through the hole aren't known, but Mr. Williamson thinks he did all he could to protect the man. "I'm going to spend about $2,000 to fight a $600 fine," he says, "but it's the principle of the thing. It would be the same thing if they fined me if he drove his car into a telephone pole on his way to the job."

"Its going to be a full-employment act for lawyers," says Lawrence Stessin, editor of a newsletter dealing with the OSHA regulations. It isn't going to hurt Mr. Stessin either. After sending out a sample issue last October, he was swamped with 30,000 subscriptions in one month. "We're just inundated" with requests for information and subscriptions, he says.

With all the confusion, some shady characters are bound to jump at the opportunity to take advantage of the situation. "The three latest rackets," Mr. Stessin says, are men posing as OSHA inspectors who are actually industrial spies, potential burglars figuring out a plant's security or con men who talk the owner into offering them bribes for not imposing heavy "fines."

SAFETY ACT MADE UNSAFE

(By Bruce Hanson)

The Occupational Health and Safety Act is like many things brought out by our Congressmen and Senators, a twist of the arm. Because it had safety or ecology in its title they naturally felt if they voted against it they would be voting against safety and ecology.

The fact is the law is one which larger businesses can live with but do find annoying and the small businessman gets the hardest blow. In some cases the law could make a small plant or business remodel or even go to the extent of saying it would take a new building to pass OHSA regulations.

Although designed to prevent accidents and help the worker, it has slowed industry and even closed some plants which resulted in the worker losing his job. Many plants are unsafe and need improvement but there are many operations needing only slight improvements. In both situations inspectors from the OHSA have the power to levy stiff fines on the spot and even close down plants found in violation.

The Act is a vast number of pages long and the regulations and rulings from it are said to fill a 17 foot book shelf. Larger industry has the legal staff and finances to at least attempt to interpret the regulations so they may live up to them. The smaller businesses can only ask the general advice of their trade associations and wait in constant fear of the inspectors visit.

A solution would be legislation providing for consultation between the employers and the inspectors so these regulations can be met in a reasonable amount of time. This would give the employer the chance to know what is expected of him.

THE CHARACTER OF THE MAN WHO IS OUR PRESIDENT

Mr. STEVENSON. Mr. President, today's issue of the Chicago Tribune eloquently expresses the indignation and anxiety of most Americans about the character of the man who is our President. That character has been laid bare by his own words, and, as the Tribune points out, little hope is now left for the Nation short of resignation or impeachment.

The departure of Mr. Nixon would not answer an underlying and troublesome question: what defect in our hallowed political process, its procedures, its parties, and the body politic itself, made the election of such a person possible? The debate has brought forward reform proposals, including campaign finance reform, but it has neglected the reform of the process itself by which this self-governing Nation selects its Presidential candidates. What made it possible for such a man to rise to the pinnacle of power in a nation hitherto confident that its democracy would produce the highest levels of excellence and integrity at the highest levels of Government?

This editorial should be read by every Member of the Congress but, as we take up the issue of Mr. Nixon's fitness to remain as President, we should also take up the issue of how to reform the Presidential selection process so that in the future it yields up only our wisest and our strongest.

Mr. President, I ask unanimous consent that a copy of this powerful Tribune editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

LISTEN, MR. NIXON

We saw the public man in his first administration, and we were impressed. Now in about 300,000 words we have seen the private man, and we are appalled.

What manner of man is the Richard Nixon who emerges from the transcripts of the White House tapes?

We see a man who, in the words of his old friend and defender, Sen. Hugh Scott, took a principal role in a "shabby, immoral and disgusting performance."

The key word here is immoral. It is a lack of concern for morality, a lack of concern for high principles, a lack of commitment to the high ideals of public office that make the transcripts a sickening exposure of the man and his advisers. He is preoccupied with appearance rather than substance. His aim is to find a way to sell the idea that disreputable schemes are actually good or are defensible for some trumped-up cause.

He is humorless to the point of being inhumane. He is devious. He is vacillating. He is profane. He is willing to be led. He displays dismaying gaps in knowledge. He is suspicious of his staff. His loyalty is minimal. His greatest concern is to create a record that will save him and his administration. The high dedication to grand principles that Americans have a right to expect from a President is missing from the transcript record.

Mr. Nixon's strategy backfired when he released the transcripts. It was also a strategic error for him to release the record of his income taxes. Both stripped the man to his essential character, and that character could not stand that kind of scrutiny. Both miscalculations demonstrated an essential Nixon defect—an insensitivity to the standards of ethics and morality that Americans expect of their leaders.

He thought disclosure of the records would help him. He has had a demonstration that his countrymen are not that tolerant.

And it should be noted here that the transcripts and the income tax statement were not the fabrications of his enemies. These were self-created instruments of destruction.

His decision Tuesday to disclose no more information leaves the record as it now stands. And as it stands that record leaves no doubt that he lacks the qualities that could edify and inspire his countrymen with confidence in these difficult times.

The statement of his counsel, James St. Clair, that the President is ready for a confrontation with Congress and his own special prosecutor is ominous.

The balance among the coordinate branches of our government—Executive, Judicial and Legislative—is fragile. It has been established on rather comfortably loose terms by nearly 200 years of experience in practicing the special virtues of American government.

The limits of executive privilege, of congressional power, of judicial authority are not rigidly fixed. We would not relish the prospect of forcing the Supreme Court to make hard decisions in the distorting heat of partisan controversy. This is one confrontation this country does not need and we pray Mr. Nixon will not insist on it.

The President is right in urging a quick end to the Watergate affair. His country needs a swift and merciful termination of this agony.

Two roads are open. One is resignation. The other is impeachment. Both are legitimate and would satisfy the need to observe due process.

THE TWO CHOICES

Resignation of the President would be quick and simple and a qualified successor stands ready to assume office.

Impeachment is the judicial process prescribed by the Constitution for removing a President. The House can, and probably will, vote a bill of impeachment quickly. A trial in the Senate would be, and indeed should be, long and deliberate. No suggestions of haste or mob justice could be tolerated. The White House could be expected to seize every opportunity for challenge and delay, and the final outcome might be two years in coming.

The objection to resignation that has been raised—and we have raised it ourselves—is that it would not resolve the issues. It would not answer many of the questions about the President's behavior and degree of complicity. It would leave at least a suspicion that the President had been persecuted instead of properly prosecuted out of office. To some he might remain a martyr. To many it would seem a miscarriage of justice, an example of political exorcism.

The transcripts have changed all that. Tho they may clear Mr. Nixon of direct complicity in the Watergate burglary and the early stages of the coverup, nobody of sound mind can read them and continue to think that Mr. Nixon has upheld the standards and dignity of the Presidency which he proclaimed himself as a candidate in 1960. He hoped that, if elected, a mother or father would be able to "look at the man in the White

House . . . and say, 'Well, there is a man who maintains the kind of standards personally that I would like my child to follow."

We do not share the White House belief that impeachment requires evidence of a specific crime. We believe a President may be removed simply for failing to do his job, or for discrediting himself that he loses public respect and, with it, his ability to govern effectively.

It is true that this vagueness may tempt opponents to seek to remove a President for political or otherwise inadequate reasons, as they did with Andrew Johnson. But that risk must be accepted. The ultimate arbiter in this matter must be the public, and the public reaction today is clearly one of revulsion. Republican politicians are defecting in droves. The evidence against Mr. Nixon is in his own words, made public at his own direction. There can no longer be a charge that he was railroaded out of office by vengeful Democrats or a hostile press. The fundamental questions have been answered. Filling in the gaps in the transcrips can only make the case against the President stronger.

And so the objections to resignation have largely vanished.

Since the President has rejected this course, we urge the House to act quickly on a bill of impeachment. As the impeachment process progresses, as public opinion becomes clear, and as Mr. Nixon sees support dwindling in the Senate, he will have to reconsider his stand and recognize that resignation will spare the country the ordeal of a trial.

And the Cost of Inaction

There are three urgent reasons for turning the reins of government over to a new President who can concentrate on his job, and for doing so quickly.

First, without decisive leadership in either foreign or domestic matters, the country will drift along aimlessly during one of the most critical periods of history. In country after country, governments are being toppled and threatened because of popular frustration over inflation, hunger, the energy shortage, and the apparent inability of governments to deal with them. It would be a tragedy for the richest and most powerful country in the world to stagger along, immobile, during such a period.

Second, Mr. Nixon has become a liability to his political party as well as to the Republic. The longer he remains in office as a symbol of Watergate and all it stands for, the more likely it is that the Republican Party will be incapacitated for years to come. The health of our two-party system depends on separating the Republican Party from the evils of Watergate and the character of the President.

Third, it is equally important for the future of the Presidency itself that it be separated from the man who now holds it. We must return to the day when people can shiver with pride instead of shudder with embarrassment when they see the flag or hear "Hail to the Chief." Many of the prerogatives of the Presidency are essential to the country, including secrecy when properly justified for reasons of national security or executive privilege. These principles have been prostituted in order to preserve Mr. Nixon himself and those around him. The longer this goes on, the more likely these prerogatives are to be forfeited—in the public mind if not by act of Congress.

It is saddening and hard to believe that for the first time in our history, it is better that the President leave office than to fight to keep it. But things have reached such a state that Mr. Nixon's departure, one way or another, is the best course for the Presidency, the country, and the free world. To perpetuate a state of confrontation between the Executive and Congress—in order to define the limits of power which are probably better undefined—will be tragically costly in the eyes of history and the world.

INTERNATIONAL DEVELOPMENT ASSOCIATION

Mr. PACKWOOD. Mr. President, the Senate will soon be considering a bill to provide for U.S. participation in the fourth replenishment of the International Development Association—IDA—the multilateral lending agency which helps the least developed nations improve their economies, and hopefully bring millions of people above the starvation level.

Many countries in West Africa and Asia are facing severe problems, because of drought, rising populations, and inadequate access to technology. IDA is one agency which has helped alleviate these problems by providing development finance and technical assistance on realistic terms for these poverty-stricken nations. Yet despite gains made in the past few years, these countries in the ensuing months may find themselves in desperate straits. Progress painstakingly pieced together over hard, lean years, may be lost unless we continue the work of IDA to afford these nations the vital support needed for their minimum sustenance.

Today, the countries of which I speak are populated by 800 million people; 25 percent of the children die before their 5th birthday; 40 percent remain illiterate; and the average lifespan is 32 years. Amazingly, the situation has been worse, but what I find particularly disturbing is the fact that because of increased pressures from rising fuel prices and raw materials, along with currency fluctuation, bare survival may again be outpriced for these countries. This has become the nemesis for poor nations; what progress they have been able to attain may be jeopardized by circumstances over which they have no control—in this case, a worldwide inflation.

The problem, Mr. President, is that at this moment, when these nations obviously need continued support, the United States is considering withdrawing from further sharing in the IDA replenishment. Without U.S. participation in IDA, none of the other donor countries are obligated too. In a word, collapse would be imminent for IDA.

Of course, this connotes grave ramifications for those countries receiving aid, but I would like to relate a peripheral consequence, perhaps escaping the attention of my colleagues. Israel in good faith has joined as a donor country to IDA. Importantly, this signifies a willingness by that country to participate in a regional reconstruction effort in the Middle East; for many of Israel's neighbors who are not oil rich qualify for IDA credits. Egypt, for example, recently received credit from IDA to help fight the dread bilharzia disease which has infected people living along the stagnant tributaries of the Nile River, and thus lessening the agricultural productivity of that fertile valley.

In light of all of this, Mr. President—in light of the extreme importance of this aid to countries in grave economic danger, in light of the opportunity for Israel to additionally demonstrate its belief in a viable peace in the Middle East—the United States is casting a great shadow on the future of IDA, and threatens to snuff out the light altogether. On January 25, 1974, the House of Representatives voted down, 248 to 156, a $1.5 billion U.S. contribution to the fourth replenishment of the IDA. In reflection, the House voted on the measure during admittedly adverse times. The United States was in the worst throes of the energy crisis, and suspicion was rife over motives of third world and OPEC countries.

However, since that vote of nearly 4 months ago, misunderstandings have largely been corrected and additional facts have been brought to bear. Last March, then-Secretary of the Treasury George P. Schultz testified that U.S. participation in the replenishment was more favorable than at other times, because, first, the U.S. contribution has been reduced from 40 to 33 per cent; second, the U.S. portion amounting to $1.5 billion would be paid over 4 years rather than the 3 years of past replenishments; and third, U.S. participation in IDA represents 0.003 per cent of our total GNP and 0.01 percent of our total budget. Using the percentage of GNP as a basis of comparison, the United States ranks 14th among the 16 principal donor nations.

Surely, House action was a temporary aberration in the consistent support of the International Development Association. Fortunately, the Senate in its consideration of S. 2665 will soon be able to correct this oversight. Approval of this legislation would again affirm the U.S. belief that international economic cooperation, especially between the rich and the poor, is essential not only if we are to fulfill the promise of prosperity but, if we are to establish a permanent peace as well.

Mr. President, I recently received a letter from the American Jewish Committee, a group which is representative of a broad-based segment of the Jewish community in the United States, further expressing support for the funding of IDA. I ask unanimous consent that this letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

The American Jewish Committee,
Washington, D.C., April 22, 1974.

Hon. Bob Packwood,
New Senate Office,
Washington, D.C

Dear Senator: The Senate will soon be given an opportunity to correct a most unfortunate situation. I refer to the failure of the House of Representatives to approve the funds requested for the International Development Association. That action was as surprising as it was shocking. Secretary Kissinger's recent speech to the special U.N. session on development must now be followed by concrete actions. None is more important than U.S. adherence to commitments to IDA support.

America is faced with many problems, what with inflation and shortages and fear of recession. But none of this can exempt us from moral responsibility to help the poorest nations of the world meet their daily threats of famine and disease.

An overwhelming Senate approval for IDA funds will, hopefully, encourage the House to reconsider its recent action. I hope you will join in that Senate approval.

Sincerely,

HYMAN BOOKBINDER,
Washington Representative.

GOV. JOHN A. BURNS OF HAWAII

Mr. INOUYE. Mr. President, I wish to share with my colleagues, Gov. John A. Burns' message of love, gratitude and farewell to the legislature and people of Hawaii. During Governor Burns' tenure in the Congress as the Delegate from Hawaii, he made many friends among Members of both Houses, many of whom are still Members, gaining their respect through his sense of dedication, honesty and true concern for the people he served. John A. Burns returned to Hawaii to serve as my State's second Governor. He is now completing his third and last term.

The years under his stewardship have been most fruitful and productive ones, truly justifying the wisdom of Congress in granting Hawaii Statehood. Governor Burns' leadership in achieving congressional support for Hawaiian Statehood has been fully justified by Hawaii's subsequent achievements under his great leadership.

Governor Burns' announced retirement is not only a loss to the State of Hawaii but to the Nation as a whole. In this age of turmoil when the integrity, independence and commitment of public servants is so often a question, the governmental life and times of John A. Burns serves as a reminder that, with courage, dedication and concern for one's fellowman, governmental officials can be deserving of a people's tribute through their exemplary leadership as they contribute to the health and well-being of our Nation.

I know my colleagues will join with me in wishing Governor Burns continued happiness. I am pleased to share with you his farewell address to the people of Hawaii, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

REMARKS OF GOVERNOR JOHN A. BURNS

A MESSAGE OF MAHALO AND ALOHA

Mr. Speaker, Mr. President, Honorable Members of the House and of the Senate, Mr. Lt. Governor, Mr. Chief Justice, distinguished guests, my fellow citizens:

It is with a mixture of joy and sadness that I approach this occasion, in joining you as another memorable session of our Legislature comes to a close. I deeply appreciate the opportunity you have presented me to use this forum for a special message—a message of Mahalo and Aloha.

A full measure of joy fills my heart in the knowledge that we have shared for many years an intimate working relationship and mutual respect in our common endeavors to attain those goals and objectives for which the people of Hawaii have expressed a desire. No words can express the warmth of the bond I share with you.

On the other hand, I am saddened in the thought that this is likely to be the last opportunity I will have for joining with you in a communion of spirit and dedication in behalf of the people we represent. I shall miss the comradeship we have shared for so long.

In looking back over our association, however, I see no cause for any real regrets. The years past have been fruitful and productive. The decisions arrived at here in these halls have enriched the lives of all the people of this State. Notwithstanding the ever-present second-guessers and critics, you have every right to be proud of the consequences of your deliberations in shaping public policy, as is your responsibility.

As that great American, Governor Al Smith, once said: "Let's look at the record!" The record you have constructed is an outstanding record, indeed. Each of you and your predecessors can take justifiable pride in a decade of solid and meaningful progress. Our educational, social, economic and political institutions are no longer accessible only to a select class of people. They have flourished so that equal opportunity for advancement is open to all who have the initiative to develop themselves and to use their God-given talents and abilities.

The record to which you have contributed is an outstanding one because we have had outstanding men and women participate in the making of this record. It is yours to claim as a measure of your own success in public service.

Whatever the achievements of this Administration and of the Executive, such attainments are not to the personal credit of Jack Burns. As Governor, I have only been the instrument through which the hopes and aspirations of our people have been expressed. As Governor, it has been my duty to execute those policies and programs which you of the Legislature have adopted for the sake of Hawaii's people and for their continued advancement. That I personally share your commitment to public progress has only made my responsibilities all the more pleasant and welcome a task.

The co-equality of the Executive and Legislative branches of government, as well as the Judiciary, is a principle to be respected and honored if our system is to endure.

The improvements we seek are incremental; they do not flower overnight. They are attained through diligent pursuit of the common good. Thus, hope and optimism are essential in bringing about change for the better. We erode the human spirit and human initiative by endless negativism and a constant rhetoric of despair; we destroy them entirely by succumbing to dictatorial fiat.

The many achievements in which we share have been the product of a continuing spirit of cooperation, and I am grateful for the opportunity you have given me to work in concert with you of the Legislature.

Looking back now over the years of the Administration and trying to summarize all my thoughts and emotions about Hawaii, I return again and again to one decision of our State Legislature that is symbolic of all that Hawaii is and wants to be. This was your decision a few years ago to designate Kamehameha the Great and Father Damien of Molokai as worthy representatives of these Islands for enshrinement in our Nation's Capitol.

In one, you chose a noble Polynesian alii, gifted in leadership in war and in peace, a contemporary of George Washington and a representative of the deepest ethnic and cultural roots of our mid-Pacific Island society.

In the other, you selected an alien from a foreign land, a missionary teacher and a voluntary servant of the poorest and most neglected of the Hawaiian people.

In this action, Hawaii's Legislature demonstrated its greatness and its deep understanding of our history, our culture, our people, our ideals, our yearnings and our aspirations.

Kamehameha and Damien tell the whole story of Hawaii. They stand as shining inspirations. They have taught us that leadership means service to others.

For me, it has been a rare privilege to be in public service during a period so vital and formative in our State's young history. You have made these years exciting and dynamic, and I would be tempted to savor more of the future with you. But, in the words of Ecclesiastes, "For everything there is a season and a time for every matter under heaven."

God willing, I will, of course, serve out the final months of this, my third and last term as your Governor. I shall do so in the same spirit which has guided my actions from the time I first took office on December 3rd, 1962.

We still have some eight months ahead of us to continue with the work of this Administration and to implement those laws you will adopt in this session. I want to assure you that my decision to retire later in no way means we will be a "caretaker government" for the balance of this term.

On the contrary, we will approach our executive responsibilities, as we have in the past, with our total energies and resources. We will continue to apply the full range of our imagination, our initiative and our industry in carrying out those policies that you determine through this forum.

I want to further assure you that my doors will always remain open to you for consultation and discussion on matters of mutual concern. It is through this interchange, by working together cooperatively, that we have attained our progress to date, and I look forward to meeting with you in the months remaining.

At the time of the death of one of our Nation's greatest leaders, Walter Lippmann observed, in writing of President Franklin D. Roosevelt: "The final test of a leader is that he leaves behind him in other men the conviction and the will to carry on."

I mean no self-serving intent in citing this observation. I repeat it only to remind you of your own future challenges.

In my maiden address before Congress as your Delegate in 1957, I called attention to the desire of Hawaii's people for equal treatment under the laws of our Nation, and of their deep-seated hopes to shape their own destiny. I further suggested that the people of Hawaii, by virtue of their harmonious understanding of the cultures of both East and West, had much to offer the Nation as citizens of a sovereign state.

That this has been proven true, that Hawaii is regarded and envied as the dream of all other societies, is my proudest claim to any degree to prophecy.

Indeed we are one people. We are one people, we are one State. Therein lies the secret to our successes.

And there are in these very halls, as there are among the thousands of young men and women on our university and community college campuses and in classrooms from Hanalei to South Point, any number of individuals who possess the potential for greatness and for future leadership in our State, for service in the tradition of Kamehameha and Damien.

Let us never forget that in human endeavor nothing is beyond reach.

Your own understanding record provides motivation for each of you to continue striving for ever higher goals, to continue dreaming the impossible dream, to pursue what is unattainable today and to make it tomorrow's reality.

Mindful of your capabilities, your dedication and your resolve, I am comforted in my conviction that, whatever the future holds, you of Hawaii's Legislature, the finest in the Nation, can successfully meet any challenge, with honor and with integrity.

With no regrets, with an unclouded conscience, and with the knowledge that we have done our best within our limited abilities, I shall leave this office in due time; I shall leave enriched with countless new and cherished friendships, with nothing but warm memories of years of mutual toil toward noble ends, and with a deep and abiding love for the people in whose cause we have sought a life of public service.

To each of you, I extend my very best wishes for continued success, Mahalo, Aloha and God bless you all.

WOMEN'S RIGHTS

Mr. BROCK. Mr. President, the issue of women's rights is an important subject which affects all of us. The issue seems to have taken a back seat, however, to other outstanding news events. This is not to say that progress in this area has ceased. On the contrary, due to the tireless efforts of many remarkable women, traditional attitudes and ideas concerning women's place in our society are changing and new paths and lifestyles have been made available to them.

Women are now rightly taking advantage of such opportunities and proving their parity in the world of business to the advantage of all of us. This progress is shown in an article in the Wall Street Journal of April 15, 1974, which contains several examples of women's participation in the business world.

Mr. President, I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

For Some Feminists, Owning a Business Is Real Liberation—Women's Movement Spurs Female Entrepreneurship; Politics and Profits Mix

(By Bill Hieronymus)

The hiring practices at Diana Press Inc. are downright discriminatory, and co-founder Coletta Reid doesn't care who knows it. "Men don't touch any job that we do," she boasts. "Our goal is to help other women."

A Baltimore-based publishing and printing concern owned and operated by women, Diana Press not only shows male job applicants the door, it refuses to accept male customers. (Its owners say they have more business than they can handle from women.) The company's avowed aim—besides making a profit—is to promote the feminist cause and bring more women into business at all levels.

As such, Diana Press has much in common with a host of new feminist businesses that have come into being since the women's liberation movement began to gather steam in the late 1960s. These companies range from personnel-placement and management-counseling services to manufacturing concerns turning out everything from male-chauvinist-pig pincushions to aprons for women who hate housework.

THE NEW IMMIGRANTS?

Precise statistics on the number of companies founded or acquired by female entrepreneurs aren't available. But their ranks are swelling. "The New Women's Survival Catalog," a recently published directory of firms serving the feminist market, lists more than 500 such companies. The Center for Venture Management, a nonprofit Milwaukee organization that studies small businesses, reports a sudden surge in the number of women attending its seminars on how to start a business. "It used to be there were only wives with their husbands," says director John Komives. "Now they're women on their own." Generally small in size, the new feminist businesses are scattered from coast to coast and exist mainly by buying and selling to one another.

"What we're seeing is the first step in an evolutionary process," says Lawrence C. Hackamack, a small-business specialist at Northern Illinois University in De Kalb, Ill., who compares the businesswomen to earlier generations of immigrants starting out in American society. "Like the Italians and Greeks, the women are selling first just to their own people," he says. As they get more experience, he predicts, they will follow historical precedent and expand into more extensive markets.

According to observers like Prof. Hackamack, the rising number of female-owned businesses reflects the degree of cynicism many women feel about their chances for success in conventional male-dominated corporations. Indeed, many of the feminist entrepreneurs say the main reason they cut loose from traditional jobs was a belief that they were being barred from advancement because of their sex. "Basically, we found that we couldn't get anywhere as women," says Stephanie L. Marcus, who teamed up with Rose Fontanella, another commercial artist, to found Liberation Enterprises, a Brooklyn, N.Y. novelty concern.

LEADING THE PACK

Though few of the companies with a niche in the feminist economy are making it big, some are well on the way. The most visible of these successful enterprises is Ms. magazine, a monthly serving as advertising medium, market research arm and cheering section for the women's movement. Ms. had a head start, being better capitalized than perhaps any other firm in the feminist market. In addition to a number of individual investors, Warner Communications Inc., New York, agreed to invest up to $1 million in Ms. in return for a 25% ownership. Actually, Ms. needed only about half that much before becoming profitable. Patricia Carbine, publisher and editor-in-chief, says Ms. became profitable less than a year after the first issue appeared in mid-1972. Since then, profits have been steadily improving, she says, although she declines to give specific figures.

Flush with success, Ms. officials are planning a series of new projects to boost profits further. A new division is being created to make the magazine's expertise in the feminist market available for a fee to other concerns. In addition, Ms. is sounding out insurance companies about possibly offering policies to readers. And, it is considering a joint venture in the toy business, a movie and a radio show.

Ms. has such influence among feminists that an ad placed in it or a passing mention in an article is enough to produce a financial windfall for small companies. Liberation Enterprises was limping along until an article appeared in Ms. describing how it was founded. Besides producing an avalanche of orders, the article prompted a flood of fan mail from women who had been inspired to start their own businesses. Pat Windle, co-owner of Those Uppity Women, a jewelry concern in Indialantic, Fla., says "Right around the time of the month that Ms. comes out, our business surges up to $300 a day for about a week." Normally, she says, the company's sales run around $75 to $80 a day.

What sets many of the feminist concerns apart from conventional businesses is their dedication to politics as well as profits. "We feel very strongly that we're serving the women's movement," declares Stephanie L. Marcus of Liberation Enterprises.

Scores of the newly formed businesses are supporting the movement with more than just good intentions. Editors of the fast-selling "New Woman's Survival Catalog," for instance, have pledged a minimum of 20% of the book's royalties to the feminist cause. Similarly, Those Uppity Women promises in its ads to plow back 10% of its profits to women's rights groups.

Strong commitment to the principles of women's liberation lead feminist enterprises to seek out the services of other such concerns. For example, many feminist businesses plan to use First Women's Bank and Trust Co., a New York bank organized by women that recently won preliminary approval from state regulatory authorities. "We plan to give women the kind of credit they would get if they were men," says Sarah Kovner, one of the organizers. "Credit won't necessarily be any easier, it will just be credit like men can get at other banks," she says. The stick-together philosophy motivated Lammas Arts & Crafts, a Washington, D.C., concern run by women, to hire a feminist accountant and a feminist lawyer. And, while New Feminist Talent Associates, a New York speakers bureau, hasn't had much luck interesting big companies in its roster of specialists in the women's movement, it is doing big business on campuses and before women's groups.

Typically, feminist companies are more willing than conventional businesses to experiment with new, looser work patterns and organizational structures. Many are making a deliberate effort to break away from what they view as oppressive hierarchies existing in conventional companies. "The male is losing some of his human dignity" in traditional organizations, asserts Judith Meuli, who left a job as a technician at the University of California's Medical Center in Los Angeles to start selling jewelry, graphics and other feminist products. "The women I've talked to want to start their businesses . . . without losing some of their humanness," she says.

Anne Pride, a member of Know Inc., a Pittsburgh publishing concern, says, "We work as a collective and don't have any titles." In Washington, Carol Burris, a founder of Women's Lobby Inc., a firm formed to represent women's interests on Capitol Hill, says: "We're trying not to set up a male type of hierarchy where some women do all the interesting work and others do all the . . . work."

In practice, hang-loose work patterns tend to tighten up as a business expands and begins to confront thorny problems demanding the expertise of specialists. Know Inc. learned this lesson the hard way. After discovering that one member of the collective was engaged in old-fashioned embezzlement, it turned over its financial matters to a professional accounting firm.

MINNESOTA CONTRIBUTES TO THIRD ANNIVERSARY OF NATIONAL PUBLIC RADIO

Mr. HUMPHREY. Mr. President, Minnesotans long have been proud of the Minnesota Opera Co., and now the rest of the country will have the opportunity to learn why.

National Public Radio, the network of 164 noncommercial radio stations across the Nation, has received an assistance grant from the National Endowment for the Arts to record and distribute three performances of the Minnesota Opera Co. The high quality of the recording, which public radio listeners have come to expect, certainly will preserve the excellence of Minnesota Opera when it is heard nationwide.

On this occasion of National Public Radio's third anniversary, I would like to point out that the young network has made an excellent track record for itself. Public radio across this country is about as diversified as the country itself. NPR's role is to lend cohesion to the system of stations existing without commercial funds.

I particularly want to comment upon

NPR's insight in recognizing and even rejoicing in American diversity, and reflecting all the variations on the common theme of humanity in its daily program "All Things Considered . . ." Oliver Towne, columnist for the St. Paul Dispatch, said it best in an article of April 11, 1974.

Mr. Towne's observations of the input from Minnesota into this daily program heard nationwide also apply to other States. But we in Minnesota are proud of our contribution.

Public radio finds solid support from the citizens of Minnesota. The stations referred to in Mr. Towne's column include the growing Minnesota Educational Radio—MER—network, a strong and effective organization which just recently raised $88,000 in public donations for its stations and increased its membership to 8,100. Among the services offered by MER is "The Radio Talking Book," programing designed for a blind audience which is broadcast on an FM subchannel simultaneously with main-channel broadcasting by MER stations for a general audience.

In Minneapolis-St. Paul, KSJN–FM facilities include a specially funded news and public affairs production center; consequently, its contribution to public radio programing is substantial. With other stations in the State, public radio offers Minnesotans different and stimulating listening.

Minnesota, as other States, can recognize the assistance it lends to making public radio a viable force in the United States. And the interconnected network of National Public Radio is to be commended for its 3 years of leadership in noncommercial radio broadcasting.

Mr. President, I ask unanimous consent that the article by Mr. Towne be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the St. Paul Dispatch, Apr. 11, 1974]

Now a Word . . . !

(By Oliver Towne)

Driving home last week on the day after tornadoes whirled through mid-America, I was listening to the details in a radio news broadcast, filled with word pictures of death and devastation.

Suddenly there was a break for the commercial—a gent with an insipid, fake "Park Avenue-ish" voice pitching for a certain brand of Vermouth.

Talk about a credibility gap.

They do it all the time. The newscaster is giving out with the world-shaking events in stentorian tones and, presto, there comes that 30 or 60 seconds of touting some perfume or motor oil or deodorant.

"The sky just fell down folks, and we'll have all the details, but first a word from your friendly brewer."

There are recourses. You simply can shut off the radio or, at the right time of day, tune in to any of the National Public Radio Stations—KUOM, WCAL–FM and KSJN–FM, for their own newscasts or "All Things Considered," which is a complete and in depth hour and a half recital of what's happening in the world. And without a single misplaced commercial. In fact, no commercials at all and no announcers trying to become legends, heroes or personalities.

Odd as it may seem for a newspaperman to speak up for another media. "All Things Considered" is my favorite news gap filler between the Dispatch and Pioneer Press.

You can start picking this program up on the air at 4 p.m. and it runs through 5:30 p.m. on KUOM and WCAL–FM. KSJN broadcasts the same program a half hour or so later.

This is no capsule news digest. It roams the country, bringing in-depth coverage of every big news story. On the day after the tornadoes, no less than eight affiliated NPR stations were called in for on-the-scene descriptions.

When newsmakers appear at the National Press Club in Washington, you get them live on microphone with substantial excerpts.

There are, as a matter of fact, some personalities reaching quality status. KSJN's Kevin McKiernan ought to get an award for his coverage of the Wounded Knee trial.

His scoop was a long "rap" session with Judge Fred Nichol, presiding judge, whose remarks about law and justice were worth recording.

McKiernan's taped interview was re-broadcast on the National Public Radio network, as are many items originating in the KSJN studios in Park Square Court overlooking Smith Park.

Humorous satire by Dudley Riggs Espresso Coffee-house players in Minneapolis are regular vignettes on the network shows.

The voice of the late Mahon (Roy) Thomas, St. Paul police officer and beat patrolman at Ninth and St. Peter, was heard by National Public Radio audiences across the country in a series about what policemen really feel about their jobs, the public, crime and lawbreakers.

During the late energy crisis, "All Things Considered" made it a daily habit of checking gasoline shortages with on-the-spot interviews at four or five locations around the nation. You got the stories from the mouths of filling station operators, motorists waiting in line, oil-company executives, suppliers.

Very little is packaged. I call it candid radio.

You can hear Vice President Ford in an off-cuff discussion of some major issue, and a cosmetic company research scientist explaining his reaction to claims that a propellant in one of his firm's aerosol cans may cause cancer if inhaled for a prolonged time.

And you're not going to get the latest bulletin on the Patricia Hearst story, interrupted by a commercial for toilet paper, written by some ad man who doesn't know some people still think about what they hear.

NATIONAL HISTORIC PRESERVATION WEEK—PART IV

Mr. BEALL. Mr. President, during my remarks yesterday in observance of National Historic Preservation Week, I discussed the favorable comment S. 2347, the Historic Structures Tax Act, has received from a number of historic preservation organizations and various State and local officials. Today I intend to address myself to the favorable comment the cause of historic preservation has received on the Federal level. I will specifically introduce material into the Record regarding the reaction of specific Federal agencies to the Historic Structures Tax Act.

Mr. President, before proceeding with my discussion of this bill, I ask unanimous consent that a section-by-section analysis of S. 2347 be printed in the Record at this point in the statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Exhibit 1

The Proposed Historical Structures Tax Act—Section-by-Section Analysis

TITLE I—SHORT TITLE

Title I labels the Act as the Historical Structures Tax Act of 1973 and specifies that all amendments contained in the Act are amendments to the Internal Revenue Code.

TITLE II—PRESERVATION AND REHABILITATION OF HISTORIC STRUCTURES

Title II contains provisions intended to encourage preservation of historic buildings and structures certified by the Secretary of the Interior as registered or qualified for registration on the National Registry. In addition, the Bill limits depreciation to the straight-line method in the case of buildings constructed on sites which were formerly occupied by demolished historic structures.

Section 201

Section 201 adds a new section 189 to the Code, permitting a 5-year write-off of rehabilitation expenditures incurred with respect to historic structures which are used in the taxpayer's trade or business or held for this production of income provided that property acquired in connection with such expenditure is otherwise eligible for the depreciation allowance.

On the disposition of a certified historic structure, gain would be treated as ordinary income to the extent that the special write-off provided under this section exceeded the depreciation deduction which would have otherwise been allowable (without regard to this provision). This section would apply with respect to all expenditures made after February 15, 1973.

Section 202

Section 202 would add a new section to the Code providing that no deduction would be allowed for amounts expended in the demolition of a registered historic structure, or for the undepreciated cost of such a structure. Both items would have to be allocated to the basis of the land. The section would apply to all demolitions occurring after the date of enactment.

TITLE III—REHABILITATION OF OTHER PROPERTY

Section 301

Section 301 would add a new subsection (o) to the general depreciation rules of section 167. Under this new provision, if a taxpayer substantially rehabilitated depreciable property, he would be permitted to elect to compute depreciation with respect to his pre-existing basis in the building as though the entire structure was first placed in service by him. This will permit a taxpayer who purchases a used building and rehabilitates it to utilize so-called accelerated methods of depreciation, a privilege which is not now accorded taxpayers under the law.

In order to qualify for this special treatment, the amounts added to capital account during a 24 month period must be at least $5,000 in amount and must be greater than the undepreciated cost of the property, determined at the beginning of the 24 month period. The provision is effective with respect to such expenditures incurred after June 30, 1973.

TITLE IV—CHARITABLE TRANSFERS FOR CONSERVATION PURPOSES

Title IV provides several amendments to the charitable contribution provisions in section 170 of the Code, the effect of which is to permit a charitable contribution deduction for certain types of transfers which are not presently allowed under the law. Specifically, section 401(a) provides that a charitable deduction will not be denied on the transfer of a partial interest in property, where the interest is either an easement of 15 or more years duration granted exclusively for conservation purposes, or is a remainer interest in real property which is granted exclusively for conservation purposes. "Conservation purposes" mean the preservation of open land areas for public outdoor recreation or education, or scenic enjoyment; the preservation of historically important land areas or structures; or the protection of natural environmental systems.

These amendments would apply with respect to contributions made after February 15, 1973.

Mr. BEALL. Mr. President, this proposal would harness the constructive aspects of our Federal tax system so as to preserve historically significant buildings, encourage the rehabilitation rather than the demolition of older buildings in our urban centers, and increase the development of additional open spaces for public use. The Historic Structures Tax Act is a modified version of legislation that has received the strong support of the President and the Secretary of the Treasury, former Secretary Shultz, in a letter to the President of the Senate dated February 19, 1973, stated that—

> The bill would . . . encourage greater rehabilitation, rather than demolition, of older buildings in our urban areas. The legislation is similarly designed to make restoration of historic structures more appealing to private investors. Finally, the bill modified certain restrictions on the deductibility of charitable gifts of partial interest in land to be used for conservation purposes.

Although I have modified the legislation originally transmitted to the Senate by former Secretary Shultz, I believe that I have preserved three of the major substantive initiatives contained in the draft bill, and I am confident that the legislation I am sending to the desk today is completely compatible with the program of the President and will receive the administration's enthusiastic support.

In his state of the Union address, President Nixon referred to historic preservation by saying that "we have an irreplaceable historic and architectural heritage." The President went on to say that he had proposed legislation "to discourage the demolition of historic structures and to encourage their rehabilitation." In a letter dated October 17, 1973, Mr. Dana G. Mead, Associate Director of the Domestic Council, reinforced the President's interest in this legislation by stating that "we have no objection to your legislation and would support S. 2347." Mr. President, I ask unanimous consent that Mr. Mead's letter be printed in its entirety at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. BEALL. Mr. President, the commitment of President Nixon and Secretary of the Interior Morton to the cause of historic preservation can also be seen in recent budget figures. In 1969 only $100,000 was appropriated for the grant-in-aid program for historic preservation which is administered by the Department of the Interior. That rose to $11.5 million in fiscal year 1974 and the President has requested $20 million—the full amount authorized—in fiscal year 1975. This budget increase is nothing short of astronomical but it still does not come close to what is needed to preserve our heritage. To meet the need, we must mobilize private funds and to mobilize private funds we must revamp our tax laws so as to negate certain existing tax incentives to demolish existing structures and replace them with positive incentives to encourage rehabilitation and restoration. This is exactly what S. 2347 is designed to do and that is why I am so deeply committed to its enactment.

Mr. President, shortly after introducing S. 2347, I wrote to each member of the National Advisory Council on Historic Preservation relative to this legislation. Many Cabinet members and heads of Federal agencies serve on this Council and I was pleased to receive favorable reports from most of them. The Honorable Claude S. Brinegar, Secretary of Transportation stated that—

> This Department has followed the legislative history of the Administration's environmental proposals with considerable interest. We believe that these proposals could provide a much needed financial incentive for increased environmental concern at the same time that they would eliminate certain loopholes in our current tax structure which have acted as deterrents to the preservation of historic structures. . . .

The Assistant Secretary of the Treasury, Frederic W. Hickman, noted that—

> This bill would help . . . encourage greater rehabilitation, rather than demolition, of older buildings in urban areas; make restoration of historic structures more appealing to private investors and encourage charitable gifts of partial interests in land to be used for conservation purposes. The encouragement of rehabilitation in urban areas, the preservation of historically significant buildings and increased dedication of open space for public use are essential goals which will enhance our environment.

Mr. Kenneth M. Brown, legislative counsel to the Department of the Interior, in a letter dated November 5, 1973, said:

> The President, in his State of the Union Message on Natural Resources and the Environment of February 15, 1973, called for revision of our tax laws to encourage rehabilitation of older buildings. S. 2347 would help to implement this policy by providing tax benefits and disincentives to encourage rehabilitation of certain historic structures. It would also provide tax benefits for certain transfers for conservation purposes.
>
> We strongly support the historic preservation provisions of S. 2347, as well as the provisions allowing charitable deductions for certain transfers for conservation purposes.

Mr. President, I received other correspondence from the Departments of Agriculture and Commerce, the General Services Administration, and so forth. I also ask unanimous consent that the texts of these selected letters be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. BEALL. Mr. President, I believe that the Historic Structures Tax Act coincides with our national objectives as expressed by the President as well as the Congress. We can strengthen our sense of national unity and purpose, preserve our history, reinvigorate our communities, and make additional open spaces available for the use of our people by constructively utilizing our Federal tax system. This bill is not punitive in nature, but seeks to encourage through the constructive use of our tax system the long-range and highly desirable social goals which we, as a Congress, have set for our Nation.

In closing Mr. President, I would once again urge the Senate Finance Committee to hold hearings on S. 2347 so that we can begin to move this vital legislation through the legislative process. If the Finance Committee would expedite consideration of this bill I believe it would be possible to include its provisions in any tax reform legislation which might come before the 2d session of the 93d Congress.

EXHIBIT 2

THE WHITE HOUSE,
Washington, October 17, 1973.

Hon. J. GLENN BEALL, Jr.,
U.S. Senate, Washington, D.C.

DEAR SENATOR: Thank you for your recent letter concerning the Historical Structures Tax Act of 1973. I appreciate your bringing this legislation to my attention.

As you know, on February 19th of this year, Secretary Shultz resubmitted to the Congress the Environmental Protection Tax Act. This legislation was introduced on March 14 by Congressman Conable as H.R. 5584. Your bill and H.R. 5584 are quite similar, differing only in the provision dealing with coastal wetland areas, and while we would prefer to see the enactment of H.R. 5584, we have no objection to your legislation and would support S. 2347.

Thank you again for your letter.

Best personal regards.

Sincerely,

DANA G. MEAD,
Associate Director, Domestic Council.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., January 2, 1974.

Hon. J. GLENN BEALL,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BEALL: This is in reply to your request of October 5, 1973, for a report on S. 2347, a bill "To amend the Internal Revenue Code of 1954 to encourage the preservation and rehabilitation of historic buildings and structures and the rehabilitation of other property, and for other purposes."

The bill, Title I, cites the Act as the Historic Structures Tax Act of 1973. Title II encourages the preservation of historic buildings and structures certified by the Secretary of the Interior as registered or qualified for registration on the National Registry, and limits depreciation to the straight-line method for buildings constructed on sites which were formerly occupied by demolished historic structures. Title III encourages the rehabilitation of existing structures, rather than their demolition. Title IV permits charitable deductions for certain types of transfer of property, not presently allowed under the law, for conservation purposes.

The Department is in full agreement with the objectives outlined in your letter and we believe that your bill would be helpful in achieving them. While the Department has no responsibility for urban buildings, we are concerned with historical buildings in rural areas and with parks, open spaces, and resource conservation.

Enactment of the bill might very well encourage the establishment of Living Historical Farms in rural areas, particularly near our urban centers. These farms, which are essentially outdoor operating museums reproducing farm practices of a particular time in a particular area, serve both as a source of knowledge and as an outdoor recreational facility. The Department believes that these farms, whatever their time period, offer a worthwhile addition to our Bicentennial plans. A few such farms, reproducing conditions under which some of our past leaders grew up, are in existence today and more are needed.

While the Department supports the provisions of S. 2347, we would prefer the enactment of H.R. 5584. The latter, an Administration bill, is substantially identical to S. 2347 except that it additionally contains some important tax provisions designed to help preserve the coastal wetlands areas.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

J. PHIL CAMPBELL,
Under Secretary.

U.S. DEPARTMENT OF COMMERCE,
Washington, D.C., October 23, 1973.
Hon. J. GLENN BEALL, Jr.,
U.S. Senate
Washington, D.C.

DEAR SENATOR BEALL: This is in reply to your letter of October 5, 1973, to me and to Mr. Clarence C. Pusey of my staff regarding S. 2347.

As the representative and alternate for the Department of Commerce on the Advisory Council for Historic Preservation, we both are knowledgeable and enthusiastic supporters of this bill. This legislation is timely and if enacted, should provide a major impetus to the preservation of our historic property and structures for future generations.

We hope that the bill is favorably considered.

Sincerely,

J. WILLIAM NELSON,
Director, U.S. Expositions Staff.

SMITHSONIAN INSTITUTION,
Washington, D.C., March 25, 1974.
Hon. J. GLENN BEALL, Jr.,
U.S. Senate
Washington, D.C.

DEAR SENATOR BEALL: Last fall you very kindly requested my comments on S. 2347, the Historical Structures Tax Act of 1973 "a bill to amend the Internal Revenue Code of 1954 to encourage the preservation and rehabilitation of historic buildings and structures and the rehabilitation of other property and for other purposes."

Because the Smithsonian has traditionally supported efforts to preserve historic buildings and to conserve natural environmental systems I felt that the proposed legislation warranted the attention of the Board of Regents of the Institution. I am happy to report that at their meeting in January the Regents endorsed the objectives of S. 2347 and any similar legislation that would create tax incentives for the preservation and restoration of historic structures and neighborhoods; to encourage rehabilitation instead of demolition of older buildings in urban environments; and to promote charitable contributions of land and rights for conservation purposes.

The Office of Management and Budget advises that it has no objection to the submission of this report and that enactment of S. 2347 would be in keeping with the Administration's program.

Sincerely yours,

S. DILLON RIPLEY, *Secretary.*

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., December 10, 1973.
Hon. J. GLENN BEALL, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BEALL: This is in response to your request for our comments regarding S. 2347, the Historical Structures Tax Act of 1973, which you have introduced to encourage the preservation and rehabilitation of historic buildings and structures and the rehabilitation of other properties and for other purposes.

The preservation and rehabilitation of historically significant Federal buildings has been a major continuing program of the General Services Administration (GSA). In addition to the nomination of such buildings to the National Register of Historic Places, of which we recently submitted fifteen, GSA has recently successfully completed the restoration of the Pioneer Courthouse in Portland, Oregon, to use as a Court of Appeals and office space.

Under the provisions of Public Law 92-362, we conveyed to local governing bodies within the past year the Federal Courthouse and Post Office in St. Paul, Minnesota, and the Post Office in Battle Creek, Michigan, which had been declared excess but will now be preserved as viable historic monuments in perpetuity. The significant feature of Public Law 92-362 is the provision for partial use of such historic monuments for income-producing purposes to bear the cost of repair, rehabilitation and maintenance. Any excess revenues will be used for parks, recreation, and other local historic preservation projects.

Where Public Law 92-362 provides budget funding relief for local political bodies, we believe S. 2347 will furnish similar incentives to private owners of historically significant buildings. Several such buildings, including the Stock Exchange in Chicago designed by Louis Sullivan might have survived demolition in recent years had the provisions of S. 2347 been available. We concur with the Treasury Department's analytical observations and concern for the growing casualty of historically significant buildings.

In view of the President's statement at the signing of Public Law 92-362 on August 4, 1972, and the historic preservation program of the General Services Administration, we fully support the objectives of S. 2347.

Sincerely,

ARTHUR F. SAMPSON, *Administrator.*

[From the White House, Aug. 4, 1972]

STATEMENT BY THE PRESIDENT

Although Jefferson reminded us that "the earth belongs to the living, not to the dead," the value of historical preservation can no longer seriously be challenged. We need to know where we have been if we are to understand where we are—and who we are.

Although it is true that historical preservation of buildings may seem to many to have a low priority, we should not turn our backs upon these quiet, stately, authentic reminders of our heritage. As we look upon these structures we hear the voices of past heroes—strengthening our resolve to create a future that will be worthy of them.

And although the GSA surplus property bill I am about to sign may appear to some not to be significant, I do sign it with a sense of deep significance. This is in fact one of the key initiatives for historic preservation that I presented to the Congress in my 1971 Message on the Environment. The bill will give us the tools we need to permit States and localities to receive title to surplus Federal structures of historic and architectural interest.

Until today, law has prevented the free transfer of Federal surplus buildings to the States or localities unless they were to be used as museums or for other non-revenue producing activities. Many States and cities simply could not afford to take title and maintain these buildings under such terms.

Under the new law, the States and localities will be able to use the Federal surplus buildings as centers for urban commerce and tourism. They will be able to preserve the historic buildings, to cherish them, and to use them as active facilities which will raise sufficient revenue to keep them well maintained. The buildings themselves can be living parts of the community, preserving their historic past not as a thing apart but as a vital presence. Any excess revenues will be used for parks, recreation and other local historic preservation projects.

There remain before the Congress a number of additional measures I have proposed to aid historic preservation. Among these are the National Land Use Policy Act, which will help States to exercise protective controls over historic buildings and districts; proposed changes in the Internal Revenue Code to provide tax benefits for the restoration and tax penalties for the destruction of historic structures; and a new program of loan guarantees through the Department of Housing and Urban Development for the restoration and rehabilitation of historic structures for residential purposes.

I urge the Congress to enact all these measures for the benefit of our American architectural and historic values—and I sign the GSA surplus property bill with pride and satisfaction.

EXHIBIT 3

NATIONAL ENDOWMENT FOR THE ARTS,
Washington, D.C., February 5, 1974.
Hon. J. GLENN BEALL, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BEALL: I greatly appreciate your giving me the opportunity to comment on the Historical Structures Tax Act of 1973 (S. 2347). The objectives and approach of this legislation are commendable, and the National Endowment for the Arts wholeheartedly endorses its enactment. The legislation will provide forceful mechanisms to promote the preservation and rehabilitation of historic buildings across the country.

The amendments to the Internal Revenue Code as proposed in S. 2347 are needed and timely in several respects. First, they would effectively complement the Nation's preparations for the Bicentennial celebration. Moreover, the proposed amendments would be of great benefit in furthering the goals expressed by the President in his Executive Order #11593 on the Protection and Enhancement of the Cultural Environment. Finally, the legislation could promote Federal energy conservation objectives which, no doubt, will be a matter of increasing national concern. In this respect, S. 2347 is especially timely, as it would encourage substantial energy savings by fostering the imaginative reuse of older buildings and by minimizing the consumption of energy-expensive materials required in new construction.

The strength of the proposed legislation lies in its three-faceted approach to the problem, combining tax measures to discourage the demolition of historic buildings, along with incentives for rehabilitation and for the transfer of less-than-fee interest in real property for conservation purposes. Taken together, these devices should result not only in the preservation of structures now severely endangered by demolition pressures, but also in the economically feasible reuse of these structures.

The adaptive use or "recycling" of older buildings has become the focus of an increasing number of Endowment activities. The agency's Architecture & Environmental Arts program is supporting, through its grants, numerous projects of this nature, particularly through its City Edges and City Options programs. Moreover, the Endowment is now listed among those Federal agencies responsible for commenting on Environmental Impact Statements relating to historic preservation, architecture and archeology, and neighborhood conservation. Through these efforts, the Endowment has become aware of the urgent need for revisions in Federal tax policy as outlined in

S. 2347. We strongly urge the enactment of the Historical Structures Tax Act of 1973.

The Office of Management and Budget has advised us that it has no objection to the submission of this report, but that the Administration would prefer enactment of H.R. 5584, a more comprehensive measure containing the substance of S. 2347 and also provisions designed to preserve the coastal wetlands.

Sincerely,

Nancy Hanks, *Chairman.*

National Endowment for the Humanities,
Washington, D.C., December 6, 1973.
Hon. J. Glenn Beall, Jr.,
U.S. Senate,
Washington, D.C.

Dear Senator Beall: Your proposed legislation, S. 2347, the Historical Structures Tax Act of 1973, creates an unusual and important option in a distinctly important area. The preservation and effective use of historic buildings and the creation of parks and open spaces can only further the historic awareness and the general good of the people of this country. Although the Endowment is not permitted by its act to fund the actual costs of preservation, we have encouraged it by funding research and education projects that have led to the preservation of such buildings. To preserve the past as it is significant to our present is a fundamental act of the humanities. Being unacquainted with the tax aspects of the situation, I am unable to assess the relative costs and benefits which the legislation would bring about. Nevertheless, as the purpose of your proposed legislation is to continue and increase such preservation, I believe it merits serious and careful consideration.

The Office of Management and Budget has advised us that it has no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

Ronald S. Berman, *Chairman.*

National Foundation on the Arts and the Humanities,
Washington, D.C., January 24, 1974.
Hon. J. Glenn Beall, Jr.,
U.S. Senate, Committee on Labor and Public Welfare, Washington, D.C.

Dear Senator Beall: Thank you for your letter of January 22 containing information on the Historical Structures Tax Act of 1973.

My personal interest in this legislation stems from my involvement with the Federal Design Improvement Program. For your information I enclose copies of the May 1972 Presidential statement initiating and outlining this program, and the April 1973 statement issued at the First Federal Design Assembly.

The Design Assembly component of this program is sponsored by the Federal Council on the Arts and the Humanities, and is aimed at promoting Federal leadership in maintaining high contemporary design standards. A critical concomitant to this goal would seem to me to be the preservation of the best examples of our "design heritage."

Hence, I follow the progress of this legislation with keen interest, and will appreciate receiving further news on the matter.

Thank you again,

Sincerely,

Gail Harper,
Staff Assistant,
Federal Council on the Arts and Humanities.

The White House,
Washington, May 16, 1972.

One year ago I asked the heads of 63 Federal agencies to determine ways by which their agencies could more vigorously assist the arts and, in turn, how the arts might be used to enhance their programs. The response to that request has been gratifying, calling fresh attention to the importance of the arts in the daily operations of Government and leading to the development of several recommendations by the National Endowment for the Arts.

Today, based upon this first set of recommendations by the Endowment, I am pleased to announce that we shall move forward on three fronts:

First, I am asking the Federal Council on the Arts and Humanities to sponsor an annual Design Assembly for Federal administrators and artists.

Second, I am asking the National Endowment for the Arts to appoint a special ad hoc task force committee to review and expand the publication, *Guiding Principles for Federal Architecture;* this document was first printed in 1962 and set forth broad aesthetic recommendations of considerable value. I am also asking the National Endowment to recommend a program for including art works in new Federal buildings.

Third, I am taking a series of actions to improve Federal graphics and publications. The National Endowment will now be responsible for coordinating the efforts of the executive agencies to upgrade their graphics. I am also requesting Federal agency heads to make a comprehensive review of their own graphics and production, and I am asking the Civil Service Commission to review existing procedures for employing artists, architects and designers for Federal service. The Commission is also to evaluate the need for expert rating panels to review credentials and portfolios of applicants for such jobs, as is done in other professional areas.

The people of this country are increasingly concerned—and properly so—with the physical appearance of their communities. There should be no doubt that the Federal Government has an appropriate and critical role to play in encouraging better design, and I am hopeful that the actions announced today will enable the Government to reflect new standards of excellence in all of its design endeavors.

Richard Nixon.

The White House,
Washington, April 2, 1973.

As the Federal Council on the Arts and Humanities sponsors the first annual Design Assembly for Federal administrators and artists, I want to reaffirm my strong belief that the Federal Government has a critical role in encouraging better design.

It is time that we cast aside the theory that excellence of design is a luxury. Let us see it instead as a necessity for answering real human needs. And let us also realize that good design can save money, time and maintenance and that it can immeasurably enhance communication and understanding.

The ideals that shaped our Government are among the noblest in human thought. It is imperative that these ideals be faithfully reflected in the physical creations of our Government so that future generations may be proud and inspired by those who have come before.

In these reflective years of self-examination preceding our Bicentennial, we are called upon to set high standards of creativity and performance. You can be sure that your recommendations will be the basis for constructive action. In this spirit I wish you a productive and satisfying session.

Richard Nixon.

Smithsonian Institution,
Washington, D.C., October 19, 1973.
Hon. J. Glenn Beall, Jr.,
U.S. Senate,
Washington, D.C.

Dear Senator Beall: I am grateful for your letter of the 12th inviting my comments on your Historical Structures Tax Act (S. 2347). I have long been deeply concerned with historic preservation, during which time it has been continuously evident how far we lag behind most of the European nations in offering tangible inducements to the owners of historic structures who might be inclined to undertake preservation. Your bill appears to be the instrument to bring some balance to this situation.

My principal and specific preservation concern has been for the structures of American technology—manufacturing, processing, and engineering structures, which traditionally are disregarded by preservationists, despite their extraordinary significance in the nation's development. I would, therefor, offer the suggestion that your bill be amended to specifically mention structures relating to "technology, industry, and engineering," as a reminder to both owners and the IRS that it is fully as important to preserve the remains of this aspect of our heritage as houses and churches. An indication that recognition of this is becoming more widespread is the fact that the number of factory and mill buildings; bridges; canals; utilities structures; mines; and so forth, included on the National Register, is increasing proportionally with time. Maryland, in fact, has been one of the most enlightened states in this regard, and is one of the few having a member of its professional review board for the National Register concerned expressly with technological structures (who happens to be myself).

If you would keep me informed of the acts progress, I would be grateful.

With all best wishes, I am,

Yours sincerely,

Robert M. Vogel,
Curator, Division of Mechanical and Civil Engineering.

PROTECTING OLDER AMERICANS AGAINST OVERPAYMENT OF INCOME TAXES

Mr. CHURCH. Mr. President, over the years the Senate Committee on Aging has been concerned about the extraordinarily high incidence of income tax overpayments by the elderly.

Inquiries on this subject by the committee have provided very clear and convincing evidence that many older Americans pay more taxes than required by law for several reasons.

Some are just overwhelmed by the complexities of the Internal Revenue Code.

Others are perplexed by the complicated tax forms and numerous calculations.

And far too many are simply unaware of helpful tax relief measures.

To help provide protection against this serious problem, the Senate Committee on Aging has taken a number of important steps. Earlier this year, we published a checklist of itemized deductions as a further safeguard against elderly taxpayers overlooking helpful deductions.

Additionally, several members of the committee and Senate have joined me in sponsoring the Older Americans Tax

Counseling Assistance Act. Under this proposal elderly taxpayers would receive effective and helpful counsel—provided by elderly volunteers—to assure that they are fully aware of legitimate deductions, credits, and exemptions. All in all, 51 Senators have sponsored this proposal, including the majority and minority leaders.

Mr. President, I ask unanimous consent that a listing of the cosponsors of this legislation, S. 2868, be printed at this point in the Record.

Mr. Chiles, Mr. Clark, Mr. Williams, Mr. Humphrey, Mr. Bentsen, Mr. McGovern, Mr. Biden, Mr. Kennedy, Mr. Bayh, Mr. Bible, Mr. Hathaway, Mr. Hart, Mr. Montoya, Mr. Abourezk, Mr. Johnston, Mr. Hughes, Mr. Tunney, Mr. Mondale, Mr. Inouye, Mr. Metcalf, Mr. Haskell, Mr. Pell, Mr. McGee, Mr. Randolh, Mr. Muskie, Mr. Ribicoff, Mr. Eastland, Mr. McIntyre, Mr. Mansfield, Mr. Pastore, Mr. Fulbright, Mr. Eagleton, Mr. Burdick, Mr. Metzenbaum, Mr. Cranston, Mr. Moss, Mr. Jackson, Mr. Nelson, Mr. Magnuson, Mr. Hugh Scott, Mr. Case, Mr. Hartke, Mr. Brooke, Mr. Huddleston, Mr. Stafford, Mr. Hollings, Mr. Javits, Mr. Schweiker, Mr. Cook, and Mr. Percy.

Additionally, the Older Americans Tax Counseling Assistance Act has received strong support in recent news accounts.

One such example is an article—entitled "How You Can Recover Overpaid Tax"—by Bernard Nash, executive director for National Retired Teachers Association-American Association of Retired Persons.

Moreover, Ted Schuchat, the nationally known retirement consultant, provides an excellent description of this bill in his column on "Extra Tax Help Proposed."

Mr. President, I recommend both of these articles to my colleagues, and ask unanimous consent that they be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

How You Can Recover Overpaid Tax

(By Bernard E. Nash)

By the time you read this, you will probably have already filed your Income Tax return—and the odds are that you paid more than your share. In fact, it is estimated that up to half of all taxpayers over age 65 fall into this category.

Fortunately, it is not too late for you to recover the money you overpaid this year and in previous years. The key to unlocking the tax vault is Form 1040X, which is available from the Internal Revenue Service office nearest you, and a booklet prepared by the staff of the Senate Special Committee on Aging.

The pamphlet, "Protecting Older Americans Against Overpayment of Income Taxes," contains a checklist of itemized deductions because most overpayments by older people result from their failure to take all the deductions to which they are entitled.

One reason for this, explains SCOA chairman, Sen. Frank Church (D-Idaho), is that "upon reaching 65, the aged taxpayer is oftentimes confronted with an entirely new set of rules, usually far more complex than the tax provisions during his preretirement years. ... Quite frequently, these provisions can pose formidable challenges, even for experienced tax experts. But for the untrained—and oftimes unsuspecting—elderly taxpayer, these complex tax relief measures can prove to be mind boggling."

To help unboggle the situation, the booklet lists hundreds of deductions to which you are legally entitled, but may have overlooked. A few samples:

Money paid for general sales, and state and local gasoline taxes (which can be computed on the basis of miles driven or actual gas bills), and state and local income and personal property taxes.

Travel and out-of-pocket (postage, stationery, phone calls) expenses while performing services for charitable organizations.

Interest paid on mortgages, auto loans, installment purchases (TV, washer, stove, etc.), and charge account "finance charges."

The booklet points out that, if you utilize the services of an accountant or professional tax preparer, their fees are also deductible. However, many older people have received free advice and assistance via the Tax Aides program of the American Association of Retired Persons and the National Retired Teachers Association.

Administered by the NRTA–AARP Institute of Lifetime Learning, the program trains older volunteers to assist their fellow retirees across the country in preparing their own return. During the 1972–73 tax season, 2,500 Tax Aides counseled more than 100,000 older people in 625 cities. To locate the Tax Aides nearest you, contact your local AARP chapter or write to the Institute at 1909 K Street, NW, Washington, D.C. 20006.

Earlier this year, Sen. Church introduced the Older Americans Tax Counseling Assistance Act which, if passed, would aid in expanding the program. Since the legislation has strong bipartisan support, it is quite probable that, by this time next year, additional thousands of older people will benefit from it.

In the meantime, the Senate committee's tax tips booklet is available from the Government Printing Office, Washington, D.C. 20402, for 35 cents. When ordering, list both the pamphlet's title "Protecting Older Americans Against Overpayment of Income Taxes," and stock number (5270–02228), and expect to wait about a month for delivery. If you're among the 4.5 million older taxpayers paying more income tax than required, this may be the wisest 35 cents you ever spent.

Extra Tax Help Proposed

(By Theodor Schuchat)

Hard as it is to fill out many a federal income tax return, the task is even more difficult for those of retirement age.

"Upon reaching Age 65, the aged taxpayer is oftentimes confronted with an entirely new set of rules, usually far more complex than the tax provisions during his preretirement years," Sen. Frank Church, D-Idaho, told the Senate recently.

"He may find it necessary, for example, to complete the retirement income credit schedule, determine the taxable portion of his annuity, or the sale of his personal residence," the senator continued.

"Quite frequently, these provisions can pose formidable challenges, even for experienced tax experts. But for the untrained—and ofttimes unsuspecting—elderly taxpayer, these complex, tax relief measures can prove to be mind boggling," said Church, who is chairman of the Senate Special Committee on Aging.

"Perhaps the most troubled individual is the aged widow, who typically has low or moderate income and very little experience in tax matters," he added. "For her, the tax law is usually a jumble or gobbledygook with numerous potential pitfalls."

Despite extra personal exemptions and other breaks in the law, many older Americans file tax returns. Nearly nine million taxpayers of Age 65 or older filed federal returns for the 1971 taxable year, the most recent for which the totals are available. That was not far from half of all those in the age bracket.

Sen. Church has proposed legislation that would authorize the Internal Revenue Service to provide extra assistance to older taxpayers. His Older American Tax Counseling Assistance Act is also sponsored by Sens. Lawton Chiles, D-Fla.; Dick Clark, D-Iowa, and Harrison A. Williams Jr., D-N.J.

TRAINED 2,500

The bill would allow the IRS to train volunteers, mainly retirees, who in turn would help other elderly taxpayers. The volunteers would be unpaid but would be reimbursed for their out-of-pocket expenses.

Last year, the IRS trained about 2,500 older people as part of the Volunteer Income Tax Assistance program—VITA. Each VITA volunteer was able to help an average of 40 other older Americans during the tax return season.

Most helpful was the advice that VITA volunteers gave about common deductions, credits, and exemptions that many older taxpayers either overlook or else do not know about.

It has been reliably estimated, for example, that perhaps half the older taxpayers who are eligible to claim the retirement income credit do not do so on their federal tax return.

"We do not need any more proof that this program has been a success," Sen. Church said recently of the VITA program, which began in a small way in 1968.

"What is needed now is a genuine national commitment to improve and expand these efforts," he said. "And that is precisely what our bill is designed to do."

WAITING FOR THE END: ON NURSING HOMES

Mr. ABOUREZK. Mr. President, I was shocked and outraged after reading an article in the New York Times magazine entitled: "Waiting for the End: On Nursing Homes" by Susan Jacoby.

The article described the most degrading treatment of our senior citizens I have ever read about. For example, one woman in a home was senile and therefore unable to control her bowel and bladder movements. However, she was not diapered, as might have been expected, because the administrator of the nursing home decided that laundry costs were too high.

One elderly woman was transferred from one home to another whereupon it was found that she was so filthy that her toes were literally stuck together.

The elderly in this country have been seen too often as a burden to society. Too often they are felt to be nuisances to our daily lives. And too often these attitudes are reflected by institutions designed to care for the elderly: the nursing homes.

We must intensify our concern for the elderly and undertake efforts to insure that conditions such as those uncovered by Ms. Jacoby, are not allowed to persist.

I ask unanimous consent that the article by Susan Jacoby, "Waiting for the End: On Nursing Homes" be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Waiting for the End: On Nursing Homes

(By Susan Jacoby)

A thin, graying woman wanders up and down the corridor of a Michigan nursing home in search of a nurse's aide. "Could you help my husband out of bed?" she asks. "He didn't feel well earlier in the day but he'd like to get up now."

It is 11 in the morning, but the aide says it is the wrong time of day for patients to be getting out of bed. "Oh, I didn't mean this minute," the woman replies timidly. "We know you're very busy." The aid stalks off down the hall and yells to a colleague, "I don't know who the hell her husband is, do you?"

"How should I know?" snaps back the other aide. "I can't remember people's names."

The home is located on a quiet residential street in Lansing, Mich., and is owned by National Health Enterprises, Inc., the largest nursing-home chain in the United States. It is neither the best nor the worst of the institutions in which more than a million Americans spend the last weeks, months or years of their lives.

The nations 23,000 nursing homes are a booming private industry supported mainly by public money. Spurred by the influx of Federal money from Medicare and Medicaid, the industry has nearly doubled its patient capacity since 1966. More than $4.5-billion was spent in nursing homes last year, with the Federal Government paying nearly half of the bill and the state and local governments an additional 25 to 30 per cent.

There are now more than 20 million Americans over the age of 65. More significant, a third of them are over 75—the age group that includes the majority of nursing home patients. Industry and Government officials estimate that at least two million of the elderly will be institutionalized by the year 2000. "It's absolutely terrifying," says Dr. Robert N. Butler, a Washington, D.C., psychiatrist with a special interest in gerontology. "What happens when there is just one more big medical breakthrough—say, in the treatment of cancer? How many more people will be living beyond the point where they can take care of themselves? How many more will live and die without dignity in the anonymity of large institutions?"

The quality of care in these institutions is attracting more public attention as more public money is channeled into nursing homes. In spite of its growing dependence on public money, the industry strongly resists demands for public access to information about its operation. In visits to 50 nursing homes in the East, the South and the Midwest, I found most of the owners unresponsive or openly hostile when they were asked about routine matters like the size of the staff, frequency of doctor visits, the amount spent on meals or the availability of physical therapy equipment.

Operators frequently refuse to permit visits from reporters or representatives of consumer organizations; I usually told the staff that I was looking for a home for my mother. An administrator at Manhattan's Peter Cooper Nursing Home told me: "When you ask a whole lot of questions—questions from some so-called consumer checklist—it just gets people's backs up." Her comment was made in response to a question about how many nurses and nurse's aides were employed by the home.

The lack of public information is closely related to many other factors which exert a negative influence on the quality of nursing-home care:

Government standards are spottily enforced by a fragmented network of state and local agencies; inspections for federally defined Medicare and Medicaid standards are carried out by the states. On Dec. 4, eight people died and 32 were injured in a fire at a Philadelphia nursing home that had been cited by state inspectors for serious fire safety deficiencies in June, 1972. At the time of the fire, the home was certified for Medicaid even though it was in clear violation of Federal safety regulations. In this typical case, inspection records were closed to the public and the state had taken no firm legal steps to force the home into compliance. State agencies blamed each other for the lack of enforcement—a typical occurrence when a disaster focuses public attention on deficient nursing homes.

During President Nixon's second term, Federal nursing home standards have been downgraded. In January, the Department of Health, Education and Welfare issued a new set of Medicare and Medicaid guidelines which replace many specific standards with hard-to-enforce generalities. The new standards affect everything from food to the number of doctor visits in nursing homes. Consumer representatives emphasize that the relaxation of standards will mean large savings for the Government and higher profits for the industry. Government spokesmen say the looser guidelines were drawn up because the old standards were badly enforced.

People who decide to place the elderly in nursing homes—younger relatives—often have no idea of what constitutes good care. Some people simply do not want to inquire too closely into conditions at the homes where they leave their parents. "They come in here with a foggy look in their eyes," said a sharp-eyed 80-year-old woman in an excellent nonprofit nursing home in Atlanta. "Remember how you used to hate the smell when your parents took you to the zoo, even though you loved to look at the animals? Most visitors here are like that. You have the feeling that they're holding their noses even though they aren't really doing it."

There is no coordinated plan to meet the social needs of the growing elderly population. More and more government money is pumped into profit-making nursing homes, but virtually no money is available for alternative services—like visiting nurses or housekeepers—that might keep more old people out of institutions.

More than 90 per cent of the nation's nursing homes are proprietary (profitmaking) institutions. Large chains like National Health Enterprises, listed on either the New York or the American Stock Exchanges, control about 10 per cent of the business. That figure understates the influence of chains, because many smaller nursing home companies are not listed on the stock exchanges. These are usually local chains, with five to 10 homes within a 100-mile radius. The profitable local chains are frequently bought out by larger chains.

The expenditure of so much public money in private, profit-making institutions is rooted in the good intentions of Congress when the original Social Security Act was passed in 1935. The act set up a small program of matching Federal grants to states for cash assistance to needy old people. One provision prohibited the use of Federal funds to support any person living in a public institution; the purpose of the ban was to discourage states from using Dickensian 19th century poorhouses to care for the aging.

The little-noticed Social Security provision encouraged the conversion of private housing into profitmaking boarding homes for the elderly—the forerunner of today's nursing home industry. In the thirties, few planners foresaw the massive social needs that would arise when families began to slough off the responsibility for older relatives at the same time that medical advances were keeping unprecedented numbers of people alive into their 70's and 80's. And no one asked whether profit-making institutions were best designed to meet those needs.

Medicare and Medicaid, the chief sources of Federal support for nursing home patients, are frequently confused by the public:

Medicare, financed through the Social Security system, pays primarily for hospital expenses connected with acute illnesses. In nursing homes Medicare pays for only 100 days of posthospital care. Medicare outlays in nursing homes totaled approximately $340,-million in 1968. By 1970, due to stringent cost-cutting efforts by the Administration, the expenditure was down to $180-million. Many nursing home patients who were eligible for Medicare funds between 1966 and 1969 were abruptly cut off; worse still, the Government demanded retroactive repayment. In 1973, Medicare payments to nursing homes leveled off at $188-million. Out of more than a million nursing home patients, only 70,000 were receiving any Medicare assistance. "People have misled about Medicare," says Ronald F. Krysiek, corporate secretary of National Health Enterprises. "A lot of people come to our homes and are convinced that Medicare will pay for everything. When we tell them it's not so, they think we're lying to them."

Medicaid, the big bonanza for nursing homes, is the matching state and Federal program for the "medically indigent." Medicaid pays for long-term care as well as for hospital treatment. State rules for Medicaid eligibility vary considerably. In some states, especially in the South, people are not eligible for Medicaid if they have any financial assets. "It's heartbreaking," said a staff member at the non-profit Wesley Woods Health Center in Atlanta. "A couple will have life savings of $2,000 for a funeral—that's very important to a lot of older people—and the state makes them spend the money before they can get any Medicaid." Other states allow the elderly to keep a small savings account and still receive Medicaid. Many nursing home patients are eligible for Medicaid in addition to their Social Security payments: Social Security cannot possibly pay the $600 to $1,200-a-month bills of nursing homes in major metropolitan areas. Medicaid payments go directly to the institutions which house eligible patients, not to the individuals.

Most patients' Social Security and Medicaid checks are cashed directly by the nursing homes. According to Federal law, Medicaid patients are supposed to receive a $30-a-month allowance for personal use. However, many patients do not receive the allowance—either because they are senile or because they are not aware of their legal right to the money. In some of the homes I visited, owners used the $30 allowance for laundry charges not included in the basic rates for nursing care. One man in a New York home told me he had been a patient for three years before he learned about the personal allowance from a niece. "She wondered why I was always begging her for cigarettes when she came to visit, and I told her I had no money to buy them. She went to the administrator and threatened to get a lawyer, and then they started giving me the money." The man asked that his name be withheld because he was afraid of retaliation from the nursing home staff.

Approximately 80 per cent of nursing home patients receive Medicaid or some other form of public assistance. At hearings last fall before a subcommittee headed by Senator Frank Moss, Democrat of Utah, American Nursing Home Association President Don T. Barry described these patients as "individuals [who] have had a life-style characterized by a pattern of social and economic failure."

Barry's statement is misleading, because the number of middle-class people on Medicaid is growing. Most states do not require families to contribute to the support of their aging parents, and even wealthy families would find it difficult to bear today's nursing home costs. If a person lives in a nursing home for several years, extensive life savings are eaten up and Medicaid becomes a necessity. "We had a man here who bought Coca-Cola stock in 1920," said a nursing home director in Atlanta. "You can imagine how much that was worth by 1960. But he lived to be 94, his only son died and his stocks had to be sold, one by one. He was on Medicaid for the last four years of his life. It can happen to anyone."

The financial problems confronting people who must seek nursing home care for their parents are essentially the same throughout the country. In New York City, a good home for a patient who needs skilled nursing care costs a minimum of $225 a week. In less expensive areas of the country, the cost might be as low as $150 a week—still too much for a middle-income family. State Medicaid reimbursement is usually lower than the rates homes charge private patients. At one New York home, the daily cost to a private patient is $41, while the charge for Medicaid patients, reimbursed by the state, is $35.77. Only rich patients can pay their own bills, and only the rich could afford to pay such bills for their parents.

In New York, any patient who is eligible for institutional care is also eligible for Medicaid. The only restriction is that an individual patient have savings of less than $1,750, or a couple less that $2,700. In practice, this means that some patients will pay a nursing home for their care out of their savings until they reach the $1,750 level, and then avail themselves of Medicaid. The income of a patient's children has no bearing on Medicaid eligibility—a Medicaid patient could have a child making $100,000 a year, $5,000 a year or no money at all. While there is nothing to prevent families from giving extra spending money to their relatives in nursing homes who are reeciving Medicaid, or to keep families from paying for better services, such instances are rare.

The fact that "it can happen to anyone" is responsible for the new attention that is being focused on the nursing home industry. No one—including industry spokesmen—denies that many nursing homes are failing to provide high-quality care. In 1971, a General Accounting Office audit of nursing homes in three large states found that more than half of the homes were violating basic Government regulations. The report was extremely specific. In over half of the homes inspected by the G.A.O. auditors, the requirement that patients be visited by a doctor every 30 days was being completely ignored. There is no reason to think the situation has improved or will improve, because the newly issued H.E.W. guidelines have dropped the 30-day visit requirement. (Under the current rules, a patient need not be visited by a doctor at any specified intervals after his first 90 days in a home).

The G.A.O. report dealt with routine failure to meet Government standards. From other sources, it is all too easy to unearth genuine horror stories about nursing homes certified for state and Federal programs. Some of the most flagrant examples of nursing home abuses have been aired before Senator Moss's subcommittee, which has made a dogged investigation during the past 10 years into nearly every aspect of the nursing home industry. They are the kind of hearings that do not attract attention from the national press unless a well-known witness like Ralph Nader is testifying. But the testimony of ordinary citizens is more striking. In 1971, Mrs. Glenda Carlson described her mother's confinement at the Suburban Convalescent Center in South Chicago Heights, Ill.:

"I visited mother three times weekly, and at unexpected times. Each time, I would purposely look at the right foot. . . . Her right foot was purple and black. She screamed with pain if nurses got anywhere near her foot. I was shocked and horrified at the sight and complained that the nurses had not called the physician in to treat mother's right foot. . . . Never once did I visit mother when she was diapered. I questioned the nurses as to why a person with my mother's condition of senility, and ulcerated-looking foot, would not be diapered. Their answer was that [the] administrator of the Convalescent Center did not approve having diapers on the incontinent patients because it caused too much laundry and cost far too much. Because [she wasn't] diapered . . . without being aware of it, due to her senility, she would get her hands in her own excrement, scratch the open sores on the right foot and smear it all over herself."

The Suburban Convalescent Center was certified for Medicaid at the time of the hearings. It is still certified for Medicaid today.

Also entered in the record was a letter concerning the plight of a patient at the Carver Convalescent Home in Springfield, Ill.:

"A disability assistance recipient, Mrs. Annie T. Bond, received nursing care in the Carver Convalescent Home from October, 1965, to February, 1968, on which date she transferred to Mary Ann's Nursing Home in Decatur. Mrs. Bond's condition upon admission to Mary Ann's Nursing Home was such that her attending physician and the nursing home staff were quite concerned. The following is a description of Mrs. Bond's condition at the time: 'Mrs. Bond was covered with decubiti [bedsores] from the waist down; . . . the decubiti on hips were the size of grapefruits and bones could be seen; . . . the meatus and labia were stuck together with mucous and filth so that tincture of green soap had to be used before a Foley catheter could be inserted; . . . her toes were a solid mass of dirt, stuck together, and not until they had been soaped . . . for three days did the toes come apart. . . ."

The letter from the inspection nurse was addressed to the Illinois Department of Public Aid. An investigation was ordered, but state records do not indicate whether one was made. The Carver Convalescent Home is no longer in business; it was destroyed in a fire in 1972. Ten patients died. The home was still licensed by the state at the time of the blaze; citizens' groups had repeatedly called for investigations of conditions at the home but their requests were ignored.

These are obviously extreme examples, but it is difficult to understand how such homes were ever certified to receive state or Federal money. I saw many more common examples of deficient care when I visited nursing homes in the guise of a potential customer.

Many of these nursing home deficiencies are rooted in the attitudes of the staff toward patients. There was the administrator who said old people were "something like untrained dogs." Another administrator, who had just finished telling me she sees "these people not as patients but as individuals," then added, "They're so cute. We have two senile ladies who found each other and who spend the entire day together. You know they don't understand a word you're saying to them, but they're so sweet and cute, like children." I had seen the two women during my tour of the home. They were holding hands and staring at a blank wall.

Few administrators addressed patients as "Mr.," "Mrs.," or "Miss"; most simply used first names. The denial of this simple formality strips the nursing home patient of a small piece of dignity; the situation is analogous to that of an employer who habitually calls a maid by her first name while the maid addresses the employer by a title and last name. The patients in nursing homes do not address staff members by *their* first names.

Furthermore, I frequently witnessed instances not only of staff members' indifference to their patients, but also their outright hostility. In a Michigan nursing home, an emaciated woman was sitting in a wheel chair. The blanket covering her legs had fallen to the floor. "You'd better pull that blanket back up, honey," said an aide. "No one around here wants to look at your skinny old legs."

From a consumer standpoint, it is especially difficult to evaluate a home with an inviting surface appearance. Manor Care, a chain of Maryland nursing homes, owns an attractive modern building in affluent Montgomery County. The grounds are elaborately landscaped, the lobby carefully furnished, the dining rooms sparkling and the game room stuffed with yarn-and-coat-hanger toys made by the patients. The only defect I noticed was the scarcity of equipment in what was advertised as a well-equipped physical therapy department. But records of Medicare and Medicaid inspections, as well as accounts of proceedings before the Maryland State Board of Nursing Home Examiners, reveal some disturbing facts about Manor Care operations in the past. Some records are open to the public and some are not. They are kept in Federal and state offices in Baltimore, and none are easily accessible to consumers who are looking for a nursing home.

In 1972, an administrator at the Montgomery County home lost her state license for violations which included keeping more than a dozen cats in the kitchen and allowing roaches to multiply unchecked. The Maryland State Board finally took action against the administrator after a county health inspector found a case of salmonella (food poisoning) in the home. The inspector informed the administrator that standards for Medicare participation required the home to isolate a patient with salmonella, since food poisoning is highly contagious in institutions. When the inspector checked the next day, the food poisoning victim was still in a room with another patient. Still declining to comply, the administrator said, "Well, we could put the patient in the physical therapy room but that wouldn't be such a good idea. That's where we put the bodies of the deceased before the funeral home comes to pick them up."

Federal and local inspection reports indicate that Manor Care Homes have had a frequent turnover of nursing directors—a key job in any home. A former administrator told one inspector that corporate policies prevented her from budgeting more than two hours of nursing care a day per patient. The administrator said nursing directors felt it was impossible to do their job properly within the budgetary restrictions. (National Health Enterprises budgets three hours of nursing care a day.)

S. J. Radcliffe Jr., secretary-treasurer for Manor Care, Inc., said the old violations have been corrected. "We cooperated fully with the county authorities when the food poisoning case was brought to our attention. When violations are brought to our attention, they're taken care of and that's the end of it." Radcliffe noted that Maryland state guidelines only require two hours of nursing care per day but said that Manor Care provides for more nursing when it is needed. "I wouldn't say that there is a hard-and-fast corporate policy on this."

Virginia D. Maxwell, chairman of the Maryland Board of Examiners and chief of nursing home inspections for Montgomery County, says the purpose of enforement is "not to put nursing homes out of business but to see that violations are corrected. When violations are corrected, that's to the credit of everyone concerned. But I also think it's important for consumers to look at the performance of homes over a period of years, especially if they're under the same ownership. This shows you what kind of pattern you have. Are there isolated violations, or is there a pattern of deficiency that makes the home a bad bet?"

Yet in many seemingly attractive nursing homes, which have no history of violations, it is still difficult for consumers to get the most elementary information about nursing care from the homes themselves. The National Health Enterprises Home in Michigan is a sprawling brick and glass building that would look like a new suburban public school were it not for the guard at the door. During my tour, the large, freshly painted rooms with three or four beds were gleaming and free of any smell of urine—a constant problem in homes where some elderly patients have no control over their bowels or bladder.

The administrator informed me that the average rate at the home was $19.60 a day, and that laundry would cost an extra $11 a month. She was not as forthcoming with information about other aspects of nursing care. I asked about the ratio of staff to patients, and she told me there was a registered nurse on duty at all times. She said she did not know how many practical nurses or nurse's aides were on duty at any given moment.

"I don't have those figures myself," she said. "But it's more than adequate to meet the patient's needs." It was the same answer couched in politer terms, that I had received from the Peter Cooper Home administrator who told me not to ask questions from a "so-called consumer checklist." Owner Herman Salamonovitz said, "If we'd known you were a reporter, we would have given you the information you asked for. But let me assure you, people don't ask these questions. How many nurses are there, how many aides? People just don't ask. There has to be some trust."

At the same home, in Manhattan's Greenwich Village, many patients were lying in near-total darkness. On a drizzly January day, the lights were turned off in all of the bedrooms. The assistant administrator, noting my critical glance, had explained that "the ones who are still in their rooms don't want the lights on."

On Aug. 6, 1971, President Nixon unveiled an eight-point program designed to transform nursing homes into "shining symbols of comfort and concern." He acknowledged that many homes "now fall woefully short of this standard. Unsanitary and unsafe, overcrowded and understaffed, the substandard nursing home can be a terribly depressing institution. To live one's later years in such a place is to live in an atmosphere of neglect and degradation." Mr. Nixon emphasized that Medicare and Medicaid funds should be cut off from institutions that fail to meet Government standards. "This is not only a matter of personal belief," he said, "it is also the law of the land—and has been since 1965." According to a report being prepared by Senator Moss's subcommittee on long-term care, only 579 out of more than 23,000 homes have lost their certification for Federal funds since the President's speech. The figure contrasts sharply with the 1971 G.A.O. audit's finding of serious violations in more than half of the inspected homes.

H.E.W.'s relaxation of Federal standards for nursing homes is also at odds with the President's rhetoric. At last fall's hearing before the Moss subcommittee, the new H.E.W. guidelines drew sharp criticism from professional and consumer organizations ranging from the National Council of Senior Citizens to the American Nurses Association. The only organization favoring the guidelines was the American Nursing Home Association, a powerful lobby representing nursing home owners. Consumer groups hoped that H.E.W. would take their objections into account and delay issuing the final rules, but they were released several weeks after a private White House meeting between Mr. Nixon and chief officers of the Nursing Home Association. (H.E.W. has promised to meet some of the consumer objections in additional rules to be issued at an unspecified future date.)

The relationship between the Nixon Administration and the nursing home lobby seems to be based largely on the Administration's interest in budget-cutting and the owners' interest in bolstering their profits. Lower standards serve the purposes of both the Government and the industry.

Some nursing home owners did make large contributions to the Nixon campaign. On Jan. 14, The Milwaukee Journal reported that Robert A. Paliafito, board chairman of National Health Enterprises, had contributed $30,000 of his personal stock in the company to the Committee for the Re-election of the President. The contribution, made before April 7, 1972, did not become a matter of public record until the Common Cause suit succeeded in opening the files on early campaign contributions. Also according to The Journal, George B. Cook, a former director of National Health Enterprises, was a Nixon fund-raiser in 1968 and 1972. Cook contributed $10,000 worth of his National Health Enterprises stock to the Nixon reelection campaign in 1972.

Most critics of the industry agree that the nursing home owners' lobby is much more powerful at the state than at the Federal level. In every state I visited, owners of small nursing home chains had made $500 to $1,500 contributions to the campaigns of state legislators. Many legislators also own stock in state-wide nursing home chains. The owners seem to be nonpartisan; they make contributions to the campaigns of Republican and Democratic legislators.

Government standards for nursing homes seem dull and meaningless on paper, but they are directly related to the quality of everyday care. H.E.W. officials defend the new regulations on grounds that the old, more specific rules, were not strictly enforced because homes only had to be in "substantial compliance." The new guidelines eliminate the concept of substantial compliance and require homes to be in full compliance. Frederick Trail, chief of the division of health facilities and standards of the Michigan Health Department, believes the change to "full compliance" is meaningless without specific standards. "The new guidelines stink," he says. "It's better to be in substantial compliance with a standard that means something than to be in full compliance with a bunch of garbage."

Trail pointed out that standards which seem to be bureaucratic nit-picking actually have an important impact in nursing care. As an example, he cited the abandoned H.E.W. requirement that nursing homes provide a hand washbasin in each room. "We've been trying to enforce that rule for years," he said, "and we've just about brought homes into line. It's very important in containing the spread of infection. If a nurse's aide has a washbasin right there, she'll wash her hands before she goes on to the next patient. If there's only a basin down the hall, maybe she'll do several other patients before she washes. This little regulation can mean the difference between comfort and cleanliness for the patient and dirt and disease."

Guidelines covering the duties of registered nurses provide another example of how specifics have been replaced by generalities in the new regulations. Now the rules simply state that the head nurse "is responsible for the supervision of the total nursing activities in the facility during each tour of duty." The old guidelines specified that the registered nurse must "make daily rounds to all nursing units, performing such functions as visiting each patient, reviewing clinical records, medication cards, patient care plans and staff assignments, and to the greatest degree possible, accompanying physicians when visiting patients." In effect, the new guidelines eliminate the requirement for direct contact between the nurse and the patient.

The importance of strict regulations is borne out by visits to the few nursing homes which voluntarily maintain higher standards than the state and Feedral Government demand. Moses Unger, owner of the American Nursing Home on Manhattan's Lower East Side, supports a National Council of Senior Citizens proposal to establish staff-patient ratios. He says: "There should be a minimum staffing requirement of 2.5 hours of nursing care a day per patient in a skilled nursing home." (There are basically two types of nursing homes receiving Medicaid funds—"skilled homes" for patients who need round-the-clock nursing care, and "intermediate care facilities" for patients who are presumably less ill. Medicare funds go to only a small number of skilled nursing homes.) "There's no way, no matter what any owner says, that a home can provide good care without that," Unger says. "A skilled nursing home has really sick people—their needs will never be lower, only higher."

The high quality of care at the American Nursing Home provides considerable insight into the importance of direct contact between patients and the head nurse. For a visitor, the first exceptional fact about the home is that virtually no one is lying in bed during the day. Winifred Adimora, the head nurse, says the staff insists that patients get up unless it is physically impossible. She seems to be everywhere at once, cajoling and issuing instructions to patients, aides and nurses. She is especially proud of a program that has reduced the number of incontinent patients. "When I first came here, I started having the aides get people out of bed and take them to the bathroom every two hours.

Sometimes it didn't work—five minutes later, the patient would come back and go in the bed. The whole purpose was so we would know what time people needed to go to the bathroom. At first there was a lot of resistance from the staff because it was more work—but in the end it was less work. Many of the patients who had been incontinent were quite able to wait when they knew someone would help them to the bathroom at the right time. It gives them a sense of dignity—no one wants to feel like a child again."

Mrs. Adimora has worked at the home for 11 years. Unger says the key to running a good home is to pay the staff more than at ordinary hospitals. "This is very hard physical work, and few people want to do it because our society doesn't like to think about, or look at, old age. Most people would rather work in a maternity ward than a nursing home. You can't provide decent care if you make a profit by paying low salaries."

Adequate nursing home care depends on adequate financing from the states as well as the Federal Government, and some states are not meeting their responsibilities. State reimbursement formulas under Medicaid vary substantially. Some, like Michigan and New York, use a "reasonable cost" formula which reimburses homes for their expenditures plus a fixed margin of profit. Other states, like California under Gov. Ronald Reagan, have adopted stringent cost-control tactics which do not even allow for geographical cost-of-living differentials.

Medicaid provided the opportunity for a particularly ill-advised economy on the part of many states: the discharge of elderly mental patients from psychiatric hospitals into ordinary nursing homes. After Medicaid was enacted, dozens of states seized the opportunity to reduce their mental health budgets by putting mental patients in nursing homes that would receive matching Federal funds. Michigan is a typical case: During the past five years, more than 10,000 mental patients have been discharged from state institutions. Many of these patients were placed in nursing homes built after the enactment of Medicaid. The State Department of Mental Health ordered the transfers with the blessings of the Legislature. The general Health Department, a separate agency, protested the move. "The only motive was to save money," says Thomas C. Lindsay, chief of the division of public health care administration for the Health Department. "It cost $26 a day to keep these people in mental hospitals, and it only costs $19 a day in most nursing homes. And the nursing homes aren't equipped to cope with this; you have people with serious psychological problems in the same room with people whose only problem is physical old age. And this is happening all over the country."

Nonprofiit homes suffer much more than profitmaking homes in states with tightfisted legislatures. The Wesley Woods Health Center in Atlanta is a typical example; it relies on subsidies from the Methodist Church to break even. Georgia pays only a third of the cost of Medicaid (compared to New York's share of 50 percent in the Federal formula), but the Legislature refuses to consider "reasonable cost" reimbursement for homes. Its flat-rate payment does not begin to cover the costs of a good home in the Atlanta area. One legislator coined the phrase "malicious indigence" to describe old people who cannot pay their medical bills. "There's a feeling in this state that people who are old and poor have somehow mismanaged their affairs," says Wesley Homes' vice president, Thomas F. Satterfield. "We're running nursing homes because it's a public service the church feels it should be involved in, so our cost rises don't come out of our patients' welfare. It's difficult to imagine what the quality of care must be in some of the profitmaking homes in this state."

Satterfield's comment underlines an undeniable fact about nursing homes throughout the country: The quality of care is better in nonprofit than in profitmaking homes. Most nonprofit homes are financed at least partly by religious organizations, and they all have long waiting lists. "Our responsibility is to the patients," said the head of a Roman Catholic home, "not to our stockholders." Moses Unger, however, believes his nursing home demonstrates that "reasonable profit" is compatible with good care. "The question is how you define reasonable profit," he emphasizes. "Profit is not compatible with good care if Government standards are so badly enforced that they allow unscrupulous people to make their money by shortchanging the patients. Obviously this happens in too many cases."

The industry has not been notably cooperative with states that have attempted to build a profit ceiling into their cost-reimbursement formulas. In 1968, the Michigan Health Department asked a sample of nursing homes for cost figures to help determine Medicaid rates. Less than half of the homes responded voluntarily. Shortly afterward, the state Legislature passed a bill requiring the homes to supply the information.

Lindsay says his department found that many homes were making $4 or $5 a day profit per patient under the old flat-rate formula. "There were even homes that were getting a 20 percent return on investment, at the taxpayers' expense. We've now worked out a formula for reasonable cost, plus a 6.5 to 7 percent return on investment after taxes. The industry wanted 8 percent before taxes. There was a compromise."

Critics of the nursing home industry agree that there is no simple solution to the problem of improving patient care. "It's a swamp," says William R. Hutton, executive director of the National Council of Senior Citizens. "There are so many established abuses, so many competing bureaucracies that don't do their job—you make a little improvement in one place and the muck thickens in another. True consumerism is the only answer."

The National Council and Edward P. Beard, a young Rhode Island legislator, recently proved how potent consumerism can be. A year ago, the Rhode Island General Assembly passed a bill that had seemed doomed by the state's powerful nursing home lobby. The law provides for unannounced nursing home inspections, fines of up to $300 for each violation and total public access to the inspection reports. The National Council helped mobilize over-65 voters who deluged key legislators with expressions of support for the bill.

"I was told there was no chance of passage when I introduced that bill," Beard recalls. "But thousands of people turned out for the hearings, and the committee chairmen couldn't sleep because their home phones were ringing off the hook at night. Old people vote, in large numbers. They have more votes than nursing home owners. It's that simple."

Beard says the provision for public disclosure was more important than the imposition of fines. "The operators have been rushing to clean up. They don't, don't, don't want potential customers reading in the morning paper that their home has been cited for 50 violations."

Congress has passed a law requiring nationwide public disclosure of inspection reports for Medicare and Medicaid, but H.E.W. has interpreted the statute in the narrowest possible fashion. Since May 1, 1973, Federal law has specified that reports of inspections must be "a matter of public record, readily and easily available." As defined by H.E.W., "readily available" means that summaries of reports will be shown to consumers on request at regional offices of the Social Security Administration (for Medicare) and H.E.W.'s Social and Rehabilitation Service (for Medicaid).

New York state health officials wanted to require nursing home owners to post the inspection reports on the premises. "This would be invaluable to the consumer," says Marvin G. Nailor, executive assistant to the State Commissioner of Public Health. "Who's going to go searching for reports in the offices of bureaucrats who may or may not want to be helpful?" When the health department made the proposal to the Social Security Administration, the state received a flat turndown. The department was informed that Social Security regulations explicitly forbid the disclosure of Medicare inspection records by state agencies. "We think there's a clear conflict between the administrative rules and the intent of Congress," says Nailor.

Beard says the Rhode Island experience shows that "it's going to take real consumer pressure from the ground up to make them publicize the real dope. Flood each nursing home with people in their 60's demanding a look at the facilities. Have them camp out on the owner's doorsteps. It'll work."

Consumer pressure also has an important role to play in the fight to obtain money for alternative services to nursing homes. Consumer groups consider it essential to obtain financing for part-time services that would keep more of the elderly out of nursing homes. "My idea," says Michigan's Lindsay, "is that we should provide half the Medicaid rate to families who want to help take care of their parents. This could pay for a nurse if only part-time care were needed—it could enable a family to add a room to its house if that were needed. Right now, we're saying to people that the only financial help you can get is if you put your mom or dad in an institution."

Other possibilities are daycare centers for people who need part-time nursing or simple companionship, home meals or housekeeping services for those who need some help with domestic chores, and visiting nurses. These services are unavailable in many communities and are seldom publicly financed. A senior Congressional staff member with a long-time involvement in health legislation says that noninstitutional services for the elderly are "absolutely vital and absolutely tough to write into a law." He believes that many owners would see such legislation as a threat to their profits.

"Everybody knows something has to be done about nursing homes," he says, "but it's going to be a while coming. The basic question is whether we spend all of our money taking care of people inside institutions or whether we spend some of it in an effort to keep them out of institutions."

HOW TO FIND A NURSING HOME

(By Susan Jacoby)

(1) Plan ahead. Begin investigating nursing homes immediately if your parent has been hospitalized for a serious illness.

(2) Find out exactly what financial benefits your parent is eligible for under both Federal and state programs. Your family doctor can be helpful, but all information should be checked with your state department of health.

(3) Nonprofit homes usually provide the best care, but they have long waiting lists. If your area has a nonprofit home with a good reputation, visit it to use as a standard of comparison. You may be able to get your parent on the waiting list.

(4) Visit as many homes as possible. Try to visit homes of different types—say, large homes with more than 100 beds, and small homes with 40 or 50 beds.

(5) Tell the administrator of each home that you want to visit for at least an hour. If he or she objects, the home has something to hide. You cannot acquire any real feeling for the atmosphere of a home in the five-minute tours many administrators prefer.

(6) Insist on seeing every floor of the home. Some homes reserve one floor for visitors, and the floor does not reflect conditions throughout the home. Be sure to see the kitchen, bathrooms, dining room and physical therapy facilities.

(7) Ask as detailed questions as possible. The local chapter of the National Council of Senior Citizens can be helpful. H.E.W. publishes a useful booklet with a consumer checklist. It may be ordered from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The stock number is 1761-00032, and the price is 40 cents.

(8) When you have narrowed your choice down to two or three homes, look up the Medicare and Medicaid inspection reports. Your state health department can tell you where the reports are located. You are legally entitled to see them.

DEFENSE DEPARTMENT AND PROCUREMENT REFORM FLOOR STATEMENT BY SENATOR SAM NUNN

Mr. NUNN. Mr. President, as a member of the ad hoc subcommittee on Federal procurement, I was especially pleased by the prompt Senate passage of S. 2510, to create an Office of Federal Procurement Policy, on March 1.

I would like to especially compliment our chairman, the distinguished Senator from Florida (Mr. CHILES) and the ranking Republican, the distinguished Senator from Delaware (Mr. ROTH) for their outstanding leadership in this area and particularly on this bill. The participation of the other members of the subcommittee, the distinguished Senator from Tennessee (Mr. BROCK) and the distinguished Senator from Kentucky

(Mr. HUDDLESTON) were instrumental in getting prompt Senate action on S. 2510.

Mr. James Phillips of the National Journal Reports recently crystallized the current situation in a fine article that I think would be of interest to members of the Senate.

Mr. President, I ask unanimous consent that Mr. Phillips' article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ECONOMIC REPORT/PENTAGON SEEKS TO FORESTALL HOUSE ACTION ON PROCUREMENT BILL

(By James G. Phillips)

The Pentagon is preparing a last-ditch stand in the House against legislation to establish a central office to oversee all executive branch purchases of goods and services, including military procurement.

Defense Department officials have asked House Government Operations Committee Chairman Chet Holifield, D-Calif., to defer action on a bill (S. 2510) setting up a centralized Office of Federal Procurement Policy, which the Pentagon sees as a threat to its own vast procurement bureaucracy. Pentagon officials also have asked members of the House Armed Services Committee to urge Holifield to delay action on the bill.

"We believe that the desirable goal of more centralized leadership of the procurement policy function can be achieved within the present system and without the need for legislation." Leonard Niederlehner, Defense Department acting general counsel, wrote Holifield on March 27. "It is our belief that legislation should be a last resort to be considered only if we are unable to work things out within the present system."

OMB PLAN

What the Pentagon would like to see is a tryout period for a procurement approach proposed last year by the Office of Management and Budget (OMB), under which a procurement coordination office would be established in OMB by executive action. But the proposal was made last July and OMB has not yet implemented it. (For background on the OMB proposal, see Vol. 6, No. 5, p. 181, and Vol. 5, No. 30, p. 1110.)

Meanwhile, congressional proponents of procurement reform have become convinced that OMB merely is stalling for time. These proponents think a procurement policy office with teeth in it will be established only if Congress moves in with legislation. They already have succeeded in the Senate and they think they will win in the House.

To bolster their argument for a statutory base for the office, proponents cite the defection of General Services Administrator Arthur F. Sampson from the Administration line on the issue.

"For all its value, this interagency coordination will not result in the dramatic changes necessary—not one single major procurement reform—without the establishment by statute of an Office of Federal Procurement Policy," Sampson said at a Federal Bar Association seminar on government contracts March 5.

"Let's face it," Sampson said. "We're running a $60 billion purchasing program like a garage sale. No one at the front of the store. No one in charge. If Procter Gamble or General Motors or IBM ran their purchasing like that it would certainly put their stockholders out of sorts—if it didn't put them out of business altogether."

SENATE PASSAGE

Despite Pentagon predictions of a hot floor fight, proponents of S. 2510 won an easy victory March 1 when the bill came up on the Senate floor. The Senate passed the bill by voice vote and without change from the version of the measure reported by the Government Operations Committee Feb. 26 (SRept 93–692).

At the Pentagon's request, members of the Senate Armed Services Committee had made inquiries with the Government Operations panel about the effect the proposed office might have on military procurement. But Senators on the Armed Services Committee came away convinced that the office would not interfere with the Pentagon's specialized procurements. So these members did not oppose the bill on the floor.

As passed by the Senate, S. 2510, originally introduced by Sen. Lawton Chiles, D–Fla., chairman of the Government Operations Subcommittee on Federal Procurement, establishes the procurement policy office as a separate entity in the executive office of the President. The bill sets forth the policy that the office will "provide over-all leadership and direction through a small, highly qualified and competent staff, for the development of procurement policies and regulations for executive agencies in accordance with applicable laws." The office itself specifically would be prohibited from doing any actual procurement. But it would have an enormous say in the methods that agencies use in making their own purchases. Powers that the bill grants the new office include:

Responsibility for establishing a system of coordinated government-wide procurement regulations (and to the extent feasible uniform regulations);

Authority to develop regulations that utilize competitive procurement methods to the maximum extent practicable;

Authority to monitor and revise policies that emphasize reliance on the private sector rather than on government owned facilities (such as armories) for goods and services;

Responsibility for developing a system of collecting and disseminating government-wide procurement data in order to meet the informational needs of Congress, the executive branch and the private sector.

To make Congress a more influential partner in the procurement process, the bill gives each house the power to veto major policy decisions proposed by the procurement office. All proposed policy changes must be submitted to Congress for advance review and they will become effective unless either the House or the Senate adopts a resolution disapproving them after 60 days of continuous session from the time the proposals were submitted.

The office would have a five-year authorization, after which time Congress would decide whether to continue it. Its first-year budget would be limited to $4 million.

HOUSE OUTLOOK

Despite Pentagon and OMB opposition, staff members of both House Armed Services and Government Operations Committees expect the bill to pass the House by early summer.

"Opposing this bill is like opposing motherhood," said an Armed Services Committee aide who asked not to be identified. "I doubt that members of our committee will actively oppose it, at least to the extent of interceding with the Government Operations Committee." The aide said such a course had been suggested to the Armed Services Panel by a "high level" Pentagon official.

"Our members aren't sure that the Pentagon's opposition to the office is well-founded," the aide said. "The Pentagon just wants to keep its own system. It doesn't want to deviate at all."

Herbert Roback, staff director of the Government Operations Committee, told NJR he expected the bill to be reported favorably by late May or early June. Industry associations favor the legislation, leaving the Pentagon and OMB alone in their opposition.

OTHER REFORMS

Passage of S. 2510 would implement the major recommendation of the Commission on Government Procurement, which early last year produced 149 suggestions for changing the way the federal government buys products and services from private companies. (For reports on the commission's recommendations, see Vol. 5, No. 21. p. 745, and No. 25, p. 897.)

While the bill to set up the procurement office moves forward in the House, committees in both chambers already are making plans to implement other reform proposals suggested by the commission. Said Sen. William V. Roth, Jr., R-Del., a co-sponsor of the bill: "The establishment of the procurement policy office will give Congress a necessary 'foot in the door' toward the enactment of a full slate of procurement reform measures."

In its first step following Senate approval of S. 2510, the Senate Subcommittee on Federal Procurement April 11 reported a bill (S. 2785) by Chiles designed to reduce administrative costs in the federal government's leasing of computers and other office equipment. The General Services Administration testified that the bill would save $75 million over a five-year period.

The subcommittee also plans action in the near future on commission recommendations for a consolidated procurement law to replace the separate statutes that now govern federal purchasing—one of the defense establishment and a widely differing one for most other agencies.

And both the Senate subcommittee and the full House Government Operations Committee soon plan to schedule action on a proposal to increase from $2,500 to $10,000 the minimum amount below which procurement contracts are exempted from formal advertising for competitive bids. The commission estimated that this would save $100 million a year in administrative costs.

BUDGET REFORMS

In a related development, the Senate in action March 22 on a bill (H 7130) to reform congressional procedures for acting on the federal budget, adopted an amendment by Chiles modeled along the lines of a procurement commission recommendation, to provide for timelier statements of program goals and research on alternate means to achieve them.

Chiles' proposal, reported Feb. 4 by the Government Operations Committee as a separate bill (S 1414, SRept 93–675), would require OMB beginning with fiscal 1979 to organize the federal budget in terms of national needs, followed by a statement of all the programs available throughout the government to meet each of those needs.

Chiles has argued that the existing system, under which the budget is presented on an agency-by-agency basis, makes it difficult for Congress to spot overlapping programs funded by different agencies or even the same agency. For instance, Chiles has stated that the HEW Department operates 54 programs that overlap each other and 36 that overlap programs of other agencies.

Another provision of the Chiles amendment would require federal agencies to provide the congressional committees which act on their budgets with statements to show:

The purpose of each of their programs (such as close air support for a combat aircraft);

How the programs relate to specific national needs;

Alternative approaches to solving the problem (such as artillery or attack helicopters for the close air support role);

How each program is progressing from year to year.

Chiles says this approach will give Congress a better handle on government procurement policy.

"The most effective way to control program funds is to control the early steps which lock in the levels of spending that Congress becomes concerned with later," Chiles said. "From weapons to social welfare programs, Congress becomes locked in by not having a clear chance to confirm needs, goals and the search for alternatives.

"It's not enough for Congress to have an ex post facto revelation that we've spent five years and a billion dollars giving birth to another turkey. We need to be informed in advance."

The House version of the budget reform bill does not include a similar provision, and this could spell trouble in conference. Les Fettig, staff director of the procurement subcommittee, said there might be "a possible reluctance by House conferees to include reform of the executive budget process in a bill reforming congressional budgeting procedures."

INDEPENDENT RESEARCH

Proponents of procurement reform face an even tougher battle over commission proposals regarding government payment of a share of industry's costs for its independent research and development (IR&D) efforts—the exploratory research a company does outside its regular contracts.

In the commercial market, companies include their independent research costs (such as research on advanced transistors for color television sets) in the price of their products, along with their other indirect costs, such as electricity and janitorial service.

But companies doing business with the government are unable to charge off these costs directly in their government contracts as they would to a private customer. The contract itself reimburses only their direct costs plus a profit. So the companies must negotiate advance agreements with the government prescribing how much overhead (including IR&D and the costs of preparing bids and proposals for known government requirements) the government should reimburse.

Although industry argues that IR&D and bid and proposal (B&P) costs should bear a direct relationship to the level of a company's business with the government, deductions are made by some federal agencies if a proposed research activity is not related to that agency's specific needs. Congress, in the fiscal 1971 defense procurement authorization bill, prohibited Pentagon payments of IR&D and B&P unless a proposed activity had a potential military application. The Atomic Energy Commission limits IR&D and B&P payments to applications related to specific AEC contracts. But most other agencies pay IR&D and B&P if the application is related to any governmental need.

The procurement commission adopted a compromise approach to the issue, whereby the government would liberalize IR&D and B&P treatment for companies with a majority of fixed-price government contracts while cracking down on such treatment for companies with mostly cost-reimbursable government work. (Under the fixed-price contract, popular during the 1960s, the government negotiates a firm price with a contractor and will pay no more than that even if a contractor's costs exceed that level. Under the cost-reimbursable contract, now in use for most new government procurements, the contractor has all his direct costs reimbursed.)

The procurement commission's presumption was that companies with fixed-price contracts would want to hold down their costs and would not make excessive expenditures on independent research, because that spending would have to come out of their own pockets. So monitoring would not be necessary, and their IR&D and B&P costs would be reimbursed without question as to the amount. Under the cost-reimbursement contract, the reasoning went, contractors might be able to hide excessive IR&D costs within the direct cost totals they were submitting to the government, unless these costs continued to be monitored. The commission's proposal for IR&D and B&P treatment for companies with mostly cost-reimbursable contracts provided that IR&D and B&P amounts not only would be monitored but would be disallowed unless the companies' IR&D and B&P expenditures were relevant to the needs of the specific government agency with which the company deals.

An interagency task force is already a month late in preparing the executive branch's position on the commission's IR&D proposals. But a controversy may take shape in Congress before the Administration's position is even announced.

In a press conference April 19, three leading industry associations—the Aerospace Industries Association of America Inc., the Electronic Industries Association and the National Security Industrial Association—released a study calling on Congress to liberalize substantially government treatment of IR&D and B&P costs.

"Product costs," the study said, "whether for commercial or government work, must reflect all cost elements in a business that is managed intelligently. Product price must reflect all elements of cost."

Although IR&D related to defense contracts had increased from $685 million in fiscal 1968 to $704 million in fiscal 1972, the report said that the increase was more than eaten away by inflation and that actual man hours devoted to IR&D had decreased by 28 per cent over that period.

"No corporation can continue to exist in our economy without ongoing self-initiated research and development," the study said. "The international challenge is great; this is the time to increase IR&D and B&P in terms of real effort to help meet the challenge, not the time for further entrenchment."

Among its proposals for IR&D liberalization, the three groups called on Congress to provide full government reimbursement of a contractor's "reasonable" IR&D and B&P costs and to eliminate all relevancy requirements, such as the relevancy test required by the Defense Department and the Atomic Energy Commission. (Industry feels that if IR&D is recognized as an element of the price of any product it furnishes the government, the companies should be able to direct their government-reimbursed IR&D into any projects they choose, including commercial ones.)

Timing of the industry study was designed to get the jump on an IR&D report to be made by the General Accounting Office (GAO) in the near future.

The GAO has been studying the issue since last October at the request of Sens. Thomas J. McIntyre, D-N.H., and William Proxmire, D-Wis. McIntyre, chairman of the Senate Armed Services Subcommittee on Research and Development, agreed to cosponsor the request in return for an agreement by Proxmire to withdraw an amendment from the fiscal 1974 defense authorization bill that would have cut IR&D by 50 per cent.

The report to be released soon by GAO is an interim one. The full report is not expected until October—a year from the time it was requested. But Proxmire may not wait for the final report before he moves in with another amendment to cut IR&D.

"Sen. Proxmire made his request last October with a view toward moving in the 1974 session," said a Proxmire aide. "The whole issue has been dragging on for years. Proxmire is not about to wait another year." The aide said Proxmire might submit his procurement authorization bill comes up this summer.

ECONOMIC POLICIES

Mr. BENTSEN. Mr. President, every one of us who had had to line up at the gasoline pumps or pay an extra dime for a loaf of bread in recent weeks knows only too well how our lives are increasingly touched by economic developments occurring far beyond our shores. It is no longer an academic abstraction to say that the nations of the world are being pushed toward even greater dependence upon one another economically, as spiralling population and consumption growth rates tax our individual capacities to feed and supply our peoples. It seems to me obvious that we must trade with other nations on the most efficient terms possible, and that we must cooperate with other nations in making the most efficient possible use of the world's dwindling resources. It seems to me equally obvious that our own Government—and the State Department in particular—must devote ever greater time and attention to dealing with the problems which result from this growing economic interdependence. In order to do so, it must urgently develop more sophisticated and reliable data on worldwide supply and demand in basic commodities; improve its projection of longer-term trends in individual countries abroad; and, above all, devise coherent diplomatic strategies to insure our access to vital resources located beyond our borders.

The Congress is doing something about the problem of long-term resource scarcity as it affects our economic growth. I serve as chairman of a new Joint Economic Subcommittee on Economic Growth, and supply constraints on critical raw materials will be a major area of our inquiry.

However, the administration does not seem to share our concern about the urgency of these enormous challenges. Unaccountably, it has delayed for nearly 2 months in filling the crucial position of Under Secretary of State for Economic Affairs, left vacant when William J. Casey resigned to head the Export-Import Bank. The importance of finding a capable person to fill this position has become all the more critical with the resignation of Treasury Secretary Shultz, who played a primary role in global economic policymaking.

Mr. President, it is imperative, in my view, that the President enlist top-level talent to develop—as quickly as possible—a new economic and diplomatic strategy aimed at insuring our access to the basic raw materials and commodities we need for increased production and maximum employment levels. As an essential first step, I urge the President to intensify his search for an able new Under Secretary for Economic Affairs as a matter of highest priority.

RURAL DEVELOPMENT HEARINGS

Mr. HUMPHREY. Mr. President, on May 8, the Rural Development Subcommittee of the Senate Committee on Agriculture and Forestry began hearings on rural development under chairmanship of Senator Dick Clark.

These hearings address a vital subject for rural Americans, indeed all of us. I hope that these sessions will be useful in developing new information and strengthening the leadership of the Department of Agriculture in this important area.

Mr. President, I ask unanimous consent that my statement, prepared for these hearings, be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Statement of Senator Hubert H. Humphrey

As one who led the effort in Congress in 1972 to help revitalize our rural areas, I want to express my concern over the direction of this program.

This is a time when we should learn from the past and do more for our rural people. The Congress had this in mind when it passed the Rural Development Act of 1972.

It does not appear that this program has really gotten off the ground. The Administration has not really appeared to be very much interested in rural development.

What we need is a rural development strategy. There are a whole series of problems which we should be tackling in a coordinated way such as transportation, health care, housing, industrial development and employment.

Much of the legislation needed is already on the books, and what we need is leadership and adequate funding.

To date we have not had the will to both face these problems and do something about them.

I should add that we might look on these problems as investments we can and should make for our own future. We have learned the heavy costs to small communities as the economic lifeblood slows down. We also discover the social and economic costs to our large cities as new arrivals from rural areas look for jobs and living accommodations and contribute to added demands on public services—all of which are in short supply.

We must urge the Department of Agriculture to take the lead the Congress has entrusted to them. This subcommittee will need to follow what happens in these programs. The funding requested has not been adequate to meet the need.

As you know, many provisions of the Rural Development Act have never been funded, such as Title IV dealing with Forest Fire Protection; the small farmer research and extension provisions of Title V; or, the rural development planning grant provisions. All of these programs deserve to be funded in fiscal 1975.

Other provisions have been only partially funded and deserve more funds. Again, the President is requesting insufficient funding for fiscal 1975. Let me review some of the details:

RURAL COMMUNITY FACILITY LOAN PROGRAM

Under this program, insured loans to public bodies and Indian tribes are authorized for the construction of essential community facilities. These are 40-year loans to be made at a maximum interest rate of 5 percent. The fiscal year 1975 budget request of $200 million should be increased to $400 million. These funds are needed to improve facilities in these communities and to attract jobs and industry.

RURAL INDUSTRIAL LOAN AND RURAL ENTERPRISE PROGRAMS

The industrial loan program under the 1972 Act authorizes both insured and guaranteed loans. The 1975 budget request calls for only $200 million covering both insured and guaranteed loans. I have urged that $400 million be appropriated in fiscal 1975 for "insured" industrial loans and that no limit be placed on "guaranteed" loans made for such purposes.

This is a relatively modest price to pay for economic development and rural revitalization.

Under the rural enterprise program, USDA has not loaned any funds since the Act was signed into law in August of 1972. Implementation and funding of this program could help many farmers and low-income rural residents acquire and operate small businesses to help supplement their incomes.

COMMUNITY FACILITY GRANTS

Under this grant program a $50 million expenditure level is authorized. Only $10 million has been requested for FY 1975, and I urge that the full $50 million be appropriated to enable rural communities to meet many community needs essential to attracting jobs and industry.

FMHA WATER AND SEWER GRANTS

I am delighted that the USDA has released $120 million in previously impounded grant funds.

For FY 1975 I suggest that at least $180 million be appropriated. A total of $300 million is authorized by law.

FMHA SELF-HELP HOUSING TECHNICAL ASSISTANCE GRANTS

The 1975 budget provides no funds for the continuation of the self-help housing program. This is a worthy activity in which people build their own homes by the sweat of their brows with the assistance of construction supervisors and group organizers paid for by the FmHA technical assistance grants. This activity should be continued at the full level currently authorized by law: $5 million.

FMHA GRANTS FOR HOME REPAIRS

The 1975 budget does not request any grant funds for the type of housing rehabilitation authorized by Section 504 of the Housing Act of 1949.

These are small grants that were once made by FMHA to elderly couples who need to patch their roofs, bring running water into their kitchens and install a bathroom. I suggest that at least $10 million be appropriated for this purpose.

FMHA FARM LABOR HOUSING LOANS AND GRANTS

The 1975 budget provides no funds for farm labor housing loans and grants. The Budget states that "the Government's role can best be served by other programs." But what other programs are there? Farm workers are the poorest housed of any of our people. I suggest that the maximum currently authorized by law, $18 million, be provided for grants and an equal amount be provided through insured loans.

RURAL ELECTRIC PROGRAMS

Due to the rapidly increasing energy requirements in the nation's rural areas and to the excess inflation which has greatly increased the cost of generation facilities, the capital needed by rural electric systems will exceed $2 billion during fiscal year 1975. PL 93–32 authorized an expanded REA loan program capable of meeting the needs of rural America. Congress saw fit to authorize a program of insured loans totaling not less than $618 million and up to $750 million, and it authorized guaranteed private loans without specific limit.

I recommend that we provide at least $750 million in insured loans this year and that we leave the guaranteed loan provision as it is now.

I encourage this subcommittee to continue to recognize the importance of an adequate Rural Electric Program in furthering rural development.

RURAL TELEPHONE PROGRAM

Here again the Administration did not avail itself of the legislative opportunity provided. The 1974 Appropriations Act provided for insured telephone loans up to $200 million, but operations are being held at the $140 million level. This is also the amount proposed for FY 1975. At the same time the backlog of unmet loan applications has skyrocketed to over $670 million. From my own State of Minnesota, alone, applications on file on December 31, 1973 totaled $35.7 million, including $8.5 million for systems which meet the standards established in the 1973 Act for receiving 2% special rate loans.

The Rural Telephone Bank funds now come almost entirely from non-governmental sources. Except for those borrowers meeting Congressionally specified criteria, the loans are no longer made at a subsidized rate of interest.

I recommend increasing the lending level of both the REA-telephone insured loan program and the Rural Telephone Bank to $200 million apiece for FY 1975. Of the REA insured loans, I believe at least $50 million should be made available to borrowers meeting the criteria for 2% funding.

NATIONAL RESOURCE PROTECTION AND CONSERVATION PROGRAMS

The President's FY 1975 budget request for these programs is totally inadequate. The President is requesting only $118.8 million for all such programs authorized or amended by the Rural Development Act of 1972, and the Agriculture and Consumer Protection Act of 1973, which included the new forestry incentives program. I would urge that Congress provide something closer to $260 million for these programs which include water bank, Great Plains and emergency conservation and REAP programs.

RURAL TRANSPORTATION STUDIES

I note that the FY 1975 budget includes $100,000 for the Economic Research Service to undertake a comprehensive study and analysis of the rural transportation situation, as I had recommended in FY 1974. As you know, ERS has already filed a copy of its interim report in accordance with last year's Appropriations Committee requirement.

I am happy to note that $100,000 is included in the President's FY 1975 budget to continue this important work. In light of the importance of this effort, both the scope and the funding should be expanded to deal with moving people as well as products. I would urge that $200,000 be provided.

While I have focused on the financial needs of these programs, I again wish to return to my earlier point that the Department of Agriculture needs to provide stronger leadership in the Rural Development area.

Adequate financing is an important part of the battle, but the Department needs to display greater initiative. Shaving dollars here and there is not very helpful to our rural people.

Rural development should be looked on as people programs since people are our most valuable resource. These programs are important to open new opportunities since many of our farmers and rural people do not have the sizable resources required today to engage in commercial agriculture. We need also to remember that these programs are largely loan funded and should not be viewed as appropriations in the true sense.

At these hearings we also need to take a look at other programs outside the jurisdiction of the Department of Agriculture. These programs cannot be overlooked in developing a rural development strategy.

I commend the Chairman for holding these hearings, and I hope that they will provide new insights and the opportunity to improve the Rural Development effort.

AN INDEPENDENT, NONPOLITICAL SOCIAL SECURITY ADMINISTRATION

Mr. CHURCH. Mr. President, social security is clearly one of our Nation's landmark achievements—protecting workers and their families from loss of earnings because of retirement, death, or disability.

In addition, medicare provides valuable protection against the high cost of health care for the aged and disabled.

Today virtually every American family is affected in one way or another by the social security system.

Nearly four out of five persons aged 21 to 64 have disability coverage. About 95 percent of all mothers and children would be eligible for social security benefits if the father in the family should die.

Over 30 million persons receive retirement, disability, or survivors' benefits. And 100 million workers are building protection for themselves and their families by making contributions to the system.

These facts, it seems to me, provide compelling reasons for keeping the social security system free of political pressures.

This point was also made very forcefully at hearings I have conducted, as chairman of the Senate Committee on Aging, on future directions in social security.

These hearings provided valuable background information for my bill, S. 3143, to establish an independent, nonpolitical Social Security Administration outside the Department of Health, Education, and Welfare. As a further means to immunize the program from political pressures, my proposal would prohibit the mailing of notices with social security checks which make any reference whatsoever to public officials.

My bill—the Social SecurityAdministration Act—has generated strong bipartisan support. Twenty-three Members of the Senate have already joined me in cosponsoring this legislation. Additionally, several leading organizations in the field of aging—including the National Council of Senior Citizens, National Retired Teachers Association, American Association of Retired Persons, and the National Association of Retired Federal Employees—have endorsed this bill. Moreover, recent news accounts have provided further persuasive arguments for early enactment of this measure.

Mr. President, I ask unanimous consent that two of these articles by Mr. Bernard Nash, executive director for National Retired Teachers Association-American Association of Retired Persons, and Mrs. Ghita Levine, a writer on aging for the Baltimore Sunday Sun, be printed at the close of my remarks.

Despite these encouraging actions, I am very much concerned about another development affecting this program. Beginning on July 1, the Social Security Administration will pay rent into a new public buildings fund on property it now owns. This will also apply to commercial property it leases through the General Services Administration, which it reimburses.

This practice, I strongly believe, provides another compelling reason to underscore the essential difference between contributory social insurance programs, such as social security, and other operations of the Government. My bill would accomplish this objective by removing the transactions of the social security trust funds from the unified budget.

A recent account by Anne S. Philbin, of the Baltimore Evening Sun, provides an excellent discussion of important issues concerning this rental arrangement.

Mr. President, I commend this article to my colleagues and ask unanimous consent that it be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

We Must Make Social Security Secure Now!

(By Bernard E. Nash)

Of all government agencies serving the public today, few have as great an effect upon the lives of older Americans—and, ultimately, upon all of us—as the Social Security Administration.

This single agency, and the lone man who heads it, is responsible for administering the Social Security system itself, plus Medicare and the black lung benefit provisions of the 1969 Coal Mine Health & Safety Act and, as of the start of 1974, the new Supplemental Security Income (SSI) program for the needy aged, and blind and disabled citizens of all ages.

Yet, for seven months last year, this vital agency with its immense responsibility was without a leader!

To protect the public from the dangers of such a vacuum. Sen. Frank Church (D-Idaho) has introduced legislation which would establish the SSA as an independent agency with its own three-member bipartisan board of directors—and thus avoid situations like the one that occurred last year.

It happened this way. In March, Robert M. Ball, who had been associated with Social Security since 1939 and commissioner since 1962, was not reappointed by President Nixon. From then until James B. Cardwell became commissioner in October, the SSA maintained motion mostly by momentum like a rudderless ship in a swift tide.

Fortunately, the agency did not run aground in the fiscal fog. And, while Mr. Cardwell may not possess Mr. Ball's almost legendary reputation for innovative management, he is a career civil servant who comes to his newest assignment with considerable experience in the budgetary area of the Department of Health, Education and Welfare.

An agency with the awesome responsibilities of the SSA cannot afford even a brief loss of continuity, much less an extended one. This concern about lapses of leadership during times of transition is shared by many, including myself, and has resulted in Sen. Church's legislation.

Under it, the three full-time board members would be nominated by the President and appointed by Congress to staggered five-year terms, thus providing continuity during periods of change in the White House. The board would, in turn, appoint an executive director who would function as the SSA's chief administrator; the board would concentrate on policy decisions, reporting directly to the President.

To minimize partisan political considerations, the proposed law provides that no more than two of the board members can be from the same political party. However, the authority to appoint one of the three members as chairman would be vested in the President.

This may sound like a radical new approach, but it isn't. In fact, the original Social Security Act of 1935 established the three-member bipartisan board as the system's first governing body. It was this form of administration which contributed so importantly to the system's early success and the public's justified confidence in it.

Then, in the mid-1940's, a series of governmental reorganizations began which eventually resulted, over a period of some 20 years, in the agency we know today. These changes were designed to "streamline" government and reduce the number of departments reporting to the President.

Perhaps we have come full circle. Once again, the need for change is upon us, and it is ironic that the great innovation before us represents a return to the very beginnings of Social Security. However, it is said that there are times when we have to go back before we can go forward again. For our nation's Social Security system, this is one of those times.

[From the Baltimore Sun, Apr. 14, 1974]

Time To Set the Child Free?

(By Ghita Levine)

Several bills are pending in Washington to change the status of the Social Security Administration. Measures in both houses call for the removal of the SSA from the Department of Health, Education and Welfare and its creation as an independent agency. Instead of a commissioner reporting to the Secretary of HEW, a three-man governing board would report directly to the President.

Senator Abraham Ribicoff (D. Conn.), a former Secretary of the Department of Health, Education and Welfare, and Senator Church (D., Idaho), chairman of the Special Committee on Aging, are co-sponsors of the Senate bill. On the House side, a companion measure was introduced by Representative Wilbur Mills, powerful chairman of the House Ways and Means Committee, who has a large say about the way this country's money is spent.

The Social Security system has become a political tool, these men maintain, and is no longer clearly understood by the public. Blanketed under the administration's largest department, it is easily manipulated.

VITAL STAKE

"I believe it is absolutely essential that the Social Security system be administered nonpolitically and impartially because the program affects the lives of almost every American family, in one form or another," Senator Church said recently. "In terms of sheer numbers, virtually all Americans have a very direct and vital stake in assuring that the integrity of this system is maintained."

Senator Church and colleagues stress the essential differences between the Social Security system and other government operations. Most important is the fact Social Security is financed by direct employer-employee contributions and not by general taxes as other government programs are. The money for the Social Security system is isolated, by law, into trust funds which cannot be used for other purposes.

Of the four Social Security trust funds, Old Age Survivors Insurance, Disability Insurance, Hospital Insurance and the Supplemental Medicare Insurance Trust Fund, only the latter receives money (50 percent of its total) from general revenues. The rest are self-supporting.

DISTINCTION BLURRED

But this fundamental distinction has been blurred by lumping Social Security into the HEW budget. Half of all HEW money is really Social Security trust funds, money other programs cannot touch. Yet this separation is not made clear.

When President Nixon threatened to veto the 20 per cent Social Security benefit hike in 1972, for example, he did so on the grounds the HEW budget was already too high. George Shultz, Secretary of the Treasury, said it was fiscally impossible. Yet the money to finance these increases, while statistically part of the HEW budget, was a matter of separate Social Security funds, much of it already accrued, the rest to be added by raising the special contribution. It had no real bearing or relationship to the annual HEW budget. In the face of massive opposition, President Nixon was forced to sign the increase into law.

Social Security money is also included in the federal budget as an artificial device to reduce the country's deficit. President Johnson, not Nixon, invented this "unified budget" and it remains a useful administration tool.

Nothing actually changes, the trust funds are still maintained independently, but there is widespread public confusion as a result, confusion over how well protected Social Security benefits are and how separate this group insurance is from other government programs.

NIXON TOOK CREDIT

The pending bills also prohibit the mailing of notices which make reference to any public office holder. This they believe, is another way of removing politics from Social Security. Despite his strong opposition to the Social Security increase in 1972, President Nixon's name appeared on stuffers with the new 20 per cent higher checks, taking credit for the benefit raise. Presidents have announced Social Security hikes since the days of President Eisenhower, opponents are quick to say, but these men supported, not opposed, the increases they announced.

The argument for a three-man governing board answerable to the President to replace a single commissioner who reports to the Secretary of HEW is also the result of administration pressures. Robert Ball, Social Security Commissioner since his appointment by John F. Kennedy in 1952, was asked to resign by President Nixon in midterm, in January, 1973, although this is not how it was made to seem.

"I fail to see how three appointees, two Democrats and one Republican, or vice versa, will make this office less of a political battlefield," said a Social Security spokesman unofficially. This seems a valid argument, although promoting the office higher on the governmental ladder makes good sense.

CHILD GROWN MIGHTY

Since half the money and half the staff (65,000 people) of HEW belong to SSA, there may be no valid reasons to keep it under the department any more. The child has grown as mighty as the parent.

Times have changed since 1939 when the old age survivors program began as a part of a group of similar programs under the Federal Security Agency. In 1953 the old FSA became the swollen HEW. Since then Social Security has grown even more, first with a disability program, then with Medicare in the mid-Sixties and now, in 1974, as guardian for the new federal low-income cash program for aged, blind and disabled.

Perhaps it is time for this fully grown ward, with offspring of its own, to be set free.

[From the Baltimore Evening Sun,
Apr. 17, 1974]

SSA ASKS RENT CHARGE EXEMPTION BUT GSA AND JUSTICE DEPARTMENT REFUSE

(By Anne S. Philbin)

Millions of dollars' worth of Social Security real estate, paid for and operated from funds held in "trust" for some 98 per cent of the nation's wage earners, will be dumped into a new Public Buildings Fund July 1.

The Social Security Administration also will begin paying into the fund more than $120 million a year "rent" on buildings it now owns and commercial property it leases through the General Services Administration, which it reimburses.

Various Social Security officials privately dub the prospective takeover and the rental fee called "Standard Level User Charge (SLUC)", both authorized by a 1972 law, as something between "improper use of Social Security trust funds" and the "great rip-off of American taxpayers." Still others seem resigned to SLUC.

ALL FEDERAL AGENCIES

The SLUC charge levied by GSA will apply to all federal agencies July 1, not just to SSA. But because SSA's buildings and operations are paid for out of wage-earners' and employers' contributions to Social Security, in the form of special taxes, SSA thinks it is a special case and should be exempt from the SLUC charge.

However, Arthur F. Sampson, GSA Administrator, and Robert G. Dixon, Jr., assistant attorney general, Office of Legal Counsel, Department of Justice, in an opinion directed to the Office of Management and Budget, disagree.

SSA presently is considering other approaches suggested by John Rhinelander, general counsel, Department of Health, Education, and Welfare, SSA's parent agency.

Louis Zawatsky, deputy assistant commissioner for administration at Social Security, said Mr. Rhinelander has suggested that "SSA either ask Congress to exempt it from SLUC or for a special appropriation for an amount which would equal that part of the SLUC payment which is in excess of the normal maintenance costs SSA is now paying."

An SSA spokesman said that as of December 31, 1973, there was $51.1 billion in the three trust funds; the monies represent contributions from wage earners and employers and are not part of the U.S. Treasury's general fund.

Put another way, the trust funds are in the nature of a contract between individuals and the Social Security Administration: insurance premiums for retirement and survivors benefits, disability and health insurance.

LIKE ANY OTHER AGENCY

Mr. Zawatsky explained that when SSA first appears before Congress at budget hearing time, "we go in like any other agency."

"Congress makes a judgment on our requests, then the bookkeeping starts," he said. "Congress tells us how much money we will be allowed for salaries and expenses and eventually they come out of the trust funds."

David Lancaster, deputy director of operational facilities at SSA, said the Woodlawn facilities and some 70 district offices throughout the country were constructed with SSA trust fund money as authorized under the Social Security Act.

The Public Buildings Amendments of 1972 authorized the establishment in GSA of a Buildings Fund to finance the construction of federal office buildings generally.

"This fund is a revolving fund capitalized principally from the proceeds of the SLUC charge which GSA was authorized to impose on federal agencies occupying building space furnished by GSA," Mr. Lancaster said.

"We are saying that our property, while owned by the United States, is an asset of the SSA trust funds. But GSA's position is that 'the source of funding for construction of Woodlawn facilities and district offices is not germane to the issue.'"

Since early 1973, HEW has sought an exemption from the SLUC charge for SSA trust fund facilities as well as those built or in the process of building under the "purchase contract" financing method, which was also a part of the 1972 law.

SSA STAND

SSA has maintained that its space was not furnished by GSA, and the services it receives from GSA, such as cleaning and protection of its buildings, are reimbursed on a cost basis.

Mr. Lancaster said that SSA has been saying that "the takeover of our real estate and the imposition of the user charge is improperly diverting trust properties to general governmental purposes."

But since May 1, 1973, Mr. Sampson has refused to grant SSA an exemption although the 1972 law provides that the Administrator of GSA may do so "if he determines that such charges would be unfeasible or impractical."

SEEKS LEGAL OPINION

When Caspar W. Weinberger, HEW Secretary, wrote Roy Ash, director, OMB, in September, 1973, to seek OMB's assistance in resolving SSA's disagreement with GSA on the SLUC charge, OMB referred the matter to the Attorney General.

On December 20, 1973, Mr. Dixon replied that SSA buildings financed through the trust funds are space furnished by GSA and subject to SLUC and that HEW should seek an appropriation from Congress for excess charges to the trust funds.

Mr. Lancaster said the GSA-imposed SLUC charge includes a margin of profit. "This means Social Security will be paying more to operate its facilities under the GSA SLUC plan than it would cost to operate the same facilities under commercial market conditions."

TO AFFECT NEW BUILDINGS

Asked if the operation of the new Public Buildings Fund will affect the two new buildings planned by SSA for construction at Woodlawn and Metro West in downtown Baltimore, costing about $204 million. Mr. Lancaster said it could, but he didn't know how much.

A check with the Office of Management and Budget produced an answer as to how much money all federal agencies will be competing for, come July 1, under Public Law 92-313.

An OMB spokesman found the answer on page 776 in the appendix to the President's budget. It says that "the total 1975 program level for acquisition of new facilities is estimated at $275 million (total project cost) including $25 million by direct federal construction and $250 million in private investing financing for 1975."

In effect, then, this would mean Social Security's Baltimore building plans will be competing with all other federal agencies for almost 75 per cent of the total 1975 federal construction budget.

INDIANA UNIVERSITY EDUCATOR RETIRES

Mr. HARTKE. Mr. President, one of Indiana's greatest legal educators and former dean of the Indiana University Law School, Leon Wallace, has decided to retire after nearly 28 years as a teacher and 15 years as dean.

In reflecting on the change in legal education during his distinguished career at Indiana University, Dean Wallace believes the quality of the student has not changed. The major change is in who gets a chance to pursue a legal education.

I have mixed emotions about the retirement of one of Indiana's leading educators. I am happy that he will now be able to pursue his interests outside of the school, but I am sad that Indiana will be without a giant among its distinguished faculty.

Mr. President, I ask unanimous consent that an article appearing in the "Bill of Particulars" published by the Indiana University School of Law Alumni Association be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LEON WALLACE ENDS IU CAREER

Present day career consultants couldn't have made a more natural career choice for

Leon Wallace than the selection he made for himself.

In 1926, after Wallace finished his undergraduate education—which had included two years at University of Illinois and two years at IU—he and his bride went to San Francisco for him to work for Rand McNally as a production manager. Four years later, however, he gave in to the attraction he had always had for law, so he returned to Bloomington to enter law school.

This May, Wallace, having reached the age for mandatory retirement from teaching, will leave the IU Law School with a career record that has included two and a half years as a student, two years as a part-time teacher, 28 years as a teacher, and 15 years as dean.

Since 1966 he has been the Charles McGuffey Hepburn Professor of Law.

Wallace's father was a lawyer in Terre Haute so the young man who was later to be IU's law dean, had always thought that he would eventually be a lawyer.

When Wallace finished law school in January 1933, Dean Bernard Gavit offered him a full-time faculty position. Wallace thought he should return to Terre Haute to enter practice with his father, so for two years he limited his teaching to three classes, which he taught one day each week.

Wallace feels that the experience he gained in his 13 years of general practice in Terre Haute gave him a greater insight into the way the law works. He was then able to share that insight with his law school students when he joined the faculty on a full-time basis, beginning in 1945.

In his early years of teaching, Wallace continued to prepare briefs, but usually not for his own cases. Instead, he explains, he was a lawyer's lawyer, preparing briefs for lawyers who would argue cases before the Indiana State Supreme and Appellate Courts.

In considering the importance of practice experience for law teachers. Wallace feels his own work in his father's practice was helpful, but he points to the lack of success that some states have had in setting practice experience requirements for law teachers.

Wallace thinks that other kinds of experience—such as clerkships—can be equally instructive for law teachers.

In thinking about the kinds of persons who taught law 30 years ago, Wallace says that the same quality of teachers existed then as today. He goes on to say, "When I came here IU didn't have a national reputation, but it had some excellent teachers."

When Wallace started teaching, he had considerable practice experience in property law, so it was natural that he teach in that area. However, he was also needed to teach labor law, so he had to learn about that.

In discussing teaching specialties, Wallace points out that the whole field of law has expanded so much in the past 30 years that the degrees of specialization have had to increase.

In reflecting on other similarities between now and 30 years ago, Wallace thinks that the quality of student has not changed. He regrets, however, that legal education has become so popular that many persons who would be good lawyers now cannot get into law schools. "Thirty years ago they were given a chance to try," but, he goes on to explain, "That is no longer possible."

The most noticeable change in student behavior, in Wallace's view, has been the increased tendency for students not to go to classes. He cannot help but compare today's class cutting with the practice of earlier years when law teachers established a maximum number of class cuts they would allow each semester.

As he thinks about changes in legal education, Wallace talks about the rises and falls of popularity in specific areas. He thinks clinical courses may now be on the wane as students realize that they allow them fewer chances to take "substantive work" that students will need when they get out. Wallace says, "More students realize now they need to take the tough courses."

Wallace points out that one of the "tough" courses, Property Law, is technically optional, but it is still taken by about 95 percent of IU's law students.

Wallace supports the need for law students to have interdisciplinary interest: "A good lawyer should be more than just a technician. He needs to work with people in other disciplines."

In surveying the increased number of courses in law schools, Wallace points out that more courses have had to be added because of the increase in federal regulation.

The former dean also sees that the deanship has changed in the past 30 years. He observes the trend currently is to hire administrators to carry on some of the details previously handled by the dean. He also recalls that 30 years ago the myth existed that the dean was a dictator "who carried the school around in his pocket." In his 15 years (1951–66) as dean, Wallace found that was never true. He recalls that he always wanted to find out what his faculty wanted.

As Wallace reflects on his years at the law school, which included building and occupation of the Law Building, he feels he has gained his greatest satisfaction from watching what has happened to his former students. Within recent months, for example, he has celebrated the elevation of two former students—Allan Sharpe and William I. Girrard—to the federal bench.

Wallace is less certain about what the future years will be for him. He hopes to continue consultantships on such cases as the Indiana/Kentucky boundary dispute that he has worked on since 1966, but he doesn't have definite plans for any major projects.

His life with his wife will probably focus less on law and more on the activities of his children—a son who practices law in Milwaukee, a daughter in Bloomington, and another daughter in California—and his grandchildren.

HUMPHREY PROPOSES WORLD FOOD ACTION PROGRAM

Mr. McGEE. Mr. President, today my distinguished friend and colleague, the junior Senator from Minnesota (Mr. HUMPHREY) delivered an innovative and far-reaching address before the Rennselaer Meeting on the World Food and Energy Crisis being held at the United Nations.

In his address, Senator HUMPHREY outlined his proposal for a world food action program which would launch important new initiatives for the United States on four broad fronts: expanded food aid; a program of food reserves; an improved system of fertilizer distribution and production; and an increased emphasis on agricultural development.

As the world moves rapidly into one international economic and political crisis after another, Senator HUMPHREY stands in the forefront of those searching for effective means of coming to grips with these problems. His perceptions and grasp of the ramifications for all mankind, should we fail to meet these problems effectively, are acute. He has initiated a vital dialogue, which I hope will be expanded nationwide, on the widening gap between the rich and poor nations of the world which is breeding starvation, death, and a political instability of which all peoples pay a heavy price. He has called upon that which is good and compassionate within the American people in an effort to mobilize an effective assault on these problems. All he asks is that each and every one of us reach out our hands to the millions of people in the poor countries of the world, struggling for survival on a day-to-day basis.

Senator HUMPHREY has always been known for his strong sense of human compassion. However, he has always translated this human compassion into effective action and creativity. He is performing an invaluable service not only to the people of this Nation, but the world community as well.

As my distinguished friend noted in his address, he will be introducing his proposal for a world food action program in the next few days. I would urge my colleagues to join with him in this effort.

I ask unanimous consent that his address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

A WORLD FOOD ACTION PROGRAM

(Address by HUBERT H. HUMPHREY)

We have been waging a battle to improve the quality of life in the developing world for 25 years. Today this battle against global poverty and disease is being lost.

As the world's military powers seek accommodation to reduce the risks of nuclear holocaust, new dangers to political and economic stability have arisen.

The threat of widespread famine is on the increase. Fertilizer shortages are growing and the affluent continue to consume a disproportionate amount of the world's food resources.

Worldwide inflation continues to take a heavy toll on the developing and the developed countries alike. This erodes political stability and depletes what little hard currency the poor nations have amassed.

The rich and poor nations are in danger of entering a new era of confrontation fueled by economic desperation. All realize that they are vulnerable to economic blackmail. This situation is causing a breakdown of the traditional rules of the game governing access to supplies and raw materials.

We are today at a crossroads of history comparable to the years following the end of the Second World War.

Today, as before, our nation faces a crisis of maintaining our growth in relative affluence while others face a crisis of sheer survival.

Today, as before, we must fashion an adequate response to the plight of a great mass of people—over one billion people in more than 30 countries who are the worst victims of the doubling and trebling of world food, fuel and fertilizer prices. These most severely affected countries might be described as a new Fourth World.

The bill the developing countries as a whole must pay in increased petroleum prices is an estimated $10 billion. Food and fertilizer price rises are expected to add an additional $5 billion.

And today, as before, the American response to these global problems must draw upon what is best in our people. We must recognize the interdependence of our security with the well-being of all mankind. And the progress of Americans can flow from the progress of others, as it has with the impressive postwar improvement in Europe.

On the other hand, if the opportunity for economic progress is denied one fourth of the human race, no institutional structure, no concept of world order, no "structure of peace" can long survive.

It is imperative that our leaders recognize this essential fact of life.

President Nixon has recently submitted an expanded foreign assistance program.

At the recent U.N. General Assembly special session on raw materials and development, Secretary Kissinger announced our intention to provide emergency assistance, in a cooperative framework, to the stricken Fourth World.

Most recently, we offered an emergency proposal at the U.N. urging the creation of a $4 billion special fund to which the U.S. would contribute its "fair share." This fund would supply additional assistance to the most severely affected to enable them to buy fuel, fertilizer and other essential commodities.

Though well-intentioned, American efforts thus far lack specific financial commitments which the Fourth World expects and needs.

I have come here today to discuss a specific proposal—a proposal which I believe could prevent chaos and suffering. It will allow our nation to fulfill its humanitarian obligation to the world community.

It will respond to an urgent request of the recent U.N. session for "an emergency relief operation to provide timely relief to the most seriously affected developing countries."

It is not a program of charity, for charity is not the way to develop human potential and foster a viable world order.

It is, rather, a program designed to lead the world back from the precipice of famine. It will afford millions with the opportunity to go beyond mere survival and develop the potential of their economies and their lives. It is also a program which recognizes the urgent need to develop new standards and institutions to ensure access to supplies of essential commodities to all nations, rich and poor.

Today I am proposing a World Food Action Program which involves important initiatives for the United States on four broad fronts: expanded food aid, a program of food reserves, an improved system of fertilizer distribution and production and an increased emphasis on agricultural development.

The United States is a country blessed with great industrial and military power. But this power shrinks in magnitude compared to the power of food. We are the world's breadbasket. Our natural tendency to produce food in abundance gives us today enormous power over the lives and fortunes of a majority of the world's people.

Used wisely, America's food power can be a force for enlightened and compassionate ends. Used only for narrow, short-term advantage, it becomes a precious resource squandered in the face of great human suffering.

I believe our contribution to the growing economic crisis in the Fourth World should be primarily in the form of food and the means and technology to produce it. I propose a food action plan in the hope that it will serve as a model for initiatives by other nations who can afford to be generous at a moment of growing need.

Twenty-five years ago Europe was threatened with economic and political disintegration. The United States responded strongly and generously in the face of crisis and despair. The Marshall Plan can again serve as an example of effective assistance to those in distress.

Today, when the lives and well being of hundreds of millions in Africa, Asia, and Latin America are at stake, we can do no less. We need to respond in the same bold and generous manner.

We cannot wait for the World Food Conference in November. Time is running out for millions.

My four point action program includes the following provisions:

First, food aid must be expanded.

At a time when world needs have reached crisis proportions, our food aid shipments have been slashed severely. And a significant part of our availabilities go for security related programs in Southeast Asia.

All nations must immediately takes steps to expand their food production. But this simply is not enough. The food surplus nations must also set aside a portion of their increasingly profitable food exports for transfer to the poorest nations. And the transfer must be on terms poor nations can afford. Present world food prices are simply beyond the financial means of the poorest nations.

Specifically, I propose a three-year emergency food aid effort. It would be aimed at the nations hardest hit by food and energy price rises and fertilizer shortages. It would include the following steps:

The United States will offer the sale of at least $1 billion worth of food annually at today's market price. Countries purchasing this food will pay the going market price of July 1, 1972 commercial terms.

The difference between today's higher prices and the July 1, 1972 price would be in the form of long-term concessional credits.

This American proposal should be conditioned on a comparable offer from other nations with a major food surplus—notably the Canadians and Australians. Their fair share of the total aid effort would be proportionate to their share of world grain exports in recent years—about 70% from the U.S., 20% from Canada and 10% from Australia.

I believe this new program of expanded food aid should be matched immediately by reciprocal assistance measures on the part of the oil exporting nations.

Recent oil price increases and energy shortages have already begun to decrease world food production. Therefore, a decline in oil prices will help spur world food production.

For the very poorest nations and those already suffering famine, we should expand our PL 480 Food for Peace sales program on terms softer than the proposal I have just made.

The PL 480 food grants for the nutritionally vulnerable and for food-for-work programs have also been cut dramatically. Approximately 20 million people have been removed from these important programs. We must move to expand this grant food aid program.

Our much diminished PL 480 program must be restored at least to the 1972 commodity levels.

The United States is a major contributor to the international World Food Program under the direction of the United Nations. This program carries out vital emergency relief and nutrition activities.

Sharp food price increases have reduced the availability of food for this international effort. Many worthwhile new projects have been abandoned. The United States, which has presently pledged to provide $140 million in food and cash in 1975–76, must increase its own pledge to at least $200 million. We must encourage other nations to increase their contributions so that the commodity level can be restored to the 1972 level.

Again, this should be looked upon as only a minimum effort to deal with an emergency.

People must understand that the severe world food crisis will not miraculously disappear even if we have the bumper harvests anticipated for this year. Last year we had record crops. Despite this fact, world food reserves are today dangerously low. They are approaching a level of supply which could last only three weeks.

Second, we must establish a food reserve program.

We have a moral obligation to establish a buffer against the threat of mass starvation. We simply cannot rely on ideal weather and no major crop diseases to assure a safe supply of food.

The world's leading food producer and exporter—the United States—has no national food reserve policy. We blithely assume all will work out for the best.

Grain reserves provide an important measure of stability in the world food economy. They also ensure the capability of the international community to respond when droughts or crop failures occur.

It is essential, then, that the U.S. Congress act quickly to pass the legislation I have proposed establishing a national food reserve policy.

Closely related to a reserve policy is the need to assure fair prices to farmers for their products. It is a fair price which is the incentive for production. The existence of sizeable reserve stocks must not be used to deny farmers of a reasonable return on their investments and efforts.

The international community must also establish a new global food reserve system. FAO Director-General Boerma's plan for the international coordination of national food reserve policies must be given concrete form at the World Food Conference, and then implemented without delay.

Third, world fertilizer production must be expanded.

The global shortage of chemical fertilizers is already causing disastrous consequences in the developing world. This is especially true in South Asia. Not only have prices soared, but many poor countries have been unable to purchase required amounts at any price. Japan, the United States, and European nations have reduced their fertilizer exports because of their domestic needs.

Every dollar's worth of fertilizer denied a country such as India now may well force it to import five dollar's worth of food next winter. This is an economic loss that these nations and the world can ill afford.

The United States and other fertilizer exporting nations must take steps to ensure that critical fertilizer needs in the developing countries are met without endangering domestic agricultural production.

We must restore our fertilizer exports to reasonable levels, both through commercial channels and our aid program.

This will require expansion of fertilizer production facilities. If necessary to insure this expansion, the Government should stand ready to offer credits and tax incentives.

More fertilizer needs to be sent to developing countries this summer and fall. The industrial countries need to consult urgently on the means for doing so.

We must ask the American people to reduce the non-critical and non-farm uses of fertilizer which now total nearly 3 million tons of nutrient—well above the anticipated fertilizer deficit in Asia this year.

A major cooperative effort is needed to increase the efficiency of production in existing developing-country nitrogen fertilizer plants. Many are now producing at below two-thirds their capacity. Additional technical assistance and spare parts will be necessary from the United States and other industrialized nations.

It is now clear that the comparative advantage in nitrogen fertilizer production lies with those nations with abundant energy supplies. The United States and other industrial nations should assure the oil exporting nations—which are blessed with natural gas, the feedstock of nitrogen fertilizer—that we will share with them our technologies to open new supplies of fertilizer.

The World Bank could take the lead in coordinating this effort.

The battle against global hunger cannot be won without abundant supplies of fertilizer at reasonable costs.

Fourth, agricultural production in the food deficit nations must be increased.

The developing countries constitute the world's greatest reservoir of untapped food production potention. Vast increases in food production are possible in these nations. These increases can be achieved at a far lower cost in the use of energy and fertilizer than in the agriculturally advanced nations.

The realization of this potential is crucial if the world's food supply is to grow rapidly enough to meet the needs of population growth and rising affluence.

Special emphasis needs to be placed on effectively involving the world's small farmers in the effort. A generation of experience has taught us the benefit of intensively cultivated small farms. They more than hold their own in comparison with large farms in output. They also supply jobs for the growing legions of the unemployed in the developing world.

This approach to rural development contributes greatly to the motivation of smaller families that is the prerequisite of a major reduction in birth rates.

Agricultural development will not come easily.

It will require supplying farmers with education, credit, extension services, fertilizers, improved seeds, appropriate machinery, and water supplies.

It will require expanded multilateral and bilateral economic assistance programs.

It will require expanded world research efforts to discover even more productive seed varieties.

It is imperative that the U.S. Congress act quickly to approve the U.S. replenishment of funds for the International Development Association. The World Bank, under the leadership of Robert McNamara, is increasingly focusing its efforts on this area of greatest need—rural and small farm development.

Special attention in the developing countries must be given to the problems of food spoilage and waste. Poor storage, inefficient marketing practices and inadequate facilities result in massive losses of food and fiber. A special effort, perhaps led by the FAO, to reduce global food losses is vital.

At the same time, we cannot ignore the different but very real form of waste occurring in the more affluent nations. Each day, enough uneaten food is scraped from restaurant and home dining room plates to sustain millions.

The Food Action Program which I have outlined would begin to meet the urgent need for immediate international cooperation to avert famine.

It would also do much more. It could establish new standards by which nations deal with global resource scarcities. Many of the fundamental questions raised by these shortages are present also in the case of food.

We should use American food to set a new standard for international economic conduct. We have too much at stake to miss the opportunity to see that there are rules guaranteeing access to supplies and markets for all countries.

One of the most important components of the food action program I have outlined—expanded food aid—could be implemented in a matter of weeks.

The legislation giving the President the authority to act already exists in our PL 480 legislation.

Although Congressional approval is not necessary, Congressional consultation is imperative.

In the coming days I will introduce a World Food Action Resolution with my colleagues. This resolution will urge the President to take immediate action in expanding our food assistance to meet the growing crisis of human suffering in the developing world.

Some have suggested that the American people will not support an expanded food aid program.

I do not believe this has to be the case. The American people have always responded generously in times of crisis. We at least need to ask them. We cannot afford to reach such a conclusion without an informed national dialogue. The American public has only recently begun to hear of the world food crisis.

One frequent objection to increase government food aid is that domestic prices will tend to be pushed higher. I do not believe this to be the case. We can provide expanded food assistance in the manner I have suggested—without price increases.

This can be accomplished by limiting our sales on the commercial market. We must reserve part of our supplies for sales to the poorest countries threatened by famine on cash and credit terms that they can afford to pay. This food program—to save lives and create an environment conductive to peace—will cost less than three Trident submarines.

In the final analysis, a fundamental moral choice cannot be evaded. Can a nation whose nutritionalists proclaim obesity to be a leading health problem share its bountiful food resources with those whose very survival is at stake?

When our own life styles affect the basic well-being of others, can we avoid making the necessary minor adjustments?

A decision by Americans to eat one less hamburger a week would make some 10 million tons of grain available for food assistance.

It is also in the self interest of the United States to take the lead in developing this program. Starvation and hunger are the breeding grounds for political instability and economic chaos.

Americans do have a stake and a vital interest in social progress. As Pope John said: "Development is the new name for peace."

The countries we would be helping provide vitally needed resources for all nations—particularly the industrialized and more affluent nations.

While I urge my country to take the lead in this effort, I would expect others to follow.

The United Nations has already set the stage for the cooperative effort in meeting the crisis of the Fourth World.

If the nations of the world confront the global food crisis head on, we shall be taking a step toward saving millions of lives in peril.

By undertaking this food action program, the human community shall be reaffirming its ability to cope with a world crisis.

If we do not take the initiative now and begin defining our future, we should not be surprised when tragic events define it for us.

SHOULD INTERSTATE HIGHWAY 70 BE EXTENDED?

Mr. CANNON. Mr. President, there is one glaring deficiency in our present national highway system that I feel needs priority attention. Presently Interstate 70 spans the country in an east-west direction from Washington, D.C., area only to dead-end in the sagebrush at Cove Fort, Utah. There Interstate 70 travelers are forced to go a considerable distance out of their way along north-south Interstate 15 in order to connect with a major highway to bring them into the northern Nevada and northern California area.

I scheduled hearings a few years ago on the feasibility of a proposal to extend Interstate 70 along the U.S. Highway 50 corridor from Cove Fort across Nevada and into Sacramento. The hearings demonstrated an obvious need for the proposal, with strong support from the residents of Nevada and California and from the traveling public. U.S. 50 is a transcontinental primary route and would be the most logical and feasible direction for connection of Interstate 70 between Utah and California.

There are a number of strong arguments in favor of extending Interstate 70 along the U.S. 50 route. Representatives of the National Highway 50 Federation, with whom I met this week, outlined just five of the points.

Mr. President, I ask unanimous consent that the National Highway 50 Federation document dealing with the extension of Highway 70 be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHY SHOULD INTERSTATE HIGHWAY 70 BE EXTENDED?

1. Interstate Highway 70 is the only interstate highway in the United States that serves such a major portion of the Nation that dead-ends without junctioning with a similar highway going in the same direction. There isn't even a secondary road that will allow traffic to continue on west from this terminal point to the West Coast. All traffic using Interstate 70 is east-west oriented and should be allowed to continue to flow in this direction rather than be diverted.

2. There is only one east-west Interstate Highway that serves the West Coast between Portland on the north and Los Angeles on the south, a distance of 1,001 miles.

3. In California, the population is centered around two key areas—Los Angeles in the south and the San Francisco-Bay Area in the north. There are actually four Interstate Highways crossing the border of Southern California on an east-west direction while the San Francisco Bay Area has only one—Interstate 80. A second such artery is definitely needed to better serve the San Francisco Bay Area.

4. In California there is a definite need at the present time for a four lane highway from Sacramento through Placerville to South Lake Tahoe and on into Carson City, Nevada. Annual daily traffic counts in excess of 40,000 cars per day occur on several portions of this route. At the present time many parts of this road are very narrow and the accident rate is high. The present flow of traffic dictates that this road is going to have to be four laned as soon as funds become available. For this reason alone this section of highway should be included in any future major highway program.

5. There is definite business need for a direct route on the Interstate System between Colorado and the San Francisco Bay Area. There is not an Interstate Route at the present time that links these two areas. Interstate Highway 80 goes north of Colorado through Wyoming and the next Interstate Highway south is Interstate 40 going through Albuquerque, New Mexico from Los Angeles. The logical route that would connect the above two mentioned areas would be the extension of Interstate Highway 70 into San Francisco.

Mr. CANNON. Mr. President, the National Highway 50 Federation feels that today's highway and building maintenance program should be expanded, that the Highway Trust Fund should be used solely for highway purposes. I share the Federation's concern that a heart of the national transportation system is an adequate and safe highway network, and I also recognize and understand the mass transit needs of our larger urban areas and the environmental concerns of our ecology interests. Because of the many unmet highway needs in Nevada, whose economy is based on tourism travel, I have consistently supported authorizations for highway construction. I firmly believe, though, that the groups representing highway, mass transit and ecology interests should work out a mutually satisfactory transportation system to meet our future needs.

GAO ASSESSES PROJECT FIND

Mr. CHURCH. Mr. President, one of the major challenges to new programs for the aged is locating and informing the elderly affected.

In recent years—with the establishment of food assistance programs, old-age assistance benefits and now the supplemental security income program—the problem of locating these elderly has caused considerable concern to me as chairman of the Senate Committee on Aging.

One of my chief worries is that those elderly who are hidden; that is, those who are homebound, immobilized, and without sufficient contact with the outside world are not benefiting from the programs under which they could be eligible simply because they do not know about the program. One method of finding these isolated individuals is a door to door, individual search.

Recently such an outreach has been attempted across the country to find and assist elderly in applying for benefits under the new supplemental security income—SSI—program. Project ALERT is an outreach program conducted by the Red Cross of America, national aging organizations, and individual volunteers. It is funded by the Administration on Aging. The aim of ALERT is to reach persons not now on public assistance rolls and assist them in determining their eligibility and applying for SSI benefits. Because of the somewhat more liberal eligibility standards for SSI, it has been estimated that SSI could reach an approximate 6.3 million persons while the previous programs for the aged, blind, and disabled reached only about 3.3 million. A precedent for this outreach effort exists.

In March of 1972 Project FIND, a major outreach campaign to enroll the elderly in Federal food assistance programs was implemented. Through the cooperation of the Social Security Administration, Office of Economic Opportunity, the Red Cross, Department of Agriculture, the White House Domestic Council's Committee on Aging and national aging organizations, the project estimated that their target population of elderly to find and assist was approximately 3 million persons. Regretfully, the campaign resulted in helping only about 6.3 percent or 190,000 elderly to sign up for the food assistance programs. The inability to enroll elderly onto the rolls was due to administrative problems, failure of volunteers to make home visits and the shortness of the project time.

My concern for achieving a better system in which to identify our most needy elderly led me to request the Government Accounting Office—GAO—to conduct a review of Project FIND. GAO recently presented their report to the Committee on Aging which is available upon public request from GAO, and I believe the findings are significant and directly relevant to current efforts underway in Project ALERT. Mr. President, I ask unanimous consent that the GAO summary of their report of Project FIND be printed in the RECORD as follows:

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

[Comptroller General's report to the Special Committee on Aging, U.S. Senate]

EFFECTIVENESS OF PROJECT FIND—HELPING THE ELDERLY OBTAIN FOOD ASSISTANCE AND SERVICES B-164031(3)

WHY THE REVIEW WAS MADE

The Chairman, Senate Special Committee on Aging, requested GAO to report on Project FIND, a campaign to contact and enroll eligible elderly citizens in food stamp and commodity distribution programs.

GAO did not request formal comments on this report from any agencies or groups involved but did discuss its findings with officials of organizations which carried out the project.

FINDINGS AND CONCLUSIONS

Project FIND began in August 1972 with a mailing of brochures to selected elderly persons. The brochures described benefits and eligibility criteria for food assistance programs.

If they thought they were eligible for assistance, the elderly were to contact local food assistance offices or return an enclosed card if they needed more information.

The American National Red Cross provided volunteers to contact and assist persons who returned cards.

Direct Federal cost of the project was about $2 million. Originally, the Red Cross signed a $4.4 million contract with the Office of Economic Opportunity to assist in carrying out the project. The contract later was reduced by $1.5 million when the number of cards returned was substantially less than anticipated.

Of the remaining $2.9 million, only $1.4 million was obligated during the project. The Red Cross is using the remainder to fund another outreach campaign, the Supplemental Security Income Alert. (See p. 7.)

Effectiveness in obtaining food assistance for the elderly—The principal objective

The target population for the project was about 3 million persons, 60 years of age or older, living on incomes below the national poverty line and eligible for, but not receiving, Federal food assistance. In total, about 1.4 million cards were returned by persons indicating they need more information.

The Department of Agriculture estimated that 190,000 elderly (about 6.3 percent of the target population) were enrolled in Federal food assistance programs as a result of the project. However, this estimate might be overstated since it includes elderly persons enrolled in food assistance programs as a result of efforts other than Project FIND. (See pp. 10 to 12.)

For the locations included in GAO's review—Cuyahoga County, Ohio; Los Angeles County, California; Pinellas County, Florida; King and Snohomish Counties in Washington; and the District of Columbia—the number of elderly, estimated to have been enrolled in the food stamp and commodity distribution programs as a result of the project, represented a small portion of the estimated elderly poor in these areas. (See pp. 12 and 13.)

Effectiveness in obtaining other services for elderly—A secondary objective

GAO found that volunteers had identified only a small number of elderly who needed other services, such as transportation, medical services, employment, homemaker services, home-delivered meals, welfare services, and clothing.

Project volunteers contacted over 67,000 persons in response to cards the elderly returned, but they reported only about 830 persons needed services other than food assitance.

When volunteers identified elderly persons who needed other services, they referred the cases to local agencies which could provide assistance but generally did not follow up on referrals to insure that services were provided.

Federal agencies administering programs for the elderly were not advised of gaps in existing programs where needed services were not available.

Problems encountered during Project FIND

Originally, the project was to be completed within the 3 months from August 15 to November 15, 1972. Although the completion date was extended to April 30, 1973, Red Cross volunteers contacted the majority of elderly between August and December 1972.

Because of the limited time, they reached most persons by mail or telephone rather than through home visits. As a result, many elderly persons who could have benefited from home visits might not have received needed help. (See pp. 14, 15, 17, and 18).

The project was scheduled at a time when many community volunteers were involved in local fund raising and election campaigns.

Moreover, in the period selected for the project, an increase in social security benefits became effective making many elderly ineligible for Federal food assitance. (See pp. 18 and 19).

Other factors affecting the success of the project included incorrect eligibility information in brochures mailed to the elderly residing in some States, limited training provided to volunteers, and a lack of effective coordination between volunteers and food assistance office staff. (See pp. 20 and 23).

Also, many elderly persons may not have received help because they lived in inner-city areas which volunteers were reluctant to visit or in areas in which transportation was not available. (See pp. 23 and 24.)

Problems of the type encountered during Project FIND could be reduced in future projects designed to contact large groups of citizens.

This could be achieved through better advance planning, including consideration of other activities and factors which could affect the impact of the projects, and reasonable time for completion. GAO believes also that procedures for monitoring and evaluating such projects should be developed in the planning stage.

AGENCY ACTIONS AND UNRESOLVED ISSUES

As agreed with the Chairman's office, GAO did not request formal comments from the groups that participated in Project FIND but did discuss its findings with those that played major roles. (See pp. 27 to 31.)

Generally, these groups said that the project was a unique and successful effort considering the magnitude of the task and the tight time frame. They said that cooperation was good considering the number of groups involved.

Several groups pointed out that the number of persons reported as enrolled—190,000 made the project a success in that the target population and the expected rate of return of cards by the elderly were unknown at the outset of the project. They believed that the number enrolled as a result of the project might have been larger than 190,000. (See p. 28.)

Some groups felt that the only objective of Project FIND was to provide food assitance; others stated that a secondary purpose was to identify other critical needs of the elderly. However, reporting these needs to Federal acencies on a community-by-community basis was not to be a part of the project.

Since Project FIND was a unique cooperative effort, some groups believed that using evaluation and feedback would have helped in planning future efforts.

S. 1539, ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS

Mr. EAGLETON. Mr. President, I am pleased to have worked with Chairman PELL and Senator BEALL in the development of title VII of S. 1539, reading improvement programs, which seeks to respond to serious problems of illiteracy in the United States.

Just last week, the National Center for Health Statistics released a report indicating that approximately 1 million, or 4.8 percent, of the Nation's 23 million young people aged 12 to 17 are illiterate. I ask unanimous consent that there be printed in the RECORD the text of an article by Eric Wentworth detailing the findings of the center which appeared in the Washington Post on May 4.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

READING TESTS SHOW WIDESPREAD ILLITERACY

(By Eric Wentworth)

About one million American youths 12 to 17 cannot read as well as the average fourth grader and can thus be called illiterate, according to a new government report.

Reading test scores were worse among blacks than whites, boys than girls, and youngsters from low-income families with less-educated parents than those from more fortunate backgrounds, the report showed.

The report, released by the National Center for Health Statistics, provided new evidence that the United States has a serious literacy problem despite the more than $40 billion spent yearly on public school operations.

The report's findings were based on brief literacy tests administered to a selected sample of 6,768 youths from 1966 through 1970.

The tests were part of the national center's health examination survey, a major quest for data on Americans' physical and mental health. Later reports will explore links between illiteracy and health problems.

The sampled pupils were asked to read seven short paragraphs of 40 to 50 words and answer three multiple-choice questions on each. They were considered literate if they could give correct answers for four of the paragraphs.

One paragraph read: "It was spring. The young boy breathed the warm air, threw off his shoes, and began to run. His arms swung. His feet hit sharply and evenly against the ground. At last he felt free." The questions concerned the season of the year, what the boy was doing, and how he felt.

The 12-to-17-year-olds whose scores fell below what could be expected from the average child beginning fourth grade were considered illiterate. Fourth-graders are normally 9 years old.

After analyzing the test results, survey officials estimated that 4.8 per cent of the nation's nearly 23 million youths in the 12–17 age bracket, extending all the way through high school grade levels, can be termed illiterate. That would amount to about 1 million young Americans.

More specifically, the report showed:

Among black youths as a whole, the illiteracy rate is 15 per cent. For white youths, it is 3.2 per cent.

For males of both races, the rate is 6.7 per cent, while for females it is 2.8 per cent.

For black males alone, the rate is a dramatic 20.5 per cent, or one in five. On the other hand for white females alone, it is 1.7 per cent, or less than one in 50.

The report also showed, as might be expected, that illiteracy rates are highest among youths whose families rank at the poverty level, and decline as income levels rise, still, at least some youths from families with $15,000-plus income flunk the literacy test.

Similarly, young people are most often illiterate when their parents have had little education, according to the report's findings. Among black youths from families headed by someone who had no formal education at all, for example, more than 50 per cent are illiterate.

On the other hand, some illiteracy is also found among the offspring of white college-educated parents.

"Alarming and discouraging" was how Ruth Love Holloway, director of the U.S. Office of Education's "right to read" program, viewed the report.

OE's "Right to read" program, first announced in 1969 by the late James E. Allen Jr. who was then U.S. education commissioner, has been sponsoring a number of innovative reading programs and disseminates information about those that prove successful.

Mr. EAGLETON. Mr. President, I believe there is a national need to focus resources on the development of better teaching techniques. We cannot continue to allow students to progress through our educational system without the basic skill of reading. One dramatic example of the consequences of perpetuation of the present system occurred in California. Peter D., an 18-year-old, graduated from high school with only a fifth grade reading skill. He applied for a job as a clothing salesman but was unable to fill out the job application form because he could not read it. Now he is suing the school system for damages for its failure to teach him to read sufficiently well to enter the job market. Unfortunately, there are an estimated 19 million Americans like Peter D. who are trying to get into the job market and have fifth grade, or even lower, reading skills.

Title VII of this bill reflects a conviction that most children can learn to read if properly taught, and is grounded on the principle that the Federal Government can play an important role in developing innovative programs.

Title VII is designed to provide assistance to State and local educational agencies to encourage them to undertake demonstration projects to strengthen reading programs in the elementary grades. Although the illiteracy problem spans all ages, I believe that the primary focus should be in the early grades, aiming at a preventive approach rather than remedial efforts. The new program would also provide financial assistance for the development and enhancement of necessary skills of teachers and other educational staff.

The program is to be implemented through contracts between the U.S. Commissioner of Education and State or local educational agencies which agree to carry out demonstration projects; contracts between the Commissioner and local schools for special emphasis projects to determine the effectiveness of intensive instruction by reading specialists; grants from the Commissioner to public and private organizations and individuals to support the preparation, production, and distribution of information and material on reading; grants from the Commissioner to institutions of higher education to strengthen and improve undergraduate instruction in the teaching of reading.

Although the total first year authorization of $135 million is modest in comparison to the scope of the problem, it is our hope that it will encourage schools to set up a number of worthwhile demonstration programs that will tell us something when they are completed. The programs should pinpoint successful teaching methods, successful instructional materials, and successful use of trained personnel. We can then use these as models to take us where we want to go—eliminating illiteracy in this country.

SUMMER SPORTS FOR YOUTH

Mr. HUMPHREY. Mr. President, I am pleased to be a joint sponsor with the distinguished Senator from California (Mr. TUNNEY) of legislation that authorizes the continuation of the national summer youth sports program.

The NSYSP will expire in the summer of 1974 unless this legislation is enacted. The summer sports program has been an unqualified success from the standpoint of involving our underprivileged children in a highly professional health and sports program at colleges and universities throughout the United States. The program has given hope—wider horizons—to the neglected, the forgotten, the underprivileged youth in our society. We cannot let this program be phased out by this administration.

The summer youth sports program has drawn more than 40,000 boys and girls between the ages of 10 and 18—90 percent from underprivileged central city families—to gymnasiums and sports fields for daily workouts for the past four summers. The children who are involved receive much more than an obvious health boost from exercise, competition, free lunches, and basic lessons in health. This program inspires confidence and pride in oneself. It gives these young people something better to look ahead to than poverty, unemployment, idleness, and boredom.

The young people are given a medical examination and lessons in personal hygiene. They spend some of their time getting to know what is available at a college and university. They learn about various careers and are encouraged to plan their educational future. They hear talks on job placement, first aid, and health care as well as recreational activities.

The bill that Mr. TUNNEY and myself are introducing requires that 90 percent of the young people participating in each of the programs throughout the United States must be from families with incomes below the poverty level. The Federal share of the program is 80 percent. Twenty percent of the cost is borne by the colleges and universities, the National Collegiate Athletic Association, and business organizations. The funding authorization is $5 million for each of fiscal years 1975, 1976, and 1977.

This summer sports program is a way for young people to participate in constructive activities and to grow into better citizens by taking advantage of our personnel and facilities of higher education. I urge my fellow Senators to support this legislation and not let this excellent program expire.

REVISING THE ESPIONAGE ACT

Mr. MUSKIE. Mr. President, the Subcommittee on Criminal Laws and Procedures of the Committee on the Judiciary is engaged in the arduous and enormously important task of considering proposals to recodify all Federal criminal statutes. In that process it has been hearing testimony on the laws dealing with espionage and the proposals in S. 1 and S. 1400 to revise those laws.

This morning the subcommittee heard the views of a highly qualified witness, former Air Force Officer William G. Florence, for more than 40 years a military and civilian expert on security matters. Mr. Florence, whose advice on classification practices and Government secrecy policy, has been invaluable to many Members of Congress, strongly argued that the provisions of S. 1400 dealing with espionage and its punishment would endanger constitutional rights of free speech and free press "without enhancing national defense one bit." As I observed about the same proposals in a speech over a year ago, Mr. Florence testified, "the espionage sections of S. 1400 constitute a real threat to freedom in America," because they would drop from the law the essential concept that disclosure of information dealing with the national defense be punishable only when such disclosure is committed with the intent to injure the United States or bring advantage to a foreign nation.

Mr. Florence's testimony, including the facts he cited to dispute the administration's contention that classification reforms have so improved the secrecy system as to justify making criminal any unauthorized disclosure of classified information, should be read by all those who must consider the wisdom of revising the espionage laws. His full testimony will eventually be printed by the Subcommittee on Criminal Laws and Procedures, but in the meantime, I ask unanimous consent that a summary of his prepared statement before the subcommittee and a particularly interesting extract from his full prepared statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

SUMMARY OF STATEMENT BY WILLIAM G. FLORENCE

Mr. Chairman, I deeply appreciate the invitation to testify on proposals in S. 1 and S. 1400 to revise sections of the Federal Criminal Code involving espionage and related offenses. This is a continuation of my testimony May 23, 1972 on proposals that the National Commission on Reform of Federal Criminal Laws had previously submitted to Congress for revising the espionage statutes.

A statement of my qualifications is in Part III, Subpart D, of the Committee's report of hearings, with my earlier testimony, page 3047. I would update my qualifications, which have now increased to 46 years of military and civilian experience involving national defense information.

I served for 19 months as consultant on Government security policy to defense counsel in the Ellsberg-Russo espionage case. This included consultation in court during the pre-trial process and during the four month trial, until it ended May 11, 1973.

At present, among other pursuits, I am consultant on Government secrecy policy and practices to the recently established Project for an Open Society, with offices currently in New York City. It exists to help curb expansion of state power in the name of national security.

I am also consultant to the National Committee on Government Secrecy, which is located here in Washington.

Mr. Chairman, I will summarize the major points in my comprehensive statement at this time. I ask that the statement be included in the record following these comments.

First, it is important to note that the bill designated as S. 1 originated as a product of this Committee. The bill designated as S. 1400 was drafted by the Department of Justice. Both bills are based on recommendations made by the National Commission on Reform of Federal Criminal Laws.

The analysis I made in 1972 of the Commission's report showed that the proposed revision of the espionage statutes would seriously impact on the First Amendment rights of free speech and a free press, without enhancing national defense one bit. Most of the faulty security concepts in the Commission's report were excluded from the espionage sections of S. 1. But the espionage sections of S. 1400 constitute a real threat to freedom in America.

Mr. Chairman, I have studied the memorandum that the Department of Justice submitted to the Committee in May 1973 in support of sections 1121–1126 of S. 1400. That memorandum and the testimony of the Department's representative, which are in Part VI of the report of hearings, shows the false philosophy of secrecy that has prevailed for many years in the Executive branch.

Disclosures stemming from the Ellsberg-Russo case and the Watergate burglary have revealed this particular administration's practice of honoring its secrets more than the rights of citizens to free speech. That practice would be made lawful by S. 1400.

I now turn to chapter 11 of S. 1400. Problem areas will be identified, and solutions suggested in general. Specific changes and detailed reasons for each one are in the full statement.

The matter of greatest concern is the proposal to eliminate the element of injury to the nation that existing law in 18 USC 793 (d) and (e) require for alleging that a disclosure of information relating to the national defense was a crime. This would have the effect of eliminating our First Amendment right of free speech.

The Department of Justice indicates that the injury factor is not now an essential element of law. But nothing could be clearer than 18 USC 793 (d) and (e) in showing that for a person to be prosecuted for having disclosed information relating to the national defense, he must have had reason to believe that it could be used to the injury of the United States or to the advantage of any foreign nation.

It is true that 18 USC 793 (d) and (e) could be read as if the injury factor did not apply to the communication of physical items containing information relating to the national defense. However, it would make no sense to allow a citizen to read information in a document to another citizen but allege a criminal act if the same information was communicated in documentary form.

The Ellsberg-Russo case is the only one in which the Executive branch ever prosecuted anyone for communicating documents allegedly relating to the national defense, in violation of 18 USC 793 (d) and (e), without claiming existence of the injury factor.

But the day before the trial began, the judge stated his views regarding the law as it applied to documents. This was done in court, January 16, 1973. Here are excerpts from the record, beginning on page 8218 of the transcript:

"In stating what I feel the tentative issues are, I have kept in mind what I feel is the congressional purpose behind this statute. And that is to protect information and documents that belong to the Government, which have been kept confidential by the Government, *in prevention of injury to the nation.* (Emphasis added.)

"Are the documents the type that require protection in the interest of the national defense, in that their disclosure could adversely affect or injure this nation or be to the advantage of any foreign nation?"

Mr. Chairman, the phrase "information relating to the national defense" applies to a considerable mass of information known to the people in this country. Communication between two or more citizens of information relating to the national defense is naturally part of the life of this nation. The only possible basis for alleging criminality in communicating such information is the existing factor of injury to the nation.

The concept that citizens should be punished for disclosing information to one another without any proof of injury to the country is reflected in sections 1122, 1123 and 1124 of S. 1400. Section 1124 would be especially repressive regarding disclosures of what is called "classified information." People would be criminalized solely because somebody put a classification marking of Confidential, Secret or Top Secret on an item of information. A person accused of revealing the information would be prohibited from challenging the validity of the classification.

Mr. Chairman, the Department of Justice suggestion that a security classification marking would identify information as affecting the national defense is truly a hoax. The designation of an item of information as being classified is strictly a matter of mind. Anyone can say that some information is classified Secret at a given moment, and then change his mind at any time thereafter and reveal the information without restriction. But any document containing the information normally will keep the original classification marking, even after complete disclosure of the information.

My full statement shows how Department of Defense regulations authorize a security classification for practically anything, including privately owned information.

Also, my statement documents the refusal of the Department of Defense, at this moment, to cancel the classification marking on documents which were introduced as evidence in the Ellsberg-Russo trial, and became public records.

This sort of bureaucratic obsession with secrecy practices has made a security classification of Confidential, Secret or Top Secret the most disbelieved and least respected symbol of Executive branch authentication today, but this administration is still pushing for the idea of punishment by classification label. In a speech just a few days ago, April 30, 1974, the Assistant Attorney General, Office of Legal Counsel, referred to the purpose of prohibiting a challenge of the validity of an assigned security classification as being "essential to effective operation of our information security system."

Another problem area is the definition of terms. The definition of a word or phrase can extend the reach of law far beyond that which a sentence in context might indicate to an unsuspecting reader. It is enough of a burden in life that ignorance of a clearly stated criminal law is no excuse for violating it, without being threatened by a law that requires deciphering a cloudy definition or a whole series of definitions.

Among other questionable definitions, S. 1400 would attempt to define the phrase "relating to the national defense" as including some specified fields of information. That really would kill freedom of speech. It is injury to the nation that should concern us, not types of information.

The Supreme Court ruling in what is known as the Gorin case prohibited arbitrary prosecutions that would result from a pre-trial designation of a particular item of information as relating to the national defense.

Mr. Chairman, the only logical action which I could suggest for this Committee to take regarding the espionage sections of S. 1400 would be to reject them.

I now turn to S. 1. It would bring forward all of the provisions of existing law that are necessary in maintaining the capability of this nation to defend itself against hostile or destructive action. In doing this, the injury factor would be retained, in some degree, for determining the criminality of disclosures of information.

The brevity and simplicity of the two substantive sections of S. 1, which require the space of only one page, merits admiration by every citizen. The scope, reach and sense of those sections represent devotion to basic Constitutional rights and a highly practical approach to the definition of offenses that could affect our national defense. It is of special interest that S. 1 does not use the term "classified information."

But there are some proposals which should be corrected. Details are in my full statement.

The phrase "national defense" should replace the phrase "national security" in the title of subchapter 5B, and in section 1–4E1 regarding the death sentence. This Committee should keep on using the phrase "national defense" in the sections involving espionage and related offenses. But the phrase "information relating to the national defense" should replace the phrase "national defense information" for the reasons stated by the Department of Justice, as explained in my comments on S. 1400. The phrase "information relating to the national defense" is court-tested, and has meaning established by the courts to protect the rights of citizens in disclosing information.

Also the proposal to define either "national defense information" or "information relating to the national defense" should be eliminated for the reasons stated in my comments on S. 1400.

Finally, the court-tested criterion for injury to the United States that is currently in 18 U.S.C. 793 (d) and (e) should replace the proposal to criminalize disclosures of information made "in a manner harmful to the safety of the United States."

Mr. Chairman, with amendments as suggested, the proposed espionage sections of S. 1 should constitute a most commendable reform of existing law.

Thank you again for the privilege of presenting these comments to this Committee.

Extracts From Full Statement of Mr. Florence

Mr. Chairman, the Department of Justice suggestion that an Executive branch security classification marking in itself would identify an item of information as affecting the national defense reflects the hoax of the century.

The system currently prescribed in Executive Order 11652 for people to classify information as Top Secret, Secret or Confidential in the interest of national security is the same system that the Army and Navy began using in World War I. Their purpose was to systematize the designation of military information as Secret or Confidential for retention in military channels until some military authority chose to disclose it.

This Executive branch classification system necessarily operates on the basic military principle that security is the responsibility of command. Thus, the assignment and retention of a classification is strictly a matter of mind. A person can decide for his purpose that information revealing a proposed or completed action warrants secrecy. At any time thereafter, he or his superior, on up to the President, may think differently and treat the information without secrecy according to his need or wish at the moment.

However, any classification marking that was put on a document containing information assigned a classification can stay on that document, even after complete disclosure. This defect of the military classification system is manifested most convincingly at the National Archives. Available statistics show that more than 1,700,000,000 (one billion, seven hundred million) pages of historical records under National Archives jurisdiction are designated as being "classified." That would be a file of papers almost 60 miles long.

Archives personnel are currently administratively prohibited from allowing the American people, who own the historical records, to have access to them, even though information in them has become public knowledge. If Congress should enact the legislation proposed in section 1124, disclosure of information in any of that 60-mile file of history would be made a crime.

Members of this Committee probably are fully aware of the multitudes of examples of unnecessary, unjustifiable, frivolous and absurd classification actions perpetrated and perpetuated by Executive branch people that have been revealed in the recent past. The same free-wheeling and self-serving practice of classifying information and refusing to cancel unwarranted and outdated classifications continue at present in the Executive branch.

The Department of Defense regulation, DoD 5200.1R, subject: Information Security Program, which was authenticated by Assistant Secretary of Defense Terence E. McClary November 15, 1973, contains the sort of self-contradictory instructions that lead people to refer to the Pentagon as Fort Fumble. There are about 15 pages devoted to what is called classification policy, principles, criteria, and considerations.

Those pages provide unlimited theoretical possibilities for viewing information as qualifying for classification. Authorization could be found somewhere in all that wordage for classifying any item of information and keeping it classified.

Paragraph 1–400.c of the DOD regulation contains the following statement, which would seem to be intended to help curb unnecessary classification actions: "classification shall apply only to official information requiring protection in the interests of national security." But even that suggestion is negated in other parts of the regulation. Three examples follow:

(1) Paragraph 2–303 supports the classification of a document because the information could be associated with other information known to be in the public domain.

(2) Paragraph 2–314 supports the assignment of a classification to a compilation of unclassified information.

(NOTE: This includes unclassified information such as I testified about in 1972. A copy of the title page and description of the document I showed this Committee is on pages 3055 and 3056, Part III of the report of hearings.)

(3) Paragraphs 2–700 and 2–702 support the assignment of security classifications to privately owned information.

Mr. Chairman, promulgation of the DOD regulation, with its excuses for unwarranted secrecy, received concurrence of the President's Interagency Classification Review Committee. It operates under the National Security Council to help coordinate Executive branch implementation of Executive Order 11652. The guidance in that regulation is what the mass of DOD officials and employees and the millions of people in the Army, Navy, Air Force and civilian contractor organizations live by in considering what can be called "classified information."

A highly significant example of the Department of Defense idea of what the security classification system means is the refusal to cancel classification marks on documents lawfully designated as public records during the Ellsberg-Russo trial. Eleven of the 20 documents that Dr. Ellsberg was charged with mishandling were still classified TOP SECRET when the trial began in January 1973. Nine of them were volumes of the U.S.-Vietnam Relations study commonly called the Pentagon Papers.

The court had previously denied the Government's request that secrecy restrictions be imposed on classified documents if they were submitted as evidence. The court ruled that since the trial was public, all documents in evidence would be handled in the same manner. (Page 5047, trial transcript.)

But the prosecutor introduced the 11 Top Secret documents as evidence anyway. At that point they became public records. They were specifically designated as such by the trial judge, and were available for any person to read and copy. (Page 9295, trial transcript.) Information in the documents was discussed in detail by numerous witnesses testifying on the question whether they related to the national defense. The information was recorded in the trial transcript, and was also circulated by other means without any restriction whatever.

This year, January 26, 1974, I wrote to the Secretary of Defense and requested that copies of the nine volumes of the Vietnam study be made available to me under the Freedom of Information Act (5 USC 552). The General Counsel of the Department of Defense notified me by letter March 25, 1974 that my request was denied. He stated that all nine documents remain classified.

Mr. Chairman, it is this sort of bureaucratic obsession with secrecy practices that has made a security classification marking of Confidential, Secret, or Top Secret the most disbelieved and least respected symbol of federal Executive branch authentication today. But the Top Secret Vietnam study "public records" are typical of documents that the Department of Justice is claiming should be protected under the proposed section 1124. In effect, the Department has requested that Congress make it a crime to disclose information in one of the volumes solely because it has a security classification marking.

It might seem that there is not need to dwell on the extremely serious problems involved in section 1124, since it is almost unthinkable that Congress would enact such legislation. But the Executive branch is still supporting its request for that section. This was reflected in a speech the Assistant Attorney General, Office of Legal Counsel, made April 30, 1974 at a symposium on Executive Order 11652 that was sponsored by the Interagency Classification Review Committee.

Mr. Dixon, the Assistant Attorney General, referred to the proposal to allege criminality on the basis of an assigned classification label and prohibit an accused from challenging the validity of the classification as a "controversial feature." But he also referred to the *purpose* of prohibiting such challenge as being *essential to effective operation* of the information security system.

With obvious concern about the question of fairness involved in section 1124, Mr. Dixon suggested a possible revision. Under his proposal, however, a person would be deemed to be a criminal for disclosing classified information to a loyal, trustworthy citizen if members of a governmental review committee and the Attorney General "certify that the information was properly subject to classification at the time of the offense." But there still was no indication of interest in showing injury to the nation, evil intent, or bad faith as a requirement for alleging criminality.

Mr. Chairman, the only action that would seem logical for this Committee to take regarding section 1124 is to reject it and the draft definition of "classified information." Among other dangers in such legislation would be the furnishing of a specific lawful basis for the President's security classification system as it now operates, and as any future President might want to establish for his own purpose.

There is not now any lawful basis for a security classification system. If it is the sense of Congress that the President should be given power to classify information and strive to keep it secret from the American people, authority should be stated in legislation designed and considered for that purpose. The delegation of power should not be made in the guise of definitions of offenses stated in the Criminal Code.

SOUTH VIETNAMESE POLITICAL PRISONERS

Mr. ABOUREZK. Mr. President, the U.S. Ambassador to Saigon, Mr. Martin, has recently charged publicly that there are only a "handful" of political prisoners held in South Vietnam, that they are not mistreated, and that those who claim they are are part of a vast Hanoi-directed conspiracy.

In fact, however, virtually all of the information about political prisoners has come from Saigon, not Hanoi, from the journalists of magazines like Time and Newsweek, not those writing for Nhan Dan, from Americans who have looked into the situation firsthand in South Vietnam, not Communist agents.

Most importantly, however, this issue could easily be resolved by allowing visits by outsiders into South Vietnam's prison system. Ambassador Martin has to date refused all attempts by outsiders to gain his support to look at Thieu's prisons—with the exception of a visit by a team sponsored by the far right American Security Council.

Until Ambassador Martin throws his support behind visits to Thieu's prisons, it is difficult to accept his obviously uninformed and inflamed comments about political prisoners.

Mr. President, one of the most authoritative sources on the issue of South Vietnamese political prisoners, Fred Branfman, has written a comprehensive report on political prisoners in that country. For over a year now, Mr. Branfman has been doing extensive research on the issue of political prisoners in South Vietnam. Currently the coordinator of the Indochina Resource Center, he visited Saigon and interviewed many political prisoners and other persons with firsthand knowledge of the situation.

I ask unanimous consent that the report by Mr. Branfman be printed in the Record.

There being no objection, the report was ordered to be printed in the Record, as follows:

South Vietnamese Political Prisoners

Americans will soon have the opportunity to communicate directly with Mr. Graham Martin, the U.S. Ambassador to Saigon, over the Saigon government's treatment of political prisoners. For Mr. Martin, alarmed by congressional sentiment for cutting aid to Thieu, is arriving in early May to the U.S. to continue his remarkable recent campaign supporting the Thieu Government's claim that it does not mistreat or even hold large numbers of political prisoners.

Mr. Martin shot into the public eye recently when it was revealed that he had advised the State Department against giving an "honest" answer to Senator Kennedy's request for information about U.S. activities in South Vietnam. "I think it would be the height of folly to permit Kennedy . . . the tactical advantage of an honest and detailed answer," Martin wrote. Kennedy responded by calling Martin's cable an "outrage," and charging that Martin had interfered in studies by the Government Accounting Office, trying to "restrict the investigations' access . . . [to] Embassy files" and to "censor the transfer of GAO information from Saigon to Washington." These comments were echoed around the country, with the New York Post calling for "nothing less than the immediate recall and ouster of Graham A. Martin." (April 3, 1974)

Of all the issues Martin has been dishonest about, however, nothing compares with his treatment of the political prisoner issue. Western journalists in Saigon have written countless articles since the ceasefire detailing eyewitness reports of brutal torture, mass round-ups of men, women and children, incarceration without trial. Organizations from the NSA to the National Council of Churches, governments from Australia to West Germany, and countless individuals from laborers to the Pope, have protested. "The existence of political prisoners in South Vietnam is beyond any reasonable dispute . . . mistreatment and torture of such prisoners have been authoritatively reported," reported the Senate Appropriations Committee in December 1973. "Torture has become no more or less than a matter of habit," the widely-respected Amnesty International has reported, estimating 70–120,000 political prisoners.

When Mr. Martin was confirmed as Ambassador to Saigon, he was asked by Senator Percy if he would "urge reform" about prison conditions in Vietnam. "I would think that would be something that we might very properly express our concern about, and I would fully intend to do so," Mr. Martin answered under oath.

Since becoming Ambassador, however, Mr. Martin has flagrantly violated this oath. Far from taking any known steps to alleviate prison conditions, he has instead taken it upon himself to emerge as the major international apologist for the Thieu regime's prisons, while refusing admission to outside observation of the prison system.

Mr. Martin's basic claims about the prison system boil down to the following:

1. Only 35,000 prisoners—He can "state with complete conviction that the total prison population within the Republic of Vietnam as of mid-January, including all prisoners from the smallest village detention facility through the largest central prison, does not exceed 35,000." (notes of conversation with visiting peace groups, Congressional Record, April 4, 1974)

2. Political Prisoners only a "handful", well-treated—"If there are abuses in the prisons, they are not widespread, and not systematic. . . . Among these prisoners there probably are not more than a handful of political prisoners." (Washington Post, March 15, 1974)

3. New York Times, U.S. Peace Groups, and liberal representatives are all involved in a communist plot—the world-wide attention on political prisoners is the result of "decisions taken last fall in Hanoi to mount all-out campaign this winter and spring to persuade Congress to drastically reduce . . . aid . . . The Stockholm Conference was to be used as the main coordinating mechanism . . . remnants of the American 'peace movement' [would] bring influence to bear on selective susceptible, but influential elements of the American communications media and particularly on susceptible congressional staffers." (Cable to State Department, March 21, 1974)

Before considering each of these claims, however, it might be useful to briefly review Mr. Martin's diplomatic career. For his present behavior can only be understood in the context of a career marked by covert warmaking abroad coupled with intentional deceit at home.

AMBASSADOR MARTIN IN THAILAND AND ITALY

Mr. Martin was, for example, U.S. Ambassador of Thailand from late 1963 through late 1967. When he arrived in Thailand, there were roughly 6300 U.S. personnel in Thailand. By the time he left, the number had grown 7-fold to 43,500. Mr. Martin also was later to testify before Congress that he had personally taken the initiative in launching major counter-insurgency efforts against the Thai Liberation Front within Thailand, importing U.S. Special Forces and a U.S. helicopter squadron to deploy Thai troops throughout the northeast. As Mr. Martin put it in Senate testimony, "If anyone is to be held responsible for the insistence on a higher level of military aid, I would be glad to take the full responsibility." Mr. Martin also testified, with regard to the sending of U.S. crews and helicopters to ferry Thai troops about, that "it was basically my idea because I simply did not want the Thai counter-insurgency effort to lose that time . . . it was initiated on my own authority . . ."

Despite the fact that Mr. Martin pushed this massive build-up and involvement in internal Thai affairs, however, he at the same time attempted to keep this from the American people. A former U.S. soldier in Thailand, later bureau chief of Newsweek, Maynard Parker, wrote for example in the December 1966 issue of the *Atlantic* that "U.S. Ambassador Graham A. Martin was determined that the story [of U.S. presence in Thailand] should not be told and was willing to go to great lengths to keep it from being told."

The first time, indeed, Mr. Martin officially admitted the U.S. buildup in Thailand was on January 18, 1967—one month after Parker's article and three and a half years after Martin had arrived in Thailand.

Mr. Martin's activities in Thailand, moreover, were not limited to military and counter-insurgency matters. In his confirmation hearing to be Ambassador to Saigon on May 9, 1973, for example, Senator Fulbright asked Martin: "Did you make any recommendations for covert assistance to political groups in Thailand in 1964?" "My understanding is that questions of the sort that you just asked are bound by the same general instructions neither to affirm or deny and that there are other sources and other forums in which these matters can only be completely discussed," Martin said, refusing repeatedly to answer the question.

After leaving Thailand in September, 1967, Martin returned to the State Department where he was a high-ranking official dealing with refugee affairs. During this period, he authored studies on State Department personnel policies which resulted in a major purge of many more liberal elements of the Department.

Mr. Martin then served as U.S. Ambassador to Italy from October 1969 through April 1973. On May 13, 1973, the New York Times revealed that Mr. Martin had made a major attempt to get the CIA to resume secret U.S. financing of the conservative wing of Italy's leading political party, the Christian Democrats. It was revealed he had been having secret meetings with Amintore Fanfani, leader of the conservatives. Mr. Martin's desires, however, were too extreme for Mr. Nixon. "No. We want to stay out of this kind of thing," Nixon is quoted as writing on Martin's plan. Another intelligence source explained: "There are half a dozen factions in the Christian Democratic Party . . . Martin was going to back one of them. That would have been foolish—the others would have blown the payments within five minutes. At least in the old days we bought off everybody."

It is difficult to find a rational explanation for Ambassador Martin's curious insistence that the source of world-wide concern for political prisoners is the North Vietnamese and PRG. On January 16, 1974, for example, he told Berkeley Councilwoman Ying-Kelley that she "probably was not aware of the full measure of the apparatus as it extended within the United States. For example, the Vice Chairman of the PRG delegation to the two-party talks in Paris had recently given a tongue lashing to the American peace activists who had met him there saying that the peace movement in the United States was disintegrating, and that they were falling down on the job in getting the propaganda campaign within the Congress that needed to be mounted for this next appropriation cycle. Names of prisoners were furnished the American peace activists . . ."

In fact, of course, the source of virtually all information about political prisoners are Buddhist and Catholic groups in Saigon, and not Hanoi or the PRG delegation in Paris. Almost all major publications in the U.S., for example, have published articles dealing with political prisoners, ranging from a major piece in the New York Review of Books by Joseph Buttinger, to widely noticed pieces in Time and Newsweek to stories by AP and UPI. Peace groups around the country have tended to rely heavily on such articles from the traditional press, as well as handbooks by Amnesty International and, above all, Hostages of War, by Holmes Browne and Don Luce—based almost entirely on material gathered by former IVS chief Don Luce during a decade in Saigon.

Another major source of information has been material generated by Americans living in GVN-controlled areas of South Vietnam. Perhaps the best known in this category is work of Jane and David Barton, two physiotherapists who treated political prisoners who had been tortured in the prison hospital ward of Quang Ngai. Others who have written and spoken widely on political prisoners after stays in Saigon, since the ceasefire, include Bishop Thomas Gumbleton, former Air Force doctor John Champlain, Mike and Diane Jones, Jackie Chagnon, and the author.

The major audio-visual aid used by the peace movement has been "A Question of Torture", a film made by Granada TV of Great Britain in Saigon. The film was shot entirely in GVN-controlled zones, and includes interviews with the Bartons, a Vietnamese judge, a former U.S. Phoenix agent, and numerous relatives of political prisoners and former political prisoners.

The only other major source of information about political prisoners used in the U.S. is the vast amount of material generated by mostly Third Force Vietnamese living in GVN zones. This includes dozens of letters smuggled out of prison, mostly by students and intellectuals; hundreds of letters written by relatives of people known or feared to be in prison; innumerable statements and declarations by a bewildering variety of organizations and well-known figures; and a smaller, but significant, number of official documents supporting many of the charges that have been made, such as a post-ceasefire telegram from National Phoenix headquarters telling all local police that mass arrest and detention without trial remain in effect.

Ambassador Martin is presumably well aware of this. It is no secret that, for example, the names worn on political prisoner bracelets in the U.S. come from Saigon's An Quang pagoda prison group and Chan Tin's Committee to Reform the Prison System. This well-known fact has led many to believe that the Ambassador is consciously attempting to smear the U.S. peace movement by linking it to Hanoi.

The problem with this theory, however, is that it doesn't quite explain, well, the *intensity* of Mr. Martin's attack: those long, rambling sentences that seem to go on and on, the exaggerated cadence, the lurid turn of phrase. At one point, for example, Martin explained that he had "become utterly fascinated by the success of Hanoi in fashioning a propaganda apparatus which in its efficiency, in its pervasiveness, and its sheer perfection of technique has no parallel in recorded history. Herr Goebbels would whirl in his grave in complete frustration at the realization that he was the most callow, unsophisticated neophyte in comparison."

Reading Ambassador Martin in toto, talking with people who have spent time with him recently in Saigon, one gradually begins to suspect that Mr. Martin *believes* what he is saying. This theory, however, leads to even more serious questions than if one assumes he is deliberately lying.

In early March, for example, Martin charged that a New York Times piece written by David Shipler on February 25 was a part of a Hanoi-directed conspiracy as described above. The reaction was sharp and intense. Time ran a feature story on the confrontation between Martin and Shipler, with Shipler emerging the victor. The Washington Post wrote an editorial, entitled "Whose Ambassador?", which questioned U.S. involvement in South Vietnam with a sharpness not seen since the ceasefire. Senator Kennedy attacked Martin on the floor of the Senate. Shipler's article was re-read carefully by many who had just skimmed it before.

It was clear to everyone, including sources in the State Department, that Ambassador Martin had done something the peace movement had unsuccessfully been trying to do for a year: Make the point that we were in Vietnam up to our neck and repeating all the mistakes of the past.

Clearly, Martin had pulled a boner. How could one expect the New York Times or Washington Post to react when accused of being a tool of the international communist conspiracy? Agree? Apologize? Come out? Admit they had been card-carrying communists all these years?

Despite the head-shaking going on all over Washington, however, Graham Martin was apparently quite pleased. His soon-to-be revealed cable to Kennedy a few weeks later, for example, began with the cheery news that "It seems rather clear that the Shipler article and the reaction to Embassy Saigon's comment thereon has had the effect of upsetting the timetable of those whose objective it is to aid Hanoi by seriously crippling the RVN through a drastic reduction of economic and military aid."

Shortly after the Ambassador wrote this, the House set a precedent by rejecting a $474 million supplemental military aid request for Thieu. Far from "crippling" efforts to cut aid, Ambassador Martin's actions had if anything helped aid opponents.

It would all be rather humorous, were it not for the fact that throughout this period torture and mass arrest continued unabated.

AMBASSADOR MARTIN AND SOUTH VIETNAMESE POLITICAL PRISONERS

Given this background, then, it would be difficult to take Ambassador Martin's simple word on political prisoners. Yet, since arriving in Saigon, he had offered little else—even as he has refused to support attempts by many outside observers to visit the prisons and determine once and for all what is going on.

The only support offered by Mr. Martin for his claim that there are only 35,000 prisoners of any category, for example, is a "study" made by political officer Sitzer of his Embassy. The "study" in question, which Mr. Martin has made available to the public, relies entirely on GVN documents since the ceasefire. No claim is made that American Embassy personnel have visited prisons since the ceasefire, nor is any documentary evidence put forward to support U.S. "estimates" of prison capacities. The "study" admits, moreover, that one of its "soft spots, despite the survey, is the detention system at the district and village levels." The Embassy spokesman, after noting that there are no GVN records kept for prisoners at this level, goes on to put the number at "no more than a thousand" at any given moment. The respected Roman Catholic priest Chan Tin, however, puts the number at 68,000 for these district and village lock-ups. Since the American Embassy admits having no way of knowing how many prisoners are kept below the province level, its mere assertion—given the discrepancy with Chan Tin's figure—is rather unconvincing.

Martin's "study" of the numbers, moreover, is made even less convincing by the fact that he had made up his mind even before he went to Saigon. Without any first-hand knowledge of the situation at all, he testified before the Senate at his confirmation hearing on May 9, 1973, that "the vast uses that the worldwide leftist propaganda of the claims of 200,000 political prisoners, in view of the fact that there are only 40,000 places even for detention in South Vietnam has been . . . a vast sort of propaganda exercise."

The shoddiness of Mr. Martin's numbers claims, however, pales beside his denial that Thieu holds any political prisoners. His basic argument is that he defines a political prisoner as "persons imprisoned solely because of opposition to the government," and that "he has not yet been given the name of a single prisoner who, when checked out, fell into this category." (March 15, 1974)

To begin with, however, Martin cannot be unaware of the fact that Decree-law 93/SL/CT outlaws "communism or pro-communist neutralism", stating that "shall be considered as pro-communist neutralist who commits acts of propaganda for an incitement of Neutralism . . . jeopardizing public security", and that thousands of people have been imprisoned on just such charges.

Nor, moreover, is he unaware of the fact that large numbers of persons are held under "administrative detention", i.e., without lawyer or trial. Persons arrested in this manner can be held for "two years, renewable", have no access to a lawyer, cannot confront their accusers, and indeed are simply put in prison while their police-prepared dossier is sent to a Provincial Security Committee which imprisons without seeing the suspect.

Under these circumstances, Ambassador Martin clearly has no way of knowing how many of those presently in prison are there "solely because of oposition to the government". For not only those held under "administrative detention", but the many thousands more who are either placed in jail for years without any sort of trial, or are first interrogated by torture and then sent before a military field tribunal for sentencing, are denied any right to counsel during interrogation.

Ambassador Martin implicitly acknowledged this when he stated to a visiting group of peace activists that "the 'justice delivery' [sic] systems of [France and Italy] were, as in the case of Vietnam, based on the Napoleonic Code under which pre-trial detention was based on quite different legal concepts than the British or American system . . . criticisms were, then, as a matter of principle, applying equally to France and Italy as well as to Vietnam." (2125)

This statement is, of course, simply absurd. To begin with, the Ambassador's comments reveal an ignorance of South Vietnam's 1967 Constitution, which officially is still in force and follows the Anglo-Saxon tradition. Article 7, clause 8, for example, states that "Accused persons will be considered innocent until sentence recognizing their guilt is handed down. In event of doubt, the court will rule in favor of the accused." Clauses 5 and 6 of this same Article 7 state, moreover, that "A defendant is entitled to a speedy and public trial . . . has the right to a defense lawyer for counsel in every phase of the interrogation, including the preliminary investigation."

Even more to the point, moreover, the Ambassador's comments show a serious misunderstanding of legal procedures in South Vietnam. Under "administrative detention" the accused can be imprisoned for "up to two years, renewable." U.S. CIA Chief William Colby testified to Congress in July 1971 that those accused under the administrative detention law do not have right to counsel, do not confront witnesses and often do not even meet their judges—they are generally put away solely on the recommendation of the police chief to the Security Committee. By contrast, however, in France the accused has access to a lawyer immediately, cannot be held for more than a few days without being indicted, and cannot be indicted without having thee opportunity to cross-examine witnesses, testify, and respond to questions. Even the most preliminary phases are carried out before a panel of three judges. "Preventive trial" in France and Italy, therefore, have little in common with "administrative detention" as practiced in GVN *zones.*

His most fantastic claim by far, however, is that the names he has received were originally furnished peace activists by the PRG delegation in Paris who "carefully misspelled" them. "Since the names were deliberately misspelled, when the response came that they could not be identified, this added to the credibility of the charge of an attempt to cover up," he told the peace activists in January 1974.

To begin with, Martin knows that the names he has received from hundreds of citizens around the world did not come from the PRG at all. The main source of these names for some time has been the Saigon-based Committee to Reform the Prison System, led by Father Chan Tin. And, as the Embassy's own study acknowledged, Father Chan Tin is hardly a communist: "Chan Tin has often taken positions damaging to the GVN and favorable to the Communist side, but this is insufficient evidence to conclude that he is a willing Communist tool. Chan Tin comes through to observers as a quiet but stubborn man. Being a priest, he views people's plights in a human way."

And, more importantly, the main reason for constantly publishing long lists of names of political prisoners has been the hope that identifying them in this way may help to save their lives. For this reason, Chan Tin's committee has gone to extraordinary lengths to attempt to get the spelling, prison number and other details correct. Many of the names, moreover, have been painstakingly collected from letters and interviews with terrified relatives of political prisoners who themselves risk arrest to try and find out what has happened to a sister or brother snatched away in the dead of night. (Although even this has its ominous side to Martin. His "study" reports that during the U.S. Embassy's visit to Chan Tin, "a teenage girl entered his office . . . with a folded note for a relative in prison. She had gotten conflicting reports about where the relative was being held. Chan Tin listened sympathetically . . . after the girl left, he then spoke to the reporting officer about the present situation in South Vietnam in dramatic class-struggle terms.")

Perhaps the most revealing example of Martin's approach to political prisoners is his February 12 answer to Martin Ennals, Secretary General of Amnesty International. Ennals had written the Ambassador about an April 1973 letter from Ray Meyer, second secretary of the U.S. Embassy in Saigon, which stated that "though we do not have precise figures, we estimate that the GVN now detains somewhere between 500 and 1000 non-communist dissidents."

Martin's answer is to attack Mr. Meyer: "The imprecision of such reporting, without any evidence to substantiate or confirm what, at best, was a guess, violates the standards of American Foreign Service reporting set out by Ambassador Charles Bohlen in his recent book, Witness to History, to which this Embassy is endeavoring to adhere." Having disposed of his own Embassy's sloppy reporting, Martin then goes on to attack Amnesty International, the Stockholm Conference, and the American "peace movement". At no point does he offer any evidence to contradict Mr. Meyer's report. (Although there is a passage describing how Madame Ngo Ba Thanh, major leader of Saigon's Third Force, who was imprisoned for more than three years after leading a peace demonstration in front of Saigon's National Assembly, was imprisoned because she had accosted one of Saigon's Supreme Court Justices, "flogged him with her umbrella, broken the windshield of his car and then kicked him in his private parts"—a charge so ridiculous that it need not be dignified with an answer.)

One could go on and on. Martin presents "signed confessions" by three prisoners that they killed Professor Bong—despite the fact that Bong's own wife has publicly declared she did not believe the accused were responsible, and that one of the signers, Mr. Vu Quang Hung, has reported being tortured, having younger siblings placed under arrest to force him to sign, and having been denied access to a lawyer or relatives throughout his preliminary interrogation-torture; he claims that "it is not the Government of Vietnam which is holding up the return of the civilian prisoners," when student leader Huynh Tan Mam, deputy Tran Ngoc Chau, hundreds of Buddhist monks who recently led a hunger fast at Chi Hoa prison, and so many other civilian prisoners have still not been released; he asserts that "the mere fact that a guerilla campaign was in progress in South Vietnam . . . was in and of itself a denial . . . [that] South Vietnam [was] a repressive, closed society," when if there is any one thing that political theorists agree on it is that guerrilla movements can only spring up when people are denied access to the political process.

Such details, however, are unimportant compared to two major points.

THE AMBASSADOR'S DENIAL OF U.S. RESPONSIBILITY FOR SOUTH VIETNAM'S PRISON SYSTEM

In his January conversation with American peace activists, Martin states that he was "revolted at the thought that any American, as many of their 'Peace Movement' colleagues had done, would circulate charges that any part of any American AID Mission would participate in any way in advocating, advising about, or furnishing any equipment for, any measures that would be brutal, involve torture, or political repression of any kind."

This monstrous attempt by the Ambassador to rewrite history and erase from humanity's collective consciousness the vast role played by the U.S. in building up South Vietnam's police and prison system is by far the most serious of his charges.

The Indochina Resource Center will soon be publishing a major article drawn from internal American Embassy documents, which reveal the American role in creating and maintaining South Vietnam's police and prison system. Suffice it to say here that the U.S. has furnished virtually all equipment used by Saigon police—including generators used for electric torture, Smith and Wesson handcuffs, many of the very cells in which today's political prisoners are incarcerated. U.S. advisors have planned and directed the vast expansion of Saigon's police force from 10,000 in the early 1960's to 122,000 today, directing their activities down to ordering village sweeps on a daily basis. And, frankly, the U.S. unilaterally planned and implemented both the Phoenix and National I.D. card programs. The former resulted in mass assassination and indiscriminate arrests of tens of thousands of individuals in the 1960's—often to meet monthly quotas set by CIA Director Colby's office in Saigon—and led to a vast increase in "administrative detention" so as to handle the large numbers of those arrested without any evidence. The National I.D. card program, for which U.S. advisors wrote the original national decree issued by the U.S. government, and supplied and directed the use of American computers, involved the issuing of I.D. cards to every Vietnamese over the age of 15, I.D. cards which were linked to a computerized bio-dossier system.

In addition to this historic responsibility, the U.S. remains responsible for the activities of Saigon's police by virtue of the fact that we provide well over 86% of the Thieu government's resources—thereby continuing to fund, even if indirectly, all police and prisons. And, Mr. Martin's unconvincing protestations to the contrary, the New York Times and other sources report that our CIA continues to work with the Saigon police on a regular basis. (See N.Y. Times, February 25.)

THE AMBASSADOR'S REFUSAL TO SUPPORT VISITS TO THE PRISON

The insubstantive nature of Ambassador Martin's charges could be resolved, of course. All it would take would be allowing teams of neutral observers into the prisons. And, indeed, this is the most crucial weakness in the Ambassador's position. If everything he said was correct, he ought to be going out of his way to allow visitors in. What better way to prove to Congress that the Thieu Government is democratic, discredit the far-flung conspiracy out to get him, and resolve all doubts once and for all?

Those who have read this far, however, may not be surprised to discover that Ambassador Martin has not only refused to facilitate the visits of outside observers to prisons, with one shocking exception—he has also gone out of his way to block such visits.

As Senator Kennedy noted on June 4, 1973, after reporting that then U.S. Ambassador Bunker had denied the U.S. Senate Subcommittee on Refugees staff access to the prisons, "the mere fact that members of this study mission—along with many others—have been repeatedly denied access to prison facilities, and conversations with detainees, is cause enough for serious concern."

Some of the others who have been denied access since the ceasefire include the Catholic Bishop of Detroit, Fr. Thomas Gumbleton, and Valleyfield-Quebec, Fr. Belanger; Buddhist monk Fr. Thich Phap Lan, and the Catholic priest Father Chan Tin; Quaker hospital workers in Quang Ngai; and dozens of journalists who are still waiting for permission to visit the prisons, three years after the Saigon Government expelled Don Luce for discovering the Tiger Cages and announced that journalists would "soon" be permitted to discover the truth for themselves.

Ambassador Martin's contribution so far to this has been the most hypocritical sort of venality. He has opposed the visit of the Government Accounting Office to look into American direct or indirect funding of the Saigon's prisons, on the grounds that this would violate "national sovereignty".

And on January 16, 1974, he made it clear to a distinguished group of visiting peace activists, including Berkeley city councilwoman Ying Kelley, New York Theological Seminary head Bill Weber, and the former prisoner commissioner of Massachusetts, John Boone, why they would not be permitted to visit the prisons. Ambassador Martin's own notes that day report that he said that "the real problem was how one would determine the composition of such a group [to visit the prisons]. For example, did Ms. Kelley really think that the group she was with was qualified to be accepted as neutral or objective. The Ambassador thought not. . . ."

Two days later, however, despite the Ambassador's talk of the need for a "neutral" and "objective" trip, a visiting group of Americans led by the American Security Council were allowed to visit Con Son Prison—the first outsiders (with the exception of the New Zealand Ambassador) permitted into the prisons since the ceasefire.

The American Security Council lists 1,600 major corporations as members, most of them defense-oriented, as members. A promotional pamphlet put out by this organization, entitled "American Security Council" lists vice-presidents of Motorola, U.S. Steel and General Electric as officers of the organization.

Page 5 of this pamphlet, with a heading reading "Why is the work of the American Security Council so important right now?", explains that "The Council has blueprinted the methodology for achieving victory in the Cold War . . . our challenge is to find the most effective way of recruiting and using the talents and resources of business in the far-flung struggle for men's minds . . . U.S. Business, with its entire profits system at stake, would be derelict in its duty to stockholders and to the nation if by inaction it helped Communism win the Cold War."

One of the leading members of the ASC team was the U.S. Ambassador to Saigon 1957–61, Mr. Elbridge Durbrow. Mr. Durbrow subsequently testified before Congress on several occasions, and appeared on the nationwide *Today* show upon his return to the U.S. He is presently Director of the "Freedom Studies Center," a subsidiary of the ASC, which recently took on the ASC's massive library documenting organizations and individuals it regards as "subversive."

Another leading member of the ASC team was Congressman Crane from Illinois, who appeared on the Today show with Mr. Durbrow. Congressman Crane had previously visited Con Son Island in July 1970, 20 days after the revelation of its Tiger Cages, paralyzed inmates, and shackling, by Congressman Anderson and Hawkins, and former IVS director, Don Luce. Congressman Crane told Congress on his return that "I saw no evidence of malnutrition . . . eye infections . . . paralysis of limbs . . . bruises . . . abrasions," and generally contradicted the report by Congressman Anderson and his colleagues.

One of the things that Congressman Crane did report to Congress on July 29, 1970, however, was that "Anchored in the cement of the elevated platform is a metal bar almost flush with the platform. This is for manacling prisoners between the hours of 5 p.m. and 6 a.m."

Upon their return to the United States after 4½ days in Saigon, the ASC team issued a 50-page report on their visit. Entitled "Vietnam Report: Not in Vain" (the quote is from Ellsworth Bunker), the report is subtitled "An independent Fact-Finding Mission to South Vietnam January 12–22, 1974, co-sponsored by the American Security Council and the Vietnam Council on Foreign Relations." (The itinerary of their tour, published in the February 1974 issue of the ASC's Washington Report reveals they were actually only in Saigon from 9:15 a.m. January 14 to 11 a.m. January 19, almost all of which was consumed in meetings with U.S. and GVN officials including Ambassador Martin, Defense Attache, John Murray, and President Thieu. The first official visit by the team after arriving in Saigon was to National Police Headquarters.)

Section II finds that Saigon is not a "police state." On page 7, however, the group reports that "although [the police] aid-and-training program was ended in South Vietnam under the Paris peace agreement, a handful of U.S. civilian technicians continue to provide advice in the operation of a newly-installed computer system which keeps tabs on more than 10 million South Vietnamese."

It might be thought that Congressman Crane might have been particularly alarmed by this finding, since it violated the Foreign Aid Bill which had passed a month previously, Section 112 of which specifically stated that none of its funds may be used for the support of "computer training . . . computers, or computer parts for use for South Vietnam with respect to police, criminal, or prison matters."

Far from being alarmed, however, Congressman Crane and the others went on to report that "far from being a secret police device to oppress the populace, as charged by critics, the new computer system is used primarily to curb crime and enforce the law, just as in most advanced countries, including the U.S."

Section III simply repeats the findings of the "exhaustive" study undertaken by the American Embassy to discover the number of political prisoners.

Section IV, however, contains the most shocking statement in this report. Entitled "'Tiger Cages': A Myth Demolished", this section reports on the ASC team's visit to Con Son. Incredibly, on pages 13 and 14, the ASC team writes that:

"And there was no indication that any of the prisoners in the cells, (the Life photos show two to four inmates in each cell) had been shackled."

Thus, Congressman Crane, who reported to Congress on July 29, 1970, that Tiger Cage prisoners had been shackled, co-authored this report 3½ years later reporting no evidence of shackling.

One could go on, but the point is clear: think what one may of the ASC team, the notion that their visit to prisons was either "objective" or "neutral" is clearly untenable. And for Ambassador Martin to allow them to visit, while not supporting visits by either the GAO, a leading U.S. clergyman, former prisoner commissioner of Massachusetts, city councilwoman, or IBM executive, was clearly little more than an exercise in propaganda.

CONCLUSION

The coincidental presence of Ambassador Elbridge Durbrow on the ASC team rather neatly symbolizes the dangers of Ambassador Graham Martin's public embrace of the Thieu regime.

The publication of the Pentagon Papers has revealed that in private Ambassador Durbrow was a firm critic of the Diem regime, since at least January 1960. "When Kennedy took office, the prospect of an eventual crisis in Vietnam had been widely recognized in the government . . . Our Ambassador in Saigon had been sending worried cables for a year, and twice in recent months . . . [had] cautiously rais[ed] the question of whether the U.S. would not sooner or later have to move to replace Diem."

On September 16, 1960, Ambassador Durbrow sent a cable to Secretary of State Herter proposing that he be allowed to see Diem. Among the topics he proposed discussing with Diem were: "Tran Kim Tuyen, Nhu's henchman and head of secret intelligence service, should be sent abroad in diplomatic capacity because of his growing identification in public mind with alleged secret police methods of repression and control"; "Make public announcement of disbandment of Can Lao party or at least its surfacing . . . to eliminate atmosphere of fear and suspicion and reduce public belief in favoritism and corruption, all of which party's semicovert status has given rise to"; "require all government officials to declare publicly their property . . . in effort dispel rumors corruption; provide people with avenue recourse against arbitrary actions by some government officials"; "If Diem's position in country continues deteriorate as result failure adopt proper political, psychological, economic and security measures, it may become necessary for U.S. Government to begin consideration alternative courses of action and leaders in order achieve our objective."

This is what Ambassador Durbrow was saying in private.

In public, however, it was a different matter. Ambassador Durbrow was continually praising Diem throughout this period publicly as a democratic, popular leader enjoying the full support of his people. And, like Ambassador Martin, he was also not above deceiving Congress. Denis Warner, for example, reports that in the summer of 1959 Ambassador Durbrow gave a glowing report of the economic take-off, growth in security, and consequent possibility that military aid could even be produced, to Senator Mansfield.

The point is clear.

It is impossible for the private citizen to know what to make of Ambassador Martin's recent defense of General Thieu's police state. It is difficult to know whether the prospect that Ambassador Martin really believes or does not in fact believe what he is saying is more distressing.

All that can be said with some certainty is that either way Ambassador Martin's statements about political prisoners in South Vietnam have little intrinsic meaning, and are at variance with all known facts about the issue.

Ideally, of course, the Ambassador might actually fulfill his oath to Congress and take steps to ensure that the Thieu regime release any "communist" prisoners it now holds to the PRG, and any non-communist dissidents to their places of residence in GVN zones, that all torture be stopped, and that new political arrests cease.

Most importantly, Ambassador Martin can and should insist on access to South Vietnamese prisons by a wide variety of governmental and private groups to settle this issue once and for all.

Should the South Vietnamese government refuse access to its prisons by outsiders, the possibility that American aid to Saigon should be suspended must be considered.

Should Ambassador Martin refuse to follow the first and/or second course outlined above, he will have forfeited the trust placed in him by the American people, and should be recalled immediately.

TRIBUTE TO DR. FLOYD M. RIDDICK ON THE PUBLICATION OF THE NEW EDITION OF "SENATE PROCEDURE"

Mr. KENNEDY. Mr. President, "Senate Procedure," the new black-bound volume recently placed on our Senate desks, is this Chamber's newest and most welcome monument. Its publication is not only an important milestone in our body's distinguished history, but also an outstanding tribute to the man who compiled it, our able, respected, and well-loved parliamentarian, Dr. Floyd M. Riddick.

"Senate Procedure" is the Senate's Common Law, the compilation of the rules and precedents by which the Senate lives and functions. As Oliver Wendell Holmes wrote in his famous essay, "The Path of the Law," the life of the law has not been logic, it has been experience. And so it is with the procedures of the Senate, which are the life and experience of our Chamber, so often called the greatest deliberative body in the world.

In this new masterpiece of the rules and their application in the Senate, Dr. Riddick's text holds up a mirror to the Senate at its best, functioning under the rule of law, applying its parliamentary practice to the experience of debate and the necessities of modern legislation.

Dr. Riddick's work comes down to us today from a long line of distinguished parliamentary guides in the history of the Senate. One of the earliest compilations was the work of Thomas Jefferson, prepared during his service as Vice President of the United States and President of the Senate from 1797 to 1801. As he put it in the preface to the work we now call "Jefferson's Manual":

> I have begun a sketch which those who come after me will successively correct and fill up till a code of rules shall be formed for the use of the Senate, the effects of which may be accuracy in business, economy of time, order, uniformity, and impartiality.

Dr. Riddick's new work is faithful to these specific instructions as well as to Jefferson's overall ideal. The Senate is the wiser and the richer for it, and I congratulate our Parliamentarian on the completion and publication of this masterful volume.

HAZARDS OF THE OIL AND GAS WELL DRILLING BUSINESS

Mr. BARTLETT. Mr. President, the hazards of the oil and gas well drilling business are shown in the recent article in Business Week.

I ask unanimous consent to have the article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE RISKS IN DRILLING SUPERDEEP GAS WELLS

For oilmen who had just set a record, the people at Lone Star Producing Co. were unusually somber. The company had just drilled 31.441 ft.—a scant 239 ft. short of 6 mi.—into Oklahoma's Anadarko Basin looking for gas. Instead, the bit tapped into liquid sulfur under tremendous pressure, and hydrogen sulfide began eating away at the expensive high-tensile-steel drill string. For nearly three days, the crew fought back, often wearing gas masks to protect themselves from the lethal gas. Then, suddenly, "the steel just fell apart at 15,000 ft.," says one Lone Star man, "and we couldn't control the great pressures below." The crew quickly plugged the hole at 14,000 ft., dashing all hopes of superdeep production and forcing Lone Star to face the bitter truth that record-breaking Bertha Rogers No. 1 was a $6-million flop.

That near-disaster last month highlights the hazards of superdeep drilling. Yet, with gas prices at record levels, the number of wells being sunk 20,000 ft. or more in the U.S. is limited only by the steel (Bertha Rogers swallowed enough to erect a 14-story building), rigs, and crews available to drill them. Last year, according to *Petroleum Engineer*, producers completed 74 wells below 20,000 ft., up from 49 in 1972 and 57 in 1971. So far this year, some 30 or more have been drilled.

DRY WELLS

With an average cost of $2-million and a success ratio of less than 46%, these deep wells are often cited by oilmen as glaring examples of the big investments they are making to find more oil and gas. "This is what the politicians and the people need to know—the extreme risks in this industry," says Robert A. Hefner III, an independent from Oklahoma City.

More than anyone else, the 39-year-old Hefner is credited with pioneering superdeep drilling in Western Oklahoma and the Texas Panhandle. In the past 15 years, his company, GHK Corp., and Gasanadarko, Ltd., have been involved in about four dozen deep-hole ventures in the Basin. Most were dry. Sometimes even the successful holes did not pay off, says Hefner, because the price of gas was too low. "Actually, the only real payoff Bob has had is in selling some of his acreage," says one acquaintance.

It was on some of Hefner's 250,000 acres that Lone Star spudded Bertha Rogers in November, 1972, about 80 mi. west of Oklahoma City. The new drilling site was just 19 mi. from the previous record-setting hole, a 30,050-ft. well named Baden No. 1 that cost Lone Star $5.5-million—and was dry.

But the company approached Bertha Rogers hopefully, and until the very end, things looked good. At 27,506 ft., the crew manning Loffland Bros.' towering superdeep rig was 70 days ahead of the Baden schedule. Juggling drilling tools and carefully controlling special drilling fluids, they were getting an impressive 267 ft. per bit.

DISAPPOINTMENT

Then disaster hit. At first, when the company became tightlipped about what was going on, some observers suspected that Lone Star had hit a bonanza. But the silence actually reflected concern over the safety of the crew. When the hole was finally plugged, Lone Star announced its costly record. Some of the money may be recovered from production at lesser depths, but there is little chance that Bertha Rogers will ever pay off, and Lone Star's minor partners—Natural Gas Pipeline Co. of America, Michigan Wisconsin Pipe Line Co., and Oklahoma Natural Gas Co.—will have to look elsewhere for gas.

Lone Star, for one, says it will try superdeep drilling again. "Several more wells as deep or deeper than Bertha Rogers No. 1 will be needed before the Anadarko Basin becomes a mature, commercial field, and we'll drill some of them," says one official. But as Hefner notes: "The disappointment is that Bertha Rogers didn't produce at a time when the nation needs new gas."

FINANCIAL DISCLOSURE BY SENATOR GRAVEL

Mr. GRAVEL. Mr. President, on April 11, the U.S. Senate passed S. 3044, the campaign reform bill. That final vote marked a solid victory for the forces of reform, for those who wish to rid this country of the corrosive influence of big money and well-heeled special interests.

I have introduced and supported similar legislation during my 5½ years as Alaska's Senator.

One part of the reform bill requires every Member of Congress, and every candidate for election to Congress, to release a financial disclosure statement for the preceding year.

I support that plan, but I am convinced it does not go far enough in establishing public accountability. Therefore, Mr. President, I have decided to voluntarily include in the RECORD my complete tax returns for every year beginning with 1969—my first year of service in the Senate. Since I have also paid both Alaska and Maryland State income taxes, I am including those returns as well.

In addition, I am including for the same period of time, the confidential statement on assets and liabilities that we as Senators file with the General Accounting Office each year. I have also included the statements on contributions and honorariums filed each year with the Secretary of the Senate.

Finally, I am including a personal statement, prepared by my accountant, of my total assets, total liabilities and net worth as of December 31, 1968, and another as of December 30, 1973. These two show all changes in my financial situation during my years in the Senate.

Frankly, I do not personally enjoy making this disclosure. I treasure my financial and other privacy as much as anyone else. A disclosure of this kind shows the fact that we are all as human in our financial affairs, as we are in other areas of life. But, I believe such a disclosure should be made. I gave up the right to this financial privacy when I was elected to the Senate. If I were a private citizen, I would demand such disclosure from my elected representatives. I, therefore, have decided to demand it of myself even though the law does not require it. Even the reform bill that was passed by the Senate does not require this extensive a disclosure.

It is a completely voluntary act on my part, but one which is demanded by the times in which we live. I look at it as a step forward in assuring the citizens' "right to know." I think the events of the last year have made clear the importance of this basic right.

The people have a right to know whether their public servants from the

President on down, are claiming illegal deductions, or using public funds for private benefit, or cutting corners in their income tax returns. Every time someone does something like that, the rest of the citizens—the average taxpayers—end up paying for it.

In its simplest terms, financial disclosure is an effort at reestablishing a bond of trust between the people and their elected representatives. It is this delicate and necessary bond that we are in danger of losing today.

Now is the time to strengthen that bond; now is the time to restore the democratic principle of public accountability.

Mr. President, I ask unanimous consent that my tax returns and other financial information be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

U.S. Individual Income Tax Return—1969

First name and initial (if joint return, use first names and middle initials or both): Maurice R. & Rita Gravel.

Present home address (Number and street or rural route): P.O. Box 2283, Anchorage, Alaska 99501.

Your ocupation, U.S. Senator.

Spouse's occupation, homemaker.

2. Married filing joint return.

EXEMPTIONS

7a. Yourself.

7b. Spouse (applies only if line 2 or line 6 is checked).

Enter number of boxes checked, 2.

8. First names of your dependent children who lived with you: Martin, Lynne.

Enter number, 2.

10. Total exemptions from lines 7, 8 and 9 above, 4.

INCOME

11. Wages, salaries, tips, etc., $40,250.00.

14. Other income: Total from attached schedules, D, E, $6,315.33.

15a. Total (Add lines 11, 12c, 13 & 14), $33,934.67.

15b. Less Adjustments (See 1040–1), $9,157.89.

Adjusted Gross Income, $24,776.78.

18. Tax Rate Sch., $3,511.97.

YOUR CREDITS

19. Total Federal income tax withheld, $9,796. 20.

22. 1969 Estimated tax payments, $236.74.

23. Total (add lines 19, 20, 21, and 22), $10,032.94.

25. If line 23 is larger than line 18, enter overpayment, $6,520.97.

26. Line 25 to be refunded, $6,520.97.

FEDERAL INCOME TAX INFORMATION

Federal income tax withheld, $9,796.20.

Wages paid subject to withholding in 1969, $40,250.00.

SOCIAL SECURITY INFORMATION

(Not Subject to FICA tax).

Itemized Deductions, 1969

Name as shown on Form 1040: Maurice R. and Rita Gravel.

Medical and dental expenses (not compensated by insurance or otherwise) for medicine and drugs, doctors, dentists, nurses, hospital care, insurance premiums for medical care, etc.:

1 One half of insurance premiums for medical care (but not more than $150), $54.10.

2 Medicine and drugs, $62.50.

3. Enter 1% of line 15c, Form 1040, $247.77.

5 Itemize other medical and dental expenses:

Hospitalization, $54.10.

Doctors:

M. Jackson, $21.00.

A. Homay, $25.00.

F. G. Burke, $47.00.

T. M. Fuley, $35.00.

J. O'Neill, $25.00.

J. A. Schulte, $20.00.

G. L. Fechter, $76.00.

M. M. Parks, $40.00.

Dentists:

L. L. Ziemianski, $135.00.

G. O. Gould, $175.00.

6 Total (add lines 4 and 5), $653.10.

7 Enter 3% of line 15c, Form 1040, $743.30.

9 Total deductible medical and dental expenses (add lines 1 and 8), $54.10.

Taxes:

Real estate, $33.00.

State and local gasoline, $41.00.

General sales, $178.65.

10 Total taxes, $252.65.

Contributions.—Cash—including checks, money orders, etc.:

Zeck Ostrosny Memorial Fund, $25.00.

Alaska State Society, $5.00.

Alaska Heart Association, $2.00.

11 Total cash contributions, $32.00.

14 Total contributions, $32.00.

Interest expense:

Hornblower & Weeks, $34.23.

American Security & Tr., $350.26.

Sec. Bk. & Tr. Co. of Bozeman, $252.90.

Kenai Lot, $100.00.

National Bank of Alaska, $1,628.51.

15 Total interest expense, $2,365.90.

Miscellaneous deductions for child care, alimony, union dues, casualty losses, etc.:

From form 2106, $3,746.38.

Legal expense (income protection), $194.97.

16. Total miscellaneous deductions, $3,941.35.

17 Total itemized deductions, $6,646.00.

Schedule D: Sales or Exchanges of Property, 1969

Name as shown on Form 1040: Maurice R. and Rita Gravel.

PART I—CAPITAL ASSETS

a. Kind of property: Loan.

b. Description: Installment loan.

d. Date acquired: 1–6–69.

e. Date sold: 1–69.

f. Gross sales price: $12,000.00.

h. Cost or other basis, cost of subsequent improvements and expense of sale: $12,754.78.

I. Gain or loss: ($754.78).

Securities (a) Schedule attached ($12,275.34).

4. Net short-term gain (or loss) from lines 1, 2, and 3, ($13,030.12).

5. Enter gain from Part II, line 3, $3,557.72.

a. Kind of property: Real estate.

b. Description: Land & building Spenard, AK.

d. Date acquired: 9–62.

e. Date sold: 5–27–69.

f. Gross sales price: $12,524.01.

g. Depreciation allowed since acquisition: $6,172.91.

h. Cost or other basis, cost of subsequent improvements and expense of sale: $21,684.21.

I. Gain or less: ($2,987.29).

Securities, (A) Schedule attached, ($81.71).

9. Net long-term gain (or loss) from lines 5, 6a, 6b, 7, and 8, $488.72.

10. Combine the amounts shown on lines 4 and 9, and enter the net gain (or loss) here, ($12,540.41).

13. If line 10 shows a loss—Enter here and in Part IV, line 1, the smallest of: (a) line 10; (b) line 3, Sch. T., (line 15c, Form 1040, if tax table used) computed without capital gains or losses; or (c) $1,000, ($1,000.00).

PART II—GAIN FROM DISPOSITION OF DEPRECIABLE PROPERTY UNDER SECTIONS 1245 AND 1250—

a. Kind of property and how acquired (if necessary, attach statement of descriptive details not shown below—write 1245 or 1250 to indicate type of asset): Office Building & Land-Kenai.

b. Date acquired (mo., day, yr.): 1–1968.

c. Date sold (mo., day, yr.): 8–14–69.

d. Gross sales price: $32,000.00.

e. Cost or other basis, costs of subsequent improvements (if not purchased, attach explanation) and expense of sale: $26,250.26.

f. Depreciation allowed (or allowable) since acquisition:

f-2. After December 31, 1961 or after December 31, 1963: $2,478.00.

g. Adjusted basis: $23,772.26.

h. Total gain: $8,227.74.

i. Ordinary gain: $1,112.30.

j. Other gain: $7,115.44.

Less one-half undivided interest reported by Stanley Harnut:

i. Ordinary gain: ($556.15).

j. Other gain: ($3,557.72).

2. Total ordinary gain, $556.15.

3. Total other gain, combined with other gains and losses from section 1231 property, $3,557.72.

PART IV—TOTAL GAINS OR LOSSES FROM SALE OR EXCHANGE OF PROPERTY

1. Net gain (or loss) from Part I, line 12 or 13, ($1,000.00).

2. Total ordinary gain from Part II, line 2, $556.15.

4. Total net gain (or loss), combine lines 1, 2, and 3 ($443.85).

Schedule E; Supplemental and Miscellaneous Income, 1969

Name as shown on Form 1040: Maurice R. and Rita Gravel.

PART II.—RENT AND ROYALTY INCOME

1. Kind and location of property: Spenard Rental—4 units, Anchorage, Alaska.

2. Total amount of rents: $1,300.00.

4. Depreciation or depletion: $341.74.

5. Other expenses: $838.39.

1. Kind and location of property: Keni Office Building, Keni, Alaska.

2. Total amount of rents: $903.59.

4. Depreciation or depletion: $450.00.

5. Other expenses: $753.42.

1. Totals:

2. Total amount of rents: $2,203.59.

4. Depreciation or depletion: $791.74.

5. Other expenses: $1,591.81.

2. Net income (or loss) from rents and royalties ($179.96).

PART III.—INCOME OR LOSSES FROM PARTNERSHIPS, ESTATES OR TRUSTS, SMALL BUSINESS CORPORATIONS, AND MISCELLANEOUS INCOME

(a) Name and address: Mike Gravel Real Estate Development, Inc., small business corporation.

(c) Employer identification number: [redacted]

(d) Income or loss: ($5,183.52).

(a) Name and address; Honorariums, miscellaneous income.

(d) Income or loss: $4,350.00.

(a) Name and address:

Schedule attached.

(d) Income or loss: ($4,858.00).

1. Income (or loss) total of column (d), ($5,691.52).

Total of parts I, II and III, ($5,871.48).

Schedule for depreciation claimed in part II above

1. Group and guideline class or description of property: Keni Building.

2. Date acquired: 1–68.

3. Cost or other basis: $11,835.51.

4. Depreciation allowed or allowable in prior years: $1,578.00.

5. Method of computing depreciation: DDB.

6. Life or rate: 15 years.

7. Depreciation for this year: $854.00.

1. Group and guideline class or description of property: additions.

2. Date acquired: 6–69.

3. Cost or other basis: $3,347.96.

5. Method of computing depreciation: DDB.

6. Life or rate: 15 years.

7. Depreciation for this year: $46.00.

1. Group and guideline class or description of property: Spenard Rental.

2. Date acquired: 9–62.

3. Cost or other basis: $32,500.00.

4. Depreciation allowed or allowable in prior years: $10,200.00.

5. Method of computing depreciation: S.L.

6. Life or rate: 20 years

7. Depreciation for this year: $677.00.

1. Group and guideline class or description of property: Tappan Range.

2. Date acquired: 12–67.

3. Cost or other basis: $70.00.

4. Depreciation allowed or allowable in prior years: $23.32.

5. Method of computing depreciation: DDB.

6. Life or rate: 6 years.

7. Depreciation for this year: $6.48.

1. Group and guideline class or description of property: Less ½ undivided interest.

7. Depreciation for this year: ($791.74).

2. Totals, $791.74.

EMPLOYEE BUSINESS EXPENSES, 1969

Your name: Maurice R. and Rita Gravel.

Employee's name: U.S. Government.

Occupation in which expenses were incurred: U.S. Senator.

PART I.—EMPLOYEE BUSINESS EXPENSES WHICH ARE DEDUCTIBLE COMPUTING ADJUSTED GROSS INCOME

1. Travel expenses while away from home on business:

(a) Railroad, airplane, boat, etc., fares, $4,619.50.

(b) Meals and lodging, $1,726.65.

(d) Other travel expenses: Living expenses under Public Law 471—see certification, $3,000.00.

Total travel expenses, $9,346.15.

5. Total of lines 1, 2, 3, and 4, $9,346.15.

6. Less: Amount of employer's payments for above expenses, $1,831.60.

7. Excess expenses, $7,514.55.

PART II.—EMPLOYEE BUSINESS EXPENSES WHICH ARE DEDUCTIBLE IF YOU ITEMIZE DEDUCTIONS ON SCHEDULE A

1. Business expenses other than those included above: Expenses of Senator in excess of reimbursement: Communications $219.87, dues $997.78, schooling $175.00, public relations $2,001.85, office expense $351.85.

2. Total $3,746.38.

FORM 3903: MOVING EXPENSE ADJUSTMENT, 1969

Name as shown on Form 1040: Maurice R. and Rita Gravel.

Dates of move: Departed January, 1969; Arrived January, 1969.

Name and address of employer at old location:

Mike Gravel Real Estate Development, Inc., P.O. Box 2283, Anchorage, Alaska.

Name and address of employer at new location:

U.S. Senate, Washingon, D.C.

Address of old residence: 468 Aurora Drive, Anchorage, Alaska.

Period of employment in new location: From January, 1969 to present.

SCHEDULE OF EXPENSES

2. Transportation of household and personal property, $1,643.34.

3. Total moving expenses, $1,643.34.

5. If employer's payments (line 4) are less than moving expenses (line 3), enter the excess expenses here and include in line 15(b), $1,643.34.

TAX COMPUTATION, 1969

Name as shown on Form 1040: Maurice R. and Rita Gravel.

1. Your adjusted gross income (from line 15c, Form 1040), $24,776.78.

2. Enter on the line at the right the amount of your deduction figured under one of the following methods:

a. If you itemize deductions, enter the total from schedule A, line 17: $6,646.00.

3. Subtract the amount on line 2 from the amount on line 1 and enter the balance here, $18,130.78.

4. Enter number of exemptions claimed on line 10, Form 1040, 4. Multiply this number by $600, and enter amount here, $2,400.00.

5. Subtract the amount on line 4 from the amount on line 3 and enter the balance here: $15,730.78.

6. Tax, $3,192.70.

8. Subtract line 7 from line 6, $3,192.70.

9. Tax surcharge, $319.27.

10. Total (Add lines 6 and 9), $3,511.97.

15. Income tax, $3,511.97.

18. Total tax, $3,511.97.

SCHEDULE D, PART II

Computation of ordinary gain from office building:

Total gain, $822.77.

Accelerated depreciation allowed since December 31, 1963, $2,478.00.

Less depreciation at straight-line, $1,319.35.

Excess depreciation, $1,158.65.

Less 1% for each month held over 20 months (4% of $1,158.65), $46.35.

Ordinary gain, ($1,112.30).

Capital gain, $711.54.

SCHEDULE E, RENT INCOME

	Keni	Spenard
Interest	$891.59	$699.62
Taxes	239.25	30.62
Insurance	376.00	
Utilities:		
Gas		212.00
Electricity		266.45
Garbage		39.52
Repairs-general maintenance		307.24
Auto expense		94.95
Advertising		26.99
Total:	1,506.84	1,676.77
Undivided one half share of each to Schedule E	753.42	838.39

SCHEDULE E: PART III, MISCELLANEOUS INCOME

Publishing of Book:	
Printing costs	$5,778.00
Less revenue from book sales	(920.00)
Loss from publishing	4,855.00

Schedule of Short-term Capital Gains and Losses:

Description: 80 Sh. Monogram Industries; date acquired, 11/14/69; date sold, 10/30/69; sales price, $2,347.15; purchase price, $2,156.30; gain or (loss), $190.

Description: 61 Sh. Hamilton Bros, Petrol; date acquired, 7/7/69, date sold, 12/4/69; sales price, $3,645.92; purchase price, $4,977.83; gain or (loss), ($1,331).

Description: 200 Sh. Syracuse Oils Ltd. date acquired, 9/16/69; date sold, 12/4/69; sales price, $506.00; purchase price, $1,226.00; gain or (loss), ($720).

Description: 100 Sh. Standard Oil Calif.; date acquired, 9/17/69; date sold, 12/4/69; sales price, $5,113.43; purchase price, $6,307.71; gain or (loss), ($1,194).

Description: 14 Calls Phillips Petroleum; date acquired, 9/5/69; date sold, 11/7/69; sales price, none; purchase price, $4,795.00; gain or (loss), ($4,795.00).

Description: 10 Calls Standard Oil; date acquired, 9/10/69; date sold, 12/15/69; sales price, none; purchase price, $4,425.00; gain or (loss), ($4,425.00).

Total short-term gains & losses: (12,275.00).

Schedule of Long-term Capital Gains and Losses:

Description: 16 Sh. Amer. Photocopy Equip.; date acquired, 1/11/68; date sold, 5/16/69; sales price, $217.39; purchase price, $241.50; gain or (loss) ($24.11).

Description: 16 Helene Curtis Ind. Inc. date acquired, 1/11/68; date sold, 5/16/69; sales price, $266.91; purchase price, $294.22; gain or (loss), ($27.31).

Description: 20 St. Dymo Industries Inc.; date acquired, 1/24/68; date sold, 5/16/69; sales price, $496.36; purchase price, $526.65; gain or (loss), ($30.29).

Total long-term gains & losses: ($81.71).

I hereby certify that I was in a travel status in the Washington area, away from home, in the performance of my official duties as a Member of Congress, and my deductible living expenses while in such travel status amounted to over $3,000.00.

U.S. SMALL BUSINESS CORP.

Income tax return for the calendar year 1969 or taxable year beginning Oct. 1, 1968, ending Sept. 30, 1969.

A. Date of election as small business corporation: October 14, 1966.

B. Business Code No. 6650.

C. Employer identification no.: [redacted]

D. County in which located: Greater Anchorage.

E. Enter total assets from line 14, column D, Schedule L: $32,054.91.

Name: Mike Gravel Real Estate Development, Inc., Box 2283, Anchorage, Alaska 99501.

GROSS INCOME

1. Gross receipts or gross sales, $16,324.40.

3. Gross profit, $16,324.40.

(c). Net gain (loss) from sale or exchange of property other than capital assets, $401.26.

10. Other income, ($6,237.34).

11. Total income, lines 3 through 10, $10,488.32.

DEDUCTIONS

12. Compensation of officers, $6,240.00.

13. Salaries and wages, $1,050,00.

14. Repairs, $75.00.

16. Rents, $1,337.66.

17. Taxes, $361.77.

18. Interest, $176.18.

22. Depreciation, $406.54.

24. Advertising, $361.29.

26. Other deductions, $5,663.40.

27. Total deductions on lines 12 through 26, $15,671.84.

28. Taxable income, line 11 less line 27, ($5,183.52).

SCHEDULE E—COMPENSATION OF OFFICERS

1. Name of officer: Maurice R. Gravel; 2. Social security number, [redacted] 3. Title President; 4. Time devoted to business, part; 5. Percentage of corporation stock owned, 40%; 6. Amount of compensation, $6,240.00.

Total compensation of officers, $6,240.00.

1. Group and guideline class or description of property: Furniture and fixtures; 2. Date acquired, various; 3. Cost of other basis, $4,384.05; 4. Depreciation allowed or allowable in prior years, $1,102.37; 5. Method of computing depreciation, DDB; 6. Life or rate, VAR; 7. Depreciation for this year, $193.60.

1. Group and guideline class or description of property; Transportation equipment; 2. Date acquired, 5–31–68; 3. Cost of other basis, $4,227.06; 4. Depreciation allowed or allowable in prior years, $656.25; 5. Method of computing depreciation, S.L.; 6. Life or rate, 4; 7. Depreciation for this year, $187.50.

1. Group and guideline class or description of property: Machinery and other equipment, 2. Date acquired, 3–67; 3. Cost of other basis, $324.45; 4. Depreciation allowed or allowable in prior years, $70.08; 5. Method of computing depreciation, DDB; 6. Life or rate, 10; 7. Depreciation for this year, $25.44.

Totals, cost or other basis, $8,935.56; depreciation for this year, $406.54.

Balance, $406.54.

SCHEDULE H—SUMMARY OF DEPRECIATION

Straight line, $187.50; declining balance, $219.04; total, $406.54.

SCHEDULE J—TAX COMPUTATION

(b) Subtract $6,500 and enter difference, $6,500.00.

4. Subtract $25,000—statutory minimum, $25,000.00.

Schedule K—Shareholders' Shares of Income

1. Name of each shareholder: Maurice R. Gravel; social security number, [redacted]

2. Stock ownership: number of shares, 4,000; period held, from 9–19–66 to present.

1. Name of each shareholder: Rita J. Gravel; social security number, [redacted].

2. Stock ownership: number of shares, 6,000; period held, from 9–19–66 to present.

4. Compensation: $6,240.00.

Total compensation, $6,240.00

5. Dividend date, 9–30–69.

6. Share of undistributed taxable income or net operating loss, $2,073.41.

6. Share of undistributed taxable income or net operating loss, $3,110.11.

Total, $5,183.52.

F. Date incorporated, 9–19–66.

G. Did the corporation at the end of the taxable year own directly or indirectly 50 percent or more of the voting stock of a domestic corporation? No.

H. Did the corporation during the taxable year have any contracts or subcontracts subject to the Renegotiation Act of 1951? No.

I. Amount of taxable income (or loss) for: 1967, $9,683.69; 1968, $13,342.27.

J. Refer to instructions for business activity codes and state the:

Principal business activity, real estate.

Principal product or service, consulting and developing.

K. Were you a member of a controlled group subject to the provisions of sections 1561 or 1562? No.

L. Did you claim a deduction for expenses connected with any:

(1) Entertainment facility? No.

(2) Living accommodations? No.

(3) Employees' families at conventions or meetings? No.

(4) Employee or family vacations not reported on Form W–2? No.

M. Were you liable for filing Forms 1096 and 1099 or 1087 for the calendar year 1969? No.

N. Was there any substantial change in the manner of determining quantities, costs, or valuations between opening and closing inventory? None.

Schedule L—Balance Sheets

ASSETS

1. Cash, beginning of taxable year (B) Total, 1,382.86; end of taxable year (D) Total $401.03.

2. Trade notes and accounts receivable, beginning of taxable year (A) Amount, $61,275.78; end of taxable year (C) Amount, $6,460.43.

(a) Less allowance for bad debts, beginning of taxable year (B) Total $61,275.78; end of taxable year (D) Total $6,460.43.

6. Loans to shareholders, end of taxable year (D) Total $24,939.08.

9. Buildings and other fixed depreciable assets, beginning of taxable year (A) $8,935.56; end of taxable year (C) Amount $324.45.

(a) Less accumulated depreciation, beginning of taxable year (A) $1,828.70 (B) $7,106.86; end of taxable year (C) $70.08 (D) Total $254.37.

13. Other assets (attach schedule), beginning of taxable year (B) Total $24,426.75.

14. Total assets, beginning of taxable year (B) Total $94,192.25; end of taxable year (D) Total $32,054.91.

LIABILITIES AND SHAREHOLDERS' EQUITY

15. Accounts payable, beginning of taxable year (B) Total $67,166.71; end of taxable year (D) Total $21,309.95.

16. Mtges., notes, bonds payable in less than 1 yr., beginning of taxable year (B) Total $8,750.00; end of taxable year (D) Total $5,956.18.

20. Other liabilities (attach schedule), beginning of taxable year (B) $8,257.54.

21. Capital stock, beginning of taxable year (B) $10,000.00; end of taxable year (D) Total $4,788.78.

27. Total liabilities and shareholders' equity, beginning of taxable year (B) $94,192.25; end of taxable year (D) $32,054.91.

SCHEDULE M–1—RECONCILIATION OF INCOME PER BOOKS WITH INCOME PER RETURN

1. Net income per books ($5,211.22).

5. Expenses recorded on books this year not deducted in this return (itemize) penalty $27.70.

6. Total of lines 1 through 5 ($5,183.52).

10. Income (line 28, page 1)—line 6 less line 9 ($5,183.52).

Schedule D: Gains and Losses From Sales or Exchanges of Property, 1968

Name: Mike Gravel Real Estate Development, Inc.

Employer identification number: [redacted]

PART 1—GAIN FROM DISPOSITION OF DEPRECIABLE PROPERTY

a. Kind of property: Office furniture; b. Date acquired, 1967–68; c. Date sold, 12–31–68; d. Gross sales price, $2,900.00; e. Cost or other basis, cost of subsequent improvements and expense of sale, $4,355.70.

1. Depreciation allowed (or allowable) since acquisition:

f–2. After December 31, 1961 or after December 31, 1963, $1,240.27; g. Adjusted basis, $3,115.43; h. Total gain, $784.57; i. Ordinary gain, $784.57.

2. Total ordinary gain, $784.57.

a. Kind of property:

PART IV—PROPERTY OTHER THAN CAPITAL ASSETS

Gain from part 1, 1968 Oldsmobile, b. Date acquired, 11–13–67; c. Date sold, 12–31–68; d. Gross sales price, $3,000.00; e. Depreciation allowed since acquisition, $843.75; f. Cost or other basis, cost of subsequent improvements and expense of sale, $4,227.06; g. Gain or loss, $784.57 minus $383.31.

Total net gain (or loss), $401.26.

Form 1120S

Mike Gravel Real Estate Development, Inc., year ended, September 30, 1969.

Page 1, line 10, other income: Loss from partnership—Today in Alaska, $6,237.34.

Page 1, line 17:

Payroll taxes, $193.17.

Business license tax, $168.60.

Total, $361.77.

Page 1, line 26, other deductions:

Professional consulting fees, $4,496.35.

Auto expense, $87.40

Insurance, $354.75.

Office expense, $271.19.

Dues and miscellaneous, $453.65.

Total, $5,663.40.

Schedule 1, line 13, other assets, 1968:

Prepaid insurance, $420.75.

Deposits, $110.00.

Due from partnerships, $11,960.53.

Kenai property, $11,935,47.

Total, $24,426.75.

Line 20, other liabilities:

Real estate trust liability, $4,745.00.

Deferred income, $2,673.00.

Payroll taxes, $857.54.

Total, $8,275.54.

Form 502: Maryland Tax Return, 1969

Maurice R. and Rita, Gravel, 714 Braeburn, Tantallon, Maryland 20022.

Your occupation: U.S. Senator;

Spouse's occupation: Homemaker.

A. Your filing status: Married filing joint return.

1. Did you establish or abandon legal residence in Maryland in 1969? No.

Exemptions: Yourself, spouse.

Number checked—2.

First name of dependent children: Martin, Lynne.

Total exemptions, 4.

INCOME

1. Total Income, $24,776.78.

3. Total, $24,776.78.

5. Total Maryland income, $24,776.78.

TAX COMPUTATION

6. Exemptions, 4.

8. If you itemize deductions, enter total deductions, $6,646.00.

9. Net income, $18,130.78.

10. Number of Exemptions X $800, $3,200.50.

11. Taxable net income, $14,930.78.

TAX

12. Maryland Tax, $686.54.

13. Local income tax, $343.27.

14. Total Maryland and local income tax, $1,029.81.

17. Credit for income tax paid another State $409.44.

19. Total payments and credits, $409.44.

20. Balance due, $620.37.

22. Combined balance due, $620.37.

Wage and Tax Statement 1969

Federal income tax withheld, $9,796.20.

Wages paid subject to withholding in 1969, $40,250.00.

SCHEDULE A—INCOME AND ADJUSTMENTS FROM FEDERAL RETURN

1. Wages, salaries, tips, etc., $40,250.00.

4. Pensions and annuities, rents and royalties, partnerships, estates or trusts, etc., ($179.96).

6. Sale or exchange of property, ($443.85).

8. Miscellaneous sources, $5,691.52).

9. Total, $33,934.67.

10. Adjustments, $9,157.89

11. Total income, $24,776.78.

SCHEDULE B—ITEMIZED DEDUCTIONS FROM FEDERAL RETURN WITH ADJUSTMENTS

1. Medical and dental expense, $54.10.

2. Taxes, $252.65.

3. Contributions, $32.00.

4. Interest, $2,365.90.

5. Miscellaneous, $3,941.35.

6. Total, $6,646.00.

8. Total, $6,646.00.

SCHEDULE E—COMPUTATION OF TAX

Rate of tax: 2% on first $1,000; amount of income taxable at each rate, $1,000.00, amount of tax, $20.00.

Rate of tax: 3% on second $1,000; amount of income taxable at each rate, $1,000.00, amount of tax, $30.00.

Rate of tax: 4% on third $1,000; amount of income taxable at each rate, $1,000.00, amount of tax, $40.00.

Rate of tax: 5% on all in excess of $3,000; amount of income taxable at each rate, $11,930.78, amount of tax, $596.54.

Totals, amount of income taxable at each rate, $14,930.78; amount of tax, $686.54.

Tax Credits For Income Taxes Paid To Other States And Maryland Personal Property Taxes, 1969

Name: Maurice R. & Rita Gravel, 714 Braeburn, Tantallon, Maryland 20022, Prince George's County.

1. Taxable Net Income, $14,930.78.

2. Income Taxable In Other State, $11,380.78.

3. Revised Taxable Net Income, $3,550.00.

4. Tax on Amount on Line 3, $117.50.

CREDIT COMPUTATION

5. Maryland Tax, $686.54.

6. Tentative Tax Credit, $569.04.

7. Tax Paid to State of Alaska, $409.44.

Business: Trade Name & Address, U.S. Senator, U.S. Senate, Washington, D.C.

Is the business a Partnership? No.

DR 600R: Alaska Individual Income Tax Return, 1969

Maurice R. and Rita Gravel, P.O. Box 2283, Anchorage, Alaska 99501.

Your occupation: U.S. Senator; wife's occupation; homemaker.

Enter adjusted gross income from line 15C, Form 1040, $24,776.78.

Alaska adjustments to Federal gross:

Delete non-Alaska Income, $4,350.00.

Enter sum of lines 7ACBD, $4,350.00.

Adjusted Gross Income for Alaska tax computation, $20,426.78.

If you itemize deductions, enter total from Schedule A, line 17, Form 1040, $6,646.00.

Subtract line 10A from line 8, $13,780.78.

Net Alaska taxable income, $13,780.78.

Enter total personal exemption credits from line 4 of Schedule T, Form 1040, $2,400.00.

Subtract line 10E from line 10D. Enter balance on this line, $11,380.78.

Tax, $2,559.00.

Income tax, $2,559.00.

Total tax, $2,559.00.

Enter your Alaska Income tax, $409.44.

Enter your Disaster Tax, $10.00.

Enter your School Tax, $10.00.

Total Tax, $429.44.

1969 Estimated tax payments, $138.02

Total, $138.02.

If payments (line 25) are less than tax (line 20), enter Balance Due, $291.42.

Do you owe any Alaska tax for years before 1969? No.

Wage and Tax Statement 1969

Federal income tax withheld, $9,796.20.

Wages paid subject to withholding in 1969, $40,250.00.

Form DR600R

Maurice R. and Rita Gravel, calendar 1969.

Line 7c, non-Alaska income:

Honorariums earned outside the State, $4,350.00.

U.S. Individual Income Tax Return, 1970

Maurice R. and Rita Gravel, 714 Braeburn Drive, Tantallon, Maryland 20022.

Occupation: Yours, U.S. Senator; spouse's, homemaker.

Filing Status: 2. Married filing jointly.

Exemptions: 7. Yourself, 8. Spouse.

Number of boxes checked—2.

9. First names of your dependent children who lived with you: Martin, Lynn.

11. Total exemptions claimed, 4.

INCOME

12. Wages, salaries, tips, etc., $42,500.00.

15. Income other than wages, dividends, and interest, ($6,609.04).

16. Total, $35,890.96.

17. Adjustments to income, $3,000.00.

18. Adjusted gross income, $32,890.96.

TAX AND SURCHARGE

19. Tax, $6,099.88.

20. Tax surcharge, $152.50.

21. Total, $6,252.38.

PAYMENTS AND CREDITS

23. Income tax, $6,252.38.

25. Total, $6,252.38.

26. Total Federal income tax withheld, $9,739.20.

29. Total, $9,739.20.

31. If line 29 is larger than line 25, enter overpayment: $3,486.82.

32. Line 31 to be: $3,486.82.

Wage and Tax Statement, 1970

Federal income tax withheld, $9,739.20

Wages paid subject to withholding in 1970, $42,500.00.

SCHEDULE C–2, EXPLANATION OF DEDUCTION FOR DEPRECIATION CLAIMED

a. Group and guideline class, or description of property, furniture and fixtures; b. Date acquired, 1969; c. Cost or other basis, $411.42; e. Method of computing depreciation, SL; f. Life or rate, 4 yrs; g. Depreciation for this year, $102.85.

Totals, $102.85.

Balance, $102.85.

Straight line, $102.85.

Schedule C: Profit (or Loss) From Business or Profession, 1970

Maurice R. & Rita Gravel.

A. Principal business activity: U.S. Senator.

B. Business name: Honorable Mike Gravel.

D. Business address: United States Senate, Washington, D.C.

E. Indicate method of accounting: (1) cash.

G. Were you required to file Forms 1096 and 1099 or 1087 for the calendar year 1970? No.

1. Gross receipts or gross sales, Honorariums, $4,870.00.

10. Gross profit, $4,870.00.

OTHER BUSINESS DEDUCTIONS

11. Depreciation, $102.85.

24. Other business expenses, $7,964.19.

25. Total of lines 11 through 24, $8,067.04.

26. Net profit (or loss), ($3,197.04).

SCHEDULE C–1. EXPLANATION OF LINES 6, 12, 14, AND 24

Line No. 24:

Auto and local travel, $1,904.23.

Public relations, $1,682.08.

Dues and subscriptions, $582.51.

Travel expenses, $4,105.43.

Office expense (reimb.), ($310.06).

Schedule D: Sales or Exchanges of Property, 1970

Maurice R. and Rita Gravel.

CAPITAL ASSETS—SHORT-TERM CAPITAL GAINS AND LOSSES—ASSETS HELD NOT MORE THAN 6 MONTHS

a. Kind of property. Indicate security, real estate, or other: Inv. in Corp.;

b. Description, John Lloyd Films;

c. How acquired. Enter letter symbol, (e);

d. Date acquired, 5/21/70;

e. Date sold, (mo., day, yr), out of business less than 6 months;

h. Cost or other basis, cost of subsequent improvements and expense of sale, $3,400.00;

i. Gain (or loss), ($3,400.00).

4. Enter unused short-term capital loss carryover from preceding taxable years, ($11,540.41).

5. Net short-term gain (or loss) from lines 3 and 4, ($14,940.41).

LONG-TERM CAPITAL GAINS AND LOSSES—ASSETS HELD MORE THAN 6 MONTHS

a. Kind of property. Indicate security, real estate, or other: Security.

b. Description, Hamilton Petrol.

c. How acquired. Enter letter symbol (a).

d. Date acquired, 1969.

e. Date sold (mo., day, yr.), 9/25/70.

f. Gross sales price, $6,645.00.

h. Cost or other basis, cost of subsequent improvements, and expense of sale $6,125.00.

i. Gain (or loss) $520.00.

13. Net long-term gain (or loss) from lines 11 and 12, $520.00.

14. Combine the amounts shown on lines 5 and 13, and enter the net gain (or loss) here, ($14,420.41).

16. If line 14 shows a loss—(a) Add lines 4 and 12, (($11,540.41).

(c) Enter $1,000, ($1,000.00).

(f) Enter here, and on line 17, Part II, the sum of lines 16(c) and 16(e), ($1,000.00).

PART II SUMMARY OF SCHEDULE D GAINS AND LOSSES

17. Net gain (or loss) from line 15(b) or 16(f), Part I, ($1,000.00).

19. Total net gain (or loss), combine lines 17 and 18, ($1,000.00).

Schedules E&R—Supplemental Income Schedule and Retirement Income Credit Computation, 1970

INCOME OR LOSSES FROM PARTNERSHIPS, ESTATES OR TRUSTS, AND SMALL BUSINESS CORPORATIONS

(a) Name and address: Mike Gravel R. E. Development Inc., Small business corporation; (c) Employer identification number, 92-0033655; (d) Income or loss, ($2,412.00).

1. Income (or loss), (2,412.00).

Total of parts I, II, and III (2,412.00).

Employee Business Expenses, 1970

Maurice R. and Rita Gravel.

Occupation in which expenses were incurred: U.S. Senator.

Employer's name, U.S. Government; Employer's address, U.S. Senate.

PART I. EMPLOYEE BUSINESS EXPENSES WHICH ARE DEDUCTIBLE IN COMPUTING ADJUSTED GROSS INCOME

Living Expenses Under Code Sec. 162(a) (3) IRC See attached certification, $3,000.00.

7. Excess expenses, $3,000.00.

Clark Sherwood & Co.,
Tax Consultants,
Wheaton, Md.

I hereby certify that I was in a travel status in the Washington area, away from home, in the performance of my official duties as a Member of Congress, for 208 days during the taxable year, and my deductible living expenses while in such travel status amounted to over $3,000.00.

Hon. Mike Gravel.

Schedules A&B—Itemized Deductions and Dividend and Interest Income, 1970

Maurice R. & Rita Gravel.

SCHEDULE A—ITEMIZED DEDUCTIONS

Medical and dental expenses:

Dr. Amergholi, $15.00.

Dr. Gould, $35.00.

Dr. Ziemianski, $38.00.

Dr. Bartlett, $6.00.

Dr. Ehudin, $62.00.

Dr. Bottiglione, $8.00.

Dr. Furst, $25.50.

6. Total, $189.50.

7. Enter 3% of line 18, Form 1040, $986.73.

Taxes:

State and local gasoline, $44.00.

General sales, 230.58.

State and local income: Alaska, $429.44; Maryland, $620.37; Total $1,049.81.

10. Total taxes, $1,324.39.

Interest expense:

National Bank of Alaska, $400.00.

Security Bank and Trust, $252.90.

Prestwick Corp., $2,521.71.

Virginia National Bank, $421.30.

Security Bank and Trust Co., $88.77.

Security Bank N.A., $160.00.

15. Total interest expense, $3,844.68.

18. Total taxes, $1,324.39.

20. Total interest expense, $3,844.68.

22. Total itemized deductions, $5,169.07.

PART II.—INCOME OTHER THAN WAGES, DIVIDENDS, AND INTEREST

35. Business income (or loss), ($3,197.04).

36. Sale or exchange of property, ($1,000.00).

37. Pensions and annuities, rents and royalties, partnerships, estates or trusts, etc., ($2,412.00).

40. Total, ($6,609.04).

PART III.—ADJUSTMENTS TO INCOME

43. Employee business expense, $3,000.00.

45. Total adjustments, $3,000.00.

PART IV.—TAX COMPUTATION

46. Adjusted gross income, $32,890.96.

47. (a) If you itemize deductions, enter total from Schedule A, line 22, $5,169.07.

48. Subtract line 47 from line 46, $27,721.89.

49. Multiply total number of exemptions claimed on line 11, by $625, $2,500.00.

50. Taxable income, $25,221.89.

51. Tax, $6,099.88.

U.S. SMALL BUSINESS CORPORATION INCOME TAX RETURN, 1969

Employer Identification No., [redacted]

Mike Gravel Real Estate Development Inc., Box 283, Anchorage, Alaska 99501.

E. Enter total assets from line 14, column D. Schedule L, $32,794.08.

GROSS INCOME

1. Gross receipts or gross sales, $3,750.00.

3. Gross profit, $3,750.00.

11. Total income, $3,750.00.

DEDUCTIONS

17. Taxes, $67.50.

18. Interest, $65.77.

21. Depreciation, $22.89.

26. Other deductions, $6,005.84.

27. Total deductions on lines 12 through 26, $6,162.00.

28. Taxable income, line 11 less line 27, ($2,412.00).

SCHEDULE G—DEPRECIATION (SEE INSTRUCTION 21)

Declining balance, $22.89; Total, $22.89.

1. Group and guideline class or description or property: Machinery and other equipment; 2. Date acquired, 3–67; 3. Cost or other basis, $324.45; 4. Depreciation allowed or allowable in prior years, $95.52; 5. Method of computing depreciation, DB; 6. Life or rate, 10; 7. Depreciation for this year, $22.89.

Total: 3. Cost or other basis, $324.45; 7. Depreciation for this year $22.89.

Balance: 7. Depreciation for this year, $22.89.

SCHEDULE H—SUMMARY OF DEPRECIATION

SCHEDULE K—SHAREHOLDERS' SHARES OF INCOME

SCHEDULE OF DISTRIBUTION AND INCOME

1. Name of each shareholder: A. Maurice R. Gravel; Social security number, [redacted] Number of shares, 4,000; Period held—From, 9–19–66 to present.

1. Name of each shareholder: B. Rita J. Gravel; Social security number, [redacted] Number of shares, 6,000; Period held—From, 9–19–66 to present.

Shareholder's Share of: 6. Undistributed taxable income (loss); Shareholder A, ($964.80); Shareholder B, ($1,447.20); Total, ($2,412.00).

F. Date incorporated, 9–19–66.

G. Did the corporation at the end of the taxable year own directly or indirectly 50 percent or more of the voting stock of domestic corporation? No.

H. Did the corporation during the taxable year have any contracts or subcontracts subject to the Renegotiation Act of 1951? No.

I. Amount of taxable income (or loss) for: 1967, $9,683.69; 1968 $13,342.27; 1969 $5,183.52).

J. Refer to instructions for business activity codes and state the: Principal business activity, Real Estate.

Developing.

K. Were you a member of a controlled group subject to the provisions of sections 1561 or 1562? No.

L. Did you claim a deduction for expenses connected with any:

(1) Entertainment facility (boat, resort, ranch, etc.)? No.

(2) Living accommodations (except employees on business)? No.

(3) Employees' families at conventions or meetings? No.

(4) Employee or family vacations not reported on Form W-2? No.

M. Did you file all required Forms 1099, 1096 and 1087? No.

N. Did the corporation, at any time during the taxable year have any interest in or signature or other authority over a bank, securities, or other financial account in a foreign country? No.

SCHEDULE L—BALANCE SHEETS

ASSETS

1. Cash, beginning of taxable year (B) Total, $401.03; end of taxable year (D) Total, $231.73.

2. Trade notes and accounts receivable beginning of taxable year (A) Amount, $6,-$460.43; end of taxable year (C) Amount, $3,517.23.

(a) Less allowance for bad debts, beginning of taxable year (B) Total, $6,460.43; end of taxable year, (D) Total, $3,517.23.

6. Loans to shareholders, beginning of taxable year (B) Total, $24,939.08; end of taxable year (D) Total, $28,839.08.

9. Buildings and other fixed depreciable assets, beginning of taxable year, (A) Amount, $324.45; end of taxable year (C) Amount, $324.45.

(a) Less accumulated depreciation, beginning of taxable year (A) Amount, $70.08; (B) Total, $254.37; end of taxable year (C) Amount $118.41; (D) Total, $206.04.

14. Total assets, beginning of taxable year (B) Total, $32,054.91; end of taxable year (D) Total, $32,794.08.

LIABILITIES AND SHAREHOLDER'S EQUITY

15. Accounts payable, beginning of taxable year (B) Total, $21,309.95; end of taxable year, (D) Total, 27,320.45.

16. Mtgs., notes, bonds payable in less than 1 year, beginning of taxable year (B) Total, $5,956.18; end of taxable year (D) Total, $3,096.85.

21. Capital stock, beginning of taxable year, (B) Total, $4,788.78; end of taxable year, (D) Total, $2,376.78.

27. Total liabilities and shareholders' equity, beginning of taxable year (B) Total, $32,054.91; end of taxable year, (D) Total, $32,794.08.

SCHEDULE M–1—RECONCILIATION OF INCOME PER BOOKS WITH INCOME PER RETURN

1. Net income per books, ($2,412.00).

6. Total of lines 1 through 5, ($2,412.00).

10. Income (line 28, page 1)—line 6 less line 9, ($2,412.00).

FORM 11205

Mike Gravel Real Estate Development, Inc. 92–0033655, year ended September 30, 1970.

Page 1, line 17: Corporate license, $6,750.

Page 1, line 26:

Insurance, $43.00.

Bank charges, $37.40.

Miscellaneous expense, $25.44.

Legal and accounting, $3,700.00.

Consulting fees, $2,200.00.

Total, $6,005.84.

FORM 502: MARYLAND TAX RETURN, 1970

Maurice R. and Rita Gravel, 714 Braeburn Drive, Tantallon, Prince Georges, Maryland 20022.

Your occupation: U.S. Senator; Spouse's occupation: homemaker.

A. Your filing status: Married filing joint return.

B. Change of resident status: Did you establish or abandon legal residence in Maryland in 1970? No.

Exemptions: Yourself; spouse; first names of dependent children: Martin, Lynn.

Total exemptions, 4.

INCOME

1. Total income, $32,890.96.

3. Total, $32,890.96.

5. Total Maryland income, $32,890.96.

TAX COMPUTATION

6. Exemptions, 4.

8. If you itemize deductions, enter total deductions, $4,119.26.

9. Net income, $28,771.70.

10. Number of exemptions × $800, $3,-200.00.

11. Taxable net income, $25,571.70.

TAX

12. Maryland tax, $1,218.59.

13. Local income tax, $609.30.

14. Total Maryland and local income tax, $1,827.89.

PAYMENTS

17. Credit for income tax paid another State, $1,201.61.

19. Total payments and credits, $1,201.61.

BALANCE

20. Balance due, $626.28.

Federal income tax withheld, $9,739.20.

Wages paid subject to withholding in 1970, $42,500.00.

SCHEDULE A—INCOME AND ADJUSTMENTS FROM FEDERAL RETURN

1. Wages, Salaries, Tips, etc., $42,500.00.

4. Business Income, ($3,197.04).

5. Sale or Exchange of Property, ($1,000.00).

6. Pensions and Annuities, Rents and Royalties, Partnerships, Estates or Trusts, etc., ($2,412.00).

9. Total, $35,890.96.

10. Adjustments, $3,000.00.

11. Total Income, $32,890.96.

SCHEDULE B—ITEMIZED DEDUCTIONS FROM FEDERAL RETURN WITH ADJUSTMENTS

2. Taxes, $1,324.39.

4. Interest, 3,844.68.

6. Total, $5,169.07.

7. Subtract State and Local Income Taxes, $1,049.81.

8. Total, $4,119.26.

10. Total Maryland deductions, $4,119.26.

SCHEDULE E—COMPUTATION OF TAX

Taxable Net Income, $25,571.70.

Rate of Tax: 2% on first $1,000 or fraction thereof, plus amount of income taxable at each rate, $1,000.00; amount of tax, $20.00.

Rate of Tax: 3% on second $1,000 or fraction thereof, plus amount of income taxable at each rate, $1,000.00; amount of tax, $30.00.

Rate of Tax: 4% on third $1,000 or fraction thereof, plus amount of income taxable at each rate, $1,000.00; amount of tax, $40.00.

Rate of Tax: 5% on all in excess of above $3,000 plus amount of income taxable at each rate, $22,571.70; amount of tax, $1,128.59.

Totals (Forward tax totals to Line 12 Page 1), amount of income taxable at each rate, $25,571.70; amount of tax, $1,218.59.

MARYLAND FORM 502 CR: TAX CREDITS FOR INCOME TAXES PAID TO OTHER STATES AND MARYLAND PERSONAL PROPERTY TAXES, 1970

Name: Maurice R. & Rita Gravel, 714 Braeburn Drive, Tantallon, Maryland 20022.

INCOME TAX PAID TO OTHER STATES

1. Taxable Net Income, $25,571.70.

2. Income Taxable In Other State, $25,-651.33.

3. Revised Taxable Net Income, $(79.63).

Credit Computation

5. Maryland Tax, $1,218.59.

6. Tentative Tax Credit, $1,218.59.

7. Tax Paid to State of Alaska, $1,201.61

8. Credit for Income Tax Paid to Other State, $1,201.61.

ALASKA INDIVIDUAL INCOME TAX RETURN DR 600R, 1970

Maurice R. & Rita Gravel, 714 Braeburn Drive, Tantallon, Maryland 20022.

7. Your Occupation: U.S. Senator.

8. Wife's Occupation: Homemaker.

9. Enter adjusted gross income from line 18, Form 1040, $32,890.96.

11. Adjusted Gross Income for Alaska tax computation, $32,890.96.

13. If you itemize deductions, enter total from Schedule A, line 22, Form 1040, $5,169.07.

14. Subtract line 13 from line 11, $27,721.89.

15. Alaska adjustments to itemized deduc-

tions; (2) Delete Alaska income tax deduction, Schedule A, Form 1040, $429.44.

16. Net Alaska taxable income, $28,151. 33.

17. Enter total personal exemption credits from line 49 of Page 2, Part IV, Form 1040, $2,500.00.

18. Subtract line 17 from line 16. Enter balance on this line, $25,651.33.

19. Tax, $7,510.07.

21. Income tax, $7,510.07.

23. Total tax, $7,510.07.

24. Enter Your Alaska Income Tax, $1,201.61.

25. Enter Your School Tax, $10.00.

26. Age 19 before 1/1/70: Yes; Wife, Yes; Active Military, No; Total Tax, $1,211.61.

Federal income tax withheld, $9,739.20.

Wages paid subject to withholding in 1970, $42,500.00.

Form 1120S, Alaska, U.S. Small Business Corporation Income Tax Return, 1970

Mike Gravel Real Estate Development, Inc., Box 2283, Anchorage, Alaska 99501.

E. Enter total assets from line 14, column D, Schedule L, $32,794.08.

GROSS INCOME

1. Gross receipts or gross sales, $3,750.00.

3. Gross profit, $3,750.00.

11. Total income, $3,750.00.

DEDUCTIONS

17. Taxes, $67.50.

18. Interest, $65.77.

21. Depreciation, $22.89.

26. Other deductions, $6,005.84.

27. Total deductions on lines 12 through 26, $6,162.00.

28. Taxable income, ($2,412.00).

Form 1120S, U.S. Small Business Corporation Income Tax Return, 1970

Mike Gravel Real Estate Development, Inc., Box 2283, Anchorage, Alaska 99501.

E. Enter total assets from line 14, column D, Schedule L.: $30,119.90.

GROSS INCOME

6. Other interest, $143.42.

11. Total income, $143.42.

DEDUCTIONS

18. Interest, $160.73.

21. Depreciation (Schedule G), $20.60.

26. Other deductions (attach schedule): Bank charges, $10.80; miscellaneous, $61.70, $72.50.

27. Total deductions on lines 12 through 26, $253.83.

28. Taxable income, $110.41.

SCHEDULE G—DEPRECIATION

Machinery and other equipment—Date acquired: 3/67; Cost or other basis: $324.45; Depreciation allowed or allowable in prior years: $118.41; Method of computing depreciation: DB; Life or rate: 10; Depreciation for this year: $20.60.

SCHEDULE J—TAX COMPUTATION

2. (b) Subtract $6,500 and enter difference, $6,500.00.

4. Subtract $25,000, $25,000.00.

Schedule K—Shareholders' Shares of Income

1. Taxable income, $110.41.

3. Corporation's undistributed taxable income, $110.41.

Schedule of distribution of income

A. Maurice R. Gravel—number of shares: 4,000; from 9/19/66 to present.

B. Rita J. Gravel—number of shares: 6.000 from 9/19/66 to present.

6. Undistributed taxable income (loss)—Shareholder A: $44.16; Shareholder B: $66.25; Total, $110.14.

9. Ordinary income—Shareholder A: $44.16; Shareholder B: $66.25; Total, $110.41.

F. Date incorporated, 9/19/66.

G. Did the corporation at the end of the taxable year own directly or indirectly 50 percent or more of the voting stock of a domestic corporation? No.

H. Did the corporation during the taxable year have any contracts or subcontracts subject to the Renegotiation Act of 1951? No.

I. Amount of taxable income (or loss) for: 1967, $13,342.27; 1968, $5,183.52; 1969, $2,412.00.

J. Refer to instructions for business activity codes and state the:

Principal business activity, real estate.

Principal product or service, consulting and developing.

L. Did you claim a deduction for expenses connected with any:

(1) Entertainment facility (boat, resort, ranch, etc.) ? No.

(2) Living accommodations (except employees on business) ? No.

(3) Employees' families at conventions or meetings? No.

(4) Employee or family vacations not reported on Form W–2? No.

M. Did you file all required Forms 1099, 1096 and 1087? No.

N. Did the corporation, at any time during the taxable year, have any interest in or signature or other authority over a bank, securities, or other financial account in a foreign country? No.

Schedule L—Balance Sheets

ASSETS

1. Cash, beginning of taxable year (B) Total $231.73; End of taxable year, (D) Total, $159.23.

2. Trade notes and accounts receivable, beginning of taxable year (A) Amount, of taxable year, (B) total, $3,517.23; end of taxable year (D) Total, $936.15.

(a) Less allowance for bad debts, beginning of taxable year. (B) Total, $3,517.23; end of taxable year (D) Total, $936.15.

6. Loans to shareholders, beginning of taxable year (B) Total, $28,839.08; end of taxable year (D) Total, $28,839.08.

9. Buildings and other fixed depreciable assets, beginning of taxable year (A) Amount, $324.45; end of taxable year (C) Amount, $324.45.

(a) Less accumulated depreciation, Begining of taxable year (A) Amount, $118.41, (B) Total, $206.04; end of taxable year (C) Amount, $139.01, (D) Total, $185.44.

14. Total assets, beginning of taxable year (B) Total, $32,794.08; end of taxable year (D) Total, $30,119.90.

Liabilities and Shareholders' Equity

15. Accounts payable, beginning of taxable year (B) Total, $27,320.45; end of taxable year (D) Total, $26,819.85.

16. Mtgs., notes, bonds payable in less than 1 year, beginning of taxable year (B) Total, $3,096.85; end of taxable year (D) Total, $1,033.68.

21. Capital stock, beginning of taxable year (B) Total, $2,376.78; end of taxable year (D) Total, $2,266.37.

27. Total liabilities and shareholders' equity, beginning of taxable year (B) Total, $32,794.08; end of taxable year (D) Total, $30,119.90.

SCHEDULE M–1—RECONCILIATION OF INCOME PER BOOKS WITH INCOME PER RETURN

1. Net income per book, ($110.41).

6. Total of lines 1 through 5 ($110.41).

10. Income ($110.41).

Names: Maurice R. & Rita Gravel, 714 Braeburn Drive, Tantallon, Maryland 20022.

Filing Status: Married filing jointly (even if only one had income).

11. Total exemptions claimed, 4.

12. Wages, salaries, tips, etc. (Attach Forms W–2 to back. If unavailable, attach explanation, $42,681.50.

14. Interest, $87.60.

15. Income other than wages, dividends, and interest (from line 40), $14,200.90.

16. Total (add lines 12, 13c, 14 and 15), $56,970,00.

17. Adjustments to income (such as "sick pay," moving expense, etc. from line 45), $3,000.00.

18. Adjusted gross income (subtract line 17 from line 16), $53,970.00.

19. Tax (Check if from Form 4726), $13,005.00.

21. Income tax (subtract line 20 from line 19), $13,005.00.

22. Other taxes (from line 60), $571.38.

23. Total (add lines 21 and 22), $13,576.38.

24. Total Federal income tax withheld (attach Forms W–2 or W–2P to back), $8,486.95.

27. Total (add lines 24, 25, and 26), $8,486.95.

28. If line 23 is larger than line 27, enter BALANCE DUE, $5,089.43.

Clarkson R. Sherwood, 4–1–72, 11501 Georgia Avenue, Wheaton, Maryland 20902.

34. Business income or (loss) (attach Schedule C), $15,311.31.

35. Net gain or (loss) from sale or exchange of capital assets (attach Schedule D), $1,000.00.

37. Pensions and annuities, rents and royalties, partnerships, estates or trusts, etc. (attach Schedule E), $110.41.

40. Total (add lines 34, 35, 36, 37, 38, and 39). Enter here and on line 15, $14,200.90.

43. Employee business expense (attach Form 2106 or other statement), $3,000.00.

45. Total adjustments (add lines 41, 42, 43, and 44). Enter here and on line 17, $3,000.00.

46. Adjusted gross income (from line 18), $53,970.00.

47. (a) If you itemize deductions, enter total from Schedule A, line 32 and attach Schedule A, $7681.14.

48. Subtract line 47 from line 46, $46,288.86.

49. Multiply total number of exemptions claimed on line 11, by $675, $2,700.00.

50. Taxable income. Subtract line 49 from line 48, $43,588.86.

55. Self-employment tax (attach Schedule SE), $571.38.

60. Total (add lines 55, 56, 57, 58, and 59). Enter here and on line 22, $571.38.

Taxes.—Real estate, $1,133.83.

State and local gasoline (see gas tax tables) $53.00.

General sales(see sales tax tables), $325.74.

State and local income, Md. $626.28 plus $373.49, Alaska, $1,211.61, $2,211.38.

10. Total taxes (Enter here and on line 18, below.) $3723.95.

Contributions.—Various organized charities, $30.00.

11. Total cash contributions, $30.00.

14. Total contributions (Add lines 11, 12, and 13. Enter here and on line 19, below. See instructions on page 8 for limitation), $30.00.

Installment purchases, Nat'l Bk of Alaska, $25.90.

Other (Itemize) S. Harhut, $43.45.

Am. Sec. Bk. & Trust Co., $245.12.

Prestwick Corp., $2,423.80.

Va. Nat'l Bank, $326.25.

Security Bank, N.A., $581.33.

Senate Empl. Fed. Cr. Union, $281.34.

15. Total interest expense (Enter here and on line 20, below.) $3,927.19.

SUMMARY OF ITEMIZED DEDUCTIONS

18. Total taxes (from line 10) $3,723.95.

19. Total contributions (from line 14) $30.00.

20. Total interest expense (from line 15), $3,927.19.

22. Total Itemized Deductions. (Add lines 17 through 21. Enter here and on Form 1040, line 47), $7,681.14.

Name: Maurice R. Gravel.

Employer's name: U.S. Government.

(d) Other travel expenses (specify) Living Expenses Under Code Sec. 162(a) (3) IRC—See Attached Certification, $3,000.00.

Total travel expenses, $3,000.00.

5. Total of lines 1, 2, 3, and 4, $3,000.00.

7. Excess expenses (line 5 less line 6). Enter

here and include in line 43, Form 1040, $3,000.00.

Clark Sherwood & Co.,
Wheaton, Md.

I hereby certify that I was in a travel status in the Washington area, away from home, in the performance of my official duties as a Member of Congress, for 208 days during the taxable year, and my deductible living expenses while in such travel status amounted to over $3,000.

Hon. Mike Gravel.

Names: Maurice R. and Rita Gravel.

1. Gross receipts or gross sales, $22,290.

10. Gross profit (subtract line 9 from line 1, $22,290.

Other business deductions:

11. Depreciation (explain in Schedule C–2), $102.85.

17. Legal and professional fees, $160.50.

24. Other business expenses (explain in Schedule C–1), $6,715.34.

25. Total of lines 11 through 24, $6,978.69.

26. Net profit (or loss) (subtract line 25 from line 10). Enter here and on line 34, Form 1040. Also enter on Schedule SE, Part I, line 1, $15,311.31.

24. Auto and local travel, $55.53; tele, $131.36; travel, $6,528.16; public relations, $671.40; bank charges, $23.02; dues and subscriptions, $868.35; office exp reimb., $1,562.48.

a. Group and guideline class or description of property, furniture and fixtures.

29. Other depreciation: Buildings.

b. Date acquired, 1969.

c. Cost or other basis, $411.42.

d. Depreciation allowed or allowable in prior years, $102.85.

e. Method of computing depreciation, SL.

f. Life or rate, 4.

g. Depreciation for this year, $102.85.

30. Totals, $411.42 and $102.85.

32. Balance, $102.85.

Name: Maurice R. Gravel.

1. Net profit (or loss) shown in Schedule C (Form 1040), line 26. (Enter combined amount if more than one business), $15,311.31.

3. Net earnings (or loss) from business self-employment (Subtract line 2 from line 1, and enter here and on line 8(a), Part III below.), $15,311.31.

8. Net earnings (or loss) from self-employment—

(a) From business (other than farming) from line 3, Part I, above, $15,312.31.

9. Total net earnings (or loss) from self-employment reported on line 8, $15,311.31.

10. The largest amount of combined wages and self-employment earnings subject to social security tax is, $7,800.00.

11. (a) Total "FICA" wages as indicated on Form W–2, $181.50.

(c) Total of lines 11(a) and 11(b), $181.50.

12. Balance (subtract line 11(c) from line 10), $7,618.50.

13. Self-employment income—line 9 or 12, whichever is smaller, $7,618.50.

14. If line 13 is $7,800, enter $585.00; if less, multiply the amount on line 13 by .075, $571.38.

16. Self-employment tax (subtract line 15 from line 14). Enter here and on Form 1040, line 55, $571.38.

Names: Maurice R. and Rita Gravel.

a. Kind of property and description (Example, 100 shares of "Z" Co.): 100 sh Banister Control Corp; c. Mo., day, yr. (Put date sold above dotted line and date acquired below dotted line): December 12, 1971; d. Gross sales price: $1,377.02; e. Cost or other basis, as adjusted, cost of subsequent improvements (if not purchased, attach explanation) and expense of sale: $1,393.45; f. Gain or (loss) (d less a): $16.43.

100 sh Bantam Books Inc., December 22, 1971; $1,450.93; $1,275.00; $175.93.

3. Enter net gain or (loss), combine lines 1 and 2, $159.50.

4(a). Short-term capital loss component carryover from years beginning before 1970 (see instruction H), $10,541.40.

4(b). Short-term capital loss carryover attributable to years beginning after 1969 (see instruction H), $2,880.00.

5. Net short-term gain or (loss), combine lines 3, 4(a) and 4(b), $13,261.90.

1,000 sh. Montg. Land Inc. & Dev. Corp., September 15, 1970 and October 29, 1971; $2,500.00; and $1,000.00; $1,500.00.

11. Net gain or (loss), combine lines 6 through 10, $1,500,00.

13. Net long term gain or (loss), combine lines 11, 12(a) and 12(b), $1,500.00.

14. Combine the amounts shown on lines 5 and 13, and enter the net gain (loss) here, $11,761.90.

16. If line 14 shows a loss—See Instruction I.

(a) Enter one of the following amounts:

(iii). If amounts on line 5 and line 13 are net losses, enter amount on line 5 added to 50% of amount on line 13, ($11,761.90.)

(b) Enter here and on line 35, Form 1040, the smaller of:

(iii). Taxable income, as adjusted (see instruction J), ($1,000.00.)

Part V—Complete Part V if Losses are Shown on Lines 4(a), 5, and 14 (See Instruction L)

34. Combine lines 3 and 11 and if gain, enter gain; if zero or a loss, enter a zero, $1,659.50.

35. Enter gain, if any, from line 3, $159.50.

36. Enter smaller of amount on line 34 or line 35, $159.50.

37. Enter excess of gain on line 34 over amount on line 36, $1,500.00.

38. Enter loss from line 12(a); if line 12 (a) is blank, enter a zero, none.

39. Reduce the gain, if any, on line 37 to the extent of the loss, if any, on line 38, $1,500.00.

40. Enter loss from line 4(a), $10,541.40.

41. Add the gain(s) on line(s) 36 and 39, $1,659.50.

42. Reduce the loss on line 40 to the extent of the gain, if any, on line 41, $8,881.90.

Names: Maurice R. and Rita Gravel.

(H) Mike Gravel Real Estate Development, Inc., [redacted] $44.16.

(U) Mike Gravel Real Estate Development, Inc., [redacted], $66.25.

1. Income or (loss), total of column (d), $110.41.

Total of Parts I, II, and III (Enter here and on Form 1040, line 37), $110.41.

Names: Maurice R. and Rita Gravel.

1. Taxable income (see instruction 1):

(a) Computation year 1971: $43,589.

(b) 1st preceding base period year 1970: $25,222.

(c) 2d preceding base period year 1969: $15,731.

(d) 3d preceding base period year 1968: $23,068.

(e) 4th preceding base period year 1967: $24,405.

6. Adjusted taxable income from line 5, column (a), $43,589.

7. 30% of the sum of line 5, columns (b), (c), (d), and (e), $26,528.

8. Averageable income (line 6 less line 7), $17,061.

9. Amount from line 7, $26,528.

10. 20% of line 8, $3,412.

11. Total (add lines 9 and 10), $29,940.

13. Total (add lines 11 and 12), $29,940.

14. Tax on amount on line 13, $7,857.

15. Tax on amount on line 11, $7,857.

16. Tax on amount on line 9, $6,570.

17. Difference (line 15 less line 16), $1,287.

18. Multiply the amount on line 17 by 4, $5,148.

19. Total (add lines 14 and 18), $13,005.

22. Tax (add lines 19, 20 and 21). Enter here and on Form 1040, line 19. Also check Schedule G box on Form 1040, line 19, $13,005.

Names: Maurice R. and Rita Gravel.

1. 1971 tax (from line 23, Form 1040, $13,576.38.

5. Balance (line 1 less line 4), $13,576.38.

6. Enter 80% of the amount shown on line 5, $10,861.10.

7. Divide amount on line 6 by the number of installments required for the year (See Instruction B.) Enter the result in appropriate columns, Apr. 15, 1971: $2,715.28; June 15, 1971: $2,715.27; Sept. 15, 1971: $2,715.28; Jan. 15, 1972: $2,715.27.

8. Amounts paid on estimate for each period and tax withheld (see Instruction G.), Apr. 15, 1971: $2,121.74; June 15, 1971: $2,121.74; Sept. 15, 1971: $2,121.74; Jan. 15, 1972: $2,121.78.

10. Total (Add line 8 and line 9.) Apr. 15, 1971: $2,121.74; June 15, 1971: $2,121.74; Sept. 15, 1971: $2,121.74; Jan. 15, 1972: $2,121.73.

11. Underpayment (line 7 less line 10), or Overpayment (line 10 less 7) Apr. 15, 1971: $593.54; June 15, 1971: $593.53; Sept. 15, 1971: $593.54; Jan. 15, 1972: $593.74.

12. Total amount paid and withheld from January 1 through the installment date indicated, Apr. 15, 1971: $2,121.74; June 15, 1971; $4,243.48; Sept. 15, 1971: $6,365.22; Jan. 15, 1972: $8,486.95.

13. Exception No. 1 1970 tax, $6,252.38: Apr. 15, 1971: $1,563.09; June 15, 1971: $3,126.19; Sept. 15, 1971: $4,689.29; Jan. 15, 1972: $6,252.38.

Names: Maurice R. and Rita Gravel.

1. Total income (adjusted gross income): Form 1040—line 15c for 1969, line 18 for 1970 and 1971, and line 17 for 1972; Form 1040A—line 14 for 1972, $52,253.87.

2. Deductions. See instructions and explain any change on page 2, $7,681.14.

3. Total tax, $12,829.79.

4. Federal income tax withheld and excess F.I.C.A. tax, $8,486.95.

8. Amount paid with original return, plus additional payments made after it was filed, $5,089.43.

9. Total of lines 4 through 8, column C, $13,576.38.

11. Subtract line 10 from line 9, and enter result, $13,576.38.

13. If line 3, column C is more than line 11, enter Refund to be received, $746.59.

Decrease in Income: Subchapter S—EI No. [redacted] Loss (w) ($1,716.13) (Schedule K. of Form 1120S attached).

Decrease in Tax Liability: Investment Credit (Form 3468 Attached). Revised Schedule "G" attached.

SCHEDULE K—SHAREHOLDERS' SHARES OF INCOME

1. Taxable income, ($13,200.95.)

SCHEDULE OF DISTRIBUTION AND INCOME

1. Name, and number of shares

A. Larry Martin, 7,000.
B. Niki Martin, 1,500.
C. Bill Martin, 3,555.
D. Rita Gravel, 1,000.

4. Compensation, shareholder A, $3,395; shareholder C, $1,889.68; total, $5,284.83.

6. Undistributed taxable income (loss): shareholder A ($3,333.25); shareholder B ($2,409.17); shareholder C ($5,747.41); shareholder D ($1,711.13); total ($13,206.95).

9. Ordinary income; shareholder A ($3,333.24); shareholder B ($2,409.17); shareholder C ($5,742.41); shareholder D ($1,716.13); total, ($13,200.95).

Name: Maurice R. and Rita Gravel.

2. Total qualified investment—Add lines 1(a) through 1(f) $1,094.16.

3. Tentative investment credit—7% (4% for public utility property) of line 2, $76.59.

4. Carryback and carryover of unused credit(s). (See instruction 4 for special limitation—attach computation.) $76.59.

5. Total—Add lines 3 and 4, $76.59.

LIMITATION

6. (a) Individuals; (b) Estates and trusts; (c) Corporations, $12,335.00

9. Line 6 less line 8, $12,335.00.

10. (a) Enter amount on line 9 or $25,000, whichever is lesser, $12,335.00.

11. Total—Add lines 10 (a) and (b), $12,335.00.

12. Investment credit—Enter amount from line 5 or line 11, whichever is lesser, $76.59.

Names: Maurice R. and Rita Gravel.

1. Taxable income, and 5. Adjusted taxable income or base period income. (Line 1 plus line 2, less lines 3 and 4). If less than zero, enter zero.

(a) Computation year 1971, $41,873.

(b) 1st preceding base period year 1970, $25,222.

(c) 2d preceding base period year 1969, $15,731.

(d) 3d preceding base period year 1968, $23,068.

(e) 4th preceding base period year 1967 $24,405.

6. Adjusted taxable income from line 5, column (a), $41,873.

7. 30% of the sum of line 5, columns (b), (c), (d), and (e), $26,528.

8. Averagable income (line 6 less line 7), $15,345.

9. Amount from line 7, $26,528.

10. 20% of line 8, $3,069.

11. Total (add lines 9 and 10), $29,597.

13. Total (add lines 11 and 12), $29,597.

14. Tax on amount on line 13, $7,723.

15. Tax on amount on line", $7,723.

16. Tax on amount on line 9, $6,570.

17. Difference (line 15 less line 16), $1,153.

18. Multiply the amount on line 17 by 4, $4,612.

19. Total (add lines 14 and 18), $12,335.

22. Tax (add lines 19, 20 and 21). Enter here and on Form 1040, line 19. Also check Schedule G box on Form 1040, line 29, $12,335.

DR 600: Alaska Individual Income Tax Return, 1971

First name and initial: Maurice R. & Rita Gravel, 714 Braeburn Drive, Tantallon, Maryland 20022.

Occupation: Yours, U.S. Senator; spouse's, homemaker.

Was an Alaska return filed for 1970? Yes.

Filing Status: 2. Married filing jointly.

Exemptions:

7. Yourself, 8. Spouse.

9. First names of your dependent children who lived with you: Martin, Lynn.

Enter number—2.

11. Total exemptions claimed, 4.

12. Wages, salaries, C.O.L.A., tips, etc., $42,500.00.

14. Interest, $87.60.

15. Income other than wages, dividends, and interest, ($1,110.41.)

16. Total, $41,477.19.

17. Adjustments to income, $3,000.00.

18. Adjusted gross income, $38,477.19.

19. Tax, $11,538.59.

21. Income tax, $11,538.59.

23. Total, $11,538.59.

24. Enter Alaska Income Tax, $1,846.17.

25. Enter your School Tax, $10.00.

26. Age 29, before 1/1/71: yes; wife, yes.

Total tax, $1,856.17.

31. If payments (line 30) are less than tax (line 26) enter balance due, $1,856.17.

PART II—INCOME OTHER THAN WAGES, DIVIDENDS, AND INTEREST

35. Net loss from sale or exchange of capital assets, (1,000.00).

37. Pensions and annuities, rents and royalties, partnerships, estates or trusts, ($110.41).

40. Total, ($1,110.41).

PART III.—ADJUSTMENTS TO INCOME

43. Employee business expense, $3,000.00.

45. Total adjustments, $3,000.00.

PART IV. B RESIDENT—TAX COMPUTATION

46b. Adjusted gross income, $38,477.19.

47b. Itemize deductions, $1,500.00.

48b. Subtract line 47b from line 46b, $36,977.19.

49b. Exemptions, $2,700.00.

50b. Taxable income, $34,277.19.

PART III—INCOME OR LOSSES FROM PARTNERSHIPS, ESTATES OR TRUSTS, AND SMALL BUSINESS CORPORATIONS

Mike Gravel Real Estate Development, Inc., Box 2283, Anchorage, Alaska, Small Business Corporation loss ($110.41).

PART V.—COMPLETE PART V IF LOSSES ARE SHOWN

34. Combine lines 3 and 11 and if gain, enter gain, $1,659.50.

35. Enter gain, if any, from line 3, $159.50.

36. Enter smaller of amount on line 34 or line 35, $159.50.

37. Enter excess of gain on line 34 over amount on line 36, $1,500.00.

39. Reduce the gain, if any, on line 37, $1,500.00.

40. Enter loss from line 4(a) ($10,541.40).

41. Add the gain(s) on line(s) 36 and 39, $1,659.50.

42. Reduce the loss on line 40 to the extent of the gain, if any, on line 41, ($8,881.90.)

Capital Gains and Losses, 1971

PART I. SHORT-TERM CAPITAL GAINS AND LOSSES

a. Kind of property and description (Example, 100 shares of "Z" Co.), 100 shares Bannister Control Corp.; c. Mo., day, yr. sold and date acquired, 12/22/71, 12/22/71; d. Gross sales price, $1,377.02; e. Cost or other basis, as adjusted, and expense of sale, $1,393.45; f. Gain or (loss), ($16.43).

a. Kind of property and description (Example, 100 shares of "Z" Co.), 100 shares Bantam Books, Inc.; c. Mo., day, yr. sold and date acquired, 12/22/71, 12/22/71; d. Gross sales price, $1,450.93; e. Cost or other basis, as adjusted, and expense of sale, $1,275.00; f. Gain or (loss), $175.93.

3. Enter net gain, $159.50.

4(a) Short-term capital loss component carryover from years beginning before 1970, ($10,541.40).

4(b) Short-term capital loss carryover attributable to years beginning after 1969, ($2,880.00).

5. Net short-term (loss), ($13,261.90).

PART II. LONG-TERM CAPITAL GAINS AND LOSSES

a. Kind of property and description (Example, 100 shares of "Z" Co.), 1,000 shares Montg. Land Investment & Development Corp.; c. Mo., day, yr. sold and date acquired, 9/15/70, 10/29/71; d. Gross sales price, $2,500.00; e. Cost or other basis, as adjusted, and expense of sale, $1,000.00; f. Gain or (loss), $1,500.00.

11. Net gain, $1,500.00.

13. Net long-term gain, $1,500.00.

PART III. SUMMARY OF PARTS I AND II

14. Combine the amounts shown on lines 5 and 13, ($11,761.90).

16. If line 14 shows a loss, (a) Enter one of the following amounts, ($11,761.90).

(b) Enter here and on line 35, (iii) taxable income, as adjusted, ($1,000.00).

Maryland Tax Return, 1971

Name and initial, Maurice R. Gravel.

Spouse's name and initial, Rita Gravel.

Present address, 714 Braeburn Drive, Tantallon, Pr. Georges, Md. 20022.

Spouse's occupation, homemaker.

Your present employer, U.S. Senate.

A. Your filing status, married filing joint return or spouse had no income.

First names of dependent children, Martin, Lynn.

Total exemptions, 4.

1. Total Income, $53,970.00.

5. Total Maryland Income, $53,970.00.

8. If you itemize deductions, $5,469.76.

9. Net Income, $48,500.24.

10. Number of Exemptions × $800, $3,200.00.

11. Taxable Net Income, $45,300.24.

12. Maryland Tax, $2,205.01.

13. Local Income Tax, $1,102.50.

14. Total Maryland and local income tax, $3,307.51.

17. Credit for income tax paid another State, $1,856.17.

19. Total payments and credit, $1,856.17.

20. Balance Due, $1,451.34.

Signature of preparer other than taxpayer, Clarkson R. Sherwood, 11505 Georgia Avenue, Wheaton, Maryland 20902, 4–1–72.

SCHEDULE A—INCOME AND ADJUSTMENTS FROM FEDERAL RETURN

1. Wages, Salaries, Tips, etc., $42,681.50.

3. Interest, $87.60.

4. Business Income, $15,311.31.

5. Sale or exchange of property, $1,000.00.

5. Sale or exchange of property, ($1,000.00).

6. Pensions and annuities, rents and royalties, partnerships, estates or trusts, etc., ($110.41).

9. Total, $56,970.00.

10. Adjustments, $3,000.00.

11. Total Income, $53,970.00.

SCHEDULE B—ITEMIZED DEDUCTIONS FROM FEDERAL RETURN WITH ADJUSTMENTS

2. Taxes, $3,723.95.

3. Contributions, $30.00.

4. Interest, $3,927.19.

6. Total, $7,681.14.

7. Subtract State and local income taxes, included on line 2, $2,211.38.

8. Total, $5,469.76.

10. Total Maryland deductions, $5,469.76.

Tax Credits for Income Taxes Paid to Other States and Maryland Personal Property Taxes, 1971

1. Taxable Net Income, $45,300.24.

2. Income Taxable in other state, $34,277.19.

3. Revised taxable net income, $11,023.05.

4. Tax on amount on line 3, $736.72.

CREDIT COMPUTATION

5. Maryland Tax, $3,307.51.

6. Tentative Tax Credit, $2,570.79.

7. Tax Paid to State of Alaska, $1,856.17.

8. Credit for income tax paid to other state, $1,856.17.

U.S. Individual Income Tax Return, 1972

First name and initial: Maurice R. and Rita Gravel.

Present home address: U.S. Senate, Washington, D.C. 20510.

Occupation; Yours, U.S. Senator, wife's, homemaker.

FILING STATUS

2. Married filing joint return.

EXEMPTIONS

6. Yourself.

7. Wife (husband).

8. First names of your dependent children who lived with you: Martin, Lynn.

Enter number, 2.

10. Total exemptions claimed, 4.

INCOME

11. Wages, salaries, tips, and other employee compensation, $42,500.00.

13. Interest income (if $200 or less, enter total without listing in Schedule B), $99.86.

14. Income other than wages, dividends, and interest (from line 45), $3,692.60.

15. Total, $46,292.46.

16. Adjustments to income (such as "sick pay," moving expenses, etc. from line 50), $3,000.00.

17. Subtract line 16 from line 15 (adjusted gross income), $43,292.46.

TAX, PAYMENTS AND CREDITS

18. Tax, $7,512.88.

20. Income tax, $7,512.88.

21. Other taxes, $384.34.

22. Total, $7,897.22.

23. Total Federal income tax withheld, $10,789.20.

27. Total (add lines 23, 24, 25, and 26) $10,789.40.

BAL. DUE OR REFUND

29. If line 27 is larger than line 22, enter amount overpaid, $2,891.98.

30. Line 29 to be refunded to you, $2,891.98.

FOREIGN ACCOUNTS

Did you, at any time during the taxable year, have any interest in or signature or other authority over a bank, securities, or other financial account in a foreign country (except in a U.S. military banking facility operated by a U.S. financial institution): No.

WAGE AND TAX STATEMENT, 1972

Employer's identification number, name, Hon. Mike Gravel, 20076.

Federal income tax withheld: $10,789.20.

Wages paid subject to withholding in 1972, $42,500.00.

33. Print or type the location of your principal place of residence at end of year (a) State, Alaska, (b) Borough, Greater Anchorage, (c) Locality. If you lived inside the boundaries of an incorporated city, town, etc., enter its name, Anchorage.

INCOME OTHER THAN WAGES, DIVIDENDS, AND INTEREST

35. Business income, $5,124. 51.

36. Net gain (or loss) from sale or exchange of capital assets, ($1,000.00).

38. Pensions and annuities, rents and royalties, partnerships, estate or trusts, etc. (attach Schedule E), ($431.91).

45. Total (add lines 35 through 44). Enter here and on line 14, $3,692.60.

ADJUSTMENTS TO INCOME

48. Employee business expense (attach Form 2106 or other statement), $3,000.00.

50. Total adjustments, $3,000.00.

TAX COMPUTATION

51. Adjusted gross income, $43,292.46.

52. (a) If you itemize deductions, enter total from Schedule A, line 40 and attach Schedule A (b) If you do not itemize deductions, enter 15% of line 51, but do NOT enter more than $2,000. ($1,000 if line 3 is checked), $11,233.79.

53. Subtract line 52 from line 51, $32,058.-67.

54. Multiply total number of exemptions claimed on line 10, by $750, $3,000.00.

55. Taxable income, $29,058.67.

OTHER TAXES

62. Self-employment tax, $384.34.

67. Total, $384.34.

EMPLOYEE BUSINESS EXPENSES, 1972

Your name: Maurice R. Gravel.

[redacted]

Occupation in which expenses were incurred: U.S. Senator.

Employer's name: U.S. Senate.

Employer's address: U.S. Senate, Washington, D.C.

EMPLOYEE BUSINESS EXPENSES

(d). Other travel expenses: Living Expenses Under Code Sec. 162(a)(3) IRC—See Attached Certification, $3,000.00.

Total travel expenses, $3,000.00.

4. Employee expenses other than traveling, transportation, and outside salesman's expenses to the extent of the reimbursement, $3,000.00.

7. Excess expenses, $3,000.00.

ITEMIZED DEDUCTIONS AND DIVIDEND AND INTEREST INCOME, 1972

Names: Maurice R. and Rita Gravel.

Your [redacted]

[redacted]

SCHEDULE A—ITEMIZED DEDUCTIONS

TAXES

11. Real estate, $556.54.

12. State and local gasoline, $60.00.

13. General sales, $289.14.

14. State and local income (Md. $1,451.34), (Alaska $1,856.17), $3,307.51.

17. Total taxes, $4,213.19.

Contributions.—Cash—including checks, money orders, etc. Various organizations and charities, $30.00.

Political contribution, $100.00.

21. Total contributions, $130.00.

INTEREST EXPENSE

22. Home mortgage, $2,780.48.

24. Other (itemize) S. Harnut (AMSB), $45.81.

Senate Empl. Fed. Cr. Union, $299.89.

Int. Rev. Serv., $59.69.

Bank loans, $3,011.83.

Condominium mortgage, $692.90.

25. Total interest expense, $6,890.60.

28. $100 limitation, $100.00.

SUMMARY OF ITEMIZED DEDUCTIONS

34. Total taxes, $4,213.19.

35. Total contributions, $130.00.

36. Total interest expense, $6,890.60.

40. Total itemized deductions, $11,233.79.

Names: Maurice R. and Rita Gravel.

[redacted]

A. Principal business activity U.S. Senator; product speaking engagements and public service.

B. Business name, Honorable Mike Gravel.

C. Employer Identification Number 021–22–7897.

D. Business address (number and street) U.S. Senate.

City, State and ZIP code Washington, D.C.

E. Indicate method of accounting: cash.

F. Were you required to file Form 1096 for 1972? No.

G. Is this business located within the boundaries of the city, town, etc., indicated?: Yes.

H. Did you own this business at the end of 1972? Yes.

I. How many months in 1972 did you own this business? 12.

J. Was an Employer's Quarterly Federal Tax Return, Form 941, filed for this business for any quarter in 1972? No.

INCOME

1. Gross receipts or sales, $23,861.12.

3. Gross profit, did not receive 1099 statements from all sources—income reported from cash receipts records.

5. Total income, $23,861.12.

6. Depreciation, $102.85.

DEDUCTIONS

19. Other buiness expenses (specify):

(a) Auto and local travel 2,858.84 less reimb., ($1,809.01), $1,049.83.

(b) Office Supplies and Expense, $3,338.77.

(c) Delegate and Constituent expenses, $1,622.15.

(d) Research and Commissions, $924.15.

(e) Dues and Subscriptions, $298.20.

(f) Others Travel and Lodging 29,422.44, less reimbursement ($19,893.13), $9,529.31.

(h) Tele and Tele 790.15-less reimb. ($439.14), $351.01.

(i) Printing and Publications 895.40–less reimb. ($625.50), $269.90.

(j) Communications and Recordings, $1,206.64.

(k) Bank charges, $43.80.

(p) Total other business expenses, $18,633.76.

20. Total deductions, $18,736.61.

21. Net profit (or loss), $5,124.51.

SCHEDULE C–2 DEPRECIATION

a. Group and guideline class or description of property, furniture and fixtures.

b. Date acquired, 1969.

c. Cost or other basis, $411.42.

d. Depreciation allowed or allowable in prior years, $205.70.

e. Method of computing depreciation, SL.

f. Life or rate, 4.

g. Depreciation for this year, $102.85.

5. Totals, $102.85.

Balance, $102.85.

SUMMARY OF DEPRECIATION

3. Other, $102.85.

Total, $102.85.

CAPITAL GAINS AND LOSSES 1972

Part I—Short-term Capital Gains and Losses

a. Kind of property and describtion (Example, 100 shares of "Z" Co.)

b. How acquired. Enter letter symbol A.

f. Gain (or loss (d less e) $541.91.

1. Schedule attached.

3. Enter net gain (or loss), $541.94.

4(a). Short-term capital loss component carryover from years beginning before 1970, $8881.90.

4(b) Short-term capital loss carryover attributable to years beginning after 1969, $2880.00.

5. Net short-term gain (or loss), $11219.96.

Part III—Summary of Parts I and II

14. Combine the amounts shown on lines 5 and 13, and enter the net gain or loss here, $11219.96.

16. (a) Enter one of the following amounts: ($11219.96).

(b) Enter here and enter as a (loss) on line 36, Form 1040, the smaller of: $1000.00.

Number of shares, 100 Sonesta Int'l Hotel Corp.; date purchased, 12/20/71; date sold, 1/12/72; gross sales price, $651,85; cost, $619.50; gain or (loss), $32.35.

Number of shares, 200 WT National Gen., date purchased, 12/31/71: date sold, 1/13/72; gross sales price, $1,308.72; cost, $1,239.00; gain or (loss), $69.72.

Number of shares. 200 Drew National Corp.; date purchased, 1/6/72; date sold, 1/25/72; gross sales price, $1,407.22; cost, $1,239.00; gain or (loss), $163.22.

Number of shares, 200 Cayman Corp.; date purchased, 1/25/72; date sold, 3/15/72; gross sales prices, $1,057.50; cost, $1,137.50; gain or (loss), ($80.00).

Number of shares, 100 Lectro Mgmt, Inc.; date purchased, 12/31/71; date sold, 3/15/72; gross sales price, $260.99; cost, $287.75; gain or (loss) ($26.76).

Number of shares, 200 Lectro Mgmt, Inc.; date purchased, 1/13/72; date sold, 3/16/72; gross sales price, $618.98; cost, $601.25; gain or (loss), $17.73.

Number of shares, 50 Comtech Indust. Inc.; date purchased, 3/17/72; date sold, 3/24/72; gross sales price, $488.12; cost, $250.00; gain or (loss), $238.12.

Number of shares, 100 Comtech Indust. Inc.; date purchased, 3/17/72; date sold, 3/24/72; gross sales price, $965.75; cost, $500.00; gain or (loss), $465.75.

Number of shares, 200 Diversified Industries; date purchased, 3/15/72; date sold, 3/24/72; gross sales price, $1,057.47; cost, $1,289.75; gain or (loss), ($232.28).

Number of shares, 500 Gateway Sporting Goods; date purchased, 3/24/72; date sold, 4/7/72; gross sales price, $2,908.44; cost, $2,676.00; gain or (loss), $232.44.

Number of shares, 300 Sonesta Int'l Hotel; date purchased, 4/7/72; date sold, 4/13/72; gross sales price, $3,181.82; cost, $2,688.63; gain or (loss), $493.19.

Number of shares, 300 National Indust. Inc.; date purchased, 4/14/72; date sold, 8/22/72; gross sales price, $1,667.65; cost, $2,499.19; gain or (loss), ($831.54).

Total gain, $541.94.

SUPPLEMENTAL INCOME SCHEDULE AND RETIREMENT INCOME CREDIT COMPUTATION—1972

Name(s): Maurice R. and Rita Gravel.

Your [redacted]

PART III—INCOME OR LOSSES FROM PARTNERSHIPS, ESTATES OR TRUSTS, SMALL BUSINESS CORPORATIONS

(a) Name and address: Mike Gravel Real Estate Development, Inc.

(c) Employer identification number, 92–0033655.

(d) Income or loss, ($431.91).

2. Income (or loss) total of column (d) less total of column (e), ($431.91).

COMPUTATION OF SOCIAL SECURITY SELF-EMPLOYMENT TAX, 1972

Name of self-employed person: Maurice R. Gravel.

Social security number of self-employed person: [redacted]

Business activities subject to self-employment tax, public speaker and service.

COMPUTATION OF NET EARNINGS FROM BUSINESS SELF-EMPLOYMENT

1. Net profit (or loss) shown in Schedule C (Form 1040), $5,124.51.

3. Net earnings (or loss) from business self-employment, $5,124.51.

COMPUTATION OF SOCIAL SECURITY SELF-EMPLOYMENT TAX

8. Net earnings (or loss) from self-employment—

(a) From business, other than farming, $5,124.51.

9. Total net earnings (or loss) from self-employment reported on line 8, $5,124.51.

10. The largest amount of combined wages and self-employment earnings subject to social security tax for 1972 is $9,000.00.

11. (a) Total "FICA" wages as indicated on Form W-2.

12. Balance, $9,000.00.

13. Self-employment income, $5,124.51.

14. If line 13 is $9,000, enter $675.00; if less, multiply the amount on line 13 by .075, $384.34.

16. Self-employment tax, $384.34.

CLARK SHERWOOD & CO.,
Wheaton, Md.

I hereby certify that I was in a travel status in the Washington, D.C. area, away from home, in the performance of my official duties as a Member of Congress, for 210 days during the taxable year, and my deductible living expenses while in such travel status amounted to over $3,000.00.

Honorable MIKE GRAVEL.

INCOME TAX AUDIT CHANGES—RETURN FORM No. 1040

Name and address of taxpayers: Maurice R. and Rita Gravel, U.S. Senate, Washington, D.C. 20510.

Filing stats, Joint.

Name and title of person consulted on changes: Clarkson R. Sherwood, Power of Attorney.

1. ADJUSTMENTS TO INCOME— YEAR 1972

A. Defense fund contributions, $19,971.

B. Legal fees ($14,226).

2. Total adjustments, $5,745.

3. Adjusted gross or taxable income shown on return or as previously adjusted, $29,059.

4. Corrected adjusted gross or taxable income, $34,804.

5. Tax, $9,838.

8. Corrected tax liability (Lesser of line 5 and 6 plus line 7), $9,838.

10. Balance (Line 8 less amounts on lines 9A through 9C), $9,838.

11. Plus: B. Self-employment tax, $384.

12. Total corrected income tax liability (Line 10 plus amounts on lines 11A through 11C), $10,222.

13. Total tax shown on return or as previously adjusted, $7,897.

14. Statutory deficiency or (overassessment) (Difference between lines 12 and 13), $2,325.

Examining officer's signature: Alan Lovinger, District: Baltimore. Date: 12/14/73.

MEMORANDUM

To: PETER FREDERICK, VIRGIL RICHMOND, and DAVID FEGAN.
From: Charles Fishman.
Date: August 4, 1972.
Re Congressional Defense Fund.

As you requested on the telephone this memorandum is submitted for the purpose of detailing the origins of the Congressional Defense Fund, the sources of its contributions, the history of the litigation between Senator Mike Gravel and the United States, and the purpose for which the funds are expended.

Senator Gravel publicly released the Pentagon Papers to the American public during a hearing of the Subcommittee on Public Buildings and Grounds of the Senate Public Works Committee on June 29, 1971. Shortly thereafter an aide of his, Dr. Leonard S. Rodberg, was subpenaed to appear before a federal grand jury in Boston, Massachusetts. Senator Gravel moved to intervene in that litigation and to prevent the grand jury from questioning Dr. Rodberg about the Senator's sources, the Subcommittee meeting, the publication of the Pentagon Papers, or any matter related thereto by claiming that those acts were official Senatorial duties which, under the Constitution, could not be investigated by the Executive or Judicial branches of the government.

This litigation continued for well over a year and ultimately reached the Supreme Court for decision in June, 1972. During this period Senator Gravel incurred a substantial obligation which consisted of attorney's fees and expenses. Senator Gravel has paid for a limited portion of these expenses out of his own pocket and through a series of bank loans. Unfortunately he did not have the resources to pay the entire bill.

Several months ago a number of political leaders in Alaska learned of the Senator's financial plight and sent unsolicited contributions to the Senator to help defray his expenses. Other unsolicited contributions were also received for the same purpose. As a result the Senator set up a Congressional Defense Fund which is administered by his Administrative Assistant, Martin J. Wolf. A number of other contributions were received as a result of stories detailing the case of the Senator's financial position which appeared in several prominent magazines and newspapers. Mr. Wolf also mailed a short report of the legal situation and a request for assistance to a limited number of people. Their contributions were also placed in the Fund.

More recently several acquaintances of the Senator who are aware of his plight met in New York for other purposes but also decided to help him. They approached him to offer their financial support as a form of corporation contributions to the Fund. Before accepting such contributions the Senator instructed me to contact your office to determine if such contributions would be permissible under the Internal Revenue Code, and what the consequences would be to those corporations who contributed, as well as to himself. None of these contributions has yet been accepted but the Senator does desire to accept them if they are legal.

A strict accounting has been maintained of all expenditures and receipts. Expenditures have only been made for the purpose of defraying the legal costs which have been incurred.

As I told you on the phone the case has actually very little to do with the Senator, but rather raises the question of the extent to which the Executive and Judicial branches of the federal government may incur into how members of the Legislative branch receive information and their efforts to inform the American public of instances of Executive misconduct. It is for this reason that the United States Senate joined Senator Gravel in the Supreme Court to argue on the same side of the issue. This is the first time in modern history that the Senate has so acted and clearly indicates the degree to which the issue transcends any one individual.

Indeed it is my view as the Senator's chief counsel that were it not for the importance of the principle involved the litigation would have terminated long ago. I trust this memorandum is sufficient for your purposes. If it is not, please feel free to contact me for further information.

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
Washington, D.C., August 7, 1972.

Hon. MIKE GRAVEL,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GRAVEL: This is to advise you of the status of your letter of July 21, 1972, concerning the Federal income tax effects of the Congressional Defense Fund paying your legal expenses associated with your release of the Pentagon Papers.

In looking into this matter, we recognized that we would need more detailed information to answer your questions. We telephoned your Administrative Aide, Mr. Marty Wolf, on July 28, 1972, to advise him of this fact. Mr. Wolf stated that he would have your attorney, Mr. Chuck Fishman, contact us on the matter.

When Mr. Fishman telephoned us on August 1, 1972, we explained the type of information we need. He promised to send it to us at an early date.

Upon receipt of the requested information every effort will be made to expedite the issuance of a reply to your questions.

Sincerely,
PETER P. WEIDENBRUCH, Jr.,
Assistant Commissioner (Technical).

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
Washington, D.C., February 27, 1973.

Hon. MIKE GRAVEL,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GRAVEL: This is in regard to your letter of July 21, 1972, concerning the Federal income tax effects of the Congressional Defense Fund paying your legal expenses associated with your release of the Pentagon Papers.

We regret the delay in replying to you. Presently, several alternative courses of action are being considered with respect to the issues you have raised. We hope to reply to you at an early date.

Thank you for your understanding in this matter.

Sincerely yours,
LESTER W. UTTER,
Chief, Individual Income Tax Branch.

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
Washington, D.C., April 4, 1973.

Hon. MIKE GRAVEL,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GRAVEL: This is in further reply to your letter of July 21, 1972, concerning the Federal income tax effects of the Congressional Defense Fund paying your legal expenses associated with your release of the Pentagon Papers. Our reply is based on supplemental information furnished to us by your attorney, Mr. Charles Fishman, in a memorandum dated August 4, 1972, and information in the Supreme Court of the United States' opinion in *Mike Gravel, United States Senator,* v. *United States,* 92 S. Ct. 2614 (1972), as well as on the information in your letter.

According to this information, on the night of June 29, 1971, as Chairman of the Subcommittee on Buildings and Grounds of the Senate Public Works Committee, you convened a meeting, read extensively from a copy of a study known popularly as the "Pentagon Papers" and placed the entire study in the public record. Also, there were press reports that you arranged for the study to be published by Beacon Press.

Thereafter, a federal grand jury investigating possible criminal conduct with respect to the realese and publication of the Pentagon Papers subpoenaed one of your aides, Mr. Leonard S. Rodberg. You intervened by filing motions to quash the subpoenas on the ground that release and publication of the study were legislative acts shielded constitutionally from inquiry by the Executive or Judicial branch of the Government. Litigation in this matter culminated in the above-mentioned decision by the Supreme Court. The cost of legal services associated with the litigation, including travel and accommodation expenses of your attorneys and printing costs, is nearly $100,000.

As the litigation proceeded your financial problems became apparent. A number of political leaders in your home state and other people sent you unsolicited contributions to help ease your financial plight. The contributions were placed in a "Congressional Defense Fund" (the Fund) to be administered by your Administrative Assistant, Mr. Martin J. Wolf, and used to defray your legal expenses. Additional contributions were received as a result of stories about your financial difficulties that appeared in several newspapers and magazines, and from a limited number of people from whom Mr. Wolf requested assistance.

More recently, several of your acquaintances have offered financial support in the form of corporate contributions to the Fund. None of these contributions have been accepted as yet. Before accepting the contributions you wish to know:

(1) Are such contributions permissible under the Internal Revenue Code of 1954?

(2) What would be the tax consequences to those corporations making contributions?

(3) Would payments from the Fund be includible in your gross income?

(4) If the payments are included in your gross income, would you be allowed to deduct payment of your legal expenses by the Fund?

In answer to your first question, there is no provision in the Internal Revenue Code that prohibits corporations from making payments to the Fund. We caution you, however, that we do not know whether any other Federal or State laws prohibit payments to the Fund by corporations, as such laws are beyond our administrative jurisdiction.

Unfortunately, we cannot answer your second question since the answer depends upon the facts and circumstances under which each particular payment is made by each corporation. However, we are furnishing the following general information, which we believe will be helpful to you.

Section 162 of the Internal Revenue Code of 1954 allows as a deduction the ordinary and necessary business expenses paid or incurred by a taxpayer in carrying on a trade or business. Section 1.162–1(a) of the Income Tax Regulations provides, in part, that deductible expenses ". . . include the ordinary and necessary expenditures *directly connected with or pertaining to* the taxpayer's business." In *Thomas H. Welch* v. *Helvering*, 290 U.S. 111 (1933), Ct.D. 755, C.B. XII–2, 112, the Supreme Court held that an expense is "ordinary" where the paying thereof is the common and accepted practice and "necessary" if it is appropriate and helpful in developing and maintaining the taxpayer's business.

Generally, legal fees paid on behalf of, or for services rendered to, another are not deductible as ordinary and necessary business expenses. *J. Gordon Turnbull, Inc.* v. *Commissioner*, 41 T.C. 358 (1963). The reason is that normally such expenditures are not connected directly with and do not result proximately from the taxpayer's business. In the absence of such relationship, corporations making payments to the Fund are not allowed to deduct the payments as a business expense under section 162 of the Code.

Turning to your third question, we believe from the information submitted that you and the Fund are not separate and distinct entities. That is, we believe that payments *from* the Fund to you are merely a change in the manner in which you hold funds. Therefore, such payments are not includible in your gross income.

However, your third question raises impliedly the question whether payments *to* the Fund are includible in your gross income. Since the answer to this question depends upon the circumstances under which each particular payment is made, we cannot give you a blanket answer. However, we are providing the following general information with respect thereto.

Section 61(a) of the Code provides that gross income includes all income from whatever source derived, except as otherwise provided by law.

Although section 102(a) of the Code provides, in part, that gross income does not include the value of property acquired by gift, the Supreme Court has held that the term "gift" is not used in this context in a common law sense, but in a more colloquial sense. Thus, the transfer of funds, without consideration, though a common law gift, is not necessarily a "gift" for purposes of section 102(a). *Commissioner* v. *Mose Duberstein, et al.*, 363 U.S. 278 (1960), Ct.D. 1850, C.B. 1960–2, 428.

In order to qualify as a "gift" for income tax purposes, the Supreme Court in the *Duberstein* case indicated that the payment must be made by the donor but of "detached and disinterested generosity." If the donor feels a moral or legal compulsion to make the payment or if payment is made from the incentive of an anticipated economic benefit to the donor, then the payment is not to be considered a gift. For example, the Tax Court has indicated that if the donors making the gifts "anticipated, whether rightly or wrongly, that some benefit (whether specifically contemplated or of some undefined nature) might result", then the payment is not a gift to the donee. *Max and Bessie Kralstein* v. *Commissioner*, 38 T.C. 810, 818 (1962), acquiescence, C.B. 1963–2, 4.

In determining whether or not a payment is a "gift" for income tax purposes, the donor's intention is the most critical consideration; however, the donor's characterization of his action is not necessarily determinative—there must be an objective inquiry as to whether what is called a gift amounts to it in reality. For example, the donor's treatment of a payment as an expense on its income tax return is evidence that the donor did not intend such payment to be a gift. *Alex and Doris Silverman* v. *Commissioner*, 28 T.C. 1061, 1066 (1957), affirmed 253 F. 2d 849 (1958).

Based upon the above authorities, you should include the payments made to you in your gross income unless you are able to establish that with respect to any particular payment to you the donor intended to make a "gift" to you under the tests mentioned above and discussed in the above-cited authorities. As indicated, whether a particular payment to you falls within the definition of a "gift" is a factual matter, and can be determined only after consideration of all of the facts and circumstances involved. Such determination can best be made by the office of the District Director concerned following the filing of your Federal income tax return.

In reply to your last question, it appears that litigation concerning whether your aide may be questioned by a federal grand jury about your involvement in the release and publication of the Pentagon Papers has its source in your employment as a United States Senator. Accordingly, we conclude that the fees you or the Fund pay to your attorneys to litigate this matter, including the portion thereof attributable to traveling expenses and printing costs incident thereto, are deductible as ordinary and necessary business expenses. The fact that a particular contribution used to pay a portion of these expenses may, after examination, be excluded from your gross income under section 102 of the Code will not affect the deductibility of the expenses.

It is important that a copy of this ruling be attached to your tax return for the taxable year in which the transaction covered by this ruling was consummated. Accordingly, a copy is enclosed for that purpose.

We appreciate the interest and concern that prompted you to write us in this matter and hope that we have been helpful to you. Moreover, we hope that you have not been inconvenienced by our delay in replying to you.

Sincerely,

Peter P. Weidenbruch Jr.,
Assistant Commissioner (Technical).

Alaska Individual Income Tax Return for the Year Jan. 1–Dec. 31, 1972

Name: Maurice R. & Rita Gravel, U.S. Senate, Washington, D.C. 20510.

Occupation: U.S. Senator, Spouse: Homemaker.

Total Exemptions: 4.

12. Wages, salaries, C.O.L.A., tips, etc. (If WR–500 unavailable, attach explanation), $42,500.

14. Interest. Enter total here (also list in Part II of Schedule B, if total is over $100), $99.86.

15. Income other than wages, dividends and interest (from line 40), ($1,431.91).

16. Total (add lines 12, 13c, 14 and 15), $41,167.95.

17. Adjustments to income (such as "sick pay," moving expenses, etc. from line 45), $3,000.00.

18. Adjusted gross income (subtract line 17 from line 16). Part Year Residents here and on page 2, line 46a, $38,167.95.

19. Tax (Check if from: Alaska Tax Rate Sch. (in red) X, Y, or Z ( ), Sch. D ( ), or Sch. G ( )), $10,983.98.

21. Income tax (subtract line 20 from line 19), $10,983.98.

23. Total (add line 21 and 22), $10,983.98.

24. Enter Alaska Income Tax (16% of amount in line 23 OR amount from tables 1–11 if page 2 not used), $1,757.44.

25. Enter your School Tax ($0.00, $10.00, $20.00. See Alaska Instructions page 16 Item 10), $10.00.

Total Tax add Lines 24, and 25, $1,767,44.

31. If payments (line 30) are less than tax (line 26) enter balance due. (Pay in full with this return), $1,767.44.

Signature of preparer: Clarkson R. Sherwood, April 12, 1973.

PART II.—INCOME OTHER THAN WAGES, DIVIDENDS, AND INTEREST

35. Net gain or (loss) from sale or exchange of capital assets (attach Schedule D), ($1,000).

37. Pensions and annuities, rents and royalties, partnerships, estates or trusts, etc. (attach Schedule E), ($431.91).

40. Total (add lines 34, 35, 36, 37, 38, and 39). Enter here and on line 15, ($1,431.91).

PART III.—ADJUSTMENTS TO INCOME

43. Employee business expense (attach Federal Form 2106 or other statement), $3,000.

45. Total adjustments (add lines 41, 42, 43, and 44). Enter here and on line 17, $3,000.

PART IV. B RESIDENT—TAX COMPUTATION

46b Adjusted gross income (from line 18), $38,167.95.

47b(a) If you itemize deductions, enter total from Schedule A, line 32; (b) if you do not itemize deductions, and line 46b is $20,000 or more, enter $2,000 ($750 if married and filing separately), $2,000.

48b Subtract line 47b from line 46b, $36,167.95.

49b Multiply total number of exemptions claimed on line 11 by $750, $3,000.

50b Taxable income. Subtract line 49b from line 48b. Enter here and on page 8 line 1. (Printed Red), $33,167.95.

Form 502, Resident, Maryland Tax Return, 1972

Name: Maurice R. & Rita Gravel.

Address: U.S. Senate, Washington, D.C., 20510; County, Prince Georges, Taxing Area, Oxon Hill.

Occupation, U.S. Senator.

Filing status, married filing joint return or spouse had no income.

Total exemptions 4.

1. Total Income (From Line 9 Schedule A Page 2) $46,725.37.

4. Subtractions: $3,431.91.

5. Total Maryland Income, $43,292.46.

8. Itemized Deductions, $7,926.28.

9. Net Income, $35,366.18.

10. Number of Exemptions X $800 (Prorate according to number of months covered by the return), $3,200.

11. Taxable Net Income (Line 9 less Line 10) Figure Tax on These Amounts. Use Rate Schedule, $32,166.18.

12. Maryland Tax (From Table or as computed by instruction schedule when lines 8 through 11 used), $1,548.31.

13. Local Income Tax (From Rate Schedule, Page 8 of Instructions) Enter 50 percent of Line 12, $774.16.

14. Total Maryland and Local Income Tax (Add lines 12 and 13), $2,322.47.

17. Credit for Income Tax Paid another State (From Form 502 CR), $1,490.38.

19. Total Payments and Credits (Add lines 15 through 18), $1,490.38.

20. Balance Due (If Line 14 Exceeds Line 19), $832.09.

Signature of preparer, Clark Sherwood & Co., April 12, 1973.

SCHEDULE A—INCOME FROM FEDERAL RETURN

1. Wages, Salaries, Tips, etc., $42,500.
3. Interest, $99.86.
4. Business Income, $5,124.51.
5. Sale or Exchange of Property, ($1,000).
9. Total Income, $46,724.37.

SCHEDULE B—ITEMIZED DEDUCTIONS FROM FEDERAL RETURN WITH ADJUSTMENTS

2. Taxes, $4,213.19.
3. Contributions, $130.00.
4. Interest, $6,890.60.
7. Total, $11,233.79.
8. Subtract State and Local Income Taxes Included on Line 2, $3,307.51.
11. Total Maryland deductions $7,926.28.

SCHEDULE E—OTHER SUBTRACTIONS

1. Adjustments to Gross Income (From Federal Return), $3,000.

2. Losses from Annuities, Rents and Royalties, Partnerships, Estates or Trusts, etc., $431.91.

3. Total (Add Lines 1 and 2) (Enter on Page 1, Line 4b), $3,431.91.

Maryland Form 502CR, Tax Credits for Income Taxes Paid to Other States and Maryland Personal Property Taxes, 1972

Name: Maurice R. and Rita Gravel.

Address: U.S. Senate, Washington, D.C. 20510.

1. Taxable Net Income (Line 9, Page 1, Form 502), $35,366.18.

2. Income Taxable in Other State, $33,167.95.

3. Revised Taxable Net Income (Line 1 Less Line 2), $2,198.23.

4. Tax on Amount on Line 3 (From Maryland Tax Rate Schedule), $57.93.

CREDIT COMPUTATION

5. Maryland Tax (Line 12, Page 1, Form 502), $1,548.31.

6. Tentative Tax Credit (Line 5 Less Line 4), $1,490.38.

7. Tax Paid to State of Alaska (Attach copy of Return), $1,767.44.

8. Credit for Income Tax Paid to Other State (Smaller of Line 6 or 7) (Enter Here and on Line 17, Page 1, Form 502), $1,490.38.

Form 1120S

U.S. Small Business Corporation Income Tax Return for October 1, 1971, Ending September 30, 1972

Name: Mike Gravel Real Estate Development, Inc., Box 2283, Anchorage, Alaska 99501.

D. County in which located, Greater Anchorage.

E. Enter total assets from line 14, column D, Schedule L, $30,254.31.

6. Other interest, $97.53.

11. Total income, lines 3 through 10, $97.53.

21. Depreciation (Schedule G), $18.54.

26. Other deductions (attach schedule (Devel. Prog. $500.00 Bank Charges $10.90), $510.90.

27. Total deductions, lines 12 through 26, $529.44.

28. Taxable income, line 11 less line 27, ($431.91).

Date and Signature of preparer: Clarkson R. Sherwood, April 11, 1973.

DEPRECIATION

3. Other depreciation: Machinery and other equipment, date acquired, 3/67; cost or other basis, $324.45; depreciation allowed or allowable in prior years, $139.01; method of computing depreciation, DB; life or rate, 10, and depreciation for this year, $18.54.

4. Totals, costs or other basis, $324.45; depreciation for this year, $18.54.

SUMMARY OF DEPRECIATION

3. Other: declining balance, $18.54; total, $18.54.

TAX COMPUTATION

2. (b) Subtract $6,500 and enter difference, $6,500.

4. Subtract $25,000. (Statutory minimum), $25,000.

SHAREHOLDERS' SHARES OF INCOME

1. Taxable income (line 28, page 1), ($431.91).

3. Corporation's undistributed taxable income, ($431.91).

Schedule Distribution and Income

1. Name of each shareholder

A. Maurice R. Gravel, 4,000 shares.

B. Rita J. Gravel, 6,000 shares.

6. Undistributed taxable income (loss), Shareholer A, ($172.76); Shareholder B, ($259.15); total, ($431.91).

9. Ordinary income Shareholder A, ($172.76); Shareholder B, ($259.15); total ($431.91).

F. Date incorporated 9/19/66.

H. Did the corporation during the taxable year have any contracts or subcontracts subject to the Renegotiation Act of 1951? No.

I. Amount of taxable income or (loss) for: 1968 ($5,183.52); 1969 ($2,412.00); 1970 ($110.41).

J. Refer to instructions for business activity codes and state the: Principal business activity, real estate; prinicipal product of service, consulting and developing.

K. Were you a member of a controlled group subject to the provisions of sections 1561 or 1562? No.

L. Did you claim a deduction for expenses connected with any:

(1) Entertainment facility (boat, resort, ranch, etc.) ? No.

(2) Living accommodations (except employees on business) ? No.

(3) Employees' families at conventions or meetings? No.

(4) Employee or family vacations not reported on Form W-2? No.

M. Did you file all required Forms 1099, 1096 and 1087? No.

N. Did the corporation, at any time during the taxable year, have any interest in or signature or other authority over a bank, securities, or other financial account in a foreign country? No.

SCHEDULE L—BALANCE SHEETS

Assets

1. Cash, beginning taxable year, $159.23; end of taxable year $188.33.

2. (a) Less allowance for bad debts, beginning taxable year, $936.15.

6. Loans to shareholders, beginning taxable year $28,839.08; end of taxable year $29,899.08.

9. Buildings and other fixed depreciable assets, beginning taxable year, $324.45; end of taxable year $324.45.

(a) Less accumulated depreciation beginning taxable year, $139.01; end of taxable year, $185.44; end of taxable year, $157.55; total $166.90.

14. Total assets, beginning of taxable year, $30,119.90; end of taxable year, $30,254.31.

LIABILITY AND SHAREHOLDERS' EQUITY

15. Accounts payable beginning of taxable year, $26,819.85; end of taxable year, $28,419.85.

22. Paid-in or capital surplus (attach reconciliation), beginning of taxable year $2,266.37; end of taxable year, $1,834.46.

27. Total liabilities and shareholders' equity, beginning of taxable year, $30,119.90; end of taxable year, $30,254.31.

RECONCILIATION OF INCOME PER BOOKS WITH INCOME PER RETURN

1. Total net income per books, ($431.91).

ANALYSIS OF UNAPPROPRIATED RETAINED EARNINGS PER BOOKS

2. Total net income per books, ($431.91).

[Form DR700—1971]

Alaska Corporation Income Tax Return for Calendar Year 1971 or Other Taxable Year Beginning October 1, 1971 Ending September 30, 1972.

Name: Mike Gravel Real Estate Development, Inc., Box 2283, Anchorage, Alaska 99501.

E. Borough in which located: Greater Anchorage.

F. Enter total assets from line 14, column (D), Schedule L (See inst. R), $30,254.31.

Deductions and gross income copy of Federal return attached.

U.S. Individual Income Tax Return, 1973

Maurice R. and Rita Gravel, U.S. Senate, Washington, D.C.

Social security numbers: [redacted] and [redacted]

Occupation: U.S. Senator and homemaker.

FILING STATUS

2. Married filing joint return (even if only one had income).

EXEMPTIONS

6a. Yourself.

b. Spouse.

c. First names of your dependent children who lived with you (see schedule 1).

7. Total exemptions claimed: 4.

8. Presidential Election Campaign Fund.—Check (Yes) if you wish to designate $1 of your taxes for this fund. If joint return, check (Yes) if spouse wishes to designate $1.

9. Wages, salaries, tips, and other employee compensation: $42,500.

11. Interest income: $138.

12. Income other than wages, dividends, and interest (from line 38) : $14,722.

13. Total, $57,360.

14. Adjustments to income: $4,971.

15. Subtract line 14 from line 13: $52,389.

16. Tax, check if from Tax Rate Schedule X: $9,548.

18. Income tax: $9,548.

19. Other taxes: $864.

20. Total: $10,412.

21a. Total Federal income tax withheld: $10,789.

22. Total: $10,789.

24. If line 22 is larger than line 20, enter amount overpaid: $377.

25. Amount of line 24 to be refunded to you: $377.

SHERWOOD & WILLIAMS, INC.,
April 4, 1974.

PART I—INCOME OTHER THAN WAGES, DIVIDENDS, AND INTEREST

28. Business income or (loss) :$11,262.

29. Net gain or (loss) from sale or exchange of capital assets: $7,448.

31. Pensions, annuities, rents, royalties, partnerships, estates or trusts, etc.: $3,988.

38. Total: $14,722.

PART II—ADJUSTMENTS TO INCOME

41. Employee business expense: $4,971.

43. Total adjustments: $4,971.

PART III—TAX COMPUTATION

44. Adjusted gross income: $52,389.

45. If you itemize deductions, enter total from Schedule A, line 41 and attach Schedule A: $15,275.

46. Subtract line 45 from line 44: $37,114.

47. Multiply total number of exemptions claimed on line 7, by $750: $3,000.

48. Taxable income. Subtract line 47 from line 46: $34,114.

PART V—OTHER TAXES

55. Self-employment tax: $864.

61. Total: $864.

FEDERAL INCOME TAX INFORMATION

Hon. Mike Gravel, U.S. Senate, S.S. No. [redacted]

Federal income tax withheld, $10,789.20.

Wages paid subject to withholding in 1973, $42,500,00.

1973 TAXPAYER IDENTIFICATION DATA, WAGES AND OTHER DATA

Maurice R. and Rita Gravel, U.S. Senate, Washington, D.C. 20510.

Occupation, U.S. Senator and homemaker.

Name and address of taxpayer's present employer: U.S. Senate.

Dependent children who lived with taxpayer: Martin and Lynn.

Total children: 2.

INCOME FROM WAGES, SALARIES AND TIPS

United States Senate: F.W.T., $10,789.

Gross, $42,500.

ITEMIZED DEDUCTIONS

Medical and dental expenses

1. One half (but not more than $150) of insurance premiums for medical care, $79.

3. Enter 1% of line 15, Form 1040, $524.

5. Enter balance of insurance premiums for medical care not entered on line 1, $79.

6. a. Doctors, dentists, etc., $360.

7. Total, $439.

8. Enter 3% of line 15, Form 1040, $1,572.

10. Total. Enter here, $79.

Taxes

11. State and local income, $2,600.

12. Real estate, $590.

13. State and local gasoline, $65.

14. General sales, $350.

17. Total, $3,605.

Interest expense

19. Other (see schedule 11), $11,511.

20. Total, $11,511.

Contributions

21b. Other cash contributions, (see schedule 9, $80.

24. Total contributions, $80.

Summary of itemized deductions

35. Total medical and dental, $79.

36. Total taxes, $3,605.

37. Total interest, $11,511.

38. Total contributions, $80.

41. Total deductions, $15,275.

Interest income

Senate Employees Fed. Cr. Union, $16.

Internal Revenue, $22.

Alaska Mutual Savings Bank, $100.

Medical and dental

Medical insurance premiums in full, $158.

Doctors, dentists, etc., $360.

Total medical, $518.

Taxes

State and local income, $2,600.

Real Estate tax, $590.

State and local gas, $65.

General sales, $350.

Contributions

Heart Fund, $5.

Dollars for Scholars, $25.

Nome Children's Fund, $50.

Total, $80.

Interest expense

Schedule attached, $11,511.

Total interest, $11,511.

Schedule of interest expense

Gov. Services Savings & Loan, Const. Loan, $2,691.76.

Gov. Services Savings & Loan, Permanent Loan, $3,354.77.

Senate Employees Fed. Credit Union, $134.67.

Bank Loans

National Commerc. Bk. & Tr. Co., $740.52.

Washington Trust Co., $740.52.

Virginia National Bank, $175.00.

Am. Sec. & Trust Co., $137.76.

Security National Bank, $310.47.

Riggs National Bank, $146.36.

Prestwick Corp. Lot 9—Tantallon, $56.56.

Citizens Bank of Md. #[redacted], $90.41.

Citizens Bank of Md. #[redacted] $123.33.

Alaska Mutual Savings Bk.—Scharhut, $49.97.

United Bank & Trust Co.—Note CM #672, $1,040.13.

United Bank & Trust Co.—Note M #138, $1,149.26.

Department Stores, $114.97.

Total interest expense, $11,511.46.

PROFIT OR (LOSS) FROM BUSINESS OR PROFESSION, 1973

A. Principal business activity: Fund Administration, Legal Defense.

B. Business name: Congressional Defense Fund.

D. Business address: New Senate Office Building, Washington, D.C.

E. Indicate method of accounting: Cash.

DEDUCTIONS

19. Other business expenses (specify): See Form 7.

21. Net profit (or loss), $682.00.

Did you claim a deduction for expense connected with:

(1) Entertainment facility (boat, resort, ranch, etc.)? No.

(2) Living accommodations (except employees on business)? No.

(3) Employees' families at conventions or meetings? No.

(4) Employee or family vacations not reported on Form W-2? No.

PROFIT OR LOSS FROM BUSINESS OR PROFESSION, 1973

Principal Business Activity, Fund Administration.

Taxpayer's Business Name, Congressional Defense Fund.

Business Address, New Senate Office Bldg., Washington, D.C.

Product, Legal Defense.

Income

Gross receipts or sales, $484.

Gross profit, $484.

Total income, $484.

Legal and professional fees, $927.

Other business expenses—See schedule, $239.

Total deductions, $1,166.

Net profit or (loss), $682.

Did you claim a deduction for expenses connected with:

(1) Entertainment facility (boat, resort, ranch, etc.)? No.

(2) Living accommodations (except employees on business)? No.

(3) Employees' families at conventions or meetings? No.

(4) Employees or family vacations not reported on Form W-2? No.

PROFIT OR (LOSS) FROM BUSINESS OR PROFESSION, 1973

Principal business activity, Public speaking; product, speeches.

Business name, Senator Mike Gravel.

Business address (number and street), New Senate Office, Room 4107. City, State and ZIP code, Washington, D.C. 20510.

Indicate method of accounting: Cash.

19. Other business expenses (specify): (See Form–7).

21. Net profit or (loss), $11,944.

Did you claim a deduction for expenses connected with:

(1) Entertainment facility (boat, resort, ranch, etc.)? No.

(2) Living accommodations (except employees on business)? No.

(3) Employees' families at conventions or meetings? No.

(4) Employee or family vacations not reported on Form W-2? No.

PROFIT OR (LOSS) FROM BUSINESS OR PROFESSION, 1973

Gross receipts or sales balance, $16,900.00.

Other income, publications and article and travel reimb., $2,020.38.

Total income, $557.00 and $1,463.38, $16,920.38.

Depreciation, $2,130.93.

19. Other business expenses (specify):

(a) Travel & Lodgings, $4,154.49.

(b) Tele & Tele, $690.91.

(k) Total other business expenses, $4,845.40.

20. Total deductions, $6,976.33.

21. Net profit or (loss), $11,944.05.

Depreciation

(a) Indicates group and guideline class or description of property.

(b) Indicates date acquired.

(c) Indicates cost or other basis.

(d) Indicates depreciation allowed or allowable in prior years.

(e) Indicates method of computing depreciation.

(f) Indicates life or rate.

(g) Indicates depreciation for this year.

a. Furniture and fixtures; b. 1969; c. $411.42; d. $308.55; e. SL; f. 4; g. $102.87.

a. Transportation equipment;* b. 1971; c. $4,300.00; e. SL; f. 2; g. $2,000.00.

a. Filing cabinet; b. 9/7/73; c. $288.75; e. SL; f. 4; g. $24.06.

a. Safe; b. 9/7/73; c. $83.50; e. SL; f. 7; g. $4.00.

Total, c. $5,083.67; g. $2,130.93.

Balance, g. $2,130.93.

FORM 7

PROFIT OR LOSS FROM BUSINESS OR PROFESSION, 1973

Principal business activity: Public speaking; Product: Speeches.

Schedule C gross receipts: $42,500.

Income

Net profit or (loss), $11,944.

CAPITAL GAINS AND LOSSES, 1973

Part I—Short-term capital gains or losses

Enter your share of net short-term gain (or loss) from partnerships and fiduciaries, $9.

Enter net gain (or loss), $9.

Short-term capital loss component carryover from years beginning before 1970, $6,632.

Short-term capital loss carryover attributable to years beginning after 1969, $3,400.

Net short-term gain (or loss), $10,023.

Part II—Long-term capital gains and losses

Capital gain distributions, $24,919.

Net gain (or loss), $24,919.

Net long-term gain (or loss), $24,919.

Part III—Summary of parts I and II

Combine the amounts shown on lines 5

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*Sold Dec. 1973 at book value.

and 13, and enter the net gain or loss here, $14,896.

If line 14 shows a gain—(a) Enter 50% of line 13 or 15% of line 14, whichever is smaller, $7,448.

(b) Subtract line 15(a) from line 14, $7,448.

CAPITAL GAINS AND LOSSES

1973 gains and losses from sales or exchanges of property

How acquired letters A, B, C. D, E, E, S, kind of property and description, 15 sh. WTS Nat'l. H. acquired 8–28–72, sold 2–20–73, gross sales price, $9. $42⁻, gain or (loss) short term, $9.

A. L. 100 sh. Gen. Microwave, H. acquired 4–17–72, sold 2–20–73, gross sales price, $462, cost or other basis incl. selling expenses, $427, gain or (loss) long term ($165)

A. L. 100 sh. Kairos Corp., H. 5–22–72, sold 2–20–73, gross sales price, $24, cost or other basis incl. selling expenses, $440, gain (or (loss), long term ($416).

E. L., 1,700 sh. M.G.F.D. Inc. W. acquired 9–19–66, sold 11–6–73), gross sales price, $25,500, cost or other basis incl. selling expenses, gain or (loss) long term $25,000.

Totals, gross sales price $25,795, cost or other basis incl. selling expenses, $867, gain or (loss) short term $9, very long $24,919.

Alternate tax information

Federal, $24,919.

Unused capital loss carryovers from years prior to 1970—short term

Capital loss 1969 and prior, $13,030.

Less losses applied 1969 and prior, 1970, $3,009.

Less losses applied 1971, $1,660.

Less losses applied 1972, $1,729.

Total losses applied

Federal, $6,632.

Unused capital loss carryover-beginning in 1970 or after—short term

Capital loss 1970, $3,400.

SUPPLEMENTAL INCOME SCHEDULE AND RETIREMENT INCOME CREDIT COMPUTATION, 1973

Part II—Rent and royalty income

Net income (or loss) from rents and royalties, $3,154.

Part III—Income or losses from partnerships, estates or trusts, small business corporations

Income (or loss), $834.

Total of parts I, II, and III, $3,988.

SCHEDULE E—SUPPLEMENTAL INCOME SCHEDULE

Part I Pension and annuity income

Schedule supporting Part II Rent & Royalty income (Property No. 1) Janitorial service, $293; Supplies, $40; Insurance, $168.

Part II—Rent and royalty income

Property No. 1, Condo Apt., Anchorage, Alaska.

Total amount of rents, $3,600.

Repairs and maintenance, $822.

Utilities, $91.

Taxes—Real Estate, $834.

Others—Mortgage interest, $2,866.

Depreciation, $1,640.

Total expenses, $6,754.

Net income (or loss), ($3154).

Total net income (or loss) (No. 1 and No. 2), 309, ($3,154).

Part III Income or losses from partnerships, estates or trusts, and Small Business Corporations

(A) Name and address: M. G. R. E. D., Inc., Anchorage, Alaska, small business corporation.

(C) Employer Identification Number, 92–0032655.

(D) Income or Loss, $(11).

(A) Name and address: M. G. R. E. D., Inc., Anchorage, Alaska, small business corporation.

(C) Employer Identification Number, 92–0033655.

(D) Income or Loss, ($16).

(A) Name and Address: Heart-L-Ranch Co., Tw. Beidg, Mont., small business corporation.

(C) Employer Identification Number, 81–0306068.

(D) Income or Loss, ($807).

Totals, ($834).

Schedule for Depreciation claimed in Part II Above

4. Other depreciation: Condominium Apartment.

(B) Date acquired, 12/15/72.

(C) Cost or other basis, $41,000.

(E) Method of computing depreciation, SL.

(F) Life or rate, 4%.

(G) Depreciation for this year, $640.

5. Totals, $1,640.

Summary of depreciation (other than additional first year depreciation), $1,640.

COMPUTATION OF SOCIAL SECURITY SELF-EMPLOYMENT TAX, 1973

Business activities subject to self-employment tax, Public Speaking.

Part II—Computation of net earnings from nonfarm self-employment

Regular method—Net profit or (loss) from: (a) Schedule C, line 21, $11,262.

Total, $11,262.

Adjusted net earnings or (loss) from nonfarm self-employment, $11,262.

Nonfarm optional method, (a) Maximum amount reportable, under both optional methods combined (farm and nonfarm), $1,600.00.

Part III—Computation of social security self-employment tax

Net earnings or (loss): (b) From nonfarm, $11,262.

Total net earnings or (loss) from self-employment reported on line 12, $11,262.

The largest amount of combined wages and self-employment earnings subject to social security tax for 1973 is $10,800.00.

Balance, $10,800.

Self-employment income, $10,800.

If line 17 is $10,800, enter $864.00; if less, multiply the amount on line 17 by .08, $864.

Self-employment tax, $864.

STATEMENT OF EMPLOYEE AUTOMOBILE EXPENSE AND BUSINESS EXPENSE—TAX YEAR 1973

Senator Mike Gravel, U.S. Senator, Soc. Sec. No. [redacted]

Travel expenses

Other—see attached. Living expenses.—Code Sec. 162(2)(3) IRC, $3,000.

Total travel expenses (certification attached), $3,000.

Entertainment and miscellaneous expenses

Other—see attached, $35,780.

Total expenses, $35,780.

Total business expenses, $38,780.

Less employer's reimbursements, $33,809.

Net business expenses—line 41, Form 1040, $4,971.

Excess payments—line 37, Form 1040, $.

(Year Ended 12/31/73)

SCHEDULE OF CONGRESSIONAL REIMBURSEMENTS AND EXPENSE

Reimbursements.—

Travel Fares, Meals & Lodgings, $14,926.83.

Local Travel (mileage reimbursement), $1,831.60.

Home office allowance, $3,699.77.

Telephone expenses outside Washington, D.C., $10,542.31.

Entertainment of constituents, $242.00.

Miscellaneous D.C. office expenses, $1,154.55.

Dues & Subscriptions—Home state, $1,411.56.

Total Congressional Reimbursements, $33,808.62.

Expenses: Travel fares, meals & lodgings, $15,102.31.

Auto & Local transportation, $3,129.36.

Home office expense:

Telephone, $10,719.18.

Supplies, etc., $2,985.53.

Dues & Subscriptions, $1,062.45.

Total home office exp., $14,767.16.

Entertainment of constituents, $945.27.

D.C. office expenses:

Postage, $367.81.

Supplies, etc., $1,451.46.

Bank charges, $16.63.

Total D.C. office exp., $1,835.90.

Total Congressional Expense, $35,780.00.

APRIL 1974.

I hereby certify that I was in a travel status in the Washington, D.C. area, away from home, in the performance of my official duties as a Member of Congress, for 184 days during the taxable year ended December 31, 1973, and my deductible living expenses while in such travel status amounted to an excess of $3,000.00.

Honorable MIKE GRAVEL.

AMENDED U.S. INDIVIDUAL INCOME TAX RETURN

Income and Deductions

Total income:

A. As originally reported or as adjusted (See Specific Instr.), $49,037.46.

B. Net change (Increase or Decrease—explain on page 2), $5,569.73.

C. Correct amount, $43,467.73.

Deductions:

A. As originally reported or as adjusted (See Specific Instr.), $11,233.79.

B. Net change (Increase or Decrease—explain on page 2).

C. Correct amount, $11,233.79.

Tax Liability

3. Total tax:

A. As originally reported or as adjusted (See Specific Instr.), $10,222.00.

B. Net change (Increase or Decrease—explain on page 2), $2,532.93.

C. Correct amount, $7,689.07.

Payments and Credits

Federal income tax withheld and excess F.I.C.A. tax:

A. As originally reported or as adjusted (See Specific Instr.), $10,789.20.

B. Net change (Increase or Decrease—explain on page 2),.

C. Correct amount, $10,789.20.

Total of lines 4 through 8, column C, $10,789.20.

Overpayment, if any, shown on original return, $2,891.98.

Subtract line 10 from line 9, and enter result, $7,897.22.

If line 3, column C is less than line 11, enter Refund to be received, $208.15.

Explanation of Changes to Income, Deductions, and Credits

Decrease in income: sub chapter S–E.I #81–0306068–Loss (schedule K–1 attached), (w) ($5,569.73).

Long term capital gain (amended sched, D. attached), (w) no adjustment.

Decrease in tax liability: Investment credit (form 3468 attached).

SHAREHOLDER'S SHARE OF UNDISTRIBUTED TAXABLE INCOME, ITEMS OF TAX PREFERENCE, AND INTEREST ON INVESTMENT INDEBTEDNESS—1972

1. Undistributed taxable income—ordinary income or (loss), ($5,569,737).

2. Undistributed taxable income—long-term capital gain after tax, $187.28.

Shareholder's name identifying number and address: Rita Gravel, Star Rt., Twin Bridges, MT 59754.

Corporation's name, identifying number, and address: Heart L Ranch, Star Rt., Twin Bridges, MT 59754.

CAPITAL GAINS AND LOSSES

Part I—Short-term Capital Gains and Losses

1. Schedule Attached: f. Gain (or loss) (d less e), $541.94.

3. Enter net gain (or loss), $541.94.

4(a). Short-term capital loss component carryover from years beginning before 1970, $8,881.90.

4(b). Short-term capital loss carryover attributable to years beginning after 1969, $2,880.00.

5. Net short-term gain (or loss), combine lines 3, 4(a) and 4(b), $11,219.96.

Part II—Long-term capital gains and losses

10. Enter your share of net long-term gain from small business corporations (Subchapter S), $187.28.

13. Net long-term gain (or loss), combine lines 11, 12(a) and 12(b), $187.28.

Part III—Summary of parts I and II

14. Combine the amounts shown on lines 5 and 13, and enter the net gain or loss here, $11,032.68.

Otherwise, (iii) If amounts on line 5 and line 13 are net losses, enter amount on line 5 added to 50% of amount on line 13: $11,032.68.

(b) Enter here and enter as a (loss) on line 36, Form 1040, the smaller of: (iii) Taxable income, as adjusted (see Instruction L), $1,000.00.

SCHEDULE OF SHORT-TERM GAINS AND LOSSES

Number of Shares, 100; Security, Sonesta Int'l Hotel Corp.; Date Acquired, 12/20/71; Date Sold, 1/12/72; Gross Sales Price, $651.85; Cost, $619.50; Gain or (Loss), $32.35.

Number of Shares, 200; Security, W. T. Nat'l Gen.; Date Acquired, 12/31/71; Date Sold, 1/13/72; Gross Sales Price, $1,308.72; Cost, $1,239.00; Gain or (Loss), $69.72.

Number of Shares, 200; Security, Drew Nat'l Corp.; Date Acquired, 1/6/72; Date Sold, 1/25/72; Gross Sales Price, $1,402.22; Cost, $1,239.00; Gain or (Loss), $163.22.

Number of Shares, 200; Security, Cayman Corp., Date Acquired, 1/25/72; Date Sold, 3/15/72; Gross Sales Price, $1,057.50; Cost, $1,137.50; Gain or (Loss), ($80.00).

Number of Shares, 100; Security, Lectro Mgmt Inc.; Date Acquired, 12/31/71; Date Sold, 3/15/72; Gross Sales Price, $260.99; Cost, $287.75; Gain or (Loss), ($26.76).

Number of Shares, 200; Security, Lectro Mgmt Inc.; Date Acquired, 1/13/72; Date Sold, 3/16/72; Gross Sales Price, $618.98; Cost, $601.25; Gain or (Loss), $17.73.

Number of Shares, 50; Security Comtech Indust. Inc.; Date Acquired, 3/17/72; Date Sold, 3/24/72; Gross Sales Price, $488.12; Cost, $250.00; Gain or (Loss), $238.12.

Number of Shares, 100; Security, Comtech Indust. Inc.; Date Acquired, 3/17/72; Date Sold, 3/24/72; Gross Sales Price, $965.75; Cost, $500.00; Gain or (Loss), $465.70.

Number of Shares, 200; Security, Diversified Indus.; Date Acquired, 3/15/72; Date Sold, 3/24/72; Gross Sales Price, $1,057.47; Cost, $1,289.75; Gain or (Loss), ($232.28).

Number of Shares, 500; Security, Gateway Sport'g Goods; Date Acquired, 3/24/72; Date Sold, 4/7/72; Gross Sales Price, $2,908.44; Cost, $2,676.00; Gain or (Loss), $232.44.

Number of Shares, 300; Security, Sonesta Int'l Hotel Corp.; Date Acquired 4/7/72; Date Sold, 4/13/72; Gross Sales Price, $3,181.82; Cost, $2,688.63; Gain or (Loss), $493.19.

Number of Shares, 300; Security, National Indust., Inc.; Date Acquired, 4/14/72; Date Sold, 8/22/72; Gross Sales Price, $1,667.65 Cost, $2,499.19; Gain or (Loss), ($831.54).

Total Gain $541.94.

COMPUTATION OF INVESTMENT CREDIT, 1972

Maurice R. and Rita Gravel.

Identifying number as shown on page 1 of your tax return, [redacted].

NEW PROPERTY

Line (a); (1) Life years, 3 or more but less than 5; (2) Cost or basis, $50.57; (3) Applicable percentage, 33⅓; (4) Qualified investment, $16.86.

Line (b); (1) Life years, 5 or more but less than 7; (2) Cost or basis, $97.50; (3) Applicable percentage, 66⅔; (4) Qualified investment, $64.99.

Line (c); (1) Life years, 7 or more; (2) Cost or basis, $3,139.11; (3) Applicable percentage, 100; (4) Qualified investment, $3,139.11.

USED PROPERTY

Line (d); (1) Life years, 3 or more but less than 5; (2) Cost or basis, $530.14; (3) Applicable percentage, 33⅓; (4) Qualified investment, $176.71.

Line (e); (1) Life years, 5 or more but less than 7; (2) Cost or basis; $224.25; (3) Applicable percentage, 66⅔; (4) Qualified investment, $149.50.

Line (f); (1) Life years, 7 or more; (2) Cost or basis, $403.00; (3) Applicable percentage, 100; (4) Qualified investment, $403.00.

2. Total qualified investment, $3,950.17.

3. Tentative investment credit, $276.51.

5. Total, $276.51.

LIMITATION

6. (a) Individuals, $7,581.24.

9. Line 6 less line 8, $7,581.24.

10. (a) Enter amount on line 9 or $25,000, whichever is lesser, $7,581.24.

11. Total, $7,581.24.

12. Investment credit, $276.51.

Heart-L-Ranch Company, Star Route, new, $50.57; used, $530.14; life years 3–5.

81–0306068, Twin Bridges, Mont. 59754, new, $97.50; used, $224.25; life years, 5–7.

Total, new, $3,139.11; used, $403.00; life years, 7-more.

MARYLAND TAX RETURN, 1973

First name and initial: Maurice R. Gravel, Rita Gravel.

Present Address: U.S. Senate, Washington, D.C.

Your [redacted]

Spouse's [redacted]

[redacted]

County: Prince George's.

City, Town, or Taxing Area: Tantallon.

Your occupation, present employer and address, U.S. Senator, U.S. Senate, Washington, D.C..

A. Your filing status: Married filing joint return or spouse had no income.

1. Did you establish or abandon legal residence in Maryland in 1973? No.

First names of dependent children: Martin Lynn.

1. Total Income, $52,389.

2. Additions, $834.

3. Total, $53,223.

4. Subtractions, $8,448.

5. Total Maryland Income, $44,775.

6. Exemptions—Enter total exemptions as itemized above, 4.

8. If you Elect to Use the Standard Deduction, Check here and Enter 10% of Line 5 not to exceed $500, $12,675.

9. Net Income, $32,100.

10. Number of Exemptions X $800, $3,200.

11. Taxable Net Income, $28,900.

12. Maryland Tax, $1,385.

13. Local Income Tax, $693.

14. Total Maryland and Local Income Tax, $2,078.

17. Credit for Income Tax Paid another State, $2,005.

$2,005.

19. Total Payments and Credits, $2,005.

20. Balance Due, $73.

SCHEDULE A—INCOME AND ADJUSTMENTS FROM FEDERAL RETURN

1. Wages, salaries, tips, etc., $42,500.

3. Interest, $138.

4. Business income, $11,262.

5. Sale or exchange of property, $7,448.

6. Pensions and annuities, rents and royalties, partnerships, estates or trusts, etc., $(3,988).

9. Total, $57,360.

10. Adjustments, $4,971.

11. Total income, $52,389.

SCHEDULE B—ITEMIZED DEDUCTIONS FROM FEDERAL RETURN WITH ADJUSTMENTS

1. Medical and dental expense, $79.

2. Taxes, $3,605.

3. Interest, $11,511.

4. Contributions, $80.

7. Total, $15,275.

8. Subtract State and local income taxes included on line 2, $2,600.

9. Total, $12,675.

11. Total Maryland deductions, $12,675.

MODIFICATIONS TO FEDERAL ADJUSTED GROSS INCOME

4. Current year distributions of subchapters prior year earnings 1973 losses, $834.

6. Total, $834.

SCHEDULE D—SUBTRACTIONS

4. Other (Specify) L. T. Cap. Gain Sale of Alaska Corp. Cap. Stock & Adjustment, $8,448.

5. Total, $8,448.

PENSION EXCLUSION COMPUTATION

2. Tentative exclusion, $2,100.00.

TAX CREDITS FOR INCOME TAXES PAID TO OTHER STATES AND MARYLAND PERSONAL PROPERTY TAXES, 1973

1. Taxable net income, $28,900.

2. Income taxable in other State, $36,127.

3. Revised taxable net income, ($7,227).

4. Tax on amount on line 3, 0.

CREDIT COMPUTATION

5. Maryland tax, $2,078.

6. Tentative tax credit, $2,078.

7. Tax paid to State of Alaska, $2,005.

8. Credit for income tax paid to other State, $2,005.

RESIDENT, ALASKA INDIVIDUAL INCOME TAX RETURN, 1973

First name and initial: Maurice R. & Rita Gravel.

Mailing address: U.S. Senate.

City, town or post office, state and ZIP code: Washington, D.C. 20510.

Your [redacted]

Spouse's Social Security Number: [redacted] [redacted]

Occupation: Yours, U.S. Senator, Spouse's Homemaker.

Was an Alaska return filed for 1972? Yes.

Is spouse member of Armed Forces? No.

FILING STATUS

2. Married filing joint return (even if only one had income).

EXEMPTIONS

6. Yourself.

7. Spouse.

8. First names of your dependent children who lived with you: Martin, Lynn.

11. Wages, salaries, C.O.L.A., tips, etc., $42,500.

13. Interest income, $138.

14. Income other than wages, dividends, and interest, $3,460.

15. Total, $46,098.

16. Adjustments to income, $4,971.

17. Adjusted gross income, $41,127.

18. Tax, $12,467.

20. Income tax, $12,467.

22. Total, $12,467.

23. Enter Alaska Income Tax, $1,995.

24. Enter your school tax, $10.

Total tax, $2,005.

30. If payments (line 29) are less than tax (line 25) enter balance due, $2,005.

Do you owe any Alaska tax for years before 1973? No.

ALASKA TAX RATE SCHEDULES

Maurice R. & Rita Gravel, [redacted], [redacted]

U.S. Senate, Washington, D.C. 20510.

1. Enter your taxable income from DR 600 line 55, or from DR 600NR line 17f. 36,127.

3. Base amont of tax, $12,400.

4. Percent of excess amount:

a. Amont from line 1 above, $36,127.

b. Amount from column, $36,000.

c. Excess: 127. x 53% = 67.

5. Add lines 3 and 4. Enter the total, $12,467.

CLARK SHERWOOD & CO.,
TAX CONSULTANTS,
Wheaton, Md., February 4, 1974.

DEPARTMENT OF REVENUE,
Alaska Office Building, Pouch SA,
Juneau, Alaska.

Reference: Mike Gravel Real Estate Development, Inc., Box 2283, Anchorage, Alaska.

GENTLEMEN: Please accept the enclosed copy of Federal Small Business Corporation Income Tax Return, for Fiscal Year ending 9/30/73 in lieu of Alaska Form DR700, by the above referenced Corporation.

Yours very truly,
CLARK SHERWOOD & CO.,
(Mrs.) D. J. DUNNINGTON,
Accountant and Auditor.

U.S. SMALL BUSINESS CORPORATION INCOME TAX RETURN, 1972

Name, Mike Gravel Real Estate Development Inc., 406 G Street, Box 2283, Anchorage, Alaska.

County in which located, Greater Anchorage.

Enter total assets from line 14, column D, Schedule L, $30,226.82.

1. Gross receipts or gross sales, none.

11. Total income, lines 3 through 10, none.

DEDUCTIONS

21. Depreciation, $16.69.

26. Other deductions, bank charges, $10.80.

27. Total deductions, $27.49.

28. Taxable income, ($27.49).

TAX

31. Total tax, none.

33. Tax due, none.

34. Overpayment, none.

SCHEDULE G—DEPRECIATION

4. Machinery and other equipment, date acquired, 3/67; cost or other basis, $324.45; depreciation allowed or allowable in prior years, $157.55; method of computing depreciation, DB; life or rate, 10; depreciation for this year, $16.69.

5. Totals, $16.69.

6. Less amount of depreciation claimed in schedule A, 0.

7. Balance, $16.69.

SCHEDULE H—SUMMARY OF DEPRECIATION

3. Other, declining balance, $16.69; total, $16.69.

SCHEDULE J—TAX COMPUTATION

2. (b) Subtract $6,500 and enter difference, $6,500.00.

4. Subtract $25,000, statutory minimum, $25,000.00.

SCHEDULE K—COMPUTATION OF UNDISTRIBUTED TAXABLE INCOME AND SUMMARY OF TOTAL DISTRIBUTIONS

1. Taxable income, ($27.49).

3. Corporation's undistributed taxable income, ($27.49).

SUMMARY OF DISTRIBUTIONS AND OTHER ITEMS

Name and address of each shareholder, number of shares, period held, compensation

A. Maurice R. Gravel, 4,000; 9/19/66, present; None.

B. Rita J. Gravel, 6,000; 9/19/66, present; none.

8. Undistributed taxable income—taxable as ordinary income or (loss), ($27.49).

SCHEDULE K–1

F. Date incorporated, 9/19/66.

G. Did the corporation at the end of the taxable year own, directly or indirectly, 50 percent or more of the voting stock of a domestic corporation? No.

H. Did the corporation during the taxable year have any contracts or subcontracts subject to the Renegotiation Act of 1951? No.

I. Amount of taxable income or (loss) for: 1969 ($2,412.00); 1970, ($110.41); 1971, ($431.91).

J. Refer to page 7 of instructions and state the principal: business activity, Real Estate; product of service, Consulting & Developing.

K. Were you a member of a controlled group subject to the provisions of sections 1561 or 1562? No.

L. Did you claim a deduction for expenses connected with any:

(1) Entertainment facility (boat, resort, ranch, etc.)? No.

(2) Living accommodations (except employees on business)? No.

(3) Employees' families at conventions or meetings? No.

(4) Employee or family vacations not reported on Form W–2? No.

N. Did the corporation, at any time during the taxable year, have any interest in or signature or other authority over a bank, securities, or other financial account in a foreign country? No.

SCHEDULE L—BALANCE SHEETS

Assets, beginning of taxable year, end of taxable year

1. Cash, total, $188.33, $177.53.

6. Loans to shareholders, total, $29,899.08, $29,899.08.

9. Buildings and other fixed depreciable assets, amount, $324.45, $324.45.

(a) Less accumulated depreciation, amount, $157.55; total, $166.08; amount $174.24; total, $150.21.

14. Total assets, $30,254.31, $30,226.82.

Liabilities and shareholders' equity

15. Accounts payable, total, $28,419.31, $28,419.85.

22. Paid-in or capital surplus, total, $1,834.46, $1,806.97.

27. Total liabilities and shareholders' equity, $30,254.31, $30,226.82.

SCHEDULE M–1

1. Net income per books, ($27.49).

6. Total of lines 1 through 5, ($27.49).

SCHEDULE M–2

1. Balance at beginning of year, 0.

2. Net income per books, ($27.49).

4. Total of lines 1, 2, and 3, ($27.49).

SHAREHOLDERS SHARE OF UNDISTRIBUTED TAXABLE INCOME, ITEM OF TAX PREFERENCE, AND INTEREST ON INVESTMENT INDEBTEDNESS—1972

For the calendar year 1972, or other taxable year beginning 10/1, 1972, ending 9/30, 1973.

Income, $11.00.

Shareholder's name, identifying number, and address: Maurice R. Gravel [redacted], Corporation's name, identifying number, and address: Mike Gravel Real Estate Development, Inc., 406 G Street, Box 2283, Anchorage, Alaska 99501, 92–0033655.

For the calendar year 1972, or other taxable year beginning 10/1, 1972, ending 9/30, 1973.

Income, $16.49.

Shareholder's name, identifying number, and address: Rita J. Gravel, [redacted]

Corporation's name, identifying number, and address: Mike Gravel Real Estate Development, Inc., 406 G Street, Box 2282, Anchorage, Alaska 99501, 92–0033655.

CONFIDENTIAL STATEMENT OF FINANCIAL INTERESTS

(In compliance with Senate rule 44)

(For Use by Senators, Candidates for Senator, and Officers or Employees Whose Salary is Paid by the U.S. Senate at a Rate in Excess of $15,000 a Year.)

Name: Gravel, Mike R.

Calendar year of information: 1969.

Address: Suite 1251, New Senate Office Bldg.

3. BUSINESS CONNECTIONS

List all business or professional corporations, companies, firms or other enterprises, partnerships and organizations with which you were connected as an officer, director, partner, proprietor, or employee, and from which you received compensation during the preceding calendar year. If none, write None.

Name of organization: Mike Gravel Real Estate Development, Inc.

Address of organization: Box 2283, Anchorage, Alaska 99501.

Your capacity: President and principal stockholder.

Amount of compensation: None.

4. INTERESTS IN PROPERTY

List each interest having a value of $10,000 or more which you held in real or personal property at any time during the preceding calendar year. Do not list beneficial interests in trusts or other fiduciary relations. If none, write None.

Nature of interest, type of property, and location

Owner, Alaskan Residence, 468 Aurora Drive, Anchorage, Alaska 99503. (sold January 1969).

Owner, Residential lots, Tantallon, Md.

Mike Gravel Real Estate Development, Inc., equity interest in family corporation, Anchorage, Alaska.

6. LIABILITIES

List each liability, including debts, loans, or other obligations, of $5,000 or more owed by you, or by you and your spouse jointly, at any time during the preceding calendar year. List each liability you share with another person, including comakers, endorsers, or sureties, if your share amounted to $5,000 or more. If none, write None.

Name of creditor, address of creditor, and type of liability

Prestwick, Tantallon, Md., unpaid seller's mortgage.

J. B. Gottstein, Anchorage, Alaska, personal promissory note.

American Security Bank & Trust Co., Washington, D.C., promissory note.

Tessie Zimmerman, Washington, D.C., promissory note.

1969 STATEMENT OF CONTRIBUTIONS AND HONORARIUMS

(In compliance with Senate rules 42 and 44)

(For Use by Senators, Candidates for Senator, and Officers or Employees Whose Salary is Paid by the U.S. Senate at a Rate in Excess of $15,000 a Year.)

Name: Gravel, Mike.

Calendar year of information: 1969.

Senate office or committee: United States Senator.

1. RECEIPT OF CONTRIBUTIONS

(For Use by Senators and Candidates for Senator)

List all contributions received by you during the preceding calendar year. Contributions in the aggregate amount or value of less than $50 received from any single source during the preceding calendar year may be totaled without further itemization. A contribution from a political party may be listed as a single contribution from the party. If none, write None.

Date, name of contributor, address of contributor, and amount or value

3-8-69, Stanley M. Reitman, 360 "K" Street, Anchorage, Alaska, $500.00.

5-19-69, L. E. Fitzjarrald, 2026 Dewey Ave., Bartlesville, Okla., $400.00.

9-16-69, Larry Carr, 840-10th Anchorage, Alaska, $1,500.00.

2. DISPOSITION OF CONTRIBUTIONS

(For Use by Senators and Candidates for Senator)

List all dispositions made by you during the preceding calendar year of contributions received by you and subject to Senate Rule 42. If none, write None.

Date, name of payee, address of payee, purpose, and amount

5-19-69, Senate Recording Studio, U.S. Senate, Communications, $127.85.

5-19-69, Mac Foto Service, 217 E. 4th Anchorage, Alaska, Communications, $40.50.

8-10-69, Senate Recording Studio, U.S. Senate, Communications, $289.50.

11-7-69, Senate Recording Studio, U.S. Senate, Communications, $59.45.

11-5-69, Kier Photos, 1627 E. 40th St., Ceveland, Ohio, Communications, $60.35.

———, Riggs National Bank, Washington, D.C., check printing, $9.22.

3-24-69, Jessen's Daily, Fairbanks, Alaska, Subscriptions, $32.70.

3-24-69, Ketchikan Daily News, Ketchikan, Alaska, Subscriptions, $24.00.

3-24-69, The Alaska Empire, Juneau, Alaska, Subscriptions, $32.00.

3-24-69, Petersburg Press, Petersburg, Alaska, Subscriptions, $6.00.

5-19-69, Anchorage Daily Times, Anchorage, Alaska, Subscriptions, $46.20.

5-19-69, Salt Lake Tribune, Salt Lake City, Utah, Subscriptions, $2.50.

8-10-69, Wrangell Sentinel, Wrangell, Alaska, Subscriptions, $6.00.

8-10-69, Sitka Daily Sentinel, Sitka, Alaska, Subscriptions, $30.00.

8-10-69, Pet. Press Service, Anchorage, Alaska, Subscriptions, $15.50.

8-10-69, Miner Pub. Company, Fairbanks, Ak., Subscriptions, $2.65.

8-10-69, Kodiak Daily Mirror, Kodiak, Ak., Subscriptions, $36.00.

8-10-69, Cheechaka News, Cheechaka, Ak., Subscriptions, $15.00.

12-17-69, Anchorage Daily Times, Anchorage, Ak., Subscriptions, $130.00.

11-7-69, Western Union, Washington, D.C., Telegrams, $17.45.

3-24-69, Northwest Airlines, Washington, D.C., Travel to State, $400.00.

6-27-69, L. E. Fitzjarrald, Bartlesville, Okla., Travel, $20.00.

8-10-69, Sherwood Inn, Travel to State, $9.56.

8-10-69, Travelers Inn, Fairbanks, Ak., Travel to State, $17.85.

10-2-69, Cash- Senator Mike Gravel, U.S. Senate, Travel expenses in Alaska, $100.00.

11-7-69, Hotel Mary Frances, Ketchikan, Ak., Travel to State, $17.83.

11-7-69, Hilton Inn, Seattle, Wash., Travel to State, $18.15.

12-5-69, Alaska Airline, Seatac Airport, Seattle, Wash., Travel to State, $56.70.

12-5-69, Baronoff Hotel, Juneau, Ak., Travel to State, $37.08.

12-5-69, Hilton Inn, Seattle Wash., Travel to State, $18.15.

12-5-69, Mary Frances Hotel, Ketchikan, Ak., Travel to, State, $17.83.

3. HONORARIUMS

List each honorarium of $300 or more received by you during the preceding calendar year. Do not list reimbursements to expenses. If none, write None.

Date, payer, description of service, and amount or value

9-12-69, Federal Paper Board Company, Speech Executive Conference, $1,000.00.

12-5-69, State of California, University Speech, $500.00.

11-7-69, Educom, Speech, $500.00.

12-8-69, California Teachers Association, Speech, $1,000.00.

7-24-69, 1969 Democratic Convention—Alaska, Speech, $500.00.

11-8-69, Springfield Adult Edu. Association, Speech, $750.00.

1970 Confidential Statement of Financial Interests

(In compliance with Senate rule 44)

(For Use by Senators, Candidates for Senator, and Officers or Employees Whose Salary is Paid by the U.S. Senate at a Rate in Excess of $15,000 a Year.)

Name: Gravel, Mike R.

Calendar year of information: 1970.

Address: Suite 1251, New Senate Office Building.

3. BUSINESS CONNECTIONS

List all business or professional corporations, companies, firms or other enterprises, partnerships and organizations with which you were connected as an officer, director, partner, proprietor, or employee, and from which you received compensation during the preceding calendar year. If none, white None.

Name of organization: Mike Gravel Real Estate Development, Inc.

Address of organization: Box 2283, Anchorage, Alaska 99501.

Your capacity: President & Principal Stockholder.

Amount of compensation: None.

4. INTERESTS IN PROPERTY

List each interest having a value of $10,000 or more which you held in real or personal property at any time during the preceding calendar year. Do not list beneficial interests in trusts or other fiduciary relations. If none, write None.

Nature of interest, type of property, and location

Owner, Residential lots, Tantallon, Maryland.

Owner, Stock Shares, Heart L Ranch Company.

Corporate Officer and Stockholder, Equity Interest in Family Corporation, Mike Gravel Real Estate, Development, Inc., Anchorage, Alaska

6. LIABILITIES

List each liabiilty, including debts, loans, or other obligations, of $5,000 or more owed by you, or by you and your spouse jointly, at any time during the preceding calendar year. List each liability you shared with another person, including comakers, endorsers, or sureties, if your share amounted to $5,000 or more. If none, write none.

Name or creditor, address of creditor, and type of liability

Prestwick Corporation and W. Heinke, Tantallon, Maryland, unpaid mortgage.

S. Reitman and B. Gottstein, Anchorage, Alaska, personal promissory notes.

American Security and Trust Co., Washington, D.C., promissory note.

Virginia National Bank, Arlington, Virginia, promissory note.

Security Bank, National Association, Washington, D.C., promissory note.

1970 Statement of Contributions and Honorariums

(In compliance with Senate rules 42 and 44)

(For Use by Senators, Candidates for Senator, and Officers or Employees Whose Salary is Paid by the U.S. Senate at a Rate in Excess of $15,000 a Year.)

Name: Gravel, Mike.

Calendar year of information: 1970.

Senate office or committee: Suite 1251, New Senate Office Building.

1. RECEIPT OF CONTRIBUTIONS

(For Use by Senators and Candidates for Senator)

List all contributions received by you during the preceding calendar year. Contributions in the aggregate amount or value of less than $50 received from any single source during the preceding calendar year may be totaled without further itemization. A contribution from a political party may be listed as a single contribution from the party. If none, write None.

Date: 8/7/70.

Name of contributor: Alaskans for Gravel.

Address of contributor: P.O. Box 2443, Anchorage.

Amount or value: $1,500.00.

2. DISPOSITION OF CONTRIBUTIONS

(For Use by Senators and Candidates for Senator)

List all dispositions made by you during the preceding calendar year of contributions received by you and subject to Senate Rule 42. If none, write None.

Date, name of payee, address of payee, purpose, and amount

I. Communications:

1-18-70, Sen. Recording Studio, Washington, D.C., radio and T.V. tapes, $71.97.

7-3-70, Emery Air Freight, Washington, D.C., $12.70.

7-3-70, Fidelity Sound, Washington, D.C., equipment loan, $30.00.

7-3-70, Democratic Sen. Campaign Comm., Washington, D.C., photographs, $6.15.

7-3-70, Democratic Sen. Campaign Comm., Washington, D.C., photographs, $5.85.

II. Subscriptions:

1-17-70, Washington Press, Washington, D.C., newsletter, $22.15.

7-3-70, Jefferson Press, Washington, D.C., newsletter, $34.00.

10-7-70, "Committee of 1001", Alaska, contribution, $20.00.

10-13-70, Dianna Waddell, Anchorage, member of Anchorage staff, $3.00.

10-13-70, R. L. Polk and Co., Washington, D.C., City Directories, $131.70.

10-13-70, Anchorage Time, Anchorage, subscription, $46.20.

10-13-70, Tundra Times, Fairbanks, Ak., subscription, $19.00.

III. Telephone and telegraph:

12-19-70, City of Anchorage, Anchorage, tele. & teleg., $100.00.

IV. Travel:

1-18-70, Fairmont Hotel, San Francisco, trip expense, $707.56.

1-18-70, Anchorage Westward, Anchorage, trip expense, $3.40.

7-3-70, Anchorage Westward, Anchorage, trip expenses, $16.15.

7-3-70, Frontier Hotel, Fairbanks, trip expenses, $23.32.

7-3-70, Martin Wolf, Washington, trip reimbursement, $95.40.

7-3-70, St. Francis Hotel, San Francisco, trip expenses, $358.47.

7-3-70, Travelers Inn, Fairbanks, trip expenses, $16.13.

7-3-70, Washington Plaza, Seattle, trip expenses, $41.19.

10-13-70, Anchorage Westward, Anchorage, trip expenses, $190.41.

10-13-70, Baranof Hotel, Juneau, trip expenses, $113.87.

10-13-70, Fairbanks Inn, Fairbanks, trip expenses, $22.05.

10-13-70, Potlatch House, Sitka, trip expenses, $20.80.

10-13-70, Tides Inn, Petersburg, trip expenses, $15.88.

11-25-70, Dr. Douglas Jones, Washington, DC, travel expenses, $198.00.

12-19-70, Potlatch House, Sitka, trip expenses, $18.72.

V. Miscellaneous:

10-13-70, Litho Lab, Washington, newsletter, $337.70.

11-27-70, Berniece Oertel, Washington, reception cost, $40.00.

12-12-70, Annette Lantos, Washington, reception cost, $6.50.

11-17-70, Larimers, Inc., Washington, reception cost, $77.19.

11-17-70, Larimers, Inc., Washington, reception cost, $77.17.

3. HONORARIUMS

List each honorarium of $300 or more received by you during the preceding calendar year. Do not list reimbursements of expenses. If none, write none.

Date, payer, description of service and amount or value

4-6-70, American International College, Speech, $500.00.

5-17-70, John Hopkins University, Speech, $500.00.

5-15-70, KPOL, Los Angeles, Speaking Engagement, $1,000.00.

5-1-70, Southeastern Massachusetts University, Speech, $700.00.

11-9-70, Asso. of American State Highway Officials, Speaker & Panelist, $870.00.

1971 Confidential Statement of Financial Interests

(In compliance with Senate rule 44)

(For Use by Senators, Candidates for Senator, and Officers or Employees Whose Salary is Paid by the U.S. Senate at a Rate in Excess of $15,000 a Year.)

Name: Gravel, Mike R.

Calendar year of information: 1971.

Address: Suite No. 1251, New Senate Office Building, Washington, D.C. 20510.

3. BUSINESS CONNECTIONS

List all business or professional corporations, companies, firms or other enterprises, partnerships and organizations with which you were connected as an officer, director, partner, proprietor, or employee, and from which you received compensation during the preceding calendar year. If none, write None.

Name of organization: Mike Gravel Real Estate Development, Inc.

Address of organization: Box 2283, Anchorage, Alaska 99501.

Your capacity: President & Princ. Stockholder.

Amount of compensation: None.

4. INTERESTS IN PROPERTY

List each interest having a value of $10,000 or more which you held in real or personal property at any time during the preceding calendar year. Do not list beneficial interests in trusts or other fiduciary relations. If none, write None.

Nature of interest, type of property, and location

Owner, Residential Lots, Tantallon, Maryland.

Owner, Stock Shares, Heart L Ranch Company.

Corporate Officer and Stockholder, Equity Interest in Family Corporation, Mike Gravel Real Estate Development, Inc., Anchorage, Alaska 99501.

6. LIABILITIES

List each liability, including debts, loans, or other obligations, of $5,000 or more owed by you, or by you and your spouse jointly, at any time during the preceding calendar year. List each liability you shared with another person, including comakers, or sureties, if your share amounted to $5,000 or more. If none, write None.

Names of creditor, address of creditor, and type of liability

Prestwick Corporation and W. Henke, Tantallon, Maryland, Unpaid Mortgage.

S. Reitman and B. Gottstein, Anchorage Alaska, Personal Promissory Notes.

1971 Statement of Contributions and Honorariums

(In Compliance with Senate rules 42 and 44)

(For Use by Senators, Candidates for Senator, and Officers or Employees Whose Salary is Paid by the U.S. Senate at a Rate in Excess of $15,000 a Year.)

Name: Gravel, Mike.

Calendar year of information: 1971.

Senate office or committee: United States Senator.

1. RECEIPT OF CONTRIBUTIONS

(For Use by Senators and Candidates for Senator)

List all contributions received by you during the preceding calendar year. Contributions in the aggregate amount or value of less than $50 received from any single source during the preceding calendar year may be totaled without further itemization. A contribution from a political party may be listed as a single contribution from the party. If none, write None.

Date, name of contributor, address of contributor, and amount or value

2-3-71, Alaskans for Gravel, Anchorage, Alaska, $1,000.00.

4-19-71, Alaskans for Gravel, Anchorage, Alaska, $1,200.00.

11-15-71, Alaskans for Gravel, Anchorage, Alaska, $2,500.00.

2. DISPOSITION OF CONTRIBUTIONS

(For use by Senators and Candidates for Senator)

List all dispositions made by you during the preceding calendar year of contributions received by you and subject to Senate Rule 42. If none, write none.

Date, name of payee, address of payee, purpose, and amount

1-23-71, Alaska State Society, Washington, D.C., dues, $5.00.

2-3-71, Demo. Natl. Comm., Washington, D.C., dues, $25.00.

3-19-71, Alaska State Society, Washington, D.C., annual state society dinner, $20.00.

2-3-71, Demo. Senatorial Comm., Washington, D.C., communications, $22.65.

2-3-71, Kier Photo Serv., Cleveland, Ohio, communications, $34.46.

2-3-71, Senate Recording Studio, Washington, D.C., communications, $248.75.

2-3-71, Loomis Ans. Serv., Anchorage, Alaska, communications, $97.50.

5-17-71, Senate Recording Studio, Washington, D.C., communications, $427.50.

5-17-71, Demo. Senatorial Comm., Washington, D.C., communications, $21.75.

5-17-71, Kier Photo Serv., Cleveland, Ohio, communications, $33.75.

8-6-71, Senate Recording Studio, Washington, D.C., communications, $37.00.

8-6-71, Democratic Senatorial Comm., Washington, D.C., communications, $22.00.

8-6-71, NOE Photographers, Washington, D.C., communications, $38.85.

11-23-71, Democratic Senatorial Comm., Washington, D.C., communications, $15.25.

11-23-71, Kier Photo Serv., Cleveland, Ohio, communications, $77.97.

11-23-71, Senate Recording Studio, Washington, D.C., Communications, $120.80.

12-14-71, Dev O'Neill, Washington, D.C., Communications, $75.00.

11-23-71, Polar Reproduction, Anchorage, Alaska, Printing, $37.05.

2-3-71, Pacesetters International, Anchorage, Alaska, Printing, $88.75.

2-3-71, Fairbanks Daily, Fairbanks, Alaska, Subscription, $35.00.

2-3-71, Sitka Daily Sentinel, Sitka, Alaska, Subscription, $30.00.

5-17-71, Petroleum Press, London, England, Subscription, $20.00.

5-17-71, Anchorage Daily Times, Anchorage, Alaska, Subscription, $20.00.

8-6-71, Ann's Newsstand, Washington, D.C., Subscription, $23.90.

Anchorage Daily Times, Anchorage, Alaska, Subscription, $20.00.

11-23-71, Anchorage Daily, Anchorage, Alaska, Year's Subscription, $91.50.

11-23-71, Island Times, Kodiak, Alaska, Subscription, $15.00.

11-23-71, Petersburg Press, Petersburg, Alaska, Subscription, $20.00.

11-23-71, Sitka Daily Sentinel, Sitka, Alaska, Subscription, $30.00.

11-23-71, Washington Post Inc., Washington, D.C., Printing, $5.20.

2-3-71, Anchorage Westward Htl., Anchorage, Alaska, Travel to State, $115.65.

2-3-71, Baranof Hotel, Juneau, Alaska, Travel to State, $7.37.

2-11-71, American Airlines, Hyde Park, New York, Travel to State, $1,028.01.

2-11-71, Hotel Belair, Los Angeles, California, Travel, $151.93.

2-11-71, Century Plaza, Los Angeles, California, Travel, $117.48.

2-11-71, United Airlines, New York, N.Y., Travel , $309.50.

3-2-71, Newporter Inn., Newport Beach, California, Travel, $181.90

5-17-71, Anchorage Westward Htl., Anchorage, Alaska, Travel to State, $172.75.

5-17-71, Baranof Hotel, Juneau, Alaska, Travel to State, $3.33.

5-17-71, Fairbanks Inn, Fairbanks, Alaska, Travel to State, $23.63.

5-17-71, Hilton, Inn., Seattle, Wash., Travel to State, $17.35.

5-18-71, Fireside Lounge, Ketchikan, Alaska., Travel to State, $61.00.

7-27-71, Alaska Airlines, Anchorage, Alaska, Travel to State, $869.97.

11-23-71, Anchorage Westward Htl., Anchorage, Alaska, Travel to State, $137.78.

11-23-71, The Baranof Hotel, Juneau, Alaska, Travel to State, $78.71.

11-23-71, Golden Nugget, Fairbanks, Alaska, Travel to State, $256.15.

1-23-71, House of Representatives Restaurant, Washington, D.C., Constituent meetings, $299.50.

2-3-71, Congressional Liquors, Washington, D.C., Constituent meetings, $62.98.

2-3-71, K. Ferguson (reimbursement), Washington, D.C., Constituent meetings, $23.65.

5-7-71, Anchorage Flower Shop, Anchorage, Alaska, Constituent, $20.00.

3. HONORARIUMS

List each honorarium of $300 or more received by you during the preceding calendar year. Do not list reimbursements of expenses. If none, write none.

Date, payer, description of service, and amount or value

1-6-71, Union Trades Council (AFL/CIO), Speech, $1,000.00.

2-1-71, University of California at Los Angeles, Speech, $500.00.

2-27-71, National Society of Engineers, Speech, $750.00.

4-1-71, United Jewish Appeal of Greater Washington, Speech, $500.00.

4-12-71, Student Body Chandler School, Boston, Mass., Speech, $1,000.00.

4-12-71, State of Nebraska, Speech, $750.00.

5-11-71, University of Illinois, Speech, $750.00.

5-12-71, National Fisheries Institute, Speech, $1,000.00.

5-12-71, Allied Education Fund, Speech, $1,500.00.

6-1-71, Western New England College, Speech, $1,000.00.

6-7-71, National Committee for Labor Israel, Inc., Speech, $500.00.

6-7-71, College of Our Lady of the Elms, Speech, $1,000.00.

6-10-71, Unitarian Universalist Association, Speech, $500.00.

7-26-71, Wisconsin State Univ., Speech, $500.00.

8-6-71, University of So. Florida, Speech, $1,050.00.

10-14-71, Democratic Women of Bexar County, Texas, Speech, $450.00.

10-18-71, Louisiana Tech, Speech, $900.00.

11-2-71, United Jewish Appeal, Speech, $1,000.00.

11-11-71, Racz Research Group, Speech, $300.00.

11-11-71, American Jewish Committee, Speech, $500.00.

11-15-71, Cercle DesDames Francaises, Speech, $300.00.

11-15-71, Providence College, Speech, $300.00.

11-19-71, Worchester Academy, Speech, $950.00.

11-19-71, Paperboard Packaging Council, Speech, $1,500.00.

11-22-71, Princeton University, Speech, $1,000.00.

12-3-71, Democratic Executive Committee, Speech, $900.00.

12-14-71, New Jersey SANE, Montclair, New Jersey, Speech, $400.00.

1972 Confidential Statement of Financial Interests

(In compliance with Senate rule 44)

(For Use by Senators, Candidates for Senator, and Officers or Employees Whose Salary is Paid by the U.S. Senate at a Rate in Excess of $15,000 a Year.)

Name: Gravel, Mike R.

Calendar year of information: 1972.

Senate office or committee: Alaska.

Address: Suite 1251, New Senate Office Bldg., Washington, D.C. 20510.

3. BUSINESS CONNECTIONS

List all business or professional corporations, companies, firms or other enterprises, partnerships and organizations with which you were connected as an officer, director, partner, proprietor, or employee, and from which you received compensation during the preceding calendar year. If none, write None.

Name of organization: Mike Gravel Real Estate Development, Inc.

Address of organization: Box 2283, Anchorage, Alaska 99501.

Your capacity: Pres. & Princ. Stockholder.

Amount of compensation: None.

4. INTERESTS IN PROPERTY

List each interest having a value of $10,000 or more which you held in real or personal property at any time during the preceding calendar year. Do not list beneficial interests in trusts or other fiduciary relations. If none, write None.

Nature of interest, type of property, and location

Owner, Residential Lots, Tantallon, Maryland.

Owner, Stock Shares, Heart L Ranch Company.

Stockholder, Equity Interest in Family Corporation, Mike Gravel Real Estate Development, Inc., Anchorage, Alaska.

Owner, Condominium Apartment, Anchorage, Alaska.

6. LIABILITIES

List each liability, including debts, loans, or other obligations, of $5,000 or more owed by you, or by you and your spouse jointly, at any time during the preceding calendar year. List each liability you shared with another person, including comakers, endorsers, or sureties, if your share amounted to $5,000 or more. If none, write None.

Name of creditor, address of creditor, and type of liability.

United Bank & Trust Company, Oxon Hill, Md., Trusts on Residential Lots.

S. Reitman & B. Gottstein, Anchorage, Alaska, Personal Promissory Notes.

American Security & Tr. Co., Washington, D.C.

National Commercial Bank & Washington Trust Co., N.Y.C., N.Y., Personal Loans.

Alaska Mutual Savings Bank, Anchorage, Alaska, Mortgage on Condominium Apartment.

1972 Statement of Contributions and Honorariums

(In compliance with Senate rules 42 and 44)

(For Use by Senators, Candidates for Senator, and Officers or Employees Whose Salary is Paid by the U.S. Senate at a Rate in Excess of $15,000 a Year.)

Name: Gravel, Mike R.

Senate office or committee: Alaska.

Calendar year of informaton: 1972.

3. HONORARIUMS

List each honorarium of $300 or more received by you during the preceding calendar year. Do not list reimbursements of expenses. If none, write None.

Date: 1-1-72 thru 12-31-72.

Payer: Schedule Attached.

Description of service: Speeches.

Amount or value: $23,861.12.

Senator Mike Gravel, Schedule of Honorariums Received During Year of 1972

Place, organization, amount, and date

Phila. speech, Development Corp. for Israel, $750.00, 12-4-71.

Phila. speech, Development Corp. for Israel, $750.00, 1-23-72.

Essex Co. speech* N. J. Development Corp. for Israel, $750.00, 4-13-72.

Los Angeles, speech, National Committee for Labor, Israel, Inc., $1,000.00, 11-28-71.

Montreal speech, Gordon Securities, Ltd., $500.00, 1-10-72.

Raleigh speech, North Carolina Univ., $750.00, 2-10-72.

New York City, Calvin Bulloch, Ltd., $250.00, 2-7-72.

Atlantic City, N.J. Assoc. for Children with Learning Disabilities, $1,000.00, 2-3-72.

Wash., D.C., Jacobi Society of Washington, $500.00, 2-17-72.

Spokane, Wash., Harry Walker Inc.—Gonzaga U., $700.00, 1-28-72.

Toronto Hadassah Wizo Org. of Canada, $1,000.00, 1-9-72.

Westchester, N.Y., Center for Constitutional Rights, $1,200.00, 3-5-72.

Albany, N.Y., Amer. Program Bureau—Sienna College, $1,000.00, 3-4-72.

Trenton, N.J., Rider College, $500.00, 4-13-72.

Denver, Colo., First Unitarian Society of Denver, $175.00, 3-18-72.

New York City, Philips, Appel & Walden, $500.00, 4-11-73.

Vancouver, B.C., United Jewish Appeal, $1,275,00, 4-10-72.

Wash., D.C., Institute Investors Systems, $500.00, 5-2-72.

Boston, Chandler School Corp., $1,400.00, 5-14-72.

Geneva, N.Y., Hobart College, $1,000.00, 5-18-72.

Geneva, N.Y., William Smith College, $500.00, 5-18-72.

Houston, Texas, Humble Oil Company, $2,500.00, 6-6-72.

New York City, Yeshiva University, $500.00, 6-7-72.

New York City, United Church of Christ, $75.00, 5-72.

Springfield, Mass., Assumption College, $200.00, 9-30-72.

Chicago, Third Unitarian Church, $400.00, 10-1-72.

Santa Clara, Calif., Santa Clara Valley Democratic Coalition, $400.00, 9-15-72.

Plattsburg, N.Y., Program Corp of America—State Univ. at Plattsburg, $1,000.00, 9-22-72.

Garden City, N.Y., Program Corp of America—Adelphi University, $1,000.00, 9-25-72.

New York City, Operation Crossroads Africa, $150.00, 10-16-72.

Juniata, Pa., Program Corp of America—Juniata College, $1,000.00, 10-23-72.

Los Angeles, Wolper Organization (television royalties), $136.12, 11-9-72.

Wilmington, N.C., Young Democratic Clubs of North Carolina, $500.00, 9-23-72.

* Unless otherwise designated, all of these honorariums are for speeches.

Development Corp for Israel, $2,250.00.
Natl. Committee for Israel Labor, $1,000.00
Gordon Securities Ltd., $550.00.
N.C. State Univ., $750.00.
Calvin Bullock, Ltd., $250.00.
New Jersey Assoc. for Disabled, $1,000.00.
Jewish Society of Washington, $500.00.
Harry Walker Inc., $700.00.
Hadassah Wizo Org. of Canada, $1,000.00.
Center for Constitutional Rights, $1,200.00.
American Program Bureau, $1,000.00.
Rider College, $500.00.
First Unitarian Soc. of Denver, $175.00.
Philpis, Appel & Walden, $500.00.
United Jewish Appeal, $1,275.00.
Institute Investors Systems, $500.00.
Chandler School Corporation, $1,400.00.
Hobart College, $1,000.00.
William Smith College, $500.00.
Humble Oil Co., $2,500.00.
Yeshiva University, $500.00.
United Church of Christ, $575.00.
Assumption College, $200.00.
Third Unitarian Church of Chicago, $400.00.
Santa Clara Valley Democratic Coalition, $400.00.
Program Corp. of Am. Inc., $2,000.00.
Operation Crossroads, $150.00.
Juniata College, $1,000.00.
World Organizer, Inc., $136.12.
Less w/h, $31.05.
Balance, $105.07.
Total, $23,725.00.

1973 Confidential Statement of Financial Interests

(In compliance with Senate rule 44)

(For Use by Senators, Candidates for Senator, and Officers or Employees Whose Salary is Paid by the U.S. Senate at a Rate in Excess of $15,000 a Year.)

Name: Gravel, Mike.

Calendar year of information: 1973.

Senate office or committee: Alaska.

3. BUSINESS CONNECTIONS

List all business or professional corporations, companies, firms or other enterprises, partnerships and organizations with which you were connected as an officer, director, partner, proprietor, or employee, and from which you received compensation during the preceding calendar year. If none, write None.

Name of organization: Mike Gravel Real Estate Development, Inc.

Address of organization: Anchorage, Alaska.

Your capacity: President and Stockholder.

Amount of compensation. None.

4. INTERESTS IN PROPERTY

List each interest having a value of $10,000 or more which you held in real or personal property at any time during the preceding calendar year. Do not list beneficial interests in trusts or other fiduciary relations. If none, write None.

Nature of interest, type of property, and location

Owner, Residential Lots, Tantallon, Maryland.

Owner, Alaska Residence, Anchorage, Alaska.

Corporate Officer and Stockholder, Equity interest in Family Corporation, Mike Gravel Real Estate Development, Inc., Anchorage, Alaska.

6. LIABILITIES

List each liability, including debts, loans, or other obligations, of $5,000 or more owed by you, or by you and your spouse jointly, at any time during the preceding calendar year. List each liability you shared with another person, including comakers, endorsers, or sureties, if your share amounted to $5,000 or more. If none, write None.

Name of creditor, address of creditor, and type of liability

Nat'l Commerc. Bk. & Tr. Co., Albany, New York, Promissory Note.

Washington Trust Co., Westerly, Rhode Island, Promissory Note.

Nat'l Bank of North America, New York City, New York, Promissory Note.

United Bank & Trust Co., Oxon Hill, Maryland, Promissory Note & 2nd Tr.

Stan Reitman, Anchorage, Alaska, Personal Promissory Note.

Barney Gottstein, Anchorage, Alaska, Personal Promissory Note.

Government Services Savings & Loan, Bethesda, Maryland, Unpaid Mortgage.

Alaska Mutual Savings Bank, Anchorage, Alaska, Unpaid Mortgage.

CONFIDENTIAL STATEMENT OF FINANCIAL INTERESTS

For use by a Senator, a candidate for Senator, and an officer or employee whose salary is paid by the U.S. Senate at a rate in excess of $15,000 a year.

This form is promulgated by the Select Committee on Standards and Conduct of the U.S. Senate for the convenience of persons who are required to file a confidential report of financial interests in accordance with Rule 44 of the Standing Rules of the Senate. Use of this form is recommended but not mandatory.

Submit the completed statement between January 1 and May 14 of each year with the Comptroller General of the United States, in a sealed inner envelope marked "Confidential Personal Financial Disclosure of (*name, title and office*)."

This sealed envelope should be placed inside a mailing envelope which shows the name and address of the person filing the statement.

The mailing envelope may be delivered by one of the following means:

(1) by hand, to the General Accounting Office staff, Room HB-6, U.S. Capitol; or

(2) by registered mail or messenger, to the Comptroller General of the United States, Room No. 7510, 441 G Street, NW., Washington, D.C. 20548. Attention: Chief, Legal Reference Services.

A receipt will be given or sent to you for all statements received by the Comptroller General.

Use additional sheets if the space on this form is insufficient.

If your trustee or other fiduciary must file information under section 1(e) of Rule 44, it is suggested that he follow the format of part 5 of this form and that he submit his completed statement to the Comptroller General of the United States, in a sealed envelope marked "Confidential Personal Financial Disclosure of Trustee (or other fiduciary) --------------------------," between January 1 and May 14 of each year.

(Your Name)

A candidate for Senator, for the purposes of Rule 44, is a person who has declared or otherwise made known his intention to seek nomination or election, or who has filed papers or petitions for nomination or election, or on whose behalf a declaration or nominating paper or petition has been made or filed, or who has otherwise, directly or indirectly, manifested his intention to seek nomination or election, pursuant to State law, to the office of United States Senator.

1973 STATEMENT OF CONTRIBUTIONS AND HONORARIUMS

(In compliance with Senate rules 42 and 44)

(For Use by Senators, Candidates for Senator, and Officers or Employees Whose Salary is Paid by the U.S. Senate at a Rate in Excess of $15,000 a Year)

Name: Gravel, Mike.

Calendar year of information: 1973.

Senate office or committee: Alaska, United States Senator.

1. RECEIPT OF CONTRIBUTIONS

(For Use by Senators and Candidates for Senator)

List all contributions received by you during the preceding calendar year. Contributions in the aggregate amount or value of less than $50 received from any single source during the preceding calendar year may be totaled without further itemization. A contribution from a political party may be listed as a single contribution from the party. If none, write None.

Date: 11-12-73.

Name of contributor: Jerry Ward, K. & W. Co.

Address of contributor: Anchorage, Alaska.

Amount or value: $1,000.00.

2. DISPOSITION OF CONTRIBUTIONS

(For Use by Senators and Candidates for Senator)

List all dispositions made by you during the preceding calendar year of contributions received by you and subject to Senate Rule 42. If none, write None.

Date, name of payee, address of payee, purpose, and amount

3-16-73, Hotel Mary Francis, Alaska, Travel-Home State, $63.15.

3-16-73, Baranof Hotel, Juneau, Alaska, Travel-Home State, $71.90.

3-16-73, Democratic Photo Fund, Room 130, Russell Office Bldg., Washington, D.C. 20510, Communications, $29.75.

3-16-73, Kier Photo Service, Inc., 1627 East 40th St., Cleveland, Ohio, Communications, $249.80.

3-16-73, Senate Restaurant, U.S. Capitol Bldg., Washington, D.C., Constituents Meetings, $103.76.

3-16-73, Senate Recording Studio, U.S. Capitol Bldg., Washington, D.C., Communications, $30.00.

3-16-73, Camalier & Buckley, 7222 47th St., Chevy Chase, Md., Constituents Meetings-Supplies, $177.98.

3-16-73, V.F.W. Post 1685, 1545 Sunrise Drive, Anchorage, Alaska, Dues, $15.00.

3-16-73, American Civil Liberties Union, 3000 Conn. Ave. N.W., Washington, D.C., Dues, $10.00.

3-16-73, Alaska Library Association, 727 Elm Street, Anchorage, Alaska, Dues, $2.00.

3-16-73, Common Cause, 2030 M. St., N.W., Washington, D.C., Dues, $15.00.

3-16-73, Navy League of The United States, 818 18th St., N.W., Washington, D.C., Dues, $15.00.

3-19-73, Alaska Miner's Association, Box 2263, Anchorage, Alaska, Dues, $10.00.

3-20-73, The Arctic Inst. of North America, 3458 Reopath St., Montreal, Quebec, Canada, Subscription, $10.00.

12-6-73, Karla Josephson, 1526 F. St., Anchorage, Alaska, Postage Reimb. for Communications, $30.00.

12-19-73, House Majority Printing Clerk, Rm. WA29, House of Representatives, Washington, D.C., Communications, $502.60.

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3. HONORARIUMS

List each honorarium of $300 or more received by you during the preceding calendar year. Do not list reimbursements of expenses. If none, write None.

Date, payer, description of service, and amount or value

1-3-73, Program Corporation of Amer., Speech at Niagara Univ., Plattsburg, New York, 11-29-72, $1,000.00.

1-23-73, Program Corporation of Amer., Speech at Randolph Macon Women's College, Lynchburg, Virginia, 11-27-72, $1,000.00.

2-15-73, Calif. Assoc. of Students, Speech at Calif. Student Bar Assoc., Univ. of Santa Clara, Calif., 2-5-73, $250.00.

2-23-73, Executives Club of Chicago, Speech at Executives Club, Chicago, Ill., 2-5-73, $500.00.

2-26-73, A.S.U.S.C. Social Activities, Speech at Univ. of Santa Clara, Calif., 2-12-73, $500.00.

3-19-73, Frostburg State College, Speech at Frostburg State College, Frostburg, Maryland, 2-14-73, $1,000.00.

4-4-73, Alaska Interstate Co., Speech at Alaska Investment Forum, New York City, 3-14-73, $1,800.00.

4-4-73, The Sun People Energy Conf., Speech at Energy Conference, Cape May, New Jersey, 3-24-73, $1,000.00.

4-10-73, George Washington University, Speech at George Washington University Club, Wash., D.C., 3-27-73, $300.00.

4-25-73, American Road Builders Assoc., Remarks published in May edition of Am. Rd. Bldgs. Mag., $300.00.

5-8-73, American Road Builders Association, Speech at American Road Builders Association Convention, Houston, Texas, 4-2-73, $250.00.

5-31-73, S.T.C.C. Student Association, Speech at Springfield Technical Community College, Springfield, Mass., 5-27-73, $1,200.00.

7-18-73, Active Ballot Club, Speech at Fairbanks, Alaska, 6-15-73, $1,000.00.

8-3-73, George Mitchell & Associates, Speech at Oil Industry Forum, Houston, Texas, 4-2-73, $1,000.00.

8-6-73, American Retail Federation, Speech in Washington, D.C., 8-1-73, $1,000.00.

9-5-73, American Federation of Government Employees, Speech at Ft. Richardson, Alaska, 7-26-73, $1,250.00.

9-5-73, American Road Builders Association, Article published in August edition of American Road Builders Magazine, $550.00.

9-17-73, California Savings & Loan League, Speech at California Savings and Loan League meeting, San Francisco, Calif., 9-14-73, $2,500.00.

9-20-73, Active Ballot Club, Speech at Retail Clerk's International Association, Anchorage, Alaska, 8-14-73, $1,000.00.

10-25-73, Alaska State Fire Fighters Association, Speech at Fire Fighters Association, Juneau, Alaska, 10-20-73, $50.00.

STATEMENT OF CONTRIBUTIONS AND HONORARIUMS

For use by a Senator, a candidate for Senator, and an officer or employee whose salary is paid by the U.S. Senate at a rate in excess of $15,000 a year.

This form is promulgated by the Select Committee on Standards and Conduct of the U.S. Senate for the convenience of persons who are required to file a public report of financial interests in accordance with Rule 42 and Rule 44 of the Standing Rules of the Senate. Use of this form is recommended but not mandatory.

Submit the completed statement, together with all supplementary papers, to the Secretary of the Senate between January 1 and May 14 of each year.

Use additional sheets if the space on this form is insufficient.

A contribution, for the purposes of Rule 42, is anything of value that is offered without consideration, and includes money, interests in personal or real property, or services.

A bona fide gift received in your personal, non-official, or non-political capacity may be subject to confidential reporting of a financial interest.

A candidate for Senator, for the purposes of Rule 42, is a person who has declared or otherwise made known his intention to seek nomination or election, or who has filed papers or petitions for nomination or election or on whose behalf a declaration or nominating paper or petition has been made or filed, or who has otherwise, directly or indirectly, manifested his intention to seek nomination or election, pursuant to State law, to the office of United States Senator.

Mike and Rita J. Gravel, statement of condition at fair market value, December 31, 1968

ASSETS

Current assets:	
Cash in banks	$2,000
Marketable securities	500
Trust note receivable	12,000
Total current assets	14,500
Life insurance—C.S.V	1,104
Personal property and automobile	25,000
Investment stock—Mike Gravel Real Est. Develop. Inc	150,000
Real estate:	
Office building—Kenai, Alaska (one-half interest)	14,000
Building lot—Kenai, Alaska	2,000
Total assets	206,604

LIABILITIES AND NET WORTH

Current liabilities: Bank loans	1,200
Total current liabilities	1,200
Long term liabilities:	
Personal promissory note	15,000
Mortgages—Office Building (one-half interest)	9,000
Kenai building lot (Escrow Note)	1,000
Total long term liabilities	25,000
Net worth	180,404
Total liabilities and net worth	206,604

MIKE AND RITA J. GRAVEL: SCHEDULE "A"

Current Assets: Trust Note Receivable, Sale of personal residence, Alaska, $12,000.

Investment: M.G.R.E.D. Inc., Family owned corporation:

Rita Gravel 60% Shareholder.

Mike Gravel 40% Shareholder.

Liabilities: Personal Note, Barney Gottstein, $15,000.

Memo: Additional contingent liability: Political Bank Loan, $19,000.

CLARK SHERWOOD & CO.,
TAX CONSULTANTS,
Wheaton, Md., February 27, 1974.

Hon. MIKE GRAVEL,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR GRAVEL: In accordance with your request, we have prepared the accompanying Financial Statement of Condition as of December 31, 1973, which is in agreement with your records.

Yours very truly,
MRS. D. J. DUNNINGTON.

Mike and Rita J. Gravel, statement of condition at fair market value, December 31, 1973

ASSETS

Current assets:	
Cash in banks	$3,100
Marketable securities	2,000
Total current assets	5,100
Life insurance—C.S.V.	2,430
Civil service retirement fund—cash value	14,000
Personal property and automobile	50,000
Investments:	
Heart L. Ranch Co.	60,000
Mike Gravel Real Estate Develop. Inc.	124,500
Real Estate:	
Lot 9, Tantallon on the Potomac	23,000
Building lot—Kenai, Alaska	4,000
Washington residence:	
Lot 10 Tantallon on the Potomac	50,000
Improvements	150,000
Alaska residence	45,000
Total assets	528,030

LIABILITIES AND NET WORTH

Current liabilities: Bank loan	15,600
Total current liabilities	15,600
Long term liabilities:	
Personal promissory notes	25,000
Bank loans	25,500
Mortgages:	
Lot 9 Tantallon	16,000
Washington residence	121,700
Alaska residence	38,600
Total long term liabilities	226,800
Net worth	285,630
Total liabilities and net worth	528,030

Current liabilities:	
Security National Bank	3,500
Virginia National Bank	2,500
Riggs National Bank	2,600
National Bank of North America	7,000
Total current bank loans	15,000
Personal promissory notes:	
Stan Reitman	10,000
Barney Gottstein	15,000
Total personal notes	25,000
Long term bank loans:	
United Bank & Trust Co., payble at $400./mo	10,900
National Commercial Bank, payable at $228./mo	7,300
Washington Trust Co., payable at $228./mo	7,300
Total long term loans	25,500
Mortgages payable:	
Lot 9—Tantallon on the Potomac, payable at $189./mo	16,000
Washington, D.C., residence—Lot 10, payable at $195./mo	13,700
Washington, D.C. Residence—improvements, payable at $917/mo.	108,000
Alaska residence (first trust), payable at $362./mo	36,600
Alaska residence (second trust), payable at $15./mo	2,000
Total mortgages payable	176,300

MARKETABLE SECURITIES

Shares, name of security, date acquired, cost, and market value

*560, Toledo Mining, 1969, $7,746.75, $280.00.

1,500, Computer Business Supply, 1972, $1,500.00, $1,120.00.

100, Suburban Broadcasting Corp., 1972, $25.00, $600.00.

10, American Sportsmen Inc., 1972, ** $0.

Total, $2,000.00.

INVESTMENT

Heart L Ranch Company, Twin Bridges, Montana. Family owned corporation. Rita Gravel, 13% shareholder.

Mike Gravel Real Estate, Inc., Anchorage, Alaska. Rita Gravel, 43% Shareholder. Mike Gravel, 40% Shareholder.

Schedule of life insurance on Mike Gravel

Mutual of New York	$10,000
Pacific Mutual	10,000
Government Service Life	10,000
Federal Employees Group Life	45,000
State Farm Life	96,950
Total face amount life insurance	171,950

(Note—None of the above pledged as security on liabilities.)

Average Annual Gross Income 1971, 1972, 1973, $65,000.

Average Annual Household Expenses, $7,200.

INDEPENDENT LEGAL SERVICES CORPORATION

Mr. TAFT. Mr. President, yesterday the Conference Committee on Legislation To Establish an Independent Legal Services Corporation concluded its deliberations with the expectation that there will be unanimous agreement by the conferees to recommend the adoption of the conference report to their respective bodies. I am quite pleased by this development as it represents a significant step toward the establishment of a constructive legal services program for the economically disadvantaged citizens of this country. It is especially encouraging to see that agreement was reached and the differences in the two bills were resolved, as the last time a conference committee was convened on this subject in the 92d Congress a deadlock developed and no conference agreement was reached.

Hopefully, the House which will act first, and the Senate, will expeditiously adopt the conference report and send the legislation to the President for approval.

In this context I ask unanimous consent that an article I authored appearing in the spring issue of the Cincinnati Bar Journal regarding the history of legal services legislation through the first session of the 92d Congress be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

REPRESENTATION FOR THE ECONOMICALLY DISADVANTAGED—CONGRESS AND LEGAL SERVICES CORPORATION LEGISLATION

(By U.S. Senator ROBERT TAFT, JR.)

Our governmental system is one founded upon law. Equal access to a procedural system that considers an individual's rights and obligations under the law is essential for all citizens. Historically, such access has been provided for principally by private lawyer-client relationships with the financial ability of the client to secure such an arrangement often the determining factor as to the quality and quantity of the relationship.

This procedure presents serious obstacles to economically disadvantaged members of our society and is repugnant to the Constitutional requirement of equal justice under law. Attempts to correct this imbalance by the legal community have been advanced through the implementation of numerous legal aid and public defender programs since the early 1900's. These programs developed internally within the legal profession, while quite successful, have not proved to be numerous enough or broad enough in scope to provide equal opportunity in meeting the legal needs of the economically disadvantaged.

Recognizing this fact, an experimental legal services program to provide free legal assistance for low income persons was initiated by the Federal government in 1965, in the Office of Economic Opportunity (O.E.O.) with a budget of $600,000. This concept achieved substantial acceptance in the Congress and the legal community in the following years and is represented by a Federal commitment at the rate of $71.5 million for the current fiscal year.

Questions have arisen, however, regarding the Federal role in the delivery of legal services to the economically disadvantaged. The future of the Office of Economic Opportunity is uncertain. Further, numerous charges have been alleged regarding poor administration and politicization of the Office of Legal Services in O.E.O. With these concerns in mind, I and many of my colleagues have endorsed the concept of an independent legal services corporation to depoliticize this Federal commitment and to insure professionalism in the procedure for delivery of legal services to the poor. This is not a new proposal. The Ash Council (the President's Advisory Council on Executive Reorganization) in February, 1971, in Memorandum to the President, strongly recommended that the legal services program be set up as an independent corporation, rejecting proposals that it be permanently located in the Executive Office of the President or other Federal departments or agencies. This position was concurred with by the American Bar Association.

The Ash Council recommendations were incorporated into legislative proposals with bills introduced both in the House and the Senate in the 92nd Congress. The principal sponsors of the legislation in the Senate were Senators Mondale and Javits with Senator Cook also taking an active role with the introduction of an Administration proposal. In many respects both of these proposals were very similar with the major exception being the composition and selection procedure for the board of directors of the legal services corporation. Unfortunately, this issue of composition of the board and selection procedures for members of the Board, plus inclusion in the bill of a nongermane child development program proposal, led to a confrontation between the Congress and the White House and the President vetoed the Congressionally approved measure.

After the veto, efforts were made to reach a compromise. But no common ground of agreement was reached and legislation to create an independent legal services corporation was not enacted into law in the 92nd Congress.

Since then, considerable discussion has been conducted within the Congress and the Executive Branch regarding a course of action on this matter. A proposal was submitted by the President to the Congress on May 11, 1973. I introduced this proposal with Senators Javits, Nelson, Schweiker, and Beall with the hope that action would be taken before the end of the year. Similar legislation was also introduced in the House and approved after lengthy debate on June 21st. After House adoption of a legal services bill, prospects appeared to be excellent for action to be taken by the Senate. The Senate Labor and Public Welfare Committee undertook extensive discussions with representatives from the White House in an effort to seek agreement on a compromise bill which could be supported by the Administration and the Senate. On December 10, such a compromise bill (S. 2686) was brought before the Senate. The proposal was endorsed unanimously by the members of the Senate Labor Committee and strongly supported by the American Bar Association, the Ohio Bar Association, and many other professional legal organizations in the country. Along with many of my colleagues, I was quite hopeful that the compromise would be supported by a majority of the Senate and that after a conference with the House it would be sent to the President for signature before the end of 1973. Unfortunately, the Senate was never provided with such an opportunity as opponents of the bill staged a filibuster. Approximately 100 amendments, many of them nongermane, were offered to the proposal by opponents of the bill. This strategy proved successful as only a limited period of time for debate of this legislation was available in the remainder of the session (energy bills were being given priority) and the Senate thus faced with the press of adjournment failed by the margin of a single vote to break the filibuster.

Why is the foregoing concept subject to such controversy and still stalled in Congress after years of debate?

Essentially, three arguments are advanced by opponents of the legislation before the Senate. First, they argue that no hearings were held this year on the proposal and that the Committee on the Judiciary should have an opportunity to review the bill. Second, opponents state that the proposal should be patterned along the lines of a revenue sharing concept. And third, opponents say the bill contains no practical limitations with respect to the scope of activities by staff attorneys permitted by the Corporation, especially in the areas of politics, lobbying, and suits against units of State and local governments. The first argument, I believe, is basically a procedural delaying tactic and can be dismissed since the concept of an independent legal services corporation, including essentially the proposal currently before the Senate, has been considered at length in past congresses. Further, absolutely no requests were made for additional hearings on this legislation in this Congress. The leadership of the Judiciary Committee has been fully advised of the matter as it proceeded, but it made no requests for an opportunity to review the proposal. Points two and three raised in opposition to the proposal, however, do merit discussion.

The proposition that a Federal delivery system for legal services be structured like a revenue sharing proposal concerns the heart of the "independence" question of a legal services corporation. The opponents of the bill before the Senate would permit the Governor in each State in which such legal services were offered to veto part or all of the activities of legal services attorneys in the State. The Committee proposal, on the other hand, would authorize Governors to appoint, after receiving recommendations from State bar associations, nine-member advisory boards composed of lawyers admitted to practice in the State. Such advisory boards would monitor the activities of legal services attorneys in the State and notify the corporation of any apparent violation of the governing statute of the corporation or rules and regulations established by the corporation for its attorneys. Such monitoring and regulating would be in addition to the rules and regulations established by laws of the State with respect to the practice of law.

The issue there becomes whether the Governor of the State can control and practically block suits from being initiated by legal services attorneys or whether such attorneys will be subject to the rules and regulations established by the corporation through congressional mandate. I submit the latter is a far preferable approach as in politically sensitive cases such as a suit against a city for failing to enforce a housing code or a suit against a State for failure to provide medicaid payments, the legal services attorneys will be insulated against political pressure from State and local officials and be permitted to represent the best interests of their clients.

Opponents of the Committee bill, however, fail to concede on point two when presented with this response to depoliticization of the corporation by essentially raising point three—lack of practical limitations on the scope of permitted activities by legal services attorneys. This argument, however, I believe fails to focus upon the protections that have been incorporated in the legal services corporation bill before the Senate. To begin with, only those individuals unable to afford a lawyer will be eligible for legal assistance with the maximum eligibility level to be established by the corporation and the Office of Management and Budget Eligibility levels are to reflect varying economic conditions within regions of the country and not to reflect artificially high or low standards. Preference is to be given those least able to afford legal assistance and specific statutory language is incorporated to permit legal services attorneys to refuse to assist individuals if their lack of income results from refusal to seek employment. Further, under the Committee proposal, legal assistance is specifically prohibited with respect to criminal proceedings. Thus only a certain category of the general populace will be eligible for legal assistance, and then only in noncriminal proceedings.

Beyond these general limitations, specific prohibitions on corporation activities are also contained in the bill before the Senate with regard to funding or giving advice to any political organization, support for training programs for encouraging political activity, labor or anti labor activity or any illegal boycott, picketing, strike, or demonstration. No corporation funds are to be used to organize, assist to organize, or encourage to organize any organization, association, coalition, alliance, federation, or similar entity. Corporation attorneys, while carrying out legal assistance, would not be permitted to engage in or encourage others to engage in any public demonstration or picketing, boycott, or strike. At no time would they be permitted to engage in or encourage others to engage in any rioting or civil disturbance, any activity which is in violation of court injunction, or any other illegal activity. Corporation attorneys would also be required to refrain, while engaged in legal assistance, from any political activity associated with a political party or candidate for public or party office, voter transportation to the polls, or any other voter registration activity except as necessary to provide legal advice and representation by an attorney with respect to a client's legal rights and responsibilities. All staff attorneys additionally would be under certain provisions of the Hatch Act at all times.

With respect to lobbying, no corporation funds could be used at any time, directly or indirectly, to undertake to influence the passage of or defend any legislation by Congress or by State or local legislative bodies except where representation "by an attorney as an attorney's client" for any eligible client is necessary to the providing of legal advice and representation with respect to such client's legal rights and responsibilities or "where a legislative body, a committee, or a member of such body requests personnel to make a representation thereto." Opponents of the Committee bill state that no lobbying at all should be prohibited and that even under the above provisions a legal services attorney will be provided with too much leeway with respect to lobbyists. As I discern their arguments, essentially they do not feel that public money should be available for any type of lobbying. On the surface, this would appear to be a compelling argument. Upon reflection, however, it would seem that the interests of an eligible client sometimes can best be served by the legal services attorney working through a State or Federal official to obtain a needed benefit for the client.

For instance, if the client was not receiving a benefit from the Veterans Administration, it would seem far preferable to me to have the legal services attorney proceed to the office of an elected official before initiating litigation if the V.A. officials refuse to consider the individual case for reasons based on the language of the law. Further, I can see a legal services attorney seeing a need for testifying before a city council at their request with respect to suggestions to strengthen the city housing code. Such testimony could alleviate problems for a large number of economically disadvantaged citizens and would be an efficient method of securing relief for such individuals rather than on a case by case approach.

Many other examples could be cited with regard to the importance of legal services attorneys being permitted to contact administrative agencies of the Federal government or of units of a State or local government. Technically, many such contacts could be labelled lobbying, but without this option the legal services attorney would be generally limited in his ability to represent a client.

Initiating legal action against the Federal government or a unit of State or local government probably is the area that has received the most publicity under the Office of Legal Services in O.E.O. Complaints were heard from governors, especially, and mayors that legal services attorneys were engaging in political activity and that the suits that were initiated by such attorneys against them were an effort to embarrass them politically. The facts do not support this allegation. A study by the General Accounting Office shows that a very small percent of legal actions litigated were against units of State or local government or the Federal government. (It is interesting to note that in a large percentage of such cases, the legal services attorney was successful.) With the provisions contained in the bill, political activity will be prohibited and such suits will be only on behalf of eligible clients. If an issue needs to be litigated and a unit of government is involved, I can see no reason to prohibit such legal action. The legal services attorney must act within the Canons of Ethics. He cannot initiate litigation. Further, he cannot act without regard to the rules and regulations of the corporation. Certainly some abuses have occurred in the past, but, as the G.A.O. report indicates, these abuses were generally due to lax administration by O.E.O. and failure to properly follow income eligibility guidelines. If there really is to be a commitment to provide legal representation for the poor, I do not see how members of the bar could meet this commitment without flexibility in this area.

Considering the controversial nature of this legislation and its failure to become law in past Congresses, what are the prospects for the remainder of the 93rd Congress? Hopefully, bright. Legal services corporation legislation will be the pending business when the Senate returns from adjournment and I am confident that with enthusiastic support of the Administration and the bar, the ideal of equal justice under law for all Americans will be significantly advanced by the creation of an independent legal services corporation.

THE RAPE PREVENTION AND CONTROL ACT

Mr. MATHIAS. Mr. President, on September 17, 1973, I introduced S. 2422, the Rape Prevention and Control Act. Since that time, I have received extensive correspondence about the bill from concerned individuals as well as interested groups.

Many of these letters speak from the perspective of the female victim, and lend credence to the notion that it is she who is made to physically as well as emotionally suffer for the crime which has been committed, oftentimes with the accused rapist allowed to go free.

Recently, however, I received a most unusual letter of support from two men who speak from an entirely different perspective on the same issue. Mr. William Speaker and Mr. Gerald Lowe, inmates in a Maryland penitentiary, while by no means accused rapists themselves, are almost daily confronted by men who have committed that crime among their others. This affords Mr. Speaker and Mr. Lowe the rather unusual opportunity to study the attitudes of these men, firsthand. Additionally, Mr. Speaker and Mr. Lowe see only too well the facility with which men begin to prey upon one another when placed in such a confining and often degrading environment as a prison can be. Their account of the rapes committed within the prisons, themselves—by men, upon other men—paints only too clearly a picture which attests to the need for reform of a system that would allow for the continuation of such atrocities.

Mr. President, at this time I ask unanimous consent that Mr. William Speaker and Mr. Gerald Lowe's timely and most relevant observations on the subject of rape be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

HAGERSTOWN, MD.

Re Support for S-2422 and Amendment S-3280.

Senator CHARLES MATHIAS,
Committee on Appropriations,
Washington, D.C.

DEAR SENATOR MATHIAS: The crime of rape is on the increase in American Society. The raper is protected by the laws of the land, and is given every protection guaranteed by the U.S. Constitution to a fast and speedy trial. His rights are protected very closely.

What about the victim of the raper? Must he or she be cast aside to live with their memories and miseries. Is the American society so careful to protect the criminal that they overlook the victim.

There are two different types of rape. One committed on the woman or child and the other is rape in prisons. The first type we want to support legislation for is rape of a woman and child. This type of rape is pure sickness and pure hell for the victim. While the raper is being coddled and protected, the victim is going through hell. The agony of reporting this to the police and the cold, heartless examination by the doctors, often cause the victim more mental harm than the raper.

Often times the victim is made to believe she enticed the raper, while being in her own home. As we stated in our letter of November 29, 1973, that the American woman who possesses the natural beauty of the women today, should not have to live in fear of being victimized because she shows this beauty.

It is time that the American people care for the victims of rape: especially if the victim is a child. The child will need special care so that the mental agony will not cause her to grow up with the ordeal remaining. True, it will not be easy to forget, but that is what the legislation is all about. The American society has to go forward again. This time it must assist the victim of the crime. The child will need counseling and every possible assistance available while testifying and undergoing the examinations. It's shocking to think that your daughter has been raped and is afraid to report it because of the way she is made to feel. In most cases the defendant's attorney will subject this person to pure hell while treating her as a harlot or whore, in an effort to get his client off with a not guilty verdict.

The victim is left to herself to suffer the agony and why????? All she did was report a crime that was committed on her. It is not surprising to find that the number of rapes that are reported is decreasing. The way society treats the victim is absurd and shocking. Even the most depraved criminal is treated better than the victim of a rape.

Once the raper enters prison (if convicted), the entire prison population is aware of what he done. He brags about what he put his victim through. That is where we come in contact with him. To most of us in here, he is an animal who should be put in a cage, have the door welded shut and treated like he treats others. In most cases, the raper continues to rape after in prison. Still sick and still raping. The number of victims he brags about is astounding. In many cases, he has raped repeatedly and the victim was afraid to report it to the police. In prison language, a raper is a dog and in most cases he is cast aside by the majority of inmates. Why, simply because we don't want to be around him. It could have been our wife, daughter or sister that was his victim. As most of us feel, "God help him if it was and they put him in the same jail together with us".

The second type of rape the proposed legislation deals with is the homosexual rape "Which permeates our so-called correctional institutions." You would be totally astounded to learn the true figures of the number of rapes that occur in prison. It's total deprivation and the effects of the rape will remain with the young man for the rest of his life. Often he returns to society with more hatred than even he thought possible. In over nine years of incarceration, we have seen the effects of rape in prison. During the prison riots in Maryland on March 29, 1973, many young men were the victims of rape and the effect of their ordeal was pure hell.

I personally saw the effects on many young men and I was the only inmate allowed to talk with them after the riot was put down. This was even before they were treated at the hospital and the damage was beyond words. It's extremely hard to write it down. I can remember one young man who was raped that night and he was beaten badly, who later escaped from the road camp in Southern Maryland. This young man later was arrested in another state for the senseless killing of an entire family. In talking with this young man the next day, he told me then, that society would pay for what happened to him. His mind never was the same. I am not talking fiction either, I am talking pure fact. I saw one young man who had both arms broken and needed over 50 stitches to close the wounds when he fought the rapers. Still, the rapers went free because of the way the victim was treated. Both inside and outside, something must be done and done now, to assist the victims of rape.

A National Center for the Prevention and Control of Rape is drastically needed and their outline of activities would be a large asset to the American Justice System. But, please don't be surprised at the amount of rapes that are not reported. Even your most conservative estimates will be surpassed and the education of the parents and victim is drastically needed. In most cases, the parents of the rape victim (child) will not understand the agony that she has gone through. In some cases, they treat her like dirt and will allow her not to forget her ordeal.

While being incarcerated in the Maryland Correctional Training Center, this does not lessen our responsibility to society. We certainly don't want society to live in fear of some of us. It is time that the American Society stop coddling the raper and treating the victim as the criminal. We urge the members of the U.S. Senate to enact this vital piece of legislation that is so drastically needed.

We support S–2422 and S–3280 in its entirety and will work to see that this legislation is enacted. It is hard to put our thoughts on paper concerning this crime, especially after having witnessed it in prison.

We are honored that we were asked to give our written testimonial on the proposed legislation. We want to extend our thanks to the office of Senator Mathias, and the Assistant Supt. Mr. Lyles and the staff of the Maryland Correctional Training Center for allowing us time to prepare this paper.

If you need further assistance in this legislation, please do not hesitate to contact us. We hope, the "proposed legislation will become law."

Very truly yours,

William H. Speaker,
Gerald Lowe.

THE PAPER PRISON: YOUR GOVERNMENT RECORDS

Mr. MATHIAS. Mr. President, on Thursday, April 25, 1974, ABC News presented a 1-hour special presentation entitled, "The Paper Prison: Your Government Records." The program in a very straightforward manner revealed how the privacy of individuals guaranteed by the fourth amendment of the *Constitution* has been eroded by access of the Government to the records of individuals. It is, of course, inevitable that in an age of computer technology that such a development could have taken place. But it is clear, and this was the tenor of the special presentation, that individual rights of privacy have been adversely affected and it is necessary to take steps to assure that the legitimate right to privacy of citizens should be protected.

The guarantees contained in the Constitution particularly those provisions of the Bill of Rights which protect the privacy of individuals have been seriously threatened by some Government practices in recent years. The Watergate has revealed that the protections of the fourth amendment which guarantee that an individual will not be subject to unreasonable searches and seizures and will not be subject to unreasonable invasions of privacy have been seriously eroded.

To correct the abuses which have come to light, and to assure that our cherished constitutional guarantees continue to have validity, I have introduced, with others, a bill entitled Bill of Rights Procedures Act of 1974, which will prohibit any interception of communication, other electronic surveillance, entry of dwellings, mail openings, inspecting or procuring the records of telephone, bank, medical or any other business or private transaction of any individual without a court order issued upon probable cause that a crime has been or is about to be committeed supported by oath or affirmation and particularly describing the place to be searched and the person or things to be seized.

In those cases where a Federal court authorizes a search warrant, the disposition of all records including any log, copy, or summary of any action taken shall be available under appropriate conditions of confidentiality consistent with the fourth amendment to protect the privacy of any individuals involved shall be forwarded to the administrative office of the Federal courts and to the appropriate committees of Congress. This provision is necessary to assure that the Congress can exercise its constitutional duties of oversight and it should serve as a check against future abuses of power.

The fourth amendment is one of our cherished means of preserving our liberty. We must assure that the Constitution remains secure against the threats of arbitrary power. It is my hope that the Congress will enact this legislation which recent years have, unfortunately, proven so necessary.

I ask unanimous consent that the transcript of the ABC News Closeup, "The Paper Prison," be printed in the Record.

There being no objection, the transcript was ordered to be printed in the Record, as follows:

ABC News Closeup: "The Paper Prison: Your Government Records"

(As broadcast over the ABC Television Network, Thursday, April 25, 1974.)

PROLOGUE

Frank Reynolds. For twenty-seven years, this man was erroneously listed in FBI files as a fugitive from justice.

Harry Wachter. You know, it's hard to say, over the years, how this might have affected my life.

Frank Reynolds. If you've ever been arrested you can be marked for life. Even though you may have been found not guilty, that crucial fact may not catch up with your arrest record at the FBI's mammoth record-keeping center . . . Why?

Your children's school record may contain a confidential file with information that is inaccurate and damaging.

Mark Isaacs. The only way I can be given the opportunity to challenge it is to know that it exists, and to be given access to it.

Frank Reynolds. But in many states the police and other agencies have a better chance of seeing your child's school record than you do . . . Why? If you're a veteran discharged before March 22, 1974, take a close look at your discharge papers, especially this one . . . It's called DD–214.

Tony Arganda. A DD–214 turns into a paper prison which a veteran has to be in for the rest of his or her life.

Frank Reynolds. There's a three letter code there. You may not know what it means but prospective employers do . . . Why?

In the next hour, ABC News will attempt to answer these questions as we examine government records from your neighborhood school to the FBI, records that are being kept on you and your family.

PART ONE

Frank Reynolds. We begin with the premise that all institutions, governments included, must maintain records. What we propose to examine in the next hour is—how much record-keeping is enough? Is there unwarranted and unnecessary record-keeping? . . . And perhaps, most importantly, is there unauthorized access to these records?

How vast is government record-keeping?

Well, this study, an exhaustive four-year effort by the Senate Sub-committee on Constitutional Rights, and released here for the first time, will give you some indication. Senator Sam Ervin, Chairman of the Subcommittee.

Senator **Sam Ervin.** They admit that they're operating 910 computer data banks which contain information about individuals. The Committee estimates that these 910 data banks contain at least one billion, fifty-two million different records.

Announcer. Document: Further findings from the Sub-committee's four-year study . . . The Treasury Department—names of two million coin collectors . . . Selective Service—files on fourteen million, eight hundred sixty thousand persons . . .

The Air Force—religious files on at least one million Air Force Personnel . . . The Small Business Administration—statements of personal history on five hundred thousand persons . . . Internal Revenue Service—two hundred and twenty thousand intelligence files . . . The White House—seven computer data banks, one containing the names of fifteen thousand, two hundred and four persons whom the President addresses by their first names.

Frank Reynolds. This ABC Closeup is concerned not with the records of friends or enemies, but with the records kept by government agencies on you and your family, on a majority of Americans. Our starting point . . . the neighborhood school.

Joel Crausman, school psychologist, Montgomery County, Md. The thing about the schools, the school systems of America, is that they hold in their records and in their files the most, the vastest, the most comprehensive data bank, on every man, woman, and child educated in this country that any insitution does. We make the IRS and the FBI pale by comparison.

Frank Reynolds. It may well be that America's school children are the victims of the most wide-spread invasion of privacy in the country.

All school systems keep records. Many keep confidential files. We discovered that just about anything can be put into these files by just about anybody, and that often, outsiders have an easier time seeing the records than do parents.

The National Committee for Citizens in Education has just completed an extensive fifty-state study of school record keeping practices. It is released here for the first time. The Senior Associates of the Citizen's Committee, Carl Marburger and William Rioux.

William Rioux. There are only four states in the country where we found that specifically the state stipulates that the parents have access to those records.

Carl Marburger. Anyone in the school staff, including the school secretary, the principal, the superintendent, the teacher, the counselor, can put something into the record. And by being unsupervised, no one ever pulls anything out, and no one ever knows precisely what goes in, and the parent himself is often denied access to what's in the record.

Frank Reynolds. ABC News examined at random school districts around the country . . . Wheaton, Maryland. Mr. and Mrs. Richard Dean, parents of two boys, discovered a confidential file at their son's school.

Richard Dean. Seventy-six different items that were in at least eight different locations . . .

Frank Reynolds. The Dean's case provides some insight into what goes into these files and how widely they're distributed.

Mrs. Richard Dean. There were remarks in this file that related to the family, and to us as parents.

Announcer. Document: From the Dean's confidential file, a description of one of the parents . . . Quote, "tense, domineering, intelligent, perfectionist-type person."

Joel Crausman. Any individual can write something on a piece of paper, put it into a file folder, and those comments can follow a youngster through his public school career. I have seen notes in youngsters' files which were put there by cafeteria workers.

Frank Reynolds. It took the Deans more than a year to track down every item in the confidential file, and to get the school to agree to destroy them.

Mrs. Richard Dean. About six months later, even though we had all the assurance of the Assistant Superintendent and all the school officials, we decided to just make a spot check . . . So we went into school and asked to see the files on all of our children. And, lo and behold, there appeared another document that supposedly had been destroyed.

Joel Crausman. There is no real assurance that confidential files are destroyed in their entirety, when they are supposed to be. A confidential file goes where the child goes . .

Frank Reynolds. Can parents get to these files to have potentially damaging material removed? Menlo Park, California . . . These are the children of Mrs. Gladys Halperin. One of them suffers from a neurological handicap. Mrs. Halperin and a private neurologist challenge the accuracy of a psychological evaluation that has become a permanent part of the record of one of the children. It took Mrs. Halperin more than a year to gain access to this school file. She is now trying to have it expunged.

Gladys Halperin. This is incorrect and it's potentially stigmatizing, and we have no assurances from the school that this information is protected.

Frank Reynolds. We asked school board official, T. W. Stevens if the psychologist should share information with the parent.

T. W. Stevens. He should share with the parents the observations that he has made, but certain terms that he would use, he would not share because they're going to be misleading.

Gladys Halperin. It's necessary for psychologists to take the time to explain the full situation because parents are the ones that have the prime responsibility for the child.

Carl Marburger. We have built up a jargon. We have built up a cult of secrecy in the profession that we feel that the average parent cannot interpret.

Mark Isaacs. I felt a sense of outrage. The person who's described in these papers is not the boy I knew.

Frank Reynolds. Perkasie, Pennsylvania . . . This is the family of David Isaacs. An adopted eight-year-old, David was killed by an automobile just outside his home.

Court action followed, and it came to light that a confidential file had been kept on David from kindergarten through the third grade.

Announcer. From the confidential file on David Isaacs: quote, "David's feelings of superiority, if they do exist, are bolstered through parent attitudes. This could result in some negative attitudes towards school. The preceding statements are just observations."

Mark Isaacs. Balderdash . . . Because this is nonsense. I'm trying to figure out what he talked about. I tried . . . I read that . . .

Frank Reynolds. Mark and Maggie Isaacs, David's step-parents.

Maggie Isaacs. That may be another way of saying, a negative way of saying, that we tried to give the kid pride in being an individual, being himself. He was David Isaacs. This was important.

Frank Reynolds. Dr. William Keim, Superintendent of Schools, Pennridge School District.

Dr. William Keim. In that particular case it sounds like a psychologist, if that's who it was in a case like that who was conducting that interview, was making an observation.

Mark Isaacs. Anybody has a right to make mistakes. He can make an improper observation on my kid, your kid, anybody's kid. It goes in the record. But the thing I'm objecting to is it stays there. I should have the right to say, "This man is wrong."

Dr. William Keim. Do they know that? Do they know these records are completely open to them?

Well, if in our society, we issued a booklet of what everyone may do, and what is available, and what isn't available, I mean, we would end up, you know, with a Sears and Roebuck catalogue.

Mark Isaacs. There's such a thing as formal secrecy which says, no, I don't have the right, and effective secrecy, which doesn't say a word. It denies me the right by not telling me that these things exist.

A member of the school board told me that he did not think that the records of a school should be open to untutored eyes, and now, my reply to that was—everybody's eyes are untutored in most things . . . That, if I go . . . a trial by jury is a trial by twelve pairs of untutored eyes. Untutored eyes is the key to democracy.

Dr. William Keim. We would keep anything in the folder that we think would in any way help us guide their educational career.

Maggie Isaacs. I think one of the best things that parents can do about their children's records is to ask to see them in the first place, ask to see them regularly, and then challenge anything that they don't like, or don't agree with.

Mrs. Richard Dean. We feel that every parent should have the right to request the removal of any material that they consider irrelevant, that has nothing to do with the educational benefits to be gained by the child.

Mark Isaacs. Something should be done legislatively . . . Not just that the parents have permission to look at the school records, but that parents have a positively expressed right.

Frank Reynolds. In only twenty states do parents now have that right, and even in those twenty states, it is not always clear to which record they can gain access.

These are police records, records kept on youngsters, many of whom have not even been accused of a crime. The children are part of something called a pre-delinquent program.

These are records kept on youngsters in something called a delinquent diversion program. These records can track a child from one end of the country to the other.

These types of programs, funded by federal money, are quietly mushrooming around the country. We examined some of them in California.

The Bell Gardens, California Police Department claims it has significantly reduced the number of juveniles entering the criminal justice system. But, at the same time, it has started, within that system, a vast new file of records on many youngsters not even accused of a crime. Bell Gardens Police Chief, Ferice Childers . . .

Ferice Childers. The age brackets that we deal with range from a babe in arms to a person eighteen, primarily. Everything that we do within this particular program, every action, every contact, is documented, and is entered in our computerized system of record keeping, and all the agencies here share the same files. They work together as a team.

Frank Reynolds. Money for these programs comes from one of the least-known agencies of the Federal government, the Law Enforcement Assistance Administration. The Administrator of LEAA is Donald Santarelli.

Donald Santarelli. We are the last line of defense in a sense, the net which catches the foul ball only. We can't take every pitch. The pitch is to be taken by such institutions as the family, the community, the church and the school.

Frank Reynolds. What is a pre-delinquent?

Donald Santarelli. I'm not sure I can answer that question. That's a question you should ask an authority on juvenile delinquency. I'm managing for the Congress and the Executive branch a support program designed to make local government more responsive.

Paul Altmeyer. But your organization has spent fifty-five million dollars on pre-delinquency programs.

Donald Santarelli. I can't answer that with any specificity.

Frank Reynolds. In Orange County, twenty-one police departments refer children to this center run by the County Probation Department. At the Newport Beach Police Department, we asked Juvenile Officers Bob Hardy and Mike McEveny what kind of youngster is being recommended for this program?

Officer Bob Hardy. This could be the child who is unable to cope with maybe his physical stature, being smaller or too large, or is immature for his age and is unable to cope with his age peer group, because of his immaturity.

Paul Altmeyer. And he need not have any police record?

Officer Bob Hardy. This is correct.

Frank Reynolds. Dr. Charles Wiand, Director of the Behavior Assessment and Treatment Services Center.

Dr. Charles Wiand. They are not given specific, confidential information about various aspects of family conflict because it would be of little use to them, for one thing.

Paul Altmeyer. These progress reports . . . what do they say?

Officer Bob Hardy. A typical one will say that we have assessed the problem, that there is a sibling rivalry within the family between the brother and sister.

Dr. Charles Wiand. Some kind of notations are made, but it's not, in my opinion, injurious.

Officer Bob Hardy. If the juvenile moves out of the area to another jurisdiction and we, they want to take the benefit of the information that we've gathered on the subject before, and we will pass this information along.

Paul Altmeyer. So, if the child were to move from Newport Beach, California to Pennsylvania this record would stay then.

Officer Bob Hardy. It would stay with us until it was requested. But it would be available to them.

Frank Reynolds. If your child does get in trouble with the law, a record may follow the child, even though it was supposed to have been destroyed or sealed.

ABC News examined record-keeping practices in one big-city juvenile court—Los Angeles. Most juvenile courts throughout the country, have provisions to allow a youngster who has a court record, and who then is rehabilitated, to have that record permanently sealed. But is it sealed? Robert Overton, head of Juvenile Court Services, Los Angeles.

Robert Overton. The petition is filed with the Superior Court and then an investigation is conducted, and if that investigation proves satisfactory, the Superior Court will then order the records sealed.

Paul Altmeyer. But does that person know all of the agencies who have a copy of that record?

Robert Overton. Not necessarily.

Frank Reynolds. William Hogoboom, Presiding Judge of the Los Angeles Juvenile Court.

Judge William Hogoboom. It's always possible that they can be other places. There is no record system that I've ever heard of that is absolutely fail-safe proof.

Frank Reynolds. We also learned that when the Juvenile Court orders the Los Angeles Board of Education to seal a child's school record, the so-called sealed record is actually stored on microfilm along with unsealed records.

Paul Altmeyer. Do you think that that's a good policy?

Judge William Hogoboom. Well, it's a difficult policy for them to get back and seal the record.

Paul Altmeyer. Did you envision it as being on microfilm?

Judge William Hogoboom. Yes, I don't think it's important from my standpoint whether it's on microfilm or on . . .

Paul Altmeyer. With unsealed records?

Judge William Hogoboom. Well, I thought you indicated that there was one record, that each record was separate, but it was on microfilm . . .

Paul Altmeyer. No, they are mixed together, unsealed and sealed.

Judge William Hogoboom. Oh, no, I would think that would be not a particularly good system.

Paul Altmeyer. Do you think it should be changed?

Judge William Hogoboom. I would think it should, yes.

PART TWO

Frank Reynolds. If you're a veteran you have a coded number following you that you may not know about. Look at your discharge form DD–214. If you were discharged before March 22,1974, there is a three number code in Box 11–C. It's called a Separation Program Number or "SPN." It's the coded reason for his discharge. Even if your discharge is honorable, your SPN code may hurt you.

Tony Arganda. One of the reasons I haven't been able to get a job in my chosen, well, in my field, electronics, is possibly because there was a number on my discharge.

Frank Reynolds. Since 1967 alone, more than two hundred thousand veterans with honorable discharges have been labeled with damaging SPN numbers. There were more than five hundred such numbers. One could label you "a shirker." Another could say you had an "apathetic attitude." Another that you were a "marginal producer." Vague descriptions, but clearly unfavorable. We spoke with several honorably discharged vets around the country. Paul Cox, an ex-Marine.

Paul Cox. I got several awards. I got a Combat Gallantry Award and a whole bunch of, you know, a whole chestful of ribbons. I made Sergeant. I worked my way up. I did my job. But now I've got this SPN number 305, early separation, it says. It's something strange, "for the convenience of the government," on my discharge paper, after supposedly serving my country well.

Frank Reynolds. Some veterans feel the SPN codes were used to punish legal political activity. James Mohler won the Navy Achievement Medal in Vietnam. However, he began circulating a legal petition to Congress to end the war. Mohler was then released from the Navy early, with an honorable discharge, but was given the SPN code, 302, for "substandard personal behavior."

Representative John Seiberling. This is a rather interesting case of Mr. Mohler. I'm looking at his reports from the Navy . . .

Frank Reynolds. Congressman John Seiberling of Ohio . . .

Representative John Seiberling. One that says RD 2 Mohler has developed very effectively as the leading radar man . . . Mohler is an outstanding RD . . . Mohler has a great deal of initiative concerning work in his rating . . . And similar complimentary statements.

Then we get to his discharge papers and they have a 302 Separation Program Number or SPN number, as it's called, and that stands for "substandard performance." And yet there's nothing in his records that shows any basis for that kind of a rating.

Frank Reynolds. Despite the fact that these SPN lists were clearly marked "For Official Use Only," we found major corporations use them to screen prospective employees. ABC News learned that the following corporations have SPN lists: Firestone, the Chrysler Corporation, Standard Oil of California, Republic Steel, Sperry-New Holland, Boeing, McDonnell-Douglas and Honeywell.

Rene Ramirez. Since certain veterans have honorable discharges and have adverse SPN codes, employers tend to look, only look, at the SPN codes because the SPN codes give you the actual reason for discharge.

Frank Reynolds. Rene Ramirez was a company commander in both Korea and Vietnam. A disabled veteran, winner of the Purple Heart, he has just completed law school, where he did an intensive study of SPN codes.

Rene Ramirez. When you had weak charges against a man, that you knew the charges would not sustain a court martial, and you didn't want him to see a lawyer, so what we would do is we would offer the man a general discharge, coerce him into accepting the general discharge, and get him out of the service that way. Now, the reasons we put down on their paper work, for their discharge, would be coded, when they were out of the service and put on their DD–214's. And they're carrying these numbers around now, and some of them don't even know what these numbers mean or why they were given to them.

Frank Reynolds. Isn't the Army really using a SPN number to punish a man?

Col. Victor DeFiori. That's not the intent no, sir.

Frank Reynolds. Is that the effect?

Col. Victor DeFiori. It's not the intent. It may be the effect.

Frank Reynolds. We asked the Pentagon for a response and on March 14, 1974, spoke with Colonel Victor DeFiori.

Col. DeFiori, why does the Department of Defense need SPN numbers?

Col. Victor DeFiori. You must realize that for the past five or six years, the Department of Defense has been discharging about nine hundred thousand men and women per year. So we face the dilemma of trying to recognize meritorious service. And when we do recognize meritorious service, we are forced to at least acknowledge that some men and women do not perform meritorious service.

Frank Reynolds. During the course of our investigation into SPN numbers, and after we had questioned Colonel DeFiori, the Defense Department announced it would stop placing SPN codes on a veteran's DD–214 form. We returned to the Pentagon and spoke with General Leo Benade.

General Benade, why is it now possible to drop the SPN codes, when only last month Col. DeFiori told us it was necessary to keep them?

Gen. Leo Benade. I think it's a good illustration, Mr. Reynolds, of a system that was well intended, and for good reasons. But it became so painfully apparent that we were not succeeding in explaining the system, and a great deal of misinformation was flying about.

Frank Reynolds. Do you still believe, then, General Benade, that it was a good system, that you merely had difficulty in, as you say, explaining it?

Gen. Leo Benade. Anything that hurts people—and there is no question the other system did hurt some—this was never intended as such I can assure you. The military services have no desire to be vindictive or to pursue a veteran who has departed service. By May first, we hope to be set up everywhere with proper instructions out, and everyone trained, and then every veteran who desires to have a new form 214 be issued to him, need only apply to his parent service.

Frank Reynolds. Congressman Edward Koch of New York has been one of the leading congressional critics of SPN numbers.

Representative Edward Koch. The Department says that a veteran who has a SPN number on his discharge paper now, if he submits it, they will replace it with a new discharge paper. We think that there will be tens of thousands of veterans who are unaware of the SPN numbers and who will not make the effort and who will go through life stigmatized. And therefore Congressman Aspin and myself have requested the Pentagon to issue new papers to every veteran, and all of these discharges since 1955 bear SPN numbers, so they should all be replaced—automatically.

Frank Reynolds. More than eleven million veterans have been honorably discharged since 1960. It is estimated that more than half a million of them still carry bad SPN numbers on their records.

PART THREE

Attorney General William Saxbe. I had a lawyer come in from Columbus for a convention of some kind, and he got in some difficulty with the police, and when they took him to the police station—he was drunk and disorderly—asked for his name, and he told them that he was William B. Saxbe, the Attorney General of Ohio. And even though he had other cards in his pocket, they booked him that way. I had a dickens of a time getting my name off of that docket, the police blotter.

Chief Joseph McNamara (Kansas City Police Department). We're aware of the concerns about privacy and we're staying on top of that problem. We would hate to see the police utilization of the computer curtailed. And I think we very much agree with FBI Director Clarence Kelley's stand that criminal records must be open to law enforcement officers for purposes of assisting in investigations of crimes.

FBI Director Clarence Kelley. And I hold up as an example of effective, fair, and efficient multi-state and federal cooperation on a criminal justice information system, the National Crime Information Center . . .

FBI Tour Guide. Approximately a hundred and twenty-thousand inquiries will come to us each day . . .

Frank Reynolds. The Federal Bureau of Investigation is the largest known repository of arrest information in the world. The FBI's Identification Division alone contains more than twenty million arrest records.

But many of these records do not contain the disposition of the case—whether the person was found guilty or not guilty, or had the charges dropped or dismissed. These manual records move freely between the FBI and the nation's police departments, state and local licensing agencies, and in some cases—although they are not supposed to—to credit agencies and private businesses.

Now, the FBI has collected about five hundred thousand computerized arrest records at its National Crime Information Center. By 1984, the FBI expects to have five million computerized arrest records, and any one of these will be available to thousands of police departments in five seconds.

Harry Wachter. Now, since 1947, it's hard to say how many jobs I might have lost . . .

Frank Reynolds. Harry Wachter, an insurance salesman, moved from Arkansas to Virginia in 1947. An Arkansas associate thought Wachter had run out on a business deal, and swore out a warrant for Wachter's arrest. It was a misunderstanding. The warrant was then withdrawn. But it was only last year that Wachter discovered that that crucial fact had not been entered on his record for nearly thirty years.

Harry Wachter. A report came back stating that there was an FBI record that I was a fugitive from justice back in 1947, and nothing else was said on the FBI report. I have this record from the Arkansas Police Department, and it says, "We show no records whatsoever on this man."

It seems to me like, if the FBI gets a report that I have been arrested for a specific, for a definite matter, that they should have followed through with a disposition.

Frank Reynolds. Professor Alan Westin headed a National Academy of Sciences project which studied the National Crime Information Center.

Alan Westin. The courts themselves are in a morass as far as effective record keeping practices are concerned, so that the, very frequently, police departments and courts having other priorities and being under a great deal of pressure simply do not keep these dispositons properly reported and keep them up to date.

Frank Reynolds. The FBI places full responsibility for the accuracy of its arrest information on state and local police departments. But surveys show that up to twenty percent of state files are inaccurate or outdated.

Producer Paul Altmeyer and I spoke with FBI Director Clarence Kelly.

Mr. Kelley, most of us, I think have the impression of the FBI as a super efficient organization. Why is it not possible for you to include disposition of arrests and charges made against people on records that are submitted around the country, to these various law enforcement agencies?

Clarence Kelley. I am very thankful that you make the statement that we're reputed to be super efficient, and I assure you that when we get a disposition, we do put it on the man's record. But we have had extreme difficulty in getting anywhere near one hundred percent compliance with our request that all dispositions come in. The law enforcement organizations just simply do not respond as they should.

Announcer. Document. A study of the FBI's National Crime Information Center . . . from a letter from the Comptroller General of the United States . . . Quote, "Data is not available to indicate how computerized criminal information history has been used."

Clarence Kelley. Yes, there is some dispute as to the security and to the breadth of the information within that data bank which is under some dispute.

Frank Reynolds. What can you do about it?

Clarence Kelley. I think that there should be, of course, a recognition of individual rights, and you should confine yourself to that information which is helpful in the performance of your duty as a law enforcement person.

Frank Reynolds. But is it your view that mainly a record of serious crimes or serious offenses should be kept, let's say, in the NCIC?

Clarence Kelley. In the NCIC, they are serious crimes.

Frank Reynolds. Well, how serious is a serious crime, Mr. Kelley?

Clarence Kelley. May I, in this event, ask an authority to answer it, and Mr. Wason Campbell is the Assistant Director in charge of our computer operations. And would you answer that, Mr. Campbell?

Wason Campbell. I'd be happy to. Yes, the offenses, of course, are . . it is limited to serious offenses.

Paul Altmeyer. It's my understanding that there are four hundred and twenty crimes under serious crimes, and these include such things as non-support and nonpayment of alimony. Is that true?

Wason Campbell. They are there yes, now. We are in the process of looking at the offenses which should be included, or to put it another way, offenses that perhaps should not be.

Frank Reynolds. Massachusetts created a Privacy and Review Board to screen the information in its own system, after it discovered more than seventy-five state and private agencies, and other individuals, had access to criminal history records. We spoke with Governor Francis Sargent who has refused to allow his state to share criminal history information with the FBI until safeguards are built into the system.

Gov. Francis Sargent. We found a number of mayors that were directly going to the records. We found local housing authorities that were going directly to the record, a variety of different insurance companies in Massachusetts could go directly to the records, and all sorts of credit companies. And I don't think this is what criminal history records are all about.

Frank Reynolds. What were the mayors going to the records for?

Gov. Francis Sargent. I can't understand. I can't understand why they would or why they should.

Frank Reynolds. Well, these records really are a potential source of blackmail, aren't they?

Gov. Francis Sargent. They are conceivably, yes.

Frank Reynolds. The case of Bill McLain, a former administrative assistant to Congressman Barry Goldwater, Jr., has amazed McLain and Goldwater, and has puzzled the FBI. McLain returned with us to this Los Angeles Federal Building, where he and Congressman Goldwater had earlier been invited to the FBI Field Office. The then Special Agent in Charge, Wesley Grapp, asked McLain for his driver's license number and punched it into a terminal.

Bill McLain. And to my great shock and amazement, back out of that teletypewriter came a long laundry list of my whole life's history. It listed specific things like where I'd lived. I lived in San Diego and San Francisco and here in Los Angeles; had every address while I was in school; every address, apparently since I was eighteen years old; had my wife's background, where she had lived; my children, where they were born and where they lived; it had information about, detailed information about my education; it had information regarding my military activity which I was even more surprised to see, because military service jackets are supposed to be confidential information; it had information about government loans, which, again, by statute, are supposed to be confidential; it had information about my California driver's, driving history.

Representative Barry Goldwater Jr. (R.-Cal.). I was impressed by the thoroughness and efficiency of the FBI in the job that they have to do, but it wasn't until later that it really struck home, and I really sat down and started thinking about the implications of the computerability of the FBI or any agency of government.

Frank Reynolds. Now, is it proper for the FBI to have all of this information?

Clarence Kelley. Where did this information come from?

Paul Altmeyer. That's the question.

Clarence Kelley. I mean, but where? Over some sort of a computer network?

Frank Reynolds. Yes.

Clarence Kelley. Well, I frankly don't see how anything like that could possibly come over our computer network.

Wason Campbell. That just could not be. We do not have that kind of information. It is not computerized. And the story is a bad one.

Representative Barry Goldwater Jr. The Bill McLean incident fired the, or fueled the fire that made me convinced that we in the Congress need to establish standards and regulations to prevent the potential abuse.

Wason Campbell. I will be pleased to pursue it and show you wherein it has no basis.

Paul Altmeyer. Does a data bank such as that exist, with information on it, such as that?

Wason Campbell. I do not know that.

Clarence Kelley. I'm not going to say that it's not true, but I'm going tc say that it is highly unlikely.

Frank Reynolds. We went back to McLain and Congressman Goldwater and told them of the FBI's reaction. Congresman Goldwater then wrote to us: "Let me once again verify the tour. An extensive list of information came back. Amongst the information was his driving record, some historical data on his wife, and information on a contested will." We then again contacted the FBI. They said such information is not stored at the NCIC, adding that—quote—"We have no explanation for the basis of their claim."

Prof. Alan Westin. If you think about all the files that are kept by the criminal justice and law enforcement agencies, one way to think about it is that it's kind of an hors d'oeuvres tray of information. Depending on who you are in the criminal justice system, and what kind of access you have, you can pick and choose what kind of information you want to get.

Frank Reynolds. In researching this ABC Closeup, and prior to filming, Associate Producer Richard Gerdau, visited the FBI's computer center where he saw one drawer on a computer program file, labeled "Security Index." When ABC News went back to film, the label had been removed. It is the middle drawer on the right.

Paul Altmeyer. Mr. Kelley, what is the "Security Index?"

Clarence Kelley. The Security Index is a listing of persons who may well be considered as possible security subjects or who have been convicted of security violations.

Paul Altmeyer. How many people are on that list?

Clarence Kelley. I do not know. There is nothing ominous about it at all. It is just that within the organization there is a classification of various offenses.

Paul Altmeyer. Does one have to have a criminal conviction to make the Security Index?

Clarence Kelley. No . . . no . . . no.

Frank Reynolds. Who makes the judgment, then, Mr. Kelley? Is it sufficient . . .?

Clarence Kelley. Well, of course, you're in . . . actually, the determination as to whether or not a person is a suspect in this type of thing is one wherein it, it, goes through several levels, from the agent who first has the information through the supervisor through the assistant agent in charge, on through to people here at the Bureau. We realize that sometimes this has an impact which is not warranted by actual facts. And we're looking this over. As a matter of fact we're looking over the entire security field, to bring it more in line with, with the observances of the rights and privileges of people. We should not be a part of anything that might put a taint on a person carelessly. And I'll admit that, well, this may have been the impact but it certainly wasn't the intention.

Frank Reynolds. After this interview, the FBI informed us Director Kelley had been in error. The FBI says that the Security Index was discontinued in 1971, and that the computer program file contained blank cards. The Security Index listed those people who would be arrested and interned in the event of war or "an internal security emergency."

ABC News examined the computerized record keeping system of one big city police department, Kansas City, Missouri.

Project Alert, as it's known, is considered one of the leading police computer systems in the country.

Designed as a municipal system, by then Police Chief Clarence Kelley, it has grown into a vast regional network, covering about ten thousand square miles of western Missouri and eastern Kansas. It links local, county, state and federal law enforcement agencies. We inquired about information gathered on four categories of persons—"mentals," "militants," "activists" and "associates." Melvin Bockelman, Manager of the Project Alert Computer System.

Melvin Bockelman. "Militants" . . . I think we have to recognize that we've gone through some trying times in our history. And during this period when the crime indices were rising back in the 1960's, they were very active, and it was considered useful information to computerize this.

Paul Altmeyer. But a "militant" need not have been convicted of a crime?

Melvin Bockelman. No, that is correct.

Frank Reynolds. In the course of ABC News' examination of Project Alert, persons classified as "mentals," "militants," or "activists" were removed from the computer. Kansas City's new Police Chief, also established a committee to review on a monthly basis, information stored in the Project Alert computers . . . Chief Joseph McNamara . . .

Chief Joseph McNamara. One example that comes to mind is that the hospitals had requested that we keep certain information on people who had received treatment for mental problems, mental disorders. Now, we had an embarrassing situation when we discovered that, inadvertently, these people had been listed as escapees from mental institutions, when, in fact, that was not true at all. And so we just purged all of that information from the computer. The initial tendency, of course, is to put in all of the information, feeling that we're using it for a legitimate and beneficial purpose of public protection.

Frank Reynolds. This is a "Field Identification Card." It is made out by Kansas City Police on someone called an "associate." It contains room for more than two hundred fifty personal entries. We rode one night with Sgt. Gary Schmidt, and asked about the "Field Identification Card."

Sgt. Gary Schmidt. If I stop a car out here, like this car right ahead of me here, and find out there he is a convicted felon, we have a procedure whereby we fill out an FIC card, stating where we stoppped him, what he was doing, and the associates that were with him.

Paul Altmeyer. A convicted felon is supposed to associate only with law-abiding citizens. Isn't it creating a stigma on a law-abiding citizen?

Sgt. Gary Schmidt. Well, not really, I don't think. I don't think it creates a stigma on the law-abiding citizen . . .

Paul Altmeyer. . . . to be known as an associate of a convicted felon?

Sgt. Gary Schmidt. Yes . . . like I said, I don't know whether this information, when it goes into the computer, but if it would go into the computer, and the man that was riding in the car had never been arrested or never had a record, I don't think I would condone that.

Frank Reynolds. In the course of ABC News' examination, the information gathered on "associates," persons perhaps not convicted or even accused of any crime, was removed from the computer. But we discovered that the records on "associates" are still maintained in written form here at the department's Criminal Intelligence Center. Chief McNamara . . .

Chief Joseph McNamara. We feel that this is appropriate for law enforcement to do things like this, to have certain information. We have a great need to know about certain information even though it's not based on past criminal convictions.

Frank Reynolds. The second area we examined—the security of the Kansas City system. This is Lenexa, Kansas. In 1970, the Lenexa Police Department joined the Kansas City Police Department's Project Alert. The then police chief went to major businesses and apartment house owners and offered to check out prospective employees and tenants for criminal history records. At least thirty-two people were barred from working or living in Lenexa. Former Lenexa Police Chief, David Gellatly.

Paul Altmeyer. Were you reprimanded by the Kansas City Police Department?

David Gellatly. No.

Paul Altmeyer. Was any suggestion ever made that Lenexa would be removed from Project Alert?

David Gellatly. No, sir.

Announcer. Document: Testimony from Clarence Kelley at his confirmation hearing as Director of the FBI, commenting on the Lenexa incident. Quote. . . . "he was reprimanded for that and they were advised that any further such violation would mean that the terminal would be taken away from the Lenexa Police Department."

Frank Reynolds. Mr. Kelley, you say that disciplinary action was taken aganst the officer?

FBI Director Clarence Kelley. Yes, sir.

Frank Reynolds. He says nothing happened to him at all.

Clarence Kelley. Is that rght?

Frank Reynolds. Yes.

Clarence Kelley. Well, it was my understanding that disciplinary action was taken against him, and, furthermore, that the terminal in that department, was—the Chief was informed that if there be any such activity persist that they would be removed from the line.

I was not party to the reprimand nor to any disciplinary action, so unquestionably you are right, and just that I was given the wrong information.

Paul Altmeyer. Did you continue the practice after that

David Gellatly. If someone asked, yes, we'd do it. But due to the publicity, the, apartment—you have to keep in mind that the apartment managers caught some heat over this—also—so consequently our requests for this type of information virtually came to a halt.

Paul Altmeyer. But if the request were made, you would continue to do it?

David Gellatly. That's correct.

Frank Reynolds. The Attorney General of Kansas ruled, in this decision, that under Kansas law, the Lenexa Police Department could give out this information legally, even though it was a clear violation of the rules of Project Alert. This is a vivid indication of legal and procedural problems that occur when police computer systems spread across state boundaries.

The weakest link in the security of any computer system is the human element. On two separate occasions, ABC News was able to gain access to a Project Alert Computer terminal and punch into the computer. While a violation of Police Department rules, it is not a violation of the law. Producer Paul Altmeyer explains . . .

Paul Altmeyer. We asked the Jackson County Prosecutor only for permission to film around his office. We made contact with a middle level official in the prosecutor's office and convinced him to let us use their computer terminal. We did this twice, at 8:00 a.m. when the office was nearly empty. We learned the code to the computer with relative ease. We gained access to information in it with even greater ease.

Frank Reynolds. The information on the computer printout is clearly labeled "For Official Use Only Within The Criminal Justice System." As a test, Altmeyer punched in the name of Kansas City Mayor Charles Wheeler. His criminal history record showed he had been twice guilty of violating the Kansas City dog ordinance. We informed both Mayor Wheeler and Police Chief McNamara that we had gained access to the computer.

Chief Joseph McNamara. Well, we . . . we will take this and trace it back to the terminal in which it was used and determine whether or not it was a violation of . . . of the standards which we set. But this kind of a violation we would take direct action against and we can trace this back to see who was operating the terminal and why, in fact, that was done. Now, sometimes we can do things like this as a test, but you yourself punched this in?

Paul Altmeyer: Yes.

Chief Joseph McNamara: I see. Well, we can trace this back and find out who allowed you to do this and if they allow anything like this to occur again, we would cut off their access to the computer.

Frank Reynolds: Only a warning was issued to the prosecutor's office. No further action was taken. Later, we learned the prosecutor, himself, had the terminal removed because of "light usage" and "difficulty in maintaining security control." No subscriber has ever been removed from the Project Alert system for a security violation. For that matter, no subscriber has ever been removed from the FBI's National Crime Information Center for a violation.

EPILOGUE

Prof. Alan Westin. The right to privacy is the right of each individual to decide what information about himself or herself should be shared with others.

Representative Barry Goldwater. It is not a partisan issue. It's something that all Americans should be concerned about.

Frank Reynolds. Understandably most of us feel rather helpless in the face of all these records, wondering what's in them and most importantly who has access to them.

Tonight we examined only some of the government files on us—you and me—and we have discovered there are some things that can and must be done.

Congress is now considering legislation to establish tighter controls over arrest records, the information on those records and who has access to them. This legislation is long overdue. Technology has made it far too easy to collect information. Technology, however, has not improved the accuracy of such information.

We asked law enforcement officials who is a pre delinquent. We received no satisfactory answer . . . perhaps because there is none.

Clearly, there is an urgent need for Congress to investigate the record-keeping practices of these so-called "pre delinquent" programs.

If you're a parent demand to know what's in your child's school record and who has access to it.

The states must guarantee parents legal access to their own children's school records and at the same time protect the confidentiality of those records.

During the course of our investigation we've seen some official changes take place. The Defense Department abolished those SPN numbers. But there are still half a million veterans tainted with unfavorable numbers. The Defense Department has a responsibility to inform them.

Just two days ago a federal court ruled that the FBI has the responsibility to expunge the record of a person who has been detained by the police and then exonerated.

The decision was a wise one and a first step in bringing legal order to a bureaucratic nightmare.

Government must maintain records. But no government, no police department, no school system, no armed service has any right or legitimate reason to brand any citizen without the citizen's full knowledge.

In the end the purpose of government record-keeping should be to protect, not restrict, the citizen's rights.

This is Frank Reynolds. Good night.

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THE ROLE OF JOHNS HOPKINS IN CONTEMPORARY SOCIETY

Mr. MATHIAS. Mr. President, one of the roles played by our Nation's universities is increasingly that of serving as a "microcosm" of the rest of society. For, in spite of the belief held by many that a university provides for its students an "ivory towered" existence, it is becoming more and more difficult in these days of rapid transportation and communication to shut out the events of the surrounding world. Those happenings which have the greatest impact on the community at large—be they war, inflation, or corruption in government—cannot help but have their repercussions on the inhabitants of a university.

Yet, this is not an entirely negative situation. For because it is a microcosm, the university society can afford the luxury of confronting and dealing with issues in a manner in which the "outside world" cannot afford to do, thus, in a sense, acting as a testing ground for new approaches and solutions to problems. This fact holds particularly true in the case of some of our more noteworthy institutions of higher learning, such as the Johns Hopkins University. In a recent speech given before a Johns Hopkins University dinner by Ambassador Linowitz, a Hopkins trustee, the concept of the role of Johns Hopkins in contemporary society is explored in depth.

Mr. President, I ask unanimous consent that Ambassador Linowitz' speech be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

Remarks by Sol M. Linowitz

I am very pleased to be here with you and to have this opportunity to say a few words on behalf of one of America's great educational institutions which I have the high honor to serve as a Trustee. Perhaps you can remember the time not too long ago when the three major problems of a university were said to be football for the alumni, sex for the students and parking for the faculty. My impression as a Trustee is that Johns Hopkins is doing very well with everything except football.

Today the hard fact is that the major problems confronting a university such as Johns Hopkins can only be described as the great problems of our society and our world. For as you know so well, we are living at an anxious, uncertain, fearful time—a time of paradox, when we have learned to achieve most and to fear most—a time when we seem to know much more about how to make war than how to make peace—more about killing than about living. It is also a time of unprecedented need and unparalleled plenty—a time when great advances in science and technology are overshadowed by vast achievements in instruments of destruction. It is a time when we fear not the primitive or ignorant man, but the educated and technically competent one, who has it in his power to destroy civilization. And it is a time when we see men walk the moon yet are reminded of Santayana's words that men have come to power who "having no stomach for the ultimate burrow themselves downward toward the primitive".

It is also a fateful time. In the past, men have warred over frontiers. They have come into conflict over ideologies. They have fought to better their daily lives. Today, however, each crisis overlaps the other and we find ourselves in an upheaval that touches upon every phase of our existence.

Part of the upheaval is as old as poverty itself. Part is as new as a walk in lunar space.

Here at home we are affected by a profound discontent that I think has no parallel in our history. I am not talking about Watergate, but about a malaise which is far deeper and far more pervasive. The fact is that in this nation, at this time, blacks, browns and whites, blue collar workers and white collar workers, young and old, city dwellers and housewives, businessmen and consumers—almost without exception Americans feel themselves confused, frightened and concerned. They feel themselves at the mercy of forces they cannot influence or understand. Somehow, from the point of view of the individual citizen, whoever he is, the illusive thing called "the system"—this whole network of arrangements and institutions that determines the character and quality and often the content of our individual lives simply doesn't seem to be working. So we find ourselves with a sense of institutional paralysis on the one hand and an individual powerlessness on the other—a crippling and corrosive combination that no society can long endure.

As one contemporary commentator put it: "Our kinship today is not so much with the year 2000 as with the year 1776. We are back to the basics of trying to organize a new society and providing for its governance—to the very basic questions about how our society and systems are to function".

If we are to regain a sense of purpose for the future—no institution in our society can play a greater role or offer wiser guidance than a university such as the one to which we do honor this evening. For if a university stands for anything, it stands preeminently for faith in reason rather than in dogma, in rationality rather than inevitability, in the free rather than in the enslaved mind. A university is our shining response to the prophets of doom, to the demagogues, to the bigots, to the breast beaters. In a university we confidently reaffirm our belief in America as a place dedicated to the fulfillment of the American dream. At a university the businessman, the poet, the farmer, the philosopher, the artist, the doctor, the lawyer all of us can work together in mutual respect to help make that dream more of a reality.

Adlai Stevenson once said that what we desperately need in the world is to find a way to humanize the scientists and to simonize the humanist. In a deep sense I think that is the goal to which Johns Hopkins is uniquely committed at what may well be a unique moment in our history.

Our age has properly been called both the Age of Science and Technology and the Age of Anxiety. Both are true for indeed one feeds upon the other. As our scientific and technical competence has increased so have our doubts and anxieties. So we confront the challenge of how to harness our technology to help us move toward the kind of society and the kind of world we want. The obvious fact is that technology in and of itself is amoral. It becomes "good" and "bad" depending on what we do with it. An automobile can transport you or kill you. So can an airplane. Nuclear energy can blow us up or give us unlimited energy to reach unlimited horizons. Television can bring us Leonard Bernstein or Tiny Tim.

In short, the real challenge of modern technology is not *whether* to use it, but *how* to use it to accomplish what we want. For obviously, it means little to have achieved revolutionary new advances in communications if people will not communicate; to have perfected new ways to make freedom richer, if people remain enslaved; to have brought out of the laboratory new ways to sustain life, if our greater concern is with how to spread death.

Throughout history, technological changes have brought immense benefit to human society. Technological advances have meant reduction of hunger and disease, abolition of slavery, relief of bondage, extension of human life. They have led to improvement in human welfare and alleviation of human and social needs. Even today, with all of our pollution and depredations, we have only to put the human degradation and exhaustion in primitive societies, side by side with the comfort and decency, even in a megalopolis. And it is worth recalling, as someone not too long ago reminded us, that 90% of the medical prescriptions being written today could not have been filled 20 or 30 years ago because the ingredients were then unknown.

So the real question is whether we can put our technology to right use in order that we may communicate faster, spread truth more quickly, bring aid more effectively, and advance progress and civilization more efficiently.

The new technology can also mean much to our whole program of education. For if one thing is certain, it is that the advanced technology depends on the educated man to create it, to make it work, to keep it running, to improve it. The narrow craftsman will no longer be able to manage things in a technological society. Progress in this kind of a society and economy will depend more on education than on all the other traditional criteria of an authoritarian society, such as family, social position, inheritance and the like. For only the properly educated will be qualified to understand and to take the responsibility for decisions.

One magnificent by-product of the new technology could therefore be to impel us toward a far better educated, and therefore a stronger, democratic society than ever before. Such a citizenry can begin to fulfill the true potential of a democracy. It will demand governmental representatives able to deal wisely with the complex problems of the new age in such areas as space, energy, defense, regulation of industry, commerce, labor and the whole world around us. It will be less apt to be intimidated by the name-caller, the tub-thumper, the breast-beater, the rumor monger. It will be able to understand far better why democratic institutions must be cherished and strengthened.

To lead us in that direction we are going to need from our great universities, in both the public and private sectors, young men and women of breadth and perception who will understand where we have been and where we are going, who will know about the kind of world in which we live and the kind of future we are trying to achieve. We will need, in business and professions as in our public life, men and women who will be able to communicate with one another and with other people and with other places; people who will know how to transmit and stimulate ideas; who will recognize that things human and humane are even more important than the computer, the test tube or the Xerox machine; who will understand that "know why" is even more important than "know how"; who will try to see our problems as part of total human experience; and who will be able to understand something of what yesterday teaches us about today and tomorrow. In short we will need young people who will be able to dream dreams and who will be unafraid to try to make them come true.

Johns Hopkins is singularly qualified to bring forth such men and women to assume positions of leadership and responsibility. And nothing is more precious to our future than that such a university be enriched and strengthened to enable it to make its greatest contribution.

It is not becoming for me to talk to you about the role of Johns Hopkins in your community. As you know so much better than I, The Johns Hopkins University and Hospital play a vital role in reaching out to the community broadly. I have been to the Hospital and have seen for myself its readiness to minister with skill and compassion to those in need and pain. Neither Johns Hopkins nor any other university has a magic wand to wave over society, nor does it have a silver bullet to prescribe for a society's ills. But it can and does bring, in addition to its educational and cultural strengths, something which only a great university can bring—a sense of time, a sense of place, a sense of the order of things and recognition that the world was here yesterday and will presumably be here tomorrow.

As we look toward that tomorrow, I think we may be on the verge of creating the first free society in the whole history of the world. By that I mean the creation of a society in which man is really capable of basing all of his choices and actions on understandings which he has himself achieved and on values which he embraces for himself. The free man in the free society is aware of the basis on which he accepts propositions as true. He understands the values by which he lives, the assumptions on which they rest and the consequences to which they lead. The free man is the rational man and the degree of his freedom is the degree of his grasp of himself, his environment and the relation between himself and his surroundings.

Freedom today has the boundaries of prejudice and ignorance, and only those boundaries. I believe we may become a great society and a free society because we have a real opportunity to eliminate those boundaries.

Johns Hopkins can do much to help bring into being that kind of a free society, that kind of a great society. And in so doing it will be fulfilling that vision of a great university which John Masefield once eloquently described in these words:

"There are few earthly things more beautiful than a university. It is a place where those who hate ignorance may strive to know, where those who perceive truth may strive to make others see; where seekers and learners alike, banded together in the search for knowledge, will honor thought in all its finer ways, will welcome thinkers in distress or in exile, will uphold ever the dignity of thought and learning and will exact standards in these things. They give to the young in their impressionable years the bond of a lofty purpose shared, of a great corporate life whose links will not be loosed until they die. They give young people that close companionship for which youth longs, and that chance of the endless discussion of the themes which are endless—without which youth would seem a waste of time."

"There are few earthly things more splendid than a university. In these days of broken frontiers and collapsing values, when the dams are down and the floods are making misery, when every future looks somewhat grim and every ancient foothold has become something of a quagmire, wherever a university stands, it stands and shines; wherever it exists, the free minds of men, urged on to full and fair enquiry, may still bring wisdom into human affairs."

RETIREMENT OF SENATOR PAUL J. BAILEY

Mr. MATHIAS. Mr. President, one of Maryland's most distinguished public figures, State Senator Paul J. Bailey, is retiring this year after a noteworthy career in local and State government. Throughout his years of public service, which began in 1933, Paul Bailey has been an effective spokesman for and representative of the citizens of St. Mary's County, his home since birth. At the same time, he has taken a leading role in formulating public policy on the major issues of the State. He has done all this with intelligence, grace, and good humor. While he no doubt will be heard from in retirement, his decision to formally leave public service leaves a void in the government of Maryland.

Mr. President, the Enterprise, a newspaper published in Lexington Park, Md., in Paul Bailey's home county, contained an article in its April 18 issue that reports his retirement plans and includes the text of a resolution adopted by the General Assembly. I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

State General Assembly Lauds Senator Bailey on His Retirement

The Maryland Legislature has honored Sen. Paul J. Bailey (R-St. Mary's, Charles) who served his last day in the Senate last Monday when the General Assembly adjourned. The senator has announced he will retire.

In a resolution introduced by Charles County Del. Loretta Nimmerrichter and Calvin Compton, both Republicans, as is Bailey, the senator is honored for his service and wit while in the legislature.

He served in the Senate from 1947 to 1955 and from 1967 through 1974, a total of four terms. From 1959 to 1966 he served as a member of the State Roads Commission. Bailey never lost an election.

(Del. Nimmerrichter has filed for the Senate seat representing Charles and St. Mary's counties that Bailey is vacating.)

The resolution is as follows:

A House Joint Resolution concerning Paul Jacob Bailey:

For the purpose of expressing the respect and affection of the General Assembly for Sen. Paul J. Bailey of St. Mary's County upon his announced intention to retire from legislative service.

The members of the General Assembly have learned with much regret of the announced intention of Sen. Paul J. Bailey to retire from legislative service at the conclusion of his present term of office.

Paul Jacob Bailey is a native of St. Mary's County, Md. He is an attorney of long standing, having been a member of the bar of the Court of Appeals of Maryland since 1935.

Earlier, and as a part of his background that is not generally known, he was an outstanding musician. Thus, from 1928 to 1930, he served as a soloist with the U.S. Navy Band. He is a former member also of the famous Meyer Davis orchestra. He still retains a life membership in the District of Columbia Federation of Musicians, Local 161.

In his public life, Paul Bailey was a justice of the peace in St. Mary's County from 1933 to 1937. He was a member of the State Roads Commission from 1959 to 1966. His membership in the Senate of Maryland covers the period from 1947 through 1955 and also the period from 1967 through 1974.

What can one say about Paul Bailey? Plenty.

We know him as an unrivaled and unequaled character. Suave and good-humored, he is a raconteur and spinner of marvelous yarns. He inevitably and by general consent becomes the center of any social group.

Blessed with an infectious and rollicking sense of humor, Paul Bailey has always the ready quip and the delightfully barbed rejoinder. We love his homey and self-illustrated notes with their pert, pithy and pungent comments on the passing scene. Everytime he comes to town with shoes on and complains "my feet are hurting something terrible" is as funny as the first hundred times we heard it.

Yet all this is facade and window dressing that cannot hide the real Paul Bailey. We who know him well see the inner man as a learned and brilliant legislator. He has been a skilled debater and, in the rough and tumble of legislative controversy, an opponent worthy of his mettle. We know him as one who quickly can come to the heart of an issue and strip off the external trappings to reveal the inner problem.

Paul Bailey is an orator without peer in the Senate of Maryland. How often have we seen the Senate gallery packed upon an advance announcement that "Sen. Bailey is to speak tonight." He speaks with vigor and force, making effective use of the tools in the arsenal of the professional orator driving home his points with logic, humor, gentle ridicule, homely anecdote and quick repartee.

The Senate of Maryland, the State of Maryland, the 184 members of the General Assembly will miss Paul Bailey.

It is then with much respect and affection that we record for our legislative posterity that this General Assembly, State of Maryland and all of Southern Maryland are the better for his presence, his learned contribution, his sparkling wit, his kind and genial philosophy; now, therefore, be it

Resolved by the General Assembly of Maryland, That under the Great Seal of the State of Maryland, the secretary of State is requested to send copies of this resolution to Sen. Paul Jacob Bailey; and be it further

Resolved, That the two presiding officers of the General Assembly, the Hon. John Hanson Briscoe and the Hon. William S. James, are requested personally to assure our great, good friend from St. Mary's County of his firm place in the memories and admiration of a whole generation of colleagues in the General Assembly.

NOT THE WORST OF TIMES

Mr. MATHIAS. Mr. President, I frequently speak to students, and usually find them as well informed and concerned as any other groups with whom I meet.

James J. Kilpatrick, a man who shares with me a deep affection for this Nation's history, has also been meeting with students. A recent column which appeared in the Washington Star-News of May 1, tells of one such occasion. I find his defense of this country's stability heartening, and I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Not the Worst of Times

(By James J. Kilpatrick)

Knoxville, Tenn.—For the better part of two days, we had been talking—I had not realized how somberly we had been talking—of what is wrong in America today. A student on the front row asked the last question of a long evening.

"What makes you think America will survive, when everything is crumbling around us?

I paused before attempting an answer. I was spending several days with students at the University of Tennessee's College of Communications. The young men and women, prospective reporters and broadcasters, had been most interested in Watergate, impeachment and the various crises that dominate the news—crises in the economy, in the environment, in the supply of energy. They were uneasy about Big Brother government.

They were not afraid of the future, but they were depressed that nothing seems to be working right. Why did I think America would survive?

Virginia abounds with historic shrines. The most moving of these is the old ruined church at Jamestown. If one goes there early in the morning before the tourists come, or late in the evening after the crowds have gone, when only the shorebirds are moving and a mist obscures the river's farther bank, one understands: This is where it all began.

Here our forefathers brought their small ships, faced the perils of starvation and disease, defended their pitiful company from the Indians, and refused to give up. They survived.

One hundred and sixty nine years later, in 1776, another generation embarked upon a fateful revolution.

The infant republic fell into political turmoil under the Articles of Confederation. Everything seemed to be crumbling. Out of the chaos came the Constitution of 1787, the greatest work of political art ever carved by the hand of man, but the Constitution barely won ratification.

I suggested to the Tennessee students, concerned about contemporary perils to a free press, that they remember the Sedition Act of 1798. A terrible-tempered justice of the U.S. Supreme Court, a man bloated on power, upheld that incredible law. Editors went to prison, newspapers were closed. Freedom of the press seemed doomed. But a free press survived.

The American nation went through the War of 1812, saw its capital in flames, and emerged from that perilous hour to plunge a few years later into the sundering conflict of nullification. The odious practice of human slavery became intolerable. The Union tore itself apart in four years of bloody civil war. Men said the nation would never survive. It survived.

The passions of war could not be calmed. Andrew Johnson was impeached, tried by the Senate, barely acquitted. The South groaned under Reconstruction. The nation reeled under the scandals of successive administrations.

In 1876, the office of the presidency itself was bartered off in a political deal.

We fought our way through a bloody world war, a presidential scandal, a market crash, a fearful depression. Dust storms blew half of Oklahoma away. A fourth of our wage earners were out of work. We saw bread lines and soup lines and old men selling apples on the street.

Very well, I said to the students, Watergate is bad; inflation is bad, and the environment is polluted. If Mr. Nixon is impeached, the Republic will shudder. We will know political convulsion. But look back! Look back!

These are not the best of times, but these are not the worst of times either. It is absurd to suppose that having come through so much, America will crumble now. Survive? Of course we will survive.

OMB IMPOUNDMENT REPORT

Mr. METCALF. Mr. President, the Office of Management and Budget has released its most recent report on impounded funds. This report covers "budgetary reserves" as of April 20, 1974. Six reports have now been made pursuant to the Federal Impoundment and Information Act of 1972, as amended.

Over the past 2 years frequent criticism has been directed toward these reports. We first experienced difficulty in even obtaining them. Congress had to pass a law setting a deadline for the first one. Later we passed another law establishing four deadlines a year.

There were a number of serious omissions in the early reports. The most striking was the failure to include $6 billion withheld from the clean-water program. Obscure codes were used by OMB to explain why funds were withheld. Another code, just as obscure, was used to estimate the fiscal, economic, and budgetary effects of impoundment actions.

Recent reports by OMB have shown marked improvement. The introduction to the report has been expanded to cite a number of administrative actions which are not technically "budgetary reserves," but have similar effects in withholding funds from obligation and expenditure. Thus, the introduction discusses the administration's decision to withhold from allotment a total of $9 billion in clean-water funds—$3 billion each for fiscal years 1973, 1974, and 1975. A separate paragraph describes the unique funding arrangement for certain housing programs. The introductory material also includes a table showing $322 million in HEW funds withheld pursuant to statutory authority.

This amplification in the introductory part of the quarterly report is a welcome development. It makes the report more useful, more serviceable to Congress and the public.

However, the report still suffers from some of the same weaknesses identified by several Members of Congress. The "reasons" for impoundment—attachment B of the impoundment report—are wholly inadequate. The code system used therein is an effort to rely on a few general descriptions when what we really need is specific justification—or no impoundment. The same "reason" cannot be used to cover a multitude of highly differentiated programs. Nor do I find the second code in attachment C useful in describing the estimated fiscal, economic, and budgetary effects of impoundment actions.

I trust that OMB will continue its effort to transform this report into a comprehensive—and comprehensible—document.

Mr. President, I ask unanimous consent that this report be printed in the Record, along with the May 3 cover letter from OMB Director Ash to Vice President Ford.

There being no objection, the letter and report were ordered to be printed in the RECORD, as follows:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., May 3, 1974.
Hon. GERALD T. FORD,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: The enclosed report is submitted pursuant to the Federal Impoundment and Information Act, as amended. In accordance with that Act, the report is being transmitted to the Congress and to the Comptroller General of the United States, and will be published in the Federal Register.

Sincerely,
ROY L. ASH,
Director.

BUDGETARY RESERVES AS OF APRIL 20, 1974

THE APPORTIONMENT AND RESERVATION OF FUNDS PROCESS

The Antideficiency Act (31 U.S.C. 665) requires, with certain exceptions, that all appropriations, funds, and contract authority be apportioned so as to: prevent obligation of funds in a manner which would require deficiency or supplemental appropriations; achieve the most effective and economical use of amounts made available; provide for contingencies; and effect savings. The Act also requires that apportionments shall be reviewed at least four times each year, and it authorizes reapportionments and the establishment of reserves. The authority granted by this Act is exercised by the Director of the Office of Management and Budget under authority delegated by the President.

Apportionments specify the amounts that may be obligated during specific time periods, usually within the current fiscal year. In some cases, specific provisions of law provide that funds should be available over a period longer than one year. In cases where the amount of contract authority available a year in advance is specified by law, a distinction is made in the accompanying report (Attachment D) between the 1974 and 1975 programs.

The practice of withholding some amounts —"reserving" them—from apportionment, either temporarily or for longer periods, is one of long-standing and has been exercised by all recent administrations as a customary part of financial management. The Antideficiency Act authorizes the withholding of funds from apportionment to provide for contingencies or to effect savings made possible by or through changes in requirements, greater efficiency of operations, or other developments subsequent to the able. When funds are, by law made available beyond the current fiscal year, they are generally not fully apportioned in the current year. The unapportioned part is withheld to be released later for use in subsequent years, as required.

In some legislative and appropriation actions, the Congress has required the withholding of specified funds. For example, the 1973 Agriculture-Environmental and Consumer Protection Appropriation Act (Public Law 92-399) explicitly required that an amount be placed in reserve pending an administrative determination of need. In other cases, notably the 1974 Labor-HEW Appropriations Act (Public Law 93-192), Congress has authorized the withholding from obligation and expenditure of specified amounts or percentages of appropriated funds. A table showing the amounts withheld under Public Law 93-192 is Attachment A to this report. A similiar withholding was authorized by the 93rd Congress in the Agriculture-Environmental and Consumer Protection Appropriation Act of 1974. The Act provided an indefinite authorization to make insured loans in the Rural Electrification and Telephone Revolving Fund as follows (dollars in millions):

	Not less than—	Not more than—
Electric loans	618	750
Telephone loans	140	200
Total	758	950

The 1974 authority to spend debt receipts to finance loan activity was apportioned at the $758 million level.

In yet another case, Congress has made funds available only upon the arrival of certain contingencies. The 1974 Supplemental Appropriations Act (Public Law 93-245) sets aside a contingency reserve for the Interior Department's Office of Oil and Gas which is to become available only upon enactment of emergency energy legislation.

These Congressional directives are, however, the exception rather than the rule. Most reserves are established at the initiative of the Executive Branch and are based on operational knowledge of the status of specific projects or activities. For example, when a particular objective can be accomplished at less cost than had been anticipated when the appropriation was made, a reserve assures that savings can be realized and, if appropriate, returned to the Treasury. In other cases, apportionments sometimes await (1) development by the affected agencies of approved plans and specifications, (2) completion of studies for the effective use of the funds, including necessary coordination with the other Federal and non-Federal parties that might be involved, (3) establishment of a necessary organization and designation of accountable officers to manage the programs, or (4) the arrival of certain contingencies under which the funds must by statute be made available (e.g., certain direct Federal credit aids when private sector loans are not available). From time to time, reserves are established for the purpose of conforming to the requirements of other laws.

An example is the Executive's responsibility to stay within the statutory limitation on the outstanding public debt.

Most, but not all, funds provided by the Congress are subject to the apportionment process. Subsection (f) of the Antideficiency Act authorizes a series of exemptions. Temporary continuing appropriations are exempt from the apportionment process (Public Law 93-52, as amended, Section 103). Appropriations provided under such temporary continuing appropriation acts are usually indefinite in amount. In addition, some laws establish funding arrangements which are either outside the apportionment process or require Executive determinations before they become subject to apportionment. The Federal Water Pollution Control Act of 1972 (Public Law 92-500), for example, vests discretion in the Administrator of the Environmental Protection Agency to allot less than the maximum amounts authorized by the Act. (Whether the discretion exists at the allotment stage or at some later stage is now before the courts.) Under the provisions of the Act, authority to make contracts does not exist until the allotment is made. Consequently, fund availability (budget authority) exists only when allotments are made and only allotted funds move through the apportionment process. At this date, funds authorized by the Federal Water Pollution Control Act have been allotted on the following basis (dollars in billions):

Fiscal years	Authorized	Allotted	Unallotted
1973	5	2	3
1974	6	3	3
1975	7	4	3

Funding of certain housing programs of the Department of Housing and Urban Development (HUD) presents a unique situation with respect to the apportionment process. For five housing programs, the Congress provides commitment authority that allows the Secretary of HUD to sign long-term contracts requiring annual payments to specific housing units. The commitment authority is not subject to the apportionment (and thus the reserve) process since it does not represent obligational authority of a given year. Rather, it represents an authorization to enter into contracts which will result in a requirement for obligational authority (payments) in each of the years covered by the contract. Current plans anticipate that the commitments for annual payments will be some $299 million under the level made available by the Congress for four of these programs. If used, the $299 million of authority could result in outlays of up to $10 billion over the life of the contracts. As the payments under the contracts come due, they are met by annual appropriations (provided under the account "Housing payments" which also covers low-rent public housing). Thus, funds are only required to meet annual payments under the contracts. They are not required at the time the contracts are signed and are made available only when actually appropriated. Since reserves are established only on the basis of fund availability, and since funds appropriated for this program are needed for making payments at an early date, no reserves have been established for the subsidized housing programs.

The amount of funds apportioned or held in reserve at any one time is heavily dependent upon events both preceding and following initial apportionment actions. Key among the predecessor events is the passage of the annual appropriation bills. Apportionments for most Federal programs are made within 30 days of enactment of the appropriation bills. The earlier in the fiscal year these apportionments occur, the greater is the chance that reserves will accompany them. Early in the fiscal year, program and project plans are incomplete and allowances need to be made for contingencies which may occur later in the year. As administrative plans are completed and other events occur during the year, the need for reserving funds diminishes. Thus, for any one fiscal year, the amount in reserve is relatively low at the beginning of the year (reflecting primarily multi-year funds), peaks 30 days after passage of most of the appropriation bills, and then steadily diminishes as the end of the fiscal year approaches.

RESERVES AS OF APRIL 20, 1974

All but $3.1 billion of the $10.4 billion in reserve for 1974 is accounted for by reserve actions in three areas: Federal-aid highways ($3.4 billion), emergency security assistance for Israel ($2.2 billion which was released on April 25, 1974), and programs of the Department of Defense ($1.7 billion). Virtually all of the $6.3 billion in reserve for 1975 is in the Federal-aid highways account and other highway programs.

The reduction of $1.4 billion in budgetary reserves for 1974 reflects the completion of program and project plans since the February 4 report. Reserves have been maintained in some programs to await program development and to meet contingencies during the remainder of the 1974 program-year. In other programs, funds are being held in reserve to meet increased pay costs in the fourth quarter and thus eliminate the need for supplemental appropriations. In the case of programs which have been provided obligational authority beyond the current fiscal year, reserves have been maintained to ensure that funds will be available beyond FY 1974 as needed.

REPORT REQUIRED BY LAW

This report is submitted in fulfillment of the requirements of the "Federal impoundment and Information Act," as amended, which provides for a report of "impoundments" and certain other information pertaining thereto. This report lists the budgetary reserves that were in effect as of April 20, 1974.

The Antideficiency Act requires that all apportionments be reviewed at least quarterly, and that reapportionments be made or reserves be established, modified, or released as may be necessary to further the effective use of the funds concerned. Thus, in answer to item Number 5 of the Federal Impoundment and Information Act, the period of time during which funds are to be in reserve is dependent in all cases upon the results of such later review.

Attachment D lists, by agency, all accounts for which some funds are reserved. An asterisk (*) identifies those accounts added to the listing since the last report (i.e., such accounts contained no reserves on February 4, 1974). The listing:

Presents the amount currently apportioned for the fiscal year 1974;

Presents the amount in reserve as of April 20, 1974;

States whether the amount reserved will be legally available for obligation in fiscal year 1975;

Indicates the date of the reserve action and the effective date of the current reserve;

Presents a code which relates to the reason for the current reserve action, without necessarily exhausting all possible reasons; and

Presents a code which indicates the estimated fiscal, economic, and budgetary impact of the current reserve.

Codes used in the remainder of this report relating to the reasons for and estimated fiscal, economic, and budgetary impact of the reserve actions are described in Attachments B and C. The codes and footnotes listed for each entry relate to conditions which were in effect as of the date of the reserve action.

ATTACHMENT A—1974 LABOR/HEW APPROPRIATIONS—FUNDS WITHHELD FROM OBLIGATION AND EXPENDITURE

The 1974 appropriations act for the Departments of Labor, and Health, Education, and Welfare, and related agencies (P.L. 93–192) contains the provision that "not to exceed $400 million, . . . may be withheld from obligation and expenditure. . . ." The appropriation language also specifies that no individual appropriation provision may be reduced by more than five percent. In addition, the conference report (H.R. 93–682) establishes dollar limitations for the reductions that may be made to specified programs.

The following table shows the effect of the amounts withheld from programs receiving appropriations under this act. A comparison is drawn between amounts authorized to be withheld in the conference report and actual amounts withheld, as reflected in the 1975 Budget Appendix:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[In thousands of dollars]

	Authorized to be withheld (conference report)	Amounts withheld (1975 budget)	Difference
HEALTH			
Health Services and Mental Health Administration:			
Mental health	26, 874	9, 567	−17, 307
Health services planning and development[1]	17, 509	25, 937	−16, 649
Health services delivery[1]	2, 800		
Health manpower[1]	22, 277		
Preventive health services	4, 936	0	−4, 936
Subtotal	(74, 396)	(35, 504)	(−38, 892)
National Institutes of Health:			
National Cancer Institute	27, 560	23, 706	−3, 854
National Heart and Lung Institute	15, 145	13, 365	−1, 780
National Institute of Dental Research	2, 278	1, 607	−671
National Institute of Arthritis, Metabolism and Digestive Diseases	7, 972	6, 486	−1, 486
National Institute of Neurological Diseases and Stroke	6, 250	5, 042	−1, 208
National Institute of Allergy and Infectious Diseases	5, 700	3, 596	+2, 104
National Institute of General Medical Sciences	8, 838	8, 449	−389
National Institute of Child Health and Human Development	6, 512	5, 357	−1, 155
National Eye Institute	2, 081	1, 684	−397
National Institute of Environmental Health Sciences	1, 443	482	−961
Research resources	6, 672	5, 153	−1, 519
John E. Fogarty International Center	237	0	−237
National Library of Medicine	877	0	−877
Subtotal	(91, 564)	(74, 927)	(−16, 637)
Total, Health	165, 960	110, 431	−55, 528
EDUCATION			
Office of Education:			
Elementary and secondary education	96, 725	94, 979	−1, 746
School assistance in federally affected areas	16, 584	16, 584	0
Education for the handicapped	5, 325	5, 325	0
Occupational, vocational, and adult education	26, 354	26, 354	0
Higher education	29, 167	29, 167	0
Library resources	8, 585	3, 688	−4, 897
Educational development	4, 487	4, 487	0
Salaries and expenses	93	93	0
Total, Education	187, 320	180, 677	−6, 643
WELFARE			
Social and Rehabilitation Service:			
Grants to States for public assistance	2, 500	2, 500	0
Social and rehabilitation services	7, 775	7, 775	0
Subtotal	(10, 275)	(10, 275)	(0)
Office of Child Development:			
Child development	15, 500	9, 020	−6, 480
Subtotal	(15, 500)	(9, 020)	(−6, 480)
Total, welfare	25, 775	19, 295	−6, 480
RELATED AGENCIES			
Corporation for Public Broadcasting	2, 500	[2] 2, 250	−250
Office of Economic Opportunity	17, 315	[3] 9, 800	−7, 515
Total, related agencies	18, 815	12, 050	−7, 765
Total, HEW and related agencies	398, 870	322, 453	−76, 416

[1] The 1974 activities of these programs are divided between Health Services Administration and Health Resources in the 1975 budget appendix.

[2] This withholding does not appear in the 1975 budget appendix.

[3] In the 1975 budget appendix, this figure is shown as an unobligated balance lapsing.

ATTACHMENT B—REASON FOR CURRENT RESERVE

Code:

1. "To provide for contingencies" (31 U.S.C. 665(c)(2)).

2. "To effect savings whenever savings are made possible by or through changes in requirements, greater efficiency of operations, or other developments subsequent to the date on which such (funds were) made available" (31 U.S.C. 665(c)(2)).

3. To reduce the amount of or to avoid requesting a deficiency or supplemental appropriation in cases of appropriations available for obligation for only the current year (31 U.S.C. 665(c)(1)). This explanation includes amounts anticipated to be used to absorb or partially absorb the costs of recent pay raises grant pursuant to law.

4. "To achieve the most effective and economical use" of funds available for periods beyond the current fiscal year (31 U.S.C. 665(c)(1)). This explanation includes reserves established to carry out the Congressional intent that funds provided for periods greater than one year should be so apportioned that they will be available for the future periods.

5. Temporary deferral pending the establishment of administrative machinery (not yet in place) or the obtaining of sufficient information (not yet available) to apportion the funds properly and to insure that the funds will be used in "the most effective and economical" manner (31 U.S.C. 665(c)(1)). This explanation includes reserves for which apportionment awaits the development by the agency of approved plans, designs, specifications.

6. The President's constitutional duty to "take care that the laws be faithfully executed" (U.S. Constitution, Article II, Section 3):

6a. Obligation at this time of the amount in reserve is likely to contravene law regarding the environment; or the amount in reserve is being held pending further study to evaluate the environmental impact of the affected projects (activities) as required by law.

6b. Existing tax laws and the statutory limitation on the national debt are not expected to provide sufficient funds in the current and ensuing fiscal years to cover the total of all outlays in these years contemplated by the individual acts of Congress.

6c. Action taken consistent with the President's responsibility to help maintain economic stability without undue price and cost increases.

6d. Amount apportioned reflects the level of obligations implicitly approved by the Congress in its review of and action on the appropriation required to liquidate obligations under existing contract authority.

6e. Other. See footnote for each item so coded.

7. The President's constitutional authority and responsibility as Commander in Chief (U.S. Constitution, Article II, Section 2).

8. The President's constitutional authority and responsibility for the conduct of foreign affairs (U.S. Constitution, Article II, Section 2).

9. Other. See footnote for each item so coded.

10. Not applicable or no reason required. (In most cases where a previous reserve has been apportioned in its entirety.)

ATTACHMENT C—ESTIMATED FISCAL, ECONOMIC, AND BUDGETARY EFFECT

I. Same effect as set forth in the most recently submitted budget document, of which this item is an integral part.

II. The reserve action will bring the budgetary impact of this program to a level nearer or equal to that contemplated in the most recently submitted budget document and contribute to the reduction of inflationary pressures.

III. The change from the previous reserve is expected to contract the budgetary impact of this program and contribute to the reduction of inflationary pressures.

IV. The release or reduction of the previous reserve will facilitate use and expenditure of the available funds consistent with current program needs and economic conditions in the area affected.

V. Other. See footnote for each item so coded.

VI. Not applicable or no explanation required. (In most cases where a previous reserve has been apportioned in its entirety.)

SUMMARY OF BUDGETARY RESERVES

[In millions of dollars][1]

Agency	Amounts as of—		
	Sept. 30, 1973	Feb. 4, 1974	Apr. 20, 1974
1974 PROGRAM			
Executive Office of the President		1	1
Funds appropriated to the President	96	2,507	[2] 2,398
Department of—			
Agriculture	1,173	1,091	1,080
Commerce	63	59	53
Defense—Military	1,143	2,514	1,686
Defense—Civil	1	4	5
Health, Education, and Welfare	23	381	379
Housing and Urban Development	456	823	467
the Interior	162	219	202
Justice	14	14	14
Labor		21	21
State		86	50
Transportation	3,838	3,817	3,761
Treasury	22	23	23
Atomic Energy Commission	27		
Environmental Protection Agency		95	88
General Services Administration	258	38	38
National Aeronautics and Space Administration	2	2	
Veterans' Administration	43		
Other independent agencies:			
National Science Foundation	4		
Small Business Administration	31	31	31
All other	90	89	89
Total	7,446	11,813	10,384
1975 PROGRAM			
Department of Agriculture		140	140
Interior	75	190	190
Transportation		5,994	5,995
Total	75	6,324	6,325

[1] Details may not add due to rounding.

[2] Of this amount, $2,183,000,000 was released on Apr. 25, 1974.

BUDGETARY RESERVES

[Dollars in thousands]

[General notes: Amounts in parentheses ( ) indicate actions superseded by later apportionment actions. An asterisk (*) indicates an account added to the list since the last report. An account without an entry in the amount apportioned column indicates no apportionment has been made for fiscal year 1974]

	Amount apportioned	Amount in reserve	Available beyond fiscal year 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, and budgetary effect (see code)
Executive Office of the President/Funds Appropriated to the President:							
Appalachian Regional Commission: Appalachian regional development programs	(209,000)	(225,000)	Yes	June 29, 1973	July 1, 1973	5, 6c	I.
	(320,395)	(40,000)	Yes	Sept. 12, 1973	Sept. 12, 1973	5, 6c	I.
	325,747	40,000	Yes	Oct. 23, 1973	Oct. 23, 1973	5, 6c	I.
Agency for International Development: Prototype desalting plant	( )	(20,000)	Yes	Apr. 7, 1972	July 1, 1973	5	I.
	(1)	20,000	Yes	Jan. 29, 1974	Jan. 29, 1974	5	I.
Foreign Military Credit Sales	(78,940)	(246,060)	No	Jan. 23, 1974	Jan. 23, 1974	5	I.
	(128,940)	(196,060)	No	Feb. 25, 1974	Feb. 25, 1974	5	I.
	(150,190)	(174,810)	No	Mar. 18, 1974	Mar. 18, 1974	5	I.
	169,890	155,110	No	Mar. 25, 1974	Mar. 25, 1974	5	I.
Emergency security assistance for Israel		[2] (2,200,000)	No	Feb. 1, 1974	Feb. 1, 1974	5	I.
	17,336	[2a] 2,182,664	No	Feb. 28, 1974	Feb. 28, 1974	5	I.
Council on Environmental Quality and Office of Environmental Quality	(1,930)	(536)	No	Nov. 7, 1973	Nov. 7, 1973	5	I.
	1,980	486	No	Mar. 12, 1974	Mar. 12, 1974	5	I.
Special Action Office for Drug Abuse Prevention: Salaries and expenses	(3,800)	(1,200)	No	Dec. 26, 1973	Dec. 26, 1973	5	I.
	5,000		NA	Jan. 11, 1974	Jan. 11, 1974	10	VI.
Pharmacologica' research	(400)	(19,600)	No	Dec. 26, 1973	Dec. 26, 1973	5	I.
	20,000		NA	Jan. 11, 1974	Jan. 11, 1974	10	VI.
Special fund	(1,300)	(24,700)	No	Dec. 26, 1973	Dec. 26, 1973	5	I.
	26,000		NA	Jan. 11, 1974	Jan. 11, 1974	10	VI.
National Security Council	2,502	300	No	Nov. 16, 1973	Nov. 16, 1973	5	I.
The Inter-American Foundation: Inter-American Foundation	(5,000)	(35,652)	Yes	June 12, 1973	July 1, 1973	4	V.[3]
	(5,000)	(35,735)	Yes	Dec. 4, 1973	Dec. 4, 1973	4	I.
	10,000	(4)	NA	Jan. 28, 1974	Jan. 28, 1974	10	VI.[4]
Department of Agriculture:							
Agriculture Research Service: Construction		1,520	Yes	June 29, 1973	July 1, 1973	4, 6b	I.
Animal and Plant Health Inspection Service:							
Animal and plant health inspection service	(317,083)	(878)	No	Nov. 23, 1973	Nov. 23, 1973	1	I.
	317,583	378	No	Feb. 8, 1974	Feb. 8, 1974	1	I.
Animal quarantine station	130	64	Yes	Nov. 23, 1973	Nov. 23, 1973	5	I.
Extension Service: Extension service	201,429	3,200	No	Nov. 23, 1973	Nov. 23, 1973	2	I.
Foreign Agricultural Service: Salaries and expenses, special foreign currency program	1,000	1,240	Yes	May 23, 1973	July 1, 1973	4	I.
Agricultural Stabilization and Conservation Service:							
Salaries and expenses	(256,626)	(2,619)	No	Nov. 23, 1973	Nov. 23, 1973	1	I.
	256,443	2,802	No	Jan. 21, 1974	Jan. 21, 1974	2	I.
Rural environmental assistance program, 1973–74		(210,500)	No [5]	Jan. 26, 1973	July 1, 1973	6b	I.
	[6] 210,500		NA	Apr. 1, 1974	Apr. 1, 1974	10	VI.
Rural environmental assistance program, 1974–75	90,000	85,000	Yes	Nov. 23, 1973	Nov. 23, 1973	4	I.
Emergency conservation measures	20,453	10,000	Yes	Nov. 23, 1973	Nov. 23, 1973	1	I.
Water Bank Act program		(11,391)	Yes	Jan. 26, 1973	July 1, 1973	6b	I.
	10,006	11,645	Yes	Nov. 23, 1973	Nov. 23, 1973	6b	I.
Cropland adjustment program	50,300	1,600	No	Nov. 23, 1973	Nov. 23, 1973	2	I.
Commodity Credit Corporation: Administrative expenses		(497)	No	Nov. 23, 1973	Nov. 23, 1973	1	I.
	[7] 39,631	269	No	Dec. 21, 1973	Dec. 21, 1973	1	III.

Footnotes at end of table.

	Amount apportioned	Amount in reserve	Available beyond fiscal year 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, and budgetary effect (see code)
Rural Electrification Administration: Loans	(...........)	(456, 103)	Yes	Jan. 26, 1973	July 1, 1973	2, 6b, 6c	I.
	594	455, 635	Yes	Feb. 21, 1974	Feb. 21, 1974	2, 6b, 6c	V.[8]
Farmers Home Administration:							
Rural water and waste disposal grants	(...........)	(120, 000)	Yes	Jan. 26, 1973	July 1, 1973	6b, 6c	I.
	(...........)	(150, 304)	Yes	Nov. 23, 1973	Nov. 23, 1973	6b, 6c	I.
	30, 000	120, 304	Yes	Dec. 28, 1973	Dec. 28, 1973	6b, 6c	I.
Rural housing for domestic farm labor grants	(...........)	(1, 621)	Yes	Jan. 31, 1973	July 1, 1973	5, 6b	I.
	(750)	(1, 831)	Yes	Sept. 10, 1973	Sept. 10, 1973	5, 6b	V.[9]
	(1, 000)	(9, 081)	Yes	Nov. 23, 1973	Nov. 23, 1973	5, 6b	I.
	10, 081		NA	Feb. 14, 1974	Feb. 14, 1974	10	VI.
Mutual and self-help housing grants	(...........)	(832)	Yes	Sept. 22, 1972	July 1, 1973	4	I.
	(700)	(133)	Yes	Aug. 22, 1973	Aug. 22, 1973	4	I.
	3, 832	1, 001	Yes	Nov. 23, 1973	Nov. 23, 1973	4	I.
Rural housing insurance fund	(...........)	(133, 000)	Yes	Jan. 26, 1973	July 1, 1973	4	I.
	[10] 1, 435, 035		NA	Sept. 12, 1973	Sept. 12, 1973	10	VI.
Soil Conservation Service:							
Resource conservation and development	24, 89	4, 439	Yes	Nov. 23, 1973	Nov. 23, 1973	4	I.
Watershed planning	13, 268	535	Yes	Nov. 23, 1973	Nov. 23, 1973	4	I.
River basin surveys and investigations	16, 587	60	Yes	Nov. 23, 1973	Nov. 23, 1973	4	I.
Watershed and flood prevention operations	169, 448	17, 454	Yes	Nov. 23, 1973	Nov. 23, 1973	4	I.
Agricultural Marketing Service:							
Marketing services, no-year	(1, 422)	(818)	Yes	June 11, 1973	July 1, 1973	4	I.
	(1, 812)	(818)	Yes	Sept. 26, 1973	Sept. 26, 1973	4	I.
	1, 812	1, 101	Yes	Jan. 22, 1974	Jan. 22, 1974	4	I.
Perishable Agricultural Commodities Act fund	(1, 416)	(58)	Yes	June 11, 1973	July 1, 1973	4	I.
	1, 460	270	Yes	Dec. 26, 1973	Dec. 26, 1973	4	I.
Forest Service:							
Forest protection and utilization	(3, 791)	(2, 128)	Yes	Nov. 2, 1973	Nov. 2, 1973	4	I.
	3, 846	2, 073	Yes	Jan. 2, 1974	Jan. 2, 1974	4	I.
Construction and land acquisition	(52, 196)	(1, 315)	Yes	Nov. 2, 1973	Nov. 2, 1973	5	I.
	53, 511		NA	Apr. 15, 1974	Apr. 15, 1974	10	VI.
Youth Conservation Corps	(6, 693)	(3, 307)	Yes	Nov. 9, 1973	Nov. 9, 1973	4	I.
	6, 893	[11] 3, 107	Yes	Jan. 11, 1974	Jan. 11, 1974	4	I.
Forest roads and trails and roads and trails for States—1974 program		(278, 398)	Yes	Mar. 28, 1973	July 1, 9173	4, 6b, 6d	I.
	(117, 164)	(208, 934)	Yes	July 16, 1973	July 16, 1973	4, 6d [13]	I.
	(123, 558)	(342, 894)	Yes	Nov. 2, 1973	Nov. 2, 1973	4, 6d	I.
	131, 815	334, 636	Yes [12]	Jan. 23, 1974	Jan. 23, 1974	4, 6d	I.
Forest roads and trails and roads and trails for States—1975 program		140, 000	Yes	Nov. 2, 1973	Nov. 2, 1973	6d	I.
Brush disposal	(18, 657)	(26, 601)	Yes	June 8, 1973	July 1, 1973	5	I.
	25, 000	21, 554	Yes	Nov. 2, 1973	Nov. 2, 1973	4	V.[14]
Forest fire prevention	275	109	Yes	June 8, 1973	July 1, 1973	4	I.
Department of Commerce:							
General Administration: Special foreign currency program	1, 885	1, 005	Yes	Dec. 21, 1973	Dec. 21, 1973	2	II.
Office of Assistant Secretary for Science and Technology: Scientific and technical research and services	(131, 485)	(11, 934)	Yes	Dec. 27, 1973	Dec. 27, 1973	5	I.
	136, 823	6, 796	Yes	Feb. 15, 1974	Feb. 15, 1974	5	I.
Social and Economic Statistics Administration: 1974 Census of Agriculture	(...........)	(1, 360)	Yes	Nov. 24, 1972	July 1, 1973	2, 4	I.
	1, 360		NA	Sept. 12, 1973	Sept. 12, 1973	10	VI.
Domestic and international business:							
Adjustment assistance:							
Financial and technical assistance, trade	15, 000	11, 780	Yes	Dec. 21, 1973	Dec. 21, 1973	2	I.
International activities, Inter-American Cultural and Trade Center	(292)	(5, 067)	Yes	June 26, 1973	July 1, 1973	4, 5	I.
	322	5, 051	Yes	Apr. 16, 1974	Apr. 16, 1974	4, 5	I.
Participation in U.S. expositions (Spokane ecological exhibition)	(7, 575)	[15] (1, 105)	Yes	Oct. 5, 1973	Oct. 5, 1973	4, 5	I.
	8, 677		NA	Apr. 10, 1974	Apr. 10, 1974	10	VI.
Office of Minority Business: Minority business development, no-year	(...........)	(16, 768)	Yes	Jan. 26, 1973	July 1, 1973	4, 6b	I.
	(9, 080)	(14, 300)	Yes	July 24, 1973	July 24, 1973	5	I.
	26, 752		NA	Oct. 16, 1973	Oct. 16, 1973	10	VI.
National Oceanic and Atmospheric Administration:							
Operations, research and facilities [16]	(......)	(31, 005)	Yes	June 28, 1973	July 1, 1973	2, 4, 6b	I.
	(29, 868)	(2, 392)	Yes	July 19, 1973	July 19, 1973	2, 4, 6b	I.
	(30, 082)	(2, 178)	Yes	Sept. 26, 1973	Sept. 26, 1973	2, 4	I.
	(406, 694)	(2, 178)	Yes	Dec. 27, 1973	Dec. 27, 1973	3	I.
	416, 981	2, 178	Yes	Jan. 16, 1974	Jan. 16, 1974	3 [17]	I.
Satellite operations [18]	(......)	(727)	Yes	June 28, 1973	July 1, 1973	5	I.
	727		NA	Dec. 27, 1973	Dec. 27, 1973	10	VI.
Promote and develop fishery products and research pertaining to American fisheries	(7, 191)	(3 159)	Yes	Mar. 29, 1973	July 1, 1973	4, 5, 6a	I.
	(7, 336)	(3, 111)	Yes	July 26, 1973	July 26, 1973	4, 5, 6a	I.
	7, 450	3, 027	Yes	Dec. 21, 1973	Dec. 21, 1973	4, 5, 6a	I.
Coastal zone management	5, 200	6, 800	Yes	Dec. 21, 1973	Dec. 21, 1973	4	I.
National Bureau of Standards:							
Plant and facilities		1, 850	Yes	Nov. 24, 1972	July 1, 1973	2, 4, 6b	I.
Research and technical services, no-year		3, 812	Yes	May 7, 1973	July 1, 1973	5, 6b	I.
Construction of facilities	(...........)	(740)	Yes	Jan. 26, 1973	July 1, 1973	4, 6b	I.
	539	231	Yes	Dec. 21, 1973	Dec. 21, 1973	1	I.
Maritime Administration:							
Ship construction	(...........)	(34, 000)	Yes	June 29, 1973	July 1, 1973	4	III.
	(9, 137)	(24, 863)	Yes	July 27, 1973	July 27, 1973	4	IV.
	304, 953	5, 500	Yes	Dec. 21, 1973	Dec. 21, 1973	2	II.
Research and development		5, 000	Yes	Jan. 18, 1973	July 1, 1973	4, 6b	I.
State marine schools		127	Yes	Nov. 24, 1972	July 1, 1973	4	I.
Federal ship financing fund	(2, 582)	(1, 446)	Yes	June 27, 1973	July 1, 1973	5	I.
	4, 028		NA	Oct. 11, 1973	Oct. 11, 1973	10	VI.
Department of Defense—Military Procurement:							
Missile procurement, Army, 1973–75	(...........)	(2, 500)	Yes	Feb. 5, 1973	July 1, 1973	4	I.
	163, 382		NA	Sept. 11, 1973	Sept. 11, 1973	10	VI.
Procurement of aircraft and missiles, Navy, 1973–75	(...........)	(13, 281)	Yes	June 29, 1973	July 1, 1973	5	I.
	(946, 747)	(13, 281)	Yes	Sept. 6, 1973	Sept. 6, 1973	5	I.
	878, 276		NA	Jan. 28, 1974	Jan. 28, 1974	10	VI.
Aircraft procurement, Air Force, 1972–74	(415, 551)	(143, 492)	No	Sept. 7, 1973	Sept. 7, 1973	5	I.
	368, 478		NA	Nov. 1, 1973	Nov. 1, 1973	10	VI.
Aircraft procurement, Air Force, 1973–75	(1, 076, 916)	(160, 556)	Yes	Sept. 7, 1973	Sept. 7, 1973	5	I.
	1, 224, 500		NA	Nov. 1, 1973	Nov. 1, 1973	10	VI.
Shipbuilding and conversion, Navy, 1971–75	(...........)	(145, 672)	Yes	Nov. 24, 1972	July 1, 1973	4	I.
	892, 655		NA	Sept. 11, 1973	Sept. 11, 1973	10	VI.
Shipbuilding and conversion, Navy, 1972–76	(...........)	(427, 212)	Yes	Nov. 24, 1972	July 1, 1973	4	I.
	738, 000	148, 081	Yes	Sept. 11, 1973	Sept. 11, 1973	4	I.
Shipbuilding and conversion, Navy, 1973–77	(...........)	(763, 300)	Yes	June 29, 1973	July 1, 1973	4	I.
	992, 000	408, 512	Yes	Sept. 11, 1973	Sept. 11, 1973	4	I.
Shipbuilding and conversion, Navy, 1974–78	2, 711, 300	826, 800	Yes	Jan. 28, 1974	Jan. 28, 1974	4	I.

BUDGETARY RESERVES—Continued

[Dollars in thousands]

	Amount apportioned	Amount in reserve	Available beyond fiscal year 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, and budgetary effect (see code)
Military construction:							
Military construction, Army	(............)	(70, 304)	Yes	June 27, 1973	July 1, 1973	5	I.
	(648, 440)	(90, 954)	Yes	Aug 16, 1973	Aug 16, 1973	5	I.
	(648, 020)	(95, 488)	Yes	Dec 27, 1973	Dec 27, 1973	5	I.
	(762, 670)	(558, 958)	Yes	Jan 18, 1974	Jan 18, 1974	5	I.
	(1, 184, 957)	(138, 956)	Yes	Jan 24, 1974	Jan 24, 1974	5	I.
	1, 203, 724	124, 579	Yes	Mar 22, 1974	Mar 22, 1974	5	I.
Military construction, Navy	(............)	(68, 133)	Yes	June 27, 1973	July 1, 1973	5	I.
	(385, 805)	(65, 858)	Yes	Aug 14, 1973	Aug 14, 1973	5	I.
	(334, 948)	(64, 674)	Yes	Oct 11, 1973	Oct 11, 1973	5	I.
	(336, 468)	(64, 754)	Yes	Oct 16, 1973	Oct 16, 1973	5	I.
	(336, 848)	(64, 774)	Yes	Nov 14, 1973	Nov 14, 1973	5	I.
	(338, 174)	(64, 439)	Yes	Dec 17, 1973	Dec 17, 1973	5	I.
	(412, 974)	(598, 931)	Yes	Jan 9, 1974	Jan 9, 1974	5	I.
	(650, 758)	(363, 047)	Yes	Feb 15, 1974	Feb 15, 1974	5	I.
	939, 681	74, 124	Yes	Mar 7, 1974	Mar 7, 1974	5	I.
Military construction, Air Force		(51, 607)	Yes	June 27, 1973	July 1, 1973	5	I.
	(130, 860)	(49, 773)	Yes	July 20, 1073	July 20, 1973	5	I.
	(141, 224)	(39, 409)	Yes	Aug. 14, 1973	Aug. 14, 1973	5	I.
	(160, 501)	(39, 409)	Yes	Oct. 16, 1973	Oct. 16, 1973	5	I.
	(171, 972)	(29, 937)	Yes	Jan. 7, 1974	Jan. 7, 1974	5	I.
	(218, 426)	(232, 760)	Yes	Jan. 17, 1974	Jan. 17, 1974	5	I.
	(402, 711)	(48, 475)	Yes	Feb. 13, 1974	Feb. 13, 1974	5	I.
	431, 445	19, 741	Yes	Mar. 19, 1974	Mar. 19, 1074	5	I.
Military construction, defense agencies		(58, 415)	Yes	Feb. 15, 1973	July 1, 1973	5	I.
	(8, 000)	(58, 215)	Yes	Aug. 23, 1973	Aug. 23, 1973	5	I.
	(8, 957)	(56, 615)	Yes	Oct. 16, 1973	Oct. 16, 1973	5	I.
	(10, 277)	(54, 895)	Yes	Nov. 14, 1973	Nov. 14, 1973	5	I.
	(10, 277)	(53, 904)	Yes	Dec. 17, 1973	Dec. 17, 1973	5	I
	(15, 133)	(49, 048)	Yes	Jan. 9, 1974	Jan. 9, 1974	5	I.
	(15, 133)	(46, 763)	Yes	Jan. 24, 1974	Jan. 24, 1974	5	I.
	31, 683	28, 313	Yes	Feb. 15, 1974	Feb. 15, 1974	5	I.
Military construction, Army National Guard		(102)	Yes	June 14, 1973	July 1, 1973	5	I.
	(3, 051)		NA	Aug. 16, 1973	Aug. 16, 1973	10	VI.
	(8, 943)	(29, 300)	Yes	Jan. 18, 1974	Jan. 18, 1974	5	I.
	29, 903	8, 340	Yes	Mar. 7, 1974	Mar. 7, 1974	5	I.
Military construction, Air National Guard	(............)	(17)	Yes	May 29, 1973	July 1, 1973	5	I.
	(5, 256)	(17)	Yes	Sept. 6, 1973	Sept. 6, 1973	5	I.
	(5, 273)	(............)	Yes	Oct. 23, 1973	Oct. 23, 1973	10	VI.
	(9, 273)	(16, 000)	Yes	Jan. 18, 1974	Jan. 18, 1974	5	I.
	17, 514	7, 759	Yes	Feb. 11, 1974	Feb. 11, 1974	5	I.
Military construction, Army Reserve	(............)	(7, 109)	Yes	Mar. 8, 1973	July 1, 1973	5	I.
	(23, 423)	(7, 109)	Yes	Sept. 10, 1973	Sept. 10, 1973	5	I.
	(29, 909)	(2, 623)	Yes	Nov. 8, 1973	Nov. 8, 1973	5	I.
	(34, 709)	(38, 523)	Yes	Jan. 18, 9174	Jan. 18, 1974	5	I.
	57, 320	15, 912	Yes	Mar. 18, 1974	Mar. 18, 1973	5	I.
Military construction, Naval Reserve	(............)	(3, 943)	Yes	May 3, 1973	July 1, 1973	5	I.
	(17, 640)	(1, 842)	Yes	Aug. 8, 1973	Aug. 8, 1973	5	I.
	(18, 657)	(915)	Yes	Nov. 8, 1973	Nov. 8, 1973	5	I.
	(20, 000)	(22, 373)	Yes	Jan. 14, 1974	Jan. 14, 1974	5	I.
	24, 469	18, 003	Yes	Mar. 14, 1974	Mar. 14, 1974	5	I.
Military construction, Air Force Reserve	(............)	(850)	Yes	June 20, 1973	July 1, 1973	5	I.
	(2, 415)	(850)	Yes	Sept. 6, 1973	Sept. 6, 1973	5	I.
	(2, 444)	(821)	Yes	Oct. 23, 1973	Oct. 23, 1973	5	I.
	(3, 444)	(9, 821)	Yes	Jan. 18, 1974	Jan. 18, 1974	5	I.
	(10, 089)	(3, 176)	Yes	Feb. 1, 1974	Feb. 1, 1974	5	I.
	10, 858	2, 407	Yes	Mar. 29, 1974	Mar. 29, 1974	5	I.
Defense Civil Preparedness Agency: Research, shelter survey and marketing	24, 617	1, 100	Yes	Nov. 27, 1973	Nov. 27, 1973	5	I.
Special Foreign Currency Program:							
Special foreign currency program, Defense, 1972–74	(............)	(2, 477)	No	Dec. 18, 1972	July 1, 1973	5	I.
	3, 169	2, 051	No	Aug. 31, 1973	Aug. 31, 1973	5	I.
Special foreign currency program, Defense, 1973–75	(............)	(400)	Yes	Dec. 4, 1972	July 1, 1972	5	I.
	2, 998	400	Yes	Sept. 6, 1973	Sept. 6, 1973	5	I.
Department of Defense—Civil Corps of Engineers:							
General investigations	(............)	(150)	Yes	June 29, 1973	July 1, 1973	5	I.
	(65, 084)	(150)	Yes	Sept. 15, 1973	Sept. 15, 1973	5[19]	II.
	65, 267		NA	Feb. 27, 1974	Feb. 27, 1974	10	VI.
Construction	(............)	(783)	Yes	June 29, 1973	July 1, 1973	5	I.
	(9, 100)	(333)	Yes	July 27, 1973	July 27, 1973	5	I.
	(9, 175)	(258)	Yes	July 30, 1973	July 30, 1973	5	I.
	(1, 114, 829)	(258)	Yes	Sept. 15, 1973	Sept. 15, 1973	5[19]	II.
	1, 114, 937	108	Yes	Apr. 4, 1974	Apr. 4, 1974	5	I.
Flood control, Mississippi River and tributaries	(............)	(750)	Yes	June 29, 1973	July 1, 1973	5	I.
	(151, 819)	(750)	Yes	Sept 15, 1973	Sept 15, 1973	5[19]	II.
	(166, 419)	(750)	Yes	Jan 26, 1974	Jan 26, 1974	5	I.
	167, 169		NA	Apr 4, 1974	Apr 4, 1974	10	V.
Soldiers' and Airmen's Home: Capital outlay	2, 165	612	Yes	Jan 4, 1974	Jan 4, 1974	5	I.
Panama Canal: Canal Zone Government, capital outlay	(............)	(700)	Yes	Sept 8, 1972	July 1, 1973	5	I.
	7, 436	85	Yes	Sept 14, 1973	Sept 14, 1973	1	V.[20]
Wildlife Conservation:							
Wildlife conservation, Army	(598)	(107)	Yes	June 14, 1973	July 1, 1973	1	I.
	606	342	Yes	Jan 31, 1974	Jan 31, 1974	1	I.
Wildlife conservation, Navy	(60)	(8)	Yes	June 14, 1973	July 1, 1973	1	I.
	(69)	(22)	Yes	Oct 3, 1973	Oct 3, 1973	1	I.
	69	37	Yes	Feb 14, 1974	Feb 14, 1974	1	I.
Wildlife conservation, Air Force	(124)	(40)	Yes	June 14, 1973	July 1, 1973	1	I.
	124	20	Yes	Jan 22, 1974	Jan 22, 1974	1	I.
Salaries and expenses: Cemeterial expenses, Army	(14, 448)	(2, 053)	Yes	Sept. 14, 1973	Sept. 14, 1973	5	I.
	13, 033	3, 468	Yes	Feb. 14, 1974	Feb. 14, 1974	5	I.
Department of Health, Education, and Welfare:							
Health Services Administration:							
Health services delivery	(915, 869)	(2, 250)	Yes	Feb. 4, 1974	Feb. 4, 1974	5	I.
	922, 869	2, 250	Yes	Mar. 14, 1974	Mar. 14, 1974	5	I.
Buildings and facilities*	19, 804	7, 000	Yes	Mar. 13, 1974	Mar. 13, 1974	5	I.
Indian health services	(94, 372)	(91, 626)	No	Nov. 28, 1973	Nov. 28, 1973	5	I.
	185, 998		NA	Feb. 4, 1974	Feb. 4, 1974	10	VI.
Indian health facilities	(3, 482)	(848)	Yes	June 27, 1973	July 1, 1973	5	I.
	(34, 815)	(20, 593)	Yes	Nov. 28, 1973	Nov. 28, 1973	5	I.
	55, 320	88	Yes	Jan. 30, 1974	Jan. 30, 1974	5	I.

Footnotes at end of table.

	Amount apportioned	Amount in reserve	Available beyond fiscal year 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, and budgetary effect (see code)
Department of Health, Education, and Welfare—Continued							
National Institutes of Health:							
Research resources	126, 941	1, 378	No	Jan. 18, 1974	Jan. 18, 1974	3	I.
Buildings and facilities	(1, 000)	(23, 701)	Yes	Jan. 18, 1974	Jan. 18, 1974	5	I.
	10, 680	14, 021	Yes	Feb. 27, 1974	Feb. 27, 1974	5	I.
Alcohol, Drug Abuse, and Mental Health Administration: Mental health	827, 193	13, 194	No	Jan. 28, 1974	Jan. 28, 1974	1	I
Health Resources Administration:							
Health services planning and development	(555, 997)	(6, 228)	No	Feb. 4, 1974	Feb. 4, 1974	3	I.
	585, 497	6, 228	No	Apr. 3, 1974	Apr. 3, 1974	3	I.
Health Manpower	(734, 635)	(5, 370)	No	Feb. 4, 1974	Feb. 4, 1974	3	I
	768, 910	5, 370	Yes	Apr. 3, 1974	Apr. 3, 1974	3	I.
Assistant Secretary for Health: Office of International Health: scientific activities overseas (Special foreign currency program).	(13, 505)	(21, 714)	Yes	Jan. 30, 1974	Jan. 30, 1974	4	I.
	16, 034	21, 714	Yes	Mar. 28, 1974	Mar. 28, 1974	4	I.
Office of Education:							
Elementary and secondary education	2, 025, 168	1, 746	No	Jan. 17, 1974	Jan. 17, 1974	1	I.
Higher education, 1974-76	238, 000	237, 000	Yes	Jan. 17, 1974	Jan. 17, 1974	4	I.
Higher Education, no-year	(____)	(1, 889)	Yes	Nov. 30, 1972	July 1, 1973	5	I.
	346, 118	8, 788	Yes	Jan. 17, 1974	Jan. 17, 1974	4	I.
Library resources	163, 124	4, 897	No	Jan. 18, 1974	Jan. 18, 1974	3	I.
Educational development	15, 675	32	Yes	Jan. 18, 1974	Jan. 18, 1974	1	I.
Educational activities overseas, special foreign currency program	(____)	(16)	Yes	Apr. 6, 1972	July 1, 1973	5	I.
	2, 539		NA	Jan. 17, 1974	Jan. 17, 1974	10	VI.
Social and Rehabilitation Service: Research and training overseas	3, 700	7, 490	Yes	Jan. 18, 1974	Jan. 18, 1974	4	I.
Social Security Administration:							
Limitation on salaries and expenses (trust fund)	1, 879, 000	13, 580	No	Feb. 4, 1974	Feb. 4, 1974	1	I.
Limitation on construction (trust fund)	(____)	(12, 095)	Yes	Apr. 27, 1972	July 1, 1973	4, 5	I.
	(12, 679)	(19, 973)	Yes	Aug. 21, 1973	Aug. 21, 1973	4, 5	I.
	(15, 614)	(17, 425)	Yes	Nov. 30, 1973	Nov. 30, 1973	4, 5	I.
	17, 646	15, 393	Yes	Feb. 4, 1974	Feb. 4, 1974	4, 5	I.
Special institutions:							
Howard University	9, 132	11, 490	Yes	Jan. 17, 1974	Jan. 17, 1974	4	I.
Model secondary school for the deaf*	3, 500	803	Yes	Mar. 5, 1974	Mar. 5, 1974	4	I.
Office of Human Development: Child development	419, 910	6, 480	No	Jan. 18, 1974	Jan. 18, 1974	3	I.
Department of Housing and Urban Development:							
Housing production and mortgage credit: Nonprofit sponsor assistance		6, 530	Yes	Apr. 15, 1973	July 1, 1973	5, 6b, 6c	I.
Community Development:							
Model Cities program	(50, 055)	(100, 012)	Yes	Ncv. 26, 1973	Nov. 26, 1973	6c	V.[21]
	(75, 055)	(75, 012)	Yes	Nov. 30, 1973	Nov. 30, 1973	6c	IV.
	150, 067		NA	Apr. 15, 1974	Apr. 15, 1974	10	VI.
Grants for neighborhood facilities		48	Yes	Nov. 27, 1973	Nov. 27, 1973	6c	I.
Open space land program	(____)	(27, 730)	Yes	Mar. 8, 1973	July 1, 1973	6b, 6c	I.
		55, 161	Yes	Nov. 9, 1973	Nov. 9, 1973	6c	I.
Grants for basic water and sewer facilities	(____)	(400, 175)	Yes	Jan. 26, 1973	July 1, 1973	6b, 6c	I.
		401, 734	Yes	Nov. 27, 1973	Nov. 27, 1973	6b, 6c	I.
Urban renewal fund	(613, 500)	(311, 314)	Yes	Nov. 26, 1973	Nov. 26, 1973	6c	V.[21]
	(643, 500)	(281, 314)	Yes	Nov. 30, 1973	Nov. 30, 1973	6c	IV.
	1, 526, 314		NA	Apr. 15, 1974	Apr. 15, 1974	10	VI.
Public facility loans	(____)	(20, 000)	Yes	Jan. 26, 1973	July 1, 1973	6b, 6c	I.
	24, 888	(22)	NA	June 20, 1973	July 1, 1973	10	VI.
Community Planning and Management: New community assistance grants		1, 799	Yes	Nov. 11, 1973	Nov. 16, 1973	6c	I.
Office of Interstate Land Sales Registration: Interstate land sales	(1, 460)	(1, 981)	Yes	June 20, 1973	July 1, 1973	4	I.
	(1, 849)	(1, 379)	Yes	Dec. 12, 1973	Dec. 12, 1973	4	III.
	1, 852	1, 376	Yes	Feb. 20, 1974	Feb. 20, 1974	4	I.
Department of the Interior:							
Office of Territorial Affairs: Trust Territory of the Pacific Islands	(71, 550)	[23] (830)	Yes	Feb. 2, 1974	Feb. 2, 1974	5	I.
	72, 350		NA	Feb. 22 9174,	Feb. 22, 1974	10	VI.
Bureau of Land Management:							
Public lands development roads and trails/1974 program	(4, 000)	(8, 961)	Yes	June 8, 1973	July 1, 1973	6d	I.
	5, 205	18, 961	Yes	Oct. 3, 1973	Oct. 3, 1973	6d	I.
Public lands development roads and trails/1975 program		10, 000	Yes	Oct. 3, 1973	Oct. 3, 1973	6d	I.
Oregon and California grant lands	(____)	(1, 150)	Yes	June 8, 1973	July 1, 1973	4, 5	I.
	28, 750	5, 243	Yes	Oct. 2, 1973	Oct. 2, 1973	5	II.
Bureau of Indian Affairs:							
Road construction/1974 program	57, 060	20, 000	Yes	Sept. 12, 1973	Sept. 12, 1973	6d	II.
Road construction/1975 program		75, 000	Yes	Sept. 12, 1973	Sept. 12, 1973	6d	II.
Bureau of Outdoor Recreation: Land and water conservation	(208, 168)	(61, 422)	(24)	June 8, 1973	July 1, 1973	6b	I.
	(297, 223)	(57, 568)	(24)	Nov. 3, 1973	Nov. 3, 1973	5, 6b, 6d	I.
	(324, 763)	(30, 000)	(24)	Feb. 2, 1974	Feb. 2, 1974	4, 6d	I.
	305, 463	(30, 000)	(24)	Apr. 19, 1974	Apr. 19, 1974	4, 6d	I.
Geological survey: Payments from proceeds, sale of water, Minearal Leasing Act of 1920.	(25)	(27)	Yes	May 6, 1973	July 1, 1973	4 [26]	I.
	(25)	26	Yes	Nov. 19, 1973	Nov. 19, 1973	4	I.
Bureau of Mines: Drainage of anthracite mines	200	3, 575	Yes	June 8, 1973	July 1, 1973	4, 5	I.
Bureau of Sport Fisheries and Wildlife:							
Migratory bird conservation account (receipt limitation)	(9, 000)	(981)	Yes	June 8, 1973	July 1, 1973	4	I.
	(12, 000)	(981)	Yes	Aug. 23, 1973	Aug. 23, 1973	4	I.
	21, 771		NA	Nov. 2, 1973	Nov. 2, 1973	10	VI.
Federal aid in wildlife restoration	45, 300	7, 863	Yes	June 8, 1973	July 1, 1973	4, 5	I.
Federal aid in fish restoration and management	14, 565	2, 339	Yes	June 8, 1973	July 1, 1973	4. 5	I.
National Wildlife Refuge Fund	4, 620	4, 003	Yes	June 8, 1973	July 1, 1973	4, 5	I.
Proceeds from sales, water resources development projects	15	4	Yes	June 8, 1973	July 1, 1973	4, 5	I.
National Park Service:							
Parkway and road construction/1974 program	(16, 338)	(34, 610)	Yes	June 8, 1973	July 1, 1973	4, 6d[27]	I.
	(16, 338)	(229, 610)	Yes	Oct. 1, 1973	Oct. 1, 1973	4, 6d	II.
	51, 183	108, 115	Yes	Nov. 2, 1973	Nov. 2, 1973	4, 6d	II.
Parkway and road construction/1975 program		105, 000	Yes	Nov. 2, 1973	Nov. 2, 1973	4, 6d	II.
Planning and construction	(28, 100)	(14, 500)	Yes	July 30, 1973	July 30, 1973	4	I.
	(79, 675)	(14, 500)	Yes	Nov. 2, 1973	Nov. 2, 1973	4, 5	I.
	(79, 675)	(14, 500)	Yes	Jan. 29, 1974	Jan. 29, 1974	4, 5	I.
	94, 175		NA	Mar. 11, 1974	Mar. 11, 1974	10	VI.
Operation, management, maintenance, and demolition of federally acquired property.	(17)	(65)	Yes	June 8, 1973	July 1, 1973	4, 5	I.
	15		NA	Nov. 2, 1973	Nov. 2, 1973	10	VI.
Bureau of Reclamation:							
Construction and rehabilitation	(16, 970)	(1, 055)	Yes	June 8, 1973	July 1, 1973	5	I.
	228, 857	1, 055	Yes	Sept. 15, 1973	Sept. 15, 1973	5[28]	I.
Operation, maintenance, and replacement of project works, North Platte project.	[29]	100	Yes	June 6, 1973	July 7, 1973	6e[30]	I.
Upper Colorado River Basin fund	(9, 072)	(1, 390)	Yes	June 8, 1973	July 1, 1973	5	I
	64, 911	1, 164	Yes	Sept 15, 1973	Sept 15, 1973	5	I

BUDGETARY RESERVES—Continued

[Dollars in thousands]

	Amount apportioned	Amount in reserve	Available beyond fiscal year 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, and budgetary effect (see code)
Department of Justice: Bureau of Prisons: Buildings and facilities	(......)	(36,441)	Yes	Jan. 26, 1973	July 1, 1973	5, 6b	I.
	45,823	13,594	Yes	Sept. 19, 1973	Sept. 19, 1973	5, 6b	I.
Department of Labor: Employment Standards Administration: Special benefits	284,300	20,706	No	Jan. 17, 1974	Jan. 17, 1974	1	V[31].
Department of State:							
Acquisition, operation, and maintenance of buildings abroad	62,484	44,521	Yes	Dec. 31, 1973	Dec. 31, 1974	4	I.
Assistance to refugees from the Soviet Union	(......)	(36,500)	No	Feb. 2, 1974	Feb. 2, 1974	5	I.
	36,500		NA	Mar. 15, 1974	Mar. 15, 1974	10	VI.
International Boundary and Water Commission, United States and Mexico: Construction.	15,681	4,983	Yes	Dec. 18, 1973	Dec. 18, 1973	5	I.
Department of Transportation:							
Office of the Secretary: Transportation, planning, and research and development		(5,300)	Yes	June 30, 1973	July 1, 1973	4, 6b	I.
	34,353		NA	Sept. 14, 1973	Sept. 14, 1973	10	VI.
U.S. Coast Guard: Acquisition, construction, and improvements	(30,946)	(10,609)	Yes	July 12, 1973	July 12, 1973	4, 6b	I.
	(109,168)	(12,099)	Yes	Sept. 14, 1973	Sept. 14, 1973	4, 6b	II.
	102,889	19,396	Yes	Dec. 27, 1973	Dec. 27, 1973	4, 6b	II.
Federal Aviation Administration:							
Civil supersonic aircraft development termination		(3,575)	Yes	Jan. 23, 1973	July 1, 1973	4, 6b	I.
	3,600	3,033	Yes	Sept. 10, 1973	Sept. 10, 1973	4	I.
Civil supersonic aircraft development		(2,153)	Yes	Jan. 18, 1973	July 1, 1973	4, 6b	I.
	800	2,755	Yes	Sept. 10, 1973	Sept. 10, 1973	4	I.
Grants-in-aid for airports (airport and airway trust fund)	13,000	2,000	Yes	Sept. 14, 1973	Sept. 14, 1973	5	I.
Facilities and equipment (airport and airway trust fund)	(......)	(207,631)	Yes	Jan. 18, 1973	Jul. 1, 1973	4, 6b	I.
	293,075	261,919	Yes	Sept. 12, 1973	Sept. 12, 1973	4	I.
Research, engineering, and development (airport and airway trust fund)	(......)	(10,000)	Yes	Jan. 18, 1973	Jul. 1, 1973	4, 6b	I.
			NA	Sept. 14, 1973	Sept. 14, 1973	10	VI.
Federal Highway Administration:							
Highway beautification	(41,977)	(11,521)	Yes	Jun. 29, 1973	Jul. 1, 1973	4, 5	I.
	50,000		NA	Sep. 15, 1973	Sept. 15, 1973	10	VI.
Darien Gap Highway	(......)	(545)	Yes	Jan. 18, 1973	Jul. 1, 1973	4, 5	I.
	17,661		NA	Sept. 14, 1973	Sept. 14, 1973	10	VI.
Highway-related safety grants	(10,459)	(7,897)	Yes	Jun. 29, 1973	Jul. 3, 1973	4, 5	I.
	13,229		NA	Sept. 15, 1973	Sept. 15, 1973	10	VI.
Federal-aid highways/1974 program	(1,617,000)	(2,791,841)	Yes	Jun. 29, 1973	Jul. 2, 1973	4, 5, 6a, 6c	I.
	(4,742,497)	(3,414,149)	Yes	Sept. 14, 1973	Sept. 14, 1973	6a, 6c	I.
	(4,741,018)	(3,414,619)	Yes	Feb. 1, 1974	Feb. 1, 1974	6a, 6c	I.
	4,791,047	3,364,590	Yes	Apr. 3, 1974	Apr. 3, 1974	6a, 6c	IV.
Federal-aid highways/1975 program	(6,010,000)						I
		[32] 5,958,500	Yes	Feb 1, 1974	Feb 1, 1974	4, 5	I
Rail-crossings-demonstration projects	(22,322)	(3,053)	Yes	Sept 15, 1973	Sept 15, 1973	5	I
	21,700	75	Yes	Feb 1, 1974	Feb 1, 1974	5	I
Territorial highways/1974 program	(4,000)	(1,602)	Yes	June 29, 1973	July 1, 1973	4, 6c	I
	4,229	750	Yes	Mar 5, 1974	Mar 5, 1974	4, 5	I
Territorial highways/1975 program*		1,500	Yes	Mar 5, 1974	Mar 5, 1974	4, 5	I
National scenic highways/1974 program		10,000	Yes	Feb 1, 1974	Feb 1, 1974	5	I
National scenic highways/1975 program		10,000	Yes	Feb 1, 1974	Feb 1, 1974	5	I
Trust fund share of other highway programs/1974 program	(6,973)	(15,793)	Yes	June 29, 1973	July 3, 1973	4, 5	I
	(28,120)	(......)	NA	Sept 15, 1973	Sept 15, 1973	10	VI
	27,993	10,000	Yes	Feb 1, 1974	Feb 1, 1974	5	I
Trust fund share of other highway programs/1975 program		25,000	Yes	Feb. 1, 1974	Feb. 1, 1974	5	I.
Forest highways trust fund	(24,000)	(47,604)	Yes	June 29, 1973	July 1, 1973	2, 4, 6c	I.
	26,000		NA	Sept. 14, 1973	Sept. 14, 1973	10	VI.
Public lands highways	(5,000)	(27,000)	Yes	June 29, 1973	July 1, 1973	2, 4, 6c	I.
	(5,000)	(5,000)	Yes	Sept. 14, 1973	Sept. 14, 1973	4, 6c, 6d	I.
	10,000		NA	Mar. 5, 1974	Mar. 5, 1974	10	IV.
Right-of-way revolving fund	(48,000)	(74,782)	Yes	June 29, 1973	July 2, 1973	4, 5	I.
	48,000	77,116	Yes	Feb. 1, 1974	Feb. 1, 1974	4, 5	I.
National Highway Traffic Safety Administration:							
State and community highway safety	(26,993)	(1,290)	Yes	July 2, 1973	July 2, 1973	1	I.
	66,771		NA	Sept. 13, 1973	Sept. 13, 1973	10	VI.
Traffic and highway safety	(56,068)	(2,000)	Yes[33]	Sept. 14, 1973	Sept. 14, 1973	5	I.
	86,405	2,000	Yes	Jan. 24, 1974	Jan. 24, 1974	5	I.
Construction of compliance facilities	([34])	(9,018)	Yes	Jan. 19, 1973	July 1, 1973	4, 5	I.
	([34])	18	Yes	Sept. 14, 1973	Sept. 14, 1973	5	V.
Trust fund share of highway traffic safety programs	(16,848)	(2,580)	Yes	July 2, 1973	July 2, 1973	1, 5	I.
	96,167		NA	Sept. 13, 1973	Sept. 13, 1973	10	VI.
Federal Railroad Administration:							
Emergency rail facilities restoration	27,100	7,648	Yes	July 27, 1973	July 27, 1973	2	I.
High-speed ground transportation research and development	(......)	(15,000)	Yes	Jan. 19, 1973	July 1, 1973	4, 6b	I.
			NA	Sept. 14, 1973	Sept. 14, 1973	10	VI.
Grants to the National Railroad Passenger Corporation	(......)	(10,000)	Yes	Jan. 19, 1973	July 1, 1973	4, 6b	I.
	(54,900)	(48,100)	Yes	Sept. 13, 1973	Sept. 13, 1973	4, 6b	V.[36]
	103,000		NA	Nov. 23, 1973	Nov. 23, 1973	10	VI.
Urban Mass Transportation Administration: Urban Mass Transportation Fund	(941,300)	(210,853)	Yes	July 6, 1973	July 6, 1973	4, 6b	I.
	985,550		NA	Sept. 14, 1973	Sept. 14, 1973	10	VI.
Department of the Treasury:							
Office of the Secretary: Construction, Federal Law Enforcement Training Center	383	21,517	Yes	June 6, 1973	July 1, 1973	5	I.
Bureau of Accounts: Subsidy payment to Environmental Protection Authority	75	[37] 1,188	No	Nov. 29, 1973	Nov. 29, 1973	2	I.
Atomic Energy Commission:							
Operating expenses	(3,164,739)	(16,900)	Yes	Sept. 15, 1973	Sept. 15, 1973	5	I.
	(3,174,154)	(7,500)	Yes	Nov. 19, 1973	Nov. 19, 1973	5	I.
	3,181,086		NA	Dec. 21, 1973	Dec. 21, 1973	10	VI.
Plant and capital equipment	(48,470)	(1,830)	Yes	June 8, 1973	July 1, 1973	5	I.
	(637,577)	(9,750)	Yes	Sept. 15, 1973	Sept. 15, 1973	5	I.
	(637,912)	(9,400)	Yes	Nov. 4, 1973	Nov. 4, 1973	5	I.
	(643,812)	(3,500)	Yes	Nov. 9, 1973	Nov. 9, 1973	5	I.
	(645,812)	(1,500)	Yes	Nov. 12, 1973	Nov. 12, 1973	5	I.
	677,312		NA	Jan. 10, 1974	Jan. 10, 1974	10	VI.
Environmental Protection Agency:							
Research and development	(8,696)	(9,700)	Yes	Oct. 19, 1973	Oct. 19, 1973	5	IV.
	(183,612)	(3,700)	Yes	Nov. 29, 1973	Nov. 29, 1973	5	IV.
	(184,312)	(3,000)	Yes	Jan. 29, 1974	Jan. 29, 1974	5	IV.
	(184,381)	(3,000)	Yes	Mar. 8, 1974	Mar. 8, 1974	5	I.
	187,365		NA	Apr. 10, 1974	Apr. 10, 1974	10	VI.
Abatement and control	(17,804)	(3,850)	Yes	Oct. 19, 1973	Oct. 19, 1973	5	IV.
	(266,514)	(16,850)	Yes	Nov. 29, 1973	Nov. 29, 1973	5	IV.
	(287,574)	(91,850)	([38])	Jan. 29, 1974	Jan. 29, 1974	5	I.
	(288,378)	(91,350)	([38])	Apr. 10, 1974	Apr. 10, 1974	5	I.
	291,528	88,200	([38])	Apr. 19, 1974	Apr. 19, 1974	5	I.

Footnotes at end of table.

BUDGETARY RESERVES—Continued

[Dollars in thousands]

	Amount apportioned	Amount in reserve	Available beyond fiscal year 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, and budgetary effect (see code)
General Services Administration:							
Real property activities:							
Sites and expenses, public building projects	(..........)	(22, 206)	Yes	Jan. 26, 1973	July 1, 1973	4	I.
	22, 000	15, 500	Yes	Nov. 29, 1973	Nov. 29, 1973	4	I.
Construction, public building projects	(..........)	(234, 309)	Yes	Jan. 26, 1973	July 1, 1973	2, 4	I.
	73, 653	20, 803	Yes	Nov. 29, 1973	Nov. 29, 1973	4	I.
Property management and disposal: Operating expenses, sale of rare silver dollars.	(..........)	(4, 000)	Yes	Nov. 30, 1972	July 1, 1973	4	I.
	3, 400	1, 386	Yes	Sept. 5, 1973	Sept. 5, 1973	4	I.
Operating expenses, special fund		(850)	Yes	June 26, 1973	July 1, 1973	4.5	I.
			NA	Aug. 16, 1973	Aug. 16, 1973	10	VI.
National Aeronautics and Space Administration: Research and development		(2, 200)	Yes	June 8, 1973	July 1, 1973	5	I.
	(2, 860, 194)	(9, 300)	Yes	Nov. 16, 1973	Nov. 16, 1973	5	I.
	(2, 867, 294)	(2, 200)	Yes	Jan. 23, 1974	Jan. 23, 1974	5	I.
	2, 869, 494		NA	Mar. 6, 1974	Mar. 6, 1974	10	VI.
Veterans' Administration:							
Medical prosthetic research		(3, 648)	Yes	Feb. 15, 1973	July 1, 1973	5	I.
	85, 099		NA	Nov. 23, 1973	Nov. 23, 1973	10	VI.
Construction, major projects		(34, 710)	Yes	June 13, 1973	July 1, 1973	5	I.
	114, 626		NA	Nov. 23, 1973	Nov. 23, 1973	10	VI.
Construction, minor projects		(5, 000)	Yes	Dec. 20, 1972	July 1, 1973	5	I.
	66, 685		NA	Nov. 23, 1973	Nov. 23, 1973	10	VI.
Other independent agencies:							
District of Columbia:							
Loans for capital outlay, metropolitan area santiary sewage works funds	(..........)	(300)	Yes	Aug. 7, 1972	July 1, 1973	4	I.
	3, 900	5, 300	Yes	Sept. 5, 1973	Sept. 5, 1973	4	I.
Loans for capital outlay, sanitary sewage	(..........)	(4, 285)	Yes	Aug. 7, 1972	July 1, 1973	4	I.
	29, 000	24, 035	Yes	Sept. 5, 1973	Sept. 5, 1973	4	I.
Loans for capital outlay, water fund	(..........)	(2, 360)	Yes	Aug. 7, 1972	July 1, 1973	4	I.
	8, 000	7, 460	Yes	Sept. 5, 1974	Sept. 5, 1973	4	I.
Loans for capital outlay, highway fund	11, 900	5, 956	Yes	Sept. 5, 1973	Sept. 5, 1973	4	I.
Loans for capital outlay, general fund	(..........)	(6, 758)	Yes	Jan. 26, 1973	July 1, 1973	4	I.
	176, 500	29, 526	Yes	Sept. 5, 1973	Sept. 5, 1973	4	I.
Foreign Claims Settlement Commission: Payment of Vietnam and U.S.S. Pueblo prisoner-of-war claims	9, 125	7, 229	Yes	July 12, 1973	July 12, 1973	5	I.
American Revolution Bicentennial Administration: Commemorative activites fund		(5, 690)	Yes	Nov. 28, 1972	July 1, 1973	5	I.
	4, 556	3, 510	Yes	Feb. 1, 1974	Feb. 1, 1974	5	I.
National Science Foundation: Salaries and expenses	(56, 900)	(3, 500)	Yes	June 8, 1973	July 1, 1973	2	I.
	(620, 845)	(13, 900)	Yes	Nov. 23, 1973	Nov. 23, 1973	5	I.
	634, 745		NA	Dec. 6, 1973	Dec. 6, 1973	10	IV.
Occupational Safety and Health Review Commission: Salaries and expenses	(4, 296)	(445)	No	Jan. 14, 1974	Jan. 14, 1974	1, 2	V.[39]
	4, 242	445	No	Feb. 6, 1974	Feb. 6, 1974	1, 2	V.[39]
Railroad Retirement Board:							
Limitation on railroad unemployment administration fund	8, 578	4, 822	Yes	July 1, 1973	July 1, 1973	4	I.
Limitation on salaries and expenses	20, 830	500	No	Jan. 18, 1974	Jan. 18, 1974	1	I.
Small Business Administration: Business loan and investment fund	(173, 100)	(41, 316)	Yes	June 29, 1973	July 1, 1973	2, 4, 6b	I.
	(178, 100)	(48, 294)	Yes	Aug. 31, 1973	Aug. 31, 1973	2, 4	I.
	348, 700	31, 094	Yes	Sept. 27, 1973	Sept. 27, 1973	2, 4	I.
Water Resources Council: Water resources planning	(8, 611)	(27)	No[40]	Aug. 24, 1973	Aug. 24, 1973	2	I.
	8, 669	[41] (27)	NA	Mar. 27, 1974	Mar. 27, 1974	10	VI.
Temporary Study Commissions: Commission on American Shipbuilding, salaries and expenses	205	57	NA	Dec. 10, 1973	Dec. 10, 1973	2	II.[42]
National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance: Salaries and expenses.*	167	165	Yes	Feb. 25, 1974	Feb. 25, 1974	4	I.

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[1] Funds have not been apportioned pending review of plan.

[2] Funds reserved pending Presidential decisions.

[2a] This reserve was released on Apr. 25, 1974.

[3] The amount apportioned is consistent with the limitation on the foundation's activities according to Public Law 93-52 as amended.

[4] Funds in excess of $10,000,000 are not available in Fiscal Year 1974 pursuant to Public Law 93-240.

[5] The 1973-74 rural environmental assistance program funds lapsed on Dec. 31, 1973. The Sept. 30 report incorrectly listed the funds as available beyond Fiscal Year 1974.

[6] The funds in reserve have been apportioned pursuant to a U.S. District Court order which reinstated the 1973 REAP program.

[7] The amount apportioned in this account is also apportioned in the Agricultural Stabilization and Conservation Service, salaries and expenses account.

[8] The program level is above the amount reflected in the Fiscal Year 1975 budget.

[9] The amount apportioned in this account is required to finance a loan approved at the end of Fiscal Year 1973.

[10] This apportionment action was inadvertently excluded from the Sept. 30 report.

[11] The Fiscal Year 1974 appropriation provides for program operation for the summer of calendar year 1974.

[12] Fiscal Year 1972 contract authority in the amount of $24,600,000 will lapse on June 30, 1974.

[13] Code 6d was inadvertently excluded from the Sept. 30 report.

[14] Anticipated deposits are currently estimated at $5,000,000 more than anticipated in the budget estimates submitted to the Congress in January 1973.

[15] Funds are being held in reserve to cover operating costs during the exhibition period.

[16] This account title was changed from "Research, Development, and Facilities" on Dec. 31, 1973.

[17] The reserve is to be applied against increased pay costs when transfer is approved by Congress.

[18] This account was combined with the "Operations, Research, and Facilities" account on Dec. 31, 1973.

[19] Reason code 1 was incorrectly applied to the entries in the Sept. 30 report.

[20] The reserve was made at the request of the Canal Zone Government as a contingency for possible future inspection services.

[21] The reserve action will increase the program level to a level greater than that contemplated in the most recently submitted budget document.

[22] The apportionment releasing the reserve was incorrectly excluded from the Sept. 30 report.

[23] The apportionment of funds in reserve is temporarily deferred until sufficient information is available for inplementing the new public land survey program. The new program was funded for the 1st time in the 1974 supplemental, (Public Law 93-245) enacted Jan. 3, 1974.

[24] Each reserve includes $30,000,000 of contract authority which becomes available at the 1st of each fiscal year and expires at the end of each fiscal year (16 U.S.C. 460L-10a); all other funds are available beyond 1974.

[25] The Department of the Interior has no present plans for the use of these funds which are available only for the development of water wells on public lands.

[26] Reason code 5 was incorrectly included in the September 30 report.

[27] Reason code 4 was inadvertently excluded from the Sept. 30 report.

[28] Reason code 6b was incorrectly included in the Sept. 30 report.

[29] No replacement or operation and maintenance work is currently necessary. (See footnote 30.)

[30] 66 Stat. 754 requires that certain miscellaneous revenues be deposited in a special fund to provide for the replacement of the project works and to defray annual operating and maintenance expenses when necessary.

[31] The reserve, made at the request of the Department of Labor, does not change expected payments for benefits as estimated in the latest budget document. The reserve reflects reimbursements from other agencies in excess of the amounts estimated in the budget document. The release of the reserve would increase availability above expected needs. The reserve is available for benefit payments if required benefit payments exceed current estimates.

[32] This amount is potentially available for use under 1975 contract authority; the amount to be made available to each State for obligation in 1975 is anticipated to be announced by the Department of Transportation on July 1, 1974.

[33] The Sept. 30 report incorrectly reported the reserve as unavailable beyond fiscal year 1974.

[34] $9,000,000 was transferred by the 1974 Department of Transportation Appropriation Act to the traffic and highway safety account.

[35] The authority for loan approval expired on June 27, 1973.

[36] The amount apportioned is the full amount legally available until action is taken on the amendment to the Rail Passenger Service Act of 1970.

[37] The reserve is required because the Congress previously provided permanent, indefinite authority (Public Law 92-500) for the subsidy payment. The funds in reserve will be written off in fiscal year 1974.

[38] Contract authority of $75,000,000 expires at the end of fiscal year 1974; the balance is available beyond fiscal year 1974.

[39] This reserve action was taken at the request of the Occupational Safety and Health Review Commission due to hiring delays. The reserve is available as a contingency against an increase in future contested citations.

[40] The Sept. 30 report incorrectly reported the reserve as available beyond fiscal year 1974.

[41] The funds in reserve were not needed and written off on Apr. 8, 1974.

[42] The Commission on American Shipbuilding (authorized under the Merchant Marine Act of 1970, Public Law 91-469) was terminated on Dec. 20, 1973. The funds in reserve that are not needed in fiscal year 1974 will be written off.

CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Is there further morning business?

The PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

APPOINTMENTS BY THE PRESIDENT PRO TEMPORE

The PRESIDENT pro tempore. The Chair, pursuant to Senate Resolution 222, authorizing a national ocean policy study and designating the membership thereof, appoints the following Senators to be members-at-large: Senators Humphrey, Johnston, and Bentsen to be the majority members-at-large; Senators Tower, Packwood, and Roth to be the minority members-at-large.

Under the resolution the following Senators are also designated as members: From the Committee on Commerce—Senators Magnuson, Pastore, Hartke, Hart, Cannon, Long, Moss, Hollings, Inouye, Tunney, Stevenson, Cotton, Pearson, Griffin, Baker, Cook, Stevens, and Beall; from the Committee on Appropriations—Senators Chiles and Mathias; from the Committee on Government Operations—Senators Ribicoff and Percy; from the Committee on Public Works—Senators Muskie and Buckley; from the Committee on Foreign Relations—Senators Pell and Case; from the Committee on Labor and Public Welfare—Senators Williams and Schweiker; from the Committee on Interior and Insular Affairs—Senators Metcalf and Hatfield; from the Committee on Armed Services—Senators Symington and William L. Scott.

EXTENSION OF POSTAL RATE ADJUSTMENTS

The PRESIDENT pro tempore. Under the previous order, the hour of 10 a.m. having arrived, the Senate will proceed to the consideration of S. 411, which the clerk will state.

The assistant legislative clerk read as follows:

S. 411, to amend title XXXIX, United States Code, relating to the Postal Service, and for other purposes.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Post Office and Civil Service with an amendment, to strike out all after the enacting clause and insert:

That section 3626 of title 39, United States Code, is amended as follows:

(1) Subparagraph (1) is amended by striking out the word "tenth" and inserting in lieu thereof the word "sixteenth" and by striking out the word "and" following the semicolon.

(2) Subparagraph (2) is amended—

(A) by inserting the word "former" between the words "under" and "sections";

(B) by striking out "4452(a),";

(C) by striking out the word "fifth" and inserting in lieu thereof the word "eighth";

(D) by striking out "subsection" and inserting in lieu thereof "subparagraph"; and

(E) by striking out the period and inserting in lieu thereof a semicolon and the word "and".

(3) Immediately below subparagraph (2), add the following new subparagraph:

"(3) the rates for mail under former section 4452(a) shall be equal, on and after the first day of the fifth year following the effective date of the first rate decision applicable to that class or kind, to the rates that would have been in effect for such mail if this subparagraph had not been enacted."

Sec. 2. Nothing in section 1 of this Act shall be construed to authorize a reduction in any rate of postage in effect and being paid on the date of enactment of this Act.

Sec. 3. Section 2009 of title 39, United States Code, is amended by adding at the end thereof the following: "The budget program shall also include separate statements of the amounts which the Postal Service requests to be appropriated under subsections (b) and (c) of section 2401 of this title. The President shall include these amounts, with his recommendations but without revision, in the budget transmitted to Congress under section 11 of title 31.".

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McGEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FONG. Mr. President, will the Senator yield?

Mr. McGEE, I am glad to yield.

Mr. FONG. Mr. President, I ask unanimous consent that Alyce Thompson and Ray Yuen be allowed on the floor during the consideration of this bill.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McGEE. Mr. President, I ask unanimous consent that the following staff members of the committee be permitted on the floor during the consideration of S. 411: John Giannini, Wayne Schley, Rod Crowlie, Dick Fuller, Dan Doherty, and Clyde DuPont.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McGEE. Mr. President, S. 411 represents the first amendemnt to the Postal Reorganization Act to be considered by the Senate since the act became law in 1970. It is the initial result of very careful continuing committee surveillance over the Postal Service as it has progressed under the new semiautonomous governance mandated by the Reorganization Act—an oversight function which culminated early this year in committee report No. 93–737 resulting from the committee's year-long investigation of the quality of our postal service.

S. 411, which may be followed by additional recommendations by the committee to the Senate, reflects changes in the Reorganization Act made in the hindsight of our experience since 1970. This experience shows that, in furtherance of postal policy as stated in the act—

[The Postal Service shall] bind the Nation together through personal, educational, literary, and business correspondence of the people.

We must slow down the schedule of steep postal rate increases required by the act. Such a slowdown in no way interferes with the purpose of the act to bring all rates eventually up to those the act prescribes. But it gives the mailers involved a little longer to adjust to the impact of paying full rates. Current rate increases for the mailers covered by this bill, draconian in their total effect even in these days of rapidly rising costs all across the board, must be modified if the publishing industry, both profitmaking and nonprofit, is to avoid an increasing enfeeblement in its ability to serve the public. It is the public, needing a free and viable national press, which is the true beneficiary of this legislation.

Under S. 411 the number of years for the annual phasing of second-class profit publications, controlled circulation publications and fourth-class books and records would be increased to 8 years from the 5 years now prescribed. The number of years for phasing of second-class nonprofit publications, third-class nonprofit mail and fourth-class library mail would be increased to 16 years from the existing 10 years.

The committee's investigation of the Postal Service and our report to the Senate make it clear that modernization, positive cost control, and fiscal self-sufficiency for the Postal Service will take longer to achieve than we generally believed when postal reorganization was deliberated in 1969 and 1970. The committee at that time relied heavily upon the Kappel Commission report, believed to be a thoroughly documented and comprehensive study made by communications experts. This report of a presidentially appointed commission, together with representations made to the committee by former Postmaster General Winton Blount, painted a rosy picture of the future, to be brought about "by businesslike management in the Post Office," if only full and complete postal reorganization were authorized by the Congress. Improved service, reduced costs, and stabilized, at least, postal rates would be achieved within a reasonable period of time, we were told. The committee, generally confident of these forecasts, yet with some misgivings, recommended a total reform bill, giving the administration, in substantial part, almost all that the Kappel Commission recommended.

Events have not supported the Commission's look into the crystal ball. The Kappel Commission estimated that postal savings could be realized at a rate of more than $1 billion a year. Instead, Postal Service expenditures have increased at an annual rate in excess of 10 percent since fiscal year 1970, and for fiscal year 1974, the Postal Service estimates a net operating loss of $385 million. Mechanization and the concomitant increases in productivity have not been achieved as projected, despite the Postal Service's access to $10 billion in capital funds available through the sale of bonds and outside the appropriations process.

We do not now, with the benefits of hindsight, question the sincerity of those who advised the Congress 4 years ago. And the committee's goal is still the goal established under the act—to bring about eventual self-sufficiency for the Postal Service. But some of the premises on which the act was based have proven to be inaccurate and changes are now called for.

Postal rates, for from becoming stabilized, have increased rapidly. On February 1, 1971, the Postal Service requested the Postal Rate Commission to recommend increases of 127 percent in second-class mail rates. Since that time, additional rate increase requests have been made by the Postal Service. It is inevitable that further rate increase requests will be made before the end of the phasing periods now provided by law. Average rate increases of 300 percent for regular-rate, second-class mail and up to 700 percent for second-class, nonprofit mail are likely to be put into effect, unless there are changes in the present law. These unforeseeable consequences have led the committee to reconsider the phasing periods presently contained in the law. These high rates are the basis upon which the committee recommends that the phasing period be extended to permit the classes of phased mail additional time to adjust to rates that have been approved, proposed, and to those that will yet inevitably occur.

Mr. President, the Postal Reorganization Act took Congress out of the ratemaking business. S. 411 does nothing to restore the ratemaking function to Congress. It does not interfere with the authority of the Postal Rate Commission to determine and fix postal rates, nor with the authority of the Postal Service to suggest appropriate rates to the Commission. To ease the shock of sudden increases upon second-class mailers, the act provides a 10-year period of adjustment for nonprofit mailers and a 5-year period of adjustment for regular-rate, second-class, controlled circulation and some third- and fourth-class mailers whose rates have been kept specially low. This bill does not set rates; it extends the 10-year period to 16 and the 5-year period to 8. But the provisions of that extension apply to rates set by the Postal Rate Commission, not by the Congress.

The changes proposed by S. 411 are well within the sphere of congressional authority and constitute an inescapable part of congressional responsibility. The Constitution gives Congress authority to "establish post offices and post roads." In the Postal Reorganization Act, Congress has seen fit to delegate certain aspects of its power to an administrative agency, the Postal Rate Commission, and to create a Postal Service to execute policy enunciated by Congress. Nevertheless, the responsibility and authority for overseeing how the Commission uses its delegated authority and how the Postal Service meets its statutory responsibilities will always remain with Congress. The Committee asserts its strong belief that the Congress must vigorously exercise its oversight function and stand ready to make amendments to the Postal Reorganization Act when circumstances change and it appears that, otherwise, the original and basic purposes of the act are not being served. Circumstances since 1970 have changed. Thus the committee has acted on S. 411 to bring about improvements that are in accord with the purposes of the Act.

Since May of 1971, second-class regular postal rates have been increased by 74 percent; by 1976, they will have been increased by at least 217 percent and there is the very strong probability, in view of constantly increasing postal costs, that by then these rates will be increased 300 percent over 1971 rates. Newspaper rates are increasing at a similar order of magnitude, and increases up to 700 percent by 1976 for second-class, nonprofit mail are likely unless Congress acts.

It is true that prices everywhere are going up and that costs of labor, paper, ink, and everything else it takes to publish newspapers and magazines are rising. But no publishing cost is increasing annually by as large a percentage as postal rates. It is the sheer magnitude, the dramatic steepness of postal costs resulting from current and pending increases as well as those that will inevitably occur in the foreseeable future that cry out for congressional action now.

Mr. President, section 3623 of the Postal Reorganization Act sets forth as one of the criteria for setting postal rates "the relative value to the people of the kinds of mail matter entered into the postal system." The historian Arthur Schlesinger comments on this in his testimony before the Postal Rate Commission. He writes:

> Little is so vital to the future health of the Republic as the encouragement of freedom and diversity in our media of news and opinion. For 200 years, freedom of information has been deemed a top priority in our political and social order. This freedom was cherished by the Founding Fathers; it was enshrined in the Bill of Rights. . . . . If a nation wants to make freedom of information more than a piety, it must pay some attention to the construction of a context in which men and women will be protected and encouraged in the pursuit and communication of knowledge.

He goes on:

> To condemn magazines to a lingering death, would be not only to impoverish the Nation's intellectual and cultural life but to weaken the foundations of the Republic.

Yet major publications which have provided a flux of information for the American people have died in recent years, others are in serious trouble, and publishers are seeking means other than the mails for distribution. We are all aware that postage costs were a contributing factor in the demises of Look, the weekly Saturday Evening Post, and Life, once the world's preeminent medium of words and pictures. Referring to Life's discontinuance, Time, Inc.'s board chairman has stated:

> The fact is that high postal rates were a major reason for us to suspend operations. In its last three years of operation, Life's annual loss before taxes averaged $6.7 million. As we looked ahead there were scheduled postal rate increases that would have more than doubled that loss by the end of four years. It should be evident to any observer that Life simply could not continue with such increases in prospect.

This year Intellectual Digest has succumbed, as well as the 82-year-old Architectural Forum. Small magazines fear for their lives, knowing that their slim margins of profit cannot withstand continued rate increases. People, the new Time, Inc. publication, is marketed almost exclusively on newsstands where its format and subject matter make it competitive; apparently its publishers purposely have avoided depending for survival upon mail distribution involving high costs now and unforeseeable increases in the future.

Yet magazines such as Harper's, the Atlantic, the New Republic, and Psychology Today cannot resort to newsstand distribution exclusively. Newsstand space is at a premium. Sales depend upon display covers, impulse buying, and broadly popular subject matter more oriented to entertainment than informational in content. Traditionally, magazines of literature and opinion have depended almost entirely upon mail distribution. Upon the demise of Intellectual Digest, an official of the Ziff-Davis Publishing Co. said:

> What this country needs is more magazines like Intellectual Digest, but what it's getting is more and more sex magazines.

Irrespective of mode of distribution, total magazine volume is decreasing—from 5,519,000 in 1971 to a projected 4,947,000 in 1975.

Recently, Mr. Norman Cousins, editor of Saturday Review/World, wrote to me in support of S. 411. Members will recall that he founded World magazine, a biweekly devoted to ideas and the arts, in 1972. Previously, he was for more than three decades editor of the Saturday Review. He reacquired the Saturday Review in 1973 and merged it with World into a single publication. He wrote:

> The purpose of this letter is to go on record with you and your colleagues that such legislation is absolutely necessary if magazines such as Saturday Review/World are to continue to function in their present form. We have already absorbed substantial postal increases during the past several years, and absent relief now, are due for additional increases that will double present rates in just over two years from now.
>
> Some would say we should be able to adjust by changing our methods of operation. My publication cannot eliminate reduced-rates subscriptions because we don't offer them now. We cannot sell more copies on the newsstands because display space for publications like ours that appeal to a special audience is limited. And we would not want to downgrade the editorial thrust of SR/World or sacrifice its quality to gain a few more over-the-counter sales.
>
> I believe many other editors and publishers face the same dilemma as I at this critical time. They want to continue to publish the finest products that broadly diverse American talents can create, yet they will be seriously handicapped from doing so if their cost of distribution through the mail continues to rise at rates far higher than other costs in today's inflationary economy.
>
> I urge you and your colleagues to act before it is too late.

Mr. President, in 1972, a survey was made of 58 magazines with a total circulation of 1.6 billion net paid copies. This survey, dealing with the relationship between magazine profits and postal rates, shows—

Aftertax profits amounted to about 2.6 percent of total magazine revenues.

Second-class postage was equal to almost 5 percent of revenues.

Other postal costs—for first-, third-, and fourth-class mail—took another 4 percent of revenue.

Total postal cost amounted to more than 9 percent of revenue.

Profits measured against net worth or equity appeared higher than when compared with revenues. But magazine profitability is still significantly poorer than that of companies generally in the economy. The survey shows that magazine publication is a low-profit-margin industry, with each dollar of revenue yielding very slim profits. Increasing postage costs threaten to consume such a large share of the revenue dollar that the profit margin can be wiped out in the final years of phasing called for by existing law.

The average American not only receives his magazines and newspapers by mail, he also receives his church, fraternal organization, and charity communications that way—his religious newsletter, the American Legion magazine, Boy Scout publications, and literature from worthwhile charities in which he is interested. Much of the benefit of the extended phasing of this bill will go to nonprofit second- and third-class mailers. These mailers are religious, educational, scientific, philanthropic, agricultural, labor, veterans, and fraternal organizations whose mailings, under law, may never exceed attributable costs. Their rates may not, in other words, contribute to the defrayment of Postal Service overhead. By fiscal year 1975, it is estimated that nonprofit second-class mailings will total 2.3 billion pieces. Magazines and newspapers operated for profit will total 6.5 billion pieces. Thus, the phasing of rates constitutes a greater percentage of the total for nonprofit publications than for regular-rate publications. Nonprofit publication mailers will benefit substantially from the enactment of S. 411.

Mr. President, S. 411 leaves unchanged the 5-year phasing period for regular-rate, third-class bulk mail. Although the Postal Reorganization Act provides that this class of mail shall be phased, regular-rate, third-class has been denied that benefit. The Office of Management and Budget, engaging in its own exercises in postal ratemaking, has failed to request the necessary revenue-foregone appropriation. Section 3 of S. 411 would relieve this impasse by requiring the President to send to Congress in his budget the amounts required to comply with the authorization in the act to reimburse the Postal Service for revenue foregone.

Mr. President, on April 30, 1974, 29 days after S. 411 was reported to the Senate, my able colleague on the committee, Senator Hiram Fong, the ranking minority member, issued his minority views opposing enactment of S. 411. Some of the statements in his report urgently require clarification.

First, the minority views misconstrue the nature and purpose of the public service subsidy authorized by the act. The public service subsidy, from 1972 through 1979, consists of 10 percent of the total cost of operating the Postal Service in the year 1971. After 1979, that amount is reduced by 1 percent per year. The minority report states that the mailers involved in S. 411 "already receive two kinds of subsidies." It says that one of these is the public service subsidy.

The Senate report on the Postal Reorganization Act characterizes this subsidy as follows:

> As a permanent ingredient of the new Postal Service, the Committee recommends that in recognition of the losses incurred in maintaining post offices outside of metropolitan areas, the Congress shall appropriate a percentage of the annual operating cost of the Postal Service. . . . This subsidy would be based on the requirement that the Postal Service maintain high quality service in rural areas, small towns, and other places where post office and other governmental service provided by the Postal Service are not self-sustaining."

I might point out that Senator Fong's home State of Hawaii, my own home State of Wyoming, and other States without large cities or remote from the mainland ore locations where the post office is not "self-sustaining."

Those who took part in the deliberations on the Postal Reorganization will recall that there was an implicit recognition that the public-service appropriation embodied more than just making up the deficit for service to rural and remote areas. It was generally understood that the Postal Service could not attain self-sufficiency immediately and that this appropriation was for the benefit of all classes of mail, separate and apart from the phasing relief which S. 411 would extend. Continued public support at the levels authorized was necessary to avoid precipitate rate increases on first-class mail and parcel post until such time as the Postal Service could achieve savings from modernization.

The public service subsidy is totally consistent with, and flows from, the basic policy of the act spelling out the function of the Postal Service "to bind the Nation together." It constitutes the fundamental influx of public money into the Postal Service, money not earmarked for any specific purpose, but intended to promote the public interest by facilitating the functioning of a national communications network.

The public service appropriation as a percentage of total postal costs is now substantially less than the 10 percent of 1971 costs authorized by the Act. This appropriation will constitute only 7.8 of the fiscal 1975 budget and will decline more rapidly in the coming year. The recent committee report to the Senate on the quality of postal service states that—

> Inexorable postal economics would seem to show that the public-service subsidy provided by law should have been set even higher.

The report, in which Senator Fong concurred, goes on—

> If the postal system is going to maintain service at levels which are compatible with what the public can reasonably be expected to pay, it will probably be necessary for the Congress to provide a greater degree of support through Treasury financing than was envisioned in the original provisions of the 1970 Act. . . . The amount of Treasury financing for the Postal Service can actually be considered the taxpayers' contribution to the creation of the superlative Postal Service envisioned by the Kappel Commission Report.

Clearly this subsidy is not intended to benefit any single group of mailers, as the minority report implies.

The minority report presents financial data on 11 carefully selected large newspaper and magazine publishers, completely ignoring all other publishers in the country. There are approximately 33,000 second-class publications of which about 10,000 are magazines and the rest newspapers. There are approximately 250 major publishers who belong to the Magazine Publishers Association and the American Business Press, only 11 of which the minority report singles out as targets.

The minority report ignores the value to newspaper and magazine readers and to the public generally of the Nation's maintaining a low-cost, diverse and healthy press.

It ignores the changes in the nature, content, and character of the press that will come about as the press struggles to survive higher postal rates—significantly higher subscription prices, reduced frequency of publication, lower circulation, diminished quality of content and increased quantity of the types of entertainment-oriented magazines that "sell" on the newsstands.

Mr. President, the benefits to be derived from S. 411, resulting from an objective reassessment of the impact of spiraling postal rates on publishers, far exceed its cost in the coming fiscal year of $45.2 million. It is a bill designed to benefit the general public by strengthening the free press. I hope Members will agree with me that this measure deserves the strong support of the Senate.

Mr. President, I wish to mention two or three things in regard to the pending legislation in a very summary way so that I might then yield to my colleague, the distinguished ranking minority member of the Committee on Post Office and Civil Service, the Senator from Hawaii (Mr. Fong).

What it is and what it is not make a great deal of difference. We have had some mail on this matter and we have had conversations with individuals on the bill, and the amount of misinformation or misrepresentation of it is rather considerable. So first of all I wish to stress that this is not a change in the structure of the Postal Reorganization Act of 1970, no change of its basic ingredients. In that Reorganization Act, we sought to adjust the postal system to a more efficient performance with the application of some business management know-how, and we also sought to narrow the gap between what it cost to operate the postal system and what the users pay for that service. In this process, of coutse, we had to direct our attention to those classes of mail that were heavily subsidized under the old postal system.

Under the old postal system I think it is safe to say that few classes were really paying their own way and all other classes were subsidized in one way or another by the low charges for the services they received.

While there has been a popular fettish about attacking junk mail, it should be pointed out at this stage that the regular bulk mail users were among those who paid the higher proportion of the real cost of the service they used; and it was the second class, other third class and other mailers who generally paid a lesser percentage of the cost. But realizing that you could not adjust business commitments and capital commitments in a short interval of time, the committee responded to the petitions of those in business who used the mail to try to phase out the increased rates that they now pay; that is, we recognized that flipping over from 27 percent, which some were paying at that time, to 100 percent in a single year would have consequences that would be disastrous for almost every publication.

So in consultation with those who use certain classes of mail, in consultation with ratemakers, and in consultation with many groups that were concerned with the proposition of public service in the postal system, we arrived at an agreement at that time that we would give all those who use the mail for a profit, all businesses who are in business to make money, 5 years from the time the first rate decision became the law of the land to phase out their subsidies. We allowed to all nonprofit users of the mails, such as libraries, schools, patriotic organizations like the American Legion, and other kinds of professional groups that clearly were nonprofit and did not carry advertising in their little magazine or literature, 10 years to phase in their increased postal costs.

All sides agreed that that looked to be a good guess as to what would be a reasonable phasing time. Well, here we are now in May of 1974, nearly 3 years later, and obviously, or hopefully, we are 3 years wiser from what we have discovered in those 3 years. Looking backward, the time intervals we allowed may have been a bit too precipitate, even so. I know the common argument suggested, that there are magazines that are making great profits and, therefore, they ought to be made to pay their way now, and 11 of those magazines are often singled out. But there are several hundred magazines, small publications, idea magazines, discussion magazines, and information journals, that are not represented in those magazines that happen to be making a great profit.

We took Congress out of the ratemaking business deliberately, just as we took Congress out of the politics of the old postal system in an attempt to close the gap and make it more efficient and equitable. In that process we created a new Rate Commission to become the experts, with the expertise to arrive at the equities in these adjustments.

So all the Committee on Post Office and Civil Service seeks to do in this bill is to phase out for a slightly extended interval of time, 3 years to be exact in the case of profitmaking users of mails, stretching from 5 years to 8 years the time in which they must phase out from their subsidy, and stretching to 16 years for the nonprofit magazines and other organizations that use second-class and some third-class and special fourth-class mail.

But I stress again that this simply is trying to update and correct a precipitate judgment that had to be made as a "guesstimate" three and a half years ago because we did not know for sure and we had to try to find out in which direction we might be led off the target. It is the committee judgment that even with the 11 "biggies" that were making money, even now, and in all equity they probably should not have relief, a few cannot be selected and told, "You do not get this relief," and give it to others; or it cannot be denied to the great mass that need it if they are going to stay in business at all, by trying to knock down Reader's Digest or other publications that are cited.

Mr. President, the point I was just making is that the committee, in this measure, is seeking to simply extend slightly the length of time that the users of these classes of mail are to be allowed for the phasing out of their rate subsidy which exists at the present time. I want to disabuse anyone of the idea that we are trying to institute subsidies for those who use the mails. We are striving to phase them out. We are striving to do so with equity. We are striving to do so by making sure we keep in business those smaller journals in particular which have contributed so much to the warp and woof, to the emergence of ideas, to the challenges and thrust of new directions in our thought processes in this country, and those journals that serve good causes in all communities.

And if we make any mistakes today—and we canont be sure we are absolutely right as we draw this line—let us make the mistake in favor of keeping them in business rather than putting them out of business and then trying to do something about it when it is too late.

What this really is, is an effort to update and modernize a guesstimate we had to make three and a half years ago. We are simply seeking to bring it into accord with our experiences since then. It still phases them out. It does not carry them along free. Each year their rates will go up. But the percentage of those rate increases will be spun out over the extended interval of 8 years from the initial rate decision under the Reorganization Act for all profit users of the mail and 16 years for all nonprofit users of the mail.

I am going to conclude my remarks at that point, having put in a much fuller statement of this matter, but at this point I would like to have inserted in the RECORD prepared remarks on this question by the distinguished Senator from Arizona (Mr. GOLDWATER).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR GOLDWATER

THE COMMUNICATION OF KNOWLEDGE BY THE MAILS—"THE SECURITY OF A FREE CONSTITUTION"

I rise to speak of knowledge and the diffusion of knowledge. I speak of the knowledge which our Founding Fathers saw as "the security of a free Constitution." Also, I speak of the democratization of knowledge, the unique achievement of America which has given our people ready access to the printed word on a scale unmatched anywhere else in the world.

Mr. President, the knowledge of which I speak is knowledge diffused among the public by newspapers and magazines, by library books and by school classroom and religious instruction materials—by publications which have traditionally been disseminated in America through the public mails.

This is what S. 411 is all about. It is aimed at preserving the communication of thoughts, arguments and news by the mails, which for two centuries now has served to secure the success of America's experiment in popular self-government.

If we would recall our history, Mr. President, we would remember that when controversy over ratification of the Constitution was at its height, the papers today known as *The Federalist*, which had such a powerful and favorable influence on public opinion, were communicated in newspapers and gazettes delivered through the post offices.

So, in 1788, when a new post office regulation threatened to impede the movement of publications "at the instant when the momentous question of a general Government was to come before the People." George Washington was aroused to protest. He pointed out that the interruption in the usual circulation of the news "has not only given great concern to the friends of the Constitution, who wished the Public to be possessed of every thing, that might be printed on both sides of the question; but it has afforded its enemies very plausible pretexts for dealing out their scandals, and exciting jealousies by inducing a belief that the suppression of intelligence, at that critical juncture, was a wicked trick of policy, contrived by an Aristocratic Junto. Now, if the Post Master General . . . has any candid Advisers who conceive that he merits the public employment they ought to counsel him to wipe away the aspersion he has incautiously brought upon a good cause. . . ."

I might add that it is new rulings by a modern-day Postmaster General that again threatens the regular circulation of the printed word, As adequate recognition was not given to the contributions to society made by gazettes and periodicals carried in the 1780's, so it has not been recognized in the setting of postal rates for newspapers and magazines of the 1970's.

The dissemination of publications by the mails remained important to Washington during the remainder of his life. In a draft, which Washington intended as his Inaugural Address, he argued the importance to society of "communications through the regular Posts." "I need not say how satisfactory it would be," he wrote, "to gratify the useful curiosity of our citizens by the conveyance of News Papers and periodical Publications in the public vehicles without expense." In other words, newspapers and magazines should be carried free.

In his first annual address, delivered in the Senate Chamber on January 8, 1790, then President Washington explained with care the fundamental value of the communication of knowledge to the greatest number of people. He advised: "Knowledge is in every country the surest basis of public happiness. In one in which the measure of Government receive their impression so immediately from the sense of the community as in ours, it is proportionably essential. To the security of a free Constitution it contributes in various ways. By convincing those who are entrusted with the public administration, that every valuable end of Government is best answered by the enlightened confidence of the people, and by teaching the people themselves to know and to value their own rights to discern and provide against invasions of them; to distinguish between oppression and the necessary exercise of lawful authority; between burdens proceeding from a disregard to their convenience, and those resulting from the inevitable exigencies of society; to discriminate the spirit of liberty from that of licentiousness, cherishing the first, avoiding the last, and uniting a speedy but temperate vigilance against encroachments, with an inviolable respect to the laws."

What this means, Mr. President, is that the dissemination of knowledge is fundamental to the preservation of our freedoms and popular form of government.

With this background, we can better view the purpose of the authority granted Congress by Section 8, Clause 7, of the Constitution: "To establish post offices and post roads." We can understand the Congressional intent, in enacting the Postal Reorganization Act of 1970, to continue the great American tradition of facilitating the circulation of the printed word. We can know that Congress had a precise and serious purpose in mind when it set forth in Section 101 of that Act its policy that the "U.S. Postal Service shall be operated as a basic and fundamental service to the people by the Government of the United States. . . ."

Congress intended by this that whenever there is a conflict between the ability of the public to obtain a wide range of printed information in the mails, or the ability of the Postal Service to be strictly self-sufficient, it is the purpose of information which should prevail.

Mr. President, the enormous increases in postal rates are endangering the reading public. The typical rate hike on regular second-class publications is at least 217%, and is likely to be 300%, from 1971 to 1977. Newspapers and magazines circulating within the county of publication will suffer an increase of 334% over the same period. The increase on nonprofit publications, delivered out of county, is 574%.

These costs are so big, and they threaten to consume such a large share of the revenue dollar, that many publications simply cannot absorb them. In stark terms, the publications industry is a high-risk and low-margin industry.

I am about to reveal an untold fact of the *publication* world. During the eight year period from 1965 through 1972, 718 new magazines were launched. However, by 1973 more than 70% of these magazine were no longer being published. Of the 718 new publications, only 205 were still alive in 1973. This signifies an over-all death rate of 72%, meaning less than a 3 in 10 chance of survival.

With this vulnerability, there is a very real danger that many more newspapers and periodicals will be forced to go out of business because of higher postage costs. Those which do survive may be drastically changed in format or frequency of publication. Instead of offering the public a great variety of viewpoints and information on general issues and events, publications may be far less responsive to public needs. The problem is that no one can predict what changes in society may be set in motion if the people can no longer select from among a vast range of informative printed materials.

We must not depart from the historic role of government in granting a service to the American people by carrying printed publications at rates which encourage their broad circulation. S. 411 is designed to preserve this historic role of the Post Office, and I implore my colleagues, for the good of the people, to approve this purpose.

Mr. McGEE. Mr. President, by arrangement with our time format here, I have agreed to yield the floor to the very distinguished ranking minority member of the committee, who has had great input into this matter, who has a disagreement with a substantial majority of the committee on whether or not this phase-in is justified or not. It is an open case. As I understand it, he may need as much as the next hour or so, and then I would like to have a little colloquy with the Senator from Maryland on a minor matter he has in connection with this.

Mr. FONG. Mr. President, whenever the distinguished Senator wishes to have a colloquy with another distinguished member, the Senator from Hawai will be glad to yield.

Mr. McGEE. I yield to the Senator.

Mr. FONG. Mr. President, I rise to oppose passage of S. 411. This bill increases the postage subsidies for magazine, book, and newspaper publishers, record manufacturers, and nonprofit organizations.

In my minority views, I cited certain subsidy payments for mailers. Since submitting my views, I have been advised that the figures I cited for these subsidies are understated by at least $4,302,000,000.

In other words, present subsidies, plus the additional subsidies in S. 411, which is the bill we are now debating, will cost American taxpayers at least $17,187,700,000.

This is 4,302,000,000 more than I estimated in my minority views.

The reason for that is that we were not able to get the figures at that time. Those figures are now updated.

This huge cost is one of the main reasons I oppose S. 411.

Mr. President, let me state all of my reasons for opposing this bill.

First. S. 411 would further subsidize—by $753,700,000, over three-fourths of a billion dollars—and the postage costs for users of second class mail—the magazine and newspaper publishers; fourth class mail—record manufacturers and book publishers; and, nonprofit organizations—second, third, and fourth class mail.

Second. Under existing law these mailers already receive two kinds of subsidies totaling $15,609,000,000 through 1984.

PUBLIC SERVICE SUBSIDY

a. This is a $10,580,000,000 subsidy for the period 1972–1984, paid out of the general revenues of the U.S. Treasury to subsidize postage for all classes of mail, including postage for newspaper, book, and magazine publishers, record manufacturers, and nonprofit organizations.

This is the first subsidy, a subsidy of $10,580,000,000 for all classes of mail.

REVENUE FOREGONE SUBSIDY

b. Revenue foregone subsidy is divided into two categories—First, phasein subsidy, and second, continuing subsidy for nonprofit mailers.

First. Phasein subsidy—Under present law, under a freeze-in subsidy, newspaper, magazine, and book publishers and record manufacturers are allowed a 5-year period to adjust to full-cost postal rates; nonprofit organizations are allowed a 10-year period to adjust to their full costs.

This adjustment, or phasein subsidy costs the American taxpayer at least $1,602,000,000.

In other words, over a 5-year period from 1972 through 1976, tax revenues extracted from the American people go to subsidize a portion of the postage costs of newspaper, magazine, and book publishers, and of record manufacturers.

Over a 10-year period from 1972–73 through 1982 tax revenues extracted from the American people go to subsidize a portion of the postage costs of nonprofit organizations.

So this phase-in subsidy will cost the American taxpayers at least $1,602,000,000. I use the words "at least" because these subsidies increase as postal rates go up.

Second. Continuing subsidy for nonprofit mailers. This portion of the revenue foregone subsidy is to pay the Postal Service overhead costs allocated to nonprofit mailers. Under existing law, this subsidy will continue indefinitely—for all practical purposes, forever. Profit mailers do pay their allocated share of Postal Service overhead costs. In fiscal years 1972 and 1973, the nonprofit mailers' share of the overhead costs was $201,000,000 annually. This increased to $275,000,000 annually on March 2, 1974.

It is expected that this subsidy will increase in later years to more than $275,000,000 annually.

For the period from 1972 through 1984, the continuing subsidy for nonprofit mailers will total at least $3,427,000,000 and for each year thereafter will cost taxpayers at least $275,000,000 annually. If S. 411 is enacted, an additional 3 years at $275,000,000 per year will bring the total continuing subsidy for nonprofit mailers to $4,252,000,000 through 1987.

This is the subsidy we are now giving to nonprofit organizations like the Red Cross, the Boy Scouts, the American Legion, Veterans of Foreign Wars, to mail their newsletters, to mail whatever they have, to their members.

This subsidy is $4,252,000,000, and every year after 1987, this cost to the mailers will be subsidized to the tune of another $275,000,000 a year. So when we talk about taking care of the nonprofit mailers, we have and will be taking care of nonprofit mailers up until 1987 to the tune of $4,252,000,000 every year from the American taxpayers' pockets.

Together with the phase-in subsidy of $1,028,800,000 this means the American taxpayers would under existing law and the pending bill, be subsidizing nonprofit mailers for a grand total of $5,280,800,000 through 1987, and for at least $275,000,000 a year thereafter.

Under existing law, the grand total

revenue foregone subsidy for both profit and nonprofit mailers under the phase-in subsidy and the continuing subsidy is at least $5,029,000,000 through 1984.

Third. At the time of enactment of the 1970 Postal Reorganization Act, Congress was advised that the newspapers, magazine, and book publishers, the record manufacturers and nonprofit organizations were all in agreement with these provisions of the law and accepted them in toto. These provisions were worked out by Postmaster General Blount, the distinguished Senator from Wyoming (Mr. McGEE), myself, the leaders of the House Post Office and Civil Service Committee, and these mailers. They were all in agreement with these subsidy provisions.

Fourth. The pending bill will award the newspaper and magazine publishers, record manufacturers and book publishers, and nonprofit organizations an additional $753,700,000 subsidy on top of the $5,854,000,000 subsidy—through 1987—they already are entitled to under present law, plus their share of the public service subsidy of $10,580,000,000.

Fifth. With this additional $753,700,000 subsidy to these mailers, the total overall subsidy for all mailers will be $17,187,700,000 if this bill is enacted.

Sixth. All of these subsidies must be paid to the U.S. Postal Service from the General Treasury. These are taxpayers' dollars.

So, the taxpayer pays the subsidies and, in addition, he pays full first-class and airmail postage rates.

Seventh. The additional subsidy contained in this bill is a raid on the U.S. Treasury—a ripoff in today's parlance—as the publishing and record manufacturing industries, the prime beneficiaries of this increased subsidy, are enjoying record profits and circulation. Last year, as reported in Forbes magazine, issue of January 1, 1974, they enjoyed a 12-plus percent return on equity, as compared with all U.S. industries which averaged approximately 11 percent. Any businessman will say that any corporation that can make an 8- to 10-percent return on equity is doing well.

Eighth. Postage costs amount to only 5 percent to 7 percent of total magazine expenses and 2 to 5 percent of newspaper expenses.

Ninth. Nonprofit mailers, which are now exempt from paying any of the Postal Service's overhead costs, now have and will always have a preferential rate equal to one-half the rate charged profit mailers even after the present 9-year non-profit-subsidy period ends.

In other words, the Red Cross, the Boy Scouts, the American Legion, the Veterans of Foreign Wars, will always have a subsidy of one-half of the costs that would be allocated to that type of mailing.

Tenth. These privileged classes, which already receive handsome subsidies and which would receive extra subsidies under the pending bill, if it passes, pay a far lower share of Postal Service overhead than all other categories of mailers, including the ordinary citizen paying first-class and airmail rates.

First-class mailers, Mr. President, according to evidence which we have received from the Postal Service, pay 198 percent of cost coverage, which is 99 percent of the actual overall cost. Priority mail pays 312.5 percent, which is 156 percent of the actual cost.

In other words, these two groups of mailers pay their way.

Third-class regular rate bulk mail, 203 percent, or 101 percent of the cost.

Parcel post and catalogs, 159.8 percent cost coverage, or 80 percent of the total cost.

And second-class regular rate, which we are now talking about, magazines and newspapers, pays a cost coverage of 129.5, which is 65 percent of the actual cost. Already they are paying only 65 percent of the actual cost, whereas first-class mailers, priority mailers, and third-class regular rate bulk mailers are paying more. First class pays 99 percent of the actual cost, whereas priority mail pays 56 percent more than the actual cost, and third-class regular rate bulk mail pays 1 percent more.

Therefore, under this law we have discriminated against the first-class mailer, we have discriminated against the priority mailer, and we have discriminated against the third-class regular rate bulk mailer. We have given a privilege to the second-class mailer of these magazines and newspapers, and now we would give them another subsidy.

Eleventh. This bill with its postal subsidies for privileged classes of mailers will put Congress partially back into the ratemaking business, a duty which Congress specifically delegated to the Postal Rate Commission in the Postal Reorganization Act of 1970. The Postal Rate Commission is currently conducting hearings on postal rates to determine what, if any, rates should be changed. Congress should live up to its commitments and not interfere in the Commission's ratemaking functions.

Twelfth. S. 411 is another in a long line of bills which this Congress has a penchant for passing that pile future financial commitments on the American people. It is another program whose costs will be uncontrollable. S. 411 is further proof of the crying need in this Congress for true budget reform, where, before we consider legislation calling for billions of dollars in subsidies, such a proposal would be subjected to intensive scrutiny to determine its impact on the U.S. Treasury, on the American taxpayers, on the Federal debt, on the Federal deficit, on the Nation's economy, and on inflation.

It mystifies me why the Senate of the United States would want to saddle the taxpayers of the United States with additional burdens, additional deficits, when the American people are already overburdened with too many Federal taxes and by the worst "tax" of all—inflation.

In calendar year 1973, the rate of inflation was 8.8 percent. This year, in the first full quarter, inflation as measured by the Consumer Price Index was running at the rate of 14.5 percent. The big question now, with controls off and energy prices on the climb, is, Will the rate of inflation go even higher?

Everyone knows that the biggest single cause of inflation in America today is the huge Federal deficits we incur year after year.

In the fiscal year ending last June 30, the Federal deficit was $14.3 billion. It is estimated the Federal deficit for the fiscal year ending June 30 this year will be $4.7 billion and on June 30, 1975, it will be $9.4 billion.

And this, Mr. President, is under the unified budget, as distinguished from the general appropriation budget. Senators will remember that when we were at the height of the Vietnam war, when we were spending about $26 billion a year on that war, the President, in order not to have his deficit show so large, included all of the trust fund money, the money that came in from social security and from the gasoline taxes for road purposes, and lumped that all in, giving him an excess of around $7 to $8 billion, so that his deficit could be cut by $7 or $8 billion. So, when I am talking about $9.4 billion, actually I am talking about a $17 or $18 billion deficit, because we are talking about a unified budget.

The main reason for the doubling of the estimated deficit for the coming fiscal year is that Congress has already passed legislation mandating back door spending of an uncontrollable kind.

The Nation's indebtedness in a few weeks, on June 30, is estimated to be $486.5 billion. Think of it, Mr. President. The Nation's deficit; in other words, the Nation owes, as of June 30, $486.5 billion. On June 30, 1975, the Federal debt is estimated to reach $507.9 billion. The interest charges alone on the American taxpayers are climbing and climbing. When are we going to put our financial house in order? If we are ever to get inflation under control, we must control Federal overspending.

While S. 411 does not affect the immediate fiscal years, it will most definitely affect future fiscal years and will be a drain on the U.S. Treasury and the American taxpayers. It has built-in costs that are uncontrollable.

The 13th reason I am against the bill is that S. 411 awards generous subsidies to all magazine, newspaper, and book publishers, all record manufacturers, and all nonprofit organizations, whether they need it or not. Why should healthy companies fat with profits receive such windfalls? There is no justification for it. Those smaller publishing companies which may be in financial distress can go before the Postal Rate Commission, which can study and analyze their problems and provide the appropriate relief. Congress should not be providing windfalls to any select group in America.

Mr. President, in brief, these are my reasons for opposing enactment of S. 411. Now let me explain in greater detail these reasons and the situation on postal subsidies.

PRESENT POSTAL SUBSIDIES BY AMERICAN TAXPAYERS

The Postal Reorganization Act of 1970 directed that all mail users were to pay the costs of all postal operations.

Section 101(c) of the act states:

> Postal rates should be established to apportion the costs of all postal operations to all

users of the mail on a fair and equitable basis.

This general policy was modified in subsequent sections of the act in two respects:

(A) PUBLIC SERVICE SUBSIDY

The public service subsidy is appropriated by the Congress out of the General Treasury, annually. It is 10 percent of the fiscal year 1971 appropriations of $9.2 billion for the U.S. Postal Service. This payment will continue at the 10 percent rate for fiscal years 1972 through 1979. In fiscal year 1980 the public service subsidy will be reduced to 9 percent and will thereafter decrease by 1 percentage point per year until 1984 when it will be 5 percent. After 1984, the Postal Service will have the option of requesting 5 percent or less, if it so chooses, for any subsequent fiscal year.

The total public service subsidy for the 13-year period from 1972 through 1984 is $10,580,000,000. This is money coming out of the pockets of the American taxpayers.

(B) REVENUE FOREGONE SUBSIDY

As I have already indicated, the revenue foregone subsidy has two segments. One, the phase-in subsidy and, two, the continuing subsidy.

One. The phase-in subsidy is a decreasing one.

Section 3626 of the Postal Reorganization Act directs that the postal rates for second, third, and fourth class mail be phased in, in equal installments, over a 5-year period for regular—profit—mail users and 10 years for nonprofit. The phasein subsidies under the law were to begin with the effective date of the first rate increase after postal reorganization—July 6, 1972—which was fiscal year 1973. However, we note that subsidies for the phase in of rates actually began in fiscal year 1972, 1 year earlier than authorized under the Postal Reorganization Act.

The difference between the full rates and the phase-in rates for these classes of mail is to be paid out of the General Treasury through annual appropriations by the Congress. The revenue foregone subsidy will decrease each year as the full rates are phased in. The full rates under present law will be reached in 1977 for regular mailers and in 1982 for nonprofit mailers. However, nonprofit organizations will pay only one-half of the regular rate because they are not charged with any of the overhead costs of the Postal Service.

In fiscal year 1972 the phase-in subsidy was $298.3 million and in 1973 it was $310.5 million. The subsidy for these rates would normally decrease under the law. However, because a second postal rate increase was put into effect on March 2, 1974, while the July 6, 1972 rates were being phased in, the subsidy will increase due to the piggyback effect of one rate on another.

In fiscal year 1974, the phase-in subsidy will be $291.9 million and then, because of the piggyback of the new rates, the subsidy will jump to $341.7 million in 1975.

Under these two rate schedules the projected cost of this phase-in subsidy will then decrease each year until in 1987 it will be $8.5 million.

The total cost of the phase-in subsidy over the full 10-year period, assuming postal rates remain as they are now, will total $1,602,000,000.

S. 411 will add an additional $753,700,000 to this subsidy, for a total revenue foregone phase-in subsidy of $2,355,700,000.

Second. The continuing subsidy is the difference between the preferred rate allowed nonprofit organizations, which does not include any Postal Service overhead, and the full rate for that particular class of mail including Postal Service overhead. It is an indefinite subsidy, meaning that it will be paid forever under present law. The American taxpayer makes up this difference to the Postal Service through payments from the General Treasury.

In fiscal years 1972 and 1973, this payment was $201,000,000 each year. Because postal rates went up in fiscal year 1974, this payment will increase by $74,000,000 in 1974 and will remain at the $275,000,000 level forever unless postage rates go up again. If postal rates increase, this subsidy will increase.

The continuing subsidy for nonprofit mailers for just the 10-year phase-in period under present law will be $2,602,000,000. For 16 years authorized in S. 411, the subsidy will increase to $4,252,000,000. However, I must point out that the continuing subsidy for nonprofit organizations is to go on indefinitely or forever under present law. Therefore, the dollar amounts I quote here do not include the subsidy for all subsequent years which is at least $275,000,000 per year.

Nonprofit organizations, therefore, are getting three different subsidies; that is, the Boy Scouts, charitable organizations, welfare organizations, the Veterans of Foreign Wars, the American Legion, the Girl Scouts—all of the nonprofit organizations which have been lobbying for the bill and lobbying hard, together with the publishers and newspapers. These nonprofit organizations, therefore, are, first, getting their share of the $10,580,000,000 public service subsidy, because that goes to all mailers. The second share they get is the $2,355,700,000 phase-in subsidy, and they get that for 10 years; and, third, the continuing appropriation subsidy, which for the 16-year phase-in period in S. 411 will be $4,252,000,000.

So when the Boy Scouts, the Girl Scouts, the Veterans of Foreign Wars, and the American Legion say that they are paying a very huge sum for postage rates, we should keep in mind that we will be subsidizing these organizations to the tune of $4.252 billion if this bill is passed; and under the present law, we will continue to subsidize them to the tune of $275 million a year forever. So that their average postage rates will be only one-half of the real cost which is attributed to that class of mailing.

The total public service and revenue foregone subsidies for the 16-year period—this is money which the American taxpayers will have to pay to the Postal Service for these classes we are preferring—will amount to $17,187,700,000.

One may wonder why I keep on speaking, with only two or three other Senators in the Chamber. I am trying to make a record, Mr. President, so that when this matter gets to the House of Representatives, that body will see what the arguments are against this bill.

HEALTH OF THE PUBLISHING INDUSTRY

In testimony last year before the Senate Post Office and Civil Service Committee, the U.S. Postal Service introduced into the hearing record a number of printed statements from publishing trade magazines and financial analysts attesting to the good health and high profits of the publishing industry.

The Publishers Auxiliary of December 9, 1972, stated:

> The N.N.A. board also felt that the postal rates now in effect and increases that are spelled out for the next several years will not drive any newspaper publisher out of business. The board believes that these rates can be lived with.

The Graphic Communications Weekly, on February 13, 1973, reported:

> For America's newspapers, 1972 was a very good year—probably the best in history, in fact. And revenues rose about 12 per cent, to $6.94 billion, while newspapers consumed 650,000 tons more newsprint, a 7 per cent increase from 1971, according to the Newsprint Information Committee.

In January 1973, the Magazine Publishers Association Library quoted Magazine Publishers Association president, Stephen Kelly, as saying:

> Speaking of the future—we, in the magazine field look ahead with strong convictions of further growth within the industry.

A review of 1973 reports on returns on equity and other yardsticks of financial performance bear out Mr. Kelly's prediction, and I want to review these financial statements with my colleagues.

READER'S DIGEST

Forbes magazine of December 15, 1973, cited statistics on Reader's Digest. Reader's Digest is owned by one family, and you cannot get the return on equity on Reader's Digest, because it is a closely held corporation. Forbes reported that the Digest did a total of $500 million worth of business in 1973—all of which was publishing or publishing related. The Digest magazine itself grossed $275 million in 1973. The May 1973 U.S. edition of the Digest carried $8.1 million in advertising—a world record for a single issue of a periodical.

WASHINGTON POST CO.

The Washington Post Co., which publishes Newsweek magazine, had a 16.5 percent return on equity in 1973.

We hear about an excess profits tax on the oil companies which are making 11 percent on equity. Here is a company that made 16.5 percent on equity in 1973. It had a 22.1-percent increase in sales over the 1970–72 period, and earned 70.9 percent more per share in 1973 over the 1970–72 period. The Post itself cited that of all the subsidiaries of the Post Co.:

> The most significant gain was posted by Newsweek magazine, which reported record revenues of about $103 million and income from operations of $9.16 million.
>
> Advertising page volume totaled 3,159 which was up 180 pages from 1972 and circulation was up 6.2 per cent from a year earlier.

The Washington Post newspaper on April 26, 1974, carried an article citing that the company's profits for the first quarter of 1974 increased 12.7 percent over 1973. In 1973 they had a 16.5 percent return on equity, and for the first quarter of 1974 they reported an increase of 12.7 over 1973.

The article states, regarding its weekly general magazine, Newsweek:

> In addition, the firm noted that its Newsweek magazine subsidiary experienced its first profitable first quarter in history. Newsweek normally posts a season loss in the January-March period because of fewer ad pages.

I ask unanimous consent that the article on the Washington Post Co. earnings be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

Washington Post Co. Earnings Up Despite Publishing, Broadcasting Dip

(By William H. Jones)

Total earnings of the Washington Post Co. advanced 12.7 per cent in the first quarter this year, despite a decline in overall operating profits from its publishing and broadcasting divisions, the company reported yesterday.

Net income rose to $1.58 million (33 cents a share) from $1.41 million (29 cents) a year earlier. While revenues were up to $59.98 million from $54.44 million in the comparable 1973 quarter, expenses rose at a more rapid pace: to $57.36 million from $51.23 million.

As a result, operating income declined to $2.62 million from $3.22 million. Two separate factors brought about the overall profit increase: an increase to $426,000 from $135,000 in Post Co. equity in earnings of affiliates primarily a Canadian newsprint company) and a rise from $262,000 to $597,000 in "other income," principally interest on money accumulated to invest in a Hartford television station, which the firm now owns.

A weak division for the company in the quarter was The Washington Post newspaper. Despite an advertising linage gain of 5.5 per cent in the January-March period, newspaper operating profits "were substantially lower than for the first quarter of 1973," according to a company statement.

Financial vice president Mark J. Meagher said the firm does not supply actual earnings figures for each division on a quarterly basis. At the same time, the company noted that it had been limited in recovering higher labor and newsprint costs through price increases before economic controls on the industry were lifted March 15.

Meagher said The Post plans to raise its advertising rates next week. Daily retail ad rates will increase 12 cents a line and Sunday retail ad rates are going up 16 cents a line. In addition, national advertising rates will be increased 10 cents a line and preprint advertising rates will rise by 11 per cent; in February, the Post had raised classified and national rates.

In addition, The Post raised circulation rates this year for home delivery and newsstand sales, the most recent being a boost to 15 cents daily (from 10 cents) and 50 cents on Sunday (from 40 cents) for newsstand sales in D.C., Maryland and Virginia, on Feb. 9; and an April 1 increase for newsstand sales outstand the three local jurisdictions.

The company's statement yesterday said that a strike by editorial and commercial employees who are members of the Newspaper Guild, which began April 8 and ended yesterday morning, "had no adverse financial effect on the newspaper's operations," although ad linage in the strike period was down slightly from a year earlier.

In addition, the firm noted that its Newsweek magazine subsidiary experienced its first profitable first quarter in history. Newsweek normally posts a season loss in the January-March period because of fewer ad pages.

TIME, INC.

Mr. FONG. Time, Inc., is involved in the publication of magazines and books; the production of records; production of pulp, paperboard, paper products, and timber; the manufacturing and sale of building products and materials; mortgage banking; real estate; construction; radio and television broadcasting; cable television; sale of products and services in graphic arts; marketing of information relating to movement of grocery products; and film production and distribution.

It publishes Time, Sports Illustrated, Money, Fortune, and People magazines. It also operates several book clubs, including Seven Arts and Book Find Clubs.

The circulation of all its magazines has been increasing steadily. It also owns the Pioneer Press Inc., which publishes 18 weekly newspapers in 28 communities surrounding Chicago.

Its 1972 net income was $22,407,000, which was less than its 1971 earnings of $23,265,000. However, that was the year it ceased publishing Life magazine and divested itself of the Francesville project.

It is most revealing to note that the day after the announcement of the demise of Life, Time, Inc., stock went up 6 points a share.

In 1973, Time, Inc., had a 12.5 percent return on equity; and 11.4 percent return on total capital; and a 46.1 percent increase in earnings per share in 1973 over the 1970–72 period.

Various reasons have been given for the demise of Life. However, postal costs, as shown by the following quotations, were not the reason.

> "Most media watchers attribute the pioneer photojournal's decline and fall to the inability of a mass or consumer magazine to compete with TV and special interest periodicals as an advertising medium, and its inability to cater to the editorial preference of the audiences of the 1970's." The Value Line Investment Survey, 12/29/72.
>
> "The evidence had been mounting during the last few of Life's 36 years of existence that the magazine had either outlived or outgrown its position as a useful advertising medium." Ibid.
>
> "It is ironic, then, that Time, Inc. stock rose $6.50 per share on the day of the announcement of Life's folding. Financial experts noted that this was because investors felt that Time, Inc. management had made a hardheaded decision which would benefit the entire company in the long run." Michael S. Lasky, Associate Editor, Folio: The Magazine for Magazine Management, January 1973.
>
> "Mr. Heiskell (chairman and chief executive, Time, Inc.) said: 'The closing of Life and the sale of our interest in St. Francesville significantly strengthen Time, Inc.'s profitability. In 1973 we look forward to a strong corporate performance, due particularly to an expected continued improvement by our magazine group," as reported in The Wall Street Journal of January 19, 1973.

Obviously, postal rate cost was not the reason Life magazine closed publication.

The April 19, 1974, Washington Star-News reported that Mr. James R. Shepley, president of Time, Inc., reported at its April 1974 stockholders meeting that higher publishing profits in the first quarter of 1974 reflected "excellent" results by Time-Life Books. The Star-News reported that Time, Inc., earning during the first quarter rose to a record $10.37 million or $1.01 a share, up 23 percent from $8.53 million, or 82 cents a share in the same period a year ago.

The publishing company said that revenues grew 17 percent to also hit a peak of $178.27 million, compared with $162.94 million in 1973.

The Star quoted Shepley as saying an anticipated decline in magazine advertising—

> . . . did not materialize. In fact total domestic advertising revenues of our magazines exceeded the comparable period last year.

Shepley was also quoted as saying:

> Magazine circulation also remained healthy—with circulation revenues reported at an all-time high and subscription renewals—particularly strong.

I ask that the complete text of that article be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

Time Inc. Sets Record for First Quarter Profits

New York.—Time Inc. reported yesterday that first quarter earnings rose to a record $10.37 million or $1.01 a share, up 23 percent from $8.53 million or 82 cents a share in the same period a year ago.

The publishing company said that revenues grew 17 percent to also hit a peak of $178.27 million, compared with $152.94 million in 1973.

James R. Shepley, president of the company, told the annual stockholders' meeting it was the "eleventh successive quarter in which income before extraordinary items increased from the comparable quarter of the preceding year by more than 10 percent."

He said first quarter earnings of the company's forest products subsidiary, Temple-East-ex, Inc., were up "substantially over 1973" and that new production and profits records were set in March.

Higher publishing profits in the quarter reflected "excellent results" by Time-Life Books, he said.

An anticipated decline in magazine advertising "did not materialize," Shepley added.

"In fact total domestic advertising revenues of our magazines exceeded the comparable period last year."

Magazine circulation also remained healthy, he said, with circulation revenues reported "at an all-time high and subscription renewals . . . particularly strong."

The Gillette Co. reported a 23 percent increase in sales for the first quarter of this year over the same period in 1973.

The manufacturer of razors, shaving products and other items reported sales of $285.49 million for the first three month of 1974, up from $231.88 million in 1973.

Gillette earned $23.69 million or 79 cents per share in the quarter. In the first three months of last year the company earned $20.79 million or 70 cents a share.

Johnson & Johnson reported net earnings of $42,565,000, or 74 cents a share for the first quarter of 1974. The comparable figures for 1973 were $35,778,000 and 62 cents. Sales for the 1974 quarter were $463,994,000 vs. $385,119,000 for the 1973 period.

NORTON-SIMON CORP.

Mr. FONG. The Norton-Simon Corp., which owns McCall Corp., publisher of McCalls and Redbook has 20 subsidiaries, including the Canada Dry Corp., Hunt Food & Industries, and the Max Factor Co.

The Dayton/Mid-Atlantic division of the McCall Publishing Co., subsidiary of Norton-Simon, also handles long-run periodical printing, including the New Yorker, Forbes, Redbook, Ladies Home Journal, Newsweek, Reader's Digest, U.S. News & World Report, Ingenue, and other magazines.

The Foote & Davis Division prints catalogs, direct mail brochures, and weekly and monthly publications.

Norton-Simon's net income in 1972 was $67,414,000, and its common share equity in 1973 was $12.89 per share, up from $11.47 in 1972.

Its return on equity in 1973 was 14.3 percent.

DOW-JONES CORP.

The Dow-Jones Corp., publisher of the Wall Street Journal also publishes Barrons National Business and Financial Weekly, and the National Observer, and has a large book division. It also owns 11 daily and 4 Sunday newspapers in addition to the Allied Newspapers chain.

The Wall Street Journal circulation was 1,298,482 in 1972; Barrons was 207,775; and the National Observer was 534,068—all up from previous years.

The Dow Jones net income in 1972 was $19,628,000 with its equity per common share at $4.71. The return on equity is not available.

CBS

CBS in addition to having extensive holdings in radio and television is also involved in record and tape manufacturing; merchandising and distribution of films; the publication of textbooks, tradebooks, magazines, medical books, and periodicals, as well as the development of residential properties and the operation of vocational education schools.

Its recent magazine acquisitions include the Sea and Pacific Motorboat magazine; the Sea Boating Almanac; and the Sea Line books.

It owns seven AM and seven FM radio stations; five television stations; and has 190 affiliates. It owns the Columbia Record Club and also produces toys under the name of Creative Playthings.

Its publishing subsidiaries include: The Holt, Rinehart, and Winston Incorporation—publisher of textbooks; W. B. Saunders Co., publishers of medical and dental books; the CBS Educational International Division, which also publishes books, magazines, and educational material; the CBS Publications subsidiary, which publishes special interest books and publications.

CBS also owns the Popular Library Corp.; the Parkhurst Publishing Co.; and World Tennis Corp., publisher of the World Tennis magazine.

In 1972 CBS's net income was $82,866,000—up from $59,981,000 in 1971.

Its equity on common stock was $12.77 in 1972; $11.06 in 1971. CBS had a 20.3-percent return on equity in 1973.

If this bill is passed, we shall be giving another subsidy to CBS.

BOOK OF THE MONTH CLUB CORP.

The Book of the Month Club Corp., of which 90 percent of its business is involved with publishing, owns the Metropolitan Art Seminars; the Reading Improvement Co.; the Dolphin/Water Sports Book Club; the Cookbook Club—this was purchased from the McCall Corp., in 1971; the Fine Arts 260 Co.; the Creative Needle Work Society; and the Center for Self-Education, Inc.

Its net sales in 1972 were $49,533,000, up from $43,389,121 in 1971. Its 1972 net income was $3,558,000, with its 1972 equity per common stock being $17.74—up from $16.51 in 1971. We are unable to get its return on equity.

NEW YORK TIMES CORP.

The New York Times Corp., in addition to owning the New York Times, owns six daily and four weekly newspapers. It also publishes the School Service Weekly; Large Type Weekly; Golf Digest; Family Circle; Modern Medicine; Geriatrics; and the Cambridge Book line. It is also involved in broadcasting.

The average circulation for the New York Times daily was 851,322; and for the Sunday edition, 1,453,076.

The New York Times Corp.'s net income in 1972 was $13,602,000 with net equity on shares of A and B stock at $8.14—up from $7.82 in 1971.

Its return on equity in 1973 was not 8, 9, 10, or 12 percent; it was 16.6 percent. We shall be giving subsidies to other companies like this by the passage of this bill.

TIMES-MIRROR CO.

The Times-Mirror Co., publisher of the Los Angeles Times, reported that their profits rose 31 percent in 1973 from the previous year. Earnings for the year totaled a record $54.9 million or $1.63 a share compared with $52.0 million and $1.25 per share in 1972. Its return on equity in 1973 was 17.7 per cent.

M'GRAW-HILL PUBLISHING CO.

McGraw-Hill Publishing Co. had a 12.9 percent return on equity in 1973; a 9.2 percent return on total capital; a 12 percent increase in sales in 1973 compared with 1970–1972; and, a 22.1 percent earnings per share in 1973 compared to 1970–1972.

When we remember the 16.6 percent return on equity of the New York Times; the 17.7 percent return on equity of the Times-Mirror; the 12.9 percent of McGraw-Hill Publishing Co.; and the 16.3 percent of the Washington Post; and when one considers that if he puts his money in a bank, he gets only 5 percent; he can see that these companies are making money.

MEREDITH CORP.

The Meredith Corp., which publishes magazines, books, owns radio and television stations, and operates book clubs, had 65.8 percent of its 1973 revenues come from the publishing and printing divisions.

It publishes Better Homes and Gardens, Successful Farming, and Apartment Life magazines. It also owns the Replogle Globe Co. and the Catholic Digest Book Club.

Its book publishing division has more than 50 active titles.

It also does considerable printing for other magazines, such as Vogue.

Its net income in 1972 was $8,527,000 as compared to $3,455,000 in 1971.

We have been advised by the Library of Congress that two other large magazine publishing companies, the Hearst Corp., which publishes Good Housekeeping, Harper's Bazaar, House Beautiful, and Sports Afield, and the Conde Nast Publications, Inc., which publishes Vogue, House and Garden, Glamour, Madamoiselle, and Bride's Magazine; are closely held corporations, and figures on their financial condition are not available.

I may say that in all the hearings held on this bill I have asked the publishers who have come before us to give us their rates of return on equity and have received only one. Only one company that came in gave us its return on equity.

The only way one can judge the health of a company as to whether it is or is not making money is to know what its return on equity is. That is the only way by which we can tell whether a company is making a profit. But many of them will not give those figures to us. The figures I have came from the Library of Congress, from Forbes Magazine, Standard and Poor, and the Securities and Exchange Commission.

However, the May 5, 1974 issue of the Star-News newspaper carried an article, entitled, "Life-less, Mag Biz Booms."

The article paints a fairly rosy picture of the magazine publishing business. Although it does cite the adverse impact of postage rates on magazines, the fact that sales and subscriptions are at record highs indicates that the adverse impact of increased postage rates is being handled by the magazines very well.

I ask unanimous consent that the text of the Star-News article appear in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LIFE-LESS, MAG BIZ BOOMS

(By Robert Lenzner)

NEW YORK.—The 29th floor of the Time-Life Building, deserted 18 months ago when Life magazine folded, is alive and humming again with the clatter of typewriters and the ringing of telephones. In this rabbit warren of tiny offices high above Rockefeller Center, the editorial staffs of People and Money, the two newest products of the publishing empire created by Henry Luce, are busy meeting deadlines.

Along the canyons of the media capital of the nation, the births of new publishing ventures and the renewed vitality of old ones are occurring despite steep increases in postal rates and the runaway cost of paper.

Gains in advertising lineage, even in the face of a slowdown in the automobile industry, and higher subscription fees are helping to make up for the ravages of inflation.

The image of a strong magazine publishing industry has been clouded by blockbuster events like the demise of Look, the Saturday Evening Post and Life. Total circulation in the last five years has actually edged forward slightly as new publications took up the slack after the deaths of the three giants.

There continue to be deaths in the magazine industry. Intellectual Digest, a monthly reprint of highbrow articles, is the latest consumer publication to fold in 1974, following publications such as Beauty, Epicure, Good Food, Homelife, and Realities, all victims of postal, paper and other production cost increases.

But, the bigger story is the fact that the creative and entrepreneurial process continues to bring forward almost 10 new magazines for every one that folds. During 1972, 190 magazines were begun, compared to 19 that died.

This year, Time-Life's People, a quickreading potpourri of tidbits about the week's heroes and chumps, has moved past its immediate goal of one million circulation. And it's all at the newstand—a distribution technique that was chosen to avoid heavy mailing costs.

Less fanfare and criticism along Madison Avenue has accompanied the introduction of the dozens of new magazines introduced so far this year like Snowmobile West, Hospital Pharmacy Today and the National Star, a weekly with a newspaper format.

Life magazine may very well be brought back as a monthly next year, though the editorial line has not been worked out yet.

Most media observers agree generally with George Hirsch, the publisher of New Times, a struggling weekly newsmagazine, that "there are three ways to publish a successful magazine—offer sex, news or a service."

The cover of a February issue of the improving New Times screams "Sex Sells Out"; inside an article says that Penthouse's kinkier sev motif is closing the gap on Playboy, and that Playgirl's nude males have brought it the fastest 1.6 million newstand sales ever seen in the trade. The successful formula of plenty of exposed skin and talk about incest, transvestism and homesexuality have spawned imitators like Gallery, Oui, Genesis, and Coq—to a point where some publishers think the sex market has been oversaturated.

Watergate has been a boon to the weekly newsmagazines, helping to boost Time's newstand sales 30 percent over last year, and giving Newsweek a record first quarter profit. Evidently, the packaging of the week's complicated moves and countermoves on the progress of impeachment are required reading by more people than ever before.

"The reader cannot get a proper perspective from the scoops of the daily paper, or a coherent image from his television set," says Andrew Heiskell, the chairman of Time-Life. In addition, there has been no recession in the amount of corporate advertising going into the many weeklies.

On Madison avenue the formula for a successful "book", as a weekly or monthly is called, rests on filling a need or finding a new market to serve. Ms. was an overnight success as the voice of women's liberation, a subject that conventional magazines like Cosmopolitan and Harper's Bazaar avoided. New York Magazine is a mixture of fast paced news and useful information on how to cope with the city—it appeals to sophisticates and would-be sophisticates. Business Week, the flagship of the McGraw Hill magazine chain, has bounced back from the 1970 recession because "we're giving the reader something he can translate into action", says Paul Finney, managing editor of the weekly.

"If you duplicate other people's information, you are slated for the slaughterhouse," he says.

Not every household name in the magazine world is doing so well, though. The New Yorker has been trying to become more representative of changing intellectual fads and appeal to younger, but the homebase of many a famous literary figure is barely holding its own in circulation, and advertising pages were off 33 percent last year.

Norman Cousins has been named publisher of the year for his valiant effort to put back together the pieces of Saturday Review/World, after the Old SR had been ruined in a disastrous move to the west coast two years ago. Richard L. Tobin, executive editor, is hoping to get Saturday Review/World back into the black before its 50th anniversary year is over. Circulation is still below its peak mark and the advertising agencies are "a bunch of sheep," he says.

However robust their current health, there isn't a publication that isn't wrestling with the inflationary rise in the cost of postage and paper. Second class postage charges have increased 20 percent in each of the past two years, and will continue to rise 35 percent more a year for the next three years. With price controls removed, paper is expected to skyrocket 25 percent in 1974.

"The Post Office is a little bit like the Arabs, raising prices faster than business can accommodate to the changes," says Time-Life's Heiskell. He tried to make the case for the magazine industry with John Ehrlichman, while that ex-White House aide still held power. The Administration did not reply.

Heiskell says the small specialty magazines can't afford the $100,000 to make their case before the Post Office bureaucracy.

To cope with rising costs, most magazines are changing their revenue strategy. Instead of passing along extra costs to the advertisers, the readers are being asked to make up the slack.

Time and Newsweek have dropped their practice of offering subscriptions at a 50 percent discount. Newsweek was boosted to 60 cents a copy on the newstand this week, and Newsweek president, Gibson McCabe says, "So far, knock on wood, the reader seems willing."

Good Housekeeping has raised its subscription prices 40 percent and dropped a half million subscribers—a policy of "sacrificing the casual fringe buyers" says Ray Peterson, executive vice president of the Hearst magazines.

"The day of the big circulation race is over," adds Sam Ferber, publisher of Esquire. He sees a smaller number of readers as the way to save money and effectively raise the price of advertising per copy.

Business Week publisher Jim Randolph has raised the subscription price from $12.95 to $14.50 yearly, and says "I can see the day I'll get $25.00 a subscription."

The industrial publications of Cahners Publishing Co. are squeezed because they cannot pass along increased costs to the consumer, but must try to raise advertising rates. According to Norman Cahners, founder of the company, many of the industries covered by his 32 magazines are suffering from the shortages induced by the energy crisis and the slowdown in building and construction.

"We are helped by diversification of different industries," he says.

Mr. FONG. These publishers, as I have stated earlier, are receiving substantial subsidies for their postage rates. These are American taxpayers' dollars being paid to subsidize publications which are doing very well financially—22 percent, 17 percent, 16 percent, 12.5 percent on equity.

Their return on equity is high compared to the average company in the United States. From the information given to me by individual companies and published in various magazines, newspapers and financial reporting companies such as Standard and Poor's, their returns on equity go from 12.5 percent on up. They are certainly not hurting.

Information given me by the U.S. Postal Service shows that the Reader's Digest magazine, under present law—if we do nothing with this bill—will receive a subsidy of $19,452,000 for its postal rates. Under S. 411, its subsidy will increase by $12,545,000 for a total subsidy of $31,997,000 for the 16-year period covered by this legislation.

Time magazine, under present law, will receive $17,901,000. Under S. 411 it will receive an additional $11,826,000 for a total of $29,727,000 over the same 16-year period.

How can we justify, Mr. President, giving $29,727,000 of the taxpayers' money to a company that receives a return of 12.5 percent on its equity?

The Wall Street Journal, under present law, will receive a subsidy of $23,373,000. S. 411 would increase this subsidy by $15,339,000, for a total of $38,712,000 over the 16-year period in S. 411, and the Wall Street Journal is doing well, though I do not have the return on equity for this company.

Certainly these publishers are not in dire financial need. They are not going out of business if S. 411 is not passed. They plead poverty before the committee, but they are not going out of business, and they are not helpless. They are making a lot of money. There is no justification for this additional subsidy.

I ask unanimous consent that tables prepared by the U.S. Postal Service showing the sudsidies which have been and will be received by these three publications under S. 411 be printed in the RECORD at this point.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

ESTIMATED APPROPRIATIONS—CURRENT AND PROPOSED (S. 411) PHASED RATES[1]

[In thousands]

Fiscal year	Phasing year	Current authorization (Public Law 91–375)			Additional appropriations (S. 411)[3]			Total proposed appropriations		
		Current rates[1]	Proposed rates[2]	Total	Current rates[1]	Proposed rates[2]	Total	Current rates[1]	Proposed rates[2]	Total
Reader's Digest magazine:[4]										
1973	1	$5,615		$5,615				$5,615		$5,615
1974	2	4,285	$1,027	5,312				4,285	$1,027	5,312
1975	3	2,722	2,771	5,493	$772	$656	$1,428	3,494	3,427	6,921
1976	4	1,392	1,640	3,032	1,505	1,131	2,636	2,897	2,771	5,668
1977	5				2,106	2,052	4,158	2,106	2,052	4,158
1978	6				1,380	1,434	2,814	1,380	1,434	2,814
1979	7				795	714	1,509	795	714	1,509
Total		14,014	5,438	19,452	6,558	5,987	12,545	20,572	11,425	31,997
Time magazine:[5]										
1973	1	5,031		5,031				5,031		5,031
1974	2	3,833	1,010	4,843				3,833	1,010	4,843
1975	3	2,429	2,744	5,173	685	673	1,358	3,114	3,417	6,531
1976	4	1,232	1,622	2,854	1,370	1,121	2,491	2,602	2,743	5,345
1977	5				1,883	2,041	3,924	1,883	2,041	3,924
1978	6				1,222	1,414	2,636	1,222	1,414	2,636
1979	7				712	702	1,417	712	705	1,417
Total		12,415	5,376	17,901	5,872	5,954	11,826	18,397	11,330	29,727
Wall Street Journal:[6]										
1973	1	6,612		6,612				6,612		6,612
1974	2	5,033	1,299	6,332				5,033	1,299	6,332
1975	3	3,203	3,524	6,727	890	859	1,749	4,093	4,383	8,476
1976	4	1,623	2,079	3,702	1,791	1,446	3,237	3,414	3,525	6,939
1977	5				2,475	2,614	5,089	2,475	2,614	5,089
1978	6				1,606	1,814	3,420	1,606	1,814	3,420
1979	7				940	904	1,844	40	904	1,844
Total		16,471	6,902	23,373	7,702	7,637	15,339	24,173	14,539	38,712

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[1] Current rates column indicates amounts attributable to current permanent rates. Fiscal year 1972 amounts (temporary rates) are not included.

[2] Proposed rates column indicates amounts associated with USPS rate proposals in PRC Docket R74–1.

[3] Assumes 8-year phasing in lieu of 5-year phasing of rate increases.

[4] Estimates based on data supplied by Readers Digest Association, Inc. in PRC Docket MC73–1. Does not include any estimates of volume changes.

[5] Estimates based on data supplied by Time, Inc. in PRC Docket R71–1. Does not include any estimates of volume changes.

[6] Estimates based on calendar year 1973 data supplied by Dow Jones & Co., Inc. in PRC Docket R74–1. Does not include any estimates of volume changes.

IMPACT OF POSTAL RATES ON PUBLICATIONS

Mr. FONG. The impact of postal rates on the overall costs of publishing a magazine, newspaper, book or manufacturing and selling records, is only a small portion of the total operating costs for those businesses.

The Magazine Publishers Association states that before the 1972 postal rate increases, postage rates amounted to only 5 percent of the total consumer-magazine expenses. The National Newspaper Association indicated that before those rate increases, second-class postage was approximately 2 percent of total costs.

During the committee hearings on this subject, testimony showed that as of July 1972 the actual per-copy increase for a typical magazine was about 3.2 cents. This increase was to be spread over a 5-year period.

Regarding small circulation magazines light in weight and with little or no advertising, the typical postage per piece will rise from 1.3 cents per copy to 2.9 cents over the 5-year phasein period. This would amount to 80 cents per annual subscription for a weekly magazine. Again, this would be phased in over a 5-year period.

The rate increase proposal presently before the Postal Rate Commission would increase the postage rate for second-class mail by 37 percent. This would be phased in over the remaining 3 years of the term called for in the Postal Reorganization Act—or a 12 percent addition per year.

Certainly, from the profit figures available, most of these magazines can absorb this cost without becoming marginal.

The Postal Service has prepared a number of tables illustrating the postage costs for various types of publications moving through the mails and receiving subsidies under present law.

For instance, a rural newspaper now pays an average per-piece rate of 1.3 cents—much lower than a postcard, the mail which I use. Because it enjoys a phasein rate for 10 years for all in-county deliveries, at the current postage rates, the cost will increase annually to 2.9 cents per issue in 1982. This is an increase of 1.6 cents over an 8-year period. An increase of only 3/10 of a cent every year.

This is a very low and slow period of increase for these newspapers—under present law. Certainly, these newspapers can over an 8-year period absorb a 1.6 cents per copy increase in their package rates.

In fact, the National Newspaper Association, which represents the bulk of the rural newspapers advised the House Post Office and Civil Service Committee last year, when hearings were being held on a similar House bill, that they were against any increased subsidies.

I want to read a portion of that letter:

> Without going into the details of the legislation, the purpose of my writing is to inform you that the National Newspaper Association is strongly opposed to the passage of this legislation.
>
> This Association is much more concerned with improving levels of mail delivery. We believe that in the long run inconsistent and poor mail delivery will lose newspapers more subscribers than it will increases in subscription prices due to increasing postal and other costs of operation.

I ask unanimous consent that the NNA's letter to the House Committee be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL NEWSPAPER ASSOCIATION,
Washington, D.C., June 7, 1973.
Hon. THADDEUS J. DULSKI,
Chairman, Committee on Post Office and Civil Service, Cannon House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Now pending before your Committee is H.R. 7554, which would modify the existing rate structure for newspapers mailed at second-class postage rates and provide other so-called benefits to publications having second-class entries.

Without going into the details of the legislation, the purpose of my writing is to inform you that the National Newspaper Association is strongly opposed to the passage of this legislation.

This Association is much more concerned with improving levels of mail delivery. We believe that in the long run inconsistent and poor mail delivery will lose newspapers more subscribers than will increases in subscription prices due to increasing postal and other costs of operation.

We believe that the Postal Reorganization Act, as enacted, fullfills the long term goal of improving mail service and that is why we worked so hard to obtain its passage by Congress. We realize the sincerity of those who urge the enactment of this legislation, and for that reason we have so far avoided entering the discussions.

We do not, however, want this Committee to favorably report this bill to the full Congress under the mistaken impression that it is needed to protect weekly newspapers from the perils of bankruptcy. The truth is quite to the contrary, in spite of the fact that many of those who have spoken in favor of this legislation have cited the poor financial situation of weekly newspapers as a primary reason for its passage. Only a mere handful of our members have complained to us about the impact of current and projected rates on their operations.

We realize fully that *in terms of percentage,* the increases for many weekly newspapers and other publications seem massive indeed.

Increases of more than 125% over five and ten year periods are common and increases up to 200% in some cases are not uncommon. But in terms of real dollars, these increases, while not miniscule, are not a real threat to the continued viability of the weekly newspaper publishing business.

Those who favor the passage of this legislation cite the fact that the number of weekly and daily newspapers has decreased over the last several years. This is true, but the decrease in the total number of mastheads and logotypes is due not to increases in postage rates, but to changing methods in newspaper publishing operations and technical improvements along with shifting population patterns and other cost increases, not just to increases in postage.

Indeed, in the period of time of which these people speak, postage rates for newspapers have not appreciably increased. Cost increases have come from other areas, particularly labor and newsprint to mention just two. And at the same time, total circulation of weekly newspapers has increased to 32 million in 1973.

We fully realize that the rate structure currently in existence and rate increases yet to come will impose certain hardships on some newspapers, but we believe that now is not the time to hamper the U.S. Postal Service in its efforts to serve mail users more expeditiously.

We hope that you and the other members of the Committee on Post Office and Civil Service will take these views into consideration as you consider the subject legislation.

Please feel free to make any inquiries of us concerning our position on this legislation or any other matter in which you believe we may be able to assist you.

Respectfully yours,

THEODORE A. SERRILL,
Executive Vice President.

Mr. FONG. I understand that the NNA has since changed its mind and now supports S. 411. I can understand that, with so many people, so many publications, and so many organizations lobbying for this bill. However, a review of the rates charged rural newspapers as well as other publications will show that the rates they pay are very low right now and that the increases in their rates over the remaining phasein period amount to only 1 or 2 cents per piece over a 5- or 10-year period—in-county mailings, 5 years; outside-county mealing, 10 years.

I ask unanimous consent that these representative tables prepared by the Postal Service be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

LABOR NEWSPAPER (NONPROFIT)

[Frequency: Weekly. Advertising: 3 percent. Weight: 1.4 oz Distribution: All zones, in-county portion negligible.]

Fiscal year	Step	Average postage per piece (cents) Current[1]	S. 411[1]
1975	3	0.9	[2]0 .7
1976	4	1.1	.9
1977	5	1.4	1.0
1978	6	1.7	1.1
1979	7	1.9	1.3
1980	8	2.1	1.5
1981	9	2.4	1.7
1982	10	2.7	1.8
1983	11		1.9
1984	12		2.1
1985	13		2.2
1986	14		2.4
1987	15		2.6
1988	16		2.7

[1] Includes effect of pending USPS rate proposals.
[2] Assumes effective date of July 6, 1974.

GENERAL-INTEREST MAGAZINE

[Frequency: Monthly. Advertising: 37 percent. Weight: 8 oz. Distribution:[1] In-county: Negligible; Zones 1 and 2: 50 percent; Zone 3: 33 percent; Zone 4: 15 percent; Zones 5 to 8: 2 percent]

Fiscal year	Step	Average postage per piece (cents) Current[2]	S. 411[2]
1975	3	4.9	[3]4.3
1976	4	6.1	4.9
1977	5	7.6	5.6
1978	6		6.2
1979	7		6.9
1980	8		7.6

[1] Assumes multiple entry points.
[2] Includes effect of pending USPS rate proposals.
[3] Assumes effective date of July 6, 1974.

RURAL NEWSPAPER

[Frequency: Weekly. Advertising: 50 percent. Weight: 4 oz. Distribution:[1] In-county: 65 percent. Zones 1 and 2: 30 percent. Zones 3 to 8: 5 percent]

Fiscal year	Step	Average postage per piece (cents) Current[2]	S. 411[2]
1975	3	1.3	[3]1.1
1976	4	1.6	1.3
1977	5	1.9	1.5
1978	6	2.1	1.7
1979	7	2.3	1.8
1980	8	2.5	1.9
1981	9	2.7	2.0
1982	10	2.9	2.1
1983	11		2.3
1984	12		2.4
1985	13		2.5
1986	14		2.6
1987	15		2.7
1988	16		2.9

[1] Assumes uniform distribution to zones 3 to 8, but fewer than 5,000 copies to all outside-the-county zones.
[2] Includes effect of pending USPS rate proposals.
[3] Assumes effective date of July 6, 1974.

CONTROLLED CIRCULATION PUBLICATION

[Frequency: Monthly. Advertising: 70 percent. Weight: 8 oz. Distribution: Nationwide]

Fiscal year	Step	Average postage per piece (cents) Current[1]	S. 411[1]
1975	3	8.0	[2]7.3
1976	4	8.5	8.0
1977	5	9.0	8.3
1978	6		8.5
1979	7		8.7
1980	8		9.0

[1] Includes effect of pending USPS rate proposals.
[2] Assumes effective date of July 6, 1974.

BOOK PARCEL

[Weight: 4 lb.—Distribution: Nationwide]

Fiscal year	Step	Average postage per piece (cents) Current[1]	S. 411[1]
1975	3	44	[2]43
1976	4	52	48
1977	5	60	51
1978	6		52
1979	7		58
1980	8		60

[1] Includes effect of pending USPS rate proposals.
[2] Assumes effective date of July 6, 1974.

NEWS MAGAZINE

[Frequency: Weekly. Advertising: 51 percent. Weight: 6 oz. Distribution:[1] In-county: 3 percent; Zones 1 and 2: 63 percent; Zone 3: 23 percent; Zone 4: 9 percent; Zones 5 to 8: 2 percent]

Fiscal year	Step	Average postage per piece (cents) Current[2]	S. 411[2]
1975	3	4.2	[3]3.6
1976	4	5.3	4.1
1977	5	6.6	4.8
1978	6		5.4
1979	7		5.9
1980	8		6.6

[1] Assumes multiple entry points.
[2] Assumes effective date of July 6, 1974.
[3] Includes effect of pending USPS rate proposals.

CLASSROOM FILMS (LIBRARY RATE)

[Weight: 4 lb.—Distribution: Nationwide]

Fiscal year	Step	Average postage per piece (cents) Current[1]	S. 411[1]
1975	3	17	[2]15
1976	4	17	17
1977	5	22	17
1978	6	25	20
1979	7	27	20
1980	8	27	22
1981	9	32	25
1982	10	32	25
1983	11		27
1984	12		27
1985	13		30
1986	14		30
1987	15		32
1988	16		32

[1] Includes effect of USPS pending rate proposals.
[2] Assumes effective date of July 6, 1974.

FUND APPEAL LETTER (3D CLASS BULK-RATE NONPROFIT)

[Weight: 1 oz.—Distribution: Nationwide]

Fiscal year	Step	Average postage per piece (cents) Current[1]	S. 411[1]
1975	3	1.9	[2]1.7
1976	4	1.9	1.9
1977	5	2.1	1.9
1978	6	2.1	1.9
1979	7	2.3	1.9
1980	8	2.3	2.1
1981	9	2.5	2.1
1982	10	2.5	2.1
1983	11		2.3
1984	12		2.3
1985	13		2.3
1986	14		2.3
1987	15		2.5
1988	16		2.5

[1] Includes effect of USPS pending rate proposals.
[2] Assumes effective date of July 6, 1974.

Mr. FONG. Mr. President, with regard to book and record subscriptions, any additional postage costs will be passed on to the consumer. One need only look at the invoice transmitted with any book or record order to note one price for the book or record and an additional cost item for postage and handling. It has also been suggested that those postage costs are oftentimes more than the actual postage necessary to mail the product.

These facts only strengthen my conviction that this additional subsidy is not necessary and any further increases in postage costs will be passed on to the subscriber leaving the publisher free from these costs.

With postal costs only 5 percent of a publishing company's expenses, it is obvious that postal rates are not the culprit in the demise of publications. Postage is a convenient scapegoat but the facts show otherwise. It is outrageous to ask the American taxpayer to subsidize these profitable companies out of the General Treasury for their postage costs.

HISTORY OF POSTAL REORGANIZATION

The Senate will recall that in 1969 and 1970, when postal reorganization was under consideration by the Post Office and Civil Service Committee, that the Magazine Publishers Association, the National Newspaper Association, and many others in the publishing field, launched an all-out campaign for postal reorganization as recommended by the Kappel Commission. The report of that Commission included the recommendation that—

> The postal service as a whole—not necessarily class by class—should be self-sustaining. Particularly since use of the mails is overwhelmingly commercial in nature, we strongly feel that the users can and should pay the full cost of the postal system.

This general policy of having the users pay for the postal system was followed in the Postal Reorganization Act, with the modifications of limited subsidies through the Public Service and Revenue Foregone Subsidies.

The Kappel Commission also recommended the establishment of a Postal Rate Commission—and we have a postal rate commission now working on rates—which—

> Under fair and appropriate procedures would review expert accounting, engineering and economic evidence and would render an initial decision on the merits of the proposed change.
>
> We believe that the Panel of Rate Commissioners can provide the independence and expertise necessary to ensure a fair hearing to the users of the postal service while minimizing delay, interference with management prerogatives and the dangers of layering of Federal bureaucracy which a separate independent agency might bring.

The November 1968 issue of Reader's Digest—the company that will receive a very hefty subsidy, to which I have referred—in referring to the procedures then used by the Congress in setting postal rates said, when they wanted this bill to pass:

> Congressional rate hearings simply befog the complex economic issues involved. Scores of company executives and lobbyists appear at these hearings, each with his own set of self-serving statistics. Says Rep. Morris Udall, a member of the House Postal Committee, "The witnesses bring their own accountants, and there's hardly one who can't prove he's paying more postage than it costs the Post Office to handle his mail."

That was a quote from the Reader's Digest that will profit from passage S. 411.

This is exactly why we established an independent Postal Rate Commission—five men, and we pay these five men $38,000 a year each. We give them a staff. The staff gathers the information. This is what we pay the Postal Rate Commission for, to set the rates. Now we are trying to set the rates here—with an adequate staff to analyze postal rates and their impact on mail users, on the general public, and on the U.S. Treasury. This is their job. This is their responsibility. We have given them that responsibility and now we want to take it back.

Section 3622 of Public Law 91–375, the Postal Reorganization Act, states that upon receiving a request for a rate change the Postal Rate Commission would consider the following factors:

> (1) the establishment and maintenance of a fair and equitable schedule;
>
> (2) the effect of rate increases upon general public, business mail users, and enterprise in the private sector of the economy engaged in the delivery of mail matter other than letters.

So they take everything into consideration when they establish postal rates.

The Rate Commission does look into the health of the business mailers. It gave long and detailed consideration in 1971 and 1972 during the first mail rate proceedings to the testimony and data submitted by the business mailers as to whether their rates should be increased. The decision at that time was that the mailers could handle the rate increases.

That very same procedure is now being followed, and undoubtedly that same type of evidence will be submitted to the Rate Commission this year during prehearing conferences and hearings.

This is the authority and responsibility of the Postal Rate Commission. The Congress should certainly wait to see what the judgments of the Commission are regarding the ability of the magazine and book publishers, the nonprofit organizations and the record manufacturers to bear the new rate increases. We should not inject ourselves into this problem at this time.

I have served on this committee for 14 years and for the first 11 years we were deluged by lobbyists telling us how to set their postal rates. There is no way we could tell whether the rates we set were fair. We were opportuned by lobbyists, by people interested in what the rates should be. There is no way by which, in the limited time we had in the committee, and the limited meetings we held, really to set proper rates. That is why we set up the Postal Rate Commission and why we pay five men $38,000 a year each, with a big staff, to do the job. Here we are, trying to take the job away from them.

The Postal Reorganization Act adopted in large part the recommendations of the Kappel Commission, the same report which received the strongest endorsement and active support of the publishers. These same publishers are now lobbying for increased subsidies, when in 1970 they came and said, "Give us a postal reorganization bill. These are the provisions we want. We want these provisions. Pass the bill." Now they come in and say, "Change it. Change it. Change it. Give us some more subsidies."

The Congress should not act to change the Postal Reorganization Act by increasing the subsidy in this manner.

On June 26, 1970, during debate on S. 3842, the Senate bill dealing with Postal Reorganization, Senator Gale W. McGee the distinguished and able chairman of the Post Office and Civil Service Committee, in discussing the ratemaking provisions of the bill said—and this is Senator McGee talking when we had that bill before us and tried to pass it on the floor of the Senate:

> First of all, we establish in the U.S. Postal Service, as an independent entity, the Postal Rate Commission, composed of five Presidentially appointed professional rate experts, confirmed by the Senate, who have the power to recommend all rates and all classifications for all mail. Their judgment shall be final, except in a case where the Board of Governors unanimously determines that a modification of the Commission's recommendation is necessary to comply with the specific criteria of the statutes and in order to raise sufficient revenue to operate the Postal Service.
>
> Second, in our proposal, the subsidy for preferred classes of mail is phased out. Under existing law, second and third class mail, sent by any religious, educational, scientific, philanthropic, agricultural, labor, veterans, or fraternal nonprofit organization, plus a few other special types of mailers, are entitled to mail at rates substantially less than the regular rate—and the regular rate itself is very low, particularly for second class mail.

This is Senator McGee talking in 1970. He said that these nonprofit organizations are entitled to mail at rates substantially less than the regular rate and that the regular rate, itself, is very low, particularly for second-class mail.

Senator McGee continued:

> The Committee believes that if Congress is to separate itself from the periodic battles over rate adjustments, we should make the separation complete.

That is what we are having today—periodic battles over the ratemaking procedure.

The **PRESIDING OFFICER**. All the time of the Senator has expired.

Mr. **FONG**. Mr. President, the distinguished Senator from Wyoming and I had agreed that if I asked for additional time, I could have it. Under that agreement, I ask for an additional 10 minutes.

The **PRESIDING OFFICER**. Is there objection?

Mr. **RANDOLPH**. Mr. President, reserving the right to object—and I do not object—I want to clarify the situation.

Is this time in addition to the 3 hours—1½ hours on each side—that we are now asked by the able Senator from Hawaii that he be granted?

The **PRESIDING OFFICER**. It is additional time.

Mr. **RANDOLPH**. Beyond the 3 hours?

The **PRESIDING OFFICER**. That is correct.

Mr. **RANDOLPH**. I thank the Chair.

Mr. **FONG**. Senator McGee, in 1970, during the debate on this bill on the floor of the Senate, continued:

> The Committee believes that if Congress is to separate itself from the periodic battles over rate adjustments, we should make the separation complete. We should get the Congress out of the clutches of the lobbyist. To retain any rate-making power is to insure that our halls will be filled with the representatives of special interest groups who will, as they always have, attempt to convince the Members of Congress that the world will truly come to an end if we raise the rate of their mail.
>
> Obviously, whenever the Postal Rate Commission in the future undertook to raise rates as recommended in the administration's proposal, all mailers of all kinds, except ordinary citizens who pay their bills and write letters to their friends and relatives, would come to

> the Congress to lobby for a special exception for their kind of mail simply to avoid the rate increase proposed by the Commission.

And this is what they are doing.

> My Colleagues in this Chamber know quite well the meaning of rate increases.
>
> A one-tenth of a cent increase in the rate applicable to presorted and zip-coded third class mail means about $15 million a year in revenue to the Post Office; $15 million can finance a very large crying towel. So I repeat: The separation of the Congress from ratemaking must be complete, or it will be meaningless.

We are not talking about $15 million here, Mr. President. We are talking in terms of a three-quarters of a billion dollar increase in the subsidy, raising the total subsidy to all mailers to the great sum of $17 billion plus.

Senator McGEE continued:

> The Committee decided, and we earnestly recommend that all statutory preferences be abolished, that Congress get out of the ratemaking business. To do otherwise is to pass a postal reform bill that is truly no reform at all in the ratemaking field, but remains hollow, indeed.

Now we are again setting lower rates for this preferred class of mailers. We are again in the ratemaking process. What we did in 1970 is hollow, indeed.

Mr. President, I agreed with the distinguished chairman then, and I believe his arguments in 1970 are still eminently sound.

Congress, through S. 411, is injecting itself back into postal ratemaking. Mailers would be paying their full rate, by the deadline in existing law, as it appears they are able to do, if the subsidy period is not extended.

The prediction of Senator McGEE that, whenever a new rate increase proposal is before the Rate Commission, special interest groups will attempt to "convince the Members of Congress that the world will truly come to an end if we raise the rate on their mail," has certainly come true. Lobbyists for these mailers have been in to see Senators in an effort to have Congress increase their subsidy. This is certainly their right. They have a right to come to see us. However, this is exactly what we sought to avoid when we passed the 1970 Postal Reorganization Act.

I know that lobbyists have come to see many Senators; that various nonprofit organizations have written in, saying that their postage costs will increase by a tremendous amount. But they do not say that they have been given a tremendous subsidy so far and that up to and beyond 1987, they will continue to receive a $275 million annual subsidy. This would be in addition to what they already have received which is approximately $5 billion.

The case of need for an additional subsidy has not been made. If Congress reinjects itself into ratemaking by increasing the subsidy, postal reorganization in the ratemaking field "will be meaningless," as Senator McGEE so accurately forecast.

If we pass S. 411, there is no assurance that we will not be pressured to act on another subsidy bill and another, ad infinitum, in the future. Some committee members have suggested inclusion in the report on this measure of a statement that this will be the last time Congress will act to increase the subsidies for mailers. However, we all know that such a statement would be empty and not binding on either this Congress or on future Congresses. Besides, this is what we said in 1970.

The thing to do is to reject this increased subsidy bill now. Failure to do so will only encourage future lobbying efforts for additional subsidies whenever new rate increases are requested.

From all the evidence we have seen, there is no justification to increase the subsidies for magazines, newspapers, and other publications.

The Senate should not act without the expert advice of the Postal Rate Commission, particularly when it is obvious that the individual publishers have not come forward with sufficient evidence justifying a subsidy increase of $753.7 million.

The argument has been raised that, if S. 411 is not passed, and postage rates are phased in over the 5- and 10-year period required under present law, magazines will not be sent through the mails but will be delivered by other means.

I have been informed that certain magazine publishers have experimented with other means of delivery and these proved unsatisfactory. Therefore, they continue to drop-ship magazines into various large post offices. That is, the magazines are transported in bulk by private company trucks to various large post offices. They are then put into the mails at a lower rate than they would pay had they been put into the Postal System at the location of printing. The publishers have found that it is cheaper to have the Postal Service deliver their magazines to the doors of their subscribers.

The postal rates actually are very low. Again, a review of the table prepared by the U.S. Postal Service showing mailing costs for magazines indicates that it costs only a few pennies to mail a typical magazine—4.2 cents at the present time. That is 6.8 cents less than the rate for a first-class letter. This rate is low because of the present subsidies paid by the American taxpayers and the presorting of mail done by the mailer. This low magazine rate would be increased gradually until it reaches 6.6 cents in 1977, under present law. The 1977 rate is still less by 3.4 cents than the rate for a first-class letter.

Certainly, the rate for magazines and the other publications covered in S. 411 and now receiving large subsidies is not prohibitive—particularly at a time when these publishers are making record profits. The publishers and mailers can absorb the costs of the increased postage rates. They should not ask the taxpayers for higher subsidies.

Mr. President, during the hearings of the Committee on Post Office and Civil Service on this bill, only the American Newspaper Publishers Association appeared. Their representative gave us no figures on profit and loss—only on postage costs and that they have gone up.

If there are indeed publishers who are suffering under existing postal rates, they will have every opportunity in the world to go before the Postal Rate Commission and detail the story of their plight. The Commission is mandated by law to consider the impact of postal rates on the users. And the Commission is empowered to take appropriate action to alleviate the burden of postal costs where postal rates cause an undue burden.

Congress should not vote further subsidies across the board for all publishers, all record manufacturers, and all nonprofit organizations whether they need it or not. In so doing, Congress is providing a windfall for the prosperous firms, at the expense of the American taxpayer.

Now, Mr. President, let us be clear. This bill is a subsidy bill. And how strange it is. At the very time that Congress is in the process of getting rid of subsidies to farmers and other special groups in the Nation, the Senate is prepared to vote more subsidies—not less—to select classes of mail users.

Additional subsidies beyond the generous subsidies already in existing law are unwarranted and unjustified.

Mr. President, at this point I wish to take a few moments to rebut the majority report on S. 411.

In reviewing the majority report on S. 411, I was very interested in some of the statements contained in the report.

First. The majority report states that S. 411 does not interfere with the authority of the Postal Rate Commission to determine and fix postal rates;

However, by definition, S. 411 is an interference with the ratemaking procedure. The Postal Rate Commission is supposed to have the full authority to set postal rates. By increasing the subsidy for magazines, newspapers, books, records, and nonprofit organization mail, the rates they will pay will be less. If by virtue of this bill their postage rates will be less, we then are certainly setting postage rates and interfering with the Postal Rate Commission's authority.

As the chairman of the Committee on Post Office and Civil Service so emphatically stated on the Senate floor in 1970 during debate on S. 1842:

> We earnestly recommend that . . . the Congress get out of the ratemaking business. To do otherwise is to pass a postal reform bill that is truly no reform at all in the ratemaking field, but remains hollow, indeed.

With enactment of S. 411, the Congress will be right back in the ratemaking business because it lowers the rates for these publishers, record manufacturers, and nonprofit organizations.

The majority report also cites the high cost of increased postage rates and other high inflationary costs of other publishing raw materials. However, it must be pointed out that these companies are also receiving record high profits. As evidenced by the material I included in the RECORD earlier the magazine divisions of these companies are leading the profit parade.

All businesses are experiencing the adverse effects of our inflationary economy. Few of these other industries are receiving Federal subsidies for their costs of doing business. They must pay their own way and adjust their methods of doing business. The publishing industry should likewise recognize this fact and live with the subsidies they are already receiving in abundant amounts.

We have been very generous with them.

We have been overly generous. We were generous when we passed the bill in 1970. The American taxpayer is not being asked to subsidize these other industries so why should they be required to subsidize the publishing business over and beyond the $16,434,000,000 they already have to pay?

We have already given them this subsidy and they will receive it as years go by. Why do we have to give them another three-quarters of a billion dollars

The majority report completely ignores the high percentage profits being posted by the publishing industry. The primary reason they say we should give them this added subsidy of three-quarters of a billion dollars is because the postage rates have gone up. Well, postage rates have gone up for everyone. What about first-class mail; what about air mail; what about third-class bulk mailers? Their costs have gone up and we have not given them a subsidy.

The **PRESIDING OFFICER**. The Senator's time has expired.

Mr. **FONG**. Mr. President, I ask unanimous consent that I may proceed for 3 additional minutes.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **FONG**. Mr. President, the majority report cites the higher postage costs for newspapers and magazines but makes no mention of the profits for these individual magazines or newspapers.

The profits provide the missing reference point in all of this debate.

The majority report on page 10 states:

> The Committee has been advised that current and anticipated postal rates threaten the quality, if not the existence, of the national weekly news magazines—Time, Newsweek, and U.S. News & World Report.

However, the 1973 and first quarter 1974 financial reports from Time, Inc. and the Washington Post Co. indicate that these companies and these individual magazines are doing spendidly. Profits are at record highs. These magazines are not going out of business with the profit margins they enjoy.

Time, 1973, 12.5 percent on equity; Newsweek, 16.5; U.S. News & World Report, no report on equity.

The majority report also cites heavily from the testimony and evidence presented in the 1973 hearings by the Magazine Publishers Association. However, a review of that material shows that it is way out of date. The latest figures used in compiling that evidence was December 31, 1971. Since that time, as I indicated earlier, the financial reports on the publishing industry show a large upswing in profits—both on sales and return on equity.

I ask unanimous consent to have printed in the RECORD the following page from the January 1, 1974 issue of Forbes magazine, a listing of the companies involved in leisure and education which includes publishers and record manufacturers.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LEISURE AND EDUCATION: YARDSTICKS OF MANAGEMENT PERFORMANCE

	Profitability						Growth					
	Return on equity			Return on total capital			Sales			Earnings per share		
Company	5-year average (percent)	Industry rank	Latest 12 months (percent)	5-year average (percent)	Industry rank	Latest 12 months (percent)	5-year average (percent)	Industry rank	1973 versus 1970–72 [1] (percent)	5-year average (percent)	Industry rank	1973 versus 1970–72 [1] (percent)
Skyline Corp	47.3	1	22.4	47.3	1	22.3	30.9	8	36.0	41.3	4	0.5
Champion Home	42.8	2	31.8	35.2	3	28.8	37.2	5	54.5	47.8	3	32.7
Fleetwood Enterprises	41.3	3	14.4	42.4	2	14.7	47.7	2	98.2	51.2	2	3.1
McDonald's Corp	31.5	4	28.3	16.3	8	15.2	30.5	9	72.7	34.9	5	73.2
Winnebago Industries	29.9	5	11.7	29.3	4	11.8	57.4	1	33.5	54.4	1	−28.9
Loews	22.5	6	18.5	9.3	25	6.7	41.3	4	5.5	33.7	6	18.4
Dun & Bradstreet	22.4	7	22.5	23.3	5	22.4	10.5	27	25.2	7.8	24	20.7
AMF	21.8	8	21.6	12.8	12	13.7	10.7	25	29.1	21.5	8	26.8
Eastman Kodak	21.4	9	23.7	20.0	6	22.2	9.9	29	26.0	9.9	21	42.8
Redman Industries	19.4	10	(2)	16.3	7	(2)	27.5	10	34.6	16.7	11	(3)
Denny's	18.4	11	16.9	10.8	19	8.7	34.3	6	50.8	12.7	15	45.7
CBS	18.3	12	20.3	13.6	9	15.0	10.1	28	16.4	3.0	29	33.1
Fuqua Industries	16.5	13	20.6	9.2	27	11.1	16.5	16	29.8	9.2	22	80.1
Knight Newspaper	16.4	14	15.9	12.2	16	13.1	19.1	13	20.6	19.5	9	33.3
Outboard Marine	15.7	15	20.4	12.7	15	16.5	11.4	23	34.6	12.3	17	68.4
Philips Industries	15.4	16	14.3	11.8	17	10.5	32.3	7	18.9	13.4	14	14.7
Tandy	14.7	17	11.3	10.6	21	9.1	43.3	3	55.8	26.1	7	44.1
Times-Mirror	14.7	18	17.7	12.8	13	14.8	14.5	20	27.3	8.7	23	51.4
Washington Post	[4] 14.6	19	16.5	10.2	23	11.6	10.5	26	22.1	4.2	28	70.9
Holiday Inns	14.3	20	12.9	[5] 8.2	30	7.5	20.3	12	23.0	11.7	18	15.8
Marriott	14.0	21	12.0	7.6	32	6.5	24.0	11	56.8	18.1	10	45.1
New York Times	13.9	22	16.6	13.5	10	14.9	10.9	24	24.1	4.8	26	69.3
Gannett	13.9	23	15.4	11.1	18	11.8	17.4	15	34.8	12.6	16	32.8
Howard Johnson	13.5	24	14.3	12.7	14	13.6	8.7	32	15.7	10.1	20	35.6
Polaroid	13.2	25	8.4	13.3	11	8.4	12.6	21	24.0	4.7	27	−11.6
Del E Webb	13.1	26	14.8	7.4	33	9.2	14.6	19	−4.3	(6)	----------	58.7
Walt Disney	12.9	27	10.4	10.7	20	8.7	16.2	17	72.0	14.5	12	47.8
Am Broadcasting Cos	12.6	28	17.1	8.4	29	13.0	8.6	34	15.2	10.5	19	88.9
Brunswick	12.6	29	16.4	9.2	26	12.5	9.1	30	26.2	(6)	----------	56.4
McGraw-Hill	12.4	30	12.9	10.2	22	9.2	7.6	38	12.0	−3.3	34	22.1
R. R. Donnelley & Sons	10.6	31	11.8	10.2	24	10.6	6.8	40	7.7	−3.9	35	18.3
Metromedia	10.5	32	12.4	6.9	35	7.7	7.8	37	19.6	−1.6	33	30.2
Grolier	10.1	33	6.5	5.7	38	3.7	11.6	22	26.0	.1	30	−28.9
Hilton Hotels	10.1	34	10.7	6.5	36	6.3	8.1	35	22.4	13.5	13	28.1
Bell & Howell	10.1	34	11.8	8.9	28	9.7	8.0	36	23.4	5.4	25	31.8
Time, Inc	9.8	36	12.5	7.8	31	11.4	3.9	42	.2	−6.5	36	46.1
RCA	9.3	37	18.2	6.2	37	10.6	7.5	39	16.2	−10.3	37	492.2
MCA	8.4	38	11.5	7.1	34	9.1	9.1	30	12.8	−1.3	32	36.4
Macmillan	6.2	39	7.3	5.7	39	6.1	18.5	14	4.6	−.7	31	65.2
Arcata National Corp	4.1	40	(2)	4.7	40	(2)	[7] 8.7	33	7.7	(3)	38	(3)
MGM	−3.7	41	5.5	0	41	4.5	−2.3	44	−1.3	(3)	38	92.6
Twentieth-Century Fox	−9.9	42	9.7	−3.2	42	6.4	1.6	43	28.4	(3)	38	(6)
Mattel	−24.9	43	(2)	−4.9	43	(2)	16.2	18	−1.7	(3)	38	(8)
Columbia Pictures	−35.7	44	(2)	−4.9	44	(2)	4.6	41	−9.4	(3)	38	(8)
Warner Communication	(9)	----------	20.5	(9)	----------	10.2	(9)	----------	----------	(9)	----------	----------
Industry medians	13.9	----------	14.3	10.2	----------	10.5	11.5	----------	23.4	9.6	----------	32.9

[1] 3-yr average.
[2] Deficit.
[3] Profit to deficit.
[4] 3-yr average.
[5] 4-yr average.
[6] Deficit to profit; not ranked.
[7] 3-year growth.
[8] Deficit to deficit.
[9] Not available; not ranked.
Note: Explanation of Yardstick calculations on p. 117.

Mr. **FONG**. Mr. President, it is obviously apparent from this listing that even the companies cited on page 12 of the majority report, Time, Inc., and the Washington Post Co., and McGraw-Hill are doing very well—much better than the 8.7-percent return on equity that the majority report cites for 1972.

Also, the distinguished chairman of the committee says much of the $753,700,000 increased subsidy in S. 411 would go to nonprofit organizations. Let me clarify that point. Of the $753,700,000, 53 percent will go to the profit mailers and 47 percent will go to nonprofit organizations.

Mr. President, for all these reasons I ask that S. 411 be rejected.

Mr. President, before I yield the floor, I ask unanimous consent that the minority views on S. 411 be printed in the RECORD following my statement.

There being no objection, the views were ordered to be printed in the RECORD, as follows:

MINORITY VIEWS—S. 411, A BILL TO INCREASE CERTAIN POSTAL SUBSIDIES

We strongly oppose passage of S. 411. It is an unwarranted and unjustifiable expenditure of Federal funds, which after all are taxpayers' money. We oppose this legislation for the following reasons:

1. The intent of this bill is to further subsidize postage costs of magazine and newspaper publishers (2nd class mail); record manufacturers and book publishers (4th class mail); and nonprofit organizations (2nd, 3rd, and 4th class mail).

2. Under existing law, the above-mentioned mailers already receive two kinds of subsidies:

(a) Public Service Subsidy—this is a $10,530,000,000 subsidy for the period 1972–1984 paid out of the general revenues of the U.S. Treasury to subsidize postal service for all classes of mail, including newspaper and magazine publishers, record manufacturers and book publishers, and nonprofit organizations.

(b) Revenue Foregone Subsidy—this is a $1,602,000,000 subsidy provided only to newspapers and magazine publishers and record manufacturers and book publishers (over a 5-year period, 1972–1976) and to nonprofit organizations (over a 10-year period, 1972–1982).

This subsidy, paid out of the general revenues of the U.S. Treasury, was provided by Congress in the 1970 Postal Reorganization Act so as to allow for phasing in of higher postal rates until the rates reach the full-cost rate required to be paid by the above three categories of mailers.

In other words, newspaper and magazine publishers and record manufacturers and book publishers were allowed a 5-year period to adjust to full-cost postal rates; nonprofit organizations were allowed a 10-year period to phase in. During the 5-year and 10-year period, the taxpayers are subsidizing these mailers to the tune of $1,602,000,000.

At the time of enactment of the 1970 Postal Reorganiaztion Act, these three kinds of mailers were in agreement with these provisions of the law and accepted them in toto.

3. The pending bill will award the newspaper and magazine publishers, record manufacturers and book publishers, and nonprofit organizations an additional $753,700,000 subsidy on top of the $1,602,000,000 subsidy they already are entitled to under present law, plus their share of the public service subsidy of $10,530,000,000!

4. With this additional $743,700,000 subsidy to these mailers, the total over-all subsidy for all mailers will be $12,885,700,000 if the pending bill is enacted!

5. All of these subsidies must be paid to the United States Postal Service from the General Treasury. These are tax-payers' dollars.

So the ordinary citizen has to pay all the subsidies and, in addition, bear the full increase in first class and air-mail postage rates. On top of this, the pending bill would further burden taxpayers with more subsidies.

6. The additional subsidy contained in this bill is a raid on the United States Treasury—a rip-off in today's parlance—as the publishing and record manufacturing industries (the prime beneficiaries of this increased subsidy) have both received record profits and circulation recently. Last year, as reported in Forbes Magazine issue of January 1, 1974, they enjoyed a 12+ per cent return on equity, as compared with all United States industries which averaged approximately 11 per cent. Any corporation that can make an 8 to 10 per cent return on equity is doing well.

7. Nonprofit mailers, which are now exempt from paying any of the Postal Service's overhead costs, now have and will always have a preferential rate equal to one-half the rate charged profit mailers, even after the present nine-year nonprofit subsidy period end.

8. These privileged classes, which already receive handsome subsidies and which would receive extra subsidies under the pending bill, pay a far lower share of Postal Service overhead than all other categories of mailers, including the ordinary citizen paying first-class and air-mail rates.

9. This bill with its postal subsidies for privileged classes of mailers will put Congress partially back into the rate-making business, a duty which Congress specifically delegated to the Postal Rate Commission in the Postal Reorganization Act of 1970. The Postal Rate Commission is currently conducting hearings on postal rates to determine what, if any, rates should be changed. Congress should live up to its commitments and not interfere in the Commission's rate-making functions.

10. Postage costs amount to only 5 per cent of total magazine expenses and 2 per cent of newspaper expenses. Although a new rate increase has been effected, because all publishing costs have increased, the U.S. Postal Service does not believe postage costs are "now significantly higher in relation to other publishing costs."

PRESENT POSTAL SUBSIDIES BY AMERICAN TAXPAYERS

The Postal Reorganization Act of 1970 directed that all mail users were to pay the costs of all postal operations.

Section 101(c) of the Act states:

"Postal rates should be established to apportion the costs of all postal operations to all users of the mail on a fair and equitable basis."

This general policy was modified in subsequent sections of the Act in two respects:

(*a*) *Public service subsidy*

The Public Service subsidy is appropriated by the Congress out of the General Treasury, annually. It is 10 per cent of the Fiscal Year 1971 appropriations of 9.2 billion dollars for the United States Postal Service. This payment will continue at the 10 per cent rate for Fiscal Years 1972 through 1979. In Fiscal Year 1980 the Public Service subsidy will be reduced to 9 per cent and will thereafter decrease by 1 per cent per year until 1984 when it will be 5 per cent. After 1984, the Postal Service will have the option of requesting 5 per cent or less, if it so chooses, for any subsequent fiscal year.

The total Public Service Subsidy for the 13-year period from 1972 through 1984 is $10,530,000,000.

(*b*) *Revenue foregone subsidy*

The Revenue Foregone subsidy is a decreasing one. Section 3626 of the Postal Reorganization Act directs that the postal rates for second, third, and fourth class mail be phased in, in equal installments, over a five-year period for regular (profit) mail users and ten years for nonprofit. The phase-in subsidies under the law were to begin with the effective date of the first rate increase after postal reorganization—July 6, 1972, or Fiscal Year 1973. However, we note that subsidies for the phase in of rates began in Fiscal Year 1972, one year earlier than authorized under the Postal Reorganization Act.

The difference between the full rates and the phase-in rates for these classes of mail was to be paid out of the General Treasury through annual appropriations by the Congress. The revenue foregone subsidy will decrease each year as the full rates are phased in. The full rates under present law will be reached in 1977 for regular mailers and in 1982 for nonprofit mailers. However, the nonprofit rate will be one-half of the regular rate because the nonprofit mailers will not pay any of the overhead costs of the Postal Service.

In Fiscal Year 1972 the revenue foregone subsidy for phased in rates was $298.3 million and in 1973 it was $310.5 million. In the following years the subsidy will decrease except for those years when one phase-in period begins on the preceding.

The total revenue foregone subsidy under present law with the permanent and proposed rates will be $1.6 billion for the entire 10-year phase-in period.

This legislation will add an additional $753,700,000 to the revenue foregone subsidy, for a total Revenue Foregone subsidy of $2,355,700,000 for the full 16-year new subsidy period established by S. 411.

The total Public Service and Revenue Foregone subsidies for the 16-year period will be $12,885,700,000.

HEALTH OF THE PUBLISHING INDUSTRY

In testimony last year before the Senate Post Office and Civil Service Committee, the United States Postal Service introduced into the hearing record a number of printed statements from publishing trade magazines and financial analysts attesting to the good health and high profits of the publishing industry.

The Publishers Auxiliary of December 9, 1972 stated:

"The N.N.A. board also felt that the postal rates now in effect and increases that are spelled out for the next several years will not drive any newspaper publisher out of business. The board believes that these rates can be lived with."

The *Graphic Communications Weekly*, on February 13, 1973 reported:

"For America's newspapers, 1972 was a very good year—probably the best in history, in fact. And revenues rose about 12 per cent, to $6.94 billion, while newspapers consumed 650,000 tons more newsprint, a 7 per cent increase from 1971, according to the Newsprint Information Committee."

In January 1973, the Magazine Publishers Association Library quoted Magazine Publishers Association President, Stephen Kelly, as saying:

"Speaking of the future—we, in the magazine field look ahead with strong convictions of further growth within the industry."

A review of 1973 reports on returns on equity and other yardsticks of financial performance bear our Mr. Kelly's prediction.

READER'S DIGEST

Forbes magazine of December 15, 1973, cited statistics on *Reader's Digest*, Forbes reported that the Digest did a total of $500 million worth of business in 1973—all of which was publishing or publishing related. The *Digest* magazine itself grossed $275 million in 1973. The May 1973 United States edition of the *Digest* carried $8.1 million in advertising—a world record for a single issue of a periodical.

WASHINGTON POST COMPANY

The Washington Post Company, which publishes *Newsweek* magazine, had a 16.5 per cent return on equity in 1973; a 22.1 per cent increase in sales over the 1970–1972 period; and earned 70.9 per cent more per share in 1973 over the 1970–1972 period. The *Post* itself cited that of all the subsidiaries of the Post Company:

"The most significant gain was posted by *Newsweek* magazine, which reported record revenues of about $103 million and income from operations of $9.16 million.

"Advertising page volume totaled 3,159 which was up 180 pages from 1972 and circulation was up 6.2 per cent from a year earlier."

TIME, INCORPORATED

Time, Incorporated, is involved in the publication of magazines and books; the production of records; production of pulp, paperboard, paper products and timber; the manufacturing and sale of building products and materials; mortgage banking; real estate; construction; radio and television broadcasting; cable television; sale of products and services in graphic arts; marketing of information relating to movement of grocery products; and film production and distribution.

It publishes *Times, Sports Illustrated, Money, Fortune* and *People* magazines. It also operates several book clubs including Seven Arts and Book Find Clubs.

The circulation of all of its magazines has been increasing steadily. It also owns the Pioneer Press Incorporated which publishes 18 weekly newspapers in 28 communities surrounding Chicago.

Its 1972 net income was $22,407,000, which was less than its 1971 earnings of $23,265,000. However, that was the year it ceased publishing *Life* magazine and divested itself of the Francesville project.

It is most revealing to note that the day after the announcement of the demise of *Life*, Time, Inc. stock went up 6 points.

In 1973, Time, Incorporated, had a 12.5 per cent return on equity; and 11.4 per cent return on total capital; and a 46.1 per cent increase in earnings per share in 1973 over the 1970–1972 period.

Various reasons have been given for the demise of *Life*. However, postal costs, as shown by the following quotes, was not the reason.

"Most media watchers attribute the pioneer photo-journal's decline and fall to the inability of a mass or consumer magazine to compete with TV and special interest periodicals as an advertising medium, and its inability to cater to the editorial preference of the audiences of the 1970's." *The Value Line Investment Survey*, 12/29/72.

"The evidence had been mounting during the last few of Life's 36 years of existence that the magazine had either outlived or outgrown its position as a useful advertising medium." *Ibid.*

"It is ironic, then, that Time, Inc., stock rose $6.50 per share on the day of the announcement of Life's folding. Financial experts noted that this was because investors felt that Time, Inc. management had made a hardheaded decision which would benefit the entire company in the long run." Michael S. Lasky, Associate Editor, *Folio: The Magazine for Magazine Management,* January 1973.

"Mr. Heiskell (chairman and chief executive, Time, Inc.) said: 'The closing of Life and the sale of our interest in St. Francesville significantly strengthen Time, Inc.'s profitability. In 1973 we look forward to a strong corporate performance, due particularly to an expected continued improvement by our magazine group," as reported in *The Wall Street Journal* of January 19, 1973.

Obviously, postal rate cost was not the reason Life magazine closed publication.

The April 19, 1974 *Washington Star-News* reported that Mr. James R. Shepley, president of Time, Incorporated, reported at its April 1974 stockholders meeting that higher publishing profits in the first quarter of 1974 reflected "excellent" results by Time-Life Books. The Star-News reported that Time, Inc. earnings during the first quarter rose to a record $10.37 million or $1.01 a share, up 23 per cent from $8.53 million or 82 cents a share in the same period a year ago.

The publishing company said that revenues grew 17 per cent to also hit a peak of $178.27 million, compared with $162.94 million in 1973.

The Star quoted Shepley as saying an anticipated decline in magazine advertising—did not materialize.—In fact total domestic advertising revenues of our magazines exceeded the comparable period last year.

Shepley was also quoted as saying:

"Magazine circulation also remained healthy—with circulation revenues reported at an all-time high and subscription renewals—particularly strong."

NORTON-SIMON CORPORATION

The Norton-Simon Corporation, which owns McCall Corporation, publisher of *McCalls* and *Redbook* has twenty subsidiaries including the Canada Dry Corporation, Hunt Foods and Industries and the Max Factor, Company.

The Dayton/Mid-Atlantic division of the McCall Publishing Company, subsidiary of Norton-Simon, also handles long-run periodical printing including the *New Yorker, Forbes, Redbook, Ladies Home Journal, Newsweek, Readers Digest, U.S. News and World Report, Ingenue* and other magazines.

The Foote and Davis Division prints catalog, direct mail brochures and weekly and monthly publications.

Norton-Simon net income in 1972 was $67,414,000 and its common share equity in 1973 was $12.89 per share, up from $11.47 in 1972.

Its return on equity in 1973 was 14.3 percent.

DOW-JONES CORPORATION

The Dow-Jones Corporation, publisher of *The Wall Street Journal* also published *Barrons National Business* and *Financial Weekly*, the *National Observer* and has a large book division. It also owns 11 daily and four Sunday newspapers in addition to the Allied Newspapers chain.

The Wall Street Journal circulation was 1,298,482 in 1972; *Barrons* was 207,775; and the *National Observer* was 534,068—all up from previous years.

Dow Jones' net income in 1972 was $19,628,000 with its equity per common share at $4.71. The return on equity is not available.

CBS

CBS in addition to having extensive holdings in radio and television is also involved in record and tape manufacturing; merchandising and distribution of films; the publication of textbooks, tradebooks, magazines, medical books and periodicals as well as the development of residential properties and the operation of vocational education schools.

Its recent magazine acquisitions include the Sea and Pacific *Motorboat* magazine; the *Sea Boating Almanac*; and the *Sea Line* books.

It owns seven AM and seven FM radio stations; five television stations and has 190 affiliates. It owns the Columbia Record Club and also produces toys under the name of Creative Playthings.

Its publishing subsidiaries include: The Holt, Rinehart, and Winston Incorporation—publisher of textbooks; W. B. Saunders, Company, publishers of medical and dental books; the CBS Educational International Division, which also publishes books, magazines and educational material; the CBS Publications subsidiary, which publishes special interest books and publications.

CBS also owns the Popular Library Corporation; the Parkhurst Publishing Company; and World Tennis Corporation, publisher of the World Tennis magazine.

In 1972 CBS's net income was $82,866,000—up from $59,981,000 in 1971.

Its equity on common stock was $12.77 in 1972—$11.06 in 1971. CBS had a 20.3 per cent return on equity in 1973.

BOOK OF THE MONTH CLUB CORPORATION

The Book of the Month Club Corporation, of which 90 per cent of its business is involved with publishing, owns the Metropolitan Art Seminars; The Reading Improvement Company; the Dolphin/Water Sports Book Club; the Cookbook Club—this was purchased from the McCall Corporation in 1971; the Fine Arts 260 Company; the Creative Needle Work Society; and the Center for Self-Education, Incorpated.

Its net sales in 1972 were $49,533,000, up from $43,389,121 in 1971. Its 1972 net income was $3,558,000, with its 1972 equity per common stock being $17.74—up from $16.51 in 1971.

NEW YORK TIMES CORPORATION

The New York Times Corporation, in addition to owning New York Times, owns six daily and four weekly newspapers. It also publishes the *School Service Weekly; Large Type Weekly; Golf Digest; Family Circle; Modern Medicine; Geriatrics and the Cambridge Book* line. It is also involved in broadcasting.

Average circulation for the New York Times daily was 851,322 and for the Sunday edition, 1,453,076.

The New York Times Corporation's net income in 1972 was $13,602,000 with net equity on shares of A and B stock at $8.14—up from $7.82 in 1971.

Its return on equity in 1973 was 16.6 per cent.

TIMES-MIRROR COMPANY

The Times-Mirror Company, publisher of the Los Angeles Times, reported that their profits rose 31 per cent in 1973 from the previous year. Earnings for the year totaled a record $54.9 million or $1.63 a share compared with $52.0 million and $1.25 per share in 1972. Its return on equity in 1973 was 17.7 per cent.

M'GRAW-HILL PUBLISHING COMPANY

McGraw-Hill Publishing Company had a 12.9 per cent return on equity in 1973; a 9.2 per cent return on total capital; a 12 per cent increase in sales in 1973 compared with 1970–1972; and, a 22.1 per cent earnings per share in 1973 compared to 1970–1972.

MEREDITH CORPORATION

The Meredith Corporation which publishes magazines, books, owns radio and television stations and operates book clubs, had 65.8 per cent of its 1973 revenues come from the publishing and printing divisions.

It publishes the *Better Homes and Gardens; Successful Farming* and *Apartment Life* magazines. It also owns the Replogle Globe Company and the Catholic Digest Book Club.

Its book publishing division has over fifty active titles.

It also does considerable printing for other magazines such as *Vogue*, etc.

Its net income in 1972 was $8,527,000 as compared to $3,455,000 in 1971.

We have been advised by the Library of Congress that two other large magazine publishing companies, the Hearst Corporation which publishes *Good Housekeeping, Harper's Bazaar, House Beautiful* and *Sports Afield* and the Conde Nast Publications, Inc. which publishes *Vogue, House and Garden, Glamour, Madamoiselle,* and *Bride's Magazine,* are closely held corporations and figures on their financial conditions are not available.

These are the types of companies the pending bill would subsidize. They do most of the publishing in the United States. They are not in need. They are doing very well financially.

The Postal Service has advised the House Post Office and Civil Service Committee that the *Readers' Digest,* by reason of the 5-year phase-in period under existing law will get a total subsidy of $14,815,000. Enactment of S. 411 with its doubling of postal subsidies will also probably double the *Reader's Digest* subsidy over the 16-year period for a total of approximately $29 million.

Time Magazine under the 5-year phase-in plan is getting $12,525,000. This will probably increase to approximately $25 million under S. 411.

The *Wall Street Journal* is getting $17,382,-

000. Under S. 411 it will get approximately $34 million.

These publishers are not in dire financial need. They are not going out of business if S. 411 is not passed. There is no justification for this additional subsidy.

IMPACT OF POSTAL RATES ON PUBLICATIONS

The impact of postal rates on the over-all costs of publishing a magazine, newspaper, book or manufacturing and selling records, is only a small portion of the total operating costs for those businesses.

The Magazine Publishers Association states that before the 1972 postal rate increases, postage rates amounted to only 5 per cent of the total consumer-magazine expenses. The National Newspaper Association indicated that before those rate increases, second-class postage was approximately 2 per cent of total costs.

During the Committee hearings on this subject, testimony showed that as of July 1972 the actual per-copy increase for a typical magazine was about 3.2 cents. This increase was to be spread over a 5-year period.

Regarding small circulation magazines, light in weight and with little or no advertising, the typical postage per piece will rise from 1.3 cents per copy to 2.9 cents over the 5-year phase-in period. This cost would amount to 80 cents per annual subscription for a weekly magazine. Again, this would be phased in over a 5-year period.

The rate increase proposal presently before the Postal Rate Commission would increase the postage rate for second-class mail by 37 per cent. This would be phased in over the remaining three years of the term called for in the Postal Reorganization Act—or a 12 per cent addition per year.

Certainly, from the profit figures available, most of these magazines can absorb this cost without becoming marginal.

With regard to book and record subscriptions, any additional postage costs will be passed on to the consumer. One need only look at the invoice transmitted with any book or record order to note one price for the book or record and an additional cost item for postage and handling. It has also been suggested that those postage costs are oftentimes more than the actual postage necessary to mail the product.

These facts only strengthen our conviction that this additional subsidy is not necessary and any further increases in postage costs will be passed on to the subscriber leaving the publisher free from these costs.

With postal costs only 5 per cent of a publishing company's expenses, it is obvious that postal rates are not the culprit in the demise of publications. Postage is a convenient scapegoat but the facts show otherwise. It is outrageous to ask the American taxpayer to subsidize further these profitable companies out of the General Treasury for their postage costs.

HISTORY OF POSTAL REORGANIZATION

The Senate will recall that in 1969 and 1970, when postal reorganization was under consideration by the Post Office and Civil Service Committee, that the Magazine Publishers Association, the National Newspaper Association, and many others in the publishing field, launched an all-out campaign for postal reorganization as recommended by the Kappel Commission. The report of that Commission included the recommendation that—

"The postal service as a whole—not necessarily class by class—should be self-sustaining. Particularly since use of the mails is overwhelmingly commercial in nature, we strongly feel that the users can and should pay the full cost of the postal system."

This general policy of having the users pay for the postal system was followed in the Postal Reorganization Act, with the modifications of limited subsidies through the Public Service and Revenue Forgone Subsidies.

The Rate Commission does look into the health of the business mailers. It gave long and detailed consideration in 1971 and 1972 during the first mail rate proceedings to the testimony and data submitted by the business mailers as to whether their rates should be increased. The decision at that time was that the mailers could handle the rate increases.

That very same procedure is now being followed and undoubtedly that same type of evidence will be submitted to the Rate Commission this year during prehearing conferences and hearings.

This is the authority and responsibility of the Postal Rate Commission. The Congress should certainly wait to see what the judgments of the Commission are regarding the ability of the magazine and book publishers, the nonprofit organizations and the record manufacturers to bear the new rate increases. We should not inject ourselves into this problem at this time.

The Postal Reorganization Act adopted in large part the recommendations of the Kappel Commission, the same report which received the strongest endorsement and active support of the publishers. These same publishers are now lobbying for increased subsidies.

The Congress should not act to change the Postal Reorganization Act by increasing the subsidy in this manner.

On June 26, 1970, during debate on S. 3842, the Senate bill dealing with Postal Reorganization, Senator Gale W. McGee, the Chairman of the Senate Post Office and Civil Service Committee, in discussing the ratemaking provisions of the bill said:

"First of all, we establish in the U.S. Postal Service, as an independent entity, the Postal Rate Commission, composed of five Presidentially appointed professional rate experts, confirmed by the Senate, who have the power to recommend all rates and all classifications for all mail. Their judgment shall be final, except in a case where the Board of Governors unanimously determines that a modification of the Commission's recommendation is necessary to comply with the specific criteria of the statutes and in order to raise sufficient revenue to operate the Postal Service."

The Kappel Commission also recommended the establishment of a Postal Rate Commission which—

"Under fair and appropriate procedures would review expert accounting, engineering and economic evidence and would render an initial decision on the merits of the proposed change.

"We believe that the Panel of Rate Commissioners can provide the independence and expertise necessary to ensure a fair hearing to the users of the postal service while minimizing delay, interference with management prerogatives and the dangers of layering of Federal bureaucracy which a separate independent agency might bring."

The November 1968 issue of *Readers' Digest* in referring to the procedures then used by the Congress in setting postal rates said:

"Congressional rate hearings simply befog the complex economic issues involved. Scores of company executives and lobbyists appear at these hearings, each with his own set of self-serving statistics. Says Rep. Morris Udall, a member of the House Postal Committee, 'The witnesses bring their own accountants, and there's hardly one who can't prove he's paying more postage than it costs the Post Office to handle his mail.' "

This is exactly why we established an independent Postal Rate Commission with an adequate staff to analyze postal rates and their impact on mail users, on the general public and on the U.S. Treasury.

Section 3622 of Public Law 91–375, the Postal Reorganization Act states that upon receiving a request for a rate change the Postal Rate Commission would consider the following factors:

"(1) the establishment and maintenance of a fair and equitable schedule;

"(4) the effect of rate increases upon general public, business mail users, and enterprises in the private sector of the economy engaged in the delivery of mail matter other than letters;"

Second, in our proposal, the subsidy for preferred classes of mail is phased out. Under existing law, second and third class mail, sent by any religious, educational, scientific, philanthropic, agricultural, labor, veterans, or fraternal nonprofit organization, plus a few other special types of mailers, are entitled to mail at rates substantially less than the regular rate—and the regular rate itself is very low, particularly for second class mail.

The Committee believes that if Congress is to separate itself from the periodic battles over rate adjustments, we should make the separation complete. We should get the Congress out of the clutches of the lobbyist. To retain any ratemaking power is to insure that our halls will be filled with the representatives of special interest groups who will, as they always have, attempt to convince the Members of Congress that the world will truly come to an end if we raise the rate on their mail.

Obviously, whenever the Postal Rate Commission in the future undertook to raise rates as recommended in the administration's proposal, all mailers of all kinds, except ordinary citizens who pay their bills and write letters to their friends and relatives, would come to the Congress to lobby for a special exception for their kind of mail simply to avoid the rate increase proposed by the Commission.

My Colleagues in this Chamber know quite well the meaning of rate increases.

A one-tenth of a cent increase in the rate applicable to presorted and zip-coded third class mail means about $15 million a year in revenue to the Post Office; $15 million can finance a very large crying towel. So I repeat: The separation of the Congress from ratemaking must be complete, or it will be meaningless.

The Committee decided, and we earnestly recommend that all statutory preferences be abolished, that Congress get out of the ratemaking business. To do otherwise is to pass a postal reform bill that is truly no reform at all in the ratemaking field, but remains hollow, indeed.

The Congress, through S. 411, is injecting itself back into postal ratemaking. Mailers would be paying their full rate, as it appears they are able to do by 1977, if the subsidy period were not extended.

The predictions of Senator McGee that when a new rate increase proposal is before the Rate Commission that special interest groups will attempt to "convince the Members of Congress that the world will truly come to an end if we raise the rate on their mail," has certainly come true. Lobbyists for these mailers have been in to see us in an effort to have the Congress increase their subsidy. This is certainly their right. However, this is exactly what we sought to avoid when we enacted the 1970 Postal Reorganization Act.

The case of need for an additional subsidy has not been made. If the Congress reinjects itself into ratemaking by increasing the subsidy, Postal Reorganization in the ratemaking field "will be meaningless," as Senator McGee so accurately forecast.

If we pass S. 411 there is no assurance that we will not be pressured to act on another subsidy bill and another ad infinitum in the future. Some Committee members have suggested inclusion in the report on this measure a statement that this will be the last time the Congress will act to increase the subsidies for mailers. However, we all know that such a statement would be empty and not binding on either this Congress or on future Congresses. Besides, this is what we said in 1970.

The thing to do is to reject this increased subsidy bill now. Failure to do so will only encourage future lobbying efforts for additional subsidies whenever new rate increases are requested.

From all the evidence we have seen, there is no justification to increase the subsidies for magazines, newspapers, and other publications.

If there are magazines which are likely to cease publication because of higher postage rates, the Postal Rate Commission should first make a detailed investigation into their financial condition and include a report on this subject in their findings on the postal rate proposal presently before the Commission.

After that report is published the Congress will be in a much better position to provide further subsidies if necessary to bail out those publications.

The Senate should not act without the expert advice of the Postal Rate Commission, particularly when it is obvious that the individual publishers have not come forward with sufficient evidence justifying a subsidy increase of $753.7 million.

AMENDMENT NO. 1198

Mr. BEALL. Mr. President, I call up my amendment No. 1198 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

On page 8, following line 21, add the following new section:

"Section 4359(e)(2) of title 39 of the United States Code is amended by inserting after the word 'fraternal,' the words 'volunteer fire companies, volunteer ambulance and rescue companies,'."

SEC. 2. Section 4452(d) of such title is amended by inserting after the word "associations" where it appears in the first sentence a comma and the words "and volunteer fire companies, volunteer ambulance and rescue companies,".

The PRESIDING OFFICER. The Senator from Maryland has 15 minutes on the amendment.

Mr. BEALL. Mr. President, my amendment would extend to volunteer fire companies and volunteer ambulance and res*cue companies* the lower rates of postage on second-class and third-class bulk mailings applicable to certain nonprofit organizations.

This amendment, which has been cosponsored by Senators HARRY F. BYRD JR., WILLIAMS, MATHIAS, and DOMINICK, is identical to legislation which I introduced in both the 92d and 93d Congresses, but has yet to receive action by the Senate Post Office and Civil Service Committee.

I, like all of my colleagues I am sure, greatly admire the dedicated and unselfish service rendered the communities of this Nation by volunteer firemen and volunteer ambulance and rescue personnel. Presently, there are 19,066 volunteer fire companies in the country, as well as 3,131 which, although they employ paid firemen, rely on volunteers for a great amount of their manpower. Certainly the Congress must do all it can to assist them in the performance of their indispensable work.

Already, the Senate has taken a significant step to help volunteer fire companies with the passage on November 2, 1973, of S. 1769, the Federal Fire Prevention and Control Act, which I was proud to cosponsor. This legislation will establish a coordinated program for fire prevention and control, under the administration of a new Assistant Secretary of Commerce for Fire Prevention and Control, which will reinforce and support the efforts of volunteer organizations and of State and local governments.

But the bill did not fully meet a pressing problem of all volunteer organizations—the problem of financing. Regularly, these organizations must solicit, largely by mail, the funds which are so important in the maintenance of quality service. However, too much of the money which is acquired in this manner is immediately swallowed up by postal charges As a result, more and more money which could go to the purchase of urgently needed equipment is drained away by excessively high mailing costs.

Let us take a closer look at the affected rates.

Regular third-class mail, which the volunteer fire companies predominently utilize for their fundraising circulars, costs between 6.1 and 6.3 cents per piece, up to 250,000 pieces.

On the other hand, nonprofit organizations pay a rate of only 1.7 per piece.

This means that volunteer fire, rescue, and ambulance companies pay about 360 percent higher rates for postage than do other nonprofit organizations.

Second-class mail rates also point out the same type of discrepancy. Regular second-class mail without advertising pays a rate of 5 cents per pound.

Yet nonprofit organizations get a 44-percent reduction in rates, having to pay only 2.8 cents per pound.

Unfortunately, volunteer fire companies and ambulance and rescue companies are not accorded this privilege.

And greater problems for the bulk mailer are ahead. In the committee's report to S. 411, they point out that second-class postal rates for regular-rate publications will surely be at least 217 percent, and perhaps 300 percent, higher in 1976 than they were in 1971.

The Congress has taken action to ease the burdens of regular postage rates for numerous groups over the years. Today, religious, educational, scientific, philanthropic, agricultural, labor, veterans, fraternal, and associations of rural electric cooperatives, as well as publicly owned educational radio and television agencies and qualified State highway or development agencies, receive such nonprofit treatment.

All of these are worthy recipients of Congress favor, I am sure. But in none of these groups are the members daily risking their lives to serve the public.

None of these groups has members who depend upon expensive machinery not only to accomplish their job but to protect their lives.

Firefighting is the most hazardous profession in the country today. The death rate among firemen is at least 15 percent greater than that of the next most hazardous profession, mining and quarrying. I, for one, believe the Congress must do all it can to assist these brave men, and their communities, often small and rural, in protecting life, homes and businesses.

What I propose today is certainly no "giveaway" program. By lowering the overhead under which these companies must operate, we will encourage them to seek greater funds from private sources, thus easing any burden the company might have on the local community's undoubtedly tight finances.

Thus, whatever money is expended by the Federal Government will not only go toward lowering the overhead costs of volunteer organizations, but will also have the supplementary effect of providing greater access by companies to the public for voluntary contributions.

Therefore, Mr. President, I ask the Senate to give its full support where it matters—in the pocketbook—to our Nation's volunteer fire, ambulance, and rescue companies. This amendment will signify to them, and to the millions of Americans who are served by volunteer companies that the Federal Government stands ready to help these organizations to reduce their costs and, therefore, provide better fire protection.

Mr. President, when I announced to the Senate that I would introduce this amendment, the U.S. Postal Service contacted me, advising that such an amendment was unnecessary since volunteer fire, rescue, and ambulance companies were already eligible for such nonprofit rates.

In a letter to me, the Postal Service said:

> Under our interpretation of present postal regulations, the amendment is not required. The Special rates have been granted to several volunteer fire, ambulance and the rescue companies, as philanthropic organizations, on the ground that such associations lessen the burdens of Government within the meaning cf section 134.522d(5), Postal Service Manual.

I ask unanimous consent that Mr. John Lintner's letter to me be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF POSTMASTER GENERAL,
Washington, D.C., April 25, 1974.

Hon. J. GLENN BEALL, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BEALL: I understand that you propose to amend Section 4359(e)(2) of Title 39, United States Code, to specifically include "volunteer fire companies, volunteer ambulance and rescue companies" among the categories of nonprofit organizations qualified to mail at the special bulk third-class rates of postage.

Under our interpretation of present postal regulations, the amendment is not required. The special rates have been granted to several volunteer fire, ambulance and the rescue companies, as philanthropic organizations, on the ground that such associations lessen the burdens of Government within the meaning of section 134.522d(5), Postal Service Manual.

Sincerely,

JOHN C. LINTNER,
Senior Representative, Government Relations Department.

Mr. BEALL. Mr. President, the regulation to which Mr. Lintner refers to was promulgated on February 23, 1973.

Yet, my investigation has uncovered examples of eligible volunteer fire organizations who have applied for such a nonprofit rate after the new regulations were put into effect, and were turned down.

Let us take, for example, the case of the Laurel Volunteer Fire Co., in my State of Maryland.

On June 22, 1973, Laurel applied to their local post office for nonprofit rates under the philanthropic category, and their application was denied on July 19.

On August 14, they appealed this ruling to the Classifiaction and Special Services Division, U.S. Postal Service in Washington. On September 27, they were advised by the Manager of the Mail Classification Division:

> The primary purpose of the organization as stated in its constitution is, to put out fires in the town of Laurel, to train personnel and maintain equipment for this purpose. It does not meet the requirements of section 134.522d, Postal Service Manual, for a philanthropic organization.

So, 7 months after regulations were promulgated to allow volunteer fire companies to receive nonprofit postage rates, Laurel Volunteer Fire Department was erroneously denied this privilege.

I ask unanimous consent that Postal Regulation 134.522d, defining philanthropic or charitable organizations be included in the RECORD at this point.

There being no objection, the regulation was ordered to be printed in the RECORD, as follows:

PHILANTHROPIC—CHARITABLE

A nonprofit organization organized and operated for purposes beneficial to the public. Examples of philanthropic (charitable) organizations are organizations which are organized for:

(1) Relief of the poor and distressed or of the underprivileged;

(2) Advancement of religion;

(3) Advancement of education or science;

(4) Erection or maintenance of public buildings, monuments, or works;

(5) Lessening of the burdens of Government;

(6) Promotion of social welfare by organizations designed to accomplish any of the above purposes or;

(a) to lessen neighborhood tensions;

(b) to eliminate prejudice and discrimination;

(c) to defend human and civil rights secured by law; or

(d) to combat community deterioration and juvenile delinquency.

The fact that an organization which is organized and operated for the relief of indigent persons may receive voluntary contributions from the persons intended to be relieved will not necessarily prevent such organization from being exempt as an organization organized and operated exclusively for charitable purposes. The fact that an organization, in carrying out its primary purpose, advocates social or civic changes or presents opinion on controversial issues with the intention of molding public opinion or creating public sentiment to an acceptance of its views does not preclude such organization from qualifying so long as it is not an *action* organization as described in 134.53(a), (b), (c).

Mr. BEALL. Mr. President, clearly what Postal Service headquarters was saying and what was actually happening at least in this case were two entirely different matters.

When requests of companies like Laurel were denied, other similar organizations, feeling that they would also be denied, did not bother to apply.

Additionally, every other volunteer fire company which had been rejected for nonprofit rates prior to February 1973, had no reason to reapply, since not even local postal officials were aware of the change, much less volunteer fire personnel.

What we have, Mr. President, is a situation where Government regulations have been changed to include new groups under its benefits, but neither the group to be benefited, nor the Government personnel charged with administering the regulation, were aware of the change.

The result was that literally thousands of volunteer fire, rescue, and ambulance companies spent money for postage which was not necessary.

If I might ask the distinguished manager of this bill, the Senator from Wyoming, is it his understanding that volunteer fire, rescue, and ambulance organizations are included within the definition of "philanthropic organizations," and, as such, are in fact entitled to nonprofit bulk rates for second- and third-class mail?

Mr. McGEE. Definitely, so long as they are bona fide volunteer companies, actually performing a firefighting, ambulance, or rescue service and not solely social organizations. The Law Department of the U.S. Postal Service confirms this interpretation.

Mr. BEALL. Second, is it the belief of the distinguished chairman of the Post Office and Civil Service Committee that if, from now on, a volunteer fire, ambulance, or rescue organization applies for these lower rates for the purposes of carrying out mailings pursuant to their official duties, such as fundraising, then those applications will automatically be approved by the Postal Service?

Mr. McGEE. Without question. The Postal Service, in rendering its comments on the Senator's bill S. 2874, which is identical to his amendment, stated that—

> Volunteer fire, ambulance and rescue companies that actually perform a fire fighting, ambulance and rescue service function for the community clearly lessen the burdens of government and thus would qualify for the special thfrd-class rate. They would also be entitled to special second-class rates.

Mr. BEALL. Third, is it the chairman's understanding that such lower nonprofit rates also apply to associations of volunteer firemen, including regional and State associations, when they are engaged in the conduct of official business?

Mr. McGEE. The Senator's logic is unassailable. I would agree with him entirely, so long as the associations serve the purpose of lessening the burdens of Government by, for instance, keeping volunteers up to date on procedures. Such associations might well qualify as being primarily educational in nature. If they are recognized by the Internal Revenue Service for tax exemption purposes, they are really home free with the Postal Service. In any event, the issue would be decided on a case-by-case basis and those associations primarily dedicated to public service or education would qualify.

Mr. BEALL. Obviously, it is necessary, in order for voluntary fire companies to pursue the kind of training necessary to protect life and property, to join organizations that disseminate knowledge as to the latest techniques.

Mr. McGEE. And they do.

Mr. BEALL. It seems these associations do qualify, as do the individual voluntary fire companies.

Mr. McGEE. They raise their levels of capability and then serve the community with that better capability.

Mr. BEALL. I thank the Senator.

Fourth, in view of the fact that these regulations have been in effect for over 14 month, yet volunteer organizations—not to mention postal officials—throughout the country obviously are not aware of these new provisions would the chairman agree with me that the Postal Service ought to immediately take steps to disseminate this information in a manner which will receive the prompt attention of all postal employees throughout the country, and in a manner which will insure that local volunteer fire, rescue, and ambulance organizations are made aware of this privilege?

Mr. McGEE. Absolutely. The means exist, of course, in the Postal Bulletin. I would expect notices to begin appearing to clarify the mailing status of volunteer firefighting, ambulance, and rescue services very shortly so that any ambiguities in the application of these rates can be cleared up forthwith.

Mr. BEALL. I thank the Senator. It seems to me there is no use in passing new laws or changing laws in the Congress if the appropriate administrative agencies of Government not only do not inform their own personnel in their agencies, but, more particularly, do not inform the intended beneficiaries of the change in the law. This is an example of negligence on the part of the administrative agency in not allowing their own agencies to become aware of their own regulations which have resulted from legislation enacted in the U.S. Congress.

Mr. McGEE. I thank the Senator for his initiative, because it is of help to voluntary organizations not only in his own State but in the other States. We are in his debt for sharpening the issue.

Mr. BEALL. It is intended to help those in all the States across the country render valuable service.

In view of these assurances, both from the distinguished chairman of the Post Office and Civil Service Committee and from the U.S. Postal Service itself, that volunteer fire, ambulance, and rescue organizations are entitled to nonprofit bulk postage rates on second- and third-class mail, I therefore withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. HATHAWAY. Mr. President, I have a question which I would like to ask the Senator from Wyoming concerning the classifications for postal rates. As I understand the regulations promulgated under the Postal Reorganization Act, there are a number of different types of organizations that may qualify for special third-class rates as nonprofit organizations. Is that not correct?

Mr. McGEE. That is correct. Actually, they predate the Reorganization Act. They were codified in 1951.

Mr. HATHAWAY. And among the types of organizations that may qualify are such things as fraternal, agricultural, and educational organizations, is that not correct?

Mr. McGEE. The Senator from Maine is correct. I believe there are eight such types of organizations specifically listed.

Mr. HATHAWAY. Well, my question is this. The fishing industry in the United States, particularly in Maine, bears many similarities to the agricultural industry. Both involve many small producers, spread over a relatively large area, who are engaged in the business of producing foodstuffs for America. Both are—particularly Maine fishermen—traditionally inclined to independence and a lack of any union-type of organization. For purposes of a number of statutes—I know the Rural Development Act is one—both fishermen and farmers are treated as agricultural. Now, my question is, cannot they be treated as equivalent for purposes of these regulations? I have received word from Darwin Sharpe that the Postal Service would have no opposition, and it seems to me that any publication that increased communication among the members of this industry would be of benefit to the whole country in the same way that communications among agricultural producers are of benefit—by improving an industry involved in the production of food for us all. Allowing a commercial fishing publication to be eligible for special rates would certainly improve its chances of getting started. Do you not think it would be beneficial to include commercial fishing with agriculture for purposes of these regulations?

Mr. McGEE. It seems entirely logical. The Postal Rate Commission now is engaged in hearing the first mail classification case since passage of the Reorganization Act. It is there, with the Commission, that this question should be resolved.

But beyond that, I am of the impression that present regulations might well qualify some organizations such as the Senator refers to, provided they can demonstrate two things. One, that they are nonprofit as required, and two, that their primary purpose is to provide commercial fishermen with educational and technical information.

Mr. RANDOLPH. Mr. President, will the Chair advise the time that remains for the proponents of this legislation?

The PRESIDING OFFICER. 65 minutes remain to the proponents.

Mr. RANDOLPH. I thank the Presiding Officer.

Mr. President, at this point in the debate I wish to yield to the Senator from Alaska (Mr. STEVENS), who is an active member of the committee and who worked closely on this measure. Before doing that, however, I wish to have the RECORD indicate at this point, after a very detailed statement on the measure by the Senator from Hawaii (Mr. FONG), that in reporting this legislation to the Senate—and I refer to the bill S. 411—from our committee, Senators McGEE, RANDOLPH, BURDICK, HOLLINGS, MOSS, and DOLE voted "aye," and Senators FONG and BELLMON voted "no."

I only want to emphasize that there was this very substantial majority in the committee voting to report the measure.

Mr. President, I want the RECORD to indicate also that our consideration of this measure was not cursory attention to the problems that have been covered by the Senator who has just spoken. He and all members of the committee went into these problems—and there are many of them—in a very thorough manner. There is disagreement, as has been indicated, and it is understandable. There are times when we cannot bring to the floor legislation with the unanimity of all members. But I reinforce our argument by indicating that it was not a partisan vote when we reported this legislation favorably to the Senate. The able chairman of our committee, Senator McGEE, who guided this measure to the floor, worked constantly to insure that all views were heard and all issues explored.

Mr. President, I now ask that the able Senator from Alaska (Mr. STEVENS) be recognized for 12 minutes.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I thank the Senator.

Mr. President, I yield temporarily to the Senator from New York for a unanimous-consent request.

Mr. BUCKLEY. Mr. President, I want to advise the Senate that I am a director of a publication, and, accordingly, I ask unanimous consent to be able to vote "present" on any vote in connection with this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, the bill we are discussing today has several important points which I wish to stress. S. 411 would increase the number of years that users of second- and fourth-class mail would have to adjust to higher postal rates. In 1970, we established the concept that it was necesary and fair to allow profitmaking magazines 5 years to adjust to higher postal rates, and to allow nonprofit publications 10 years to adjust. This was necessary because publishers had been subsidized in the past. Congress decided it would be unfair to expect the publishing industry to immediately absorb costs previously borne by the Federal Government.

The ratio of 2 to 1 between nonprofit and profit magazines illustrates that nonprofit magazines have less ability to adjust to rising costs than do the profit making magazines. At the time of the enactment of the Postal Reorganization Act, it was thought that this formula of 5 and 10 years would be adequate to insure that the rates themselves would not cause the undue demise of a publication. However, events have proven this feeling was inaccurate. Rather than the new U.S. Postal Service saving money and decreasing its costs Postal Service expenditures have risen 10 percent per year for the last 4 years. This miscalculation has occurred primarily because mechanization has not been implemented as rapidly as projected.

As a result, labor cost savings did not materialize. Because of the rising costs, it has been necessary for the Postal Service to increase postal rates. It was originally projected that postal rates for profit magazines would increase some 127 percent over a 5-year period. It now appears that the likely increase in this same period will be in the neighborhood of 300 percent. This rate of increase is certainly not what the Senate believed would be the case in 1969–70. This rate increase is not what the Postal Service or the magazine publishers envisioned back in 1969 and 1970. S. 411 takes into account those unforeseen circumstances, and modifies the Reorganization Act so as not to cause irreparable harm to the publishing industry.

We must recognize that magazine and newspaper publishing is a low-profit-margin industry. Even a slight increase in postage cost presents a considerable threat to many publications. I might point out that my distinguished colleague, the senior Senator from Hawaii, in the minority report of the Post Office and Civil Service Committee, stresses that second-class postage costs are but 5 percent of the total expense for magazines. However, that 5 percent is approximately one-half of the total postage cost for magazines. This bill stretches out the second-class postage, but does nothing to assist the publishers in the area of airmail, first-or-third-class postage.

I am not suggesting now that the Federal Government should assist magazines in these other classes of mail. I am just pointing out that we are dealing with approximately half of the postage problems faced by the publishers. Consequently, I cannot agree with the charge that we are bailing out the publishers in the area of postage costs, or that the publishing industry is "ripping off" the taxpayers through lower postal rates. The bill simply allows those publishers time to make economic adjustments in savings in order to absorb the increased postage costs and survive.

Much has been made of the per copy profit made by magazines. A 1972 Price Waterhouse survey showed average net profit per copy to be 1.4 cents. Postage at that same time was 2.7 cents per copy. Based on U.S. Postal Service trends, the likely postage cost per copy will be 9.2 cents in 1977. Now that means in the next 3 years profit per copy must increase some 450 percent simply to break even. My primary concern is what must happen when these publications attempt to increase income in order to keep their business functioning. The magazine that chooses to raise the advertising rates runs the risk of pricing itself out of a very competitive advertising market.

Those magazines who choose to rely more heavily on newsstands distribution rather than mail must broaden the publications appeal in order to compete for premium display space. This could well mean the demise of many of our magazines which appeal to a small, specific audience. Another alternative would be, of course, to increase subscription rates.

Unfortunately, higher subscription rates mean fewer people subscribing to a specific publication. In order to make up for this loss of subscribers, the publication must raise its subscription rates even higher. The result may well be to turn our society into one where only the affluent can afford to subscribe to newspapers and magazines.

The most compelling consideration in my view lies with the effect that failure of passage of S. 411 would have on rural America. There are few States without a rural area whose population depends on magazines and newspapers, delivered by mail, to keep abreast of news events as well as to inform and entertain. Urban and suburban dwellers have access to radio and television broadcasts. They live in close proximity to motion picture houses or local newsstands. However, the rural dweller does not. In a great many instances the rural American has few, if any, of these advantages.

I know I need not remind my colleagues that rural Americans look to us to represent them and their interests. This bill is clearly in the best interest of the Eskimo villager in Alaska, the logging camp residents in Montana, the Indian in an Arizona pueblo, the mountain farmer in Appalachia, or the potato grower in northern Maine. I could go on and on with illustrations of people in rural America who depend on magazines, books, and records delivered by mail. To force publishers to raise their rates and price these individuals out of the reading market, or to cause magazines to turn to other delivery systems which essentially leave out the rural dweller, would be a tragedy.

Mr. President, magazines and newspapers have traditionally served as a source of information, education, and entertainment for all Americans, but particularly to those residing in rural areas. As representatives of the American people we must make every effort to see that this valuable source is not diminished.

As a representative of a traditionally rural constituency, I know that the rural family, unlike its urban counterpart, must rely upon mail service for the receipt of publications. Newsstands are not available. Newspaper carriers generally do not have routes in sparsely settled sections of the country. Moreover, rural areas are populated by low and moderate income families. Any abrupt or substantial increase in the cost of subscriptions caused by rising postage rates could force many of these families to cancel their subscriptions.

Certainly we do not want to see this happen, and it is our duty to see that it does not, for freedom of information is essential to any democracy. Congress has supported the free flow of ideas through the printed media since the time of Benjamin Franklin, our first Postmaster General. Not all Americans have access to higher education or expensive means of expression. All Americans, therefore, must have access to the highest level of expression of fact and opinion on issues of importance.

I shall read a portion of a letter from a constituent from Anchorage.

> My husband works for Locher Company on the North Slope and he has asked that I subscribe and mail to him the Daily News and Times since they do not have radio, television or other news media available to him on the North Slope. I contacted the Daily Times and Daily News and was informed that in order to ensure delivery of the newspaper on a daily basis the cost would be $106 per month as the only way to get mail to the North Slope daily is by "ESP" on Wien Airlines.

I point this out because, unfortunately, with literally thousands of people going up to work on our pipeline, the Postal Service does not deliver mail to workers in the Prudhoe Bay oil field, a problem which will soon be corrected. However, the letter does illustrate the problem rural families may have to face on a smaller scale, unless we allow the publishing industry time to adjust to impending postal rate increases.

Several years ago Congress mandated, and I believe correctly, that each class of mail should carry its own weight. The Postal Reorganization Act provided however, that due to the fact that publications had traditionally received a subsidy, and were thus faced with rather substantial increases, they be given a period of time to reach their mandated level of postage.

We are now faced with the realization that 5 or 10 years is insufficient, considering the economic situation in which these publications find themselves. As a matter of fact, we talked about 10 or 20 years at that time, instead of 5 or 10.

Mr. President, I ask unanimous consent that a table showing the increased revenue foregone appropriation estimates, current and proposed rates, appearing on page 19 of the report of the Post Office and Civil Service Committee, be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

INCREASED REVENUE FORGONE APPROPRIATION ESTIMATES CURRENT AND PROPOSED RATES

[Dollar amounts in millions]

Fiscal year	Phasing year	2d class Preferential Current	2d class Preferential Proposed	2d class Regular Current	2d class Regular Proposed	Controlled circulation Current	Controlled circulation Proposed	3d class nonprofit Current	3d class nonprofit Proposed	4th class Special rate Current	4th class Special rate Proposed	4th class Library rate Current	4th class Library rate Proposed	Total all items Current	Total all items Proposed	Total current and proposed
1975	3	$2.6	$1.3	$17.2	$17.3		$1.5	$1.0	$0.9		$3.0	$0.2	$0.2	$21.0	$24.2	$45.2
1976	4	5.3	2.6	34.5	34.4	$0.6	3.2	2.0	1.8	$2.9	8.8	.5	.3	45.8	41.1	96.9
1977	5	8.0	3.8	51.8	51.7	.9	4.8	3.0	2.8	19.1	11.8	.6	.4	83.4	75.3	158.7
1978	6	10.7	5.1	34.6	34.5	.6	3.2	4.0	3.8	16.2	8.9	.8	.5	66.9	56.0	122.9
1979	7	13.3	6.3	17.3	17.2	.3	1.6	5.2	4.7	3.0	3.0	1.0	.6	40.1	33.4	73.5
1980	8	16.1	7.6					6.3	5.7			1.2	.7	23.6	14.0	37.6
1981	9	18.7	8.8					7.3	6.7			1.3	.8	27.3	16.3	43.6
1982	10	21.4	10.1					8.3	7.6			1.6	.9	31.3	18.6	49.9
1983	11	17.9	8.5					6.9	6.4			1.3	.8	26.1	15.7	41.8
1984	12	14.3	6.8					5.5	5.1			1.1	.6	20.9	12.5	33.4
1985	13	10.7	5.1					4.2	3.8			.8	.5	15.7	9.4	25.1
1986	14	7.1	3.4					2.8	2.5			.5	.3	10.4	6.2	16.6
1987	15	3.6	1.7					1.4	1.3			.3	.2	5.3	3.2	8.5
1988	16															
Total		149.7	71.1	155.4	155.1	2.4	14.3	57.9	53.1	41.2	35.5	11.2	6.8	417.8	335.9	753.7

Mr. STEVENS. Mr. President, that table certain shows that this is a reasonable period within which to require the publishers to absorb a fantastic increase in costs.

In view of the material that the distinguished Senator from Hawaii (Mr. FONG) has placed in the RECORD, I ask unanimous consent that an analysis and profits and postal rates in the magazine industry prepared by Richard J. Barber Associates, Inc., be printed at this point in the RECORD, along with data which contains a series of tables attached thereto.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

PROFITS AND POSTAL RATES IN THE MAGAZINE INDUSTRY

Last year data compiled by the independent accounting firm of Price, Waterhouse and Company for MPA dealing with the relationship between magazine profits and postal rates were submitted to the concerned Congressional Committees. Included in the survey were 48 magazines with a total circulation of 1.8 billion net paid copies in 1971. The data showed that—

After-tax profits amounted to about 1.6 per cent of total magazine revenues;

Second class postage alone was equal to almost five per cent of revenues;

Other postal costs (for first, third, and fourth class mail) took another four per cent of revenue; and

Total postal costs amounted to nine per cent of revenue.

As is apparent from these figures, 1971 postage costs—which in that year reflected only relatively small increases in postage rates—were substantially in excess of profits relative to revenues. Indeed, just the cost of mailing copies of magazines—almost five per cent of revenues—was over three times as large as profits in proportion to revenue.

What about other measures of profitability for the magazine industry? Might it be that despite the striking impact of the numbers just mentioned magazine profits are really so high that the steeply rising postal rates now taking effect could be absorbed out of profits? These are fair questions. But all the available information indicates that escalating postal rates will have a devastating impact on magazine profits regardless of the measure of profitability used.

First, how do magazine profits compare with equity (net investment)? To make this comparison would require comprehensive financial data, like that contained in the Price, Waterhouse compilation. However, two major reasons contribute to the unavailability of such information. Most magazines are published by private companies. However, even if this were not the case it would be infeasible to make exact comparisons since many magazines are published by companies engaged in other commercial activities (books, newspapers, educational films, broadcasting, etc.). Under such circumstances any attempt to allocate overall corporate net investment to the magazine operation would be arbitrary at best.

In the case of a few publicly-owned magazines it is nonetheless possible to locate pertinent financial information. A check of SEC sources was made for five large companies engaged, partially, in magazine publication (Time, Inc.; the Washington Post Co., publisher of Newsweek; McGraw-Hill, publisher of Business Week; Meredith, publisher of Better Homes and Gardens and other periodicals; and Esquire). In 1972 their overall corporate post-tax profits on sales were approximately four per cent and on equity about 8.7 per cent. As would be normally expected the latter figure is higher than the former, (nearly all private companies show a similar relationship because of the ratio of sales to investment). Still, this five-company group's average return on equity was below that for manufacturing corporations generally, below that for the Fortune top 500, and below that of the First National City Bank's index of 10,000 leading U.S. corporations.

Even more significant, the available public financial data indicate that for the five companies surveyed profits for the division encompassing the magazine operation were considerably smaller in relative terms than for the company as a whole. For the five company group pre-tax profits on overall corporate sales in 1972 were 9.6 per cent. But for the division responsible for magazine publication profits relative to sales were nearly a third less. Even this tends to overstate the actual situation since these companies typically includes in their publication division activities unrelated to magazine operations (e.g., research, books, etc.).

While the five companies noted above bulk large in the industry, there are a great many other magazine publishers. This is way the Price, Waterhouse survey, which covered 25 publishers and 48 magazines, is more representative of the industry situation.

To sum up, Magazine publication has several basic characteristics, all distinctly relevant in assessing the prospective impact of sharply higher postal rates—

Profits relative to sales are small, amounting to a smaller fraction of revenues than even past postage costs; and

While profits measured against net worth (equity) appear to be higher than when compared with revenues, this is to be expected; but, magazine profitability is still significantly poorer than for companies generally in the economy.

Given these characteristics the large increases in second class (magazine) postage costs that are going into effect will have an acutely adverse effect on magazines. Prospectively the impact will be of growing severity. Since 1971 postal rates have gone up substantially, but publishers have been able to make temporary adjustments (in the weight of paper and in the size of their copies) that have partially eased their impact. Generally favorable economic conditions during 1972 and 1973 also helped. Now, however, the prospect is for a much steeper escalation in rates tightly telescoped into the rapidly shrinking phasing period that remains. Having already made adjustments in per-copy weight, the result will be markedly to accentuate the effect of coming rate hikes. Given the large relative size of second class postage not even an improvement in the gross profit margin can offset the huge postal rate increases that lie just ahead.

In its simplest but most crucial terms, magazine publication is a low margin industry, with each dollar of revenue yielding very slim profits. By contrast, postage costs are big and they threaten to consume such a large share of the revenue dollar that the profit margin can be obliterated in the final phasing years. This is the stark economic risk that exists.

TABLE 1.—1972 RETURNS ON SALES AND EQUITY, TOTAL AND MAGAZINE DIVISION FOR SELECTED PUBLISHERS, INDUSTRY MEDIAN, AND ALL INDUSTRY MEDIAN

	Total corporation			Division including magazine publishing			
	After tax[1]		Before tax return on sales[2]	Before tax return on sales[2]	Sales as percent of total corporation sales	Earnings as percent of total corporation earnings	Ratio earnings to sales
	Return on equity	Return on sales					
Time, Inc	8.8	3.6	10.4	10.2	71	70	99
McGraw-Hill	11.3	5.3	9.8	5.8	28	17	61
Washington Post Co	12.3	4.5	10.0	6.1	43	26	84
Meredith	6.9	2.8	10.6	7.7	89	64	72
Esquire	4.4	3.9	7.3	4.7	39	25	64
Group average	8.7	4.0	9.6	6.9			

[1] Return after tax and extraordinary items.
[2] Return before tax and extraordinary items.

Source: Securities & Exchange Commission, Company 10K files.

TABLE 2.—RELATIVE PROFITABILITY OF CORPORATIONS, BY SECTOR, INCLUDING 5-COMPANY MAGAZINE PUBLISHER GROUP, 1972

Group	After-tax profits as percent of—	
	Equity	Sales
Fortune 500 median	10.3	4.1
All manufacturing corporations	10.6	4.3
Durable goods manufacturers	10.6	4.3
Nondurable goods manufacturers	10.5	4.4
10,743 leading corporations (FNCB)	10.5	NA
Survey group average	8.7	4.0

Source: Economic Report of the President (1974); First National City Bank of New York, profit tabulations.

5-YEAR FINANCIAL PROFILES OF SELECTED PUBLISHERS, BY TOTAL CORPORATION AND DIVISION INCLUDING MAGAZINE PUBLISHING

	Total corporation			Publishing division		
	After tax		Before tax return on sales	Before tax return on sales	Sales as percent of corporation sales	Earnings as percent of corporation earnings
	Return on equity	Return on sales				
Time, Inc.:						
1972	8.8	3.6	10.4	10.2	71	70
1971	9.5	5.0	10.1	9.2	70	64
1970	8.3	4.5	10.9	10.4	70	67
1969	9.9	5.6	12.0	12.3	72	73
1968	14.0	8.7	12.5	14.0	73	82

	Total corporation			Publications and research services		
	After tax		Before tax return on sales	Before tax return on sales	Sales as percent of corporation sales	Earnings as percent of corporation earnings
	Return on equity	Return on sales				
McGraw-Hill, Inc.:						
1972	11.3	5.3	9.8	5.8	28	17
1971	10.3	4.9	9.1	2.5	29	8
1970	10.9	5.2	9.9	7.5	34	26
1969	14.2	6.4	12.3	14.5	36	43
1968	16.4	7.2	14.4	16.4	36	41

	Total corporation			Magazine publishing and printing division		
	After tax		Before tax return on sales	Before tax return on sales	Sales as percent of corporate sales	Earnings as percent of corporate earnings
	Return on equity	Return on sales				
Meredith Corp.:						
1973	(Loss)	(Loss)	12.8	8.5	91	61
1972	6.9	2.8	10.6	7.7	89	64
1971	4.5	2.4	9.6	6.9	89	64
1970	10.5	5.2	12.4	6.9	84	47
1969	17.3	9.3	15.5	6.9	93	41

	Total corporation			Publishing and leisure group		
	After tax		Before tax return on sales	Before tax return on sales	Sales as percent of corporate sales	Earnings as percent of corporate earnings
	Return on equity	Return on sales				
Esquire, Inc.:						
1973	4.8	4.2	7.8	5.8	40	29
1972	4.4	3.9	7.3	4.7	39	25
1971	NA	4.9	7.3	3.3	39	18
1970	NA	4.9	9.3	9.0	37	35
1969	NA	5.6	12.5	10.0	35	28

	Total corporation			Magazine and book publishing and related		
	After tax		Before tax return on sales	Before tax return on sales	Sales as percent of corporate sales	Earnings as percent of corporate earnings
	Return on equity	Return on sales				
Washington Post Co.:						
1972	12.3	4.5	10.0	6.1	43	26
1971	16.6	6.1	7.9	3.1	45	18
1970	10.1	2.8	7.8	3.3	45	18
1969	16.8	4.7	11.6	8.2	47	33
1968	16.7	5.0	11.8	6.5	45	25

Note: After tax=after tax and extraordinary items. Before tax=before tax and extraordinary items.

Source: Company 10K files, Securities and Exchange Commission.

Mr. STEVENS. Mr. President, I close by emphasizing one point. Congress still has a constitutional requirement regarding the delivery of mail. The Constitution requires that Congress establish post offices and post roads. The Postal Service is our attempt to carry out that constitutional obligation within the framework of some economic self-sufficiency; but there is still an obligation on Congress to maintain individual service under which Americans, no matter where they are located, can obtain the latest news, opinion, and information. That service is a national network of public information. We shall be unable to do so if we force the publishers to assume costs in excess of 300 percent in the same period of time that we originally estimated they would absorb the costs in the vicinity of 127 percent. Yet the effect of that increased cost will be that people who live in some areas, such as my State, will be denied the opportunity to obtain the information on a regular basis through the U.S. mails at prices they can afford to pay.

I do not feel that the Postal Service should continue—and I emphasize that—under a situation which forces more and more people into a position where they are unable to buy local newspapers, county newspapers, and national magazines because of the phenomenal increase in postal costs. We know that the cost of magazines is going to go up. I think it is in the national interest that people living in the far reaches of the country, such as my State, can obtain State and county newspapers. This bill will give publishers an opportunity to reorganize their economics so that they can continue to publish and mail magazines and other informational matters to the people in rural Alaska. I would not support a continuation of the Postal Service unless that type of readjustment were made. If we do not do so, I am going to submit an amendment to repeal the Postal Service Act and put us back in the postal ratemaking business. I feel that in the long run the people in rural America are going to pay more in postal rates unless we do something about the postal rate situation.

At the time, had we foreseen the economic situation in which these publications now find themselves, it is likely that the adjustment period would have been longer. The sole purpose of the proposed legislation is to extend the phasing periods contained in the Reorganization Act. I urge the Senate to vote in favor of the bill.

Mr. RANDOLPH. Mr. President, I wish to provide an additional 1 minute to the able Senator from Alaska. I would comment—and perhaps he may want to discuss this in a few seconds—on what he has said in reference to the provisions of this legislation as they affect the well-being of rural citizens of our Nation. I think he has emphasized this point. It is very necessary for the people of the United States as a whole, including those in metropolitan areas, to understand this point.

We know that the rural family, unlike its urban counterpart, must rely on mail service for the receipt of publications. Newsstands are not available. Newspaper carriers generally do not have routes in sparsely settled sections of the country. Moreover, rural areas are populated in large part by low- and moderate-income families. Any abrupt or substantial increase in the cost of subscriptions caused by rising postage rates could force many of these families to cancel their subscriptions. Certainly we do not want to see this happen, and it is our duty to see that it does not. Freedom of information is essential to any democracy.

Congress has supported the free flow of ideas through the printed media since the time of Benjamin Franklin, our first Postmaster General. Not all persons have access to higher education or expensive means of expression. All Americans, therefore, must have access to the highest level of expression of fact and opinion on issues of importance.

So I commend the Senator for his attention to the needs of rural citizens.

Mr. STEVENS. I thank the Senator from West Virginia.

The impact of a national concept of news, a national concept of the distribution of news, and the ability to keep this country together rests on a free and healthy press. That means that publications that are capable of being mailed must be available to everybody in the country who has the ability to pay for them.

I do not think we should compel publishers to abide by a postal rate which will cause an ever-increasing cycle of higher subscription rates. The more publishers raise their prices, the fewer subscribers they are going to have. Ultimately that will be as bad as the original system that existed under the Post Office Department. I would rather have the Post Office Department restored with the system of postal rates based upon how much Congress is willing to contribute in order to keep the postal system healthy, instead of allowing it to fail because postal rates are too high.

Mr. RANDOLPH. What the Senator is saying in essence is that what we do in the passage of S. 411 is not contradictory to what Congress did in reorganization of the Postal Service in 1970. This point must be understood.

Mr. President, I ask unanimous consent that the able Senator from Virginia be given 1 minute.

Mr. HARRY F. BYRD, JR. Mr. President, S. 411 would slow down postal rate increases for second class mail users. Among those benefiting from the pending legislation would be daily and weekly newspapers.

The RECORD, I feel, should show that I have an indirect interest in two weekly newspapers and a major interest in two daily newspapers. The impact on the two weekly newspapers, particularly since my interest is neither direct nor major, would not be great enough to disqualify my casting a vote on the pending measure.

But in considering the effect on the two daily newspapers, in which I have a major interest, the impact would be of some significance to one of these newspapers, if not both.

Thus, in considering this legislation, I feel that my voting on it would represent a conflict of interest. Therefore, when the roll is called, I shall answer "Present."

Mr. RANDOLPH. I thank the Senator from Virginia. There has been an earlier request of a similar nature from the able Senator from New York (Mr. BUCKLEY).

Mr. President, I yield 9 minutes to the able Senator from Massachusetts (Mr. KENNEDY).

Mr. KENNEDY. Mr. President, I thank the chairman very much.

I am pleased to give my strong support to S. 411, the Postal Rate Adjustment Act now on the Senate floor, and I hope that both the Senate and the House will approve it promptly.

In a sense, the legislation is a compromise, but it is an extremely valuable compromise that will bring substantial immediate relief to newspapers and magazines now suffering under the crushing burden of soaring postal rates. I commend the Senator from Wyoming (Mr. McGEE) and the Senate Post Office Committee for their timely, constructive, and realistic response to what has become an increasingly urgent problem.

Mr. McGEE, the distinguished chairman of the committee, deserves great credit for successfully guiding this important legislation to the floor for Senate action. I also commend Senator NELSON for the significant legislation he introduced, and for his major contributions in developing the issue in the course of the long debate leading to our action today.

In January 1973, the Senator from Arizona (Mr. GOLDWATER) and I joined in introducing legislation, S. 842, to alleviate the serious impact of continuing exorbitant increases in second-class postal rates on magazines, newspapers, and other publications, and thereby to preserve the ability of the reading public to obtain a wide selection of information, views, and ideas through the mails. In all, 25 Senators sponsored the bill we introduced.

S. 411, the bill now reported favorably to the Senate, is more limited than the bill we proposed, but it is aimed at the same problem and incorporates the most important feature of our bill, the phase in of postal rate increases over a longer period of time. Thus, the committee bill extends the period for publications to adjust to the postal rate increases to 8 years for profit publications and to 16 years for nonprofit publications. Under present law, the phasing period for these publications is 5 years and 10 years, respectively.

Both Senator GOLDWATER and I believe the reasons for protecting the Nation's newspapers and magazines and the informational needs of the reading public are as strong or stronger now than when we originally introduced our legislation. Because we believe it is urgent for legislative relief to be enacted into law before the next scheduled postal rate increase goes into effect on July 6, 1974, we have asked that our names be included as cosponsors of S. 411, to which we give our warm support.

Vital issues come before the Senate in

many shapes and forms. The title and even the language of S. 411 give little clue to the real significance of the pending legislation and the issues underlying it. But it is fair to say, I think, that the bill before us now may well be the most important single piece of legislation the present Congress will consider in the area of promoting first amendment rights, freedom of the press, and the flow of ideas in our free society.

To virtually every citizen, the news of the 10 cent stamp has come as unwelcome fresh evidence of the Nation's sick economy and our continuing inability to bring inflation under control.

But for thousands of newspapers and magazines across the country, the news of rising postal rates is far more serious than just a symbol of inflation—it is a matter of life and death to many widely respected journals that have always been pillars of the first amendment and the lifeblood of ideas in our democratic society.

For almost two centuries, the postal system in America has operated on Benjamin Franklin's basic principle that the printed word occupies a central place under the Constitution and the first amendment. Whether you call it a postal service or a postal subsidy, the purpose and tradition have always been the same. Newspapers and magazines pay lower postal rates because we want no serious financial hurdles to block the spread of ideas in our democracy.

In recent years however, the Postal Service has been trying to change all that and nullify this proud tradition. The trouble began with the Postal Reorganization Act of 1970, which created the Postal Service and imposed a general requirement that the mail should pay its way. Disregarding other equally important requirements in the act and substantial legislative history to the contrary, the Postal Service began to read the language on self-sufficiency as a license to reverse one of the time-honored traditions of our country, under which ideas and printed words have never had to pay full freight in our national life, at least in terms of the accountant's balance sheet.

The figures tell a story of astronomical recent increases in postal rates for newspapers and magazines. The magnitude of the increases was entirely unanticipated. At the time the Postal Reorganization *Act* was passed, it had been expected that second-class rates might increase by as much as 50 to 60 percent, to be phased in over the 5- and 10-year periods provided, respectively, for profit and nonprofit publications.

In 1971, however, the Postal Service approved a 127-percent increase for such rates, to be phased in at the rate of 25 percent a year through 1976. And last fall, the Service compounded the crisis by imposing an additional 91-percent increase, to be phased in over the remainder of the same period.

As a result, these new rates meant a total increase of 218 percent by 1976, or an average increase of 43 percent a year for the 5-year phasing period, an increase that makes even the soaring cost of food and fuel a bargain by comparison. And still further increases were anticipated in the immediate future.

Obviously, it is no answer to say that the postal increase represents only pennies per copy, yet that has been the favorite hedge of the Postal Service in defending the heavy increases.

Clearly, the country would not tolerate a demand by oil companies for exorbitant gasoline price increases, even though such increases represent "only" pennies per gallon. Why, then should exorbitant annual postal increases be received with any more equanimity?

For many respected publications, such increases might well be a mandatory sentence of capital punishment. For countless others, the increases would mean serious reductions in quality, and forced curtailments of circulation that the Nation can ill afford to suffer. The death of Life and many other popular magazines of wide appeal in recent years—most recently, the Intellectual Digest—is somber testimony to the very real threat the current increases pose to some of our most valuable existing publications, large and small alike.

The Postal Service has argued in the past that the problem is not serious, because publications can pass the rate increases along to their subscribers and their advertisers. In the view of most economic experts, however, the large new postal increases simply cannot be passed along that way. As subscriptions and advertising rates go up, subscribers and advertisers drop off, according to the inexorable law of the marketplace. For many publications, asking them to raise their rates is like asking them to walk the plank.

A further alarming prospect is that the unrestrained new postal rates will accelerate the disturbing current journalistic trend away from low-priced, mass-audience newspapers and magazines and toward costly special interest publications. If the new postal rates are allowed to stand, we face the very real danger that television will become the only medium in the country reaching large numbers of people, while magazines become the exclusive preserve of a small and affluent elite.

It is bad enough that many distinguished publications have now become extinct, gone the way of the passenger pigeon, victims of the unyielding brutality of the balance sheet. But when the heavy thumb of government itself intrudes to distort the balance, the problem is much worse.

Nor can the problem of rising postal rates be viewed in isolation. At this time of challenge on so many fronts to freedom of the press, the burden of the new rate increase is especially ominous. In recent years, we have seen the Pentagon papers case and the attempt to impose an unprecedented prior restraint on the dissemination of news. We have seen subpenas served on newspapers, reporters subjected to illegal wiretapping by the government, and other reporters jailed for contempt for refusing to disclose their sources to law enforcement agencies. We have seen threats of oppressive government action against the freedom of the broadcast media. Wherever we turn, we see the press and our first amendment freedoms under attack by the pressure of official policy.

Most insidious of all, perhaps, is government pressure in the form of economic policy. The Supreme Court put it well long ago in prohibiting States from taxing the new Federal institutions being created at the beginning of our Republic—"The power to tax is the power to destroy," said Chief Justice John Marshall.

And so is the power to impose exorbitant postal rates. The Postal Service has the responsibility to exercise its vast new powers wisely and fairly. Congress has the obligation to hold it to that standard, and that is the purpose of the legislation we are voting on today.

Finally, I would like to respond to the suggestions that the effect of this legislation will be to provide unjustified subsidies to a handful of large magazines and newspapers. A number of publications have been mentioned by name, such as Time magazine, the Reader's Digest, and the Wall Street Journal.

But, Mr. President, I think it also should be pointed out what has happened to such magazines and newspapers in recent times. All we have to do is look at the alarming increases in the subscription rates of magazines like Time and Newsweek, the rumored forced curtailment of 2 million in the circulation of the Reader's Digest, and the reductions in size of the Wall Street Journal—is that what Congress wants? And even if we compare the benefits that these magazines and publications will receive versus the total postal costs they pay today, we find that, actually, they will be getting back less than their proportionate share.

So, even when we consider the advantages to the large publications that have been singled out unfairly here, those advantages are certainly not out of line.

In addition, under the legislation presented to the Senate, we should not forget that there will be substantial benefits to countless small publications—benefits that can mean the difference between life and death of publications we can't afford to lose. Let us also remember that a major part of the benefits will go to the nonprofit publications, which many Americans rely on for their information. I think particularly of the American Legion magazine, and the many worthwhile labor, farm, and church publications.

These newspapers nad magazines play an extremely valuable role in educating the country and bringing our people together, and Congress simply cannot stand by and let the Postal Service destroy all that.

Mr. President, for the reasons I have stated, I urge the Senate to approve this bill.

I yield the floor.

Mr. JAVITS. I just wish to join the Senator in expressing my support for this bill, and to congratulate those who have been active in developing it, including the Senator himself.

Mr. President, I think each of us is acutely aware of the strains of the continuing effect of the spiraling postal costs on books and other cultural materials accessible to the general public. I support S. 411, as I know that if the rates are allowed to rise unchallenged, it would mean the demise of many important publications in our Nation which cover the business, religious, agricultural and other groups.

Every effort should be made to counteract these increasing and disabling costs—our country must encourage the dissemination of information and ideas and this should not be threatened by bankruptcy or a fold-up of any major part of the publishing industry. In New York State, where the publishing and direct-mail industries are heavily concentrated, certainly they will ultimately suffer. For example, the demise of both Life and Look cost much in public information and thousands of jobs, because these huge publications were forced to give up following the postal boost in second-class rates which went into effect in 1971.

Increasing the number of years for the annual phasing-in process is the relief here sought, and I join in support of S. 411.

Mr. RANDOLPH. Mr. President, I yield myself such time as I may need.

The distinguished Senator from Massachusetts (Mr. KENNEDY), at the close of his very helpful remarks stressed the importance of this legislation to nonprofit publications.

Mr. KENNEDY. Mr. President, will the Senator from West Virginia yield at that point?

Mr. RANDOLPH. I am happy to yield to the Senator from Massachusetts.

Mr. KENNEDY. Earlier, I mentioned the nonprofit publications, such as the American Legion magazine and the labor and farm and church publications. I want the RECORD to reflect that there is no champion of these important publications equal to the distinguished Senator from West Virginia (Mr. RANDOLPH). I have listened to his clear and eloquent voice time and time again since I came to the Senate, expressing his views when the rights of these publications have been threatened. I know, for example, that the Senator played a major role in securing fair treatment for the nonprofit publications in the crucial publications after the Postal Reorganization Act of 1970.

I know that this subject is a favorite interest of his. He has helped to educate this Chamber by his skill and long experience, and his efforts have been of benefit to the constituents of all the Members of this body.

I am sure it is understood by the membership of this body, that when the distinguished Senator from West Virginia speaks about this matter, he speaks not only with a great sense of feeling for the issue but also with unsurpassed knowledge. I want the RECORD to reflect that, and I congratulate him for his achievements. Certainly, this bill would not be before the Senate now without his own strong, galvanizing efforts in the committee, and he deserves great praise for the skill he has contributed to this effort.

Mr. RANDOLPH. Mr. President, I am very appreciative of the thoughtful and gracious comments of the distinguished Senator from Massachusetts (Mr. KENNEDY). I know of the Senator's constant efforts to secure approval of postal rate legislation and I recall his compelling testimony before the Post Office and Civil Service Committee. He was one of the original sponsors of legislation and worked diligently to bring this issue into focus. The Senator from Massachusetts has effectively articulated the need for enactment of this measure.

He has correctly stressed that much of the benefit that will be derived from this bill will be for the nonprofit mailers of second and third class mail.

SENATOR RANDOLPH SUPPORTS POSTAL SERVICE BILL S. 411

Mr. President, the bill before us is the result of more than a year of study and consideration by the members of the Committee on Post Office and Civil Service of the problems of the impact of rising postal costs on mail users and the progress which has been made in modernizing the postal system.

Recently, the Committee on Post Office and Civil Service submitted its report on our investigation of the Postal Service and I commend to my colleagues' attention the data assembled in that report and the conclusions which we reached. In essence, it is our judgment that it is going to take more time to modernize the Post Office and to achieve effective cost control than we thought it would when Congress enacted the Postal Reorganization Act 4 years ago.

Many of us recognized at that time that you could not quickly develop a wholly modern postal delivery system which covered the entire Nation, had more than 30,000 post offices, 30,000 rural routes, 12,000 star routes, 10,000 contract stations, 741,000 employees, and 85 billion pieces of mail if mail users were required to pay 10 percent of the costs. We proposed, and the Congress accepted, and the President signed a bill that provided for the gradual development of a break-even Post Office over an extended period of time.

We did this in two ways. First, we granted a public service appropriation to the Post Office equal to 10 percent of the expenditures in fiscal year 1971, the year we were considering the bill. That continues at that rate—$920 million a year—through fiscal year 1979 and then declines at a rate of 1 percent each year through fiscal year 1984. Thereafter, if the Postal Service feels that it can provide adequate postal services without the money, the public service appropriation may be discontinued. The second feature for achieving a break-even status over a long period was to permit mail users who had enjoyed very low postal rates for many years to adjust to the impact of postage increases. We sensed they were coming. You cannot give nearly three-quarters of a million postal employees a 17 percent pay increase, as we did in 1970, without spending a very substantial amount of money. To ease the impact of sudden cost increases, the law was written to provide a 10-year period of adjustment for nonprofit organizations—and others who had statutory preferences at that time—and a 5-year period of adjustment for regular second-, controlled circulation, third-, and fourth-class mailers whose rates would have to be increased. We thought that would be sufficient. In our report to the Senate on June 3, 1970, we said:

> The committee does not believe that small incremental increases in rates spread out over 5- and 10-year periods will be detrimental to mail matter allowed preferential rates because they contribute to the public welfare.

Our hopes were optimistic. Now we all know that inflation has been severe. There are no costs which have not increased dramatically in the last 4 years. The cost of food has risen more than 30 percent. Clothing, housing, fuel, all items have increased. Postal costs have increased more than anticipated. Between 1970 and 1974, total employment in the Postal Service declined at a rate of 1.3 percent a year; mail volume increased at the rate of 2 percent a year; employee productivity increased at a rate of 3.3 percent a year; but postal costs increased at a rate of 11.4 percent a year, a total of 45.5 percent—a dollar increase from $7.8 billion to $11.4 billion. The consumer price index during the same period rose at a rate of 5.6 percent, some half of the rate of increase in postal costs. Second-class rates have risen about 25 percent a year since 1970. Few other increases in the economy have been so rapid.

Congress did not anticipate that kind of increase. When we legislated a public service appropriation based on fiscal year 1971 costs, we assumed that the conversion of the old Post Office Department to the new Postal Service would give postal management sufficient independent authority to achieve substantial savings. That has not been the case. I do not criticize Postmaster General Klassen or the Postal Service for this result. We do not know where we would be if we had not enacted the Postal Reorganization Act; the costs might have increased even more. No one can be sure. The point is, regardless of the reasons for the cost increases, they have in fact occurred, and the question before us is whether additional time should be given to the Postal Service to adjust to that reality.

Committee members have given careful consideration to several alternatives. After thorough consideration, we decided to grant an additional 3 years to regular rate mailers and an additional 3 years to nonprofit mailers. I believe this is a very responsible proposal. It may be that additional legislation will be needed to help the Postal Service. If further evidence justifies further adjustments in the Postal Reorganization Act, I am sure that the committee will consider those problems.

As I stated, there are significant benefits in this legislation for the mailers of second- and third-class mail which are nonprofit institutions. The pre-1970 law prescribed that nonprofit religious, educational, scientific, philanthropic, agricultural, labor, veterans, and fraternal organizations are entitled to mail at very low rates, and under the terms of the Postal Reorganization Act those rates may never exceed attributable costs. In other words, they pay none of the overhead.

It is estimated that in fiscal year 1975 nonprofit mailers of second-class publications, such as church newsletters, the American Legion magazine—which was mentioned by the Senator from Massachusetts (Mr. KENNEDY)—the Boy Scout magazine and many other nonprofit publications, will total approximately 2.3 billion pieces of mail. Regular rate publications such as newspapers and magazines, which are operated for profit, will total 6.5 billion pieces. Although a significant portion of the total cost of the phase-in legislation goes for regular newspapers and magazines, the contribution per piece favors nonprofit publications which are not required to contribute to institutional costs. The committee has not extended additional time for phasing to profit-oriented third-class mailers. All of the cost attributable to third-class mail in S. 411 is only for the benefit of nonprofit organizations who are generally engaged in the solicitation of charitable funds—Easter Seals, church contributions, and other worthwhile fund-raising activities.

Mr. President, I feel that Members of the Senate believe in the worth of nonprofit organizations. There is real concern over the burden increased postal rates have placed on these organizations. Their membership will suffer in the form of increased dues, reduced publication or possibly even curtailment of the major means of communication such an organization has with its members. The measure before us would offer these vital organizations significant relief.

Many would argue that we are addressing only the tip of the iceberg—that all costs have risen over the past decade and that nonprofit publishers are experiencing the same inflationary spiral as every American. However, the Committee on Post Office and Civil Service has correctly pointed out that while all costs had risen, postage costs have increased astronomically in comparison.

The publishers of the American Legion magazine tell us that in the 5 years prior to 1973, printing costs rose 10 percent; paper 11 percent, labor 8.5 percent; while postal costs an average of 23.5 percent per year since 1972.

The range of these increases in dollar totals are reflected in the reports of two of the largest nonprofit publications. I refer again to the American Legion magazine. They state that their postage bill increased from $163,000 in 1968 to more than $300,000 in 1973, and they estimated that if no relief is forthcoming their postal costs will approach $1 million in 1980. Turning to the Catholic Press, we find that their annual postal bill was about $10,000 in 1971. By 1981, under the present rate schedule and at the end of the 10-year phase-in period, it will be $50,000—an increase of 400 percent.

The situation of nonprofit publications is critical since they are least able to pass increases along to their subscribers. They do great work for the common welfare of the Nation, in addition to their own constituencies. They have fewer commercial resources available than any group of publications and yet, they sustain the greatest percentage of increase and the heaviest burden of all in this new structure of postage rates.

Let us not be remiss in our effort to aid them. Not only do we have the authority to provide relief, but the obligation.

Finally, Mr. President, I comment on the library mailer who serves your constituents and mine.

On the average, about half the books purchased by libraries are delivered by mail, and in the case of those located out of the metropolitan area, as much as 90 percent of the books and other materials are delivered by mail. A substantial rate increase adversely affects these users of the special fourth-class rate. I emphasize that most libraries have no way of passing on costs to their customers.

In order to offset higher postage costs, other expenditures must be reduced; namely, the purchase of books, magazines, and other library materials. At a time when our colleges and universities are seeking students in order to remain financially solvent, they will be expected to either absorb these postal increases or reduce their purchase of books. Such a situation is appalling. And what about the public libraries which serve all of our constituents? By reducing the amount of money these libraries must spend for postage, funds are freed for book acquisition. More books available means a better educated public. A better educated public means a better America.

I want to stress, Mr. President, that the total cost of S. 411 for all second-class, controlled circulation, nonprofit third-class and special-rate and library rate fourth-class mail for the coming fiscal year is $45.2 million. I believe that the benefits to the public, which reads second-class and controlled circulation publications, which supports charitable efforts, and which uses public libraries and buys books from publishers, support this modest appropriation of additional funds during this transitional period of the new Postal Service. I hope my colleagues will join in voting for the passage of S. 411.

Mr. President, I make the point of no quorum.

The PRESIDING OFFICER (Mr. HATHAWAY). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McGEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McGEE. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. BAYH. Mr. President, as a cosponsor of S. 842, legislation similar to that now under consideration, I urge strongly that the Senate pass the pending bill to ease the tremendous burden being placed on thousands of newspapers and magazines, especially low-circulation publications, by the proposed increase in second-class postage rates.

The Postal Service has proposed second-class rate increases which could amount to 300 percent for profit publications and 700 percent for nonprofit publications. These are prohibitive rates for many magazines that are a vital part of our national scene, providing news and opinion essential to a participatory democracy.

Moreover, the proposed rate increases would work a severe hardship on thousands of weekly newspapers which are often the principal source of information within their communities. In my own State of Indiana, hundreds of these weekly publications are essential to the effective sharing of information in neighborhoods of larger cities and for entire towns in our rural communities.

The key provision of the pending bill (S. 411) would be to extend from 5 to 8 years the period for imposing the higher second-class postal rates on profitmaking publications, and from 10 to 16 years for nonprofit publications. These nonprofit publications include not only the publications of charitable organizations, but the publications of nonprofit civic, fraternal, and worker organizations.

It is not an exaggeration to say that if the Postal Service is able to force through its proposed rate increases over the short-term schedule it wants that many valuable publications, national and local, will cease to publish. The loss for the American people would be severe and the free flow of information, news, and opinion within our democracy would be seriously impaired.

It is important to point out, Mr. President, that the publications which rely on second-class postal rates—which have historically been subsidized because of the importance of publications that qualify for these rates—operate on very narrow profit margins and are very susceptible to the economic impact of any change in costs. In recent years the sharp rise in the price of paper has strained the budgets of these publications and the proposed rise in postal rates would sound the death knell for many of them.

It is unfortunate that the Postal Service has lost sight of the fact that the United States began public post offices in the earliest days of our country for the precise purpose of encouraging and fostering the widest possible dissemination of varying views via the mails.

Suggestions that the postal rate increases be passed along to subscribers are pointless, since a significant increase in subscription costs will mean the loss of readers, thereby lowering advertising revenues, and ultimately creating economic pressures which will force many periodicals to stop publishing.

Our Founding Fathers understood the necessity of the free exchange of political views to the success of democracy. This need for open discussion of matters of public affairs goes to the heart of the first amendment, and has been reaffirmed many times through our history by the special postal rates for newspapers and periodicals. To shut off this flow of opinion and information is to do damage—unnecessary and harmful—to democracy itself.

Mr. President, the urgency of the situation has been amply testified to by publishers from every part of the country. The need for congressional action to forestall unreasonable second-class postal rates is clear. I trust the Senate will respond to that need and pass this bill to protect the free and uninterrupted flow of opinion and information.

Mr. HRUSKA. Mr. President, I rise

in support of S. 411 which is presently under consideration.

The sole purpose of this bill is to increase the number of years permitted for postal rates to be absorbed by certain matters. I draw particular attention to the provision which would extend the phasing period for postal rates paid by publishers of magazines and newspapers.

It is my understanding that the Post Office and Civil Service Committee, chaired by my distinguished colleague, Mr. McGEE, has considered in great detail the matter of extending postal rate phasing periods. Only after extensive review and discussion was a decision reached by a majority of that committee. I commend the diligent efforts made by its members on this highly important and timely issue.

The broad dissemination of the written word has long been viewed as a powerful force in the public interest. Our early leaders took the position that the Post Office should provide a strong impetus to the promotion of the idea of democracy and self-government. There has been a conscious effort in our history to foster a belief that the press ought to be subsidized for this purpose. This idea has persisted until the recent increases in postal rates.

The report on S. 411 clearly reflects that the Congress underestimated the extent to which the 1970 Postal Reorganization Act would result in rapid and substantial increases in postal rates. Furthermore, there is evidence that publications have experienced increasing costs which are difficult to absorb because of the relatively low profit margin realized in this industry.

Thus, we have reached a situation in which the continued escalation of postal rates for such mailers may result in the demise or crippling of many prominent magazines and newspapers. In my view, this would be a result inimical to the best interests of the American people in general. Our citizens benefit greatly from the continuous flow of information and ideas through the printed word. This flow must be preserved.

It is not the intent of S. 411 to abrogate the intent and thrust of the 1970 Postal Reorganization Act which requires that each class of mail ultimately provide revenues equal at least to its attributable cost. The mandate to establish the Postal Service as a public corporation remains intact. Furthermore, this bill would not interfere with the authority of the Postal Rate Commission, established in the 1970 legislation, to determine and fix postal rates in the future. S. 411 would simply increase the existing subsidy to the Postal Service to ease the burden upon profit and nonprofit publications and certain other mailers caused by postal rates.

This Senator is well aware that the cost of this bill will exceed three-quarters of a billion dollars over the next 14 years. Nevertheless, I believe this matter is of sufficient priority to command this type of expenditure. Therefore, I urge my colleagues to vote in favor of S. 411 as presently drafted.

Mr. BENTSEN. Mr. President, I am pleased to be a cosponsor of S. 411, a bill to extend postal rate adjustments. In the last few years we have seen a series of exorbitant increases in second-, third-, and fourth-class postal rates, the first being an unprecedented 127-percent increase for second-class users. There have been additional rate increases since that time and it is my understanding that more can be expected in the future, perhaps ranging even as high as 700 percent.

Mr. President, these increases pose an extreme burden on those newspapers, periodicals, and nonprofit organizations such as libraries which are dependent on the mail for distribution and circulation. We are all familiar with the increasingly serious difficulties confronting the printed word in attempting to survive in face of increased costs and the impact of television. The cumulative effect can only be a deterioration in the quality of the information provided via the written word if not the actual demise of many valuable sources of information. The loser in the long run will be the American public.

But the burden of increased postal rates will bear the hardest on small- and medium-sized circulation periodicals and newspapers which will not be able to adapt to increased costs as easily as larger circulation periodicals. Particularly threatened are many high-quality magazines of primarily rural distribution.

Mr. President, the strength of our Nation lies in the basic freedoms we the American people enjoy and one of those is the freedom of thought and expression. The free flow of information and the exchange of ideas is an important ingredient of that freedom of expression. Increased and untenably high postal rates are an indirect form of censorship which cannot be tolerated. Therefore, it is imperative that those classes of mail users directly affected be allowed maximum flexibility to adjust to these increased rates. This bill is designed to accomplish that goal by extending the phasing-in period currently provided under the law to allow second-, third-, and fourth-class mail users to more easily adjust to increased mailing costs. But I want to emphasize that it will be the American public who will benefit most from the freer exchange of ideas made possible by this legislation. I urge the Senate to give its strong support to this bill.

Mr. NELSON. Mr. President, I will vote in favor of S. 411, a bill to delay implementation of the proposed postal rates which will increase mailing costs between 300 percent and 700 percent for second class publications. However, this affirmative vote does not reflect complete satisfaction with the limited relief provided by S. 411. In fact, there is still justified concern that that relief is insufficient to meet the problems raised by the increased rates.

This concern stems from undisputed evidence that proposed postal rate increases will pose a dangerous threat to the quality and, in some cases, survival of America's small periodicals and independent journals of opinion. This threat remains intact despite the provisions of S. 411, which delays the implementation of those rates an additional 3 years for certain profit publications and an additional 6 years for nonprofit publications.

In June 1972 I introduced legislation which would have afforded small periodicals the protection they need and deserve. The legislation included three principal provisions. First, like S. 411, it would have delayed implementation of proposed rate increases for second class publications. Second, it would have limited the postal rates which could have been applied to the first 250,000 copies of any periodical's issue. Third, it would have eliminated the per piece surcharge which is, in effect, a regressive tax that discriminates against the smaller periodicals.

Because Congress did not act on that legislation, I introduced the bill again in January 1973 (S. 630). The Post Office and Civil Service Committee held hearings last April on S. 630, as well as S. 411 and other related bills. Although the committee did not report out S. 630, the need for all the relief provided by the bill still exists.

To appreciate fully the need for legislation such as S. 630, it is necessary to understand the history of postal rates and the dangerous nature of the U.S. Postal Service's recent proposals.

Since 1792, Congress has repeatedly enacted low postal rates for second class publications. These low postal rates amounted to a small public subsidy for such publications.

The premise of this historic policy is clear. From the beginning of our Republic, Congress recognized that the Nation's magazines and newspapers provided the diversity of opinion and information necessary to an enlightened electorate. Without these periodicals, Congress realized that the education of the public—and, as a result, its ability to guide governmental policies—would be severely limited. Indeed, the notion underlying the free speech clause of the first amendment is that communication among the public is essential to preserve our democratic heritage.

The congressional policy supporting low postal rates for second class publications was discussed by the Supreme Court in *Hannen* v. *Esquire,* 327 U.S. 146, 154 (1946). In that case, the Court explained the purpose of the policy:

> It has been to encourage the distribution of periodicals which disseminated "information of public character" or which were devoted to "literature, the sciences, arts, or some special industry," because it was thought that those publications as a class contributed to the public good.

In 1970, Congress adopted the Postal Reorganization Act, which established the Postal Service as a quasi-public corporation. In enacting this measure, Congress did not abandon or qualify its commitment to America's periodicals. Section 101 of that act states explicitly that:

> The Postal Service shall have as its basic function the obligation to bind the Nation together through the personal, educational, literary and business correspondence of the people.

Nothing in the act requires the Postal Service to become entirely self-sufficient financially. The act states that the Postal Service should establish rates for each class of mails which, "as nearly as practicable," cover the costs of providing mail service for that class (39 United States Code, section 3621). The act states further that the Postal Rate Commission—which must approve rates proposed by the Postal Service—should sanction proposed rate increases only after accounting for "the value of the mail service actually provided each class or type of mail service to both sender and recipient," and "the effect of rate increases upon the general public [and] business mail users." (39 United States Code, section 3622.) Thus, although the act does encourage the Postal Service to increase its efficiency and self-sufficiency, the act makes clear that public service—not a single-minded concern for revenues—should be the basic guideline for the Postal Service's policies and actions.

The Postal Service, however, has misconstrued its responsibilities and ignored the priorities established by Congress. Despite the clear intent of the act, the Postal Service in 1971 proposed that the postal rates for second class publications be increased an average of 143 percent over the next 5 years—the proposed rate was reduced in 1972 to an average 127 percent increased. The rate increases were explained as a means to increase the Postal Service's financial self-sufficiency.

Hearings before the Senate Post Office and Civil Service Committee demonstrated that these rates would actually raise postal rates for second publications an average of more than 400 percent by 1981. See Hearings at pages 300–321. The committee also found that the rate increases would weigh most heavily on the smaller publications—committee report at pages 10–11. The hearing record is replete with specific examples to support this conclusion. Reference to a few illustrates the problem dramatically:

The American Legion estimated that the mailing costs for its magazine under the new rates would increase from $200,000 in 1969 to $1 million in 1981. Mailing costs for the Legion's Maryland publication, Free State Warrior—which has a circulation of about 50,000—would jump from $186.37 in 1971 to $1,500 in 1981;

The mailing costs for the Grand Fork, N. Dak., Herald, which has a mailing circulation of 11,000, would escalate from $62,000 in 1970 to $169,000 in 1981;

The Catholic Press Association estimated that the mailing costs of its 425 member newspapers would jump from 300 to 800 percent by 1981. Thus, the mailing costs of the Fort Wayne-South Bend edition of Our Sunday Visitor, which has a circulation of 22,000, would rise from $7,575 in 1972 to $34,569 by 1981; and

The International Labor Press Organization estimated that mailing costs would rise as much as 800 percent for its more than 300 member publications—most of which are small tabloids of limited circulation.

As if these proposed rates were not enough, the Postal Service proposed last September that rates for second class publications be increased by another 34–43 percent. The Senate Post Office Committee concluded that these new propsals would, together with earlier proposals, increase mailing costs between 300 percent and 700 percent for America's small publications—committee report at page 3. Some have suggested that the rate increases might result in even higher costs. But whatever the figure, there is no dispute that these new increases, coupled with the earlier 127 percent average increases, pose a severe threat to the viability of America's small publications.

The total impact of these increases can be understood best by reference to specific examples:

The mailing costs of the Wisconsin Rural Electrical Cooperative Association's journal, which has a circulation of 110,000, will now jump from $7,400 in 1971 to $39,200 by 1981;

The mailing costs of the Atlantic Monthly, which has a circulation of about 300,000, will increase from $130,000 to more than $300,000 by 1981;

The mailing costs of the New Republic will likewise jump from $82,000 in 1973 to $224,000 in 1981; and

The Progressive magazine, which has a circulation of 45,000, estimated that its mailing costs will increase from $9,400 in 1972 to $24,000 in 1981. The magazine's business managers explained in a letter to my office that:

> The Progressive has, at best, an unstable and tenuous hold on life, excluding proposed postal increases. Confronted with an apparent minimum 243 percent second class rate hike, The Progressive's very survival is at stake.

In view of these effects, one commentator referred to the proposed rate increases as a new "stamp tax" which might be as discriminatory and unwise as the British stamp tax which helped to fan the revolutionary spirit in the American colonies. The proposed postal rate increases have also been excoriated by newspapers and other periodicals throughout the country.

Speaking of the 127-percent rate increase proposed in 1972, the Wisconsin Rapids Tribune editorialized that:

> Many smaller publications such as independent opinion periodicals and weekly newspapers who rely heavily on mail circulation to rural areas would not be able to continue operations if they had to meet the financial burdens that would occur with proposed rate hikes.

Richard Fetsch, spokesman for the American Newspaper Publishers Associations, added that the proposed rate increases could diminish the availability of newspapers and journals of opinion to those in nonurban areas:

> It is in the rural areas, where there is no feasible alternate means of delivery, that we are in danger of pricing the daily newspaper beyond the reach of many readers.

The Topeka, Kans., State Journal likewise commented that the proposed 127-percent rate increase alone would pose a dangerous threat to the stability and survival of smaller publications.

And Price Waterhouse, Inc., the prestigious accounting firm, has concluded that the proposed rate increases will probably decrease the number of periodicals available and will probably require the surviving ones to concentrate on high-income audiences.

Congress should not stand by idly while the very existence of America's smaller periodicals and independent journals of opinion is threatened. These smaller publications are a vital source of information and diverse ideas on culture, science, history, and public affairs. Without them, milions of Americans will be deprived of a valuable resource of information, ideas, and opinions.

S. 411, the bill reported out of the Senate Post Office Committee, will provide some help by delaying implementation of the proposed rate increases. But as a publisher of one small periodical told my office, for most small publications a delay will "only mean a postponement of the death sentence." In other words, by letting the proposed rates remain in effect, Congress will be approving a rate system which will undermine the basic policy of the Postal Reorganization Act: the establishment of rates which do not diminish the service necessary to meet the public's needs. Any rates which threaten the viability of America's small periodicals surely cannot satisfy that criterion.

In light of this analysis, it seems both appropriate and necessary to introduce amendments to S. 411 to strengthen the relief afforded to small periodicals. But I will not propose such amendments. This decision does not reflect an unwillingness to draft, propose, and work for the enactment of the amendments. Rather, the decision reflects a willingness to accede to the wishes of publishers of small periodicals, as well as trade associations representing small periodicals.

They are extremely concerned that a bill stronger than S. 411 would not be agreeable to the necessary majorities in Congress. In their view, it would be preferable to accept the limited relief provided by S. 411 than to accept the risk that a stronger bill would not be passed by Congress.

I have not and will not abandon the fight, however. If re-elected to the next Congress, I intend to introduce again legislation which would provide America's small periodicals and independent journals of opinion with the relief they need and deserve.

Mr. President, I ask unanimous consent to insert in the Record a newspaper column by Milton Viorst in which the proposed postal rate increases are criticized as a new "stamp tax."

There being no objection, the article was ordered to be printed in the Record, as follows:

A New Kind of Stamp Tax

(By Milton Viorst)

Since President Nixon is so anxious to correct television's "outrageous, vicious, distorted" coverage of the news, he should presumably be trying to open up alternative channels of communication to the people. Instead, he's closing them.

He's closing them by allowing the U.S. Postal Service to impose an ever greater burden in mailing costs on the nation's 10,000 magazines and 9,000 daily and weekly newspapers.

Two years ago, the Postal Service announced it was increasing mailing charges, in five annual steps, by no less than 127 percent. Two of those steps have already gone into effect. Now the Postal Service says it will raise rates by an additional 33 to 44 percent.

The victims of these increases are not just the big commercial publications like Life, which was quoted in its death notice as saying it could not absorb such an enormous new expense. Other victims were scattered over the field, down to the Providence Sister, a tiny publication of Catholic nuns.

The explanation for this increase is that the postal system having been divorced from the federal bureaucracy to be reorganized as an independent corporation, must now be conducted on a "business-like" basis.

But the continued erosion of our mail delivery network, to say nothing of our railroad system, demonstrates clearly that the reorganization of sick enterprises into independent corporations is not, as some of its proponents once argued, going to make them well.

We see now they stay sick or get sicker. And what's worse they are run without the slightest concern for the public interest.

The fact is, since it was founded in 1972, the American postal system has never been looked upon by Congress as an enterprise that had to pay its own way. It was considered a public service, to be run competently but not profitably.

More to the point, from the first days of the Republic the postal service gave preferential rates to newspapers and magazines—on the grounds that they served an educational function and contributed to the quality of citizenship.

This policy was maintained—and, in fact, extended—throughout our history. William McKinley's postmaster general, Charles E. Smith, boasted that the post office, in granting such subsidies, encouraged "intercommunication and the exchange of intelligence."

It was not until the independent postal system was established in 1971 that an attempt was made to abandon this policy, and some have argued—Sen. Gaylord Nelson of Wisconsin most persistently—that, though the law creating the U.S. Postal Service is imprecise, such action runs contrary to congressional intent.

Neither Nelson nor anyone else has argued that postal rates for magazines and newspapers should not go up—but he has introduced legislation seeking to cut the increase from murderous to something more nearly reasonable.

In theory, Nixon should be on his side. No man has complained more about the "particular line" that television today takes in delivering the news. He says the "people are pounded night after night with . . . frantic, hysterical reporting."

I don't agree with that judgment, but I do agree it's vital that the people be encouraged to diversify their sources of information. By necessity, television news is superficial and homogenized. An intelligent electorate has got to have, besides television, ready access to information that's in print.

Unfortunately, the daily newspapers that are locally available throughout much of the country fill the gap very poorly. News of the outside world is scarce in them, and diversity of opinion is scarcer still.

If Nixon wants to dilute television's growing power over America's minds, he won't do it by driving magazines out of business. I suspect it's only that he prefers his distortions to the networks'; I see no genuine commitment to a diversity of views.

Indeed, the magazines threatened with extinction are as much on the right as on the left of the political panorama. Nixon's postal policies are not just quieting dissent. They are contributing to a quieting of the national dialogue itself.

What we're talking about is a postal subsidy of a penny or two a year from each American. That's a very small price to keep channels of communication open—and to refute the alleged lies to which Nixon so vigorously objects.

Mr. **PERCY**. Mr. President, I would like first of all to commend Chairman McGee and the other members of the Committee on Post Office and Civil Service for their work on this most important legislation. The American people have a vested interest in the economical and efficient operation of the U.S. Postal Service, and they can be proud of the thoughtful consideration given this legislation.

In a narrow sense, we are merely discussing whether or not we should authorize postal subsidies beyond 1984. But in a much broader sense, we are debating the people's right to know. At this time, possibly more than in any other in our Nation's history, we can ill-afford to stifle the free flow of news, ideas, and opinions. It is imperative that we have access to the widest possible range of information if we are to survive as an informed, free-thinking, and democratic electorate. The press has been and should continue to be the public's chief insight into the day-to-day workings of our institutions, public as well as private. A free press offers one important means whereby public officials are held accountable to the electorate, and if the people are to make wise and responsible decisions on the issues of the day, they must be afforded exposure to as many varying views as possible. The committee report on S. 411 shows that without the revision of phasing provisions, the quality and even the existence of hundreds of publications will be threatened.

This legislation would not, as opponents argue, negate the intent of the Postal Reorganization Act of 1970. That act required that, in time, all classes of mail would pay at least their attributable costs as the Postal Service moved toward self-sufficiency. But studies pursuant to the enactment of that legislation have shown that we underestimated the resultant postal rates, and now we must act decisively to alleviate the burden we have placed on the publishing industry. Rather than abrogating the mandate of the 1970 act, we are simply delaying the time when each class of mail will pay its own way.

The mails should not be viewed merely as a business enterprise. We must also view them as providing a valuable public service, and it is our responsibility to protect that service. What we do here today will have a profound effect on the reading habits of millions of Americans, and we must accept the challenge and act in the best interests of the public.

Mr. President, I am glad that we finally have the opportunity to vote on this legislation, and I am pleased to be able to support it.

Mr. **SCHWEIKER**. Mr. President, the Senate is taking up today S. 411, a bill to delay increases in second-class postal rates. New Postal Service rates would be phased in over a period of 8 years, rather than the current schedule of 5 years. Any shorter time frame for implementation of postal rate increases could be fatal to publications that depends on subscriptions and the mails for the readership. It threatens the very existence of many newspapers and magazines.

I am disturbed by the overall increases in postal costs, and question whether the new Postal Service has made the improvements we expected. I will not sit back and allow exorbitant second-class postal increases to force newspapers and magazines to cease publication. I strongly urge the Senate to quickly pass this necessary legislation.

This new legislation would not apply to unsolicited, or so-called junk mail, but would benefit publications subscribed to by the public. Historically, low postal rates have been in effect for newspapers and magazines to help encourage the widest possible dissemination of information. Our democracy is strengthened by a wide variety of newspapers and magazines on many subjects, and it is the public that loses if this diversity of opinion and information is curtailed because of exorbitant postal costs.

NEED FOR IMPROVED POSTAL SERVICE

Mr. **TUNNEY**. Mr. President, in the 3 years since the Postal Reorganization Act, we have witnessed a serious decline, rather than an improvement, in the quality of postal service. The Postal Service's ultimate concern should be the continuation of a historic system of efficient operation and prompt mail service.

All citizens have a right to expect mail delivery within a reasonable time. The Postal Service cannot be viewed as just another business; rather, it must be considered a public service organization on which the commercial, economic and social well-being of the entire Nation relies.

While I support the concept behind the legislation being considered today, and while I recognize the needs of second-class users for a longer period of time to adjust to the increased postal rates, I also share the concerns of my constituents who are paying more in postal rates and receiving less in service. We cannot continue to approve ever-increasing postal rates without giving equal consideration to the manner in which the postal service is operating and the quality of service being provided to all classes of users.

The intent of Congress was that—

> The Postal Service shall have as its basic function the obligation to provide postal services to bind the Nation together through the personal, education, literary, and business correspondence of the people . . . The costs of establishing and maintaining the Postal Service shall not be apportioned to impair the overall value of such service to the people.

While this may have been the original purpose, my office has received in the last year over 2,000 complaints from virtually every part of California that would seem to indicate that the Postal Service is not meeting the expectations of Congress. These complaints have come not only from private citizens, but public officials, members of postal unions, as well as from those individuals whose livelihoods depend on adequate and timely mail delivery.

By far, the most frequent complaint, is how much time it takes for the mail to get from sender to receiver and the problems caused by this delay. Payments for bills are received late, and some customers have been penalized. Pension, social security, and disability checks are not arriving on time. Payroll checks are late. All too often it seems packages are taking weeks to go short distances or not arriving at all.

Other complaints are from postal employees who say they are discouraged from doing a job they can be proud of by cutbacks in manpower and other Postal Service policies.

The rise in the number of complaints is alarming because Congress created the Postal Service to improve service. But, judging from the complaints received, service may actually be declining. Poor, inefficient mail service is something that this Nation cannot afford. Too much that is important depends on the mail.

The types of letters I have been receiving are a good example of the problems I have been discussing. For instance, one individual complained that it took 7 days for the receipt of a special delivery letter within the city limits. Others complain that it takes less time to walk the distance than it does to send a letter through the mail. For example, it apparently takes a week to receive a letter which travels a distance of no more than 20 miles.

One of my constituents from Santa Ana wrote the first of November 1973 listed the following complaints:

> My June 22, 1973 paycheck, mailed from Santa Ana to Santa Ana, hasn't arrived. My 82-year-old mother has not received a Medicare refund check mailed in March 1973 nor a property tax refund mailed in June—from Sacramento to Laguna Hills, California. My college-age son has not received very important papers needed for admission to Law School which were mailed from Los Angeles to Berkeley on October 18, 1973, a distance of some 450 miles.

A member of the Los Angeles Police Protective League wrote:

> On June 15, 1973, approximately 4,000 post card ballots were delivered to the Terminal Annex in the City of Los Angeles for mailing. These ballots were sent by first-class mail. It is our understanding that these ballots remained in the post office for approximately 10 days before they were actually mailed. After several complaints from our members, we learned that it took as long as June 29, 1973, for some of our members to receive their ballots. We have also been contacted by members who have stated that they have never received a ballot.

Because of these continuing complaints, I would strongly urge that the Committee on Post Office and Civil Service, consider holding further oversight hearings in order to determine how the problems of the Postal Service can finally be resolved.

POSTAL RATE STRETCHOUT

Mr. DOLE. Mr. President, the bill we are considering today, S. 411, is of major significance to America's publishing industry. It provides a so-called stretchout in the period over which major postal rate increases will be put into effect. This stretchout is not a reduction in the rates themselves or the elimination of any structures which the Postal Service has established. What it does accomplish is the provision of an additional period for publishers and other users of certain second-, third-, and fourth-class rates to plan their businesses and organize their financial structures to account for substantially increased mailing costs.

To give a better indication of how these postage costs have risen for publishers since the new Postal Service first began operation, I ask unanimous consent that a chronological analysis of these rates be printed at this point in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

CHRONOLOGY OF RATE INCREASES FOR REGULAR RATE SECOND CLASS MAIL

Most newspapers and magazines mailed outside county of publication pay these rates. Publishers pay on basis of editorial content, advertising content, distance (for advertising portion), and in addition a per piece surcharge. "Regular rate" (the typical commercial magazine) has 5 year phasing (which ends in July 1976), pays its attributable costs, plus a share of general overhead. About 56 per cent of all second class mail volume is in this category. A summary of rate changes is presented below.

February 1971: USPS files for first increase under Postal Reorganization Act of 1970.

May 1971: USPS installs temporary rate increase under Act, which allows such increases 90 days after filing for a rate adjustment. For second class regular rate publications, increase amounts to approximately 20 per cent over pre-May 15, 1971 rates.

July 1972: Governors of USPS approve rate request of February 1971. Final increase to be effective in July 1976 to be 127 per cent over pre-May 1971 rates. First step, effective July 1972, approximately 25 per cent over pre-May 1971 rates, or an additional 5 per cent on top of temporary increase. The approved rate increases were based on the assumption that total USPS operating costs, productivity, and mail volume would not change from 1972 base year levels.

September 1973: Second step, an additional 25 per cent over pre-May 1971 rate becomes effective. Delayed from July 1973 due to price freeze. To this date, increases approximately 50 per cent over pre-May 1971 rates.

September 1973: After the July 1973 two year labor settlement USPS files for second increase under Act because of changes in total operating costs, productivity, and mail volume from the 1972 base year level. Prepares to install same 90 days later, in January 1974.

March 1974: Temporary rates based on the USPS second rate increase filed in September 1973 and scheduled to be implemented in January 1974, but postponed to March by Cost of Living Council. Increase by this date amounts to 74 per cent over pre-May 1971 rates.

July 1974: Third step of the first increase becomes effective, plus additional step of the second increase. Combined increases raise rates to 122 per cent over pre-May 1971 rates.

July 1975: Fourth step of the first increase becomes effective, plus additional step of the second increase. Combined increase raise rates to 170 per cent over pre-May 1971 rates. With the July 1973 labor agreement expiring in July 1975 and USPS operating costs likely to continue rising at the 1971–75 rates, USPS will probably file for its third rate increase in the Fall of 1975 to be effective on a temporary basis 90 days thereafter. Based on historical trends and USPS projections to FY 1975, the "likely" rate request will be for rates 240 per cent over pre-May 1971 rates, or 25 per cent above the combined first and second rate increases to date.

July 1976: Fifth step of the first increase becomes effective, plus final step of the second increase. Combined increase raises average rate per piece by 217 per cent over pre-May 1971 rate. With approval of the probable third (1975) rate request increase, the "likely" July 1976 rate will be 300 per cent over the pre-May 1971 rates. The FY 1977 over FY 1971 "for sure" percentage increase is 217 per cent per piece, with a "likely" per piece increase of 300 per cent.

REGULAR RATE 2D-CLASS STATISTICS

	Volume (millions)	Revenue (millions)	Average per piece (cents)
Fiscal year 1971[1]	5,519	$128	2.3
Fiscal year 1977 (USPA)[2]	4,947	362	7.3
Fiscal year 1977 ("likely")[3]	4,768	440	9.2

[1] Fiscal year 1971 USPS Revenue and Cost Analysis.

[2] Based on USPS Rate Proposal, Sept. 25, 1973.

[3] Projection based on a 2-year extension of recent USPS trends.

USPS only projects revenue and volume through fiscal 1975 in its current rate proposal. While USPS estimates it will receive $362 million from 4,947 million pieces in FY 1975 from regular rate mailers and from revenue foregone appropriations, it would be two years later—when phasing ends in FY 1977—that regular rate mailers would actually pay the full $362 million. But since USPS costs continue to increase, it is fair to assume that still another increase will come in FY 1976 to cover higher costs. The "likely" projections above reflect that the second class regular rate required revenue will increase by 10 per cent annually to $440 million in FY 1977 from the $362 million USPS FY 1975 estimate. This projection is conservative since the USPS projected increase from FY 1974 to FY 1975 is over 12 per cent. The "likely" projection also includes a volume estimate of 4,476 million pieces which is an extension (at the same rate) of the USPS 1973–75 projected volume decline.

Thus, by FY 1977, an additional 25 per cent rate increase—coming on top of those already proposed—would bring per piece rates to 9.2 cents, or a total increase from FY 1971 of 300 per cent. Since all phasing would have ended by FY 1977, any further increase in FY 1976 would be telescoped into two steps—in late 1975 and in July of 1976.

Mr. DOLE. Mr. President, I believe this explanation demonstrates the impact of these increases on the publishing industry generally. But more than the general publishing industry—which includes such highly profitable enterprises as the national news magazines, the giant newspaper empires, and the huge book and record clubs—I am concerned about the economic viability of the small operations that may operate on a national level but which are also regional or local.

These include small magazines, appealing to specialized, narrow readership; the publications of the Boy Scouts, the American Legion, and various charities and public service organizations; and the daily and weekly newspapers of our smaller cities and towns.

In Kansas we have many of these publications and a great number of their readers. And I am highly concerned that these sudden and significant rises in their costs of postage threaten their survival and service to America.

These smaller publications are really what our concept of free speech is all about. A giant newspaper or national magazine appeals to a mass audience and moves with a broad tide of public opinion. Its ideas and concepts find no difficulty in obtaining an outlet. But the small pamphlet, tabloid, or magazine, may put forward local, specialized, offbeat, or unpopular news, ideas, and thoughts, of which it may be the only source. And without these outlets our ideal of free expression and open exchange of ideas has a hollow ring.

So, Mr. President, I support S. 411, not so much for the publishing industry which we see listed on the stock exchange and on every newsstand in America, but for the sake of the publishing industry which is seen only in one or two counties in Kansas, or in but two or three technical libraries in each State.

I support this bill for the publishers of the church bulletins, the veterans organizations magazines and the botany, bicycling, and other daily, weekly, and monthly journals which must survive if our freedoms are to prosper in America.

So, Mr. President, I am pleased to support this legislation as a member of the Committee on Post Office and Civil Service and as one who believes it is in the interests of one of our most important and precious liberties.

Mr. ROTH. Mr. President, I am voting against S. 411 to increase postal subsidies because somewhere along the line we in Congress are going to have to face up to the fact that if we are going to stop inflation we are going to have to stop voting for some of these costly programs designed to benefit a few special interests. The most crucial thing of all is that it is our taxpayers' dollars we are giving away, and this at a time when we should be doing all we can to stop inflation.

Mark my word, the average citizen will end up paying for these subsidies through increased postal rates. In this case it is the big media who will benefit at the individual taxpayer's expense. It is interesting to me that those who express the most indignation about subsidies for industry have been the most ardent supporters of this bill, and we are not talking about small amounts of money, we are talking about an additional $753,700,000 subsidy on top of the $1,602,000,000 subsidy they already are entitled to under present law, plus their share of the public service subsidy of $10,530,000,000.

If we, in Government, are going to do our share to slow down inflation, we are simply going to have to stop providing these subsidies that are no longer justified.

Those smaller newspapers and charities should be given some consideration when it comes to assistance but certainly not the big profitable operations such as the Wall Street Journal and Time magazine.

The ordinary citizen gets it in the neck both ways. He has to pay increased taxes to pay for the subsidies on the one hand and increased postage on the other. This continual drain on the public's pocketbook is fraught with peril for our economy. It is time we all realize that the public, hard hit by inflation and high prices, will not much longer tolerate these incessant raids on individual pocketbooks.

Mr. McGEE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read a third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BUCKLEY (when his name was called). Present.

Mr. HARRY F. BYRD, JR. (when his name was called). Present.

Mr. STEVENSON (when his name was called). Present.

Mr. MANSFIELD (after having voted in the negative). Mr. President, on this vote I have a pair with the senior Senator from Arkansas (Mr. McClellan). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Fulbright), the Senator from Iowa (Mr. Hughes), the Senator from Minnesota (Mr. Humphrey), the Senator from Alaska (Mr. Gravel), the Senator from Arkansas (Mr. McClellan), the Senator from Mississippi (Mr. Stennis), and the Senator from New Jersey (Mr. Williams) are necessarily absent.

I further announce that the Senator from Florida (Mr. Chiles) is absent on official business.

I further announce that, if present and voting, the Senator from Iowa (Mr. Hughes) and the Senator from Minnesota (Mr. Humphrey) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from New Jersey (Mr. Case), the Senator from New Hampshire (Mr. Cotton), the Senator from Arizona (Mr. Goldwater), the Senator from Wyoming (Mr. Hansen), and the Senator from Maryland (Mr. Mathias) are necessarily absent.

I further announce that, if present and voting, the Senator from New Jersey (Mr. Case) would vote "yea."

The Senator from New York (Mr. Buckley) voted "present."

The result was announced—yeas 71, nays 11, as follows:

[No. 186 Leg.]

YEAS—71

Abourezk
Aiken
Allen
Baker
Bayh
Beall
Bentsen
Bible
Biden
Brock
Brooke
Burdick
Byrd, Robert C.
Cannon
Church
Clark
Cook
Cranston
Curtis
Dole
Domenici
Eagleton
Eastland
Ervin
Griffin
Gurney
Hart
Hartke
Haskell
Hatfield
Hathaway
Hollings
Hruska
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
McGee
McGovern
McIntyre
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Young

NAYS—11

Bartlett
Bennett
Dominick
Fannin
Fong
Helms
Huddleston
McClure
Proxmire
Roth
Scott, William L.

ANSWERED "PRESENT"—3

Buckley
Byrd, Harry F., Jr.
Stevenson

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, against

NOT VOTING—14

Bellmon
Case
Chiles
Cotton
Fulbright
Goldwater
Gravel
Hansen
Hughes
Humphrey
Mathias
McClellan
Stennis
Williams

So the bill (S. 411) was passed, as follows:

S. 411

An act to amend title 39, United States Code, with respect to certain rates of postage, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3626 of title 39, United States Code, is amended as follows:

(1) Subparagraph (1) is amended by striking out the word "tenth" and inserting in lieu thereof the word "sixteenth" and by striking out the word "and" following the semicolon.

(2) Subparagraph (2) is amended—

(A) by inserting the word "former" between the words "under" and "sections";

(B) by striking out "4452(a),";

(C) by striking out the word "fifth" and inserting in lieu thereof the word "eighth";

(D) by striking out "subsection" and inserting in lieu thereof "subparagraph"; and

(E) by striking out the period and inserting in lieu thereof a semicolon and the word "and".

(3) Immediately below subparagraph (2), add the following new subparagraph:

"(3) the rates for mail under former section 4452(a) shall be equal, on and after the first day of the fifth year following the effective date of the first rate decision applicable to that class or kind, to the rates that would have been in effect for such mail if this subparagraph had not been enacted."

Sec. 2. Nothing in section 1 of this Act shall be construed to authorize a reduction in any rate of postage in effect and being paid on the date of enactment of this Act.

Sec. 3. Section 2009 of title 39, United States Code, is amended by adding at the end thereof the following: "The budget program shall also include separate statements of the amounts which the Postal Service requests to be appropriated under subsections (b) and (c) of section 2401 of this title. The President shall include these amounts, with his recommendations but without revision, in the budget transmitted to Congress under section 11 of title 31.".

The title was amended, so as to read "A bill to amend title 39, United States Code, with respect to certain rates of postage and for other purposes."

Mr. McGEE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. RANDOLPH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the amendments of the Senate to the bill (H.R. 6574) to amend title 38, United States Code, to encourage persons to join and remain in the Reserves and National Guard by providing full-time coverage under Servicemen's Group Life Insurance for such members and certain members of the Retired Reserve, and for other purposes.

The message also announced that the House had passed a bill (H.R. 8193) to require that a percentage of U.S. oil imports be carried on U.S.-flag vessels, in which it requested the concurrence of the Senate.

DISASTER RELIEF ACT AMENDMENTS OF 1974 CONFERENCE REPORT

Mr. BURDICK. Mr. President, I submit a report of the committee of conference on S. 3062, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3062) entitled the "Disaster Relief Act Amendments of 1974", having met, after full and free conference, have agreed to recommend and do recommend to fair respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report, which reads as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3062) entitled the "Disaster Relief Act Amendments of 1974", having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Disaster Relief Act of 1974".

TITLE I—FINDINGS, DECLARATIONS, AND DEFINITIONS

FINDINGS AND DECLARATIONS

SEC. 101. (a) The Congress hereby finds and declares that—

(1) because disasters often cause loss of life, human suffering, loss of income, and property loss and damage; and

(2) because disasters often disrupt the normal functioning of governments and communities, and adversely affect individuals and families with great severity;

special measures, designed to assist the efforts of the affected States in expediting the rendering of aid, assistance, and emergency services, and the reconstruction and rehabilitation of devastated areas, are necessary.

(b) It is the intent of the Congress, by this Act, to provide an orderly and continuing means of assistance by the Federal Government to State and local governments in carrying out their responsibilities to alleviate the suffering and damage which result from such disasters by—

(1) revising and broadening the scope of existing disaster relief programs;

(2) encouraging the development of comprehensive disaster preparedness and assistance plans, programs, capabilities, and organizations by the States and by local governments;

(3) achieving greater coordination and responsiveness of disaster preparedness and relief programs;

(4) encouraging individuals, States, and local governments to protect themselves by obtaining insurance coverage to supplement or replace governmental assistance;

(5) encouraging hazard mitigation measures to reduce losses from disasters, including development of land use and construction regulations;

(6) providing Federal assistance programs for both public and private losses sustained in disasters; and

(7) providing a long-range economic recovery program for major disaster areas.

DEFINITIONS

SEC. 102. As used in this Act—

(1) "Emergency" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe in any part of the United States which requires Federal emergency assistance to supplement State and local efforts to save lives and protect property, public health and safety or to avert or lessen the threat of a disaster.

(2) "Major disaster" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe in any part of the United States which, in the determination of the President, causes damage of sufficient severity and magnitude to warrant major disaster assistance under this Act, above and beyond emergency services by the Federal Government, to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

(3) "United States" means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, and the Trust Territory of the Pacific Islands.

(4) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, or the Trust Territory of the Pacific Islands.

(5) "Governor" means the chief executive of any State.

(6) "Local government" means (A) any county, city, village, town, district, or other political subdivision of any State, any Indian tribe or authorized tribal organization, or Alaska Native village or organization, and (B) includes any rural community or unincorporated town or village or any other public entity for which an application for assistance is made by a State or political subdivision thereof.

(7) "Federal agency" means any department, independent establishment, Government corporation, or other agency of the executive branch of the Federal Government, including the United States Postal Service, but shall not include the American National Red Cross.

TITLE II—DISASTER PREPAREDNESS ASSISTANCE

FEDERAL AND STATE DISASTER PREPAREDNESS PROGRAMS

SEC. 201. (a) The President is authorized to establish a program of disaster preparedness that utilizes services of all appropriate agencies (including the Defense Civil Preparedness Agency) and includes—

(1) preparation of disaster preparedness plans for mitigation, warning, emergency operations, rehabilitation, and recovery;

(2) training and exercises;

(3) postdisaster critiques and evaluations;

(4) annual review of programs;

(5) coordination of Federal, State, and local preparedness programs;

(6) application of science and technology;

(7) research.

(b) The President shall provide technical assistance to the States in developing comprehensive plans and practicable programs for preparation against disasters, including hazard reduction, avoidance, and mitigation; for assistance to individuals, businesses, and State and local governments following such disasters; and for recovery of damaged or destroyed public and private facilities.

(c) Upon application by a State, the President is authorized to make grants, not to exceed in the aggregate to such State $250,000, for the development of plans, programs, and capabilities for disaster preparedness and prevention. Such grants shall be applied for within one year from the date of enactment of this Act. Any State desiring financial assistance under this section shall designate or create an agency to plan and administer such a disaster preparedness program, and shall, through such agency, submit a State plan to the President, which shall—

(1) set forth a comprehensive and detailed State program for preparation against and assistance following, emergencies and major disasters, including provisions for assistance to individuals, businesses, and local governments; and

(2) include provisions for appointment and training of appropriate staffs, formulation of necessary regulations and procedures, and conduct of required exercises.

(d) The President is authorized to make grants not to exceed 50 per centum of the cost of improving, maintaining and updating State disaster assistance plans, except that no such grant shall exceed $25,000 per annum to any State.

DISASTER WARNINGS

SEC. 202. (a) The President shall insure that all appropriate Federal agencies are prepared to issue warnings of disasters to State and local officials.

(b) The President shall direct appropriate Federal agencies to provide technical assistance to State and local governments to insure that timely and effective disaster warning is provided.

(c) The President is authorized to utilize or to make available to Federal, State, and local agencies the facilities of the civil defense communications system established and maintained pursuant to section 201(c) of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2281(c)), or any other Federal communications system for the purpose of providing warning to governmental authorities and the civilian population in areas endangered by disasters.

(d) The President is authorized to enter into agreements with the officers or agents of any private or commercial communications systems who volunteer the use of their systems on a reimbursable or nonreimbursable basis for the purpose of providing warning to governmental authorities and the civilian population endangered by disasters.

TITLE III—DISASTER ASSISTANCE ADMINISTRATION

PROCEDURES

SEC. 301. (a) All requests for a determination by the President that an emergency exists shall be made by the Governor of the affected State. Such request shall be based upon the Governor's finding that the situation is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. The Governor's request will furnish information describing State and local efforts and resources which have been or will be used to alleviate the emergency, and will define the type and extent of Federal aid required. Based upon such Governor's request, the President may determine that an emergency exists which warrants Federal assistance.

(b) All requests for a declaration by the President that a major disaster exists shall be made by the Governor of the affected State. Such Governor's request shall be based upon a finding that the disaster is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. As a part of this request, and as a prerequisite to major disaster assistance under the Act, the Governor shall take appropriate action under State law and direct execution of the State's emergency plan. He shall furnish information on the extent and nature of State resources which have been or will be used to alleviate the conditions of the disaster, and shall certify that for the current disaster, State and local government obligations and expenditures (of which State commitments must be a significant proportion) will constitute the expenditure of a reasonable amount of the funds of such State and local governments for alleviating the damage, loss, hardship, or suffering resulting from such disaster. Based upon such Governor's request, the President may declare that a major disaster exists, or that an emergency exists.

FEDERAL ASSISTANCE

SEC. 302. (a) In the interest of providing maximum mobilization of Federal assistance under this Act, the President shall coordinate, in such manner as he may determine, the activities of all Federal agencies providing disaster assistance. The President may direct any Federal agency, with or without reimbursement, to utilize its available personnel, equipment, supplies, facilities, and other resources including managerial and technical services in support of State and local disaster assistance efforts. The President may prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this Act, and he may exercise any power or authority conferred on him by any section of this Act either directly or through such Federal agency as he may designate.

(b) Any Federal agency charged with the administration of a Federal assistance program is authorized, if so requested by the applicant State or local authorities, to modify or waive, for a major disaster, such administrative conditions for assistance as would otherwise prevent the giving of assistance under such programs if the inability to meet such conditions is a result of the major disaster.

(c) Notwithstanding any other provision of law, any repair, restoration, reconstruction, or replacement of farm fencing damaged or destroyed as a result of any major disaster shall be considered an emergency conservation measure eligible for payments under chapter I of the Third Supplemental Appropriation Act, 1957, or any other provision of law.

COORDINATING OFFICERS

SEC. 303. (a) Immediately upon his declaration of a major disaster, the President shall appoint a Federal coordinating officer to operate in the affected area.

(b) In order to effectuate the purposes of this Act, the Federal coordinating officer, within the affected area, shall—

(1) make an initial appraisal of the types of relief most urgently needed;

(2) establish such field offices as he deems necessary and as are authorized by the President;

(3) coordinate the administration of relief, including activities of the State and local governments, the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations, which agree to operate under his advice or direction, except that nothing contained in this Act shall limit or in any way affect the responsibilities of the American National Red Cross under the Act of January 5, 1905, as amended (33 Stat. 599); and

(4) take such other action, consistent with authority delegated to him by the President, and consistent with the provisions of this Act, as he may deem necessary to assist local citizens and public officials in promptly obtaining assistance to which they are entitled.

(c) When the President determines assistance under this Act is necessary, he shall request that the Governor of the affected State designate a State coordinating officer for the purpose of coordinating State and local disaster assistance efforts with those of the Federal Government.

EMERGENCY SUPPORT TEAMS

SEC. 304. The President shall form emergency support teams of Federal personnel to be deployed in an area affected by a major disaster or emergency. Such emergency support teams shall assist the Federal coordinating officer in carrying out his responsibilities pursuant to this Act. Upon request of the President, the head of any Federal agency is directed to detail to temporary duty with the emergency support teams on either a reimbursable or nonreimbursable basis, as is determined necessary by the President, such personnel within the administrative jurisdiction of the head of the Federal agency as the President may need or believe to be useful for carrying out the functions of the emergency support teams, each such detail to be without loss of seniority, pay, or other employee status.

EMERGENCY ASSISTANCE

SEC. 305. (a) In any emergency, the President may provide assistance to save lives and protect property and public health and safety.

(b) The President may provide such emergency assistance by directing Federal agencies to provide technical assistance and advisory personnel to the affected State to assist the State and local governments in—

(1) the performance of essential community services; warning of further risks and hazards; public information and assistance in health and safety measures; technical advice on management and control; and reduction of immediate threats to public health and safety; and

(2) the distribution of medicine, food, and other consumable supplies, or emergency assistance.

(c) In addition, in any emergency, the President is authorized to provide such other assistance under this Act as the President deems appropriate.

COOPERATION OF FEDERAL AGENCIES IN RENDERING DISASTER ASSISTANCE

SEC. 306. (a) In any major disaster or emergency, Federal agencies are hereby authorized, on the direction of the President, to provide assistance by—

(1) utilizing or lending, with or without compensation therefor, to States and local governments, their equipment, supplies, facilities, personnel, and other resources, other than the extension of credit under the authority of any Act;

(2) distributing or rendering, through the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief and disaster assistance organizations, or otherwise, medicine, food and other consumable supplies, or emergency assistance;

(3) donating or lending equipment and supplies, including that determined in accordance with applicable laws to be surplus to the needs and responsibilities of the Federal Government, to State and local governments for use or distribution by them for the purposes of this Act; and

(4) performing on public or private lands or waters any emergency work or services essential to save lives and to protect and preserve property, public health and safety, including but not limited to: search and rescue, emergency medical care, emergency mass care, emergency shelter, and provision of food, water, medicine, and other essential needs, including movement of supplies or persons; clearance of roads and construction of temporary bridges necessary to the performance of emergency tasks and essential community services; provision of temporary facilities for schools and other essential community services; demolition of unsafe structures that endanger the public; warning of further risks and hazards; public information and assistance on health and safety measures; technical advice to State and local governments on disaster management and control; reduction of immediate threats to life, property, and public health and safety; and making contributions to State or local governments for the purpose of carrying out the provisions of this paragraph.

(b) Work performed under this section shall not preclude additional Federal assistance under any other section of this Act.

REIMBURSEMENT

SEC. 307. Federal agencies may be reimbursed for expenditures under this Act from funds appropriated for the purposes of this Act. Any funds received by Federal agencies as reimbursement for services or supplies furnished under the authority of this Act shall be deposited to the credit of the appropriation or appropriations currently available for such services or supplies.

NONLIABILITY

SEC. 308. The Federal Government shall not be liable for any claim based upon the exercise or performance of or the failure to exercise or perform a discretionary function or duty on the part of a Federal agency or an employee of the Federal Government in carrying out the provisions of this Act.

PERFORMANCE OF SERVICES

SEC. 309. (a) In carrying out the purposes of this Act, any Federal agency is authorized to accept and utilize the services or facilities of any State or local government, or of any agency, office, or employee thereof, with the consent of such government.

(b) In performing any services under this Act, any Federal agency is authorized—

(1) to appoint and fix the compensation of such temporary personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in competitive service;

(2) to employ experts and consultants in accordance with the provisions of section 3109 of such title, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates; and

(3) to incur obligations on behalf of the United States by contract or otherwise for the acquisition, rental, or hire of equipment, services, materials, and supplies for shipping, drayage, travel, and communications, and for the supervision and administration of such activities. Such obligations, including obligations arising out of the temporary employment of additional personnel, may be incurred by an agency in such amount as may be made available to it by the President.

USE OF LOCAL FIRMS AND INDIVIDUALS

SEC. 310. In the expenditure of Federal funds for debris clearance, distribution of supplies, reconstruction, and other major disaster assistance activities which may be carried out by contract or agreement with private organizations, firms, or individuals, preference shall be given, to the extent feasible and practicable, to those organizations, firms, and individuals residing or doing business primarily in the area affected by such major disaster.

NONDISCRIMINATION IN DISASTER ASSISTANCE

SEC. 311. (a) The President shall issue, and may alter and amend, such regulations as may be necessary for the guidance of personnel carrying out Federal assistance functions at the site of a major disaster or emergency. Such regulations shall include provisions for insuring that the distribution of supplies, the processing of applications, and other relief and assistance activities shall be accomplished in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, or economic status.

(b) As a condition of participation in the distribution of assistance or supplies under this Act or of receiving assistance under section 402 or 404 of this Act, governmental bodies and other organizations shall be required to comply with regulations relating to nondiscrimination promulgated by the President, and such other regulations applicable to activities within an area affected by a major disaster or emergency as he deems necessary for the effective coordination of relief efforts.

USE AND COORDINATION OF RELIEF ORGANIZATIONS

SEC. 312. (a) In providing relief and assistance under this Act, the President may utilize, with their consent, the personnel and facilities of the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations, in the distribution of medicine, food, supplies, or other items, and in the restoration, rehabilitation, or reconstruction of community services, housing and essential facilities, whenever the President finds that such utilization is necessary.

(b) The President is authorized to enter into agreements with the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations under which the disaster relief activities of such organizations may be coordinated by the Federal coordinating officer whenever such organizations are engaged in providing relief during and after a major disaster or emergency. Any such agreement shall include provisions assuring that use of Federal facilities, supplies, and services will be in compliance with regulations prohibiting duplication of benefits and guaranteeing non-discrimination promulgated by the President under this Act, and such other regulation as the President may require.

PRIORITY TO CERTAIN APPLICATIONS FOR PUBLIC FACILITY AND PUBLIC HOUSING ASSISTANCE

SEC. 313. (a) In the processing of applications for assistance, priority and immediate consideration shall be given by the head of the appropriate Federal agency, during such period as the President shall prescribe, to applications from public bodies situated in areas affected by major disasters, under the following Acts:

(1) title II of the Housing Amendments of 1955, or any other Act providing assistance for repair, construction, or extension of public facilities;

(2) the United States Housing Act of 1937 for the provision of low-rent housing;

(3) section 702 of the Housing Act of 1954 for assistance in public works planning;

(4) section 702 of the Housing and Urban Development Act of 1965 providing for grants for public facilities;

(5) section 306 of the Consolidated Farmers Home Administration Act;

(6) the Public Works and Economic Development Act of 1965, as amended;

(7) the Appalachian Regional Development Act of 1965, as amended; or

(8) title II of the Federal Water Pollution Control Act, as amended.

(b) In the obligation of discretionary funds or funds which are not allocated among the States or political subdivisions of a State, the Secretary of Housing and Urban Development and the Secretary of Commerce shall give priority to applications for projects in major disaster areas in which a Recovery Planning Council has been designated pursuant to title VIII of the Public Works and Economic Development Act of 1965.

INSURANCE

SEC. 314. (a) (1) An applicant for assistance under section 402 or 419 of this Act or section 803 of the Public Works and Economic Development Act of 1965, shall comply with regulations prescribed by the President to assure that, with respect to any property to be replaced, restored, repaired, or constructed with such assistance, such types and extent of insurance will be obtained and maintained as may be reasonably available, adequate, and necessary to protect against future loss to such property.

(2) In making his determination with respect to such availability, adequacy and necessity, the President shall not require greater types and extent of insurance than are certified to him as reasonable by the appropriate State insurance commissioner responsible for regulation of such insurance.

(b) No applicant for assistance under section 402 or 419 of this Act or section 803 of the Public Works and Economic Development Act of 1965, shall receive such assistance for any property or part thereof for which he has previously received assistance under this Act unless all insurance required pursuant to this section has been obtained and maintained with respect to such property.

(c) A State may elect to act as a self-insurer with respect to any or all of the facilities belonging to it. Such an election, if declared in writing at the time of accepting assistance under section 402 or 419 of this Act or section 803 of the Public Works and Economic Development Act of 1965, or subsequently, and accompanied by a plan for self-insurance which is satisfactory to the President, shall be deemed compliance with subsection (a) of this section. No such self-insurer shall receive assistance under such sections for any property or part thereof for which it has previously received assistance under this Act, to the extent that insurance for such property or part thereof would have been reasonably available.

DUPLICATION OF BENEFITS

SEC. 315. (a) The President, in consultation with the head of each Federal agency administering any program providing financial assistance to persons, business concerns, or other entities suffering losses as the result of a major disaster, shall assure that no such person, business concern, or other entity will receive such assistance with respect to any part of such loss as to which he has received financial assistance under any other program.

(b) The President shall assure that no person, business concern, or other entity receives any Federal assistance for any part of a loss suffered as the result of a major disaster if such person, concern, or entity received compensation from insurance or any other source for that part of such a loss. Partial compensation for a loss or a part of a loss resulting from a major disaster shall not preclude additional Federal assistance for any part of such a loss not compensated otherwise.

(c) Whenever the President determines (1) that a person, business concern, or other entity has received assistance under this Act for a loss and that such person, business concern or other entity received assistance for the same loss from another source, and (2) that the amount received from all sources exceeded the amount of the loss, he shall direct such person, business concern, or other entity to pay to the Treasury an amount, not to exceed the amount of Federal assistance received, sufficient to reimburse the Federal Government for that part of the assistance which he deems excessive.

REVIEWS AND REPORTS

SEC. 316. The President shall conduct annual reviews of the activities of Federal agencies and State and local governments providing disaster preparedness and assistance, in order to assure maximum coordination and effectiveness of such programs, and shall from time to time report thereon to the Congress.

CRIMINAL AND CIVIL PENALTIES

SEC. 317. (a) Any individual who fraudulently or willfully misstates any fact in connection with a request for assistance under this Act shall be fined not more than $10,000 or imprisoned for not more than one year or both for each violation.

(b) Any individual who knowingly violates any order or regulation under this Act shall be subject to a civil penalty of not more than $5,000 for each violation.

(c) Whoever knowingly misapplies the proceeds of a loan or other cash benefit obtained under any section of this Act shall be subject to a fine in an amount equal to one and one-half times the original principal amount of the loan or cash benefit.

AVAILABILITY OF MATERIALS

SEC. 318. The President is authorized, at the request of the Governor of an affected State, to provide for a survey of construction materials needed in the area affected by a major disaster on an emergency basis for housing repairs, replacement housing, public facilities repairs and replacement, farming operations, and business enterprises and to take appropriate action to assure the availability and fair distribution of needed materials, including, where possible, the allocation of such materials for a period of not more than one hundred and eighty days after such major disaster. Any allocation program shall be implemented by the President to the extent possible, by working with and through those companies which traditionally supply construction materials in the affected area. For the purposes of this section "construction materials" shall include building materials and materials required for repairing housing, replacement housing, public facilities repairs and replacement, and for normal farm and business operations.

TITLE IV—FEDERAL DISASTER ASSISTANCE PROGRAMS

FEDERAL FACILITIES

SEC. 401. (a) The President may authorize any Federal agency to repair, reconstruct, restore, or replace any facility owned by the United States and under the jurisdiction of such agency which is damaged or destroyed by any major disaster if he determines that such repair, reconstruction, restoration, or replacement is of such importance and urgency that it cannot reasonably be deferred pending the enactment of specific authorizing legislation or the making of an appropriation for such purposes, or the obtaining of congressional committee approval.

(b) In order to carry out the provisions of this section, such repair, reconstruction, restoration, or replacement may be begun notwithstanding a lack or an insufficiency of funds appropriated for such purpose, where such lack or insufficiency can be remedied by the transfer, in accordance with law, of funds appropriated to that agency for another purpose.

(c) In implementing this section, Federal agencies shall evaluate the natural hazards to which these facilities are exposed and shall take appropriate action to mitigate such hazards, including safe land-use and construction practices, in accordance with standards prescribed by the President.

REPAIR AND RESTORATION OF DAMAGED FACILITIES

SEC. 402. (a) The President is authorized to make contributions to state or local governments to help repair, restore, reconstruct, or replace public facilities belonging to such State or local governments which were damaged or destroyed by a major disaster.

(b) The President is also authorized to make grants to help repair, restore, reconstruct, or replace private nonprofit educational, utility, emergency, medical, and custodial care facilities, including those for the aged or disabled, and facilities on Indian reservations as defined by the President, which were damaged or destroyed by a major disaster.

(c) For those facilities eligible under this section which were in the process of construction when damaged or destroyed by a major disaster, the grant shall be based on the net costs of restoring such facilities substantially to their predisaster condition.

(d) For the purposes of this section, "public facility" includes any publicly owned flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, or airport facility, any non-Federal-aid street, road, or highway, any other public building, structure, or system including those used for educational or recreational purposes, and any park.

(e) The Federal contribution for grants made under this section shall not exceed 100 per centum of the net cost of repairing, restoring, reconstructing, or replacing any such facility on the basis of the design of such facility as it existed immediately prior to such disaster and in conformity with current applicable codes, specifications, and standards.

(f) In those cases where a State or local government determines that public welfare would not be best served by repairing, restoring, reconstructing, or replacing particular public facilities owned or controlled by that State or that local government which have been damaged or destroyed in a major disaster, it may elect to receive, in lieu of the contribution described in subsection (e) of this section, a contribution based on 90 per centum of the Federal estimate of the total cost of repairing, restoring, reconstructing, or replacing all damaged facilities owned by it within its jurisdiction. The cost of repairing, restoring, reconstructing, or replacing damaged or destroyed public facilities shall be estimated on the basis of the design of each such facility as it existed immediately prior to such disaster and in conformity with current applicable codes, specifications and standards. Funds contributed under this subsection may be expended either to repair or restore certain selected damaged public facilities or to construct new public facilities which the State or local government determines to be necessary to meet its needs for governmental services and functions in the disaster-affected area.

DEBRIS REMOVAL

SEC. 403. (a) The President, whenever he determines it to be in the public interest, is authorized—

(1) through the use of Federal departments, agencies, and instrumentalities, to clear debris and wreckage resulting from a major disaster from publicly and privately owned lands and water; and

(2) to make grants to any State or local government for the purpose of removing debris or wreckage resulting from a major disaster from publicly or privately owned lands and waters.

(b) No authority under this section shall be exercised unless the affected State or local government shall first arrange an unconditional authorization for removal of such debris or wreckage from public and private property, and, in the case of removal of debris or wreckage from private property, shall first agree to indemnify the Federal Government against any claim arising from such removal.

TEMPORARY HOUSING ASSISTANCE

SEC. 404. (a) The President is authorized to provide, either by purchase or lease, temporary housing, including, but not limited to, unoccupied habitable dwellings, suitable rental housing, mobile homes or other readily fabricated dwellings for those who, as a result of a major disaster, require temporary housing. During the first twelve months of occupancy no rentals shall be established for any such accommodations, and thereafter rentals shall be established, based upon fair market value of the accommodations being furnished, adjusted to take into consideration the financial ability of the occupant. Any mobile home or readily fabricated dwelling shall be placed on a site complete with utilities provided either by the State or local government, or by the owner or occupant of the site who was displaced by the major disaster, without charge to the United States. The President may authorize installation of essential utilities at Federal expense and he may elect to provide other more economical or accessible sites when he determines such action to be in the public interest.

(b) The President is authorized to provide assistance on a temporary basis in the form of mortgage or rental payments to or on behalf of individuals and families who, as a result of financial hardship caused by a major disaster, have received written notice of dispossession or eviction from a residence by reason of foreclosure of any mortgage or lien, cancellation of any contract of sale, or termination of any lease, entered into prior to such disaster. Such assistance shall be provided for a period of not to exceed one year or for the duration of the period of financial hardship, whichever is the lesser.

(c) In lieu of providing other types of temporary housing after a major disaster, the President is authorized to make expenditures for the purpose of repairing or restoring to a habitable condition owner-occupied private residential structures made uninhabitable by a major disaster which are capable of being restored quickly to a habitable condition with minimal repairs. No assistance provided under this section may be used for major reconstruction or rehabilitation of damaged property.

(d) (1) Notwithstanding any other provision of law, any temporary housing acquired by purchase may be sold directly to individuals and families who are occupants of temporary housing at prices that are fair and equitable, as determined by the President.

(2) The President may sell or otherwise make available temporary housing units directly to States, other governmental entities, and voluntary organizations. The President shall impose as a condition of transfer under this paragraph a covenant to comply with the provisions of section 311 of this Act requiring nondiscrimination in occupancy of such temporary housing units. Such disposition shall be limited to units purchased under the provisions of subsection (a) of this section and to the purposes of providing temporary housing for disaster victims in emergencies or in major disasters.

PROTECTION OF ENVIRONMENT

SEC. 405. No action taken or assistance provided pursuant to sections 305, 306, or 403 of this Act, or any assistance provided pursuant to section 402 or 419 of this Act that has the effect of restoring facilities substantially as they existed prior to the disaster, shall be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 852). Nothing in this section shall alter or affect the applicability of the National Environmental Policy Act of 1969 (83 Stat. 852) to other Federal actions taken under this Act or under any other provision of law.

MINIMUM STANDARDS FOR PUBLIC AND PRIVATE STRUCTURES

SEC. 406. As a condition of any disaster loan or grant made under the provisions of this Act, the recipient shall agree that any repair or construction to be financed therewith shall be in accordance with applicable standards of safety, decency, and sanitation and in conformity with applicable codes, specifications, and standards, and shall furnish such evidence of compliance with this section as may be required by regulation. As a further condition of any loan or grant made under the provisions of this Act, the State or local government shall agree that the natural hazards in the areas in which the proceeds of the grants or loans are to be used shall be evaluated and appropriate action shall be taken to mitigate such hazards, including safe land-use and construction practices, in accordance with standards prescribed or approved by the President after adequate consultation with the appropriate elected officials of general purpose local governments, and the State shall furnish such evidence of compliance with this section as may be required by regulation.

UNEMPLOYMENT ASSISTANCE

SEC. 407. (a) The President is authorized to provide to any individual unemployed as a result of a major disaster such benefit assistance as he deems appropriate while such individual is unemployed. Such assistance as the President shall provide shall be available to an individual as long as the individual's unemployment caused by the major disaster continues or until the individual is reemployed in a suitable position, but no longer than one year after the major disaster is declared. Such assistance for a week of unemployment shall not exceed the maximum weekly amount authorized under the unemployment compensation law of the State in which the disaster occurred, and the amount of assistance under this section to any such individual for a week of unemployment shall be reduced by any amount of unemployment compensation or of private income protection insurance compensation available to such individual for such week of unemployment. The President is directed to provide such assistance through agreements with States which, in his judgment, have an adequate system for administering such assistance through existing State agencies.

(b) The President is further authorized for the purposes of this Act to provide reemployment assistance services under other laws to individuals who are unemployed as a result of a major disaster.

INDIVIDUAL AND FAMILY GRANT PROGRAMS

SEC. 408. (a) The President is authorized to make a grant to a State for the purpose of such State making grants to meet disaster-related necessary expenses or serious needs of individuals or families adversely affected by a major disaster in those cases where such individuals or families are unable to meet such expenses or needs through assistance under other provisions of this Act, or from other means. The Governor of a State shall administer the grant program authorized by this section.

(b) The Federal share of a grant to an individual or a family under this section shall be equal to 75 per centum of the actual cost of meeting such an expense or need and shall be made only on condition that the remaining 25 per centum of such cost is paid to such individual or family from funds made available by a State. Where a State is unable immediately to pay its share, the President is authorized to advance to such State such 25 per centum share, and any such advance is to be repaid to the United States when such State is able to do so. No individual and no family shall receive any grant or grants under this section aggregating more than $5,000 with respect to any one major disaster.

(c) The President shall promulgate regulations to carry out this section and such regulations shall include national criteria, standards, and procedures for the determination of eligibility for grants and the administration of grants made under this section.

(d) A State may expend not to exceed 3 per centum of any grant made by the President to it under subsection (a) of this section for expenses of administering grants to individuals and families under this section.

(e) Ths section shall take effect as of April 20, 1973.

FOOD COUPONS AND DISTRIBUTION

SEC. 409. (a) Whenever the President determines that, as a result of a major disaster, low-income households are unable to purchase adequate amounts of nutritious food, he is authorized, under such terms and conditions as he may prescribe, to distribute through the Secretary of Agriculture or other appropriate agencies coupon allotments to such households pursuant to the provisions of the Food Stamp Act of 1964 (P.L. 91–671; 84 Stat. 2048) and to make surplus commodities available pursuant to the provisions of this Act.

(b) The President, through the Secretary of Agriculture or other appropriate agencies, is authorized to continue to make such coupon allotments and surplus commodities available to such households for so long as he determines necessary, taking into consideration such factors as he deems appropriate, including the consequences of the major disaster on the earning power of the households, to which assistance is made available under this section.

(c) Nothing in this section shall be construed as amending or otherwise changing the provisions of the Food Stamp Act of 1964 except as they relate to the availability of food stamps in an area affected by a major disaster.

FOOD COMMODITIES

SEC. 410. (a) The President is authorized and directed to assure that adequate stocks of food will be ready and conveniently available for emergency mass feeding or distribution in any area of the United States which suffers a major disaster or emergency.

(b) The Secretary of Agriculture shall utilize funds appropriated under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), to purchase food commodities necessary to provide adequate supplies for use in any area of the United States in the event of a major disaster or emergency in such area.

RELOCATION ASSISTANCE

SEC. 411. Notwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646) shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by such Act.

LEGAL SERVICES

SEC. 412. Whenever the President determines that low-income individuals are unable to secure legal services adequate to meet their needs as a consequence of a major disaster, consistent with the goals of the programs authorized by this Act, the President shall assure that such programs are conducted with the advice and assistance of appropriate Federal agencies and State and local bar associations.

CRISIS COUNSELING ASSISTANCE AND TRAINING

SEC. 413. The President is authorized (through the National Institute of Mental Health) to provide professional counseling services, including financial assistance to State or local agencies or private mental health organizations to provide such services or training of disaster workers, to victims of major disasters in order to relieve mental health problems caused or aggravated by such major disaster or its aftermath.

COMMUNITY DISASTER LOANS

SEC. 414. (a) The President is authorized to make loans to any local government which may suffer a substantial loss of tax and other revenues as a result of a major disaster, and has demonstrated a need for financial assistance in order to perform its governmental functions. The amount of any such loan shall be based on need, and shall not exceed 25 per centum of the annual operating budget of that local government for the fiscal year in which the major disaster occurs. Repayment of all or any part of such loan to the extent that revenues of the local government during the three full fiscal year period following the major disaster are insufficient to meet the operating budget of the local government, including additional disaster-related expenses of a municipal operation character shall be cancelled.

(b) Any loans made under this section shall not reduce or otherwise affect any grants or other assistance under this Act.

(c)(1) Subtitle C of title I of the State and Local Fiscal Assistance Act of 1972 (P.L. 92–512; 86 Stat. 919) is amended by adding at the end thereof the following new section:

"Sec. 145. Entitlement Factors Affected by Major Disasters

"In the administration of this title the Secretary shall disregard any change in data used in determining the entitlement of a State government or a unit of local government for a period of 60 months if that change—

"(1) results from a major disaster determined by the President under section 301 of the Disaster Relief Act of 1974, and

"(2) reduces the amount of the entitlement of that State government or unit of local government.".

(2) The amendment made by this section takes effect on April 1, 1974.

EMERGENCY COMMUNICATIONS

SEC. 415. The President is authorized during, or in anticipation of, an emergency or major disaster to establish temporary communications systems and to make such communications available to State and local government officials and other persons as he deems appropriate.

EMERGENCY PUBLIC TRANSPORTATION

SEC. 416. The President is authorized to provide temporary public transportation service in an area affected by a major disaster to meet emergency needs and to provide transportation to governmental offices, supply centers, stores, post offices, schools, major employment centers, and such other places as may be necessary in order to enable the community to resume its normal pattern of life as soon as possible.

FIRE SUPPRESSION GRANTS

SEC. 417. The President is authorized to provide assistance, including grants, equipment, supplies, and personnel, to any State for the suppression of any fire on publicly or privately owned forest or grassland which threatens such destruction as would constitute a major disaster.

TIMBER SALE CONTRACTS

SEC. 418. (a) Where an existing timber sale contract between the Secretary of Agriculture or the Secretary of the Interior and a timber purchaser does not provide relief from major physical change not due to negligence of the purchaser prior to approval of construction of any section of specified road or of any other specified development facility and, as a result of a major disaster, a major physical change results in additional construction work in connection with such road or facility by such purchaser with an estimated cost, as determined by the appropriate Secretary, (1) of more than $1,000 for sales under one million board feet, (2) of more than $1 per thousand board feet for sales of one to three million board feet, or (3) of more than $3,000 for sales over three million board feet, such increased construction cost shall be borne by the United States.

(b) If the appropriate Secretary determines that damages are so great that restoration, reconstruction, or construction is not practical under the cost-sharing arrangement authorized by subsection (a) of this section, he may allow cancellation of a contract entered into by his Department notwithstanding contrary provisions therein.

(c) The Secretary of Agriculture is authorized to reduce to seven days the minimum period of advance public notice required by the first section of the Act of June 4, 1897 (16 U.S.C. 476), in connection with the sale of timber from national forests, whenever the Secretary determines that (1) the sale of such timber will assist in the construction of any area of a State damaged by a major disaster, (2) the sale of such timber will assist in sustaining the economy of such area, or (3) the sale of such timber is necessary to salvage the value of timber damaged in such major disaster or to protect undamaged timber.

(d) The President, when he determines it to be in the public interest, is authorized to make grants to any State or local government for the purpose of removing from privately owned lands timber damaged as a result of a major disaster, and such State or local government is authorized upon application, to make payments out of such grants to any person for reimbursement of expenses actually incurred by such person in the removal of damaged timber, not to exceed the amount that such expenses exceed the salvage value of such timber.

IN-LIEU CONTRIBUTION

SEC. 419. In any case in which the Federal estimate of the total cost of (1) repairing, restoring, reconstructing, or replacing, under section 402, all damaged or destroyed public facilities owned by a State or local government within its jurisdiction, and (2) emergency assistance under section 306 and debris removal under section 403, is less than $25,000, then on application of a State or local government, the President is authorized to make a contribution to such State or local government under the provisions of this section in lieu of any contribution to such State or local government under section 306, 402, or 403. Such contribution shall be based on 100 per centum of such total estimated cost, which may be expended either to repair, restore, reconstruct, or replace all such damaged or destroyed public facilities, to repair, restore, reconstruct, or replace certain selected damaged or destroyed public facilities, to construct new public facilities which the State or local government determines to be necessary to meet its needs for governmental services and functions in the disaster-affected area, or to undertake disaster work as authorized in section 306 or 403. The cost of repairing, restoring, reconstructing, or replacing damaged or destroyed public facilities shall be estimated on the basis of the design of each such facility as it existed immediately prior to such disaster and in conformity with current applicable codes, specifications and standards.

TITLE V—ECONOMIC RECOVERY FOR DISASTER AREAS

AMENDMENT TO PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1965

SEC. 501. The Public Works and Economic Development Act of 1965, as amended, is amended by adding at the end thereof the following new title:

"TITLE VIII—ECONOMIC RECOVERY FOR DISASTER AREAS

"PURPOSE OF TITLE

"SEC. 801. (a) It is the purpose of this title to provide assistance for the economic recovery, after the period of emergency aid and replacement of essential facilities and services, of any major disaster area which has suffered a dislocation of its economy of sufficient severity to require (1) assistance in planning for development to replace that lost in the major disaster; (2) continued coordination of assistance available under Federal-aid programs; and (3) continued assistance toward the restoration of the employment base.

"(b) As used in this title, the term 'major disaster' means a major disaster declared by the President in accordance with the Disaster Relief Act of 1974.

"DISASTER RECOVERY PLANNING

"SEC. 802. (a) (1) In the case of any area affected by a major disaster the Governor may request the President for assistance under this title. The Governor, within thirty days after authorization of such assistance by the President, shall designate a Recovery Planning Council for such area or for each part thereof.

"(2) Such Recovery Planning Council shall be composed of not less than five members, a majority of whom shall be local elected officials of political subdivisions within the affected areas, at least one representative of the State, and a representative of the Federal Government appointed by the President in accordance with paragraph (3) of this subsection. During the major disaster, the Federal coordinating officer shall also serve on the Recovery Planning Council.

"(3) The Federal representative on such Recovery Planning Council may be the Chairman of the Federal Regional Council for the affected area, or a member of the Federal Regional Council designated by the Chairman of such Regional Council. The Federal representative on such Recovery Planning Council may be the Federal Cochairman of the Regional Commission established pursuant to title V of this Act, or the Appalachian Regional Development Act of 1965, or his designee, where all of the area affected by a major disaster is within the boundaries of such Commission.

"(4) The Governor may designate an existing multijurisdictional organization as the Recovery Planning Council where such organization complies with paragraph (2) of this subsection with the addition of State and Federal representatives except that if all or part of an area affected by a major disaster is within the jurisdiction of an existing mutlijurisdictional organization established under title IV of this Act or title III of the Appalachian Regional Development Act of 1965, such organization, with the addition of State and Federal representatives in accordance with paragraph (2) of this subsection, shall be designated by the Governor as the Recovery Planning Council. In any case in which such title III or IV organization is designated as the Recovery Planning Council under this paragraph, some local elected officials of political subdivisions within the affected areas must be appointed to serve on such Recovery Planning Council. Where possible, the organization designated as the Recovery Planning Council shall be or shall be subsequently designated as the appropriate agency required by section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334) and by the Intergovernmental Cooperation Act of 1968 (P.L. 90-577; 82 Stat. 1098).

"(5) The Recovery Planning Council shall include private citizens as members to the extent feasible, and shall provide for and encourage public participation in its deliberations and decisions.

"(b) The Recovery Planning Council (1) shall review existing plans for the affected area; and (2) may recommend to the Governor and responsible local governments such revisions as it determines necessary for the economic recovery of the area, including the development of new plans and the preparation of a recovery investment plan for the 5-year period following the declaration of the major disaster. The Recovery Planning Council shall accept as one element of the recovery investment plan determinations made under section 402(f) of the Disaster Relief Act of 1974.

"(c) (1) A recovery investment plan prepared by a Recovery Planning Council may recommend the revision, deletion, reprograming, or additional approval of Federal-aid projects and programs within the area—

"(A) for which application has been made but approval not yet granted;

"(B) for which funds have been obligated or approval granted but construction not yet begun;

"(C) for which funds have been or are scheduled to be apportioned within the five years after the declaration of the disaster;

"(D) which may otherwise be available to the area under any State schedule or revised State schedule of priorities; or

"(E) which may reasonably be anticipated as becoming available under existing programs.

"(2) Upon the recommendation of the Recovery Planning Council and the request of the Governor, any funds for projects or programs identified pursuant to paragraph (1) of this subsection may, to any extent consistent with appropriation Acts, be placed in reserve by the responsible Federal agency for use in accordance with such recommendations. Upon the request of the Governor and with the concurrence of affected local governments, such funds may be transferred to the Recovery Planning Council to be expended in the implementation of the recovery investment plan, except that no such transfer may be made unless such expenditure is for a project or program for which such funds originally were made available by an appropriation Act.

"PUBLIC WORKS AND DEVELOPMENT FACILITIES GRANTS AND LOANS

"SEC. 803. (a) The President is authorized to provide funds to any Recovery Planning Council for the implementation of a recovery investment plan by public bodies. Such funds may be used—

"(1) to make loans for the acquisition or development of land and improvements for public works, public service, or development facility usage, including the acquisition or development of parks or open spaces, and the acquisition, construction, rehabilitation, alteration, expansion, or improvement of such facilities, including related machinery and equipment, and

"(2) to make supplementary grants to increase the Federal share for projects for which funds are reserved pursuant to subsection (c) (2) of section 802 of this Act, or other Federal-aid projects in the affected area.

"(b) Grants and loans under this section may be made to any State, local government, or private or public nonprofit organization representing any area or part thereof affected by a major disaster.

"(c) No supplementary grant shall increase the Federal share of the cost of any project to greater than 90 per centum, except in the case of a grant for the benefit of Indians or Alaska Natives, or in the case of any State or local government which the President determines has exhausted its effective taxing and borrowing capacity.

"(d) Loans under this section shall bear interest at a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum, less 1 per centum per annum.

"(e) Financial assistance under this title shall not be extended to assist establishments relocating from one area to another or to assist subcontractors whose purpose is or local government which the President dependent upon divesting, other contractors, or subcontractors, of contracts theretofore customarily performed by them. Such limitations shall not be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity if the Secretary of Commerce finds that the establishment of such branch, affiliate, or subsidiary will not result in an increase in unemployment of the area of original location, or in any other area where such entity conducts business operations, unless the Secretary has reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

"LOAN GUARANTEES

"SEC. 804. The President is authorized to provide funds to Recovery Planning Councils to guarantee loans made to private borrowers by private lending institutions (1) to aid in financing any project within an area affected by a major disaster for the purchase or development of land and facilities (including machinery and equipment) for industrial or commercial usage including the construction of new buildings, and rehabilitation of abandoned or unoccupied buildings, and the alteration, conversion, or enlargement of existing buildings; and (2) for working capital in connection with projects in areas assisted under paragraph (1), upon application of such institution and upon such terms and conditions as the President may prescribe. No such guarantee shall at any time exceed 90 per centum of the amount of the outstanding unpaid balance of such loan.

"TECHNICAL ASSISTANCE

"SEC. 805. (a) In carrying out the purposes of this title the President is authorized to provide technical assistance which would be useful in facilitating economic recovery in areas affected by major disasters. Such assistance shall include project planning and feasibility studies, management and operational assistance, and studies evaluating the needs of, and developing potentialities for, economic recovery of such areas. Such assistance may be provided by the President directly, through the payment of funds authorized for this title to other departments or agencies of the Federal Government, through the employment of private individuals, partnerships, firms, corporations, or suitable institutions, under contracts entered into for such purposes, or through grants-in-aid to appropriate public or private nonprofit State, area, district, or local organizations.

"(b) The President is authorized to make grants to defray not to exceed 75 per centum of the administrative expenses of Recovery Planning Councils designated pursuant to section 802 of this Act. In determining the amount of the non-Federal share of such costs or expenses, the President shall give due consideration to all contributions both in cash and in kind, fairly evaluated, including but not limited to space, equipment, and services. Where practicable, grants-in-aid authorized under this subsection shall be used in conjunction with other available planning grants, to assure adequate and effective planning and economical use of funds.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 806. There is authorized to be appropriated not to exceed $250,000,000 to carry out this title.".

TITLE VI—MISCELLANEOUS

AUTHORITY TO PRESCRIBE RULES

SEC. 601. The President may prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this Act, and he may exercise any power or authority conferred on him by any section of this Act either directly or through such Federal agency or agencies as he may designate.

TECHNICAL AMENDMENTS

SEC. 602. (a) Section 701(a)(3)(B)(ii) of the Housing Act of 1954 (40 U.S.C. 461(a)(3)(B)(ii) is amended to read as follows: "(ii) have suffered substantial damage as a result of a major disaster as declared by the President pursuant to the Disaster Relief Act of 1974;".

(b) Section 8(b)(2) of the National Housing Act (12 U.S.C. 1706c(b)(2)) is amended by striking out of the last proviso "section 102(1) of the Disaster Relief Act of 1970" and inserting in lieu thereof "sections 102(2) and 301 of the Disaster Relief Act of 1974".

(c) Section 203(h) of the National Housing Act (12 U.S.C. 1709(h)) is amended by striking out "section 102(1) of the Disaster Relief Act of 1970" and inserting in lieu thereof "sections 102(2) and 301 of the Disaster Relief Act of 1974".

(d) Section 221(f) of the National Housing Act (12 U.S.C. 1715l(f)) is amended by striking out of the last paragraph "the Disaster Relief Act of 1970" and inserting in lieu thereof "the Disaster Relief Act of 1974".

(e) Section 7(a)(1)(A) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress, as amended; 20 U.S.C. 241-(a)(1)(A)), is amended by striking out "pursuant to section 102(1) of the Disaster Relief Act of 1970" and inserting in lieu thereof "pursuant to sections 102(2) and 301 of the Disaster Relief Act of 1974".

(f) Section 16(a) of the Act of September 23, 1950 (79 Stat. 1158; 20 U.S.C. 646(a)) is amended by striking out "section 102(1) of the Disaster Relief Act of 1970" and inserting in lieu thereof "sections 102(2) and 301 of the Disaster Relief Act of 1974".

(g) Section 408(a) of the Higher Education Facilities Act of 1963 (20 U.S.C. 758(a)) is amended by striking out "section 102(1) of the Disaster Relief Act of 1970" and inserting in lieu thereof "sections 102(2) and 301 of the Disaster Relief Act of 1974".

(h) Section 165(h) of the Internal Revenue Code of 1954, relating to disaster losses (26 U.S.C. 165(h)) is amended by striking out "1970" and inserting in lieu thereof "1974".

(i) Section 5064(a) of the Internal Revenue Code of 1954 (26 U.S.C. 5064(a)), relating to losses caused by disaster, is amended by striking out "the Disaster Relief Act of 1970" and inserting in lieu thereof "the Disaster Relief Act of 1974".

(j) Section 5708(a) of the Internal Revenue Code of 1954 (26 U.S.C. 5708(a)), relating to losses caused by disaster, is amended by striking out "the Disaster Relief Act of 1970" and inserting in lieu thereof "the Disaster Relief Act of 1974".

(k) Section 3 of the Act of June 30, 1954 (68 Stat. 330, as amended by 82 Stat. 1213; 48 U.S.C. 1681 nt.), is amended by striking out of the last sentence "section 102(1) of the Disaster Relief Act of 1970" and inserting in lieu thereof "sections 102(2) and 301 of the Disaster Relief Act of 1974".

(l) Section 1820(f) of title 38, United States Code, is amended by striking "the Disaster Assistance Act of 1970" and inserting in lieu thereof "the Disaster Relief Act of 1974".

(m) Whenever reference is made in any provision of law (other than this Act), regulation, rule, record, or document of the United States to provisions of the Disaster Relief Act of 1970 (84 Stat. 1744), repealed by this Act such reference shall be deemed to be a reference to the appropriate provision of this Act.

REPEAL OF EXISTING LAW

SEC. 603. The Disaster Relief Act of 1970, as amended (84 Stat. 1744), is hereby repealed, except sections 231, 233, 234, 235, 236, 237, 301, 302, 303, and 304. Notwithstanding such repeal the provisions of the Disaster Relief Act of 1970 shall continue in effect with respect to any major disaster declared prior to the enactment of this Act.

PRIOR ALLOCATION OF FUNDS

SEC. 604. Funds heretofore appropriated and available under Public Laws 91-606, as amended, and 92-385 shall continue to be available for the purpose of providing assistance under those Acts as well as for the purposes of this Act.

EFFECTIVE DATE

SEC. 605. Except for section 408, this Act shall take effect as of April 1, 1974.

AUTHORIZATION OF APPROPRIATIONS

SEC. 606. Except as provided by the amendment made by section 501, there are authorized to be appropriated to the President such sums as may be necessary to carry out this Act through the close of June 30, 1977.

And the House agree to the same.

Quentin Burdick,
Dick Clark,
J. R. Biden,
Jennings Randolph,
Pete V. Domenici,
James Buckley,
Howard Baker,
Managers on the Part of the Senate.

Robert E. Jones,
Ray Roberts,
Harold T. Johnson,
Wm. H. Harsha,
Gene Snyder,
Managers on the Part of the House.

Mr. BURDICK. Mr. President, I am pleased to submit to the Senate the report and the joint explanatory statement of the committee of conference on S. 3062, the Disaster Relief Act of 1974. The differences in the Senate and House versions of the bill have been resolved by the conferees and I ask unanimous consent for its immediate consideration.

On April 10 the Senate passed S. 3062 without amendment in the form reported by the Committee on Public Works. The following day the House of Representatives, lacking time to study the Senate bill thoroughly before recessing that night, passed only one section of S. 3062, section 408, in a modified form as a substitute.

During the congressional recess staff members of both Senate and House committees met several times to review the provisions of S. 3062. On Thursday, April 25, after careful consideration of all questions raised during a lengthy session, the conference committee agreed to the report which is now being submitted.

A large portion of the bill was approved by the conferees without any change in the Senate-passed version. About 30 of the approximate 50 sections in the conference report are identical with those in the Senate version of S. 3062, and comparatively minor changes in language are proposed in another dozen or so sections. While significant substantive modifications recommended by the committee appear in only seven or eight sections of the bill, it is my purpose today to explain these briefly and to note a few other changes of lesser importance.

FARM FENCING (SECTION 302)

A new subsection (c) has been added to section 302 authorizing payment under the emergency conservation program for the repair, restoration, reconstruction, or replacement of farm fencing damaged or destroyed by a major disaster. This recommendation is in line with the long-time authority of the Department of Agriculture to make 80 percent Federal cost-sharing payments to farmers for rehabilitation of farmlands damaged by natural disasters. On March 12, 1974, an administrative order eliminated payments for farm fencing damaged or destroyed in disasters, so that the extensive loss of farm fence caused by widespread tornadoes in the first week of April are not now eligible for such payments.

Remedial action on this matter was requested by the Senate Committee on Agriculture and the conference substitute was fully endorsed by all conferees. As pointed out in the report, the conferees believe that replacement of fencing is essential in order to return disaster-damaged farmland to productive agriculture use. In addition, the conferees are strongly urging the Department of Agriculture to coordinate its disaster debris clearance activities with those of the Federal Disaster Assistance Administration.

INSURANCE (SECTION 314)

At the request of the House conferees, the Senate members agreed to a substitute for section 314 which will limit to public facilities application of the requirement that insurance protection must be acquired for property damaged in a major disaster for which Federal assistance has been provided. As adopted by the Senate this section originally stipulated that applicants for assistance under the Disaster Relief Act would have to obtain any reasonably available, adequate and necessary insurance to protect against future losses any property which had been repaired or reconstructed with Federal help. The bill also provided that any property for which such disaster aid has been made available would not be eligible for future disaster assistance unless the required insurance had been obtained and maintained.

The effect of the new substitute is to prohibit any requirement under this act for the purchase of insurance for property owned by private individuals, including homes and businesses. Publicly owned facilities, however, must meet this insurance requirement. The conferees retained the provision in the Senate bill authorizing a State to act as a self-insurer with respect to its own facilities, but clarified this section to make sure that the State's self-insurance plan is satisfactory to the President.

REPAIR AND RESTORATION OF DAMAGED FACILITIES (SECTION 402)

Three changes were made in section 402 providing Federal assistance for the repair and restoration of damaged facilities. Subsection (g), which authorizes block grants to jurisdictions having public facility damage totaling no more than $25,000, was deleted and shifted to a new expanded section 419 entitled "In-Lieu Contribution."

The Senate-passed bill restricted block grants of this type to those situations in which total estimated disaster damage to public facilities did not exceed $25,000. The conference substitute broadened this to include the cost of emergency assistance under section 306 and of debris removal in section 403 in addition to expenditures for public facilities under section 402.

The purpose of this approach is to help reduce the number of separate applications for disaster assistance and to eliminate costly oversight, review, and auditing of many smaller individual projects. The new section permits greater flexibility in the management of repair work and debris clearance where the total loss is comparatively small and should reduce burdensome recordkeeping and auditing. By including emergency assistance rendered under section 306 in section 419, however, it should be emphasized that there is no intention to reduce Federal aid which would be otherwise provided under section 306.

A minor change in language was inserted in section 402 also to make clear that, under the 90-percent alternative option, the estimate of cost for repair or replacement of damaged public facilities will be made by the Federal Government. Also, the definition of "public facility" in section 402 was revised slightly to make sure that a public park would be unquestionably within its meaning.

DISASTER EXPENSE GRANTS (SECTION 498)

As noted earlier, the only provision of S. 3062 passed by the House of Representatives was section 408, authorizing grants to States to be used for disaster expense payments to persons adversely affected by a major disaster. Although based largely on the Senate bill, the House version differed in two important respects. First, it proposed that a 25 percent matching share must be paid from funds made available by either a State or a political subdivision of a State, whereas the Senate bill merely authorized a grant of 75 percent to States for this purpose without specifically requiring a matching grant. Second, if a State or political subdivision is unable to pay its share immediately, the House bill authorized the President to advance the 25 percent matching funds with repayment to be made to the United States later when the State or political subdivision is able to do so.

The Senate conferees agreed to the language mandating a matching payment of 25 percent but insisted on eliminating specific mention of a "political subdivision" as an alternative source for these funds. The conference substitute, by omitting reference to a political subdivision in this context, indicates that the Federal Government should negotiate directly and exclusively with the States for this purpose. However, it is not intended to preclude voluntary contributions or other arrangements whereby local governments may assist States in furnishing the 25 matching share for disaster expense grants.

The Senate concurred in the proviso authorizing the President to advance the 25 percent State matching share in those cases where the latter is unable to provide those funds immediately. This should help avoid delays in implementing the program in States suffering major disasters before legislative appropriations have been made for this purpose.

The conference substitute also provides that section 408 will be effective as of April 20, 1973, rather than April 1, 1974, which is the effective date of the rest of the bill. Although neither the House nor the Senate version of S. 3062 contained this retroactive feature, an amendment designed to achieve this same goal was tabled by a narrow vote, 49–40, in the Senate on April 10. Moreover, in the debate during House passage strong sentiment was expressed in favor of making this section applicable on the earlier date and promises were exacted that serious efforts would be made to secure conference agreement on retroactivity.

The argument in favor of applying section 402 to all major disasters which have occurred since April 20, 1973, is that otherwise the new bill would create a gap of nearly a year during which disaster victims would have received inequitable treatment. With the enactment after Hurricane Agnes of Public Law 92–385 on August 16, 1972, Congress lowered the interest rate on SBA and FHA disaster loans to 1 percent and doubled the amount of forgiveness or cancellation on these loans to $5,000. Although these features were not scheduled to expire until July 1, 1973, an act (P.L. 93–24) raising interest rates on SBA and FHA disaster loans to 5 percent, and eliminating the forgiveness or cancellation feature was approved the preceding April 20.

Although the personal grant authorization for disaster-related expenses in section 408 of S. 3062 is not intended to be a replacement for the forgiveness feature of SBA and FHA disaster loans, it nevertheless recognizes and attempts to fulfill needs which in some cases may be very similar. After thorough consideration the conferees agreed that justice might best be served by making benefits under section 408 available to the extent possible to all eligible persons subjected to major disasters since April 20, 1973.

Because of difficulties in evaluating individual disaster-related expenses or needs and in administering the program many months after a disaster has occurred, Senate conferees were reluctant to concur in this determination. In recommending this action the conferees realize that its effectiveness will be limited by the ability and the willingness of the States to participate fully and by the alleviation of financial burdens with the passage of time.

Nevertheless, on balance, it is believed that the conference substitute will provide an opportunity to assist through personal grants the needs of a number of disaster victims who otherwise would not be entitled to benefits comparable to those received by other citizens earlier or under the new bill as passed by the Senate.

LEGAL SERVICES (SECTION 412)

Although the Disaster Relief Act of 1970 appeared to provide assistance in section 239 for low-income individuals unable to secure legal services adequate to meet needs caused by a disaster, its effect has been relatively unimportant. The language of section 239 merely authorized the Director of the Office of Emergency Preparedness to "assure that such programs are conducted with the advice and assistance of appropriate Federal agencies and State and local bar associations" without specifically guaranteeing that such services would be provided.

As a result of requests made by witnesses during hearings held by the Senate Subcommittee on Disaster Relief, the Senate bill strengthened the language of this section by directing the President to assure that "such legal services as may be needed" by low-income individuals would be made available. The Senate bill also stated that, "whenever feasible," such programs would be conducted with the advice and assistance of appropriate Federal agencies and State and local bar associations.

The House conferees protested strongly against the modifications proposed in the legal services program by the Senate bill and insisted on retaining the basic language of the 1970 act dealing with this matter. After prolonged debate the Senate conferees acceded to the House demands. The conference substitute for section 402 is identical with the language of section 239 of Public Law 91–606, except that the word "President" has been substituted for that of "Director" where the latter appears twice in the text.

COMMUNITY DISASTER LOANS (SECTION 414)

The community disaster loan program authorized by section 414 of the Senate bill is changed by the conference substitute in only one respect: language has been added to make mandatory rather than optional the cancellation of repayment of all or any part of any such loan to the extent that revenues of the local government receiving the loan are not sufficient to meet local operating budgets during the following 3 fiscal years.

This alteration is not contrary to the original purpose of section 414, which was to provide an immediate source of funds to disaster stricken communities in need, enabling them to maintain essential governmental services and to finance additional disaster-caused activities during a period of declining income. Although the Senate bill had merely authorized the President to cancel repayment where justified by loss of revenues, it was expected that cancellation would be carried out rather routinely in such cases. The new language thus will strengthen this intent and assure application of this practice on a regular basis.

The conferees agreed also, as is pointed out in the statement of managers, that as used in section 414 the meaning of word "revenues" is intended to include revenues from publicly owned utilities.

ECONOMIC RECOVERY FOR DISASTER AREA (TITLE V)

While retaining the basic purposes, authority, and administrative machinery proposed for economic recovery in major disaster areas by title V of S. 3602, the conference substitute makes several changes worth noting.

A new subsection is added to the Public Works and Development Act of 1965 defining a major disaster for purposes of that act to be a major disaster declared by the President in accordance with the Disaster Relief Act of 1974. It is made clear also that the Governor may request the President for assistance under this title for any area in his State affected by a major disaster.

In those instances where a Governor designates an existing multijurisdictional organization to be the recovery planning council, additional language, has been inserted which assures that, if the area is within the jurisdiction of an existing multijurisdictional organization established under either the Public Works and Economic Development Act of 1965 or the Appalachian Regional Development Act of 1965, such latter organization will be designated as the recovery planning council. Furthermore, under these circumstances it is required that some local elected officials of political subdivisions within the affected disaster areas must be appointed to serve on the designated organization.

Significant qualifying language was added by the conference substitute to section 802(c), which authorizes the recovery planning council, the Governor and local governments under certain conditions to place in reserve and to transfer funds for various Federal-aid projects and programs. Phrases have been added to the Senate-passed bill stipulating that funds may be placed in reserve only to the extent permitted by and consistent with appropriation acts and that no such funds can be transferred to the recovery planning council for expenditure to implement a recovery investment plan unless that expenditure will be for a project or program for which such funds were originally made available by an appropriation act. Although these limitations will to some extent restrict the options available in carrying out locally developed recovery investment plans, the conferees agreed that constitutional and statutory procedures inherent in the appropriation process made them necessary.

Because of objections raised by House Members to the establishment in section 806 of a disaster recovery revolving fund of $200 million, this section and all references to the fund are deleted in the conference substitute. Instead, the Members agreed to finance economic recovery for major disaster areas through a $250,000,000 authorization and appropriation made by Congress.

OTHER CHANGES OF LESSER SIGNIFICANCE

The conferees are recommending a number of less significant changes throughout various sections of the bill.

The conference substitute provides that the short title by which this legislation may be cited is the Disaster Relief Act of 1974 rather than the Disaster Relief Act Amendments of 1974 as provided by the Senate bill.

The definition of emergency and of major disaster in section 102 is amended by inserting the word "mudslide" as an additional cause in the list of reasons for which the President may extend either emergency or major disaster assistance, and the phrase "or quasi-public entity" has been deleted from subsection (f) of that section.

The purposes for which a State may use the $250,000 Federal grant for the preparation of disaster plans is broadened in the conference substitute to include disaster prevention as well as disaster preparedness by adding the words "and prevention" at the end of the first sentence in section 201(c).

The words "threatened or imminent" appearing in subsections (c) and (d) of section 202 are deleted in the conference substitute as superfluous in the context of that section.

The requirement in section 302 of the Senate bill that all assistance rendered under the act must be provided pursuant to a Federal-State disaster agreement unless specifically waived by the President is not included in the conference substitute.

The conference substitute adds the word "property" to section 305, thus authorizing the President to provide assistance in an emergency for the protection of property in addition to saving lives and protecting health and safety. The conferees pointed out in the statement of managers that this change will make it clear that assistance can be provided to help protect livestock from disasters.

A new subsection (b) in section 306, added to the conference substitute, declares that any emergency work performed under that section does not preclude Federal assistance under any other provision of the Disaster Relief Act. This language is almost identical with section 203(b) of Public Law 91–606 which had been inadvertently eliminated in previous printings of the bill.

The authority conferred by section 309 of the Senate bill on any Federal agency to incur disaster relief obligations "when directed by the President without regard to the availability of funds" is modified by the conference substitute to incur obligations "in such amount as may be made available to it by the President." The latter phraseology is identical with that used previously in section 203(e) of Public Law 91–606.

The words "by the head of the appropriate Federal agency" are inserted by the conference substitute in section 313 which directs that priority should be given to applications for public facility and housing assistance in major disaster areas.

The provision in section 317(c) of the Senate bill making any person who wrongfully misapplies the proceeds of a disaster loan or cash benefit civilly liable to the Federal Government in an amount equal to 1½ times the original loan or benefit is changed in the conference substitute to constitute a criminal offense with a fine in the same amount.

The definition of "construction materials" in section 318 of the Senate bill is broadened in the conference substitute to include also materials used for the replacement of public facilities.

The authority of the President in section 406 to "prescribe" standards for the mitigation of natural hazards in areas where disaster loans or grants are to be used is broadened by the conference substitute to enable him also to "approve" standards for such purposes.

At the request of the Department of Labor, technical adjustments in the language of section 407, unemployment assistance, were made in the conference substitute. These changes do not modify the purposes, scope or authority of the Senate-passed bill.

A new section 419, entitled "In-Lieu Contribution", is added in the conference substitute to title IV of the Senate-passed bill. The contents of this new section were described previously in the discussion of section 402, repair and restoration of damaged facilities.

In conclusion, I think that some words of thanks are in order. First of all, I wish to thank the chairman of the Public Works Committee, Senator JENNINGS RANDOLPH, and the ranking minority committee member, Senator HOWARD BAKER, for their aid and counsel. S. 3062 would not be before the Senate today were it not for their efforts.

Also, I want to express my sincere appreciation to my good friend, Senator PETE DOMENICI. As ranking minority member of the Subcommittee on Disaster Relief he has been instrumental in the formation of the bill and, it is safe to say that, without his strong support, some of the more innovative features of this bill may have been lost.

Senators CLARK, BIDEN, and BUCKLEY should also be thanked and commended for their active participation in the subcommittee's deliberations and their staunch support during the conference.

Of course, we all know that bringing legislation of this nature to a successful conclusion requires the participation of the executive branch of Government. I want to state for the record that the subcommittee has received the full cooperation of the executive branch at each step in the legislative path. Secretary of Housing and Urban Development, James Lynn; the administrator of the Federal Disaster Assistance Administration, John Dunne; his deputy, Bill Crockett and many others have worked hard to help insure that the language of this bill not only sets forth legislative goals but is adequate to achieve those goals.

Finally, I want to express my personal thanks to Barry Meyer, Phil Cummings, Clark Norton, Bailey Guard, Judy Parente, Steve Swain, and all the staff of the Senate Public Works Committee for the long hours kept, for the short notices met, and for providing that quality of help which was vital to the formation of this legislation.

Mr. DOMENICI. Mr. President, I support adoption of the conference report on S. 3062, the Disaster Relief Act of 1974. The conference report is essentially the bill passed by the Senate on April 10 by a vote of 91 to 0. There were changes made by the House-Senate conferees—changes which, I believe, strengthen and improve upon several sections of the Senate bill. The only new provision added in conference relates to the repair and replacement on farm fencing after a major disaster.

Before I discuss specific sections of this conference report, I want to say a few words of appreciation to the Senator from North Dakota, (Mr. BURDICK). As chairman of the subcommittee, he conducted a number of hearings throughout the country over the past year. His tireless work and these extensive hearings have contributed greatly toward the bill before us today.

Mr. President, I also want to say a special word of thanks and gratitude to the ranking Republican member on the full committee (Mr. BAKER), who played such a vital role in the careful, on-the-scene evaluation that our subcommittee made of the April tornadoes. His compassion and his leadership were vital to quick consideration and passage of this bill.

In addition, I want to thank the chairman of the full committee (Mr. RANDOLPH) and (Mr. BUCKLEY) for their wise and effective leadership in the development of this bill.

What we developed in the Senate was a comprehensive bill. The House was more modest in scope, authorizing individual and family grants similar to section 408 of S. 3062.

As was true with Public Law 91–606, this act provides a permanent program of disaster relief. I raise this point because section 606 has a date of 1977. This date is not an expiration date for the authorities under this act. It simply provides an authorization of appropriations for 3 years. I believe it proper to review the appropriation at that time.

The individual grant section agreed to by the conferees authorizes grants up to $5,000 to families and individuals adversely affected by a major disaster who are unable to meet disaster-related necessary expenses or serious needs with assistance under this act or by other means. This is the same purpose of the grants provided in the Senate bill. Changes were made in the funding procedures. This remains a Federal-State program with the Federal Government paying 75 percent of the cost. Under the conference agreement, however, the President is authorized to advance to a State the 25 percent non-Federal share of the grant if a State is unable to immediately pay its share and on the condition that such advance is repaid when the State is able to do so. This will facilitate implementation of the grant program in States which, for a variety of reasons, may not have funds immediately at hand.

In addition, the conference substitute makes clear that the Federal Government is to deal directly and solely with the States when making the advance and receiving repayment of such advances. As noted in the conference report, this is not intended to prevent local governments from participating in the grant program or from making voluntary contributions to the State. Rather, the new language makes it clear that the Federal Government is to deal directly with the States on this matter.

During consideration of the disaster bill in the Senate, Senator TAFT and others pointed out that States suffering recent disasters would have difficulty gearing up to implement a new program. Recognizing this problem, the conference report makes clear that Federal technical assistance and expertise is to be made available to assist States in their efforts to put the grant program into effect as smoothly and rapidly as possible. Responsibility for administering the program will remain with the States, but I believe that with technical assistance—and the advance payment—most will be able to undertake the program with a minimum of delay or difficulty.

Several Senators expressed their hope that this program could be implemented expeditiously in order to assist persons affected by the most recent disasters. I am pleased to report that FDAA has already begun on regulations so I do not foresee any undue delay.

The effective date of section 408 in the Senate bill was April 1, 1974; the date in the House bill was March 31, 1974. Under the conference substitute, section 408 was made retroactive to April 20, 1973. This was the date proposed in the Aiken-Dole amendment and coincides with implementation of Public Law 93–24 the law ending the disaster loan forgiveness program.

The Federal-State partnership established in this new program is one that should, I believe, exist in assisting citizens who are victims of natural disasters.

Another major initiative included in the conference report allows a more flexible approach in the replacement of public facilities. Under this section, the State and local government would be given the option of receiving a grant up to 90 percent of the estimated cost of replacement of all damaged public facilities within their jurisdictions or proceeding with the present system of one-to-one replacement with all the Federal redtape and auditing now required. I am convinced many communities will welcome the opportunity to assess their needs and future plans and with the flexibility of the grant replace a dated system with a new infrastructure better suited to current needs.

Section 402(g) of the Senate bill authorizes the President to make an in lieu contribution to a State or local government when the total Federal contribution for public facility replacement is $25,000 or less. I supported this section as a way to further reduce the burdensome paper work and costs required of smaller communities. In testimony before the subcommittee, the administration indicated that applications of this size—$25,000 or less—represent about 73 percent of all applications but only 10 percent of the total dollars approved.

This provision was retained, with some clarifying language, as section 419 of the conference report.

Another change made by the conference committee is in section 314, the insurance provisions. The conference substitute requires insurance coverage only for public and certain kinds of private facilities financed under sections 402 and 419 of this act and facilities constructed during long-range recovery under section 803 of the Public Works and Economic Development Act. The bill does not require the purchase of insurance by individuals.

Sections 409 and 410 of S. 3062, which are of immediate importance after disasters strike, remain unchanged in conference. These sections clearly set out Federal responsibilities in the areas of family food assistance and mass feeding of disaster victims. The survival of these sections insures our ability to meet the needs.

The only new provision in the conference report relates to replacement of farm fencing after a major disaster. Language was added to section 302 to assure that the replacement of permanent fences is an eligible practice under the emergency conservation program of the ASCS. Every member of the conference committee received a joint letter from Senators TALMADGE and CURTIS, the chairman and ranking Republican of the Senate Agriculture Committee, requesting language in the bill to reinstate the program which had been operative since 1958 but cancelled by administrative order on March 12, 1974.

I was pleased that the conferees agreed to retain the long range recovery program authorized in title V. This program is a new approach to aid communities devastated by a natural disaster and faced with the awesome task of rebuilding from the ground up. I consider the approach innovative and much needed. Too often long term recovery has taken place in an erratic, fragmented, and unplanned fashion, placing a heavy financial and administrative burden on communities when they can least shoulder it.

Title V builds upon existing structures and programs and provides a means to develop a unified recovery plan, set priorities and monitor implementation of recovery work. The program utilizes existing multijurisdictional organizations at the local level—groups knowledgeable about the area, and which will insure continuity during recovery. It provides for coordination of Federal programs coming into a disaster area or which could be used in rebuilding and authorizes $250 million for 3 years for loans and supplemental grants.

Mr. President, I want to acknowledge the contribution the administration has made to this legislation and the spirit of cooperation that has marked our work. Mr. James T. Lynn, Secretary of Housing and Urban Development, Mr. Thomas Dunne, Administrator of the Disaster Assistance Administration, and Mr. William E. Crockett, Deputy Administrator of FDAA, took personal interest in the legislation and met with members of the committee on several occasions. In fact, several provisions in the bill were taken from administration proposals and comments. I am glad the administration supports this legislation.

The bill represents the combined efforts of the subcommittee, the majority and minority staff working together, the full committee and the efforts of the administration to write a program more responsive to the needs of disaster victims. In my opinion we have reached that goal and I join with other members of the committee in urging the Senate to approve this conference report.

Mr. BAYH. Mr. President, once again I wish to compliment all those who have participated in developing this important legislation to strengthen our Federal program of disaster relief. On the occasion of Senate passage of S. 3062, on April 10, I described in detail the manner in which the major provisions of this vital measure will assist the victims of the April 3 tornadoes based on my 12-hour helicopter tour of the damage throughout Indiana on April 5. Events since then underscore the need for speedy enactment and implementation of the important improvements in disaster relief authorized by S. 3062.

At this point I wish to briefly discuss certain conference report language of particular importance to the citizens of Monticello, Ind. Monticello is a town of some 5,000 people, the county seat of White County and the business center for an area exceeding 100 square miles. The April 3 tornado ripped through the entire business section of Monticello, destroying virtually every piece of commercial real estate in town.

Early this week, 1 month after the tornadoes, the Monticello fire chief advised me that 25 to 30 of the 105 businesses in town were still not operating because of the lack of temporary facilities to house them until the downtown business area can be rebuilt. As the principal author of the Disaster Relief Acts of 1966, 1969, and 1970, I believe it is the intent of Congress that the Federal Government should meet the interim needs of a community whose economy is so disrupted by a disaster that it cannot function on an immediate basis. I believe the Federal Disaster Assistance Administration should, during the period immediately following a disaster, take whatever steps are necessary to maintain the economic viability and integrity of communities that find themselves in a predicament such as that faced by Monticello.

I understand that, at the first of this week, Monticello's two hardware stores remained virtually out of operation. All three variety stores were closed, and of the two funeral homes in town one was closed and the other could operate on only a very limited basis. A town in such disarray cannot last very many weeks before its economy literally collapses. I therefore wish to draw the attention of my colleagues to the following report language:

> Assistance which may be provided under Section 306(a) may include the cost of transporting equipment and supplies including transportable buildings which may be available from federal agencies.

This report language is intended to insure that cities such as Monticello, faced with total economic collapse in the wake of a natural disaster, receive sufficiently comprehensive and prompt aid to keep them alive until they can be rebuilt. I wish to extend my deepest gratitude to the distinguished chairman of the Senate Public Works Committee, Senator RANDOLPH, and the extremely able chairman of the Disaster Relief Subcommittee, Senator BURDICK, and the members of those committees for including this language at my request. It is but another example of the spirit of cooperation which has marked the efforts of the Congress to assist disaster victims.

On April 10, when the Senate originally considered S. 3062, I also urged prompt action on my request for an additional $100 million to be appropriated for the President's disaster relief fund. Those additional funds were approved by the Senate on Tuesday, May 7. Now, with the approval of the conference report to S. 3062, I believe the Congress will have provided sorely needed assistance to the unfortunate victims of the April 3 tornadoes. We will have taken a significant step forward in enabling these proud hard-working citizens to rebuild their entire lives.

It is difficult to fully comprehend the severity of the damage caused in Indiana by the April 3 tornadoes unless you have been there. During my helicopter trip across the State we touched down at about a dozen communities. In Martinsburg, Kennard, and Monticello, I talked with people who feared that the communities in which they had lived all their lives would cease to exist. In Parker and Hanover I talked with students and teachers who have no school. In Fountaintown I met with residents who had no homes and whose volunteer fire department had been destroyed. In Madison, Jonesville, Rochester, and Atwood I talked with farmers and businessmen, laborers, and housewives, who needed reassurance that the task of rebuilding was possible.

S. 3062 utilizes additional resources of the Federal Government to help these victims tackle a tragic problem that would otherwise be insurmountable. This vital measure establishes a grant program providing up to $5,000 per family to meet the extraordinary needs of individual victims of the disaster. It extends to private nonprofit educational, emergency, medical, custodial care, and utility facilities the availability of repair and reconstruction grants currently provided to publicly owned institutions. It establishes a locally based comprehensive program to reconstruct devastated communities, and empowers the President to insure the availability and fair distribution of scarce building materials needed in major disaster areas. In sum, it provides additional and essential help to the victims of natural disasters as they tend to the task of helping themselves.

Once again, I wish to express my deepest personal gratitude, and that of citizens I represent, for the speed and understanding accorded this vital measure.

Mr. BAKER. Mr. President, I am glad the conference committee has reported S. 3062, the Disaster Relief Act Amendments of 1974, and I strongly recommend it to the Senate. The bill will provide a permanent, comprehensive assistance program for disaster relief. It is the result of dedicated work by the Subcommittee on Disaster Relief of the Senate. The subcommittee considered disaster relief proposals for more than a year, holding a series of field hearings to examine on the spot the effectiveness of Federal response in past disasters in addition to Washington hearings. Senator BURDICK, chairman of the subcommittee, and Senator DOMENICI, the ranking Republican member, are to be highly commended for their long hours of hard work and attention to detail, and for the very significant contribution that each provided. Of course, Senator RANDOLPH, chairman of the full committee, as always, provided leadership and valuable guidance and assistance.

Throughout consideration of this bill, the administration has been most helpful, providing advice and initiatives. Secretary Lynn of the Department of Housing and Urban Development took an active part in the legislation and met with the committee and assisted the committee in reporting the bill expeditiously following the tornadoes last month. Tom Dunne, Administrataor of FDAA, and his staff also assisted the committee throughout its deliberations and a number of their suggestions were adopted by the committee.

Mr. President, we recall that Public Law 92-385—which passed the Congress in the wake of the Agnes disaster—directed the administration to conduct a thorough review of existing disaster relief legislation and report to the Congress. The study included proposals to improve the execution of the disaster relief program, to standardize benefits to achieve fairness and consistency, and to preclude the need for separate legislation to aid persons in future disasters. A number of the proposals and recommendations of this report were adopted by the committee.

In addition, the committee was assisted and guided by S. 1840—the administration bill. I was glad to sponsor the President's recommendations and I am pleased that following committee hearings and comments from a number of Governors, mayors, county officials, relief organizations and individuals interested in disaster legislation, the committee substantially adopted several initiatives contained in S. 1840. For example, block grants for replacement of public facilities, and grants to families or individuals in need of disaster assistance—two of the most innovative and important provisions of S. 1840—do represent initiatives begun by the administration.

Mr. President, I am gratified also that the administration already has been working several weeks to write regulations so that this important legislation can be implemented quickly upon enactment into law. Assistance under the bill should be made available expeditiously to victims of the devastating tornadoes that struck a number of Southeastern and Midwestern States in early April.

I am confident the bill will be signed into law and that it will provide improved disaster relief assistance. I believe the legislation represents the goals of the administration and the Congress and I am pleased together we achieved this accomplishment.

The chairman of the subcommittee (Mr. BURDICK) has described very ably and thoroughly the provisions of the conference, and I will not go into detail.

The Senate bill, you will recall, provided for grants up to $5,000 to individuals and families in need of monetary assistance following a major disaster, with 75 percent Federal funds and 25 percent State matching. I believe this provision will be invaluable to many families in severe need, but who are unable to obtain sufficient assistance from other sources. The conference substitute provides that if a State or political subdivision of a State is unable to immediately pay its share, the President may advance such share. This provision should assist States and communities struck by recent tornadoes that have not had sufficient time to arrange for this new assistance.

Another innovative provision allows a community to choose a block grant representing 90 percent of the cost of rebuilding its public facilities in lieu of project-by-project restoration. This provision provides flexibility to communities. In the past, funding on a project-by-project basis led to burdensome redtape, auditing and administrative difficulties.

The Senate bill provided—for the first time—funds for the repair and restoration of private, non-profit utilities, such as REA membership co-ops. I am pleased that this provision was retained intact in conference. For example, in my State of Tennessee, extensive damages were inflicted on many REA facilities.

Mr. President, there is one new provision in the conference substitute, section 302(c), which provides that any repair or other replacement of farm fencing damaged or destroyed by a major disaster shall be considered an emergency conservation measure for purposes of payments under certain Federal programs.

On March 12, 1974, the Department of Agriculture—by administrative order eliminated restoration of farm fences as an eligible cost-sharing project under Public Law 85–58, a practice which had been followed since 1957.

We are all familiar with the tornadoes that struck a number of Southeastern and Midwestern States on Wednesday, April 3 and Thursday, April 4 and the widespread devastation they inflicted on many farm families. On Friday, I toured rural areas in Tennessee and saw the destruction of farm houses, barns and other farm structures such as fencing. For example, early estimates indicate that as much as 200,000 rods of fence was damaged or destroyed in 19 Tennessee counties and comparable losses occurred in other States—especially Kentucky, Indiana, and Ohio.

I know the widespread destruction of fencing poses a real problem for farmers. While farm homes and barns can be insured, fencing is not. Given the magnitude and widespread destruction of the disasters, it will be so costly to farmers to restore farm fencing that Federal assistance is required to return the land to productive agricultural use.

On April 19, upon learning that farm fencing had been eliminated as an eligible practice under the emergency conservation measures of ASCS, I immediately wrote to Secretary of Agriculture Earl Butz to urge that farm fencing be restored as an eligible cost-sharing practice.

On Monday, April 22, I stated that if the Department did not reverse its decision eliminating disaster aid to farmers to replace fencing, I would urge the conference to do so legislatively.

I recall that on Tuesday, April 23, Senator COOK of Kentucky spoke on the Senate floor to urge reinstatement of the fencing program and I understand Senator COOK also wrote to the President.

On Wednesday, April 24, the Senate conferees received a joint letter from Senator TALMADGE and Senator CURTIS, the chairman and ranking Republican member, respectively, of the Agriculture Committee, stating that the committee staff had urged officials of the Department to reinstate the practice, but that no assurance had been received that the Department would take such action. Therefore, Senator TALMADGE and Senator CURTIS requested that the conference committee legislatively reinstate the fencing by adding a provision to S. 3062.

On Thursday, April 25, I am glad the conference committee did adopt the provision, section 302(c), as described in the conference report. It is the judgment of the conferees from both the Senate and House that the replacement of fencing is essential to return land to productive agricultural use, and the conferees expect the provision to be implemented without artificial restrictions on limitations, such as protecting other conservation structures or permanent vegetative cover.

Section 302(c) is intended as a measure to assist farmers stricken by natural disasters. It is not intended that artificial restrictions on limitations be placed upon the program. The language of section 302(c) is very clear. It says:

> Notwithstanding any other provision of law, any repair, restoration, reconstruction, or replacement of farm fencing damaged or destroyed as a result of any major disasters shall be considered an emergency conservation measure eligible for payments.

That is, wherever there is a major disaster declaration by the President, any and all farm fencing existing prior to the disaster which is damaged or destroyed by the disaster is eligible for cost-sharing assistance under Public Law 85–58 or any other provision of the law.

While 42 counties in Tennessee and many additional counties in Kentucky, Ohio, Indiana, Alabama and other States have been declared by the President as major disaster areas, it is very disheartening to note that more than 6 weeks following the President's multi-State disaster declaration, the Department of Agriculture's ASCS had designated counties in only two States as eligible for disaster assistance. I am informed that 27 counties in Indiana were designated May 1 and 6 counties in Alabama were designated May 7. For this reason, the conference substitute is keyed to major disaster declarations by the President, so that farmers will know at once the counties eligible for farm fence replacement. Once the President acts, the ASCS—like every other Federal agency with disaster-relief capacity—is required to act promptly, humanely, and in full coordination with the FDAA.

Mr. President, the conferees also concerned that the program for 80 percent Federal cost-sharing for debris clearance under Public Law 85–58 has been subjected to increasingly restrictive administrative interpretations. Both the House and Senate Public Works Committees have received communications pointing out that in urban areas debris clearance is performed on private as well as public property at Federal expense. This authority, of course, extends to rural areas as well. The Department of Agriculture, however, has the organization, capability, and relationship with farmers to best accomplish this task. The conferees expect the Department of Agriculture to implement debris clearance under its emergency conservation program without restrictive limitations, and in a way that will provide benefits no less generous to farmers in rural areas than that extended to city dwellers in urban areas. The conferees strongly urge the Department to coordinate its debris clearance practices through the FDAA to insure this result.

SENATOR RANDOLPH SUPPORTS PROMPT ACTION ON DISASTER RELIEF CONFERENCE REPORT LEGISLATION

Mr. RANDOLPH. Mr. President, just 1 month ago the Senate passed S. 3062, the Disaster Relief Act amendments of 1974. I am pleased that we are now able to bring the conference report on this important legislation before the Senate. Final enactment of this measure will permit its provisions to be utilized in alleviating the suffering and hardship that resulted from a series of tornadoes that struck wide areas of our country early in April. It also means that a strengthened and expanded disaster relief program will stand ready to be implemented when future disasters occur.

For more than a year our Subcommittee on Disaster Relief has been preparing extensive amendments to the basic act of 1970. The companion legislation passed by the House of Representatives was a much more abbreviated bill that did not address itself to the total disaster relief program.

Our colleagues in the House, however, were aware of the need to expedite this legislation and exhibited a cooperative attitude during the conference. Conferees from both bodies carried out their responsibilities in a way that permitted the conference to be concluded in a single day. I was privileged to be a Senate conferee on this measure together with the chairman of our Subcommittee on Disaster Relief, Senator BURDICK, the ranking minority member of the Senate, Senator DOMENICI, and Senators CLARK, BIDEN, BUCKLEY, and BAKER.

The conference committee action, which I know the Senate will ratify today, refines the bill as passed last month. That measure builds upon the 1970 act under which assistance has been provided to individuals and communities throughout the United States. In 1973 alone, 46 major disasters were declared and Federal aid of various types was given to more than 75,000 families. In the past 4 years more than 100 disasters provided us with the experience to see where improvements in the program were needed. The legislation now before us makes those improvements.

A major innovation is provided in title V of the conference report which establishes a mechanism for long-range activities in the post-disaster period. In our inquiries the committee found that when the immediate rescue and relief operations are concluded rebuilding often becomes bogged down. Even though the resources and assistance of a number of Federal agencies are available the mechanism for properly utilizing them is missing. Title V provides a procedure whereby a unified approach to reconstruction can be taken, thus eliminating fragmentary and ineffective efforts that in the past caused many disaster victims to become disillusioned.

The approach taken in title V is geared specifically to physical disasters. It relates closely, however, to adjustments that must be undertaken by economic disasters. This innovative program, therefore, will be further examined by the Committee on Public Works as we consider economic development proposals title V of the bill before us can be a valuable model in preparing a response to those instances in which economic disasters strike.

This provision to facilitate long range reconstruction of disaster ravaged communities is but one of the improvements to the total program that are included in this legislation. We have broadened the ability of the Federal Government to provide assistance in rebuilding damaged or destroyed recreational, educational, and medical facilities. The conference report provides for supplementing assistance to individuals who may not have the resources to pay their share of the extraordinary costs incurred because of disasters.

We discovered, too, that the emotional impact of disasters can be substantial on the victims. Authority is therefore included to provide professional crisis counseling services through State or local agencies or private mental health organizations.

A two-tiered response to differing types of disasters is also a part of this measure. It recognizes that there can be situations when relief and rescue operations are required, but long-term rebuilding is not necessary. To accommodate such instances, the legislation makes a distinction between major disasters and those of lesser impact.

Mr. President, I have mentioned briefly a few of the highlights of the conference report on the Disaster Relief Act Amendments of 1974. The full range and scope of this measure has been reviewed in detail by the able Senator from North Dakota (Mr. BURDICK), under whose leadership it was brought into being.

Disasters, by their very nature, are unpredictable. There is no way to know when or where they will strike or with what intensity. In dealing with such a number of unknown quantities, it is obviously difficult to write standby legislation to be brought into play immediately when needed.

Nevertheless, I believe the Federal disaster relief program, as embodied in the measure now before the Senate for final ratification, contains the mechanisms necessary to speed the required relief to stricken communities. It is broad enough and flexible enough to meet virtually every conceivable situation.

I am confident that the Senate will give its overwhelming support to this program so that final action can be accomplished in the House of Representatives and be sent to the President for his assent.

Mr. COOK. Mr. President, I would briefly like to address one very important section in the conference report dealing with the Agriculture Stabilization Conservation Service's emergency assistance program to farmers for the replacement of farm fences.

Before doing so, Mr. President, I initially would like to commend the conference committee for its expeditious handling of the conference report. The disaster relief amendments of 1974 propose a dozen major changes in the present law to more equitably provide assistance to the unfortunate victims of major disasters. I am particularly encouraged by the provisions providing grants to needy families which are essential when a family has lost every possession they have ever known. We have a good bill before us and I thank my colleagues for a conscientious solution to this Nation's disaster assistance problems.

I am also grateful to the conference committee for inserting lanugage addressing the restoration of farm fences. As you know, Mr. President, on March 12, the Department of Agriculture for some inexplicable reason, rescinded the program in effect since 1957 providing emergency assistance to farmers for up to 80 percent of damage to farm fences in the event of a natural disaster. The committee, and rightly so, in section 302(c) restores the farm fencing program by stating in the bill that, "notwithstanding any other provision of law, any repair, restoration, reconstruction, or replacement of farm fencing damaged or destroyed as a result of any major disaster shall be considered an emergency conservation measure eligible for payments under chapter I of the Third Supplemental Appropriation Act, 1957, or any other provision of law." This language will be instrumental in fully restoring the farm operation in the areas of this country so badly damaged by the tornadoes of April 3 and 4.

Mr. President, as you know, on April 24 in a speech in this Chamber I described what I considered a truly deplorable situation with regard to the loss of farm fencing. I ask unanimous consent to place in the RECORD at this point in my remarks a letter from Mr. J. Robert Wade, president of the Kentucky Farm Bureau Federation, which provides some indication of the precarious situation faced by Kentucky farmers. To quote Mr. Wade:

> Farmers are facing three major problems: (1) supplies are almost impossible to come by. This is not only true of materials for replacing and repairing buildings, but the acquisition of fencing, steel posts, and barbed wire; (2) labor is extremely scarce in rural areas; and (3) financing the purchase of materials and the hiring of labor to restore these farms to their former productive capacity for many farmers is going to be next to impossible. Many farms are already mortgaged for an extraordinary high percentage of their value, and those who are so fortunate as to not owe a great deal on their farms normally still do not have the available cash to immediately meet the great expenditure facing them.

The PRESIDING OFFICER. Without objection, the letter will be printed in the RECORD.

(See exhibit 1.)

Mr. COOK. Although Mr. Wade's letter forecasts a grim picture of the future for Kentucky's farmers, I believe and hope the disaster amendments will provide sorely needed relief.

At every level of State, local, and Federal Government, I have been impressed by the way people have pulled together to accomplish one goal—to put things back together following the tornadoes. Tom Dunne has organized, coordinated, and directed a team of dedicated individuals who have performed remarkably. He deserves a world of credit for what I consider an outstanding job as Administrator of the Federal Disaster Assistance Administration.

Unfortunately, however, one Federal agency as far as I have been able to determine has done absolutely nothing to relieve the anxiety of the situation. More than 1 month after the destruction in Kentucky, although the President declared a major disaster, the Agriculture Stabilization Conservation Service is the only responsible Federal agency which has yet to rush assistance to the affected victims of the tornadoes. This Agency has been moving centimeter by centimeter, and has been totally inept in not providing even a measure of assistance to the farmers of my State. Mr. President, 6 weeks after the disaster not one county has received help. The problems at Agriculture stem from administrative inertia and an utter lack of understanding of their responsibilities.

Some 2 weeks ago this Senator was assured by the Agriculture Stabilization Conservation Service that they were reinstating the practice of restoring farm fences. In fact, on April 26 verbal confirmation was received by my office that the 80 percent cost sharing program for rebuilding fences had been reinstated. Yet, by way of a May 2 press release from the Department of Agriculture, I found that ASCS was not being quite as gracious as I had originally been led to believe. Although the program was being reinstated, restrictions and limitations were placed on the program making it of little value to the farmers. The program would have been limited to restoring or replacing those fences essential to the establishment of permanent vegetative cover on areas seriously eroded or subject to serious erosion as a result of the natural disaster. Then, Mr. President, just 3 days ago it came to my attention that the ASCS in a notice to the States, had changed the program, again creating more confusion and delay.

Mr. President, the farmers of my State want and need to start producing again. However, the almost day-to-day issuance of directives has created a snarled program that is of absolutely no benefit to anyone. This apparent languid attitude at ASCS is deplorable considering the indispensable need of the program they administer. Fortunately, motivation to move ahead with a clear and workable program will be forthcoming by the congressional initiatives in section 302 (c) despite ASCS's inability to act. We are not being lavish in our withdrawing the present restrictions and limitations of this program—we are being practical.

EXHIBIT 1

KENTUCKY FARM BUREAU FEDERATION,
Louisville, Ky., April 19, 1974.

Hon. MARLOW W. COOK,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR COOK: Thousands of farmers in Kentucky received almost irreparable damages during the storms of April 1 and 3 and greatly need assistance.

Not only have many of them lost their homes, but also their barns, silos, corn cribs, grain bins and grain, livestock, fertilizer and miles upon miles of fencing. Unlike many of those who have suffered extreme damages in cities but still have their jobs, many of these farmers' ability to produce an income this year has been greatly impaired and probably will be for several years.

According to our information, a recent survey conducted by the University of Kentucky of county agricultural agents in what is considered the 33 disaster area counties revealed the following estimates:

Acres involved—195,000.

Homes destroyed or receiving major damage—4,031.

Barns destroyed or receiving major damage—3,246.

Cattle killed or injured—3,636.

Fences destroyed—1573 miles or 503,360 rods.

Obviously some farmers had some insurance on their buildings. Very few farmers had insurance on their livestock, and so far as we know no insurance covers the tremendous expense of replacing the fencing that has been completely destroyed.

Farmers are facing three major problems: (1) Supplies are almost impossible to come by. This is not only true of materials for replacing and repairing buildings, but the acquisition of fencing, steel posts, and barbed wire; (2) Labor is extremely scarce in rural areas; and (3) Financing the purchase of materials and the hiring of labor to restore these farms to their former productive capacity for many farmers is going to be next to impossible. Many farms are already mortgaged for an extraordinary high percentage of their value, and those who are so fortunate as to not owe a great deal on their farms normally still do not have the available cash to immediately meet the great expenditure facing them.

We are aware that the Congress has in conference a new Disaster Relief Act. We understand that its effective date will be prior to the storms that hit this section of the country. Any influence you may exert on members of the conference committee to add provisions to this act that can benefit these farmers and help get them back on their feet will be greatly appreciated. This is an extremely serious situation for those farmers who have been stricken.

We also have learned that cost sharing under the Agricultural Conservation Program of the U.S. Department of Agriculture for replacement of fencing was discontinued by regulation a month or so ago. We are requesting the U.S. Department of Agriculture to reinstate this as an eligible practice which would greatly enable farmers to get their farms once again enclosed in order that they might proceed with their livestock and dairy operations.

We would appreciate any help that you can give in urging the U.S. Department of Agriculture to reinstate this program and to make cost sharing money available for practices to help these farmers who so badly need it.

Sincerely,

J. Robert Wade,
President.

Mr. HUDDLESTON. I would like at this time to voice my very strong concern over the fact that many of the rural sections of the country recently devastated by tornadoes have not received disaster relief benefits on the same scale as the more urban areas.

I am concerned particularly over the Department of Agriculture's failure to fully implement the emergency conservation measures, administered by the Department's Agricultural Stabilization and Conservation Service, relating to cost sharing for the replacement and restoration of farm fencing and also the removal of debris from farmland.

For example, just the day before yesterday, I talked to a farmer in Madison County, Ky., who has already spent over $600 to replace the fencing he needs to contain his livestock in a proper and manageable grazing area. Yet, when he went to his local ASCS office, he was told he would be ineligible for cost-sharing benefits. It appears to me that he was ineligible because the fencing he had restored did not fit one of the restricted uses prescribed in the Department's regulations. Certainly, Congress cannot accept such narrow interpretations of the law. The cost-sharing benefits must be available to all those in need.

Mr. TALMADGE. Yes, I wish to thank the distinguished Senator from Kentucky for raising this point. He recently noted that the farmers in his State of Kentucky were not receiving adequate disaster relief benefits from the Department of Agriculture. He said that Kentucky farmers were not receiving cost sharing for replacement of fencing destroyed by the tornadoes and that they were not receiving payments for debris removal.

I was very concerned about these problems and had the staff of the Agriculture Committee check with USDA officials to see if they could be handled administratively. Subsequently, I received complaints from Georgia farmers about these problems.

When the USDA failed to provide relief, Senator Curtis, the ranking minority member of the Committee on Agriculture and Forestry, and I wrote to Chairman Randolph and the Senate conferees on S. 3062 to ask that language be included in the conference report to require the reinstatement of cost sharing for fencing. I ask unanimous consent that this letter—attached—be included at this point in the Record. The conferees graciously complied with this request.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., April 24, 1974.

Hon. Jennings Randolph,
Chairman, Committee on Public Works,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: On March 12, 1974, the Department of Agriculture eliminated fencing as an eligible practice for which cost-sharing payments could be made to farmers under the Emergency Conservation Program. Under that program, cost-sharing payments are made to farmers who carry out emergency conservation measures to repair damage resulting from wind erosion, floods, hurricanes, or other natural disasters.

The Department's order eliminating fencing as an eligible practice threatens to limit needed federal assistance to rural families in a number of states in the Southeast and the Midwest which suffered damage as a result of the tornadoes on April 3, 1974. While we do not have data for all the states affected, the Kentucky Farm Bureau Federation estimates that more than 2,300 miles of farm fencing in that state were destroyed by the tornadoes. The President of the Georgia Farm Bureau Federation states that the tornadoes destroyed much of the fencing in numerous counties in north Georgia.

Senator Huddleston of the Committee on Agriculture and Forestry has written Secretary Butz asking that the fencing practice be reinstated. Members of the staff of the Committee on Agriculture and Forestry have also urged officials of the Department to reinstate the practice. However, we have received no assurances that the Department will take such action.

Under the circumstances, we should appreciate your efforts, and the efforts of the other conferees, in adding a provision to S. 3062 during its consideration by the Conference Committee to reinstate the fencing practice by legislation. A copy of a draft amendment to reinstate the practice is enclosed.

Sincerely,

Herman E. Talmadge,
Chairman.

Carl T. Curtis,
Ranking Minority Member.

AMENDMENT TO S. 3062

Add the following new section 602 at the end of page 98:

"EMERGENCY CONSERVATION MEASURES

"Sec. 602. Notwithstanding any other provision of law, funds appropriated to the Department of Agriculture for the purpose of making payments to farmers for carrying out emergency conservation measures (71 Stat. 176) shall be available for the replacement of permanent fences on farmland which are damaged or destroyed by wind erosion, floods, hurricanes, or other natural disasters."

EXPLANATION

Under the Emergency Conservation Program, cost-sharing payments are made to farmers who carry out emergency conservation measures to repair damage to their farms resulting from wind erosion, floods, hurricanes, and other natural disasters.

On March 12, 1974, the Department of Agriculture eliminated fencing as a practice for which cost-sharing could be made under the Emergency Conservation Program.

This amendment would require the Department to reinstate fencing as an eligible practice for emergency assistance.

Mr. HUDDLESTON. The attention given this matter by the Committee on Agriculture and the conferees from the Public Works Committee is to be commended.

Also, I was pleased that on May 2, the Department of Agriculture did, in fact, reinstate the "restoring permanent fences" provision of the emergency conservation measures available under Public Law 85–58. However, I think it should be made clear that in their press release announcing the restoration of this provision, the Department maintained what I consider to be totally artificial restrictions regarding the availability of cost-sharing benefits.

I am delighted that the language of the conference report we are now considering, in section 302, appears to anticipate this tactic by the Department. The intent of the conferees is clear. To return the land to productive use, any farm fences that are destroyed in a natural disaster must be eligible for participation in the cost-sharing benefits program. The cost-sharing benefits cannot be limited to restoring or replacing only that fencing interpreted by the Department of Agriculture to be "essential to the rehabilitation of conservation structures of facilities, or essential to the establishment of permanent vegetative cover on areas seriously eroded or subject to serious erosion as a result of a natural disaster."

Also, I do hope the Department of Agriculture will act quickly to remove the excessive restrictions which have recently been imposed on debris clearance.

Mr. TALMADGE. The Senator is correct. The conferees clearly stated that the provision for cost sharing for fencing is not to be artifically restricted by regulations.

I expect the Department of Agriculture to make cost-sharing available to farmers whose fences were destroyed by tornadoes without attempting to draw artificial and awkward distinctions. For example, those farmers who have fences eligible for replacement or restoration under the emergency conservation measures should receive the full 80 percent cost-sharing benefits and not be restricted to 60 percent and sometimes as low as 40 percent dependent upon the age of the fence.

I might add in closing that I very much share the Senator's desire to see the regulations concerning debris removal changed to allow more participation by farmers in need.

Mr. TAFT. Mr. President, I would like to take this opportunity to thank the chairman, ranking member and other members of the Public Works Committee for their responsiveness to my suggestions and concerns with respect to the disaster relief bill. The committee, and in fact the entire Congress, has reacted in a gratifying fashion to the needs of my constituents and others victimized by the recent tornadoes. The committee has truly done an outstanding job of moving remedial legislation promptly through the entire legislative process to this point.

I am particularly gratified that the committee has taken an approach which includes grants to disaster victims along the general lines of legislation I proposed last November, the Emergency Disaster Recovery Act. I hope that because of these and other provisions, the next time a major disaster hits, Congress will not again be faced with the prospect of acting retroactively to provide a reasonable level of assistance. Another issue on which I must express my appreciation is the action by the conferees to ease somewhat the delays and other problems which might be caused by the provisions of the bill calling for State administrative and financial responsibility for the grant program. Although I would have gone even further in this direction, the actions of the conferees should at least make a difficult transition somewhat easier.

At this point I must indicate my reservations about the provision making the bill retroactive to April 20, 1973, even though some of my constituents would be helped by it, I simply believe that this is a costly, and in this case administratively difficult precedent to set. For example, we would never be able to agree on a tax law if we tried to redress inequities retroactively. However, in view of the necessity to pass these provisions to assist present and future disaster victims, the undeniably urgent needs of some victims of disasters occurring during the past year and the apparent political necessity of including the retroactivity provision, I strongly support the bill despite this provision.

I urge the House of Representatives and the President to take the steps necessary to complete action on this measure promptly.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

AUTHORIZATION OF APPROPRIATIONS UNDER THE INTERNATIONAL ECONOMIC POLICY ACT OF 1972

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of S. 2986, which the clerk will state by title.

The legislative clerk read the bill by title as follows:

> A bill (S. 2986) to authorize appropriations for carrying out the provisions of the International Economy Policy Act of 1972, as amended.

The Senate resumed the consideration of the bill.

Mr. GRIFFIN. Mr. President, what is the time agreement?

The PRESIDING OFFICER. There is no time limitation.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. President, this bill, S. 2986, is the authorization legislation for the Council on International Economic Policy. It has been carefully considered in the Committee on Banking, Housing, and Urban Affairs. It was reported unanimously by that committee. It has received consideration on the floor of the Senate. I am quite prepared to vote at this point on the legislation. I do not know if there are any amendments. I believe there may be one amendment to be offered to the bill. With that possible exception, I am ready to vote.

Mr. TOWER. Mr. President, we are trying to work out a possible amendment, and will need a few minutes' time. Therefore, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, for months the debate has raged on how to end wage and price controls. Throughout, I have emphasized the need for orderly decontrol, and that if decontrol were not orderly the result would be runaway inflation, another freeze, and new controls. The result would then be more disruption, more hardship, more uncertainty, and a long delay before returning to a free market.

This is happening already. The wholesale price figures announced today show that industrial commodities in April rose at an annual rate of 37.6 percent and that wholesale prices are 18.8 percent above their level 1 year ago.

In the 1 week since controls ended, major price increases have been announced. U.S. Steel announced increases of 9 percent on rolled steel—its major product—and average price increases of 5.7 percent. Major copper producers announced increases of 18 percent. Westinghouse announced increases of 10 percent on light bulks. Major vitamin producers announced increases of 24 percent. And just yesterday, Ford Motor Co. announced increases averaging $163 per vehicle, an action which the Director of the Cost of Living Council branded as "unwarranted" and in violation of Ford's decontrol commitment.

Mr. President, the body of the Cost of Living Council is not yet cold, and already the rush is on to hike prices. Decontrol promises are being disregarded—and there is no effective way to enforce them. With the administration discredited and in disarray, it is everyone for himself, and the devil take the hindmost.

In these circumstances, a failure to act would be inexcusable. It is an abdication of responsibility. The Nation cannot tolerate another surge of inflation and another round of controls. If they are to be forestalled, the time is now. Responsible economists and government officials agree.

In a column in the Washington Post today, Hobart Rowan warned that thoughtful analysts say that:

> We haven't seen the last of controls. They are not a cure-all, but the only real alternative as an inflation-killer is a high level of unemployment.

In an appearance before the Senate Commerce Committee today, the Chairman of the Council of Economic Advisors, Herbert Stein, agreed that we need monitoring and continued control authority in the health care and construction industries.

In a speech on Monday of this week, the Director of the Cost of Living Council said:

> The simple fact is that monetary and fiscal tools are not enough, and we must get to the task of developing other measures even though their contribution may be less immediate or powerful.

Mr. President, the pending bill is no cure-all. But it is a tool. It is less than I had hoped and fought for—namely, a limited continuation of standby wage and price control authority. It is, nonetheless, a tool for continuing the fight against runaway, double-digit inflation.

Last Thursday, the President chided the Congress for failure to enact the administration's proposal, but the administration's proposal never included standby authority, except in the health sector. It was the administration's abuse of its past control authority and its determined opposition to any effective legislation that brought us to where we are today. The President is playing an irresponsible game of politics with the inflation and suffering that his own mismanagement has helped to inflict upon the country.

There is no place for politics in this deadly serious matter. Inflation robs everyone—especially the poor, the elderly, and all those whose incomes cannot keep up. It generates labor unrest. It can lead to social strife. It jeopardizes the very foundations of our society. This limited, this minimal, this eminently reasonable legislation should be enacted—and it must be enacted now.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that Jack Weiss, of my staff, be granted the privilege of the floor during the consideration of this bill and the votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Also, I ask unanimous consent that Reid Feldman, Stanley Marcus, Howard Beasley, and Anthony Cluff, of the Committee, be granted the privilege of the floor during the consideration of this bill and the votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, there were three parts to the original bill on wage and price controls. The first part had to do with standby controls, which Senator MUSKIE, Senator STEVENSON, and I felt very strongly should be included in the legislation which Congress would pass; but Congress, in its wisdom, has deleted the portion on standby controls.

There remain, however, two extremely important parts of this legislation which are still included in it. The distinguished Senator from Maine (Mr. MUSKIE) will discuss the importance of monitoring of the economy. I would like to say a few words about the enforcement of commitments—that part of the bill which allows the Cost of Living Council to enforce those commitments voluntarily given prior to May 1, 1974. Without the authority provided by this bill, there are serious questions as to whether there is the legal authority to enforce those commitments at all.

Mr. President, we saw, day before yesterday, that the Ford Motor Co., raised its average 1974 model car and truck retail prices by $163 or 3.5 percent. GM threatens similar action. GM, Ford, and American Motors had previously committed themselves not to increase 1974 model prices "barring major unforeseen factors." Dr. Dunlop has already made a statement on this matter, and has said that no unforeseen factors exist, and that the price rises are indefensible and are in fact in violation of a commitment given. The Cost of Living Council, in the face of difficult legal problems, is contemplating but has not yet decided whether or not to take court action.

The Ford situation is indicative of the need for immediate congressional action to clarify the enforceability of decontrol commitments. The decontrol commitment structure is threatening to come unglued, if not to collapse, depending upon what the courts should finally decide. This is of extreme importance to the fight against inflation in this country.

Three hundred major firms in the United States have made voluntary commitments, which cover 17 key sectors of the economy. Let me give you a partial listing of the sections of the economy which are subject to such commitments:

The fertilizer industry, which is so critical to food prices and to agriculture.

Cement, which is a basic raw material for construction.

Zinc, used in galvanizing.

Automobiles.

Prepared feeds.

Mobile homes.

Petrochemicals, which find their way into so many products that consumers use.

Insecticides.

Rubber tires and tubes.

Retail trade.

The paper industry.

Fabricated rubber.

Canned fruits and vegetables.

Coal.

Aluminum.

Semiconductors.

Mr. President, the industries in the United States which have made commitments are key and critical to the economy, and unless those commitments are enforced, obeyed, and lived up to according to the letter, inflation threatens to become even more unglued, even more exacerbated than it is today.

Mr. President, these commitments cover not only price restraints, as in the case of General Motors and Ford, but other parts of market behavior so critical to the fight against inflation.

For example, the fertilizer commitment, given on October 25, required that fertilizer exports be diverted to the U.S. market; that fertilizer firms would continue to operate marginally productive facilities and explore the possibility of reopening old plants; that they would undertake new plant construction and expedite new plant construction in progress. Many of these commitments are on an indefinite basis and continue to affect the key fertilizer industry.

Mr. President, if Ford is allowed to flagrantly violate its commitment, as it is doing now, fertilizer will do the same, and without increased capacity, without expedition in the building of new capacity, and without any constraint on exports, fertilizer threatens to become very critical.

Another typical example, Mr. President, is the rubber tire and tube industry, where the five largest firms agreed to increase wholesale prices only 5 percent through August 1, 1974; to increase prices on retail small car tires no more than 4 percent through August 1, 1974; to expand capacity for producing radial tires by January 1, 1975; and to improve their price reporting on an indefinite basis.

Again, Mr. President, in such a critical industry as the rubber tire and tube industry, where the prices affect such a large segment of the American consumers, without price restraints we face increasing inflation of a critical nature.

Mr. President, these commitments should be enforced; they were given in exchange for a valuable quid pro quo—exemption from price controls—while the law was still on the books; they are custom tailored to the individual industry and consequently we know they are workable. These are not the kind of bureaucratic rules that have been fashioned by some group in Washington that is unfamiliar with the exigencies of a particular industry. Rather, these are commitments voluntarily given, bilaterally worked out between the Government and the industries, and calculated not only to cool inflation, but to work and allow the industries to make an adequate profit, as the free market system is designed to do.

Finally, Mr. President, it is part of our tradition that a bargain is a bargain. A deal is a deal, and these deals and these bargains ought to be enforced and lived up to.

Mr. President, what the provisions in the present law and in the bill now before the Senate do is declare that commitments given prior to expiration of the Economic Stabilization Act shall remain in full force and effect despite the expiration of the act on April 30. The bill provides that controls may be reimposed for violation of a commitment, injunctions may be obtained, and the penalties provided for under ESA for violating an order or regulation may be applied for violation of a commitment.

Mr. President, the bill also provides that judicial review provisions of ESA shall be available to a person charged with violation of a decontrol commitment.

I think it is important, Mr. President, that we point out also what the bill does not do. It does not cover under the rubric of commitments pre-April 30 wage orders. Term "commitments" is restricted and means only those specific arrangements secured from 17 key industries. No authority to enforce prior wage cutbacks or to issue regulations relating to "paper wage" problems in some industries is provided for this bill.

The term "commitments," Mr. President, also does not include any vague indication from management or labor to act responsibly in the future—no more and no less than the agreements reached with 17 key industries in the course of granting them exemption from the ESA. That is all that is provided for as far as commitments that have been given are concerned. In other words, the term "commitment" is a term of art, and relates only to those voluntary commitments reduced to writing and, in effect, made a contract between these industries and the United States.

Mr. President, in my judgment it would be utterly irresponsible, almost outrageous, for Congress to walk away from these commitments, which are not only morally right in their enforcement, but calculated to be effective in the fight against inflation.

Mr. MUSKIE. Mr. President, I do not see any necessity for extended debate on this issue. We debated it last week. We have had discussions off the floor. So that I think the Senate, by and large, is well acquainted with the issues and what it is that those of us responsible for the amendment seek to accomplish.

However, it might be helpful if I reviewed some of the points in the pending bill and why I think it should be approved.

Mr. President, S. 2986 as presented to the Senate today contains provisions for a minimal but effective congressional response to the inflationary dangers our Nation faces. As a result of Senate action last week, S. 2986 has been amended to include a modified version of the Cost of Living Act, which I presented to the Senate with Senators STEVENSON and JOHNSTON—also cosponsored by Senators CANNON, CASE, CHILES, HASKELL, HATHAWAY, JAVITS, MANSFIELD, MCGEE, RANDOLPH, and RIBICOFF.

As presently contained in S. 2986, the Cost of Living Act basically includes two simple provisions: authority and a congressional mandate for the executive branch to monitor inflation, through an economic monitoring agency; and authority to enforce decontrol commitments.

The statistics on inflation in the first quarter of this year are familiar to most of the Senate by now: the 14.5 percent annual rate of consumer price increases; inflation in wholesale prices at a 25 percent annual rate; and a decrease in average real weekly earnings at an annual rate of 20 percent.

And more recent price increases since the Economic Stabilization Act expired last week tell us that we can expect continued high inflation in the months ahead. National Steel Corp., the Nation's third largest steel company, raised tin-metal products prices by 9.5 percent on the average last Wednesday. Copper producers increased some prices by 18 percent. Industrial gas prices were increased by between 10 percent and 15 percent by one large producer. And just yesterday, the Ford Motor Co. increased their base prices on 1974 model vehicles to levels Dr. John Dunlop, Director of the Cost of Living Council, called "unwarranted."

Mr. President, I ask unanimous consent to have printed in the RECORD an article on that subject which was published in the Washington Post this morning.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 9, 1974]

FORD RAISES PRICE DESPITE 1973 PLEDGE

(By James L. Rowe, Jr.)

Ford Motor Co. announced yesterday it is raising prices on its cars and trucks by an average of $113 per vehicle, effective immediately.

The move brought a quick telegram from Cost of Living Council Director John T. Dunlop, who told Ford that its action was "unwarranted" and a violation of the company's commitment last December to forego further price increases in exchange for being freed from wage and price controls.

Ford Chairman Henry Ford II responded with a telegram saying the company has had cost increases of $214 a car since Nov. 1, more than double the $98 forecast last December.

The company said its action was fully justified by costs and noted that the December agreement permitted price rises in the event of unforeseen economic developments, including cost increases substantially higher than projected.

The Cost of Living Council's authority to enforce mandatory wage and price controls expired on April 30. Since then there have been large increases in steel prices, health care prices and copper prices—three of the major industries that remained under price controls until the very end.

In addition, the chairman of Dow Chemical Co. told shareholders at the company's annual meeting in Miami yesterday that Dow "must massively increase the prices of our products" to recover the company's rising costs.

But Ford was apparently the first major company to raise prices after pledging to hold them down in return for being freed of wage and price restraints.

Some Senate observers think the Ford move will help a bipartisan group of legislators who are attempting to push through Congress some form of Cost of Living Council which will monitor the economy's wage and price developments. A vote is scheduled today.

One observer said Ford's move might kindle further support for giving the council authority to enforce decontrol commitments and perhaps some limited form of standby authority. Seventeen industries made deals with the council in return for decontrol.

In addition to the $113 of 2.4 per cent increase on base prices, Ford also announced that it is making standard equipment of a number of items that had previously been optional. That move will raise prices another 1.1 per cent, about $50 a car.

General Motors Corp., the industry's largest producer, said it had submitted data to the Cost of Living Council in support of a price increase but has not decided whether it will raise prices for the balance of the model year, which ends in September.

Last week, Chrysler Corp., third biggest auto maker, announced a price increase averaging $99 a car. Chrysler was the only one of the four biggest auto manufacturers that refused to enter the decontrol commitment with the Cost of Living Council.

The council decontrolled Chrysler anyway.

All four major automobile makers have had sharp declines in profits during the first quarter partially because of rising costs and partially because car sales were off substantially because of the energy crisis.

GM's profits were off 85 per cent and Chrysler's were down 98 per cent. Ford, the second largest producer, reported a profits dip of 66 per cent, and American Motors Corp. had a falloff of 58 per cent.

Small cars, whose sales have been booming, make up a larger percentage of Ford and AMC products lines than of the other two auto makers.

Dunlop, in his telegram to Ford, agreed that the data submitted by the company have risen "above those projected when the industry was exempted in December, 1973." But, he said, the Ford increases are not "consistent with the council's understanding of the voluntary commitment your company made with the council in December as a condition for decontrol."

A spokesman for the council said Dunlop is not basing his objection on how much Ford's cost increases have exceeded projections, but rather that Ford is violating the agreement made with the council during a climate of rising prices.

Ford said the $113 increase comprises a $91 increase for base vehicles, $15 for options and $7 for destination charges.

The $113 increase is on retail prices, and Ford will get $91 of it.

A spokesman for the company said that the increase applies neither to cars already on dealer lots nor to firm orders already placed.

Mr. MUSKIE. Mr. President, I make the point that the Ford Motor Co. was subject to one of the decontrol commitments which we have been discussing.

In another article in the Washington Post this morning, Hobart Rowen, reporting on the aftermath of wage and price controls, made the following observation:

> The early signs are not very encouraging to those suffering from inflation. Health "industry" prices, according to the administration's own analysis, will skyrocket. Metal, auto, paper, and many other prices are already moving up. Wage increases, without doubt, will be pushed higher this year than last (and the 1975 pattern could top 1974's).

Mr. President, I ask unanimous consent that the Hobart Rowen article be printed in full in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WAGE AND PRICE CONTROLS: A RESURRECTION?

(By Hobart Rowen)

Wage and price controls having been buried, we will now have an opportunity to see what the much-advertised "free market system" will accomplish.

The early signs are not very encouraging to those suffering from inflation. Health "industry" prices, according to the administration's own analysis, will skyrocket. Metal, auto, paper, and many other prices are already moving up. Wage increases, without doubt, will be pushed higher this year than last (and the 1975 pattern could top 1974's).

Logically, it is difficult to understand why this country, in the midst of the most pressing inflation since World War I, would abandon all form of controls, even on a stand-by basis that might inhibit extreme wage and price increases.

Those who expect that the rate of inflation will drop back from the horrendous results of the first quarter, when consumer prices shot ahead at an annual rate of 14.5 per cent, agree that price jumps will still be above what used to be considered "acceptable" levels.

Thus, Michael K. Evans of Chase Econometrics predicts that the CPI this quarter will be up by another 8 per cent, with industrial wholesale prices spurting at a 15 per cent annual rate.

Evans sees further improvement in the second half, "due primarily to the end of sharply rising oil prices, a continuing decline in prices received by farmers, and the end of the post-Phase IV inflation bubble."

But as union leaders, not abandoning logic, press for wage increases to make up for last year's 10 per cent inflation, they won't have to buck a wage guidepost, or that wise old Cost of Living Council director, John Dunlop.

What can be expected are wage hikes averaging over 7 per cent this year and 9 per cent next year, according to Evans. Many unions will be pushing for and getting much more, with increasing attention to cost-of-living escalators.

In an otherwise optimistic appraisal of the economy, economist Wilfred Lewis Jr. of the National Planning Association says "the cloud on the horizon is the continuing threat of inflation.

"Although there should be some slowing by year end in the recent rate of food and fuel prices, wage demands will be very large this year, understandable in the light of last year's hikes in consumer prices.

"If no constraints are imposed on manufacturers' prices, there is a very grave danger that, by as early as 1975, we will once again face the unpleasant dilemma of accelerating inflationary pressures while there is still too high a rate of unemployment."

What Lewis and other keen analysts are saying, rather bluntly, is that we haven't seen the last of controls. They are not a cure-all but the only real alternative as an inflation-killer is a high level of unemployment.

The moderation in fuel and food prices, Lewis says, is but a reflection of an easing of last year's shortages. The underlying inflationary pressures are much worse now than they were in 1973.

The fact that the second quarter CPI rate may be less horrible to contemplate than that 14.5 per cent number of the first quarter, Lewis adds, "should not be taken as a sign that demand management policies have succeeded in curbing inflation, or that the time has come when price controls can safely be discarded."

Controls now have a bad name, created in large part by an administration entrapped by its bitter ideological hatred of them. It waited too long before applying the first freeze in 1971, then weakened the ability of controls to perform a reasonable function by inflationary fiscal policies and an agriculture policy (nonpolicy?) that was downright irresponsible.

Then in the flush of victory after the November, 1972, election, the ideologies won out over good sense and catapulted the whole program into disaster by abandoning the mandatory Phase II in January, 1973. The program has been dying a slow death ever since.

Big business, which originally argued for controls as a device to hold down wages and which then led the charge for total abandonment, will probably be back hollering for help before long.

As for labor, which helped in the final kill, its unhappiness with Nixon's controls needs to be put aside in the future. Wage increases of 10 per cent look great when announced, but amount to zero when there's a 10 per cent inflation.

There is room for an "incomes policy" which is fair to all sides. But it will take time to purge the country of the Nixon administration's catastrophic influence.

Mr. MUSKIE. Mr. President, in the face of this continuation of inflationary trends, there is a clear need for the economic monitoring and decontrol commitment enforcement provisions which are now included in the Cost of Living Act as part of S. 2986. My distinguished colleague from Louisiana, Senator JOHNSTON, has described in detail the need for the decontrol commitment enforcement authority. I would like to take a few minutes of the Senate's time this afternoon to discuss the need for the economic monitoring agency authority contained in the Cost of Living Act.

The basic purpose of an economic monitoring agency is to provide a distinct institutional focus for Federal action on inflation.

One important reason to grant special economic monitoring authority is to evaluate the effect of a variety of Federal decisions on prices and availability of domestic products. For instance, the Agriculture Department, the Treasury Department, the Commerce Department, the Council on International Economic Policy, the President's Special Trade Representative, the Federal Energy Office—all make decisions that have an impact on our import and export policy. The Interior Department, the Federal Energy Office, the Agriculture Department, the Department of Housing and Urban Development—all make decisions affecting the production of important resources. The Labor Department has responsibility for labor decisions. Dozens of kinds of regulatory decisions—made by the Department of Transportation, the ICC, the FTC, the Environmental Protection Agency, and other agencies—have important effects on domestic prices and supply. And the many Federal budgetary decisions, made by the Office of Management and Budget and specific agencies, can also have important effects on prices and supplies of specific commodities and products.

A second important reason for establishing a separate economic monitoring agency is the collection and analysis of economic data adequate to forecast special inflationary and shortage problems in special industries. Conventional economic data, such as that collected by the Bureau of Labor Statistics, and the Commerce Department, are most often historical by nature, telling us what kinds of inflation and shortages we have experienced in the recent past, but not what we can expect in the future. Only under the Cost of Living Council has there been adequate "forecasting-type" data, such as: wage rates by locality in the construction industry; fertilizer prices, production capacity, import and export data; projected demand data on health; and data on the ability to substitute one raw material for another. Only with the continuation of an economic monitoring agency will the Federal Government continue to have the capacity to perform this important data collection and analysis function.

Third, Mr. President, a separate anti-inflation agency is needed to take positive action, short of wage and price controls, to avoid inflation and shortages in specific economic sectors. No conventional agency now performs these kinds of functions, such as: establishing communications among Government, management, and labor in particular sectors; calling attention, publicly and privately, to the need for voluntary restraints in selected instances; and the promotion of planning to avoid shortages which might have a ripple effect on the rest of the community.

None of these functions—these three that I have described—are now the mission of any other agency. The only executive branch body with the potential economic overview to perform these functions is the Council of Economic Advisors—and its permanent staff of 46—including both professional and clerical positions—is far too small to allow it to assume this mission. And, of course, it is not now charged with this mission.

Only by passing the Cost of Living Act, and mandating that these functions be performed by the executive branch, can we have some hope of having necessary warning of special short-term inflation and shortage problems we might face in the months ahead, and assurance that there will be a continuing study of the long-term inflation problems our Nation faces.

Finally, Mr. President, I would like to point out that the psychology of having a monitoring agency, even though it has no standby control authority, will be at least marginally helpful to the economy. A watchdog on inflation is better than providing no attention at all. And no one will ask for higher wages, or higher prices, merely because this agency exists. But its activities along the lines I have described could help promote a responsible attitude toward inflation on the part of business, labor, the administration, and the public at large.

By reaffirming its decision of last week, and giving final approval to S. 2986 and the Cost of Living Act, the Senate would be taking a positive step to meet the inflationary dangers of the months ahead.

Last week, Mr. President, some confusion was reflected in the debate as to the position of the administration on this proposal. Yesterday, I put in the RECORD a speech by Dr. Dunlop in which he strongly endorsed the concept of an economic monitoring agency; and I ask unanimous consent that his speech be printed at this point in the RECORD, so that there will be continuity in the presentation of this issue.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

TOWARD A LESS INFLATIONARY ECONOMY

(By John T. Dunlop)

Although the economy is performing surprisingly well in real terms, everyone knows inflation is a baffling persistent problem. It appears to be intractable here and abroad. Our CPI was up 10.2 percent in the period March 1973 to March 1974. The GNP deflator was up at a 10.8 percent rate in the first quarter of 1974. Inflation in the CPI in Japan was 26.3 percent in the past year and 13.2 percent in Great Britain.

The tendency of all forecasters has been seriously to underestimate inflation while showing a better record of estimates for output and employment. For instance, early in the year the forecasts for the GNP deflator in the first quarter were in the 7 and 8 percent range; the first quarter was in fact at the annual rate of 10.8 percent. While forecasts for the rest of 1974 typically show a marked reduction in this rate of inflation, it is my view that these estimates, derived from a combination of econometric models and hunch in varying proportions, still have a tendency to underestimate the extent of inflation in the second half of the year. A number of forecasters have again revised these estimates upwards recently.

I wish to propose for our discussion the nagging question of why these inflation rates, and at the same time pose the inescapable enigma of the private and public policies that are appropriate to constrain such inflation over the long term.

As an example of one view of inflation, the April 1974 *Monthly Economic Letter* of the First National City Bank argued against any Federal concern with monitoring private actions or government influence in particular markets as a means to constrain inflation. It held that "Inflation has little to do with the structure of private markets, which change only slowly. Rather, [inflation] depends on the relation between two growing aggregates, the level of monetary demand and the level of physical supply. When money demand grows faster than real output, the price level ultimately rises."

These views are a mirrored image of the perspective of Milton Friedman: ". . . inflation is made in Washington, in that stately and impressive Grecian temple on Constitution Avenue that houses the Board of Governors of the Federal Reserve System. Prices have been rising at faster and faster rates because William McChesney Martin and the other distinguished men who govern the system have decreed that they shall." (*Newsweek*, January 20, 1969, p. 78.) The names and the inflation rates are different today, but the theory is unchanged.

Let it be clear that I have no doubts that monetary policy is a major tool which can restrain or stimulate the economy; indeed monetary policy and fiscal policy are generally considered to be the major tools. But I reject the absolutism and exclusivity of this and similar analyses of inflation and its antidote, particularly for the long term.

The experience of recent years, in my view, supports the realistic judgment that monetary and fiscal policies are not sufficient tools by themselves to restrain effectively the types of inflation we have had, or that the authorities in charge of these policies—in the executive or legislative branch of government—are constrained in the extent they can use them. For the present purpose it matters little whether monetary and fiscal tools are inherently inadequate to deal with contemporary inflations or that the users are inhibited by practical considerations in their application of these classical measures. The simple fact is that monetary and fiscal tools are not enough, and we must get to the task of developing other measures even though their contribution might be less immediate or powerful.

Another school of thought stresses that inflation is derived, or at least made more virulent, by monopoly power of certain business enterprises and labor organizations. The appropriate relief to this alleged cause of inflation is seen to be more vigorous prosecution of the antitrust laws. Organized consumer groups in the past year have often stressed this view to me, urging a greater role for the Federal Trade Commission and the Justice Department. I readily agree that a more competitive economy in some sectors is desirable. But such policies involve endless litigation and uncertainty and, accordingly, are not likely to make much of an impact on inflation. Further, the contributions of collective bargaining are not likely to be set aside by the American community in favor of extension of the antitrust laws to industrial relations. In the present setting, it has been the competitive sectors of the economy that have shown the greatest inflation.

While not neglecting the contribution of other policy tools, I would like to stress the need for a whole series of structural changes in the economy and in their relations to government in order to constrain inflation over the long pull. These structural changes take time to develop; some are major institutional changes, while others are more modest adjustments.

There is need for a central focus—a continuing Cost of Living Council, or similar type of organization—to work within the Federal Government and in cooperation with private sector institutions to explore, to stimulate and to induce necessary changes. These activities are not to be confused with jawboning or preachments. They involve, rather, seeking to get government and private groups to change their internal decision-making processes, their habits of mind and thought patterns, and their responses to their outside worlds. Such changes cannot be achieved by fiat or regulation, but must emerge from persuasion and hard experience as a series of new consensuses, both within the society and within separate economic groups and institutions.

I should like to set forth a number of examples of the type of structural changes that need to be made in government, in the government's relationships with various groups, in labor-management relations, and in business, all with the objective of creating a less inflationary economy.

GOVERNMENT

1. The single most important structural change needed in government to restrain inflation is a reorganization in the Congress to formulate coherent tax and expenditure policies and thereby to work more cooperatively with any administration toward a viable fiscal policy to constrain inflation. Many public spirited members of the Congress of both parties have been working on this matter for many years and some progress has been made, but we have a long way to go. We simply cannot constrain inflation in this country until the Congress gets its fiscal house in order.

There is a need for change in outdated, outmoded Federal policies which contribute to inflation in specific industries. We have a golden opportunity now to rid ourselves for the long term of the restrictive agricultural policies of the past 30 years that were engendered particularly by the depression of the 1930's. The Cost of Living Council in 1972 and 1973, somewhat belatedly perhaps, took the leadership in pushing for the elimination of many of these restrictive practices—planting restrictions, import restrictions, some provisions of marketing orders, and the like. The extent to which agriculture has been largely transformed to expansionist policies, in my view, is not fully appreciated. Yet, it is extremely important to maintain these changes in order to constrain inflation for the future, to rebuild stockpiles to provide a degree of cushion from worldwide price and crop fluctuations in the future, and to provide further counters for our foreign policy. Regrettably, there are already signs that the restrictive practices of the past are returning. Agriculture is but one illustration of areas where government policies to encourage supply, or to stop inhibiting supply, are essential to restrain price increases.

3. The involvement of government in various sectors of our economy also dictates a reevaluation of existing private policies. In the health care area the government has come to be the largest purveyor of funds and now is seriously considering new injections of dollars and demand in the form of national health insurance. Its interventions, including Medicaid and Medicare, essentially have provided for cost passthrough and reimbursement, with the inevitable consequences of unnecessary services, inefficiencies and, consequently, more inflation. It is essential that the government's involvement in the health care field be modified to restrain inflation by requiring that prospective budgeting procedures replace automatic cost reimbursement. That was the purpose and design of our Phase IV health regulations.

GOVERNMENT RELATIONS TO SPECIAL PROBLEM AREAS

4. The relationship of government to particular problem areas in our society warrants increased attention. For example, despite some commendable innovations in the last half dozen years, the fate of the housing industry and its fluctuations from year to year depend very largely upon general monetary policy and interest rates. There are enormous costs of instability and inefficiencies in home building which grow out of the frequent and unpredictable changes in monetary policies. A significant area for institutional and structural change is to develop ways of providing for less violent fluctuations in housing through variable mortgage and deposit interest rates, as in some other countries, or other devices to provide a flow of funds more stable for housing with consequent greater efficiency and lower costs of housing production.

5. Another of the major problems of the society where the government has a role is the interface between work and school, particularly in the age group 16–21. Reported unemployment rates of 17.0 percent for 16 and 17 year olds and 11.4 percent for 18 and 19 year olds, compared to 4.9 percent for all age groups in 1973, may alternatively be viewed as a failure of the labor market, as it usually is, or as a failure in the educational system. No amount of general economic policy is likely to make much of a contribution to this problem and attempts to do so will likely contribute to inflation. Rather, there is a definite need for considerable restructuring of the local arrangements made to bring young people of this age group into contact with the labor market, and for labor market feedback, in turn, into the educational system.

Incidentally, to include these youth in our national unemployment figures, as we conventionally now compute them, whether or not the person has previously held a job, is also to provide a most unsatisfactory and inflationary indicator for general economic problems.

6. One of the areas of policy most likely to affect long-term inflation prospects has to do with the impact of the rest of the world upon the United States through variations in imports, exports and exchange rates. I am convinced that the major lesson of the inflation of 1973 is the reality that we live in a vastly more interdependent world in primary commodities and manufactured goods than ever before. One needs to be very careful not to promote autarky, by restricting unduly either imports or exports. But, at the same time, the United States can no longer afford to be the market of last resort, as in the case of ferrous scrap—the only country to export ferrous scrap, with the consequence that our steel prices must bear the full impact of the residual decisions of all other countries.

Neither is it realistic for a domestic energy program to be entirely dependent on price policies of other oil producing countries where those policies have been used for political purposes. A world in which primary producing countries decide to raise, in cartel fashion, the prices of many other primary products is a very different one than we have previously experienced. Thus, the time has come to equip ourselves with trade policies to deal with these new conditions.

LABOR-MANAGEMENT RELATIONS

7. Today, an opportunity exists as never before for the development of imaginative machinery for the settlement of disputes over the provisions of new collective bargaining agreements in a number of industries. Basic steel and railroads have reflected this atmosphere. Yet, a good deal of further constructive work can be done in other sectors, such as paper, maritime, retail food, construction, newspapers, and the like. The fragmentation of collective bargaining in many industries which conduct local or regional negotiations, with the associated whipsawing and escalation of settlements, is one of the principal ways in which collective bargaining creates inflationary pressures. Dispute settling machineries which deal with these questions, and at the same time direct the attention of the parties to their fundamental long-run problems of technological change, productivity and manpower, can be enormously constructive.

8. Within the labor area, one of the most important structural problems for the future relates to the continued growth in fringe benefits relative to the pay package. There is no doubt that following 1940 it was appropriate to develop a variety of private pension, health and welfare, and other fringe benefit plans. But the question needs to be raised whether these tendencies have not now been excessive as one considers the costs of private pension plans and as one recognizes that the tax system tends to encourage parties to put money into fringes rather than into wages where it might very well better serve the interests of workers and members. Simply stated, when funds put into the pay envelope are taxed at 30 percent or more, while moneys placed into certain fringes are tax free, the tax system is biasing the bargaining processes in an inflationary manner.

9. Various structural changes are required in collective bargaining that vary from industry to industry. One illustration may be sufficient. In the construction industry it is imperative that the owners set up a more viable working relationship with the contractors in order to strengthen the management side in collective bargaining. This has never been easy to do, since the contractors feel that the owners will interfere unduly in the bargaining process and seek to eliminate "contracting out." Yet, in the absence of such working relationships, owners often tip the scales in favor of the union side by encouraging particular contractors to work through a strike or to work overtime or by setting completion schedules and volumes of construction in an area which can have only inflationary consequences. In the same way, the jurisdictions of local unions or the group involved at the bargaining table may be inappropriate to represent the best long-run interests of the members in the area. International unions have a more general and long-term perspective than local negotiators and, thereby, should have larger role.

BUSINESS PRACTICES

10. One of the most significant areas of business decision-making have to do with the timing of investment decisions. The present inflationary period has been made very much worse by company decisions not to expand capacity substantially in such industries as steel, fertilizer, paper, cement, oil refining, and the like. The fraction of Gross National Product expended on net new plant and equipment investment has been lower for many years in the United States than among our industrialized competitors. The present purpose is to second guess those decisions. It is essential, rather, to explore ways in various industries to achieve a smoother flow of investment outlays over the future. This is a most difficult matter in the framework of the American legal system. Nonetheless, a more public discussion of these issues, a government-business discussion of the capacity needs of various industries, and an exploration of the means of financing such expansion seem to me necessary in the American economy of the future. It may very well be that in several industries, such as basic steel, the prices that would be required to attract new capital to the industry may be so high, and the inflationary consequences of such prices may be so great for the economy as a whole, that other means of financing modernization of capacity, such as various forms of tax and accelerated amortization and depreciation arrangements, may be preferred to constrain inflation. These issues require urgent and quantitative review.

11. There are occasions, also, when government and the business community can work cooperatively to solve problems which contribute to inflation. In the economy at most times, and particularly when operations are near capacity, there are various bottlenecks, areas of shortages and problems of efficiency and distribution within and among various sectors. At the present time special problems relating to railroad flat car availability, the production of steel for drag lines, the distribution of fertilizer, the production and distribution of roof bolts for underground coal mines, and the supply of ferrous scrap are illustrative. There is a role for the government in assisting to isolate and eliminate such inflationary bottlenecks by providing data, by bringing together representatives of sectors to make a contribution to the resolution of the problem, and by other nonmandatory means.

Both the Cost of Living Council and the National Commission on Productivity have been active in solving these problems, but both may be eliminated by Congressional inaction. The continued identification of a changing agenda of such problems and work with the sectors on these problems can make a contribution to expansion of output and supply without the imposition of mandatory controls and can reduce pressures which lead to Congressional demands for the reimposition of mandatory controls.

1. In the achievement of public objectives, the energy area is bound to be one that will remain for many years at the center of public concerns. In a whole host of ways it should be possible to encourage the generation of capacity and distribution in the energy field so as to minimize the impact upon price and inflation. In this field as in all stabilization matters, there is involved the delicate balancing of prices high enough to generate adequate supply but not so high that they represent an undue burden to consumers and an unnecessary impetus to inflation.

The Administration has proposed for the post controls period the establishment of a small Cabinet-level agency to work on some of these changes without the authority to impose mandatory wage and price controls in order to develop a less inflationary economy. These illustrations can be multiplied many times. Tomorrow and next year there will be new and different opportunities.

These activities are not to replace fiscal and monetary policy, nor are they to provide an excuse for less diligent macroeconomic policies to restrain inflation. These monitoring activities, designed to promote inflation-restraining structural changes, are to be supplementary and supportive. In some circumstances, however, they may be decisive. Dr. Arthur Okun has well made this point, although one need not accept his precise numbers: "Let me replay fiscal and monetary policy with perfect hindsight over the last two years and I don't think I could save you more than a couple of points on the rate of inflation. Let me replay agricultural policy and energy policy, however, and I'll give you five points." (*New York Times*, April 28, 1974, F. p. 24.)

One of the difficulties with the structural change policies here proposed lies in the failure of the discipline of economics itself. Since the 1930's the preoccupation of the core of economics has been with macroeconomic issues and models of the total economy. This area has attracted the best of the younger generation and is the center of attention in the journals and in scholarly writings. Even this body of contemporary theory is not very adequate in analyzing inflation. Abba Lerner stresses this point in the current Economic Literature in discussing Keynesian economics: "A new ball game has been established in which only direct influence on the wage unit by an incomes policy, as a kind of splint on the fractured price mechanism, can restore a free economy working at a satisfactory level of employment."

But this attention to macroeconomics has not helped the making of economic policy very much, in my view, or assisted in the concerns over individual sectors which now require attention. The academic and career field of industrial organization which treats market structures and pricing decisions, or the related fields of labor market analysis, have languished. The result is that, despite a greatly enlarged economics profession, there do not exist many first-rate specialists in microeconomic analysis equal to the challenge before us. There are only a few specialists in the academic world, in business or in government with working knowledge of the institutional structures and the operation of various industries and markets. This intellectual limitation has been a serious impediment in the generation of ideas to deal with sectoral and structural problems that are central to any operating concern with contemporary inflation.

The deficiency is even more serious since economists are not well trained, or adjusted, to pay attention to processes by which institutions change or are changed in this society. They know far too little about the ways in which managements, labor organization, other producer groups and government agencies in fact operate and respond to various economic and political pressures or opportunities. They specialize in predicting results on the basis of varying inputs with the institutions and market structures unchanged. But a major area for anti-inflation policy concerns the understanding and inducing of such changes.

A new breed of analysts and public policy makers is required, with more emphasis on understanding private decision-making, more emphasis upon detailed data, more concentration on problem sectors, and more resort to persuasion and cooperation. The government is deeply involved in private decision making, like it or not, and the government has many counters to play, apart from any mandatory wage and price controls, and our interest groups are ordinarly sufficiently willing to participate to warrant a major effort to develop less inflationary policies for all.

Mr. MUSKIE. I also ask unanimous consent to have printed in the Record an Associated Press wire report of a statement by Secretary Shultz, in a press conference the day before yesterday, in which he gave a clear endorsement to the concept of the Cost of Living Council Act as it was approved by the Senate.

There being no objection, the article was ordered to be printed in the Record, as follows:

Statement By Secretary Shultz

Washington.—Americans cannot expect any relief from record high interest rates until progress is made in the fight against inflation, says outgoing Treasury Secretary George P. Shultz.

But Shultz, whose last day in office will be Wednesday, says interest rates may just about have reached their peak.

Shultz commented after the interest rate for government short-term borrowing—in the form of treasury bills—hit a record 9.036 per cent Monday.

Shultz said interest rates, especially long-term rates, are being kept high by inflation and will not decline until progress is made in controlling inflation.

He indicated he agrees with policies of the Federal Reserve Board to moderate the growth of the Nation's money supply and keep a tight rein on the supply of credit, actions that are designed to restrain inflation but also help push interest rates upward.

Meanwhile, Labor Secretary Peter J. Brennan said Monday he does not see "on the horizon any immediate solution" to the inflation problem.

After meeting with President Nixon at the White House, Brennan told newsmen: "I don't think there is any clear program" within the administration to quickly curb inflation.

Shultz, 53, will leave the Nixon administration Wednesday when William E. Simon is sworn in as his successor at a White House ceremony.

The last member of the original Nixon Cabinet still with the administration, he has been Secretary of Labor, Director of the Office of Management and Budget and, since 1972, Secretary of the Treasury.

He told newsmen at a reception that, after careers in education and government, he expects to make his third—and probably last—career in business.

He said he has not yet made a final decision on what business to enter, but said he has received a number of good offers, job offers have included proposals from oil companies, but Shultz did not say whether these were the ones he was considering.

He said he wants a job that will allow him flexibility to continue some university work. He was Dean of the University of Chicago

Graduate School of Business when he joined the administration as Nixon's first Secretary of Labor in 1969.

He also made these other points:

The administration supports legislation now before the Senate to turn the Cost of Living Council into an inflation-monitoring agency with power to enforce price restraining commitments given by big business and to watch over wages and prices in the economy.

Simon is the logical choice to emerge as the administration's top economic adviser, although he acknowledged there was no reason the position had to go to the Deputy Treasury Secretary.

In addition to his other offices, Shultz has held the rank of the Assistant to the President for Economic Affairs, a title that will not go to Simon, at least at the beginning.

Mr. MUSKIE. May I close these informal remarks by saying that no one who sponsors this proposal sees it as a cure-all for inflation. Nor do we see it as much of a restraining effect on price and wage decisionmakers as standby controls would have had—but the Senate has made its decision to refuse to grant that authority.

So what we are discussing today is whether or not we ought to take this minimal step, whether or not it would be useful, whether or not it could position us to respond to the unanticipated events which the volatile forces at loose in our economy could well bring to pass.

Mr. ROTH. Mr. President, the soaring rate of inflation is this country's single most important problem. Therefore, I have been deeply concerned with the actions taken by the Senate Banking Committee to refuse to consider any legislation dealing with economic stabilization.

Over 6 weeks ago, I introduced two pieces of legislation—one to provide the President with standby controls authority, subject to a congressional veto; the second to establish a National Commission on Inflation to promote voluntary price and wage restraint.

I believed that if the Congress was to convince the American people, and the world, that we are serious about controlling inflation, we must provide the President with standby controls authority. However, I also thought that the Congress should have a say in any controls program. Toward that end, I introduced an amendment, which was sponsored by the distinguished Senator from Minnesota (Mr. HUMPHREY), to the standby controls amendment to provide for congressional oversight of the stabilization process.

This amendment, which was approved by the Senate on May 1, would allow the Congress to disapprove any Presidential order to reimpose mandatory controls on any one sector of the economy.

Although the standby controls amendment was ultimately rejected, I believe that such a program could have been successful with this congressional oversight process.

Now that the Senate has decided not to provide the President and the Congress with standby controls authority, I believe that the very least we can do is establish a Government body to promote voluntary price and wage restraint.

Two weeks ago, I inserted in the RECORD a letter I had received from Arthur Burns, the Chairman of the Board of Governors of the Federal Reserve System. In his letter, Dr. Burns expressed his support for my proposal to establish the National Commission on Inflation.

He wrote:

> Our inflationary problem is so serious that we cannot afford to overlook any possible benefits that might be found in a new approach of this kind.

The amendment now before the Senate to establish an inflation monitoring agency is very similar to my proposal. The only major difference between the two proposals is that my proposal would insure greater public participation in the inflation fight by providing for 10 public members, 2 each from business, labor, agriculture, State and local government, and consumer interests.

Whatever the differences in the two proposals, their intent is the same, and I endorse the pending amendment.

This amendment would provide an ongoing center of Government vigilance to promote voluntary restraint, guard against abuses of economic power, and promote the level of confidence in our ability to solve inflation.

I am disappointed that the White House has not spoken out forcefully in support of the need to continue within the Federal Government an ongoing inflation monitoring agency.

But I applaud Cost of Living Council Director John Dunlop for his perseverance in his lonely struggle to persuade the Congress of that need.

Earlier this week, I contacted Dr. Dunlop and urged him to continue his fight to establish an inflation monitoring agency.

In his response, he wrote:

> I fully agree that there is more to the problem of economic stabilization than the tools of monetary and fiscal policy encompass, and that an inflation monitoring agency would serve an extremely useful function in the overall struggle against inflation.

I ask unanimous consent that at the end of my statement Dr. Dunlop's letter be printed in full.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ROTH. Mr. President, in my opinion, one of the most important functions of the proposed agency would be to spotlight for public scrutiny any price or wage increase that contributes substantially to inflationary pressures. If this is done effectively, the glare of public opinion could dampen many inflationary price and wage increases.

This amendment would also provide the inflation agency with the same functions that my National Commission on Inflation would have had.

These functions are:

> Identify and evaluate inflationary problems by monitoring the economy as a whole, including such matters as wages, costs, productivity, prices, sales, profits, imports, and exports.
>
> Evaluate and change Federal policies and programs which have adverse effects on supply and cause increases in prices.
>
> Review industrial capacity, demand and supply in various sectors of the economy to encourage price restraint.
>
> Improve wage and price data bases for the various sectors of the economy to improve collective bargaining.
>
> Focus attention on the need to increase productivity in both the public and private sectors of the economy.

We have all heard that mandatory controls have the potential to cause economic distortions and create shortages. But, we have not emphasized the fact that economic controls have had a restraining influence on inflationary expectations, which can be as harmful as inflation itself.

A Government monitoring agency would not have mandatory control authority, but it would serve to dampen the economy's inflationary expectations.

By completely abandoning the Government's anti-inflation mechanism, I believe that we will be dealing a damaging blow to the consumer's inflationary expectations. In my judgment, these expectations have caused more harm to our economy than mandatory controls ever did.

The inflationary expectations have become so persuasive that Americans not only talk freely about South American double-digit inflation, but they expect it.

I am fearful that these inflationary expectations, coupled with the upcoming congressional elections, could lead to intense pressures to reimpose strict wage-price controls. In order to avoid these pressures, we must provide a vehicle for strong public jawboning, jawboning that is backed up by a highly visible Government entity.

I am a firm believer in the free market system, but our economy is too complex and too interrelated to rule out any Government action as we move from mandatory controls.

There is a need today for a single Government focus to monitor the economy, to promote voluntary restraint and to encourage increases in supply. In short, there is a vital need to use the resources of the Federal Government as an institutional focus to coordinate this Nation's fight against inflation.

If the Congress throws up its hands and walks away from our No. 1 problem, how can we expect the American consumer to have any confidence in our economic and political systems?

How can we expect labor to cooperate in wage settlements, and ask business to hold down prices, if we turn our backs on inflation?

If the Federal Government does not use its influence and leadership in the fight against inflation, who will?

EXHIBIT 1

COST OF LIVING COUNCIL,
Washington, D.C., May 9, 1974.

Hon. WILLIAM V. ROTH, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ROTH: Thank you for your recent letter regarding the need to continue within the Federal Government a central focus on the problem of inflation.

I have been aware of your concern with this issue and of the initiative which you took last month in sponsoring a joint resolution to establish a National Commission on Inflation.

As you know, I fully agree that there is more to the problem of economic stabilization than the tools of monetary and fiscal policy encompass, and that an inflation-monitoring agency would serve an extremely useful function in the overall struggle against inflation.

Despite the expiration of the Economic Stabilization Act, the Administration still seeks statutory authority for an on-going inflation-monitoring agency. Such an agency would be responsible for seeing to it that the government, in its own activities, takes into account both the direct and indirect inflationary potential of its actions. In addition, the agency would work with the private sector to increase capacity and productivity and to elicit voluntary wage and price restraint where restraint is clearly in order.

Your early recognition of the need to continue such activities in the fight against inflation, and your continued support for legislation to provide an institutional focus for those activities, are greatly appreciated.

Sincerely,

JOHN T. DUNLOP.

Mr. JAVITS. Mr. President, I think there is a somewhat new situation today in the speech of Dr. Dunlop. This morning, we had before us, in a joint hearing of the Judiciary Committee and the Government Operations Committee, the Chairman of the Council of Economic Advisers, Dr. Stein, who also espoused the position that some monitoring agency was essential in respect to the future policy of this Government; that coupled with that, there should be emphasis upon Dr. Dunlop's prediction that inflation would be worse in the months ahead than it has been up to now, in a material way, giving figures.

I should like to ask a question of the principal author of the amendment in which I have joined. There is some concern among Members of this side, perhaps also on the other side, that a new agency established to deal with this matter would not simply be a prolongation of the Cost of Living Council, on the theory that the Cost of Living Council is thoroughly control-oriented, both in wages and prices, and, therefore, may unwittingly—but nonetheless may—be so dominated in its activities by its previous history that it would tend simply to be a conduit toward a situation which would demand renewal of price and wage controls.

I know the Senator from Maine; I know myself and others who are associated in this effort. I know we are acting in the utmost good faith. The Senator has repudiated the concept of standby controls. We will abide by the will of the Senate, not only in letter—which of course we must—but also in spirit. So I ask the Senator this question: May it be understood, and if desirable—and I think it is desirable—could it be locked in by a very brief amendment, because the Senator has taken care of all the mechanics of transferring personnel, papers, and so forth, in section 209 of his amendment, that we expect this to be a new agency established by the President? That will mean a revisiting of the advice and consent of the Senate by one of the five members provided in section 209(d) and Presidential appointments of the other four, so that the Senate may have a feeling of confidence that this is truly an agency which will be put together for the specific purpose which will be allowed by what remains of this amendment—to wit, the monitoring purpose.

Mr. MUSKIE. Yes, the Senator and I have discussed this matter informally. The language of the bill does not mandate a continuance of the Cost of Living Council as such, or even a continuance of its name. But I would be more than receptive to an amendment which would further clarify the point along the lines suggested by the Senator from New York.

Mr. JAVITS. I thank the Senator. I shall present the amendment whenever the Senator feels that the time is propitious, as I do not want to get off on something else until the Senator is ready. I have such an amendment and will submit it.

Mr. MUSKIE. I thank the Senator.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legistlative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read, as follows:

At the appropriate place in the bill, add the following:

"SEC. . The Cost of Living Council shall not continue in operation after June 30, 1974, but the authority conferred on the President under title II of this Act shall be administered by a new agency established by the President."

Mr. JAVITS. Mr. President, I am ready to vote. I understand there is no problem about the amendment.

Mr. PROXMIRE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PROXMIRE. Mr. President, will a vote on the Javits amendment to the amendment preclude a further amendment with respect to personnel or with respect to the size of the agency or composition of the agency in any way?

The PRESIDING OFFICER. It would not preclude adding to the language. It would not.

Mr. PROXMIRE. With respect to personnel and limiting the size of the agency?

The PRESIDING OFFICER. It would not preclude the Senator.

Mr. PROXMIRE. I thank the Chair.

Mr. JAVITS. Mr. President, this is an amendment added to the bill. I understand the Senator from Maine (Mr. MUSKIE) had a matter that has been added, so we are adding a new matter.

Mr. PROXMIRE. I understand, but I understand the Muskie amendment is in the bill. I wanted to be sure there is no complication.

The PRESIDING OFFICER. The question is on agreeing to the amendment. (Putting the question.)

The amendment was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PASTORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I move that all after the enacting clause of S. 2986 be stricken; and I send to the desk an amendment in the nature of a substitute.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was stated as follows:

Mr. TOWER proposes an amendment in the nature of a substitute, as follows:

In lieu of the matter proposed to be inserted by the Committee amendment, insert the following: That section 210 of the International Economic Policy Act of 1972 is amended to read as follows:

"AUTHORIZATION

"SEC. 210. To carry out the provisions of this title, there are authorized to be appropriated not to exceed $3,331,000 prior to June 30, 1967, and not to exceed $100,000 for the fiscal year ending June 30, 1977.".

TITLE II—ECONOMIC MONITORING ESTABLISHMENT

SEC. 201. There is established an Economic Monitoring Council (hereinafter referred to as the "Council") which shall consist of the Secretary of the Treasury, who shall be the Chairman of the Council, the Chairman of the Council of Economic Advisers, and the Director of the Office of Management and Budget.

FUNCTION

SEC. 202. It shall be the function of the Council, in cooperation with public and private agencies, to monitor the economy as a whole.

Mr. MUSKIE. Mr. President, does the Senator have a copy of the amendment in the nature of a substitute?

Mr. TOWER. We are trying to get copies made now.

Mr. MUSKIE. I thank the Senator.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, the substitute that I have offered changes the authorization portion of the original bill. Rather than authorizing $1,581,000 for the fiscal year ending June 30, 1975, and $1,750,000 for the fiscal year ending June 30, 1976, that has been changed so it now reads "to be appropriated, not to exceed $3,331,000 prior to June 30, 1976," making it a biennial authorization, and not to exceed $100,000 for the fiscal year ending June 30, 1977.

In addition, there is a second title which establishes an Economic Monitoring Council which consists of the Secretary of the Treasury, who shall be the Chairman, the Chairman of the Council of Economic Advisers, and the Director of the Office of Management and Budget.

Its function would be, in cooperation with public and private agencies, to monitor the economy as a whole.

If this substitute is adopted, Mr. President, it is open to further amendment, and I would intend to propose some amendments to that which would perhaps further flesh out the entire monitoring authorization. It would provide for a considerable number of things.

So I think the first step is to adopt my substitute, and I think amendments will be offered that will do the following:

Declare a congressional finding that inflation remains a serious problem and that the Federal Government should continue to focus attention on inflation and the need to increase production and productive capacity.

It would require a review of wage and price developments in the economy.

It would allow the Council to request information from the private sector and from other Federal agencies.

It would allow the President to enforce decontrol commitments, with commitments made prior to May 1 of this year being made public 30 days after enactment of this bill.

It would allow the Council to issue subpenas, but only for information necessary to monitor a decontrol commitment.

It would authorize the Council to appoint a staff consisting of 1 executive director, 7 professionals in supergrades, with a total professional staff of not to exceed 28. The idea here is to avoid the establishment of a big bureaucracy that would probably be control-oriented, that would have power to get proprietary information or confidential information on behalf of trade unions, and prevent this agency from becoming a Frankenstein monster that would have perhaps an opposite effect from what it was designed to do.

The idea is to reduce the anticipatory hazard involved in the bill as it now stands, the anticipatory hazard being that with the expectation of the imposition of controls, wage and price bases would be brought up so that when that awful day came, there would be a higher base from which a business organization or a trade union could proceed.

Mr. President, I suggest the absence of a quorum——

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. TOWER. I yield.

Mr. PROXMIRE. Mr. President, I congratulate the Senator from Texas. I think he is on exactly the right track. When we passed the original bill several years ago, one of the fundamental mistakes that was made was in giving the President unlimited power over wages and prices. Even Dr. Arthur Burns, Chairman of the Federal Reserve Board, who is a strong friend of the President, argued that this was too much power to give to any man.

There are few, if any, economic powers—I cannot think of any—greater than the right to determine the level of prices and the level of wages. It is an immense power, and I think it is of the greatest importance to circumscribe it.

The last part of the amendment we will vote on, as I understand it, provides for a budget limitation. This is most desirable, because Congress has the power of the purse. If we simply do what is done in the amendment before us, and it is unamended, we give the President discretion to make whatever appointments he wants and to provide virtually whatever budget he wishes to provide.

The merit of the last part of the amendment is that there is a limit of $1,000,000, and the Senator limits the time. It seems to me this is the responsible, wise, careful way in which the Senate should proceed on this matter.

So I do hope that the Senate will see its way clear to support the Tower amendment.

I have an amendment to the Tower amendment before we vote on it. I hope we have a chance to vote on it, but I think other Senators may wish to discuss this amendment pro and con.

I think it has the value and merit that the Muskie-Stevenson-Johnston proposals have. It provides for a monitoring agency. It would enable the country to know what is going on in these areas. But it means that we would have some control, we would have some limitation, on the size of the agency. As the Senator from Texas has described it, he would circumscribe the monitoring power in such a way that it could not be used the way the wage and price controls have been used before—primarily for controlling wages, and not controlling prices.

For these reasons, I hope the Tower amendment is adopted. I will support it. When the debate on that amendment is completed, I have an amendment to the amendment.

Mr. MUSKIE. Mr. President, I have not had a chance to study the proposed amendment, which I saw just a few moments ago. I think I might begin by making a few observations.

First of all, the Senate voted several times last week, with the result ultimately, after 2 or 2½ hours, of approving the so-called Muskie amendment as title II of the bill. Upsetting that result cannot be achieved by a motion to strike. The rules are clear on that point. The Senate worked its will, adopted the Muskie amendment as amended. It is now in S. 2986, and it cannot be deleted by a motion to strike.

As I examine this one-page amendment, it is simply an effort to get around that prohibition. This is nothing more than a motion to strike in disguise, and I would hope that the Senate would not concur in any such devious attempt to upset what the Senate has already done pursuant to the rules.

There is nothing substantive in this amendment with respect to an economic monitoring establishment. There are only seven lines that do nothing to spell out authority or policy or the objectives of an economic monitoring agency. There is no authorization for funding.

It looks as though it were thrown together in a moment or two in pursuit of the effort to strike the provision from the bill. To adopt it would be a meaningless gesture on the part of the Senate. There is no substance in it.

The Muskie amendment which the Senate adopted last week was a carefully drawn, thought-out, legislative proposal: the objectives spelled out in detail, the authority spelled out in detail, and funding provided.

It is a positive, constructive, good-faith measure to arm this country with an agency in a position to do something about inflation.

This amendment of the Senator from Texas is an attempt to get around the rules and to strike from the bill what the Senate has already approved.

In due course, I will move to lay this amendment on the table. I do not think it is deserving of any more treatment than that.

Mr. STEVENSON. Mr. President, will the Senator yield?

Mr. MUSKIE. Yes, I yield to the distinguished Senator from Illinois, reserving my right to the floor.

Mr. STEVENSON. Mr. President, the Senator from Maine has pointed out that this amendment, this motion, is an attempt to accomplish by indirection what cannot be accomplished under the rules. But it is an attempt also to do something more.

This amendment in the nature of a substitute, offered by the Senator from Texas, also changes the authorization for the Council on International Economic Policy. It changes the authorizations for fiscal years 1975 and 1976 and rolls them up into one authorization for the entire period, and changes the amount. It also establishes an authorization for fiscal 1977. There was no such provision of any kind in the underlying bill.

This amendment, where it is not a devious attempt to rework the will of the Senate, is an attempt to rework the will of the Committee on Banking, Housing, and Urban Affairs. The Senate Banking Committee, unanimously, with a long record behind it, recommended authorizations for 1975 and 1976, but nothing for 1977.

So in addition to the arguments made by the Senator from Maine (Mr. (MUSKIE), I point out that without any warrant in the record, this amendment also makes changes in the authorizations for the Council on International Economic Policy.

For that reason, too, I urge the Senate to support the motion to table that will be offered by the Senator from Maine.

Mr. ROTH. Mr. President, will the Senator from Maine yield?

Mr. MUSKIE. I yield to the Senator from Delaware, provided I do not lose my right to the floor.

Mr. ROTH. Mr. President, I am opposed to the amendment proposed by the Senator from Texas. I should like to point out two reasons why I oppose the amendment.

First of all, sometime ago I introduced legislation to create a National Commission on Inflation. As a part of my proposal, I provided for the membership of a number of people who are included in the amendment of the Senator from Texas. I think it would be wise to have a commission that included the Secretary of the Treasury, as well as the Chairman of the Council on Economic Advisers and the Chairman of the Board of Governors of the Federal Reserve System.

However, I further proposed that on this commission there should be representation not only from business and labor, but also from agriculture interests, from State and local governments, and also from the consumer interests. I think that if we try to fight our way through the inflation battle, it is vital that these groups be heard from.

This proposed amendment would strip away the staff that is necessary to monitor the economy effectively.

My second concern about the proposed amendment is that it does not provide for public hearings. If we are going to be at all effective in putting restraints on inflation, it is absolutely imperative that the monitoring agency has the right to hold public hearings. By doing so, I hope that business and labor will be responsible in their actions in the future; and if they are not, the public and the media will be alerted to their actions.

For these reasons, I join those who oppose the amendment.

Mr. JOHNSTON. Mr. President, will the Senator from Maine yield?

Mr. MUSKIE. I yield to the distinguished Senator from Louisiana, preserving my right to the floor.

Mr. JOHNSTON. Mr. President, I should like to point out that the purpose of this one quickie amendment is not only to gut the whole amendment, but also to eliminate completely from the Muskie-Stevenson-Johnston amendment the authority to enforce the amendment. There are 17 major industries, with 300 major firms in this country, all of which have made commitments voluntarily designed to meet the problems of those industries. They range from automobiles to petrochemicals to aluminum, furniture, the retail trade, rubber, and textiles. They are major industries in the country that have made voluntary commitments, not only relative to prices, but also relative to production capacity and to exports.

If we should repeal that provision now by this one-page, quickie amendment, it would put in very serious jeopardy one of the most effective inflation fighters that we have. That would be a sad mistake.

Mr. BROCK. Mr. President, will the Senator from Maine yield?

Mr. MUSKIE. Yes, I yield to the Senator from Tennessee without losing my right to the floor.

Mr. BROCK. Mr. President, I wonder if the Senator would indicate whether he could support the Tower amendment if it were modified to include the acquisition of economic information and the enforcement of decontrol commitments, to which he has referred.

Mr. JOHNSTON. Mr. President, I would say to the distinguished Senator from Tennessee that for my own part, as well as for the other cosponsors of the amendment, it would greatly improve the Tower amendment, but it would still fall short of the mark.

Mr. BROCK. In what areas should it be additionally altered?

Mr. JOHNSTON. I think the proper question is, In what areas should the original Muskie-Stevenson-Johnston amendment be altered? On this amendment, on which the Senate has carefully worked and on which the Committee on Stabilization and Production has carefully worked after careful hearings, the burden is particularly on those who wish to amend it.

I have heard no argument of substance to change it, other than that the effect on the Tower amendment is not only to order that done; but those who oppose the Tower amendment seek to change the personnel. Why should we change the personnel when Dr. Dunlop and his associates effected these 300 separate agreements? Should they not be the ones, the people who worked on the bill, be the ones to make the changes and to do the actual enforcement?

I see no affirmative reasons to make the change, but I see affirmative reasons for keeping the amendment in.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield to the distinguished Senator from Texas, without losing my right to the floor.

Mr. TOWER. With the amendment of the Senator from New York having been adopted, the Cost of Living Council will go out of business at the end of June anyway; so that will not be around to enforce anything.

Mr. JOHNSTON. If I may reply, the Cost of Living Council name never found its way into the statutes anyway. Under the Economic Stabilization Act, the President had authority under the amendment. I think the intent and purpose, as I understood it, of the Javits amendment, was to indicate a new direction for this group; and that is not to be, as he said, oriented toward the enforcement of wage and price controls, which now are out the window. There is no reason to change all the personnel after they are out the window. I concur in that change. There is no reason to change all the personnel and to put drastic limitations on the amount of the fund.

Mr. MUSKIE. Mr. President, may I respond now to the distinguished Senator from Tennessee? All the authorities, political and economic, which the Senator suggests adding to the Tower amendment, are already included in my amendment which is now part of this bill. It was well worked out and was adopted by the Senate.

So what the Senator is proposing is to start over from ground level and rebuild this structure, brick by brick.

I think the Senator's questions reveal that it is to serve as a substitute for a motion to strike. The Muskie amendment as adopted by the Senate last week is a positive grant of authority limited to enforcement and monitoring—monitoring which is defined in ways that give Congress and the Senate a clear notion of what the agency would do. It is spelled out in a way that is not spelled out in the so-called Tower amendment.

I do not think that this measure can be reduced without destroying it. I think we ought to treat this Tower amendment for what it is, a disguised motion to strike, and I think we ought to have a vote on it. I am prepared, unless there is further substantive discussion, to offer a motion to table the Tower amendment.

Mr. BROCK. Mr. President, will the Senator withhold that and yield for a brief comment?

Mr. MUSKIE. I am happy to, provided I do not lose my right to the floor.

Mr. BROCK. I have no desire whatever to mislead the Senator from Maine as to my intention, which is to oppose any continuation of wage and price control authority. The Senator from Tennessee, I think, has adequately expressed himself on that subject before the Senate.

Mr. MUSKIE. As between leaving the drafting of the amendment to one who believes in it or one who does not, I would prefer to have the proposal written by someone who believes. Neither the Senator from Tennessee nor the Senator from Texas believes in this effort. Their effort is not disguised at all: it is plainly an effort to gut it and to kill it. That is why it is important to reveal the question posed by the Tower amendment for what it is. I take it the Senator from Tennessee does not wish to disguise it; he does not wish to continue the authority of or improve the agency.

Mr. BROCK. The Senator from Tennessee is in a difficult position, because he would have to vote either on a choice of categorical opposition, as in the past, or take the chance that if the Tower amendment should fail, the amendment of the Senator from Maine would remain, and then the Senator from Tennessee would be faced with the choice of the lesser of two evils.

My posture in this debate is not to change my own support of a free market and opposition to any control formula, but simply to say that if we are going to have controls, I would like very much to have them as limited as humanly possible. I would like to see as much improvement as can be obtained.

What I was asking the Senator from Louisiana was that if the Tower amendment, as compared to what it is now, were changed, and if it included sufficient economic information-gathering potential, if it contained the opportunity for decontrol or for maintenance of decontrol commitments, if it contained subpena power to back up those commitments, if it contained adequate staffing provisions, what else would be necessary for the Senator's purpose?

Mr. MUSKIE. I think the best answer to the Senator's question is the Muskie amendment as adopted last week. That is what is necessary, in the judgment of the sponsors, and I think it fills out all the gaps of the proposed Tower amendment.

That is the best answer I can offer.

Here we have the purpose of this economic monitoring establishment which the Tower amendment would create. I read section 202:

> It shall be the function of the Council, in cooperation with public and private agencies, to monitor the economy as a whole.

What does that mean? What tools are they going to have to do it with? What authorization is there for funding to provide personnel and staff, and what does monitoring mean? Is it a word of art? Is there a definition of it? What kind of authority does it grant?

This is not a substantive proposal. It is a procedural effort to get around the prohibition on a motion to strike.

Mr. TOWER. Mr. President, if the Senator will yield for a comment without losing his right to the floor, may I say the Senator from Texas is fully prepared to accept, or at least consider, amendments offered to his substitute that might improve it.

Mr. BROCK. The question of the Senator from Tennessee, if the Senator will yield further, is whether or not these amendments would in fact improve the Tower amendment. They might improve it in terms of obtaining votes, but I am not sure they would in terms of effect.

I thank the Senator for yielding.

Mr. MUSKIE. Mr. President, I ask unanimous consent that I may, for the purpose of obtaining the yeas and nays, suggest the absence of a quorum without losing my right to the floor.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. I ask my friend from Maine if he will yield to me without losing his right to the floor so that I might send to the desk a modification of my substitute amendment.

Mr. MUSKIE. I yield for that purpose. May I have a copy of the Senator's new amendment?

The PRESIDING OFFICER. The clerk will read the amendment as modified.

The assistant legislative clerk proceeded to read the amendment.

Mr. TOWER's amendment, as modified, is as follows:

In lieu of the matter proposed to be inserted by the Committee amendment, insert the following: That section 210 of the International Economic Policy Act of 1972 is amended to read as follows:

"AUTHORIZATION

"SEC. 210. To carry out the provisions of this title, there are authorized to be appropriated not to exceed $3,331,000 prior to June 30, 1976, and not to exceed $100,000 for the fiscal year ending June 30, 1977.".

TITLE II—ECONOMIC MONITORING ESTABLISHMENT

SEC. 201. There is established an Economic Monitoring Council (hereinafter referred to as the "Council") which shall consist of the Secretary of the Treasury, who shall be the Chairman of the Council, the Chairman of the Council of Economic Advisers, and the Director of the Office of Management and Budget.

FUNCTION

SEC. 202. It shall be the function of the Council, in cooperation with public and private agencies, to monitor the economy as a whole.

At the end of the matter proposed to be inserted, add the following:

ECONOMIC INFORMATION

SEC. 203. (a) The Council is authorized to request, and to enter into voluntary agreements providing for the furnishing of, such economic information as may be necessary to carry out its function under section 202.

(b) Information obtained under this section which contains a trade secret or other matter referred to in section 1905 of title 18, United States Code, shall be considered confidential for purposes of that section.

ENFORCEMENT OF DECONTROL COMMITMENTS

SEC. 204. (a) Notwithstanding the expiration of the Economic Stabilization Act of 1970—

(1) any commitment made or given as a condition of, in connection with, in exchange for, or in the course of decontrol or the grant of other relief from or under such Act, prior to May 1, 1974, shall continue in full force and effect; and

(2) the authority and provisions of section 203 (relating to Presidential control authority), 208 (relating to sanctions), 209 (relating to injunctions and other relief), and 211 (relating to judicial review) of such Act (as in effect on April 30, 1974) may be invoked against, and shall apply to, any person who violates any commitment made or given as a condition of, in connection with, in exchange for, or in the course of decontrol or the grant of other relief to such person from or under such Act, prior to May 1, 1974.

(b) The Council shall make public commitments entered into in connection with decontrol or the grant of other relief from the Economic Stabilization Act of 1970 prior to May 1, 1974.

(c) To the extent necessary to monitor or enforce a decontrol commitment under subsection (a), the Chairman of the Council may, after notice and an opportunity for a hearing, sign and issue subpenas for the attendance and testimony of any person who made or gave such a commitment, for the production of relevant books, papers, and other documents by such person. Persons summoned under the provisions of this subsection shall be paid the same fees and mileage as are paid to witnesses in the courts of the United States. In case of refusal to obey a subpena served upon any person under the provisions of this section, the Chairman, or his delegate, may request the Attorney General to seek the aid of the United States district court for any district in which such person is found to compel that person, after notice, to appear and give testimony, or to appear and produce documents before the agency.

At the end of the matter proposed to be inserted, add the following:

STAFF

SEC. 205. The Council is authorized to appoint—

(1) an executive director who shall be compensated at the rate provided for an individual occupying a position under level IV of the Executive Schedule under section 5315 of title 5, United States Code, and who shall be the chief administrative officer of the Council;

(2) not to exceed 7 individuals who may be compensated at rates not to exceed the highest rate provided for Grade 18 of the General Schedule under section 5332 of title 5, United States Code; and

(3) not to exceed 20 individuals who may be compensated at rates not to exceed the highest rate provided for Grade 15 of such General Schedule.

EXPIRATION

SEC. 206. The authority under this title expires at midnight, April 30, 1976, but such expiration shall not affect any action or pending proceeding, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to May 1, 1976.

AUTHORIZATION

SEC. 207. There are authorized to be appropriated not to exceed $1,000,000 to carry out the provisions of this title.

Mr. TOWER. Mr. President, if the Senator will yield for further explanation, these were amendments that had been prepared for others to offer to my substitute, and I simply add here, as a modification of my substitute, the texts of those two amendments. I so modify my substitute amendment.

The PRESIDING OFFICER. The Senator's amendment is so modified.

Mr. MUSKIE. Mr. President, we have here four pages of additions which had not been brought to our attention before. I can describe them in just one way: they are an attempt to improve the disguise. But the essential purpose is still the same: to do by indirection what the sponsor of this amendment cannot do directly. Under the rules he cannot move to strike the Muskie amendment, which the Senate wrote into the bill last week.

I see no reason to go up that hill and down it again. Last week the distinguished Senator from Texas, in an effort to cut off all debate, triggered a series of votes with minimal debate, a series of votes designed to kill this proposal, and after seven rollcall votes—seven, Mr. President—the Senate finally decided to approve the addition of the Muskie amendment to the Stevenson bill, S. 2986.

The only purpose of this proposal, notwithstanding its additional disguise—I am not sure it is even an improved disguise—is to undertake to strike the Muskie amendment, and to substitute something for it which no one has had a chance to look at or evaluate.

We want nothing more in the bill than was contained in the Muskie amendment last week, nor any additions to the authorities created by that amendment. Those authorities were carefully designed and discussed. There is no need for modification of the basic authority. So this, again, is another disguise.

Mr. President, I am not sure there are enough Senators in the Chamber at the moment to get the yeas and nays, but let me test it. I am going to make a motion to table and I would like to ask for the yeas and nays.

Mr. TOWER. Mr. President, has the motion to table been made?

The PRESIDING OFFICER (Mr. HELMS). It has not yet been made. It is not a debatable motion.

Mr. MUSKIE. Mr. President, I make the motion to table and I ask for the yeas and nays.

There was not a sufficient second.

Mr. MUSKIE. Mr. President, I suggest the absence of a quorum, without losing my right to the floor.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I ask for the yeas and nays on the motion to table.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Maine (Mr. MUSKIE) to table the amendment of the Senator from Texas (Mr. TOWER) as modified.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Indiana (Mr. BAYH), the Senator from Louisiana (Mr. LONG), the Senator from Michigan (Mr. HART), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I further announce that the Senator from Florida (Mr. CHILES), and the Senator from Louisiana (Mr. LONG), are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from New Jersey (Mr. CASE), the Senator from Colorado (Mr. DOMINICK), and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

I further announce that, if present and voting, the Senator from Colorado (Mr. DOMINICK) would vote "nay."

The result was announced—yeas 43, nays 47, as follows:

[No. 187 Leg.]

YEAS—43

Bentsen
Bible
Biden
Byrd, Robert C.
Cannon
Church
Clark
Cranston
Gravel
Haskell
Hathaway
Hollings
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nelson
Pastore
Pell
Randolph
Ribicoff
Roth
Stennis
Stevenson
Symington
Talmadge
Tunney
Williams

NAYS—47

Abourezk
Aiken
Allen
Baker
Bartlett
Beall
Bennett
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Cook
Cotton
Curtis
Dole
Domenici
Eagleton
Eastland
Ervin
Fannin
Fong
Griffin
Gurney
Hansen
Hartke
Hatfield
Helms
Hruska
McClure
Metcalf
Nunn
Packwood
Pearson
Percy
Proxmire
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stevens
Taft
Thurmond
Tower
Weicker
Young

NOT VOTING—10

Bayh
Bellmon
Case
Chiles
Dominick
Fulbright
Goldwater
Hart
Long
McClellan

So the motion to table was rejected.

Mr. PROXMIRE. Mr. President, I send to the desk an amendment and ask that it be stated. This is an amendment to the Tower amendment.

The PRESIDING OFFICER (Mr. HANSEN). The amendment will be stated.

The amendment was read as follows:

> At the end of the language proposed to be inserted by the Senator from Texas, insert the following:
>
> "SEC. . Expenditures and net lending during the fiscal year ending June 30, 1975, under the budget of the United States Government shall not exceed $295,000,000,000."

Mr. PASTORE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. The Senate is not in order.

The Senator may proceed.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays are ordered.

Mr. BROCK. Mr. President, may I ask that the amendment be restated?

Mr. PROXMIRE. Mr. President, this amendment would establish a ceiling of $295 billion on spending for fiscal year 1975. It seems to me this is the most effective anti-inflation action Congress can take. It is well within our power and I believe that other action like monitoring is very feeble compared with this.

This is a cut of $9 billion in the spending proposed in the President's budget. Instead of a whopping $30 billion or 11 percent increase in Federal spending proposed by the President, my amendment would allow a modest increase of $20 billion, or 7.5 percent above the spending level for fiscal year 1974.

During the debate on extending wage and price controls I heard it said that Congress must do something to fight inflation; that we cannot permit the control program to expire; that we must exercise responsibility. I think monitoring may do some good and both the Tower amendment and the Muskie amendment do provide monitoring. There is a difference in the force and effect of the Tower proposal, but I do support it.

Regardless of how strong monitoring provisions are, all they can do is watch prices go up. Maybe they can recommend action and subsequently Congress may decide to act if the President urges it to do so, but it is not likely to do so and even if controls are put into effect we have been down that road for 2½ years and we know that it does not work. We are suffering from inflation that is three times as bad as when controls began.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. PASTORE. Who will decide where the $9 billion is to be cut? The administration?

Mr. PROXMIRE. We still have time to act on our appropriations and, as the Senator knows, we have the authority to do so before adjournment.

Mr. PASTORE. I know we have the authority to appropriate, but not to spend the money. Much of the money already is in the pipeline. Who is going to decide where to cut and on what program? Are we going to take it out of health, education, or the military? I would like to know.

Mr. PROXMIRE. If Congress is going to pass a series of appropriations that call for $304 billion or $310 billion, the President will have to make a decision.

Mr. PASTORE. That is what I was afraid of.

Mr. PROXMIRE. But, on the other hand, if Congress would exercise the discipline it should, then it is up to Congress.

Mr. PASTORE. But the Senator knows when we did it last time the impoundment was in the programs favorable to Congress. They never cut the military; we always have cuts in programs for health, education, and things of that kind.

While the idea is a good one, the direction of it and the right of command will be in the wrong hands.

Mr. PROXMIRE. That is entirely up to us. If we are foolish enough, if we are wasteful enough, if we are so irresponsible as not to limit our spending to $295 billion that would be true. It is a big increase in the budget, but the Senator is correct when he says that if we do not do it, the President will determine where it will be cut.

Mr. PASTORE. That is correct.

Mr. PROXMIRE. We have to pass a ceiling sometime this year, I hope and expect, and if we are going to have effective congressional action against inflation, here is where it should be.

It is difficult for us to take the position that we are opposed to inflation and concerned about the consumer, and pass legislation that provides for monitoring prices, and then go ahead and pass a budget which is $11, $12, $15, $20 billion out of balance. Obviously we are being either hypocritical or stupid.

Mr. BROCK. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. BROCK. I would like to make two points in support of the Senator, and I very much appreciate his offering the amendment.

First, because he is offering it prior to the appropriating process, Congress can control national priorities by making appropriations in accordance with the stated total amount. It is up to Congress, if we want to make the decision on the allocation of our resources, which must be done at this time. If we pass major increases in the budget, the President will have to make his own cuts, but it is up to us if we want to bite the bullet and make the decision ourselves. That is why the Senator is offering this proposal before rather than after appropriating.

The Senator would cut $9 billion from the budget. The budget as submitted to the Congress had a $9 billion deficit, and I think the Senator's figure is highly appropriate, because, for the first time in my life, we have a double-digit inflation. If we are going to keep inflation under control we simply cannot have inflationary budgets. The Senator's amendment would address that issue and bring it into line. I appreciate his effort, and I support the amendment.

Mr. PROXMIRE. Mr. President, that is an excellent point. This amendment would virtually wipe out the deficit that we received in the budget submitted to us by the President.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. MAGNUSON. The Senator is a member of the Appropriations Committee. What makes him think we are not going to go under the budget?

Mr. PROXMIRE. I do not know.

Mr. MAGNUSON. We have gone $22 billion under the budget since the Nixon administration has been in office. It was $6.5 billion last year. Our present figures indicate that it will be close to $7 billion under the budget this year. I do not know what all this fuss is about the Appropriations Committee.

Mr. PROXMIRE. I agree wholeheartedly with the Senator, but the fact is that, one way or the other, we end up spending far more than that. Last year the President requested a $268 billion budget. But this Federal Government will spend about $274 billion in fiscal 1974.

Mr. MAGNUSON. That is because they are spending money that was withheld and that was appropriated previously in other budgets. They are letting it loose.

Mr. PROXMIRE. As the Senator knows, the Appropriations Committee is not the only committee that has spending authority. The spending ought to be limited. The Finance Committee and other committees that have spending authority.

Mr. MAGNUSON. We have the implication, all the way from the White House to business and others, that the Appropriation Committees of the Congress have not been fiscally responsible.

Mr. PROXMIRE. I share the Senator's view, and I myself have said repeatedly that that is right. We have reduced the President's budget in most respects. I think of the 16 or 17 appropriation bills last year, we reduced 11, 12, or 13 of them, or certainly a great majority of them.

Mr. MAGNUSON. The only one that went up was the HEW bill. In our projections, of which the Senator has a copy, as of the first of the week our projection is that that bill may go up and the rest will go down and we are going to be under the budget again.

I will agree with the Senator from Wisconsin that President Nixon sent us a budget that had a locked-in deficiency of $12 billion or something like that. Another thing is that we can stop a lot of this if we quit authorizing astronomical sums.

Mr. PROXMIRE. I agree with the Senator, but that does not control much of the spending. There is a great deal of backdoor spending.

Mr. MAGNUSON. The Appropriations Committee is fiscally responsible and will continue to be.

Mr. PROXMIRE. Mr. President, the most fundamental power the Congress has is the power of the purse. If we are really concerned about inflation, then how can we agree to the President's budget for fiscal year 1975, a budget which proposes the largest dollar increase in Federal spending in peacetime history, and one of the largest percentage increases?

Mr. President, during the last 5 years, the administration has talked a good game about fighting inflation. It has wrongly tried to pin the big spender label on Congress. And yet the fact remains, that year after year, it has been the President himself who has proposed huge increases in Federal spending. In the 5 years since the President took office, the Federal budget has grown from $196 billion to more than $304 billion, an increase of over 55 percent.

There is nothing inevitable about Federal spending. We do not have to throw up our hands and confess impotence. The Congress can control spending if it really wants to. There is a vast amount of waste in the Federal budget. A cut of $9 billion would not begin to touch the savings which could be made if wasteful programs were cut back or eliminated. If we are truly interested in economy, the time to begin is now. Not next year, not next month, not tomorrow, but now.

I have estimated that the budget could be cut by more than $9 billion while still leaving funds left over to increase programs which are underfunded.

The defense program could be cut by $7.1 billion by limiting outlays to last year's level. With the end of the Vietnam war and our improved relations with the rest of the world, there is no reason to have a bigger military budget. Let the Pentagon absorb the cost of inflation and pay increases by cutting out fat.

The foreign aid program can be cut by at least $3 billion. The total foreign aid budget is closer to $9 to $10 billion than the $4 billion shown in the budget. Much of this money goes for wasteful military assistance. Why should we continue to provide military aid to some 45 countries around the world, including $1.9 billion to Thailand and South Vietnam, after the war is said to be over?

Several more billions of wasteful spending can be cut out of the space, public works, and highway program without undue difficulty.

Mr. President, a dramatic and decisive action by the Congress to cut the President's budget by $9 billion would have a profound effect on the inflationary psychology which has infested our economy. It would break the back of inflation. It would convince the public and the business community that Congress really means business.

Here are some of the immediate effects of a $9 billion cut in Federal spending, First, the business community would have fewer inflationary expectations. Inventory spending to avoid inflation would be cut back. Unwarranted plans to add more plant or equipment simply to beat rising prices would be revised.

Second, labor unions would be less inclined to make inflationary wage demands if they were confident that inflation was being brought under control.

Third, the Federal Reserve Board would be less inclined to pursue a tight money policy if it saw that Congress was shouldering part of the burden by cutting spending. Relaxation of monetary policy would help to bring down interest rates and revive the depressed homebuilding industry which is already suffering from an unemployment rate in excess of 8 percent.

What I am saying, Mr. President, is that a cut in Federal spending of $9 billion would have a two-pronged effect. First, the actual reduction of $9 billion in Federal spending is in itself deflationary. It decreases aggregate demand for goods and services by $9 billion. Second, a spending cut will curb inflationary expectations. It will convince the public that the Federal Government is playing its part in curbing inflation.

Mr. President, there are those who say we should not cut Federal spending because it might increase unemployment. I say this is nonsense. Our figures on employment have held up remarkably well considering that much of our present rate of unemployment has been induced by the energy crisis. Now that the energy crisis has subsided, employment should be picking up. Also, the price control program itself may have contributed to unemployment by creating shortages and bottlenecks in our economy. Finally, if the Federal Government cuts back on spending, some of the funds which would otherwise have been borrowed by the Treasury will be channeled into the depressed housing industry, thereby increasing employment.

Many of my colleagues have voiced their disappointment with the control program. Practically everyone agrees that controls have been a colossal failure. And yet many members feel they must vote for something to convince their angry constituents they are doing something to fight inflation. I say that the best way to convince the American people that we are concerned about inflation is to cut the President's budget. All we need is the will and the determination to cut the budget.

Mr. President, I urge the adoption of my amendment.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that a member of the staff, Mr. Gerald Gereau, be granted the privilege of the floor during consideration of and voting on S. 2986.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, first of all, before commenting on this amendment, I would like to say just a few words, now that we have more than two or three Senators on the floor, about what I intend to do later in order to bring this matter to a head and permit the Senate to vote on it up or down and get it behind us.

After the Senate acts on the Proxmire amendment, I will offer a substitute for the Tower amendment, so that we can get a vote on the merits and get away from the procedural side trips we have been engaging in this afternoon.

Mr. President, with respect to the Proxmire amendment, I am for ceilings on Federal spending. I am not sure I am for this one. I might be for a lower one. I might be for a higher one. But I have not yet given as thorough consideration as I would like to the questions that should go into the setting of that ceiling.

The Senator from Wisconsin has. The Senate's firm figure is $295 billion. Maybe if I had gone through the same exercise that he has gone through, I might have come up with the same conclusion. However, this legislation—the CIEP authorization, S. 2986—did not focus my attention on what a budget ceiling should be.

I have been engaged for the last year with my colleagues on the Government Operations Committee and on the Committee on Rules and Administration, and on the floor of the Senate, in developing budget reform legislation designed to give us a rational method for achieving a limitation on Federal expenditures, taking into account all the figures; but I just do not have that specific information.

May I say, with all due respect to the Senator from Wisconsin that I am not about to take anyone's figure out of the air this afternoon on what a ceiling should be. It may be too high. It may be too low. However, this is not the time to talk about that decision. The Committee on Appropriations is working on it, and based on its record over the last 16 years that I have been a Member of the Senate, the Appropriations Committee has always done a responsible job. On the record, I think always without exception, although my memory may be inaccurate, the Appropriation Committee has always cut the appropriations requests made by the President, and it has been responsible. It was responsible last year, and I assume that the Appropriations Committee is doing its work and is going along in the process, which is a long one, and a process which originates in the House. I also assume that in due course we will know what the Appropriations Committee thinks ought to be the limit of Federal spending.

I would like to see that process reformed along the lines of the budget reform bill, so that we can take a fix earlier in the year. However, we have not reached that point as of now. We have not had the benefit of the kinds of budget reform legislation that we will have later. So why should we accept this figure proposed by the Senator from Wisconsin early in the year, in the mid-afternoon of May 9, 1974.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, what we do not want to do is to leave the impression with the people of this country that this is the answer to the problem. As to the bill introduced by the Senator from Maine, I understood from the Senator from Wisconsin that this was an alternative solution to the problem. I do not think it is an alternative solution to the problem.

I think what the Senator is talking about, that has to be considered, is something that ought to be considered very carefully However, I do not think it ought to be a substitute for the idea and the philosophy that has been declared in the legislation introduced by the Senator from Maine.

That is the one thing that is bothering me at the moment.

Mr. MUSKIE. Mr. President, I am terribly concerned that we not put the Senate in a position of voting against a budget ceiling, however restrictive it may be, however arbitrary it may be, without having the specific information, because we do not want an image that we are against the budget ceiling.

We all understand the effect and intent of an amendment of this kind. It would stampede us in the direction of voting for any figure that someone dreams up, so that we can be on the side of the angels and budgetary restraint, and favor a ceiling on budget spending.

I am not prepared to be in favor of any such figure of this kind on the basis of inadequate preparation so early in the year.

I assume that the Senator from Wisconsin has given a great deal of thought to the elements and details of his figures so that he would know exactly what programs he would be for and what programs he would be against and what he would or would not spend, based on his budget recommendations. But I have not yet had an opportunity to make that kind of an analysis.

But I have supported and worked for budget reform legislation because it gives a rational and reasonable basis for proceeding, and presents a target early in the year so that we can have the final fix on it later in the year.

I am for it. The Senate is for it. The House is for it. We are in concert. We will report a bill that we can recommend to both Houses, and it should be signed by the President. When that has been done, and when it becomes effective, we will have effective budget reform. However, I do not think that this amendment proposed today is the way to do it.

The legislation we have before us is geared to fix our attention on the issue of controlling inflation and shortages through monitoring. This is not the whole answer to the problem of inflation. Federal budgets are a part of the answer. Agriculture is a part of the answer. Food policy is a part of the answer. Export and import policies are a part of the answer. There are a great many parts that go to make up the answer.

But all that this legislation can hope to do is to try to contain inflation through economic monitoring of policies.

We ought to find it possible to deal with these limited questions this afternoon and to resolve them one way or another without venturing into all the other areas for which we are not prepared, I believe, on the Senate floor today.

So I would not favor the amendment of the Senator from Wisconsin, with all due respect to his ability and intentions.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. PROXMIRE. Mr. President, I yield to the distinguished majority leader.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum briefly.

The PRESIDING OFFICER (Mr. HANSEN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. With the approval of the distinguished Senator from Wisconsin, I ask that I may yield to the Senator from West Virginia for the purpose of propounding a unanimous consent request.

Mr. PROXMIRE. I have no objection, provided I do not lose my right to the floor.

Mr. MANSFIELD. I yield to the Senator from West Virginia.

UNANIMOUS-CONSENT AGREEMENT ON S. 1539

Mr. ROBERT C. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, at the direction of the distinguished majority leader, I make the following unanimous-consent request:

That a vote occur in S. 1539, a bill to amend and extend certain acts relating to elementary and secondary education programs and for other purposes, before the close of business on Tuesday, May 21.

That immediately following the vote on passage of S. 1539, the House bill, H.R. 69, which is a comparable bill in some degree, be called up; that the text of the Senate bill, as amended, if amended, be substituted for the text of H.R. 69; and that a vote then occur immediately on passage of H.R. 69, with the text of the Senate bill substituted therefor.

This would occur before the close of business on Tuesday, May 21.

That in the meantime, there be a time limitation for debate of not to exceed 20 hours, to be equally divided between the majority leader and the minority leader or their designees, and the bill;

That time on any amendment thereto be limited to 1 hour;

That time on any amendment to an amendment be limited to 30 minutes;

That time on any debatable motion or appeal be limited to 30 minutes;

Provided further, that time on an amendment by Mr. McCLELLAN be limited to 3 hours, with 2 hours of the 3 hours to be under the control of Mr. McCLELLAN, and that that amendment be in order on Tuesday next, May 14;

Provided further, that following the disposition of the amendment by Mr. McCLELLAN, the Senator from Michigan (Mr. GRIFFIN) be recognized to call up an amendment on which there be a time limitation of not to exceed 3 hours.

That on Wednesday, there be a time limitation, on an amendment to be offered by Mr. GURNEY, of 6 hours, with a vote to occur at the hour of 4 p.m. on Wednesday on the Gurney amendment, as amended if amended;

That following the disposition of the Gurney amendment, if there are other amendments dealing with busing, they then be in order, to follow one after the other until disposed of, and then, following the disposition of all busing amendments on Wednesday or Thursday, whichever the case may be, the substitute which will be designated as the Buckley-Curtis-McClure substitute be called up, and that there be a time limitation thereon of 6 hours;

Provided further, that the division and control of time be in accordance with the usual form, and that the agreement as to germaneness be in accordance with the usual form, it being understood that amendments, to be germane, would have to be germane to the Senate bill or to the substitutes.

Mr. JAVITS. Or to whatever amendment is offered.

Mr. ROBERT C. BYRD. Or to whatever amendment is called up that is germane.

I ask unanimous consent that paragraph 3 of rule XII be waived.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. JAVITS. There is only one point I noted: the outside time limits in respect to each amendment or substitute have been specified, which are to be divided, I gather, between the proponents and the manager of the bill.

Mr. ROBERT C. BYRD. Yes.

Mr. JAVITS. With one exception: the Senator from Arkansas (Mr. McClellan) will have 2 hours to 1 hour for the manager of the bill.

Mr. ROBERT C. BYRD. Yes.

Mr. JAVITS. And either side, in any case, may draw on the time available to the managers from the time on the bill, with the understanding that the management, insofar as possible, will accommodate them?

Mr. ROBERT C. BYRD. The Senator is correct. The majority leader, and the minority leader or their designees would, under this agreement, be in a position to allocate time from the 20 hours on the bill to any Senator on any amendment, debatable motion, or appeal.

Mr. YOUNG. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. YOUNG. For years we have had a problem with impacted funds with respect to military bases, with the provision that when 25 percent of the schoolchildren live on a military base or other Federal property, 100 percent of impacted aid funds be provided. We have a similar problem with Indians. I think we should have more than an hour or two to discuss that matter.

Mr. ROBERT C. BYRD. May I say to the distinguished Senator that, on any amendment dealing with this subject, there would be 1 hour to be equally divided, but the Senators in control of time for debate on the bill could yield to a Senator therefrom on such amendment whatever additional time he would desire.

Mr. YOUNG. Can the Senator assure us that we will get more than an hour if we need it?

Mr. ROBERT C. BYRD. Oh, yes. With 20 hours for debate on the bill, I am sure that additional time will be available for debate on such amendments.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. AIKEN. If the educational bill is brought up on the 21st—I understand that is what the Senator asked for——

Mr. ROBERT C. BYRD. The final vote would occur on the 21st.

Mr. AIKEN. The final vote would occur on the 21st?

Mr. ROBERT C. BYRD. Yes.

Mr. AIKEN. The 20 hours would not be from the 21st on?

Mr. JAVITS. From the 14th on.

Mr. ROBERT C. BYRD. The 20 hours would begin—I should say, with the distinguished majority leader present, that if an agreement is reached on this measure, and the pending measure is completed today—I ask the distinguished majority leader, the time on the education bill would not begin running until called up on the second track on Monday?

Mr. MANSFIELD. That is correct.

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate, so all Senators may hear?

The PRESIDING OFFICER (Mr. Helms). The Senate will be in order. The Senator will suspend until order is fully restored. Staff members will take their seats, and the Senate will be in complete order.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield to the Senator from Nebraska.

Mr. CURTIS. Mr. President, for the sake of clarification, inasmuch as two amendments in the nature of a substitute are involved in the unanimous-consent request, one substitute anticipated to be offered by the distinguished Senator from Michigan (Mr. Griffin) and the other substitute to be offered by the Senator from New York (Mr. Buckley), the Senator from Idaho (Mr. McClure), and myself, and probably several others, is it understood that the second one will not be regarded out of order because it is the second one, even though the first one might prevail?

Mr. ROBERT C. BYRD. That is correct.

Mr. GRIFFIN. Mr. President, will the Senator yield at that point?

Mr. ROBERT C. BYRD. I yield.

Mr. GRIFFIN. As the Senator knows, in our consultation or conference, I mentioned the fact that there were Senators interested in having the House bill offered as a substitute I want to make it clear that I am not the only Senator in that category. Several of those have conferred with me since we had the meeting and I want to indicate that there is a strong feeling the substitute, which would be the House-passed bill, should be offered at the end of debate and before the final vote, rather than on Tuesday as was previously discussed. I would like to suggest that that be cranked into the unanimous consent agreement.

Mr. ROBERT C. BYRD. May I say that that would not be in accordance with our discussion.

Mr. GRIFFIN. That is correct. Of course the Senator would realize that we have to get the agreement of all Senators, not just those who——

Mr. JAVITS. One thing has not been mentioned and that is the expectation on the part of the managers of the bill that the busing issue would have been settled on the whole basket of amendments which will be taken up, beginning with the Gurney amendment. I do not see any objection whatever to the order of precedence that Senator Curtis and his colleagues, and Senator Griffin, may wish, provided we have an understanding that when the busing issue is settled by a series of votes or amendments, that that will be the busing agreement no matter what bill it goes into. We do not want to be in the position, as I understand it from the Senator from Rhode Island (Mr. Pell), to have to reargue the busing thing on substitutes.

Mr. ALLEN. Mr. President, reserving the right to object, I do not believe the understanding was that the Gurney amendment necessarily would be the first busing amendment, which I understood the distinguished Senator from New York to say——

Mr. JAVITS. No. I have no such desire—just the time slot that I am thinking about. If we start with the busing on Wednesday morning and then we finish with the busing on Thursday noon—

Mr. ALLEN. I understood the Senator from New York to state that beginning with the Gurney amendment.

Mr. JAVITS. That is what I thought, but it does not have to be.

Mr. ALLEN. I should like also to reserve an objection—and I shall not object—but it is the understanding, of course, that irrespective of the setting of a date certain to vote, that vote would not occur unless the time that had been allocated for debate on the bill had either been used up or the time had expired.

Is that correct? On the 20 hours.

Mr. JAVITS. Used up or yielded back.

Mr. ALLEN. Used up or yielded back.

Mr. ROBERT C. BYRD. Normally used or yielded back, yes, but we have included that there will be a final vote before close of business on Tuesday. That part of the agreement, therefore, takes precedence or prevails over the provision allowing 20 hours of debate, because it is conceivable that all the time between now and the close of business Tuesday a week from next Tuesday could be consumed merely by the offering of amendments, and that the 20 hours on the bill would not have been used. So the agreement would close the doors completely on the bill before the close of business on Tuesday a week from next Tuesday.

Mr. ALLEN. Further reserving the right to object, the distinguished Senator from Arkansas (Mr. McClellan) is necessarily absent from the Senate today. Two hours have been allotted to him on the title I amendment. It is possible that will not be sufficient. It is possible that he might not want to draw on the 10 hours. Could it be agreed that, if there is a desire for further time for his amendment, that such time will be allotted to him?

Mr. ROBERT C. BYRD. I am positive that both the majority and minority leaders would yield to the Senator from Arkansas, through their designees, any amount of time that the Senator from Arkansas would want.

Mr. ALLEN. Very well, with that understanding, I withdraw my objection.

Mr. JAVITS. Mr. President, it being understood that the opponents will be yielded a fair amount of time.

Mr. BROCK. Mr. President, I was one of those who was in support of the House bill that will be offered by the Senator from Michigan. I was not aware of the earlier agreement to bring it up first. But I wonder if the suggestion of the Senator from Michigan is something that can be accepted by the leadership and Members of the Senate, or is there a particular reason why we could not reverse the order?

Mr. ROBERT C. BYRD. There are two reasons for that. It would be difficult to reverse the order unless we started out with an entirely new agreement. If we agree to vote finally on the Senate bill before the close of business Tuesday, that might be 10 o'clock on Tuesday night a week from next Tuesday. Then if a Senator were allowed to bring in the House bill and offer it as a substitute, that could negate the agreement—to wit, that there will be a final vote before close of business Tuesday—because, conceivably, hours could be spent on the House bill and amendments thereto.

The second point is the one the Senator from New York is just going to raise.

Mr. JAVITS. Exactly. Another thing is, if we cannot amend the House bill which not only includes busing, the title I formula but is different in many other important respects from the Senate bill, we are finished. We could not agree to that.

Mr. ROBERT C. BYRD. There is a third reason. If it is the understanding here that the Senate will dispose of all busing amendments, by Wednesday and/or Thursday, prior to the consideration of the substitute by Senators McCLURE, CURTIS, and BUCKLEY, we would not be living up to that part of the agreement, if, following action on the Senate bill, we could bring in the House bill, which has a busing section in it.

Mr. MANSFIELD. Mr. President, if my understanding is correct, at least four busing amendments would be considered and they will be considered in sequence after the vote on the Gurney amendment at 4 o'clock. So I would hope that the distinguished Senator from Tennessee and the distinguished Senator from Michigan would give some consideration to that and recognize the bind we are in.

Mr. GRIFFIN. I do not see why we are in a bind at all. The logical way to proceed, and I indicated it in our discussion, would be, as a last vote, to vote on the House bill as a substitute. I am willing to reduce the time from 3 hours to 1 hour, because I realize that during this whole period of debate we will be focusing in general on the differences between the House-passed bill and the Senate committee bill. So that it will not require a great deal of time with the amendment itself.

I would say that in the general agreement, there is an understanding, I believe, that there be 1 hour on any amendment. An agreement in the nature of a substitute of this kind would certainly qualify. So that I do not see, for the life of me, why if we want to reserve that opportunity to offer that amendment at the time, why we cannot do it. I will go along with the rest of the agreement which will enable us to dispose of the bill. As long as there are some of those associated with my point of view who want that opportunity, I do not see why it cannot be modified. I am prepared to object to the agreement.

Mr. ALLEN. Mr. President, I wonder whether we could not accomplish the same thing, instead of having the substitution of the provision of the Senate bill for the House bill, which would come at the end, why we could not make that not a pro forma affair but have an actual vote at the time the House bill is brought up and have a actual vote on the substitute.

Mr. GRIFFIN. We would be entitled to that, anyway——

Mr. ALLEN. Yes.

Mr. GRIFFIN. But if I am forced to offer it on Tuesday, we would only have had the vote previously, and that is part of the strategy, I believe.

Mr. ALLEN. It was part of the unanimous-consent request that the substitution of the provisons of the Senate bill for the provisions of H.R. 69 be a pro forma affair on which there would be no vote. That is part of the request. We can accomplish the same thing at the time the House bill is brought up, to let the provisions of the Senate bill be offered and considered by the Senate on their merits as to whether we would put that in the House bill or not.

Mr. BROCK. Then would we have a specified time for debate between the final vote on the Senate bill and the——

Mr. ALLEN. It would come under the limitation of the 1 hour plus anything remaining.

Mr. JAVITS. We are not going to agree to that and cut off our right to amend. How could we? We would be untrue to the committee which labored on the legislation for more than a year and which sent us here to manage this bill.

Mr. ALLEN. It could be amended.

Mr. JAVITS. I understand that, but we cannot do that on Tuesday night at 6 o'clock.

Mr. PELL. Mr. President, I wonder whether we could not meet this problem by saying, if this is the wish of the Senator from Michigan, and he prevails on Tuesday afternoon or evening, that as a matter of fairness, if the bill on which we would have worked the past week would be thrown out and we should postpone the final vote until Wednesday night, we would vote back to back on a series of amendments we would offer to the House bill.

Mr. GRIFFIN. After consultation with those who are interested in this particular amendment, I see no reason why I should not be afforded the same opportunity as anyone else who wants to offer an amendment; and I do not want to be locked into offering it on Tuesday. I may prefer to offer that amendment late in the day and have it toward the end of the consideration.

Mr. ROBERT C. BYRD. I understood the distinguished Senator, in the meeting we had, to agree to this proposal. Did I misunderstand him?

Mr. GRIFFIN. I thought I made it very clear that I had to consult some others who had a similar point of view.

Mr. CURTIS. The Senator expressed reservations.

Mr. GRIFFIN. I do not feel that I can go ahead and lock us into an agreement unless it is a unanimous consent agreement. If there are others who do not agree, I think their rights and position ought to be protected.

Mr. BROCK. I think the Senator from Michigan is saying that he is willing to give up part of the unanimous-consent request for 3 hours and go under the standard agreement of 1 hour for any Senator and offer his amendment whenever he sees fit during the week of debate.

Mr. JAVITS. The whole base of this agreement is to vote Tuesday, before the close of business. We cannot agree to vote Tuesday, before the close of business, if we are being shut out of the opportunity to offer and argue amendments to the House substitute. So the whole basis falls upon which the agreement stands, and I will object, because we cannot do it. We are not going to get trapped.

Mr. ROBERT C. BYRD. Suppose I offer the House substitute any day I want to? I am not shut off from offering the substitute.

Mr. JAVITS. May I explain to the Senator the virtue of it?

Mr. ROBERT C. BYRD. I am not arguing with the Senator.

Mr. JAVITS. From our point of view, unless we have an idea as to the sequence of events, so that we have an opportunity—for example, if we are closed out at the conclusion of business on Tuesday, even if we sat until midnight, we might have 20 amendments.

Mr. ROBERT C. BYRD. The only other thing was that I thought it was understood that the Senate would dispose of all busing amendments by Wednesday or, at the latest, Thursday. If it is going to do that, then the House substitute, which would be the House amendment and which contains the busing provision, ought to be disposed of prior to that time. Otherwise, you go up the hill on busing——

Mr. JAVITS. And down again.

Mr. ROBERT C. BYRD. I am on the Senator from Michigan's side on busing. If we are going to go up the hill on busing on next Wednesday and Thursday, we should not have to come back Tuesday a week and go up the hill again on the House busing provision.

Mr. GRIFFIN. Would the Senator from West Virginia think that perhaps taking up this amendment on Monday before the Tuesday we were to vote——

Mr. ROBERT C. BYRD. That would be fine.

Mr. GRIFFIN. So that there would be

adequate time to offer amendments and consider them.

Mr. **ROBERT C. BYRD.** Except, that gets back to the second trip on busing.

Mr. **JAVITS.** I understand what the Senator has said now—with a time limitation on that substitute, whatever we may agree on. That would give us time, but it would not settle the busing question which I raised when the Senator raised the question of unanimous consent.

As the Senator says, having obtained the views of the Senate on busing over the space of 24 or 36 hours, that would be the understanding that would be wrapped into any substitute which is offered. I do not think we ought to have to go through that on Monday, after having gone through it on Wednesday and Thursday.

Mr. **ROBERT C. BYRD.** Whatever the Senate wishes to do is fine with me. That was my understanding.

Mr. **JAVITS.** I will accept the amendment to the unanimous consent agreement for myself. Senator PELL will have to decide, and Senator WILLIAMS. I will accept the amendment that with the limited time on the Griffin matter of 3 hours—or make it 4, if he wishes—we would go on Monday, the first thing, with the Griffin substitute, which would be the House bill—Monday, the 20th. That is OK. It gives us time to amend it. But it would be with the understanding that we would not go up the hill and then come down again on busing, which is what I understood we had agreed.

Mr. **GRIFFIN.** I do not understand what the Senator means. He is free to offer an amendment to strike out the House busing provision at any point, if he wishes and can get a vote on it.

Mr. **JAVITS.** It was understood in our conference that whatever the Senate decided on busing in the 2 days, that would be rolled into the House substitute as presented by the Senator from Michigan.

Mr. **GRIFFIN.** The Senator has to keep in mind that what we talked about in that group does not necessarily represent the agreement of a hundred Senators.

Mr. **JAVITS.** I am not holding the Senator from Michigan to it. I am not saying at all that he is violating his word. I am just deciding whether I will object, which I have a right to do, just as does any other Senator.

Mr. **ROBERT C. BYRD.** Mr. President, I temporarily withdraw this request. I understand that some Senators have to leave, and they want to vote on the Proxmire amendment.

AUTHORIZATION OF APPROPRIATIONS UNDER THE INTERNATIONAL ECONOMIC POLICY ACT OF 1972

The Senate continued with the consideration of the bill (S. 2986) to authorize appropriations for carrying out the provisions of the International Economic Policy Act of 1972, as amended.

Mr. **PROXMIRE.** I will be willing to vote in 2 or 3 minutes. I want to reply to the distinguished Senator from Maine.

I yield to the distinguished Senator from Indiana.

Mr. **HARTKE.** Mr. President, I ask unanimous consent that Guy McMichael, a member of the staff of the Veterans Subcommittee, be permitted the privilege of the floor.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **PROXMIRE.** Mr. President, the Senator from Maine has made a very persuasive and strong response to my amendment. However, the timing is very important here. We should act now. The fact is that the President's ceiling on spending came to us 95 days ago with his budget. We have had the budget and the ceiling before us since then. The Appropriations Committees of the House and Senate, the subcommittees, and the various authorizing committees that spend money are moving ahead. We are becoming more locked into our spending commitments. If we are going to establish a ceiling that provides discipline, the time to act is now.

Furthermore, this is a ceiling. This is not a rigid, fixed amount. We can go under it, to 290, 293, or 285. But we could not exceed it if we pass my amendment. At a time when inflation is worse than it has been in a generation, it seems to me that this is the kind of action which should be very reassuring to the country.

Mr. President, I have arrived at this amount of $295 billion, on the basis of careful estimates. We tried to estimate where, in our view, spending could be cut. It is true that if we all tried to do that, we might get 100 different estimates as to what the ceiling should be. But this is May 9; and with every day that passes, we are getting more and more locked in. We have to act; we have to set a time. We cannot postpone this until June or July. By then, it will be too late.

Furthermore, as the Senator from Tennessee pointed out, this is the figure which will enable us to balance the budget. We have a deficit of about $9 billion now, if we do not reduce the $304 billion budget. This cuts it back so that we will have a balanced budget; and from that standpoint, it makes sense.

I think that some Senators do not appreciate what this amendment would do. It would put a limitation on the President of the United States, a limitation we should have put on before, because the President has the authority to determine the level of outlays. He has all the past appropriations we have passed. He can act on any of those.

This amendment provides a ceiling on the amount of the President's expenditures. This is in response to the Senator from Rhode Island, who asked who would determine what to spend and where. Without this ceiling, the President has no limitation, except the appropriations we passed this year. He can go over or under it, depending on how much unobligated authority he has.

As the Senator from Maine has pointed out, there are many things we can do to cope with inflation. Energy policy is one. We can act further in that respect. Food exports is another area, and there are other promising areas. In my view, this is by far the most important single action Congress can take—to set a limit on its own spending, from the standpoint of psychology, from the standpoint of substance.

Mr. **YOUNG.** Mr. President, will the Senator yield

Mr. **PROXMIRE.** I yield.

Mr. **YOUNG.** I am in sympathy with the objective of the Senator from Wisconsin, but I am wondering if that would not involve the President having to impound more funds and getting in trouble with Congress again.

Mr. **PROXMIRE.** I say to the Senator that there is nothing to prevent the President from impounding funds, anyway. This does not change that situation.

It is up to us, as I said before, to act on appropriations and on other spending measures in such a way that the President will have a reasonable limit on what he can spend in these various areas.

The President may impound funds unless we pass perfecting anti-impoundment legislation or take it to court.

Mr. **STEVENSON.** Mr. President, the Senator from Wisconsin has been very reasonable in determining a ceiling for fiscal year 1975. However, this amendment permits an increase in outlays for fiscal year 1975 of more than $20 billion over outlays for fiscal year 1974. It may be much too high. It could authorize deficit spending, and on the other hand it could be too low.

If the Congress did authorize outlays in excess of this ceiling the only effect would be to authorize impoundments.

The point made so eloquently by the Senator from Maine is that this is premature. Congress is in no position to estimate expenditures or revenues for fiscal year 1975 at this early date. What is more, the amendment is not relevant to the underlying bill. The bill, S. 2986, is an act to authorize appropriations under the International Economic Policy Act of 1972.

Mr. President, for those reasons I move to table——

Mr. **PROXMIRE.** Mr. President, will the Senator yield?

Mr. **STEVENSON** I yield.

Mr. **PROXMIRE.** How relevant is the amendment by the Senator from Maine or the Senator from Illinois to the bill before us?

Mr. **STEVENSON.** The Senate has already acted upon the amendment of the Senator from Maine.

Mr. **PROXMIRE.** It is an irrelevant amendment?

Mr. **STEVENSON.** That may have been irrelevant, too. The Senate has already adopted it. The Senate has not adopted this amendment. I make the point it is not relevant to the International Economic Policy Act of 1972.

Mr. President, for those reasons, I move to table the Proxmire amendment.

Mr. **PROXMIRE.** Mr President, I ask for the yeas and nays.

The **PRESIDING OFFICER.** Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Wisconsin. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Nevada (Mr. Bible), the Senator from Arkansas (Mr. Fulbright), the Senator from Michigan (Mr. Hart), and the Senator from Arkansas (Mr. McClellan) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. Long), and the Senator from Florida (Mr. Chiles) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from New Jersey (Mr. Case), the Senator from Colorado (Mr. Dominick), and the Senator from Arizona (Mr. Goldwater) are necessarily absent.

I further announce that, if present and voting, the Senator from Colorado (Mr. Dominick) would vote "nay."

The result was announced—yeas 33, nays 56, as follows:

[No. 188 Leg.]

YEAS—33

Aiken
Beall
Bennett
Biden
Cannon
Clark
Fong
Gravel
Griffin
Haskell
Hathaway
Huddleston
Humphrey
Inouye
Jackson
Javits
Kennedy
Mathias
McGee
Mondale
Moss
Muskie
Packwood
Pastore
Pearson
Percy
Roth
Scott, Hugh
Stafford
Stevens
Stevenson
Taft
Young

NAYS—56

Abourezk
Allen
Baker
Bartlett
Bentsen
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Church
Cook
Cotton
Cranston
Curtis
Dole
Domenici
Eagleton
Eastland
Ervin
Fannin
Gurney
Hansen
Hartke
Hatfield
Helms
Hollings
Hruska
Hughes
Johnston
Magnuson
Mansfield
McClure
McGovern
McIntyre
Metcalf
Metzenbaum
Montoya
Nelson
Nunn
Pell
Proxmire
Randolph
Ribicoff
Schweiker
Scott, William L.
Sparkman
Stennis
Symington
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams

NOT VOTING—11

Bayh
Bellmon
Bible
Case
Chiles
Dominick
Fulbright
Goldwater
Hart
Long
McClellan

So the motion to table was rejected.

Mr. STEVENSON. Mr. President, the Senate has expressed its will. I am willing to accept this amendment and do the best we can in conference. I would hope we might be able to withdraw the order for the yeas and nays on the Proxmire amendment.

I ask unanimous consent that the order for the yeas and nays be vacated.

The PRESIDING OFFICER. Is there objection?

Without objection, the order for the yeas and nays is withdrawn.

The question recurs on the amendment of the Senator from Wisconsin. (Putting the question.)

The amendment was agreed to.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. SPARKMAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATHAWAY. Mr. President, I have an amendment, which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendment by Mr. Hathaway, as follows:

> At the end of the bill, add the following:
>
> TITLE III—PUBLIC DISCLOSURE
>
> Sec. 301. All information reported to or otherwise obtained by any person exercising authority under title II which contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, shall be considered confidential for purposes of that section, except that such information may be disclosed to other persons empowered to carry out such title solely for the purpose of carrying out such title or when relevant in any proceeding under such title.
>
> Sec. 302. Any business enterprise shall make public any information which is required under title II to be reported to the President or any person or agency exercising authority under such title, if such business enterprise had sales of a substantial product during its most recent full fiscal year.
>
> Sec. 303. A business enterprise may exclude from any report made public pursuant to section 302, any information or data reported to the President or any person or agency exercising authority under title II which—
>
> (1) is proprietary in nature, which concerns or relates to the amount or sources of its income, profits, losses, costs, or expenditures, but may not exclude from such report, data or information so reported which concerns or relates to its prices for goods and services;
>
> (2) does not relate to a substantial product.
>
> Sec. 304. (a) Immediately upon enactment of this title, the President or his delegate shall issue regulations defining, for the purposes of this title, what information or data are proprietary in nature and therefore excludable under section 303, except that such regulations may not define as excludable any information or data which cannot currently be excluded from public annual reports to the Securities and Exchange Commission pursuant to section 13 or 15 (d) of the Securities Exchange Act of 1934 by a business enterprise exclusively engaged in the manufacture or sale

Mr. HATHAWAY. Mr. President, I ask unanimous consent that Ms. Francie Sheehan-Brady, a member of my staff, be granted the privilege of the floor during the debate on the bill and the votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATHAWAY. Mr. President, the amendment I am offering today is designed to continue the policy that Congress enacted last year in the Economic Stabilization Act of 1973, of public disclosure of information.

My amendment was offered and accepted by the Senate last week as an amendment to the Muskie amendment. However, due to the parliamentary situation last week—with votes on the two parts of the Muskie amendment coming back to back, and with no intervening amendments—I was able to offer my amendment only to section 205 of the Muskie amendment. My amendment was accepted by vote of the Senate, but ultimately that section of the Muskie amendment was defeated. After consultation with the Parliamentarian and the Senator from Texas, Mr. Tower, I decided to offer the amendment as a separate title to S. 2986 as amended, so that the fate of my amendment could be determined on its own merits.

My amendment does have merit.

With the limited monitoring the only structure that we have in the bill and the Tower substitute, public disclosure takes on more significance than ever before. With the public's current skepticism and mistrust of big business and Government, there will be no public confidence in a monitoring system if only the executive branch and business have access to the factual information that goes into pricing decisions that affect the whole economy.

Moreover, my amendment has important implications for a reassertion of congressional power and a legislative role in determining what action should be taken affecting the economy. The basic purpose of a monitoring program is to track the performance of the various sectors of the economy so that we have some advance warning if inflation in any important sector may reach the boiling point. Without public disclosure, we in the Congress, and the public, may never get that advance warning. If only the executive branch monitors have access to the information collected for purposes of determining whether new controls should at some time be authorized, then we, the Congress, will have no role—or no facts to back up our position—in deciding whether or not controls should be re-imposed at some point.

Under the bill as it stands now, the Executive may request new economic stabilization authority if, through monitoring, he views the economic situation to be sufficiently serious. But this should not be solely an executive prerogative. It is conceivable that in some situations the Congress would deem revival of controls appropriate at some point before the President does. And further, our views may—and should—be influenced by expert members of the public, including business, labor, academic economists, and private organizations, who cannot offer their informed advice unless meaningful data is available. My amendment would make that data available to us and to the general public.

My amendment would provide for the public disclosure of limited kinds of information reported to the monitoring agency, according to the guidelines set up in section 205 of the recently expired Economic Stabilization Act—guidelines which have been upheld in the courts. Trade secrets, work styles, supplies and customer lists, and other types of operating information—including that information covered by the confidentiality requirements of title 18, United States Code, section 1905—would be confidential as a matter of law. The disclosure requirements of my amendment are not burdensome, and yet they will provide us with important information during this time of readjustment as controls expire. Moreover, public disclosure will go far toward mitigating public cynicism and doubt with regard to pricing decisions and Government economic policies. Lincoln once pointed out that—

> With public sentiment, nothing can fail. Without it, nothing can succeed.

That statement is particularly apt when applied to economic policies, where the public's attitude is so crucial a factor.

Mr. President, I urge the adoption of my amendment.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. HATHAWAY. I yield.

Mr. JOHNSTON. Mr. President, I believe that the Senators in charge on both sides of the aisle are ready to accept the amendment.

Mr. HATHAWAY. I thank the Senator from Louisiana and the Senator from Texas.

Mr. TOWER. We are willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

The amendment was agreed to.

Mr. TOWER. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. MUSKIE. Mr. President, I had announced earlier that I was going to offer an amendment to the Tower amendment. Is my amendment in order at this time?

The PRESIDING OFFICER. It is.

Mr. MUSKIE. I came to the floor this afternoon fully prepared to have the Senate act finally on the decision which it first took last week, after seven rollcall votes, to incorporate the Muskie amendment for the so-called monitoring agency in the pending bill.

The Senator from Texas earlier this afternoon offered his amendment as a disguised substitute for a motion to strike the Muskie amendment. The rules do not permit him to offer a motion to strike. He offered an amendment which, in my judgment, was without substance, a disguised amendment, designed to strike the Muskie amendment from the bill.

I moved to table that amendment, since it is a diversionary, dilatory tactic, to draw the Senate's attention away from the main issue which was raised by the Muskie amendment. I lost that motion to table for whatever reasons may be evident later. But I think now, to present the issue in clear-cut form, I shall offer my amendment as a substitute for the Tower amendment, without affecting the Proxmire amendment, which I oppose, but which the Senate has approved, and also without affecting the Hathaway amendment, which the Senate has just adopted.

I do so in order that we may come as close as possible to being back in the position we were in a week ago, so that the Senate may, in a clear-cut way, by yeas and nays, vote up or down on the proposal to create an economic monitoring agency.

The amendment I submit is identical with the one the Senate approved last week, after seven rollcall votes. There is no direct way to strike it from the bill. It was nailed down by a motion to reconsider and a motion to table. The vote was taken, and it was final. But the Tower amendment is nothing more or less than an attempt to do indirectly what the Senator from Texas could not do directly—reverse that decision.

I ask the Senate to do all over again what it did last week; that is, to approve my amendment to incorporate the monitoring agency among the tools of the Government to deal with the problems of fighting inflation.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the further reading of the amendment be dispensed with, and that the amendment be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out title II and insert in lieu thereof the following:

TITLE II—COST OF LIVING ACT OF 1974

SEC. 201. This title may be cited as the "Cost of Living Act of 1974".

FINDINGS AND PURPOSES

SEC. 202. It is hereby determined that inflation poses a danger to the economic well-being of the Nation, and that in order to constrain domestic inflation, the Federal Government should have a continuing concern with the rate of inflation, supply, industrial capacity, and means of increasing productivity. To contribute to the moderation of inflation, it is the purpose of this title to authorize the President to monitor public and private economic activity, and stabilize prices, rents, wages, salaries, dividends, and interest while providing for the orderly termination of economic stabilization controls and enforcement of decontrol commitments.

PRESIDENTIAL MONITORING AUTHORITY

SEC. 203. To carry out the purposes of this title, the President shall—

(1) review the programs and activities of Federal departments and agencies and the private sector which may have adverse effects on supply and cause increases in prices and make recommendations for changes in such programs and activities to increase supply and restrain prices;

(2) review industrial capacity, demand, and supply in various sectors of the economy, working with the industrial groups concerned, and appropriate governmental agencies to encourage price restraint;

(3) improve wage and price data bases for the various sectors of the economy to improve collective bargaining and encourage price restraint;

(4) conduct public hearings when appropriate to provide for public scrutiny of inflationary problems in various sectors of the economy;

(5) focus attention on the need to increase productivity in both the public and private sectors of the economy;

(6) monitor the economy as a whole, including such matters as wages, costs, productivity, prices, sales, profits, imports, and exports; and

(7) conduct a continuing review of the effect of economic concentration and anti-competitive practices on price and wage inflation and recommend legislation and other appropriate action to reduce the impact of such concentration or practices on inflation.

ENFORCEMENT OF DECONTROL COMMITMENTS

SEC. 204. Nothwithstanding the expiration of the Economic Stabilization Act of 1970, as amended,

(1) any commitment made or given as a condition of, in connection with, in exchange for, or in the course of decontrol or the grant of other relief from or under such Act, prior to May 1, 1974, shall continue in full force and effect; and

(2) the authority and provisions of sections 203 (relating to Presidential control authority), 208 (relating to sanctions), 209 (relating to injunctions and other relief), and 211 (relating to judicial review) of that Act (as in effect on April 30, 1974) may be invoked against, and shall apply to, any person who violates any commitment made or given as a condition of, in connection with, in exchange for, or in the course of decontrol or the grant of other relief to such persons from or under such Act, prior to May 1, 1974.

ACQUISITION, CONFIDENTIALITY, AND DISCLOSURE OF INFORMATION

SEC. 206. (a) For purposes of carrying out this title, the President may by regulation, order, or otherwise obtain such information from, require such reports and the keeping of such records by, make such inspections of the books, records and other writings, premises, or property of, and take the sworn testimony of, and administer oaths and affirmations to, any person as may be necessary or appropriate. The authority to obtain information under this subsection or section 208 of this title does not extend to copies of disclosures to departments or agencies of the United States excepted from disclosure under subsection (b) of this section.

(b) For purposes of carrying out this title, the President may request from any department or agency of the United States, and that department or agency shall provide him, economic information except:

(1) information, the disclosure of which to another Federal agency is expressly prohibited by law, or

(2) trade secrets, commercial, financial, or demographic information which is privileged or confidential and obtained by an agency from a person for statistical or law enforcement purposes, the disclosure of which to another Federal agency would frustrate development of accurate statistics or proper law enforcement.

(c) For purposes of carrying out this title, the President may request economic information from State and local governments, including agencies and instrumentalities thereof.

DELEGATION

SEC. 207. The President may delegate the performance of any function under this title to such officers, departments, and agencies of the United States as he deems appropriate.

SUBPENA POWER

SEC. 208. The head of an agency exercising authority under this title, or his duly authorized agent, shall have authority, for any purpose related to this title, to sign and issue subpenas for the attendance and testimony of witnesses and the production of relevant books, papers, and other documents, and to administer oaths. Witnesses summoned under the provisions of this section shall be paid the same fees and mileage as are paid to witnesses in the courts of the United States. In case of refusal to obey a subpena served upon any person under the provisions of this section, the head of the agency authorizing the subpena, or his delegate, may request the Attorney General to seek the aid of the United States district court for any district in which such person is found to compel that person, after notice, to appear and give testimony, or to appear and produce documents before the agency.

PERSONNEL

SEC. 209 (a) Any agency or officer of the Government carrying out functions under this title is authorized to employ such personnel as the President deems necessary to carry out the purposes of this title.

(b) The President may appoint five officers to be responsible for carrying out functions of this title, one of whom shall be appointed by and with the advice and consent of the Senate and who shall be compensated at the rate prescribed for level II of the Executive Schedule (5 U.S.C. 5313) one of whom shall be compensated at the rate prescribed for level III of the Executive Schedule (5 U.S.C. 5314) and three of whom shall be compensated at the rate prescribed for level V of the Executive Schedule (5 U.S.C. 5316). Appropriate titles and the order of succession among such officers may be designated by the President.

(c) Any member of a board, commission, or similar entity established by the President pursuant to authority conferred by this title who serves on less than a full-time basis shall receive compensation from the date of his appointment at the rate equal to the per diem equivalent of the rate prescribed for level IV of the Executive Schedule (5 U.S.C. 5315) when actually engaged in the performance of his duties as such member.

(d) (1) In addition to the number of positions which may be placed in GS-16, GS-17, and GS-18, under section 5108 of title 5, United States Code, not to exceed twenty positions may be placed in GS-16, GS-17, and GS-18, to carry out the functions under this title.

(2) The authority under this subsection shall be subject to the procedures prescribed under section 5108 of title 5, United States Code, and shall continue only for the duration of the exercise of functions under this title.

(e) The President may require the detail of employees from any executive agency to carry out the purpose of this title.

(f) The President is authorized to appoint, without regard to the civil service laws, such advisory committees as he deems appropriate for the purpose of consultation with and advice to the President in the performance of his functions under this title. Members of advisory committees, other than those regularly employed by the Federal Government, while attending meetings of such committees or while otherwise serving at the request of the President may be paid compensation at rates not exceeding those authorized for individuals under section 5332 of title 5, United States Code, and, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently. Committees established under this title which are composed of members representative of labor and management or labor, management, and the general public to provide advice on methods of improving labor-management relations or the collective-bargaining process or assuring wage and salary settlements consistent with gains in productivity and the goals of stabilizing the economy and facilitating development of the Nation's energy reserves are exempt from the provisions of section 10 of the Federal Advisory Committee Act.

(g) (1) Under such regulations as the President may prescribe, officers and employees of the Government who are appointed, without a break of service of one or more workdays, to any position for carrying out functions under this title are entitled, upon separation from such position, to reemployment in the position occupied at the time of appointment or in a position of comparable grade and salary.

(2) An officer or employee who, at the time of his appointment under paragraph (1) of this subsection, is covered by section 8336(c) of title 5, United States Code, shall continue to be covered thereunder while carrying out functions under this title.

EXPERTS AND CONSULTANTS

SEC. 210. Experts and consultants may be employed, as authorized by section 3109 of title 5, United States Code, for the performance of functions under this title, and individuals so employed may be compensated at rates not to exceed the per diem equivalent of the rate for grade 18 of the General Schedule established by section 5332 of title 5, United States Code. Such contracts may be renewed from time to time without limitation. Service of an individual as an expert or consultant under this section shall not be considered as employment or the holding of an office or position bringing such individual within the provisions of section 3323(a) of title 5, United States Code, section 872 of the Foreign Service Act of 1946, or any other law limiting the reemployment of retired officers or employees.

REPORTS

SEC. 211. (a) In transmitting the Economic Report required under section 3(a) of the Employment Act of 1946 (15 U.S.C. 1022), the President shall include a section describing the actions taken under this title during the preceding year and giving his assessment of the progress attained in achieving the purposes of this title. The President shall also transmit quarterly reports to the Congress not later than thirty days after the close of each calendar quarter describing the actions taken during this title during the preceding quarter and giving his assessment of the programs attained in achieving the purpose of this title.

(b) In carrying out his authority under this title, the President shall study and evaluate the relationship between excess profits, the stabilization of the economy, and the creation of new jobs. The results of such study shall be incorporated in the reports referred to in subsection (a) of this section.

(c) The President shall review and appraise the programs and activities of the departments and agencies of the United States in light of the policies set forth in section 202 of this title for the purpose of determining the extent to which those programs and activities contribute to the achievement of those policies and shall report his conclusions to the Congress in the reports required by subsection (a) of this section.

FUNDING

SEC. 212. (a) There are authorized to be appropriated to the President to remain available until expended, such sums as may be necessary to carry out the provisions of this title.

(b) The President may accept and use in furtherance of the purposes of this title money, funds, property, and services of any kind made available for such purposes by gift, devise, bequest, grant, or otherwise.

EXPIRATION

SEC. 213. The authority under this title expires at midnight, April 30, 1975, but such expiration shall not affect any action or pending proceeding, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to May 1, 1975.

ADMINISTRATIVE PROCEDURE, SANCTIONS, AND JUDICIAL RELIEF AND REVIEW

SEC. 214. Sections 208 (relating to sanctions), 209 (relating to injunctions and other relief), 210 (relating to suits for damages and other relief), and 211 (relating to judicial review) of the Economic Stabilization Act of 1970 as in effect on April 30, 1974, shall apply to actions taken under this title.

EFFECT ON PETROLEUM ALLOCATION ACT OF 1973

SEC. 215. For purposes of administering and enforcing the Emergency Petroleum Allocation Act of 1973, nothing in this title alters the Economic Stabilization Act of 1970 as incorporated by reference in the Emergency Petroleum Allocation Act.

ADMINISTRATIVE PROCEDURE

SEC. 216. "(a) The functions exercised under this title are excluded from the operation of subchapter 11 of chapter 5, and chapter 7 of title 5, United States Code, except as to the requirements of sections 552, 555 (c) and (e), and 702 of such title, and except as to the requirements of section 553 of such title as modified by subsection (c) of this section.

"(b) Any agency authorized by the President to issue rules, regulations, or orders under this shall, in regulations prescribed by it, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or seeking an exception or exemption from, such rules, regulations, and orders. Such regulations shall include provision for a statement of exhaustion of administrative remedies which must be issued within sixty days of a request thereof unless a grant or denial is made. If such person is aggrieved by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the agency. The agency shall, in regulations prescribed by it, establish appropriate procedures, including hearings where deemed advisable, for considering such requests for action under this section, except that such agency shall issue no order which has the effect of reducing wages, or salaries in effect, or proposed to be in effect, in an appropriate employee unit unless such order is made on the record after opportunity for a hearing. Not less than thirty days after issuance of such an order a statement of explanation shall be directed to the affected parties and made available to the public. Such statement shall include a full explanation of the reasons why the existing wage or salary, or proposed wage or salary adjustment, does not meet the requirements of, or the standards established by, the regulations prescribed by the agency.

"(c) All rules, regulations, or orders promulgated pursuant to this title shall be subject to the provisions of section 553 of title 5, United States Code, except that all rules, regulations, or orders promulgated must provide for the following:

"(1) Notice and opportunity to comment which shall be achieved by publication of all proposed general rules, regulations, or orders issued pursuant to this title in the Federal Register. In each case, a minimum of ten days following such publication shall be provided for opportunity to comment, except that the requirements of this paragraph as to time of notice and opportunity for comment may be waived where strict compliance is found to cause serious harm or injury to the public interest due to rapid inflation or shortages of vital commodities.

"(2) Any agency authorized by the President or by this title to issue rules, regulations, or orders under this title shall hold public hearings on those rules, regulations, or orders which are likely to have a substantial impact upon the Nation's economy or large numbers of individuals or businesses or when such hearings serve to inform the public or aid in obtaining information on actions taken or proposed to be taken. To the maximum extent practicable, such hearing shall be held prior to the implementation of such rule, regulation, or order, but in all cases, such public hearings shall be held no later than 45 days after the issuance of any such rule, regulation, or order, which would have a substantial effect upon the Nation's economy or on large numbers of individuals or businesses.

"(d) In addition to the requirements of section 552 of title 5, United States Code, any agency authorized by the President or by this title to issue rules, regulations, or orders shall publish in the Federal Register all internal rules and guidelines which may form the basis, in whole or in part, for any rule, regulation, or order. Such agency shall also support any grant or denial of a request for exception or exemption from rules, regulations, or others provided for in subsection (b) above with a written opinion setting forth its findings of fact and a specific statement explaining the rationale for such grant or denial. Such opinions shall be published with such modifications as are necessary to insure confidentiality of information protected under section 55(b) of title 5, United States Code.

"(e) All rules, regulations, or orders issued pursuant to this title shall include the following:

"(1) Findings of fact and a specific statement explaining the rationale for each provision contained in such rules, regulations, or orders; and

"(2) Administrative definitions of the terms used in this title when pertinent to the rule, regulation, or order.".

EFFECTIVE DATE

SEC. 217. This title takes effect May 1, 1974.

SEVERABILITY

SEC. 218. If any provision of this title or the application of such provision to any person or circumstances is held invalid, the remainder of this title, and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Mr. MUSKIE. Mr. President, I ask for the yeas and nays.

Mr. BROCK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BROCK. Is the amendment in order?

The PRESIDING OFFICER. The amendment is in order.

Mr. BROCK. Is it identical to that which has already been offered before this body?

Mr. MUSKIE. The amendment is not identical. There is a distinction between this amendment and my original amendment, because it in effect incorporates the Proxmire and Hathaway amendments.

Mr. BROCK. Mr. President, may we have a response to my inquiry?

The PRESIDING OFFICER. The Chair would inquire of the Senator from Maine whether the amendment is identical to the amendment in the bill.

Mr. MUSKIE. Mr. President, I just said that the amendment is not identical because it in effect incorporates, in addition to what was in the bill last week, the Proxmire amendment and the Hathaway amendment.

The PRESIDING OFFICER. The Chair understood that, but he wanted to have the Senator state it for the record.

Mr. BROCK. Mr. President, is the amendment in order?

The PRESIDING OFFICER. It is not identical; therefore, it is in order.

Mr. JAVITS. Are my amendments in order? Does the Senator's statement incorporate my amendment?

Mr. MUSKIE. Mr. President, is it in order for me to incorporate that amendment at this point?

The PRESIDING OFFICER. It will require unanimous consent.

Mr. MUSKIE. Mr. President, I ask unanimous consent that it be incorporated.

Mr. TOWER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MUSKIE. Mr. President, I have no desire to debate the issue further. I think my position has been spread on the record. The matter is perfectly clear. I know that Senators are anxious to get away and are eager to vote, so I am willing to accept the result, whatever it may be. I am not interested in delaying the Senate for a minute. I fully expected this amendment to be voted on earlier this afternoon.

Mr. JAVITS. Mr. President, as this is a substitute, is it open to a perfecting amendment?

The PRESIDING OFFICER. It is open to further amendment.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

Mr. BEALL. Mr. President, will the Senator withhold his request for a moment?

Mr. JAVITS. Surely.

Mr. BEALL. Will the Senator from Maine yield for a question?

Mr. MUSKIE. I am glad to yield.

Mr. BEALL. My colleague, the senior Senator from Maryland (Mr. MATHIAS), had an amendment adopted last week. Does the amendment of the Senator from Maine include the language of that amendment?

Mr. MUSKIE. It does.

Mr. BEALL. I thank the Senator.

Mr. BROCK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I ask unanimous consent that the Senator from Maine (Mr. MUSKIE) be permitted to add to his amendment my amendment which was adopted earlier today.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. JAVITS. I thank my colleague.

Mr. MUSKIE. Mr. President, I am ready to vote.

The PRESIDING OFFICER (Mr. HELMS). The question is on agreeing to the amendments, as amended, of the Senator from Maine (Mr. MUSKIE). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS (when his name was called). Mr. President, on this vote I have a pair with the Senator from New Jersey (Mr. CASE). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Michigan (Mr. HART), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. BIBLE), the Senator from Nevada (Mr. CANNON), and the Senator from California (Mr. CRANSTON) are necessarily absent.

I further announce that the Senator from Florida (Mr. CHILES) and the Senator from Louisiana (Mr. LONG) are absent on official business.

I also announce that the Senator from Iowa (Mr. CLARK) is absent because of illness in the family.

I further announce that, if present and voting, the Senator from Iowa (Mr. CLARK) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from New Jersey (Mr. CASE), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Florida (Mr. GURNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Colorado (Mr. DOMINICK) would vote "nay."

The result was announced—yeas 37, nays 46, as follows:

[No. 189 Leg.]

YEAS—37

Abourezk
Biden
Byrd, Robert C.
Church
Haskell
Hathaway
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nelson
Pastore
Pell
Randolph
Ribicoff
Roth
Stennis
Stevenson
Symington
Taft
Tunney
Williams

NAYS—46

Aiken
Allen
Baker
Bartlett
Beall
Bennett
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Cook
Cotton
Curtis
Dole
Domenici
Eagleton
Eastland
Ervin
Fannin
Fong
Gravel
Griffin
Hansen
Hartke
Hatfield
Helms
Hollings
Hruska
McClure
Metcalf
Nunn
Packwood
Pearson
Percy
Proxmire
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Talmadge
Thurmond
Tower
Weicker
Young

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Stevens, against.

NOT VOTING—16

Bayh
Bellmon
Bentsen
Bible
Cannon
Case
Chiles
Clark
Cranston
Dominick
Fulbright
Goldwater
Gurney
Hart
Long
McClellan

So Mr. Muskie's amendment was rejected.

The PRESIDING OFFICER (Mr. Abourezk). The Senate will be in order.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the Muskie amendment was rejected.

Mr. MUSKIE. Mr. President, if I may make a few brief remarks, I will not detain the Senate very long.

The PRESIDING OFFICER. The Senate will be in order.

Mr. PASTORE. Mr. President, the Senate is not in order. May we have order?

The PRESIDING OFFICER. The Senator will suspend until the Senate is in order.

The Senator from Maine may proceed.

Mr. MUSKIE. Mr. President, I think I can make myself heard. I do not want to delay the Senate overly long.

I am disappointed in the vote but, as I have said during the 2 days we have considered this measure, all I wanted was a vote on the merits and we have had it.

The question that comes before us now is whether we will accept the Tower amendment which by its language would undertake to establish a monitoring agency. I cannot speak for any of the others who cosponsored the Muskie amendment but as I read the Tower amendment, I believe it is a shadow of what we need.

What I proposed was little enough by way of monitoring the economy. It was very carefully worked out and worked out after advice from experts in the field. What I had proposed was an agency sufficiently equipped with personnel and funding to do the job.

I am not interested in a shadow agency. My colleagues may be. The remainder of the Senate may be. But if we are going to have a monitoring agency, I am interested in it only if it can do its job, because otherwise it would be an illusory promise to the American people that we are undertaking to do something meaningful about inflation.

So, Mr. President, I propose to vote against the Tower amendment, because I do not think there is enough flesh on it.

I may, in due course, make a motion to table, but I think there should be some debate on this question. I do not know how much patience the Senate has for further debate, but that is my view.

The sponsors, the distinguished Senators from Texas and Tennessee, have been opposed to a monitoring agency during the 2 days of debate. But they are the sponsors of this amendment. So I just do not accept it as putting meaningful flesh on the concept of economic monitoring.

Thus, I shall vote against it and, in due course, if debate indicates it is the proper parliamentary course, I shall make a motion to table.

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider the vote by which the Muskie amendment was rejected.

Mr. THURMOND. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENSON. Mr. President, I rise very reluctantly to agree with the Senator from Maine that it would be better to table the Tower amendment than to deceive the people.

This amendment contains no effective monitoring authority. The agency it authorizes would be without the resources with which to enforce the decontrol commitments which have been made. I think it is a flagrant capitulation to inflation. Therefore, it would be better to table this amendment than to pretend we are doing something that we are not doing.

I rise very reluctantly because inflation is robbing the pocketbooks of the people of this country. It is causing economic distress. With the defeat of the Muskie amendment, the chances for an orderly decontrol of the economy are virtually gone. That means that before very long, with double-digit inflation, we are going to be back here again considering legislation either to mandate or to impose a freeze or other controls, and then we will suffer even more severe dislocations in our economy.

If the Senator from Maine will not offer it, at the appropriate time I will offer a motion to table the Tower amendment.

Mr. PROXMIRE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PROXMIRE. Is it not true that a motion to table the Tower amendment was made this afternoon, only a few hours ago?

The PRESIDING OFFICER. The Senator is correct.

Mr. PROXMIRE. Is it not true that the same motion renewed within this period of time would not be in order?

The PRESIDING OFFICER. There have been two amendments to the Tower amendment since the last motion to table. Therefore, a motion to table now is in order. It would be a different proposition.

Mr. PROXMIRE. So a motion to table the Tower amendment, in effect, since we have already had a vote, would be a motion to vote down the Hathaway amendment and the Proxmire amendment. It would be a motion to wipe out the vote of the Senate in favor of a $295 billion ceiling.

Mr. PASTORE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PASTORE. Eventually, will a motion to lay the whole bill on the table be in order?

The PRESIDING OFFICER. Yes, it would be in order.

Mr. PASTORE. That is all I want to know.

Mr. MUSKIE. Mr. President, it seems to me that we have exhausted the Senate's patience for debate; I do not think there is anything left to say. So I do move to table the whole bill.

The PRESIDING OFFICER. The question is on the motion to table the entire bill.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. METCALF (when his name was called). Mr. President, on this vote I have a pair with the Senator from Texas (Mr. Bentsen). If he were present and voting he would vote "aye." If I were at liberty to vote I would vote "nay." I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Texas (Mr. Bentsen), the Senator from Nevada (Mr. Bible), the Senator from California (Mr. Cranston), the Senator from Arkansas (Mr. Fulbright), the Senator from Arkansas (Mr. McClellan), the Senator from Nevada (Mr. Cannon), and the Senator from Wisconsin (Mr. Nelson) are necessarily absent.

I further announce that the Senator from Florida (Mr. Chiles), and the Senator from Louisiana (Mr. Long) are absent on official business.

I also announce that the Senator from Iowa (Mr. Clark) is absent because of illness in the family.

I further announce that, if present and voting, the Senator from Iowa (Mr. Clark) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from New Jersey (Mr. Case), the Senator from Colorado (Mr. Dominick), the Senator from Arizona (Mr. Goldwater), and the Senator from Florida (Mr. Gurney) are necessarily absent.

I further announce that, if present and voting, the Senator from Colorado (Mr. Dominick) would vote "yea."

The result was announced—yeas 65, nays 18, as follows:

[No. 190 Leg.]

YEAS—65

Abourezk
Allen
Baker
Bartlett
Bennett
Biden
Brock
Brooke
Buckley
Burdick
Byrd, Robert C.
Cook
Cotton
Curtis
Dole
Domenici
Eastland
Ervin
Fannin
Fong
Gravel
Hansen
Hart
Hartke
Haskell
Hatfield
Hathaway
Helms
Hruska
Huddleston
Hughes
Humphrey
Inouye
Jackson
Johnston
Kennedy
Magnuson
Mansfield
Mathias
McClure
McGee
McIntyre
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nunn
Pastore
Pearson
Pell
Percy
Randolph
Roth
Schweiker
Scott,
William L.
Stennis
Stevens
Stevenson
Symington
Thurmond
Tower
Weicker
Williams
Young

NAYS—18

Aiken
Beall
Byrd,
Harry F., Jr.
Church
Eagleton
Griffin
Hollings
Javits
McGovern
Packwood
Proxmire
Ribicoff
Scott, Hugh
Sparkman
Stafford
Taft
Talmadge
Tunney

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Metcalf, against.

NOT VOTING—16

Bayh
Bellmon
Bentsen
Bible
Cannon
Case
Chiles
Clark
Cranston
Dominick
Fulbright
Goldwater
Gurney
Long
McClellan
Nelson

So the motion to lay the bill on the table was agreed to.

Mr. TOWER. Mr. President, I move to

reconsider the vote by which the bill was tabled.

Mr. MOSS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ADDITIONAL CONFEREES ON H.R. 12565, THE DEFENSE SUPPLEMENTAL APPROPRIATION AUTHORIZATIONS, 1974

Mr. SYMINGTON. Mr. President, I ask unanimous consent that Senators CANNON and DOMINICK be added as conferees of H.R. 12565, the Defense Supplemental Appropriations Authorization Act, 1974. The other conferees have previously been named.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

S. 245. An act for the relief of Kamal Antoine Chalaby;

S. 428. An act for the relief of Edward Scofield (Ernesto Espino);

S. 3304. An act to authorize the Secretary of State or such officer as he may designate to conclude an agreement with the People's Republic of China for indemnification for any loss or damage to objects in the "Exhibition of the Archeological Finds of the People's Republic of China" while in the possession of the Government of the United States;

H.R. 5035. An act to amend Public Law 90–335 (82 Stat. 174) relating to the purchase, sale, and exchange of certain lands on the Spokane Indian Reservation; and

H.R. 5525. An act to declare that certain mineral interests are held by the United States in trust for the Chippewa Cree Tribe of the Rocky Boy's Reservation, Mont.

The enrolled bills were subsequently signed by the President pro tempore.

PRESERVATION OF HISTORICAL AND ARCHEOLOGICAL DATA

Mr. MOSS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 514.

The **PRESIDING OFFICER** laid before the Senate the amendment of the House of Representatives to the bill (S. 514) to amend the act of June 27, 1960 (74 Stat. 220), relating to the preservation of historical and archeological data, which was to strike out all after the enacting clause, and insert:

That the act entitled "An act to provide for the preservation of historical and archeological data (including relics and specimens) which might otherwise be lost as the result of the construction of a dam", approved June 27, 1960 (74 Stat. 220; 16 U.S.C. 469), is amended as follows:

(1) In section 1, after "result of" insert "(1)" and delete "agency." and insert "agency or (2) any alteration of the terrain caused as a result of any Federal construction project or federally licensed activity or program.".

(2) In section 2, change "Sec. 2. (a)", to "Sec. 2."; after "Secretary of the Interior" insert "(hereafter referred to as the Secretary)", and delete all of subsection (b).

(3) Add the following new sections:

"Sec. 3. (a) Whenever any Federal agency finds, or is notified, in writing, by an appropriate historical or archeological authority, that its activities in connection with any Federal construction project or federally licensed project, activity, or program may cause irreparable loss or destruction of significant scientific, prehistorical, historical, or archeological data, such agency shall notify the Secretary, in writing, and shall provide the Secretary with appropriate information concerning the project, program, or activity. Such agency may request the Secretary to undertake the recovery, protection, and preservation of such data (including preliminary survey, or other investigation as needed, and analysis and publication of the reports resulting from such investigation), or it may, with funds appropriated for such project, program, or activity, undertake such activities. Copies of reports of any investigations made pursuant to this section shall be submitted to the Secretary, who shall make them available to the public for inspection and review.

"(b) Whenever any Federal agency provides financial assistance by loan, grant, or otherwise to any private person, association, or public entity, the Secretary, if he determines that significant scientific, prehistorical, historical, or archeological data might be irrevocably lost or destroyed, may with funds appropriated expressly for this purpose conduct, with the consent of all persons, associations, or public entities having a legal interest in the property involved, a survey of the affected site and undertake the recovery, protection, and preservation of such data (including analysis and publication). The Secretary shall, unless otherwise mutually agreed to in writing, compensate any person, association, or public entity damaged as a result of delays in construction or as a result of the temporary loss of the use of private or any nonfederally owned lands.

"Sec. 4. (a) The Secretary, upon notification, in writing, by any Federal or State agency or appropriate historical or archeological authority that scientific, prehistorical, historical, or archeological data is being or may be irrevocably lost or destroyed by any Federal or federally assisted or licensed project, activity, or program, shall, if he determines that such data is significant and is being or may be irrevocably lost or destroyed and after reasonable notice to the agency responsible for funding or licensing such project, activity, or program, conduct or cause to be conducted a survey and other investigation of the areas which are or may be affected and recover and preserve such data (including analysis and publication) which, in his opinion, are not being, but should be, recovered and preserved in the public interest.

"(b) No survey or recovery work shall be required pursuant to this section which, in the determination of the head of the responsible agency, would impede Federal or federally assisted or licensed projects or activities undertaken in connection with any emergency, including projects or activities undertaken in anticipation of, or as a result of, a natural disaster.

"(c) The Secretary shall initiate the survey or recovery effort within sixty days after notification to him pursuant to subsection (a) of this section or within such time as may be agreed upon with the head of the agency responsible for funding or licensing the project, activity, or program in all other cases.

"(d) The Secretary shall, unless otherwise mutually agreed to in writing, compensate any person, association, or public entity damaged as a result of delays in construction or as a result of the temporary loss of the use of private or nonfederally owned land."

(4) In section 2, change "Sec. 2. (c)" to "Sec. 5. (a)" and change "instigating agency" to "agency responsible for funding or licensing the project" and delete "agency." and insert "agency and the survey and recovery programs shall terminate at a time mutually agreed upon by the Secretary and the head of such agency unless extended by mutual agreement.".

(5) Delete subsection 2(d).

(6) In section 2, change "Sec. 2. (e)" to "Sec. 5. (b)".

(7) In section 5, add the following new subsection:

"(c) The Secretary shall coordinate all Federal survey and recovery activities authorized under this Act and shall submit an annual report at the end of each fiscal year to the Interior and Insular Affairs Committees of the United States Congress indicating the scope and effectiveness of the program, the specific projects surveyed and the results produced, and the costs incurred by the Federal Government as a result thereof.".

(8) Redesignate "Sec. 3." as "Sec. 6." and change paragraphs (2) and (3) to read as follows:

"(2) obtain the services of experts and consultants or organizations thereof in accordance with section 3109 of title 5, United States Code; and

"(3) accept and utilize funds made available for salvage archeological purposes by any private person or corporation or transferred to him by any Federal agency.".

(9) Delete all of section 4 and insert the following:

"Sec. 7. (a) To carry out the purposes of this Act, any Federal agency responsible for a construction project may assist the Secretary and/or it may transfer to him such funds as may be agreed upon, but not more than 1 per centum of the total amount authorized to be appropriated for such project, except that the 1 per centum limitation of this section shall not apply in the event that the project involves $50,000 or less: *Provided*, That the costs of such survey, recovery, analysis, and publication shall be considered nonreimbursable project costs.

"(b) For the purposes of subsection 3(b), there are authorized to be appropriated such sums as may be necessary, but not more than $500,000 in fiscal year 1974; $1,000,000 in fiscal year 1975; $1,500,000 in fiscal year 1976; $1,500,000 in fiscal year 1977; and $1,500,000 in fiscal year 1978.

"(c) For the purposes of subsection 4(a), there are authorized to be appropriated not more than $2,000,000 in fiscal year 1974; $2,000,000 in fiscal year 1975; $3,000,000 in fiscal year 1976; $3,000,000 in fiscal year 1977; and $3,000,000 in fiscal year 1978.".

Mr. MOSS. Mr. President, this is a bill that the Senate passed last year, and the House has finished action on it.

While the House has made several amendments to S. 514, they do not detract from the version of the bill as passed by the Senate last year and, in fact, they improve it in some respects. These amendments are acceptable to both the majority and minority sides and they have been cleared on both sides of the aisle.

I move that the Senate concur in the amendments of the House to S. 514.

The **PRESIDING OFFICER.** The question is on agreeing to the motion of the Senator from Utah.

The motion was agreed to.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENTS

Mr. ROBERT C. BYRD. Mr. President, I am authorized by the distinguished majority leader to propound the following unanimous-consent requests:

That when the Senate completes its business today—this is part of the overall package—it stand in adjournment until the hour of 12 noon on Monday next; that at the conclusion of morning business on Monday, the Senate resume consideration of S. 3267, the energy bill; and that at the hour of 2 p.m. the Dole amendment, No. 1266, be called up, with a 1-hour limitation thereon, and that a vote occur on the Dole amendment at the hour of 3 p.m. on Monday.

Mr. JAVITS. Mr. President, if the Senator will yield, is there any condition for amending the Dole amendment? I do not know what it is or says. Is it another bill?

Mr. ROBERT C. BYRD. Mr. President, that the vote occur at 3 p.m. on Monday.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, with the provision for adjournment over to Monday still continuing, I continue with the remainder of the request.

I ask unanimous consent that upon the disposition of the Dole amendment, No. 1266, to S. 2637, on Monday or at any time subsequent thereto during Monday afternoon, the leadership be authorized to set aside the energy bill and resume the consideration of S. 1539, the elementary and secondary education bill; that there be a limitation of debate on that bill of 20 hours, to be equally divided between the majority leader and the minority leader, or their designees; that there be a limitation on amendments thereto of 1 hour; that there be a limitation on any amendment to an amendment, debatable motion, or appeal of 30 minutes; that there be a limitation on the amendment by the Senator from Arkansas (Mr. MCCLELLAN) of 3 hours, with 2 hours of the 3 hours to be under control of Mr. MCCLELLAN and 1 hour to be under the control of the minority leader or his designee.

That there be a limitation on the amendment of the Senator from Florida (Mr. GURNEY) of 6 hours; that there be a limitation on a substitute by the Senator from Idaho (Mr. MCCLURE), the Senator from Nebraska (Mr. CURTIS), and the Senator from New York (Mr. BUCKLEY) of 6 hours.

That there be a limitation on an amendment by the Senator from Michigan (Mr. GRIFFIN) of 3 hours.

That on Tuesday, following the conclusion of routine morning business, the Senate resume the consideration of the elementary and secondary education bill, and that the Senator from Arkansas (Mr. MCCLELLAN) be recognized to call up his amendment.

That on Wednesday, at the conclusion of routine morning business, the Senate resume the consideration of the education bill; that Mr. GURNEY be recognized at the conclusion of routine morning business on Wednesday to call up his amendment; and that a vote occur on the Gurney amendment at 4 o'clock p.m. on Wednesday.

That all amendments dealing with busing be disposed of not later than the hour of 1 p.m. on Thursday; provided, further, that upon the disposition of all busing amendments, which will be no later than 1 p.m. on Thursday, the Buckley-Curtis-McClure substitute be called up, and that that amendment be disposed of before the conclusion of business on Thursday.

Provided further, that on Monday, May 20, the Senate convene at the hour of 11 a.m.; that at the conclusion of routine morning business, which would be not later than 12 noon, the Senate resume the consideration of the elementary and secondary education bill, and that the pending amendment at that time be the substitute to be offered by the Senator from Michigan (Mr. GRIFFIN); that amendments thereto may be in order throughout the afternoon of Monday, May 20, and that any rollcall votes that are ordered on such amendments be delayed until the hour of 2 p.m. on Tuesday, May 21, at which time all rollcall votes on amendments to the Griffin amendment would occur, with a vote on the Griffin amendment to occur at the conclusion of votes on amendments thereto, with the right to table not affected.

That upon the disposition of the Griffin substitute, if it is not adopted, of course, further amendments to the Senate bill would be in order, with a vote on final passage to occur before the close of business on Tuesday, May 21, paragraph (3) of rule XII being waived.

That if the Griffin substitute does not carry, before the close of business on Tuesday, May 21, the House bill be called up and the Senate language, if amended, be substituted therefor; and that, on the contrary, if the Griffin substitute is carried, the House bill be voted on before the close of business on Tuesday, May 21.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. JAVITS. I did not quite get the Senator's last point.

Mr. ROBERT C. BYRD. I do not think I did very well on it.

Mr. JAVITS. No; the Senator did brilliantly. There are just 1 or 2 points I should like to have made clear. I shall deal with the last one first.

The debate on the Griffin amendment is for 3 hours, to be equally divided.

Mr. ROBERT C. BYRD. Yes.

Mr. JAVITS. The other point is that in every case the right to move to table is reserved.

Mr. ROBERT C. BYRD. And also the right to move to recommit——

Mr. JAVITS. Is reserved. That is, a motion to recommit whatever part of the bill or the whole bill is in order.

Mr. ROBERT C. BYRD. Yes.

Mr. JAVITS. Finally, and the last statement which I did not quite get——

The PRESIDING OFFICER. The Chair will interject that a part of the bill cannot be recommitted.

Mr. ROBERT C. BYRD. Yes; that is right. But the right to recommit would be preserved.

Mr. JAVITS. As I understand it, once the Senate has completed its action on the bill, and there has been third reading, some time on Tuesday, at whatever time it may be, a motion would be in order to substitute the House number with the Senate text, and it would not be subject to debate. But that question has to be voted on then and there.

Mr. ROBERT C. BYRD. Yes.

Mr. JAVITS. That is, whether the Griffin amendment carries or not, that would be the bill before the Senate.

I did not quite get what the Senator meant when he conditioned that action on the Griffin amendment carrying. That would be the final action of the Senate. It could be subject to a motion to recommit or a motion to table.

Mr. ROBERT C. BYRD. Mr. President, may I ask the Chair if the House bill, which will be offered as a substitute by the distinguished Senator from Michigan, were to be adopted without amendment, then would it be necessary, at the end, to call up the House number and substitute the Senate language, because the Senate would have already adopted the House bill as a substitute?

The PRESIDING OFFICER. Not necessarily; the Senate could then call up the House bill and pass it without amendment and thereby achieve the same end.

Mr. ROBERT C. BYRD. I thought that was correct. I understood that if the Griffin substitute failed, there would have to be that parliamentary procedure at the end, but if the Griffin amendment is adopted, the alternative suggested by the Chair could be followed.

So in any event, Mr. President, the unanimous-consent request would cover the situation.

Mr. JAVITS. And there would be no intervening debate.

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. BEALL. Reserving the right to object——

Mr. ROBERT C. BYRD. With the final provision that the agreement be in the usual form as to division and control of time and as to germaneness, it being understood that amendments germane to the bill and to substitutes and to amendments offered thereto would be considered germane.

Mr. JAVITS. It would be modified, in the usual form with the understanding that it would have to be germane to whatever was before the Senate.

Mr. BEALL. Mr. President, reserving the right to object, some of us have amendments that do not pertain to busing. In connection with the scenario for next week, as I understand it, Tuesday, Wednesday, and Thursday of next week will be devoted to busing amendments?

Mr. JAVITS. No, Wednesday and Thursday.

Mr. BEALL. Tuesday would be the day for us to get our miscellaneous amendments in?

Mr. ROBERT C. BYRD. Or Monday afternoon, after the energy amendment is disposed of, or Friday afternoon next.

Mr. BEALL. Further reserving the right to object, should the amendment substituting the House bill for the Senate bill be adopted, several of us have provisions in the Senate bill that are dear to our hearts. I would assume an opportunity would be afforded to us, if we want to amend the proposed substitute with such amendments, prior to the time the Senate votes on it. How much time would we have to do that?

Mr. JAVITS. Mr. President, will the Senator yield? As this is a part of my design, I will answer that.

There is a 3-hour limitation of time, to be equally divided, on the Griffin substitute, which is the House bill. The leadership comes in at 11 o'clock. Let us assume that is over by 3, with quorum calls, et cetera. Then from 3 until whatever is the close of business Monday and until 1 o'clock on Tuesday, any Senator, including the managers, will have the opportunity to amend that particular measure. But votes will not occur on all those amendments—perhaps on a motion to table the substitute, et cetera—until 1 p.m. on Tuesday.

Mr. BEALL. I understand.

Mr. BROCK. 2 p.m.

Mr. JAVITS. Or whatever he said. Two.

Mr. BEALL. My concern is that there be adequate time to amend the substitute.

Mr. JAVITS. Of course. The leadership has agreed, I say to Senator BEALL—and I say this publicly because it is very important—in order to accommodate all these arrangements, to sit as late as may be necessary on these stipulated days, to afford all Senators an opportunity.

Mr. ROBERT C. BYRD. Yes. The Senator from Maryland has raised a question which I think ought to be answered at this time.

It would be my understanding that the House bill, which would be offered as a substitute by the Senator from Michigan, it being a substitute, an amendment thereto would be limited to 30 minutes, because it would be an amendment in the second degree.

Mr. ALLEN. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Would the Senator from West Virginia repeat his question?

Mr. ROBERT C. BYRD. The House bill, when offered as a substitute, would be itself an amendment in the first degree, and any amendment to that substitute, which I thought the Senator from Maryland was addressing his question to, would be limited to 30 minutes.

The PRESIDING OFFICER. Second degree amendments would be limited to 30 minutes under the proposed agreement.

Mr. ROBERT C. BYRD. So that an amendment to the substitute offered by Mr. Griffin would be limited to 30 minutes?

The PRESIDING OFFICER. The Senator is correct.

Mr. BEALL. In other words, continuing to reserve the right to object, as I understand it, then, those of us who have amendments to the House substitute are indeed limited to 30 minutes on those amendments?

Mr. ROBERT C. BYRD. Except with the additional proviso that those in charge of the bill may yield additional time on any amendment.

Mr. JAVITS. Mr. President, may I say to the Senator, I have thought of that, too. We could get an hour; there is no reason why not. But Senator PELL and I would have about a dozen amendments, and the door would be opened to all Senators, and with the time slot from, let us say, 3 p.m. on Monday until 1 or 2 p.m. on Tuesday, with all Senators desirous of being heard, we were concerned about extending that time.

Mr. GRIFFIN. Mr. President, I would like to go further, and say that, as to the 3 hours allocated on the substitute amendment, I do not think all of that time will be used before we start the amending process, and some of that time would be available.

Mr. BEALL. I am satisfied that the Senators have done a good job, and there is adequate time.

Mr. ALLEN. Mr. President, reserving the right to object, the matter as to the time when busing amendments could be brought up has been settled by an earlier request, the statement having been made long ago that the busing amendments would come up on Wednesday or Thursday. There is no objection to bringing up busing amendments on Monday or Tuesday on a catch-as-catch-can basis; is that correct?

Mr. ROBERT C. BYRD. That was my understanding.

Mr. JAVITS. No, that is not my understanding. My understanding is that the time slot for busing amendments begins on Wednesday.

Mr. ALLEN. That is not what has been stated heretofore. It was agreed that 6 hours would be allotted to the Gurney amendment, and that subsequent to that, and prior to the bringing up of the other amendments, busing amendments could be brought up, but nothing has been said other than what the distinguished Senator from New York said just a few moments ago that would preclude bringing busing amendments up on Monday or Tuesday.

I happen to know that the distinguished Senator from North Carolina (Mr. ERVIN) expects, on Monday, to bring up a freedom of choice amendment, which could be considered under that heading.

Mr. JAVITS. I do not mind when they are brought up. We will be here working anyway. But the vote question is what troubles me. So, as we have stipulated in the unanimous-consent agreement that votes on busing amendments shall be completed by a given time on Wednesday, he can bring it up at any time he wants to, so long as the votes come within that period.

Mr. ALLEN. The Senator is suggesting, then, that there could be no votes on Monday or Tuesday, but amendments could be debated, is that correct?

Mr. JAVITS. That is correct. I am talking about busing. There could be votes on other things. But as I understood, as I say, busing amendments would be confined to Wednesday and so much of the time on Thursday as necessary. But so long as votes do not occur at any time other than that time slot on Wednesday and Thursday—until what hour, I ask the Senator from West Virginia?

Mr. ROBERT C. BYRD. 1 o'clock.

Mr. ALLEN. Well, how would the Senator from New York characterize a freedom of choice amendment? Would that be a busing amendment? It makes no reference to transportation of students.

Mr. JAVITS. I would say it would be what we would call a civil rights amendment, and that was our intention, to deal with the civil rights amendments within the time slot of Wednesday and as much of Thursday as we need.

Mr. ALLEN. I am not sure the Senator from North Carolina can be here on Thursday. He has stated that he will not be able to be at the Government Operations Committee.

Mr. JAVITS. Certainly no one is trying not to be accommodating. We would agree, and I am sure the leadership would facilitate it, to vote on his amendment on Wednesday. Our concern is a time slot within which we would urge supporters to be here.

Mr. ALLEN. It would be stipulated, then, that the Ervin amendment would be voted on on Wednesday prior to bringing up the Gurney amendment?

Mr. JAVITS. That would be satisfactory.

Mr. ALLEN. Will the distinguished assistant majority leader make that a part of his request?

Mr. ROBERT C. BYRD. Yes, I will be glad to. Inasmuch as there will be 6 hours for debate on the Gurney amendment, with the vote to occur at 4 o'clock, that would mean the Senate would have to proceed with the Gurney amendment not later than 10 a.m.

Mr. JAVITS. Mr. President, may I suggest that notwithstanding the Gurney amendment, we vote on the Ervin amendment at 2 o'clock on Wednesday?

Mr. BROCK. Mr. President, it seems to me that we would confuse our colleagues with that kind of procedure. The Senator from North Carolina will have, under the unanimous-consent agreement, only one hour for debate under any circumstances. Why not set the Ervin amendment immediately following the Gurney amendment?

Mr. ALLEN. The Senator from North Carolina has stated that he wants to bring the amendment up on Monday.

Mr. JAVITS. Then let us say 2 o'clock on Wednesday.

Mr. BROCK. Is there any reason not to vote on Monday or Tuesday?

Mr. JAVITS. No. We have got our time slots. Let us say we will vote on the Ervin amendment Wednesday at 2 o'clock.

Mr. ALLEN. That is all right.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, reserving the right to object, I was not too clear and want to ask a question. What disposition was made of the Energy Act in this unanimous consent agreement? Was it only to set it aside and bring it back after disposition——

Mr. ROBERT C. BYRD. The Senator has asked an appropriate question. The answer is "yes." It could be brought up as the situation from time to time permits the leadership to do so. If a gap develops, the leadership would move to bring the energy bill up. On next Monday, however, the energy bill would come up on the first track and then the vote would occur on the Dole amendment at 3 p.m. Then we would go later in the afternoon to the education bill. There might conceivably, on down the road between Monday next, and the following Tuesday a week, be an opportunity when the energy bill could be called up in order to best utilize the time of the Senate.

Mr. ABOUREZK. I ask that because I have several amendments I want to offer to the energy bill, and I did not want to be foreclosed.

Mr. ROBERT C. BYRD. The Senator will not be foreclosed.

Mr. MATHIAS. Mr. President, reserving the right to object, I have an amendment which I have discussed with several of those who will be managers of the bill which deals with a program for providing equal education for the handicapped.

As the Members of the Senate know, there are court decisions now in several States which enunciate the principle that the handicapped child has an equal right to an education with the normal child. But if these rulings proliferate—and I hope that they do because I support the principle—but if the rulings proliferate, there will be a substantial crisis in education in many States.

I feel that this amendment is a critical one, that it cannot be postponed and that it will take more than 1 hour. So I would wonder whether the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) would amend the request to provide that my amendment would be accorded 4 hours, which I hope we would not take but which we might take because of the seriousness of the subject and its complexity.

Mr. MANSFIELD. If the Senator from Maryland will yield to me, would not the Senator agree to 2 or 3 hours at the most, possibly? It is a subject I know something about. The Senator from Maryland knows a great deal more about it than I do. But I do not think that 4 hours or anywhere near 4 hours would be necessary for the kind of meritorious amendment the Senator from Maryland intends to offer.

Mr. MATHIAS. I am very much encouraged by the majority leader's statement. I would hope that the managers of the bill might take the amendment and we would not take any time at all on it. But I would be very happy to settle for 3 hours——

Mr. ROBERT C. BYRD. Mr. President——

Mr. MATHIAS. Two hours. [Laughter.] With the smile on the majority leader's face, I am happy to take 2 hours.

Mr. ROBERT C. BYRD. Mr. President, I amend my request accordingly.

Mr. BROCK. Mr. President, I hope that we did not reach a final decision on the time to vote on the Ervin amendment. It was suggested that 2 o'clock on Wednesday would be the time, which I could not accept. I would rather have some other time for it.

Mr. ROBERT C. BYRD. I could not hear the Senator. Will he please repeat?

Mr. BROCK. I understood that the request would be for a vote on the Ervin freedom of choice amendment to occur at 2 o'clock on Wednesday, and I cannot accept that.

Mr. MANSFIELD. I thought that was the Senator's own suggestion.

Mr. BROCK. No, sir—this Senator is trying to suggest an alternative. I see no reason why we cannot vote on Tuesday. The Senator from North Carolina wants to offer his amendment on Monday or Tuesday. That would be fine.

Mr. JAVITS. Can we not vote back to back on Wednesday?

Mr. BROCK. The Senator from Alabama (Mr. ALLEN) may want to speak to that.

Mr. ALLEN. I merely know that the Senator from North Carolina (Mr. ERVIN) is expecting to offer his amendment on Monday. I would hate to get unanimous consent prior to his having his "day in court" so to speak.

Mr. JAVITS. He will get it. It is all right with me if we want to vote before the Gurney amendment is voted on. In other words, have the vote on the Ervin amendment first and then on the Gurney amendment.

Mr. ALLEN. The Senator from Tennessee (Mr. BROCK) says that is not acceptable to him.

Mr. JAVITS. Is that not acceptable to the Senator from Tennessee? I thought that the time was his problem.

Mr. BROCK. I do not want to confuse the two issues here.

Mr. JAVITS. Then vote immediately on the Ervin amendment after the Gurney amendment. That would be the best way to handle it.

Mr. BROCK. I cannot speak for the Senator from North Carolina. We have a vote on the McClellan amendment on Tuesday. Why not vote on the Ervin amendment Tuesday?

Mr. JAVITS. We do not have a vote on that then.

Mr. BROCK. We do not? I wonder why we cannot place the Ervin vote after the McClellan vote on Tuesday?

Mr. ROBERT C. BYRD. I beg the Senator's pardon?

Mr. BROCK. I wonder why we cannot place the Ervin vote after the McClellan vote on Tuesday?

Mr. ALLEN. Tuesday would be fine, if that suits the Senator from New York.

Mr. JAVITS. I do not suppose we can do anything about it. I think we will concur on that.

Mr. President, I withdraw that, because the Senator from Rhode Island (Mr. PELL) just advises me that we are pretty well committed on all civil rights votes, to make them on Wednesday.

Why not vote back to back on Ervin immediately after the Gurney amendment? That is necessary from all the commitments we have made, from our point of view.

Mr. ALLEN. I do not have authority to speak for the Senator from North Carolina. That would suit me fine, but I feel that his rights should be protected.

Mr. JAVITS. Could not we make it so that the majority leader, if there is objection by Senator ERVIN, will simply put it up to us again? At least for tonight let us get it done this way.

Mr. BROCK. I see no reason to include that amendment in the agreement. We can seek a further agreement when Senator ERVIN is able to be here.

Mr. PELL. Mr. President, the understanding we have is that the busing and the civil rights amendments would be voted on on Wednesday——

Mr. JAVITS. And Thursday.

Mr. PELL. And Thursday if necessary. That was the understanding which I felt was agreed to.

Mr. ROBERT C. BYRD. My understanding was originally that all the busing amendments would be disposed of before the Senate proceeded to the consideration of the Curtis substitute. I was not, at that time, under the impression that busing amendments could not be offered on Tuesday.

Mr. ALLEN. That is exactly my understanding.

Mr. ROBERT C. BYRD. The Senator from New York understands differently.

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. METZENBAUM). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to modify my request to the extent that Mr. ERVIN be recognized at some point on Wednesday to offer an amendment to the Gurney amendment no later than 3 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Without objection, the unanimous consent request is agreed to.

Mr. ROBERT C. BYRD. Mr. President, let me be sure that I stated my request in 2 or 3 aspects.

One, that the vote would occur on the Gurney amendment, as amended, if amended, at 4 p.m. on Wednesday.

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. That request, as worded, would rule out a motion to table the Gurney amendment.

The PRESIDING OFFICER. The order

was to vote on the Gurney amendment itself. That is correct.

Mr. ROBERT C. BYRD. Second, the vote on the Dole amendment to the energy bill would occur at 3 p.m. this coming Monday.

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. Rather than 3:30 p.m.

The PRESIDING OFFICER. It is 3 p.m. on Monday next.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent to revise the previous agreement in the following manner: that the vote occur on the Gurney amendment at 5 p.m. on Wednesday next rather than at 4 p.m.; provided further that a tabling motion be in order with respect to the Gurney amendment, as it is in all other areas of the agreement; and that it be in order for Mr. BAYH to offer an amendment to the Gurney amendment during the day on Wednesday, as well as Mr. ERVIN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I think the Senate already has agreed with respect to Mr. ERVIN.

The PRESIDING OFFICER. Does the distinguished assistant majority leader care to set a time for a vote on the Bayh amendment?

Mr. ROBERT C. BYRD. No; not at this time.

The text of the unanimous-consent agreement is as follows:

Ordered, That during the further consideration of S. 1539, a bill to amend and extend certain acts relating to elementary and secondary education programs, and for other purposes, which will be resumed sometime during the afternoon of Monday, May 13, 1974, debate on any amendment (except an amendment to be offered by the Senator from Arkansas (Mr. McClellan) on which there shall be 3 hours debate, 2 hours to the Senator from Arkansas (Mr. McClellan) and 1 hour to the Minority Leader or his designee; 6 hours on an amendment to be offered by the Senator from Florida (Mr. Gurney); 6 hours on a substitute to be offered by the Senator from Idaho (Mr. McClure), for himself and others: 3 hours on an amendment to be offered by the Senator from Michigan (Mr. Griffin) and 2 hours to be offered by the Senator from Maryland (Mr. Mathias)) shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill. Debate on amendments in the second degree, debatable motions and appeals shall be limited to 30 minutes, and controlled in the same manner as first degree amendments. Provided, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the Minority Leader or his designee. Provided, That amendments must be germane to the question pending before the Senate at the time it is offered and a motion to table any amendment would be in order.

Ordered further, That on the question of final passage of said bill debate shall be limited to 20 hours, to be equally divided and controlled, respectively, by the Majority and Minority Leaders or their designees: Provided, That the said Leaders, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion or appeal.

Ordered further, That when the Senate resumes consideration of the bill on Tuesday, May 14, 1974, the Senator from Arkansas (Mr. McClellan) be recognized to call up his amendment, that when the Senate resumes the consideration of the bill on Wednesday, May 15, 1974, the Senator from Florida (Mr. Gurney) be recognized to call up his amendment, with a vote thereon to occur at 5:00 p.m. on that day and with the Senator from North Carolina (Mr. Ervin) to be recognized to offer an amendment to the amendment of the Senator from Florida (Mr. Gurney) not later than 3:00 p.m. on that day, and with an amendment to be offered by the Senator from Indiana (Mr. Bayh) to be in order to the amendment by the Senator from Florida.

Ordered further, That all the so-called "busing" amendments be disposed of by the hour of 1:00 p.m. on Thursday, May 16, 1974, and then the Senate proceed to the consideration of the amendment to be offered by the Senator from Idaho (Mr. McClure), for himself and others, which amendment shall be disposed of before the close of business on that day.

Ordered further, That on Monday, May 20, 1974, when the Senate resumes the consideration of the bill, S. 1539, the amendment of the Senator from Michigan (Mr. Griffin) be made the pending question and that any amendments thereto may be in order throughout the afternoon of that day and that any rollcall votes that are ordered on any such amendments be delayed until the hour of 2:00 p.m. on Tuesday, May 21, 1974, at which time all such votes shall occur in the order in which the amendments were offered, to be followed immediately by the vote on the amendment by the Senator from Michigan (Mr. Griffin), as amended, if amended.

Ordered further, That the vote on final passage of the bill (H.R. 69) shall occur before the close of business on Tuesday, May 21, 1974, and that if the amendment in the nature of the substitute by the Senator from Michigan is agreed to, the House bill, H.R. 69, be voted on before the close of business on that day.

THE MATTER OF IMPEACHMENT

Mr. HANSEN. Mr. President, I invite the attention of Senators to the fact that one of the reasons why the news media may be in some well-earned disrepute these days is the manner in which one of its number goes about reporting the news, and the careless fashion in which it handles facts.

I suspect that there is not a single Member of this body who has not been asked repeatedly about his position with respect to an impeachment action that might be brought to the Senate by the House of Representatives. Certainly, our office has been asked repeatedly, and we have said repeatedly essentially what I now say.

No Senator should make up his mind on this matter before evidence has been presented by the House of Representatives and that evidence weighed. The Constitution provides that the House of Representatives shall have the sole power to impeach. Every Senator is aware of his potential role as a juror should impeachment occur, and therefore has a solemn duty to reserve judgment until he has studied whatever evidence may be presented.

We told that to a representative of the Boston Globe when our office was called, and despite that fact, I was amazed and angered to see headlined on the front page of the Boston Globe, in its edition of Thursday morning, May 9, this statement:

> Nixon has 15 "sure" Senate votes, is trying for 38.

The story commences as follows:

> President Nixon is concentrating on 38 Senators as his final hope against removal from office in an impeachment trial and has 15 secure votes so far, according to a survey made by The Globe's Washington bureau.

The story continues:

> The survey—conducted among Senators, staff aides and Capitol Hill lobbyists—found that most of those interviewed expect the President to be impeached by the House in a majority vote. Several White House aides also concede this prospect privately.

I will not read the entire story, but I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Boston Globe, May 9, 1974]

NIXON HAS 15 "SURE" SENATE VOTES, IS TRYING FOR 38

WASHINGTON.—President Nixon is concentrating on 38 senators as his final hope against removal from office in an impeachment trial and has 15 secure votes so far, according to a survey made by The Globe's Washington bureau.

The survey—conducted among senators, staff aides and Capitol Hill lobbyists—found that most of those interviewed expect the President to be impeached by the House in a majority vote. Several White House aides also concede this prospect privately.

The Constitution requires a two-thirds vote of the 100 senators for conviction and removal from office. To gain the 34 votes necessary for aquittal, Mr. Nixon has been courting the 38 potential allies by shaping Administration policies, appointments and presidential travel plans.

The survey shows, however, that Mr. Nixon can now count on only 15 solid votes for acquittal. The rest of the 38 are "leaners" and even some of the President's severest critics have not been dismissed as hopeless.

Despite the uncertainties of the timing of a Senate trial (most expect a trial by late summer), the following senators are expected to vote to aquit the President, barring the most bizarre, unforeseen developments:

Wallace F. Bennett (R-Utah), Norris Cotton (R-N.H.), Carl T. Curtis (R-Neb.), James O. Eastland (D-Miss.), Paul J. Fannin (R-Ari.).

Also, Edward J. Gurney (R-Fla.), Clifford P. Hansen (R-Wyo.), Jesse A. Helms (R-N.C.), Roman L. Hruska (R-Neb.), John L. McClellan (D-Ark.).

Also, James A. McClure (R-Idaho), William L. Scott (R-Va.), John C. Stennis (D-Miss.), Strom Thurmond (R-S.C.), and John G. Tower (R-Tex.).

The 15 "stone wallers" in Administration strategies are joined by 23 others whom White House aides hope can be persuaded to acquit the President of impeachment charges:

George Aiken (R-Vt.), James B. Allen (D-Ala.), Dewey F. Bartlett (R-Ok.), Henry Bellmon (R-Ok.), Alan Bible (D-Nev.).

Also, Bill Brock (R-Tenn.), Harry Byrd (D-Va), Howard W. Cannon (D-Nev.), Marlow W. Cook (R-Ky.), Robert J. Dole (R-Kans.).

Also, Pete V. Domenici (R-N.M.), Peter H. Dominick (R-Colo.), Hiram L. Fong, (R-Hawaii), Barry Goldwater (R-Ari.), Robert P. Griffin (R-Mich.), J. Bennett Johnston (D-La.).

Also, Russell B. Long (D-La.), Sam Nunn (D-Ga.), William V. Roth (R-Del.), Hugh Scott, (R-Pa.), John J. Sparkman (D-Ala.), Herman E. Talmadge (D-Ga.), and Milton R. Young (R.-N.D.).

The courtship of the 38 senators has been most visible in the President's recent travel schedule. After praising Sens. Allen and Sparkman in Alabama, Stennis and Eastland in Mississippi, Goldwater and Fannin in Arizona, the President travels to Stillwater, Ok., this weekend to receive an honorary degree from Oklahoma State University and possibly to flatter Sens. Bellmon and Bartlett.

Air Force One is not the only device used in this drive. Mr. Nixon has shifted Administration policies on several key bills after protests from his potential supporters.

The Administration once backed, but later opposed, a Federal land-use bill after protests from Goldwater and Fannin. When the Department of Agriculture opposed a bill indemnifying Mississippi chicken farmers for contaminated poultry, the White House intervened on Eastland's behalf and the bill passed the Senate.

The White House has also used the power of presidential appointments to please possible pro-Nixon voters. Eastland's press secretary, Larry Speakes, recently joined the White House staff as an assistant to communications director Ken W. Clawson.

When Pentagon officials wanted to name Paul Nitze as assistant secretary of defense for International Affairs, Goldwater objected, harking back to debates on defense strategy when Nitze served in the Kennedy and Johnson administrations. The White House dropped Nitze's name after Goldwater objected.

Few of the 100 senators have committed themselves publicly on how they will vote. "You must remember we are potential jurors," said one Southerner last week. "You fellows wouldn't ask jurors in a court case how they'll vote, would you?"

But some senators have said that from the facts available there is not enough evidence to convict the President. After the Easter recess, several senators said their constituents still supported the President. That was before the release by the White House of massive transcriptions of Presidential conversations.

"Most people feel the evidence is not yet in to make impeachment necessary," said Sen. Johnston of his Louisiana constitutents. He was echoed by Sen. Long and later by Sens. Tower of Texas and Roth of Delaware.

Most of those interviewed cautioned that this unusual Senate circumspection cloaked complexities far different from those surrounding an everyday roll call.

"Don't forget, many of these guys have been influenced by Jack Kennedy's book, 'Profiles in Courage,' especially that chapter on Edmund Ross. They see a chance to achieve heroism by being totally unpredictable," says one Senate aide.

Ross, a Kansas Republican, provided the crucial vote, acquitting President Andrew Johnson, who had been impeached in 1868.

"You're dealing with the subtleties of 100 complicated psyches," says another Senate staffer.

The official rhetoric of senators may bear less resemblance than normally to their intentions on the historic vote. One border-state Democrat who has called for caution and fairness in dealing with the President explains his private motivations this way:

"Look, we have to make sure we drive the stake right into his heart at the right time. That's the reason we have to be so scrupulously fair. I've always figured Nixon is like Dracula; he keeps coming back."

Mr. HANSEN. I also invite attention to the fact that when my office is called and we respond directly to an inquiry, I think I have a right to be shocked by this kind of reporting. I do not believe anyone can speak as well for my office as I can. I have done that. The people on my staff know precisely how I feel, and they have not been reluctant at all to tell anyone and everyone who has made inquiry into what my position is.

It is well known that there are Members of this body who find less favor in the President than I do. But it certainly is true that I have told no one that I could be counted on to vote one way or another. I have said scrupulously, repeatedly, that I felt that we should keep an open mind on this action and that, along with others, I was prepared to listen in an attentive manner to whatever evidence was presented by the House, in the event that an impeachment action were voted over there, and then to make my judgment here as a Member of the Senate based upon that presentation of evidence.

I think if this example is typical of the reporting that the Boston Globe does, I must say that I feel somewhat sympathetic to the people of the great State of Massachusetts in that they have no more reason to place confidence in the Globe's Washington reporting than I would assume might well be merited by this example of reporting, that seems to me to be pretty careless.

I regret to see a news bureau that does not try to be more honest than presumably it was in this case. I regret that they deliberately misquoted what I have said repeatedly.

We tried earlier today to call Martin Nolan, the Washington bureau manager for the Boston Globe, to tell him of my concern. We were unable to contact him—I understand he is in Boston—and I was unable to talk to him. But this kind of reporting does not help engender the support and admiration for the press that I wish might be the case.

QUORUM CALL

The PRESIDING OFFICER. What is the will of the Senate?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for a quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR PROXMIRE ON MONDAY, MAY 13, 1974

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday next, Mr. PROXMIRE be recognized for not to exceed 15 minutes after the two leaders have been recognized under the standing order.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, May 9, 1974, he presented the President of the United States the following enrolled bills:

S.245. An act for the relief of Kamal Antoine Chalaby;

S. 428. An act for the relief of Edward Schofield (Ernesto Espino); and

S. 3304. An act to authorize the Secretary of State or such officer as he may designate to conclude an agreement with the People's Republic of China for indemnification for any loss or damage to objects in the "Exhibition of the Archeological Finds of the People's Republic of China" while in the possession of the Government of the United States.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, has the order for the next convening of the Senate been already entered?

The PRESIDING OFFICER. Yes; the Senate will convene on Monday.

Mr. ROBERT C. BYRD. At 12 noon?

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after Mr. PROXMIRE is recognized on Monday, there be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements limited therein to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT FROM MONDAY NEXT TO TUESDAY AT 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on Monday, it stand in adjournment until the hour of 10 a.m. on Tuesday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON TUESDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized and any orders for the recognition of Senators have been consummated on Tuesday, next, there be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements limited therein to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT FROM TUESDAY NEXT TO WEDNESDAY AT 9 A.M. AND FOR A PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on Tuesday next, it stand in adjournment until the hour of 9 a.m. on Wednesday next, and that at the conclusion of any special orders, if any be entered prior to that time, or after the two leaders have been recognized, whichever is the case, there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT FROM WEDNESDAY NEXT TO THURSDAY AT 9 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on Wednesday next, it stand in adjournment until the hour of 9 a.m. on Thursday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON THURSDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the recognition of the two leaders or their designees under the standing order on Thursday next, there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited therein to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT FROM THURSDAY NEXT TO FRIDAY AT 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on Thursday next, it stand in adjournment until the hour of 10 a.m. on Friday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, has the order already been entered for the convening of the Senate at the hour of 11 a.m. on Monday, May 20?

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

ORDER FOR ADJOURNMENT FROM MONDAY, MAY 20, TO TUESDAY, MAY 21, AT 9 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on Monday, May 20, it stand in adjournment until the hour of 9 a.m. on Tuesday, May 21.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT REGARDING H.R. 11864

Mr. ROBERT C. BYRD. Mr. President, I am advised by Mr. CRANSTON that this unanimous-consent request has been cleared on both sides, to wit: That the unanimous-consent agreement of March 13 by Senator Moss—that the Committees on Commerce, Banking, Housing and Urban Affairs, Labor and Public Welfare, and Interior and Insular Affairs shall have 30 days to report H.R. 11864, the "Solar Heating and Cooling Demonstration Act of 1974," as that agreement was modified, pursuant to its terms, by the unanimous consent agreement of April 4 by the distinguished Majority Leader (Mr. MANSFIELD), extending the reporting deadline for an additional 30 days—be modified so as to permit the committees in question to file reports on the bill, which has been ordered reported by both the Committee on Labor and Public Welfare and the Committee on Banking, Housing and Urban Affairs, not later than next Tuesday, May 14, which extends only a 1-day postpoement.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, there will be no session tomorrow.

When the Senate convenes on Monday, it will convene at the hour of 12 o'clock noon. There will be a statement by Mr. PROXMIRE under the order previously entered recognizing him for 15 minutes, after which there will be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements limited therein to 5 minutes.

At the conclusion of the routine morning business, the Senate will resume consideration of the energy bill, S. 3267.

At the hour of 2 p.m., the amendment by Mr. DOLE, amendment No. 1266, dealing with speed limits, will be called up. There is a 1-hour time limit on that amendment, the time to be equally divided in accordance with the usual form, and the vote to occur thereon at 3 p.m.

Following that vote, or at some point subsequent thereto that afternoon, the leader has been authorized to resume consideration of the unfinished business, and, Mr. President, the unfinished business is S. 1539. Is it not?

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. I thank the Chair; and a time agreement has been entered thereon.

Votes in connection with amendments to that bill may occur on Monday.

Conference reports may be called up at any time.

Other bills, cleared for action, may also be called up, and votes, of course, can occur thereon.

ADJOURNMENT TO MONDAY, MAY 13, 1974

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 12 o'clock noon on Monday next.

The motion was agreed to; and at 6:40 p.m., the Senate adjourned until Monday, May 13, 1974, at 12 o'clock noon.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 9, 1974:

U.S. POSTAL SERVICE

The following-named person to be a Governor of the United States Postal Service for the term indicated:

For the remainder of the term expiring December 8, 1979:

Hayes Robertson, of Illinois.

DEPARTMENT OF JUSTICE

Bert C. Hurn, of Missouri, to be U.S. attorney for the western district of Missouri for the term of 4 years.

Lawrence A. Carpenter, of Texas, to be a member of the board of parole for the term expiring September 30, 1977.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

EXTENSIONS OF REMARKS

DESERVED RECOGNITION FOR BILL CHAPPELL

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 9, 1974

Mr. SIKES. Mr. Speaker, one of the most gratifying experiences for me during the past 5 years has been the opportunity to observe the exceptional work and outstanding leadership of our distinguished Florida colleague, Bill Chappell. Now he has been honored through the commentary of veteran Capitol Hill correspondent Joseph McCaffrey on Washington radio station WMAL's "Meet the Member" broadcast. Mr. McCaffrey praises our colleague for his efforts to balance the Federal budget as a member of the Appropriations Committee. That praise is indeed well deserved.

Bill Chappell came to Congress as a freshman with a wealth of legislative experience developed during his 12 years in the Florida House and his service as Speaker of that body. In Washington, his abilities were immediately recognized by his colleagues on both sides of the aisle. Bill Chappell is a hard worker and he does not hesitate to vote his convictions. As senior member of the Florida delegation, I can attest to his positive actions on behalf of all Florida.

A number of leaders in the House—among them Chairman Wilbur Mills of Ways and Means, Minority Leader Tip O'Neill, and our late and beloved Hale Boggs—have journeyed to Bill Chappell's district to honor him. At the beginning of this his third term in the Congress, the leadership vested in him a signal honor for a third-term Member—a seat on the powerful Appropriations Committee. As a member of that committee, I can speak without reservation to the effective work Bill Chappell has accomplished both on the full committee and in the three subcommittees on which he serves. His appointment to a third subcommittee by Chairman Mahon is one more testimonial to the significant contributions that Bill Chappell has made to the committee and the Congress.

Joe McCaffrey had high praise for our colleague's citizens' advisory committees, as did Chairman Mills, who once said he knew of no other congressional district which had committees of citizens to develop legislation.

Mr. Speaker, because some of our colleagues may have missed the "Meet the Member" broadcast, I hereby submit a transcript to be inserted into the Record:

MEET THE MEMBER

(By Joseph McCaffrey)

One of the watchdogs of the Treasury is Florida's Bill Chappell. He received the Watchdog Award in 1972 for his efforts to trim the Federal budget and has considerably increased his influence in the 93rd Congress as a new member of the powerful House Appropriations Committee.

Congressman Chappell believes that a balanced Federal budget holds the key in the fight against inflation and that Congress must reassert itself in the budget-making process. "We cannot continue to spend more than we take in," the Congressman asserts, adding that the $24 billion interest payment on the national debt last year "is one sure way to feed the fires of inflation." Chappel is a prime supporter of budget-reform legislation.

As a Member of three appropriations subcommittees (1) HUD, Space, Science, Veterans; (2) Foreign Operations; (3) and District of Columbia, Chappell scrutinizes the budgets of more than 20 Federal agencies. Questioning, probing, snipping away, he helped to cut $3 billion from the President's budget in Fiscal Year 74. He fought for improved medical care for veterans, and additional energy research funds. He more than offset those increases by demanding and getting a $1 billion cut in the foreign aid budget request.

While hard at work trying to reduce spending, Chappell has continued to expand his unique communications system in the huge nine county Fourth District of Florida. Six special citizens advisory committees are hard at work studying problems that face the Fourth District and the Nation—crime, retired citizens, youth, environmental control, vocational education and oceanography.

Their recommendations have been translated into bills by the Congressman, and he has already seen four included in legislation passed by the House.

In addition to the six specialized committees, Chappell has formed an ACTION Committee (Action in the Community to Involve Our Neighbors). The Congressman works with ACTION members through get-togethers in the neighborhoods, mobile office trips over the district and with bulletins and letters to encourage direct contact between the people and their elected representatives. "Both they and we need this kind of close communication," Chappell says. "It proves our people can have a more effective voice in the workings of their government."

Mr. Chappell tells the people of his District, "What you think, how you feel about our country, and what you are willing to do for our country, all are vital to our future as a free nation. The people of the Fourth District are showing the kind of stuff they are made of. It is gratifying to see your faith in our nation reflected in your fine actions during this particular time in our history."

Mr. Chappell has long recommended accessibility to the people and because of that has set up three full time offices and seven part time offices in the Fourth District. He tries to keep as close to the men and women he represents as possible.

Mr. Chappell was a member of the Florida State Legislature where he served as Speaker of the House, prior to his election to the Congress in 1968.

POW'S AND MIA'S

HON. VANCE HARTKE

OF INDIANA

IN THE SENATE OF THE UNITED STATES

Thursday, May 9, 1974

Mr. HARTKE. Mr. President, on several occasions during the past year, I have written to various officials within the administration asking them to take concerted action to assure a full accounting of all American prisoners of war and those missing in action in Vietnam. More than a year has passed since the agreement ending American military involvement in Vietnam was signed. Nevertheless, a large number of American servicemen remain unaccounted for.

Mr. President, I ask unanimous consent that the text of a concurrent resolution on this subject, adopted by the Indiana State Senate, be printed in the Exensions of Remarks.

There being no objection, the text was ordered to be printed in the Record, as follows:

CONCURRENT RESOLUTION

A concurrent resolution XXXI memorializing the President and Congress to obtain full disclosure of the actual number of Prisoners of War and accounting for Servicemen missing in action, and to obtain the prisoners' immediate release.

Whereas, Over one year has elapsed since the hostilities in Viet Nam were ended by treaty; and

Whereas, Complete return of all prisoners of war, with full disclosure of those missing in action was agreed to in said treaty; and

Whereas, There are a number of American servicemen missing in action who have not been adequately accounted for; and

Whereas, Evidence from various reliable sources continues to come to light that a number of American servicemen are still being held prisoner, some under very inhumane conditions: Now, Therefore,

Be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:

Section 1. In the interest of all Americans we urge the President and Congress to take all appropriate action to obtain the quick release of all remaining American prisoners of war and also to obtain a full accounting of all American servicemen missing in action.

Section 2. The Secretary of the Senate is hereby directed to forward copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives of the Congress of the United States, and to all the members of Congress from the State of Indiana.

Adopted by voice vote this thirteenth day of February, 1974.

MOE BILLER TESTIFIES BEFORE WILSON POSTAL SUBCOMMITTEE

HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 9, 1974

Mr. CHARLES H. WILSON of California. Mr. Speaker, earlier this week the Subcommittee on Postal Facilities, Mail and Labor Management, which I chair, held the second in a series of hearings on the capital investment programs of the U.S. Postal Service. The hearing, which gave representatives of the postal employee unions an opportunity to present their views on the current status of the Postal Service was a valuable one, providing us with substantial new information as well as an update on programs in which we have ongoing interest.

Among the union officials to appear before us was Moe Biller, president of the New York Metro Area Postal Union, the largest local serving U.S. Postal Service employees.

Moe is a courageous labor leader who has been active in postal unions for over 35 years and whose knowledge and experience is greatly admired throughout the postal community.

His statement before our subcommittee, which focuses on what he describes as the "dehumanization" of postal employees by the USPS management and the scandalous conditions which exist at the New York Bulk and Foreign Mail Facility in Secaucus, N.J., provides clear evidence that, despite some improvements instituted by Postmaster General Klassen, on the whole the Postal Service is still not adequately responsive to the needs of postal employees or the general public and, therefore, some corrective action by Congress must be taken.

The very incisive statement by Mr. Moe Biller follows:

STATEMENT OF MOE BILLER

Mr. Chairman and members of the subcommittee: My name is Morris Biller. I am President of the New York Metro Area Postal Union, the largest postal union in the nation, with 26,000 members. I also serve as Regional Coordinator of the American Postal Workers Union, and in that capacity I speak for a total of some 70,000 postal employees in the Northeastern part of the country.

One of the major thrusts of your inquiry has to do with the billion-dollar bulk-center concept. Much of what you have learned to date about the bulk program is the result of plans, projections, conjecture and even wishful thinking. As the only union leader in the country with any bulk-center experience, I hope you will listen carefully to what I have to report to you.

But, first let me tell you that I have been directed by my union members to carry a very clear and explicit and forceful message to you concerning the bulk operations of the United States Postal Service, as well as other of its operations. And let me start by advising you that the 70,000 postal workers in our region—constituting more than 11 per cent of the total national work force—welcome this investigation.

Through me, they have been calling for just this type of probe for more than a year. And, they are, I believe, reflecting a dissatisfaction with the postal service that is shared by hundreds of thousands of their co-workers in all the states and by countless millions of Americans who use the postal service.

They welcome this probe because they have faith in the Congress and because they believe that this court-of-last-resort holds their last hope for seeing the service salvaged from the unconscionable and outrageous bumbling that has placed it on a collision course with self-destruction.

Instead of building my presentation to what might sound like a sabre-rattling conclusion, let me say this at the outset:

America is faced with the very real possibility of a national disruption of postal service.

I cannot tell you when it will come, but I can tell you that it is coming. I could not tell you a year ago when the lockout or strike—choose your own term—would come in New York, but I could tell you it was coming. And it came, last January, when the largest postal plant in the nation and possibly the world was shut down.

A possible national disruption of postal service is not an idle threat, nor, indeed, is it a threat at all. It is a reasoned conclusion arrived at by responsible officers of the largest postal union in America.

What the Congress intended in enacting the Postal Reorganization Act and what the USPS has perpetrated on the country in attempting to implement that goal are two very different things.

If I were to sum up in a word what the USPS has done to the postal service in the past three years—and in that same word describe its apparent and obvious end-goal—that word would be "dehumanization".

There is only one bulk center in the country now, and we have it. Before any of the 20 other bulk centers are built at a cost of additional hundreds of millions of dollars, please heed our experience.

In its dollar-sign, black-ink, balance-the-books approach to mail delivery, especially in the bulk program, the USPS has succeeded in:

Effecting mass relocations of workers to a remote facility;

Mandating arbitrary and unconscionable shift changes;

Disrupting the family lives of thousands of workers;

Stepping up the exodus of career postal workers through retirement and resignation;

Wiping out seniority considerations enjoyed for more than a decade;

Creating the suspicion among minority groups that the bulk-center concept is designed to preclude them from postal service jobs—although some 50 per cent of New York area employees are non-white. That percentage may be higher elsewhere;

Ignoring repeated union attempts to forestall confrontation and to keep the bulk facility operating; and

Failing to provide housing at the remote facility as mandated when the bulk-center concept was conceived.

All of these actions led to a massive shutdown of the New York Bulk and Foreign Mail Center in Jersey City, N.J., from January 21 through January 24, 1974. Workers stayed out despite leadership compliance with court orders that they tell them to return to work. Although we have a huge membership, we are a tight, unified labor union that speaks with a single voice. Nevertheless, despite our history of responsibility, the workers' frustration was such that even court order could not get the conveyor belts running again.

If venality could be proved, the decision of the USPS to locate its first bulk center in a Jersey swamp would be indictable. Transportation, frankly, stinks, as does the swamp. There is only one highway in the vicinity, and when it is closed due to accidents, fog or storms, thousands of workers are either late in reporting, or cannot report at all. Under administrative-leave provisions, however, they must be paid anyway.

Chairman Wilson, in opening these hearings, said that establishment of the bulk centers was so far advanced that the committee could only hope to avert future mistakes.

Let me respectfully advise you from first-hand experience what some of those mistakes were.

Despite your having suffered through years of high-decibel oratory in Congress, I defy you to understand a single eight-hour shift in that monstrous swamp facility with all of the clamor-producing machinery modern science can provide, but with none of the sound-reducing materials or techniques that same science is providing in private industry.

Not since World War II, perhaps, have Americans been forced to stand in line to use the lavatory. It's World War II again in the swamp facility.

What happens when you project a facility for 2,600 workers and you hire more than 3,500—with more to come? What happens is that you have no place to stand—let alone sit down—in the lunchroom. Coffee-stained work clothes are the postal workers OD's.

Workers volunteered for the Jersey City facility, based on promises—which proved to be lies—from management. All of the other degradations to which they had been subjected simply came to a head when USPS arbitrarily announced unacceptable shift changes. Our union fought those changes in federal court and in arbitration. We must have been doing something right. We won in both arenas, even forcing a pre-arbitration settlement in the latter case.

By the way, those tour assignments were ordered for January 21, 1974. Today—May 7, 1974—the bulk facility is still not geared for utilizing those tours. Mismanagement? Worse. Managerial stupidity.

Forget that the USPS provided only half the locker space actually required for workers, but don't disregard the fact that tons of mail must sit outdoors in expensive trailers for a week and more because "someone" miscalculated storage needs. Apparently, the designers never checked to see that mail boats don't leave every hour on the hour—but often a week or more apart.

When we tried to tell the service that combining foreign, military and bulk mail operations into one wouldn't work, they scoffed. Now, in view of the total failure of this program, that concept is being abandoned.

The bulk-center concept depends on the massing of huge volumes of mail from other dispatch points—for the purpose of expediting delivery. Despite the USPS contention that bulk mail is moving a little faster, we know otherwise. The best barometer in this country concerning mail flow is the postal worker. He says no.

The United Parcel Service is knocking our brains out in terms of rapid delivery. One of the reasons may be that UPS doesn't route a package from 42nd Street to a swamp in another state before delivering it to 43rd Street.

Can the bulk concept work at all, or should it be abandoned before it bankrupts the service? I simply don't know. I am here to relay the experience of many thousands of postal workers to the effect that it is not working. And, in view of the total loss of credibility of the USPS, nothing less than a thorough investigation by the Congress can determine whether it is salvageable. In any event, it could be catastrophic if the other centers were to be opened before the Jersey City center is fully operational, fully tested and working at least at acceptable levels.

Can the taxpayer continue to subsidize such costly blundering? I leave the answer to you committee members and your colleagues who must vote massive public subsidies for USPS each year.

The officers of my union have asked me to invite this subcommittee—and to urge this committee—to come to our region for an on-site inspection and for local public hearings. We don't ask you to listen just to us, but to the workers. They know where it's at. Because, where it's at is where they are at, and they don't want the service to fail.

In this regard, I might mention that since USPS's board of governors moved into their new penthouse headquarters here in Washington they haven't made any significant attempt to determine first-hand what is happening in the country's first bulk center. In fact, it took virtually a court order to get them involved in the January disruption—even after the prototype of their billion-dollar bulk program was shut down tight.

While you are in the New York area—and we hope earnestly that you will come—look at what is happening at other facilities since the USPS succeeded the former Post Office Department. Would you believe we had to throw a picket line around part of Rockefeller Center because 28 women workers were forced to share a single commode in the manager's office?

Would you believe that one postal facility was closed down because the workers were unable to handle mail in 21-degree temperatures? The broken boiler responsible for the condition is still held together with scotch tape and paper clips and I expect this facility will be closed down next winter.

Physical conditions in many of our facilities are unbelievable. One worker—at least—even takes off his work clothes outside his apartment door so that he won't carry roaches home.

Safety? Put aside for now the fact that one worker lost an arm in a conveyor belt—after USPS was warned by the union that the equipment was unsafe. Even more frustrating, perhaps, is the fact that the service's much-touted safety program is a fiasco. It is the product of managers talking to managers and no-one talking to the man or woman who operates the machine. The present local and regional health and safety committees have been a total failure. I can document for you that health-endangering and life-endangering conditions have gone uncorrected for several years after they were reported to managment.

In the bulk facility and elsewhere, some conditions are so bad that one of my officers proposed that hard-hats be issued to our workers. In addition, guard rails are missing; lighting is so poor as to be conducive to accidents; equipment design is so faulty that workers constantly admonish each other to watch their fingers, hands and arms lest they be caught in the machinery. The litany of hazards is endless.

In the areas of safety, health and labor relations, the USPS has built a consistent track record of arrogance.

Chiseled in granite on the facades of postal buildings across the country is a now-famous legend which pays tribute to the dedication of the postal worker. Chip that legend away. Cover it up. Forget it.

There *was* morale, an esprit, in the postal service when I entered it in 1937. It continued, with some ups and downs, through the intervening decades. Now, it is all but gone.

The USPS has almost succeeded in destroying the human factor in the postal service. In its mechanization-mania, it forgets that we are flesh-and-blood people not holes in computer cards. We can't go home and expect the respect of our wives and our children if we have just spent more than a third of our waking hours in an atmosphere of disrespect and even degradation.

We tried to get that message across in the New York strike of 1970. We tried to get that message to you from the swamp in January, 1974. I am trying earnestly, on behalf of 70,000 workers in our region—and possibly the vast majority of the service's 600,000 workers—to get that message to you again.

While we continue our struggle for every working man's inalienable and inevitable right—the right to strike—we will not be deterred in our quest for human dignity by a clause in a contract, by any law that helps deny us that dignity or by any conclusion that when we entered government service we surrendered our rights as citizens.

I know of not a single postal worker who would rather walk a picket line without pay than pursue his chosen life's work and collect his paycheck. But, and this is something USPS has yet to learn, there are things more important than that paycheck.

The Industrial Revolution helped make America the most affluent nation in the world. But, since it was truly a revolution rather than an orderly transition, it took a heavy toll. Miners died slow deaths in underground tombs and even slower deaths from lung disease. Sweat shops accounted for countless deaths and maimings of men, women and even small children. But, in recent decades, the private sector—albeit with Congressional, union and social prodding—has addressed itself to safety and health problems. But, not so the USPS. While attempting to automate the postal service, it is emulating not the private-enterprise approach of the late 20th Century, but the disastrous approach of the earliest days of the Industrial Revolution.

I realize that you cannot possibly—with all of the problems of governing that you face daily—fully understand how deep-rooted the workers' feelings are.

At the very moment that you are inquiring into the modernization programs of the postal service, the directors and the board of governors—with no accountability to anyone—are creating a climate of rebellion that is coming to a head.

Is this any way to run a post office, or even a toonerville trolley?

On behalf of 70,000 postal workers, the leadership of my union again urges you to come to the New York area and help prevent the continuance and the spread of an eventually-fatal disease in the postal service—total dehumanization.

Conditions in my region are not substantially different from those in other parts of the country, except that we have had the added experience of the nation's first bulk-center operation.

I am constantly in touch with postal union leaders and workers throughout the country, and I can tell you that many if not most agree with the officers of the New York Metro Area Postal Union when they say a national disruption of postal service is not only possible or probable but virtually certain unless the Congress heeds our plea and responds to our recommendations.

The postal workers in this country want the service to survive and prosper. They helped it thrive for decades. And, not once in this presentation have you heard me voice a word of opposition to automation, per se. That is not our thrust, as it has been in the Canadian postal strike. We are sophisticated enough to realize that you cannot run a 20th Century postal plant with 19th Century equipment and techniques. We will learn to run your machines and even improve on your techniques. But, while you are speeding into the future mechanically, don't expect us to sit still while the USPS degrades us with antiquated and barbaric working conditions.

Our recommendations to you are both reasoned and reasonable. They include:

(1) Greater Congressional oversight of USPS's massive capitalization program, at the same time avoiding hindering those programs that are working. We want oversight, not over-kill;

(2) The right to strike for postal workers. While hoping we would never have to exercise that right, we will not accept, nor do we now accept the second-class citizenship that has been forced upon us;

(3) Forcing USPS to comply with standards set by the Occupational Safety and Health Administration. USPS claims compliance, but again there is no oversight. No one is allowed into the facilities for inspections. The secrecy at the Jersey bulk center is such that a New York Times reporter made a game out of it for an entire month, calling the general manager twice a day asking for permission to enter the premises. He was told that the Times—and I therefore must also conclude the American public—had no right to see what was going on. (These three recommendations can be implemented by amending the Postal Reorganization Act of 1970); and

(4) On-sight inspections and local public hearings in the New York area by this subcommittee. We have nothing to hide. We have everything to show you.

The 70,000 workers in the region believe that together with the Congress we can steer the postal service off its collision course with disaster.

Thank you.

THE NIXON TRANSCRIPTS

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 9, 1974

Mr. DELLUMS. Mr. Speaker, I would like to call my colleagues' attention to a statement by the man who has done so much to make us proud to be politicians:

> Congress is, of course, on its (inaudible). And yet they are so enormously frustrated that they are exhausted. Isn't that the point?

I completely agree with the President. That is exactly the point. Will our sense of betrayal and outrage remain as inaudible as the President? Or do we really take seriously what we say about the pride and vigilance of a self-governing people?

It takes a long time before a guest becomes so obnoxious we feel we must ask him to leave. It takes an even longer time before we feel that a President has overstayed his welcome and must be forced out. But when a President feels that transcripts such as these represent a defense, then I feel that time has come.

The few people who are still hardy enough to support the President—as opposed to those who merely say, "Well, perhaps he still isn't impeachable"—no longer say Mr. Nixon is believable when he says anything about Watergate: instead, they say, "Watergate isn't important." I agree that this is the only possible defense left—a fact which the White House itself doesn't seem to have grasped.

Is Watergate important? Mr. Nixon thinks that only the "(adjective-deleted) Republicans" would have that opinion, and that Democrats will shrug it off as "fun-and-games."

I assure Mr. Nixon he is mistaken.

Here is one Democrat who thinks otherwise—who thinks that Watergate and the unending stream of lies and cover-up evasions strikes at the very heart of a democracy: the truthfulness of the facts that serve as the basis of public debate, especially when those facts are guaranteed by the moral authority of government and its leaders.

But it seems hardly worthwhile for me to get up here and denounce Mr. Nixon. As eloquent as I am, I could never do the job on Mr. Nixon that he has done to himself. A poet once observed "what a tangled web we weave, when first we practice to deceive." The surprise is that with all the practice Mr. Nixon has been getting, he never got any better.

Mr. Nixon has neatly summed up his own dilemma:

> What the hell does one disclose that isn't going to blow something?

Our President spent a year trying to find the answer to that question. He still hasn't found it.

SOUTH ALLEGHENY KIWANIS CLUB

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 9, 1974

Mr. GAYDOS. Mr. Speaker, one of the most renowned and respected service organizations in the world is Kiwanis International. It encircles the globe and more than 267,000 individuals proudly wear the lapel pin which identifies them as being dedicated to serving youth, community, and Nation.

Kiwanians come from every walk of life and are bound by the common motto: "We Build." Voluntarily, they assume the mantle of leadership. They work with the young, the old, the poor, the handicapped, and the sick. They encourage church attendance and point the way to career possibilities for aspiring students.

The organization is an ever-growing one. It started with 16 clubs in 1916 and now numbers 5,948. I am pleased, therefore, to inform my colleagues today of the formation of another member club in Kiwanis International—the South Allegheny Kiwanis Club, organized in my 20th Congressional District of Pennsylvania.

The South Allegheny Club was organized March 11, 1974, primarily through the guidance and sponsorship of the McKeesport Kiwanis Club and its president, Mr. Albert L. Greenberg. On May 17, 1974, Mr. William Laughlin, the Pennsylvania District Governor of Kiwanis, will present the new club's charter to Mr. Edward A. Pollack of 1015 Woodland Ave., Port Vue. Mr. Pollack, a man highly respected for his work in church and community activities, is the first president of the South Allegheny Club. I have been graciously invited to participate in the program for that evening along with Mr. Stanley S. Skrymes, the district's lieutenant governor; the Rev. Leo Beck, pastor of St. Eugene's Church and a charter member of the new club, and a number of prominent residents of the area.

Assisting Mr. Pollack in leading the South Allegheny Club during its first year of operation will be Mr. Harry N. Henderson of Lincoln, first vice president; Mr. Charles E. Gibson of Port Vue, second vice president; Mr. Dennis P. Hutskow of Glassport, secretary, and Mr. James L. Blaha of Port Vue.

Directors of the club include Mr. Joseph J. Anderko of Glassport, Mr. Clyde Doonan of McKeesport, Mr. Frederick Gibson Jr. of Port Vue, Mr. Robert W. Kessling of Liberty, Mr. David C. Kohl and Mr. Robert E. Lee, both of Glassport, and Mr. William Cidboy of Port Vue. Committee chairmen include Mr. Kohl, Mr. Kessling, Mr. Vincent J. Restauri, Mr. Anthony J. Marcenelle, Mr. Lawrence S. Knapp, and Mr. Clifford C. Williams.

Mr. Speaker, I commend the officers and members of the South Allegheny Kiwanis Club. I know they will add to the already glowing record of Kiwanis International's outstanding accomplishments and make this a better world in which all can live.

JOHN GLOVER SAVES TWO CHILDREN

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 9, 1974

Mr. O'BRIEN. Mr. Speaker, in these days when we are deluged with tales of violence, strife, and corruption, it is refreshing to read of man's humanity toward man.

Today I would like to commend John Glover, a gentleman whose quick-thinking averted a terrible tragedy in my hometown of Joliet, Ill., last week. By keeping a cool head in an emergency, Mr. Glover was able to save the lives of two small children trapped in a burning car. I would also like to commend two Joliet city employees, Dan Hennessey and Ray Stefanski, who assisted in the rescue and extinguished the fire.

I am proud to submit for the Record a story which ran in the Joliet Herald-News describing their actions:

> JOHN GLOVER SAVES TWO CHILDREN
>
> (By Terry Haig)
>
> A tragedy was averted Friday on Joliet's west side when John Glover came to the rescue of two small children trapped in a burning car.
>
> Glover of 110 Third Avenue, had just driven his auto into a parking space outside a business at Jefferson and Hickory Streets when he noticed Clint and Stephanie Miller struggling inside their father's car.
>
> Three-year-old Clint was trapped in the back seat of the car and his five-year-old sister was attempting to open a front door which was apparently jammed.
>
> "I yelled at her to open the back door," said Glover. The girl responded and the two youths were carried from the scene to an ambulance which had just arrived along with fire fighting units.
>
> Glover said the family was fortunate the auto door opened by pulling the handle. "If she would have had to pull up on the knob, it might have been a different story," he said later at the hospital.
>
> Clint, whose parents live at 515 Columbia Street, was listed in good condition Saturday at Saint Joseph Hospital. He suffered minor burns and smoke inhalation.
>
> Police units responding to the emergency are recommending Glover and two city employes for commendations.
>
> Police said Dan Hennessey and Ray Stefanski assisted in the rescue and were responsible for extinguishing the fire.
>
> Mrs. Miller said she had just filled the car with gasoline and was running an errand when the mishap occurred.
>
> A sister of Mrs. Miller was left in the car to attend the children. She left the car for a minute to remind Mrs. Miller to pick up an item.
>
> "I still can't believe how fast it happened," Mrs. Miller said. "I was in the store only seconds when someone ran up and said, 'Your car's on fire.' "
>
> It was unknown whether the small boy was playing with matches or the fire was a result of spontaneous combustion.

TRIBUTE TO RICHARD E. CHEVERTON

HON. RICHARD F. VANDER VEEN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 9, 1974

Mr. VANDER VEEN. Mr. Speaker, I am saddened by the May 8, 1974, death of Richard E. Cheverton, 58. Dick was news director of WOTV television channel 8 in Grand Rapids, Mich.

Because of his belief in the public's right to know he helped develop the best and most competitive news markets in western Michigan.

I quote from the May 8, 1974, issue of the Grand Rapids Press:

> He was past president of the national Radio-Television News Directors Association and of its regional and Iowa components, a director of the Associated Press Radio-Television board and of the National Editorial Conference.
>
> Cheverton was a co-founder and charter member of the Press Club of Grand Rapids and a member of the club's first board of governors.
>
> He was news director of both WOOD-AM and FM and the former WOOD-TV until a Federal Communications Commission order changed the name of the latter to WOTV, following sale of the radio facility to local owners.
>
> Cheverton was a graduate of Monmouth College in Illinois. He worked for various newspapers in eastern United States before going to New York city to be a sports writer. Shortly afterward, he was named the first editor of *Parade*, the Sunday newspaper supplement tabloid.
>
> After return from naval service in World War II, he became a reporter, then news director for a radio and television station in Cedar Rapids, Iowa. He came to Grand Rapids as news director in 1956.
>
> On April 19, Cheverton was awarded the AP's First Amendment Award for his efforts in defense of the public's right to know and the journalist's right to publish.
>
> His television news operation was declared the best in outstate Michigan. Awards won under his leadership included The RTNDA's Edward R. Murrow award, The Peabody award, The Sigma Delta Chi and DuPont medallions and the Gold Medallion of the Detroit Press Club.
>
> Cheverton was one of four survivors in a party of six, when a Polish airliner, carrying members of a station-sponsored European tour and others, crashed in Russia. He spent eight days in a Russian hospital and several more days in Moscow before coming home.
>
> He is survived by his wife, Virginia; his mother, Mrs. Maude Griffith; a daughter, Mrs. Thomas (Nancy) Campbell, all of Grand Rapids; a son, Richard E. of Philadelphia; and one granddaughter.

HOSPITAL MAGAZINE WARNS OF EMOTIONAL CAMPAIGN AGAINST MEDICAL RESEARCH

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 9, 1974

Ms. ABZUG. Mr. Speaker, the recent vote in the House limiting fetal research is described as politically motivated interference with the freedom of medical research in an editorial in the June issue of Hospital Practice.

This monthly magazine has a nationwide reputation for the high quality of its medical reporting and articles written by leading medical scientists and practitioners. It correctly describes the "emotion-arousing" campaign against fetal research as "a rampage of know-nothingism." The editorial follows:

A RAMPAGE OF "KNOW-NOTHINGISM"

(By David W. Fisher)

On April 11, in Boston, Mass., five physicians connected with Boston City Hospital were indicted by a grand jury. One was accused of responsibility for the death of a 24-week abortus removed by hysterotomy in an abortion completely legal under Massachusetts law. The charge: manslaughter. The other four had been involved in a study of antibiotic transport from maternal to fetal circulations. Their method had involved administration of the antibiotics to women scheduled for abortions, then measuring concentration in fetal tissue postabortion. They were charged under a 19th century statute forbidding the removal of human bodies or remains for dissection, an anti-grave-robbing law.

On April 25, in Washington, D.C., the U.S. House of Representatives approved by a vote of 281 to 58 an amendment to its 1974–75 appropriations bill for the National Science Foundation forbidding the expenditure by the NSF of any funds in or out of the country to "support research . . . on a human fetus which has been removed from the womb and which has a beating heart."

On various other recent dates, in Boston, Mass., Trenton, N.J., Sacramento, Calif., and Albany, N.Y., bills were introduced into the respective state legislatures to ban, limit, or encumber human fetal research.

Clearly, a pattern exists. The assault on fetal research is a concerted one, well organized by the national antiabortion or "Right to Life" forces. These forces, frustrated by legislative and judicial actions stripping away the fabric of anti-abortion laws, have apparently made a decision to mount an emotion-arousing campaign depicting scientific researchers as fiends in lab coats deriving sadistic pleasure from experimenting on and torturing helpless "infants." The "know-nothingists" approach of this campaign is clearly exposed when one reads the debate on the NSF limitation amendment that took place in the House of Representatives. Thus, Rep. Lawrence J. Hogan (R-Md.) is quoted in the Congressional Record (11931, April 25, 1974) as follows:

"I submit that this is a subject of debate on the floor of the House today precisely because of the ethics of the medical profession, which has brought us to a point where medical doctors no longer acknowledge their responsibility to preserve life, but fully acknowledge their authority to destroy life. That's the status of medical ethics in this country today."

By way of further illustrating the emotion-mongering employed in the assault on fetal research, one can turn again to the Congressional Record, this time to statements made by the congressman who both last year and this year sponsored the amendments to restrict NSF fetal research support, Rep. Angelo D. Roncallo (R-N.Y.). When Rep. Roncallo introduced his proposal in 1973, he spun this tale of horror (Congressional Record, vol. 119, pt. 16, pp. 20946–20947).

"Just last summer, Dr. Peter A. J. Adam of Case Western Reserve University in Cleveland went to Helsinki. Supported by NIH funds, he and three Finnish researchers performed some of the most abominable experiments on live human fetuses that I have ever heard of.

"Let me quote to you the description printed in Medical World News:

" 'To produce these data, the investigators severed the heards of 12 previable fetuses obtained by abdominal hysterotomy at 12 to 20 weeks gestation. The heads were then perfused through the internal carotid arteries.'

"Can you believe this, Mr. Chairman? It is the making of a new Frankenstein. These people cut the heads off living human fetuses while they still had a heartbeat and stuck them up on tubes. All this to find out if some sugar substitute called BOHE could serve as a human energy source."

Noteworthy, of course, is the fact that the "previable fetuses" in the cited report became "living human fetuses while they still had a heartbeat" in Rep. Roncallo's peroration. Note too, that the purpose of Dr. Adam's research in Rep. Roncallo's version was to check out "some sugar substitute." In point of fact, the objective of the investigation was a comparative study of metabolic energy sources in the fetal brain, specifically a comparison of the utilization of glucose and of an alternative metabolic substrate, D-β-hydroxybutyrate (BOHB). This did not prevent the congressman from referring back to this "abomination" in the debate this spring, when he announced: "As for me and mankind, I will stick to saccharine rather than condone vivisection of live human fetuses." (Congressional Record, 12505, May 1, 1974.)

However, the purpose of this editorial is not to document the demagogic proclivities of members of our Congress. *Res ipsa loquitur.* Rather, it is to underline the nature of an organized assault on medical science, an assault that threatens some of the most promising investigative efforts in biomedicine today. In preparing to write this editorial, I spoke with a number of men and women actively involved in investigations related to prenatal detection of disease, the development of genetic studies involving human embryonic tissue culture lines, the antenatal development of immunologic competence, etc. The clear consensus was that any form of fetal research was risky in the context of indictments for manslaughter and grave-robbing and of legislative attacks born in ignorance and nurtured in imprecision. Many echoed the statement made in the New York Times by Dr. Frederick C. Robbins, Dean of Case Western Reserve medical school (and a Nobel laureate for work demonstrating the feasibility of the growing of polio virus in human embryonic tissue lines): "You have to be a brave fellow to do fetal research these days."

What is being built is hysteria. And, unhappily, it is being done with amazing success. It will be recalled that the vote in the House of Representatives approving the Roncallo amendment was overwhelming, a margin very close to five to one. In reading the full text of the debate, it was clear that this vote did not reflect any ideologic revulsion by Congress against fetal research. Indeed, some of the individuals who voted for the amendment actually spoke on the floor against its burden. Nor did it reflect a failure on the part of opponents to make clear the antiscientific character of the proposal. As a matter of fact, the opposition eloquently led by Rep. Bella S. Abzug (D-N.Y.), very specifically spelled out the areas of disease research that were being endangered.

What was being reflected in the overwhelming vote was the reaction of members of Congress to highly organized and vocal pressure. And clearly the only antidote to such pressure is a counterpressure from those in the best possible position to exert it—physicians. Unfortunately, to date there has been very little such counterpressure.

In saying this, there is no intention to denigrate or minimize the very outspoken stand taken by the leadership of the Boston medical community, or by the American Academy of Pediatrics through the chairman of its Committee on the Fetus and Newborn, Dr. L. Stanley James of the Columbia University College of Physicians and Surgeons, or of the deans of New York State's medical schools. The hard truth is that for most members of Congress, committees of the American Academy of Pediatrics and medical school deans cut very little ice. They represent damn few votes back home.

A much more potent force would be the physicians of their own communities and districts speaking through county and state medical societies. It would seem to us that the most effective course of action would be for concerned physicians to raise the issue in their medical societies and to do their best to move them into action in support of freedom of research and against flagrant political interference with that freedom.

NATIONAL TRANSPORTATION WEEK

HON. THOMAS F. EAGLETON

OF MISSOURI

IN THE SENATE OF THE UNITED STATES

Thursday, May 9, 1974

Mr. EAGLETON. Mr. President, few things are more vital to the economic welfare of this Nation than an adequate transportation system. Missouri has prospered largely because of its superior network of highway, rail, air, pipeline and water transportation facilities. This network knits together the communities of Missouri from major metropolitan areas on both sides of the State to the smallest farm centers. All depend upon Missouri's unparalleled transportation network and all prosper on account of it.

Through St. Louis, the Gateway to the West, flows a steady movement of commerce going east and west, north and south. Here are joined the eastern and western railroad systems, the Missouri and Mississippi waterway traffic, our vast system of pipelines, one of the greatest concentrations of motor carriers in the world and one of the Nation's busiest airports.

This Nation's greatness owes in large measure to its ability to move goods and people. The State of Missouri has a proud record in the development of transportation of all modes and it will expand its transportation leadership as the economy of the State and the Nation continues to grow.

It is most fitting, therefore, that we salute the dedicated men and women making up our vast transportation system on the occasion of National Transportation Week, May 12–18, 1974.

PEOPLE-TO-PEOPLE HELPS THE BICENTENNIAL CELEBRATION

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 9, 1974

Mr. STEIGER of Wisconsin. Mr. Speaker, today, more than any other time in the history of the world, people from every country on our planet are looking for knowledge that will lead to a permanent peace.

Founded by President Dwight D. Eisenhower, People-to-People International accepted the challenge in 1956 to create international understanding in the world as a final passport to peace.

Since that time, every President of this great country has stood firmly behind the Eisenhower concept known as the People-to-People program.

President Kennedy said:

> The nature of these People-to-People activities is as varied as the individuals involved. The housewife whose recipe contains the yeast of kindness. The soldier whose arms embrace homeless waifs. The doctor who heals with humility. All assert a single theme—the power of people, acting as individuals, to respond imaginatively to the world's need for peace.

President Johnson said:

> People-to-People works outside government in a field vital to us all—the promotion of friendship among citizens of every land so they will understand each other and want peace. I know of no other task more important for the peoples of every country.

President Nixon stated in a White House conference—

> Finally, may I say with regard to the People-to-People program that those little things you do—receiving a foreign student, spending time with an individual from a foreign country—seem inconsequential when you weigh them against the great decisions that have to be made in the Congress or in the State Department or in the White House. But . . . the fact that they have been here, the fact that they know from visiting our homes and our offices that Americans are a people dedicated to peace—this fact will make them leaders in the cause of peace.

People-to-People International has recently accepted the challenge to encourage all nonprofit, nongovernmental organizations to find leadership among themselves in respect to America's 200th birthday. In a meeting held on December 3, 1973, important nonprofit, NGO's with international dimensions were brought together by People-to-People International to discover new ways to host the millions of international visitors to the United States.

The emphasis of this meeting was to not wait for Congress or the American Revolution Bicentennial Administration to show the way, but for each organization to pick up the challenge and develop leadership within their own organization. To invite their colleagues, members, and counterparts from overseas to come see and share their homes.

This is the whole concept of People-to-People, people getting to know and understand each other. Representatives at the December 3 conference were the leaders of this Nation's strongest and fair-reaching organizations such as the women's clubs, reaching 90 million women around the world, and the Farm and Garden Club in contact with thousands of garden clubs.

People-to-People International stands ready with information on how any organization can start its own bicentennial program without waiting for direction or funds as a result of this meeting.

Above all, People-to-People International wants the world now, through 1976 and beyond, to be one in which all peoples can live in peace. Given the chance, people always show respect and warmth for each other regardless of governments.

That is the goal of People-to-People—to know and understand and enhance the quality of peace.

ENCOURAGING PEOPLE TO VOTE

HON. J. EDWARD ROUSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 9, 1974

Mr. ROUSH. Mr. Speaker, I was extremely disappointed yesterday when the House voted down the rule and thus prevented consideration of H.R. 8053, the Voter Registration Act. It is my hope that this proposal to ease voter registration will once again be voted out of committee and come to the floor of the House before the end of this session of Congress.

We hear a lot these days about voter disillusionment and apathy. If any time is the right time to make it easier for people to vote, encourage them to do, it is now. I hope we have a chance in the near future to take up the Voter Registration Act establishing a national system of post card registration for all federal elections.

Our present registration system discriminates against men and women who work daily from nine to five; it discriminates against the sick and the elderly who cannot find transportation against the women with small children at home; against the poorly educated who do not know where or how to register.

I agree with the League of Women Voters that—

> Millions of Americans fail to vote not because they are disinterested, but because they are disenfranchised by the present election system.

The fact that in 1972 almost half of our eligible voters did not vote is a striking illustration of the need for simpler, more easily available voter registration. Sixty-two million potential voters did not participate in the 1972 election and a poll found that three-fourths of these nonvoters would have voted had they been able to do so. It is a fact that 80 to 90 percent of those registered to vote, do vote.

Therefore it is time that we take steps to stop the decline in voter participation—from 64 percent of the voting age population in 1960 to 55 percent in 1972. The Voter Registration Act moves us in that direction.

This bill will establish a post card voter registration system designed to work within the framework of established election procedures of States and localities. So we are not preempting States rights in this area. The Federal responsibility would include distribution of the registration forms and providing assistance to State officials on registration-by-mail or election problems generally. Prospective voters would return their completed forms to State officials, not to a Federal agency. Responsibility for verification of information, validation and notification of registrations remains with the State. It is important to note that State and local officials would retain jurisdiction over establishing the qualifications for all voters and the processing of all applications except that the residency requirements for eligibility to vote in Federal elections would be set at 30 days nationwide.

A Voter Registration Administration would be established within the General Accounting Office to prepare the post card registration forms, including upon them information necessary to comply with State registration laws and such other information as deemed necessary. The Postal Service would then deliver such forms to the voting age population at least once every 2 years, not earlier than 120 days nor later than 60 days before the close of registration for the next Federal election in each State. Post card forms would also be made available at post offices, upon rural and star routes and at military installations. The bill provides penalties for fraudulent registration by mail and authorizes States and the VRA to cooperate on the detection of violations.

Earlier this year I received a letter from the Governor of Minnesota which testified to the success of that State's post card and election day registration law that passed in 1973. Their program went into effect August 31 of last year and the Governor reported that between that date and the end of the year, a total of 11,152 people in the city of Minneapolis had registered by mail. They found no fraudulent registrations in this number of votes and they found that in 1973 there were 28,433—or 12.6 percent—more registered voters than in 1971.

Personally I have great faith in the American people in their conduct of elections and I want them to vote. I believe no American should be interfered with in the pursuit of the right to vote. I resent the difficulties that potential voters have had in registering and voting. Thus, I support this bill wholeheartedly and I believe it is a chance for us to broaden and deepen the relationship between the people and the Government. That has been the course of American democracy since 1789—expanding and encouraging the vote. I hope we have a chance to show our faith in the integrity of the American voter.

THE RETIREMENT OF CHARLES PATRICK

HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 9, 1974

Mr. BURGENER. Mr. Speaker, for 24 years San Diegans have had the valuable service of Charles Patrick as a leader in our educational community. His leadership has been a major factor in the development of a community college system of recognized quality.

Charles Patrick has retired from his post as acting superintendent of the San Diego Community College District. But we can look back over the accomplishments of his career in San Diego and realize the results of his leadership.

Today, 55,000 students are benefiting from the institutions of the district and uncounted others are enjoying the benefits of the education they received at one of the four colleges which comprise the San Diego Community Colleges.

With four major campuses and a staff of over 2,000 the San Diego Community College District is now a major factor in higher education in southern California. The development of San Diego Evening College has contributed a major new concept in undergraduate collegiate education. The adult division of the district has added a new dimension to the traditional tasks of adult education.

All of this has been accomplished with Charles Patrick as the driving force behind development. He has come to be recognized both locally and nationally by professionals and laymen as an innovator with a commitment to expanding the opportunities of students whether they are pursuing a specific degree or expanding their educational backgrounds outside of a degree oriented commitment.

With a record like this, Chuck Patrick can take pride in his accomplishments. We will miss his leadership but we wish him well and hope that he will continue to find the time to remain active in our community for years to come.

HEARINGS SLATED ON HEALTH MANPOWER ACT AND NURSE TRAINING ACT

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 9, 1974

Mr. ROGERS. Mr. Speaker, today I introduced H.R. 14721, the Health Manpower Act of 1974 for myself, Mr. KYROS, Mr. SYMINGTON, Mr. HASTINGS, Mr. HEINZ, and Mr. HUDNUT; and H.R. 14722, the Nurse Training Act of 1974 for myself, the cosponsors of the health manpower bill and Congressman PREYER. These bills would extend and substantially revise existing programs found in titles VII and VIII of the Public Health Service Act to provide assistance to schools and students in the health professions.

I am pleased to announce that beginning May 20, the Subcommittee on Public Health and Environment will conduct hearings on these two bills, an administration bill which I am advised will be presented to the Speaker next week, H.R. 14357 by Dr. ROY, H.R. 14196 by Mr. SYMINGTON, H.R. 11539, an administration bill which would revise the national health service corps program, and H.R. 13174, a bill which I have introduced which would extend the provisions of the Soldiers and Sailors Civil Relief Act to Commissioned Officers of the Public Health Service.

We expect to hear from administration witnesses on May 20 and will hear public witnesses the remainder of the week.

MORE OF THE SAME VIETNAM SHELL GAME

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 9, 1974

Mr. HARRINGTON. Mr. Speaker, on two occasions last month the House clearly indicated its opposition to increased military aid to South Vietnam. On April 5, while considering the supplemental military procurement authorization, the House rejected a proposal to increase the statutory ceiling on obligational authority under the MASF—military assistance service funded—program by $474 million. On April 10, the House confirmed this earlier action while debating the fiscal year 1974 supplemental appropriations measure.

Two days after the House rejected the additional $744 million in aid, Secretary of Defense James Schlesinger wrote to the Armed Service Committees of the House and Senate, indicating that $266 million worth of aid to South Vietnam, that had been applied against the ceiling on fiscal 1974 obligations should not, in fact, be applied, since, in the view of the Department of Defense, the $266 million represented obligations made in years prior to fiscal 1974. The net effect of this change would have been to make an additional $266 million in military aid available to the South Vietnamese regime.

An April 17 article in the New York Times, by Leslie H. Gelb, says of the Pentagon's sudden realization of the self-professed "accounting error":

> The Pentagon has told a Senate Committee that it has found $266 million extra for military aid to South Vietnam this year—funds that military officials said they did not know they had.
>
> The upshot is that the Saigon government will receive additional arms this year in that amount though Congress will refuse to raise the spending ceilings, as requested by the Nixon Administration.

Today's Washington Post contains an article by Michael Getler suggesting that the $266 million "accounting error" may be just the tip of the iceberg of the Vietnam aid coverup. According to the Post article, the Pentagon has padded each of its last three budget requests to hide nearly a billion dollars worth of military equipment intended for South Vietnam and our other Asian "allies." The article indicates that the chairman of the Senate Foreign Relations Committee, Senator J. WILLIAM FULBRIGHT, has charged that the Defense Department is "hiding" $490 million, in the fiscal 1975 budget alone, intended for aid to Southeast Asian countries.

To put the icing on the cake, President Thieu has been actively seeking to exaggerate the military situation in South Vietnam in hopes that the Congress will be prodded into increasing the already massive military assistance that props up the Saigon regime. I do not believe Congress will fall for Saigon's annual scare show. As indicated in a New York Times article of April 20, by James M. Markham, "most diplomats, journalists, and informed Vietnamese do not believe" the apocalyptic predictions of the Saigon government.

Mr. Speaker, Congress should not allow itself to be hoodwinked any further in this matter—either by the Saigon dictatorship or by our own Department of Defense. We must close the loopholes in existing law that enable the Pentagon to skirt the intent of Congress and coverup stockpiled aid for South Vietnam. We must close the loopholes in the existing statute designed to limit aid, under the MASF program so that even the possibility of further multimillion-dollar "accounting errors" will be squelched. We should call for a full and searching investigation into the often ambiguous and contradictory claims of the Department of Defense surrounding the disputed $266 million. Most important, we should not allow ourselves to be deceived by the antics of the Saigon regime, whose lack of veracity is beyond all doubt.

Mr. Speaker, the texts of the articles by Michael Getler and James M. Markham follow:

[From the Washington Post]

"HIDDEN" ARMS AID IN BUDGET DISPUTED

(By Michael Getler)

The Pentagon acknowledged yesterday that its last three budget requests included a total of more than $1 billion to build a reserve stockpile of weapons for possible use by allies in Asia—rather than by American forces.

The Defense Department denied, however, that it had sought to hide the money in its budget.

But, after lengthy questioning by newsmen at the daily Pentagon briefing and a subsequent Pentagon-ordered search of congressional testimony, Defense Department officials as of late yesterday were unable to produce any record showing that this request for funds had been clearly labeled or explained to Congress or the public.

The questioning arose after Sen. J. W. Fulbright (D-Ark.) charged that the administration was "hiding" $490 million in the new fiscal 1975 budget now before Congress.

This hidden item is typical of the way the executive branch tries to get around congressional cuts in foreign aid," Fulbright said. "Congress turns off or cuts down the flow from one foreign aid spigot and they open up another one somewhere."

The chairman of the Foreign Relations Committee leveled his charges after his aides attempted to get an explanation from the Pentagon about what specifically was included in that category of the defense budget which will cost $2.2 billion and is labeled as "Support of Other Nations."

This section includes $1.45 billion for military assistance to Vietnam. But it also includes, Fulbright was told, $490 million to buy and stockpile "war reserve" equipment and ammunition "earmarked specifically for use by" South Vietnamese, South Korean or Thai forces, if necessary.

Neither the official U.S. budget for the fiscal year 1975 beginning July 1 nor any other publicly released document at this time makes any mention of the $490 million for war reserves stocks for allies.

In describing the $2.2 billion "Support for Other Nations" category, the official budget book describes only the separate military aid for South Vietnam and virtually all the other relatively small items in the category, but not the war reserve stocks.

In attempting to explain the situation, Pentagon spokesman Jerry W. Friedheim revealed that about $500 million had been similarly earmarked in fiscal 1974 and another $25 million in fiscal 1973, the first year in which funds were included for additional stockpiles that could be used by Asian allies.

It has been known for many years that the United States stockpiled equipment for its own forces. But it was not known generally that weapons were being stockpiled for other nations, even though those weapons would be under U.S. control.

Friedheim yesterday pointed out references in March by Defense Secretary James R. Schlesinger and the chairman of the joint chiefs of staff, Adm. Thomas H. Moorer, about the prospects for stockpiling arms for allies. But these statements indicated that was a future plan, as a result of the Middle East war when the United States was forced to ship large quantities of arms out of its own inventories to Israel. There was no hint that almost $1 billion had already been requested for Asian forces in current and previous budgets.

One senior defense official said privately that Fulbright's statement marked the first time that Friedheim himself found out about the earlier stockpile requests.

The senator's challenge took on added interest since it came on the heels of a Senate vote denying the Pentagon a $266 million increase in aid for Saigon this year. Some Senate aides believe the stockpile funds may be a way to get around congressional denial of additional funds.

Yesterday, however, the Defense Department said that the war reserve stocks for allies cannot be released from U.S. control "until a conscious presidential decision, with the appropriate congressional consultation, is made . . ."

This means the President could act without full congressional approval. But, in discussing the situation with newsmen yesterday, the general tone of Friedheim's explanation was that the Defense Department understood that it was the intent of the Congress to limit military aid to Vietnam to the congressionally imposed $1.126 billion ceiling for fiscal 1974 and there would be no more legislative or bookkeeping attempts to get around it.

Friedheim also appeared to take a less dire view of the effects of the congressional refusal of the extra $266 million than have some other defense and White House officials.

Friedheim noted that while the Pentagon has only somewhat less than $100 million left of the $1.126 billion ceiling on obligations for military aid to Saigon, only two months remain in the current fiscal year.

He also noted that the ceiling does not affect equipment already in the supply pipeline to Saigon, that Saigon has some reserves of its own, that fighting has generally been at a reduced level recently, and that the rainy season that normally restricts combat comes to South Vietnam in June.

Friedheim, under questioning, said, "There would not necessarily be a dramatic immediate effect in South Vietnam. At some point, however, there will be sort of a bubble in the pipeline and some reduction in the rate of deliveries."

He said Pentagon supply specialists were now trying to figure out where the shortages will be, and will try to use the remaining money to plug specific shortages.

The basic rationale behind the stockpiling of weapons for allies is to have a ready supply of arms—other than those earmarked for U.S. units—which could be used in an emergency by such countries as Vietnam, Korea or Israel, for example, if they were attacked heavily and perhaps simultaneously.

[From the New York Times]

SAIGON'S ALARMS STIR SKEPTICISM

(By James M. Markham)

SAIGON, SOUTH VIETNAM, April 19.—Once again, heavy fighting has erupted in scattered parts of the country. And, once again, the Saigon Government has been making apocalyptic predictions about a Communist offensive. Last year such predictions were taken with a degree of seriousness, at least first, and mulled over and for the most part finally rejected. This time most diplomats, journalists and informed Vietnamese do not believe the Government.

On the contrary, it is widely believed that the Government orchestrated the news about the "fall" of a ranger base called Tong Le Chan—which is reliably reported to have been evacuated in the dead of night—in order to dramatize the North Vietnamese threat to the South.

In the wake of the capture of Tong Le Chan, Saigon suspended its participation in the political talks with the Vietcong outside Paris and virtually sealed off the Communist delegation here, canceling indefinitely its weekly press conference and cutting its telephones. And President Nguyen Van Thieu sent fighters to bomb Vietcong administrative center of Loc Minh.

LINK TO SENATE BILL SEEN

According to several American and non-American diplomats, it appeared that President Thieu was superheating the atmosphere of tension in order to increase the chances that a military appropriations bill would be approved in the United States Senate.

Saigon has been lobbying with unaccustomed aggressiveness for what it considers vitally needed money. Presently, for example, a group of Congressional aides is on an extensive Saigon-subsidized tour of the country.

The Communists do appear to have been launching attacks in Military Region III around Saigon and in the Central Highlands, but it is hard to find any disinterested party who believes that these presage a major offensive, as the Government contends.

The combinaton of Saigon's propaganda campaign, the Communists' attacks and the Government's own military initiatives—has soured a tentatively hopeful mood that had been building in recent months.

After a long stalemate, the exchange of civilian prisoners listed as captured before the January, 1973, cease-fire was finally completed in March 8; the North Vietnamese returned the remains of American prisoners who had died in the north; the Vietcong presented a lengthy six-point peace proposal on March 22 that even American officials described as substantive; the Vietcong's chief delegate, Nguyen Van Hieu, returned to La Celle Saint Cloud, outside Paris, where the talks between Saigon and the Vietcong had been conducted.

Now events seem to be back in a less ambiguous trough, which is how President Thieu, who is chary of political dealings with the Communists, prefers things, in the eyes of some analysts.

No one argues that the recent upsurge in fighting is inconsequential. But the battle fields that really count right now may be economic ones, over which the Saigon Government has little control.

The faltering Soth Vietnamese economy is heavily dependent on imports, which are paid for almost exclusively by the United States. And in the last year the prices of key imports—rice, fertilizer, petroleum products—jumped by almost 50 per cent while the dollar level of aid fell off.

WORLD'S HIGHEST INFLATION

The Government now conceals its tiny foreign-reserves figure, which has dipped to about $80-million, or the equivalent of little over one month's imports.

Last year, South Vietnam experienced a rate of inflation of 65 per cent—one of the highest in the world; in the first three-and-a-half months of 1974. The cost-of-living index rose by another 22 per cent.

Gasoline now costs $1.47 a gallon. Scandals surround the distribution of increasingly scarce and costly fertilizers (not to mention scrap metal, rice and other commodities) and the fertilizer shortage may endanger the next rice crop, according to economists.

In the big cities, swollen in population by the war, people are going hungry. On the destitute central coast, there have been reports of acute malnutrition.

NATIONAL HEALTH INSURANCE HEARINGS

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 9, 1974

Mr. SYMMS. Mr. Speaker, as you are aware, the House Ways and Means Committee recently initiated hearings on national health insurance. One of the proposals under consideration is H.R. 14079 introduced by Senators LONG and RIBICOFF in conjunction with Congressman WAGGONNER.

The Senators build their proposal upon a belief that the present system of private health insurance should be continued and expanded upon to provide catastrophic assistance. They also adopt the premise that the Government should approach a system of national health insurance step-by-step rather than biting off more than it can chew. These premises are acceptable to those who feel we should adopt a conservative approach to Government health insurance. Although I personally do not support the concept of national health insurance per se, if it is to be inevitable then the sponsors of the Long-Ribicoff proposal are correct in identifying priorities.

However, there is an inherent danger in the Long-Ribicoff approach that is not readily apparent nor widely realized.

The financing mechanism of the bill is basically the same as that of the Kennedy-Mills bill and the Kennedy-Griffiths health security bill. This consists of a payroll tax to be funneled through the Social Security Administration which would finance health insurance for individuals. The difference is that while the Kennedy-Mills proposal levies a 4-percent tax, the Long-Ribicoff bill levies a 0.6-percent tax.

The bills are essentially the same in that the maximum liability limit differs only in amount. Under Kennedy-Mills it is $1,000; under Long-Ribicoff it is $2,000 and 60 days of hospital care.

The danger that I see is this: After initial implementation of such a plan, the trend will be to reduce the maximum liability, the copayments and deductibles, and increase the coverage until the end result could well be the health security plan, or complete Government-financed and controlled health care.

The political realities of Government programs inevitably lead to broadening of benefits of such programs. This can be seen by the gradual, yet constant, increase in coverage and benefits provided by medicare and medicaid programs.

Originally, the medicare and medicaid programs covered a relatively specific portion of the population with limited benefits. But now this coverage has been increased to provide for many more people with vastly increased benefits.

I am concerned that many, while adopting the conservative approach of the Long-Ribicoff bill, could be misled.

A payroll tax funneled through a government agency will inevitably lead to the results I have described. We have seen the payroll tax mushroom under the Social Security Administration's programs and I believe we may well have reached the breaking point in what we're asking the American worker to do involuntarily. If national health insurance is to be inevitable, I would recommend that an alternate method of financing be used.

One proposal has been the medicredit approach with 183 cosponsors. This approach enables people to purchase their own private health insurance through income tax credits, according to their income tax liability. For those with very low income and not covered by medicaid, the Government might issue certificates entitling them to purchase the certified policy of their choice. This preserves individual freedom of choice and encourages personal responsibility.

A variety of experts have endorsed the tax credit approach, from the Council of Economic Advisors to the Brookings Institute since it would more fully funnel benefits to low-income people than a tax deduction.

I would recommend that those Members attending hearings on national health insurance in the Ways and Means Committee give this aproach their close consideration. We can no longer resort to the payroll tax as a "painless" way to separate a man and his money because, gentlemen, it has already started to hurt.

LEGISLATIVE OPINION SURVEY, 1974

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 9, 1974

Mr. ARCHER. Mr. Speaker, each year that I have been in Congress, I have asked my constituents for their views on important issues facing this Nation. I receive those views in a wide variety of ways, and one of the most successful has been my annual legislative opinion survey.

Over 55,000 residents of the Seventh Congressional District of Texas recently responded to my 1974 questionnaire. The fact that so many people took the time to respond, many of whom included explanatory letters, is a solid indication to me of the interest of the American people in the operation of their Federal Government.

I would like to take this opportunity to share those views of 55,000 Americans with my colleagues in the House of Representatives:

Should tax dollars be used to finance political campaigns? Yes, 33%; no, 67%.

Do you favor nationalized health insurance totally financed with tax dollars? Yes, 25%; no, 75%.

Do you believe that the energy shortage is real? Yes, 56%; no, 44%.

Should President Nixon be impeached? Yes, 31%; no, 69%.

Should the individual states be granted the right to pass laws restricting abortions? Yes, 61%; no, 39%.

Do you favor continuation of wage and price controls? Yes, 36%; no, 64%.

Should Federal anti-pollution standards be relaxed during a national energy shortage? Yes, 56%; no, 44%.

Do you favor year-round Daylight Savings Time? Yes, 45%; no, 55%.

Should the Federal government regulate the use of privately and State owned lands? Yes, 11%; no, 89%.

Would you favor a gasoline rationing program similar to that of World War II? Yes, 18%; no, 82%.

ANALYSIS OF "OIL AND GAS ENERGY TAX ACT" OF 1974

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 9, 1974

Mr. VANIK. Mr. Speaker, the windfall profits legislation for the oil industry developed by the Ways and Means Committee is totally inadequate. It is a coverup for a horrendous profit system in oil.

Its complexity is a testament of the committee's own confusion. For 13 weeks the committee meandered—aimlessly at times—along a convoluted course charted by the administration and the oil industry. For 13 weeks, we listened to the bland, reheated arguments of Big Oil concerning the absolute necessity of maintaining special tax favors for their industry. For 13 weeks, the committee struggled through proposal after proposal—all designed to give the appearance of action and mask the underlying lack of direction. It is no surprise, then, that after 13 weeks of labor on this mountainous problem, the committee has brought forth a molehill. The committee has dealt in platitudes—a "windfall profits tax" which does not tax profits—an elimination of the depletion allowance which is riddled with special loopholes.

In short, this legislation is fundamentally illogical. It purports to tax the high profit levels of the oil industry, but the principal thrust of this legislation is to chart new paths of tax avoidance. At a time when the credibility of our tax system has plummeted to an all-time low, it is a dangerous adventure to ratify new excuses for the oil companies not to pay taxes.

STATEMENT OF THE PROGRAM

The committee was confronted with two problems—one short-range and temporary, the other of more enduring significance. The failure to distinguish these two problems explains much of the confusion we now see before us.

First, the short term issue is the ballooning of oil company profits. A good statement of this problem was provided by Secretary Shultz in his testimony before the committee:

> A windfall profit is one resulting in a change in price caused by a circumstance which is accidental and transitory, such as the temporary shortage of a product because of a strike or, in this case, the cartel embargo of foreign governments . . . [F]or the next year or two price rises which have already occurred are more than sufficient to call forth additional domestic oil *which will in fact be produced during that period*. Some part of the present price produces windfall profits, and additional price increases resulting from the cartel-embargo would be pure windfall (emphasis added).

Second, the long term problem is to develop a tax policy to complement and promote our broader goal of energy independence.

WHAT THE ADMINISTRATION PROPOSED

The administration has attempted to deal with windfall profits by suggesting a graduated excise tax on the price of crude oil. It is inflated rhetoric to call his scheme a windfall profits tax: an excise tax on crude oil has nothing directly to do with windfall profits. It is more likely to be a tax on consumers. Serious questions concerning this proposal were never satisfactorily answered. Among the unresolved issues are:

The degree to which the administration's tax would be shifted onto the consumer. This excise tax merely increases the cost of crude oil. It appears the consumer, not the oil company or its stockholders, will pay;

Whether flexibly administered price controls would be more effective than taxation in dealing with the short-term dislocations of price. This approach was endorsed in testimony before the Committee by one major oil company;

The extent to which the producers will withhold their oil from the market until the tax phases out; and

The accuracy of the administration's assumption that the long-term supply price for crude oil will be $7 per barrel.

Beyond the inherent difficulties involved in the administration's tax proposal, the committee spent too little time examining the logic of a windfall or excess profits tax in the first place.

A recent report by the Joint Economic Committee puts the matter succinctly:

> Even if an effective excess profits tax could be designed for the oil industry, the wisdom of imposing such a tax on an industry currently receiving several billion dollars each year in tax subsidies is questionable. Does it make sense for the Government first to give an industry large amounts of money through tax subsidies, and then to devise complicated new taxes to get the money back? The more logical first step would be to remove or reduce present tax subsidies.

THE COMMITTEE'S ACTION

On top of the issue of windfall profits, the committee has attempted to deal with the general failure of our tax policy to provide adequate supplies of petroleum or guarantee our national security. The most alarming aspect of this problem has been the massive expansion of overseas operations by U.S. oil companies, while our domestic supply situation has continually deteriorated. For decades, the oil industry has been the most protected and subsidized industry in our economy. Despite these massive taxpayer subsidies—$34 to $43 billion over the last 20 years—we find ourselves with neither sufficient nor secure sources of crude oil. We have instead accelerated the draining of America.

How did the committee respond to this mandate for a thorough review of our tax treatment of the oil industry? It is a complex and confusing story.

To start with, the committee had before it the present pattern of preferential tax benefits to the oil industry. These benefits include those outlined in table 1:

TABLE 1

Oil Company Preferences	Treasury Revenues
Percentage Depletion	
(domestic and foreign)	
Intangible Drilling Expense	
(domestic and foreign)	
Foreign Tax Credit	

The committee decided as a first step that the windfalls profits' tax may be preferences would not deal with the short term problem of windfall profits. Therefore, the committee adopted the concept of the administration's windfall profits tax (table 2).

TABLE 2

Oil Company Preferences	Treasury Revenues
Percentage Depletion	
(domestic and foreign)	
Intangible Drilling Expense	
(domestic and foreign)	
Foreign Tax Credit	
	Windfall Profits Tax

However, the committee then decided that the windfalls profits tax may be counterproductive. The committee provided, therefore, a plowback provision, despite the fact that both the Treasury Department and the staff of the Joint Internal Revenue Committee stated that a plowback would have no additional inducement for investment for the oil companies. Price was inducement enough (table 2).

TABLE 3

Oil Company Preferences	Treasury Revenues
Percentage Depletion	
(domestic and foreign)	
Intangible Drilling Expense	
(domestic and foreign)	
Foreign Tax Credit	
Plowback --	Windfall Profits Tax

Then the committee decided that the tax benefits of foreign operations of the oil companies would have to be trimmed to be more in line with our goal of energy independence. The elimination of the depletion allowance on foreign properties was adopted, a step that the committee recommended and the House approved in 1969. However, removal of the depletion allowance on foreign wells will have virtually no impact on overseas oil operations due to the availability of massive foreign tax credits.

Therefore, the committee decided to attempt to define an arbitrary formula to curb the oil companies' abuse of the foreign tax credit provision. A compromise was reached between a proposal by the committee and a formula proposed by the Treasury Department. The compromise, however, will allow the oil companies to generate about $1.9 billion in extra credits from oil production which can be used to shelter foreign shipping, refining, and marketing operations from U.S. tax.

In addition, to meet the problem of oil companies deducting foreign losses—such as North Sea exploratory drilling—from their U.S. income, the committee eliminated the "per-country" method of computing the foreign tax credit. This is a dangerous precedent because the alternative method of computation—the "overall" method—allows a firm to use the credits generated in one foreign country to offset a U.S. tax liability on income generated in a second foreign country. If this elimination of the per country method of computation were extended to nonoil taxpayers, the U.S. Treasury would lose additional millions of dollars.

A more direct and simple approach to the problem of foreign losses would have been to disallow the option to expense intangible drilling costs for foreign wells. It is this tax benefit which is the primary cause of the foreign loss problem in the first place. With the intangible drilling provision allowed on foreign properties, the American taxpayer is, in fact, subsidizing the oil companies' foreign explorations at the expense of domestic explorations (table 4).

TABLE 4

Oil Company Preferences		Treasury Revenues
Percentage Depletion		Percentage Depletion
(domestic)		(foreign)
Intangible Drilling Expense		
(domestic and foreign)		
	Foreign Tax Credit	
	—52.8% net income limitation	
	—elimination of per country	
	—recapture provision	
Plowback ------------------	--	Windfall Profits Tax

At this point, the committee went back and decided that the original set of tax subsidies would need revision after all. A depletion phase-out was adopted (table 5).

TABLE 5

Oil Company Preferences		Treasury Revenues
Percentage Depletion	(phase out)	
(domestic)		
		Percentage Depletion
		(foreign)
Intangible Drilling Expense		
(domestic and foreign)		
	Foreign Tax Credit	
	—52.8% net income limitation	
	—elimination of per country	
	recapture provision	
Plowback ------------------	--	Windfall Profits Tax

It was then decided that a total phase-out, like the windfall profits' tax, would be counterproductive. Therefore, the committee began laying out plans to limit the impact of the action it had just taken. The 50 percent net income limitation—a limitation instituted in 1924 to prevent abuse of the percentage depletion provision—was raised to 100 percent. In addition, the committee began carving out special rules—the 3,000 barrel per day exemption, the stripper well exemption, and the North Slope exemption. In devising these special exemptions, the committee ignored the advice of Frederic Hickman, Assistant Secretary of the Treasury for Tax Policy. Mr. Hickman opposed elimination of the depletion allowance, but he repeatedly told the committee that if an elimination of the depletion allowance were agreed to, the committee should make no exceptions—special rules, he suggested, only complicate the tax law, create tax shelters, and introduce distortions into the marketplace. But the committee went ahead anyway constructing the ultimate in Rube Goldberg tax contraptions (table 6).

TABLE 6

Oil Company Preferences		Treasury Revenues
Percentage Depletion (domestic)	(phase out)	
	Exemptions —3,000 barrel per day —stripper well —North Slope	
		Percentage Depletion (foreign)
Intangible Drilling Expense (domestic and foreign)		
	Foreign Tax Credit —52.8% net income limitation —elimination of per country —recapture provision	
Plowback	--	Windfall Profits Tax

As can be easily seen, the committee's bill is a mass of conradictions. I supported the motion to report this legislation out of committee, because it was clear that after 13 weeks of deliberation, there was little hope of meaningful progress being made on substantive tax issues. It is my hope that the bill can be improved in the House.

Two outstanding matters which deserve more complete consideration are the termination of the tax benefits for foreign oil production and the elimination of the percentage depletion allowance.

FOREIGN TAX BENEFITS

Under present law, the oil companies, like all U.S. multinational corporations, are allowed to credit dollar-for-dollar their foreign income taxes against their U.S. tax liability. The ostensible purpose of the foreign tax credit is to prevent the double taxation of the same dollar of profit. The oil companies, however, have taken advantage of their carefully cultivated relationship with the governments of the oil-producing countries to pervert the intention of the foreign tax credit and abuse this privilege which has been extended to them by the American taxpayer.

The abuse arises from the fact that the countries from whom the oil companies buy their oil are both landowners and sovereign states. As landowners they have the right to charge royalties. As sovereigns, they have the authority to levy taxes on the oil companies for the oil produced from their land. In their unique relationship with the oil companies, the countries have instituted pricing policies which provide for payments by the oil companies on each barrel of crude oil which is produced. These payments look like royalties; they are passed on to the consumer like royalties, but the foreign governments have chosen to call them "income taxes." Senator FRANK CHURCH recently developed the fascinating story of how, during the 1950's, the oil companies, the Departments of Treasury and State and the producing countries all participated in developing this neat but utterly artificial arrangement.

The distinction between a royalty and a foreign tax is, of course, crucial in terms of a company's United States tax obligations. A royalty is treated as a business expense and only reduces the level of taxable income. A foreign tax, on the other hand, is a credit against U.S. taxes on foreign profits.

But the essential question in the controversy over the taxation of the foreign profits of the oil companies is not the academic debate between what is a tax and what is a royalty. In plain fact, no precise line will ever be drawn. The major issue is whether we should even be extending the privileges of the foreign tax credit to the oil companies.

The goal of tax neutrality—and its instrument, the foreign tax credit—is to eliminate tax considerations from international investment decisions. Given our goal of energy independence—and the unprecedented capital investment required to develop necessary domestic energy sources—it is a justifiable question to ask whether or not a foreign tax credit for oil production is in the national interest. Why should we not use our tax system to limit the attractiveness of foreign investment and increase the level of domestic investment?

Already there is a formidable problem. For years now the oil companies have eliminated virtually all U.S. tax liabilities on their foreign operations and they have been piling up excess, unused credits. These unused credits are available to the taxpayer retrospectively for 2 years and prospectively for 5. By virtue of the recent price escalations by OPEC, the Treasury Department estimates that the oil companies will pile up over $16 billion in unused foreign tax credits in 1974 alone. These credits can be used to reduce U.S. tax liability on foreign profits for the period 1972–79.

The committee attempted to deal with this problem, but, under the reported bill, the abuse continues. Enough credits will still be available for the oil companies to eliminate all U.S. tax liability on their foreign operations. And the American taxpayer will continue to provide enough additional credits to tax shelter income from—for example—expanded tanker operations in Liberia, an additional refinery in Spain, and a string of new gasoline stations in West Germany. Under the committee bill, the foreign tax credit will continue to be a major inducement to expanded foreign investment by the oil companies.

It is noteworthy that both George Mitchell of the Texas Independent Producers and Royalty Owners Association and Orin Atkins, president of Ashland Oil, supported the elimination of tax benefits to foreign production in testimony submitted to the committee.

Mr. Mitchell, himself an independent producer, stated:

> Since the majors are spending $5 billion for exploration overseas, there should be disincentive if you want to return that $5 billion [to] the Nation . . . If we have an energy crunch in this Nation . . . I think all the attention must be given to make even the majors come back because we have to get up to $15 billion a year to turn this around.

Mr. Atkins is president of a company which describes itself as an independent refiner. Here is what he recommended concerning the foreign tax credit—

> Domestic exploration can be stimulated and substantial equity restored by eliminating the foreign tax credits allowable in respect of the production of oil and gas in the OPEC countries.

Serious consideration should be given to the termination of these foreign tax benefits for the multinational oil firms. I will seek to offer a floor amendment terminating the overseas use of the intangible drilling expense provision and the foreign tax credit for oil production.

SUBSIDIES FOR DOMESTIC PRODUCTION

With regard to the matter of extending taxpayer subsidies for domestic exploration, the administration—and, indeed, the committee—finds itself in an ambiguous situation. On the one hand, everyone expects the consumers to pay higher prices for his gasoline, as the price of crude oil reaches the "market clearing" level where supply meets demand. On the other hand, many of these same people are unwilling to advocate an end to these subsidies for fear that in the end, the consumer will pay. The assumption underlying these subsidies is that consumer demand alone is insufficient to stimulate enough production at "reasonable" prices.

Clearly, there is a confusion. Either we should follow a pricing policy, or we should follow a subsidy policy, but to waffle between the two, as we are doing now, only victimizes the American consumer and taxpayer and allows the oil companies a profit-cushioned and nearly tax-free ride.

Regardless of which policy we follow, the percentage depletion allowance has proved itself to be an extremely inefficient way of stimulating oil production. Professional economists are virtually unanimous in their opposition to the depletion provision as a sound public policy. In a recent statement, 59 noted economists, including Nobel laureate Paul Samuelson, recommended the termination of the depletion allowance. Prof. Arthur Wright, a noted authority on energy economics maintains that the depletion allowance is a "very clumsy and ambiguous way to provide subsidies." Otto Eckstein, a member of the Council of Economic Advisors under President Johnson described the depletion allowance as "obsolete." And Stephen McDonald, chairman of the Department of Economics at the University of Texas, states that "a direct cash subsidy to, say, exploration would be preferable to the percentage pletion allowance."

In 1968 the Treasury Department released a study entitled, "The Economic Factors Affecting the Level of Total Domestic Petroleum Reserves." A major conclusion of this study stated:

> Percentage depletion is a relatively inefficient method of encouraging exploration and the resultant discovery of new domestic reserves of liquid petroleum.

Perhaps the most convincing criticism of the depletion allowance, however, comes from outside the academic community. In December, Robert O. Anderson, chairman of the board of Atlantic Richfield, the largest oil company in the country, came out for a termination of the depletion allowance by saying:

> We have to reintroduce the dynamics of the marketplace back into the industry.

Although William Simon, in his testimony before the committee, supported retention of the depletion allowance, he provided more extensive and, one suspects, more candid testimony on the value of the depletion allowance before the Senate Interior Committee in March 1973. In a letter to Chairman HENRY JACKSON, Simon wrote:

> In the short run, changes in the percentage depletion rates should have little effect on the rate of expenditure of discovery effort. . . . In the long run, a change in percentage depletion should have no effect, *per se*, on the rate of production or additions to reserves. A reduction in the depletion percentage means, simply, that less of the cost of finding and developing reserves is borne by the Federal taxpayer.

Serious consideration should be given to a straight elimination of percentage depletion for all oil. We should be moving in the direction of getting government out of the marketplace for oil and gas. The long-range dangers of government protection and subsidy are far greater than the illustory, short-term benefits of unnecessary government support of the petroleum industry. As Walter J. Levy, an international oil expert and adviser to both the State Department and the oil industry has stated:

> The difficulty with government sponsorship, protection and subsidy is that they sap the competitive thrust; once government supported undertakings have been embarked on, there is a tendency to impose the consequences upon the country's economy rather than to write-off unattractive ventures, as a commercial enterprise would be forced to do.

The committee has missed a tremendous opportunity. A positive step toward a new tax policy to meet the demands of our energy future could have been taken with this legislation. The burned-out wreckage of past policy failures could have been cleared away. A degree of simplicity and equity could have been returned to our tax laws. All these objectives could have been achieved. Instead, all we have before us is a confusing, ambiguous, and hopelessly muddled piece of legislation. Unless this crazy legislative quiltwork can be improved on the floor of the House, it should be defeated.

LOWELL THOMAS—MAN OF VISION

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 9, 1974

Mr. BROWN of Ohio. Mr. Speaker, in the CONGRESSIONAL RECORD of March 29, I inserted an article by the eminent columnist, George Condon, about a very distinguished Ohio native, the incomparable Lowell Thomas.

The response to that article evidences the fact that longtime newscaster and world adventurer Lowell Thomas is held in fond esteem by a great many Americans, and well he should be.

Recently, Mr. Thomas, writing for Mainliner magazine, addressed himself to the question: "What About the Future?" Who better to address himself to that question than a man, well past the three-quarters of a century mark, who has spent his lifetime observing the strengths and weaknesses of the world, its leaders and its average citizens.

His answer holds such inspiring optimism and positive patriotism that I want to include it here for your interest:

WHAT ABOUT THE FUTURE?

(By Lowell Thomas)

To attempt to predict the future is presumptuous, at best—and at worst, an exercise in sheer fantasy.

As this is being written, for example, the energy crisis is much with us and so is Watergate, the war in the Middle East may or may not be over, and the Russians still have forty crack divisions on the long border they share with China. How these and other situations will be resolved, who knows for sure?

Nevertheless some of the broad outlines of 1974 are clearly visible, for many of the forces that will affect our future have been set in motion.

The new clothes we will wear, the new books we will read, the new cars we will drive, the new movies and plays we will see, the new homes we will live in and, indeed, most of the goods and services we will utilize through the coming year—for the most part, these have all been preordained by production and planning schedules set up months and even years in advance.

We know, too, that some of the most spectacular of coming events will occur in the heavens and beyond, among them the advent of the supersonic airliner, the approach of the once-in-a-lifetime Comet Kohoutek and the continuing exploits of our astronauts.

More to the point perhaps, we know that for every "miracle" in space, there will be thousands of down-to-earth achievements and innovations involving virtually every field of human endeaor. The proof is the immediate past, in many ways a mirror to the future.

On the medical front, where some of the greatest and noblest gains are to be found, the past year has seen remarkable progress in the early detection and treatment of cancer, heart disease and arteriosclerosis, the nation's three prime killers.

In addition, organ transplants, once rare, have now become almost commonplace. We have come to understand, at least in part, some of the so-called "incurable" diseases such as multiple sclerosis, muscular dystrophy and cystic fibrosis. Doctors and engineers, working together, have succeeded in creating a line of artificial body parts up to and including even electronic eyeglasses for the blind.

While this new year may fail to produce another Salk vaccine, Americans in general will be living longer and enjoying it more.

SUCCESS IN THE CITIES

The United States is also experiencing an ongoing revolution in race relations—although "evolution" perhaps is the better word. All about us, in both our personal contacts and the various media, there is visible evidence that blacks and other minorities can make it. Those who do are purchasing homes, making sure their children get a good education, and building a real stake in society.

One result has been the election of black mayors this past year in Los Angeles, Detroit, Atlanta and Raleigh, North Carolina. The advent of black power at the polls and the end of the war in Vietnam have also had a calming effect on the entire body politic. "Law and order" are no longer code words for racial prejudice or political suppression. They now are goals within sight.

The "radical-liberal" is the wave of the past, says *The New York Times*. And the wave of the future, we are told, "The Conservative chic." Conservative or no, the American ethic is based on a bedrock of unparrallel economic prosperity, and the outlook for 1974, while somewhat clouded by the energy crisis, is still the best in the world.

The American success story is further serving as a model to friend and foe alike, right around the globe. It has been spurred on by tremendous advances in communications and the growing ease of world travel.

Out of all this, it appears likely the planet earth will slowly but surely develop a world economy, a world culture, as witness the growing cooperation in monetary reform, the worldwide battle against pollution and a genuine effort towards universal family planning.

THE REALITY OF DÉTENTE

One big bonus to date has been the growing détente between the United States and the Soviet Union, between the United States and Mainland China, which has led to the ending of two wars in the space of the past year.

In the view of Secretary of State Kissinger, the die is irrevocably cast. During his latest visit to Peking, Dr. Kissinger confided that, "The progress we have made in our relationship (with China) will continue in the years ahead, whatever happens in the future and whatever the Administration." The same is true, he assures us, with regard to Russia.

If we can build bridges to Moscow and Peking, it also stands to reason we can rebuild some lesser shattered bridges here in our own hemisphere. At this writing, at least, it is even possible that President Nixon's long-sought "generation of peace" may have already begun.

If the foregoing sounds a bit euphoric, let it be quickly noted that this new year will have its problems of course, some of them carry-overs from 1973; others—completely new—to bemuse or confuse us, and some that will shock us.

Is there any older saying—or cliché—than "necessity is the mother of invention?" We split the atom didn't we? So now may be the time for us once more to go all-out and find a way to solve our energy problems with atomic power. Also this is the time for us to discover some less expensive way to transform both coal and shale into oil of which we are told we have enough to last for centuries. What about steam for propelling our automobiles? Inventor Bill Lear insists he can do it. Surely this year we'll hear much more about the use of steam.

As "Futurologist" Harman Kahn has observed, "The most surprising thing that can happen in a broad, long-range projection is that there will be no surprises." One of the biggest question marks is the world food situation. Our Secretary of Agriculture Earl Butz recently noted that world food supplies have "improved considerably since the beginning of the crop year." He added, however, that based on best estimates, "1973–74 consumption will exceed production. There is unquestionably a need to have some system of guiding and encouraging countries to rebuild stocks and carry them forward in years of scarcity."

The coming World Food Conference, first urged by the United States, may provide just such an opportunity.

Another big question mark is the extent to which the average American workman will react to the continuing inroads of automation and computerization.

Some say we soon will be nothing more than "cogs" in a great monolithic machine run solely for the benefit of "big business" and "big government." However, if we are "cogs" in a vast machine, we are "cogs" vital to the machine's continued operation. If too many of us break up, go soft, or drop out, the system will be in real trouble.

"YOU'VE GOT A FUTURE"

In a booklet just out entitled, "You've Got a Future," the always positive Dr. Norman Vincent Peale says "Everywhere today the gloom and doom artists are at work. Every day they are crying their wares to the effect that young people are no good, the morals are breaking down, that indeed, everything is bad—bad, seeking to make us believe their no-future philosophy.

"We cannot dispute the existence of grave moral and economic problems. They are many and complex, and without attacking them creatively and soon. I suppose our country could go into a sad decline.

"But I am not numbered among those who dismally think we are going to end in a break-up. I believe that as a nation we have a future, a real future. And one reason I believe this is that increasingly from people everywhere we are hearing a fresh, new vital question. It is not that old helpless query, 'Why doesn't somebody do something about things?' That is passé, a bygone question. Instead, lots of people nowadays are resolutely asking, 'What can I do?' "

In the end, it's all of us working together that will most shape the coming year—and all the years to follow. From this you will surmise I am an optimist. That indeed I am. After roaming the world for more than six decades I am more convinced than ever that ours is the grandest country on earth, and so far as I know this is the best of all worlds. Why they are even getting ready to reopen the gold mines high in the Colorado Rockies where I spent my youth! Let's get ready for the best year we have ever had!

JAMES F. NOLAN IS DELTA NU ALPHA TRANSPORTATION FRATERNITY MAN OF THE YEAR

HON. JAMES V. STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 9, 1974

Mr. JAMES V. STANTON. Mr. Speaker, I was extremely pleased to learn that the Delta Nu Alpha Transportation Fraternity will be honoring James F. Nolan as the Man of the Year at a banquet to be held in Cleveland, Ohio, on May 15.

Jim's record of achievement marks him as one who is well-deserving of this honor. Currently he is vice president of Wolverine Express, having been with the company for over 37 years. He began as a dockman, and in 3 short years, he worked his way up to a driver, then a dispatcher, and then to terminal manager. As is shown by the fact that he obtained a degree in law in 1961, and he taught college courses in transportation for 12 years, Jim has never been content to stand still. Rather, he has constantly worked to expand his capabilities, and thereby to serve better his company, and his community.

Jim has been active in the Northern Ohio Trucking Association, of which he is now president; the Cleveland Trucking Association, of which he was president in 1959; the ICC Practitioners, of which he was president in 1961; the Traffic Club of Cleveland; as well as the Delta Nu Alpha Transportation Fraternity, which is honoring him now.

Jim's community service extends beyond the transportation field for he is also active in the Knights of Columbus, and the Ancient Order of Hibernians, which honored him as Man of the Year in 1957. Jim is also a confraternity teacher at St. Patrick's Church in Cleveland.

Mr. Speaker, it is a real pleasure for me to add to the tribute being paid to Jim Nolan by calling the attention of the House of Representatives to his achievements. I extend to Jim my warmest congratulations, and best wishes for continued success.

WALL STREET JOURNAL SAYS TRANSCRIPTS REVEAL "A FLAWED MENTALITY"

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 9, 1974

Ms. ABZUG. Mr. Speaker, it is not news that the Washington Post and New York Times oppose the Nixon administration. But it is news when the Wall Street Journal comes to the parting of the ways with President Nixon. This newspaper, which usually presents the viewpoint of the business community has been giving the President the benefit of the doubt, but in an editorial May 7, 1974, it reveals its revulsion at what the transcripts reveal of Mr. Nixon's "flawed mentality."

The editorial follows:

THE IMAGINARY MEN

In our first comments on the presidential tapes we remarked that it helps to separate two questions: The general propriety of the conversations, and evidence of impeachable offenses. We have tended to emphasize the latter, and will return to it shortly. But today we would like to lay aside impeachment and other legal issues, and simply address what the conversations tell us about Richard Nixon, his administration and American politics.

This is of course what the rest of the press and the nation at large have been discussing all along, and we should perhaps apologize for the quirk of mind that led us to believe the question on the table was whether to impeach the President. In any event, having said so many times over the last year that even without a case for impeachment Watergate will have done enormous harm to the American Republic, we can scarcely disagree with the widespread conclusion that the tapes reveal a flawed mentality.

If the case for criminal complicity does fail, for that matter, it will be only on the narrowest of grounds. The President's attorney will be arguing: Yes the President talked about paying blackmail, yes his words say several times he thought paying the money was the only immediate answer, yes someone might construe that as approval, but no that isn't what he meant, and no his words were not directly connected to the actual payoffs. Even if all this is true, what a defense for a President of the United States to offer.

More broadly, the tapes reveal a whole litany of presidential failings: A casual attitude toward lawbreaking by his subordinates. In particular a casual attitude toward perjury, indeed remarks that some lawyers construe as subornation of perjury. A reach for public deception, in particular a willingness to invoke national security and executive privilege for expedient reasons. A disinclination to probe and question his top subordinates on such questions as moving about large monies or "deep sixing" documents. And above all, a general disposition to concentrate almost entirely on the question, what can we get away with? at the expense of the question, what would be right?

Some things can of course be said in exoneration. The President apparently didn't know much before March 21, and part of this reaction was perhaps confusion. The President is not a district attorney, and at least up to a point is entitled to assume that prosecutors will do their job without his help on each fact. There are points, as in sending a message to John Mitchell not to refuse testimony to protect the President, at which he shows a concern with getting the story to law enforcement authorities.

Yet even on a sympathetic reading, the record must be that faced with a mounting crisis, Mr. Nixon reacted deplorably. He was willing to consider patently wrong courses of action. He was willing to trip along, and even conceivably cover, the line of outright illegality. He coupled any moves to expose crimes with moves to limit and contain the exposures. And finally, he chose and protected all of the aides whose personalities are so brutally revealed in these conversations.

A preoccupation with image rather than reality, it seems to us, is the characteristic that runs through both the conversations and the faults they reveal. In conversation after conversation, it becomes impossible to tell whether the participants are trying to recall events or concoct a story. One gets the feeling they did not distinguish between the two in their own minds, that to them there was no reality, only the image they could paint.

And always there was a concern not with the meaning of events but with their "PR." When in a conversation with Assistant Attorney General Henry Petersen it became apparent that eventually Mr. Haldeman and Mr. Ehrlichman would have to go, the questions on the Presidents mind were: Can one go without the other? Should it be before the Magruder testimony or after? Should it be before Dean goes or after?

We came back to a point we have made many times: The inhospitality of the Nixon White House to men of vision, intellect or stature. It is quite impossible to imagine these conversations going on as they did if they had included, to pick two men no longer in the White House at the time, Arthur Burns or Daniel P. Moynihan. To understand why such men were so few there, observe that Leonard Garment, who did see the extent of the danger the moment he learned of it, was treated as an object of faint ridicule.

This is ultimately the President's doing and the President's failing. He has accomplished much and promised more, but he filled his inner world with imaginary men. Empty men committed the type of blunder you would expect of them, and the President himself proved too empty to limit the damage. For this he has paid with his reputation and may yet pay with his job, and to the office and nation he sought to protect and restore, his legacy is further grief and further cynicism.

PUSHES TAX RATES UPWARD

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 9, 1974

Mr. ROUSSELOT. Mr. Speaker, I am today introducing a resolution that is identical to the one originally proposed by Congressman FROEHLICH, House Resolution 1076, and would amend the Rules of the House to require that each reported bill contain an inflationary impact statement.

Inflation is generated by Federal spending, and we must assume the responsibility for controlling this spiral by grasping complete control of the appropriations and authorizations process. An important step can be accomplished by this resolution which would focus attention on the inflationary implications of the Federal spending authorized or appropriated by each piece of legislation we consider.

An editorial which appeared in the Wall Street Journal on May 6, 1974, points out that the Federal Government actually benefits from inflation by receiving additional tax revenues as a result of the inflationary push. The Federal Government's income inflates with rises in the Consumer Price Index. The editorial uses as an example the progressive personal income tax—

> The faster the rate of inflation the faster taxpayers are pushed into higher tax brackets. The higher rate applies not only to gains in real income but to gains that merely represent inflation, and thus the real rate of taxation constantly rises as inflation proceeds.

The editorial emphasizes how important it is that Congress be aware of the inflationary impact of the bills we debate, which doubly robs our citizens by decreasing their spending power and increasing their tax burden. Curbing inflation is the most important "tax break" we can give the taxpayers we represent.

The full text of the editorial and the resolution I am introducing follows:

DE-INDEXING THE GOVERNMENT

As the nation anguished over double-digit inflation rates, there is naturally a hue and cry for the government to do something about it. As much as the politicians would like to respond, there is a serious barrier, the government itself. That is, the government has built-in incentives to inflate, almost invisible incentives that silently overwhelm whatever good intentions the politicians might have.

In a way, government revenues are tied to the Consumer Price Index. The Treasury is on an escalator, not only compensated for any losses incurred through inflation, but rewarded by it. Milton Friedman has drawn quite a bit of fire for his proposal for Brazilian-type indexing, which would give everyone in the nation salary increases as the Consumer Price Index rose. But it has nearly escaped attention that, to an extent unique in American society, the federal government's income is already indexed.

With progressive taxes, for example, the faster the rate of inflation the faster taxpayers are pushed into higher tax brackets. The higher rate applies not only to gains in real income but to gains that merely represent inflation, and thus the real rate of taxation constantly rises as inflation proceeds. Similarly, the capital gains tax cuts into real capital by taxing inflation-caused gains. The government's debt manages to draw a subsidy from those who hold it. And with this inflation-caused revenue pouring into federal coffers, the politicians have more dollars to pass out in government goodies or tax "cuts."

Nobody pays much attention to this rather diabolical taxing system when the annual rate of inflation is 2% or 3%. But at current inflation rates, it becomes painfully obvious that the government has all the cards stacked in its favor.

At a 10% annual inflation rate, for example, the wage earner whose gross income is $15,000 today will rapidly be pushed into higher and higher tax brackets even though his real gross income remains unchanged. At that rate, in 20 years his annual salary, if his increases merely offset inflation, would be $103,210, which puts him in the 70% tax bracket.

Similarly, a couple that buys a house today for $15,000 would, at a 10% annual inflation rate, need to sell it for $103,210 to recoup the original real investment after 20 years. At this point they would owe the government tax on a "capital gain" of $88,210. The same occurs with a share of stock.

Historically, the government has also done wonderfully by borrowing from the public. The money you get back from savings bonds purchased in 1945 will buy a third as much now as then. At the current inflation rate, holders of Treasury securities are losing interest and capital. Only the government gains.

All of this makes life wonderful for politicians, in ways that even they may not entirely recognize. Every few years, for example, they get to "increase" Social Security benefits, reaping political mileage from their munificence. Also, they can "cut" taxes, and extract political mileage from that. Some congressional liberals are right now proposing to increase the personal exemption to $850 from $750. Whatever one thinks of the timing of this in terms of economic management, it is a very small bone indeed from the public sector to those it has been systematically robbing.

Senator James Buckley has introduced legislation that would take the government off this escalator, ending the charade once and for all. His proposal, leaning in part on Mr. Friedman's indexing but also supported by Senators Proxmire and McGovern, would tie to the CPI federal tax brackets, personal exemptions, asset depreciation and capital gains, and new issues of Treasury securities.

By automatically adjusting all these items to compensate for inflation, the government would forego its inflation dividend. Its income would rise only as the nation's real income rises. No longer would all the goodies that pour from the Capitol's cornucopia be financed by a perpetual tax increase most Americans are not even aware of. If Congress wanted to spend more, it would have to come out in the open and ask that taxes be boosted.

If the government were kicked off its escalator, "de-indexed," the rest of the economy would not have to be indexed as Mr. Friedman suggested. Once the government is no longer rewarded by inflation, but is stung like everyone else, we can be confident that the politicians will have every incentive to wring inflation out of the economy.

H. RES. —

Resolved, That clause 27(d)(1) of rule XI of the Rules of the House of Representatives is amended by adding at the end thereof the following: "Each report of a committee on each bill or joint resolution of a public character reported by such committee shall contain a detailed analytical statement as to whether the enactment of such a bill or joint resolution into law may have an inflationary impact on prices and costs in the operation of the national economy.".

FREEDOM AND FREE ENTERPRISE: MUST HISTORY REPEAT ITSELF?

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 9, 1974

Mr. CRANE. Mr. Speaker, despite the experience which the world has had with government control of and intervention in the economic life of a nation, few seem to learn from past failures.

One man who has devoted much of his life and energy to seeing to it that history's economic lessons are properly understood is Antony Fisher, a British farmer, businessman, and founder of the Institute of Economic Affairs in London.

Mr. Fisher has just written an outstanding book, "Must History Repeat Itself?" which is a study of the lessons taught by the repeated failure of government economic policy through the ages.

Believing that both history and theory have a vital role in freeing us from the syndrome of economic frailty and failure, Mr. Fisher notes that—

> History provides evidence that where governments have pursued the policy of maximizing individual choice within a framework of law and moral conduct, their problems have given way to prosperity . . . Among the consequences will be low taxation and a maximum increase in the wealth of the poorer members of the community.

Graham Hutton, in his foreword, commends this book for "honesty of purpose, and integrity of reasoning. Mr. Fisher's argument from experience and history, his call for choice, self-help and self-improvement are required reading."

For those who have forgotten past failures of government in the field of controlling wages and prices, Mr. Fisher's book is essential. He discusses examples found in 5,000 years of history, ranging from Diocletian to Erhard, and he shows the relevance for today of Wat Tyler, the Pilgrim Fathers, the French Revolution, and the corn laws.

Consider the example of the Roman Empire. He writes that—

> The classic example of the attempt by government to improve the life of the people by restricting their choice is that of the Emperor Diocletian about the year AD 300. He was faced with the familiar problem of rising prices in the wake of an increase in the

quantity of money and a debasement in its value.

He quotes the historian Duray:

> Under the impression that to give a piece of metal whatever value they liked, it sufficed to engrave the Emperor's name upon it, the Roman Government had ended by putting in circulation pieces of "silver" and "gold" which contained neither silver nor gold . . . Very high prices resulted therefore from the depreciation of the currency.

In his effort to bring prices down to what he considered a normal level, Diocletian did not content himself with such half measures as we in the United States have been attempting. Instead, he fixed the maximum prices at which beef, grain, eggs, clothing, and other articles should be sold, and prescribed the penalty of death for anyone who disposed of his wares at a higher figure.

The fact that government control over wages and prices failed in Rome is now clear to all. A contemporary historian, Lactantius, writing within a decade or so of the event, presented the considered verdict on Diocletian:

> After many oppressions which he put in practice had brought a general dearth upon the empire, he set himself to regulate the prices of all vendible things. There was also much blood shed upon very slight and trifling accounts; and the people brought provisions no more to markets, since they could not get a reasonable price for them; and this increased the dearth so much, that at last after many had died by it, the law was laid aside.

It was, notes Mr. Fisher, "left to the Emperor Constantine to restore confidence and stability by reintroducing a reliable currency based on gold which the people knew could not be debased for the convenience of politicians—as could paper or other substitute currencies."

Antony Fisher urges an economy free of government intervention, and his Institute of Economic Affairs has been a major source of information and inspiration for all of those who believe that freedom and free enterprise go hand in hand, and that a system of government coercion which minimizes individual choice will, in the end, eliminate all vestiges of liberty.

His book has been widely and favorably reviewed and is available in the United States from Transatlantic Arts (North Village Green, Levittown, N.Y. 11756). Columnist John Chamberlain writes that—

> The greatest living proof to both the Labor and Conservative parties in England is not Jeremy Thorpe, head of the reviving Liberals. The honor of leading the true revolt against the inflationary welfare status quo in Britain belongs to a private citizen, named Antony Fisher, who built a fortune by selling chickens at uncontrolled (and therefore steadily falling prices) and put some of his money into an educational "trust" . . . the Institute of Economic Affairs.

Concerning the message found in his book, Mr. Chamberlain notes that—

> Tony Fisher would be worth a dozen Harold Wilsons and six Edward Heaths to Britain if they would only listen to his program outlined in "Must History Repeat Itself?".

I wish to share with my colleagues the column by John Chamberlain about the new book by Antony Fisher. This column, which appeared in the Los Angeles Herald Examiner of March 22, 1974, follows:

HOBBLED ECONOMY

(By John Chamberlain)

Are people getting tired of their governments everywhere? The U.S. public opinion polls tell us that Congress is held in lower esteem than the President. The contempt of politicians, according to "The London Economist," is fully as pervasive in Europe.

In Denmark, a new party, conjured out of the air by Mogens Glistrup, got 16 per cent of the vote in a recent election by promising to abolish the income tax and fire the civil servants. In Belgium, the Walloon separatist movement provides an uneasy backdrop for the supposed integrating pan-European forces of NATO and the Common Market. In Finland, the two-party system finds itself threatened by a dissident group that now has 18 seats in parliament. Sweden and Norway have showed dissatisfaction with the celebrated Socialist "middle way."

Finally, the British have voted in a way that defies the analysts: Harold Wilson's Labor party now rules with a minority in the House of Commons, and nobody knows how the strengthened Liberals will ultimately choose to wield their third-party balance of power.

It could be that voters are at last realizing that governments have been trying to do all too many things that should be left to voluntary action.

The greatest living reproof to both the Labor and Conservative parties in England is not Jeremy Thorpe, head of the reviving Liberals. The honor of leading the true revolt against the inflationary welfare status quo in Britain belongs to a private citizen named Antony Fisher, who built a fortune by selling chickens at uncontrolled (and therefore steadily falling) prices and put some of his money into an educational "trust" called the Institute of Economic Affairs.

Tony Fisher is suddenly someone to conjure with in Britain as he goes about hawking his "non-political" politics which calls upon the government to sell off the nationalized industries and to allow people to "contract out" of the now compulsory cradle-to-grave insurance programs. Tony Fisher supports the voucher idea that has been suggested in the U.S. by professor Milton Friedman; he would let people use government-issued vouchers for everything from medicine to schooling, choosing between public and private institution as they see fit.

Fisher is much more than a "mere theoretician." He tells a little about his business experiences in a book called "Must History Repeat Itself?" but the book is mainly devoted to a review of general history and an outline of a program for reforming Britain.

To flout fashion he had to find a business that was too tiny to tempt the interventionists. Starting in 1954 with a few hundred day-old chicks. Fisher parlayed his poultry business into a 20 million pound company. He sold at free prices, and he created a "new" cheap food that widened the choice for millions of previously ill-fed Britons.

So convincing was his experience with chickens that he prevailed upon the British egg marketing board, which was already being done in by an illegal "farm-gate" sale of eggs, to disband itself.

Now Tony Fisher is trying to get Britain to free all industry, even as it freed the egg producers.

Tony Fisher would be worth a dozen Harold Wilsons and six Edward Heaths to Britain if they would only listen to his program as outlined in "Must History Repeat Itself?"

JUDGE DISMISSES FELONY CHARGE FOR "LACK OF A LAWYER"

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 9, 1974

Mr. RARICK. Mr. Speaker, the ultimate in public injustice has now occurred in our Nation's Capital. A Federal judge has ruled that felony indictments against two defendants must be dismissed because no suitable lawyers could be found to represent them.

This latest constitutional interpretation of the right "to have the assistance of counsel as his defense" has now gone even beyond the point where the public must pay for the accused's attorney. Under the latest ruling, if the judge feels the "free" attorneys are overworked or "incompetent," then the criminals are to be freed—leaving the law-abiding public to suffer from the menace among us. Strange justice.

I insert a related newsclipping reporting on this latest judicial breakdown:

[From the Washington Star-News, May 5, 1974]

LAWYER LACK FREES TWO

(By Winston Groom)

A D.C. Superior Court judge has dismissed indictments against two men being held in D.C. jail on felony charges because, the judge said, no suitable lawyers could be found to represent them.

Judge Charles W. Halleck ruled Friday that because of a two-month-old strike by lawyers objecting to defending indigents for free, no competent defense attorneys were available to take the case. Yesterday, Halleck issued a written opinion specifying why the pair must be set free.

The defendants were James P. Chatman and Clifton Crawford, both charged with burglary. Both men have prior convictions and at the time of their indictment in the burglary case, Crawford was on parole for a robbery conviction.

Halleck is the first judge to dismiss an indictment because of the lawyer strike, although Superior Court Chief Judge Harold H. Greene has warned repeatedly that such action might become necessary unless Congress appropriates funds to pay attorneys who normally represent poor defendants.

Criminal Justice Act funds, which had been used to pay for indigents' attorneys, were depleted in February, and the Superior Court Trial Lawyer's Association voted unanimously not to take on any more cases until money was assured.

In July, the District government will begin paying the indigents' lawyers and the Senate Appropriations Committee has prepared a bill to authorize payment in the meanwhile but the House still has taken no action.

As a stop-gap measure, the court began drafting attorneys at random from the private bar, but many of them have not shown up as ordered.

In the case before Halleck Friday, attorneys had been appointed for both defendants on their arrest. However, when the case came before Halleck for arraignment, Halleck observed that both lawyers had caseloads far in excess of the maximum recommended by the American Bar Association and, in addition, found that one of the attorneys was incompetent to handle the case. Consequently, he granted one defense lawyer's request to be relieved and removed the other from the case.

Halleck then called in an official of the D.C. Public Defender Service and asked if his office could provide attorneys for the defendants.

The PDS representative, Mark Foster, told Halleck that lawyers in his office had absorbed all the cases they were able to handle under current bar association standards and were unable to take on any more.

Halleck then summoned a representative from the court section that presides over the draft of private practice attorneys and asked if any lawyers summoned by that office could be provided to handle the case.

Halleck was told that all attorneys from private practice who had shown up in court already had been assigned as many cases as they could handle and were unable to take any additional clients.

Asst. U.S. Atty. Stewart Gerson argued that Halleck should simply postpone the cases and arrange for bond so the defendants could be released from jail.

DICKEY-LINCOLN SCHOOL HYDROELECTRIC POWER PROJECT

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 9, 1974

Mr. CONTE. Mr. Speaker, the Public Works Appropriations Subcommittee now has before it proposals for further Federal funding for planning and development of the Dickey-Lincoln School Hydroelectric Power Project on the Upper St. John River.

There is widespread misunderstanding of the actual power potential, cost, and environmental impact of this project. To set the record straight, I would like to share with my colleagues the following background paper on the project prepared by the Friends of the St. John, a coalition of 15 State, regional, and national organizations concerned with the future of the Upper St. John River Basin:

Friends of the St. John Background Paper

What is the Dickey-Lincoln Project? The Dickey-Lincoln Project is a proposal to build two dams on the upper St. John River in northernmost Maine for the purpose of generating hydroelectric power.

The larger dam would be built at Dickey and would have a capacity to generate 760 megawatts (MW) of electricity. Of this, 725 MW would be used to generate peaking power for southern New England (656 MW in Boston after transmission losses). This dam could operate only 2½ hours per day because of limited water flow in the St. John River. The second dam would be downstream at Lincoln School and would even out the flow from the dam at Dickey. Its additional electric generating capacity of 70 MW would allow the generation of 105 MW of power for 12 hours a day for Maine customers.

In addition to constructing the two dams, five smaller dikes would have to be built at various sites around the edge of the reservoir to keep it from spilling over into adjacent watersheds, and a minimum of about 150 miles of new transmission line rights-of-way would have to be cut through the Maine woods.

How big would the dams be? The dam at Dickey would have to be very big. It would rise more than 300 feet over the existing streambed, would have a crest length of nearly two miles (9200 feet), and contain 65 million cubic yards of rock and earthwork. In total volume it would be the eleventh largest dam in the world and the sixth largest in the U.S., larger than Egypt's Aswan Dam. It would take seven years to build.

By comparison, the dam at Lincoln School would be small—87 feet high, 1290 feet long, and 2.2 million cubic yards.

How big would the lakes be? At high water, the dam at Dickey would flood 88,600 acres and the dam at Lincoln School an additional 2,200 acres (a total of about 140 square miles). At low water, the area of the lake behind the Dickey dam would shrink by about 30,000 acres. The water elevation behind the Dickey dam could vary up and down by as much as 40 feet, depending on the time of the year. It would take more than two years of annual average runoff to fill the larger reservoir.

Would the Dickey-Lincoln Dams make an impact on New England's electricity supply? Very little, the claims of the proponents notwithstanding. Despite the size of the project, its electric output would meet less than one percent of the electricity demands of New England by 1983, when the project would be completed. This is because there is not enough water flow in the St. John to keep the turbines running more than a small fraction of the time. The major part of the generating capacity would sit idle most of each day until the few hours of peak electric demand.

As a source of peaking power, Dickey-Lincoln would be somewhat more significant, supplying about ten percent of what traditional analysis would say peak loads will be in 1983.

The significance of Dickey-Lincoln as a power source will diminish with time as the size of New England's energy demand increases.

Would the Dickey-Lincoln Dams take the place of nuclear power plants? No. You would need four or five projects the size of Dickey-Lincoln to generate the same number of kilowatt-hours of electricity as one reactor the size of Maine Yankee or Boston Edison's Pilgrim I. Besides size comparisons, Dickey-Lincoln would be used to generate "peaking" power during the several hours a day when demand is highest for electricity. Nuclear plants operate steadily to produce "base load" power.

Then what would Dickey-Lincoln replace? If Dickey-Lincoln were available, we could reduce the size of *one* fossil fuel unit somewhere in Maine by 105 megawatts (for example from 605 MW to 500 MW). It is unlikely, however, that Dickey-Lincoln would also allow us to reduce the installed capacity of fossil fuel-fired peaking plants, because during the summer the peak in demand begins around 11 a.m. and extends to about 5 p.m., requiring the peaking units to operate for about six hours. While Dickey-Lincoln could supply two and one-half hours of that peaking load, there would still have to be enough fossil fuel generating equipment to meet peak demands for the remaining three and one-half hours.

Will Dickey-Lincoln have a major impact on the environment? Yes. The effect of the project on the lands and streams that would be buried under the lakes would be total devastation. The free-flowing St. John River, its tributaries, and the fertile bottomland bordering the river would be replaced by a large lake. Because of fluctuating water levels, the edge of this lake would have minimal value to wildlife and recreation.

During construction, there would be major disruptions of substantial areas near the reservoir site, including major quarrying operations in the Deboulie Mountain region, a particularly outstanding scenic resource.

Construction of the necessary transmission lines would produce major environmental and aesthetic impacts.

On the beneficial side, approximately 5000 barrels of oil equivalent could be saved daily, if Dickey-Lincoln produces power that would otherwise be generated by burning nonrenewable fossil fuels. By comparison, New England consumes more than a million barrels a day of petroleum products. It should be borne in mind, however, that the free-flowing St. John River and the timber and wildlife that would be lost to the dams are also nonrenewable natural resources.

What is the significance of the environmental impacts? If the St. John River and the surrounding wild lands were just like any other river and forestland in northern New England, the significance to the region of the losses caused by the Dickey-Lincoln Project would not necessarily be great. However, the upper St. John basin is not just more of the same. The area has unique recreational potential to the hunter, the fishermen, and the white-water canoer.

Of the 89,000 acres that would be inundated, 17,600 are deer yards, areas of bottomland which naturally provide the right kind of habitat to help the deer population get through the severe winters. Studies have shown that these areas support about 2200 deer and that such a population is capable of supplying as much as 30,000 hunter-days each year. If these deer yards are flooded out, the deer cannot simply move to other areas, because the other areas are either not suited or they are already occupied. It would be possible to mitigate some, but not all, of this loss by acquiring 36,000 acres of neighboring forestland and managing it for deer production at considerable expense.

The upper St. John and its tributaries today provide some of the best brook trout fishing in the nation. The reservoir behind the Dickey dam would flood 57 miles of the St. John and many more miles of its tributaries, thereby eliminating the river habitat that this species needs to survive in the upper basin. The lake fishery that would result from the dams would, according to the Fish and Wildlife Service, only partially compensate for the loss.

The Appalachian Mountain Club *New England Canoeing Guide* says of the St. John River: "an area which has no equal in the eastern United States in the number and diversity of wilderness canoe trips which can be made." One of the features that makes it unique is the extraordinary length of the run on the St. John mainstream. This would be broken by the proposed dams.

The demand for the sort of recreational experience that the upper St. John River is uniquely suited to provide is rapidly increasing in the heavily urbanized northeastern United States.

Will Dickey-Lincoln have a major impact on the Maine economy? It has been estimated that 11,200 man-years of labor would be needed to build the Dickey-Lincoln Project of which 3,950 man-years could be provided from the local labor pool. The rest would have to be imported. Most of the jobs for local laborers would be in unskilled and semi-skilled classification, jobs paying $3600 and $4000 per year, respectively (in 1967 figtures). There is some concern that this labor will be provided at the expense of the local lumbering and potato farming industries. Because the dams would provide very few permanent jobs, there is also a worry about the economic and social impacts of the "boom and bust" economy that would accompany the construction and completion of the dams.

The land that would be flooded by the dams is presently harvested for its timber. Estimates are that 25,000 to 40,000 cords of wood, a renewable resource, would be lost to the local economy each year. The mill value of this wood has been estimated at $660,000 annually (1970 figure) and the total value added in the local economy could run as high as $8 million annually. Thus, jobs would be lost as well as gained, if the dams are built. The income from timbering and from guide services associated with recreational use of the area, if preserved in its natural state, will flow each year to support the local economy. The power revenues from the dams will flow to the federal government to repay the low-interest, tax-free bonds that will be held largely by higher-income out-of-state investors.

How much will Dickey-Lincoln cost? Lots! The Corps of Engineers' latest official estimate (January 1974) is that the dams would cost $356 million plus $52 million in interest during construction (IDC) and that the transmission lines needed to bring the power to market would cost an additional $123 million plus $11 million in IDC (possibly less if a deal can be made to hook into an already-full transmission line that runs to New Brunswick and that is 150 miles away from Dickey-Lincoln). The Corps' estimate is almost certainly low because their estimate doesn't figure in the effects of inflation on construction costs during the seven years it would take to build the dams nor a profit for the contractor. Some people have estimated that the price tag will end up at $800 million or even $1 billion!

Won't Dickey-Lincoln power still be cheaper than that generated from expensive oil? Despite claims of cheap power, savings to consumers would be minimal, if there are savings at all. This point is very much in dispute. The answer depends very much on what assumptions you make in comparing Dickey-Lincoln with alternative power sources.

The Army Corps of Engineers' comparison indicates that Dickey-Lincoln electricity would cost 2.5¢ per kilowatt-hour (KWH), while the fossil fuel alternative would produce electricity at a cost of 3.4¢ per KWH. *If this savings can actually be realized,* New England consumers would pay $11.7 million less for their electricity, but since they now pay $1.6 billion each year for electricity anyhow, the savings could amount to *no more than a fraction of one percent.*

Today's high price of imported oil (about $12.50 per barrel) is figured by the Corps into the fossil fuel alternative's price estimate. However, probable increases above the Corps' estimate of a $458 million project cost are *not* considered in the Dickey-Lincoln electricity price estimate. If there should be cost overruns for the dams, the price advantage of Dickey-Lincoln power would vanish.

In addition, the 2.5¢ per KWH estimate for Dickey-Lincoln power assumes substantial subsidies from federal, state, and local taxpayers. Because Dickey-Lincoln would be a federal project, it would be exempt from taxes. It would be financed by low-interest tax-free federal bonds (with an assumed 5⅞% interest rate) which produce a tax break for individuals in high-income tax brackets but which reduce regular tax revenues.

Dickey-Lincoln power would actually be very expensive. The only reason why the price of electricity from Dickey-Lincoln has a chance of being lower than the price of electricity from alternative sources is because some of its cost would show up on your tax bill.

But, isn't the benefit-cost ratio for the project favorable? According to the Corps of Engineers' analysis, the so-called "benefit-cost ratio" for the Dickey-Lincoln dams is now 2.6. It is not correct to say, however, that for every dollar invested in the project, the government would "get back" more than double its money. By the rules of "benefit-cost" analysis, the price charged to the consumer by the government for electricity from the project is completely unrelated to either the "cost" or the "benefit" of the dams. Using the Corps' figures, buyers of power from Dickey-Lincoln would pay $30.8 million each year for power from a project whose annual "cost" is only $17.7 million and whose "benefit" is $46.5 million. This demonstrates how artificial the Corps of Engineers' analysis is.

Because of the strength of the dam-builder's lobby in Congress, the Army Corps of Engineers is permitted to use a borrowing rate of 3¼% to calculate the annual "cost" for the benefit-cost ratio. On the other hand, they use a borrowing rate of 8¾% to judge the cost of the alternative which they don't want to see come to pass. They also build taxes into the cost of the power from the fossil fuel alternative, while the federally financed dams would produce power "tax-free" (meaning taxpayer-subsidized). If the Corps had to use the 8¾% borrowing rate in figuring the annual "cost" of the dams, this number would jump from $17.7 million to $46.8 million or more than the alternative. If, in addition, you figure in what a private utility would have to pay in taxes on a capital investment the size of Dickey-Lincoln, you would have to add $20–$30 million more in taxes. Thus, a private utility would find that Dickey-Lincoln power would be 60–80% more expensive than equivalent power generated from fossil fuel.

The Corps' analysis is also misleading in that it counts recreational, area redevelopment, and flood control "benefits" without considering the loss of recreational use of the wild river or economic losses that would accompany dam construction.

Wouldn't Dickey-Lincoln, which would be a public power project, be useful as a "yardstick" against which the performance of the private utilities in New England could be judged? Dickey-Lincoln would be more useful as a yardstick against which to measure federal boondoggles.

If we want to establish public power to serve as a "yardstick", it would be more sensible to build something more common to New England than an enormous, publicly subsidized hydroelectric project and to use more competitive assumptions.

Are there any alternatives to Dickey-Lincoln? Yes. Almost anything will provide more electricity than Dickey-Lincoln; so alternatives are not lacking.

We specifically recommend broadening the daily peaks in demand through modifications to utility rate structures to encourage use of electricity modifications to utility rate structures to encourage use of electricity for such things as hot water heating in off-peak hours. This can and should be accomplished by 1983.

We also recommend substantial investments in insulation of homes and installation of storm windows. The reduction in base load demand that these steps would achieve would save many more kilowatt-hours of electricity than Dickey-Lincoln would produce and would allow us to retire some of the more expensive, less efficient fossil fuel plants now in operation as base load or cycling units to serve as peaking units.

More efficient fossil fuel combustion (in combined cycle units and in fuel cells), the use of solar energy for space heating and cooling, and wind turbines all offer more promise for the intermediate term than Dickey-Lincoln hydropower.

And for those who were interested primarily in the public power aspects of Dickey-Lincoln, the prospect of a public role in the exploration for oil on the continental shelf or public development of alternative energy sources should offer a more attractive alternative than Dickey-Lincoln.

THE SOVIET SEA CHALLENGE

HON. DANIEL J. FLOOD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 9, 1974

Mr. FLOOD. Mr. Speaker, as a member of the Subcommittee on Appropriations and student of Caribbean and Isthmain Canal policy questions, I long ago recognized the importance of seapower as part of our national defense. Thus, it was with more than casual interest that I read, in a recent issue of the World Wars Officer Review, the bimonthly publication of the Military Order of the World War, a most informative paper presented by Vice Adm. George C. Dyer, U.S. Navy, retired, before the District of Columbia chapter of that organization.

In this paper Admiral Dyer evaluates the evolving relative strengths of the U.S.A. and U.S.S.R. navies and summarizes his views of events to come, before 1980. The decision to open the Suez Canal, made after his article was prepared, may advance some of his projections.

Admiral Dyer's paper follows as part of my remarks:

[From the World Wars Officer Review, March–April 1974]

THE SOVIET SEA CHALLENGE

(By Vice Adm. George C. Dyer)

My talk about the Soviet Sea challenge will be divided into three parts, just as we learned in our long ago Latin lessons, all Gaul was so divided.

First, I will briefly bring you up to date by reminding you of previous sea power challenges against the then current No. 1 sea power, which have occurred during the twentieth century.

Second, I will name briefly the elements of sea power as they exist in the decade of the 1970's and point out some of the trends that are taking place in the Soviet Navy, and in the United States Navy.

Third, I will give you one man's opinion of where the United States Navy, the most important element of sea power of the United States, stands today in relation to the Soviet Navy, and where it might stand in 1980.

And all this in twenty five minutes.

PREVIOUS SEA POWER CHALLENGES

In the early years of the twentieth century, it was axiomatic that "Britannia rules the waves". Great Britain had over fifty colonies and Dominions scattered around the World and tremendously long lines of communication extending to Egypt, India and Australia in the East and to Newfoundland, the Falkland Islands and Canada to the West. Britain needed a large and active navy to protect these lines of communication and a strong merchant marine to sustain the commercial trade of the Dominions and colonies with the Mother Country. Britain had both and was definitely "Number One".

Kaiser Wilhelm and his predecessors and their advisors found time to study the books of our Admiral Mahan about the influence of sea power on history and took to heart the lessons set forth in Mahan's mighty volumes. If Germany was ever to be Number One in the World, Germany had to have sea power and a large navy. Germany set forth to challenge Great Britain in sea power.

At the great sea battle at Jutland in 1916, the British Navy turned back this challenge, and at the end of World War I, the German Fleet was surrendered to the British Fleet.

Based on a strong suspicion that the German challenge just might succeed, a success which would be an undesirable turn of events for the United States, Presidents Theodore Roosevelt and Woodrow Wilson built up our Navy to close comparability with that of the #1 Sea Power, Great Britain.

The Washington inspired Limitation of Naval Armaments Treaty of 1922 sought to freeze naval strength as it then existed and put an end to naval challenges. Great Britain and the United States were allowed an equal big ship strength of 5, Japan a relative strength of 3, and France and Italy each a relative strength of 1.67.

I call your attention to the fact that the Navy of the Soviet Union in 1922 was a distinct "also ran" in naval strength, although back in 1900, the Russian Navy had been the third navy in size in the World, not too far behind France, which followed a respectful distance behind Great Britain.

During the twenty year period between World War I and World War II, the Soviet Navy built up its submarine strength so that this part of the Soviet Navy was the largest in the World amounting to, in 1940, some 240 submarines. But the Soviet Fleet was very unbalanced, being without an air or an amphibious arm, and the essential skill of going to sea and staying at sea.

More importantly to the United States Navy, during the twenty-year period between World War I and World War II, the Japanese Government, disregarding the Japanese Treaty obligations, built up the Japanese Navy beyond the limitations set on naval strength set by the 1922 Limitation of Naval Armament Treaty as well as by the later 1930 Naval Limitations Treaty. Japan denounced the treaties in 1934 and commenced its unbridled sea power challenge. Germany, getting a somewhat later start, also commenced to build up her navy at a rapid rate.

Great Britain easily turned back the second German naval challenge and the United States slowly but surely, and a bit painfully and commencing in mid 1942 turned back the Japanese naval challenge.

In the period following World War II and immediately following the formation of the United Nations organization, the Soviet Union torpedoed the formation of the planned for the Charter prescribed "United Nations Armed Forces". She insisted that each and every nation of the five permanent members of the Security Council must make equal contributions of Land, Sea, and Air Forces to the "United Nations Armed Forces". Since, at that time, 1947, China had no Navy to mention, and specifically no carriers, battleships or large cruisers and no amphibious forces, this proposal meant that the "United Nations Armed Forces" would have no real sea going naval power with a wallop, available, and that land and air forces only would be available in any United Nations crisis. It was quite natural that the United States, Great Britain and France would not accept such an unbalanced "United Nations Armed Force". So the "United Nations Armed Force" died aborning.

But the Soviet Leaders of 1951 were brighter than they had been in 1920 and 1930 and 1940 and much brighter than they had been in 1947. In 1951, after observing what sea power had done to them in Korea, they decided to build up their sea power and that included their Navy.

As the years passed after World War II and Korea, the lessons of Mahan in regard to the influence of sea power on history were heeded less and less in the United States and shoved under the table in Great Britain. The British excused themselves from doing what they knew was the right thing to do on the basis of poverty. The United States was content to slumber as a self confident No. 1. On the other hand, the Soviets having taken the decision that the Soviet Union couldn't be No. 1 in the World without having the No. 1 sea power forces in the World. They put their rubles behind their ambitions. They have gotten results.

Of the Presidents of the United States from Harry Truman to Richard Nixon, the present incumbent is the only one to clearly perceive that the United States can do little overseas for herself or for her allies in the cause of Freedom, without the broad means to get overseas and the power to stay. These objectives take sea power. President Harry Truman had the lesson forced upon him, when on the 24th of June 1950, the communist North Koreans poured over the border into South Korea. As President, however, Harry Truman had not only tolerated but supported Louis Johnson as Secretary of Defense and Francis Mathews as Secretary of the Navy. These two, in 1949 and 1950, viewed sea power as an anachronism.

So the lesson of history in sea power of the first seventy years of the twentieth century has been that since the German challenge was turned back twice and the Japanese challenge was turned back once, that when the chips are down on the field of battle, challenges by even just slightly inferior forces don't succeed. On the other hand, confrontations as we confronted Great Britain during the first two years of World World I and as the Soviets confronted us during the Cuban Missile Crisis, are the energy foods which spur on the No. 2 to become the No. 1 sea power.

Now, let us look at my second point.

ELEMENTS OF SEA POWER

What are the elements of sea power in January 1974, and what are the trends taking place in these elements in the United States and in the Soviet Union today? Is the Soviet Sea Challenge for real?

Sea power is first and foremost the ability to conduct war at sea. But it is also the ability to exploit the economic, political and psychological advantages of a strong maritime presence. This latter requires a wide ranging fishing fleet, an active and strong merchant marine and a highly financed oceanographic research and exploration program.

First, a word about the Soviet Merchant Marine and a sad word about ours.

In 1960, I finished a book for the Naval Institute titled "Naval Logistics" and took my wonderful wife on a freighter trip around the World, as I had promised her to do. Except in ports like Okinawa, Olongapo and Manila, I was amazed, truly amazed to find that merchant ships of the Soviet Union outnumbered United States merchant ships by two to three and even four to one. I had spent two years, 1947–1948, in the Mediterranean—as a cruiser division commander—and the very opposite had been true in the Mediterranean then. But in 1960 in ports like Madang, Sourabaja, Port Swetenheim, even Penang and Singapore, these large fine looking Soviet Merchant Ships were always to be seen and in profusion.

And today, the imbalance has become more marked. By and large, our active merchant marine has shrunk from 2916 ships to 655 ships during the period from 1960 to 1973. In the same period, the Soviet active merchant marine has grown from 873 to 1480 ships. The active Soviet Merchant Marine is now two and one quarter times the size of our active merchant marine. The Soviet merchant marine is the fifth largest in oceangoing ships in the World, and what is more important it is remarkably new. Japan Great Britain, Norway and Liberia are the current leaders in active merchant shipping on the highways of the oceans.

Another element of the Soviet Union's strong maritime presence is the Soviet's open ocean fishing fleet. It is the largest in the world and still growing.

And finally, the Soviet Oceanographic Research and Exploration Programs. They are beyond the range of any simple formula to rate, but they are judged by those who claim to know as "Highly Aggressive" and no less than "Second to None" to borrow an old US Navy Slogan.

Summarized, the Soviet Merchant Marine is large and active and growing rapidly: Ours is shrinking steadily: Their fishing fleet is first and growing: Their Oceanographic Research is "Second to None".

And now, my third point. And it is just one man's opinion as to where the United States stands today in relation to the Soviet sea challenge.

Is the Soviet Challenge for real? I answer "Yes".

With the challenged and the challenger being in the general area of equal strength, it would seem to me that the battle result in the years ahead might well be determined by the "Professionalism of the Officers Corps" of the two navies. I do not see how the United States Navy can expect to excel in this area in the year ahead when Secretaries of the Navy and at least one Chief of Naval Operations, the present one, downgrade seagoing command achievements and capabilities in seagoing skills and upgrade Fiscal Management, so called "people to people" relationships, "Management Skills" rather than "Command Skills". They do this in their letters of instruction to the Flag Officer selection boards, Flag Officer plucking boards, and in administrative practices and policies.

It was a lesson of World War II that not every naval officer wearing a flag officers uniform has the personal courage, the professional capability to fight well and to keep on fighting well over long periods of time to permit building up successful fighting teams. There were a lot of "Trial and Error" details of flag officers to combat assignment during World War II.

In World War III, it will be a lot more difficult for the United States Navy to resist the Soviet sea challenge, if the Navy starts out without a very large backlog of professionally qualified Flag Officers who have won their spurs at sea. Where will the United States Navy be with its Flag list filled with officers who have won their spurs ashore and keep themselves on active duty by saying "Yes Sir, its a fine idea"?

The Soviet Navy has, at long last, in 1973, launched their first large aircraft carrier, of about 40,000 tons, and have laid down the keel of another. When the Soviets have commissioned and outfitted these ships, put them through a shakedown cruise, a considerable series of tactical exercises, they will have taken a big step ahead.

As the Soviets press ahead in this area, with the laying down of more keels and then have more launchings and more shakedown cruises, and more tactical exercises and deep water Fleet Problems, say in 1978 to 1982, the Soviets will be in a position to make a "chips down" sea challenge to the United States Navy.

For the Soviet Navy already has three times as many submarines as the United States Navy. The Soviet Submarines have been patrolling for some years off our coasts with their thirty one Yankee Submarines each armed with sixteen missiles good for 1300 to 1500 miles from launch position. In 1972 the Soviet Delta Submarine each armed with twelve 4,000 miles missiles commenced cruising in our offshore waters, able to pinpoint any location in the United States from either the Atlantic or Pacific Ocean.

As one more fact pointing up that Soviet sea power is on the move is that the Soviet Marine Corps has reappeared together with seagoing landing ships and crafts.

To reenforce the statement that the Soviet Navy is "On the make" let me advise you that from 1965 to 1972, the number of ship days the Soviet Navy is spending cruising at sea, that is one ship one day crusing in the Atlantic, the Mediterranean, the Caribbean, the Indian Ocean and the Western Pacific Ocean increased from 6,000 in 1965 to 48,000 in 1972. An eightfold increase. From these figures you will know that the Soviet Navy is learning to go and to stay at sea.

The present emphasis in the United States Navy, currently accentuated by decreasing amounts of fuel oil available, seems to be on how much times the ships can stay in port, and how frequently officers and men may go ashore, and how small the watch on duty aboard may be.

During the recent Israel—Egyptian War, the United States Sixth Fleet in the Mediterranean had its forces increased from 50 to 60 ships. The Soviet forces in the Mediterranean at the same time were increased from 50 to

90 ships. This is the portend of things to come.

THE PORTEND OF THINGS TO COME

My opinions are: (1) The decision has been taken in the Kremlin to become the No. 1 in sea power, and to make the Soviet Navy the largest in the world. I believe this will be accomplished, because there has been no decision taken in Washington by the President and the Congressional leaders of both Political Parties that the necessary steps must be taken to keep the United States ahead of the Soviet Union in sea power, expensive as such a decision would be. (2) The Soviet decision to be No. 1 will be brought to fruition shortly after 1980. (3) There will be some confrontations in the intervening years, but no "chips down" challenge. (4) The United States Navy does not appear to be acting like a Navy under very serious challenge, although it has not reached the non-chalance of the British Navy as it slid quietly from being No. 1 to No. 2 to a "Way back" No. 3.

When the Chief of Naval Operations of our Navy can take time from not only leading his subordinates, but pushing them a bit to develop professional excellence in meeting the sea challenges ahead, to personally cut the haid of the sailorman before television cameras, then it seems to me that the reality of the sea power challenge of the Soviet Navy has been missed.

So I recommend to each of you that you have your back yard bomb shelter building and ready for occupancy before 1980, because by that date at the present rates of growth and relative decline of the two leading sea powers, the Soviet Navy will be "Number One".

UNION WOMEN ORGANIZE

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 9, 1974

Mr. FRASER. Mr. Speaker, recently labor union women from all over the United States met in Chicago to found the Coalition of Labor Union Women. This coalition grows out of the increasing awareness among workingwomen that they face special problems both as women and as workers; and the convention's success reflects an impressive ability to organize to deal with these problems. The following story on the convention appeared in the United Auto Worker's Washington Report of April 8, 1974:

WOMEN'S MOVEMENT SEEKS STRONGER VOICE INSIDE TRADE UNIONISM

(By Ruth Jordan)

CHICAGO.—It was just like any other big labor union convention. Standards dotted the floor marking the places where Machinists, Steelworkers, Clothing Workers, Teachers, Teamsters and Auto Workers were sitting—well, not quite like any union convention in recent years.

The delegates were different too—3,200 union women and several men from 58 unions, most of whom had paid their own way to attend the founding convention of the Coalition of Labor Union Women here.

The organizers of the convention, who had met last summer in the Chicago airport to discuss the idea for the first time, had watched their baby grow through several regional conferences. They expected some 1,500 women to attend this first national meeting.

Instead, by Saturday morning when sessions began, there were 2,000 registrants and the Chicago Fire Marshall had ruled that the overflow crowd would have to be accommodated in the lobby outside the Hotel Pick Congress' "Great Hall." And still the women kept coming. Three busloads from the Midwest arrived in the afternoon delayed by a spring snowstorm. The credentials committee was called into action again.

Addie Wyatt, one of the organizers of the meeting and director of the newly formed Women's Department of the Amalgamated Meat Cutters, told a crowded night session—"We have had a difficult labor, but nine months after we began, we have given birth to this wonderful child . . ."

The Coalition adopted a structure and organizational guidelines to keep the organization growing until the first delegated convention planned for next year.

The majority of the delegates resisted efforts that would extend the organization's framework to include women outside organized labor voting down amendments that would open the organization to "all working women" and to "women in the Welfare Rights Organization."

Instead the organization was limited to "union members and retirees of bona fide collective bargaining organization . . ."

The new organization adopted as its purposes:

Organization into unions of the 30 million unorganized women workers in the labor force;

Affirmative action in the workplace to encourage women "and their union brothers" through their unions to take positive action against job discrimination in hiring, promoton, classification and other aspects of work;

To encourage women to run for political office and to press for child care legislation, full employment and job opportunities; ratification of the Equal Rights Amendment and an extension of "truly protective legislation for all workers"; and

To encourage union women to take an active role in their unions and to encourage their movement into leadership positions in their unions and the labor movement as a whole.

RESOLUTION TO BAN OPIUM PRODUCTION

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 9, 1974

Mr. RANGEL. Mr. Speaker, yesterday I introduced a concurrent resolution urging the President to initiate serious negotiations with the Turkish Government to prevent the revocation of their ban on opium production. The resolution further states that if the negotiations prove unsuccessful, then the President should exercise his authority provided by the Foreign Assistance Act, to terminate all economic assistance to the Government of Turkey. I would like to thank Congressmen RODINO, O'NEILL, and WOLFF for joining me in sponsoring this resolution; and Senators MONDALE and BUCKLEY for agreeing to sponsor it in the Senate.

As you will recall, in 1971 the President of the United States declared that the drug problem in our Nation had assumed the dimensions of a national emergency and that heroin addiction was the most difficult illicit drug to control and the most socially destructive form of addiction. At that time it was estimated that between 500,000 and 700,000 persons in this country were addicted to heroin, and that 80 percent of this heroin originated from the Turkish opium poppy. A key part of our strategy to combat this menace to our society was to reduce the availability of heroin by eliminating the source. The President, with the support of the Congress, successfully convinced the Government of Turkey to impose a ban on opium production. In return, we pledged $35.7 million to compensate losses accrued to the Turkish farmers and to assist in developing alternative crops. Unfortunately, although the Turkish Government has received a substantial portion of that money, the money received did not filter down to the Turkish farmers.

Today, we are just beginning to realize the fruits of this action. There has been a dramatic decrease in the quantity and quality of heroin on the streets of America, and a corresponding decrease in the number of heroin addicts. On the streets of New York, the purity of a "bag" of heroin has declined from 7.7 percent to 3.7 percent. The Drug Enforcement Administration reports a reduction of the estimated number of heroin addicts by more than 60 percent. Correspondingly, the number of heroin overdose deaths and criminal activity has shown a marked decrease. All this progress can be related to the cessation of opium production in Turkey. Therefore the resumption of opium production in Turkey poses a serious threat to the health and safety of our communities.

As you may know, rumors of the revocation of the poppy ban prompted Congressman WOLFF and me to visit Turkey recently. During that time I was convinced that serious planning to lift the ban was being conducted. In fact, seeds were being germinated which are to be used for planting this fall. Upon voicing my concern to the White House and the State Department when I returned, their response was less than encouraging.

I have recently seen reports of an absurd White House proposal to grow opium poppies here in the United States. Such talk from the highest echelons of our Government can only have a debilitating effect on any serious negotiations. The proposal called for growing poppies on two Government installations in Arizona and the State of Washington which would yield about half of the annual medical consumption in America. I am very concerned over the impact of this proposal on our present tenuous situation with the newly elected Government of Turkey.

I have sent a letter to the President expressing my deep concern over domestic cultivation based on inadequate and insufficient information on the opium shortage. Such action could well prove to be a severe detriment to our society and negate any possible negotiating posture with the Turkish Government.

The crucial aspect of both of these developments is that they are based on data which indicates an opium shortage from information supplied by the three pharmaceutical companies legally authorized to import crude opium. The parallels to the oil shortage are too great to accept their assessment entirely.

I therefore have requested the General Accounting Office to investigate the alleged shortages of opium derivative drugs in this country. I also requested GAO to project the 5-year demand for opium which would substantially enlighten any decisions made about options and proposals necessary to meet America's crude opium demand.

So, it is with this understanding of the opium situation that the concurrent resolution has been introduced urging the President to become directly involved in continuing the Turkish ban or fulfilling the Foreign Assistance Act. The present cosponsors of the resolution have supported the Foreign Assistance Act and *its conditions* for narcotics control. Also, there are presently over 50 additional Members who have expressed an interest to joining me, and I have a dear colleague in this morning's mail requesting additional cosponsors when I reintroduce the resolution next week.

The resolution is as follows:

H. CON. RES. —

Resolved by the House of Representatives (the Senate concurring),

Whereas the President of the United States in 1971 declared that the drug problem in our nation had "assumed the dimensions of a national emergency," and that "heroin addiction was the most difficult to control and the most socially destructive form of addiction"; and

Whereas it has been estimated that prior to 1972, 80 percent of illicit heroin entering the United States was produced from a Turkish opium base; and

Whereas in 1972, the Turkish Government agreed to ban the growing of the opium poppy in exchange for $35.7 million in assistance to be provided by the United States to compensate losses accrued to the Turkish farmers and to assist in developing alternative crops; and

Whereas the Turkish Government's ban on opium reduction in both quantity and quality of heroin available on the streets of America, which has resulted in the reduction of the estimated number of heroin addicts by more than 60 percent; and

Whereas the Turkish Government has permitted the germination of poppy seeds which could be ready for planting this fall; and

Whereas the Turkish Government is presently deliberating over the possibility of lifting the ban on opium poppy production in Turkey; and

Whereas the Foreign Assistance Act authorized the President of the United States to cut off aid to any nation that he determines had not taken adequate measures to prevent illegal drugs from entering the United States; Now, therefore, be it.

Whereas the revocation of the opium ban in Turkey is counter productive to measures precluding illegal heroin from entering the United States; Now, therefore, be it

Resolved, by the House of Representatives (the Senate concurring), that it is the sense of the Congress that the President should—

(1) immediately initiate negotiations at the highest level of the Turkish Government to prevent the resumption of opium production; and

(2) if such negotiations prove unfruitful, exercise the authority provided by the Congress under the Foreign Assistance Act, to terminate all assistance to the Government of Turkey.

RESPECT FOR THE RULES

HON. DONALD W. RIEGLE, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 9, 1974

Mr. RIEGLE. Mr. Speaker, I insert the following article from today's New York Times for the interest of my colleagues. I am in full agreement with Mr. Lewis' excellent commentary.

The article follows:

RESPECT FOR THE RULES

(By Anthony Lewis)

BOSTON, MAY 8.—When Willy Brandt resigned as Chancellor of the Federal German Republic, he gave the briefest of official explanations: "I accept the political responsibility for negligence in connection with the Guillaume espionage affair. The next day, for his parliamentary colleagues, he added:

"My resignation is a result of my . . . respect for the unwritten rules of democracy, and is to prevent my personal and political integrity from being destroyed."

Distinct themes were woven together there. One was the duty to put system above self: Mr. Brandt was saying that West Germany's institutions were more important than any individual, that the country's interest was different from his own. The other was personal, human, a matter of character: There are things that count more in life, Brandt was saying, than holding public office.

When the Federal Republic was born, just 25 years ago this month, it had to be regarded as one of the frailest of democratic enterprises. Even if one could have put aside the horrors of the immediate past, there was almost nothing in German history to provide confidence that the self-restraint, the commitment to constitutional order needed to make democracy work would be found among the Republic's politicians.

Today West Germany is at least the equal of any other country in Western Europe in the confidence and stability of her institutions. A major, perhaps the decisive, reason has been the performance of Willy Brandt.

ABROAD AT HOME

In his years as Chancellor the country faced severe tests of its Constitution, and passed them. There was the new coalition Government and the movement to the left. There was Brandt's Ostpolitik, breaking with all the shibboleths of the past. There were the tests of no-confidence votes and interim elections, met by Mr. Brandt without any trimming of principle.

His resignation is one more test of the Constitution, and in that sense a last great contribution on his part. For the West Germans will pass the test, will show that their fidelity is now to system rather than person.

Mr. Brandt's character was more important than his policy. He brought directness, simplicity, above all integrity. An American who was close to him said this week: "I'm convinced that his lasting value, for the Germans and for the rest of us, was his demonstration that there can be moral integrity in politics. That is why he quit as he did, with the simple statement that he took responsibility."

Americans are bound to make the comparison with their own embattled President. It is an instructive one.

In all those pages of White House transcript, there is not a word of concern on Richard Nixon's part for the integrity of our constitutional process—for law, for the courts, for Congress, for the public that is the ultimate sovereign. There are only fear, hatred and contempt for others.

Instead of a willingness to face responsibility, even responsibility for the modest fault of negligence in controlling subordinates, there is a desperate search for ways to avoid it. Deception, public relations tricks, partisan maneuver, even crimes are to be preferred to truth.

Reading those transcripts, one perceives a man with no discernible commitment to any moral principle, with no interest in life save office and power: an empty human being, almost pathetic in his isolation and insecurity. The very rhetoric is mean, shabby, barren.

In Richard Nixon there is a total confusion of self and state. Like a child, he cannot see beyond the self; he therefore thinks that any attempt to curb him is wrong. His overpowering concern is for survival—his survival in office, at whatever cost to his country and its institutions. He is the Presidency.

Those who read the transcripts will find it hard to avoid The Wall Street Journal's conclusion that they "reveal a flawed mentality." Even Hugh Scott, the Senator Republican leader, now finds the performance "shabby, disgusting, immoral," and says he is "disturbed that there was not enough showing of moral indignation." (One wonders where Senator Scott's moral indignation was when he first read a transcript last January, but better late than never.)

What is happening these days is a public and political revulsion at the character of a President. It is precisely this situation that the Framers of our Constitution had in mind for impeachment. Madison spoke of a President's "negligence or perfidy" as reason for removing him, or his "betrayal of trust." Those generalities will underlie the specific crimes considered by the House Judiciary Committee.

But is it really necessary for this great country to go through months more of uncertainty and torment? Surely no one accepts any longer Mr. Nixon's claim that his survival is necessary for the sake of the Presidency. We do not have a parliamentary system, but the Constitution does envisage Presidents resigning. By that service Mr. Nixon could still hope to earn the gratitude of history.

THE DELIVERY OF SOCIAL SECURITY CHECKS

HON. GARRY BROWN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 9, 1974

Mr. BROWN of Michigan. Mr. Speaker, allow me to begin my remarks with a riddle of sorts: What is it that occurs every 30 or so days and makes bedfellows of thieves, postmen, bankers, State welfare workers, and social security recipients? That is easy, right? It is the monthly delivery of 30 million social security checks, which always takes place during a 4-day period beginning on the last day of every month and ending on the third day of the succeeding month. The postmen deliver the checks, the thieves and the recipients await their arrival, the bankers cash what the thieves do not get, and the State welfare agencies transform what the thieves have not taken on the trip from the bank to the local welfare office into additional benefits.

The odd thing about this rite, however, is that the only person who really likes the present arrangement is the thief. He knows when the checks arrive every month, and can choose either to break into mailboxes and try to cash the check, or to assault the recipient on his or her way back from the bank. The recipients do not like the present setup because they have to stand in line, both at the bank, to cash their check, and at the local social services office, to obtain food stamps for example. The postmen do not like it because they have to deliver 30 million additional pieces of mail at the beginning of the month. The bankers do not like it because their banks become incredibly congested with recipients trying to cash checks. The State welfare agencies do not like it because they experience the same traffic problems the banks do, only several days later. With respect to the latter problem, I would like to insert a letter I received recently from a constituent of mine, Mr. John Vielbig, who is director of the Kalamazoo region office of the Michigan Department of Social Services.

DEAR CONGRESSMAN BROWN: A recent news release from your office recommended the payment of Social Security checks throughout the entire calendar month as a benefit to the recipient.

I would like to strongly support your idea, both from the standpoint of the beneficiary and the service providers who are involved in their subsequent business (including the Department of Social Services).

We find our county offices extremely crowded early in the month, particularly with low-income Food Stamp applicants and recipients, many of whom are receiving governmental benefits. They must purchase their stamps as soon after their monthly check arrives as possible. The crowded conditions caused by these applicants have been increased by expanding caseloads caused by economic conditions.

Your suggestion would enable us to provide more efficient service to our applicants and make conditions more suitable for them too. We urge you to pursue this idea.

Sincerely,

A. JOHN VIELBIG,
Director.

Mr. Speaker, the Social Security Administration and the Bureau of Accounts of the Department of the Treasury, which issues the checks, have taken steps to solve part of the problem. Under the authority of Public Law 92-366, the two agencies have undertaken a program which it is hoped will lead to the direct deposit of most social security checks with financial institutions.

Under the plan, the check will not be mailed to the recipient, but instead, will be sent to the recipient's bank, savings and loan or credit union, and the financial institution, under a power of attorney, will negotiate the check and deposit it in the recipient's account. This proposal, which I heartily endorse, will cut the thief off at the mailbox, so to speak. Recent press releases issued by the Social Security Administration and the Bureau of Accounts indicate that this plan should be fully operational by January of 1976. I might add that the ultimate hope of the agencies is to put into effect a system of electronic transfer of funds to the recipient's financial institutions, which will eliminate the time-consuming preparation of individual, documentary drafts for each recipient.

In any event, I believe that the direct deposit approach is a step in the right direction, but only a step. Some recipients will always prefer to receive their checks personally, and cash them themselves—and I think they should have that choice without having to race a thief to the mailbox, or risk assault on the way from the bank. The solution, of course, is obvious. The checks should not be clustered in one 4-day period, but should be staggered throughout the month. In this way, not only would potential thieves be denied the knowledge of when any one recipient's check might be arriving, but it seems to me, the work of the Social Security Administration and the Bureau of Accounts would be made easier by avoiding an end-of-the-month push—not to mention the workload of the Postal Service.

I am, therefore, introducing today a bill which would require the Secretary of Health, Education, and Welfare, under whose ambit the Social Security Administration falls, to develop and implement a system for the payment of both the social security and supplemental security income benefits on a staggered or cyclical basis by July 1, 1975; it being my expectation that such payments would be made throughout the month in approximately equal daily proportions. I might point out that this proposal will come as no surprise to the Social Security Administration. In fact, I would like to quote from a report I received from Commissioner Cardwell on March 8, 1974, prepared by Mr. Hugh F. McKenna, who is Director of the Bureau of Retirement and Survivors Insurance:

Both the Social Security Administration and the Treasury Department are committed in principle to the mailing of RSDI and SSI checks on a staggered basis (cyclical mailing). For this reason, representatives of the Social Security Administration and Treasury have been meeting to identify the basic requirements for cyclical mailing. The work group has concluded that, while a large effort would be required to effect the many systems changes necessary, a system of cyclical mailing of benefits is quite possible from an operational point of view.

Now, it might seem to some that in the light of the preceding statement of commitment, legislation is unnecessary. However, in the course of my research on this problem, I learned that proposals for cyclical issuance of checks have been discussed from time to time for the last 20 years.

I, for one, am not willing to wait another 20 years for this manifestly reasonable plan to come to fruition. I think it is time to set a date certain for implementation, and I do not think July 1, 1975, is unfair or unreasonable, in light of the substantial work that appears to have been completed already.

I urge early adoption of this proposal, so that the Treasury Department and the Social Security Administration will know the Congress is expecting the plan to be in effect by this date.

Thank you, Mr. Speaker.

"SCIENCE ADVICE"—A STATEMENT BY BREWSTER DENNY

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 9, 1974

Mr. BRADEMAS. Mr. Speaker, I insert in the RECORD the text of a most thoughtful editorial, "Science Advice—A Problem," published in the May 10, 1974, issue in the journal Science, the weekly publication of the American Association for the Advancement of Science.

The essay is written by Brewster C. Denny, the distinguished dean of the Graduate School of Public Affairs at the University of Washington.

The editorial follows:

SCIENCE ADVICE—A PROBLEM

At the February meeting of the AAAS, a recurring theme was the need to improve the mechanisms by which science advice is made available to state and local governments. These governments face an increasing number of problems with heavy scientific and technological content in the areas of land management, pollution, nuclear plant siting, river basin management, waste management, and social issues in an urban setting. Federal grant-in-aid programs, revenue sharing, and the "new federalism" have pushed greater technical and scientific responsibilities on local and state governments. With these developments has come the realization that scientific advice to state and local governments may be as important in the decades ahead as scientific and technical advice has been to the federal government in the decades just concluded. In the 1950's we had the science adviser to the White House and to the Pentagon. In the 1970's, we see increasingly the science adviser to the state house, the courthouse, city hall, and the department of sanitation.

At San Francisco, several serious scholars of American science identified in varying ways the urgent need for assuring the capacity of local and state governments to deal with present or soon-to-be-immediate problems. A common theme was that the mechanisms for obtaining and using science advice were weak but that the wells of advice were overflowing. How, pleaded the eloquent and talented at San Francisco can we get good advice to the decision-makers so that knowledge can be translated into decisions and actions?

While few argued that the problem was this simple, the simplistic equation of a bag of resources on the one hand and a desperate need on the other to seek a broker, a middleman, or an organizational device or gimmick recurred constantly. One speaker even stated that "the purpose of a science advisory mechanism for local and state government is to relieve decision-makers of the responsibility of evaluating technical competence." Here is, of course, the argument in its simplest form. Assemble the best minds, ask the most careful and thoughtful questions, reach solid conclusions, resolve the conflicts between conflicting technical views, and the public decision-maker can confidently adopt as policy the wisdom thus served to him.

It won't work that way and it never has. Governors, mayors, councilmen, and legislators are responsible for excruciating decisions in the face of conflicting technical advice just as Truman, Kennedy, and Nixon and their congresses had to make difficult decisions on the hydrogen bomb, nuclear testing, and the ABM. In making these decisions they had to consider tough technical issues and needed to know whom to believe. Similarly, state and local officials, their staffs, the continuing civil service bureaucracies which serve them, and citizens will simply have to be brought up to a level of understanding at which decisions involving technical issues can be made through the political process. While the search for useful devices is not wholly futile and may well produce assistance on the critical problems, the governments themselves at local and state levels, just as in the past decades at the federal level, will have to meet the test. Local and state government structures and staffs largely designed to meet 19th-century problems will have to be brought up to speed to meet this century's challenges and those of the century almost upon us. Scientists, engineers, and thoughtful citizens must turn their attention to the very quality of local and state government itself, as well as to advice and advisory mechanisms.—BREWSTER C. DENNY, *Dean, Graduate School of Public Affairs, University of Washington.*

A GIANT STEP BACKWARD

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 9, 1974

Mr. LEHMAN. Mr. Speaker, this morning's Washington Post carried one story that was a pleasure to read. The administration has decided to throw its support behind legislation to ban throwaway bottles and cans.

A ban on "no deposit-no return" containers, coupled with a forceful Federal policy in support of recycling, would be a giant step backward—in this case, in the right direction—from our present policy of use it up and throw it away.

I am inserting in the RECORD for my colleagues' attention a portion of the text of the article, as well as my recent testimony before the Subcommittee on Transportation and Aeronautics of the Interstate and Foreign Commerce Committee in support of the Interstate Recycling Expansion Act of 1973:

STATEMENT OF HON. WILLIAM LEHMAN

Mr. Chairman, as a cosponsor of the Interstate Recycling Expansion Act of 1973, it is a pleasure for me to submit my testimony for the record in full support of this legislation.

With the disappearance of the ragman from our towns and neighborhoods, we have come full-blown into the age of throwaways, with just about everything we consume tailored for easy disposal. Conspicuous consumption has come a long way from the days of Thorstein Veblen. In one sense, disposable income means just that—we can measure it by the number of trash cans at the end of the driveway.

There are two compelling reasons why change in both regulations and attitudes is imperative. First, if we don't begin to recycle and reuse our solid wastes, we will soon be fighting with the municipal sanitation departments for space. And second, much of the resources we now throw away cannot be restored. Visions of the 21st century people mining our garbage dumps is no longer beyond the limits of the imagination.

An estimated 16% to 24% of the nation's solid waste is potentially recoverable and reusable. Each year, cities dispose of metals alone worth $5 billion. But to date, only about 1% of the nation's solid waste gets recycled. Instead, our cities spend $6 billion each year for collection and disposal. And the National League of Cities—U.S. Conference of Mayors warns that almost half of our cities will run out of current disposal capacity within one to five years. In fact, solid waste is growing five times faster than the population.

Each year, we throw away more than 250 million tons of residential, commercial and institutional waste. Only 3 million tons of nonferrous scrap metals and 11 million tons of waste paper are recycled each year, which translates into about 40% of nonferrous scrap metals and 19% of wastepaper which is available for reuse being recycled. It is particularly interesting to note that in 1945, 35% of all the production in the paper industry was recycled. In textiles, only 17% of the available textile wastes are being recycled.

The result of this extraordinarily wasteful use of our natural resources is not unexpected. The hard truth is that if this policy continues unchanged, the United States and the rest of the world will quite simply run out of necessary resources. To paraphrase a recent advertisement, a nation that runs on steel, iron, copper, nickel, etc., can't afford to run out.

As it is, the United States, with about 6% of the world's population, uses more than 40% of the world's scarce or nonreplaceable resources. The Geological Survey of the Department of the Interior says that the nation's known deposits of mineral raw materials is seriously depleted. The Bureau of Mines warns that by the end of the century, U.S. demands for metals also will have quadrupled, and without increased reuse, we will need imports at 7 times the present rate to satisfy our needs.

This warning is particularly ominous in light of the Arab oil embargo. The United States has gotten its first taste of what it's like to have to make do with what we have. We should remember that mineral-rich nations are not located in Western Europe, nor even in the developed nations of the world for the most part. With a need for enormous imports of resources comes necessarily a need to develop relations with the world's underdeveloped nations, whose governments are not as stable as we might like.

The road to resource poverty has gotten its highway assistance from Federal impediments to recycling, such as Federal purchasing policies which require virgin materials, regulatory agency discrimination against shipments of recyclable goods, and depletion allowances for virgin materials only. While at one time such policies may have been the best route to encourage the development of our natural resources, such policies today encourage exploitation, rather than wise utilization of our available resources.

Discrimination in freight rates for recyclable materials has been a particularly sore point. In the case of iron, freight costs average 17% of the delivered price of a ton of iron ore, while it constitutes 31% of the delivered price of a ton of scrap iron. This is just one example, and helps explain why manufacturers are buying virgin material. There is a definite economic disincentive to doing otherwise.

Mr. Chairman, I commend this Subcommittee for taking up this legislation early enough in this session that we might have a bill at the President's desk before the end of the 93d Congress. Environmentalists have pointed out the need for recycling for years. It's time that recycling became a national policy.

Resource	(1)[1]	[1] (2)	[1] (3)	[1] (4)	[1] (5)	[1] (6)
Aluminum	1.17×10^9 tons	100	6.4	31	55	42
Iron	1×10^{11} tons	240	1.8	93	173	28
Lead	91×10^6 tons	26	2.0	21	64	25
Nickel	147×10^9 tons	150	3.4	53	96	38
Copper	308×10^6 tons	36	4.6	21	48	33
Manganese	8×10^8 tons	97	2.9	46	94	14

[1] Columns: (1) Known global reserves; (2) static index in years (number of years reserves will last at present rate of usage); (3) average projected rate of growth; (4) expotential index in years (showing increased demand by percentage); (5) expotential index calculated using 5 times known reserves; (6) U.S. consumption as percent of world total.

Source: Adapted from "The Limits to Growth," published by Universe Books, 381 Park Ave., South, New York, N.Y.

ADMINISTRATION SUPPORTS BAN ON THROWAWAY BOTTLES, CANS

(By George C. Wilson)

The Nixon administration, agreeing it is time to reverse the "no-deposit-no-return attitude about our resources," yesterday endorsed the idea of a federal law banning throwaway bottles and cans.

John R. Quarles Jr., deputy administrator of the Environmental Protection Agency, said in using those words that he was expressing the view of the administration—not just his agency.

The EPA has been at odds with the expressed policy of the administration on a number of other environmental issues, including the proposed weakening of the Clean Air Act.

But Quarles stressed in his testimony before the Senate Environment subcommittee yesterday that the administration sees a ban on throwaways as an assist to both environmental cleanup and energy conservation.

"Beverage containers are the most rapidly growing segment of all municipal waste," he said, reporting that six million tons of glass, 1.6 million tons of steel and 575,000 tons of aluminum went into the manufacture of beverage containers in 1972 alone. The process takes so much energy that using the same containers over and over instead of throwing them away could save the equivalent of 92,000 barrels of oil a day, the EPA deputy administrator added.

MESSAGE FOR FREEDOM LOVING AMERICANS

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 9, 1974

Mr. LANDGREBE. Mr. Speaker, in today's mail I received a newsletter sent to me and all Members of Congress from Mrs. Robert Lyga—pen name, Sis Rachel—122 63½ Way Northeast, Fridley, Minn. That letter carried a very timely message for all freedom loving Americans, therefore I insert the following section in our CONGRESSIONAL RECORD:

MESSAGE FOR FREEDOM LOVING AMERICANS

I know less than nothing about politics and probably too old to learn. Being what you call a Black Woman, and a former high school drop out with a couple of college years I know that I know what I know by and through my Heavenly Father and experiences of myself and others. So today I am expressing a prayer that you "Do Something to guarantee the rights of "Born Again" Christians to express themselves in the public media.

The time is coming, I feel, that "Born Again" Christians will not even be able to buy space in the papers or time on the radio, if you do not act. Mass canceling of subscriptions and turning off the radio will not help at that point. Like in Soviet Russia, only an approved R-e-l-i-g-i-o-n will be held up for our peoples or else.

I don't care if Carl McIntire would advocate sending part of Sis Rachel back to Africa—Give that man back his rights. As long as he is free to speak out so am I. What is the Fairness Doctrine? Fair to Who?? Certainly not to the growing minds of our youth. With all the filth shown on television and sometimes heard on radio and printed in the papers, like the April 24 headlined story on the girls in Chicago selling smut talk for $10, again I ask, Fair to Who??

Well, I am spending all that I can on Free Speech and these paper Advs. There is no sense in saving for our little one's college education. For quite frankly, without a Christian Revival, this country has no future.

EDITORIAL ON PRESIDENT NIXON

HON. DONALD W. RIEGLE, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 9, 1974

Mr. RIEGLE. Mr. Speaker, I am inserting in the RECORD an important editorial from today's Chicago Tribune for the interest of my colleagues.

The editorial follows:

LISTEN, MR. NIXON

We saw the public man in his first administration, and we were impressed. Now in about 300,000 words we have seen the private man, and we are appalled.

What manner of man is the Richard Nixon who emerges from the transcripts of the White House tapes?

We see a man who, in the words of his old friend and defender, Sen. Hugh Scott, took a principal role in a "shabby, immoral and disgusting performance."

The key word here is immoral. It is a lack of concern for morality, a lack of concern for high principles, a lack of commitment to the high ideals of public office that make the transcripts a sickening exposure of the man and his advisers. He is preoccupied with appearance rather than substance. His aim is to find a way to sell the idea that disreputable schemes are actually good or are defensible for some trumped-up cause.

He is humorless to the point of being inhumane. He is devious. He is vacillating. He is profane. He is willing to be led. He displays dismaying gaps in knowledge. He is suspicious of his staff. His loyalty is minimal. His greatest concern is to create a record that will save him and his administration. The high dedication to grand principles that Americans have a right to expect from a President is missing from the transcript record.

Mr. Nixon's strategy backfired when he released the transcripts. It was also a strategic error for him to release the record of his income taxes. Both stripped the man to his essential character, and that character could not stand that kind of scrutiny. Both miscalculations demonstrated an essential Nixon defect—an insensitivity to the standards of ethics and morality that Americans expect of their leaders.

He thought disclosure of the records would help him. He has had a demonstration that his countrymen are not that tolerant.

And it should be noted here that the transcripts and the income tax statement were not the fabrications of his enemies. These were self-created instruments of destruction.

His decision Tuesday to disclose no more information leaves the record as it now stands. And as it stands that record leaves no doubt that he lacks the qualities that could edify and inspire his countrymen with confidence in these difficult times.

The statement of his counsel, James St. Clair, that the President is ready for a confrontation with Congress and his own special prosecutor is ominous.

The balance among the coordinate branches of our government—Executive, Judicial and Legislative—is fragile. It has been established on rather comfortably loose terms by nearly 200 years of experience in practicing the special virtues of American government.

The limits of executive privilege, of congressional power, of judicial authority are not rigidly fixed. We would not relish the prospect of forcing the Supreme Court to make hard decisions in the distorting heat of partisan controversy. This is one confrontation this country does not need and we pray Mr. Nixon will not insist on it.

The President is right in urging a quick end to the Watergate affair. His country needs a swift and merciful termination of this agony.

Two roads are open. One is resignation. The other is impeachment. Both are legitimate and would satisfy the need to observe due process.

Resignation of the President would be quick and simple and a qualified successor stands ready to assume office.

Impeachment is the judicial process prescribed by the Constitution for removing a President. The House can, and probably will, vote a bill of impeachment quickly. A trial in the Senate would be, and indeed should be, long and deliberate. No suggestion of haste or mob justice could be tolerated. The White House could be expected to seize every opportunity for challenge and delay, and the final outcome might be two years in coming.

The objection to resignation that has been raised—and we have raised it ourselves—is that it would not resolve the issues. It would not answer many of the questions about the President's behavior and degree of complicity. It would leave at least a suspicion that the President had been persecuted instead of properly prosecuted out of office. To some he might remain a martyr. To many it would seem a miscarriage of justice, an example of political exorcism.

The transcripts have changed all that. Tho they make clear Mr. Nixon of direct complicity in the Watergate burglary and the early stages of the coverup, nobody of sound mind can read them and continue to think that Mr. Nixon has upheld the standards and dignity of the Presidency which he proclaimed himself as a candidate in 1960. He hoped that, if elected, a mother or father would be able to "look at the man in the White House . . . and say, 'Well, there is a man who maintains the kind of standards personally that I would like my child to follow.' "

We do not share the White House belief that impeachment requires evidence of a specific crime. We believe a President may be removed simply for failing to do his job, or for so discrediting himself that he loses public respect and, with it, his ability to govern effectively.

It is true that this vagueness may tempt opponents to seek to remove a President for political or otherwise inadequate reasons, as they did with Andrew Johnson. But that risk must be accepted. The ultimate arbiter in this matter must be the public, and the public reaction today is clearly one of revulsion. Republican politicians are defecting in droves. The evidence against Mr. Nixon is in his own words, made public at his own direction. There can no longer be a charge that he was railroaded out of office by vengeful Democrats or a hostile press. The fundamental questions have been answered. Filling in the gaps in the transcripts can only make the case against the President stronger.

And so the objections to resignation have largely vanished.

Since the President has rejected this course, we urge the House to act quickly on a bill of impeachment. As the impeachment process progresses, as public opinion becomes clear, and as Mr. Nixon sees support dwindling in the Senate, he will have to reconsider his stand and recognize that resignation will spare the country the ordeal of a trial.

AND THE COST OF INACTION

There are three urgent reasons for turning the reins of government over to a new President who can concentrate on his job, and for doing so quickly.

First, without decisive leadership in either foreign or domestic matters, the country will drift along aimlessly during one of the most critical periods of history. In country after country, governments are being toppled and threatened because of popular frustration over inflation, hunger, the energy shortage, and the apparent inability of governments to deal with them. It would be a tragedy for the richest and most powerful country in the world to stagger along, immobile, during such a period.

Second, Mr. Nixon has become a liability to his political party as well as to the Republic. The longer he remains in office as a symbol of Watergate and all it stands for, the more likely it is that the Republican Party will be incapacitated for years to come. The health of our two-party system depends on separating the Republican Party from the evils of Watergate and the character of the President.

Third, it is equally important for the future of the Presidency itself that it be separated from the man who now holds it. We must return to the day when people can shiver with pride instead of shudder with embarrassment when they see the flag or hear "Hail to the Chief." Many of the prerogatives of the Presidency are essential to the country, including secrecy when properly justified for reasons of national security or executive privilege. These principles have been prostituted in order to preserve Mr. Nixon himself and those around him. The longer this goes on, the more likely these prerogatives are to be forfeited—in the public mind if not by act of Congress.

It is saddening and hard to believe that for the first time in our history, it is better that the President leave office than to fight to keep it. But things have reached such a state that Mr. Nixon's departure, one way or another, is the best course for the Presidency, the country, and the free world. To perpetuate a state of confrontation between the Executive and Congress—in order to define the limits of power which are probably better undefined—will be tragically costly in the eyes of history and the world.

GASOLINE CONSERVATION STILL VITAL

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 9, 1974

Mrs. HOLT. Mr. Speaker, the scene of mile-long lines in front of gas pumps which gripped much of the east coast during the latter part of February has become a dim and almost unreal memory for many of us. The lifting of the oil embargo combined with refinements in the Federal allocation program have resulted in a sufficient supply of gasoline.

While we have met and overcome this immediate crisis, it is important to remember that we are still confronted with a basic shortage of energy resources; that a resumption of unrestrained demand could possibly place us in the same dire straits as earlier this year. Mr. Sawhill, the new Federal Energy Administrator has recently indicated that the Nation faces a petroleum shortage of 4 to 6 percent unless conservation practices are continued.

The American people reacted in a remarkable fashion with voluntary conservation practices when the request was made of them. They willingly reduced their thermostats and curtailed use of automobiles. It was their efforts which were largely responsible for us being able to survive the embargo period with minimal disruption of our Nation's economic system and our daily lives. Their efforts were truly credit worthy.

I think that it is extremely important at this point in time that the American people be informed of the true nature of the oil situation facing our country and that they be encouraged to continue their conservation efforts. We all have to realize that the days of unlimited energy resources are over and that we will have to curtail unnecessary uses of these vital resources. It is my contention that if we grow lax concerning our conservation efforts, we are guaranteed of seeing a recurrence of long gas lines and low fuel supplies.

HOUSE OF REPRESENTATIVES—*Monday, May 13, 1974*

The House met at 12 o'clock noon.

Rabbi Marvin I. Bash, Arlington-Fairfax Jewish Congregation, Arlington, Va., offered the following prayer:

O Lord, protect the men and women of this Chamber and grant them health of mind and body, happiness, and long life. May they be guided by Thy infinite wisdom, so that their deliberations will be marked by reason and compassion, clear thinking and charity, righteous judgment and understanding.

We ask of our representatives a dedication to the highest ideals of justice and equity. May they lead us in the building of a democratic society in which none will be privileged and none will be disadvantaged—but all men will have a chance to realize their full potential for themselves and their families.

O Lord, bless our country and those leaders who strive to uphold her noblest ideals, in thought and in deed. Amen.

THE JOURNAL

The SPEAKER The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 13998. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3062) entitled "An act entitled the "Disaster Relief Act Amendments of 1974."

The message also announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 514. An act to amend the act of June 27, 1960 (74 Stat. 220), relating to the preservation of historical and archeological data.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 411. An act to amend title 39, United States Code, with respect to certain rates of postage, and for other purposes; and

S. 3009. An act to provide that moneys due the States under the provisions of the Mineral Leasing Act of 1920, as amended, derived from the development of oil shale resources, may be used for purposes other than public roads and schools.

The message also announced that Mr. CANNON and Mr. DOMINICK were appointed as additional conferees on H.R. 12565, supplemental military procurement authorizations.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make a statement. The Chair makes the following announcement:

On April 9, 1974, the House adopted House Resolution 998 which amended the rules of the House in several respects. The provisions of that resolution became effective 30 days following the adoption of the resolution and are now part of the rules of this body.

Two of the new rules require changes in the legislative call system. Since these changes require considerable explanation, the Chair will insert a detailed statement in the RECORD at this point and will have a copy of the statement mailed to the office of every Member today. These new bell and light signals will become effective immediately and will be used hereafter whenever the new rules relating to the taking of quorum calls in the Committee of the Whole and to the procedure for voting on a series of motions to suspend the rules are implemented.

The statement is as follows:

On April 9, 1974 the House adopted House Resolution 998 which amended the rules of the House in several respects. The provisions of that resolution took effect 30 days following passage and as of last Thursday are part of the rules of this body. The chair is taking this opportunity to advise members of certain modifications in the legislative call system which are required by these changes in the rules.

The chair would direct the attention of the Members to rule XXIII, clause 2. As amended by section 3 of House Resolution 998. Under the new language added by the recent amendment the Chairman of the Committee of the Whole is given the authority and discretion to terminate a quorum call in the Committee when 100 or more Members appear. The rule provides that if, during the quorum call, a quorum does appear, the Chair may announce to the Committee that a quorum is present and declare a quorum constituted. If the Chair makes this determination and announcement—and it must be pointed out that the Chairman does not have to follow this procedure—the new rule then provides that further proceedings under the quorum call shall be considered as vacated and the committee shall not rise but shall continue its sitting and proceed with business. When this discretionary authority is exercised by the Chair no names either of those Members responding or of the absentees will be printed in the RECORD or the Journal and no announcement of the number which has responded will be recorded.

Under the present bell and light system the advent of a quorum call in the Committee of the Whole (or for that matter in the House) is announced by 3 bells and 3 lights. Five minutes later the three signals are again activated.

Under the revised procedure now being promulgated the three bells will continue to signal the beginning of a regular quorum call.

If the Chairman announces in advance—at the time a quorum call commences in Committee of the Whole—that he intends to exercise his discretion and will vacate proceedings under the quorum call when 100 or more Members have appeared—then one long bell will precede the three regular bells at the start of the quorum call and three lights will be illuminated.

Thereafter when the Chair does exercise his discretion and announces that a quorum is constituted one long bell will be rung to indicate that further proceedings will be vacated and the three lights turned off. If a quorum has not appeared at the expiration of the first five minutes one long bell followed by three regular bells will again be rung to indicate that the "notice" quorum call is still in progress.

Thus under the so-called notice quorum call procedure one long bell followed by three regular bells will be sounded each five minutes unless one of two events takes place during the time period permitted under the rule:

(1) A quorum appears and the Chair vacates proceedings (as explained above this will be announced by one long bell and the extinguishing of the three lights); or

(2) A quorum not having appeared, the Chair at any time during the 15 minute period directs the ringing of the three regular bells to signal that a regular quorum call has commenced. Members who have not already responded under the "notice" quorum call

will have 15 minutes from the ringing of the three regular bells to respond. (This will be announced by three bells and lights *not* preceded by one long bell). Thereafter when the Chair announces that all time has expired, the Chair will direct the Committee of the Whole to rise and will report the names of the absentees to the House.

The Chair will also direct that whenever this procedure is followed in the Committee of the Whole the automatic recording devices in the two cloakrooms will be programmed to reflect this and Members dialing the numbers 5-7400 or 7-7430 for the Democratic and Republican floor information will be informed if the quorum call will be terminated if and when 100 Members appear.

It should be pointed out that the new rule states that "at any time during the conduct of a quorum call" the Chair many determine that a quorum is present and may vacate the proceedings. The authority need not be exercised upon the appearance of precisely 100 Members. The Chair may choose to wait for a brief period to accommodate all Members who may be attempting to reach the Chamber. Of course the Chair may choose not to make any announcement in which case the quorum call will proceed for a minimum of 15 minutes and the Committee of the Whole will rise and report the absentees to the House as has been the practice heretofore.

The Chair is mindful that the procedure which is contemplated by this new rule may cause inconvenience and embarrassment to some Members either because they have attempted to respond to a quorum call which has been vacated before they arrive in the Chamber or because they may have been notified that the Chair intends to exercise his discretion but is precluded from doing so for failure of a quorum of the Committee of the Whole to appear.

While the intention of the new procedure is to expedite proceedings in Committee of the Whole and to save the time of Members, each Member has a responsibility to attend the proceedings of the Committee and the Chair is confident that Members will endeavor to respond on all quorum calls in Committee of the Whole for only by so doing can the purpose and intent of the new rule be realized.

The second change in the rules which requires a modification of the legislative call system is in rule XXVI, clause 2, which relates to the suspension of the rules procedure.

The Speaker is given discretion by section 4 of House Resolution 998 to postpone until the end of the legislative day the vote on any motion to suspend the rules on which the yeas and nays or a record vote is ordered or where there would be an automatic roll call under the provisions of clause 4, rule XV.

If the Chair exercises this authority, at the end of the legislative day there may be a number of motions which will be voted upon in series, without intervening debate.

The Speaker will put the various questions in the order in which they were postponed. After the first such yea and nay or Record vote is taken, the speaker is given the additional discretion to reduce the voting time for taking subsequent votes in the series to not less than 5 minutes per vote.

When the speaker has announced that he will follow this new rule, which he must do before entertaining the first motion to suspend the rules, his announcement will be repeated on the cloakroom recordings. In addition, six bells and lights will be activated while the first roll call is underway. Two bells will be rung when the vote begins, which is the present practice. There will shortly thereafter be a six-bell signal, and then, five minutes after the first two-bell ring, the two bells will again sound.

Six bells will also be rung at the beginning of each subsequent vote which is to be taken under the short call procedure.

When members hear the six bells, they should be alerted to the fact that a series of votes may follow and that the time for each following vote may be as short as five minutes from the sound of the six-bell call.

Members should note that twelve bells, sounded at two-second intervals, is the civil defense warning. That signal is quite distinct from the six bells and six lights which will be used to indicate a series of votes under this new rule.

APPOINTMENT OF CONFEREES ON H.R. 14013, MAKING FURTHER SUPPLEMENTAL APPROPRIATIONS FOR THE FISCAL YEAR ENDING JUNE 30, 1974

Mr. MAHON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 14013) making further supplemental appropriations for the fiscal year ending June 30, 1974, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following conferees: Messrs. Mahon, Whitten, Rooney of New York, Sikes, Passman, Evins of Tennessee, Boland, Natcher, Flood, Steed, Slack, Mrs. Hansen of Washington, Messrs. McFall, Cederberg, Minshall of Ohio, Michel, Conte, Davis of Wisconsin, Robison of New York, Shriver, and McEwen.

CONFERENCE REPORT ON S. 3062, DISASTER RELIEF ACT AMENDMENTS OF 1974

Mr. JONES of Alabama submitted the following conference report and statement on the Senate bill (S. 3062) Disaster Relief Act Amendments of 1974:

Conference Report (H. Rept No. 93-1037)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3062) entitled the "Disaster Relief Act Amendments of 1974", having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Disaster Relief Act of 1974".

TITLE I—FINDINGS, DECLARATIONS, AND DEFINITIONS

FINDINGS AND DECLARATIONS

Sec. 101. (a) The Congress hereby finds and declares that—

(1) because disasters often cause loss of life, human suffering, loss of income, and property loss and damage; and

(2) because disasters often disrupt the normal functioning of governments and communities, and adversely affect individuals and families with great severity;

special measures, designed to assist the efforts of the affected States in expediting the rendering of aid, assistance, and emergency services, and the reconstruction and rehabilitation of devastated areas, are necessary.

(b) It is the intent of the Congress, by this Act, to provide an orderly and continuing means of assistance by the Federal Government to State and local governments in carrying out their responsibilities to alleviate the suffering and damage which result from such disasters by—

(1) revising and broadening the scope of existing disaster relief programs;

(2) encouraging the development of comprehensive disaster preparedness and assistance plans, programs, capabilities, and organizations by the States and by local governments;

(3) achieving greater coordination and responsiveness of disaster preparedness and relief programs;

(4) encouraging individuals, States, and local governments to protect themselves by obtaining insurance coverage to supplement or replace governmental assistance;

(5) encouraging hazard mitigation measures to reduce losses from disasters, including development of land use and construction regulations;

(6) providing Federal assistance programs for both public and private losses sustained in disasters; and

(7) providing a long-range economic recovery program for major disaster areas.

DEFINITIONS

Sec. 102. As used in this Act—

(1) "Emergency" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe in any part of the United States which requires Federal emergency assistance to supplement State and local efforts to save lives and protect property, public health and safety or to avert or lessen the threat of a disaster.

(2) "Major disaster" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe in any part of the United States which, in the determination of the President, causes damage of sufficient severity and magnitude to warrant major disaster assistance under this Act, above and beyond emergency services by the Federal Government, to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

(3) "United States" means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, and the Trust Territory of the Pacific Islands.

(4) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, or the Trust Territory of the Pacific Islands.

(5) "Governor" means the chief executive of any State,

(6) "Local government" means (A) any county, city, village, town, district, or other political subdivision of any State, any Indian tribe or authorized tribal organization, or Alaska Native village or organization, and (B) includes any rural community or unincorporated town or village or any other public entity for which an application for assistance is made by a State or political subdivision thereof.

(7) "Federal agency" means any department, independent establishment, Government corporation, or other agency of the executive branch of the Federal Government, including the United States Postal Service, but shall not include the American National Red Cross.

TITLE II—DISASTER PREPAREDNESS ASSISTANCE

FEDERAL AND STATE DISASTER PREPAREDNESS PROGRAMS

SEC. 201. (a) The President is authorized to establish a program of disaster preparedness that utilizes services of all appropriate agencies (including the Defense Civil Preparedness Agency) and includes—

(1) preparation of disaster preparedness plans for mitigation, warning, emergency operations, rehabilitation, and recovery;

(2) training and exercises;

(3) postdisaster critiques and evaluations;

(4) annual review of programs;

(5) coordination of Federal, State, and local preparedness programs;

(6) application of science and technology;

(7) research.

(b) The President shall provide technical assistance to the States in developing comprehensive plans and practicable programs for preparation against disasters, including hazard reduction, avoidance, and mitigation; for assistance to individuals, businesses, and State and local governments following such disasters; and for recovery of damaged or destroyed public and private facilities.

(c) Upon application by a State, the President is authorized to make grants, not to exceed in the aggregate to such State $250,000, for the development of plans, programs, and capabilities for disaster preparedness and prevention. Such grants shall be applied for within one year from the date of enactment of this Act. Any State desiring financial assistance under this section shall designate or create an agency to plan and administer such a disaster preparedness program, and shall, through such agency, submit a State plan to the President, which shall—

(1) set forth a comprehensive and detailed State program for preparation against and assistance following, emergencies and major disasters, including provisions for assistance to individuals, businesses, and local governments; and

(2) include provisions for appointment and training of appropriate staffs, formulation of necessary regulations and procedures, and conduct of required exercises.

(d) The President is authorized to make grants not to exceed 50 per centum of the cost of improving, maintaining and updating State disaster assistance plans, except that no such grant shall exceed $25,000 per annum to any State.

DISASTER WARNINGS

SEC. 202. (a) The President shall insure that all appropriate Federal agencies are prepared to issue warnings of disasters to State and local officials.

(b) The President shall direct appropriate Federal agencies to provide technical assistance to State and local governments to insure that timely and effective disaster warning is provided.

(c) The President is authorized to utilize or to make available to Federal, State, and local agencies the facilities of the civil defense communications system established and maintained pursuant to section 201(c) of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2281(c)), or any other Federal communications system for the purpose of providing warning to governmental authorities and the civilian population in areas endangered by disasters.

(d) The President is authorized to enter into agreements with the officers or agents of any private or commercial communications systems who volunteer the use of their systems on a reimbursable or nonreimbursable basis for the purpose of providing warning to governmental authorities and the civilian population endangered by disasters.

TITLE III—DISASTER ASSISTANCE ADMINISTRATION

PROCEDURES

SEC. 301. (a) All requests for a determination by the President that an emergency exists shall be made by the Governor of the affected State. Such request shall be based upon the Governor's finding that the situation is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. The Governor's request will furnish information describing State and local efforts and resources which have been or will be used to alleviate the emergency, and will define the type and extent of Federal aid required. Based upon such Governor's request, the President may determine that an emergency exists which warrants Federal assistance.

(b) All requests for a declaration by the President that a major disaster exists shall be made by the Governor of the affected State. Such Governor's request shall be based upon a finding that the disaster is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. As a part of this request, and as a prerequisite to major disaster assistance under the Act, the Governor shall take appropriate action under State law and direct execution of the State's emergency plan. He shall furnish information on the extent and nature of State resources which have been or will be used to alleviate the conditions of the disaster, and shall certify that for the current disaster, State and local government obligations and expenditures (of which State commitments must be a significant proportion) will constitute the expenditure of a reasonable amount of the funds of such State and local governments for alleviating the damage, loss, hardship, or suffering resulting from such disaster. Based upon such Governor's request, the President may declare that a major disaster exists, or that an emergency exists.

FEDERAL ASSISTANCE

SEC. 302. (a) In the interest of providing maximum mobilization of Federal assistance under this Act, the President shall coordinate, in such manner as he may determine, the activities of all Federal agencies providing disaster assistance. The President may direct any Federal agency, with or without reimbursement, to utilize its available personnel, equipment, supplies, facilities, and other resources including managerial and technical services in support of State and local disaster assistance efforts. The President may prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this Act, and he may exercise any power or authority conferred on him by any section of this Act either directly or through such Federal agency as he may designate.

(b) Any Federal agency charged with the administration of a Federal assistance program is authorized, if so requested by the applicant State or local authorities, to modify or waive, for a major disaster, such administrative conditions for assistance as would otherwise prevent the giving of assistance under such programs if the inability to meet such conditions is a result of the major disaster.

(c) Notwithstanding any other provision of law, any repair, restoration, reconstruction, or replacement of farm fencing damaged or destroyed as a result of any major disaster shall be considered an emergency conservation measure eligible for payments under chapter I of the Third Supplemental Appropriation Act, 1957, or any other provision of law.

COORDINATING OFFICERS

SEC. 303. (a) Immediately upon his declaration of a major disaster, the President shall appoint a Federal coordinating officer to operate in the affected area.

(b) In order to effectuate the purposes of this Act, the Federal coordinating officer, within the affected area, shall—

(1) make an initial appraisal of the types of relief most urgently needed;

(2) establish such field offices as he deems necessary and as are authorized by the President;

(3) coordinate the administration of relief, including activities of the State and local governments, the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations, which agree to operate under his advice or direction, except that nothing contained in this Act shall limit or in any way affect the responsibilities of the American National Red Cross under the Act of January 5, 1905, as amended (33 Stat. 599); and

(4) take such other action, consistent with authority delegated to him by the President, and consistent with the provisions of this Act, as he may deem necessary to assist local citizens and public officials in promptly obtaining assistance to which they are entitled.

(c) When the President determines assistance under this Act is necessary, he shall request that the Governor of the affected State designate a State coordinating officer for the purpose of coordinating State and local disaster assistance efforts with those of the Federal Government.

EMERGENCY SUPPORT TEAMS

SEC. 304. The President shall form emergency support teams of Federal personnel to be deployed in an area affected by a major disaster or emergency. Such emergency support teams shall assist the Federal coordinating officer in carrying out his responsibilities pursuant to this Act. Upon request of the President the head of any Federal agency is directed to detail to temporary duty with the emergency support teams on either a reimbursable or nonreimbursable basis, as is determined necessary by the President, such personnel within the administrative jurisdiction of the head of the Federal agency as the President may need or believe to be useful for carrying out the functions of the emergency support teams, each such detail to be without loss of seniority, pay, or other employee status.

EMERGENCY ASSISTANCE

SEC. 305. (a) In any emergency, the President may provide assistance to save lives and protect property and public health and safety.

(b) The President may provide such emergency assistance by directing Federal agencies to provide technical assistance and advisory personnel to the affected State to assist the State and local governments in—

(1) the performance of essential community services; warning of further risks and hazards; public information and assistance in health and safety measures; technical advice on management and control; and reduction of immediate threats to public health and safety; and

(2) the distribution of medicine, food, and other consumable supplies, or emergency assistance.

(c) In addition, in any emergency, the President is authorized to provide such other assistance under this Act as the President deems appropriate.

COOPERATION OF FEDERAL AGENCIES RENDERING DISASTER ASSISTANCE

SEC. 306. (a) In any major disaster or emergency, Federal agencies are hereby authorized, on the direction of the President, to provide assistance by—

(1) utilizing or lending, with or without compensation therefor, to States and local governments, their equipment, supplies, facilities, personnel, and other resources, other than the extension of credit under the authority of any Act;

(2) distributing or rendering, through the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief and disaster assistance organizations, or otherwise, medicine, food and other consumable supplies, or emergency assistance;

(3) donating or lending equipment and supplies, including that determined in accordance with applicable laws to be surplus to the needs and responsibilities of the Federal Government, to State and local governments for use or distribution by them for the purposes of this Act; and

(4) performing on public or private lands or waters any emergency work or services essential to save lives and to protect and preserve property, public health and safety, including but not limited to: search and rescue, emergency medical care, emergency mass care, emergency shelter, and provision of food, water, medicine, and other essential needs, including movement of supplies or persons; clearance of roads and construction of temporary bridges necessary to the performance of emergency tasks and essential community services; provision of temporary facilities for schools and other essential community services; demolition of unsafe structures that endanger the public; warning of further risks and hazards; public information and assistance on health and safety measures; technical advice to State and local governments on disaster management and control; reduction of immediate threats to life, property, and public health and safety; and making contributions to State or local governments for the purpose of carrying out the provisions of this paragraph.

(b) Work performed under this section shall not preclude additional Federal assistance under any other section of this Act.

REIMBURSEMENT

SEC. 307. Federal agencies may be reimbursed for expenditures under this Act from funds appropriated for the purposes of this Act. Any funds received by Federal agencies as reimbursement for services or supplies furnished under the authority of this Act shall be deposited to the credit of the appropriation or appropriations currently available for such services or supplies.

NONLIABILITY

SEC. 308. The Federal Government shall not be liable for any claim based upon the exercise or performance of or the failure to exercise or perform a discretionary function or duty on the part of a Federal agency or an employee of the Federal Government in carrying out the provisions of this Act.

PERFORMANCE OF SERVICES

SEC. 309. (a) In carrying out the purposes of this Act, any Federal agency is authorized to accept and utilize the services or facilities of any State or local government, or of any agency, office, or employee thereof, with the consent of such government.

(b) In performing any services under this Act, any Federal agency is authorized—

(1) to appoint and fix the compensation of such temporary personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in competitive service;

(2) to employ experts and consultants in accordance with the provisions of section 3109 of such title, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates; and

(3) to incur obligations on behalf of the United States by contract or otherwise for the acquisition, rental, or hire of equipment, services, materials, and supplies for shipping, drayage, travel, and communications, and for the supervision and administration of such activities. Such obligations, including obligations arising out of the temporary employment of additional personnel, may be incurred by an agency in such amount as may be made available to it by the President.

USE OF LOCAL FIRMS AND INDIVIDUALS

SEC. 310. In the expenditure of Federal funds for debris clearance, distribution of supplies, reconstruction, and other major disaster assistance activities which may be carried out by contract or agreement with private organizations, firms, or individuals, preference shall be given, to the extent feasible and practicable, to those organizations, firms, and individuals residing or doing business primarily in the area affected by such major disaster.

NONDISCRIMINATION IN DISASTER ASSISTANCE

SEC. 311. (a) The President shall issue, and may alter and amend, such regulations as may be necessary for the guidance of personnel carrying out Federal assistance functions at the site of a major disaster or emergency. Such regulations shall include provisions for insuring that the distribution of supplies, the processing of applications, and other relief and assistance activities shall be accomplished in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, or economic status.

(b) As a condition of participation in the distribution of assistance or supplies under this Act or of receiving assistance under section 402 or 404 of this Act, governmental bodies and other organizations shall be required to comply with regulations relating to nondiscrimination promulgated by the President, and such other regulations applicable to activities within an area affected by a major disaster or emergency as he deems necessary for the effective coordination of relief efforts.

USE AND COORDINATION OF RELIEF ORGANIZATIONS

SEC. 312. (a) In providing relief and assistance under this Act, the President may utilize, with their consent, the personnel and facilities of the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations, in the distribution of medicine, food, supplies, or other items and in the restoration, rehabilitation, or reconstruction of community services housing and essential facilities, whenever the President finds that such utilization is necessary.

(b) The President is authorized to enter into agreements with the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations under which the disaster relief activities of such organizations may be coordinated by the Federal coordinating officer whenever such organizations are engaged in providing relief during and after a major disaster or emergency. Any such agreement shall include provisions assuring that use of Federal facilities, supplies, and services will be in compliance with regulations prohibiting duplication of benefits and guaranteeing non-discrimination promulgated by the President under this Act, and such other regulation as the President may require.

PRIORITY TO CERTAIN APPLICATIONS FOR PUBLIC FACILITY AND PUBLIC HOUSING ASSISTANCE

SEC. 313. (a) In the processing of applications for assistance, priority and immediate consideration shall be given by the head of the appropriate Federal agency, during such period as the President shall prescribe, to applications from public bodies situated in areas affected by major disasters, under the following Acts:

(1) title II of the Housing Amendments of 1955, or any other Act providing assistance for repair, construction, or extension of public facilities;

(2) the United States Housing Act of 1937 for the provision of low-rent housing;

(3) section 702 of the Housing Act of 1954 for assistance in public works planning;

(4) section 702 of the Housing and Urban Development Act of 1965 providing for grants for public facilities;

(5) section 306 of the Consolidated Farmers Home Administration Act;

(6) the Public Works and Economic Development Act of 1965, as amended;

(7) the Appalachian Regional Development Act of 1965, as amended; or

(8) title II of the Federal Water Pollution Control Act, as amended.

(b) In the obligation of discretionary funds or funds which are not allocated among the States or political subdivisions of a State, the Secretary of Housing and Urban Development and the Secretary of Commerce shall give priority to applications for projects in major disaster areas in which a Recovery Planning Council has been designated pursuant to title VIII of the Public Works and Economic Development Act of 1965.

INSURANCE

SEC. 314. (a)(1) An applicant for assistance under section 402 or 419 of this Act or section 803 of the Public Works and Economic Development Act of 1965, shall comply with regulations prescribed by the President to assure that, with respect to any property to be replaced, restored, repaired, or constructed with such assistance, such types and extent of insurance will be obtained and maintained as may be reasonably available, adequate, and necessary to protect against future loss to such property.

(2) In making his determination with respect to such availability, adequacy and necessity, the President shall not require greater types and extent of insurance than are certified to him as reasonable by the appropriate State insurance commissioner responsible for regulation of such insurance.

(b) No applicant for assistance under section 402 or 419 of this Act or section 803 of the Public Works and Economic Development Act of 1965, shall receive such assistance for any property or part thereof for which he has previously received assistance under this Act unless all insurance required pursuant to this section has been obtained and maintained with respect to such property.

(c) A State may elect to act as a self-insurer with respect to any or all of the facilities belonging to it. Such an election, if declared in writing at the time of accepting assistance under section 402 or 419 of this Act or section 803 of the Public Works and Economic Development Act of 1965, or subsequently, and accompanied by a plan for self-insurance which is satisfactory to the President, shall be deemed compliance with subsection (a) of this section. No such self-insurer shall receive assistance under such sections for any property or part thereof for which it has previously received assistance under this Act, to the extent that insurance for such property or part thereof would have been reasonably available.

DUPLICATION OF BENEFITS

SEC. 315. (a) The President, in consultation with the head of each Federal agency administering any program providing financial assistance to persons, business concerns, or other entities suffering losses as the result of a major disaster, shall assure that no such person, business concern, or other entity will receive such assistance with respect to any part of such loss as to which he has received financial assistance under any other program.

(b) The President shall assure that no person, business concern, or other entity receives any Federal assistance for any part of a loss suffered as the result of a major disaster if such person, concern, or entity received compensation from insurance or any other source for that part of such a loss. Partial compensation for a loss or a part of loss resulting from a major disaster shall not preclude additional Federal assistance for any part of such a loss not compensated otherwise.

(c) Whenever the President determines (1) that a person, business concern, or other entity has received assistance under this Act for a loss and that such person, business concern or other entity received assistance for the same loss from another source, and (2) that the amount received from all sources exceeded the amount of the loss, he shall direct such person, business concern, or other entity to pay to the Treasury an amount, not to exceed the amount of Federal assistance received, sufficient to reimburse the Federal Government for that part of the assistance which he deems excessive.

REVIEWS AND REPORTS

SEC. 316. The President shall conduct annual reviews of the activities of Federal agencies and State and local governments providing disaster preparedness and assistance, in order to assure maximum coordination and effectiveness of such programs, and shall from time to time report thereon to the Congress.

CRIMINAL AND CIVIL PENALTIES

SEC. 317. Any individual who fraudulently or willfully misstates any fact in connection with a request for assistance under this Act shall be fined not more than $10,000 or imprisoned for not more than one year or both for each violation.

(b) Any individual who knowingly violates any order or regulation under this Act shall be subject to a civil penalty of not more than $5,000 for each violation.

(c) Whoever knowingly misapplies the proceeds of a loan or other cash benefit obtained under any section of this Act shall be subject to a fine in an amount equal to one and one-half times the original principal amount of the loan or cash benefit.

AVAILABILITY OF MATERIALS

SEC. 318. The President is authorized, at the request of the Governor of an affected State, to provide for a survey of construction materials needed in the area affected by a major disaster on an emergency basis for housing repairs, replacement housing, public facilities repairs and replacement, farming operations, and business enterprises and to take appropriate action to assure the availability and fair distribution of needed materials, including, where possible, the allocation of such materials for a period of not more than one hundred and eighty days after such major disaster. Any allocation program shall be implemented by the President to the extent possible, by working with and through those companies which traditionally supply construction materials in the affected area. For the purposes of this section "construction materials shall include building materials and materials required for repairing housing, replacement housing, public facilities repairs and replacement, and for normal farm and business operations.

TITLE IV—FEDERAL DISASTER ASSISTANCE PROGRAMS

FEDERAL FACILITIES

SEC. 401. (a) The President may authorize any Federal agency to repair. reconstruct, restore, or replace any facility owned by the United States and under the jurisdiction of such agency which is damaged or destroyed by any major disaster if he determines that such repair, reconstruction, restoration, or replacement is of such importance and urgency that it cannot reasonably be deferred pending the enactment of specific authorizing legislation or the making of an appropriation for such purposes, or the obtaining of congressional committee approval.

(b) In order to carry out the provisions of this section, such repair, reconstruction restoration, or replacement may be begun notwithstanding a lack or an insufficiency of funds appropriated for such purpose, where such lack or insufficiency can be remedied by the transfer, in accordance with law, of funds appropriated to that agency for another purpose.

(c) In implementing this section, Federal agencies shall evaluate the natural hazards to which these facilities are exposed and shall take appropriate action to mitigate such hazards, including safe land-use and construction practices, in accordance with standards prescribed by the President.

REPAIR AND RESTORATION OF DAMAGED FACILITIES

SEC. 402. (a) The President is authorized to make contributions to state or local governments to help repair, restore, reconstruct, or replace public facilities belonging to such State or local governments which were damaged or destroyed by a major disaster.

(b) The President is also authorized to make grants to help repair, restore, reconstruct, or replace private nonprofit educational, utility, emergency, medical, and custodial care facilities, including those for the aged or disabled, and facilities on Indian reservations as defined by the President, which were damaged or destroyed by a major disaster.

(c) For those facilities eligible under this section which were in the process of construction when damaged or destroyed by a major disaster, the grant shall be based on the net costs of restoring such facilities substantially to their predisaster condition.

(d) For the purposes of this section, "public facility" includes any publicly owned flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, or airport facility, any non-Federal-aid street, road, or highway, any other public building, structure, or system including those used for educational or recreational purposes, and any park.

(e) The Federal contribution for grants made under this section shall not exceed 100 per centum of the net cost of repairing, restoring, reconstructing, or replacing any such facility on the basis of the design of such facility as it existed immediately prior to such disaster and in conformity with current applicable codes, specifications, and standards.

(f) In those cases where a State or local government determines that public welfare would not be best served by repairing, restoring, reconstructing, or replacing particular public facilities owned or controlled by that State or that local government which have been damaged or destroyed in a major disaster, it may elect to receive, in lieu of the contribution described in subsection (e) of this section, a contribution based on 90 per centum of the Federal estimate of the total cost of repairing, restoring, reconstructing, or replacing all damaged facilities owned by it within its jurisdiction. The cost of repairing, restoring, reconstructing, or replacing damaged or destroyed public facilities shall be estimated on the basis of the design of each such facility as it existed immediately prior to such disaster and in conformity with current applicable codes, specifications and standards. Funds contributed under this subsection may be expended either to repair or restore certain selected damaged public facilities or to construct new public facilities which the State or local government determines to be necessary to meet its needs for governmental services and functions in the disaster-affected area.

DEBRIS REMOVAL

SEC. 403. (a) The President, whenever he determines it to be in the public interest, is authorized—

(1) through the use of Federal departments, agencies, and instrumentalities, to clear debris and wreckage resulting from a major disaster from publicly and privately owned lands and waters; and

(2) to make grants to any State or local government for the purpose of removing debris or wreckage resulting from a major disaster from publicly or privately owned lands and waters.

(b) No authority under this section shall be exercised unless the affected State or local government shall first arrange an unconditional authorization for removal of such debris or wreckage from public and private property, and, in the case of removal of debris or wreckage from private property, shall first agree to indemnify the Federal Government against any claim arising from such removal.

TEMPORARY HOUSING ASSISTANCE

SEC. 404. (a) The President is authorized to provide, either by purchase or lease, temporary housing, including, but not limited to, unoccupied habitable dwellings, suitable rental housing, mobile homes or other readily fabricated dwellings for those who, as a result of a major disaster, require temporary housing. During the first twelve months of occupancy no rentals shall be established for any such accommodations, and thereafter rentals shall be established, based upon fair market value of the accommodations being furnished, adjusted to take into consideration the financial ability of the occupant. Any mobile home or readily fabricated dwelling shall be placed on a site complete with utilities provided either by the State or local government, or by the owner or occupant of the site who was displaced by the major disaster, without charge to the United States. The President may authorize installation of essential utilities at Federal expense and he may elect to provide other more economical or accessible sites when he determines such action to be in the public interest.

(b) The President is authorized to provide assistance on a temporary basis in the form of mortgage or rental payments to or on behalf of individuals and families who, as a result of financial hardship caused by a major disaster, have received written notice of dispossession or eviction from a residence by reason of foreclosure of any mortgage or lien, cancellation of any contract of sale, or termination of any lease, entered into prior to such disaster. Such assistance shall be provided for a period of not to exceed one year or for the duration of the period of financial hardship, whichever is the lesser.

(c) In lieu of providing other types of temporary housing after a major disaster, the President is authorized to make expenditures for the purpose of repairing or restoring to a habitable condition owner-occupied private residential structures made uninhabitable by a major disaster which are capable of being restored quickly to a habitable condition with minimal repairs. No assistance provided under this section may be used for major reconstruction or rehabilitation of damaged property.

(d)(1) Notwithstanding any other provision of law, any temporary housing acquired by purchase may be sold directly to individuals and families who are occupants of temporary housing at prices that are fair and equitable, as determined by the President.

(2) The President may sell or otherwise make available temporary housing units directly to States, other governmental entities, and voluntary organizations. The President shall impose as a condition of transfer under this paragraph a covenant to comply with the provisions of section 311 of this Act requiring nondiscrimination in occupancy of such temporary housing units. Such disposition shall be limited to units purchased under the provisions of subsection (a) of this section and to the purposes of providing temporary housing for disaster victims in emergencies or in major disasters.

PROTECTION OF ENVIRONMENT

SEC. 405. No action taken or assistance provided pursuant to sections 305, 306, or 403 of this Act, or any assistance provided pursuant to section 402 or 419 of this Act that has the effect of restoring facilities substantially as they existed prior to the disaster, shall be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 852). Nothing in this section shall alter or affect the applicability of the National Environmental Policy Act of 1969 (83 Stat. 852) to other Federal actions taken under this Act or under any other provision of law.

MINIMUM STANDARDS FOR PUBLIC AND PRIVATE STANDARDS

SEC. 406. As a condition of any disaster loan or grant made under the provisions of this Act, the recipient shall agree that any repair or construction to be financed therewith shall be in accordance with applicable standards of safety, decency, and sanitation and in conformity with applicable codes, specifications, and standards, and shall furnish such evidence of compliance with this section as may be required by regulation. As a further condition of any loan or grant made under the provisions of this Act, the State or local government shall agree that the natural hazards in the areas in which the proceeds of the grants or loans are to be used shall be evaluated and appropriate action shall be taken to mitigate such hazards, including safe land-use and construction practices, in accordance with standards prescribed or approved by the President after adequate consultation with the appropriate elected officials of general purpose local governments, and the State shall furnish such evidence of compliance with this section as may be required by regulation.

UNEMPLOYMENT ASSISTANCE

SEC. 407. (a) The President is authorized to provide to any individual unemployed as a result of a major disaster such benefit assistance as he deems appropriate while such individual is unemployed. Such assistance as the President shall provide shall be available to an individual as long as the individual's unemployment caused by the major disaster continues or until the individual is reemployed in a suitable position, but no longer than one year after the major disaster is declared. Such assistance for a week of unemployment shall not exceed the maximum weekly amount authorized under the unemployment compensation law of the State in which the disaster occurred, and the amount of assistance under this section to any such individual for a week of unemployment shall be reduced by any amount of unemployment compensation or of private income protection insurance compensation available to such individual for such week of unemployment. The President is directed to provide such assistance through agreements with States which, in his judgment, have an adequate system for administering such assistance through existing State agencies.

(b) The President is further authorized for the purposes of this Act to provide reemployment assistance services under other laws to individuals who are unemployed as a result of a major disaster.

INDIVIDUAL AND FAMILY GRANT PROGRAMS

SEC. 408. (a) The President is authorized to make a grant to a State for the purpose of such State making grants to meet disaster-related necessary expenses or serious needs of individuals or families adversely affected by a major disaster in those cases where such individuals or families are unable to meet such expenses or needs through assistance under other provisions of this Act, or from other means. The Governor of a State shall administer the grant program authorized by this section.

(b) The Federal share of a grant to an individual or a family under this section shall be equal to 75 per centum of the actual cost of meeting such an expense or need and shall be made only on condition that the remaining 25 per centum of such cost is paid to such individual or family from funds made available by a State. Where a State is unable immediately to pay its share, the President is authorized to advance to such State such 25 per centum share, and any such advance is to be repaid to the United States when such State is able to do so. No individual and no family shall receive any grant or grants under this section aggregating more than $5,000 with respect to any one major disaster.

(c) The President shall promulgate regulations to carry out this section and such regulations shall include national criteria, standards, and procedures for the determination of eligibility for grants and the administration of grants made under this section.

(d) A State may expend not to exceed 3 per centum of any grant made by the President to it under subsection (a) of this section for expenses of administering grants to individuals and families under this section.

(e) This section shall take effect as of April 20, 1973.

FOOD COUPONS AND DISTRIBUTION

SEC. 409. (a) Whenever the President determines that, as a result of a major disaster, low-income households are unable to purchase adequate amounts of nutritious food, he is authorized, under such terms and conditions as he may prescribe, to distribute through the Secretary of Agriculture or other appropriate agencies coupon allotments to such households pursuant to the provisions of the Food Stamp Act of 1964 (P.L. 91–671; 84 Stat. 2048) and to make surplus commodities available pursuant to the provisions of this Act.

(b) The President, through the Secretary of Agriculture or other appropriate agencies, is authorized to continue to make such coupon allotments and surplus commodities available to such households for so long as he determines necessary, taking into consideration such factors as he deems appropriate, including the consequences of the major disaster on the earning power of the households, to which assistance is made available under this section.

(c) Nothing in this section shall be construed as amending or otherwise changing the provisions of the Food Stamp Act of 1964 except as they relate to the availability of food stamps in an area affected by a major disaster.

FOOD COMMODITIES

SEC. 410. (a) The President is authorized and directed to assure that adequate stocks of food will be ready and conveniently available for emergency mass feeding or distribution in any area of the United States which suffers a major disaster or emergency.

(b) The Secretary of Agriculture shall utilize funds appropriated under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), to purchase food commodities necessary to provide adequate supplies for use in any area of the United States in the event of a major disaster or emergency in such area.

RELOCATION ASSISTANCE

SEC. 411. Notwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646) shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by such Act.

LEGAL SERVICES

SEC. 412. Whenever the President determines that low-income individuals are unable to secure legal services adequate to meet their needs as a consequence of a major disaster, consistent with the goals of the programs authorized by this Act, the President shall assure that such programs are conducted with the advice and assistance of appropriate Federal agencies and State and local bar associations.

CRISIS COUNSELING ASSISTANCE AND TRAINING

SEC. 413. The President is authorized (through the National Institute of Mental Health) to provide professional counseling services, including financial assistance to State or local agencies or private mental health organizations to provide such services or training of disaster workers, to victims of major disasters in order to relieve mental health problems caused or aggravated by such major disaster or its aftermath.

COMMUNITY DISASTER LOANS

SEC. 414. (a) The President is authorized to make loans to any local government which may suffer a substantial loss of tax and other revenues as a result of a major disaster, and has demonstrated a need for financial assistance in order to perform its governmental functions. The amount of any such loan shall be based on need, and shall not exceed 25 per centum of the annual operating budget of that local government for the fiscal year in which the major disaster occurs. Repayment of all or any part of such loan to the extent that revenues of the local government during the three full fiscal year period following the major disaster are insufficient to meet the operating budget of the local government, including additional disaster-related expenses of a municipal operation character shall be cancelled.

(b) Any loans made under this section shall not reduce or otherwise affect any grants or other assistance under this Act.

(c)(1) Subtitle C of title I of the State and Local Fiscal Assistance Act of 1972 (P.L. 92–512; 86 Stat. 919) is amended by adding at the end thereof the following new section:

"Sec. 145. Entitlement Factors Affected by Major Disasters

"In the administration of this title the Secretary shall disregard any change in data used in determining the entitlement of a State government or a unit of local government for a period of 60 months if that change—

"(1) results from a major disaster determined by the President under section 301 of the Disaster Relief Act of 1974, and

"(2) reduces the amount of the entitlement of that State government or unit of local government.".

(2) The amendment made by this section takes effect on April 1, 1974.

EMERGENCY COMMUNICATIONS

SEC. 415. The President is authorized during, or in anticipation of, an emergency or major disaster to establish temporary communications systems and to make such communications available to State and local government officials and other persons as he deems appropriate.

EMERGENCY PUBLIC TRANSPORTATION

SEC. 416. The President is authorized to provide temporary public transportation service in an area affected by a major disaster to meet emergency needs and to provide transportation to governmental offices, supply centers, stores, post offices, schools, major employment centers, and such other places as may be necessary in order to enable the community to resume its normal pattern of life as soon as possible.

FIRE SUPPRESSION GRANTS

SEC. 417. The President is authorized to provide assistance, including grants, equipment, supplies, and personnel, to any State for the suppression of any fire on publicly or privately owned forest or grassland which threatens such destruction as would constitute a major disaster.

TIMBER SALE CONTRACTS

SEC. 418. (a) Where an existing timber sale contract between the Secretary of Agriculture or the Secretary of the Interior and a timber purchaser does not provide relief from major physical change not due to negligence of the purchaser prior to approval of construction of any section of specified road or of any other specified development facility and, as a result of a major disaster, a major physical change results in additional construction work in connection with such road or facility by such purchaser with an estimated cost, as determined by the appropriate Secretary, (1) of more than $1,000 for sales under one million board feet, (2) of more than $1 per thousand board feet for sales of one to three million board feet, or (3) of more than $3,000 for sales over three million board feet, such increased construction cost shall be borne by the United States.

(b) If the appropriate Secretary determines that damages are so great that restoration, reconstruction, or construction is not practical under the cost-sharing arrangement authorized by subsection (a) of this section, he may allow cancellation of a contract entered into by his Department notwithstanding contrary provisions therein.

(c) The Secretary of Agriculture is authorized to reduce to seven days the minimum period of advance public notice required by the first section of the Act of June 4, 1897 (16 U.S.C. 476), in connection with the sale of timber from national forests, whenever the Secretary determines that (1) the sale of such timber will assist in the construction of any area of a State damaged by a major disaster, (2) the sale of such timber will assist in sustaining the economy of such area, or (3) the sale of such timber is necessary to salvage the value of timber damaged in such major disaster or to protect undamaged timber.

(d) The President, when he determines it to be in the public interest, is authorized to make grants to any State or local government for the purpose of removing from privately owned lands timber damaged as a result of a major disaster, and such State or local government is authorized upon application, to make payments out of such grants to any person for reimbursement of expenses actually incurred by such person in the removal of damaged timber, not to exceed the amount that such expenses exceed the salvage value of such timber.

IN-LIEU CONTRIBUTION

SEC. 419. In any case in which the Federal estimate of the total cost of (1) repairing, restoring, reconstructing, or replacing, under section 402, all damaged or destroyed public facilities owned by a State or local government within its jurisdiction, and (2) emergency assistance under section 306 and debris removal under section 403, is less than $25,000, then on application of a State or local government, the President is authorized to make a contribution to such State or local government under the provisions of this section in lieu of any contribution to such State or local government under section 306, 402, or 403. Such contribution shall be based on 100 per centum of such total estimated cost, which may be expended either to repair, restore, reconstruct, or replace all such damaged or destroyed public facilities, to repair, restore, reconstruct, or replace certain selected damaged or destroyed public facilities, to construct new public facilities which the State or local government determines to be necessary to meet its needs for governmental services and functions in the disaster-affected area, or to undertake disaster work as authorized in section 306 or 403. The cost of repairing, restoring, reconstructing, or replacing damaged or destroyed public facilities shall be estimated on the basis of the design of each such facility as it existed immediately prior to such disaster and in conformity with current applicable codes, specifications and standards.

TITLE V—ECONOMIC RECOVERY FOR DISASTER AREAS

AMENDMENT TO PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1965

SEC. 501. The Public Works and Economic Development Act of 1965, as amended, is amended by adding at the end thereof the following new title:

"TITLE VIII—ECONOMIC RECOVERY FOR DISASTER AREAS

"PURPOSE OF TITLE

"SEC. 801. (a) It is the purpose of this title to provide assistance for the economic recovery, after the period of emergency aid and replacement of essential facilities and services, of any major disaster area which has suffered a dislocation of its economy of sufficient severity to require (1) assistance in planning for development to replace that lost in the major disaster; (2) continued coordination of assistance available under Federal-aid programs; and (3) continued assistance toward the restoration of the employment base.

"(b) As used in this title, the term 'major disaster' means a major disaster declared by the President in accordance with the Disaster Relief Act of 1974.

"DISASTER RECOVERY PLANNING

"SEC. 802. (a)(1) In the case of any area affected by a major disaster the Governor may request the President for assistance under this title. The Governor, within thirty days after authorization of such assistance by the President, shall designate a Recovery Planning Council for such area or for each part thereof.

"(2) Such Recovery Planning Council shall be composed of not less than five members, a majority of whom shall be local elected officials of political subdivisions within the affected areas, at least one representative of the State, and a representative of the Federal Government appointed by the President in accordance with paragraph (3) of this subsection. During the major disaster, the Federal cordinating officer shall also serve on the Recovery Planning Council.

"(3) The Federal representative on such Recovery Planning Council may be the Chairman of the Federal Regional Council for the affected area, or a member of the Federal Regional Council designated by the Chairman of such Regional Council. The Federal representative on such Recovery Planning Council may be the Federal Cochairman of the Regional Commission established pursuant to title V of this Act, or the Appalachian Regional Development Act of 1965, or his designee, where all of the area affected by a major disaster is within the boundaries of such Commission.

"(4) The Governor may designate an existing multijurisdictional organization as the Recovery Planning Council where such organization complies with paragraph (2) of this subsection with the addition of State and Federal representatives except that if all or part of an area affected by a major disaster is within the jurisdiction of an existing multijurisdictional organization established under title IV of this Act or title III of the Appalachian Regional Development Act of 1965, such organization, with the addition of State and Federal representatives in accordance with paragraph (2) of this subsection, shall be designated by the Governor as the Recovery Planning Council. In any case in which such title III or IV organization is designated as the Recovery Planning Council under this paragraph, some local elected officials of political subdivisions within the affected areas must be appointed to serve on such Recovery Planning Council. Where possible, the organization designated as the Recovery Planning Council shall be or shall be subsequently designated as the appropriate agency required by section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334) and by the Intergovernmental Cooperation Act of 1968 (P.L. 90–577; 82 Stat. 1098).

"(5) The Recovery Planning Council shall include private citizens as members to the extent feasible, and shall provide for and encourage public participation in its deliberations and decisions.

"(b) The Recovery Planning Council (1) shall review existing plans for the affected area; and (2) may recommend to the Governor and responsible local governments such revisions as it determines necessary for the economic recovery of the area, including the development of new plans and the preparation of a recovery investment plan for the 5-year period following the declaration of the major disaster. The Recovery Planning Council shall accept as one element of the recovery investment plan determinations made under section 402(f) of the Disaster Relief Act of 1974.

"(c)(1) A recovery investment plan prepared by a Recovery Planning Council may recommend the revision, deletion, reprograming, or additional approval of Federal-aid projects and programs within the area—

"(A) for which application has been made but approval not yet granted;

"(B) for which funds have been obligated or approval granted but construction not yet begun;

"(C) for which funds have been or are scheduled to be apportioned within the five years after the declaration of the disaster;

"(D) which may otherwise be available to the area under any State schedule or revised State schedule of priorities; or

"(E) which may reasonably be anticipated as becoming available under existing programs.

"(2) Upon the recommendation of the Recovery Planning Council and the request of the Governor, any funds for projects or programs identified pursuant to paragraph (1) of this subsection may, to any extent consistent with appropriation Acts, be placed in reserve by the responsible Federal agency for use in accordance with such recommendations. Upon the request of the Governor and with the concurrence of affected local governments, such funds may be transferred to the Recovery Planning Council to be expended in the implementation of the recovery investment plan, except that no such transfer may be made unless such expenditure is for a project or program for which such funds originally were made available by an appropriation Act.

"PUBLIC WORKS AND DEVELOPMENT FACILITIES GRANTS AND LOANS

"SEC. 803. (a) The President is authorized to provide funds to any Recovery Planning Council for the implementation of a recovery investment plan by public bodies. Such funds may be used—

"(1) to make loans for the acquisition or development of land and improvements for public works, public service, or development facility usage, including the acquisition or development of parks or open spaces, and the acquisition, construction, rehabilitation, alteration, expansion, or improvement of such facilities, including related machinery and equipment, and

"(2) to make supplementary grants to increase the Federal share for projects for which funds are reserved pursuant to subsection (c) (2) of section 802 of this Act, or other Federal-aid projects in the affected area.

"(b) Grants and loans under this section may be made to any State, local government, or private or public nonprofit organization representing any area or part thereof affected by a major disaster.

"(c) No supplementary grant shall increase the Federal share of the cost of any project to greater than 90 per centum, except in the case of a grant for the benefit of Indians or Alaska Natives, or in the case of any State or local government which the President determines has exhausted its effective taxing and borrowing capacity.

"(d) Loans under this section shall bear interest at a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum, less 1 per centum per annum.

"(e) Financial assistance under this title shall not be extended to assist establishments relocating from one area to another or to assist subcontractors whose purpose is to divest, or whose economic success is dependent upon divesting, other contractors or subcontractors of contracts therefore customarily performed by them. Such limitations shall not be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity if the Secretary of Commerce finds that the establishment of such branch, affiliate, or subsidiary will not result in an increase in unemployment of the area of original location or in any other area where such entity conducts business operations, unless the Secretary has reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

"LOAN GUARANTEES

"SEC. 804. The President is authorized to provide funds to Recovery Planning Councils to guarantee loans made to private borrowers by private lending institutions (1) to aid in financing any project within an area affected by a major disaster for the purchase or development of land and facilities (including machinery and equipment) for industrial or commercial usage including the construction of new buildings, and rehabilitation of abandoned or unoccupied buildings, and the alteration, conversion, or enlargement of existing buildings; and (2) for working capital in connection with projects in areas assisted under paragraph (1), upon application of such institution and upon such terms and conditions as the President may prescribe. No such guarantee shall at any time exceed 90 per centum of the amount of the outstanding unpaid balance of such loan.

"TECHNICAL ASSISTANCE

"SEC. 805. (a) In carrying out the purposes of this title the President is authorized to provide technical assistance which would be useful in facilitating economic recovery in areas affected by major disasters. Such assistance shall include project planning and feasibility studies, management and operational assistance, and studies evaluating the needs of, and developing potentialities for, economic recovery of such areas. Such assistance may be provided by the President directly, through the payment of funds authorized for this title to other departments or agencies of the Federal Government, through the employment of private individuals, partnerships, firms, corporations, or suitable institutions, under contracts entered into for such purposes, or through grants-in-aid to appropriate public or private nonprofit State, area, district, or local organizations.

"(b) The President is authorized to make grants to defray not to exceed 75 per centum of the administrative expenses of Recovery Planning Councils designated pursuant to section 802 of this Act. In determining the amount of the non-Federal share of such costs or expenses, the President shall give due consideration to all contributions both in cash and in kind, fairly evaluated, including but not limited to space, equipment, and services. Where practicable, grants-in-aid authorized under this subsection shall be used in conjunction with other available planning grants, to assure adequate and effective planning and economical use of funds.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 806. There is authorized to be appropriated not to exceed $250,000,000 to carry out this title.".

TITLE VI—MISCELLANEOUS

AUTHORITY TO PRESCRIBE RULES

SEC. 601. The President may prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this Act, and he may exercise any power or authority conferred on him by any section of this Act either directly or through such Federal agency or agencies as he may designate.

TECHNICAL AMENDMENTS

SEC. 602. (a) Section 701(a) (3) (B) (ii) of the Housing Act of 1954 (40 U.S.C. 461(a) (3) (B) (ii)) is amended to read as follows: "(ii) have suffered substantial damage as a result of a major disaster as declared by the President pursuant to the Disaster Relief Act of 1974;".

(b) Section 8(b) (2) of the National Housing Act (12 U.S.C. 1706c(b) (2)) is amended by striking out of the last proviso "section 102(1) of the Disaster Relief Act of 1970" and inserting in lieu thereof "sections 102(2) and 301 of the Disaster Relief Act of 1974".

(c) Section 203(h) of the National Housing Act (12 U.S.C. 1709 (h)) is amended by striking out "section 102(1) of the Disaster Relief Act of 1970" and inserting in lieu thereof "sections 102(2) and 301 of the Disaster Relief Act of 1974".

(d) Section 221(f) of the National Housing Act (12 U.S.C. 17151(f)) is amended by striking out of the last paragraph "the Disaster Relief Act of 1970" and inserting in lieu thereof "the Disaster Relief Act of 1974".

(e) Section 7(a) (1) (A) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress, as amended; 20 U.S.C. 241–1 (a) (1) (A)), is amended by striking out "pursuant to section 102(1) of the Disaster Relief Act of 1970" and inserting in lieu thereof "pursuant to sections 102(2) and 301 of the Disaster Relief Act of 1970".

(f) Section 16(a) of the Act of September 23, 1950 (79 Stat. 1158; 20 U.S.C. 646(a)) is amended by striking out "section 102(1) of the Disaster Relief Act of 1970" and inserting in lieu thereof "sections 102(2) and 301 of the Disaster Relief Act of 1974".

(g) Section 408(a) of the Higher Education Facilities Act of 1963 (20 U.S.C. 758(a)) is amended by striking out "section 102(1) of the Disaster Relief Act of 1970" and inserting in lieu thereof "sections 102(2) and 301 of the Disaster Relief Act of 1974".

(h) Section 165(h) of the Internal Revenue Code of 1954, relating to disaster losses (26 U.S.C. 165(h)) is amended by striking out "1970" and inserting in lieu thereof "1974".

(i) Section 5064(a) of the Internal Revenue Code of 1954 (26 U.S.C. 5064(a)), relating to losses caused by disaster, is amended by striking out "the Disaster Relief Act of 1970" and inserting in lieu thereof "the Disaster Relief Act of 1974".

(j) Section 5708(a) of the Internal Revenue Code of 1954 (26 U.S.C. 5708(a)), relating to losses caused by disaster, is amended by striking out "the Disaster Relief Act of 1970" and inserting in lieu thereof "the Disaster Relief Act of 1974".

(k) Section 3 of the Act of June 30, 1954 (68 Stat. 330, as amended by 82 Stat. 1213; 48 U.S.C. 1681 nt.), is amended by striking out of the last sentence "section 102(1) of the Disaster Relief Act of 1970" and inserting in lieu thereof "sections 102(2) and 301 of the Disaster Relief Act of 1974".

(l) Section 1820(f) of title 38, United States Code, is amended by striking "the Disaster Assistance Act of 1970" and inserting in lieu thereof "the Disaster Relief Act of 1974".

(m) Whenever reference is made in any provision of law (other than this Act), regulation, rule, record, or document of the United States to provisions of the Disaster Relief Act of 1970 (84 Stat. 1744), repealed by this Act such reference shall be deemed to be a reference to the appropriate provision of this Act.

REPEAL OF EXISTING LAW

SEC. 603. The Disaster Relief Act of 1970, as amended (84 Stat. 1744), is hereby repealed, except sections 231, 233, 234, 235, 236, 237, 301, 302, 303, and 304. Notwithstanding such repeal the provisions of the Disaster Relief Act of 1970 shall continue in effect with respect to any major disaster declared prior to the enactment of this Act.

PRIOR ALLOCATION OF FUNDS

SEC. 604. Funds heretofore appropriated and available under Public Laws 91–606, as amended, and 92–385 shall continue to be available for the purpose of providing assistance under those Acts as well as for the purposes of this Act.

EFFECTIVE DATE

SEC. 605. Except for section 408, this Act shall take effect as of April 1, 1974.

AUTHORIZATION OF APPROPRIATIONS

SEC. 606. Except as provided by the amendment made by section 501, there are authorized to be appropriated to the President such sums as may be necessary to carry out this Act through the close of June 30, 1977.

And the House agree to the same.

ROBERT E. JONES,
RAY ROBERTS,
HAROLD T. JOHNSON,
WM. H. HARSHA,
GENE SNYDER,
Managers on the Part of the House.

QUENTIN BURDICK,
DICK CLARK,
J. R. BIDEN, Jr.,
JENNINGS RANDOLPH,
PETER H. DOMENICI,
JAMES L. BUCKLEY,
HOWARD H. BAKER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3062) entitled the "Disaster Relief Act Amendments of 1974", submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

Short title

Senate bill

The Senate bill provided that this legislation could be cited as the "Disaster Relief Act Amendments of 1974".

House amendment

The short title of the House amendment was the same as the short title of the Senate bill.

Conference substitute

The conference substitute provided that this legislation may be cited as the "Disaster Relief Act of 1974".

Congressional findings and declarations

Senate bill

Section 101(a) of the Senate bill provided a declaration that, because of losses and adverse effects caused by disasters, special measures are necessary to provide emergency services and assistance and to help reconstruct and rehabilitate devastated areas.

Section 101(b) of the Senate bill provided that the purpose of the bill is to provide assistance by (1) revising existing disaster relief programs, (2) encouraging development of State and local disaster relief plans and capabilities, (3) improving coordination and responsiveness of disaster relief programs, (4) encouraging acquisition of insurance coverage, (5) encouraging hazard mitigation measures to reduce disaster losses, (6) providing Federal assistance programs for both public and private losses sustained in disasters; and (7) providing a long-range economic recovery program for major disaster areas.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill.

Definitions

Senate bill

Section 102 of the Senate bill defined the term "emergency" to include damage caused by any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, explosion, earthquake, volcanic eruption, landslide, snowstorm, drought, fire, or other catastrophe which requires emergency assistance.

Such section defined the term "major disaster" as any damage caused by any such catastrophe determined by the President to be of sufficient severity and magnitude to warrant assistance above and beyond emergency services to supplement State and local efforts.

Such section gave standard definitions to the terms "United States", "State", "Governor", "local government", and "Federal agency," except that the term "local government" was defined to include any rural community, unincorporated town or village, or any other public or quasipublic entity for which an appication for assistance is made by a State or political subdivision of a State.

House amendment

Section 3 of the House amendment amended section 102(1) of the Disaster Relief Act of 1970, relating to the definition of major disaster, to indicate that the definition of such term shall include mud slides.

Conference substitute

The conference substitute is the same as the Senate bill, except that it incorporates the House amendment to include mud slides in the definition of emergency and major disaster. It was the intention of the conferees not to define the term "disaster" specifically; whenever used in this legislation such term includes an emergency or a major disaster.

DISASTER PREPAREDNESS ASSISTANCE

FEDERAL AND STATE DISASTER PREPAREDNESS PROGRAMS

Senate bill

Section 201 of the Senate bill provided that the President is empowered to establish and conduct disaster preparedness programs, using the services of all appropriate agencies, to accomplish the following: (1) preparation of plans for disaster mitgation, warnings, emergency operations, rehabilitation and recovery, (2) disaster training and exercises; (3) post-disaster evaluations; (4) annual reviews; (5) coordination; (6) application of science and technology; (7) disaster research; (8) revision of legislation.

Such section also provided that technical assistance may be provided the States by the President for the development of disaster mitigation, relief, and recovery plans and programs.

Such section also provided that grants to the States not in excess of $250,000 may be made by the President within one year after enactment for the preparation of comprehensive disaster plans and programs, including provisions for aid to individuals, business and local governments, for training of staffs, for formulating regulations and procedures, and for conduct of exercises. Annual 50 percent matching grants not in excess of $25,000 may be made to States for improving, maintaining and updating disaster assistance plans.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill. Section 201 gives new emphasis to comprehensive and coordinated disaster preparedness. Many Federal agencies currently have programs for their own disaster preparedness and for assistance and guidance to State and local governments for specific preparedness activities. Other Federal agencies, particularly the Defense Civil Preparedness Agency, have preparedness missions and programs which provide substantial collateral benefits for meeting situations covered by this legislation. The conferees wish to make sure that these direct and collateral preparedness efforts are part of a coordinated whole under the overall policy guidance and coordination of the agency selected by the President to carry out the operating programs authorized by this legislation. The intent of section 201(a) is to assure such centralized coordination.

Disaster warnings

Senate bill

Section 202 of the Senate bill authorized the President to insure that agencies are prepared to issue disaster warnings, to use or make available the civil defense or other Federal communications systems for threatened or imminent disasters, to make agreements for the use of private communications systems for disaster warnings, and to assist State and local governments to provide timely and effective disaster warnings.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill.

DISASTER ASSISTANCE ADMINISTRATION

Procedures

Senate bill

Section 301 of the Senate bill provided that, based upon a Governor's request that Federal disaster assistance beyond State and local capabilities is necessary, the President is authorized to declare that a major disaster exists or to take other appropriate action in accordance with the provisions of the bill.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill, except that it provides that the President may, based on the request of a Governor, declare that a major disaster exists or declare that an emergency exists.

In order to avoid any possible misunderstanding, it is the wish of the conferees to emphasize that the requirement of section 301 that Governors shall furnish to the President certain information describing State and local efforts and resources is intended to facilitate the rendering of Federal assistance under this legislation, and is not intended to delay or impede the procedures through which such assistance is provided.

Federal assistance

Senate bill

Section 302 of the Senate bill provided that the President, in providing Federal disaster assistance, may coordinate the activities of all Federal agencies and may direct them to use their available personnel, equipment, supplies, facilities and other resources in support of State and local efforts. The President may also prescribe rules and regulations to carry out any provisions of the bill and may exercise any authority conferred on him either directly or through Federal agencies.

Such section also provided that any Federal agency administering disaster assistance programs is authorized to modify or waive administrative conditions if such conditions cannot be met because of a disaster.

Such section also provided that all disaster assistance under the bill must be provided according to a Federal-State agreement unless specifically waived by the President.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill, with the following two exceptions:

1. The provision that all disaster assistance under this legislation must be provided according to a Federal-State agreement unless specifically waived by the President is omitted by the conference substitute.

2. The conference substitute adds a provision that any repair or other replacement of farm fencing damaged or destroyed by a major disaster shall be considered an emergency conservation measure for purposes of payments under certain Federal programs. The Department of Agriculture for many years has had authority under Public Law 85–58 to make payments to farmers to rehabilitate farm lands damaged by natural disasters, so as to return the land to productive agricultural use. Emergency con-

servation measures carried out under the program operated by the Agricultural Stabilization and Conservation Service (ASCS) have included 80% Federal cost-sharing for both debris clearance and for the repair or replacement of farm fencing, among other measures—which, however, have been subjected to increasingly restrictive administrative interpretations, culminating in the elimination of the fence replacement practice by administrative order on March 12, 1974.

Hundreds of miles of farm fences were damaged or destroyed in Tennessee, Kentucky and other states by the tornadoes of April 3–4, 1974. At the request of the Senate Committee on Agriculture, and on the initiative of members of the conference from both the House and the Senate, the conference substitute includes section 304(c), specifically providing that notwithstanding any other provision of law, the repair or replacement of farm fencing damaged or destroyed as a result of any major disaster shall be eligible for such payments under P.L. 85–58 or any other provision of law. It is the judgment of the conferees that the replacement of fencing is essential to return land to productive agricultural use, and the conferees expect the provision to be implemented without artificial restrictions or limitations, such as protecting other conservation structures or permanent vegetative cover.

The conferees note that more than three weeks after the President's disaster declaration, the Department's ASCS, following its own time-consuming procedures, had not yet designated a single county in the dozens of rural areas struck by tornadoes as eligible for its disaster assistance. For this reason, section 302(c) of this legislation is keyed to major disaster declarations by the President, so that farmers will know at once the counties eligible for farm fence replacement. While the Department of Agriculture may utilize its own procedures and authority in localized situations, or in droughts developing over time, once the President acts the ASCS (like every other Federal agency with disaster-relief capability) is required to act promptly, humanely, and in full coordination with the FDAA.

With specific reference to debris clearance on farms, the House and Senate Committees have received communications pointing out that in urban areas debris clearance is performed on private as well as public property at federal expense. This authority, of course, extends to rural areas as well. The Department of Agriculture, however, has the organization, the capability, and the relationship with farmers to best accomplish this task. The conferees expect the Department to implement debris clearance under its emergency conservation program without restrictive limitations, and in a way that will provide benefits no less generous to farm families in rural areas than that extended to city dwellers in urban areas. The conferees strongly urge the Department to coordinate its debris clearance practices through the FDAA to insure this result.

Coordinating officers

Senate bill

Section 303 of the Senate bill provided that the President, upon the declaration of a major disaster, shall appoint a federal coordinating officer to operate in the disaster area. The Federal coordinating officer shall make an appraisal of the relief needed, establish field offices, coordinate the administration of relief, and take other actions to assist local citizens and public officials in promptly obtaining assistance.

Such section also provided that the President shall request the Governor of a disaster affected State to designate a State coordinating officer to coordinate State and local disaster assistance efforts with those of the Federal coordinating officer.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill.

The conferees wish to emphasize that the Federal coordinating officer will have a vital role in the disaster area. It is through the proper execution of this essential activity that the entire range of assistance available under Federal, State or local law, and assistance made available through voluntary and charitable agencies and institutions, is brought to bear with efficiency and dispatch, and without costly and delaying duplications. Federal assistance is not limited to that authorized by this legislation. There are other special authorities, such as those of the Department of Agriculture and the Corps of Engineers. Additionally, Federal agencies may be able to assist through priority application of their regular programs. Since it is not feasible to bring all of the Federal disaster assistance potential into one single law, the Federal coordinating officer must also make certain that all of the Federal agencies are carrying out their appropriate roles under their own legislative authorities.

Emergency support teams

Senate bill

Section 304 of the Senate bill provided that the President is authorized to form emergency support teams of Federal personnel to be deployed in disaster areas to assist the Federal coordinating officer. For this purpose the head of any department or agency may detail personnel to temporary duty with such emergency support teams without loss of seniority, pay or other status.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill.

Emergency assistance

Senate bill

Section 305 of the Senate bill provided that the President is authorized to provide, upon request of an affected State, such assistance as he deems necessary to save lives and protect public health and safety because a disaster either threatens or is imminent.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill. It is the intention of the conferees that the provisions of section 305 shall allow the President to undertake whatever action he considers necessary to avert a disaster when conditions do not warrant the full application of assistance under a major disaster declaration, or when a major disaster threatens and special expedient actions can be taken to avert or lessen its probable effect. Such section is intended to provide the President with authority to act before a disaster strikes, so that means may be developed for the lessening of the impact and toll of disasters. It is not intended that section 305(c) be viewed or applied as a way to avoid the more specific commitments by the State in requesting and receiving assistance under a major disaster declaration. The purpose of such section is to make available emergency assistance which, because of the pressures of time or because of the unique capabilities of a Federal agency, can be more readily provided by the Federal Government. It is specialized assistance to meet specific needs.

It is also the intention of the conferees that the President, in providing assistance under this section and other applicable sections of this legislation to save lives and protect property and public health and safety, may provide assistance to owners of livestock or to State or local governments for the provision of facilities to protect such livestock from disasters. An example of this type of assistance would include facilities to which livestock may be removed and kept protected from the ravages of a disaster in a safe and sanitary manner and which provide for the well-being of such livestock.

Cooperation of Federal agencies in rendering disaster assistance

Senate bill

Section 306 of the Senate bill provided that, as directed by the President, Federal agencies are authorized in a disaster to provide assistance in the following ways: (1) using or lending to States and local governments (with or without compensation) their equipment, supplies, facilities, personnel, and other resources; (2) distributing medicine, food, and other consumable supplies through relief and disaster assistance organizations or by other means; (3) donating or lending surplus Federal equipment and supplies; (4) performing on public or private lands or waters any emergency work or services not within State or local government capability that is essential for protection, and preservation of public health and safety.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill, except that the conference substitute adds a provision which provides that emergency work performed under section 306 does not preclude additional Federal assistance under other provisions of this legislation. Assistance which may be provided under section 306(a) may include the cost of transporting equipment and supplies, including transportable buildings, which may be available from Federal agencies.

Reimbursement

Senate bill

Section 307 of the Senate bill provided that Federal agencies may be reimbursed from appropriated funds for expenditures made under provisions of the bill, with such funds deposited to the credit of current appropriations.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill.

Nonliability

Senate bill

Section 308 of the Senate bill provided that the Federal Government is not liable for any claim based on performance or failure to perform by any Federal agency or employee of any discretionary duty or function under the bill.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill.

Performance of services

Senate bill

Section 309 of the Senate bill provided that Federal agencies carrying out the purposes of the bill may accept and use (with their consent) the services or facilities of State or local governments, may appoint and fix compensation of necessary temporary personnel, may employ experts and consultants without regard to classification and pay rates, and may incur obligations on behalf of the United States for the acquisition, rental, or hire of equipment, services, materials and supplies for shipping, drayage, travel, and communications, and for supervision and administration of such activities.

Such section also provided that, when directed by the President, such obligations may be incurred without regard to the availability of funds.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill, except that the conference substitute provides that obligations incurred by Federal agencies under section 309 may be incurred by such agencies only in such amount as may be made available to such agencies by the President.

Use of local firms and individuals

Senate bill

Section 310 of the Senate bill provided that, to the extent feasible and practicable, preference is to be given in the expenditure of Federal disaster assistance funds to those organizations, firms, and individuals who reside or do business primarily in a disaster area.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill.

Nondiscrimination in disaster assistance

Senate bill

Section 311 of the Senate bill provided that the President shall issue regulations insuring the equitable and impartial distribution of supplies and processing of applications and forbidding discrimination on the grounds of race, color, religion, nationality, sex, age, or economic status in the handling of disaster assistance.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill.

Use and coordination of relief organizations

Senate bill

Section 312 of the Senate bill provided that the personnel and facilities of such disaster relief or assistance organizations as the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and others may be used (with their consent) by the President for distributing medicine, food supplies or other items, and in the restoration, rehabilitation or reconstruction of community services, housing and essential facilities after a disaster. Such disaster relief or assistance organizations shall enter into agreements with the President assuring that use of Federal facilities, supplies and services will comply with regulations prohibiting duplication of benefits and guaranteeing nondiscrimination promulgated by the President under the bill as well as such other regulations the President may require.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill.

Priority to certain applications for public facility and public housing assistance

Senate bill

Section 313 of the Senate bill provided that priority and immediate consideration is to be given, during a period prescribed by the President, to applications for assistance from public bodies situated in major disaster areas under several Housing Acts, the Consolidated Farmers Home Administration Act, the Public Works and Economic Development Act of 1965, the Appalachian Regional Development Act, and the Federal Water Pollution Control Act.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill.

Insurance

Senate bill

Section 314 of the Senate bill provided that applicants for assistance under the bill must obtain any reasonably available, adequate and necessary insurance to protect against losses to property which is replaced, restored, repaired, or reconstructed with that assistance.

Such section also provided that property for which assistance was previously provided under the provisions of the bill is not eligible to receive additional assistance in the future unless all insurance required by such section has been obtained and maintained.

Such section also provided that a State may elect to act as a self-insurer with respect to facilities which it owns.

House amendment

No provision.

Conference substitute

The conference substitute provides that an applicant for assistance under section 402 of this legislation, relating to repair and restoration of damaged facilities, under section 419 of this legislation, relating to inlieu contributions, or under section 803 of the Public Works and Economic Development Act of 1965, relating to public works and development facilities grants and loans, must give assurances that they will obtain reasonably available insurance for any property to be repaired or otherwise replaced through such assistance, in order to protect such property against any future loss. It was not the intention of the conferees, however, to permit the President to prescribe regulations which would apply restrictions on a retroactive basis to property damage which was covered by legislation enacted before the effective date of this legislation.

It should be noted that it was the intention of the conferees, by limiting the applicability of section 314 to sections 402 and 419 of this legislation and section 803 of the Public Works and Economic Development Act of 1965, not to require under this legislation the purchase of insurance with respect to property owned by individuals.

The conference substitute also provides that the President shall have the authority to make determinations with respect to the availability, adequacy, and necessity of insurance for purposes of section 314. The President, in making such determinations, may not require greater types and extent of insurance than are certified to him as reasonable by the appropriate State insurance commissioner. It should be noted that it is the intention of the conferees that this legislation shall give the President authority to require lesser types and extent of insurance than are certified to him by such State insurance commissioners.

The conference substitute also provides that no applicant for assistance under section 402 or 419 of this legislation or under section 803 of the Public Works and Economic Development Act of 1965, may receive any assistance for any property with respect to which he previously has received assistance under this legislation unless such applicant has obtained and maintained all insurance with respect to such property which is required under section 314.

The conference substitute contains essentially the same provision as the Senate bill with respect to States acting as self-insurers, except that under the conference substitute this provision contains a requirement that there be a plan for self-insurance which is satisfactory to the President, and such provision applies only to assistance under section 402 or 419 of this legislation or under section 803 of the Public Works and Economic Development Act of 1965.

Duplication of benefits

Senate bill

Section 315 of the Senate bill provided that the President is required to ascertain that no person, business concern or other entity receives financial assistance from more than one source for the same damage or loss from a disaster.

Such section also provided that no person, business or other entity could receive Federal aid for any loss compensated by insurance, but partial compensation for a particular loss would not preclude additional assistance for that part of the loss not compensated for otherwise.

Such section also provided that the President is to determine whether any person, business concern or other entity may have received duplicate benefits and, on such a finding, to direct that person, business concern or other entity to reimburse the Federal Government for that part determined to be excessive.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill.

Reviews and reports

Senate bill

Section 316 of the Senate bill provided that the President is to conduct annual reviews of the disaster assistance activities of Federal, State, and local governments to assure maximum coordination and effectiveness of such activities and to report periodically thereon to the Congress.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill.

Criminal and civil penalties

Senate bill

Section 317 of the Senate bill provided that persons fraudulently or willfully misstating facts in request for assistance under the bill would be subject to a fine of not more than $10,000, imprisonment for not more than one year, or both.

Such section also provided that each violation of any order or regulation under the bill would be subject also to a civil penalty of not more than $5,000.

Such section also provided that any persons wrongfully applying proceeds of a loan or other cash benefit would be civilly liable to the Federal Government for an amount equal to one and one-half times the original principal of a loan or cash benefit.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill, except that the conference substitute makes the misapplication of proceeds of loans or other cash benefits under this legislation a criminal offense.

Availability of materials

Senate bill

Section 318 of the Senate bill provided that, at the request of the Governor of a State suffering damage caused by a major disaster, the President is authorized to provide for a survey of the construction materials needed in the major disaster area for housing, farming operations and business enterprises and to take appropriate action to insure the availability and fair distribution of such materials for a period not to exceed 180 days. To the extent possible, the President is directed to implement any allocation program through companies which customarily supply construction materials in the affected area.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill, except that the conference substitute includes public facilities repairs and replacement under the coverage of section 318. It was the intention of the conferees that the authority granted by section 318 be exercised judiciously in order to expedite the provision of assistance to areas affected by a major disaster.

FEDERAL DISASTER ASSISTANCE PROGRAMS

Federal facilities

Senate bill

Section 401 of the Senate bill provided that the President may authorize immediate repair, reconstruction, restoration, or replacement of any disaster-damaged facility owned by the United States if he determines that such action is so important and urgent that it cannot be deferred until required legislation, appropriations, or congressional committee approval is obtained.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill.

Repair and restoration of damaged facilities

Senate bill

Section 402 of the Senate bill provided that the President is authorized to make grants to help repair, restore, reconstruct or replace the following facilities damaged or destroyed by a major disaster: (1) public facilities belonging to State or local governments, including those used for educational and recreational purposes; (2) private nonprofit educational, utility, emergency, medical, and custodial care facilities, including those for the aged and disabled; (3) facilities on Indian reservations, as defined by the President; and (4) facilities listed in paragraphs (1), (2), and (3) which are in the process of construction.

Such section also provided that Federal grants for these purposes shall not exceed 100 percent of the net cost of restoring such facilities as they previously existed in conformity with applicable codes, specifications and standards.

Such section also provided that, if a State or local government determines that public welfare would not be best served by repairing, restoring, reconstructing, or replacing particular publicly owned or controlled facilities damaged in a disaster, in lieu of the above grant it may elect to receive a contribution equal to 90 percent of the total estimated cost of restoring all damaged public facilities within its jurisdiction. Such funds may be used to repair or restore certain selected damaged public facilities or to construct new public facilities which would better meet its needs for governmental services and functions. Subsection (g) of such section provided that in those jurisdictions where public facility damages total no more than $25,000, a grant equal to 100 percent of the total cost for repairing or reconstructing these facilities would be made.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill, with the following three exceptions:

1. The conference substitute provides, with respect to the 90 percent contribution provision, that the estimate of the cost of repair or other replacement shall be made by the Federal Government. Such cost shall be estimated on the basis of the design of the facility involved as it existed before the major disaster occurred and in conformity with current applicable codes, specifications, and standards.

2. The conference substitute omits subsection (g) of section 402. The conference substitute adds a new section 419 to this legislation, relating to in-lieu contributions, which substantially replaces the provisions of subsection (g). Section 419 of the conference substitute provides that if the Federal estimate of the costs of (1) the repair or other restoration of damaged or destroyed public facilities under section 402, and (2) emergency assistance under section 306 and debris removal under section 403, is less than $25,000, then the President may make a contribution to the State or local government involved under section 419 in lieu of contributions under section 306, 402, or 403. Such contributions under section 419 shall be based on 100 percent of the estimated cost of repair or other replacement. Such contributions may be used to repair or otherwise replace damaged public facilities, to construct new public facilities, or to undertake disaster work authorized by section 306 or section 403. Section 419 is intended to authorize contributions in lieu of contributions under section 306, but contributions under section 419 are not intended to replace other Federal assistance under section 306.

In many small communities the total cost of work required to clear debris and to repair or restore public facilities may be less than $25,000. Each local government files one project application for all of its eligible work. The conferees have been informed that about 73 percent of these applications in the past four years have been for less than $25,000, accounting, cumulatively, for only 10 percent of the total dollars approved. In these instances, maintaining and auditing records of expenditures on each separate local action add both unusual burden and cost for the local government, the State and the Federal Government. It is the intent of this section to give the local government flexibility in the use of funds without the added onus of complicated records keeping and audit. The grant will be made on the basis of a Federal estimate which is acceptable to the State and local government. A final inspection by Federal, State, and local officials of the work performed would complete the transaction.

3. The definition of the term "public facility" has been slightly revised to assure that a park will for the purposes of this section be a public facility. Thus for the purposes of this section the repair, restoration, reconstruction, and replacement of a public facility will, in the case of a park, include restoration of natural features including trees and other vegetation to the extent practicable.

The intent of the conferees in this section is to provide for Federal payment for a new facility that would provide the same capacity as the old facility if it were to be built today according to up-to-date standards. Example (1): If a 400 pupil school constructed in 1950 was designed on then existing criteria to provide a certain number of square feet per student, a cafeteria and library, but no gymnasium or swimming pool, the Federal contribution would be available to the amount that would be required for a 400 pupil school with a cafeteria and library. It would not pay for a swimming pool and gymnasium even though such amenities would be required if the school were to be built now. Nor would the Federal Government pay for a 600 pupil school which would be called for if the school were to be designed new today. If, however, today's standards called for a greater number of square feet per student the Federal contribution would properly pay for space based on the new figure; similarly, lighting levels, plumbing, and installed fixtures based on 1974 levels rather than 1950 criteria would be used in determining the Federal contribution. Example (2): An old bridge containing two ten foot lanes without shoulders or sidewalks was washed out as a result of a disaster. Assuming that the average daily traffic would now justify a four lane bridge, the Federal contribution would nevertheless be limited to 100 percent of the net cost of replacing two lanes. If current standards now require twelve foot lanes, shoulders and sidewalks, the Federal contribution would properly include those costs. If the State or local government decided to build a four lane bridge, it could do so but the Federal contribution would be limited to the cost of a new two lane bridge.

Debris removal

Senate bill

Section 403 of the Senate bill provided that the President is authorized, either by using Federal departments and agencies or by making grants to State and local governments, to clear debris and wreckage resulting from a disaster from publicly and privately owned lands and waters.

Such section also provided that, in order for such section to be carried out, a State or local government must first arrange unconditional authorization for removal of debris from public or private property and, in the latter case, must agree to indemnify the Federal Government for any claims resulting from such removal.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill. It should be noted that it is the intention of the conferees that, for purposes of section 403, privately owned lands shall be considered to include farms.

Temporary housing assistance

Senate bill

Section 404 of the Senate bill provided that the President is authorized to provide, either by lease or purchase, temporary housing or other emergency shelter for persons and families displaced by a major disaster. Such housing may include, but not be limited to, unoccupied habitable dwellings, suitable rental housing, mobile homes, or other readily fabricated dwellings.

Such section also provided that no rental is to be charged during the first twelve months occupancy of such temporary housing, but thereafter rentals based on fair market value and on financial ability of the occupants are to be established. Temporary housing acquired by purchase may be sold directly to occupants at fair and equitable prices.

Such section also provided that mobile homes or fabricated dwellings are to be installed on sites complete with utilities without charge to the United States provided either by the State or local government or by the owner or occupant of a site displaced by a major disaster. However, the President is authorized to provide other more economical and accessible sites or to authorize installation of essential utilities at Federal expense if it is in the public interest.

Such section also provided that the President is authorized to provide, for a period not to exceed one year, grants for mortgage or rental payments for individuals or families who, because of financial loss caused by a major disaster, have received an eviction or dispossession notice resulting from foreclosure of any mortgage or lien, cancellation of any contract of sale, or termination of any lease.

Such section also provided that the President is authorized, in lieu of providing other types of temporary housing, to make expenditures to repair or restore to a habitable condition owner-occupied private residential structures made uninhabitable by a disaster which are capable of being restored quickly to a habitable condition with minimum repairs.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill.

Protection of environment

Senate bill

Section 405 of the Senate bill provided that no action taken or assistance provided pursuant to section 305, 306, or 403 of the bill or any assistance provided pursuant to section 402 of the bill that has the effect of restoring facilities substantially as they existed prior to the disaster, shall be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (P.L. 91–190; 83 Stat. 852).

House amendment

No provision.

Conference substitute

The conference substitute is essentially the same as the Senate bill, except that the conference substitute makes the provisions of section 405 applicable to section 419, relating to in-lieu contributions.

Minimum standards for public and private structures

Senate bill

Section 406 of the Senate bill provided that recipients of disaster loans or grants must agree to comply with applicable standards of safety, decency, and sanitation and with applicable codes, specifications, and standards in any repair or reconstruction financed by such assistance.

Such section also provided that State and local governments must agree that in areas where disaster loans or grants are to be used, natural hazards will be evaluated and action taken to minimize them, including safe land-use and construction practices according to standards prescribed by the President.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill, except that the conference substitute gives the President authority to approve standards prescribed by States, local governments, or other sources, in addition to his authority to prescribe standards.

Unemployment assistance

Senate bill

Section 407 of the Senate bill provided that individuals unemployed as a result of a major disaster who are not eligible for or who have exhausted their eligibility for unemployment compensation may be authorized weekly amounts authorized under the unemployment compensation program of the State in which the disaster occurred. The amount of such assistance, which cannot be provided for more than one year, is to be reduced by the amount of unemployment compensation or of private income protection insurance payments otherwise available to the unemployed person. Reemployment services to those unemployed as a result of a major disaster may also be provided by the President under other laws.

House amendment

No provision.

Conference substitute

The conference substitute provides that the President is authorized to provide to any individual unemployed as a result of a major disaster such benefit assistance as he deems appropriate while such individual is unemployed. Such assistance as the President shall provide shall be available to an individual as long as the individual's unemployment caused by the major disaster continues or until the individual is reemployed in a suitable position, but no longer than one year after the major disaster is declared. Such assistance for a week of unemployment shall not exceed the maximum weekly amount authorized under the unemployment compensation law of the State in which the disaster occurred, and the amount of assistance under this section to any such individual for a week of unemployment shall be reduced by any amount of unemployment compensation or of private income protection insurance compensation available to such individual for such week of unemployment. The President is directed to provide such assistance through agreements with States which, in his judgment, have an adequate system for administering such assistance through existing State agencies.

Individual and family grant programs

Senate bill

Section 408 of the Senate bill provided that the President is authorized to make grants to States for financial assistance not in excess of $5,000 to families adversely affected by a major disaster who are unable to meet extraordinary disaster-related expenses and needs not provided for by the bill or by other means.

Such section also provided that grants to States for this purpose may not exceed 75 percent of the actual cost of providing such needs and services and are to be administered by the Governor or his designated representative. Administration of the program shall be subject to Federal audit. As much as 25 percent of the estimated Federal contribution may be provided as an initial advance, but no more than 3 percent of the total grant may be used by the State for administratve purposes.

Such section also provided that national criteria, standards, and procedures for eligibility and administration of individual assistance grants are to be provided in regulations promulgated by the President.

House amendment

Section 2 of the House amendment amended title II of the Disaster Relief Act of 1970, relating to the administration of disaster assistance, by adding at the end thereof a new section 256, relating to individual and family grant programs.

Subsection (a) of the new section 256 provided that the President is authorized to make grants to States to enable them to make grants to meet extraordinary disaster-related expenses or needs of individuals or families which are not met by other provisions of such Act or by other means. Such subsection also provided that the Governor of the State involved shall administer the grant program.

Subsection (b) of the new section 256 provided that (1) grants to States under such section may not exceed 75 percent of the actual costs of meeting such expenses or needs; (2) such grants may be made only on condition that the remaining 25 percent of such actual cost shall be paid by the State or political subdivision involved; (3) if a State or political subdivision of a State is unable to immediately pay its share, then the President is authorized to advance such share to the State or political subdivision involved, on condition that such advance is repaid when such State or political subdivision is able to do so; and (4) no individual or family may receive more than $5,000 in grants with respect to one major disaster.

Subsection (c) of the new section 256 provided that national criteria, standards, and procedures for eligibility and administration of assistance grants are to be provided in regulations promulgated by the President.

Subsection (d) of the new section 256 provided that no State may expend more than 3 percent of any grant it receives under such section for administrative purposes.

Subsection (e) of the new section 256 provided that such section takes effect as of March 31, 1974.

Conference substitute

The conference substitute is the same as the House amendment, with the following exceptions:

1. The conference substitute incorporates the House amendment as section 408 of this legislation, instead of inserting such House amendment as a new section 256 of the Disaster Relief Act of 1970.

2. The conference substitute omits any reference to political subdivisions in subsection (b) of the House amendment. The purpose of this omission is to allow the Federal Government to deal directly and exclusively with States in making advances of the 25 percent grant share of States and in receiving repayment of such advances. It should be noted that it is the intention of the conferees that local governments may make voluntary contributions to States in order to assist the States in achieving their 25 percent grant share. The conferees do not wish to curtail the participation of local governments in the grant program, but the conferees do wish to establish procedures through which the Federal Government may deal directly and exclusively with States affected by major disasters. Advances are to be made when the State is immediately unable to pay its share. Inability, in this sense, does not include mere unwillingness.

3. The conference substitute makes section 408 effective as of April 20, 1973.

The conferees recognize the possible problems States affected by recent disasters may have in quickly and effectively implementing this grant program and wish to make clear their intent that Federal technical assistance and expertise should be made available to assist States in their attempt to put this grant program into effect as smoothly and rapidly as is possible.

Food coupons and distribution

Senate bill

Section 409 of the Senate bill provided that the President is authorized to distribute through the Secretary of Agriculture food coupons and surplus commodities to low-income households which, because of a disaster, are not able to purchase adequate amounts of nutritious food.

Such section also provided that the distribution of food coupons and surplus commodities may continue as long as the President determines it to be necessary in view of a major disaster's effects on the earning power of recipients.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill.

Food commodities

Senate bill

Section 410 of the Senate bill provided that the Secretary of Agriculture is authorized and directed to provide food commodities which will be readily and conveniently available for mass feeding and distribution purposes in major disaster areas, and to utilize funds appropriated to the Department of Agriculture for the purchase of commodities necessary to provide adequate food supplies in any major disaster area.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill.

Relocation assistance

Senate bill

Section 411 of the Senate bill provided that no person otherwise eligible for replacement housing payments under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646; 84 Stat. 1894) is to be denied such eligibility because he is prevented by a major disaster from meeting the occupancy requirements of such Act.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill.

Legal services

Senate bill

Section 412 of the Senate bill provided that the President is authorized to assure the availability in a disaster area, with the advice and assistance of Federal agencies and State and local bar associations, of legal services to low-income individuals not able to secure such services because of a major disaster.

House amendment

No provision.

Conference substitute

The conference substitute replaces the provisions of the Senate bill with the provisions of section 239 of the Disaster Relief Act of 1970, relating to legal services.

Crisis counseling assistance

Senate bill

Section 413 of the Senate bill provided that the President is authorized to provide professional counseling services and training through the National Institute of Mental Health, including financial assistance to State and local agencies or to private mental health organizations, in order to relieve mental health problems caused or aggravated by a major disaster.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill.

Community disaster loans

Senate bill

Section 414 of the Senate bill provided that loans not exceeding 25 percent of annual operating budgets may be made by the President to local governments suffering substantial tax and revenue losses and demonstrating need for financial assistance because of major disasters.

Such section also provided that, to the extent that revenues of a local government receiving a disaster loan are not sufficient to meet the operating budget of that government during the following three fiscal years, the President is authorized to cancel all or part of the community disaster loan.

Such section also amended subtitle C of title I of the State and Local Fiscal Assistance Act of 1972 (P.L. 92–512; 86 Stat. 919) by adding at the end thereof a new section 145, relating to entitlement factors affected by major disasters.

The new section 145 provided that the Secretary of the Treasury shall disregard any information used in determining entitlements of a State or a unit of local government for 60 months if such information results from a major disaster and would reduce the amount of such entitlements.

The new section 145 would take effect on April 1, 1974.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill, except that the conference substitute makes mandatory the cancellation of community disaster loans to the extent that revenues of a local government receiving a disaster loan are not sufficient to meet the operating budget of such government during the first three complete fiscal years after occurrence of the major disaster.

It is the intention of the conferees that the term "revenues", when used in section 414, shall include utility revenues.

Emergency communications

Senate bill

Section 415 of the Senate bill provided that the President is authorized to establish temporary communications systems in any major disaster area to help carry out his functions and to make them available to other government officials and individuals.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill.

Emergency public transportation

Senate bill

Section 416 of the Senate bill provided that temporary public transportation service may be provided by the President in a major disaster area to meet emergency needs and to provide transportation to governmental, supply, educational and employment centers in order to restore normal life patterns.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill.

Fire suppression grants

Senate bill

Section 417 of the Senate bill provided that the President is authorized to provide assistance and grants to States to assist in the suppression on publicly or privately owned lands of any fire which threatens to become a major disaster.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill.

Timber sale contracts

Senate bill

Section 418 of the Senate bill provided that, if damages caused by a major disaster result in additional costs for constructing roads specified in existing timber sale contracts made by the Secretaries of Agriculture and Interior, such additional costs will be borne by the Federal Government under the following conditions: (1) if the cost is more than $1,000 for sales under 1 million board feet: (2) if the cost is more than $1 per thousand board feet for sales of one to three million board feet; or (3) if the cost is more than $3,000 for sales over three million board feet.

Such section also provided that the appropriate Secretary may allow cancellation of a contract entered into by his department if he determines that disaster damages are so great that construction, restoration or reconstruction of roads is not practical under the above cost-sharing arrangement.

Such section also provided that whenever the Secretary of Agriculture determines that the sale of timber from national forests in an area damaged by a major disaster will assist in construction of that area, will assist in sustaining the economy of that area, or is necessary to salvage the value of damaged timber, he may reduce to seven days the minimum period of time for advance public notice of such sales required by the Act of June 4, 1897 (16 U.S.C. 476).

Such section also provided that the President is authorized to make grants to States or local governments to remove timber damaged by a major disaster from privately owned lands. State or local governments may reimburse any person from these funds for those expenses incurred in removing such damaged timber which exceed the salvage value of the timber.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill.

ECONOMIC RECOVERY FOR DISASTER AREAS

Amendment to Public Works and Economic Development Act

Senate bill

Section 501 of the Senate bill amended the Public Works and Economic Development Act of 1965 (P.L. 89–136; 79 Stat. 552) by adding at the end thereof a new title VIII, relating to economic recovery for disaster areas.

The new section 801, relating to purposes of the new title VIII, provided that the purpose of such title is to authorize additional recovery assistance for any major disaster area in which economic dislocation is so severe that cooperative planning for development, restoration of employment base, and continued coordination of Federal-aid programs is required for long-range restoration and rehabilitation of normal commercial, industrial and other economic activities in the area.

The new section 802, relating to disaster recovery planning, provided that, after determining that special assistance is required under the new title VIII because of a major disaster in his State, a Governor may designate a Recovery Planning Council of not less than 5 members, a majority of whom are to be local elected public officials from political subdivisions in the disaster area. One appointed member is to represent the State, while the Federal Government may be represented by the Chairman of the Federal Regional Council (or another member designated by him), or the Federal Cochairman of the Regional Commission (or his designee) in those areas where such a body has been established under the Appalachian Regional Development Act of 1965 (P.L. 89–4; 79 Stat. 5) or the Public Works and Economic Development Act of 1965 (P.L. 89–136; 79 Stat. 552). If a qualified multijurisdictional organization already exists in the major disaster area, the Governor may elect to designate that organization, with Federal and State representatives added, to act as the Recovery Planning Council.

Such section also provided that the Recovery Planning Council is to review existing plans, revise those plans to any extent it determines to be necessary, develop new plans, prepare a 5-year Recovery Investment Plan, and make recommendations to the Governor and to local governments for revising and implementing those plans. It may recommend revising, deleting, reprogramming, or further approval of Federal-aid projects in the major disaster area for which applications are pending, funds have been obligated but construction not started, funds have been or may be apportioned during the next five years, State scheduling may make funds available, or approval might be reasonably anticipated.

Such section also provided that, if recommended by the Council and requested by the Governor, any funds for Federal-aid projects or programs noted above may be placed in reserve by the responsible Federal agency to be used in accordance with such recommendations of the Council. If affected local governments concur with a request by the Governor for such action, these funds may be transferred to the Recovery Planning Council to be expended according to the Recovery Investment Plan.

The new section 803, relating to public works and development facilities grants and loans, provided that the President is authorized to provide funds to Recovery Planning Councils for the implementation of Recovery Investment Plans in major disaster areas. Loans can be made from these funds to any State or local government and to public or private nonprofit organizations representing all or part of any major disaster area. Such loans can be used for the acquisition or development of land and improvements for public works, public service or public development facilities (including parks and open spaces), and for acquiring, constructing, rehabilitating, expanding or improving those facilities (including machinery and equipment). The Federal share for Federal aid projects may be increased by supplementary grants to a maximum of 90 percent in some cases and without limit for grants benefiting Indians (or Alaskan Natives) or in those cases in which the President determines that a State or local government has exhausted its taxing and borrowing capacity. The interest rate for loans made under such section is to be fixed at a rate one percent less than the current average market yield on outstanding marketable United States obligations.

Such section also provided that no grant or loan is to be made which would help establishments relocate from one area to another or would assist subcontractors in divesting other contractors or subcontractors of the contracts they customarily perform. If the Secretary of Commerce finds, however, that the establishment of a branch, affiliate or subsidiary would not increase unemployment in the original location of an existing business, aid for such expansion is not prohibited unless the Secretary believes that it is being done with the intent of closing down operations of the existing business.

The new section 804, relating to loan guarantees, provided that loans made by private lending institutions to private borrowers in connection with projects in major disaster areas and for working capital may be guaranteed to a maximum of 90 percent of the unpaid balance of such loans.

The new section 805, relating to technical assistance, provided that, to help facilitate economic recovery in major disaster areas, technical assistance may be provided to both public and private agencies in accordance with the purposes of the new title VIII. Included among the types of assistance to be provided are project planning, feasibility studies, management and operational assistance, and analyses of economic recovery needs and potential. Technical assistance may be extended through grants-in-aid, contracts, employment of persons, firms, or institutions, reimbursement of other Federal agencies, or direct use of personnel under the Administrator's direction. Not to exceed 75 percent of the administrative expenses incurred by organizations which receive grants for technical assistance may be authorized as supplementary grants, subject to certain specified limitations.

The new section 806, relating to disaster recovery revolving fund, provided that not to exceed $200 million is authorized to be appropriated for a disaster recovery revolving fund which is to be established in the Treasury and is to be replenished annually. Funds obtained to carry out the new title VIII and all collections or repayments received from its programs are to be deposited in this special fund. Financial assistance extended under such title and payment of all related obligations and expenditures are to be made from the revolving fund. At the end of each fiscal year interest on the amount of loans outstanding under such title, based on current average yield on outstanding marketable United States obligations, is to be paid by the fund into miscellaneous receipts of the Treasury.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill, with the following five exceptions:

1. The conference substitute adds a new subsection (b) to section 801 of the Public Works and Economic Development Act of 1965. Such subsection (b) defines the term major disaster to mean a major disaster declared by the President in accordance with the Disaster Relief Act of 1974.

2. The conference substitute clarifies the language of section 802(a)(1) to indicate when the Governor of a State may request the President for assistance under title VIII.

3. The conference substitute adds a provision to section 802(a)(4) which provides that if an area affected by a major disaster is within the jurisdiction of an existing multijurisdictional organization established under title IV of the Public Works and Economic Development Act of 1965, or under title III of the Appalachian Regional Development Act of 1965, then such organization (with the addition of State and Federal representatives) shall be designated the Recovery Planning Council. Further, in any case in which such organization is designated, local elected officials of political subdivisions within the affected areas must be appointed to serve on such designated organization.

4. The conference substitute clarifies the language of section 802(c)(2) to indicate that (1) funds may be reserved only to any extent consistent with appropriation Act, and (2) transfers of funds may be made only with respect to projects or programs for which funds originally were made available by appropriation Acts.

5. The conference substitute does not contain any of the provisions of the Senate section relating to a disaster recovery revolving fund. The conference substitute authorizes to be appropriated not to exceed $250,000,000 to carry out title VIII.

MISCELLANEOUS PROVISIONS

Authority to prescribe rules

Senate bill

Section 601 of the Senate bill provided that the President is authorized to prescribe such rules and regulations as may be necessary and proper to carry out the bill and to exercise any power or authority in the bill through such Federal agency or agencies he may designate.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill.

Technical amendments

Senate bill

Section 602 of the Senate bill amended several existing statutes by substituting the short title of the bill for that of the Disaster Relief Act of 1970 (P.L. 91-606; 84 Stat. 1744).

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill.

Repeal of existing law

Senate bill

Section 603 of the Senate bill repealed the Disaster Relief Act of 1970 (P.L. 91-606; 84 Stat. 1744), except that such section did not repeal those provisions of such Act relating to disaster loan programs and interest rates (sections 231, 232, 233, 234, 235, 236, and 237), technical amendments (section 301), repeal of prior law (section 302), prior allocation of funds (section 303), and effective date (section 304).

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill.

Prior allocation of funds

Senate bill

Section 604 of the Senate bill provided that funds previously appropriated under the Disaster Relief Act of 1970 (P.L. 91-606; 84 Stat. 1744) and an Act to authorize for a limited period additional loan assistance under the Small Business Act for disaster victims, to provide for a study and report to the Congress by the President setting forth recommendations for a comprehensive revision of disaster relief legislation, and for other purposes, approved August 16, 1972 (P.L. 92-385; 86 Stat. 554), will continue to be available for purposes of completing commitments made under such Acts as well as for purposes of the Senate bill, and any prior commitments are to be fulfilled.

House amendment

No provision.

Conference substitute

The conference substitute is essentially the same as the Senate bill.

Effective date

Senate bill

Section 605 of the Senate bill provided that such bill takes effect as of April 1, 1974.

House amendment

The amendment to title II of the Disaster Relief Act of 1970 (P.L. 91-606; 84 Stat. 1744) made by section 2 of the House amendment, relating to individual and family grant programs, takes effect as of March 31, 1974.

The amendment to section 102(1) of such Act made by section 3 of the House amendment, relating to the definition of major disaster, takes effect on the date of the enactment of the House amendment.

Conference substitute

The conference substitute is the same as the Senate bill, except that the conference substitute indicates that section 408 has a different effective date.

Authorization

Senate bill

Section 606 of the Senate bill provided that funds necessary for the purposes of the bill are authorized to be appropriated.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill, except that the conference substitute indicates that (1) a different appropriation authorization is applicable with respect to the amendment made by section 501, and (2) the authorization made by section 606 applies through the close of June 30, 1977.

ROBERT E. JONES,
RAY ROBERTS,
HAROLD T. JOHNSON,
WM. H. HARSHA,
GENE SNYDER,
Managers on the Part of the House.
QUENTIN BURDICK,
DICK CLARK,
J. R. BIDEN, Jr.,
JENNINGS RANDOLPH,
PETER H. DOMENICI,
JAMES L. BUCKLEY,
HOWARD H. BAKER,
Managers on the Part of the Senate.

AMENDMENT TO BE OFFERED ON H.R. 10701, DEEP WATER PORT BILL

(Mr. JONES of Alabama asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. JONES of Alabama. Mr. Speaker, when the deepwater port bill, H.R. 10701, is before the Committee of the Whole for consideration I will offer the text of the following amendment in the nature of a substitute for the reported bill:

That as used in this Act the term—

(1) "application" means any application filed under this Act for a license to construct or operate a deepwater port facility, or for a renewal or modification of such license.

(2) "deepwater port facility" means a facility constructed off the coast of the United States, and beyond the territorial seas of the United States, for the purpose of providing for the unloading of crude oil and petroleum products. It includes all associated equipment and structures (other than vessels) beyond such territorial seas, and all connecting pipelines within such territorial seas.

(3) "Commission" means the Deepwater Port Facilities Commission provided for in this Act.

(4) "person" means any citizen of the United States, any State or political subdivision of a State, or any private, public, or municipal corporation or other entity created by or existing under the laws of the United States or of any State.

(5) "significantly affected State" means a State whose shorelines might suffer environmental harm as a result of the activities of a deepwater port facility.

(6) "State" means each of the several States, the District of Columbia, each territory or possession of the United States, and the Commonwealth of Puerto Rico.

(7) "United States" means the several States, the District of Columbia, the territories and possessions of the United States, and the Commonwealth of Puerto Rico.

SEC. 2. (a) No one shall construct or operate a deepwater port facility without first receiving a license as provided under this Act.

(b) In any case where an applicant applies for a license to construct a deepwater port facility and the point of connection for unloading crude oil and petroleum products between vessels and the deepwater port facility is nearer the coast of one State than any other State and if 50 per centum or more of the design-receiving capacity for crude oil and petroleum products is to be located in the State whose coast is nearer such point of connection, then the Commission shall notify such State in writing of such application within thirty days of the date each such application is received by the Commission. Such notification shall also establish a reasonable period of time for such State to apply for a license to construct such a facility, except that such period shall not exceed one hundred and eighty days from the date such notification is received by such State. If such State within such period applies for a license to construct a deepwater port facility having a point of connection for unloading crude oil and petroleum products between vessels and a deepwater port facility located nearer to its coast than the coast of any other State with 50 per centum or more of the design-receiving capacity for crude oil and petroleum products to be located in such State, then such State, if it meets all other requirements of this Act, shall be granted the license to construct such facility to the exclusion of all other applicants for a license for such a facility.

(c) All applications for a license to construct or operate a deepwater port facility shall be filed with the Commission. The Commission is authorized to issue a license to any applicant if it first determines that—

(1) the applicant is a person financially responsible who has demonstrated his ability and willingness to comply with applicable laws, regulations, and license conditions;

(2) the applicant has the power to sue and be sued, complain and defend, in its own name, and, if the applicant is a State, has consented to be sued in connection with its construction and operation of the deepwater port facility;

(3) the construction and operation of the deepwater port facility will not unreasonably interfere with international navigation or other reasonable uses of the high seas, and is consistent with the international obligations of the United States; and

(4) the facility will be located, constructed, and operated in a manner which will minimize or prevent any adverse significant environmental effects. In making the determination required by this paragraph, the Commission shall consider all significant aspects of the facility, including, but not limited to, its relation to—

(A) effects on marine organisms;

(B) effects on water quality;

(C) effects on ocean currents and wave patterns and on nearby shorelines and beaches;

(D) effects on alternative uses of the oceans such as fishing, aquaculture, and scientific research;

(E) susceptibility to damage from storms and other natural phenomena;

(F) effects on other uses of the subjacent seabed and subsoil such as exploitation of resources and the laying of cables and pipelines; and

(G) effects on esthetic and recreational values.

(d) Licenses issued under this section shall be for a term of no longer than thirty years, with preferential right in the license to renew under such terms and for such period not to exceed thirty years as the Commission determines is reasonable. Licenses to construct such facilities shall include conditions to assure that a bona fide effort to construct is made. These conditions shall include but not be limited to schedules for design and construction of such facilities. In the absence of such bonda fide effort, as determined by the Commission after hearings, a license to construct may be revoked by the Commission.

(e) (1) No license shall be granted under this Act to construct a deepwater port facility unless the State whose coast is nearer than that of any other State to the point of connection for unloading crude oil and petroleum products between vessels and a deepwater port facility has an environmental program which includes construction of deepwater port facilities off its coast and the deepwater port facility proposed to be licensed and the directly related land-based activities are consistent with such environmental program.

(2) No license shall be granted under this Act to construct a deepwater port facility unless the State in which 50 per centum or more of the design-receiving capacity for crude oil and petroleum products is to be located has an environmental program which includes construction of deepwater port facilities off its coast and the deepwater port facility proposed to be licensed and the directly related land-based activities are consistent with such environmental program.

(f) The Commission shall not issue a license under this Act unless it shall first have considered the economic, environmental, esthetic, and regional effects of the construction and operation of a deepwater port facility on all other significantly affected States.

(g) Licenses issued under this Act may be transferred after the Commission determines that the transferee meets the requirements of this Act, and upon approval by the Commission of the terms and conditions of the transfer.

(h) If an application is made under this Act for a license to construct a deepwater port facility off the coast of a State, and a port of such State which on the date of such application—

(1) has existing plans for construction of a deep draft channel and harbor, and

(2) has either (A) an ongoing study by the Secretary of the Army relating to the expansion and deepening of such port harbor or channel, or (B) a pending application for a permit under section 10, 13, or both, of the Act of March 3, 1899 (30 Stat. 1121), for such construction

applies to the Commission for a determination under this section within thirty days of the date of the license application, then the Commission shall not issue a license under this Act unless, after examining the economic, social, and environmental effects of the construction and operation of such deepwater port facility with the economic, social, and environmental effects of the construction, expansion, deepening, and operation of such State port, it has determined which of the two is more in the national interest.

SEC. 3. (a) There is hereby established a Deepwater Port Facilities Commission which shall consist of the Secretary of Transportation, the Secretary of the Interior, the Secretary of Commerce, the Administrator of the Environmental Protection Agency, and the Secretary of the Army, acting through the Chief of Engineers. The Secretary of Transportation shall serve as Chairman. All administrative personnel and related facilities necessary to carry out the functions of the Commission shall be provided by the Secretary of Transportation.

(b) The Commission is authorized to issue reasonable rules and regulations governing application for, and issuance of, licenses for the construction and operation of deepwater port facilities under this Act. Such rules and regulations shall be issued in accordance with section 553 of title 5 of the United States Code without regard to the exceptions contained in subsection (a) thereof.

(c) In carrying out all of its functions under this Act, the Commission shall consult with interested Federal agencies, and the Commission shall be required to expedite and coordinate all Federal reviews of applications required under this Act.

(d) An application for a license filed under this Act shall constitute an application for all Federal authorizations required for a deepwater port facility. The Commission shall consult with interested Federal agencies to insure that applications contain all information required by the agencies. The Commission will forward promptly a copy of each application to those Federal agencies with jurisdiction over any aspect of the construction and operation of a deepwater port facility and will not issue a license under this Act until such agencies have certified to the Commission that, except as provided in subsection (e) of this section, that aspect of the facility under their jurisdiction meets the requirements of the laws which they administer. The granting of a license under this Act shall be deemed to satisfy all of the requirements of any other law of the United States with respect to which a certification has been issued by a Federal agency under this subsection, and no other permit or license shall be required under such law in connection with the construction or operation of such facility. Such certification shall be issued or denied within one hundred and twenty days following transmittal of a copy of the application to the agencies. Hearings held pursuant to this Act shall be consolidated insofar as practicable with hearings held by other agencies. The Commission shall issue or deny the license not later than the one hundred and twentieth day after receipt of the certifications of all of the Federal agencies involved, or not later than the one hundred and twentieth day after the date of completion of all hearings under section 4, whichever date occurs later.

(e) The provisions of this Act shall in no way alter or otherwise affect the requirements of the National Environmental Policy Act of 1969, except that a single detailed environmental impact statement shall be prepared in connection with each license proposed to be issued by the Commission. The Commission shall be responsible for the preparation of such statement. Such statement shall fulfill the responsibilities under section 102(2)(C) of the National Environmental Policy Act of 1969 of each Federal agency with respect to each certification made by it under subsection (d) of the section.

SEC. 4. (a) The Commission shall prescribe by regulation the procedures, including appropriate charges, for the submission and consideration of applications for licenses.

(b) Upon application for any license the Commission shall publish in the Federal Register within thirty days after receipt of such application a notice containing a brief description of the proposed facility, and information as to where the application and supporting data required by subsection (a) may be examined and giving interested parties at least ninety days for the submission of written data, views, or arguments relevant to the granting of the license, with or without opportunity for oral presentation. Such notice shall also be furnished to the Governor of each significantly affected State, and the Commission shall utilize such additional methods as it deems reasonable to inform interested parties about the proposed facility and to invite comments from them.

(c) The Commission shall hold at least one public hearing on each application for a license for a proposed facility. At least one such hearing shall be held in the vicinity of the *proposed* site.

(d) When the Commission determines from the comments and data submitted pursuant to subsection (b) and (c) that there exist one or more specific and material factual issues which many be resolved by an evidentiary hearing, it may direct that such issues be submitted to a supplemental hearing before a presiding officer designated for that purpose. Such officer shall have authority to preclude repetitious and cumulative testimony, to require that direct testimony be submitted in advance in written form, and to permit cross-examination to the extent necessary and appropriate. After the hearing the presiding officer shall submit to the Commission a report of his findings and recommendations, and the participants in the hearing shall have an opportunity to comment thereon.

(e) The Commission's decision granting or denying a license shall be in writing and shall include or be preceded by an environmental impact statement, if required, a discussion of the issues raised in the proceeding and the Commission's conclusions thereon, and, where a hearing was held pursuant to subsection (d), findings on the issues of fact considered at such hearing.

(f) The provisions of sections 554, 556, and 557 of title 5, United States Code, are not applicable to proceedings under this section. Any hearing held pursuant to this section, shall not be deemed a hearing provided by statute for purposes of section 706(2)(E) of title 5, United States Code.

SEC. 5. (a) Anyone adversely affected by an order of the Commission granting or denying a license may, within sixty days after such order is issued, seek judicial review thereof in the United States Court of Appeals for the circut nearest to which the facility is sought to be located. A copy of the petiton shall forthwith be transmitted by the clerk of the court to the Commission or an officer designated by it for that purpose. The Commission thereupon shall file in the court the record of the proceedings on which the Commission based its order, as provided in section 2112 of title 28 of the United States Code. This record shall consist of—

(1) the application, the notice published pursuant to section 4(b), and the information and documents to which reference is made therein;

(2) the written comments and documents submitted in accordance with the agency rules by anyone, including any other agency and any agency advisory committee, at any stage of the proceeding;

(3) the transcript of any hearing held pursuant to section 4 (c) or (d); and the presiding officer's report, if any; and

(4) the Commission's decision and accompanying documents as required by section 4(e).

(b) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material, and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Commission, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Commission, and to be adduced in such manner and upon such terms and conditions as to the court may seem proper. The Commission may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file such modified or new findings, and its recommendations, if any, for the modification or setting aside of its original order, with the return of such additional evidence.

(c) Upon the filing of the petition referred to in subsection (a), the court shall have jurisdiction to review the order in accordance with section 706 of title 5, United States Code, and to grant appropriate relief as provided in such section.

SEC. 6. (a) The Commission is authorized to include in any license granted under this Act, any conditions which it deems necessary to carry out the purposes of this Act. Such conditions shall include but need not be limited to:

(1) Conditions designed to assure that the operation of the deepwater port facility will not substantially lessen competition or tend to create a monopoly. Such conditions shall include a requirement of nondiscriminatory access at reasonable rates.

(2) Provisions requiring that, if a license is revoked or expires and is not reissued, or the licensee abandons the deepwater port facility, the licensee shall render such facility harmless to navigation and the environment.

(3) Such fees as the Commission may prescribe as reimbursement for the cost of Federal activities occasioned by the application for licensing, development, and operation of the deepwater port facility.

(4) Such measures as the Commission may prescribe to meet United States international obligations.

(5) Such measures as the Commission may prescribe to prevent or minimize the pollution of the surrounding waters, including payment of cleanup costs resulting from construction and operation of the deepwater port facility.

(6) Such provisions as the Commission may prescribe for the temporary storage of hazardous substances.

(7) Such provisions as the Commission may determine necessary to insure domestic control over the construction and operation of the deepwater port facility.

(b) If a licensee becomes bankrupt and unable to render the deepwater port facility harmless to navigation and the environment, the United States shall render such facility harmless and bear all costs in connection therewith to the extent that such costs are not covered by a bond, as may have been required in the license by the Commission.

Sec. 7. (a) Whenever any oil is spilled from a vessel using a deepwater port facility or enroute to or departing from such facility while in the vicinity of such facility, the Secretary of Transportation is authorized to act to remove or arrange for the removal of such oil at any time, unless he determines such removal will be done properly by the owner or operator of the vessel.

(b) The Secretary of Transportation shall prepare and publish a contingency plan for the removal of oilspills from vessels using, en route to, or departing from deepwater port facilities. Such contingency plan shall provide for efficient, coordinated, and effective action to minimize damage from the oil, including containment, dispersal, and removal of the oil. The Secretary may, from time to time, as he deems advisable, revise or otherwise amend the contingency plan. After publication of the contingency plan, the removal of oil and actions to minimize damage from oil shall, to the greatest extent possible, be in accordance with such contingency plan.

(c) The Secretary of Transportation is authorized to request and receive assistance, on a reimbursable basis, from any Federal department, agency, or instrumentality in carrying out his duties and responsibilities under this section.

(d) Except where the owner or operator of the vessel can prove that an oilspill was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing causes, such owner or operator shall, notwithstanding any other provision of law, be liable to the United States for actual cleanup costs incurred under this section.

Such costs shall constitute maritime lien on the vessel which may be recovered in an action in rem in the district court of the United States or any district within which the vessel may be found. The Deepwater Port Liability Authority created in section 8 of this Act may bring an action against the owner or operator in any court of competent jurisdiction to recover such costs, including, but not limited to, all such costs paid from the Deepwater Port Fund created by such section.

(e) During any period when the International Convention on Civil Liability for Oil Pollution Damage and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage are both in force the liability of vessels subject to such conventions for damages within the territory and the territorial sea of the United States, from oilspills from such vessels, and for the payment of such damages, shall be that established in such conventions in lieu of any liability and payment for such damages established by this section and section 8 of this Act.

(f) Section 311 of the Federal Water Pollution Control Act shall apply to a deepwater port facility licensed under this Act and to oilspills from that facility. For the purposes of that Act, such a facility shall be deemed to be an offshore facility and oilspills from such facility shall be deemed to be oil discharged into the navigable waters of the United States.

Sec. 8. (a) There is hereby created a body corporate to be known as the Deepwater Port Liability Authority, hereafter in this section referred to as the "Authority", which shall have succession until dissolved by Act of Congress. The Authority shall be subject to the general supervision and direction of the Secretary of Transportation. The Authority, a wholly owned Government corporation, is an instrumentality of the United States subject to the Government Corporation Control Act and shall maintain such offices as may be necessary or appropriate in the conduct of its business. The purposes of the Authority shall be to administer the Deepwater Port Liability Fund. The Authority may sue and be sued in its own name.

(b) (1) The Authority shall have a Board of Directors consisting of five individuals, one of whom shall be the Secretary of Transportation or his designee as Chairman of the Board, and four of whom shall be appointed by the President from among the officers or employees of the Commission or of any other department or agency of the United States Government.

(2) The Board of Directors shall meet at the call of its Chairman. The Board shall determine the general policies which shall govern the operations of the Authority. The Chairman of the Board shall select and effect the appointment of qualified individuals to fill the offices as may be provided for in the bylaws, with such executive functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such individuals shall be the executive officers of the Authority and shall discharge all such executive functions, powers, and duties. The members of the Board, as such, shall not receive compensation for their services.

(c) There is hereby created a Deepwater Port Liability Fund (hereafter referred to in this section as the "fund") which, notwithstanding any other provision of law, (1) shall be liable for cleanup costs resulting from any oilspill from a vessel using a deepwater port facility or en route to, or departing from such a facility while in the vicinity of such facility, and (2) shall be liable without regard to fault, in accordance with the provisions of this section, for damages to real and personal property within the territorial jurisdiction of the United States that are sustained by any individual or entity, public or private, as the result of any oilspill from a vessel using a deepwater port facility or en route to, or departing from, such a facility while in the vicinity of such facility.

(d) Liability of the fund for damages may not be imposed under this section—

(1) if the fund can prove that the damages concerned were caused by an act of war; or

(2) with respect to the claim of a damaged party if the fund can prove that the damage was caused by the negligence of such party.

(e) Liability of the fund for damage claims arising out of any one oilspill shall not exceed $100,000,000. If the total damage claims allowed against the fund arising out of any one oilspill exceed $100,000,000 they shall be reduced proportionately.

(f) (1) Each licensee of a deepwater port facility under this Act shall collect from the owner of any oil offloaded at the deepwater port facility operated by such licensee, at the time of offloading, a fee of 4 cents per barrel until the fund contains a total amount of $100,000,000 or until the International Convention on Civil Liability for Oil Pollution Damage and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage both come into force, whichever first occurs; thereafter the fee shall be 2 cents per barrel, but in no case shall any fee be collected during any period when the fund contains a total amount of $100,0000,000 or more.

(2) The collections made under paragraph (1) shall be delivered to the fund at such times and in such manner as shall be prescribed by the Authority. Costs of administration shall be paid from the money paid to the fund, and all sums not needed for administration and the satisfaction of cleanup costs and damage claims shall be invested prudently in income-producing securities of the United States approved by the Authority. Income from such securities shall be added to the principal of the fund.

(g) (1) In the case of any claim where liability for damage without regard to fault is imposed on the fund by this section and such claim is paid by the Authority from the fund, the Authority shall be subrogated under applicable State and Federal laws (including any international agreements to which the United States is a party) to the rights of the claimant under such laws with respect to the paid claim. If, with respect to such paid claim the Authority brings an action based on any right to which it is subrogated by this subsection, it may recover from any affiliate of the defendant, if the defendant fails to satisfy any judgment entered against it in such action.

(h) This section shall not be interpreted—

(1) to preclude or deny the right of any State, or political subdivision thereof, or interstate agency, to adopt or enforce any other requirement with respect to liability for oilspills; or

(2) to affect in any manner the application of the Federal Water Pollution Control Act; or

(3) to restrict any right which any individual or entity (or class of individuals or entities) may have under any statute or common law to seek any other relief.

(i) If the fund is unable to satisfy cleaning costs or damage claims required to be paid under this section, the Authority may borrow the money needed to pay such costs or such claim from any available source, at the lowest available rate of interest.

(j) For the purposes of this section—

(1) the term "affiliate" includes—

(A) any entity owned or effectively controlled by the defendant in any action under subsection (g);

(B) any entity that effectively controls or has the power effectively to control such defendant by—

(i) stock interest,

(ii) representation on a board of directors or similar body,

(iii) contracts or other agreements with other stockholders, or

(iv) otherwise; or

(C) any entity which is under common ownership with or control of such defendant.

(2) the term "entity" means an individual corporation, a partnership, an association, a joint-stock company, a business trust, or an unincorporated organization.

(3) the term "barrel" means forty-two United States gallons at sixty degrees Fahrenheit.

Sec. 9. (a) Any licensee who violates any condition of his license, or any rule or regulation of the Commission issued under this Act, may be assessed a civil penalty by the Commission, in a determination on the record after opportunity for a hearing, of not more than $25,000 for each day during which such violation occurs.

(b) A licensee aggrieved by a final order of the Commission assessing a penalty under this section may, within sixty days after such order is issued, seek judicial review thereon in the United States district court for the judicial district nearest to which the licensee's facility is located, and such court shall have jurisdiction of the action without regard to the amount in controversy. Judicial review of the Commission's determination shall be in accordance with section 706 of title 5, United States Code.

(c) Penalties assessed pursuant to this section may be collected in an action by the United States, but the order of the Commission shall not be subject to review otherwise than as provided in subsection (b).

Sec. 10. Whenever a licensee fails to comply with any provision of this Act or any rule, regulation, restriction, or condition made or imposed by the Commission under the authority of this Act, or fails to pay any civil penalty assessed by the Commission under section 9 (except where a proceeding for judicial review of such assessment is pending), the Commission may file an appropriate action in the United States district court for the judicial district nearest to which the licensee's facility is located (1) to suspend operations under the license, or (2) to revoke such license if such failure is knowing and continues for a period of thirty days after the Commission mails notice of such failure by registered letter to the licensee at his record post office address. When such failure would, in the judgment of the Commission, create a serious threat to the environment, it shall have the authority to suspend operations under the license forthwith. The licensee may seek judicial review of the Commission's action in such district court within sixty days after the Commission takes such action.

Sec. 11. (a) The Constitution and the laws and treaties of the United States shall apply to deepwater port facilities licensed under this Act in the same manner as if such facilities were located in the navigable waters of the United States. Foreign-flag vessels and those others who are not nationals of the United States using such facilities shall be deemed to consent to the jurisdiction of the United States for the purposes of this Act. To the extent that they are applicable and not inconsistent with this Act or other Federal laws and regulations, the civil and criminal laws of the State whose coast is nearer than that of any other State to the point of connection for unloading crude oil and petroleum products between vessels and the deepwater port facility are declared to be the law of the United States for such facility. All laws applicable to a deepwater port facility shall be administered and enforced by the appropriate officers, and courts of the United States. State taxation laws shall not apply to such facility, but this shall not affect the right of a State to tax its own citizens or residents.

(b) Except as otherwise provided in this Act, the United States district courts shall have jurisdiction of cases and controversies arising out of, or in connection with, the construction, operation, or use of deepwater port facilities. Proceedings with respect to any such cases or controversies may be instituted in the judicial district in which any defendant may be found or the judicial district nearest the place where the cause of action arose.

(c) Notwithstanding any other provision of this Act, a State whose coast is nearer than that of any other State to the point of connection for unloading crude oil and petroleum products between vessels and a deepwater port facility and in which 50 per centum or more of the design receiving capacity for crude oil and petroleum products is to be located may fix reasonable fees for the use of such deepwater port facility, and such State and any other State in which land-based facilities directly related to a deepwater port facility are located may set reasonable fees for the use of such land-based facilities. Fees may be fixed under authority of this subsection as compensation for any economic cost attributable to the construction and operation of such deepwater port and such land-based facilities, which cannot be recovered under other authority of such State or political subdivision thereof, including, but not limited to, ad valorem taxes, and for environmental and administrative costs attributable to the construction and operation of such deepwater port and such land-based facilities. Fees under this subsection shall not exceed such economic, environmental, and administrative costs of such State. Such fees shall be subject to the approval of the Commission. As used in this subsection, the term "land-based facilities directly related to a deepwater port facility" means the onshore tank farm and pipelines connecting such tank farm to the deepwater port facility.

(d) The Commission is authorized to promulgate such regulations governing health and welfare of individuals using deepwater port facilities licensed under this Act as it deems necessary.

SEC. 12. Directly related land-based activities and facilities connected to a deepwater port facility licensed under this Act such as pipelines, cables, and tank farms, which are located within the geographic jurisdiction of a State, shall be subject to all applicable laws or regulations of such State. Nothing in this Act shall be construed as precluding a State from imposing within its jurisdiction more stringent environmental or safety regulations when otherwise not prohibited by Federal law.

SEC. 13. A deepwater port facility licensed under this Act may not be used for the transshipment of crude oil or petroleum products destined for locations outside the United States.

SEC. 14. The consent of Congress is hereby given to two or more States to negotiate and enter into agreements or compacts, not in conflict with any law or treaty of the United States, for (1) the construction and operation of deepwater port facilities, and (2) the establishment of such agencies, joint or otherwise, as they may deem desirable for making effective such agreements and compacts. Such an agreement or compact shall be binding and obligatory upon any State or party thereto without further approval by Congress.

SEC. 15. The Secretary of State, in consultation with the Commission, shall seek effective international action and cooperation in support of the policy of this Act and may, for this purpose, formulate, present, or support specific proposals in the United Nations and other competent international organizations for the development of appropriate international rules and regulations relative to the construction and operation of deepwater port facilities, with particular regard for measures to promote the safety of navigation in the vicinity thereof.

SEC. 16. (a) The Secretary of the department in which the Coast Guard is operating (hereafter in this section referred to as the "Secretary") is authorized to issue reasonable rules and regulations prescribing procedures applicable in the waters adjacent to deepwater port facilities with respect to the following:

(1) vessel movements;

(2) pilotage requirements;

(3) maximum vessel drafts;

(4) designation and marking of anchorage areas;

(5) the provision of equipment necessary to prevent or minimize pollution of marine environment and to clean up any pollutants which may be discharged;

(6) lights and other warning devices;

(7) safety equipment; and

(8) other matters relating to the promotion of safety of life and property.

(b) Whoever violates any rule or regulation issued under this section shall be liable to a civil penalty of $10,000 for each day during which the violation continues. The penalty shall be assessed by the Secretary, who, in determining the amount of the penalty, shall consider the gravity of the violation, any prior violation, and the demonstrated good faith of anyone charged in attempting rapid compliance after notification of the violation. No penalty may be assessed until the party charged shall have been given notice of the violation involved and an opportunity for a hearing. For good cause shown, the Secretary may remit or mitigate any penalty assessed. Upon failure of the party charged to pay an assessed penalty, the Secretary may request the Attorney General to commence an action in the appropriate district court of the United States for collection of the penalty, without regard to the amount involved, together with such other relief as may be appropriate. Any vessel except a public vessel engaged in noncommercial activities, used in violation of any rule or regulation issued pursuant to this section shall be liable in rem for any civil penalty assessed and may be proceeded against in any district court in the United States having jurisdiction thereof; but no vessel shall be liable unless it would appear that one or more of the owners, or bareboat charterers, was at the time of the violation, a consenting party or privy to such violation.

(c) Subject to recognized principles of international law the Secretary, after consultation with the Secretary of State, the Secretary of Defense, and the Secretary of the Interior, shall designate a safety zone surrounding any deepwater port facility licensed under this Act. No point on the perimeter on such safety zone shall lie more than ten nautical miles from the nearest point of the deepwater port facility. No other installations, structures, or uses incompatible with the operation of the deepwater port facility shall be permitted within the safety zone. The Secretary shall issue rules and regulations relating to those activities which are permitted within such safety zone. In promulgating such rules the Secretary shall consult with the Secretary of State to insure that such rules are consistent with the international obligations of the United States.

SEC. 17. For the purposes of the International Voyage Load Line Act of 1973 (87 Stat. 418); of the Coastwise Load Line Act, 1935 (49 Stat. 891), as amended (46 U.S.C. 88–88i); of section 4370 of the Revised Statutes of the United States, as amended (46 U.S.C. 316); of section 8 of the Act of June 19, 1886 (24 Stat. 81; 46 U.S.C. 289); of section 27 of the Act of June 5, 1920 (41 Stat. 998), as amended (46 U.S.C. 883); and of title I of the Marine Protection, Research, and Sanctuaries Act of 1972 (86 Stat. 1052; 33 U.S.C. 1401–1421), deepwater port facilities licensed under this Act shall be deemed to be ports or places within the United States.

SEC. 18. For the purposes of chapter 39 of title 18, United States Code (18 U.S.C. 831–837), and part 1 of the Interstate Commerce Act (24 Stat. 379), as amended (49 U.S.C. 1–27), movement of crude oil or petroleum products by a pipeline that is a part of a deepwater port facility licensed under this Act from outside, to within, the territorial jurisdiction of any coastal State shall be deemed to be transportation or commerce from one State to another State, and the licensee shall be deemed to be a common carrier for all purposes of regulation by the Interstate Commerce Commission and by the Secretary of Transportation.

SEC. 19. With respect to disability or death of an employee resulting from any injury occurring in connection with the construction, maintenance, or operations of, a deepwater port facility, compensation shall be payable under the provisions of the Longshoremen's and Harbor Workers' Compensation Act (44 Stat. 1424) as amended (33 U.S.C. 901–950). For the purposes of applying that Act to deepwater port facilities—

(1) the term "employee" does not include a master or a crewmember of any vessel, or an officer or employee of the United States or any agency thereof, or of any State, or foreign government, or of any subdivision;

(2) employment in the construction, maintenance, or operation of a deepwater port facility shall be deemed to be "maritime employment"; and

(3) deepwater port facilities shall be deemed to be located in the navigable waters of the United States.

SEC. 20. Except in a situation involving force majeure, a licensee of a deepwater port facility may not permit a vessel, registered in or flying the flag of a foreign state, to call at, or otherwise utilize, a deepwater port facility licensed under this Act unless (1) the foreign-flag state involved, by specific agreement with the United States has agreed to recognize the jurisdiction of the United States over the vessel and its personnel, in accordance with the provisions of this Act, while the vessel is at, or in the vicinity of, the deepwater port facility, and (2) the vessel owner, or bareboat charterer, has designated an agent in the United States for the service of process in the case of any claim or legal proceeding resulting from the activities of the vessel or its personnel while at, or in the vicinity of, the deepwater port facility.

SEC. 21. All United States officials, including those officials responsible for the implementation and enforcement of United States laws applicable to a deepwater port facility, shall at all times be afforded reasonable access to a deepwater port facility licensed under this Act for the purpose of enforcing laws under their jurisdiction or otherwise carrying out their responsibilities.

SEC. 22. No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity carried on or receiving assistance under this Act, under any license issued under this Act, or under the jurisdiction of the Deepwater Port Facilities Commission. This provision will be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination, under title VI of the Civil Rights Act of 1964. However, this remedy is not exclusive and will not prejudice or cut off any other legal remedies available to a discriminatee.

Mr. Speaker, in connection with the amendment which I have just submitted for printing, I also include for printing in the RECORD, a detailed statement in explanation of this amendment:

EXPLANATORY STATEMENT OF AMENDMENT IN NATURE OF SUBSTITUTE

On November 28, 1973, the Committee on Public Works reported the bill H.R. 10701 (House Report No. 93–668). Since that time, as a result of numerous meetings with other interested Committees and further consideration of the bill, we have prepared an amendment in the nature of a substitute which will be offered on the floor in accordance with H. Res. 1139, which grants a rule on H.R. 10701 and which provides that it shall be in order to consider this amendment as an amendment in the nature of a substitute to H.R. 10701. The purpose of this statement is to provide a detailed description of this amendment.

This Nation presently faces the possibility of a long-term energy shortage unless steps are taken to conserve the energy available, develop new sources of energy, and attain self-sufficiency in energy. These measures, however, will take time. And even when the capability for energy self-sufficiency is attained, it can be anticipated that we will be importing significant amounts of crude oil and petroleum products. If the crude oil and petroleum products are to be imported efficiently and economically, it is necessary that deepwater port facilities be constructed which can accommodate the new very large cargo carriers.

Potential economic savings from the use of supertankers are of a scale that will effectively compel the use of such tankers for the ocean transport of crude petroleum imports. If deepwater port facilities are not available in the United States, some form of transshipment, with delivery of crude petroleum or petroleum products to U.S. ports in smaller vessels, will be used. This includes the lightering of deep-draft ocean-going vessels by transfer to barges at locations where naturally deep water is available; the transshipment of crude petroleum from deepwater ports in the Maritime Provinces of Canada and in Carribean islands; and the refining of petroleum products for shipment to the United States at Canadian and Caribbean locations. These alternative solutions will involve higher economic, and possibly environmental, costs.

Ports, harbors, and entrance channels serving existing refineries do not have sufficient depths to accommodate supertankers. New supertankers vary in size up to 540,000 dead weight tons. Such tankers can carry as much as 5 million barrels or over 210 million gallons of oil. Maximum permissible vessel drafts are typically in the 36–40 foot range, whereas supertankers require drafts of 60 feet or more.

Offshore facilities for discharging crude petroleum would permit direct delivery to the United States in oceangoing supertankers. They also offer a greater degree of flexibility in the location of ports and new refinery capacity, as well as a range of design and engineering concepts with varying economic and environmental characteristics.

A report submitted to the U.S. Army Engineer Institute for Water Resources by Robert R. Nathan Associates concludes that deepwater port facilities on the East Coast would have benefit-cost ratios of up to 8:1, and those in the Gulf up to 11:1.

No aspect of the import and export of bulk commodities ranks with the danger of petroleum spills as a potential source of environmental and ecological damage. The danger of the uncontrolled release of petroleum into the environment arises primarily from the possibility of accidental collisions and groundings of vessels, resulting in rupture of tanks; from the transfer of petroleum from oceangoing vessels either to other vessels or into pipelines and into storage tanks; and from the possibility of leakage from the tanks themselves. The degree of hazard is partly a function of the volume of petroleum to be imported and partly a function of the delivery system to be employed, including the size, design, operation, and control of vessel movements, and the design and control of all other equipment and operations related to the transfer and storage of petroleum. There is no scientific evidence that supertankers present, or need to present, a greater risk than do smaller ships. The size of a potential spill can be controlled irrespective of ship size. Studies indicate that the probability of spills increases drastically with the greater congestion of waterways associated with the use of smaller vessels. The employment of large vessels and deepwater port facilities will have the effect of reducing the possibility of environmental damage from spills.

Adequate authority exists for the regulation of the construction and operation of deepwater port facilities within the territorial seas of the United States. Any construction, dredging, or deposition of materials in the navigable waters of the United States requires the approval of the Secretary of the Army and the Chief of Engineers. The navigable waters of the United States include the coastal waters within the territorial bounds of the United States but do not include the waters beyond this point.

There are authorities which could be employed to regulate deepwater port facilities beyond the territorial sea, such as the Department of the Interior's pipeline regulation and leasing authority under the Outer Continental Shelf Lands Act and the Department of the Army's authority under section 4(f) of that Act which extends the above mentioned authority of the Army in the navigable waters of the United States to artificial islands and fixed structures located on the Outer Continental Shelf. However, these and other possible authorities do not provide the type of comprehensive, coordinated, and centralized program that is necessary to permit and regulate the construction and operation of deepwater port facilities beyond the territorial sea. Additional legislation is required to ensure adequate Federal regulatory authority over such facilities, and to minimize the possibility of jurisdictional conflicts among Federal agencies or between Federal and State agencies.

REASONABLE USE OF THE HIGH SEAS

As a matter of international law, construction and operation of deepwater ports providing loading and unloading facilities for the United States, but located on the continental shelf beyond its territorial waters, may be explained in terms of a "reasonable use of the high seas."

In general, it is considered that construction and operation of a deepwater port outside our territorial waters may be justified as a "reasonable use" of the high seas. Article 2 of the Convention on the High Seas prohibits nations from asserting sovereignty over areas of the high seas. But this same article also indicates the extent of freedom to use the high seas, noting specifically freedom of navigation, freedom of fishing, freedom to lay cables and pipelines, and freedom to fly over the high seas. This list is expressly made non-exclusive. Thus, there is room for nations to undertake new uses of the high seas which do not unduly interfere with the freedoms of others. In the modern era, a strong case can be made that deepwater ports are an acceptable adaptation of high seas usage and necessary concomitant of freedom of navigation.

Since construction and operation of deepwater ports is in fact a reasonable use of the high seas, an adequate jurisdictional basis to ensure safe and efficient operation of such facilities must be inherent in the usage right. Thus, both with respect to persons on the deepwater port, regardless of their nationality, and with respect to vessels docked at the deepwater port, regardless of their country of registry, the right to enforce the necessary laws and regulations is implicit in the right of the United States to use the high seas for deepwater port purposes. Indeed, if such jurisdiction were not present, the reasonable use concept would have little meaning.

Therefore, it is concluded that no major obstacles to the assertion of federal jurisdiction over the construction and operation of a deepwater port exist, either as a matter of international law, or as a matter of domestic law.

BACKGROUND

The matter of deepwater port facilities is one which has received the attention of the Public Works Committee for a number of years. Historically, this Committee has considered and recommended projects for the improvement of navigation, both in the inland and coastal waters of the Nation. These projects, carried out by the U.S. Army Corps of Engineers, have made possible the efficient and economic transportation of goods necessary to our economy and our standard of living. In particular, these projects are vital to the transportation of fuels for energy. The inland waterways carry coal and petroleum products. And the coastal harbors recommended by this Committee and constructed by the Corps of Engineers handle the crude oil and petroleum products which we import from other countries.

Commencing in 1971, the Corps of Engineers was authorized to undertake studies on the feasibility of deepwater ports on the Atlantic, Gulf, and Pacific Coasts. We have had access to the basic field level reports and all of the consultants' reports, such as those prepared for the Corps by Arthur D. Little, Inc., and Robert R. Nathan Associates. In addition, the Committee inspected deepwater port facilities in Saudi Arabia, Humber Estuary, England, and Bantry Bay, Ireland, observing their operation and speaking with representatives of the countries and firms involved and gaining the benefit of their experience. The information we have, and which we have considered, is as thorough and complete as any information available on deepwater ports.

It was with this background that we determined that deepwater port legislation was necessary. We were aware, of course, that the Department of the Interior had been suggested by some as the proper agency to handle the licensing of deepwater port facilities, and we gave this very serious consideration. We concluded, however, that the Department of the Interior did not possess the requisite jurisdiction and experience to qualify as the sole Federal agency to oversee the construction of deepwater port facilities. The key aspects of these facilities do not involve mineral exploration and exploitation, which is where Interior's expertise lies, but rather navigation and transportation.

We also gave very serious consideration to placing the licensing responsibility in the Corps of Engineers. This would have made sense since it would simply have been an extension beyond the 3-mile limit of the authority the Corps presently has within the 3-mile limit.

In the end we concluded that because of the many Federal agencies concerned to a greater or lesser degree with the construction and operation of deepwater port facilities, a Commission should be established, composed of the heads of the directly interested agencies to issue the licenses. The members of the Commission are the Secretary of Transportation, the Secretary of the Interior, the Secretary of Commerce, the Administrator of the Environmental Protection Agency, and the Secretary of the Army, acting through the Chief of Engineers.

In November of 1973, our Committee reported out H.R. 10701. Following this action, the Merchant Marine and Fisheries Committee reported out a deepwater port bill—H.R. 5898—in December of that year.

Our committee, the Merchant Marine and Fisheries and Interior and Insular Affairs committees, pursuant to an agreement between the Chairmen of the Committees, jointly requested a rule on H.R. 5898 which would provide that H.R. 10701 would be in order as an amendment in the nature of a substitute. An appearance was scheduled before the Rules Committee on December 11, 1973, but was deferred at the last moment because of other pending business before the Rules Committee. Thereafter, on January 22, 1973, the Merchant Marine and Fisheries Committee appeared before the Committee on Rules to request the rule. At that January 22 meeting the Rules Committee requested that the Committees involved try to agree on a new request for consideration by the Rules Committee and that they also consider matters relating to domestic control over deepwater port facilities and State involvement and control which were brought up at the meeting.

Following that, we made every effort to reach such an agreement with the other Committees. The Chairman of the Public Works Committee established a special ad hoc subcommittee comprised of three members of the Committee to work with their counterparts on the other committees. Numerous meetings were held between the staffs of the three Committees and a preliminary draft was put together for the staffs to discuss with their respective Committee members. Following this, repeated attempts on our Committee's part to institute further discussions were made, but proved fruitless.

During these efforts to reach agreement, however, we did have an opportunity to compare the provisions of our bill with those of the other bill and to examine both with great care. As a result, we were able to draft an amendment to our bill which improves upon its original provisions, utilizes concepts in the other bill which we determined to be of value, and adds new provisions which we found to be desirable. It is this amendment which is to be offered on the floor as an amendment in the nature of a substitute.

H. Res. 1139, as reported, provides that this amendment will be in order as an amendment in the nature of a substitute to H.R. 10701. If this amendment is not agreed to, then the text of H.R. 11951, reported out by the Merchant Marine and Fisheries Committee as an amended version of its original legislation, will be in order as an amendment in the nature of a substitute.

SUBSTITUTE AMENDMENT

The substantive changes to H.R. 10701 contained in the substitute amendment are as follows. H.R. 10701 contained the concept of an "adjacent State," which was the State whose coast is nearer than that of any other State to the proposed deepwater port facility and in which all or the major part of the directly related land-based facilities would be located. An adjacent State was given a preference in the granting of a license for the port facility, and no license control could be granted for a proposed facility unless the adjacent State had an environmental program which included construction of deepwater ports and the proposed facility and the directly related land-based facilities were consistent with the environmental program. These concepts have been somewhat modified in the amendment. A preference in the granting of a license is given to a State if its coast is nearer than that of any other State to the proposed facility and if 50 percent or more of the design receiving capacity for crude oil and petroleum products is to be located in the State.

This provision is intended to give a State the opportunity, if it desires, to construct and operate a deepwater port facility. The State must, of course, meet all of the other requirements of the legislation and must, as any other applicant, show in its application that it has a bona fide intent to construct and operate a deepwater port facility, and that it will have the capability to do so, if granted the license. With regard to the requirement for an environmental program including deepwater ports, the amendment applies that requirement in the case of a State whose coast is nearer the proposed port facility than that of any other State and also in the case of a State in which 50 percent or more of the design receiving capacity for crude oil and petroleum products is to be located.

H.R. 10701 provided that the Deepwater Port Facilities Commission could not issue a license unless it had first considered the economic effects of the deepwater port facility on existing nearby ports. This provision has been changed in the amendment to provide that if a port of a State has existing plans for construction of a deep draft harbor and also has either an ongoing Corps of Engineers study for the harbor or has applied for a Corps permit to construct the harbor, then the Commissioner cannot issue a license for a port facility off the coast of that State unless it has compared the economic, social and environmental effects of the inshore and offshore facilities and determined which of the two is more in the national interest.

In the amendment, the provisions concerning cleanup of oilspills and compensation for damages caused by oilspills are considerably strengthened. The Secretary of Transportation is authorized to remove oil spilled from a vessel using a deepwater port facility or en route to or departing from the facility while in the vicinity of the facility.

The Secretary is also directed to prepare contingency plans for the removal of such oil. An owner or operator of a vessel is liable to the United States for the cleanup costs incurred, unless he can prove that the spill was caused solely by an act of God, an act of war, negligence on the part of the United States, or an act or omission of a third party.

The International Convention on Civil Liability for Oil Pollution Damage and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage are two treaties which are presently under consideration by the nations of the world. The legislation provides that when these treaties are in force their provisions concerning cleanup of oilspills and liability for damages will become applicable insofar as they cover areas provided for in the legislation. Where the treaties' provisions are not applicable the provisions of the legislation would continue to govern. The provisions of the Federal Water Pollution Control Act governing cleanup of oil spills from onshore facilities into the navigable waters of the United States (Sec. 311) are made applicable to deepwater port facilities.

The amendment creates, as a body corporate, the Deepwater Port Liability Authority, to administer the Deepwater Port Liability Fund. There is one fund for all of the deepwater ports. The Fund is liable for cleanup costs resulting from any oilspill from a vessel using a deepwater port facility or en route to or departing from such a facility while in the vicinity of the facility. It is also liable for damages to real and personal property within the territorial jurisdiction of the United States caused by such an oilspill. The Fund is not liable for any damages if it can prove that the damages were caused by an act of war, or by the negligence of a damaged party making a claim. The limit of liability for any one oilspill is $100 million.

To establish the Fund, each port facility licensee is to collect a fee of 4 cents per barrel of oil unloaded until the Fund reaches the $100 million level or until the International treaties on oil spills come into effect, at which point 2 cents per barrel is to be collected. No fee is to be collected when the Fund contains $100 million or more. The Fund is subrogated to the rights of any claimant who is compensated from the Fund.

The amendment adds a provision directing the Commission to include in any deepwater port facility license provisions necessary to ensure domestic control over the port facility.

The amendment adds a provision prohibiting a deepwater port licensee from allowing a foreign vessel to use the facility unless the foreign flag state involved has agreed to recognize United States jurisdiction over the vessel and its personnel for the purpose of the deepwater port legislation and has designated an agent in the United States for the service of process.

The amendment includes specific provisions authorizing the Secretary of the Department in which the Coast Guard is operating to issue rules of the Department in which the Coast Guard is operating to issue rules and regulations relating to the safety of life and property in the water adjacent to deepwater port facilities. The Secretary is also directed to designate a safety zone surrounding each deepwater port facility.

HIGHLIGHTS OF THE AMENDMENT

The amendment establishes a Deepwater Port Facilities Commission to grant licenses for the construction and operation of the deepwater port facilities. The Commission's license is the only Federal license required. One environmental impact statement for each license is prepared by the Commission.

A State is granted a preference in receiving a deepwater port license if the State meets all of the requirements of the legislation, if the deepwater port is closer to the State's coast than to the coast of any other State, and if 50 percent or more of the design-receiving capacity for crude oil and petroleum products is to be located in the State.

In the cases of a State whose coast is nearer the port facility than that of any other State, no license may be issued for the port facility unless the State has an environmental program which includes construction of port facilities off its coast and the port facility and directly related land-based facilities are consistent with the program. The same is true for any State in which 50 percent or more of the design-receiving capacity for crude oil and petroleum products from the port facility is located.

No license can be issued until the Commission has considered the economic, environmental, aesthetic, and regional effects of the port facility on all other significantly affected States (States whose shorelines might suffer environmental harm as a result of the port facility).

Two or more States are authorized to negotiate or enter into agreements or compacts, not in conflict with any law or treaty of the United States, for the construction and operation of deepwater port facilities, and the establishment of agencies to implement the compacts.

Provisions are included for the cleanup of oil spills, and a Deepwater Port Liability Fund is established to cover cleanup costs and damages caused by oil spills. The amendment contains provisions to insure domestic control of construction and operation of deepwater port facilities.

SECTION-BY-SECTION ANALYSIS SUBSTITUTE AMENDMENT

Section 1. This section defines certain key phrases and words used in the bill.

Section 2. This section provides for the issuance of licenses by the Federal Government for the construction and operation of a deepwater port facility (a facility off the coast of the U.S., beyond its territorial seas, and for the purpose of unloading crude oil and petroleum products). No one may construct or operate such a facility without obtaining a license.

A State is granted a preference in receiving a deepwater port license if the State meets all of the requirements of the legislation, if the deepwater port is closer to the State's coast than to the coast of any other State, and if 50 percent or more of the design-receiving capacity for crude oil and petroleum products is to be located in the State.

The State is to be notified whenever an application for a license to build a port facility off its coast is made, and the State has up to 180 days to itself apply for a license. It is intended that the notification be sent to the Governor of the State.

License applications are filed with the Deepwater Port Facilities Commission. The Commission is authorized to issue a license after it determines that the applicant is financially responsible, has the power to sue and be sued (or if a State, it has consented to be sued in connection with the port facility), the facility will not interfere with reasonable uses of the high seas, and the facility will be located, constructed and operated in a manner which will minimize or prevent any adverse significant environmental effects.

Licenses are to be for a term of no more than 30 years, with preferential right in the licensee to renew. Licenses must include conditions to insure that a bona fide effort to construct is made.

In the case of a State whose coast is nearer the port facility than that of any other State, no license may be issued for the port facility unless the State has an environmental program which includes construction of deepwater ports off its coast and the port facility and the directly related land-based facilities are consistent with the environmental program. The same is true for any State in which 50 percent or more of the design-receiving capacity for crude oil and petroleum products from the port facility is located. This allows 3 States at the most to prevent the construction of a proposed port facility by not having an environmental program including such facilities.

Also, no license can be issued until the Commission has considered the economic, environmental, esthetic, and regional effects of the port facility on all other significantly affected States (States whose shorelines might suffer environmental harm as a result of the port facility).

If a port of a State has existing plans for construction of a deep draft harbor and also has either an ongoing Corps of Engineers study for the harbor or has applied for a Corps permit to construct the harbor, and the Port applies to the Commission for a determination within thirty days of the date of the license application, then the Commission cannot issue a license for a port facility off the coast of that State unless it has compared the economic, social and environmental effects of the inshore and offshore facilities and determined which of the two is more in the national interest.

It is intended that the in-depth review required by this section shall be promptly initiated and completed within the time provided for in Sec. 3(d), namely, within 120 days after receipt of agency certifications or after completion of any hearings, whichever is later.

Section 3. This section establishes the Deepwater Port Facilities Commission, to issue the deepwater port licenses. The Commission is composed of the Secretary of Transportation, the Secretary of the Interior, the Secretary of Commerce, the Administrator of the Environmental Protection Agency, and the Secretary of the Army, acting through the Chief of Engineers. The Secretary of Transportation is the Chairman of the Commission and furnishes the administrative personnel to carry out the function of the Commission.

Only one Federal license—from the Commission—is required for a port facility. With regard to other Federal licenses or permits which might otherwise be required for the facility, the bill provides a procedure whereby these requirements will be met. The Commission must promptly forward a copy of each application it receives to those Federal agencies with jurisdiction over any aspect of the construction and operation of a facility. No license may be issued until those agencies have certified to the Commission that the aspect of the facility under their jurisdiction meets the requirements of the laws which they administer. A single environmental impact statement is to be prepared by the Commission in granting or denying a license, if such a statement is required by the National Environmental Policy Act of 1969. The certifying agencies will provide input to the Commission for the environmental impact statement.

The certification must be issued or denied within 120 days following transmittal of a copy of the application to the agencies. The Commission must issue or deny the license within 120 days after receipt of the certifications or after completions of any hearings, whichever is later.

Section 4. This section covers the procedures for the submission and consideration of applications for licenses. It provides for the prescription by the Commission of regulations, the publication of notices of applications in the Federal Register, the holding of at least one public hearing on each application, and the resolution of factual issues by an evidentiary hearing.

Section 5. This section provides for judicial review of a Commission order granting or denying a license, when such review is timely sought by a person adversely affected by the order.

Section 6. This section directs the Commission to include certain conditions, as a minimum, in any license it issues. These are as follows:

(1) Conditions to ensure that the operation of the facility will not substantially lessen competition or create a monopoly, including a requirement of non-discriminatory access at reasonable rates.

(2) Provisions requiring that, if a license is revoked or expires and is not reissued, or if the licensee abandons the facility, the licensee will render the facility harmless to navigation and the environment.

(3) Fees as reimbursement for the cost of Federal activities occasioned by the port facility.

(4) Measures to meet U.S. international obligations.

(5) Measures to prevent or minimize the pollution of the surrounding waters, including payment of cleanup costs.

(6) Provisions for the temporary storage of hazardous substances.

(7) Provisions to insure domestic control over the port facility.

This section also provides that if a licensee becomes bankrupt and unable to render the facility harmless to navigation and the environment, the United States will do so to the extent not covered by a bond as may have been required by the Commission.

Section 7. This section provides for the removal of oil spills and for liability for damages caused by oil spills.

The Secretary of Transportation is authorized to remove oil spilled from a vessel using a deepwater port facility or en route to or departing from the facility while in the vicinity of the facility. The Secretary is also directed to prepare contingency plans for the removal of such oil. An owner or operator of a vessel is liable to the United States for the cleanup costs incurred, unless he can prove that the spill was caused solely by an act of God, an act of war, negligence on the part of the United States, or an act or omission of a third party.

The International Convention on Civil Liability for Oil Pollution Damage and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage are two treaties which are presently under consideration by the nations of the world. The legislation provides that when these treaties are in force their provisions concerning cleanup of oilspills and liability for damages will become applicable insofar as they cover areas provided for in the legislation. Where the treaties' provisions are not applicable the provisions of the legislation would continue to govern. The provisions of the Federal Water Pollution Control Act governing cleanup of oil spills from onshore facilities into the navigable waters of the United States are made applicable to deepwater port facilities.

Section 8. This section creates, as a body corporate, the Deepwater Port Liability Authority, to administer the Deepwater Port Liability Fund. The Fund is liable for cleanup costs resulting from any oilspill from a vessel using a deepwater port facility or en route to or departing from such a facility while in the vicinity of the facility. It is also liable for damages to real and personal property within the territorial jurisdiction of the United States caused by such an oilspill. The Fund is not liable for any damages if it can prove that the damages were caused by an act of war, or by the negligence of a damaged party making a claim. The limit of liability for any one oilspill is $100 million.

To establish the Fund, each port facility licensee is to collect a fee of 4 cents per barrel of oil unloaded until the Fund reaches the $100 million level or until the international treaties on oilspills come into effect, at which point 2 cents per barrel is to be collected. No fee is to be collected when the Fund contains $100 million or more. The Fund is subrogated by the rights of any claimant who is compensated from the fund.

Section 9. This section provides for the imposition of a civil penalty of not more than $25,000 per day for the violation of license conditions or rules and regulations of the Commission, and for judicial review of such penalties.

Section 10. This section provides that where a licensee fails to comply with any provision of the Act or regulation of the Commission, or fails to pay a civil penalty, the Commission may file a court action to suspend operations under the license or, if the failure to comply or pay is knowing and continues for 30 days after official notification, to revoke the license.

Section 11. This section applies the Constitution and laws of the United States to deepwater port facilities. The laws of the State whose coast is nearest the port facility are declared to be the law of the United States for the facility, to the extent they are not inconsistent with Federal law. Also, foreign flag vessels and others not nationals of the United States who use the port facility are deemed to consent to the jurisdiction of the United States for purposes of the deepwater port legislation.

This section also provides that a State whose coast is nearer the port facility than that of any other State and in which 50 percent or more of the design receiving capacity for crude oil and petroleum products is located may fix reasonable fees for the use of the facility. Likewise, that State and any other State in which directly related pipelines and tankfarms are located may fix reasonable fees for the use of these land-based facilities. The fees are limited to the economic costs attributable to the port or land-based facilities which cannot be recovered under other State authority, including ad valorem taxes, and to environmental and administrative costs attributable to the facilities.

This section provides for payments to compensate a State for the economic, environmental, and administrative costs attributable to the construction and operation of a deepwater port and land-based facilities. These payments, referred to as fees, are subject to the approval of the Commission. They are limited to the actual economic costs incurred by the State because of the construction and operation of the deepwater port facilities which cannot be recovered under other State authority, including ad valorem taxes, and to the environmental and administrative costs attributable to the construction and operation of the deepwater port facilities and land-based facilities. The section was carefully drafted so as not to constitute an imposition of a tax on imports but rather, as indicated above, to provide compensation for certain costs attributable to the deepwater port and land-based facilities.

Section 12. This section makes it clear that any facilities connected to a port facility and within the geographic jurisdiction of a State are subject to applicable laws and regulations of the State. A State is not precluded from imposing more stringent environmental or safety regulations when not otherwise prohibited by Federal law.

Section 13. This section prohibits the use of a deepwater port facility for the transshipment of crude oil or petroleum products destined for locations outside the United States.

Section 14. This section grants the consent of Congress to two or more States to negotiate and enter into agreements or compacts for the construction and operation of deepwater port facilities and the establishment of agencies to implement the agreements or compacts.

Section 15. This section directs the Secretary of State, in consultation with the Deepwater Port Facilities Commission, to seek effective international action and cooperation in support of the policy of the deepwater port legislation, and to present or support proposals for the development of international rules and regulations relative to the construction and operation of deepwater ports and navigation safety in the vicinity.

Section 16. This section authorizes the Secretary of the Department in which the Coast Guard is operating to issue rules and regulations relating to the safety of life and property in the waters adjacent to deepwater port facilities. The Secretary is also directed to designate a safety zone surrounding each deepwater port facility.

Section 17. This section provides that deepwater port facilities shall be deemed to be ports or places within the United States for the purpose of laws relating to coastwise trade (trade between ports and places in the United States). These include laws relating to load lines on vessels (depths to which vessels may be loaded) and laws prohibiting the use of foreign vessels.

Section 18. This section provides that the deepwater port licensee shall be a common carrier and that the movement of oil from the facility to the United States by pipeline is subject to regulation by the Interstate Commerce Commission and the Secretary of Transportation.

Section 19. This section provides that for disability or death of an employee resulting from injury occurring in connection with the construction, operation or maintenance of a deepwater port facility, compensation will be payable under the Longshoremen's and Harbor Workers' Compensation Act.

Section 20. This section prohibits a deepwater port licensee from allowing a foreign vessel to use the facility unless the foreign flag state involved has agreed to recognize United States jurisdiction over the vessel and its personnel for the purpose of the legislation and has designated an agent in the United States for the service of process.

Section 21. This section requires that United States officials be afforded reasonable access to a deepwater port facility for the purpose of carrying out their responsibilities.

Section 22. This section prohibits discrimination on the grounds of sex in any program or activity carried on or receiving assistance under the deepwater port legislation.

PERMISSION FOR MANAGERS TO FILE CONFERENCE REPORT ON H.R. 7824, TO ESTABLISH LEGAL SERVICES CORPORATION

Mr. **PERKINS**. Mr. Speaker, I ask unanimous consent that the managers on the part of the House may have until midnight tonight to file the conference report on H.R. 7824, to establish a Legal Services Corporation.

The **SPEAKER**. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

CONFERENCE REPORT (H. REPT. No. 93–1039)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7824) to establish a Legal Services Corporation, and for other purposes, having met, after full and free conference, have agreed to recomend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows· In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Legal Services Corporation Act of 1974".

SEC. 2. The Economic Opportunity Act of 1964 is amended by adding at the end thereof the following new title:

"TITLE X—LEGAL SERVICES CORPORATION ACT

"STATEMENT OF FINDINGS AND DECLARATION OF PURPOSE

"SEC. 1001. The Congress finds and declares that—

"(1) there is a need to provide equal access to the system of justice in our Nation for individuals who seek redress of grievances;

"(2) there is a need to provide high quality legal assistance to those who would be otherwise unable to afford adequate legal counsel and to continue the present vital legal services program;

"(3) providing legal assistance to those who face an economic barrier to adequate legal counsel will serve best the ends of justice;

"(4) for many of our citizens, the availability of legal services has reaffirmed faith in our government of laws;

"(5) to preserve its strength, the legal services program must be kept free from the influence of or use by it of political pressures; and

"(6) attorneys providing legal assistance must have full freedom to protect the best interests of their clients in keeping with the Code of Professional Responsibility, the Canons of Ethics, and the high standards of the legal profession.

"DEFINITIONS

"SEC. 1002. As used in this title, the term—

"(1) 'Board' means the Board of Directors of the Legal Services Corporation;

"(2) 'Corporation' means the Legal Services Corporation established under this title;

"(3) 'eligible client' means any person financially unable to afford legal assistance;

"(4) 'Governor' means the chief executive officer of a State;

"(5) 'legal assistance' means the provision of any legal services consistent with the purposes and provisions of this title;

"(6) 'recipient' means any grantee, contractee, or recipient of financial assistance described in clause (A) of section *1006*(a) (1);

"(7) 'staff attorney' means an attorney who receives more than one-half of his annual professional income from a recipient organized solely for the provision of legal assistance to eligible clients under this title; and

"(8) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States."

"ESTABLISHMENT OF CORPORATION

"SEC. 1003. (a) There is established in the District of Columbia a private nonmembership nonprofit corporation, which shall be known as the Legal Services Corporation, for the purpose of providing financial support for legal assistance in noncriminal proceedings or matters to persons financially unable to afford legal assistance.

"(b) The Corporation shall maintain its principal office in the District of Columbia and shall maintain therein a designated agent to accept service of process for the Corporation. Notice to or service upon the agent shall be deemed notice to or service upon the Corporation.

"(c) The Corporation, and any legal assistance programs assisted by the Corporation, shall be eligible to be treated as an organization described in section 170(c) (2) (B) of the Internal Revenue Code of 1954 and as an organization described in section 501(c) (3) of the Internal Revenue Code of 1954 which is exempt from taxation under section 501(a) of such Code. If such treatments are conferred in accordance with the provisions of such Code, the Corporation, and legal assistance programs assisted by the Corporation, shall be subject to all provisions of such Code relevant to the conduct of organizations, exempt from taxation.

"GOVERNING BODY

"SEC. 1004. (a) The Corporation shall have a Board of Directors consisting of eleven voting members appointed by the President, by and with the advice and consent of the Senate, no more than six of whom shall be of the same political party. A majority shall be members of the bar of the highest court of any State, and none shall be a full-time employee of the United States.

"(b) The term of office of each member of the Board shall be three years, except that five of the members first appointed, as designated by the President at the time of appointment, shall serve for a term of two years. Each member of the Board shall continue to serve until the successor to such member has been appointed and qualified. The term of initial members shall be computed from the date of the first meeting of the Board. The term of each member other than initial members shall be computed from the date of termination of the preceding term. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed for the remainder of such term. No member shall be reappointed to more than two consecutive terms immediately following such member's initial term.

"(c) The members of the Board shall not, by reason of such membership, be deemed officers or employees of the United States.

"(d) The President shall select from among the voting members of the Board a chairman, who shall serve for a term of three years. Thereafter the Board shall annually elect a chairman from among its voting members.

"(e) A member of the Board may be removed by a vote of seven members for malfeasance in office or for persistent neglect of or inability to discharge duties, or for offenses involving moral turpitude, and for no other cause.

"(f) Within six months after the first meeting of the Board, the Board shall request the Governor of each State to appoint a nine-member advisory council for such State. A majority of the members of the advisory council shall be appointed, after recommendations have been received from the State bar association, from among the attorneys admitted to practice in the State, and the membership of the council shall be subject to annual reappointment. If ninety days have elapsed without such an advisory council appointed by the Governor, the Board is authorized to appoint such a council. The advisory council shall be charged with notifying the Corporation of any apparent violation of the provisions of this title and applicable rules, regulations, and guidelines promulgated pursuant to this title. The advisory council shall, at the same time, furnish a copy of the notification to any recipient affected thereby, and the Corporation shall allow such recipient a reasonable time (but in no case less than thirty days) to reply to any allegation contained in the notification.

"(g) All meetings of the Board, of any executive committee of the Board, and of any advisory council established in connection with this title shall be open to the public, and any minutes of such public meetings shall be available to the public, unless the membership of such bodies, by two-thirds vote on those eligible to vote, determines that an executive session should be held on a specific occasion.

"(h) The Board shall meet at least four times during each calendar year.

"OFFICERS AND EMPLOYEES

"SEC. 1005. (a) The Board shall appoint the president of the Corporation, who shall be a member of the bar of the highest court of a State and shall be a non-voting ex officio member of the Board, and such other officers as the Board determines to be necessary. No officer of the Corporation may receive any salary or other compensation for services from any source other than the Corporation during his period of employment by the Corporation, except as authorized by the Board. All officers shall serve at the pleasure of the Board.

"(b) (1) The president of the Corporation, subject to general policies established by the Board, may appoint and remove such employees of the Corporation as he determines necessary to carry out the purposes of the Corporation.

"(2) No political test or political qualification shall be used in selecting, appointing, promoting, or taking any other personnel action with respect to any officer, agent, or employee of the Corporation or of any recipient, or in selecting or monitoring any grantee, contractor, or person or entity receiving financial assistance under this title.

"(c) No member of the Board may participate in any decision, action, or recommendation with respect to any matter which directly benefits such member or pertains specifically to any firm or organization with which such member is then associated or has been associated within a period of two years.

"(d) Officers and employees of the Corporation shall be compensated at rates determined by the Board, but not in excess of the rate of level V of the Executive Schedule specified in section 5316 of title 5, United States Code.

"(e) (1) Except as otherwise specifically provided in this title, officers and employees of the Corporation shall not be considered officers or employees, and the Corporation shall not be considered a department, agency, or instrumentality, of the Federal Government.

"(2) Nothing in this title shall be construed as limiting the authority of the Office of Management and Budget to review and submit comments upon the Corporation's annual budget request at the time it is transmitted to the Congress.

"(f) Officers and employees of the Corporation shall be considered officers and employees of the Federal Government for purposes of the following provisions of title 5, United States Code: subchapter I of chapter 81 (relating to compensation for work injuries); chapter 83 (relating to civil service retirement); chapter 87 (relating to life insurance); and chapter 89 (relating to health insurance). The Corporation shall make contributions at the same rates applicable to agencies of the Federal Government under the provisions referred to in this subsection.

"(g) The Corporation and its officers and employees shall be subject to the provisions of section 552 of title 5, United States Code (relating to freedom of information).

"POWERS, DUTIES, AND LIMITATIONS

"SEC. 1006. (a) To the extent consistent with the provisions of this title, the Corporation shall exercise the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act (except for section 1005(o) of title 29 of the District of Columbia Code). In addition, the Corporation is authorized—

"(1) (A) to provide financial assistance to qualified programs furnishing legal assistance to eligible clients, and to make grants to and contracts with—

"(i) individuals, partnerships, firms, corporations, and nonprofit organizations, and

"(ii) State and local governments (only upon application by an appropriate State or local agency or institution and upon a special determination by the Board that the arrangements to be made by such agency or institution will provide services which will not be provided adequately through nongovernmental arrangements).

for the purpose of providing legal assistance to eligible clients under this title, and (B) to make such other grants and contracts as are necessary to carry out the purposes and provisions of this title;

"(2) to accept in the name of the Corporation, and employ or dispose of in furtherance of the purposes of this title, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise; and

"(3) to provide, either directly or by grant or contract, for—

"(A) research (in accordance with the provisions of section 3 of the Legal Services Corporation Act of 1974),

"(B) training, and

"(C) information clearinghouse activities relating to the provision of legal assistance under this title, and for technical assistance in connection with the provision of legal assistance to eligible clients.

"(b) (1) The Corporation shall have authority to insure the compliance of recipients and their employees with the provisions of this title and the rules, regulations, and guidelines promulgated pursuant to this title, and to terminate, after a hearing in accordance with section 1011, financial support to a recipient which fails to comply.

"(2) If a recipient finds that any of its employees has violated or caused the recipient to violate the provisions of this title or the rules, regulations, and guidelines promulgated pursuant to this title, the recipient shall take appropriate remedial or disciplinary action in accordance with the types of procedures prescribed in the provisions of section 1011.

"(3) The Corporation shall not, under any provision of this title, interfere with any attorney in carrying out his professional responsibilities to his client as established in the Canons of Ethics and the Code of Professional Responsibility of the American Bar Association (referred to collectively in this title as 'professional responsibilities') or abrogate as to attorneys in programs assisted under this title the authority of a State or other jurisdiction to enforce the standards of professional responsibility generally applicable to attorneys in such jurisdiction. The Corporation shall ensure that activities under this title are carried out in a manner consistent with attorney's professional responsibilities.

"(4) No attorney shall receive any compensation, either directly or indirectly, for the provision of legal assistance under this title unless such attorney is admitted or otherwise authorized by law, rule, or regulation to practice law or provide such assistance in the jurisdiction where such assistance is initiated.

"(5) The Corporation shall insure that (A) no employee of the Corporation or of any recipient (except as permitted by law in connection with such employee's own employment situation), while carrying out legal assistance activities under this title, engage in, or encourage others to engage in, any public demonstration or picketing, boycott, or strike; and (B) no such employee shall, at any time, engage in, or encourage others to engage in, any of the following activities: (i) any rioting or civil disturbance, (ii) any activity which is in violation of an outstanding injunction of any court of competent jurisdiction, (iii) any other illegal activity, or (iv) any intentional identification of the Corporation or any recipient with any political activity prohibited by section 1007(a) (6). The Board, within ninety days after its first meeting, shall issue rules and regulations to provide for the enforcement of this paragraph and section 1007(a) (5), which rules shall include, among available remedies, provisions, in accordance with the types of procedures prescribed in the provisions of section 1011, for suspension of legal assistance supported under this title, suspension of an employee of the Corporation or of any employee of any recipient by such recipient, and, after consideration of other remedial measures and after a hearing in accordance with section 1011, the termination of such assistance or employment, as deemed appropriate for the violation in question.

"(6) In areas where significant numbers of eligible clients speak a language other than English as their principal language, the Corporation shall, to the extent feasible, provide that their principal language is used in the provision of legal assistance to such clients under this title.

"(c) The Corporation shall not itself—

"(1) participate in litigation on behalf of clients other than the Corporation; or

"(2) undertake to influence the passage or defeat of any legislation by the Congress of the United States or by any State or local legislative bodies, except that personnel of the Corporation may testify or make other appropriate communication (A) when formally requested to do so by a legislative body, a committee, or a member thereof, or (B) in connection with legislation or appropriations directly affecting the activities of the Corporation.

"(d)(1) The Corporation shall have no power to issue any shares of stock, or to declare or pay any dividends.

"(2) No part of the income or assets of the Corporation shall inure to the benefit of any director, officer, or employee, except as reasonable compensation for services or reimbursement for expenses.

"(3) Neither the Corporation nor any recipient shall contribute or make available corporate funds or program personnel or equipment to any political party or association, or the campaign of any candidate for public or party office.

"(4) Neither the Corporation nor any recipient shall contribute or make available corporate funds or program personnel or equipment for use in advocating or opposing any ballot measures, initiatives, or referendums. However, an attorney may provide legal advice and representation as an attorney to any eligible client with respect to such client's legal rights.

"(5) No class action suit, class action appeal, or amicus curiae class action may be undertaken, directly or through others, by a staff attorney, except with the express approval of a project director of a recipient in accordance with policies established by the governing body of such recipient.

"(e)(1) Employees of the Corporation or of recipients shall not at any time intentionally identify the Corporation or the recipient with any partisan or nonpartisan political activity associated with a political party or association, or the campaign of any candidate for public or party office.

"(2) Employees of the Corporation shall be deemed to be State or local employees for purposes of chapter 15 of title 5, United States Code.

"(f) If an action is commenced by the Corporation or by a recipient and a final order is entered in favor of the defendant and against the Corporation or a recipient's plaintiff, the court may, upon motion by the defendant and upon a finding by the court that the action was commenced or pursued for the sole purpose of harassment of the defendant or that the Corporation or a recipient's plaintiff maliciously abused legal process, enter an order (which shall be appealable before being made final) awarding reasonable costs and legal fees incurred by the defendant in defense of the action, except when in contravention of a State law, a rule of court, or a statute of general applicability. Any such costs and fees shall be directly paid by the Corporation.

"GRANTS AND CONTRACTS

"SEC. 1007. (a) With respect to grants or contracts in connection with the provision of legal assistance to eligible clients under this title, the Corporation shall—

"(1) insure the maintenance of the highest quality of service and professional standards, the preservation of attorney-client relationships, and the protection of the integrity of the adversary process from any impairment in furnishing legal assistance to eligible clients;

"(2)(A) establish, in consultation with the Director of the Office of Management and Budget and with the Governors of the several States, maximum income levels (taking into account family size, urban and rural differences, and substantial cost-of-living variations) for individuals eligible for legal assistance under this title;

"(B) establish guidelines to insure that eligibility of clients will be determined by recipients on the basis of factors which include—

"(i) the liquid assets and income level of the client,

"(ii) the fixed debts, medical expenses, and other factors which affect the client's ability to pay,

"(iii) the cost of living in the locality, and

"(iv) such other factors as relate to financial inability to afford legal assistance, which shall include evidence of a prior determination, which shall be a disqualifying factor, that such individual's lack of income results from refusal or unwillingness, without good cause, to seek or accept an employment situation; and

"(C) establish priorities to insure that persons least able to afford legal assistance are given preference in the furnishing of such assistance;

"(3) insure that grants and contracts are made so as to provide the most economical and effective delivery of legal assistance to persons in both urban and rural areas;

"(4) insure that attorneys employed full time in legal assistance activities supported in major part by the Corporation refrain from (A) any compensated outside practice of law, and (B) any uncompensated outside practice of law except as authorized in guidelines promulgated by the Corporation;

"(5) insure that no funds made available to recipients by the Corporation shall be used at any time, directly or indirectly, to influence the issuance, amendment, or revocation of any executive order or similar promulgation by any Federal, State, or local agency, or to undertake to influence the passage or defeat of any legislation by the Congress of the United States, or by any State or local legislative bodies, except where—

"(A) representation by an attorney as an attorney for any eligible client is necessary to the provision of legal advice and representation with respect to such client's legal rights and responsibilities (which shall not be construed to permit a recipient or an attorney to solicit a client for the purpose of making such representation possible, or to solicit a group with respect to matters of general concern to a broad class of persons as distinguished from acting on behalf of any particular client); or

"(B) a governmental agency, a legislative body, a committee, or a member thereof requests personnel of any recipient to make representations thereto;

"(6) insure that all attorneys engaged in legal assistance activities supported in whole or in part by the Corporation refrain, while so engaged, from—

"(A) any political activity, or

"(B) any activity to provide voters or prospective voters with transportation to the polls or provide similar assistance in connection with an election (other than legal advice and representation), or

"(C) any voter registration activity (other than legal advice and representation);

and insure that staff attorneys refrain at any time during the period for which they receive compensation under this title from the activities described in clauses (B) and (C) of this paragraph and from political activities of the type prohibited by section 1502(a) of title 5, United States Code, whether partisan or nonpartisan;

"(7) require recipients to establish guidelines, consistent with regulations promulgated by the Corporation, for a system for review of appeals to insure the efficient utilization of resources and to avoid frivolous appeals (except that such guidelines or regulations shall in no way interfere with attorneys' professional responsibilities);

"(8) insure that recipients solicit the recommendations of the organized bar in the community being served before filling staff in attorney positions in any project funded pursuant to this title and give preference to filling such positions to qualified persons who reside in the community to be served;

"(9) insure that every grantee, contractor, or person or entity receiving financial assistance under this title or predecessor authority under this Act which files with the Corporation a timely application for refunding is provided interim funding necessary to maintain its current level of activities until (A) the application for refunding has been approved and funds pursuant thereto received, or (B) the application for refunding has been finally denied in accordance with section 1011 of this Act; and

"(10) insure that all attorneys, while engaged in legal assistance activities supported in whole or in part by the Corporation, refrain from the persistent incitement of litigation and any other activity prohibited by the Canons of Ethics and Code of Professional Responsibility of the American Bar Association, and insure that such attorneys refrain from personal representation for a private fee in any cases in which they were involved while engaged in such legal assistance activities.

"(b) No funds made available by the Corporation under this title, either by grant or contract, may be used—

"(1) to provide legal assistance with respect to any fee-generating case (except in accordance with guidelines promulgated by the Corporation), to provide legal assistance with respect to any criminal proceeding, or to provide legal assistance in civil actions to persons who have been convicted of a criminal charge where the civil action arises out of alleged acts or failures to act and the action is brought against an officer of the court or against a law enforcement official for the purpose of challenging the validity of the criminal conviction;

"(2) for any of the political activities prohibited in paragraph (6) of subsection (a) of this section;

"(3) to make grants to or enter into contracts with any private law firm which expends 50 percent or more of its resources and time litigating issues in the broad interests of a majority of the public;

"(4) to provide legal assistance under this title to any unemancipated person of less than eighteen years of age, except (A) with the written request of one of such person's parents or guardians. (B) upon the request of a court of competent jurisdiction, (C) in child abuse cases, custody proceedings, persons in need of supervision (PINS) proceedings, or cases involving the initiation, continuation, or conditions of institutionalizational, or (D) where necessary for the protection of such person for the purpose of securing, or preventing the loss of, benefits, or securing, or preventing the loss or imposition of, services under law in cases not involving the child's parent or guardian as a defendant or respondent;

"(5) to support or conduct training programs for the purpose of advocating particular public policies or encouraging political activities, labor or antilabor activities, boycotts, picketing, strikes, and demonstrations, as distinguished from the dissemination of information about such policies or activities, except that this provision shall not be construed to prohibit the training of attorneys or paralegal personnel necessary to prepare them to provide adequate legal assistance to eligible clients;

"(6) to organize, to assist to organize, or to encourage to organize, or to plan for the creation or formation of, or the structuring of, any organization, association, coalition, alliance, federation, confederation, or any similar entity, except for the provision of legal assistance to eligible clients in accordance with guidelines promulgated by the Corporation;

"(7) to provide legal assistance with respect to any proceeding or litigation relating to the desegregation of any elementary or secondary school or school system;

"(8) to provide legal assistance with respect to any proceeding or litigation which seeks to procure a nontherapeutic abortion or to compel any individual or institution to perform an abortion, or assist in the performance of an abortion, or provide facilities for the performance of an abortion, contrary to the religious beliefs or moral convictions of such individual or institution; or

"(9) to provide legal assistance with respect to any proceeding or litigation arising out of a violation of the Military Selective Service Act or of desertion from the Armed Forces of the United States.

"(c) In making grants or entering into contracts for legal assistance, the Corporation shall insure that any recipient organized solely for the purpose of providing legal assistance to eligible clients is governed by a body of at least 60 percent of which consists of attorneys who are members of the bar of a State in which the legal assistance is to be provided (except that the Corporation (1) shall, upon application, grant waivers to permit a legal services program, supported under section 222(a)(3) of the Economic Opportunity Act of 1964, which on the date of enactment of this title has a majority of persons who are not attorneys on its policy-making board to continue such a nonattorney majority under the provisions of this title, and (2) may grant, pursuant to regulations issued by the Corporation, such a waiver for recipients which, because of the nature of the population they serve, are unable to comply with such requirement) and which include at least one individual eligible to receive legal assistance under this title. Any such attorney, while serving on such board, shall not receive compensation from a recipient.

"(d) The Corporation shall monitor and evaluate and provide for independent evaluations of programs supported in whole or in part under this title to insure that the provisions of this title and the bylaws of the Corporation and applicable rules, regulations, and guidelines promulgated pursuant to this title are carried out.

"(e) The president of the Corporation is authorized to make grants and enter into contracts under this title.

"(f) At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly, and shall notify the Governor and the State bar association of any State where legal assistance will thereby be initiated, of such grant, contract, or project. Notification shall include a reasonable description of the grant application or proposed contract or project and request comments and recommendations.

"(g) The Corporation shall provide for comprehensive, independent study of the existing staff-attorney program under this Act and, through the use of appropriate demonstration projects, of alternative and supplemental methods of delivery of legal services to eligible clients, including judicare, vouchers, prepaid legal insurance, and contracts with law firms; and, based upon the results of such study, shall make recommendations to the President and the Congress, not later than two years after the first meeting of the Board, concerning improvements, changes, or alternative methods for the economical and effective delivery of such services.

"RECORDS AND REPORTS

"SEC. 1008. (a) The Corporation is authorized to require such reports as it deems necessary from any grantee, contractor, or person or entity receiving financial assistance under this title regarding activities carried out pursuant to this title.

"(b) The Corporation is authorized to prescribe the keeping of records with respect to funds provided by grant or contract and shall have access to such records at all reasonable times for the purpose of insuring compliance with the grant or contract or the terms and conditions upon which financial assistance was provided.

"(c) The Corporation shall publish an annual report which shall be filed by the Corporation with the President and the Congress.

"(d) Copies of all reports pertinent to the evaluation, inspection, or monitoring of any grantee, contractor, or person or entity receiving financial assistance under this title shall be submitted on a timely basis to such grantee, contractor, or person or entity, and shall be maintained in the principal office of the Corporation for a period of at least five years subsequent to such evaluation, inspection, or monitoring. Such reports shall be available for public inspection during regular business hours, and copies shall be furnished, upon request, to interested parties upon payment of such reasonable fees as the Corporation may establish.

"(e) The Corporation shall afford notice and reasonable opportunity for comment to interested parties prior to issuing rules, regulations, and guidelines, and it shall publish in the Federal Register at least 30 days prior to their effective date all its rules, regulations, guidelines, and instructions.

"AUDITS

SEC. 1009. (a)(1) The accounts of the Corporation shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants who are certified by a regulatory authority of the jurisdiction in which the audit is undertaken.

"(a) The audits shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Corporation and necessary to facilitate the audits shall be made available to the person or persons conducting the audits; and full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to any such person.

The report of the annual audit shall be filed with the General Accounting Office and shall be available for public inspection during business hours at the principal office of the Corporation.

"(b)(1) In addition to the annual audit, the financial transactions of the Corporation for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the General Accounting Office in accordance with such rules and regulations as may be prescribed by the Comptroller General of the United States.

"(2) Any such audit shall be conducted at the place or places where accounts of the Corporation are normally kept. The representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Corporation and necessary to facilitate the audit; and full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to such representatives. All such books, accounts, financial records, reports, files, and other papers or property of the Corporation shall remain in the possession and custody of the Corporation. A report of such audit shall be made by the Comptroller General to the Congress and to the President, together with such recommendations with respect thereto as he shall deem advisable.

"(c)(1) The Corporation shall conduct, or require each grantee, contractor, or person or entity receiving financial assistance under this title to provide for, an annual financial audit. The report of each such audit shall be maintained for a period of at least five years at the principal office of the Corporation.

"(2) The Corporation shall submit to the Comptroller General of the United States copies of such reports, and the Comptroller General may, in addition, inspect the books, accounts, financial records, files, and other papers, or property belonging to or in use by such grantee, contractor, or person or entity, which relate to the disposition or use of funds received from the Corporation. Such audit reports shall be available for public inspection, during regular business hours, at the principal office of the Corporation.

"(d) Notwithstanding the provisions of this section or section 1008, neither the Corporation nor the Comptroller General shall have access to any reports or records subject to the attorney-client privilege.

"FINANCING

"SEC. 1010. (a) There are authorized to be appropriated for the purpose of carrying out the activities of the Corporation, $90,000,000 for fiscal year 1975, $100,000,000 for fiscal year 1976, and such sums as may be necessary for fiscal year 1977. The first appropriation may be made available to the Corporation at any time after six or more members of the Board have been appointed and qualified. Appropriations shall be for not more than two fiscal years, and, if for more than one year, shall be paid to the Corporation in annual installments at the beginning of each fiscal year in such amounts as may be specified in appropriation Acts.

"(b) Funds appropriated pursuant to this section shall remain available until expended.

"(c) Non-Federal funds received by the Corporation, and funds received by any recipient from a source other than the Corporation, shall be accounted for and reported as receipts and disbursements separate and distinct from Federal funds, but any funds as received for the provision of legal assistance shall not be expended by recipients for any purpose prohibited by this title, except that this provision shall not be construed to prevent recipients from receiving other public funds or tribal funds (including foundation funds benefiting Indians, or Indian tribes) and expending them in accordance with the purposes for which they are provided, or to prevent contracting or making other arrangements with private attorneys, private law firms, or other State or local entities of attorneys, or with legal aid societies having separate public defender programs, for the provision of legal assistance to eligible clients under this title.

"SPECIAL LIMITATIONS

"SEC. 1011. The Corporation shall prescribe procedures to insure that—

"(1) financial assistance under this title shall not be suspended unless the grantee, contractor, or person or entity receiving financial assistance under this title has been given reasonable notice and opportunity to show cause why such action should not be taken; and

"(2) financial assistance under this title shall not be terminated, an application for refunding shall not be denied, and a suspension of financial assistance shall not be continued for longer than thirty days, unless the grantee, contractor, or person or entity receiving financial assistance under this title has been afforded reasonable notice and opportunity for a timely, full, and fair hearing.

"COORDINATION

"SEC. 1012. The President may direct that appropriate support functions of the Federal Government may be made available to the

Corporation in carrying out its activities under this title, to the extent not inconsistent with other applicable law.

"RIGHT TO REPEAL, ALTER, OR AMEND

"SEC. 1013. The right to repeal, alter, or amend this title at any time is expressly reserved.

"SHORT TITLE

"SEC. 1014. This title may be cited as the 'Legal Services Corporation Act'."

PROVISIONS RELATING TO LEGAL RESEARCH ACTIVITIES

SEC. 3. (a)(1) Subject to the provisions of paragraph (2), the auhority of the Legal Services Corporation under section 1006(a)(3)(A) of the Legal Services Corporation Act (title X of the Economic Opportunity Act of 1964; as added by this Act) to make grants or enter into contracts for research in connection with the provision of legal assistance to eligible clients shall terminate on January 1, 1976.

(2) During the period from June 30, 1975, to January 1, 1976, the Congress may, by concurrent resolution, act with respect to the *duration* of authority contained in such section 1006(a)(3)(A). If the Congress has failed to take any such action, that authority shall automatically be extended until January 1, 1977.

(b) In order to assist the Congress to carry out the provisions of subsection (a) of this section, the Corporation shall conduct a thorough study of the efficiency and economy of the use of grants or contracts for research for the purpose of supporting the provision of legal assistance to eligible clients as distinguished from the direct provision of such research by the Corporation. The Corporation shall report to the Congress and the President not later than June 30, 1975, on the findings of the study required by this subsection, together with such recommendations, including recommendations for additional legislation, as the Corporation deems appropriate.

TRANSITION PROVISIONS

SEC. 4. (a) Notwithstanding any other provision of law, effective ninety days after the date of the first meeting of the Board of Directors of the Legal Services Corporation established under the Legal Services Corporation Act (title X of the Economic Opportunity Act of 1964, as added by this Act), the Legal Services Corporation shall succeed to all rights of the Federal Government to capital equipment in the possession of legal services programs or activities assisted pursuant *to section* 222(a)(3), 230, 232, or any other provision, of the Economic Opportunity Act of 1964.

(b) Within ninety days after the first meeting of the Board, all assets, liabilities, obligations, property, and records as determined by the Director of the Office of Management and Budget, in consultation with the Director of the Office of Economic Opportunity or the head of any successor authority, to be employed directly or held or used primarily, in connection with any function of the Director of the Office of Economic Opportunity or the head of any successor authority in carrying out legal services activities under the Economic Opportunity Act of 1964, shall be transferred to the Corporation. Personnel transferred to the Corporation from the Office of Economic Opportunity or any successor authority shall be transferred in accordance with applicable laws and regulations, and shall not be reduced in compensation for one year after such transfer, except for cause. The Director of the Office of Economic Opportunity or the head of any successor authority shall take whatever action is necessary and reasonable to seek suitable employment for personnel who do not transfer to the Corporation.

(c) Collective-bargaining agreements in effect on the date of enactment of this Act covering employees transferred to the Corporation shall continue to be recognized by the Corporation until the termination date of such agreements, or until mutually modified by the parties.

(d)(1) Notwithstanding any other provision of law, the Director of the Office of Economic Opportunity or the head of any successor authority shall take such action as may be necessary, in cooperation with the president of the Legal Services Corporation, including the provision (by grant or otherwise) of financial assistance to recipients and the Corporation and the furnishing of services and facilities to the Corporation—

(A) to assist the Corporation in preparing to undertake, and in the intial undertaking of, its responsibilities under the title, and;

(B) out of appropriations available to him, make funds available to meet the organizational and administrative expenses of the Corporation; to

(C) within ninety days after the first meeting of the Board, to transfer to the Corporation all unexpended balances of funds appropriated for the purpose of carrying out legal services programs and activities under the Economic Opportunity Act of 1964 or successor authority; and

(D) to arrange for the orderly continuation by such Corporation of financial assistance to legal services programs and activities assisted pursuant to the Economic Opportunity Act of 1964 or successor authority.

Whenever the Diretcor of the Office of Economic Opportunity or the head of any successor authority determines that an obligation to provide financial assistance pursuant to any contract or grant for such legal services will extend beyond six months after the date of enactment of this Act, he shall include, in any such contract or grant, provisions to assure that the obligation to provide such financial assistance may be assumed by the Legal Services Corporation, subject to such modifications of the terms and conditions of such contract or grant as the Corporation determines to be necessary.

(2) Section 222(a)(3) of the Economic Opportunity Act of 1964 is repealed, effective ninety days after the first meeting of the Board of Directors of the Legal Services Corporation.

(e) There are authorized to be appropriated for the fiscal year ending June 30, 1974, such sums as may be necessary for carrying out this section (a).

(f) Title VI of the Economy Opportunity Act of 1964 is amended by inserting after section 625 thereof the following new section:

"INDEPENDENCE OF LEGAL SERVICES CORPORATION

"Sec. 626. Nothing in this Act, except title X, and no reference to this Act unless such reference refers to title X, shall be construed to affect the powers and activities of the Legal Services Corporation.".

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same.

Carl D. Perkins,
Augustus F. Hawkins,
Patsy T. Mink,
Lloyd Meeds,
Albert H. Quie,
John M. Ashbrook,
William A. Steiger,
Managers on the Part of the House.

Gaylord Nelson,
Edward M. Kennedy,
Walter F. Mondale,
Alan Cranston,
Jennings Randolph,
Harold E. Hughes,
Wm. D. Hathaway,
Robert Taft, Jr.,
Jacob K. Javits,
Dick Schweiker,
Peter H. Dominick,
J. Glenn Beall, Jr.
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7824) to establish a Legal Services Corporation, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House bill created an independent corporation in a separate provision that was not part of the Economic Opportunity Act. The Senate amendment created an independent corporation within the Economic Opportunity Act as a new title X. The House recedes.

The Senate amendment contained a list of findings and a declaration of purpose. There was no comparable House provision. The House recedes with an amendment clarifying the intention of the conferees that the program should be kept free from the influence of or use by it of political pressure, and a perfecting amendment.

The House bill defined legal assistance as provision of legal services under the Act. The Senate amendment defined legal assistance as legal advice and representation and other appropriate legal services consistent with the title. The conference agreement provides that legal assistance means the provision of any legal services consistent with the purposes and provisions of the title.

The House bill defined "staff attorney" as an attorney who receives more than one-half of his professional income from a recipient organization solely to provide legal assistance to eligible clients. The Senate amendment defined "staff attorney" as one who receives a majority of his professional income from provision of legal assistance pursuant to the title. The Senate recedes.

The House bill provided that the Corporation and programs assisted by the Corporation shall be eligible to be treated as tax-exempt organizations under the Internal Revenue Code, and provided that if such treatments are conferred the Corporation shall be subject to all provisions of such Code relevant to the conduct of tax-exempt corporations. There was no comparable Senate provision. The Senate recedes with a perfecting amendment.

The House bill liquidated the Corporation as of June 30, 1978, unless sooner terminated by an Act of Congress. The Senate amendment authorized appropriations for three years. The House recedes in view of the three-year authorization of appropriation.

The House bill computed the term of office of the initial Board members from the date of enactment. The Senate amendment computed the term of office of the intial Board members from the date of the first meeting of the Board. This difference occurred in several places throughout the House bill and the Senate amendment. The House recedes and the conference agreement reflects this decision throughout.

The House bill required the President to select from among voting members the chairman of the Board who shall serve a term of one year. The Senate amendment allowed the President to similarly select the first chairman who shall serve a three-year term; thereafter the chairman shall be annually selected by the Board from among its voting members. The House recedes.

The Senate amendment included offenses involving moral turpitude in the list of reasons to remove a Board member. The House bill contained no comparable provision. The House recedes.

Both the House bill and the Senate amendment required the Board to request the Governors of the several States to appoint State advisory councils. The Senate amendment required the Governor to consult the State bar association for its recommendations as to the attorney members of the advisory council. The House bill contained no comparable provision. The House recedes.

The House bill required the Board to appoint a State advisory council within 90 days if the Governor failed to do so. The Senate amendment authorized the Board to make such appointments. The House recedes.

The House bill required the State advisory council to furnish a copy of violations to the recipient affected. The Senate amendment established such a requirement as to apparent violations and required the Corporation to notify affected recipients. The Senate recedes with an amendment adding "apparent" before the word "violations" in the House language.

Both the House bill and the Senate amendment required that all the Board meetings be open to the public unless by a two-thirds vote decide that they be closed on a specific occasion. The Senate amendment required further that minutes shall be available to the public. The House bill contained no comparable provision. The House recedes.

The Senate amendment established a National Advisory Council charged with consulting with the Board and president of the Corporation. The 15-member council shall be appointed by the Board and shall serve for three-year terms and represent the organized bar, legal education, project attorneys, eligible clients, and the general public. The House bill contained no comparable provision. The Senate recedes. The conferees wish to make clear that by removing the requirement in the Senate bill that there be an advisory council they in no way intend to prohibit the Corporation in the exercise of its discretion from establishing an advisory council.

The Senate amendment required the Board to appoint a President and "other Corporation officers required by law". The House bill required the appointment of a president and "such other officers as the Board determines to be necessary". The Senate recedes.

The Senate amendment prohibited the use of political tests or qualifications in appointing or promoting or taking other personnel actions with respect to employees of the Corporation or a recipient. The House bill contained no comparable provision. The House recedes with an amendment adding "political" before "qualifications" to make clearer the restriction in the Senate amendment.

Both the House bill and the Senate amendment prohibit Board members from participating in any action with respect to any matter that directly benefits such member or pertains (specifically in the Senate amendment) to any firm or organization with which the member is then associated. The Senate amendment further required that there be no association with such firm or organization for a period of two years. The House bill contained no comparable provision. The House recedes.

The Senate amendment placed Executive Schedule level V as the maximum rate of compensation of any officer or employee of the Corporation. The House bill contained no comparable provision. The House recedes.

The Senate amendment provided that officers and employees of the Corporation not be considered officers or employees of the Federal Government and that the Corporation not be considered a department, instrumentality, or agency of the Federal Government for purposes of any Federal law or Executive order, except as specifically provided in this title. The House bill contained no comparable provision. The House recedes with a perfecting amendment.

The Senate amendment provided that nothing in this title shall be deemed to authorize any department, agency, officer, or employee of the United States or the District of Columbia to exercise any control with respect to the Corporation or any recipient or eligible client receiving assistance under this title. The House bill contained no comparable provision. The Senate recedes.

The Senate amendment permitted the Office of Management and Budget to review and submit comments upon the Corporation's annual budget request at the time it is submitted to the Congress. The House bill contained no comparable provision. The House recedes.

The Senate amendment specifically required that employees of the Corporation be considered Government employees for purposes of work injury compensation, retirement, life insurance, and health insurance, and required the Corporation to make contributions similar to other Federal agencies for these purposes. The House bill contained no comparable provision. The House recedes.

The Senate bill included in several places the requirement that the Corporation in exercising its powers must at all times insure the protection of attorneys' professional responsibilities. The House bill contained no comparable provision. The Senate recedes in light of an agreement to include this provision in a single section—1006(b)(3)—as applicable to the end title.

Both the House bill and the Senate amendment authorized the Corporation to make grants to and contracts with State and local governments. The Senate amendment limited this authority to cases, upon special determination by the Board, that would provide supplemental assistance which would not be adequately provided through nongovernmental arrangements.

The House bill included in the list of recipients "other appropriate entities". The Senate amendment modified "organizations and corporations" by "nonprofit". The conference agreement combines the provisions, with the understanding that the words "firms, partnerships, and corporations" are intended to refer to entities of attorneys authorized to practice law in the State in question.

The conference agreement provides that the Corporation is authorized to provide financial assistance to qualified programs furnishing legal assistance to eligible clients and to make grants to and contracts with individuals, partnerships, firms, corporations, and non-profit organizations, and with State and local governments only upon special determination by the Board that such services will not be adequately provided through non-governmental arrangements.

The conferees agree with the need to protect the legal services program from unwarranted interference, particularly interference which is brought for political purposes. It is recognized, however, that there may be circumstances where the best interests of the program would be served in using State and local governments. The conference agreement provides the corporation with limited discretion in these cases, but it is not intended that there should be any substantial shift of resources away from the present classes of recipients to State or local governments.

The Senate amendment authorized the Corporation to make such other grants and contracts as necessary to carry out the purpose of the title. The House bill contained no comparable provision. The House recedes.

The House bill authorized the Corporation to undertake directly (not by grant or contract) research, training, and technical assistance, and clearinghouse activities. The Senate amendment allowed a similar list of activities specifying "recruitment", to be carried on either directly or by grant or contract. The conference agreement provides that the Corporation may provide for either directly or by grant or contract, research, training, information clearinghouse activities and technical assistance.

With respect to "research" the conference agreement provides that the authority to make grants or contracts for research in connection with the provision of legal assistance to eligible clients shall terminate on January 1, 1976, unless Congress by concurrent resolution between June 30, 1975, and January 1, 1976, acts with respect to the duration of such authority. If the Congress fails to take any such action during such period, the authority is automatically extended until January 1, 1977.

The Corporation is directed to make a thorough study of the efficiency and economy of conducting research by grants or contracts as opposed to conducting it directly, and to report to the Congress and the President, with recommendations as it deems appropriate, not later than June 30, 1975.

The terms "research" and "research in connection with the provision of legal assistance to eligible clients" are understood by the conferees to mean the types of research activities currently being conducted under the authority of section 232 of the Economic Opportunity Act of 1964, including the provision of co-counsel, but not to extend to clearinghouse activities such as the Poverty Law Reporter service.

The functions authorized by this provision are of utmost importance for the continuation of high quality legal services of the conferees. Such functions include programs concerned with clinical legal education, research, specialized litigation, and training in the area of paraprofessional personnel, as well as similar activities designed to harness available resources of legal education and the organized bar to improve the quality and effectiveness of the provision of legal services to the poor and to ensure opportunities for minority and poor persons to engage in legal services programs, and in the legal profession and related professions.

The House bill provided the Corporation with authority to terminate recipients after a hearing for violation of rules and regulations. The Senate amendment provided similar termination authority after other appropriate remedial measures had been exhausted and after a hearing in accordance with section 1011. The Senate recedes with an amendment retaining a reference to section 1011 procedures. The conferees intend that remedial measures short of termination be utilized prior to termination.

The House bill required the recipient to take appropriate disciplinary action against an employee who violates the Act or its bylaws or guidelines. The Senate amendment required similar remedial or disciplinary action in accordance with due process procedures. The House recedes.

Both the House bill and the Senate amendment prohibited attorneys from receiving any compensation for the provision of legal assistance under this Act unless such attorney is "authorized to practice" in the House bill or "admitted or otherwise authorized by law, rule or regulation" in the Senate amendment. The House recedes.

The House bill applied restrictions with respect to picketing, boycotts, and strikes to employees of the Corporation and recipients who receive a majority of their annual professional income from the provision of legal assistance under the Act. The Senate amendment applied similar restrictions (except as permitted by law in connection with an employee's own employment situation) to all employees of the Corporation and recipients. The House recedes. The conferees intend that the prohibtion against "encouraging" these activities should not be interpreted so as to preclude legal advice and representation for an eligible client with respect to such client's legal rights and responsibilities.

The House bill and the Senate amendment contained substantially similar provisions requiring the Corporation to insure that its employees and employees of recipients refrain from participation in, and from encouragement of others to participate in, rioting or civil disobedience, violation of an injunction, or any illegal activity. The House recedes.

In addition, the Senate amendment prohibited employees from engaging in public demonstrations and from intentionally identifying the Corporation with any prohibited political activities. The House bill contained no comparable provision. The House recedes.

The conference agreement, therefore, provides that the Corporation shall insure (1) that no employees of the Corporation or a recipient (except as to the employee's own employment situation), while carrying out activities assisted under this title, engage in or encourage others to engage in public demonstration or picketing, boycott, or strike, and (2) that no such employees shall at any time engage in or encourage others to engage in any of the following activities: (i) any rioting or civil disturbance, (ii) any activity which is in violation of an outstanding injunction of any court of competent jurisdiction, (iii) any other illegal activity, or (iv) any intentional identification of the Corporation or any recipient with any political activity prohibited by section 1007 (a)(6). The Board is required to issue rules and regulations to provide for the enforcement of this paragraph as well as section 1007(a)(5), which shall include remedies in accordance with the procedures of section 1011.

The Senate amendment required termination after appropriate remedial measures and after a hearing in accordance with section 1011. The House bill left these procedures to the Board. The House recedes with a clarifying amendment.

The Senate amendment required the Corporation to insure that in areas where the predominant language is other than English, the predominant language would be utilized in the provision of legal assistance whenever feasible. The House bill contained no comparable provision. The House recedes with an amendment modifying the requirement of the Senate amendment to provide that "the Corporation shall, to the extent feasible, provide that their principal language is used in the provision of legal assistance".

Both the House bill and the Senate amendment prohibit the Corporation from undertaking to influence the passage or defeat of any legislation by the Congress or by any State or local legislative body. The Senate amendment allowed the Corporation to testify and make appropriate comment in connection with legislation or appropriations directly affecting the activity of the Corporation. The House bill contained no comparable provision. The House recedes.

Both the House bill and the Senate amendment prohibited assets of the Corporation from being used to benefit any director, employee, or officer except as reasonable compensation for services. The Senate amendment explicitly allowed reimbursement for expenses. The House bill contained no comparable provision. The House recedes.

The House bill and the Senate amendment prohibited the Corporation and any recipient from making available corporate funds, program personnel, or equipment for use in advocating or opposing ballot measures, referendums, or initiatives. The Senate amendment contained an exception to this prohibition where such provision of legal advice and representation is necessary by an attorney, as an attorney, for any eligible client with respect to such client's legal rights and representation. The House bill contained no comparable provision. The conference agreement prohibits advocating or opposing such measures, but provides that an attorney may provide legal advice and representation as an attorney to any eligible client with respect to such client's legal right.

The Senate amendment prohibited class action suits, class action appeals, and amicus curiae class actions from being undertaken except with the express approval of the recipient's project director in accordance with policies established by the governing body of the recipient project. The House bill contained no comparable provision. The House recedes.

The Senate amendment prohibited employees of the Corporation or recipients from intentionally identifying the Corporation with any partisan or nonpartisan activity of a candidate for public or party office. The House bill contained no comparable provision. The House recedes.

The Senate amendment made applicable to employees of the Corporation the provisions of the Hatch Act prohibiting active participation in political management or political campaigns and prohibiting interference in elections or coercing of contributions for political purposes. The House bill contained no comparable provisions. The House recedes.

The House bill provided that all attorneys while engaged in activities supported by the Corporation refrain from any political activity. The Senate amendment prohibited political activity associated with a political party or association, or campaign for public or party office. The Senate recedes.

Both the House bill and the Senate amendment prohibited use of Corporation funds for transportation to the polls and voter registration activities. The House bill excepted representation in civil or administrative proceedings and legal representation in registration cases. The Senate amendment excepted legal advice and representation to any eligible client with respect to such client's legal rights and responsibilities. The conference agreement makes the exception for "legal advice and representation".

The Senate amendment prohibited certain political activity of staff attorneys in their "off time" by cross referencing certain provisions of the Hatch Act prohibiting interference in an election and coercing of political contributions. The House bill prohibited taking an active part in partisan or nonpartisan political management or in partisan or nonpartisan political campaigns. The Senate recedes with a clarifying amendment to make reference to the provisions of the Hatch Act prohibiting interference in an election, coercing of political contributions, and taking an active part in political management or political campaigns, and applies the political activities prohibition, as in the House bill, to both partisan and non-partisan political activities.

The House amendment provided that in any action commenced by the Corporation or a recipient on behalf of any party in which a final judgment is rendered in favor of a defendant against the Corporation or a recipient's plaintiff, the court may award reasonable costs and legal fees to such defendant and such costs shall be paid by the Corporation. The Senate amendment contained no comparable provision. The conference agreement provides that a court may, upon motion by the defendant and upon a finding by the court that the action was commenced or pursued for the sole purpose of harassment of the defendant or that the Corporation or a recipient's plaintiff maliciously abused legal process, enter an order (which shall be appealable before being made final) awarding reasonable costs and legal fees incurred by the defendant in defense of the action, except when in contravention of a State law, a rule of court, or a statute of general applicability. Any such costs and fees shall be directly paid by the Corporation.

Both the House bill and the Senate amendment required the Corporation to establish guidelines for client eligibility. The Senate amendment required consultation with the Governors of the several States. The House bill contained no comparable provision. The House recedes.

The House bill and the Senate amendment required that the eligibility guidelines take into account family size, cost of living in the locality, and other related matters. The House bill further added assets, income, fixed debts and medical expenses. The Senate amendment required the determination to be based on appropriate factors relating to financial inability to afford legal assistance. The conference agreement consolidates both provisions.

The House bill prohibited eligibility for any individual capable of gainful employment if his lack of income resulted from refusal or unwillingness without good cause to seek or accept employment. The Senate amendment provided that eligibility guidelines take into consideration evidence of a prior determination that lack of income resulted from a refusal to seek or accept employment without good cause commensurate with such individual's age, health, education and ability. The conference agreement generally combines both provisions. It eliminates the phrase "commensurate with such individual's age, health, education, and ability," and provides that "evidence of a prior determination" that an individual's lack of income results from a failure "without good cause, to seek or accept an employment situation" will be a disqualifying situation.

The House bill required the Corporation to insure adequate assistance in both urban and rural areas. The Senate amendment required the Corporation to insure the most economical, effective, and comprehensive delivery of legal assistance to persons in urban and rural areas. The conference agreement provides that the Corporation shall insure the most economical and effective provision of legal assistance to persons in urban and rural areas.

The Senate amendment further required assurance of equitable services to significant segments of the population of eligible clients (including handicapped, elderly, Indians, migrants, and others with special needs). The Senate amendment also included a requirement to provide special consideration for utilizing organizations and persons with special experience and expertise in providing legal assistance to eligible clients. The House bill contained no comparable provision. The Senate recedes. The conferees agreed that service to these deprived segments of the population should be a special concern of the Corporation.

The House bill contained an absolute prohibition on the outside practice of law for attorneys employed full time in activities supported by the Corporation, and required that they represent only eligible clients. The Senate amendment prohibited attorneys employed full time in legal assistance activities supported in major part by the Corporation from any compensated outside practice of law and any uncompensated outside practice of law except as authorized in guidelines promulgated by the Corporation. The House recedes.

The House bill required that no funds made available to recipients be used to influence an executive order or similar promulgation by a Federal, state, or local agency or to influence the passage or defeat of legislation by Congress or state or local legislative bodies, except that recipient personnel may (1) testify when requested to do so by a governmental agency, a legislative body or committee or member thereof, or (2) in the course of providing legal assistance to an eligible client (pursuant to Corporation guidelines) make representations or testify only before local governmental entities. The Senate amendment also prohibited use of funds to influence the passage or defeat of legislation except when such representations are requested by a legislative body, a committee thereof, or when such representation by an attorney as an attorney is necessary to the provision of legal advice and representation for any eligible client with respect to such client's legal rights and responsibilities. The Senate prohibition did not apply to executive orders.

The House recedes with the following amendments: the prohibition is extended, as in the House bill, to influencing the issuance, amendment, or revocation of any executive order or similar promulgation of any governmental body; the exception with respect to requested representations by attorneys is extended, as in the House bill, to include a request by a governmental agency; and the exception permitting attorneys to represent particular clients is qualified by stating that such exception shall not be construed to permit a recipient or an attorney to solicit a client for the purpose of making such representation possible, or to solicit a group with respect to matters of general concern to a broad class of persons as distinguished from acting on behalf of any particular client.

The House bill required the Corporation to establish guidelines for consideration of appeals to be implemented by each recipient to insure efficient utilization of resources except that such guidelines shall in no way interfere with attorneys' responsibilities. The Senate amendment required recipients to establish guidelines for a system of review of appeals to insure efficiency and avoid frivolous appeals. The conference agreement combines both provisions.

The House bill required recipients to solicit recommendations of the organized bar in the community being served before filling staff attorney positions and to give preference in filling such positions to qualified persons who reside in the community to be served. The Senate amendment contained no comparable provision. The Senate recedes. The conferees agree that the term "organized bar in the community being served" means the bar organization (or organizations) for the geographical area which most closely corresponds to the area to be served by the project.

The Senate amendment required that every grantee, contractor, or person or entity receiving financial assistance under the title or predecessor authority under the Economic Opportunity Act which files with the Corporation a timely application for refunding be provided interim funding necessary to maintain its current level of activities until (1) the application has been approved and funds pursuant thereto received or (2) application has been denied in accordance with the due process procedures of section 1011. The House bill contained no comparable provision. The House recedes.

The House bill required the Corporation to insure that all attorneys engaged in legal assistance supported under the Act (1) refrain from the "persistent incitement of litigation". (2) refrain from any other activity prohibited by the Canons of Ethics and Code of Professional Responsibility of the American Bar Association, and (3) refrain from personal representation for a private fee for a period of two years in any cases which were first presented to them while engaged in legal assistance activities supported by this Act. The Senate amendment contained no comparable provision. The Senate recedes with an amendment changing the 2-year prohibition to an absolute prohibition against legal services attorneys providing personal representation, for a private fee, in any cases in which they were involved while engaged in legal assistance activities.

Both the House bill and the Senate amendment prohibited funds to be used by grant or contract for the provision of legal assistance with respect to a criminal proceeding.

Both the House bill and the Senate amendment prohibited provision of legal assistance with respect to any criminal proceeding. The conferees understand "criminal proceedings" to refer to proceedings brought by the Government of the United States or any of the States. It is not the intent of the conferees to prohibit representation of Indians charged with misdemeanor offenses in tribal courts, as distinct from criminal charges in Federal or State courts. Due to the unique legal problems encountered by Indians on reservations, this provision should not be construed to limit representation of Indian clients in tribal courts such as is now being provided in certain legal services programs on Indian reservations.

The House bill extended this prohibition to (1) fee-generating cases (except in accordance with guidelines promulgated by the Corporation) and (2) the provision of legal assistance in civil actions to persons who have been convicted of a criminal charge where the civil action arises out of alleged acts or failures to act connected with the criminal conviction and such action is brought against an officer of the court or against a law enforcement official. The Senate amendment contained no comparable provision. The Senate recedes with an amendment prohibiting the use of Corporation funds to provide legal assistance in civil actions to persons who have been convicted of a criminal charge where the civil action arises out of alleged acts or failures to act for the purpose of challenging the validity of the criminal charge.

The guidelines that the Corporation issues with regard to fee-generating cases should insure that staff attorneys do not unnecessarily compete with private attorneys while at the same time guaranteeing that eligible clients are able to obtain adequate legal assistance in all cases. Generally the private bar is eager to accept contingent fee cases (negligence cases or workmen's compensation cases); however, there may be instances in which no private attorney will be willing to represent such an individual either because the recovery of a fee is unlikely or the fee is too small or there is some other reason for which the private bar will not accept the case. The Corporation must be able to provide guidelines so that eligible clients will be able to obtain legal assistance in all appropriate cases whether fee-generating or not.

The House bill prohibited the Corporation from making grants to or contracts with any "private law firm" which expends more than 50% of its resources and time litigating issues either in the broad interests of a majority of the public or in the collective interests of the poor, or both. The Senate amendment prohibited grants to or contracts with any "public interest law firm" which expends 50% or more of its resources and time litigating issues in the broad interests of a majority of the public. The Senate recedes with an amendment striking from the House language "or in the collective interests of the poor, or both".

The House bill prohibited the Corporation from supporting or conducting training programs for the advocacy of any particular public policies or which encourage political activities, labor or antilabor activities, boycotts, picketing, strikes and demonstrations, except that this provision shall not be construed to prohibit the training of attorneys necessary to prepare them to provide legal assistance to eligible clients. The Senate amendment had a similar provision with the following exception: the word "illegal" is inserted before "boycotts, picketing, strikes, or demonstrations" and "encouraging" or "encourage can not be construed to include the provision of legal advice and representation by an attorney as an attorney for any eligible client with respect to such client's legal rights and responsibilities. The Senate recedes with an amendment clarifying the House exception especially with regard to training of attorneys and paralegal personnel.

The House bill prohibited the Corporation from providing funds to organize, to assist to organize or to encourage to organize or to plan for the creation or formulation or structuring of any organizations except for the provision of appropriate legal assistance as in accordance with guidelines promulgated by the Corporation. The Senate amendment contained a similar provision with the substitution of the following exception: except for the provision of legal advice and representation by an attorney as an attorney for any eligible client with respect to such client's legal rights and responsibilities. The Senate recedes with an amendment striking out "appropriate" and inserting "to eligible clients" with respect to legal assistance. The conferees intend that guidelines promulgated by the Corporation would be consistent with attorney's professional responsibilities.

The House bill prohibited the Corporation from providing funds to provide legal assistance to any person under 18 years of age without the written request of one of such person's parents or guardians or any court of competent jurisdiction except in child abuse cases, custody proceedings, and PINS proceedings. The Senate amendment prohibited providing legal assistance to any unemancipated person of less than 18 years of age except with the (1) written request of one of such person's parents or guardians, (2) upon the request of a court of competent jurisdiction, (3) in child abuse cases, custody proceedings, PINS proceedings, or cases involving the initiation, continuation, or conditions of institutionalization, (4) where such assistance is necessary for the protection of such persons for securing or preventing the loss of benefits or services to which the person is legally entitled, (5) in other cases pursuant to criteria which the Board shall prescribe for these persons. The House recedes with an amendment deleting the fifth category and amending the fourth category to include the "imposition of services" and by adding at the end "in cases not involving the child's parent or guardian as a defendant or respondent".

The House bill prohibited the Corporation from providing funds to provide legal assistance with respect to any proceeding or litigation relating to desegregation of any school or school system. The Senate amendment contained no comparable provision. The Senate recedes with an amendment inserting "elementary or secondary" before "school or school system."

The House bill and the Senate amendment prohibited the use of Corporation funds with respect to any proceeding or litigation which seeks to procure or compel the performance of an abortion contrary to individual or institutional religious or moral beliefs. The House bill described an abortion as a "non-therapeutic" abortion. In the Senate amendment the description is "an abortion, unless the same be necessary to save the life of the mother". The Senate recedes.

The House bill prohibited the use of corporate funds to provide assistance with respect to any proceeding or litigation relating to the desegregation of any institution of higher education. The Senate amendment contained no comparable provision. The House recedes.

The House bill required that two-thirds of the governing body of a recipient be lawyers who are members of the bar of a State in which assistance is to be provided. The Senate amendment required a majority of the Board to be lawyers of such a State. The Senate recedes with an amendment requiring that the governing Board be at least 60% lawyers.

The House bill allowed a waiver of the above requirement pursuant to regulations issued by the Corporation for recipients which serve a population unable to meet this requirement. The Senate amendments provided a mandatory waiver for programs currently supported under the Economic Opportunity Act which do not meet this requirement on the date of enactment, and a discretionary waiver for cause shown. The conference agreement combines both provisions.

The Senate amendment required the governing board of recipients to include an appropriate number of eligible clients. The House bill contained no comparable provision. The House recedes with an amendment requiring at least one individual eligible to be a client, to be on the governing board.

The House bill provided that lawyers shall not, while serving on a governing body, receive compensation from a recipient or the Corporation from any other source. The Senate amendment provided that members of the governing body shall not, while serving on such body, receive compensation from a recipient. The House recedes. It is the intent of the conferees that compensation does not include reimbursement of reasonable expenses.

The House bill and the Senate amendment required the Corporation to monitor and evaluate programs supported under the title to insure that the bylaws and guidelines of the title are carried out. The Senate amendment required the Corporation to provide for independent evaluations of *programs supported* under the title to insure that bylaws and regulations are carried out. The House recedes.

The House bill authorized the president of the Corporation to enter into contracts and make grants in the name of the Corporation and required the Board to review and approve any grant or contract entered into with a State or local government prior to such approval by the president. The Senate amendment authorized the president to make grants and contracts pursuant to this title. The House recedes in view of the requirement that the Board make a special determination included in section 1006(a)(1)(A)(ii).

The House bill authorizes the Corporation to establish other classes of grants or contracts that must be reviewed prior to approval by the president. The Senate amendment contained no comparable provision. The House recedes.

The House bill required the Corporation to notify the Governor and the Bar Association of the State where legal assistance will be offered thirty days prior to the approval of the grant. The Senate amendment required comparable notification with respect to Corporation-run activities as well as grants or contracts and also required public announcement of all such activities. The House bill had no such requirements. The House recedes.

The House bill required the Corporation to conduct a study of alternative methods of delivery of legal assistance to eligible clients. The Senate amendment required the Corporation to provide for comprehensive, independent study of the existing staff attorney program under the Economic Opportunity Act and, through the use of appropriate demonstration projects, to study alternative and supplemental methods of delivery of legal services to eligible clients. The House recedes.

The House bill required the Corporation to report to the President and the Congress on or before June 30, 1974, and to make recommendations concerning improvements, changes, or alternative methods for the delivery of legal assistance. The Senate amendment required the Corporation to report to the President and the Congress not later than two years after the first meeting of the Board, and specifically required the report to include a discussion of the economy and effectiveness of changes in the delivery of services. The House recedes.

Both the House bill and the Senate amendment authorized the Corporation to prescribe the keeping of records with respect to funds provided and insure access to such records at reasonable times for assuring compliance with the grant or contract. The Senate amendment specified that compliance may also be with respect to the terms and conditions upon which financial assistance was rendered. The House bill contained no comparable provision. The House recedes.

Both the House bill and the Senate amendment required evaluation reports to be maintained in the principal office of the Corporation for a period of 5 years and that such reports shall be available for inspection by the general public. The Senate amendment further required that copies of any reports filed with the Corporation shall also be submitted upon a timely basis to the grantee, contractor, or entity upon which the evaluation was performed. The House recedes.

The House bill required the Corporation to afford notice and opportunity for comment to all interested parties prior to issuing rules, regulations, and guidelines, and further required the Corporation to publish in the Federal Register on a timely basis all of its bylaws, rules, regulations, and guidelines. The Senate amendment contained a similar provision regarding notice but required publication in the Federal Register 30 days prior to the effective date of rules, regulations, guidelines, instructions, and application forms. The Senate recedes with an amendment requiring publication in the Federal Register 30 days prior to the effective date of such rules, regulations, guidelines, and instructions.

Both the House bill and the Senate amendment required annual audits of the Corporation. The House bill (1) required such audits to be conducted by independent certified public accountants who are authorized to ocnduct such audits in the jurisdiction in which the audit is undertaken, (2) provided access to the necessary records to conduct such audit, and (3) provided that the annual audit must be filed with the General Accounting Office. The Senate recedes.

The Senate amendment required the GAO to conduct an audit and such report shall be submitted to the Congress and the President. The House bill specified that the GAO may audit, and, if such audit is performed, such report shall be submitted to the Congress and the President. The Senate recedes with certain technical amendments.

Both the House bill and the Senate amendment provide that nothing in this subsection shall give either the Corporation or the Comptroller General access to any reports or records subject to the attorney-client privilege. The Senate amendment extended this prohibition to the records and reports section. The House bill contained no comparable provision. The House recedes.

The House bill authorized the appropriations of such sums as may be necessary to carry out the activities of the Corporation until dissolved (June 30, 1978). The Senate amendment authorized the appropriation of $71.5 million for F.Y. 1974, $90 million for F.Y. 1975, and $100 million for F.Y. 1976. The conference agreement authorizes the appropriation of $90 million for F.Y. 1975, $100 million for F.Y. 1976, and such sums as may be necessary for F.Y. 1977.

The House bill made the first appropriation available to the "Board" at any time after six or more members have been appointed and qualified. The Senate amendment made the first appropriation available to the "Corporation" after six or more members have been appointed and qualified. The House recedes.

The Senate amendment provided that subsequent appropriations shall be available for not more than 2 fiscal years, and that any subsequent appropriation for more than 1 year shall be paid to the Corporation in annual installments at the beginning of each fiscal year. The House bill contained no comparable provision. The House recedes with perfecting amendments.

The House bill and the Senate amendment both required the Corporation and recipients to account for, separately, any non-Federal funds.

The House bill prohibited the expenditure by recipients of such non-Federal funds for a purpose prohibited by the title but also provided that this provision shall not be construed to make it impossible to contract with or make other arrangements with private attorneys or private law firms, or with legal aid societies which have separate public defender programs. The Senate amendment contained no comparable provision. The conference agreement provides that funds received by any recipient from a source other than the Corporation for the provision of legal assistance shall not be expended by such recipients for any purpose prohibited by the title, except that this provision shall not be construed in such a manner as to prevent recipients from receiving other public funds or tribal funds (including foundation funds benefiting Indians or Indian tribes) and expending them in accordance with the purposes for which they are provided, or to prevent contracting or making other arrangements with private attorneys, private law firms, or other State or local entities of attorneys, or with legal aid societies having separate public defender programs, for the provision of legal assistance to eligible clients under the title.

The House bill provided that effective on the date of enactment the Secretary of HEW shall take such actions as he deems necessary including the provision of financial assistance to (1) assist the Corporation in preparing its initial undertaking, and (2) to assist recipients in the provision of legal assistance until 90 days after the date of the first meeting of the Board of Directors.

The Senate amendment provided that the Director of the Office of Economic Opportunity shall take such action as necessary, in cooperation with the president of the Corporation, to arrange for orderly continuation of legal services programs assisted pursuant to the Economic Opportunity Act, and that the Director of the Office of Economic Opportunity shall assure that any grant or contract that will extend beyond 6 months after the date of enactment of the Act shall include a provision to assure that obligations to provide financial assistance may be assumed by the Corporation. The conference agreement combines both provisions.

The Senate amendment specified procedural requirements to insure that (1) financial assistance not be suspended unless the recipient has been given reasonable notice and opportunity to show cause why such action should not be taken, and (2) financial assistance shall not be terminated or an application for refunding shall not be denied and a suspension of assistance shall not continue longer than 30 days, unless the recipient has been afforded reasonable notice and opportunity for a timely, full, and fair hearing. The House bill provisions relating to procedural requirements are discussed above. The House recedes.

The Senate amendment provided that the President may direct that particular support functions of the Federal Government, such as GSA, FTS, and other similar facilities, be utilized by the Corporation and its recipients. The House bill contained no comparable provision. The conference agreement allows the President at his discretion to make available support functions of the Federal Government to the Corporation for it to use to carry out the purposes of the title.

The Senate amendment contained a severability clause as to the invalidity of any provisions or any applications of this Act. The House bill contained no comparable provisions. The Senate recedes. The conferees understand that such a provision has been rendered superfluous by court decisions.

The House bill authorized the appropriation of such sums as may be necessary for transitional purposes during fiscal year 1974. The Senate amendment contained no comparable provision. The Senate recedes with a conforming amendment.

The Senate amendment added a new section of title VI of the Economic Opportunity Act providing that no authority in the Economic Opportunity Act shall be construed to affect the power of the Corporation unless such authority specifically refers to the Corporation. The House bill contained no comparable provision. The House recedes.

The Senate amendment amended the title of the House-passed bill to reflect the fact that the Senate amendment is an amendment to the Economic Opportunity Act. The House recedes.

CARL D. PERKINS,
AUGUSTUS F. HAWKINS,
PATSY T. MINK,
LLOYD MEEDS,
ALBERT H. QUIE,
JOHN M. ASHBROOK,
WILLIAM A. STEIGER,
Managers on the Part of the House.

GAYLORD NELSON,
EDWARD M. KENNEDY,
WALTER F. MONDALE,
ALAN CRANSTON,
JENNINGS RANDOLPH,
HAROLD E. HUGHES,
WM. D. HATHAWAY,
ROBERT TAFT, Jr.,
JACOB K. JAVITS,
DICK SCHWEIKER,
PETER H. DOMINICK,
J. GLENN BEALL, Jr.
Managers on the Part of the Senate.

COMMITTEE REFORM LEGISLATION

(Mr. MARTIN of Nebraska asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARTIN of Nebraska. Mr. Speaker, it is a sad day for the House and for the entire Nation when one political party can arbitrarily manhandle committee reform legislation as the Democratic Caucus did last Thursday in stopping activity on the resolution reported by the Select Committee on Committees. This legislation was reported unanimously by a bipartisan committee. Certainly it should be allowed to be brought to the floor for the entire House to exercise its best judgment. But, instead, we witnessed the sorry spectacle of a mere 111 number of a political caucus in effect tying the hands of 435 Members. That action is regrettable and unfortunate from the point of view of denying the House an opportunity to achieve needed committee reorganization. It is possibly even more regrettable and unfortunate in that it represents a brazen attempt to convert this legislation into a vehicle for partisan advantage. I hope everyone sees that action for what it is and will give their support to get this legislation back on the high road of bipartisan cooperation to do a job that badly needs to be done.

Again, Mr. Speaker, I reiterate the responsibility for killing this Reorganization Act, which is so widely demanded by the American public, rests squarely on the shoulders of the Democratic Party in the House.

PRESIDENT NIXON SHOULD NOT RESIGN

(Mr. DERWINSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERWINSKI. Mr. Speaker, I take the floor this afternoon to express my conviction that President Nixon should not resign from office. I do so after carefully weighing all factors, recognizing the slow pace set by the House Judiciary Committee and further recognizing the growing volume of cries for resignation of the President.

Resignation under fire would create a precedent that would haunt our future Presidents. This step, while standard in countries where the parliamentary system operates, does not really fit our governmental structure. I would prefer that the President meet the impeachment issue head on, win or lose, rather than resign.

In my judgment, sufficient evidence has yet to be developed to warrant impeachment. However, recognizing the responsibilities that all of us in the House will face, I call to attention of the Members that I am one of the cosponsors of House Resolution 1078 which, if adopted, would require an oath prior to our consideration of any resolution on impeachment. The oath would simply state:

> I solemnly swear (or affirm) that in all things appertaining to the Resolution of Impeachment of ---------- ----------------, now pending I will do impartial justice according to the Constitution and the laws; so help me God.

While I intend to maintain objectivity on the question of impeachment, I certainly do not condone the actions of the President's subordinates whose arrogance, stupidity, and indiscretion have created this monstrous problem. The President was certainly guilty of blind loyalty to them before obtaining their resignations. I am, of course, referring to Messrs. Haldeman, Ehrlichman, Dean, Magruder, and other members of the White House entourage.

However, it must be recognized, Mr. Speaker, that especially here in the Congress the critics of the President are not entirely motivated by philosophical nobility, and that partisan considerations on the part of many Democrats are too obvious to overlook. There are a number of Democrats who wish to drive Mr. Nixon from office so as to overturn the results of the 1972 Presidential election.

Others who have opposed the President's legislative recommendations for 6 years often express their opposition in terms of "limiting the powers of the Presidency." In my judgment, if we had a Democratic President at this time, this Democratic-controlled Congress would be giving him a blank check for spending and a blank check for manipulating the economy. It is ironic that most of the cries to limit the President's power come from Democrats who have spent the last 44 years surrendering legislative authority to Democratic Presidents. One has only to look at the record of Democratic Congresses under Presidents Roosevelt, Truman, Kennedy and Johnson to recognize that it was the Democratic-controlled Congresses that were completely subservient to the demands of their party's President for carte blanche power.

If the next President should by any chance be a Democrat and the Congress should remain in Democratic control, the cries to restore the check and balance system among the Democrats would be stilled, and there would only be lonely Republican voices calling for maintenance of the check and balance system.

Mr. Speaker, I, of course, recognize the political motivation behind the cries of many Republican members, including some of my so-called leaders, calling for the President to resign. My advice to my Republican colleagues is to work hard, run on your own record, stress the positive record of this Administration, and also stress the areas where you have a legitimate difference of opinion with the administration on legislation or on policy matters. Since the President did not provide any real coattails in the 1972 campaign, his present unpopularity is not necessarily a negative factor in the 1974 campaign. Present political differences can be overcome by hard work and by accurately describing the dismal record of the Democratic-controlled Congress.

Mr. Speaker, again I emphasize my conviction that President Nixon should not resign. For the good of the country, it would be far better that he face the impeachment procedure rather than resign since his resignation would be a precedent that would haunt future Presidents.

CHANCE FOR REFORM OF LEGISLATIVE PROCESS BLOCKED

(Mr. STEELMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEELMAN. Mr. Speaker, I think it is almost unbelievable that the House Select Committee on Committees' report has been buried by the Democratic caucus. Fourteen months of work had finally resulted in a document that suggested minimal reforms that are being demanded by the public. And by using such a shoddy, secret, political maneuver to not allow this report to reach the floor of the House the Democratic caucus stands guilty of the very practices held most in contempt by the American people.

What business person could run an enterprise in the manner the House of Representatives is run? What institution in America *has not* experienced change in 28 years? What other institution could turn its back on reform when only slightly more than 20 percent of the citizenry express confidence in it?

Last week, by a secret vote in a closed caucus, debate and an up-or-down vote on the House floor by Representatives of a very frustrated people was prevented on the major chance for reform of the legislative process in this Congress. The action of the Democratic caucus has not fooled anyone. Self-interest and pressure politics choked off the only chance to give the public a reason to believe in one branch of Government—something vitally needed now. The method in which it was done is shameful.

I for one am not satisfied and hope that Members of both sides of the aisle will join in seeing this very important reform through to reality.

ROTARY CLUB OF DOWNEY, CALIF., CELEBRATES 50TH YEAR

(Mr. DEL CLAWSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEL CLAWSON. Mr. Speaker, honoring its founders and original membership the Rotary Club of Downey, Calif., will celebrate 50 years of service to the community on May 18. The occasion has been proclaimed "Rotary Golden Anniversary Day" by Downey's mayor, Richard M. Jennings, in recognition of the many contributions made by the club to the civic life of the city of Downey through the years. Outstanding projects involving the youth of the community—scholarships, exchange programs, and safety programs, as well as involvement in worldwide Rotary efforts to foster peace and world understanding have occupied the energies of this fine organization since its charter was awarded in 1924.

Beginning with informal meetings organized by William John Currer, a group of Downey business and professional men first began informal meetings in February of 1924. Mr. Ernest Hess was designated president in March of that year and the club's official standing was established by charter on May 19. The intervening years have truly been "golden" years in every sense of the word. The club has gone on to win the coveted Rotary "Best Club Award" in 1970–71 and 1972–73. The current membership may be justly proud that the distinction was earned once again by Downey Rotary in the current Rotary year 1973–74.

It is a pleasure to join with other citizens of the city of Downey and our mayor in honoring the past and present accomplishments of this club and the high ideals of community service it is pledged to uphold.

CONGRESSMAN ROBERT W. DANIEL, JR., SAVES THE LIFE OF A RICHMOND MAN

(Mr. WHALEN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. WHALEN. Mr. Speaker, the first weekend of this month, the gentleman from Virginia (Mr. Robert W. Daniel, Jr.) heroically saved the life of a Richmond man.

On Saturday, May 4, Congressman Daniel was piloting his cabin cruiser, *Typhoon*, on windswept Chesapeake Bay. After being alerted by a passing freighter, he turned his boat around and followed a line of debris which led to an overturned boat to which a man was clinging. After rescuing that individual and radioing the Coast Guard, Representative Daniel remained on the scene in the hope that a missing man would be found.

Mr. Speaker, I take this opportunity to acknowledge this unique deed by a Member of this Chamber. I congratulate him, and I am pleased to insert several newspaper accounts of his praiseworthy actions:

[From the Washington Star-News, May 6, 1974]

Representative Daniel Helps Save Man in Bay

(By Allan Frank)

A Virginia congressman rescued a 36-year-old Richmond man from wind-whipped Chesapeake Bay this weekend after the man's boat was swamped and his two cousins were washed overboard.

The body of one of the men was also pulled from the water by the congressman. A Coast Guard search of the Bay that continued until late yesterday failed to locate the third man, who is presumed drowned.

Rep. Robert W. Daniel, Jr., R–Va. said he and a party of seven were heading out to fish for bluefish Saturday when seamen aboard a passing freighter began hailing and yelling wildly.

"I was running alongside the freighter," Daniel said, "and we were watching their bridge. They started waving a red flag and yelling through a megaphone 'You have two men in the water.'

"That alarmed me and I thought they were from my boat. We did a quick end count (of the other seven persons aboard) and they were all present," Daniel said. "I turned around and spotted a line of debris—cushions, fuel tanks, things like that."

Daniel said he then spotted what remained of a small red and white outboard-equipped boat and saw a man clinging to the wreckage.

"When I spotted the boat, it was vertical—bobbing up and down like a buoy with four feet to nothing showing," Daniel said. "Only the decked-over area forward was afloat."

The 38-year-old congressman said the man in the water "got the first line we threw. If he had shown any inability to take the line that was thrown to him the first time, we would have gotten him."

Daniel Bishop, the man Daniels pulled in, told the Coast Guard that he and his cousins, Lonnie Bishop, 29, and Bobby Bishop, 25, had gone onto the bay to fish Saturday in a 17-foot-boat.

Bishop said his boat was swamped by four-foot swells in the rough seas and his two cousins were swept overboard. None of the men was wearing a life jacket. He said he had been in the water for about an hour before he was rescued.

After Bishop was pulled on board, Daniels said, he found the body of Lonnie Bishop entangled in lines from the sunken boat. The third man was not spotted near the craft.

The Coast Guard dispatched a helicopter and patrol boat to search for Bobby Bishop near Chesapeake Bay Bridge Tunnel.

Daniel Bishop was taken to the Little Creek Naval Station where he was admitted to the Boone Clinic. After an initial examination, Bishop was moved to the Virginia Beach General Hospital where he is being treated for exposure.

The Coast Guard announced it had abandoned the search for Bobby Bishop late yesterday.

"It was blowing so hard, I was on the verge of abandoning the whole idea of being out there," Daniel said, "The conditions were so adverse that I would have gone in a very few minutes."

[From the Virginian-Pilot (Norfolk, Portsmouth, Chesapeake, Virginia Beach, Va.), May 5, 1974]

Man Drowns, One Missing in Boat Accident

(By Steve Goldberg)

Virginia Beach.—One man drowned and his brother was missing after their motorboat overturned Saturday in the Chesapeake Bay.

A third man was pulled to safety aboard a cabin cruiser piloted by 4th District Rep. Robert W. Daniel Jr.

The Coast Guard pulled the body of Lonnie Bishop, 29, of Richmond from the water about noon. His brother, Bobby Bishop, 25, was missing Saturday night.

Daniel Bishop, 36, a cousin of the two men, was reported in good condition Saturday in General Hospital of Virginia Beach.

The three were fishing in the Baltimore Channel of the Bay in their 17-foot craft when it apparently swamped in 4-foot seas about 10 a.m., the Coast Guard said.

Rep. Daniel said he and six companions were passing between the third and fourth islands of the Chesapeake Bay Bridge Tunnel about 10:45 a.m. when a freighter hailed him by megaphone and said "something about men in the water."

Turning the cruiser Typhoon around, Daniel said he saw a "line of debris . . . a fuel tank, some cushions, things like that."

Following the trail of wreckage, Daniel said he came upon Bishop's boat sticking straight out of the water with a man clinging to a line.

A rope was thrown to the man, and he was hauled to safety aboard the Typhoon.

Daniel said he could see the leg and foot of another man entangled in some lines just beneath the surface. Other members of his party saw another victim under the boat.

Daniel said he remained at the scene after radioing the Coast Guard in hope that other survivors might surface. The rescued man, Daniel Bishop, said he had been in the water about an hour.

The three men left Richmond Saturday morning and cast off from a marina in Hampton for a day of fishing, Virginia Beach police reported.

Two Coast Guard Boats and a helicopter were searching Saturday night for the third man.

Divers from the Norfolk Police Department also were assisting in the recovery effort.

A native of Washington County Lonnie Bishop was the husband of Mrs. Sandra Timberlake Bishop and a son of John H. and Mrs. Myrtle Nichols Bishop.

He worked for Dixie Container Co. in Richmond.

Other survivors include two sons, William Eugene Bishop and John Keith Bishop of Richmond; five sisters; and six brothers.

The body was sent from Hollomon-Brown Funeral Home, Tidewater Drive, to Joseph W. Bliley Funeral Home, Richmond, for a funeral service and burial.

PROPOSED AMENDMENT TO TITLE IX OF THE AGRICULTURAL ACT OF 1970

(Mr. SEBELIUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SEBELIUS. Mr. Speaker, last Thursday I joined with my very able colleague, the Honorable BILL ALEXANDER, chairman of the Family Farms and Rural Development Subcommittee of the House Agriculture Committee in introducing a technical amendment to change the reporting date for the Annual Report of the President on Government Services to Rural America, H.R. 14723.

This report is required under title IX, section 901(e) of the Agricultural Act of 1970. Due to the use of interagency data which is not collected and available until December for the previous fiscal year, it is impractical to require a report before this data can be collected and analyzed.

Our intent in the original legislation was to use this report as a service to rural communities and local civic leaders outlining the programs and Government services of potential benefit to them. Approval of the amendment we offer today would simply change the reporting date from September 1 to May 15. This would provide for the proper use of analysis of available data so that the report can better serve its intended purpose. It would allow local officials to use the tools of government in countryside America.

We are hopeful that it will be possible to expedite approval of this technical improvement in the provisions of title IX of the Agricultural Act of 1970.

DIFFERENCES BETWEEN THE OLD AND NEW POST OFFICES

(Mr. GROSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GROSS. Mr. Speaker, a month ago, on April 17, Postmaster General Klassen delivered a major address to the National Association of Accountants in which he discussed "some of the significant differences between the old and new Post Offices."

Several of his comments on the subject of finances are worthy of note and, in my opinion, really highlight a most significant difference between the old and new Post Offices.

He told the accountants:

> I believe the bill for mail service should be paid by the customer himself and not through hidden subsidies imposed on the unsuspecting taxpayer. Cost overruns charged to the taxpayer totalled nearly 2 billion dollars in the years between fiscal 1946 and 1971.

As I have pointed out here repeatedly during the past 2 weeks, the taxpayers, in this one fiscal year of 1974, are being called upon to subsidize the new Postal Service by an identical amount—almost $2 billion.

In other words, Mr. Speaker, in just 1 year the new Postal Service is costing the taxpayers as much as the old post office operation cost them in the 25-year period from 1946 to 1971, according to Mr. Klassen's own figures.

I submit that this is an enormous difference between the old and the new. I also submit that today's taxpayers are not so unsuspecting as Mr. Klassen might think. And luckily for him, the accountants did not have access to his budget figures during his address.

COMMUNICATION FROM THE COMMITTEE ON PUBLIC WORKS

The SPEAKER laid before the House the following communication from the chairman of the Committee on Public Works, which was read and together with the accompanying papers, referred to the Committee on Appropriations:

COMMITTEE ON PUBLIC WORKS,
May 8, 1974.

Hon. CARL ALBERT,
Speaker of the House,
House of Representatives,
Washington, D.C.

MY DEAR MR. SPEAKER: Pursuant to the provisions of the Public Buildings Act of 1959, as amended, the Committee on Public Works of the United States House of Representatives on May 2, 1974 approved the following construction prospectuses: Columbia, South Carolina (as amended); Marfa, Texas; Saginaw, Michigan. Repair and improvement prospectuses: Bayonne, New Jersey; St. Louis, Missouri; Washington, D.C., Agriculture Administration; Post Office Building (new); Tariff Building. Lease prospectuses: Research Triangle Park, North Carolina; Washington, D.C., 1800 G Street, N.W. and a resolution for a feasibility study for Harvey, Illinois.

Sincerely,

JOHN A. BLATNIK,
Chairman.

GOVERNMENT SERVICES IN RURAL AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 5 minutes.

Mr. ALEXANDER. Mr. Speaker, I was pleased to join my very able colleague, the Honorable KEITH G. SEBELIUS, ranking minority member of the Subcommittee on Family Farms and Rural Development and hardworking friend of the countryside, Thursday in introducing H.R. 14723. This bill is simply a technical amendment to change the reporting date for the Annual Report of the President on Government Services in Rural America.

This report is required to be provided to the Congress not later than September 1 of each year by title IX, section 901(e) of the Agriculture Act of 1970. The data which would be most useful in this report is collected in an interagency system which does not make it available until December of each year. This means, for instance, that if this data is used the report submitted in September 1974 would have to be made on data which was collected for the fiscal year ending June 30, 1973. Our proposal would change the date on which the report is due from September 1 to May 15. In other words, had this change been in effect this year the report which would have been provided would have been based on data which became available in December and the report would have been released three and a half months earlier than is called for under the present law.

The intent of the Congress in enacting the provision requiring this report was basically threefold: To prompt the executive branch to take an annual look at what Federal programs are doing for the countryside; to give the Congress a regular report on countryside development; and to help local and State governments to make a review of programs which might be useful to them in attempts to revitalize their small communities' economics.

I would hope, in view of the nature of this amendment, that its approval can be rapidly achieved.

FINANCIAL DISCLOSURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ROBISON) is recognized for 5 minutes.

Mr. ROBISON of New York. Mr. Speaker, since I am not a candidate for reelection much of what is to follow may be of academic interest, in the main.

However, as other Members of the bipartisan New York delegation have previously noted in this RECORD, earlier this year we were all asked by a representative of the New York Times to make certain disclosures to it of our individual net worth and of our respective income-tax reporting and liabilities.

Following that request, and apparently in recognition of the fact that there is no clear public interest to be served by requiring elected public officials to disclose the more personal aspects of their individual income-tax returns, the Times somewhat modified its original request in that regard. In subsequent days, an ad hoc committee of the bipartisan New York delegation—which committee I served—attempted to *determine* the most appropriate response to what is, clearly, a legitimate public interest in the question of actual or potential conflicts of interest, insofar as the same may impinge upon those of us privileged to be Members of Congress from New York.

In time, our ad hoc committee reached certain tentative conclusions as to what was desirable under the circumstances—

and we made our recommendations based thereon, accordingly, to other Members of our delegation, understanding full well that the same were recommendations, only, and that each Member was free to do as he, or she, wished and that the actual response would, therefore, vary substantially from Member to Member.

This statement is, then, my own effort at complying—as best I can—with those recommendations, which were patterned after the disclosures mandated upon all of us by Rule XLIV of the House of Representatives, but going well beyond its present requirements.

Prior to this date, I have filed—with the Committee on Standards of Official Conduct—the so-called "Financial Disclosure Report" as due on or before this April 30. In doing so, I sought to give all information appropriate in the open part A thereof, so that the sealed part B thereof was rendered unnecessary—and I assume that, if anyone is interested, the news media people covering my office will examine, and report on, that document as supplemental to this statement.

But, following now the ad hoc committee's recommendations, I would now state:

The sources of my 1973 noncongressional income were as follows—and all as reported on my 1973 Federal and State income-tax returns:

First, from Robison & Manyon, attorneys-at-law, 2 North Ave., Owego, N.Y., $4,693.13. This firm is the follow-on of my own individual law practice in which I was engaged, at the same address, prior to entering Congress in 1958. It is a general law practice—a typical "country law-office" operation—in which I first joined with my late father, and even then at the same address, upon my graduation from Cornell Law School, in 1939. For obvious reasons, I am largely inactive therein but, through arrangement with my active partner, Peter J. Manyon, retain an interest in certain residual business—*in the* main, estate work. As a result my income therefrom varies, from year to year; in 1972, my income therefrom was $1,626.33—in 1971, I had no income therefrom. One supposes that some sort of a conflict of interest might arise from my continued affiliation with Mr. Manyon but, given the nature of the practice, that is remote and, to my knowledge, none such conflict has ever arisen. In the past, I have had some correspondence with John Gardner, of Common Cause, about continuing that affiliation but "stumped" him—it would seem, since he never thereafter responded—when I pointed out that, if I scratched my name, as an attorney, off the downstairs door, I would only have to paint it back on as a Congressman since I paid rent out of my own pocket for one of the rooms upstairs over the Rexall Drug Store at that address which I used as an occasional district office. I have gone to such explanatory lengths on this item, Mr. Speaker, because I have in the past deemed it a bit unfair to require all lawyer-Congressmen to cut all their professional ties "back home" merely because a few may have abused the public trust imposed on them.

Second, executor's commissions, from a decedent's estate, as allowed me by the Tioga County, N.Y., Surrogate's Court, $6,071.26.

Third, dividends on IBM stock—41 shares, sold on December 28, 1973, at a loss—$184.24.

Fourth, interest on time deposits—myself and my wife—$144.94.

Fifth, sale of rights, one-fourth share of IBM stock—$77.37.

Sixth, long-term capital gain, as partner with my uncle, T. Burr Charles, on sale of rental property, North Avenue, Owego, N.Y.—$4,269.32. This property was acquired in 1949, as a so-called business-investment, but has always been a "white-elephant" to us; actually, we sold it at a loss but, with the depreciation taken over the years, we ended up with the foregoing, equal "paper" profit. May the Lord spare me, Mr. Speaker, from similar investments in the future.

I believe that does it, insofar as noncongressional income is concerned, but in combination with congressional income it produced—for myself and my wife—an adjusted gross income for tax purposes of $52,815.50, on which we have reported, and paid, $13,141.69 in Federal income—and social security, self-employment—taxes, plus $5,071.54 in income taxes to New York State.

Now, Mr. Speaker, I am evidently supposed to say something about my net worth—even though one can search, in vain, through the Constitution to find any requirement that one has to be either a rich, or a poor man, or even somewhere in between, to qualify as a Member of Congress. If one discloses his sources of noncongressional income, it would seem that would automatically disclose most of the areas of potential conflicts of interest. Thus, the only true value of publishing so-called net worth statements every campaign year might be to help the public find out whether or not their Representative, somehow, grew rich on the job.

I have gone this route in the past and, thus, do not really mind so much doing it, again—especially since it is the last time. Thus, for what it—and I—might be worth:

First, for residential purposes, my wife and I occupy a rented apartment at R.D. 2, Candor, N.Y. In addition, we own together our Washington-area dwelling at 3903 Franklin Street, Kensington, Md., that we bought for $40,000 some 10 years or so ago but which, today—thanks to real estate inflation locally—might be worth twice that, and I am glad to note that the mortgage on it, held by National Permanent Savings & Loan Association is down to just over $23,000. When we sell that property, later on this year, we will have a capital gain to worry about, but I will worry about that later.

Second, we also own, together, a summer cottage on Highland Lake, near Warren Center, Pa., that we bought about 3 years ago—and, although it is a guess, I suspect our equity therein is about $10,000.

Third, we have some cash, on time deposits, plus a balance in our checking account—I hope—but the total should not exceed $6,000.

Fourth, I own a one-quarter interest, with three partners, in some undeveloped land of about 100 acres, near the IBM plant in the town of Owego, Tioga County, N.Y., which we bought nearly 20 years ago as another of those investments and, if and when someone comes along and wants to buy it from us, my share therein might be worth, again at a guess, some $15,000 or $20,000.

Fifth, having sold my IBM stock, I do not own—nor does my wife—any stock or bonds, but I do have some life insurance, some of which has been borrowed against, so the cash value remaining therein would not exceed, perhaps, $3,000.

Sixth, as of last December 31, my contributions to the Federal retirement system—equivalent to cash—totaled $37,096.04. That total will increase through further contributions during this year by about $3,400 meaning, in effect, that for the first 2 years of my contemplated retirement, plus a few months, I will, in benefits received, merely be getting my own money back.

Seventh, the automobile I drive is, in effect, leased, but my wife owns a 1973 Pontiac LeMans sedan, worth perhaps $4,000 against which we owe $800. There is, in addition finally, our household and personal possessions to which I have not tried to assign a value, plus one gray tomcat who is worthless but for which we would not take any amount of money.

Now, Mr. Speaker, if anyone can figure out my net worth from all of the foregoing, they are welcome to try. When they have it so figured out, I wish they would let me know, but I do hope I have complied with what was expected of me as a Member of the New York congressional delegation.

BARTERING OUR FOREIGN AID—A FAIR EXCHANGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER. Mr. Speaker, each Member of the House is fully aware of the extensive proposals that are now flooding this body concerning various studies that should be made regarding the Nation's energy needs and future deficiencies. While I feel that the proper utilization of these studies can be very beneficial to our planning, it is necessary to take positive action soon to insure that our national economy remains strong. To do otherwise will mean that any future study results will have no impact on an already crippled economy.

Toward that goal I have sponsored legislation along with 48 other Members that will allow the United States to barter its foreign aid in return for strategic or critical raw materials. For years the United States has sent billions of dollars abroad and has received nothing in return. Why not begin to get something back for our dollars? In the past this aid has gone largely unappreciated. At the time the prevailing attitude of the supporters of foreign aid seemed to be that it did not matter—our wealth was endless. Today they know better.

Each citizen has been made acutely aware during the last 6 months that we are not a self-sufficient Nation. Even with the end of the Arab oil embargo our awareness has not been diminished. Throughout the country there are shortages of many basic materials. There is hardly a single citizen who is not affected in some manner. The sad fact is that, unless we take action now, the problems will increase in the future. We are fast outstripping our capacity to meet our raw material demands. Much of what we need must be imported. This trend will not change in the foreseeable future. However, we can do something about the basic problem by bartering our foreign aid for minerals that the recipient countries are sitting on. It will insure our future and provide for what is only a fair exchange for both parties.

Mr. Speaker, I think this barter concept is an extremely valid idea. I urge each of my colleagues to give it their careful consideration and support.

TURKISH OPIUM BAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WOLFF) is recognized for 15 minutes.

Mr. WOLFF. Mr. Speaker, today I joined with the distinguished gentleman from New York (Mr. RANGEL) in introducing a concurrent resolution directing the President to immediately initiate negotiations at the highest levels of the Turkish Government in order to prevent the dissolution of the ban on Turkish opium cultivation. If the negotiations prove unsuccessful, and Turkey resumes production of opium, the resolution directs the President to exercise his power under the Foreign Assistance Act to terminate all assistance to Turkey. In the Senate, an identical resolution was introduced by Senators BUCKLEY and MONDALE.

Mr. RANGEL, and Mr. RODINO, and I are joined by a distinguished list of cosponsors, including House Speaker ALBERT, Majority Leader O'NEILL, Chairman MADDEN of the House Rules Committee, Majority Whip MCFALL, and over 30 of our distinguished colleagues.

Until 1972, the poppy fields of Turkey were the beginning of a long and ruinous road of corruption and profiteering that stretched halfway across the world to the streets of New York, its environs and suburbs, where its lethal traffic was dispersed to pollute untold numbers of men, women, and children as heroin addicts.

Today, after 2 years of the Turkish opium ban on the free and open cultivation of the opium poppy, the corrosion of our society by heroin addiction has been significantly abated as the supply of illegal heroin reaching the United States diminished and the incidence of related lawlessness and crimes of violence declined.

While the illicit traffic in narcotics still flourishes from Asia sources, primarily the Golden Triangle area of Burma, Laos, and Thailand, the quantity destined for our eastern shores is miniscule by comparison to the vast amount of heroin formerly derived from Turkish poppies—up to 80 percent—via the now nearly defunct French Connection.

> Overall traffic in heroin to the United States is decreasing largely as the result of the Turkish opium ban . . . the continued effectiveness of the opium ban in Turkey has greatly reduced the required raw materials needed for the production of illicit heroin in Western Europe.—John Bartels, Jr., Administrator, U.S. Drug Enforcement Administration at Third Session of United Nations Commission on Narcotic Drugs, Geneva, Switzerland, February, 1974.

I am firmly convinced that if we are ever to contain the wave of heroin addiction that swept this Nation in near epidemic proportions in the 1960's and early 1970's, and if we are to stop the addicts who steal and plunder to support their habits, we must see to it that the illicit supply is completely eradicated at the sources. America cannot afford to continue to pay the staggering price of allowing its citizens and institutions to be contaminated by drugs.

Did you know that $27 billion worth of property is stolen each year in the United States in connection with heroin addiction? Did you know that the average addict needs 50 milligrams a day to maintain his habit and at today's price of $1.52 per milligram, this adds up to $76 per day, or more than $27,000 each year? Did you know that nationally, $16 million a day—nearly $6 billion a year—is being spent on illegal heroin?

Today, the French Connection is broken.

> During the last year, the opium ban in Turkey has created a severe shortage of morphine base in Western Europe and traffickers found it increasingly difficult to manufacture heroin. Traffic to North America has been drastically reduced. Heroin is in such short supply in France that addicts are turning to low grade granular pink heroin smuggled from southeastern Asia to Holland and thence to France. However, shipments are small and sporadic—Francois LeMoel, Director French Police Central Narcotics Office, at U.N. Commission, Geneva, February, 1974.
>
> With regard to morphine and heroin it is safe to say that the effects of the suppression of cultivation of the opium poppy because of the ban in Turkey after the 1972 harvest are beginning to be felt. Intelligence information indicates that there is a shortage of morphine base in general—Representative of Interpol at U.N. Commission, Geneva, February, 1974.

It is apparent that the Turkish ban on the cultivation and production of opium is working and I applaud the cooperation and understanding being exerted by those Turkish officials who wish to continue this policy. Their support, which has severed the heroin pipeline, is both courageous and humanitarian. Agitation by greedy forces, including some American pharmaceutical companies and some demagogic Turkish politicians to reverse this policy and renew the illicit cultivation of the opium poppy must not succeed for the result will only be to open the floodgates of further heroin addiction.

> Since 1972, when the Turkish government in return for compensation from the United States agreed to suppress the growth of opium poppy, there has been a dramatic decrease in the amount of heroin available in the streets of New York. Data compiled by our agency indicates not only that heroin is relatively unavailable in our streets but that this scarcity reflects the national situation. According to one recent congressional study, the number of pure heroin addicts has decreased nationally from at least ½ million to no more than 200,000 in the last two years. . . . If the United States government, bowing to pressure from Turkish poppy growers and the domestic pharmaceutical industry agrees to a lifting of the ban, it will be a backward step that is almost guaranteed to lead to an upsurge in heroin addiction nationally with the consequent rise in addict-related crimes. We are now on the threshold of coming to grips with not only the heroin problem, but the entire drug abuse problem. Therefore, it is now time to stop the tide of drug addiction by drying up the Turkish poppy fields.—Jerome Hornblass, Commissioner New York City Addiction Agency, April, 1974.

Concerned with the increasing reports that Turkey is weighing the necessity and propriety of resuming open cultivation for the world market, I, as chairman of the House Special Subcommittee on International Narcotics Control, went to Turkey during the March 1974 congressional recess to talk firsthand with Turk officials and farmers, Ambassador Macomber, and American and Turkish drug enforcement agents. Together with Representative CHARLES RANGEL, whose Manhattan congressional district is one of the most drug-plagued in America, we learned that the average Turk is unaware of the effects of heroin addiction in the United States—since it is not a problem in their own country—and that the U.S. aid was not reaching the farmers. The average Turkish farmer we visited realizes between $35 and $50 per year from the sale of legal morphine gum to the Turkish Government and is hard-pressed to live on this meager sum. However, he is totally unaware of the destruction wrought by the poppy which he previously channeled to the illegal market for greater remuneration. He uses the poppy seed himself for cooking oils and native bread, not as an opiate—a practice he shuns.

Additionally, in our talks with Foreign Minister Gunes and other Turkish officials we learned that several American pharmaceutical companies were encouraging the Turkish Government to rescind the ban—even to the point of using the opium culture as a tool to foster the Turkish political issue of "national independence from U.S.A. influence."

> Congressmen like Wolff can be useful in foreign relations . . . a Congressman can make threats that diplomats can't and sometimes the diplomats like having Congressmen speak out.—Government official quoted in Newsday article by Anthony Marro, Washington Bureau, April 1, 1974.

It should be noted that Turkey, in 1960, should as the result of world pressure, recognized the addiction problem its poppies spawned and voluntarily cutback on opium production from 42 provinces to 7, and at the time the opium ban was effected early in 1972, production was limited to 4 provinces for legal purposes only. Today, there is no production in Turkey. The world's major producers of illicit opium are Burma, Laos, and Thailand. The world's controlled producers of legal opium to supply medicinal morphine and codeine are primarily India and the U.S.S.R. There is no shortage of opium in the world, ample supplies exist—it is the diversion to illegal channels that is creating the problem—total legal production is 1,400 tons annually; illegally production 1,500 tons annually

In our discussions in Turkey, Congressman RANGEL and I conveyed the serious manner in which Congress views this drug situation and emphasized the high priority this Nation places on combatting the illegal narcotics traffic and its direct relationship to crime. I reminded the Turkish Government that both the House and the Senate—during the height of the American involvement in Indochina—passed an amendment to the Foreign Assistance Act, which I authored, to cut off U.S. aid to Thailand unless it cooperated fully with our drug enforcement efforts.

Just *recently*, my amendment to impose trade sanctions on any noncooperating nation was included in the new U.S. trade bill. The actions, I believe, are necessary for we have too often paid the piper without calling the tune.

The situation in Turkey is somewhat different from that in the Far East. Turkey is our long-standing military ally and friend, and traditionally has played a strategic role in NATO. The question of the Dardanelles as essential to the defense of the free world was also reviewed. High U.S. military officers hold that the Dardanelles are no longer the military imperative they once were. Indeed, U.S. air power could close off these straits to enemy warships at any time. The Turk is fully cognizant that sea and land power in the Dardanelles has yielded to air power and that Turkey no longer maintains the strategic position it once held when NATO was founded.

As to the question of why Turkey has been singled out to be the world's target of an opium ban when India is not only permitted to produce for the legal market but is being encouraged to increase production, we cannot quarrel with Turkey's concern. But, it is known that Turkey cannot control its illegal production and traffic in opium.

What, then, is really behind the recent activity on the part of the Turks to resume opium production after the ban has proven so successful?

Is it economic? Only 1 percent of Turkey's gross national production was in legal production of opium at the time the ban was instituted. The legal export of opium by Turkey from 1969 until the ban was imposed brought the Turks less than $5 million a year.

Is it people? Less than 1 percent of the population of Turkey was engaged in opium poppy growing at the time the ban was instituted.

I think the reason is much more sinister. It is quite obvious that the influence of organized crime and selfish interests of others are overpowering the humanitarian need to halt international narcotics trafficking.

The problem is compounded and made even more acute by local Turkish politicians who are attempting to use the issue of the ban as a device to mask the severe economic problem Turkey is now facing. There are some who are critical of the hard line I have taken pertaining to the reciprocal elements in our foreign aid policy. We do have a mutual defense treaty with Turkey, and over the years we have given more than $3 billion in military assistance to Turkey. This year we will give Turkey more than $300 million in total assistance.

America today is engaged in a war on drugs. Is it too much for us to ask Turkey to come to our assistance and join in this fight, just as we have joined in their defense?

Therefore, I have made it apparent to the Turkish Government—not through so-called gunboat diplomacy—that we in Congress intend to deny our enemy—organized crime—the supplies it needs to wage its insidious war on our youth. If Turkey refuses to uphold its end in the war on drugs for our mutual defense, I believe we should cut off all aid, both military and economic.

The get-tough policy on drugs that I advocated 2 years ago in Thailand paid off. There is now a massive clampdown on narcotics in Thailand where, for instance they burned 26 tons of opium, and in Hong Kong there is little or no trawler traffic which up until 2 years ago had operated like a commuter train system on a schedule.

> Recent data indicates that a six-year pattern of increasing numbers of new addicts has been reversed. The rates of overdose deaths, drug related hepititus and drug-related property crimes, indicators of instances of heroin dependence, have declined throughout the U.S. for the first time in six years.—Dr. Robert DuPont, Director Special Section Office for Drug Abuse Prevention, at U.N. Commission, Geneva, Feb., 1974.

I intend to vigorously pursue my efforts to insure that the American people will never again be subject to the level of availability of heroin in our streets, the attendant crime and the deterioration of our society so prevalent prior to the heroin ban. If Turkey reenters the opium business, I reluctantly predict that these ills will strike our communities again and that would prove disasterous.

THE 1974 DANTE AWARD GOES TO JOHN MADIGAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, I would like to call to the attention of my colleagues that on Thursday, May 16, the award-winning WBBM News Radio 78 political editor from Chicago, John Madigan, will be the recipient of the third annual Dante Award.

The Dante Award has been established by the Joint Civic Committee of Italian Americans, an umbrella organization comprised of more than 40 civic organizations in the Chicago area, to extend recognition annually to an individual in the mass media communication field who has made a positive contribution toward fostering good human relations.

Mr. Speaker, I have known John Madigan for 25 years and he has always been dedicated and devoted to his family and to his community. He loves people, reports the facts as they are, and he has a long and solid record of achievement in every news medium. It is for these reasons that he so richly deserves the Dante Award, because it was Dante Alighieri, in his "Divine Comedy," who said, "Men should never be timid about the truth."

John Madigan began his career in journalism as a newsman with the Chicago American in the late 1930's. His career was interrupted by World War II, during which he was awarded the Bronze Star for his participation in the New Guinea and Philippine invasions. After the war, John returned to Chicago's American and, in 1951, was appointed political editor of the newspaper. The following year he was assigned to cover the Presidential conventions and the ensuing campaigns for the Hearst newspaper chain.

In January, 1953, Madigan was transferred to the Hearst Washington Bureau and a year later joined Newsweek magazine's capitol bureau. While on this assignment, he served as a regular panelist on the weekly CBS television network series "Face the Nation." Earlier, he appeared frequently on "Meet the Press" on the NBC television network.

The native Chicagoan returned to his home city and Chicago American as assistant managing editor and national editor in 1957. Shortly thereafter, he added the post of city editor to his duties.

In 1961 Madigan joined WBBM–TV as a news broadcaster. The following year he was named editorial assistant to the general manager, and was appointed news director in 1963. He joined WBBM radio as political editor in April 1968.

John Madigan and his wife reside in Chicago with two of their children. They also have a married son living in California.

The Third Annual Dante Award Luncheon to honor John Madigan will be held at the Como Inn and among over 250 people in attendance will be many political dignitaries, civic leaders, and leaders of the communications industry.

Last year at the award ceremonies, Irv Kupcinet, Chicago Sun-Times columnist, was honored and in 1972, the Dante Award went to John C. Severino, vice president and general manager of WLS–TV in Chicago.

Mr. Speaker, Mrs. Annunzio and I congratulate John Madigan, his wife, and his children, for the strong and constructive impact he has made on our community. His career, his character, and his record prove that he is indeed a "friend to truth," and we are proud to have him as one of our friends.

THE MEDIA AND PRESIDENTIAL RESIGNATION

(Mr. DEVINE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DEVINE. Mr. Speaker, We have been inundated over the last few days with pious calls for the President's resignation, some by members of the minority party. I have read and seen with systematic regularity the demands for the President's impeachment, especially by some in the majority party.

These calls and these demands have rested on charges which stretch the imagination and defy credulity. I suspect most Members have been influenced by television, radio, and press reporting of the transcripts—each reporter giving us the benefit of his own opinions, biases, and analyses. Make no mistake about the awesome power of the media, and make no mistake a good deal of it is anti-Nixon. I was interested to see an article in this week's T.V. Guide by Edith Efron that concludes there is a conspiracy among the intellectual left to destroy the President. Edith Efron is a nationally known analyst of network news patterns, author, and magazine writer. This article will appear at the conclusion of these remarks.

We now know the charges: The President curses—so throw him out. The President did not put John Dean in jail within 30 minutes of his shocking revelations—so impeach him.

We have been lectured with the fine moralisms of some of our more angelic officeholders. Given the atmosphere, I am only too pleased that the recording devices were not placed in the House cloakrooms. Were that the case, my friends on the Ethics Committee would have business enough to command their attention for a generation.

With all these charges and allegations and aspersions on the integrity of the President of the United States, I raise one question for my colleagues. How many have read the entire transcripts word for word? If you have, will you point out any impeachable, indictable, or criminal offense within the confines of those blue covers.

It is important to know how many of us have actually read this document to justify the charges which have flown forth. I do not mean, who has read the "good parts." I mean who has read it word for word?

I do not mean, who has had his staff read it for him. I mean, who has taken it upon himself to know what each of those conversations say?

How can charges be made by many who have admittedly not read the entire document? I repeatedly have seen mention in the press of such charges as: "I have only read a portion of it, but I think he ought to resign or he ought to be impeached." Those kinds of charges are foul and unfair. They are the very kinds of out-of-context distortions which our system of justice so correctly abhors. So I ask you today—please let me know by the close of business tomorrow if you have read the entire document, word for word, and then tell me if this man should be impeached.

I can only pray that this great and historical body of Congress will not judge the President on the basis of reading snatches of the transcripts. I can only hope that more charges will not be forthcoming based on what our administrative assistants or student interns or the biased media or the impeachment lobby have to say.

We have a solemn responsibility. That responsibility is to make a judgment on the facts. I am disheartened by the manner in which charges have been made by those who have read bits and pieces of the famous transcripts.

Richard Nixon was confronted with a coverup of 9 months duration which was led by one who even withheld the truth as he claimed he was speaking the truth. The President, in less than 6 weeks, uncovered the Watergate matter. That effort speaks for itself—but it requires us to read the whole story. I invite my colleagues to try it before they make further charges. I ask those that have read the entire transcript to call me by the end of the day on Tuesday.

IS THERE TRUTH IN CHARGES OF ANTI-NIXON BIAS?

(By Edith Efron)

For months now, information has been pouring off the presses that sets the Watergate illegalities in historical and bipartisan context. Books such as Arthur M. Schlesinger Jr.'s "The Imperial Presidency" and David Wise's "The Politics of Lying," and assorted essays in scholarly journals have been documenting the long history of such illegal practices in former Administrations, going all the way back to Franklin Delano Roosevelt. Here's the kind of thing these scholarly writers have been saying:

Philosopher Michael Novak, a McGovern supporter, writes in Commentary: "Plainly, Richard Nixon gathered unto himself all the prerogatives employed by other Presidents in the past. John Kennedy and Lyndon Johnson had shared in wire taps on Martin Luther King and others. Impoundment, executive privilege, tampering with elections, illicit military ventures, counterespionage episodes within the United States and other kinds of activity of which Richard Nixon stands accused are not in the least unknown in recent history."

And Professor Leo Ribuffo, a harsh critic of Mr. Nixon, writes in Dissent: "High officials have abused our liberties for a long time, and the abuse has regularly been rationalized. The Roosevelt administration unleased the Internal Revenue Service on insurgent Huey Long while loyal Frank Hague stuffed his wallet in Jersey City. . . . The Truman administration revoked press credentials and passports from its critics. . . . For 25 years the fear of subversion has been manipulated for political advantage by both Republicans and Democrats. By failing to associate recent buggings, phone taps, enemy lists, tax audits, and break-ins with that tradition, [Sen. Lowell] Weicker symbolizes the prevalent tunnel vision regarding Watergate."

And this is just a splinter fragment of what is now on the record—and, indeed, has always been on the record. Yet almost none of this bipartisan material has found its way onto the network news programs. The Nation has been told *ad nauseam* by most voices on the nets that the misdeeds of the Nixon Administration have constituted a unique, unprecedented evil in American politics. This is a serious historical falsehood. It can perhaps be argued that the evil has grown cumulatively with the decade and, under Nixon, reached a climactic state. But nothing can justify the doctrine of Nixonian original sin. That is sheer demagoguery.

On April 8, Howard K. Smith of ABC violated the dominant network pattern with a bang. He pointed out that Mr. Nixon did not invent his political sins, and that White House predecessors had blazed the bugging, burglarizing and other unlovely trails. It is unfair to the President, says Mr. Smith, historically to impeach him and leave the public with the impression that the Watergate illegalities were a uniquely Nixonian phenomenon. Mr. Smith also suggested that the time had come to take a hard look at the tax records of former Presidents, such as Lyndon B. Johnson, who acquired an immense fortune while in public office. . . . An admirable commentary.

Mr. Smith, however, left one question unasked and unanswered: Whose responsibility was it to be "fair" to Mr. Nixon, and to inform the public systematically of this background of bipartisan corruption? To ask the question is to answer it. It was the responsibility of the press and, because they are the chief suppliers of political information to the Nation, it was the particular responsibility of the network news and public-affairs departments. They didn't recognize it, accept it, or excuse it. Why?

In part, the answer is plain old vulgar bias. As Timothy Crouse, McGovern supporter, says in his book "The Boys on the Bus"; "[Nixon's] accusations of bias contained some truth. In 1960, many reporters had become shills for Kennedy, as they would later become shills for Johnson in the honeymoon months following Kennedy's assassination, and, later still, shills for Robert Kennedy." From Democratic Party "shills" one could expect a frenzied lunging at only one aspect of the story. But this is only part of the reason.

A more fundamental explanation comes from philosopher Novak, discussing liberal control of the media: "Whoever shapes the sense of reality, the narrative line, and the symbolic context of the day's news goes a very long way toward shaping political reality. For political power is, in essence, power over symbols—power over the construction of reality. Since World War II, TV has more and more come to control that power, and the main lines of network news reflect the Northeastern style, values—and politics."

And Democrat and ex-Watergate prosecutor Archibald Cox names the power play and the chief players even more bluntly. I had quite a few misgivings about the way they [the press] handled Watergate. . . . The media are turning gradually to a more active role in shaping the course of events through their news columns and commentaries as well as on their editorial pages. It isn't true of smaller papers around the country, but I think it's true of the Washington Post, The New York Times, Newsweek, and of the network presentations. It does seem to me that the selection of items emphasized reflects the notion that the press is the fourth branch of government and it should play a major role in government. I'm not sure that I want it that way when there are only three networks. To me, that's an awful lot of power to give to whoever runs the three networks."

Put the Crouse-Novak-Cox comments together, and you'll see why political "reality" has come out as it has on the networks: Mr. Nixon as a unique devil, being exorcised in a religious frenzy by good men and true . . . and any corruption of prior Presidents being largely kept off the national airwaves.

It has been a gigantic manipulation of political symbols, and the results are already obvious. The detested electoral results of 1972 have been wiped out. The Republican Party has been devastated. And the heirs to this massive political action stand quietly in the wings, ready to assume the role of moral cleansing agent of the Republic—among them, Ted Kennedy, the cover-up artist of Chappaquiddick, whose grand jury and courtroom secrets somehow never leak . . .

The joke is on Republicans and conservatives who had more than a year in which to put this catastrophe in historical perspective and utterly failed to do so. Justice to their President and to their party is being executed—but not by them. It is coming from the intellectual left.

DON McBRIDE

(Mr. ALBERT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ALBERT. Mr. Speaker, Mr. Don McBride, former water resources adviser to the late Senator Robert S. Kerr, of Oklahoma, and now a director of the Tennessee Valley Authority, was recently presented the Department of the Army Distinguished Civilian Service Award for his activities in support of national water resources development programs.

Over the past 35 years, Mr. McBride has played a giant role in water resources development at both the State and National levels. I have been honored and privileged to work with him and am truly thinkful for his unstinting dedication to the causes of water development. I congratulate Mr. McBride on this well-deserved award.

The award to Mr. McBride was presented by Maj. Gen. John W. Morris, Director of Civil Works, Office of the Chief of Army Corps of Engineers, during the annual meeting of Oklahoma Water, Inc., in Oklahoma City, Okla.

The citation to Mr. McBride reads as follows:

> For noteworthy assistance to the Department of the Army during the period of 1939 through 1973. During this period while serving in such positions as Chief Engineer and Chairman of the Oklahoma Water Resources Board, as Secretary-Manager of the National Reclamation Association, as water resources advisor to the Senate Select Committee on National Water Resources, and as a director of the Tennessee Valley Authority, Mr. McBride enthusiastically and energetically supported water resources development programs. His invaluable assistance and support, which reflect his deep-seated sense of public responsibility, contributed significantly to the ability of the Department of the Army to accomplish its water resource development missions.

Mr. McBride began his career in the water resources field in 1939 and in 1944 he was appointed chairman of the Oklahoma Water Resources Board by the then Gov. Robert S. Kerr. In 1946, Mr. McBride became secretary-manager of the National Reclamation Association and later was named to represent Oklahoma's congressional delegation as a special assistant in the field of water resources conservation.

While serving with the Oklahoma delegation, he helped prepare Senate Document 13, which called for the comprehensive development of the Arkansas-White-Red River Basins. Senate Document 13 became the basis for legislation creating a statutory River Basin Planning Committee for the Arkansas-White-Red River Basins.

In 1958 he helped draft legislation which passed establishing the Texas Basin Study Commission and the Southeast Basin Study Commission to develop plans for comprehensive development of water and related land resources in these regions.

After that, Mr. McBride assisted the Senate Select Committee on National Water Resources in its lengthy study of the Nation's water needs between 1960 and 1980. Senator Kerr was chairman of the select committee and when the report was published in early 1961 it became the basis for legislation which authorized development of river basin plans in cooperation with the individual States.

Mr. McBride was appointed Director of the Tennessee Valley Authority in 1966 where he continues to serve the Nation in the water resources development field.

In presenting the award, General Morris said that—

> Mr. McBride is so well known for his dedication and devotion to the causes of water development in Oklahoma and adjacent states, that his name is admost a household word in the Southwest United States. The positions that Mr. McBride has held during his career are indicative of his professional growth and the confidence and trust in his outstanding abilities held by the leaders in the water resources community.

THE LATE CARNEY O. DEAN

(Mr. ALBERT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ALBERT. Mr. Speaker, we Oklahomans were saddened recently to learn of the passing of one of our State's most colorful personalities, Mr. Carney O. Dean of Chandler, Okla. Mr. Dean was 81 years of age. He had served as secretary-treasurer of the Deep Fork Watershed Association for 15 years, a position in which he was active right up until his death. His association newsletters were extremely interesting and contributed greatly to the development of water resources in Oklahoma.

I was pleased that Mr. Dean could come to Washington for meetings with our Oklahoma congressional delegation several years ago. He was an inspiration to all of us. To his widow, Mrs. Beulah Dean, his three daughters, eight grandchildren, a brother and a sister we extend our deepest sympathy.

An account of Mr. Dean's death and a tribute to his life appeared in his hometown newspaper, the Lincoln County News of Chandler, Okla., recently. I include the article, "County, State Lose Active Son," below:

COUNTY, STATE LOSE ACTIVE SON

Lincoln County and Oklahoma lost one of its busiest, and most colorful, citizens Monday morning.

Carney Oliver Dean died Monday at his home in Chandler. One of the first children born to settlers in what is now Lincoln County, Dean was 81.

Dean was born May 16, 1892 near Carney, the son of Hugh and Anna Shutt Dean. His parents were settlers of the Iowa Indian lands that were opened Sept. 22, 1891.

He took time off from high school at Chandler to teach in the Harmony School northeast of Tryon and at Red Oak southwest of Chandler. Dean returned and graduated from Chandler in 1915, and later served as president of the Chandler High School Alumni Association.

Dean studied at Oklahoma University, then joined the Army Medical Corps in 1917 and served in France during World War I. Before returning stateside, he studied at a college in Bristol, England. He returned to OU, graduating with a journalism degree in 1921.

Dean was later superintendent of schools at Carney and Collinsville, and was a principal in the Bartlesville school system. He was a life insurance salesman for several years, then worked at the Douglas Aircraft Company in Midwest City until the close of World War II.

He again sold insurance and worked for a Chandler newspaper before joining the State Highway Department for eight years as a right-of-way purchaser, retiring in 1960 at the age of 67.

Dean's community interests were as extensive as his life's work. In a recent interview, he said, "My greatest and most rewarding avocation has been as secretary-treasurer of the Deep Fork Watershed Association."

He held that office 15 years, publishing newsletters, lobbying, and attending water development functions concerning the central portion of Oklahoma.

"Never could there have been a man as devoted to the cause of the Deep Fork Watershed Association," Association President L. D. Wornom said. "Carney stands tall in our ranks as a man devoted to a cause in which he believed, and in which he did all in his power to rectify and solve."

On a state-wide basis, Dean originated the two-letter, four-numeral license tag system adopted by the legislature in the early 1960s. He served five terms as state vice-president of the Christian Men's Fellowship.

Dean was elder emeritus of the Chandler First Christian Church and was a member of the Lions Club, Chamber of Commerce, Matheny-Burt American Legion Post 64, Masonic Lodge of Carney and IOOF Lodge of Chandler.

He was a member and past president of the Lincoln County Historical Society, and a year ago organized the Lincoln County Barracks of World War I veterans, serving as the organization's first quartermaster.

Throughout his work and community betterment endeavors, he was bolstered by his wife of 54 years. Dean was married Sept. 4, 1919, to Beulah Maxwell at Chandler. She survives.

Also surviving are a son, Hugh, Oklahoma City; three daughters, Mrs. Margaret Terrel, Chandler; Mrs. Marion Kaufman, Columbia, Mo.; and Mrs. Dorothy Cox, Kent, Wash.; a brother, Grover C. Dean, Thayer, Mo.; one sister, Mrs. Daisy Paul, Los Angeles, Calif.; and eight grandchildren.

Services were Wednesday morning in the Curry Funeral Chapel at Chandler. Rev. Harold Shore, Christian Church minister, and Rev. Kenneth Routon, Friends Church pastor, officiated. Burial was at Oak Park Cemetery, Chandler.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. MANN (at the request of Mr. O'NEILL), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Passman, on May 15, 1974, for 1 hour.

(The following Member (at the request of Mr. Hanrahan) to revise and extend his remarks and include extraneous matter:)

Mr. Miller, for 5 minutes, today.

(The following Members (at the request of Mr. Gibbons) to revise and extend their remarks and include extraneous material:)

Mr. Alexander, for 5 minutes, today.

Mr. Wolff, for 15 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Pickle, for 5 minutes, today.

Mr. Mitchell of Maryland, for 60 minutes, May 15.

EXTENSION OF REMARKS

By unanimous consent, permission to extend remarks in the appendix of the Record, or to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Hanrahan) and to include extraneous matter:)

Mr. Robison of New York.

Mr. Whalen.

Mr. Findley in six instances.

Mr. Gilman.

Mr. Hanrahan in three instances.

Mr. Ashbrook in five instances.

Mr. Symms.

Mr. Goldwater.

Mr. Frenzel in five instances.

Mr. Heinz.

Mr. Sebelius.

Mr. Rousselot.

(The following Members (at the request of Mr. Gibbons) and to include extraneous material:)

Mr. Morgan.

Mr. Yatron.

Mr. Annunzio in six instances.

Mr. Gonzalez in three instances.

Mr. Rarick in three instances.

Mr. de Lugo in two instances

Mr. Rooney of New York in two instances.

Mr. Bolling.

Mr. Vander Veen in 10 instances.

Mr. Wolff in five instances.

Mr. Owens in 10 instances.

Mr. Hamilton in 10 instances.

Mr. Luken in three instances.

Mr. Davis of Georgia in five instances.

Mr. Edwards of California.

Mr. Hanna in five instances.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 411. An act to amend title 39, United States Code, with respect to certain rates of postage, and for other purposes; to the Committee on Post Office and Civil Service.

S. 3009. An act to provide that moneys due the States under the provisions of the Mineral Leasing Act of 1920, as amended, derived from the development of oil shale resources, may be used for purposes other than public roads and schools; to the Committee on Interior and Insular Affairs.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 514. An act to amend the act of June 27, 1960 (74 Stat. 220), relating to the preservation of historical and archeological data.

BILLS PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on May 10, 1974 present to the President, for his approval, bills of the House of the following title:

H.R. 5035. An act to amend Public Law 90-335 (82 Stat. 174) relating to the purchase, sale, and exchange of certain lands on the Spokane Indian Reservation; and

H.R. 5525. An act to declare that certain mineral interests are held by the United States in trust for the Chippewa Cree Tribe of the Rocky Boy's Reservation, Montana.

ADJOURNMENT

Mr. GIBBONS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 19 minutes p.m.), the House adjourned until tomorrow, Tuesday, May 14, 1974, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Pursuant to the order of the House on May 9, 1974, the following reports were filed on May 10, 1974*]

Mr. POAGE: Committee on Agriculture. H.R. 12000. A bill to enable egg producers to establish, finance, and carry out a coordinated program of research, producer and consumer education, and promotion to improve, maintain, and develop markets for eggs, egg products, spent fowl, and products of spent fowl; with amendment (Rept. No. 93-1032). Referred to the Committee of the Whole House on the State of the Union.

Mr. POAGE: Committee on Agriculture. H.R. 12526. A bill to amend sections 306 and 308 of the Rural Electrification Act of 1936, as amended (Rept. No. 93-1033). Referred to the Committee of the Whole House on the State of the Union.

[*Pursuant to the order of the House on May 9, 1974, the following report was filed on May 10, 1974*]

Mr. POAGE: Committee on Agriculture. S. 3231. An act to provide compensation to poultry and egg producers, growers, and processors and their employees; with amendment (Rept. No. 93-1034). Referred to the Committee of the Whole House on the State of the Union.

[*Pursuant to the order of the House on May 8, 1974, the following report was filed on May 10, 1974*]

Mr. HÉBERT: Committee on Armed Services. H.R. 14592. A bill to authorize appropriations during the fiscal year 1975 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads and for other purposes (Rept. No. 93-1035). Referred to the Committee of the Whole House on the State of the Union.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2298. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of various construction projects proposed to be undertaken for the Army Reserve, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

2299. A letter from the Acting Administrator of General Services, transmitting the semiannual report on the stockpiling of strategic and critical materials, covering the period ended December 31, 1973, pursuant to 50 U.S.C. 98c; to the Committee on Armed Services.

2300. A letter from the Director, District of Columbia Bail Agency, transmitting an annual report of the agency covering calendar year 1973, as a supplement to the report previously submitted pursuant to 23 District of Columbia Code 1307; to the Committee on the District of Columbia.

2301. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to provide assistance to local educational agencies which are in the process of eliminating discrimination or minority group isolation among students or faculty in elementary and secondary schools, and for other purposes; to the Committee on Education and Labor.

2302. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements other than treaties entered into by the United States, pursuant to section 112(b) of Public Law 92-403; to the Committee on Foreign Affairs.

2303. A letter from the Fiscal Assistant Secretary of the Treasury, transmitting the semiannual report on the inventory of nonpurchased foreign currencies, as of December 31, 1973, pursuant to 22 U.S.C. 2363(c); to the Committee on Foreign Affairs.

2304. A letter from the Librarian of Congress, transmitting the annual report of the Library of Congress, including the Copyright Office, for fiscal year 1973, pursuant to 2 U.S.C. 139; to the Committee on House Administration.

2305. A letter from the Deputy Assistant Secretary of the Interior, transmitting a copy of a proposed concession contract for the establishment, maintenance, and operation of a computerized campsite reservation system for designated areas within the national park system, for a term ending December 31, 1978, pursuant to 16 U.S.C. 17b-1; to the Committee on Interior and Insular Affairs.

2306. A letter from the Deputy Assistant Secretary of the Interior, transmitting a copy of a proposed contract with W. A. Wahler & Associates, Palo Alto, Calif., for a research project entitled "Study of High Modulus Backfill System," pursuant to 42 U.S.C. 1900 (d); to the Committee on Interior and Insular Affairs.

2307. A letter from the Secretary of Commerce, transmitting the annual report of the U.S. Travel Service for calendar year 1973, pursuant to 22 U.S.C. 2125; to the Committee on Interstate and Foreign Commerce.

2308. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the Rail Passenger

Service Act of 1970 and for other purposes; to the Committee on Interstate and Foreign Commerce.

2309. A letter from the Executive Director, Federal Communications Commission, transmitting a report on the backlog of pending applications and hearing cases in the Commission as of March 31, 1974, pursuant to section 5(e) of the Communications Act, as amended; to the Committee on Interstate and Foreign Commerce.

2310. A letter from the Acting Administrator of General Services, transmitting prospectuses proposing entering into succeeding leases for space presently occupied at various locations in Honolulu, Hawaii, Rockville, Md., San Juan, Puerto Rico, and Washington, D.C.; to the Committee on Public Works.

2311. A letter from the Director, National Legislative Commission, The American Legion, transmitting statements of the financial condition of the organization as of December 31, 1973; to the Committee on Veterans' Affairs.

2312. A letter from the Chairman, U.S. Atomic Energy Commission, transmitting a draft of proposed legislation to amend the Atomic Energy Act of 1954, as amended, and the Atomic Weapons Rewards Act of 1955, and for other purposes; to the Joint Committee on Atomic Energy.

Received From the Comptroller General

2313. A letter from the Comptroller General of the United States, transmitting a report on efforts to solve State and local court problems with funds provided by the Law Enforcement Assistance Administration; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. EVINS of Tennessee: Select Committee on Small Business. Small Business Impact of Actions and Policies by the Federal Regulatory Agencies (Rept. No. 93–1036). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of Alabama: Committee of conference. Conference report on S. 3062 (Rept. No. 93–1037). Ordered to be printed.

Mr. POAGE: Committee on Agriculture. H.R. 13685. A bill to rename the first Civilian Conservation Corps Center located near Franklin, N.C., and the Cross Timbers National Grasslands in Texas in honor of former President Lyndon B. Johnson (Rept. No. 93–1038). Referred to the House Calendar.

Mr. PERKINS: Committee of conference. Conference report on H.R. 7824 (Rept. No. 93–1039). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ALEXANDER:

H.R. 14735. A bill relating to acquiring of certain narcotics by force, violence, or intimidation; to the Committee on the Judiciary.

By Mr. BINGHAM:

H.R. 14736. A bill to amend the Public Health Service Act and related laws to revise and extend programs of health revenue sharing and health delivery, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. BOWEN:

H.R. 14737. A bill to amend the Internal Revenue Code of 1954 to allow an individual a credit for certain household and dependent care expenses necessary for gainful employment; to the Committee on Ways and Means.

By Mr. CRANE:

H.R. 14738. A bill to amend the Internal Revenue Code of 1954 and certain other provisions of law to provide for automatic cost-of-living adjustments in the income tax rates, the amount of the standard, personal exemption, and depreciation deductions, and the rate of interest payable on certain obligations of the United States; to the Committee on Ways and Means.

By Mr. CRANE (for himself, Mr. Hungate, Mr. Ichord, Mr. Johnson of California, Mr. Kemp, Mr. Landgrebe, Mr. Lent, Mr. Lott, Mr. Lujan, Mr. Mann, Mr. Melcher, Mr. O'Brien, Mr. Podell, Mr. Powell of Ohio, Mr. Rarick, Mr. Roe, Mr. Runnels, Mr. Sandman, Mr. Scherle, Mrs. Schroeder, Mr. Spence, Mr. Steelman, Mr. Steiger of Arizona, Mr. Symms, and Mr. Thone):

H.R. 14739. A bill to amend the Par Value Modification Act; to the Committee on Banking and Currency.

By Mr. CRANE (for himself, Mr. Rhodes, Mr. Abdnor, Mr. Archer, Mr. Bafalis, Mr. Bauman, Mr. Beard, Mr. Blackburn, Mr. Burgener, Mr. Byron, Mr. Cleveland, Mr. Conlan, Mr. Dan Daniel, Mr. Devine, Mr. Dulski, Mr. Fish, Mr. Gilman, Mr. Goldwater, Mr. Gross, Mr. Gunter, Mr. Guyer, Mr. Hanrahan, Mr. Hinshaw, Mrs. Holt, and Mr. Hudnut):

H.R. 14740. A bill to amend the Par Value Modification Act; to the Committee on Banking and Currency.

By Mr. CRANE (for himself, Mr. Treen, Mr. Waggonner, Mr. Whitehurst, Mr. Bob Wilson, Mr. Young of Georgia, and Mr. Young of Alaska):

H.R. 14741. A bill to amend the Par Value Modification Act; to the Committee on Banking and Currency.

By Mr. CRANE (for himself, Mr. Myers, and Mr. Towell of Nevada):

H.R. 14742. A bill to amend the Par Value Modification Act; to the Committee on Banking and Currency.

By Mr. FRASER:

H.R. 14743. A bill to provide for the establishing of uniform State limitations on the size of motor vehicles using public highways, and for other purposes; to the Committee on Public Works.

By Mr. KARTH (for himself, Mrs. Burke of California, and Mr. St Germain):

H.R. 14744. A bill to terminate the Airlines Mutual Aid Agreement; to the Committee on Interstate and Foreign Commerce.

By Mr. MORGAN (for himself, Mr. Barrett, Mr. Goodling, Mr. Clark, Mr. Coughlin, Mr. Dent, Mr. Eilberg, Mr. Eshleman, Mr. Flood, Mr. Gaydos, Mr. Green of Pennsylvania, Mr. Heinz, Mr. Johnson of Pennsylvania, Mr. McDade, Mr. Moorhead of Pennsylvania, Mr. Murtha, Mr. Nix, Mr. Rooney of Pennsylvania, Mr. Schneebeli, Mr. Shuster, Mr. Vigorito, Mr. Ware, Mr. Williams, and Mr. Yatron):

H.R. 14745. A bill to prohibit for a temporary period the exporation of ferrous scrap, and for other purposes; to the Committee on Banking and Currency.

By Mr. OBEY (for himself, Mr. Matsunaga, and Mr. Coughlin):

H.R. 14746. A bill to amend the Internal Revenue Code of 1954 to provide that interest shall be paid to individual taxpayers on the calendar-year basis who file their returns before March 1, if the refund check is not mailed out within 30 days after the return is filed, and to require the Internal Revenue Service to give certain information when making refunds; to the Committee on Ways and Means.

By Mr. POAGE (for himself, Mr. Bergland, Mr. Bowen, Mr. Brown of California, Mr. de la Garza, Mr. Denholm, Mr. Foley, Mr. Goodling, Mr. Gunter, Mr. Johnson of Colorado, Mr. Jones of North Carolina, Mr. Jones of Tennessee, Mr. Mathias of California, Mr. Mathis of Georgia, Mr. Matsunaga, Mr. Melcher, Mr. Price of Texas, Mr. Rarick, Mr. Rose, Mr. Sisk, Mr. Stubblefield, Mr. Thone, Mr. Vigorito, Mr. Wampler, and Mr. Zwach):

H.R. 14747. A bill to amend the Sugar Act of 1948, as amended; to the Committee on Agriculture.

By Mr. REES:

H.R. 14748. A bill to amend the Internal Revenue Code of 1954 to provide an income tax credit for individuals for purchases of contemporary American art; to the Committee on Ways and Means.

By Mr. ST GERMAIN:

H.R. 14749. A bill to increase the availability of urgently needed mortgage credit for the financing of housing, and for other purposes; to the Committee on Banking and Currency.

By Mr. SYMMS:

H.R. 14750. A bill to exempt range sheep industry mobile housing from regulations affecting permanent housing for agricultural workers; to the Committee on Education and Labor.

H.R. 14751. A bill to incorporate the U.S. Submarine Veterans of World War II; to the Committee on the Judiciary.

By Mr. BINGHAM (for himself and Mr. Frenzel):

H. Con. Res. 492. Conference resolution authorizing a bust or statue of Martin Luther King, Jr., to be placed in the Capitol; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

475. By the SPEAKER: Memorial of the Legislature of the State of Alaska, relative to the appropriation of funds to the Bureau of Indian Affairs for school construction; to the Committee on Appropriations.

476. Also, memorial of the Legislature of the State of California, relative to Federal legislation to subsidize nonprofit sheltered workshops; to the Committee on Education and Labor.

477. Also, memorial of the Legislature of the State of Oklahoma, relative to U.S. sovereignty and jurisdiction over the Panama Canal; to the Committee on Foreign Affairs.

478. Also, memorial of the Legislature of the State of California, relative to Amtrak; to the Committee on Interstate and Foreign Commerce.

PETITIONS, ETC.

Under clause 1 of rule XXII,

436. The SPEAKER presented a petition of the Democratic Town Committee, Kent, Conn., relative to impeachment of the President; to the Committee on the Judiciary.

SENATE—*Monday, May 13, 1974*

The Senate met at 12 o'clock noon and was called to order by the Acting President pro tempore (Mr. METCALF).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, DD., offered the following prayer.

Eternal Father, in the morning and the evening and at noonday we praise Thee for Thy goodness and mercy and for Thy providential care over this Nation. Keep us forever "one nation under God," a people faithful to Thy precepts, a government under Thy higher law. Help us here so to comport ourselves as to be responsive to the people's needs, so to act as to advance Thy kingdom on Earth, so to live as to manifest the life of God in the life of man.

We pray in His name who said:

Whoever is greatest among you let him be the servant of all.—Matt. 23: 11.

Amen.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries, and he announced that on May 10, 1974, the President had approved and signed the following enrolled bills:

S. 1647. An act to extend the Environmental Education Act for 3 years;

S. 2771. An act to amend chapter 5 of title 37, United States Code, to revise the special pay bonus structure relating to members of the Armed Forces, and for other purposes; and

S. 3292. An act to authorize appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. METCALF) laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, May 9, 1974, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

WAIVER OF THE CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the Legislative Calendar, under rule VIII, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN ITEMS ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideraticn of Calendars Nos. 801, 802, 808, and 809.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

INDIAN TRIBE LANDHOLDINGS IN NORTH AND SOUTH DAKOTA

The Senate proceeded to consider the bill (S. 1411) to authorize the Sisseton and Wahpeton Sioux Tribe of the Lake Traverse Reservation to consolidate its landholdings in North Dakota and South Dakota, and for other purposes, which had been reported from the Committee on Interior and Insular Affairs with amendments, on page 1, at the beginning of line 3, after the enacting clause, strike out "That the Sisseton and Wahpeton Sioux Tribe of the Lake" and insert "That the Secretary of the Interior is authorized, at his discretion and upon the request of the Sisseton and Wahpeton Sioux Tribe of the Lake"; in line 8, after "South Dakota", strike out "is authorized"; on page 2, line 2, after the word "Indian", strike out "allotments" and insert "trust lands"; in line 13, after the word "South", strike out "Dakota; except that title to any lands or interests in lands acquired pursuant to this Act shall be examined by and be accepted by the Secretary of the Interior or his duly authorized representative in accordance with the general standards for acquisition of title to lands by the United States." and insert "Dakota"; at the beginning of line 21, strike out "Reservation, acting through its governing body, is authorized" and insert "Reservation, acting through its governing body or its designated agent, is authorized with the approval of the Secretary of the Interior"; on page 3, line 15, after the word "acquired", strike out "by" and insert "for"; in line 19, after the word "title", strike out "may" and insert "may, with the approval of the Secretary of the Interior,"; on page 4, line 3, after "SEC. 3.", strike out "All lands acquired by the tribe or by members" and insert "All lands acquired by the United States in trust for the tribe or members"; and, in line 23, after the word "proceeding", strike out "may" and insert "may, with the approval of the Secretary of the Interior,"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized, at his discretion and upon the request of the Sisseton and Wahpeton Sioux Tribe of the Lake Traverse Reservation or its delegated designated agent in the States of North Dakota and South Dakota, to acquire through purchase, gift, or exchange any lands or interest in lands within the boundaries of the Lake Traverse Reservation in North Dakota and South Dakota for the purpose of consolidating landholdings, eliminating fractional heirship interests in Indian trust lands, providing land for any tribal program for the improvement of the economy of the tribe and its members through the development of industry, recreational facilities, housing projects, and the general rehabilitation and enhancement of the total resource potential of the reservation. For the purchase of such lands or interests in lands the use of any funds available to the tribe from any source is authorized and title to any land acquired under the authority of this Act shall be taken in the name of the United States in trust for the Sisseton and Wahpeton Sioux Tribe of the Lake Traverse Reservation in North Dakota and South Dakota.

SEC. 2. (a) Notwithstanding any other provision of law, the Sisseton and Wahpeton Sioux Tribe of the Lake Traverse Reservation, acting through its governing body or its designated agent, is authorized with the approval of the Secretary of the Interior to exchange or sell any tribal real property not needed or suitable for use by the tribe or so situated or located that it would be to the economic advantage of the tribe to sell or exchange the property; except that (1) any such sale shall be by competitive sealed bidding, and a preference shall be given to enrolled members of the Sisseton and Wahpeton Sioux Tribe of the Lake Traverse Reservation to match the high bid; (2) the amount or exchange value received for the property shall not be less than the fair market value thereof as determined by the Secretary of the Interior or his duly authorized representative; (3) if lands involved in an exchange are not of equal value, the difference in value shall be paid in money; (4) any proceeds from the sale of land under this authority or money received to equalize an exchange shall be used exclusively for the purchase of other land on the reservation; (5) title to any land acquired for the tribe under this authority shall be taken in the name of the United States in trust for the tribe; and (6) if an enrolled member of the Sisseton and Wahpeton Sioux Tribe of the Lake Traverse Reservation acquires land from the tribe under this Act, title may, with the approval of the Secretary of the Interior, be taken in the name of the United States in trust for the use and benefit of such member.

(b) All of the foregoing provisions of this Act shall be construed to be exclusive to resident United States citizens enrolled as members of the Sisseton Wahpeton Sioux Tribe of the Lake Traverse Reservation.

SEC. 3. All lands acquired by the United States in trust for the tribe or members thereof under the authority of this Act shall be exempt from State and local taxation.

SEC. 4. Any tribal land may, with the approval of the Secretary of the Interior, be encumbered by a mortgage or deed of trust, and shall be subject to foreclosure or sale pursuant to the terms of such mortgage or deed of trust in accordance with the laws of the State in which the land is located. For the purpose of the foreclosure or sale proceeding, the Sisseton and Wahpeton Sioux Tribe of the Lake Traverse Reservation shall be regarded as vested with an unrestricted fee simple title to the land, the United States shall not be a necessary party to the foreclosure or sale proceeding, and any conveyance of the land pursuant to such proceeding shall divest the United States of title to the land. Title to any land redeemed or acquired by the tribe at such foreclosure or sale proceeding shall be taken in the name of the United States in trust for the tribe, and title to any land purchased by an individual member of the tribe at such proceeding may, with the approval of the Secretary of the Interior, be taken in the name of the United States in trust for the use and benefit of the individual Indian purchaser.

Sec. 5. The Secretary of the Interior is authorized to take such action as may be necessary to carry out the purposes of this Act.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

FREEDOM OF INFORMATION ACT SOURCE BOOK

The resolution (S. Res. 314) authorizing the printing of the committee print entitled "Freedom of Information Act Source Book" as a Senate document, was considered and agreed to, as follows:

Resolved, That the committee print of the Committee on the Judiciary entitled "Freedom of Information Act Source Book: Legislative Materials, Cases, Articles" be printed as a Senate document; and that there be printed for the use of that committee one thousand three hundred additional copies of such document.

TRUST LANDS FOR THE KOOTENAI TRIBE OF IDAHO

The Senate proceeded to consider the bill (S. 634) to declare that certain federally owned lands shall be held by the United States in trust for the Kootenai Tribe of Idaho, and for other purposes, which had been reported from the Committee on Interior and Insular Affairs with amendments, on page 1, at the beginning of line 8, strike out "and" and insert "art"; and, on page 2, after line 17, insert a new section, as follows:

Sec. 3. The Indian Claims Commission is directed to determine in accordance with the provisions of the Act of August 13, 1946 (60 Stat. 1050), the extent to which value of the title conveyed should or should not be set off against any claim against the United States determined by the Commission.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to valid existing rights, all of the right, title, and interest of the United States in the following described tracts of land, and the improvements thereon, that were acquired and that are now administered by the Secretary of the Interior for the benefit of the Kootenai Tribe of Idaho, are hereby declared to be held by the United States in trust for said tribe:

Tract Numbered 1. Part of lot 3 in section 20, township 62 north, range 1 east, Boise meridian, Boundary County, Idaho, described as follows: Beginning at a point 20 rods south and 20 rods west of the northeast corner of lot 3, section 20, thence west 20 rods, thence south 20 rods, thence east 20 rods, thence north 20 rods to place of beginning, containing 2.50 acres, more or less.

Tract Numbered 2. That part of lot numbered 3 in section 20, township 62 north, range 1 east, Boise meridian, Boundary County, Idaho, described as follows: Beginning at a point 20 rods south of the northeast corner of lot 3, thence west 20 rods, thence south 20 rods, thence west 10 rods, thence south 40 rods, thence east 30 rods, thence north 60 rods, to place of beginning, containing 10.00 acres, more or less.

Sec. 2. The above-described property shall be administered in accordance with the laws and regulations applicable to Indian tribal trust property.

Sec. 3. The Indian Claims Commission is directed to determine in accordance with the provisions of the Act of August 13, 1946 (60 Stat. 1050), the extent to which value of the title conveyed should or should not be set off against any claim against the United States determined by the Commission.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

U.S. FLAG FOR DECEASED MEMBERS OF THE READY RESERVE

The Senate proceeded to consider the bill (H.R. 5621) to amend title 10, United States Code, to provide for the presentation of a flag of the United States for deceased members of the Ready Reserve which had been reported from the Committee on Armed Services with amendments to strike out all after the enacting clause and insert:

That section 1482 of title 10, United States Code, is amended by adding the following new subsection at the end thereof:

"(f) The Secretary concerned may pay the necessary expenses for the presentation of a flag to the person designated to direct the disposition of the remains of a member of the Reserve of an armed force under his jurisdiction who dies under honorable circumstances as determined by the Secretary and who is not covered by section 1481 of this title if, at the time of such member's death, he—

"(1) was a member of the Ready Reserve; or

"(2) had performed at least twenty years of service as computed under section 1332 of this title and was not entitled to retired pay under section 1331 of this title.".

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended, so as to read: "An act to amend title 10, United States Code, to provide for the presentation of a flag of the United States for deceased members of the Ready Reserve and for deceased members of the Reserve who die after completing twenty years of service, but before becoming entitled to retired pay."

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the distinguished Senator from Wisconsin (Mr. Proxmire) is now recognized for not to exceed 15 minutes.

WHAT IS RIGHT WITH THE FEDERAL GOVERNMENT: INCREASES IN GOVERNMENT PRODUCTIVITY

Mr. PROXMIRE. Mr. President, Americans rightly find a great deal wrong with their Government. They have difficulties with the bureaucracy, problems with their veterans' pensions, issues over their income tax, and hassles with this agency or that agency over grants or policies.

But even though there are thousands of examples where Government is insensitive to citizens' problems and slow to move, it is nonetheless true that there has been an amazing increase in Government efficiency over the years.

BREAKTHROUGH ON PRODUCTIVITY

In fact, the Federal Government may be on the brink of the greatest improvement in Federal Government efficiency in our history.

This improvement could mean that a streamlined, cost-conscious Federal Government could provide more services with an easier tax burden.

This sharply contradicts the prevailing wisdom that Government is not only more corrupt but more wasteful, that it is doing almost everything wrong, and that the one certainty about our future is that Federal taxes will grow ever more burdensome. Of course, that latter sad situation may develop, but if so, it will be because of human failure to take advantage of a rich opportunity to cut Government costs and the tax burden.

Recent developments for the first time make it possible literally to get more out of our Government—in a big way—for our tax dollar. Here is how:

First. For the first time in our history the Government is measuring its productivity. It is at long last asking the right questions: How much production are we getting from each Government agency for each man-hour we pay for? How has this production been changing in each agency? Has it been improving or getting worse? How much has it been improving? How can it improve more? Asking these questions is as vital to getting more for our tax money out of Government as the same questions have been for years for our immensely productive private economy.

Second. The Federal Government is about to adopt a budget reform act that has passed both Houses and which will require the Congress to set a ceiling and make the tough spending priority choices within that ceiling that will force the rejection of the less necessary and more wasteful Government activities.

Third. The productivity drive and the budget reform act may be about to force the Government to make a big new investment in labor saving equipment that could result in a sharp reduction in costs in the next few years.

Fourth. For the first time in its history the Government has just begun to measure its productivity and has found that contrary to the assumptions of most economists it has improved year by year. In some agencies the improvement in productivity has been better than twice as great as it has been historically in the private sector. In most it has lagged behind the private sector. And in some—about 30 percent of Government jobs—it has actually declined.

But more than 60 percent of Federal Government jobs are now made subject to Government productivity measurement, compared to only 12 percent in the private sector, and there is no question—hard as it may be to believe—that the taxpayer is not only getting more for his money than ever before, but he can get far more in the future.

INCREASED EFFICIENCY AT THE SOCIAL SECURITY ADMINISTRATION

Now let me be specific about my claim that the Federal Government may be on the brink of the greatest improvement in efficiency in our history through increases in productivity.

In fiscal year 1973 the Social Security Administration serviced about 30 million retirement, survivors, and disability insurance beneficiaries. In addition, they serviced about 20 million persons under health insurance programs, or a total of 50 million people.

They had 3.9 million claims for retirement and survivors' benefits. They had claims from 1.5 million people for disability insurance. They had 79 million claims for payment for medical services. They issued 11 million new social security account numbers. They posted 348 million items to update the earnings records of individuals covered by social security. That was their workload.

But those questions have never been asked before and that is one of the reasons why the Federal Government has become so oppressive in many cases and less efficient than it should be.

What kind of job are they doing? Compared with the job they did in 1964, they have vastly improved their efficiency. In that period their workload went up by 1¾ times or it was 274 percent of the 1964 workload. But in that period, they performed this additional workload with only 77 percent more people or 177 percent of the 1964 workload.

If you divide this work output by the manpower used, you find that the Social Security Administration was about 54 percent more efficient in 1973 as in 1964. And the estimate for 1974 is that it will rise to 62.25 percent.

That is what is called productivity. Throughout the Government there have been marked improvements in recent years.

I ask unanimous consent that a table entitled "Indexes of Work Output, Manpower, and Productivity" for the Social Security Administration for the period to 1974 be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

INDICES OF WORK OUTPUT, MANPOWER, AND PRODUCTIVITY

Year	Work output	Manpower	Productivity[1]
1964 actual	100.00	100.00	100.00
1965 actual	104.69	99.70	105.01
1966 actual	151.56	136.74	110.84
1967 actual	175.10	140.06	125.02
1968 actual	198.50	154.51	128.47
1969 actual	206.75	153.48	134.71
1970 actual	218.31	151.34	144.35
1971 actual	231.02	156.39	147.72
1972 actual	238.99	159.23	150.09
1973 estimate	273.55	177.90	153.77
1974 estimate	348.37	214.71	162.25

[1] Productivity index equals work output index divided by manpower index times 100.

PRODUCTIVITY REPORT—60 PERCENT OF MANPOWER COVERED

Mr. PROXMIRE. Mr. President, on June 30, 1973, a task force composed of the Executive Director of the Civil Service Commission, Mr. Bernard Rosen, the Assistant Comptroller General, Mr. Thomas Morris, and the then Assistant Director of the Office of Management and Budget, Mr. Dwight Ink, reported their findings on productivity in the Federal Government. This summary report was entitled "Measuring and Enhancing Productivity in the Federal Government—Phase III."

Their report covered 45 agencies of the Government, some 187 organizational elements in these agencies, and involved 60 percent of the manpower in the Government for the period fiscal years 1967–72. Here is what they found:

First, the productivity of these 45 agencies which included 60 percent of the manpower of the Government, increased by 8.7 percent in the period, or by 1.74 percent per year. The increase varied from 1.1 percent in 1969 to 2.8 percent in 1970. Over the period there was a 12.8-percent increase in output with a 3.8-percent increase in man-years which gives a total increase of 8.7 percent.

I ask unanimous consent that a table showing the total productivity increase for these years be printed below.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Item	Total for fiscal years 1967–72					
	1967	1968	1969	1970	1971	1972
Outputs	100.0	105.1	107.9	110.9	112.3	112.8
Inputs (man-years)	100.0	103.8	105.5	105.4	105.0	103.8
Productivity (output per man-year)	100.0	101.2	102.3	105.2	107.0	108.7

MARKED DIFFERENCES IN PERFORMANCE

Mr. PROXMIRE. Second, among the 187 organizations in these 45 agencies there were marked differences in productivity. Some 58 organizations had a decline in productivity while 129 elements or organizations saw an increase in productivity.

Of the 129 organizations which showed an increase, 96 or 75 percent of them had more than a 10-percent productivity increase. Even more startling, 70 of the 129, or 54 percent, showed more than a 20-percent productivity gain.

Of these 58 agencies showing a decline, the decline was limited to 10 percent or less in more than half, or 31 of the 58, and only 10 had a decline greater than 20 percent.

On the whole these results were good and showed that in the Government as well as in private industry, increases in efficiency and productivity can be made and have been made.

Further, they are conservative results for they do not include the improvements in quality or complexity of the services provided.

This is important for a great many people believe that principles of private business and management cannot be applied in the Government sector. This is just not true.

Thousands of Government personnel do routine work of processing. This is not only true of the Social Security Administration but it is equally true of the Internal Revenue Service, the Passport Office, the Veterans' Administration, the Post Office, the Customs Service, the Tariff Commission, the Railroad Retirement Board, and dozens of other agencies

BREAKTHROUGH FOR GOVERNMENT

Why is this study and its results important? The only way the Federal Government can provide the big increase in the services demanded by the American people without bankrupting the Government and placing an impossible burden on the taxpayer is through increases in efficiency. Otherwise, it will be taxpayer ripoff.

We are now on our way. We have taken the first steps in providing the basis for a vast increase in productivity. We are measuring productivity in the Federal Government. We know that there have been overall increases. We also know that these increases have been less than in the private sector but significant increases nonetheless.

We therefore have a basis for improvement. We know how to do it. We know that it can be done. We are on our way and we have the momentum. This is the way we can give the taxpayer more services for his tax dollar. That is why the study and its results are so important.

It is a major breakthrough for the Government for until recently no one believed that the successful, private industry, programs for efficiency could be applied to the Federal Government.

SPECTACULAR EXAMPLE OF CUSTOMS BUREAU

While the average increase in productivity is somewhat low, there are some spectacular examples of agencies where the increase was high. Let me give just one rather spectacular example from the report. It deals with the Bureau of Customs of the Treasury Department.

From 1967 to 1972 there was a 93-percent increase in the number of parcels or mail coming from abroad. The number rose from 1.5 million to almost 3 million parcels.

In the same period, the number of man-year used rose from 511 to 735, or by 44 percent, to process this vast increase in volume.

But the number of parcels handled per man-year increased from 30,400 to 40,500, or by 34 percent, or an increase in the productivity index from 100 to 134.

How did this happen? How could one man process one-third more than he did before?

First, specialized facilities were developed to process airmail, on the one hand, and surface mail, on the other.

Second, duplicate handling was eliminated. At San Francisco, for example, formerly a second processing took place in the land customs offices even after processing at San Francisco.

Third, mail handlers were specially trained and given new promotion opportunities.

And finally, this happened even though the work became more complex and there was an increasing improvement in quality because of the demand to look more closely for illegal drugs, weapons, and explosives.

This annual average productivity increase of 6.8 percent for these 5 years is a very major accomplishment—twice as great an increase, incidentally, as we have had in the private sector of the economy on the average.

MANPOWER SAVINGS FROM INCREASED PRODUCTIVITY

Because of the overall gain in productivity in these 45 agencies and 60 percent of the Government manpower which was covered by the study in the fiscal years 1968–72, there were some very big savings in wages. Fewer man years were required to process the same amount of work at the end of the period than at the beginning. The cumulative savings in wage costs for the period was estimated at $1.5 billion. This is not a net savings for it does not include the cost of new equipment, training costs and the change in organization. But the savings for salaries alone was $1.5 billion even though both the quantity of work and the quality of the work, in the view of those who were in the project, were vastly increased.

WHERE THE GAINS WERE MADE

In some areas some very spectacular increases in productivity were made. I am now speaking of functions rather than of agencies as such.

Probably the largest overall gain by function was in processing loans and grants where the measured increase was 47.7 percent in the period. Specialized printing was another area with a large increase, namely almost 25 percent. The overhaul and maintenance of heavy equipment showed a 35-percent gain.

On the other hand, standard printing in the Government showed a decline of 15.4 percent and the public service in hospitals and clinics showed an 8-percent decline in the period.

WHY HAS PRINTING SUCH A BAD RECORD?

The raw unpublished data for increases in productivity in the printing industry as a whole indicates an annual rate of change from 1959 through 1971 of about 2.3 percent per year. Yet standard printing in the Government saw a decline of about 3 percent per year while specialized printing in the Government saw an annual productivity increase of about 5 percent per year.

The study indicates that productivity in standard Government printing may have been low because the high productivity areas were contracted out privately while the Government was left with the cats and dogs which lowered productivity.

My own view is that that is probably an excuse and that the lack of mechanization, organization, and training accounts for it. I see no reason why Government printing should not improve at least the private rate of 2.3 percent per year.

REASONS FOR GAINS

The big gains in productivity in certain areas came about for several reasons. Foremost among these was the far greater use of computers and machines.

Not including the military and intelligence activities, where the largest number of computers are to be found, there was an increase from 2,412 computers in 1968 to about 6,000 at the end of the study.

Further, simplifying procedures and applying statistical sampling was a major reason for the increase in productivity.

In addition, improvements in organization added greatly. For example, the reorganization of the Export-Import Bank to process loans by type of loan rather than by geographic region allowed for a much greater specialization among those doing the processing and added to efficiency.

Finally, improvements in the education and training of personnel brought increases in efficiency.

JOLIET EXAMPLE

One sensational example of how adaptation by the Government of private enterprise investment opportunities saved millions was at the Army ammunition depot at Joliet, Ill.

The Army selected 24 capital investments improvements and allocated $500,000 to them. They returned more than $1.8 million in the first year, or $18 million on a ten-year basis for a half million investment. In other words, $500,000 was invested, and the Government got $18 million out of it because of the great productivity in the labor-saving equipment introduced.

This 300-percent return in the first year was brought about by investments like that in an automatic nailing machine which saved 20 men in constructing pallets, an automatic ammunition loader which saved 42 men, and an automatic scrap compactor which increased the recovery rate and reduced storage space and repayed the investment in 160 days.

It is these kinds of opportunities which private industry routinely seeks out which the Federal Government must now encourage.

But the Federal Government will have a rough time doing it. In the spectacular gains in the Joliet example, machines replaced men. In private industry that happens routinely. But in government, bureaucrats are reluctant to part with their manpower. Jobs are based on how many people are supervised.

It is going to be a very very tough proposition indeed to get top bureaucrats to introduce labor saving devices which will reduce the number of people under their jurisdiction. Yet the Joliet examples shows that it can be done with spectacular results.

A further difficulty is that it takes big initial capital investment funds. Because of the backward way the budget is put together, the OMB is reluctant to provide funds for investment because the new machines have to be written off in 1 year rather than amortized over their life. This is going to be a big drag on Government productivity gains.

The conclusion of Elmer Staats and the other experts was that this is where the Government can increase its efficiency, its productivity, can cut costs, can ease the burden on the taxpayer, by making the kind of capital investment that we simply have not made in the past and that one would expect a bureaucracy to resist without this knowledge of how much it will save the taxpayer.

I ask unanimous consent that the transcript of the hearings on Federal productivity held by the Subcommittee on Priorities and Economy in Government of the Joint Economic Committee, held on December 17, 1973 (pp. 34–42) in which the Joliet Arsenal examples was discussed, be printed at this point in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

TRANSCRIPT

Mr. STAATS. If I may, I would like to turn to page 17, the importance of capital investment in productivity improvement.

Authorities have concluded that improved technology and the availability of more capital per worker have been the major sources of productivity growth in the private sector over a long period of time. In light of this finding, the joint project team studies ways in which Federal agencies now select capital investment items for inclusion in their annual budgets. The team found that Federal managers sometimes lack the incentive and opportunity to seek funds for cost-reducing capital investments. Such projects tend to drop out of tight budgets when they have to compete with items related to program requirements or current priorities, such as pollution abatement, health and safety. This contrasts sharply with the experience in the private sector, where top management and boards of directors keep the spotlight on such investment.

To document opportunities for more timely financing of productivity—improving investments, the joint team obtained data on unfunded projects from 14 agencies and selected a number for analysis.

There is a special report on this, Mr. Chairman, which I believe you have before you. But in this sample the team identified 392 projects which would be self-liquidating in less than three years—with one time savings of $62 million and recurring annual savings of $66 million. The team believed that this sample covered only about half of the opportunities which might have been discovered in a complete inventory. Examples of the investment possibilities are modern materials-handling equipment, tape-driven machine tools, automated laboratory equipment, mechanized warehouse equipment, consolidation of facilities, and others.

Concurrent with the team's study, the Army conducted its own test by allocating a $500,000 fund, available only for fast payback capital investments, to its Ammunition Procurement and Supply Agency (APSA) in Joliet, Illinois. APSA was allowed to make immediate decisions on proposed investments by the Government Owned Contractor Operated (GOCO) ammunition-loading plants where the payback could be achieved in two years or less. In a few months, 24 projects were approved which would return $1.8 million in annual savings. The majority of these projects have paid or will pay for themselves in less than 180 days following installation. Illustrations are:

An automatic nailing machine costing $38,185 saved 20 men in constructing pallets for bombs. The annual savings of $240,000 resulted in an amortization period of 57 days. And there are other examples here. We have a chart which again Mr. Morris will explain to you, which I think illustrates very graphically what savings is possible.

Senator PROXMIRE. That first example you gave, an automatic nailing machine costing $38,000 and saving 20 men, that would pay for itself in less than a year, wouldn't it?

Mr. Morris. In less than three months.

This is the startling thing about what this study has revealed, that there are many, many investments at activity locations which are passed up—

Senator Proxmire. Have the newspapers picked up this at all? Has this story been released or handled in such a way that the newspapers have let the success story be known.

Mr. Morris. No sir.

Senator Proxmire. I am as energetic as anybody, or more so, for criticizing the Defense Department for wasting money and for all their failures. I think something like this—you ought to let this one read as something that is an example of the success of the military.

Mr. Staats. That is a very good point you are making, Mr. Chairman, because we ought to be in a position to give more recognition to people who are willing to make these kinds of decisions.

Mr. Ink. Mr. Chairman, if I might just add a note, there have been several instances in which this type of thing has been released to the press. But frankly, we have had great difficulty in interesting the press in picking it up.

Senator Proxmire. Mr. Ink, could you give me, when you get a chance, maybe in the next couple of days write me a letter giving me the instances that you have in mind. Maybe if I put them all together I could get together with some press people and see if we can give that a ride. Because—

Mr. Ink. I don't have a complete listing, but—

Senator Proxmire. Just give whatever number of examples you think would be most impressive. I think this one right here if presented in the right way—if you can pay for something in three months, that is fantastic. Anybody who didn't do that in private industry would be out on his tail if he had any kind of board of directors.

I am sorry to interrupt you, Mr. Morris.

Mr. Morris. That is all right, sir. You made the point so quickly that I didn't feel it necessary to proceed.

What we have learned is that our appropriations process and our budget planning process just simply isn't geared to permit this kind of expenditure to take place in a timely way. The process may run to 19 to 20 months for that $36,000 item. We not only lose the saving during that time, but when we have got to the point of finally buying it there is probably something else that we should do with those dollars. So we have discovered through this study that we need much better procedures for allowing people to proceed quickly to make investments that they are going to pay back in a few months' time. Out of 24 cases one paid back in 30 days, five in two months, four in 90 days, six in 180, and only eight went over six months. The Air Force and the Navy are doing similar things now, we are advised.

Mr. Staats. Why don't you go ahead and present the other charts while you are there?

Senator Proxmire. Only eight went over six months, and in six months to two years they had all paid for themselves?

Mr. Morris. Yes sir. Altogether there were 24 cases. Those are just other illustrations. And we have all 24 which will be submitted for the record.

Mr. Banowitz of the Defense Department is with us, and he is responsible for this program. But as you see, we have cases where expenditures of $50,000 were paid back in 41 days. So it is just obvious that there are many opportunities that we have never known about, they have been buried.

Senator Proxmire. That automatic loading and small arms ammunition pays for itself in 41 days. It is astonishing.

Mr. Morris. That is right, sir, saving 42 people who were engaged in packing operations.

Senator Proxmire. That is $435,000 a year. That is not peanuts.

Mr. Staats. We could cite many other examples, Mr. Chairman, but these are just a few that help bring out the basic point. We cite a couple of others here, and there are many more in the document which we have given to you. On page 19 we point out——

Senator Proxmire. Maybe, Mr. Ink, if I just go through this a little more carefully than I have had a chance to I can get them out of here. This chart itself gives me great success stories.

Mr. Staats. We are advised that the Air Force and the Navy are considering similar tests to the ones we have just referred to here. The experiences revealed here are of such value that we are submitting a more detailed writeup on it for inclusion in your hearing record. We think it is very important.

Mr. Chairman, I might digress here to say that one of the most encouraging things about this whole study that we have done is to get people to be thinking in terms of productivity analysis, capital investment decisions, personnel management, and so forth. So that this is one of the fallouts or byproducts that we are getting, from the very fact that we are beginning to focus now on productivity and output measures.

After considering these findings, the joint team concluded that several actions were necessary to insure timely capital investments in support of future productivity improvements:

First, the need for clear visibility in the Federal budget process, through a separate declaration to OMB and the Congress, of capital items with productivity-enhancement potential.

Second, expert attention to developing high-payoff capital investment opportunities. This means adding to agency organizations personnel trained in identifying such opportunities.

Third, better audits of actual results obtained to insure credibility and achievement of the results anticipated.

Fourth, timely financing. A study of ways to achieve this objective is continuing. It may be that legislation may be necessary to allow certain activities, particularly those operating under industrial or revolving funds, the authority to borrow or otherwise establish reserves for new equipment purchases.

Senator Proxmire. Could I interrupt at this point and say that I think it would be very helpful—I don't know if you can do it, if you are in a position to do it—if we could work in the direction of trying to determine just some examples for each Subcommittee Chairman, the House and Senate Appropriations Committee. For example, I am Chairman of the Committee that handles the money for HUD, the Veterans, and for Space, and so on. If I could show some examples of some savings there in each of these agencies, any three or four of those agencies, I am sure that my opposite number in the House, Congressman Boland, would be just as interested as I am, or more so. And I think this is true right down the line of all the Subcommittee Chairmen of the House and Senate. And I would think that the agency heads would also be very interested in this kind of thing if it is called to their attention.

Mr. Staats. You have anticipated me a little bit here, because in our future plans here we say in here in the second paragraph that the Joint Financial Management Improvement Program task force, in which GAO will actively participate, has been assigned the responsibility of analyzing the factors which have caused productivity changes and preparing an annual report to the President and the Congress. The report will analyze productivity trends and present case studies to illustrate factors contributing to productivity increases and decreases. The task force will also continue to seek opportunities for expanding the coverage of the indices.

Now, here is something that is relevant to your question, Mr. Chairman, in addition, GAO plans to report annually to the Congress on the agencies' progress in (1) identifying opportunities for using laborsaving equipment and (2) acquiring it. We believe such visibility is necessary to insure attention to such investments, without which the Government will fall short of achieving its full potential for improved productivity.

You have made a good suggestion, I think here, that we could bring this down by agencies and by Subcommittees of the Appropriations Committee.

Senator Proxmire. I think we would all be enormously grateful. We are all looking for these things, and we want to do something that will enable us to get things for the taxpayer dollars, and cutting out services that we can cut. We haven't looked at that other thing.

Mr. Staats. We are very enthusiastic about this approach, and we think it should be extremely helpful to both the agencies and the Congress.

BUREAU OF LABOR STATISTICS

Mr. PROXMIRE. During a hearing on Friday, May 3, of the Subcommittee on Priorities and Economy in Government of the Joint Economic Committee on the subject of the monthly unemployment figures, the Commissioner of the BLS, Dr. Julius Shiskin, discussed productivity in his agency.

At his agency, productivity averaged 3.7 percent from 1967 to 1973, a very good figure and one which compares favorably with private industry. Because they are a statistical organization there are obviously great opportunities for introducing computers and laborsaving devices. Nevertheless they have made a good record.

But listen to what Dr. Shiskin said about productivity at the BLS when he came there a few months ago. I quote from the hearing:

> One of the things I found when I came to BLS—and here we have an establishment of about 2,000 workers—is that there are a lot of people that didn't know what they were supposed to be doing.

He went on:

> And apparently there were many people in fairly high positions who didn't understand what their role was in the organization.

He has taken steps, particularly through a rank and file committee on underutilization to act on this problem.

But the point is that there are in every agency of Government, great opportunities to make improvements. If the BLS, which has had one of the best productivity records, had a lot of people who "didn't know what they were supposed to do" and "many people in fairly high positions who did not understand that their role was in the organization," then there must be and are tremendous opportunities for improvement.

I ask unanimous consent that the letter and enclosures which Dr. Shiskin sent me subsequent to his appearance be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Bureau of Labor Statistics,
Washington, D.C., May 9, 1974.

Hon. William Proxmire,
U.S. Senate,
Washington, D.C.

Dear Senator Proxmire: During my appearance before your subcommittee on May 3, you requested that I furnish you with some information on producivity in the BLS and management improvements that have been recently initiated in the Bureau of Labor Statistics over the past several months. I enclose two reports in response to your request: (1) Productivity in the Bureau of Labor Statistics and (2) Recent Management Improvements in BLS.

I would like to note that in my daily contacts with members of the BLS staff at all *levels, I am* continually impressed with their Competence and commitment to the goals and objectives of the Bureau's program. The managerial efforts mentioned in the attachment, therefore, have been taken in recognition of the tremendous importance of the Bureau's programs in the provision of meaningful economic and statistical data to the Nation's decision-makers and the general public and the constant need for improving the organizational and managerial effectiveness and efficiency of our organization.

If you wish to have any further information, please call.

Sincerely yours,

Julius Shiskin,
Commissioner.

Bureau of Labor Statistics,
Washington, D.C.

Productivity in the Bureau of Labor Statistics

Table 1 presents the overall productivity, output, and man-year indexes for the Burea of Labor Statistics for FY 1967–73. For comparison with the BLS productivity trends, table 2 presents the productivity indexes for the overall measured sample of the Federal Government (covering 61 percent of Federal civilian man-years in FY 1973) and for "Reference Services" (the functional category in which BLS is classified). Although it would have been desirable to make comparisons with only statistical organizations, the data were too limited.

BLS PRODUCTIVITY TRENDS AND CASUAL FACTORS

BLS productivity showed a strong upward trend of 3.7 percent per year from FY 1967 through 1973 which reflected a sharp increase in output coupled with a modest rise in man-years. Year to year productivity changes were substantial ranging from –3.4 percent in FY 1970 to 9.7 percent in FY 1972.

Over the whole period, the BLS performance was substantially higher than that of the overall sample for the Federal sector as well as for the function grouping of agencies which were performing somewhat similar functions.

The gain in BLS output per man-year during the seven-year period can be attributed primarily to: (1) increased use of automatic data processing which shortened the production time of established outputs and enabled a broadening of scope in many programs, *(2)* the gradual upgrading of clerical staff to professional status, (3) increased use of computer terminals within program offices, and (4) extending and modifying a reorganization of the Bureau along functional lines which increased specialization of manpower in some critical positions.

TABLE 1.—PRODUCTIVITY, OUTPUT, AND MAN-YEAR INDEXES FOR THE BUREAU OF LABOR STATISTICS, FISCAL YEARS 1967–73

[Fiscal year 1967=100]

	Productivity	Output	Man-years
Indexes:			
1967	100.0	100.0	100.0
1968	105.1	105.2	100.1
1969	114.6	111.7	97.5
1970	110.7	105.6	95.4
1971	113.4	121.4	107.0
1972	124.4	139.0	111.7
1973	126.4	144.2	114.1
Year to year percent change:			
1967–68	5.1	5.2	.1
1968–69	9.0	6.2	—2.6
1969–70	—3.4	—5.5	—2.2
1970–71	2.4	15.0	12.2
1971–72	9.7	14.5	4.4
1972–73	1.6	3.7	2.1
Average annual rate of change: 1967–73	3.7	6.4	2.6

TABLE 2.—PRODUCTIVITY INDEXES FOR THE BUREAU OF LABOR STATISTICS, TOTAL GOVERNMENT SAMPLE, AND REFERENCE SERVICES, FISCAL YEARS 1967–73

	Bureau of Labor Statistics	Total Government sample	Reference services [1]
Productivity indexes, 1967=100:			
1967	100.0	100.0	100.0
1968	105.1	100.7	102.1
1969	114.6	102.8	110.7
1970	110.7	104.0	111.2
1971	113.4	105.7	111.3
1972	124.4	106.4	114.2
1973	126.4	111.3	109.2
Year-to-year rates of change:			
1967–68	5.1	.7	2.1
1968–69	9.0	2.1	8.4
1969–70	—3.4	1.2	.5
1970–71	2.4	1.6	.1
1971–72	9.7	.7	2.6
1972–73	1.6	4.6	—4.4
Average annural rate of change: 1967–73	3.7	1.7	1.8

[1] Reference services includes the following elements: National Agricultural Library (Agriculture), Statistical Reporting Service (Agriculture), National Technical Information Service (Commerce), National Archives (GSA), NIH Library of Medicine (HEW), Bureau of Labor Statistics (Labor), Broadcasting Services Technical Operations (USIA), Civil Rights Commission, Public Documents (GPO).

Recent Efforts To Improve Management in BLS

CLARIFICATION OF FUNCTIONS AND RESPONSIBILITIES OF EACH MAJOR OFFICE IN BLS

In 1967, the Bureau of Labor Statistics experienced a major reorganization that created a functional organization structure comprised of substantive program offices, such as Wages and Industrial Relations, Prices and Living Conditions, Manpower and Employment, etc.; a central data collection and processing organization in Washington that planned and controlled the survey design, sample selection, data collection and processing of statistical data for each survey; a central Publications Office; a central Administrative Management Office; and, finally, a number of regional offices where survey collection, regional economic analysis and information and correspondence functions were performed. Prior to that date, each substantive program office within the Bureau had complete control over its program from the development of program specifications, through the design and collection of the data, to the analysis and publication of the results. Over the years, several minor modifications to the basic organizational structure were made. Each of these was an attempt to improve upon the basic functional organization created in 1967.

Despite these efforts, some confusion over the respective roles and responsibilities of program offices and the support offices still existed within the Bureau when I arrived in August 1973. In an attempt to clarify the respective roles and responsibilities of each major component of the Bureau, a policy statement was prepared and released in November 1973 that clarified, in greater detail than had been done before, the functions and responsibilities of each major office in the Bureau. While no such statement can address every issue that may arise, it has resulted in more harmony and better communication between organizational units within the Bureau.

The Bureau's top management during its day-to-day involvement with the Bureau's organizational units is reinforcing, by its actions, the policy statement that has been developed. It is also clarifying further any areas of responsibility and authority that still seem to need it.

ESTABLISHMENT OF A COMMITTEE ON UNDERUTILIZATION

In response to the fact that in large organizations like the Bureau some employees are sometimes underutilized or in the wrong jobs, a Committee on Underutilization was established about six months ago. The basic function of the Committee is to determine the extent underutilization does, in fact, exist in the Bureau and to make specific recommendations which will help alleviate the problems in areas where fact-finding indicates they exist.

The Committee is comprised of a cross-section of BLS employees at all levels, except top management. It includes representatives of middle management, senior and junior professionals, and the statistical/clerical areas. Its modus operandi is: (1) to hold discussions with individuals who feel that they are being underutilized; (2) to follow up or validate the information expressed by these individuals through interviews of a probability sample of BLS employees; and (3) to make specific recommendations on Bureau operations or policies that will alleviate any problems that are found to exist.

In areas where the Committee determines underutilization problems exist, but a more in-depth study needs to be conducted, the professional staff in the Office of Administrative Management will be utilized. Since underutilization and overutilization often is hand-in-hand, attention will also be focused on areas of overutilization and recommendations will be made to alleviate situations where constant heavy workloads on both supervisory and nonsupervisory personnel exist.

The Committee has already submitted several suggestions which have been accepted and others are being considered which, hopefully, will provide greater opportunities for motivating and utilizing the skills and talents of Bureau employees. This Committee provides an additional antenna, over and above the line managers and Personnel Office, in identifying areas of underutilization.

DEVELOPMENT OF A PROJECT MANAGEMENT SYSTEM

BLS has developed and is in the process of implementing a project management system within the Bureau to better plan and control the execution of the Bureau's programs. This system is being applied on a test basis on the Bureau's FY 1974 new programs and several other important base programs such as the CPI Revision and the Computer Systems Redesign. Funds were allocated to each of the new programs based upon detailed plans that were developed by the responsible program office manager in consultation with representatives from the affected support offices within the Bureau.

Each project has detailed milestones developed that indicate the steps or events that are needed to be completed and the individual and organization responsible for each step. Detailed cost and manpower estimates have also been developed for each project.

Monthly reviews of the program's progress will be held in the future on each project to make sure the project is on schedule and within resource allocations. Bureau Management will be furnished with detailed obligation and cost reports to and in the tracking of the resources.

ESTABLISHMENT OF A CPI REVISION MANAGER

In an effort to provide the Bureau with the required managerial focus for completing the remaining portions of the CPI Revision program and to assure meeting program objectives within the existing dollar ceiling, a CPI Revision Manager position was established within the Bureau, reporting directly to the Commissioner and having responsibility for the planning and management of the program.

The Manager supervises a small staff assigned to his immediate office to assist him. He manages the planning and execution of the CPI Revision Program through the assignment of responsibility and authority to the various organizational units within the Bureau and contractors as necessary. He has management responsibility and authority for all CPI Revision resources and resource allocation. The Manager utilizes a management team made up of representatives from each of the interested organizations to coordinate the various activities of the program.

ESTABLISHMENT OF A TASK FORCE ON DECENTRALIZATION

In keeping with the Administration's basic policy to decentralize as much as possible of the Government operation to the regions and in order to improve the overall effectiveness and efficiency of the Bureau, I recently established a small task force to study the BLS program, its organizational structure, and operating procedures to determine whether there are certain activities that are now performed in Washington that could more effectively be conducted at the regional level. As mentioned earlier, the reorganization of 1967 did decentralize considerable authority to the BLS regional level. The function of this task force will be to review the Bureau's operation as it currently exists and to see whether some additional decentralization could and should take place.

ESTABLISHMENT OF A MONTHLY PROGRESS REPORT

In August 1973, a reporting requirement was established for a Monthly BLS Progress Report. The primary objective was initially to help the new Commissioner become more familiar with the total activities of the Bureau. The report covers major accomplishments for each organization within the Bureau for the previous months; major, current and planned activities; and major unresolved issues and problems. The reports are also utilized by Bureau management to communicate to its employees on the plans, status, and problems of the Bureau's many programs. The reports are distributed to members of the Executive Committee and Assistant Regional Directors for Bureau of Labor Statistics. These managers, in turn, are encouraged to circulate the reports to members of their staff and to make the reports available to any employee who may wish to read them. An all-employee memorandum has been distributed announcing the availability of the reports and encouraging their use.

REVIEW OF BUREAU PROGRAMS CONTENT AND ITS RELEVANCE

The managerial improvements discussed above would all be for naught if the Bureau programs, that is, the economic and social statistics which are produced by the Bureau, were not the appropriate ones to meet public needs. The Bureau's program is subject to continuous review by our Business Research Advisory Council and our Labor Research Advisory Council. In addition, the Subcommittee of the Government's Council on Economic Policy, various OMB Interagency Committees, and the Subcommittee on Priorities and Economy in Government of the Joint Economic Committee of Congress review our program and provide us with their advice and comments. Nevertheless, to insure that our programs and their resultant data are relevant, important, timely, and accurate, a comprehensive review of the Bureau's programs has been initiated. The results of this review, when completed, will be reflected in future program proposals and budget documents.

CONCLUSION

Mr. PROXMIRE. Measuring and improving the Federal Government's efficiency and productivity is a new endeavor. But the work done by the GAO, the OMB, and the Civil Service Commission in measuring what has gone on in some 45 agencies covering 60 percent of the man-years in the Government is very encouraging. Until 10 years ago we had never even measured productivity in the Federal Government.

In some areas like social security, the Customs Service, and specialized printing, spectacular gains have been made.

Overall, far more gains than losses have occurred. Further, the conclusion that more than half of the 187 organizations covered by the study had a productivity gain of 10 percent or more, and 70 or 37 percent had productivity gains of 20 percent or more, means that government procedures can be improved and are being improved even with a much greater workload.

The fact is that the American public's social security check, income tax form, and parcels coming in from abroad are now processed at a much faster rate with relatively fewer people and with lower manpower costs than they were 8 or 10 years ago.

Government has many faults, but the study of productivity in the Federal Government shows that many, many improvements have been made, far more agencies have improved their efficiency than have seen it reduced, and the American people are being served by their Government in a far more efficient and productive way than before.

Much of our faith in our free economic system is based on the belief that the private sector operates more efficiently than the public sector.

The tough impact of competition and the iron power of the market place to compel and enforce efficiency and low cost as the price of staying in business explains a big part of this country's progress.

But the efficiencies of the free market can rub off on the public sector and do.

They have not rubbed off enough. There is much we can do. Now we can address ourselves specifically to productivity in the Federal Government.

Until Kermit Gordon's study and the study I have talked about today were done the assumption had been that there was no increase in the Federal sector in productivity. In gaging the economic growth of the country economists simply assumed zero growth for the Federal Government.

In the past few years we have started to measure Government productivity—beginning with Kermit Gordon's study of five agencies in 1962. We now have a measure of the productivity of 60 percent of all Federal jobs measured in man-years. That is five times the measurement of productivity we have of jobs in the private sector. And the data is available to increase that percent immediately to 65 percent.

That measure is impressive for three reasons:

First. For the first time we are actually measuring Federal Government productivity.

Second. There is demonstrated, documented improvement in productivity in the Federal sector. That is contrary to the general belief among businessmen, bankers, and the general public.

Third. The improvement is substantial but it is still far less than in the private sector.

Because annual productivity improvement is less than in the private sector, we now have the basis for:

First. Recognizing where the shortfalls are so that we can concentrate on these sectors and improve them.

Second. Adapting the techniques that have been so promising in the private sector to the public sector to achieve a sharp improvement in the public sector. We can also adapt in those agencies that have not improved some of the techniques used successfully in the agencies that have seen big productivity improvements.

In recent years socialist economies have adapted in their governments those investment and automation techniques from the capitalist and free economic societies which have greatly increased the productivity of the free societies.

If socialist countries can adapt capitalistic methods of increasing production then the free economic societies should be even more able to adapt their own free economic techniques for use in improving their own governments' efficiencies.

Given the greater dependence of the American public on the services which their Government performs the fact that we are on our way is a very encouraging circumstance indeed.

It is one of the things which is right with America and right with the Federal Government.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 14013) making supplemental appropriations for the fiscal year ending June 30, 1974, and for other purposes; agreed to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Mahon, Mr. Whitten, Mr. Rooney of New York, Mr. Sikes, Mr. Passman, Mr. Evins of Tennessee, Mr. Boland, Mr. Natcher, Mr. Flood, Mr. Steed, Mr. Slack, Mrs. Hansen, Mr. McFall, Mr. Cederberg, Mr. Minshall of Ohio, Mr. Michel, Mr. Conte, Mr. Davis of Wisconsin, Mr. Robison of New York, Mr. Shriver, and Mr. McEwen were appointed managers of the conference on the part of the House.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (S. 514) to amend the Act of June 27, 1960 (74 Stat. 220), relating to the preservation of historical and archeological data.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. METCALF).

HOUSE BILL REFERRED

The bill (H.R. 8193) to require that a percentage of U.S. oil imports be carried on U.S.-flag vessels, was read twice by its title and referred to the Committee on *Commerce*.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 5 minutes.

STATUS REPORT—S. 3433, A BILL TO FURTHER THE PURPOSES OF THE WILDERNESS ACT

Mr. AIKEN. Mr. President, I wish to ask the majority leader when he expects that Calendar No. 771, S. 3433, may be brought up for action. This bill is a refinement for Calendar No. 29, S. 22, which was reported unanimously by the Committee on Agriculture and Forestry on February 15, 1973, and now has been on the calendar for about 15 months.

The reason for this refinement is that the Committee on Interior and Insular Affairs last year considered another bill which related to the Wilderness Act, and that bill was referred to the Committee on Agriculture and Forestry because of the land affected: 95 percent came under the jurisdiction of Agriculture Committee rather than Interior. It applies to land east of the 100th meridian, mostly.

This bill was unanimously reported on May 2 of this year by members of the Committee on Agriculture and Forestry; also eight Members who sponsored the Interior bill last year, beside the Senator from Alabama (Mr. SPARKMAN), who is not a member of either committee.

I wonder when that might be brought up for action.

Mr. MANSFIELD. Is the Senator referring to S. 3433?

Mr. AIKEN. The Senator is correct.

Mr. MANSFIELD. As the Senator will recall, on February 15, 1973, S. 22, a bill to establish a system of wild areas within the *lands* of the National Forest System, was reported by the Committee on Agriculture and Forestry, of which the distinguished Senator from Vermont (Mr. AIKEN) is the ranking minority member.

As I recall, on several occasions I served notice that that bill, S. 22, would be brought up, but at the request of the Committee on Interior and Insular Affairs it was postponed.

Finally, at the instigation of the chairman of the committee, the Senator from Georgia (Mr. TALMADGE), and the ranking minority member, the Senator from Vermont (Mr. AIKEN), now raising the question, I served notice it would be brought up very shortly.

Then, I was visited by members of the Committee on Interior and Insular Affairs after they had discussed the matter with Senator TALMADGE and Senator AIKEN, and it was agreed it would be referred to the Committee on Agriculture and Forestry.

It is my understanding that after several months in that committee, on May 2, 1974, that committee reported S. 3433 unanimously, which is a bill closely related to S. 22, which has been on the calendar since February 19, 1973.

Frankly, I think this bill has been on the calendar long enough and it is the intention of the joint leadership to call it up as soon as possible after the recess is concluded.

Mr. AIKEN. I thank the Senator from Montana.

I thought that we had reached a full agreement with the staff of the Interior Committee, through the Agriculture Committee, but it seems impossible to write a bill that some industrial interests will find wholly to their liking. I have reluctantly come to the conclusion that there are those who do not want any bill at all.

I see the Senator from Alabama on the floor and I know he is very much concerned with the bill.

We have gone far I would say, to meet any questions which might be raised about it by people west of the 100th meridian, particularly the grazing interests. However, I fear there are a few at least who do not want any restriction on anything at any time, as far as I can see. I do not think we can let them run the affairs of Congress too long.

Mr. MANSFIELD. Do not worry.

Mr. AIKEN. They have been very well treated up to now; I agree with that, but I felt the Committee on Interior and Insular Affairs and the Committee on Agriculture and Forestry each have a full-sized job to do, and I thought we were in full agreement.

Mr. MANSFIELD. I want to assure the distinguished Senator from Vermont that the mining interests will not run this Senate nor dictate to the joint leadership what bills it will or will not take up. We will do our own thing in our own way, as the Constitution has decreed, and once a bill is reported from committee it is entitled to consideration, debate, and disposal.

I would point out in conclusion that there are two Members on the Republican side who have a hold on it; that there are two Members on the Democratic side who want to be notified; and one Member on the Democratic side who was represented as having some amendments to offer. But despite all this we will get to it as soon as we can after the recess.

Mr. AIKEN. I do not think Congress can work effectively if one or two Members can determine what legislation will be acted upon or not acted upon.

Mr. MANSFIELD. May I say that the Senate, as a whole, has delegated to the joint leadership the responsibility of calling up legislation and the Senator may be assured that this will be done.

Mr. AIKEN. Ninety-five percent of the land which is proposed as wilderness areas is now under the jurisdiction of the Committee on Agriculture and Forestry. Only 5 percent of the land involved comes under Interior Committee jurisdiction. We thought we had taken care of all objections.

TRIBUTE TO MORTON MINTZ

Mr. PROXMIRE. Mr. President, the Sunday New York Times reported that the winner of the A.J. Liebling award is Morton Mintz of the Washington Post.

A. J. Liebling, of course, was the late, great critic of the press. His remarkable criticism, carried in the New Yorker magazine for many years constituted one of the most intelligent and perceptive analyses of the successes and failures of the American press.

Any reporter winning an award in the name of A. J. Liebling has reason to be very proud, indeed.

The tribute to Morton Mintz on his winning the award is so terse and descriptive of the fine job that this reporter has done on many occasions for the country that I would like to quote it in full:

The A. J. Liebling award is made to Morton Mintz for—

> His incisive news reporting about bureaucratic and corporate misdeeds, for his refusing to follow the more glamorous, rewarding, and well traveled path of Washington journalism and, most of all, for being his own man.

Those of us who have been enlightened and informed by the remarkable job that Mr. Mintz has done over the years in writing for the Washington Post I am sure will join in congratulating him on this well deserved honor.

SENATOR ALLEN'S VICTORY AT THE POLLS LAST WEEK

Mr. HARRY F. BYRD, JR. Mr. President, I rise to congratulate the splendid Senator from Alabama (Mr. JAMES B. ALLEN) on the magnificent victory which he won at the polls last week.

In the Democratic primary last Tuesday, Senator ALLEN received 572,000 votes to 118,000 for his opponent. Thus, Senator ALLEN received 83 percent of the total votes cast in the Democratic primary in Alabama. More than that, Senator ALLEN carried every county and city in the State of Alabama.

His victory is a well-deserved one, and in some respects an astonishing one in this sense: Senator ALLEN had no TV media campaign, he had no radio campaign programing, and he had only one newspaper advertisement during the campaign. He spent very little money and only a fraction of what would have been spent had the so-called public financing law been in effect.

I think it shows what can be done by a candidate who has had such an outstanding record in the U.S. Senate. Those of us who are his colleagues know Senator ALLEN to be one of the hardest working Members of the Senate. We know him to be one of the ablest Members of the Senate. We know him to be one of the most courageous Members of the Senate. He has taken strong stands on difficult issues. He has fought hard for the philosophy of government in which he believes, and evidently in which the people of Alabama believe. He has made an outstanding record for himself in the Senate of the United States. And, as a colleague, I am so pleased and proud to note the splendid vote of approval which was given Senator ALLEN in Alabama last week.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. I am delighted to yield to my colleague from Alabama.

Mr. ALLEN. Mr. President, I appreciate the very fine, very warm, unsolicited remarks. I remember very distinctly 4 years ago when the distinguished senior Senator from Virginia announced that he was going to run in Virginia as an Independent. I recall that the very day the distinguished Senator made that announcement the Senator from Alabama took the Senate floor and commended him for his courageous decision, and the Senator from Alabama predicted that the people of Virginia would stand by the distinguished Senator from Virginia in his choice, that they recognized the high principles and courageous stands in the Senator's convictions, and there was a realization that the people of this country are thinking less and less in terms of party labels, but are seeking men, such as the distinguished Senator from Virginia, who had the courage of their convictions, who stand for principles of sound government.

So it was no surprise to the Senator from Alabama that the distinguished Senator from Virginia won an overwhelming victory in the general election 4 years ago.

The Senator from Alabama has stood with the distinguished Senator from Virginia in many battles here in the Senate.

So I find that the views of the Senator from Alabama coincide nearly every time with the views of the distinguished Senator from Virginia, and I commend him and thank him from the bottom of my heart for his kind words.

Mr. HARRY F. BRYD, JR. I am thankful for the most generous comments of my friend the Senator from Alabama, and I shall always remember the comments he made in the Senate about this Senator, which were so encouraging to me at a difficult time.

I yield the floor.

UNANIMOUS-CONSENT AGREEMENT ON S. 3398, TO AMEND TITLE 38, UNITED STATES CODE, EDUCATIONAL PROGRAMS FOR VETERANS, WIVES, AND WIDOWS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of amendment No. 1266 by Mr. DOLE to the energy bill, S. 3267, the Senate proceed to the consideration of Calendar Order No. 816, S. 3398, a bill to amend title 38, United States Code, to provide a 10-year delimiting period for the pursuit of educational programs by veterans, wives, and widows; that there be a 30-minute limitation for debate, to be equally divided between the majority leader and the minority leader or their designees; that a vote occur on the bill at the conclusion of the 30-minute period; and that paragraph 3 of rule XII be waived.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. GRIFFIN. Mr. President, I shall not object, but merely indicate that this request is in accord with the views of those on our side who are interested in this bill. In fact, I know of no objection whatsoever to the bill, but one or two Senators may have short statements to make, and I believe it would be perhaps in order to say that the joint leadership expects that there will be a rollcall vote on this bill.

Mr. ROBERT C. BYRD. Yes. That is my understanding on this side.

The ACTING PRESIDENT pro tempore. Without objection, the request of the Senator from West Virginia is agreed to.

RESTRAINT NEEDED IN CALLS FOR THE RESIGNATION OF PRESIDENT NIXON

Mr. ROBERT C. BYRD. Mr. President, throughout the past few days there has been an increasing intensity of calls for the resignation of President Nixon. Talk of resignation has escalated sharply, and, late last week, the Halls of Congress were swept with rumors of forthcoming resignation.

I have been a constant critic of the tactics employed by the President throughout the Watergate crisis. I deplored the inadequate investigation of the Watergate break-in by the Justice Department and the FBI. I worked with my colleagues on the Judiciary Committee to establish an independent special prosecutor. I was appalled at the firing of Archibald Cox and spent an entire day, during public hearings, to extract, under oath, pledges of independence for the new special prosecutor, Mr. Jaworski, from Attorney General Designate William Saxbe. I have been critical of every delaying tactic employed by the President and his attorneys to impede the investigations by the Special Prosecutors and the House Judiciary Committee.

To the President's charges that the Congress was dragging out Watergate, I responded that the most expeditious way for the country to get Watergate behind it would be for the President to be forthcoming with the production of tapes and documents necessary to the proper conduct of the investigations going forward under our constitutional form of government.

I take the time now to reiterate my constant position on Watergate and related affairs, for I do not wish to be misunderstood in what I am about to say about the whirlwind of resignation talk. The United States has been justly proud of being a government of laws, and not of men. We have been scrupulously fair in our determination to preserve the principle that a defendant is innocent until proved guilty. It should be borne in mind, in this connection, that the President of the United States is not yet even a defendant—except in the court of public opinion. If a President of the United States should be drummed out of office by intense pressure from the media, Members of Congress, indeed, by public opinion itself—before articles of impeachment, based on evidence formally presented, have been voted—I fear the impact such an event would have on the constitutional bedrock of our system.

Ours is not a parliamentary form of government under which an administration may be swept away by a "no confidence" vote and a new election called for by that vote. The President of the United States serves a set term of 4 years under our Constitution—through periods of high public confidence and low public confidence. The office is protected from what Walter Lippmann termed "the will of the transient majority," which he described as manifesting itself in pre-World War II Germany, when the German Reichstag, in one hysterically fanned vote, voted away its prerogatives for the next thousand years.

If calls for resignation and the fanning of resignation rumors create a flash fire of public opinion that stampedes a President into a forced resignation, this would change our system from one of fixed tenure to one in which a President would remain in office only by popular approval. Our Constitution gives the mechanism by which a President may be removed from office if his acts have made him unfit to continue to exercise the public trust. That mechanism is being employed.

Even now the House Judiciary Committee is hearing evidence to determine if articles of impeachment should be drafted to be sent to the floor of the House for a determination by that body as to whether the President should stand trial in the Senate. It will only be through the operation of this mechanism that enough evidence will be presented to the Senate and the American people to allow them to make a reasoned judgment on the culpability of the President.

There may very well come a time when the evidence and the circumstances are such that consideration of resignation would be justified. My concern now however, goes to demands for resignation of the President before the evidence has been formally acted upon by the House of Representatives and articles of impeachment adopted.

I recognize the concern for the agony the country may endure through an impeachment proceeding in the House and a possible trial in the Senate, which has prompted many to call for the resignation of the President so that the Nation may be spared such an experience. I submit, however, that in the highly charged atmosphere that now exists throughout the country, nothing is more important to the Nation than the exercise of sober judgment. Nothing is more dangerous than capitulation to mass emotionalism, which takes so little to deteriorate into mass hysteria.

But, if the President were to resign due to such pressures as are now engulfing the country, and, by so doing, terminate the impeachment inquiry now underway in the House, a significant portion of our citizens would feel that the President had been driven from office by his political enemies. The question of guilt or innocence would never be fully resolved. The country would remain polarized—more so than it is today. And confidence in government would remain unrestored.

Future generations would hesitate to use the constitutional mechanism of impeachment if they saw that it had such an impact on us that a wave of public outcry drove a President out of office rather than allowing the mechanism to run its proper course. An impeachment proceeding is a constitutional remedy of last resort. As agonizing as it may be in its use, the country will survive its application. So, I speak—not in the defense of the President, but, rather, in defense of the constitutional system and fairness to all concerned.

I have carefully read the transcripts of the President's meetings which were recently released. I find little comfort for the President in them. Indeed, I feel they are damaging to him. I share the view of the House Judiciary Committee that the transcripts cry out for the best evidence to be produced, that the actual tapes themselves be studied to determine if some events are as ambiguous as they might appear to be in an edited transcript of the words themselves. I believe that not only those tapes, but also the tapes and documents still being withheld by the President from the Special Prosecutor and the House Judiciary Committee ought to be produced and studied so that a sound judgment can be made, based on all of the best evidence, of any culpability on the part of the President.

I submit that resignation, brought about by such events as we have seen in the past few days, could do serious and permanent damage to our constitutional system. Rather, I would hope that the storm would subside and that the President would fully cooperate by surrendering the best evidence, which still remains in his possession, and that the Congress proceed calmly and with judicial prudence with its impeachment inquiry. The result of such action would assure the American people that, whatever the final result, it had been reached carefully and in the spirit of detached fairness that is so necessary to prevent a scar from being left upon the American system that could take generations to heal.

Mr. MANSFIELD. Mr. President, I want to go on record as being in accord with what the distinguished assistant majority leader has just stated. I have no fear that our Constitution will not survive. I recognize that the Nation is going through a purgatory of sorts as present, but I think that out of this turmoil, this punishment, will come a better United States, will come a people who are more interested in their government, a people who will watch more closely their elected officials and hold them to account, and who will watch the candidates for public office, as well. I think that is all to the good.

Resignation is not the answer, because the cries for the President's resignation can echo and reecho throughout the land, but the only one who will decide that question is the President himself.

The President has indicated that he wants this matter settled in the courts, and it is being settled in the courts. He wants it settled in Congress, and it is being settled in Congress, because on Thursday last the House Committee on the Judiciary, after unconscionable delays, not on its part, but on the part of the executive branch of the Government, finally got under way and is now conducting hearings on the resolutions of inquiry covering impeachment, which have been submitted in the House.

The House committee, I understand, had hoped that it could have completed its hearings and rendered judgment to the House as a whole by the last day of April. But because of delays for which there was no justification, in my opinion, they did not get under way with the initial hearing until the first part of May. So far as the Senate is concerned, we have to wait upon a judgment by the House Judiciary Committee, and it, in turn, has to present its findings to the House itself. Then we shall have to wait upon the House for a finding by the House as a whole. If the findings are in the affirmative, based on the resolutions of inquiry, then the matter will come to the Senate for final disposition. But that is on an "if and when" basis.

May I say that none of us should be anticipatory—I certainly have not tried to be—as to what the House will do, because none of us will know until the House reaches that particular time.

But if and when this matter comes before the Senate for consideration, it will receive prompt attention, and if and when it comes before this body, it will be my intention to meet immediately with the distinguished minority leader, the Senator from Pennsylvania (Mr. HUGH SCOTT) and try to work out arrangements for such an event if it should occur.

The distinguished assistant majority leader indicated that a President—any President—is subject to the whims of a transient majority or minority. May I point out, using the word "transient" as a base, that as far as any President is concerned, he is only a transient occupying the permanent office of the Presidency, and as far as any Member of the House of Representatives or any Member of the Senate is concerned, he is a transient also, occupying temporarily a position in the institution of Congress, in the House or the Senate, as the case may be.

I join the distinguished assistant majority leader in saying that this is a time to keep cool. The expression, I believe, is, "Cool it." The evidence must be forthcoming. I would express the hope that the executive branch would release the tapes untouched, so that the House Judiciary Committee could have the benefit of all that went on, and in that fashion render judgment and place Watergate behind us.

Several Senators addressed the Chair.

The ACTING PRESIDENT pro tempore. The time for morning business has expired.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that morning business be extended for 15 minutes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a 20-minute extension of the time for routine morning business, with statements therein limited to 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CURTIS. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. CURTIS. How much time am I allotted?

The ACTING PRESIDENT pro tempore. The Senator has 5 minutes.

Mr. CURTIS. Mr. President, I want to commend the majority leader and his assistant for the sound position they have taken against the President of the United States resigning. I believe they have spoken up, not for the present incumbent of the White House, but for our country. I commend them for calling attention to the fact that we are not a parliamentary government, where the Chief Executive is responsible to the legislature. We are separate, coordinate, equal branches, and the President of the United States is not the schoolmaster over Congress, nor does Congress have authority over the President.

As we look about us, we can see what is happening in the world, with governments toppling: Canada, facing an uncertain situation; England, having gone through a close election based upon the great weakness of the parliamentary system that creates a hiatus with no strong leadership; France; Israel; West Germany.

Mr. President, we need a President to serve for 4 years, as provided by the Constitution, to give stability and leadership to the whole free world, and there is no one who dares deny that that leadership has been given. It is still being given.

I realize that many of the requests for resignation are well intended, but I believe that unwittingly they are playing into the hands of those who would want to unduly influence the House of Representatives, who would create in the minds of the Members of the House the attitude, "Well, this is so bad, everyone wants him to resign, regardless of what the facts are, we had better send it to the Senate and have a trial," and thus an injustice might be done, with great damage to our country.

Mr. President, I ask unanimous consent to proceed for 5 additional minutes.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. MANSFIELD. Mr. President, how much time does the Senator have left?

The ACTING PRESIDENT pro tempore. The Senator has 2 minutes remaining.

Mr. CURTIS. Oh, I am sorry; I thought my time had expired.

Mr. President, Congress is on trial as well as the Executive. When history is written, when 10 years from now, 25 years from now, or 50 years from now these matters are viewed objectively, we will find that Congress has been on trial. We are on trial charged with maintaining a government of laws. We are on trial to maintain the American tradition of the rule of law. We are on trial to base our actions upon sworn testimony of people placed under oath. We are on trial to adhere to the rule of law that requires rigid cross-examination in order to bring out the truth. We are on trial to maintain for every American, the humblest to the highest, the presumption of innocence. We are on trial to turn our backs to those who have ulterior motives—and there are individuals and groups who are openly Nixon haters. We must turn our backs on what they say and do with innuendo, unfounded charges, facts never developed under oath. We are on trial to preserve the great American system of rule of law and not mob rule.

There is little difference between a mob aroused and throwing rocks and a mob aroused and throwing unsubstantiated charges. I would be the first person to admit that things have been done that are wrong, that not only has bad advice been given, but it has been received. At the same time, we cannot desert the principles of the rule of law. We cannot write our own definition of what we think ought to be grounds for impeachment; the Constitution says it is what it is, and it must be a criminal act.

Charges are hurled and hurled and hurled. I had a country lawyer call me Saturday. He said:

> Mr. Senator, I have been making out income tax returns for farmers—Democrats, Republicans, and Independents—and they are able to pay their debts and to buy equipment because of a new day in agriculture based upon the foreign policy of Richard Nixon, opening up segments of trade that never existed before.

He said:

> I make out income tax returns for a great many dairy farmers.

He said:

> Somebody ought to say that President Nixon was right when he raised dairy supports, for the dairy farmers, having to meet all of the expensive operations of sanitation, equipment, and so on, to deliver the best milk to the country, had gone for years not having a decent living, let alone a profit.

This country lawyer who called me said that decision was right.

Everyone knows that Senators on both sides of the aisle not only urged higher dairy supports but also accepted political contributions, and they are not corrupt. People have a right to participate in politics. If you believe a man represents principles that you are for, if you have a right to go up and down the street and urge his election, you have a right to give him your check so he can publish an ad and tell a lot of people about it.

So let us be fair. Time will show, of course, that there is a lot of wind and hot air to these dairy charges, and that when you get right down to facts, either it is all right or the pot cannot call the kettle black.

Nevertheless, those who are trying to stampede Congress into abandoning the rule of law keep on hurling, hurling, and hurling the same old wornout, unsubstantiated charges.

Now, here is something else, Mr. President. The American people have several remedies. If the conduct on an officeholder is not on the level that they desire, or if they totally disagree with his principles, periodically we go to the polls and we vote in secret. Thank heaven we can do that. In the meantime, it takes a very serious charge to remove someone from office through impeachment. I cite no expert other than the distinguished Senator from North Carolina (Mr. ERVIN), that an impeachment is criminal in nature. We should proceed with caution and, above all, adhere to the rule of law.

"Oh," they say, "the President will get in a position that he cannot perform the duties of his office."

Mr. President, he is doing that and his critics do not like it.

The PRESIDING OFFICER (Mr. ABOUREZK). The additional time of the Senator has expired.

Mr. GRIFFIN. Mr. President, may I be recognized?

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. GRIFFIN. I yield to the Senator from Nebraska.

Mr. CURTIS. Mr. President, I respect every man's opinion on the energy legislation but, in my opinion, the veto of the energy bill by the President scotched the first step in a series of steps that could well have led to the nationalization of the oil industry.

Mr. President, you may totally disagree with my view on that, but the fact remains a strong President made a courageous decision.

Mr. President, you may disagree on the impounding of funds, but the fact remains that a strong President has, by impounding funds and holding back on spending, saved the country last year $12 billion at a time when deficits are creating a great upward pressure on prices. To the person who totally disagrees on the authority of the President to impound, it cannot be said that a strong President did not take decisive and understandable action.

Not many months ago, it looked as though we might be headed for armed conflict in the Middle East. A strong President so managed affairs that there is not an American soldier in the Middle East at this time.

A strong President is today managing the affairs of our country so that we no longer need the draft.

We cannot control those outside who would stampede the Congress. There is freedom of the press in this country but, thank heaven, a free people do not always have to be led astray by it.

Our job is to follow the rule of law.

Many have asked, "How can we dispose of Watergate?" How do we do that? By following the rule of law, adhering to testimony taken under oath and which has withstood cross-examination. We should not demand that an accused person bring in evidence to convict himself.

The accusers, in effect, say, "Bring in evidence to convict yourself or we will charge that you are not cooperating."

In what tribunal anywhere is such a rule of law tolerated? Where is it tolerated the prosecutors say to a citizen, in effect, "We do not like the tone of things. Therefore you are refusing to cooperate. You bring us evidence against yourself."

I happen to believe that if the House of Representatives had any hard facts or provable evidence admissible in a court, they would act to do it.

Mr. President, let us adhere to the rule of law.

Mr. MANSFIELD. Mr. President, I want to commend the House Judiciary Committee for the way it has conducted itself under the most trying of circumstances.

I want to commend its staff for being leak-proof in comparison to other committees which have been functioning over the years.

The Senator has indicated that governments are toppling to the right and left of us. I want to assure this Senate that this Government will not topple.

So far as the Senate is concerned, I think it is to be complimented for exercising its responsibilities with restraint during these trying times.

The Senate has not arrived at any hard and fast conclusion any more than the House has.

So far as this body is concerned, there will be not only the appearance of fair play but there will be the reality of fair play and impartiality.

So far as the President's desires go, that the matter be settled in the courts, they will be.

So far as the President's desire that the matter be settled in the Congress, it will be.

It will be, because this matter is going to be carried through to a final conclusion.

It can be no other way.

It will be carried through to those conclusions on the basis of the constitutional processes which are now in effect and in operation.

So far as this Nation is concerned, no one need have any fear that we will not survive, because we will.

ORDER OF BUSINESS

Mr. WILLIAM L. SCOTT and Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER (Mr. ABOUREZK). The time for morning business——

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be an additional 15 minutes for morning business under the same limitation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAM L. SCOTT. Mr. President, I would associate myself with the remarks just made by the distinguished Senator from Nebraska (Mr. CURTIS), but at the same time I want to commend the distinguished majority leader and the distinguished majority whip for the responsible statements they have made here on the floor of the Senate today. It is in sharp conflict with some of the statements we hear reported from time to time.

Only today, representatives of a statewide organization visited my office. The question of Watergate came up. About 30 representatives were crowded into my office, and they were unanimous in their desire that whatever action should be taken be taken promptly and that a decision regarding the President be resolved within the Congress under the provisions of the Constitution.

Mr. ALLEN. Mr. President, I commend the distinguished majority leader and the distinguished assistant majority leader for their statement on the Senate floor today. These are statements of statesmanship. They are statements of a nonpolitical, patriotic approach to the problems confronting the Nation today.

The country is indeed fortunate that we have in the leadership of the majority party in the Senate men of honor, integrity, and patriotism, who have not been stampeded themselves and who are not seeking to stampede the President in his actions.

Certainly, Mr. President, the Constitution provides the procedure governing efforts to remove a President from office, and I commend the distinguished majority leader and the assistant majority leader for their insistence that the constitutional processes be followed in this most important issue that confronts Congress and the Nation.

If the President of the United States should be drummed out of office, stampeded into taking precipitate action, without the constitutional processes being followed, think of the polarization of our people that would result. Think of the unanswered questions that would plague our country for decades and for generations to come.

We all want Watergate behind us, but the Democratic leadership has pointed the way to getting Watergate behind us, by following the constitutional processes. I feel that the Nation owes a debt of thanks to these gentlemen. I was never prouder of having such leadership on the part of the majority party. I have not always agreed with the political philosophy of the leadership and have felt free to depart from that leadership when I felt that the people of my State and the people of the Nation supported different views, but on this issue I am wholeheartedly behind the statesmanlike position they have adopted and have enunciated on the floor of the Senate. I feel that the position they have taken is going to calm the fears, the doubts, and the rumors that are so prevalent throughout this city and the country as to the President's actions.

Yes, let us get Watergate behind us. Let us follow the constitutional processes in doing so.

Mr. THURMOND. Mr. President, I would like to associate myself with the remarks of the distinguished Senator from Nebraska (Mr. CURTIS).

It has been difficult for me to understand why people would demand the President's resignation or ask him to resign. President Nixon has said that he is not guilty of the things with which he has been charged. If he is not guilty, why should he resign? I would not resign if I were not guilty. I would stand and fight and fight and fight if I were not guilty.

If the facts reveal that President Nixon is guilty, I am prepared to vote to convict him. I am not saying whether he is guilty or not. He says he is not guilty. He has not been proved guilty. Yet, from reading the Washington Post and the New York Times and some of the other liberal news media, he has already been convicted.

Mr. President, there has been a concerted effort to try to place in the minds of the people of this country the thought that President Nixon is guilty. There has been a concerted effort to try to sway the Members of the House to bring impeachment proceedings. It is my hope that in this country, where a man is presumed innocent until he is proved guilty, that presumption will clothe our President, just as it would clothe any other individual. And of all people whom it should clothe, it should be the President of the United States. He is the only President we have. He speaks for this Nation. He speaks for the people of this country when he is talking to Mr. Brezhnev and the Chinese leaders and the other leaders of the countries of the world.

Why should we want to downgrade the President? Why should we want to embarrass him? Why should we want to weaken his hand when he is trying to help the people of this Nation—until the facts come out?

Mr. President, a good deal has been said about vulgarity and profanity, in an attempt to turn the church people of this country against this man. If he used vulgarity or profanity, I do not admire him for it, and I think he made a mistake. I do not know whether he did or not. I understand it was deleted from the transcripts of the tapes.

At any rate, it was well known by people who knew President Truman that he used vulgarity and profane language, but we did not see it played up as we do today against President Nixon. It was well known that Lyndon Johnson used vulgarity and profane language, but we did not see it played up as we do now against President Nixon.

After all, cannot we be fair? Simply because a man uses some profane language at times are we going to say, "Kick him out; resign; get out." Again, I repeat, I do not like profane language. But I am not going to vote to kick a man out of office just because he used profane language. There has got to be a reason to put this man out of office.

The Constitution sets out the grounds for impeachment. A man must be guilty of treason, for one thing. It there any evidence here that this man is guilty of treason? It has not come out so far. A man must be guilty of bribery. Is there any evidence here against this man for bribery? It has not come out so far. Is there any evidence here that he is guilty of a high crime or misdemeanor? It has not come out so far.

Mr. President, I believe when the American people reflect that they will see that some of the news media in this country are against this man and want to get him out of office for other reasons. Those who were against him in the election, some of them are still against him and they have led the fight to a certain extent, not necessarily the leaders who go out in the open, but others who back that movement.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. THURMOND. Mr. President, I ask unanimous consent that I may proceed for 3 additional minutes.

Mr. ROBERT C. BYRD. Mr. President, similar requests have been objected to for 2½ years, now. The Senator from Michigan might get recognition or the Senator from Kansas, and yield to the Senator from South Carolina.

Mr. GRIFFIN. Mr. President, do I have any time remaining?

Mr. ROBERT C. BYRD. The Senator from Kansas (Mr. DOLE) could get recognized for 5 minutes.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I yield 3 minutes.

The PRESIDING OFFICER. The Chair should state that the additional 15 minutes have expired. The time for morning business has expired.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time be extended to the hour of 1:30 p.m., and that the unfinished business then be laid before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, usually people turn on a President when times are bad, when the economy is not good, and when times are hard. But I say to you, Mr. President, have we ever experienced a more prosperous period in this country than we have since President Nixon has been in office? A high standard of living has been attained during that period; the largest per capita income has been attained; the largest wage for the worker has been attained during that period; the largest gross national product, which now runs more than $1 trillion a year, has come about under this man.

Yes, some people say we have inflation and they blame him for that. Mr. President, you cannot blame the President for inflation; you know the chief cause of inflation. It is when Congress spends more than we take in; and that is what Congress has done for 24 of the last 30 years. We have spent more than we have taken in. That is the chief cause of inflation.

Mr. President, after all, I think we are living in a time now that tries men's souls. We are living in a period now where history is going to write which people were swept off their feet by emotionalism and hysteria, and which Senators held their ground and tried to steer this country, the ship of this country, in the right path, and which Senators are going to be fair, just, and reasonable during this period of crisis.

Mr. President, I believe the only course we can pursue is to see that this man, the President of the United States, receives the same fair and just treatment that any other individual in this country receives. If that is done, he can ask nothing more, and the people can ask nothing more. The Members of Congress have an obligation, in my judgment, to assure that fair and just treatment is accorded to the President.

TRANSCRIPTS OF TAPES SUBMITTED BY THE PRESIDENT: PUBLIC TRANSCRIPTS—VI

Appendix 30. Meeting: The President, Haldeman and Ehrlichman, Oval Office, April 16, 1973. (9:50–9:59 a.m.)

J. E. Did you get those—

P. I'm going to ask him which one he wants to sign. It seems to me that I don't want to pressure him or should I just have him sign effective today or not announce it. What is your advice? We've got plenty of time.

J. E. Well, as I made it loud and clear that he ought to sign both of them. Then you could use whichever one he wanted or none, depending on how circumstances unfold.

P. (Unintelligible)

J. E. Unless he won't. You know, you know what to do at that point.

H. You go to Petersen and ask him not to (unintelligible)

P. That is why, John, I want to nail down what Dean said about other bugs on the White House and so forth, and so on. I assume that is the Plumbers operation.

J. E. No, no. What he is referring to is the FBI's bugs on the journalists in the first year he was nominated.

P. (Unintelligible)

J. E. Hold on. No, no. These were almost all FBI bugs. What I said all National Security—

P. (Unintelligible)

J. E. I can't say. I doubt it. I think it was before his time.

P. The reason that I made the call while in Dean's presence last night was that he said Liddy was saying how he knows Liddy had told (unintelligible) or something like that. I said he must (unintelligible). Well, he thought he ought to get ahold of his attorneys. Liddy said will not (unintelligible) higher authorities. (Unintelligible) not the President, (unintelligible) Mitchell. And I said, I called Petersen (unintelligible) where to go (unintelligible) Liddy's attorney. The President is not asking for any type of (unintelligible).

J. E. He can't hurt anything at this point and it certainly (unintelligible) way the thing he had to do with Mitchell and Magruder.

P. (Unintelligible)

J. E. Remove any impediment against their testifying by reason of misplaced loyalty to you.

P. (Unintelligible)

J. E. Petersen, is obviously reacting to the whole (unintelligible).

P. I would like also a scenario with regard to the President's role, in other words, the President—

P. (Unintelligible).

J.E. I can't say. I doubt it. I think it was before his time.

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J.E. Petersen, is obviously reacting to the whole (unintelligible).

P. I would like also a scenario with regard to the President's role, in other words, the President—

J.E. Ziegler has just left my office. He feels we have no more than 12 hours. He's got some input from the Post and he estimates unless we take an initiative by 9 o'clock tonight it will be too late. Now, for that reason, I would suggest that Ziegler set a meeting with Petersen and if you and Ziegler can persuade Petersen the announcement has come from the White House—

P. I'll tell them.

J.E. Otherwise the Justice Department will, of course, crack this whole thing.

H. Perhaps the whole thing, but I think it would be a good idea (unintelligible) Petersen alone.

J.E. That is a very good point.

J.E. Now you know how (unintelligible) around for sometime ahead of time you got this well thought through and well laid out and I think he is quite (unintelligible) about it and quite (unintelligible).

P. (Unintelligible).

J.E. We'll do that while you are gone. There is one point before you talk to Dean that I heard last night that doesn't fit together. Maybe it doesn't matter. And that is that Dean said, last night, as I understood it, that Petersen had told you that Liddy has not talked. They can't get Liddy to talk.

P. Yeah.

J.E. Dean told us that Liddy had told him everything. Told the U.S. Attorney.

P. I know that, I know that, but I—

J.E. Petersen lying to you or (unintelligible).

P. Well, maybe a little both.

J.E. Well, I think it is probably (unintelligible).

P. A snow job.

J.E. Either that or Dean is (unintelligible) cover-up in case anything starts to seep out.

P. Cover-up—How strong (unintelligible).

J.E. Ron thinks that it ought to be done from up here. That (unintelligible) I mentioned it to him the other day he thought you should do it here, if you did it at all.

P. I could do it right here?

J.E. Yes. But he wants to get out the fact that Dean (unintelligible) you that the Dean report was inadequate (unintelligible) that several weeks ago you reinstituted an examination of the personal investigation and that this culminated in a whole series of actions over the weekend.

P. I spent the weekend working on it. (Unintelligible) got to say.

J.E. The report did not. This is the week that Mitchell being here (unintelligible).

P. (Unintelligible).

J.E. Well, now, If I am going to be splashed on this thing you are better off now having another scrap with Dean.

P. Well, somebody is going to be.

J.E. Well, we could not (unintelligible)—

P. Investigation of the matters.

J.E. I think that that is the way, the investigation of the matter.

P. But I didn't talk to Mitchell.

J.E. Well, they say who did it, delegating him to do that. I mean that, that's—

P. (Unintelligible) look one damn thing.

J.E. Well, I think there is a full Ehrlichman report, unquote. (Unintelligible).

P. Would you mind talking to Moore to see Gray or (unintelligible) you can talk to him can't you? Time is of the essence right now. (Unintelligible).

J.E. I understand.

P. (Unintelligible).

J.E. No, no, I'll take care of it.

P. (Unintelligible).

J.E. As a matter of fact, I have a problem. I'm going to get Moore to talk to Fielding also, and find out what was in there because I don't want to know.

P. Right. (Unintelligible).

J.E. And then Moore can advise you.

P. I don't know (unintelligible) when I get back (unintelligible) Justice Department drag it out of the White House. You (unintelligible).

J.E. (Unintelligible) you do it. Petersen here is working with me on—

P. Yesterday. Yesterday, I talked to Mr. Kleindienst. He removed (unintelligible) people involved. I said, "Now, Petersen and myself. That's right, Petersen (unintelligible).

J.E. Well, he's got a (unintelligible) So. Well, I'll be seeing Dean now.

P. Yeah, but—

J.E. I think that the point is that in picking up these letters from him, it would be the agreement that neither he nor you would announce it immediately. So the announcement would be your discretion.

P. Right.

J.E. And the decision would be at your discretion as to which way to go.

P. Right.

J.E. And you might ask him whether he intends to plead guilty or not—

P. Yeah.

J.E. Or not guilty.

P. Yeah.

J.E. And that will weight in your own (unintelligible).

P. That's right. That's right. (Unintelligible.)

(Material unrelated to Presidential actions deleted.)

Appendix 31. Meeting: The President and Dean, Oval Office, April 16, 1973. (10:00–10:40 a.m.).

The President/John Dean.

P. Good morning, John. How are you?

D. Good morning.

P. Sit down, sit down. Trying to get my remarks ready to deliver for the building trades. You know I was thinking, get the odds and ends—(inaudible). You will remember we talked about resignations, et cetera, et cetera, that I should have in hand. Not to be released.

D. Uh, huh.

P. But that I should have in hand something or otherwise they will say, "What the hell. After Dean told you all of this, what did you do?" You see?

D. Uh, huh.

P. I talked to Petersen about this other thing and I said, "Now what do you want to do about this situation on Dean, et cetera?" And he said, well, he said I don't want to announce anything now. You know what I mean.

D. Uh, huh.

P. But what is your feeling on that? See what I mean?

D. Well, I think it ought to be Dean, Ehrlichman and Haldeman.

P. Well, I thought Dean at this moment.

D. All right.

P. Dean at this moment because you are going to be going and I will have to handle them also. But the point is, what is your advice? You see the point is, we just typed up a couple just to have here which I would be willing to put out. You know.

D. Uh, huh.

P. In the event that certain things occur.

D. I understand.

P. To put—just putting. What is your advice?

D. I think it would be good to have it on hand, and I would think to be very honest with you—

P. Have the others too?

D. Yeah, have the others too.

P. Well, as a matter of fact, they both suggested it themselves so I've got that—I am sorry, Steve, I hit the wrong bell.

D. (Half laugh.)

P. So I have already done that with them.

D. All right.

P. They said look whatever—and I want to get your advice on them, too. And what I would think we would want to do is to have it in two different forms here and I would like to discuss with you the forms. It seems to me that your form should be to request an immediate leave of absence. That would be one thing. The other, of course, would be just a straight resignation.

D. Uh, huh

P. First, what I would suggest is that you sign both. That is what I had in mind. And then we'll talk about after—you don't know yet what you're. For example, if you go in and plead guilty you would have to resign.

D. That is right.

P. If on the other hand, you're going in on some other basis, then I think the leave of absence is the proper thing to do.

D. Uh, huh, I would think so.

P. And that is the way I would discuss it with others, too. If you have any other thoughts, let me know. I am not trying to press you on the thing. I just want to be sure John's got the record of anything that I should have here.

D. I think it is a good idea. I frankly do. But I think if you do it, for one, I think you have problems with others too Mr. President.

P. I already have the others.

D. That is what I am trying to advise you on—

P. But on theirs, both, it is all pending their appearance, et cetera. That isn't yours. Nothing is going to be said but I have to have it in hand by reason, as I told them as a matter of fact after our talk last night. I told them that I have to have these in hand so that I can move on this if Petersen is going to report to me everyday. I said now Petersen, "If you get this stuff confirmed, I need to know." He said, well, I asked him specifically, "what do you do? Who is going to be today?" And he said, "well, Strachan." There the three today I think. Who is the third one?

D. I don't know.

P. That's right! You're not supposed . . .

D. (Laughter).

P. Then, OK.

D. What I would like to do is draft up for you an alternative letter putting in both options and you can just put them in the file. Short and sweet.

P. Alright. Fine. I had dictated something myself. All my own which, if you can give me a better form, fine. I just want you to do it either way. Do you? Or do you want to prepare something?

D. I would like to prepare something.

P. Good. Alright. Fine. Why don't you take this? You can take those as an idea and have something. I've got to see Petersen at 1:30.

D. Alright.

P. Understand I don't want to put anything out because I don't want to jeopardize your position at all. You have a right to, just as everybody else has. You have taken a hell of a load here but I just feel that since what you said last night that we've got to do it and with Haldeman and Ehrlichman I have leave of absences from them. Which, however, I will not use until I get the word from Petersen on corroboration which he advised himself. I talked to him after you left—about 11:45 and let [him—characterization omitted] know how hard we work around here.

D. Well, you will have something within a couple of hours.

P. I won't be back. Yes, you draft what you want me to. In other words you can—

D. And if you don't like what I draft, you can tell me and I will change it in any way that you want.

P. Oh sure, oh sure. But I can't make the decisions, of course. You see and also, well, put it this way: you draft what you want and if I have any concern about it I'll give you a ring. You can be around, et cetera. But you would agree that nothing should be put out now?

D. I would agree. I was thinking about that.

P. You see we got that problem today that the thing may break. You know with Magruder, et cetera and I. You know that is what I wanted to run over with you briefly. You know to get your feeling again as to how we handle it. You were saying the President should stay one step ahead of this thing. Well, we've got—the only problem is what the hell can I say publicly? Here is what we have done. I called in Kleindienst. I have been working on it all week. As soon as I got the Magruder thing I got in Kleindienst and then at 4:00 p.m. we got in Petersen. Kleindienst withdrew and assigned Petersen. I said, "Alright, Henry, I don't want to talk with Kleindienst anymore about this case. I am just going to talk to you. You are in charge. You follow through and get to the bottom of this thing and I am going to let the chips fall where they may." We have covered that all the way down the line. Now I had to follow him to a certain extent on the prosecution side. On the other hand on the PR side I sure as hell am not going to let the Justice Department step out and say look we dragged the White House in here. I've got to step out and do it, John. Don't you agree?

D. That's right.

P. Again, I don't want to walk out and say look John Dean's resignation has been accepted. (Expletive omitted) That isn't fair.

D. Nor would it be fair to say Ehrlichman and Haldeman's have.

P. You see, they haven't been charged yet. As soon as they are charged it's a problem. But in your case you haven't been charged with anything yet.

D. No, I have not.

P. That is my problem. The only reason I am doing this is because of what you said about them and that is why I am getting from them too.

D. Well there is a chance today when LaRue goes down that Haldeman, Ehrlichman's name are going to be right down there before the Grand Jury.

P. Well, the name may be in but the point is you don't just throw somebody out because their name comes forth. You understand?

D. I understand.

P. You could also, if you would, I would like for you to prepare a letter that you would have for Ehrlichman and Haldeman. Would you do that?

D. Yes, sir.

P. Then I will give them the form and let them work out something that is appropriate. Would you prepare that for me?

D. Yes, I will.

P. But they told me last night orally, just as you did, that

D. They stand ready?

P. With head erect, they said, "Look, we will leave in a minute. We will leave today, do whatever you want." I said, "No, you are going to have to wait until we get some evidence." You know what I mean?

D. Uh, Huh.

P. I gather you agree with me.

D. That is what I do and the question is timing and—

P. Let's get Dean's advice as to how we handle this from now on. What is your advice?

D. Well, I would say you should have the letters in hand and then, based on what you learn from Petersen, you can make a judgment at the time. I think you are still five steps ahead of what will ever emerge publicly. I don't think—

P. I think they caught (inaudible) somebody told me that the *Post* according to Ziegler has something they are running tomorrow. Magruder talking around and everything. I don't know.

D. Well, I know some of the things Magruder said. He said that the prosecutors had asked him a number of questions about Ehrlichman and Haldeman. There is no doubt that that will be out on the street also.

P. Then the other will come out too.

D. Uh, Huh.

P. That's my point, see.

D. Fortunately, I am hoping that the ultimate resolution of this thing is that no one has any problems and that is possible.

P. Legally?

D. Legally.

P. That's right, which I hope is your case too. In other words when I say anything about the White House staff—not you, not Colson, or Haldeman because—(expletive omitted). Let me make this point again. I need—we know there is, Ziegler has always said it was oral.

D. That's right.

P. Right. But you remember when you came in, I asked you the specific question "Is anybody on the White House staff involved in it?" You told me, "No."

D. That's right. And I have no knowledge—

P. You still believe that—

D. Yes sir, I do.

P. But you did tell me that in the aftermath there were serious problems.

D. That's right.

P. Right. And, I said, "Well, let's see what they are."

D. And now you are beginning to see what they are. They are potential, technical, obstruction of justice problems.

P. I talked to Petersen last night and he made exactly the same point. He said the obstruction was morally wrong. No, not morally. He said it may not have been morally wrong and it may not have been legally wrong, but he said from the standpoint of the Presidency you can't have it. So, he seems to think that the obstruction of justice thing is a (expletive omitted) hard thing to prove in court.

D. That's right.

P. Which I think should be some comfort to you.

D. Well, my lawyer tells me, you know, that, "legally you are in damn good shape."

P. Is that right? Because you're not—You were simply helping the defendants get their fees and their—What does he say?

D. In that position, I am merely a conduit. It is very technical, very technical. I am a conduit to other people. That is the problem.

P. What was the situation, John? The only time I ever heard any discussion of support for the defense fund was (inaudible). I guess I should have assumed somebody was helping them. I must have assumed it. But I must say people were good in a way because I was busy. Was when you mentioned to me something about hard-hitting problem. But that was handled by Mitchell. Was that true or what?

D. The last time we had a request was the week before sentencing.

P. He hit you at a dinner or something?

D. No, no. O'Brien, who was one of the lawyers who was representing the Re-Election Committee, was asked by Hunt to meet with him. He came to me after the meeting and said that Hunt asked that the following message be passed to you. I said, "why me?" He said, "I asked Hunt the same question."

P. You, Dean—or me, the President?

D. Passed to me, Dean.

P. He had never asked you before?

D. No.

P. Let me tell you. What did you report to me on though. It was rather fragmentary, as I recall it. You said Hunt had a problem—

D. Very fragmentary. I was—

P. I said, "Why, John, how much is it going to cost to do this?" That is when I sent you to Camp David and said (expletive removed) "Let's see where this thing comes out."

D. That's right.

P. And you said it could cost a million dollars.

D. I said it conceivably could. I said, "If we don't cut this thing—"

P. How was that handled? Who handled that money?

D. Well, let me tell you the rest of what Hunt said. He said, "You tell Dean that I need $72,000 for my personal expenses, $50,000 for my legal fees and if I don't get it I am going to have some things to say about the seamy things I did at the White House for John Ehrlichman." Alright I took that to John Ehrlichman. Ehrlichman said, "Have you talked to Mitchell about it?" I said, "No, I have not." He said, "Well, will you talk to Mitchell?" I said, "Yes I will." I talked to Mitchell. I just passed it along to him. And then we were meeting down here a few days later in Bob's office with Bob and Ehrlichman, and Mitchell and myself, and Ehrlichman said at that time, "Well is that problem with Hunt straightened out?" He said it to me and I said "Well, ask the man who may know: Mitchell." Mitchell said, "I think that problem is solved."

P. That's all?

D. That's all he said.

P. In other words, that was done at the Mitchell level?

D. That's right.

P. But you had knowledge; Haldeman had knowledge; Ehrlichman had knowledge and I suppose I did that night. That assumes culpability on that, doesn't it?

D. I don't think so.

P. Why not? I plan to be tough on myself so I can handle the other thing. I must say I did not even give it a thought at the time.

D. No one gave it a thought at the time.

P. You didn't tell me this about Ehrlichman, for example, when you came in that day.

D. I know.

P. You simply said, "Hunt needs this money." You were using it as an example of the problems ahead.

D. I have tried all along to make sure that anything I passed to you myself didn't cause you any personal problems.

P. John, let me ask you this. Let us suppose if this thing breaks and they ask you John Dean, "Now, John, you were the President's Counsel. Did you report things to the President?"

D. I would refuse to answer any questions unless you waive the privilege.

P. On this point, I would not waive. I think you should say, "I reported to the President. He called me in and asked me before, when the event first occurred, and passed to the President the message that no White House personnel in the course of your investigation were involved." You did do that didn't you?

D. I did that through Ehrlichman and Haldeman.

P. I know you did because I didn't see you until after the Election.

D. That's right.

P. Then you say, after the election when the McCord thing broke, the President called you in. I think that is when it was, wasn't it?

D. No. It was before the McCord thing, because you remember you told me after Friday morning that McCord's letter—you said, "you predicted this was going to happen." Because I had oh, in the week or two weeks—

P. Why did I get you in there? What triggered me getting you in?

D. Well, we just started talking about this thing.

P. But I called you and Moore together for a Dean Report, didn't I?

D. On a Wednesday morning—

P. Oh, I know what was involved. It was involving that damn executive privilege and all that.

D. The Gray things were popping. On the Wednesday morning before I asked—

P. We had three conversations to my recollection.

D. Well, sir, I think we had more than that. But, of course, we have a record of that through those people.

P. Yeah.

D. I think we had more than that.

P I have to read this. Go ahead.

D. But the one report where I finally called Bob and said, "Bob, I don't think the President has all the facts."

P. That's right and then you came and sat in this chair and that is the first time that I realized the thing.

D. That's right.

P. Now the question: well Mr. Dean, is: "Why didn't you tell the President before?" And your answer there is, "I didn't know." That's what you told me last night. You see, I don't want you, John, to be in a position and frankly I don't want the President to be in the position, where one of his trusted people had information that he kept from him.

D. I did not know.

P. Fine. You did not know. How did you find out then? But you can handle that.

D. That's right.

P. But I did ask you and I think you should say the President authorized me to say this—I won't reveal the conversation with the President—he asked me this question. I told him this, that nobody in the White House was involved. And in addition to that to the best of my ability I kept, I guess, or how do you think you should handle this Presidential advice? Maybe you better—

D. Well, I think the less said about you, I think you say anything you want to say anything about it.

P. Well, let me tell you I am going to handle that properly and I just wanted to be sure that it jives with the facts. I can say that you did tell me that nobody in the White House was involved and I can say that you then came in, at your request, and said, "I think the President needs to hear more about this case."

D. That's right.

P. Then it was that night that I started my investigation.

D. That's right—that was the Wednesday before they were sentenced. Now I can get that date—

P. Would you do this. Get your chronology of this. Wednesday you came in and told me that, et cetera. That would be helpful for me to have. That is when I frankly became interested in the case and I said, "Now (expletive omitted) I want to find out the score." And set in motion Ehrlichman, Mitchell and—not Mitchell but a few others. OK?

D. Sure.

P. One other thing. On this privilege thing—nothing is privileged that involves wrongdoing.

D. That is correct.

P. On your part or wrongdoing on the part of anybody else. I am telling you that now and I want you when you testify, if you do, to say that the President told you that. Would you do that? Would you agree to that?

D. Yes Sir.

P. Fine. However, let me say with regard to what we call the electronic stuff they heard, and what I have now found is in the leak area of the national security area. That I consider privileged.

D. I do too.

P. And I think you should say, for example, on that. What I mean is I think in the case of the Kraft's stuff what the FBI did, they were both fine. I have checked the facts. There were some done through private sources. Most of it was done through the Bureau after we got—Hoover didn't want to do Kraft. What it involved apparently, John, was this: the leaks from the NSC. They were in Kraft and others columns and we were trying to plug the leaks and we had to get it done and finally we turned it over to Hoover. And then when the hullabaloo developed we just knocked it off altogether. But in my view, I consider that privileged.

D. I have no intention of raising that in any conversation.

P. Have you informed your lawyers about that?

D. No.

P. I think you should not. Understand, not because it would cut anything but I do think it is privileged. But it is up to you.

D. No—I think it is privileged also.

P. Support your own—and this was necessary to do. If we had had Hoover under more control, as Lyndon Johnson did, it would have been better. Now, your guess is when will you be called? Perhaps Tuesday or Wednesday or—

D. I would think sometime this week.

P. You don't think the thing is likely to break today?

D. No, I don't.

P. I wonder what Ziegler's got. He must, he seems to think something is going to break. He hasn't been in to see me and I will have to get him in later. Well, I will ask Petersen. Don't you agree with me that it is better that we make the first announcement and not the Justice Department.

D. Yes I do. On your own staff.

P. Oh hell, I am going to make the announcement on Magruder too. (expletive omitted) It was our campaign. I am not going to have the Justice Department—we triggered this whole thing. Don't you agree? You helped to trigger it. You know what I mean.

D. When history is written and you put the pieces back together, you will see why it happened. Because I triggered it. I put everybody's feet to the fire because it just had to stop.

P. That's right.

D. And I still continue to feel that.

P. You put Magruder's feet to the fire. Where did you see Magruder?

D. I didn't. In fact, I refused to see him. That was one of the problems.

P. Oh, and that's why—

D. I started to talk with—I met with him in one of these outer offices at a meeting.

P. What got Magruder to talk? I would like to take the credit.

D. Well.

P. I was hoping that you had seen him because—

D. He was told, one, that there was no chance.

P. As a matter of fact, he made a statement about (inaudible) around the White House. I guess this was pre-primaries—it was all committed.

P. But on Magruder, come again.

D. The situation there is that he and Mitchell were continuing to talk. Proceeding along the same course they had been proceeding to locking their story, but my story did not fit with their story. And I just told them I refused to change, to alter my testimony. But would repeat it just as I had given it.

This had to do with a number of meetings in the Department of Justice.

P. Oh yes, I remember. You told me that. I guess everybody told me that. Dean said, "I am not going down there and lie," because your hand will shake and your emotions. Remember you told me that.

D. Yes, I said that. I am incapable of it.

P. Thank God. Don't ever do it John. Tell the truth. That is the thing I have told everybody around here. (expletive omitted) tell the truth! All they do John is compound it.

P. That (characterization omitted) Hiss would be free today if he hadn't lied. If he had said, "Yes I knew Chambers and as a young man I was involved with some Communist activities but I broke it off a number of years ago." And Chambers would have dropped it. If you are going to lie, you go to jail for the lie rather than the crime. So believe me, don't ever lie.

D. The truth always emerges. It always does.

P. Also there is a question of right and wrong too.

D. That's right.

P. Whether it is right and whether it is wrong. Perhaps there are some gray areas, but you are right to get it out now.

D. I am sure.

P. On Liddy I wanted to be sure. You recall our conversation. You asked me to do something. I have left it with Petersen now and he said he would handle it. That's the proper place. When Liddy says he cannot talk with peers it must be higher authority, I am not his higher authority. It is Mitchell.

D. Well, he obviously is looking for the ultimate, but I think he is looking for the ultimate. He has the impression that you and Mitchell probably talk on the telephone daily about this.

P. You know we have never talked about this.

D. I understand that.

P. I have never talked to Mitchell about this except when whether we go the executive privilege thing.

D. Right.

P. He came in and said everyone should testify in executive session except you. Which I think, I think it should not be with executive privilege.

D. I think, Mr. President, the earlier, it will be a fizzle, when Petersen finishes with his—

P. You don't think we can hold to executive privilege anyway do you, John?

D. To hold on executive privilege?

P. Tell me your version what should we do?

D. I think if there are indictments down there in that court room, none of us will be able to go up to testify. I think the Watergate is just going to be totally carved out of the Ervin Hearings.

P. That's Watergate and then the other stuff is not that important, Segretti and all that?

D. Segretti and all that stuff is not that important. They will try. They can have a lot of fun with it, but it is not very meaningful.

P. So you think that Liddy thought that my calling Mitchell would be typical. Well, we covered that last night. You were there. Is that enough?

D. Petersen will tell you if it doesn't—

P. You tell me if you don't think it is enough—

D. No, I think it is enough.

P. I am going to expect you—after all, you are still the Counsel around here—

D. Laughter.

P. No, I am serious. You've got to advise me the same with Haldeman and Ehrlichman as long as you are around here, we've got to—

D. Well, I want to lay one thing out. I think there is a mythical belief—Now, I have not talked to Bob or John about this—they don't have a problem Mr. President. And I am not really sure that they do, but I am telling you, they do.

P. A problem? There is no question about it. Petersen made the point. I said, "Tell me what the facts are." And he said, "The problem is that they are going to get splashed, and when they get splashed, you've got a problem, Mr. President." Now then he goes on to say that as far as the legal form of obstruction is concerned and he covers all three of you here, it is a very difficult case to prove. Do you agree with that?

D. Uh, huh. That's fine.

P. You see that is the point. I know it would work. I am speaking not in personal terms.

D. It is a technical case and it is a tough case.

P. It's a tough one to prove. What does he mean by that?

D. Apparently, my lawyer said, "Now, I have won cases on this with tougher facts than you've got I will assure you." It would not be a—

P. So that is their real culpability, both Ehrlichman and Haldeman are in on the obstruction, is that your point?

D. It would be a very good idea if they had counsel.

P. I told them last night they ought to get lawyers so I am one step ahead of you there. Is there anything else you think I should do? You don't think I should—I am not going to let the Justice Department break this case, John.

D. I understand. You've got to break it. You are breaking it. Well, (expletive omitted) that is what we have done.

D. That's right.

P. I could have told you to go to Camp David and concoct a story couldn't I? And you have never heard that said, have you?

D. No, sir.

P. In fact, I think I covered a little of that (inaudible). But on the other hand, it was your job to tell me, wasn't it?

D. Uh, huh.

P. And you have. Basically what you have done—no, you told me the truth though. You've told me the truth. It was your job to work for the President, the White House staff and they were not involved in the pre-thing. But then you thought the post-thing. You thought about it and that is why you decided, as you said,

D. I thought we should cut the cancer right off because to keep this whole thing—

P. Look, one thing I want to be sure. When you testify, I don't want you to be in a position, and I don't want the President to be in a position, that his Counsel did not level with him. See my point?

D. There is no point that I have not leveled with you, as you should know.

P. Now when they say, "Now Mr. Dean, why didn't you tell the President—did you know about this? Why didn't you tell the President?"

D. That is a PR situation Mr. President. The U.S. Attorneys are not going to ask me questions asking what I said to the President and what I didn't.

P. Well, I frankly think—I would hope you can help on the PR there by saying—

D. I will be happy to help on it.

P. I would like for you to say—and you are free to talk. You are to say, "I told the President about this. I told the President first there was no involvement in the White House. Afterwards, I told the President that I—" And the President said, "Look, I want to get to the bottom of this thing, period." See what I am driving at—not just the White House. You continued your investigation, et cetera, and the President went out and investigated on his own. Which I have done, believe me. I put a little pressure on Magruder and a few of

D. Uh, huh.

P. And as a result of the President's actions this thing has been broken.

D. That's right.

P. Because also I put pressure on the Justice Department—I told Kleindienst—(expletive omitted)

D. No, I think you are in front right now and you can rest assured everything I do will keep you as far as—

P. No, I don't want, understand when I say don't lie. Don't lie about me either.

D. No, I won't sir—you—

P. I think I have done the right thing, but I want you to—if you feel I have done the right thing, the country is entitled to know it. Because we are talking about the Presidency here.

D. This thing has changed so dramatically. The whole situation since I gave you the picture

P. Since you sat in that chair—

D. In that chair over there and gave you what I thought were the circumstances, the potential problems. You have done nothing but try to get to the bottom of this thing, and—

P. I think so. Well, I said, "Write a report." But my purpose was you write a report as I said, "I want the Segretti stuff. Put everything else. Was the White House involved? You know, et cetera." How about—one last thing. Colson. You don't think they are going to get him into something?

D. I think he has some technical problems close also. I don't know if he has any. To the best of my knowledge, he had no advance knowledge of this thing.

P. Right. I suppose the key there is Hunt. He was so close to Hunt. I just want to know for my own benefit. As I told you last night, I don't want to get out there in front and have someone say "What about Chuck Colson?"

D. Chuck swore up and down to me—

P. I have got to say—to you John Dean—was Colson involved?

D. I have no information that he was at all.

P. Post? The two things you mentioned last night.

D. That and let's face it the other technical jobs, you know.

P. Yeah.

D. All the obstruction is technical stuff that mounts up.

P. Well, you take, for example, the clemency bit. That is solely Mitchell apparently and Colson's talk with Bittmann where he says he will do everything I can because as a friend.

D. No, that was with Ehrlichman.

P. Hunt?

D. That was with Ehrlichman.

P. Ehrlichman with whom?

D. Ehrlichman, and Colson and I sat up there. Colson presented his story to Ehrlichman regarding it and then John gave Chuck very clear instructions on going back and telling him, "Give him the inference he's got clemency but don't give him any commitment."

P. No commitment.

D. Right.

P. That's alright. No commitment. I have a right to say here—take a fellow like Hunt or a Cuban whose wife is sick or something and give them clemency for that purpose—isn't that right?

D. That's right.

P. But John specifically said, "No commitment," did he?

D. Yes.

P. And then Colson went on apparently to—

D. I don't know how Colson delivered it—

P. To Hunt's lawyer—isn't that your understanding?

D. Yes, but I don't know what he did or how—

P. Where did this business of the Christmas thing get out, John? What in the hell is that all about? That must have been Mitchell, huh?

D. No, that was Chuck again.

P. That they would all be out by Christmas?

D. No, I think he said something to the effect that Christmas is the time the clemency generally occurs.

P. Oh yeah. Well, I don't think that is going to hurt him. Do you?

D. No.

P. Clemency is one thing. He is a friend of Hunt's. I am just trying to put the best face on it, but if it is the wrong thing to do I have to know.

D. Well, one of the things, I think you have to be very careful. And this is why the issue should be very good is, if you take a set of facts and let the prosecutors who have no PR judgment but they will give you the raw facts as they relate to the law, and it's later you have to decide what public face will be put on it.

P. Oh, I understand. You can help on that, John.

D. Yes sir. Wherever I may be I will be available to help on that.

P. Well, I hope you are right—You think you testify when? Well, Petersen will decide that.

D. Yeah.

P. Do you want me to say anything to him about it?

D. No. I think my lawyers and the U.S. Attorney's office ought to continue to work in the same manner—

P. You see, I am having him report to me daily now. Which I think I should do.

D. Right.

P. So all I will say is that I am going to tell him that we have talked today and that I went over again the various materials—

D. What would be the best thing in the world is if they decide that they've got nothing but technical cases against people at the White House and they chuck them all out. That is not impossible.

P. Should I telephone him?

D. No sir.

P. That's what they ought to do.

D. That's right.

P. It may be a tough case for them to prove John.

D. Well, they started out not to do it and none of the events are even released. It could very well happen.

P. Well that's what I hope and I understand. The reason I have to have that is in case there is a break tonight. I don't want to have to call John Dean in and say, "Look, John, can I have it?" It looks like I was, like a crimp in my plans.

I've got to know because I do have some knowledge there might be more involved here. All that I am saying of this, as you know, is that I have heard things from the U.S. Attorney, and from John Dean and from my own people that indicate that there could be a technical violation. Under the circumstances, I feel that it is my duty to have your resignation in hand. Of course, the President always has a resignation. How does that sound to you?

D. Well, that's right. Well, the thing is in phrasing the letter is important. You don't call anybody involved when it is their problem, so that is why I would like—

P. Well, understand those are my dictations. They are only a form for you. You work it out and work it out so that it would be one that would apply to you and work out the answer to Ehrlichman and Haldeman's letter. Just a form that I can give anybody—Strachan—

D. He has gone to USIA.

P. Well, that doesn't come to me does it?

D. Well, the whole Executive Branch is—

P. No, no, I mean just let him submit his resignation to Keogh. I will get his resignation. I will tell those guys—

D. I don't think you ought to tell Strachan. I think—

P. No, no, no—tell Keogh he ought to ask for his resignation.

D. I think Bob ought to do that though.

P. Bob Haldeman? Good. I will tell Bob to get Strachan and Magruder. That's your advice. Also if you do have any random thoughts on how many more we could do on the presentation of this thing, sit over in your office and think.

You know what I mean, the President is in front.

D. I will give you some notes on it which I think will help.

P. Would you do that.

D. Sure I will.

P. The record. Here is what I have done—here is what I have done—here is what we think the President ought to do and when, you see what I mean. And then if we have to use these things, I pray to God we don't, you guys don't deserve them. You don't deserve them.

D. Well, the important thing is not them, it is you.

P. No—well, I know maybe it isn't me personally, it is this place.

D. It is this office and the campaign office as well.

P. Remember, be back.

D. Alright sir.

P. I would just sit there. Hang tight.

D. I couldn't be more objective, Mr. President.

P. What—

D. I say, don't think I have lost my objectivity at all in this. Do you know why? (unintelligible)

P. Laughter. Ok John.

Appendix 32. Meeting: The President, Haldeman and Ehrlichman, Oval Office, April 16, 1973. (10:50–11:04 a.m.)

P. Come in.

H. Do you want John too?

P. Yes, John too.

H. The scenario worked out pretty well. Yeah—

P. Well, John, let me say this is quite the operator. We first talked about the work he did before this began. I said that I wanted him to know that it is national security work. He said I consider it so. I said, "Have you told anybody about it?" He said, "No. I don't intend to. I don't intend to say a thing more than I need to say in answering questions with regard to this matter, and I will not comment on anything else of course. I will not comment on any conversation I have had with the President." So far as he is concerned, that operation will not be discussed. Of course, the problem I suppose is as far as others are concerned or were involved. But if they do John, I would play it straight out. Damn it, of course we do this.

JDE. Well, I have been thinking about this a little bit. If I ever got a question like that at the Grand Jury I would have to step out and ask the U.S. Attorney to step out and tell him that it's under Executive Privilege. Since it is a National Security matter, I can't answer; that I would be happy to refer it to the President for his decision as to whether I should answer that or not, but that I am in no position to respond. If he says, well then we will have to go talk to the Judge, I will say that is what I think we should do.

P. Fine. And then you get to the Judge and say this involved—

JDE. —a highly sensitive national security.

P. National security investigations involving leaks. Would you say that?

JDE. No.

P. No? You would not tell them what area?

JDE. No. I am just not at liberty, and the procedure we have in government for a thing like that is for the witness who is put a question like that to refer it to the President for his personal review.

P. That's right.

JDE. And I would like an opportunity for that to be done.

P. I can see you being asked the question.

JDE. I kind of think that is right, but that is the process that I would have to follow.

P. I told him I would like to have that letter and he said, "What about Haldeman and Ehrlichman?" I said they have already told me that they will resign in case—naturally nobody is going to resign around here until somebody—until I get better information, until I can satisfy myself with Petersen, etc. And he said, "Well, do you mind if I take the letters and I prepare them? I would like to prepare them so that in the event I have to go to trial they won't prejudice me in that." I said, "Fine, fine. Prepare me what you think your letter of resignation should be." So there it is. So he is thinking in both terms, apparently. I am just guessing and I think that it is altogether proper, because he should have a letter of that sort. But I told him, as I told Haldeman and Ehrlichman last night, there is no question about people resigning around here. I've got their letters of resignation in hand anytime I want them. Wasn't that the proper thing to say to him?

JDE. That's fine.

HRH. He doesn't give you any indication how he is going to plead?

P. No. He said my lawyers have to work that out. But he also hits this again, John: that his lawyers think that his possible criminal liability is limited. You know what I mean, damn hard to prove. Now maybe he said basically when I see what is involved here—he mentioned something like, "sort of a (unintelligible) facing me, but it is a damn hard case"—and he said what his lawyers have told him is that the Justice Department could well come out of this without any indictments against anyone on the White House staff. I said, "What about Colson?" And he said, "Well there are three areas." He mentioned Bittman. He mentioned call to Hunt, etc.

H. The call to Magruder.

P. Oh, yes. Call to Magruder, but that's previous. I hit him hard and I said, "Now look here, John. We had received this report? What about his call? Was that true?" And he said, "Yes." I said, "Do you still believe that?" And he said, "Yes." He said as far as anyone getting any (unintelligible) out, nobody got anything out of it. As for the legal side of this, John, he has some sharp lawyers and they think this is a damn hard case to prove.

JDE. For the government to prove?

H. Government thinks so, too, doesn't it?

P. As I told you today, Petersen said that the legal end is just terribly difficult.

H. It is our moral thing and the pressure. Bascially it is a PR job.

P. We have to decide this and decide it in terms of many things. But I, at least, felt a little better about it than I did last night.

H. Apparently.

P. Well, now when do I receive Rogers?

H. Anytime you want. I talked to him. He is on standby.

P. How about four o'clock? Get him over here.

H. That is fine. Whatever you want.

P. Well, I will just call him and tell him to be on standby this afternoon. It may be earlier. Well, no, it is just as well. Get him over here at 4 o'clock.

H. 4 o'clock.

P. E.O.B.

E. He is helping us to find counsel.

P. Good, good. How has the scenario worked out? May I ask you?

H. Well, it works out very good. You became aware sometime ago that this thing did not phase out the way it was supposed to and that there were some discrepancies between what you had been told by Dean in the report that there was nobody in the White House involved, which may still be true.

P. Incidentally, I don't think it will gain us anything by jumping on the Dean Report as such.

E. No.

P. What I mean is I would say I was not satisfied that the Dean Report was complete and also I thought it was my obligation to go beyond that to people other than the White House.

E. Ron has an interesting point. Remember you had John Dean go to Camp David to write it up. He came down and said, "I can't."

P. Right.

E. That is the tipoff and right then you started to move.

P. That's right. He said he could not write it.

H. Then you realized that there was more to this than you had been led to believe. (unintelligible)

P. How do I get credit for getting Magruder to the stand?

E. Well it is very simple. You took Dean off of the case right then.

H. Two weeks ago, the end of March.

P. That's right.

E. The end of March. Remember that letter you signed to me?

P. Uh, huh.

E. 30th of March.

P. I signed it. Yes.

E. Yes sir, and it says Dean is off of it. I want you to get into it. Find out what the facts are. Be prepared to—

P. Why did I take Dean off? Because he was involved? I did it, really, because he was involved with Gray.

E. Well there was a lot of stuff breaking in the papers, but at the same time—

H. The scenario is that he told you he couldn't write a report so obviously you had to take him off.

P. Right, right.

E. And so then we started digging into it and we went to San Clemente. While I was out there I talked to a lot of people on the telephone, talked to several witnesses in person, kept feeding information to you and as soon as you saw the dimensions in this thing from the reports you were getting from the staff—who were getting into it—Moore, me, Garment and others.

H. You brought Len Garment in.

E. You began to move.

P. I want the dates of all those—

E. I've got those.

P. Go ahead. And then—

E. And then it culminated last week.

P. Right.

E. In your decision that Mitchell should be brought down here; Magruder should be brought in; Strachan should be brought in.

P. Shall I say that we brought them all in?

E. I don't think you can. I don't think you can.

H. I wouldn't name them by name. Just say I brought a group of people in.

E. Personally come to the White House.

P. I will not tell you who because I don't want to prejudice their rights before (unintelligible).

E. But you should say, "I heard enough that I was satisfied that it was time to precipitously move. I called the Attorney General over, in turn Petersen."

P. The Attorney General. Actually you made the call to him on Saturday.

E. Yes.

P. But this was after you heard about the Magruder strategy.

E. No, before.

P. Oh.

E. We didn't hear about that until about three o'clock that afternoon.

P. Why didn't you do it before? This is very good now, how does that happen?

E. Well——

P. Why wasn't he called in to tell him you had made a report, John?

H. That's right. John's report came out of the same place Magruder's report did——

P. No. My point is——

E. I called him to tell him that I had this information.

P. Yeah but, why was that? That was because we had heard Magruder was going to talk?

E. No. Oh, I will have to check my notes again.

H. We didn't know whether Magruder was going to talk.

E. That's right.

H. Magruder was still agonizing on what he was going to do.

P. Dean—but you remember you came in and said you have to tell him about it politely. Well, anyway——

H. I will tell you the reason for the hurry up in the timing was that we learned that Hunt was going to testify on Monday afternoon.

E. The President is right. I didn't talk to Kleindienst. Remember, I couldn't get him.

P. Yeah.

E. I didn't talk to him until he got home from Burning Tree, which was the end of the day, and I had already talked to Magruder.

P. Right. But my point is when did we decide to talk to Kleindienst? Before Magruder?

E. Oh, yes. Remember, early in the morning I said I will see these two fellows but I've got to turn this over to the Attorney General.

P. Which two fellows were you going to see?

E. Mitchell and Magruder.

P. With what your conclusions were?

E. I had this report and I tried all day long to get the Attorney General who was at the golf course and got him as soon as he got home for——

Do we want to put this report out sometime?

E. I am not sure you do, as such.

P. I would say it was just a written report.

E. The thing that I have——

P. The thing they will ask is what have you got here?

H. It was not a formal report. It was a set of notes.

P. Handwritten notes?

E. Yeah. There are seven pages, or eight pages. Plus all my notes of my interviews.

H. And then Magruder came over. Well, you don't want to put that out. You don't want to specify who came, but then you called in other individuals. Then the President met with the Attorney General and the Prosecutor and got the Head of the Criminal Division on Sunday. You met with him twice actually, didn't you?

P. No, I met Kleindienst on Sunday at 1 o'clock, and then at 4:00 p.m., and then I met with Dean, Ehrlichman, you. And I also talked to Henry Petersen on three different occasions that night on the telephone.

H. Yeah.

Appendix 33, Meeting: The President and Haldeman, Oval Office, April 16, 1973. (12:00–12:31 p.m.)

(Material unrelated to Presidential actions deleted)

P. Now we got a plan on how we stage this damn thing in the first stages. Ron's got it all worked out. We've gone over, and then he's got the use of this Advisory Group and—What does this amount to Bob?

H. Well the trouble is, you can't leave that out because you get into invariables of whether you do it before or after the Magruder story is out. He feels, and they all feel, I guess, that you have to establish your position and what you have done and the scenario works pretty well on that.

P. Yeah, but you don't do a backgrounder on that.

H. It works out pretty well on that. The ideal time to do it is when you break the case. Get Petersen over here. You run your backgrounder, tell your story. You know, I got into this and this is what I have done. Or Ziegler does, or however you do it. I guess you will do it. And then you say this has led, as we fully suspected it would, to the next major step. That Mr. Petersen here will describe which is the status of the case today. And then Petersen says "As the President has reviewed these steps, and I can tell you today that we have broken the case and that Jeb Magruder, one of the principal figures in this, has given us a full report on exactly what did transpire. It clearly establishes by his own testimony his own guilt as a high official of the Re-Election Committee and provides charges against others which we are pursuing with the same diligence that we have up to now, and I will not discuss the others. We will get to that and report to you periodically as developments take place. But this is following up proper processes and I am not going to jeopardize the rights of others. He could say that I am not going to say anything, and nothing should be said, that will jeopardize the rights of the defendants, but I also am not going to say anything that will jeopardize our prosecution because we are moving on people and we are going to get them." Ron will mention to you, and Steve chatted with me, Len Garment, as you would expect, has followed your orders that he steep himself in Watergate. He has steeped himself in the Watergate and now says it is imperative that he meet with you for at least five minutes, preferably prior to 2 o'clock today, to report to you.

And what he will say to you is that it is clear to him that you are in possession of knowledge that you cannot be in possession of without acting on. And that your action has to include cutting cleanly and that you've got to remove me and probably Ehrlichman, although he has an interesting thesis, according to Ron—I have not talked to Len—which is at least worth considering, which is that I move ahead of the game now, put out my whole story, including the factual details without pulling any punches of my, you know, that $350,000 fund. Yes, I sent it back to the Committee—and I go into specifics. That I understand that Mr. Strachan delivered it to Mr. LaRue and that my motive was not to provide funds for the defendants. My motive was to move these funds back where they belonged, but I have to agree that I fully recognized that LaRue's motive in accepting money was, as I had been told at least, was a need to provide money for the defendants, to provide legal fees and to provide support for their families. And I acted at all times at the instigation of and through John Dean. In other words I didn't do any of this. John Dean came to me and said we need this and I knew I wanted to get rid of the money and said this is the way to do it, etc. And I must say that John Dean, the President's Counsel, through whom I was working and who was my only contact in this matter, at no time advised me that I was involved in doing anything that was illegal or improper and I would assume and have to act on the assumption that Dean got away with it.

P. Now, look. I don't want to get into the position of—

H. Hanging someone else? Well, but he is going to have to hang himself at that point in time.

P. But the whole point is whether he then gets off and gets on other things. See what I mean? I don't want him—he is in possession of knowledge about things that happened before this. I told him that was all National Security.

H. OK. Len makes a rather interesting case which is that we have to look at this in terms of the President and the Presidency.

P. Right. I'll see him.

H. That is what we all say.

P. Does he know what I have already done?

H. I don't know.

P. Petersen and all the rest?

H. I don't know. Ehrlichman and Ziegler feel you shouldn't see him and that Ron should just assure him that you have all these facts and that you are moving and what he wants done is in the process of being done.

P. Why don't you call and tell him (unintelligible) in and tell him that now—

H. I don't think I should tell him that. John should.

P. I see your point, because he is asking for you to be fired?

H. Well he is suggesting a route. He mentioned a case that is a better route for me and is a better route for the Presidency.

P. But you would be the first one to go out?

H. Yeah. I go out and I resign. I resign and tell my story publicly. Not to the jury, but do it publicly in some fashion and tell the whole story, all the details. And say that I am absolutely clear in my own mind that I have done nothing legally or morally wrong; that that might be up to the Grand Jury to determine. Then his argument is that I am in a position—he thinks that I can bring something like that off. He feels that Ehrlichman should not try to do it because he doesn't think he can bring it off and he thinks, therefore, you've got to cover up and try to hold Ehrlichman in but if you get a problem you will just have to let him go. But at that point it is a pretty rough spot anyway.

P. Yeah—we just don't know what the situation is on Ehrlichman, on what there is.

H. No. And there are more potentials there than there are on mine. Mine I think we have them all out and we know them all and Ehrlichman's—

P. Well, there may be more potentials. I think Dean, frankly, is more inclined to give Ehrlichman a screwing than anybody else. I have that feeling.

H. Well, and if Colson gets hung up anywhere, he will go on Ehrlichman and not me. He can't get me because I didn't work with him on any of that stuff. John did.

P. What would this be, Bob? Would this be before I said anything?

H. I don't think so. I don't know. Ron just raised this at the last minute. He wasn't even going to raise it and then he said, "Well, you might as well know how Len spins it out."

P. What the hell information has Len got that I don't have?

H. None.

P. Is he just basing this on minutia, this, that or the other thing?

H. He doesn't have anything you don't have. All he says—he says it isn't a question of the legal thing. He said there is no question but that you could get through the whole legal thing but then look up the damn road you have to go through all these trials and everything. They are going to get back into it again there—

P. That's right.

H. They are going to get into the money and where the money went. If we haven't told them by then, they are going to drag it out of us drop by drop.

P. That's right.

H. I can see it is a weak appearing case in terms of what did I think I was giving the money back to them for. Where did the money go? Now there is no question about that, some of it. I don't think all of it did. But I knew where some of it was going to go.

P. But again you guys have to see what in the hell, again what LaRue testifies. What the money was for; to shut them up, or was it to provide help for their families.

H. You see, that is the whole point. In my viewpoint it wasn't to shut them up, but that is a hard case for anybody to believe I suppose.

P. Yeah, they will say it was to keep them quiet.

H. Well, absolutely. But that—so they can't make the legal case.

P. Does Ron like this scenario of your going out?

H. No. He is opposed to it. He thinks it is wrong, but he says you know I am biased so that is a judgment call that I probably shouldn't even try to make.

P. Rogers. I will see him this afternoon.

H. I haven't raised that with Rogers.

P. Rogers has not said that either you or Ehrlichman should leave has he?

H. But he doesn't know the facts.

P. Well—could you, you know really, so that—

H. Want me to meet with him and Bill and try to fill in the facts?

P. I really think you—as to what the points of vulnerability are, and you can just do this cold turkey. Say I just wanted him to know this as I haven't made notes. I just want him to know this, all cold turkey. I have just made a few. Say that is what I want to talk to him about. Could you do that? And point out that it is my view, and others, that this is a damn arguable, damn hard, case. Would you mind doing that? Have him come over, I should say at 3:30 and I will see him at 4:00 PM.

H. Sure.

P. That would be very helpful.

P. I would just say, so that Len doesn't think that I don't want to see him, I just don't want him to tell me the obvious. That is the point. Could Ehrlichman just let Len know that the events have overtaken us? Is that dangerous? No, we better tell him.

H. He knows pretty much on that.

P. He knows about Magruder and the rest?

H. I don't know that he knows it in specific terms, but he has come up with the same information that John did and anybody that was looking into the picture.

P. Well, the reason is I think I know everything Len would be telling me—

H. Oh, yeah.

P. Hell you know, we talked about this a week ago. You know how you handle it.

H. On the way to San Clemente I made the pitch for my going out ahead, but not going into it in as much detail. If I do it now with what they've got, if I do anything I have to do everything. That's Ron's point and I think he is right on that.

P. Yeah. What does Ron think about this, leaving out the PR: does he think we should try to tough it through? I am going to ask Rogers that, frankly.

H. I am not sure. I think Ron would say just wait and see. You see his point is that there is no question that I will be tarnished.

P. The question is whether your useability, basically—

H. And you have to evaluate that at that point and it seems to me at that point you have the option of my saying to you that I have concluded and I will. I haven't, but I will sure say it—that I have concluded that I am tarnished to the point where I can't be useful.

P. Right. Your usefulness has been impaired and, therefore, we can't be useful. That's the way you put it.

H. Sure, then I go out. Garment's statement is that then I go out and hit this, use the position that I have established that way from the outside to—

P. To fight?

H. Yeah, somehow or other. I don't exactly know how. I think he spells that out but Ron didn't get into it with me. And a—

P. Let me get some (unintelligible). Was it Ron and John Ehrlichman who said they did not think I should see him? They did not think I should bother seeing Len? On what grounds?

H. No. Ron is the one who saw Len.

P. I was up so late last night. Go ahead.

H. Yeah. Ron thought you had to see him just for internal reasons. You know, Len's so concerned about things that you almost have to see him just to keep the—

P. Why don't I see him after I see Rogers? How would that be?

H. That you could do easily.

P. In other words, I will have a plan in mind. I'm going to get some thoughts in my mind. I am not going to have any trouble with them.

H. Ziegler has been meeting with this group of Chappie Rose and Moore and they have been running out of there with (unintelligible).

P. Could you ask Ziegler to have Len put it on a piece of paper before I meet? That would be helpful. Tell him I am meeting with Rogers at 4:00 o'clock and would just like his recommendation on a piece of paper before that. How does that sound to you? Let me say that I can move the Rogers thing up or down.

H. Can you move him up to three?

P. Well, wait a minute. 1:30 PM. I've got to get some rest this afternoon.

H. Yeah. Still, leave it at four. You might know something by then.

P. Have you filled Henry in, Bob?

H. Nope.

P. You haven't? He's got enough problems in Laos. I haven't. Somebody else—he seems to know of it.

H. Well, Garment took it upon himself to go meet with Henry and Al Haig to discuss his concern about the whole situation, apparently.

P. Well, what the hell did he do that for?

H. On the basis that he thought there was a real danger and threat to the Presidency and that—

P. Maybe I don't want a memo from him first. What do you think? Maybe he just better do it orally.

H. Well, John thought he should have written to you. That that is what he should have done at the beginning. Maybe you have a problem with that. That means the Secretaries got to write it up.

P. Yep, yep. Well just say, tell him that I am meeting with Rogers this afternoon. I think somebody should say that. Who has he put the request through? Through John?

H. No, he just sent it up through Steve Bull. Ron knew he was. He is working with Ron now, rather than John.

P. OK.

H. You know, it is impossible. That is why I hope Rogers can stay cool and sort of above it. It is impossible for any of us—

P. All the concerned people. If we could get a feel. I just have a horrible feeling that we may react.

P. Reacting like Dean?

H. Yes. That we are way overdramatizing.

P. That's my view. That's what I don't want to do either.

H. As I say, that is self-serving too, so its—

P. Well, as you know, of course, that would be the tendency. That is the trouble with Garment. I wanted him to get into this on the legal side. I didn't mean, I must say, I really didn't mean for him to get into the problems of each day and all that, because Len always reacts to things. Am I right that we have got to do something to restore the credibility of the Presidency?

H. Of course you know the credibility gap in the old days. Len is the panic button type. If we had reacted in Garment's way in other things, we wouldn't be where we are. That doesn't mean he isn't right this time, incidentally.

P. I know. It would be very helpful to me if you could see Rogers yourself. I would get him in at 3:00 o'clock, give him an hour on the whole damn thing. I wonder if you and John shouldn't see him together?

H. I would like to if that is ok with Bill.

P. Yeah. Will you ask him?

H. I will ask him. Say that we want to give him a full run before he meets with you.

P. I have suggested, John, too, because he has made a study and we want you to come in. In balance, he can meet with just you, but I prefer he meet with the two of you and then I want to see him at 4:00 o'clock.

H. Ehrlichman makes a strong case that on my making a statement or anything, that as of now that my potential—

P. Guilt?

H. Well, not guilt, but that I should not do anything without my lawyers.

P. That's my inclination. I don't think you can say a thing—

H. What can the lawyers tell me?

P. I think the time has outrun that, because Petersen has told me that you, Ehrlichman are going to be called to the Grand Jury soon. He has told me that. Under the circumstances, I could not advise you with my limited knowledge of the law. I could not advise anybody to make a statement. You know what I mean?

H. Check.

P. Because, basically, when you get in there they are going to question you on your damn statement.

H. Of course, for my dough, that is alright, because whatever I say in the statement is exactly what I say in the Grand Jury. So—

P. But nevertheless, I wouldn't give them that opportunity. I'd keep that.

H. I think Len's view is that what you need is a bold, new, you know, really some kind of a dramatic move. Henry feels that, but Henry feels that you should go on television.

P. I know, 9:00 o'clock.

H. Which is his solution to any problem.

P. Do you believe I should do the 9:00 o'clock news?

H. On this, no.

P. I don't think so either.

H. I said, we are all steeped in this, but look at the newspaper. Where is the Watergate today?

P. Well in the country it is not that big. It is just a little bit in the evening news and it should be handled as a news story. I am not going to go on and say, look, we are in a hell of a shape. It will be a big news story, it will be a big story for a couple or three weeks. Let's face it,—

H. Yep, that's right.

P. But it is not going to be at the moment. We are going to have one hell of a time.

Appendix 34. Meeting. The President and Petersen, EOB Office, April 16, 1973. (1:30–3:25 p.m.)

Door opening—walking

Inaudible

Inaudible

P. Yeah—I always come here in the afternoon (inaudible) tied up.

HP. That's (inaudible) great.

P. Well—I always run upstairs—that's why I'm a little panting.

HP. (inaudible) stopped smoking

P. I get my exercise. Sit down—sit down.

HP. Four months ago I couldn't run up the stairs.

P. Really?

HP. Yeah.

P. What's your age (inaudible)?

HP. 52, sir.

P. My my you've got some great years ahead of you. (inaudible)

HP. (Laughter) I stopped smoking about six years ago.

P. Right.

HP. And it didn't make any difference then. I didn't feel—

P. Yeah. Let me get to two quick questions before you give me whatever you've got. Three questions—one very fundamental that (inaudible) perhaps the first two are related. I (inaudible) Dean, first Magruder, with the information that I know, it seems to me that I've got to tell the (inaudible) something about what's been done (inaudible) where it would be worse.

What's your reaction to that? We got to be sure that when people ask us later that we didn't—these people that are out (inaudible).

HP. I think so. We're——

P. Would that affect your case at all?

HP. I'd like that not to be done until we conclude the (inaudible)

P. With respect to?

HP. Plea.

P. Depending on the plea now (inaudible)

HP. We are trying to get the plea down. His lawyers are—reluctant on two grounds. One, whether Judge Sirica is just going to lower the boom on him.

P. Yeah.

HP. And clap him in jail immediately.

P. Right.

HP. So we'll have to see Judge Sirica and see if we can't reach some understanding of that. All we would request is that he not be clapped in jail before the others against whom he's testified.

P. Like Mitchell and (inaudible)

HP. Go to jail. Secondly——

P. Yes.

HP. Secondly, his lawyers are most concerned about what action the—Senator Ervin and his Committee will take. And I instructed them to tell his lawyers that I'll go talk to Senator Ervin.

P. Is that your intention?

HP. Well that is—yes, sir, I think we can make very persuasive arguments on a fair trial and a free press with a man who is pleading guilty and is a potential witness.

P. How about the others?

HP. You can't guarantee success.

P. What about the others? What really can you do in this case? I would think you'd have a hell of a problem on—like getting a fair trial for Mitchell on this—and if—in case the Ervin Committee moves forward.

HP. I think this.

P. (Inaudible) What are you doing to do?

HP. Oh I—that would—in effect we'd have to—what I propose to do is go ask Senator Ervin to hold up. To get him . . .

P. He won't agree with it.

HP. If he doesn't agree we'll just have to go our separate course.

P. There's nothing we can do to—try to enjoin the committee?

HP. I don't think so. Judge Sirica's even instructed all those people to cooperate with the Senate Committee—(laughter). (Inaudible) very far with him.

P. That's (inaudible)—that's before (inaudible).

HP. Ah.

P. Yeah.

HP. And if we go to—if we file an injunction action you know, we're going to have another Constitutional confrontation between the judiciary and the committee.

P. But you've got to tell Senator Ervin that his continued investigation will jeopardize the rights of the defendants and also will jeopardize the possibilities of prosecution.

HP. That's right.

P. Understand—not on a case of (inaudible) but (inaudible) I'm speaking of a case of Mitchell.

HP. Precisely right.

P. It would well—I would think, seriously jeopardize your chances on the prosecution. If I were Mitchell's attorney, I would raise holy hell about that, wouldn't you?

HP. Precisely right; yes sir.

P. I think he will.

HP. Yes sir. And of course, the Delaney case and you probably remember it (inaudible).

P. Oh yeah. The Irish.

HP. Yes sir.

P. What happened there?

HP. Well (inaudible) we requested a Committee to hold off and they did not and as a consequence of all that the case was reversed on the basis of prejudicial publicity and (inaudible) a fair trial.

P. What was the name of that? Knowland? Or——

HP. Delaney.

P. Delaney?

HP. Yes sir.

P. He was an Irishman. (Inaudible).

First, (inaudible)—I shouldn't convict him—probably not.

HP. I honestly don't recall, Mr. President . . . I think that their (inaudible) . . .

P. Now, the second—The second is this then (inaudible) that I think, well, just is just, to say we discussed it so we got the record clear. Use the—my now charge representing me in this thing. In other words—you understand now, you're talking only to me.

HP. Yes, sir.

P. And there's not going to be anybody else on the White House staff.

HP. Yes, sir.

P. In other words, I am acting counsel and everything else. I don't want it from anybody else (inaudible). The only other person I possibly could think of would be Dick Moore but I, he's a damn good guy.

HP. He's a valuable man,

P. Huh?

HP. He's a valuable man,

P. I might say that I—if I find some day—maybe something that I want to get to you but I am just so tied up I may ask him to do it. Will that be all right with you?

HP. Yes sir.

P. You have confidence in him?

HP. Yes sir.

P. Now you understand he's a friend of Mitchell's and a friend of everybody around here, but I think totally trustworthy and I don't think you've got him involved in the—with this damn thing.

HP. There's one reservation . . .

P. He might tell somebody else?

HP. No sir. . . . and well, I'll have to check it out. Yesterday, last evening, at my home when I was talking to Silbert, we went into the . . . One of them mentioned Dick Moore. It was just a slip of the lip—no place in the conversation, and I meant to go back at them and ask them why 'cause they should not know him. I'll have to check that out with——

P. Well then don't (inaudible)—let's just—better keep it with me then.

HP. All right.

P. I need caution—I don't want to—I don't want any question raised on this. All I—you have told me now that you do not want Magruder's (inaudible) to have him canned today. Correct?

HP. Today.

P. That's right.

HP. I'll get back to you on that.

P. Because I told you that he has to go.

HP. Yes, sir.

P. All right, but you think it might jeopardize your chance to bargain with the plea? Is that it?

HP. Yes, sir.

P. How could we—it do that? He knows he's going to have to go, and (inaudible)

HP. We haven't tied that down yet.

P. Hmm?

HP. You see, I mean if he thinks we're being—if we pull the string too tight on him before these other things are tied down. We may be (inaudible).

P. Now that you've got all this information (inaudible) you can say that other people know as well as Dean—I (inaudible) Dean—

what we do about him. I got him into (inaudible) this morning and I said look I think I've got to have in hand your resignation. He's writing it now.

HP. Right.

P. And I will get it from him later today and I don't want to (inaudible) him. I said I don't want to—he wanted to spend a week (inaudible) write one that would not be harmful to (inaudible). Well I know—I've got to have it—and obviously he can't continue as Counsel. Do you have any problems with that?

HP. I don't have any problem with that. But you do, because that is one of the reasons that I wanted you to see Dean. What you do between you and Dean is something else with a—other than what the prosecution does—

P. My point was. . .

HP. . . . The prosecution has a relationship where if we as the prosecution were requesting you . . .

P. Oh.

HP. To can Dean as a pressure tactic.

P. Oh (inaudible). I see. Why?

HP. But, I have no objection to your reaching an agreement and (inaudible) are the alternatives.

P. Yeah. I see—I had a different impression last night. Remember we talked and I—you left the clear impression to me that you didn't think—you said (inaudible) I said wait.

HP. I, yes, because I need a lot more to—recommend to you that he be—he be canned.

P. Whatever (inaudible). Suppose—put yourself in my position now—now put yourself in that you're Counsel to the President now—now don't be on the prosecution side—(inaudible) our side. Dean, I think, wants to have his resignation effective after he has made his deal with you. Now (inaudible) the prosecution.

Now—query—should I allow him to do that? I'm President and I know what the—I know what his situation is. If you were President (inaudible).

HP. As President I would take his resignation and——

P. You would.

HP. Yes. As prosecutor I would do something different. But from your point of view I don't think you can sit on it. I think we have the information under control but that's a dangerous thing to say in this city.

P. Ah.

HP. And if this information comes out I think that you should have his resignation and it should be effective. We both just (inaudible).

P. There's this. This is something that we're going—you know—probably great difference of opinion in the Department of Justice (inaudible). More important for the Department of Justice is (inaudible). Presidency have (inaudible) as a result of some diligent efforts its own (inaudible). Now with (inaudible) I don't have to announce the (inaudible). We have a situation where the U.S. Attorney, in effect, the (inaudible) thing when the President has to go in and explain (inaudible).

HP. (Inaudible) for a purpose.

P. Yeah but—see—I don't (inaudible) the damn sure (inaudible).

HP. Yeah. The——

P. Yeah. See what I am getting at is this. The only things that I would say—I can say that I (inaudible) and I've got this information and the case has been broken and I've got to say that and if the Department of Justice is going to (inaudible) I've got to.

HP. Well that I'd do.

P. I've got to be able to say this.

HP. And we don't have any objection to that.

P. All right.

HP. A—a——

P. When do you want me to. When can I say this?

HP. (Inaudible) always say shy. But what we want to tie it to is the Magruder plea.

P. Yeah but I've got to say it before he pleads. I've got . . .

HP. Can't you say—yes—but can't you make the announcements?

P. Well why don't you (inaudible) Magruder (inaudible)

HP. It depends on the negotiations.

P. They're going to believe this (inaudible) if it breaks today. I don't want—you and I don't want the Washington Post to break it.

HP. No sir.

P. And after all—we have broken this—you, the Department of Justice, damn it—you see—demonstrated that the judicial system does work—isn't that right?—sometimes it takes time.

HP. I'd say that's correct.

P. But it does work.

HP. A—a.

P. You see I can't have Magruder go into open court and then I come in laying (inaudible) out of this and that the other thing. I'd like to explain (inaudible).

HP. No—that's not what I had in mind.

P. I've got to (inaudible). Before Magruder—as a matter of fact, why not today? What I had in mind is that I would—would go out with you—and at that point answer any questions. And I would say (inaudible) and talk about any individuals and so forth and so on—that are—broad ranging—and you know—proceedings going on. I can't furnish you right this (inaudible) in your own minds 'til you see what you come up with, what we can do. Now then, of course, after that (inaudible) they aren't going to object to that I'm sure—there will be plenty of kudos and glory (inaudible) just fine.

HP. (Inaudible).

P. (Inaudible) something, but the need, as you see, we've got to show that the President takes the initiative. When I get backed up here as this, Henry, I can't be here (inaudible).

HP. You're absolutely right, and my only hesitancy if that's what you sense is this—what we do can't be counter-productive. If it serves to put us out in front and serves also to cause cooperating witnesses to withdraw them it's counter-productive.

P. Which is (inaudible). You're talking about (inaudible)?

HP. And Magruder and Dean and who could tie it down.

P. Yeah.

HP. You know with Dean and Magruder. You know we have two potential witnesses—only one who has agreed to be a witness and . . .

P. On Dean, I guess perhaps you have mixed emotions on that as to (inaudible)—that might—my getting his resignation today might affect to tie it down too.

HP. Yes sir.

P. You feel very strongly about that.

HP. Yes sir.

P. Well let me put it this way—suppose I get his resignation dated today and he hands it to me and I'll say, John, this resignation is accepted the moment that you put any (inaudible) with this (inaudible). That—that—you see if I . . .

HP. I have no objection to your taking his resignation immediately.

P. Yes.

HP. My problem is with the announcement.

P. Oh—we couldn't announce it to (inaudible)

HP. I could tell him and I could tell his counsel. Well on that sort of relationship between you and the President of the United States. And I don't even intervene in that. You've got no right to sit down here, talk to us and expect me not to ask for your resignation. That doesn't bother me. It's the announcement part that bothers me, because . . .

P. All right, fine what now? How do you see—how do you visualize all that we can get to keep ahead of the curve with regard to the announcement on this—on the Magruder thing and so forth. Can we make any announcement today about your activity—your position and—well I—no that'll tip everybody off—is that the problem?

HP. Well I think so. The meeting could (inaudible) seems to me is—what about Kleindienst?—it's an expression of dissatisfaction on your part (inaudible).

P. O that's right—that's right. You've got to . . .

HP. How do you handle it?

P. (Inaudible) where he wants them to (inaudible). Get it done(?) and get it done today.

HP. I'll call him.

P. (Inaudible) out.

HP. Oh I can't say he's with 'em. We're all outside in a storm.

P. But this—what's (inaudible) think of this?

HP. Personally, (inaudible) well I've been (inaudible) and have advised the Jury of that fact and two that Gray, from what Titus who has (inaudible) of the (inaudible) over there has to go in to see Sirica.

P. I don't think (inaudible) that's (inaudible).

HP. That's (inaudible). I don't think he will do anything unless it's in the current (inaudible) of proceeding he's in (inaudible). I can't conceive a point which of Titus and—if there—

P. This timing thing I think is terribly important you know.

HP. I think it is.

P. Can't have the President—after all—after all these months and what we've gone through and now once I have learned something of it I say "bah."

HP. No—no. Well.

P. Better we.

HP. I think we ought to talk of alternatives in general terms.

P. We can't. No, the announcement—what I had in mind would be (inaudible) announcement—still to the (inaudible) going to name several other people who were involved . . . (inaudible) because of the people named (inaudible) language used. (Inaudible) some people (inaudible) judgment (inaudible) matter for the President (inaudible) special, I'm going to call him special counsel (inaudible) this case (inaudible) possibility before he walks into that open court (inaudible) can't get to that today (inaudible) meeting with (inaudible)?

H.P. (Inaudible) question. (Inaudible) I told him one, I would be willing to go (inaudible) and advise his lawyers of that fact and two that they—and by that I mean Titus who has the best relationship with Sirica over there—is going to have to wait and see Sirica, ah—

P. (Inaudible)

HP. That's a problem. That's a risk we would have to take. I don't think he will. I don't think he will do anything unless it is in the context of a proceeding in his court. I can't conceive of him urging the (inaudible) of Titus and (inaudible).

P. (Inaudible) timing on this is terribly important you know, because—

HP. I understand it is.

P. You can't have the press—after all these months and what we have gone through and all. Once, I find something out—I say—ACT! Better we . . .

HP. Well, I think we ought to talk of (inaudible) in more general terms, Mr. President.

P. You can't. No—the announcement—what I had in mind would be—the announcement—stick to developments and if he's going to name—several other people were involved (inaudible) other people—then my concern—were wrong and (inaudible) abuse and something has been charged. And that the President (inaudible)—I'm going to tell them that the (inaudible) Counsel has resigned.

HP. Why can't you not have Ziegler make a statement that—a—well—that you as the President have taken it upon yourself to personally inquire into the Watergate situation.

P. All right—what else?

HP. And.

P. That I designated Henry Petersen as my special counsel?

HP. That's fine—and that—particular (inaudible) been made that I am not in a position to disclose, but there have been major developments.

P. Say that the President has done (inaudible)—Sunday—but I've been in it for two weeks actually now and it's (inaudible) happened there (inaudible) incidentally (inaudible)—a month ago I got Dean in and said (inaudible) a report (inaudible) Camp David and write a report. The report was not frankly accurate. Well it was accurate but it was not full. And he tells me the reason it wasn't full, was that he didn't know. Whether that is true or not I don't know. Although it wasn't I'm told. But I am satisfied with it and I think I've read enough in the (inaudible) (inaudible) papers up here. So then I put Ehrlichman to work on it.

Ehrlichman then worked for two weeks and he got materials together which—virtually—this is before—he got together a case basically hypothetical—based on—without orders—without knowing what the hell Magruder was going to say, which is (inaudible) what led to these same conclusions. Get my point? (Inaudible) called Kleindienst on Saturday, (inaudible) before Kleindienst (inaudible) and said look I've got this. Saturday afternoon Magruder, as you know came in. So we've seen—we got the wire about the same time but I—if it—it's a pretty good record in that respect. Because I had worked (inaudible) I said now damn it get these facts.

HP. It was Friday, you say, sir?

P. (Inaudible) Friday—Friday the thirteenth I guess.

P. Friday the thirteenth—but was it Friday?

HP. Yes sir.

P. Are you (inaudible)

HP. Yes sir, because I was down on my *boat (inaudible)*

P. Well—what could (inaudible) I could say that in the past (inaudible) the President—the President for the past two weeks conducted a personal investigation into this (inaudible) have used Ehrlichman, and a, where as Ehrlichman is involved in a way that you might be (inaudible) absolutes (inaudible)—absolutely impeccable going after facts.

HP. Well I'm concerned about that because of a . . .

P. If John is not . . .

HP. (Inaudible) Ehrlichman

P. Huh?

HP. In connection with Ehrlichman, I've got to point out something to you.

P. Yeah.

HP. You'll recall, one of the things that Dean says about Ehrlichman and—he was instructed by Ehrlichman to deep six certain documents that he found in Hunt's office.

P. Yeah.

HP. And that he thought better of that and gave it to Pat Gray.

P. Right.

HP. Well—several months ago I asked Pat Gray—a very casual conversation—did you ever receive any documents from John Dean. (Inaudible) Gray tells me was that he did not and he said no. And I just let it go at that.

P. My God.

HP. Thereafter I heard he had also told Fred Fielding that he had given certain documents to Gray.

P. Who told you—Dean?

Dean told me he also had told Fielding—Fred Fielding. When I leave here I'm going to stop by Fred's office and talk to him. Today I went up to see Gray. Well I asked him, he said that was absolutely untrue. He said I have never received anything from Hunt's office except through the Agency. Dean never gave me anything. So I'm going back to Dean on it, and I'm gonna leave here and talk to Fielding, and see what his story is on it. Incidentally, I have no (inaudible) that Fielding is involved. I just want to know what Dean told him about this.

P. Well I don't know, but you better ask Ehrlichman, too.—Dean (inaudible)

HP. We will ask all of them. . .

P. He was the one who was supposed to have (inaudible) and then told me I said what the hell's the story on this. He said that was never done. He said we were just talking about—what the hell is this? In fact, let me point out what I know—for whatever it's worth because I did conduct my investigation after I got this from you. I said what is this for—what is this stuff. He said—basically, let me just say, what's been done and the wiretapping material and all that business—all of that was, of course, turned over to the (inaudible).

(Inaudible) in the safe also, were documents—documents that had no relation to the Watergate whatever. They were what they political documents.

They said—he said we just sealed that up and,

HP. (Inaudible) Gray

P. (Inaudible) then you have both Ehrlichman and (inaudible). Word against Ehrlichman's and Dean's.

HP. Maybe Dean—maybe Gray has to stimulated his recollection—maybe he got an envelope that he never opened. Strange as that may seem. But he said categorically no.

P. Well he's right in saying any documents about this case apparently.

HP. That's right and I explained to him that these were not documents relating to Watergate, and he said I never got a thing. In this crisis, atmosphere that denied it, he denied it (inaudible) two months ago when I asked him casually. I don't know (inaudible) to reconcile that, that. . .

P. How do you reconcile that? How the hell are you going to reconcile that?

HP. Well, I guess we (inaudible). Ehrlichman, at some stage (inaudible) under oath on it. For one thing, we'd better get Fielding (inaudible).

(Inaudible). Call the Director of the FBI?

H.P. We may have to.

P. (Inaudible) it's worth, because Ehrlichman tells the same story. I think Gray did get something. And probably destroyed it.

H.P. Probably (inaudible) he did.

P. My suggestion is that—I mean—I have alerted—I have a suggestion—I think you better talk with Ehrlichman.

HP. All right.

P. Because Ehrlichman's recollection is that—he—I think he thinks he (inaudible)—you better tell him—better tell him what Gray has told you though.

HP. (Inaudible).

P. (Inaudible) now this is what he says and it may be that Gray just hasn't any recollection of what the hell it was and thought this was—well if it's not related to this case and fearful there is no place for political stuff in the FBI—that maybe was what he was thinking of. I don't know—I don't know what the hell the justification was—he could have—then he might be a rationale if there is a rationale.

Gray says he didn't get anything?

H.P. Gray said he didn't (inaudible).

I think that (inaudible) all this down in this notebook.

P. Oh.

H.P. I don't think there's anything here that I didn't tell you yesterday except Strachan came in this morning.

P. Yeah.

H.P. And he was warned of his rights and despite considerable fencing he didn't want to answer any questions. So they've sent him out and told him to get a lawyer and come on back this afternoon.

P. Oh he pled self-incrimination?

HP. No—they didn't meet in Grand Jury. It was just a pre-appearance interview and they sent him out to get a lawyer. He didn't want to talk about it.

P. Oh.

HP. So he is coming back—supposed to come back this afternoon with counsel.

P. He's not talking? I thought he was going to testify.

H.P. Whether or not he—well he may testify—but at this point.

P. Why didn't he have his lawyer with him this morning?

HP. Apparently he didn't think it was necessary—You see he appeared before the Grand Jury last week.

P. Yeah.

HP. And the questions asked were very easy—frankly, they were about political contribution violations and whether or not—Hunt and Liddy and (inaudible) expected to be more of the same.

P. All right, the point . . . (inaudible). Take this situation about this deep six thing.

HP. Yes, sir.

P. Is that enough to hang Ehrlichman on?

HP. No sir—I don't think it is. Well (inaudible) my point . . .

P. Well Ehrlichman says deep six it. I mean, he says we were talking about this and Dean says (inaudible) put it in. (Expletive removed) all it is (inaudible) is just a (inaudible) with the damn Bureau again. (Expletive!)

HP. Well, that's a . . .

P. (Inaudible) I pray to God (inaudible). Don't let me judge between these guys—these two guys?

HP. Okay. The second thing I wanted to mention to you, Mr. President. You asked whether or not there was any problem about having the (inaudible). I don't think there is. But there is this situation you should be aware of.

P. Yeah.

HP. Part of Magruder's testimony *goes* to the obstruction of justice—suborination of perjury, and he says that lawyers were involved, and Mardian was involved and that he cultured his testimony, cross-examined him on it. Dean was (inaudible).

P. Yeah.

HP. Ah.

P. Pardon me, Dean coached him too?

HP. Yes sir.

P. On that.

HP. Both of them.

HP. Then, after he appeared Dean called and said you know what went on? And I said, well, (inaudible) a good witness in his own behalf, but, the jury just was unable to swallow . . .

P. The story . . .

HP. That he or anybody else was (inaudible).

P. You told (inaudible).

HP. The amount of money. Yes, Sir.

P. Now why the hell didn't Dean tell me that?

HP. That—but in any event I guess—the Grand Jury did believe him on that.

P. (Expletive.)

HP. At that point—that was in the course of the inquiry, because he was allegedly developing for you as President's Counsel to keep you informed of what was going on.

P. He said that—he (inaudible).

HP. But Magruder says then Dean called Magruder and said—you passed. I have talked to Petersen—you passed in your Grand Jury appearance. Now the . . .

P. What did you tell Magruder (inaudible)?

HP. Dean?

P. Dean—I'm sorry.

HP. I told Dean that he made a good witness in his own behalf.

P. But the Jury didn't believe him?

HP. But the Jury had some difficulty in accepting the story with respect to the money—that is—that anyone could . . .

P. Oh you mean the money for the bugging

HP. (inaudible) hundred thousand dollars and not ask what the hell Liddy was doing with it, which is what Magruder was testifying to.

P. OK—go ahead.

HP. Dean then calls Magruder, according to Magruder, and says Petersen says you've passed. Now that has great relevance in terms of the subornation of perjury charge. And the possibilities are . . .

P. Well, when (inaudible) after—Dean said, you passed?

HP. Yeah—the possibility is that I could be witness.

P. Dean told Magruder—you passed. That's what Magruder says.

HP. That's right.

P. So you—and that—how's that involve subornation and perjury? Oh, I see.

HP. See they previously could engage in the cultured story—then go in. Dean was party to that. After he testifies, Dean calls me and says how did he do? I tell him. Dean then passes it on to Magruder, in effect—and "I told you it would be all right if you just testify the way we said, Petersen says you passed." I—conceivably, I could be a witness on that issue.

P. But

HP. Silbert

P. Is?

HP. No, no sir—he is not (inaudible). (Inaudible) it.

P. (Inaudible) not supposed to talk to you—and you were not supposed to tell Dean (inaudible).

HP. I didn't tell him (inaudible).

P. He's conducting an investigation for the President.

HP. That's right.

P. Dammit, I'm entitled to know this.

HP. And I can tell under the rule

P. Yeah.

HP. Those that (inaudible) to the extent that it's necessary to discharge my obligation

P. Yeah.

HP. And I didn't tell him any testimony in any event.

P. I see.

HP. I told him what occurred, that is to say the Grand Jury didn't believe his story—yes he was a good witness on his own behalf.

P. That's right.

HP. But I don't think. That's

P. You characterized it rather than give him the substance of it.

HP. That's right. That's right.

P. OK. (Inaudible) on—may I have that piece of paper please.

HP. Yes sir

P. This is on Haldeman and Ehrlichman?

HP. Yes sir

P. Right?

HP. And incidentally, you asked for Colson. We have very little on Colson. Colson's alleged to have been putting pressure on as a member of the White House staff,

P. Yeah. I know—I have heard that part of it

HP. But that's all.

P. Well listen I know all that, but I don't know whether it's bull. But everybody put pressure on, but the point is whether or not Colson and/or Haldeman put it on for money

HP. We don't know that.

P. That's the point.

HP. We don't know.

P. Colson denies it—and Haldeman denies it. Haldeman says he wanted it for one purpose and Colson wanted it for another purpose. Colson used the word O'Brien at one time I understand.

HP. I don't know—we don't know that. If we learn that that's going to be very damaging piece of information because our information is that O'Brien was a specific target of—

P. Hhm?

HP. The Liddy operation.

P. See—I don't know—I don't.

HP. But we don't know that.

P. O'Brien—what the hell—(inaudible) another—or Colson—it must be—I have heard that O'Brien—you told me that I think—you must have told me that—or (inaudible)—about somebody had said get (inaudible) Mitchell—Dean said—or Dean—it must have been Dean then—Dean said that—said Magruder had said that Mitchell said get the stuff on O'Brien. Is that correct? Does that have a (inaudible)?

HP. I don't know that.

P. Does that ring a bell?

HP. I don't know that. No, Sir.

P. Well put it down—if it's relevant—somebody ought to think—I heard something about O'Brien.

HP. Is it—it is true in this sense that O'Brien was allegedly the target of the Liddy operation which was being financed with the blessing of Mitchell and Magruder and Dean. It's true in that context.

P. Oh I see.

HP. But I don't have it specifically from anyone of them.

P. Hhmm. You don't have it on Colson—I hope not.

HP. No sir—I don't have it on Colson—now we are going to interview Howard, who is a—

P. Dick Howard?

HP. Yes sir.

P. What do you have him on?

HP. Just on Colson's activities—you know—whether we can tie any of this down with respect to—

P. He's a clean guy I think—I think—I hope so.

HP. Well—only as a witness—we have nothing against him—we look (inaudible).

P. So, as far as this thing you don't have that on Colson?

HP. No sir.

P. Well who is it? I saw so many people over the past (inaudible) I was sure that you told me or maybe Dean did—Dean—Dean speaks rather freely at the moment. I guess he may have told me about—he seems to know everything about Magruder and this kind of thing. Now (inaudible) telling me about what they have on Colson. You sure you didn't talk to someone about that?

HP. Yes sir. At that point that's all I know. And I just discussed this with Earl Silbert before we came up here.

P. Nothing afterwards on Colson—nothing on the aftermath.

HP. No sir.

P. Nothing on?

HP. Allegations that Colson's involved but we have nothing specific.

P. No, no, no—I understand that. What's the situation on one other thing here. (Inaudible) I want to get to the bottom of it if I can, so.

HP. If it weren't for the subject, then, otherwise we could—

P. I want to get to the bottom of this. What is the situation on—come to—let me come to Magruder again. You don't think you could get new evidence—you would not mind—would you mind that release you talked about—with Ziegler in working out—see if he could work out some sort of a statement or do you prefer to go on (inaudible) not work work out a statement? It's gonna involve you, that's the point. (inaudible) I got the point that you feel that you could say that. There have been some major developments in the case, and the past few weeks, the President has been conducting his own investigation.

HP. I think that's fine, and I wholly support that.

P. Yeah.

HP. The only reservation I have.

P. You don't want to put your name in it yet.

HP. Well I don't have—that's up to you.

P. I thought you said Sunday.

HP. I don't have any objection to that.

P. Sunday. Because —

HP. I don't want the—

P. Because—

HP. I don't want the (inaudible) defendants named.

P. What?

HP. I don't want the punitive defendants named.

P. Oh, of course not.

HP. (Inaudible), and I don't—

P. Wait a minute—then how do I get you into it?

HP. You just—

P. And Kleindienst out? Because of allegations that have been made, Kleindienst has removed himself from the case, can we say?—Well how you want me to handle Kleindienst?

HP. Well I think that's terribly sensitive, Mr. President.

P. How do we.—What do I say then about you? That Henry Petersen is acting as the President's Special Counsel? Can I say it that way?

HP. Yes, you can say it that way.

P. (Inaudible.)

HP. And I think just refuse any direct questions with respect to Kleindienst.

P. Then Sunday—Sunday—he has met at great length with Henry Petersen who is acting as Special Counsel at this time.

H.P. I think.

P. Hh? No?

HP. I think they—that my concern is (inaudible).

P. First, your concern is—

HP. Concerns are: One, if you say there are major developments and then you—you leave the innuendo.

P. Yeah.

HP. That Kleindienst was out—it looks like Kleindienst is a defendant.

P. I get it.

HP. So we ought to avoid that. The second thing is that we can't—we can't expound on that.

P. All right (inaudible).

HP. Why Kleindienst has refused.

P. For two weeks the President has conducted—conducted a personal investigation. (Inaudible) about that. He has nothing more to say at this point. (Inaudible) add something.

HP. I think (inaudible) plusses in that.

P. Then at least you're covered. Would you mind if I got Ziegler over and you and I go over this?

HP. (Inaudible.) No sir not at all.

P. Have Ziegler come over please (Into phone) All right. Getting back to the nuts and bolts here. La Rue—did he testify today (inaudible)?

HP. He is coming in this afternoon (inaudible). He is coming without a lawyer.

P. But he is going to (inaudible) interrogatories to him. As I understand you are going to get him to (inaudible).

HP. We anticipate that's the reason he's coming without a lawyer—be we don't know. He'll be in this afternoon. And O'Brien, the lawyer, is coming in. He's very much concerned about the potential subornation charges. He's coming in this afternoon.

P. Subornation is the charge made by Magruder?

HP. Yes, sir.

P. Questions there is again (inaudible) want to prove (inaudible).

HP. Well I suppose that's right. He says Dean corroborates it to a certain degree.

P. How does Dean come out on this thing? Well—Oh, I see. If you—you can negotiate—you can negotiate him out by when he talks? Is that basically it? I mean—

HP. The decision isn't made. His counsel says we want a deal. This man was an agent. This man didn't do anything but what Halde—

P. Haldeman and Ehrlichman told him to do.

HP. and Mitchell, and if you insist on trying him we, in defense, are going to try Ehrlichman, Haldeman, Nixon and this Administration. That's going to be our defense.

P. He'd try it—the President too?

HP. It's a goddamned poker game. Yes, sir.

P. Yeah.

HP. (Inaudible) we spoke yesterday—it's just awful tough to offer John Dean immunity at this point. (Inaudible) both of his *lawyers last* night after you called.

P. The only point that I want to be sure we understood on that is that I don't claim to be his higher authority. Mitchell is his higher authority—I don't know who he is referring to.

HP. Oh I understand that.

P. But I just want to be damned sure that.

HP. When I use that term—Liddy's a nut you see.

P. I have never met the man. I don't know.

H. He's a—he's kind of a super patriot—

P. I understand.

HP. In a sense.

P. (Inaudible)?

HP. (Inaudible)—No—we called—I called Tom Kinnelly, who I know very well and told him—he's co-counsel—local counsel. Then Maroulis his principal lawyer, called me and I told him also, and told him in these terms. That a report had reached the government that Liddy out of a misguided sense of loyalty to the President of the United States was refusing to cooperate, and that I had been instructed by you—

P. Yeah.

HP. To inform his lawyer that the President wanted everybody to cooperate

P. Exactly

HP. Subject only to the qualification that no one of us wanted to be construed that the President was putting undue pressure on him, and—

P. Good. You told the lawyer that?

HP. I've got it written down. I've made memorandum for the file so that it protects you and—

P. Right—right (inaudible) influence?

HP. Yes sir.

P. You got that report. I guess Dean was the one who made it clear that I told him while you were—while he was here.

HP. I *told* you we'd received it but Dean also gave you the same report. Now, Maroulis, who's Liddy's lawyer, flew down from New York last night and we had Liddy brought over to the jail so that Maroulis could interview him and give him this information, and we will see what develops.

P. How did—now let's see—this would be your corroborating witness for Magruder?

HP. Basically. This man is crazy, Mr. President. He's burning his arms. He showed the prosecutor and said, I will stand up to anything. I've made myself endure this to prove to myself that I can take anything. Jail will not break me and what have you. You've got to be a crazy man to sit there and burn yourself to see if you can withstand the pain.

P. I feel, among others, I feel for the Cubans—they probably—they probably recruited them (inaudible) 'cause they were doing it for Castro or something.

HP. I think they did, I don't—

P. Do you see how anybody would do such a silly damn thing like that otherwise?

HP. Mr. President, the great mystery about this thing is—there's no rationalization for—

P. That's how (inaudible) puts it—I agree. I couldn't believe. I said (inaudible) got to be a joke—

HP. There's no rationalization at all.

P. When I heard it.

HP. Oh, incidently, I have—there's one other item that I wouldn't put down. That in the course the negotiations, in the course of trial preparations, it became clear that Hunt had received certain documentation from CIA. He also received the loan of a camera and what have you.

P. Yeah-yeah-yeah.

HP. We anticipated that they might—the defendants might—try and defend by attacking the CIA. We asked the CIA people—we were told that they were simply responding to a routine request from another government agency to help out Hunt who was on a special assignment, and they—

P. This was (inaudible) the White House?

HP. Yes sir.

P. That was perfectly proper. He was conducting an investigation from the national security area for the White House at that point.

HP. They also said—

P. That wasn't bugging equipment I trust that they got from the CIA.

HP. No—it—

P. Camera?

HP. Camera, a thing to disguise you voice, credentials.

P. Yeah.

HP. What have you. We are also told that the request for that came from Ehrlichman. First we asked what agency and they said the White House. Then that the request came from Ehrlichman.

P. Right. That is not involved in this case, is it? (Inaudible) This came before.

HP. Came in the course of trial preparation.

P. But—what I am asking is—is it relevant to this case? Is it a matter (inaudible)—

HP. Well it's relevant in this with respect to Ehrlichman.

P. Yeah.

HP. The question is did Ehrlichman—

P. Depends on what he was doing.

HP. facilitate Hunt's obtaining equipment that was used in conjunction with the Watergate caper?

P. That's right. Or was it—it's a question of time there as to when (inaudible). Do you know the time mode?

P. What else?

HP. Check that camera—they had some pictures developed for him. I'll have to check the dates for you. Mr. President.

P. Right—come in. (Ron Ziegler comes in.)

Z. Hi—how are you?

P. Henry Petersen.

Z. Yes indeed.

P. Let me tell you the problem, Ron, that we have here. You know a few weeks—now do you think Henry that you'll get—that you could—you don't know what—about the Dean thing— you don't know when you are going to negotiate that?

HP. No sir.

P. It seems to me

HP. The simple fact of the matter is the man has just agreed to plead. Now it's only a question of time.

HP. He's agreed to plead.

P. Plead what—guilty?

HP. Plead guilty—yes sir—Magruder has agreed to plead guilty.

P. No—no—no—Dean?

HP. Oh Dean. The negotiations on Dean are still wide open.

P. Dean isn't going to plead guilty?

HP. No sir.

P. He's got this defense of being an agent? Right?

HP. That's right.

P. Is that defense?

HP. Well it's a tactical defense—

P. It's tactical defense?

HP. Well, you know, the jury appeal unless you—in a sense jury notification of sympathy—that the jury will not convict because they think he's the fall guy.

P. Oh I see—well (inaudible)—the Cubans.

HP. Depends on how sympathetic an appeals is made.

P. That's my point.

HP. But Dean's appeal's much more sympathetic. Dean's out for anyone on instructions, and he hasn't gone out and committed an overt criminal act. He hasn't broken any thing the Cubans did—which is what detracted from their attempt to do this. Dean has done—performed neutral acts which in the circumstances they were performed take on the trace of criminality, and he excuses that with, one—he wasn't fully informed; two he was only an agent; three, he didn't have enough authority to countermand Mitchell—or he told Haldeman and Haldeman didn't countermand. Dean was impotent in the circumstance. That will be his defense.

P. I see.

HP. (Inaudible) try it—the jury—you believe—

P. Also told you that unless you grant him immunity he's going to attack everybody including the President. Is that right?

HP. But you can't use that.

P. Huh?

HP. You can't use that.

P. Who can't ?

HP. Because Dean didn't tell us that.

P. The attorney?

HP. His lawyer said it.

P. No I didn't—I didn't—I just thought—

HP. But his lawyer said that in the course of negotiations. And he doesn't say that as a threat. He says this is what I am going to do. This is my defense. You're taking unfair advantage of this man.

P. Oh I see. Going to go out as an agent?

HP. Yes sir.

P. No agent for the President that's for sure, because—

HP. He's agent for Haldeman and—

P. He hasn't testified that's he an agent for the President in any of this has he?

HP. No sir.

P. If he has, I need to know it.

HP. Yes sir—I know.

P. (Inaudible) see Dean until a month ago. Never even saw him.

HP. That has great significance on your executive privilege argument with the Congress. He said narrower construction and I'm told your construction—

P. Yeah.

HP. Is not necessarily narrow.

P. Yeah.

HP. It's the narrow construction of the doctrine which is applicable only to those who are agents for the President.

P. Yeah, So he, being an agent.

HP. That—and to the extent that it's invoked with Dean—he is per se an agent.

P. That wasn't what you just told me in that memo you gave me?

HP. That he is an agent for the President and Haldeman and Ehrlichman,

P. Yeah.

HP. And the court take judicial notice, for example, that the Chief Executive invoked executive privilege with respect to him. It's an argument that can be made with respect—your argument—

Z. I thought that was already done.

HP. Pardon?

Z. It's been done.

HP. (Inaudible), statements have been made in the press that it would be.

Z. Oh I see.

P. (Inaudible) basically this—they haven't made a (inaudible)—Dean—but you are trying to make a deal, aren't you?

HP. Yes sir.

P. And the problem is that what kind of a one you can make won't be a (inaudible). I would assume that we (inaudible) to Dean— all Dean wants is immunity from indictment.

HP. Yes sir.

P. You're prepared to give it to him? The judicial one?

HP. Yeah. We're not going to like it.

P. What?

HP. And only as a last resort. And only if—

P. (Inaudible) going to get

HP. Only if we have—

P. Other evidence?

HP. Other evidence that could be used to convict higher-ups. Now it may only be John Mitchell but if so, why a—

P. But you could use Dean on Mitchell—that's the point.

HP. Yes sir.

P. You see with Magruder you end up with one man—he's already lied once.

HP. That's right

P. I know a little of perjury—and with Dean—you've got two men.

HP. That's right.

P. Correct?

HP. That's right.

P. If you get Liddy you've got three.

HP. That's right.

P. That will be a tough (Inaudible) that's why you're considering giving him immunity?

HP. Yes sir.

P. You think it's a good decision.

HP. (Inaudible)—I haven't made it yet and I'm pondering it—and I don't want to make it. I think it's going to look terrible if we immunize Dean 'cause he is a ranking official and we're still bargaining for a plea. If we can get a plea, we won't do it. If we have to—

P. What kind of a plea would you be getting, Henry? I don't know the operation of it.

HP. Well I don't know—we might a—

P. Suspended? That sort of thing?

HP. Well.

P. He wants a plea that doesn't disbar him.

HP. He wants a plea that doesn't disbar him—he doesn't want to plead at all to be perfectly honest, but he'll want a plea that doesn't disbar him I'm sure.

P. Here's the situation. You see they're still bargaining with Dean. Second the Magruder thing—they're still bargaining with him. Is that correct?

HP. Yes sir—to determine a time.

P. But you think that might come—not today now with Magruder?

HP. Well I don't think that we can satisfy his counsel's concerns today. They may say, well you go see Senator Ervin first.

P. Well let's think about the Ervin Committee and—

HP. And Judge Sirica.

His counsel said he ought not go to jail before the others. And it's conceivable that they'll say you go to see Senator Ervin first. He's wrote the whole (inaudible).

P. Hhmm.

HP. OK.

P. So with Magruder you've got the (inaudible) then.

HP. That's it.

P. However, he suggests that we could say this for the—he says that—he said—and I would get from John Ehrlichman—the amount of time—the past—it's either two weeks—I think perhaps we could say for the past such and such in talking to—Remember when I first saw Dean—called him in and sent him to Camp David. I think that was before we went to (inaudible).

Z. It was March 21st

P. March 21st? All right—fine. March 21st. Since March 21st the President has been conducting a personal investigation into the entire Water matter. There have been as a result of that investigation (inaudible) significant developments. The purpose of that—I have been thinking—I have been talking with—he said—Henry agreed with me that the President should be out in front.

HP. Yes sir—that's the reason we were so insistent on seeing you again.

P. Yeah—

HP. Yesterday.

P. Second—and the result of that is that—that's going to—that's going to—that's going—that's why I run it by you in this—at least if Magruder or Dean are summoned by the Grand Jury today—go in or talk or something or we just don't know. But the Washington Post with all the stuff it has. Whenever they move we're a step ahead. How's that sound to you?

HP. Can we add to that Mr. President—

P. Yeah.

HP. In terms of your suggestion last night?

P. Yeah.

HP. That there had been some speculation that individuals involved in this thing are protecting, out of a misguided sense of loyalty the office of the Presidency, and that you want to make it clear and you asked members of your staff and everyone involved that you expect their full cooperation with the prosecutors.

P. (Inaudible) the problem is that we said that before you know and it never—I don't think it gets through. What do you think Ron about that? The President has again directed, I would say, has again directed that everyone, that all individuals on his staff and in the campaign committee, cooperate fully in this investigation with the U.S. Attorney's Office—with the U.S. Attorney—The United States Attorney. I think I would put in that and keep it out of the Ervin Committee—you see?

Z. Yes sir.

P. And that—and that—you see the misguided sense of loyalty thing—has there been an article in the newspaper?

HP or Z. (Inaudible).

P. You see I am afraid—afraid to throw that out there—I think you better leave it right there—has directed—the misguidance of loyalty we can handle in an individual (inaudible)—but this message will get through.

HP. All right.

P. I don't want to admit—dammit—that anybody's so dumb to say that the—which they are, of course. Now Ron, brainstorm that for us—what do you think—that's—

Z. First of all, the way to do this, and I think we should do this, but the way to do this—the feeling that something is happening in town and you (inaudible).

P. What you could say is that I'm not going to comment on developments because it could prejudice—it could prejudice the rights of—

HP. of the prosecution or defendants.

P. Well, shall we say, the (inaudible). They could prejudice the rights—it could prejudice the prosecution or the rights of defendants and innocent people. Cause you see they are not all defendants.

HP. Yeah.

Z. Doing this puts it (inaudible) that paragraph.

P. (Inaudible).

Z. (Inaudible).

P. Developments? That the major developments that are now being—can I say major developments that are now considered by the Grand Jury?

HP. Yes.

P. Major developments that are now being considered by the Grand Jury. As a result of this investigation there have been some major developments that are now being considered by the Grand Jury.

Z. (Inaudible) you said that? We face a situation where—

P. They'll run to—

Z. they will—have you said this?—we will face the situation number one (inaudible) conclusions about the scope of this (inaudible). Those people who are holding information will be under great pressure to move quickly with whatever they have.

P. Oh—then maybe you don't want to do that.

Z. Then— thirdly, doing this in this form, would very likely have—could have—a tendency to (inaudible) further to have McCord issue statements in behalf of others or

P. You're probably right.

Z. Anyone. That could be the result of a statement like this. Then fourthly, I suppose, we would receive extensive questioning in terms of well how was the President conducting this investigation? Is Dean involved in it? And you know—

P. Hhmhp. He was (inaudible) the time.

Z. Well I understand, but by a story of this sort

P. (Inaudible)

Z. You would have to cut Dean out of the pattern. We would almost be forced to, in response to questions, to cut Dean out of the pattern. We would have to say no Mr. Dean was not involved in this which would lead to substantial speculation with regard to Dean's role and I don't know that John's state of mind at this point could lead to an open production on his part. I think—what I am saying is there is a tendency—(Inaudible).

P. Maybe we should say nothing then—what do you think? (inaudible) asking public relations questions (inaudible) not your job.

HP. (Inaudible)—the only thing I'd want to do—

P. It crosses the line?

HP. There is an undercurrent going through this investigation now

P. Yeah.

HP. And it's getting through to the participants and potential witnesses. They've heard all the arguments and they are moving—there's a lot of movement—and nobody wants to be the last one in. They're all trying to get in first to talk and get the best deal they can. Those who have not been contacted are nervous and waiting.

P. Yeah.

HP. Something like this (inaudible) makes a good point, could precipitate them to run up there to Sam Dash and then we're in great difficulties.

Z. In other words, if there's a summons—

P. No—I don't think we can do it—we'll just have to cover it Ron in terms of—that the damn thing—we've also had this understanding, I do want to have this understanding, but—

HP. OK—but can't (inaudible) Mr. President?

P. And Magruder—but Magruder—what?

HP. Can't we go at it in another way?

P. How's that?

HP. Well an awful lot of your friends in the Congress are saying unkind things—

P. Yeah.

HP. About the Watergate investigation. How—how—if you have—maybe bring a half a dozen of them over here—from both sides and talk.

P. Ahh—no—they'd—that just breaks the story bigger—if we did—it would be the same story. I'd rather have it come out if we're going to do it—you see they'd go and say there have been some major developments.

Z. See, of course, what you're doing this for will—of course, it does put the President immediately out in front.

HP. (Inaudible) have much more at stake in this than I have. I think that's terribly important. I don't want to exaggerate but it seems to me that the—

P. May—may be it's just as well to let the Washington Post and the rest (inaudible).

Z. (Inaudible)—I wanted to raise those factors to see what—

P. (Inaudible) put some pressures on and so forth but it isn't going to prejudice the prosecution is it, if I say this?

HP. No sir, (inaudible).

Z. I don't know—know who he is, but what if someone who's sitting there waiting for a phone call and sees this bulletin—

P. I lean to doing it and—I think I've got to get out in front and let's get out right today.

HP. Personally, I think you have to too.

P. Right—I've got to get out and I've got to get it out today.

Z. This would be (inaudible).

P. *(Inaudible)*. Can I also say that I've—can I say that—we don't want to get into the business—for example, say that I met today with Henry Petersen and that—

Z. That would add an awful lot of questions.

P. I met yesterday—that he's—that—these—the—(inaudible) no, let me say this. First, on Friday the President—I think we should say which we have—that Ehrlichman and all—Friday the President gave the (inaudible) the Attorney General the results of his own investigation. Would that be a fair account of that?

HP. An overstatement.

P. It overstates it, because you see the Ehrlichman thing really states everything that Magruder (inaudible) corroborated the next day. We don't want to overstate a damn thing. All right—we'll just say this—that we have had discussions over the weekend—why don't we say that? Has had intensive discussions over the weekend with the Attorney General, Mr. Henry Petersen (inaudible) and has continued to have discussions over the weekend and today—extensive discussions.

HP. That's all right.

P. You better get out a.

HP. I do think it's important.

Z. Let me add to this sentence. The President was conducting personal (inaudible) into this matter and to see (inaudible). (Inaudible) press (inaudible) conducted a personal investigation of the Watergate matter.

P. A personal investigation—after all—that was after the—this was after the McCord—In other words, because of allegations that have been publicly made.

HP. I would say, "As a result of developments in the past several weeks the President has found it necessary to—"

P. Yeah—the President has—the President on March 21 has undertaken a personal investigation—you know, has undertaken his own personal investigation.—intensive investigation. Whose handling it? He is—done personally. I 'd just say he—just—let's say—all the facilities that are available to him. How's that sound to you Ron? And better say FBI (inaudible). say, over the weekend he has met extensively with the Attorney General, Mr. Henry Petersen. (Inaudible) Helpful (inaudible) it really (inaudible). It'll knock true—let me say this—I think—put it this way. I think maybe the fact that I finally—when we get Dean—let's face him—face the facts, that the very fact that I kept asking him what the hell is this? Go up to Camp David and write it. And Dean says I can't write a report. I think he then became convinced the moment of truth had arrived. And that's why he began to talk to you. That's what he told me yesterday. So you see that at least is something we can—the Dean thing is.—Now, as a matter of fact I—I must add that I didn't know he was not coming fully clean.

Z. Should we express concern?

HP. The questions are going to (inaudible).

P. What?

HP. Obviously the President was unsatisfied with the report he got from Dean.

Z. Is that correct?

P. That's correct—yes. It was all based on—based on what, you know, based on the information that has been—

Z. (Inaudible) concern (inaudible) White House.

P. I—just—you know—I'm not going to.

Z. Is the President's concern with the over all developments. Should we have a line that the President is conducting a personal investigation.

HP. The President is concerned with the evidence. The evidence will determine where we go.

P. Yeah—but I would say—gentlemen, any comments upon this would be harmful to the people—could jeopardize getting the truth—could jeopardize the prosecution—the rights of defendants or of innocent people. The rights of potential defendants—the potential defendants or of innocent people. And therefore, there can be no further comment upon it. I'd just (inaudible) it right out there and that puts a shot across the bow. Let (inaudible) scream out—let McCord go on—that doesn't help any. They don't have what we have. Let's put it this way, Ron. We know what we've done. We've got Magruder and Dean. There's also La Rue and a few others. I'd take that—and see whether—you want to run that by somebody and talk to Dick Moore or—

Z. (Inaudible) Moore and—

P. Yeah—okay fine—and then let me know right away. I want to finish with Henry—get him back to (inaudible). Fair enough?

Z. Yes sir.

P. It's my inclination to go with that today, though, I—

HP. We have no problem.

Z. I think I'll be inclined to handle this on the basis of providing it to, in other words, what has the activity been around the White House and so forth.

P. (Inaudible) saw me to leave the church service and I—

Z. Give it to a wire service story—the wire services can confirm it later instead of calling (inaudible).

P. No, no, no, no—I wouldn't call—I'd just give it to the wires.

HP. That's right—yeah.

P. Just give it to the wires. Say gentlemen you wonder what the President has been doing?—where is he today?—he's in the EOB. But I want them to know that since the 21st I've been working my tail off, which I have—I—I'm sick of this thing. —I want to get it done with and over, and I don't want to hear about it again. Well I'll hear about it a lot, but I've got to run the country too. (Ziegler leaves)

P. Come back can I, for a moment now, to our—our subjects of Haldeman and Ehrlichman. As I—let's be sure we understand (inaudible). As I understand it—and I don't (inaudible)—what we were saying last night—from a legal standpoint the case against them may be quite difficult to prove.

HP. That's certainly true with respect to Ehrlichman.

P. Yeah.

HP. But Haldeman and Dean are much more difficult position from the purely theoretical legal point of view.

P. Right—because of the money?

HP. If Strachan confirms that he

P. That he got the money?

HP. That he got the budget report.

P. Oh the budget report—yeah.

HP. If Strachan confirms that—

P. Strachan—Strachan's going to testify (inaudible) right?

HP. If he confirms then that he gave Ehrlichman or Haldeman a summary of—

P. Yeah.

HP. The intercepted conversations.

P. Right—right. —That shows that.

HP. And he.

P. That shows he had prior knowledge—right.

HP. and Dean testifies that he told Haldeman about the second meeting in Mitchell's office where these things were discussed.

P. Yeah—I asked Dean today. I said did Haldeman have any knowledge. He said No. Did Ehrlichman have any knowledge? He said No. I said did you have any knowledge? Dean said No. He said, "I went to the meetings."—Dean gave me the same story. He hasn't changed his story in that (inaudible). I went to the meeting but we thought we had it turned off. That was—that was his line. But he said that's before. But it's afterwards, he says, that both Haldeman and Ehrlichman have problems. That's what Dean tells me for whatever it's worth as to whether—Did he tell you something different?

HP. Well—that's perhaps what (inaudible). He said in Mitchell's office we ought not to be discussing this in the office of the Attorney General.

P. Yeah.

HP. All right—that's one thing. Now maybe he just figures that was turning it off. It didn't turn it off. He goes back to Haldeman and he says—we ought not to be involved in this —that's the way it was stated. And Haldeman says—right. But so far as we can ascertain nobody did anything.

P. So.

HP. So from a—

P. Pretty hard—pretty hard to convict—I was just going to say—just looking at Haldeman. In the public mind, in other words, I think as you said last night on the phone very perceptively—in the public mind—

HP. That's right.

P. But legally.

HP. That's right.

P. It's still tough.

HP. It's a very difficult case because it rests on inaction. But in any event with respect to Haldeman, that is a theoretical case, and with Ehrlichman next to nothing.

P. All except the deep six.

HP. O I wouldn't agree with that.

P. Huh?

HP. We'll have to go back to Gray—I'll talk to Fielding and I'll stop by and talk to Ehrlichman too.

P. Chance is you're going to hear that they—I don't know—you mean they turned it over—turned over a packet to Gray?

HP. Yes sir.

P. Ehrlichman I think you said, believes that? (Inaudible) include Gray? Let's don't get the Bureau back in this. One thing we talked about protecting—you know this—Gray is going to be leaving, as you know. I am trying to find the man whose beyond reproach—who can get a hundred votes in the Senate. Let's a—now we are not talking about protecting an individual. Gray is (inaudible) this weekend. (Inaudible) him out. Does this (inaudible) you?

HP. (Inaudible) remarkable man, Mr. President.

P. Huh?

HP. I think Pat Gray's remarkable man.

P. But you see his memory might be faulty on this. The point is—my point is I don't—if you feel this—his train has left the station you've got to (inaudible).

HP. Well I don't think—

P. I'm not telling you not to do anything stronger.

HP. I don't think that it's especially germane.

P. It's not relevant.

HP. That's right. But it's important to determine whether or not Dean's teling the truth. (Inaudible) of the fact—it's a neutral fact but if it can be established that he's telling the truth.

P. All right. Suppose you find that Ehrlichman corroborates Fielding that they did turn this over to him—whatever it was—to Gray. Then what do you do? You call Gray in and ask him, where is it?

HP. Well I'll go see him again and then (inaudible) we will want to pursue it.

P. Yeah. You see Gray's—Gray's, if I can just suggest it, Gray's reaction, if he didn't get it, would be, in my opinion, (inaudible) didn't get it, or get something, and they told him this is political stuff. (Inaudible) I don't want it. That's what I would have said, wouldn't you? Not drag in the Bureau. Not Watergate. I don't know.

HP. Can't second-guess a man.

P. (Inaudible)

HP. The other (inaudible) if Kleindienst called me up and said, "look, there's this aspect of this investigation. I've got this stuff here. It's all co-mingled but it's clear that this doesn't relate. Why don't I just give it to you?" I'd probably take it. I think it's very understandable—what I can't understand is the denial. Well, (inaudible) to corroborate.

P. Well if he got it—you see—the point is he doesn't have it now. That's the point.

HP. Apparently hasn't.

P. So he's flushed it.

HP. Well there's a possibility that Dean threw it in the river (inaudible).

P. (Inaudible) I have a recollection myself. I say a recollection that Dean told me that unequivocally, and I believe Dean on that.

HP. We're going to go back to him again.

P. (Inaudible). I'll get you out of here. (Inaudible) yet.

HP. By the way Mr. President, I think that.

P. (Inaudible) evidence—not evidence (Inaudible) explain that the evidence was not evidence—is that right? The stuff out of his safe?

HP. Well—that's.

P. What would you get after him on this—destruction of evidence?

HP. Well you see the point of it is—there are two other items that—according to the defense—Hunt's defense—that were missing. Both of which were notebooks.

HP. And we can't find those notebooks. Dean says, Fielding says, and Kehrli says, they have no recollection of those notebooks.

P. Yeah.

HP. Hunt says they were there, and—

P. So—

HP. So only to the extent that the notebooks are missing which Hunt says they're germane.

P. (Inaudible) does he tell us very much, huh

HP. No sir.

P. Is he going to?

HP. Ah

P. Or is he?

HP. (Inaudible) before the Grand Jury.

P. (Inaudible) anything in it for him, I suppose that's the thing.

HP. He was testifying under compulsion. Came in immunized—we're going to have him back, particularly with respect to the fees. His testimony with respect to Dorothy Hunt was unbelievable—"We were once in trouble with the income tax bureau and ever since then we've been sticking hundred dollar bills in the top of our closet and that's where the ten thousand dollars came from."

P. You mean he gave to the Cubans?

HP. That he gave to his wife, Dorothy, which she had on her when the plane went down and she was killed. She's alleged to be the intermediary that was carrying—

P. Carrying the money to the (inaudible) that's what I heard—I read that in the paper.

HP. So that he lied on that issue. And we'll have to have him back.

P. Do you think you can break him?

HP. I think, his lawyer is very concerned, and the lawyer got a hundred and fifty six thousand dollars in fees.

P. Bittman—Bittman is his name?

HP. Yes sir.

P. I've heard of him—good lawyer?

HP. He's a good friend of mine, Mr. President, and a good lawyer. He prosecuted the Hoffa cases.

P. But Bittman's problem—his problem is (inaudible)

HP. He's very—he's very upset about it and—

P. Doesn't he know what the hell the (inaudible)? Does he think he was paid off?

HP. Does he think?

P. Does he, Bittman, think that his fees—Hunt's (inaudible) the purpose of getting his client to—

HP. Well I don't think he cares where his fee came from. That fee went in. He's concerned about the allegations that McCord makes based on (inaudible) Dorothy Hunt.

P. One thing that's got to be—one thing about Colson—wondering if—that I would be concerned with here—that is if—according to Hunt whether you've got a circumstantial problem as to whether Hunt may have told Colson. If what (inaudible) if Colson had not done a damn thing. According to Colson, he's sworn under oath that he didn't know anything about it. You would have him on perjury.

HP. Yes sir. And we don't have any evidence against him.

P. Well—the point here.

HP. It's—you know a very funny story.

P. If you crack Hunt.

HP. To come out of this.

P. About whom?

HP. The New York Times when they interviewed or the Los Angeles Times when they interviewed Baldwin and they took a taped statement from him. In the course of the interview. Baldwin told them that he had taken the logs and just labeled the envelope and delivered it down to 1700 Pennsylvania Avenue. Then as he told us he couldn't remember the name and they went through a whole series of names, you know, whoever they were, and each one he kept saying no. And finally they said Murray Chotiner? And he said no. So they, after they concluded all their questions and names and what have you they went back and then as just a flyer. Judge Sirica when he—in connection with the subpoena issue—hears part of the tapes and hears Chotiner's name. He says to Silbert, I want these people subpoenaed and that's Murray Chotiner and others. And Silbert says, well he's been to the Grand Jury and this name has nothing to do with it. He's been calling about it ever since—subpoena. Now the LA Times told me—

P. Chotiner?

H.P. that they had talked to Chotiner—

P. Doesn't know a damn thing.

HP. I know that.

HP. (Inaudible) item of evidence.

P. I know Murray like the back of my hand. He's too smart.

HP. Well, that's what he told the LA Times. He said if I had done it, it would have been done well.

P. Yeah, I know that, but he would never have done anything like that.

HP. No sir. And he—we have no evidence against him.

P. And I can assure you, I know that. I may not know other things but I know that.

HP. It's become a matter of principle with us. We will not subpoena him. We have no reason to subpoena him.

P. No, no, no.

HP. And Sirica wants us to subpoena him just I think for the hell of it.

P. Yeah.

HP. The ony way his name is mentioned is because they were trying to determine who, and I talked to the LA Times. We did go that far.

P. Yeah.

HP. And they say absolutely none.

P. Listen, if you are going to answer it at all (inaudible) the big fish start flopping around. Well—coming back to Haldeman—I digressed—we went off. La Rue potentially then today has confirmed the money thing from Strachan. So today you're putting the net on that money at least.

HP. Well Strachan (inaudible) and La Rue is due in this afternoon.

P. Who did you get this morning then?

HP. Oh we had Strachan in this morning.

P. But he didn't talk?

HP. But he didn't talk. I went through that earlier.

P. OK. All right come to the Haldeman/Ehrlichman thing. You see you said yesterday they should resign. Let me tell you they should resign in my view if they get splashed with this. Now the point is, is the timing. I think that it's, I want to get your advice on it. I think it would be really hanging the guy before something comes in if I say look, you guys resign because I understand that Mr. Dean in the one instance, and Magruder in another instance, made some charges against you. And I got their oral resignations last night and they volunteered it. They said, look, we want to go any time. So I just want your advice on it. I don't know what to do, frankly. (Inaudible) so I guess there's nothing in a hurry about that is there? I mean I—Dean's resignation. I have talked, to him about it this morning and told him to write it out.

HP. (Inaudible).

P. It's under way—I asked for it. How about Haldeman and Ehrlichman? I just wonder if you have them walk the plank before Magruder splashes and what have you or what not. I mean I have information, true, as to what Magruder's going to do. (Inaudible) nothing like this (inaudible).

HP. Or for that matter, Mr. President.

P. Yeah.

HP. Its confidence in the Office of the Presidency.

P. Right. You wouldn't want—do you think they ought to resign right now?

HP. Mr. President, I am sorry to say it. I think that mindful of the need for confidence in your office—yes.

P. (Inaudible) basis?

HP. That has nothing to do—that has nothing to do with guilt or innocence.

P. What basis—how would you have them submit their resignation then?

HP. Well—when we say they—I'm much more concerned about—about—

P. Haldeman?

HP. Ehrlichman than I am about Haldeman, because Ehrlichman, we have much less, you know, in terms of potential involvement.

P. Yeah. Yeah.

HP. (Inaudible) the deep six it (inaudible), it goes to the quality of the information. Maybe it was trash and he said, get rid of the damn stuff, it's no good.

P. And then maybe Gray did.

HP. That's right. And the other thing with respect to Hunt. That's a little more sensitive. That—

P. How does it seem so?

HP. Someone, you know, who's closely associated with you, who tells Hunt to get out of the country is I think a tremendously sensitive piece of information.

P. Did he? But he didn't go?

HP. But he didn't go because the—

P. They changed their minds.

HP. Countermanded—the orders were countermanded. Now—

P. Well I would think that his defense

on that if I—my guess would be—that he was trying to (inaudible) what happened (inaudible) maybe the best thing for him to get out of the country, you know what I mean? But your point—Dean tells it as if Ehrlichman ordered him to get him out of the country. Right? Is that what you have?

HP. That's right—and that's the way it comes through Liddy. Hunt tells us that's the way Liddy stated it—my principal.

P. My principals?

H.P. My principal said.

P. Tell you what?

HP. Get out of the country Hunt. It doesn't seem to me that if that fact reaches light of day that it can be anything else but (inaudible) impact on the White House.

P. (Inaudible) message.

HP. (Inaudible) nothing to do with justice or injustice.

P. I know that it's because of the Presidency which, of course,

HP. Yes sir.

P. Is what we are thinking about. I appreciate what you say, because, I'm thinking about that too. I'm trying to be fair.

HP. Well let me put it another way. If I were Ehrlichman I would feel like I had to go under the circumstances.

P. You would? Even Ehrlichman? Haldeman too?

HP. Both of them.

P. How do you feel about Haldeman (inaudible)?

HP. Well (inaudible).

P. You feel even more strongly?

HP. Yes, sir, assuming, now remember what we have,

P. Yeah.

HP. Dean says he discussed this with Haldeman.

P. And?

HP. Haldeman didn't say stop.

P. I see.

HP. I can tell you—if one of my prosecutors came in and said another prosecutor was out bugging somebody in organized crime, I would not say we ought not to be involved in it—

P. Dean told me.

HP. I'd go to him and say stop it.

P. Excuse me. Did Dean say he discussed the bugging with Haldeman?

HP. He discussed the substance of the budget proposals which included the bugging operation. Operation.

P. Haldeman or Strachan?

HP. With Haldeman. And said we ought not to be involved in this and Haldeman agrees but nothing happens. Neither one of them stopped it. Now, maybe they both *thought* they were outranked by John Mitchell. I don't know.

P. Dean now says that he discussed the bugging operation—that's what I want to know. I didn't understand he said that. I thought he said he did that with Strachan.

HP. Magruder—Magruder says.

P. I get it.

HP. (Inaudible) goes through Strachan. Dean says when he came back from the second meeting he told Haldeman, "This is terrible, we ought not to be involved in this."

P. Right—right.

HP. And nobody does anything about it.

P. He hasn't been too damn forthright has he?

H.P. Well.

P. I mean, he should have told me about Haldeman.

H.P. It's awful hard to debrief a man, Mr. President, in an hour or two as you know.

P. Yeah—when I asked him specifically did Haldeman know and so forth—and he said no. And I guess maybe he was being perfectly honest. Told me that just this morning. And I said, he had no knowledge before, and neither did Ehrlichman, and he said neither did he. But I guess what he meant was that—you could reconcile that only by saying—that he had told Haldeman about it and Haldeman did't know that it went forward. Maybe that's what he (inaudible).

H.P. That's—

P. That would not make Haldeman liable in this case—the very fact he didn't stop it. He didn't have the responsibility. I am looking at it just from a legal standpoint. Now understand, from a public standpoint it's devastating. You think he would be liable for not issuing an order to (inaudible). I suppose if Dean was his subordinate. (Inaudible.)

H.P. (Inaudible) a subordinate. It depends on who has authority to act with respect to the budget proposals?

P. Haldeman (inaudible).

H.P. He did not have any authority?

P. No sir—none, none—all Mitchell—campaign funds. He had no authority whatever. I wouldn't tell him (inaudible).

H.P. Then you're left with the fact that he has knowledge of.

P. That's right.

H.P. But he doesn't act upon.

P. Knowledge of a proposal?

H.P. That comes out as a misprision of a felony.

P. Huh?

H.P. That comes out to a misprision of a felony. Misprision is a statute that is hardly ever enforced. You could put everybody in jail I suppose if you tried to.

P. Knowledge and so on?

H.P. That's right.

P. Knowledge it's being considered.

H.P. That's right. (Inaudible) type of thing—

P. (Inaudible) say specifically that he discussed the budget proposal with Haldeman! Well I'll be damned!

H.P. I think I have in those notes there that Dean came back to the White House after the meeting, told Haldeman about the proposals that were being discussed in the office of the Attorney General, and said we ought not to be involved. And Haldeman agrees, but nobody stopped the operation.

P. Dean says—

H.P. (Inaudible) told him so the only thing I'm saying (inaudible).

P. Should we do it—should we do it from the top? Well, I'm going to talk to Bill Rogers a little later—I'll get his judgment about—on this—(inaudible) Haldeman. Dammit, I'm afraid that—I don't want Haldeman to go and then have to get (inaudible) and then have Ehrlichman go and get caught. Get my point? That's what I'm concerned about. I think they both—look if they're going to go they both got to go, don't they? They ought to go together?

H.P. I think so, yes sir. Mainly because I don't know how that looks to you, but from the outside, they are almost a team.

P. That's right.

H.P. But to let one go and the allegations with the other being (inaudible). The next day it might develop that (inaudible).

P. Well (inaudible) my judgment on this after I talk to Rogers. It's a very close call. The real question is to get—whether you let Magruder strike the blow and then they go. That's the point.

H.P. Great responsibility and I know how—

P. Oh, I'll move on it.

H.P. heavy it is.

P. Oh, I'll move on it. I'm just trying to think about whether—before Magruder strikes.

H.P. I'm bothered, you know because this may be a terrible injustice to both of those men.

P. I know that (inaudible) but my point is (inaudible) how it is (inaudible) whether they go before Magruder. Let me tell you—let me put it this way—I really am in a pretty poor position to have them go before Dean goes.

H.P. Well that's correct—I agree with that.

P. I can't announce Dean going today—that would jeopardize your prosecution. Or can I announce it? I am very seriously thinking.

H.P. You're your own agent on that. As long as I can say—

P. No—I'm going to get his—I'm going to get—but you don't want me to—you told me earlier you don't want me to make that public.

H.P. I don't want—want to be in a position to say to John Dean—John, I did not recommend that the President take your resignation.

P. Fine. All right.

H.P. As long as I could say that Dean's been here, he's talked to you. It's between the two of you. You're timing on that is okay with me.

P. I see. Even announce Dean today?

H.P. Yes sir.

P. That wouldn't jeopardize your prosecution?

H.P. Well, we still have to bargain with him. But I don't—I don't see that—he's trying to use that, but I don't see that. As long as I can say, the prosecution team can say, we did not recommend that.

P. How is he trying to use it? You mean—you say that—I'm a little concerned about Dean's or his lawyers—that he's going to attack the President and so forth. Other than that, I mean Dean above all else—

H.P. Well I don't think the President personally—the Presidency as an office as the Administration.

P. Because of?

H.P. Because of Ehrlichman and Haldeman.

P. It's Ehrlichman and Haldeman he's really talking about?

H.P. That may be his guts poker in the course of negotiations. That's what they say.

P. Try the Administration and the President, (inaudible) affairs, (inaudible) huh?

H.P. That statement that's made in the heat of argument. Charlie Shaffer, a very committed, emotional, able lawyer. Stand up and say, goddammit, I'm not going to plead him. If I have to do this, I'll do this in return. That's the way he comes out.

P. (Inaudible).

H.P. All right you ask him about that point specifically, about reporting to Haldeman on the—

P. Yeah.

H.P. On the budget proposal.

P. Yeah—I will. I need to know that. Dean this morning told me something I need to know (inaudible)—that he (inaudible) going to go testify to (inaudible). It seems to me the important thing that you should get your (inaudible) him as soon as you can.

H.P. That's right.

P. But I guess you got problems there. You got to go to Ervin, you got to go to the Judge, and with Dean, you've got to make a deal with his—isn't that what you feel you (inaudible). You've got to give him something don't you?

HP. Well

P. That's the problem you've got (inaudible), Henry, (inaudible) him off with the others.

HP. We can't give him too much because it will impair his credibility. That's another factor.

P. (Inaudible). Now—I can get any—I need to know if any further—I've got to keep on top of this thing, if any further breaks occur.

HP. Yes, sir.

P. And perhaps by tonight we will know whether Strachan did testify.

HP. Yes, sir.

P. I may call you around say eight o'clock—how's that?

HP. I would say not before eight.

P. I'll call you at nine—how's nine?

HP. Nine is fine.

P. Nine will be fine.

HP. That'll give me a chance to get my kids off the phone.

P. Yeah—nine o'clock. You (inaudible) Strachan and La Rue?

HP. Yes sir.

P. They both (inaudible) testify today?

HP. Yes sir. (inaudible). All right—thank you sir.

P. Thank you.

Appendix 35. Meeting: The President, Ehrlichman and Ziegler, EOB Office, April 16, 1973. (3:27–4:04 p.m.):

P. Yeah—did you make any progress on that thing? How does it stand? Fine.

E. I'd say that—

P. Gray denies to Petersen that he ever got the bundle. Oh, he's dumb. Well, Petersen tells me that he's told Haldeman—I mean Ehrlichman. He was very (unintelligible) Mitchel (unintelligible) this, Petersen being honest.

E. Dean informed Liddy that Hunt should leave the country.

P. (Unitelligible) the idea that Dean, you know. But you warned him didn't you?

E. Sure did. There (unintelligible) I was.

P. You didn't see it?

E. No, didn't know what was in it. Could have been shredded newspaper, as far as I know. So that, well it could be—

P. Well, Dean will say—

E. Dean will say what he put in it, I suppose. See, Dean arrived at my office with a scotch-taped, sealed big envelope and handed it to Gray. What—I said, "Well,

P. There's the contents of (unintelligible) safe?

E. No. Dean had told me that before Gray got there, I think—I can't be sure of this—but in any event, I knew what it purported to be.

P. Where—when was Gray told that it was not really the Watergate?

E. I don't know. I don't know. It may have been told him in my presence or not, I just—

P. But, you think he was told?

E. He says he was, and I don't have any reason to doubt it, but I can't swear that I heard that said. Ah—and ah—again, I can't.

P. (Unintelligible)

E. Could say, you know, it may be that his story is I opened it and it was full of paper napkins or, you know, some damned thing. But if he says I was not in Ehrlichman's office and I did not receive a big manila envelope from Dean, then I'm going to have to have to dispute that. (Unintelligible) there and then do that.

P. (Unintelligible)

E. Yeah.

P. Has he testified to that, John, or do you think—?

E. He's told the U.S. Attorney that.

P. That what?

E. That he gave him an envelope there that was the contents of the Hunt safe.

P. (Unintelligible)

E. Dick Howard just got a subpoena from the Grand Jury.

P. Yeah.

E. The FBI agent who called said, "I'm coming over to serve you with a subpoena from the Grand Jury, Mr. Howard. You may want to go and talk to Mr. Dean while I'm on my way over there in case you want to get any advice."

P. Did he talk to Dean?

E. No, fortunately, he talked to Colson. Colson—I had told him that Dean was over the hill, cautioned him, and then he told me and said, "Boy, you got an outpost over there. Well, U.S. Attorney's having the FBI agents send everybody a subpoena—go talk to Dean."

P. Because he was (unintelligible) the practice.

E. Well, I hope that's what they thought, but more probably they'd like Dean to sit there and listen to every guy's story and then call over and let them know what's going on.

P. (Unintelligible) Dean (unintelligible) talk to (unintelligible) apparently he's—

E. I must caution you about that because it's certainly improper for him to be counselling any of our people.

P. I've got to talk to him. He's got to quit counselling anybody right now.

E. Let me finish this.

P. Oh, sure, John. Did (intelligible) tell you about the other (unintelligible) that he's coming to ask you about it? I'm not asking you to make up any story, but I'm just simply saying, I just can't—damned dumb Gray, Director of the FBI in the position of having two White House people say he got an envelope and he doesn't remember it. I heard you talked to him. What did he say to you last night?

E. He said he can't say that.

P. What did he say to you though?

E. He said, I said—

P. After (unintelligible).

E. Dean say saying so and so, and he said he can't say that. And I said, he already has. But he said, I destroyed it. Well, that's it. You know, that's pretty tough (unintelligible) if he doesn't now. (Unintelligible) sure putting the best face on what they did to Strachan over there. Questioned by the prosecutors. Despite considerable fencing, he refused to discuss the matter and was excused by the prosecutor. According to Strachan—then they—you mustn't say anything to anybody about this because I suppose he wasn't supposed to call over here.

P. Yeah, I don't.

E. He called to get advice. He said they really worked him over, said stuff as, "Listen, Strachan, you're going to jail, think about your wife, think about your baby and how would you like to be disbarred, and—"

P. I know. I know.

E. You know, that kind of stuff.

P. I knew they were going to work him over. He asked for a lawyer?

E. No, they asked him to get a lawyer. They kept stressing it. They wanted him to get a lawyer and I think what they are doing is setting him up for (unintelligible).

P. Well. That safe John, something about the damned notebooks—he said, notebook.

E. Yeah, I know. He's said that right along.

P. And there were?

E. Oh, I don't know. I honestly don't. Now, Kehrli and the Secret Service agents were there when that safe was opened and (unintelligible). Never tried (unintelligible) appointments after that, so they are still on this.

P. That's your only vulnerability, John.

E. Deep six and the FBI business and Liddy. Well, that's interesting that Dean would take that remark and go out and act on it.

P. Deep sixing?

E. No, the Liddy deal.

P. Told (unintelligible).

E. Hunt, yeah, that it came through Dean.

P. But, apparently they didn't leave—in other words.

E. Oh, no. No, no.

P. You were discussing it. I told, I tried to tell Petersen, "Well, look, I can imagine them having a discussion—" he said, "He ought to leave the country—maybe we ought to deep six it."

E. Mmhuh.

P. And you didn't do any of those things. At least I think that's based on—Got any thoughts on this point?

(Ziegler enters.)

P. Who have you talked to?

Z. Yes, sir. I talked to Moore.

P. Yeah.

Z. Chappie Rose. Both of them are against it.

P. They're against it? All right. Because of the reasons you mentioned?

Z. Some of those. But Rose—their best lawyer is working on that—and—

P. OK.

Z. His concern.

P. We just won't try to get out in front. We got anything else you can say. Don't say, don't—we seem to, we've gotten into enough trouble by saying nothing so we'll say nothing today. You know, actually, thank God we haven't, thank God we haven't had a Haldeman statement. Believe me. (Unintelligible) thank God we didn't get out a Dean report. Right? Thank God. So, we've done a few things right. Don't say anything. (Unintelligible) made the point, looking at the statement, about comments and so forth that stampede.

P. Well, I (unintelligible). I've got an understanding, John, with Petersen, and he wants us to move first and a—but I said, "Well not before Magruder pleads." We've got to go out and—what I had in mind having you say quickly that—(unintelligible) statement. But in any event then, we're going to have to wait for the Magruder thing. The point is you've got the whole record. I just don't want to.

E. He wants to wait until Magruder talks? Is that it? Petersen? No, I mean the others who—

Z. Well, he didn't get into any discussion about Magruder talking. No.

E. What was his objection?

Z. His point is that, what Rose's point is, in the position of stampeding on (unintelligible) how this has been (unintelligible) this. But this point, the President is too closely tied in as an investigator and to closely tied in to the Grand Jury proceeding itself. In other words, he (unintelligible) in his view of this is to have the first (unintelligible) and suggests that the President is (unintelligible).

P. (Unintelligible). I don't.

Z. No, not affect. But the President is becoming as an investigator involved in knowledge and awareness of the Grand Jury proceedings.

P. Oh, yeah. Yeah.

Z. Which well could affect direction of those proceedings. He has contacted Petersen.

P. Well, all the facts are going to show just otherwise though when it comes out, but go ahead. But this (unintelligible)

Z. I think so.

P. He didn't. John, I asked about Magruder today and they haven't got the deal with him yet because Magruder's attorneys insist on something with Ervin and something with Sirica. Magruder wants to go to the D.C. Jail (unintelligible) in there. They haven't worked that out yet. I asked about the timing on Dean. They haven't got a deal on him because—in fact his lawyers made an interesting comment. He said Dean shouldn't do anything to upset the unmaking of Haldeman and Ehrlichman and Mitchell, and if they don't get immunity they're going to try this Administration and the President. His lawyer, Schaffer. Petersen says that's quite common. Everybody shouts to everybody. I'm getting (unintelligible) difficult (unintelligible). After all, the business of the—about the Dean report, why end it that way? Dean will stick to the position. John, you can see how he's going to (unintelligible) Ehrlichman. You know, he did make some movement on his own in this thing. I've asked Dean a specific question. "Haldeman/Ehrlichman, did they know in advance?" He said, "No," I said, "I've asked you again, I've asked you." He told me that (unintelligible). Well Dean said after a second meeting over there he went over and saw Haldeman and said, "We oughtn't to be in this. Haldeman said, I agree. I said, "Well what's wrong with that." He said, "Well, Haldeman, by failing to act—"

E. Yeah. That is true.

P. Yeah.

E. Dean states Haldeman agreed, but apparently no initiating of any instructions.

P. Right. By failing to act. And then I said, "Well how could he act? He wasn't in charge of the campaign and—(unintelligible) didn't he have (unintelligible) approval?" "Why," I said, "He certainly did not. He had no responsibility at all. The campaign was totally out of the White House." But I suppose what he meant by that, Haldeman should—should have called Mitchell and said, "Knock it off." Is that what they're saying? Well, what does Haldeman say to that sort of thing?

E. That's hard to get around, understand, because Dean's story, consistently, has been that at every one of those meetings, the plan was disapproved by Mitchell.

P. Yeah.

E. What's there to get out of?

P. By going to Haldeman—

E. Dean came back and said, "Well there was a proposal, and Mitchell disapproved it."

P. You think he's making that up?

E. I don't know. I—it doesn't make sense, in the context of those meetings, that everybody agreed on, that at all those meetings Dean attended it ended in disapproval.

P. Yeah. "Well, why did he go to Haldeman?"

E. So why? Yeah. Why is there a failure to act, when—

P. Oh, he might—

E. Everything is disapproved?

P. Yes, but that is Dean's problem, but—

E. Well, the suspenders.

P. Huh?

E. A guy says, I was thinking about going out—

P. Yeah.

E. and plugging a hole in your tire, but I decided not to.

P. Yeah the point is, I think you've got a very good point here. You say, "Well, look, what in the world is this? If the damn thing was disapproved, why does Haldeman get blamed for not disapproving it?"

E. Yeah. They need two disapprovals in order to make it stick?

P. That's what I was going to say, but—

E. Well, I don't know enough about it I guess. I'd sure like to see us come out sometime, and I suppose it has to be at a time that Magruder makes his deal.

P. Well, let me say, I'll—I've got Petersen on a short leash.

E. Ok.

P. Petersen or Dean. Keep that statement, regardless, and get this factual thing that John has worked up for you. You get that.

Z. I've had, I had that typed.

P. Fine. Because we've got to be ready to go on that instantly. We may go it today. We will survive it. I don't think it's very—

E. Not very appropriate news this morning.

P. Yeah, and that's it. They will get back to (unintelligible) I just think (unintelligible) their staff.

Z. (unintelligible).

P. It's obvious they will question him on this.

E. That's what matters though. The thing with the Ervin Committee, will, I don't know. A statement of rules, and the negotiations.

P. Right.

E. They adopted an awful lot of my stuff. Their rule on television is a very odd one. And it says "All still and motion picture photography must be discontinued before the witness commences his testimony. Television, however, may continue under the standing rules of *the committee* during the testimony of the witness."

P. So it must—that means what? It's live?

E. That my interpretation. Well, no. Tape would be motion picture.

P. Yeah.

E. Why not?

Z. That's electronic. See, the terminology is stills, motion picture or electronic.

E. That isn't the way they used it, and so I've got a call in for Baker to try and get a clarification.

P. Right.

E. Because it may be their intent that if the networks will go live, then let them go, but if they tape, then they can't tape the testimony. And, if that's the interpretation, I think we ought to go for it.

P. Right.

E. Don't you?

Z. At ten o'clock in the morning? Well, you know, just—

E. If they run it at ten o'clock. Anyway, I'll get an interpretation and I'll be back to you on it for instructions. Well, there isn't much point in me going through the whole thing until—

P. I think the Ervin Committee, who (unintelligible) a break in this (unintelligible). Do you believe it would be at all helpful to be forthcoming with Ervin then?

Z. Well, as we mentioned before, I think you have to have caution with the Ervin Committee (unintelligible), depends upon decisions. Whatever it is decided to check with (unintelligible) alternative here (unintelligible) or it may be to our advantage to analyze—

E. Well, my problem's Howard Baker goes to Russia tomorrow, so there's got to be action—or he goes Wednesday, excuse. There's got to be action tomorrow. The Ervin Committee's meeting up there now. Timmons thinks the thing they are meeting about is that somebody has pulled the plug on Dash, that he was nearly disbarred in Philadelphia—some unfortunate scandal—something about—He's been taken by surprise again and he's very unhappy and he's convened the Committee. The thing provides—well, they're kind of cute about this to. You can have a hearing in Executive Session. The Committee rules at the witnesses' request for the purpose of determining scope, in effect, what, where the witness should and should not testify.

P. Oh, I see. Well, that's good.

E. And that's good, I think. Then there's a lot of stuff in there about—they do prevail in making closing statements. They will.

P. What's your advice, John.

E. There's very little left to argue about except the television, and we could say we interpret this to mean that unless the television is live, there won't be any and that's satisfactory to us.

P. Yeah.

E. Now we might get the jump on them that way.

P. All right. Fine.

E. And then, let them come back and say, "No, that isn't what we mean. We mean it can be taped." And then we'll come back and say, "Well, that isn't satisfactory. By that time they're in a recess.

P. Right.

E. And the thing would be hung up until they get back.

E. Yeah. And the other thing—we had to, you know, before it comes from the Ervin Committee. But I don't think before it comes to the Ervin Committee it's going to amount to a damn in the next four weeks.

Z. The overall—

P. Yeah.

Z. decision, but—

P. Don't you think at the present time we ought to be forthcoming here?

Z. Yeah. I think—

E. What you say, Ron, is that we intend to avail ourselves fully of the ground rule that permits the use of executive session and that undoubtedly the majority of the White House witnesses will be the subject of a request to the Ervin Committee for an executive session.

P. That's right. Agree with that.

E. Then, what we've done is going to our high ground.

P. Right.

E. And let them pull us off.

Z. Of course, what really is the Ervin Committee investigating?

P. (Unintelligible.)

E. They—it's probably moot. It's probably moot, but what we can say is we feel we can live with these ground rules.

Z. Yeah.

E. You know it's very—well, it is obvious that the negotiations were very worthwhile. We think the Committee has come up with a fine set of ground rules that we can live with. We are going to fully cooperate and then, on the side you can say, "See this executive session provision."

P. Well why don't we—frankly (unintelligible) executive (unintelligible).

E. Maybe I ought to get them and have them for you, so that you can talk to Rogers about them.

P. Yeah. Later today you might just make your decision and go on that. We can settle the Ervin Committee.

E. Well, then, I'll have to get Baker's OK.

P. Well, why?

E. To make our announcement, because that's the way I have it set up with him. They've got a meeting tomorrow before we make any announcement.

P. Do you want to make an announcement tonight?

E. No, I thought that's what you meant, if you were going to go with the Ervin thing today.

P. Oh. We'll make it tomorrow then.

E. OK, well then I'll have a chance to talk to Baker tonight.

P. Baker, Baker will have left. He won't be at the meeting tomorrow.

E. Yes, he will. He won't go—he doesn't go until the next day. I misspoke.

P. Fine. You'll make the announcement tomorrow. OK, Ron?

Z. Yeah, but—

P. Gives me time to think about it, that's the point. Go ahead. What is it?

Z. Well, I—if we make the announcement tomorrow, we could tie it into something.

P. Yeah. We have a general announcement. We want to (unintelligible) and with Chappie Rose and those guys. Do they realize that I've got to make this general announcement before the Magruder thing comes up?

E. Well, does he fear the President will look like he's interfering with the Grand Jury?

Z. No, it's a quote. He said, to which he (unintelligible) much contact with the Attorney General, the Assistant Attorney General—the President being investigator.

E. Well, bless his heart, those contacts are a matter of record.

P. That's right. I don't agree with him on that point.

E. That point's moot, you know. That was the President's only recourse.

P. That was it. I wouldn't worry about that (unintelligible). See, he's thinking as a lawyer. They probably like to see the President (unintelligible) this damned thing.

Z. No, I agree with that.

E. (Unintelligible)

Z. Well, I'm not arguing. Again, you see, can't argue. I'm just passing this point to you.

P. What would be your view about this kind of a statement? You don't want it tonight?

E. I don't want it tonight, but I'd sure like to see you go full breast on it tomorrow. See, Wednesday is the energy message.

P. Yeah.

E. And, we're going to be sort of saturating the press Wednesday with that.

P. Will they write and use it?

E. I don't know. I mean we're having briefings and all that baloney. And so, if possible, it would be best to go either tomorrow or Thursday with this and I prefer tomorrow.

P. We'll see how they get along with their negotiations. I suppose they're—

E. Seems to me like they're hard-nosing these negotiations. Dean doesn't really give them all that much. He let me look at that piece of paper you've got there and then he said, "Well, gee, did Hunt go out of the country? No, Well, what else is there?" "Well," he says, "I don't know about (unintelligible)."

P. Dean isn't corroborating Magruder in any way?

E. Yes.

P. That's what it looks like.

E. But can't they get that out of him anyway? You know.

P. (Unintelligible)

E. Well, let's think about that. If you were the prosecutor, what the hell do you care? You know, if you were Glanzer, you were sitting over there,—

P. The White House threatened, the President—

E. But what is, what is that he can say? You stop and figure.

P. That he's informed the President and the President didn't act? He can't say that can he? I don't think, I've been asking for his damned report, you know.

E. The fact that he put the chronology all together—he comes up with a hell of a lot of egg on his face.

P. I think he blames—he would blame you and Haldeman.

E. Well, he's going to have a little trouble with that.

P. Is he? Good.

E. And I put together my log today. And I have seen him on the average of five times a month since the Watergate breakin. See, Bruce Kehrli (unintelligible) you know (unintelligible). I've seen none of his memos routinely. I don't supervise any of his work, so I think he's going to have a tough time making that stick. And some of those were on your estate plan.

P. Yes.

E. Some of them were on the Library.

P. Good.

E. Some of them were on the leak scandal. So, he's not seen me five times a month on Watergate.

P. Well, listen, I've got to run. Let this go tonight. Fair enough?

Z. Yes, sir.

E. All right.

Z. Did you want to meet Garment for five minutes before you see Rogers?

P. No. I'll have to put that off. I've got Rogers (unintelligible) Garment's views and—you don't agree?

E. I agree totally. It's (unintelligible) for Garment is the reason, you see.

P. No, tell him, tell him that I feel very personally, but I want to get a little—that I've had a long talk with the U.S., with Petersen. There is a reason. Give him a little bull and tell him (unintelligible) had a long talk. There are reasons we can't say today, that there will be developments during the day. Going to be public. Some things that I have in mind (unintelligible) piece of paper on that, and I'll see him before. Well, is it going to be that much of a problem? You think I should see him? Maybe, you know, I don't. Wait 'till I see Rogers. Tell him to stick around.

Z. All right.

P. Tie it in with Rogers. Why don't you do that? How's that?

Z. The only advantage of (unintelligible) you have in your possession.

P. Well no. The point is—well, go ahead.

Z. Fifteen minute session (unintelligible) and bounce that off of Rogers.

P. I know what he's going to do is—unintelligible) I mean the—this is a full court press isn't it?

Z. That's right, so you don't need to tell him.

P. I know what the hell a full court press is.

Z. I understand that.

P. The thing you told me this morning.

Z. Yes, sir.

P. Well, I followed that already. He wants to go out and what? He wants Haldeman, Ehrlichman and Dean to resign. Right?

Z. Or just (unintelligible). You know, he has several variations (unintelligible) and letters.

P. Yeah.

Z. Suggesting that (unintelligible) they would step down.

P. They would (unintelligible) and then they would, and I would accept that. However the case breaks?

Z. Yes, sir.

P. Do that today?

Z. No, not today. You know, after the timing of the decision.

P. I'd prefer.

Z. I think it's—you have enough of that.

P. I think I want it to be a little clear in my mind with Rogers here.

Z. No (unintelligible) I'll put him off.

P. Tell him, that, look, that I got it and I'm just in the middle of this thing and that I, I'm thinking along those lines. Just say that, and that I'll, because of the talk, I cannot act today. Just say that. I just finished this long meeting. Didn't want to act, I can't act today, because it would frankly jeopardize the prosecution.

Z. Right. OK.

P. And the right of the defendants. And that therefore, that I can't, that I've been told that by the Assistant Attorney General. That I cannot do that today. It will jeopardize the prosecution. (unintelligible) If the President (unintelligible) it will tip a lot of others off that they are working on at the present time, and that I had put the pressure on to get this so I can be (unintelligible). And I have in mind all of those options. Tell him that I have met with all three of them today. The President met with all three of them and discussed this problem.

Z. Well, you may not want to see him.

P. Now, be sure—

Z. Be thinking about it.

P. Sure. Ask him if—

Z. Yes sir.

P. Right (unintelligible). Tell him I want to think about it; then, I'd like to talk to him. I want him to get his things in shape. I want a firm recommendation.

Z. He apparently has a statement.

P. Well, bring it in and I'd like to have that statement, if I could, by six o'clock tonight. You deliver it at six. I'll be with Rogers at six o'clock and I'd like to have that statement.

Z. I'll bring it in.

P. Oh, no. Should I have it before I see Rogers, that statement? Tell him I'd like to have it, that I've just gotten tied up here. Tell him I've been meeting with Petersen. I cannot act today, but I'll be ready to do something quite soon.

Z. Good.

P. Don't tell him about it.

Z. No.

APPENDEX 36. MEETING: THE PRESIDENT AND DEAN, EOB OFFICE, APRIL 16, 1973. (4:07–4:35 PM)

P. Hi, John.

D. Mr. President.

P. Well, have you had a busy day?

D. Yeah, I have been—I spent most of the day on trying to put together a statement that I think you could come out—apparently some other people have done some work on—I haven't been working with them. Presumably we are all kind of driving at the same point. I was working on a draft when you called.

P. Listen, I've got to see Rogers in just a few minutes so let me have (unintelligible)

D. Well, I think—I was calling Dick Moore in on it, but Dick is working on it with these others.

P. That's good. What would be best? Rather than giving it to me piecemeal, why don't you put one together?

D. Its got a strong thrust which puts you—

P. (unintelligible)

D. There is a tough question here—the degree of biting the bullet right at this hour. Now there is one paragraph—

P. There is a question of timing—

D. It is a question of timing but it is also a question—I have one paragraph in here that says what you are doing as a result of what has come to your attention and some of the things that Petersen has told you.

P. Uh, huh.

D. And one of the points is that it provides that all members of the White House staff will be called before the Grand Jury effective immediately. They will be on administrative leave until such time as the Grand Jury completes its work. Now here is the tough paragraph thus far: "In this connection, I have not spared my closest staff advisers and included in this action are H. R. Haldeman, Assistant to the President, John Ehrlichman, Assistant to the President, and John Dean, Counsel to the President." Now you can do that or leave that out and let them guess who is on administrative leave.

P. Anybody called before the Grand Jury?

D. That's right. That means that no man—

P. You can bite the bullet on Dean, Haldeman, and Ehrlichman until then, huh? On the other hand, if (unintelligible) is lying—have you talked to (unintelligible)

D. No, I haven't.

P. I have a sensation that he is lying right now but the trouble with that is there might be some confusion. Petersen says, incidentally, on your letter—he thinks it is probably better to get a letter in hand and get the grievances out.

P. I said, "Well, what do you think about it? I was considering your returning and I don't want to do anything to jeopardize your rights. He feels (a) that he wants to clear it. But he is not recommending it—

D. Uh, huh.

P. He said—"Stand fast (unintelligible) However, public prosecution would not be harmful to an individual, you know, if we had the resignation in hand so we could act on it. (inaudible) other than let me say—let me see what you had in mind."

D. I have a letter—

P. I don't care about the letter but I thought it was fair—fair to everybody. (Inaudible)

D. I wrote: "Dear Mr. President: Inasmuch as you have informed me that John Ehrlichman and Bob Haldeman have verbally tendered their requests for immediate and indefinite leave of absence from the staff, I declare I wish also to confirm my similar request as having accepted a leave of absence from the staff." Well, I think there is a problem—

P. You don't want to go if they stay—

D. There is a problem for you of the scapegoat theory.

P. You mean making use of it.

D. That's right.

P. Like Magruder being the scapegoat for Mitchell?

D. That's right. You know, everybody is appearing before the Grand Jury. This does not impute guilt on anybody.

P. Let me put it this way I think rather (unintelligible) I could say that you, as Counsel—that you have been responsible for the investigation. We already have said that about this case haven't we?

D. That's right. The only man you are dealing with and the only role I have is to help fill in any information I can to deal with the Public Relations of the problem. You know—

P. You can say it that way John. You can say the President sought your advice until it is cleared up.

D. That's right.

P. (unintelligible) I don't know that the letter (inaudible) and that goes out ahead, frankly, of the Magruder-Mitchell hitch doesn't it?

D. That's right. I wasn't counting on that—

P. We haven't made a deal with Magruder's lawyers yet. Magruder is turning from the Ervin Committee on Judge Sirica—

D. (Unintelligible)

P. I don't want you to talk to anybody else, understand? Except for (unintelligible)

D. I am not doing any investigative work or—

P. Well, that's right. (unintelligible)

D. Well, I turned that off three weeks ago.

P. Good. You haven't done any since three weeks ago?

D. That's right.

P. You haven't done any since March 21st?

D. Let me check back and see.

D. Necessity of the overall problems of the White House. Looks like we both talked to them about that.

P. Yes—yes it does. Tell me what you last talked with Haldeman about.

D. That Bob would like Dean to be the first to testify. It is very painful for me. (Inaudible.)

P. (Inaudible.) One thing you should all (inaudible)—Did Dean know? Did Haldeman know? Did Ehrlichman know? You may know. He said "Dean came over to Haldeman after that and told him about the plans for Gemstone."

P. (Unintelligible) says you're right. His point being that actually Haldeman then did know.

D. No sir, I disagree with that interpretation—

P. I didn't know, but if that was the case you see John then—I would have to—Dean would have told me something.

D. No, because I have always put it to you exactly that, way because Bob has told me he didn't know. Now I know I didn't know but I feel—

P. What about this conversation? (inaudible) If this had happened, wasn't Bob responsible for telling me?

D. I think what happened is probably this—everyone assumed that John Mitchell would never have approved anything like this. I told him I was not going to have further dealings with Liddy or anybody over there on this and I didn't. I didn't have the foggiest notion what they were doing.

P. That's what you told me, you know. (inaudible)

D. Well, Bob tells me he did not know. Now I know the question is—the other thing is—I cannot, I couldn't describe twenty minutes after the meeting what Liddy was presenting was the most spectacular sales pitch you have ever seen in codes and charts and (unintelligible) operations.

P. You mean Gemstone?

D. Well, that is what I am told now later after the fact they called it. I told Bob, "They are talking about bugging. They are talking about kidnapping. They are talking about mugging squads, taking people south of the border in San Diego, etc."

P. What did Bob say?

D. He said, "Absolutely NO."

P. You will so testify?

D. That is right—absolutely. I don't know—I assumed—Bob has never told me anything to the contrary so I thought that nothing happened from the time of that meeting where he told me, "Don't do anything about it. You are to stay away from it. Don't talk to Hunt and Liddy." I said to Liddy, "I am never going to talk to you about this again, Gordo." So what I thought was that inaction was the result—of their not having produced something reasonable. Second, I don't know—

P. You didn't get hold of Mitchell on it did you?

D. I don't have the record on that—

P. Magruder says that—but—(inaudible) Then I see. Your statement is consistent with what you told me before. I wish you would tell (unintelligible) that Haldeman said, "Absolutely not."

D. That's right. Bob and I have gone over that after the fact and he recalls my coming to the office and telling him about this crazy scheme that was being cooked up.

P. Do you want to go and get together—

D. I will work on this statement—they want to have something to (unintelligible) that they are going to go before the Grand Jury.

P. Bill Rogers. We are going to have him available. Everyone needs help. None of us can really help another I really believe.

D. That's right. All I am trying to think is how we can get you out from under.

P. That's right. I tried to talk today about social issues, etcetera, and everyone is just interested in the Watergate Issue. My days are too short—

D. Something about Magruder—they are going to take him to the courts.

P. I know—he has agreed to (inaudible)

D. I can't forsee what we would want to say about any investigation—

P. "You see I make my own" How about trying that? "Let the White House Staff (inaudible)"

D. Unfortunately it doesn't solve your problem. Mine bother me but (unintelligible) Mitchell was making heavy comments that Liddy and Hunt will make heavier problems for the White House than he will. (unintelligible)

D. Poor Bud Krogh is so miserable. Knowing what he knows—

P. Need any help with him?

D. There is no reason that he should be. The only evidence that they have (inaudible)

D. It just got forced on him. When I was first talking to him—"Run these guys through the Grand Jury—" To be very honest with you. I have talked about it around here before I got in to see you for many, many months. Then I thought I could not let it interfere with my work anymore so I thought I might as well forget it.

P. That's right. That's when you came in to see me. Finally, that is when I came in to see you and got some answers.

D. Now, they have their full investigation going—with subpoena power, investigative power, etcetera. It is all like a set of dominoes if one goes they will all go.

P. Secretaries, et cetera

D. I don't know (unintelligible) They are going to handle Ehrlichman and Haldeman. There is a potential prima facie situation right now (inaudible) which thereby makes it necessary for you to make a judgment that those people should leave the staff.

P. Make it necessary for me to relieve them from any duties at this state.

D. That's right.

P. I don't have to discuss it with him—but just say, "You are all out"

D. That is a tougher question because one that is putting you in the position of being the judge of the entire facts before all the facts are in necessarily.

P. That is really my problem in a nutshell. So those fellows say that—this fellow says that—

D. Maybe that is the way this ought to be handled. You say, "I have heard information about allegations about (inaudible) some publicly and some have not become public yet. I am not in a position to judge because all the facts are not in yet (inaudible)?

P. (Inaudible) But you agree, John, don't you that the statement is fair to everybody? And frankly—(Balance inaudible—door closes.)

APPENDIX 37. TELEPHONE CONVERSATION: THE PRESIDENT AND PETERSEN, APRIL 16, 1973.

P. Mr. Petersen please, Assistant Attorney General. Henry Petersen.

Opr. Oh, Henry Petersen.

P. Hello.

HP. Yes, Mr. President.

P. Did you get out with your kids?

HP. Sort of. We got together with them.

P. That's good.

HP. They all just hollered, the President is calling, right at the nose at nine o'clock.

P. Well, I wanted to get you in bed earlier tonight than last night, and I want to get to bed too. Let me say first, I just want to know if there are any developments I should know about and, second, that of course, as you know, anything you tell me, as I think I told you earlier, will not be passed on.

HP. I understand, Mr. President.

P. Because I know the rules of the Grand Jury.

HP. Now—LaRue was in and he was rather pitiful. He came down with O'Brien and said he didn't want private counsel at all. He just wanted to do what he did. He told John Mitchell that it was "all over."

P. He said he had told John Mitchell that?

HP. Yes, he, LaRue, admits to participating in the (unintelligible) and obstruction of justice. He admits being present, as Dean says he was, at the third meeting, budget meeting, but—

P. Who was present at that meeting Henry? I don't know.

HP. He and Mitchell.

P. He and Mitchell alone?

HP. And he says, ah—

P. LaRue and Mitchell? I didn't—that must be a meeting I seemed to have missed. Dean was not there at that meeting?

HP. Dean tells us about it. Now I am not quite certain whether Dean was present or not. That meeting was down in Florida.

P. Oh, some—oh, I heard about a meeting, but I think you told me about that.

HP. He is reluctant to say at this point that Mitchell specifically authorized the budget for the electronic eavesdropping at that point. But I think he is going to come around. He is just so fond of John Mitchell. He admits that it could have been activated without Mitchell's approval, however.

P. Uh, huh.

HP. O'Brien, they didn't get to. Strachan called back around five o'clock and said he was having difficulty in getting a lawyer. He finally got a lawyer. Colson's law partner.

P. Oh? Colson's law partner?

HP. The United States' Attorney's office took issue with this, and threatened to go to the Judge on a conflict, then he—

P. Got another one?

HP. Got another lawyer. He'll be back tomorrow.

P. All you got to today was LaRue?

HP. That's right. Now, the other additional information from—

P. LaRue said he had told Mitchell that it was all over?

HP. Yes.

P. When did he do that?

HP. Just recently. Today, yesterday or the day before.

P. I see.

HP. You know, he had thrown in the sponge.

P. I get it.

HP. We talked earlier today about Ehrlichman. Now a little additional detail on that.

P. Uh, huh.

HP. Liddy confessed to Dean on June 19th—Dean then told Ehrlichman.

P. Liddy confessed that he did the deal, or what?

HP. That he was present in the Watergate.

P. Uh, huh.

HP. Ah, then you also asked aobut Colson. Colson and Dean were together with Ehrlichman when Ehrlichman advised about Hunt to get out of town and thereafter—

P. Colson was there?

HP. Colson was there so he is going to be in the Grand Jury. With respect to Haldeman, another matter. In connection with payments of money after—

P. The fact.

HP. June 17th, Mitchell requested Dean to activate Kalmbach. Dean said he didn't have that authority and he went to Haldeman.

P. Uh, huh.

HP. Haldeman gave him the authority.

P. Uh, huh.

HP. He then got in touch with Kalmbach to arrange for money, the details of which we really don't know as yet.

P. Right.

HP. So Kalmbach is also a Grand Jury witness to be called. And I think those are the only additional developments.

P. Right. What is your situation with regard to negotiation with Dean and your negotiation with regard to testimony by Magruder?

HP. Well, the trouble is —

P. Trying to get the timing, you see, with regard to whatever I say.

HP. Magruder's lawyers are still waiting to get back to him.

P. I see.

HP. They are very much concerned about Judge Sirica and they are not so much concerned about Ervin. Now their immediate concern is Sirica and they want that ironed out first.

P. What do they want ironed out, that—

HP. That he won't go to jail before the rest of them.

P. Oh, I see, if he confesses?

HP. That's right. Thus, pending a meeting with Judge Sirica—

P. Which you've got to have, I suppose?

HP. Titus knows him better than any of us.

P. Sure.

HP. Probably Titus will handle that aspect of it.

P. Uh, huh.

HP. But that's got to be very delicately done. He is apt to blast us all publicly.

P. Sirica? Right.

HP. We'll see and then we will take up the Senator Ervin issue.

P. Doesn't seem to be the major issue, though. The main thing is Sirica, he is concerned about?

HP. Sure.

P. Sure, because the Ervin thing will become moot in my opinion.

HP. Now the other concern we have on that issue is how to charge.

P. How to charge?

HP. In terms of how we charge Magruder. In terms of the things we are concerned with, we don't feel like we ought to put Haldeman and Ehrlichman in there as unindicted coconspirators at this point, but we are afraid not to. If we don't and it gets out, you know, it is going to look like a big cover-up again.

P. Hmph.

HP. So we are trying to wrestle our way through that.

P. Whether you indict Handleman and Ehrlichman along with the others, huh?

HP. Well we would name them at this point only as unindicted coconspirators, but anybody who is named as an unindicted coconspirator in that indictment is in all probability going to be indicted later on.

P. So you have to make a determination as to whether—

HP. Secondary issue is of course is whether we are going to have enough corroboration to make those statements, and—

P. That statement would be made, as I understand it, as you were telling me, if—

HP. It would be in Open Court.

P. It would be made in Open Court, and then you would make a statement with the others. You would name them at that time?

HP. Well, we wouldn't do it in those terms. We would simply do it in terms of feeding the facts to the Court.

P. That would be done publicly. Would you name Mitchell then too?

HP. Well, we would have to. You see the problem is—

P. That would all be done in Open Court?

HP. That's right. Once we do that, or even if we don't, Sirica's habit in Court, and he certainly is going to do it in this case, is to interrogate the defendant himself.

P. Right.

HP. And—

P. The defendant who pleads guilty?

HP. That's right. If he interrogates Magruder, that brings out the Ehrlichman/Haldeman facts and if we haven't mentioned them or included them in the conspiracy charge, then we are all going to have a black eye.

P. I get your point.

HP. These are the things we are trying to work out.

P. You've got quite a plate full. You probably won't get it tomorrow then will you?

HP. I doubt it. I doubt it.

P. Uh, huh. What about Dean—in his case you are still negotiating, huh?

HP. Well, we are still tying down facts with him and we want to get as much as we can.

P. And basically with him, the point is you've got to get enough facts to justify giving him immunity? Right?

HP. Enough to make the decision, yes sir.

P. Depends on how much he tells you, is that it?

HP. Right. And more than that, how much of it we can corroborate.

P. If you can't corroborate enough then he doesn't get off, is that it?

HP. Well, if we can't corroborate it, that's right. We can't very well immunize him and put him head to head against a witness who is going to beat him.

P. I see. Well his people are playing it pretty tough with you then?

HP. Yes sir.

P. I guess we'd do that too, I suppose.

HP. Indeed so.

P. I prefer them to do that. Let me see if I get the facts? You will hear Strachan tomorrow, perhaps.

HP. We expect he will be in. He will come in with his lawyer again.

P. My second point is that—let me see about the 19th—Dean says that—

HP. On the 19th.

P. Yeah.

HP. Liddy confessed to Dean.

P. Dean says that?

HP. Dean says that.

P. Liddy confessed to him and that he told Ehrlichman?

HP. Right He told Ehrlichman.

P. Humph—that's new fact isn't it?

HP. It's at least—yes, sir, and that's a terribly important fact I think because there was no disclosure made by either one of them.

P. Either Dean or Ehrlichman?

HP. Yes, sir.

P. Humph. When did Dean say this?

HP. It got to me this evening. I am not quite sure when Dean said it. Silbert (unintelligible)

P. You see the point is, Dean didn't tell me that. That is the thing that discourages me.

HP. Well, Mr. President, you have to remember that we are debriefing him on what has transpired over the last eighteen months.

P. I see.

HP. It is very difficult, you know, to get it all in.

P. I know. I am not talking about you, but I am talking about what he didn't tell me, you see. That's a key fact that he should have told me, isn't it?

HP. Yes.

P. Uh, huh. Let's see, the 19th, and on the Haldeman thing what did you have there again so I get that in my mind.

HP. Let me go back over my notes. The principal thing that I wanted to point out to you on Haldeman is that Dean went to Haldeman to get authority to go to Kalmbach.

P. Oh yes, yes, yes. That was it. When Mitchell told him to go to Haldeman.

HP. Mitchell told Dean simply to activate Kalmbach to handle the money.

P. I see.

HP. Dean then went to Haldeman to get authority to contact Kalmbach. Thereafter, Kalmbach took care of the money. Now—details on the $350,000 which you indicated you knew about—

P. I knew about the fund. I don't know how it went—

HP. This is how it developed. It developed, as related to us, as money over which Haldeman exercised control. That money was delivered to LaRue to be used for payments, at least a portion of it.

P. Some of it. Right. I think Haldeman would say that's true. I think he would. I don't know, but we'll see. You should ask, I guess, Kalmbach.

HP. The point of it is that it went to LaRue instead of going to the Committee directly.

P. Uh, huh.

HP. LaRue apparently did not give a receipt and Haldeman had requested it.

P. Uh, huh. I think LaRue was loosely a member of the Finance Comittee. I think that was the point Haldeman—I said, who did this money go to? He said, it went to LaRue was a member of the Committee or something like that or of Stans' committee. I don't know what that is. Is that correct, or do you know that?

HP. I don't know that. All I know is that he worked for John Mitchell. I will check on that though.

P. The money went to Mitchell?

HP. No, I say all I know is LaRue worked for Mitchell.

P. Yeah. I think he worked on the Finance Committee, but I don't know. You ought to check that out.

HP. I will.

P. OK, the main thing I need, of course, is something—well, before, wait you are not going to have anything tomorrow in Court so I don't—

HP. I don't think so.

P. Tomorrow you just continue to develop the evidence.

HP. Yes, sir.

P. I think, therefore, no statement would be in order at the present time. We decided against one today. It just didn't seem to be—I thought it might—I just had to make my own determination. I thought it would jeopardize possibly the prosecution, you know. Who knows?

HP. Probably would raise more questions than it answered.

P. That's right. We don't want to say anything until—like if there has been a big break in the case and everybody starts—

HP. I will tell you one thing, Mr. President, that you ought to know. I had a call from (unintelligible) Ostrow of the L. A. Times, who is a decent man and a reasonably good acquaintance. A reporter of character, if there are any, and he said that they had a report out of the White House that—let me use his words—that two or three people in the White House were going to be thrown to the wolves. He asked if there was anything to it, and I said there is not a damn thing I can tell you about it. I just can't say anything about it one way or another. I don't want to confirm it and I don't want to deny it.

P. So they will probably write a story on that, huh?

HP. I don't know, but I mention it only because its—

P. It's beginning to get out. Yeah.

HP. Beginning to percolate.

P. It must have come from the U.S. Attorney's office you think?

HP. I doubt it, because I have not told them—unless they made their own conjecture.

P. U.S. Attorney—but they were thinking in terms of the Haldeman/Ehrlichman thing, and Dean, I suppose.

HP. I don't know what he was thinking about, and I don't—

P. Where does the Colson thing come in again? I want to get that one down too.

HP. Where does who fit?

P. Colson.

HP. Colson was present when Ehrlichman issued the order for Hunt to get out of the country.

P. I get it. Fine. O.K. So you will call him too?

HP. Yes, sir.

P. Right. OK. Well if anything comes up, call me even if it is the middle of the night. OK?

HP. I will indeed.

P. Thank you.

HP. All right, Mr. President, thank you.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. METCALF) laid before the Senate the following letters, which were referred as indicated:

REPORT ON THE LIBRARY OF CONGRESS

A letter from the Librarian of Congress transmitting, pursuant to law, the report on the Library of Congress including the Copyright Office, covering the fiscal year ending June 30, 1973, together with the Quarterly Journal of the Library of Congress (with accompanying reports). Referred to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HARRY F. BYRD, JR., from the Committee on Armed Services, with amendments:

S.J. Res. 202. A joint resolution designating the premises occupied by the Chief of Naval Operations as the official residence of the Vice President, effective upon the termination of service of the incumbent Chief of Naval Operations (Rept. No. 93-844).

LEGAL SERVICES CORPORATION ACT OF 1974—REPORT OF CONFERENCE COMMITTEE (S. REPT. NO. 93-845)

Mr. NELSON submitted a report from the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7824) to establish a Legal Services Corporation, and for other purposes, which was ordered to be printed.

REPORT ENTITLED "DEVELOPMENTS IN AGING: 1973 AND JANUARY-MARCH 1974"—REPORT OF THE SPECIAL COMMITTEE ON AGING—(S. Rept. No. 93-846)

Mr. CHURCH. Mr. President, from the Special Committee on Aging, pursuant to Senate Resolution 51, 93d Congress, first session, I submit a report entitled "Developments in Aging: 1973 and January-March 1974."

The PRESIDING OFFICER. The report will be received and printed.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session,

The following favorable reports of nominations were submitted:

By Mr. RANDOLPH, from the Committee on Public Works:

Russell Jackson Hawke, Jr., of North Carolina, to be Federal Cochairman of the Coastal Plains Regional Commission.

(The above nomination was reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. ROBERT C. BYRD, from the Committee on the Judiciary:

John T. Pierpont, Jr., of Missouri, to be U.S. marshal for the western district of Missouri; and

David G. Trager, of New York, to be U.S. attorney for the eastern district of New York.

(The above nominations were reported with the recommendation that the nominations be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. CANNON (for himself, Mr. MAGNUSON, and Mr. COTTON);

S. 3481. A bill to amend the Federal Aviation Act of 1958 to deal with discriminatory and unfair competitive practices in international air transportation, and for other purposes. Referred to the Committee on Commerce.

By Mr. ERVIN:

S. 3482. A bill for the relief of the Monroe Garment Co., Inc. Referred to the Committee on the Judiciary.

By Mr. METCALF:

S. 3483. A bill to authorize the Federal Power Commission to enforce the antitrust laws. Referred to the Committee on the Judiciary.

By Mr. ABOUREZK (for himself, Mr. MCGOVERN, and Mr. YOUNG):

S. 3484. A bill to establish, within the Department of the Interior, the Earth Resources Observation Administration, and for other purposes. Referred to the Committee on Aeronautical and Space Sciences.

By Mr. WEICKER:

S. 3485. A bill to amend the Regional Rail Reorganization Act of 1973 to allow adequate time for citizen participation in public hearings, and for other purposes. Referred to the Committee on Commerce.

By Mr. BUCKLEY:

S. 3486. A bill to amend title 10 of the United States Code to provide a more equitable standard for awarding the gold star lapel button. Referred to the Committee on Armed Services.

S. 3487. A bill for the relief of Rose Minutillo. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CANNON (for himself, Mr. MAGNUSON, and Mr. COTTON):

S. 3481. A bill to amend the Federal Aviation Act of 1958 to deal with discriminatory and unfair competitive practices in international air transportation, and for other purposes. Referred to the Committee on Commerce.

Mr. CANNON. Mr. President, on behalf of Chairman MAGNUSON, Senator COTTON, and myself, I introduce for appropriate reference, a bill to amend the Federal Aviation Act of 1958, and for other purposes, which is designed to provide relief from certain of the more apparent discriminatory and unfair competitive practices to which our U.S. international air carriers have become subjected in their competition with foreign air carriers.

The bill is entitled "International Air Transportation Fair Competitive Practices Act of 1974" and should be considered as part of the necessary program to help assure that American business is not placed at an undue disadvantage in competing in world trade and commerce with foreign competition. I will ask the Aviation Subcommittee to give early consideration to it.

There is a greater need than ever before to strengthen U.S. air carriers abroad. With the proliferation of foreign air carriers in all areas of the world and their consequent intensification of competition with U.S. carriers, it is in the national interest to see that our own carriers are in the strongest possible posture to meet their foreign competitors.

I have previously pointed out to my colleagues the difficult and frequently inequitable atmosphere in which our U.S.-flag air carriers must operate in competing with foreign flag airlines. Excessive competition, wage rates which exceed those of the foreign carriers frequently by 50 to 200 percent, Government ownership or assistance to foreign-flag carriers, discriminatory practices against U.S. carriers and, more recently, fuel costs which have tripled and quadrupled over a year ago—these are some of the factors which make it difficult for U.S. airlines to conduct normal operations on a profitable basis. All of these factors have contributed to the extremely serious financial situation of our two largest international carriers, TWA and Pan Am.

Although facing the competition of almost 50 authorized foreign air carriers, our U.S. air carriers have done a remarkable job of competing for traffic on the North Atlantic. U.S. citizens constituted 68 percent of the total passengers between the United States and Europe in 1972 and the U.S. carriers carried almost 50 percent of the total.

In the face of high fuel prices and the discriminatory practices situation there is serious concern whether they can continue full competition.

It is not my contention that all countries discriminate against our U.S.-flag airlines. Many countries afford our carriers the even-handed treatment that we extend to their carriers. On the other hand, we frequently find open as well as subtle discrimination against U.S. carriers.

Last June, I described to the Senate how the executive branch had been derelict in its responsibility to our U.S. carriers in meeting a flagrant example of discrimination by extending additional operating rights to Aeroflot, the Soviet airline, despite massive discriminations practiced by Aeroflot and the U.S.S.R. against Pan American in violation of the bilateral agreement and of all standards of equity and fairplay.

On the other hand, the Civil Aeronautics Board is to be commended for its recent action in proposing rules which would expand the Board's present authority to order a foreign carrier to file its service schedules for Board review. This expansion will improve the Board's ability to appraise the full competitive picture in order to assure that U.S. carriers are not deprived of a fair and equal opportunity to exercise operating rights provided in a bilateral agreement. This action was taken under existing law and is wholly consistent with a provision in the bill I am introducing today which directs the Board and other Government departments and agencies to continually review discriminatory and unfair practices and take steps to eliminate them.

I also commend the Board for its survey report on how U.S. air carriers are placed at a competitive or cost disadvantage in international air transportation marketplaces. These actions are helpful but I believe it is time for the Congress to take some action in this matter because the existing statutory authority is inadequate to deal with many of the problems.

The bill I am introducing today does not deal with all of the problems of the U.S.-flag air carriers which I mentioned earlier. For example, it does not deal with excess competition, skyrocketing fuel costs and high wages.

Specifically the bill would direct Government agencies to review the different forms of discrimination and unfair competitive practices to which U.S. air carriers are subject and to act to eliminate such practices. Agencies would be directed to seek any additional legislation they may need from the Congress and the bill would assign specific responsibility to the Civil Aeronautics Board to report annually to the Congress on actions taken in this area.

It would set up machinery to deal with discriminatory, exorbitant, or unfair airport and airway user charges. It would deal with discrimination in payments for the international transportation of mail. It would require use of U.S.-flag carriers, when their services are available, if the travel or shipment is paid from U.S. Government funds, as is the practice of most foreign governments. It would direct the Secretary of Commerce, in carrying out his responsibilities under the International Travel Act, to encourage travel to and from the United States on U.S.-flag carriers as other countries do with their carriers.

I ask unanimous consent that the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3481

A bill to amend the Federal Aviation Act of 1958 to deal with discriminatory and unfair competitive practices in international air transportation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "International Air Transportation Fair Competitive Practices Act of 1974".

DECLARATION OF POLICY

SEC. 2. (a) United States air carriers operating in foreign air transportation perform services of vital importance to the foreign commerce of the United States including its balance of payments, to the Postal Service, and to the national defense. Such carriers have become subject to a variety of discriminatory and unfair competitive practices in their competition with foreign air carriers. The Department of State, the Department of the Treasury, the Department of Transportation, the Civil Aeronautics Board, and other departments or agencies, therefore, each shall keep under review, to the extent of their respective functions, all forms of discrimination or unfair competitive practices to which United States air carriers are subject in providing foreign air transportation services and each shall take all appropriate actions within its jurisdiction to eliminate such forms of discrimination or unfair competitive practices found to exist.

(b) Each of these departments and agencies of Government shall request from Congress such additional legislation as may be deemed necessary at any time it is determined there is inadequate legal authority for dealing with any form of discrimination or unfair competitive practice found to exist.

(c) The Civil Aeronautics Board shall report annually to Congress on the actions that have been taken under subsection (a) and on the continuing program to eliminate discrimination and unfair competitive practices faced by United States carriers in foreign air transportation. The Secretaries of State, Treasury, and Transportation shall furnish to the Civil Aeronautics Board such information as may be necessary to prepare the report required by this subsection.

INTERNATIONAL USER CHARGES

SEC. 3. The International Aviation Facilities Act (49 U.S.C. 1151–1160) is amended by redesignating section 11 as section 12 and by inserting immediately after section 10 the following new section:

"SEC. 11. The Secretary of Transportation shall survey the charges made to air carriers by foreign governments or other foreign entities for the use of airport property or airway property in foreign air transportation. If the Secretary of Transportation determines at any time that such charges unreasonably exceed comparable charges for furnishing such airport property or airway property in the United States or are otherwise discriminatory, he shall submit a report on such cases promptly to the Secretary of State and the Civil Aeronautics Board, and the Secretary of State, in collaboration with the Civil Aeronautics Board, shall promptly undertake negotiations with the foreign country involved to reduce such charges or eliminate such discriminations. If within a reasonable period such charges are not reduced or such discrimination eliminated through negotiations, the Secretary of State shall promptly report such instances to the Secretary of Transportation who shall determine compensating charges equal to such excessive or discriminatory charges. Such compensating charges shall, with the approval of the Secretary of State, be imposed on the foreign air carrier or carriers of the country concerned by the Secretary of the Treasury as a condition to acceptance of the general declaration at the time of landing or takeoff of aircraft of such foreign air carrier or carriers. The amounts so collected shall accue to an account established for that purpose by the Secretary of the Treasury. Payments shall be made from that account to air carriers in such amounts as shall be certified by the Secretary of Transportation in accordance with such regulations as he shall adopt to compensate such air carriers for excessive or discriminatory charges paid by them to the foreign countries involved.".

RATES FOR TRANSPORTATION OF UNITED STATES MAIL IN FOREIGN AIR TRANSPORTATION

SEC. 4. Subsection (h) of section 406 of the Federal Aviation Act of 1958 (49 U.S.C. 1376) is amended to read as follows:

"PAYMENTS TO FOREIGN AIR CARRIERS

"(h) In any case where air transportation is performed between the United States and any foreign country, both by aircraft owned or operated by one or more air carriers holding a certificate under this title and by aircraft owned or operated by one or more foreign air carriers, (1) the Postmaster General shall not pay to or for the account of any such foreign air carrier a rate of compensation for transporting mail by aircraft between the United States and such foreign country, which, in his opinion, will result (over such reasonable period as the Postmaster General may determine, taking account of exchange fluctuations and other factors) in such foreign air carrier receiving a higher rate of compensation for transporting such mail than such foreign country pays to air carriers for transporting its mail by aircraft between such foreign country and the United States, or receiving a higher rate of compensation for transporting such mail than a rate determined by the Postmaster General to be comparable to the rate such foreign country pays to air carriers for transporting its mail by aircraft between such foreign country and intermediate country on the route of such air carrier between such foreign country and the United States, and (2) the Board shall not fix and determine for any air carrier a rate of compensation for transporting mail by aircraft between the United States and such foreign country which is lower than the rate of compensation payable by the Postmaster General to or for the account of any such foreign air carrier when such carrier transports such mail between the United States and such foreign country. Nothing in this subsection shall be deemed to authorize the Board to fix and determine for any air carrier a rate of compensation for transporting United States military mail higher than the rates set for such mail without regard to the provisions of this subsection.".

TRANSPORTATION OF GOVERNMENT-FINANCED PASSENGERS AND PROPERTY

SEC. 5. Title XI of the Federal Aviation Act of 1958 (49 U.S.C. 1501–1513) is amended by the addition of the following new section:

"TRANSPORTATION OF GOVERNMENT-FINANCED PASSENGERS AND PROPERTY

"SEC. 1114. Whenever any executive department or other agency or instrumentality of the United States shall procure, contract for, or otherwise obtain for its own account or in furtherance of the purposes or pursuant to the terms of any contract, agreement, or other special arrangement made or entered into under which payment is made by the United States or payment is made from funds appropriated, owned, controlled, granted, or conditionally granted or utilized by or otherwise established for the account of the United States, or shall furnish to or for the account of any foreign nation, or any international agency, or other organization, of whatever nationality, without provisions for reimbursement, any transportation of persons (and their personal effects) or property by air between a place in the United States and a place outside thereof or between two places both of which are outside the United States, the appropriate agency or agencies shall take such steps as may be necessary to assure that such transportation is provided by air carriers holding certificates under section 401 of this Act to the extent authorized by such certificates or by regulations or exemption of the Civil Aeronautics Board and to the extent service by such carriers is available. The Comptroller General of the United States shall disallow any expenditure from appropriated funds for payment for such personnel or cargo transportation on an air carrier not holding a certificate under section 401 of this Act in the absence of satisfactory proof of the necessity therefor. Nothing in this section shall prevent the application to such traffic of the antidiscrimination provisions of this Act.".

PROMOTION OF TRAVEL ON U.S. CARRIERS IN FOREIGN AIR TRANSPORTATION

SEC. 6. Section 2 of the International Travel Act of 1961 (22 U.S.C. 2122) is amended by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon and by adding at the end thereof the following new paragraph:

"(6) encourage to the maximum extent feasible travel to and from the United States on United States carriers.".

By Mr. ABOUREZK (for himself, Mr. McGOVERN, and Mr. YOUNG):

S. 3484. A bill to establish, within the Department of the Interior, the Earth Resources Observation Administration, and for other purposes. Referred to the Committee on Aeronautical and Space Sciences.

Mr. ABOUREZK. Mr. President, when the Janssen brothers invented the microscope back in 1950, people around the world hailed the invention as perhaps the most significant breakthrough in science of all time. Through the microscope, they saw things they had never seen before. A whole new world of information opened up—information which *became* vital to progress in developing solutions to many of man's most basic problems.

Now, again, an event of this significance has occurred. The Earth resources technology satellite—ERTS—and its parent agency, the Earth resources observation system, has been developed which is allowing all of us to see things which we have never seen before. Like the microscope, ERTS is opening a whole new world of vital information which can not only improve the way we live but actually save lives.

Since the ERTS satellite was launched over 22 months ago, it has provided over 100,000 photographs of Earth, revealing much more of the true nature of man's home planet, and its global air-ocean-land systems that support life. ERTS has proven itself to be one of the most valuable unmanned objects ever sent into space.

It has performed so well that scientists from over 96 countries throughout the world have been using it as a working operational satellite rather than as just an experiment. The list of its achievements is almost too long to mention. However, I would like to submit for the record a summary of many of its major accomplishments, and I ask unanimous consent that the summary be printed at this point in my remarks.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

A DIGEST OF SIGNIFICANT ACCOMPLISHMENTS FROM RESEARCH USING ERTS–1 DATA

1. AGRICULTURE, FORESTRY, AND RANGE MANAGEMENT

A. *Crop classification* accuracies of 80–90 percent have been recorded for:

Corn and soybeans—South Dakota, Illinois, Michigan;

Field corn and popcorn—Nebraska;

Winter wheat—Kansas; and

Rice, safflower, asparagus, corn, cotton—California.

B. *Timber and grassland inventory*—

Seward Peninsula, Alaska—color composite image plus 10 man-hours delineated 7 vegetation types of which only 4 types had been described on existing maps.

California Forest Fire burn areas mapped more accurately than previous estimates.

Bureau of Land Management moving into operational use of ERTS–1 data to monitor grassland growth in central California and parts of the Great Plains.

2. LAND USE MAPPING

A. *Land use change analysis*—

ERTS–1 application clearly demonstrated in Phoenix, Arizona.

State tax assessors and BLM land managers toward operational use of data.

Norfolk–Portsmouth, Virginia; 73% of all change mapped from high-altitude aircraft was identified in ERTS data and classified at Levels I and II.

Rhode Island—Eleven categories of land use identified in ERTS–1 data and confirmed by high-altitude photography. Cost efficiency of mapping land use with ERTS for Rhode Island is an order of magnitude greater than conventional aircraft mapping methods.

Joint Federal-State Land Use Planning Commission of Alaska—using ERTS–1 images for land-use inventory for aiding selection of 80,000 square kilometers of public domain for State, Indian and private use.

ERTS–1 image mosaics of western states—being used by BLM for updating private land ownership boundaries.

B. *Updating small-scale maps*—

ERTS–1 images have corrected and improved maps at 1:1,000,000, 1:500,000 and 1:250,000 scales. National map of Bolivia (1:1,000,000 scale) revised in 1973. States of Nevada and California produced as image mosaics at several scales. State of Delaware, New Jersey, Florida, Arizona, now in production.

ERTS–1 use in identifying change and assessing need for revision of large scale (1:24,000) map series clearly demonstrated—Lake Anna reservoir and nuclear power plant in Virginia.

US 95 misplotted on 1:250,000 scale Wilmington, Delaware sheet.

Changes of lakes and reservoirs in Florida and California clearly demonstrated on ERTS–1 images.

ERTS–1 photoimage mosaics of Antarctica have revealed previously unknown features, including blocks of mountains in Southern Victoria Land and at the head of Lambert Glacier.

Also identified needs for map revision due to changes in ice shelves and glaciers.

3. GEOLOGICAL ANALYSIS AND RESOURCES

A. *Synoptic view* provided by ERTS–1 image mosaics provide regional perspectives that permit mapping major lineaments; e.g., 1200 kilometer lineament across northern Nevada extending into California, Idaho and Montana may be a major structural break along which volcanism, geothermal areas and scattered ore deposits are localized.

B. *Surface composition* of large areas can be mapped by use of multispectral images. Absorption bands in near-infrared region appear to be a key in identifying limonite alteration zones related to mineral deposits.

C. *Volcano and earthquake monitoring*—Ground emplaced sensors and ERTS–1 data relay capability successfully demonstrated that increase of seismic events prior to eruption can be used in forecasting; e.g., February 17, 1973, eruption of Puego Volcano, Guatemala.

4. STATE AND QUALITY OF THE ENVIRONMENT

Air—Smoke plumes from industrial centers and fossil fuel plants have been mapped in Virginia, Chicago-Gary area, Pittsburgh, Seattle, San Francisco, Houston, and Four Corners Region.

B. *Water*—Paper plant waste effluent at Fort Ticonderoga, N.Y., mapped from ERTS–1 image of Lake Champlain is being used in law suit by State of Vermont.

Chemical and solid waste dumping in New York Bight mapper from ERTS–1 data taken several days after dump was made.

Turbidity patterns in Delaware Bay, as as seen in ERTS–1 data provide insight on tide dynamics and planning for deep port use.

Turbidity patterns and *algal concentrations* are being monitored in San Francisco Bay.

Oil slicks identified in ERTS–1 images near Baltimore suggests capability for spotting and tracking oil pollution.

C. *Land*—

Strip mine activities in Florida, Indiana, Kentucky, Ohio have been mapped using ERTS–1 images. Ohio found an 18% increase in stripped land area, surveyed at a cost of less than $20,000. In 1960 a similar study using conventional techniques cost $200,000. Feasibility of monitoring western coal stripping activities has been established.

Siltation from construction and floods in rivers, lakes and reservoirs has been proven through use of ERTS–1 data.

5. *Water Resources*

A. Flood plain and flood inundation mapping—

ERTS–1 application established on East and West Nishnabotna River, Iowa; Gila and Salt Rivers, Arizona; Mississippi River from St. Louis, Missouri, to Gulf of Mexico. This work demonstrated 1) that the effects of flooding could be mapped in the near-infrared band 7–12 days after peak stage, 2) that repetitive observations could track the flood crest at several locations along the Mississippi, and 3) that 87,000 square kilometers of the Mississippi Basin could be mapped for less than $20,000 to determine extent of inundation, assess regional effectiveness of flood control measures and identify areas where significant changes may be required to avoid future disasters.

B. *Snow cover mapping*—

ERTS–1 images coupled with ground emplaced snow pillows and stream gage data relays improved runoff forecasts of Verde-Salt River Watershed in time to lower reservoirs, increase power generation ($1,000,000 worth) and avoid floods in Phoenix, Arizona.

ERTS–1 images were used to estimate snow covered area within 4% at Thunder Creek Watershed, Northern Cascades, Washington.

C. *Glacier observation*—

Repetitive ERTS–1 images have been used to map unusual glacial surges (Bering Glacier and Yetna Glacier) in Alaska.

D. *Measurement of Water Quantity and Quality*—

Data collection platforms measuring quantity and quality of water have been relayed via ERTS–1 from watersheds in Arizona, New England, Delaware, Pennsylvania, New Jersey, Florida, and San Juan Mountains, Colorado, in near real time. Coupled with ERTS–1 images columetric estimates can be made improving flood forecasting and reservoir management.

E. *Ground Water Resources*—

ERTS–1 image analysis of linear features, many related to fracture systems, have provided new insight into the exploration for and development of ground water resources in Arizona, Pennsylvania, Alabama.

F. *Reservoirs and dams*—

Impoundments as small as 4 acres can be identified on ERTS–1 images produced directly from computer compatible tapes (CCT's).

ERTS data now being used operationally to locate water impoundments under National Program for the Inspection of Dams (H.R. 15951).

6. MARINE RESOURCES

A. *Coastal Processes*—

River effluents, sediment transport, erosion of headlands have been maped from ERTS–1 images in the Great Lakes, on both coasts of the conterminous states and Alaska. This information can be used operationally to prospect for off-shore placer deposits, monitor rates of erosion and assess potential adverse effects of water pollution.

B. *Sea Ice*—

Ice type, size, concentration and direction of movement have been determined from repetitive ERTS–1 images in Beaufort Sea.

Presence of meltwater on sea ice as well as open leads have successfully been mapped.

Grounded ice along submarine ridges have been observed on north coast of Alaska.

Applications to shipping, offshore structures, ports and pipeline planning are significant.

C. *Biological information*—

Schools of menhaden and shrimp have been related to water depth, turbidity and other environmental conditions identified in ERTS–1 images of the Gulf of Mexico.

Mr. ABOUREZK. Mr. President, although all of these accomplishments have occurred under an experimental program, there are serious problems associated with EROS' present status. In a response to my inquiry earlier this year, the U.S. Geological Survey listed four serious disadvantages of the experimental status which are now hampering the program's operation.

First. It has discouraged operational use of data because of the danger of stoppage or radical change in data characteristics.

Second. It almost guarantees a significant delay in data flow to the user. Present response time for a request is over 2 months.

Third. It discourages foreign and domestic investment in equipment and supplies.

Fourth. It adds significantly to the program costs.

What is seriously needed is a program which will provide a continuing flow of EROS data so that information to users may be incorporated into decisionmaking processes with the assurance that data will not be suddenly denied because the program has terminated. In addition, the request response time must be drastically reduced to allow the EROS information a quick dissemination in a period of less than 40 to 72 hours.

Mr. President, the Earth Resources Observation Administration Act, which I am introducing today, will do exactly that and more. This bill would require the Department of the Interior to establish an Earth Resources Observation Administration with the primary responsibility of turning remote sensing technology into an operational reality.

To do so, the Administration will establish and carry out a program to develop an efficient and effective means to acquire and interpret information on the quality and quantity of our Earth resources by consulting with all interested agencies of the Government as well as State and local governments and foreign governments. In addition, the Administration will work closely with the National Aeronautics and Space Administration in planning, research, development and operation of the satellite systems associated with the program.

Mr. President, agreement is almost unanimous in governmental circles, in the scientific community, and in business that the present EROS program has earned the right to become operational. The U.S. Geological Survey has stated that—

> The only stumbling blocks are approval of an operational program and adequate budget to carry out the program. The technology is available to implement the program.

The tremendous benefits which EROS has demonstrated in the last 2 years have convinced me that the time has come to remove these remaining stumbling blocks. Congress has already, in part, paved the way for an operational EROA program by authorizing the construction of a second ERTS satellite, ERTS–B, and by calling for research and development of a third.

This bill will complete this work and will allow for an even greater utilization of the vast number of benefits available to us and to the world through the use of Earth resources observation. It is extremely important that this be done soon. Like the invention of the microscope, the use of this new tool could offer solutions to many of man's most serious problems like no other invention before it.

Mr. President, I ask unanimous consent that the bill to establish the Earth Resources Observation Administration be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3484

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That as used in this Act, the term—

(1) "earth resources satellite system" means a combination of one or more earth orbital satellites and associated ground equipment for satellite command, control, data reception, and data analysis and interpretation, designed to provide information as to the quality and quantity of earth resources, except that such term does not include systems which have as their primary purposes acquisition of meterological information, or systems established primarily for purposes of national defense; and

(2) "space segment" means that portion of an earth resources satellite system which includes the satellites, their payload and associated ground equipment required for initial checkout, orbit determination and systems verification of the satellites. It includes the transportation system for satellite launch, recovery, repair and refurbishment.

SEC. 2. There is hereby established within the Department of the Interior the Earth Resources Observation Administration (hereinafter referred to as the "Administration"). The Administration shall be headed by an Administrator, who shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level V of the Executive Schedule pay rates (5 U.S.C. 5314). Under the supervision and direction of the Secretary of the Interior, the Administrator shall be responsible for the exercise of all powers and the discharge of all duties of the Administration, and shall have authority and control over all personnel and activities thereof.

SEC. 3. (a) The Administration, in order to carry out the purposes of this Act, shall establish and carry out a program to develop more efficient and effective means to acquire and interpret information on the quality and quantity of earth resources in order to assist the United States in earth resources management.

(b) The Administration shall be responsible for—

(1) consultation with all interested agencies of the United States, and other appropriate entities, including State and local governments, to ascertain the needs for information on the quality and quantity of earth resources; and

(2) on its own, or at the request of other agencies of the United States, planning research, design, development and operation of earth resources satellite systems, except that the planning research, designing, development, and operation of the space segment of the earth resources satellite systems shall be carried out in accordance with the provisions of section 4 of this Act.

SEC. 4. The Secretary of the Interior and the Administrator of the National Aeronautics and Space Administration are authorized to enter into an agreement or other arrangement pursuant to which the National Aeronautics and Space Administration shall undertake the responsibility for the planning, research, designing, development, and operation of the space segment of the earth resources satellite systems on a reimbursable basis.

SEC. 5. (a) The Administration, in order to carry out the purposes of this Act, shall provide for the widest practicable and appropriate dissemination of information concerning its activities and the results thereof.

(b) In the performance of its functions, the Administration is authorized—

(1) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of its operations and the exercise of the powers vested in it by law;

(2) to appoint and fix the compensation of such officers and employees as may be necessary to carry out such functions, and, to the extent that it determines such action necessary to the discharge of its responsibilities, to appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, scientific engineering and administrative personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but in no event in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of title 5, United States Code;

(3) to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its work and on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any State, territory, or possession of the United States, or with any political subdivision thereof, or with any person, firm, association, corporation, or educational institution;

(4) to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursement, and on a similar basis to cooperate with other public and private agencies, institutions, and instrumentalities in the use of services, equipment, and facilities. Each department and agency of the Federal Government is authorized to cooperate fully with the Administration in making its services, equipment, personnel and facilities available to the Administration;

(5) to appoint, in accordance with the applicable provisions of the Federal Advisory Committee Act, such advisory committees as may be appropriate for purposes of consultation and advice to the Administration in the performance of its functions;

(6) to establish within the Administration such offices and procedures as may be appropriate to provide for the greatest possible coordination of its activities under this Act with related scientific and other activities being carried on by other public and private agencies, institutions, and instrumentalities; and

(7) to enter into agreements with foreign countries for cooperative programs or reimbursable services when these agreements are deemed in the best interest of the United States and coordinated with the Department of State, and other appropriate agencies.

(8) to obtain services of experts and consultants in accordance with section 3109 of title 5, United States Code.

Sec. 6. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. WEICKER:

S. 3485. A bill to amend the Regional Rail Reorganization Act of 1973 to allow adequate time for citizen participation in public hearings, and for other purposes. Referred to the Committee on Commerce.

Mr. WEICKER. Mr. President, I am today introducing legislation to amend the Regional Rail Reorganization Act of 1973 to allow adequate time for citizen participation in public hearings.

The Rail Reorganization Act of 1973 established the Rail Services Planning Office—RSPO—within the Interstate Commerce Commission to, inter alia, insure that the interests of the public are adequately protected during key phases of the reorganization process. Multifarious provisions in the act reflect congressional concern over the safeguarding of the public interest:

First. Section 205(d)(1) requires the Rail Services Planning Office—RSPO—to conduct public hearings on the Secretary's Report[1] and present and future rail service needs in the region.

Second. Section 205(d)(2) requires the RSPO to secure the services of attorneys and other personnel to insure that the public interest is protected.

Third. Section 207(a)(1) requires the U.S. Railway Association—USRA—to afford interested persons an opportunity to comment upon the preliminary system plan.

Fourth. Section 207(a)(2) directs the RSPO to conduct public hearings on the preliminary system plan.

Fifth. Section 208(a) affords the public an opportunity to reject the final system plan through their Representative in Congress.

Notably, in order to achieve maximum and effective public participation at least four things are necessary: First, an opportunity for the public to gain access to pertinent data—for example, reports and various plans; second, sufficient time for members of the public to review and analyze the data; third, sufficient time for public counsel—provided for in section 205(d)(2) of the act—to inform members of the public of the nature of the proceedings and aid them in the preparation of testimony; and fourth, there must be enough time for the RSPO to select those hearing sites which will facilitate the greatest amount of public participation.

The fourth requirement, as stated above, entails many factors. The RSPO needs sufficient time to provide advance publicity of the hearings while concomitantly assembling the requisite personnel to conduct the hearings—for example, public counsel, presiding officers, contact coordinators, court reporters, bailiff, et cetera. Moreover, logistically, it takes time to select an appropriate location which is available for the requisite period of time—usually 3 to 5 days.

The current statutory timetable does not facilitate the satisfaction of the aforementioned prerequisites to effective public participation in the reorganization process. Information obtained during the initial stages of the reorganization process reflects the public's dissatisfaction with the current timetable as outlined herein. On February 1, 1974, the Secretary issued the report required by section 204. Since the RSPO was required to submit its analysis and recommendations concerning that report to the USRA by May 2, 1974, hearings were held during the first 2 weeks in March. An overwhelming majority of the approximately 2,700 witnesses who testified in 17 cities throughout the region complained that they: First, were unable to obtain the Secretary's report and other pertinent data—that is, the act; second did not have enough time to review and analyze the report even if they did have access thereto; and third, did not have enough time to accumulate necessary data for rebutting the report. Notably, because of the overwhelming public interest in the reorganization process and the inability of many to participate in the March hearings, additional hearings on present and future rail service needs are currently being conducted by the RSPO throughout the region.

With the promulgation of the preliminary system plan by the USRA on October 29 of this year—pursuant to section 207a of the act—the public will be presented with the proposed plan for their future rail service in the region. Unfortunately, the current timetable requires the RSPO to hold hearings and issue its report on the plan within 60 days after issuance. Notwithstanding the fact that such hearings would have to be held during the holiday season, the same aforementioned deficiencies of the initial stage will once again rise. Moreever, it is dubious that the goal enumerated by Congress in section 206(a) of the act can be achieved unless these deficiencies are overcome by extending the current time limits. In order to achieve these goals and the other purposes of the act, the public must be given the opportunity both to assimilate the vast amount of divergent data required and present the synthesized fruits thereof in cogent constructive testimony.

Therefore, the amendment I am introducing today, which would extend the period for public participation, following the issuance of the USRA's preliminary plan, from 2 to 5 months, will give the public the meaningful note which they are intended to have under the act.

Finally, with the other time limit extensions section 205(d)(3) should be extended by an additional 90 days in order to insure that the public has sufficient opportunity to participate in the rulemaking which would apply to them in seeking continued rail service over a line not included in the final system plan.

I will at this time compliment Congressman Sarasin of Connecticut for his initiative in introducing this legislation (H.R. 14260) in the House. I further ask unanimous consent that the text of a letter from Mrs. Barbara Boster, executive director of the Eastern Connecticut Development Council, in support of the legislative proposal, be printed at this point in the Record. Barbara Boster has been extremely active in ICC-Rail reorganization hearings in the northeast concerning DOF proposed abandonment of 175 miles of Connecticut rail track. I ask unanimous consent also that the text of the bill be printed in the Record.

There being no objection, the letter and bill were ordered to be printed in the Record, as follows:

Connecticut Development
Council, Inc.,
May 3, 1974.

Hon. Lowell Weicker,
U.S. Senate, Russell Building,
Washington, D.C.

Dear Senator Weicker: As you know, the Eastern Connecticut Development Council is a private, nonprofit corporation organized for the purpose of maintaining the stability and enhancing the growth of the Eastern Connecticut economy.

Because transportation access is a critical determinant of economic viability, and because alternative transportation modes in the region are limited, the Council views the possibility of rail freight service abandonments under the Regional Rail Reorganization Act of 1973 as a serious threat to the current economic health and future development potential of Eastern Connecticut. Concern about this possibility was expressed by the Council at recent ICC public hearings, and in written economic impact and rail service continuation subsidy counterproposal statements submitted to the Rail Services Planning Office.

Through this involvement in the rail reorganization process, the Council has become acutely aware that the time allowed for public comment on the various aspects of the reorganization does not permit adequate public review and reaction. Therefore, we urge you to support any measures designed to extend the timetable mandated by the Act.

We believe that this issue vitally affects the public interest in Eastern Connecticut and throughout the Northeast and Midwest and therefore requires the widest possible public participation. Such participation is severely limited under the existing timetable.

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[1] "Rail Services in the Northeast and Midwest," Report of the Secretary of Transportation (February 1, 1974).

Sincerely,

BARBARA R. BOSTER,
Executive Director.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that section 207 (a)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 717(a)(1) be amended by striking out the words "60 days" and inserting in lieu thereof "150 days".

SEC. 2. Section 207(a)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 717(a)(2)) is amended by striking out the words "60 days" and inserting in lieu thereof the words "150 days".

SEC. 3. Section 207 (c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 717(c)) is amended by striking out the words "420 days" and inserting in lieu thereof "510 days".

By Mr. BUCKLEY:

S. 3486. A bill to amend title 10 of the United States Code to provide a more equitable standard for awarding the gold star lapel button. Referred to the Committee on Armed Services.

Mr. BUCKLEY. Mr. President, the bill I introduce today is designed to provide a more equitable standard for awarding the gold star lapel button. Since 1966 these buttons have been awarded to widows, parents, and next of kin of members of the Armed Forces who lost or lose their lives while engaged in military operations against an enemy force. However, different standards have been applied at different times in awarding the gold star. This bill will restore the pre-1966 wording of the law specifically to include the widows, and so forth, of those servicemen who lose their lives in the line of duty during any period of armed hostilities in which the United States is engaged, though they may not themselves be involved directly in the conflict. This would mean that the next of kin of the victims of the *Thresher* submarine accident, and the unfortunate victim of the *Pueblo* incident, would be eligible for the award.

The men and women who are drafted, enlisted, or commissioned, during a period of a national emergency, such as the Vietnam conflict, are all subject to the risk of being called into the arena of the hostilities, and are all at least indirectly engaged in the support of our military effort during the conflict. This is recognized by the Department of Defense, which awarded the National Defense ribbon to all those who entered or reentered the armed services during the Vietnam war. By accepting the risks of being in the Armed Forces during such a period, or the risks of serving "with friendly forces engaged in an armed conflict in which the United States is not a belligerent party" these servicemen certainly deserve special recognition.

Although this bill will expand the number of those widows, parents, and the next of kin, who will be eligible for the award, the dignity of the gold star will be upheld. The Department of Defense has a policy of withholding the award when the conditions under which the serviceman died were a result of his own misconduct; my bill will not affect this policy. Furthermore, a serviceman is actually on "active duty" and subject, to call, 24 hours a day, even when on official leave.

Mr. President, this bill will give a broader and more equitable recognition to our servicemen who make the greatest sacrifice—whether on the battlefield or behind a desk, during any period of armed hostilities in which the forces of the United States are engaged.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 950

At the request of Mr. ABOUREZK, the Senator from Missouri (Mr. EAGLETON) was added as a cosponsor of S. 950, a bill to amend the Clayton Act to provide for additional regulation of certain anticompetitive developments in the agricultural industry.

S. 2665

At the request of Mr. SPARKMAN, the Senator from California (Mr. TUNNEY) and the Senator from Ohio (Mr. TAFT) were added as cosponsors of S. 2665, a bill to authorize funds for the replenishment of the International Development Association.

S. 2789

At the request of Mr. MCGOVERN, the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 2789, a bill to amend title 38, United States Code, in order to increase the rates of educational assistance allowances and to establish a Vietnam Era Veterans Communications Center, and for other purposes.

S. 3311

At the request of Mr. CHILES, the Senator from Utah (Mr. MOSS) and the Senator from Wyoming (Mr. MCGEE) were added as cosponsors of S. 3311, a bill to provide for the use of simplified procedures in the procurement of property and services by the Government where the amount involved does not exceed $10,000.

S. 3339

At the request of Mr. HUMPHREY, the Senator from Minnesota (Mr. MONDALE) and the Senator from Rhode Island (Mr. PELL), were added as cosponsors of S. 3339, a bill to amend the program of supplemental security income for the aged, blind, and disabled—established by title XVI of the Social Security Act—to provide for cost-of-living increases in the benefits provided thereunder.

S. 3386

At the request of Mr. FONG, the Senator from Utah (Mr. BENNETT), the Senator from California (Mr. CRANSTON), the Senator from Michigan (Mr. HART), the Senator from Colorado (Mr. HASKELL), the Senator from Idaho (Mr. MCCLURE), the Senator from Wyoming (Mr. MCGEE), and the Senator from Delaware (Mr. ROTH) were added as cosponsors of S. 3386, a bill to amend title II of the Social Security Act to increase the increment in old-age benefits payable to individuals who delay their retirement beyond age 65.

S. 3401

At the request of Mr. BAYH, the Senator from Tennessee (Mr. BROCK) was added as a cosponsor of S. 3401, to include laboratory fees for routine cytological tests for the detection of uterine cancer within the coverage of Federal employee health insurance plans.

S. 3443

At the request of Mr. MONDALE, the Senator from Louisiana (Mr. LONG) was added as a cosponsor of S. 3443, the Petroleum Moratorium Act of 1974.

SENATE RESOLUTION 322—SUBMISSION OF A RESOLUTION TO REFER A BILL TO THE COURT OF CLAIMS

(Referred to the Committee on the Judiciary.)

Mr. ERVIN submitted the following resolution:

SENATE RESOLUTION 322

Resolution to refer the bill (S. 3482) entitled "A bill for the relief of Monroe Garment Company, Inc." to the Chief Commissioner of the United States Court of Claims for a report thereon

Resolved, That the bill (S. 3482) entitled "A bill for the relief of Monroe Garment Company, Inc.," now pending in the Senate, together with all the accompanying papers, is hereby referred to the Chief Commissioner of the United States Court of Claims. The Chief Commissioner shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States or a gratuity and the amount, if any, legally or equitably due from the United States to the claimant.

ADDITIONAL COSPONSOR OF A CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 84

At the request of Mr. MONDALE, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of Senate Concurrent Resolution 84, relating to opium production in Turkey.

WITHDRAWAL OF COSPONSORS OF A RESOLUTION

SENATE RESOLUTION 74

Mr. SPARKMAN. Mr. President, I ask unanimous consent that, at the next printing of Senate Resolution 74, expressing the sense of the Senate with respect to the submission of U.S. territorial disputes to the International Court of Justice, the names of Mr. STEVENSON and Mr. BAYH be removed.

The PRESIDING OFFICER. Without objection, it is so ordered.

EDUCATION AMENDMENTS OF 1974—AMENDMENTS

AMENDMENT NO. 1300

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to the bill (S. 1539) to amend and extend certain acts relating to elementary and secondary education programs, and for other purposes.

AMENDMENT NO. 1301

(Ordered to be printed and to lie on the table.)

Mr. WILLIAM L. SCOTT. Mr. President, I send to the desk an amendment to S. 1539, the elementary and secondary education bill which will be before the Senate this week, ask that it be received and that the amendment be printed in the Record at this point.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

At the end of the bill add the following new title:

TITLE IX—CLARIFICATION OF FEDERAL JURISDICTION; CLARIFICATION OF FEDERAL JURISDICTION WITH RESPECT TO PUBLIC SCHOOLS

Sec. 901. Notwithstanding any other provision of law, including any other provision of this Act or any Act amended by this Act, no court created by Act of Congress and having general jurisdiction, original or appellate, with respect to cases or controversies arising under the laws or Constitution of the United States, shall have any jurisdiction to hear or decide cases or controversies involving the public elementary or secondary schools of a local or State educational agency. The jurisdiction terminated by this Act shall be vested in the courts of the several States and, with respect to such cases and controversies arising in the District of Columbia or in any other territory or possession of the United States, in the Federal courts of an essentially local jurisdiction in such District, territory, or possession. In each such case or controversy, there is vested in the Supreme Court of the United States appellate jurisdiction by writ of certiorari to the highest State or territorial court exercising jurisdiction over such case or controversy.

On page 124, in the Table of Contents after Title VIII insert the following new title:

TITLE IX—CLARIFICATION OF FEDERAL JURISDICTION

"Sec. 901. Clarification of Federal jurisdiction with respect to public schools.".

Mr. WILLIAM L. SCOTT. Mr. President, the purpose of the amendment is to transfer jurisdiction over all issues and controversies involving the public schools from the Federal to the State courts. This is to assure that cases dealing with such a vital local institution as the public school be determined by judges attuned to the problems and the needs of the communities.

To resolve any doubts that might be in the minds of the membership with regard to the authority of the Congress to do this, I have a memorandum prepared by the Congressional Research Service of the Library of Congress on the question. Of course, we know that Congress, under the Constitution, has the power to constitute and to fix the jurisdiction of all our Federal courts inferior to the Superior Court.

I ask unanimous consent that this memorandum be printed in the Record.

There being no objection, the memorandum was ordered to be printed in the Record, as follows:

Congressional Research Service,
Washington, D.C., February 25, 1972.

To: Honorable William L. Scott

From: American Law Division

Subject: Power of Congress Over Jurisdiction of Inferior Federal Courts

This is in response to your request with regard to the power of Congress to provide that cases relating to the public schools shall not be heard in the lower federal courts but instead shall be heard in the state courts with appeals by petition for writ of certiorari to the United States Supreme Court. It would appear to be well settled that the distribution of federal judicial power is a matter of discretion entrusted by the Constitution to Congress; the Constitution specifically provides for this scheme and numerous Supreme Court decisions recognize it. All exercises of power under the Constitution are, of course, subject to constitutional restraints and it may well be that there is a point beyond which Congress could not go in restricting federal judicial power. But on the basis of precedent and the language of cases on point, it would not appear that to require litigation concerning public schools to be initiated in state courts with ultimate review in the United States Supreme Court approaches this point.

A brief historical survey will illustrate the general scheme. At the Constitutional Convention, the Framers first agreed to the proposition that "a national judiciary" consist of a supreme tribunal and "of one or more inferior tribunals." Then, upon the argument that state courts could adequately adjudicate all necessary matters while the supreme tribunal could protect the national interest and assure uniformity, the provision for inferior courts was struck. The next day the Convention adopted an amendment to authorize Congress "to appoint inferior tribunals," the use of the ambiguous word "appoint" being made to give Congress discretion either to "appoint" existing state courts to exercise federal jurisdiction, as was done under the Confederacy, or to "appoint" federal courts. First the Committee on Detail and then the Committee on Style rearranged and reconstituted the wording of the clause so that "appoint" first became "constitute," as it remained in Article I, § 8, cl. 9, and then became the present wording of Article III, cl. 1, to the effect that federal judicial power "shall be vested . . . in such inferior Courts as the Congress may from time to time ordain and establish." 1 Farrand, 21–22, 95, 104, 105, 118, 124–125, 127; 2 Ferrand, 38, 45, 186, 315, 422–423, 428–430, 600. The point of the metamorphosis would seem to be that Congress is under somewhat more hortatory influence to create inferior federal tribunals than it was when "appoint" was used but its discretion is left at large.

The first Congress exercised the power so granted when it enacted the Judiciary Act of 1789. 1 Stat. 73. Congress did not grant to the federal courts the full judicial power of the United States. Jurisdictional amount requirements kept many litigants from federal courts and sent them instead to state courts to adjudicate faderal claims. The 1789 Act contained no grant of "federal question" jurisdiction, so that suits arising, in the words of Article III, § 2, "under this Constitution, the Laws of the United States, and Treaties . . .", except where otherwise specifically and narrowly provided for, were required to be brought in the state courts until 1875. 18 Stat. 470. And a clause barring diversity jurisdiction where diversity had been created by the assignment of choses in action kept in state courts cases which the Constitution would have permitted Congress to assign to federal courts.

In a case involving the "assignee clause," the Court first announced the doctrine that Congress controlled much of its jurisdiction and all of that of the lower federal courts. In the words of Justice Chase: "The notion has frequently been entertained, that the federal courts derive their judicial power immediately from the constitution; but the political truth is, that the disposal of the judicial power (except in a few specified instances) belongs to Congress. If Congress has given the power to this court, we possess it, not otherwise; and if Congress has not given the power to us, or to any other court, it still remains at the legislative disposal. Besides, Congress is not bound, and it would, perhaps, be inexpedient, to enlarge the jurisdiction of the federal courts to every subject, in every form, which the constitution might warrant." *Turner* v. *Bank of North America*, 4 Dall. (4 U.S.), 8, 10 (1799). And in *Cary* v. *Curtis*, 3 How. (44 U.S.) 236, 245 (1845), it was said that "the judicial power of the United States, although it has its origins in the Constitution, is (except in enumerated instance, applicable exclusively to this court) dependent for its distribution and organization, and for the modes of its exercise, entirely upon the action of Congress, who possess the sole power of creating the tribunals (inferior to the Supreme Court), for the exercise of the judicial power, and of investing them with jurisdiction either limited. concurrent, or exclusive, and of withholding jurisdiction from them in the exact degress and character which to Congress may seem proper for the public good." For similar expressions, see, e.g., *Sheldon* v. *Sill*, 8 How. (49 U.S.) 441 (1850); *Plaquemines Tropical Fruit Co.* v. *Henderson*, 170 U.S. 511 (1898); *Kline* v. *Burke Const. Co.*, 260 U.S. 226 (1922); *Lockerty* v. *Phillips*, 319 U.S. 182 (1943); *South Carolina* v. *Katzenbach*, 383 U.S. 301, 331–332 (1966).

State judges under the Supremacy Clause, Article VI, cl. 2, are bound by oath to uphold the supremacy of the Constitution as well as constitutional federal laws and treaties. Today, all cases which might be brought under "federal question" and diversity jurisdiction in federal courts which do not involve the requisite jurisdictional amount must be brought in state courts. Litigants may on their own bring most cases in state courts which could be brought in federal courts, excepting only a few classes of cases in which Congress had made federal jurisdiction exclusive.

Constitutional difficulties could arise should, for example, such a proposal as this be conjoined with one purporting to regulate the Supreme Court's appellate jurisdiction to prevent it from hearing school cases on appeal. It may be that some access to Article III federal courts is required. But that is not an issue here. The history and the precedents appear to provide support for the constitutionality of this proposal.

Johnny H. Killian,
Legislative Attorney.

AMENDMENT NO. 1304

(Ordered to be printed, and to lie on the table.)

Mr. McCLELLAN (for himself, Mr. Hollings, Mr. Talmadge, Mr. Fulbright, Mr. Long, Mr. Bayh, Mr. Cannon, Mr. Chiles, Mr. Ervin, Mr. Sparkman, Mr. Nunn, Mr. Huddleston, Mr. Eastland, Mr. Stennis, Mr. Johnston, Mr. Fannin, Mr. Tower, Mr. Bennett, Mr. Brock, Mr. Gurney, Mr. Thurmond, Mr. Baker, Mr. Bellmon, Mr. Goldwater, Mr. Bible, Mr. Allen, Mr. Young, Mr. Domenici, Mr. Haskell, Mr. Hansen, Mr. Montoya submitted an amendment, intended to be proposed by them, jointly, to Senate bill 1539, supra.

AMENDMENT NO. 1305

(Ordered to be printed, and to lie on the table.)

STATEMENT IN SUPPORT OF AMENDMENT TO S. 1539 FOR EDUCATION FOR THE HANDICAPPED

Mr. MATHIAS. Mr. President, perhaps no other concept is as widely accepted by the citizens of our country as is the concept of equality of educational opportunity. If we believe, however, in the basic premise that equal educational opportunities must be provided to all handicapped children, then our Nation is a long way from achieving that most desirable goal. The amendment I am introducing is a modest step toward achieving equality of educational opportunity for 7 million handicapped children in America.

On April 9, 1974, Judge John Raine, Jr., in the Circuit Court for Baltimore County, Md., decreed in the case of the Maryland Association for Retarded Children against Maryland—a class action suit on behalf of all retarded children to require the State to provide a free public education for all—that "it is the established policy of the State of Maryland to provide a free education to all persons between the ages of 5 and 20 years, and this includes children with handicaps, and particularly mentally retarded children, regardless of how severely and profoundly retarded they may be."

It might be well to note some of the key facts which surfaced in the court's finding. The court, for instance, noted that:

> A common estimate of the mentally retarded population is that the retarded constitute about 2.3 to 3 percent of the general population, and the severely and profoundly handicapped constitute one-half of one percent of the population. Application of 3 percent to Maryland public and nonpublic school enrollment, 1972–1973, kindergarten through grade 12, would indicate that there are about 31,000 school age mentally retarded persons in Maryland today, of whom about 5,000 are severely and profoundly retarded. These are only rough estimates, however. It is not known exactly how many retarded, or how many severely and profoundly retarded school age children live in Maryland today.
>
> All persons, including mentally retarded persons, are capable of benefiting from a program of education; the greatest number of retarded persons, given such education, are capable of achieving self-sufficiency and the remaining few, with such education, are capable of achieving some degree of self-care; the earlier such education begins, the more thoroughly and the more efficiently a mentally retarded person will benefit from it; and, whether begun early or not, a mentally retarded person can benefit at any point in his life and development from a program of education.
>
> There exist several tested curricula for the education of severely and profoundly handicapped children.

The facts further disclosed that:

> Numbers of children with a variety of handicaps must find education outside the public schools in Maryland because there are no appropriate public school programs made available for them. That is true in each of the jurisdictions served by the defendant boards of education.
>
> Children who are deemed to be too retarded or handicapped for admission to public school programs for the moderately retarded are frequently referred to as "severely" and "profoundly" retarded, although in fact severely retarded children who function on the moderately retarded level are sometimes admitted to public school programs for moderately retarded children.
>
> Prior to the current school year public schools in Maryland did not provide public school programs designed for children who are deemed to be too retarded to be eligible for admission to public school programs for moderately retarded children.
>
> Apart from the Baltimore City and Montgomery County programs, it remains true today that public schools in Maryland do not provide public school programs designed for children who are deemed to be too retarded to be eligible for admission to public school programs for moderately retarded children. Baltimore City Public School officials intend to make educational programs available for all handicapped children. However, that undertaking is limited to a per capita expenditure for such programs by the Baltimore City public schools not exceeding the per capita expenditure for nonhandicapped children.

All parties to the suit agreed that:

> Private day schools are not available in Maryland for most severely and profoundly retarded children. Accordingly, the principal alternatives open to most such children are day care or institutionalization.
>
> The Mental Retardation Administration operates three residential institutions that serve school-age children: Rosewood, Great Oaks, and the Third Floor of the Mason Lord Building, Baltimore City Hospital. Rosewood serves retarded persons of all ages from throughout the State.
>
> Of the 321 at Rosewood in no regular educational program, only 3 were under age 5, 196 between 5 and 17, and 121 between 17 and 21.
>
> The habilitation program at Rosewood is not a complete educational program. It is a program of recreation. As the Director of the Mental Retardation Administration testified, it is "adjunctive," a "support."
>
> The principal reason why many children at Rosewood do not participate in school or cottage-based school programs is lack of resources, and more specifically lack of sufficient appropriations.
>
> The ratios at Rosewood show that educational programs at Rosewood are grossly understaffed. The ratios at Rosewood compare unfavorably with the ratios prescribed by State Board of Education by-laws for public and nonpublic school programs and institutional programs for moderately retarded children. They compare most unfavorably with ratios in self-contained classrooms for severely handicapped children in public schools in the surrounding community. A majority of these children are not moderately retarded but instead are severely and profoundly retarded; the staff-pupil ratios at Rosewood compare most unfavorably with the ratio of one teacher for every 5 or 6 severely and profoundly retarded children suggested by Dr. Goldstein. They also compare most unfavorably with the ratios suggested by Dr. Sontage, a witness for the State. The addition of 36 new teachers' and aides' positions promised by defendants will improve the staffing ratios at Rosewood but those ratios nevertheless will continue to compare unfavorably with ratios prescribed by the State Board of Education.
>
> Classes for severely and profoundly retarded children at Rosewood ranged from 45 minutes per week (39 hours per year) to 25 hours per week (1,300 hours per year).
>
> In 1972 there were 1,189 school-aged children enrolled in day care centers for the mentally retarded in Maryland.
>
> Day care centers for mentally retarded persons are licensed by the Mental Retardation Administration but are not presently approved or accredited by the State Department of Education under Sections 12 and 99 of Article 77 of the Maryland Code, nor are they evaluated by local school officials.
>
> However, unlike the accreditation standards of the State Board of Education for nonpublic schools and institutional programs, the day care regulations do not provide minimum standards for curriculum and instructional content, techniques and materials, and thus do not allow for the denial, suspension or revocation of licenses for deficiencies in these aspects of the day care center operations.
>
> Moreover, the qualifications for day care center teachers prescribed by the day care regulations fail to require any professional training. They require only that such teachers be high school graduates, evidence emotional stability, have had experience working with children, and hold a Red Cross First Aid Certificate or the equivalent. These sketchy requirements are very different from the qualifications prescribed by the State Board of Education for teachers in public and nonpublic school programs for handicapped children.
>
> There are no day care centers for school-age children in a number of counties in Maryland.
>
> The public schools rely on the local health departments and the Mental Retardation Administration to find programs for children who do not meet the current minimum standards for admission to public school programs for moderately retarded children.
>
> Children referred by public schools to the local health department often must wait on waiting lists instead of being admitted promptly to a program.

Mr. President, my reason for citing these facts is not to publicize the shortcomings of education in my State or to discredit the sincere and dedicated Maryland educators and specialists who have been working in behalf of handicapped children over the years. Rather, my purpose in calling attention to these facts is to highlight a set of conditions which are replicated throughout the United States in virtually every school district. As the court noted:

> In Maryland there have been great strides in recent years to serve the educational needs of the handicapped; new facilities have been opened, a data processing system has been initiated, more money has been spent, and more of the handicapped have been served. In 1965 the State assisted approximately three thousand children at a cost of $1,000,000. By 1973 approximately seventy-seven thousand were provided some service at a cost to the State of approximately $33,000,000. (These figures relate to the entire class of handicapped children and are not limited to the mentally retarded). Nevertheless, with the exception of a very limited number of pilot projects no school system has an appropriate program in the public schools for the most severely and profoundly retarded children.

As I suggested earlier, Maryland does not stand alone. Across this Nation, increasingly active parents, lawyers, and even educators are going to court to seek relief from the exclusion and inappropriate education of handicapped children. And, I might add, the courts are increasingly substantiating the right of handicapped children to an appropriate education with full rights of notice of due process in relation to their selection, placement, and retention in education programs.

In 1971, a U.S. District Court decree, in the case of PARC against Pennsylvania in Pennsylvania, stated specifically that no mentally retarded child could be denied admission to a public school program or have his educational status changed without first being accorded notice and the opportunity of a due process hearing. Moreover, the court ruled that the State could not apply any law which would postpone, terminate, or deny mentally retarded children access to a publicly supported education, including a public school program, tuition or tuition maintenance, and homebound instruction. Equally significant, the court ordered that local school districts providing preschool education to any children are required to provide the same for mentally retarded.

Here in the Nation's Capital, the right to education was boldly extended to handicapped children almost 2 years ago. On August 1, 1972, in response to a class action suit against the Board of Education of the District et al. for failure to provide all children with a publicly supported education, the court issued a memorandum, opinion, judgement, and decree which in essence supported all arguments advanced by the plaintiffs. I would only, at this point, call attention to the court's response to the school board's argument that it would be impossible for them to afford the relief the plaintiffs sought unless the Congress appropriated needed funds, or funds were diverted from other educational services for which they had been appropriated. The court said, and I quote:

> The defendants are required by the Constitution of the United States, the District of Columbia Code, and their own regulations to provide a publicly-supported education for these "exceptional" children. Their failure to fulfill this clear duty to include and retain these children in the public school system, or otherwise provide them with publicly-supported education, and their failure to afford them due process hearing and periodical review, cannot be excused by the claim that there are insufficent funds. In *Goldberg* v. *Kelly*, 397 U.S. 254 (1969) the Supreme Court, in a case that involved the right of a welfare recipient to a hearing before termination of his benefits, held that Constitutional rights must be afforded citizens despite the greater expense involved. . . . Similarly the District of Columbia's interest in educating the excluded children clearly must outweigh its interest in preserving its financial resources. If sufficient funds are not available to finance all of the services and programs that are needed and desirable in the system then the available funds must be expended equitably in such a manner that no child is entirely excluded from a publicly-supported education consistent with his needs and ability to benefit therefrom. The inadequacies of the District of Columbia Public School System, whether occasioned by insufficient funding or administrative inefficiency, certainly cannot be permitted to bear more heavily on the "exceptional" or handicapped child than in the normal child.

Maryland, Pennsylvania, and the District of Columbia, however, do not stand alone. A number of other States are now confronted with the requirement to provide new educational services, whether as a consequence of court action, or new mandatory legislation, as in the case of Massachusetts, or executive action—or all three.

The national dimensions of the problem are gripping. According to the U.S. Office of Education, there are an estimated 7 million handicapped children in America. Of these 7 million, 6 million are school-aged and 1 million are preschoolers. Unfortunately, just about half of the school-aged handicapped children are receiving the special education services they need, and virtually none of the 1 million preschoolers are being served. I know that in my State of Maryland, only 60 percent of our handicapped children are receiving the required educational services. Moreover, figures reported in Compact, a publication of the Education Commission of the States, indicate that 35 States were providing less service than Maryland; 13 States were providing more service; 2 other States were providing an equal percentage; 12 States were reported as providing less than 30 percent of their children with services; 11 States provided between 30 percent and 40 percent, and 14 fell within the 50 to 60 percent range.

Mr. President, at this point, I ask unanimous consent that a table found in a 1973 Rand Corp. Research Report sponsored by the Department of Health, Education, and Welfare, which lists the percentage of handicapped children served by State and by disability, be inserted in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

ESTIMATED PERCENT OF HANDICAPPED SERVED BY SPECIAL EDUCATION PROGRAMS, 1972-73

State	Mentally retarded	Hard of hearing	Deaf	Speech impaired	Visually impaired	Emotionally disturbed	Crippled and other	Learning disabled	Total all handicaps
Alabama	75.03	7.44	111.10	26.20	45.68	3.30	21.28	6.65	30.55
Alaska	41.95	29.69	61.85	1.86	32.47	7.70	16.70	37.11	18.75
Arizona	63.65	2.47	0	35.85	12.57	8.23	26.21	7.75	31.20
Arkansas	80.29	0	51.76	28.80	45.07	3.31	20.24	17.00	33.14
California	50.47	12.02	80.11	74.39	50.07	0	232.31	120.16	63.02
Colorado	63.51	58.40	102.33	112.72	39.65	53.10	60.68	0	71.98
Connecticut	46.58	41.00	0	48.52	60.46	58.93	63.17	123.81	57.82
Delaware	100.92	1.08	139.05	76.89	63.92	30.61	104.96	61.90	69.60
Florida	79.64	141.93	116.10	59.69	65.30	23.32	87.07	55.98	62.60
Georgia	125.71	17.75	68.71	65.98	89.97	14.23	67.20	20.91	62.76
Hawaii	67.02	14.92	115.14	55.51	25.02	4.73	25.02	65.70	45.59
Idaho	47.80	5.32	72.89	68.58	40.12	0	3.21	145.85	51.08
Illinois	68.26	63.67	115.67	96.95	56.56	46.37	90.39	43.60	72.58
Indiana	76.58	2.89	89.27	100.32	27.01	2.69	7.34	1.37	54.99
Iowa	54.71	11.59	12.58	78.64	37.75	63.80	49.18	18.87	58.41
Kansas	66.06	8.96	0	80.02	31.51	11.38	72.47	20.48	52.04
Kentucky	77.49	24.68	45.55	64.40	16.96	5.04	48.50	11.67	46.83
Louisiana	60.65	5.77	12.83	87.96	14.43	4.81	23.09	16.36	49.14
Maine	59.79	7.56	172.82	40.78	109.17	6.17	39.12	30.86	37.16
Maryland	102.05	12.21	59.39	61.80	43.19	6.30	104.61	66.46	59.87
Massachusetts	43.53	15.47	130.61	66.94	51.93	11.90	78.25	117.24	53.86
Michigan	95.80	19.61	45.12	106.83	74.30	12.63	61.62	0	67.26
Minnesota	69.52	0	152.42	77.74	38.11	130.99	17.15	0	71.96
Mississippi	65.19	3.72	65.18	43.05	30.28	.58	20.18	8.33	33.08
Missouri	73.13	11.03	0	81.60	10.92	3.42	31.71	7.72	49.20
Montana	49.01	5.41	40.80	43.72	52.53	15.30	81.09	88.39	43.74
Nebraska	92.99	14.51	105.01	125.77	63.52	11.79	26.54	33.62	74.79
Nevada	65.40	11.08	31.67	63.34	39.59	37.61	31.67	0	47.62
New Hampshire	60.27	27.85	150.38	76.40	57.19	12.26	31.13	69.05	54.74
New Jersey	64.66	7.70	122.82	97.10	104.42	73.16	287.40	32.01	83.62
New Mexico	79.08	4.85	114.14	27.50	124.37	4.46	17.77	20.19	34.04
New York	62.71	16.84	91.37	77.86	70.48	32.07	80.87	0	54.50
North Carolina	135.82	24.89	0	73.49	98.34	7.56	16.87	18.91	63.59
North Dakota	35.28	1.37	0	73.46	34.28	34.77	31.43	63.82	49.27
Ohio	104.94	0	115.29	94.35	38.65	0	58.40	66.18	68.12
Oklahoma	63.48	4.43	73.38	46.28	18.70	1.07	39.76	63.43	40.40
Oregon	45.28	12.18	99.45	77.64	46.85	6.09	42.88	131.18	56.03
Pennsylvania	73.56	10.27	27.38	78.72	70.16	3.76	28.52	0	48.19
Rhode Island	54.35	375.01	0	91.84	125.45	13.39	40.18	169.65	86.52
South Carolina	131.15	23.07	31.51	75.46	83.40	55.60	34.75	27.80	74.62
South Dakota	60.56	16.07	107.15	76.53	80.36	10.71	48.22	160.72	63.91
Tennessee	79.70	6.99	19.98	57.09	27.47	3.25	161.84	26.97	50.65
Texas	120.08	18.31	60.69	122.45	93.98	17.21	195.26	121.50	98.38
Utah	63.41	16.60	121.35	90.90	49.67	20.72	6.60	297.45	83.06
Vermont	55.47	40.30	99.05	35.13	73.44	18.36	63.53	89.58	44.46
Virginia	69.57	17.04	0	42.42	0	6.20	93.37	20.88	39.80
Washington	65.16	7.94	62.47	7.40	27.86	23.05	35.71	29.56	28.14
West Virginia	74.02	9.05	9.05	51.71	8.37	.51	13.48	1.02	36.70
Wisconsin	70.42	11.25	41.84	76.94	36.29	6.58	47.69	7.08	48.89
Wyoming	40.80	14.18	71.28	67.02	180.03	6.55	126.57	67.65	50.41
District of Columbia	96.57	34.41	154.84	97.80	68.71	22.98	63.48	7.78	68.73
Average percent served	80.45	21.38	71.61	76.66	54.76	19.27	86.65	44.65	59.23

Mr. MATHIAS. Mr. President, I hasten to point out that the national rate of 59 percent handicapped children served as shown in this table is based on the general population age cohort of 5 to 17, the age group served by the public schools. If we were to change the population base from ages 5 to 17 to include preschoolers, 0 to 17, or all youth, 0 to 21, then, according to the Rand report, the percent served declines to 44 percent and 36 percent, respectively. The Labor and Public Welfare Committee report accompanying S. 1539 tends to support the 36 percent figure. The essential point for us to remember is simply this: That millions of handicapped children in America are not being served either because they are too young or too old for public schools, or because they have been excluded from public schools, or because they have dropped out of school on their own or have been withdrawn by their parents out of sheer frustration with the educational system.

Education is the right of all children. The principle of education for all is based on the philosophical premise of democracy that each person is valuable in his or her own right and should be afforded an equal opportunity to develop to full potential. Unquestionably, progress has been made for some children in some communities but in the main, we have failed a significant portion of the handicapped children.

I hasten to point out that it would be unfair and untrue to contend that our State and local educational programs are neglecting handicapped children. During the school year 1972–73, for instance, State and local expenditures on education of the handicapped amounted to an estimated $2.4 billion. During that same period, the Federal share—which includes funds spent under the Education of Handicapped Act, ESEA titles I and III, Headstart, vocational education, the Higher Education Act, Federal schools for the deaf, research, and instructional support—reached $315 million or only 12 percent of the total annual special education expenditures of $2.7 billion.

But the sad fact is that, large though those amounts may be, where the handicapped are concerned, these funds are simply insufficient to meet the needs, particularly in the face of the increasing legal requirements of service to all handicapped children. A closer examination of the 1972–73 expenditures reveals that the Federal special education expenditures represented only 5 percent of the total Federal education budget. Likewise, State and local expenditures earmarked as special education were also about 5 percent of total State and local education budgets.

Moreover, when we compare Federal expenditures for handicapped youth by program areas it becomes clear that, percentagewise, special education ranks next to last. For example, in fiscal years 1970, 1971, and 1972, the Federal percentage of the total expenditures for the handicapped by program areas was as follows: vocational services, 83 percent; health, 65 percent; welfare, 55 percent; special education, 12 percent; mental health and retardation, 8 percent.

Mr. President, the crux of the problem faced by handicapped children in America is this: their needed programs are crippled by inadequate and uncertain funding, their needed classrooms are impaired by a shortage of trained staff, and because of the need to address both problems, many States are turning a deaf ear to the cry for pre- and post-school programs. Added to the State and local programs facing handicapped children is a federal education budget of which only 5 percent goes for special education.

Mr. President, the most compelling argument for my amendment can be found in the committee report on S. 1539. I quote:

> There are 7 million (1 million of preschool age) deaf, blind, retarded, speech-impaired, motor-impaired, emotionally disturbed, or other health-impaired children in the United States who require special education programs. Although these children represent approximately 10 percent of the school age population (a conservative etsimate), and although the number of children receiving special help has grown from 2.1 million to nearly 3 million in the past 5 years, current data indicates that less than 40 percent are receiving an adequate education.
>
> It is the committee's belief that good education programs are an investment rather than merely an expenditure of funds, for even the most severely handicapped child can be made less dependent through education. It costs taxpayers about $250,000 to support a totally dependent person over his lifetime in an institution. Given the opportunity, these children can become self-sufficient, productive members of society, rather than remaining dependent on society. Therefore, from both a humanitarian and an economic standpoint, it is obvious that an adequate education must be made available now for all handicapped children.
>
> The inability of the states to provide for more than 40% of these handicapped children and the higher cost of education for the severely handicapped places a critical responsibility on the federal government to share costs with states and local communities and be the catalytic agent which stimulates activity for the handicapped. The committee feels a strong responsibility to see that these individuals receive the educational services they need, and it is satisfied that the Bureau of Education for the Handicapped is the agency which should help provide and coordinate these services. Every handicapped child has a right to an education, and legislation which provides specific research funds, support of graduate training programs, demonstrations, exemplary projects, and grants-in-aid to the states to develop their own priorities in improving educational services to handicapped children is vitally important.

Mr. President, my amendment will continue the present dominant role of the States and localities in education; however, it will spur the catalytic role of the Federal Government so that State and local programs will be stimulated to serve the estimated 4 million handicapped children who are now left out. The fact that the overwhelming majority of the States now have laws on the books mandating the provision of special education services to all handicapped children underscores the preeminent role of the States in this area, notwithstanding the fact that many are unable to put their money where their laws are.

My amendment would do the following:

1. Amend part B of the Education of the Handicapped Act to say that the maximum amount of the grant to which a State shall be entitled under part B shall be equal to the number of children in average daily attendance within the public schools as determined by the Commissioner of the Office of Education in the most recent fiscal year for which satisfactory data are available multiplied by $15.

2. Include a hold-harmless provision so that in any event, no State shall receive less money than it received in fiscal year 1974.

Mr. President, at this point I ask unanimous consent that a chart depicting the amount of funds each State might receive under my amendment if the school year 1973 were used in calculating the State allotment be included in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

CALCULATION OF TOTAL COST AT $15 PER PUPIL, UNITED STATES, 1973–74

Area	Average daily attendance 1973–74	Cost at $15 per pupil
United States	42, 058, 975	$630, 884, 625
Alabama	724, 864	10, 872, 960
Alaska	78, 550	1, 178, 250
Arizona	453, 810	6, 807, 150
Arkansas	410, 330	6, 154, 950
California	4, 280, 000	64, 200, 000
Colorado	532, 607	7, 989, 105
Connecticut	614, 300	9, 214, 500
Delaware	122, 396	1, 835, 940
Florida	1, 537, 022	23, 055, 330
Georgia	986, 385	14, 795, 925
Hawaii	165, 600	2, 484, 000
Idaho	176, 670	2, 650, 050
Illinois	2, 070, 102	31, 051, 530
Indiana	1, 089, 500	16, 342, 500
Iowa	598, 342	8, 975, 130
Kansas	433, 666	6, 504, 990
Kentucky	652, 000	9, 780, 000
Louisiana	770, 000	11, 550, 000
Maine	230, 900	3, 463, 500
Maryland	825, 591	12, 383, 865
Massachusetts	1, 167, 000	17, 505, 000
Michigan	1, 953, 000	29, 295, 000
Minnesota	861, 700	12, 925, 500
Mississippi	485, 170	7, 277, 550
Missouri	905, 500	13, 582, 500
Montana	157, 930	2, 368, 950
Nebraska	306, 846	4, 602, 690
Nevada	125, 000	1, 875, 000
New Hampshire	158, 800	2, 382, 000
New Jersey	1, 433, 688	21, 505, 320
New Mexico	263, 363	3, 950, 445
New York	3, 106, 508	46, 597, 620
North Carolina	1, 065, 179	15, 977, 685
North Dakota	133, 026	1, 995, 390
Ohio	2, 180, 797	32, 711, 955
Oklahoma	557, 000	8, 355, 000
Oregon	428, 258	6, 423, 870
Pennsylvania	2, 173, 100	32, 596, 500
Rhode Island	173, 202	2, 598, 030
South Carolina	576, 000	8, 640, 000
South Dakota	150, 540	2, 258, 100
Tennessee	826, 998	12, 404, 970
Texas	2, 517, 928	37, 768, 920
Utah	287, 905	4, 318, 575
Vermont	97, 732	1, 465, 980
Virginia	1, 008, 000	15, 120, 000
Washington	727, 250	10, 908, 750
West Virginia	380, 876	5, 713, 140
Wisconsin	896, 045	13, 440, 675
Wyoming	79, 000	1, 185, 000
District of Columbia	122, 989	1, 844, 835

Mr. MATHIAS. By making per pupil allocations for every child in the public schools as proposed in my amendment, the Education of the Handicapped Act will support the developing trend toward normalization, and mainstreaming, and will underscore the interlocking nature of special education with regular education.

Additionally, accurate calculations can be made with respect to the cost of part

B because the formula will be calculated on a per pupil basis, as illustrated by the chart I have introduced in the RECORD.

One other important advantage of my amendment is that it avoids the danger of providing an incentive for schools to label children as "handicapped" in order to obtain more Federal funds, since the formula is based on regular school attendance rather than numbers of handicapped enrolled.

Moreover, school enrollment projections through 1980 indicate a gradual decline in total population figures. This means, therefore, that there would be a corresponding gradual but natural reduction in the Federal financial role which State and local programs should be able to gradually assume.

This amendment supports the Education of the Handicapped Act with respect to its focus on the initiation, expansion, and improvement of programs for the handicapped at the preschool, elementary, and secondary levels, to provide full educational opportunity to all handicapped children.

Mr. President, since my proposal amends the Education of the Handicapped Act, States are still required to:

First. Assure that the funds provided under my amendment must be used to meet the special needs of handicapped children;

Second. Assure the participation of handicapped children enrolled in private elementary and secondary schools;

Third. Guarantee that the control and administration of funds and title to property will rest with a public agency;

Fourth. Provide assurance that these funds are used to supplement and, when possible, to increase the level of State, local and private funds, but that in no case may Federal funds be used to supplant funds from non-Federal sources;

Fifth. Assure that procedures have been established for at least annual evaluation of the effectiveness of the programs;

Sixth. Provide that sole responsibility for administering or supervising the State's plan will rest with the State educational agency;

Seventh. Provide for the making of reports that the Commissioner may require and the maintenance of accessible records;

Eighth. Guarantee that fiscal control and fund accounting procedures will be adopted;

Ninth. Provide that funds available under this part will not be available to handicapped children who are eligible for assistance under title I of ESEA;

Tenth. Assure that there are procedures for acquiring and disseminating information to teachers and administrators about programs for the handicapped; and

Eleventh. Include a statement in their State plans which insures that all education programs for the handicapped in the State will be coordinated by the persons in charge of special education programs for handicapped children in the State educational agency.

Additionally, the requirements for public disclosure of the State plan by the State educational agency, with notice and opportunity for hearings and judicial review of actions taken by the Commission of Education regarding the State plans are untouched by my amendment.

I would also point out that the amendments added to the Education of the Handicapped Act by the committee will take on added significance if my amendment is adopted. With my amendment, States will truly be able to "provide full educational opportunity to all handicapped children," as the committee amendment suggests.

My amendment will enable States to identify, locate, evaluate, as well as establish realistic and meaningful goals and timetables for providing full training and educational opportunities for all handicapped children—particularly those presently excluded from schools—as outlined in the committee amendments to the bill before us today.

Mr. President, I commend the committee for adopting the amendment establishing the goal of full educational opportunity for all handicapped children. Reaching that goal, however, will be as difficult as abolishing poverty, or cleaning up the air we breathe, or solving the crisis in energy that we face, unless and until we begin to provide the means for reaching those great goals. Our failure to provide the "means" literally promises a denial of justice to handicapped children this year. Why must the Congress withhold desperately needed financial support? Why should the Congress stand idly by while court action is heaped upon court action? Why should we leave it up to the judicial branch to affirm the Constitution? The committee report states flatly:

> Every handicapped child has a right to an education. . . .

My amendment, if adopted, will affirm that right.

I recognize that there is considerable interest in another bill for handicapped children now pending in a subcommittee of the Labor and Public Welfare Committee. That bill, S. 6, must be reviewed as the total vehicle for insuring the rights of handicapped children. My amendment is neither in competition with that bill, nor is it designed to supplant the need for such legislation. The Mathias amendment is offered as a means of meeting a growing emergency and as a necessary first step in the eventual construction of a vehicle which will truly bring about the necessary reforms and improvements in the educational system with regards to handicapped children.

AMENDMENT NO. 1306

(Ordered to be printed, and lie on the table.)

AN AMENDMENT TO S. 1539 TO LIMIT THE WITHHOLDING OF FEDERAL FUNDS UNDER CERTAIN CIRCUMSTANCES

Mr. BUCKLEY. Mr. President, within recent months two separate incidents have been brought to my attention concerning the increasing and dangerous intrusion of the Federal Government into the private lives of American schoolchildren. I believe that it would be useful to discuss exactly what occurred in each case so that the urgency and the gravity of the situation can more fully be understood. It would appear that social critics who have been warning us against invasion of privacy have neglected an important area: the invasion of the very minds and hearts of American schoolchildren by Federal bureaucrats.

The New York Times for November 21, 1973, carried a story headlined "HEW Questions Scored as 'Racist.'" The story stated that:

> The (New York) city's Board of Education accused the United States Department of Health, Education and Welfare yesterday of directing a number of schools here to administer pupil questionnaires that the board said were "racist," "highly inflammatory," and "polarizing."
>
> Dr. Seymour P. Lachman, the president of the board, said the Federal department had "once more shown its callous insensitivity to the needs of children and good intergroup relation."
>
> A statement by Dr. Lachman noted that the preface to the 23-item Federal questionnaire said: "To the student: These questions are to find out how you feel about students who are different from you. If you are Black, we want to know how you feel about students who are not Black. If you are White, we want to know how you feel about students who are not White. If you are Brown, we want to know how you feel about students who are not Brown. Whatever you are, we want to know how you feel about students who are different from you."
>
> Dr. Lachman said that the form then asked such questions as the following:
>
> "How do you think your parents feel about Black and White (or Brown and White or Black and Brown) students going to the same school together.
>
> "Do you think that Black (or White or Brown) students in this school cause more trouble than other kinds of students? "How do you think your principal feels about all different kinds of students going to the same school together?"
>
> Dr. Lachman said that it was inconceivable to him how such a questionnaire "could be administered in good faith to fourth- and fifth-grade students."

On Tuesday, May 7, 1974, the Washington Post carried a story headlined "Schools Balking at Pupil Quiz." The story stated, in part:

> District of Columbia school officials announced yesterday they will risk cancellation of $3.4 million in federal funds for educationally disadvantaged children rather than ask students and teachers 24 questions they consider "sociologically or psychologically damaging." . . .
>
> At a press conference announcing their objections to the questionnaires yesterday, Board President Marion Barry Jr. and Supt. Barbara A. Sizemore said they considered the questions to be invasions of privacy, and "sociologically or psychologically damaging."
>
> They cited these as examples:
>
> A question to elementary students that asks "What grownups do you live with?" and includes as a possible response, "I live with other grownups who aren't my relatives."
>
> A question to both elementary and secondary students that asks "what of the following do you have at home?" Possible responses are a daily newspaper, a telephone, a dictionary, a separate freezer, a color television, a tape recorder or cassette player, and books of fiction and nonfiction.
>
> A question to teachers: "Considering this student's present attitude and ability, how far do you think he or she will go in school? Note: Consider this student's attitude and abilities, not financial or family problems."

Mr. President, it seems clear that we have all but reached a point of no return in regard to disregard of the basic right to privacy of American schoolchildren. I recognize that it is the duty and responsibility of those in the Federal Government to gather information in order to see to it that Federal money is being properly administered in education programs. I also realize that when a community accepts Federal money, the community knows—or should know—that there will be Federal strings attached. But when the school boards of two of the most liberally oriented cities in the United States both condemn Government questionnaires, it seems to me that the time has come for the Congress to do something about it. For a moment, however, allow me to emphasize what I believe to be at stake here by referring to the New York City School Board's refusel to administer the HEW questionnaire. The fact that HEW stopped using this particular questionnaire because of the furor it created in New York is really not relevant to the central issue which is the seemingly insatiable appetite of big Government for control over people's lives. Furthermore, the questionnaire involved in the District of Columbia case continues to be required of other school districts around the country.

In order that we can at least begin to set some limits to the claims of big Government, I am today introducing an amendment to S. 1539 which will allow any community school board or similar organization to reject any Federal Government questionnaire or project for reasons similar to those given by the New York City and Washington School Boards, without being subjected to a cutoff of Federal aid. I believe it is very dangerous to allow a unilateral decision by some bureaucrat in Washington to be the last word concerning the possibility that insensitive or inflammatory questions will be asked of schoolchildren.

Mr. President, at this time I ask unanimous consent that the following be printed in the RECORD:

"HEW Questions Scored as 'Racist,'" by Leonard Buder, New York Times, November 21, 1973.

"U.S. Drops Survey of Pupil Attitudes on Race Relations," by Leonard Buder, New York Times, March 19, 1974.

"Schools Balking at Pupil Quiz," by Richard E. Prince, Washington Post, May 7, 1974.

HEW Questionnaire.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 21, 1973]

HEW QUESTIONS SCORED AS "RACIST"

(By Leonard Buder)

The city's Board of Education accused the United States Department of Health, Education and Welfare yesterday of directing a number of schools here to administer pupil questionnaires that the board said were "racist," "highly inflammable," and "polarizing."

Dr. Seymour P. Lachman, the president of the board, said the Federal department had "once more shown its callous insensitivity to the needs of children and good intergroup relations."

Earlier this fall, the department canceled nearly $1-million in special Federal aid to Community School District 19 in Brooklyn because district officials refused to take part in what it regarded as a discriminatory testing program.

REPLY NOT COMPULSORY

In Washington, Dr. Michael J. Wargo of the United States Office of Education defended the questionnaire and said its purpose was to determine whether funds given to school districts under the Federal Government's Emergency School Assistance Act had helped improve race relations in those districts.

Dr. Wargo said the questionnaire was being given to a national sample of 30,000 pupils in 183 schools in 95 school districts. He added that if parents objected, their children would be excused from answering the questionnaire.

In this city, the Federal office sent questionnaires to six schools in three districts—Public School CG in District 12 in the Morrisania section of the Bronx; P.S. 128 and P.S. 192 in District 6 in upper Manhattan, and P.S. 84, P.S. 91 and P.S. 199 in District 3 on the West Side.

SUBSTANCE OF PREFACE

A statement by Dr. Lachman noted that the preface to the 23-item Federal questionnaire said: "To the student: These questions are to ask you how you feel about the students that are different from you. If you are Black, we want to know how you feel about students who are not Black.

"If you are White, we want to know how you feel about students who are not White. If you are Brown, we want to know how you feel about students who are not Brown. Whatever you are, we want to know how you feel about students who are different from you."

Dr. Lachman said that the form then asked such questions as the following:

"How do you think your parents feel about Black and White [or Brown and White or Black and Brown] students going to the same school together?"

"Do you think that Black [or White or Brown] students in this school cause more trouble than other kinds of students?"

"How do you think your principal feels about all different kinds of students going to the same school together?"

Dr. Lachman said that it was inconceivable to him how such a questionnaire "could be administered in good faith to fourth- and fifth-grade students."

[From the New York Times, Mar. 19, 1974]

U.S. DROPS SURVEY OF PUPIL ATTITUDES ON RACE RELATIONS

(By Leonard Buder)

Bowing to the objections of New York City school officials, the Federal Department of Health, Education, and Welfare has stopped using a national questionnaire that asked elementary school pupils how they and their parents felt about children of other races.

Last November, Dr. Seymour P. Lachman, the president of the City Board of Education, assailed the national questionnaire as "racist," "highly inflammatory" and "polarizing." He made the charges after learning that the Federal department had directed a number of city schools, as a condition of their receiving special Federal grants, to administer the racial-attitude questionnaire to fourth-grade and fifth-grade pupils.

The questionnaires were given last fall, apparently without any strong objections, to 27,000 pupils in 176 schools in 25 states. The same questionnaires were to have been given again this spring to these pupils to determine whether funds given to the schools under the Federal government's Emergency School Assistance Act had helped to improve race relations.

The earlier questionnaires, a Federal official said, will now probably be destroyed.

Announcement of the decision to scrap the questionnaire survey—not only for New York City but also nationwide—came in a letter received yesterday by Irving Anker, the City School Chancellor. In the letter, Charles B. Saunders, the department's acting assistant secretary for education, said:

"Although we do not fully agree with many of the objections you and your staff have raised and we are seriously concerned about the loss to the evaluation that removal of the attitude measurement portion will entail, we have decided to accede to your request because the objections still appear to be widespread and deeply felt."

COOPERATION EXPECTED

Mr. Saunders said that he has asked officials in the United States Office of Education to develop another instrument for measuring attitudes and that he was "counting" on Mr. Ankers cooperation and assistance.

Referring to the several controversies that have developed between city and Federal authorities during the current school year, Mr. Saunders told the Chancellor that "I am hopeful that we can put aside the posture of confrontation which has characterized the past several months."

According to a source within the Department of Health, Education and Welfare, officials of its civil-rights office were also critical of the pupil attitude questionnaire that was developed by the Office of Education

One civil-rights official, who asked not to be identified, said he learned of the questionnaire after New York City raised objections. He added that he, too, felt that the form was "racist" and "polarizing" and should be withdrawn immediately.

Dr. Michael Wargo, of the Education Office, who last fall defended the questionnaire, said yesterday that he did not want to comment on the matter now.

Dr. Lachman said the city board was "delighted that the Federal Government finally agrees with the position that my colleagues and I raised five months ago."

"I still think that this attitudinal questionnaire is unworthy of the objectives Health, Education and Welfare is trying to achieve," he declared.

He expressed regret that many other school boards in the country had passively gone along with the questionnaire.

The withdrawn questionnaire carried this explanation for students: "These questions are to find out how you feel about students who are different from you. . . ."

Among the 23 questions asked were the following:

"Who would you like most to have in your own class?" Answers: "(A) My classmates should be like me. (B) 1 or 2 classmates should be not like me. (C) About half my classmates should be not like me.

"How do you think your parents feel about black and white [or "brown and white" or "brown and black"] students going to the same school together?"

"Do you think the black [or "brown" or "white"] students in this school cause more trouble than other kinds of students?"

[From the Washington Post, May 7, 1974]

SCHOOLS BALKING AT PUPIL QUIZ

(By Richard E. Prince)

District of Columbia school officials announced yesterday they will risk cancellation of $3.4 million in federal funds for educationally disadvantaged children rather than ask students and teachers 24 questions they consider "sociologically or psychologically damaging."

The questions, part of a battery of tests one-and-a-half inch thick to be administered to 720 students and teachers, concern the students' home lives and expectations in school. The Office of Education administers the test nationwide to 176 schools in 82 school districts receiving the funds. Officials of the office said they consider the questions "innocuous."

Negotiations on the issue are continuing between the office and the school system with a Friday deadline. The grant in question is already partly spent for this school year. In addition, $2.9 million has been requested for the program next year. The money comes from the Emergency School Aid Act, which provides for programs to aid school children who are disadvantaged by "minority group isolation."

The D.C. school system is 95 per cent black. The schools hope to receive $32.3 million in federal grants for the year beginning July 1 to supplement its operating budget request of $177.4 million.

Officials at the Office of Education said the District was chosen by lot to administer the tests, although all school districts must agree to do so as a condition for receiving the money.

In Washington, four schools are to receive the tests; two participating in the program and two to serve as "control" schools. Money from the grant helps pay for staff in bilingual, environmental or career education at all schools in the city except the control schools, Powell Elementary and Cardozo *High School*. The two other schools to be tested were to be H. D. Cooke Elementary and Ballou High School.

At a press conference announcing their objections to the questionnaires yesterday, Board President Marion Barry Jr. and Supt. Barbara A. Sizemore said they considered the questions to be invasions of privacy, and "sociologically or psychologically damaging."

They cited these as examples:

A question to elementary students that asks "What grownups do you live with?" and includes as a possible response, "I live with other grownups who aren't my relatives."

A question to both elementary and secondary students that asks "which of the following do you have at home?" Possible responses are a daily newspaper, a telephone, a dictionary, a separate freezer, a color television, a tape recorder or cassette player, and books of fiction and nonfiction.

A question to teachers: "Considering this student's present attitude and ability, how far do you think he or she will go in school? Note: Consider only this student's attitude and abilities, not financial or family problems."

"The debate over the questionnaires between the school system and the Education Office dates back to March. In a March 28 letter to the office, Mrs. Sizemore expressed concern about questions "which ask students to divulge information about matters internal to their homes" and said it would take 193 hours of administrative and teacher time and 360 hours of student time to administer the tests.

The Office of Education agreed to develop a system that would ensure "complete anonymity" to the students and for school system "control" over the collection of data.

There still remained, however, a disagreement over the specific questions to be used, and last Friday Herman R. Goldberg, associate commissioner of equal educational opportunity, threatened to terminate the program if no resolution was reached by yesterday.

The school board then voted 7 to 0 to support Mrs. Sizemore's request that "the tests not be administered unmodified."

Late yesterday, the school system and the Education Office agreed to continue discussions until Friday.

"We're not looking for any confrontation; we want the thing to work," Goldberg said yesterday. Goldberg said that while he was willing to eliminate some of the questions in places the school system wants his office to eliminate whole sections of the questionnaire, which he said he would not do.

He said the survey was needed because it is important for his office to evaluate its programs and to have some measure of the characteristics of the students receiving the funds. School officials say facts about socioeconomic status are beyond the scope of the program.

District officials compared their situation to that of New York City, where in March the school board succeeded in having an Office of Education test asking students about their racial attitudes withdrawn nation-wide.

ELEMENTARY SCHOOL QUESTIONNAIRE

To the student:

These questions are to find out how you feel about students who are different from you.

If you are Black, we want to know how you feel about students who are not Black.

If you are White, we want to know how you feel about students who are not White.

If you are Brown, we want to know how you feel about students who are not Brown.

Whatever you are, we want to know how you feel about students who are different from you.

DIRECTIONS

Don't write anything until the question is read to you. The words will be explained as we go along.

This is not a test. There are no right or wrong answers. All you have to do is put an X in the box that says how you really feel. You should put an X in only one box for each question.

Nobody in your school or in your city will ever be told how you answered the questions.

Now, everybody raise your pencil until it is time to write.

(A) I am Black.
(B) I am White.
(C) I am Brown.
(D) I am not any of these. (If you check this box, print in the space below what you are.)

2. Are you Mexican-American, Cuban, or Puerto Rican?

(A) No, none of these.
(B) Yes, Mexican-American.
(C) Yes, Cuban.
(D) Yes, Puerto Rican.

3. If you could choose the kind of school you could go to, would you pick one with:

(A) All White students.
(B) All Black students.
(C) All Brown students.
(D) A mixture of different kinds of students.
(E) It doesn't matter to me.

4. Think now, who you would most like to have in your own class. How many students would be not like you?

(A) All my classmates should be like me.
(B) 1 or 2 classmates should be not like me.
(C) About half of my classmates should be not like me.
(D) Most of my classmates should be not like me.
(E) It doesn't matter to me if my classmates are like me or not like me.

6. How do you think your parents feel about Black and White students going to the same school together? If both kinds of students don't go to your school, how to you think your parents feel about the idea of Black and White students going to the same school together?

(A) They like it.
(B) They don't like it.
(C) It doesn't matter to them.

6. How do you think your parents feel about Brown and White students going to the same school together? If both kinds of students don't go to your school, how do you think your parents feel about the idea of Brown and White students going to the same school together?

(A) They like it.
(B) They don't like it.
(C) It doesn't matter to them.

7. How do you think your parents feel about Black and Brown students going to the same school together? If both kinds of students don't go to your school, how do you think your parents feel about the idea of Black and Brown students going to the same school together?

(A) They like it.
(B) They don't like it.
(C) It doesn't matter to them.

8. Now, I want to ask about your teacher. How do you think your teacher feels about Black and White students going to the same school together?

(A) My teacher likes it.
(B) My teacher doesn't like it.
(C) It doesn't matter to my teacher.

9. How do you think your teacher feels about Brown and White students going to school together?

(A) My teacher likes it.
(B) My teacher doesn't like it.
(C) It doesn't matter to my teacher.

10. How do you think your teacher feels about Black and Brown students going to the same school together?

(A) My teacher likes it.
(B) My teacher doesn't like it.
(C) It doesn't matter to my teacher.

11. Now, I want to know about your principal. How do you think your principal feels about all different kinds of students going to the same school together?

(A) My principal likes it.
(B) My principal doesn't like it.
(C) It doesn't matter to my principal.

12. Now, I would like you to think about your three best friends in this school. Are they all the same as you, or is at least one of your best friends not the same as you?

That means, if you are Black, are your best friends Black; if you are White, are your best friends White; if you are Brown, are your best friends like you; or, whatever you are, are any of your friends not the same as you?

(A) All of my three best friends are the same as me.
(B) At least one of my best friends is not the same as me.

13. Think of your friends outside of school. How many of them are different from you?

(A) None.
(B) 1 or 2.
(C) About half.
(D) Most of my friends.
(E) All of my friends.

14. Have you ever invited a friend who is different from you to your house?

This means if you are Black, have you had a friend who is *not* Black over; or, if you are White, have you had a non-White friend over; or, if you are Brown, have you had a friend who is different from you visit at your home?

(A) Yes, once or twice.
(B) Yes, often.
(C). No.

15. Do you think Black students in this school cause more trouble than other kinds of students?

(A) Yes.
(B) No.
(C) All students in this school are Black.

16. Do you think Brown students in this school cause more trouble than other kinds of students?

(A) Yes.
(B) No.
(C) There are no Brown students in this school.

17. Do you think White students in this school cause more trouble than other kinds of students

(A) Yes.
(B) No.
(C) There are no White students in this school.

18. Do you think White teachers in this school are unfair to students who are not White?

(A) Yes.
(B) No.
(C) There are no White teachers.

19. Do you think Black teachers are unfair to students who are not Black?

(A) Yes.
(B) No.
(C) There are no Black teachers.
(D) All students are Black.

20. Do you think Brown teachers are unfair to students who are not Brown?

(A) Yes.
(B) No.
(C) There are no Brown teachers in this school.

21. Do you think Black people are smarter than other people?

(A) Yes.
(B) No.
(C) You can't tell how smart a person is by his color.

22. Do you think Brown people are smarter than other people?

(A) Yes.
(B) No.
(C) You can't tell how smart a person is by his color.

23. Do you think White people are smarter than other people?

(A) Yes.
(B) No.
(C) You can't tell how smart a person is by his color.

AMENDMENT NO. 1307

(Ordered to be printed, and to lie on the table.)

Mr. ALLEN (for himself and Mr. Sparkman) submitted amendments, intended to be proposed by them, jointly, to Senate bill 1539, supra.

AMENDMENTS NOS. 1308 AND 1309

(Ordered to be printed, and to lie on the table.)

Mr. ERVIN (for himself, Mr. Allen, Mr. Talmadge, and Mr. McClellan) submitted two amendments, intended to be proposed by them, jointly, to amendment No. 1144 to Senate bill 1539, supra.

EXEMPTION FROM DUTY THE REPAIRS TO CERTAIN VESSELS—AMENDMENT

AMENDMENT NO. 1302

(Ordered to be printed and to lie on the table.)

Mr. TUNNEY submitted an amendment intended to be proposed by him to the bill (H.R. 8217) to exempt from duty certain equipment and repairs for vessels operated by or for any agency of the United States where the entries were made in connection with vessels arriving before January 5, 1972.

Mr. TUNNEY. Mr. President, the Commerce and Government Operations Committees recently concluded 3 days of hearings on the problem of material and commodity shortages. These hearings revealed a disaster of disarray in our Government's policies for anticipating and ameliorating shortages. In addition, a recently released General Accounting Office study reports that policy is often made on an ad hoc, uncoordinated basis in which different agencies work at cross purposes. The Commerce and Government Operations Committees are now at work on badly needed remedial legislation.

In the meantime, the Senate has an opportunity to correct one of the most striking failures of policy coordination in the executive branch. Despite severe shortages of certain commodities, the Treasury Department continues to subsidize the export of these commodities under the Domestic International Sales Corporation (DISC) provisions of the 1971 Revenue Act. Even after the Commerce Department imposed short-supply export controls on a range of commodities, the DISC subsidy remained in effect.

Mr. President, Congress never intended for the Treasury and Commerce Departments to work at cross purposes at the expense of consumers and taxpayers. In fact, the 1971 Revenue Act specifically allows the President to find that the supply of any DISC-subsidized commodity is insufficient and then to suspend the DISC subsidy.

The amendment I will offer to H.R. 8217 directs the President to determine which commodities are in short supply, to invoke the provisions of the 1971 Revenue Act, and to report back to Congress within 90 days on findings made and actions taken to correct the present bureaucratic anomaly.

This amendment does not require the President to suspend DISC benefits on any particular commodity. It does, however, require him to take a close look at the current shortage situation and to report the results of that assessment to the Congress. Should the President choose to exercise his discretion under existing law or should the current shortage picture improve, no further congressional action will be required in the immediate future. If the results of the President's review indicate the need for selective suspension of DISC benefits and if the President does not exercise his present authority to order such suspension, Congress will be equipped to act with knowledge and expedition.

Mr. President, at this point I ask unanimous consent that the text of my amendment be printed in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

H.R. 8217

The President shall immediately undertake a review of the supply of all commodities manufactured, produced, grown or extracted in the United States for purposes of determining, pursuant to section 993(c)(3) of the Internal Revenue Code of 1954, whether the supply of any such commodity is insufficient to meet the requirements of the domestic economy, and, by Executive order, designate any such commodity as in short supply for purposes of section 993(c) of the Internal Revenue Code of 1954. The President shall submit his findings and a report on actions taken pursuant to this section to the Congress no later than 90 days following the date of enactment.

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT OF 1974—AMENDMENT

AMENDMENT NO. 1303

(Ordered to be printed and to lie on the table.)

Mr. MUSKIE (for himself, Mr. Randolph, Mr. Baker, Mr. Burdick, Mr. Buckley, Mr. Biden, Mr. Clark, Mr. Domenici, Mr. Gravel, Mr. McClure, Mr. Montoya, and Mr. Stafford) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 14368) to provide for means of dealing with energy shortages by requiring reports with respect to energy resources, by providing for temporary suspension of certain air pollution requirements, by providing for coal conversion, and for other purposes.

Mr. MUSKIE. Mr. President, today the Committee on Public Works approved a proposed substitute amendment to H.R. 14368, a House-passed bill which is pending at the desk and which amends the Clean Air Act.

The Committee on Public Works' substitute deals with four issues:

First, the committee proposes to modify the coal conversion proposal of the House to narrow its application to assure, at a minimum, protection of public health.

Second, the committee proposes to limit exceptions to Clean Air Act to coal conversions in areas where public health-related primary ambient air quality standards are not now exceeded. Further, no coal conversions could take place where the conversion itself would cause public health standards to be exceeded.

Third, the substitute proposes to adopt an identical provision to the House bill relating to auto emissions to end any doubt as to what auto emission standards will be required for the 1976 model year vehicle.

Fourth, the committee proposes to clarify the relationship between the National Environmental Policy Act and the Clean Air Act.

In order to provide Senators an adequate opportunity to review the proposal, I ask unanimous consent that the text of the entire amendment be included at this point in the Record.

There being no objection,the amendment was ordered to be printed in the Record, as follows:

H.R. 14386

Strike all after the enacting clause and insert the following:

Section 1. Short Title; Purpose.

(a) This Act, including the following table of contents may be cited as the "Energy Supply and Environmental Coordination Act of 1974".

TABLE OF CONTENTS

Sec. 1. Short title; purpose.
Sec. 2. Suspension authority.
Sec. 3. Implementation plan revisions.
Sec. 4. Motor vehicle emissions.
Sec. 5. Conforming amendments.
Sec. 6. Protection of public health and environment.
Sec. 7. Reports.
Sec. 8. Coal conversion and allocation.
Sec. 9. Extension of Clean Air Act authorizations.

(b) The purpose of this Act is to provide for a means to assist in meeting the essential needs of the United States for fuels, in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

Sec. 2. Suspension Authortiy.

Title I of the Clean Air Act is amended by adding at the end thereof the following new section:

"ENERGY-RELATED AUTHORITY

"Sec. 119. (a)(1)(A) The Administrator may, for any period beginning on or after the date of enactment of this section and ending on or before the earlier of June 30, 1975, or one year after the date of enactment of this section, temporarily suspend any stationary source fuel or emission limitation as it applies to any person, if the Administrator finds that such person will be unable to comply with such limitation during such period solely because of unavailability of types or amounts of fuels. Any suspension under this paragraph and any interim requirement on which such suspension is conditioned under paragraph (3) shall be exempted from any procedural requirements set forth in this Act or in any other provision of local, State, or Federal law; except as provided in subparagraph (B).

"(B) The Administrator shall give notice to the public of a suspension and afford the public an opportunity for written and oral presentation of views prior to granting such suspension unless otherwise provided by the Administrator for good cause found and published in the Federal Register. In any case, before granting such a suspension he shall give actual notice to the Governor of the State, and to the chief executive officer of the local government entity in which the affected officer of the local government entity in which the affected source or sources are located. The granting or denial of such suspension and the imposition of an interim requirement shall be subject to judicial review only on the grounds specified in paragraphs (2)(B), (2) (C), or (2)(D) of section 706 of title 5, United States Code, and shall not be subject to any proceeding under section 304(a)(2) or 307 (b) and (e) of this Act.

"(2) In issuing any suspension under paragraph (1) the Administrator is authorized to act on his own motion without application by any source or State.

"(3) Any suspension under paragraph (1) shall be conditioned upon compliance with such interim requirements as the Administrator determines are reasonable and practicable. Such interim requirements shall include, but need not be limited to, (A) a requirement that the source receiving the suspension comply with such reporting requirements as the Administrator determines may be necessary, (B) such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to health of persons, and (C) requirements that the suspension shall be inapplicable during any period during which fuels which would enable compliance with the suspended stationary source fuel or emission limitations are in fact reasonably available to that person (as determined by the Administrator). For purposes of clause (C) of this paragraph, availability of natural gas or petroleum products which enable compliance shall not make a suspension inapplicable to a source described in subsection (b)(1) of this section.

"(4) For purposes of this section:

"(A) The term 'stationary source fuel or emission limitation' means any emission limitation, schedule, or timetable for compliance, or other requirement, which is prescribed under this Act (other than section 303, 111(b), or 112) or contained in an applicable implementation plan (other than a requirement imposed under authority described in section 110(a)(2)(F)(v)), and which is designed to limit stationary source emissions resulting from combustion of fuels, including a prohibition on, or specification of, the use of any fuel of any type or grade or pollution characteristic thereof.

"(B) The term 'stationary source' has the same meaning as such term has under section 111(a)(3).

"(b)(1) Except as provided in paragraph (2) of this subsection, any fuel-burning stationary source—

"(A) which is prohibited from using petroleum products or natural gas as fuel by reason of an order issued under section 8(a) of the Energy Supply and Environmental Coordination Act of 1974, or

"(B) which the Administrator determines began conversion to the use of coal as fuel during the ninety-day period ending December 15, 1973, and, consistent with the criteria established in this section should use coal after the expiration of any suspension approved pursuant to section 119(a) of the Clean Air Act,

and which is located in an air quality control region in which applicable national primary ambient air quality standards are not being exceeded and which converts to the use of coal as fuel, shall not, until January 1, 1979, be prohibited, by reason of the application of any air pollution requirement, from burning coal which is available to such source. For purposes of this paragraph, the term 'began conversion' means action by the owner or operator of a source during the ninety-day period ending on December 15, 1973 (such as entering into a contract binding on the operator of the source for obtaining coal, or equipment or facilities to burn coal; expending substantial sums to permit such source to burn coal; or applying for an air pollution variance to enable the source to burn coal) which the Administrator finds evidences a decision (made prior to December 15, 1973) to convert to burning coal as a result of the unavailability of an adequate supply of fuels required for compliance with the applicable implementation plan, and a good faith effort to expeditiously carry out such decision.

"(2) (A) Paragraph (1) of this subsection shall apply to a source only if (I) the Administrator finds that emissions from the source will not cause or contribute to concentrations of air pollutants in excess of national primary ambient air quality standards and (II) if the source has submitted to the Administrator a plan for compliance for such source which the Administrator has approved, after notice to interested persons and opportunity for presentation of views (including oral presentation of views). A plan submitted under the preceding sentence shall be approved only if it (i) meets the requirements of regulations prescribed under subparagraph (B); and (ii) provides that such source will comply with requirements which the Administrator shall prescribe to assure that emissions from such source will not cause or contribute to concentrations of air pollutants in excess of national primary ambient air quality standards. The Administrator shall approve or disapprove any such plan within 60 days after such plan is submitted.

"(B) The Administrator shall prescribe regulations requiring that any source to which this subsection applies submit and obtain approval of its means for and schedule of compliance. Such regulations shall include requirements that such schedules shall include dates by which such sources must—

"(i) enter into contracts (or other enforceable obligations) which have received prior approval of the Administrator as being adequate to effectuate the purposes of this section and which provide for obtaining a long-term supply of coal which enables such source to achieve the emission reduction required by subparagraph (C), or

"(ii) if coal which enables such source to achieve such emission reduction is not available to such source, enter into contracts (or other enforceable obligations) which have received prior approval of the Administrator as being adequate to effectuate the purposes of this section and which provide for obtaining (I) a long-term supply of other coal or coal derivatives, and (II) continuous emission reduction systems necessary to permit such source to burn such coal or coal derivatives, and to achieve the degree of emission reduction required by subparagraph (C).

"(C) Regulations under subparagraph (B) shall require that the source achieve the most stringent degree of emission reduction that such source would have been required to achieve under the applicable implementation plan which was in effect on the date of enactment of this section (or if no applicable implementation plan was in effect on such date, under the first applicable implementation plan which takes effect after such date). Such degree of emission reduction shall be achieved as soon as practicable, but not later than January 1, 1979; except that, in the case a source for which a continuous emission reduction system is required for sulfur-related emissions, reduction of such emissions shall be achieved on a date designated by the Administrator (but not later than Januray 1, 1979). Such regulations shall also include such interim requirements as the Administrator determines are reasonable and practicable including requirements described in clauses (A) and (B) of subsection (a)(3) and requirements to file progress reports.

"(D) The Administrator (after notice to interested persons and opportunity for presentation of views, including oral presentations of views, to the extent practicable) (i) may, prior to the earlier of June 30, 1975, or one year after the date of enactment of this section, and shall thereafter prohibit the use of coal by a source to which paragraph (1) applies if he determines that the use of coal by such source may cause or contribute to concentrations of air pollutants in excess of national primary ambient air quality standards; and (ii) may require such source to use coal of any particular type, grade, or pollution characteristic if such coal is available to such source. Nothing in this subsection (b) shall prohibit a State or local agency from taking action which the Administrator is authorized to take under this subparagraph.

"(3) For purposes of this subsection, the term 'air pollution requirement' means any emission limitation, schedule, or timetable for compliance, or other requirement, which is prescribed under any Federal, State, or local law or regulation, including this Act (except for any requirement prescribed under this subsection, section 110(a)(2)(F)(v), or section 303), and which is designed to limit stationary source emissions resulting from combustion of fuels (including a restriction on the use or content of fuels). A conversion to coal to which this subsection applies shall not be deemed to be a modification for purposes of section 111(a) (2) and (4) of this Act.

"(4) A source to which this subsection applies may, upon the expiration of the exemption under paragraph (1), obtain a one-year postponement of the application of any requirement of an applicable implementation plan under the conditions and in the manner provided in section 110(f).

"(c) The Administrator may by rule establish priorities under which manufacturers of continuous emission reduction systems necessary to carry out subsection (b) shall provide such systems to users thereof, if he finds that priorities must be imposed in order to assure that such systems are first provided to users in air quality control regions with the most severe air pollution. No rule under this subsection may impair the obligation of any contract entered into before enactment of this section. To the extent necessary to carry out this section, the Administrator may prohibit any State or political subdivision from requiring any person to use a continuous emission reduction system for which priorities have been established under this subsection except in accordance with such priorities.

"(d) The Administrator shall study, and report to Congress not later than six months after the date of enactment of this section, with respect to—

"(1) the present and projected impact on the program under this Act of fuel shortages and of allocation and end-use allocation programs;

"(2) availability of continuous emission reduction technology (including projections respecting the time, cost, and number of units available) and the effects that continuous emission reduction systems would have on the total environment and on supplies of fuel and electricity;

"(3) the number of sources and locations which must use such technology based on projected fuel availability data;

"(4) priority schedule for implementation of continuous emission reduction technology, based on public health or air quality;

"(5) evaluation of availability of technology to burn municipal solid waste in these sources including time schedules, priorities analysis of unregulated pollutants which will be emitted and balancing of health benefits and detriments from burning solid waste and of economic costs;

"(6) projections of air quality impact of fuel shortages and allocations;

"(7) evaluation of alternative control strategies for the attainment and maintenance of national ambient air quality standards for sulfur oxides within the time frames prescribed in the Act, including associated considerations of cost, time frames, feasibility, and effectiveness of such alternative control strategies as compared to stationary source fuel and emission regulations;

"(8) proposed allocations of continuous emission reduction systems which do not produce solid waste to sources which are least able to handle solid waste byproducts of such systems; and

"(9) plans for monitoring or requiring sources to which this section applies to monitor the impact of actions under this section on concentration of sulfur dioxide in the ambient air.

"(e) No State or political subdivision may require any person to whom a suspension has been granted under subsection (a) to use any fuel the availability of which is the basis of such person's suspension (except that this preemption shall not apply to requirements identical to Federal interim requirements under subsection (a) (3)).

"(f) (1) It shall be unlawful for any person to whom a suspension has been granted under subsection (a) (1) to violate any requirement on which the suspension is conditioned pursuant to subsection (a) (3).

"(2) It shall be unlawful for any person to violate any rule under subsection (c).

"(3) It shall be unlawful for the owner or operator of any source to fail to comply with any requirement under subsection (b) or any regulation, plan, or schedule thereunder.

"(4) It shall be unlawful for any person to fail to comply with an interim requirement under subsection (i) (3).

"(g) Beginning January 1, 1975, the Administrator shall publish at no less than one-hundred-and-eighty-day intervals, in the Federal Register, the following:

"(1) A concise summary of progress reports which are required to be filed by any person or source owner or operator to which subsection (b) applies. Such progress reports shall report on the status of compliance with all requirements which have been imposed by the Administrator under such subsection.

"(2) Up-to-date findings on the impact of this section upon—

"(A) applicable implementation plans, and

"(B) ambient air quality.

"(h) Nothing in this section shall affect the power of the Administrator to deal with air pollution presenting an imminent and substantial endangerment to the health of persons under section 303 of this Act.

"(i) (1) In order to reduce the likelihood of early phaseout of existing electric generating facilities, any electric generating powerplant (A) which, because of the age and condition of the plant, is to be taken out of service permanently no later than January 1, 1980, according to the power supply plan (in existence on January 1, 1974) of the operator of such plant, (B) for which a certification to that effect has been filed by the operator of the plant with the Environmental Protection Agency and the Federal Power Commission, and (C) for which the Commission has determined that the certification has been made in good faith and that the plan to cease operations no later than January 1, 1980, will be carried out as planned in light of existing and prospective power supply requirements, shall be eligible for a single one-year postponement as provided in paragraph (2).

"(2) Prior to the date on which any plant eligible under paragraph (1) is required to comply with any requirement of an applicable implementation plan, such source may apply (with the concurrence of the Governor of the State in which the plant is located) to the Administrator to postpone the applicability of such requirement to such source for not more than one year. If the Administrator determines, after balancing the risk to public health and welfare which may be associated with a postponement, that compliance with any such requirement is not reasonable in light of the projected useful life of the plant, the availability of rate base increases to pay for such costs, and other appropriate factors, then the Administrator shall grant a postponement of any such requirement.

"(3) The Administrator shall, as a condition of any postponement under paragraph (2), prescribe such interim requirements as are practicable and reasonable in light of the criteria in paragraph (2).

"(j) (1) The Administrator may, after public notice and opportunity for presentation of views in accordance with section 553 of title 5, United States Code, and after consultation with the Federal Energy Administrator, designate persons to whom fuel exchange orders should be issued. The purpose of such designation shall be to avoid or minimize the adverse impact on public health and welfare of any suspension under subsection (a) of this section or conversion to coal to which subsection (b) applies or of any allocation under section 8 of the Energy Supply and Environmental Coordination Act of 1974 or the Emergency Petroleum Allocation Act of 1973.

"(2) The Federal Energy Administrator shall issue exchange orders to such persons as are designated by the Administrator under paragraph (1) requiring the exchange of any fuel subject to allocation under the preceding Acts effective no later than forty-five days after the date of the designation under paragraph (1), unless the Federal Energy Administrator determines, after consultation with the Administrator, that the costs or consumption of fuel, resulting from such exchange order, will be excessive.

"(3) Violation of any exchange order issued under paragraph (2) shall be a prohibited act and shall be subject to enforcement action and sanctions in the same manner and to the same extent as a violation of any requirement of the regulation under section 4 of the Emergency Petroleum Allocation Act of 1973."

Sec. 3. Implementation Plan Revisions

Section 110(a) of the Clean Air Act is amended in paragraph (3) by inserting "(A)" after "(3)" and by adding at the end thereof the following new subparagraph:

"(B) For any air quality control region in which the Administrator determines the applicable primary air quality standard is being exceeded, the Administrator shall review the applicable implementation plan and no later than ninety days after such determination report to the State on whether such plan can be revised in relation to fuel burning stationary sources without interfering with applicable national primary ambient air quality standards which the plan implements. If the Administrator determines that any such plan can be revised he shall notify the State that a plan revision may be submitted by the State within three months after the date of notice to the State of such determination. Any plan revision which is submitted by the State after notice and public hearing shall be approved or disapproved by the Administrator, after public notice and opportunity for public hearing, but no later than three months after the date required for submission of the revised plan."

Sec. 4. Motor Vehicle Emissions.

(a) Section 202(b) (1) (A) of the Clean Air Act is amended by striking out "1975" and inserting in lieu thereof "1977"; and by inserting after "(A)" the following: "The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the interim standards which were prescribed (as of December 1, 1973) under paragraph (5) (A) of this subsection for light-duty vehicles and engines manufactured during model year 1975."

(b) Section 202(b) (1) (B) of such Act is amended by striking out "1976" and inserting in lieu thereof "1978"; and by inserting after "(B)" the following: "The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the standards which were prescribed (as of December 1, 1973) under subsection (a) for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model year 1977 shall contain standards which provide that emissions of such vehicles and engines may not exceed 2.0 grams per vehicle mile."

(c) Section 202(b) (5) (A) of such Act is amended to read as follows:

"(5) (A) At any time after January 1, 1975, any manufacturer may file with the Administrator an application requesting the suspension for one year only of the effective date of any emission standard required by paragraph (1) (A) with respect to such manufacturer for light-duty vehicles and engines manufactured in model year 1977. The Administrator shall make his determination with respect to any such application within sixty days. If he determines, in accordance with the provisions of this subsection, that such suspension should be granted, he shall simultaneously with such determination prescribe by regulation interim emission standards which shall apply (in lieu of the standards required to be prescribed by paragraph (1) (A) of this subsection) to emissions of carbon monoxide or hydrocarbons (or both) from such vehicles and engines manufactured during model year 1977."

(d) Section 202(b) (5) (B) of the Clean Air Act is repealed and the following subparagraphs redesignated accordingly.

Sec. 5. Conforming Amendments.

(a) (1) Section 113(a) (3) of the Clean Air Act is amended by striking out "or" before "112(c)", by inserting a comma in lieu thereof, and by inserting after "(hazardous emissions)" the following: ", or 119(f) (relating to energy-related authorities".

(2) Section 113(b) (3) of such Act is amended by striking out "or 112(c)" and inserting in lieu thereof ", 112 (c), or 119(f)".

(3) Section 113(c) (1) (C) of such Act is amended by striking out "or section *112(c)*" and inserting in lieu thereof ", section 112(c), or section 119(f)".

(4) Section 114(a) of such Act is amended by inserting "119 or" before "303".

(b) Section 116 of the Clean Air Act is amended by inserting "119 (b), (c), and (e)," before "209".

Sec. 6. Protection of Public Health and Environment.

(a) Any allocation program provided for in section 8 of this Act or in the Emergency Petroleum Allocation Act of 1973 shall, to the maximum extent practicable, include measures to assure that available low sulfur fuel will be distributed on a priority basis to those areas of the country designated by the Administrator of the Environmental Protection Agency as requiring low sulfur fuel to avoid or minimize adverse impact on public health.

(b) In order to determine the health effects of emissions of sulfur oxides to the air resulting from any conversions to burning coal to which section 119 of the Clean Air Act applies, the Department of Health, Education, and Welfare shall, through the National Institute of Environmental Health Sciences and in cooperation with the Environmental Protection Agency, conduct a study of chronic effects among exposed populations. The sum of $3,500,000 is authorized to be appropriated for such a study. In order to assure that long-term studies can be conducted without interruption, such sums as are appropriated shall be available until expended.

(c) No action taken under the Clean Air Act, or under section 8 of this Act for a period of one year after initiation of such action, shall be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1939 (83 Stat. 856). However, before any action under section 8 of this Act that has a significant impact on the environment is taken, if practicable, or in any event within sixty days after such action is taken, an environmental evaluation with analysis equivalent to that required under section 102(2)(C) of the National Environmental Policy Act, to the greatest extent practicable within this time constraint, shall be prepared and circulated to appropriate Federal, State, and local government agencies and to the public for a thirty-day comment period after which a public hearing shall be held upon request to review outstanding environmental issues. Such an evaluation shall not be required where the action in question has been preceded by compliance with the National Environmental Policy Act by the appropriate Federal agency. Any action taken under section 8 of this Act which will be in effect for more than a one-year period or any action to extend an action taken under section 8 of this Act to a total period of more than one year shall be subject to the full provisions of the National Environmental Policy Act notwithstanding any provision of this Act.

Sec. 7 Reports.

The Administrator of the Environmental Protection Agency shall report to Congress not later than January 31, 1975, on the implementation of sections 2 through 6 of this Act.

Sec. 8. Coal Conversion and Allocation.

(a) The Federal Energy Administrator shall, to the extent practicable and consistent with the purposes of this Act, by order, prohibit, as its primary energy source, the burning of natural gas or petroleum products by any major fuel-burning installation (including any existing electric powerplant) which, on the date of enactment of this Act, has the capability and necessary plant equipment to burn coal. Any installation to which such an order applies shall not be prohibited from using petroleum products or natural gas unless the installation is located in a region described in the first sentence of section 119(b)(1), and the Administrator has made the finding specified in section 119(b)(2)(A)(I) with respect to emission from such installation. A prohibition on use of nautral gas and petroleum products under this subsection shall be contingent upon the availability of coal, coal transportation facilities, and the maintenance of reliability of service in a given service area. The Federal Energy Administrator may require that fossil-fuel-fired electric powerplants in the early planning process other than combustion gas turbine and combined cycle units, be designed and constructed so as to be capable of using coal as a primary energy source instead of or in addition to other fossil fuels. No fossil-fuel-fired electric powerplant may be required under this section to be so designed and constructed, if (1) to do so would result in an impairment of reliability or adequacy of service, or (2) an adequate and reliable supply of coal is not available and is not expected to be available. In considering whether to impose a design and construction requirement under this subsection, the Federal Energy Administrator shall consider the existence and effects of any contractual commitment for the construction of such facilities and the capability of the owner or operator to recover any capital investment made as a result of the conversion requirements of this section.

(b) The Federal Energy Administrator may by rule prescribe a system for allocation of coal to users thereof in order to attain the objective specified in this section.

(c) It shall be unlawful for any person to violate any provision of this section, or to violate any rule, regulation, or order issued pursuant to any such provision.

(d)(1) Whoever violates any provision of subsection (c) shall be subject to a civil penalty of not more than $2,500 for each violation.

(2) Whoever willfully violates any provision of subsection (c) shall be fined not more than $5,000 for each violation.

(3) It shall be unlawful for any person to offer for sale or distribute in commerce any product or commodity in violation of an applicable order or regulation issued pursuant to subsection (b). Any person who knowingly and willfully violates this paragraph after having been subjected to a civil penalty for a prior violation of the same provision of any order or regulation issued pursuant to subsection (b) shall be fined not more than $50,000 or imprisoned not more than six months, or both.

(4) Whenever it appears to any person authorized by the Federal Energy Administrator to exercise authority under this section that any individual or organization has engaged, is engaged, or is about to engage in acts or practices constituting a violation of subsection (c), such person may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with any provision, the violation of which is prohibited by subsection (c).

(5) Any person suffering legal wrong because of any act or practice arising out of any violation of subsection (c) may bring an action in a district court of the United States, without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment or writ of injunction. Nothing in this paragraph shall authorize any person to recover damages.

(e) Authority to issue orders or rules under subsections (a) and (b) of this section shall expire on midnight, June 30, 1975, but the expiration of such authority shall not affect any administrative or judicial proceeding pending on such date which relates to any act or omission before such date.

Sec. 9. Extension of Clean Air Act Authorizations

(a) Section 104 of the Clear Air Act is amended by striking "and $150,000,000 for the fiscal year ending June 30, 1974" and inserting in lieu thereof ", $150,000,000 for the fiscal year ending June 30, 1974, and $150,000,000 for the fiscal year ending June 30, 1975."

(b) Section 212 of such Act is amended by striking "three succeeding fiscal years." and inserting in lieu thereof "four succeeding fiscal years.".

(c) Section 316 of such Act is amended by striking "and $300,000,000 for the fiscal year ending June 30, 1974" and inserting in lieu thereof ", $300,000,000 for the fiscal year ending June 30, 1974 and $300,000,000 for the fiscal year ending June 30, 1975."

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 1241

At the request of Mr. Beall, the Senator from Georgia (Mr. Nunn) was added as a cosponsor of Amendment No. 1241, intended to be proposed to the bill (S. 1539), the Education Amendments of 1974.

AMENDMENT NO. 1265

At the request of Mr. Dole, the Senator from California (Mr. Tunney) was added as a cosponsor of Amendment No. 1265, intended to be proposed to the bill (S. 3267) to provide standby emergency authority to assure that the essential energy needs of the United States are met, and for other purposes.

AMENDMENT NO. 1282

At the request of Mr. Biden, the Senator from Idaho (Mr. Church), the Senator from Montana (Mr. Mansfield), the Senator from Oregon (Mr. Hatfield), and the Senator from Indiana (Mr. Bayh) were added as cosponsors to amendment No. 1282, to S. 3000 the fiscal year 1975 Defense Department authorization bill.

CORPORATE DISCLOSURE HEARINGS SCHEDULED FOR MAY 20 AND MAY 21

Mr. METCALF. Mr. President, hearings on corporate disclosure by Senator Muskie and my Government Operations Subcommittees will resume on May 20.

These hearings, conducted jointly by the Subcommittee on Budgeting, Management and Expenditures and the Subcommittee on Intergovernmental Relations, will be held in room 3302, Dirksen Senate Office Building, beginning at 10 a.m.

On Monday, May 20, we will hear Chairman Lewis A. Engman of the Federal Trade Commission, accompanied by Director James T. Halvorson of the Bureau of Competition.

On Tuesday, May 21, we will hear Representative Les Aspin, Democrat of Wisconsin and Commissioner A. A. Sommer, Jr. of the Securities and Exchange Commission.

Additional information regarding the hearings may be obtained from the subcommittees' staff on 225–1474, 225–4718 or 225–1481 (minority).

ANNOUNCEMENT OF HEARING ON INFLATION—DR. JOHN DUNLOP TO TESTIFY

Mr. HUMPHREY. Mr. President, I am pleased to announce that on Tuesday, May 14, the Consumer Economics Subcommittee of the Joint Economic Committee, which I chair, will receive testimony from Dr. John Dunlop, Director of the Cost of Living Council.

We have asked Dr. Dunlop to appear before the subcommittee to give us his assessment of where the Nation stands in its efforts to deal with the problem of inflation.

I am concerned that inflation will be worse this year than the administration and many economists have predicted. The food and fuel price increases of last year have yet to fully work their way through the economy; and we can expect workers hard hit by inflation to try to regain eroded living standards.

I am even more concerned that the Federal Government's policies to deal with inflation are inadequate. I fear that the abandonment of any permanent institution to focus on inflation will be a signal that the lid is off and now is the time for everyone in the economy to grab for as much as they can get.

Dr. Dunlop is extremely knowledgeable on both of these questions and the subcommittee is anxious to hear from him.

The hearing will be held in room 1114 of the Dirksen Office Building, beginning at 10 a.m. on Tuesday, May 14, 1974.

ANNOUNCEMENT OF PUBLIC HEARINGS BEFORE THE WATER AND POWER RESOURCES SUBCOMMITTEE OF THE SENATE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Mr. CHURCH. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of 2 days of hearings before the Water and Power Resources Subcommittee of the Senate Interior and Insular Affairs Committee.

The first day of hearings is scheduled for June 12, beginning at 10 a.m. in room 3110 of the Dirksen Senate Office Building. Testimony is invited regarding S. 325, a bill to expand the Boulder Canyon project to provide for the construction of a highway crossing of the Colorado River immediately downstream from Hoover Dam and Senate bills 767 and 1261, bills to facilitate the incorporation of the reclamation townsite of Page, Ariz.

The second day of hearings is scheduled for June 13, also beginning at 10 a.m. in room 3110 of the Dirksen Senate Office Building. Testimony is invited regarding S. 2403, a bill to authorize the Secretary of the Interior to construct, operate, and maintain a larger and adequate spillway and to improve the upstream slope protection on Belle Fourche Dam, in South Dakota, and S. 3223, a bill to provide for the rehabilitation of a road relocated by the Bureau of Reclamation in the vicinity of Glendo Dam and Reservoir in Wyoming.

Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Water and Power Resources Subcommittee, room 3106, Dirksen Senate Office Building, Washington, D.C. 20510.

ADDITIONAL STATEMENTS

U.S. INVOLVEMENT IN SOUTH VIETNAM

Mr. GOLDWATER. Mr. President, 2 or 3 weeks ago I received a written report from American Security Council, under the hand of Philip C. Clarke, pertaining to our country's present involvement with South Vietnam. I found the article to be a vigorous reminder to all of our people of the resolute responsibility we have to South Vietnam in the face of what I believe to be a great national faltering in that responsibility. I, therefore, request that these remarks of Mr. Clarke be printed in their entirety in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

WASHINGTON REPORT OF THE AIR

(By Philip C. Clarke)

The world is being treated these days to a strange, Alice-in-Wonderland-like spectacle. As the U.S. Congress is busy slashing away at aid to embattled South Vietnam, Soviet and Chinese leaders are assuring Communist North Vietnam of greater than ever support for their objective of total conquest of Indochina. As some U.S. Senators call for the total abandonment of Saigon, Cuba's Fidel Castro wines and dines the visiting Premier of North Vietnam, Pham Van Dong, and dispatches another 351 Cuban construction workers to Hanoi to help rebuild that Communist ally. And as two of the most influential newspapers in the U.S., the New York Times and Washington Post, furiously denounce the U.S. Ambassador to Saigon, Graham Martin, for his outspoken defense of U.S. commitments to South Vietnam, the celebrated American actress-activist, Jane Fonda, and her equally activist husband, Tom Hayden, are toasted in Hanoi as they prepare to do a motion picture extolling the virtues of that Communist society. Amid such reversed values, one can be excused for wondering: What goes on here? It is particularly hard to understand how the Congress of the United States, despite its preoccupation with Watergate, the economy and the fuel shortage, can so soon forget the heavy investment this country has made in the freedom and independence of South Vietnam—namely 55,000 American lives and 130 billion dollars. Nor is it easy to comprehend how responsible American political leaders, much less the media, can so easily ignore the reality of what our abandonment of South Vietnam would mean, namely, a Communist takeover and enslavement of 19 million people who have placed their trust in the U.S. and the ensuing Communist conquest of all remaining free nations in strategic Southeast Asia.

In a recent telegram to Secretary of State Kissinger, Ambassador Martin warned of a decision taken last fall in Hanoi to mount an all-out campaign this winter and spring to persuade the Congress to drastically reduce the magnitude of both economic and military aid to the government of South Vietnam. The Ambassador said that the Communists' so-called Provisional Revolutionary Government in Paris was to be the principal channel, using remnants of the American "peace movement" to bring influence to bear on selective, susceptible, but influential elements of the American communications media, and, particularly, on susceptible Congressional staffers. As Congress votes to cut deeper and deeper into U.S. aid for South Vietnam, one can almost hear the Communists cheering. It is as if the U.S. Congress is following Hanoi's script, to the letter. All thoughtful Americans, especially the more than two and a half million who served with the armed forces in Vietnam, should demand of Congress a full explanation of its retreat from responsibility—before it's too late. On the eve of the Bicentennial, Americans should also ask what might have happened had *our* ally, France, turned *its* back as we struggled for freedom and independence two hundred years ago.

POLICE RESPONSE TO DISASTER

Mr. HARRY F. BYRD, JR. Mr. President, I just received a copy of the May 1974 issue of "FBI—Law Enforcement Bulletin," which was personally directed to my attention by FBI Director Clarence M. Kelley.

That issue contains an excellent article, entitled "Police Response to Disasters," written by Lt. Col. Richard A. King, of the Fairfax County Police Department. Colonel King writes with an understanding of one who has been personaly involved in the public response to four recent tragedies in Fairfax County, Va.: the March 24, 1972, natural gas explosions; Hurricane Agnes in June 1972; the building collapse at Skyline Towers on March 2, 1973; and, the tornado which touched down in six separate parts of the county on April 1, 1973.

Colonel King emphasizes the importance of local planning and local readiness. His comments deserve the attention of communities across our Nation. I commend to my colleagues this article which shows the value of local initiative as a primary means of assistance to the public in times of need.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

POLICE RESPONSE TO DISASTERS

(By Lt. Col. Richard A. King)

The role of the police in today's society has been a much-discussed topic in recent years. That role—as viewed by most police agencies—is the traditional one of protecting life and property, suppressing criminal activity, and performing public services. Although this statement of mission is very general, the context in which it is normally viewed is that which relates to criminal matters. Another important, though generally unrecognized, role of the police in public safety is that of providing services in disaster situations. Most police administrators would agree that disaster response is germane to the police role, but because these events are of limited frequency, disaster countermeasure response is not always considered in the planning process.

Disasters, either natural or manmade, are events which cannot be foreseen. The occurrence of a criminal act can be reasonably anticipated by the police, even though its time and place of occurrence may not be known. With this expectation, and the analysis of criminal offense data, police departments can deploy manpower resources in a reasonably efficient manner to cope with the problem. Disaster response, on the other hand, is a much more problematic situation. Because certain areas of the country are not considered disaster-prone, local government officials responsible for public safety may become complacent with respect to disaster planning. Effective planning may take place only after a disaster strikes and people realize that it can happen again.

A case in point is Fairfax County, Va.

With virtually no history of natural or man-made disasters, Fairfax County experienced four tragedies during the 13-month period from March 1972 to April 1973. Two of the disasters were natural: the floods generated by Hurricane Agnes in June 1972 and a tornado which struck parts of the county in April 1973. The other two disaster situations—a natural gas explosion in a residential area and the collapse of a high-rise apartment building under construction—were man-made.

In order to appreciate the impact of these situations on a police department, it is necessary to describe in some depth the sequence of events and the scope of operations in these specific instances.

GAS EXPLOSION

On March 24, 1972, what proved to be the first in a series of natural gas explosions in the Washington, D.C., metropolitan area occurred in a residential subdivision in the Annandale area of Fairfax County. A gas line was ruptured accidentally by a backhoe operator digging for the installation of a sewer line. Natural gas seeped into two houses near the break in the gas line and an explosion occurred, completely demolishing both homes. Three persons were killed, and two were injured by the explosion. The immediate consideration of the responding public safety agencies in such a case is the prevention of further death or injury.

Even though this tragedy was limited in geographic scope, the initial impact on public safety resources was substantial. Adequate police manpower had to be dispatched immediately to the disaster scene to evacuate residents and cordon off the area to facilitate movement of emergency vehicles. Coordination between the police department and fire department is essential in such an incident. Response must be rapid and in sufficient numbers to control effectively the situation.

Fairfax County has the ability to achieve effective control and coordination by having both police and fire resources controlled through a single Emergency Operations Center. This arrangement facilitates the dispatching of police or fire units by dialing one emergency telephone number. Calls received in the Emergency Operations Center are routed to either a police or fire dispatcher who then coordinates the appropriate response. The operations center becomes the command post for the county government during disaster situations unless the situation dictates the establishment of a field command post. Control and coordination can be adequately achieved in most instances through the Emergency Operations Center, *provided the dis*aster situation is of limited duration.

HURRICANE AND FLOOD

Natural disasters, of course, are generally more widespread than the man-made variety and, consequently, create a greater impact on the public safety agencies of local government.

Hurricane Agnes, which struck many parts of the country during June 1972, affected portions of Fairfax County, primarily during the weekend of June 23 and 24. The immediate impact of this situation was substantial because the Northern Virginia area rarely experiences any extremes in weather conditions. The primary concern for the area was the projected flooding caused by the Potomac River overflowing its banks. Although the flooding never became as serious as originally feared, it nevertheless caused the death of six persons and left considerable damage in its wake.

The primary role of the police department during this disaster was the evacuation of residents from the threatened areas and the security of property. The police are not equipped for rescue operations, per se, but they play an important role by acting as the "eyes" for the county government. Information gathered from field units is vital to the decisionmaking process and the deployment of appropriate resources to combat the disaster.

An important consideration for any public safety agency in a situation such as a major flood is the isolation of field units created by the topography of the area coupled with the disaster at hand. In the case of the floods, several major roads were cut off, creating several separate spheres of activity with respect to disaster operations. This seriously disrupts the element of coordination, and each isolated unit is forced to cope with the disaster situation under conditions of limited mobility and resources.

The disaster countermeasures employed in the flood situation exemplify the involvement necessary by many agencies of local government in order to adequately cope with the situation. In addition to the police and fire departments, which are, of course, the first line of defense in disasters, the schools, public works, health department, social services, public affairs, and county planning department all play key roles in the countermeasure effort.

During the floods, for example, a significant portion of the water supply for the county became unavailable because of damage to the pumping facilities. The water shortage necessitated not only close coordination among agencies within the Fairfax County government, but also cooperation from neighboring jurisdictions and the Federal Government. Potable water was brought in from nearby Fort Meade, Md., and the Virginia National Guard also provided a quantity of water in mobile tanks. Local governments adjacent to Fairfax County provided additional assistance with respect to water supplies.

The health department provided tetanus and typhoid shots for persons who became exposed to contaminated water. The county school system served as the nucleus for relocating families which were displaced by the flooding. A high school centrally located within the county served as an evacuation center for persons who were unable to obtain shelter near their homes. Several of the 23 fire stations throughout Fairfax County also provided temporary shelter for displaced families. The police department played a major role in the evacuation process, particularly in the southeastern part of the county where some 8,000 residents were notified of flood dangers.

Although the danger period of the floods lasted only 2 days, the aftermath of the disaster necessitated sustained response by many county agencies in restoring the area to a situation of normalcy.

BUILDING COLLAPSE

Fairfax County experienced another major disaster on March 2, 1973, which required the mobilization of a significant number of police department personnel in addition to fire and rescue services and other county public service agencies. At approximately 2 p.m. on that date, a large section of a high-rise apartment building under construction collapsed. This occurred at the Skyline Center, a high-rise complex at Baileys Crossroads in the eastern part of Fairfax County. Fourteen construction workers were killed and 34 injured as a result of this disaster.

The immediate impact of such a situation in the police department is substantial. Patrol response to the scene of the disaster must be rapid and in sufficient number to provide for emergency assistance and crowd control. In addition, vehicular traffic must be diverted from the area to relieve congestion and facilitate movement of emergency equipment.

The initial difficulty with response to disaster scenes is that the patrol force is geared toward response to calls for service and crime deterrence. When disaster strikes, sufficient resources must be diverted to the disaster scene, but without seriously hampering response to the normal workload. The fact that police must continue to respond to calls for service, notwithstanding the scope of a disaster, required the swift mobilization of additional manpower resources. Immediate coordination is necessary between the various agencies which might play a role in the disaster operation.

The initial response to a disaster is carried out by the two main public safety agencies—the police department and the fire department. Immediate assessment of the scope of the disaster and the potential need for additional resources and equipment must be accomplished by key field personnel from these two organizations.

In the Skyline Center building collapse, two construction workers were stranded atop a section of the building left standing after the collapse. Because of the structural damage and the possibility of the remaining section collapsing, the stranded men had to be brought to safety immediately. A military helicopter from nearby Fort Belvoir was dispatched to the scene and successfully lifted the men from the building.

The preservation of human life is of prime concern to those participating in the disaster operation. Efforts must be directed toward preventing further escalation of the disaster. The attainment of this objective is premised on a rapid yet methodical coordination between all operational entities participating in the disaster countermeasure effort. Coordination is best achieved through the establishment of a command post to serve as the focal point of all decisionmaking relative to disaster operations.

In the Skyline tragedy, a temporary command post was established at a church near the construction site. One of the first tasks confronting the police department was the determination of how many people may have been victims of the building collapse. Investigators were assigned to each of three local hospitals to determine the identity of injured persons admitted. The parking lot at the construction site was also checked to identify the owners of the vehicles which remained after workmen left the scene.

Within 2 hours after the building collapse, a meeting was held to determine the nature and scope of the disaster operation to follow. It was determined that a 24-hour-a-day effort would proceed to locate the workmen listed as missing.

A special crane was called to the scene to conduct a search operation, and personnel from nearby military bases provided searchlights to aid in the night operations. The rescue effort was sensitive due to the fact that the remaining uncollapsed portion of the building represented a serious hazard to anyone working in debris removal near the building. Large concrete slabs were left hanging by steel support rods after the collapse, and these could fall at any time. Before any attempt was made to remove debris, all equipment in the area was turned off, and a silent search was conducted in an attempt to locate persons trapped beneath the rubble. The only noise heard during this period was that caused by settling debris.

A member of the rescue party was transported in a bucket by the special crane in order to conduct a floor-by-floor search of the remaining portion of the 24-story building. None of the missing workers were located as a result of this phase of the search. By 6 p.m. on the date of the disaster, it had been determined that 34 persons were injured, 4 were known dead, and 10 were missing and presumed dead.

Demolition of the remainder of the building and removal of debris had to proceed with two major considerations. Care had to be exercised in the event that any of the missing workers were still alive, and the removal of debris had to be slow and methodical to ensure the safety of the men in the demolition operation. The hanging slabs of concrete were carefully removed with cutting torches, and the major task of debris removal began.

Throughout the disaster operation the police department was faced with the problem of security and crowd control. The major roadway passing through the area was blocked to all normal traffic, and additional manpower was used to augment on-duty personnel for traffic control. A system of issuing passes was instituted to restrict the area of operations to authorized personnel only. Telephone and radio communications were established in the police department's mobile command post which served as the focal point for all decisionmaking and information dissemination.

From March 2 through March 11, 1973, a 24-hour-a-day operation was conducted for debris removal and recovery of bodies. Operations were reduced to a 12-hour period from 6 a.m. to 6 p.m. from March 12 until the operation was terminated. On March 17, the body of the final missing worker was recovered, bringing the death toll to 14.

TORNADO

At approximately 2 p.m. on April 1, 1973, a quiet Sunday, a tornado struck parts of Fairfax County without warning. This disaster, of a type previously unknown to Fairfax County, injured 34 persons and caused nearly $14 million of property damage. Miraculously, no one was killed.

The immediate problem caused by the tornado was that of identifying the scope of the disaster. Reports of damage came into the Emergency Operations Center, but because of the lack of experience with this condition, it was at first not known that a tornado had actually developed. The tornado touched down in six separate areas of the county while moving in a northeasterly direction from its starting point just southwest of the city of Fairfax, centrally located in the county. Several residential areas were damaged in addition to a high school, two shopping districts, and segments of an apartment complex.

Approximately 270 persons were displaced because of structural damage to homes and apartments. Once again several county agencies were called upon to provide services; however, the public safety agencies' role was limited to problems caused by the initial impact of the tornado. The fact that the tornado struck on Sunday lessened the impact compared to the situation which would have existed had it occurred during the week. The damaged school was, of course, unoccupied at the time as were most of the damaged stores in the business districts. Highway traffic densities, too, are fortunately lower on Sunday afternoon as compared with a typical weekday.

Notwithstanding the limited history in Fairfax County of disaster situations, the tornado which struck in April 1973 was the fourth major disaster, either natural or man-made, suffered by the area in a 13-month period. In these disasters, the county executive of Fairfax County worked at the scene, coordinating the required interface with other local governments, Federal agencies, and military support services. This coordination was vital to the success of public service agencies in coping with disasters of this magnitude.

IMPORTANCE OF PLANNING

There are several valuable lessons to be learned as a result of situations such as those described in this article. The first is the realization that catastrophic events often take place without warning, imposing extraordinary demands on public safety agencies. Unfortunately, it often takes the occurrence of such disasters to generate the development of adequate disaster planning. The experience gained by responding to a disaster situation is invaluable in the determination of tactical plans for future response.

While the police department had well-planned measures for civil disasters, the disasters served as a catalyst to develop a comprehensive disaster plan. The Fairfax County government has published a disaster preparedness plan which outlines the nature and level of response to be carried out by all county agencies which have a potential role in disaster countermeasure operations. This document was generated as a result of experiences gained throughout the four disaster situations previously described.

The Fairfax County Police Department's annex to the disaster preparedness plan describes the role of the police department in disaster situations in relation to the other county government agencies. The decision to mobilize additional manpower resources is discussed as well as the procedures to follow in effecting such a mobilization. One of the most important features of the plan is the delineation of responsibilities of key command personnel within the police department. The importance of establishing a command post with adequate lines of telephone and radio communication is also stressed.

Familiarization with the plan gives the appropriate commanders the basic knowledge necessary to apply effective decisionmaking should a disaster strike. The first few hours following a disaster are critical and often determine the ultimate outcome of the situation. It is, therefore, essential that the initial police response be swift, adequate, and coordinated.

Local governments should seriously consider the development of comprehensive disaster plans, irrespective of their past history or probability of disaster occurrence. Aircraft, rail, and other transportation accidents, as well as major fires, power failures, and similar events could potentially occur anywhere in the country. The development of well-defined plans can be translated into savings of life and property when disaster strikes. Adequate planning allows for a more rapid response to meet crisis situations and ensures that the delivery of disaster countermeasure services will be timely and adequate.

The local governing body must assess its capability to effect service delivery under a variety of hypothetical situations. No agency of local government should be overlooked in the planning process. Virtually every unit can potentially play a role in the disaster countermeasure effort. The Fairfax County plan, in addition to police and fire department response, covers services by the School Board, Public Works, County Development, Health Department, Social Services, Public Affairs, Red Cross, Water Authority, Management and Budget, General Services, and the Park Authority. The involvement of some or all of these agencies depends on the severity of the disaster with respect to scope and duration. Five alert stages are specified, each subsequent alert calling for the mobilization of additional agencies and resources. Police and fire personnel are the first to be involved in any disaster situation, and other county departments enter the situation as dictated by the particular circumstances at hand.

The planning process must identify which agencies have services to offer, how they will function with other local units, and which key individuals will assume responsibility when a disaster occurs. Government leaders at the local level must determine what resources are not available and take steps to seek assistance from neighboring jurisdictions, State agencies, and the Federal Government. Mutual aid agreements developed with the cooperation of the various political subdivisions will assist in eliminating bureaucratic stumbling blocks which might occur in the midst of a disaster.

It should be recognized by police officials that the development and existence of a disaster plan is no assurance of success. The plan must be subjected to periodic review to ensure its viability. No plan articulates the types of action to take in every specific situation. It is impossible to cover all contingencies. Because of the unpredictable nature of disasters, the plan should be viewed as a basic overview of response, with enough flexibility to instill in the minds of police commanders the potential need for deviation from the plan in actual operations. Recognition of certain limitations is an important prerequisite of any realistic plan. These issues should be recognized and steps undertaken to avoid an atmosphere of complacency.

SENATOR JACKSON CALLS FOR DEMILITARIZATION OF THE SUEZ CANAL

Mr. HELMS. Mr. President, on April 25 I discussed on this floor my grave concern that the United States, in its rush to gain Egypt's support for a Middle East peace settlement by offering extensive American aid in clearing the Suez Canal, very likely was adding to the potential for future turmoil in the area by not insisting that any U.S. aid be contingent on a demilitarization of the canal for a period of 5 years.

As I pointed out on April 25, there is no doubt in my mind that the prime beneficiary of an unrestricted reopening of the Suez Canal would be the Soviet Union, a fact recently acknowledged by the administration. The strategic benefits which the Soviet navy will reap by having a considerably shortened route to the Indian Ocean are great. The result of any unrestricted opening of the canal will be the creation of a strong Soviet military presence in an area of the world which is the petroleum lifeline to Europe and Japan. Such a large presence well could upset the delicate equilibrium in the Middle East. Because the situation is so tense there today, I am at a loss to understand a recent State Department statement against such a demilitarization.

Mr. President, I am not alone in my opinion that a true and lasting peace in the Middle East cannot come about until the Suez Canal is demilitarized and the strategic advantage to the Soviet Union of unrestricted military use of that waterway nullified. In the May, 1974, issue of Seapower, the noted journal dealing with military and strategic aspects of naval policy, there appeared an article written by our distinguished colleague from Washington, Senator Jackson, in which we called for the demilitarization of the Suez Canal. In his article, Senator Jackson points out that the United States, by insisting on demilitarization of the Suez Canal as a major condition to the U.S. aided clearing of the waterway, has a "propitious opportunity to stop an arms race in the Indian Ocean before it starts"; and further, that any proposal for demilitarization "would be in keeping with efforts to defuse the dangerous situation in the Middle East."

Senator Jackson is exactly right. If the nations in the Middle East are going to have a chance to live in peace among themselves, if they are to implement any peace settlement that is worked out without the threatening influence of outside powers, then the Suez Canal must be demilitarized, and the soft underbelly of the area protected from foreign pressures.

Mr. President, so that my colleagues may have the benefit of Senator JACKSON's timely and perceptive analysis, I ask unanimous consent that the Seapower magazine article by him, entitled "The Suez Canal and International Stability," be printed in the RECORD at the conclusion of my remarks.

There being no objection, the article was ordered to be printed, as follows:

THE SUEZ CANAL AND INTERNATIONAL STABILITY

(By Senator HENRY M. JACKSON)

Recent reports that the United States has dispatched scores of military specialists to Egypt to aid in clearing the Suez Canal indicate how committed the Administration has become to reopening this strategic waterway. Indeed, reopening the Canal seems to be a principal focus of the Administration's Middle East diplomacy.

With substantial American resources—diplomatic and technological—already committed to restoring the usefulness of the Canal, we must insure that we do not further squander important bargaining leverage or continue to miss a major opportunity to enhance stability in both the Near East and South Asia.

On many occasions since 1967 I have expressed my belief that the opening of the Canal should be considered only in the context of an overall peace settlement negotiated by the parties involved and establishing defensible borders for Israel. As I wrote in a report to the Congress in December 1970:

"The opening of the Canal . . . must be considered a trump card in any forthcoming settlement of the Arab-Israeli dispute. As such, agreement on this point should be withheld until a settlement of the fundamental issues is reached."

It was and is my conviction that the reopening of the Canal is a principal objective of the Soviet Union; and because of the considerable Soviet interest in bringing this about we ought to have held this trump card in the *Western* hand until issues of comparable interest to us had been resolved. The Administration has played it prematurely and unwisely.

TIME FOR DEMILITARIZATION?

It is not too late, however, to propose and negotiate the demilitarization of the Canal. The Administration should now insist that the Suez Canal be closed to the warships of all outside powers including naval vessels of the United States and the Soviet Union.

The nearly total dependence of Europe and Japan on energy produced in the Persian Gulf has been dramatically emphasized by the events since October 6, 1973. The strategic importance of the gulf is now undeniable. And Soviet interest in establishing primacy over the oil-producing states of the gulf, so evident in Russian policy toward Iran in the past and Iraq at present, is a matter of utmost concern to our national security.

In the mid-1950s Soviet strategy in the Middle East, which had for centuries focused on Persia with only occasional forays beyond into Egypt—as in 1788 when Catherine the Great offered military assistance to the Bey of Egypt—took on a "leapfrogging" quality founded on efforts to exploit the differences between Arabs and Israelis. Directing their attention to Egypt and Syria, the Soviets hoped to gain a position in the Middle East that would have encircled Iran, Saudi Arabia and the smaller sheikdoms skirting the Indian Ocean.

More recently, Soviet policy has focused on Iraq, on Iran's neighbors to the north and east and on Somalia, Yemen, and Aden on the Red Sea and the Gulf of Aden. In this strategy the Suez Canal occupies a central position.

SEVENTY PERCENT SHORT CUT

The principal, and rapidly growing, Soviet military fleet is deployed in the Black Sea where it is supported by the industrial and military resources of European Russia. The reopening of the Suez Canal—unless it is demilitarized—will substantially reduce the transit time and distance that the Black Sea Fleet must cover for deployment or operations in the Persian Gulf—not by a few percentage points, not by a few miles, but by over 70 percent, from 11,500 down to 3,200 nautical miles.

The principal effect of this reduction in time and distance is this: with the Canal in operation the Soviet Black Sea Fleet can be quickly sent into the Persian Gulf where it would rapidly outnumber anything that we could deploy in that vital region. The handling capacity of the Canal is on the order of 50–60 ships per day. In the event of a crisis in the gulf—and it is not difficult to imagine such conflicts as the recurring exchange between Iran and Iraq reaching crisis proportions—the very considerable navy that the Soviet Union keeps on station in the Mediterranean could be quickly redeployed in the gulf, while the Black Sea Fleet could be sent south into the Mediterranean.

Moreover, recent development in Somalia clearly suggest that the Soviets are likely to be in a position to provide air cover from operating bases at the southern access of the Canal.

We, for our part, cannot expect to make comparable use of the Canal. The sailing distance from the east coast of the United States to the Persian Gulf, now in excess of 11,000 nautical miles, would only be reduced to 8,000 nautical miles if the Canal were available to the U.S. Navy—a doubtful proposition at best.

In any event, the carrier task forces on which our naval power depends are, for the most part, unable to use the Canal—which is neither deep nor wide enough to accommodate our carriers. Nothing comparable to available Soviet facilities on the Gulf of Aden will be available to us to support fleet operations in the Indian Ocean.

The net effect of these facts is this: The power vacuum that developed with the withdrawal of British forces from the Persian Gulf and Indian Ocean—a vacuum that provided an interim measure of stability so long as it remained unfilled by the Soviet Union—can be expected to give way to the very great and dangerous instabilities that would result from Soviet predominance in this area.

TO PRESERVE A TENUOUS STABILITY

Vital sources of energy at the disposal of weak and potentially unstable governments would come under increasing Soviet influence even in the best of times; and in crisis situations only the Soviet Union would be in a position to bring substantial power to bear.

This evolving situation is highly disadvantageous to the United States and its allies and prejudicial to the stability of the gulf and to our national security. The tenuous stability that now prevails in the gulf must be preserved, not only in the near term but for years to come.

Neither the American nor the Soviet navy presently deploys in force in the Indian Ocean. Thus, the opening of the Suez Canal could turn out to be a stimulus to an arms race in that pivotal ocean.

We have a propitious opportunity to stop an arms race in the Indian Ocean before it starts; and the place to begin is at the gateway to the region, at Port Said. To accomplish this, the Administration should press for the closing of the Suez Canal to the warships of all outside powers including naval vessels of the United States and the Soviet Union.

From time to time opportunities for regional restraint present themselves; and in my judgment the region is the Indian Ocean and the opportunity is now.

A proposal to demilitarize the Suez Canal would be in keeping with efforts to defuse the dangerous situation in the Middle East. It could have a salutary effect on the potential volatility of Soviet-Chinese relations. Because keeping the Canal closed to outside military vessels would limit the size of the naval force the Soviets can deploy there, we could hope to avoid a long term requirement for a comparable deployment capability of our own.

As one looks ahead to the potential sources of international instability the Indian Ocean and its approaches loom large. One need only recite the countries that are affected: Egypt, Ethiopia, Somalia, Saudi Arabia, Kuwait, Iraq, Iran, the sheikdoms of the Persian Gulf, Pakistan, India and so on. If we fail now to move to limit a potential stimulus to arms competition in this area we will look back on this moment with regret.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, it has been a full quarter-century since President Truman submitted the Genocide Convention to the Senate for ratification. At that time he stated that ratification "will demonstrate that the United States is prepared to take effective action on its part to contribute to the establishment of principles of law and justice." Those sentiments remain true today as well.

Since President Truman's days, every administration has indicated its support for this humanitarian treaty. President Kennedy stated that "there is no society so advanced that it no longer needs periodic recommitment to human rights." And, finally, President Nixon has urged that the Senate "delay no longer in taking the final convincing step which would reaffirm that the United States remains as strongly opposed to the crime of genocide as ever."

Mr. President, this treaty was the product of a post-war world, outraged at the barbarism of Nazism to the German Jews. It was the United States which took the lead in the drafting of this treaty and in securing the unanimous approval of the United Nations. It is unbelievable that the United States should delay so long in ratification. Respect for human rights, as expressed by the 78 nations which have ratified the treaty so far, demands that we delay no longer.

AFRICAN DROUGHT AND INTERNATIONAL DEVELOPMENT ASSOCIATION

Mr. BROOKE. Mr. President, every American with a sense of compassion must be shocked and saddened by the graphic portrayal of famine and utter human misery in the countries of the Sahel region of Africa that appears in this week's issue of Time magazine. While a broad belt of Equatorial countries exists dangerously close to the starvation line, the six countries of the Sahel, together with Ethiopia further east, have long since crossed that line and thousands of their inhabitants have succumbed to hunger and hunger-induced disease.

International relief efforts have not been adequate, and transportation difficulties have prevented available supplies from being promptly distributed.

As if the agony of starvation were not enough, several states of the Sahelian region, which embraces Chad, Mawi, Mauritania, Niger, Senegal, and Upper Volta, are also afflicted with river blindness—a parasitic disease that debilitates and causes loss of sight in over 1 million persons representing 10 percent of the affected area.

I am happy to say that the United States is among the countries that has been providing emergency assistance to help ease in some measure the devastating impact of the drought on middle Africa. Our efforts, however, have been largely of a relief nature and have not addressed the somewhat longer-term problems that follow in the wake of such massive dislocations of population and economy.

I have been heartened to learn that the World Bank and its soft-loan affiliate, the International Development Association, is mounting a program that will yield immediate economic benefits for the unfortunate inhabitants of the Sahel and at the same time contribute to the longer-term economic reconstruction in the wake of the disaster that has occurred.

To give some idea of the economic impact of the drought on the largely grain-and-livestock economies of the Sahel region, the World Bank estimates that 1972 grain production was 25 percent below normal and 20 to 30 percent of the livestock population either perished or was distress-slaughtered. All the evidence is that the situation further deteriorated in 1973.

In this situation the International Development Association—IDA—last November made a special drought relief credit of $14 million to the six countries of the Sahel. The project aims at helping people in drought-affected areas to reestablish their self-sufficiency through the redevelopment and improvement of their farms and herds. Typical subprojects would include construction of wells and earthdams, livestock disease control facilities, village warehouses and grain storage facilities, and establishment of livestock watering facilities. In addition to these special activities under the drought credit, IDA is continuing its regular lending programs for a broad variety of projects. IDA credits to the Sahel region since 1970 totaled $134 million, and a further $20 million is expected in the next several months.

The World Bank and IDA are also administering a 20-year program costing $120 million to eradicate river blindness. As areas with adequate water but infested with the fly that transmits this disease are treated and cleared beginning in about 18 months, persons displaced from the drought areas will be able to move in safely and resume useful economic activity. The river blindness program in this way complements and helps relieve efforts directed to the drought-stricken areas.

Mr. President, IDA's role in helping to alleviate the effects of the tragedy of the Sahel would be, in my judgment, sufficient reason alone to justify U.S. support for this important arm of the World Bank. In fact, IDA's activities are worldwide. They address the problems of the poorest of the poor countries—countries whose annual per capita incomes are frequently $120 per year or less. Without IDA assistance, many of these countries have little hope of breaking out of their present cycle of poverty.

The U.S. Senate will have an opportunity in the very near future to vote on the crucial question of whether or not the United States will continue to give its support to as worthy an enterprise as IDA. We will shortly have before us S. 2665, a bill providing for U.S. participation in a 25-nation round of contributions to provide for IDA's resource requirements in the next several years. I believe this legislation deserves the overwhelming support of the Senate. Moreover, I hope our support in this body will serve as encouragement to the other body of the Congress to reconsider its opposition of last January to further U.S. support of IDA. From the viewpoint both of humanitarianism and practical international economics, IDA effectively serves objectives sought by the United States.

Mr. President, I ask unanimous consent at this point to print in the RECORD the text of the Time article to which I have referred, as well as the text of an IDA press release announcing a $14 million credit to the six countries of the Sahel region.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FAMINE CASTS ITS GRIM GLOBAL SHADOW

Girdling the world at its equatorial bulge is a belt of hunger. Above it live the 1.4 billion inhabitants of the northern developed nations whose advanced industry and agriculture permit them the luxury of worrying about reducing diets instead of calorie deficiencies. Below it are potentially prosperous lands of the Southern Hemisphere's temperate zone. Along the belt live many of the 2.5 billion citizens, nearly all of them ill-fed; at least 60% are malnourished, and 20% more are starving.

Today, famine is rampant in Ethiopia, the African nations of the Sahel (Chad, Mali, Mauritania, Niger, Senegal and Upper Volta), Gambia and in areas of Tanzania and Kenya. Near famine also plagues Bolivia, Syria, Yemen and Nigeria. One poor harvest could bring massive hunger to India, the Sudan, Guyana, Somalia, Guinea and Zaire. In two dozen other nations, the populace faces chronic food shortages. Among them: Bangladesh, Iran, Indonesia, the Philippines and Haiti.

BOUNTIFUL DAYS

Gone are the bountiful days of the 1960s, when the United Nations' Food and Agriculture Organization worried about how to dispose of a glut of food, and the U.S. Government paid its farmers not to plant crops. Now the world's food reserves are at their lowest since World War II, amounting to a mere 27 days of consumption. "We're just keeping our heads above water," observes FAO Official John Mollett. "But the margin of safety is decreasing. One big crop failure anywhere and it could be every country for itself." For most countries in the hunger belt, that could mean mass starvation.

In the Sahel, that time has already come. For the past six years, the 25 million farmers and nomads fatalistically accepted each dry season, expecting that rains would soon follow. They never did. Crops withered, grazing land turned barren, and lakes and wells dried up. Many Africans became so hungry that they ate their breeding cattle and seed grain, thus condemning themselves to total dependence on outside help. Unless they receive aid, they will be unable to plant new crops or raise new herds even if the rains do come. The Sahel's flat savannas, which once supported the blue- and black-robed Tuareg and Fulani warriors, are now empty, save for the thousands of reddish brown mounds that mark the graves of those who starved. At least 100,000 have died.

Shantytown refugee camps have risen like festering sores throughout the region, providing the barest relief to half a million people. Their individual monthly ration is only 26 lbs. of flour and 4.4 lbs. of dried milk, the nutritional equivalent of about one-third of the average American's diet. In their weakened condition, disease has spread quickly. Typhus, dysentery, measles and gastroenteritis are rampant. At the teeming Lazaret camp near Niamey, Niger's capital, cholera threatens the 15,000 refugees. In Chad, some emaciated nomads begged a U.N. official not to send them medicines, pleading that death from diphtheria was quicker and hence easier than the slower death from starvation.

The drought has claimed an equally grim toll in parts of Ethiopia. Provincial bureaucrats kept the horrific dimensions of the catastrophe secret from Addis Ababa, fearing that bad news would anger and embarrass Emperor Haile Selassie and perhaps lead to their own dismissal. Finally, last spring, the number of deaths grew so great that the bureaucrats had to admit their existence and ask for international aid. At first the drought seemed confined to eastern Ethiopia. But a new government survey uncovered big pockets of famine to the south and southeast of the capital. In Bale province alone an estimated 27,000 cattle, 25,000 sheep and goats and 500 camels have died. This study only hints at the true extent of Ethiopia's problems. Remarked an Ethiopian relief worker: "The farther east you go, the worse it gets." Ethiopian deaths are estimated at 100,000, but no one knows definitely because there are no reliable population records.

Drought is not the only enemy. Rain can be just as devastating. When the spring rains came to Ethiopia this March, they broke all known records. Ten inches fell in some sections in three day (compared with one-tenth inch last spring). The torrents washed away vital crops and thousands of tons of top soil. In Wallo province, worst hit by the famine, the deluge swept away villages and roads, overturned supply trucks and dangerously delayed relief efforts.

CONSPICUOUS ABSENCE

An emergency worldwide aid program was launched last year and has already saved more than 1 million Africans from starvation. Private and national agencies, coordinated by the FAO, delivered about 518,000 tons of grain to the Sahel and Ethiopia. This year 770,000 tons have been pledged, nearly half of it by the U.S. and significant amounts by the Common Market, Canada, the Soviet Union, Sweden and China. Conspicuously absent from the ranks of the generous are the newly rich Middle East oil exporters. So far they have contributed less than 1% of the total aid.

Though the aid has been lifesaving, it has not been as effectively used as it could be. Inefficiency and corruption of local bureaucrats have slowed the distribution of the emergency supplies. In Mali and Niger, officials have diverted some of the donated grain to commercial channels for sale at enormous profits. Much of the donated food remains heaped high on the docks where where it is prey to rats, locusts and thieves. The major problem, however, is logistics. U.N. Secretary-General Kurt Waldheim, after inspecting the famine areas in February, reported: "I saw piles of foodstuffs in the capitals of the drought-stricken countries, but the governments told me they cannot ship it to the areas most afflicted. Because of the lack of roads—it is just sand, everywhere you look you have sand—after a relatively short time, the trucks are not usable any more."

DONKEY CARAVANS

With almost all of the drought area far away from the few railways, navigable rivers and paved roads, relief trucks have had to crawl along sand and dirt paths in desert heat. In Ethiopia, some of the neediest areas are so deep in the countryside that only caravans of donkeys and camels have been abel to reach them.

The weather is a continuing threat. Rains, if they come at all this year, are due to arrive in mid-June. They could transform the dusty Sahel into a muddy bog, making vehicle traffic impossible. FAO officials had hoped that most of this year's aid would be prepositioned in remote regions by June. However, red tape and a lack of urgency by the donor countries made shipments late. Most of the grains should have arrived at African ports by March, but only 266,000 tons had been received by April. An additional 170,500 tons arrived last month, and 333,000 tons are still due. Even without local inefficiencies, it now will be difficult to get the food into the needy areas before the rains.

When the world first discovered the dimensions of the crisis last year, there was no time to truck in most of the supplies. The FAO mobilized an airlift costing more than $30 million or nearly half of what the food was worth. Now FAO chiefs fear that an airlift may again be needed. But increased fuel prices could double the cost of the operation, a cost that the FAO may find the donors unwilling to underwrite.

Even if this year's relief effort forestalls mass starvation, the long-term outlook for Africa's hunger belt is at best grim. A ministerial-level committee of the Sahelian nations is seeking foreign grants of $700 million to fund 126 longrange projects, such as dams, reforestation, transport networks and rebuilding of decimated herds. But the only certain means of guaranteeing that the present catastrophe will not repeat itself lies with population control rather than with food supplies.

Every day the world's population jumps 200,000 persons—or some 75 million per year. By the end of the century, it could total 7 billion—up from the present 4 billion. To feed these new mouths, the world must produce an additional 30 million tons of food each year—an increase of at least 2.5%—just to maintain present per capita consumption levels. For the developing countries, that is like walking on a treadmill. Although the African nations in the hunger belt have boosted their food production 22% since the early 1960s, per capita consumption has actually fallen 5% because of increased population. By contrast, Americans during the same period went from eating 118% of their basic energy requirements (in terms of protein) to 123%, Soviets and East Europeans from 116% to 126%, and China from 86% to 100%.

The lines on the Malthusian chart are *ominous:* if the present birthrate continues, someday—perhaps as early as 2025—there will be more people than the earth can feed, given its present technology. Photos by earth satellites reveal that the world's most productive land is already cultivated, convenient water sources already tapped and nearly all grazing capacity already in use. Marine biologists worry that the sea, once regarded as a nearly unlimited source of cheap protein, has been over-fished. To bring marginal farmland into use round the world would require a massive investment beyond the means of the underdeveloped nations and probably beyond the generosity or administrative cooperation of the developed nations.

The "Green Revolution," which only a few years ago brought hope of agricultural self-sufficiency to India and other countries of Asia, has already lost much of its promise. The increase in oil prices has nearly trebled the cost of nitrogen fertilizers and of fuel for irrigation pumps upon which the crops of high-yield rice and wheat rely. Hundreds of thousands of Asia's small farmers who once enthusiastically sowed their fields with the Green Revolution's hybrid strains are now reverting to more traditional methods of cultivation. The harvests are smaller but much less dependent on fertilizers, pesticides and irrigation.

ONE MEAGER MEAL

India, which had been one of the major success stories of the Green Revolution, is now seeking commodity aid from the U.S. because inadequate rains coupled with fertilizer shortages reduced recent harvests. With perhaps half of its 600 million people living at or below the subsistence level—eating no more than one meager meal daily—even a slight drop in food production can have an enormous impact. If drought returns to India this year, tens of millions of lives will be threatened.

Some climatologists believe that the earth is experiencing a basic change in its weather, which could cause prolonged droughts throughout the hunger belt. About ten years ago, scientists began noting that the high-altitude winds that ring the North Pole have shifted south, changing weather patterns throughout the world. Part of India's monsoon rains are now dropping uselessly into the ocean. In the past six years, the Sahara has expanded 100 miles southward in some places. Scientists are baffled by the phenomenon, but some suspect it may be caused by sun spots or increased carbon dioxide and dust in the atmosphere, or a combination of both.

If vast parts of the globe are actually doomed to such drastic weather changes, then the outlook is bleak indeed. Political unrest and even civil wars will become more likely as whole countries go hungry. In the past year, discontent spurred by food shortages contributed to the sudden changes of government in Niger and Thailand, and it threatens the reign of Haile Selassie in Ethiopia.

Only long-range multinational planning can cope with the problem. For example, there could be a United Nations-sponsored international birth control program, an expansion of fertilizer production, and the storing of adequate food reserves as a buffer against periodic poor harvests. Members of the United Nations hope to consider those proposals when they gather in Bucharest during August for a conference on population, and in Rome in November for a conference on food. Their task is formidable. Between now and the time they begin their deliberations, the world's population will have increased by 30 million.

FOURTEEN MILLION DOLLARS IN IDA CREDITS FOR DROUGHT RELIEF IN SIX SAHELIAN COUNTRIES OF WESTERN AFRICA

The International Development Association, an affiliate of the World Bank, has approved six development credits totaling $14.0 million to help finance a project for drought relief in the Sahelian countries of Western Africa. The individual credits will be to the Republic of Chad for $2.0 million, to the Republic of Mali for $2.5 million, to the Republic of Mauritania for $2.5 million, to the Republic of Niger for $2.0 million, to the Republic of Senegal for $3.0 million and to the Republic of Upper Volta for $2.0 million.

The project aims at helping people in drought-affected areas to reestablish their self-sufficiency through the redevelopment and improvement of their farms and herds. With this objective in mind, IDA will extend lines of credit to each of the six countries for the purpose of implementing subprojects. There will be no limitation on the type of activity or subproject provided they meet the following basic criteria: be of a drought-affected area to reestablish their productive base of areas seriously affected by the drought, generate benefits quickly, benefit a relatively large number of people and be demonstrably needed and supported by the local community.

The sub-projects are likely to fall within 10 broad categories: (1) rural water supplies and stock water supplies; (2) construction of wells and tube wells as well as earth dams and dugouts; (3) hydrogeological investigations; (4) land and water development; (5) livestock disease control; (6) afforestation and firebreaks; (7) village warehouses and grain storage facilities; (8) technical assistance, surveys and studies; (9) project management and (10) repair of feeder roads.

Government development banks will be chosen in five of the six countries as the agencies responsible for financial administration of the IDA credits. In the sixth country, Mauritania, the government's fiscal disbursement and audit agency will as as financial channel.

Excluding Upper Volta, where the arrangements existing at present under an IDA-financed Rural Development Fund Project will be used, management responsibility for the projects will be split between the financial institutions which will retain financial control, the government's technical agencies and departments responsible for executing the investments, and a National Coordinating Committee which will serve as the link between the financial institution and the technical agencies.

The World Bank and the International Development Association have already made 41 loans and credits to the six Sahelian countries for a total of about $250 million, of which $46 million has been directed to the support of agriculture and livestock development, $15 million to education, $100 million to transport, $15 million to telecommunications, $66 million to a mining operation in Mauritania and $9 million for various projects in Senegal.

The IDA credits are for a term of 50 years including 10 years of grace. A service charge of ¾ of 1% will be added to cover IDA's administrative expenses.

BAPTISTS FOR LIFE ATTACK DISTORTION OF MOTHERHOOD

Mr. HELMS. Mr. President, we have just had the observance of that beautiful day devoted to an appreciation of the dignity of motherhood, Mother's Day. It has become one of the cliches of politics that every politician must come down foursquare for motherhood as one of the key planks of his political platform, for, as everyone knows, no one is against motherhood.

But lately, a false view of motherhood has taken root, a view that looks upon large families as undesirable in any case. This was brought to my attention by a

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NOTE.—Money figures are expressed in US dollar equivalents.

group called Baptists for Life, a national organization devoted to providing resources for those interested in a Christian concern for human life, whether unborn, handicapped, or aged. I am a Baptist and I am proud to serve on the advisory board of Baptists for Life. And I was amazed when Baptists for Life pointed out that the latest attack on motherhood was coming from the Southern Baptist Convention Christian Life Commission. A recent pamphlet on the so-called population explosion recommends abortions and contraceptives to the unmarried as Christian practice. The pamphlet even goes on to recommend—

> That mothers with large families should not be singled out for praise on Mother's Day.

This astonishing position has been roundly denounced by Baptists for Life in a statement issued over the weekend. It says, in part:

> Baptists for Life challenges this position as an insult to every Baptist mother whom God has blessed with a large family . . .

The coordinator of Baptists for Life, the Reverend Bob Holbrook, says that it assigns—

> Second-class status to millions of Baptist mothers.

Mr. President, I ask unanimous consent that the statement by Baptists for Life be printed in the RECORD at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOUTHERN BAPTIST ATTACK ON MOTHERS CHALLENGED

Citing a Southern Baptist Convention Christian Life Commission proposal to eliminate mothers of more than two children from recognition for Mother's Day honors, Rev. Robert Holbrook, Coordinator of Baptists for Life, and several of his advisors called on Baptists across the nation to reaffirm their tradition of high regard for family life and the value of the mother on Mother's Day, Sunday, May 12.

The proposal to downgrade large families surfaced in a pamphlet of the *Issues and Answers* series issued by the Christian Life Commission, headquartered in Nashville, Tennessee. The pamphlet, entitled "Population Explosion", calls on churches to depart the traditional Christian observance of Mother's Day by recommending "that mothers with large families should not be singled out for praise on Mother's Day". Baptists for Life challenges this position as an insult to every Baptist mother whom God has blessed with a large family. "This is a most un-Christian study guide-line recommendation for churches" said Rev. Holbrook. "Not only does it assign second-class status to millions of Baptist mothers, but it calls for the Federal government to regulate family size. It recommends that abortion be recognized as a legitimate method of birth control and population regulation."

Calling the pamphlet "scare rhetoric about population growth", Mrs. Judy Fink of Pittsburgh, Pennsylvania, pointed out that *The National Center for Health Statistics* reported that the 1973 birth rate was the lowest in the nation's history. "Already, American families produce on the average of 1.9 children", she stated. "This Christian Life Commission proposal is simply another case of male chauvinism, and my husband, my five children and I deeply resent it."

"This is an insulting piece of propaganda to a vast majority of Baptist women", said Mary Ellen Felps, Austin attorney. Miss Felps asserted "I hope the Christian Life Commission will issue an apology, not only to mothers, but to all Baptist women who are seemingly expected to accept the notion that family life will be improved by violating God's laws."

Rev. Holbrook, who testified in support of a Human Life Amendment before the Senate Sub-Committee on Constitutional Amendments in Washington on March 7, said: "I am sure most Baptist pastors and laymen are not aware that their congregations are being used to promote the killing of unborn children, contraception for the unmarried and governmental control of family size. Proposals such as those advocated in this pamphlet are similar to measures advocated for population control by Edgar Chasteen, a sociologist on the faculty of William Jewel College, a Southern Baptist institution in Liberty, Missouri. Chasteen, in his book, *Compulsory Birth Control for All Americans,* recommends mandatory sterilization if families do not limit themselves to two children. "Baptists will never allow their freedom to be taken away like that."

Noting the pro-family, pro-life view was omitted from the pamphlet, Rev. Morton Oliver, pastor and advisor from Newport, Kentucky, asked, "who is responsible for this one-sided presentation?"

Rev. Holbrook has requested Dr. Foy Valentine, Executive Secretary, Christian Life Commission, "in the spirit of fairness and search for truth" to issue another pamphlet using Baptist for Life advisors as resource people. "This distorted picture must be cleared up and, if not, the reasons why investigated. All sides of legalized abortion, family size and the value of motherhood deserve in airing. It serves no good purpose to stifle a healthy interchange of ideas."

Mrs. Fink, who served as an appointee of Governor Schaff of Pennsylvania on the only all-women panel ever seated to study the abortion question, commented: "Obviously, someone in the pro-abortion camp has gotten to the Christian Life Commission and indoctrinated the members. This is a common finding among protestant church bodies. Our pro-life, pro-family message reflects the opinion of the people in the pew, however."

FIFTIETH ANNIVERSARY OF VIRGINIA STATE CHAMBER OF COMMERCE

Mr. HARRY F. BYRD, JR. Mr. President, on May 9, 1974, the Virginia State Chamber of Commerce celebrated the 50th anniversary of its founding. Over 500 members, friends, and distinguished guests were on hand to bear witness to the passing of the first half-century of the chamber's outstanding efforts—and to rededicate themselves to the pursuits of a free enterprise system.

An impressive array of dignitaries, including former Governor of Virginia and former Congressman from the 5th District William M. Tuck, former Governor of Virginia J. Lindsay Almond, Jr., and former Governor of Virginia and present Justice of the Virginia Supreme Court Albertis S. Harrison, Jr., saw the Honorable Mills E. Godwin, Jr., Governor of Virginia, accept on behalf of the people of Virginia two tokens of esteem presented by the State Chamber's Executive Director Richard S. Gillis, Jr.: the chamber's collection of over 60,000 photographic negatives and a framed facsimile of the earliest known share of stock in the Virginia Co., as issued to the Earl of Salisbury in 1613. They were equally fortunate to hear the Governor respond in praise of the work of the State chamber of commerce and in defense of private enterprise.

I believe this event—though symbolic—is most noteworthy. It represents a recognition of the wholesomeness of free enterprise in Virginia—a recognition by outstanding community and business leaders of our Commonwealth of the gains their labors and the labors of countless thousands like them have made for the people in Virginia. And it represents, too, a reaffirmation of the sound principles by which our future social and economic growth must be guided.

I ask unanimous consent that the text of Governor Godwin's address be printed in the RECORD and I commend to the attention of my colleagues the message they contain.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

REMARKS BY GOV. MILLS E. GODWIN, JR.

Mr. Drewer, Mr. Davis, Mr. Bryan, The Incomparable Mr. Gillis, Ladies and Gentlemen:

I am delighted to accept these priceless gifts from the State Chamber of Commerce on behalf of the people of Virginia.

I am certain that nowhere in the Commonwealth could there be found a collection comparable to the 60,000 photographic negatives tracing the history of business and industry in Virginia through the past one half century.

If I had any regrets they would revolve around the fact that this share of stock in the London Company, issued originally to the Earl of Salisbury in 1613, is only a copy.

Certainly if this were an original share, and still valid, its value today would be beyond any calculation.

As a matter of fact, I understand that even if this were an original stock certificate, it would be impossible to place a value on it, because it is written in longhand the amount of its face value is undecipherable.

I am sure this was not deliberate on the part of the original London Company, although it might have been somewhat convenient as things turned out.

Win Luther reminds me that all of the stock certificates in the London Company were voided in 1623 when Virginia became a crown colony.

The truth of the matter is that the king had found that the tobacco industry in Virginia was so profitable, he thought he had better take it over.

My own feeling is that if the amount of this certificate cannot be deciphered, it is probably a matter of the handwriting of the original scribe. I am advised by some of my staff members that they have the same problem with some of the Governor's memoranda.

In any event, I know that the certificate will be a welcome and a most interesting addition to the display of early Virginiana in the Old World Pavilion at Jamestown Festival Park.

I suppose if we put the Chamber's statisticians to work they could come up with a dollar value figure representing the accumulated contributions to the Commonwealth by the Virginia State Chamber of Commerce over the past fifty years. But, again, the figure would really be meaningless, because there is no way we can measure in dollars the initiative, the energy and the persuasive powers the staff and the membership of the Chamber over the years have brought to bear on behalf of progress here in the Commonweath.

And I am personally delighted that the

Chamber has underlined in these two gifts, and in its multimedia presentation to us tonight, the contribution of private enterprise as a concept and its individual representations here in Virginia.

It is not very popular in many quarters today to sing the praises of business and industry. It seems to be more popular to criticize the profit motive and to chastise our incomparable technology for violating our environment.

And strangely enough, many who are singing this song of criticism are themselves the beneficiaries of the private enterprise system in so many ways.

I don't think we need to apologize in any way for our praise of business and industry in Virginia. They provide the basis of our entire economy.

They provide the jobs that finance our families and our homes and apartment houses, and our variety of material goods.

They support the entire service segment of the economy on which so many more homes and families depend.

The technology that some of our critics scorn has provided a standard of living that is the envy of the world, and technological advancement that has been exported generously to every industrialized nation on this earth.

Business and industry have provided the basic support for our entire system of taxation, which has made possible the multiplicity of public services available to all our citizens.

And private enterprise has also demonstrated, I believe, a great deal of responsibility with respect to preserving the environment which is our common heritage.

Certainly it will be the engineers and the technicians of industry who finally provide the means for cleaning up our streams, and the air around us, and provide a reasonable harmony between factories and our business enterprises and the countryside in which they find themselves.

I am reminded so often as I confront the problems of Virginia how many times I find businessmen and women, and particularly Chamber of Commerce members, volunteering their services in helping to find solutions.

Quite frankly, I can think of no more exciting half century for Virginia and the South than the one which the State Chamber of Commerce brings to a close this year.

As your staff so ably pointed out, the Chamber began with its effort to get Virginia out of the mud. Looking today at Virginia's highway system, we can hardly imagine that such a time ever was.

In this half century, Virginia and the South have ceased to be the nation's Number 1 economic problem and have become the nation's Number 1 area of economic growth.

And just as important in my judgment, Virginia and the South have managed to preserve, through an unprecedented prosperity, the principles of living that have been associated with our area since Colonial times.

As I say to the many couples I am asked to congratulate on fifty years of marriage, in this day and age it is a major accomplishment for any institution to merely exist for half a century.

But, at the same time, its growth in stature and in influence and on compiling a record of progress on which we can look back with pride, is indeed worthy of our recognition and our respect.

I thank you, on behalf of the people of Virginia, for these magnificent gifts and for the opportunity to express once again my admiration for your organization and the men and women who have contributed so much to its success over the years.

SOLID WASTE DISPOSAL

Mr. HUGH SCOTT. Mr. President, recently, the Senate of Pennsylvania adopted a resolution calling for action at the Federal level to meet the growing problems of solid waste disposal. The resolution calls for the ICC to reduce freight rates for the shipment of scrap iron and steel as an incentive to recycle these materials. Also, the resolution calls for action by the U.S. Congress to legislate programs to encourage the recycling of scrap iron and steel.

I have sent this resolution to the ICC, the Federal Energy Office, and the Department of Commerce. During this time of energy and material shortages, the advantages, not only economically, but in savings of materials in short supply, of an effective recycling program are great. Senator MANSFIELD and I are drafting legislation to establish a National Commission on Domestic Needs and Economic Foresight. This Commission would, in evaluating various segments of our economy, make recommendations to correct existing or forecasted imbalances in our system. This Commission would comment on situations such as that described in the resolution. This, I believe, would be preferable to dealing with several agencies on the same subject.

I commend this resolution of the Senate of Pennsylvania to the Members of Congress for consideration in the development of related legislation. Mr. President, I ask unanimous consent that the text of this resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

In the Senate Pennsylvania recognizes the rapidly growing problem of solid waste disposal. It also recognizes that much of what is termed waste could be reclassified as recyclable material. In this category is scrap iron and steel.

Major steps have already been taken to recycle many paper products. Too little has been done, however, toward scrap iron and steel because of freight rates set by the Interstate Commerce Commission that are considerably higher than the rates set by the same commission for hauling virgin ore.

Many regions in the Commonwealth are plagued by unsightly and troublesome auto graveyards, Thousands of rusting car bodies and other scrap items are ignored as potential sources of recyclable iron and steel because freight rates and depletion allowances favor the mining of virgin ore.

The development of recycling programs to use available resources and preserve others is imperative to the future well-being of this Commonwealth, but Federal recognition of the discriminatory imbalance in favor of continued depletion of natural resources is a necessary first step; therefore be it

Resolved, (*The House of Representatives concurring*), That the General Assembly of the Commonwealth of Pennsylvania memorialize the Congress of the United States to pass legislation encouraging the recycling of scrap iron and steel and, further, memorialize the Interstate Commerce Commission to re-evaluate its policies regarding freight rates of all recyclable materials which could be used in lieu of raw materials; and be it further

Resolved, That copies of this resolution be transmitted to the presiding officers of each House of Congress of the United States and to each Senator and Representative from Pennsylvania in the Congress of the United States, and to the members of the Interstate Commerce Commission.

NATIONAL NUTRITION POLICY

Mr. McGOVERN. Mr. President, the Senate Select Committee on Nutrition and Human Needs is presently studying the question of national nutrition policy. The committee's initial preparation for its hearings on this subject on June 19, 20, and 21 will be published this week. They are working papers entitled "National Nutrition Policy," and "Guidelines for a National Nutrition Policy."

Each day it becomes more apparent to me that the development of a national nutrition policy is of immediate importance to the United States. Today we face hard choices regarding our food supply; choices that will affect all Americans and literally billions of people throughout the rest of the world. We can only hope to be wise in reaching these decisions, and our wisdom is dependent upon our knowledge of the components of our own and the world's nutritional needs. To properly compile and evaluate the facts of these needs, we must have a coordinated and far reaching national nutrition policy.

The need for such a policy is clearly demonstrated by a report in the New York Times of Monday, May 13, 1974, by Edwin L. Dale, Jr. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered printed in the RECORD as follows:

FOREIGN APPEALS FOR FOOD RAISE PRICE SPECTER HERE

(By Edwin L. Dale Jr.)

WASHINGTON, May 12.—The United States Government is slowly approaching an agonizing decision on whether to give away more food to nations approaching starvation at the risk of starting a new surge of food prices at home.

Secretary of Agriculture Earl L. Butz recognizes that there are problems involved in increasing aid, but does not believe they are imminent because of the enormous American harvest in prospect for this year.

Mr. Butz said in an interview that the larger crops would permit some increase in food aid in the coming 12 months, above what had been planned, without any important impact on domestic prices. Other officials are less confident, particularly in the light of the possibility of large requests for food from India.

In the background is Secretary of State Kissinger, who favors more food aid, for foreign-policy as well as humanitarian purposes. No immediate decisions are expected.

"There's no doubt that the situation poses a grave potential dilemma," said Gary L. Seevers, the member of the President's Council of Economic Advisers who deals with agricultural matters, and who emphasized the crucial importance of food prices to the general level of consumer prices this year and next.

Mr. Seevers supports Mr. Butz's view that some additional aid will be possible above what had been planned, but adds, "It all depends on the magnitude."

There have been some estimates that India alone may need to import five million tons or more of food grain, mainly wheat, because of a poor crop and, now, in additon, a shortage of fertilizer for the new crop. This would amount to nearly 10 per cent of the expected record wheat crop here, though this country would presumably not be the only source of the food.

BUTZ REMAINS CONFIDENT

Mr. Butz, while confident for the year ahead, does not dismiss the problem, particularly in the light of the continued growth of the world population.

"Food tugs at your heartstrings," he said. "I am positive that our body politic is not going to permit starvation any place on earth, no matter what people may think about other aspects of foreign aid."

The problem arises because of a radical change in the United States agricultural situation in the last two years. It was relatively easy in 1966 and 1967 to give vast food aid to India because there were large Government stocks of wheat and other foods. Now those stocks have disappeared. For the first time in more than two decades, there are virtually no Government held reserve stocks.

This means that any additional food aid above the relatively modest amount of $1-billion planned for the fiscal year beginning July 1 would require the Government to go into grain markets as a buyer. The effect would be to raise prices, or at least to check a downward movement of prices.

PRICES HAVE SLID

There has been a dramatic decline in the prices of all the main farm crops and products since late February. Wheat, for example, has dropped from above $6 to less than $3.50 a bushel in trading in the commodity markets, in anticipation of the huge 1974 harvest. These declines—which include corn, soybeans, cattle and hogs—hold out the major hope for a slowing of the nation's inflation later this year.

Any nation can buy United States food for dollars at any time. The problem is that some are running out of dollars and other hard currencies, in part because of the jump in the price of the oil they import. Some 30 countries with a population of nearly one billion—newly termed the fourth world—have been identified by the World Bank and others as particularly hard hit by higher prices for oil, food and fertilizer.

Mr. Butz will be a hard bargainer if some of these nations ask for food on what amounts to a giveaway basis. He pointed out that "hunger is relative—if your larder is empty, you cut back some." He and the Agency for International Development, which administers foreign aid will also take a close look at how a requesting nation is spending its available dollars.

"Perhaps some of these countries might consider cutting back, for example, on their imports of our motion pictures," Mr. Butz said.

BURDEN-SHARING SUGGESTED

Mr. Butz also emphasized strongly his view that other wealthy nations, even if they are not themselves food exporters, should share part of the burden through such devices as the world food program of the Food and Agriculture Organization, a specialized agency of the United Nations.

More food aid, if it is decided upon, would be provided under 20-year-old Public Law 480—also known as Food for Peace—and would not require additional authorization or appropriation by Congress this year. It was originally enacted as a way of getting rid of the huge American farm surpluses.

Andrew J. Mair, who coordinates food aid for the Agency for International Development, illustrated how drastically things have changed. Last winter, it was necessary to purchase soybean oil in the market to meet some Food for Peace commitments; he said in an interview that "we agonized" as the market prices jiggled up and down, knowing that the Government's purchases would influence the already high price. But this was no problem when there were surplus stocks.

WHEN CUTBACKS HELPED

Last year, Mr. Mair said, the problem was so acute that when disasters arose in Bangladesh and Pakistan, scheduled food-aid shipments to such countries as South Korea and Indonesia were cut back so that the total shipments—and hence the market pressure at home—would not be increased. That was the way the Pakistani and Bengali needs were met without running up domestic prices even further.

This year, according to Mr. Butz, there will be more flexibility because of the likelihood of the huge crops, which, in turn, are the result of a Government decision to release all available acreage for planting.

Mr. Kissinger pledged, in a speech in the United Nations last month, a "major effort" to increase United States food aid this year, but he gave no specific figures. Actually, there will be some increase in tonnage terms in any event, because of the lower grain prices.

The dollar amount of the program for fiscal 1975, as currently set at $1-billion, is almost the same as in fiscal 1974, but if current prices continue, this money will buy more wheat and rice and vegetable oil than last year.

NOMINATION OF MRS. DOROTHY DEVEREUX TO THE FEDERAL COUNCIL ON AGING

Mr. FONG. Mr. President, the recent nomination by President Nixon of Mrs. Dorothy Devereux to the Federal Council on Aging brings great honor to the State of Hawaii. Having known Mrs. Devereux for many years, I am aware of her extensive service in our island community as a volunteer worker in many organizations and as an elected legislator in the Hawaii Territorial and State Legislature. Because of her considerable experience, she is eminently qualified as a member of this Council and will contribute substantially to its effectiveness in determining future national policies in Aging.

The House of Representatives of the Seventh Legislature of the State of Hawaii recently adopted a resolution congratulating Mrs. Devereux and commending her for past services and her appointment to the Federal Council on Aging.

I offer Mrs. Devereux my own warm congratulations and ask unanimous consent that the text of the resolution be printed in the Record.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

H.R. No. 476

House resolution congratulating Mrs. Dorothy L. Devereux upon her appointment to the new Federal Council on Aging.

Whereas, Mrs. Dorothy L. Devereux has recently been appointed to the new Federal Council on Aging; and

Whereas, Mrs. Devereux was one of fifteen persons throughout the nation who were named to the Council on Aging by President Nixon; and

Whereas, Mrs. Devereux is a registered nurse, having matriculated at the California Lutheran Hospital School of Nursing and the University of Chicago Lying-in Hospital; and

Whereas, Mrs. Devereux has a wealth of experience in caring for the physically handicapped and aged as well as an understanding of human needs and emotions, which are essential for the position; and

Whereas, she has served on numerous councils and committees dealing with public health, the handicapped and vocational rehabillitation, which include serving as the past president of the Women's Auxiliary of the Hawaii Medical Association, membership in the Oahu Society for Crippled Children and Adults, the Oahu Health Council, the National Advisory Council on Vocational Rehabilitation, chairwoman of the Advisory Committee to the Hawaii Division on Vocational Rehabilitation, the President's and Governor's Committees on the Employment of the Handicapped, and the State Comprehensive Health Plan Advisory Council; and

Whereas, Mrs. Devereux has served in the political arena as a member of the Territorial House of Representatives in 1958, the State House of Representatives from 1959 to 1972, and the Constitutional Convention in 1968; and

Whereas, the Federal Council on Aging is fortunate in acquiring a member with such a wide range of experience; now, therefore, be it

Resolved by the House of Representatives of the Seventh Legislature of the State of Hawaii, Regular Session of 1974, that it hereby congratulates Mrs. Dorothy L. Devereux upon her appointment to the new Federal Council on Aging, and does wish her Aloha and best wishes in her new position; and be it further

Resolved that duly certified copies of this Resolution be transmitted to Mrs. Dorothy L. Devereux and to the Senior U.S. Senator from the State of Hawaii, the Honorable Hiram L. Fong.

NO AID FOR SAIGON

Mr. CHURCH. Mr. President, A most sensitive and sensible observer of political and economic events in South Vietnam is Diane M. Jones who spent, along with her husband, Michael, 2½ years in South Vietnam as the American Friends Service representative. She also associated with the Quaker rehabilitation project in Quong Ngai in central Vietnam. After returning from her last stay in South Vietnam, she testified before the Senate Appropriations Subcommittee on Foreign Operations. She made a detailed and eloquent plea for the United States to stop subsidizing the Thieu regime.

She concluded:

> American economic aid is doing very little to help the common people, but is doing much towards maintaining a politically intransigent and domestically unresponsive government in Saigon.

I ask unanimous consent that Diane Jones' testimony be printed in the Record.

There being no objection, the testimony was ordered to be printed in the Record, as follows:

Testimony of Diane M. Jones on South Vietnam Economic Aid, March 28, 1974

My name is Diane M. Jones. I am testifying today on behalf of the Friends Committee on National Legislation, whose policies are made by Friends appointed from twenty-two Friends' Yearly Meetings and ten other Friends' organizations, but which does not purport to speak for all Friends.

I wish to thank the Subcommittee for this opportunity to share my experiences and views as you consider the Administration's request for supplemental funds of $54 million for economic aid to South Vietnam for fiscal year 1974.

Along with my husband, Michael Jones, I have spent 2½ years in South Vietnam, serving as Saigon representative for the American Friends Service Committee, associated with the Quaker rehabilitation project in Quang Ngai, in central Vietnam. We have lived in Vietnam for two periods: first, from August 1970 through October 1972, and more recently from October 1973 until early February 1974. While in Vietnam I learned to speak Vietnamese, which I believe helped me immensely in understanding the people and the extremely complex situation there.

As a result of my experiences in Vietnam, in particular my most recent post-"ceasefire" experience, I wish to testify to this committee against an increase or even a continued high level of American economic aid to the Saigon government.

The principle of substantial economic aid for South Vietnam is supported by many well-intentioned Americans as a way of helping to repair a society which has suffered the ravages of twenty-five years of bloody warfare. However, my own observations and my conversations with Vietnamese people during my recent visit have led me to conclude that, for the most part, American aid is not humanitarian, that it does not reach the people, and furthermore that no economic aid administered solely through the government in Saigon can have the effect of healing the wounds of war in Vietnam.

Today I will limit my remarks solely to the largest portion of aid that USAID labels as strictly "humanitarian," namely, aid to refugees. I will attempt to relate to the subcommittee only my direct personal experiences in this regard.

The American-supported program for refugees in South Vietnam now has basically two major components, both aimed at removing refugees from refugee camps: (1) moving them back to their home areas, under the "Return to Village" program, and (2) moving them to new areas under the "Resettlement" program. Last December and January I was able to visit a number of both "Return to Village" and "Resettlement" sites in a number of provinces.

"Return to Village." The conditions I found in the Return to Village camps I visited were appalling. In the first place, despite the name, these camps looked nothing like villages, but like concentration camps, some of them totally surrounded by barbed wire or bamboo stake fences, with tall military watchtowers on the perimeters. In camps in Quang Tri, Quang Nam, and Quang Ngai provinces, I learned that people were not allowed beyond the camp boundaries, except during certain hours of the day, for example, between 7 a.m. and 5 p.m. The inhabitants of these camps had to register with camp officials when they left and when they returned.

In Xuyen Phuoc camp in Quang Nam province, I talked extensively with a government official, who told me his job was political control of the population. This official was a member of the "Rural Development" Corps, which is also an American-funded and advised program. He showed me stacks of pictures, one picture of each family in the camp, posing in front of an anti-communist slogan and a portrait of President Thieu. He said that he had to check *daily* each family against their family portrait to see if anyone had entered or left the camp without registering with the camp officials. He told me that any resident who desired to move away from the camp must have written permission from the camp authorities and must report again to the local police upon reaching his or her destination. If anyone disappeared without asking permission he said, the person's family could be arrested.

The political control in the Return to Village camps I visited has a strong impact on living standards. Because inhabitants were allowed outside the camp only between fixed hours of the day, because in some cases they had to walk a long way to reach their farm land, or in other cases had no farm land available to them, they could not support themselves adequately. For example, at Cam Thanh Return to Village camp in Quang Nam province, villagers told me that they could not grow anything because all of their farmland was on the other side of the "ceasefire" line, and that the Saigon government troops guarding the camp would not allow them to go back and farm their land, even during the daytime. At the time I visited, people in that camp were eating chopped banana tree stalk and were fearful of starvation in the coming weeks. We interviewed the village chief of that camp and he acknowledged that the camp residents all wished to go back to their original farm land, but "They cannot," he told us, "because the communists are out there." We asked him why the villagers were brought to such a miserable camp in the first place. His straightforward answer surprised me: "The reasons for setting up this camp were more strategic than humanitarian," he said.

"Strategic" seemed to me a very apt description for the "Return to Village" campsites I saw. A close friend of mine described to me a "Return to Village" camp on the Batagnan peninsula in Quang Ngai province, where his elderly parents now live. When the Paris peace agreement was signed, his parents were living in their home village area, which was at the time under the control of the Provisional Revolutionary Government. Two months later Saigon government troops shelled the area, moved in, rounded up the people into a barbed-wire enclosure, and called it a "Return to Village" camp. A Saigon government outpost was established concurrently with the camp.

THE RESETTLEMENT PROGRAM

The second thrust of the U.S.-aided Saigon government program to deal with refugees is the "Resettlement" program. Refugees from areas which are contested or controlled by the Provisional Revolutionary Government are being encouraged by the Saigon government to resettle in new areas, in camps or new villages which are controlled by Saigon. Under this program large numbers of refugees are now being moved from central Vietnam to provinces in the South, including Binh Tuy and Long Khanh. Governmental promises to the new settlers are many but they often fall short of fulfillment. We met settlers in Binh Tuy province who had been waiting seven months for the government to dig the wells it had promised to dig and clear the farmland it had promised to clear. We met women settlers in Dong Den camp, also in Binh Tuy, who, despite government promises, had had to clear by hand the plots of land for their own houses. Like the government's representative at the camp, they had no idea when their future farmland would be cleared out of the thick jungle.

Stories of large-scale corruption in the system are widespread and believable when one sees the conditions in those camps and talks with the inhabitants. The American adviser in Binh Tuy, whose main duty was to advise the resettlement program, told me, for example, that corruption was one reason why land was not being cleared for the settlers. He said the Saigon Resettlement office was paying out 110 thousand piastres per hectare to VECCO Corporation, a U.S.A.I.D.-supported organization, for clearing. They were then subcontracting the job to someone else, who was in turn subcontracting the job again. When the contract got down to the actual people who were clearing the land, there was only 45,000 piastres per hectare left, and the bulldozer operators did not feel it was worth their while. The same American adviser reported finding corruption in rice distribution. The Saigon headquarters was paying top market prices for good rice, but the people were receiving the lowest quality—that which is usually used as animal feed. A Catholic priest who has worked with new settlers told me that in a well-digging operation with which he was familiar, fully 90% of the funds from Saigon were raked off the top before they reached the diggers. One of the women we spoke with in Dong Den camp, sitting sadly on the dirt floor of her half-finished bamboo house, said, "You foreigners send a lot of money to Vietnam for programs like this one, but we people get only what trickles through the fingers of the government officials."

In the Resettlement plan, as in the Return to Village program, questions of military strategy often seem to take priority over consideration for the welfare of the refugees. The American adviser in Binh Tuy told me in January, 1974, that the area for the Dong Den resettlement camp was taken over from the "V.C." after the Peace Agreement was signed. Saigon government troops newly encamped near the resettlement site confirmed his statement. He added that he hoped for the settlers' sake there wouldn't be any fighting but he wouldn't be surprised if the "V.C." tried to retake the area, which they considered theirs.

I would like to bring to the attention of the Committee a report dated January 27, 1974, to the Senate Subcommittee on Refugee Affairs. On page 16 is reprinted a letter by a U.S. embassy officer describing the "Resettlement" program in the area which I have just been referring to. He writes: "The people will move into areas that were previously considered marginal, thus secure the area, improve movement and security along major routes of communication, develop the agriculture and economic situation in the province and bring economic viability to the country as a whole." This letter clearly indicates the importance which strategic considerations are given in the administering of our "humanitarian" aid programs for refugees.

In summary, I would like to emphasize to this subcommittee the overwhelming weight of opinion among Vietnamese people, including religious and political leaders with whom we spoke, that *American economic aid is doing very little to help the common people, but is doing much toward maintaining a politically intransigent and domestically unresponsive government in Saigon.* I would like to share with you what was to me an extremely impressive conversation I had with a Buddhist monk in January. I had just been on a visit with two American friends to two of the Return to Village campsites I mentioned above, places where people were living in conditions of near starvation. Returning that evening to the pagoda, which was a center for gathering emergency food supplies for the camps, I said to the head monk: "If these two friends of mine were members of the U.S. Congress and saw the conditions in those camps they would probably go back to Washington and recommend an increase in U.S. economic aid." The monk became visibly agitated when I said this. He glared at me and asked: "Are you planning to go back to America and ask for *more* American aid for Vietnam?" I threw the question back to him and asked what he would recommend. "I am a Buddhist monk," he said, "and my first concern must be for the welfare of my followers—the people who live in those camps. If American aid is continued, they will continue to live in those camps. If it is stopped, eventually the government will be forced to allow them to go back to their homes. They will be hungry for a few months until their first rice crop comes in, then they will be all right. The only truly *humanitarian* thing the U.S. Congress can do is to stop the support that keeps those camps in operation."

I acknowledge, and I am sure that most

members of this subcommittee share the concern, that the United States has a responsibility to offer help to millions of Vietnamese civilians who have suffered so much through the endless years of war. However, I believe that most Vietnamese would agree with me that our highest priority at this point should be in committing ourselves to making a working peace in Vietnam, that is, committing ourselves to use the only tool for peace at our diposal, the Paris Peace Agreement. As long as we continue pouring vast amounts of economic and military aid into the South (up to 86% of total Saigon costs), thereby maintaining one of the two South Vietnamese parties to the complete exclusion of the other, we are, by any reasonable interpretation, violating Article 4 of the Peace Agreement, which prohibits U.S. intervention in the internal affairs of South Vietnam. We are also making it much harder for the two South Vietnamese parties to come to any understanding with each other.

I urge this committee to consider all aid requests—this supplemental request as well as the $474 million increased ceiling for South Vietnam military aid and the upcoming and very large Fiscal Year 1975 military and economic aid requests—in the light of what should be our principal objective in South Vietnam, namely, implementing the Paris Peace Agreement.

GASOLINE SHORTAGES—1920 AND 1973

Mr. BROCK. Mr. President, we have all heard the old expression "There is nothing new under the sun." Wayne Sargent, the publisher of the Nashville Banner, recently used this title on a very interesting article. It traced the history and progress of the energy crisis—not the one we have just experienced, but the one in 1920. I think my colleagues will find some very interesting parallels between the episode of the 1920's and those of 1973 and 1974.

Mr. Sargent goes a step further to also mention how that energy crisis was solved—through allowing the marketplace to determine what was needed, and what was desired. I think we can all learn something from this excellent piece of work, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD as follows:

GASOLINE SHORTAGES—1920 AND 1973

For the past six months, we've been reading a lot of discouraging news about the energy crisis.

It is therefore somehow reassuring to learn from Richard N. Farmer, writing in the February issue of "Business Horizons", that it happened before, albeit not on as widespread a national basis.

Farmer went back to the year 1920, to quote from another publication called "Automotive Industries". The parallels with today's news are amazing. There were stories about the extent of the gas shortage; backgrounders why the shortage had been known to be coming for some time; arguments and doubts whether the shortage was contrived or real; scapegoats blamed from the President, to Congress, to major oil companies; rationing was suggested; government investigations were launched; substitutes for gasoline were sought; the automotive industry was blamed for wasteful engines; Oregon, hardest hit now was hardest hit then because it was at the end of the distribution line.

Here are selected quotes by Farmer from "Automotive Industries" in 1920:

June 17, page 1,419: "The first official note of warning that oil demand was overtaking supply was sounded a dozen years ago, but only within the last few months has that note swollen into a chorus. Rising prices have led to the rediscovery of the law of supply and demand . . . the heavy draft now being made upon our accumulated stores of oil—more than 10 per cent gone in nine months—tells the story that we are living beyond our means."

June 17, page 1,436: "All of Oregon is suffering from a gasoline shortage. In some parts of the State it has become so acute that business is crippled and food production is threatened. Passenger car operation has ceased entirely or motor fuel is sold in one and two gallon lots. Even dealers and garages are on a 10-gallon a day allowance.

"The situation is not quite so acute in Portland but strict rationing measures have been adopted. Commercial cars are given only 75 per cent of tank capacity and passenger cars only 10. Some dealers and motorists have been inclined to scent a plot to increase gasoline prices."

June 24, page 1,444: "W. E. Lay, of the University of Michigan said the statement that more than 250,000 gallons of gasoline are wasted every day through leaky and badly adjusted carburetors is under the truth."

August 5, page 296: "The time has come . . . to build engines that instead of making from 7 to 12 miles a gallon of gasoline will make 20 to 30 miles on the same amount.

June 24, page 1,479: "The Secretary of the Interior has endorsed the bill introduced in the Senate for the promotion of worldwide search for oil under Government supervision. His letter points out that the authorization of a special corporation for exploration of oil fields abroad will supplement the diminishing supply in this country."

July 8, page 94: "Charges that the oil companies are responsible for the gasoline shortage with specific instances of alleged discrimination in distribution of gasoline, are contained in a report just made to the Dealers Motor Car Association of Oregon by a special committee named to investigate and take steps to relieve the shortage."

July 22, page 195: "A. V. Storer, Secretary of the Citrus Belt Automotive Trades Association (California), is sending letters to all members embodying his views on the subject of placing gasoline under commission supervision. 'No country in the world today,' he says, 'is so motorized and so dependent upon gasoline as is the United States. This necessary commodity should be in the hands of commissions with power to regulate its sales and profits.' "

July 22, page 195: "After an exhaustive investigation of the gasoline shortage in this state (California), Robert W. Martland, secretary of the California Automobile Trade Association, declares he has found no evidence to substantiate the statements made at the annual meeting of the association, June 5, that the shortage was a fictitious one."

Aug. 25, page 443: "It is alleged the investigation (in California) also revealed that the shortage of gasoline was fictitious and due to manipulation. Allegations are made that the refineries created the shortage by shipping gasoline from Los Angeles to northern parts of the state and then, after waiting until the price advanced, bringing it back again for sales purposes."

Aug. 19, page 306: "Further promise of an increased gasoline supply is contained in the statement of Clay Tallman, commissioner of the General Land Office, Department of the Interior, that more than 5,000 applications for leases under the new oil leasing act have been filed. Pioneers in the oil industry who were loath to take advantage of the new legislation have manifested a change of mind with prices of gasoline climbing."

Sept. 2, page 494: "Through development of the Devonian shale with its crude oil content and valuable by-products, the Falls Cities of Ohio possess a means of becoming one of the leading industrial centers of the United States, according to Prof. H. A. Buerk, New Albany, Ind., superintendent of schools."

Oct. 12, page 504: "Assurances have been given by the Bureau of Mines that the fanciful tales concerning ultimate failure of the automobile industry through exhaustion of gasoline supplies will be undertaken in an effort to stimulate production, encourage economy and restore confidence."

Nov. 4, page 496: "Kansas, now the greatest wheat producing state, may become the greatest manufacturer of motor fuel from wheat straw, thus adding to the farmer's income and utilizing a product of the soil which is now virtually wasted, according to J. C. Mohler, secretary of the State Board of Agriculture."

What happened after 1920? Researcher Farmer went on to 1921 to find out:

1. A recession developed. Income dropped, prices fell, and demand for all commodities diminished. Auto sales stayed up the first half of 1920 then plunged and there was less demand for gasoline.

2. Technology came to the rescue. Catalytic cracking of crude oil was developed and the yield per barrel of crude doubled.

3. Higher prices brought more production. Marginal operators produced as gasoline prices hit 37 cents, which 1920 figure converts to about a $1 a gallon, 1974 price levels.

4. The product mix changed. Kerosene, a big seller, declined. Gasoline production went up 21 per cent. Crude production went up 18 per cent. Gasoline quality declined for a while, but the 1920 car couldn't tell the difference.

5. Imports doubled from 1919 to 1920, most of it from the Tampico field in Mexico.

6. Inventories dropped from a 34-day supply in October, 1919 to a 23-day supply in 1920, same month.

Finally, Mr. Farmer speculates how 1920 relates to today's problems:

Another technological breakthrough is not likely, but possible; prices will go up; we face government investigations; the oil shale still is there and the Alaskan north shore pool is new; buyers are more keenly interested in cars that get 20–30 miles a gallon; the total demand in 1920 was one-twelfth of today's demand, thus solutions must be 12 times as potent; crude oil from the cheap and easy places has been exploited so future production will be tougher.

Still, it all provides a hint that as the nation outlasted goldfish eating and will outlive streaking, it has coped with a gasoline shortage before and will do so again.

SOLID WASTE—A NEGLECTED NATIONAL RESOURCE

Mr. DOMENICI. Mr. President, on March 28, I introduced S. 3277, a bill designed to encourage full recovery of energy and resources from solid waste. This goal is of ever increasing national importance for a number of reasons.

Of prime concern over the past year, the energy shortage which has so threatened our Nation could be assuaged if municipalities would manage their solid waste more economically and more efficiently. Electricity can be produced and resources such as steel and aluminum—both of which require large amounts of energy in their manufacturing—may be recovered if our cities utilize modern day solid waste treatment technology.

In short, incineration and land-fill disposal techniques are antiquated, wasteful solutions to our Nation's solid waste problems. Sensible management of our national resources, and a responsible attitude toward energy conservation demand that we take a closer look at how we are handling solid waste, which is in fact a very important neglected national resource.

Mr. President, I ask unanimous consent that an article in the May 13 issue of U.S. News & World Report which illustrates these points be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE UNITED STATES FINDS A RICH RESOURCE: THE NATION'S TRASH PILE

For cities that find there's no land left for garbage dumps, there's an answer: Recycling plants that produce reusable materials and energy, too.

Cities from Baltimore to San Diego are racing to exploit one of the nation's most plentiful, yet neglected resources—trash.

Within the 130 million tons of municipal solid waste generated in the U.S. last year, there was enough unused energy to light the country for a year. If all the waste paper, aluminum, steel and glass had been recycled, it would have saved millions of trees and billions of tons of other virgin resources, from iron to oil.

After years of ignoring this potential, urban bureaucracies are swinging into action. This has touched off a "resource recovery" boom that promises to alter America's traditional ways of looking at what it throws away.

A MATTER OF NEED

Why the big interest now? Simple: Cities are *faced with* a two-way squeeze that can only get worse. On the one hand, energy supplies are increasingly tight, and on the other, there is a growing lack of cheap land needed to bury refuse.

To ease both these problems, innovative waste-disposal alternatives are being explored.

Trash heaps are becoming sources of fuel for sale to hard-pressed utilities. As prices of materials rise, recycling efforts are turning out to be an attractive way to defray skyrocketing costs of disposal. What's more, every ton of refuse that is recycled is one less ton that somehow must be disposed of by the local sanitation department.

Says Arsen Darnay, the Environmental Protection Agency's top expert on solid waste:

"No city is going to get rich doing this, but it sure can cut down on disposal costs. In addition, it just happens to be environmentally sound . . . using every bit of potential in the waste stream before resorting to land fill."

Of the variety of technologies now being rushed into operation, probably the most widely adopted approach makes use of solid waste as a fuel..

These systems range from old-style incinerators that use waste heat to air-condition or heat nearby buildings, to high-technology projects that break down the molecules of organic material, producing oil or synthetic gas as the end product.

This is how one increasingly popular system operates: Trash is passed through a shredder, reducing the flow to small pieces. By using forced air or water, the heavier materials—usually the metals, glass, rocks and clay—are separated from the rest of the refuse.

What is left becomes the new "fuel from trash," composed of shredded paper, textiles, wood, plastic, food scraps, rubber, and yard wastes such as grass and leaves. It is a low-cost, low-polluting fuel with a heat value roughly half that of coal. It can be stored, shipped or burned at will.

From the heavier materials, which make up 20 per cent of the average weight of trash, most advanced systems will separate at least the ferrous metals. These can be picked out with an electromagnet. More sophisticated systems envision still further separation, pulling out and sorting glass, as well as such nonferrous metals as aluminum.

ST. LOUIS LEADS

The Environmental Protection Agency, along with Union Electric and the city of St. Louis, is operating one of the nation's most successful projects using this approach.

This 3.3-million-dollar system handles about 200 tons of refuse daily. Shredded trash is burned with pulverized coal to generate electricity.

After two years' experience with the demonstration plant, Union Electric has decided to feed trash from the entire city and six nearby counties in Missouri and Illinois into a similar plant with 40 times the capacity.

Capable of handling 7,000 to 8,000 tons of refuse per day, the new St. Louis project will cost nearly 70 million dollars and is expected to be ready for its first load in mid-1977. Officials estimate that the processed trash will generate roughly 6 per cent of the utility's power output.

The city of Chicago plans to build a 13.5-million-dollar facility that will handle about 2,000 tons of trash a day. The plant is expected to produce sufficient shredded refuse to replace 5,300 tons of low-sulphur coal per week, generating enough electricity to serve 50,000 homes.

REGIONAL SOLUTION

Many smaller towns are joining together for a regional solution to their waste-disposal problems. Combustion Equipment Associates has built a plant near East Bridgewater and Brockton, Mass. The company has contracted with communities in a 10 to 25-mile radius to bring their garbage to the new 10-million-dollar disposal facility. The towns pay a dumping fee.

Combustion Equipment shreds the trash, separates it, and sells the lighter material as fuel. Ferrous metals are sold as scrap and the rest is disposed of in a land fill. This plant has been operating since last autumn, handling 1,200 tons of trash daily.

Connecticut is trying to regionalize waste disposal for the entire State. The first of its facilities, near Bridgeport, will be able to handle up to 1,800 tons of trash a day and should be operating in less than two years.

By 1980, if all goes according to plans, Connecticut officials estimate that the State and local governments will have saved up to 100 million dollars in capital expenditures and that 60 per cent of the refuse generated will be recovered as energy or materials. Air pollution in Connecticut—caused by open dumps and old incinerators—will be cut by 80 per cent and land needed for sanitary-fill operations will be reduced by 80 per cent.

TAILORED SOLUTIONS

More and more of the waste-disposal solutions being planned are products of local expertise, tailored to the needs of a particular city.

Memphis, Tenn., for example, called upon the civil-engineering department of Memphis State University for help with its problems.

Says Dr. John W. Smith, associate professor of engineering:

"It's not so much for the resource recovery potential that we're going to one of these systems, but because we don't have land fill any more. It, of course, has tremendous side benefits, but that's not why we've adopted this approach."

The Memphis plant is expected to handle 1,600 tons of refuse a day, which is about 95 per cent of the city's load. Trash will provide Memphis with an estimated 8 per cent of its electrical needs. Dr. Smith says the plant should be ready by 1977 and will cost about 10 million dollars.

Using still more advanced technology, the Monsanto Enviro-Chem Systems, Inc., with backing from the Environmental Protection Agency, is building a 1,000-ton-per-day plant in Baltimore to turn trash into synthetic gas.

"Pyrolysis" involves putting organic material under heat and pressure in a near-vacuum. It creates rapid decomposition of the waste into gas. Revenues from sale of scrap metal, glass and the synthetic gas will amount to 1.5 million dollars a year for Baltimore, according to preliminary estimates. The plant is to go into operation this autumn.

A 200-ton-per-day facility, also using pyrolysis, is under construction in San Diego County, Calif. This plant—a joint venture of the EPA and the Garrett Corporation—will produce fuel oil to generate electricity.

It is this type of technology, plus the number of large corporations that are getting involved with their own research and development efforts, that has experts in the field excited.

Says one consultant in resource recovery: "When you've got big companies like Union Carbide, Raytheon, Grumman, Continental Can, Browning-Ferris, and Black-Clawson all working to put out new systems that recover energy and recycle materials—you know they've spotted what promises to be a huge market."

The fact that a growing number of cities will be extracting energy from their trash is good news for those working to recycle steel, aluminum and glass. It may, however, create problems in the business or recycling paper, one of the best established methods of reclaiming a basic resource.

PAPER

Energy-recovery systems depend on paper to keep heat output as high as possible. If more and more cities burn old newspapers and cardboard, instead of selling it to a secondary materials dealer, then recycling of paper may continue to decline as it has been doing since World War II.

The Environmental Protection Agency says that in pulling newspapers and cardboard from an average load of refuse, 10 per cent of the heat potential will be lost. But even this small reduction could make waste fuel—a marginal economic proposition to begin with—a less appealing option for many cities.

Officials at the American Paper Institute say their member firms can save energy and virgin materials, as well as cut down on pollution of air and water by recycling as much paper as they can get. They fear the surge in these new waste-disposal systems will only hurt efforts to step up recycling and ease the paper shortage.

Today more than 100 U.S. cities require their citizens to separate and bundle newspapers and cardboard for special pickup, but these are not cities that depend on trash to generate electricity.

STEEL

For those striving to recycle metals and glass, the energy-recovery approach is ideal. These heavier, noncombustible materials have to be separated from the trash anyway.

At this point, it is a relatively simple second step to extract the ferrous metals with an electromagnet. These can be sold as scrap.

Only about 20 cities in the U.S. now have a system for collecting this scrap, but as the high-technology plants go into operation in the years ahead, greater recycling is expected.

About 70 percent of the ferrous metals in trash are steel cans and the recovery rate for reuse has been poor. Of the 5 million tons of steel cans that enter the nation's dumps each year, only about 70,000 tons are now saved for recycling.

ALUMINUM

Nearly all the aluminum that is recovered from consumer use is the result of industry programs that encourage people to bring aluminum cans to recycling centers. More than 2,000 of these collection centers are operating today, recovering roughly 10 percent of the aluminum heading for the trash heap.

Environmentalists regard recycling of aluminum and steel as especially important. The use of virgin resources in producing these materials consumes far greater energy than when they are made from secondary sources.

GLASS

Recycling of glass also depends almost entirely on volunteer collection efforts. Once the 12 million tons of glass—mostly bottles—reaches the dump, little can be done to pull it from the waste sream and sort it by colors in preparation for use in making new bottles. The technology exists, but the economics are unfavorable.

Some of the most successful volunteer recycling programs for glass, aluminum, and paper have been in towns and small cities. These often are communities that have no need for high-technology disposal systems because they still have lots of land in which they can bury their trash.

Local officials are realizing that source separation of trash results in savings to the city either in sale of the materials or simply because the garbage trucks have to haul less trash.

The most dramatic progress in utilizing the potential of refuse is expected to be in major metropolitan centers. Looking ahead, Mr. Darnay summarized the views of the Environmental Protection Agency:

"In the next five years, peoples' garbage [disposal] bills are going up. And if you plot that trend next to what fuel prices and materials prices are likely to be, I'd say we're going to see a lot of cities turning to resource-recovery systems in the years ahead. It just makes sense."

OF THEE I SING

Mr. MONDALE. Mr. President, at a time when the political and economic problems of our Nation have drained the optimism of many an American, I believe we ought to take a moment to regain spirit and strength to meet these challenges. We ought to recount the many blessings we enjoy and be thankful for the wealth that is part of our country's heritage.

Today's New York Times carries an article written by Msgr. Vincent A. Yzermans, who is pastor of the St. Rose of Lima Church in Freeport, Minn. This column, entitled "Of Thee I Sing," in an almost poetic fashion captures the essence of that vitality and confidence that have enabled the American people to survive and prosper in the face of war and poverty.

I commend this article to my colleagues in the Senate, and I ask unanimous consent that it be printed in full in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

OF THEE I SING

(By Vincent A. Yzermans)

FREEPORT, MINN.—I am a poor little rich boy. I didn't grow up in the slums of Chicago or the ghetto of New York. I was a poor boy without even knowing that I was poor. I grew up on the west side of St. Paul, Minn., not too far from the home of F. Scott Fitzgerald and across the Mississippi from the mansion of James J. Hill, the financier and railway promoter.

I was poor and so were all my friends. But we really didn't know it. When you come to think of it, however, we were rich in so many ways. I suppose today we would have qualified for relief. Father, however, would never accept so humiliating an offer. We caddied at the Somerset Country Club and earned sixty cents for eighteen holes from some tight old skinflint and seventy-five cents from the president of the First National Bank.

So we lived and grew and enjoyed every moment of it. There were the sneak swims in Lake Pickerel along the Mississippi, picnics at Antler's Park in nearby Lakeville, and a game of "kick the can" on an early spring evening. When we were reckless and daring we would snitch apples from a neighbor's backward. We were poor, but we never realized how poor we were.

Going to the market was like going to the state fair. There, mother would buy peaches and pears, cabbages and potatoes. We were always embarrassed when she haggled with the farmer over an extra dime or quarter. We really didn't realize in those days how much a quarter meant.

We lived through Prohibition and the Depression without knowing what was going on. Uncle Walter, Uncle Charlie and Dad were always brewing up something in the basement, but it was a mystery to us. We lived through the Second World War and sang about Rosie the Riveter and Fighting G.I. Joe.

We rejoiced at the Truman victory in 1948 and smiled at the grandfather image of the Presidency in the nineteen-fifties. We went to school and did our homework. We didn't protest or march or carry placards. Work and study were part of the American ethic that we were expected to live by.

We listened to Guy Lombardo playing at Jones Beach and Tommy Dorsey from the Aragon Ballroom. We were glued to the radio to hear Franklin D. Roosevelt's fireside chats and were frightened by the rantings of Father Charles E. Coughlin.

We were Midwesterners and proud of it. Anything the other side of Chicago was "East" and Gordie Wangler was the hero of the neighborhood because he went all the way to Chicago for the 1933 World's Fair. We were not Establishment; in fact, we had a deep suspicion of Easterners. We were Irish, German, Polish, Italian, French-Canadian, Jewish and Swedish. We were Protestants of so many varieties that not even Heinz could keep up with us. We were Roman Catholics with all the traditional markings, Catholic schools, fish on Friday. And then there was the social outcast; he didn't belong to a church, he couldn't tell you when his parents or grandparents came to the United States and he liked going to school. But we were Americans and proud of it.

We created a new spirit, a new culture, a new way of life. We were populists without knowing it, and only in later life did we learn about William Jennings Bryan and Bob LaFollette. With all our sins and all our faults, we were still a religious people. We did not cotton to the loose living of the "gangster" cities of the East. We suffered, of course, but we were a proud people. We never hung our dirty linen on the front lawn.

America lives. It is in your heart, my heart. It is in the schools, the homes, the neighborhoods, the churches, the institutions that we, and most of all our parents, created.

America lives. It is found in a poor boy with a piece of homemade bread, a young girl squeezing a nickel for the Saturday Matinee. It is found in the farms, the small villages, the great cities that have made our nation exceptional in the pages of history.

America lives. Go to Germany. Go to Italy. Go to Greece. Go anywhere. Then come home. Then you know the meaning of "Home, Sweet Home."

SAFEGUARDING SPECIAL NUCLEAR MATERIALS

Mr. RIBICOFF. Mr. President, the Library of Congress recently completed a survey on all aspects of the problem of safeguarding commercial nuclear matetrials from theft and subsequent manufacture into terrorists' bombs. The survey, "Safeguarding Special Nuclear Materials," by Warren H. Donnelly, Senior Specialist in Conservation—Energy—is intended as an "issue brief" for the new computer system being developed by the Library to speed the flow of vital information to Congress.

At present, few offices in Congress are linked to the new computer system. Because of the timeliness and importance of the nuclear safeguards problem, I ask unanimous consent that this report be printed in the RECORD at the conclusion of my remarks so that Congress and the public can be kept currently informed.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. RIBICOFF. Mr. President, I wish to comment on one item in the report. It is a reference to an article in the May 6, 1974, issue of Weekly Energy Report reporting that AEC Commissioner Kriegsman has recommended that the Atomic Energy Commission establish an office to develop safeguards policy, including 5-year plans for safeguarding special nuclear materials held by AEC contractors and licensees. The same article quotes an AEC official as viewing safeguards as a "phony issue" and reports that some individuals in the nuclear industry view the safeguards problem as "not serious" and the threat posed by theft of weapons-grade materials as "slight." I ask unanimous consent that this article also be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. RIBICOFF. Mr. President, I believe that the problem is serious, that the risk of theft grows each day as the nuclear power industry grows, and the establishment of an AEC policy office is clearly inadequate.

What is needed is the establishment of a new Federal organization to deal with all aspects of safeguarding nuclear materials—protecting shipments, security plants, writing regulations, conducting inspections, developing contingency plans, even providing armed guards, if necessary.

As chairman of the Subcommittee on Reorganization, Research, and International Organizations, I have offered an amendment to S. 2744, the Energy Reorganization Act of 1974, to establish such a unit—a Bureau of Nuclear Materials Security in a new Nuclear Safety and Licensing Commission. The Bureau will provide a total response to the safeguards problem—not be simply a policy advisory unit, as Commissioner Kriegsman suggests.

Nuclear safeguards is not a "phony issue". It is as real as the thousands of pounds of weapons grade plutonium that exists in storage or circulates in the private sector today and as ominous as the 1 million pounds that will be generated annually by the year 2000.

It takes only 20 pounds of plutonium to make a crude bomb—and far less to make a deadly dispersal device—each capable of producing thousands of casualties and billions in property damage.

The time to act is now before it is too late.

EXHIBIT 1

SAFEGUARDING SPECIAL NUCLEAR MATERIALS

(By Warren H. Donnelly)

The adequacy of measures to prevent the theft or robbery of special nuclear materials (SNM)—enriched uranium and plutonium—is being questioned. Diverted materials might be made into atom bombs or other devices for blackmail and terror. While the risk is now small, the anticipated growth of nuclear power and use of these materials is causing some concern, particularly if the breeder reactor is widely used. The adequacy of AEC safeguards measures has received recent attention from the General Accounting Office, the AEC, critics of nuclear energy, and the Congress. This interest and possible controversy is likely to grow as the Nation approaches a point of no return for its reliance upon nuclear power.

Since November 1973 a series of reports and statements and other publications have highlighted the issue of nuclear safeguards. In chronological order these include the following:

November 7, 1973. The Comptroller General reports to the Congress on improvements needed in the AEC's program for the protection of special nuclear materials. According to the General Accounting Office, potentially dangerous consequences could result from a single theft from or loss by authorized possessors of fissionable uranium or plutonium. About 600 organizations are authorized to possess such materials, of which 95 are required to comply with AEC requirements for keeping such materials secure from unauthorized possession. The AEC has recognized, said the GAO report, that the probability of the material being stolen, unexplainably or accidentally lost, diverted from authorized use, or used or disposed of in unauthorized ways increases as the quantity and number of organizations authorized to hold such materials increases. The report recommended that the AEC strengthen the in-plant physical protection over these materials and provide a better basis for assessing the adequacy of the protection. In particular, the GAO recommended that the AEC:

—Expedite changes in its safeguards regulations.

—Define in greater detail the expected capability of a system designed to prevent, detect, and effectively respond to a possible diversion or diversion attempt and strengthen protection requirements.

—Impose the same protection requirements on both licensees and contractors holding such materials, or justify the differences.

—Improve inspection practices.

March 12, 13, 1974. Senator Ribicoff, as chairman of the Subcommittee on Reorganization, Research and International Organizations, Senate Committee on Government Operations, holds two days of hearings on the role of the AEC in nuclear safety and in safeguarding fissionable materials against theft and sabotage. Dr. Theodore B. Taylor a leading expert and advocate of stronger safeguards, appeared as a witness and warns that without effective safeguards there will be substantial risks to the American people from theft of nuclear weapons materials and their subsequent use in nuclear blackmail by either threatening to explode a crude bomb, or to disperse toxic plutonium to the environment. In addition to technical measures, he recommends special containers and vehicles for shipment of these materials, provision of on-site and in-transit guard forces and provision of on-call law enforcement forces to intervene in attempted thefts. Mr. L. M. Muntzing, a key regulatory official of the AEC, explained present AEC safeguards requirements for licensees and Mr. E. B. Giller explained AEC safeguards requirements for contractors. (The statements of these witnesses appear in the Congressional Record of March 21, 1974 at pp. 7744–49.)

April 1974. Thomas B. Cochran's book on the liquid metal fast breeder reactor is published in which the author disputes the decision to proceed with the expedited demonstration of the breeder reactor. He argues in part that one of the greatest hazards, or risks, associated with a civilian nuclear power economy arises from the possible diversion of plutonium and enriched uranium to unauthorized use and asserts that the potential value of plutonium will result in a worldwide black market. The problems of safeguards comprise for him reason to phase out nuclear power from the U.S. energy economy and for the U.S. to provide the leadership to eliminate nuclear power on a worldwide basis.

April 7, 1974. The Energy Policy Project of the Ford Foundation releases a study on nuclear theft: risks and safeguards, made for it by Mason Willrich and Theodore B. Taylor. The possibilities of nuclear theft, the violence that could result, and the safeguards measures to prevent it are examined. The years ahead, warn the authors, provide the last chance to develop long-term safeguards that will deal effectively with the risks of nuclear theft. They see the AEC as moving in the right direction, but much remains to be done, especially in development of standards for the physical protection of nuclear materials. They recommend that the AEC consider forming a special federal security service, whose only responsibility would be to protect nuclear materials throughout the nuclear power industry. They also propose that the AEC design detailed safeguards for each kind of nuclear powerplant and its supporting industrial services and set up uniform criteria for approving security plans of those possessing nuclear materials. Finally, they recommended that the U.S. Government take the initiative in discussing the nuclear theft problem with other countries, with a view to further development worldwide safeguards. (The International Atomic Energy Agency has a safeguards function but it has not developed in step with world use of nuclear power).

April 12, 1974. The Comptroller General reports to the Joint Committee on Atomic Energy on protecting nuclear materials in transit. The GAO sees weakness in the AEC's system for transporting plutonium and enriched uranium and concluded that the protection afforded to shipments of nuclear materials was inadequate to prevent or quickly detect a diversion or a diversion attempt, "AEC has been slow to strengthen the protection of SNM in transit."

According to GAO, an AEC decision not to license carriers of SNM and not to establish a Government-operated transportation system were made without a formal study. "If AEC finds that its new requirements do not result in the protection considered necessary, AEC should . . . undertake a detailed study of the feasibility of using a Government-operated or Government-controlled (licensed) transportation system.

The GAO also suggested that the Joint Committee on Atomic Energy might wish to consider amending the Atomic Energy Act to give the authority to predetermine the trustworthiness of the drivers and guards for shipments. "This authority would provide AEC with what it considers a principal element for safeguarding SNM in transit."

April 30, 1974. Senator Ribicoff places in the Congressional Record the text of a special safeguards study report made to the AEC's director of licensing. This internal report warns of the potential harm to the public from the explosion of an illicitly made nuclear weapon is greater than that from any plausible powerplant accident; and that because of the widespread dissemination of instructions for processing special nuclear material remains the only substantial problem facing groups which desire to have such weapons. The seriousness of the problem demands, according to the study, a clear commitment by the AEC to bring the risk to the public from safeguard problems down to the level of public risk associated with the operation of nuclear powerplants. By far the most important recommendation of the group was that the AEC adopt the same framework for safeguards safety as is normally used in examining the safety of nuclear powerplants. The study group also recommended a Federal organization that would:

Carry and protect all shipments of significant quantities of licensed nuclear materials.

Approve the prysical protection plans for fixed sites handling significant quantities of special nuclear material.

Provide armed guards for such sites.

Make prior standing arrangements to get an adequate response team to the site of any attempted diversion in a timely manner.

Include a special response force that would respond to incidents of diversion.

All protection functions which could require the use of force should be a direct federal responsibility.

Summarizing its review of recent AEC changes in safeguards regulations, the study group reported:

"Even though safeguard regulations have just been revised and strengthened, we feel that the new regulations are inadequate and that immediate steps should be taken to greatly strengthen the protection of special nuclear materials."

Senator Ribicoff also placed in the record an AEC comment of this safeguards report which said that the Commission was taking a hard look at the study to determine what additional measures should be taken.

In response to the safeguards problem, the Subcommittee has adopted an amendment to S. 2744, the Energy Reorganization Act of 1974, which would establish in the proposed Nuclear Safety and Licensing Commission a Bureau of Nuclear Materials Security, and the setting up of a security force within the Bureau to protect commercial nuclear materials in transit and in storage. (The text of the safeguards study, the AEC comment, the amendment to S. 2744 and several related articles appear in the Congressional Record of April 30, 1974 at pp. 12353–62.)

May 6, 1974, *Weekly Energy Report* reports that AEC Commissioner Kriegsman has recommended that the Commission develop five-year plans for the safeguarding of SNM held by contractors and licensees. The plans should contain specific objectives, milestones, and a schedule of action, and should be published. Also the Director of Regulations should: (1) create an office to develop safeguards policy; (2) draft regulations prohibiting licensees from shipping more than 25 percent of the amount of SNM needed to make a nuclear device; (3) draft regulations for more stringent physical security for their storage; and (4) investigate means of reducing transportation of SNM.

AEC funding for nuclear materials security is proposed at $5 million for fiscal year 1975 which includes funds for research and development related to accountability for nuclear materials, physical containment, surveillance, transportation and protective communications studies.

Summing up, some experts and critics hold that safeguards can never sufficiently protect society against nuclear blackmail from stolen materials and so urge a moratorium on further use of nuclear energy, particularly the commercial demonstration of the breeder reactor which would produce large amounts of plutonium. Others believe that safeguards can be made to work, if certain measures are carried out; but these would substantially affect the U.S. nuclear industry and its operating costs, and probably require establishment of a national para-military force to protect these materials.

Some people in the nuclear industry believe that safeguards is not a serious problem and one AEC officials is quoted as characterizing safeguards as a "phony issue." In the Industry it is generally believed that in relation to other hazards, such as unlicensed hand-guns, the threat posed by theft of SNM is slight.

Some policy issues are:

(1) The adequacy of recent AEC revisions to its safeguards regulations.

(2) The need for improved safeguards, some of which would require Federal legislation.

(3) The cost-benefit ratio between the greater protection of society through increased security for nuclear explosives materials on one hand and the increased costs paid by users of nuclear power on the other.

(4) The implications of establishment in a Federal system without a national police force of a national protective force authorized and equipped to use armed force in protection of nuclear materials;

(5) The implications of proposals for a national intelligence operations to anticipate or discover planned attempts to seize such materials.

(6) Whether or not the difficulties and limitations associated with safeguards are so great as to give reason to slow down or to stop the commercial use of nuclear power.

An amendment by Senator Ribicoff and his subcommittee adds Sec. 204 to S. 2744, the Energy Reorganization Act of 1974. Sec. 204 would establish within the Nuclear Safety and Licensing Commission of S. 2744 a Bureau of Nuclear Materials Security responsible of safeguarding nuclear materials.

U.S. Congress. Senate. Committee on Government Operations, Subcommittee on Reorgnization, Research and International Organizations. S. 2744, The Energy Reorganization Act of 1974. Hearings, 93rd Cong., 2nd Sess., 1974 (not yet in print).

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Ribicoff, Abraham. Nuclear safety and safeguards. Remarks in Senate. *Congressional Record*, Apr. 30, 1974, pp. 12353–62.

Ribicoff, Abraham. Nuclear theft and homemade bombs. Remarks in Senate. *Congressional Record*, May 2, 1974, pp. 12906–07.

7/1/68.—President Johnson signs the Treaty on Nonproliferation of Nuclear Weapons (NPT) and offers to voluntarily place nuclear materials for commercial nuclear power in the United States under safeguards of the International Atomic Energy Agency.

3/5/70.—The Treaty on Nonproliferation of Nuclear Weapons enters into force.

9/25/72.—President Nixon establishes a Cabinet Committee to combat terrorism.

8/10/73.—CBS News Correspondents Marely Safer and Mike Wallace put on one-hour presentation on possibilities of theft of nuclear materials and their cousequences.

11/7/73.—GAO releases report on improvements needed in the program for the protection of special nuclear materials.

4/7/74.—Energy Policy Project of the Ford Foundation releases Willrich-Taylor book on Nuclear theft: risks and safeguards.

4/12/74.—GAO releases report on protecting special nuclear materials in transit.

4/24/74.—Mr. Price of Illinois announces the intention of the Joint Committee on Atomic Energy to constitute a special panel to look into the matter of shipments of nuclear materials and to report to the committee on safeguards and health and safety aspects.

4/26/74.—Senator Ribicoff releases text of special safeguards study report to the AEC's director of Licensing.

4/30/74.—Senator Ribicoff places the text of the special safeguards study and related materials in the *Congressional Record*.

4/24/74.—The Washington Post quotes AEC Commissioner Kriegsman as suggesting that certain types of uranium and pollution never be shipped in quantities that could be stolen and made into an atomic bomb.

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EXHIBIT 2

KRIEGSMAN PROPOSES SAFEGUARDS SCENARIO BASED ON 5-YEAR PLAN

William Kriegsman, the AEC commissioner charged with overseeing nuclear safeguards, has recommended a plan of action to the commission to beef up the AEC's safeguards program. The central focus of Kriegsman's recommendation is that the commission should direct the general manager and the director of regulation to develop five-year plans for their respective safeguards programs. Kriegsman said: "These plans should contain the specific objective of the programs, individual milestones, and a schedule for action on the milestones. Upon approval by the commission, these plans should be published."

Kriegsman recommended, also, that the Director of Regulation: a) create an office to develop safeguards policy; b) draft regulatious prohibiting licensees from shipping more than 25 percent of the quantity of pure metallic plutonium, highly enriched uranium or uranium-233 needed to make a nuclear device; c) draft regulations for more stringent physical security for the storage of the more dangerous elements; d) investigate the means of reducing the transportation of plutonium, highly enriched uranium, and uranium 233.

As a result of environmental pressure, largely channeled through Sen. Abraham Ribicoff of Connecticut, there has been increased interest lately in the question of safeguards. Knowledgeable people in the industry continue to believe that safeguarding nuclear materials is not a serious problem and is, in the words of one AEC official, "a phony issue." In the industry it is generally believed that in relation to the other hazards faced by society, such as unlicensed hand-guns, any threat posed by the theft of nuclear materials is very slight indeed. They point to the high degree of expertise that would be required to manufacture a nuclear device and the immediate danger to the thief. A Washington nuclear engineer told *Weekly Energy Report:* "If anybody is ever misguided enough to try and raid a nuclear plant to procure nuclear materials, the blame could probably be laid on the environmentalists who have done so much to put the idea into people's heads."

AMERICAN BAR ASSOCIATION ENDORSES CONSUMER PROTECTION AGENCY

Mr. PERCY. Mr. President, as I have pointed out in previous remarks on the floor, a priority of the 93d Congress must be to provide consumers adequate protection against faulty goods and services, misleading advertising, and unfair trade practices. Legislation to create a Consumer Protection Agency—a permanent, institutional advocate for consumer interests within the Federal structure—has already passed the House. Similar legislation, cosponsored by Senators JAVITS, RIBICOFF, MAGNUSON, MOSS, COOK, and myself, is pending before the Senate Government Operations Committee, having been reported by the Commerce Committee.

The American Bar Association has been an avid and long-time supporter of the Consumer Protection Agency. In an April 4, 1974, letter to me, Marion Harrison, the acting chairman of the ABA, emphatically reiterated the association's advocacy of the CPA. The letter stressed that CPA be empowered to intervene as a full party, rather than merely an amicus in relevant proceedings before administrative bodies, and that CPA have an unrestricted right to initiate judicial review of final Agency actions on consumer concerns.

The Senate bill, S. 707, provides the CPA with these powers. It is my strong belief that the two powers are essential to effective consumer protection by the proposed Agency. I fervently hope that the Senate will expeditiously enact S. 707 with these provisions intact.

Mr. President, because I feel that the ABA's support and suggestions are so clearly in the best interests of the American consumer, I ask unanimous consent that the full text of Mr. Harrison's letter be printed in the RECORD as a part of my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN BAR ASSOCIATION,
Chicago, Ill., April 5, 1974.

Re Consumer Protection Agency
Hon. CHARLES H. PERCY,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR PERCY: The purpose of this letter is to reiterate the American Bar Association's support for the enactment of legislation creating a Consumer Protection Agency with adequate intervention and judicial review authority. The position of the Association was set forth in detail in the testimony of John T. Miller, Jr. and Joel E. Hoffman before the Committee on October 11, 1973, and I shall not burden you with needless repetition. Permit me, however, to stress the most important principles which the ABA believes should be reflected in legislation of this kind.

First, in our view it is essential that the Consumer Protection Agency be empowered *to intervene* as a full party in appropriate proceedings before other administrative bodies. As we stated in our testimony, "If the Administrator of the Consumer Protection Agency determines in a particular case that the effective representation of consumer interests requires him to act as a party rather than merely as amicus, he should be given the procedural tools to do his job."

Second, as we also stated, participation at the agency level "would be of little value without the complementary right to judicial review of the final agency action." We believe that to represent the consumer interests effectively, the Consumer Protection Agency must have the right to initiate proceedings for judicial review (or to intervene as a party in review proceedings initiated by others), regardless of whether the CPA participated in the administrative proceeding to be reviewed. And, in our view, that right should not be restricted by uncertain criteria such as "required by the interest of justice" or the like, which in practice would impose new burdens on both the Consumer Protection Agency and the courts while adding nothing to the latter's ample existing authority to prevent abuses of the judicial review process.

We hope these brief comments will be of assistance to the Committee in considering the legislative proposals pending before it.

Respectfully submitted,
MARION EDWYN HARRISON,
Acting Chairman.

PROBLEMS FACED BY JEWS IN THE SOVIET UNION

Mr. BUCKLEY. Mr. President, on April 23, the State senate of the State of New York passed a resolution taking note of the problems faced by Jews in the Soviet Union and urging the Congress to continue pressing for the rights of those who wish to emigrate freely from the Soviet Union.

I ask unanimous consent to print the text of this resolution in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

SENATE RESOLUTION No. 62

Senate resolution memorializing the President and the Congress of the United States to consider the plight of Soviet Jews prior to granting favored nation status to the Soviet Union and calling upon the Governor to proclaim April 28, 1973 as solidarity day

Whereas, In the Soviet Union men and women are denied freedoms recognized as basic by all civilized countries of the world and indeed by the Soviet Constitution; and

Whereas, Jews and other religious minorities in the Soviet Union are being denied the means to exercise their religion and sustain their identity; and

Whereas, The government of the Soviet Union is persecuting Jewish citizens by denying them the same rights and privileges accorded other recognized religions in the Soviet Union and by discrimination against Jews in cultural activities and access to higher education; and

Whereas, The right freely to emigrate, which is denied Soviet Jews who seek to maintain their identity by moving elsewhere, is a right affirmed by the United Nations Declaration of Human Rights, adopted unanimously by the General Assembly of the United Nations; and

Whereas, These infringements of human rights are an obstacle to the development of better understanding and better relations between the people of the United States and the people of the Soviet Union; and

Whereas, The State of Israel, now celebrating its 26th Independence Day, has expressed its solidarity to freedom-loving people everywhere; and

Whereas, An attempt was made to destroy the State of Israel on October 6, 1973; and

Whereas, The State of Israel continues to remain a symbol of the strength of the democratic system and has earned the respect and admiration of all people who champion the cause of freedom; now, therefore, be it

Resolved, That the Senate of the State of New York express its solidarity in asking that the President and the Congress of the United States consider the plight of Soviet Jews when granting most favored nation status to the Soviet Union, and to call upon the Soviet government to end its persecution of the Jews and other minorities and to permit the free exercise of religion by all its citizens in accordance with the Soviet Constitution; and be it further

Resolved, That the Senate of the State of New York, in the interest of justice and humanity, express its solidarity in requesting that the President and the Congress of the United States call upon the Soviet government to permit its citizens to emigrate from the Soviet Union to the countries of their choice as affirmed by the United Nations Declaration of Human Rights; and be it further

Resolved, That the Senate of the State of New York express its solidarity, in urging that the United States government use all appropriate diplomatic means to engender the fullest support possible among other nations for such a request to the Soviet Union; and be it further

Resolved, That the Senate of the State of New York express its solidarity with the people of Israel on its 26th Independence Day; and be it further

Resolved, That the Honorable Malcolm Wilson, Governor of the State of New York, be and he hereby is respectfully requested to issue, publish and declare to the people of the State of New York an appropriate proclamation designating April 28th, 1974 as Solidarity Day; and be it further

Resolved, That in order to effectuate the purposes of this resolution, copies of this resolution be transmitted to the President, Vice President and Secretary of State of the United States, to the Secretary of the Senate and the Clerk of the House of Representatives of the United States, and to each member of the Congress of the United States from the State of New York.

STEPPED-UP SOLAR RESEARCH NEEDED—NOW

Mr. HUMPHREY. Mr. President, on May 7 and May 8, the Joint Committee on Atomic Energy held hearings on my Solar Energy Research proposals—S. 2819 and S. 3234.

The committee heard 18 witnesses from the executive branch, U.S. industry, the academic community, and private research organizations, testify on the future of solar energy.

Mr. President, I was privileged to be the leadoff witness for these hearings. In my statement to the committee, I outlined my proposal and called for quick action to implement an expanded program of solar energy research and development.

Mr. President, I ask unanimous consent that my testimony on May 7, before the Joint Committee on Atomic Energy, be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY OF SENATOR HUBERT H. HUMPHREY

Mr. Chairman, I am pleased to testify on S. 2819, the Solar Energy Research Act of 1973, which I authored. And I am gratified that the Joint Committee on Atomic Energy will devote two full days and hear eighteen witnesses testify on my proposals for an expanded program of solar energy research and development.

Following introduction of S. 2819, I solicited the views of the solar energy community. I received hundreds of comments from individuals and organizations, for which I am most grateful. They represented a wide range of expertise and perspectives relevant to solar energy. Comments were received from private and government sources who discussed technical, social, environmental and economic aspects of solar energy research.

These comments were incorporated into my new bill, S. 3234, the Solar Energy Research Act of 1974, which I introduced in the Senate on March 26 of this year.

I have been joined in this proposal by twenty-two Senate colleagues. These cosponsors are; Senators Jackson, Fannin, Bible, Tower, Williams, Brock, Metcalf, Dole, Mondale, Cook, Nelson, Case, Church, Haskell, Johnston, McGovern, McGee, Packwood, Clark, Gravel, Pell, Hatfield, and Montoya. I am particularly pleased to report such strong bi-partisan support for this proposal.

I do appreciate, Mr. Chairman, your efforts to consider, though unofficially, S. 3234 along with S. 2819, during your hearings this week.

While many of us have recognized the potential of this greatest and cleanest of all sources of energy, and for years some of us have called for stepped-up efforts to tap it, the total Federal effort specifically directed toward solar energy research and development has been and remains inadequate. This is particularly true in view of the urgency of our Nation's energy crisis and the important researchable projects that are available for funding.

In addition to the need for carrying on a vigorous solar energy research and development program, we must also assure that the resources are available for the full utilization of the results of solar energy research by the ultimate users—the utilities, the housing contractors, the home owners, and private industry—at the earliest practical date. This is imperative if we are to approach energy self-sufficiency within the next decade.

In reviewing funding requirements, I direct the Committee's attention to Section 4C of S. 3234. It requires the Office of Solar Energy Research, in conjunction with the Solar Energy Research Council, to return to the Congress for authorizations to proceed into the solar energy demonstration phase.

In view of the rapid progress in solar technology development in recent months, the

Committee may wish to consider authorizing funding in fiscal year 1975 to allow the immediate start-up of not only a major demonstration program, but also of a program to support a full range of efforts to assist the "developers," that is industry, and the "users", that is utilities, housing contractors, home owners, among others. This would certainly help achieve the earliest practical contribution from solar energy to our nation's energy self-sufficiency. Beyond fiscal year 1975, funding for such activities could be authorized on an annual basis.

With respect to the $600 million funding authorization level which I have recommended for the next five years, I provided considerable technical support for this level in the addenda to my March 26, 1974 introductory statement to the Senate.

The technical materials include the "Overview" section of the Sub-Panel IX Report, which was prepared by the Solar Energy Technical Review Panal as a basic input to Dr. Dixy Lee Ray's report to the President—"The Nation's Energy Future."

Included in the Sub-Panel IX Report is a chart which lists the funding requirements for a "minimum viable" and an "accelerated orderly" solar energy research program. The funding level I have proposed is almost $200 million more than the "minimum" program but $450 million less than the "accelerated" program.

Prepared during a similar time frame was the Mitre Corporation's voluminous solar energy research report. In its "Summary and Discussion of Alternatives" section, and addendum to my March 26 statement, a similar five-year funding requirement for solar energy research and development is recommended.

Yet, both of these studies were prepared before the demands for energy production increased, due to the energy crisis experienced this winter. The Committee should, I believe, give consideration to an increased funding level and new goals based on energy developments in the last few months and the requirements of "Project Independence." The Committee may wish to consider establishing a specific goal for solar research and development. Such a goal might be to make as many of the various forms of solar energy economically competitive at the earliest practical date. Funding would then be determined in light of that objective.

This bill establishes an "Office of Solar Energy Research" to provide the administrative structure and central focus needed to assure the realization of the full potential of solar energy—from the solar heating and cooling of buildings in the near term, to the mid-term solar production of electricity.

The Office is established in the Federal Energy Research and Development Administration, (ERDA), or any other permanent energy research and development organization established by Congress, not to be confused with the Federal Energy Administration approved last week by the Senate.

This is the major departure in S. 3234 from the original bill, S. 2819, which put the office permanently in the Atomic Energy Commission. Given the support for ERDA in the Administration and Congress, I believe this revision makes sense. Should the energy research and development administration for any reason not be established at the time of passage of this bill, the Office would be located, on an interim basis, within the Atomic Energy Commission. Since the AEC has been designated, by both the Administration and Congress, in various legislative proposals, as the core of ERDA, this arrangement would seem to be appropriate.

The cooperation among the various federal agencies called for in my proposal was not done as an afterthought. I believe it is central to the success of any federal solar research effort. The "Office of Solar Energy Research" should not be permitted to become part of any "empire building" strategy. With the great in-house talent at the AEC laboratories, keeping all solar work "in house" when they become part of ERDA, will be a real temptation. However, industry talent and other "participating" agency talent must be fully used, to do otherwise would seriously waste our resources.

In particular, the National Science Foundation should be commended for its excellent work in solar energy. And I am proud to say that Minnesota companies and communities are fully involved in their programs. The NSF should maintain its capability in the areas of advanced energy research and technology including solar. Fundamental science in the area of solar energy can best be served if the Office of Solar Energy Research fully utilizes the experience and expertise of the National Science Foundation.

NASA, in performing its important mission in the area of aeronautical and space research and development, has developed an impressive expertise in many areas pertinent to solar. To name a few areas, wind energy can benefit from NASA's experience in aeronautics and rotating machinery. NASA's work with new materials, special materials coating, heat transfer, and the like, can contribute to solar thermal and solar heating and cooling work. And, of course, work in the area of photovoltaics can benefit from NASA's long years of experience on this technology.

And, the AEC itself has begun to develop an impressive solar energy program, since instructed to do so by the Congress. Five present AEC and future ERDA laboratories have been identified, so far, as having capabilities and enthusiastic interest in solar energy—Sandia, Berkeley, Livermore, Los Alomos, and Argonne.

Sandia is developing a "Total Solar Energy Community"—supplying the community with solar thermal produced electricity and utilizing the waste heat for the heating and cooling of homes. Through this process of cascading energy use it is achieving unusually high efficiencies.

Argonne is developing a novel solar thermal concentrator. Los Alamos is developing a low-cost manufacturing process for flat plate solar collectors. Berkeley is conducting research in such areas as: photovoltaics; photosynthesis; and solar radiation measurements.

Besides close cooperation with and utilization of other agencies, including substantial inter-agency sub-contracting through participating agency service agreements, the Office of Solar Energy Research should especially utilize the great talents and capabilities to be found in the private sector.

It was a government-industry team that got us to the moon; it will be an industry-government team (with the emphasis on industry) that will achieve energy self-sufficiency for America.

But America, in achieving energy self-sufficiency, as we ultimately will, must not then assume that it can turn its back on the world and adopt an isolationist policy. We are merely 6% of the world's people; 94% of the world is out there striving to achieve the standard of living we enjoy with all the energy and materials consumption that such a standard entails. We cannot be blind in our efforts at energy self-sufficiency to the aspirations of other nations, for their consequences are profound for our nation.

Today, the world's energy importing nations rely heavily on the Arab nations, with their demonstrated willingness to use energy resources for political purposes.

Tomorrow, an additional major exporter of energy may well be the Soviet Union, whose vast resources of coal and oil in Siberia are just now beginning to be tapped in a major way.

During the recent embargo, the decision of the Netherlands to stand fast for an independent foreign policy cost them dearly. Also, Iceland—which provides a strategic base for the American military—became very concerned over the possible loss of its prime source of energy, the Soviet Union. Can we really be politically independent if our friends, allies, and sources of raw materials, are dependent?

Achieving the capability of energy self-sufficiency for America is a must. However, in a world where we still depend on cooperation with others for our security, for our markets, and, increasingly, for our raw materials, our definition of national energy self-sufficiency must be extended to include the ability to provide some assistance to our friends and allies who are particularly vulnerable to energy "blackmail."

Thus, every effort must be made to increase our ability to produce energy, particularly clean, nonpolluting energy, along with our ability to store and transport such energy.

Achieving energy self-sufficiency might wreak havoc on our environment and on our limited conventional fuel resources unless we turn to clean, inexhaustible sources of energy such as solar energy and fusion.

Most experts agree that fusion will not have an impact on our energy needs until well into the next century. Some even go so far as to contend that it is not a certainty that fusion will be harnessed in the foreseeable future.

Your Committee is particularly well aware of the potential benefits of fusion. That potential requires that we continue to fully support fusion research.

The other possible source, solar energy, does not present the same technical problems. It can begin making a contribution within a few years in the area of solar heating and cooling. And, if we choose to do so, it can begin to have an impact on the production of electricity by the early part of the next decade. The great potential of solar energy certainly warrants our full support. However, as I said before, adequate support for solar energy has heretofore been lacking.

No doubt, there are improvements that you will be able to make in this legislation, as a result of your intensive scrutiny. I do hope, however, that the Committee will soon report a bill.

The need for an expanded solar energy research and development program is obvious and the time to act is at hand. I believe Congress can take this initiative now and demonstrate to the American people the kind of leadership in the energy field that they expect of us.

Finally, I thank the Chairman for this opportunity to testify on behalf of my proposal for a vigorous solar energy program.

CALL FOR RESTRAINT IN PUBLIC STATEMENTS

Mr. BROCK. Mr. President, the country is facing one of the most difficult decisions that we as a nation may ever have to face. We know that the President of the United States is being investigated for possible impeachment by the House Judiciary Committee. This is a very important issue to the health and well-being of our country. It needs to be handled with the utmost care.

Howard Flieger, in an article in the U.S. News & World Report of April 22, expressed an opinion which all Members of Congress should heed—it is a call for restraint in public statements. I could not agree more with Mr. Flieger's observation. I ask unanimous consent that his editorial be printed in the RECORD for my colleagues to read.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the U.S. News & World Report, Apr. 22, 1974]

IT'S TIME TO BE QUIET

(By Howard Flieger)

Now is the time for all members of Congress to stop sounding off for or against the impeachment of the President.

In fact, the time to keep quiet arrived many weeks ago.

Both Senators and Representatives should have silenced themselves on the subject the instant the House Judiciary Committee began studying the matter of impeachment.

This is not being written in defense of Richard M. Nixon.

Rather, it is simply to point out something a lot of people tend to overlook: The President is not now a defendant in anything.

There are no articles of impeachment before the House. As a matter of record, the Judiciary Committee will not begin hearing *sworn testimony* until May 7, though its staff has been doing preparatory work for weeks.

Nobody who isn't directly involved could possibly know what the evidence will show.

The point to all this: When and if articles of impeachment emerge from the Committee, it will be up to the members of the House of Representatives—every last one of them—to decide whether the accusations are of substance sufficiently serious to be placed before the Senate for trial.

In simpler terms, the members of Congress are the persons who at some point will be required to sit in judgment on Mr. Nixon.

Under the circumstances it is unseemly, to say the very least, for Senators and Representatives to be making guesses now on the number of votes one way or the other, to be publicly discussing the President's guilt or innocence, to engage in head-counts to try to predict the outcome far in advance of the fact.

Several members and their staffs have been doing just this, and talking about it openly—though sometimes anonymously. "Will he be impeached?" has become a commonplace topic of conversation in Washington, and the question too often brings forth a publicized answer.

You'd think anybody could see that this popular guessing game does violence to justice. It is basic in our society that everybody—of high station or low—is presumed innocent of any wrongdoing or misconduct until proved otherwise beyond all reasonable doubt.

So what is all this loose-tongued chatter, verbally batting the grave issue of impeachment back and forth like a badminton bird?

In a way, it is the same as members of a jury pronouncing a defendant guilty or not guilty without waiting to hear the case.

It reminds one of the old, unfunny joke about the vigilantes who collared a suspected horse thief and announced they would "give him a fair trial and hang him."

As Rep. John J. Rhodes of Arizona, the Republican leader in the House, said recently on NBC's "Meet the Press":

"It is necessary for each member to make up his mind after the evidence is in, and not before. If he were to do otherwise—as some have, I think, injudiciously done—it would be similar to the situation in which a judge might mount the bench and say, 'Order in the Court. The plaintiff is going to win.' "

Aside from the blatant injustice, there is a matter of practical politics involved here that no politically sensitive member of Congress can afford to ignore.

According to the polls, this Congress is not held in very high esteem by the voters who elected it. If the idea becomes widespread that it is playing party politics with the fate of a President, a lot of incumbents could be in for a shock, come November.

The following campaign bumper sticker arrived in the mail the other day:

"DON'T RE-ELECT ANYBODY

It's a gag, of course. But in the present atmosphere there is something unnerving about it—like an ominous tap on the shoulder.

WINYAH INDIGO SOCIETY

Mr. HOLLINGS. Mr. President, as we approach the 200th anniversary of the Nation, our attentions are increasingly focused on the history and heritage of this great land. My own State of South Carolina has always had great interest—and pride—in its past. And I would note that as the United States approaches its Bicentennial, we in South Carolina have already celebrated our tricentennial.

One of the oldest continuing philanthropic societies in America can be found in Georgetown, S.C. It is the Winyah Indigo Society, and it traces its origins back to the middle of the 18th century. Tradition dates its beginnings to the establishment of a social club in 1740. Public-spirited at the outset, the society soon turned its energies to the education of the young. It established a school, principally for those who were poor and otherwise unable to obtain the benefits of formal training. Although the Civil War seriously disrupted the work of the school, it built itself up again and continued its good works until it was merged with the public school system in the early part of the 20th century.

Over the years, the Winyah Indigo Society has engaged in many other community activities, always with the goals of elevating public ideals and contributing to the public interest. The society has been of valuable service to South Carolina and, indeed, to the Nation.

Mr. President, the history of the Winyah Indigo Society demonstrates once again what public-spirited community activities can accomplish. The work of such groups is a proud chapter in the annals of America, and their contributions ought to be more widely known. I ask unanimous consent that a brief history of this illustrious society be printed in the RECORD.

There being no objection, the history was ordered to be printed in the RECORD, as follows:

BRIEF HISTORY OF THE SOCIETY

All of the records of the "Winyah Indigo Society" were lost or destroyed during the War between the States when Georgetown fell into the hands of the Federal forces. The Academy Building, with here and there a volume of what was once a very large and valuable library, is about all that is left of the property of which it was possessed as the capital upon which it did its noble deeds for charity. Few of its living members became such more than forty years ago, and its early history is, therefore, simply the tradition of the past.

As tradition hath it: the planters of Georgetown District, about the year 1740, formed a convivial club, which met in the town of Georgetown on the first Friday of each month, to talk over the latest news from London, which was never less than a month old, to hold high discourse over the growth and prosperity of the Indigo plant (then and for a long time after spelt, in the invoices to London, Indico,) and to refresh the inner-man, and so keep up to a proper pitch the endearing ties of social life by imbibing freely of the inevitable bowl of punch. The Old Oak Tavern which stood on Bay Street, not far from its intersection with Broad street, was the place of this monthly re-union. The first Friday in May of each year, was the anniversary meeting, and on these occasions anecdote and song (speechmaking was not yet in vogue) added to the good cheer of the punch bowl, and many a staid and solid old planter became as blue as the residum of the plant he cultivated. Indeed, tradition says, it always required great skill for these jolly old fellows to sit their prancing steeds, after one of these anniversary festivals, for a spur in the head always equals two in the heel, and master and horse became so mobile and agile that the ground and lofty tumbling was generally equal to a small sized circus.

There was an initiation fee and an annual contribution from each member, which went to defray the expenses of the meetings. These were always paid in Indigo. In those good old days, when there was no protective tariffs or license to sell poison under the euphoneous names of Bourbon and Summerdine, and no Maine Liquor Law to stop the trade in wholesome beverages; when there were no revenue inspectors prowling about under the guise of land speculators; when each man was permitted to sit under his own vine and fig tree and imbibe the best and purest Old Jamaica for fifty cents a gallon; the appetite did not grow upon what it fed on, and the brain did not reel under the maddening influence of narcotic poison; but our forefathers, with their peach and honey and genuine Old Rum, rose to the height simply of genial gentlemen and liberal benefactors. And so it came to pass that about the year 1753, the exchequer became plethoric of gold, and the hearts of our founders overflowed with the milk of human kindness.

"But what avails this wondrous waste of wealth?
This gay profusion of luxurious bliss?
Ill-fated race! the softening arts of peace,
What'er the humanizing Muses teach;
The God-like wisdom of the temper'd breast;
Progressive truth, the patient force of thought;
Investigation calm, whose silent powers
Command the world; the light that leads to Heaven;
Kind equal rule, the government of laws,
And all protecting freedom, which alone
Sustains the name and dignity of man:
These are not theirs."

And hence it became the question of the hour, to what good purpose shall we devote our surplus funds. As the tale runs, the discussion was brief, pertinent and solid. At the close of it the Presiding Officer called on the members to fill their glasses, he wished to close the debate by a definite proposition, if it met their approbation, each member would signify it by emptying his glass. He said: "There may be intellectual food which the present state of society is not fit to partake of; to lay such before it would be as absurd as to give a quadrant to an Indian; but knowledge is indeed as necessary as light, and ought to be as common as water and as free as air. It has been wisely ordained that light should have no color, water no taste, and air no odor; so, indeed, knowledge should be equally pure and without admixture of creed or cant. I move, therefore, that the surplus funds in the Treasury be devoted to the establishment of an Independent Charity School for the Poor." The meeting rose to its feet. The glasses were each turned down without soiling the linen, and the Winyah Indigo Society was established.

Such, in brief, was the origin of a Society whose school has been *the* School for all the country lying between Charleston and the North Carolina line for more than one hundred years. In its infancy, it supplied the place of Primary School, High School, Grammar School and Collegiate Institute. The rich and the poor alike drank from this fountain of knowledge, and the Farmer, the Planter, the Mechanic, the Artisan, the General of Armies, Lawyers, Doctors, Priests, Senators and Governors of State, have each looked back to the Winyah Indigo Society as the grand source of their success or their distinction. To many it was the only source of education. Here they began, here they ended that disciplinary course which was their only preparation for the stern conflicts of life.

The Society received a royal charter from King George II in the year 1758. Some other privileges have been since granted to it by the Legislature of the State. Its Constitution still contains the imprint of the wisdom of its founders, few changes having been made to adapt it to the changed circumstances of the times. It lived through the rugged "times that tried men's souls," and came out of that contest with royalty, still clinging to its royal charter and cherishing with the recollection of a favored child the good old laws and customs and practices of England, but yet not unmindful of its new duties in its new relation to Carolina, "the land of the free and the home of the brave." It has never suffered politics to enter its doors. In the wildest periods of political excitement it has kept its gaze undeviatingly fixed on its true—its only mission. Its cardinal rule was, never to close its door against any worthy, honorable citizen who desired to become a member, and never to dismiss from office any officer who was capable and willing to serve. The consequence was: its membership was of the best men of the county; its duties in every respect were discharged promptly and efficiently; it had grown rich, it had enlarged its operations, it had become the central object of the affection of all our people; and it was nobly doing its work in enlighening the minds, improving the morals, and imparting tone, dignity and practical wisdom to generation after generation of our children. It was the offspring of the rollicking liberality of the Cavalier and the inflexible spirit of the Huguenot, beautifully mingled and blended into harmonious action. It continued, as it had commenced, the foster mother of all that is good and commendable, personating the blindfolded Goddess in the distribution of her favors.

But the "civil war" came, and with it that disastrous result, which has swept away the accumulation of more than a century. And now when its charitable deeds are more than they were in 1753, now when the descendants of its founders are heavily taxed to support free schools, whose doors are virtually closed against their children, the Winyah Indigo Society finds itself without funds, without school apparatus and without means to soothe its poverty-stricken children by the rich endowment of knowledge, the enduring heritage of learning. Is there no kind Maecenas who will consent to lift us out of the mire and place us once more on the plane of usefulness?

The Academy Building was occupied by the military as long as the Town of Georgetown was garrisoned by the Federal forces, and the building and premises were very much abused by the soldiers. The best and most valuable works in the library were appropriated and carried off, including Audubon's great work on ornithology, which cannot be replaced except at an enormous price. By dint of great efforts the members have raised among themselves money to repair the building and fences, and have during the past year once more employed a competent teacher and started their school, but have been compelled to charge a small sum for tuition to aid them in raising the salary of the preceptor. The school is entirely without apparatus of any kind, so useful and essential in teaching the sciences. In fact, the interior arrangement and appearance of the school with its rough benches and uncouth desks, resemble the traditional "old field" school that followed the first settlement of the State. The members are thoroughly alive to the importance of nurturing the school into something like its former brilliant success, but without aid from abroad, it must necessarily progress slowly, with probably many halts before it again reaches the summit of its great usefulness, and again scatters its steady gleam of light to dispel the shadows that are daily thickening over this once favored district, then the abode of princely wealth and courtly refinement. There are, however, no vain regrets, no gloomy brooding over the past. Trustful of the present, hopeful of the future, knowing that in the long run blood will tell, let us learn to "labor and to wait."

RICHARD DOZIER,
BENJAMIN H. WILSON,
Committee.

November 7, 1873.

The late Mr. Wm. D. Morgan, for many years an honored member of the Society was requested to bring this sketch up to date; he wrote as follows:

GEORGETOWN, S.C.,
June 1938.

A review of the records of the Society from 1873, at which time a history of the Society was written by the Hon. R. Dozier and the Hon. B. H. Wilson, to the year 1938, discloses the fact that the aims and purposes of this honorable body have been well preserved by its officers and members.

In preparing this report the minutes of all meetings from the year 1853 through the May meeting of 1938 have been carefully read and checked for items of interest. The earlier records of the Society are missing.

With the information thus obtained, I shall briefly relate the story of the Society, taking up the narrative where the charming account referred to above leaves off.

Since the main object of the Society was the education of the children of the county, principally those who were poor and unable to otbain an education elsewhere, I shall first outline the work of the Society's school from the time it was re-established in 1872, with Mr. A. McP. Hamby, as principal, to the date of its closing. From 1872 to 1887, under Mr. Hamby's able management, a number of pay pupils and many beneficiaries received their education. Many of them have distinguished themselves in after life. In 1887, in accordance with an act of the Legislature passed in 1885, authorizing the establishment of the Winyah Graded School District, the Society's school was merged with the graded school. Of the seven trustees of the Winyah Graded School District, four were appointed by the Winyah Indigo Society. Messrs. Benj. Allston, S. S. Fraser, B. A. Munnerlyn and Walter Hazard were the first four appointed. Mr. Hamby was appointed superintendent of the whole school and principal of the high school department, his salary being paid by tuition of $40.00 a year paid by each pupil in the high school and $300.00 paid by the taxpayers in exchange for the use of the Society's building. The Society reserved the right to hold its meetings and annual banquets in the building. This condition prevailed until the handsome brick school building was erected corner of Cleland and Highmarket Streets in 1908 to which the school was removed. A new board of Trustees was formed with Mr. E. W. Kaminski as Chairman. Mr. Hamby died in 1895 and in 1902 the Society passed a resolution providing for a beautiful gold medal to be given in his memory, as a token of their appreciation of his magnificent work for the school, to the honor graduate of the high school. The medal was first awarded in 1903 and is still being presented each year.

In 1853, Mr. Francis Withers bequeathed the sum of $5,000.00 and the lot corner Prince and Cannon Streets, on which the Winyah Indigo Society Hall now stands, to the Society for the erection of a suitable building for a school and meeting place for the Society. The following year a committee was appointed to solicit funds to be added to this bequest. The minutes do not show how much money was raised by the committee or the names of the subscribers, as they made no report. Mr. E. B. Rothmahler, the Treasurer, reported at the May meeting in 1853 that $14,640.00 has been received from the sale of stocks and other securities. The building was completed in the summer of 1857. From 1865 to 1868 it was used by the Federal forces as a hospital for Union soldiers.

The Society made several attempts to obtain from the United States Government some compensation for the use of the hall, but these attempts failed completely and the Society was obliged to make repairs which were absolutely necessary at their own expense. In 1915, the building being again in need of repairs, a committee was appointed to make all necessary repairs, improvements, repainting, etc. The committee not only repaired the building throughout, but also enlarged the upstairs assembly or ball room, removing the old plaster ceiling and replacing with the present metal ceiling; improved the ladies' dressing room, constructing a gentlemen's room on the first floor and installing in the cellar a large furnace heating plant. The building was painted throughout. This was all done at a cost of $4,442.14. In addition to Mr. Withers' handsome legacy, there were no doubt numerous other gifts, bequests and subscriptions made to the Society's fund, the following being the only ones of record: Jonah Horry—$1,453.00; George T. Lathrop—$500.000; Richard Lathers, who lived in New Rochelle, N.Y.—$100.000 and a bequest from Mrs. M. I. Dealy, a former beneficiary, in grateful acknowledgement of the education she had received—$200.00.

The room in which the meetings are held was fitted up as a library in the year 1858 and in 1859 the surviving members of the old Georgetown Library Society, which had been chartered in 1800, transferred all of their books to the Winyah Indigo Society. These books were classified at that time and according to this early record many valuable volumes are missing from the shelves today, some having been removed, no doubt when the building was used by the Union soldiers. Audubon's valuable work on ornithology was among those missing. An autographed letter written to the citizens of Georgetown and vicinity by President Washington, on the occasion of his trip through the South in 1791, was taken from the library room by a Union soldier. It was originally presented to the Society in 1860 by E. B. Rothmahler, Jr., having been found among the papers of his deceased father, E. B. Rothamahler, who was chairman of the committee appointed to welcome President Washington to Georgetown.

In 1884 the letter was returned to the Society by Lieut. Manning of the U.S. Army garrisoned here in 1865. It is now framed and hangs on the walls of the library room. Here also are framed photographs of past presidents of the Society: Benjamin Allston, Walter Hazard, Savage Smith, Anthony White Dozier, B. H. Wilson, Richard Dozier, W. T. R. Prior, B. A. Munnerlyn and Thomas Lynch, first president of the Society and one of its charter members. There are also pictures of Marquis de Lafayette and Baron DeKalb. In the minutes of July 6, 1888 is the following: "On motion of Mr. S. S. Fraser: *Resolved* That the two original charters of the Society . . . be framed and hung up in the library and that the Secretary be instructed to have this done." There is only one charter in the Library room today. This is framed and is headed: "At the Court of St. James, the 27th day of January 1758", and after the main body of the charter, the words "Assented to—William Henry Lyttleton", followed by a royal confirmation of the Act.

The books in the library have been catalogued recently and a complete record made of them. They are no longer taken from the room, but are a source of great interest to many visitors to Georgetown who request the privilege of searching among them for data of interest.

The social life of the Society is kept alive by the annual banquet. Many distinguished personages have been entertained at these banquets. On May 5, 1905, Ex-President Grover Cleveland, Governor D. C. Heyward, Commodore E. C. Benedict of the N.Y. Yacht Club and other distinguished gentlemen were guests of the Society. While President, in 1894, Mr. Cleveland had came to Georgetown to enjoy the sport of duck hunting and was tendered a reception in the Winyah Indigo Society Hall and an elaborate luncheon by the Palmetto Club. This Palmetto Club was a very patriotic and public spirited organization. In 1925, when it was going out of existence, it made a generous contribution of $1,000.00 in cash and all of its glassware, silverware and crockery to the Winyah Indigo Society. In this same year, 1925, the Winyah Indigo Society entertained Rear Admiral Samuel McGowan with a lavish repast.

On April 30, 1930, Mr. Wingate, as Chairman of the Rules Committee, made a report on amendments to the Constitution and By-Laws, which are herewith submitted and form a part of this report, also herewith submitted are sundry other amendments to the By-Laws which I discovered in the back of the old minute book containing the minutes from 1865 to 1916.

Accompanying this report, which contains some historical matter and other data which should be printed in the proposed pamphlet, is the roll of membership from 1873 to the present time; all of which should prove of value to the present members and also to the future historian. In conclusion, permit me to say that the present members of the Society should feel proud in belonging to an association organized 183 years ago, one of the oldest organizations in the United States, a society with a philanthropic object in view, which has survived wars, panics, depressions and the conditions prevailing for several years following the close of the Civil War. Partisan politics, sectional or religious differences of opinion have never been allowed to enter the portals of the Society. We should invite and encourage the young men of Georgetown and Georgetown County to join the Society and take an active part in its proceedings and to perpetuate for all time to come the magnificent heritage which the Fathers of the Winyah Indigo Society passed down to the present generation. We should always bear in mind in grateful remembrance the memory of those old, distinguished members of the Society whose philanthropic and public spirited high ideals should be emulated as closely as possible, now and in the future—living up to the motto of the Society: *"Esto Perpetua"*.

Respectfully submitted,

William D. Morgan.

THE HUMAN ELEMENT OF OIL PRICES AND PROFITS

Mr. BROOKE. Mr. President, I am pleased that the Senate has begun consideration of S. 3267, the Standby Energy Emergency Authorization Act. Certainly much of the debate on this measure will concern itself with the oil industry. Specifically, we will be discussing what legislative steps, if any, would be appropriate in light of the continuing increases in both oil prices and oil profits.

In the past debate on this matter has tended to focus almost exclusively on the mechanics of oil production, while ignoring the human element involved. We forget that many Americans are increasingly burdened by higher heating oil costs, higher electricity costs, and higher gasoline costs. This is particularly true of our elderly who live on fixed incomes.

The Massachusetts State Senate and the Massachusetts House of Representatives have not forgotten the human element. In a recent resolution, both Houses memorialize the Congress to act swiftly in enacting legislation to establish more effective price controls on oil. I would hope that our concerns reflect their concerns and that we will take into account the human element of oil prices and profits throughout our deliberations.

Mr. President, I ask unanimous consent that the resolution be printed in the Record.

There being no objection, the resolution was ordered to be printed in the Record as follows:

Resolution Memorializing the Congress of the United States To Enact Legislation Establishing More Effective Oil Price Controls in the United States

Whereas, The energy crisis has drastically increased the price of oil in the United States; and

Whereas, Many Americans face an increasing financial burden to heat their homes; and

Whereas, The increasing costs on already financially burdened Americans will endanger their health and well being; therefore be it

Resolved, That the General Court of Massachusetts respectfully urges the Congress of the United States to enact legislation establishing effective oil price controls in the United States; and be it further

Resolved, That copies of these resolutions be transmitted forthwith by the Secretary of the Commonwealth to the President of the United States, to the presiding officer of each branch of Congress and to each member thereof from the Commonwealth.

NIXON ADMINISTRATION HOUSING POLICY—LATE, INADEQUATE, AND PIECEMEAL

Mr. HUMPHREY. Mr. President, today I am releasing a major study on "The Housing Outlook for 1974," prepared for the Consumer Economics Subcommittee of the Joint Economic Committee by Dr. Henry B. Schechter, of the Congressional Research Service.

Coupled with my own perceptions of what has been happening in the housing market in the last several years, this study has convinced me that the housing policy of the Nixon administration is a national disgrace.

While the housing measures announced by the President on Friday are a step in the right direction, they will do virtually nothing to lower exorbitant home loan interest rates or assist American workers and their families in the face of soaring housing costs. In sum, they are late, inadequate, and piecemeal.

Mr. President, American home building is now in the grip of a serious depression, after a recession of well over a year, which could force a 20-percent drop in housing starts during 1974. And, the growing weakness of the housing market will not only further aggravate the present economic situation, but it will directly affect the American consumer by pushing the price of housing to even higher levels.

The administration's February forecast that "Housing starts should reach bottom soon and begin to rise * * *" is clearly "inoperative." It is simply one more in a long line of nearsighted economic projections that have been made by this administration and quickly disproved by the hard facts. In March the annual starts rate was down to 1.46 million, an incredible 900,000 below the number of housing starts in 1972.

Mr. President, as I see it, there are several factors that continue to undermine any significant recovery in housing starts and sales.

For one thing, there is an unusually large inventory of unsold new homes. At the end of February 1974, the number of new homes up for sale was 459,000. This is almost equal to what the total number of new homes sold throughout 1974 would be at the seasonally adjusted rate of new home sales in February.

The slowdown in new home sales also is due in large part to rising prices for homes. In February, the median price of a new one-family home was about $35,000, 18 percent above the 1973 figures, and far out of the financial reach of most families.

Most important, however, the slowdown in housing continues to be the result of a lack of mortgage funds and rising mortgage interest rates.

Soaring interest rates, scarce mortgage money, and rapidly rising housing prices have combined to put home ownership beyond the reach of most Americans.

As a result of these factors, it is likely that housing starts will total a mere 1.60 million units in 1974.

The Nation cannot afford such an underutilization of its housing industry resources, particularly while we are in recession. Nor can we fail to recognize the tremendous increase in housing requirements during the remainder of this decade. Recent studies project a 33-percent jump in new households established by 1980 and the need for 23 million new housing units by that time.

Congress and the administration must give urgent attention to developing some way of assuring that mortgage money at reasonable interest rates is available to our people. The approach outlined by the administration last week is simply inadequate.

While the solutions are not obvious, we can make progress if we give this problem the attention it deserves. And there are several additional specific steps that the President could take immediately to boost the housing market.

Implement the unused contract authority for the section 235 home ownership program, which would support some 200,000 additional housing units;

Reactive the section 202 loan program for housing for the elderly, which could support the creation of an additional badly needed 25,000 to 30,000 units with authorized funds;

Reallocate authorized rural housing loan funds, so that the Farmers' Home Administration could utilize more of the funds to provide new housing.

Mr. President, I ask unanimous consent that Dr. Schechter's excellent analysis of "The Housing Outlook for 1974" be printed in the Record. Because of its timeliness and outstanding quality, I commend this study highly to the attention of my colleagues.

There being no objection, the analysis was ordered to be printed in the Record, as follows:

The Housing Outlook for 1974

During January and February, easing conditions in financial markets and improved housing starts rates led to optimism. It was hoped that housing construction was on the upswing and would contribute significantly to general economic recovery. At the beginning of March, there was still a large unsold inventory of new houses, however, a sharp upward movement of interest rates occurred in March and April, and March housing starts dropped back to January level. The housing outlook, therefore, has become more pessimistic.

BACKGROUND

There were 2,045,000 private new housing units started in 1973. The 1973 total was about 13 percent or 312,000 units below the 1972 total. The decline consisted of 166,000 non-subsidized units, and 146,000 units under federally subsidized programs.

During the fourth quarter of 1973, the seasonally adjusted starts rate was 1,584,000. During the first quarter of 1974 it was 1,662,000, primarily due to a one-month spurt in February, generally attributed to unusually good weather for that month. The last monthly figure, for March, was 1,460,000.

Several factors have contributed to a declining starts rate since early 1973. Most directly related was a slowdown of new home sales and an increase in the unsold new homes inventory. At the end of February 1974, the number of new homes for sale was 459,000, equivalent to about 11 months of home sales at the February sales rate, seasonally adjusted. A year earlier the comparable monthly inventory was equivalent to 7 months of sales.

Data on market absorption of newly completed nonsubsidized rental units for the fourth quarter of 1973 showed that 75 percent of such units (completed in the third quarter) had been rented within three months, significantly above the comparable year-earlier rate of 69 percent. In subsequent months, a large volume of rental unit completions would come on the market, however, since some 975 thousand multifamily units in structures of 5 or more units were under construction at the end of September, about 150,000 more than a year earlier. The high rate of completions in early 1974 has been reflected in a first quarter national rental housing vacancy rate of 6.2 percent, up from 5.8 percent in the preceding quarter and 5.7 percent in the comparable 1973 quarter.

The slowdown in new home sales is attributable in large part to two more basic factors. One is rising prices. In February the median price of new one-family homes was $34,900, 18 percent above the comparable year-ago figures. Only part of this increase was due to inflation. One measure of the inflationary element is the Census Bureau's price index for new one-family homes sold which are the same in basic characteristics. This index increased 9 percent during the first three quarters of 1973, or about 12 percent on an annual basis. This suggests that one-third of the 18 percent rise in the new one-family home median sales price was due to a higher quality mix of new homes being produced. Such a change in the quality mix would be expected as there was a substantial decrease in new homes being built for sale under the subsidized home ownership programs.

A second factor leading to a slowdown in new home sales was the change in mortgage financing conditions which developed during 1973. There were strong demands for funds from the business sector of the domestic economy and overseas. The Federal Reserve Board exercised a restrictive monetary policy to combat inflation. A high interest rate financial climate developed. The prime rate charged by commercial banks on their best business loans rose from 6 percent at the beginning of the year to a peak of 10 percent by mid-September. Treasury bill rates reached levels of between 8 and 9 percent. One reaction was a slowdown of savings inflows at mortgage lending thrift institutions (the savings and loan associations and mutual savings banks) as household savers invested funds in market securities. In July and August of 1973, the thrift institutions actually suffered a combined net savings outflow of $2.5 billion.

As a consequence of these developments, the supply of mortgage loan funds became short and mortgage interest rates rose. By June, effective interest rates on new home mortgage interest rates were above 7¾ percent, and the maximum FHA and VA mortgage interest rates were raised from 7 to 7¾ percent. The competitive escalation of interest rates continued, however, and in August the FHA and VA mortgage interest rate was raised to 8½ percent in an attempt to keep it competitive in the capital market.

The mortgage situation began to change during the last two months of 1973. Economic growth was slowing significantly and market interest rates began to recede from peak levels. The average secondary market discount on 8½ percent FHA insured mortgages also began to decline in December and January.

THE 1974 HOUSING POLICY AND MORTGAGE MARKET CHANGES

Against the background of events that have been described, Secretary of Housing and Urban Development Lynn on January 21, 1974, announced two immediately effective actions.

The first action was a reduction of the maximum FHA and VA housing mortgage interest rates from 8½ to 8¼ percent.

The second action was a change in the Tandem Plan of the Government National Mortgage Association, or GNMA, with respect to non-subsidized new housing financed with FHA-insured and VA-guaranteed mortgage loans. Under the Tandem Plan, GNMA would issue a commitment to purchase a mortgage at 96, that is at a 4-point discount which the builder has to absorb. The builder has the option of delivering the mortgage to GNMA at the stipulated price after the house has been completed and the mortgage to the homebuyer or owner-developer has been insured by FHA or guaranteed by VA. GNMA will then sell such mortgages, either to FNMA at the prevailing FNMA purchase price, or to private investors at periodic auction sales. If the price obtained by GNMA is lower than 96, that is, entails a discount of more than 4 points, the government, through GNMA, absorbs the additional discount costs.

Important conditions of the newly announced Tandem Plan were that to be eligible under the new program, mortgages must bear an interest rate of 7¾ percent and be for new construction or units started or completed by January 22, 1974 which had never been owner-occupied.

THE CURRENT OUTLOOK

Declining interest rates, increased January and February housing starts rates and the new Tandem Plan had raised hopes that housing construction would "bottom out" during the first quarter, improve thereafter and end up with a 1974 annual starts total equal to or better than 1973. The outlook has again become pessimistic, however, in the last month or two.

After reaching low points in February of this year, interest rates began to move up rapidly. Yields on 3-month Treasury bills and new Aa corporate bonds, which had declined to about 7 percent and 8.2 percent, respectively, in February rose to 8.5 and 9 percent during the first two weeks of April.

Gross yields on mortgages at purchase prices at which FNMA issues four-month commitment prices rose from about 8.4-8.5 percent in early March to about 9 percent in early April. On April 15, the maximum interest rate on FHA-insured and VA-guaranteed mortgages was raised back to 8½ percent from 8¼ percent.

A primary factor in the recent upward movement of the interest rates was a shift by the Federal Reserve Board to a more restrictive monetary policy. As Federal Reserve Board's Chairman Burns has indicated in April statements, a restrictive monetary policy will be maintained in order to counter "double digit" price inflation. The 10.8 percent rate of price inflation during the first quarter of 1974 provides a basis for continuation of the restrictive monetary policy.

At the same time, there has been a strong demand for business loans which caused the prime rate to move up from 8½ percent a few months ago to 10 percent. In the week ending Wednesday, April 17, leading New York banks reported a substantial rise in business loans. On April 25 the Federal Reserve Banks discount rate was raised from 7½ to 8 percent. This was followed by further increases in the prime rate to 11 percent, and some individual banks have gone to a higher rate. Such a high prime rate will tend to sustain high levels of other interest rates.

Federal Home Loan Banks have recently raised the interest rates charged on advances to member savings and loan associations from about 10 percent to about 12 percent.

Preliminary indications, reported by their association, point to large net deposit losses at mutual savings banks in New York City during April and a mixed pattern of savings outflows in some other major savings bank areas. On April 19, the Federal Home Loan Bank Board cited a slowdown in savings inflows to savings and loan association deposits as a reason for abandoning plans to raise liquidity reserve requirements. Adverse effects upon savings inflows may also follow a rise in Treasury bill rates to a record high of over 9 percent.

As a result of these developments, mortgage loan availability can be expected to decline and mortgage interest rates to rise. The first adverse impact would be on sales of existing homes for which there are no outstanding advance financing commitments. This, in turn, would retard new home sales to potential buyers who are existing home owners. A decrease in availability of funds for new home advance commitments and higher mortgage interest rates will directly retard the volume of new starts by builders.

In addition, to the adverse financing developments, the price distribution of an unsold inventory of 459,000 new homes at the end of February is not conducive to a rapid recovery in homebuilding. Price distribution data on homes for sale, as of the end of 1973, showed only 8 percent at under $20,000, another 32 percent in the $20,000 to $29,999 range, 31 percent in the $30,000 to $39,999 range and 29 percent to be sold for $40,000 or more.

To carry homes with 30-year, 8½ percent mortgages of $25,000 or $30,000, monthly payments of $231 and $192, respectively, are required only for principal and interest. If expenditures required for taxes, insurance, maintenance and repair and utilities are added, total monthly housing expenses would be about $347 and $286, respectively. At a 25-percent housing expense-to-income ratio, incomes of about $16,650 and $13,700 would be required. Only families in about the top one-fourth and one-third of the income distribution could afford such homes. Since a high proportion of upper income families are owners of decent homes with mortgages bearing interest rates well below 8½ percent, they will not be ready buyers of new homes.

The Tandem Plan for 7¾ percent mortgages on new homes will probably be helpful and encourage some builders to start new homes in coming months. As homes with such financing come on the market, however, they will make it harder to sell homes from the large unsold inventory of conventionally financed homes being offered with 8 to 9 percent mortgage financing. The retardation of sales and of subsequent new starts by builders who have the unsold inventory will offset some of the new construction that will take place with support of the 7¾ percent mortgage Tandem Plan will be to add far less than the projected 200,000 units under that plan to total housing starts.

Preliminary data for subsidized housing production in the first few months of the year show a continuing decline, reflecting the depletion of a commitments pipeline under the suspended HUD programs. The Farmers Home Administration programs, which are not suspended, are also operating at a very low level of new housing production, with most of the available funds allocated for rehabilitation. Total federally subsidized housing production is producing about 7 to 8 thousand units per month, and probably will not increase seasonally as the commitment pipelines for some of the HUD programs become depleted, and the Farmers Home Administration program is limited as to new construction.

, A revised Section 23 public housing leasing program, intended to spur new construction, is contained in the housing bill already passed by the Senate and in the House version now under consideration. HUD has also been preparing regulations for such a program. It will probably take a few months, however, before such a program can become operative, and new federally supported programs take months to gain momentum as developers have to make plans, arrange financing and obtain HUD approval, as well as—in this instance—local housing authority agreement. Consequently, it is doubtful whether the new program can compensate for the decline in present subsidized housing programs in 1974.

Given the mortgage financing and housing market situation, and assuming that total subsidized housing starts decline only moderately from present levels, it is difficult to see a strong short-term recovery in homebuilding. Although there may be some decline from present high levels of interest rates during the second half, it would only be helpful to housing in the last quarter of the year. Some effects of the new Section 23 program may also be felt in the fourth quarter.

Despite a generally weak short-term housing market outlook, there are underlying factors which will tend to prevent a long continued decline in residential construction. The net increase in the number of households in 12 months ending March 1973 was 1,575,000. Marriage rates for the first 10 months of 1973 were slightly greater than in the comparable 1972 period. They would remain high as a reflection of 3.5 to 4 million births annually in the early fifties. Marriages are by no means the only factor in increases in households, but the figures suggest strong support for a current net annual household formation rate in the neighborhood of 1.5 million. In addition, an estimated 0.7 million housing units are lost from the inventory each year. With allowances for vacancies, migration and second home absorption, there are basic shelter needs for about 2.5 million units, representing strong underlying demand factors.

Bearing in mind the balance of adverse market and favorable demographic factors, the record for the first quarter and the March starts rate of 1,460,000, a reasonable quarterly projection for the year would appear to be as follows:

I. 1,662,000.
II. 1,500,000.
III. 1,600,000.
IV. 1,750,000.

Such a pattern would produce an annual starts total for 1974 of between 1.60 and 1.65 million, representing about a 20 percent decline from 1973.

RESCUING AMERICA'S FAILING RAILROADS

Mr. PERCY. Mr. President, I have long been concerned with the steadily worsening plight of America's railroads. I spoke extensively on the subject during our Senate debate on the Penn-Central financing and have commented as well on the employee ownership plan of the Chicago & North Western Railway. Recently I came across a proposal for restructuring failing railroads prepared by a former member of my staff, John McClaughry, who now heads the Institute for Liberty and Community in Concord, Vt. While I do not necessarily endorse every provision of his proposal, I think it is innovative and worthy of discussion. I thus ask unanimous consent that it be printed in the RECORD.

There being no objection, the proposal was ordered to be printed in the RECORD, as follows:

RESCUING AMERICA'S FAILING RAILROADS

(By John McClaughry)

Since the bankruptcy of the Penn Central railroad in 1970, the question of the future of America's railroad system has been an increasingly prominent public issue. In the Northeast alone, six Class I carriers are in bankruptcy, along with several smaller lines. Proposals for action have come from the Interstate Commerce Commission, the Department of Transportation, the Association of American Railroads, and numerous members of the Congress.

This proposal for rescuing America's failing railroads has these basic objectives:

1. Strengthening and modernizing the nation's rail system, so vital to the economy and to national defense.

2. Preserving the private ownership of railroads and forestalling nationalization.

3. Expanding opportunities for railroad employees to share in the profits and growth of the rail industry.

4. Creating incentives for efficiency and productivity by eliminating artificial obstacles.

5. Protecting employees and low-traffic areas against sudden changes in rail employment or service.

The following proposal would apply to all railroads in bankruptcy as of the operative date, and to all railroads electing to accept its terms as of five years after the operative date. The specific items constitute an inseparable package, and should not be considered as necessarily viable standing alone.

It is proposed:

1. Abolish ICC abandonment jurisdiction, thus permitting railroads to abandon unprofitable branch lines after 120 day notice to shippers and the public. At the same time, however, the ICC could require the railroad to maintain a specified level of essential service on these "surplus" lines on a nonprofit basis (operating costs plus modest allowance for depreciation of fixed plant). The cost of this service would be paid according to an assessment plan presented by those parties petitioning the ICC to require the service on the surplus line, matched 50–50 by the Federal government for the first three years. This procedure would also apply to the abandonment of passenger service. This proposal puts the cost of operating unprofitable lines and service on those who feel such lines should be operated, not on the railroad.

2. Abolish all work rules and craft distinctions which constitute artificial barriers to railroad profitability. This includes crew consist laws, yard crew service limits, yard interchange restrictions, and communications operation pay differentials. The ICC would establish reasonable industry wide rules to protect the actual safety of employees. All operating employees would be classified by proficiency ratings, based on the skills required to perform various tasks. After performing a higher-proficiency task for a specified period, an employee would continue to receive pay at that rate despite subsequent employment at a lower-proficiency task. No employee would receive low-proficiency pay for work at a higher proficiency rating, even for a short period. The safety rules would be fixed for the industry by the ICC, but the classifications of proficiency pay and the rates therefor would be subject to collective bargaining.

3. All employees no longer needed to operate the railroad, allowing for curtailed branch line and passenger service and removal of work rules that inflate employment requirements would be eligible for income protection until retirement age. Those within five years of normal retirement would be placed on early retirement at the expense of the railroad. All others would either be retrained and placed in other suitable jobs at public expense, or offered public service employment, or given lump sum severance pay in lieu of further eligibility. The income protection level would be that as of the date of filing bankruptcy proceedings. Surplus employees would be entitled to earn $10,000 per year above their guaranteed income level without losing any income protection payments. Aside from the five year early retirement benefits, the costs of this income protection program would be met entirely from public funds.

4. In any recapitalization of a bankrupt railroad, railroad employees and retired employees should be given the right of first refusal to acquire the railroad's equity ownership from the previous shareholders at a price deemed fair and reasonable by the bankruptcy court or negotiated among the groups involved. To make sale to such a group more likely, the Federal government should agree to supply one third of the purchase price by buying fixed-dividend, nonvoting preferred stock, with the provision that such stock would be regularly retired by a fixed percentage of future profits.

5. The Federal government should also guarantee stock purchase loans by lending institutions to any employee of the railroad with the common stock of the railroad as collateral. The amount of stock purchased subject to a loan and loan guarantee could

not exceed $20,000, and the guarantee-to-value ratio would range from 90% for employees earning less than $10,000 a year to 10% for employees earning more than $42,000 per year.

6. The reorganized company would be required to install a profit sharing plan, with payment in cash and/or stock, and a payroll deduction stock purchase plan following the initial recapitalization; operate a no-fee company exchange for company stock; and provide a bonus dividend on the first $20,000 par value of stock owned by a railroad employee. The company would also be prohibited from diversifying into nontransportation ventures.

In addition to these proposals, efforts should continue to modernize the haphazard ICC-imposed rate structure and to promote the general deregulation of the transportation industry except for genuine safety matters and perhaps retirement plan protection.

If such a set of proposals were adopted, the railroads of the United States should at once show vital new signs of life; attract new investment capital and railroad-oriented management; achieve new efficiencies in customer service; avoid vast government capital infusions and ultimate nationalization; and once again become businesses to be run for profit through efficient service to the public, instead of enterprises subsisting subject to the whims of politically inspired regulation and pressure from unions for protection of noneconomic practices.

Those employees necessary to the operation of the railroad would be helped to take advantage of a real opportunity to invest in the future of their enterprise and share in its benefits in proportion to its success. Those employees no longer required would be protected in maintaining their standard of living.

And the trend toward increased governmental regulation, control, and ownership of business, so unfortunately and mistakenly championed by many of the railroads themselves in bygone years, would be dramatically reversed.

STETSON UNIVERSITY MODEL SENATE PROGRAM

Mr. HOLLINGS. Mr. President, recently Stetson University in DeLand, Fla., held its annual Model Senate program. It was my pleasure to attend part of this year's session, and I can testify firsthand to what a fine learning experience this is for the students of that distinguished university.

The work that went into the Model Senate—the research on the issues of the day, on parliamentary procedure, and on the views of the individual Senators—was impressive by any standard, and doubly so given all the other pressures and deadlines of busy university life.

One of the resolutions passed by the Model Senate paid tribute to a man with whom we are all very familiar, our learned and distinguished Senate Parliamentarian, Dr. Floyd M. Riddick. Dr. Riddick was in attendance for the Model Senate program, and his presence was one reason why it was such a success. The knowledge that he brought to the Stetson University community, and the willingness to share it and to offer assistance, earned him the immediate respect and admiration of all who participated. The resolution of the Model Senate mirrors the esteem in which Dr. Riddick is held in DeLand—and in which he is always held by his colleagues here in the Senate who are so fortunate in having the benefit of his wise council as we deliberate the questions coming before us.

Mr. President, I ask unanimous consent that the text of the Stetson University Model Senate Resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

Resolved by the Stetson United States Model Senate in Session, That

SECTION 1. Whereas, Dr. Floyd M. Riddick has served as Parliamentarian of the United States since 1965 after serving as Assistant Parliamentarian for thirteen years, and

SEC. 2. Whereas Dr. Riddick holds a Ph. D. from Duke University and has published many articles as well as four books on Congress, and

SEC. 3. Whereas Dr. Riddick is a well known scholar and educator and is the foremost expert on Senate Procedures.

Be it resolved, That the Model Senate of Stetson University as well as the Senators of the Third Session, express the utmost gratitude of those present. We declare that The Twenty-Eighth day of April, Nineteen Hundred Seventy Four, as Dr. Floyd M. Riddick Day.

NATIONAL PUBLIC RADIO'S THIRD ANNIVERSARY MAY 3

Mr. BROCK. National Public Radio, now celebrating its third anniversary, has just recently inaugurated a unique reporting service. The network is feeding to its member stations across the country a daily "Report on the Arts." Where Americans have long grown accustomed to ample radio news and sports spots, there is now a place for daily coverage of what is happening in the arts. And that place is public radio.

The Tennessee Arts Commission is among many State commissions and art supporters around the country who are well aware of the significance of NPR's art reports. In a letter to Mr. Charles C. Mark, host of public radio's "Report on the Arts," Mr. Norman Worrell, executive director of the Tennessee Arts Commission, wrote that—

> The survival and expansion of the arts is dependent upon an informed citizenry. Your daily report on the arts is helping make this possible.

This service offered by NPR is partially funded by a grant from the National Endowment for the Arts.

In similar efforts, NPR also provides its member stations each week with approximately 15 short art features on a variety of topics from book discussions to musical portraits to cameo studies of artists to reviews and critiques of films, architecture, and music. A good part of the material distributed through the system comes from member stations such as ours in Tennessee.

Tennessee has six stations which are members of the National Public Radio network. Two stations are connected with State universities, one with a denominational college, one is licensed to a private nonprofit corporation and the other to a public library. They are located around the State, and each is responsive to the community it serves. I believe Tennessee is a good example of the diversity of public radio stations. But one factor which unifies the stations is their common membership in the NPR interconnected system. Tennessee public radio stations contribute to nationwide programing, and they draw from a large variety of network programing.

Public stations are often active in their communities, providing services unavailable elsewhere. In Nashville WPLN–FM provides live broadcast of local concerts bringing an artistic performance into homes throughout the community as the event happens. In some parts of the country, public radio stations broadcast city council meetings or local sports events. In Florida, five public stations are now in the process of providing 1½ hours each weeknight of reports, actualities, and documentaries on the activities of the Florida State Legislature. The stations are using the NPR interconnected system for the distribution of the programing. This is public radio in action.

There are many examples of live or live-on-tape programing bringing important events to the people, and I think it is significant to note that such events often could only be done by noncommercial media. People in Tennessee were able to hear 3 days of live broadcasting from the Ann Arbor Blues and Jazz Festival in Michigan last fall. Live jazz, blues, and folk festivals as well as classical concerts taking place all over the country provide weekly programing content from NPR. Through these festivals, which often resound with local color, the South meets the North, the West the East, in a sharing of the American adventure into art and music.

I am proud of the strength of public radio in Tennessee and in the South, and I commend the NPR interconnected system for its effectiveness in production and distribution of unique programing.

FILING FINANCIAL DISCLOSURES AND OTHER STATEMENTS

Mr. CANNON. Mr. President, the attention of all Senators, employees of the Senate whose salary was paid by the Senate in excess of $15,000 a year, and all employees who engage in outside employment is invited to the disclosure requirements of Senate Rules 44 and 41.

The disclosure statements must be filed with the Secretary of the Senate and the Comptroller General, respectively, prior to May 15. Thus, these statements must be filed by midnight tomorrow.

Statements of personal service activity or employment should be made by employees to advisory Senators on May 15, itself.

Inquiries may be addressed to the Committee on Standards and Conduct at its office in room 1417 or on telephone extension 52981.

NATIONAL HISTORIC PRESERVATION WEEK—PART V

Mr. BEALL. Mr. President, during the past few days, I have discussed various approaches the Congress and the Federal Government could take to stimulate the preservation of our historic heritage. I have thoroughly discussed the merits of the Historic Structures Tax Act (S. 2347) which I introduced last August. This legislation has now been cosponsored by 13 of my colleagues who represent both political parties and a wide range of political philosophies. As I demonstrated in part III of this series, S. 2347 has received the support of numerous national organizations whose goals are to promote the cause of historic preservation. In addition, I introduced a series of letters into the Record representing the views of various State and local officials relative to this matter. It is interesting to note that these endorsements came from officials representing urban, suburban, and rural subdivisions throughout Maryland. These responses also covered the whole range of governmental agencies: education, planning, zoning, housing, recreation and parks, and so forth.

Part IV addressed itself to the reactions of Federal officials, including the *President, to* the growing movement for historic preservation. I do not want to belabor the point, Mr. President, but I do believe that this is an idea whose time has come. The approach of the Bicentennial celebration; the environmental movement; and the growing realization that we must conserve, recycle, and preserve all of our resources has helped to alert Americans to the pending change in our lifestyle.

In introducing S. 2347 and its companion bill, S. 3184—a bill to amend the Internal Revenue Code of 1954 to provide a Bicentennial celebration contribution *tax credit for* small donations to officially sanctioned Federal, State, and local Bicentennial projects—I was looking to the long-range impact the historic preservation movement could have on our Nation. I personally believe that a knowledge of and respect for our Nation's history is vital to maintaining our sense of national unity. On the eve of our Nation's Bicentennial celebration, we find our Nation deeply divided and troubled by internal dissension. Now more than ever we need to strengthen the bonds which unite all Americans, which maintain our esprit de corps as a nation, and which will enable us to weather our current adversity as we have done so often in the past.

One of the great unifying elements in this Nation is our common historical experience. Since 1776, our Nation has demonstrated its ability to endure the rigors of a Valley Forge, the invasions of 1812, a bloody civil war, the First World War, the Great Depression, World War II, Korea, Vietnam, and the sometimes oppressive burden of world leadership which has devolved onto us since 1945.

A heightened awareness of and appreciation for our historical heritage will strengthen our sense of national unity and purpose, preserve our history, reinvigorate our communities, and hopefully help to protect our environment. We can do this by constructively utilizing our Federal tax system so as to encourage the long range and highly desirable socioeconomic and environmental goals which we as a Congress have set for our Nation.

Mr. President, if we are to preserve historic sites we must go beyond the current Federal, State, and local programs designed to preserve our Nation's past. At the rate we are going a very large number of historically significant structures are being destroyed for the sake of modernization. Approximately 25 percent of the buildings recorded by the Historic American Buildings Survey of 1933 have since been destroyed. Our tax system does not favor the restoration and rehabilitation of such buildings, especially those that are privately owned. The incentive, as it currently exists in our Federal tax structure, actually encourages the demolition rather than the retention of older structures. This produces increasingly less diversity in our urban centers, destroys buildings of historical significance, and I believe makes our cities increasingly less pleasant and desirable places in which to live.

Last year, I had the opportunity to visit Brussels as a member of the Senate Commerce Committee. It is almost impossible to visit the Belgian capital without seeing "The Grand' Place." This medieval town square contains the Hotel De Ville (town hall), a ducal palace (the Dukes of Brabant) and various guild halls. Although the buildings of this square date largely from the 15th century "The Grand' Place" has not been converted into a sterile museum. It remains instead a living, vital part of a great modern city. Shops and restaurants and other places of business continue to occupy these historic structures and the town square is almost always full of people, not just tourists, which attest to the vitality of this living monument.

Because of the shortness of our national history, I believe it is doubly important for us to protect, preserve, and restore those sites that have historical significance. But it is not enough for us to preserve our history in remote battlefield monuments and sterile museums which are primarily utilized by history buffs and scholars. If the truisms of our history are going to have an impact on our Nation in the last quarter of the 20th century, we must make them an integral part of our lives today, teach them accurately and in detail in our schools, and adhere to the principles they teach us in our daily lives.

Mr. President, our Nation is held together by the commonality of our historical experiences and the consciousness of our national unity. Queen Elizabeth II can trace her family line, as the rulers of Britian, back for a thousand years. The Chinese, the Egyptians, and others can trace their national origins back for thousands of years; but the common historical experiences of the United States are of relatively recent origin. We are truly a nation of immigrants and our 210 million people comprise a varied mixture of racial, religious, and cultural backgrounds.

I believe that a knowledge of and respect for our Nation's history, and the principles it teaches us, is vital to strengthening the bonds which united all Americans and it will enable us to weather our current adversity as we have done so often in the past.

Mr. President, several articles have recently appeared with regard to historic preservation projects in the State of Maryland. I ask unanimous consent that an article entitled "Maryland Celebrates Historic Preservation Week" which appeared in the May 3, 1974 edition of the Daily Record; another entitled "On Saving Historic Sites" which appeared in the May 8, 1974 edition of the Prince Georges County Sentinel; and one entitled "Cecil County Preservation Efforts Applauded" which was printed in the April 1974 edition of S.W.A.P., the publication of the Maryland Historical Trust be printed in the Record at the conclusion of my remarks.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Maryland Celebrates Historic Preservation Week

May 6 through 12 has been proclaimed Maryland Historic Preservation Week by Gov. Marvin Mandel. For the first time in the state's history, a week has been set aside to call attention to thousands of historic sites in the state and the importance of preserving them for future generations. The Maryland Historical Trust, an agency of the Department of Economic and Community Development, and its local committees are sponsoring this week-long program to encourage historic preservation throughout the state. Maryland Historic Preservation Week will officially begin with ceremonies on Monday, May 6, on the grounds of the State House in Annapolis.

The preservation of Maryland's historic resources is a comparatively recent concern. In answer to a popularly recognized need, the Maryland Historical Trust was created in 1961 by the General Assembly to foster preservation throughout the state. The Trust is currently involved in the recognition and preservation of Maryland's historic resources through survey, local assistance, architectural easements, acquisition of property and education. The Trust administers the National Register of Historic Places program of the U.S. Department of the Interior for the State of Maryland.

Maryland's preservation philosophy encompasses far more than simply saving old mansions and turning them into museums. Primary emphasis is placed on adapting the state's historic sites to modern uses that will be an economic advantage. The 212 Maryland properties now included in the National Register enjoy the protection provided by their inclusion on the federal list. Maryland has thousands of properties of great historical importance which are threatened with destruction. They could be preserved, as a number have been, and put to sound economic use in either the private or public sectors.

In Baltimore City, Baltimore and Ohio Railroad's renowned Mount Royal Station when no longer feasible for passenger use was adapted by the Maryland Institute for use as an annex to its art school.

In St. Mary's County, an eighteenth century home was converted into the county library when it was threatened by demolition.

The Indian Queen Tavern in Charlestown, Cecil County, was restored to its appearance as an eighteenth century inn and transformed into a comfortable home.

In Annapolis, the Gov. William Paca House and Garden are presently being restored for use as a retreat for the U.S. State Department.

On the Eastern Shore imaginative investors turned an eighteenth century granary with its waterfront setting into a restaurant.

The first police headquarters and jail in

Cumberland, the Bell Tower, is being adapted for use as professional offices.

Numerous other projects are now being considered which would incorporate a historic structure into modern use thus retaining the aesthetic and taxable value of such structures.

The Baltimore City Committee of the Maryland Historical Trust is a half-way house between the professionally staffed, state wide organization of the Maryland Historical Trust and the many active City oriented groups such as the Baltimore City Commission for Historical and Architectural Preservation, Baltimore Heritage, Inc. and The Victorian Society. In addition, in Baltimore there exist vigorous and vocal neighborhood organizations for Fells Point, Federal Hill, Seton Hill, Union Square, Bolton Hill and Dickeyville, to name only a few.

The Baltimore City Committee tries to bring together among its members representatives of as broad a spectrum of these many City organizations as possible. From these the committee learns of immediate preservation problems and can help coordinate City wide preservation goals. From the trust's staff, the committee members learn of state and Federal tools such a grants-in-aid, the uses of covenants and revolving funds. It also learns from the example of the other county committees across the state how others are fighting the same problems we find here in Baltimore.

The committee is referred to as a "blue ribbon committee" composed as it is of eminent professional men and women who are recognized as among the most knowledgeable about Baltimore's history and most concerned about the future of the City's historic structures, streetscapes, public squares and other open spaces.

The Baltimore City Committee of the Maryland Historical Trust is scarcely a year old. It has passed its organizational phase and now expects to assume an active, energetic role in the City-wide efforts to ensure that future generations can enjoy Baltimore's historic buildings and amenities of life.

[From the Prince Georges County (Md.) Sentinel, May 8, 1974]

On Saving Historic Sites

(By Mrs. Byron P. Warren)

Mrs. Warren is chairman of the Prince George's County Committee of the Maryland Historical Trust.

Many Prince George's Countians have read or heard about, or perhaps witnessed the destruction of ancient or noteworthy architectural gems—structures that possessed inimitable or unique attributes that would have fully warranted their retention.

The more thoughtful have probably wondered just what we as individuals could do to slow down, or better yet, stop dead in its tracks, this waste of irreplaceable examples of handiwork from previous eras. And so, coincidental to calling attention to the fact that May 6–12, is National as well as Maryland Historic Preservation Week, the following paragraphs will point out concrete ways in which everyone can help preserve our heritage.

The Prince George's County Committee of the Maryland Historical Trust is made up of 15 preservation-minded people from all sections of the county. And our County Committee is joining hands with similar committees in the other 22 counties of Maryland in alerting our citizenry to the fact that the Free State has an energetic, efficient, and knowledgeable agency in Annapolis that is constantly striving to identify, protect, and preserve the best of our historic buildings and sites. This agency, which is the parent group of the 23 county committees, is known as the Maryland Historical Trust.

Our own Prince George's County Committee, in order not to scatter its shots or dilute its energies, is currently focusing its attention on two highly worthwhile restoration projects already underway in the County. One is the Mary Surratt House in Clinton, an old tavern closely associated with the death of President Lincoln, not only because the murderer, John Wilkes Booth, stopped there after his "One Mad Act" at Ford's Theater, but also because it was owned by the unfortunate Mrs. Surratt who was put to death (some think unjustly) for complicity in the crime. The other project is the George Washington Inn that continues to stand so forlornly but in such great dignity on Rte. 1 at Bladensburg near the Peace Cross. The time will come, and soon, when appeals will go out to Prince Georgeans to provide authentic period furnishings for those two restored structures.

But to restate the question that has already been asked—is it possible for a single individual to do anything that would cause the wheels to turn faster and smoother in the machinery that has been set up to save our threatened landmarks? And the answer is emphatically, "yes!" Initially, any Prince Georgean can lend assistance to the overall effort by joining the County Historical Society that meets once a month, on a Saturday afternoon, at Montpelier Mansion near Laurel. To obtain an application blank and a statement as to membership dues, one may address a post card to Paul T. Lanham, Membership Committee Chairman, Box 371–1, Huntingtown, Md. 20639.

If one is already a member of the society, he can easily ally himself with one or more of the other effective groups, such as the remarkable cluster of stalwarts in our capital city who are trying and, on balance, succeeding, in keeping colonial Annapolis from being defaced by high-risers, aluminum and glass store fronts, and modernistic lighting. The address of this Association, which goes by the name of Historic Annapolis, is 18 Pinkney Street, Zip Code 21401.

So far as our national capital is concerned, an aggressive outfit aptly termed "Don't Tear It Down," may be communicated with at P.O. Box 14043, Ben Franklin Station, Washington, D.C. 20044.

And then, finally, there is the incomparable National Trust for Historic Preservation, with headquarters in the Decatur House (catercornered across from the White House), 740 Jackson Place, N.W., Washington, 20006, whose concern encompasses the entire nation whose clout is strong enough to be felt in the most appropriate circles and places.

Here's a bit of food for thought: 120 years ago, in 1853 developers wanted to convert Mount Vernon into a holiday resort!

[From SWAP, April 1974]

Cecil County Preservation Efforts Applauded

(By Nancy Miller)

South Chesapeake City has escaped the notice of preservationists and most Marylanders for a century. The town was founded in the 1830's at the western terminus of the Chesapeake and Delaware Canal, one of the nation's early lock canals. The town grew because of the commerce generated from loading and unloading barges at the locks. Then in 1919 the United States Army Corps of Engineers purchased the entire canal and removed the locks. The town is so unchanged (except for the construction of Md. 213 bridge over the canal) that a 1870's map presents virtually as accurate a picture of the area today as it did when it was published.

This historic district remained unnoticed until just last year. A non-local syndicate recognized the potential of this community's waterfront location and proposed the construction of a large-scale marina. An asphalt parking lot was to replace at least one of the town's historic structures.

Meanwhile Cecil countians, led by the Reverend James O. Reynolds, Cecil County Committee of the Maryland Historical Trust, decided to preserve South Chesapeake City. The Reverend Reynolds prepared an outstanding National Register Nomination Form for an historic district which was forwarded to the Maryland Historical Trust with photographs. The nomination of the district received approval from the Governor's Consulting Committee. Pending the completion of unexpected technical requirements for the National Register staff, the district will probably be entered on the Register.

Not content with National Register designation, the town government has enacted historic area zoning providing the best protection currently available for a group of historic buildings. The local historic district commission is fortunate to have as a volunteer consultant a former head of the New Castle County (Delaware) government who is also an architect.

The parking lot-marina threat was halted by a group interested enough in the town to buy the property the syndicate was considering. The historic structure on the proposed parking lot, the Masonic Hall, is now the property of the civic association and will be restored for adaptive use.

In less than a year a small group of preservationists have turned around the future of South Chesapeake City. Its historic character is becoming its greatest commercial asset. Through restoration and citizen interest, South Chesapeake City is headed for a revival.

All preservationists have a lesson to learn from South Chesapeake City. Preservation is possible and potentially lucrative. Success is *not* predicated on the government's pocketbook. Individual initiative can and will make the difference if individuals are concerned enough to put their words into action.

MEDAL OF HONOR SOCIETY VISITS SOUTH CAROLINA

Mr. HOLLINGS. Mr. President, recently the Congressional Medal of Honor Society came to South Carolina to pay homage to one of our State's most famous sons. The society held its annual national patriot's award banquet in Columbia on May 4—the first time it has ever held this annual meeting outside New York City.

In coming to South Carolina, the Medal of Honor Society did our State great honor. Furthermore, the society bestowed the net proceeds from its banquet upon the Citadel, the military college of South Carolina. For this, we are also grateful.

This year's national patriot's award was presented to my senior colleague in the U.S. Senate, the Honorable Strom Thurmond. It is a well-deserved award, because over his years of public service, Strom Thurmond has worked long and hard to keep American patriotism flourishing. The distinguished senior Senator from South Carolina has been second to no man in his determination to keep America safe and secure, and in his efforts to promote appreciation for the freedom which took America to greatness.

On the day of the patriot's award banquet, the Columbia Record printed a timely and moving editorial on the meaning of patriotism and on the need to rekindle the fires of devotion to country. This editorial gives good insight into what the Congressional Medal of Honor Society is laboring so hard to build. It is a column which deserves a wide audience.

South Carolina has within its borders six living recipients of the Congressional Medal of Honor. We are proud of those men—proud of what they did to receive the honor initially—and proud of what they continue to do to keep duty, honor, and country guidelines to action rather than just words of hollow rhetoric. For in the last analysis, freedom and patriotism are what America is all about. And if it is to continue its greatness, it will be because of that freedom and because of that devotion to country which the Medal of Honor Society reflects.

Mr. President, I ask unanimous consent that there be printed in the Record a concurrent resolution of the general assembly of the State of South Carolina thanking the Congressional Medal of Honor Society for the honor it did Senator Thurmond and for the gift it made to the Citadel. In addition, I ask unanimous consent that the editorial from the Columbia Record which I cited above also be printed in the Record.

There being no objection, the concurrent resolution and editorial were ordered to be printed in the Record, as follows:

H. 3024 Introduced by the Medical, Military, Public and Municipal Affairs Committee.

A Concurrent Resolution

Resolution extending the appreciation and hospitality of the State of South Carolina to the Congressional Medal of Honor Society of the United States on the occasion of its annual National Patriots Award banquet to be held at Columbia, South Carolina, on May 4, 1974

Whereas, the Congressional Medal of Honor Society is composed of 299 living recipients of the Nation's highest award for valor, the Congressional Medal of Honor; and

Whereas, the State of South Carolina is proud to note that 6 of the living recipients of the Congressional Medal of Honor are residents of this State; and

Whereas, the Congressional Medal of Honor Society annually hosts a banquet at which the Society presents the National Patriots Award to an American who best exemplifies the spirit of Americanism, patriotism and devotion to our Nation; and

Whereas, the National Patriots Award Banquet for 1974 will be held at Columbia, South Carolina, on May 4, 1974, being the first such banquet held outside the City of New York; and

Whereas, the recipient of the award to be presented at the 1974 banquet is the Honorable Strom Thurmond, Senior Senator from South Carolina; and

Whereas, the Society presents the net proceeds of its annual banquet to an American college or university of its choice; and

Whereas, the net proceeds of the 1974 banquet will be presented to the Citadel, the Military College of South Carolina. Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

That the General Assembly, on behalf of the people of this State, hereby expresses its appreciation to the Congressional Medal of Honor Society for the high award to be presented to one of its outstanding native sons, the Honorable Strom Thurmond, Senior Senator from South Carolina, and for the monetary gift to be presented to the Citadel, the Military College of South Carolina.

Be it further resolved that the General Assembly, on behalf of the people of this State, hereby expresses its pleasure that the annual National Patriots Award Banquet for 1974 will be held in this State, and hereby extends to the members and guests of the Congressional Medal of Honor Society the hospitality of the State of South Carolina and all of its citizens.

Medals of Honor

Is there anything worth dying for anymore? Anything? Country? Religion? An idea of ideas?

Sometimes you wonder, amidst the current malaise in this enduring nation of free men. Nowadays, often, you wonder whether some people can even find something worth living for.

Not always has it been so. Thank goodness. Else this most wonderful country, our United States, could not and would not have emerged from a troubled infancy and struggled along into our decades of growing maturity.

As a babe among some of the older countries of our interdependent globe, we had men who were willing to die for something. These men declared some "self-evident truths," among them that all men are created equal; that they are endowed by their Creator with inherent and inalienable rights; that among these are life, liberty and the pursuit of happiness.

For these truths, and for their declaration, these men were prepared to die. "For the support of this declaration (of independence), we mutually pledge to each other our lives, our fortunes and our sacred honor."

Our lives. Pledged. Ready to forsake.

Among us in Columbia today are a group of men, recipients of the highest award for valor this nation can bestow—The Congressional Medal of Honor. There are 287 living recipients.

Tonight, they honor South Carolina generally and U.S. Senator Strom Thurmond particularly as they give to the Senator the society's 1974 Patriot's Award.

These men have recognized, by their deeds, that men who are unwilling to defend freedom do not deserve freedom. They also know that for our emergent democracy to persist, there must also persist the kind of people who established it, with their mutually pledged lives.

Men who wear the Congressional Medal, and those who preceded them, know that sacrifices have been made for liberty and sacrifices—of varying sorts—are still demanded.

Liberty is a glittering jewel beyond price and the thieves of depraved humankind are always present, eager to rob individuals of that gem.

The thieves are with us always. And free people who cherish their independence, their rights espoused in a Declaration, a Bill of Rights, a Constitution recognize that the right of sacrifice is reserved to all people.

Is there anything worth dying for? Living for? We think so. The United States, with all that its self-sacrificial history means and will mean as we fulfill, each to the other, the bold pledges of distant years.

FAMINE STALKS ABROAD

Mr. HUMPHREY. Mr. President, the May 13 issue of Time included a compelling article on world hunger, entitled "Famine Casts Its Grim Global Shadow."

The article outlines the bleak hunger picture at the world's equatorial belt. Central Africa has been particularly hard hit by severe drought and spot flooding. There has been a strong response to the emergency with an estimated 1 million Africans having already been saved from starvation.

The world is groping for the answer to this crisis. Some experts believe that weather patterns have changed, thereby increasing the problems of food production.

Mr. President, it is clear that we need to face up to these serious developments. I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Famine Casts Its Grim Global Shadow

Girdling the world at its equatorial bulge is a belt of hunger. Above it live the 1.4 billion inhabitants of the northern developed nations whose advanced industry and agriculture permit them the luxury of worrying about reducing diets instead of diet deficiencies. Below it are the potentially prosperous lands of the Southern Hemisphere's temperate zone. Along the belt live many of the 2.5 billion citizens of the underdeveloped world, nearly all of them ill-fed: at least 60% are malnourished, and 20% more are starving.

Today, famine is rampant in Ethiopia, the African nations of the Sahel (Chad, Mali, Mauritania, Niger, Senegal and Upper Volta), Gambia and in areas of Tanzania and Kenya. Near famine also plagues Bolivia, Syria, Yemen and Nigeria. One poor harvest could bring massive hunger to India, the Sudan, Guyana, Somalia, Guinea and Zaïre. In two dozen other nations, the populace faces chronic food shortages. Among them: Bangladesh, Iran, Indonesia, the Philippines and Haiti.

BOUNTIFUL DAYS

Gone are the bountiful days of the 1960s, when the United Nations' Food and Agriculture Organization worried about how to dispose of a glut of food, and the U.S. Government paid its farmers not to plant crops. Now the world's food reserves are at their lowest since World War II, amounting to a mere 27 days of consumption. "We're just keeping our heads above water," observes FAO Official John Mollett. "But the margin of safety is decreasing. One big crop failure anywhere and it could be every country for itself." For most countries in the hunger belt, that could mean mass starvation.

In the Sahel, that time has already come. For the past six years, the 25 million farmers and nomads fatalistically accepted each dry season, expecting that rains would soon follow. They never did. Crops withered, grazing land turned barren, and lakes and wells dried up. Many Africans became so hungry that they ate their breeding cattle and seed grain, thus condemning themselves to total dependence on outside help. Unless they receive aid, they will be unable to plant new crops or raise new herds even if the rains do come. The Sahel's flat savannas, which once supported the blue- and black-robed Taureg and Fulani warriors, are now empty, save for the thousands of reddish brown mounds that mark the graves of those who starved. At least 100,000 have died.

Shantytown refugee camps have risen like festering sores throughout the region, providing the barest relief to half a million people. Their individual monthly ration is only 26 lbs. of flour and 4.4 lbs. of dried milk, the nutritional equivalent of about one-third of the average American's diet. In their weakened condition, disease has spread quickly. Typhus, dysentery, measles and gastroenteritis are rampant. At the teeming Lazaret camp near Niamey, Niger's capital, cholera threatens the 15,000 refugees. In Chad, some emaciated nomads begged a U.N. official not to send them medicines, pleading that death from diphtheria was quicker and hence easier than the slower death from starvation.

The drought has claimed an equally grim toll in parts of Ethiopia. Provincial bureaucrats kept the horrific dimensions of the catastrophe secret from Addis Ababa, fearing that bad news would anger and embarrass Emperor Haile Selassie and perhaps lead to their own dismissal. Finally, last spring, the number of deaths grew so great that the bureaucrats had to admit their existence and ask for international aid. At first the drought seemed confined to eastern Ethiopia. But a new government survey uncovered big pockets of famine to the south and southeast of the capital. In Bale province alone an estimated 27,000 cattle, 25,000 sheep and goats and 500 camels have died. This study only hints at the true extent of Ethiopia's problems. Remarked an Ethiopian relief worker: "The farther east you go, the worse it gets." Ethiopian deaths are estimated at 100,000, but no one knows definitely because there are no reliable population records.

Drought is not the only enemy. Rain can be just as devastating. When the spring rains came to Ethiopia this March, they broke all known records. Ten inches fell in some sections in three days (compared with one-tenth inch last spring). The torrents washed away vital crops and thousands of tons of top soil. In Wallo province, worst hit by the famine, the deluge swept away villages and roads, overturned supply trucks and dangerously delayed relief efforts.

CONSPICUOUS ABSENCE

An emergency worldwide aid program was launched last year and has already saved more than 1 million Africans from starvation. Private and national agencies, coordinated by the FAO, delivered about 518,000 tons of grain to the Sahel and Ethiopia. This year 770,000 tons have been pledged, nearly half of it by the U.S. and significant amounts by the Common Market. Canada, the Soviet Union, Sweden and China. Conspicuously absent from the ranks of the generous are the newly rich Middle East oil exporters. So far they have contributed less than 1% of the total aid.

Though the aid has been lifesaving, it has not been as effectively used as it could be. Inefficiency and corruption of local bureaucrats have slowed the distribution of the emergency supplies. In Mali and Niger, officials have diverted some of the donated grain to commercial channels for sale at enormous profits. Much of the donated food remains heaped high on the docks where it is prey to rats, locusts and thieves. The major problem, however, is logistics. U.N. Secretary-General Kurt Waldheim, after inspecting the famine areas in February, reported: I saw piles of foodstuffs in the capitals of the drought-stricken countries, but the governments told me they cannot ship it to the areas most afflicted. Because of the lack of roads—it is just sand, everywhere you look you have sand—after a relatively short time, the trucks are not usable any more."

DONKEY CARAVANS

With almost all of the drought area far away from the few railways, navigable rivers and paved roads, relief trucks have had to crawl along sand and dirt paths in desert heat. In Ethiopia, some of the neediest areas are so deep in the countryside that only caravans of donkeys and camels have been able to reach them.

The weather is a continuing threat. Rains, if they come at all this year, are due to arrive in mid-June. They could transform the dusty Sahel into a muddy bog, making vehicle traffic impossible. FAO officials had hoped that most of this year's aid would be prepositioned in remote regions by June. Red tape and a lack of urgency by the donor countries made shipments late. Most of the grains should have arrived at African ports by March, but only 266,000 tons had been received by April. An additional 170,500 tons arrived last month, and 333,000 tons are still due. Even without local inefficiencies, it now will be difficult to get the food into the needy areas before the rains.

When the world first discovered the dimensions of the crisis last year, there was no time to truck in most of the supplies. The FAO mobilized an airlift costing more than $30 million or nearly half of what the food was worth. Now FAO chiefs fear that an airlift may again be needed. But increased fuel prices could double the cost of the operation, a cost that the FAO may find the donors unwilling to underwrite.

Even if this year's relief effort forestalls mass starvation, the long-term outlook for Africa's hunger belt is at best grim. A ministerial-level committee of the Sahelian nations is seeking foreign grants of $700 million to fund 126 long-range projects, such as dams, reforestation, transport networks and rebuilding of decimated herds. But the only certain means of guaranteeing that the present catastrophe will not repeat itself lies with population control rather than with food supplies.

Every day the world's population jumps 200,000 persons—or some 75 million per year. By the end of the century, it could total 7 billion—up from the present 4 billion. To feed these new mouths, the world must produce an additional 30 million tons of food each year—an increase of at least 2.5%—just to maintain present per capita consumption levels. For the developing countries, that is like walking on a treadmill. Although the African nations in the hunger belt have boosted their food production 22% since the early 1960s, per capita consumption has actually fallen 5% because of increased population. By contrast, Americans during the same period went from eating 118% of their basic energy requirements (in terms of protein) to 123%. Soviets and East Europeans from 116% to 126%, and China from 86% to 100%.

The lines on the Malthusian chart are ominous, if the present birthrate continues, someday—perhaps as early as 2025—there will be more people than the earth can feed, given its present technology. Photos by earth satellites reveal that the world's most productive land is already cultivated, convenient water sources already tapped and nearly all grazing capacity already in use. Marine biologists worry that the sea, once regarded as a nearly unlimited source of cheap protein, has been over-fished. To bring marginal farmland into use round the world would require a massive investment beyond the means of the underdeveloped nations and probably beyond the generosity or administrative cooperation of the developed nations.

The "Green Revolution," which only a few years ago brought hope of agricultural self-sufficiency to India and other countries of Asia, has already lost much of its promise. The increase in oil prices has nearly trebled the cost of nitrogen fertilizers and of fuel for irrigation pumps upon which the crops of high-yield rice and wheat rely. Hundreds of thousands of Asia's small farmers who once enthusiastically sowed their fields with the Green Revolution's hybrid strains are now reverting to more traditional methods of cultivation. The harvests are smaller but much less dependent on fertilizers, pesticides and irrigation.

ONE MEAGER MEAL

India, which had been one of the major success stories of the Green Revolution, is now seeking commodity aid from the U.S. because inadequate rains coupled with fertilizer shortages reduced recent harvests. With perhaps half of its 600 million people living at or below the subsistence level—eating no more than one meager meal daily—even a slight drop in food production can have an enormous impact. If drought returns to India this year, tens of millions of lives will be threatened.

Some climatologists believe that the earth is experiencing a basic change in its weather, which could cause prolonged droughts throughout the hunger belt. About ten years ago, scientists began noting that the high-altitude winds that ring the North Pole have shifted south, changing weather patterns throughout the world. Part of India's monsoon rains are now dropping uselessly into the ocean. In the past six years, the Sahara has expanded 100 miles southward in some places. Scientists are baffled by the phenomenon, but some suspect it may be caused by sun spots or increased carbon dioxide and dust in the atmosphere, or a combination of both.

If vast parts of the globe are actually doomed to such drastic weather changes, then the outlook is bleak indeed. Political unrest and even civil wars will become more likely as whole countries go hungry. In the past year, discontent spurred by food shortages contributed to the sudden changes of government in Niger and Thailand, and it threatens the reign of Haile Selassie in Ethiopia.

Only long-range multinational planning can cope with the problem. For example, there could be a United Nations-sponsored international birth control program, an expansion of fertilizer production, and the storing of adequate food reserves as a buffer against periodic poor harvests. Members of the United Nations hope to consider those proposals when they gather in Bucharest during August for a conference on population, and in Rome in November for a conference on food. Their task is formidable. Between now and the time they begin their deliberations, the world's population will have increased by 30 million.

RESTRAINING THE GIANT—BUDGET REFORM

Mr. PERCY. Mr. President, the recent flourish of events which we have come to know as Watergate have made elected officials as well as the citizens whom they represent acutely aware of the need to reestablish the balance of power among the various branches of our Government as originally provided for in our Constitution. We have witnessed the consequences of allowing one branch—the executive—to become too much an independent agent, free to act and determine national policy in some cases without the consent or even the knowledge of Congress.

In an article which appeared in the New York Times, Sunday, May 5, Mr. Tom Wicker writes about some of the legislative measures presently pending in Congress which if enacted will restore to the Congress some of its lost powers. Mr. Wicker in his inimitable and eloquent style relates the urgency of congressional action on these legislative proposals so as to insure "a system of checks and balances against abuse of the inevitable power of the Chief Executive of one of the world's most powerful nations."

Mr. Wicker notes that my distinguished colleague, Senator Javits, was instrumental in developing the first essential step toward reestablishing the constitutional responsibilities of Congress in the War Powers Act.

"But if Congress really wants to regain anything like equal status with the

Presidency," Mr. Wicker concludes, "the first order of business ought to be the Budget Reform Act. In the fight against inflation, as well as in the effort to restore balanced government in America, no single reform is more important."

Mr. President, I cannot agree more.

I ask unanimous consent to have printed in the R53*84 Mr. Wicker's article entitled "Restraining the Giant."

There being no objection, the article was ordered to be printed in the Record, as follows:

Restraining the Giant

(By Tom Wicker)

Watergate, Senator Jacob Javits of New York said the other day, was "a symptom of political decadence" predictable by Lord Acton's dictum that "power tends to corrupt and absolute power corrupts absolutely." The power of the American Presidency is not absolute but it is great, and too nearly unchecked, and it has greatly corrupted the office. As Mr. Javits put it, "The death and maiming of tens of thousands of our young in Vietnam, the Watergate scandals and the shadow of impeachment are expressions of an almost grotesque imbalance of power." (He might have added "the deaths of hundreds of thosuands of their young and old.")

What is to he also about that "grotesque imbalance of power" now residing in the Presidency? The departure of Richard Nixon from that office, however it occurs, will not restore the balance; nor can any election guarantee that the victor will not succumb to the temptations of power in ways more dangerous than any yet seen.

In this context, even impeachment punishes transgression, and that is better than letting it go unpunished. But the problem is how to prevent the transgression—how to provide a system of checks and balances against abuse of the inevitable power of the chief executive of one of the world's most powerful nations.

Mr. Javits was instrumental in development of an essential first step already taken—passage over Mr. Nixon's veto of the War Powers Act, limiting Presidential ability to commit troops abroad by executive action. Now Mr. Javits has proposed a package of further reforms, the most notable of which is as follows:

Congress would require the President to report to it annually what steps he had taken to carry our Congressional laws and resolutions passed in the last session; he and his Cabinet heads then would submit to questioning by a new Joint Select Committee of both houses; and Congresss later would vote itself satisfied or not with Presidential actions. If not satisfied, it would direct what further steps it wished taken.

Such a procedure would give Congress—as Mr. Nixon's staff types might say—greater "stroke" on executive policy and administrative oversight, and—perhaps more important—a means of directly and personally challenging a President and his Cabinet. That question-and-answer session surely ought to be carried on the television networks.

Senator Lloyd Bentsen of Texas has made an interesting proposal that might largely remove politics from the Department of Justice, without removing that department from the reach of Presidential policy. He would bar the appointment of anyone who had held a paid or unpaid position in any Presidential candidate's campaign, or in any national or state party organization, to the offices of Attorney General, Deputy Attorney General, Assistant Attorney General or Solicitor General. The Attorney General, not the President, then would appoint U.S. Attorneys and U.S. Marshals. The Hatch Act, prohibiting partisan political activity, would be extended to everyone in the Department of Justice, from the Attorney General on down.

Senator Javits echoed a proposal of Senator Gaylord Nelson of Wisconsin to ban any form of wiretapping or bugging without a court order; and Senator Henry Jackson has put in a bill to require complete accounting to Congress by any agency engaging in any kind of political surveillance. Such surveillance would have to be specifically justified by the agency involved. Tighter Congressional oversight of the F.B.I. and the C.I.A. and a thorough review and, if necessary, reorganization of those agencies ought to be undertaken. The possibility of a seven- or nine-year fixed term for the F.B.I. director, to remove him from direct Presidential political control, should also be studied by Congress. Such steps might well make secret police tactics all but impossible.

The legislators should not again permit a President to create, as Mr. Nixon did, super-Cabinet officials not subject to Senate confirmation, and thus not subject to Congressional questioning. The Gray and Richardson hearings, in 1973, are examples of the value of the confirmation process; while John Ehrlichman as chairman of the Domestic Council, to whom several Cabinet officers were made subordinate, exemplifies the kind of powerful official a President now can create entirely on his own authority.

But if Congress really wants to regain anything like equal status with the Presidency, the first order of business ought to be the Budget Reform Act. Passed in differing versions by both houses, and awaiting reconciliation in Senate-House conference, this measure would at last provide the administrative machinery necessary for Congress to play an effective part in putting together a coherent Federal budget—the very engine of the Government.

The essential idea of both budget reform bills is that Congress would establish its own annual budgetary ceilings, with more-or-less self-enforcing provisions for keeping its appropriations within them, or providing the additional revenues to cover excess spending. In the fight against inflation, as well as in the effort to restore balanced government in America, no single reform is more important.

EDUCATION ASSISTANCE PROGRAMS FOR VETERANS

Mr. HOLLINGS. Mr. President, education assistance programs for veterans have been among the most successful and productive ever enacted by our Government. After World War II and the Korean conflict educational benefits received by returning GIs were a major force behind the economic recovery of the fifties and dividends from this postwar investment continue to be reflected in today's society

Today, Vietnam era veterans face an extremely difficult problem of readjustment and education benefits often determine the difference between success and failure for them. The Veteran's Affairs Committee is currently working on a comprehensive bill to update veterans education benefits to put them on par with benefits which were available to World War II vets. As a cosponsor of S. 2784, I know that time is needed to allow proper consideration of such a comprehensive bill. But thousands of veterans who might benefit from this bill do not have time—because on May 31, 1974, their eligibility for benefits will expire. To prevent this from occurring, I urge the Senate to vote for S. 3398 and extend eligibility for education benefits from 8 to 10 years.

PRAISE FOR DR. RIDDICK

Mr. BIDEN. Mr. President, I want to add my appreciation to the many expressions of deserved praise to Dr. Riddick, the Senate Parliamentarian, for the new edition of "Senate Procedure" that he developed.

His is an honorable tradition stemming from the efforts of Thomas Jefferson. Jefferson, as Vice President, developed a set of rules of procedure, still known as "Jefferson's Manual."

In preface to his seminal work, Mr. Jefferson wrote:

> I have begun a sketch which those who come after me will successively correct and fill-up till a code of rules shall be formed for the use of the Senate, the effects of which may be accuracy in business, economy of time, order, uniformity and impartiality.

Dr. Riddick's work is consistent with Mr. Jefferson's guidelines. As a newcomer to the Senate, I feel an extra dimension of appreciation for the new edition.

Thank you, Dr. Riddick.

THE CONSUMER INTERESTS TRANSPORTATION ACT OF 1974

Mr. BROCK. Mr. President, on Thursday, May 9, I introduced the Consumer Interests Transportation Act of 1974. I ask unanimous consent that this bill, S. 3470, be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3470

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Consumer Interests Transportation Act of 1974".

TITLE I—RATE MATTERS

INDEPENDENCE OF ACTION ON RATES

Sec. 101. Paragraph (6) of section 5a of the Interstate Commerce Act (49 U.S.C. 5b) is amended to read as follows:

"(6) The Commission shall not approve under this section any agreement which establishes a procedure for the determination of any matter through joint consideration, unless it finds that under the agreement—

"(A) there is accorded to each party the free and unrestrained right to take independent action either before or after any determination arrived at through such procedure;

"(B) single line rates may not be the subject of voting or joint determination;

"(C) only carriers physically participating in a particular joint line movement may agree or vote on the rate to be charged for such movement; and

"(D) any conference, bureau, committee, or other organization established to perform joint consideration is not authorized to enter any Commission proceeding in opposition to the rate actions of a member or members of such organization.".

DISPOSITION OF CERTAIN RATES WITHIN SPECIFIED TIME PERIOD

Sec. 102. Section 5a of the Interstate Commerce Act (49 U.S.C. 5b) is further amended by adding the following new paragraphs:

"(11) Within one hundred and twenty days after a rule, rate, or charge is docketed with a conference, bureau, committee, or other organization, established or continued pursuant to any agreement approved under this section, such rule, rate, or charge shall finally be disposed by said conference, bureau, committee, or other organization.

"(12) All meetings (including conference, bureau, committee, or other organization established or continued pursuant to an approved agreement) at which official action of any kind is taken or proposed shall be open to the public. No resolution, rule, act, regulation or other official action shall be effective unless taken, made, or enacted at such a meeting. A written transcript shall be kept for all such meetings and shall be made available to the public during normal business hours. Copies of such written transcripts shall be available upon request to the public at reasonable cost.".

COMPETITIVE AND COMPENSATORY RATES

SEC. 103. Sections 15(1), 216(e), 218(b), and 406(b) of the Interstate Commerce Act (49 U.S.C. 15(1), 316(e), 1006(b)) are each amended by adding at the end thereof the following: "The Commission shall in no case require that a carrier subject to this part furnish service at a rate lower than the marginal cost of the particular traffic to which the rate applies. The Commission shall not determine that a present or proposed rate is unreasonably low unless it finds such rate is less than the marginal cost of the particular traffic to which the rate applies. The Commission is authorized to determine and find that the practice of independence of action in establishing single line rates outside any organization established pursuant to section 5a of this Act, taken together with the number of independent, competitive offerings by common and contract carriers (considering both carriers within a given mode of transportation and carriers within different modes), is such that a defined user or group of users of transportation services has or have competition available sufficient effectively to restrain unreasonable rates, fares, and charges as to defined movements or types of movements of passengers or freight. In making such a determination, the Commission shall take into account the transportation characteristics of the commodity or commodities involved, the degree of participation of carriers of the same and different modes of transportation in the movement or movements involved, the level of profit obtained in the particular transportation service involved, and such other circumstances as may be relevant. Upon such a finding becoming final, the Commission shall have no further responsibility to regulate maximum rates for the defined movements or types of movements, or transportation service involved. Such a finding may be vacated or modified by reason of changed circumstances, or the discovery of substantial relevant information not previously available, including information indicating that absent maximum rate regulation profits and rates, fares, and charges on the movements involved have become unreasonably high, and market forces appear unlikely to effect corrective action by the carriers involved.".

MODERNIZING ACCOUNTING UNDER THE INTERSTATE COMMERCE ACT

SEC. 104. Section 20(3) of the Interstate Commerce Act (49 U.S.C. 20(3)) is amended to read as follows:

"(3)(a) The Commission shall, for the purpose of enabling it to better carry out the purposes of all parts of this Act, prescribe a uniform system of accounts applicable to any class of carriers subject thereto, and a period of time within which such class shall have uniform system of accounts, and the manner in which such accounts shall be kept.

"(b) The Commission shall within one year following the date of enactment of the Consumer Interests Transportation Act of 1974, establish and promulgate rules and regulations prescribing uniform cost accounting methods for the determination of abandonment of nonproductive facilities under paragraphs (18) through (32) of section 1 of this Act, as amended by such Act of 1974 and for establishing minimum compensatory rates under this Act as amended by such Act of 1974. Nothing in this paragraph is intended to prevent the Commission from establishing for any or all additional purposes a uniform system of accounts applicable to any class of carriers subject to this Act.

(c) Accounting methods, established pursuant to this Act shall be designed to facilitate the determination of costs of individual carriers on individual services. In formulating such accounting systems, the Commission shall recognize modern, generally accepted accounting principles, and shall consult with and solicit the views of other agencies and departments of the Federal Government, representatives of carriers, shippers, national accounting societies, public accounting firms, and the public. The Commission is authorized to retain the services of persons and firms skilled in the formulation of cost concepts, and in modern generally accepted accounting practices, to assist in the formulation of the accounting practices required under this section.

"(d) Pending the establishment of the revenue, cost, and accounting standards required by subparagraph (b) of this paragraph, the Commission shall use such information and techniques as it deems appropriate for determining costs and revenues required by this Act."

TITLE II—ENERGY SAVINGS AND EFFICIENCY UNDER OPERATING AUTHORITIES

REPEAL OF CERTAIN RESTRICTIONS WITH RESPECT TO THE PROVISION OF MOTOR CARRIER SERVICE BY CARRIERS BY RAILROAD

SEC. 201. Section 5(2)(b) of the Interstate Commerce Act (49 U.S.C. 5(2)(b)) is amended by striking out all beginning with the colon preceding "*Provided*, That" to the period at the end thereof.

PROVISION OF COMPETITIVE AND EFFICIENT SERVICES

SEC. 202. Sections 207(a) and 309(c) of the Interstate Commerce Act (49 U.S.C. 307(a) and 909(c) are each amended by inserting at the end thereof the following: "The Commission shall, within two years after the date of enactment of the Consumer Interests Transportation Act of 1974, promulgate regulations pursuant to which it shall—

"(1) consider cost and rate advantages, if any, reasonably to be expected to result from the granting of any application;

"(2) so construct grants of authority as to permit efficient, flexible service under such authorities, and in markets to be served by the proposed operations;

"(3) utilize the forces of competition to encourage efficiency, economy, and innovation in transport;

"(4) not deny an application solely or in substantial measure on the grounds that carriers operating under certificates issued under this section prior to the application under consideration have the physical capacity to carry, or an entitlement to carry, all or substantially all the traffic which does, could or might move in the markets affected by the proposed service; and

"(5) make a final decision within 90 days of the filing of any application for permanent operating authority, absent a finding of compelling circumstances requiring more extended consideration, and, in the event of such a finding, make a final decision within 180 days of the filing of any such application;

all to the end of minimizing necessary costs to transport users; avoiding unnecessary pollution, energy consumption, and burden on federally funded transport facilities; and maximizing the value which carriers subject to this part add to the national economy.".

ELIMINATION OF IMPEDIMENTS TO EFFICIENT OPERATIONS IN OPERATING AUTHORITIES

SEC. 203. Sections 208(a) and 309(d) of the Interstate Commerce Act (49 U.S.C. 308(a) and 909(d) are each amended by inserting at the end thereof the following: "Within twelve months of the date of enactment of the Consumer Interests Transportation Act of 1974, the Commission shall identify terms, conditions, or restrictions on existing certificates issued under this part of a sort which do or may inhibit flexible, efficient, and economical operation, and shall establish appropriate procedures providing for expedited consideration and action upon applications to eliminate or alter such restrictions. The Commission shall thereafter, in specifying terms, conditions, and limitations of certificates, permit efficient, flexible and economic service utilizing the inherent advantages of transportation subject to this part. The Commission shall, in its annual report to the Congress, include a report on the total number, ownership, format, terms and conditions of, and discernible effects on service, including any limitation or inhibitions on service, of certificates issued subject to this part.".

EXPEDITING ACTION IN IMMEDIATE SERVICE NEEDS

SEC. 204. Subsection (a) of section 210a of the Interstate Commerce Act (49 U.S.C. 310a(a)) is amended by deleting "having no carrier service capable of meeting such need" in the first sentence, and by deleting all after the word "valid" in the second sentence, and inserting in lieu thereof the following: "until such time as the Commission's consideration of an application for permanent authority is complete, or if no application for permanent authority is made, until such emergency need shall be deemed to have terminated.".

MODERNIZING CONTRACT CARRIAGE

SEC. 205. Effective after two years following the date of enactment of the Consumer Interests Transportation Act of 1974, subsection (b) of section 209 of the Interstate Commerce Act is amended to read as follows:

"(b) Applications for such permits shall be made to the Commission in writing, be verified under oath, and shall be in such form and contain such information and be accompanied by proof of service upon such interested parties as the Commission may, by regulation, require. Subject to section 210, a permit shall be issued to any qualified applicant therefor authorizing in whole or in part the operations covered by the application, if it appears from the application or from any hearing held thereon, that the applicant is fit, willing, and able properly to perform the service of a contract carrier by motor vehicle, and to conform to the provisions of this part and the lawful requirements, rules, and regulations of the Commission thereunder, and that the proposed operation, to the extent authorized by the permit, will be consistent with the public interest and the national transportation policy declared in this Act. In determining whether the issuance of a permit would be consistent with the public interest, and consistent with the National Transportation Policy, the Commission shall consider the number of shippers to be served by the applicant, the nature of the service proposed and the effect which denying the permit would have upon the applicant and/or its shipper and the changing character of that shipper's requirements. The Commission shall specify in the permit the business of the contract carrier covered thereby and the scope thereof, and, it shall attach to it at the time of issuance, and from time to time thereafter, reasonable terms, conditions, and limitations necessary to carry out with respect to the operation of such carrier the requirements established by the Commission under section 204 (a) (2) and (6), *Provided:*

"(1) that the tests to be applied to new applications shall in no event be more stringent than those applied to applications under section 207 of this part;

"(2) that within the scope of the permit and any terms, conditions, or limitations attached thereto, the carrier shall have the right to substitute or add to its equipment and facilities as the development of its business may require;

"(3) that no terms, conditions or limitations shall be imposed in any permit issued on or before the effective date of this proviso which shall restrict the right of the carrier to substitute similar contracts within the scope of such permit, or to add contracts within the scope of such permit unless upon investigation on its own motion or petition of an interested carrier the Commission shall find that the scope of the additional operations of the carrier is not confined to those of a contract carrier as defined in section 203(a) (15), as in force on and after the effective date of this proviso; and

"(4) that terms and conditions shall not impose substantial empty truck movement or other operating inefficiencies in the carrier.".

ACHIEVING BETTER UTILIZATION OF THE PRIVATE TRANSPORTATION FLEET AND FACILITATING GREATER EFFICIENCY IN USE OF TRUCKS TO AND FROM RURAL AREAS

SEC. 205. (a) Section 203(b)(5) of the Interstate Commerce Act (49 U.S.C. 303(b)(5)) is amended by the deletion of the following: "and shall in no event exceed 15 per centum of its total interstate transportation service in any fiscal year, measured in tonnage".

(b) Section 203(b) of the Interstate Commerce Act is further amended by inserting before the period at the end thereof a semicolon and the following: "or (11) transportation for hire incidental to private transportation, defined by section 203(a) (17) of this part for the purpose of avoiding empty movement, light loading or inefficient use of vehicle otherwise used in such private transportation: *Provided*, That any private carrier engaging in such for hire transportation shall notify the Commission of its intent to perform such transportation prior to the commencement thereof, and report annually to the Commission the tons carried and total revenues attributable to such transportation: and *Provided further*, That in no event shall the total quantity of goods transported for compensation by any such private carrier, measured in tonnage, exceed the quantity of goods transported in private carriage; or (12) transportation for hire by carriers engaged in carriage exempt from regulation pursuant to paragraphs (4a), (5), and (6) of this subsection of commodities or movements other than *movements* exempt from regulation pursuant to those paragraphs if such transportation is incidental to such non-regulated transportation, for the purpose of avoiding empty movement, light loading, or inefficient use of vehicles used in such non-regulated transportation: *Provided*, That any carrier engaging in for hire transport pursuant to this paragraph shall notify the Commission of the intent to perform such transportation prior to the commencement thereof, and report to the Commission annually the tons carried and the total revenues attributable to such transportation: and *Provided further*, That in no event shall the quantity of goods transported for compensation by any carrier pursuant to this paragraph, measured in tonnage, exceed the quantity of goods transported exempt from regulation pursuant to paragraphs (4a), (5), and (6) of this subsection".

TITLE III—REVISED STANDARDS FOR RAIL SERVICE ABANDONMENT

AMENDMENT TO SECTION 1 OF INTERSTATE COMMERCE ACT

SEC. 301. Section 1 of the Interstate Commerce Act (49 U.S.C. 1) is amended by striking out paragraphs (18) through (22) and inserting in lieu thereof the following:

"(18) No carrier by railroad subject to this part shall undertake the extension of its line of railroad, or the construction of a new line of railroad, or shall acquire or operate any line of railroad, or extension of its line of railroad, or shall engage in transportation under this part over or by means of such additional or extended line of railroad, unless and until there shall first have been obtained from the Commission, a certificate that the present or future public convenience and necessity require or will require the construction, or operation, or construction and operation, of such additional or extended line of railroad. Nothing in this paragraph or in section 5 shall be considered to prohibit the making of contracts between carriers by railroad subject to this part, without the approval of the Commission, for the joint ownership or joint use of spur, industrial, team, switching, or side tracks.

"(19) The application for an issuance of any such certificate shall be under such rules and regulations as to hearings and the provisions of this part shall apply to all such proceedings. Upon receipt of any application for such certificate, the Commission shall cause notice thereof to be given to and a copy filed with the Governor of each State in which such additional or extended line of railroad is proposed to be constructed or operated, with the right to be heard as hereinafter provided with respect to the hearing of complaints or the issuance of securities; and said notice shall also be published for three consecutive weeks in some newspaper of general circulation in each county in or through which said line of railroad is proposed to be constructed or operated.

"(20) The Commission shall have power to issue such certificate as prayed for, or to refuse to issue it, or to issue it for a portion or portions of a line of railroad, or extension thereof, described in the application, and may attach to the issuance of the certificate such terms and conditions as in its judgment the public convenience and necessity may require. From and after issuance of such certificate, and not before, the carrier by railroad may, without securing approval other than such certificate, comply with the terms and conditions contained in or attached to the issuance of such certificate and proceed with the construction or operation covered thereby.

"(21) The Commission may, after hearing, in a proceeding upon complaint or upon its own initiative without complaint, authorize or require by order any carrier by railroad subject to this part, party to such proceeding, to provide itself with safe and adequate facilities for performing as a common carrier its car service as that term is used in this part, and to extend its line or lines: *Provided*, That no such authorization or order shall be made unless the Commission finds, as to such extension, that it is reasonably required in the interest of public convenience and necessity, or as to such extension or facilities that the expense involved therein will not impair the ability of the carrier to perform its duty to the public. Any carrier subject to this part which refuses or neglects to comply with any order of the Commission made in pursuance of this paragraph shall be liable to a penalty of $100 for each day during which such refusal or neglect continues, which shall accrue to the United States and may be recovered in a civil action.

"(2) No carrier by railroad subject to this part shall abandon all or any portion of a line of railroad, or the operation thereof, except in accordance with this paragraph. A carrier or carriers may file with the Commission a notice to abandon a line of railroad, or the operation thereof, which notice shall be under such rules and regulations as the Commission may from time to time prescribe, and the provisions of this part shall apply to all such proceedings. Abandonments pursuant to such notice shall be governed by the provisions of this paragraph, the laws or constitution of any State, or the decision or order of, or the pendency of any proceeding before, any court or State authority to the contrary notwithstanding. The carrier or carriers filing notice with the Commission pursuant to this paragraph shall file simultaneously with the Commission a certificate of service of the notice by mail upon the Governor of each State in which all or any portion of the line of railroad, or the operation thereof, is proposed to be abandoned, and a certificate of posting of notice in every station on such line and a certificate that notice has been published for three consecutive weeks in a newspaper of general circulation in each county in or through which said line of railroad operates. Notice shall also be given to all shippers and receivers who have used the line in the preceding eighteen months. All notices provided for in this paragraph shall be filed with the Commission at least ninety days in advance of any abandonment of any line of railroad or operation thereof pursuant to such notice and to this paragraph. Upon the filing of any notice pursuant to this paragraph, the Commission shall during said ninety days' notice period upon complaint of an aggrieved party, or may upon its own initiative, enter upon an investigation of the action proposed in the notice. If no such investigation is instituted, the Commission shall issue a certificate at the expiration of the ninety days' notice period that public convenience and necessity permit the abandonment proposal in the notice. If an investigation is instituted, the Commission, by order served upon the carrier or carriers affected thereby at least ten days prior to the day on which the abandonment proposed in the notice would otherwise become effective, shall postpone the abandonment in whole or in part, pending hearing and such investigation, but not for a longer period than six months beyond the date when such abandonment would otherwise have become effective. Any investigation instituted under this paragraph shall include full public hearings at a point or points on or reasonably adjacent to the line proposed to be abandoned. The abandonment proposed in the notice shall become effective sixty days after the Commission shall have issued an order finding such abandonment consistent with public convenience and necessity. The Commission may, in such order, and subject to the other provisions of this paragraph, authorize the abandonment of a portion or portions of the line of railroad, or the operation thereof, described in the notice, or the partial exercise only of such privilege, and attach to the issuance of the certificate of abandonment such terms and conditions as, in its judgment, the public convenience and necessity may require. In determining whether to make such finding the Commission shall consider the following: Losses in operating the line proposed to be abandoned, as measured by costs of service including maintenance cost and such repairs or improvements necessary to continue the line at a physical standard necessary to provide safe, reliable, and efficient service; extent of actual use of and need for the line by shippers or receivers; and the development of an efficient and economical transportation system: *Provided, however*, That no such finding shall be made unless continued operation of the line proposed to be abandoned will produce sufficient revenue to cover the relevant variable costs of handling traffic to, from, and beyond the line: And *Provided further*, That said finding shall be subject to the provisions of paragraph (26) of this section. Partial changes in operation or service shall be treated in accordance with paragraph (4) of this section. In any investigation hereunder, the burden of proof shall be on the carrier.

"(23) Any construction, operation, or abandonment contrary to the provisions of paragraph (18), (19), or (22) of this section may be enjoined by any United States district court of competent jurisdiction at the suit of the United States, the Commission, any commission or regulating body of the State or States affected, or any party in interest; and any carrier which, or any director, officer, receiver, operating trustee, lessee, agent, or person, acting for or employed by such carrier, who, knowingly authorizes, consents to, or permits any violation of the provisions of paragraph (18), (19), or (22) of this section shall be fined not more than $5,000 or imprisoned not more than three years, or both.

"(24) The authority of the Commission conferred by paragraphs (18) to (22) of this section, both inclusive, shall not extend to the construction, acquisition, or abandonment of spur, industrial team, switching, or side tracks, located or to be located wholly within one State, or of street, suburban, or interurban electric railways, which are not operated as a part or parts of a general railroad system of transportation.

"(25) (a) Within one hundred and twenty days after enactment of this paragraph, each railroad shall prepare and file with the Commission and publish in accordance with regulations promulgated by the Commission a full and complete diagram of its transportation system describing in particular those rail lines on which less than one million gross ton-miles have been transported or revenues attributable to which have not been sufficient to cover the relevant variable costs of handling traffic for one year prior to filing. A railroad shall amend its diagram annually, and its statement or intent to abandon lines annually, or as the Commission shall require, to reflect any changes in its system.

"(b) After eighteen months after enactment of this paragraph, no carrier shall abandon all or any portion of a line of railroad (or operation thereof), the abandonment of which is opposed by any person who has used the service provided thereon during the eighteen months preceding the date of filing of the abandonment application or is opposed by any State, county, or municipality served by that line, unless such railroad line has been identified on the diagram provided for in subparagraph (a) of this paragraph for at least one year.

"(26) In the event the Commission shall during the six months provided for in paragraph (22) make a finding that the public convenience and necessity permit abandonment, it shall also make a determination sixty days after such decision whether revenues attributable to the line, lines, or operations in question may become sufficient to cover the relevant variable costs referred to in paragraph (22) as a result of improved operating efficiencies, rate adjustments, or direct financial compensation from users and/or any State or political subdivision thereof, or changed circumstances. In the event the Commission shall determine that circumstances referred to in this paragraph warrant an additional suspension of the certificate, then the Commission shall not issue the certificate but shall retain jurisdiction for an additional six months to determine if the paragraph (22) standards have been met. If the paragraph (22) standards have still not been met during the additional six-month period, then the certificate of abandonment shall be issued between the revenues attributable to such line and the relevant variable costs of handling traffic on such line.

"(27) Within one hundred and eighty days following the date of enactment of this paragraph and as required thereafter, the Commission shall determine, pursuant to section 553 of title 5, United States Code, and shall publish standards for determining the 'relevant variable costs of handling traffic' and 'revenues attributable to the line' as those terms are used in this section.

"(28) In any instance in which the Commission shall have found that the present or future public convenience and necessity permit the abandonment of any line of railroad, the Governor of any State in which all or a portion of such line is located may, prior to the effective date of the Commission's order, notify the Commission, the Secretary of Transportation, and the railroad performing the service involved if it is the State's intention to provide operating subsidies for the railroad in order to assure continuance of service found by the State to be essential. Upon such notice, the Commssion shall order an additional six-month postponement of the abandonment pursuant to paragraph (26) in order to permit arrangements for subsidy to be made."

"(29) In any instance in which the Commission finds that the present or future public convenience and necessity permit the abandonment of any line of railroad, the Commission shall impose as a condition of such abandonment that tracks and other structures or facilities be removed so as to return the land held in conjunction with the operation of such abandoned line to a safe condition suitable for other use. The Commission shall also impose as a condition, where appropriate, an opportunity for acquisition of such land by any governmental body for use as a part of recreational area or otherwise. The Commission shall further ascertain whether the carrier may have forfeited its interest in such land by reason of the terms of the original conveyance of such interest to the carrier.

"(30) (a) The Secretary of Transportation is authorized to reimburse a State or a local or regional authority for 70 per centum of the amount paid by such State, local, or regional authority as operating subsidy to continue service on a rail line or lines that would otherwise have been abandoned. In determining whether to make such reimbursement the Secretary shall consider the need for such service and the impact of the abandonment of such service on the communities affected, the practicability of the plan of operating subsidy, the amount of subsidy in relation to the benefits to be derived therefrom, and the availability of alternative transportation at reasonable cost.

"(b) Within three months from the date of enactment of this paragraph, the Secretary shall prescribe regulations governing the procedure for application by a State, or a local or regional authority for reimbursement of operating subsidies, criteria to be used in deciding upon such applications, and terms and conditions required in contracts or other arrangements for operating subsidy.

"(c) If the Secretary finds that an operating subsidy contract or other arrangement as submitted fails to comply with his regulations, he shall advise the State, or local or regional authority, and afford it a period of not to exceed fifteen days within which to bring such contract into conformity with such regulations.

"(d) An operating subsidy contract made pursuant to this paragraph may not exceed a term of three years.

"(e) The Secretary shall not reimburse a State, or a local or regional authority for operating subsidy paid to the corporation or a railroad unless requisite legislation has been adopted extending authority to the Governor or other appropriate State, local, or regional official or agency to perform its obligations in accordance with the terms of this paragraph and regulations issued by the Secretary.

"(f) Upon approval of an operating subsidy contract or other arrangement by the Secretary, the United States shall become obligated to pay out of sums not otherwise obligated in the general fund of the Treasury, an amount equal to that proportion specified in the contract or arrangement of moneys paid to the railroad pursuant to such contract or arrangement, upon the receipt of proof satisfactory to the Secretary that the payment for which reimbursement is sought has been made by the State or a local or regional authority. Such payments shall be made to the Secretary pursuant to regulations prescribed by him. The Secretary may pay up to 70 per centum of any operating subsidy provided for by this paragraph in the first year of such contract, up to 50 per centum of such subsidy in the second year of such contract, and up to 30 per centum of such subsidy during the third year of such contract. The Secretary shall not be authorized under this paragraph to obligate the United States for amounts in excess of $50,000,000 in any fiscal year.

"(g) The initial cost of restoring or upgrading rail properties to such condition as necessary for the provision of service may not be included in an operating subsidy contract or other arrangement pursuant to this paragraph, but such capital costs may be prorated over the life of such line or facilities and such prorated cost may be included as part of the cost of such an operating subsidy contract or other arrangement.

"(h) Nine months prior to the end of the first contract entered into for operating subsidy reimbursement under this paragraph, the Secretary shall report to Congress on whether legislation should be enacted to extend the Secretary's authority for operating subsidy reimbursement, and, if so, what specific segments of rail tracks, areas of the country, system-wide transportation benefits not otherwise available, and funds outlays are involved in any continuation of Federal participation in operating subsidies.

"(31) In the event of any abandonment of rail service authorized pursuant to this section, it shall be presumed that additional competitive service to and from points and areas reached by means of the abandoned service, by carriers subject to part II, and, if conditions permit, part III, of this Act would serve the public convenience and necessity, notwithstanding any other provision of law. Competitive service shall not be authorized only if shippers moving goods by means of the abandoned service fail to request such competitive service, or no more than one carrier seeks authority to serve operating rights. Operating authorities granted pursuant to this paragraph shall permit carriers receiving such rights to conduct common or contract carrier operations to solicit and transport movements which will contribute to a reasonably balanced transportation service both to and from points and areas as to which local rail service has been abandoned.".

RALPH HARDING SPEECH ON 20TH CENTURY TECHNOLOGY

Mr. BIDEN. Mr. President, the petrochemical industry is vital to my State of Delaware. And for the future, synthetic materials, made from petrochemicals, will become evermore necessary to replace our dwindling natural material resources worldwide.

The increasing need for synthetic materials is inextricably interwoven with the energy crisis. For the energy crisis cannot be separated from the problems of the planet itself, whose cargo of nonreplenishable resources is dwindling as population increases and technologically-intensive societies multiply.

The business community has representatives capable of seeing the scope of the challenges contained in this duality. One of these is Ralph L. Harding, Jr., president of the Society of the Plastics Industry, Inc., who spoke last month in Los Angeles at the Town Hall of California on the subject of "The Life Expectancy of 20th Century Technology."

I recommend his talk to my colleagues. In a significant passage, Mr. Harding says:

> The public, I fear, will not much longer tolerate the confusion—believed by some to be deception—which has aggravated the energy crisis and has needlessly increased the

sacrifices which the people have been asked to make during the past months. When the needs of "national security" itself have now become so widely suspect, I cannot see much prospect for a comfortable continuation—at or near the highest levels of government or industry—of close-to-the-vest confinement of information vital to the public welfare.

Furthermore, what we are talking about: development of new technology which will minimize our country's dependence on im*ports* and end our vulnerability to international blackmail—will clearly require expensive research and development which may well be beyond private industry's ability or inclination to afford. And any distribution of public funds demands adequate public—that is, governmental—knowledge of the capabilities and requirements of the private sectors involved

Mr. President, I ask unanimous consent to have the text of Mr. Harding's remarks printed in the Record.

There being no objection, the text was ordered to be printed in the Record, as follows:

The Life Expectancy of 20th Century Technology

I have given considerable thought—including a few second thoughts—to the title I chose for this address. I work very close to this subject. I feel very strongly about it, and it is my hope that a title of this sort—presumptuous as it may sound—will help me to reach open minds.

The charge of presumption often comes as the swiftest penalty for challenging another man's assumption. The assumption I am now challenging is the automatic identification of this century—as an era of material progress, crowned by affluence—with the technological mechanisms of the past six or seven decades; so that it becomes unclear whether this century produced this technology or is itself this technology's chief product.

My case for this presumption is based on the facts, events and trends of our time. In support of my case, I want—first—to touch upon the political and economic environments into which Twentieth Century technology was born. Then I would like to comment on the changes—first in politics and now in economics—which demand a new, more viable technology for the remainder of this century and for a strong beginning of the next. Then I shall describe what could become the single greatest threat to our current technology, and finally some steps that we can take, to preserve the health of our nation during this time of transition.

Neither the Twentieth Century nor its technology can be understood without some recognition of the differences between technology before and after the start of World War I. It was the First World War that gave, through urgent national policies and governmental directives, unprecedented organization to the Nineteenth Century heritage of scientific innovations. As Peter Drucker notes, in his essays on *Technology, Management & Society:*

"Generally . . . the relationship between scientific work and its technological application, which we today take for granted, did not begin until *after* the turn of the twentieth century . . . such typically modern devices as the automobile and the airplane benefitted little from purely theoretical scientific work in their formative years. It was World War I that brought the change: in all belligerent countries scientists were mobilized for the war effort, and it was *then* that industry discovered the tremendous power of science to spark technological ideas and to indicate technological solutions."

In that sense, what we now call "Twentieth Century technology" was actually born in 1914 and—if we are to relate the two—the Twentieth Century was born at the same time. If we count the true ages of these twins as 60 years come August, our reckoning will agree exactly with the calculations of historians who hold that the Nineteenth Century did not really end until the outbreak of the First World War.

That outbreak signalled the final collapse of Metternich's system of international understandings which had permitted the leading powers of Europe, at least, to enjoy decades of general peace and so to make unprecedented material progress—largely by developing and utilizing their colonies and client states as sources of cheap raw materials. After the war, our European Allies set to work building a new cartel of industrial nations, excluding the defeated, and inviting the United States to take a piece of the action.

The dependence of the West on cheap supply sources continued, and high on the list of vital materials was placed one that had proven its importance during four years of combat: petroleum. Essentially, these industrial nations had simply organized the findings of science into a technology which they then expanded and applied with new vigor, fueling it at an ever increasing rate with petroleum and other cheap hydrocarbons. This statement could serve as a working definition of what we call "Twentieth Century technology"—with all its strengths and weaknesses.

Chief among those weaknesses, as we have learned by the experiences of the past six months, is our technology's dependence on cheap and abundant energy in the forms of crude petroleum and natural gas, the two most convenient sources of hydrocarbons.

As a spokesman for the plastics industry, I am painfully aware of this dependence, since plastics are derived from petrochemicals. I see a special irony in the current situation, in which plastics—one industry which points the way to the technology of tomorrow—is now so deeply affected by the shortcomings of the traditional technology and of economic concepts on which we still rely today. Our industry has been seriously but not permanently hurt both by the resultant shortages and by associated misunderstanding of the real priorities.

I know I cannot make any claim for plastics' unique status in tomorrow's technology without offering some authority besides my own. As I have confessed on a previous occasion, "I am, after all, an industry association president, a salaried spokesman, a predictable advocate." So, now as then, I offer the testimony of an expert who, you may now suspect, is one of my favorite authors.

Writing in *The Age of Discontinuity,* Peter Drucker observed:

"All around us there are new industries and new technologies. But as the economist defines 'importance'—that is, by contribution to gross national product, personal income, and employment—these new industries are still almost negligible, at least to the civilian economy.

* * * * *

"Of all the new industries only one has, so far, attained major economic importance. It is plastics.

"Even plastics were looked upon until a very few years ago as "substitutes"—ersatz—rather than a major new industry and technology in their own right. And even the plastics industry today is only a faint premonition of what the "materials" industry of tomorrow is likely to be, both economically and technologically."

Since I offer Dr. Drucker as my authority, I would not want you to assume that he has overlooked such other new industries as pharmaceuticals or aviation. He carefully states that "in terms of employment or of direct contribution to national product—the pharmaceutical industry is still hardly visible to the naked eye. . . ." And, admitting that "the freight plane may well, within a few years, make obsolete the oceangoing cargo ship," he adds, "So far, however, air freight is still a lesser factor in world transportation than bullock or burro."

Of course, Dr. Drucker was describing the aviation industry as it was five years ago. I'm afraid the past few months have seen the bullock and the burro *increasing* their lead.

Rereading Drucker with the hindsight of the energy crisis confirms, for me at least, my original impression of his thoughtfulness, his balanced view. Reconsider his description of the plastics industry as a "premonition of what the materials industry of tomorrow is likely to be." At first that sounds simply optimistic—almost a bit of boosterism. But a premonition can bring, with its encouragement, a warning. It can go either way, depending on what we make of it.

What remains essentially unchanged in Peter Drucker's evaluation is the fact that plastics are "riding the point" of our technological future. This industry is a unique, a precocious child of Twentieth Century technological progress; but it is not an only child. If we cannot establish and maintain political and economic environments in which the plastics industry can prosper, the outlook is also grim for other members of the rising technological generation.

Take, for example, the fact that—even when petroleum feedstocks were abundant—plastics of all kinds in this country accounted for less than one and a half percent of total domestic usage of oil and natural gas. And yet, plastics are one of the best, if not *the* best value-related use of hydrocarbons. This can be seen by charting the cumulative product values of hydrocarbons as they move through the petrochemical industry, into and out of the plastics industry and on to other industries which depend on plastics for their materials and components, finally reaching the consumer.

In this progression, a dollar's worth of basic petrochemical feedstocks becomes two dollars' worth of monomers, the universally useful "building blocks" of our synthetics, produced in the organic chemical industry. This new value is doubled again by the conversion of monomers into polymers. Finally, the processing of polymers into the plastics industry's end products increases their value, on the average, by a multiple of at least 2.5. The total result: an average value-added multiple of *ten*—and, in some industries, as high as 20 or 30.

A similar progression takes place, of course, for such other synthetics as the man-made fibres, tires and other rubber products, paint and coatings, antifreeze, aspirin and a vast number of other sophisticated materials and products, which are widely used.

As the Shah of Iran perceptively stated, some weeks ago, oil is too valuable to burn. Its most intelligent use is in petrochemicals, an industry of which plastics constitute one quarter and for which the plastics industry provides the best avenue for delivering the benefits of petrochemical production to other industries and to the consuming public.

In centuries to come, men may look back on our time and find it difficult to believe that the leadership of this century—the political, industrial and commercial administrators of Twentieth Century technology—actually permitted widespread destruction of this planet's precious store of fluid hydrocarbon sources, simply to produce heat and light and power. Men of future centuries, enjoying a practically limitless abundance of solar or nuclear energy, but bequeathed by us a beggarly inheritance of petroleum and natural-gas feedstocks, may condemn our short-sighted consumption of these resources, which nature needed millions of years to prepare.

Neither will they easily understand our slow and feeble efforts to utilize our coal reserves for anything better than a source of cheap fuel. The fact that similar observations could be made for other irreplaceable resources only broadens this threat to the technology of the future.

Long thoughts such as these, unfortunately, should have been thought through long ago—years before we maneuvered ourselves, optimistically accelerating till the last, into the time-trap where we now find ourselves, unable to go back and faced with the prospect of crawling painfully ahead, paying an unprecedented price for the energy to make each crippled move.

This is the reduction-to-absurdity of our almost mindless confidence in Twentieth Century technology, a rich banquet of delusions for which we are now finally getting the inflated check, a reckoning without artificial discounts.

If this was a banquet for all industrial nations, we Americans certainly sat at the head table: six percent of the world's population—consuming one third of the world's energy and comfortably expecting that our insatiable demand could be indefinitely served, at an annually increasing rate—an endless affluence based on inexhaustible resources.

We cannot continue to ignore present reality—*or* to neglect our present obligation to future generations. Our errors can be counted in the percentages of world resources we consume; our correction must now be calculated in the percentages of our needs which we import. In 1972, the latest year for which complete data are available, we imported 87 percent of the bauxite and alumina used in producing our aluminum, 90 percent of our nickel, 92 percent of our cobalt, 93 percent of the platinum group, 95 percent of our manganese, *all* of our chromium and *all* of our tin. These deficiencies are more than incidental to our nation's future; they are strategic.

Writing in *Foreign Policy* magazine before the Arab oil embargo, C. Fred Bergsten, a senior fellow of the Brookings Institution, warned:

"Four countries control more than 80 percent of the exportable supply of world copper, (Chile, Peru, Zambia and Zaire) have already organized, and have already begun to use their oligopoly power. Two countries (Bolivia and Malaysia) account for more than 70 percent of world tin exports, and four countries raise the total close to 95 percent. Four countries combine for more than 50 percent of the world supply of natural rubber. Four countries possess over one-half the world supply of bauxite, and the inclusion of Australia (which might well join the 'Third World' for such purposes) brings the total above 90 percent."

Bergsten's last sentence reminds me to mention that the title of his article was "The Threat from the Third World." He uses the term "Third World" because, in his own explanation, "it is widely understood as meaning all countries outside the 'industrialized West' and the 'Communist Empire.'" The "Threat" in Bergsten's title refers to the potential clout which Third World countries could inflict on the industrialized West, eminently including the United States, by acting singly or in combination to raise prices or to deny supplies outright, supplies which we have grown to take for granted, in abundance and at bargain prices. And built into that smug expectations was the inherent folly of making confident projections of larger and larger imports, even though the very size of those projections made their reliability less and less credible.

When Bergsten wrote, last summer, of this developing situation, there was still room to escape his conclusions about potential supply embargoes. Writing again, this January, he recalled:

"As recently as a year ago, it was conventional wisdom that 'the oil countries could never get together;' it was believed that they could not risk retaliation from a 'united Western world.' But, today, through the Organization of Petroleum Exporting Countries (OPEC), the oil nations have quintupled their price. They have cut back production. They have raised fears of global depression. And they have left the consuming countries, particularly in Europe and Japan, in disarray, and alliances such as the Common Market and NATO, in peril. Indeed, Europe's every scramble for a "special deal" has strengthened the confidence of the oil cartel.

"But oil is just the beginning. . . . (The) lesson of this startling reversal of power seems obvious for other countries with key primary products: Band together and your revenues can rise dramatically. . . . OPEC itself appears ready to support the formation of other cartels, as one way to avoid opprobrium for bankrupting the 'developing countries.'"

In summation, Bergsten notes, "Those who support the producing countries in this central new issue of world economics and politics . . . (say) it is no more immoral for a few countries to produce the lion's share of a particular product than for a few countries to consume the lion's share, as the industrialized world has become used to doing."

If these emerging attitudes do not undermine the economic foundations of Twentieth Century technology, they certainly invalidate the optimistic projections which formerly guided it. Although the oil embargo may be lifted, oil *prices* will remain extremely high. If the Arab embargo and the OPEC successes become models of action for other Third World nations, we must—as rational observers—anticipate future supply crises. The deep and spreading difficulties which economists now experience in revising their projections in the aftermath of the Arab oil embargo are, in my opinion, traceable to the fact that we are passing from our old economics of demand to a new economics of supply. Gradually at times, abruptly at others—but with a generally accelerating pace—we are moving into an era of scarcities, potential and actual, threatened or imposed.

This fact is central to this address, and it is pivotal for this century; this finally enforced transition from the economics of demand to the economies of supply. Indebted, as they all are, to Nineteenth Century science, the industrial nations must recognize that material prosperity is no longer available on the cheap, and that they must build for the Twenty-first Century within the parameters of the new and unforgiving economics of supply.

I have described the present crisis, of which the energy emergency is the start, as a reduction-to-absurdity of our blind confidence in Twentieth Century technology. Whatever our emotional attitudes toward the Arab embargo or our personal reactions to its uncomfortable consequences, we must give first priority to the intellectual task which this emergency has laid upon us. We must, as any logician would, work back from this absurdity to a re-examination of our now discredited assumptions. The open-ended, lavish and prodigal economics of unending abundance will no longer serve to finance our technology. The old and comfortable margins for error are narrowing day by day. Whatever capital is not consumed by rising import prices must hereafter be prudently applied to meet the real needs of our populace, whose confidence in their established leaders has been badly shaken in the past year.

As I have stated on another occasion, management's right to manage is unassailable, to the extent that it is based on management's *duty* to manage, to serve the community as steward of its resources, to implement the public purpose under the directive authority of government. And the directive authority of government, to which the people turn when other leaders fail, is based on conscientious and effective care for the people's needs. Both government and industry, in the final analysis, depend on the consent of the public, on varying degrees of public acquiescence and on public approbation of their efforts.

Each of us is currently entitled to his own evaluation, but we all have sensed a gathering storm of indignation and disillusionment in this country during the past twelve months. Most evident now is the dismay of those Americans whose jobs have been destroyed by the energy crisis. This is the situation for far too many in the plastics industry.

Less acute much more widespread is the suspicion felt by those who see a public inconvenience, even a hardship, turned to quick and tidy profit. The motorist who cuts into line at the gas pumps finds himself the object of erupting angers that can reach no better targets.

The public knows what is lacking: at the moment, petroleum, petroleum products, petroleum-based energy and petroleum-powered transportation, for goods and services and passengers alike. Succeeding weeks have brought new shocks, new disillusionments for the public mind. Government moves uncertainly and late. Industry, if not the villian, looks too much like an accomplice.

Neither industry nor government has time to waste. Both must turn to more effective alleviation of this crisis and to the prevention of those crises threatening in other areas dominated by uncertainties of materials supply. Both industry and government must set to the urgent task of technological innovation. Where old technology has failed or priced itself out of consideration, new technology must be developed and applied.

Out of their common responsibility to the people, out of their shared vulnerability to public criticism, government and industry must work as partners, to recruit and mobilize the best thinking available for these public purposes. Despite the all-too-evident examples of personal risk, businessmen must now be willing to take a more active role in advising, assisting and participating in the tasks of government.

Outside of actual wartime emergencies, as we all recognize, government directed mobilization of the private sector's potential for meeting public crises has seemed alien to our democratic republic. Nevertheless, today we must recognize that not only the energy shortage but continuingly threatening shortages of other vital materials must be systematically evaluated and successfully met, by our national leadership, both governmental *and* industrial, with maximum support from labor and the academy.

The exigencies of the energy crisis have moved us rapidly into areas of official control which seemed, to say the least, improbable one year ago. The future requirements of what is already being called "resource diplomacy"—to prevent or alleviate price and supply strictures arising from Third World forces—cannot be predicted at this date. But it seems incontrovertible, to me at least, that some adequate response must be prepared, some permanent authority must be given institutional form, preferably founded on industry-government cooperation, concern and—may I emphasize this quality—*candor*.

The public, I fear, will not much longer tolerate the confusion—believed by some to be deception—which has aggravated the energy crisis and has needlessly increased the sacrifices which the people have been asked to make during the past months. When the needs of "national security" itself have now become so widely suspect, I cannot see much prospect for a comfortable continuation—at or near the highest levels of government or industry—of close-to-the-vest confinement of information vital to the public welfare.

Furthermore, what we are talking about: development of new technology which will minimize our country's dependence on imports and end our vulnerability to international blackmail—will clearly require expensive research and development which may well be beyond private industry's ability or inclination to afford. And any distribution of public funds demands adequate public—that is, governmental—knowledge of the capabilities and requirements of the private sectors involved.

The bitter experience of the energy shortage suggests that we consider anew the advice given us four years ago by a man whose credentials as an industrial leader can hardly be impugned. Speaking to the Bond Club of New York on January 7, 1970, Thomas J. Watson, Jr., as chairman of the board of IBM, stated:

"I believe that the complexity of our modern economy demands national goal setting and planning closely paralleling that which is commonplace in industry."

Subsequent events have made Mr. Watson's recommendation more urgent than ever. What I propose is commonplace in private industry: the gathering of information and projections for supplies of strategic materials. Individual industries regularly take inventory of stocks required for their future operations, and I propose that a similar inventory function be performed regularly for the appropriate national economy, along with recommending and fostering related development, as required, in technolgy.

Whether this task be taken up by an expanded form of the Federal Energy Office, by the Department of the Interior or perhaps by a greatly strengthened Office of Technology Assessment serving the Congress, it seems essential to our future security and prosperity that some national institution be assigned the task of charting our economic and technological future, for fear that this nation may drift again into the shallows of shortage, there to sit—an object of derision and a target for hostile opportunists.

It seems equally essential that businessmen participate in this vital task, this crucial public service.

If you feel as I do, your concern for this republic moves you in two ways: anxiety about its future prosperity and uneasiness about an increase of governmental influence on decisions which shape the private sector. Though I am proposing, in effect, nothing more than a national clearinghouse for economic and technological information, I know that official evaluations of that information will affect choices that must be made by nongovernmental decisionmakers—by industrialists, labor leaders, marketers, consumers, all of us. But balance that uneasiness against the danger that our people—in some future crisis—may despair of private enterprise, of its competence to serve as steward of our national resources, and turn abruptly to government, not for information merely, but for relief, for sweeping measures of alleviation through unprecedented allocations and controls.

The energy emergency has opened a new and critical era for our economy, our technology and our society. Important steps must be taken—in time—sure steps taken in the open light of day, illuminated by the best available information, gathered with care and publicized with candor—so that we can *all* go forward together, in security *and* freedom.

CONSUMER PROTECTION AGENCY: A RESPONSIBLE BUSINESS ATTITUDE

Mr. PERCY. Mr. President, I anticipate that the Government Operations Committee, on which I serve as ranking minority member, will be taking up legislation next week to create a Consumer Protection Agency. S. 707, principally sponsored by Senators Ribicoff, Javits, Magnuson, Cook, Moss, and myself, and now reported out of the Senate Commerce Committee, would create an advocate for consumers in the day-to-day deliberations of Government agencies which so vitally affect consumer health, safety, and economic interests.

It is all too readily assumed that the bill is antibusiness. It is not. Indeed, several major companies, among them Marcor—parent company to Montgomery Ward and Container Corp. of America—and Zenith Radio Corp.—both outstanding Illinois firms—have come out in support of the kind of agency envisioned by this legislation. A recent editorial by that granddaddy of business publications, Business Week, April 6, 1974, comes out strongly and responsibly in support of precisely this kind of measure. Entitled "A Consumer Spokesman," the editors of Business Week reason:

> There is a danger, of course, that another agency would simply multiply the red tape and increase the delays that already frustrate businessmen when they deal with the government. But it is also possible that the new agency could help speed the regulatory process by improving input and clarifying issues.
>
> Beyond that, a consumer agency could improve the level of debate between business and the consumerists. By putting a sharp focus on the vague charges the consumer groups now feel free to make, it could show business where its real problems are. And by equalizing the balance between well-financed, well-organized business groups and the often disorganized consumer spokesmen, it could help restore public confidence in the regulatory process.

I believe that the dispassionate logic of the Business Week position and its forthright recognition of the need for redressing the balance in the Federal regulatory process to permit consumers to have a voice, in the final analysis, is an affirmation that what is best for the consumer is best for responsible business. And it is the responsible firms which make up better than 95 percent of the American business scene.

On the other hand, those firms which set out to gyp the consumer in the products or services they produce, or which create unreasonable risks for the consumer in marketing products which are unfit for the purpose intended, or which otherwise callously ignore the best interests of the consumer—it is those firms which have the most to worry from the creation of a Consumer Protection Agency. Hence, it is beyond my understanding why such other noteworthy business groups as the U.S. Chamber of Commerce, and the National Association of Manufacturers, and the Grocery Manufacturers of America continue to direct weighty mail campaigns against this legislation with scare language which only creates an air of distrust and confusion over this measure.

The message that the CPA would be good for business is conveyed in an outstanding recent speech on the subject by Virginia Knauer, Special Assistant to President Nixon for Consumer Affairs. Mrs. Knauer noted:

> Some of the opponents of the CPA legislation have portrayed the proposed agency as a monster dreamed up by consumerists to torment business. Such wild allegations are destructive because they obscure and confuse debate on the merits of the issues involved in this legislation.

Mrs. Knauer proceeds to address herself to several of the wild myths which have been bandied about by various opponents of the bill with an eye toward creating a climate of confusion. She succeeds brilliantly.

The President's Special Assistant then goes on to point out:

> The debate in Washington over the CPA may seem remote. Or, on the other hand, you may be deluged with distress signals from Washington lobbyists asking you to contact your Senators to oppose the CPA. The CPA legislation is too important to ignore and it is also too important for knee-jerk reactions from those who are tapped by Washington trade groups.
>
> Business leaders need to examine the CPA legislation without bias. I am convinced that those who approach the bill without prejudice will find that the Consumer Protection Agency can work to the benefit of business as well as consumers. Three nationally known firms with the courage of their convictions have already reached this conclusion. . . . And I know of some firms that are privately admitting that they made a serious mistake in adopting a strategy of all-out opposition to the bill in earlier years. Now they realize that this strategy cost them the opportunity to take a constructive part in shaping the bill which they expect to see enacted this year.

Mr. President, I ask unanimous consent that the full text of the Business Week editorial, together with significant excerpts from Mrs. Knauer's April 26th remarks in North Carolina on the subject, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

A Consumer Spokesman

Businessmen understandably are somewhat nervous about the drive to create a federal agency charged with looking out for the interests of the U.S. consumer. But the legislation taking shape this week in the House deserves the support of business as well as the various groups that now speak for the consumer.

Basically, the bill would create an "ombudsman" to represent consumer interests before Congress and most federal regulatory agencies, including the Federal Trade Commission, the Food & Drug Administration, the Interstate Commerce Commission, and the new Product Safety Commission. Consumer interest as defined in the bill would include everything from quality to availability and adequacy of choice.

There is a danger, of course, that another agency would simply multiply the red tape and increase the delays that already frustrate businesmen when they deal with the government. But it is also possible that the new agency could help speed the regulatory process by improving input and clarifying issues.

Beyond that, a consumer agency could improve the level of debate between business and the consumerists. By putting a sharp focus on the vague charges the consumer groups now feel free to make, it could show business where its real problems are. And by equalizing the balance between well-financed, well-organized business groups and the often disorganized consumer spokesmen, it could help restore public confidence in the regulatory process.

The chances of getting a fair and workable bill adopted may be better now than they will be after election. There is no telling what part consumer unrest will play in next November's voting. But as Representative Frank Horton (R-N.Y.), a co-sponsor of the bill, says, "Prudence dictates moving when the situation is stable and the factors understood."

Remarks by Virginia H. Knauer, Special Assistant to the President for Consumer Affairs

Government, both at the federal and state levels, has a perspective on consumer problems that can be extremely valuable to business. But too often, businessmen fail to see how much they stand to gain by promoting the government's consumer efforts.

The National Association of Hosiery Manufacturers has demonstrated its readiness to work with our office in the past. Today I would like to call on you as an association, and as individual member companies, to give your support to legislation that, in my view, could do more to promote a constructive working alliance between government, the consumer and business than any law yet on the books.

The proposal I am asking you to support is the Consumer Protection Agency bill now before Congress. This bill would create an independent agency to serve as the consumer's advocate before other Federal agencies. The agency would also respond to consumer complaints and would be a source of consumer information.

I recognize that it takes courage for a company—or for an industry association—to come out in favor of a consumer bill. It also takes wisdom and foresight to see that the legislation will benefit business as well as the consumer.

The debate on this legislation has been emotional and in some cases irrational. Some of the opponents of CPA legislation have portrayed the proposed agency as a monster dreamed up by consumerists to torment business. Such wild allegations are destructive because they obscure and confuse debate on the merits of the issues involved in this legislation. What we need now is a constructive effort to create a legislative framework for an effective Consumer Protection Agency that is fair to both consumers and business.

The Consumer Protection Agency bill has a long and turbulent history. At the outset, back in the 1960's and even in the early 1970's, consumers, Members of Congress, Administration officials and businessmen could not agree on what form a consumer protection agency should take, although many agreed that consumers were sorely underrepresented before the policy makers in Washington. There were proposals, and counter proposals and much name calling and, as a result, no bills made it over all the legislative hurdles.

In the past year, the mood has changed. Last September President Nixon renewed his request to Congress for a Consumer Protection Agency. All of us who favored an agency recognized that the time was ripe to reach an agreement on legislation that would win broad support. My staff and other Administration officials worked very closely with Members of Congress from both sides of the aisle to develop a workable bill that would have bi-partisan support. Consumer leaders also had their say.

Although there were, and still are, some differing views on the details of the legislation, I believe that the breadth of the consensus we achieved was amply demonstrated by the House vote on the Consumer Protection Agency bill on April 3rd. The House voted in favor of the legislation by an overwhelming 293 to 94—a three to one margin. That vote attests to the magnificent work of the House Government Operations Committee Chairman, Chet Holified, and the ranking minority member, Frank Horton, and the members of the Committee.

There is only one missing ingredient in the consensus we have achieved—and that is the business community. Although a few companies recognize that the moment has come for a Consumer Protection Agency, the vast majority are still fighting a mythical monster.

Today I would like to examine with you some of the myths that are still obscuring rational, constructive debate on the Consumer Protection Agency bill.

The first myth is that the consumer is already well enough represented in Washington. I am sometimes asked why we even need a Consumer Protection Agency when we already have the Office of Consumer Affairs which I head. There are two reasons. First of all, it would be ludicrous to pretend that my small office could advocate the consumer's case and cause before all other government agencies to the extent needed and therefore envisioned by the CPA bill. Secondly, I think it is fairer to the consumer, to business and to the Federal regulatory agencies if the consumer advocate is an independent agency whose position is presented simply as the consumer's position.

At present business representation in Washington far outweighs consumer representation. Anyone who looks at a list of organizations headquartered in Washington will see that hundreds of trade associations are at work representing their members but that there are only a handful of consumer organizations, none of which have equivalent financing. What is more, companies and their trade associations usually can afford to hire Washington's most prestigious law firms to represent their position before Federal regulatory agencies while the funds of consumer organizations are very limited. The fact of the matter is that the proposed Consumer Protection Agency would provide consumers with an advocate who could represent their interests in federal proceedings with the same degree of sophistication that business viewpoints are now expressed.

While some complain that the consumer is already over-represented others say that the consumer cannot be represented at all because there is no such thing as an identifiable consumer viewpoint. One group went so far as to say that the Agency would be pitting what it describes as the largely undefined interests of professional consumer activists against the interest of taxpayer, farmers, workers, and all other citizen groups. This too, is a myth.

Business spends millions of dollars a year on market research to find out what consumers want. They would not be spending that money if there was no such thing as a consumer viewpoint. However, very little of this research has been directed towards finding out what consumers want in the way of regulation or voluntary industry action to resolve consumer problems. In fact, I know of only one case of an industry using market research techniques to find out the consumer's view on a regulatory issue. When the Food and Drug Administration was considering regulations for the labeling of diluted fruit juice drinks, the Florida citrus industry took their case to the consumer and found that consumers were willing to back the regulations the industry sought for full disclosure on diluted drink labels.

I believe that one of the strongest reasons for business to support the creation of an independent Consumer Protection Agency is that the CPA can give focus to the consumer viewpoint. The agency will have the expertise and the resources to find out what consumers really want and need. There will be no place for the emotionalism and conjecture that some businessmen accuse consumer activists of.

Just as your association found it helpful to have my office give focus to a consumer problem in your industry. I believe that many industries will benefit from the existence of an agency that can accurately assess the consumer's position. This point was made strongly by *Business Week* in a recent editorial calling for business support of the CPA bill. *Business Week* said of CPA, "A consumer agency could improve the level of debate between business and the consumerists. By putting a sharp focus on the vague charges the consumer groups now feel free to make, it could show business where its real problems are."

Another perennial myth is that the Consumer Protection Agency would duplicate the work of existing Federal agencies and that all business would get out of it is more red tape.

This myth is rooted in a misunderstanding of the role of the Consumer Protection Agency. It will not be a regulatory agency like the Federal Trade Commission, the Food and Drug Administration or the Consumer Product Safety Commission, to name just a few. The CPA will advocate the consumer's position before the Federal regulatory agencies, just as business now advocates its own position before these agencies.

The regulatory agencies at present seek to consider the consumer's viewpoint, but all too frequently there is no one to tell them what consumers want. In the great majority of cases, they hear only from the business side. The other chair, the one for the consumer, is vacant. Government officials want to hear from all sides on the issues they must decide, but only the creation of the Consumer Protection Agency can ensure that federal regulators have the information they need to make fair decisions in the best interests of everyone. At present, there is no agency which has the needed staff with the required expertise to give the consumer viewpoint on the many complex issues which come before the government.

We expect the relationship between the CPA and other Federal agencies to be a cooperative one, contrary to some of the talk around Washington about how the CPA will terrorize the other agencies and obstruct their work. The CPA will be able to present the consumer viewpoint in an orderly fashion that will give a broader base to the decisions that the Federal agencies make in carrying out their missions.

Far from creating red tape, the CPA has the potential for cutting red tape. As the *Busines Week* editorial pointed out, "the new agency could help speed the regulatory process by improving input and clarifying issues." The CPA, in monitoring the effectiveness of the alphabet soup collection of government agencies, is in an excellent position to recommend the consolidation of consumer programs or the elimination of overlapping or ineffective programs.

The emotional opposition to the Consumer Protection Agency is preventing businessmen from seeing that in many instances the consumer shares their interest in eliminating red tape. For example, the Administration has already sent to the Congress several de-regulation measures which have consumer support. While a few businesses prefer the safety of government regulation to the vigor of competition, I can see the CPA acting as an advocate of de-regulation and competition, with the support of a large segment of the business sector.

Another myth that is used by the CPA's opponents to alarm the business community is the myth that the CPA is, by definition, antibusiness because it is pro-consumer. This kind of reasoning is a throwback to earlier days of consumerism. In the five years I have been in Washington I have seen a dramatic shift in the attitude of progressive businessmen towards consumerism. Many business leaders have come to see that the consumer can be the businessman's best ally in gaining an edge over the competition. For example, Del Monte adopted nutritional labeling for its products months before the Food and Drug Administration came out with nutritional labeling regulations because Del Monte was determined to be the first in the industry to respond to the consumer's wishes. Because industry has made such strides in opening communications with consumers, I am particularly disappointed to see some in industry revert to such backward thinking on the CPA legislation. Instead of searching for ways to bridge the gap between business and consumers, the bill's opponents seem to be trying to create a chasm.

The CPA will be of greatest benefit to those firms which are doing the best job of meeting consumers' needs. Businesses that are interested in providing quality goods and services will be the first to recognize a new ally on the Washington scene. In fact, on such issues as labeling, the manufacturer of a traditional food product, for example, may side with the CPA on improved labeling in opposition to the manufacturer of a fabricated food who would just as soon not have consumers know too much about what is in his product.

The responsive business would also benefit from provisions of the CPA legislation which open the agency's consumer complaints and business responses to public inspection after a given time period. The press or the public could easily evaluate which company is doing a good job of responding and which is the cause of a number of complaints. I know that those businesses with a good track record would welcome public inspection, just as they do now with the complaints that come into my office. American Motors, for example, is very pleased with its very low complaint rate, and Ford can be proud of the fact that since it instituted a new 90-day guarantee on repairs the number of Ford complaints coming into my office has dropped sharply.

Opponents of the CPA seem to suffer from a persecution complex. Some have gone so far as to say that the prime sponsors of the legislation are motivated more by a desire to attack business than to protect the consumer. They paint a picture of business being hounded and harassed by the CPA in its dealings with the agencies and in the courts.

I believe that the existence of the CPA can help protect business from frivolous suits and the delays and uncertainties that arise when agency decisions are challenged in the courts. This is so because if the consumer's view is adequately expressed in the development of a federal regulation, the chance of subsequent challenges from consumer organizations will be greatly diminished.

The debate in Washington over the CPA may seem remote. Or, on the other hand, you may be deluged with distress signals from Washington lobbyists asking you to contact your Senators to oppose the CPA. The CPA legislation is too important to ignore and it is also too important for knee-jerk reactions from those who are tapped by Washington trade groups.

Business leaders need to examine the CPA legislation without bias. I am convinced that those who approach the bill without prejudice will find that the Consumer Protection Agency can work to the benefit of business as well as consumers. Three nationally known firms wtih the courage of their convictions have already reached this conclusion. They *are Montgomery* Ward, Motorola and Zenith.

I am aware of a number of other firms which are considering coming out in support of the principle of a strong Consumer Protection Agency, although they may disagree with some of the specific provisions of the legislation before Congress. And I know of some firms that are privately admitting that they made a serious mistake in adopting a strategy of all-out opposition to the bill in earlier years. Now they realize that this strategy cost them the opportunity to take a constructive part from the beginning in shaping the bill which they expect to see enacted this year.

However, the proposed legislation also has an impressive array of opponents who would like to see the CPA defeated. They include the Chamber of Commerce of the United States, the National Association of Manufacturers, and the Grocery Manufacturers of America.

Looking over the frustrating course of this consumer legislation, it should be as obvious *to you as it* is to me that more than a little business credibility is on the line. The time for constructive business support of the CPA legislation is now. A bill has already been passed by the House and a similar one has been reported out by the Senate Commerce Committee.

Today I am calling on you to speak up and I am asking you and all members of the business community to speak up for the CPA on the basis of the facts not the myths. In asking you to speak up for the consumer on this issue, I am also asking you to speak up for business because I believe that business has more to gain than to lose from a Consumer Protection Agency.

Thank you.

ECONOMIC ANALYSIS

Mr. BROCK. Mr. President, the great economist, John Maynard Keynes said in reply to an implicit question about longrun effects of a policy, "in the longrun, we are dead." We have been paying too much attention to this kind of advice. Consider our monetary policy.

We have been increasing the money supply at a fast rate for many years, a few periods of holding the supply constant notwithstanding. We seem to forget that the shortrun and longrun effects of monetary policy have nearly opposite effects on interest rates. To reduce interest rates we turn on the money faucet, and interest rates decline for a time. Then they rise.

What actually occurs when you increase the supply of money, as with any commodity, its price goes down. And interest rates are the price of money. But an increased money supply, when the economy reaches near full employment, has the longer run effect of increasing the price level in general and interest rates in particular. In sum, the shortrun effect on supply is to decrease prices, but the longrun effect on demand is to increase them.

As interest rates have risen, we have tended to respond by looking to the short run only, perhaps hoping for a deus ex machina to save us later. We increase the money supply very rapidly and interest rates drop for a time. This occurred twice late last year, for example. But then the longrun effect takes hold again and interest rates rise more quickly than ever.

By now, we have pursued such myopic practices too long to have left ourselves with any easy way out. We have to keep the rate of increase in the money supply at a reasonable level. It should increase at an annual rate of between 2 and 5 percent each quarter. We will have to suffer the shortrun hardships if we are to have any hope of longrun stability. And let us face it, we have to have the old-fashioned American guts to tell the people the hard truth. At least we can say that there is not reason to have to go through all this again. If we would institute a policy of keeping the growth rate of the money supply steady and not be panicked into ill-considered actions by temporary difficulties, we could go a long way to stabilizing the economy in the future. I have already introduced the required legislation, S. 3101. Unfortunately, until we act we will continue to pay for implementing Keynesian policies without discrimination.

INFLATION

Mr. CHILES. Mr. President, last week the Senate was unable to pass the Muskie-Stevenson-Johnston Cost of Living Act which would have provided stand-by price control authority, inflation monitoring capacity and enforcement provisions to keep commitments of producers as price controls are lifted. These in my view were and are of vital importance to controlling inflation which is so obviously the major domestic policy problem we have.

I think there is every reason for grave concern about what future economic developments will be now that price and wage controls have expired. We were all tired of the controls. But that is a little bit like getting tired of taking medicine before you have gotten rid of the flu. If we just look at the inflationary pressure in the economy—the pressure in those industries that have been under controls, the rise in the wholesale price index, the pressure for an increase in wages—all this seems so evident and to so obviously argue for some selective but firm anti-inflationary policy. And now, we simply do not have a policy.

I was very interested to read some testimony before the Joint Economic Committee on Friday, which just bears out my concern. The Wharton economic forecasting model at the University of Pennsylvania is well recognized among economists as being as credible a prediction of future economic developments as any we have. The testimony of Prof. F. Gerard Adams on the Wharton predictions and that of Herb Stein Chairman of the President's Council of Economic Advisers before the JEC both confirm the seriousness of our economic situation. Mr. Stein's testimony is notably more optimistic in tone but in it is the same message as in the Wharton forecast:

Output is sluggish and will recover at a fairly slow rate;

Unemployment will increase;

Inflationary pressures continue to be high, with the likelihood that they will transform into a wage push inflation if prices are not brought into line; and

A turnabout in the trade balance to a substantial deficit in 1975 according to the Wharton forecast.

All this seems to confirm what one feels is happening. The economy is in very serious shape from every point of view—growth, employment, inflation, and trade. These serious conditions warrant some serious economic policy measures. I see none on the horizon. My feeling is that the next year is crucial in bringing under control what was an unusual spurt in inflation brought on basically by rises in food and fuel prices and bringing it to equilibrium without allowing it to transform itself into the same old kind of inflation we have always had where prices pull wages and then wages push prices. The only way to stop this from happening that I can see is to have an antiinflation policy which can assure workers and consumers that their money incomes are not going to be further eroded by still another round of price increases. Monetary policy alone will not do the trick and is already shot its strength. A balanced budget is necessary but is no panacea. What is needed is a policy which focuses on the inflationary pressure points in the economy and brings the restraint of the public's interest to bear on them. The absence of a policy, with economic conditions being as serious as they are, is begging trouble further down the road.

I ask unanimous consent to have the testimony of Mr. Adams and Mr. Stein printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY OF F. GERARD ADAMS

The latest Wharton Quarterly Model Forecast continues to show the United States economy in a recessionary period though moderate recovery is clearly in prospect. After the very sharp decline in real output in the first quarter (at a 5.8% annual rate), the economy will be essentially flat in the second quarter. The end of the oil embargo has lifted the threat of further significant downward movement. It is immaterial whether we formally call this period a recession. There may not be two consecutive quarters of absolute decline in real GNP, but output has fallen substantially below potential.

The resurgence of economy activity will take place at a fairly modest pace. Further increases in unemployment can be expected as output expands at less than the long run potential growth rate of near 4% per year. Real GNP can be expected to increase at an annual rate of approximately 2% during the next four quarters while unemployment will approach 6%, and capacity utilization will decline to 89% (Wharton index). The recent tightening of monetary policy will limit the stimulus expected from residential construction.

Inflation will continue at above a 10% annual rate in the current quarter as price controls are lifted. Later in the year inflation will ease somewhat, but the price increase during 1974 will be over 9% and in 1975 prices will continue to rise at annual rates near seven percent, as measured by the GNP deflator. Profits are well maintained, but in large part this represents continued high levels of inventory profits attributable to rapid inflation.

From the point of view of demand, recent economic trends present a paradox. This is a most atypical economic slowdown. There is considerable strength in investment. Business fixed investment is held in check largely by capacity limitations and this makes it most unlikely that expansion plans reported in recent business investment anticipation surveys will be met. On the other hand, consumer demand has been weak. While automobile sales have improved somethat recently, we cannot expect a stimulus to demand from the consumer. Surveys indicate very low levels of consumer sentiment. Unfortunately, the growth of prices has outstripped wages. Householders have been squeezed. Real per capita purchasing power (disposable income) has been declining (the decline between 1973 and 1974 will be approximately one-half percent compared to normal growth of 2.5%).

Housing has, of course, been another element of weakness. The probable resurgence in this area is now threatened by the sharp change in the Federal Reserve's monetary posture. Since the lags in the housing area are fairly long, the impact of tighter money will be principally in delaying and slowing the expansion of residential construction. The extent of the impact of the change in policy depends on how tight money will be and how long this posture will be maintained. On the assumption of monetary growth of just over six percent per year (a figure which should be compared with projected growth of current dollar GNP of 9 to 10 percent) short term interest rates will remain near current high levels for several months. They decline somewhat late in the year as the post-freeze inflation bulge subsides, and as monetary policy eases slightly. With seven percent inflation, however, any dramatic drop in interest rates appears unlikely.

Inflationary pressures remain at a very high level, despite some easing of agricultural prices in recent weeks in expectation of a plentiful harvest. The rate of inflation is being augmented by a flurry of price increases as the dismantling of price controls becomes effective throughout the entire economy. It is not clear at this time how many firms may use this opportunity to scale up their prices, but we expect to see perceptible increases during the next two quarters in several sectors. Moreover, labor agreements in major industries—such as steel for example—have substantially outstripped wage guidelines. It has been difficult recently to place a value on complex labor agreements. Most of them call for price escalator clauses, at least 3% annual productivity increases and substantially liberalized pension benefits. In the light of recent consumer price trends these wage increases are in excess of last year's experience and will surely call for higher product prices. In spite of the anticipated rise in unemployment, wages of low income workers will also be marked up as a result of the May 1 increase of 40 cents per hour in the minimum wage. On balance, compensation per hour for the non-farm private economy is expected to increase at 8.5% to 9% annual rates during the next two years.

In view of the sluggish economy, there will not be substantial offset from improvements in productivity. Unit labor costs will be rising sharply. Inflationary forces are shifting from demand pull to cost push! In the absence of an effective system of price and wage controls, the wage-price spiral accounts for continuation of inflation at rates over 7% annually in 1975 despite the expected easing of demand pressures.

The foreign balance is another area of concern. In current prices, the trade balance is beginning to be significantly affected by the increase in world petroleum prices. Moreover, the value of the dollar has declined sharply in recent months—some five percent on a trade weighted basis from January to April—and this too has an unfavorable impact on the trade balance in the short run. We are experiencing a sharp turnaround of the trade balance from the heartening surpluses of the past few quarters to a substantial deficit position. By 1975 the deficit on trade may be of the order of $7 billion. Real trade flows are not as seriously affected, though the resumption of oil shipments and the general slowdown of world markets will tend to reduce the real trade surplus.

The current economic situation for the United States poses some serious policy issues. Important policy alternatives have been precluded by decisions made in recent weeks. The rapid dismantling of the wage and price controls will have a perceptible impact on the pace of inflation over the course of the next few months. The lack of significant counter-inflationary policy was no doubt a major factor in the decision of the Federal Reserve Board to tighten monetary policy. But this tightening will maintain high interest rates and will hamper economic expansion. The real economic cost of stern one-sided policy measures can be very high.

Realistically, we must recognize that many of our economic problems stem from earlier miscalculations and from factors which were beyond our control. No manner of policy manipulation in 1974 can resolve many of these difficulties! But this is no excuse for simply throwing up our hands in despair!

Many of us are disenchanted with the operation of detailed price and wage controls. Yet this is not the time once again to establish "open season" for price increases, particularly since inflation is originating increasingly from the cost push side. There is ample basis for guidelines for wages and prices. The key to such proposals must be balance. Wage earners can be expected to limit their wage demands only so long as they can be sure that prices will not rise out of hand and that excessive profits are prevented. Continuation of the Cost of Living Council remains a high priority. The Council should have broad authority to establish equitable price and wage targets, to measure the pace of inflation, and to call the nation's attention to those price and wage decisions which are inflationary.

Moderate stimulus may be appropriate on the side of demand, particularly in housing and consumption where there is ample capacity. One proposal discussed in recent weeks has been a tax cut to offset the recent decline in consumer purchasing power. Personal income tax reduction, amounting to perhaps $6 billion, could be coupled with revision of the withholding schedules to eliminate some of the large overwithholding. An alternative run of the Wharton Model which incorporates these tax reductions shows that such action would provide a moderate stimulus to real economic activity when it is most needed in the second half of 1974 and early 1975. It would create only moderate additional inflationary pressure.

Finally, since the consumer and the small saver is least able to protect himself against inflation, we must move full-speed ahead to develop new means to protect consumer saving and income from the onslaught of inflation.

WHARTON MARK III QUARTERLY MODEL—MAY 1, 1974, PREMEETING CONTROL SOLUTION

TABLE 1.—SELECTED MAJOR ECONOMIC INDICATORS

Item	Lagged 1974.1	1974.2	1974.3	1974.4	1975.1	1975.2	1975.3	1975.4	Annual 1973	Annual 1974	Annual 1975
Gross national product	1,351.8	1,387.2	1,420.0	1,457.1	1,491.1	1,524.8	1,561.5	1,603.3	1,289.1	1,404.0	1,545.2
Percent change	4.4	10.9	9.8	10.9	9.7	9.3	10.0	11.1	11.6	8.9	10.0
Real gross national product	832.0	832.9	835.7	840.9	845.0	849.4	855.7	863.7	837.4	835.4	853.5
Percent change	−5.8	.4	1.4	2.5	2.0	2.1	3.0	3.8	5.9	−.2	2.2
Implicit price deflator, gross national product	1.6	1.7	1.7	1.7	1.8	1.8	1.8	1.9	1.5	1.7	1.8
Percent change	10.8	10.4	8.3	8.1	7.5	7.1	6.8	7.1	5.4	9.2	7.7
Percent change real private output per man-hour	−3.4	1.4	.5	1.3	.9	.9	1.5	1.6	3.0	−.7	1.1
Percent change private compensation per man-hour	7.9	8.3	8.6	8.8	9.3	8.8	8.6	8.5	7.4	7.8	8.8
Unemployment rate (percent)	5.2	5.4	5.6	5.8	5.9	6.0	6.0	6.0	4.9	5.5	6.0
Capacity utilization: Manufacturing and mining	.9	.9	.9	.9	.9	.9	.9	.9	1.0	.9	.9
Personal savings rate (percent)	6.5	5.9	5.8	5.6	5.4	5.4	5.7	6.0	6.2	5.9	5.6
Percent change in money supply	5.8	6.0	6.0	6.3	6.2	6.2	6.3	6.4	7.4	5.6	6.2
4- to 6-mo commercial paper rate	8.3	10.1	10.0	9.7	9.4	9.2	9.2	9.3	8.2	9.5	9.3
Moody's total corporate bond rate	8.2	8.5	8.7	8.8	8.8	8.8	8.8	8.8	7.8	8.5	8.8
Corporate profits before tax	138.5	148.5	145.2	144.9	145.6	146.4	149.8	155.3	126.3	144.3	149.3
Federal surplus, NIA basis	4.9	−9.0	−4.8	−5.7	−3.9	−3.4	−6.7	−7.0	−.9	−3.7	−5.2

STATEMENT OF HERBERT STEIN

We are pleased to appear before you today to present our views on economic developments thus far during 1974 and our expectations for the balance of the year.

Despite the obvious economic difficulties that we have been passing through, output and employment in the American economy have held up well in the face of last winter's energy crisis. It is true that during the first quarter of 1974 we suffered from a sharp decline in total production, that unemployment is now higher than it was at the end of last summer and that some of the effects of the needed adjustments to our changed energy situation are still to be felt. But we believe that by the middle of the year overall production will once again be on the rise.

Although real GNP declined by 1½ percent or at an annual rate of 6 percent in the first quarter of this year, the decline was a reflection of the energy crisis particularly as it affected the motor vehicle industry. Automobile production as measured in *the national* accounts fell by 29 percent from the fourth quarter level and by itself accounted for almost all of the decline in total GNP. In addition consumers reduced their real spending on electricity, natural gas, fuel oil and gasoline as well as for tires, auto-accessories, recreational vehicles and the like. If we make allowance for these and reduced business outlays for such things as trucks we more than account for the first quarter decline in real GNP. Of course, not all of the first quarter decrease in auto production was caused by the crisis since prior to last fall there was a common expectation of a moderate decline in auto demand and output in 1974. But as an offset against this one should also take account of the reduced spending of laid-off automobile workers, automobile salesmen, filling station attendants and others who lost their jobs because of the embargo.

I do not mean to suggest that aside from energy-related production the economy was robust. Indeed, before the onset of the energy crisis we foresaw very slow growth in the economy in the first half of 1974 reflecting some reduction in demand as well as limitations on supply. In the early part of 1973, amidst a process of very rapid expansion in demand the economy encountered significant supply limitations so that as far back as a year ago some slowdown and readjustment was inevitable. It is not surprising that the picture was mixed in the first quarter. Activity was in the midst of a pronounced decline. In contrast, demand in some sectors, like capital goods, was quite strong and shortages of basic materials were very common. Apart from energy-related items real consumer spending showed a fairly good rise in the first quarter.

We do not foresee much change in overall production in the second quarter since we see many cross currents which are approximately offsetting. While we believe that we will wind up with a small plus, the change in real GNP could just as easily be a small minus, and let me emphasize that no significance should be attached to the difference between a small increase and a small decrease. In April we saw a good recovery in automobile production from the very depressed levels of the first quarter. Dealer sales of domestically-produced cars were running at a seasonally adjusted rate of 8 million units in April as compared to about 7⅔ million in the first quarter. Dealers' stocks are in fairly good shape. We should not be surprised to see some further decreases in automobile inventories in the current quarter, but not as much as occurred in the first quarter.

We expect a good recovery of the economy in the second half of 1974 and a resumption of the rise in real consumer spending that came to a halt late last year. We believe that the improvement in gasoline supplies will bring back into the market increasing numbers of purchasers of large cars who held back from buying last winter. Also buyers of smaller cars should find greater supplies of such cars because of increased production capacity. The reduction in auto inventories should come to a halt. All told we are projecting moderate increases in auto production from the April level.

CHANGE IN REAL GNP (IN 1958 PRICES) AND IN SELECTED COMPONENTS OF GNP AFFECTED BY THE ENERGY CRISIS

[In billions of dollars]

	1973 IV	1974 I	Difference
Total real GNP	844.6	832.0	−12.6
Auto GNP	41.3	29.3	−12.0
Trucks and buses	14.8	13.2	−1.6
Auto accessories including recreational vehicles[1]	12.6	11.6	−1.0
Consumer energy outlays:			
Gasoline and fuel oil	27.9	24.8	[2] −.9
Electricity and gas	15.2	14.1	−1.1
Total selected energy items			−16.6

[1] Includes mobile homes.

[2] The decrease in gasoline and fuel oil shown here is smaller than actually occurred in order to make allowance for the reduction in imports. Calculations by CEA.

Source: Basic data from Department of Commerce.

The capital goods sector is the strongest sector of the economy at present and we expect it to remain strong for the rest of the year. Although the rate of capacity utilization in manufacturing has edged down, it is still very high by historical standards. Capacity is inadequate to satisfy demand in many industries producing basic materials. Backlogs are very high and waiting times for many types of capital goods are very long. The Commerce Department survey of anticipated plant and equipment expenditures published in early March—which was essentially confirmed by the McGraw Hill survey published in early May—points to rising outlays for new plant and equipment through the year. A good-sized advance remains after allowance is made for higher prices for equipment and construction.

We do not expect changes in inventory demand to have much of an effect on changes in total production for the rest of 1974. Some industries have been accumulating stocks of raw materials which have been in short supply and inadequate to sustain current levels of output. There are also reports of hoarding of raw materials in anticipation of price increases but we have no hard information on this activity. So far we have not seen a backing up of finished goods inventories in the hands of manufacturers and trade firms. Relative to GNP the physical volume of total nonfarm inventories in the first quarter of 1974 does not appear high even though this ratio (based on constant dollar figures) has risen somewhat from the very low ratio of 1973.

The sharp decline in housing starts that began in early 1973 seems to have come to a halt in the first quarter of this year. That decrease was influenced mainly by the tightness in mortgage markets that developed last summer although the extent of the decline was also affected by some earlier overbuilding of single-family homes and by last winter's energy crisis. The greater availability of mortgage funds late last year and early this year has provided the groundwork for a recovery in housing. However, the sharp rise in interest rates that began in March has slowed down the flow of funds into thrift institutions—which are the main source of funds for mortgage lending—and indeed threatens a repetition of last summer's disintermediation. Because we consider a continued recovery in housing to be important for itself as well as for the overall recovery of the economy the Administration is taking steps to insure a recovery in housing starts. We considered the possibility of asking the Federal Reserve System to pursue an easier money policy but we do not consider that to be appropriate during this period when prices are rising so rapidly. Since we believe that a monetary policy of moderate restraint is now called for, the Administration is taking steps to support the housing market. These steps will be announced later today.

In the year preceding the onset of the energy crisis—from October 1972 to October 1973—employment as measured in the survey of households had shown a strong and nearly continuous upsurge. Civilian employment had increased by 3¼ million persons (an annual rate of growth of 3.9 percent) while the number of unemployed persons decreased by 770,000 to 4.1 million. The unemployment rate declined from 5.6 to 4.6 percent. The rate decreased sharply for all demographic groups and reached a low of 2.1 percent for married men (spouse present). An unprecedented peacetime labor force participation rate of 61.8 percent was attained.

We knew last fall that these trends could not continue nor was it desirable that they should. The labor market was tight. The high labor force participation rate and the low unemployment rate meant that the scope for further employment increases was limited. Large increases in demand and output would mean similar increases in the demand for labor and under the conditions of last fall this could only intensify pressures on wages. In fact, we expected a tapering off in the rise in economic activity and labor demand, bringing with it a levelling off or a period of slow growth in employment and probably a slight upward tilt in unemployment. The oil embargo changed these earlier anticipations.

The impact of the oil embargo began to appear in November and increased in severity over the next 2 months at a time when labor force participation rates continued to edge up. From October to January the number of persons unemployed rose by 600,000 on a seasonally adjusted basis, while the unemployment rate rose to 5.2 percent. Over the same period total civilian employment increased by 160,000 persons, seasonally adjusted, because the demand for labor was still growing outside of the energy-affected sectors.

An examination of payroll employment shows that non-agricultural jobs grew by 160,000, seasonally adjusted, from October to January. Important employment increases were experienced by the government, the services, and the mining sectors of the economy. Employment declines were large in a few sectors, particularly transportation equipment (105,000), retail trade (95,000) and to a lesser extent contract construction.

The softening in the demand for labor over this period was also reflected in a shortening of the workweek. From October to January the average workweek of private nonfarm payroll workers decreased by 0.3 hour to 36.7 hours. Although the declines were widespread, they were particularly large in transportation equipment, primary and fabricated metal industries, and contract construction. Except for contract construction, where homebuilding was declining, the large declines in hours worked appear to be primarily a consequence of the decline in the production of motor vehicles.

Since January 1974 the unemployment rate measured in household surveys has been essentially on a plateau averaging 5.1 percent. Total civilian employment has hovered around 85.8 million. The levels of employment and unemployment of adults taken as a whole have changed little. The April decline of 0.2 percentage points in the labor force participation rate and the dip in the unemployment rate to 5.0 appear to reflect largely a sharp decrease in teenage employment and unemployment. The teenage data are very erratic and the April dip could be due to an imperfect seasonal adjustment for April inasmuch as the survey was taken during the week containing Good Friday. The fact that the total civilian labor force showed a slight dip from January to April may be primarily a reaction to the extremely sharp rise from last October to January.

The payroll series gives a somewhat different employment picture, showing a seasonally adjusted rise of 385,000 from January to April. The April figure is now 230,000 above last November. Manufacturing employment fell in February and March but rose in April while outside of manufacturing employment showed a strong increase over the 3-month period.

The average number of hours worked per week by private nonfarm payroll workers fluctuated around 36.8 hours from January to March. The decline to 36.6 hours in April appears to be related in part to the incomplete seasonal adjustment for a survey week containing Good Friday.

We believe that the continuing high level of employment since last fall attests to the fact that there is still considerable strength in the U.S. economy. Although we look forward to rising demand and output in the second half of this year we will probably see some further increases in unemployment as the labor force once again begins to grow.

In our view the rate of price increase in the U.S. economy peaked in the first quarter of 1974 and we expect improvement from here on out. But we must recognize that improvement is relative—in this instance relative to the first quarter increase of 12.2 percent at an annual rate in the CPI and of 10.8 percent in the GNP deflator. As we said in our latest Annual Report "Whoever undertakes now to fight inflation must be prepared to stay the long course." But it is always encouraging, when pursuing such a long run goal, to see some results quickly. And this we expect.

Retail food price increases, which accounted for about one-third of the 12.2 percent rise in the CPI in the first quarter, should slow substantially in the April–May period and contribute importantly to a slower rate of rise in the CPI.

Increases in prices of refined petroleum products will diminish. This will be reflected in smaller increases in prices of fuels purchased directly by consumers; in the first quarter such increases accounted for another third of the entire CPI rise. Of course the lagged effect of the rise in crude oil prices on substitute fuels, electricity generation costs and petrochemical based products will continue to be felt but the impact will be smaller.

The behavior of the prices of goods and services other than food and directly purchased fuels will be central to the future course of inflation. Prices of these nonfood commodities and services other than fuels in the CPI rose at an annual rate of 6.1 percent in the first quarter and accounted for the remaining third of the CPI increase.

Prices of the nonfood commodities are influenced by developments in the industrial commodities component of the WPI. As is well known, prices of these commodities have risen at a rapid pace in the past several months through April and are likely to continue to advance rapidly for another couple of months. These increases in turn reflect the large rises in prices of raw industrial commodities and of unit labor costs. The latter are influenced by the rate of wage increase and the slowdown, and decline in the first quarter of the year, in output per manhour.

Given the likely pattern of developments with respect to the factors determining the prices of goods and services other than food and fuel it is likely that prices of these items will accelerate during the year from the 6.1 percent rate of the first quarter of 1974. Most of the acceleration will occur in the fall when new goods come to market. But food and fuel prices are likely to be rising much less rapidly at that time than they are now and will provide some offset to the acceleration in prices of the rest of the consumer's market basket. Thus, on balance we should see a rate of inflation substantially below recent rates.

While such an outcome will indeed be encouraging we will still have considerable distance to go to achieve acceptable price behavior. This underscores the need to maintain proper policies of demand management. In a setting of rapid price increases, continued shortages of many items and the prospective recovery from the first-quarter decline of output induced by the energy crisis we do not think that policy should turn in a more expansive direction. To do so would jeopardize the improvement in prices that we expect during the balance of this year. It should be our goal to slow price increases further in 1975 and continued prudent fiscal and monetary policies will be required to achieve that.

ENERGY AND POLITICS

Mr. HANSEN. Mr. President, I was invited recently to address a group who call themselves the Society of Independent Professional Earth Scientists.

The foreword of their directory describes their organization as an organization of self-employed Earth scientists whose members have been certified by the governing body of the society as to professional competence and professional ethics. The membership includes engineers, geochemists, geologists, geophysicists, and paleontologists. A requirement of the society is that members who practice as consultants have freedom of choice of clients and are not in the employ of another individual or company. Persons on the faculty of a college or university, however, may be admitted to membership if they are otherwise qualified. Members who practice for their own account, rather than as consultants, must be independent in business activities related to their professions.

At their annual meeting in Houston, one of their members, Leslie Bowling, of New Orleans, presented a paper proposing a public education plan as an action program for the society.

In view of the attitude in Congress toward the oil industry in general and the major oil companies in particular, I believe it is important that those who can decide the future energy course of America may fully understand the problem.

The punitive and even vindictive legislation now under consideration both here and in the other body, could reverse the gains already made in domestic exploration and development and in increased recovery of oil that would be left in the ground but for the higher prices allowed for newly discovered and stripper well oil.

The summary of the action program for SIPES is one of the best and simplest arguments I have heard for continuation of tax and price incentives as the surest and quickest way to bring on the additional supplies this Nation must have to prevent recurring embargoes and price blackmail.

Mr. President, I ask unanimous consent that the summary of Leslie Bowling's analysis of our energy situation in relation to the politics of energy be printed in the Record.

There being no objection, the summary was ordered to be printed in the Record, as follows:

Cooperate, Act and Contribute—An Action Program for SIPES

There is an energy shortage that will become increasingly acute with time unless immediate and proper steps are taken.

We are now a dependent nation from an energy point of view in that we must import 20–30% of our total oil requirements, and this dependency will continue to increase with time until such time as domestic exploration can replace part or all of our present shortage. Our domestic gas reserves are insufficient to meet demands, decrease daily and will continue to do so until domestic reserves can be exploited and injected into our energy stream. Even with maximum development our domestic gas reserves will never meet the long-term demand. Natural gas will have to be phased out in time and replaced by other fuel sources.

We submit that uninhibited exploration will require a lead time of 3–10 years to find, develop and market the domestic oil and gas reserves yet undiscovered and undeveloped.

An uneconomical climate, unnecessary prohibitions, restrictions and regulations that would delay this lead time could be catastrophic. During this 3–10 years lead time period, we must develop all other energy resources—coal, oil shales, tar sands, thermal, solar and nuclear energy—and bring them into the energy stream as rapidly as possible. Oil and gas must be relied upon to furnish the major part of our energy requirements until the others can be brought on stream. This same lead time of 3–10-years of uninhibited effort will be required to make energy from these other sources available and to make us an independent nation energywise.

Oil and gas will play an ever decreasing role in the total energy picture as the other sources become available.

True enough, foreign reserves will continue to be developed; but we have learned—the instability of our economy and the terrific economic burden when dependent upon foreign sources for even part of our critical energy needs.

The Oil Industry has admirably served this nation and the world through several critical periods and crises—World War II, the Korean war, Suez crisis and others—and up to this time has supplied our peacetime economy with plentiful and cheap fuel.

What happened? Why our present predicament?

Let us not waste time and words making accusations and criticisms. It is worthwhile to analyze past history to determine the cause of our present situation in order to take the proper steps to resolve the problem.

The economy of this country is based on the capitalistic system; that is, free enterprise under the fundamental law of supply and demand. Attempts to control or regulate this law only accelerate or delay its operation. The ultimate results are inevitable.

I quote from the report of the Energy Resources Committee to the National Resources Committee, dated January, 1939, titled "Energy Resources and National Policy":

"Although discovery has more than kept pace with production of these resources;" (oil and gas), proven reserves are so small in comparison with annual consumption that these energy producers must be considered as strictly limited. With the Nation so dependent on liquid fuels particularly, it would certainly seem to be the part of wisdom to proceed cautiously in the use of this resource. Yet, today we are depleting our reserves of oil faster than the rest of the world. We must consider the possibility of being first among the oil-producing nations to feel the pinch. We must consider whether to use more wisely our available supply, to manufacture high-cost substitutes, or to depend on foreign oil for our motor cars and airplanes, our tractors, and our battleships. After our natural reservoir oil is exhausted or after the shortage becomes serious, we can turn to oil produced from coal, to oil-bearing rock or shale, or to alcohol from vegetable matter. But these processes make a liquid fuel available only at much higher costs. Consequently, although we need not be alarmed over the possible breakdown of our motorized civilization, we may well concern ourselves over the higher costs that we should have to pay after exhaustion of natural reservoir oil.

As of this date, not a word needs to be changed. Beginning in 1952 the warnings of impending oil and gas shortages ever increased until the recent embargo crystallized our true energy position. During the interim 1939 to date, price controls, regulations, restrictions, increasing costs and taxes and other inhibitions gradually debilitated the economic climate of the Oil Industry to the point where the industry—men, money, materials and equipment—had to seek other shores for an economic climate in which to explore. The industry has performed admirably in developing reserves for other countries. During the period 1952 to date the warnings of industry of impending shortages increased and were ignored.

During the period 1939–1974, our then *major energy* source—coal—became noncompetitive and was forced out of the energy stream. Other equally important sources—shale oil, tar sands and others—were not able to compete with cheap and regulated oil and gas. The economy of this nation has been built on a single, price controlled and regulated source of energy: oil and gas. The auto industry became the dominant industry in the nation, an intricate system of highways was built and the railroads forced into a state of oblivion as they could not compete. As a result of the highway system, trucking became the dominant means of distribution at the expense of the railroads. As the dominance of the trucking industry increased, the economy of the country came under the *control of* a relative handful of men—the truck drivers. Witness the result of their recent strike and its immediate effect on the national economy.

We must conclude that our political representatives, particularly in Washington, have failed to heed the warnings and continually increased regulations, taxes, inhibitions and price controls between 1939 and the embargo of 1974. Even today there are strong efforts in Washington to further tighten controls, roll back prices and further penalize the Oil Industry. There have been accusations that our political representatives have subrogated the nation's best interest to their personal and/or party political aspirations. We believe the present critical energy shortage is a result of political errors. We believe that our political representatives are thoroughly aware of the energy problem but hesitate to act properly because to do so would probably be tantamount to personal political suicide.

We urge that they also become aware of and give consideration to the critical shortages in the available supplies of our other primary raw material needs, such as iron, zinc, lead, copper, etc. We could become severely short of iron, aluminum and other primary materials in the foreseeable future unless proper steps are now employed. We now import virtually all of our needs for platinum, mica, chromium, strontium, and others, and more than 70% of cobalt, aluminum, magnesium, fluorine, titanium, asbestos, tin, bismuth, nickel, etc. Our dependency increases yearly as well as our vulnerability.

We appreciate the requirement of those in politics that they must heed the will of the majority of their constituents if they are to remain in the political field. We think it timely, urgent and mandatory that our political representatives heed the national need if we are to be independent from an energy point of view and maintain our viable role as one of the dominant nations of the world.

We believe that a true understanding of the problem by the people and their encouragement of their political representatives to take proper procedures would facilitate the proper action being taken.

We advocate de-control of prices and a minimum of regulations and inhibitions—a free market in all commodities. Delays in taking proper steps will only result in unnecessary higher prices to the consumer and could be national suicide. A free market will allow the other energy sources to take their proper place in the energy stream. At such time as all energy sources have taken their proper place in the energy stream and the railroads and other transportation means developed, the stranglehold of a handful of men on the national economy will be relieved and energywise we will again be independent.

S.I.P.E.S. is an organization of professional earth scientists: independents primarily in the petroleum field. We submit that we are qualified to express this opinion; that we have no mercenary motives or political aspirations, and that we are paying all costs for this program out of our own pockets. We are a tax exempt organization and, hence, pay our taxes and are free to speak without fear of losing a tax-free status. We believe in a strong, free and independent America. To reobtain and maintain this position we must have a free market and free enterprise system for all business and commodities.

Thirty-five years of federal regulation of the Oil Industry has proved the effects of regulations and price controls—it only postponed the inevitable. Would you like to imagine our future if the oil and other critical industries were fully federally controlled and operated?

Your immediate question is: what about oil and gas prices? The answer is: they will probably increase for the short term unless domestic supply can meet demand. But as other energy sources come into the stream the demand for oil and gas will decrease and competition between the energy sources will keep all energy costs at a competitive level over the long term.

We warn you—the days of cheap energy are gone. The practical solution is to learn our lesson, face facts and evolve a practical solution—free enterprise. We must gauge the limits of these nonregenerative resources to live within these limits, to protect our environment, and to pay the cost.

We urge that you give this analysis of the problem your serious consideration; and, if you are in accord, to express your views to your local and national political representatives.

Mr. HANSEN. Mr. President, as a further example of what is already being accomplished and in answer to those who say they have seen no evidence that higher prices are bringing on new supplies, I offer several concrete examples.

I ask unanimous consent that a few of the many telegrams and letters I have received that offer such evidence be printed in the Record as proof that more realistic crude oil prices have indeed already begun to reverse the downtrend of U.S. domestic oil production.

There being no objection, the material was ordered to be printed in the Record, as follows:

Casper, Wyo., *May 8, 1974.*

Senator Clifford P. Hansen,
Washington, D.C.

As an independent for over 25 years I assure you that we will expand our exploration and development programs by at least the dollars represented by the increased value of crude oil. Through secondary recovery programs, reactivated stripper well productions and wildcat drilling our production the first three months of 1974 was 546,858 barrels of oil and 1,033,025 MCF of gas compared to 469,838 barrels of oil and 254,109 MCF of gas in the first quarter of 1973. A rollback in crude prices or the removal of the stripper well exemption will be counterproductive to our and the nation's effort to increase domestic energy supplies. Any such amendments to S 3267 will unquestionably cut back exploration in the Rocky Mountain States where individuals and small companies do 83 percent of the total drilling.

H. A. True, Jr.

Casper, Wyo., *May 8, 1974.*

Senator Clifford P. Hansen,
Capitol Hill, D.C.

As an independent oil man I would like to state my opposition to S 3267 and the several proposed amendments to this bill. The stripper well exemption has allowed continued operation of a great many stripper wells in which I have an interest. These wells would become uneconomical under lesser prices. Prices currently paid for "new and released" crude oil must be maintained. Rig activity in Wyoming is currently 92 drilling rigs in operation vs only 34 at this time last year. 83 percent of the total drilling in the Rocky Mountains area is being done by independents like myself. This could not be accomplished without the current economic incentive to the independent oil producer.

My exploration and development programs are the most aggressive yet undertaken by myself and is due to the increased wildcat drilling, reactivation of stripper well production that would otherwise be uneconomical, and secondary recovery programs. I can assure you that I will extend my exploration and development program by at least the dollars represented by the increased value of crude oil. Such amendment to control prices, roll prices back or remove the stripper well exemption will only retard my efforts and the nation's efforts to increase domestic energy supply.

Hank True.

New Orleans, *May 9, 1974.*

Hon. Clifford P. Hansen,
U.S. Senate,
Capitol Hill, D.C.:

McMoran Exploration Co., independent, publicly owned, highly successful, and dedicated domestic oil and gas exploration company, funded privately, and building equity by selling our expertise and participating in the oil and gas we discover, is pledged to plow back into domestic exploration excess funds from increasing production runs in order to increase the company's percentage of participation in our future exploration programs. We have never paid a dividend, nor do we anticipate paying a dividend in the foreseeable future. We prefer building equity by larger participation of the company in our own ability to find oil and gas reserves. Our last full exploration program resulted in the drilling of some 56 wildcat wells with an expenditure on wildcat drilling of some $10.7 million, predominantly in the onshore and inland bays and marshes of coastal Louisiana and Texas, also in the States of Alabama, Mississippi, Arkansas, Colorado, Wyoming, Montana, North Dakota, New Mexico, and we anticipate some drilling activity in the States of Florida, Utah and Illinois. McMoran, in spite of unprecedented activity, high prices, and success in finding oil and gas reserves, has shown a loss in the first three quarters of this fiscal year.

We know and have proven we can find reserves but we are gravely concerned that ill conceived legislation, and agency regulation is undermining our free-enterprise system, killing incentive and proving once again that the more the Federal Government intervenes in the private business sector through legislation, agency regulation, and control, the worse the problems become.

In the short period of 6 months since the upward adjustment of domestic oil and gas prices, every statistic available depicts increased domestic exploration activity and would, given time, overtake and exceed the all time record of activity of middle fifties—when the beginning of the decline in activity coincided with the Federal regulation of gas prices at the wellhead.

We, therefore, firmly are opposed to S-3267, the standby Energy Emergency Authorities Act, and ask that you, as one of the responsible and influential leaders of this greatest nation in history, founded on the free enterprise system, reflect on the long range direction of this nation and her people, who this legislation is bound to vitally affect.

W. K. McWilliams, Jr.,
Chairman of the Board.

Casper, Wyo., *May 9, 1974.*

Senator Clifford P. Hansen,
Capitol Hill,
Washington, D.C.

The proposed amendment to S3267 which would rollback crude oil prices and remove the stripper well exemption are not in the best interests of the State of Wyoming or the Nation. The increased value of crude oil must be maintained to allow industry to develop domestic energy supply. Furthermore these amendments would literally bankrupt Wyoming's public schools.

The contention that the increased price of crude oil has not increased exploration activity is incorrect. For example the number of rotary tools operating in Wyoming has increased 171 percent over one year ago.

Wyoming is an energy warehouse for the United States but we cannot contribute to the national good when punitive action is taken by the national congress such as the rollback of crude oil prices and the elimination of the stripper well price exemption. We urge the defeat of any such amendment to S3267.

Senator Robert Kimbell of Natrona county Senater L. V. Stafford of Campbell and Johnson county representatives James Mockley of Big Horn county representative Walt Oslune of Weston County Representative Jacques Sidi of Natrona county Representative Diemer True of Natrona county Representative Rex Arney of Sheridan county Representative Russ Donley of Natrona county.

McCulloch Oil Corp.,
May 8, 1974.

Re Senate bill No. 3267.
Hon. Clifford P. Hansen,
Senate Office Building,
Washington, D.C.

Dear Senator Hansen: I have been reading with extreme concern the proposed Senate Bill No. 3267 entitled "The Standby Energy Emergency Authorities Act". We are unalterably opposed to establishing price controls or price ceilings on crude oil and repeal of the Stripper Well exemption contained in the TransAlaska Pipeline Act. We have been spending a great deal of money on Stripper Well leases in an effort to increase crude oil production because of the Stripper Well exemption. At the higher prices, we can afford to improve production; whereas, under the old prices we could not.

Likewise, we have spent a great deal of money on old leases because of the elimination of price ceilings for new and released oils under the FEO price regulations. We intend to spend $5,700,000 during the year 1974 for the drilling of 45 new wells which are directly influenced by the FEO price regulations and the Stripper Well exemption. Drilling of these wells will produce an anticipated 2,700,000 Bbls. of new reserves. It is expected that McCulloch's share of production from this drilling activity will exceed 100,000 Bbls. of oil during 1974 although many of the wells will not be completed until later in the year.

It would be economic disaster for a small producer such as ours to have the rug pulled out from under us by this unwise regulation. At a time when we are so short of crude oil and gas, Bill No. 3267 would clearly make shortages worse.

Kindest personal regards,

W. James Saul,
Vice President.

Mapco, Inc.,
April 24, 1974.

Hon. Senator Clifford P. Hansen,
U.S. Senate,
Washington, D.C.

Dear Senator Hansen: I regard you as one of the few friends of the petroleum industry left in the United States Senate. Because of this, I thought you might be interested in a news release covering our first quarter earnings and related capital expenditures. As shown in the release, our capital expenditures were more than double the amount of our earnings.

It is also interesting that on increased earnings of about 50%, our state and federal tax accruals almost doubled.

MAPCO is not a large oil company but an independent with growing oil, gas and coal production. As set forth in the release, our oil production in the quarter increased 360%—approximately 4,000 b/d. Our coal production was up almost 45%. We are doing a great deal to improve energy supplies in the United States relative to our size.

I hope these facts might be useful to you in countering some of the arguments made by critics of the oil industry.

Sincerely,

Robert E. Thomas.

News Release

Tulsa, Okla., April 22, 1974.—MAPCO Inc. (NYSE) today announced record sales, revenues and earnings for the first quarter of 1974.

Robert E. Thomas, Chairman and President of MAPCO, said sales and revenues were up 60.5% to $54,879,358 over the $34,191,684 reported for the same period in 1973.

Net income climbed 50.4% to $8,686,731 from $5,777,318 a year ago. Earnings per share on MAPCO's common stock in the first 1974 quarter rose 48.4% to 46 cents compared with 31 cents a year ago, adjusted for a two-for-one stock split effective February 1, 1974.

Noting that many politicians currently maintain a jaundiced view of such a profits performance, Mr. Thomas pointed out: "MAPCO's capital expenditures for the first 1974 quarter were $17,632,000, more than twice MAPCO's earnings in the quarter. Further, MAPCO's tax accruals for the quarter almost doubled despite the much criticized so-called 'tax loopholes' available to the petroleum industry." Continuing, he pointed out: "the proposed punitive taxation will only slow down the drive for energy self-sufficiency in America and maximize the dangers of energy blackmail from abroad. The Congress cannot have its cake and eat it too!"

MAPCO's Chairman and President noted: "the effective tax rate being used in the 1974 first quarter is about 4 percentage points higher than in 1973." At the moment, it is the Company's best estimate for the full year "taking into account the three major factors lowering MAPCO's effective tax rate; namely, investment tax credit, intangible drilling expense and percentage depletion on the basis of our best estimate of these amounts for the year as a whole."

Commenting on the first quarter, Mr. Thomas said: "Considering the generally warm weather as well as the general country-wide lowering of thermostat settings, results were quite satisfactory. Barrel miles, crude oil production and coal sales were all higher, with crude oil production, particularly, up about 360%. Propane, natural gas, and gas liquids sales were down reflecting conservation moves by consumers and the warmer temperatures generally prevailing."

MAPCO is an integrated energy and pollution control company operating the nation's largest liquefied petroleum gas (LPG) common carrier pipeline system and the world's first anhydrous ammonia pipeline. The company also produces and markets oil, gas, gas liquids, coal, liquid plant foods and aerobiology systems for water pollution control.

MAPCO INC.—CONSOLIDATED STATEMENT OF INCOME

	3 mo. ended Mar. 31—		12 mo. ended Mar. 31—	
	1974	1973	1974	1973
Sales and operating revenues	$54, 879, 358. 00	$34, 191, 684. 00	$165, 763, 004. 00	$116, 222, 112. 00
Pretax income	13, 035, 994. 00	8, 143, 907. 00	31, 092, 782. 00	21, 384, 939. 00
Provision for Federal and State income taxes	4, 349, 263. 00	2, 366, 589. 00	8, 585, 315. 00	7, 310, 966. 00
Net income	8, 686, 731. 00	5, 777, 318. 00	22, 507, 467. 00	14, 073, 973. 00
Average shares outstanding [1]	18, 708, 440. 00	18, 651, 633. 00	18, 701, 553. 00	18, 625, 739. 00
Earnings per common share	. 46	. 31	1. 20	. 76

[1] Adjusted for 2-for-1 stock split in 1974.

Dallas Production, Inc.,
May 8, 1974.

Senators Floyd K. Haskell and Henry Jackson,
Capitol Hill,
Washington, D.C.:

The Standby Energy Emergency Authorities Act S3267 is in complete opposition to the President's request for energy self sufficiency in 1980. Any law or regulation which calls for a roll back of current FEO price regulations and the repeal of stripper well exemption will immediately stop or cause a major reduction of my company's proposed expenditures for the exploration of oil and gas, during the first quarter of this year. As a direct result of the current prices being paid for petroleum products, we have had eight rigs continuously drilling wells for oil and gas.

In 1974 alone, Pitts Oil Company and its Associates plan to drill approximately 100 wells at a cost near 5 million dollars plus an additional 2 million to 3 million for completion of successful wells. This activity and expenditure will not be forthcoming if punitive legislation is enacted to place price ceilings on crude oil or reduces or eliminates current tax incentives.

If this country is to become energy self-sufficient I believe it necessary that Congress do all within its power to keep government control out of the industry and allow the free enterprise system on which the United States is built to solve the energy problem. It takes the drilling of wells by people with know how and money to find oil and gas, and this would not be accomplished if S. 3267 is passed.

I urgently ask that you use your influence as a national leader to defeat the Standby Energy Emergency Authorities Act, S. 3267.

L. Frank Pitts.

PROLIFE TESTIMONY

Mr. BUCKLEY. Mr. President, on April 25, 1974, two distinguished physicians testified before Senator Bayh's Subcommittee on Constitutional Amendments concerning the human life amendments. Dr. Andre E. Hellegers is among the world's most knowledgeable experts on the subject of the medical aspects of abortion. His testimony, I think you will agree, speaks for itself, so I will not prolong my introductory remarks except to say that the logical, informed and, above all, humane argument of this advocate of human rights for the unborn is among the finest presentations of the prolife position I have encountered.

Mr. President, I ask unanimous consent that the testimony be printed in the Record.

There being no objection, the testimony was ordered to be printed in the Record, as follows:

Testimony of Dr. Andre E. Hellegers

Mr. Chairman and Members of the Committee:

For purposes of identification, I am Dr. Andre E. Hellegers, Professor of Obstetrics and Gynecology at Georgetown University Hospital, Director of the Joseph and Rose Kennedy Institute for the Study of Human Reproduction and Bioethics, past President of the Society for Gynecologic Investigation and of the Perinatal Research Society. I welcome the opportunity to testify at these hearings, but I want to make it quite clear that I am testifying only on my own behalf, and not on behalf of any group with which *I'm affiliated.*

The abortion issue has been discussed at all sorts of levels. The issues of population expansion, of women's liberation, of adoption, of maternal and infant mortality, of religion, of public health and of morbidity have all been brought into it and all sorts of statistics have been bandied about.

Of course, these are all issues of interest to various groups, but fundamentally there would be no national debate of the present magnitude, if it weren't for one issue. The issue is whether, in abortion, human life is killed. That is the one key issue.

Now, I believe it is necessary to state that issue more clearly. Usually the question is put in the form of, "When does human life begin?" That may be putting the question in a form which confuses things rather than clarifying them.

I *do not* think there is any question when biological human life begins. It is at conception, by which I mean a sperm fertilizes an ovum. To say that it begins at any other time is biological nonsense. Sperm alone do not lead to the birth of babies, nor do ova alone. It is when the two are fused that the process of human development starts and it ends at death. I will only add that with in vitro fertilization the truth of this statement is even clearer than it ever was before.

But I suspect that this undoubted fact is not what the abortion debate is about. That the fetus is alive and not dead is undoubted. If it were dead, abortions would not need to be performed and there would be no child to raise. That the fetus is biologically human is also clear. It simply puts it into a category of life that is different than the cat, the rat or the elephant. So the human fetus represents undoubted human life and genetically it is different than any other animal life.

But I think what those who do not oppose abortion mean to actually convey is that this life is not sufficiently valuable to be protected. It has no value, no dignity, no soul, no personhood, no claim to be protected under the Constitution.

That is not a biological question. That is a value issue. The issue is hidden under such language as "meaningful" life or "potential" for life, or "quality" of life. What is at stake goes far beyond the issue of abortion. The question is this: are there to be live (not dead) humans (not rats, cats, etc.) who are to be considered devoid of "value", "dignity", "soul", "meaningfulness", "protection under the Constitution" or whatever phrase or word by which one wants to describe the inclusionary or exclusionary process.

This is fundamentally why I am opposed to abortion. It is because it attaches no value to live biological human entities. I am not among those who believe that all human life must be kept alive by machines at all costs, but I am opposed to a philosophy that proceeds to actively kill existing human life for utilitarian purposes. This cheapens all covenants existing among men.

Furthermore, I am puzzled by the selectivity with which some would apply abortion. If the fetus does not constitute truly human life, I do not see why so many would deny abortion on demand. It is sometimes said we do so because after the 13th week, or at some other arbitrary time, it becomes dangerous. But we do not prevent women from becoming trapeze artists for financial reasons, we don't prevent men from becoming football players or boxers for financial reasons. I frankly don't see why we should prevent women from incurring mortality or morbidity risks in abortion if they thought it was financially advantageous to them. But the problem is, of course, the fetal killing.

I also don't understand why genetic counsellors would approve of abortion of fetuses if they are abnormal, but 96% would not if the fetus is of the wrong sex. If a fetus of the wrong sex does not represent human life, why shouldn't one abort it? I don't understand those who say they don't like abortion and would only use it as a last resort. If abortion does not kill human life, why should it be a last resort and not a first resort? Some might feel better with one abortion per year than a pill per day. So I see this constant ambivalence about abortion, but I understand the ambivalence, because I think the vast majority of people now know how babies are produced and they can't quite avoid the issue of the fetus all of the time.

So the fundamental question is whether we shall assign no value to certain categories of human existence.

Inevitably physicians are also asked to address themselves to other health issues in abortion, although compared to the massive loss of life, I personally think they are peripheral, although obviously important in their own right.

The first claim made is usually that free abortion reduces maternal deaths. Perhaps it does, but one should look at the figures carefully for they are usually presented in terms of percentages. The absolute numbers are much more revealing. Table I (see next page) gives the deaths from abortion and the total number of maternal deaths from 1942 through 1972. The figures for 1973 are not yet available. You will see that in 1942 there were 1,231 deaths from abortion. By 1968 this had come down to 133. Fairly consistently since 1961 the number of deaths decreased by 20 to 30 per year. Since then the decrease has pretty much stopped. The percentage of all maternal deaths which are due to abortion was 16.9% in 1942 and 17.8% in 1972.

I have also appended, for his own information, the figures through 1967 for every Senator's state on this subcommittee. Again, you will see you cannot hope to go much further in the control of death from abortion. Moreover, these abortion deaths include all spontaneous and truly therapeutic abortions.

What these figures clearly show is that the percentage of maternal deaths which are due to abortion have remained constant since 1942, and the number of both has steadily decreased. This has happened in every country in the world regardless of its abortion laws.

Since 1962, the time of the proposed A.L.I. law, the average decrease in abortion deaths per year was 22. The greatest decrease has been between 1965 and 1966 when the decrease was 46. Between 1968 and 1969 abortion death decreased by 1, between 1969 and 1970 by 4. In other words, the decrease in abortion deaths has slowed down markedly in recent years. Now one can make anti-abortion hay with such figures but I don't think it would be quite fair. The fact of the matter is that abortion deaths were quite rare before the law was changed and as a condition becomes rare it becomes difficult to reduce the numbers even further.

The other claim which is made glibly is that abortion decreases infant mortality. That, of course, is absurd. No infant's life can be saved by aborting another fetus. Obviously, also, if one does one million abortions none of those fetuses will ever become infant deaths. Since they'll never live to be infants. And, of course, like the maternal mortality figures, the infant mortality figures have also been coming down for years. To the extent that by abortion or contraception or anything else women do not have 7th or 8th children, who have a greater chance of dying than 2nd or 3rd children, this also will improve mortality figures. But what I think needs to be clear is that no abortion saves an infant's life. It simply prevents fetuses from becoming infants and even having a chance to die as infants. It is somewhat like saying that Vietnam deaths were good because they prevented a lot of cancer which might have occurred at a later age in all the people who were killed. If, then, the fetus is not a member of the human race, it is clear that the whole abortion debate would change. If the fetus does represent human life then it is hard to see how one can justify killing 1,000,000 lives or more for the questionable saying of a few pregnant women.

But I think the analysis should not cease there. Legalized abortion is said to have decreased morbidity from illegal abortion. I strongly suspect this is true. However, it also causes morbidity and the troubling fact is that about half of all abortions in the United States are done in the unmarried, who are at greatest risk of such morbidity. Swedish and Norwegian figures cite an incidence of sterility following abortion of about 4%. We have no U.S. figures. If we are to do one million abortions per year, and 500,000 of them are to be on the unmarried, it would leave 20,000 women per year sterile, and this would happen every year. This strikes me as a serious figure. The problem is, of course, that in the abortion debate one only hears about its immediate hospital effects and the subsequent sterility does not occur in the hospital. I doubt many women are given this information in abortion counselling.

To my mind, an equally serious problem is the increasing evidence that aborting a pregnancy yields a considerable increase in the birth of prematures in subsequent pregnancies. Prematurity has long been known to be associated with an increased incidence in Cerebral Palsy, mental retardation and lesser forms of damage to the Central Nervous System, like learning disabilities. The more serious the prematurity the more serious the consequences. I am glad to know that federal funds are now being spent to study this matter. Again the data imply that first pregnancies aborted yield the greatest damage, and the later in pregnancy the abortion is done, the worst the consequences. It is difficult to assess the precise damage which may be incurred in human or financial terms. In women who have the abortion in the first twelve weeks (the most favorable group) the data are still highly disturbing. In a studied group of 143 such women, 30 percent subsequently delivered prematurely, compared to 11.2 percent in 143 women who had not had a previous induced abortion. Even more seriously, 8.5% of the aborted women delivered prior to 32 weeks, compared to 2.1 percent of women in the non-aborted group. It is in this gestational age group that the severe mental damage occurs. Between 32 and 35 weeks, the previously aborted group produced 5% of its children, and the non-aborted group 1.4% of its children. It is in this group that the lesser cerebral damage occurs. If, conservatively estimated, only 10% of these infants developed central nervous system damage, we would still be faced with a problem of major proportions.

Let us assume 1,000,000 legal abortions per year for the United States as a desirable public health aim. Assume that one-fourth be 250,000. If 8.5% were to deliver before 32 weeks, again a conservative figure, that yields 20,000 such deliveries. If 10% of these were to acquire Cerebral Palsy or mental retardation that would be 2,000 per year, again a conservative figure. Again I know of no abortion counselling service which informs its clients of these odds while seeking their full, free and informed consent for these procedures. Indeed, I also know of none which, in addition, informs them that abortion may kill live human beings, and even the Supreme Court does not deny that possibility since it prescinded from making a judgment on the matter.

The Committee can receive testimony from others about such matters as uterine perforations, blood clots, guilt feelings, ectopic pregnancies infection—in brief, such things as modern medicine can largely solve through surgery, transfusions, tranquilizers, antibiotics, etc.

My own major concerns are threefold: the relatively small numbers of maternal lives allegedly saved—if any—and at the expense of the hundreds of thousands of fetal lives destroyed; the subsequent sterility and the emerging problem of prematurity and mental damage in subsequent children. But of all of these, obviously the key one is the massive destruction of fetal life and the profoundly disturbing issue of denying a share in our humanness and its dignity, value and protection to an entire class of human, living, biological entities, to put it as coldly as I can.

Obviously the problem is a major one. Obviously, it is humanly and therefore politically explosive. I would therefore like to end with an expression of my personal puzzlement at the actions of the Congress and of the Administration.

It is crystal clear to me as an obstetrician that with modern obstetrics and pediatrics a married couple is capable of producing 10-15 live, surviving children. It is obvious that for almost all this is an unmanageable emotional and financial proposition—not even mentioning societal population growth problems. Therefore it is obvious we have good methods of fertility control. How do we develop these? What is the fundamental process? I have already testified that new life starts with the fusion of a sperm and an ovum. That may not be where some would have its value or dignity start, but that is where it starts biologically.

We are usually asked to bring sperm and ovum together in those who have sterility problems—whether in the 10% of the population who have the condition to start with, or the 4% who acquire it from induced abortion. It is the sterile who will pay the future price of any perfect method of birth control since they will have no babies for adoption. We need to have control over sperm development and action if we hold that it is the men's duty or right to regulate fertility. We need to have control over ovum production and action if we hold that it is the woman's duty or right to regulate fertility. We need, by timing of intercourse, to know how to make the sperm avoid the ovum, if we hold that some form of periodic continence is the way to regulate fertility. Yet all such knowledge can only be obtained by fostering basic research in reproductive biology.

What does one see when one examines federal expenditures in biomedical research? One sees enormous increases in expenditures in cancer and heart research, designed to prevent deaths. I have yet to hear Z.P.G. or those who object to population density, or growth, or numbers, object to this. Yet also, there is at least half the American population alleging that abortion kills human life. Yet the level of support for research into reproductive biology, which can prevent such deaths—or even putative deaths—is not, to my knowledge, ever presented as research into death prevention. So if I could today make one positive, constructive suggestion it would be that on this divisive issue of abortion, we all join in fostering the basic reproductive biological research which could make the entire subject moot.

Surely, the issue is whether under the Constitution we want to introduce the motion that biological and socioeconomic problems should be resolved by procedures which kill, or even may kill, human life. As an immigrant to this country, I would hope the United States, of all countries, could do better than that. What seriously bothers me about the Supreme Court decision is that it did not have the courage to decide when life starts—which we all know biologically. It was faced with the problem of when life starts as a value. I am deeply disturbed that it took the decision that when you don't know whether in performing an abortion you will kill a human life you may proceed, instead of saying you must desist. That decision marks a watershed which I believe neither medicine, nor law, nor government should accept.

Again, as an immigrant, I have always had the notion, but perhaps it is an illusion, that in the United States, of all countries, men and women might be considered equally worthy of protection under the Constitution, regardless of their age, race, color, creed or size. Obviously such a notion presents enormous emotional, economic, logistic, legal and medical problems. But I also, intuitively, hold to the notion that the American Experiment in Human Living should be inclusionary and not exclusionary, and that the issue at stake in the proposed constitutional amendment is whether the fetus, as a first prototype of "meaningless" life, shall be excluded or included.

	Total abortion deaths			Other maternal deaths			Total maternal deaths		
Year	White	Non-white	Total	White	Non-white	Total	White	Non-white	Total
1942	917	314	1,231	4,598	1,438	6,036	5,515	1,752	7,267
1943	853	312	1,165	4,610	1,422	6,032	5,463	1,734	7,197
1944	695	201	986	3,953	1,421	5,473	4,468	1,622	6,369
1945	602	286	888	3,520	1,260	4,780	4,122	1,546	5,668
1946	535	225	760	3,272	1,121	4,493	3,807	1,346	5,253
1947	385	200	585	3,170	1,223	4,393	3,555	1,423	4,798
1948	321	175	496	2,432	1,194	3,626	2,753	1,369	4,122
1949	236	158	394	1,863	959	2,822	2,099	1,117	3,216
1950	193	123	316	1,680	964	2,644	1,873	1,087	2,960
1951	170	33	303	1,608	901	2,509	1,778	1,034	2,812
1952	196	124	320	1,428	862	2,290	1,624	986	2,610
1953	162	132	294	1,317	774	2,091	1,479	906	2,385
1954	156	131	287	1,124	694	1,818	1,280	825	2,105
1955	150	116	266	984	651	1,635	1,134	767	1,901
1956	138	83	221	880	601	1,481	1,081	684	1,702
1957	126	134	260	871	615	1,486	997	749	1,746
1958	136	123	259	802	520	1,322	938	643	1,581
1959	138	146	284	789	515	1,304	927	661	1,588
1960			289			1,290			1,579
1961			324			1,249			1,573
1962			305			1,160			1,465
1963			272			1,466			1,738
1964	117	130	247	634	462	1,096	751	592	1,343
1965	106	129	235	550	404	954	656	533	1,189
1966	96	93	189	509	351	860	605	444	1,049
1967	76	84	160	495	332	827	571	416	987
1968			133			726			859
1969			132			669			801
1970			128			675			803
1971			120			610			730
1972			140			640			780
1973[1]									

[1] Not yet available.

RUMANIAN NATIONAL HOLIDAY

Mr. TAFT. Mr. President, last Friday, the 10th of May, Rumanians all over the world were observing the national holiday of the Rumanian people, recalling the achievement of the Nation's past independence and the founding of the Kingdom of Rumania.

Now, in their homeland, the traditional observance of this holiday has been suppressed by the Communist regime, with the obvious intent to weaken the people's will for freedom. Therefore, this commemoration has the added meaning of protest against Rumania's enslavement and to help keep alive the hope of liberation and freedom.

So, with the express purpose of strengthening the hearts of all Rumanians at home and abroad, let us take this time to join our Rumanian friends in their annual rededication to the cause of liberty and to assure them of America's *abiding* interest in their fate.

OIL PRICE INCREASES AND THE ECONOMY

Mr. HART. Mr. President, we are faced with the problem of an economy that is suffering from inflation and threatened by recession at the same time. That means that some segments of our economy are operating at less than capacity and would be aided by a boost in consumer buying power.

Also, increases in the size of take-home paychecks might help ease pressure for wage and salary hikes. The trick is to accomplish that goal without adding to inflationary pressures.

In searching for ways to accomplish that goal, attention has been directed toward cutting Federal income taxes for individuals and generating new Federal revenues through various other changes in the tax code.

However, I think we should also look at the sharp increases in prices for oil company products as source of funds which might be redirected to rather than away from consumers.

A study by the staff of the Senate Anti-Trust and Monopoly Subcommittee estimates that price increases in those products since January 1973 are costing consumers a conservatively estimated $35.5 billion extra a year.

I ask unanimous consent that a table breaking down the price increase by product, along with explanatory notes, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HART. Mr. President, the price increases used were conservatively estimated on the basis of reported prices, basically from Platt's Oilgram. Where price ranges were indicated, the midpoints of ranges were used.

It should be noted also that only the gasoline price increase is a retail figure. The others are refiner or terminal prices. That means by the time those products reach the consumer, final price increases, due to pyramiding, could be even higher.

If you consider the added costs of oil products as a "$35.5 billion energy crisis tax" which does not do much to increase Federal tax revenues, then a price rollback offers a quick, noninflationary way to put some additional dollars in the hands of consumers.

For example, a rollback to May 15, 1973, prices could save consumers around $9 billion a year. I will vote to add such a rollback provision to the Standby Energy Emergency Authorities Act.

Let me add that I also favor a cut in individual Federal income tax bills and closing certain tax loopholes to increase Federal revenues.

The obvious place to start would be the oil depletion allowance, which if ended completely would pick up $2.5 billion a year. It is hard to argue convincingly that oil companies enjoying very high profits need that depletion allowance to encourage exploration.

Further, I urge prompt congressional action on a series of Democratic initiatives designed to assist unemployed workers.

These items include:

Authorization for $500 million in grants to States for unemployment compensation payments to workers who lost jobs because of the energy crisis;

Increased funds for public service employment; and

Increased funds for Neighborhood Youth Corps summer job and recreation programs.

The Senate provided a total of $835 million for public employment and of $456 million for NYC programs in a supplemental money bill being considered by a Senate-House conference. The unemployment compensation authorization is included in the energy act.

These items are particularly important to Michigan where the unemployment rate remains about 10 percent.

Exhibit 1 follows:

EXHIBIT 1

COST OF OIL PRICE INCREASES, JANUARY 1973 TO APRIL 1974

Selected products [1]	1973 demand [2] (thousand barrels)	Estimated increase per barrel [3]	Added cost to buyers (billions)
Motor gasoline	2,435,501	$6.00	$14.6
Jet fuel (kerosene)	304,135	7.61	2.3
Distillates	1,124,308	6.72	7.6
Residual	1,019,934	8.00	8.2
LPG	409,116	4.02	1.7
Lubricants	59,037	8.40	.5
Kerosene	78,919	7.45	.6
Total			35.5

[1] Products shown accounted for 86 percent of 1973 demand. If other products (e.g., asphalt, petrochemical feedstocks, etc.) rose in the same proportion, the total would exceed $40,000,000,000.

[2] Bureau of Mines.

[3] Roughly, but conservatively, estimated from prices reported in "Platt's Oilgram."

NOTES ON PRICE INCREASES

The price increases used were conservatively estimated on the basis of reported prices, basically in Platt's Oilgram, at various points. Where price ranges were shown, the midpoints of the ranges were used. Note that only the gasoline price increase is retail—the remainder are refiner or terminal prices. The latter could be pyramided considerably by the time the consumer pays for them.

Gasoline ($6.00 a barrel): Based on an increase of 14.3c/gal., excluding taxes, in Platt's 55-city average for major brand regular from early January 1973 to "mid-April" 1974. This understates the true increase. It understates widespread price wars at the earlier date, and it does not include price increases of independent marketers, which appear to have been generally in excess of 20c/gal.

Jet fuel (kerosene-type): Price increase of 18.125c/gal. in Gulf Coast cargoes, Jet Grade kerosene, from Jan. 3, 1973-late April.

Distillates (No. 2 diesel): Increase estimated at 16c/gal., approximately between the midpoints of the ranges shown for Chicago, Gulf Coast cargoes, Southeast pipeline terminals, Oklahoma Group 3, and the high of the ranges for New York harbor.

Residual fuel: A very conservative guess at an average. Midpoints of Platt's ranges increased $7.50 for Gulf Coast Bunker C cargoes, $9.72 at N.Y. Harbor, $10.12 at Chicago, and $7–$10 at East Coast terminals from Florida to Maine.

LPG (propane-butane): For fuel and petrochemical use. Contract quotations at various points vary all over the lot. I've taken 10c/gal. as a conservative guess, even though we know from consumer complaints that increases have probably been in the range of 20c or more.

Lubricants: Based on approximate 20c/gal. increases reported for lube stocks.

Kerosene: Based on 17.7c/gal. increase in midpoints of ranges, Gulf Coast cargo prices.

THRESHOLD TEST BAN IS NOT THE BEST ANSWER

Mr. KENNEDY. Mr. President, I have mixed reactions to press reports that finally there is concerted attention by both Secretary of State Henry Kissinger and Foreign Minister Andrei Gromyko, directed toward conclusions of an agreement on limiting nuclear tests.

As the chief sponsor of Senate Resolution 67, which urges a treaty to ban all nuclear tests, I want to commend Secretary Kissinger for his attention to an area of potential agreement on arms control which has been ignored for 11 years.

This resolution is now cosponsored by some 36 Senators, and has been reported favorably by the Senate Foreign Relations Committee.

After returning from the Soviet Union, I am more convinced than ever that the time now is ripe for the conclusion of the comprehensive test ban treaty, a treaty banning all nuclear tests.

Unfortunately, reports from Geneva indicate that discussion is centering on a threshold test ban treaty, a treaty permitting continued nuclear testing below a certain level of magnitude. Of course, I will welcome any real progress toward ending the nuclear arms race. However, a threshold treaty could both create new problems and could sacrifice many of the benefits that a comprehensive test ban would offer.

The rationale for a threshold approach apparently was disclosed by Secretary of Defense Schlesinger, in testimony before the Senate Foreign Relations Committee on March 4, 1972. He stated then:

> I do not think that the arguments against a comprehensive treaty relate primarily to strategic forces. One has to get into the issue of to what degree the United States wishes to improve its tactical nuclear weapons. The constraint with regard to strategic weaponry would probably be beneficial to both sides.

Since most strategic weapons tests are high-yield tests, they would be halted under a threshold ban; however, the low yield tests, for the refinement of tactical weapons—testing to create a new family of mini-nukes—could go on.

That rationale represents a step backward from the commitment this Nation made—both in the nonproliferation treaty and in the partial test ban treaty concluded by President Kennedy in 1963—a commitment to seek a halt to all nuclear tests.

It also raises a new threat of an arms race at the level of tactical nuclear weaponry, a race whose end result could be to blur the distinction between nuclear and nonnuclear weapons. Instead of making it more difficult to exercise the nuclear option, a conscious effort to conclude a treaty permitting unlimited refinements of our tactical weapons could make them easier and more likely to be used. The administration apparently is gambling that conflicts could be fought with tactical nuclear weapons without an escalation to strategic weapons. This is a dangerous roll of the dice, in which the outcome could affect the future of all nations. Nor are we without tactical options today. We have deployed in Europe 7,000 tactical nuclear weapons with yields in the range of a kiloton to a thousand kilotons and with some 25 different designs. Even Secretary Schlesinger has stated that the number of tactical weapons can be reduced.

Yet in some quarters of the administration, a major reason offered for not moving to a comprehensive test ban treaty appears to be a desire to permit the perennial development of more modern tactical nuclear weapons.

Thus, I challenge the validity of the rationale for choosing a threshold teaty, and I further argue that serious additional problems are presented.

First, it is all too likely that some nonnuclear nations would not see a threshold treaty as sufficient to justify their continuing adherence to the nonproliferation treaty, which comes up for review next year. The United States and the Soviet Union once again would be stating to the rest of the world the conditions under which testing is to be continued—conditions most congenial to the weapons developers of the major powers.

It should be noted that Pakistan and Indian, both among the nuclear-capable nations which have not yet ratified the nonproliferation treaty, spoke out last August on the occasion of the 10th anniversary of the partial test ban treaty. They urged fulfillment of that treaty's pledge that its signatories would seek to "achieve the discontinuance of all test explosions of nuclear weapons for all time." Clearly, if we seek to encourage other nations to join the nonproliferation treaty, the suferpowers cannot go haflway in their own willingness to restrain nuclear weapons development.

Second, the threshold ban, which presumably would depend on an averaging of seismic readings to see that the explosion fell under the permissible level, would be most difficult to monitor. It could produce new tensions as nations tested up to the limit of the agreement.

Finally, as long as some nuclear tests are allowed, nuclear weapons development will continue to be pressed with full vigor.

The Soviet Union—whose weapons testing always has been focused on warheads with greater megatonnage than our own—might view a threshold treaty as providing fewer restrictions on us than on them. They may, therefore, delay any agreement or press for a high threshold. The result could well be a threshold set just high enough to permit virtually unfettered testing by either side.

We could well find ourselves repeating the history of the aftermath of the partial test ban treaty. Instead of reducing nuclear testing and nuclear weapons development, the rate of testing actually went up in the years following the treaty, as the superpowers simply shifted their testing underground. While it virtually ended atmospheric testing with its radioactive fallout, it did not place real restrictions on the nuclear arms race.

These are some of the problems that come with a threshold test ban treaty, problems which we do not face with a comprehensive test ban treaty, a treaty that I believe is in our interests and in the interest of all peoples.

A comprehensive test ban treaty today can be negotiated, with far greater confidence in our ability to detect violators without onsite inspections than our proposed seven onsite inspections would have provided over a decade ago. We have upgraded not only our seismographic capabilities but also our aerial photography through the use of satellites.

Also, we have the precedent of the verification procedure established under the ABM treaty and Salt I on which to base our actions. Finally, with regard to verification, it is important to note that the Soviet Union has specifically agreed to cooperate in the area of seismic research and development.

While I would accept a threshold treaty that would make real progress in halting the arms race, I believe all of these reasons suggest strongly that the time is now more than ripe to negotiate a final halt to testing. Our resolution urges a mutual moratorium by both nations while we undertake these negotiations. I hope that a CTB would be one product of the forthcoming summit talks—if it cannot be concluded at Geneva before then. And I urge our negotiators not to be satisfified with a threshold test ban treaty, but to pursue instead a permanent end to all nuclear testing.

I support the administration's belated decision to explore the possibility of restricting testing of nuclear weapons as part of the effort to limit the qualitative arms race. However, I believe that a comprehensive test ban is far more in our interests.

From my discussions with Soviet leaders, I believe that they would be willing to move forward in this area, and to join with us in fulfilling the decade-old pledge to end all testing of nuclear weapons. The partial test ban treaty sent a brief shaft of light into the darkness, sending a vision to all nations of an end to the nuclear arms race. It is time once more to light the darkness, to set our children on the path to a world free of the threat of nuclear destruction.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for the transaction of routine morning business has expired.

UNANIMOUS-CONSENT AGREEMENT ORDER OF BUSINESS TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of S. 3398, the veterans bill, today, the Senate then resume the consideration of the unfinished business, the education bill, and that Mr. HANSEN be recognized to call up an amendment to the education bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

STANDBY ENERGY EMERGENCY AUTHORITIES ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 3267, which the clerk will state.

The legislative clerk read as follows:

> A bill (S. 3267) to provide standby emergency authority to assure that the essential energy needs of the United States are met, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. FANNIN. Mr. President, there has been a great deal of discussion, and, in fact, it has been going on for months, about the energy crisis. I would like to refer to a talk made by John D. Emerson, energy economist for the Chase Manhattan Bank, at Kearney State College, Midwest Conference on World Affairs, on April 2 of this year:

He covered the history of our country's energy problems most explicitly. I think that his remarks will be invaluable to our analysis of just what has taken place in this country and what we might project will happen. Mr. Emerson said:

> For more than twenty years after the end of World War II, new supplies of oil were created throughout the world at a faster rate than the growth in the consumption of oil. Because of surplus capacity, competition enabled increases in demand in the market place to be met with no increase in price. This was a very comfortable situation for consumers. Petroleum product prices showed little change during these years either in the U.S. or in other large consuming areas. In fact, relative to other consumer items, they actually declined. This state of affairs did not, however, meet the needs of producing countries.
>
> We became so accustomed to cheap energy that when it ran out, we were caught off guard. Habit is a very powerful force, and habit led many people to believe that the standard of living that our economy had provided was enshrined in the Bill of Rights. It is not, of course. To a large extent, consuming nations achieved their high standard of living by buying commodities, including oil, very cheaply from producing countries. Instead of paying the producing countries a fair price for their oil, we imposed import quotas, and the Europeans imposed high taxes to protect domestic energy.
>
> These conditions have now changed. And we should access the changes soberly. There is no cause for panic, and wild accusations, and hunting for scapegoats. Neither should we go to the other extreme and pretend that today's energy problems are just a nightmare, and when we wake up, all will be well again.
>
> Today, the oil producing nations have come of age. They are no longer minors under our tutelage. They will try to make decisions from the point of view of their best interest rather than ours. From time to time, they will make mistakes, just as Washington has been known to make mistakes. We must give up the idea that we have a right to their oil as well as to our own. That is not to say that we cannot buy some foreign oil and import it on the best terms available. But if we don't like the terms, then we

must make do with whatever energy we can produce in our own country—Project Independence, in fact.

A conference such as this one provides an excellent opportunity for us to examine thoughtfully what has happened to the economic system that for so many years we took for granted. It provides an opportunity to consider solutions to our present problems. In looking backwards as well as forwards, we must remember that important though the United States is, it is still a part of a much larger world. And what goes on in that world has helped shape our own destiny and will continue to do so.

In the years immediately following World War II, the United States was still a net exporter of oil. Europe relied mainly on coal for its energy. And Japan's energy needs were quite small. There were predictions of shortage in those days too. But with the lifting of wartime price controls, the free enterprise system went to work, and within a few years, there was a surplus of oil both in the U.S. and overseas. American companies were encouraged by the State Department to invest in the Middle East. And this was a wise policy since it gave the United States direct access to the large reserves in that part of the world, on favorable terms.

No policy is good for all time, however. By the middle fifties, so much foreign oil was entering the United States at prices far below domestic prices that the domestic industry was placed in jeopardy. In those days there were many advocates of importing cheap foreign oil. Had their voices been heeded, we would have had several years of very low prices. Domestic production would have dropped sharply, and our dependence on imports would have risen very rapidly. We would have entered this present crisis with a moribund domestic petroleum industry and an import level representing 60 to 70 percent of our needs. Such a situation would have been far worse than the one we now face. It would have been most explosive politically.

We might have paid the producing countries more. We decided, however, on an oil import control program instead. The purpose of this program was to share the growth of demand between imports and domestic production. The program worked reasonably well, except that the threat of higher imports was used to prevent domestic prices from rising. It kept the domestic oil producing industry alive, even though it could not be described as bursting with health. The consumer had nothing to complain about. Competition helped to keep prices down. In those days producing country governments received less than one dollar a barrel for *their oil. OPEC* was in existence, but had not yet achieved the cohesiveness necessary to control supply and thereby to influence price.

The free enterprise system has for years been providing the people of this country with the highest standard of living ever achieved by mankind, and energy has been an important part of this achievement. But we could not let well alone. In our desire to live better at even lower cost, we upset the system.

Twenty years ago this year, we acquiesced in a decision to allow the Federal Power Commission to control the wellhead price of natural gas. For twenty years politics instead of the market has controlled natural gas prices. OPEC until recently was unable to control supply and influence price. But for twenty years, the Federal Power Commission controlled price and influenced supply. They influenced demand too, not only for natural gas, but also for other sources of energy. The low controlled price of natural gas stimulated demand, but impaired the incentive to search for new reserves. Because of its controlled price, natural gas was such a successful competitor that other sources of energy—oil and coal—withdrew from many of the markets served by gas, which by the end of the sixties, was the leading industrial fuel across the nation. Oil refiners spent millions of dollars to convert their unsaleable fuel oil into products like gasoline, that did not compete with natural gas. Coal mines simply closed down.

This was not wise policy. It was political expediency. A few voices, crying in the wilderness, protested that the distortions created by controlled prices would cause us to run out of gas. Well, we have not actually run out of gas, but we reached the point several years ago when gas supplies could not be expanded in line with demand.

The end of an era was in sight. Domestic oil production peaked at about the same time as domestic gas production. The coal industry was beset by difficulties as a result of the new Mine Safety Law and the Environmental movement, and was in no position to expand. The nuclear electric power program has also been slowed down by environmental challenges.

Within the space of two or three years, the entire growth of our energy supply, which used to rest upon the broad base of domestic oil, gas, and coal, has become dependent upon imported oil. Oil imports rose from 22 percent of consumption in 1970 to 35 percent in 1973. This happened at a time when coincidentally other large oil users around the world increased their demand for oil to the point where the world oil supply/demand balance, which for so long had been tilted in favor of oil consumers, finally swung the other way, putting the producers in the driver's seat.

Economic conditions, thus, were finally right for OPEC to make its moves. Sporadic price increases occurred in the latter part of 1970. These were followed by general price increases that were agreed in Teheran in early 1971. A year later the Geneva agreement protected the oil producing governments against devaluation of the dollar. This agreement was later revised to make it more sensitive to currency changes. All of these agreements affected the posted or tax price of oil. Meanwhile, however, the market price, which was the economic rather than the negotiated price, was increasing even more rapidly than the posted price. In other words, from 1971 on, the price of oil would have risen whether OPEC had been in existence or not. It is fair to say that by and large until October 16, 1973, the price of oil was an economic price.

At that time, and as a direct result of the Middle East War, oil prices became political prices. The cutback in production by Arab nations reduced the available world supply and caused the price to skyrocket. Because today's foreign oil prices are political prices, not economic prices, they are unlikely to last. For the time being, however, world oil markets are chaotic. No one should expect, though, that foreign oil prices will go back to the low levels of the good old days. Unless they are distorted by price controls, domestic crude oil prices will move in phase with foreign prices.

And so, in the United States today, we find ourselves in a period of transition. This is an uncomfortable time for all of us. The old days of abundant supplies and low prices are over. The future is still something of a question mark.

It is natural enough that the loss of a way of life that was very pleasant should disturb us. Since we are all very human, it is natural enough that in our distress we should try to affix blame for our problems, while we encourage our politicians to try to distort economics to preserve the old ways for us. The result is that most discussions of energy generate more heat than light. It is easy to write cheap rhetoric. But cheap rhetoric and preconceived ideas will not secure the future for us. Let us examine our problems dispassionately and plan intelligently for the years ahead. Our problems are not insoluble by any means. They will yield to time and money. How much time and how much money depends upon the way we tackle them.

We should understand quite clearly that solving our energy problems does not mean going back to the good old days of wasteful energy use. Those days are gone, if not forever, at least for the next two generations. Sometime in the future, we may hit upon another source of cheap energy. In the meantime, our energy problems should be tackled from both ends. We must economize in our use of energy, and we must plan to increase our supplies of domestic energy. Much can be done on both accounts.

Relative to the total production of goods and services, we use 25 percent more energy than West Germany or Japan. Our energy input per dollar of Gross National Product is 25 percent higher. The difference represents far greater quantities of energy going into the non-business sector in this country. It represents our uses of energy to achieve greater convenience. And it is in these uses that we need to make economies.

Let us start with gasoline. Gasoline is used to move vehicles, and vehicles are used to move people and goods. In the United States, we use five times as much gasoline per person as in Germany and nearly ten times as much per person as in Japan. Granted that people travel longer distances in the United States, the disparity between these three developed nations suggests that economies can be made. And, of course, they can. We can continue and accelerate the trend to smaller cars. We can slow down the proliferation of cars by making it more expensive to own and operate second and third cars. We can encourage the development of more public transportation—not a few grandiose schemes, each of which takes ten years to accomplish, but a substantial increase in surface transportation.

The supply/demand/price mechanism of the market place will help us accomplish substantial savings if we do not keep trying to thwart it. Gasoline will be in short supply for some time, and this should lead to higher prices. So we will have considerable incentive to economize.

In the past we have solved problems and bought convenience by using cheap energy. In the future we will have to find other solutions to the problems and do without some of the conveniences. If we can limit our energy growth to rates far below the past, a large part of the problem would be solved.

However, let us not underestimate the difficulties of energy conservation. There has been for many years a close relationship between the input of energy and the output of goods and services. In conserving energy, therefore, we have to find ways that will not slow down our economic growth. Otherwise, we will be exchanging energy problems for unemployment problems. In the technical sense, only about half of the energy input to our economy is usefully employed. The proportion varies with different uses. For example, in the production of electricity, only about one-third of the input of energy reappears as electricity. The rest represents heat lost to the atmosphere. For many years we have had the technology to recover much of this waste heat and put it to work. What was lacking was the incentive. High energy costs will give us that incentive. Although oil and gas space heating equipment is very efficient, we can make economies in this field by much closer attention to insulation—that is to retaining the heat once we have produced it. Improving the efficiency of utilization is the most important aspect of our energy conservation program, and it is not a goal that can be achieved quickly. But its importance can be gauged from the fact that if we are able to improve the overall efficiency of energy utilization from 50 percent to 60 percent in ten years, this would reduce the rate of gross energy input from 5 percent a year to 3 percent a year without sacrificing economic growth.

We must distinguish between improving the efficiency of energy use and eliminating waste. Waste is the product of thoughtlessness and carelessness. The fear of shortage and high prices will do much to eliminate waste. Industry will inspect its plant to eliminate leaky valves. Families will plan the use of their automobile more carefully to avoid unnecessary trips. The economies to be made by eliminating waste are more of a one shot deal however. They should result in about one year of no growth in energy input, but obviously their impact cannot be repeated every year.

The same market forces that should lead us to economize in the use of energy should also encourage the development of new energy supplies. Let me emphasize again that we can either work towards the attainment of our objectives, or we can work against these goals by clinging to the past. Legislation to roll back prices is totally at cross purposes with Project Independence. Our new energy supplies will come largely from areas and processes in which we have little experience—offshore drilling in untried areas, conversion of coal to liquids and gas, and the development of shale are a few examples.

These will be high risk, capital intensive operations. Whether or not they flourish depends upon the climate for investment that is created in this country. Private capital must be induced to invest in these operations by the possibility of high profits. Please note that I said possibility, not guarantee.

The private enterprise system is a profit and loss system. If an operation is unsuccessful, it is a private loss, not a public loss financed by the taxpayers.

The search for new supplies will be a high risk operation in the early stages. As we gain more experience in these areas, the risks will lessen, investors will be satisfied with lower rates of return, and prices will tend to move down. But all this is a long way in the future, and it will take a great deal of money.

This is perhaps the right time to talk about the role of profits. We have heard a great deal recently about "windfall profits," which is just the politicians name for economic rent. There is no doubt that the economic rent of domestic producers has been increased substantially as a result of the actions of the cartel of foreign producing nations. But these "windfall profits" represent the funds we need to finance Project Independence. If we legislate them away through price controls, rollbacks, or higher taxes, our chances of funding Project Independence become much slimmer. We really must decide what we want.

What is the situation today? Crude oil prices and intrastate gas prices are high enough to provide the incentive for investment in the search for and development of new supplies. And the industry is responding. It is hampered somewhat by the straight jacket of price controls which create shortages of things the industry needs. But all over the country, there are signs of increased activity. High bonuses are being paid for attractive acreage, including shale oil acreage. These are encouraging signs. But we must be patient, and not expect results in a few weeks. The age of transition should be measured in years. We can hold it to a minimum, however, by closing ranks and working with industry rather than against it.

Mr. President, I would like to repeat that statement:

We can hold it to a minimum, however, by closing ranks and working with industry rather than against it.

Energy self-sufficiency is not an easy goal. But I believe that most of us have learned in the past few months that it is a goal worth working and sacrificing for. We owe it to our children to plan for their future as well as our today.

Mr. President, this talk by John D. Emerson illustrates better than any other talk I have heard just exactly where we stand today, why we are in that position, and what we should do about tomorrow. I hope, as we discuss the bill under consideration, that we will look carefully into the need for this increased exploration policy.

Yes, we want conservation, and I have brought out, certainly, through Mr. Emerson, that conservation is the most immediate way of helping to achieve a balance. But conservation alone will not solve the problem.

We must have increased production of petroleum products. We must have increased production of coal. We must go into shale oil; we must go into coal gasification; we must go into solar energy. Certainly we have great opportunity in that field.

We must do more to expedite leasing of geothermal resources and to encourage the development of geothermal power.

Mr. President, we have many opportunities, and we should not neglect any of them. But unless we allow companies to make profits so that they can undertake projects, we are going to lose many of those opportunities. As the studies made by the Chase Manhattan Bank have brought out, we need vast amounts of capital, and much of that capital must come from the industry. It is estimated that they need $1,350,000,000,000. Chase studies have also indicated that about $650 billion of that amount must come from private industry.

So, Mr. President, I trust that the Members of this body will carefully analyze exactly what is involved in providing the energy Americans are going to require.

Mr. DOLE. Mr. President, on Wednesday, May 8, I discussed in some detail amendment No. 1265. I ask unanimous consent that the distinguished Senator from New Mexico (Mr. DOMENICI), the distinguished Senator from North Dakota (Mr. YOUNG), the distinguished Senator from California (Mr. TUNNEY), the distingished Senator from Rhode Island (Mr. PELL), and the distinguished Senator from Michigan (Mr. HART) be made cosponsors of that amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be stated.

The legislative clerk read as follows:

On page 118, between lines 21 and 22, insert the following new section:

SEC. 108A. Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end of such section the following new subsection:

"(j) (1) Upon a finding that there are significant shortages and dislocations in the distribution of petrochemical feedstocks and petrochemicals, the Administrator is authorized to compel, by rule or order on a national, regional, or case-by-case basis, consistent with paragraph (2) of this subsection, the allocation of such feedstocks and such petrochemicals in amounts specified in (or determined in a manner prescribed by) such rule or order.

"(2) Any rule or order for allocation of petrochemical feedstocks and petrochemicals promulgated or issued under this act or under any other Federal law shall be consistent with the objectives of subsection (b) and to the maximum extent practicable, shall contribute to the—

"(A) preservation of an economically sound and competitive petrochemical industry and for the preservation of the competitive viability of all processors, distributors, and users of petrochemical feedstocks and petrochemicals; and further the

"(B) equitable distribution of petrochemical feedstocks and petrochemicals among all regions and areas of the United States and among all sectors of the petrochemical industry, including processors, distributors, and users thereof.

"(3) For purposes of this subsection—

"(A) the term 'petrochemical feedstocks' means petroleum oils and natural gas liquids which are processed or otherwise converted into petrochemicals; and

"(B) the term 'petrochemicals' means derivatives of petroleum oils and natural gas liquids used for nonfuel purposes.".

Mr. DOLE. Mr. President, I think that merely for a quick review, I should point out that the amendment is permissive only; it is not mandatory. It is different in this respect from the bill I initially introducd on March 4, 1974, concerning plastic materials. The amendment I offer today simply authorizes the Administrator of the Federal Energy Administration to apply the rule or order on a national, regional, or case-by-case basis of allocation. It does not require allocation; it is permissive. It does, I think, fill a major, loophole in existing authority.

TOTAL ALLOCATION DIFFICULT

As vast and complex as the petrochemical industry is, it is difficult to imagine any program where the distribution and allocation of all petrochemicals and their feedstocks could be accomplished. However, when we stop to consider that some of our most vital industries are severely affected by the shortage of petrochemicals, it is clear that some priorities must be established and that action needs to be taken. The dairy industry, the fertilizer industry, the pharmaceutical manufacturers and the producers of medical devices are examples of those that should undoubtedly be considered for a priority under any allocation program which might affect them.

Other industries using petrochemicals may need an allocation program because of the extreme economic dislocations, financial hardships, and unemployment taking place. Plastic processors have been especially hard hit by the shortage and should receive consideration in this regard. The Federal Energy Office has released an estimate that the shortage of some petrochemicals may exist for several years to come. The Administrator clearly should have the authority to act on severe problems resulting from the inequitable distribution of the petrochemicals as well as take steps to increase the level of their production.

FLEXIBILITY PROVIDED

Although this amendment is limited in scope to those materials in short supply, it also provides the flexibility for the Administrator to redirect his allocation efforts. The particular petrochemicals in short supply undoubtedly will change. Some currently in short supply may become more abundant and those presently in more adequate supply may become scarcer. Since it appears unfeasible to allocate all petrochemicals, the Administrator has the discretionary authority to determine where allocation is most needed.

I hope the Federal Energy Administrator will use this authority in keeping with the basic intent to expand the production of petrochemicals. Obviously, the shortage will not end until output is expanded. It has been called to my attention that uncertainty about Government action has had an inhibiting effect on industry. Industrial managers cannot be expected to risk multimillion dollar investments if possible Government action threatens to deprive them of a fair return. So, hopefully, the authority provided under this amendment will be used to reduce disruptions, not aggravate them.

Mr. President, the amendment has been discussed with the ranking minority member of the committee. I have also discussed it briefly with the chairman of the committee.

I do not believe there is any objection to the amendment in its present form. I ask the distinguished Senator from Washington if the committee might not accept the amendment.

Mr. JACKSON. Mr. President, the distinguished Senator from Kansas has pinpointed a very difficult and complex problem. Indeed, it is one of the most complex problems we have had to face in connection with the energy shortage. Petrochemicals have become the basic input of a number of major industries, including plastics, synthetic rubber, textile, and chemicals. Shortages of petrochemical feedstocks and petrochemicals have thus had an impact on industries using these materials—phonograph records, packaging, boat building, fiberglass—the list is almost endless. Petrochemical-related industries account in all for $100 billion in commerce each year.

On the other hand, to allocate petrochemical feedstocks and petrochemicals is an incredibly complex task. I do not think that the Congress now could legislate an equitable allocation program to cover all the various petrochemical-related commodities. Recognizing this problem, a provision was included in the recently enacted Federal Energy Administration Act to require a study of this problem. I would hope that any petrochemical allocation program would be held in abeyance until the results of that study are available. However, since the authority provided by the Senator's amendment is discretionary and could be implemented after the appropriate studies are made, I see no problem in accepting it. I am, therefore, prepared to vote.

Mr. FANNIN. Mr. President, I thank the distinguished Senator from Kansas for offering his amendment. The petrochemical industry is very important to our country. It is one that has received a great deal of attention in recent months regarding the problems they have had in supplies. I feel that the amendment is very much in order, and I support it.

Mr. JACKSON. Mr. President, over the past 9 months profits in the oil industry have gone up beyond any oilman's wildest dreams. Oil companies around the world are unintended beneficiaries of action taken by the Organization of Petroleum Exporting Countries—OPEC—to quadruple their oil prices. A Business Week industrywide composite shows first quarter profits increased 82 percent over last year's.

Mr. President, figures prepared by the Federal Energy Office show that the average price of domestic crude has gone from $3.90 in August 1973 to $7.19 this March. As a consequence, domestic oil companies will at least receive an additional annual $12 billion in oil revenues with no comparable increase in costs. Profit margins on foreign crude have also increased. The higher oil prices are of special concern because they are in large measure responsible for the latest inflationary pressures on the U.S. economy. More serious yet, the higher oil prices will continue to create widespread dislocation as their effects percolate through the economy. There are many examples of this and they include, among many others, the electric utilities, the airlines, the transportation industry, and the agricultural sector.

I am submitting for the record a table of figures from Business Week of May 11, 1974, which are representative of the increase in oil company profits for the first quarter of this year over the first quarter of last year, as well as two tables from the Oil and Gas Journal of May 6, 1974, that summarize the 1973 financial data of 42 U.S. oil companies.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

NATURAL RESOURCES (FUEL)—CRUDE, INTEGRATED DOMESTIC AND INTERNATIONAL OIL, COAL

[Dollar amounts in millions]

Company	Sales		Profits		Margins		Ratios			10-year growth		Market value shares O/S year end	12 months earnings per share
	1st quarter 1974	Change from 1973 (percent)	1st quarter 1974	Change from 1973 (percent)	1st quarter 1974 (percent)	1st quarter 1973 (percent)	Ret. inv. cap.	Ret. com. eqy.	P-E 4-30	Com. eqy. (percent)	EPS (percent)		
Amerada Hess	$983.2	143	$49.9	36	5.1	9.1	24.1	35.8	4	NA	NA	$826	6.96
American Petrofina	213.0	189	13.1	176	6.1	6.4	18.7	21.4	8	14	24	332	4.57
Apeo Oil	51.1	67	3.0	240	5.9	2.9	NM	−5.5	NM	22	13	33	−1.29
Ashland Oil (3)	672.6	53	19.4	22	2.9	3.6	11.3	18.9	6	9	6	556	4.02
Atlantic Richfield	1,559.8	56	93.9	87	6.0	5.0	8.9	9.2	16	18	6	5,072	5.52
Belco Petroleum	65.1	112	6.1	104	9.4	9.7	12.2	16.6	6	17	10	114	2.42
Charter	286.0	181	17.5	559	6.1	2.6	NA	36.3	3	NA	NA	75	9.16
Cities Service	703.2	34	68.8	87	9.8	7.0	9.5	11.5	7	9	3	1,581	6.52
Clark Oil & Refining	108.5	89	13.3	175	8.4	5.8	28.0	40.6	3	17	18	121	5.48
Commonwealth Oil Refining	298.5	228	15.6	489	5.2	2.9	17.7	27.5	4	11	−4	145	3.22
Continental Oil	1,600.0	72	109.2	130	6.8	5.1	12.7	17.6	6	10	7	2,753	6.03
Creole Petroleum	1,211.7	215	43.3	16	3.6	9.7	26.0	26.0	6	−3	−4	1,698	2.88
Crown Central Petroleum	76.9	81	4.3	NM	6.3	0.7	16.2	24.5	3	10	7	26	8.48
Eastern Gas & Fuel Associates	119.7	23	8.6	33	7.2	6.6	7.0	11.1	12	11	12	218	2.06
Exxon	9,278.0	61	705.0	39	7.6	8.8	16.1	20.3	7	5	6	21,071	11.79
Getty Oil	617.9	71	73.6	173	11.9	7.5	10.9	12.0	13	13	8	2,987	9.65
Gulf Oil	4,516.0	115	290.0	76	6.4	7.8	12.8	16.9	5	5	5	4,598	4.77
Kerr-McGee	238.7	37	23.6	99	9.9	6.8	11.3	14.0	22	16	8	2,249	3.00
Mapco	54.9	61	8.7	50	15.8	16.9	13.2	23.0	18	27	15	482	1.20
Marathon Oil	755.7	84	30.6	52	4.1	4.9	13.0	16.2	8	6	7	1,470	4.53
Mesa Petroleum	42.5	143	1.1	−75	2.7	26.5	10.9	17.1	15	NA	16	262	1.39
Mississippi River	212.4	−1	10.6	47	5.0	3.3	12.5	18.1	7	5	4	187	2.58
Mobil Oil	4,400.0	58	259.0	66	5.9	5.6	14.7	17.4	5	6	10	5,398	9.35
Murphy Oil	200.9	86	25.5	233	12.7	7.1	16.0	31.9	6	11	13	472	11.46
Natomas	65.4	261	15.3	NM	23.4	1.9	NA	19.0	8	13	−18	288	6.50
North American Coal	40.5	28	1.6	132	3.8	2.1	7.6	15.1	10	4	6	69	2.93
Occidental Petroleum	1,334.9	96	67.7	716	5.1	1.2	NA	14.0	5	31	19	455	2.15
Pennzoil	215.8	62	34.7	211	16.1	8.4	9.8	15.8	8	31	12	641	2.85
Phillips Petroleum	1,148.3	69	108.6	150	9.5	6.4	12.2	15.6	13	5	3	5,186	3.91
Pittston	278.7	45	14.6	96	5.2	3.9	10.4	14.7	18	14	13	408	1.88
Quaker State Oil Refining	62.2	38	5.3	48	8.6	8.0	16.1	21.8	14	14	19	347	1.48
Shell Oil	1,697.2	56	121.8	52	7.2	7.4	9.7	12.4	9	8	2	4,572	5.56
Skelly Oil	214.3	40	19.7	97	9.2	6.5	8.7	9.3	13	6	5	783	4.53
Standard Oil (Indiana)	2,053.4	66	219.0	81	10.7	9.8	12.3	15.4	10	5	9	7,242	3.73
Standard Oil Co. of California	3,528.8	108	292.9	92	8.3	9.0	15.6	17.8	5	8	7	5,944	5.79
Standard Oil (Ohio)	482.9	27	22.6	29	4.7	4.6	6.5	7.2	19	16	4	2,096	2.89
Suburban Propane Gas (3)	67.4	37	5.3	38	7.8	7.8	10.9	16.5	6	8	8	73	2.59

NATURAL RESOURCES (FUEL)—CRUDE, INTEGRATED DOMESTIC AND INTERNATIONAL OIL, COAL—Continued

[Dollar amounts in millions]

Company	Sales		Profits		Margins		Ratios			10-year growth		Market value shares O/S year end	12 months earnings per share
	1st quarter 1974	Change from 1973 (percent)	1st quarter 1974	Change from 1973 (percent)	1st quarter 1974 (percent)	1st quarter 1973 (percent)	Ret. inv. cap.	Ret. com. eqy.	P-E 4-30	Com. eqy. (percent)	EPS (percent)		
Sun Oil	$842.1	65	$90.8	85	10.8	9.7	11.4	12.8	7	1	7	$2,104	6.37
Tesoro Petroleum (3)	129.3	107	18.9	343	14.6	6.8	30.9	38.7	5	47	56	241	4.06
Texaco	4,924.0	97	589.4	123	12.0	10.6	16.3	21.3	5	9	7	7,987	5.95
Union Oil Co. of California	987.1	56	73.0	91	7.4	6.0	10.5	12.3	6	9	6	1,438	6.71
United Refining	62.8	162	1.7	155	2.7	2.8	15.5	22.0	4	25	18	33	3.93
Industry composite	46,451.5	76	3,597.0	82	7.7	7.5	13.6	17.3	8	6	6	92,635	6.16

Source: Business Week, May 11, 1974.

HOW 27 LARGE U.S. COMPANIES FARED FINANCIALLY LAST YEAR

[Dollar amounts in millions]

Rank by assets	Net profits[1]			Gross operating revenue[2]		Percent net profit to gross operating revenue		Working capital		Funds from operations		Capital and exploratory expenditures		Percent return on stockholders equity		Percent return on total assets		Total assets		
	1973	1972	Percent change	1973	Percent change	1973	1972	1973	Percent change	1973	Percent change	1973	Percent change	1973	1972	1973	1972	1973	1972	Percent change
1. Exxon	$2,443	$1,532	+59.5	$25,724	+26.7	8.7	7.5	$3,486	+45.7	$4,079	+43.0	$2,235	+12.7	17.8	12.5	9.7	7.1	$25,079	$21,558	+16.3
2. Texaco	1,292	889	+45.3	11,407	+31.2	11.3	10.2	1,723	+80.2	1,926	+46.0	1,334	+11.8	16.2	12.4	9.5	7.3	13,595	12,032	+13.0
3. Mobil	849	574	+47.9	10,160	+24.7	8.4	7.1	564	−11.7	1,363	+30.9	1,334	+13.0	14.9	11.2	7.9	1.2	10,690	9,217	+16.0
4. Gulf	800	447	+79.0	8,417	+34.8	9.5	7.2	1,514	+4.8	1,560	+43.1	979	+14.0	14.4	8.3	7.9	4.8	10,074	9,324	+8.0
5. California Standard	844	547	+54.3	7,762	+33.2	10.9	9.4	1,271	+60.3	1,250	+35.3	1,217	+16.9	14.5	10.5	9.3	6.8	9,082	8,084	+12.3
6. Indiana Standard	511	375	+36.3	5,416	+20.3	9.4	8.3	775	+13.5	971	+22.0	1,100	+16.9	12.4	9.9	7.3	6.1	7,018	6,186	+13.4
7. Tenneco	230	203	+13.3	3,910	+19.4	5.9	6.2	333	−8.8	499	+15.8	392	+13.6	12.0	11.1	4.3	4.1	5,427	4,838	+12.2
8. Shell	333	260	+28.1	4,884	+19.8	6.8	6.4	752	+12.6	785	+17.3	581	−1.7	10.7	8.9	6.2	5.0	5,381	5,172	+4.0
9. Atlantic Richfield	270	193	+39.9	3,983	+19.9	6.8	5.8	718	+53.4	573	+19.6	500	+37.4	8.7	6.5	5.3	4.2	5,109	4,629	+10.4
10. Continental	243	170	+42.9	4,224	+23.2	5.8	5.0	483	+44.6	554	+39.2	476	−11.7	13.4	10.4	6.6	5.2	3,693	3,250	+13.6
11. Phillips	230	148	+55.4	2,990	+19.0	7.7	5.9	612	+17.7	469	+27.8	329	+24.2	11.7	8.2	6.4	4.5	3,607	3,270	+10.3
12. Sun	230	155	+48.4	2,286	+19.2	10.1	8.1	357	+77.6	463	+34.6	284	+5.2	11.9	8.8	6.8	5.2	3,382	2,980	+13.5
13. Union	180	122	+47.5	2,552	+21.6	7.1	5.8	357	+6.3	479	+18.0	391	+24.5	10.5	7.6	6.2	4.5	2,909	2,696	+7.9
14. Cities Service	136	99	+37.4	2,035	+9.3	6.7	5.3	277	+3.4	305	+17.3	402	+53.4	8.9	6.9	5.1	4.1	2,660	2,406	+10.6
15. Getty[3]	135	76	+77.6	1,601	+14.0	8.4	5.4	228	−14.0	362	+32.6	437	+60.1	8.5	5.2	5.7	3.5	2.355	2,182	+7.9
16. Pennzoil United	84	59	+42.4	1,059	+19.4	7.9	6.7	91	−43.5	189	+21.9	293	+125.4	13.3	11.7	4.2	3.2	2,001	1,837	+8.9
17. Ohio Standard	74	60	+23.3	1,482	+8.5	5.0	4.1	327	+11.6	158	+6.0	193	+55.6	6.5	5.6	3.8	3.3	1,964	1,802	+9.0
18. Amerada Hess	246	46	+434.8	1,896	+42.1	13.0	3.5	417	+112.8	354	+100.0	242	+70.4	31.8	8.3	12.8	3.4	1,922	1,378	+39.5
19. Marathon	129	80	+61.3	1,578	+23.5	8.2	6.2	105	+156.1	246	+33.0	169	−12.0	14.6	10.1	8.2	5.3	1,572	1,514	+3.8
20. Ashland[4]	85	68	+25.0	2,053	+15.3	4.1	3.8	298	+7.1	177	+14.9	176	+43.0	15.5	13.4	5.9	5.3	1,437	1,170	+13.1
21. Kerr-McGee	63	51	+23.5	728	+7.1	8.7	7.4	204	+3.0	125	−1.6	113	+48.7	11.2	10.0	7.2	6.3	867	807	+7.4
22. Skelly	44	38	+15.8	580	+10.5	7.6	7.2	91	−20.9	136	+18.3	175	+7.3	7.4	6.7	5.5	5.0	803	748	+7.4
23. Murphy	48	14	+242.9	499	+32.0	9.6	3.8	99	+47.8	111	+94.7	118	−7.8	20.2	7.6	6.9	2.5	704	568	+23.9
24. Superior	33	5	+560.0	152	+5.6	21.7	3.6	43	+59.3	53	+29.3	30	−6.3	9.0	1.5	4.9	0.9	660	572	+15.4
25. Louisiana Land	70	63	+11.1	180	+23.3	38.9	43.1	93	+93.8	106	+17.8	79	−26.9	27.5	28.4	15.4	15.5	455	406	+12.1
26. American Petrofina	37	18	+105.6	448	+57.2	8.3	6.3	72	+38.5	57	+62.9	135	+440.0	13.4	12.3	8.2	6.9	451	264	+70.8
27. Clark	30	8	+275.0	397	+35.8	7.6	3.0	42	+61.5	42	+100.0	15	+15.4	27.9	10.1	11.6	4.1	263	206	+27.7
Total	9,669	6,300	+53.4	108,403	+23.5	8.9	7.2	15,332	+29.8	17,392	+34.2	13,729	+21.2	14.2	10.0	7.9	5.8	123,160	109,196	+12.8

[1] Excludes nonrecurring gains and losses.
[2] Excludes nonoperating income and excise taxes.
[3] Getty data includes interest in Skelly.
[4] Fiscal year ended Sept. 30, 1973.

Source: Oil and Gas Journal, May 6, 1974.

HOW 15 SMALL COMPANIES FARED

[Dollar amounts in thousands]

Company	Net profits		Percent change
	1973	1972	
Coree	$34,117	$3,113	+995.9
Tesoro	19,874	13,047	+52.3
Mapco, Inc	19,598	13,065	+50.0
Quaker State	19,202	15,207	+26.3
General Crude Oil	17,013	14,177	+20.0
Pioneer Natural Gas	12,397	9,852	+25.8
Crown Central Petroleum Corp	8,441	1,317	+540.9
Helmerich & Payne, Inc	6,368	4,449	+43.1
Inexco Oil Co	5,811	4,519	+28.6
Apco Oil Corp	5,717	6,186	−7.6
Woods Corp	5,190	3,891	+33.4
Barber Oil & Gas Co	3,221	2,648	+21.6
Western Co of North America	2,372	1,744	+36.0
Forest Oil Corp	(1,037)	771	−234.5
White Shield Corp	(2,750)	981	−380.3
Total	155,534	94,967	+63.8

Source: Oil and Gas Journal, May 6, 1974.

IMPACT OF OIL PRICES

Mr. JACKSON. Mr. President, for several months now, oil prices have been rising at an alarming rate: since October of 1973, imported crude oil prices have quadrupled, uncontrolled domestic crude oil has tripled, and product prices in most instances have doubled. In themselves, these price increases would have a serious impact on the economy, since petroleum comprises such a vital commodity in all sectors of an industrial society such as ours. Price rises in the petroleum sector have bid up the price of alternative fuels and electric power. The American Public Power Association, for example, has reported that the electric power generating industry has experienced fuel cost increases of 300 to 400 percent, resulting in electric bills three and four times higher than a year ago. However, perhaps even more significant than these direct price increases, is the ripple effect that will be felt throughout the economy, in all industries where fossil fuels are used directly or indirectly as an input to production.

Hardest hit by these cost increases will be the energy-intensive manufacturing industries, which unfortunately tend to be our most basic industries, as indicated in the tables.

An example of the extent to which these fuel-related price increases will reverberate throughout the economy, are the recent announcements by major metal manufacturers of cost increases of more than 20 percent in the past few months, because of increased fuel prices and electric rates. As a result, the price of aluminum has jumped more than 25 percent a pound in the last 6 months, while steel prices rose 9 percent this past month. According to spokesmen for the steel and aluminum industries, as well as the titanium and magnesium, no end is in sight to the fuel-related inflationary spiral which they now face.

The escalating costs of these basic industries are being reflected in consequent price increases to their immediate industrial consumers, such as the automobile, aircraft, and aerospace industries, who must now pay more for both fuel and basic metal inputs. These intermediate consumers have experienced cost increases of 9 to 25 percent in recent months.

Consequently, these industries have also announced product price increases: automobile price increases up to $200 have been announced by two of Detroit's big three auto makers; Congress has been told to expect aerospace cost hikes up to 16 percent and defense-related cost overruns up to 36 percent.

The Cost of Living Council has projected that, if current prices persist, basic industries will experience fuel-related cost increases as high as 43 percent in 1974. Already, in March 1974, the wholesale oil price index for all industrial commodities rose by 2.9 percent of which fully one-fourth was directly attributable to increased fuel prices. By the time these increases have been passed on through the economy, through secondary and tertiary levels of manufacturing, and finally to the ultimate consumer, they will be multiplied by several orders of magnitude. Americans will be paying more not only for metal goods, for machine-tooled goods, and for petroleum-based plastic goods, but for gasoline, heating oil, and electricity, and even national defense.

Disposable consumer income will be drastically reduced. The noted economist Walter Heller has reported that in 1974, if fuel prices remain at present levels, the inflation rate will be about 7.5 percent, virtually all of which will be related to fuel price increases.

If the administration is serious about curbing inflation, and finding a way out of the recession we are now experiencing, one of the first places to start is by curbing the unwarranted and inflationary increases in prices of such basic commodities as petroleum which, if left unchecked, will permeate the entire economy. Without such restraints, all other efforts at economic stabilization will be futile.

Mr. President, I ask unanimous consent that the reports and articles referred to in my remarks be included in the RECORD at this point.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. JACKSON. Mr. President, I would also like to note at this time, that a number of amendments proposed for this bill deal with amendments to the Allocation Act. This is neither the appropriate time nor context in which to deal with this complex problem. The Interior Committee has begun oversight hearings on the Allocation Act with a view to determining needed amendments. I would therefore respectfully suggest that Senators with amendments dealing with changes in the allocation program withhold those amendments and submit them to the committee for proper and timely consideration.

EXHIBIT 1

AMERICAN PUBLIC POWER ASSOCIATION,
Washington, D.C., January 31, 1974.

Mr. DICK GRUNDY,
New Senate Office Building,
Washington, D.C.

DEAR DICK: In connection with your hearings on S. 2885 to control escalating oil prices, I thought you might find of interest the enclosed results of a survey of APPA members. The survey shows that price increases to local public power systems for residual fuel oil have amounted to as much as 300% to 400% during the past 12 months. For distillate fuels, the increases have been as much as 260% since January, 1973. Some price increases over just the past three months have been more than 150%.

Sincerely,

LARRY HOBART.

REMARKS BY ALEX RADIN, GENERAL MANAGER, AMERICAN PUBLIC POWER ASSOCIATION, WASHINGTON, D.C., AT CONSUMER ASSEMBLY, STATLER HILTON HOTEL, WASHINGTON, D.C., JANUARY 25, 1974

To an audience which has been inconvenienced by gasoline shortages and had its pockets picked by exorbitant prices, it is not pleasant to be the purveyor of more bad news. I regret, however, that I must warn you that more bad news seems to be well on the way. The news is that what has already happened with regard to oil is beginning to happen in coal.

I make this prediction on the basis of a survey which our organization has just completed of the consumer owned electric utilities which are members of the American Public Power Association.

Skyrocketing oil prices will drive up electric rates unmercifully in those areas where utilities are heavily dependent upon oil as a source of fuel. Electric consumers are only now beginning to feel the severe impact which these high oil prices will have on electric rates.

Unfortunately, coal price increases will have a much more pervasive effect on electric rates. That is because only about 15% of the Nation's electricity is generated from oil, whereas coal is the source of fuel for about 44% of the Nation's electricity. In view of the pleadings by government officials to electric utilities to switch from oil to coal wherever possible, coal is likely to provide an ever greater share, proportionately, of electric utilities' fuel supply.

Before I recount what appear to be rather dismal short-term prospects for coal availability and price, I believe it would provide a useful backdrop for our discussions to indicate what the local publicly owned utilities have reported as to their oil situation. I know you are becoming accustomed to hearing scare stories about the price of oil, but here are a few more facts that indicate just how sharply oil prices have been raised during the past year.

A recent survey of APPA members showed that price increases for residual fuel oil have amounted to as much as 300% to 400% during the past twelve months. For distillate fuels, the increases have been as much as 260% since January 1973. Some price increases over just the past three months have been more than 150%.

Federal government officials have repeatedly claimed that their hands are tied in attempting to control oil prices, because the Federal government has no control over prices of foreign oil. However, the enormous price increases being reported by our member utilities are not just from coastal utilities which traditionally depend on imported fuel. Many of these reports come from utilities in Minnesota, Missouri, Iowa, Nebraska and Kansas which are being supplied by domestic fuels.

Keeping in mind what has been happening to oil supplies and prices, now listen to a few reports on the coal situation from the consumer owned municipal electronic utilities:

From Iowa—". . . unless conditions change, I would fully expect to see coal allocations for 1976. . . . We have recently been attempting to line up our coal supply for the next three years, but have found only one coal company who will give us a three year contract. Some of the companies say they have no coal available and this includes low sulfur western coal. We have been able to get a tentative commitment for next year but not on the basis of a contract, and no one will give us a firm price but rather they say the price will be subject to negotiation at the time of shipment."

From South Carolina—"Production and availability of coal was off in December 1973 due to holidays, bad weather, car shortages, roof bolt shortages, and a lack of diesel fuel and ammonia nitrate. We scheduled delivery for a total of 142,000 tons and received 103,000 tons for a short-fall of 39,000 tons. Needless to say, our stockpiles are down. Uncontracted coal is presently being 'auctioned off' on a day to day or week by week basis and we feel that all utilities are actively bidding for the available 'spot' coal. The fuel oil shortage and conversion of oil to coal by industries and utilities is greatly aggravating an already 'festered' situation."

From Kansas—A major municipal electric utility reported that its only firm coal contract was for 100,000 tons per year shipment, but that the supplier notified the utility a month ago that it was exercising a clause in its contract and would be cancelling it in 60 days. "We found that the reason for this notification was to obtain a higher price for the coal. We since have negotiated a three-year contract which increased the base price for coal by approximately 82¢ per ton. We also had to agree to remove the penalty clause in the contract for Btu content of coal below the nominal 12,500 Btu per pound. Our main worry as far as the future is concerned is the availability of coal since we have to buy most of our coal on the spot market . . . We sent inquiries out to 19 or 20 coal companies, and as of today have received no quotations for coal."

From Ohio—"In 1972 we had approximately 15 sources of spot purchase coal, 5 in 1973 and 1 as of this date for 1974. Our increases, although significant, are minor compared to some quotes we have received. For example, a Kentucky coal we purchased in March 1973 for $7.35 mine price was quoted at $18.50 mine price on 1/2/74. Another Kentucky coal we bought in 1972 for $6.00 mine was quoted at $10.00 in November 1973 and $18.00 on 1/10/74. Neither of these sources have any coal available at these prices, due to recent commitments to eastern utilities. The story is similar with our previous Ohio sources; prices doubled, no reserves available."

From a Wisconsin utility which had just received a small coal price increase and which was anticipating another increase "at any time": "There seems to be a pattern which has repeated itself over the years; just prior to a price increase in coal, shipments fall well short of our requirements so that our stockpile is depleted to a near-panic level. At that point, coal shipments are resumed or exceed our daily 'burn' with an attendant substantial increase in price. This situation occurred in 1970, again in late 1972, and again in the summer of 1973 just prior to the new contract date of October." The utility said it feared that increased pressure on coal suppliers will make it increasingly difficult for small generating utilities to obtain adequate supplies and "some kind of allocation program for coal may be needed to prevent this from happening."

From a Michigan utility which reported steady coal price increases in 1973, and an expected increase again in January, 1974: "One supplier, about 20% of our requirements, is trying to cancel contract. It is felt by us that this is based on higher prices prevalent in open market."

The Nation's largest single utility user of coal—the Tennessee Valley Authority has also reported problems in obtaining sufficient coal supplies. TVA had not yet reached the precarious situation in which it found itself several years ago, when coal supplies at some major steam plants were down to three to five days. But TVA, which normally has about a 90 days' supply on hand at this time of the year, found that its coal stocks were dwindling, and were down to about 50 days at full burn. Prices also were rising rapidly.

Our survey is not the only indication of danger signals in coal availability and price. A little-noticed report presented on January 16 to the Federal Power Commission Executive Advisory Committee by Paul D. Martinka, chairman of the Technical Advisory Committee on fuels availability of the FPC National Power Survey also sounded warnings. Mr. Martinka, who is Vice President—Coal Supply, of the American Electric Power Service Corp., estimated that 1974 coal production would fall 14-million to 30-million tons short of the amount needed to meet the Federal Energy Office's projected conversion of 46 power plants from oil to coal. Mr. Martinka also reported on some of the factors which inhibit the expansion of coal production.

Among the factors he cited are the present high cost of capital, the high risk of rapid obsolescence, State and local restrictions on mining and the delays in the securing of mining permits.

He said that coal producers face shortages of essential materials such as diesel fuel, ammonium nitrate for explosives, roof bolts, mine structural material, earth-moving machinery and conveying equipment. There is also an acute shortage of labor to man the mines.

"Coal produced in the western states is of limited benefit for generating plants in the east because the relatively low heating value of a large part of such coal makes it unacceptable for use in these plants, and there is a very difficult transportation problem," he continued. "Long distance transportation ties up railroad cars and river barges, which are presently in short supply, for longer periods of time. Some of the respondents to our survey pointed out that movements of export coal have the same effect."

Although one can appreciate the many serious problems besetting the coal industry, it is my personal belief—shared by a number of others—that there is another factor which accounts in large part for the very sharp escalation that seems to be in prospect for coal prices. That factor is the increasing degree of ownership of coal production (and especially reserves) by the oil industry, and the expectation by the oil companies that return on coal investment should equal that of oil. With prices for oil skyrocketing, is it little wonder that the oil companies are likewise pushing up coal prices? The goal of the oil ("energy") companies seems to be to obtain the same price for a Btu, or unit of energy, whether it is produced from coal, oil, uranium, natural gas, shale or other sources of energy which are gradually coming under the control of the energy companies.

If coal prices follow the recent trend in oil prices, we already have clear indication of how much consumers are likely to be soaked.

The Federal government is by no means powerless to act in the face of a fuel situation which holds such dangerous consequences for the future of our Nation. The problem thus far has been that Jack the Rip-off has been running wild and governmental police are doing nothing about it. Here are a few steps that should be taken:

1. Effective price controls must be imposed immediately. Thus far, price controls have been a farce—as witness the record profits of the oil companies and the skyrocketing prices for oil and oil products. We must have effective price controls on fuels, and we must have such controls this winer. A "freeze" on current prices would be a fraud—prices have already been run-up to extortional levels and, if allowed to stand, they threaten to generate seriously disruptive price ripples throughout the economy. Fuels prices must be rolled back to levels justified by reasonable costs. If the Federal Energy Office doesn't believe that it already has the power to take this action, then it should lose no time in requesting such authority from Congress.

I cannot emphasize too strongly the need for immediate action on price controls on fuels. High fuels prices have an inflationary effect on the entire economy. Moreover, the blow falls hardest on low income people, because the cost of energy is proportionately greater for those having low incomes than it is for the more affluent.

In view of the seriousness of the fuels price problem, it is disappointing, to put it mildly, that the President's energy message earlier this week did not address itself to this question.

2. Consumers must have better access to better data regarding our energy situation. The only lasting protection for consumers is better information. The government has an obligation to dig up the facts and make them known. This includes such information as the complete details of corporate ownership, corporate interrelationships, fuel reserve ownership, and detailed production cost information. This kind of information could help us get on with the long overdue job of applying the anti-trust laws to energy companies, and stopping further concentration of ownership control of the nation's natural resources.

3. One of the most promising long-term solutions to the problem of assuring a competitive energy industry is a proposal by a number of Senators and Congressmen to establish a Federal Oil and Gas Corporation (I would prefer a Federal Fuels Corporation—why exclude coal?).

The Federal Oil and Gas Corporation Act would establish a Federally-owned corporation, similar to TVA, with the primary purpose of discovering and developing oil and gas deposits on publicly held lands. The largest share of undeveloped domestic oil and gas reserves is beneath Federal lands, so the Federal government has ready access to these resources.

There are four essential purposes to be achieved by the establishment of such a Federal corporation. First, the corporation would develop publicly owned oil and gas resources with the aim of meeting national energy needs rather than maximizing private profit. Second, it would develop public resources in ways calculated to stimulate maximum economic competition in all facets of the petroleum business. Third, and very important, it would provide the public and the government with knowledge of the actual cost of production data which would serve as an invaluable guide to public policy. Fourth, the corporation would produce additional fuel supplies so as to alleviate shortages.

I believe that the "yardstick" competition which could be provided by such a federal fuels corporation, and the direct access to data which it would provide the public and the government, would serve as a tremendous competitive spur to private energy producers. The establishment of such a corporation would not mean the nationalization of the petroleum industry; far from it. The Federal corporation would act to resuscitate competition and could obviate the need for detailed government controls.

Experience in the electric industry, where publicly and privately owned electric utilities have been operating side by side since the beginning of central station electric service, provides a clear example of the benefits to be obtained from the institutional competition that would be provided by a Federal fuels corporation.

4. Federal tax laws relating to oil must be drastically overhauled. Among the many other reforms that are needed is the elimination of the foreign tax credit, whereby oil companies are permitted to deduct from their Federal income taxes, on a dollar-for-dollar basis, royalties that they pay to foreign governments. This device, among other things, tends to distort the earnings of the oil companies.

5. And finally, the Federal government should take positive action to break up monopoly control in the energy industry and ventilate the atmosphere by the fresh air of competition—competition not only between diverse private owners, but also from a Federal fuels corporation.

Having concern for fuels prices and calling for effective action in controlling runaway prices is consistent with the history of consumer owned public power. From the beginning, our segment of the industry has attempted to provide energy at as low a cost as possible. In times past, energy may have been priced too low to cover all of the social costs associated with production. To the extent that prices have not covered those costs, they should be increased. But the impact of energy is too important to society for us to sit back and let prices rise to unconscionable levels. To do so would not only harm our consumers—to whom we owe our primary allegiance; exorbitant prices also threaten the very existence of some local public power systems. The demise of these consumer owned utilities would only tend to increase monopoly control in the energy industry, and would bring with it the many ills that flow from such a monopoly.

Examples of Fuel Price and Supply Problems of Electric Utility Members of the American Public Power Association

LOS ANGELES DEPARTMENT OF WATER AND POWER

Prices paid for low-sulphur, residual fuel oil have steadily increased during the past year with a sharp increase during the last three months, largely due to spot purchases of foreign oil. The weighted average delivered price for low-sulphur oil purchases for February 1974 delivery is $16.96 per barrel. This price represents a 108% increase over the weighted average price paid in December 1973, a 200% increase over the weighted average price paid in June 1973, and a 256% increase over the weighted average price of January 1973.

JACKSONVILLE, FLA.

The Jacksonville Electric Authority purchases both residual oil and distillate oil. One year ago No. 2 oil was purchased for 11.72¢ per gallon, and three months ago the price was 15.82¢ per gallon. Spot purchases during the past three months have been made at prices of 24¢, 29¢ and 42¢ per gallon. The 42¢ per gallon price represents an increase of 258% over the price of one year ago, and an increase of 165% over the price of just three months ago. The January 1974 price for No. 6 residual oil with a sulphur content of 1.8% has been as high as $12.52 per barrel, or 365% higher than the $2.69 per barrel price of Sept. 1973.

SOUTH CAROLINA PUBLIC SERVICE AUTHORITY

The average delivered price of coal was $15.60 per ton in December 1973, or 26% higher than in June 1973 and 32% higher than one year earlier in December 1972. This average price includes both contract and spot market coal purchases. The average delivered price of spot market coal only during December 1973 was $17.52 per ton. SCPSA has had spot market coal offered during the first weeks of January 1974 at prices as high as $26.00 per ton f.o.b. mine and with no guarantee of quality or quantity—an increase of over 250% since Dec. 1972.

JAMESTOWN, N.Y.

The Jamestown Board of Public Utilities purchases about 75% of its coal requirements from mines in Pennsylvania. The delivered price for this Pennsylvania coal for the week ended January 7, 1974, was $19.89 per ton, a 13% increase over the highest December 1973 price of $17.61, and a 59% increase over the January 1973 price of $12.49 per ton. While the price has been rising the quality of the coal declined. It is believed that the east coast utilities which are reconverting back to coal are contributing to *the pressure for* rising prices as well as creating a serious shortage of railroad hopper cars.

MEMPHIS, TENN.

The Memphis Light, Gas and Water Division is concerned about gasoline supplies with which to fuel its construction and service vehicles. The allocation regulations indicate that the utility is entitled to 100% of its 1972 base period supply volume, but the base period supplier is offering only 80% of that volume. The utility will run out of gasoline sometime in February should it be restricted to the 80% figure. The utility has sought relief from the State fuels allocation *office in* accordance with the regulations, but the State office states that it is not equipped to deal with the problem. Other publicly-owned utilities in the Tennessee Valley are concerned about the adequacy of gasoline allocation procedures.

ARIZONA

Salt River Project, No. 2 oil and residual oil: Have experienced extreme difficulty in securing distillate fuel not previously under contract. Residual oil is available, but not in required quantities from normal California supply area. Salt River Project is now purchasing residual from areas as far away as Texas, Oklahoma, and Wyoming. Between 1/1/73 and 1/1/74 price of distillate fuel purchased from Standard Oil Company has increased by 55% to $7.10 per bbl. F.O.B. refinery; price from Powerine Oil Company has *increased* by 19% to $5.138/bbl. Atlantic Richfield, 108% to $10.120/bbl.; MacMillan Ring-Free, 81% to $8.170/bbl.; Edgington Oil Co., by 21% to $5.596/bbl. and Douglas Oil Company, by about 6% to $5.40/bbl. The low price for a spot purchase of residual oil in October 1973 was $4.50/bbl. and the high price thus far in January 1974 has been $10.54/bbl.

ARKANSAS

Conway, diesel oil: Conway runs its generating plant only for peaking during the summer months. In October 1972 paid 13.97¢/gal. for diesel, in June of 1973 it cost 20.55¢/gal., and if we were to buy today it would cost 28.5¢/gal.

CALIFORNIA

Los Angeles, residual fuel oil: Weighted average price of low-sulphur oil (0.5% sulphur) purchases for February 1974 delivery is $16.96/bbl. This is a 108% increase over the weighted average price for December 1973, a 200% increase over the price for June 1973, and a 256% increase over the weighted average price for January 1973.

Pasadena, residual: Unable to locate low sulphur oil which they are required to burn under the regulations of Air Pollution Control District. Have contract for high sulphur residual oil at $6.20 per bbl. but haven't received a variance which allow them to burn it. Have been quoted prices of up to $28.00 per bbl. for low sulphur residual by various "brokers", but all such offers have proved to be bogus; the oil was such that couldn't be burned, or delivery logistics could not be arranged. Neighboring utility, Los Angeles Dept. of Water and Power has paid as much as $25.00 per bbl. for low sulphur oil; if Pasadena must pay that much they will have to increase electric rates as much as 100%.

Burbank, residual and jet fuel: Top quoted prices for residual have increased by 350% from January 1973 to January 1974; during same period quoted prices for jet fuel have increased by 233%. During the first week of 1974 all offers of residual fuel have been in excess of $20 per bbl. FOB Los Angeles harbor. Prices quoted to Burbank:

Residual—Dollars per barrel

January 1973, 4 to 6.
July 1973, 6 to 8.
December 1973, 14 to 27.

Jet fuel—Cents per gallon

January 1973, 9 to 15.
July 1973, 16 to 20.
December 1973, 20 to 50.

COLORADO

Trinidad, No. 2 diesel: Due to curtailment of natural gas supplies, have been burning more fuel oil—deliveries have been adequate. Price has increased 63% during the period January 1973 to January 1974. Price per gallon has increased as follows: 1/1/73—12.49c, 9/1/73—14.40c, 11/1/73—15.90c, 11/9/73—17.40c, 1/1/74—20.40.

La Junta, natural gas and No. 2 diesel: Rely primarily on natural gas to fire internal combustion engine, with No. 2 as alternate fuel. Proposed contract for 1974 increases natural gas price by 36%. Diesel fuel price has increased by 100% in past year.

Lamar, No. 2 diesel: Natural gas is primary fuel and No. 2 diesel is alternate fuel. Haven't experienced any long-term difficulty in buying gas but expect to in future. In January 1974 the delivered price paid for No. 2 diesel fuel was 28.6 cents per gallon, or 85% more than highest price paid in January 1973, and 47% more than the price in October 1973.

CONNECTICUT

Norwich, No. 2: Price increased from 13.36 cents per gallon in January 1973 to 23.50 cents per gallon in January 1974, an increase of 76%. From October 1973 to January 1974 the price increased by 31%.

Wallingford, coal: Under EPA requirements Wallingford is charged with burning the lowest sulphur coal available. Able to acquire only 500 tons per week which just meets needs. Delivered cost of coal from Toms Creek, Virginia was $28.49 in January 1974, up 7.5% from December 1973 and 18% from June 1973. Cost of coal from Pikeville, Kentucky was $23.18 in January 1973. The cost of coal from Virginia delivered in January 1974 was 23% higher the cost of the Kentucky coal delivered one year earlier.

FLORIDA

Gainesville, residual and No. 2: Unable to attract bids on low sulphur No. 6 and concerned over allocation of No. 2. (attachment misplaced)

Jacksonville, residual and No. 2: One year ago No. 2 was purchased for 11.72 cents per gallon; three months ago it was 15.82 cents; spot purchases during the past three months have been made at prices of 24 cents, 29 cents, and 42 cents per gallon. The 42 cents per gallon price represents an increase of 259% over the price of one year ago, and an increase of 165% over the price of just three months ago. For No. 6 with a sulphur content of 1.8% the January 1974 price has been as high as $12.52 per bbl. or 365% higher than the $2.69 per bbl. price of one year ago and 77% higher than the price of about $7.07 per bbl. of three months ago.

Lakeland, residual and No. 2: Have contract for No. 6 with a ceiling price of $3.80 per bbl. which was reached in September 1973. The contract expires on February 14, 1974. Current price without ceiling would be $5.90 per bbl. If Lakeland must pay the $5.90 price it will mean an increase of 55%. Lakeland uses approximately 1,500,000 gallons of No. 2 oil per year. In January 1973 they paid 11.2 cents per gallon, in August 1973 the price rose to 13.01 cents per gallon, and on November 1973 to 14.45 cents per gallon. The January 1, 1974 price is 15.95 cents per gallon, an increase of 42% over the price of one year ago, and of 23% over the price of August 1973.

Kissimmee, diesel oil: Average cost of diesel fuel oil in December 1973 was $20.71¢/gal., an increase of about 7% over the average cost in July 1973, and an increase of about 54% over the price of January 1973.

Tallahassee, residual oil and No. 2 diesel: Delivered cost of residual oil in January 1974 was $6.14/bbl. or 58% more than the average price in August 1973, and 77% higher than the one year earlier price of $3.47/bbl. paid in January 1973.

New Smyrna Beach, residual and No. 2: Price of No. 2 oil in January 1973 was 14.13¢ per gallon, it increased to 18.02¢ per gallon in June 1973, to 20.52¢ per gallon in November 1973 and to 21.65 cents per gallon by December 31, 1973. The December 1973 price was 6% higher than the November price and 53% higher than the January 1973 price. Prices paid for No. 6 oil in 1973 were: 7/6/73—10.81 cents per gallon; 8/5/73—11.31 cents; 9/12/73—11.55 cents; 10/6/73—12.22 cents; 11/14/73—15.92 cents; and 11/28/73—16.47 cents. The 11/2/73 price was 52% higher than the 7/6/73 price.

IDAHO

Donners Ferry, diesel oil: January 1974 price was 29.2¢/gal. up from the September 1973 price of 19¢/gal. by 54% and from the April 1973 price of 15.48¢/gal. by 89%.

ILLINOIS

Carlyle, diesel oil and coal: Price of diesel fuel oil one year ago was 11.225¢/gal., two months ago it was 18.8¢/gal., and in January 1974 it was 28.8¢/gal., or 157% higher than the one year earlier price. One year ago coal was $7.85/ton at the mine, six months ago it was $8.75/ton, three months ago $9.50/ton, and in January 1974 the coal price rose to $9.90/ton, or 26% higher than the January 1973 price.

Rochelle, coal and No. 2 oil: Coal prices (FOB mine) have increased by 10% from the 1/1/73 price of $8.25 per ton to the 1/1/74 price of $9.10 per ton. The price of No. 2 oil has increased by 52% from 1/1/73 to 1/1/74, and by 26% between 7/1/73 and 1/1/74. The 1/1/74 price was $18.57¢ per gal. and the 1/1/73 price was 12.20¢ per gallon.

Rantoul, No. 2 oil: No problem of availability so far. January 1974 price of 20.52¢ per gallon is 37% higher than the December 1973 price of 15.02¢, 61% higher than the July 1973 price of 12.72¢, and 78% higher than January 1973 price of 11.52¢ per gallon.

IOWA

Montezuma, No. 2 oil: 1973 fuel contract was at 12.35¢ per gallon. A new contract was signed in December 1973 at a price of 16.40¢ per gallon with an ad clause. The adder was used to raise the price of 18.60¢ on 12/8/73 and to 22.80¢ on 12/31/73. The December 31 price was 39% higher than the December 1 price and was 85% higher than the 1973 contract price.

New Hampton, No. 2 oil: December 31, 1973 price of 25.20¢ per gallon was 34% higher than the November 30 price of 18.80¢, 52% higher than the November 7 price of 16.60¢, and 105% higher than the July 31, 1973 price of 12.27¢ per gallon.

Cedar Falls, coal, natural gas and No. 2 oil: Fuel availability good for 1974 due to adequate stocks on hand. Present coal price of $15.91 per ton is 16% higher than $13.74 price of six months ago, and 16.5% higher than $13.66 price of one year ago. Having trouble attracting bids for new three year coal contract—concerned about future supply. Gas price of 50¢/MCF is up 16% over 43¢/MCF price of one year ago. Anticipate severe curtailment of natural gas supply. No. 2 oil price currently 26¢/gal. and increase of 37% over six months ago and of 136% over the 11¢/gal. price of one year ago.

Spencer, No. 2 oil: January 1974 price of 30.921¢/gal. is 36% higher than December 1973 price, 72% higher than the July 1973 price, and 151% higher than the January 1973 price of 12.33¢/gal.

Osage, No. 2 oil: Price from Standard Oil has risen from 12.58¢/gal. in October 1973 to 25.78¢/gal. by January 3, 1974, an increase of 105%. Osage cannot generate power at this price and finds it cheaper to purchase power from Dairyland Coop.

Estherville, No. 2 oil: Supply has been adequate but price has risen from 11.64¢/gal. in January 1973 to 19.39¢/gal. in November 1973 and to 32.2¢/gal. on January 10, 1974. The increase since November has been 66% and since one year ago has been 177%.

Waverly, No. 2 diesel oil: January 1974 price from 25.68¢/gal. to 29.75¢/gal. up 94–125% from December 1973 price of 13.23¢/gal.

KANSAS

Belleville, natural gas and No. 2 diesel fuel: Price for No. 2 was 14.84¢/gal. in October 1973 but had increased 19% to 17.64¢/gal. by November 30, 1973. Natural gas price increased by 21% in one year's time to current price of 33.38¢/mcf.

Chanute, No. 6, No. 2, and natural gas: Local refinery continues to supply No. 6 and No. 2 oil and keep storage tanks topped off. Natural gas was 100% curtailed for first two weeks of year but has now been restored to 100% of need. Price of natural gas increased by 45% from December 1973 price of 31¢/mcf to January 1974 price of 45¢/mcf. No. 6 oil price increased 125% from July 1973 price of 12¢/gal. to current January 1974 price of 27¢/gal. No. 2 oil price increase from 11¢/gal. in December 1972 to 30.75¢/gal. in December 1973 and to 34.5¢/gal. in January 1974, an increase of 94% from July 1973 to January 1974.

Erie, No. 2 oil: Current price is 27.5¢/gal. or 28% more than the price thirty days ago when it was 21.5¢/gal., and 132% more than the price of one year ago which was 11.85¢/gal.

Hugoton, No. 2 oil: Have had to buy fuel from available sources to keep adequate supply on hand. January 1973 price was 11.51¢/gal.; it rose to 17¢/gal. by July 1973 and to 19.6¢/gal. by January 1974. Have also paid as much as 23.9¢ for small supplemental purchases. Supplier has notified that new price will be 29.5¢/gal. The 29.5¢ price represents and increase of 51% over the January 1, 1974 price, an increase of 74% of the July 1, 1973 price, and an increase of 156% over the price of January 1, 1973.

McPherson, No. 2 oil and residual oil: Purchase No. 2 for from 18.45 to 21.50 cents per gallon—estimated cost for next year's needs is 60 cents per gallon, or from 125 to 179 percent higher. Price of No. 6 oil from local refinery was 8 to 12 cents per gallon prior to January 1, 1974—as of January 1, 1974 the price was increased to 19 cents a gallon, a 58 to 138 percent increase. Not all of utility's 1,000,000 gallon needs are available from local refinery so have been obliged to purchase from other Midwest refineries at prices ranging from 24.9 cents a gallon to 28 cents a gallon.

Kansas City, coal and No. 2: Use No. 2 for boiler light-up only (about 2,000 gallons per month) but price has gone from 12.3 cents a gallon in January 1973 to 19.5 cents in June 1973, and 23.9 cents in December 1973—an increase of 94 percent over the year. Have been offered No. 2 at a price of 65 cents a gallon but did not purchase. January 1973 delivered price of coal ranged from $8.75 a ton to $11.14 a ton. This rose by 16 percent at the low end and 24 percent at the high end, to a range of $10.16 a ton to $13.80 a ton in December 1973. Coal storage is currently at 60–70 days' supply but have been notified by only contract supplier (Peabody) that contract will be terminated in 60 days in order to increase price. New contract has now been negotiated at an increase in the base price of 82 cents per ton and removal of the penalty clause for low Btu coal.

Herrington, No. 2 oil: Price of No. 2 was 18 cents a gallon, at beginning of 1973, increased to 23.5 cents a gallon December 1, 1973 and again to 30.5 cents a gallon on January 1, 1974. January to January increase was 69 percent, December 1973 to January 1974 increase was 30 percent. Supply no problem so long as asking price is met.

KENTUCKY

Owensboro, coal and No. 2 oil: No price with price or supply of coal. Price is firm for another 12 months of a three-year contract. No. 2 oil is used for start-up and flame stabilization of 265 MW coal unit. January 1974 price of 19.07 cents a gallon represents an increase of 46 cents over the June 1973 price of 13.09 cents a gallon, and an increase of 60 percent over the one year earlier price of 11.95 cents a gallon.

LOUISIANA

Lafayette, No. 2 fuel oil: December 1972 prices ranged from 11.050 cents a gallon to 15.9 cents a gallon, for purchases from three vendors. Purchases from two vendors during June, July and August ranged from 11.05 cents a gallon to 20.1 cents a gallon and December 1973 purchases from three different vendors ranged in price from 20.49 cents a gallon to 30.5 cents a gallon.

Ruston, No. 2 oil: Oil is supplementary fuel to natural gas. During the past twelve months price rose by 50 percent from 11.6 cents a gallon to 17.5 cents a gallon.

MARYLAND

Easton, No. 2 oil: The January 1974 price of 27 cents a gallon is up 34 percent from the December 1973 price of 20.1 cents a gallon, is 59 percent higher than the 17 cents a gallon price of October 4, 1973, and is 111 percent higher than the price paid in January 1973 of 12.8 cents a gallon.

MASSACHUSETTS

Braintree, residual fuel oil: January 1974 price of $17.80 per bbl. is 142% higher than the 11/8/73 price of $7.37 per bbl., 242% higher than the 10/1/73 price of $5.21 per bbl., and 330% higher than the June 1973 price of $4.14 per bbl. Oil received so far is 1% sulphur but have been notified that in future it will be 2.4% sulphur—at the nearly $18.00 per bbl. price.

Hudson, No. 2 oil: January 1974 price of 23.18c/gal. is 25% higher than the December 1973 price of 19.065c/gal., 40% higher than the November 1973 price of 16.9866c/gal., and 101% higher than the August 1973 price of 11.8485c/gal.

MICHIGAN

Sturgis, No. 2 oil: Allocation has been adequate. January 1974 price is 19.76c/gal., 11% more than the December 1973 price of 17.76c, 18% more than the November 1973 price of 16.76c, 53% higher than the July 1973 price of 12.91c, and 73% higher than the January 1973 price of 11.4c/gal.

Lansing, residual oil, No. 2 oil, and coal: Residual price of 22.75c/gal. is 102% higher than one year ago price of 11.25c/gal. Haven't experienced difficulty in obtaining requirements. Price of No. 2 oil has increased every month since August 1973. December 1973 price of 18.15c/gal. is 57% higher than price of six months or one year ago (11.54c). December 1973 price of coal was $14.06 per ton, or 13% higher than six months ago and 17% higher than $12.04 price of one year ago. Coal prices are expected to rise substantially in January 1974. Supplier who provides about 20% of coal requirements is trying to cancel contract because open market prices are much higher than contract price.

Marshall, No. 2 oil: December 28, 1973 price of 24.4c/gal. was 32% higher than 11/15/73 price of 18.55c, 44% higher than September price of 16.90c, and 104% higher than 2/5/73 price of 11.98c/gal.

MINNESOTA

Detroit Lakes, residual oil and coal: Delivered price for No. 6 on 12/18/73 of 27.5c/gal. was 31% higher than the November 1973 price and was 72% higher than the June 1973 delivered price of 16c/gal. Semi-bituminous Mont. coal was delivered up to December 31, 1973 at $3.20 per ton plus $6.38 freight. On January 1, 1974 the price went up to $4.20 per ton plus $6.38 freight. The increase in the coal price only was 31%. There have been no supply problems.

Austin, coal, natural gas, and No. 2 oil: Delivered cost of coal in January 1973 was $15.42/ton. In January 1974 the price was $19.94/ton and then went to $20.52/ton. The delivered price increased 33% from 1/73 to 1/74. The increase in coal price exclusive of freight was 49%. Natural gas was 45.2c/MCF in January 1974, 18% higher than the June 1973 price and 43% higher than the January 1973 price of 31.5c/MCF. The January 1974 delivered price of oil was 47% higher than the June 1973 price and 69% higher than the January 1973 price. Austin has had to institute a fuel adjustment clause in its retail rate schedules because of the extreme increases in fuel costs.

Hutchinson, No. 2 fuel oil: Signed a new contract with Standard Oil on November 15, 1973 at a price of 17.18¢/gal. subject to escalators. By January 21, 1974 the price had increased by 50% to 25.78¢/gal.

Glencoe, natural gas and No. 2 oil: Paying 25.43¢ gal. for no. 2 oil from Standard Oil our regular supplier. A year ago the price for the same fuel was less than 12¢/gal. Natural gas on an interruptible basis is 68.5¢/mcf, a year ago it was 42–44¢/mcf. Have purchased some black market oil at prices up to 35¢/gal.

Blue Earth, No. 2 oil, natural gas, and coal: Contract with Gustafson Oil Co. terminated October 8, 1973. Advertised for bids to furnish 300,000 gallons of No. 2 fuel oil for year 10/8/73 to 10/8/74 but didn't receive any bids. Old contract price was 12.32¢/gal. but supplier refused to fill new 90,000 storage tank at that price; they did fill tank for a 38% higher price of 16.98¢/gal. January 4, 1974 price for No. 2 oil was 31.35¢/gal. or 154% higher than the old contract price of any three months earlier. Have been notified that there will be no natural gas for electric power generation after 10/26/74. Summer gas price is up 36% in just over 2 years, and winter gas price is up 103% in the same period. Price of Southern Illinois coal from Sahara Coal Company is up from delivered price of $14.34 ton in June of 1972 to $16.88/ton in November 1973.

Fairmont, natural gas, coal, and No. 6 oil: Price of natural gas has not increased over 44¢/MCF level of January 1973 nor have current deliveries been curtailed beneath the delivery levels of the past several winters. Coal is purchased from Sahara Coal Co. and from Peabody. Peabody has made fuel deliveries but Sahara has been delivering less than 50% of order. Peabody coal was $7.80/ton in January 1973 and has increased by 27% to $9.94/ton in January 1974. Sahara coal was $9.00/ton in January 19 and has increased by 9% to $9.85/ton in January 1974. The price for No. 6 fuel oil was 10.65¢/gal. in January 1973 and has increased by 89% to 20.16¢/ gal. in January 1974.

North Branch, No. 2 oil: On contract ending 10/15/73 price was 12.58¢/gal. Contract beginning on 10/15/73 price was 14.83¢/gal. but is increased based on the market on day of delivery, if available. Price has increased as follows: 10/22/73—16.03¢; 11/22/73—16.83¢; 12/8/73—18.83¢; 1/3/74—25.22 cents. The 1/3/74 price is 57% higher than the 10/22/73 price and is 100% higher than the 12.58¢ price which obtained prior to 10/15/73.

Wells, No. 2 oil: January 1974 price of 22.98¢/gal. is 19% higher than 12/7/price of 19.38¢ 34% higher than 11/7/73 price of 17.18¢, 37% higher than the 10/1/73 price of 16.58¢ and is 87% higher than the 12.29¢ price which obtained at the beginning of 1973.

MISSISSIPPI

Clarksdale, residual and No. 2 oil: January 1974 price of No. 6 oil is 19.9c/gal. which is 11% higher than December 12, 1973 price and 73% higher than January 1, 1973 price of 11.53c/gal. January 1974 price of No. 2 oil is 24.32c/gal. which is 36% higher than 12/1/73. 53% higher than 11/1/73, and 116% *higher* than the January 1, 1973 price of 11.28c/gal.

MISSOURI

Fulton, natural gas, No. 2 oil and coal: Gas is being severely curtailed but availability of other fuels has not been a problem. Natural gas price has increased by 17% in past year. No. 2 oil has increased from 11.15c/gal. in June 1973 to 16.97c/gal. or 52%. Missouri coal has gone from $10.10 per ton on 6/1/73 to $12.93 per ton as of 12/1/73, an increase of 28%. During the same period Illinois coal has gone from $11.35 per ton to $15.86 per ton, an increase of 40%.

Springfield, coal and No. 1 and 2 oil: Coal is purchased under 10-year contract which began on 1/1/71 on a cost-plus basis. Current delivered price is $16.36 per ton subject to retroactive adjustment to 1/1/73 based upon actual cost in 1973. It is anticipated that when costs are known the delivered price will be in excess of $18.00 per ton. There have been no delivery problems. Have not been able to attract bids on No. 1 diesel fuel contract since 3/73 despite repeated attempts. Have made a number of purchases on the open market ranging in price from 18.9c/gal. on 3/73 to 26.9c/gal. in September 1973. Most recent purchase in October 1973 was at the much higher price of 45.9c/gal. Most recent open market purchase No. 2 oil in December 1973 was at 44.61c/gal., up 97% from the price paid in October 1973, and up 313% over the last contract purchase made in March 1973 at 10.8c/gal.

Carrollton, No. 2 oil: January 1974 price of 25.15c/gal. is 50% higher than December 1973 price, 99% higher than October 1973 price of 12.64/gal, and 94% higher than the January 1973 price of 12.94c. With natural gas severely curtailed, supply under historically based allocation system is a serious problem.

Independence, natural gas, coal and No. 2 oil: From 12/72 to 12/73 the natural gas price increased by 10.3% from 28.2c/MBTU to 31.1c/MBTU. During the same period the price of coal rose from 45.7c/MBTU to 64.0c/MBTU, an increase of 40%. The 12/73 price paid for No. 2 oil was 150.0c/MBTU and increase of 10.3% over the 5/73 price of 136.0c/MBTU and an increase of 91.6% over the 12/72 price of 78.3c/MBTU.

Columbia, coal, natural gas, and distillate: On 10/1/72 switched from 3–4% sulphur coal to a blend of southern Illinois coals with 1.75% sulphur which caused a doubling of the delivered price to $16.10/ton. By 1/1/73 the price had increased to $16.80. The 1/1/74 price was $17.98/ton an increase of 8% over 1/1/73 and 1.7% over 10/1/72. The price paid for natural gas has gone from the February 1, 1973 level of $3.234/mcf demand and $0.35564/mcf commodity, to a December 1, 1973 price of $3.322/mcf demand and $0.41272/mcf. There does not seem to be any distillate available in the area, last purchase was at 14.5c/gal., current price if available is about 30.0c/gal.

NEBRASKA

Fremont, natural gas and coal: Natural gas price recently increased by 20%. Price of coal has increased by 38% in the past four months.

Sidney, No. 2 diesel: Fuel situation is very critical. Last fuel from regular supplier (Standard Oil) was October 1973. Natural gas has been curtailed and oil storage is down to about nine days supply. February 1973 price paid for oil was 12.34c/gal., January 1974 quoted price is 24.96c/gal., an increase of 102% over February 1973 and an increase of 58% over the last price paid of 15.76c/gal. for fuel delivered in October 1973.

Lincoln, No. 2 oil, No. 6 and coal: Contract price for No. 2 under contract which expired 12/31/72 was 10.8c/gal. The 12/10/73 price of 23.9c/gal., was 60% higher than the January 1973 price of 14.9c/gal. and 121% higher than the December 1972 price of 10.8c/gal. The most recent price paid for No. 6 oil was $4.82/bbl. on 12/26/73, this was an increase of 12% over the November 1973 price and a 55% increase over the August 1973 price of $3.10/bbl. Price paid for coal at mine in Pittsburg, Kansas was $7.96/ton for deliveries made in August and September 1973; $4.90/ton at mine in Edna, Colorado for coal purchased in November and December; and $6.50 for coal at mine in Craig, Colorado for purchases made in November.

David City, No. 2 oil: January 1974 price of 24.24c/gal. was 36% higher than November 30, 1973 price of 17.84c/gal., 55% higher than November 5, 1973 price, 75% higher than October 2, 1973 price of 13.84c/gal., and 82% higher than 13.30c price of June 18, 1973.

Nebraska Public Power District, No. 2 oil, No. 6 residual, and coal: Purchasing coal from five suppliers and not having much trouble getting adequate deliveries. The 1/8/74 delivered price for coal of $13.12/ton was 14% higher than the 7/1/73 price and 15% higher than the 1/1/73 price of $11.43/ton. Residual oil is used as standby fuel for one small steam plant that normally burns gas. Gas has been 100% curtailed in recent weeks and it has been very difficult to purchase No. 6 oil. On 1/8/74 paid $6.40/bbl. for No. 6 of Nebraska origin and $10.12 for some No. 6 of Wyoming.

Grand Island, No. 6 residual oil and No. 2 oil: Price of No. 6 oil delivered has increased from 12.96c/gal. in January 1973 to 20.22c/gal. in December 1973 and to 28.62c/gal. in January 1974. An increase of 121% from January 1973 to January 1974. No problems were encountered in purchasing the fuel and only slight problems in arranging delivery. Problems have been encountered in obtaining large quantities of No. 2 oil. The only oil available in January 1974 has been imported No. 2 oil at a price of 59.2c/gal. which represents an increase of 117% over the October 1973 price of 27.3c/gal. and an increase of 366% over the December 1972 price of 12.7c/gal.

No No. 2 oil was used prior to April 1973. Signed contract in June 1972 was Farmland Industries for 8,000,000 to 20,000,000 gallons annually. Farmland says that with implementation of mandatory fuel allocation program contract is void, and they haven't delivered fuel since October 1973. Also signed contract with Champlin Petroleum in June 1972 for 5,000,000 to 10,000,000 gallons annually, and Champlin has continued to deliver. Price has gone up 107% from 7/1/73 price of 12.402¢/gal. to 1/8/74 price of 25.661¢/gal.

CENTRAL NEBRASKA

Public Power and Irrigation District, natural gas and residual oil: 100 MW, single unit plant burns natural gas with residual oil as back up fuel. Gas is being increasingly curtailed, supplier has notified to expect less gas each year down zero in 1979. Oil costs about 150% as much as gas. No trouble securing oil so far, cost from storage is about 8.3¢/gal. and new oil received under a 3-year contract (which has 1 year left to run) is 9.83¢/gal.

NEW YORK

Rockville Centre, No. 2 oil: Price for 12 months ending 5/31/73 was 12.15¢/gal. Price rose to 17¢ on 6/1/73, 18¢ on 11/5/73, 22.4¢ on 12/5/73, and to 29.4¢/gal. on 1/3/74. The January 1974 price was 135% higher than the one year earlier price.

Jamestown, coal: The January 7, 1974 delivered price of the 75% of total coal purchases which come Pennsylvania was $19.89 per ton, a 13% increase over the highest December 1973 price of $17.61, a 52% increase over the October 1, 1973 price, and a 59% increase over the January 1973 price of $12.49 a ton. While the price has been rising, since October the quality of the coal has declined from an average 12,800 Btu to about 11,500 Btu. The 25% of Jamestown's coal which is purchased from small truck operations has also increased in price but the delivered price still averages out to about 80% of the Pennsylvania coal. Believe that the east coast utilities which are reconverting back to coal are driving up the price in the Pennsylvania market as well as creating a shortage of railroad cars.

Greenport, natural gas and No. 2 diesel: Plant is dual fuel gas and diesel oil. Gas supplier has notified that there may not be any gas available in 1974. Oil supplier has allocated 95% of base year consumption (1972). An additional allocation has been requested from FEO but no action has yet been taken on request. January 3, 1974 oil price of 32.2¢/gal. is 28% higher than December 1973 price, and 125% higher than the January 1973 price of 14.29¢/gal. Price of natural gas has risen from $0.59198/mcf in March 1973 to $1.14504/mcf in December 1973, an increase of 93%.

Freeport, residual oil and No. 2: Experienced difficulty in obtaining residual oil during past two months and stocks have dwindled from 2 month supply to a 5 week supply. Price has risen from January 1973 level of 10.45¢ gal. 11.21¢ in June 1973, 18.46¢ in November and 20.40¢ in December. The one-year increase was 95%. Did not use No. 2 until May 1973 when gas turbine went on line. No difficulty in obtaining supply until two months ago. Have since filed with FEO requesting an allocation. Price has increased from 12¢/gallon in March 1973 to 35¢/gallon, or by 192%.

OHIO

Piqua, No. 2 oil and coal: No No. 2 oil use in 1972 base period as gas turbine went into commercial operation December 29, 1972. 1973 contract was with Sohio at price of 12.55¢/gallon for maximum of 2,000,000 gallons. Sohio submitted bid in November 1973 for 1974 requirements but only for 108,971 gallons and at whatever price they might have in effect at time of delivery; their January 1974 price was 23.8¢ or nearly 90% higher than the old contract price. Coal delivered under contract has increased in price from $11.80/ton in January 1973 to $13.19/ton in November 1973, or by about 12%. All increases have been justified by the terms of the contract on mine benefits, mine safety, etc. Made 5 spot purchases in 1973 and 1 so far in 1974. Price increases for spot coal purchases have been significant although minor compared to some of the bid prices received. For example, Kentucky coal purchases in March 1973 for a mine price of $7.35 was quoted at $18.50 on January 2, 1974. A second Kentucky coal source from whom coal was purchased in 1972 at a mine price of $6.00, quoted prices in November of $10.00 and $18.00 on January 10, 1974. Neither of these sources has coal available even at these prices due to recent commitments to eastern utilities. Story is similar with previous Ohio coal sources, doubled prices and no reserves available.

Oberlin, No. 2 oil: December 1973 price of 21.8¢/gal. was 33% higher than July 1973 price and 91% higher than January 1973 price of 11.43¢/gal.

SOUTH CAROLINA

South Carolina Public Service Authority, coal, No. 6 oil, and No. 2 oil: About 80% of generation is with coal.

The average delivered price of coal in December 1973 was $15.60/ton, or 26% higher than in June 1973 and 32% higher than one year earlier in December 1972. This average price includes both contract coal and spot market coal. Average delivered price of spot market coal during December 1973 was $17.52/ton and the anticipated January 1974 price is $22.80. Have had spot coal offered during first week of January 1974 at prices ranging from $16.00 to $24.00 per ton F.O.B. mine with no guarantee of quality or quantity. January 1, 1974 price of No. 6 fuel oil is $7.32 per barrel, up 21% from the December 1973 price of $6.03, and up 119% over the December 1972 price. Price increase is despite fact that 1972 oil was 2.1% sulphur and current oil is 2.8% sulphur. December 1973 price of No. 2 fuel oil was 18.9¢/gal., an increase of 52% over the one year earlier price of 12.50¢/gal.

TEXAS

Robstown, natural gas and diesel oil: Experiencing problems obtaining diesel fuel and are awaiting response from FEO to request for allocation. Prior to September 1973 were paying 10¢/gal. for diesel. Supplier, Phillips Petroleum, has since increased price to 18.9¢/gal. Experiencing natural gas curtailments. Present contract expires in May 1974 and are uncertain if it will be renewed. Price has increased by 320% from September 1973 level of 14¢/mcf to December 1973 price of 58.9¢/mcf.

Lubbock, No. 2 oil and natural gas: No. 2 oil price has increased 100% from 12.96¢/gal. price in January 1973 to 26.02¢/gal. in January 1974. Natural gas price has increased by 23% during same period.

Tulia, natural gas and diesel oil: Increasing curtailment of natural gas is causing depletion of diesel stores and threatens to run storage to zero. Major oil supplier has increased price from 11.88¢/gal. to 16.88¢/gal. as of January 1, 1974 and secondary supplier has increased price from 12.90¢/gal. to 30.5¢/gal. Natural gas price has increased from 25¢/mcf to 34¢/mcf.

VERMONT

Burlington, coal and oil: Average cost of coal has increased by 29% from January 1973 price of $17.29/ton to December 1973 price of $22.28/ton. Oil price has increased by 85% during the same period.

WISCONSIN

Cedarburg, No. 2 oil: Price increased by 140% between December 1972 when it was 11.74¢/gal. and December 1973 when it was 28.14¢/gal.

Richland Center, coal: Only problem other than price are occasional railroad car shortages and wildcat strikes. December 1973 delivered price of $16.18/ton was 8% higher than one year earlier price of $15.00.

Twenty Largest Electricity Consuming Sectors—1970[1]

Rank, sector, and consumption amount

1. Electric utilities, 11.044.
2. Personal consumption (households), 1.210.
3. Retail trade, 0.413.
4. Primary steel, 0.360.
5. State and local governments, 0.324.
6. Paper and allied products, 0.288.
7. Primary nonferrous metals, 0.249.
8. Medical and educational services, 0.243.
9. Industrial chemicals, 0.220.
10. State and local government enterprises, 0.207.
11. Miscellaneous nonferrous metals, 0.166.
12. Federal Government, 0.150.
13. Wholesale trade, 0.099.
14. Petroleum refining, 0.091.
15. Food and kindred products, 0.090.
16. Motor vehicles and equipment, 0.077.
17. New construction, 0.072.
18. Business services, 0.069.
19. Plastics and synthetic mats, 0.068.
20. Real estate and rentals, 0.068.

Projected total 1970 electricity consumption, 16.9.

20 LARGEST OIL CONSUMING SECTORS—1970

Rank and sector	Consumption	
	Amount (10^{15} Btu)	Cumulative (percent)
1. Personal consumption (households)	8.149	29.80
2. Petroleum refining	2.226	38.05
3. Truck transportation	1.830	44.71
4. Air transportation	1.497	50.19
5. Railroad transportation	1.219	54.66
6. Electric utilities	1.000	58.32
7. Real estate and rental	.903	61.63
8. Local passenger transportation	.863	64.79
9. Wholesale trade	.857	67.93
10. Retail trade	.656	70.33
11. Other farm products	.545	72.33
12. Water transportation	.505	74.18
13. Food and kindred products	.466	75.88
14. Exports	.447	77.52
15. New construction	.443	79.14
16. Paper and allied products	.432	80.73
17. State and local governments	.411	82.24
18. Federal Government	.411	83.75
19. Hotel, personal, and repair services	.320	84.92
20. Business services	.301	86.02
Projected total 1970 oil consumption	27.3	100.00

20 LARGEST COAL CONSUMING SECTORS—1970

1. Electric utilities	8.554	51.53
2. Primary steel	3.066	70.00
3. Exports	1.695	80.21
4. State and local governments	.399	82.61
5. Industrial chemicals	.332	84.61
6. Business services	.318	86.53
7. Personal consumption (households)	.249	88.03
8. Paper and allied products	.169	89.05
9. Federal Government	.156	89.99
10. Cement	.138	90.82
11. Food and kindred products	.119	91.54
12. Gross investment (inventory charge)	.115	92.23
13. Coal mining	.110	92.89
14. Plastics and synthetic materials	.107	93.54
15. Auto repair and services	.100	94.14
16. Real estate and rental	.090	94.73
17. Motor vehicles and equipment	.081	95.22
18. Primary nonferrous metals	.070	95.64
19. Rubber and plastic products	.063	96.02
20. Fabric, yarn, and thread mills	.059	96.38
Projected total 1970 coal consumption	16.6	100.00

20 LARGEST NATURAL GAS CONSUMING SECTORS—1970

1. Personal consumption (households)	5.463	21.68
2. Natural gas utilities	4.339	38.90
3. Electric utilities	3.764	53.83
4. Petroleum refining	1.608	60.21
5. Primary steel	1.461	66.01
6. Retail trade	.920	68.66
7. Industrial chemicals	.905	73.25
8. Paper and allied products	.503	75.25
9. Food and kindred products	.403	76.85
10. Stone and clay products	.321	78.12
11. Glass and glass products	.295	79.29
12. Exports	.289	80.44
13. Rubber and plastic products	.287	81.58
14. Primary nonferrous metals	.264	82.63
15. Wholesale trade	.240	83.58
16. State and local government enterprises	.236	84.52
17. Miscellaneous nonferrous metals	.226	85.41
18. Real estate and rental	.219	86.28
19. Cement	.212	87.12
20. Medical and educational services	.194	87.89
Projected total 1970 natural gas consumption	25.2	100.00

[From the Wall Street Journal, May 3, 1974]

United States Steel Raises Most of Its Prices Average of 5.7 Percent—Boosts Trail Predictions; New Levels Said to Equail Rivals' Prevaling Quotes

(By Michael Drapkin and Byron Calame)

Pittsburgh.—Two days after the end of economic controls, U.S. Steel Corp. moved to offset sharply higher labor and material costs by raising prices on "a broad range" of products.

But the boosts, averaging 5.7%, were somewhat smaller than most industry observers had expected and seemed to reflect the fragmented state of steel pricing that had developed during the final stages of the federal economic controls program.

Only a week ago, Robert E. Lauterbach, chairman of Wheeling-Pittsburgh Steel Corp., said after that steelmaker's annual meeting: "In a market as screwed up as this one, it'll take more than one price move to straighten things out."

Mr. Lauterbach might be proven prophetic. While nearly all steel executives have in recent weeks called for sharply higher product prices, U.S. Steel's price announcement said that its higher quotes represent merely "a movement of U.S. Steel's prices to levels already being charged in the market by other major domestic producers."

Several industry sources confirmed U.S. Steel had matched the going prices being charged by its major competitors. But the uniquely strong demand for steel may enable other steelmakers to push their price levels above U.S. Steel's in the days ahead.

Wheeling-Pittsburgh Steel Corp, and Youngstown Sheet & Tube, a unit of Lykes-Youngstown Corp., appeared to be doing just this yesterday. Both apparently decided the demand for steel is strong enough to continue supporting a multitiered price structure as they boosted quotes above the new levels U.S. Steel had just established.

Under the controls program, steelmakers were free to allocate pricing authority in any manner they chose. U.S. Steel and Bethlehem Steel Corp., the second biggest mill, chose higher quotes on construction-related steels, where they are major market factors. Several other mills moved on the lighter- big-volume flat-rolled steels.

Over the life of the program, several moves of that nature helped create a multitiered pricing structure in an industry that traditionally has followed the pricing lead of its two biggest mills.

Wheeling-Pittsburgh, the ninth-largest producer, said that effective today it is posting an average of 6% across-the-board price boost. This appeared to put it out ahead of the price levels U.S. Steel had just established.

Youngstown Sheet & Tube outlined the specifics of its two-day old announcement of higher prices on its line of tubular products. The Ohio steelmaker said its increases range from 10% to 25%, depending on product. It said well casing is boosted 18%; drill pipe 25%; seamless and standard line pipe, 20%; continuous weld pipe 16%, and rigid conduit and electric tubing 10%.

U.S. Steel's original price announcement didn't detail any specific boosts, but the big steelmaker, when asked, offered some representative increases. It said, for example, that cold-rolled sheet, the steel industry's largest volume item, is boosted to $20 a ton, or 3.0% to a new base price of $226 a ton. Hot rolled sheet more up $17.50 a ton, or 10% to $191 a ton. Hot- and cold-rolled sheet is used extensively in the automotive, appliance and durable-goods industries.

Among other products, semi-finished steels rise $10.50 a ton, or 6.4% to $174; hot-rolled bars, $3.50, or 1.7% to $207; rods $9, or 4.9%, to $192; carbon and high-strength plates $7, or 3.8% to $190 a ton, and alloy plates $10, or 3.5%, to $294 a ton.

Industry sources said these prices were "pretty close" to the going rates that other steelmakers—except for Bethlehem—had been charging. One source says that U.S. Steel is "basically accurate" when it says that its boosts merely bring it into line.

But some industry sources cautioned that U.S. Steel's move yesterday mightn't be the whole story. One suggested that U.S. Steel's strategy may be: "Instead of one big bite, you nibble."

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[1] Kilowatt-hours converted to BTU's at 3412 BTU/Kwhr and all heat losses assigned to Electric Utilities (Sector 86).

U.S. Steel also said that extra charges on a number of products are being "adjusted to reflect present cost-price relationships." The revised extras are effective May 20 and, the company said "in most cases, are at levels already charged by other domestic producers." It added, however, that the overall increase in extra charges, for such processes as pickling (cleaning, heat-treating) and the addition of alloying and coating materials, could be as much as 3.5%. It asserted that "some (of the charges) can be avoided by customers changing their ordering practices."

The big steelmaker said the boosts cover only cost increases incurred since Jan. 31 of this year which hadn't previously been reflected in price. Chairman Edgar B. Speer called the action "responsive to the nation's need for moderation in its fight against inflation."

Other steelmakers were cautious in their appraisal of the U.S. Steel move. Bethlehem, in fact, hadn't any immediate comment.

The president of one big mill said, however, in response to the 5.7% average increase: "It ain't nearly enough." And a spokesman for another producer warned: "All the shoes haven't dropped yet." Referring to public opinion, he added that "a 20% price increase is possible—the market would stand it, but it would be foolish."

One financial analyst specializing in metals said he understands that U.S. Steel recently conducted an "extensive product-by-product price study" and found itself to be from 5% to 15% below the prices of most other domestic mills and from $50 to $100 a ton below foreign mill prices in the U.S.

"They said they're going to ship as much steel this year as they did last, even though total industry shipments will be down by 10%," he said. "This increase will help their profits—and bang home a point to a lot of customers over who really is the pricing leader in the country," according to the analyst.

Basic carbon steel prices weren't the only one affected yesterday. Allegheny Ludlum Industries Inc., the largest of the specialty steelmakers, posted an average 3.4% boost on its line of specialty flat-rolled items, effective yesterday. In addition, a scrap surcharge on silicon-electric steel will be boosted $20 a ton to balance continuing increases in scrap costs, the mill said.

[From the Wall Street Journal, May 6, 1974]

SIX STEEL FIRMS POST PRICE RISES OF AS HIGH AS 9 PERCENT—BOOSTS BY MAJOR PRODUCERS UNDERLINE PRICE MUDDLE; RIPPLE EFFECT EXPECTED

(By Michael K. Drapkin)

PITTSBURGH—Six major steelmakers posted wide-ranging price boosts of up to 9% that served to underscore the current confusion in steel pricing.

At the same time, producers claim that consumers continue to clamor for as much metal as the mills can make and ship, thus buttressing the likelihood that the current multitiered pricing structure won't fade away soon.

What's more, the latest round of increases in the cost of the basic metal seems certain to send a ripple of price boosts across the rest of the economy in coming weeks. General Electric Co. for example, warns the steel cost increases mean its appliance prices probably will be boosted "substantially."

Three of the four biggest steelmakers Friday followed the lead of U.S. Steel Corp. by posting increases, though all three put through larger average boosts than the 5.7% average increase on a broad range of products instituted by the nation's largest steelmaker last Thursday.

Second-ranked Bethlehem Steel Corp. announced a 9% average increase on rolled steel products, which make up the vast bulk of steel industry shipments. National Steel Corp., third-biggest, put through a 6.7% boost—which it said "brings these base prices into line with those of other steel companies"—and No. 4 Republic Steel Corp., announced increases averaging 8.1% on its full line of products.

Meanwhile, Youngstown Sheet & Tube Co., the eighth-largest mill and a unit of Lykes-Youngstown Corp., said it is raising prices an average of 5.8% on its flat-rolled and bar products. Earlier, Sheet & Tube posted boosts of 10% to 25% on its tubular line of products.

And Armco Steel Co., the fifth-biggest steelmaker, merely said it is increasing prices, effective last Saturday, "generally in line" with those announced earlier by other producers.

Inland Steel Co., in Chicago, joined the current round of steel price increases by boosting the base quotes of all its products an average of 6.1%. Inland said the boosts, effective with shipments today, would have been allowable under guidelines of the Cost of Living Council.

Sheet & Tube also said that with respect to flat-rolled and bar products, where it isn't a pricing leader, its new quotes "generally follow those previously announced by major competition."

At the same time Sheet & Tube took a step that indicates the depth of the current confusion in steel pricing. The mill said that it expects "to retain material and energy surcharges on some product lines. These surcharges will remain in effect until further clarification of competitive prices, including newly announced extras."

Bethlehem, National and Republic wouldn't comment on prices beyond their brief announcements of the effective date and amounts. However, it appeared Bethlehem and U.S. Steel, which had lagged behind some of the other big mills on certain big-volume products had moved to catch up to the prevailing market price. The U.S. Steel and Bethlehem moves coupled with the time being at least a continuation of the fragmented pricing levels. The other development included the subsequent action by National and Republic and an earlier boost by Wheeling-Pittsburgh Steel Corp., plus inaction by at least one other big producer—LTV Corp.'s Jones and Laughlin Steel Corp.

One steel industry source suggested these maneuverings on hot- and cold-rolled sheets, two key flat-rolled steel products used heavily in the manufacture of auto and appliances, illustrates the current situation. He said the four biggest mills are said to have similar prices for two products—$191 a ton for hot-rolled and $226 a ton for cold-rolled sheet—but with the rest of the big producers offering the products at somewhat lower levels. At the same time, National Steel is said to have continued a $7-a-ton scrap surcharge on these items, while the others of the top four have either dropped it or incorporated it into the new base.

And on those two high-volume products, U.S. Steel is said to be dropping its long-standing custom of paying part of the freight from its producing mill to the customer's plant, even though the other three producers are retaining it.

The U.S. Steel move, of course, effectively boosts its prices more than the average 5.7% base price increase it formally announced.

SOME STEELMAKERS UNCERTAIN

The rash of price announcements following the end of price controls last Tuesday left even some steelmakers cautious and uncertain. One steelman, surveying the situation, said his company has temporarily "suspended invoicing until we can determine what our proper price should be." This means the company is shipping steel, but holding up sending the bill until it decides on the price.

One government official in Washington said, "there's a big (pricing) battle brewing" between the mills. "It should be fun to watch." He indicated U.S. Steel had intended to raise its prices more than 5.7%, but took a more cautious route because of the Senate's consideration last week of a possible continuation of some monitoring of prices. But the official cautioned that further price jockeying is an almost-certain prospect in steel. "Just wait a week," he said.

The steel industry's pricing machinations is creating instability elsewhere in the economy. One source in the metal office-furniture industry complains some of his competitors are advising customers their prices may change on a daily basis, depending on the size of steel price boosts.

A spokesman for GE's big Appliance Park complex in Louisville, Ky., noted that "our purchases of steel exceed a half million tons a year. Therefore, any increase in the cost of this basic material will add still another sizable increment to our total manufacturing costs." He declined to speculate on the size of possible product increases that may result, but did say that "we anticipate that our appliance prices will have to be adjusted upward, and probably substantially."

Customers are certain to feel eventually the bite of the latest round of increases. U.S. Steel's $20-a-ton boost in the price of cold-rolled sheet for example, adds $25.40 to the cost of making a $4,000 standard-sized car, according to one steel industry rule of thumb. Such an increase in the price of steel would also raise the cost of manufacturing a $400 refrigerator $2.40 and push up the cost of making a $15,000 grain combine $48.

The increases will likely start showing up in the government's wholesale price index for May. U.S. Steel has indicated the wholesale price index increases 0.1 percentage point when steel price boosts average 3%. Indeed, higher metals prices accounted for 28% of the overall rise in the industrial-price component of the wholesale price index for March.

The steel market easily is strong enough to absorb practically whatever increases the mills find politically palatable. Steelmakers uniformly characterize the market as "very strong"; one says "everything is tight, just everything."

All the big producers say they will continue their current customer allocation programs at least through the third quarter, and probably until the end of the year. One Midwestern mill says it is so fully booked that for it July most likely will be "a catch-up month" in which almost no new orders will be booked.

Mills project shipments in the current quarter at 27 million to 28 million tons, with a seasonal falloff in the September quarter to a still-robust 25 million or so.

The level of deliveries will depend greatly on the availability of adequate raw materials. Mills say they are continuing to experience some problems in getting enough coal for making coke in the blast furnaces that turn out steel and such coating materials as zinc. "Everything is so tight, any little disruption could have a significant impact," one producer says.

Shipments to the auto industry continue to hold up rather well in the face of a decline in auto production and sales. Mills say the ship in deliveries to Detroit ranges from 5% to 20% off the pace of a few months ago. Some steel executives speculate a fall in the level of foreign steel coming in via the Great Lakes ports, due in part to continued very heavy world-wide demand for steel, accounts for the domestic auto-related strength.

One big steelmaker says it believes the auto companies "aren't running down their (steel) inventories. We think they're hedging on the optimistic side. If anything, they're buying a little more than they actually need."

Production Costs Are up by $1.5 Billion—Rising Fuel Prices Hit Three Key Metals

(By Thomas O'Toole)

* * * * *

Rockwell International has raised the estimated delivery price of each of 241 B–1 bombers from $45 million, then to $56 million and now to $61.5 million (in 1935 dollars), at least partly because of soaring titanium and aluminum prices. There are 27,000 pounds of titanium and 54,000 pounds of aluminum in each B–1 bomber.

Grumman Aircraft Corp. said it has been particularly hard hit by rising metal prices, declaring that it is now paying 25 percent more for both titanium and aluminum that it did a year ago. Gruman has as many as six types of airplanes in production, including the F–14 fighter for the Navy that uses more titanium than any plane in the air.

Part of the price increases for aerospace metals is due to wage increases and metal shortages, but most of the boosts have come from soaring fuel costs, which mean higher electrical rates.

The Bonneville Power Administration in the Pacific Northwest has said it will raise its electric rates by 25 percent before the year is out, and by another 25 percent in 1975. One third of the nation's aluminum producing industry is located in the Northwest, where power historically had been cheap.

Titanium has risen even higher in price than aluminum, mostly because it requires more power.

Rockwell says it now pays $8.16 a pound for titanium, up from $7 a pound less than a year ago. The raw form of the metal (called titanium "sponge") has gone from $1.32 a pound to $1.73 a pound in the last six months. One company said its energy costs to make the sponge are now 45 cents a pound.

Magnesium prices have risen at about the same rate as aluminum. Historically, it sold for 35 cents a pound, then moved to 42 cents last year and to 47 cents last month.

The nation's largest maker of magnesium is Dow Chemical Co., which blamed the latest price increase on the rising cost of natural gas and electricity in Freeport, Tex., where it produces most of the nation's magnesium. The metal goes into aluminum as an alloy and is also used in the electrical process that makes titanium.

The U.S. Economic Outlook for 1974

(By Walter W. Heller and George L. Perry)

Oil permeates the 1974 economic outlook. Soaring oil prices and the Arab oil embargo (even if it is eased or lifted soon) will materially alter the shape of things economic in 1974:

Inflation: The "oil factor" adds about 2 points to pre-embargo projections of a 5½% rise in the GNP deflator and 3 points to a 5½% rise in the cost of living in 1974.

Jobs: Some 600,000 persons will lose their jobs as a result of the skyrocketing prices and limited supplies of petroleum products.

Profits: An 8% to 10% shrinkage in 1974 corporate profits in the rest of the economy will be more than offset by the oil-gotten gains of the petroleum industry.

Production: The energy shortage will cost the U.S. economy about $20 to $25 billion of GNP in 1974 that "might have been."

Net exports: What once promised to be a $10 to $12 billion net export surplus this year will be cut to perhaps $5 billion because of the ransom that we and others will have to pay foreign suppliers of oil.

Coming at a time when the energy shoe was already beginning to pinch, and when economic boom was already succumbing to restrictive policies both here and abroad, the Arab oil embargo and price run-up set off economic alarms all over the world. But as of today, the U.S. outlook is gloomy, not desperate. We face recession, not depression. And the odds are good that the economy will begin to expand at a healthy rate in the second half of 1974 rather than continuing in a downward spiral of receding economic activity and rapidly rising unemployment.

Underlying this fairly favorable prognosis is a rather broad assumption concerning the management of national economic policy to cope with the oil crisis. That policy has two vital jobs to do:

First, having at last gotten off the launching pad, energy policy must move swiftly toward its short-run goal of cutting the fat out of our oil diet without starving industry and commerce of the petroleum they need to maintain output and employment. Measures like turning down thermostats will help. But most of the shortfall has to be absorbed through cutbacks in recreational driving.

Second, with job-protecting needs for oil met and with other supply bottlenecks easing as demand ebbs and investment flows, economic policy must be geared to fight recession. Stimulative monetary and fiscal policies should be the order of the day in 1974.

Not long ago, Arthur Burns noted that the economy was suffering from a shortage of fuel, not of money. If we engineer a proper response to the petroleum shortfall, the economy's key problem by late spring or summer will be a shortage of money, not of fuel. And that we know how to deal with.

THE PETROLEUM SITUATION

Even though the initial shock of the Arab oil cutbacks and price explosion has begun to wear off, the exact dimensions of the petroleum shortfall and price upsurge remain unclear. More oil seems to be flowing (or leaking) out of the Persian Gulf than the tough Arab rules and rhetoric would seem to allow. Even more should flow now that astronomical (and perhaps unsustainable) price levels may have made oil in the sand worth less than oil in the barrel. But as long as oil politics prevail over oil economies, one cannot predict with confidence how the world oil market will operate in 1974. As the basis for our current forecast, we regard the following petroleum price and quantity assumptions as reasonable for the U.S. economy in 1974:

Price

Domestic crude oil, $7.00 per barrel.

Imported crude oil, $8.50 per barrel.

Domestic petroleum product prices (retail), up 50% over summer, 1973.

Quantity

Imports, 4.9 million barrels per day.

Domestic production, 11.2 million barrels per day.

Total available production, 16.1 million barrels per day.

Reduction from 1973, 1.4 million barrels per day.

Shortfall from trend growth in 1974, 2.7 million barrels per day.*

The foregoing import price projection recognizes that other nations are following the shahs and sheiks in demanding spectacular increases in their oil revenues. While such price fixing may fail over a longer time horizon, it will probably hold reasonably well during 1974. For domestic crude, the White House has cearly implied that $7.00 per barrel for both "old" and "new" oil is acceptable.

These increases will add about $20 billion to our national crude oil bill (with about two-thirds of the proceeds going to domestic oil producers). Applying the principle of the dollar-for-dollar pass-through, we project a matching rise in petroleum prices, which will push final product prices 50% above their levels of last summer. Given reduced 1974 supplies of energy, this average price increase would not by itself be enough to clear the market, to match supply and demand, for petroleum products. One has to assume that the gap will be closed,

First, by voluntary restraint, increased efficiency, flight cutbacks, some switching to other fuels, and a slowdown in industrial production;

Second, by cutbacks in recreational use of gasoline by semi-voluntary or compulsory rationing.

Given the foregoing pattern of oil supplies and prices, the impact on the U.S. economy will range from "sizable" for output, prices, and jobs to "impressive" for our import bill, to "spectacular" for the profits of the petroleum industry.

Output, prices and jobs. The first big impact on demand and output is already underway as the oil scare cuts back the demand for cars and trucks. We expect sales this winter to fall 25% below last year's levels, with consumers channeling most of this cutback into savings rather than re-directing it to other goods. The second big impact will result from the siphoning of consumers' dollars away from other goods and services as more of their income is used to buy high-priced petroleum products and by-products—a process that represents an effective reduction in real income. The 50% rise in the price of petroleum products will add about 3½% to consumer prices, most of it during 1974. Together, these two impacts of zooming oil prices will have taken some $20 billion out of consumption spending by mid-year. The resulting slowdown in production (after taking multiplier effects into account) will add about two-thirds of a point to the expected rise in the rate of unemployment.

Imports. Although the volume of U.S. oil imports will shrink somewhat in 1974, leaping crude oil prices will at least double the $7.5 billion we paid for foreign oil in 1973. The bulk of this bonanza will find its way into the coffers of foreign oil potentates and their governments—that's the purpose of the exercise—so that only a minor part will show up as a balance-of-payments offset in the form of higher profits for the U.S. international oil giants.

Profits. But the overall jump in petroleum profits will be breathtaking. The arithmetic is illuminating:

Given the 50% product price increase over last summer, the petroleum industry will realize a $20 billion rise in sales proceeds for 1974.

This increase in yield will be realized on a lower sales volume representing an implicit cost saving of $4 billion.

Of the resulting $24 billion differential, about $8 billion will go to foreign governments, while $3 billion will go to the U.S. government if the Administration's windfall excise tax is enacted.

The remainder, about $13 billion, would be an increase in cash flow to the petroleum industry.

With the aid of sharply higher depletion, exploratory, and current development charge-offs, petroleum accounting will very likely be inventive enough to keep a considerable part of this windfall from showing on the bottom line. But the GNP accountant will be hard-pressed to avoid finding it.

GNP IN 1974

For the year as a whole, GNP will advance by just about $100 billion. Almost all of the increase will represent higher prices as the GNP deflator, propelled by oil, rises by about 7½%. Real output will decline in the first half of the year. But given a strong lift from expansionary policy measures, it will resume its advance during the second half. A sector-by-sector analysis of expected demand components brings out several unusual aspects of the expected 1973 recession and recovery.

* Trend based on normal growth before price increases, allocations, voluntary conservation measures, and relaxation of environmental standards.

CONSUMPTION

A severe retrenchment of consumer spending is one of two main forces pushing downward on the 1974 economy, especially in the first half. The oil crisis, which will cut auto sales and undercut real incomes, is the main culprit. But other durable goods spending will also flatten out as a result of the sharp drop in housing completions and the slowing of income growth. As uncertainties about the fuel situation clear up and Detroit shifts its production increasingly to smaller cars—the capacity for which should be substantially greater in 1974 than 1973—sales should recover and contribute to renewed expansion by year's end. Thus consumption spending will lead the decline in economic activity early this year, an exact reversal of its role in 1973, when it led the expansion in the early *months of* the year. Because of sharply higher prices and slowing income growth—and in spite of the slump in durable goods purchases—the saving rate in 1974 will be little changed from the 6 percent rate of 1973.

HOUSING

Residential construction is the other main depressant in the first-half outlook for 1974. The rate of new housing starts was sliding by late summer and plummeted sharply the fall as high money-market interest rates drained funds from mortgage lending institutions. Homebuilding activity is now headed for a decline well into the spring, by which time the financing for a renewed rise in starts should be available. One risk on the horizon is that the fuel shortage will continue to depress starts either through uncertainty about commuting problems or through a reluctance of utilities to assure hook-ups to new housing. It is imperative that policymakers protect new construction from the fuel shortage by assuring sufficient allocation of fuel to utilities. Otherwise, in exchange for a trivial saving of petroleum, we would be sacrificing the output and jobs that go with each housing unit. If this problem can be avoided, a healthy upturn in housing can be expected later in 1974, helping to cut short the recession and, indeed, fueling expansion later in the year. For all of 1974, residential construction spending will decline by 10% to 15% and housing starts will decline by 20% from their 1973 levels.

BUSINESS INVESTMENT

Somewhat lower profits in the non-petroleum sector, declining output, and uncertainties about energy availability will tend *to curb business* outlays for plant and equipment. But these adverse factors will be far outweighed by others on the plus side:

The need for more capacity that was thrown into bold relief by shortages in industry after industry in 1973's boom will not be forgotten if the recession is brief.

The development of domestic energy supplies will be sharply accelerated. Spurred by higher current prices, by the longer-run commitment to achieve greater national self-sufficiency, and by soaring profits in the petroleum industry, an energy investment boom is in the making.

For the year, business fixed investment is expected to increase by 12 percent, less than in 1973 but still providing an important cushion to the recessionary forces in the *economy.*

INVENTORIES

Because inventories remained low in relation to sales in most industries during 1973, business investment in inventories should not be the strong downward force that it has been in most past recessions. Many firms had trouble maintaining adequate stocks and will welcome the opportunity to add to inventories this year. Although the decline in final sales will be sharp in the first half, inventory decumulation is not expected in any quarter of 1974. For the year as a whole, accumulation should about match the $6 billion now estimated for 1973.

GOVERNMENT SPENDING

Federal spending will rise substantially in 1974 to an estimated level of $292 billion (NIA basis) for the calendar year compared with $265 billion in 1973. As military procurement expands and fuel costs rise sharply, purchases of goods and services will rise by $7 billion. Transfer payments will increase exceptionally fast as a result of rising unemployment compensation, expanded support to the aged and disabled, and social security benefit increases scheduled for April and July. Spending by state and local governments will rise this year by about the same 13 percent as in 1973.

NET EXPORTS

With turbulent forces buffeting international trade flows in 1974, one cannot assign a high probability to any given point estimate of net U.S. exports. An assessment of the cross-currents suggests that the surge in net exports has come to an untimely end but that surplus will not turn into deficit during 1974.

The doubling of our import bill, the worldwide economic slowdown, the huge drain of oil payments on the foreign exchange resources of Europe and Japan, the possible formation of other raw materials cartels (copper, coffee and bauxite come to mind) and the weakening of foreign currencies against the dollar—all these will be working against our trade balance.

But the boom in our agricultural and capital goods exports, the slowdown in our own economy, and the direct or indirect purchases by flush primary producing countries will be strong offsets.

The result should be a standoff that holds the net export surplus at about last year's $5 billion level.

EMPLOYMENT, INFLATION, AND PROFITS

As the downturn in real GNP stops employment growth during the first half of 1974, unemployment will climb steadily to 6% or so by next summer. The number of unemployed workers will pass 5½ million, and many workers will drop out of the labor force in discouragement. For 1974 as a whole, the unemployment rate will average just under 6%, a whole point above the 1973 average rate.

The consumer price index will rise by about 8½% in 1974, roughly the same distressing rate of inflation experienced during the past 12 months. The one-time explosion of food prices in 1973 will be supplanted by the one-time explosion of petroleum prices in 1974. In the absence of another unanticipated "future shock," the upsurge in consumer prices will be ebbing in the second half of the year. The GNP deflator (which does not include the price increases coming from imported products, including petroleum imports) is expected to rise by 7.4%.

Wage increases will quicken in 1974 as labor seeks to recoup some of the loss in real earning power that it has suffered in 1973. Hopes that a wage explosion of the 1969–70 variety will be averted rest on (a) the moderation that seems to be built into the new bargaining procedures in the steel, aluminum, and can industries; (b) the hope that labor will view the food and petroleum price jumps as non-recurring rather than chronic hikes in the cost of living; and (c) the likelihood that even after Phase IV is dismantled, some meaningful method of monitoring big business and big labor under reasonable wage-price guidelines will be developed.

With wages rising briskly and productivity tapering off, profits outside the oil sector will decline by 8%–10% for the year. But the spectacular rise in oil industry profits will (at least in national income accounting terms) more than offset the decline in the rest of the economy.

MONETARY AND FISCAL POLICY

Federal Reserve policy seems poised, as it should be, to shield the economy against the cold winds of recession. The federal funds rate has been gently eased off of its high peaks above 10% and can be expected to move sedately toward the 7% level or so in the next few months. Long before the funds rate drops that far, the market will have gotten the message; commercial paper rates, prime rates, and even the bill rate can be expected to react sharply downward during the first quarter of the year.

Given the softness of the economy, given the fact that tight money can kill jobs and output but can't quench the fires of oil inflation, and given better management of the oil shortfall from here on out, monetary authorities can afford to loosen the reins. It will take substantial increases in the money supply—in the neighborhood of 7%–9% at annual rates—to override the anticipated inflation offset and provide net stimulus to the economy. Once expansion is rolling smoothly and the force of oil inflation fades, the Fed can afford to draw back to its 5% or 6% growth targets.

It is in the field of fiscal policy, however, that the greatest opportunity lies for creative action to stimulate the economy while redressing some glaring grievances. The combination of runaway food and fuel prices has been especially harsh on the lower income groups:

Last year's upsurge of nearly 25% in food prices cut heavily into the real income of the poorer families who have to spend as much as 40% or 50% of their income on food.

Though petroleum products represent a much more modest proportion of their budgets (perhaps 5% or 6%), the price movements have been astonishing. After 20 years in which price increases in refinery products averaged 1% a year, they have nearly doubled in the past 12 months.

The implication for 1974 fiscal policy seems clear. Last year, one could reasonably applaud the Administration's fiscal policy—its swing from a full-employment deficit toward full-employment balance in the context of an overheated economy—while deploring its social policy—its choice of merciless slashes in social services over tax increases as its budget weapon against inflation.

But this year, at a time when price and job developments have conspired against the poor, recession calls for an expansionary budget.

In 1974; then, the Administration can safely put sound fiscal policy into harness with humane social policy on both the expenditure and the tax side of the budget.

A new national welfare initiative, a meaningful public service jobs program, and a restored community action program would serve the cause of both economic justice and economic expansion.

On the tax side, the time is ripe for a major effort to close the unfair and uneconomic escape hatches for the rich and at long last do something meaningful for the poor and near-poor. Reform of social security payroll taxes to remove the poor from the taxrolls and allow for family obligations is an overdue first step. If economic slack and excess unemployment persist, temporary income tax cuts focused on the middle and lower income group would be in order.

Mr. HUGH SCOTT. Mr. President, I welcome this opportunity to join with the distinguished Senator from Kansas (Mr. DOLE) in urging favorable action on the amendment which we have sponsored to authorize the Federal Energy Administrator to allocate petrochemical feedstocks and petrochemicals, including plastic resins, when he finds that there are significant shortages and dislocations in the distribution of these materials. Authority to allocate petrochemicals does not presently exist but is, in my opinion, badly needed. In fact, I believe that the failure to adopt this amendment could have a severely adverse impact on a great many segments of the nation's economy.

Mr. President, one area of immediate concern is the plastics processing industry. In the Commonwealth of Pennsylvania alone, there are today some 600 plastics processors. Nationwide, some 6,500 of the country's more than 8,000 plastics processors can be classified as independent; that is, they are not subsidiaries of the major chemical and oil companies and therefore must buy feedstocks on the open market.

Unfortunately, many of these independents have been faced with increasing shortages of basic plastic feedstocks, primarily polyvinyl chloride, polystyrene, high and low-density polyethylene, polypropylene and phenolic. These and other materials essential to plastics processing are not covered under any existing allocations provisions; yet, several hundred independent plastics processors have already been forced out of business because of shortages, and others are threatened with collapse because they are generally small businesses and lack the diverse economic base that might otherwise make it possible to sustain protracted financial losses.

Plastics processors produce a wide variety of parts which are vital to industries throughout the Nation's entire economy. I have recently had called to my attention a study by the Arthur D. Little Co. of Cambridge, Mass., which indicates that a 15-percent cutback in feedstocks to plastics producers could have a domino effect which, for American industry as a whole, could result in the loss of 500,000 jobs and a reduction of up to $23 billion annually in the total value of finished products nationwide.

Obviously, Mr. President, the ramifications of this amendment are many, not only for plastics processors, but for other industries as well. Shortages of petrochemicals needed for the production of manmade fibers, for example, threaten the vitality of the textile industry, while agriculture is equally threatened with potential shortages of needed fertilizers and irrigation equipment made of integrated plastic components. The delivery of health care can be equally affected when medical equipment made of plastic parts, and in some cases even certain pharmaceuticals themselves, are in short supply. Employment cutbacks in the fiber glass boat industry, already a fact of life, serve as still further evidence of the potential economic harm that can result when petrochemical feedstocks and petrochemicals are not equitably available.

In urging the adoption of this amendment, however, I believe it is worth noting that it differs significantly from a separate bill which we proposed earlier this year as S. 3098. That bill, which dealt exclusively with plastic feedstocks, also called for an automatic, mandatory allocations program. The amendment we are offering today has been broadened to encompass petrochemicals and petrochemical feedstocks so as to recognize to a greater degree the multi-industry nature of the problem we are attempting to meet. Of equal importance is the fact that we have made the proposed allocations program contingent upon a specific finding by the Federal Energy Administrator that "significant shortages and dislocations" of these materials do, in fact, exist. Thus, while preserving the initial intent of S. 3098, our amendment has been rewritten to recognize and accommodate objections to the earlier proposal.

Mr. President, I have talked with a great many representatives of business and agriculture, for whom potential or real shortages of petrochemicals and petrochemical feedstocks are a matter of the deepest concern. I am convinced that their problems are real and must be dealt with on a basis that is fair and yet recognizes the urgency of this situation. I hope the Senate will do so by adopting this amendment.

Mr. TUNNEY. Mr. President, I am pleased to cosponsor an amendment to the energy emergency bill which provides for the allocation of petrochemicals and petrochemical feedstocks in a time of significant shortages and dislocations.

The petrochemical industry is experiencing considerable hardship arising from the shortage of petrochemicals and the inequities in distribution of available supplies. These shortages are causing high and rising unemployment, destruction of entire segments of the industry, wholesale ruin of small businesses, elimination of competition, severe economic and market dislocation and widespread loss of confidence in Government action.

I had hoped that rational export controls and removal of phase IV controls would have improved the distribution of available supplies. However these measures coupled with Federal Trade Commission recommendations for temporary voluntary allocation have not succeeded in increasing supplies to a level promoting competition and curtailing the closing of small business.

Although petrochemicals represent only a small fraction of the petroleum use in the Nation, the petrochemical industry is being disastrously affected by the present energy crisis. Farmers are confronted with severe shortages of fertilizer and irrigation pipes, which could mean extended food shortages. According to the Cost of Living Council the plastic fabrication industry has experienced raw material shortages in the range of 20 to 40 percent concurrently with employment reductions ranging up to an estimated 15 to 20 percent. Estimates of job losses range from one to one and a half million nationally in the plastics, pharmaceutical and textile industries.

An allocation program is essential to maintaining an economically sound and competitive petrochemical industry. This amendment provides a genuine effort to distribute available supplies equitably and avoid further economic dislocations.

Mr. SCHWEIKER. Mr. President, I am a cosponsor of amendment No. 1265 offered by the Senator from Kansas (Mr. DOLE) to the Standby Energy Emergency Authorization Act. This amendment provides for the allocation of petrochemicals and petrochemical feedstocks which are vital raw materials for many of our Nation's industries. This includes manmade fibers for the textile industry, synthetic rubber products, organic chemicals for the pharmaceutical and fertilizer industries, and plastic raw materials for the Nation's plastic processing industry. It is similar to S. 3098 introduced by the distinguished Senator from Kansas which I also cosponsored.

These industries are vital to our economy, and particularly essential to Pennsylvania. The plastics industry alone is the fourth largest in the United States. Unlike many other large industries, the plastics industry is not dominated by a few large firms but is composed of over 6,000 small, independent plastic processors. Many are located in Pennsylvania employing thousands of people. These producers manufacture everything from clothing to health and transportation needs. For example, there is a shortage of the materials needed to produce false teeth and vital prosthetic devices in the medical field.

Moreover, the plastic industry produces a component part for nearly every commodity in the United States, from pens and telephones to automobiles and jet aircraft. While many of these producers are relatively small, in the aggregate they are responsible for much of the production of our economy. Already, many of these small independent processors have been forced to curtail production and lay off workers due to dislocations and shortages in the petrochemical market. I, therefore, urge speedy consideration and passage of this amendment to provide the authority to allocate raw materials to these industries on an equitable basis.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JACKSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. I yield to the Senator from Vermont.

Mr. STAFFORD. Mr. President, I ask unanimous consent that Victor Maerki, Hal Brayman, and Kathy Cudlipp of my staff and the staff of the Committee on Public Works have the privilege of the floor during the consideration and vote on the Dole amendment.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

AMENDMENT NO. 1266

Under the previous order, the hour of 2 p.m. having arrived, the Senator from Kansas (Mr. DOLE) is recognized to call up his amendment (No. 1266), which the clerk will state.

The assistant legislative clerk read as follows:

AMENDMENT NO. 1266

At the end of the bill add the following new section:

SEC. . Section 2 of the Emergency Highway Energy Conservation Act is amended by inserting at the end thereof a new subsection as follows:

"*(g)* Notwithstanding the provisions of subsection (b), after the sixtieth day after the date of enactment of this subsection, the Secretary of Transportation shall not approve any project under section 106 of title 23 of the United States Code in any State which has (1) a maximum speed limit on any public highway within its jurisdiction in excess of sixty miles per hour, and (2) a speed limit for all types of motor vehicles other than sixty miles per hour on any portion of any public highway within its jurisdiction of four or more traffic lanes, the opposing lanes of which are physically separated by means other than striping, which portion of highway had a speed limit for all types of motor vehicles of sixty miles, or more, per hour on November 1, 1973, and (3) a speed limit on any other portion of a public highway within its jurisdiction which is not uniformly applicable to all types of motor vehicles using such portion of highway, if on November 1, 1973, such portion of highway had a speed limit which was uniformly applicable to all types of motor vehicles using it. A lower speed limit may be established for any vehicle operating under a special permit because of any weight or dimension of such vehicle, including any load thereon. Clauses (2) and (3) of this section shall not apply to any portion of a highway during such time that the condition of the highway, weather, an accident, or other condition creates a temporary hazard to the safety of traffic on such portion of a highway.".

SEC. 2. Subsection (d) of section 2 of the Emergency Highway Energy Conservation Act is amended by striking out "reduction in speed limits to conserve fuel" and inserting in lieu thereof "change in speed limits pursuant to this section."

The **PRESIDING OFFICER** (Mr. ABOUREZK). Time for debate on this amendment is limited to 1 hour with the vote to occur at 3 p.m. today.

Mr. DOLE. Mr. President, before discussing my amendment, I ask unanimous consent that my amendment No. 1266 be modified on page 2, by striking the material beginning with " a speed limit for" on line 1 through "and (3)" on line 8, and on line 16 by striking "clauses (2) and (3)" and inserting in lieu thereof "clause (2)."

The purpose of this modification is to give States discretion in raising their speed limits from 55 to 60 miles per hour. Rather than create a mandatory situation in a State where the 55-mile limit is not a great problem, this modification would allow States to decide—whether because of the expense of making the change, the need for a special session of the legislature or whatever reason—to retain the 55-mile limit.

The **PRESIDING OFFICER**. Without objection, the amendment is so modified.

Mr. DOLE. Mr. President, I have previously discussed in some detail my amendment, No. 1266, to raise the national speed limit to 60 miles per hour. Therefore, I shall not restate all the considerations and reasons for proposing this amendment. In summary, however, I would note the principal factors which lead me to believe that such a change is appropriate and necessary.

MAJOR FACTORS

First, the Arab oil embargo has ended, and America is not facing the same grave supply crisis as existed when the 55 miles per hour limit was imposed.

Second, in areas of the country—such as Kansas—where distances between towns and cities are great and alternatives to automobile transportation are few, 55 miles per hour is an unreasonably and frustratingly low speed to travel.

And third, the 55 miles per hour limit is having serious economic consequences for the trucking industry and through it to the other industries and businesses—especially the beef industry—which depend on truck transportation.

These are the major points in my argument in favor of a nationwide 60 miles per hour speed limit on our Nation's highways. I feel that such a change is justified in light of increased supplies, is warranted in view of the relief from inconvenience and frustration it would provide to longer-distance mortorists, and is necessary to the economic health and well being of the American trucking industry—and to those individuals and businesses which depend on truck transportation.

DISCRETIONARY CHANGE

Mr. President, there is one point in my amendment which has given rise to some concern, and which I believe can be dealt with in a way which meets my original goals.

As I pointed out last week, those who live in Kansas and other less urbanized areas frequently must travel great distances by car on personal and business matters, while those who live in the great metropolitan regions of the country generally do not need to travel these long distances so frequently and by car.

Thus the 55 limit creates much more of a burden for someone who has to travel from Kansas City to Wichita than for a person traveling from, say, Washington to Philadelphia.

The Kansan has almost no choice other than his car, while the Washingtonian, or New Yorker or Bostonian and millions of their neighbors can go by Metroliner, air shuttle, or even express bus.

The point has been made that, perhaps, since the 55-mile limit is not so much of a problem in metropolitan areas, why require that it be raised to 60? I believe this is a valid point. For this change should grant a measure of flexibility to the States in this area. Therefore, I have modified my amendment to make the 60-mile-per-hour limit discretionary, so that a State which wishes to keep its limit at 55 can do so.

SMALL IMPACT OF FUEL CONSUMPTION

Of course, I realize that a 5-mile-per-hour increase in the speed limit will produce some increase in gasoline consumption. Last week the congressional reference service provided me with an estimate that the increase would be in the range of 3 percent or about 8⅓ million gallons per day. But I believe it is important to recognize that this estimate is based on a limit of 60 in every State, so my change, allowing States to retain the 55-mile limit if they so choose, would mean that the net impact of a 60-mile limit could be expected to fall below this 3-percent estimate. And I believe this point further demonstrates the reasonableness of making this change, and other fuel useage estimates should be viewed in this perspective.

As a means of providing some illustration of the general effects of speed and other factors on automobile fuel economy, I ask unanimous consent that two tables from a Department of Transportation speed versus fuel economy study be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE 1.—EFFECT OF SPEED ON FUEL CONSUMPTION RATES

[Without use of air-conditioning]

Test car No. and net weight (pounds)	Miles per gallon at selected speeds					Percent increase in gasoline consumption caused by increase in speed[1]				
	30	40	50	60	70	30 to 40	40 to 50	50 to 60	60 to 70	50 to 70
1 (4,880)	17.12	17.20	16.11	14.92	13.13	−0.05	6.76	7.97	13.63	22.70
2 (3,500)	19.30	18.89	17.29	15.67	13.32	2.17	9.25	10.34	17.64	29.80
2A (3,500)	21.33	21.33	18.94	17.40	15.36	−.01	12.64	8.85	13.28	23.31
3 (3,540)	23.67	24.59	20.46	14.83	13.42	−3.74	22.67	37.96	8.96	52.46
4 (3,975)	18.25	20.00	16.32	15.77	13.61	−8.75	22.55	3.49	15.87	19.91
5 (2,450)	31.45	35.19	33.05	30.78	22.82	−10.63	6.47	7.37	34.88	44.83
6 (3,820)	22.88	19.41	20.28	17.78	14.88	17.88	−4.29	14.06	19.49	36.29
7 (3,990)	15.61	14.89	16.98	13.67	11.08	4.84	−12.31	24.21	23.38	53.25
8[2] (2,050)	(24.79)	(27.22)	(26.80)	(24.11)	(3)	−8.93	1.57	11.16	(3)	(3)
9 (2,290)	21.55	20.07	19.11	17.83	16.72	7.37	5.02	7.18	6.64	14.29
10 (2,400)	22.72	21.94	22.22	21.08	17.21	3.56	−.13	5.41	22.49	29.11

Footnotes at end of table.

TABLE 1.—EFFECT OF SPEED ON FUEL CONSUMPTION RATES—Continued

[Without use of air-conditioning]

Test car No. and net weight (pounds)	Miles per gallon at selected speeds					Percent increase in gasoline consumption caused by increase in speed[1]				
	30	40	50	60	70	30 to 40	40 to 50	50 to 60	60 to 70	50 to 70
11 (5,250)	18.33	19.28	15.62	14.22	12.74	−4.93	23.43	9.85	11.62	22.61
12 (4,530)	20.33	20.00	17.50	16.17	14.86	1.65	14.29	8.23	8.82	17.77
Average (unweighted)	21.05	21.07	19.49	17.51	14.93	0	8.11	11.31	17.28	30.53

[1] Changes in this section marked with a minus (—) sign were decreases.

[2] Since vehicle No. 8 could not be operated satisfactorily at 70 miles per hour, its miles per gallon performances were omitted from the averages. They are, however, given in parentheses.

[3] Not available.

TABLE 2.—EFFECT OF SPEED ON FUEL CONSUMPTION RATES

[With air-conditioning in use]

Test car No.	Miles per gallon at selected speeds					Percent increase in gasoline consumption caused by increase in speed				
	30	40	50	60	70	30 to 40	40 to 50	50 to 60	60 to 70	50 to 70
1	16.29	16.56	15.56	14.42	12.74	−0.16	6.43	7.91	13.19	22.14
3	18.42	18.22	15.69	13.83	10.89	1.08	16.12	13.45	27.00	44.08
4	16.16	16.82	16.30	14.07	13.14	−3.92	3.19	15.85	7.08	24.05
6	21.04	17.41	17.22	17.33	13.42	20.86	1.10	−.06	29.14	28.32
7	16.06	13.17	14.22	12.40	10.89	21.94	−7.38	14.68	13.86	30.58
9	18.55	18.29	17.78	17.33	16.26	1.42	2.87	2.60	6.58	9.35
10	22.77	21.93	20.42	18.67	16.92	3.83	7.39	9.37	10.34	20.69
11	17.17	18.39	14.53	12.43	10.89	−6.63	26.57	16.89	14.14	33.43
12	16.83	16.78	16.04	14.56	13.35	.03	4.61	10.16	9.06	20.15
Average (unweighted)	18.14	17.51	16.42	15.00	13.17	3.60	6.64	9.47	13.90	24.68

Mr. DOLE. Mr. President, as can be seen by these charts, air-conditioning causes a much sharper drop in fuel economy than even a 10 mile per hour increase in speed. The average mileage for all cars in the test dropped 1.98 miles per gallon as their speed increased from 50 to 60 miles per hour, but there was a loss of 3.07 miles per gallon at 50 miles per hour and a loss of 2.51 miles per gallon at 60 miles per hour when the vehicles' air-conditioners were turned on.

I am not proposing that drivers be given a choice driving at 60 or using their air-conditioners this summer. But, I believe the study points out that there are other ways to save fuel beside the imposition of lower speed limits.

I also ask unanimous consent that the full text of this DOT study be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. McCLURE). Without objection, it is so ordered.

(See exhibit 1.)

IMPACT ON TRUCKING INDUSTRY

Mr. DOLE. Mr. President, the impact of the 55 miles per hour speed limit on the trucking industry is substantial. The lower limit means longer trip times for drivers, fewer trips per month, lower paychecks, and increased truck fuel consumption. For the outset of the fuel pinch, the trucking industry urged that if lower limits were necessary, 60 miles per hour was the appropriate choice.

The reasons for preferring this speed were illustrated by Teamsters Union President Frank Fitzsimmons when he testified before the Transportation Subcommittee of the Public Works Committee on the original speed limit bill in December 1973.

During that testimony, the following exchange took place:

Senator DOMENICI. Mr. Fitzsimmons, you recommend 60, as I understand it, for everyone as the maximum. Is that your testimony?

Mr. FITZSIMMONS. That is my recommendation.

Senator DOMENICI. Is your recommendation based upon information regarding the saving of gasoline? What goes into the recommendation?

Mr. FITZSIMMONS. My recommendation comes on basic facts, from tests that have been made with some of the companies and some of the other people in both the East and West and the central area. We can show you that on a trip from Asheville, N.C., to Little Rock, Ark., conservatively will save better than 32 gallons of fuel operating at the posted speed limits before they were cut back.

We can show you that the same trip operated at 50 or 55 miles an hour takes better than 3½ hours to make at that speed.

This is not somebody's theory; this is actuality. I presented it to both Brinegar and Simon.

Senator DOMENICI. Therefore, with reference to the trucks and the savings of gasoline, you are saying you believe the evidence is that at 60 rather than at 50, you would save diesel fuel for the truckers?

Mr. FITZSIMMONS. I say that, and I think Mr. Sassi, while he says 65, and I can appreciate his concern, would say it.

Mr. President, this demonstrates again, as indicated by a great many people in the trucking industry and the independents who are at least in part on strike since 12 o'clock midnight last night, that one of their major grievances is they are required to drive at 55 miles an hour when their trucks are geared and equipped to operate at 60 miles an hour and, they say, use less fuel.

Continuing to read the remainder of the excerpts of the testimony:

But by the same token, he being a trucker I think will verify what I said about getting our trucks into that speed where, for want of a better word—we used it in the old sense before we had these highly technical advances in equipment—there was freewheeling; freewheeling, running at 2,200 revolutions per minute at that speed conserves fuel.

When it drops below that then we are running and it takes more fuel to maintain the 2,220 revolutions per minute.

Other witnesses were in substantial accord with Mr. Fitzsimmons on these points. I ask unanimous consent that a statement submitted to those same Public Works Committee hearings by the Committee hearings by the American Trucking Associations, Inc., also be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

KANSAS FAVORS 60 MILES PER HOUR

Mr. DOLE. In conclusion, Mr. President, I would like to say that I have believed that most Americans, especially Kansans, feel that 60 miles per hour is the best speed limit. Taking into consideration the acknowledged need to practice fuel conservation and the lives which have been saved by lower highway speeds, I have felt that many people think 60 is a good, reasonable compromise.

To test this theory, in my most recent constituent questionnaire I asked respondents to choose between 55, 60, 65, and 70. A few very early responses have been returned. And while they are far from being significant statistically, they show that people favor 60 miles per hour overwhelmingly. Fifty-two percent favored 60 miles per hour, compared to 12 percent for 55, 32 percent for 65, and none for 70.

So I believe the American people are reasonable. They recognize the need to slow down, save fuel and spare lives. But they want things to be sensible, and in large measure they think that a 55-mile limit is not sensible or necessary.

Therefore, Mr. President, my amendment would permit States to raise their speed limits to 60 miles per hour. Again, it is discretionary with the States. If they do not want to raise it, they do not have to. It would provide a measure of flexibility and would ease the burden imposed by a 55-mile-per-hour limit, which is no longer essential or in the best interests of the country.

I emphasize again that we are in the

throes of what could be another nationwide truck strike. I recall in December and January spending many hours, as did many other Members of this body, with independent truckers and others, trying to resolve some of their difficulties. Some were real and genuine. The one, as I recall, that bothered the truckers most was the imposition of the 55-mile-per-hour speed limit.

They claim, and I think with justification, that in addition to the added time to their trips, there has been less profit for them, and they indicated time after time that their trucks could operate more efficiently and more effectively and consume less fuel when traveling at 60 than at 55.

Mr. President, I reserve the remainder of my time.

EXHIBIT 1

THE EFFECT OF SPEED ON AUTOMOBILE GASOLINE CONSUMPTION RATES, OCTOBER 1973

PREFACE

In a period of imminent fuel shortages, the amount of gasoline used by automobiles and the efficiency of its use are coming under critical examination. For this, it was desired to have data for a series of automobiles of recent year models, of different weights and other characteristics. It was also desired that the information be taken, if possible, from records of vehicles actually operating on the highways, rather than from tests made with laboratory equipment.

The information in this report meets those requirements.

A word of caution on the use of this report seems warranted here. While the data were carefully gathered, the sample is relatively small, and the staff and instrumentation were limited. The report has the sole purpose of determining the effect of speed on gasoline consumption rates under highway operating conditions, and it appears to do that conclusively. It is hoped that if this report is used for other purposes, its limitations will be borne in mind.

This also seems to be an appropriate place to thank the automobile industry, and particularly the dealers of the Northern Virginia suburbs of Washington, D. C., for their kindness and willing assistance to the staff that made the study.

(NOTE.—The United States Government does not endorse products or manufacturers. Trade or manufacturers' names appear herein solely because they are considered essential to the object of this report.)

(By E. M. Cope)

(NOTE.—Figures not included in RECORD.)

The fact that automobiles operating at high speeds use more fuel per mile than those operating at lower speeds is universally accepted. It is not controversial, but it is a vague and elusive concept. It was the purpose of this study to measure, as nearly as possible under practical operating conditions, how much operating speeds do affect gasoline usage.

The cars used in the study were selected to cover a range of weights, but except air conditioning, no effort was made to measure the effect on fuel consumption of other features or equipment. All of the cars were 1970 or later year models. Each had been operated more than 3,000 miles; and with one exception, none were specially "tuned" or intercepted below the driver's seat, the gasoline was run through an auxiliary line from there to a meter in the passenger compartment, and after passing through the meter, back to the point of interception.

Although it would have been relatively simple to make the series of tests of a dynamometer, such tests would have lacked some of the factors present in actual highway operation. Most notable among these are wind resistance on the moving vehicle, the effect of rapidly moving air on the car's cooling systems, and the minor irregularities of any highway surface.

At one time, automatic transmissions were considered to be accessories; but in recent years, they have come into such universal use that they are treated as standard equipment; and except for the very light cars, the clutch drive is now almost in the class of special equipment. The general public is probably unaware of the fact that automatic transmissions may be responsible for as much as one gallon or more in ten of a car's gasoline consumption; and it probably would make little difference in car purchases and usage even if it were generally known. Power brakes and power steering also increase gasoline consumption, although not nearly as much; and here again, safety factors and increased case of driving appear to be well worth their cost. In any case, it is unlikely that those who have become accustomed to power brakes and steering would be willing to turn back to the old "standard" brakes and steering.

The general public is, of course, aware of the tremendous roadway improvements that have been accomplished in recent years. The Interstate highways, in particular, have made substantial contributions to traffic safety and economy of vehicle operation. There is no way of knowing precisely the amount of fuel saved on the free-flowing Interstate and turnpike routes, but it is known to be substantial, even after offsetting it against, the fuel consumed by the excessively high speeds frequently encountered. Extremely low speeds, stop-start driving, and the inconveniences of crawl speeds in congested areas are probably more wasteful of fuel than excessive speeds.

The energy problem is already serious, and almost certain to be a growing cloud over the Nation in the future. The years of plentiful fuels are behind us, and we are entering an age when the sharp reality of the total fuel situation will have a heavy impact on our daily lives.

It cannot be overemphasized that this study was made solely to determine the effect of speed on fuel consumption rates. The results are not even put forth as "typical," because each test consisted of timing an uninterrupted run of a vehicle at a carefully controlled speed, a situation not likely to occur in normal operation. Furthermore, since the vehicles were not specially tuned for the tests (with one exception, discussed later in this report), it was agreed with the cooperating automobile dealers that the names of the vehicles would not be used in the report.

However, the tests do accomplish what they were intended to do—they give a clear and conclusive picture of the existence of very substantial increases of fuel consumption in the upper speed ranges, i.e., above 50 miles per hour; and they give a strong indication of the magnitude of those increases.

There follows a brief discussion of the equipment used in making the tests, and a description of the method followed.

EQUIPMENT

1. Systems Gasoline Fuel-O-Meter, manufactured by the Columbia Systems Company, 5805 S.E. Gladstone, Portland, Oregon 97206.

2. Fifth Wheel speedometer, assembled at the Federal Highway Administration's Fairbank Research Laboratory. Included were a General Motors Fifth Wheel and bumper clamps and electronic instrumentation devised by the Laboratory's engineers. (Several of the speedometers of the vehicles tested were also cross-checked with a Maxwell All-Electric Dynamometer, and the Fifth Wheel and Dynamometer readings were in complete agreement.)

3. Bendix Gasoline Pump, manufactured by the Bendix Corporation, South Bend, Indiana. This is a 12-volt pump, in general automotive use.

4. Stop watches, of the type used to time athletic events. Several were used. The most satisfactory were those with large "sweep" second hands that made a complete revolution in 10 seconds, and that had smaller hands to record elapsed time.

5. Signs reading test vehicle. The ones used were on white paperboard strips 27 inches long and 3 inches high. They bore the Department of Transportation triskelion symbol and the words test vehicle in heavy 2-inch high block letters.

METHOD

This test was intended to cover, in a group as small as practical, cars in different weight groups, and of different characteristics with respect to air conditioning versus no air conditioning, and automatic transmissions versus manual transmissions. All vehicles were to be 1970 or later model years, and to have been operated for at least 3,000 miles prior to the test.

Numerous vehicles owned by individuals were volunteered for the gasoline consumption tests, but only two were used. The remainder were supplied by dealers, and were either officials' cars, demonstrators, or cars from their used car stock.

The Fifth Wheel speedometer, shown in Figure 1, was used in most cases to determine the accuracy of the vehicle's speedometer, and in some cases, both the Fifth Wheel and the dynamometer were used to cross-check for accuracy. No differences between the Fifth Wheel and the dynamometer were found. For each car, the speedometer reading of the vehicle was recorded for true speeds at 30, 40, 50, 60, and 70 miles per hour. If for instance, the vehicle speedometer showed 52 miles per hour at a true speed of 50 miles per hour, and the vehicle was later operated during the tests at 50 miles per hour, it was done at a vehicle speedometer reading of 52 miles per hour when the speedometer of the vehicle was used, which was the procedure in most cases. In some instances the Fifth Wheel was used during the tests; but it proved to be difficult for the driver to transfer his eyes between the instrument box on the seat beside him and the road while holding the car at a constant speed.

Generally speaking, the speedometers of the cars were surprisingly accurate. Despite the common belief that most speedometers are "fast," that is, that they give a margin of safety by indicating speeds greater than the vehicles are actually traveling, most were within 1 mile of the true speed. Nearly all of the inaccurate readings were "fast" by only 1 or 2 miles per hour; but the greatest error found was a speedometer reading of only 66 miles per hour when the vehicle was actually traveling 70 miles per hour.

The gasoline meter was installed in the passenger compartment of each vehicle. Because of the effect that engine heat could have on gasoline volumetric measurements and on meter performance, it was necessary to avoid engine heat before the gasoline passed through the meter. For all except two cars, this required intercepting the tank-to-carburetor gasoline line, as shown in Figure 2, beneath the driver's seat, installing a flexible hose from the line to the filter-meter-pump assembly seen in Figure 3, then installing a hose from the assembly back to the line. Nearly all cars have plates or access holes of one kind or another through the floor that can permit the hoses to and from the gasoline meter to go through the floor. The pump was not used at first, but was added to the assembly when the flow through the meter seemed to vary on some of the cars with vacuum pumps. The inclusion of the electric pump in the assembly seemed to eliminate any variations in the rate of flow. The gasoline pump was fitted with an electric cord which had a socket similar to those of ordinary automobile trouble lamps, so the power could be taken from the cigarette lighter socket. In short, this arrangement simply detoured the gasoline from the regular feed line, through the assembly, and back to the feed line.

One problem was encountered that should have been—but wasn't—anticipated. Quite a few cars in recent years have a fuel supply system that circulates gasoline, i.e., it pumps more gasoline to the motor than the motor needs, and the excess is returned by a separate line to the gasoline tank. The primary purpose of this system is to prevent "vapor lock" that causes a distressing stalling of motors, particularly in urban low-speed stop-and-go traffic. A meter, apparently correctly installed, was indicating that the vehicle was using an outrageously large amount of gasoline. Investigation soon revealed, of course, that the meter was recording the total amount of gasoline passing through the line, including that which returned to the tank.

Experimentation soon proved that the "return" lines could be blocked with no apparent ill effects; and this was done in several cars. (It probably would be inadvisable to block the return lines on cars to be operated in urban traffic, particularly in warm weather.)

Satisfactory driving courses for this series of tests had to meet the following requirements:

1. Reasonable accessibility
2. Straight and level roadway
3. Good roadway surface
4. Low traffic volume

Two stretches of highway meeting these requirements were found; Virginia Route 28, between Interstate Route 66 and Virginia Route 50; and Maryland Route 301 north of Waldorf, between Surratt's Road and Maryland Route 381. Both routes were used.

The gasoline used in each vehicle was of the type recommended by the manufacturer, and was bought at regular gasoline filling stations. No special fuels were used.

Each test run was made with both a driver and an observer. Although some experimenting was done, it proved to be impossible for one person to drive a car at a constant speed, use a stop watch and record the times. Efforts to achieve "one-man-operation" resulted in uncertainties as to precise times, and in difficulties holding vehicles at precise speeds. Consequently, someone "rode shotgun" every test run used in this study, to attend the meter and record speeds and times.

The driver and observer each carried, and used, a stop watch. This was to ensure against watch error or failure (there were none) and to afford occasional double-checks on readings, as well as to permit the driver to make supplementary time observations while the observer was recording and reviewing the timings.

For the cars with air conditioners, the test runs were made separately at each speed with the air conditioner in use and not in use. The results are given and discussed in this report.

All except three of the cars tested are equipped with air conditioning, and all of the air conditioners were in good operating order. The test runs were made at each speed (30–40–50–60, and 70) in each direction of the road segment enough times to assure that the times were consistent.

The gasoline meter used gives six clearly audible "clicks" per tenth of a gallon, i.e., 60 clicks per gallon.

In operation, if the driver was, for instance, to drive at 50 miles an hour, when the car had come to that speed, he would simply say "on it" and hold the car at that speed; then at the first meter click, the stop watches would be started. On the third following click, the observer would stop his watch and record the speed, direction, and number of seconds. The driver would usually call out the reading on his watch at the fourth, fifth, and sixth clicks and so on until the car came to the end of the selected course; and the observer would make a record of them. Any use of the brake aborted the run. At times this resulted from unforeseen hazards such as a car entering the highway from a side road, careless pedestrians, or for other reasons, such as a wild animal crossing the road (and, embarrassingly enough, a sneezing driver!).

It was found best to pull off the road at the end of each run, and to make any records and notes on the spot. This minimizes the possibility of errors of observation or recordings; it eliminates the problem of the faulty memory; and it affords, after a little experience, the chance to catch on the spot any timings or performances that seem inconsistent.

Every car being tested carried the test vehicle sign fastened on the inside of the rear window with clear adhesive tape. The large black block letters were clearly legible from at least 100 feet. Although every effort was made to time the runs so that there would be ample room in front and to the rear without encountering vehicles moving in the same direction, it was not always possible to do so. The sign seemed to convert any possible displeasure of occupants of other vehicles into curiosity. Faster-traveling cars with unlimited opportunities to pass the test cars frequently fell in behind and trailed them for a while, apparently trying to figure out what was being tested.

When the test runs were completed for a vehicle, the meters and hose were removed, the two ends of the gasoline line pulled together and clamped inside a short piece of gasoline-proof hose, and the car was returned to its owner.

The results of the test were generally in line with what could have been expected but there were some small surprises, a few unexplained inconsistencies, and a few developments probably of greater interest to technicians than to most others. Table 1, for instance, shows that 7 of the 13 cars tested operated more miles per gallon at 40 miles per hour than at 30; and 3 operated more miles per gallon at 50 than at 40. For the lower speed ranges, this seems to destroy the "Slow down—save gas" admonition. But no car operated more miles per gallon at 60 than at 50, nor at 70 than at 60; and the increases in consumption in going above 50 miles per hour were substantial and consistent.

(Prior to further discussion, it should be noted that Vehicle #2 and Vehicle #2A were the same, except that the latter had been completely "tuned up" and had been operated about 300 miles between the "untuned Number 2" test and the "tuned Number 2A" test. The tuning made a substantital difference, and its inclusion in this report was greatly facilitated by treating it as an additional vehicle in the statistics and summaries.)

TABLE 1.—EFFECT OF SPEED ON FUEL CONSUMPTION RATES

[Without use of air-conditioning]

Test car number and net weight (pounds)	Miles per gallon at selected speeds					Percent increase in gasoline consumption caused by increase in speed[1]				
	30	40	50	60	70	30 to 40	40 to 50	50 to 60	60 to 70	50 to 70
1 (4,880)	17.12	17.20	16.11	14.92	13.13	−0.05	6.76	7.97	13.63	22.70
2 (3,500)	19.30	18.89	17.29	15.67	13.32	2.17	9.25	10.34	17.64	29.80
2A (3,500)	21.33	21.33	18.94	17.40	15.36	−.01	12.64	8.85	13.28	23.31
3 (3,540)	23.67	24.59	20.46	14.83	13.42	−3.74	22.67	37.96	8.96	52.46
4 (3.975)	18.25	20.00	16.32	15.77	13.61	−8.75	22.55	3.49	15.87	19.91
5 (2,450)	31.45	35.19	33.05	30.78	22.82	−10.63	6.47	7.37	34.88	44.83
6 (3,820)	22.88	19.41	20.28	17.78	14.88	17.88	−4.29	14.06	19.49	36.29
7 (3,990)	15.61	14.89	16.98	13.67	11.08	4.84	−12.31	24.21	23.38	53.25
8[2] (2,290)	(24.79)	(27.22)	(26.80)	(24.11)	NA	−8.93	1.57	11.16	NA	NA
9 (2,290)	21.55	20.07	19.11	17.83	16.72	7.37	5.02	7.18	6.64	14.29
10 (2,400)	22.72	21.94	22.22	21.08	17.21	3.56	−.13	5.41	22.49	29.11
11 (5,250)	18.33	19.28	15.62	14.22	12.74	−4.93	23.43	9.85	11.62	22.61
12 (4,530)	20.33	20.00	17.50	16.17	14.86	1.65	14.29	8.23	8.82	17.77
Average (unweighted)	21.05	21.07	19.49	17.51	14.93	0	8.11	11.31	17.28	30.53

[1] Changes in this section marked with a minus (—) sign were decreases.

[2] Since vehicle No. 8 could not be operated satisfactorily at 70 mi/h, its miles per gallon performances were omitted from the averages. They are, however, given in parentheses.

This test makes no allowances for special advantages of small cars. These include lower investment, economy in highway space occupied, greater ease and lower cost of parking, simplicity of maintenance (due at least in part to the absence of refinements, accessories, and special features), and perhaps other advantages in special situations. Similarly, this test is not concerned with the greater comfort, safety, capacity, and other advantages of larger vehicles.

Table 1 includes all of the vehicles, both with and without air conditioners, used in this study. The data show miles per gallon for each at various speeds, without the use of air conditioning. The greatest number of miles per gallon, 35.19, was achieved by Vehicle 5. This was a subcompact with a 4-cylinder engine, manual transmission, and regular steering. It had the highest miles per gallon of all the cars tested, and at every test speed. However, its fuel consumption at 70 miles per hour was 44.83 percent greater than at 50; and the car seemed to be nearing the limit of its capability. The owner observed, in good humor, that it was a car that encouraged operating at reasonable speeds.

Although the heavier "luxury" cars consumed more fuel per mile than other cars at most speeds, the differences between heavy and lighter cars were greatly diminished in the upper speed ranges. The heavier cars were able to achieve the higher speeds with ease.

The bottom line of Table 1 shows the 21.07 unweighted average miles per gallon at 40 miles per hour to have been above the 21.05 miles per gallon at 30 miles per hour. Even though the difference is only two-hundredths of 1 percent, it will be a surprise to many that there was a difference at all in this direction. Similarly, three of the cars operated more miles per gallon at 50 than at 40. Although this would not normally have been expected, it can easily be explained by differences in gear ratios, timing settings, and other purely mechanical factors. At least for the vehicles tested, it is clear that slowing vehicles from speeds under 50 miles per hour to lower speeds would perhaps waste as much fuel as it would save.

At 60 miles an hour and above, it is a different story. The average miles per gallon (for vehicles not using air conditioning) was 19.49 at 50 miles per hour, and 14.93 at 70 miles per hour. This 20 miles an hour increase in speed increased fuel consumption 30.53 percent. The greatest increment, of course, was the move from 60 to 70, which accounted for an increase of more than 17 percent in fuel consumption.

The data in Table 2 are similar in form and concept to those in Table 1, except that those in Table 2 include only cars with air conditioners in operation. The cars in Table 2 are given the same numbers they had in Table 1; thus cars 2, 2A, 5, and 8 are omitted. These tended to be lighter than the cars with air conditioning, so their omission from Table 2 tends to reduce the miles per gallon figures that Table 2 would otherwise have presented. The effect of speed and air conditioning are readily evident, however, in comparing Tables 1 and 2; and Table 3 gives a brief summary and digest of the effect of air conditioning on miles per gallon.

The effect of air conditioning on miles per gallon proved to be less than expected, at least less than the power requirements of air conditioners might lead one to believe. Since it was the purpose of this study to determine the fact rather than find the reasons, the matter was not pursued. However, some reflection on the matter suggested that some of the car windows may have been open during some of the test runs without air conditioning, thus increasing turbulence (and therefore fuel consumption). This would, of course, have decreased the air-no-air differences. It should also be noted that the miles-per-gallon comparisons do not reflect the fact that cars equipped with air conditioners are carrying equipment weighing approximately as much as an extra adult passenger, even when the equipment is not in use.

TABLE 2.—EFFECT OF SPEED ON FUEL CONSUMPTION RATES

[With air-conditioning in use]

Test car number	Miles per gallon at selected speeds					Percent increase in gasoline consumption caused by increase in speed				
	30	40	50	60	70	30 to 40	40 to 50	50 to 60	60 to 70	50 to 70
1	16.29	16.56	15.56	14.42	12.74	−0.16	6.43	7.91	13.19	22.14
3	18.42	18.22	15.69	13.83	10.98	1.08	16.12	13.45	27.00	22.14
4	16.16	16.82	16.30	14.07	13.14	−3.92	3.19	15.85	7.08	24.05
6	21.04	17.41	17.22	17.33	13.42	20.86	1.10	−.06	29.14	28.32
7	16.06	13.17	14.22	12.40	10.89	21.94	−7.38	14.68	13.87	30.58
9	18.55	18.29	17.78	17.33	16.26	1.42	2.87	2.60	6.58	9.35
10	22.77	21.93	20.42	18.67	16.92	3.83	7.39	9.37	10.34	20.69
11	17.17	18.39	14.53	12.43	10.89	−6.63	26.57	16.89	14.14	33.43
12	16.83	16.78	16.04	14.56	13.35	.03	4.61	10.16	9.06	20.15
Average (unweighted)	18.14	17.51	16.42	15.00	13.17	3.60	6.64	9.47	13.90	24.68

TABLE 3.—THE EFFECT OF THE USE OF AIR-CONDITIONING ON FUEL CONSUMPTION RATES[1]

Operating speed	Air-conditioning (miles per gallon)		Effect on fuel consumption caused by use of air-conditioning	
	In use	Not in use	Reduction in miles per gallon	Percent saving with air-conditioning "off"
Miles per hour:				
30	18.14	20.05	1.91	5.29
40	17.51	19.71	2.20	12.56
50	16.42	18.29	1.87	13.89
60	15.00	16.25	1.25	8.33
70	13.17	14.18	1.01	7.67

[1] *All cars included* in the averages in this table were equipped with air-conditioning in good operating condition.

The principal reason, however, for the narrowness of the gap between miles per gallon with air conditioning in use and not in use is that wind resistance, friction, and other power requirements for the movement of the vehicle tend to increase at a rate equal to or greater than the increase in vehicle speed, whereas the power required to operate air conditioning remains more nearly constant. Thus, as the vehicle speed increases, the power required to operate the air conditioning becomes a decreasing percent of the total power output of the motor. This is supported by the figures in Table 3, which show air conditioning reducing miles per gallon by 2.20 miles at 40 miles per hour, by 1.87 miles per gallon at 50, and 1.25 and 1.01 miles per gallon, respectively, at 60 and 70 miles per hour.

Generally speaking, the heavier cars tended to increase fuel consumption rates percentagewise less than lighter cars as speeds increased. However, a 30-percent increase in fuel consumption for a lighter car could easily be less, in number of gallons, than a 25 percent increase for a heavy car.

Although the operating condition of motors was outside the scope of this study, the test results for the one car tested before tuning and after tuning are sufficiently related to the overall subject of fuel conservation to merit inclusion. The performance comparisons, given in Table 4, even though for only one vehicle, strongly suggest a good place to look in the effort to save fuel.

TABLE 4.—COMPARISON OF MILESPER GALLON FOR 1 CAR BEFORE AND AFTER TUNING

Operating speed	Miles per gallon		Improvement after tuning	
	Before tuning (car No. 2)	After tuning (car No. 2A)	Miles per gallon	Percent
Miles per hour:				
30	19.30	21.33	2.03	10.52
40	18.89	21.33	2.44	12.92
50	17.29	18.94	1.65	9.54
60	15.67	17.40	1.73	11.04
70	13.32	15.36	2.04	15.32

A Nation entering an era of uncertainty as to its energy sources and reserves must consider carefully what it can, and what it cannot do. The energy problems already on the horizon seem certain to have tremendous impact on motor vehicles and the patterns of their use. Automobile fuel consumption rates will play an important part in the decisions to be made.

EXHIBIT 2

STATEMENT OF EDWARD V. KILEY, VICE PRESIDENT, AMERICAN TRUCKING ASSOCIATIONS, INC.

Mr. Chairman, and members of the Committee, my name is Edward V. Kiley. I am Vice President, Research and Technical Services of the American Trucking Associations. The organization is a federation with affiliated associations in every state and the District of Columbia, plus 13 affiliated conferences. In the aggregate, we represent every type and class of truck operation in the country, both for-hire and private.

We appreciate this opportunity to appear before your Committee and discuss the nation's energy crisis, particularly as it affects the trucking industry.

Our industry has been deeply involved in the many problems arising from the inadequacy of petroleum supplies beginning with reports from our industry toward the end of 1972 when they were being told by their suppliers that they could not depend on receiving adequate supplies of diesel fuel. They were told that contracts of long standing could not be renewed and no assurances whatsoever could be made as to what the future might hold.

As the year went by and we appeared before various Congressional Committees, and before independent government agencies, we stressed in the strongest language possible the dire economic consequences that were arising, and would arise at an increasing pace, if the supply of diesel fuel became inadequate.

The trucking industry, together with the other forms of surface transportation, is almost completely dependent on diesel fuel in its operations. There is no substitute for diesel fuel and, in our opinion, there is no luxury or non-essential use of diesel fuel in transportation. The transportation of freight in the country, as far as surface movements are concerned, will function or not function in direct proportion to the amount of diesel fuel that is available.

A shortage, or inadequate supply of diesel fuel, cannot help but have serious economic consequences throughout our entire economy. The carriers do not create the demand for freight service. We merely fill the demand that is created by the level of the country's economic activity. This demand has been very great, for forms of transportation, and is continuing to grow.

In 1972, 33% of all intercity tons of freight moved by motor truck and to this must be added all local freight tonnage which moves entirely by truck. Trucks handle 51% of the tonnage of all manufactured products and 85% of shipments under 10,000 lbs. move by truck. Thus, the 33% ton-mile statistic tells only part of the story and is in no way realistically relevant to the industry's fuel needs.

Within the trucking industry we are doing everything possible to conserve fuel. To the maximum possible extent, our carriers are practicing conservation measures and exploring new operating efficiencies. Such practices as tightening pickup and delivery schedules, adjustments to fuel systems to minimum specifications, reductions in engine warm-up time and many others. It should be pointed out, however, that these measures do save some fuel but involve undesirable trade-offs in terms of increased maintenance expenses and decreased service.

The reduction of existing state speed limits presents no difficulties to the vast majority of motor vehicles but for the motor carriers it presents serious operational problems of the most complex nature.

Many trucking companies in line-haul service operate over regular routes between fixed terminals. Therefore, they have necessarily designed their operations in terms of existing speed limits.

The drivers of interstate trucks are limited by existing Federal regulations promulgated and enforced by the Bureau of Motor Carrier Safety in the Department of Transportation. These regulations, which are strictly enforced, limit a driver to ten hours of continuous driving (with rest stop breaks). After such a ten hour operation the driver must have no less than eight hours rest before resuming another run.

Operating within these parameters the carriers have developed their routing systems, terminal locations, relay points and equipment interchange points. Even a detail such as the selection of the driver's home is determined in many cases by the operational circumstances.

A severe reduction of truck speed limits would throw these operations into a state of confusion and disrupt the carriers scheduling. Many drivers would be unable to reach the destinations in the evening and thus delay the freight by at least 8 hours. Further, the driver would find his run completed short of his home and be faced with the inconvenience of a "night on the road", with the carrier incurring the extra cost involved, and the shipper suffering a long delay.

When the question of a mandatory lowering of speed limits first became a matter of issue, we indicated that the limit at which the least disruption in motor carrier service would occur would be at 60 miles per hour—even though many state speed limits for trucks were set above this and many operations are geared to these higher limits. This position was set forth in a letter of October 26 to Senator Henry M. Jackson, Chairman of the Committee on Interior and Insular Affairs of the United States Senate with a similar letter sent to Chairman Harley O. Staggers of the Committee on Interstate and Foreign Commerce of the United States House of Representatives on November 12, 1973. We respectfully request that these letters be received for the record.

The question of speed limit reductions as related to fuel savings deserve a long hard look by the Congress, particularly in the area of the studies that indicate savings in gasoline by reducing passenger car speeds to 50 miles per hour. For example, as indicated by E. N. Cole, President of General Motors Corporation, in a letter to Senator Randolph, dated November 7, 1973, the 20% fuel savings passenger car operations results in a reduction of from 70 miles per hour to 50 miles per hour. However, as pointed out by Mr. Cole a saving of this sort applies only if all cars were operating at 70 miles per hour and were dropped down to 50 miles per hour. He elaborated further by pointing out that most cars already operate at less than 50 miles per hour because of local speed limits and traffic conditions within city and suburban limits. Data submitted with Mr. Cole's letter showed that the big saving in passenger car fuel was in the drop from 70 miles per hour to 60 where a 12% saving could be achieved whereas, by comparison, the difference between 50 miles per hour and 60 represented a saving of 2.5%.

We point this out, Mr. Chairman, only to suggest that the closest kind of examination be given studies on alleged fuel savings in the area of passenger car operations before any action is taken that would seriously impair the ability of the nation's trucking industry to continue to provide the necessary transportation services without greatly increased costs that inevitably must be passed on to the consumer.

We further request that whatever action is taken that it be of a temporary nature, limited to the period of the emergency created by the fuel, or energy crisis.

On the question of current policies and programs, we believe we can best respond to this by summarizing briefly the basic position we are taking with the Energy Policy Office on the Proposed Mandatory Allocation Program for Middle Distillate Fuels. We filed our response to the Energy Policy Office proposals on Friday of last week.

Under the proposed allocation program, transportation other than public passenger transportation and the transportation of fuel is to receive only 90% of the amount of fuel used in the base year, which is set as 1972. This 90% allocation applies to "cargo, freight and mail hauling." Such an allocation to the trucking industry, in fact to all forms of surface transportation, will be woefully inadequate in terms of need. The most reasonable, and qualified, estimates of anticipated freight traffic for the year ahead indicate clearly that 90% of what we received in 1972 would leave us far short of adequate fuel to enable our industry to meet the demands for truck service. We are, therefore, requesting a revision in the proposed allocation formula to provide for motor freight transportation to receive 100% of actual needs.

In the trucking industry, as in other forms of transportation, we respond to the need placed upon us by the producers of the nation's goods. If we do not have the fuel to move our vehicles, the goods will not move, and if they cannot be moved, they will stop being produced. Here, then, is a great energy waste—producing that which cannot be brought to the marketplace.

We believe the needs of the trucking industry, as well as other forms of freight transportation, can be met if the programs currently being discussed are brought to reality as quickly as possible. One is action, within prudent and reasonable limits, to halt the drain on middle distillate fuel for nontransportation purposes in those areas where alternate sources of fuel are feasible. Second, re-evaluation of the entire petroleum refining process for the purpose of maximizing the amount of middle distillate that can be extracted from each barrel of crude oil.

Diesel fuel is the lifeblood of our transportation system—and our transportation system is the essential framework that holds up our entire economic structure.

Mr. JACKSON. Mr. President, I yield to the Senator from Maryland for the purpose of clarifying the legislative history of section 106.

Mr. BEALL. I thank the distinguished manager of the bill, the Senator from Washington.

Mr. President, section 106, headed "Materials allocation" in the Standby Energy Emergency Act empowered the Federal Energy Administration to allocate "scarce, critical and essential" materials and equipment that are necessary to maintain "required transportation of energy supplies" and for the construction and maintenance of energy facilities."

In my judgment, this wording would mean that the continuing construction and repair of our Nation's maritime fleet would be assured even under emergency circumstances. As we all know, tankers and merchant ships are vitally necessary to transport a significant proportion of energy producing materials.

However, the Senate report on this legislation does not specifically mention this vital component of the energy transportation system. I, therefore, think that it is necessary to complete the legislative history of this legislation by making it quite clear that section 106 would indeed be available to assure the continuous availability of not only drilling rigs, but tankers and LNG carriers. The phrase "such things" in this section should be understood to include materials and equipment for the construction, conversion and/or repair of oil drilling rigs, their support vessels, tankers, LNG carriers, deepwater port facilities and other items needed to maintain "required transportation of energy supplies."

I ask the managers of the bill if they agree that I have correctly interpreted this section as it would pertain to the maintenance component of energy transportation.

Mr. JACKSON. The Senator is correct in his legislative interpretation. Rather than spelling out in detail what we meant by "required transportation," we made it purposely very broad. Energy is an all-pervasive subject. It moves over all systems, and it does include tankers and LNG carriers—every mode of seaborne transportation.

This does not exclude other forms of transportation. We deliberately made it general, so that we did not run into the old legal doctrine: If you specify and fail to generalize, you are limited to the specific.

Therefore, the Senator's interpretation of the legislative history is correct. I think I can speak for the committee as a whole when I say that we intended to include all modes.

Mr. FANNIN. Mr. President, I concur with the statement of the distinguished Senator from Washington, the floor manager of the bill, and I commend the Senator from Maryland for clarifying this part of the legislation. The flexibility was intended, and I think it is better clarified now that the Senator from Maryland has brought up this subject and asked for a clarification. I agree that the intent is to give the flexibility which I think will be more desirable.

Mr. BEALL. I thank the Senator from Arizona and the Senator from Washington for their assurances on this point. I can understand the need for flexibility. I fully appreciate the willingness to agree that we should, for the record, specify that oceangoing vessels are included.

Mr. JACKSON. Mr. President, I believe we have made an unequivocal record on this point. I know that the Senator from Arizona concurs in everything I have said. This is indeed a part of the legislative history of section 106.

I yield 4 minutes to the distinguished Senator from Vermont.

Mr. STAFFORD. Mr. President, I wish to express my opposition to amendment 1266, which is offered by my good friend, the distinguished Senator from Kansas (Mr. Dole). As the Senator from Kansas has explained, the amendment would, in effect, raise the maximum national highway speed to 60 miles per hour, even as modified, an increase from the present 55 mile per hour established by the Emergency Highway Energy Conservation Act.

Senator Dole has pointed out the many differences in the driving habits and patterns of persons living in Kansas and other areas of the Midwest and West, compared with persons residing in the great metropolitan areas of the East. I recognize that difference and I recognize the temporary assistance this amendment would have for the trucking industry and others. But I must state my strong opposition is based on two factors: The higher speeds require more energy; the higher speeds will kill more people.

Our Nation has obtained significant improvement in gasoline mileage by limiting highway speeds. And while a 5-mile-per-hour difference may seem slight, it would have a damaging effect on safety and energy conservation.

According to estimates by the Highway Users Federation, holding the maximum highway speed limit to 55 miles an hour will save 5,300,000 gallons of gasoline every day, compared with the gasoline needed for a national 60-mile-per hour limit.

The Department of Transportation ran a test fleet of cars and found that it obtained an additional mile per gallon by dropping the maximum speed to 55 mile per hour from 60 mile per hour. As a society, we cannot ignore that difference when we confront real energy shortages.

Obviously, the situation prevailing earlier this year has been ameliorated. Gas lines no longer extend for blocks and blocks. But gas supplies remain relatively short, raising the possibility of long lines and short vacations this summer. I believe it would be foolhardy to return to our old wasteful, high-speed way.

Even more significant in my mind is the drastic—almost unbelievable—drop in traffic deaths that has occurred since the imposition of the national maximum speed limit of 55 miles per hour. There have been 3,700 fewer persons killed on our highways from last November through March, compared with a year earlier.

Dr. James B. Gregory, Administrator of the National Highway Traffic Safety Administration, recently made this observation:

> March marked the first month that all states were observing a 55 m.p.h. speed limit, and the impact on highway safety is clear—more than a thousand lives saved in one month.

The example set during February was particularly striking in the 33 States enforcing a 55-miles-per-hour maximum, there were 30 percent fewer traffic fatalities than there had been in February 1973. But in the 17 States that had not yet lowered driving speeds to a maximum of 55 miles per hour, traffic deaths declined only 2 percent from 1 year earlier. That modest decline apparently grew from voluntary compliance with lower speeds and less travel due to the unavailability of gasoline.

Such saving in lives, particularly when viewed with the need for fuel conservation, demonstrates in the most compelling way the need to continue the 55-mile-an-hour national maximum.

The distinguished Senator from Kansas (Mr. Dole) has used the example of the many Kansans who must drive from Kansas City to Wichita, a distance of 209 miles. At a constant 55 miles an hour, that trip would require 3 hours and 48 minutes. At a steady 60 miles an hour, the same journey would take about 3 hours and 29 minutes, or 19 minutes less. Frankly, I do not believe that a 19-minute savings is worth the cost—the cost in lost energy and lost lives.

Mr. President, I urge that the Senate reject the Dole amendment.

Mr. President, I regretfully urge that the Senate reject the amendment of the Senator from Kansas (Mr. Dole).

Mr. JACKSON. Mr. President, I commend the Senator from Vermont, not only for a fine statement but also a sensible statement. This is a time when we had better stop, look, and listen and think about what we are doing. We are only a few weeks away from what was a critical situation and I do not feel that necessarily we are a few weeks away from the solution.

Mr. President, I yield 10 minutes to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. JACKSON. Mr. President, will the Senator yield for the purpose of requesting the yeas and nays?

Mr. RANDOLPH. I yield.

Mr. JACKSON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. RANDOLPH. Mr. President, the amendment offered by the able Senator from Kansas (Mr. Dole) is surely another indicator that Americans are rapidly forgetting the lessons that were painfully learned just a few months ago. I recall that some 11½ months ago I offered legislation on this floor to lower the speed limit. That legislation was a sense of the Congress proposal and was passed by the Senate without a rollcall vote. There was unanimity of thought and action. We are returning to our old ways of reckless, and I use the word advisedly, energy consumption.

We forget that the fuel shortage was not a midwinter hallucination but rather a permanent fact of life in this country. When the shortage became a personal matter for most Americans we were only too willing to institute conservation measures of one type or another. We were eager to commit ourselves to a lifetime of fuel saving.

In recent weeks we have seen growing evidence that our resolve to conserve energy was, indeed, short lived. There are reports that traffic is returning to its preembargo levels in many places and I anticipate that air-conditioners will be operating in full blast when the first warm weather arrives.

Even though the President may have declared the energy crisis at an end, the United States is far from resolving its fuel supply problems. The energy shortage is real and it is persistent. It remains a central factor in our lives to which we should give continuous attention.

In our efforts to cope with last winter's emergency many productive measures were instituted. Foremost among these was the establishment of uniform speed limits on a national basis. The 55 miles per hour maximum was set by Public Law 93–239, which was enacted on January 2 of this year.

Mr. President, the reason for the uniform speed limit was the conservation of scarce fuel. It has played a successful part in our conservation effort. It is estimated by the Department of Transportation that the 55-miles-per-hour speed limit is resulting in daily savings of between 130,000 and 160,000 barrels of fuel.

There is a second and very substantial benefit to slower driving, and I think it has been mentioned by the able Senator from Vermont (Mr. Stafford). Enactment of the uniform 55 miles per hour speed enabled us for the first time to observe on a national basis the impact of slower speeds on highway safety. The result has been a dramatic drop in people killed on our highways. During March the number of highway fatalities was 3,191, a figure 25.5 percent below March of last year. This was the fifth consecutive month that traffic fatalities declined compared to a year ago. Some of this reduction can be attributed to fewer cars on the highways, but there is no question that the uniform speed limit is a major factor in achieving what years of effort with expensive highway safety programs could not.

Mr. President, at this point I ask unanimous consent to have printed in the Record a letter from the Honorable Claude S. Brinegar, Secretary of Transportation, who expresses the feeling of the Department of Transportation that the present speed limit is worthwhile.

There being no objection, the letter was ordered to be printed in the Record, as follows:

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., May 13, 1974.

Hon. JENNINGS RANDOLPH,
Chairman of the Senate Public Works Committee, U.S. Senate, Washington, D.C.

DEAR SENATOR RANDOLPH: I wish to advise you of the Department's views regarding the proposal by Senator Dole to amend the Emergency Highway Energy Conservation Act so as to increase permissible speed limits from 55 to 60 mph.

The 55 mph speed limit has admittedly had some adverse economic impact on certain sectors of the transportation industry, a situation which has been of great concern to this Department. On the other hand, the energy conservation value of the reduced limit is considerable. This, combined with initital reports reduced highway fatalities and injuries which have resulted from the lowered speed limit, argues against increasing the speed limits at this time.

It is the Department's view that the 55 mph speed limit presently in effect should not be altered prior to passage of sufficient time to allow proper assessment of its advantages and disadvantages. I suggest that such an assessment could best be made at the time of the Act's current termination date.

Sincerely,

CLAUDE S. BRINEGAR.

Mr. RANDOLPH. Mr. President, I understand the approach of the Senator from Kansas (Mr. DOLE). There are arguments, of course, pro and con on this matter that the Senator proposes and we must think of it in its reality, that we increase the maximum speed limit to 60 miles per hour. This may at first appear insignificant and consistent with our improved fuel situation—although I must emphasize that this situation may be only temporary.

The existing 55-mile limit was agreed to as a compromise. In hearings before the Committee on Public Works last December 11, there was extensive testimony that the greatest savings could be achieved with a 50-mile-per-hour speed limit. Several factors, including the impairment of efficient operation of trucks below 55 miles per hour, prompted us to establish that limit. In testimony before this committee, the Secretary of Transportation said:

> A 60-mile-per-hour limit would, in total, save very little.

We were also told that we could anticipate larger vehicles to exceed the 55-mile-per-hour limit somewhat to obtain maximum efficiency from their engines.

Mr. President, I want to be realistic. I know that in enforcement of this type law the highway officers usually do not call for an arrest when a person is operating at 57 and 58 miles an hour. They are given that cushion in their decision as to whether to enforce the 55-mile-per-hour limit.

But when we go from 55 miles an hour to 60 miles an hour, then we are increasing that further cushion of 2 or 3 miles where the radar or officer-enforced law does not come into effect.

I think the commerce of this country has suffered no great dislocation because trucks are driving slower. I recognize the importance of the trucking industry to our country. There has been an adjustment, and they have made it. There is a saving, as we know, in fuel and in lives and this fact, I think, outweighs any of what might be considered the anticipated benefits that would accrue if the 60-mile limitation were placed in the law.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BIBLE. Mr. President, I yield the Senator 3 minutes.

Mr. RANDOLPH. Such an action by the Senate and the Congress would be another signal to the American people that we no longer consider important the serious efforts that we must make in energy conservation. This conservation is important, and today we must not allow our enthusiasm of a few months ago to deteriorate so that we come into the Senate and, at the first opportunity, it seems, jump 5 miles an hour in the speed limits of our country. I think it abandons, frankly, the responsibility which has been expressed by the American people to be realistic about the situation we face.

Not only do we have a saving in fuel, which I have said is very significant, not only do we have a decrease in the number of traffic injuries and fatalities, which I have emphasized, but we have a more pleasant feeling on the part of people who are able to motor at a speed of 55 miles an hour. We do not have the pressure that someone behind us keeps getting close to us and then we start moving ahead. This country is still beautiful, and I think we should have an opportunity, as we drive along, to look at it and even to talk to those who are in the car with us.

The law which the Senator from Kansas seeks to change has been in effect, I remind the Senate, for only 4 months. Its benefits, I have outlined and substantiated, are being felt on the positive side of this question. I believe that we should continue the limit at 55 miles an hour.

I urge the Senate to give the 55-mile-an-hour speed limit the opportunity for continued use, so that we are ready, if serious fuel deficiencies come again, to continue to save gasoline. We are able, as the record shows, to decrease the number of accidents and the fatalities, and we are able to provide to the American people a more satisfactory, pleasant, and happier motoring experience.

Mr. DOLE. Mr. President, I yield 5 minutes to the distinguished Senator from Wyoming.

Mr. PERCY. Mr. President, will the Senator yield me 5 minutes?

Mr. BIBLE. Mr. President, I yield 5 minutes, and I would permit the Senator from Wyoming and the Senator from Illinois to resolve who is to be recognized first.

Mr. HANSEN. Mr. President, I shall be happy to have the Senator from Illinois go first.

Mr. BIBLE. I understand the Senator from Illinois wishes to speak against the amendment. Is that correct?

Mr. PERCY. Yes.

Mr. BIBLE. I am glad to yield 5 minutes to the Senator.

Mr. PERCY. I thank my distinguished colleague.

Mr. President, I am opposed to Senator DOLE's amendment to increase the speed limit on the Nation's highways to 60 miles per hour. Although the 55-mile-per-hour speed limit has been in effect for only a few months, we have already realized very significant benefits from the reduced limit.

The first benefit, and the one which the lower limit was intended to achieve, has been the substantial saving of our Nation's dwindling energy resources. John C. Sawhill, the Director of the Federal Energy Office, has estimated that if every automobile observed the 55-mile-per-hour speed limit, 125,000 barrels of oil might be saved every day. If all vehicles, including trucks and buses, followed the 55-mile-per-hour limit, a total of 200,000 barrels of fuel would be saved each day.

To put these statistics in more concrete terms, it would require 146 million tons of oil shale rock to produce the amount of oil saved in 1 year by observing the 55-mile-per-hour limit. At the current minimum production cost of domestic crude oil of $5.25 per barrel. the fuel saved in 1 year by maintaining a 55-mile-per-hour speed limit would mean a saving of $383 million. Certainly such a saving in fuel resources and costs is a significant one.

The second major benefit, and one which we really did not foresee when we approved the 55-mile-per-hour limit, is an important saving of human life. In a report released last month, the National Safety Council said that from November 1973 to March 1974 U.S. traffic deaths dropped by some 25 percent over the same period a year earlier. While this percentage figure is impressive in itself, when one realizes that the statistic means we have saved some 4,000 lives already, the importance in human terms is apparent. Four thousand wives, children, parents, husbands are alive today, and to a very great extent, they are alive only because of the 55-mile-per-hour speed limit.

The National Safety Council shows that a driver involved in a crash at 50 miles per hour has a chance for survival four times greater than a driver who crashes at 70 miles per hour. The Council estimates that if 55-mile-per-hour speed limits are observed, 8,000 to 10,000 lives could be saved this year alone.

Obviously, lowered speeds cannot be given full credit for this saving of human life. The fact that the gas shortage lowered traffic volume must also be considered. But statistics indicate that although traffic volume was down, it was not the significant factor in the decline in traffic deaths.

The National Highway Traffic Safety Administration, an arm of the U.S. Department of Transportation, reports that an analysis from 16 States that voluntarily reduced highway speed limits in November showed a decline in deaths of 15 to 20 percent below November 1972. The remaining States, whose drivers were not legally bound to lower speeds in November, showed a decrease in fatalities of only 2 percent. Lowered speed limit States similarly reduced traffic fatalities by more than 30 percent in February, while in States with higher limits, fatalities declined only 2.7 percent. Clearly, reduced speed limits are an overwhelming factor in the decline in traffic fatalities.

Lower speeds logically reduce the severity of injuries in the same manner they reduce the number of fatalities. During January and February, disabling injuries were down 16 percent, and the cost of traffic deaths and injuries to the national economy was down 10 percent—a saving of $200 million in 2 months alone. These statistics are from the National Safety Council.

If, as the experts have estimated, 8,000 to 10,000 lives and 73 million barrels of fuel can be saved each year simply by retaining and enforcing a nationwide 55 miles-per-hour speed limit, I cannot see any justification for raising that limit. I also believe that permanently reduced speed limits will serve as a reminder to all Americans that fuel conservation must continue to rank high in priority, both for the Nation and for individual citizens. I urge my colleagues to recognize the importance of not increasing the speed limit to 60 miles per hour.

I personally favor making the current 55 miles per hour limit a permanent part of American life, and I intend to introduce legislation to this effect in the near future. I have discussed my intentions with the chairman of the Public Works Committee, Mr. RANDOLPH, and my approach has his full support.

I understand also that it would be consistent with the position expressed previously by the distinguished Senator from Vermont (Mr. STAFFORD), who is the ranking minority member of the Subcommittee on Roads and who also has been a leader in this field.

I therefore urge Senators to defeat the *pending* amendment to raise the speed limit on the Nation's highways to 60 miles an hour. What we are talking about is a saving of more American lives per year than we lost in Vietnam. Probably never before have we had a more dramatic demonstration of the wisdom of a policy in so short a time.

Certainly a relaxation of the speed limits today would again say to the Nation that "the energy crisis is over." Mr. President, it is a long, long way from being over. It is going to be with us for a good, long time, regretfully. I think the law should remain as passed by Congress in December.

Mr. JACKSON. Mr. President, I must oppose this amendment for a number of reasons. First, countless studies done by the Department of Transportation and other agencies indicate that maximum *fuel* savings are achieved at speeds of 50 miles per hour, which was the speed limit requested by the President on November 7, 1973. In testimony before the Senate Public Works Committee, Secretary of Transportation Claude Brinegar indicated that some fuel economy could be achieved at 55 miles per hour, but that at speeds of 60 miles per hour, no fuel savings would be realized. At 55 miles per hour, savings of up to 160,000 barrels per day would be realized; yet, the loss in travel time from 60 to 55 miles per hour is only 5 minutes. Thus, on the drive from Kansas City to Wichita, the higher speed limit will make a difference of only 16 minutes driving time.

I could say the same thing about the wide open spaces of eastern Washington, my own State, in order to be fair to the Senator from Kansas.

Second, the National Highway Traffic Safety Administration has clearly demonstrated that lower speed limits have dramatically reduced traffic fatalities. In the month of March alone, for example, there were 25 percent fewer highway deaths than in March of 1973. In Kansas, highway fatalities have dropped 36 percent since the speed limit was lowered.

I might state that in my State of Washington that figure was dropped 22.4 percent.

The PRESIDING OFFICER. The time of the Senator from Washington is expired.

Mr. DOLE. I will yield the Senator 1 minute.

Mr. JACKSON. I thank the Senator. That is 1 mile per hour.

[Laughter.]

It is estimated that with a 55-miles-per-hour speed limit instead of 60, some 12,000 lives can be saved this year. I do not think anyone would dispute the merit of this saving. A gain of 5 minutes an hour in driving time is not worth 1,000 lives a month.

Thus, lowered speed limits have a double advantage, and I must oppose any move to raise speed limits and lessen these benefits merely to gain the convenience of a minimal time saving.

I think it is appropriate now to commend the distinguished Senator from West Virginia (Mr. RANDOLPH) on his statement in opposition to the amendment. He was, indeed, the author of the 55-mile-an-hour speed limit. I commend him most highly

Mr. President, I am deeply concerned about the evolving situation with regard to gasoline supply. Movements of product into the consumption stream, the "apparent demand," which the FEO derives from industry statistics, has climbed steadily since the end of the embargo. At the end of April, gasoline demand stood at almost 6.7 million barrels per day, nearly identical to year-ago levels. There is a real danger that gasoline stocks may be dangerously depleted if this trend continues. We are actually producing less gasoline at refineries now than last year, and making up the additional required to meet demand through imports and stock withdrawals. Rapid stock withdrawals only squander the hard-won savings accomplished during the embargo and threaten to deplete the inventories we will need to carry us through the summer. Imports, of course, are disastrously expensive. In April 1974, the U.S. bill for oil imports was $1 billion higher than in April 1973, according to Commerce Secretary Dent.

According to the May 6 issue of Energy, the FEO is concerned enough about the gasoline supply situation to seriously consider holding May allotments to 90 percent of 1972 levels instead of an expected 95 percent figure. An FEO official is quoted as saying that "We're headed right back to the January gas lines unless we do something about it, and quickly."

Mr. President, this situation only further underscores the need to develop conservation programs that will protect the American consumer from a repeat of this winter's gasoline supply fiasco. I ask unanimous consent that the text of the Energy article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

OIL ALLOCATION NEWS: FEO MAY HOLD DOWN "GAS" SUPPLIES

FEO Administrator John Sawhill is seriously considering holding back part of the May monthly gasoline allocations to states.

Sawhill, who, along with other top FEO officials, is worried about alarming increases in gasoline demand, might make the unprecedented move of holding the May allotments to 90% of the 1972 base period, even though current supplies could meet a 95% allocation.

The 5% cutback would mean about 400-million gallons less gasoline would be available to motorists nationwide.

The reason for the possible supply holdback is that FEO statistics show gasoline demand has been rising dramatically in recent weeks. Over 281-million gallons were consumed during the last week in April—the high for this year. The figure represents a 9% increase over the previous week and is just 1% below 1973 levels for the period.

Current gasoline inventories by primary suppliers (refiners) are about 850-million gallons more than at this time last year. But FEO data shows stocks are dropping more rapidly than normal.

The present prognosis is that, although supplies are adequate for the time being, Sawhill and his aides foresee a very serious and undesirable situation cropping up this summer unless galloping gasoline demand can be checked.

"Apparently what has happened," said one FEO official who watches demand figures, "is that the claims made by our President and (former FEO administrator) Simon that the energy crisis is over have been taken too literally by motorists. They're out driving and buying gas as often as before the problems started. Even the higher prices don't seem to be keeping people from going back to their old habits."

"We're heading right back to the January gas lines unless we do something about it, and quickly," he said.

The plan reportedly taking shape at FEO is that each month, a national minimum gasoline inventory level would be established. The figure would be based on current levels and projected needs.

Each primary supplier would be given minimum inventory levels that he would be required to maintain. Allocations to customers would be based on leftover supplies.

The plan would allow FEO to prevent the problems of the winter from recurring by establishing a "gasoline saving account" which could be drawn upon during emergencies. The account would be filled by monthly withdrawals from available supplies.

The plan's advantage, according to officials, is that it would help insure against future supply emergencies while at the same time promoting conservation by decreasing slightly the volumes of gasoline available at service stations.

Officials say the amount of gasoline diverted for storage under the plan probably would not exceed 5% of monthly supplies.

Allocations staffers note, however, that chances are against the plan being implemented because it probably will not be acceptable to the White House.

"Public reaction might be too strong," one staffer said. "There's already enough heat on them. The last thing they want now is people beating on the door for more gasoline."

There also is some question about whether Sawhill would have the authority to withhold gasoline allocations arbitrarily, even as administrator of the newly-formed Federal Energy Administration.

But Sawhill is said to be determined to avoid a recurrence of the long gas lines and may fight with the White House and, if need be, Congress, to win consent and authority for the new plan.

Mr. JACKSON. Mr. President, we are skating on thin ice. We could have a blowup in the Middle East tomorrow. Let us face it. Our margin between demand and supply is terribly thin. There is every reason to believe that we will have spot shortages this summer. Unless something is done about conservation, the opponents and proponents of the various petroleum measures are in agreement on this. The administration is in agreement on it. The conservationists are in agreement. It is only sensible that we attack this problem in the area where we can probably save the largest amount of fuel from a purely conservation point of view and from the standpoint of humanity and the saving of life.

This country in many ways is in such a hurry that we are not sure what our objective is. I must say that our objective ought to be to save human life first, and then to save energy concurrent with that objective.

Mr. President, I ask unanimous consent that tables showing the percentage of lives saved throughout the United States and a statement from the Federal Energy Office on savings of gasoline be printed at this point in the RECORD.

There being no objection, the tables and statement were ordered to be printed in the RECORD, as follows:

	Estimated traffic fatalities and changes		
	1974	1973	Percent change
January	2,928	3,781	−22.6
February	2,655	3,458	−23.2
March	3,191	4,283	−25.5

ESTIMATED TRAFFIC FATALITIES IN MARCH

State	1974	March 1973	Percent change
Alabama	97	106	−8.5
Alaska	4	7	−42.9
Arizona	49	93	−47.3
Arkansas	42	51	−17.6
California	260	355	−26.8
Colorado	36	44	−18.2
Connecticut	30	42	−28.6
Delaware	4	10	−60.0
Florida	207	252	−17.9
Georgia	107	165	−35.2
Hawaii	11	10	+10.0
Idaho	21	22	−4.5
Illinois	103	156	−34.0
Indiana	73	132	−44.7
Iowa	41	60	−31.7
Kansas	30	47	−36.2
Kentucky	55	85	−35.3
Louisiana	70	88	−20.5
Maine	16	8	+100.0
Maryland	35	62	−43.5
Massachusetts	66	88	−25.0
Michigan	105	180	−41.7
Minnesota	72	87	−17.2
Mississippi	48	93	−48.4
Missouri	68	47	+44.7
Montana	15	26	−42.3
Nebraska	24	33	−27.3
Nevada	9	29	−70.0
New Hampshire	10	6	+67.0
New Jersey	86	104	−17.3
New Mexico	34	44	−22.7
New York	206	239	−13.8
North Carolina	123	138	−10.9
North Dakota	11	10	+10.0
Ohio	125	209	−40.2
Oklahoma	36	72	−50.0
Oregon	38	46	−17.4
Pennsylvania	175	178	−1.7
Rhode Island	5	12	−58.3
South Carolina	63	86	−26.7
South Dakota	7	16	−56.3
Tennessee	127	131	−3.1
Texas	198	326	−39.3
Utah	7	36	−80.6
Vermont	9	8	+12.5
Virginia	96	93	+3.2
Washington	45	58	−22.4
West Virginia	32	27	+18.5
Wisconsin	51	59	−13.6
Wyoming	9	7	+28.6
Total	3,191	4,283	−25.5

DRIVE 55: SAVE LIVES, SAVE GASOLINE

Traffic deaths in March, the first month during which all 50 States observed the 55 mph speed limit, were over 25 percent less than the same month last year, the Federal Energy Office (FEO) observed today.

At the same time, the FEO said, if every automobile on the road traveled at no more than 55 mph, national gas savings would total approximately 125,000 barrels a day.

Figures from the Department of Transportation's National Highway Traffic Safety Administration show that total traffic fatalities in the U.S. in March were 1,092 less than the same month a year ago.

FEO attributes the reduction to lower speed limits and more conservative driving.

In terms of fuel saving, according to FEO, most automobiles get about 28 percent more miles per gallon on the highway at 50 mph than they do at 70, and about 21 percent more at 55 mph than at 70.

If all vehicles, including cars, trucks, and busses, were to travel at speeds no higher than 55 mph, the estimated savings in all fuels would be 200,000 barrels per day.

Newly-appointed FEO Administrator John C. Sawhill has recently sent a telegram to the Nation's governors urging continued enforcement of the 55-mph limit.

Sawhill told the governors that "Speed limits of 55 miles an hour can save hundreds of thousands of barrels of oil per day, not to mention the reduction in the number of Americans injured and maimed by accidents on our highways. I urge you to maintain enforcement of the Nationwide 55-mile an-hour highway speed limit, and to continue moving forward with other energy conservation measures."

Mr. DOLE. Mr. President, I yield 5 minutes to the distinguished Senator from Wyoming.

Mr. HANSEN. Mr. President, I thank the distinguished Senator from Kansas. It seems to me that there is danger, possibly, that this issue could become a dangerous partisan issue. I hope it will not become such. In order to contribute to its nonpartisan character, I may say that I just came from Wyoming, where both the Republican and Democratic Parties have concluded their State conventions. The headlines in both cities where the conventions were held underscored the fact that the gubernatorial candidates called for raising the speed limit to 65 miles an hour.

The Democrats beat the Republicans to the punch. It is my understanding that the Democratic gubernatorial candidate, from Casper, asked, about 24 hours before his Republican counterpart made a similar expression, that the speed limit be raised to 65 miles an hour.

I think the important thing to consider is that, as is true in so many other instances, it really does not make sense to try, in the Halls of Congress, to legislate specifics for each of the 50 States. The reason why that is true is that conditions vary throughout the United States. A significant part of the transportation that can be seen on the highways in the West today is that which comes from the movement of goods by truck. Much of the trucking through Wyoming is on Interstate 80 and on other important 4-lane highways in Wyoming—trucks moving from the West to the East and the South; trucks moving produce from the East to the West and the Southwest, and produce from the Northwest to the South and Southeast. That is the kind of trucking that is particularly penalized by the 55-mile-an-hour national speed limit.

It has been pointed out on numerous occasions that the engineering that is manifest in the average big highway truck transport today takes into account the fact that these highways are built to permit safe passage at speeds considerably in excess of 55 miles an hour. I am told that many of the trucks cannot get into their highest and hence most economical speed ratio until they exceed 60 miles an hour.

In Wyoming, both the major parties, I believe, have gone on record asking that the speed limit be raised to 65 miles an hour. There is nothing at all that says that the State of Vermont, having had a 55-mile-an-hour speed limit before the national 55-miles-an-hour speed limit was imposed by Congress, cannot continue to exercise that 55-miles-an-hour speed limit. So I say to my good friend from Vermont that taking the action that would follow the adoption of the amendment by the Senator from Kansas would not in any way negate the action by the State of Vermont.

The same thing is true for the State of West Virginia. According to the information I have, that State has a 55-mile-an-hour speed limit, and for a good reason, when you consider the terrain. And when you consider the lack of comparability between West Virginia roads and roads in the West and the Plains States, and in the States where there is considerable flat land, I think it is easy to understand why those States have chosen different speed limits.

A good case can be made, and I subscribe to it, for efforts that are important in seeing that we conserve energy, but I say to my good friends on both sides of the aisle that a good case cannot be made for conserving energy by the important trucking industry of the United States if a 55-miles-an-hour speed limit continues.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. I yield 2 minutes to the Senator from Arizona.

Mr. FANNIN. Mr. President, naturally we are all concerned regarding safety on the highways. I have had a vital interest in that program for many years, having served on the National Governors' Conference as chairman of that committee.

Still, when we start analyzing what is involved in going from 55 miles an hour to 60 miles an hour, I do not think we really can agree on the differences involved in that 5 miles an hour.

I think the record will show that during the period of time in which these figures were compiled, there was much less travel on interstate highways, and so the speed involved in interstate travel is a great factor.

I give as an illustration a project that was operated several years ago through the cooperation of the States between Chicago, Ill., and Los Angeles, Calif.

Arizona happened to be one of the participants.

In that particular project, there was a highway patrolman stationed every 14 miles or so, for a test period of approximately 30 days, just to determine what would happen if there was a strict patrol.

They found that the number of accidents on the highways dropped immeasurably. Why? It was not that the automobiles were observing the speed limit, which was 60 miles an hour. The basis for the cut-back in fatalities and the number of accidents was the inspections made. A car was stopped if a driver had been driving for too long a period; he was cautioned that he should not continue driving. If the vehicle were a truck operating in interstate commerce, the driver would be subject to penalties.

But here the real discussion is whether 60 miles an hour is a safe speed to travel. It certainly is, as has been brought out very forcefully by the Senator from Wyoming.

Trucks and interstate buses are very much involved in this particular matter, since they have gear ratios that do not go into high gear until they reach 50 or 55. At cruising speeds, they are operating around 60, and there is at that speed a saving of a considerable amount of fuel.

I think we must take into consideration that during that period of time, when there was less interstate travel, it was a different situation.

The **PRESIDING OFFICER**. The Senator's time has expired.

Mr. **DOLE**. Mr. President, how much time do I have remaining?

The **PRESIDING OFFICER**. The Senator has 5 minutes.

Mr. **DOLE**. Mr. President, I think it is interesting to note that there is a difference of opinion. I modified my amendment specifically to make this discretionary for those States which wanted to retain 55 miles an hour. As pointed out by the distinguished Senator from Wyoming, 55 was the noninterstate, open highway speed limit in West Virginia before the rest of the States were required to lower their speed limits to 55. So I can understand why there is no great desire there to change it. But the open highway, nonfreeway speed limit in Idaho was 60, for example, Wyoming 65, Nebraska 65, Oklahoma 65, Colorado 60, Alabama 60, Maine 45 where posted, New Mexico 70, Texas 70, Delaware as low as 45, New York 55 where posted. And most interstate limits were 65, 70, or even 75. So I can understand that some States never had to reduce their speed limits. Some States, such as Kansas and other Plains States I have mentioned, were required to reduce their freeway and regular highway speeds 10 or 15 or even 20 miles an hour.

And in commonplace travel of 100, 200, or as much as 400 miles or more per day, this 55-mile speed limit is an unquestioned irritation, inconvenience, and source of frustration. Just ask anyone who has to do it, and you will see. A traveling salesman, a truckdriver, a farmer will tell you that the difference between 70 or 65 miles per hour and 55 makes a great deal of difference in his daily life.

Certainly I am concerned about the safety factor and do not wish to stand on the floor of the Senate and advocate that we go out and raise the speed limits to kill more people. If that were the intention, perhaps we ought to lower the speed limits to 25, and assure that perhaps no one would be critically injured on the highways. I simply suggest that, considering the cross-country truck situation, and the conditions in the broad open spaces which we have in Kansas and most other States, 60 miles an hour is a reasonable speed.

Having been in Kansas during the last weekend, I can say that a great many people are trying to abide by the limit of 55 miles an hour. A great many people spend much of their time when driving looking through the rearview mirror to see where the highway patrolman is. That causes a great deal of nervousness on the part of the driver, and with that great pressure on drivers, I can see where the accident rate might increase.

I am aware of the energy problems. But it occurs to me that we should do things for the American people to help them get more energy. So far, we have not. We have passed the year-round daylight saving time measure, which has not produced—or saved—any energy. A lot of people were stumbling around in the early morning winter hours in the dark. We passed year-round daylight saving time, which has not saved any energy, and the second thing we have done is impose a speed limit of 55 miles an hour.

Mr. President, I do not suggest that we have no energy problems, but I am suggesting that by permitting a discretionary increase in the speed limit from 55 to 60, we can provide an appropriate measure of relief. One great saving was made in reducing the speed limit from 75 and 70 to 55, but the increase from 55 to 60 miles per hour will not really add all that much additional fuel consumption.

I can understand those who feel that we are on a very grave, delicate balance. Some wanted to impose rationing last December, as I recall. Fortunately that did not come to pass. But I can also say that for anyone who lives in an area of the country with broad open spaces, 60 miles an hour is a safe, reasonable, and psychologically acceptable limit.

All the Senator from Kansas is suggesting is that we all want to conserve fuel, and Kansas and other States are willing to conserve and do their fair share, but we believe that while 55 miles an hour might be enough in West Virginia to drive through its mountains—which might be too fast, for that matter—60 miles an hour is not too fast in Western Kansas and other States like Wyoming, Arizona, Idaho, Alabama, and other States across this great Nation.

The **PRESIDING OFFICER** (Mr. McCLURE). All time on the amendment has now expired.

The question is on agreeing to the amendment of the Senator from Kansas (Mr. DOLE), as modified (No. 1266).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. **ROBERT C. BYRD**. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from North Dakota (Mr. BURDICK), the Senator from California (Mr. CRANSTON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Louisiana (Mr. LONG), the Senator from Utah (Mr. MOSS), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that the Senator from Rhode Island (Mr. PASTORE) is absent on official business.

On this vote, the Senator from Louisiana (Mr. LONG) is paired with the Senator from Rhode Island (Mr. PASTORE).

If present and voting, the Senator from Louisiana would vote "yea" and the Senator from Rhode Island would vote "nay."

I further announce that, if present and voting, the Senator from North Dakota (Mr. BURDICK) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "nay."

Mr. **GRIFFIN**. I announce that the Senator from Florida (Mr. GURNEY), the Senator from New York (Mr. JAVITS), the Senator from Kansas (Mr. PEARSON), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I also announce that the Senator from Alaska (Mr. STEVENS) is absent on official business.

I further announce that, if present and voting, the Senator from Florida (Mr. GURNEY) would vote "yea."

The result was announced—yeas 29, nays 52, as follows:

[No. 191 Leg.]

YEAS—29

Abourezk
Allen
Bayh
Beall
Bellmon
Cook
Cotton
Curtis
Dole
Dominick
Eagleton
Ervin
Fannin
Goldwater
Griffin
Hansen
Helms
Hruska
Huddleston
Hughes
McClellan
McGovern
Metcalf
Montoya
Scott, Hugh
Scott,
  William L.
Taft
Thurmond
Young

NAYS—52

Aiken
Baker
Bartlett
Bennett
Bible
Biden
Brock
Brooke
Buckley
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Domenici
Fong
Hart
Hartke
Hatfield
Hathaway
Hollings
Jackson
Kennedy
Magnuson
Mansfield
Mathias
McClure
McGee
McIntyre
Metzenbaum
Mondale
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Sparkman
Stafford
Stennis
Stevenson
Talmadge
Tunney
Weicker
Williams

NOT VOTING—19

Bentsen
Burdick
Cranston
Eastland
Fulbright
Gravel
Gurney
Haskell
Humphrey
Inouye
Javits
Johnston
Long
Moss
Pastore
Pearson
Stevens
Symington
Tower

So Mr. Dole's amendment No. 1266, as modified, was rejected.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. RANDOLPH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEAVE OF ABSENCE

Mr. MANSFIELD. Mr. President, I ask the consent of the Senate to be absent from the Senate on official duties at the conclusion of the vote on the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. I shall miss the vote on the veterans educational program, S. 3398. If I were here, I would vote for the legislation. But our colleagues from Mexico, members of the Mexico-United States Interparliamentary Delegation, will arrive at Dulles Airport at 4:45 p.m. I think it is my duty and my responsibility to be there with whatever other Senators may be present officially to greet our guests.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, May 13, 1974, he presented to the President of the United States the enrolled bill (S. 514) to amend the Act of June 27, 1960 (74 Stat. 220), relating to the preservation of historical and archeological data.

TEN-YEAR DELIMITING PERIOD FOR PURSUIT OF EDUCATIONAL PROGRAMS BY VETERANS, WIVES, AND WIDOWS

The PRESIDING OFFICER (Mr. McClure). Under the previous order, the Senate will now proceed to the consideration of S. 3398, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 3398) to amend title 38, United States Code, to provide a ten-year delimiting period for the pursuit of educational programs by veterans, wives, and widows.

Mr. MANSFIELD obtained the floor.

Mr. MANSFIELD. Mr. President, I yield to the Senator from Colorado.

Mr. DOMINICK. Mr. President, I just want to tell my colleagues that I received a call from Senator Javits, who unfortunately is unable to be here until about 7 o'clock tonight. He has asked me to handle the time on the bill on the minority side, I say to the distinguished majority leader.

Mr. MANSFIELD. Mr. President, there is a half-hour limitation on this bill. A number of Senators and Representatives are due to go to Dulles Airport to greet our colleagues from Mexico, the Mexican delegates to the 14th Mexican-United States Interparliamentary Conference, which will start tomorrow morning.

I understand that those who have indicated that they would like to speak on the pending business, the veterans' education bill, have stated that they would not be adverse to having a rollcall vote, say, within 5 minutes. I therefore ask unanimous consent that the time be reduced to that time and that the vote occur at the end of 5 minutes.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there objection to the unanimous consent request? Without objection, it is so ordered.

TWO-YEAR EXTENSION OF GI BILL BENEFITS

Mr. HARTKE. Mr. President, as chairman of the Committee on Veterans' Affairs it is my privilege to urge the Senate to approve S. 3398 which I introduced on April 29, with every member of the committee and 51 other Senators as cosponsors.

Briefly, S. 3398 has three major purposes. First, the bill would extend from 8 to 10 years the period of time following discharge or release from military service within which an eligible veteran may utilize his educational assistance benefits. Second, it extends from 8 to 10 years the eligibility period for wives of totally and permanently disabled veterans and widows of veterans who died of service-connected causes, to utilize their educational assistance benefits authorized under chapter 35 of title 38. Finally, the bill would exclude in computing the delimiting period for educational benefits for certain veterans who were prisoners of war in the Vietnam theater of operations any time spent in captivity and subsequent hospitalization.

Currently, a veteran or other eligible person has an 8-year period following discharge or release from service in which to use educational assistance benefits earned while in service. As my colleagues are aware, following 7 months of committee hearings and consideration the House of Representatives on February 21 passed H.R. 12628, a comprehensive measure amending educational assistance benefits.

Included in that measure, which passed by a vote of 382 to 0, were the same provisions extending the time period which are included in the bill before you today. These provisions are also part of the Senate committee's own bill, S. 2784, the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as well as other measures pending before it which have been considered in hearings this past March and April.

Initially it had been my hope that a measure could be agreed to by the Senate and then resolved in House-Senate conference hopefully for the President's signature so that there woud be adequate time to implement a 2-year extension for those veterans whose eligibility expires on May 31. But now this seems increasingly unlikely. Indeed, the Veterans' Administration has informed the committee that to insure that no veteran is adversely affected they will need legislative authority by May 14, next Tuesday.

In the meantime, time must be set aside for deliberation and consideration on the floor of the Senate for various amendments being proposed this year to the GI bill. In addition, past experience indicates that a sufficient period of time will be needed by the House and Senate to reconcile their differences. Thus, it is necessary to act separately and immediately on the 2-year extension to make sure that no veteran has his benefits cut off.

Mr. President, at the same time I am keenly aware of the need to move promptly on an overall comprehensive bill. The House has previously acted on February 21 and now awaits final Senate action. I am also aware that the Veterans' Administration needs time to gear up for amendments made and that veterans need to be able to make plans for the fall semester. I have discussed the matter with other members of the Committee on Veterans' Affairs which I am privileged to chair, and they agree that it is important to press forward quickly on the overall comprehensive measure. I want to assure my colleagues that it is my intention to move rapidly so that the comprehensive measure can be ready for full Senate consideration by the end of this month. I plan to do everything within my power to speed early responsible consideration of all pending amendments to the GI education program this year.

Mr. President, the committee has received expressions of support of our action on S. 3398 from several veterans' organizations. A telegram was received this morning from the National Association of Concerned Veterans, which represents over 200,000 Vietnam era veterans. The American Legion and the Veterans of Foreign Wars have also given the committee assurances of their total support of the swift passage of S. 3398. If there is no objection I ask unanimous consent to have printed in the Record at this point the telegram from the National Association of Concerned Veterans.

There being no objection, the telegram was ordered printed as follows:

May 9, 1974.

Hon. Vance Hartke,
Chairman, Senate Committee on Veterans' Affairs, Washington, D.C.

Dear Chairman Hartke: The National Association of Concerned Veterans, NACV, appreciates your introduction and Committee approval of S. 3398. This bill, if enacted, would prevent the scheduled loss of GI Bill education and training benefits for post Korean and Vietnam Era veterans.

Since current law prescribes the end of this month as the beginning of a cut-off of veterans' eligibility, the NACV is pleased by your Committee's swift provision of a two year extension. The NACV also realizes the gravity of this situation in that if Congress does not approve such an extension very soon, as many as 30 percent of the current GI Bill enrollees will start losing their benefits on May 31, 1974.

The NACV is aware that the Senate Committee on Veterans Affairs is considering major overall provision in today's Veterans Readjustment and Employment Assistance in S. 2784 and related bills. Our organization is cognizant of the fact that the Committee cannot report out the omnibus GI Bill amendments at this time. However, we are confident, after this separation of the extension of eligibility issue into S. 3398, that the Committee will move with great haste to report major GI Bill amendments.

Therefore, the NACV thanks you and the 59 cosponsors of S. 3398 for this action and we encourage expeditious Senate and House of Representatives approval.

Respectfully yours,

JAMES M. MAYER,
President.

Mr. HARTKE. The need to act separately and solely on a 2-year extension is thus apparent. At this time I would like to express my appreciation to the distinguished ranking minority member (Senator HANSEN) for his assistance in the timely consideration of this measure. I would also like to express my pleasure that such a large number of my colleagues have seen fit to act with the committee on S. 3398 including Senators MCGOVERN, MATHIAS and INOUYE who have shown an active interest in seeing that this legislation receives swift and favorable action.

Mr. President, I ask unanimous consent that appropriate excerpts from the committee report to S. 3398 which provides further detailed explanation of the committee's action be printed in the RECORD at this point.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

BACKGROUND AND DISCUSSION OF S. 3398

NEED FOR LEGISLATION

Veterans training under the current Vietnam era GI bill have 8 years within which to utilize their educational assistance benefits. Subsection (a) of section 1662 of title 38, United States Code, currently provides that:

"No educational assistance shall be afforded an eligible veteran in this chapter beyond the day 8 years after his last discharge or release from active duty after January 31, 1955."

Post-Korean conflict veterans who served after January 31, 1955, and who were discharged prior to June 1966, were made retroactively eligible for educational assistance benefits when the current GI bill was first authorized by Congress in Public Law 89-358. Thus, for those veterans the 8-year "delimiting period" runs from June 1, 1966, the effective date of the Act. With limited exceptions approximately 4 million post-Korean veterans currently eligible for educational assistance benefits will become ineligible on May 31, 1974, the eighth anniversary of the current GI bill. The following table shows the number of veterans affected by date of their discharge prior to 1966:

TABLE 1.—*Net separations from military service, 1955–66*

Fiscal year:	*Veterans separations*
1955 [1]	4,000
1956	26,000
1957	156,000
1958	383,000
1959	399,000
1960	434,000
1961	388,000
1962	375,000
1963	465,000
1964	507,000
1965	495,000
1966	507,000
Total	4,139,000

[1] 2d half of fiscal year only.

Of that number, the Veterans' Administration estimates that approximately 530,000 will have been in training during the current fiscal year. This includes 387,000 post-Korean veterans who served between 1955 and 1964 and an additional 143,000 Vietnam era veterans discharged in fiscal years 1965 and 1966. As of May 31, it is estimated that 285,000 veterans, subject to the immediate cutoff of benefits will actually be in training at the time. Others have finished their spring college semester prior to that date or have completed short-term vocational training.

Approximately 55.8 percent of veterans in training this year who are affected by the May 31 cutoff date were enrolled in college level training. Veterans enrolled in correspondence courses comprised another 25.9 percent of the total with 4.3 percent participating in on-job training and the remaining 14 percent enrolled in other post-secondary vocational education.

The following table shows the number of veterans by type of training affected by the May 31 date who are in training or who have trained under the GI bill since eligibility was first authorized in 1966.

TABLE 2.—TRENDS IN PARTICIPATION IN GI BILL EDUCATION PROGRAMS BY VETERANS DISCHARGED, 1955-66

Type of education	Participation by fiscal year								
	1967	1968	1969	1970	1971	1972	1973	[1] 1974	[1] 1975
Institutions of higher learning	305,825	312,503	250,625	242,541	258,164	275,624	294,006	315,000	297,000
Below college level	60,719	70,771	59,682	51,379	58,593	63,674	66,878	70,000	60,000
Correspondence	43,263	93,284	98,498	106,860	116,265	137,026	146,422	145,000	143,000
Total	409,807	476,558	408,805	300,780	433,022	476,324	507,306	530,000	500,000

[1] Estimate.

Probably no one amendment to the current GI bill program has occasioned more mail or comment this year than the proposed extension of the time period within which to utilize GI bill benefits. In establishing GI bill benefits, Congress declared in section *1651 of title* 38, United States Code, that:

"The Congress of the United States hereby declares that the education program created by this chapter is for the purpose of (1) enhancing and making more attractive service in the Armed Forces of the United States, (2) extending the benefits of a higher education to qualified and deserving young persons who might not otherwise be able to afford such an education, (3) providing vocational readjustment and restoring lost educational opportunities to those service men and women whose careers have been interrupted or impeded by reason of active duty after January 31, 1955, and (4) aiding such persons in attaining the vocational and educational status which they might normally have aspired to and obtained had they not served their country."

In carrying out the purposes outlined above, Congress established an eight-year period within which a veteran could utilize benefits to accomplish his "readjustment" to civilian life. Though it would appear on first impression that an eight-year period is a sufficient period of time for a veteran to complete his educational training, testimony before the Committee indicated a variety of factors which have prevented many veterans from fully utilizing their benefits before the cutoff date. The Committee believes the primary reason for non-utilization of benefits prior to the expiration of eight years has been the inadequate level of benefits. As originally enacted in 1966, a single veteran received $100 a month for full-time training which was $10 a month less than a veteran received 14 years prior under the Korean war program in 1952. The following table shows the level of benefits available to a veteran since 1966:

TABLE 3.—FULL-TIME EDUCATIONAL ASSISTANCE RATES UNDER THE GI BILL SINCE 1966

Year	Number of dependents			Each dependent above 2
	None	1	2	
1966	$100	$125	$150	
1967 [1]	130	155	175	$10
1968	130	155	175	10
1969	130	155	175	10
1970 [2]	175	205	230	13
1971	175	205	230	13
1972 [3]	220	261	298	18
1973	220	261	298	18
1974	220	261	298	18

[1] Public Law 90-77, effective Aug. 31, 1967.
[2] Public Law 91-219, effective Mar. 26, 1970.
[3] Public Law 92-540, effective Sept. 1, 1972.

Thus, many veterans were financially unable to attend school until just recently when rates have achieved a more adequate level.

As a result, the overall GI bill participation rate for eligible veterans discharged prior to 1966 is lower than for those discharged after that date. Further, post-Korean veterans who have enrolled in training reflect a lower college participation rate.

The median age for veterans first entering training is higher for the pre-1966 veteran (25.8 years) than for those discharged after 1966 (24.5 years). And, there is a greater likelihood that he will be enrolled in less than full-time training. All of these factors were considered by the Committee in its decision to extend the period within which to use benefits.

That participation bears a close relationship to the level of benefits is reflected in part by the number of post-Korean veterans in training today. The number of those veterans in training for this year (530,000), and for the preceding fiscal year (507,306), were greater than the number in training in any other single year since eligibility was first granted in 1966 as reflected in table 2 cited previously.

Indeed, in comparing the number of veterans in training in November 1972 with those in training in November 1973, the most striking change occurred with regard to post-Korean conflict veterans who registered a 17.2 percent increase. By contrast, those in training in November 1972 had reflected an increase of only 0.9 percent over the previous November 1971.

The lack of adequate and aggressive outreach programs by the Veterans' Administration or other organizations also has a bearing on participation of veterans discharged prior to 1966 who were often unaware that they were granted benefits retroactively. Many will be unable to relate the opportunities available under the bill to their present lives. It was only recently that many have been reached by outreach workers. The Veterans Cost of Instruction Program under the Higher Education Act, for example, did not really begin until the fall of 1973. Consequently veterans prior to that time were not the subject of college concern and were reached primarily by printed brochures from the Veterans' Administration and scattered outreach programs.

As the Veterans of Foreign Wars noted in their testimony before the Committee regarding veterans who were discharged between 1955 and 1966:

"In this group, many of them of course came from economic and social groups that did not have much education or much money. Many of them are attending college for the first time in their lives. This deadline is more important to them."

In this connection it should be noted that an examination of veterans enrolled in training revealed that those who were discharged prior to 1966 have a higher percentage of non high school graduates (21.0 percent) than those discharged after 1966 (13.9 percent).

A veteran affected by the May 31 cutoff date wrote in a letter that:

"I graduated from high school in June of 1960 and June 24 of that same year I entered the United States Air Force. In August of 1962, because of medical reasons I was discharged. Since that time I have been employed as a driver salesman for the Detroit area beer distributor. I have recently enrolled in a night-time college program.

"Up until this time I have not had the opportunity to use any of my benefits. Now that I have begun I am very enthusiastic about a chance to better myself.

"I would never have believed that after being out of school for so many years I could do the amount of work that I have accomplished so far. I do now believe that an education is something that no one can take away from you. But, in order to obtain my degree, the benefits would need to be extended from eight to ten years.

"The job opportunities awaiting me when I obtain my degree are vast. The chances to better myself and my family are important to me. Your support will be appreciated by all of us."

Another veteran who served during the Berlin crisis noted that he had moved several times since his discharge from the service and that this among other factors had precluded him from entering educational training. He is now enrolled as a part-time evening law student. He wrote the Committee to say:

"Needless to say, financial assistance from my GI Bill has substantially underwritten my cost of attendance. As the father of five children maintaining a household, funds for educational programs are hard to come by. I am sure you will recognize that my situation is not unique and is shared by many other veterans who are just recently taking full advantage of the expanded benefits available to them."

A third veteran wrote:

"I entered Morningside College, Sioux City, Iowa, on probation. But, 21 months later I have completed 90 semester hours with a grade point average of almost 3.6 on a 4.0 scale. I did this while working 30 to 40 hours a week to support my family. My wife also worked outside the home and the children helped any way they could. Needless to say, the GI Bill was the basis which made this possible. In May of this year, I will have eight months of eligibility left on the GI Bill. The time limit will prevent me from using it . . . How many others are in a similar position? In the middle of their education facing the cut-off due to time limit, an ever increasing inflation is eating up all available savings and making it impossible to live on part-time earnings."

In addition to the thousands of letters received from individual veterans the Committee received strong testimony from all major veterans organizations and educational associations. Dr. Charles Palmer, Executive Director of the South Carolina Comprehensive Technical Education Board testified that:

"As of May 31 there will be substantial numbers of veterans in South Carolina who will no longer be eligible to continue their training program. It will be an awful waste if they cannot complete that which they have started. It will be worse for veterans who have not yet started if they are not given an opportunity to continue without interruption in the program of his or her choice."

The Adult Education Association in a resolution urging the extension for two years of GI bill benefits noted that:

"Veterans of this age group as well as persons of all age groups now have a greater opportunity for basic adult education and post secondary education than was available during and immediately following the 1955 to 1966 period; and, because of new concepts and implementation in the area of adult and continuing education, many of the veterans of this group can now be served educationally more readily and more effectively than at any previous time; and that period of time from now until June, 1974 is not adequate to complete effective educational service."

Thus, men who held off getting an education, hoping either to save enough money to supplement an inadequate GI bill or hoping Congress would recognize the need for more realistic assistance have found themselves running out of the allotted time period before they were in such a position.

Need for immediate action on extension of time period

The need to act promptly on S. 3398 is important. The Committee has been informed by the Veterans' Administration that to insure that there is no break in the continuity of training and in educational assistance payments that legislation should be enacted prior to May 14, 1974. Assuming that legislation is enacted by that date, the Committee has been informed that the VA computer system will be ready to produce listings of veterans who will be in training because of the extension.

Within approximately 6 days following the authorization to proceed, a Veterans' Administration computer will have generated and there will have been sent to the various VA regional offices individual lettersize write-outs identifying each veteran affected. This, in turn, will require the manual identification and pulling of each of the estimated 285,000 claims files. Each file will have to be examined to determine, from information contained therein, the new period of entitlement to benefits for each veteran.

Upon making the determination, the proper VA official in the regional office will then have to make an award of an abbreviated award form. These award forms, following completion will be sent in batches to the VA center, Hines, Illinois, for processing. It is anticipated that a benefit check will be sent to the veteran within 5 to 7 days following the processing of the award by Hines.

Considering the many complicated and time-consuming steps involved in extending this period for those veterans in training who will lose their benefits at the end of this month without any break in benefits, the Committee again stresses the need for swift enactment of S. 3398 by May 14.

Extension of time benefits for eligible wives and widows training under chapter 35

In addition, S. 3398 would amend section 1712 of title 38, to extend the current 8-year delimiting date for maintaining eligibility for educatonal assistance under chapter 35 for the widow of any veteran who died of a service-connected cause, and the wife of any veteran who has a total, permanent service-connected disability. Also covered are the wives of any members of the uniformed services serving on active duty who, at the time of application for benefits under this chapter are listed for more than 90 days as missing in action, captured in line of duty by a hostile force, or forcibly detained or interned in line of duty by a foreign government or power.

As of March 31, 8,234 wives and widows were in training receiving benefits under chapter 35. There is presently no data on the number of persons who would be ineligible to continue receiving these benefits past May 31, 1974. However, the Committee believes it necessary and equitable that these women whose husbands sacrificed their lives or their ability to support their families be given the same opportunity and time limits to gain an education and provide for their livelihood.

Extension of time period for veterans held as prisoners of war

Also included in this bill is a provision which would exclude, in computing the delimiting date for those veteran-civilians held as prisoners of war in the Vietnam theater of operations, the period of time during which they were detained, plus any period of time they were hospitalized immediately subsequent to their release.

Included among the prisoners of war released last year were 24 repatriated civilian prisoners, of whom 17 are veterans who had military service which could otherwise qualify them for VA educational benefits. These individuals, through circumstances beyond their control, have been unable to utilize this potential entitlement. This provision would, in the case of these 17 individuals, exclude, in computing their delimiting date for utilizing their entitlement, those periods of time during which they were detained and were unable to use their benefits, plus any period of hospitalization they were required to undergo immediately subsequent to their release from detention.

This provision is entirely equitable and fully justified in the case of this limited group of individuals. This provision, too, was approved by the House of Representatives and is endorsed by the Veterans' Administration.

COST ESTIMATES

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91-510, 91st Congress) the Committee has attempted to estimate the fiscal impact of a two-year extension of the time period within which veterans and eligible wives and widows may utilize their educational assistance benefits. In connection with the two-year extension and other amendments proposed in S. 2784, the Committee on December 10, 1973 requested the Veterans' Administration to estimate the "five-year fiscal cost of the bill as contemplated by the Legislative Reorganization Act of 1970 together with information as to how you computed the cost."

On March 28, 1974, the Veterans' Administration in responding to this request reported to the Committee that it estimated the fiscal 1975 cost of a two-year delimiting date extension would be $179.1 million decreasing to $80.5 million at the end of five years. The following table indicates the number of veterans who, it is anticipated, will train and the cost for the first five fiscal years as estimated by the Veterans' Administration.

TABLE 4.—MAR. 28, 1974, VA ESTIMATES OF 5-YR COST OF 2-YR EXTENSION OF DELIMITING DATE

	Trainees	Direct benefits cost (millions)
Fiscal year:		
1975	118,000	$179.1
1976	98,000	148.8
1977	44,000	66.8
1978	52,000	78.9
1979	53,000	80.5
Total 5-yr cost		554.1

The formula for estimating the cost of extension of delimiting date was explained in the following table prepared by officials at the Veterans' Administration:

Formula for estimating costs of extension of delimiting date

A. Actual statistics show that between *fiscal year 1955* and fiscal year 1966 there were 4,139,000 net separations from service (total separations minus re-enlistments equals net separations). In fiscal year 1967 there were 533,000 net separations. Thus, from fiscal year 1955 through fiscal year 1967 there were 4,672,000 net separations.

B. Using past experience to determine how many will enter training within their 8-year period, we estimate that 1,769,000 of the total will enter training during that time. It is further estimated that of the 1,769,000, 5% would train in the ninth year, or about 88,000. It is also estimated that of the remainder of 2,900,000 who did not train in their 8-year period, 1% would be induced to enter training with the delimiting date being extended to 9 years. Thus, it is estimated that during the ninth year 117,000 (88,000 plus 29,000) will train.

C. In fiscal year 1968 there were 745,000 net separations of which it is estimated on the basis of past experience that 381,000 will train in the 8-year period and 364,000 will not enter training.

D. Assuming a 10-year period, based on our estimate of the 1,769,000 who entered training premised upon the fiscal year 195–1966 period, the rate who would train in the second additional year would drop from 5% to 3%, or 52,000 would train in the second additional year. Of the 2,900,000 who did not train in the 8-year period, we further estimate that the 1% figure would drop to ¾ of 1%, giving a net figure of 23,000. The number of trainees from the fiscal year 1968 separations would amount to 23,000 (5% of 381,000 who will have trained and 1% of those did not train). Therefore, the total number of trainees in the 10th year would amount to 98,000 (52,000 plus 23,000 plus 23,000).

E. Premised on this formula, and assuming either a 9-year or 10-year delimiting date, we arrive at the following number of trainees by fiscal year who would be expected to train:

	9-years	10-years
Fiscal year—		
1974	0	0
1975	117,000	117,000
1976	23,000	98,000
1977	29,000	43,000
1978	33,000	52,000
1979	32,000	53,000

Note: There would be no new trainees estimated for fiscal yrar 1974 since the 8-year delimiting date on anyone discharged prior to June 1, 1966, does not run out until May 31, 1974. The number of trainees in fiscal year 1978 and fiscal year 1979 rises because of the number of discharges in fiscal year 1970 and fiscal year 1971 exceeded the number of discharges in fiscal year 1969.

On May 6th, the Veterans' Administration reported on S. 3398 and submitted an additional report to S. 2784 to the Committee which sharply revised the cost estimates upward for a new first year fiscal cost of $618.5 million over their previous estimate of $175.9 million.

In attempting to explain the discrepancies, the Veterans' Administration reported to the Committee that:

"In developing the original cost estimates of a potential 2-year extension, nearly a year ago, we assumed that 5 percent of those who would have entered training by the end of the 8-year eligibility period would continue to train in the 9th year and that 3 percent would continue into the 10th year. We also assumed that 1 percent of those who would not have entered within 8 years would train in the 9th year and .75 percent would train in the 10th year. The result was an estimated 113,000 trainees during fiscal year 1975. This figure was later updated to 118,000 trainees to parallel the upward revisions in our estimates and to reflect the numbers subsequently shown in our 1975 congressional budget submission. At that time, we were unable, due to time constraints, to review the basic assumptions.

"Upon later reevaluation, we observed that the number of post-Korean peacetime trainees had increased from 367,000 in 1972 to 395,000 in fiscal 1973. Based upon this fact, we concluded that many of these older veterans were making an effort to enter training before the expiration of their 8-year delimiting period. This was also confirmed by other reports showing an increase in entry rates for this group.

"A special study and tabulation was made by a VA research group, the results of which were not available until the end of March 1974. This special study provided our first training count of those Vietnam veterans separated before enactment of the current law (between August 4, 1964, and June 1, 1966). The study estimated that adding these early Vietnam veterans to the post-Korean peacetime veteran total would produce a count of 388,000 in training as of the end of February 1974.

"Having expanded the 388,000 to reflect the entire 1974 fiscal year, we now estimate that between 500,000 and 600,000 persons will have trained during the year whose entitlement will expire on May 31, 1974. Applying our latest data on entry and retention rates, and considering the new data provided by the special study, we now estimate that a revised total of 500,000 trainees will avail themselves of the extended entitlement during fiscal year 1975. This revision necessarily required a revision in the cost estimate premised upon this increased number of individuals who we now anticipate may utilize training under a 2-year delimiting date extension."

Thus, the Veterans' Administration revised estimates for the five-year cost of a two-year delimiting extension are as follows:

TABLE 5.—MAY 6, 1974, VA ESTIMATES OF 5-YEAR COST OF 2-YEAR EXTENSION OF DELIMITING DATE

[Dollar amounts in millions]

	Trainees	Direct benefits cost
Fiscal year		
1975	500,000	$759.1
1976	500,000	759.1
1977	311,000	472.1
1978	379,000	575.4
1979	396,000	601.2
Total 5-year cost		3,166.9

The foregoing estimates were based on a four-percent sample of the Education Master File taken November 1973. Subsequent to the May 6th report, the Committee has now been informed that a 10-percent sample has been taken and that further revisions in the number of veterans estimated to be in training will be forthcoming. The numbers estimated in training, based upon the new 10-percent sample is expected to be less than those provided in the May 6th report. If such is the case, the cost estimates by the Veterans' Administration on May 6th could be substantially less than presently contemplated. Given the foregoing, the Committee is without sufficient information to make a final determination as to the exact cost of the enactment of this proposal.

TABULATION OF VOTES CAST IN COMMITTEE

Pursuant to section 133(b) of the Legislative Reorganization Act of 1946, as amended, the following is a tabulation of votes cast in person or by proxy of the Members of the Committee on Veterans' Affairs on a motion to report S. 3398, without amendment, favorably to the Senate:

Yeas—9: Vance Hartke, Herman E. Talmadge, Jennings Randolph, Harold E. Hughes, Alan Cranston, Clifford P. Hansen, Strom Thurmond, Robert T. Stafford, James A. McClure.

Nays—0.

SECTION-BY-SECTION ANALYSIS AND EXPLANATION OF S. 3398

Section 1

Clauses 1, 2, and 3 of section 1 would amend section 1662 of chapter 34 of title 38, United States Code, to extend the current 8-year delimiting date for veterans to complete their programs of education to ten years.

Clause 4 of section 1 would add a new subsection (d) of section 1662 of chapter 34 of title 38, which would exclude, in computing the delimiting date for those veteran-civilians held as prisoners of war in the Vietnam theater of operations, the period of time during which they were detained, plus any period of time they were hospitalized immediately subsequent to their release.

Section 2

This section amends subsections (b) and (f) of section 1712 of title 38, United States Code, to extend the current eight-year delimiting date for educational assistance to ten years for wives and widows eligible under chapter 35. Those made eligible to receive an additional two years within which to utilize their GI bill benefits are (1) the widow of any veteran who died of a service-connected cause; (2) the wife of any veteran with a disability rated total and permanent in nature; and (3) the wife of any member of the uniformed services on active duty who at the time of application for benefits under chapter 35 has been listed for more than 90 days as missing in action, captured in the line of duty by hostile forces, or forcibly detained or interned in the line of duty by a foreign government of power.

Section 3

This section amends section 604(a) of the Vietnam Era Veterans' Readjustment Assistance Act of 1972 (Public Law 92–540), to extend the current eight-year delimiting period to ten years for wives and widows eligible under chapter 35 to utilize benefits first granted by the 1972 Act. Public Law 92–540 extended for the first time to chapter 35 trainees, free eligibility for educational assistance to the disadvantaged; eligibility for on-job and apprenticeship training as well as training by correspondence. Section 604(a) granted an eight-year period within which to use these benefits authorized under that Act. Consistent with the general two-year delimiting period extension for other chapter 35 programs the benefits made available by Public Law 92–540 would also be similarly extended by two years.

Mr. HARTKE. Mr. President, I cannot urge too strongly that my colleagues support S. 3398.

Mr. DOLE. Mr. President, I am especially glad that we are considering the extension of eligibility for veterans educational benefits today and I am glad to be counted among the supporters of this measure.

This is why I introduced a bill myself on April 25 to extend eligibility for veterans educational benefits from 8 to 10 years. The measure we are considering today accomplishes the same purpose and I hope any delay can be avoided so that we can give assistance to the thousands of veterans who properly deserve it.

IMMEDIATE PASSAGE NEEDED

It is very timely that the Senate should consider this measure now. The expiration of eligibility on May 31 is growing closer every day. The cutoff date on May 14 for the continued issuance of monthly assistance checks is just around the corner for 285,000 veterans. In the great State of Kansas alone, the estimate of those veterans losing assistance on May 31 reaches as high as one-third of the approximately 12,000 presently attending school.

Several hundred of these veterans have personally expressed to me their concern about getting eligibility extended in time. Many of them would find it impossible to meet the financial requirements of getting an education without VA assistance. These veterans would be forced into the job market, which, as we all know, is already in a strained condition. The unemployment rate for Vietnam veterans is already in excess of 5 percent. If veterans are forced out of school and into the job market, many of them will not be able to find a job. Clearly, every effort should be made to avoid pushing more veterans into unemployment.

EXTENSION JUSTIFIED

As I have stated before, the extension of veterans educational benefits for 2 years is totally proper and justifiable. The explanation hinges on the unrealistically low level of assistance provided in the early years of the Vietnam era GI bill. The monthly assistance rate of $100 per month in 1966 was less than the rate 14 years earlier under the Korean GI bill.

We certainly did not have negative inflation rates between 1952 and 1966. Veterans certainly did not find it less expensive to attend school in 1966 than in 1952. The only explanation is that Vietnam veterans were penalized by the political attitudes in Congress and the administration toward the Vietnam war at that time.

NO PENALTY

It was not until the present administration that substantial increases in the level of assistance were made. It has only been recently that many Vietnam veterans discharged before June 1966 could afford to attend school. To end their eligibility now would deprive them of a more equitable level of assistance which they should have received but could not get years ago when they first became eligible.

Mr. President, we should not penalize veterans just because of the political environment of a given time. They served their country as well as soldiers of any other era. And they deserve an equivalent level of assistance. This is why an immediate extension of eligibility for educational benefits is needed.

IMPROVEMENTS NEEDED

In applauding the substantial increases we have seen in recent years, I do not mean to say that assistance has reached an adequate level. I helped introduce the comprehensive Vietnam era Veterans Educational Benefits Act because I think the GI bill should be greatly improved. The Senate Veterans' Affairs Committee is still investigating the need for educational assistance. It is essential that the committee's scheduled examination of alleged GI bill abuses be completed before the final draft of an improved GI bill is presented to the Senate. In addition, the President's Domestic Council on Veterans' Affairs will report its findings on May 30. This information should be relevant to making improvements in the GI bill and should be considered before a final bill is brought to the Senate for debate.

But of greatest urgency at this time is the extension of the eligibility period. This measure is not controversial and should be passed quickly to avoid unnecessary problems for veterans. Improvements in other aspects of educational assistance need to be made as expeditiously as possible, but not until due consideration has been given them.

Mr. President, I support the extension of the eligibility period for veterans' educational benefits from 8 to 10 years. I hope my colleagues in Congress will join me in extending in a timely fashion the benefits veterans so properly deserve.

Mr. MATHIAS. Mr. President, I am most pleased that the Senate is today acting upon S. 3398, a crucial measure which would extend the eligibility period for veterans educational benefits by an additional 2 years.

As I stated in this Chamber when this bill was introduced on April 29, I believed then and am convinced now that we must speed it through Congress immediately if we are to prevent a disruption of the education and training of more than a quarter of a million veterans whose eligibility will otherwise expire on May 31.

The importance of speedy action by both Houses of Congress is especially obvious in view of the May 14 deadline—tomorrow—which the Veterans' Administration advises us must be met in order to avoid the enormous administrative confusion that would result from a suspension and retroactive reinstatement of the eligibility of these quarter-million veterans.

It is for this reason that I believe it is essential that the House of Representatives join us in prompt action on this measure. I am aware, of course, that many Members of the other Chamber would have preferred to move to direct consideration of H.R. 12628, a comprehensive bill which was passed by the House on February 21 and which includes a provision for a 2-year extension of eligibility similar to the one we are acting upon today.

Nevertheless, events have a way of outstripping even the best of intentions, and it has become necessary for the Senate to consider a number of issues which simply were not addressed in the House bill. In the time since the House acted on February 21, for example, the cost of living has continued to skyrocket, making it necessary for us to consider an increase in the regular monthly GI bill benefits which may well exceed the House-passed level of 13.6 percent. In addition, the unemployment rate for Vietnam-era veterans has undergone an alarming increase, thus posing a problem which must be addressed in any comprehensive legislation we consider. We would also be seriously remiss if we did not consider legislative solutions to a wide range of abuses which have begun to appear under the current GI bill program.

All of these areas deserve careful deliberation and scrutiny by this body as we shape a counterpart to H.R. 12629. These issues and others—such as a proposal for variable tuition payments which I have long advocated—are all worthy of the kind of deliberation which is simply not possible under the gun of tomorrow's deadline.

Therefore, I sincerely hope and trust that the House of Representatives will share with us a firm commitment to the veterans whose eligibility for educational benefits is now in jeopardy, and will swiftly pass this simple extension legislation, sending it on to the President's desk for his signature forthwith.

I am sure that the Members of the other body are well aware of the need to move quickly. I am equally sure that they have no desire to subject these quarter of a million veterans to a period of suspended animation—during which it would be impossible to make any secure educational plans or even to enroll in summer sessions—simply because the House and Senate were unable to come to immediate agreement on issues entirely unrelated to their eligibility to pursue their education and training.

Mr. President, we are acting today on a measure the substance of which enjoys virtually unanimous support in both Houses of Congress. Let us pass it today and speed it on its way to enactment. The other issues concerning veterans educational programs which remain to be considered can and must be resolved within the next several weeks. I am fully confident that the Senate Committee on Veterans' Affairs, under the able leadership of the Senator from Indiana (Mr. HARTKE), will very shortly report out a comprehensive veterans education bill worthy of broad congressional support.

In the meantime, the time to act on this 2-year extension of eligibility is now. I sincerely hope and trust that our distinguished colleagues in the House of Representatives will join us in this effort, and will resist the temptation to hold the eligibility of a quarter of a million veterans as hostage in an effort to shortcut the legislative process and preempt full Senate consideration of an adequate comprehensive veterans education bill.

Mr. McCLURE. Mr. President, I rise in favor of S. 3398, a bill which is designed to extend the time during which a veteran may use his educational benefits from 8 to 10 years.

As the law presently reads, a veteran has 8 years from June 1, 1966, or from the date of his discharge or release from military service, whichever is later, in which to complete his program of education. The maximum educational entitlement to which he is entitled is 36 months, earned at a rate of one and one-half months of benefit for each month of service in the Armed Forces. Eighteen months of active duty entitles a veteran to the full 36-month maximum benefit.

Both Vietnam era veterans and cold war era veterans were made eligible for educational benefits by the latest GI bill. However, benefits were woefully low in 1966 compared to modern educational costs—$100 per month. The Korean GI bill was $110 per month, 12 years earlier. As the subsistence allowance rates increased—$130 in 1967, $175 in 1970, and $220 in 1972—so did the rate of veteran participation.

The Vietnam GI bill did not until recently approach adequacy. Many of the veterans of the cold war era, 1955–64, had committed themselves to jobs, homes, and families. They were not entitled at their discharges to educational benefits. Not until 1970 could many veterans who had been eligible since 1966 begin to take advantage of their available educational benefits. The increase of benefits in 1972 again gave many veterans, especially those with families to support, their first real opportunity to meet the high costs of a college education. And many of these veterans are part-time or night students.

Without a 2-year extension, there will be some 285,000 veterans dropped from the VA's eligibility rolls who are presently taking advantage of their benefits.

Of this number, about two-thirds are cold war era veterans. Our commitment will not be cheap. The first year cost, at present allowance rates, is estimated at $618 million. But such an investment in the training of our veterans is small reward for the freedom our country presently enjoys. I urge you to unanimously support the passage of this 2-year extension.

Mr. EAGLETON. Mr. President, I want to express my support for the bill before us, S. 3398, which would extend from 8 to 10 years the period of time during which a veteran may use his educational benefits.

Under the GI bill, veterans have 8 years following discharge or release from military service within which to utilize their educational benefits. Veterans who served after January 31, 1955, and who were discharged prior to June 1966, were made retroactively eligible for educational benefits when the current GI bill was enacted. For those veterans, the 8-year period runs from June 1, 1966, and expires on May 31 of this year.

Without the legislation we are considering today, approximately 4 million post-Korean veterans who are still eligible for educational benefits will lose their eligibility on May 31. Over a half million of those veterans, including 143,000 Vietnam era veterans who were discharged in 1965 and 1966, have been using their educational assistance during this school year. It is estimated that about 285,000 of this number will be in school at the time of the May 31 cutoff.

A number of factors, foremost among them the inadequate level of assistance under the GI bill, have kept many veterans from utilizing all of the assistance to which they are entitled during this 8-year period. In 1966 the monthly subsistence allowance for a single veteran was only $100. It was subsequently increased to $130 in 1967, $175 in 1970, and $220 in 1972. It was not until 1972 that many veterans who had been eligible since 1966 found it financially feasible to resume their education.

Mr. President, in my view this Nation can make no better investment than in the education of this generation of young men and women. It would be shortsighted indeed if we should now tell thousands of veterans that they can no longer use the educational assistance they have earned by their service to this country.

I also want to make it clear that our action on this bill today in no way implies any diminution of support for legislation to provide vitally needed increases in assistance under the GI bill.

The Senate Veterans' Affairs Committee is now considering H.R. 12628, S. 2784, and S. 2789, all of which would provide increases in monthly assistance allowances substantially above the 8 percent recommended by the administration. S. 2789, of which I am pleased to be a cosponsor, would also provide assistance with tuition costs of up to $600 per year where those costs exceed $400 annually. It is my understanding that the committee will proceed expeditiously with its consideration of these bills.

But it is a matter of the utmost urgency that we act today on this bill so that thousands of veterans in Missouri and across the country will not have their educational assistance terminated on May 31.

I commend the Senator from Indiana (Mr. HARTKE) for bringing S. 3398 to the Senate floor at this time, and I urge its passage by the Senate.

Mr. HANSEN. Mr. President, I rise in support of S. 3398, a bill to extend the time limits for Vietnam veterans to pursue their education. The present law, Public Law 89–358, with an effective date of June 1, 1966, allowed veterans 8 years from date of discharge or the date of enactment of the law.

The intent at that time was to provide educational assistance to veterans who were deprived of an education because of the draft, and also included those who had served between January 31, 1955, and June 1, 1966, who had no education benefits or an opportunity for Government assistance.

Many feel that the 8 years was ample time for a veteran to readjust to civilian life; yet, those veterans who had been discharged prior to June 1, 1966, had more than the military to adjust to. They were released and sought employment and when education benefits were allowed they had to adjust their lives so they could take advantage of these benefits.

In light of this there is some justification for extension of educational benefits, notwithstanding the significant cost to the Government.

The cost of this one provision will apparently exceed the original estimate for the entire education bill as sponsored by the Senate Veterans' Affairs Committee.

However, correspondence received by me and most of my colleagues show that this is the area which deserves our attention. In fact over half of this body has cosponsored this piece of legislation because it is so vital.

Later on, the Senate Veterans' Affairs Committee hopes to bring up additional legislation for Vietnam veterans, but if we are to maintain some semblance of fiscal responsibility, we may have to adjust some of the other phases of the program.

Mr. President, at this time, I ask unanimous consent to insert the report from the Veterans' Administration on S. 3398, and its updated report on S. 2784, the original committee bill.

There being no objection, the reports were ordered to be printed in the RECORD, as follows:

VETERANS' ADMINISTRATION,
Washington, D.C., May 6, 1974.

Hon VANCE HARTKE,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This will respond to your request for the views of the Veterans' Administration on S. 3398, 93d Congress, a bill "To amend title 38, United States Code, to provide a 10-year delimiting period for the pursuit of educational programs by veterans, wives, and widows."

This measure has three purposes. It would provide a 10-year delimiting date for eligible veterans pursuing programs of education under chapter 34 of title 38; it would provide a 10-year delimiting date for eligible wives and widows pursuing programs of education under chapter 35 of title 38; and it would provide an additional period of eligibility for those civilian-veterans detained as prisoners of war by foreign governments.

We favor the third provision set forth in the measure. At the time the prisoners of war were repatriated last year, there were, among that group, 17 civilian-veterans who had military service which could otherwise qualify them for VA educational benefits. Through circumstances beyond their control, these individuals were unable to utilize this potential entitlement. If enacted, this proposal would exclude, in computing the 10-year delimiting date for these 17 individuals, those periods of time while they were detained, plus any period they may have been hospitalized immediately following release from such detention. Such a provision is entirely equitable and fully justified in the case of this limited group of individuals.

We are opposed, however, to any extension of the time limitation for veterans, wives or widows, as proposed by S. 3398.

Current law (38 U.S.C. 1661(a)) allows a veteran 8 years from June 1, 1966, or from the date of discharge, whichever is later, in which to complete his program of education. Thus, a veteran discharged after January 31, 1955, and before June 1, 1966, with three exceptions, has until May 31, 1974, to complete his program. The three exceptions concern veterans who are pursuing programs of flight, farm cooperative and on-job and apprentice training programs. These programs were not included in Public Law 89–358, the law which set up the current program of educational benefits for veterans. Public Law 90-77, effective August 31, 1967, added these three programs and provided that the 8-year delimiting period for pursuit of such programs was to run from that date. Veterans discharged on or before August 31, 1967, therefore, have 8 years from that date to complete such programs.

The underlying purpose of all three GI Bill programs—World War II, Korean conflict, and current law—has been to afford a veteran a readjustment benefit to assist him in his transition from military to civilian life by providing him with financial assistance to obtain an educational status he might have normally aspired to and achieved had he not served his country in time of national emergency. It was never contemplated that this assistance was to be a continuing benefit.

The Congress, in creating the World War II program, set a 9-year period of time for the bulk of such veterans to complete their program of education. It also required these veterans to commence such programs within 4 years after their discharge or release. In the case of the Korean conflict program, the Congress set an 8-year delimiting period, plus a 3-year commencement requirement. Similarly, in setting up the current program, the Congress also set an 8-year delimiting date; but, contrary to the prior programs, it did not impose any commencement requirement. It is clear, therefore, that the Congress, each time, deemed a delimiting date essential to the program. We believe that for those veterans who want to take advantage of the educational benefits provided by the current program, 8 years is more than adequate and that increasing the delimiting date would defeat the readjustment concept of the program.

We are also opposed to any extension of the current 8-year delimiting date for pursuit of educational programs by wives and widows, as is proposed in S. 3398. The present program of benefits was granted to wives and widows of veterans by Public Law 90–631, effective December 1, 1968. That law provided up to 86 months of entitlement to educational assistance for these beneficiaries. A late enactment (Public Law 91–584) extended the same benefit to the wives of servicemen who were missing in action, prisoners of war, or detained or interned by a foreign power.

The stated intent of the law is to extend educational assistance to enable these individuals to assist them in preparing to support themselves and their families at a standard of living which the veteran, but for his death or disablement, could have expected to provide for his family. A similar 8-year delimiting date has been provided for these beneficiaries.

We are of the view that to extend that time period, as is proposed in S. 3398, would establish a time frame for completion of a training program which would exceed the period reasonably necessary for an educationed program to assist in the transitional readjustment from the partial or complete loss of the veteran-breadwinner. We believe that the 8-year limitation is entirely adequate. Under this time frame, for example, an eligible wife or widow, with a maximum entitlement of 36 months, needs to attend only 4 to 5 months of full-time instruction a year, or a comparable amount of part-time training, to make full use of her entitlement. We, therefore, oppose this provision.

Concerning costs, it is estimated that enactment of S. 3398 would result in additional direct benefits cost of $618.5 million in fiscal year 1975 and in additional direct benefits cost of approximately $2.5 billion over the first 5 fiscal years. A detailed breakdown of costs and trainees for the first 5 fiscal years is as follows:

[Dollar amounts in millions]

	Trainees	Direct benefits cost
Fiscal year—		
1975	500,000	$618.5
1976	500,000	618.5
1977	311,000	384.7
1978	379,000	468.8
1979	396,000	489.9
Total, 5-year cost		2,580.4

There are several factors involved in the cost estimate for this measure which should be brought to your attention. First, institutional training eligibility for the 4.1 million veterans, orginally entitled by Public Law 89–358 (enacted in 1966), will expire in fiscal year 1976, thereby causing a decrease in the number of trainees in 1977. However, due to increases in yearly net separations from the armed forces in the period FY 1968–1970, the estimated trainees increase in fiscal year 1978 and 1979. Second, we have insufficient data available on which to make any estimate as to the number of individuals or cost which would result from an extension of the delimiting date for wives and widows. Therefore, no cost for this group has been included in the figures cited above. Third, since the delimiting date extension for prisoners of war would affect only 17 individuals, any cost involved for this limited number of persons would be insignificant.

For the foregoing reasons, the Veterans' Administration favors extension of the delimiting date for the prisoners of war, but opposes extension of the delimiting date for veterans, or for wives and widows.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

DONALD E. JOHNSON, *Administrator*.

VETERANS' ADMINISTRATION,
Washington, D.C. May 6, 1974.

Hon. VANCE HARTKE,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In our report to your Committee, dated March 28, 1974, on S. 2784, the Veterans Administration advised it had estimated that the cost of extending the present delimiting date by two years would amount to $179.1 million in fiscal year 1975 and $554.1 million over the first 5 fiscal years. These estimates were premised upon the 22.7 percent rate increase proposed in that measure. Our current estimate of this cost is substantially higher.

In developing the original cost estimates of a potential 2-year extension, nearly a year ago, we assumed that 5 percent of those who would have entered training by the end of the 8-year eligibility period would continue to train in the ninth year and that 3 percent would continue into the tenth year. We also assumed that 1 percent of those who would not have entered within 8 years would train in the ninth year and .75 percent would train in the tenth year. The result was an estimated 113,000 trainees during fiscal year 1975. This figure was later updated to 118,000 trainees to parallel the upward revisions in our estimates and to reflect the numbers subsequently shown in our 1975 Congressional Budget submission. At that time, we were unable, due to time constraints, to review the basic assumptions.

Upon later reevaluation, we observed that the number of post-Korean peacetime trainees had increased from 367,000 in 1972 to 395,000 in fiscal 1973. Based upon this fact, we concluded that many of these older veterans were making an effort to enter training before the expiration of their 8-year delimiting period. This was also confirmed by other reports showing an increase in entry rates for this group.

A special study and tabulation was made by a VA research group, the results of which were not available until the end of March 1974. This special study provided our first training count of those Vietnam veterans separated before enactment of the current law (between August 4, 1964 and June 1, 1966). The study estimated that adding these early Vietnam veterans to the post-Korean peacetime veteran total would produce a count of 388,000 in training as of the end of February 1974.

Having expanded the 388,000 to reflect the entire 1974 fiscal year, we now estimate that between 500,000 and 600,000 persons will have trained during the year whose entitlement will expire on May 31, 1974. Applying our latest data on entry and retention rates, and considering the new data provided by the special study, we now estimate that a revised total of 500,000 trainees will avail themselves of the extended entitlement during fiscal year 1973. This revision necessarily required a revision in the cost estimate premised upon this increased number of individuals who we now anticipate may utilize training under a 2-year delimiting date extension. The revised cost estimate, shown by fiscal years and numbers of trainees, is as follows:

[Dollar amounts in millions]

	Trainees	Direct benefits cost
Fiscal year—		
1975	500,000	$759.1
1976	500,000	759.1
1977	311,000	472.1
1978	379,000	575.4
1979	396,000	601.2
Total 5-year cost		$3,166.9

A copy of my letter of this date to the Chairman of the House Committee on Veterans' Affairs, reflecting a similar upward revision of the cost of H.R. 12628, which contains an identical 2-year delimiting provision to that provided by S. 2784, but modified to reflect the 13.6 percent rate increase proposed in that measure, is enclosed for your information.

Sincerely,

DONALD E. JOHNSON, *Administrator*.

QUICK ACTION IS NECESSARY ON S. 3398

Mr. HUGHES. Mr. President, the reports I receive from Vietnam veterans in Iowa are painful reminders of the expression we have been hearing for years.

The frustration, the poverty, the difficulty integrating into civilian life after the Vietnam experience are as real today as ever.

May young Americans say they did not want to go to Vietnam in the first place. They were drafted and went, seeing it as their duty to their country. The war was costly and unpopular. But there is no reason for saddling the blame for the war on our veterans.

They deserve a better welcome than they have received and more imaginative programs in job training and educational assistance. I support substantial increases in veterans' educational allowances.

In the meantime, I urge quick action

this week in the Senate and the House on S. 3398, a bill which will extend for 2 years the period within which a veteran or eligible wife or widow can utilize GI bill education benefits.

Many veterans who are already in school have discovered that an 8-year period following discharge is simply not enough time to complete their advanced education under the GI bill. This legislation would extend the period of eligibility from 8 to 10 years. For about 285,000 veterans, this is necessary to prevent a cutoff in benefits on May 31.

I had hoped we would include this provision in a comprehensive educational benefits bill similar to that which was enacted in the House. But sincere differences in judgment over the magnitude of the proposed increases in monthly benefits appear to make this impossible. I personally favor at least the 24-percent increase in allowances mandated in the bill I cosponsored, S. 2784. The House has already approved increases of about 13.6 percent while the administration has expressed its support for increases no greater than 8 percent.

In any event, quick action on the legislation to extend the period of eligibility is necessary if we are to avoid a situation in which thousands of veterans find their education benefits interrupted.

It is the least a grateful Nation should do to express thanks to our servicemen.

JUSTICE FOR VETERANS

Mr. McGOVERN. Mr. President, I am pleased with the way the Senate has responded to the urgent need to extend the eligibility period for Vietnam veterans participating in the GI bill education and training program. Realizing that over a quarter of a million young veterans could be adversely affected by a cutoff in their benefits if prompt action were not taken, the Senate has separated out the 2-year extension provision from the other amendments to the GI bill being considered and cut through the redtape in order to enact the extension ahead of the May 31 deadline.

The effort to revitalize the GI bill to the point where young veterans are able to use its benefits in all States and from all income and social strata has become a long affair. Perhaps the Senate is open to some criticism for not moving faster on the entire package of GI bill benefits. However, it is obvious to those of us who have been working toward a satisfactory benefit level for Vietnam veterans that the major roadblock has been the unstinting opposition of the administration and some Members of the Congress who have chosen to ignore the real plight of the veteran in favor of carrying the ball for the Budget Bureau and the Veterans' Administration.

It would be a travesty, Mr. President, if the Congress were to back away from the kind of solid, comprehensive reform we need in the GI bill now that the problem has been exposed thoroughly and support for the reform is coming in from all quarters.

The House of Representatives has passed their own version of a GI reform bill including the 2-year extension provision. Because they are already committed to the provision, it would seem a simple matter to expect them to pass S. 3398 routinely and allow the Senate the simple courtesy of completing our work on the remainder of the amendments before going to conference on the final shape of a comprehensive bill. However, the sounds from the other chamber do not indicate that this course will be followed.

Mr. President, if the House attempts to amend S. 3398 with the provisions of their own previously passed bill, H.R. 12628, it could mean the end of all hope for literally thousands of young veterans who have already been subjected to outright neglect and unwarranted abuse. It would make it unlikely that we could then reach the real substance of the issue we are dealing with. If that happens, it will be difficult for any Member of Congress to go out and face young veterans. It will be obvious to them that the Congress has not responded to their legitimate and long-neglected needs but has chosen instead to play parliamentary games.

Let me back up for a moment and say that the House should be commended for its quicker response to the problem. They had their bill passed over 2 months ago. But that was before we learned of the reversal in unemployment rates for Vietnam veterans. It was before a multitude of problems in administering GI bill programs were exposed. And it was prior to the announcement by the College Entrance Examination Board that the cost of a college education will rise an average of 9.4 percent next fall. Finally, it preceded the first quarter economic statistics that show the rate of inflation hit 10.8 percent in the first 3 months of 1974.

Taken in the light of these recent events, the House proposal to increase subsistence benefits by 13.6 percent is barely enough to keep up with the rise in costs since the House voted. Under the able guidance of Chairman HARTKE, the Senate Veterans' Affairs Committee is considering all these problems and should be able to wrap up a good solid bill that responds to all the needs within 4 to 6 weeks.

I want to take just a moment to discuss the cost factor of the GI bill since this seems to be a major sticking point for those who are rightfully concerned about the size of the Federal budget. I am sure that many in the Congress feel that the provisions of H.R. 12628, although admittedly inadequate to solve the problems of the Vietnam veteran, are already approaching the borderline on what we can afford to spend for the program. Any expansion on the provisions of the House bill by the Senate would be viewed as yet another effort to bust the budget.

There are two very solid arguments against this thinking. First, there is the obvious need of the veteran for expanded benefits and the real value of the program both to the veteran and to society. The Educational Testing Service in its congressional authorized report stated that—

> There is no doubt that the World War II GI bill was one of the most important and effective pieces of social legislation Congress had ever enacted. It profoundly affected the fortunes of veterans and postwar society, and it transformed the Nation's higher education system.

Mr. President, the value of the much more generous World War II GI bill in hard statistical terms has been quoted on this floor time and again. That program turned out hundreds of thousands of doctors, lawyers, and specialized professionals who have returned the investment made in them many times over in their contributions to society in general and through their increased earning power in particular.

The second argument is as simple as the size of the overbloated military budget for the coming fiscal year. Secretary of Defense Schlesinger admitted in front of two separate congressional committees that the military budget requests were padded to the tune of between $2 and $5 billion in an effort to stave off the threat of increased unemployment and a possible recession. Not only is that bad military strategy, Mr. President, that is bad economics. We have an inflation problem, and military spending is among the most inflationary kinds of spending there is.

It must be obvious to anyone with an elementary understanding of economics and an appreciation for what the World War II GI program accomplished that the money would be much better invested in the education and training of our young veterans. Rather than pouring our dollars into wasteful arms projects, we should be arming the Vietnam veteran with a diploma or vocational training. That is the kind of investment in America that we can see grow and produce results that will match our internal economic strength against our military might.

Mr. President, it is almost exactly 1 year to the day since I introduced the first set of GI bill amendments in the 93d Congress. Since that time, I have watched the Congress and the country become aware of the problems encountered by our self-proclaimed "prisoners of peace." The Vietnam veterans GI bill which I introduced with Senators MATHIAS, INOUYE, and DOLE last December has acquired 35 additional cosponsors. The Senate Veterans' Affairs Committee led by Senator HARTKE has come forth with their own very worthy bill. We have all worked hard and we are now close to passing landmark legislation that could finally bring justice to millions of young veterans who have known nothing but neglect and injustice since their time of service.

It would be unfair and highly irregular for the House to expect the Senate Veterans' Affairs Committee to meet in conference over an omnibus GI bill when the full Senate has only acted on the 2-year extension. It would be unfair to over a quarter of a million young veterans to tie up the simple 2-year extension provided by S. 3398 in a mangle of parliamentary bickering and political logrolling. And it would be an insult to all young veterans to turn the entire proceedings into a battle of "who is to blame for the holdup in benefit increases." It is my hope that the House will pass S. 3398 expeditiously and without amendment so that we can complete our work on the omnibus bill and be able to report to the beleaguered Vietnam veterans by midsummer that the Congress has held their ground and the kind of comprehensive education and training program they need to get that decent job and that quality education will be available beginning in the fall.

Mr. THURMOND. Mr. President, I rise in support of S. 3398. As a coauthor of this provision with 60 other Senators, I urge its passage.

S. 3398 will extend the current period in which veterans can use their GI bill eligibility from 8 to 10 years.

Unless the Congress acts expeditiously on this proposal, it is estimated that 4.1 million veterans will lose their GI bill of rights on May 31. There are approximately 2.6 million veterans who have never taken advantage of the education benefits which have accrued to them under the GI bill. Around 285,000 veterans who are actually in training under the GI bill on May 31 will lose their benefits if the extension is not enacted.

Mr. President, I addressed myself to this problem in detail on Thursday, May 9, 1974. My remarks are recorded in the RECORD on page S2749. I reiterate what I said last Thursday:

> We must give our young veterans enough time to make plans for summer school, and the VA time to program the computers to take into account the extension. Otherwise, disastrous consequences will ensue for those student veterans who must plan for the summer session.
>
> Mr. President, I urge my colleagues to approve S. 3398. I hope the House will act expeditiously on a similar measure, and I hope the President will sign this provision into law.

Only swift passage of S. 3398 can preclude a disaster for these young men on June 1.

The Stars and Stripes National Tribune, in its May 9, 1974 editorial, succinctly analyzed this problem.

Mr. President, I commend this editorial "No Time for Playing Games," to the attention of my colleagues, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

NO TIME FOR PLAYING GAMES

Congress, once again, is faced with legislation in a race with the calendar.

Three weeks from now, hundreds of thousands of veterans will have no time left. Those who were discharged between January 31, 1955 and June 1, 1966 have only until May 31, 1974 left to their educational eligibility.

While the educational bills have been given very careful study in both the House and the Senate, only the House has passed a bill calling for increases and extension of time. The Senate bill is still in the process of study and hearings. The Senate is including several features not present in the House bill.

The all-encompassing features of the Senate bill have required more time than the approach taken by the House.

The House is pushing the Senate to pass their bill and the Senate is not buying it. The Senate feels that their bill is more complete in answering the present day educational problems and veterans' needs. The House has split up their approach and passed the most urgent features and is taking up other features in separate bills.

In the interim, the clock is ticking away. We feel this is no time to be playing games. The most urgent need at the moment is to extend the delimiting date from eight years to at least 10 years in order to protect those thousands whose eligibility will expire May 31, 1974.

On April 29 Senator Vance Hartke introduced S. 3898 with 49 cosponsors to extend the eligibility from eight to ten years as a separate bill.

On April 30 Rep. Mario Biaggi introduced HR 14464 to extend the eligibility as a separate bill.

While it is quite normal politics for one House to hold out for the provisions of their bill and to negotiate in conference on the differences, all of this takes a great deal of time.

Time should be used for the advantage of the veteran as the educational bill intended. Both bills should be reported to the floor for a vote and on to the President for his signature. This process will naturally use up some of the three weeks that are left. Without encountering problems or time loss waiting for the President's signature, the VA will need some time to recertify those veterans' eligibility.

Veterans need this extension immediately so they can plan summer school or fall semester.

Also, this extension will open the door to many thousands of veterans in this category that have not been able to use their benefits before now.

We expect Congress to forget political games and remember that this is an election year and to try to break records in getting this extension passed.

Mr. HARTKE. Mr. President, I ask unanimous consent that the statement of my distinguished colleague from Hawaii (Mr. INOUYE) be inserted in the RECORD. Senator INOUYE is necessarily absent from the Senate today but wishes to have his support of S. 3398 known.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR INOUYE

Mr. President: The legislation which is presently before us represents a good first step toward creating a new G.I. education bill which will provide equal and adequate educational assistance to veterans without regard to marital status, income level or place of residence. Numerous studies and the recent hearings of the Senate Veterans Affairs Committee have documented the inadequacy of present educational benefits and the unequal manner in which they are distributed. The issue of Vietnam era veterans benefits has become a national concern—and justifiably.

During the first session of this Congress I joined with Senators McGovern, Dole and Mathias to introduce the Comprehensive Vietnam Era Veteran Education Benefits Act (S. 2789). This legislation includes provisions which would drastically alter the structure of the present G.I. bill to equalize access to benefits. I have also introduced legislation which would go beyond the bill we are now considering to extend by four years the present delimiting date for utilization of educational assistance benefits in order to better reflect today's education patterns and the veterans' needs. These measures have drawn significant support from fellow Senators, veterans organizations and veterans, their families and friends.

Still I support quick passage of S. 3398—the two-year extension of G.I. bill benefits—because the May 31, 1974, deadline for extension must be met and the sword of Damocles now over the heads of 285,000 affected veterans must be removed. It is the responsible thing to deal with this pressing matter immediately and to continue to consider more significant revision of the educational assistance program while not under the gun. It would be irresponsible to adopt a reform package that would not address the abuses and deficiencies in the administration and impact of the current G.I. bill.

Because the legislation which was passed by the House of Representatives will not cure the current abuses and will not address the needs of those veterans who are married, from low income families or living in states which do not have low cost public education, the Senate must insist on giving thorough consideration to proposed improvements in the G.I. bill. We cannot be stampeded into unwise action. I for one will not stand by and watch the Vietnam veterans shortchanged because of any desire to quickly put the issue of veterans benefits behind us.

The upcoming Senate hearings on abuses in the current program and the review of the provisions of the various bills that have been introduced in the Senate to bring veterans' benefits up to a level consistent with today's education cost will provide a record for design of a G.I. bill which will repeat the success of the post-World War II bill in serving the veterans without repeating some of the abuses that were experienced.

The reason for extension of the eligibility period is obvious. The initial eight-year period is inadequate for the veteran who is unable to attend school full-time or who must interrupt his pursuit of an education for personal reasons. The pattern of education has changed over recent years with more reliance on technical and professional training to fill the needs of our present job market. Accordingly, veterans have had to adjust their educational training requirements to reflect this pattern. I believe that a four-year extension would provide the veteran with the flexibility to utilize his benefits to the fullest extent possible consistent with the intent of the G.I. bill. I am sure that the Senate Veterans Affairs Committee will give my proposal a fair and objective hearing.

The approval of the House for the two-year extension and the majority support in the Senate are proof that unlike the Veterans Administration and the Nixon Administration, the Congress is serious in its intention to create a new and adequate G.I. bill.

The nation will have to reserve its final judgment on whether the President's newly espoused concern over the administration and substantive provisions of veterans programs is truly felt. When the new Domestic Council Committee on Veterans Services issues its report, when a replacement for V.A. director Donald Johnson is named and when veterans benefits legislation reaches the President's desk, the seriousness of the President's commitment to the men who fought in Vietnam under his command will be tested. The Congress, the veterans and the country will be watching.

I ask unanimous consent that the editorial which appeared in the Washington Star-News on Saturday, May 4, 1974, be printed in the RECORD. It clearly expresses the questions on the minds of those Americans and those in the Congress who are concerned about the plight of the veteran:

"AFTER JOHNSON—WHAT?

"In the face of so many inexorable pressures, Donald E. Johnson's announced intention to resign as veterans' administrator 'in the near future' stirs scarcely more than a ripple of surprise. And with Johnson's early departure settled, the focus of attention switches now to what else the Nixon administration has in mind, if anything, to put to rights a veteran's program that is in a deplorable state of disarray.

"Chairman Vance Hartke of the Senate Veterans' Affairs Committee already has served notice that his confirmation hearings on Johnson's successor will be concerned not just with the new man, but with a 'searching examination' of the administration's whole policy stance on veterans' benefits. We are delighted to hear it.

"This in no sense minimizes the importance of the new administrator. In the aftermath of World War II, when the old Veterans' Bureau was a near-hopeless shambles, the best thing that occurred was President Truman's assignment of General Omar Bradley, fresh from his wartime victories, to rescue a scandal-ridden program that had mushroomed to immense proportions. Bradley did so with a hard hand, and the help of the highly respected professional aides he recruited. It is our contention that President Nixon must look to the military to duplicate that process. But it is certainly vital that he pick an administrator who will instill the highest possible degree of public confidence—and that is hardly the image that is conjured up by most of the names that are floating around as possibilities.

"Hartke's additional point, however, is that the appearance of a new administrator, no matter who he may be, shouldn't be allowed to defuse the basic controversy that has been raging over the amounts of dollars the administration is willing to spend on VA benefits. Committee hearings are underway in both the House and Senate to raise GI educational grants substantially beyond the administration's proposals. There is nearly as much concern about the high rate of unemployment among Vietnam vets and the sorry state of medical programs. Those issues aren't apt to evaporate, nor should they.

"On the positive side, there are at least some hopeful signs that the administration is recognizing that these aren't passing fancies, that it is confronting a problem that won't go away. The current comments of White House aides, for example, are different from those we were hearing a few weeks ago about the seriousness of the problem. Congressional leaders also appeared generally optimistic after a session on the subject this week with the President's chief of staff, General Haig.

"Impressions are one thing, though, results are another. The acid test of the administration's rhetorical commitment to the veterans of the Vietnam war is a lot more money, and how far the administration is willing to go in meeting that obligation certainly hasn't been cleared up yet."

Finally, I wish to commend my colleague Senator Hartke and his colleagues on the Senate Veterans Affairs Committee for their responsible approach to the question of how to best improve the current G.I. bill. I look forward to continued cooperation with the Committee in designing the best possible legislation in this area.

The **PRESIDING OFFICER**. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The **PRESIDING OFFICER**. Do Senators yield back their time?

Mr. **HARTKE**. I yield back my time.

Mr. **HANSEN**. I yield back my time.

The **PRESIDING OFFICER**. All time is yielded back. The question is, Shall the bill pass? The yeas and nays have been order, the clerk will call the roll.

The legislative clerk called the roll.

Mr. **ROBERT C. BYRD**. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from California, (Mr. CRANSTON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKEL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Utah (Mr. MOSS), the Senator from Missouri (Mr. SYMINGTON), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Rhode Island (Mr. PASTORE) is absent on official business.

I further announce that, if present and voting, the Senator from California (Mr. CRANSTON), the Senator from Colorado (Mr. HASKELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Rhode Island (Mr. PASTORE), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Texas (Mr. BENTSEN), and the Senator from Alaska (Mr. GRAVEL) would each vote "yea."

Mr. **GRIFFIN**. I announce that the Senator from Florida (Mr. GURNEY), the Senator from New York (Mr. JAVITS), the Senator from Kansas (Mr. PEARSON), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I also announce that the Senator from Alaska (Mr. STEVENS) is absent on official business.

I further announce that, if present and voting, the Senator from Florida (Mr. GURNEY), the Senator from New York (Mr. JAVITS), the Senator from Alaska (Mr. STEVENS) and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 82, nays 0, as follows:

[No. 192 Leg.]

YEAS—82

Abourezk
Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bennett
Bible
Biden
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cotton
Curtis
Dole
Domenici
Dominick
Eagleton
Ervin
Fannin
Fong
Goldwater
Griffin
Hansen
Hart
Hartke
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Hughes
Jackson
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Metzenbaum
Mondale
Montoya
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevenson
Taft
Talmadge
Thurmond
Tunney
Weicker
Young

NAYS—0

NOT VOTING—18

Bentsen
Cranston
Eastland
Fulbright
Gravel
Gurney
Haskell
Humphrey
Inouye
Javits
Johnston
Moss
Pastore
Pearson
Stevens
Symington
Tower
Williams

So the bill (S. 3398) was passed, as follows:

S. 3398

An act to amend title 38, United States Code, to provide a ten-year delimiting period for the pursuit of educational programs by veterans, wives, and widows

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1662 of title 38, United States Code, is amended—

(1) by deleting "eight" in subsection (a) and inserting in lieu thereof "ten";

(2) by deleting "8-year" in subsection (b) and inserting in lieu thereof "10-year";

(3) by deleting "8-year" and "eight-year" in subsection (c) and inserting in lieu thereof "10-year" and "ten-year", respectively; and

(4) by adding at the end thereof the following new subsection:

"(d) In the case of any veteran (1) who served on or after January 31, 1955, (2) who became eligible for educational assistance under the provisions of this chapter or chapter 36 of this title, and (3) who, subsequent to his last discharge or release from active duty, was captured and held as a prisoner of war by a foreign government or power, there shall be excluded, in computing his ten-year period of eligibility for educational assistance, any period during which he was so detained and any period immediately following his release from such detention during which he was hospitalized at a military, civilian, or Veterans' Administration medical facility.".

SEC. 2. Section 1712 of title 38, United States Code, is amended—

(1) by deleting "eight" in subsection (b) and inserting in lieu thereof "ten"; and

(2) by deleting "eight" in subsection (f) and inserting in lieu thereof "ten".

SEC. 3 Section 604(a) of Public Law 92-540 (82 Stat. 1333, October 24, 1972) is amended by deleting "eight" an inserting in lieu thereof "ten".

Mr. **HARTKE**. Mr. President, I move that the Senator reconsider the vote by which the bill was passed.

Mr. **HATHAWAY**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE SENATE ACTS FAVORABLY ON EXTENDING EDUCATIONAL BENEFITS TO OUR VETERANS

Mr. **WILLIAMS**. I am especially pleased that the Senate has acted responsively on S. 3398, legislation which extends the eligibility period for receiving GI educational benefits for our veterans.

The 8-year delimiting period, which extends from the Cold War G.I. Bill of 1966, is due to expire May 31 of this year. The legislation approved by the Senate today will extend this period for 2 years, and will provide an opportunity for thousands of our veterans to complete their education.

I am pleased to have joined Senator HARTKE in sponsoring this legislation, and believe that the members of the Senate Veterans' Affairs Committee have demonstrated a profound understanding of this problem by acting so quickly and favorably on S. 3398.

What continues to face our veterans, however, is the grave fact that in the past 25 years, educational costs have risen 3 times as much as GI educational assistance. Because of this soaring cost, only 21 percent of the eligible Vietnam veterans have enrolled in college programs.

In addition to responsively acting on

S. 3398, the Senate Veterans' Affairs Committee is currently considering broader legislation in the area of improved and increased educational benefits for the veteran. I have joined with Senator McGovern in sponsoring one of the proposals before the committee, S. 2789, the Vietnam Era Veterans Educational Benefits Act.

This act would increase the subsistence allowance rate to a veteran by 13.6 percent, and would reimburse the veteran for tuition costs above $400 and up to $1,000. The bill would also extend the present 36-month entitlement period for up to 9 additional months. Under this proposal, the veteran would be allowed to draw his full allotment entitlement in larger amounts over a shorter period of time.

I believe this legislation is an important step toward overcoming the specific inadequacies of the existing law.

Mr. President, at the end of World War II, our veterans returned home to a Nation eager to demonstrate its gratitude for the sacrifices they had made. But the war in Vietnam was a controversial one and, as a result, our men and women have returned to face enormous hardships and burdens. In addition to meeting high educational and vocational training expenses, many of our veterans are confronting such problems as unemployment, drugs, and inadequate housing.

It is imperative, therefore, that Congress continue the battle for improving this serious situation facing this Nation's veterans. It is encouraging that the Senate has acted favorably in S. 3398, and I am hopeful that substantially more can be done before the end of this Congress.

EDUCATION AMENDMENTS OF 1974

The Senate continued with the consideration of the bill (S. 1539) to amend and extend certain acts, relating to elementary and secondary education programs and for other purposes.

The **PRESIDING OFFICER.** Under the previous order, the Senate will now resume the consideration of the unfinished business, S. 1539, which will be stated.

The legislative clerk read as follows:

A bill (S. 1539) to amend and extend certain acts, relating to elementary and secondary education programs and for other purposes.

Mr. **HANSEN.** Mr. President, I ask unanimous consent that a member of my staff, Sunny Nixon, be granted the privilege of the floor during the consideration of S. 1539.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Under the previous order, the Senator from Wyoming is recognized for the presentation of an amendment.

Mr. **HANSEN.** Mr. President, for myself and my colleague from Wyoming (Mr. McGee), I call up amendment No. 1248 and ask that it be read.

The **PRESIDING OFFICER.** The amendment will be stated.

The legislative clerk read as follows:

On page 265, line 18, strike out the word "school" and insert in lieu thereof "public education".

On page 266, line 2, strike out the words "elementary or secondary school or other appropriate public building," and insert the following: "building, including but not limited to a public elementary or secondary school".

On page 266, line 22, after the period insert the following new sentence: "Each such application shall contain provisions assuring consultation with local community colleges, social, recreational, and health groups with respect to programs to be offered and facilities to be used for the purpose of this section.".

Mr. **HANSEN.** Mr. President, this amendment, No. 1248, is intended as a modification of amendment No. 1247, which was my original amendment and will not be called up.

Section 406 embodies the community school concept which provides that the school facilities and equipment be used by members of the community for educational, recreational, and cultural purposes.

I have conferred with the distinguished Senator from New Jersey (Mr. Williams), who is managing S. 1539 on the floor, and he has no objections to the amendment.

My amendment would add language to insure that community college facilities could be considered for the community school programs along with the presently included public elementary or secondary school facilities.

The purpose of the amendment is not to furnish grants to community colleges or to position community colleges so they may strong-arm their ideas and policies upon the grantees, the local educational agencies. Nor would the community colleges be the direct grantees. The purpose of the amendment is rather to prevent expenditure of the taxpayer's dollars through grants for facilities which the community colleges may already have on hand.

If the community colleges and the elementary and secondary schools are too isolated from one another, those in charge of the community education program may not know facilities exist in the community college which would facilitate a program. They might then apply for a grant to furnish this facility and in this way duplicate the existing facility.

I would like to add language that such application must show evidence of consultation with local community colleges, social, recreational, and health groups as to programs to be offered and facilities to be used. Once evidence of consultation is shown, the local education agencies may decide whether there would be duplication and its decision should be final.

The community colleges would not be placed in a position of being able to force their views upon the grantees, since S. 1539 is not primarily a community college act, but rather a elementary and secondary school act.

The evidence of consultation would simply indicate that those in charge of the community school programs were alerted to the possibility that facilities were already available in community colleges for their programs.

I hope that the Senate will act favorably on this proposal.

I ask unanimous consent that a letter in support of the amendment from the Association of Community College Trustees be printed in the Record.

Also, I ask unanimous consent that a letter from the National Recreation and Park Association be printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

ASSOCIATION OF COMMUNITY
COLLEGE TRUSTEES,
Washington, D.C., April 8, 1974.

Hon. Clifford P. Hansen,
U.S. Senate, New Senate Office Building,
Washington, D.C.

Dear Senator Hansen: At the suggestion of Mr. M. Dale Ensign (former President, ACCT Board of Directors) we enlist your support in clarifying the intent of the Senate regarding the Community School program embodied in S1539.

As presently written the Community School Program is defined as "a program in which a public elementary, secondary school or other appropriate building is used as a community center operated in conjunction with other groups in the community, community organizations and local governmental agencies, to provide educational, recreational and cultural community services for the community that center serves in accordance with the needs, interests and concerns of that community".

We applaud the Senate for promoting that concept. In fact we feel that, as defined, the Community School Program adequately defines the mission of this nation's community colleges.

Therein lies the basis of our concern—a concern that if S1539 is passed in its present form a duplication of programs and services could appear. At this stage of development and continuing change in the thrust of the community college movement, we cannot be certain that the lines of communication are sufficiently developed between community colleges and existing local school boards to avoid programs that result in cross purposes.

Therefore, we appeal to you to move amendments to S1539 as follows:

(1) to change the definition of a "community school program" to one in which a "public elementary, secondary school, *community college* or other appropriate building is used as a community center . . ."

(2) to change line 8 of Sec. 406 (b) to read "promotes a more efficient use of *public educational* facilities . . ." rather than simply "school facilities".

(3) to add a sentence in Sec. 406 (d) (2), line 14 after "regulation", "Such application must show evidence of consultation with local community colleges, social, recreational and health groups as to programs to be offered and facilities to be used for this purpose."

Rationale:

(1) these amendments would necessitate coordination of community activities and help assure that the community school, when established, will be so conceived and so operated as to meet real community needs, clearly and carefully defined by the community to be served.

(2) they will guard against duplication of programs and services currently offered by the community services branch of community colleges and whose community colleges are not covered by this—an elementary and secondary education act.

(3) a publicized goal of Congress is better utilization of educational facilities and an avoidance of duplication of programs. These amendments will help to attain that goal.

Mr. Ensign and I stand ready to assist you with more information or further testimony from the field should that be necessary.

We sincerely feel that the possibility of duplication was simply an oversight on the part of the Senate. Once brought to the attention of your fellow Senators, we feel that a ground swell of support will appear in order to give recognition to the premise that the potential problem defined above should be avoided.

Thanking you in advance for your consideration, I am

Sincerely yours,

WILLIAM H. MEARDY,
Executive Director.

NATIONAL RECREATION AND PARK ASSOCIATION,
Arlington, Va., May 13, 1974.

Hon. CLIFFORD P. HANSEN,
U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR HANSEN: The National Recreation and Park Association strongly endorses your proposed amendment to S. 1539 which will guarantee meaningful community input in the formulation of community school programs.

Public recreation officials support the community school concept, and in fact, have long been involved in community school programs throughout the country.

It is vital that this existing base of professional support and cooperation be maintained and strengthened as the community school program grows. Your proposed amendment will accomplish this purpose and therefore we strongly urge its adoption.

Sincerely,

JOHN P. LAGOMACINO,
Director, Division of Special Programs.

Mr. PELL. Mr. President, I thank the Senator from Wyoming for his explanation of the amendment. I understand that he has been in contact with the prime sponsor of the community college section and that this is agreeable to the Senator from New Jersey (Mr. WILLIAMS). For that reason, I am delighted to recommend the acceptance of the amendment.

Mr. WILLIAMS. Mr. President, I have already discussed the amendment with the Senator from Wyoming (Mr. HANSEN) and find it perfectly compatible with the intent of the community schools provisions in the bill. The committee report makes clear the intent that groups such as community colleges, parks and recreation departments, and so forth, be consulted during the time grant proposals for community education projects are being formulated. The amendment before us merely restates that objective and makes it a part of the language in the bill. Therefore, I hope that the floor manager of the bill will see fit to accept this addition.

Mr. DOMINICK. Mr. President, we have no objection. We think it is a pretty good amendment and that it will be helpful.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. STAFFORD. Mr. President, I have an unprinted amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. STAFFORD. Mr. President, I ask unanimous consent that the further reading of the amendment be dispensed with and that the amendment be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be printed in the RECORD.

The amendment is as follows:

On page 154, between lines 18 and 19, insert the following:

(5) Section 141(a) of such title I is amended—

(A) by striking out the word "and" at the end of paragraph (12) the first time is appears in such section,

(B) by redesignating paragraph (12) the second time it appears in such section as paragraph (13),

(C) by striking out the period in paragraph (13) (as redesignated by this paragraph) and inserting in lieu thereof a semicolon and the word "and", and

(D) by inserting at the end thereof the following new paragraph:

"(14) That the local educational agency will establish an Advisory Council for the school district under the jurisdiction of that agency which—

"(A) has a majority of members who are parents of children attending the schools of that agency,

"(B) is composed of members who are selected by the parents of the children attending schools of that agency,

"(C) has responsibility for advising that agency in the planning for, and the implementation and evaluation of, programs and projects assisted under this title, and

"(D) is provided by that agency, in accordance with regulations of the Commissioner, with access to appropriate information concerning such programs and projects.",

On page 120, in the Table of Contents, insert in item "Sec. 101." after "(4)" the following:

"(5) Amendment relating to local educational agency Advisory Councils."

Mr. STAFFORD. Mr. President, I offer this amendment to S. 1539 on behalf of myself and the Senator from Delaware (Mr. BIDEN).

The purpose of the amendment is to provide a legislative mandate to continue in effect the requirement for Districtwide Parent Advisory Councils under title I of the Elementary and Secondary Education Act.

That purpose is endorsed by the National Advisory Council for the Education of Disadvantaged Children in its 1973 report. In addition, the amendment has the support of educators and parents who feel the broadest possible involvement of interested parents in the educational process of their children is important to the success of that process.

In brief, the amendment would provide the greatest flexibility in the formation and activities of Parent Advisory Councils.

While much support for this amendment comes from States with large urban areas, the concept also has the support of parents and educators from rural States.

Mr. Robert A. Withey, the Commissioner of Education in my State of Vermont, has told me that the concept of Districtwide Parent Advisory Councils is most helpful in encouraging and assisting parents of children in rural supervisory union school districts to become more involved in the education of their children.

This amendment has been discussed with the Senator from Rhode Island (Mr. PELL) and the Senator from Colorado (Mr. DOMINICK), the managers of the bill, and I understand they are in agreement with the value of this amendment.

The Senator from Delaware (Mr. BIDEN) has prepared a statement that describes in some detail the activities and the value of the Parent Advisory Council and I ask unanimous consent that his statement be entered in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR BIDEN

Mr. President, I am pleased to join the distinguished Senator from Vermont (Mr. Stafford) in introducing an amendment to require Local Educational Agencies to establish Parent Advisory Councils in school districts receiving Federal assistance under Title I of the Elementary and Secondary Education Act.

Under current law, the Commissioner of Education is authorized to establish guidelines for the implementation of Parent Advisory Councils for local school districts receiving ESEA funds if he deems this necessary. Subsequent to enactment of this provision, the Commissioner did issue regulations which mandate the implementation of these Councils for districts receiving assistance under Title I, and it is under this regulatory mandate that Parent Advisory Councils now function. The Commissioner is to be commended for his action.

However, the Parent Advisory Council is too important to be left to Federal regulation; the mandate should come from Congress. The amendment which Mr. Stafford and I propose recognizes the past effectiveness of Parent Advisory Councils by replacing the regulatory mandate for their implementation with a legislative mandate.

The concept of the Parent Advisory Council addresses itself to an area of vital concern—community involvement. In districts receiving Federal assistance for the educationally disadvantaged children, parents are an essential source for ideas and advice. Parent Advisory Councils provide a mechanism through which this input can, in an orderly way, reach its proper destination—the child.

This amendment will require the continuation of Parent Advisory Councils, as before, and will provide that these Councils are composed of a majority of members who are parents of the children attending the schools of the local district in which the Council functions, and that the Council members are selected by the parents of these children. The Councils will have the responsibility of advising the Local Educational Agencies in planning, implementation, and evaluation of the programs assisted by Title I of ESEA.

Again, the responsibilities of the Parent Advisory Councils remain as they were under Federal regulation. However, as a part of the Elementary and Secondary Education Amendments of 1974, the Congressional mandate for continuation of Parent Advisory Councils recognizes that effective education begins when parents and educators meet on common ground to work for the same goals.

I believe this amendment is a necessary one, and I urge my colleagues in the Senate to support it.

Mr. STAFFORD. Mr. President, I move the adoption of the amendment, and reserve the remainder of my time.

Mr. PELL. Mr. President, as I understand the Biden-Stafford amendment, it would make the districtwide title I advisory councils, which are now required by regulation, mandatory by law. This amendment would greatly help us in conference for the House bill mandates local school advisory councils while having the districtwide councils optional. I believe mandating the districtwide councils a good idea. I personally know of the work of the districtwide councils and views them with favor, and in my own State of Rhode Island believe they have been a very viable force.

With the concurrence of the minority, I would move adoption of this amendment.

Mr. DOMINICK. Mr. President, we have no objection to taking this to conference. I have not heard the argument on the other side, but the one made by the distinguished Senator from Vermont is very persuasive, I think. Among other things, it might have the possibility of reducing the number of advisory councils, which I think in most cases would be very fine, not because they do not serve useful purposes, but when you get too many of them they get at cross purposes with each other.

I am happy to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Vermont.

The amendment was agreed to.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BEALL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1241

Mr. BEALL. Mr. President, I call up my amendment No. 1241, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BEALL's amendment (No. 1241) is as follows:

On page 196, line 4, strike out "30" and insert in lieu thereof "40".

On page 207, line 2, strike out "30" and insert in lieu thereof "35".

On page 207, line 9, strike out "27" and insert in lieu thereof "32".

On page 207, line 15, strike out "18" and insert in lieu thereof "28".

On page 211, strike out lines 10 through 12 and insert in lieu thereof the following:

"(b) (1) The amendments made by paragraphs (1) and (2) of subsection (a) shall be effective on and with respect to appropriations for fiscal years beginning on and after July 1, 1975, and the amendments made by paragraph (3) of subsection (a) shall be effective upon enactment of this Act.".

On page 214, after line 24, insert the following:

"(C) During the first fiscal year in which the amendments made by subsection (a) are effective and each of the succeeding fiscal years ending prior to July 1, 1978, the Commissioner shall determine with respect to each local educational agency in any State the number of children who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such fiscal year, and who, while in attendance at such schools resided with a parent employed on Federal property in a State or in a county other than the State or county, as the case may be, in which the school district of such agency is located but which is situated within a reasonable commuting distance from the school district of such agency. If the number of children determined under the preceding sentence is equal to at least 10 per centum of the total number of children determined with respect to such agency for such fiscal year under section 3(b) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), the amount to which such agency shall be entitled with respect to a number of children determined under such section 3(b) for such fiscal year, shall not be less than 90 per centum of the amount to which such agency was entitled with respect to the number of children so determined during the preceding fiscal year, as computed under section 3 of such Act.

Mr. BEALL. Mr. President, I send to the desk a technical modification of my amendment.

The PRESIDING OFFICER. The clerk will state the modification.

The assistant legislative clerk proceeded to read the modification.

Mr. BEALL. Mr. President, I move that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is so modified.

The modification is as follows:

On page 2, line 1, strike out the word "The" and insert in lieu thereof the following: "(A) Except as provided in subparagraph (B), the".

On page 2, between lines 6 and 7, insert the following:

"(B) Section 3(a) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by striking out 'July 1, 1973' and inserting in lieu thereof 'July 1, 1975'.".

On page 3, line 7, after the period insert end quotation marks and a period.

Mr. BEALL. Mr. President, as I indicated in my additional views in the Senate report, I oppose the reported bill's impacted aid provisions. Although some changes may be called for in the impacted aid program, the committee's bill, in my judgment, goes too far and too soon. or example, Prince Georges County, Md., officials estimate that the county would lose 70 percent of their impacted aid funds. Mr. President, Prince Georges County citizens are already overtaxed and the county is incurring additional expenses as a result of HEW's ordered desegregation actions.

Since the bill was reported, I have been discussing the impacted aid provisions with a number of education leaders in my State, the National School Board Association and other education groups, with numerous Senators and working with the committee and the committee staff in trying to avert the harsh impact on many school districts that would result because of the committee's bill.

The amendment I advance now, which was cosponsored by Senators BYRD of Virginia, COOK, MATHIAS, NUNN and SCOTT of Virginia, allows the "reform of the impacted aid program, that the committee desires, but it does in a more reasonable manner and hopefully will avoid drastic consequences to many school districts.

Basically, the amendment does three things:

First, it provides for a transitional phase-down period for the heavily impacted "B" districts so as to prevent drastic payment reductions. It does so by assuring such districts of 90 percent of their previous year's funding level.

As the National School Board Association said in a letter to me:

> In terms of sound fiscal management and the educational needs of the youngsters attending schools in such communities, it would be preferable if the affected school districts were eased through a transitional phase-down period.

The National School Board Association, which incidentally supports the committee's reform, also strongly supports this amendment.

Second, the amendment attempts to deal with the ongoing problem that will be experienced by States as a result of the reduction in the entitlement and payment levels for the "out of county" situations. It does so by increasing the "B" entitlement rate from the bill's "30 percent" to "40 percent" and by increasing the payment rate for uniformed "B's" from "30 percent" to "35 percent"; for civilian "B's" employed in the district from "27 percent" to "32 percent" and civilian "B's" employed out of the district, but in the same State, from "18 percent" to "28 percent."

Third, the amendment postpones the effective date of these changes for 1 year. As reported, the changes would commence in the next fiscal year, which begins on July 1. Whatever sense that date made initially, it does not make sense today. We will be very close, or perhaps into the next fiscal year when the pending bill is enacted. As we know, the bill makes major changes in the impacted aid program. If these changes are enacted, financial problems will be created for affected school districts. They may need additional local or State assistance which may require increases in taxes or a reduction in other programs to provide such additional sums.

As Congress well knows, appropriation bills cannot be enacted over night and I believe that we must take into consideration the practical problem that faces these school districts. On the same point,

I might add that the changes will necessitate new regulations. HEW is not known for the promptness in issuing regulations. For example, the regulations on the physician shortage scholarship program, authored by me and enacted in 1971, have just been issued by the Department.

So, I do believe that the Department will need some time to issue the regulations and, therefore, postponement of the effective date does make considerable sense.

I want to thank Mr. Gus Steinhilber and Mr. Mike Resnick of the staff of the National School Boards Association for their help and support on the measure and Mr. Dick Smith and Mr. Steve Wexler of the committee staff for the technical assistance they provided on this amendment.

I urge the adoption of this amendment, and reserve the remainder of my time.

Mr. DOMINICK. Mr. President, will the Senator yield for a couple of questions?

Mr. BEALL. I yield to the distinguished Senator from Colorado.

Mr. DOMINICK. I just want to make

sure of what I am agreeing to or not agreeing to here.

Mr. BEALL. I hope I can give the Senator the kind of assurance he needs.

Mr. DOMINICK. Do I correctly understand the Senator to say he is holding harmless all the districts for up to 90 percent of the money they got during previous years?

Mr. BEALL. Those with 10 percent or more "B" students, yes.

Mr. DOMINICK. Yes. There is a provision in the law that Indian children who are not in a district, but go to school in a district, can be counted for impacted area aid. Does the Senator's amendment affect that in anyway whatsoever?

Mr. BEALL. No, that definition will remain the same.

Mr. DOMINICK. That is particularly important in the southern section of my State, and I did not want to get crosswise on that.

Mr. BEALL. We were made aware of that situation.

Mr. DOMINICK. The other thing I think the Senator is doing here is to say—and I may be wrong, so I hope the Senator will correct me if I am—that each district will get a little more money as it decreases in time than they are now getting; is that correct?

Mr. BEALL. That is correct.

Mr. DOMINICK. Is that the reason for the 30 to the 40, the 30 to the 35, and the 27 to the 32, and so forth?

Mr. BEALL. Present law gives everyone 50. We thought it was too much of a jump to be taken down so rapidly.

Mr. DOMINICK. Have you investigated as to whether the amendment will be helpful or harmful outside of Prince Georges County?

Mr. BEALL. It would be helpful in all districts.

Mr. DOMINICK. How much more money will be involved?

Mr. BEALL. We do not know. We cannot tell.

Mr. DOMINICK. Cannot tell. I thank the Senator from Maryland. I know how careful he is in this and I know how he is *trying to protect* the interests of schoolchildren and school districts. So I am tending to go along with this without creating a fight.

Mr. BEALL. I respect the intentions of the Senator and we are grateful for them.

Mr. PELL. Mr. President, I have listened to the arguments of the Senator from Maryland. He is more familiar with the problem than I am. His ideas have merit, particularly the phaseout portion. It will have less of an abrupt effect on the communities as the impact aid program moves into the new system. Both the phaseout over the 5-year period and also the postponement of it for a year will cost a certain amount of additional money. This bill is already pretty expensive, and we must make sure that we do not let it get out of hand. But I do believe that the merit involved in the phaseout and the postponement for 1 year is *such that* we should accept the amendment.

So far as moving up the payment rates, that alters somewhat the basic formula for the future. This is a more deep amendment, however, from a political viewpoint. I believe that, with the amendment of the Senator from Maryland included in the bill, the bill will probably have a stronger base of support across the country. While not agreeing on the merits of it, I do agree on the policy of securing passage of the bill.

For these reasons, I would recommend acceptance of the amendment of the Senator from Maryland.

Mr. BEALL. I thank the Senator from Rhode Island, the chairman of the Education Subcommittee, and appreciate the fact that the committee will accept the amendment. With that assurance, I yield back the remainder of my time.

The PRESIDING OFFICER. All time on this amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Maryland (Mr. BEALL).

The amendment was agreed to.

Mr. BEALL. Mr. President, I send another amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 374, line 22, after the word "present" add the following: "or distribute, in the event supplementary noncommercial telecommunication is utilized,".
>
> On page 374, line 22, strike "this section" and insert in lieu thereof "section 704".
>
> On page 376, line 12, following the word "production" add "evaluation,".
>
> On page 376, line 16, after the word "of", add the following: "informational and"
>
> On page 382, line 25, strike "$1,500,000" and insert in lieu thereof "$3,000,000".

Mr. BEALL. Mr. President, this amendment involves the reading title, specifically those sections dealing with the reading training on public television.

With one exception, the amendment is basically clarifying or technical in nature. The first part is designed to provide some flexibility with respect to the making available of the courses for teachers. It has been pointed out to me that it might be better and more convenient for the teachers in some of the areas of the country if the courses were shown on closed circuit television, such as that which exists in Hagerstown, Md., or through the use of cassettes. This part of the amendment would not require but would provide flexibility for such use.

The second part of the amendment is a technical change designed to clarify that the television course to be presented by the local public television station is the course produced under section 704 of the bill.

The next part of the amendment would add authority for evaluation.

The next item in the amendment would allow the distribution of informational material, such as necessary for informing the teachers of the availability of such courses.

Finally, and this is the real substantive part of the amendment, I would increase the authorization level for the reading training on public television section from $1.5 million to $3 million. A number of experts in the television area have advised me that they feel the recommended funds are inadequate. They point out that this is particularly true when one considers that we also call for the development of course material to be used in conjunction with the television courses. As a result, I believe that an increase in the authorization is needed and necessary.

I urge the adoption of the amendment.

Mr. President, I reserve the remainder of my time.

Mr. PELL. Mr. President, I have talked to the Senator from Maryland about this amendment. It is a sensible one. It does cost the taxpayer an additional $1.5 million, but it does improve the bill, so I am inclined to accept the amendment from the viewpoint of the majority side, at least.

Mr. DOMINICK. Mr. President, as one of the principal cosponsors of this reading bill to begin with along with Senators BEALL and EAGLETON, I think this is a good amendment. I have no objection to it and am delighted to accept it.

Mr. President, there has come to my attention, Mr. President, a unique demonstration in how to succeed in teaching to read which, I believe, merits serious consideration.

During a 6-week period last summer the Reading Reform Foundation raised the average reading level of 58 randomly selected, mostly "inner city" D.C. children by an astonishing 2.2 grades.

The Reading Reform Foundation, whose president is Mrs. Raymond Rubicam of Scottsdale, Ariz., was founded in 1961 by the late Watson Washburn of New York City. It is a private, nonprofit educational organization of American citizens concerned with the fact that so many young Americans, black and white, rich and poor, regardless of cultural background, have been finding it difficult to learn to read. Claiming that the reading crisis is a nightmarish comedy of errors that the American people could dispel at will, the foundation is devoted to the proposition that every child (except of course the truly brain-damaged or otherwise severely retarded child) can learn to read—provided he or she is taught to read by the correct method. Method is the foundation's message; and the method advocated by the foundation is intensive phonics.

Because, in the climate of skepticism in which we live today, a showing of results seems to speak more convincingly than either the spoken or the written argument, the foundation sponsored during the spring and summer of 1973 a two-part demonstration in intensive phonics here in the Nation's Capital: Part I, "Teacher-Training," and part II, "How-to-Read Classes." The foundation's purpose was twofold: First, it was to open the door of learning to as many D.C. children as possible; and, second, it was to prove to as many concerned adults as possible that intensive phonics is a how-to-teach reading method that really works.

Due largely to the success of its Washington demonstration in 1973, the foundation chose Washington as the site for its annual conference in 1974. It will be held at the Sheridan Park Hotel on the 16th and 17th of May. I will be the luncheon speaker on May 16 and Representative Augustus F. Hawkins, chairman of the Equal Opportunities Subcommittee of the House Committee on Education and Labor, will be the luncheon speaker on May 17. Dr. Ruth Holloway, director of the right-to-read program, U.S. Office of Education, and other distinguished authorities in the reading field will address the conference during the morning and afternoon sessions.

I have read a summary report of the foundation's D.C. demonstration project and understand that the project director will present a full report, with test scores and so forth, to the conference on the morning of May 17.

In the meantime, Mr. President, I ask unanimous consent that a short article, entitled "Learning to Read at All Souls," by Emily C. Hammond, published in the All Souls Memorial Episcopal Church Message of October 14, 1973, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

LEARNING TO READ AT ALL SOULS

Anyone who can read supercalifragilisticexpialidocious can read just about anything.

This is exactly what happened to children in the Reading Reform Foundation-sponsored class conducted at All Souls' last summer. They went on Mary Poppins guided flight to the wonderland of sound and symbol, learning how to read not only nonsensical, tongue-twisting, rib-tickling whimsies, but also practically any of those commonsensical stern-faced facts and figures that would help them in school.

To Miss Margaret Payne, a public school teacher, Foundation-trained in intensive alphabetical phonics, great credit is due. In the ridiculously short period of six weeks, in spite of having to compete with planned-in-advance summer vacations, 90 degree heat, and chronic pupil absenteeism to go swimming or fishing, she managed to inspire her young charges with the desire to excel—as the test scores show.

To assure objectivity, the children were tested, both before and after the course was given, by volunteer, professional school teachers, unknown to Miss Payne or the children and unconnected with the Foundation. Nationally accepted, widely used standard tests were administered.

Julia Erazo, age 7, a native of Chile, in this country for only one year, speaking only Spanish at home was reading at grade level 2.5 when tested on June 18 and at 14.7 when tested on July 27th—a whopping increase of 12.2 grades.

Ana Hidalgo, age 7, a native of San Salvador, in this country for only one year, speaking only Spanish at home, jumped from 4.1 to 15.6, an increase in reading ability of 11.5 grades.

Eric Buadu, age 10, a native of Ghana, Africa, in this country three years, with no knowledge of English upon arrival, speaking only Twi at home, jumped from 4.1 to 11.6, an increase in reading ability of 7.5 grades.

Gustavo Rivero, age 7, American-born son of a Cuban father and a Guatemalan mother, speaking only Spanish at home, rose from 3.6 to 7.8, an increase of 4.2 grades.

Edwin Rojas and Carletta Carter, both age nine, also leapt ahead in reading ability and received honorable mention.

Naturally, all of the children did not do as well as these front runners. Nevertheless, Miss Payne performed the feat of raising the reading level of her class an average of 4.2 grades in approximately 80 hours of teaching time!

On July 27, before a small but select audience, the All Souls class celebrated commencement. Each child had the opportunity to read aloud. Prizes were awarded and citations recorded. Mr. Hewlett, after congratulating Miss Payne and her pupils on their achievements, asked God's blessing on them in their future undertakings. Finally, party favors, ice cream cones and cookies were enjoyed by everyone.

All Souls Memorial Church and Shiloh Baptist Church made unique contributions to the Reading Reform Foundation's two-part D.C. project by playing host to the teacher training courses held for two weeks in May as well as the How-to-Read classes during the summer. Twelve How-to-Read classes took place in day-care centers, in one public school and at the Salvation Army. The overall results were extremely gratifying.

The question arises: If the Foundation has had so much success in teaching to read, why have not the public schools had equal success?

The answer is method. By-and-large, the public schools use the "whole word" or "look say" method; the Foundation advocates intensive phonics.

There have been a number of calls received from neighborhood parents inquiring when the reading classes would start again. While there are no present plans for repeating the course, it is hoped that arrangements may be made.

Mr. BEALL. I thank the managers of the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maryland (Mr. Beall).

The amendment was agreed to.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Tht PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield briefly, with the understanding that he will not lose his right to the floor?

Mr. HUMPHREY. I yield.

Mr. ROBERT C. BYRD. And that the time consumed by me not be charged against either side.

The PRESIDING OFFICER. The Senator from Minnesota has no time.

Mr. PELL. I yield to the Senator from Minnesota.

Mr. HUMPHREY. Mr. President, am I to understand that there is no time on any amendment?

The PRESIDING OFFICER. An amendment has not been offered.

AMENDMENT NO. 1236

Mr. HUMPHREY. I will offer an amendment, then.

I call up my amendment No. 1236, and then I will yield to the Senator from West Virginia.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record.

The amendment is as follows:

On page 337, between lines 15 and 16, insert the following new section:

"POLITICAL LEADERSHIP INTERN PROGRAM

"Sec. 527. (a) The Higher Education Act of 1965 is amended by redesignating title XII and all references thereto as title XIII and sections 1201 through 1206 and all references thereto as 1301 through 1306 and by inserting immediately after title XI the following new title:

"'TITLE XII—POLITICAL LEADERSHIP INTERN PROGRAM

"'PROGRAM AUTHORIZED

"'Sec. 1201. The Commissioner is authorized to make grants, in accordance with the provisions of this title, to institutions of higher education for the planning, development, administration, and operation of an internship program under which students will be provided practical political involvement with elected officials in the performance of their duties at the local and State levels of government through internships in their offices. Such internship program shall be carried out through arrangements administered by institutions of higher education, and with the cooperation of State and local governments. Under such program the interns, who are students at any institution of higher education which is a grant recipient, will be assigned duties in offices of State and local elected officials, which will give them an insight into the problems and operations of the different levels of government, as well as an opportunity for research and for involvement in the policymaking process. Arrangements for such grants shall provide for coordination between the on-campus educational programs of the persons selected and their activities as interns, with commensurate credit given for their work and achievement as interns.

"'SELECTION OF STUDENTS FOR PARTICIPATION AND DISTRIBUTION OF GRANTS

"'Sec. 1202. (a) The students who are to participate in the internship program provided for in this title shall be selected by the institutions of higher education receiving grants under this title.

"'(b) The Commissioner shall assure that grants under this title are distributed among the States in the same ratio, to the extent practicable, as the number of Members of Congress of a State bears to the total number of Members of Congress in all States.

"'(c) (1) In order to assist the Commissioner to select institutions of higher education within a State to receive grants under this title, he shall appoint a National Advisory Council for Political Leadership Interns. Such Council shall be composed of twelve members appointed from among individuals especially qualified to serve on the Council.

"'(2) The Council shall advise the Commissioner with respect to the distribution of grants under this title within each State and with respect to such other matters of policy as may be appropriate in carrying out the objectives of this program as authorized under this title.

"'(3) The Commissioner shall make available to the Council such staff, information, and other assistance as it may require to carry out its duties under this title.

"'(4) The provisions of part D of the General Educations Provisions Act shall apply to any Council established under this title.

"'(d) Whenever the Commissioner determines in the third quarter in any fiscal year that grant funds will not be needed in any State he may redistribute such funds to institutions of higher education in other States which he determines have a need for them.

"'FEDERAL SHARE

"'SEC. 1203. (a) The Federal share of the cost of planning, developing, and administering of any program assisted under this title shall not exceed 100 per centum of such cost.

"'(b) The Federal share of the cost of operating an internship program under this title shall not exceed 50 per centum of such cost.

"'ADMINISTRATION

"'SEC. 1204. The Commissioner shall by regulation prescribe the stipends to be paid by institutions of higher education to the interns participating in the program assisted under this title and the duration and other terms and conditions of such internships.

"'DEFINITIONS

"'SEC. 1205. For the purpose of this title—

"'(1) the term "Members of Congress" includes the Resident Commissioner for the Commonwealth of Puerto Rico and the delegate for the District of Columbia; and

"'(2) the term "State" means the fifty States, the Commonwealth of Puerto Rico, and the District of Columbia.

"'APPROPRIATIONS AUTHORIZED

"'SEC. 1206. There is authorized to be appropriated to carry out this title the sum of $5,000,000 for the fiscal year 1975 and the same amount in each of the two succeeding years. Funds appropriated pursuant to this section shall remain available for the succeeding fiscal year after the fiscal year for which they were appropriated.

"'SHORT TITLE

"'SEC. 1207. This title may be cited as the "*Political Leadership* Intern Program Act of 1974".'.

"(b) The amendment made by subsection (a) shall be effective after June 30, 1974.".

On page 123 in the table of contents, after item "Sec. 526." insert the following new item:

"Sec. 527. Political leadership intern program.".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time yielded to me by the Senator from Minnesota not be charged to anyone.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESOLUTION AUTHORIZING MARY LOU JARDINE TO APPEAR AS A WITNESS

Mr. ROBERT C. BYRD. Mr. President, I send a resolution to the desk and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The clerk will read the resolution with its preamble.

The assistant legislative clerk read as follows:

Whereas, in the case of United States v. Kenneth Young Hee Choy (Case No. 74-468), pending in the United States District Court for the Central District of California, a subpena has been issued by that court and addressed to Mary Lou Jardine, in the office of Senator Inouye, directing her to appear before that court at 9:30 a.m. on Tuesday, May 14, 1974, and to give testimony with respect to trial proceedings in such case: Now, therefore, be it

Resolved, That by the privileges of the Senate of the United States no evidence under the control and in the possession of the Senate of the United States can, by the mandate of process of the ordinary courts of justice, be taken from such control or possession, but by its permission.

SEC. 2. By the privilege of the Senate and by rule XXX thereof, no Member or Senate employee is authorized to produce Senate documents but by order of the Senate, and information secured by Senate staff employees pursuant to their official duties as employees of the Senate may not be revealed without the consent of the Senate.

SEC. 3. When it appears by the order of the court or of the judge thereof, or of any legal officer charged with the administration of the orders of such court or judge, that testimony of an employee of the Senate of the United States is needful for use in any court of justice or before any judge or such legal officer for the promotion of justice and, further, such testimony may involve documents, communications, conversations, and matters related thereto under the control of or in the possession of the Senate of the United States, the Senate of the United States will take such order thereon as will promote the ends of justice consistently with the privileges and rights of the Senate.

SEC. 4. Mary Lou Jardine, in the office of Senator Inouye, is authorized to appear before the United States District Court for the Central District of California (Case No. 74-468) in response to the subpena issued by that court directing her to appear and testify on May 14, 1974, in the case of United States v. Kenneth Young Hee Choy but shall not take with her any papers or documents on file in her office or under her control or in her possession as an employee of the Senate.

SEC. 5. The said Mary Lou Jardine, in response to such subpena, may testify to any matter determined by the court to be material and relevant in such case with respect to persons on the staff of Senator Inouye.

SEC. 6. A copy of this resolution shall be transmitted to the court as a respectful answer to such subpena.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. ROBERT C. BYRD. Mr. President, the adoption of this resolution would give permission to Senator INOUYE's secretary to proceed to California to testify in the case of a man who has been arrested by the FBI for impersonating Senator INOUYE's administrative assistant.

Mr. INOUYE is in Hawaii, and he has given his secretary permission to go to the west coast. The Disbursing Office has stated that such a resolution must be agreed to by the Senate before she could testify.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 323) was agreed to.

The preamble was agreed to.

ORDER FOR SENATOR BUCKLEY TO CALL UP AMENDMENT NO. 1289 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow, upon the disposition of the amendment by Mr. MCCLELLAN, Mr. BUCKLEY be recognized to call up his amendment, No. 1289.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT ON STANDBY ENERGY EMERGENCY AUTHORITIES ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow, after the conclusion of routine morning business, the Senate resume consideration of S. 3267, the Standby Energy Emergency Authorities Act; that debate thereon ensue for not to exceed 1½ hours; that the time be equally divided between Mr. FANNIN and Mr. JACKSON or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. That would mean that the debate on the energy bill tomorrow would not go beyond 12 noon, at the most.

UNANIMOUS-CONSENT AGREEMENT ON EDUCATION AMENDMENTS OF 1974

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the 90 minutes for debate tomorrow on the energy bill, the Senate resume consideration of the unfinished business, Education Amendments of 1974.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that if any rollcall votes are ordered on tomorrow on any amendments or other matters, they not occur prior to 4 p.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

EDUCATION AMENDMENTS OF 1974

The Senate resumed the consideration of the bill (S. 1539) to amend and extend certain acts, relating to elementary and secondary education programs and for other purposes.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that Mr. Robert Kerr, of my office, have the privilege of the floor during the entire consideration of the bill that is now before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. I make the same request with respect to James Thurber, during the consideration of this amendment and the other amendment I will call up.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, I offer this amendment on behalf of Senators BAKER, BROCK, GRAVEL, HART, HATHAWAY, MATHIAS, MONDALE, MOSS, STEVENSON, TUNNEY, and myself.

This amendment adds a new title to the Higher Education Act of 1965, to be cited as the "Political Leadership Intern Program."

A previous version of this amendment was passed by the Senate in 1971 as part of S. 659, the Higher Education Amendments. However, it was dropped in the conference committee because of objections by the House conferees. I believe the necessary revisions have been made in the intern program so that there is support from the House for my amendment.

This amendment would add a new title XII under the Higher Education Act of 1965, which would authorize the Commissioner of Education to make grants to institutions of higher education to establish internship programs in State and local government. It is an amendment which fits into the total program of higher education and it encourages our young people to learn more about our Government through practical experience.

Now that the public's confidence in Government seems to be at a low ebb, it is very necessary for our college and university students to test and temper their theoretical classroom knowledge with the realities of the governmental process. My amendment provides for such an experience.

Under this internship program, institutions of higher education would apply for funds from the Commissioner of the U.S. Office of Education to establish fulltime internships in State and local government. The guidelines for the distribution of grant funds would be set by a special 12-person advisory council consisting of educators and government officials who have had an interest and experience in internship program. The funds would be distributed among the States on the basis of the ratio a State's congressional delegation bears to the total number of Members of Congress. The program would be financed by 50-percent Federal matching grants for the intern stipends and 100-percent Federal financing of the administrative costs. Appropriations are authorized at a level of $5,000,000 for each of fiscal years 1975 through 1977.

It is anticipated that 6,410 students would be able to participate on a fulltime 12-week internship. This would allow approximately 15 internships per congressional district in each State. All intern nominations would be proposed by participating institutions of higher education and State and local government. The internships would carry academic credit through the sponsoring institutions of higher education. Each student would receive a stipend equal to at least $2 per hour while working as an intern.

Mr. President, several colleagues have asked whether this intern program would allow one agency in each State to administer all of the internships in State and local government. Of course that decision is up to the advisory council to the Office of Education, but it is the legislative intent of the amendment, that a central intern agency could administer the program for a specific State. If, for example, a State establishes a consortium of institutions of higher education to administer the intern program, I assume the council and the Commissioner would find no limitations on making grants available to such a group.

The program I am proposing today would hopefully attract only the best qualified, the most dedicated students into government internships. Although the exact qualifications of the interns would be left up to the institutions of higher education and State and local government, I am sure they would look for new ideas, imagination, integrity, social conscience, as well as academic excellence. This program will do far more than provide invaluable insight and experience for college and university students. It will be a source of energetic, enthusiastic and capable assistance for elected public officials from mayors and city councilmen to Governors and State legislators.

I have discussed this amendment with the manager of the bill, the distinguished Senator from Rhode Island (Mr. Pell).

I am hopeful that he will see fit now, as he did on another occasion, to accept this particular amendment. I believe it has special merit and that it will prove a very valuable part of the practical education of young men and women in our institutions of higher education who seek to get a better insight into the operation of government, not from the theoretical or academic point of view but through participation in the governmental process.

Mr. President, I conclude by saying that this type of program has been operated in many colleges throughout the United States and has proved very worthwhile. Internships exist in over 30 of our States and hundreds of our cities and have proven to be very successful from the standpoint of students as well as public officials.

I believe that the broad bipartisan cosponsoring of my amendment indicates the proposal has the kind of support which should stand it well in any examination as to the merits.

The PRESIDING OFFICER. Does the Senator ask unanimous consent to have the Senators indicated listed as cosponsors?

Mr. HUMPHREY. Yes, I ask unanimous consent that that be done.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, I notice that the manager of the bill has returned to the Chamber. I wish to ask the Senator from Rhode Island if he is prepared to comment on the amendment.

Mr. PELL. Mr. President, this amendment was accepted on another bill a year or two ago. The amendment does have merit. I was disappointed when we lost the amendment in the House earlier. I am inclined, speaking for the majority side, to recommend acceptance of the very meritorious amendment of the Senator from Minnesota.

Mr. President, the amendment offered by the Senator from Minnesota would establish a Federally-funded political leadership intern program. It should be remembered that an amendment along the same lines was added to S. 659, the Higher Education Act of 1972, on the Senate floor but was unfortunately unacceptable to the House Members of the conference.

The present amendment differs from the previous one in that—the internships are to be in local and State government offices as opposed to Federal offices and—they are to be administered by an institution of post-secondary education as opposed to the previous method.

Although I preferred to keep S. 1539 limited to elementary and secondary education, there are higher education amendments already in it; I do believe in the aims of the Humphrey amendment and would, with minority concurrence, recommend acceptance of the amendment.

Mr. DOMINICK. Mr. President, I have no objection to the amendment, but I would point out we had trouble with this proposal in conference last year and we may have the same problem this year.

Mr. HUMPHREY. May I respectfully suggest to my two distinguished colleagues that we ran into trouble because the previous proposal included interns at the congressional level. The present amendment applies only to the State and local government. Hopefully, with the capabilities of the two distinguished Senators from Rhode Island and from Colorado, we will be able to succeed this year. I thank the Senators for their help.

The PRESIDING OFFICER. Is all time yielded back?

Mr. HUMPHREY. I yield back my time.

Mr. PELL. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HUMPHREY. Mr. President, I call up my amendment No. 1250.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record.

The amendment, ordered to be printed in the Record, is as follows:

On page 368, line 21, strike out the word "and".

On page 368, line 24, strike out the period and insert in lieu thereof a semicolon and the word "and".

On page 368 after line 24, insert the following:

"(4) to develop the capacity of preelementary school children for reading, and to establish and improve preelementary school programs in language arts and reading.".

On page 369, line 2, after "(a)" insert "(1)".

On page 369, between lines 9 and 10, insert the following new paragraph:

"(2) The Commissioner is further authorized to contract with either State educational agencies, local educational agencies, or both, or with nonprofit educational or child care institutions, for the carrying out by such agencies and institutions, in areas where such schools are located, of such demonstration projects, for preelementary school children. Such demonstration projects are to be instituted in kindergartens, nursery schools, or other preschool institutions.".

On page 369, line 16, after the word "identify" insert the following: "preelementary and".

On page 369, line 23, after the word "for" insert the following: "elementary school".

On page 370, line 17, after the word "testing" insert the following: "in programs for elementary school children".

On page 370, line 18, insert before the semicolon a comma and the following: "and for programs for preelementary school children a test of reading proficiency at the conclusion, minimally, of the first-grade program into which the nursery and kindergarten programs are integrated".

On page 371, line 11, strike out the word "and".

On page 371, line 18, strike out the period and insert in lieu thereof a semicolon.

On page 371, between lines 18 and 19, insert the following new paragraphs:

"(14) coordination and continuity for preelementary programs with respect to subsequent programs, so that a nursery school language arts and reading program shall be shown to lead into a kindergarten program which is integrally related to the nursery school program, and a kindergarten language arts and reading program shall be shown to lead into a first-grade program which is integrally related to the kindergarten program; and

"(15) assessment, evaluation, and collection of information on individual children by teachers during each year of the preelementary program, to be made available for teachers in the subsequent year, in order that continuity for the individual child not be lost.".

On page 371, line 25, strike out the word "and".

On page 372, line 4, strike out the period and insert in lieu thereof a semicolon and the word "and".

On page 372, between lines 4 and 5, insert the following new paragraphs:

"(3) whenever appropriate, sufficient measures will be taken to coordinate each preelementary reading program with the reading program of the educational agencies or institutions which such preelementary school children will be next in attendance; and

"(4) the preelementary reading and language arts program will be carried out as part of a general learning environment.".

On page 372, line 6, after the word "section", insert the following: "or other agency or institution making an application under paragraph (2) of section 702(a)".

On page 373, line 4, after the word "subsection", insert the following: "or an applicant under paragraph (2) of section 702(a)".

On page 382, line 12, strike out "$75,000,000" and insert in lieu thereof "$82,000,000".

On page 382, line 13, strike out "$80,000,000" and insert in lieu thereof "$88,000,000".

On page 382, line 14, strike out "$85,000,000" and insert in lieu thereof "$93,000,000".

On page 382, line 16, after the period insert the following: "Of the sums authorized to be appropriated under this subsection, not less than $7,000,000 in the fiscal year ending June 30, 1975, and not less than $8,000,000 in each of the fiscal years ending June 30, 1976 and June 30, 1977 shall be available to carry out programs authorized under paragraph (2) of section 702(a).".

Mr. HUMPHREY. Mr. President, this particular amendment that I am introducing as an amendment to title 7 of S. 1539, I believe, would make a valuable addition to an already excellent proposal. Problems in reading have long been identified as among the principal causes of failure for the children in our schools. The national reading improvement program in title VII is a major effort to address this problem, by providing for major experimental and demonstration programs in reading with children in the elementary schools, and coordinating this with extensive investigation of reading problems under the aegis of the National Institute of Education. The intention is to find a way to help children to get off to a good start in reading, and it is a long-due and worthwhile proposal.

What my amendment would do is to provide for demonstration programs to test the feasibility of further extending the benefits of this proposal to children before they enter the elementary schools. It is generally agreed that the experiences children have with reading or reading-related activities in the pre-elementary years have a significant impact on their ability to learn quickly in the elementary grades.

There have, of course, been experimental programs carried out with these younger children, and there have even been some rudimentary programs integrated into child care, nursery, or kindergarten programs. The problem has been that more often than not the children have left these programs only to enter an elementary school which takes no account of the type of learning experience they have already had. The benefits of the preelementary school experience are thus too often lost through lack of any continuity or, worse still, the child is confused by the melange of methods and experiences which lack any coordination.

The national reading improvement program offers us a major opportunity to find out how to make the best use of these early experiences in reading. The amendment I am proposing authorizes the establishment of demonstration programs in reading in qualified child care centers, nursery schools, or kindergartens for children in the 2 years before entering the first grade. It requires that such demonstration programs be coordinated with programs in the schools which the children will subsequently be entering. For the first time we will have an opportunity to see the impact of a continuous effort to reach preschool children with training to improve their abilities in language skills and comprehension.

Little coordinated effort has been put into such preschool training in language skills, and virtually no effort has gone into establishing continuity between the reading training of preschool agencies and the schools. Through authorizing the demonstration projects which I propose, we can do some investigating and evaluating to find out what structural arrangements for carrying out these programs work the best, what arrangements provide the greatest continuity and benefits for the child's development of reading skills.

I am suggesting a very moderate level of funding—$7 million in the first fiscal year. This will give us time to get some projects running and to find out which are most effective.

We must not lose this opportunity to devise comprehensive reading training, and training in reading-related skills, for our children at the earliest point at which it may be beneficial to them. Title VII is a major positive innovation in Federal aid to education, and it gets to the children in the way and at the time that can do the most good. What I propose is that we make a moderate but valuable addition to the program which will help to fulfill its purpose and promise.

Mr. President, this amendment did not come out of thin air but out of my personal visits and consultations with a number of teachers in my State of Minnesota, as well as elsewhere in the United States. It also stems from a good deal of reading that I have attempted to do over the years about the subject of reading instruction. I am hopeful we will permit this kind of demonstration project to be established. Most of us know children learn very rapidly in the preschool years and many of the reading habits that children establish start much earlier than grade 1.

What we are seeking to do by this amendment is to start several demonstration projects that will have continuity for children from age 4 to age 6, as they move from a preschool reading experience into regular elementary education. In the past we have had no coordination.

This amendment is tied to title VII of the bill, the reading improvement program, and if the amendment is agreed to we might find we have struck on something that might be very helpful to the reading program generally.

I have discussed this matter with the manager of the bill (Mr. PELL), and the Senator from Maryland (Mr. BEALL) who has been an active proponent of this proposal, as well as the Senator from Missouri (Mr. EAGLETON). Senators BEALL and EAGLETON have worked hard to provide for legislative authorization for reading improvement demonstration programs in elementary schools across the Nation. I have given my full support to this program and intend to be a spokesman in the Senate for its adoption.

Mr. PELL. Mr. President, I have listened to the explanation of the amendment. I am familiar with it from before. The amendment does have merit. It means that over the next few years every citizen will spend the equivalent of 10 cents, and it is for a good cause. I think most Americans would be willing to spend a dime for that purpose in the next few years.

For that reason I recommend that the amendment be accepted.

Mr. HUMPHREY. I thank the manager of the bill.

Mr. DOMINICK. Mr. President, being one of the principal sponsors of the right to read measure we have in this legislation I welcome any new initiative we can get in order to get people to read.

I think all of us here know how poor the reading capacity of many Americans is by reading letters addressed to our offices from constituents. Some of those letters are terrible. If we can start a new system to learn to read early, I am delighted to accept the amendment.

Mr. HUMPHREY. I thank my distinguished colleagues.

Mr. President, I yield back my time.

Mr. PELL. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Minnesota.

The amendment was agreed to.

Mr. SPARKMAN. Mr. President, I should like to call up an amendment sponsored by my colleague (Mr. ALLEN) and myself, No. 1178.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk proceeded to read amendment No. 1178.

Amendment No. 1178 is as follows:

On page 138, line 21, after the word "workers", insert the words "and of migratory fishermen".

On page 139, line 3, after the word "workers", insert the words "and of migratory fishermen".

On page 148, between lines 6 and 7, insert the following:

"(ii) Section 141(c)(1) of such title I is amended by adding after the words 'migratory agricultural workers' each time it appears in such section the following: 'and migratory fishermen'.

"(iii) Section 141(c)(2) of such title I is amended by inserting after the word 'workers' the following: 'and migratory fishermen'.

"(iv) Section 141(c)(3) of such title I is amended by inserting after the word 'worker' the following: 'or of a migratory fisherman'."

On page 148, line 7, strike out "(ii)" and insert in lieu thereof "(v)".

On page 148, line 10, strike out "(iii)" and insert in lieu thereof "(vi)".

On page 148, line 20, strike out "(iv)" and insert in lieu thereof "(vii)".

On page 148, line 23, strike out "(v)" and insert in lieu thereof "(viii)".

Mr. SPARKMAN. Mr. President, this amendment is a simple one. It simply provides that children of migratory fishermen may be taken care of in the same way as children of migratory agricultural workers. This means a great deal to my area, and I am sure to many other areas of the country where there is a sizable fishing industry.

I have discussed this amendment with the distinguished chairman, and I believe he is willing to accept the amendment. I hope so, anyhow.

Mr. PELL. Mr. President, the Senator from Alabama is correct. We have discussed it and I see no reason in the world why migratory aquacultural workers should not be given the same treatment as migratory agricultural workers. The need for this amendment arose from the fact that the Office of Education definition of "migratory agricultural workers" did not include migratory aquacultural workers.

Therefore, I support the proposal of my colleague that migratory agricultural and migratory aquacultural workers be considered alike.

Mr. DOMINICK. Mr. President, will the Senator from Alabama indulge me for a few questions?

Mr. SPARKMAN. Yes.

Mr. DOMINICK. First of all, who are migratory fishermen? I thought all fishermen were migratory. I am when I am fishing.

Mr. SPARKMAN. Yes; the Senator and I would be migratory fishermen because we move from one place to another hoping to make a catch, but there are many fishermen in the country who move from place to place just as agricultural workers move from place to place. This amendment is to put them in the same place as migratory agricultural workers—nothing more and nothing less.

Mr. DOMINICK. There is, then, a definition within the Department of Labor of what constitutes a migratory fisherman?

Mr. SPARKMAN. I cannot answer that.

Mr. DOMINICK. Because, with all due respect, I do not think all fishermen would be classified as migratory fishermen, even though we might travel up and down the stream or go across the lake.

Mr. SPARKMAN. No, it is not intended to apply to them at all. It is for the people who make a living by fishing. That is their work.

Mr. DOMINICK. Let us take the salmon fishermen in Alaska or the tuna fishermen off Block Island, R.I. Are they classified as migratory fishermen?

Mr. SPARKMAN. I would not think they would be migratory fishermen unless fishing was their means of livelihood, and, second, if they did not confine themselves to one particular area; but in different parts of the country, fishermen move just as agricultural workers do, from Florida northward as the seasons change, and I think the same thing would apply to fishermen.

Mr. DOMINICK. I think the Senator from Alabama has a pretty good idea. My only question is, Who is to be classified as a migratory fisherman, because I have never heard the term fisherman so classified? Does the Senator from Alabama have any specific examples to give me so we can clear up the record on that point?

Mr. SPARKMAN. I am sorry. I cannot give the Senator any specific examples, but I do know there are fishermen who make a living fishing and who move from one area to another as the seasons change.

Mr. DOMINICK. And as they try to catch different species of fish?

Mr. SPARKMAN. I am sure the Senator realizes that fish have a way of going with certain waters according to the warmth or the coldness of those waters and with certain tides. One might be fishing, for instance, on the western coast of Florida one day or one week, and perhaps the next week those fish would move around to the east coast of Florida. Fishermen follow those fish and make their living out of that work.

Mr. DOMINICK. But we are talking about marketable fish; the Senator is not talking about people who follow fill fish around from place to place just for the sport, or who follow dolphin around just for the sport of catching them?

Mr. SPARKMAN. No; this amendment is only for people who make their living by fishing.

Mr. DOMINICK. I thank the Senator from Alabama. With that record, I have no objection to the amendment.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. SPARKMAN. I am willing to yield back my time.

Mr. LONG. Mr. President, will the Senator yield?

Mr. SPARKMAN. I yield.

Mr. LONG. I personally am confused a little by this. It seems to me we would definitely want to take care of the fishermen if they are in the same situation as migratory labor, but it was my impression that when fishermen go to sea on their boats their families do not migrate; that the fishermen move back and come back to their home ports. Are we to understand that there are sizable numbers of fishermen's families that move around from season to season as the migratory workers do?

Mr. SPARKMAN. That is right, as the seasons change. Perhaps the waters of the gulf get warmer, the fish move to cooler waters, and the fishermen and their families go where the fish are. I am not talking about one who has a boat and goes out into the gulf off the coast of Louisiana, for instance, but I am talking about those who follow the runs of fish from one area to another.

Mr. LONG. I was not sure that fishermen moved their families from place to place. It was my impression that while the fishermen might be gone a long time, their families remained at the same place. Of course, there may be exceptions to that. I would be surprised to find there are any number of such situations.

Does the Senator have any figures or statistics showing how many such families there may be?

Mr. SPARKMAN. No, but surely the Senator from Louisiana would recognize the fact that there are many boats right off the coast of his State on which the families of fishermen live and that they do move from area to area.

I have in my hand now some facts that have been handed to me. This is a result of research by the staff, and it states that this amendment is good and that it is necessitated because of an action by the Office of Education denying the Mobile County, Ala., schools—so this happened in my own State—title I funds on behalf of the children of migratory fishermen. For the school year 1970–71, 345 such children were counted for title I purposes. This number rose to 368 in 1971–72, and declined to 336 in 1972–73.

Then, for the 1973–74 school year, the Office of Education decided that migratory fishermen did not come under the definition of "migratory agricultural workers," as specified in title I legislation. No payments were made to Mobile County for that year.

The amendment would clarify the situation. If they are migratory, just as the agricultural workers are migratory—and certainly the Department has its own definition of what constitutes migratory conditions—and if the agricultural workers are entitled to have their children counted, I say the migratory fishermen ought to have their children counted, too, so that Mobile County can receive its payments on behalf of the children of the migratory fishermen.

Mr. LONG. My thought was that if this was a problem, I would be pleased to vote for the amendment. As the Senator has convinced me that it is a problem, I shall be pleased to vote for the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. SPARKMAN. Mr. President, I yield back my time.

Mr. DOMINICK. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendments of the Senator from Alabama.

Amendment No. 1178 was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. ALLEN. Mr. President, I ask unanimous consent that the managers on both sides yield me 10 minutes each on the bill.

Mr. DOMINICK. Mr. President, I am happy to yield 20 minutes to the distinguished Senator from Alabama.

Mr. ALLEN. Mr. President, the pending bill is S. 1539. Also on the calendar is H.R. 69, which legislates in the same general area and is a superior bill in at least three areas to the Senate bill now under consideration.

I refer, in the first place, to the impacted aid provision, which is superior to the committee version of the bill and is superior to the Beall amendment, which was adopted by the Senate just this afternoon.

H.R. 69 is a superior bill as regards the title I funding, because the Senate bill would provide title I funds to the State, based in large part upon what the States were doing for the needy or disadvantaged children in the general areas of support, not merely in education; whereas the House bill provides the same amount of money, some $1.8 billion, among the States, based on the number of needy in general in the various States.

The Senate bill would provide more money to the wealthier States, whereas the House bill would make more adequate provision for the needy children wherever they might be.

The third area in which the House has a bill that is superior to the Senate bill is in the area of regulating or abridging or limiting the forced mass busing of schoolchildren.

Later—in the early part of next week, as a matter of fact—the distinguished Senator from Michigan (Mr. GRIFFIN) plans to submit two developments that might take place in the legislative process prior to that time, and to offer the House bill as a substitute to whatever the Senate has finally agreed to at the time he offers the House bill. If we knew that the provisions in the House bill could be substituted for the Senate bill, there would be no need of further debate. But we do not know that, so we are going to have to debate the various areas as we come to them.

Tomorrow, the distinguished Senator from Arkansas (Mr. MCCLELLAN) will bring up, by unanimous consent, the title I amendment, which, by and large, was a substitute for the Senate provision in title II, the provisions of the House bill. As soon as the Senate has finally acted on the provision relating to impacted areas, a move will be made to substitute the House provisions there.

Later, starting on Wednesday, we shall have debate on the Gurney amendment, with the substitute for the Senate provisions, the antibusing provisions, of the House bill. But at this time I shall address my remarks to the provisions of the Gurney amendment and to discuss the general question of whether Congress has the power to curb massive, forced busing and cross-busing, since we are dealing with the denial of equal protection clause of the 14th amendment, and in particular are dealing with busing. Our power to deal with busing is unmistakably clear.

So at this time I am going to address my remarks to whether Congress has the power to legislate in this field. I believe it is abundantly clear that Congress does have this power. Not only does it have this power; it has the duty under the Constitution to act in this area.

So I support the amendment to S. 1359 to be offered by the Senator from Florida (Mr. GURNEY) on Wednesday, with the final vote on that amendment to take place on Wednesday at 5 o'clock in the afternoon. That amendment incorporates the amendment of the Equal Opportunity Act of 1974 as set out in title 2 of H.R. 69, which passed the House on March 17, 1974. If we were considering only the House bill, H.R. 69, which I want to substitute for the Senate bill, we would have no occasion for the debate which is going to take place this week with respect to the education bill.

The Senate version of this bill, will be voted on Wednesday afternoon at 5 o'clock. No vote can be had on that question prior to that time, so every Senator will have an opportunity to discuss the amendment if he sees fit to do so.

This is an amendment which is essentially the same as the provisions of the bill, which passed the House in 1972, only to be killed in the Senate by a liberal-led filibuster in the waning days of the 92d Congress. Senators talk about filibustering. But they do not like to use the word "filibuster" until it serves their ends to have a filibuster. Then we have a filibuster. Such a filibuster took place with respect to the House bill having to do with the regulation of forced busing and the power of the Federal courts to use it as a remedy. That bill was filibustered to death in the Senate. Three cloture votes were taken on the bill. While a majority favored the bill, a determined minority was able to defeat it.

I do not object to the use of the filibuster. I have used it myself from time to time. Sometimes it does rather go against the grain a little bit for those who are deprived of the use of the filibuster to have it used against themselves, when its users can do so to great advantage.

On January 18, 1973, I introduced these provisions as a separate bill because I am convinced that many Senators who opposed the Equal Education Opportunities Act in 1972 are under an honest misapprehension as to its purpose, intent, scope and effect. This is a most charitable explanation of some of the opposition.

In any event, I believe that honest misapprehensions persist and that chief among them is the belief that Congress is without the power to prescribe limitations on the formulation of discretionary remedies in school desegregation cases. Since this issue would seem to be controlling, I believe it will be useful to explore this question separately before addressing other reasons advanced in opposition to the Senate provisions with respect to busing. Obviously, if Congress has no power to impose limitations on discretionary remedies imposed by Federal judges in the formulation of desegregation decrees, it would be a mere exercise in futility to attempt to do so.

Mr. President, let us put the problem in current perspective. This amendment, which is the provision of the House bill with respect to limiting or remedying forced busing, among other things provides Federal courts with guidelines for the formulation of desegregation decrees when such decrees require busing of students.

Mr. President, desegregation of schools is here to stay, and we have no complaint as to the law of the land in this respect. We have read in the papers in recent days of the 20th anniversary of Brown against Board of Education.

Certainly that was a landmark decision, and it was a decision with which the junior Senator from Alabama agrees—that the States should not and shall not have authority to make assignments of pupils to public schools because of race or color. If that were still the law today, there would be no complaint about this whole problem.

But the Supreme Court has changed its ruling by 180 degrees, and is now holding that the States or the public entities must assign by race in order to overcome racial imbalance. There is no quarrel anywhere in the country that I know of—certainly not in the South—against Brown against Board of Education. It is the departures from that rule that we object to. These guidelines are both timely and of urgent importance, not only to individual victims of forced busing schemes, but also to Congress and to the Nation.

Mr. President, seldom in our history have we faced a situation where overwhelming numbers of citizens were simultaneously critical of the performance of the executive, Legislative and judicial branches of the Federal Government. We face that situation today. The reasons for popular disillusionment with the separate branches are different, but the complaint of unresponsiveness of the Federal Government to the will and wishes of a vast majority of the people is applicable to each. On reflection, I think the complaint is justified.

For one thing, the Federal judiciary is not responsible to the people and was not intended to be; and it can hardly be expected to be responsive to the will of the people.

While the Chief Executive is responsible to the people, the executive branch of Federal Government is not necessarily responsive to the will of the people. In fact, the Federal bureaucracy is well nigh uncontrollable and far too often it is responsive neither to the people nor to their elected representatives.

Finally, there is increasing evidence that the vast majority of the people are dissatisfied with the performance of Congress. The charge against Congress is not only that it is unresponsive, but also that it thwarts the will of the majority by many affirmative enactments and by denying the people recourse to constitutional amendment to protect what they conceive to be cherished liberties.

Mr. President, it is not my purpose or desire to make a case against Congress or to be unduly critical of Congress. However, I sincerely believe that the refusal of Congress to halt excessive forced busing in the face of overwhelming sentiment against it is a tremendously important factor in the erosion of confidence in Congress. This amendment—that is, the Gurney amendment—if enacted, will serve as a concrete manifestation that a substantial number of the Members of Congress are concerned about and are responsive to just grievances stemming from a misuse of the coercive power of Federal Government in the area of forced busing.

Mr. President, the hostility of the people to the idea that the Federal Government has the power to yank up children and transport them to distant schools in conformity with half-baked sociological theories is illustrated by poll results. I shall offer some of the fairly recent poll results as exhibits. For the moment, let me read some of the captions. From an April 1970, Gallup poll, "Public Opposes Busing by a Margin of 8 to 1"; from the publication Nation's Schools, June 1970, issue, "Forced Busing Vetoed by 90% of Schoolmen"; from a March 1972 Florida poll, "74% Back Antibusing Amendment"; from a September 1973, Gallup poll:

> Only one person in 20—(5%)—selects busing from a list of plans that have been suggested as ways to achieve integration in public schools.

Mr. President, we can imagine the results were the pollsters to ask, "Do you favor massive busing and cross-busing schemes as imposed in Charlotte, N.C.?" or, "Do you favor closing neighborhood schools and consequent busing of your children to distant schools?" There can be no doubt where the sentiment of the people lies on these questions. Yet Congress has taken no affirmative action—at any rate no action approved by the Supreme Court—to respond to the will of the people on this issue. The practice goes on in the South and is spreading throughout the Nation. Congress cannot reasonably continue to neglect the will of the people on this issue.

Mr. President, as previously indicated, the first question to be decided is whether Congress has the power to curb massive forced busing and cross-busing. Since we are dealing with an alleged denial of equal protection of the laws under the 14th amendment, the power of Congress to deal with remedies is unmistakably clear. Section 5 of the amendment provides:

> Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

Innumerable Civil Rights Acts have been enacted in the exercise by Congress of this power. But, the argument is advanced that Congress can enact laws only to broaden rights protected by the 14th amendment and not laws which delineate the rights so protected. The poverty of this argument is illustrated by the fact that many liberals in Congress who advance the argument have insisted on doing what they say Congress has no power to do. They have consistently supported enactments beginning with the Civil Rights Bill of 1964 and continuing year after year in various education bills which specifically deny the U.S. Attorney General the power and the U.S. District Courts the jurisdiction to interfere with the extensive system of segregated schools located in areas outside of the South.

Obviously, if Congress can exclude certain types of segregation from protection of the 14th amendment, it can properly limit the use of the coercive power of Federal Government in the vindication of rights which Congress may determine to be protected under the equal protection clause—and for that matter the rights which the Supreme Court may determine to be protected by the amendment.

The **PRESIDING OFFICER** (Mr. McClure). The time of the Senator from Alabama has expired.

Mr. **ALLEN**. Mr. President, I ask unanimous consent for an additional 5 minutes to be equally divided.

Mr. **PELL**. Mr. President, so far as I am concerned, that would be fine. So take 2½ minutes out of my side.

The **PRESIDING OFFICER**. The Senator from Alabama is recognized for 2½ additional minutes at this time.

Mr. **ALLEN**. I thank the Chair. Speaking on behalf of the Senator from Colorado (Mr. Dominick) I yield myself an additional 2½ minutes. [Laughter.]

Traditionally Congress has determined rights and remedies under all of the so-called civil rights amendments. Witness the innumerable remedies prescribed by Congress in the many Civil Rights Acts enacted since adoption of the 14th amendment. However, in the school cases, the U.S. Supreme Court took the initiative in determining a right to be protected when it reversed a longstanding precedent in school cases and the Court prescribed its own remedies—and there is the rub. The Court invoked its equity power and vested jurisdiction of school desegregation cases in inferior courts and authorized U.S. District Court judges to fashion equitable remedies.

Mr. President, the equity power of a court is a power of discretion in judges. In earlier days, it was recognized as a discretionary power to decide questions concerning the meaning of the Constitution in law, and also its meaning in equity. In this connection, the eminent New York jurist, Robert Yates, a prominent antifederalist, warned of the danger of vesting in an independent Federal judiciary the power to construe the Constitution by what judges in their discretion might from time to time consider the spirit or grand design of the Constitution rather than the letter of the instrument. Yates wrote:

> "From this method of interpreting laws (says Blackstone) by the reason of them, arises what we call equity;" which is thus defined by Grotius, "the correction of that, wherein the law, by reason of its universality, is deficient; for since in laws all cases cannot be foreseen, or expressed, it is necessary, that when the decrees of the law cannot be applied to particular cases, there should be a power vested of defining those circumstances which had they been foreseen the legislator would have expressed; and these are the cases, which according to Grotius, lex con exacte definit, fed arbitrio boni viri permittet.

Mr. President, we have inherited some of the problems foreseen by Robert Yates. For example, the Brown I decision is the result of an equitable construction of the Constitution which reversed a prior equitable construction of the 14th amendment, as it applies to public schools. Obviously, Congress could not have foreseen this reversal of a prior Supreme Court decision and, therefore, no statutory remedies were available to the Court. Consequently, the Court invoked its equity power to prescribe remedies. The Supreme Court has since complained of the absence of guidance from Congress in formulating remedies, but Congress has not acted and we are continuing to suffer the consequences of the abuse of near limitless discretion of Federal judges.

Heretofore Congress has limited the exercise of discretionary power in Federal judges in the use of injunctions in cases involving constitutionally protected rights, and it can certainly limit the use of a mandatory injunction to coerce the people into accepting massive uprooting of schoolchildren and forcibly transporting them from school to school in the discretion of Federal judges. The question of whether or not Congress may "dilute" constitutional safeguards is not at issue. It must be admitted, in reason, that every statutory vindication of a constitutionally protected right is an expression of what is considered appropriate by Congress to achieve the desired end. Such an expression by Congress necessarily excludes inappropriate or unnecessary measures to accomplish this end. It is well to remember that in the busing issue, we are addressing the question of remedies and the scope and character of the relief to be offered. The basic question is, will Congress perform its duty to provide statutory remedies in school cases, or will it continue to permit Federal court judges to formulate remedies consistent with the sociological hangup of individual judges?

I hope no one will take lightly this matter of abuses of the equity power of discretion in judges in the field of education. Let me read portions of a resolution adopted by the school board of Chesterfield County, Va., which was under a mandatory injunction of a U.S. district court judge. This is the case in which, in the exercise of equity power, the judge ordered the consolidation of school systems of three separate political subdivisions of the State of Virginia in order to meet an arbitrary racial quota in each of the school systems.

> Whereas, if the members of this Board remained free to vote in accord with their independent and collective judgment and will, they would unanimously refuse to request the State Board of Education to create a single division to be composed of the Counties of Chesterfield and Henrico and the City of Richmond; and
>
> Whereas, our attorney aforesaid has advised us that the Order of January 10, 1972, mandatorily directs that we cast our vote in favor of a "request" that the State Board of Education create a single division composed of the Counties of Chesterfield and Henrico and the City of Richmond on or before 30 days from January 10, 1972, under pain of punishment for contempt by fine or imprisonment should we fail to do so.
>
> Now, therefore, acting under the duress, coercion, and compulsion of the penalties consequent upon doing otherwise, and acting contrary to our individual and collective judgment and wills, and under the compulsion of the Order aforesaid, we do adopt and vote for the following:

Mr. President, if we multiply this example of coercion by the number of school boards in the 16 Southern and border states, we grasp the magnitude of the judicial tyranny which pervades nearly a third of the States of our Nation. It is of little comfort to know that this particular case was reversed by the U.S. Court of Appeals for the Fourth Circuit and that the reversal was allowed to stand by the narrow thread of an equally divided U.S. Supreme Court.

That was the Richmond-Chesterfield-Henrico case.

The fact remains that it is within the discretionary power of U.S. district court judges to enter such decrees, and it is within the discretionary power of the U.S. Supreme Court to uphold such decrees—unless Congress decides otherwise.

That is what we are trying to do with this amendment that will be voted on Wednesday.

In the case just mentioned, about 106,000 students were involved. The judge, in the exercise of his discretion, decided to create what would have been one of the largest school districts in the United States covering an area of 752 square miles. The children in this mammoth district who were to be denied the right to attend the school closest to their respective places of residence were to be chosen—would you believe it—by lot. I repeat, they were chosen by lot. The principal witness in the case was a sociologist who advanced a theory of "viable racial mix." The U.S. district court judge bought the theory hook, line, and sinker. His opinion bristled with statistics and racial ratios. In toto, the record of the case is a hideous but "viable" example of judicial abuse of a discretionary power which should and must be curtailed by Congress. I have reference to the U.S. district court, not the appellate court in this particular case.

Mr. President, it is true that up until now the parents and schoolchildren in the South have borne the brunt of the hardships and disrupted education and lives of children affected by compassionless U.S. district court judges.

I might say that this is not a racial view because both races in the South, in the judgment of the Senator from Alabama, disapprove heartily of the busing ordered by the Federal courts, because it is the black children who are, by and large, transported on the buses for 10, 20, and 30 miles, and the hardship is placed upon them. It is their schools which are closed with the constant requirement of busing on their part.

But now, the U.S. Supreme Court in the exercise of its discretion has reached out to Denver, Colo., and, as one Supreme Court Justice put it:

> The Court's (U.S. Supreme Court) opinion virtually compels the finding on remand that Denver has a dual school system. That city will then be under an affirmative duty to desegregate its entire system "root and branch". Again the critical question is what ought this constitutional duty entail.

The question presented is one which Congress must attempt to answer, at least to the point of establishing guidelines. It is the duty of the Congress to determine the nature and scope of the remedy. Otherwise, the remedy will be left to the unlimited discretion of judges who have shown no reluctance to order massive busing and cross-busing such as was inflicted upon the citizens of Charlotte, N.C. Unfortunately, the Charlotte remedy, approved by the U.S. Supreme Court, became the model for all U.S. district court judges, and has become known as the "root and branch" treatment.

Mr. President, each Senator has before him the separate provisions of the amendment. I will not elaborate on them at this time. I will point out that among the limitations on busing contained in the bill, not one conflicts with any ruling of the U.S. Supreme Court nor do they singly or collectively deny any person a constitutionally protected right. It would impose reasonable and humane limitations on the discretionary powers of U.S. district courts in formulating desegregation decrees when such decrees involve busing of children.

I do hope that all Senators will agree that all persons in the United States are entitled to freedom from coercion imposed in the exercise of limitless discretionary powers by any branch, agency, or officer of the U.S. Government, and that it is in the public interest to terminate at the earliest practicable date by means consistent with the Constitution the involvement of U.S. courts in decisions affecting the operation, management, and control of public schools.

One final word—there are no dual school systems in the South—Federal judges continue their involvement under the pretext of eliminating "vestiges" of dual school systems. Translated that means that there are schools which do not have a racial ratio of pupils as reflected in the population as a whole. Of course, the U.S. Supreme Court has said that no individual has a constitutionally protected right to attend a school having a racial balance. But, then, it said that in the South any deviation from racial balance is prima facie evidence of the vestiges of a dual school system. Accordingly, such school systems are compelled to achieve, as nearly as possible, by one means or another, a racial balance in the schools—to which no one is entitled as a constitutional right. But, of course, this is only a part of a shameful heritage from the U.S. Supreme Court of nonthink, double talk, and judicial exposition which relies on cryptic key words and phrases to confound and confuse the people.

Mr. President, let me say this in conclusion. Congress has the power to correct this situation. In my judgment it has a duty to correct it. It is my sincere and solemn hope that the Senate will cooperate with the House in efforts to shackle the unlimited discretionary powers of Federal judges to tyrannize the people of our Nation.

Mr. WILLIAMS. Mr. President, all of my colleagues in this Chamber this week will be considering extension of the most important Federal education legislation ever passed by the Congress. I know that my colleagues share my deep concern about the standard of education in this Nation, and about the future of hundreds of thousands of schoolchildren. Thus, it is important that we carefully review the major title on this bill, title I—Special Educational Programs and Projects for Educationally Deprived Children.

I know that there will be extensive debate and discussion about the Senate committee title I formula, and about the concomitant effects this formula will have on delivering educational services to disadvantaged children. It is with this in mind that I review for my colleagues the history and development of this formula in committee, and point out its salient characteristics. I know also that my colleagues will be wondering about the specific financial effect this formula will have on their own States, and no doubt they will be comparing this effect to the effect of action taken by the other body just a few weeks ago. At the outset, I want to emphasize that this program is an educational program above all for economically and educationally deprived children. It is furthermore a program for the entire United States and not just for a single State or a single region. My colleagues in reviewing the effects of the committee bill should keep in mind that in the final result the purpose is to insure equality of educational opportunity to all children and that title I is designed to insure that poor children are assisted so that they, too, will share in that opportunity.

There can be no doubt that some States under the committee formula appear to receive smaller estimated allocations than they would under the House bill. Yet it is also true that under the House bill, some States receive much less than they would receive under the Senate formula.

THE PROBLEM WHICH FACED THE COMMITTEE IN DEVELOPING A NEW TITLE I FORMULA

The committee has taken great care to develop a formula to fairly meet the needs of all of the States. I point out to my colleagues that hearings were completed on this legislation in October, and that the subcommittee met in executive session for 10 days in November and December. We worked on the bill in full committee throughout January and February and held 3 full days of meetings in March. Most of the sessions and the interim period was devoted to the consideration of the title I formula, and to the problems of delivering funds equitably to children in need of services throughout the country.

I am sure my colleagues know that it is not an easy problem which we were considering. In the absence of a single relative index of poverty which is current, detailed, and equitable, it is difficult to make judgments which will affect not only the quality but the continuity of programs for the education of children. As has been evident in debates on appropriations for this program throughout the past year, every one of us is concerned about the effects of abrupt changes on their States and it is for this reason that the committee evaluated this problem in its entirety. The formula which the committee has developed is a fair formula: It is one which will provide continuity to all education agencies so that they may not again be faced with the disruption of funds; it is one which takes into account variations in not only standard of living throughout the Nation, but the real costs of educating children; it is one which assures that one area of the country will not benefit to the disadvantage of another area; and it is a formula which assures that we will not be faced with problems in the ensuing years of relying entirely on data which had been collected some 10 years previous.

As my colleagues know, and as was evidenced by debate in this Chamber on three appropriations bills in the last year, the availability of the 1970 census data threw a veritable monkey wrench into the development of extension legislation for title I. As a result of population shifts and increases in the standard of living, the $2,000 low-income factor in existing law for determining eligible children showed an absolute decrease of over 2 million children. Those States showing the greatest decrease include Alabama, Arkansas, Georgia, Iowa, Kentucky, Mississippi, North Carolina, North Dakota, South Carolina, South Dakota, Tennessee, and West Virginia. Each of these States showed a loss of over 60 percent of the number of children in families with incomes under $2,000 who were eligible for title I. Furthermore, over the decade, States had changed their payment levels and eligibility requirements for AFDC. Thus, while AFDC had been adopted as a factor to provide updating of the static census data and to provide an additional measure of relative poverty, the AFDC factor, which represented 10 percent of the population in 1965, grew to represent, as a result of the release of the new census data, over 60 percent of the population in measuring eligible title I children.

It was therefore necessary to develop an equitable title I formula which will remain current and reflective of where children are actually living, and which will provide a measurement of poverty which reflects differences in costs of living and standard of living. To accomplish this the committee reviewed all poverty indicators which are in use throughout the Government. There can be no question that the factors which have been adopted by the committee in the title I formula demonstrate improvement over the approach in existing law. The poverty factors used combine the Orshansky index and AFDC.

THE FORMULA FACTORS IN S. 1539

The Orshansky index, which is utilized in drawing up estimated welfare budgets by the Social Security Administration, is based on food costs to a family of a particular size, age, sex of head of household, and nonfarm or farm residence. Because of these adjustments, and particularly because of its variation in income level for size of family, the Orshansky poverty index is much more sensitive to variations in individual family needs than a single poverty level can be.

Now the Orshansky index is not without its problems. It is derived based solely on the cost of food for a family of given size. It assumes that a family spends approximately one-third of its budget on food and the overall income level is determined to be three times that figure. The index is then applied against census figures to determine number of children eligible in a given county. I point out to my colleagues that under this index no further adjustments are made for variations in housing costs, transportation costs, medical costs, or for the cost of other necessary services. Furthermore, the only adjustment which is made for area of residence is a small variation for farm or nonfarm family; it assumes that food costs will be 15 percent less for a farm family.

Thus, this index has no adjustment for urban, suburban, or rural nonfarm cost-of-living variations.

The Orshansky index is further limited by the fact that it can only be applied against static census population figures and therefore is not reflective of changes which occur between the 10-year period of census counts.

In order to assure that a similar problem will not result in the future because of changes in population, the committee has continued to count children from families receiving AFDC payments as a second poverty factor in the title I formula. Without this updating factor we would be faced with the same problem as has occurred in the last year when there was a switch to new census figures. In the absence of AFDC data, the title I formula would continue to rest on population figures collected in 1969, and as population shifts take place, areas would be continuing to count children who were in school in 1969.

Under the committee formula full AFDC caseload is included in order to assure that all States are able to share equally in the use of the AFDC allocation factor no matter how high or low the State pays its AFDC recipients. While the question can be raised of "double counting," I point out that no data exist on AFDC population over the Orshansky income level—$4,250 for a family of four—and few States have many families receiving payments at that level. Furthermore, because the census is recognized to have a high error rate and substantial undercounting for poverty populations, inclusion of total AFDC caseload should provide additional assurance that we are reaching more of the population that we have intended to reach under title I.

To assure for future years that the AFDC counts will not become the overriding factor in distribution of funds under the title I formula, the committee has divided the allocations so that 60 percent of the funds will be distributed according to the number of Orshansky children and 40 percent will be distributed according to the number of children in families receiving AFDC payments.

Finally, to assure continuity and stability to districts receiving funds under title I, the committee has also adopted the concept of a "base year." Under this concept no local education agency would receive less than it received in fiscal year 1974. Thus new money would be distributed on the 60 percent Orshansky-40 percent AFDC formula and all States would share in this new money.

Mr. President, I know that it has been alleged that AFDC is biased toward urban areas because so-called wealthier States are able to pay higher AFDC payments and add more people to their welfare rolls. I know also that it has been argued that it is more equitable to provide a ceiling on the amount that a State may be allowed to use as a measure of its per-pupil expenditure.

In response to these assertions, I reiterate the points I made in my opening remarks. This program has, for 10 years, been designed for all of the 50 States.

It is intended to provide assistance to poor children on an equitable basis. Until the time when the Government of the United States has developed a poverty index which accurately reflects the differences in cost of living and relative poverty in each of the 50 States, I say that we must insure that all areas are treated fairly, even if it means adding 50 factors to the formula.

REASONS FOR USING BOTH THE ORSHANSKY INDEX AND AFDC—DIFFERENCES IN COSTS OF LIVING

Some of my friends will argue that Orshansky is the universally accepted poverty index of the Federal Government and is adequate by itself. But I must tell them that Ms. Mollie Orshansky, who developed this index, forthrightly counseled the Congress against adopting this index as the sole indicator of poverty. Furthermore, she indicated that the index concentrates only on "the income-food relationship, although in urban families, particularly those handicapped not only by a lack of money but by minority status and large families, the cost of housing may be critical."

The facts are, Mr. President, that costs do vary across this Nation. I point out, that according to a Gallup poll, although food costs on an annual basis average $2,080 for other areas of the country, in the Eastern States food costs are $2,548 for an average family of four. Mr. President, I ask unanimous consent that an article in the March 14, 1974, New York Times describing this Gallup poll be inserted in the Record at this point in my remarks.

There being no objection, the article was ordered to be printed in the Record, as follows:

Family Food Bill Put at $42 a Week

The typical American family spends $42 a week for food, including milk, according to Gallup Poll findings made public yesterday in Princeton, N.J.

That figure is a record high, up $5 from last year's figure and nearly four times the sum recorded in the first survey on food costs in 1942, when the amount was $11.

The median amount being spent for food is highest in the East at $49, the survey found. The figure recorded for each of the other three major regions was $40.

The amount spent differs sharply by income groups, according to the poll. Among those whose yearly household income is $15,000 and over, the figure is $52—$10 higher than the national finding. The amount declines by income level down to $29, the amount spent by families whose annual household income is under $5,000 a year.

The survey results reported yesterday were based on interviews with 1,444 nonfarm people interviewed in person in more than 300 localities across the country during the periods Feb. 8 to 11 and Feb. 15 to 18. Farm families were excluded from the survey since many farmers raise their own food.

MEDIANS BY REGION

The question asked was: On the average about how much does your family spend on food, including milk, each week?

Following are the medians for the national nonfarm population by region, showing the change since 1971, the last time results by region were reported:

	1971	1974
National	$34	$42
East	39	49
Midwest	31	40
South	33	40
West	34	40

Following are the latest results by family income groups:

$15,000 and over	$52
$10,000–$14,999	46
$5,000–$9,999	34
Under $5,000	29

Gallup surveys during a quarter century show that food costs have increased in the United States to a lesser extent than have nonfood costs. In 1947 food costs represented about one-half the total minimum amount that the public said was needed to make ends meet. More recent surveys have shown, it was said, that food costs represent a smaller proportion—between one-third and one-fourth in the latest survey on the subject.

The public's current estimate of the minimum amount a family of four needs per week to make ends meet, as reported last Sunday, is $152. This is five times the figure recorded in 1937, which was $30 a week.

Mr. WILLIAMS. Mr. President, furthermore, although nationally monthly housing rents average $81.26, in those States above the median in AFDC standard payment levels the average monthly contract rent is $93.57; while the average in those States paying below the median in AFDC standard payment levels is $74.92—a difference of $20 per month.

In some States, particularly those where heating fuel costs do not add into utility bills, the average monthly rents drop as low as $47. Mr. President, I ask unanimous consent that a table comparing monthly rents and the AFDC standard payment level index, by State AFDC rank be inserted in the RECORD at this point in my remarks.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

MONTHLY RENTS AND AVERAGE AFDC PAYMENTS RANKING OF STATES ACCORDING TO AFDC STANDARD PAYMENT LEVELS AND THE MEDIAN CONTRACT RENT FOR RENT AGREED TO OR CONTRACTED FOR

[With or without furnishings, utilities, and services]

	AFDC standard index	Contract rent
Alaska	141.5	$171.00
Indiana	125.7	83.00
Maine	123.5	71.00
Kansas	121.4	75.00
New York	118.9	96.00
Connecticut	118.6	105.00
New Jersey	114.7	111.00
Minnesota	114.7	101.00
Nevada	113.6	123.00
Utah	113.3	80.00
Vermont	112.9	76.00
Massachusetts	112.6	91.00
California	111.2	113.00
Missouri	110.8	74.00
Wisconsin	110.4	92.00
Maryland	110.1	110.00
Michigan	109.0	95.00
Nebraska	106.7	77.00
Pennsylvania	106.6	74.00
South Dakota	106.2	70.00
North Dakota	106.2	77.00
Average rent		93.57
Median	105.6	[1] 81.26
New Hampshire	104.2	79.00
Delaware	101.6	91.00
Washington	101.2	95.00
Wyoming	100.2	$73.00
Arkansas	99.5	52.00
Oregon	99.1	87.00
Virginia	98.8	93.00
Mississippi	98.1	47.00
Illinois	96.6	107.00
Idaho	96.3	71.00
Hawaii	94.9	120.00
Arizona	94.2	91.00
West Virginia	93.8	52.00
Kentucky	93.5	63.00
Ohio	91.3	84.00
Rhode Island	90.3	67.00
Colorado	83.2	97.00
Alabama	81.4	49.00
Georgia	80.1	66.00
Montana	79.7	71.00
Florida	78.9	94.00
Oklahoma	78.6	65.00
Tennessee	76.8	62.00
South Carolina	73.6	51.00
Louisiana	72.2	62.00
New Mexico	71.9	73.00
North Carolina	70.8	59.00
Texas	69.7	77.00
Average rent		74.92

[1] National average.

Note: 1970 Census of Housing figures; HEW standard payment level.

Mr. WILLIAMS. Mr. President, furthermore, according to census figures, real estate taxes for single family dwellings vary from $563 in the Northeast to $168 in the South, and vary from $27 tax per $1,000 value in the Northeast to $12 tax per $1,000 value in the South.

And, Mr. President, we see some significant facts if we examine tax effort and untapped tax capacity. According to figures collated by Advisory Committee on Intergovernmental Relations: States above the median AFDC standard payment level had a tax effort of 12.03 as compared to a 10.57 tax effort of States below that median. In relation to untapped tax capacity, the States above the median AFDC standard payment level had an untapped capacity of 3 percent, as compared to those below the median level which had an untapped capacity of 56 percent.

Mr. President, I ask unanimous consent that a table comparing AFDC standard payment level rank with tax effort and untapped tax capacity, by State, be inserted in the RECORD at this point in my remarks.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TAX EFFORT, UNTAPPED TAX CAPACITY, AND AFDC STANDARD RANK BY STATE AND HIGH OR LOW RANK FOR AFDC

	AFDC rank	Tax effort	Untapped capacity
Alaska	141.5	12.33	30.9
Indiana	125.7	11.18	44.4
Maine	123.5	13.09	23.3
Kansas	121.4	9.86	63.6
New York	118.9	16.14	0
Connecticut	118.6	11.99	34.8
New Jersey	114.7	11.99	34.8
Minnesota	114.7	13.399	20.8
Utah	113.3	11.94	35.2
Nevada	113.6	8.34	80.3
Vermont	112.9	14.88	8.5
Massachusetts	112.6	14.32	12.7
California	111.2	12.96	24.6
Missouri	110.8	9.62	68.3
Wisconsin	110.4	15.48	4.3
Maryland	110.1	12.99	24.2
Michigan	109.0	11.86	36.0
Nebraska	106.7	10.40	56.3
Pennsylvania	106.6	12.45	29.6
North Dakota	106.2	12.32	31.6
South Dakota	106.2	12.83	27.8
Iowa	106.2	11.76	37.2
U.S. median	105.6	11.80	38.8
New Hampshire	104.1	9.19	75.6
Delaware	101.6	10.98	47.0
Washington	101.2	11.91	35.3
Wyoming	100.2	8.83	82.3
Arkansas	99.5	8.3	92.3
Oregon	99.1	10.73	50.5
Virginia	98.8	10.58	52.6
Mississippi	98.1	11.24	42.6
Illinois	961.6	12.01	34.4
Idaho	96.3	11.11	45.3
Hawaii	94.9	14.65	10.2
Arizona	94.2	11.93	35.3
West Virginia	93.8	10.76	50.2
Kentucky	93.5	9.87	63.6
Ohio	91.5	10.98	47.0
Rhode Island	90.3	13.60	18.7
Colorado	83.21	11.18	44.4
Alabama	81.4	9.53	69.3
Georgia	80.1	10.03	60.8
Montana	79.7	10.69	51.5
Florida	78.9	9.00	79.4
Oklahoma	78.6	8.00	101.7
Tennessee	76.8	9.58	68.3
South Carolina	73.6	11.06	45.9
Louisiana	72.2	10.15	69.1
New Mexico	71.9	10.64	51.3
North Carolina	70.8	10.43	34.8
Texas	69.7	8.67	88.1

Mr. WILLIAMS. Mr. President, I believe that these figures give us a good indication of the true variation in costs to families in different regions of our Nation. And just as family costs vary, cost to State and local governments for providing education services also vary.

For example, the average salary of teaching staff varies from a low of $7,100 in the State of Mississippi to a high of $14,000 in the State of New York.

Mr. President, I ask unanimous consent that a table comparing average instructional staff salaries, by State, be inserted in the RECORD at this point in my remarks.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

AVERAGE SALARY OF INSTRUCTIONAL STAFF, 1972–73[1]

State	Dollars	Percent of national average
Alabama	8,262	78
Alaska	15,176	143
Arizona	10,863	102
Arkansas	7,613	72
California	12,700	119
Colorado	10,280	97
Connecticut	11,200	105
Delaware	11,100	104
District of Columbia		
Florida	9,740	92
Georgia	8,644	81
Hawaii [1]	10,900	102
Idaho	8,058	76
Illinois	11,564	109
Indiana	10,300	97
Iowa	10,564	99
Kansas	8,839	83
Kentucky	8,150	77
Louisiana	9,388	88
Maine	9,277	87
Maryland	11,787	111
Massachusetts	11,200	105
Michigan	12,400	117
Minnesota	11,115	104
Mississippi	7,145	67
Missouri	9,329	88
Montana	8,908	84
Nebraska	9,080	85
Nevada	11,472	108
New Hampshire	9,313	88
New Jersey	11,750	110
New Mexico	8,600	81
New York	[2] 14,300	134
North Carolina	9,314	88

AVERAGE SALARY OF INSTRUCTIONAL STAFF, 1972-73[1]

State	Dollars	Percent of national average
North Dakota	8,362	79
Ohio	9,800	92
Oklahoma	8,200	77
Oregon	9,949	93
Pennsylvania	11,000	103
Rhode Island	10,800	101
South Carolina	8,310	78
South Dakota	8,034	75
Tennessee	8,450	79
Texas	9,029	85
Utah	8,990	84
Vermont	9,110	86
Virginia	9,842	92
Washington	11,100	104
West Virginia	8,505	80
Wisconsin	10,812	102
Wyoming	9,900	93

[1] Source: NEA estimates.

[2] The mean salary (p. 22) has replaced the median salary reported in the NEA table for comparability with the other States.

Mr. WILLIAMS. Mr. President, looking at allocations per child under the title I program, the State of Mississippi received $419 per child eligible in fiscal year 1974, whereas the State of New York received $240 per child eligible for that same period. And in terms of the amounts these two States would be eligible for if title I were fully funded under the existing law, the State of Mississippi could receive 87.1 percent of its total per pupil expenditure from the Federal Government under this program, whereas the State of New York is only eligible to receive 50 percent of its total per pupil expenditure.

THE FORMULA IN S. 1539 COMPARED TO THE FORMULA IN H.R. 69

Mr. President, I am not quarreling with the fact that different States are reimbursed differently under this program. I strongly believe that as a national program, title I has borne different burdens in different States. But this program has a primary objective, and this must be remembered, it has an objective for all States and for all children within those States to provide them with assistance so that they may be assured an equal educational opportunity.

And it is this objective that the committee has responded to in formulating the title I formula. We have adopted a base year approach which will ensure that all local education agencies will receive at least the allocation they received in fiscal year 1974.

The committee has adopted a two-factor formula for new money appropriated above fiscal year 1974 allocations which combines both Orshansky and AFDC by splitting the appropriations so that 60 percent of the appropriations are distributed according to the number of children counted under the Orshansky index and 40 percent of the appropriations will be based on the number of children whose families receive AFDC payments.

We have continued provisions in existing law providing for full funding of State agency programs for the handicapped, migrants, the neglected and the delinquent. In this respect, I point out to my colleagues that the House has changed these State agency provisions in such a way so that these important and valuable programs will be reduced by a total amount of $54 million: $24 million of this money is in programs for handicapped children; $22 million for the migrant programs; and $8 million for programs for the neglected, delinquent, correctional institutions, and programs for juvenile delinquents. And under this part of the House bill every State will lose money under their State agency allocations.

Furthermore, the committee has continued provisions of existing law which sets payment rates for the States at 50 percent of the State or national per pupil expenditure, whichever is higher.

My colleagues should be aware that the House bill has altered that provision too. It reduces the payment rate to 40 percent and places a ceiling on the amounts States can receive at 120 percent of the national average per pupil expenditure, and a floor of 80 percent of the national average per pupil expenditure. The effect of this provision is destructive of the very intent of title I: Which is to provide additional funding to States to assist them to come up to the national average and to provide additional benefits to States who have increased their expenditures for education. The 120-percent limitation on current educational expenditures by a State would, this year, affect five jurisdictions, including New Jersey, Connecticut, Alaska, New York, and the District of Columbia. But my colleagues should be aware that many of their States are very close to this proposed ceiling, and may exceed this ceiling in several years. These States in jeopardy include Delaware, 113 percent; Hawaii, 108 percent; Illinois, 110 percent; Maryland, 115 percent; Michigan, 114 percent; Minnesota, 117 percent; Oregon, 112 percent; Pennsylvania, 111 percent; Rhode Island, 112 percent; Wisconsin, 111 percent; and Wyoming 109 percent. I point out also that all other States will only be compensated at their State average per pupil expenditure or 80 percent of the national average. Mr. President, I ask unanimous consent that a table showing the 1974 average per pupil expenditures and such expenditures as a percentage of the national average, by State, be inserted in the RECORD at this point in my remarks.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

FISCAL YEAR 1974 STATE AVERAGE PER PUPIL EXPENDITURES USED IN TITLE I AND AS A PERCENTAGE OF THE NATIONAL AVERAGE

	Amount	Percent
Alabama	$587.65	63.45
Alaska	1,596.21	172.34
Arizona	816.62	88.17
Arkansas	563.42	60.83
California	925.01	99.87
Colorado	880.53	95.07
Connecticut	1,128.27	121.82
Delaware	1,043.76	112.70
Florida	842.38	90.95
Georgia	630.26	68.05
Hawaii	1,005.29	108.54
Idaho	652.80	70.48
Illinois	1,020.94	110.23
Indiana	850.31	91.81
Iowa	944.65	101.99
Kansas	826.29	89.21
Kentucky	599.00	64.67
Louisiana	811.80	87.65
Maine	784.70	84.72
Maryland	1,073.93	115.95
Massachusetts	937.13	101.18
Michigan	$1,056.68	114.09
Minnesota	1,081.80	116.80
Mississippi	533.37	57.59
Missouri	794.89	85.82
Montana	853.03	92;10
Nebraska	862.05	93.08
Nevada	887.85	95.86
New Hampshire	803.97	86.80
New Jersey	1,234.08	133.24
New Mexico	762.21	82.30
New York	1,543.68	166.67
North Carolina	658.90	71.14
North Dakota	748.69	80.84
Ohio	820.30	88.57
Oklahoma	677.80	72.10
Oregon	1,034.98	111.74
Pennsylvania	1,027.51	110.94
Rhode Island	1,033.34	111.57
South Carolina	636.52	68.73
South Dakota	739.74	79.87
Tennessee	605.76	65.40
Texas	731.37	78.97
Utah	715.19	77.22
Vermont	920.32	99.37
Virginia	813.54	87.84
Washington	945.12	102.04
West Virginia	730.64	78.89
Wisconsin	1,028.93	111.09
Wyoming	1,009.24	108.97
District of Columbia	1,194.30	128.95
National average	926.18	

Mr. WILLIAMS. Finally, Mr. President, I believe it is important to note that the Senate committee continues funding of part B, incentive grants, and part C, grants for urban and rural districts with large poverty populations. But the House has repealed both of these parts. Both of these programs have provided additional assistance to States and local districts to provide them compensation for increasing their own commitment to education and to deal with more critical needs of highly concentrated poverty areas.

This change made by the House together with the changes made in the State agency allocations, in payment rate for average per pupil expenditure, and the virtual limitation of AFDC as a factor will have wide-ranging effects on State allocations and in-State distributions. I particularly caution my colleagues to examine the effects of this most complicated factor on individual districts within their States. For although the overall impact of the House formula may increase the allocation for the State as a whole, individual districts within a State may be substantially disadvantaged. This is particularly true for all urbanized areas where their budgets are already straining to provide good educational programs for children. For example, each of the following States would ostensibly "do better" under the House bill, but individual cities within these States would lose money:

Losses

Colorado, Denver	−$54,000
Georgia, Atlanta	−500,000
Indiana:	
Fort Wayne	−59,000
Gary	−850,000
Kansas:	
Shawnee Mission	−6,000
Wichita	−260,000
Kentucky, Louisville	−1,500,000
Maryland:	
Prince Georges	−113,000
Baltimore	−1,900,000
Missouri, St. Louis	−140,000
Nebraska, Omaha	−660,000
Oklahoma, Oklahoma City	−290,000
Virginia:	
Norfolk	−268,000
Richmond	−414,000
Washington, Seattle	−344,000

In addition, the following additional cities will lose funding:

	Losses
Oakland	−$31,000
Contra Costa	−362,000
Los Angeles	−7,000,000
District of Columbia	−2,900,000
Chicago	−9,400,000
Des Moines	−483,000
Boston	−2,000,000
Flint	−104,000
Detroit	−2,300,000
Minneapolis	−1,200,000
St. Paul	−485,000
Newark	−3,100,000
Buffalo	−2,400,000
New York City	−52,000,000
Rochester	−1,900,000
Winston-Salem	−498,000
Charlotte	−377,000
Cleveland	−3,900,000
Columbus	−606,000
Toledo	−288,000
Dayton	−326,000
Akron	−308,000
Philadelphia	−7,300,000
Charleston, S.C	−90,000
Greenville, S.C	−330,000
Charleston, W. Va	−258,000

That is a total of 41 of the 100 largest cities which lose money under the House formula.

I wish to state again, Mr. President, that the Senate bill was not treated lightly by my committee. We have worked long and hard to find a way of equitably and justly distributing money under the title I program to assure that school programs and schoolchildren will be provided the continuity and quality of programs which title I is designed to support. We have developed a bill—and an allocation formula—which I believe assures each area, region and district with poor children a good way of continuing the work that they started to do in 1965. I urge all of my colleagues who are concerned about the children of this Nation to review carefully these provisions.

Mr. PELL. Mr. President, I suggest the absence of a quorum with the time to be charged equally to both sides.

The PRESIDING OFFICER (Mr. NUNN). Without objection, it is so ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, tomorrow we will be deciding the question of the title I formula contained in S. 1539. That debate will, I believe, be engendered by an amendment to be offered by the distinguished Senator from Arkansas (Mr. McCLELLAN). Indeed, I believe a suggested amendment has been offered for cosponsorship which is, in effect, the House title I formula, which is found in H.R. 69. Although I am not certain that that is the exact form of the McClellan amendment, it is to that formula that I address my remarks today.

When the committee discussed S. 1539, it was clear that some amendment was required to insure that the title I money was equitably distributed. With the introduction of the 1970 census figures, there were major shifts in the allocations of those funds because there had been major shifts in the number and distribution of children from low-income families. The charts on pages 13, 14, and 15 of the report show those changes. What the committee had to do was devise a formula which, working against a given figure, would be equitable to all.

Many different combinations of factors were attempted. However, as we worked on the formula, it became politically clear that no matter what the population shifts, no matter what the income levels, no Senator or Representative wanted his State to get less than it was now receiving. And then, of course, we were expected to devise a formula that, while taking nothing away, gave more money to each State.

The committee formula starts with the political reality—the base year; no local educational agency will receive less than it did in fiscal year 1974. These are the amounts actually set in last year's HEW appropriations bill with its floors and ceilings but at least using 1970 census figures.

I am sure my colleagues will recall the uncertainties faced by their constituents as the formulae for allocating title I money changed from the First Continuing Resolution for fiscal year 1974 to the Second Continuing Resolution to the final Labor-HEW Appropriations Act. School districts did not know from day to day whether they would be able to hire teachers or continue programs. Drastic shifts occurred within States, even though the total figure for the State remained constant.

The base year is designed to assure that this will not happen again in fiscal year 1975. Fiscal year 1974 allocations may not have been made as a result of the most careful deliberations, but they are an acknowledged fact. School administrators are now operating programs with real dollars. The base year would assure that these programs could be continued without interruption.

The second portion of the Senate formula distributes funds appropriated in addition to that base year on a totally new title I formula. This formula would count all children aged 5–17 determined by the 1970 census to be below the Orshansky poverty level, taking into account the variables of number of children in the family, sex of family head, and farm/nonfarm residence. This factor, as discussed earlier, seemed a far more flexible, and fair, standard of poverty than the current flat income level cutoff.

In addition, the formula would count for eligibility purposes all children aged 5–17 in families receiving aid to families with dependent children, regardless of the level of the payment received by such family. By counting all children on AFDC, the committee bill would assure that such children in all States would be counted in the formula.

The Senate is now being asked to reverse the decision of its committee and opt for a formula akin to one passed by the House. On first hearing, this sounds like a very reasonable request, for the charts which have been passed about would seem to indicate that more States do well with the House-passed formula than under the Senate-reported bill. However, the simple charts are misleading. One should ask, Why do the figures differ as they do? That is a fairly easy question to answer: The Senate, in drawing up its title I formula, was measuring State allocations against fiscal year 1974 payments, as opposed to some mythical figures as found in the House bill.

Harsh language—mythical figures—but such as must be used. For, to arrive at their most favorable formula, the House has simply done away with parts B and C of title I, those portions which deal with B, special incentive grants to States which exceed the national effort index, and C, the extra payments for school districts with a critically high impact of title I youngsters. To compound the myth, the House also cuts back on the payments made under title I generically known as the State agency grants. These are the moneys which provide educational services to handicapped children, neglected and delinquent children, and migrant youngsters, all programs which must be fully funded before local educational agency allocations are made. So, in effect, we in the Senate were working with the allocation of only $1.5 billion, while the House was dividing up $1.8 billion; with those rules, it is easy to devise a formula that appears to be beneficial to all.

The Senate committee sought to devise a formula that was of assistance to all portions of the country. The following chart shows the relative distribution of $1.885 billion under S. 1539 and the House version, which I understand will be the McClellan amendment. I ask unanimous consent that the chart be printed in the RECORD.

There being no objection, the charts were ordered to be printed in the RECORD, as follows:

ALLOCATIONS FOR TITLE I ESEA AT THE APPROPRIATIONS LEVEL OF $1,885,000,000

State	S. 1539	McClellan amendment
Alabama	$41,003,771	$44,868,676
Alaska	5,719,074	5,133,969
Arizona	13,121,920	17,860,455
Arkansas	25,922,158	26,878,118
California	160,596,282	155,308,745
Colorado	16,380,821	17,644,100
Connecticut	19,822,696	19,337,838
Delaware	4,211,921	5,667,622
Florida	46,956,439	69,030,101
Georgia	48,786,472	49,082,811
Hawaii	5,369,770	5,680,949
Idaho	4,537,779	5,218,444
Illinois	99,063,570	90,791,114
Indiana	25,838,011	27,569,791
Iowa	17,601,364	16,865,389
Kansas	13,319,390	14,214,258
Kentucky	37,034,767	34,736,864
Louisiana	42,851,326	56,647,054
Maine	8,100,389	7,347,814
Maryland	30,584,021	31,735,735
Massachusetts	37,499,315	33,752,527
Michigan	83,629,258	80,178,685
Minnesota	29,178,450	27,897,524
Mississippi	42,506,259	43,192,865
Missouri	30,153,093	32,509,522
Montana	5,299,356	6,043,073
Nebraska	9,042,085	9,593,067
Nevada	1,848,649	2,586,141
New Hampshire	3,272,833	3,542,701
New Jersey	70,871,709	57,863,560
New Mexico	11,103,819	14,715,611
New York	279,870,988	211,465,572
North Carolina	62,168,372	55,534,793

ALLOCATIONS FOR TITLE I ESEA AT THE APPROPRIATIONS LEVEL OF $1,885,000,000—Continued

State	S. 1539	McClellan amendment
North Dakota	$5,835,388	$5,923,622
Ohio	61,277,636	59,707,305
Oklahoma	21,187,310	21,764,929
Oregon	15,032,958	17,363,589
Pennsylvania	90,023,841	86,375,668
Rhode Island	6,714,307	7,292,444
South Carolina	36,200,602	35,650,765
South Dakota	6,822,889	6,415,924
Tennessee	37,931,833	41,219,802
Texas	107,244,075	128,178,361
Utah	6,509,059	6,377,119
Vermont	3,888,696	3,902,980
Virginia	38,937,287	40,866,592
Washington	23,217,001	23,701,290
West Virginia	20,518,857	18,309,050
Wisconsin	27,303,244	30,409,486
Wyoming	2,267,749	2,784,831
District of Columbia	14,793,631	11,375,324

Mr. PELL. Generally, it can be said that the Senate bill is more favorable to the urban areas, while the House formula favors the rural areas. However, we need only look at the States of Rhode Island, Kentucky, and West Virginia to see that the statement does not always hold true. One point is clear: The House formula would take great amounts of money from the States of New York, New Jersey, Massachusetts, Pennsylvania, Michigan, North Carolina, and California, and distribute them to other States.

Yet that chart of the House formula which looks so good to so many States must be studied more fully. Since the Senate bill includes a base year, no educational agency will get less than it did in fiscal year 1974. The House does not include such a provision, so, while some States are in a better relative position, the breakdown wihtin the State, due to the intricacies of the McClellan formula, are fascinating. For example, in Georgia, 48 counties would receive less than they now receive; in Iowa, 42; in Kentucky, 42; in Mississippi and Missouri, 27; in North Carolina, 54. The figures speak for themselves. If you are giving more to one person, somebody else must be getting less. I ask unanimous consent that a chart showing a State-by-State breakdown be printed in the RECORD.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

Number of counties per State receiving a decreased allocation under the McClellan amendment and S. 1539

[None under S. 1539]

Alabama	17
Alaska	7
Arizona	0
Arkansas	12
California	2
Colorado	5
Connecticut	0
Delaware	0
Florida	1
Georgia	48
Hawaii	0
Idaho	6
Illinois	12
Indiana	4
Iowa	41
Kansas	21
Kentucky	42
Louisiana	2
Maine	2
Maryland	0
Massachusetts	2
Michigan	2
Minnesota	10
Mississippi	27
Missouri	27
Montana	5
Nebraska	18
Nevada	1
New Hampshire	0
New Jersey	10
New Mexico	1
New York	19
North Carolina	54
North Dakota	15
Ohio	3
Oklahoma	14
Oregon	1
Pennsylvania	1
Rhode Island	0
South Carolina	19
South Dakota	27
Tennessee	35
Texas	32
Utah	7
Vermont	0
Virginia	20
Washington	0
West Virginia	24
Wisconsin	2
Wyoming	1
District of Columbia	1
Total	600

Mr. PELL. Under the McClellan amendment as I understand it, each county is held harmless at 85 percent of its prior year's funding. Put another way, this means that those 250 counties which are "held harmless" by the McClellan amendment will lose 15 percent of their title I funds next year, even with the additional appropriations proposed in the President's budget. And, since the hold harmless is only at the level of 85 percent of the preceding year, these counties could again suffer a loss of 15 percent in fiscal year 1976. I ask unanimous consent to have printed in the RECORD at this point a chart showing how much money these counties will lose under the McClellan amendment over the next 2 years. As the asterisks show, a number of them will continue to lose money even after fiscal year 1976.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

EFFECTS OF THE DECLINING 85 PERCENT HOLD HARMLESS IN THE MCCLELLAN AMENDMENT ON COUNTIES AT THE HOLD-HARMLESS LEVEL

State and county	Fiscal year 1974 [1]	S. 1539 [2]	McClellan amendment, fiscal year 1975 [3]	McClellan amendment, fiscal year 1976 [4]
Alabama:				
Geneva	$340,459	$365,463	$289,390	$283,659
Henry	322,295	344,098	273,951	258,217
Jackson	516,555	549,549	439,072	401,231
Marion	276,127	294,541	234,708	219,500
Alaska:				
Haines	9,690	10,432	8,236	[5] 7,001
Ketchikan	117,388	128,000	99,780	87,475
Seward	18,826	20,316	16,002	[5] 13,602
Sitka	29,141	31,052	24,770	[5] 21,054
Upper Yukon	96,211	102,249	81,779	[5] 69,512
Valdee-Chitina-Whitt	33,640	36,851	28,594	[5] 29,042
Arkansas:				
Greene	322,573	342,740	274,187	244,942
Howard	103,531	108,808	88,001	[5] 74,801
Newton	131,904	141,075	112,118	108,407
Sharp	114,153	121,998	97,030	93,078
California: Alpine	5,472	5,966	4,651	4,387
Colorado:				
Crowley	42,696	45,581	36,292	35,165
Dolores	6,801	7,344	5,781	4,943
Georgia:				
Berrien	178,117	190,363	151,399	149,652
Dawson	70,136	73,094	59,616	[5] 50,673
Dodge	313,597	340,176	266,557	254,108
Fannin	160,204	172,106	136,173	137,642
Franklin	147,842	157,117	125,666	[5] 106,816
Gilmer	135,984	144,701	115,586	106,352
Heard	88,049	94,023	74,842	[5] 63,615
Madison	163,736	172,992	139,176	[5] 118,299
Marion	135,353	146,455	115,050	113,148
Montgomery	122,613	132,268	104,221	92,288
Pike	162,222	171,360	137,889	[5] 117,205
Schley	82,372	87,874	70,016	[5] 59,514
Screven	313,975	338,436	266,879	255,846
Seminole	167,647	179,904	142,500	[5] 121,125
Stewart	193,254	209,442	164,266	156,763
Taylor	184,172	200,335	156,546	148,388
Telfair	241,820	261,741	205,547	201,011
Towns	63,703	67,990	54,148	48,356
Webster	$100,033	$126,929	$85,028	$72,535
Wheeler	108,989	118,108	92,641	83,913
Wilcox	169,034	182,777	143,679	135,113
Worth	411,359	442,317	349,655	322,376
Idaho:				
Blaine	16,596	17,612	14,107	[5] 11,991
Boise	5,576	5,982	4,740	[5] 4,029
Clark	5,067	5,426	4,307	3,931
Illinois:				
Brown	69,733	73,034	59,273	[5] 50,382
Carroll	134,225	139,740	114,091	[5] 95,978
Johnson	64,637	68,719	54,941	51,537
Indiana: Warrick	122,383	131,085	104,026	99,346
Iowa:				
Adair	82,073	86,311	69,762	64,762
Audubon	93,236	97,851	79,251	72,367
Benton	120,382	128,163	102,325	100,020
Buena Vista	115,942	122,403	98,551	88,773
Calhoun	69,768	74,271	59,303	57,360
Cass	106,175	112,378	90,249	86,158
Cedar	140,171	145,386	119,145	[5] 101,274
Cherokee	123,934	130,942	105,344	101,577
Clayton	182,413	192,847	155,051	156,881
Grundy	66,343	70,280	56,392	56,676
Guthrie	105,033	110,681	89,278	[5] 75,886
Hancock	120,382	125,345	102,325	[5] 86,976
Ida	75,096	77,987	63,832	[5] 54,257
Lyon	131,926	138,406	112,137	105,846
Mills	73,066	76,305	62,106	[5] 52,790
Monona	106,682	113,512	90,680	87,090
Montgomery	83,595	88,337	71,056	[5] 60,397
Polk	1,560,867	1,705,663	1,326,736	1,258,631
Ringgold	90,445	94,647	76,878	65,346
Shelby	131,127	143,221	116,558	[5] 99,074
Tama	145,372	154,300	123,566	109,807
Taylor	93,109	97,590	79,143	72,633
Washington	96,788	103,001	82,270	79,067
Winnebago	55,307	58,347	47,011	41,884
Worth	57,717	60,783	49,059	42,269

Footnotes at end of table.

State and county	Fiscal year 1974[1]	S. 1539[2]	McClellan amendment, fiscal year 1975[3]	McClellan amendment, fiscal year 1976[4]
Kansas:				
Barber	$26,084	$27,730	$22,171	$20,037
Clark	10,080	10,456	8,568	[5] 7,283
Comanche	14,995	15,622	12,746	[5] 10,834
Edwards	21,169	22,405	17,994	[5] 15,295
Elk	20,287	21,393	17,244	[5] 15,657
Gray	25,328	26,946	21,529	19,591
Greenwood	58,847	62,865	50,020	50,053
Jackson	56,074	60,067	47,663	47,861
Pratt	33,014	34,744	28,062	[5] 23,853
Republic	54,940	57,709	46,699	[5] 39,694
Smith	38,811	40,941	32,989	31,976
Wabaunsee	40,071	42,117	34,060	28,962
Kentucky:				
Adair	271,877	290,608	231,095	221,554
Butler	169,182	177,979	143,805	[5] 122,234
Casey	335,084	353,958	284,821	[5] 242,098
Edmonson	130,829	138,584	111,205	95,290
Green	110,517	118,722	93,939	95,448
Jefferson	5,031,569	5,544,525	4,276,831	4,050,714
Lincoln	298,119	318,010	253,401	243,678
Menifee	99,162	104,420	84,288	[5] 71,645
Robertson	39,867	41,637	33,887	[5] 28,804
Russell	256,233	271,795	217,798	185,366
Trigg	145,085	153,948	123,322	107,617
Massachusetts: Dukes	27,528	29,645	23,399	20,684
Minnesota: Jackson	171,281	179,280	145,589	123,752
Mississippi:				
Issaquena	90,443	98,182	76,877	74,905
Smith	266,915	284,803	226,878	212,705
Union	318,507	341,338	270,731	259,323
Missouri:				
Carter	58,125	62,842	49,406	45,634
Gentry	74,012	78,322	62,910	54,930
Grundy	78,551	83,809	66,768	59,832
Holt	50,182	53,814	42,655	42,254
Lafayette	104,651	113,785	88,953	85,691
New Madrid	696,879	747,683	592,347	523,443
Pemiscot	802,917	869,244	682,479	643,444
St. Clair	107,047	112,765	90,990	[5] 77,341
Worth	46,399	48,484	39,349	[5] 33,523
Montana:				
Dawson	60,485	64,057	51,412	[5] 43,700
Garfield	17,335	18,296	14,735	14,502
Golden Valley	5,061	5,196	4,302	[5] 3,657
Toole	24,548	26,746	20,066	20,208
Nebraska:				
Blaine	11,600	11,915	9,860	[5] 8,381
Deuel	5,422	5,855	4,609	[5] 3,917
Douglas	2,244,586	2,480,355	1,907,897	1,912,597
Dundy	29,380	30,845	24,973	21,996
Harlan	24,841	26,293	21,115	20,491
Hooker	8,448	8,691	7,181	[5] 6,104
Johnson	53,339	56,032	45,338	39,656
Nemaha	59,013	61,510	50,161	[5] 42,637
Otoe	80,702	86,357	68,597	66,038
Pawnee	52,078	54,981	44,266	42,708
Perkins	18,914	20,022	16,077	14,442
Saline	61,157	64,058	51,983	[5] 44,186
Seward	91,168	95,127	77,493	[5] 65,869
Thomas	3,026	3,062	2,572	[5] 2,186
Nevada: Lincoln	33,397	34,808	28,387	[5] 24,129
New Jersey: Camden	5,987,101	6,517,003	5,089,033	4,641,936
New Mexico: Catron	23,817	25,228	20,244	[5] 17,208
New York:				
Bronx	46,234,075	50,356,482	39,298,944	[5] 33,404,096
Genesee	334,205	363,566	284,074	274,959
Kings	67,172,700	73,246,537	57,096,768	49,401,952
Nassau	6,400,044	7,017,366	5,440,035	5,058,305
New York	26,020,783	28,468,366	22,117,648	20,766,560
Queens	12,786,676	13,966,474	10,868,670	10,550,960
Richmond	2,158,831	2,342,437	1,835,005	1,625,578
Suffolk	7,705,858	8,481,007	6,549,976	6,117,796
Westchester	6,201,274	6,780,819	5,271,080	4,739,180
North Carolina:				
Avery	194,459	205,552	165,290	144,595
Beaufort	651,854	694,281	554,076	522,438
Caswell	357,139	382,019	303,568	284,766
Cherokee	247,424	261,004	210,310	[5] 178,764
Clay	87,140	92,709	74,069	69,848
Duplin	789,060	841,108	670,701	656,603
Durham	1,367,765	1,488,350	1,162,599	1,080,274
Forsyth	1,833,012	1,992,468	1,558,059	1,432,833
Franklin	565,975	603,611	481,079	472,028
Gates	179,452	190,974	152,534	145,069
Graham	90,419	95,513	76,856	67,794
Greene	493,714	520,933	419,657	363,621
Hoke	339,484	362,874	288,561	291,876
Johnston	1,219,217	1,292,510	1,036,334	[5] 880,884
Macon	204,674	215,676	173,973	152,654
Madison	296,102	315,706	251,687	235,461
Polk	116,398	124,124	98,938	99,399
Rutherford	397,115	426,934	337,548	328,539
Sampson	924,753	988,655	786,040	776,388
Stokes	233,931	250,185	198,841	198,640
Swain	120,559	128,188	102,475	91,024
Warren	520,917	551,035	442,167	386,377
Watauga	235,696	249,628	200,342	179,361
Yancey	194,711	207,685	165,504	166,719
North Dakota:				
Bowman	$23,579	$25,114	$20,042	$20,168
Burke	44,391	46,936	37,732	32,735
Dunn	77,179	82,295	65,602	59,553
Emmons	79,197	83,944	67,317	66,250
Logan	79,954	82,198	67,961	[5] 57,767
McIntosh	74,153	78,042	63,030	54,209
Oliver	51,453	53,242	43,735	[5] 37,175
Sargent	53,218	56,405	45,235	43,919
Sheridan	70,622	73,869	60,029	[5] 51,024
Ohio: Cuyahoga	12,448,365	13,737,708	10,581,106	9,002,359
Oklahoma:				
Atoka	195,947	211,315	166,555	167,983
Harper	24,461	26,141	20,792	20,386
Lincoln	152,950	164,132	130,007	117,888
Love	63,424	68,090	53,910	52,939
McIntosh	229,866	247,174	195,386	184,576
South Carolina:				
Abbeville	208,986	225,525	177,638	172,566
Allendale	243,291	262,632	206,797	187,578
Barnwell	316,190	341,927	268,761	269,753
Calhoun	368,910	391,908	313,573	[5] 266,537
Chesterfield	640,579	686,421	544,492	524,809
Williamsburg	1,281,033	1,363,718	1,088,877	1,041,558
South Dakota:				
Bon Homme	93,069	98,320	79,109	69,658
Clark	78,440	82,427	66,674	[5] 56,673
Clay	41,112	44,295	34,945	30,808
Codington	131,029	138,103	111,375	[5] 94,668
Douglas	73,018	77,454	62,065	60,398
Grant	103,284	108,874	87,791	[5] 74,623
Hamlin	58,137	60,329	49,416	[5] 42,004
Hanson	82,098	85,826	69,783	[5] 59,316
Jerauld	49,309	51,911	41,913	[5] 35,626
Lincoln	89,412	93,663	76,020	[5] 64,600
Lyman	35,437	38,127	30,121	[5] 25,603
McPherson	75,666	79,452	64,316	[5] 54,669
Mellette	49,057	53,087	41,698	38,071
Miner	62,298	66,077	52,953	50,430
Perkins	49,183	52,418	41,806	42,445
Spink	107,824	113,954	91,650	80,998
Turner	107,824	113,922	91,650	82,819
Tennessee:				
Carroll	268,776	285,678	228,460	[5] 194,191
Clay	171,280	182,354	145,588	126,738
Decatur	103,550	110,798	88,017	76,643
DeKalb	125,622	133,153	106,779	[5] 90,762
Giles	264,740	284,271	225,029	224,241
Hancock	239,895	256,523	203,911	195,954
Jackson	170,902	181,392	145,267	130,531
Johnson	207,226	222,091	176,142	173,356
Lake	192,343	207,638	163,491	165,613
McNairy	285,047	304,462	242,290	230,088
Meigs	101,658	108,308	86,409	87,231
Moore	32,919	34,497	27,981	[5] 23,784
Perry	77,946	82,206	66,254	[5] 56,316
Pickett	68,739	72,723	58,428	[5] 49,664
Smith	138,487	147,272	117,714	107,617
Van Buren	56,631	59,236	48,136	[5] 40,916
Weakley	184,902	198,681	157,167	157,237
Texas:				
Armstrong	3,273	3,420	2,782	[5] 2,365
Cass	284,654	303,783	241,956	216,023
DeWitt	285,284	306,798	242,491	225,505
Falls	368,880	397,532	313,548	317,951
Fayette	228,504	242,504	194,228	172,724
Freestone	207,605	221,599	176,464	171,302
Hamilton	46,582	49,109	39,595	[5] 33,655
Lavaca	247,011	263,149	209,959	202,433
Lee	120,484	129,302	102,411	101,928
Rains	40,539	42,261	34,458	[5] 29,289
Roberts	2,895	3,050	2,461	2,212
Rockwall	69,621	73,915	59,178	[5] 50,301
Throckmorton	6,168	6,685	5,243	[5] 4,456
Utah:				
Daggett	3,914	4,129	3,327	[5] 2,828
Piute	10,479	11,257	8,907	[5] 7,571
Virginia:				
Bland	65,956	68,425	56,063	[5] 47,653
Floyd	89,539	94,239	76,108	66,273
Highland	30,518	31,830	25,942	[5] 22,049
Lee	639,133	674,318	543,263	[5] 461,773
Scott	405,322	428,798	344,524	328,563
Wythe	231,666	245,479	196,916	175,702
Norton City	66,460	70,712	56,491	51,126
West Virginia:				
Cabell	805,620	877,868	684,777	692,002
Lincoln	486,593	525,373	413,604	390,960
Monroe	179,618	191,428	152,675	146,807
Ohio	400,861	432,259	340,732	295,037
Pleasants	67,546	73,038	57,414	53,729
Raleigh	907,300	977,101	771,205	769,277
Taylor	159,310	169,943	135,413	[5] 115,101
Wayne	599,863	649,771	509,883	518,172
Webster	250,633	268,343	213,038	185,998

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[1] Fiscal year 1974 appropriations level for pt. A at the impoundment level of $1,396,000,000. Pt. C allocations unavailable.

[2] Allocations under pt. A of S. 1539 at the President's budget level. Additional amounts may also be available to counties under pt. C.

[3] Allocations under pt. A of the McClellan amendment at the President's budget level. Pt. C is repealed.

[4] Projected allocations for fiscal year 1976 under pt. A of the McClellan amendment reflecting the declining "hold harmless" provision (i.e., that a county is only held harmless to 85 percent of the previous year's 85 percent). Data used in calculations not projected.

[5] Denotes number of allocations still at the hold-harmless level in fiscal year 1976; in fiscal year 1977 these allocations may drop, as they will be held harmless to 85 percent of the fiscal year 1976 level.

Source: Library of Congress.

Mr. PELL. There has been considerable discussion of the necessity of putting title I funds where the children are. I feel that the Senate bill does this. First, I would like to clear up any misunderstanding about the 1974 HEW Appropriations Act; the funds were distributed on the basis of the 1970 Census, with floors and ceilings to assure that no State or school district was severely hurt. But the most recent data were the basis of the distribution.

Second, the McClellan amendment would count only two-thirds of the children receiving AFDC above the level of $4,250. This level would float upward each year as the Consumer Price Index rose. As this number rose, fewer and fewer States would have any AFDC children counted, unless their AFDC payments increased as fast as inflation. The result of this is that in a couple of years, all allocations under the McClellan formula would be made on the basis of the Census—where the children were in 1969.

Under the Senate bill, 40 percent of the new money above the base year would be distributed on the basis of total AFDC caseload. This is the only factor in the formula which is an updating factor. All States participate in that 40 percent, and the data used are current—where the children actually are in the year in question. I feel that it is important to keep AFDC in the formula, as imperfect a measure as it is, just to keep some updated reflection of population shifts since the Census was taken.

Before closing, Mr. President, I ask unanimous consent to have printed in the RECORD a chart which succinctly shows the effect of the formula on the 100 largest school districts in the country.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

ALLOCATIONS TO THE 100 LARGEST SCHOOL DISTRICTS UNDER TITLE I ESEA

State and county	Fiscal year 1974 [1]	S. 1539 [2]	McClellan amendment [3]
Alabama:			
Jefferson (Birmingham)	$4,447,988	$5,352,375	$5,940,700
Mobile	3,037,523	3,578,279	4,077,093
Arizona: Pima (Tucson)	1,380,397	1,735,357	2,396,652
California:			
Alameda (Oakland)	6,120,938	7,447,918	7,115,016
Contra Costa	2,983,539	3,581,873	3,089,172
Fresno	4,061,527	5,001,778	6,011,795
Los Angeles	49,867,494	59,824,138	50,606,128
Sacramento	4,613,718	5,561,373	5,006,867
San Diego	6,643,838	8,051,447	8,467,036
San Francisco	4,312,040	5,231,764	4,688,773
Colorado:			
Denver	3,435,624	3,865,211	3,656,981
Jefferson	406,056	500,212	678,263
District of Columbia	11,196,398	13,350,801	9,932,495
Florida:			
Brevard	603,531	723,520	1,267,205
Broward (Fort Lauderdale)	1,453,948	1,925,771	3,006,885
Dade (Miami)	4,330,621	5,563,746	8,167,989
Duval (Jacksonville)	2,535,155	3,309,328	5,191,392
Escambia (Pensacola)	948,912	1,262,929	2,233,460
Hillsborough (Tampa)	1,710,489	2,118,529	3,957,995
Orange (Orlando)	1,211,730	1,604,585	2,698,361
Palm Beach	1,169,242	1,543,613	2,464,149
Pinellas (Clearwater)	1,061,733	1,405,783	2,177,636
Polk	861,199	1,160,577	2,361,132
Georgia:			
Chatham (Savannah)	1,663,730	1,995,608	2,080,806
Cobb (Marietta)	509,497	609,353	667,138
De Kalb (Decatur)	1,064,373	1,284,690	1,351,987
Fulton (Atlanta)	4,903,802	5,828,417	5,175,060
Muscogee (Columbus)	1,327,209	1,583,963	1,690,062
Hawaii: Honolulu	3,419,497	4,137,802	4,150,876
Illinois:			
Cook (Chicago)	51,866,527	62,282,566	50,721,328
Winnebago (Rockford)	1,338,899	1,489,064	1,480,231
Indiana:			
Allen (Fort Wayne)	977,770	1,171,444	1,067,523
Lake (Gary)	3,566,029	4,209,266	3,224,946
Marion (Indianapolis)	3,169,235	3,867,298	4,184,557
Iowa: Polk (Des Moines)	1,560,867	1,809,528	*1,326,736
Kansas:			
Johnson (Shawnee Mission)	351,979	422,527	399,178
Sedgwick (Wichita)	1,937,000	2,322,805	1,978,744
Kentucky: Jefferson (Louisville)	5,031,569	5,734,856	*4,276,831
Louisiana:			
Caddo (Shreveport)	1,484,466	1,920,340	3,118,008
East Baton Rouge	1,264,284	1,646,269	2,493,830
Jefferson	1,126,315	1,415,039	1,958,576
Orleans (New Orleans)	5,960,408	7,455,499	9,034,294
Maryland:			
Anne Arundel	967,409	1,105,359	1,447,619
Montgomery	994,468	1,121,519	1,369,523
Prince Georges	2,284,534	2,749,977	2,529,772
Baltimore City	12,921,187	15,596,875	13,483,395
Massachusetts: Suffolk (Boston)	8,329,899	9,962,033	7,586,415
Michigan:			
Genesee (Flint)	$3,325,702	$4,025,504	$3,761,612
Wayne (Detroit)	25,933,205	31,245,039	27,767,840
Minnesota:			
Hennepin (Minneapolis)	5,149,435	6,152,330	4,700,579
Ramsey (St. Paul)	2,395,789	2,873,530	2,291,221
Missouri:			
Jackson (Kansas City)	2,562,563	3,184,079	3,485,891
St. Louis City	5,678,370	6,965,556	6,547,887
Nebraska: Douglas (Omaha)	2,244,586	2,623,266	*1,907,897
Nevada: Clark (Las Vegas)	733,639	1,015,242	1,274,855
New Jersey: Essex (Newark)	13,220,988	15,756,508	12,077,665
New Mexico: Bernalillo (Albuquerque)	1,667,013	2,085,099	2,814,053
New York:			
Bronx (New York City)	46,234,075	54,829,842	*39,298,944
Erie (Buffalo)	8,732,161	10,616,541	7,857,415
Kings (New York City)	67,172,700	79,921,088	*57,096,768
Monroe (Rochester)	5,665,322	6,799,131	*4,815,521
New York (New York City)	26,020,783	31,044,275	*22,117,648
Queens (New York City)	12,786,676	15,300,894	*10,868,670
Richmond (New York City)	2,158,831	2,342,437	*1,835,005
North Carolina:			
Forsyth (Winston-Salem)	1,833,012	2,056,334	*1,558,059
Mecklenburg (Charlotte)	2,448,123	2,777,764	2,302,978
Ohio:			
Cuyahoga (Cleveland)	12,448,365	14,554,878	*10,581,106
Franklin (Columbus)	4,099,831	4,948,177	4,165,823
Hamilton (Cincinnati)	4,060,561	4,970,420	5,158,652
Lucas (Toledo)	2,149,538	2,594,304	2,269,346
Montgomery (Dayton)	2,353,612	2,838,810	2,410,672
Summit (Akron)	2,237,573	2,688,935	2,283,897
Oklahoma:			
Oklahoma (Oklahoma City)	2,826,913	3,317,812	2,904,552
Tulsa	1,869,674	2,225,121	2,185,833
Oregon: Multnomah (Portland)	2,640,706	3,241,138	3,398,371
Pennsylvania: Philadelphia	27,131,272	32,250,130	23,844,048
South Carolina:			
Charleston	3,009,307	3,441,130	3,214,661
Greenville	1,136,475	1,334,431	1,597,154
Tennessee: Shelby (Memphis)	5,489,690	6,719,966	8,058,639
Texas:			
Bexar (San Antonio)	5,797,673	7,098,500	8,857,054
Dallas	5,110,172	6,232,016	7,029,810
El Paso	1,921,119	2,452,582	4,295,382
Harris (Houston)	8,019,010	9,667,204	10,576,642
Nueces (Corpus Christi)	1,696,219	2,077,903	2,822,519
Tarrant (Fort Worth)	2,433,509	2,953,071	3,295,762
Travis (Austin)	952,542	1,202,195	1,769,454
Utah: Salt Lake	1,975,077	2,381,951	2,256,723
Virginia:			
Fairfax	917,713	1,100,642	1,158,432
Norfolk City	3,100,406	3,517,851	3,117,316
Richmond City	2,450,360	2,925,977	2,409,945
Virginia Beach City	906,866	1,075,123	1,126,865
Washington: King (Seattle)	4,417,046	5,333,151	4,786,912
West Virginia: Kanawha (Charleston)	1,741,657	1,983,921	1,655,726
Wisconsin: Milwaukee	6,349,363	7,699,248	7,411,430

[1] Pt. A allocations at impoundment level of $1,396,000,000 only; pt. C allocations not included, since they have not yet been made by HEW.

[2] Pt. A and pt. C allocations at a total appropriations level of $1,885,000,000.

[3] Pt. A allocations at a total appropriations level of $1,885,000,000; pt. C is repealed.

*Asterisk denotes allocation adjusted up to 85 percent hold harmless level.

Mr. PELL. This chart demonstrates how the Senate formula sought to increase with real money the amounts of money these school districts would receive, while also indicating the very real losses of 50 of these school districts under the House formula—very real losses, while those that gain make only minimal gains. Again, these figures indicate the evenhandedness of our approach. In addition, if AFDC is phased out of the formula, as is probable under the McClellan amendment, these areas could suffer substantial additional losses.

I personally am in a peculiar position because my own State of Rhode Island gains about $700,000 under the House formula. Yet, I shall not support that formula. The Senate bill increases by $1 million the amount of money my State is now receiving. It was with this view in mind that I supported the Senate formula. I knew other permutations would favor Rhode Island more, but I believed and still believe that we must seek a formula that is fair to all. To my mind, taking $101 million from New York, New Jersey, North Carolina, California, Massachusetts, and Michigan to redistribute money to 44 other States is inequitable.

It is my hope that the Senate will not accept any amendment to the Senate's committee recommendation and will allow us to enter the conference with as wide a range as possible so that a real compromise may be effected.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMINICK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMINICK. I yield myself 5 minutes on the bill.

Mr. President, on May 2, I submitted six amendments to S. 1539 for printing—Nos. 1251 through 1256. I should like to take this opportunity to explain these amendments.

CONSOLIDATION

Two of the amendments—Nos. 1253 and 1256—pertain to consolidation and simplification of six State administered formula grant programs. The present version of S. 1539 gives State educational agencies discretion only in the use of 50 percent of the amount appropriated in excess of designated prior years. At a minimum, I believe the State agencies should be given the discretion to use all of the funds in excess of the level of designated prior years, and that is the thrust of amendment No. 1253.

A better procurement, in my opinion, is provided in amendment No. 1256 which would permit the State educational agencies to utilize a gradually increasing percentage of the funds made available—25 percent in fiscal year 1976, 50 percent in fiscal year 1977, and 75 percent in fiscal year 1978, the last year of authorization under the bill—in accordance with the priorities determined by these agencies.

In other words, under amendment No. 1256, there would be a gradual phasing in of consolidation. After a transitional phase, programs would have to stand and be evaluated on their merits, just like other education programs. If these programs are really worth funding, then they will be continued. If other priorities emerge, they will take precedence. But the whole point is that States should have discretion in future fiscal years to determine their own needs and not be locked into funding patterns prescribed by Washington back in fiscal year 1974.

ELIMINATION OF GRADE LEVEL DESIGNATIONS OR AUTHORIZATIONS FOR NEWLY CREATED BUREAUCRACIES

Mr. President, S. 1539 creates some 16 new bureaucracies. Moreover, it mandates grade level authorizations and designations for certain of the newly created education division units.

I believe it is a matter of general knowledge that to the extent that Congress mandates organizational structure within the Federal Government, the ability of the Government to make flexible responses to changing program needs at the local level is impaired. Therefore, I have submitted amendment No. 1255, which would eliminate the grade level designations, and amendment No. 1254 to eliminate the authorization provided in S. 1539 for: First, the Director, Bureau of Bilingual Education, and two assistants; second, Director of the Office of Career Education; third, Director of the Office of Consumers' Education; fourth, Deputy Director of the National Center for Education Statistics; and fifth, Deputy Commissioner, Bureau of Libraries and Learning Resources, and two assistants.

In my opinion, S. 1539 establishes programs which need not be shored up by the mandating of these grade level designations and authorizations.

ADMINISTRATIVE PROCEDURES

Mr. President, the two final amendments—Nos. 1251 and 1252—pertain to administrative procedures.

Amendment No. 1251 would eliminate a provision involving the Commissioner of Education's planning for the expenditure of funds under the Special Projects Act, section 403 of the bill. Under section 403, we have set up a procedure whereby the Commissioner of Education must submit to the Education Committees of the Senate and the House a plan of how we would expend the funds appropriated under the Special Projects Act by February 1 of each year. In such plan, the Commissioner must delineate each contract over $100,000 made or intended to be made for the current fiscal year. Beyond that, if either Committee of the Senate or the House adopts a resolution disapproving such plan, the Commissioner must submit a new plan within 15 days.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMINICK. Mr. President, I yield myself 5 additional minutes.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. DOMINICK. Mr. President, I have been greatly concerned about the grants and contracts processes of the Office of Education, and I believe that OE must clear up and clean up its procedures in this area.

I do not believe, however, that the procedure presently required under S. 1539 is a correct solution to the problem. The bill, in its present form, mixes apples and oranges—in this case, oversight responsibilities with appropriation processes. Thus, the Commissioner's plan under the Special Projects Act is to report on contracts over $100,000 made from the previous July until February 1—an oversight function.

He must also report on contracts intended to be made. One of our primary concerns has been the violation of the competitive procedure in letting contracts. If the competitive procedures are to be followed, the exact amount of the contract cost is a legitimate part of the bidding for the contracts. If the Commissioner fails to report a contract because he plans to let it for $90,000 and it turns out that the accepted bid is $110,000, do we then find him in violation of the intent of Congress?

Further, if a major event occurs between February 1 and the following July—such as a Supreme Court decision like the Lau against Nichols decision—how is the Commissioner to use his discretionary authorities flexible to meet the new need when he has little or no flexibility because he is locked into the report of his intentions? I believe such a procedure would make shambles of the competitive procedures.

Mr. President, the contract process in the Office of Education is already slow and cumbersome enough without additional slowing of the process by requiring congressional oversight for every contract over $100,000 using the Commissioner's "discretionary" funds. What staff have we to analyze and debate the merits and demerits of each one of these contracts? And, if we do not intend to debate the merits and demerits of each one, then why do we have such a procedure?

I believe our proper role is oversight and holding the Commissioner accountable for his actions. I do not believe our role is to straitjacket the Commissioner, further complicate the contract process and to slow everything down.

Mr. President, the other administrative amendment—No. 1252—would eliminate the provision within section 505 of the bill, which would direct the Secretary of Health, Education, and Welfare to delegate his functions with regard to administration of Office of Education programs to the Assistant Secretary for Education.

While I understand this to be the current practice at Health, Education and Welfare, I am somewhat at a loss to explain why this should be legislatively mandated—unless the intent is to edge toward a separate Department of Education. The creation of a separate Department has been advocated by some and opposed by others. If the Congress wishes to create such a Department, public hearings should be held. I do not believe we should attempt to move toward a separate Department through the back door.

Mr. President, I reserve the remainder of my time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, I ask unanimous consent to have placed in the RECORD three charts, together with explanations thereof, as follows: Comparison of Total Title I Money Under S. 1539 and the McClellan Amendment; State Title I Population Under Orshansky Formula and State Percentage of National Title I Orshansky; and Comparison of State Percentage of the National Total of Low-Income Children.

There being no objection, the charts were ordered to be printed in the RECORD, as follows:

COMPARISON OF TOTAL TITLE I MONEY UNDER S. 1539 AND THE McCLELLAN AMENDMENT

This chart compares each state's percentage of total Title I allocations under S. 1539 with that state's share of the total Title I allocations under the McClellan Amendment.

Because of the more equitable formula utilized for LEA's in the McClellan Amendment, 29 states gain as compared with the S. 1539 formula.

This is because the McClellan Amendment relies on the Orshansky formula (Chart #2), ⅔ AFDC count and an 85% hold harmless instead of the inequitable FY 74 Base Year provision in S. 1539.

It is also a result of the McClellan Amendment's repeal of Part B and Part C (See Chart #3) which are special grants. This money will be available for distribution as LEA Part A grants.

CHART NO. 1

PERCENTAGE COMPARISON BY STATE OF TOTAL TITLE I MONEY UNDER S. 1539 AND UNDER McCLELLAN AMENDMENT

	Percentage of money under S. 1539	Percentage of money under McClellan amendment
Alabama	2.20	2.45
Alaska	.31	.28
Arizona	.70	.98
Arkansas	1.39	1.47
California	8.64	8.50
Colorado	.89	.97
Connecticut	1.06	1.05
Delaware	.23	.31
Florida	2.53	3.78
Georgia	2.62	2.68
Hawaii	.29	.31
Idaho	.24	.29
Illinois	5.33	4.97
Indiana	1.39	1.51
Iowa	.95	.92
Kansas	.72	.78
Kentucky	2.00	1.90
Louisiana	2.31	3.10
Maine	.44	.40
Maryland	1.65	1.74
Massachusetts	2.02	1.85
Michigan	4.50	4.39
Minnesota	1.57	1.53
Mississippi	2.29	2.36
Missouri	1.62	1.78
Montana	.29	.33
Nebraska	.48	.52
Nevada	.10	.14
New Hampshire	.18	.19
New Jersey	3.81	3.17
New Mexico	.60	.80
New York	15.05	11.57
North Carolina	3.35	3.04
North Dakota	.32	.32
Ohio	3.29	3.27
Oklahoma	1.13	1.19
Oregon	.81	.95
Pennsylvania	4.85	4.72
Rhode Island	.36	.40
South Carolina	1.95	1.95
South Dakota	.37	.35
Tennessee	2.04	2.25
Texas	5.77	7.01
Utah	.35	.35
Vermont	.21	.21
Virginia	2.09	2.24
Washington	1.25	1.30
West Virginia	1.10	1.00
Wisconsin	1.47	1.66
Wyoming	.13	.15
District of Columbia	.80	.62
Total	100.0400795	100.000000

STATE TITLE I POPULATION UNDER ORSHANSKY FORMULA AND STATE PERCENTAGE OF NATIONAL TITLE I ORSHANSKY POPULATION

This chart shows the number of poor people in each state and the state's percentage of the number of poor people in the nation, using the Orshansky index of poverty.

The Orshansky formula is the official federal index of poverty. It has been adopted by both the House and the Senate in updating the Title I count.

The Orshansky formula computes the minimum income that a family must have in order to be able to afford a nutritionally adequate diet. The Orshansky Index is based on several factors:

(1) The size of the family.

(2) Whether the family is rural- or urban-based.

(3) Whether the head of the family is male or female.

The McClellan Amendment formula for LEA Grants (Part A) is based on the sum of

(1) The number of Orshansky children.

(2) Two-thirds of the AFDC children from families with income above the Orshansky level ($4,250 for FY 75).

(3) Special populations in the State (juvenile delinquents, neglected and dependent children in institutions).

multiplied by the payment rate of 40% of the State average per pupil expenditure rate, with a floor of 80% and a ceiling of 120%

STATE TITLE I POPULATION UNDER ORSHANSKY FORMULA AND STATE PERCENTAGE OF NATIONAL TITLE I ORSHANSKY POPULATION

	Title I population under Orshansky formula	State percentage of national title I population under Orshansky formula
Alabama	272,146	3.27
Alaska	12,393	.15
Arizona	84,014	1.01
Arkansas	155,135	1.87
California	595,765	7.17
Colorado	71,254	.86
Connecticut	55,083	.67
Delaware	17,372	.21
Florida	299,575	3.60
Georgia	293,871	3.53
Hawaii	19,465	.23
Idaho	23,716	.29
Illinois	302,311	3.64
Indiana	123,484	1.49
Iowa	72,000	.87
Kansas	64,621	.78
Kentucky	208,462	2.51
Louisian	308,850	3.71
Maine	36,308	.44
Maryland	116,951	1,41
Massachusetts	116,900	1.41
Michigan	220,485	2.65
Minnesota	98,936	1.19
Mississippi	261,679	3.15
Missouri	172,955	2.08
Montana	24,998	.30
Nebraska	45,952	.55
Nevada	10,890	.13
New Hampshire	14,286	.17
New Jersey	155,690	1.87
New Mexico	80,559	.97
New York	526,402	6.33
North Carolina	312,545	3.76
North Dakota	27,354	.33
Ohio	273,542	3.29
Oklahoma	122,548	1.47
Oregon	53,953	.65
Pennsylvania	304,815	3.67
Rhode Island	24,482	.29
South Carolina	206,985	2.49
South Dakota	33,815	.41
Tennessee	245,157	2.95
Texas	636,776	7.66
Utah	30,796	.37
Vermont	13,062	.16
Virginia	214,357	2.58
Washington	80,172	.96
West Virginia	106,359	1.28
Wisconsin	103,895	1.25
Wyoming	10,054	.12
District of Columbia	37,193	.45
Puerto Rico	613,405	7.38
Total	8,313,773	100.03000

COMPARISON OF STATE PERCENTAGE OF THE NATIONAL TOTAL OF LOW-INCOME CHILDREN—FROM FAMILIES WITH LESS THAN $3,000 ANNUAL INCOME AND STATE PERCENTAGE OF TOTAL PART C—URBAN-RURAL CONCENTRATION—GRANTS

This chart compares the percentage of national low income children (those from families with less than $3,000 annual income) for each state with the state's percentage of total Part C grants.

Under S. 1539, LEAs are eligible for Part C grants if the sum of:

(1) Children from families with incomes less than $3,000.

(2) Children from families with AFDC payments above $3,000.

(3) Special LEA populations.

In the counties in which they (the LEAs) are located are:

(1) Either at least twice the state's average number of such children or at least 10,000; and

(2) Are at least 5 percent of the school-aged children in the county.

The AFDC factor accounts for the wide disparities and inequities pointed out by this chart. For example, New York, with 6.94 percent of the Nation's low income children, would receive 25.92 percent of the total Part C money, while Texas, with 7.56 percent of the children, would receive only 3.42 percent of the money. Also, Illinois has 3.87 percent of the low income children in the Nation, while Alabama has 3.60 percent. Yet Illinois would receive 7.27 percent of the Part C monies and Alabama would receive only 0.68 percent.

The distribution of Part C funds as provided in S. 1539 are patently inequitable and discriminatory.

CHART NO. 3

COMPARISON OF STATE PERCENTAGE OF THE NATIONAL TOTAL OF LOW INCOME CHILDREN (FROM FAMILIES WITH LESS THAN $3,000 ANNUAL INCOME) AND STATE PERCENTAGE OF TOTAL PT. C (URBAN-RURAL CONCENTRATION) GRANTS

	State percentage of National Low Income Children	State percentage of Part C Money
Alabama	3.60	0.68
Alaska	.15	.13
Arizona	1.09	.54
Arkansas	2.05	.41
California	7.86	13.30
Colorado	.94	.96
Connecticut	.78	1.78
Delaware	.21	0
District of Columbia	.48	1.23
Florida	3.87	2.19
Georgia	3.70	.96
Hawaii	.25	.41
Idaho	.29	.13
Illinois	3.87	7.27
Indiana	1.59	.96
Iowa	.90	.54
Kansas	.83	.54
Kentucky	2.86	.68
Louisiana	4.24	1.37
Maine	.39	.13
Maryland	1.58	1.64
Massachusetts	1.52	3.15
Michigan	2.99	5.48
Minnesota	1.22	1.23
Mississippi	3.63	.54
Missouri	2.26	1.09
Montana	.33	.13
Nebraska	.60	.27
Nevada	.15	.13
New Hampshire	.18	.13
New Jersey	2.05	5.21
New Mexico	1.04	.27
New York	6.94	25.92
North Carolina	3.96	1.09
North Dakota	.31	.13
Ohio	3.87	2.74
Oklahoma	1.58	.41
Oregon	.75	.68
Pennsylvania	3.82	5.07
Rhode Island	.33	.41
South Carolina	2.64	.68
South Dakota	.43	.13
Tennessee	3.16	.68
Texas	7.56	3.42
Utah	.39	.41
Vermont	.13	.05
Virginia	2.66	1.23
Washington	1.08	1.50
West Virginia	1.44	.41
Wisconsin	1.34	1.23
Wyoming	.13	.06

TITLE 8—CIVIL RIGHTS

Mr. HART. Mr. President, in the next few days we will again consider the question of school desegregation in America.

Senators will have to face the question squarely, whether the Congress should try to tell the Federal courts that they may not enforce the Constitution—and tell black schoolchildren whose constitutional rights have been denied: "Well, that is just too bad." We can try to dodge it or duck it, but ultimately that will be the issue. While my colleagues consider this issue, the following materials may be of some assistance.

In 1972 the Senate considered a House-passed antidesegregation bill identical in every respect to the so-called Esch amendment provisions of the House ESEA bill presently before us.

From all across the Nation, an outpouring of opposition to the 1972 bill expressed itself in a statement signed by almost 500 law professors from law schools in every section of the country—the only expression of unanimous scholarly opinion I have seen to equal it was at the time of the Carswell nomination for the Supreme Court.

I ask unanimous consent that the statement and list of professors be included in the RECORD at the end of these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HART. Mr. President, I also ask unanimous consent to have printed in the RECORD following my remarks a summary prepared by the Notre Dame Center for Civil Rights of Various Law Review articles discussing the 1972 House-passed bill which is identical to the amendment No. 1194 offered by the Senator from Florida (Mr. GURNEY) to the Senate committee bill. These articles reflect the overwhelming consensus of legal scholars that such provisions are unconstitutional.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. HART. Mr. President, next I ask unanimous consent that a superb discussion of the whole school desegregation issue, in the form of a speech given by Professor Thomas Pettigrew of Harvard University, be printed in the record at the conclusion of my remarks. Dr. Pettigrew, a long recognized expert in the field of desegregation, states articulately and movingly the educational and the practical reasons why we must not set the clock back—why we should be striving, instead, to create the optimum conditions to realize the full benefits of school integration.

His article also places in perspective research projects such as the Armour study, which purport to show that desegregation through student transportation is counterproductive or not worth the candle.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. HART. Mr. President, I believe that fidelity to the Constitution and to the role of the judiciary as final arbiter of that document under our system of government is the most fundamental reason why the House language is unacceptable. But I also believe my colleagues will find Dr. Pettigrew's article a forceful statement of the case against the House bill on educational grounds:

Finally, Mr. President, several amendments will be offered seeking to repeal, in terms or in practical effect, title VI of the Civil Rights Act of 1964. I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a memorandum indicating why this would be a futile legislative gesture. The memorandum shows that title VI merely codifies what is constitutionally required anyway; namely, that Federal money may not fund segregated institutions. This was our understanding, as the legislative history makes clear, when we acted in 1964. We can repeal title VI, but to no avail—because we cannot, by statute, repeal the Constitution.

The PRESIDING OFFICER. Without objection, it is ordered.

(See exhibit 4.)

EXHIBIT 1

STATEMENT RE H.R. 13915, THE EQUAL EDUCATIONAL OPPORTUNITIES ACT OF 1972

The undersigned members of the Bar, in various sections of the country and representing differing political affiliations, have grave reservations about the constitutionality of the Equal Educational Opportunities Act of 1972, H.R. 13915, and fear it would place in jeopardy much of the hard won progress toward school desegregation of the last two decades. We urge its defeat in the Senate.

The passage of this bill, as indicated by the floor debate in the House and testimony before the House Judiciary and Labor and Education Committees, will—

Place the legislative and judicial branches in conflict;

Impair the Supreme Court's role of final arbiter of constitutional matters;

Remove a remedy for the vindication of minority students' constitutional rights, even when that remedy is constitutionally required; and

Open to relitigation nearly two decades of judicial desegregation decisions, many of which involve no busing whatsoever, thus leading to divisiveness and confusion in many communities already satisfactorily operating under school desegregation plans.

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Frank Barry, Frederick Merrill, Herbert Titus, and Dominick R. Vetri.

University of Pennsylvania, School of Law,
Philadelphia, Pa.

Bernard Wolfman, Dean; Alexander Capron, Martin Aronstein, Alexander Frey, Daniel Halperin, Howard Lesnick, Clarence Morris, William E. Nelson, Lawrence Newman, Covey Oliver, Louis Schwartz, David Slawson, Ralph Spritzer, and James Freedman.

University of Pittsburgh, School of Law,
Pittsburgh, Pa.

Thomas Checkley, Thomas M. Cooley II, William Schulz, and Welsh White.

Rutgers University, School of Law,
Newark, N.J.

Frank Askin, Norman L. Cantor, Richard Chused, Steven Giffis, William Lancaster, John Lowenthal, John Payne, Annamay Sheppard, and Paul Tractenberg.

University of San Francisco, School of Law,
San Francisco, Calif.

Stanton G. Darling, Peter J. Donnici, Sherle Gaines, Joseph T. Henke, Paul L. McKaskle, Eldon H. Riley, Steven F. Shatz, and Robert E. Talbot.

University of Southern California, School of
Law, Los Angeles, Calif.

R. Paul Burton, Eli Chernow, Earl Johnson, Francis Jones, and Martin Levine.

Stanford University, School of Law,
Palo Alto, Calif.

Anthony Amsterdam, Barbara Babcock, Paul Brest, William Cohen, Marc Franklin, Lawrence Friedman, William Gould, Thomas Grey, Thelton Henderson, Herbert Packer, Robert Rabin, Kenneth Scott, and Michael Wald.

Syracuse University, School of Law
Syracuse, N.Y.

Robert M. Anderson, Daniel A. Degnan, David A. Diamond, Samuel M. Donnelly, Samuel M. Fetters, J. William Hicks, Robert F. Koretz, Trauls D. Lewin, Thomas J. Maroney, Frederick A. Proverny, Robert J. Rabin, Ronald H. Silverman, and Jerome P. Weiss.

University of Texas, School of Law,
Austin, Tex.

Albert W. Alschuler, David Anderson, George E. Dix, Parker C. Fielder, David B. Filvaroff, Robert Hamilton, Leon Lebowitz, Roy M. Mersky, Lucas A. Powe, David W. Robertson, Michael T. Rosenthal, George Schatzki, M. Michael Sharlot, Russell Weintraub, and Mark G. Yudof.

University of Utah, School of Law,
Salt Lake City, Utah

Samuel D. Thurman, Dean; Richard Aaron, Arvo Van Alstyne, Wallace R. Bennett, Ronald Boyce, Boyed Dyer, Edwin Brown Firmage, John J. Flynn, Lionel Frankel, Ron Harding, Denny Ingram, Jr., George Grossman, Owen Olpin, Kline Strong, Robert Swenson, and E. Wayne Thode.

Vanderbilt University, School of Law,
Nashville, Tenn.

Junius L. Allison, Jerry Black, Jr., James F. Blumstein, Jonathan Charney, Donald Hall, Robert D. Kamenshine, Robert A. Loflar, Thomas R. McCoy, L.R. Patterson, Paul H. Sanders, Thomas J. Sherrard, and T. A. Smedley.

University of Washington, School of Law,
Seattle, Wash.

William R. Anderson, William P. Burke, Donald S. Chisum, Geffrey Crooks, Robert L. Fletcher, Ralph W. Johnson, Richard O. Kummert, Arval A. Morris, Cornelius J. Peck, John R. Price, and Frank W. Smith.

Harvard Law School, Cambridge, Mass.[**]

Paul M. Bator, Derrick A. Bell, Jr., Gary Bellow, Derek C. Bok, Stephen G. Breyer, Victor Brudney, Clark Byse, A. James Canner, Abram Chayes, Archibald Cox, John P. Dawson, Richard H. Field, Paul A. Freund, Charles M. Haar, Philip B. Heymann, Benjamin Kaplan, Andrew L. Kaufman, Lance Liebman, Louis Loss, John H. Mansfield, Michael J. McIntyre, Karen S. Metzger, Frank I. Michelman, Arthur R. Miller, Albert M. Sacks, Frank E. A. Sander, David L. Shapiro, Richard B. Stewart, Arthur E. Sutherland, Donald E. Trautman, Laurence H. Tribo, Donald F. Turner, James Vorenberg, Lloyd L. Weinreb, and Ralph U. Whitten.

Yale University, School of Law, New Haven,
Conn.

Richard L. Abel, Lee A. Albert, Boris I. Bittker, Guido Calabresi, Elias Clark, Robert M. Cover, Jan G. Deutsch, Steven B. Duke, Thomas I. Emerson, Daniel J. Freed, Joseph Goldstein, Arthur A. Leff, Burke Marshall, Louis H. Pollack, John C. Roberts, John G. Simon, Larry G. Simon, Henry J. Steiner, Barbara D. Underwood, and Harry H. Wellington.

EXHIBIT 2

CENTER FOR CIVIL RIGHTS,
UNIVERSITY OF NOTRE DAME,
Notre Dame, Ind.

LEGAL SCHOLARS FIND EQUAL EDUCATIONAL OPPORTUNITIES ACT UNCONSTITUTIONAL

Legal scholars have closely scrutinized the Equal Educational Opportunities Act since that restrictive anti-busing legislation was proposed by President Nixon and passed, in amended form, by the House of Representatives in 1972. A survey of the legal periodicals has revealed no scholarly comment upholding the constitutionality of the Act as passed by the House and only one article, written by the present Solicitor General, finding the milder provisions originally proposed by the President arguably constitutional. The scholars are unanimous in their opinion that the Act's restriction of court ordered student transportation to the closest or next closest school is unconstitutional. They find no support for this provision either under Article III of the Constitution which confers jurisdiction over the federal courts or under the enforcement clause of the Fourteenth Amendment. They conclude that passage of the Act would place the legislative and judicial branches in direct constitutional conflict.

The opinion of the legal scholars strongly supports the opposition expressed by nearly 500 law school professors to the identical provisions of the Act when it was considered in the Senate in 1972.

F. Thompson, Jr., and D. H. Pollitt, Congressional Control of Judicial Remedies: President Nixon's Proposed Moratorium on "Busing" Orders, 50 North Carolina Law Review, 809 (1972).

Representative Thompson and Professor Pollitt review the Supreme Court's holding in three cases involving busing: *Swann* v. *Charlotte-Mecklenburg,* 402 U.S. 1 (1971); *McDaniel* v. *Barresi,* 402 U.S. 39 (1971); and *North Carolina State Board of Education* v. *Swann,* 402 U.S. 43 (1971). They conclude:

"The short of the matter is that the Supreme Court in the three cases held that a 'busing' order is the 'one tool' available to the federal courts that is 'absolutely essential' for the vindication of constitutional rights. The question thus posed is whether the Congress can, consistent with the constitutional concept of separation of powers, deprive the courts of this essential remedial device."—Id. at 823.

[**] The listed members of the Harvard Law School faculty signed a statement in April, 1972 opposing the President's anti-busing legislation on the grounds that it would "sacrifice the enforcement of Constitutional rights, impair the functions of the judiciary under a rule of law, and jeopardize improved schooling for many, many children."

The authors next discuss the essentiality of remedies to the judicial process. They state that:

"It appears from all the sources, then, that the issuance of remedial orders is an integral part of the judicial process, and if the courts are to act at all, their judgments are immunized from congressional control. That moves us on to the next question: Does Congress have constitutional authority to deny the federal courts the power to hear and decide busing cases?—Id. at 826–27.

The article considers congressional control over the appellate jurisdiction of the Supreme Court under Article III as a possible source of constitutional authority for the Nixon proposals. After discussing cases involving congressional challenges to the judiciary during Reconstruction, the authors conclude:

"If the Congress could not tell the Supreme Court how to rule on cases in those post-*Civil War* years (against the 'rebels'), there is no reason to believe that the same Constitution now permits the Congress to tell the Supreme Court how it should effectuate the fourteenth amendment (against the black school children)."—Id. at 836.

Finally, the article considers the congressional control of the inferior federal courts under Article III as a basis for the antibusing proposals. The authors reject this basis in these words:

"President Nixon, of course, is asking Congress to do what it did not do in the Portal-to-Portal Act—'to interfere with the power of the judiciary to protect rights vested under the Constitution.' His proposals challenge not only 'busing' but also the very idea of law itself.

"The portal-to-portal cases strongly indicate that Congress has no power to withhold or restrict the jurisdiction of the 'inferior' courts when the withholding or restriction of that jurisdiction would deny or deprive persons of property rights guaranteed by the fifth amendment. It follows that Congress has no power to withhold or restrict the jurisdiction of the 'inferior' courts when the withholding or restriction (as suggested by the Nixon 'busing' proposals) would deny school children of the rights already declared to be theirs under the equal protection clause of the fourteenth amendment."—Id. at 840–41.

Smedley, The Last Two Years in School Desegregation, Vol. 4, No. 9, Race Relations Reporter 14 (May, 1973). (A condensation of Smedley, Developments in the Law of School Desegregation, which appeared in Vol. 26 of the Vanderbilt Law Review.)

Professor Smedley summarizes the reasons why the Equal Educational Opportunities Act is unconstitutional as follows at p. 18:

Those who urge the enactment of such legislation rely on two basic sources of authority for congressional action. The first is Section Five of the Fourteenth Amendment, which states that "Congress shall have power to enforce, by appropriate legislation," the preceding sections of the amendment. The reasoning at this point is that Section Five empowers Congress to specify what kinds of measures and remedies may be applied by the courts against racial discrimination in the public school, and that the power to specify measures and remedies includes the power to limit the extent of their uses, when such limitation aids in establishing uniform national school desegregation standards. However, the Supreme Court has already rejected this reasoning in a case involving the validity of the 1965 Voting Rights Act. The Supreme Court stated in *Katzenbach* v. *Morgan* (1966): "We emphasize that Congress' power under Section Five is limited to adopting measures to enforce the guarantees of the Amendment; Section Five grants Congress no power to restrict, abrogate, or dilute these guarantees." In other words, in a situation where "busing" is the only feasible way to desegregate, a statute forbidding a court to require busing does not operate to enforce the constitutional rights of the students, but rather has the practical effect of denying those rights.

The second possible source of congressional authority for adopting anti-busing legislation lies in Article III, Section One of the Constitution, which states: "The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as Congress may from time to time ordain and establish."

It has been reasoned that the power to establish lower federal courts includes the power to fix the scope of their jurisdiction; that because Congress can confer jurisdiction on these courts, it can also remove jurisdiction from them; and that prohibiting the courts from ordering the busing of students is merely the equivalent of limiting their jurisdiction. However, it is to be noted that the proposed antibusing legislation does not purport to withdraw the courts jurisdiction over school desegregation cases.

Instead, it recognizes the power of the courts to decide such cases, but then attempts to restrict the manner in which the courts may fix the remedies for violations of constitutional rights found to be occurring. Old and eminent legal authority supports the view that, once jurisdiction is conferred on a court to decide a particular case, the separation-of-powers doctrine precludes either legislative or executive interference with the judicial process of deciding the case and determining the relief needed.

Further, assuming that Article III vests Congress with some power to limit the courts in the way they exercise their jurisdiction, it seems that this power must be used in a manner which will not conflict with provisions added to the Constitution subsequent to its original adoption. Since the Fourteenth Amendment guarantee against racial discrimination was adopted by the majority of the citizens of the nation as a part of the basic law of the United States, Congress should not be able to prevent the use of the only remedy through which the guaranteed right can be vindicated.

To uphold such legislation is to allow Congress, by a bare majority vote, to nullify a segment of the fundamental law of the land. Additionally, since the Due Process Clause of the Fifth Amendment prohibits the federal government from engaging in racial discrimination in the operation of public schools, the action of Congress in passing a law which prevents the elimination of such discrimination and thereby contributes to its perpetuation would appear to be federal government action in violation of the Fifth Amendment.

Goldberg, The Administration's Anti-Busing Proposals—Politics Makes Bad Law, 67 Nw. U. L. Rev. 319 (1972). Former Supreme Court Justice Arthur J. Goldberg reviews the history of the Court's school desegregation rulings and concludes that:

"[I]t is clear that in cases of unconstitutional school segregation the fourteenth amendment requires effective relief; that effective relief means immediate relief; and that limited busing is a permissible and occasionally indispensable element of relief."—Id. at 329–30.

Justice Goldberg discusses each of the restrictive provisions of the Equal Educational Opportunities Act and finds them to be unconstitutional. In discussing limits on transportation as proposed by the Nixon Administration (the Gurney amendment is even more restrictive) Goldberg states:

"If these provisions are non-jurisdictional, as I believe them to be, they are unconstitutional for three reasons.

"First, to the extent their remedial inhibition implicates Congress in the perpetuation of segregated harm, these provisions violate fifth amendment due process . . .

"Second, to the extent these three limiting provisions render federal court desegregation judgments practically unenforceable, they violate the separation of powers.

"And third, these provisions are not legislation appropriately within Congress' fourteenth amendment enforcement power because they contract the equal protection guarantee of effective desegregation relief."—Id. at 349–50.

Goldberg finds the restrictions on busing not constitutionally supportable under Congress' Article III power to regulate Federal jurisdiction:

"Therefore, these sections fail as jurisdictional limitations for two reasons. First, they impair the availability in federal court of adequate constitutional remedies. . . . Second, regardless of their jurisdictional cast, the sections would render continuing desegregation judgments effectively unenforceable, in violation of the separation of powers."—Id. at 356.

Comment, The Nixon Busing Bills and Congressional Power, 81 Yale L.J. 1542 (1972).

This comment considers the Equal Educational Opportunities Act as proposed by President Nixon in 1972. It views the Act as a challenge to the Supreme Court's ruling in *Swann* v. *Charlotte-Mecklenburg*. It analyzes the Act with regard to those constitutional provisions which have been asserted as a basis for such a congressional power: Article III which grants Congress power over the jurisdiction of the Federal courts, and the enforcement clause of the Fourteenth Amendment. It notes at 1546:

Either of these claims to congressional power, heard in full and accepted by a court reconsidering *Swann*, not only would profoundly alter the present prospects for school desegregation but might also redefine the basic and enduring outlines of the Supreme Court's role in shaping the law.

I. Article III as a source of congressional power to enact the Equal Educational Opportunities Act:

The power over jurisdiction is just that: a power to grant or withhold jurisdiction, not a disguised power to revise the Court's reading of the Constitution.—Id. at 1547.

As an exercise in regulating jurisdiction, the busing bills can find little constitutional support in even the strongest congressional claims to Article III power over inferior federal courts. The bills attempt to alter substantially not just the manner but the extent to which constitutional rights may be vindicated, and Section 1 of Article III gives Congress no such power.—Id. at 1553.

II. Section 5 of the Fourteenth Amendment as a source of congressional power to enact the Equal Educational Opportunities Act:

Section 5 of the Fourteenth Amendment, with or without *Morgan's* doctrine of judicial deference to congressional judgment, grants Congress no greater power than Article III. Congress under Section 5 may mandate certain remedies and combinations of remedies, but the Court . . . must determine whether the denial of equal protection can be remedied within the limits of the congressional plan. . . . As Chief Justice Burger wrote recently, "Congress does not have the power to authorize the individual states to violate the Equal Protection Clause." Congress may enact remedies; it cannot even under *Morgan*, abrogate rights.—Id. at 1572.

Preyer, Beyond Desegregation—What Ought to be Done 51 North Carolina Law Rev. 657 (1973).

Representative Richardson Preyer (D-N.C.) considers several issues of importance to the future of school desegregation in this article.

In discussing the Equal Educational Opportunities Act as passed by the House in 1972, Rep. Preyer states:

"The most serious problem with this type of legislation is the constitutional one . . .

"In cases where a court determined that the *only* effective remedy for school segregation is to order busing of children, foreclosing the remedy of busing is, in effect, to deny the substantive right of desegregated schools. The denial of all effective remedies is very different from "the denial of one remedy while another is left open, or the substitution of one for another." As Professor Bickel has stated, should the Supreme Court "accept the command of Congress that it may not administer what it regards as the essential remedy (busing), the Court will have accepted a more far-reaching limitation on judicial power, a greater qualification of the power of judicial review established by *Marbury* v. *Madison* than ever before in its history.' "—Id. at 664–65.

NOTE.—Moratorium on School Busing for the Purpose of Achieving Racial Balance: A New Chapter in Congressional Court Curbing, 48 Notre Dame Lawyer 208 (1972).

The Note reviews the history of Congressional attacks on the judiciary and summarizes the criteria established for school desegregation by the Supreme Court. The Note concludes at page 230 that:

The Court should declare the Education Amendments and any measures enacted pursuant to the Administration's recommendations unconstitutional. These enactments not only contravene the tribunal's requirement of immediate desegregation of dual school systems, but they are an abuse of the article III and fourteenth amendment powers of Congress and a violation of the principle of separation of powers. They are also antagonistic to the overall scheme of the Constitution which requires that Federal courts always be available to hear and provide remedies for constitutional disputes. In regard to busing, therefore, it would be improper to deny either jurisdiction or an essential remedy to the federal tribunals.

Comment, On Insulating Busing from Congressional Review: The *Swann* Right to a Racial Mixture, 22 American Univ. Law Rev. 795 (1973).

This comment reviews the history of school desegregation cases and concludes that the *Swann* decision established a right to attend a school with racial mixture reflecting that of the entire school district. The comment then considers at length the constitutionality of the Equal Education Opportunities Act. It concludes that:

Swann, read in light of the school desegregation cases extending from *Brown* through *Wright* v. *Council of City of Emporia*, has in effect granted busing the status of an important constitutional right, and not merely one remedy to be used in judicial discretion whenever unconstitutional segregation is found. Consequently, Congress in legislating its busing bills labored under a false premise—the premise that it could control busing by controlling remedies. Congress lacks the ability to completely legislate away a constitutional right from the grasp of the Supreme Court. "Where [the Court] has spoken, its decrees are the law." Congress role in limiting the use of busing is confined to the initiation of a constitutional amendment, and then only with very precise language can the Supreme Court be denied the power to exercise that heightened degree of judicial solicitude necessary for the protection of those rights it has so assiduously guarded for nineteen years—the rights of the nation's most powerless minority: black schoolchildren.—Id. at 831–32.

NOTE.—Busing: A Constitutional Precipice, 7 Suffolk Univ. L. Rev. 45 (1972).

This note considers the constitutionality of the Equal Educational Opportunities Act as proposed by President Nixon in 1972. It states that:

Assuming, however, that the Court does not determine that under the specific circumstances of a given case, busing is essential, lest desegregation of schools go unremedied, the Court will be faced with the difficult decision of either upholding the constitutional validity of the anti-busing statute or holding the statute, as it regards busing, unconstitutional. Yet, the results of such a confrontation are fairly predictable, because the Court in a companion case to *Swann* has already held a similar state statute to be unconstitutional, declaring that it operated "to hinder vindication of federal constitutional guarantees."—Id. at 60–61.

EXHIBIT 3

THE CASE FOR THE RACIAL INTEGRATION OF THE SCHOOLS

(By Thomas F. Pettigrew, Harvard University, delivered June 29, 1973, at the Cubberley Conference, Stanford University)

I. INTRODUCTION

William McCulloch, the former Republican from Ohio's Fourth Congressional District, served for many years as the ranking minority member of the Judiciary Committee of the U.S. House of Representatives. Last year, the elderly Mr. McCulloch had to endure listening to the testimony of literally dozens of angry "anti-busing" witnesses who came before the Committee. Gently, the soft-spoken Ohioian would ask each of these witnesses the same question.

"Do you really want to change the basic rules of American society?" And without waiting for an answer, Mr. McCulloch would point out that black Americans had been told for 350 years by white Americans to play by the democratic rules, to eschew violence in favor of the ballot box and court action and the promise of this great nation would apply to them, too. So they did play by the rules right on through to the 1954 Supreme Court ruling outlawing de jure racial segregation of the public schools.

"Isn't that your problem?" prodded Mr. McCulloch of each anti-busing witness. "Isn't it true that black Americans have played by the rules so well that they've won in the courts. And because they've won you now wish to change the rules on them, to tell them that it was all a lie what we white people have been telling black people all these years. Isn't that what you come before us today to advocate?"

Well, how do we answer the pointed query of the Honorable Mr. McCulloch? Are we going to change the basic constitutional rules of our democracy to avoid interracial schools," of course, is not grounded in so- historical backdrop upon which to consider the case for the racial integration of the schools.

II. THE SCHOOL DESEGREGATION SITUATION TODAY

The fundamental "case for integrated schools," of course, is not grounded in social science findings or even court rulings. It is founded on concepts of justice and the American dream. Yet we meet here at the Cubberley Conference at a bleak time in our national history, a time of scandal and a time when neither justice nor the American dream is in vogue with our national leadership. For almost half a decade now, the President of the United States himself has led and legitimized the effort essentially to reverse the Brown *v.* Board of Education ruling of 1954 through the use of such shibboleths as "busing" and "neighborhood schools."

Still the racial problems of our nation continue to fester and grow worse. The racial integration of the public schools does not constitute a complete solution to these problems, but it is a necessary component of the institutional restructuring that will be required. Indeed, as the political climate in recent years has grown more hostile to it, the practical need for school desegregation has become more obvious. Consequently, this paper points to a future when the United States regains its accustomed confidence and returns to its highest ideals; in short, our discussion will not be constrained by the present national mood.

The present situation in school desegregation is complex. While President Nixon has repeatedly attacked "busing" for integration, the Federal courts have grown impatient with "deliberate speed" and begun ordering sweeping school desegregation. These court orders have particularly affected such southern cities as Richmond, Charlotte, and Memphis, though Denver, Minneapolis and a few other northern cities have recently received similar directives. Public school statistics reflect this trend. Black children in all-black schools declined from 40% in 1968 to 12% in 1971; and those in predominantly white schools rose from 18% in 1968 to 44% by 1971. Indeed, the special pressure on the South means that by the fall of 1970 a greater percentage of black children in the South attended majority-white schools than in the North (38% to 28%).

But there is another, less positive side to current trends. Many areas without court orders continue to practice massive racial segregation in their public schools as if the racial changes over the past generation had never happened. Cincinnati, for example, still in 1973 has about three-fifths of its pupils attending schools that are over 90% of their own race. Moreover, a number of urban districts, such as Louisville and Washington, D.C., achieved considerable school desegregation within their boundaries in past years only to find themselves resegregating as white families continue to move out to the suburbs and black families remain constrained to central city residence through a vast and effective system of racial discrimination in housing. Finally, the growth of interracial schools under court pressure has raised a third and critical issue: How do you go beyond mere desegregation to attain true integration? We shall discuss the distinction between desegregation and integration shortly.

In summary, then, three problems persist. First, some areas have yet to initiate the school desegregation process even in this last third of the twentieth century. Second, many central cities are becoming overwhelmingly black school districts due to demographic patterns and housing discrimination. Third, those districts with stable desegregation must now achieve genuine racial integration. Add to these problems the negative political climate, and the present state of the school desegregation process can be properly evaluated.

There are four major causes of public school segregation in urban areas, the relative importance of which is not widely understood. The most immediately critical are (1) long-term trends in racial demography and (2) the anti-metropolitan nature of school district organization. Contributing further to the problem are (3) the effects of private schools and (4) intentional segregation within districts.

The magnitude of the first two of these factors becomes apparent as soon as we check the relevant data. There are approximately 17,000 school districts in the United States with most of the recent consolidation of districts limited to rural areas. Thus, there are still over 75 school districts in the Boston metropolitan area and 96 in the Detroit metropolitan area. There is pitifully little cooperation between central-city and suburban school systems, and often vast fiscal and social disparities between them. In addition, the 1970 census reveals that 78% of all black Americans in metropolitan areas reside within central cities, while 59% of all white Americans in metropolitan areas reside in suburbs. This extensive racial separation at the suburban line was evident back in 1950 and 1960, too, but has increased in each of these decades: in 1950 and 1960, black central city percentages were 75% and 77%, while the white suburban percentages spurted from 45% and 53% to its present 59%. The educational implications of these demographic data are made more severe by the fact that younger white families with school-aged children are even more likely to be living in the suburbs than metropolitan whites in general. And racial housing trends are not encouraging and offer no hope for extensive relief of school segregation by race in the next generation. Consequently, America would face an enormous problem of interdistrict segregation of public schools even if there were no patterns of intradistrict separation.

But, of course, the nation also faces the *task of overcoming* sharp racial segregation within such school districts as Cincinnati, Philadelphia, Chicago, New York, and Los Angeles. In cities with large Roman Catholic populations, this intradistrict segregation is unwittingly increased by the absorbtion of many white children in the parochial school system. Since only about 6% of black Americans are Roman Catholics, a large church school system necessarily limits the available pool of school-aged white children for a central city public school system. In Philadelphia, for example, well over half of all school-aged white children in the central city attend Roman Catholic schools. The same general point can be made for other church schools in urban areas—Quaker, Episcopal, Missouri Synod Lutheran, etc. Indeed, urban private schools of all descriptions act in this manner. The South has not had a tradition of private education; but the region has recently shown a sudden interest in it. Thus, white private school enrollment in the South rose from about 300,000 in 1968 to 500,000 in 1971, though this still represents only about 4% of the region's public school enrollment.

Finally, though only fourth in significance, the factor of blatant racist leadership cannot be ignored. At the local level, the Hicks and Wallaces of American political life have exacerbated the problem of intradistrict segregation by their open advocacy of separation, careful misplacement and zone-drawing of new facilities, and steadfast refusal to take even the preliminary measures that would ease the problem. But while the public resistance of these anti-black political figures captures the headlines, such structural factors as demographic trends, the anti-metropolitan nature of school organization and private-school effects remain more critical.

From this analysis, we can readily appreciate the positive significance of present efforts to achieve metropolitan-based educational desegregation and truly democratic, integrated classrooms—subjects upon which we shall shortly focus. We can also appreciate the negative significance of present political attempts to perpetuate three basic myths of resistance—the myths of "de facto segregation," "the neighborhood school," and "the dangers of busing." Let us consider each of these myths briefly.

III. THE THREE MYTHS OF SEGREGATIONIST RESISTANCE

(1) The myth of "de facto segregation." There has long been a sharp discrepancy between the legal and social science views of American race relations. In particular, the legal distinction between *de jure* and *de facto* racial segregation received no empirical support whatsoever in research. This disconfirmation exists even when we recall the derivation of the legal distinction from "the state action" prohibition of the Constitution's Fourteenth Amendment. "State action" need not be an explicit law of a southern state that requires racially separate schools; it may more often be school board decisions of attendance boundaries, new school placement, and the like, as well as city council zoning actions that act to increase residential segregation by race. For public school segregation to be accurately termed *de facto*, then, its origins must be completely untainted with such broadly defined "state action." It can be said with confidence that social science research on American race relations has yet to uncover such *de facto* segregation in any public realm anywhere in the nation. *De jure* racial segregation is the harsh fact of American society; so-called *de facto* segregation is simply a myth.

Increasingly, the federal district courts in northern cities are coming to accept this fact. Judges are ruling in Denver, Minneapolis, and other cities that *de jure* segregation exists in their public schools and must be ended under the *Brown v. Board of Education* doctrine just as in southern cities. This trend is what gives the Supreme Court review of the Denver case such broad national significance. Ironically, just as the federal courts slowly throw out the conception of *de facto* segregation, President Nixon has given new life to the myth by ostensibly making it the legal cornerstone of his approach to racial segregation and discrimination.

(2) The myth of "the neighborhood school." The President has also legitimized the notion that racial and social class desegregation is appropriate only if it can occur in "neighborhood schools." Given the enormity of the housing segregation patterns by race and class, this argument is obviously a not-subtle attempt to maintain homogeneous schools as long as the country possesses homogeneous residential areas.

Additional considerations contribute further evidence as to the speciousness of this contention. To begin with, there are actually relatively few "neighborhood schools" in urban areas today—"neighborhood," that is, in the true Gemeinschaft sense that the school draws its students from a small area where virtually all of the resident families know each other and constitute a genuine community. What "neighborhood school" apparently means to its advocates is "local and conveniently nearby." But then one wonders if it is being upheld as a sacred ideal less for its presumed educational value than as a parental convenience.

Nor can "neighborhood schools" validly be described as "traditionally American." True, the fabled log-cabin school of the frontier had by necessity to be within walking distance of its pupils. But the frontier school was the classic example of a "common school," bringing together American children from all walks of life. To compare the homogeneous local urban school as the historical outgrowth of the heterogeneous rural school is to ignore the powerful social class "desegregating" function of the common school. The concept of "the neighborhood school" has been in educational circles since the Chicago city planners' use of it in the 1890s; yet it did not win popular acclaim and presidential support until the desegregation process gained momentum in recent years. Such timing is enough to make even a prudent person suspicious, especially when the neighborhood school advocates push their case to the point of claiming the the public school which their children will attend.

Furthermore, there is no evidence of the educational merit of the "neighborhood school." Indeed, if it has to be small it is probably an anachronism and highly inefficient like the corner grocery of bygone decades. But what about parental involvement? There can be doubts raised as to how much parental involvement urban "neighborhood schools" can boast of now. In any event, there is no evidence that there exists a close and negative association between the size of the attendance area and parental involvement, or that only a local school can generate such concern.

(3) The myth of the dangers of school busing. This third myth is the most virulent, and has been given increased currency by numerous politicians including the President. Proposed bills to end all school busing for racial desegregation proliferate; anti-busing riders of dubious constitutionality are attached to major national legislation; and Constitutional amendments to end the practice forever receive serious attention.

A curious historian looking back upon this racial era from the perspective of the next century will have to dig hard to explain this national mania. Complicating the task is an array of facts that make school busing a strange target. In 1972, nineteen million pupils (43.5% of the total enrollment of public schools) were being regularly transported to school at public expense, a massive effort that requires 256,000 buses traveling 2.2 billion miles at a cost of 1.7 billion dollars annually. Legally authorized in 48 states since 1919, fifteen states today even permit the transportation of students to private schools at public expense. Clearly, travel-conscious America has no objection whatsoever to the busing of school children *per se*.

The political issue arises only when the transportation is designed to further the racial desegregation of schools. Only *three* per cent of all bused students are transported for desegregation; and more public funds are still expended for transportation to racially *segregated* schools than to desegregated schools. Likewise the dangers of bus accidents have been stressed for this three per cent while ignored for the remaining 97% who are transported for "acceptable" reasons. Moreover, the relevant data reveal that the school bus is by far the safest mode of transportation. In 1968, according to the National Safety Council, the occupant death rate per 100 million passenger miles was 0.06 for school buses as compared to 0.24 for regular buses and 2.40 for automobiles. And the Pennsylvania Commission on Human Relations recently announced that over a five-year period, the State's school children were over three times safer per mile being bused to school rather than walking to school.

So why the national excitement? The movement ostensibly against busing has been forming over the past five years, and gained momentum when federal judges in a number of key cities ordered busing solutions to correct urban patterns of widespread school segregation by race in situations where other alternatives were not available.

Survey data show that once Nixon explicitly legitimized the movement, it rose in strength even among so-called "moderate" white Americans. While 41% of a national sample of adult Americans told Harris Survey interviewers in early 1971 that they were unwilling to see school children bused for integration in their communities, 69% were unwilling by March of 1972. Opposition was, not surprisingly, most intense in the Deep South and among whites, for blacks *favored* busing for integration in 1972 by 54 to 34%. In sharp contrast, by an overwhelming margin of 83 to 15%, parents whose children are bused to school for largely non-racial reasons are satisfied with the arrangement. Despite insistent denials, then, a future historian is likely to conclude that "busing" became in our time the polite, culturally sanctioned way to oppose the racial desegregation of the public schools. It's not the distance, stated a white mother in my home town of Richmond, Virginia, candidly, "It's the niggers."

IV. BUT DOES RACIAL INTEGRATION OF THE SCHOOLS "WORK"?

Recently a fourth myth has developed as a part of the movement to turn back the racial clock during the Nixon era. Bluntly, this fourth myth asserts that "science shows busing doesn't work." It originates from a much-publicized article in the summer of 1972 issue of the conservative organ, The Public Interest.[1] Authored by David Armor, now a sociological consultant to the Rand Corporation, this article claimed to be an objective, "scientific" appraisal of "the evidence on busing." The mass media, as yet unequipped to evaluate material that purports to be social science, soon spread its anti-integration contentions across the nation.[2] Nixon campaigners immediately began to exploit the article as "scientific proof" of the anti-busing position; and Armor himself began appearing before congressional committees and in courts throughout the country as an "expert witness" on behalf of maintaining the racial segregation of the public schools.

Soon, however, a critique of Armor's article appeared.[3] It was written by four of his former colleagues at Harvard (including the present author), and it asserted that the Armor article was neither objective, "scientific," nor the complete evidence. The critique maintained that there were four fatal flaws in Armor's anti-integration arguments:

(1) Unrealistic criteria for success. Armor began his article by establishing unrealistically high standards by which to judge the success of school integration so that he could more easily demonstrate its "failure." "Busing," he claims, works only if it leads—in one school year—to increased achievement aspirations, self-esteem, interracial tolerance, and life opportunities for black children. And "busing" must meet these standards in all types of interracial schools; no distinction is made between merely desegregated and genuinely integrated schools.

This "integration policy model," as it is labeled, is not what social scientists who specialize in race relations have been writing about over the past generation. Indeed, Dr. Armor's criteria must surely be among the most rigid ever employed for the evaluation of a change program in the history of public education in the United States.

(2) Biased selection of findings from selected studies. Armor presents selected findings from selected studies as "the evidence on busing." The bias here is two-fold. On the one hand, the few studies mentioned constitute an incomplete list and are selectively negative in results. Unmentioned are at least seven investigations from busing programs throughout the nation that meet his methodological criteria for inclusion and report positive achievement results for black students. These seven studies are widely known investigations.

On the other hand, only cursory descriptions are provided of the few investigations that are reviewed. Mitigating circumstances surrounding black responses to desegregation are not discussed. For example, we are not told that educational services for the transported black pupils were actually reduced with the onset of desegregation in three of the cited cities. In addition, negative findings consistent with the paper's anti-busing thesis are emphasized, while positive findings from these same cities are either obscured or simply ignored. Newer studies from three of the cited cities showing more positive results are not discussed.

Positive findings are also obscured by the utilization of an unduly severe standard. The achievement gains of black students in desegregated schools are often compared with white gains, rather than with the achievement of black students in black schools. But such a standard ignores the possibility that both racial groups can make more meaningful educational advances in interracial schools. Indeed, this possibility actually occurs in three of the cities mentioned by Dr. Armor. Yet he does not inform us of this apparent dual success of desegregation; rather "busing" is simply rated a failure because the black children did not far outgain the improving white children.

(3) Inadequacy of Armor's own research. Armor's antibusing conclusions rest primarily on the findings from one short-term study conducted by Dr. Armor himself. This investigation focused on a voluntary busing program in metropolitan Boston called METCO. Yet this study has extremely serious methodological problems. Two major problems concern deficiencies of the control group. To test the effects of "busing" and school desegregation, a control group should obviously consist exclusively of children who are neither "bused" nor attend desegregated schools. But a check of this critical point reveals that this is not the case. Among the 82 control students used to test the achievement effects of METCO at all four grade levels, records on 55 were obtained. Only 21 of these 55 actually attended segregated schools in the tested year of 1968–69. Many of the 34 (62%) desegregated children by necessity utilizing buses and other forms of transportation to get to school.

Incredible as it sounds, then, Armor compared children who were bused to desegregated schools with other children many of whom were also bused to desegregated schools. Not surprisingly, then he found few differences between them. But this complete lack of adequate controls renders his METCO research of no scientific interest in the study of "busing" and school desegregation. In addition, since this METCO investigation furnished the chief "evidence" against "busing," his conclusions are severely challenged by this point alone.

Serious, too, is an enormous non-response rate in the second test administration, a problem alluded to by Armor only in a footnote. For the elementary students, only *51%* of the eligible METCO students and *28%* of the eligible "control" students took part in both of the achievement test sessions. The achievement results for junior and senior high students are also rendered virtually meaningless by the participation of only *44%* of the eligible METCO students and *20%* of the eligible "control" students. Compare these percentages to the survey standard of 70% to 80%, and one can appreciate the magnitude of the possible selection bias introduced into the METCO results by the widespread lack of student participation. Efforts to compensate for these high non-response rates through the use of cross-sectional samples that also suffer from extensive non-response are insufficient.

There are other problems in the METCO study. Besides recording and clerical errors in the data, children were included who initially performed as well as the test scoring allowed and therefore could not possibly demonstrate "improvement." In fact, these pupils comprise one-sixth of all the junior high pupils tested for achievement gains in reading. Moreover, the conditions for the third administration of the attitude tests were different for the two groups. The METCO students took the tests at school and the "control" students took them at home with their parents as proctors. Apart from the severe control group problems, then, the faulty research design makes any conclusion about differences in racial attitude between the two groups hazardous.

The inadequate discussion of the METCO study in the article makes it virtually impossible for even the discerning reader to evaluate it properly. Its many errors were uncovered only from unpublished earlier materials and from reanalyzing the data. The METCO discussion is inadequate in other ways. Differential statistical standards are employed, with less rigorous standards applied to findings congruent with the article's anti-busing thesis. Attitude differences among METCO schools are not shown; and misleading claims of consistency with other research findings are made.

From this assortment of "evidence," Armor concludes authoritatively that "busing" fails on four out of five counts. It does not lead, he argues, to improved achievement, grades, aspirations, and racial attitudes for black children; yet, despite these failures, he admits that desegregated schools do seem somehow to lead more often to college enrollment for black students.

The picture is considerably more positive, as well as more complex, than that painted by Dr. Armor. For example, when specified school conditions are attained, research has repeatedly indicated that desegregated, compared to segregated, schools improve the academic performance of black pupils. Other research has demonstrated that rigidly high and unrealistic aspirations actually deter learning. Thus a slight lowering of such aspirations by school desegregation can lead to better achievement and cannot be regarded as a failure of "busing." And "militancy" and "black consciousness and solidarity" are not negative characteristics, as the article asserts, and their alleged development in desegregated schools would well be regarded as a further success, not a failure, of "busing." Moreover, the evidence of desegregated education sharply expands the life opportunities of black children is more extensive than indicated in the article.

Consequently, Armor's sweeping policy decision against "mandatory busing" is neither substantiated nor warranted. Apart from the impaired and incomplete "evidence," the paper in a real sense is not about "busing," much less "mandatory busing." Three of the cities discussed, including the primary discussion of Boston had *voluntary*, not "mandatory," "busing." "Busing" was never cited as an independent variable, and many of the desegregation studies discussed involved some children who were not "bused" to reach their interracial schools. Indeed in Armor's own investigation of METCO, some of the METCO children were not "bused" while many of the controls were.

(4) *Questionable racial assumptions.* Objections must be raised to the basic assumptions about racial change that undergird the entire Armor article. Public school desegregation is regarded as largely a technical matter, a matter for social scientists more than the courts. Emphasis is placed solely on the adaptive abilities of black children rather than on their constitutional rights. Moreover, the whole national context of individual and institutional racism is conveniently ignored, with interracial contact under any conditions assumed to be "integration."

Armor's response to this damaging critique called its authors an assortment of names (irresponsible, immoral, etc.); but it did not even attempt to refute most of the critique's chief criticisms. Again his anti-integration argument was based on special case data selected carefully to fit the thesis. Obscured in his response was the fact that actually he was begrudgingly in *agreement* with his critics on a number of important points concerning the effects of interracial schools. Marshall Smith, one of the original Harvard critics, has summarized three important points that even Armor no longer contests: [5]

"1. Insofar as we can tell from existing research, racial desegregation (induced or voluntary—via busing or other transportation) does not negatively influence and may often benefit the achievement of white students. In the controversy over the effects of

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desegregation on the achievement of black students, this important fact appears to have gone relatively unnoticed. It surfaces in the discussion of the original paper by Dr. Armor only to the extent that Pettigrew *et al.* point out that in three of the seven studies they reviewed, white students in desegregated situations appeared to gain more than white students in segregated situations. And . . . a desegregated experience appears beneficial to whites in 3 of the 5 studies cited by Dr. Armor himself in his rebuttal. Dr. Armor does not disagree with the conclusions that whites gain more in some situations and are generally not adversely affected, though he does admit his inability to construct a theory to explain why whites would gain more in desegregated situations.

2. Insofar as we can tell from the existing research, desegration (induced or voluntary—via busing or other transportation) does not harm and may often benefit the achievement of black students. Although this may appear to be a controversial statement, in no place in either of Dr. Armor's two articles is there an indication that he finds that black students in desegregated situations do less well on standardized tests than they did prior to desegregating, or than similar black students do in segregated situations. In the seven studies cited by Pettigrew *et al.*, the analysis of the authors was that desegregation increased the achievement scores of black students. In his reply to Pettigrew *et al.*, Dr. Armor does not disagree with this finding. Indeed, for New York City and Hartford, he explicitly states that black children in integrated schools appear to do better than black students in segregated schools. The point of contention arises in the interpretation of the importance of the gains . . .

3. There are indications that desegregated education increases the chances of black students attending post-secondary educational institutions. Both Dr. Armor in his original article and Pettigrew *et al.* clearly make this point. Although both sets of authors indicate that more data is needed on this issue, the potential implications are great. As a variety of researchers have recently pointed out, the consequences of increasing years of schooling for later income and occupational status are far greater than the consequences of increasing scores on achievement tests."

There are, to be sure, three major points of *disagreement* between Armor and his critics, points that must be emphasized to understand the mythical nature of the "*desegregation* doesn't work" assertion. Smith provides a cogent summary:

"1. The authors disagree in their interpretation of the achievement data. Dr. Armor argues that, while there may be black gains attributable to desegregation, . . . the gain is of no importance since the 'gap' between whites and blacks in achievement is not closed. Pettigrew *et al.*, on the other hand, argue that the gains are potentially important and that part of the 'gap' is in fact being closed. The central bone of contention revolves around the definition of 'gap.'

Take, for example, the case of New York City (Table 4 in Dr. Armor's reply, though tables 2, 3, and 5 could also illustrate the same point). Here we find black students at the end of the fifth grade before desegregation scoring at the 4.0 grade level. In other words, in the five years of school since the beginning of first grade they had an average gain of 0.6 grade levels per year. During their sixth year of school, they gained an additional 1.1 grade levels—virtually double their *rate during* segregation. Had the same students progressed at the same rate during their sixth year as they had before, they would have been scoring at the 4.6 grade level instead of the 5.1 grade level.

In terms of national norms, the desegregation experience of black students in the New York study closed the "gap" in two ways. First, since the expected score for the average child in the national sample is 5.9 years at the end of fifth grade and 6.9 years at the end of sixth grade, and since the black students in this sample scored 4.0 grade levels (or 1.9 grade levels behind the norm) at the end of fifth grade and 5.1 grade levels (or 1.8 grade levels behind the norm), the black students have closed the "gap" (as defined this normative way) by 0.1 grade levels. We can, however, conceive of the "gap" in a different way. Here we take an expected gain of the students in the study to be 0.6 years. Given this expectation we would find the black students in the New York City study to be scoring at the 4.6 grade level after six years of school had they not been desegregated. Computing the expected gap in this fashion, we find that the desegregation experience closed the "gap" by 0.5 grade levels. We note that this method of computing the gap is equivalent to considering the percentile levels of students. If a group of students progress at the same rate (e.g., 0.6 grade levels per year), they stay at the same percentile. If some experience increases their rate (e.g., from 0.6 grade levels to 1.1 grade levels per year), their percentile level increases. In other words, for below-average students their percentile level moves closer to the national norm of 50.

Dr. Armor defines the "gap" in still a third way. He sees it as the difference between black and white students' achievement in the same school or study at any given time. Thus, he finds in the New York study that the "gap" as he defines it increases, since black students gained "only" 1.1 years during desegregation and white students gained 1.7 years. Thus, he sees the "gap" as increasing by 0.6 grade levels.

Thus there are three different ways of computing the 'gap' for the New York youngsters:

(a) If we compare the difference in their grade levels between the national norms and the scores of black students before and after the desegregation experience, black students have closed the 'gap' by 0.1 grade levels.

(b) If we compare the difference in grade levels between the national norms and the achievement of blacks before desegregation with the difference in grade level between national norms and the expected achievement of black students (given no desegregation), the black students have closed the 'gap' by 0.5 grade levels.

(c) If we compare the white students in the same school with the black students in the school, the 'gap' has opened by 0.6 grade levels.

The question then is: Which of the three ways of assessing the gap makes more sense? I believe the second definition is educationally, legally, and logically correct. The 'gap' as we normally think of it is the difference between the achievement of black students and the achievement of the national sample of all students, for if black students on the average scored at the 50th percentile, we would not be concerned with the 'gap.' The only measure which assesses the difference between the national norms in percentiles and the black average is the second definition of 'gap.' In the New York case, it shows that desegregation is closing this 'gap.' Simply because the New York desegregation program under investigation is apparently so successful that the white students increase in grade level at faster than an average rate is no reason to discard the conclusion that desegregation is helpful to black students in the study.

2. A second major point of disagreement surrounds the interpretation of Black Militancy. Dr. Armor finds that black students in both METCO, in desegregated Boston schools, and in the ABC program appear to become more 'separatist' than do black students in segregated schools. Although all of the means for students appear to be at the non-separatist end of a continuum, he claims to discern statistically significant differences.

The interpretation of this finding rests in part upon the expectations and predilections of the reader. My own experience in a university setting where majority faculty and student dominate has been to accept and encourage minority students to have pride in their background and heritage—not to reject it. As a vehicle for coping with a new and sometimes hostile environment, group cohesion and a partial rejection of majority norms may be a powerful source of strength for an individual student. This leads me to be not discouraged by findings such as those cited by Armor; but to put them in the same positive arena as the rejection by public school students of the closed eating clubs at Harvard so favored by private school graduates in the 1920s and 30s: There is an irony in Dr. Armor's argument which stems back to the original findings of the Supreme Court in Brown. The High Court found that blacks' identity and pride suffered from segregated education. Should we now be distressed to find that black identity and pride improve from desegregated education?"

3. "There is also disagreement between Dr. Armor and Pettigrew et al. in the policy implications of the findings of the desegregation studies and, indeed, of social science research in general. Although both parties agree that social science properly conducted and interpreted can be of value to policy makers, Dr. Armor apparently believes that social science should demonstrate conclusively the positive benefits of a policy before the policy is initiated. In defense of his argument, he cites medical research and the 'guaranteed income' experiments now being carried out by the Federal Government. Neither example is, of course, necessarily appropriate, but both seem worthy of some consideration. In the medical area, consider the case of 'birth control pill(s).' Now, some years after its introduction, there is some indication of negative side effects of the drug. Some members of the medical profession argue that the pill should never have been released until full data on its consequences were available. This may be true, but it seems highly unlikely that the United States would now be experiencing a zero growth rate had the pill not been universally marketed—a policy benefit that may have been indicated but could never have been proved by experimentation. The consequences, thus, of the pill could not be fully realized before it was introduced, and could not have ever been assessed without it being universally marketed.

The case of the 'guaranteed income' scheme is more appropriate. Here the main impetus for a 'guaranteed income' was that all people in an affluent society have the right to enough income to be able to clothe and feed their families. The central concern which generated the need for an 'experiment' was that some people, given a 'guaranteed income,' would cease working and thereby reduce the national labor force. The first results of the study demonstrated that this concern is probably not warranted. Yet the experiments go on and the Federal Government is not even considering a guaranteed income presently. The reason for the lack of enactment appears to be that the Nixon Administration does not want a 'guaranteed income'. The reason has nothing to do with social science evidence.

My reading of these two examples is simply that social science evidence may have some impact, but essentially social policy depends on the beliefs and ideology of the government and the people. In the case of racial desegregation, the findings of social science are that it will not harm and can often enhance the achievement of both black and white students. And the findings of the courts are that the nation has systematically excluded the possibility of blacks going to school with whites in the South and in all of the instances where the courts have ordered desegregation in the North. The rest is politics. Dramatic evidence for this view was provided by the ready acceptance of Dr. Armor's conclusions by those who oppose interracial schools, an acceptance that had little to do witn the social science data that presumably related to his conclusions. Indeed, the conclusions received national publicity before the paper was even published.

One is reminded of the 1840 census results that purported to support slavery. These data seemed to show that black Americans in the slave South were far less likely to be either 'idiotic' or 'insane' than those in the 'free' North. The defenders of slavery did not stop to check the data in their rush to exploit the apparent census findings. These data, argued John Calhoun immediately, proved that the abolition of slavery would be 'a curse instead of a blessing.' Soon a young physician and statistician, Dr. Edward Jarvis of Massachusetts, completely refuted the 1840 census data on race by revealing such glaring errors as northern communities with more reported 'idiotic' and 'insane' blacks than their total black populations. 'It was the census that was insane,' commented a contemporary observer, 'and not the colored people.' Pettigrew et al. do not claim to be another Dr. Jarvis, but in the last third of the twentieth century, it behooves us all to be extremely skeptical about sweeping conclusions that favor racial segregation made in the name of social science research."

V. ACHIEVING INTERGRATION OUT OF DESEGRATION

No responsible observer ever claimed that all interracial schools would be "good" schools. It takes little imagination to design desegregated schools that are living hells for both black and white pupils. The question, then, is not: Do all interracial schools work well? The key questions, neatly skirted by Armor and other political foes of biracial education, are: How do we make interracial schools effective? And what are the discernible differences now between effective interracial schools and ineffective ones?

The racial desegregation of schools is not a static but a complex, dynamic process. One must search for the critical conditions under which the process seems to be most beneficial for all students. For this purpose, it is important to distinguish between desegregation and integration. Desegregation is achieved by simply ending segregation and bringing blacks and whites together; it implies nothing about the quality of the interracial interaction. Integration involves positive intergroup contact with cross-racial acceptance and equal dignity and access to resources for both racial groups. Now that desegregation is reasonably widespread, an important question for education—and this Conference—becomes: How do we achieve integration out of desegregation?

Unfortunately, competent research directed specifically upon this question is scarce. But eight conditions that appear to maximize the probability that integration can occur in a school can be tentatively advanced on the basis of laboratory and classroom research, social psychological theory, and observation.

(1) There must be equal racial access to the school's resources. This critical condition means far more than just equal group access to books in the libraries and other physical facilities. More importantly, it refers to equal access to the school's sources of social status a well. It is a compelling fact that the two most frequently voiced complaints in desegregated schools revolve around membership in the cheerleading squad and the student government—both sources of student status. Blacks in the minority often note that they are welcome to participate in those activities with universalistic standards such as athletics; but not as welcome in more particularistic activities such as cheerleading and student government leadership. These restrictions upon social status particularly affect black girls, and a number of studies have shown that they tend to have a more difficult time than black boys in newly desegregated schools.

The general point of equal treatment has, of course, been emphasized by many writers. Indeed, the leader of this Conference, Professor Castaneda, has discussed it at length in terms of "democratic classrooms' involving Anglo and Chicano children. While this paper concentrates on Black-Anglo desegregation, a special example of the equal access criterion is brought to mind by Castaneda's contentions. It seems doubtful if true intergroup integration will ever be possible in Anglo-Chicano schools as long as the Spanish-speaking abilities of the Chicano pupils are seen as a problem rather than exploited as a resource. Apart from Spanish language courses for non-Chicanos, Spanish could be used as the medium of instruction in particular courses in the higher grades for all children. Castaneda and others have stressed the cultural and psychological importance of such an approach for Chicano students. But as an Anglo victim myself of poor language instruction in the public schools of Richmond, Virginia, the writer would add selfishly that this approach could provide Anglo students with an effective bilingual environment seldom obtained in America's public schools.

(2) Classroom—not just school—desegregation is essential if integration is to develop. This second condition may seem so obvious as not to warrant listing. Yet many of our so-called "desegregated" schools today are essentially internally segregated. This internal segregation is achieved in many not-so-subtle ways, ability grouping and curriculum separation being prime examples. But sometimes the methods can be quite elaborate. For example, transported minority children in some Riverside, California, schools arrive and leave an hour earlier than untransported white children so that they can have entirely separate reading classes[6]—hardly a practice that facilitates integration. However it is managed, segregation by classroom does not and cannot provide the benefits that generally attend integration.[7]

(3) Strict ability grouping should be avoided. The principal means of separating majority and minority pupils within schools is by rigid ability grouping across various subjects. Such grouping is typically based on achievement and I.Q. tests standardized only on majority samples. And ability grouping is increasing in American schools, even penetrating down into the elementary grades. Some grouping by subject matter is, of course, necessary; Algebra 2 must follow Algebra 1, chemistry requires certain basic skills in arithmetic. Rather, it is the across-the-board classification of students into "dull," "average," and "bright" that not only segregates by race and social class, but through labeling sets the aspirations of both teachers and students in concrete and produces self-fulfilling prophecies of achievement. Told they are dumb and treated as if dumb, all but the most rebellious and self-confident pupils become in fact dumb.

From this perspective, an array of research findings fall into place. Thus, school systems, such as those of Sacramento, California, and Goldsboro, North Carolina, that maintained classrooms of heterogeneous ability levels by resisting ability grouping with more open classrooms and team teaching have tended to demonstrate the most encouraging achievement effects of desegregation.[8] By contrast, systems such as Riverside, California's, that increased its use of ability grouping with the onset of desegregation have tended to show the most disappointing results.[9] Additional Riverside desegregation data highlight the effects of ability grouping further: bused students who were more dispersed in the classes of their receiving schools outperformed those who through ability tracking were clustered in essentially segregated classrooms; while the mean achievement of minority pupils with low initial ability scores declined relative to grade level, the achievement of minority pupils with high initial scores rose in the interracial scores; and, finally, minority children transported to schools characterized by higher achievement of the receiving white students gain significantly more than comparably minority children transported to schools characterized by low achievement.[10]

A chief obstacle in eliminating across-the-board labeling and tracking of children is presented by teachers who have only been trained to instruct homogeneous ability classes. They, understandably, come to regard ability grouping as a necessary practice as well as a beneficial work condition that makes their task easier. Moreover, it often is perceived as a status differentiating device with teachers holding seniority given the "high" track classes. In a profession that lacks sufficient status differentials, this feature becomes an important function of ability grouping apart from the needs of children. Nevertheless, it leads to the bizarre situation where the most inexperienced teachers are given the greatest professional challenge. It is as if the chief of a hospital's surgical service handled only band-aid cases and the newest interns were given all of the most complex surgical procedures. At any rate, changes in this domain must obviously begin with education schools and departments providing teachers with the necessary skills for effectively instructing classes of wide ability ranges.

(4) School services and remedial training must be maintained or increased with the onset of desegregation. Again this condition may appear so obvious as to be unnecessary to mention. Yet it must be listed, for many desegregation programs witness an actual reduction in per student expenditures. Examples include Ann Arbor, Michigan and Riverside and Berkeley, California.[11] Typically there is no reduction in local funds, but an overall decrease due to narrowly conceived federal guidelines for the use of Title I monies under the 1965 Elementary and Secondary Education Aid Act. Actually, the Act does not expressly forbid Title I funds for children from low-income families from following the children on the bus to the desegregated school. Indeed, former Commissioner of Education Harold Howe explicitly provided for this special aid to continue with desegregation. However, the U.S. Office of Education more recently has made this all but impossible, consistent with the Nixon Administration's resistance to racial change. Yet the fact remains that desegregation and so-called "compensatory education" are most effective when they are combined rather than treated as opposite alternatives.

(5) Desegregation should be initiated in the early grades. During the 1950s, the White Citizens' Councils of the deep South provided a noteworthy example of being wrong for the right reasons. They sternly opposed the racial desegregation of the public schools and particularly objected to beginning the process in the primary grades. "It's not fair," they argued; "the very young

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children simply wouldn't know any better than to become friends."

Relevant research supports the Citizens' Councils' observation, if not their conclusion. The Coleman Report data show higher achievement among black children who began their interracial schooling in the first five grades.[12] And specific studies in Hartford, Connecticut, Ann Arbor, Michigan, Newark-Verona, New Jersey, Bridgeport-Westport, Connecticut, and Riverside all show, too, the best achievement gains for those who begin desegregation in kindergarten and the first grade.[13]

More relevant for determining the beginning of genuine integration are other results. The Coleman data also indicate that the most positive attitudes toward having interracial classes and blacks as close friends are evinced by white children who begin their interracial schooling in the earliest grades.[14] Likewise, the choice of schools by black students is largely determined by their early familiarity with biracial education. Consider the 1962 findings of the U.S. Commission on Civil Rights in Louisville, Kentucky. The city then had six public high schools, all with some black pupils, and an open choice of enrollment. One of the six, Central High School, had originally been "the black high school" and was still virtually all black in 1962. The Commission found a strong correlation (+.82 Spearman rank order) between the percentages of blacks in the junior high schools and the percentage of blacks from each school who chose to attend the all-black high school. "The inference is strong," concluded the Commission, "that Negro high school students prefer biracial education only if they have experienced it before. If a Negro student has not received his formative education in biracial schools, the chances are he will not choose to enter one in his more mature years."[15]

Racial isolation, then, is a cumulative process. Its effects over time on children of both races make subsequent integration increasingly more difficult. Separation leads them to grow apart in interests and values. It also enhances the likelihood of the three factors Irwin Katz found to depress black performances in biracial situations: lowered probability of success, social threat, and failure threat.[16] Moreover, considerable research initiated over three decades ago by Kenneth and Mamie Clark and repeatedly replicated up to today reveals that the dawn of racial awareness occurs in the third and fourth years of life and the beginnings of racial prejudice by the fifth and sixth years.[17] In short, from many perspectives, early interracial intervention seems most desirable.

Recently, the nation witnessed dramatic evidence of this critical condition for obtaining integration. Following the assassination of Dr. Martin Luther King in April of 1968, a series of interracial confrontations and conflicts erupted in many biracial schools. Some observers immediately interpreted this strife as evidence that desegregation "cannot work," that it "only leads to trouble." Yet a diametrically opposite explanation is more plausible. This interracial conflict was centered at the high school level and typically involved black and white students who in the earlier grades had attended largely uniracial schools. The hostile students, then, were unfortunately living what they had been taught; that is, their first eight years of schooling taught them that segregation was the legitimate American norm and did not prepare them for harmonious interracial contact in high school. It was not desegregation that "failed" as such. Rather it was racial segregation in the formative years that had "succeeded" as it has throughout our nation's history to develop distrust and conflict between Americans of different skin colors.

(6) The need for interracial staffs is critical. Another correlate of the high school strife following Dr. King's murder underlines the importance of black teachers and administrators in the public schools. One study has shown that high school "disruptions" and racial tensions are far less likely to occur when the black staff percentage is equal to or greater than the black student percentage.[18] To be sure, there are more positive reasons for the development of thoroughly interracial staffs than the prevention of conflict. Genuine integration among students may be impossible to achieve unless the staff furnishes an affirmative model of the process. Black students report a greater sense of inclusion and involvement when blacks as well as whites are in authority. And black and white teachers learn the subtleties of the process from each other under optimal intergroup contact conditions—interdependently working toward common goals as equals under authority sanction.[19]

There is growing evidence, too, that the role of the principal is decisive in generating an integrated climate within a school. This fact suggests that it is important not just to have an interracial mix of teachers but a mix of administrators as well. This point is generally recognized at the high school level, though it is too often handled by having a black administer largely black student disciplinary problems as one among a group of assistant principals. The token and limited nature of such an appointment is obvious to all, and may hurt more than it helps the growth of cross-racial acceptance. More frequent assignment of black educators as principals of biracial schools is necessary in elementary and junior high schools as well as high schools. Despite changes in the nation's employment patterns in recent years, both black and white students are likely to see blacks in authority over whites only in schools where there is a black principal.

(7) Substantial, rather than token, minority percentages are necessary. Coleman's original analysis of his national data revealed that black children who were the only members of their race in a classroom tended to score either quite high or quite low on both mathematical and reading achievement tests.[20] Such tokenism is psychologically difficult for black children in America where race is so salient. Without the numbers to form a critical mass, black students can come to think of themselves as an unwanted appendage; and white students can overlook the black presence and even perceive it as a temporary situation. But once the minority percentage reaches about 20% to 25%, a critical mass is formed. Blacks are then a significant part of the school to stay; they are now numerous enough to be filtered throughout the entire school structure, on the newspaper staff and in the honor society as well as in the glee club and on athletic teams. Substantial minority representation, of course, does not guarantee intergroup harmony, but it is clearly a prerequisite for integration. Little wonder that Jencks and Brown find in a reanalysis of Coleman data that schools with 25% to 50% black enrollment seem to teach their black pupils more than those with 1% to 25% black enrollment.[21] Tokenism, then, appears not only to exact a heavy psychological cost from black children, but may hold fewer academic benefits for them in addition.

(8) Finally, race and social class must not be confounded in the interracial school. When the white children of a biracial school are overwhelmingly from affluent, middle-class families and the black children are overwhelmingly from poor, working-class families, the opportunities to develop integration are severely limited. Such confounding of race and class heightens the probability for conflict. Much of this conflict may be generated by value differences between classes; but in race-conscious America such class conflict is typical seen as race conflict. To meet this eighth condition for the development of integration, the inclusion of working-class white children and middle-class black children is essential. The crucial group in shortest supply are the middle-class blacks, though their absolute numbers have expanded about 14 times since 1940. The middle-class black child, then, should be seen as an invaluable resource for lowering the correlation within biracial schools between race and class.

VI. SUMMING UP

The basic case for the racial integration of the public schools is founded on our nation's traditional view of justice as well as the American dream. It is a cumulative process with potential academic and attitudinal benefits for both black and white children, but it is not a paternalistic program conducted "for" blacks or "for" whites for that matter. Rather it should be viewed as one component of the massive racial changes required to make viable the United States as an interracial society.

Within this framework, this paper has traced the present situation of school desegregation, listed the principal myths currently in vogue to legitimate racist resistance to the process, and summarized the recent debate on its effects. Finally, the paper maintained that a major task now facing American education is how to develop integration out of desegregation. The conception of intergroup integration put forward is emphatically not an "Anglo-white-middle-class assimilation model." It requires a blending and a mutual dignity and respect of diverse groups and their cultures. Such a development, it is argued here, would be more likely if eight conditions held: equal racial access to the school's resources; thorough classroom desegregation; the avoidance of strict, across-the-board ability grouping; the maintenance of or increase in school services and remedial training; desegregation begun in the early grades; interracial staffs; substantial, rather than token, minority representation; and race and social class both involved in the desegregation.

But will the thorough desegregation—and hopefully, integration—of the public schools of the United States actually ever become a reality? This paper does not claim to be prophetic. It cannot state authoritatively that the separatists, white and black, are wrong when they claim that the nation is too racist, too anti-black, too committed to the 350-year tradition of white domination to ever countenance extensive school integration as described here. However, it can be said that those who hold such pessimistic views and act upon them personally contribute to achieving the grim future they foresee. To avoid participating in such a self-fulfilling prophecy, one must assume the best for the future of American race relations and act accordingly—much as the legal father of the integration movement, Charles Hamilton Houston, did during the even more discouraging decades of the twenties and thirties.

It can also be asserted that integration as described here is possible were America somehow to will it. Our brief review earlier of the chief causes of urban school segregation emphasized the importance of metropolitan approaches to desegregation. Innovative ideas abound in this realm, such as the Metropolitan Education Park.[22] In this regard, the recent 4 to 4 deadlock of the U.S. Supreme Court that prevented the metropolitan desegregation plan of Richmond, Virginia, may prove to be a serious roadblock to further progress. A similar plan for Detroit, Michigan, however, has won strong approval from federal judges at both the dis-

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Footnotes at end of article.

trict and appellate court levels. It has yet to be reviewed by the High Court; and the decision rendered on it next year could influence the course and pace of the process for the remainder of the 1970s.

In the meantime, there is much for educators to be doing professionally. We should not allow lawyers and the courts to determine completely the direction of a process that is basically within our field of competence. Even if the racial integration of the public schools is currently out of political vogue, it is up to us to achieve it within our desegregated schools, to make it "work" effectively. To end where we began, we can contribute to the effort of negatively answering Representative McCulloch's rhetorical question about changing our basic national premises to maintain racial segregation.

FOOTNOTES

[1] D. J. Armor, "The Evidence on Busing," *The Public Interest*, Summer 1972, 90–126.

[2] Walter Shapiro, "Black and White Together Is Still the Point," *The Washington Monthly*, June 1973, 32–42; Godfrey Hodgson, "Do Schools Make a Difference?" *Atlantic*, March 1973, *231*, 35–46.

[3] T. F. Pettigrew, E. L. Useem, C. Normand, and M. S. Smith, "Busing: A Review of the Evidence," *The Public Interest*, Winter 1973, 88–118.

[4] D. J. Armour, "The Double Double Standard: A Reply," *The Public Interest*, Winter 1973, 119–131.

[5] Marshal S. Smith, "Agreement and Disagreement: A Final Word." Unpublished manuscript, Harvard Graduate School of Education, March 1973.

[6] Harry Singer, "Effect of Integration on Achievement of Anglos, Blacks, and Mexican-Americans." Unpublished manuscript, Department of Education, University of California, Riverside, 1972: pp. 25–26.

[7] James McPartland, "The Segregated Student in the Desegregated Schools: Sources of Influence on Negro Secondary Students," *Report No. 21*, Department of Social Relations, Johns-Hopkins University, 1968.

[8] Pettigrew *et al.*, *op. cit.*

[9] I. S. Hendrick, "The Development of a School Integration Plan in Riverside, California: A History and Perspective." Unpublished manuscript of the University of California, Riverside and the Riverside Unified School District, 1968; p. 201.

[10] Mabel C. Purl, "The Achievement of Pupils in Desegregated Schools." Unpublished manuscript, Riverside Unified School District, California, 1971.

[11] Pettigrew *et al.*, *op. cit.*

[12] James Coleman *et al.*, *Equality of Educational Opportunity*. Washington, D.C.: U.S. Government Printing Office, 1966; p. 332.

[13] Pettigrew *et al.*, *op. cit.;* and T. F. Pettigrew, "The Negro and Education." In I. Katz and P. Gurin (eds.), *Race and the Social Sciences*. New York: Basic Books, 1969.

[14] Coleman *et al.*, *op. cit.*, p. 333.

[15] U.S. Commission on Civil Rights, *Civil Rights U.S.A.: Public Schools, Southern States, 1962*. Washington, D.C.: U.S. Government Printing Office, 1963; p. 55.

[16] I. Katz, "Review of Evidence Relating to Effects of Desegregation on the Performance of Negroes," *American Psychologist*, 1964, 19, 381–399.

[17] T. F. Pettigrew, *A Profile of the Negro American*. New York: Van Nostrand-Rinehold, 1964; Judith D. R. Porter, *Black Child, White Child: The Development of Racial Attitudes*. Cambridge, Mass.: Harvard University Press, 1971.

[18] S. K. Bailey, *Disruption in Urban Public Secondary Schools*. Washington, D.C.: National Association of Secondary School Principals, 1970.

[19] G. W. Allport, *The Nature of Prejudice*. Cambridge, Mass.: Addison-Wesley, 1954, Chapter 16; T. F. Pettigrew, *Racially Separate or Together?* New York: McGraw-Hill, 1971, Chapter 12.

[20] Coleman *et al.*, *op. cit.*, p. 333.

[21] Christopher Jencks and Marsha Brown, "The Effects of Desegregation on Student Achievement: Some New Evidence From the Equality of Educational Opportunity Survey." Unpublished manuscript, Harvard Graduate School of Education, 1972.

[22] Pettigrew, "The Negro and Education," *op. cit.*

EXHIBIT 4

WASHINGTON RESEARCH PROJECT,
ACTION COUNCIL,
Washington, D.C.

ANTIBUSING RESTRICTIONS ON THE USE OF FEDERAL FUNDS AND ON TITLE VI ENFORCEMENT EFFORTS

(By Richard T. Seymour [1])

Legislative proposals currently pending before Congress would restrict or prohibit the use of Federal funds to pay the costs of busing public school students pursuant to a desegregation effort, and would prohibit Federal officials from requiring, as a condition of receiving Federal funds, that local school districts adopt desegregation plans requiring that such students be bused. Unless the language of any enacted legislation is carefully restricted so that it will not affect the availability of constitutionally required remedies, there is a strong possibility that such legislation would be held unconstitutional.

In any constitutional analysis of such legislation, the central fact is that segregated public schooling violates the Constitution and that the Constitution requires that all steps necessary to dismantle a segregated system must be taken. The courts have held that busing is an absolutely essential remedy in most cases, and that State legislation attempting to restrict the use of busing is therefore an unconstitutional interference with the right to effective desegregation. *Swann v. Charlotte-Mecklenburg Board of Education*, 402 U.S. 1 (1971); *North Carolina State Board of Education v. Swann*, 402 U.S. 43 (1971). Federal statutes, such as enactments limiting the use of Federal funds, which would have the effect of restricting constitutionally necessary busing would be just as unconstitutional, since the Federal government is no freer than State and local governments to discriminate on the basis of race. *Bolling v. Sharpe*, 347 U.S. 497 (1954). For a much fuller discussion of these points, see the February 28, 1974 memorandum, "Anti-Busing Legislation in the 93rd Congress."

Legislation which does not directly restrict constitutionally necessary busing may yet fall afoul of the Constitution if it expressly permits the discriminatory use of Federal funds. In *Simkins v. Moses H. Cone Memorial Hospital*, 323 F. 2d 959 (4th Cir., 1963), *cert. den.*, 376 U.S. 938 (1964), the court of appeals held unconstitutional the provision of 60 Stat. 1043, then codified as 42 U.S.C. §291e(f), which authorized but did not require separate-but-equal facilities for different races in hospital receiving Hill-Burton funds. Further, it is now clear that the Constitution is violated if a governmental agency has the power to prevent discrimination by a recipient of governmental benefits but fails to exercise that power. In *Burton v. Wilmington Parking Authority*, 365 U.S. 715, 720 (1961), a municipal parking authority was held to have violated the Constitution, *interalia*, by failing to exercise its ordinary powers as a landlord to include a provision in its lease with a restaurant requiring the restaurant to serve all members of the public on a nondiscriminatory basis:

"...[N]o State may effectively abdicate its responsibilities by either ignoring them or by merely failing to discharge them whatever the motive may be."

In *Hicks v. Weaver*, 302 F. Supp. 619 (E. D. La., 1969), the court held that Federal officials acted unlawfully by failing to prevent racial discrimination in the placement of a Federally assisted housing project, and that the mere entry into a covenant not to discriminate was insufficient. In *Green v. Kennedy*, 309 F. Supp. 1127 (D.D.C., 1970), a three-judge court held that the failure of the Secretary of the Treasury to require actual nondiscrimination by private segregated schools with Federal tax exemptions violated the Fifth Amendment. In *James v. Ogilvie*, 310 F. Supp. 661 (N.D. Ill., 1970), the court held that the failure of the State of Illinois to require actual nondiscrimination by construction unions working on State-sponsored projects violated the Fourteenth Amendment. *Accord, Ethridge v. Rhodes*, 268 F. Supp. 83 (S.D. Ohio, 1967). In *United States v. Frazer*, 297 F. Supp. 319 (M.D. Ala, 1968), the court upheld the right of the United States to sue Alabama officials to require that there be no racial discrimination in the State's recruitment, hiring, and promotion of personnel who would administer Federal grant-in-aid programs and be paid from these grant funds. In deciding that the United States had standing to sue, the court observed:

"As a matter of fact, the interest of the United States in these Federally financed programs may be so considerable that the Government, through its duly constituted officials, including the Attorney General of the United States, has a constitutional obligation to eliminate racial discrimination in their administration. Failure on the part of any of these Government officials to take legal action in the event that racial discrimination does exist—and, as stated earlier in this opinion, we must, for the purpose of measuring these motions to dismiss against the complaint, assume that it does exist—would constitute dereliction of official duty."

It is thus clear that any Act of Congress which would expressly permit the discriminatory use of Federal funds would be unconstitutional. Congress was well aware of this doctrine when it enacted Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d *et seq.*[2] The legislative history indicates that the provisions' supporters viewed it as effectuating a mandatory constitutional requirement. During the debate, for instance, the Supreme Court had denied certiorari in *Simkins v. Moses H. Cone Memorial Hospital, supra*, and the bill's supporters cited the case during the debate.[3] Senator Humphrey, the floor manager of the entire Civil Rights Act, stated that § 601 stated "the law of the land," 110 Cong. Rec. 5253. He called § 601 "merely a restatement of the law." 110 Cong. Rec. 5864. He concluded, at 110 Cong. Rec. 6544:

"Thus, title VI is simply designed to insure that Federal funds are spent in accordance with the Constitution and the moral sense of the nation."

Senator Allott argues that § 601 articulates a constitutional standard, 110 Cong. Rec. 12675. Senator Case stated, in reference to § 601:

"As a matter of fact, it cannot be qualified as a matter of constitutional principle." 110 Cong. Rec. 13930.

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[1] Member of the District of Columbia bar.

[2] Sec. 501 provides:

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

[3] *E.g.*, 110 Cong. Rec. 5253 and 6544 (remarks of Senator Humphrey); 110 Cong Rec. 8057 (remarks of Senator Pastore).

Senator Ribicoff agreed that Title VI would effectuate a "[C]onstitutional restriction against discrimination in the use of Federal funds." 110 Cong. Rec. 13333. Referring to the denial of certiorari in *Simkins*, Senator Pastore stated:

"All that the bill is trying to do is to take that edict of the Supreme Court and make it apply nationally and universally, so that we do not have to take every single case of discrimination into court." 110 Cong. Rec. 8057.

The Fifth Circuit has agreed with this view that § 601 was intended to effectuate a clear constitutional duty:

"Section 601 states a reasonable condition that the United States may attach to any grant of financial assistance. . . . But it also states the law as laid down in hundreds of decisions, independent of the statute." *Lemon* v. *Bossier Parish School Board*, 370 F.2d 847 (5th Cir., 1967), *cert. den.*, 388 U.S. 911 (1967).

Thus, any language in any Act of Congress which orders Federal officials not to enforce Title VI with respect to any kind of racial discrimination, or which in effect forbids these officials to enforce Title VI by requiring the use of specified remedies which may be constitutionally necessary under the facts of a case, would violate the Fifth Amendment.

Whether a given legislative proposal would have these effects, and would thus be unconstitutional, depends on its language. The standards by which it would be weighed are set forth above, and its language should be examined with these tests in mind.

AMENDMENT NO. 1304

Mr. McCLELLAN. Mr. President, I ask unanimous consent to have printed in the Record an amendment to S. 1539 which I have proposed, which was filed today and which will be printed and placed on the desks of Senators tomorrow.

The PRESIDING OFFICER. Without objection, the amendment will be received and printed and will lie on the table; and without objection the amendment will be printed in the Record.

On page 131, beginning with line 16, strike out through line 10 on page 152 and insert in lieu thereof the following:

(2) (A) (i) Section 103(a) of such title I is amended to read as follows:

"Sec. 103. (a) (1) There is authorized to be appropriated for each fiscal year for the *purpose of* this paragraph 3 per centum of the amount appropriated for such year for payments to States under section 143(a) (other than payments under such section to jurisdictions excluded from the term 'State' by this subsection, and payments under part B), and there shall be authorized to be appropriated such additional sums as will assure at least the same level of funding under this title as in fiscal year 1973 for the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and to the Secretary of the Interior for payments pursuant to paragraphs (1) and (2) of subsection (d). The amount appropriated pursuant to this paragraph shall be allotted by the Commissioner (A) among the Commonwealth of Puerto, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for grants under this part, and (B) to the Secretary of the Interior in the amount necessary (i) to make payments pursuant to paragraph (1) of subsection (d), and (ii) to make payments pursuant to paragraph (2) of subsection (d). The grant which a local educational agency in the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands is eligible to receive shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this title.

"(2) In any case in which the Commissioner determines that satisfactory data for that purpose are available, the grant which a local educational agency in a State shall be eligible to receive under this part for a fiscal year shall (except as provided in paragraph (3)) be determined by multiplying the number of children counted under subsection (c) by 40 per centum of the amount determined under the next sentence. The amount determined under this sentence shall be the average per pupil expenditure in the State, except that (A) if the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, such amount shall be 80 per centum of the average per pupil expenditure in the United States, or (B) if the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, such amount shall be 120 per centum of the average per pupil expenditure in the United States. In any case in which such data are not available, subject to paragraph (3), the grant for any local educational agency in a State shall be determined on the basis of the aggregate amount of such grants for all such agencies in the county or counties in which the school district of the particular agency is located, which aggregate amount shall be equal to the aggregate amount determined under the two preceding sentences for such county or counties, and shall be allocated among those agencies upon such equitable basis as may be determined by the State educational agency in accordance with basic criteria prescribed by the Commissioner.

"(3) (A) Upon determination by the State educational agency that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children described in clause (C) of paragraph (1) of subsection (c), who are living in institutions for neglected or delinquent children, the State educational agency shall, if it assumes responsibility for the special educational needs of such children, be eligible to receive the portion of the allocation to such local educational agency which is attributable to such neglected or delinquent children, but if the State educational agency does not assume such responsibility, any other State or local public agency, as determined by regulations established by the Commissioner, which does assume such responsibility shall be eligible to receive such portion of the allocation.

"(B) In the case of local educational agencies which serve in whole or in part the same geographical area, and in the case of a local educational agency which provides free public education for a substantial number of children who reside in the school district of another local educational agency, the State educational agency may allocate the amount of the grants for those agencies among them in such manner as it determines will best carry out the purposes of this title.

"(4) For purposes of this subsection, the term 'State' does not include the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.".

(ii) Section 103(b) of such title I is amended by striking out "aged five to seventeen, inclusive described in clauses (A), (B), and (C) of the first sentence of paragraph (2) of subsection (a)" and inserting in lieu thereof "counted under subsection (c)".

(B) Section 103(c) of such title I is amended to read as follows:

"(c) (1) The number of children to be counted for purposes of this section is the aggregate of (A) the number of children aged five to seventeen, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraph (2) (A), (B) two-thirds of the number of children aged five to seventeen, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (2) (B), and (C) the number of children aged five to seventeen, inclusive, in the school district of such agency living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to section 123 for the purposes of a grant to a State agency, or being supported in foster homes with public funds.".

(C) (i) Subsection (d) of section 103 is redesignated as paragraph (2) of subsection (c).

(ii) The first sentence of such paragraph (2) (as redesignated by this section) is amended to read as follows:

"(A) For purposes of this section, the Commissioner shall determine the number of children aged five to seventeen, inclusive, from families below the poverty level on the basis of the most recent satisfactory data available from the Department of Commerce for local educational agencies (or, if such data are not available for such agencies, for counties); and in determining the families which are below the poverty level, the Commissioner shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census.".

(iii) The second sentence of paragraph (2) of such subsection (c) (as redesignated by this section) is repealed.

(iv) The third sentence of such paragraph (2) is amended to read as follows:

"(B) For purposes of this section, the Secretary of Health, Education, and Welfare shall determine the number of children aged five to seventeen, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census for a nonfarm family of four in such form as those criteria have been updated by increases in the Consumer Price Index. The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of January of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the second calendar year preceding such month of January) or, to the extent that such data are not available to him before April 1 of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to him at the time of such determination.".

(v) The fourth sentence of such paragraph (2) (as redesignated by this section) is amended by striking out the word "When" and inserting in lieu thereof the following: "(C) When"; and by striking out "having an annual income less than the low-income factor (established pursuant to subsection (c))" and inserting in lieu thereof "below the poverty level (as determined under paragraph (A) of this subsection)".

(vi) Section 103(e) of such title is repealed.

(D) Section 103 of such title I is amended by adding at the end thereof the following:

"(d) (1) From the amount allotted for payments to the Secretary of the Interior under clause (B)(i) in the second sentence of subsection (a)(1), the Secretary of the Interior shall make payments to local educational agencies, upon such terms as the Commissioner determines will best carry out the purposes of this title, with respect to out-of-State Indian children in the elementary and secondary schools of such agencies under special contracts with the Department of the Interior. The amount of such payment may not exceed, for each such child, 40 per centum of (A) the average per pupil expenditure in the State in which the agency is located or (B) 120 per centum of such expenditure in the United States, whichever is the greater.

"(2) The amount allotted for payments to the Secretary of the Interior under clause (B)(ii) in the second sentence of subsection (a)(1) for any fiscal year shall be, as determined pursuant to criteria established by the Commissioner, the amount necessary to meet the special educational needs of educationally deprived Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. Such payments shall be made pursuant to an agreement between the Commissioner and the Secretary containing such assurances and terms as the Commissioner determines will best achieve the purposes of this title. Such agreement shall contain (A) an assurance that payments made pursuant to this subparagraph will be used solely for programs and projects approved by the Secretary of the Interior which meet the applicable requirements of section 141(a) and that the Department of the Interior will comply in all other respects with the requirements of this title, and (B) provision for carrying out the applicable provisions of section 141(a) and 142(a)(3).".

(E) Such title I is amended by striking out parts B and C and inserting in lieu thereof the following:

"PART B—STATE OPERATED PROGRAMS

"PROGRAMS FOR HANDICAPPED CHILDREN

"SEC. 121. (a) A State agency which is directly responsible for providing free public education for handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education), shall be eligible to receive a grant under this section for any fiscal year.

"(b) Except as provided in section 124, the grant to which a State agency shall be entitled under this section shall be an amount equal to—

"(1)(A) 50 per centum of the average per pupil expenditure of all the local educational agencies in the State, or

"(B) 50 per centum of the average per pupil expenditure of all the local educational agencies in all the States,

whichever is greater,

multiplied by—

"(2) the number of such children in average daily attendance, as determined by the Commissioner,

at schools for handicapped children operated or supported by the State agency, including schools providing special education for handicapped children under contract or other arrangement with such State agency, in the most recent fiscal year for which satisfactory data are available.

"(c) A State agency shall use the payments made under this section only for programs and projects (including the acquisition of equipment and, where necessary, the construction of school facilities) which are designed to meet the special educational needs of such children, and the State agency shall provide assurances to the Commissioner that each such child in average daily attendance counted under subsection (b) will be provided with such a program, commensurate with his special needs, during any fiscal year for which such payments are made.

"(d) In the case where such a child leaves an educational program for handicapped children operated or supported by the State agency in order to participate in such a program operated or supported by a local educational agency, such child shall be counted under subsection (b) if (1) he continues to receive an appropriately designed educational program and (2) the State agency transfers to the local educational agency in whose program such child participates an amount equal to the sums received by such State agency under this section which are attributable to such child, to be used for the purposes set forth in subsection (c).

"PROGRAMS FOR MIGRATORY CHILDREN

"SEC. 122. (a)(1) A State educational agency or a combination of such agencies, upon application, shall be entitled to receive a grant for any fiscal year under this section to establish or improve, either directly or through local educational agencies, programs of education for migratory children of migratory agricultural workers or of migratory fishermen. The Commissioner may approve such an application only upon his determination—

"(A) that payments will be used for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of migratory children of migratory agricultural workers or of migratory fishermen, and to coordinate these programs and projects with similar programs and projects in other States, including the transmittal of pertinent information with respect to school records of such children;

"(B) that in planning and carrying out programs and projects there has been and will be appropriate coordination with programs administered under part B of title III of the Economic Opportunity Act of 1964;

"(C) that such programs and projects will be administered and carried out in a manner consistent with the basic objectives of clauses (1)(B) and (3) through (12) of section 141(a); and

"(D) that, in planning and carrying out programs and projects, there has been adequate assurance that provision will be made for the preschool educational needs of migratory children of migratory agricultural workers or of migratory fishermen, whenever such agency determines that compliance with this clause will not detract from the operation of programs and projects described in clause (A) of this paragraph after considering the funds available for this purpose.

The Commissioner shall not finally disapprove an application of a State educational agency under this paragraph except after reasonable notice and opportunity for a hearing to the State educational agency.

"(2) If the Commissioner determines that a State is unable or unwilling to conduct educational programs for migratory children of migratory agricultural workers or of migratory fishermen, or that it would result in more efficient and economic administration, or that it would add substantially to the welfare or educational attainment of such children, he may make special arrangements with other public or nonprofit private agencies to carry out the purposes of this section in one or more States, and for this purpose he may use all or part of the total of grants available for any such State under this section.

"(3) For purposes of this section, with the concurrence of his parents, a migratory child of a migratory agricultural worker or of a migratory fisherman shall be deemed to continue to be such a child for a period, not in excess of five years, during which he resides in the area served by the agency carrying on a program or project under this subsection. Such children who are presently migrant, as determined pursuant to regulations of the Commissioner, shall be given priority in the consideration of programs and activities contained in applications submitted under this subsection.

"(b) Except as provided in section 124, the grant to which a State agency shall be entitled under this section shall be an amount equal to—

"(1)(A) 50 per centum of the average per pupil expenditure of all the local educational agencies in the State, or

"(B) 50 per centum of the average per pupil expenditure of all the local educational agencies in all the States, whichever is greater,

multiplied by—

"(2)(A) the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State full time, and

"(B) the full-time equivalent of the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State part time, as determined by the Commissioner,

except that if, in the case of any State, such amount exceeds the amount required under subsection (a), the Commissioner shall allocate such excess, to the extent necessary, to other States whose total of grants under this sentence would otherwise be insufficient for all such children to be served in such other States. In determining the number of migrant children for the purposes of this section the Commissioner shall use statistics made available by the migrant student record transfer system or such other system as he may determine most accurately and fully reflects the actual number of migrant students.

"PROGRAMS FOR NEGLECTED OR DELINQUENT CHILDREN

"SEC. 123. (a) A State agency which is directly responsible for providing free public education for children in institutions for neglected or delinquent children or in adult correctional institutions shall be entitled to receive a grant under this section for any fiscal year (but only if grants received under this section are used only for children in such institutions).

"(b) Except as provided in section 124, the grant to which a State agency shall be entitled under this section shall be an amount equal to—

"(1)(A) 50 per centum of the average per pupil expenditure of all the local educational agencies in the State, or

"(B) 50 per centum of the average per pupil expenditure of all the local educational agencies in all the States, whichever is greater,

multiplied by—

"(2) the number of such children in average daily attendance as determined by the Commissioner, at schools for such children operated or supported by that agency, including schools providing education for such children under contract or other arrangement with such agency, in the most recent fiscal year for which satisfactory data are available.

"(c) A State agency shall use payments under this section only for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of such children.

"RESERVATION OF FUNDS FOR TERRITORIES

"SEC. 124. There is authorized to be appropriated for each fiscal year for purposes of each of sections 121, 122, and 123, an amount equal to not more than 3 per centum of the amount appropriated for such year for such sections for payments to the Commonwealth of Puerto Rico, Guam, American Samoa, the

Virgin Islands, and the Trust Territory of the Pacific Islands under each such section. The amounts appropriated for each such section shall be allotted among the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for such grants, based on such criteria as the Commissioner determines will best carry out the purposes of this title.".

(F) Section 144 of such title I is amended by striking out the first sentence and inserting in lieu thereof the following: "If the sums appropriated for any fiscal year for making the payments provided in this title are not sufficient to pay in full the total amounts which all local and State educational agencies are eligible to receive under this title for such year, the amount available for each grant to a State agency eligible for a grant under section 121, 122, or 123 shall be equal to the total amount of the grant as computed under each such section. If the remainder of such sums available after the application of the preceding sentence is not sufficient to pay in full the total amounts which all local educational agencies are eligible to receive under part A of this title for such year, the allocations of such agencies shall, subject to adjustments under the next sentence, be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amount so appropriated. The allocation of a local educational agency which would be reduced under the preceding sentence to less than 85 per centum of its allocation under part A for the preceding fiscal year, shall be increased to such amount, the total of the increases thereby required being derived by proportionately reducing the allocations of the remaining local educational agencies, under the preceding sentence, but with such adjustments as may be necessary to prevent the allocation to any remaining local educational agency from being thereby reduced to less than 85 per centum of its allocation for such year.".

(G) (i) Part D of such title I (including all references thereto) is redesignated as part C.

(ii) Section 141(a)(4) of such title is amended by striking out "section 145" and inserting in lieu thereof "section 433 of the General Education Provisions Act".

(iii) Section 141(a)(1)(B) of such title is amended by striking out "maximum".

(iv) Section 141(c) of such title is repealed.

(v) Section 143(a)(2) of such title is amended by striking out "maximum".

(vi) Section 142 of such title is amended by striking out "described in section 141 (c)" and inserting in lieu thereof "provided for in section 122".

(vii) Section 142(a)(1) of such title is amended by striking out "section 103(a)(5)" and inserting in lieu thereof "section 121".

(viii) Section 143(a)(2) of such title is amended by striking out "or section 131".

(ix) Section 143(b)(1) of such title is amended to read as follows:

"(1) 1 per centum of the amount allocated to the State and its local educational agencies as determined for that year under this title; or".

(x) The third and fourth sentences of section 144 of such title are each amended by striking out "section 103(a)(6)" and inserting in lieu thereof "section 122".

(xi) Section 146 of such title is amended by striking out "section 141(c)" and inserting in lieu thereof "section 122".

(xii) Section 147 of such title is amended by striking out "section 141(c)" and inserting in lieu thereof "section 122".

(xiii) Section 403 of the Act of September 30, 1950 Public Law 874, Eighty-first Congress), is amended by adding at the end thereof the following new paragraph:

"(16) For purposes of title II, the 'average per pupil expenditure' in a State, or in the United States, shall be the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made (or if satisfactory data for that year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available), of all local educational agencies as defined in section 403(6)(B) in the State, or in the United States (which for the purposes of this subsection means the fifty States, and the District of Columbia), as the case may be, plus any direct current expenditures by the State for operation of such agencies (without regard to the source of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.".

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMINICK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMINICK. Mr. President, I call up my amendments No. 1253 and ask that they be stated.

The PRESIDING OFFICER. The clerk will state the amendments.

The legislative clerk proceeded to read the amendments.

Mr. DOMINICK. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Amendments No. 1253 are as follows:

On page 239, strike out lines 14 through 25.

On page 240, strike out lines 1 through 3, and insert in lieu thereof the following:

"(s) The funds available to a State under this title for any fiscal year, in excess of the amounts required for entitlements under section 602(a)(1), shall be expended by that State for the purposes set forth in subsection (b) in such amounts, determined by the State education agency of that State, as will best meet the needs of the children of that State with respect to such purposes."

Mr. DOMINICK. Mr. President, I shall be relatively brief. As I just said in my prepared statement, amendment 1253 revises the proposed consolidation so that, instead of just having consolidated 50 percent of new money that comes in under the bill, we will be consolidating 100 percent of the new money. This is different from the House procedure because the House consolidates 100 percent of the new money on all kinds of projects, determining the preexisting limit, and all we are doing is saying new money will be consolidated.

It is not the type of consolidation I would like to go for, which is much more along special revenue sharing, and which would be exemplified in my amendment No. 1256, which gives a 3-year period for consolidation and says that 25 percent of the existing money this year would be subject to consolidation, 50 percent the following year, and 75 percent the year after that.

Nevertheless, I have talked to the distinguished Senator from Rhode Island on this matter and have agreed with him that, if we take this type of consolidation, which gives us a much better leeway than we had before, a 50 percent leeway, in addition to what is in the bill, then we would have at least taken the first step on the road toward consolidation, and I shall, under those circumstances, not bring up amendment 1256 except to talk about it during the process of the consideration of the bill. I shall also not bring up the other amendments which I have talked about prior to this time, in the hope that we will have made a big enough impact by the acceptance of amendment 1253 so that we would not have to go further and try to amend the bill with respect to some of the defects I consider to be in it, although I like the bill as a whole.

So I would say to the Senator from Rhode Island that if he is agreeable to accepting this amendment, I will make the commitment to him not to bring up the rest of my amendments at this time during the debate.

Mr. PELL. Mr. President, as the Senator from Colorado has suggested, we talked about this amendment. I have talked with our colleagues on the subcommittee. I am very concerned with its effect on the various groups which have long been identified with the programs involved in this consolidation.

I ask unanimous consent to insert in the RECORD at this point a letter from the American Library Association, the Association for Educational Communications and Technology, and the American Personnel and Guidance Association, expressing their opposition to the amendment of the Senator from Colorado.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN LIBRARY ASSOCIATION,
Washington, D.C., May 13, 1974.

DEAR SENATOR PELL: Since writing to you on April 30 conveying the position of our coalition of 20 national associations, we have reviewed the amendments (Nos. 1251–1256) proposed to be offered by Senator Peter Dominick to the Education Amendments of 1974 (S. 1539). The views we present herein are based on the many years of experience our members have had throughout the nation as counselors, librarians, teachers, audiovisual and media center directors, school administrators, and state education officials.

In that three of the Dominick amendments (Nos. 1253, 1256 and 1251) affect the consolidation language in the bill, we felt you would be interested in learning how these amendments would directly affect ongoing, highly successful library, instructional media, and guidance and counseling programs in your state.

Dominick Amendments Nos. 1253 and 1256: These amendments would destroy the compromise in S. 1539 so carefully worked out by the Senate Education Subcommittee. For, the members of our 20 associations oppose all consolidation of education programs, whereas interests—such as the Administration—want general revenue sharing for education. The Senate Committee compromise is a balance which would be upset by the Dominick amendments.

Dominick Amendment No. 1253 is exceptionally objectionable because it would freeze all states at predetermined set amounts for the specific uses of the Elementary and Secondary Education Act Title II, National Defense Education Act Title III and V–A. The net effect of this freeze would be to establish ceilings at the 1969 or 1972 levels, beyond which no growth can be assured, regardless of need. As a result of this Dominick amendment, the 1969 and 1972 levels will be interpreted as ceilings just as they were when NDEA V–A was consolidated with ESEA III in 1970 (see pp. 67–68 in the Senate Report on S. 1539 for a summary of this situation). The advantage offered your state by the Senate Committee bill is this: if schools in your state need additional funds for one of the consolidated purposes—and their state government is not meeting this need—they may come to Congress for a remedy in the regular appropriation process. The Dominick amendment deprives your state of this remedy and leaves the local school district's needs solely up to the discretion of certain officials in the state government. This Dominick Amendment, therefore, is a dangerous deviation from the basic compromise in the Senate Committee bill.

We wish to add that Amendment No. 1253 would have the effect of increasing the power of the state government at the expense of the local school districts. We believe the Committee bill is equitable to both state and local education agencies and thus should be retained unamended.

Amendment No. 1256 goes even further toward diverting funds being used today in library, instructional media and guidance and counseling programs. Over a four-year period, Amendment No. 1256 would have the effect of almost completely eliminating Title II of the Elementary and Secondary Education Act, and Titles III and V–A of the National Defense Education Act. While the purposes of these titles would, to an extent, be preserved in a general way, funds earmarked for your state under the specific purposes of those titles would be cut from 100 percent to 25 percent of either FY 1972 or FY 1969 levels—hardly an adequate response to the increased need for these programs as documented in our joint statement which you so kindly inserted in the Congressional Record. Such a cutback destroys the state-by-state protection built into S. 1539 by you and the Senate Education Subcommittee and as approved by the Senate Labor and Public Welfare Committee when reporting the bill.

Therefore, we advise defeat of Amendments 1253 and 1256, should they be called up. Neither would serve the best interests of education and neither would benefit the maintenance of successful local programs in your state.

Dominick Amendment No. 1251: This amendment would deny the Senate and House committees responsible for education legislation the right to prior review of consolidation plans under the "third" consolidation (of discretionary programs) included in the Senate Committee bill. We believe prior clearance by two Congressional Committees is a wise step toward preserving for the Congress a degree of input to overall plans which grant, for the first time, vastly increased powers for the Commissioner in disbursing "Special Projects Act" funds. We were reminded of the clear need for such Congressional review and oversight in 1972 when, if the Office of Education had developed adequate consultation with the proper Congressional Committees, the "Educational Renewal" program might have been saved from collapse. So that you will have an opportunity to review plans from the standpoint of what is best for your state, during the initial years in which consolidation is basically at the experimental stage, we believe prior review by the Congressional committees is crucial to any successes which might be achieved under S. 1539. We thus urge your opposition to Amendment No. 1251.

As you know, Senator Dominick has indicated an intention to offer three other amendments (Nos. 1252, 1254, and 1255). These three, while not applied directly to consolidation provisions in the bill, do materially threaten the successful administration of consolidated programs. We believe No. 1252, if adopted, would set back the long-range efforts of the education community and many Senators and Representatives to create a separate department of education. The increased strength given to the U.S. Office of Education by the Senate Committee bill would be taken away by Amendment No. 1252. Furthermore, if Amendment No. 1252 is defeated the Committee bill would relieve much of the bureaucratic red tape our members and thousands of other educators have experienced in dealing with the Department of Health, Education and Welfare and with the U.S. Office of Education during recent years. We feel Amendment No. 1252 if offered should be rejected.

Amendments No. 1254 and No. 1255 undermine the Senate Committee's efforts to ensure that the intent of Congress is properly carried out by the U.S. Office of Education. These two amendments withdraw the Senate Committee bill's assurance to the American taxpayer that appropriate national leadership will be given to Congressionally established priorities. Amendment No. 1254 would cut the staffing for the Bureau of Libraries and Learning Resources—among other bureaus—which will have the job of administering the Senate Committee's consolidation language. Thus, we believe Amendment No. 1254 would simply stifle the full development of the new consolidation. Amendment No. 1255 is equally dangerous in that it takes away from Congress the assurance that the laws of the land will be obeyed and that certain programs mandated by the Congress, will in fact, be staffed and carried out by the appropriate executive branch officials. We have experienced far too many years in which executive branch officials have thwarted programs created by Congress through the manipulation of the bureaucracy. Amendment No. 1255 would simply encourage continued manipulation.

In conclusion, we believe your state and the entire nation would be best served by defeat of Dominick Amendments Nos. 1251, 1252, 1253, 1254, 1255, and 1256. The brief comments above are designed to supplement the full statement we provided you on April 30 titled: A Statement Concerning the Consolidation Provision of the Education Amendments of 1974 (S. 1539). If you need additional information or a further explanation of our views, please do have your staff contact us. We would be pleased to brief you and your staff on these important issues.

Sincerely,

EILEEN D. COOKE,
Director, American Library Association.

HOWARD B. HITCHENS,
Executive Director, Association for Educational Communications and Technology.

PATRICK J. MCDONOUGH, Ed. D.,
Assistant Executive Director for Professional Affairs, American Personnel and Guidance Association.

Mr. PELL. Nevertheless, in order to insure as wide a base of support for this bill as possible, my colleagues on the majority side of the subcommittee and I would be reluctantly willing—and I must emphasize the word "reluctantly"—to accept the amendment of the Senator from Colorado with regard to 100 percent consolidation of new moneys appropriated for the consolidated State programs, provided the amount of money received in the past is continued to be appropriated for each program. We will accept that amendment, appreciating all the positive contributions of the Senator from Colorado, his position as the ranking minority member of the Subcommittee on Education, and his willingness not to press the other amendments. We have worked together through the months, and really now through the years, to hammer out what we believe is good education legislation, no matter what might be the interests of our own individual communities or States or parties. For that reason, I would recommend acceptance of the amendment of the Senator from Colorado.

Mr. DOMINICK. Mr. President, I am sincerely thankful to the Senator from Rhode Island. I can understand why some of the groups might not like this, because they are afraid that in some areas their particular preferences might not be used as far as new money is concerned, but I think that is exactly why we need this, so we can get the best educational programs that are needed for that particular area.

I am sure the Senator from Rhode Island would agree that some of the needs that they have in Rhode Island are substantially different from some of the needs they have in Alaska, we will say, or Georgia, or Colorado, or any other State, for that matter.

That is why I think the consolidation program which goes toward, in general, an allowance for the local people to decide how they want to use their money best for educational purposes is a good idea.

I thank the Senator from Rhode Island.

Mr. PELL. Mr. President, I would like to have the legislative history show the special care I took in inserting into the RECORD the letter from the American Library Association, because libraries have fared particularly badly in the last couple of years from this administration. I would hope in the future libraries would not be given the short shrift they have been given in the past; they should be given the attention and the help that they deserve.

I am prepared to yield back the remainder of my time.

Mr. DOMINICK. Mr. President, I wish to make a fuller statement at this time.

Mr. President, the so-called State program consolidation contained in section 402 will provide only the appearance rather than the reality of consolidation for the six formula grant programs involved. The present version of S. 1539 gives State educational agencies discretion to utilize only 50 percent of the amount appropriated in excess of that required to fund certain categorical purposes at the level of designated prior years.

Mr. President, I believe the Senate should, at a minimum, modify the proposed new title VI of the Elementary and Secondary Education Act to give State education agencies discretion in the use of 100 percent of the funds appropriated under the new title in excess of the amount expended in designated previous years for certain categorical purposes.

This modification can be accomplished by adopting my amendment No. 1253 revising section 603(c)(2) of the proposed new title VI.

I would stress that adoption of this amendment, providing for consolidation of 100 percent of appropriations in excess of designated previous years, is only the first step toward true consolidation. I would much prefer adoption of my amendment No. 1256 to give the State educational agencies discretion to use a gradually increasing percentage of funds made available in accordance with priorities determined by such agencies.

Mr. President, we have discussed the need to simplify the funding process of our elementary and secondary education programs many times before. Why, then, are we indulging in the luxury of insisting that existing education programs be continued in perpetuity and be funded at increasingly higher levels?

States and localities are already finding that Federal priorities are out of phase with their needs. This is the very reason we seek consolidation—so that States can adjust funding to their own changing priorities. Educational conditions are rapidly changing today, even more rapidly than we anticipated when consolidation was first proposed. The public sector is being forced to respond quickly to a variety of new problems—inequities in school finance and equal educational opportunity for the handicapped children of limited English-speaking ability, to mention only a few. We can hardly expect the innovation and support needs of the States to remain the same through fiscal year 1978 in the midst of such a fast-changing scene. Nevertheless, section 402 puts up a wall around priorities States are already finding do not correspond to their current needs.

Mr. President, I also fear this provision represents a trend and a precedent that will become the rule rather than the exception. You will recall that when the higher education legislation was before us 2 years ago we were confronted with a similar device. At that time, the committee said that the new basic opportunity grant program would not be funded until most of the existing higher education programs, some of which BOG's was designed to replace, were fully funded at authorized levels.

It is about time we recognized that the pork barrel principle of satisfying every claimant on the limited resources of the Federal budget is incompatible with returning decisionmaking to the State and local level.

Now at the same time that I am sympathetic with consolidation, I realize we need to provide some cushion to school districts so that they will not be subject to abrupt changes in funding. But to do this, we do not have to put a permanent mortgage on the Federal education budget as S. 1539 would. Instead, we can gradually give States more discretion to use their funds according to their own assessments of their needs. This sort of transitional provision can insure program continuity at the same time it provides States new freedom to spend according to their own needs.

After such a transitional phase, programs should have to stand and be evaluated on their merits, just like other education programs. If these programs are really worth funding, then they will be continued. If other priorities emerge, they will take precedence. But the whole point is that States should have discretion in fiscal year 1978 to determine their own needs for fiscal year 1978 and not have it prescribed by Washington way back in fiscal year 1974.

Thus, my amendment would provide for the consolidation of certain State-administered programs, with discretion being vested in the State educational agencies to utilize a gradually increasing percentage of the funds made available, in accordance with priorities determined by such agencies. It would require that the ESEA titles II and III programs and NDEA titles III–A and V programs be fundea in fiscal year 1975 at 100 percent of the levels specified in the present version of the bill. That percentage would be reduced by 25 percent each year, so that in the last year of authorization under the bill—1978—only 25 percent need be expended by the States for the categorical purposes. The amounts appropriated in excess of the required categorical amounts in each year could be used by the States for any of the purposes specified, in such amounts as the State educational agency determines will best meet the needs of children of that State with respect to such purposes.

The PRESIDING OFFICER. Is all time yielded back?

Mr. DOMINICK. Mr. President, I yield back the remainder of my time.

Mr. PELL. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado.

The amendment was agreed to.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that a staff member, David Clanton, have the privilege of the floor during the debate on the pending education bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, I make a similar request with respect to access to the floor during the debate on the education bill for Mr. Burton Wides.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF HOUSE MESSAGE ON H.R. 14368, TO AMEND CLEAN AIR ACT; AND ORDER FOR RESUMPTION OF UNFINISHED BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow, after routine morning business has been concluded, the Senate proceed to the consideration of a message from the House on H.R. 14368; and that at no later than 12 o'clock noon the Senate resume its consideration of the unfinished business, S. 1539.

The PRESIDING OFFICER. Without objection, it is so ordered.

DIVISION OF TIME FOR DEBATE ON H.R. 14368

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the control of the time for consideration of the House message on H.R. 14368 tomorrow be equally divided between the Senator from West Virginia (Mr. Randolph) and the Senator from Tennessee (Mr. Baker).

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF AMENDMENT BY SENATOR BUCKLEY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the amendment to be offered by the Senator from New York (Mr. Buckley) tomorrow, amendment No. 1289, Mr. Buckley then be recognized to call up a companion amendment—what I am told is a "companion amendment"—to amendment No. 1289.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR PROXMIRE ON THURSDAY INSTEAD OF WEDNESDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order previously entered for the recognition of Senator Proxmire on Wednesday, May 15, be vacated, and that the order for Mr. Proxmire be reinstated on Thursday, May 16, immediately following the recognition of the two leaders or their designees under the standing order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 10 a.m.

After the two leaders or their designees have been recognized under the standing order, there will be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements there limited to 5 minutes each.

At the conclusion of routine morning business, the Senate will proceed to the consideration of a message from the House on H.R. 14368. Debate will ensue thereon. Whether any action will be taken on that measure, I am not in a position to say, but action could very well be taken. Whether any yea-and-nay votes are anticipated, I cannot say. But if such are ordered, then, under the order previously entered today, they would not occur before the hour of 4 p.m. tomorrow.

At no later than 12 o'clock noon tomorrow, the Senate will resume the consideration of the education bill, S. 1539, which is the unfinished business. The Senator from Arkansas (Mr. McClel-

LAN) will be recognized to call up an amendment on which there is a limitation of 3 hours, 2 hours of which are to be under the control of Mr. McClellan.

Amendments to Mr. McClellan's amendment would be in order. Yea and nay votes may occur thereon, but again with the caveat that no rollcall votes will occur before 4 p.m. tomorrow.

Upon the disposition of Mr. McClellan's amendment, the Buckley amendment No. 1289 will be called up, and upon its disposition, Mr. Buckley will call up a companion amendment to amendment No. 1289. Yea and nay votes may occur on those amendments or other amendments.

Several yea-and-nay votes are likely tomorrow, I would say, or are certainly a possibility; but in any event, no rollcall votes will occur before 4 p.m. tomorrow.

ADJOURNMENT TO 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 10 a.m. tomorrow.

The motion was agreed to; and, at 5:51 p.m., the Senate adjourned until tomorrow, Tuesday, May 14, 1974, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate on May 13, 1974:

Department of State

Robert P. Paganelli, of New York, a Foreign Service Officer of Class four, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Qatar.

Department of the Treasury

Edward C. Schmults, of Maryland, to be Under Secretary of the Treasury, vice Jack Franklin Bennett.

Jack Franklin Bennett, of Connecticut, to be Under Secretary of the Treasury for Monetary Affairs, vice Paul A. Volcker, resigned.

Frederick L. Webber, of Virginia, to be a Deputy Under Secretary of the Treasury, vice William L. Gifford, resigned.

U.S. Patent Office

The following-named persons to be Examiners-in-Chief, U.S. Patent Office:

Gordon Krupsaw Milstone, of Maryland, vice John Stevens Lieb, resigned.

Evelyn K. Merker, of Virginia, vice Arthur H. Behrens, resigned.

Mississippi River Commission

Brig. Gen. Wayne S. Nichols, U.S. Army, to be a Member of the Mississippi River Commission, under the provisions of section 2 of an Act of Congress, approved 28 June 1879 (21 Stat. 37) (33 U.S.C. 642), vice Maj. Gen. Williard Roper, retired.

In the Air Force

The following officer to be placed on the retired list in the grade indicated under the provisions of section 8962, title 10 of the United States Code:

To be lieutenant general

Lt. Gen. Albert P. Clark, [redacted] FR (Major General, Regular Air Force), U.S. Air Force.

In the Army

The following-named officer to the position of Permanent Professor at the U.S. Military Academy under the provisions of title 10. United States Code, section 4333:

Col. Dana G. Meade, [redacted] U.S. Army.

EXTENSIONS OF REMARKS

REV. BONIFACE WITTENBRINK IS RECIPIENT OF KIWANIS NATIONAL RADIO AWARD

HON. MELVIN PRICE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. PRICE of Illinois. Mr. Speaker, tomorrow the Kiwanis International will award its National Radio Award to Rev. Boniface L. Wittenbrink. Reverend Wittenbrink is currently associated with the Shrine of Our Lady of the Snows in Belleville, Ill.

Father Wittenbrink is being honored by Kiwanis for his efforts in establishing and maintaining the "Radio Talking Book," a full-time broadcast via closed circuit radio to the blind and physically handicapped. Through his initiative, Father Wittenbrink's program has grown from approximately 10 receivers in March 1973 to over 700 receivers in March of this year, serving over 6,000 persons in the Greater St. Louis Metropolitan region.

The planning and operational and program activity for the "Talking Book" is performed solely by Father Wittenbrink and a small group of volunteers. In addition to his work at Our Lady of the Snows, Father Wittenbrink is currently working with interested groups in Canada and Washington, D.C., as well as with the Library of Congress, the Department of Health, Education, and Welfare, and various congressional committees in an effort to highlight the urgent need for this type of service to the blind and physically handicapped.

Father Wittenbrink's efforts in initiating this program and making it a success deserve the thanks of not only the residents of my district, but of all those who will eventually benefit by similar programs. The Kiwanis award is a well-deserved recognition of Father Wittenbrink's tireless efforts to aid the handicapped throughout the country.

At this point in the Record, I would like to include the Kiwanis' news release on Father Wittenbrink's award:

Reverend Boniface L. Wittenbrink, O.M.I. executive director, "The Radio Talking Book for the Blind and Physically Handicaped, WMRY Broadcast Station, Belleville, Illinois" received today the Kiwanis International radio award. The 1974 national award is given in recognition of a "first year daily program of significant benefit to the nation, a state or locality; and to a community of listeners not previously served in a station's broadcast area."

The WMRY Radio Talking Book is the only such privately funded program in the nation, and went on the air March 1, 1973.

Fr. Wittenbrink was called from Washington, D.C., in February, 1972 with assignment to the Shrine of Our Lady of The Snows, Belleville, Illinois to organize, develop, program and manage the Radio Talking Book. It was an idea whose time had come for full time radio broadcasting via closed circuit radio to the blind and physically handicapped of the Greater Saint Louis Metropolitan Region, and for approximately 6,000 Blind in the WMRY listening area.

"His efforts under the most difficult and trying conditions have been eminently successful. Without prior background—managerial or technical—he was able within ten months to obtain Federal Communications Commission approval and a broadcast channel, an endorsement from the Federal Office of Telecommunications, and thereafter begin his mission to secure private funding to support this nonprofit and non-sectarian venture for public listening—the blind audience.

Fr. Wittenbrink's work was literally the creation of a radio broadcast station from the zero mark to a successful operation. On March 1, 1973 with boundless faith, about 10 radio receivers, a few volunteers, himself and little reserves, The Talking Book went on the air servicing the St. Louis metropolitan broadcast area.

By March, 1974 more than 700 receivers were on the network, all provided on a loan basis, and only to the blind and severely physically handicapped. By the end of this year more than 1000 receivers will likely be in the hands of anxious applicants.

The broadcast area served by the Radio Talking Book includes about 20,000 blind or handicapped people in Southern Illinois and Eastern Missouri.

Practically all of the planning, operational and program activity has been, and is, performed by Fr. Wittenbrink, and a hardy band of volunteers.

Joseph L. Tillson, president of Kiwanis presented Fr. Wittenbrink with a special radio receiver, and the coveted national radio award—the Kiwanis medallion. Tillson noted that the honoree was also aiding a group in Canada and in Washington, D.C. who are interested in a radio talking book for those areas which have large populations of people with impaired vision.

Fr. Wittenbrink is also working with the Library of Congress, the Department of Health, Education and Welfare and Committees of Congress as a means of highlighting an urgent need and service to the blind and physically handicapped.

The WMRY Talking Book makes hearing a book or listening to any printed material as simple as turning on the radio. It offers a full range of programming from 7:00 A.M. to 10:00 P.M.

Fr. Wittenbrink, a member of the Oblates of Mary Immaculate, is a graduate of the Catholic University in America, Ottawa University in Canada and the Gregorian University in Rome. While resident in Washington, D.C. from 1963 to 1972 he served as General Secretary of the Conference of Majors Superiors of Men, and Executive Director of the Foundation for Community Creativity. He is a member of, and consultant to, many self-help educational and social development organizations serving at the national level.

SENATOR WILLIAM L. SCOTT'S NEWSLETTER

HON. WILLIAM L. SCOTT

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Monday, May 13, 1974

Mr. WILLIAM L. SCOTT. Mr. President, each month, I attempt to send a newsletter to constituents. I ask unanimous consent that the May newsletter be printed in the Extensions of Remarks.

There being no objection, the newsletter was ordered to be printed in the RECORD, as follows:

Your Senator Bill Scott Reports

FACTFINDING TRIP

Last month I made a rather extensive trip to Europe on behalf of the Senate Armed Services Committee and supplemented it by going to Romania and other communist nations as a member of the Interparliamentary Union. A portion of the time was during the Easter recess, but I did miss some votes during the three-week trip. It enabled me to meet privately and have conferences lasting from one to two hours with the Supreme Allied Commander in Europe, the American Ambassador to the NATO nations, our ambasadors to France and Italy, and the principal American commanders throughout Europe. The trip also permitted me to have discussions with various enlisted men, foreign nationals, and to see conditions in Western Europe and the communist East.

The American commanders appeared to be dedicated to the performance of the tasks assigned to them. They were willing to share their thoughts in an informal and candid manner with me as a representative of the Senate committee; and they indicated they had an adequate supply of up-to-date military equipment to meet any challenge that might arise.

Senior officials, both military and civilian, expressed the opinion that our NATO alliance had helped preserve peace in Europe. There did appear to be a general concern about detente, whether Russia had changed its ideas regarding world communism and whether we might be strengthening potential enemies in the communist world by sharing our resources with them, or helping them develop their own. Visiting both East and West Berlin and seeing this divided city as an island within communist East Germany, separated entirely from West Germany, should cause us to be cautious in making future political decisions in the international field.

Yet, talks between potential enemies and efforts within the family of nations to live in peace appear to be reasonable and highly desirable. I would hope that we will maintain our own defense system, strong enough to protect this country against aggressors, be prepared to meet military emergencies should they arise, but continue to work with other nations to retain peace.

As you know, we have approximately 300,000 American troops stationed in Europe, most of them in West Germany; and there is a difference of opinion among the American people and within the Congress as to whether we need to continue to maintain this large force in the European theater after more than a quarter of a century. General Eisenhower is credited with saying that American presence, not the number of troops, was the deterrent to aggression in Europe. The present military commanders, however, seem to believe that it would be against our national interest to remove any sizable number of troops.

While in Turkey and Greece and in conversations with the Commanding General of the NATO Land Forces in that area, I learned that we have only a few thousand troops in these countries, but his command consists mostly of Turkish and Greek nationals. Inasmuch as both Turkey and Greece adjoin communist countries, it is understandable that they welcome American presence and readily agree to bearing the primary burden of providing troops. I would hope that our government could persuade the nations of Western Europe to provide a higher percentage of NATO troops and to permit us to continue to maintain only a limited number in much the same manner as exists in Greece and Turkey.

While maintaining a free Europe is in the interest of our own country, it would appear to be more directly in the interest of the European nations themselves. Maintenance of more than 300,000 troops within the European theater for more than twenty-five years has been a tremendous strain on our resources, and it appears that a reduction of our troops is the most feasible way to reduce this economic drain. While it would be more desirable for the Administration to accomplish a reduction through negotiations with our NATA allies, the movement within Congress to mandate a reduction is growing; and I am beginning to believe that the only manner a reduction will be accomplished within our lifetime is for Congress to compel it by law. These views have been expressed to the Chairman and the ranking minority member of the Senate Armed Services Committee. A report will also be made to the full committee within a few days.

FEDERAL JUDGESHIP

The President has nominated D. Dortch Warriner of Emporia to the vacancy on the United States District Court for the Eastern District of Virginia. Following hearings before a special subcommittee of the Senate Judiciary Committee, his name will be placed before the Senate for confirmation. Because I believe Mr. Warriner is an able lawyer who has the proper judicial temperament, will exercise judicial restraint and will strictly construe the Constitution, I suggested his name to the President for appointment.

OSHA REFORM

Businessmen have expressed concern regarding the problems they have had with implementation of the Occupational Safety and Health Act of 1970.

Many believe the act fails to provide assistance and advice to the small business community on the many complex and often restrictive regulations issued by the agency. It would be preferable, in my opinion, to exempt small businessmen from the provisions of the Act.

During recent floor debate, I joined other Senators in supporting an amendment which would give some relief to the small businessmen. This amendment would require OSHA to provide the necessary advice and technical assistance to businessmen having 100 or fewer employees. In addition, no penalty would be imposed for non-serious violations discovered on the initial inspection, and OSHA would be required to issue an economic impact statement on the effect of proposed OSHA regulations.

It seems reasonable to encourage the free enterprise system to work in an efficient manner; continued harassment of the business community through the implementation of these regulations is detrimental to the continued success of the American economic system. Let me know if you would like a copy of my remarks on the Senate floor.

NO-FAULT INSURANCE

The Senate has approved a no-fault insurance plan by a vote of 53 to 42. This controversial measure, adopted after considerable debate, provides that states must meet minimum Federal standards and that unless states adopt legislation meeting these standards, the national law will become effective. It should be pointed out, however, that it, too, would be administered by the state. Regardless of the merits of the no-fault insurance program, the Constitution provides that police powers reside in the state and not in the Federal government.

Many Senators expressed the opinion that the Federal government would invade a field reserved for the states and cited Constitutional authorities in support of their contention. As you will recall, the question of no-fault insurance was considered by the Virginia General Assembly on two occasions and rejected. It didn't seem proper for your Senator to support a proposal previously rejected by the State Legislature or to support a measure of doubtful Constitutional validity. Should you desire a copy of my statement on the floor, please let me know.

BUSINESS DAY

Recently, the Senate passed my bill to designate May 13 as "American Business Day" in recognition of the many achievements that have been made by our free enterprise system. It seems reasonable that one day each year be set aside to honor the contributions made by private business to the economic well-being of our country.

The date has special significance to Virginians because it was on May 13, in 1607, that the first permanent English settlement was founded at Jamestown under the sponsorship of a commercial venture.

RICHMOND VISIT

I will be in the Richmond office on Friday, May 31, to meet with constituents who would like to stop by to discuss legislation or any matter of personal concern. You may want to call our Richmond office at 649-0049 to arrange for an appointment, but this is not essential. The office is located in Room 8000 of the Federal Building, 400 North 8th Street.

WATER RESOURCES

Congress has passed and the President has approved the Omnibus Water Resources Development Act of 1974. The Act includes a number of flood control and other projects in Virginia. Our Public Works Subcommittee on Water Resources spent a considerable amount of time reviewing proposals for projects throughout the country and after adoption by the Senate, worked out what is considered to be a fair and reasonable bill in a conference with the House.

Among the Virginia authorizations are the Four-Mile Run flood control project in Arlandria, preconstruction design and engineering work on flood control projects in Buena Vista and Verona, and a beach protection project for the City of Virginia Beach. Since the enactment of this legislation, our office has contacted the Appropriations Committees of both the House and Senate and requested prompt funding of the projects so that there will be no undue delays.

OCEAN POLICY STUDY

Legislation has recently been approved to establish a National Ocean Policy, and I have been appointed as a representative of the Armed Services Committee to serve on the special committee to develop such a policy. It is expected that the study will include such ocean-related issues as mineral resources of the seabed and subsoil, marine fisheries and other living resources, coastal zone management, ocean transportation, law of the sea, research and technology and pollution.

All of these matters should be important to Virginia as a coastal state, and participation on this committee should complement my assignment to an ad hoc Deepwater Ports Committee, which is examining at this time the feasibility of the construction of deepwater ports for supertankers off the coasts of the United States to be utilized in the importation of foreign oil.

SOMETHING TO PONDER

We have no right to ask when sorrow comes, "Why did this happen to me?" unless we ask the same question for every joy that comes our way.—Philip S. Bernstein.

DEATH PENALTY

The Senate recently passed a measure that calls for the imposition of the death penalty for persons convicted of certain Federal crimes. The death penalty, even for the most serious crimes, is a matter upon which reasonable people may disagree; but, in my opinion, the possibility of facing capital punishment is a major deterrent to serious crime.

As you probably know, for the past two years, courts have been unable to impose the death penalty because of a U.S. Supreme Court decision on the issue. However, the Senate-passed measure I cosponsored, which is now pending in the House Judiciary Committee, appears to be a reasonable one that establishes criteria for imposition of the death penalty and narrows capital offenses to a substantial extent.

As you know, the bill will only apply to Federal crimes, but it is hoped it will serve as an example to the States to enact suitable legislation to overcome the Constitutional defects. Twenty-two states have already done so.

VETERANS BILLS

On May 2, the Senate passed a bill increasing the rates of disability compensation for disabled veterans by 15% and the rates of dependency and indemnity compensation for their survivors by 16%. On May 7, the House passed the bill but amended it in a minor way. Therefore, the differences must be resolved, but early passage is expected. Committee analysis of this measure is available upon request. Another bill, passed by the House and being considered by the Senate, increases educational benefits and extends for 2 years the time a veteran has in which to use these benefits.

AMNESTY

HON. DAWSON MATHIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. MATHIS of Georgia. Mr. Speaker, Mr. Byron C. "Red" Anglin, a friend and constituent from Richland, Ga., has brought to my attention a resolution recently adopted by American Legion Post No. 128 in Richland. I would like to share with my colleagues the particularly salient remarks contained in this resolution.

The resolution follows:

A RESOLUTION

A resolution expressing the sense of the Morton-Richardson Post No. 128, The American Legion, Georgia Department, Richland, Georgia 31825, regarding the question of amnesty for those who departed the United States to avoid military service via the draft or otherwise, and also with reference to the United States government and the Veterans Administration providing GI benefits for conscientious objectors.

Whereas, this Post, with an average membership of 100, has on numerous previous occasions gone on record as commending the young men and women of America who have patriotically, willingly, and unselfishly supported their country and served this nation in time of national emergency and international armed conflict as well as those who have joined the Armed Services for military careers, and

Whereas the President of the United States, the National Commander, the National Department of the American Legion, a vast majority of Congressmen and civic leaders, and this Post, have expressed opinions against amnesty as a national policy, and

Whereas, in recent weeks there has been a renewed effort to bring pressure on national leaders to endorse and effect a policy of amnesty for those evading military service by former Secretary of the Army Froehkle, and other ultra-liberals of the country, as well as members of the draft-evaders families, and

Whereas, members of these groups are also pressuring the President, the Congress, and the Veterans Administration to extend the GI Bill of Rights to conscientious objectors, some of whom served in noncombatant and non-military positions, rather than the armed forces, and

Whereas, this Post believes that GI benefits should be extended only to those who, without reservation, answered the call of their country and served with the Armed Forces in any and all capacities and duties assigned them by their military commanders.

Therefore, be it resolved, that this Post be recorded as definitely opposing amnesty in any form, and further that we unalterably oppose the proposition of extending the rights and privileges of the GI Bills of Rights to conscientious objectors of this country.

Be it further ordered that a copy of this Resolution be furnished the President of the United States, Senator Herman Talmadge, Senator Sam Nunn, Congressman Dawson Mathis, Governor Jimmy Carter of Georgia, the National Commander and the Commander of the Georgia Department of the American Legion.

Adopted, this 12th day of March, 1974, in regular meeting assembled at Richland, Georgia.

FLOYD COLE,
Commander, Morton-Richardson Post 128, The American Legion, Richland, Ga.

REFORM NOW

HON. HOWARD W. ROBISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. ROBISON of New York. Mr. Speaker, on Thursday, the House Democratic Caucus by a secret vote turned aside a monumental and decisively important reform proposal.

By refusal to allow Democrat members of the Rules Committee to bring this bipartisan—and thoroughly researched—committee reorganization plan to the House floor, they have subverted the legislative process of this great body.

When I announced my retirement from Congress earlier this year, I cited frustration with the congressional inability to respond to issues as one of the reasons. It had been my hope that during this last year of my service, I could help bring meaningful change to that situation so that my successor would not be plagued by the same kind of frustration I have experienced.

Unless reversed, the action of House Democrats will deny me that opportunity. I am more than disappointed—I am angry.

For all of the pious platitudes I have been hearing from my colleagues across the aisle, I would have thought that they would have avoided the kind of situation that developed last week.

It was a closed caucus—shrouded with secrecy and a secret ballot that now blocks reform. Apparently, a sufficient number lacked the courage to vote publicly.

What disturbs me is that the Democratic caucus presumes to act on behalf of the entire House. Given the wide support of Republicans for the reform proposal and the 95 Democrats who voted for it, there clearly is a majority in the House for reform. Reform, by the way, which the chairman of the Select Committee on Committees, RICHARD BOLLING, a Democrat, has labeled as necessary to make the House "work."

What is even more disturbing is that not even one-half of the House Democrats voted to "pigeon-hole" the reform proposal.

There has been a good deal of public criticism of the lack of moral sensitivity in the White House. I have joined in that criticism for what the transcripts reveal offends me as well.

But I cannot help but wonder—let me put it this way—I do not think I would want to be an incumbent Democrat—with the people's confidence in Congress so low—having to go home this year to campaign to answer the question: "Why did you kill the reform proposal to make Congress 'work' and, behind closed doors and with a secret ballot?"

THE READING BUSINESS AND PROFESSIONAL WOMEN'S CLUB: CIVIC ACTION, COMMUNITY CONTRIBUTIONS

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. YATRON. Mr. Speaker, the Reading Business and Professional Women's Club is an outstanding example of achievements that can be realized through the efforts of a civic organization.

Organized in 1923 and chartered in 1924, the club recently celebrated its 50th anniversary at a dinner in Reading. Its members can point with pride to the many meaningful contributions made to the community and the area for half a century.

The fine tradition of concern and involvement has been handed down and continued by the women of the Reading Chapter. Its involvement has extended into such important areas as the passage of vital educational and child-related legislation, the founding of scholarship programs, contributing significantly to hospital building projects, aiding State and local homes for the ill, widowed, and underprivileged, and the promotion of understanding in far-reaching national and international affairs.

The Reading BPW Club has sponsored many cultural events, concerts, and theater activities, in an effort to foster cultural programs in the community.

Our servicemen have also benefited from the organization's interest in their well-being, through USO activities, and a nursery school was founded as a result of its civic determination and concern.

In this country, we have always taken pride in our recognition of the importance of local community action. The Reading Business and Professional Women's Club has always reflected this ideal. Its sense of involvement, patriotism, and responsible action has contributed immeasurably, for the past 50 years, to the enrichment of our lives.

My congratulations to the entire membership, including Mrs. Susan Buck, 50th anniversary president; Mrs. Ruth Detterline, 50th anniversary program chairman; Mrs. Grace Bechtel, vice president; and to the two charter members, Ms. Esther Wilson and Ms. Eva Roos.

I am honored to commend to the attention of my congressional colleagues the outstanding work of the Reading Business and Professional Women's Club, Reading, Pa.

VETERANS' ELIGIBILITY EXTENSION MUST BE PASSED NOW

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. LUKEN. Mr. Speaker, 2 weeks ago the distinguished chairman of the Veterans' Affairs Committee took the well of the House to advise us that unless the Congress acts quickly eligibility for educational benefits will run out on needy vets at the end of this month. Moreover, the Veterans' Admininstration has stated repeatedly that it needs a decision on this issue by tomorrow to be able to continue benefits without interruptions. Congressional inaction and internal squabbles could now terminate the educational programs of 285,000 veterans, 3,200 of which are studying at the University of Cincinnati alone.

On May 1, the other body took the provision extending eligibility of benefits from 8 to 10 years out of H.R. 12628, as passed by the House, and introduced that one provision as S. 3398. The Senate has had the full bill for nearly 3 months and could have passed it by now and discussed the differences with House conferees. But instead, the bill has been held hostage over there in an attempt to force the House to adopt other, more far-reaching provisions that are in the Senate version.

I support most of those Senate features *myself, Mr.* Speaker, because I do not believe that today's veterans are getting a fair shake. In fact, I am a cosponsor of H.R. 14314, the comprehensive veterans' bill which includes so many of those Senate provisions.

And yet I agree with our distinguished chairman that H.R. 12628 was the best that could be done at the time without risking a veto and the other body should have recognized that and acted accordingly. Their position now is simply not in the best interests of veterans, though it is meant to be, I am sure.

Now we have come to an impasse. And the question is no longer who shall prevail but, rather, how can we get this extension for the veterans given the set of circumstances that obtain? The obvious answer is that the other body should pass S. 3398 without further delay. And the House should quickly pass it, too. When the emergency on this one issue is resolved, the other issues of veterans' benefits can be considered without undue urgency, without a rush to judgment, but most importantly, without holding people hostage waiting for their legislators to act.

DANGEROUS JOURNALISM

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. MICHEL. Mr. Speaker, from time to time I have inserted editorials into the RECORD written by Mr. C. L. Dancey, editor of the Peoria Journal Star and in some of those editorials, Mr. Dancey has been cautioning his colleagues in the media about the manner in which they were reporting on the Watergate investigations and all related activities.

In the May 4, 1974, edition of his newspaper, Mr. Dancey returns to his theme in an editorial entitled, "Dangerous Journalism" and I include it in the RECORD at this point:

DANGEROUS JOURNALISM

The American Society of Newspaper Editors was cheered to hear the former attorney general, Elliot Richardson, give praise to "the press" for its "extraordinary" practices in the coverage of Watergate matters.

But what we of the press had best take note of before we get too happy about it is that Richardson pointed out that it was the exceptional circumstances that made some of those practices justified in this instance.

In short, once again, we are confronted with a very responsible admission that the way we have been operating is normally very undesirable and even irresponsible—and those who approve, even do so only because of "special circumstances."

Meanwhile, we have been forming what are admittedly bad habits if continued under any but these special circumstances, and yet we show dangerous signs of making those bad habits truly habitual.

Lurking behind those congratulations, Richardson joins the ranks of those who are saying, in effect, "If you keep this up, you will be doing badly."

And we are keeping it up.

Worse than that, we have provided a "new image" of how the news search is carried out and by what kind of people and that image is now fixed in the minds of the general public. It is also powerfully impressed on a host of budding young newsmen and women from Maine to California.

The danger thus becomes awesome of reporters in local communities across this land engaging in the classic business of trying to imitate the methods and manner of a Dan Rather, for example.

Yet, the evidence piles up that such conduct is only excusable (if then) under the very unique and special circumstances of the Watergate affair . . . and, perhaps, only then by supposedly seasoned and "responsible" journalists of great stature.

Imitated across the land on the local scene, such conduct together with the "image" Mr. Rather and others have already impressed on the public mind can become a disaster for the profession of journalism.

The reaction can be most damaging to our good name and our credibility.

The greatest dangers come, of course, in the TV newscasts where, even at the national level, the worst abuses and worst examples have already been set before us—and where such are most apt to be imitated.

Also, in TV, there is the greatest pressure to put someone on a news task to suit a "video" criteria, a race-or-sex balance, a desirable "show biz" interplay of personalities, or whatever instead of professional journalistic abilities.

Unhappily, one may confidently—and sadly—predict that some attractive young half-trained news people in grass roots jobs around their country are going to have their careers destroyed—having been misled in their jobs by the network hotshots during this affair.

We might well see a couple of famous names on the national scene burned as well if they don't make the conversion back to pre-Watergate standards of responsibility.

And unhappily, also, there is the great risk that all of us in this business will get "burned" to some extent by public resentment before we recover our professionalism and manage to shed some of the bad habits we have been forming in 1973 and 1974.

Meanwhile, the interesting reality faces us, that even the defense of our conduct now admits that it has been abnormal and prejudicial and highly irregular "in any other circumstances."

Thus, those praising us are also, in the very act, half-convicting us at the same time—and the game is far from over!

THAI GOVERNMENT CRACKDOWN ON DRUG TRAFFICKING

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. WOLFF. Mr. Speaker, following the passage by the House and Senate of an amendment I introduced to the Foreign Assistance Act, the Thai Government initiated a crackdown on drug trafficking. The amendment made foreign aid contingent upon cooperation of Thai officials in efforts to stop the flow of dangerous drugs from the Golden Triangle area to the United States. The Thai Government has recognized that narcotics is a Thai problem as well as an American one.

Thai officials are to be congratulated for their narcotics suppression efforts. For the information of my colleagues, I would like to insert the following articles from the Bangkok Post about the work of the Thai police:

[From the Bangkok Post, Apr. 13, 1974]

FIFTY-FOUR "GUIDES" ARRESTED

CHON BURI.—Police yesterday arrested 54 "tourist guides" in Newlands and Pattaya on charges of enticing sailors from the U.S. naval vessel Oklahoma City to drug smoking dens and of possessing marijuana and heroin worth more than 100,000 baht.

Coming from Subic Bay in the Philippines, the Oklahoma City has been in Thailand on a short visit since Monday. Its crew of over 1,300 were given shore leave in Newlands and Pattaya.

Chon Buri police in co-operation with a security unit of the U.S. military have been following the activities of certain people who have offered themselves as guides to show sailors around these places.

They found that 54 people including two women had been taking the sailors to drug smoking dens.

The 54 were arrested, some found in possession of drugs, and taken into police custody both in Chon Buri and in Rayong.

[From the Bangkok Post, Mar. 20, 1974]

WELL DONE, POLICE

Our police must be praised for the way the narcotics suppression program is succeeding. They must be specially commended for their smashing of a Thai-Hong Kong drug ring. Five Hong Kong Chinese were arrested in connection with the production and smuggling of heroin and morphine. The arrest should be the international nature of the narcotics raid. Because of this, international co-operation between the police of various countries is necessary to successfully suppress the trade. The co-operation between the Thai and Hong Kong police in cracking this case is a sterling example of how such international co-operation can be carried out to break the smuggling syndicates.

It is necessary to follow up the police work with swift and appropriate justice for all those arrested. We call for maximum sentences for the guilty; the death penalty could be a deterrent to those who seek to follow in the footsteps of those traffickers. The principal Bangkok figure accused in Poomsiri Chanyasak. He and any other local persons may well have protectors who will try to get him out of jail. However, all should be equally punished, be they Hong Kong Chinese or local citizens, if they are found guilty. There should be no favoritism if the narcotics traffic is going to be suppressed.

And why should the narcotics traffic be suppressed? At one time we thought that the narcotics traffic is the problem of the Americans, not ours, since the opium from the Golden Triangle processed into morphine-base of heroin, is smuggled through Hong Kong to the United States market. Now, we realise that it is very much our problem and Hong Kong's. Much of the heroin stays here and also in Hong Kong and this supply causes expansion of the number of addicts. Thai authorities have estimated drug addicts here at 400,000.

Drug addiction is destructive not only of the individual concerned but also of the resources of the nation. Thailand cannot afford to have any large number of its people addicted to narcotics. It will seriously weaken the country, it will increase unemployment, the crime rate will rise as addicts try by hook or crook to get enough money for doses. This is the problem which governments of all Southeast Asian countries through which the drugs pass face. They can certainly tackle it better with regional co-operation which such machinery as ASEAN or ECAFE affords and for which the Thai-Hong Kong co-operation in the above-mentioned case has set the standard.

THE PUBLIC IMAGE OF CONGRESS AND REFORM

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. HAMILTON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

[Congressman Lee Hamilton's Washington Report]

THE PUBLIC IMAGE OF CONGRESS AND REFORM

What do the people have against the Congress? Only 30% of the people polled last week say they approve of the way Congress was handling its job, 47% disapproved of its work, and 27% were undecided. The American people have always been skeptical about the Congress (remember Mark Twain, who said that fleas could be taught anything a Congressman can), but the criticism seems to be getting worse.

People complain that Congress is not dealing effectively with the national problems, plays too much politics, and forces the President to make the tough decisions while complaining that he is usurping Congressional power. To the people, Congress appears ponderous, slow, and tedious compared to the decisive actions of the President. Then, there are the Members who are lazy or engage in misconduct of all kinds. While they may be a small percentage of Members, they receive much publicity. To most people the Congress is impersonal and easy to blame for the woes of the nation.

Perhaps not surprisingly, Congressmen are among the severest critics of the Congress, most of them agreeing with their constituents that the Congress deserves censure. Members are good at defending themselves but poor at defending the institution of the Congress.

A recognition of the urgent need to improve the poor image of the Congress is behind the increased interest in reforming the Congress, an effort that has the support of an overwhelming majority of the House. Most Members speak strongly and sincerely in support of reform—at least in general—and recognize that the structure, procedures, and habits of the Congress are outmoded.

The present committee system was created 28 years ago, at a time when the legislative topics which preoccupy the Congress today—environment, energy, health insurance, to name a few—were only dimly perceived. Today, judisdictional lines are tangled, workloads unbalanced, and overlap and confusion all too frequent (no less than 12 House committees have responsibility for energy legislation). Some committees have too much to do, and others not enough. Members frequently face daily schedules requiring them to be in several different meetings at the same time, and everyone agrees that Congress needs to intensify its review of governmental programs once they have been enacted.

Early in 1973 Speaker Carl Albert appointed a bipartisan Select Committee, headed by Congressman Richard Bolling, with a mandate to recommend changes in the structure and procedures of the House. The House of Representatives is approaching a struggle this week as it begins to consider the recommended actions of the Bolling committee. The highlights of the proposals include:

Creation and equalization of 15 major standing committees;

Placing control over major policy areas—health, transportation, energy, environment, foreign economic affairs—in separate committees;

Allowing each Representative to serve on only one of the 15 major committees in order to spread choice assignments and to reduce meeting conflicts; and

Abolishing proxy voting in committees, strengthening committee staffs (guaranteeing at least a third of staff positions for the minority party), improving committee oversight, increasing the quality of information available to Congressmen, and providing a continuing study of committee jurisdiction.

The basic idea behind this proposal is to simplify and focus the legislative process by concentrating jurisdiction in major areas, limiting each House Member to one major committee and equalizing the workload among the committees. The effort is to inject coherence and vitality into the legislative process.

This proposal has precipitated a bitter power struggle within the House because it fundamentally redistributes power by abolishing some committees (like the Post Office and Civil Service Committee) and reshuffles jurisdictional authority. An unusual alliance of business and labor interests is working with a powerful group of committee and subcommittee chairmen and staff to defeat the plan. Washington lobbyists fear that their carefully cultivated contacts with key Congressmen will come loose, and several Congressmen, who are losing vast empires of influence, are mightily displeased. Staff members are fearful they may lose their jobs.

The Republicans appear to be solidly in favor of the reforms, in part because they do not have much to lose since they do not control the House, but the Democrats are much more split. The proposals present them, as the majority party, with a real test of leadership.

Although no single step can restore the effectiveness and public esteem of the Congress, the proposal will, in my view, make the operation of the House more rational and insure that many complex subjects receive better scrutiny. While the proposal does not touch several areas that need examination, like appropriations, it is generally sound, rearranges committee jurisdictions in a coherent way, and makes several valuable reforms. No reform comes painlessly or solves all the problems, but the opportunity for genuine improvement of the structure of the Congress comes only seldom, and it should be seized.

MALCOLM-KING HARLEM COLLEGE EXTENSION

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. RANGEL. Mr. Speaker, one of the most exciting movements in higher education today is the development of community-based colleges catering to the special needs and interests of local residents. In my own district, Malcolm-King Harlem College Extension is just such an institution—young, dynamic, and reaching out into the community.

Malcolm-King targets its courses primarily at older residents who have been away from classrooms and studying for a few years. The college's philosophy is to offer a college education and a degree to those who were never given a real chance to go beyond high school, whether for reasons of discrimination, lack of finances, or family responsibilities.

I am pleased to include an article on Malcolm-King Harlem College Extension at this point in the CONGRESSIONAL RECORD:

SHE WANTS MALCOLM-KING ON HARLEM'S MIND

(By Stephen Gayle)

Twelve floors below Dr. Mattie Cook's office on Park Av. and 125th St. Penn Central tracks cut a wide swath through the middle of Harlem, then snake out to the suburbs, where they begin to divide things into two convenient categories—the right and the wrong side.

Dr. Cook, a Harlem resident for almost 20 years, is familiar with life on both sides of the tracks, and since 1968, she has been working to minimize the differences, by heading Harlem's only institution of higher education with the power to confer degrees—Malcolm-King: Harlem College Extension.

Malcolm-King goes unnoticed by most of the city, but Dr. Cook is planning to change all that with the school's next fund-raising drive May 16–18. The purpose of the drive is to secure financial independence for the school's development, she says, but equally as important: "to provide permanence and visibility in Harlem for Malcolm-King."

Malcolm-King is unique among the 70 colleges located in the city. Founded in 1968 after a group of Harlem civic leaders decided it was time for the community to have a college of its own, it has 753 students currently enrolled, and the average age is 32.

Most of the students hold full-time jobs and the school discourages recent high school graduates from applying. "We are interested in older people," says Dr. Cook, "the ones who missed the boat because they got out of high school too long ago, before the open admissions and the other opportunities that minority youngsters coming out of high school today enjoy."

Mrs. Emma Wright is an example of what Dr. Cook is talking about. A 33-year-old mother of four and the director of the Addie May Collins Community Service Headstart Program at Fifth Av. and 127th St., she came to Malcolm-King after Dr. Cook's prodding. Dr. Cook herself has been a former director of the Collins headstart program.

DISPERSED CAMPUS

"She encouraged me to finish my education," Mrs. Wright said. She is finishing a course in early childhood education and expects to graduate a year from now. "And my children (aged six to 15) have been the pushing force behind me attending Malcolm-King. Every time I'm going to quit they say 'Mommy, no.'"

More than half of the 100 teachers, who are all volunteers have PhD's, and informality is the byword on the concrete campus. "We are what is called a dispersed campus," Dr. Cook explained, "with classrooms at IS 201, (at 127th St. and Madison Av.), Resurrection HS (at 151st St. and Eighth Av.) and the Urban Center in the old Hotel Theresa."

From the very beginning, the school's course were recognized by the State Board of Regents a carrying full academic credit, although the college is unchartered because it does not have the necessary $500,000 to guarantee solvency. Hence, the "Harlem College Extension" nametag, which means that students from Malcolm-King are considered part of a network of three four-year colleges: Marymount Manhattan, Mount. St. Vincent's in Riverdale, and Fordham.

Dr. Cook readily admits that "voluntarism is our strongest base of operation" and says that community involvement with the school is of key importance "because people have more pride in something they feel belongs to them.

"There is a need for this college," she said, "and we're not duplicating what goes on at other colleges. We're providing a special service to a special group that has been disenfranchised. The individual is the most important component at Malcolm-King and everything has been set up to resolve around our population."

During the May 16–18 fundraising drive, students and faculty member will be seen on *125th, 135th* and 145th Sts. The goal is $35,000, which is intended to be part of a ten-year goal of $500,000.

"This is in keeping with the teaching of the two black statemen for whom the college is named," Dr. Cook said. "Malcolm X carried his message of unity and self-respect to the people on the streetcorners of Harlem. Dr. Martin Luther King, Jr. dramatized the plight of the black man through his civil rights marches in the streets of northern and southern cities.

THE VOTER REGISTRATION ACT

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. FRENZEL. Mr. Speaker, I am pleased by this body's decision last week to shelve H.R. 8053, the Voter Registration Act.

While I supported the rule, I did so only because the rule made my substitute (H.R. 11713) in order. Since others felt the same as I did, the vote of 204 to 197 did not fully reflect the depth of opposition to the bill. If there had been a final vote on the bill, I believe the margin against it would have been a good deal larger.

Nevertheless, proponents of this well-intentioned, but impossible, legislation have indicated that they may try to attach it to a campaign finance reform bill now being marked up in the House Administration Committee. Apparently, they feel that Members will be much less inclined to vote against post card registration if it is part of a politically popular set of campaign finance reforms.

Given the depth of opposition to this bill, as was demonstrated by the vote, this course of action would be most unwise. Attempts to include post card registration in a campaign finance reform bill could only be received as an effort to overload election reform. If post cards were attached, the passage of the entire election reform bill would be severely jeopardized.

I hope supporters will allow the post card registration bill to fall on its own demerits, and not take the devious and unwise step of attempting to sneak it through the House on another bill which might also fall because of it.

THE ROLE OF SAVING

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. SYMMS. Mr. Speaker, the Foundation for Economic Education—FEE—publishes a monthly series of essays on liberty entitled the "Freeman." If politicians paid more attention to the principles outlined in the essays America would be experiencing true prosperity without inflation. I think my colleagues in Congress will find the following article entitled "The Role of Savings" to be of interest:

The article follows:

THE ROLE OF SAVINGS

(By Brian Summers)

One of the least appreciated aspects of the private enterprise system is the role of savings in increasing the wealth of all the people. That the savings of some can increase the wealth of all may seem, at first glance, paradoxical, so let us consider for a moment just what happens when an individual—call him Joe—forgoes a little spending to put a sum in the bank.

Some people say: "The money that Joe has saved is money that won't be spent. The decrease in Joe's consumption can only mean a commensurate decrease in production and a resulting rise in unemployment. Saving should really be discouraged."

Saving is a form of spending! Joe's money doesn't just sit in the bank; the bank must lend it to someone in order to earn money to pay Joe interest. This lending is not only a form of spending, it is, in fact, the only kind of spending that actually increases wealth: *investment*.

What happens when money is invested? Say a corporation goes to Joe's bank and borrows money to build a factory. The corporation then spends Joe's money on building materials, machines, tools, and labor. The money that Joe has saved winds up being spent just the same as if he had spent it himself. There is no decrease in production and no rise in unemployment. In fact, as we shall see, there is an *increase* in production and a *decline* in unemployment!

Soon the factory is complete. The corporation then proceeds to hire workers. Joe's savings have increased employment!

How does the corporation hire workers? By offering better conditions of employment than their competitors. Perhaps the most important condition—as far as workers are concerned—is the level of wages. In all probability, the workers in the new factory have been lured by higher salaries. Joe's savings, whether he realizes it or not, have increased the wealth of workers in a factory he probably has never seen.

"You said that savings increase the wealth of all the people. What about the 210 million Americans who don't work in Joe's factory?"

COMPETITIVE BIDDING

Consider first the workers in competing factories. If these factories don't want to lose their workers to new factories, they had better raise their wages. Joe's savings have increased salaries through an entire industry!

As for workers in other fields, we should remember that most of them are potential factory workers. If you want to keep your best farm hand from going off to work in Joe's industry or taking a job that has been vacated by someone else who went off to work in Joe's industry, you had better give him a raise. Competition among employers means that Joe's savings, and the savings of millions of other Americans, raise the wages of *all* workers.

"That is still not everybody! How about people who don't work?"

Every man, woman, and child—worker and nonworker—is a consumer. The end of economic activity—saving, factory building, working, and all the rest—is *consumption*. We should always keep this *end* in mind. The higher wages we have talked about would prove meaningless if they didn't result in increased consumption.

Joe's savings benefit *everyone* because the factory, machines, and tools they helped build are designed to produce goods that consumers will prefer to those already being offered on the market. The corporation that borrowed money from Joe's bank took a financial risk because they think that they can satisfy consumers better than their competitors. In other words, they hope to give the consumer more for his money. If they fail, then the loss is theirs. If they succeed, then consumers consume more of what *they* want and thus enjoy a higher standard of living. The consumer—each and every one of us—is the final judge and ultimate winner.

"Savings seem to be pretty good after all. What should be done to encourage more savings?"

Instead of doing things to encourage saving, we should undo things that discourage it. In particular, the law itself is probably the greatest hindrance potential savers face. Let us make a brief survey of some of the ways in which the law discourages saving.

To begin with, people can't save money they no longer have. Every dollar that goes in taxes is a dollar that won't be saved. Add up all the taxes that Joe pays, and he may find himself withdrawing from, rather than adding to, his bank account.

TAX DISINCENTIVES

In addition to the general level of taxation, several specific taxes are especially discouraging to savers. Corporate profits taxes, capital gains taxes, and taxes on dividends and bank account interest hit the saver particularly hard and must be taken into account by every potential saver.

High as taxes are, government spending is even higher. The difference, of course, is "made up" by running fiat money off the government printing presses—inflation. And inflation, combined with other ramifications of over-extended government, is enough to give even the most devoted saver cause to rethink his frugal habits.

The saver sees inflation galloping along faster than legal limits on interest rates. Even though he actually has lost money, in terms of purchasing power, he finds himself forced to pay taxes on his "earnings."

The saver sees inflation increasing the paper value of his capital holdings. When he sells his holdings he must pay capital gains taxes—even though his "capital gains," in terms of real wealth, actually may have been capital losses.

The saver sees inflation increasing the replacement costs of capital equipment—machines, spare parts, tools—while depreciation allowances are determined by original costs. He finds that depreciation allowances have become inadequate to pay for new equipment to replace the old.

The saver sees inflation increasing the paper profits of his corporation. In particular, inventory "profits"—the difference between the cost of producing an item and the cost of later replacing it in inventory after it has been sold—are a direct result of inflation. Were all these inventory "profits" available for investment in new inventory, the corporation could at least hold its own. However, almost half these "profits," on the average, wind up as corporate profits taxes. Thus, the saver may find his corporation losing money and paying profits taxes at the same time.

Inflation itself, even without being combined with various governmental controls and taxes, is discouraging to potential savers. With prices rising, people are encouraged to make purchases before prices go any higher, rather than to save for future purchases.

This brief survey of ways in which the law discourages saving is, of course, by no means complete. However, I would like to conclude with one factor that can never be measured, but which is nonetheless very real. This is the factor of uncertainty. In recent years, the United States government has grown so interventionistic that every few months the president is announcing "strong new" economic measures. Who knows what is next? Already we hear congressmen calling for a virtual nationalization of oil companies. Who is going to invest under such circumstances? To complete the destruction of the American economy, the government does not have to expropriate the means of production. It merely has to make conditions so onerous and so frightful that no one will dare invest in private enterprise.

A free market, and the belief that the market will continue to be free, is all the encouragement savers ever need.

BAR ON FOREIGN-BORN PRESIDENT COSTLY

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. BINGHAM. Mr. Speaker, throughout its 198-year history the United States has been well served by millions of immigrant citizens. As Bob Wiedrich, columnist for the Chicago Tribune eloquently explains, without that infusion of new blood we would not be the "shining experiment in democracy" that has persevered whatever the adversity.

I commend Bob Wiedrich's April 14 column to all my colleagues and other readers of the RECORD who may have doubts about House Joint Resolution 880 making naturalized citizens eligible to hold the Office of President.

The article follows:

BAR ON FOREIGN-BORN PRESIDENT COSTLY

(By Bob Wiedrich)

Give me your tired, your poor,
Your huddled masses, yearning to breathe free.
The wretched refuse of your teeming shore.
Send these, the homeless, the tempest-tost to me,
I lift my lamp beside the golden door!

These closing words of "The New Colossus," the poem by Emma Lazarus inscribed on the Statue of Liberty in 1903, remain especially meaningful to us as the son of a foreign-born naturalized American who found his measure of hope in the New World.

For the unique strength of these United States has forever been that blending of the immigrant blood and talent of a hundred lands which has helped to build, nourish, and sustain the character of a nation which endures as the major bastion of freedom and individual liberty.

Without that constant infusion of new intellect and stock over 198 years, the United States probably would not be what it is today, a shining experiment in democracy that has survived and prospered and will continue to do so whatever the adversity.

Yet when the framers of the Constitution fashioned that document as the foundation of the Republic, they specifically excluded from holding Presidential office the very kind of people who would in the centuries ahead furnish the vitality that would bring the Constitution to life.

"No person except a natural born citizen or a citizen of the United States at the time of the adoption of this Constitution shall be eligible to the office of the President; neither shall any person be eligible to that office who shall not have attained the age of 35 years and been 14 years a resident within the United States."

Today, it is strange and puzzling that a country that has drawn its greatest strength from accepting the poor and unwanted of other lands should have excluded them from its democratic leadership at the moment of birth.

But at the time, in the minds of the Founding Fathers, there must have been good reason, for they were assembling a nation born from the ashes of oppression and tyranny. Probably all things foreign were repugnant. And there was probably strong fear of a clandestine representative of the hated King George III seeking the highest office in the land.

"Permit me to hint whether it would be wise and seasonal to provide a strong check to the admission of foreigners into the administration of our national government and to declare expressly that the command in chief of the American army shall not be given to nor devolve on any but a natural born citizen."

So wrote John Jay, noted statesman of the day and later first chief justice of the United States, in a letter to George Washington in July, 1778. It is clear Mr. Justice Jay shared the suspicion that the foreign born were disloyal or more prone to disloyalty than natural born citizens. Well, 198 years of American history have repeatedly given the lie to that fear. Nor is there cause for concern that a descendant of King George will today take over the government.

However, the probably then well-founded anxieties of the Founding Fathers ruled out from consideration for the Presidency over the years such great Americans as these: Alexander Graham Bell, born in Scotland; Dr. Albert Einstein, born in Germany; Thomas Mann, born in Germany, and Andrew Carnegie, born in Scotland.

And, without suggesting a Presidential boom for him, Secretary of State Henry Kissinger also is barred from any more than a visiting role at the White House. He, too, is a naturalized citizen, born to the terror of Nazi Germany.

In an effort to get Americans thinking about this glaring inequity, Rep. Jonathan Bingham, liberal Democrat from New York, as well as Senators Hiram Fong [R., Hawaii] and Birch Bayh [D., Ind.] have introduced measures calling for a Constitutional amendment making naturalized Americans eligible for the Presidency. Few, however, think such a measure will win approval in much less than a decade.

It always has been a source of wonderment to us that a nation of 200 million could field so few Presidential contenders; that too often we were confronted by the same tired faces. Perhaps such an amendment might furnish a wider choice.

Most important, we might discover that someone who has suffered oppression in a foreign land has a greater appreciation of our institutions and might safeguard them more religiously than those blessed by an accident of birth with a lifetime of knowing nothing less than complete freedom.

VERMONT TAKES THE LEAD

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. HARRINGTON. Mr. Speaker, as many of my colleagues know, Vermont has led the way with many of the most progressive reforms in the Nation, including, for example, environmental control and land use laws. The efforts of the State government in Vermont deserve our commendation.

An interview with Governor Salmon of Vermont recently appeared in the New Englander magazine, outlining not only where Vermont has been, but where he sees it going from here. I found Frederick Pratson's interview, "Vermont Takes the Road Less Traveled," not only interesting, but enlightening, and insert it in the RECORD for the attention of my colleagues.

The text follows:

VERMONT TAKES THE ROAD LESS TRAVELLED

(By Frederick J. Pratson)

Gov. Thomas P. Salmon stresses need to check "unrestricted growth" and adopt statewide land-use plan.

The second largest state in New England and the only one with a seacoast, Vermont has traditionally been known for its agriculture, stone quarries, and popularity as a winter skiing and summer resort area. The state leads the U.S. in marble and maple syrup production, and has more dairy cows than any farming area of its size in the country.

Manufacturing — machine tools, stone products (granite, marble, limestone, asbestos), lumber, paper, furniture — generates over $562-million in revenues annually in the Green Mountain State; over $250-million comes from tourism and recreation; and more than $180-million from farming and dairy products.

With its rural and recreational appeal, Vermont is an ideal target for the developer and sub-divider. And this appeared to be the way the state was going, until its less than 500,000 citizens decided that they liked their land the way it was. For almost a decade, the No. 1 issue in Vermont has been growth—not, as for most states, promoting it, but in a characteristically independent stance, limiting it.

VERMONT DISCOVERS ULCERS

"Gone are kerosene lamps and outhouses, one-room schools and one-horse shays, crank telephones . . . Vermont has entered the world of jets, computers, ulcers, tranquilizers, nuclear power, four-lane highways, shopping center complexes, color television, and mobile homes," reads a report issued by the Vermont Planning Council.

Titled, "Vision and Choice: Vermont's Future," the 1968 report was a first step in the passage of Act 250, the state's principal environmental law, which took effect in the summer of 1970. The law called for additional future measures to be enacted in the area of environment and conservation. Although a land-use plan was shelved by the 1974 Legislature, it remains on the docket, and is a primary concern for the state's citizens.

One of Vermont's leading proponents on the need to regulate unbridled growth has been Thomas P. Salmon.

A Democrat in a traditionally Republican state, he is also an out-of-stater in an area that has always placed native sons and daughters first.

ADOPTING A NON-NATIVE SON

Nonetheless, the people of Vermont elected Salmon governor on Nov. 7, 1972, for a two-year term, and he has announced that he will run for a second term this November. Most observers agree that Gov. Salmon stands an excellent chance of winning in his reelection bid, and that perhaps the only Republican who could defeat him is former Gov. Deane Davis.

Gov. Salmon was born in Cleveland, in 1932, and was raised in Massachusetts. He graduated from Boston College and Boston College Law School, and holds a Master of Law and Taxation degree from New York University Law School.

He settled in Vermont as a permanent resident in 1958, and now lives in Rockingham with his wife, Madge, one son, and three daughters. A lawyer with a practice in Bellows Falls, he was appointed town counsel of Rockingham in 1959, at age 27.

Three years later, he was appointed judge of the Bellows Falls municipal court and, in *1965, elected to* the Vermont House, where he served as minority leader in 1969–70.

In this interview, Gov. Salmon focuses on Vermont's growth and why the state differs from the way the rest of the country thinks, except for Oregon's Gov. Thomas McCall, a native New Englander whose conservation program, many observers think, has set the tone for developments in Vermont.

Is it true that you are doing in Vermont what Gov. McCall is doing in Oregon, namely limiting growth?

Salmon: Yes, that is reasonably correct, though I am not as strident as Gov. McCall. We have a very fragile economy in Vermont. It is an agricultural, industrial, and tourist economy. As one of the most rural states in the U.S., Vermont does not lend itself to unrestricted growth for the sake of growth. We are trying to find better ways to define the limits of growth, what we want now, and what we want for the future.

Is this what the citizens of Vermont want?

I think so. First of all, you have to take a look at what growth means. I am not a "no-growth" freak. It will happen, and must happen.

However, there are certain regions in Vermont which are not natural growth areas. The Burlington region, where many of our major companies are located, is. On the other hand, Essex County, a northern rural section on the Canadian border, is not, and does not lend itself to any substantial growth over the next decade. It would take wild horses to interest industry in such rural areas, even if the effort were important to our overall economy.

It's growth for growth's sake that Vermonters are trying to get away from. The attitude stems from the "gold rush" which took place in the state in the 1960's, a recreational boom that was without precedent in the region. An acre of land in southern Vermont that sold for $100 in 1960, topped $1,000 by 1970.

The gold rush, and the onset of large subdivisions created problems, particularly in local communities' ability to handle such frenetic growth. Ultimately, this gave rise to a concern over harmful development, and Act 250, our major regulatory tool, was passed to give us a handle on the situation.

What are the important provisions that should be included in a land-use plan for Vermont?

I would like to see a basic blueprint for growth that is keyed to local decision-making, which is where such decisions should be made. However, society in general, as represented by state government, has an overriding interest in certain aspects of land use. An important part of any plan would be the creation of conservation districts in which the state has a continuing interest.

Land is a non-renewable resource. Once exploited for purposes which make no sense, it is gone forever. Any rational plan must have built into it the notion that high resource areas, such as prime agricultural land, forest land, and land for mineral extraction, should carry sufficient tax incentives so they will not be converted to more intensive use.

Do you mean developments such as housing?

Housing is only one type of development. I am talking about any development, any kind of growth—housing, manufacturing, mobile home parks—which involve changing the shape of the land. We must look at our resources and then ask if there is a better place, within a certain region, in which to locate this type of activity.

Does Vermont have preferential property tax incentives which are designed to preserve farm and forest acreage?

This is one of the most pressing issues Vermont faces. The question is, how do we provide economic incentives to keep land in open space, when we already have a relatively low tax yield base because of our rural, agrarian nature.

This year I proposed a bill which would provide preferential tax treatment by local authorities on an individual's first 100 acres, if that individual's income is $20,000 or less.

The plan is designed to give citizens the economic capability to avoid the "conversion syndrome," where prime land is sold to the highest bidder. It is the only bill in recent years which offers specific recommendations for keeping land in open space over a long period of time.

We are faced with a situation where society may be required to pay a fairly substantial price to keep land in open space. Once you treat the land of one man on a preferential basis, you place an added burden on other citizens within the same community to pay for that special treatment.

We must ask the question, what price should we pay for comprehensive land-use reform? And are these shifts in the tax burden warranted? It is a complex subject, and one which the courts have not even begun to adequately address themselves to. It also raises this question: to what extent can or should the government impost itself on the way an individual uses his own land?

There are some very vocal opponents to land-use plans. What is your view of their arguments?

There is a conservative element in the northern part of the state which views government at all levels as evil, and which is opposed to any kind of state-wide planning.

At a hearing in Montpelier, members of this group denounced the proposed land plan and blamed it on out-of-staters, the governor, the former governor, the devil, state bureaucrats, and a bevy of architects and planners.

This element has to be dealt with. Press reports also stated that those who spoke, by and large, appeared to have little specific knowledge of the provisions of the proposed plan, except they knew they were against it.

Is state-wide land planning a socialist plot? Or is it a prerogative of the government in the exercise of its legitimate power to serve the best interests of the people? I feel it is the latter.

State initiatives have enabled Vermont to institute the rational management of a potentially harmful situation. The view toward a society's and an individual's absolute interest in the land is changing. I think there is a body of law emerging which will say that there is a protectable legal interest for prime agricultural land remaining in open space.

How will land-use plans affect economic development in the state?

They are compatible. We do want our share of economic development in Vermont. We have already identified areas well-suited to industrial expansion. We know, within our cities and towns, where land can be sensibly converted to economic development, and where localities are receptive to such expansion.

What are you doing to attract industry?

We are working on an important piece of legislation, designed to stimulate the industrial sector, which would put all state economic development agencies under one roof. The proposed Vermont Industrial Development Agency would work closely with local officials and companies to acquire land most suited to industrial use, make site improvements on that land, and, under appropriate circumstances, launch construction projects. The state will also provide economic incentives, such as low interest loans, to encourage industry to come to Vermont.

We have a special obligation to industry that is already here, and also an obligation to attract the kind of industry that will fit into our unique rural and aesthetic setting.

Sound environmental practices are entirely compatible with sound economic growth. National firms which have expressed an interest in Vermont say that they have had it with affluent suburban and urban environments. So they are now looking at rural areas, such as Vermont.

The amenities we offer, such as clean environment, good transportation, less pressure and hassle, and great recreational facilities, are very attractive to urban America. We, in turn, can incorporate these attitudes into our need for economic growth.

You're implying that Vermont has become much more selective in the type of industry it wants to attract.

We are being selective in the sense that we are concerned about planning site development, the proper location of industry with a view toward basic environmental issues.

Vermont cannot meet the needs of the so-called heavy polluting industries. They don't fit here and they don't make sense for us. I want to make the important point that Vermonters have made a long-term commitment to enviromental sanity.

Increasingly, one hears the phrase, "Vermont for Vermonters" used by leaders in the state. It conveys the impression that out-of-staters are not as welcome as they used to be. Is this true?

I have lived in Vermont for less than 16 years, and am not a native myself. When I speak to the issue of Vermont for Vermonters, I mean that the prime emphasis and concern of government should be to serve the best interests of the people who live here. State programs, whether in the area of taxation, education, employment, or growth, must be based on their needs. Vermonters, incidentally, pay just about the highest per capita tax load in the country.

Our view is not one of discriminating against the out-of-stater. Tourism is an integral and vital part of our economy.

What are you doing to help the tourist industry in Vermont, especially in light of the energy crisis?

The tourist industry is the No. 1 candidate for substantial harm as a result of the energy crisis. The current projection is that people will not be able to travel here by car, as they once did. We in New England must adapt ourselves to that fact of life.

The New England Governors' Conference and the New England Regional Commission are considering pouring more money into the regional tourist industry. The goal is to promote New England from within, rather than to finance a Madison Avenue-type promotion aimed at bringing people here from throughout the East.

In other words, the program is one which encourages New Englanders to stay home?

Yes, to get them to travel within their own region, and to discover the many good areas we have.

Actually, the new trend may be a blessing in disguise. We have found, for example, that reservations in camping areas for this summer are up over last year, despite the energy crisis. And the length of stay is longer than last year. This indicates that New Englanders are thinking more in terms of regional vacations. We've got to take advantage of this.

What was the effect of the energy crisis on the ski industry, one of the major components of your tourist industry?

This past winter, the lack of snow was more serious than the lack of gas. People were able to get to Vermont. However, we suffered the worst snow season since 1956. This was more disastrous in its effect than the gas shortage was for the area's ski operators.

Has Vermont's anti-billboard bill backfired?

No. The anti-billboard legislation is in line with the image we are trying to create. It's an image that says we think we are different from the rest of the country, that we are not captive to any lobby group, and that passing legislation such as this, to promote the quality of life, can happen in a small state.

Despite some complaints, the law has been a success.

How would you define the "mystique" that Vermont holds for so many people?

Vermont is a small, beautiful, fiercely independent state that is proud of its heritage and its independence.

And Vermont is known as a State that cares.

WILLIAM A. SHEA

HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. ROONEY of New York. Mr. Speaker, I would call to your attention that one of New York City's most public spirited individuals—and a resident of the district I am proud to represent—has been afforded a singular honor.

Mr. William A. Shea received the Charter Award from the Council of Regents of St. Francis College—a noble institution in my district—at a dinner held May 3. More than 1,100 persons were present to see the president of the college, Brother Donald Sullivan, OSF, present the award to Mr. Shea in recognition of his lifelong concern and help to the welfare of the people of the great city of New York. Mr. Shea is the first individual to be so honored in the 13-year history of this coveted award.

In the words of Mr. Sylvan Lawrence, chairman of the award dinner:

> A veritable library could be written about this dynamic attorney, a truly great New Yorker, who has given so unselfishly of his time and resources to this city and its people.

Perhaps best known for his efforts that resulted in National League baseball returning to New York, Mr. Shea is also active in many charitable and philanthropic organizations—many of which are concerned with the youth of the area.

This was a fitting tribute to a truly fine human being and I am proud that St. Francis College should honor this man in its 90th anniversary celebration.

Under permission heretofore granted me by unanimous consent, I am including with these remarks a history of the college and the charter award, together with the citation accorded the Honorable William A. Shea by the St. Francis College Council of Regents:

THE COLLEGE

The ideals of St. Francis College are based in a 700 year Franciscan tradition—love of man and love of knowledge. These same Franciscans continued their dedicated work of education 116 years ago in Brooklyn. Ninety years ago, in May, 1884, St. Francis College was awarded its charter by the Legislature of the State of New York.

Today, St. Francis College is a leading private coeducational liberal arts college, offering a baccalaureate degree in arts, science and business with courses in 24 major fields of study. Associate degrees in arts and sciences, as well as special studies and criminal justice programs, are offered by the Division of Continuing Education.

More than a decade ago, St. Francis College launched the development program that included the relocation of the institution to the more convenient Brooklyn Civic Center area. The program involved the construction of three new buildings and the major renovation of two others and enabled the college to meet its share of the national responsibility of higher education. This development program has enabled the institution to increase its enrollment from 1,200 to more than 2,500 students.

Changes were also made in the curriculum to keep it contemporary and relevant. New fields of study were introduced such as Health Science, Urban Affairs, and Physical Education. Library holdings were more than doubled and are growing.

Traditionally a small college, the growth in enrollment and physical plant at St. Francis has been kept to manageable size to maintain small classes with a close relationship emphasized between students and the teaching faculty.

St. Francis is dedicated to the ideal of a liberal arts education and reaffirms its commitment to the youth of the greater metropolitan area.

THE CHARTER AWARD

The Council of Regents of St. Francis College was founded in 1960 to create closer ties between the college and the community it serves. The Regents also advise on the many problems facing the American higher education today. The members of the Council, composed of prominent business and professional leaders of all backgrounds and faiths, are dedicated to providing greater opportunities to the young people of our city through private higher education.

In 1962, it was decided to commemorate the granting of the charter to the college by giving an award, each year, to an individual or corporation in recognition of significant contributions and service to the community. And so, each year in the month of May, the Council of Regents presents its Charter Award at a formal dinner-dance.

PREVIOUS CHARTER AWARD RECIPIENTS

1962—Sea-Land Service, Inc.; United States Lines Company.

1963—New York Central System.

1964—Grace Line Inc.

1965—Pan American Airways.

1966—Pfizer, Inc.

1967—The Port Authority of New York and New Jersey.

1968—New York Stock Exchange.

1969—Town of Hempstead.

1970—The District Attorneys of Greater New York.

1971—Abraham & Straus.

1972—The Construction Industry.

1973—The Savings Banks Association of New York.

ST. FRANCIS COLLEGE, THE COUNCIL OF REGENTS CITES WILLIAM A. SHEA

In recognition of his great dedication and outstanding achievements on behalf of the cultural, civic, social and philanthropic institutions of the City of New York.

Bill Shea, born and raised in New York City, educated in its public school system, admitted to the New York State Bar in 1932, is the man most widely acclaimed for restoring National League Baseball to our City. His rare talents and untiring efforts resulted in the miraculous "Marvelous Mets" and Shea Stadium, which stands today as a monument to his perseverance and ability. A veritable library could be written about this dynamic man who has devoted his time and energy to so many philanthropic and civic organizations such as the Manfred Sakel Foundation; the Touchdown Club of New York; the Catholic Inter-racial Council; Little League Foundation; Pop Warner Little Scholar, Inc.; Grand Street Boys; Chairman, Lambert Trophy Award Committee; Brotherhood-In-Action; Mayor's Commission on Youth and Physical Fitness; and the Catholic Medical Center. In going through this partial list of Bill's "credits," one is immediately impressed with his keen interest and his efforts to aid, encourage and inspire the youth of this City and Nation.

Although he heads one of the largest and most prominent law firms in the City—Shea, Gould, Climenko & Kramer—Bill has still found time to serve as a Director of the 1964–65 World's Fair Corporation, a Director of the New York City Convention and Visitor's Bureau, and by Presidential appointment, a member of the Board of Visitors to the United States Naval Academy.

With a name like Shea, you can understand why he is an active member of the Friendly Sons of St. Patrick, the Knights of Columbus, the Cathedral Club, and the Emerald Association of Long Island.

A grateful community has bestowed on him the Gold Medal of New York, the Distinguished Service Medal of Nassau County (only the second time this award was made in the history of the County), the Human Relations award of the National Council of Christians and Jews (Brooklyn Region). In 1969, Bill was the first individual to receive the Catholic Charities Man of the Year Award, and in 1972, the first recipient of the Gil Hodges Memorial Award by the Catholic Medical Center of Brooklyn and Queens. He holds honorary Doctorate of Law degrees from his alma mater, Georgetown University, and St. John's University.

William A. Shea is living proof of the adage, "If you want something done, call on the busiest man you can find." Yet, to the average man on the street he is known and admired as Bill Shea, a straight talker, a square shooter, and a man of the people. That's why we are proud to honor and present Bill Shea with our Charter Award.

LOOKING BEYOND WATERGATE: THE ROLE OF PUBLIC INTEREST LAW

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. BROWN of California. Mr. Speaker, by coincidence I came across an article from Science magazine concerning public interest law at the same time that the House-Senate Conference Committee completed work on the Legal Services Corporation bill. The legal services legislation that will be considered shortly is of great importance to many Americans in guaranteeing that adequate legal assistance will be available. The area in which the legal services legislation does not enter is the area of general public interest law. There are elements of public interest law in the legal services legislation, but much of the authority to serve this vital national need is specifically excluded from the bill. In fact, the House recently limited the jurisdiction of public interest law firms in the area of environmental protection when it passed the Energy Supply and Environmental Coordination Act.

I commend the article from Science and insert it into the RECORD.

The proposals in the article may be unacceptable to Congress at this time, but I believe the benefits of expanded public interest law will become obvious in a very short time period, and the encouragement of public interest law will gain increasing public favor. At a time when governmental institutions are without public confidence, an expansion of public interest law would be a shot of Adrenalin. The proposals in the article should be given careful consideration.

The article follows:

LOOKING BEYOND WATERGATE: THE ROLE OF PUBLIC INTEREST LAW

Watergate is to many the symbol of a sickness characterized by big money's corrupting influence on government, the ethical infirmities of persons entrusted with enforcing the law, and the susceptibility of a large, complex bureaucracy to manipulation by special interests and unprincipled officials. To cure this sickness obviously with call for manifold reforms that will be neither simple to prescribe nor easy to carry out. One reform that surely will be needed, however, is to discourage favoritism and under-the-table dealing by encouraging better, more forceful representation of what, for want of a less elusive term, may be called the public interest.

It happens that, over the past 4 or 5 years, a highly significant new kind of legal practice has emerged—the practice of public interest law. Public interest lawyers, when pressing for proper interpretation and observance of existing law, have been formally acknowledged by the courts to be "private attorneys general." Despite its still quite modest scale, this development can be perceived as clearly helpful and salutory, especially now when one former U.S. attorney general is standing trial for an alleged obstruction of justice, another faces possible prosecution for perjury, and a third has been fired for refusing to carry out an improper presidential order.

Public interest law, which has antecedents in the more specialized fields of civil rights law and poverty law, is no more readily defined than is the concept of the public interest itself. By any definition, however, it is concerned with issues whose outcome will not, in a given case, affect the interests of the plaintiffs who brought it any more than the interests of a wide public. Examples can be found in suits or administrative actions brought on behalf of citizens seeking to stop air pollution, prevent the marketing of potentially harmful drugs or pesticides, ensure more balanced television programing, avoid unjustifiable utility rate increases, or remove unwarranted restrictions on voting rights.

Some strictly private litigation can be both highly rewarding to the plaintiff's attorneys and beneficial to the public, as in the successful antitrust action brought by one wealthy corporation against another for treble damages. But a salient characteristic of public interest law is that its practitioners represent parties whose financial ability is generally either limited or nil and who do not seek damages but merely injunctive relief or a regulatory decision favorable to their cause.

A HOTHOUSE PRODUCT

It is, in fact, the lack of a secure financial footing that has kept public interest law from emerging yet as a self-sustaining part of the legal profession. A pioneer in this field, Charles Halpern, staff attorney at the Center for Law and Social Policy in Washington, summed up the problem this way in an article last fall for the American Bar Association's *ProBono Report*:

"The public interest bar is still a hothouse product. There are probably no more than 100 (full time) public interest lawyers in the country and they are concentrated in a few cities (New York, Washington, San Francisco, Los Angeles, and Chicago). Most are subsidized by foundation grants, by the willingness of able lawyers and their families to make very great financial sacrifices, or by ad hoc financing mechanisms such as contributions by college students. . . . A career in public interest law has yet to be fashioned, and the mechanisms which will permit broad expansion of public interest bar have not yet been devised."

The opportunities and the need for broadly expanding activity in this field are evident. Some important laws of the past 5 years probably would not have been enforced at all if it had not been for public interest lawyers' going to court. A striking case in point is the National Environmental Policy Act (NEPA) and its requirement for thorough analysis of the environmental impact of proposed federal actions. Without doubt, the Council on Environmental Quality would not have been politically strong enough to have demanded compliance with this statute, and the Office of Management and Budget would not have cared enough.

A little-noticed aspect of the practice of public interest law has been the efforts made by attorneys in this field to bring about strict and timely enforcement of other laws without going to court. For instance, attorneys of the Natural Resources Defense Council have—through informal contacts with officials of the Environmental Protection Agency and through formal administrative proceedings—provided at least a partial counterweight to industry influences in matters such as scheduling compliance with the Clean Air and Water Quality acts and establishing precise standards. Similarly, attorneys for the Center for Law and Social Policy, which does not confine its interests to the environmental field, have been active in such administrative proceedings as those conducted by the Food and Drug Administration on the marketing or experimental use of possibly unsafe birth control drugs.

The need for an expanding public interest practice is enormous just in Washington alone. Indeed, in this city with an estimated 10,000 nongovernment lawyers, nearly all are representing private interests, with a number of specialized fields of law (such as the "communications bar" or the "patent bar") having hundreds of practitioners. The fact is, however, that a need for much more public interest practice exists throughout the nation. Every state capital has a burgeoning bureaucracy in which the public interest is likely to be given short shrift unless represented better in the future than it has been in the past. The same is certainly true of the bureaucracies that run the larger cities and urban counties.

The growth of public interest law will not be retarded by any lack of young attorneys looking for gainful and interesting work. In recent years law schools have had a surfeit of applicants, and these institutions are now graduating more than 25,000 students a year—an enormous output in light of the fact that the total number of lawyers in the nation is not more than about 350,000.

Competition for grades and for places in prestigious law firms is more fierce than ever. Those firms remain highly attractive to the young lawyer despite the drudgery of the work to which he is likely to be assigned—he is willing to look some years ahead to the time when, as a partner, he will be managing cases and earning a large income.

Public interest law would no doubt exert a strong appeal for many new law graduates if the opportunities in this field were more numerous and if the ultimate promise of financial reward were greater. Indeed, the young public interest lawyer may have the heady experience of handling big cases almost before he has had time to learn where the rest room is at the courthouse. Appealing as this promise of early professional challenges may be, the law graduate who weighs the possibility of entering public interest practice may nevertheless be deterred. For unless circumstances change, even at middle age the public interest lawyer may not earn an income exceeding that of, say, a journeyman carpenter or plumber.

GROPING FOR A SOLUTION

Thus, if public interest law is to expand and flourish now at a time of clear need, the problem of putting this kind of practice on a strong self-sustaining basis must be squarely addressed. Currently, there is much groping for a solution to this problem. Last fall, for instance, Senator John V. Tunney (D–Calif.), chairman of a new subcommittee on representation of citizen interests, conducted 6 days of hearings in which the problem was approached inversely—that is, from the standpoint of citizens who go without counsel because they can't pay the legal fees.

The staff of the Tunney committee is currently preparing draft legislation, but what form it will take is not yet clear. For its part, the American Bar Association (ABA) has established a special committee on public interest practice. This committee wants the courts and the organized bar to adopt a "clear statement of the duty of each lawyer to provide public interest advice and representation." It will propose specific programs to that end.

The Ford Foundation, a mainstay of public interest practice, recently held a 2-day conference at San Diego with its grantees, representatives of the ABA, and others interested in this field's development. Ford's initial 5-year commitment to support public interest law will have run its course by mid-1975. Although the foundation does not intend to withdraw all support after that time, it does hope to see these groups soon weaned. Accordingly, a major concern of the San Diego meeting was to consider where public interest law might find alternative sources of support.

From the exploratory initiatives on the part of Ford, the ABA, the Tunney committee, and the public interest law groups themselves, it now seems clear that, if public interest practice is to achieve financial security, support will have to come from a mix of sources. These would include the membership fees and donations received by groups that maintain a staff of public interest lawyers; court-awarded attorneys fees and witness fees; contributions of both time and money by members of the bar; and direct public subsidy. Consider each of these further.

SUPPORT BY GROUPS WITH LARGE MEMBERSHIP OR LISTS OF CONTRIBUTORS

For some time there has been a tendency for groups such as the Sierra Club, the National Wildlife Federation, the League of Women Voters, Common Cause, Consumers Union, and Ralph Nader's Public Citizen, Inc., to maintain litigation units, either as integral parts of their organizations or as offshoots. Some groups have impressive fund-raising abilities. For example, Public Citizen, Inc., raises about $1 million a year from its 115,000 supporters. Common Cause, with 325,000 supporters, will operate this year on a budget of $6.3 million.

Even if no more than a small percentage of such budgets is devoted to public interest law, a significant amount of activity can be supported. Furthermore, innovative techniques for supporting public interest advocacy can sometimes be developed. Note, for instance, the Public Interest Research Groups formed on university campuses with Nader's encouragement. These groups, which have brought lawsuits on environmental, consumer, and other issues in a number of states, are supported by a checkoff of student activity fees.

Some groups organized expressly for the practice of public interest law have covered a substantial part of their costs from membership fees or public solicitation. For instance, the Environmental Defense Fund, which now has a list of 47,000 contributors, met about 54 percent of its 1973 budget of $1.1 million from contributions raised by direct mail solicitation.

COURT-AWARDED FEES

Potentially, this is an important source of support for public interest law. It involves shifting the attorneys fees to the defendant where the court can be pursuaded that, by bringing the suit, the plaintiff has functioned as a private attorney general. In *La Raza Unida v. Volpe* a federal court found that, by suing the U.S. Department of Transportation and the California highway department, a group of citizens of the San Francisco Bay area had helped enforce laws aimed at avoiding unnecessary displacement of people and encroachments on parks. Public Advocates, Inc., of San Francisco will benefit from the fees awarded in this case.

Public interest law groups will not, however, be able prudently to receive even court-awarded fees until the Internal Revenue Service has issued regulations governing their acceptance of fees as tax-exempt groups. Such regulations have been awaited now since the fall of 1970. Still more troublesome is the fact that, under existing law, attorneys fees ordinarily cannot be shifted to a federal agency, although this is not true of cases arising under a few statutes such as the Clean Air Act of 1970. Any new legislation aimed at promoting public interest practice will have to look to the modification or repeal of this policy.

SUPPORT BY MEMBERS OF THE BAR

Chesterfield Smith, president of the ABA, has been exhorting the organized bar to ensure all causes adequate representation. In his view, the goal is not to support public interest advocacy as such but rather to make the adversary system work better. Smith is simply invoking the lawyer's credo that justice usually is served by competent argument of opposing briefs before an impartial judge.

Attorneys could support public interest practice through bar dues and special contributions, or by devoting part of their own practice to public interest work. Hundreds of lawyers already do some "pro bono" work on either a no-fee or (more commonly) a minimum fee basis.

DIRECT PUBLIC SUBSIDY

It can be argued that support of public interest law by the taxpayer would be no less justified than public financing of political campaigns, a matter of much current interest. There would, however, be the problem of giving such a subsidy program enough insulation from the vagaries of politics to prevent capricious funding cutbacks and avoid improper restrictions on the kind of work supported. Difficulties experienced in the field of poverty law show that such dangers are very real. Safeguards would probably have to include the creation of a board prestigious and independent enough to protect the program's integrity.

In the final analysis, public interest law is not likely to flourish unless the public accepts the concept that its interests are in the main well served by vigorous representation of all reasonable viewpoints on public issues. Such an attitude requires no little tolerance and sophistication.

Consider, for instance, an opinion rendered recently in the Alaska pipeline case by the U.S. Circuit Court of Appeals for the District of Columbia. The court held, by a 4 to 3 majority, that the environmental groups that brought the suit should recover attorneys' fees from the Alyeska Pipeline Service Company and the state of Alaska. The majority found that this suit had benefited the public by furthering compliance with NEPA and calling attention to the requirements and deficiencies of the Mineral Leasing Act. The minority, much to the contrary, believed that—with motorists waiting in line at the gasoline pump—the public had been ill-served and that to shift the burden of attorneys' fees would be to invite reckless and ill-advised litigation on a grand scale. Yet the outcome of public interest litigation is not determined by the litigants but by the language of the law and its interpretation by the courts. And no judge need entertain frivolous suits.

In sum, now to overlook the social value of private attorneys general would seem perverse in light of the evidence that many of the officials charged with enforcing the law actually have been flouting it. The great white whale of official corruption won't be harpooned this year or next, but more public interest practice could reduce the chances of its sinking the ship.

LUTHER J. CARTER.

INTEGRITY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. RANGEL. Mr. Speaker, when Willy Brandt resigned as Chancellor of West Germany one of his friends said, "He felt that to ask for the resignation of one or two ministers to blame them for the spy affair would have been cowardly and dishonest and he wanted at least to save the honor of his party and show that there was still one leader of integrity in the Western World."

TRIBUTE TO TORRANCE EAGLE SCOUTS

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. ANDERSON of California. Mr. Speaker, to attain the rank of Eagle Scout is, indeed, an outstanding accomplishment, awarded to the scout only after he has proven capable of identifying and solving a particular problem in the community.

When we realize that each year only 2 percent of the over 2 million Boy Scouts reach this coveted goal, it is easy to see that the rank of Eagle Scout is a signal honor achieved by the few who have earned 21 merit badges, mastering skills demanding intelligence, leadership, community spirit, initiative, and patriotism.

This year, troop 761, led by Scoutmaster Richard Font, produced five Eagle Scouts. This feat is a tribute to both the young men who gained this high rating, and to the leader who inspired them to such heights.

To attain this rank, Gregory Church, son of Robert and Ardis Church of Torrance, conducted a book drive for Evelyn Carr Elementary School, and collected 315 children's books for the PTA Library and 15 new Spanish language books for the Torrance Main Library. Gregory attends North Torrance High School.

Jeffrey Cox, the son of William and Berneice Cox, was awarded the rank of Eagle Scout for collecting cans, papers, and bottles to be recycled. He then donated the money he earned—$122.48—to the City of Hope. Jeffrey is a student at Evelyn Carr Elementary School.

Another member of the troop who gained this achievement is Ronald Rossetti, the son of Frank and Donna Rossetti. He served as a volunteer for the Torrance Park and Recreation Department, cleaning children's playgrounds by sifting the sandboxes for broken glass and other debris. He attends North Torrance High School.

David Font, also a student at North Torrance High School, was awarded this honor for his work in collecting books for the Veterans' Hospital in Long Beach. He is still involved after collecting nearly 400 books. David is the son of Richard and Verna Font.

The project to become an Eagle Scout selected by Kallen Ogren, the son of Ernest and Lavaughn Ogren, involved the preparation of 500 fliers, posters, and leaflets which he distributed around Torrance to inform the residents of methods to save energy at home, at work, and at school. He is a student at North Torrance High School.

This outstanding troop is sponsored by the Loyal Order of the Moose, Gardena Lodge No. 2062.

Mr. Speaker, this kind of community spirit and initiative is routine for those who achieve the rank of Eagle Scout, and I salute them. These five young men are a credit to their families, to their schools, and to their communities, and all of us from the area take great pride in their activities.

PITTSBURGH HIGH SCHOOL STUDENTS SUPPORT WILDERNESS BILL

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, two Pittsburgh area women, Lisa Voss and Susan Frasure, both students at North Allegheny High School, have prepared thoughtful cogent statements in support of the eastern wilderness legislation that was considered by the Interior Committee's Subcommittee on Public Lands, chaired by our very able colleague from Montana, JOHN MELCHER.

Although they were not able to present their testimony in person to the subcommittee, the remarks of Misses Voss and Frasure will be made part of the subcommittee's official record.

As the subcommittee chairman said in a note to me, the statements are "a fine example of rational intelligent youth involvement in public affairs." I could not agree with him more.

I would like to include these statements in the RECORD at this time:

STATEMENT BY LISA VOSS

My name is Lisa Voss. I am eighteen years old and a senior at North Allegheny High School in Pittsburgh. I am speaking for the student committee of the North Area Environmental Council. The N.A.E.C. is a group of adults in our community whose main concern is the preservation of the environment. The student committee of the N.A.E.C. work along with the adults in various community projects. We are involved in a recycling operation in the community and various other environmental projects. Presently, we are planning future backpacking weekends for the months of May, June, and July.

My group has sent me here for the purpose of testifying on their behalf concerning the Eastern Wildnerness Act. We are totally in favor of the passing of this act and especially concerned with Dolly Sods and Otter Creek of West Virginia being defined as an instant wilderness. Along these lines, we would also like to see Hickory Creek, Tracey Ridge, and Allegheny Front classified as wilderness study areas. Speaking for myself and the other members of my committee, I urge you to vote in favor of this bill.

I have backpacked in the Dolly Sods area twice, and in Otter Creek and Hickory Creek, once. I have never felt more freedom or tranquility as I have when hiking and camping in these areas. It pains me to think of the consequences that these areas could suffer without the help of these bills. The simple joy of drinking clean, clear water from a mountain stream excels all others for me. To be able to breathe that wonderful, fresh country air is an experience that I hope others will be able to enjoy as a result of the passing of the Eastern Wilderness Act. The quiet sounds and the beauty of nature itself stay with me as I reflect back on my past experiences with the wilderness. I intend to expand my love and knowledge of the wilderness in future years, and hope that this will be made possible through the passing of this and other similar acts. My greatest hope is that when I'm older and have a family of my own, the love I hold for the beautiful creations of God can be passed on to my children. Man can try to create beauty, but to me, the only real beauty stems from that which is natural and pure. A virgin wilderness is the most natural and pure of anything I know on this earth. I sincerely hope there will still be virgin wilderness for future generations to enjoy.

In our organization, one of the points we stress the most before embarking on a backpacking trip, is that we are merely guests to the wilderness. By this we mean that it should be left as we found it so that the next people that come through can enjoy it to the fullest extent, without a trace of any previous presence of many. For example, visualize the joy and delight I felt upon a return visit to the Dolly Sods area when I observed a particular spot I remembered, and it looked as if it had never been touched by man. I believe that respect for the wilderness is the most important requirement for a person to be considered a good camper.

In closing, I would like to thank you so very much for letting me have the opportunity to testify here today. I'm sure it will be an experience I shall never forget. I ask you once more to consider what I've said, and realize how much the preservation of the Wilderness means to me, and so many others like me who share my deep love for nature.

STATEMENT BY SUSAN FRASURE

My name is Susan Frasure. I am an 18 year old senior at North Allegheny High School in Pittsburgh, Pa., and am on the executive board of the school's Environmental Action Club.

Our club has been very active towards our environment by participating in recycling activities, setting up a hiking trail for the community, and going on backpacking studies.

I am representing my club today because of our acute interest in the wilderness. Every member of our group is very much for the passing of the Eastern Wilderness Act. We have a special interest in the Dolly Sods and Otter Creek Wildernesses in West Virginia as we have backpacked there before and plan to return again this summer.

Particularly, we are quite anxious to see Hickory Creek, Tracy Ridge, and the Allegheny Front of Pennsylvania included as Wilderness Study Areas. This fall our club packed at Hickory Creek and immediately fell in love with it. We hold great hopes that it will become a study area and eventually be classified as a true wilderness. We hope to visit either Tracy Ridge or the Allegheny Front this spring. It will be a great let down to our club if any of these natural wildernesses are allowed to fall apart because they are not classified as study areas.

North Allegheny urges you to vote for the passing of the Eastern Wilderness Act and including the Allegheny areas as Wilderness Study Areas. There are so many benefits that could come from the passing of these bills.

As an experienced backpacker, I know the reasons for valuing the wilderness. First of all, there is no better way to obtain adventurous exploring and exciting travel as in a wilderness. The thrills of self discovery and challenge are precious feelings I have found only through hiking. For those of us who are of a religious nature, there can be no better way to enjoy communion with God's beauty and feel his presence as in the solitude of the wilderness. The areas in the Eastern Wilderness Act are perfect places to find refuge in forgetting one's problems by returning to nature. Wilderness areas have potential use for scientific research, including ecological and geological features. Also, the wilderness is a wonderful place for outdoor education. I have experienced all the wonders of the wilderness. I'm asking you to make sure that future generations can share my discoveries by passing these bills.

Hickory Creek, Tracy Ridge and the Allegheny Front have all the qualifications for a wilderness study area. All through these areas the affects of nature are apparent. There are no signs of human habitation nor man's impact on nature such as roads or buildings. These are places where nature's balance of life can continue as it was intended without the help of man.

I wish there was a way that I could convey to you my love of the wilderness so that you could then see the necessity for preserving it. There is no other place that could possibly hold as much natural beauty and tranquility. Backpacking has brought to me wonderful opportunities to express myself and become closer to my friends. In the wilderness it becomes easy to understand one's purpose and to see how little man truly is. It would be sinful for man to destroy these areas and to therefore lose the essence of his natural habitat.

Once again I must ask you for my peers and especially for myself that you support all wilderness bills. Thank you so much for this opportunity of talking to such a distinguished group. Hopefully, what I have said today has made some impact. I also wish that someday all of you can discover for yourself the solitude and tranquility that exists in the wilderness.

DEMOCRATIC CAUCUS DEEP-FREEZES COMMITTEE REFORM PROPOSAL

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. ANDERSON of Illinois. Mr. Speaker, I was distressed and disheartened to learn that the House Democratic Caucus last week voted to move the Bolling-Martin committee reform proposal from the back burner to the deep freeze. If the Democrats had any real interest in seeing this important reform through in this Congress they would have moved the resolution to the front burner of the House Rules Committee now so that it could be reported to the full House in time for action yet this year. Instead, they have specifically ordered the Democratic members of the Rules Committee to take no action on the resolution while it is reposing in the reform graveyard of a caucus task force, reportedly stacked with opponents to the reform.

Mr. Speaker, the Democratic Caucus cannot deceive the American people with this fancy bit of footwork, because no matter how you look at it, they are doing the "antireform shuffle"; that is, two foot-dragging sidesteps, followed by four steps backward. I think it is interesting to note that the July reporting deadline for the task force conveniently runs up against the August recess, followed by the fall election campaign, followed by a lameduck Congress. It is apparent that the Democrats have established a timetable designed to insure that we will not be able to vote on a comprehensive reform resolution in this Congress.

Mr. Speaker, I just cannot understand, at a time when the public image of the Congress is at an alltime low, why any Member of Congress would intentionally block a well-conceived effort to put our House back in order. Apparently the Democratic Caucus' idea of running a railroad is to derail any plan to improve its operation by studying it to death. And this despite the fact that this railroad has not been reorganized since 1946.

In conclusion, Mr. Speaker, the Democratic Caucus action can only be attributed to locomotives, and I would hope the Rules Committee could take early action to put this vital House reform back on the track.

POULTRY INDEMNIFICATION BILL

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. PEYSER. Mr. Speaker, I wish to express my opposition to the Poultry Indemnification Bill (S. 3231) which is due for consideration on the floor this Wednesday. This bill proposes to compensate poultry and egg producers, growers and processors and their employees for losses suffered when the Government prohibited the sale of poultry fed poisoned feed. The chickens were found to be contaminated with unsafe amounts of dieldrin, a cancer-causing chemical. An investigation currently being conducted by the FDA is as yet incomplete and totally inconclusive as to the cause of this poisoning, but one thing is for sure; the Government is certainly not culpable for what happened. Its only role in this matter has been that of protecting the consumer from the harmful effects of negligence somewhere in the private sector. I do not believe that Government has the responsibility to insure industry against such regulation by Government agencies.

As proposed, this legislation will cost the taxpayer $10 million, but the precedent created by such action could cost much more in the future. The Federal Government would find itself in the position of bailing out auto manufacturers whose cars have been recalled due to safety defects and food manufacturers whose product is removed from the market by the FDA. The costs are potentially overwhelming, costs unjustifiably burdening the budget, and ultimately the taxpayer.

Of the $6.5 million claimed losses, $5.5 million belong to five large producers. Small family farmers are barely touched by the proposed payments; big corporations would be the true beneficiaries. The reduced supply of chickens raises the price the consumer pays. Should this bill become law the consumer will be paying twice, through higher prices and the indemnification.

I am certainly not opposed to assisting disaster victims, but the assistance should come in the form of loans rather than outright grants. Victims of natural disasters are not fully indemnified; why then do so for these five multimillion dollar corporations?

Fear of financial loss has always provided a strong incentive for producers to prevent health hazards. If indemnification exists as an ever-present potential relief measure, this incentive is lost and product safety is jeopardized.

This bill invites private irresponsibility and corporate welfare all at the expense of the taxpayer and consumer. I urge the defeat of S. 3231 and include in the RECORD, for the information of my colleagues, the following comments of Environmental Lobby, Inc., Environmental Action, Consumer Federation of America, the Sierra Club, and the health research group, all supporting my position on this bill:

ENVIRONMENTAL LOBBY INC.,
Washington, D.C., May 9, 1974.

DEAR CONGRESSMAN: We at Environmental Lobby who are primarily interested, in behalf of ourselves and our members, in the environmental and health aspects of consumer products, believe that the recent action of Congress in proposing the Poultry Indemnification Bill, S. 3231, is setting a serious and destructive precedent. It it not, in our view, the function of government to insure private industry against the regulations set forth by government agencies.

The FDA is responsible for confiscating food contaminated by unsafe levels of pesticide residues. The fact that the chickens were found to contain unsafe amounts of Dieldrin was not the government's fault—perhaps the Dieldrin manufacturers or the feed processors, but not the government and the tax payer.

Dieldrin has long been considered a hazardous substance and this misfortune may serve to dramatize the need for a much more cautious and discretionary use of such a potentially disastrous substance.

Surely with the publicity this has generated in the press the American people will be watching congressional action on this bill. Another example of favoritism cannot help but add to the erosion of confidence in the process of government.

Sincerely,

BEVERLY CARTER.
JOAN SHOREY.

ENVIRONMENTAL ACTION,
Washington, D.C., May 9, 1974.

DEAR CONGRESSMAN: Environmental Action opposes the "Poultry Indemnification Bill," S. 3231, because the bill penalizes the federal government for something for which it is not responsible.

The government was not at fault in prohibiting the marketing of dieldrin-contaminated chickens and should not be held responsible for the losses incurred by its regulatory action. In normal legal procedure, the claimants would file suit against the negligent parties or against the makers of dieldrin; this case should not be an exception.

Indemnification sets a dangerous precedent by rewarding businessmen who ignore safety precautions. The U.S. Department of Agriculture has stated before the House Agriculture Subcommittee (April 10, 1974): "We want maximum encouragement for industry to assume responsibility for its products." This bill *discourages* industry from taking such responsibility.

The indemnity payments profit five large corporations—not small farmers. The current estimate of damage is $6.5 million—about $1 per chicken—and only $900,000 would be divided among the small farmers and workers who suffered losses. The corporations are benefiting at the consumers expense. The taxpayer will pay twice—first for indemnification and resultant price increases. The reduced supply of chickens and higher prices benefit the producer, not the consumer.

This bill sets a precedent that will ultimately cost the U.S. government far more than $10 million. From now on, any business loss suffered due to federal regulatory actions (even those taken in the interest of health and safety) will be the subject of similar demands for indemnification. Private industry should hear the burden of proof and economics where the public health and safety are concerned. The federal government should not be forced to insure private industry against unsafe products. If the government is forced into this role, we can expect weakened federal safety and health regulations and an increase in the number of Americans suffering from the ill-effects of unsafe chemicals and consumer products.

Sincerely,

PETER HARNIK,
Coordinator.

CONSUMER FEDERATION OF AMERICA,
Washington, D.C., May 9, 1974.

DEAR CONGRESSMAN: We oppose the "Poultry Indemnification Bill", S. 3231, for the following reasons:

The liability would fall on the Federal Government whereas it should fall on the negligent parties. The government was not at fault in prohibiting the marketing of dieldrin-contaminated chickens and therefore should not be held responsible to pay for the losses incurred by this regulatory action. The claimants should resort to the established legal remedies and file suit either against the negligent parties or against the makers of dieldrin.

This bill undermines health and safety legislation. Regulatory agencies cannot protect the public health when the government must bear the economic loss of removing environmental hazards. Widespread hazards would continue while minor hazards would be eliminated since the government could afford to pay for them.

The indemnity payments would profit five large corporations rather than the small farmers. The current estimate of damage is $6.5 million. Of this, the five corporate producers would receive: $713,000, $945,000, $932,000, $1.4 million, and $1.5 million. Furthermore, the five major producers have already secured loans so that the indemnification would serve to pay back the loans.

The corporations are benefitting at the expense of the consumer. The taxpayer is being asked to pay twice: first for indemnification, and then for higher-priced chicken.

Indemnification would destroy the incentive for honesty and reward businessmen who ignore risks. The U.S. Department of Agriculture has stated before the House Agriculture Subcommittee (April 10, 1974): "We want maximum encouragement for industry to assume responsibility for its products." This bill would vitiate such a concept by removing the fear of loss caused by a banned product.

Other remedies exist which would be more appropriate than indemnification. Small farmers are covered by a law which gives the Agriculture Department the authority to assist (7 USC s 612 C(3)). When losses are suffered because of an act of God (e.g. tornado, hurricane) the government makes loans available to the victims with the first $5,000 forgiven. It seems inconsistent to authorize outright payments to people suffering losses due to negligence of man while only loans are awarded to the innocent victims of acts of God. Furthermore, under ordinary circumstances the losses would be recovered through private litigation without the intervention of government.

An indemnification bill will ultimately cost the Treasury more than the purported $10 million. A Pandora's box will be opened and all manufacturers, distributors, and producers will clamor for indemnification whenever they suffer losses due to regulatory action taken by the Federal Government. It is not the function of government to insure private industry against unsafe products. If it were, the end result would be no federal safety regulation and an environment of increasingly greater chemical hazards to health.

Regards,

CAROL TUCKER FOREMAN,
Executive Director.

SIERRA CLUB,
Washington, D.C., May 13, 1974.

DEAR CONGRESSMAN: The Sierra Club strongly opposes the Poultry Indemnification Bill, S. 3231, which has been tentatively scheduled for a floor vote on Wednesday, May 15.

Indemnifying poultry producers for losses sustained from the destruction of chickens *contaminated* by Dieldrin will destroy incentives to handle pesticides and other environmental pollutants in a responsible manner. Enormous quantities of hazardous pesticides and other chemicals already have been released into the environment and are slated for future use. The quality of our environment and human health and welfare are very largely dependent upon the safe use of pesticides. We can not afford to reduce incentives for the greatest care in their handling and use.

In passing this legislation Congress will have acted precipitously and without full information on a matter which must have serious investigation. Questions as to the cause of the contamination remain unanswered. To adopt a solution without knowing whether it will ensure against further occurrences—and in this case will encourage carelessness—is to further jeopardize environmental quality and human health.

We are sympathetic to the economic and social problems for innocent persons caused by the destruction of the contaminated chickens. However, these losses can and should be handled in the same manner as other disaster relief—by low interest loans and unemployment compensation. If negligence is found on the part of some persons, they should be made to shoulder the financial burden also. Local sentiment in Mississippi is divided on the issue of compensation by indemnities, and many people there are opposed to the special treatment being given the poultry producers, in particular the larger corporations which will benefit from the major portion of the indemnities funds.

Congress should reject this unwise legislation, and should instead seek a solution which would ensure against any further hazards to human health and environmental quality. We urge you to join with Congressmen Peyser, Vigorito, Goodling, Findley, Mayne, Symms, Yates, and others in opposing S. 3231.

Sincerely,

LINDA M. BILLINGS,
Washington Representative.

HEALTH RESEARCH GROUP: POULTRY INDEMNITY PAYMENTS, S. 3231

The Bill would pay out $10 million to chicken producers as "compensation" for money losses when their chickens were seized because of contamination with harmful chemicals. The Bill is designed to pay five big Mississippi chicken producers because the U.S. government declared their chickens unfit due to contamination by Dieldrin, a cancer-causing chemical. The Dieldrin apparently came from chicken feed.

We oppose this bill because:

1. It pays millions of dollars to private business when the government was not at fault.

The government exercised its lawful function of inspecting food and preventing contaminated food from reaching the public. The government has never given permission for Dieldrin residues in meat or in chicken feed.

2. It pays large corporations.

At least 80% of the money paid out goes to big business, not to small family farmers. This Bill does not require financial hardship to be shown.

3. It destroys the incentive of businessmen to prevent health hazards.

A prime incentive for keeping products safe, is fear by the producers of financial loss if the product is unsaleable. Once producers know that the government will cover their losses, they have little reason to demand cautious conduct of themselves or their suppliers.

4. Other remedies are available.

Victims of natural disasters such as tornadoes, get government loans. These businessmen should get loans, if anything; not handouts.

Vote against S. 3231.

Vote against welfare for Mississippi corporate big boys.

THE REAL ISSUE IN THE DEFUNIS CASE

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Ms. ABZUG. Mr. Speaker, this week marks the 20th anniversary of the landmark decision in Brown against Board of Education and this year marks the 10th anniversary of the passage of the Civil Rights Act of 1964. I would like to be able to celebrate these anniversaries by proclaiming the accomplishments achieved under each of the two historic affirmations of national policy. But reality has not matched the intentions of either the Court decision or the will of Congress.

The issues that were being dealt with 20 years ago and 10 years ago are still before us. Sometimes they appear in the same form, often in altered forms. One of the altered forms of an old problem reached the Supreme Court this term. Accompanied by much publicity and I believe much misleading publicity, the DeFunis case became national news.

Howard Meyer, an attorney and author of "The Amendment That Refused To Die," a history of the 14th amendment, recently wrote for Newsday a perspective and thoughtful analysis of the real meaning of the DeFunis case. I commend Mr. Meyer's article to the attention of my colleagues:

THE REAL ISSUE IN THE DEFUNIS CASE

(By Howard N. Meyer)

When the Germans negotiated a "reparations" treaty with Israel after World War II, no one inside or outside Germany cried "reverse discrimination" or complained about the economic deprivation suffered by West Germans who were rebuilding a wartorn land, even though many of them were too young to have had any part in perpetrating their nation's crimes against humanity.

When my youngest son saw his guidance counselor about selecting a college, he was told that sons of Columbia alumni who meet certain minimal requirements were certain to be admitted to that school if they agreed in advance to accept. Other young people with higher qualifications were excluded as a result. No one ever made a fuss about this practice, which is not unique to Columbia.

I thought about these things as I read the cascade of columns dealing with Marco DeFunis' lawsuit to gain admission to the University of Washington Law School. DeFunis applied to enter the school in 1971 and was rejected, although his grades and aptitude-test scores were higher than those of 36 minority students who were accepted under the school's affirmative action program. DeFunis sued the school, alleging reverse discrimination against him on the ground of race.

He is in a safe haven now; while controversy rages over his initially rejected application, DeFunis will graduate this June. This bizarre situation ensued after a lower court voided the action of the school's admissions committee and ordered that he be allowed to register. He had completed more than half the course when the supreme court of Washington State rejected the lower-court ruling; but its order of exclusion was "stayed" by Justice William O. Douglas pending U.S. Supreme Court review.

Written arguments were presented to the Supreme Court by a wide-ranging roster of legal luminaries. The lawyers for the university and DeFunis were eclipsed by an array of *amici* ("friends of the court"), including Jack Greenberg, Joseph Rauh Jr., Archibald Cox, Erwin Griswold (all pro-university), Alexander Bickel and top counsel of the AFL–CIO (pro-DeFunis). Now the case has been declared "moot"—academic—since the court decided a decision would have no effect on the litigants because DeFunis is certain to graduate.

But the questions raised will remain to haunt us. They are being agitated by a cluster of white male liberal groups supporting the DeFunis side of the argument. There has been a widely orchestrated effort to achieve a politico-economic objective: reversal of the decade-old movement to repair "by affirmative action" the injuries to the fabric of our society that have been caused by the long dark decades of violation of the 14th Amendment's guarantee of equal protection under the laws.

The war cry of these forces is as plausible-sounding as any demagogic slogan: "reverse discrimination."

The phrase is slick, misleading and mischievous. Although it is deceptive it has gained acceptance through slanted presentations of the case that has been selected for a *cause celebre.*

One established proposition the pro-DeFunis forces ignore is that all pre-admission aptitude tests contain built-in weaknesses reflecting the examiners' own limitations. In addition, no school automatically admits all high-scoring applicants on the basis of these mechanistic tests.

Columnists who deplore "reverse bias" are overlooking the valid criteria that led the law school to accept qualified nonwhite applicants who had scored slightly lower than DeFunis: (a) white law students preparing to practice in a multi-racial society have a legitimate need to be part of a student body that is fairly representative of that society; and (b) prospective consumers of legal services (whether black, female or otherwise part of a previously victimized group) have a legitimate need for access to attorneys to whom they can relate with confidence because of shared life-experience. (It has also gone unmentioned that DeFunis would not have been kept from the bar: He'd been accepted by other law schools before he chose to sue Washington State's.)

These factors were legally sufficient to decide the case in favor of the university defendants. It was also quite possible to meet the DeFunis agitators head-on over the issue that they falsely pose as the only one. They say in effect, that it is *never* permissible to consider the race (or other group victimization) of an applicant in deciding who shall be admitted to a school. This, they say, is discrimination against those who had higher scores; "reverse discrimination" because the "victim" is now the nonblack. As they say so, they conceal the fact that DeFunis was rated, on discretionary criteria, behind 38 white students as well as 36 minority students who had scored lower—but had met the minimum standard.

It is surprising that women's groups (except for the National Council of Jewish Women, bravely opposing male Jewish organizations) did not join the many *amici* who supported the university's defense of its remedial policy. Early in the history of the 19th Century Supreme Court's perversion of the 14th Amendment, it ruled that Illinois could exclude women from admission to the bar. To make up for the accumulation of injustice symptomized by this, should not a lower-scoring, but qualified, woman applicant be preferred if needed to have a balanced make-up in a law school class?

Those who attempted to use the DeFunis case to jettison affirmative action programs argue a great fallacy. That is, that the pervasive effect of chronic and built-in violation of the 14th Amendment can be remedied merely by saying, "Cease!"

It cannot. Sheer inertia is enough to perpetuate institutionalized injustice. Laws and courts that say merely "thou shalt not commit further injustice" do not fulfill the purpose of the 14th Amendment.

History teaches that the 13th Amendment, which terminated slavery, was seen to be insufficient by the people who drew it. They followed it in 1868 with the 14th not merely as a bland command, but as a tool to root out injustice: to make possible creation of machinery to undo the accumulated effect of the evils of the past. It is regrettable that Justice Douglas did not accept this view.

Quietly, steadily, day by day, the laws that came into being in the 1960s to reinvigorate the 15th Amendment have been implemented by the development of affirmative action programs. The U.S. Commission on Civil Rights, in a progress report last February, found that "the use of affirmative action is basic" to the new laws. The federal appellate courts have repeatedly so ruled. The city of Jackson, Miss,. has put the North to shame by voluntarily adopting a program to hire the subjects of prior discrimination preferentially; its goal is elimination of "the residual effect of past discrimination."

Marco DeFunis was the pawn of forces that seek by a slick slogan to undo progress toward eliminating injustice. Their concept of instant color-blindness, or instant sex-blindness, is not adequate for a society that for more than a century has denied equal protection of laws it guarantees to persons of the wrong sex, color, religion or parentage.

FIRE SERVICE RECOGNITION DAY

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. EILBERG. Mr. Speaker, the Philadelphia Fire Department observed Fire Service Recognition Day on Saturday, May 11, with open house at all its fire stations.

Fire Service Recognition Day is a national observance held in every city in the country to focus attention on the important role fire departments play in protecting the public's safety.

Fire Commissioner Joseph R. Rizzo extended a special invitation to all Philadelphians to visit their local firehouses, meet their firemen, examine the modern firefighting equipment, and learn about the vital services the men provide.

Philadelphia's Fire Department is nationally recognized as the country's No. 1 major firefighting organization. Since 1953, it has won the National Fire Protection Association Grand Award four times as the country's best fire agency. It has also won 16 first-place awards for the best fire service record in the NFPA's major city category of 500,000 or more population.

The department has received 10 George Washington Medals from the Freedoms Foundation of Valley Forge, including the foundation's highest medal, the Principal Award, for its innovative fire safety education programs. It has also won a Distinguished Service Award given by the Freedoms Foundation only to organizations that have won 10 George Washington Medals.

RAYMOND TOWNSEND, COCKEYSVILLE, MD., SCHOOL PRINCIPAL, RETIRES

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. LONG of Maryland. Mr. Speaker, Mr. L. Raymond Townsend, principal of Padonia Elementary School in Cockeysville, Md., is retiring in June after 42 years of distinguished service in the Baltimore County school system. I would like to take this opportunity to pay tribute to Mr. Townsend for his years of devoted service to the education of Maryland's youth.

Mr. Townsend graduated from Towson Normal School in 1932 and went on to receive a bachelor of science degree at the University of Maryland. In 1953, he achieved his master's degree at Loyola College. He has taught in three county schools and during the past 34 years has served as principal in six elementary schools.

During this time, Mr. Townsend has been a champion of innovation to improve pupil services and instruction. He succeeded in securing the first guidance counselor in a Baltimore County elementary school. He introduced the first hot lunch program and the first special reading program at the elementary school level. In May 1973, the Teacher's Association of Baltimore County honored Mr. Townsend with an award for distinguished service to the pupils of Baltimore County schools. He has been active in local, State, and national teacher and administrator associations throughout his career. I join his colleagues in saluting Mr. L. Raymond Townsend's outstanding accomplishments in the area of elementary education.

WILLIAM S. MAILLIARD RETIRES AFTER 21 YEARS IN CONGRESS

HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. ROONEY of New York. Mr. Speaker, the recently announced resignation of my good and long-time friend and colleague from California, the Honorable William S. Mailliard is, in one respect, a great loss to the House of Representatives and the State of California but, in another, a great gain for our delegation to the Organization of American States.

Bill's resignation from the House of Representatives is, I believe, rather indicative of the approach Bill has always taken toward public service: If there is a way in which he can be of greater service to his country, then he will take up the new challenge. The challenge he faces this time will be as Permanent Representative of the United States to the Organization of American States, where he will be in a unique position to render great and long lasting service to the cause of peace and understanding between all the nations of this hemisphere.

Public service is not new to our friend, the gentleman from California. Bill started his career of public service shortly after graduating from Yale in 1939 when he was assigned to the American Embassy in London as an assistant naval attaché. He continued military service until 1946 and presently holds the rank of rear admiral in the Naval Reserve. His military career has been highlighted by the awarding of the Silver Star, Legion of Merit, and the Bronze Star.

Returning to civilian life, Mr. Speaker, Bill Mailliard became director of the California Youth Authority in 1947 and in 1949 became secretary to Gov. Earl Warren. In 1952, he was elected to the 83d Congress and has held that seat until his recent retirement.

Shortly after his arrival here in Congress, it became clear to all of us that here was a man of exceptional skills and talents with a flair and feel for international affairs. During his long career in the House, Bill Mailliard has become a trusted adviser to four Presidents, both Democratic and Republican.

Bill has also represented his country well and often at many international conferences. He was a delegate to the 18th session of the United Nations General Assembly, and as a delegate to the 22d session of the United Nations Law of the Sea Conference.

Mr. Speaker, it is with deep regret that I see Bill leaving this august body. His insight and expertise will be sorely missed. Mrs. Rooney joins me in wishing Bill and his lovely wife, Millie, much success and happiness in all their endeavors in the years to come.

YESTERDAY: A POLICY OF CONSUMPTION

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. HARRINGTON. Mr. Speaker, much of the congressional discussion on the energy crisis has not focused on one very real issue that must be addressed—the simple fact that we have finite fuel resources.

The American people—and citizens of every nation in the world—must realize that there are limitations on energy. We cannot maintain our present growth rates in many areas if we expect to have sufficient energy.

We have kept the price of energy artificially low for several years and as a result created an energy-hungry economy that may soon be faced with the very real prospect of energy starvation. There may not be enough oil or coal left.

I would like to bring to the attention of the Congress an article by Gordon J. F. MacDonald, Dartmouth College's Henry R. Luce Third Century Professor of Environmental Studies and a member of President Nixon's Advisory Commission on Energy, that appeared in the April 1974 edition of the Dartmouth Alumni magazine.

Professor MacDonald raises some important questions and suggests that a "10-percent reduction per capita in usage of energy is a realizable goal and one that can be implemented as we work with a number of other possibilities of getting through the next few very, very difficult years."

Professor MacDonald's article follows:

YESTERDAY: A POLICY OF CONSUMPTION

(By Gordon J. F. MacDonald)

Everyone has probably experienced an energy problem of one sort of another—sometimes it's personal, sometimes it's imposed from the outside. Today those problems, the brownouts and blackouts, which really resulted from failures in planning, failures in equipment, failures of a variety of kinds, are being compounded by the increasing demand for energy, and at the same time, by the increasing shortages of fuels.

To understand the current situation, it is helpful to trace some of the historical trends of how energy is used in our country and how that use has developed. An aborigine in the middle of Australia needs about 150 watts of energy to keep himself going—almost entirely in the form of food. That sets the base figure, 150 watts per person, as the minimum energy requirement needed to survive. Back in 1905, in order to fuel our economy, in order to keep people moving and fed, we used, on the average, 4.5 kilowatts per person. Since then those figures for the United States have increased consistently with fluctuation associated with both world wars and the Depression. Generally, the trend has been up. In my estimate for 1973, even with a variety of conservation measures, the average per capita use of energy is 13 kilowatts. This is all forms of energy: transportation, electrical power, all ways of using resources to produce energy of one sort or another.

Another very important figure to be considered when looking at the energy problem is how many units of energy it takes to generate one dollar of the gross national product. This is a measure of efficiency of how energy gets into our economy, and it reveals some very interesting and, at the same time, some very disturbing trends. For many years it took less and less energy to generate a dollar of GNP. That meant that our economy was becoming more efficient and we were able to convert energy into goods and services at an increasingly efficient rate. Beginning around 1966, that trend turned around rather dramatically and over the past seven years it has taken more and more energy to generate that dollar of GNP. Rather than becoming more economically efficient in our energy use, we are becoming decreasingly efficient, and have been markedly so over the last seven years.

Now what about the rest of the world? How do other countries use energy? Using the same measure of kilowatts per capita, other industrialized countries—West Germany, the United Kingdom, the Soviet Union—use energy at a rate of somewhere between one-half to one-third of the United States.

The point is that back in 1905, we consumed energy on a per capita basis that is equal to or perhaps even greater than the rate at which other industrialized countries are using energy today, almost 70 years later. We have had a historical pattern of using very large quantities of energy. There has been a conscious policy developed by Democratic and Republican administrations alike to price energy as low as possible in the general belief that low-priced energy would generate greater economic growth. So we have always used energy at a rate that is substantially larger than other countries and this pattern has continued. Part of this, of course, can be explained by the fact that the United States is a large country, long distances are involved. Basically, however, we have had a history of using energy as intensively as possible. The countries used in this comparison were the industrialized countries. If we look at the rest of the world, the average is about 1.8 kilowatts per capita. This is a factor of about seven less than the rate in the United States.

Now turn from these rather broad generalizations and historical patterns and consider how energy is used by four sectors of our economy: first, the percentage of energy that is directly used for heating plants in houses and commercial establishments; second, the energy that goes into the industrial sector of the economy; third, the energy that goes into the transportation sector of our economy; and fourth, the energy that goes into electrical power. I will not count energy twice. I will just count the energy that is used directly in the home by burning fuel oil in the residence; I will not count the electricity that is used in the home to run the washing machine—that will be under the electrical power utilities. What is seen is that energy which goes into the household and commercial sector has remained more or less constant. The industrial sector is using less and less energy. This is a reflection of the fact that our economy is moving away from heavy industry into light industry, one oriented toward products and services. Transportation, in terms of total percentage of energy use, remains about constant. The very dramatic increase in the total amount and percentage of energy used is in the sector of electrical power.

Twenty-five percent of the energy that is used in this country goes into generating electricity. This has increased very rapidly and is presently growing at such a rate that the amount of electrical energy that we will use, or the energy that goes into electricity, will double in somewhere between every eight to ten years.

Now look at how this energy is derived in each one of these sectors. The principal energy sources are burning of coal, burning of oil, and burning of gas, followed by hydroelectric power and, to a small extent, nuclear power.

In the household and residential sector the percentage of energy due to coal has dropped precipitously. Very few people heat their homes with coal any more. Petroleum has remained more or less constant in terms of percentage of source of energy that goes into the residential and commercial area of the economy. At the same time there has been an enormous increase in the use of natural gas. This shift is significant in many ways: Natural gas is becoming a less abundant commodity. The rate of discovery of natural gas fields has decreased substantially. At the same time coal is by far the most abundant fossil fuel source in this country. In the industrial sector the same pattern is taking place; industry as a whole is getting more of its energy from natural gas and less from coal.

In the transportation sector almost all the energy used to move people and move goods comes from petroleum. Petroleum is the driving, motivating fuel.

Now turn to the electrical utilities. Where do they get their energy? There is something of the same pattern; an increase in oil and natural gas, a decrease in hydro power and nuclear power. Nuclear power for this year will run between two and three per cent. Even though the capacity is around five per cent, the uptime for nuclear reactors is so low that the total fraction of the energy produced by nuclear power will still be a very small percentage of the total energy. The percentage by hydro power has dropped basically because we don't have any more rivers to dam up. There are plans to do something about the Grand Canyon, but I am sure that will lead to rather substantial battles with the environmentalists.

Where does the electricity go? There has been a small percentage increase in the residential use of electricity. This may be surprising because we often hear about how we waste energy with electric dog nail clippers and things of that sort. In fact, the use of energy in the residential area has remained more or less constant—indeed it can be demonstrated that most of this growth is in air conditioning and electrical heating.

Much more significant is a very heavy increase in the commercial area. An ever greater percentage of electricity is flowing directly into office buildings, into parking garages, athletic stadiums and other commercial establishments. Industrial use has been decreasing, again reflecting the gradual conversion of our industrial phase of heavy industry to one that is based more on high technology and on services.

Now, what if one takes these historical figures and asks the question, "What's going to happen in the future given our current set of policies with respect to pricing, regulation, etc.?" The answer is that in the next 15 to 20 years the total energy consumption will just about double—if the sources are available. This is just an extrapolation of the past historical trend, assuming no changes in the variety of policies that influence energy usage.

The present trends indicate a much greater increase in the use of liquid petroleum. And this, of course, is one of the most worrisome elements of the current world situation—that the amount of liquid petroleum to be supplied by domestic sources is unlikely to meet these demands, even given the development of the Alaska pipeline and our resources on the outer shelf of the Atlantic coast.

It may be instructive to go back to transportation and indicate where the energy used in this sector goes. This represents a figure of billions of gallons a year and is very hard to grasp. The transportation sector today is using a little over 20 per cent of the total energy in the country. If we maintain our current pattern of use and if the United States automobile "population" continues to increase at the rate of four per cent per year, the automobile alone will use up all United States petroleum reserves in about ten years. Now that's the problem. This includes an attempt to estimate Alaska and outer continental shelf sources. If we take into account the Amazon developments, Venezuela, and Canada, the time can be postponed to about 1990. The world problem is somewhat worse because the rate of automobiles in the world has increased at almost seven per cent per year; and it won't take very long to use up all the world petroleum reserves just by driving automobiles.

This is, then, a very graphic illustration of what enormous strain even one segment of our total economy, transportation, places on existing natural resources. Of course, we can extend this by using oil shale and converting coal to petroleum, but nevertheless this illustrates a point that is very necessary to understand—we cannot maintain our present transportation pattern in this country without running out of petroleum with a time scale that is small. It's not 100 years—it's 10, 20, 30 years.

There are some very fundamental questions to be asked about why, historically, our use of energy has been extravagant, why it continues to be so, and what are some of the underlying reasons. Actually, this country has not had an energy policy that one could describe, other than it would appear in the nation's interest to keep energy priced as low as possible and in this way to drive an ever-increasing economy. For many years this policy worked in the sense that energy was becoming more efficiently used in generating a dollar of GNP. Things have changed.

We have kept the price of energy artificially low through a variety of policies. These were policies done piecemeal rather than by looking at the overall problem and asking where we were going. In order to increase exploration, we provided for a depletion allowance on oil, coal, and other resources; this itself brings the price that can be charged by the supplier down. We decided in 1956 to build a system of interstate highways to provide for highspeed ground transportation. The highways were funded by trust funds generated by taxes on gasoline. The highways generated more traffic, more taxes, more miles of highway, which is what one could call a positive feedback loop with some very great gains in the loop.

We have subsidized the development of nuclear energy through the Atomic Energy Commission. A very substantial amount of money went into making and developing a workable light-motor reactor and now the breeder reactor. Tax money went into that research. Where the supplier of the electricity does not have to pay for the cost of research and development, it can supply the electricity at a lesser cost than otherwise possible. A very great subsidy in the nuclear industry is the so-called Price-Anderson Bill, which limits the liability of utilities in the case of accidents. Otherwise utilities would have a very difficult time insuring themselves against catastrophic accidents. This is the way government steps in and regulates or provides for artificially low-priced energy.

In the coal area there is a whole class of similar subsidies. Last year the federal government paid $600 million to miners who suffered from the terrible black-lung disease. This is money that is coming from all the taxpayers and not from the users of the coal. No one has really questioned how government actions have distorted the price structure in the energy field.

I have not mentioned a very, very substantial cost that has been totally neglected. The utility, the industry, and even the resident has used the air and the water as a way to dispose of waste products without paying for their use. That, of course, is in the process of change through regulations—there have been proposals for taxes or charges on materials that are admitted into the atmosphere. But in the main these costs have been borne by society as an added health cost, as an added cost in clean up, and in a variety of ways. The basic point is that the producer and the user have not paid the total price in the cost to produce that energy. We simply haven't started to probe and ask some of these long-term questions of how we can develop a system within our price mechanism that will correctly reflect the cost of energy and the variety of ways that it can be used.

There is one terribly important goal that goes back to the first number—the 13 kilowatts per capita. Anyone who analyzes this problem recognizes that we can cut that figure back without decreasing, in any way, our standard of living or quality of life. A ten per cent cut to the levels in 1970 on a per capita basis will not make a noticeable difference in how people live and how they feel about life. So the one very great goal that we should be pushing for is energy conservation. A ten per cent reduction per capita in usage of energy is a realizable goal and one that can be implemented as we work with a number of other possibilities of getting through the next few very, very difficult years.

MORE ON GREECE

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. EDWARDS of California. Mr. Speaker, reports out of Greece seem to indicate that economic and political problems are becoming worse and building toward a climax.

It might be especially useful, therefore, to consider a timely article by Prof. George Anastaplo of Chicago's Rosary students, a massacre in which the Greek political affairs and U.S. foreign policy. I believe my colleagues will find it interesting and thought povoking:

BLOODIED GREECE: NO WAY OUT?

(By George Anastaplo)

It has now been seven years since a clique of colonels seized the government of Greece. That usurpation culminated last November in the shooting in Athens of a number of students, a massacre in which the Greek government acknowledges a dozen dead and in which unofficial sources count dozens if not even hundreds of dead. One result of the massacre was a military coup on November 25 which removed from office the demoralized dictator who had been in charge since April 21, 1967.

The student demonstrations which were suppressed so bloodily in November had been prompted by the general deterioration of the colonels' rule, a deterioration reflected both in a runaway inflation and in a general fatigue. The bitter discontent students were expressing was, it now turns out, shared by much of the Greek nation as well.

The crisis which toppled the bloody dictatorship in Athens cannot be resolved, or even smothered, by recourse to still another military strongman. That crisis is rooted in the incompetence and arrogance of colonels who cannot be expected to handle intelligently the complex social and economic problems of Greece. Such usurpers simply cannot enlist the necessary services and good will of the better professionals, politicians and military officers of that country for the great work of reconciliation and austerity which Greece so desperately needs.

It has now been five months since the army moved. It was not clear at that time just who would be ruling the country thereafter: another clique of ideological colonels who would try to maintain the dictatorship, or non-political regular army officers who would turn over the government to civilian rule. Non-political officers would by this time probably have surrendered power if they had been in control. Instead, one hears more and more reports from Greece of widespread torture and stifling repression—and this suggests that ideological officers have remained dominant in Athens.

The shortsighted role played by the American government since the colonels first took over in 1967 has already (and perhaps even permanently) compromised, in the eyes of the resentful Greek people, our legitimate interests in that country and hence in the Eastern Mediterranean. Among our mistakes has been that of publicly backing the wrong man in Greece, and in such a way as to make us seem either foolish or unfeeling.

One constructive role the United States can play is to provide the considerable money Greece will need to bail itself out of the unnatural economic mess into which the colonels have got that country. But no American Congress will provide such aid so long as the colonels remain in power. And no aid would be worth giving without a genuinely political government in Athens to use it, a government which can provide a disciplined, intelligent leadership and behind which a united country can breathe freely as it dedicates itself to an austere program of reconstruction.

The observer of Greek affairs gets an impression of helplessness, drift and malaise, with the new government going through the forms of moral regeneration and reform. But those forms have been made a mockery by revelations of the corruption around the recently deposed dictator who had also preached moral regeneration when he first came to power. It must be difficult for anyone in Greece today to take seriously anything a military government says these days.

And yet, what way out is there? As economic conditions worsen, partly as a result of the shortsighted measures adopted by the colonels since 1967 in order to stay in power, acts of desperation (including exploitation of crises with Turkey) will be provoked on the part both of government officials and of their opponents. An explosion can be expected next fall or early winter, when students return to their universities from summer vacations.

Thus, even more bloodshed can be expected upon the next "encounter" as well as a pronounced radicalization both of the opposition to the colonels and of the political life following the colonels—unless the present rulers of Greece can be persuaded to return to their barracks.

We Americans should, before still another ruthless dictator becomes consolidated in Athens or before a massive explosion radically disrupts the life of that country, try to redeem somewhat our good name by using our remaining influence in Greece and NATO, as well as our economic power, to help the Greek people recover control of their own affairs. This can best be done by vigorously encouraging the colonels to step aside for Constantine Karamanlis, the man whose prestige as a former conservative prime minister still recommends him to the Greek people (including elements as diverse as responsible Army officers and articulate Leftist intellectuals) as the best way to avoid even bloodier crises which now threaten their country.

Greece may be the only country in the world today where the genuine popular alternative to domestic tyranny is so moderate and so experienced a politician as Mr. Karamanlis. What more can the Greeks or the United States hope for? Dare we or they risk further deterioration in Greece and in American-Greek relations?

If the changes begun so bloodily last November are not properly followed up during the next six months by responsible men in Greece and the United States, the political map of the Balkans is likely to be radically and hence dangerously altered during the next decade.

VOTER REGISTRATION ACT
(H.R. 8053)

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. LUKEN. Mr. Speaker, May 8 was a dark day in the history of election reform. I am deeply disappointed that the House rejected postcard registration.

I supported this legislation because the present system of voter registration disenfranchises millions of voters nationally, and thousands in my own district of Cincinnati and Hamilton County. It is the red tape and the bureaucratic hurdles that keep these people from fully participating in our electoral process; not disinterest or indifference on their part. They are senior citizens who are often physically unable to get to registration centers, workers who may be unable to register because 76 percent of the country's voting jurisdictions have no Saturday or evening registration in nonelection months—these are the people who gain access to the voting booth.

In my home city of Cincinnati, for example, only 58 percent of the eligible voting population are registered. Hamilton County as a whole has somewhat higher registration figures; approximately 68 percent. But as these statistics indicate we are a long way from the high level of participation that insures a strong and dynamic democracy.

Registration by postcard would have offered a simplified, convenient, and uniform system of registration that would have encouraged greater numbers of citizens to participate in our electoral process. Studies have shown that registration is the key phase in such an attempt. Over 87 percent of those who register do in fact vote.

Proof of the effectiveness of postcard registration lies in the experience of States which have already adopted this method: Texas, North Dakota, Minnesota, and more recently, Maryland. None of these States have witnessed the administrative nightmares proclaimed as inevitable by the opponents of this bill. On the contrary, they have all experienced a significant increase in registration with little difficulty. Maryland, for example, has seen a five-fold increase in registration in some counties since January of this year. Other States have experienced similar gains.

I certainly hope this legislation comes before the House again soon. And I hope at that time, the House will proceed to enact this vitally needed legislation. The time has come for election reform.

H.R. 14655

HON. KEITH G. SEBELIUS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. SEBELIUS. Mr. Speaker, I would like to take this opportunity to discuss H.R. 14655, legislation I feel is crucial to both the consumer and the farmer. This legislation, which I recently introduced, would adjust wheat and feed-grain target prices established under the Agricultural and Consumer Protection Act, or the "farm bill" of 1973.

I would like to emphasize the point that last year's farm legislation stressed the word "protection," both for farmers and for our Nation's consumers. The intent of this bill is simply to protect the farmer in such a way that we enable him to receive a fair return for producing our Nation's food supply. If we enable the farmer to do this, we in turn will be guaranteeing the consumer he will continue to be able to purchase the best quality food at the lowest comparative price in the world.

Present law provides for cost of production changes in wheat and feed-grain target prices for 1976 and 1977 crops. It is the intent of my legislation to see that this cost of production protection is also provided for the 1974 and 1975 crops as well.

Let us look at the rather astounding record of the farmer during this past year, despite problems with increased costs and crucial shortages. The American farmer singlehandedly provided this Nation with its first balance-of-payments surplus in 3 years and provided a favorable trade balance equal to the cost of our petroleum imports last year. The farmer not only feeds America, but his productivity moves America as well. Given this record of accomplishment, the farmer needs, has earned, and deserves income protection.

In view of rising food prices and the obvious need for increased production, the Government has pulled out all stops and is encouraging farmers to push for full production this year. I feel quite strongly that it is only fair to accompany this encouragement with income protection. Without some assurance along these lines, farmers will either cutback future production or be the victim of the reoccurring cost-price squeeze that will force more farmers out of business. We, of course, cannot afford either alternative.

The intent of the 1973 farm bill was to return to a market-oriented agriculture. It was also the intent of Congress to provide some minimum protection for producers should a serious imbalance occur between supply and demand during this transition. This protection is needed now.

Since the farm bill became law, prices paid for fertilizer and liming materials have increased by over 50 percent, fuel and farm machinery supplies have increased almost 30 percent, and interest rates and land costs have skyrocketed. Not only has the farmer witnessed everything he must buy go up in price, he has also been faced with critical shortages of fertilizer, machinery, bailing wire, fuel, and other essential goods and services. He is in the unique position of having to pay record prices for what he cannot get.

And, since the farm bill became law, we have all read the headlines and heard the news that farm prices reached an alltime high. Much smaller headlines and much less time has been given to the fact farm prices have recently plummeted. Wheat that was selling for close to $6 a bushel is now worth approximately $3 at the country elevator. Beef prices have declined 33 percent since their highs of last summer, resulting in losses of $150 to $200 a head to feeders. The farm income picture has changed drastically. In short, the farmer never had it so good, if it wasn't so bad.

Mr. Speaker, it is time the Government stands behind its commitment to protect producers from overproduction, depressed prices, and income. This is necessary to enable the farmer to make the kind of long-range economic planning and investment so necessary to our Nation's food supply. It is also necessary if we are going to continue to provide our Nation with a favorable trade balance, if we are going to continue to be able to pay for the increasing cost of energy imports, and if we are going to stabilize the value of the dollar.

In support this legislation, I want to stress those of us vitally interested in agriculture are hopeful farm prices will not reach the levels where target price support will be necessary. The farmer is justifiably proud of his role at the head of our Nation's commerce. He would much prefer that he receive a reasonable return in the marketplace. However, it should be realized the Government still influences the farmer's price to the degree that a reasonable support commitment should be maintained in order to protect the farmer from Government action—or overreaction.

Since coming to Congress, my office motto has been to be fair with the farmer, for he is the backbone of the Nation. This bill is an extension of that philosophy. I ask the support of my colleagues to enable the farmer to provide this Nation with food and fiber.

PRESIDENTIAL RESIGNATION

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. MICHEL. Mr. Speaker, I respectfully disagree with some Members of Congress as well as some of our friends in the media who have been urging the President to resign. It is my feeling that we have a constitutional process to deal with the question of whether or not a President should be removed from office and that process should be allowed to run its course.

An article by William S. White appearing in the Saturday, May 11, 1974, issue of the Washington Post outlines the perils of Presidential resignation and I include the article in the RECORD:

THE PERILS OF PRESIDENTIAL RESIGNATION

(By William S. White)

Those who are joining in the rising clamor that the President should simply resign forthwith, thereby saving everybody a lot of pain and trouble, are proposing the worst possible resolution to one of the gravest issues in our history.

"Let's get it over with" has an appealing ring; the only trouble is that it is dangerously simplistic. In the first place, everybody knows that in the current circumstances "resignation" is an euphemism for morally firing the President. In the second place, ugly as indeed are the White House transcripts dealing with Watergate, there is at this point a respectable doubt as to whether Mr. Nixon has committed impeachable offenses as distinguished from acts that were shockingly bad in themselves.

But there is a third point that dwarfs all others, and it is this, offered in ABC form: The United States has something called a Constitution. This Constitution stipulates that in one place and one alone a President of the United States be rightly tried for such high crimes and misdemeanors and there cleared or convicted.

This place, of course, is the Congress of the United States. The somber search for truth and justice must begin in the House, which must first determine whether to impeach (indict) the President. The somber search for truth and justice must then, in the event of an impeachment, go to the Senate, whose members would try the President as jurors presided over by the Chief Justice of the United States, Warren Burger.

This is the high and the true way to try this case. "Resignation" would avoid or evade the true way. If the President has not in fact committed an impeachable offense—and it must be remembered that we do not yet know the answer to that crucial question—"resignation" would become the most massive injustice we ever knew.

If, on the other hand, the President has in fact committed an impeachable offense, "resignation" would defraud justice and cheat the right and proper demands of history that this affair be explored with due process, and due process alone, to its very end.

The politicians can do what they like; the "media" can do what they like. For my part, I am not about to put my private judgments, hunches or feelings above the magnificent constitutional processes of this nation. Nor am I about to remain silent while others demand the easy way out. It seems to me that they have not thought through the possible consequences of a "resignation" that would in common truth be a booting out of a President of the United States.

It is an inescapable fact that any ouster of this particular President, even if accomplished in the most scrupulous of due process, would have the effect of overturning an immense popular mandate given to that President less than two years ago.

Millions of Americans are going to believe that he was unfairly hounded from office if he leaves it, no matter how. Bitter divisions we don't need in this country—and most poignantly we don't need them if the President is compelled to leave office by whatever method. Let us therefore rely upon the constitutional method and only on the constitutional method to hold divisiveness to its minimum. "Hurry up" are words that don't belong anywhere in this tragic business.

BUT—IT WOULD BE RIGHT

HON. BILL GUNTER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. GUNTER. Mr. Speaker, because of the currency and urgency of the issue, I include at this point in the RECORD the text of a personal letter I have sent today to the Democratic members of the Rules Committee and, in somewhat abbreviated form, to all Democratic Members of the House:

A PERSONAL LETTER

In the wake of the unfortunate performance of the House Democratic Caucus last week in refusing by secret ballot to allow the House to work its will on the reorganization plan drafted by the Select Committee on Committees, I believe it must be made clear to the Nation as a whole where those of us in the party who opposed that action by the Caucus stand.

Specifically, the wording of the Caucus resolution notwithstanding, I believe it is immediately incumbent on those of us who see genuine congressional reform as a matter of the most fundamental conscience to make clear that we neither are, nor could be, bound by the expression of the Caucus in this matter; nor that we believe the Caucus speaks for the higher principles of the Democratic Party in this instance, either within the Congress or nationally.

Despite the attempt to psychologically portray the action of the Caucus as somehow binding on the Democratic members of the House, and specifically on the Democratic members of the Rules Committee, quite clearly under the Caucus Rules neither the members of the Caucus nor of the Rules Committee are bound, the vote on the Resolution having failed to pass by a ⅔rds majority. But even if it had, it is also quite clear that where matters of fundamental conscience and prior commitments to constituents are involved, the action of the Caucus would not be binding in any case.

Therefore, those of us who see the issue in this light have a positive obligation, it seems to me, to so inform the Democratic members of the Rules Committee of our feeling, advise them that they are not bound by the Caucus, and finally to urge them in the strongest and most positive terms to act to report the resolution of the Select Committee on Committees to the full House.

As a respected and conscientious member of my party on the Rules Committee, I urge you to so act, by your own motion or in response to one offered by either a majority or minority member of the Rules Committee.

The issue is a matter of deepest conscience, in my judgment, because of the continuing, massive erosion of public faith and confidence in the House as an institution of government. In the current general climate, that erosion of trust poses the most fundamental threat to the sanctity and effectiveness of our federal institutions in general. The need for clear, immediate action to restore the faith of the people in the House has become a moral as well as pragmatic imperative. No greater issue confronts the House.

I well realize the difficulty psychologically that might yet exist for the Democratic members of the Rules Committee in acting against the majority will of the Caucus, and particularly on the motion offered by the other party in the House—and even though this matter in its deepest sense is not a partisan one. It will be difficult for the Democratic members of the Rules Committee, I know, to appear to be perhaps joining to act in response to minority pressure, even for the greater objective sought.

But, in this instance, it would be *right!*

The House cannot continue to pretend with endless words and endless posturing that it is meeting its institutional and constitutional responsibilities to those who elected it, when in fact on vital issue after vital issue, from energy to the economy, it has proved incapable and unwilling to keep the faith.

This issue must not prove another such instance.

It is time now and without further delay to address the great problem of restoring the effectiveness, sanctity and responsiveness of the House itself as an institution, and with it the people's faith.

I ask you, as one responsible and concerned member of the Rules Committee, therefore, to act to report the Resolution of the Select Committee on Committees to the full House so that it may work its will.

Sincerely,

BILL GUNTER,
Member of Congress.

THE CASE FOR A FEDERAL OIL AND GAS CORPORATION: NO. 31

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. HARRINGTON. Mr. Speaker, the mere mention of the concept of a Federal Oil and Gas Corporation a few years ago would have triggered a bemused reaction from several sources, not the least of whom would be major oil company officials.

Now, an oil embargo and an energy crisis later, the idea is being taken seriously. The Federal Oil and Gas Corporation is in fact an idea that has come of age.

The Corporation has received the endorsement of several economists and energy experts. Now, unlikely enough, there are faint suggestions of support in The Oil Daily, an industry newspaper.

Tony Lo Proto, Oil Daily's Washington news editor, wrote in the May 7, 1974, edition that a Government controlled oil company is "needed."

He further stated that "only a terribly insecure industry" could object to such an idea.

Mr. Lo Proto highlights some important aspects of the issue, and I would like to bring his article to the attention of the Congress.

Mr. Lo Proto's article follows:

WHAT'S WRONG WITH A BIT OF "FOG" IN GOVERNMENT?

(By Tony Lo Proto)

Back in the good ole days of the Wobblies and the IWW and a host of other labor-oriented radical groups, Eugene V. Debs used to ask audiences, "Which do you prefer? A government that controls the railroads or the railroads to control the government?"

We all know what happened.

With the possible exception of Amtrak (and the possible is thrown in as a journalistic hedge) the railroads in this country are in a mess. Danny Taggart and Ayn Rand to the contrary notwithstanding.

And that situation did not come about because of either Pan Am or TWA (they've got their problems too).

It came about—and here's where we stick our journalistic neck way out—because of governmental benign neglect. The railroads did not control the government, nor did the government control the railroads.

They allowed Adam Smith (who had been dead for hundreds of years) and his erroneous economic theories to prevail.

No one in his right mind is suggesting that the government take over the oil companies. But then no one in his right mind would suggest a return to the Platonistic nonsense of Adam Smith's "market control."

What is needed is a government controlled oil company, a new company, financed, funded and fostered by Congress.

The idea can work. Britain's Gas Council is one example. The French Compagnie Francaise des Petroles is another. Enrico Mattei's AGIP (allowing for a little bit of Italian showmanship and braggadoccio) is yet another.

Only a terribly insecure industry could object to the Stevenson-Magnuson proposed Federal Oil and Gas Corporation (promptly dubbed FOGCO by Stephen Wakefield, ex-FEO official).

Their attitude would be: the more the merrier.

And if, as is quite possible, FOGCO fails. . . .

MR. MACON BERRYMAN

HON. RON DE LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. DE LUGO. Mr. Speaker, on April 30 the Virgin Islands reluctantly accepted the resignation of Mr. Macon Berryman, commissioner of the department of social welfare. Mr. Berryman has been an inspired public servant whose ability and leadership have directed the initiation of public assistance programs in the Virgin Islands.

Macon Berryman, a seasoned professional, joined the Virgin Islands department 24 years ago and has been its commissioner since 1958. His efforts have successfully brought to the Virgin Islands many Federal programs that had previously been accessible only to the 50 States. Since 1950, the average amount of public assistance per recipient in the Virgin Islands has increased from $6.50 to $50 per month.

In my dealings with the social welfare department, I have found Commissioner Berryman to be an exceptionally cooperative public official, as well as a sincerely compassionate and thoroughly professional man. His years of dedication to the interests of the elderly, underprivileged, and needy members of the Virgin Islands community have earned him our warmest gratitude.

At this time, I wish to share with my colleagues the following article which summarizes Mr. Berryman's productive *career:*

BERRYMAN LEAVES WELFARE POST ON TUESDAY

Macon Berryman, who has been with the Department of Social Welfare for the past twenty-four years, sixteen of them as Commissioner, resigns after the close of business on April 30.

Under his leadership spectacular progress was achieved in the introduction and expansion of children's and senior citizens' programs, and aid to the needy. "We have been involved in so many programs that it is difficult to single out any one of them as the most significant, but if one has to be mentioned it is the program for the aged," Mr. Berryman declared Monday. "What we have accomplished for senior citizens in this territory is not duplicated anywhere in the United States," he emphasized.

In 1950 the average public assistance client received $6.50 per month, while today the average payment is $50, Mr. Berryman disclosed.

He entered the Social Welfare Department on July 10, 1950 as Director of Child Welfare and became Acting Commissioner on September 28, 1958. He was appointed Commissioner by Governor John Merwin the following January 1.

Mr. Berryman said he intends to remain involved in a number of community activities, including the Boy Scouts, Red Cross, and the People's Bank. He will also work with the Commission for the Blind.

Mrs. Gwendolyn Blake, Executive Assistant to the Commissioner, will become Acting Commissioner, and it is generally anticipated that Governor Evans will appoint her to the Commissionership.

NAVY GUN MISFIRES

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. ASPIN. Mr. Speaker, shortly, the House will be considering this year's defense authorization bill. I believe the amount contained in this legislation is too high. But I am happy to report that the committee has decided to eliminate $20 million for the Navy's Phalanx program. While this does not eliminate all the funds for the program, it is a clear message to the Navy to get its house in order immediately.

Mr. Speaker, the Phalanx is one of the alltime stinkers in a long string of bad new weapons programs. The Phalanx is supposed to be the last defense of ships against incoming cruise missiles, but it is so bad that during a recent test it threatened to sink Santa Barbara Island and the U.S.S. *Hollister*.

Information on the test failures of the Phalanx are contained in recently declassified sections of a General Accounting Office staff study. The study says:

> The results of the Navy-at-sea testing have disclosed a tendency for the Phalanx to track, and lock on to objects which it should not have accepted as threats. Specifically, the system tracked, locked onto, and declared as a threat, Santa Barbara Island and the U.S.S. *Hollister*.

It is interesting to note, Mr. Speaker, that the Navy refused to declassify the velocity and the yards per second at which the Phalanx radar clocked Santa Barbara Island. However, Mr. Speaker, it can nevertheless be revealed without endangering national security that it appeared to be a very fast island.

The Phalanx is an automatic gun that is intended to stop low flying, high speed missiles that have penetrated all other ship defenses. Although, as the GAO report says, "system reliability is and has been for more than 2 years, of great concern," the Navy last year asked Congress for money to deploy the Phalanx on ships at sea. The Navy plans eventually to place Phalanx guns on all its ships.

Mr. Speaker, this GAO report casts serious doubts on whether the Phalanx is worth another penny out of our already bloated defense budget. Certainly, we have no urgent requirements for an automatic gun that attacks islands and friendly ships.

The tests reported in the GAO report took place between January and March 1974, aboard the U.S.S. *King*. What we have here is a weapons system that is worse than useless. With guns like these who needs enemies?

There is according to the GAO report the danger of having a gun that shoots at friendly ships instead of enemy missiles. Says the report:

> We believe that the implications of these events, when it is considered that a Phalanx-equipped ship may be part of a multiship task force, indeed warrant considerable attention.

CHICAGO'S POLISH CONSTITUTION DAY PARADE

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. ANNUNZIO. Mr. Speaker, on Saturday, May 4, 1974, the Polish National Alliance sponsored Chicago's annual Polish Constitution Day parade and it was my pleasure and honor to be on the reviewing stand and at the Civic Center for the commemoration ceremonies which followed the parade.

Chicago Americans of Polish heritage gather each year to celebrate the traditions of liberty which bind our peoples so closely together and to pay tribute to those who have sacrificed and put their lives on the line in defense of that freedom. The May 3, 1971, Constitution of Poland is a landmark event in the history of man's struggle against tyranny.

The ceremonies included a ringing speech by the president of the Polish National Alliance and the Polish American Congress, Aloysius A. Mazewski, in tribute to two of those men, Thomas Jefferson and Thaddeus Kosciuszko, who helped originate and forge the democracy we enjoy today.

For the benefit of my colleagues, I am inserting in the RECORD the Polish Constitution Day remarks by this outstanding leader in our Nation's Polish-American community, a program of events in commemoration of the May 3 Constitution, and the invocation offered by Bishop Francis Carl Rowinski.

Mr. Speaker, the program, the invocation, and President Mazewski's speech follow:

COMMEMORATION OF POLAND'S MAY 3, 1791, CONSTITUTION, MAY 4, 1974

PROGRAM AT REVIEWING STAND

State and Madison Streets—12 Noon:

Welcome: Mrs. Helen M. Szymanowicz, Vice President, Polish National Alliance, General Chairman, Poland's Constitution Day.

National anthems: Mr. Stefan Wicik, accompanied by 81st United States Army Band.

Parade announcer: Mr. Chet Gulinski, WOPA Radio.

PROGRAM AT CIVIC CENTER PLAZA

2:00 P.M.:

Welcome: Mrs. Sophie Buczkowski, Commissioner, District 13, Polish National Alliance.

Invocation: The Rt. Rev. Francis C. Rowinski, Bishop, Western Diocese, Polish National Catholic Church.

Master of ceremonies: Hon. Aloysius A. Mazewski, President, Polish National Alliance, President, Polish American Congress.

Remarks: Honorable Richard J. Daley, Mayor, City of Chicago.

Principal address: Honorable John Richardson, Jr., Assistant Secretary of State for Educational and Cultural Affairs.

Introduction of guests: Mrs. Helen Orawiec, Commissioner, District 12, Polish National Alliance.

Resolution: Mrs. Helen M. Szymanowicz, Vice President, Polish National Alliance, General Chairman, Poland's Constitution Day.

Benediction: Most Reverend Alfred L. Abramowicz, DD, Auxiliary Bishop, Vicar General.

Conclusion:

SUNDAY, MAY 5, 1974

Assembly for solemn mass: 10 a.m.—Polish National Alliance, 1520 West Division St.

March to church: 10:15 a.m.—to Holy Trinity Church, 1118 Noble Street, led by Council 80, PNA, Drum and Bugle Corps.

Solemn mass: 10:30 a.m.—Reverend Casimir J. Czaplicki, C.S.C., Pastor, Celebrant and Homilist.

INVOCATION AT MAY THIRD CONSTITUTION DAY CEREMONY, BISHOP FRANCIS CARL ROWINSKI, WESTERN DIOCESE POLISH NATIONAL CATHOLIC CHURCH, CHICAGO CIVIC CENTER, MAY 4, 1974

Eternal Father of men and nations, Shepherd of journeying generations that come and go before Thee, the Savior of humanity; we, Americans of Polish heritage and our friends, remember with grateful hearts Thy loving providence, which enabled our fathers to build Poland as a nation founded under God, dedicated to the pursuit of truth, to the creation of beauty, to the great venture of Christian service, social justice and freedom.

May the noble purposes which inspired our forefathers and the high ideals which they cherished endure in our thoughts and live in our actions, as we cooperate with men of good will to create a community within diversity, where each ethnic group shall have the freedom to develop what is unique about itself . . . . . language, culture, tradition, music, hymnody, custom and dance . . . . . where each respects the same in others, and together create a mosaic serving Thee in righteousness, intelligence and good will, making faith fruitful in a better order of human society

During this time of national humiliation, fasting and prayer, behold us, God of all mercies, bowed in the name of Jesus Christ, as together we confess our personal and social sins; our indifference to the unmet needs of fellow man, both at home and abroad; our callous greed seeking gain at the cost of misery to others; our vanity of soul and pettiness of mind . . . . . . Thy mercy on Thy people, Lord, who repent before Thee.

O God, whose goodness is our hope, bring Thy people to a just mind and a pure heart; restore mutual trust, justice, mercy and firmness in the right as Thou givest us to see the right. Lead us out of the bondage of indifferenence, fear, suspicion and hate into Thy new day of peace. We pray in Thy Holy Name. Amen.

SPEECH OF ALOYSIUS A. MAZEWSKI, PRESIDENT, POLISH NATIONAL ALLIANCE

It is eminently fitting and proper that during the observance of the May 3rd, 1791 Constitution of Poland, we pay tribute to General Tadeusz Kosciuszko.

He embodies the love of freedom and the precepts of democracy and justice which are the landmarks of glory in both the United States and the Polish history.

Kosciuszko's military genius first found its expression on the American soil. As the designer and builder of the Saratoga fortifications, which were crucial to American victory there, Kosciuszko is regarded by historians as one of the architects of American independence.

Fighting in later years in the defense of the May 3rd Constitution and Poland's freedom, Kosciuszko drew from the fount of his American experience. And even when he suffered defeat at the hands of overwhelming Russian forces, Kosciuszko grew in stature as one of the great military geniuses, and great, compassionate statesmen in Polish history.

His legacy of total commitment to freedom is both American and Polish.

His extensive correspondence with Thomas Jefferson attest to the spiritual kinship of the United States and Poland, and political philosophy which bind both nations in respect and friendship.

His humanitarian acts are many. The most singular of them is his testament of 1798, in which he bequeathed his entire American estate for the purchase of freedom and for the education of enslaved blacks.

In the words of one commentator:—

"Kosciuszko's will is an unwritten chapter in American history. It is possible that if its suggestions had been followed, there might have been no Civil War in the United States, and the race problem of today would not be so perplexing to economists".

On this 183rd anniversary of the May 3rd Constitution of Poland we are mindful of the fact that the Polish Constitution was proclaimed only four years after the submission of the United States Constitution for the ratification of several states.

And both legislative documents are truly great and unique in the annals of man.

The United States Constitution was the first truly progressive and democratic legislation on the American continent.

And the Polish Constitution of 1791 was the first democratic, humanitarian and progressive legislation in continental Europe.

And in the majestic panorama of freedom spanning both continents, Thomas Jefferson and Tadeusz Kosciuszko occupy places of singular greatness.

RUMANIAN INDEPENDENCE DAY

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. WHALEN. Mr. Speaker, today marks the anniversary of the founding of the Kingdom of Rumania. It is indeed appropriate that we observe the independence of that state in the hope of peace and freedom throughout the world. May 10 is a date which Rumanians all over the free world will commemorate as we would celebrate our Independence Day. However, it deserves special recognition, for there will be no public observance within the boundaries of Rumania; a great hope for freedom is now suppressed by that country's Communist regime.

On May 10, 1866, a long struggle of the people of Rumania culminated in the proclamation of Charles of Hohenzollern—Sigmaringen as Prince of Rumania. However, it was not until 11 years later, during the Russo-Turkish war, that the principality declared its independence of the Ottoman Empire. This status was confirmed by the European Nations at the Conference of Berlin in 1878. Then, 4 years later, on May 10, Charles I was crowned King by the will of the people. This achievement of national independence inaugurated a prosperous period in Rumanian history, throughout which May 10 was celebrated as a national holiday.

Unfortunately, this period lasted but little more than 60 years, and now these people toil under Communist suppression. Mr. Speaker, we understand the importance of May 10 to all Rumanians. Therefore, I join with them in recognizing this day as a symbol of great hope, not just a past event. By pausing to observe it with them, we can share our hope that in future years this will be a day that all Rumanians can openly revere.

THE KILLINGS AT KENT STATE 4 YEARS LATER

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, 4 years ago, when four students were killed and nine more wounded by Ohio National Guardsmen at the campus of Kent State University during protests over the President's decision to invade Cambodia, simple justice dictated that 20 of our colleagues and I write to the Attorney General demanding that he convene a Federal grand jury to investigate the incident.

John Mitchell turned us down.

Events have shown that men in the highest offices of the current administration, charged with the public trust, often made decisions for selfish personal and political gain.

Last week the families and friends of the those killed and wounded at Kent State gathered there to honor the memory of the four students.

Peter Davies, a British-born insurance man who has devoted the past 4 years to rooting out the truth of what happened that black day, delivered one of the most moving speeches I have ever read.

I would like to put that speech in the RECORD at this time and remind my colleagues that since former Attorney General Mitchell refused to convene that grand jury because of insufficient evidence of wrongdoing, one of his successors did and the Supreme Court overturned a lower court ruling and sanctioned a suit by the students' parents against the State of Ohio.

As Davies remarked in his speech, recent legal developments have "made it possible for us to assemble today without the sense of injustice that has haunted previous anniversaries."

FOUR STUDENTS

(By Peter Davies)

As this is the first anniversary I have been able to attend, I would like to direct our thoughts back to the time before the shootings; to remember the four students who died here, and to reflect on what their families, this university and the community at large so tragically lost four years ago. By recalling who they were I hope to remind our fellow citizens that regardless of all the lurid stories to the contrary, they were the innocent victims of a chain of events that few Americans can look back at with pride. Such unnecessary destruction of human life is far from being unique in our history, but I believe that Kent State of May, 1970, will come to mark a significant turning point in our tendency to excuse official lawlessness no matter how blatant the abuses may be.

The recent Federal indictments against one present and seven former members of the Ohio National Guard, no matter what the final disposition of the cases may be, has made it possible for us to assemble today without the sense of injustice that has haunted previous anniversaries. Although many grave questions still remain to be answered, the unanimous decision of the Supreme Court, on three of the civil suits stemming from the killings, has opened the door to further revelations. Those who made the decisions that maneuvered the students and the guardsmen into a confrontation situation have been called upon, by the High Court's ruling, to account for their actions in a court of law. Consequently, there is every reason to now believe that justice will at long last be done. This holds equally true for the Jackson State cases which have, I understand, been in a state of limbo pending the Supreme Court's findings on the Kent appeals.

No student, James Michener said on many occasions, did anything for which he, or she, deserved to be shot, and yet we are here today to remember that four died and nine more were injured, two of them permanently. One is Dean Kahler, a gentle young man whose lifeless legs are mute testimony to the horror of what happened on this campus four years ago, and who is with us to share these moments of remembrance.

Who were those four students? Why were they so ferociously condemned as radicals, or passionately hailed as martyrs, when they were neither? Why did their deaths to the bullets of a few National Guardsmen set them apart in the minds of a great many Americans? Some of the answers, I believe, are self-evident in the tone and content of the rhetoric that rolled so glibly off the tongues of our now disgraced national leadership. We all know what was said, and their words fostered an emotional atmosphere of anti-student sentiment which turned into an almost frightening fury at the victims, as though killing students was too mild a punishment for their audacity in refusing to disperse. The facts of what these four young people were doing at the time they died were literally buried beneath an avalanche of official allegations and distortions, and it took almost four years for the parents and many others to dig those facts out into the light of day.

Now that a Federal grand jury of Ohio citizens has found probable cause for prosecuting some guardsmen, just as a State grand jury found similar cause for prosecuting twenty-five students and others back in 1970, it is time to talk about the human qualities those four young citizens possessed and perhaps, to explain why I am here today. My contribution toward justice in this incident began, four years ago, with the feeling that any one of the killed and wounded could so easily have been my own child because of the circumstances surrounding that long fusillade of deadly gunfire. Subsequent intensive probing of their backgrounds and life styles by the Government, the news media and Mr. Michener, not only justified those feelings, but made me very proud to know the parents of such fine sons and daughters.

When Jeffrey Miller was in fourth grade he, and a friend, on their own initiative, decided to conduct a study of racism in America. To complete this ambitious project they contacted Ebony magazine for additional material and information. It was not until a staff member of the Journal called Jeff's mother to praise her son for his concern and resourcefulness, that his parents learned of his keen interest in social problems at such a young age. Although Jeff very much enjoyed participating in just about every kind of sports activity, his happiness was frequently darkened by the suffering of others, both at home and abroad.

During the last few years of his brief life, spent mostly at Michigan State University, Jeffrey Miller became increasingly concerned about our involvement in the Vietnam war, and as early as 1966 he wrote these words.

"The strife and fighting continue into the night. The mechanical birds sound of death as they buzz overhead spitting fire into the doomed towns whose women and children run and hide in the bushes and ask why, why are we not left to live our own lives? In the pastures, converted into battlefields, the small metal pellets speed through the air, pausing occasionally to claim another victim. A teenager from a small Ohio farm clutches his side in pain, and, as he feels his life ebbing away, he, too, asks why, why is he dying here, thousands of miles from home, giving his life for those who did not even ask for his help."

Much was made of the fact that Jeff, with his distinctive head-band, was out there that day giving the National Guardsmen the finger and throwing objects at the soldiers from distances of about two hundred feet. We have, in the past, ascribed to his behaviour whatever our social and political environments have conditioned us to see in his conduct. Nevertheless, I believe it is fair to say that Jeffrey Miller was simply expressing, inappropriately, the same kind of frustration that motivated Allison Krause to shout obsenities: Dean Kahler to throw a rock, and Alan Canfora to wave a black flag.

All were shot by guardsmen. Jeff and Allison were killed and Dean paralysed in what we were told was a lesson in just what law and order is all about. But what of some of the other victims?

Sandy Scheuer, for example, was faithfully following the instructions of former university president Robert White to attend classes as usual. This generally happy go lucky young woman was more concerned with trying to help those afflicted with speech impediments than attending demonstrations to protest America's participation in the killing of civilians in Southeast Asia. Sandy had what I call an open heart, one that is as vulnerable to the pain of others as it is strong in the determination to give aid and comfort where it can be the most effective. This loving, outgoing human being had so much to offer those less fortunate than herself, yet she died here four years ago because of that chain of events that no official, with the power to intervene, sought to break before it culminated in almost inevitable disaster.

Sandy was not a politically conscious person, but rather a generous individual who believed she could contribute something constructive toward overcoming our general tendency to shun the needs of the handicapped. As fate, or what you will, would have it, she was walking to her next class in speech therapy when a guardsman's bullet tore through her neck. We shall never know how many Americans Sandy could have helped to conquer their speech problems, anymore than we shall ever know what Jeffrey Miller might have contributed toward improving our society. Both were taken from us violently, just as tens of thousands of fine young Americans were taken from us in a war that few of us understood and fewer still can now endorse. The loss to science, medicine, industry, and the liberal arts, that is this Nation's sacrifice to a questionable cause, can never be calculated in terms of impeded progress and parental grief.

If it were necessary to classify Bill Schroeder as symbolic of something in our society, my immediate response would be that almost meaningless label: the all-American boy. A more appropriate description, perhaps, would be world citizen. This sensitive young man had involved himself in so many aspects of our past and future that it is equally impossible to assess what we have lost by his untimely death. Throughout his pre-college education he was an honor student, with a keen interest in the history of the American Indian and an abiding love for music. Not only was he a dedicated athlete, concerned about the causes and affects of war, but also he was able to make time available in which he could explore the worlds of geology, psychology and photography. In 1969 Bill accepted an R.O.T.C. scholarship, thereby committing himself to four years at college, four years of active military service, and two years in the Army Reserves. Such a commitment at the age of seventeen may, or may not, have eventually been regretted, but whatever the outcome might have been there is little doubt in my mind that he would have faithfully honored his obligation. How is it, then, that Bill Schroeder is dead?

The answer to this question is not easy to come by, but I believe he was out there four years ago today because he was going through that difficult period in our lives when we hover on the brink between childhood and adulthood, when we have to make a decision that is strictly on our own. I think that bill was confronted with a natural desire to remain faithful to his family's code of behavior and his need to identify with the frustrations that so many of his peers were experiencing following President Nixon's decision to support the South Vietnamese invasions of Cambodia. Had he not possessed such a thirst for knowledge and participation in human events, I doubt that he would have bothered about the noon rally that day. But he did, and he went, and it cost him, his family, and the nation, because he died to a bullet that struck him in the back as he lay motionless face down upon the ground.

Just eleven days before her death, Allison Krause celebrated her nineteenth birthday in the company of her parents and her lover. At that happy gathering was her younger sister, a remarkable person who was to suffer to a degree that few of us could experience without sustaining permanently crippling scars. Her fortitude after May fourth, in the face of such cruel adversity, symbolized for me the spirit of Allison. It is hardly surprising that her parents, and the young man who loved Allison, and myself, should find in this sister the quiet strength of a character that unwittingly became the fountainhead of our determination to establish the truth about the circumstances surrounding Allison's death.

It is difficult for me to speak about Allison because, right or wrong, it was her death that touched me the deepest. Since it happened, I have tried to explain to myself why this should be, but answers such as beauty and youth do not adequately justify the commitment of four years of one's family and business life. I admit to an emotional contempt for male assault upon the female, but it is more likely that I saw myself in Allison as much as I saw her as my own daughter. Despite my political conservatism, I understood why she was out there shouting at the advancing Guardsmen with their M-1 rifles and fixed bayonets. On the other hand, it might well have been a response to the fact that she had shouted at a Guard officer: "Flowers are better than bullets", or that she had wept that day, not from the tear gas, but because of what was happening to her, her friends, and her campus. Whatever the explanation for my being here may be, I do know that it began because a part of me died with Allison Krause, and the stubbornness that was one of her inherited characteristics, as much as her love for, and desire to help, retarded children, aroused my British blood of never going along with the popular notion that authority is infallible, especially when the facts point to the contrary.

Time does not permit me to speak at length about the four students who died here. Suffice to say that on this fourth anniversary they are remembered as much for who they were as why they are dead. I do however, want to take a few moments to remind you about the young man who was killed at the University of Wisconsin when the Mathematics Center was the object of a bomb protest against the war. The fact that the perpetrator of this crime was unaware of the victim's presence in the building is no more excusable than the claim that Guardsmen firing into a crowd of students did so without intent to kill. Blowing up a building is just as inexcusable as shooting at defenseless people, and the rationales given for both incidents are equally offensive to my concept of law and order.

There is no denying my sense of vindication now that a Federal grand jury and the Supreme Court of the United States have set the wheels of justice in motion. That this is happening, I feel compelled to point out, is in no way due to any great efforts over the last 4 years by the so-called new left or the antiwar movement, but rather because a few citizens worked day in and day out to get the Justice Department, and the courts, to recognize the fact that the Constitution and the laws of the United States had been violated by the shootings. Now it is up to juries to decide whether or not these violations warrant convictions and compensation. Whatever the outcome, these citizens accomplished this breakthrough despite the intimidating handicap of having to deal with an administration in Washington that had wrapped itself in our flag whilst presiding over the slow, and secret, burying of our Bill of Rights.

To those of you who share my concern about the future of our country, the reversal of the Nixon-Mitchell decision against ever convening a Federal grand jury investigation should inspire you to follow in the footsteps of Paul Keane, Greg Rambo and Bill Gordon, former students who came to the support of the families with their petition to President Nixon, an act of faith which was recognized by Dr. Glen Olds when he accompanied Keane and Rambo to the White House in October 1971. Apathy and cynicism, as Arthur Krause has said on more than one occasion, will get you nowhere, and he should know, because it was this man who went before the Nation the day after his daughter's death and asked if dissent is a crime, if that was a reason for killing her. Not only can you fight city hall, you can fight the White House too, if you have the patience and stamina to remain true to your convictions and to work within the channels provided by our democratic system of government.

In a recent article I wrote for American Report concerning the Patricia Hearst kidnaping, I expressed my belief that the ultimate human failure in any society is our inability to envision our own children in the tragedies which befall the sons and daughters of others. As the parents of the four students killed soon learned, a great many of us are all too quick to moralize about the lives of strangers that have been destroyed under circumstances comparable, or not even similar, to what happened here. How often do we hear people criticizing a female victim of murder because she was "out late", or she must have been "no good" because she let her killer enter her apartment. The perpetrator of the crime is all too often the object of misplaced sympathy, so it is hardly surprising that the four dead students should become the objects of such chilling venom that one wonders to what extent social guilt inspires vitriolic condemnation of the victims.

Patricia Hearst, for example, existed in an isolated world where summary execution was a day to day possibility, yet there were quite a few ready and willing to suspect the worst and to accuse her of engineering her own kidnaping. After the dramatic bank robbery in San Francisco even the Attorney General of the United States got into the act and accused her of being a "common criminal." After the shootings here, Allison Krause was called the "campus whore" who was "tatooed from head to toe" and Jeffrey Miller was said to be "so covered with lice" he was destined to die anyway from being "so dirty." Such utter nonsense is easily dismissed, but we should ask ourselves why there are people who so quickly condemn the victims.

Is it the human trait of selfishness? We can always afford to sacrifice the life of the other guy for the so-called general good of the majority, and this was painfully evident in the reaction to the killings on this campus. Jeff, Sandy, Bill, and Allison, symbolized the public's sacrifice to atone for the bombings and burnings committed by others. The fact that they were innocent was irrelevant to the greater need for a tough stand against the Weathermen and their kind.

Murder, kidnaping and rape have plagued mankind since the beginning of recorded history, yet civilization is presumed to be at its most advanced stage as we approach the twenty-first century. Recent events, however, suggest that respect for human life is declining in a world where overpopulation is becoming a major threat to our ability to meet such a challenge. The Reverend John Adams put his finger on this problem when he noted, in my book, that the condensation of James Michener's account of what happened and why, in the April 1971 issue of Reader's Digest, contained an advertisement for Ortho Chevron Chemical Company. "In advertising insecticides for use in gardens," he wrote, "bold black words stated: 'The balance of nature is predicated on the fact that one thing dies so that another may live.' Some believe," Mr. Adams continued, "that this is what happened. Some believe that the shooting of students at Kent was necessary in order that other students could live and the society could be preserved." Likewise some believe that Patty Hearst should be abandoned to whatever fate the SLA might decree for her so that others may not become the victims of kidnaping, just as many supported the bombing of Hanoi as a means of forcing North Vietnam to sign a so-called peace settlement. The fact that hundreds of civilians were killed to accomplish this political necessity was irrelevant, just as the Viet Cong's vicious murders of bound and helpless men and women in the villages of South Vietnam is irrelevant to their political goals. Yet all, including My Lai, are contemptible, inexcusable crimes against humanity, crimes which the allies prosecuted so vigorously at Nuremburg, but which the United Nations ignore today.

I could, of course, go on at great length about our feelings toward the violence that seems to have become a part of the daily existence of countless millions who simply want to live out their lives in peace and free from fear. It is so much easier to turn a blind eye on the day to day tragedies which befall our fellow human beings, and sometimes it becomes imperative that we do, otherwise we would all become victims of the pain and anguish that is constantly before us in newspapers and the television screen. So I want to close on a more uplifting note, if not a happy one.

We are here today not to mourn the death of four students, but rather to honor their memory. We are here to recall once again that they were decent young people, like their two black brothers killed at Jackson State fourteen days later, people who should not, by any yardstick of right and wrong, be dead. There are many more than these six students, but their deaths, like those of the unknown soldiers, are symbolic of the countless victims who died to shootings that were unnecessary, unwarranted, and inexcusable.

To the trustees, the administrators, the faculty, and the student body of Kent State, I say the turning point we have so recently reached will eventually lead to the long awaited healing of the terrible wounds inflicted here four years ago. The spirit of what Jeff Miller, Sandy Scheuer, Bill Schroeder, and Allison Krause represented for our future has been ever restless until this day. They should never have been killed, but they were, and so it fell to their parents and a few others to make sure that this truth be known. The time will come, I say to you today, when this university will be looked upon as a symbol of the triumph of American justice over the travesty that has haunted you for so many unhappy years. Thank you.

WHEN—IF EVER—IS ABORTION "VICTIMLESS"?

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. HOGAN. Mr. Speaker, 15 months ago, the Supreme Court handed down a decision which, in essence, defined a person as a legal entity from the stage of "viability." This has created numerous legal complexities in our court system today.

I would like to insert in the RECORD at this point an article in the Washington Post by George F. Will. The April 30 article points out the crucial question that must be answered: "When, if ever, is an abortion a victimless procedure, merely preventing rather than ending a human life?" The Supreme Court has certainly failed to address itself to this question:

WHEN—IF EVER—IS ABORTION "VICTIMLESS"?

(By George F. Will)

A Boston doctor has been charged with manslaughter in connection with a legal abortion. No one disputes that the abortion was performed in accordance with standard gynecological practices, and in compliance with the Supreme Court's guidelines.

What is at issue is what happened after the normal abortion procedures.

The district attorney's office has not explicitly said that the fetus survived the abortion itself. But an assistant district attorney acknowledges that "obviously" the manslaughter charge indicates that the fetus "had to be alive if it were killed."

Evidently the fetus was alive when removed from the woman and the doctor did nothing to help the infant in its struggle to sustain life. The fetus, a male, died.

He probably would have died in any case. He was terribly premature, and he was not delivered with the gentle procedures of childbirth. Rather, he was extracted from the womb by rougher abortion procedures, the purpose of which is to extinguish the life of a fetus.

Cases of lingering life in aborted fetuses are not unknown in other American hospitals these days. But our language seems oddly unsuited to describing such cases.

Is it a "death" when a fetus is terminated?" Why do we feel constrained to use desiccated language like "terminate" to refer to what an abortion does to a fetus? Something—the logic of our language, or at least the ethical impulse embodied in our language—makes it seem natural and reasonable to say that if a "death" occurs, then what dies is a human infant, a child.

Never mind that the intention of a woman seeking an abortion is to "terminate" a fetus. If a fetus confounds that intention by emerging alive, how long must the fetus linger before the woman ceases to be just a "patient" and becomes, like it or not, a mother?

How long before an inconveniently durable fetus has a right to be treated like a fragile, suffering child, albeit an unwanted child? How long before doctors, irrespective of the "mother's" desire, have a duty to try to sustain the life of the little survivor?

Fifteen months ago the U.S. Supreme Court ruled that no state can prohibit the abortion of a fetus that is * * * the court, at 26 weeks old. According to the Court, at 26 weeks the society's interest in protecting the fetus becomes sufficiently compelling that states are permitted to prohibit abortions, *except* when they are necessary for maternal "health," broadly construed.

The court ruled as it did because it decided that a fetus is "viable" at 26 weeks, and that "viability" is the crucial consideration. It defines viability as the stage at which a fetus is "potentially able to live outside the mother's womb, albeit with artificial aid."

This ruling suggests that there is no duty, legal or moral, to provide aid to a less-than-26-week-old fetus that survives an abortion. The fetus in the Boston case was 24 weeks old.

It is not clear why viability should be considered a point at which the legal status of a fetus changes in any way. It is not clear why, as a matter of constitutional law, viability is a more significant growth stage than, say, quickening—the stage, usually after the fourteenth week, when the fetus begins discernible movement.

What is clear is that the court's 26-week viability standard is arbitrary and inadequate. And improved life-support technology, including artificial wombs, will make this standard increasingly inadequate.

So, sooner or later, and the sooner the better, the abortion question is going back to the court. Then the court should clear its mind of cant and consider the following thought:

The commands of the Constitution should not be allowed, much less made, to fluctuate with changes in scientific opinion or capabilities. The fact that technological developments can invalidate a viability standard sugests that viability standards are irrelevant to the crucial question.

The crucial question is: When—if ever—is an abortion a *victimless* procedure, merely preventing rather than ending a human life?

INTEGRITY IN ADVERSITY

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. CRANE. Mr. Speaker, in light of Watergate and other violations of the public trust inherent in recent events in Washington many have predicted an overwhelming defeat for the Republican Party and its candidates in the 1974 elections.

The fact is that those responsible for Watergate are being, and should be, held legally responsible for their acts. These men were part of a small coterie of advisers at the White House with virtually no ties to the Republican Party, and no ties at all to elected Republican officials in the Congress.

To hold elected Republican officials responsible for the acts of this small group would be to exact retributions from those who are in no sense responsible for wrongdoing. The American people, I am confident, will not see fit to exact such unfair retribution.

Discussing the premature obituary notices being published with regard to the Republican Party, Dr. John A. Howard, the president of Rockford College, recently noted that—

> It is time we informed them that the obituary notices they are so busily and happily writing are premature. Indisposed our elephant has been, but moribund it is not. It is our job . . . to exorcise the demons of self-doubt, discouragement and confusion, and get on with our work.

Addressing the Westwood, Calif., Republican Women, Dr. Howard stated that,

> As the Republican Party takes its case to the voters in the coming election, we insist that the whole balance sheet of honesty and integrity in government be scrutinized. I ask that we ask the citizens to judge the candidates we place before them for seats in the U.S. Congress and for state and local offices, not in the context of grievous shortcomings of certain appointees of our national administration, but in the appropriate context of the performance of the office-holders and the principles of the office-seekers concerning the responsibilities of the posts which are to be filled.

Our party has served the American people faithfully and well for many years. I am confident that the voters will see through the demagogic appeals which are already being made with regard to the November elections and will judge each candidate for public office on the basis of his own merits, principles, and achievements.

I wish to share with my colleagues the talk delivered by Dr. John A. Howard, president of Rockford College, at a meeting of the Westwood, Calif., Federated Republican Women on March 21, 1974, and insert it into the RECORD at this time.

INTEGRITY IN ADVERSITY

(By Dr. John A. Howard, president, Rockford College)

First, I want to make it clear that in giving a partisan speech to a partisan audience, I am presenting my personal views and convictions. One can hope that all my colleagues at Rockford College might be so happily enlightened that they would agree with every word I say, but that may not be the case, so let it be known that I am speaking for myself, not for my college.

Republican colleagues: Some observers of the political scene have suggested that our Party has seen better days. Indeed, some spokesmen for the opposition are making smug conjectures about whether they shall, come November, bury us with 90 or 100 more seats in the House of Representatives, or only a modest 50. Well, it is time we informed them that the obituary notices they are so busily and happily writing are premature. Indisposed our elephant has been but moribund it is not. It is our job, yours and mine, to exorcise the demons of self-doubt, discouragement and confusion, and get on with our work.

Our task, I believe, is four-fold: 1) To acknowledge our shortcomings; 2) To place them in perspective; 2) To proclaim anew the principles in which we believe; and 4) To nominate and elect candidates who are committed to those principles and will deliver on them. Let us spend a little time thinking through each of the four.

First, any citizen who places his own interests above the public laws, and acts in defiance of the laws, undermines our form of government and does injury to all other citizens. This is just as true of the pot-smoker and the draft-dodger and the shoplifter as it is of the public official. Every illegal act frays the fabric of society. The Frenchman, Charles deMontesquieu, in my judgment, was probably the most astute political philosopher of Western culture. He noted that each form of government has an essential relationship between the people and the government, and when that relationship fails, the government can no longer exist. In a dictatorship, that key relationship is fear, and when the fear is gone, the dictatorship is doomed. In a monarchy, it is loyalty without which the monarchy cannot remain in power. In a representative government, the essential relationship is virtue among the people, and when the people are no longer honest and honorable, that form of government is doomed.

No righteous person of any political party can tolerate or excuse dishonesty on the part of public officials. The partisan response to the disclosure of dishonorable conduct within the ranks of one's own party is often to point the finger back at the other party and say you are just as guilty as we are. Any Republican who lives in Illinois has a whole library full of headlines from the last year or two to draw upon in retaliation, but that kind of response, while certainly human and sometimes gratifying, does nothing to advance the cause of good government. On the contrary, it identifies a pettiness on the part of the finger-pointer, and suggests he is more interested in advancing his own political ends than he is in making sure the government is operating honorably and effectively. This is true for both political parties.

The only proper response to alleged misconduct on the part of an officer of government is, I suggest, for everyone to cooperate in determining the truth of the allegation through established legal procedures, to root out and punish anyone found guilty of misconduct, to apologize to the citizens for the breach of public trust, to replace the guilty officer with someone selected for his integrity as well as his skills, and get on with the terribly complex and demanding business of government. Measured against this ideal, both political parties have a rather dismal record which constitutes a great disservice to the citizens they claim to represent and serve.

Let us turn now to the context in which some members of this Republican administration have pleaded guilty to or been found guilty of violating public law. There has been a great avalanche of analyses of the Watergate affairs, most of them unfortunately more political or polemical than possessed of useful perspective. One of the few statements that offered penetrating pertinent understanding was a piece by Jeffrey Hart in *National Review* last May. He stressed the cause-and-effect relationship of Daniel Ellsberg's theft and unauthorized disclosure of the Pentagon Papers and the counteractions taken by the people involved in Watergate. Both he perceived as actions in an undeclared civil war that had been going on in this country since the mid-sixties.

To quote Mr. Hart:

"We have recently had in this country, in effect, two governments—the ordinary, official government, elected by the people . . . but also, opposed to this, not a "loyal opposition" in the old sense, but a kind of counter-government.

This counter-government denies the legitimacy of the actual government, and employs every means at its command—legal and illegal—to frustrate its policies. This counter-government, as in the case of Ellsberg, demands the right to declassify secret documents on its own say-so. To a man like Tom Wicker, who is a sort of Ron Ziegler of the counter-government, Ellsberg and Russo are heroes. The counter-government celebrates the feats of its heroes who, when they don't like a law, simply go ahead and break it. In its demands for amnesty, and in the visits of its emissaries to Hanoi, and so on, the counter-government asserts its claim to have a different foreign policy from that of the regular government. . . ."

"The counter-government has its own journalists and even its own clergy: the Berrigans, Groppi, and so on. It has its lawyers—Ramsey Clark, Boudin, Kunstler."

The situation which prevailed and which Mr. Hart described so accurately is really the contemporary form of the eternally insoluble riddle: How does the gentleman deal with the cad? He cannot respond in kind without forfeiting his status as a gentleman. But can he simply remain immobilized in the face of an assault upon that which he is obliged to protect? Some of the participants in Watergate, as Mr. Hart has observed, behaved as if they were engaged in a civil war, and in a war, as you know, some civil rights and some civil liberties are, of necessity, suspended so that the government may put an end to subversion and insurrection as swifty as possible.

However, those Watergate participants did break the law and they must pay for that transgression. Nevertheless, it seems to me that a thoughtful and responsible citizenry in exacting the proper price for that sin would be far more charitable in recognizing the plight of those who were motivated to try to stop the illegal and devastating acts of the unscrupulous members of the counter-government.

I trust you will recognize that I make no attempt here to justify the reprehensible efforts to swell a campaign treasury by illicit methods or by promises of government favoritism. Such tactics are as old as politics, are always shameful, and it is a sad thing when they occur in either party.

As I have observed, all of our citizens suffer when an officer of government commits an act of dishonesty. I want to suggest now that there is an even more destructive form of dishonesty that occurs in partisan politics, and which has been practiced on a massive scale in this country for years, the results of which plague every citizen in the United States. I speak, of course, of the dishonesty which political parties and individual office-seekers engage in when they promise that which they cannot possibly deliver. Such deceptions have been practiced upon the American people through the last forty years on a grand scale, and may well have done more to create cynicism among our people about their government than the aggregate of all the illegal acts of office-holders of both parties.

I will mention only three areas where we have been deceived by policies and programs advanced by politicians. Each of you will, no doubt, be able to extend the list on into many areas of concern to you. Let us begin with the economic facts of life. There is no such thing as a self-generating dollar, to use William Buckley's phrase. You cannot obtain something for nothing. Government can print more money and it often does, but government does not, in printing those dollars, create any additional value. It simply reduces the value of the dollars we already have, unless there is additional productivity out in the marketplace, offsetting the increase in the supply of money. Therefore, whatever monies government spends in the conduct of its own operation and in the services it provides to the people, those monies the government must first take away from the people, and the larger the government grows, the more costly it is, and the less the people get back out of the taxes which they have paid.

Some of our politicians assert their new projects can be paid for by increasing corporation taxes and the citizens will not have to pay the bill. Such assertions must derive, I believe, either from an inexcusable ignorance of elementary economics or from a callous intent to deceive the voters, for, in general, corporations do not pay taxes, they merely collect them for the government. If the tax upon corporations is increased, that tax is usually passed on to the consumer in the form of higher prices for the goods or services which the corporation provides. Ultimately it is the individual taxpayer who must pay the bill for any new government program that is enacted, and that tax bill will include the per capita share of the increased bureaucracy which administers the new program. The last time I inquired, which was a couple of years ago, the Department of Health, Education and Welfare had 104,000 full-time employees. How many tens of thousands of those people are essentially engaged in processing grants is anybody's guess, but it is a vast empire engaged in sending back to the people the tax money that has been taken from them, after all those HEW salaries and office supplies and building maintenance, etc. have been taken out of the purse.

At this time when there is such deep concern about the integrity of the people in the government, it is fitting that we extend that concern to fiscal integrity, and judge our elected representatives by their record of honest reporting to the voters about how much a program will cost, who pays the bills, whether we can afford the programs they enact, and the actual solvency of the United States Government. Not only have the citizens been deceived about the financing of government, but the costly programs which have been advanced in the interests of the people, presumably to attract (buy) their votes, have all too often turned out to be cruel deceptions.

The fanfare and hoopla with which our national government declared war on poverty and the grand promises made on behalf of that ill-fated and immensely costly fiasco turned out to be one of the most appalling delusions of our time. There is afoot now another perennial legislative sleight-of-hand which poses as a boon to the underprivileged, but inevitably works great hardship upon the least privileged segment of our society. I refer, of course, to the effort to raise the minimum wage still further. Every time the minimum wage is increased, the result is the elimination of many jobs held by people who are handicapped by lack of skills, lack of education, lack or intelligence or coordination.

Why? From the employer's point of view, it is cheaper for him to undertake further automation than to pay $2.20 an hour to an employee whose productivity is only worth the $1.60 he is now getting. If the employee can't produce $2.20 worth of work when the minimum wage is raised to that level, then the margin of money the employer would have to pay according to the new rate is invested in the cost of new machinery and the old job is phased out. You cannot stay in business paying $2.20 to a worker who delivers $1.60 worth of production. Turn the telescope around. The under-trained or under-qualified person has only one bit of leverage to apply in the job market, and that is a willingness to work for less than the going wage rate and eventually earn his way up the pay ladder by his performance. The minimum wage forecloses that opportunity to him, and makes of him a permanent charity case. I think you will discover that objective analyses of Urban Renewal, Social Security, Aid to Dependent Children, and much other welfare legislation that has been sold to the public as grandly humanitarian is likewise overstated, deceptive and cruelly destructive of the welfare of the very people whom that legislation is claimed to serve.

Someone has defined the welfare state as a system wherein A promises to take care of B with C's money. All too often, A obtains political advancement, B and C both lose, and vast numbers of D's wind up with new jobs in the ever-growing bureaucracy in Washington. C does learn one thing from all this, however. He learns that the result of hard work and thrift is generally more taxes.

The third area of governmental deception I wish to touch upon is that of federal involvement in higher education. Before the end of World War II, an extraordinary event took place. Officers of the prestigious American Council on Education met with officers of the National Education Association in an unprecedented emergency session. The cause of that meeting was a mutual concern that the federal government might undertake to provide the funds to carry on the nation's schools and colleges after the war. At the conclusion of that meeting, they issued a joint message of alarm to the citizens of the country, warning of the dangers of federal funding of the educational function.

For some years thereafter, educational officers continued to hold to this view, and it was probably the college and university presidents who were most influential in convincing Congress to reject President Truman's vigorous thrust for federal aid to education in the late 1940's. Then along came Sputnik. The nation was startled and frightened that Russian technology had so far outstripped us and in our fear, the so-called National Defense Education Act was passed, and the floodgates of federal funding burst. The proposed federal budget for education this year is, I believe, about $9 billion dollars. There are now so many programs of federal monies for education that it is unlikely any one person in the government can even list and describe them all. One can take seminars in federal grantsmanship, and subscribe to publications which do nothing but provide current information about grant programs. More federal money has been poured into the educational establishment than the original promoters could ever have dreamed of.

And, yet, where are we? Higher education is extensively overbuilt. We have more educational services than the public will support with their taxes, tuition and gifts. Academic standards are generally conceded to have dropped rather considerably. The use of illegal drugs is a commonplace in college dormitories. Affirmative Action programs now force colleges, in the selection of the faculty, to put other considerations above scholarly qualifications and teaching ability. The curriculum in many places has been prostituted by the introduction of faddish and fatuous courses. The religious ties of many colleges and universities have been greatly weakened or cast off altogether. And, irony of ironies, despite the enormous outpouring of federal funding, numbers of colleges and universities seem to be in deep financial distress.

To some extent, I believe, these circumstances are the direct or indirect consequence of federal funding. It is hard to imagine that American higher education could have been in worse shape if dollar one had never been issued to the colleges from the federal treasury. To be sure, some very important research has been accomplished in the universities with federal help, and the number of minority students who have gone to college has greatly increased, but considering the claims made for each new extension of federal funding by the partisans, the over-all conclusion in this field, too, has to be one of deception of the voters by our legislators on a large scale.

At this point I want to suggest that, as the Republican Party takes its case to the voters in the coming election, we insist that the whole balance sheet of honesty and integrity in government be scrutinized. I urge that we ask the citizens to judge the candidates we place before them for seats in the United States Congress and for state and local offices, not in the context of the grievous shortcomings of certain appointees of our national Administration, but in the appropriate context of the performance of the office-holders and the principles of the office-seekers concerning the responsibilities of the posts which are to be filled. In this regard, although some members of our Party have been advocates of what has turned out to be fiscal irresponsibility and have voted for welfare legislation that turned out to be more puffery than useful program, and have supported educational legislation which has grievously backfired, on the whole I am confident an objective evaluation will prove definitely that the Republican Party has been far more responsible than the opposition in these matters.

Further, I would suggest that any candidate for the House or the Senate or for state and local office, who focuses his campaign on Watergate calls his own integrity into question. He is not running for appointment to the White House staff. He is asking people to *elect him to* a post where he will be responsible for governmental spending and a balanced or unbalanced budget, where his views on the issues and programs pertaining to his office are of paramount importance to the voters. To try to direct the attention of the voters away from such matters and focus upon an extraneous problem strikes me as typical of the deception and the dishonesty of program and policy and public discussion that have far too long characterized many of our elected officeholders.

Let us, the Republicans, make integrity the issue in the coming campaign. Let us set forth to insist upon a full discussion of the judgments and the performance of the officeholders and office-seekers in the precise areas where they have or seek to have responsibility. Let us question and challenge the candidates of both parties on the issues which affect their constituents in all the aspects of their daily lives. If we do that and do it well, I am confident the coming election rather than being a disaster for the Republican Party will give our friends, the Democrats, the surprise of their lives.

WELFARE OF THE AMERICAN INDIAN CHILDREN

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. GILMAN. Mr. Speaker, today as the Association on American Indian Affairs convenes for its annual meeting in New York City, permit me to take this opportunity to call to the attention of my colleagues the organization's fine work in focusing attention on the plight of the American Indians.

Mrs. Barbara Alovis of Spring Valley, N.Y., one of my constituents who is an active member of the organization, has provided me with some of the following information on the prime interests of the Association on American Indian Affairs.

Among AAIA's paramount concerns is the welfare of Indian children. Recently, the Subcommittee on Indian Affairs of the Senate Interior Committee held hearings on this issue, receiving testimony from leaders of Indian affairs organizations, representatives of the Bureau of Indian Affairs, and individual tribe members. These hearings brought to light some startling facts concerning the problems of child welfare on Indian reservations, particularly the high numbers of Indian children who are uprooted and placed in foster homes.

On the national average, 1 in every 51 children is placed in a foster home. The rate of foster home placement of Indian children is 5 to 25 times greater with approximately 25 percent of all Indian children placed in a foster home at some time.

Many factors prevalent in producing this startling statistic. Frequently, the lack of cultural understanding of the American Indian is the basic reason for removing the child from his family and placing him in an alien environment. The tradition and heritage of the American Indian, often difficult for an outsider to appreciate, leads to misunderstanding of the care of an Indian child and results in placement of the Indian child in a foster home. Ninety-nine percent of Indian children are placed under foster care not due to child abuse, but rather as the result of vague standards, affected by cultural misunderstandings and the imposition of non-Indian value systems.

The effects of these uprootings on the Indian child are, indeed, severe. Most of the children are placed in non-Indian foster homes where the difficulties of adjustment are magnified. In addition to psychological adjustments, the Indian child encounters an environment in which even his basic needs are alien—he must cope with a foreign language, a different religion, and even strange new foods.

These factors have had severe effects on the Indian child. Of the Indians who become juvenile delinquents, 80 percent were previously placed in foster homes. The suicide rate among young American Indians is twice that of the national average age. The closely knit nucleus of the Indian family has been seriously eroded by taking away the children and placing them in non-Indian foster homes.

One of the saddest facts about these placements, is that the family of the child is not adequately informed, or financially able to protest and prevent the taking of their children. At the recent Senate hearings, an Indian mother testified, reciting a tragic episode, detailing how her children were taken away without her consent and without even the benefit of a court-appointed attorney.

Apparently, this is not any isolated situation. There are hundreds of other similar cases in the annals of recent Indian history. The Senate committee hearings have brought forth some of these abuses. Hopefully corrective legislation will soon be forthcoming.

It is through the good work of organizations such as the Association on American Indian Affairs that we, in Congress, have been made cognizant of these heartrendering problems.

In conveying my thanks to the association on this annual meeting date I also urge them to continue their worthy efforts on behalf of the American Indians and I ask my colleagues to give due consideration to these pressing problems confronting the American Indian.

THE UNIVERSITY OF MASSACHUSETTS OUTREACH PROGRAM

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. HARRINGTON. Mr. Speaker, as many of my colleagues know, it seems to me that student interns offer congressional offices at least the potential for significantly increasing output and productivity. Since entering Congress, I have tried to make the greatest possible use of interns, and like to feel the program has benefited not only me, but the interns who have worked for me.

The most constant and dependable source of this manpower for those of us from Massachusetts is the University of Massachusetts Outreach program. Administered by Bill Burke, the program offers congressional offices, from our point of view, a number of dependable interns throughout the school year to complement our paid staffs. The program, in my way of thinking, is invaluable.

An article appeared in the April–May issue of the University of Massachusetts Alumnus magazine which describes the nature of the program, and its administration and I would like to insert it in the RECORD at this time for the information of my colleagues.

The text follows:

LEARNING IN THE "REAL WORLD"

(By Katie S. Gillmor)

For 40 students this semester, a stroll into town doesn't mean a rendezvous at the Drake. The Washington Monument is more like it.

The students are interning in the nation's capital, working in Congressional offices, goverment agencies and other institutions under the auspices of the University's Center for Outreach Programs. They get 15 academic credits in exchange for 40, 60, or even 80 hours a week of practical experience in the "Real World," an experience they say, almost unanimously, is "the best semester I've ever had."

Such praise may seem a bit weak coming from Chris Sands who is, after all, only a sophomore. Although departments prefer to send juniors and seniors on internships, Sands says he "didn't want to wait a year to be disillusioned." Now, after several months with Congressman Gerry Studds, he feels confident in his choice of political science as a major.

Washington has been a chastening experience for Sands, who admits he is "incredibly dumb and naive at times. I came down here to set the world on fire. . . . Well, at least I thought I'd be able to do the job."

Nancy Welch had never been able to "work under people" but she has found that "to develop a program with people who are enthusiastically willing to help me is such an up." Welch was pursuing an unusual major, museum education, at UMass, and interning at the Smithsonian was a natural extension of her studies. It is, she says, "the best thing that could have happened to me."

Besides organizing and promoting programs for school children at the museum, the Smithsonian is also working on developing a mobile unit, and Welch is doing the necessary research. "I guess I'm self-righteous, seeing museum education as a boon to mankind, but it's my first love," she says.

Although George Bacon prefers the ambience of Congressman Silvio Conte's office to the "rarefied theories" of the political science department ("They're people talking about countries they've never even *been* to"), he's learned in four months on Capitol Hill that politics "is not my way."

Bacon believes that U.S. involvement in Southeast Asia is a positive contribution, and he interrupted his undergraduate training twice to serve in Viet Nam. He decided on a Congressional internship for the last semester of his senior year to "get away" from UMass where "I was made to feel that what we were doing [in Viet Nam] was wrong." But Bacon has found a similar myopia in Washington. "Congress is jumping to every political whim," he says. "During the energy crisis, every Congressman on the floor moved to cut off gasoline being shipped to save the people of Southeast Asia. And it was a pittance."

Bacon says this came as no surprise, but the other interns seem to marvel at what they are learning. And most of this information, such as "how incompetent most people are," never finds its way into textbooks.

"The first thing I found out," says Sands, "is that a Congressman is more a symbol than an individual. Things are fed to him. He's a mouthpiece."

Personality problems and office politics, says Welch, "are the things I have to learn to put up with. I know it's good for me to learn. It's part of education."

The learning experience continues back at the "UMass Mansion," a small apartment house at 1515 16th Street, N.W. which the University has leased and rents to 37 of the 40 students. Although the housing is under UMass auspices, the students have had an opportunity to cope with most aspects of life in the Big City. Cockroaches have been the most obvious instance, although the students will admit privately that they've seen bigger cockroaches on Capitol Hill than they have in their apartments.

The cockroaches, and other problems, have brought Bill Burke to Washington on several occasions. As director of Outreach, it is his responsibility to see that the internship programs work. If that includes a short course on exterminating, so be it.

Outreach is Burke's brainchild, and he has taken more than bugs in his stride to make it go. The program was minuscule when it began in May 1972, a spin-off of President Robert Wood's *Future University Report* which called for greater University involvement with the community. Burke, working with a student committee, proposed a program which would inventory all such community-related programs, place students in part-time positions in the community on a volunteer basis, and develop full time internships worth a semester's credit.

When Burke submitted his proposal to Robert Woodbury, the associate provost who is responsible for special programs, there was no coherence to the University's involvement outside the campus. Perhaps dozens of students were on internships while hundreds of others did volunteer work. Any number of departments could have had projects in the communities of the state, but no one knew for sure. Burke's proposal, that he act as a liaison and coordinator matching students and faculty with community needs, would bring an element of rationality to these *ad hoc* arrangements.

The idea of Outreach was naturally attractive to Woodbury, who became associate provost after serving as an associate dean of the School of Education since 1969. In moving into the realm of campus administration, Woodbury had written Provost Robert Gluckstern that he viewed the job "as a mandate to encourage, nurture, test and evaluate many new models and approaches to higher education and the role of the University in the 1970s. . . ." An organized Outreach program was certainly a new model.

Patricia Crosson, Woodbury's assistant, believes that Burke's proposal was serendipitous. "It was a very, very small start for something that the campus was absolutely ripe for," she says. "It was just one individual saying, 'I think we ought to do this.' "

Burke has spent the past two years convincing faculty, students and the outside community that Outreach is, in fact, something that ought to be done. In the beginning he had $3,000 and four part-time students to work with. Now his budget is almost $15,000 ($2,000 of which has come from alumni contributions) and there are 30 students who make up his "free wheeling" staff, all but two of whom are part-time.

The internship program has grown from 11 in the fall of 1972 to 176 in the spring of 1974. Some 100 agencies have student volunteers, who number about 350 a semester. And most departments have or are considering a field work component in their curriculums.

That is almost wholly due to Burke's energy and unabashed willingness to hustle. The Washington program is a case in point.

One problem was placing students, a minor one as it turned out. Most agencies in Washington are familiar with student internships and were willing to add UMass undergraduates to their staffs. As Rod Smith, administrative assistant to Congressman Michael Harrington, put it, "We're politicians. That's the point. If people offer us four months of their lives, it's ludicrous to say no." Still, it was not an easy matter for Burke to match students with competent supervisors 400 miles away.

Another problem was assuring the quality of the program's academic component. Since most of the interns were political science majors, Burke brought in two adjunct faculty from the area who teach courses in Congressional politics and reform. Although the students resent the intrusion of academics in their "real world" experience, the political science department back in Amherst favors the courses.

Close monitoring of the students work by the Amherst faculty, plus two papers (one before internship and one after), have also helped quiet objections to giving academic credit for experience outside the classroom.

A third problem was housing. Burke wanted to establish a program that could bring substantial numbers of students to Washington each semester, but felt that it would be next to impossible for the interns to find short-term, reasonably priced housing. The "UMass Mansion" was the unprecedented solution.

Now, after one year, Burke feels that the Washington program is "solid" (despite the bugs), and he is contemplating a similar set up in New York City, where students could work in the areas of art, theater and music. He speaks yearningly of internships in California and of international programs, but acknowledges that geography would inhibit monitoring the quality of the supervision the students would get. The Washington program requires about a trip a month to iron out problems between students and their supervisors.

Many problems stem from the immaturity of some of the interns, who enter their work experience with excessive expectations as to the impact they will have and limited expectations as to the work they will have to do. Although Burke weeds out, through individual interviews, many candidates for whom an internship is obviously inappropriate, there are always severe adjustment problems. Even Nancy Welch, who went to the Smithsonian with useful experience, clear goals and active support from her on-campus advisor, says she felt there was "no way I could stick it out" when she began her internship.

Burke has had to contend with on-campus problems too, where the old question about experiential learning warranting academic credit is still debated. There is unrest even in political science, which has one of the most extensive internship programs and appears to be a "natural" for this kind of curricular addition.

Assistant Professor Stanley Bach, the department's Outreach coordinator this semester, is "uneasy about giving academic credit for experiential learning, especially if people haven't mastered the basic reading, writing and talking skills. I'd screen for that and for people who can take maximum advantage of the opportunity."

Because of the problem of placing students, screening responsibilities have fallen on Burke's shoulders (although the academic departments decide whether or not a student gets credit), and he is trying to open the internships up, not restrict them.

"I don't think it's right for the University to say no to a student who wants to intern," he says, and he and his staff spend evening after evening talking about Outreach in dormitories, sororities and fraternities, encouraging students to apply.

Despite the popularity of Outreach and despite the proliferation of other alternative programs, there are still those on campus who feel that the classroom experience is the best vehicle, perhaps the only vehicle, for attaining a university education. To that, Associate Provost Woodbury has an answer:

"A lot of people argue that some of these programs are diverting the University from its planned mission—intellectual discourse and intellectual inquiry. I would argue absolutely the opposite. It's these kinds of activities that provide a healthy atmosphere, that make this an intellectually important place. Constantly trying different ways of educating people creates the kind of atmosphere that most stimulates intellectual activity."

SAN DIEGO SCHOOL ACCOMPLISHMENTS UNDER ESEA

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. BOB WILSON. Mr. Speaker, recently a comprehensive report on the progress of the school district's title I program under the Elementary and Secondary Education Assistance Act. It represents a collection of achievements which have resulted from title I funds in the San Diego program. I wish to bring this information to the attention of our colleagues and include the following résumé of the original board report in the RECORD:

SAN DIEGO CITY SCHOOLS' ESEA TITLE I PROGRAM ACCOMPLISHMENTS HIGHLIGHTS FROM REPORT TO THE SUPERINTENDENT, FEBRUARY 26, 1974

A. BACKGROUND INFORMATION ON SAN DIEGO'S TITLE I PROGRAM

Extent of program service

In San Diego, approximately 27,765 public school students meet federal guideline requirements for ESEA Title I project participation. Present funding allows the district to bring program benefits to only 9,896 public school students (7,360 elementary and 2,536 secondary) or approximately one-third of the eligible students. These 9,896 students are designated as project participants and receive major services from the Title I program. The remaining two-thirds of the eligible students are unable to receive Title I assistance at the present time. In addition, 696 nonpublic school students are served. Students in participating schools whose achievement in reading and mathematics is below grade level are eligible to participate. In the event funds are not adequate to serve all eligible participants, elementary students with the greatest educational need are served first.

Budget FY 1973–74

The current entitlement for San Diego's Title I program is $3,244,628. Sixty-eight percent of this entitlement provides services to district elementary school students; 26% provides services to district secondary school students; and the remaining 6% serves students in nonpublic schools.

Instructional Program

San Diego's Title I instructional program, known as DPT, is a diagnostic/prescriptive teaching system for individualizing instruction in reading and mathematics and English as a Second Language. The student's skills in reading, mathematics and ESL are diagnosed to determine what skills are already known and which need to be taught. Based on the diagnosis, a learning prescription is prepared and instruction follows as prescribed. The State Department of Education is currently in the process of determining how San Diego's DPT design can most effectively be prepared in a useful implementation package for utilization by districts across the state.

B. PROGRESS OF READING AND MATHEMATICS INSTRUCTION PROGRAM, 1971–1972

In San Diego, the inability to serve a greater percentage of needy students has been a continual source of frustration, especially now that Title I student achievement gains are becoming increasingly evident. For example, in 1971–72, four of the Title I schools moved off the list of the 15 elementary schools showing greatest educational need. In addition, in a study monitoring the reading growth of second and third grade students over a two year period, the following statements can be made:

1. Eight schools showed an increase that ranged from 2% to 10% in the number of 3rd grade students in the lowest quarter of achievement moving into a higher quarter of achievement.
2. Eight schools showed an increase that ranged from 3.1% to 19.0% of the underachieving 3rd grade students moving above the median.
3. Nine schools showed an increase that ranged from 1% to 22% of the second grade students in the lowest quarter of achievement moving into higher quarters.

According to the results reported in the Secondary Title I Evaluation to the State Department of Education for the year 1971–72 in all grades except the 11th grade, the target students were able to achieve or surpass the criteria of one month's gain in achievement for each month of instruction. For many of these students, this was a complete reversal of an earlier pattern of achieving less than a month's instructional growth for a month's instructional time. Fifty-five percent of the junior high school participants were able to gain a minimum of one month in their reading achievement growth for each month of instruction. In the high schools, 53% of the 460 target students did the same. Therefore, considerably more than one half of the 1,608 participants in all secondary Title I schools were able to make the expected growth or better.

C. PROGRESS OF READING AND MATH INSTRUCTIONAL PROGRAM, 1972–78

San Diego's ESEA Title I program, is currently demonstrating that a diagnostic/prescriptive teaching approach to reading and mathematics instruction is paying dividends, with gap closing achievement[1] being made in grades 1–6, 9–10 in reading and in grades 1–10 in math. Dramatic shifts are being made by first and second grade students in reading and math; by 10th grade students in reading; and by 7th and 8th grade students in math. Because the growth has occurred after less than one full year of Diagnostic Prescriptive Teaching implementation, site and central Title I staffs are encouraged by the progress made with students scoring in the bottom 25% at the time of pretest.

A survey of 1972–73 pre-post test data for elementary school students indicates the following in the area of reading achievement:

1. Four hundred sixty-four of the project elementary school students whose achievement was sampled made a minimum of 14 month's instructional growth in seven month's instructional time thereby doubling the normal rate compared to national norms. This represents 13% of the project participants sampled.
2. An additional 1,453 of the project elementary school students sampled achieved test score growth of one or more months for each month of instructional time.

At the secondary level, impressive progress can also be seen by examining achievement growth in months as compared to months of instructional time. The following statements show average achievement gains per grade at select Title I secondary schools:

1. Both 8th and 9th grade students at one Title I junior high school achieved 8 to 9 months growth in reading in 6 months. Seventh grade students at another junior high school averaged one year and two months growth in arithmetic in six months instructional time.
2. Tenth grade students at one Title I senior high school averaged 8 months growth in reading in 6 months instruction time. Tenth grade students at another senior high school averaged one year's growth in mathematics in six months instructional time.

Other examples of San Diego Title I program accomplishments can also be seen in the achievement of specific Title I Schools:

1. Five district compensatory education schools were cited for their Title I programs in the state-wide "Promising Practices" program. One school, Gompers Junior High, was selected as the demonstration site for a state-wide "Promising Practices" documentary film focusing on an effective junior high school compensatory education program.
2. At Kentucky Elementary among 333 students, 45.9% first grade, 50.1% second grade and 33.5% third grade students shifted out of the bottom two quarters of achievement in math into the normal range of performance for their grade level.
3. At San Diego High School, 279 tenth grade participants made an average reading growth of 1.1 years in six months instruction.
4. At Gompers Junior High School, Title I students at the seventh and eighth grades respectively averaged 13 and 12 months growth in math computation in six months instructional time.

D. SUMMARY

Staff members and parents feel assured that the program is heading in the right direction and that continued implementation of the positive techniques now being utilized will result in increasing academic gains for participating students during 1973–74. Staff members and parents also realize that much more needs to be done and that ongoing exploration of new and different techniques must continue so that a viable program which reflects the needs of all its participants may be the end product.

A TRIBUTE TO VIRGIL BOZARTH

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. WALDIE. Mr. Speaker, 40 years ago Virgil Bozarth started teaching in Martinez, Calif. He served as a teacher and a principal in the school system for 28 years. He could best be described as a tough-minded optimist willing and always ready to learn. He has taught thousands of students and by his example instilled in them the confidence that has stood them well throughout their lives.

Since his retirement from the Martinez School District after 28 years of service, Mr. Bozarth has exhibited a rare quality. He represents the epitome of a citizen willing to question not only the actions of our Government, but of its citizens as well.

He has shown great courage by supporting unpopular issues. He has for a long time warned Americans of the danger of polluting our environment.

Mr. Speaker, Virgil Bozarth has given a great deal to his country. I am proud

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[1] "Gap closing achievement" indicates that San Diego's Title I students are closing the gap between present standardized achievement test scores and the national average. "Gap closing achievement" indicates *more* than one month's achievement growth in one month's instructional time.

to insert in the RECORD an article written by Virgil Bozarth:

[From Contra Costa Times (Walnut Creek), Apr. 14, 1974]

TOMORROW, TOMORROW AND TOMORROW

(By Virgil Bozarth)

The country's economy must not slow down, too many people would be affected. We must not lose the impetus of a growing economy. Only perpetual growth can keep us prosperous. True? False? Haven't thought it through?

Do we solve, or do we intensify, the energy crisis by finding more of the earth's limited natural power sources and then, in conformance with the demands of our way of life, exploiting them at ever increasing rates?

No economy, no population can grow everlastingly because the earth is finite. Resources and space are limited. The earth's natural resources are not inexhaustible.

Can it be that our real crisis is not one of just energy, just gasoline, just electricity, just population, just technology? Can it be that the fundamental crisis rests in an arrogant, thoughtless, greedy, lifestyle, a way of life that is leading us to suicidal destruction of that lifestyle, exhaustion of the earth's resources, and production of an uninhabitable planetary environment?

We can take people to the moon, the Skylab, the H-bomb, supersonic jets, Teflon, hair sprays, and deodorants. Can we think ourselves into the survival of a livable environment, and thereby, the survival of man?

We could get along without power mowers, snowmobiles, electric dryers, electric toothbrushes, electric can openers, gasoline and electric golf carts, multiple packagings, most cosmetics, and millions of display lights. It would tend to be disruptive of our economy but aren't we smart enough to think through and deal with resultant problems?

Are scientists applying themselves to the crisis of the daily acceleration of the depletion of the earth's resources, the indications of the collapse of civilization, the possible suicide of the human race? Or are they, in the main, intensifying the crisis?

The big car is a salient emblem of America's predominant lifestyle. It is a crisis in itself, a crisis in thoughtlessness, arrogance, and selfishness. It uses more steel, more rubber, more copper, more petroleum than the small car. It spews out more air pollutants and, indirectly, more stream pollutants than its little relative. It is a blatant symbol of belief in the untruth that bigger is always better.

Our demand for power is doubling about every 10 years. This amounts to an automatic forecast of an eightfold increase in demand in approximately 30 years. Assertion has been made, apparently based on serious computations, that with our current growth rate of demand for power the United States will be covered with power plants in about two hundred years with no room for people or anything else.

Virtually everything we do generates or liberates heat. Every power plant of whatever kind, every factory, car, truck, locomotive, ship, airplane, dishwasher, refrigerator, freezer, garbage disposer, electrical gadget, television set, radio, hi-fi, light bulb, furnace, dryer, sewing machine, animal, and human being releases heat. Space launchings generate great quantities of heat. Every brake application and skid mark represents production of heat. All this released heat is not immediately dissipated into space. Some of it is retained in the biosphere, the sphere of living organisms. And the living organisms are not inured to man's mounting release of heat. If the power plants now planned for erection by the year 2000 are built, a large fraction, some say virtually all of the run-off water of the country will have its temperature raised significantly, perhaps markedly, with consequent changes of climate and plant and animal life.

It appears that man-made and man-released heat will within approximately 100 years equal the heat received by the earth from the sun and will raise the average climatic temperature of the planet so as to cause melting of the ice caps and consequent flooding of coastal plains.

However, the sun is a non-polluting energy source even with reference to heat. Some serious students of the problems under consideration contend that the world should be pointing toward the virtual exclusive use of solar energy as its origin of power. To many it is odd and disappointing that the federal government has allotted to solar energy research only a tiny fraction of the funds allocated to sources known to yield highly dangerous pollutants.

Nuclear reactors, whether so-called conventional or the hoped for breeder type, produce plutonium 239. This man-made stuff is lethally radioactive even in microscopic quantities. The half life of plutonium 239 is over twenty-four thousand years. To be safely stored it must be in containers that will be absolutely certain to be leakproof for hundreds of thousands of years. Ponder the fact that the containers must last twenty to forty times as long as the time that has elapsed since mastodons lived in North America.

Must our wash be whiter than white even though the whiter may destroy lakes and rivers? Must we drench our land with inorganic fertilizers that get into our water supplies, streams, and lakes while millions of tons of manure and slaughter house effluent, that contain great quantities of nutriment from the soil as well as valuable humus, are wasted and ultimately also find their way into rivers, lakes, and bays?

The United States arrogantly proclaims itself the richest, most powerful nation on earth. But our lifestyle, what has been called our cowboy economy, is propelling us toward environmental and financial poverty.

Unlimited expansion cannot occur on a finite island in space. Finite resources cannot last for infinite time. The energy crisis cannot be solved by using earth's limited natural energy supplies faster. We cannot, by whatever means, indefinitely produce more and more power. So doing will produce more and more heat. And heat is a pollutant. The thermal barrier will stop us. Unless we go to solar power. In short, we cannot expand forever, we cannot deplete forever, we cannot pollute forever.

It would be a great service if a concerted movement would arise among the best minds of the world to discover what would be an optimum world population and what kind of lifestyle that population could maintain indefinitely in reasonable comfort and convenience on our planet.

Can it be that those truly superb minds that have brought about so many astounding things including putting Skylab into orbit avowedly, among other assignments, to study conservation of natural resources, are unwittingly going about their tasks wearing blinders manufactured of fascination with the growth ethic?

Is this a tale told by an idiot?

Will all our yesterdays have lighted our rampaging lifestyle to dusty death?

ELEMENTARY AND SECONDARY EDUCATION ACT AMENDMENTS OF 1974

HON. RICHARD T. HANNA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. HANNA. Mr. Speaker, on March 27 of this year the House passed H.R. 69, the Elementary and Secondary Education Act Amendments of 1974. Contained in the bill was a provision to ban employment discrimination by recipient school districts against blind people. This provision, offered in committee by Representative MINK, is one which I hope the other body will include in its counterpart legislation. As case history evidence of the need for this legislation, I offer the following letter from one of my constituents:

NATIONAL FEDERATION OF THE
BLIND OF CALIFORNIA, INC.,
Anaheim, Calif., April 26, 1974.

Hon. RICHARD T. HANNA,
U.S. House of Representatives
Cypress, Calif.

DEAR CONGRESSMAN HANNA: I am writing to you in a dual capacity, both as an elected representative of the largest organization of blind people in Orange County, the Orange County Chapter of the National Federation of the Blind of California, and as a blind school teacher teaching sighted children. Congresswoman Mink of Hawaii has introduced an amendment to HR 69, the Elementary and Secondary Education Act, which would make it illegal for a school district to deny employment to a teacher candidate on the basis of blindness. I strongly urge your support of this needed legislation.

I am now a full time teacher of sighted children at Dale Junior High School, Anaheim Union High School District. This year my assignment is teaching ninth grade world history and anthropology classes.

Despite a successful college career including an outstanding student teacher evaluation, I spent two and one half years attempting to find a full time teaching assignment. While my sighted classmates were affected by the teacher surplus and were forced to take teaching assignments that they considered less desirable either in geographic location or class assignment, all of them did find teaching positions the first year. In my opinion, the reason that was unable to find a teaching assignment for two and one half years was because of discriminatory behavior on the part of California school districts. I will attempt here to recreate some of the incidents that I experienced in the hope that this information will help you in arriving at a just decision.

Discrimination against the blind is complicated because it is often not recognized as discrimination. For example, I was informed by the Glendale School District that although my resume and application looked very good, I would be unsuited for the opening in their district because it was at a school that had stairs. This school district not only discriminated against me but they felt they were doing it for my own "benefit". When I attempted to deal with this illogical thinking in relating my lack of eyesight to my mobility, I pointed out to them that my meeting with them was taking place on the second floor, but they only persisted in repeating their original statement.

The San Marino Junior College District informed me that their students were not ready for a blind teacher but that in all other areas I was highly qualified.

The Los Angeles City School District informed me that if I were hired, a sighted teacher's aid would have to be in the classroom with me and my classes at all times and that this teacher's aid's salary would come from the principal's building budget. Furthermore, although I passed the written and oral examinations administered by the district, after my name on the list of teacher candidates that went out to all schools the word "blind" would be placed to "warn" the principal.

In Pasadena, the principal that interviewed me stated frankly that he did not know what the district's policy was toward hiring the blind and that he would check with the district regarding this matter. I never heard the district office's reaction to his inquiry.

In two and one half years of job hunting, I mailed out over six hundred resumes, filled out over three hundred applications, most of them inquiring as to physical "defect" or handicap. The most blatant case of application discrimination is the question that asks, "Do you have any physical defect that will interfere with your ability to teach?" As a blind teacher applicant, I invariably checked "No" since I do not consider blindness to be a factor in effective teaching. In my more than fifty jobs interviews, I encountered numerous cases of blatant discrimination. The cases cited here are meant to be illustrative of attitudes rather than an exhaustive list.

I received my Bachelor's Degree and Master's Degree and California Standard Secondary Teaching Credential for life with the assistance of the Department of Rehabilitation. If the Federal Government has the confidence in my ability as a blind man to be a teacher of sighted children to the extent that they help in the financing of my education, then it makes sense that the Federal Government should offer legal support by eliminating discriminatory practices by school districts. During the two and one half years of my job hunting, I was a recipient of Aid to the Blind in California, a tax consumer rather than a tax payer. If there had been a strong anti-discriminatory provision, it is probable that I would have gained employment sooner and become a tax payer quicker.

For all of these reasons, I urge the passage of this anti-discriminatory provision. If you agree with me that the passage of this anti-discriminatory amendment to HR69 will be of benefit to thousands of blind teacher candidates in the future, will you please communicate your support to Congressman Carl Perkins, Chairman of the House Committee on Education and Labor, as well as to the members of this committee.

Thank you very much.

Sincerely,

R. DONALD BROWN,
President, Orange County Chapter, NFBC.

WESTCHESTER COUNTY SCHOOL BOARDS ASSOCIATION OPPOSES H.R. 8677

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. ASHBROOK. Mr. Speaker, in the CONGRESSIONAL RECORD, volume 119, part 24, page 32650, I warned that there is a serious danger of public employee unions becoming a private government. H.R. 8677, which extends collective bargaining privileges to the public sector, would in effect deny government by the people and turn it over to private organizations unaccountable to the public.

The dangers that this bill poses to the *public* interest are outlined in a position paper prepared by the Westchester County School Boards Association. This association represents the school board members of 49 public school districts in the county of Westchester, N.Y., where they are responsible for the education of more than 165,000 children.

The association believes that H.R. 8677 would unbalance the negotiating process in favor of employee unions and give these unions, rather than elected public officials and the citizens and taxpayers they represent, control of policymaking in the schools. The association also contends that this is a matter for the States to determine without being superseded by Federal legislation and administration.

Following is the complete text of the association's position paper on H.R. 8677:

POSITION STATEMENT ON H.R. 8677

We are opposed to H.R. 8677 in its entirety for the following reasons:

1. The right of public employees to organize and bargain collectively is a matter for the states to determine without being superseded by federal legislation and administration.

2. We consider H.R. 8677 ill conceived because it is so structured as to unbalance the negotiating process in favor of the employee unions and to give them, rather than elected public officials and the citizens and taxpayers they represent, control of policymaking in the schools.

3. It provides for policy making power by appointed officials which is binding upon elected officials.

The following material points out the detailed analysis of H.R. 8677, as presented by the Lower Hudson Council of Chief School Administrators of New York State and supports our collective view that H.R. 8677 would seriously harm both the public school systems of our country and the collective bargaining process:

1. The subject matter of bargaining would not be limited to terms and conditions of employment, as it is in the private sector, but would extend to "other matters of mutual concern relating thereto". There is nothing that goes on in a public school building that is not a "matter of concern" to professional employees and which does not relate to their job in some way. The list is endless: curriculum, selection of teaching materials, grouping of children, class size, length of the children's day, number of support personnel, the person in the principal's office, handling of children with problems, the physical facilities of the building and classroom equipment are just a few. Not only are all of these to be negotiable, but the union is to be given the power to enforce its views through strikes or, solely at its option, through binding fact finding. Decision-making thus moves from the public, which supports the schools and is required by law to send their children to them, to the public employee. This is a far cry from the right to bargain about salaries, hours and fringe benefits, and is unprecedented in the history of labor relations in this country.

2. The duty to negotiate is extended to matters of public policy upon which the state legislature has seen fit to legislate, if these matters relate to employment. Even the very concept of free public schools for all the children of the state would be open to negotiation. For if tuition were to be charged, more money might become available for improved salaries and benefits. If some children were excluded from the schools, the conditions of many teachers' jobs would be made easier. Legislative mandates on such varied matters as curriculum and minimum standards for school buildings would be negotiable. Negotiations in such areas are unsupportable as a matter of public policy.

3. The proposed Act, by making agency shop mandatory and union shop permissible, would exclude from our nation's classrooms, and from a voice in the negotiating process, all of those teachers who for ideological, personal or religious reasons are unable to support a union or unionism. Thus the very atmosphere in which children learn would be affected.

4. The Act goes out of its way to intrude on the management of schools by providing that, in regard to educational employees, a bargaining unit may include both supervisors and non-supervisors. School principals exert enormous influence on the education that takes place in their buildings and on a day-to-day basis are involved in a myriad of policy decisions. The New York State Legislature recognized their key role in public education when it decided two years ago that principals would no longer be eligible for life-time tenure. H.R. 8677 goes to the other extreme: it puts the principal, with all of his important powers, in a union with the teachers he supervises. Nothing could be more opposed to the public interest and the well-being of our sschool systems.

5. Under the impasse procedures of the bill, fact finders are given broad powers to subpoena witnesses and require the production of records, papers and information relating to any matter before them. This could include confidential matters between Board members and superintendents or others negotiating on behalf of the school district. Such extreme powers are not provided under the Taylor Law and the lack of them has not in any way obstructed the process of fact finding in New York State. Fact finders in our State are able to help resolve disputes without such subpoena powers, which also have no counterpart in the private sector.

6. Among the most dangerous and one-sided provisions of this bill is the right given to a union to decree that the fact finder's recommendations shall be binding. We have pointed out above that the bill permits union demands to extend into the far reaches of school policy-making. At the union's whim, now, the fact finder could make a binding decision on what school policy shall be. Apart from whether school officials responsible to their electorate would ever want to avail themselves of a right to turn their functions over to a fact finder responsible to no one, what is the conceivable justification for granting the right to compel a final determination of a negotiating dispute to the union but not to the employer? It becomes more incredible in light of the fact that unions are given an almost unfettered right to strike by this bill. The public employer is forced to take the strike: no binding final determination of the impasse is available to him. This provision is logical only if it was the intent of the drafters of this bill that public institutions be controlled by public workers' unions.

7. A clear illustration of the bent of this bill to tip the balance of negotiations in favor of the unions is the provision that if the contract does not provide for binding arbitration of grievances either party may submit a dispute to binding arbitration through the National Public Employment Relations Commission. Almost all of us are signatories to contracts with our employees providing for binding arbitration. But in every case, this resulted from the give-and-take at the bargaining table. Employer demands were agreed to in exchange for our agreement on binding arbitration. Or other employee demands were withdrawn in exchange for the right to binding arbitration. Why this limitation on the public employer's right to negotiate? Throughout the 45 pages of this bill there is no comparable limitation on the employees' right to bargain.

8. The bill permits teachers the right to strike without any limitation whatsoever unless a district court finds a clear and present danger to the public health or safety. There is no limitation on the demands over which a union may strike, no limitation on the length of time a strike may last, no penalty even for an irresponsible strike, no provision for a compulsory settlement of the issues of the strike. We believe that public education deserves more thoughtful treatment.

9. This Act would apply to all states unless

a state has established a system for regulating employer-employee relationships which is "substantially equivalent" to the system established by the Act. In this connection, we urge the Special Subcommittee to consider two points: (1) Education has been for almost 200 years a special concern and responsibility of the states. In the present school year, public elementary and secondary education is being supported 93% by funds generated within the states; only 7% by federal funds. We question under this circumstance the interest and propriety of the federal government to legislate in the area of relations between School Boards and their employees. The proposed Act provides no additional funds for school districts to offset the greater costs which might result from the obligation to bargain in accord with this proposed legislation. (2) The statute provides no standards by which "substantial equivalence" may be measured. We cannot judge whether New York's Taylor Act, which has worked well, by and large, to regulate public employer-employee relations in New York State, would be considered substantially equivalent. Such determination should not be left for decision by a Commission, without standards established by Congress.

In addition, the Westchester County School Boards Association finds fault with the following provisions of H.R. 8677:

(a) That it goes far beyond the National Labor Relations Board legislation and any federal labor control in the private sector;

(b) That it provides for an appointed last word administrative body in which three members constitute a quorum and two of those members could form a majority decision binding upon every public employer in the United States;

(c) That it provides for an appointed examiner not subject to court review.

For all of the foregoing reasons, the Westchester County School Boards Association strongly urges the Subcommittee to disapprove this proposed Act or any modified legislation that may be proposed in the future having similar basic intent.

WILL BREAD FALL TO 7 CENTS A LOAF?

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. FINDLEY. Mr. Speaker, just a few short months ago, spokesmen for the baking industry were predicting a bread shortage of mammoth proportions. The American Bakers Association compiled figures pointing to this disaster and touched one of the tenderest spots in an American's heart by promising:

"No hamburger buns
No rolls for hot dogs at ballgames
No bakery snacks for children
No birthday cakes
And no pizza."

Faced with a loss of this proportion, Americans were expected to rise up in protest and push for strong export controls on wheat.

That was just 5 months ago. Today, the cash price of wheat has fallen by more than 40 percent and chances of a shortage are zero. But the ABA has not been heard from. There has been no official baking industry comment on this turn of events.

In order to point out the situation to the ABA, I sent the following letter to ABA chairman Bill O. Mead:

DEAR MR. MEAD:

On January 9 you forecast that without export control wheat prices would skyrocket to $8, $10, or $12 per bushel by spring—and this would push bread to $1 a loaf. Spring is here and no controls have been imposed on exports. But instead of doubling, as you forecast, wheat is down more than 40 percent.

The cash price f.o.b. Kansas City on May 7, 1974, was $3.46, a decline of 40.3 percent from the January 8 price of $5.80 to which you alluded in your statement.

Now that wheat is down, consumers are eagerly awaiting your forecast that bread prices will be declining sharply in the near future. USDA reports that the retail price of a one-pound loaf of white bread was about 32 cents in January. As wheat prices have fallen by more than two-fifths, I must draw a corollary to your reasoning and assume that a one-pound loaf will soon cost about 20 cents.

Or, because you implied that a twofold increase in wheat prices would precipitate a threefold increase in bread prices, are we to expect that a 40 percent wheat price decline will cause an 80 percent decline in bread prices?

You will surely make millions of consumers very happy with the dough-saving announcement of a seven-cent loaf of bread. Big news, no matter how thin you slice it.

Knead I say more?

Maybe I sound a bit crusty, but who wouldn't be when bread prices stay up despite a big drop in wheat prices?"

THE SOCIAL SECURITY HOAX

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. ROUSSELOT. Mr. Speaker, the social security program has, unfortunately, become a "sacred cow" in many segments of the American public to the extent that if a rational question is raised about the method and procedure of the system, or even the basic reasons for its existence, people in the news media and certain politicians viciously attack those who speak.

William A. Rusher, whose column appears in many newspapers across the country, raised some hard questions in an article which appeared in a newspaper in my district, the San Gabriel Valley Tribune, on April 28, 1974. The points brought out need desperately to be considered by the Ways and Means Committee of the House and the Congress as a whole. Mr. Rusher is clearly concerned about the ultimate welfare of the millions of people in this country who have placed substantial faith in the social security system to be many things it is not. I am in hopes that my colleagues will review Mr. Rusher's analytical comments in the article which follows:

SS HOUDINIS PLAY SHELL GAME WITH US

(By William A. Rusher)

Whenever my faith in human gullibility begins to flag, I spend a few minutes contemplating Social Security. Of all the hoaxes perpetrated on the American people by Franklin Roosevelt's New Deal, this one is my very favorite.

It began, like most New Deal reforms, with the discovery and proclamation of a human need, in this case the need to provide for people in their old age. Thus stated, there was surely nothing wrong with the idea.

To this insight, the New Deal liberals added another—their own firm, paternalistic conviction that the American people are incapable of coping with the problem themselves. As an individualist I always found this a tough proposition to swallow, but I have finally managed to get it down. Unquestionably there are plenty of feckless types around who just don't have enough foresight—who will spend, all their lives long, every penny they can lay their hands on, and then wind up in a tearful heap on the city hall steps in their 60s or 70s.

From this it followed quite naturally, in the eyes of the New Dealers, that Big Daddy would have to do for people what they were too dumb to do for themselves: compel them to set aside a part of their earnings as a retirement fund. So far so good.

At this point, however, the Houdinis of the New Deal got busy. If you can follow the pea from shell to shell the rest of the way I will paste a gold star in your book.

First, they brusquely removed a Social Security premium from every worker's pay before he even got his hands on the check—thus, they correctly calculated, dulling his sense of loss. Then they required the employer to match the employe's contribution—a piece of rigamarole that didn't cost the employer a cent (since it merely became an item in the total cost of labor, which continued to be negotiated freely as before), but gave the worker an obscure and meretricious feeling that he was getting something extra. And then, instead of investing or even saving the money, they took the whole caboodle—employer and employe contributions alike—and spent it on the high purposes of the New Deal, including their own salaries, trusting to future Social Security contributions, or general tax revenues if need be, to pay the pensions of the elderly when these started falling due in substantial amounts a quarter of a century later.

Beautiful. Simply beautiful. Even the side benefits were from a social planner's standpoint, impressive. For example, every American must have a Social Security number, which tags him as efficiently as the tattoo on the forearm of an Auschwitz inmate—thus creating a potential for big brotherhood that even libertarians have only lately begun to dread.

Best of all, Roosevelt managed to sell this scheme, which is really just a ruthlessly regressive payroll tax, to the American people as one of the major "benefits" he was conferring upon them. To this very day, as Barry Goldwater discovered to his sorrow, an unkind word about the Social Security system is enough to convince millions that you are about to snatch away their only hope of a dignified old age.

And yet Social Security is, and always was, a ripoff pure and simple. There was no reason on earth why a system of old-age insurance had to be set up the way this one was. By 1977, the maximum Social Security payment (by employer and employe) will rise to nearly $100 a month. A person 21, paying this same amount for private insurance, would receive $158,700 of immediate insurance protection, plus a cash value growing to $96,600 at age 65, and dividends worth, if reinvested, at least $150,000 at retirement. What's more, he could leave to his heirs any of the cash he didn't spend, and could earn as much as he pleased on the side. Does this sound to you very much like what he will get under Social Security?

Workers of the world, with friends like that you don't need enemies.

EQUITABLE RELIEF ASKED FOR HAVIV SCHIEBER

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. ASHBROOK. Mr. Speaker, on last Wednesday, May 8, I was glad to have the opportunity to testify before the House Judiciary's Subcommittee on Immigration, Citizenship and International Law where subcommittee members raised serious questions in the case of Haviv Schieber, the subject of two recent deportation tries by the Immigration Service. The presence of Senators JAMES BUCKLEY of New York and JESSE HELMS of North Carolina at the morning session, later postponed until the afternoon, is a good indication of the interest and concern aroused by the Schieber case.

My interest stems from the intimate knowledge of the case of Mr. Stephen Koczak, a former Foreign Service officer who knew Mr. Schieber in Israel and who is now research director of the American Federation of Government Employees—AFL–CIO. Mr. Koczak has appeared on behalf of his union before the House Committee on Post Office and Civil Service, the House Committee on Education and Labor, and the House Committee on Foreign Relations, as well as the House Government Operations Committee. In addition, he was a witness before the House Internal Security Committee.

Mr. Schieber, a 63-year-old Israeli citizen and a resident of the United States for 15 years, cut his arm on May 1, in what has been described as a suicide attempt and which certainly was an act to frustrate deportation. Two days later, a second deportation attempt failed as Mr. Schieber, bound in a leather straightjacket and nearing Kennedy Airport, was returned to detention, stayed by a last-minute court appeal. A third deportation effort is being stayed until the subcommittee, based on new evidence by Mr. Schieber's lawyers, votes whether to untable a 1969 private bill, thus allowing new legislation to be introduced and the merits of the case reviewed on the equities.

Mr. Schieber was born in Poland and risked his life helping Polish Jews escape from Nazism to Palestine in the late 1930's. He spent several years in Israel after World War II, serving in the Israeli army and then rehabilitating housing, at no profit to himself, for Jewish refugees.

An outspoken believer in our system of government, Mr. Schieber has appeared on many platforms extolling our way of life. He has donated blood for Vietnam servicemen, and contributed to, and participated in, American patriotic organizations. He has founded a successful construction firm in New York, specializing in rehabilitating low-income housing, for which work he has received many letters of commendation including one from an agency of the New York City government. In his firm, Mr. Schieber has made special efforts to employ minority groups and returning Vietnam war veterans. The Bronx chapter of the National Congress of Puerto Rican Veterans has praised Mr. Schieber and actively opposes his deportation.

In contrast, an Israeli official described Mr. Schieber as a troublemaker in a recent issue of the New York Post and stated that he was unwanted by either Israel or the United States. While having no criminal record either in Poland or in the United States, Mr. Schieber claims to having been arrested in Israel 18 times for his political activism in which he declined to work within the existing major political parties, which he viewed as socialistic and Marxist. He sought to organize his Democratic Party as a base for people to acquire economic independence and social services outside the usual political party channels.

The charge of crimes of moral turpitude which has been used by Immigration officials against Mr. Schieber came under sharp questioning by subcommittee members. It was conceded, for instance, by the officials, that the crime of theft charged against Mr. Schieber was only for his use of two street tiles to construct a symbolic post office, when, as mayor of Beer Sheba, he had been denied a post office in his area.

Still another area explored by the subcommittee was the continued use of a Board of Immigration Appeals decision, Matter of Lee which had been ruled reversible error by the U.S. Court of Appeals for the Ninth Circuit. This objection is spelled out in detail in the brief submitted to the subcommittee by Schieber's lawyers.

Finally, if the allegations raised against Immigration people in the two deportation attempts are true, and if they are representative of deportation cases, they do raise serious issues of due process and violation of basic human rights. For instance, it is alleged that after Schieber cut himself permission was denied by INS to have his own personal physician examine him. A later attempt by another doctor and nurse was denied, as were the requested inspection of his medical records.

After 15 years in the United States, and judging his legal recourses exhausted, Mr. Schieber claims he asked Immigration people on Friday, May 3, for an electric razor for his 5-day beard and for a suit from his apartment before leaving for the airport that night. He was refused although he complained he did not wish to be humiliated in Israel when deplaning, arriving with a beard, in hospital garb and in a straightjacket.

Permission to contact one of his employees to wind up his business affairs was refused.

Permission to call his lawyer was refused; his lawyer was not notified of his imminent deportation nor was my office notified, as promised by INS-Washington, of either deportation attempt.

According to Mr. Schieber, when he asked to have his personal effects from his apartment, he was refused. Instead, Immigration people forced on him two luggage bags containing writings and tapes authored by him and whose subject matter was both anti-Communist and anti-Zionist. He protested that this material, upon inspection in Israel, could well inflame passions against him and it could be inferred that he was importing them to arouse the populace against the government. When he asked that the material be left behind, he claims, Immigration authorities placed tags on the luggage bearing his name and readied them for delivery to the plane.

As I stated at the hearing, these are allegations, the truth of which I am in no position to verify at the moment.

I also stated at the hearing that Mr. Schieber's political views are his own. My concern for his future is on a humanitarian basis, the nature of the Immigration case against him and on the equities involved in the case. I am hopeful that favorable action will be taken by the subcommittee so that a new bill on Mr. Schieber's behalf can be introduced.

RAPE: SOCIETY'S CRIME AGAINST WOMEN: PART II

HON. H. JOHN HEINZ III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. HEINZ. Mr. Speaker, last week I introduced into the RECORD the first of two excerpts from a special edition of the Pittsburgh New Sun concerning the growing threat of rape in our society. At this time, I would like to bring the second of these excerpts to the attention of my colleagues. This article deals at length with the police treatment of rape victims, the low percentage of rape convictions, the most effective methods of avoiding rape and, if attacked, how best to preserve evidence to insure an effective prosecution.

Because of the spiraling incidence of rape, the poor treatment of rape victims, and the lack of understanding of the causes of rape, 63 of my colleagues have joined me in sponsoring H.R. 10848, the Rape Prevention and Control Act. This proposal would establish within the National Institute of Mental Health a Center for the Prevention and Control of Rape. This Center, working in conjunction with the Justice Department, would probe the causes of rape and draft a model rape law. In addition, this legislation would provide grants to localities for demonstration projects into the treatment of rape victims and the rehabilitation of rape offenders.

I am hopeful that many of my colleagues will read this article and join us in a national effort to overcome the threat of rape in our society:

AT TRIAL, THE ACCUSER ACCUSED

IV

Hundreds of women across the country have criticized police as being judgemental ("she asked for it," "she looks like a tramp," "she's that kind,"), harassing, and suspicious of rape victims. They are, in fact, just as susceptible as other members of our society to the myths and false attitudes existing about rape. Often, because of sex role stereotyping, they are ineffectual in dealing with traumatized women. Many women have felt that their interactions with the police were just as painful and traumatic as the rape itself.

Pittsburgh's Youth and Sex Squad seems to be one department relatively exempt from such complaints and claims, even receiving some compliments.

Sergeant Flannigan of the Squad claimed that while not trained specifically for dealing with raped women, his men were trained extensively in the methodology of interview and interrogation, and "were very sensitive and compassionate towards rape victims."

Well aware of the accusations being directed towards the police on this sensitive issue, Flannigan added, "Contrary to what some people might be led to believe by recent movies on television, I don't feel that the police put the rape victim through unnecessary harassment. The personnel in this section are very competent and always conduct themselves in a very professional and personal manner with the victims. We don't discourage anyone from going to court if we have a case. We have even received letters from victims thanking us for our help and understanding."

The Squad is responsible for gathering all the evidence necessary to insure a conviction in court. If some questions appear too personal, vulgar, or intimate to the victim, to the police they may be clues to identifying and convicting the rapist. According to the Sergeant: "The attitude that our section has toward the rape victim is that we *believe* the person has been raped up until the point that something shows up during the investigation that would prove otherwise."

Because counseling is not routinely provided for rape victims in Pittsburgh, it is often the detective involved who recommends help for a woman he believes has been severely affected by her experience. It should also be noted that the Youth and Sex Squad detectives are significantly more successful in obtaining arrests (achieved in about half the cases) and evidence than the State in obtaining convictions.

The trial

The problem of rape doesn't end with the victim's report to the police, because rape, besides being a violent crime, is one of the most difficult to prosecute and defend.

The central issue in a rape trial is consent. If a jury finds that the woman gave no consent to the act, then the accused is guilty. If the matter of consent is unclear especially if the victim is not severely beaten or injured acquittal is likely.

"I heard a quote somewhere that 'A good cop will tell you not to resist, a good D.A. will tell you to fight back all you can.' Now that's something I read; I don't necessarily go along with it," said County Assistant District Attorney Bruce Dice.

Realistically speaking he said that it is easier to win a brutality case because "it's more serious for the jury to see a beaten victim." In his experience, the conviction rate seems to be lower for non-brutality cases. In the minds of the jurors the fact that the woman wasn't beaten implies consent. In prosecuting a case like this Dice said, "It takes more time. We explain the ramifications of the case to the witness, we tell her 'Look, this is the situation, you tell me why it's not consent.' We also simulate a cross examination." The prosecutor practices with his witness in this way to build his case in proving that the victim was forced and didn't consent.

Ellen was amazed. The Allegheny County Assistant District Attorney assigned to her case met with her for the first time, about 10 minutes before court convened "We didn't have a chance. From the beginning, he acted as though we'd never win. He was really negative. He didn't even bother cross examining the defense's witnesses. The police wanted to testify in my behalf. They told him Joe was committing perjury. He refused to put them on the stand. After two years of rehearsing, Joe's story was completely flawless, he never waivered. I had forgotten many minor details, no one rehearsed me."

Another major problem that makes it difficult to prosecute a rape is delay in reporting the crime. Dice stressed the point that a victim should contact the police immediately to corroborate her story. Delay only makes it easier for the defense to convince the jury that the woman consented.

Dice also mentioned that a woman who reported a rape is not automatically provided police protection. That recourse is available, however, if she has been flagrantly threatened. Should she report serious threats from the accused, his bond can be revoked for protection.

Mr. Snyder, a defense attorney, and Mr. Dice commented on the recently televised movie, *A Case of Rape*. Their comments were directed most specifically to this issue (and problem, as most viewers perceived it) of the defense questioning of the prosecuting witness.

Both lawyers agreed that the extent to which the victim's sexual experience and "reputation" were explored was dependent on the judge's discretion. "Promiscuity *usually* has *no* bearing on the case," said Snyder; Dice went further, "It *has no* bearing on the case."

Criminal Court Judge Henry Smith believes, "It depends on the circumstances. In cases of prior intercourse (with the accused) it might be pertinent. Many times it is admitted but not relevant."

It is the defense strategy to show that the victim in fact consented to—if not encouraged the act. The victim is now on trial, because presumably, only a woman of questionable moral character would consent. Acquittal for the accused is a guilty verdict for the accuser.

"A defender defends, it is not his job to determine if the accused is a menace," said Snyder. He must establish certain circumstances that tend to show consent. Did the victim and the accused know each other? Were they drinking? Was she hitchhiking and thus asking for it? Did she delay in reporting the crime?

Even if the District Attorney or the Judge object to irrelevant questions by the defense lawyer, the jury has heard the accusation and its connotations. The doubts that arise from such implications can not be stricken from their minds.

The defense used incredible theatrics. They brought in Joe's terminally ill father, his mother with his high school graduation picture, his girlfriend. "Joe committed perjury over and over. He said, 'She wanted it as much as I did.' He referred to me as 'easy,' 'sleazy.' They asked if I'd ever had intercourse."

A few months after the rape, Ellen married her high school sweetheart. At the trial last month—2 years after the rape—their baby was seven weeks old. The defense asked, "Is that your husband's child or another man's?" "I couldn't believe it. I couldn't control myself—I screamed out in the middle of court—'Why would I go through this hell if I had consented?'"

Because our Constitution and our criminal justice system are meticulous in protecting the rights of those accused, maintaining a presumption of innocence, it is very difficult to introduce evidence concerning the defendant's moral or sexual background. However, according to Judge Smith, "Promiscuity on the part of the defense is admissible as evidence in certain circumstances. If a man has had a course of conduct lending itself to sexual violation, it is admissible in court." Discriminatory accusations (arrests or complaints without convictions) are dangerous to the prosecutor's case. The defense can often have the charges dismissed, or call for a mistrial.

The police were present when Joe called to apologize for what he had done. The police were on an extension phone and heard Joe's confession. The evidence was declared inadmissible, as illegal surveillance. Two months later Joe was positively identified by a minor as the man who raped her. She was too frightened to press charges, and her identification was also inadmissible.

Allegheny County, 1973 criminal court dispositions

Number of defendants tried:	
Murder	23
Manslaughter	50
Arson	18
Armed robbery	212
Assault	696
Rape	42
Number found guilty:	*Percent*
Murder	61
Manslaughter	60
Arson	61
Armed robbery	79
Assault	48
Rape	29

It has been suggested by reformers seeking equity in rape cases that a defendant's moral character be examined, if he is pleading consent and has previously pleaded consent to a charge of rape.

In a rape proceeding, the jury's determination is based on their belief of one witness' word as opposed to the other's. As long as irrelevant theatrics are a valid resort, and as long as juries subscribe to society's double standards, trials will continue to be of the attacked, not the attacker.

"In a case of rape it doesn't do any good to tell the truth. You can't win with the truth—you've got to lie and perjure yourself."

Ellen's mother can't understand how Joe was acquitted by the 3-man, 9-woman jury. "We urged Ellen to fight it. Over the two years and dozens of delays and postponements Ellen wanted to quit. We thought he should be nailed. Everyone knew he was a troublemaker and a threat. We didn't want anyone else's daughter to go through this. If our younger daughter is ever raped, we won't report it. Why go to court—you don't have a chance."

V

The best thing to do in case of a rape is to avoid being assaulted in the first place.

Avoid walking alone at night, and if it is necessary, remember that a majority of rapes are premeditated. Parking lots, alleys, and playgrounds are popular. This advice is galling and useless to women who work, or for other reasons must be out at night, and in fact there should be no reason for women not to share the right of men to walk in public unmolested. But although to state it is a tacit admission of women's second class citizenship, the fact remains that the streets at night hold danger for lone women. Go in groups if possible.

If you are outside, and suspect you are being followed, find out. Turn and look. If necessary, change direction to confirm or disprove the suspicion.

If you are being followed, the best option is to run, but only if there is a place to run. Otherwise you will be turning your back to an attacker who more than likely can outrun you. If pursued and an occupied building is nearby, go to it. If the occupant is slow to answer the door, or doesn't want to become involved, break the door or window glass. A whistle is a good thing to carry in an easily accessible place.

When at home, check the credentials of any stranger at the door claiming to be a repair, delivery, or police man. If not satisfied, check with a phone call to his superior before admitting him.

Hitchhiking is inadvisable, and a successful prosecution for hitching-connected rape very difficult, but if done, remember that it is your right to refuse a ride, particularly if the driver has changed directions just to pick you up. Always check the back seat before entering a car, and if possible, sit in it. You always have the right to get out at any time. Traffic lights are good for that. Carry a lighted cigarette or other small objects such as a comb, keys, nail file, pencil or toothbrush to use as weapons if necessary.

If escape is impossible

Much of the advice above is in fact worth little, because a majority of women raped knew their assailant before the attack. He may be a friend, neighbor, or date.

When the best alternative, escape, is impossible, and a woman decides it would be unwise to resist, there is still much that should be done. *All the evidence available must be secured!*

Learn his face and look for scars, moles, and other details, such as physical characteristics, an accent, or other specific mannerisms that will assist the police. Be able to identify him from mug shots or in a line up or to assist a police artist in sketching him. Practice picking up identifying features of a car, like make, model, year, decals, broken windows or dents, a trailer hitch, and above all, a license number.

Do not destroy or contaminate evidence! The most common and understandable reaction is to shower or bathe immediately, but that is the worst possible thing to do. Do not wash, change clothes, or treat cuts and wounds (unless necessary). This lessens or eliminates the proof needed for a conviction.

Summon a friend for comfort and support through what will follow, and report the assult to the police immediately. Any delay will aid his escape, and hinder his conviction.

Report it

Rape is epidemic today. No rapist was ever apprehended and convicted for a crime that wasn't reported; if raped, think of other women and call the police.

Prepare for trial

When your case comes up for trial, remember that the impression upon the jury is critical. Dress and behave accordingly. Go over the facts until absolutely sure of them; the defense attorney will do everything possible to confuse and upset you, so rehearse and role-play with friends or a lawyer before the trial. Know the proper language, to avoid appearing vulgar (vagina, penis, semen, intercourse, etc.). Have someone with you for support.

VI

Self-defense

Women confronted by rape have another option—that of fighting back effectively. Though most women are smaller and weaker than most men, there is little physical reason why a determined woman could not drive off an attacker.

The reason is really the submissiveness and helplessness conditioned into women from childhood. Nice little girls are weak and gentle. Most women are reluctant to fight because they have no experience with physical combat and they cannot imagine themselves punching someone in the face. They believe that if attacked they would run to safety, scream for help, or talk their way out of the situation. The fact is that this rarely happens.

The ability to defend oneself does not require any formal training, though it is a good idea, but just a conviction that self-defense is necessary, a knowledge of two or three basic techniques, the physical learning of those techniques, and continuing mental practice.

Before choosing to develop and rely on her defensive abilities, a woman should consider whether such skills are worthwhile, within her value system, and whether she will really be able to use them if the need arises; and ineffectual defense may only increase his gratification, and may even raise her risk of serious injury. Of course, if the attacker is armed there is far more to consider.

Common items make weapons

Probably the most common misconception among women is that an effective self-defense technique is a kick to the groin. There are a variety of reasons why this is not so. One is a mental block that keeps the woman from actually doing it. It is almost impossible to do, and a moment's hesitation gives the attacker enough time to perceive your intent. In addition to these, a man instinctively protects his groin area so that the chances of making contact are very slight.

Always carry something small that can be used as a weapon, but something that will not constrict your movements. A comb, brush, key or pencil can be an effective weapon.

If you plan to use an umbrella, do not use it like a club. (When you raise your arm, he will grab it.) Instead use it like a bayonet and aim for his stomach.

If you are attacked from the front, the best parts of the body to aim for are the eyes and nose. Dig the teeth of your comb (or your fingernails) into his face. Using an upward blow with the palm of your hand smash his nose. Chop at his Adam's apple with the side of your hand. You should try to break away and as soon as possible leave him.

Remember that surprise is a great weapon and the would-be rapist will not expect you to be able to effectively———

* * * * *

"We hope to open the crisis center in the next three months, but as yet no tentative date has been scheduled." She declined further comment about the center's development of goals and policy.

Ms. Pat Farley sees the delay in the opening of the crisis center as a direct result of a political battle between the members of NOW (National Organization of Women) and PAAR. "Since PAAR is staffed by several former NOW members, competition between the two is inevitable. Myself, I have not become involved because I feel nothing is being accomplished." She commented that more might be done if PAAR were a "non-feminist related group."

VIII

Finally, the problem of rape can only be solved when the sexual double standard and its attendant myths are overcome. When violence and domination are no longer confused with sex, when jurors recognize the right of a woman to make love with or refuse anyone she chooses, and when men join in redefining social roles, with women as equals rather than as possessions, most of rape's motivations will be gone.

TAX ADVANTAGES FOR OVERSEAS OIL OPERATIONS: QUOTES FROM PHILIP STERN'S, "THE RAPE OF THE TAXPAYER"

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. VANIK. Mr. Speaker, on Wednesday, the majority party of the House of Representatives will be meeting in caucus to consider calling on the Rules Committee to allow a floor amendment to the windfall profits tax bill (H.R. 14462) which would terminate certain incentives for oil company operations overseas.

If the caucus or the Rules Committee agrees, I hope to offer an amendment to the windfall profits tax bill which would, first, terminate the intangible drilling expense for overseas petroleum operations; and, second, change the foreign tax credit for oil companies into a straight business deduction. The text of my amendment—which has received wide cosponsorship in the House—is printed on page 13430 of the May 7 CONGRESSIONAL RECORD.

I would like to include in the RECORD at this point a very readable description of how these tax incentives for overseas oil operations developed and what they have cost the taxpayer. The following are quotes from Philip Stern's excellent and informative study on the need for tax reform entitled, "The Rape of the Taxpayer":

QUOTES FROM "THE RAPE OF THE TAXPAYER"

(By Philip Stern)

A second pleasure enjoyed by American oil companies springs from the fact that much of the oil-rich land in the Middle East is owned not by private companies or individuals but by the various national governments. If the land were privately owned, payments by the American oil companies to the landowners for the privilege of extracting the oil would clearly be considered *royalty* payments. But since the land is owned by governments, and payments to governments are usually called "taxes," the payments they receive from the oil companies can be labeled either "royalties" *or* "taxes." The difference, to the oil companies and the U.S. Treasury—and, indirectly, to the foreign governments—is far more than semantic. The difference is this: suppose Aramco makes a $100 million payment to the government of Saudi Arabia. If that is considered a royalty payment, it is merely treated as a deduction from Aramco's *income* in computing its U.S. taxes. At the current 48 percent corporation tax rate, Aramco is out-of-pocket $52 million, the remaining $48 million in effect being diverted from the U.S. Treasury to the government of Saudi Arabia. If, on the other hand, the $100 million is labeled a *tax* payment, *the law allows Aramco to reduce its U.S. tax payments by the full $100 million*. Uncle Sam ends up bearing the entire load.

As indicated, there is, to Saudi Arabia, an indirect advantage in using the "taxes" rather than the "royalties" label, since it and other foreign governments can exact a higher total tribute at no expense to—and hence with little or no complaint from—the American oil companies. Apparently this truth was revealed in all its glory to the various Middle East governments in the early Fifties, for, beginning about that time, oil company tax payments to the U.S. government underwent a dramatic decline, and their tax payments to foreign governments a correspondingly dramatic increase—a result that some members of Congress might be tempted to label un-American.

For example, from World War II through 1953 the nation's largest oil company, Standard of New Jersey, was paying roughly the same percentage of its profits in foreign and in U.S. taxes (19 and 16 percent, respectively). But suddenly, in 1954 Jersey's U.S. tax dropped to 11 percent, and by 1958 it paid only *1 percent* of its gargantuan profit to the U.S. Treasury, *but more than 40 percent to foreign governments and potentates!*

In the case of the Gulf Oil Company, the transformation occurred a year earlier. Prior to 1952, Gulf was paying roughly 25 percent taxes to the U.S. government. But from 1953 through 1967, the percentage dropped to about 5 percent (for three consecutive years it was less than 1 percent), with foreign governments getting the 25 percent that had been going into the Federal Treasury.

The loss to the United States was prodigious. If in the ten years, 1962 through 1971, Standard of New Jersey and Gulf had gone on paying American taxes at the rate they did in the late Forties and early Fifties before "royalties" began to be called "taxes," *the American Treasury would have been more than four and a half billion dollars richer.* (And that is for just *two* of the major oil companies!) Instead, that $4½ billion was siphoned off to foreign governments and had to be made up by the non-oil-owning American taxpayers.

Even one strong supporter of the *domestic* depletion allowances, former Senator Mike Monroney of the oil-rich state of Oklahoma, once expressed strong reservations about the tax privileges enjoyed by overseas companies. The disguising of royalties as "taxes" he said, amounts to giving international oil companies a depletion allowance twice as great as that enjoyed by domestic companies.

* * * * *

Far more costly to the American taxpayers is the manner in which the oil-rich Middle-East sheikdoms and kingdoms disguise, behind an Arabian "tax veil," what really amounts to royalty payments. It's a ploy that works superbly for the sheiks and kings, and well for the American oil companies, but dismally for the U.S. taxpayers.

Under U.S. tax law, payments to the owners of mineral lands for the privilege of extracting the minerals are termed royalties and, like other expenses, are deductible, thus saving a corporate royalty-payer 48 cents on the dollar. But in the countries in question, all subsurface oil and other minerals belong to the sovereign government, regardless of who owns the land under which they lie. Thus, in such countries, all royalty payments are to governments, rather than to individuals. But what are taxes, if not "payments to governments"? Therefore, in these countries, the line between a "tax" and a "royalty" becomes very thin.

Before 1950, the Middle East sovereign owners were content to receive royalties of about 15 percent. But in the late Forties, they began to look enviously in the direction of Venezuela, which had worked out a far more favorable arrangement with the American firms, and they began to press for a better deal for themselves. What particularly titillated them was the fact that Venezuela had hit upon a scheme whereby the American companies could pay far more for the oil, *and whereby Uncle Sam's help eased the pain of the increase.* The device was simple: label the payments "taxes" instead of "royalties." That would entitle the American companies to reduce what they owed the U.S. Treasury by the amount of the "tax," *thus saving 100 cents, rather than just 48 cents, on the dollar.* In this manner, the companies could afford to double their payments, and still end up no worse. The difference would be footed by the American taxpayers.

The Middle East governments made no bones about wanting to stick the U.S. taxpayers with the bill. Here is the way the Chairman of the Board of the Arabian-American Oil Company (Aramco) described it to a Senate committee:

"They [the Saudi Arabians] wanted more. They asked as early as 1948, 'Isn't there some way in which we can get a greater take?' and a little later than that they said, *'Isn't there some way in which the income tax you pay to the United States can be diverted to us in whole or in part?'*" [Emphasis added.]

And, of course, there was. The Saudis imported a tax expert from Washington to advise them just how to go about it, and on December 27, 1950, the Saudi Arabian government issued a royal decree, stating that henceforth the Saudi government would be a fifty-fifty partner in all Aramco oil extractions, and that the difference between that and the old 20 percent royalty would be called an "income tax."

And so it came to pass that the Saudi government prospered mightily. In 1956, for example, Aramco's "royalties" amounted to just $80 million, but its "income taxes" came to roughly $200 million.

And it came to pass, too, that the United States Treasury suffered mightily. In 1949, Aramco—which is a full-fledged corporate citizen of the United States, chartered in the state of Delaware—was paying more to the United States than to Saudi Arabia. But, as of 1956, after the imposition of the "income tax," Aramco's chairman told the Senators, the U.S. Treasury hadn't *"received any taxes* [on Aramaco's Saudi Arabian operations] *for I don't know, two or three years now, I guess."* [Emphasis added.]

ERADICATING SCREWWORM

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. TEAGUE. Mr. Speaker, every day we learn of a new application in space technology to our problems right here on Earth. During 1972, parts of Texas were reinfested with screwwormfly which had been successfully eradicated in the United States by the Department of Agriculture in conjunction with Mexico. NASA is now undertaking an experimental program to utilize remote sensing from aircraft to determine the breeding areas of the screwwormfly and aid in their eradication. This international project utilizes our space technology in a program sponsored jointly by NASA and the Mexican Commission for Outer Space. A recent release by NASA outlines this important space-program-developed application of remote sensing to the solution of a difficult and recurring problem.

The article follows:

ERADICATING SCREWWORM

Officials from NASA's Johnson Space Center and representatives of the Mexican National Commission for Outer Space (Comision Nacional del Espacio Exterior) have completed plans for a remote sensing test project to assist in eradicating the screwworm from Mexico.

The eradication program is being conducted by the Mexican American Commission for the Eradication of the Screwworm, established last year by the secretaries of agriculture in the two countries.

The screwworm is a grub or larva which destroys cattle, poultry, and wildlife in the warm regions of the Americas. It develops from screwwormfly eggs laid in open sores and in the navels of new born animals.

The grub grows to a length of about a half-inch by eating living flesh, frequently crippling or killing large numbers of domestic animals. Actual loss to the livestock industry has frequently exceeded $200 million annually.

At one time, screwworms infested the United States from Florida to California and as far north as Nebraska. During the past two decades, they have been kept in check in the U.S. by dropping billions of sterile flies to mate with females in the infested areas.

An active program by the U.S. Department of Agriculture succeeded in pushing the screwwormfly out of the United States. For several years, a 300-mile-deep buffer zone has been established along the northern border of Mexico from the Pacific Ocean to the Gulf of Mexico.

Due to mild winter conditions, the screwwormfly managed to reinfest parts of Texas in 1972, causing an estimated $100 million in damage to livestock.

Beginning in 1975, a joint effort by the American and Mexican governments will attempt to eradicate the insect throughout Mexico, maintaining a new buffer zone across the narrow Isthmus of Tehuantepec. This new corridor will reduce the cost of maintaining the cleared zone to a fraction of present levels.

To bring about the eradication of screwwormflies in Mexico, agriculturists must have accurate reports on environmental conditions that affect the breeding habits of the flies. In the United States, information was communicated quickly through an extensive network of weather stations.

In Mexico, an estimated 260 additional weather communications links would have to be constructed to provide similar data. However, scientists in the Earth Resources Program Office and the Health Applications Office of NASA's Johnson Space Center believe that sensor data provided by the Earth Resources Technology Satellite (ERTS), ITOS weather satellites and similar space vehicles can be combined with information returned by a Mexican remote sensing aircraft to provide detailed reports on soil temperature, moisture, and vegetative cover—all of which affect the breeding patterns of the screwwormfly.

If satellite data can accurately pinpoint potentially favorable conditions for screwworm infestation, this will aid flight planners immensely in distributing the sterile flies.

The test site selected for the project by a joint team from Mexico and the United States is an area 50 miles wide by 100 miles long, with its center at Cordoba, a city midway between Mexico City and the Gulf Coast port of Veracruz.

At the remote sensing test site, measurements from equipment on the ground will be collected to be compared with the results of analyzed data provided by the Mexican aircraft and the twice-daily overflights of the weather satellites. The region around Cordoba contains both lowland and highland plains, major breeding areas for the screwwormfly.

Although screwworms do not pose a serious threat to human health, Dr. Charles M. Barnes, Manager of the Health Applications Office at JSC, says that remote sensing techniques tested in Mexico may play an important role in understanding insect ecology.

Barnes points particularly to the possibility that remote sensing technology may help extend the sterile fly eradication technique to other insects, including the disease-carrying tsetse fly. The tsetse fly is so great a danger to the health of humans and animals that thousands of square miles of Africa are made virtually unfit for habitation.

The experimental phase of the remote sensing project in Mexico is underway and is expected to continue for approximately a year. If the techniques being developed are successful, they may be integrated into the operational screwworm eradication program being conducted by the two nations.

CAB AIDE SCORES AIR TICKET RULES

HON. JOHN W. DAVIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. DAVIS of Georgia. Mr. Speaker, the Civil Aeronautics Board deserves recognition for the aggressive stand taken in the interests of consumerism. I refer to a recent New York Times story that related the position of the Board's Office of Consumer Affairs on matters relating to airline consumer complaints:

CAB Aide Scores Air Ticket Rules—Says Lines Use "Doubletalk" To Thwart the Public

(By Robert Lindsey)

WASHINGTON, April 26.—An senior official of the Civil Aeronautics Board has accused the nation's airlines of writing self-serving ticketing regulations "filled" with jargon, doubletalk, strange phraseology and catch phrases" as a "defense weapon to thwart the grievances and desires of the public."

In an unusually blunt public scolding of the airlines, Jack Yohe, the board's director of consumer affairs, said:

"I am not suggesting that the consumer is always right by any stretch of the imagination. I am simply saying that the present system has an undue bias in favor of air carrier interests which amounts to an almost universal assumption that the carrier is always right."

Mr. Yohe made the remarks to a group of airline representatives at a meeting called to review an upsurge in complaints from air travelers.

During 1973, he noted, the board had 14,760 complaints from passengers or air-cargo shippers—a 40 per cent increase over the total in 1972. The upward trend continued during the first three months of this year, when 5,147 complaints were received by the board—22 per cent more than during the same months of 1973, he said.

The traveling public, Mr. Yohe said, was becoming increasingly angry and suspicious about some airline practices and, in his view, the reactions were justified in many cases.

HELD OVERLY COMPLEX

Mr. Yohe contended that many airline ticket rules covering such matters as fares, reservations, baggage and customer rights, were overly complex and offered inadequate protection for travelers. These rules are technically known as "tariffs."

"I will go so far as to state," Mr. Yohe said, "that most of the board's own economists, analysts and attorneys do not completely understand most tariffs as written. Yet the average air passenger is [legally] presumed to have complete and intimate knowledge of the most complex of tariff provisions based on the simple ticket notation: 'Sold Subject to Conditions of Tariff.'"

"We have reached the point where for some simple trips between two domestic cities the contents of five or six large volumes of printed matter are being incorporated as conditions of contract by this simple ticket reference," Mr. Yohe said.

Even airline ticket agents, he added, cannot decipher some tariff rules "without the assistance of a team of attorneys, accountants, economists, and philosophers." As a result, he said, many passengers are overcharged or abused in other ways.

WARNING TO AIRLINES

Mr. Yohe conceded that the board had formally approved such regulations proposed by the airlines. But he maintained that the volume of such filings was too great for anything more than cursory agency review of most cases. He urged the airlines to simplify the rules voluntarily, asserting that they might otherwise face a Federal mandate to do so.

Mr. Yohe cited the following examples of what he saw as abuses of the present system:

Employes of one airline left out in the rain an uncovered coffin containing the body of a retired woman being shipped north from Florida, causing the coffin and the body to be disfigured. The applicable airline tariff limited damages to 50 cents a pound, not enough to replace the coffin.

Another line refused to honor a couple's claim that their baggage had been lost because fine print in the tariff excluded claims for "soft pack type luggage—as is most baggage sold in the United States today."

"The basic problem with the concept of fares is simply that nobody can give the consumer a definitive answer about how much it will cost from one city to another," he said. "The domestic fare structure is presently a hodge podge of multi-condition fares governed by tariffs which are anything but clear."

Some airline representatives at the meeting agreed with some of Mr. Yohe's criticisms but maintained that, for the most part, the regulations reflected the realities of running a complex industry day to day.

Roger Chase, director of consumer affairs for Trans World Airlines, said the situation did not reflect conscious "malfeasance" by the airlines. Many of the tariff rules, he said, start out relatively simply, but with time are made more complicated as they change to meet circumstances and needs of different airlines.

Mr. Yohe, however, was not sympathetic to this view, saying that it was the airlines' responsibility to simplify their rules. Of the 14,760 complaints received by his office from the nearly 200 million passengers carried by United States airlines, he said protests were heaviest regarding schedule irregularities, reservations, baggage handling and fares.

Airlines with the largest number of complaints, in order, were Eastern, American, Pan American, Trans World, United and Allegheny, he said.

TONY VERDI—BABE RUTH LEAGUE

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. WOLFF. Mr. Speaker, for about 20 years now, the Merrillon Athletic League, Inc., of New Hyde Park, N.Y., has run an excellent baseball program for the boys of the area. During the spring and summer months, five different leagues are organized, and the teams have a busy schedule.

The enjoyment of the players, coaches, and organizers of the league has been made possible by the financial support of many loyal sponsors, advertisers, and boosters. The names of the people and the firms who contributed are too numerous to mention, but their support has been appreciated by the boys, the coaches, and the community.

Special credit should go to Tony Verdi, who, for the past 10 years, has served the Merrillon Athletic Association in many different capacities. His spirit and leadership were honored by a special letter in the 1974 baseball schedule. The letter is written by Marv Morrison, the devoted chairman of the Merillon board of directors, and I would like to insert it at this point in the RECORD.

Recognition should also go to all the members of the Merrillon Athletic League. They have contributed their time to see that the boys of the New Hyde Park area will have an enjoyable summer. All the members, past presidents, and officers, headed by present President Sol Fried, deserve the thanks of the community, and I would like to insert their names in the RECORD for the attention of my colleagues.

The material follows:

Tony Verdi—Babe Ruth League

Effective this year, the Merillon Board of Directors unanimously approved the future designation of the Babe Ruth Division (Boys 13–15) as the "Tony Verdi—Babe Ruth League"

Everyone is aware of the immortal Babe's deeds and the part he played in making baseball the great game that it is. Most of you who have been involved with Merillon are familiar with Tony Verdi and his outstanding work for Merillon over the past 10 years. Tony has served as: Chairman of the Board, President, Field Maintenance Director, Fund Raising Chairman and as manager/coach in Babe Ruth, Little League Majors, Minors and Farms. His spirit, leadership, unselfishness and love for Merillon and its boys has made him one of the greats of our Association.

Just as the founding fathers of Babe Ruth baseball saw fit to name their new league after the great Babe Ruth, it is equally fitting for Merillon to co-title this division after Tony Verdi for his contributions to Merillon, the community and the wonderful boys who have played and will play Toni Verdi-Babe Ruth baseball in the future.

Thanks, Tony,
MERILLON BOARD OF DIRECTORS,
MARV MORRISON,
Chairman.

Merillon Athletic League, Inc., of New Hyde Park

BOARD OF DIRECTORS

Marv Morrison, Chairman.

HONORARY MEMBERS

Hon. Clinton G. Martin (Deceased).

Hon. Albert Oppido.

Marv Morrison, Honorary Chairman of the Board.

MEMBERS

Sol Fried, Lou Tufano, Ray Krust, Harry Macri, Vito Gentile, Pete Sharf, Bill Sheehan, Andy Charley, Charlie Calderone.

Dolores Pasquaretta, Joe Parisi, John Weitzel, Mike Marchese, John Phelan, Will Lumpp, Cy Pastore, Laura Kucklinca, John Wizbicki.

PAST PRESIDENTS

John F. McDonald, Henry Meyer, Franklyn Biondo, Ralph Cappiello, Sal Procida, Bert Brooks, Marv Morrison.

Al Koch, William Schilling, Tony Verdi, Bob Schramm, Frank Borgia, John Rego.

OFFICERS 1974–75

President, Sol Fried.

Vice President—Connie Mack, Lou Tufano.

Vice President—Tony Verdi Babe Ruth, Ray Krust.

Vice President—Little League, Harry Macri.

Vice President—Minors, Vito Gentile.

Vice President—Farms, Pete Sharf.

Player Agent, Bill Sheehan.

Umpire-in-Chief, Andy Charley.

Secretary, Laura Kucklinca.

Treasurer, Andy Charley.

Corresponding Secretary, Kathy McCormick.

President, Ladies Auxiliary, Dolores Pasquaretta.

Dance Committee Chairlady, Donna Dodegge.

Sponsors Committee, John Wizbicki.

Equipment Manager, M. Morrison—A. Charley.

Journal, John Zabarauskas.

Fund Raising, Dolores Pasquaretta.

Insurance, Carl Moschella.

Maintenance, Charles Calderone, Fred Vogl.

Refreshment Stand, Joan Kelly.

CINCINNATI CELEBRATES ISRAEL'S 26TH ANNIVERSARY

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. LUKEN. Mr. Speaker, yesterday I enjoyed the opportunity of taking part in Cincinnati's celebration of Israel's 26th anniversary, an annual event in my hometown. This year's parade was one of the best, thanks very much to Mr. Gene Mesh, chairman of the Cincinnati Committee for the Celebration of Israel's 26th Anniversary. Great thanks also go out to Mrs. Anne Korey, a wonderful woman, a friend of Israel, and a member of the Jewish Community Relations Council of Cincinnati. David Keen, this year's "Mr. Parade," proved once again, through his enormous efforts, that a parade really can be coordinated and made to come off well.

We were also honored this year by the presence of a shaliach—a messenger—from Israel. Mr. Uzi Himovich is a representative from Israel who has worked for 3 years with the Jewish youth of Cincinnati. Now our many thanks go out to him as we wish him bon voyage. It is our hope that as Uzi returns to his homeland he will be the shaliach of Cincinnati in Israel.

The celebration in Cincinnati, marking the 26th anniversary of the establishing of Israeli statehood, was yet another example of the deep pride Americans have in the determination of the Israeli people.

These citizens of Israel, joined in spirit by Jewish and non-Jewish friends around the world, reiterate daily the importance of Israel in her constant struggle to remain a free and democratic state.

For all of us who have believed in the potential of Israel, this is a deeply satisfying time. The tiny state that some said could never survive has emerged as a mature nation. Americans have admired the courage of the Israeli Army, its pluck and intelligence; they have looked with favor upon Israel's active democracy, even now going through natural adjustments but certain to emerge from today's period of realinement still devoted to those institutions which have vanished in so many countries of the world: a free press, free elections, and a representative government. That Israel has done all these things under extreme duress can only encourage all those who sincerely believe that the principles of our Fathers can survive in the mechanized and often amoral modern world. It is, as we all know, a success borne of the sacrifice in sweat and blood of thousands of determined people.

But Israel and her friends throughout the world cannot afford the luxury of complacency. Her old enemies in the Middle East and the Soviet Union continue to watch for signs of weakness and hope to dam the flow of human resources which have helped make Israel productive. In spite of the recent encouraging initiatives toward peace, there are still foes of Israel who insist upon her complete dismantling. In spite of her tremendous performance after the Egyptian and Syrian aggression last October, Israel's army is taxed by an endless war of terrorism and attrition, waged with the assistance of the Soviet Union, in an attempt to weaken Israel's bargaining position. Enemies look for signs of vulnerability in Israel's willingness to negotiate and make concessions in the interest of peace.

But the many threads of Israel's great fiber remain as real as ever. The determination of her people to keep Israel free remains strong and persistent. Those who would underestimate these attributes should know after all these years of strife that the Israeli people are peace-loving, but ever-vigilant and ever-prepared to defend their homeland.

Mr. Speaker, we all can take pride in the great strides toward peace which have been taken since last fall's Mideast war. We can be proud of the role played by America. But we must insure that the United States does not back away from its support of Israel. Indeed, we must insure that even the impression that we are doing so is not made. Our assistance to Israel is needed more than ever in this struggle to remain free—and it must also remain visible to those who may read our intentions wrongly. For in spite of the courage shown by Israel's citizens, who have been under constant tension, they now face the burden of inflation and onerous taxes caused by a war which took only 18 days and yet consumed the equivalent of Israel's entire 1973 gross national product.

We will have to provide additional economic and military assistance to Israel at a level commensurate with her extraordinary needs because cease-fires are easily violated and disengagement agreements are not synonymous with nonbeligerence. And we must promote a settlement negotiated directly by the parties which is the best guarantee of secure and defendable borders and a genuine peace.

On this proud occasion of the 26th anniversary of Israel's statehood, I extend my sincerest hopes and prayers for a peaceful and prosperous future for the people of Israel.

I sincerely hope that Israel's anniversaries in the years to come find her unafraid and secure, at peace with her neighbors and with her full energies free to be devoted to the one object which has always impelled her and her people: The building up of a dynamic new society which can be called home. I pledge my continued friendship to Israel and my continued efforts on her behalf, and I call on my colleagues to join me in doing so.

WORLDWIDE CRISIS OF LEADERSHIP

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. BROWN of California. Mr. Speaker, the United States is not unique in its crisis of leadership. Even without Watergate related problems, we would have a crisis of leadership. Most of the countries of the world, particularly those considered the most successful and affluent, are undergoing changes in their governmental structures. Many people have commented on this phenomenon, but I believe few observers have captured the crux of the crisis. An exception is the New York Times editorial of May 11, entitled the "Collapse of Leadership." Their analysis closely parallels the message that the Club of Rome has been attempting to convey for the past 2 years. Dr. Aurelio Peccei, the president of the Club of Rome, was in Washington just 1 week ago and discussed this situation with several Members of Congress.

Members of the Club of Rome, which is an informal group of prominent world citizens, have been traveling throughout the world and attempting to alert interested people to the nature of the crises that are repeatedly occurring. Dr. Peccei refers to the nature and interactions of the multiple problems as the "problematique." The crisis of leadership stems from the failure of present governmental structures to adequately recognize and deal with the problematique.

The Club of Rome held a symposium in Tokyo last October to discuss this pervasive problem. In the introduction to the report of the Tokyo symposium they state:

> That shortsightedness and narrowmindedness still prevail in the management of political, economic and technological matters, as in public opinion, is shown by the energy crisis. However, as energy is a key element of modern society and as only part of its crisis can be considered transitory, political leaders and the public at large in many countries may now at last be forced to abandon obsolete concepts and adopt new approaches.

The New York Times editorial on changing governments displayed a similar line of thought:

> To this structural change must be added the seeming inability of leadership groups in country after country to break loose from the traditional issues of strategy and economy, in which they were so well schooled, in order to confront the new problems—scarcity in energy and food supplies, population pressure, deteriorating natural environment, inflation unresponsive to any of the traditional checks—which are taking hold of their societies. It requires a far subtler political mind to lead a society through evolution than revolution.

I commend this entire editorial and the reports of the Club of Rome to all Members of Congress.

The editorial follows:

COLLAPSE OF LEADERSHIP

Georges Pompidou, Willy Brandt, Edward Heath, Golda Meir, Pierre Elliott Trudeau, Marcello Caetano, George Papadopoulos. These longtime fixtures at the top of diplomatic lists in the world's chancelleries no longer hold the reins of power.

In a remarkably short time measured by only a few months, the Western world has witnessed an extraordinary overturning of political power. (The ironic footnote is that some of those national leaders considered chronically vulnerable—say, King Hussein of Jordan, President Assad of Syria, even President Thieu of South Vietnam—remain entrenched in relative security.)

Is there a common thread through these power reversals? Not specifically. A decade or two ago, it could have immediately been supposed that a plot against the so-called free world had been sprung, that the "international Communist conspiracy" had shown itself, and all the well-oiled alarms would have sounded. Even as a tentative hypothesis, such a notion can hardly get off the ground today.

Each of these leaders fell from causes peculiar to his own circumstances. President Pompidou, of course, died; but his Gaullist movement seems to have fallen victim to the same kind of internal disenchantment that hit Prime Ministers Heath and Trudeau. Premier Caetano in Portugal and President Papadopoulos in Greece grew careless in managing the conspiratorial right-wing politics that kept them in power. Chancellor Brandt and Mrs. Meir plummeted disastrously in their public's esteem as their vision of earlier years went cloudy; then both succumbed to specific mishaps.

The proximate causes of these changes of regime are different, but all seem to spring from roots common to the industrialized world. Alastair Buchan defined them in his Reith Lectures to include "diminishing respect for political leadership, the divorce between social and political loyalties, the adjustment from rural to urban values, and the increasing dominance of the mass media." Confronting these pervasive factors and the rapid acceleration of social change which they are visibly provoking, regime after regime has found itself overwhelmed.

The postwar era which nurtured the present generation of unsteady leaders was a time, by and large, of orderly economic expansion, offering seemingly automatic safety valves to correct social dislocations. With the coming of the nineteen-seventies, and particularly the oil crisis starting last October, the industrial economies found the abstract desirability of growth giving way to the absolute necessity for contraction. "Capitalism in contraction is as much of a social and political monster as capitalism in expansion tends to be a miracle," wrote Prof. Fritz Stern of Columbia University.

To this structural change must be added the seeming inability of leadership groups in country after country to break loose from the traditional issues of strategy and economy, in which they were so well schooled, in order to confront the new problems—scarcity in energy and food supplies, population pressure, deteriorating natural environment, inflation unresponsive to any of the traditional checks—which are taking hold of their societies. It requires a far subtler political mind to lead a society through evolution than revolution.

Improvisation supplanted vision as the quality which created leadership, and it is not enough. The most somber note of all in this time is the incapacity of leadership in yet another nation, which had served as source of much of the inspiration and power that guided the Western world through the postwar era. Already in effect, and perhaps soon in fact, the President of the United States must be added to the list of political leaders fallen from authority.

RUMANIA'S NATIONAL HOLIDAY

HON. THOMAS E. MORGAN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. MORGAN. Mr. Speaker, the 10th of May is a date of special significance to the peoples of the free world as the anniversary of Rumania's national independence and of the kingdom of Rumania.

It was on May 10, 1866, that Prince Charles of Hohenzollern-Sigmaringen was proclaimed Prince of Rumania in Bucharest. On May 10, 1877, Rumania declared her independence, severing her ties with the Ottoman Empire. On May 10, 1881, Charles I was crowned King of Rumania by the will of his people.

While the present Government of Rumania pursues an independent foreign policy in some respects, we must not forget the circumstances of the people of Rumania and their just aspirations to basic freedoms. I commend the Rumanian National Committee for its observance of the 10th of May.

SENATE—*Tuesday, May 14, 1974*

The Senate met at 10 a.m. and was called to order by Hon. Howard M. Metzenbaum, a Senator from the State of Ohio.

PRAYER

The Reverend Monsignor Louis W. Albert, pastor, St. John the Evangelist Church, Silver Spring, Md., offered the following prayer:

O God of might, wisdom, and justice, through whom authority is rightly administered, laws are enacted, and judgments decreed, assist with Thy counsel and fortitude the Members of the U.S. Senate. May their deliberations always be conducted in righteousness and be eminently useful to the people whom they serve. Let the light of Thy divine wisdom shine in their proceedings and in the laws framed for our rule so that they may tend to the preservation of peace, the promotion of national happiness, the increase of industry, sobriety, and useful knowledge, and may perpetuate to us the blessings of equal liberty. Give them the courage and insight to discharge the duties of their office with honesty and ability. May the laws so enacted in the Senate be in conformity with the knowledge of Thy most holy law. May the Senators be preserved in union and in peace. Although there may be diversity of thought, let the differences be always modified with charity and understanding.

This we pray through Christ our Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Eastland).

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., May 14, 1974.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. Howard M. Metzenbaum, a Senator from the State of Ohio, to perform the duties of the Chair during my absence.

James O. Eastland.
President pro tempore.

Mr. Metzenbaum thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, May 13, 1974, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations on the Executive Calendar will be stated.

COASTAL PLAINS REGIONAL COMMISSION

The second assistant legislative clerk read the nomination of Russell Jackson Hawke, Jr., of North Carolina, to be Federal Cochairman of the Coastal Plains Regional Commission.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF JUSTICE

The second assistant legislative clerk read the nominations in the Department of Justice as follows:

John T. Pierpont, Jr., of Missouri, to be U.S. marshall for the western district of Missouri for the term of 4 years.

David G. Trager, of New York, to be U.S. attorney for the eastern district of New York for the term of 4 years.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of these nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

MONTANA—NOW OR NEVER

Mr. MANSFIELD. Mr. President, as my colleagues here in the Senate are aware, one of my preoccupations during the 93d Congress has been the rush to the coalfields of the West and the serious problems it creates for a State like Montana which is agriculturally oriented and is not interested in vast disruption of its land and economic and social patterns.

Steve Doherty, a student at the University of Montana, has prepared an excellent paper for a seminar on this general subject. I share his general conclusions and I am most impressed with the documentation. I believe it is worthy of being brought to the attention of my colleagues in the Senate.

Mr. President, I ask unanimous consent to have Mr. Doherty's paper, "Montana—Now or Never," printed in the RECORD.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

MONTANA—NOW OR NEVER

(Prepared for Env. St. 301, Environmental Case Studies Seminar, Dr. Robert Giegengack, by Steve Doherty)

A Blackfoot Indian Chief had this to say about the value our society tried to place on the land.

"Our land is more valuable than your money. It will last forever. It will not even perish by the flames of fire. As long as the sun shines and the waters flow, this land will be here to give life to men and animals. We cannot sell the lives of men and animals; therefore we cannot sell this land. It was put here for us by the Great Spirit and we cannot sell it because it does not belong to us. You can count your money and burn it within the nod of a buffalo's head, but only the Great Spirit can count the grains of sand and the blades of grass of these plains. As a present, we will give you anything we have that you can take with you; but the land, never." [29]

Fortunately, he was not aware of the advances of modern technology which make it possible, on an enormous scale, to peel away the land, layer by layer, and cart away a currently valued seam of minerals. He was not aware of stripmining and its consequences.

It is my aim to examine the various stages of the coal rush, from stripmining through energy conversion facilities, for their effects on the land, air, water and people of South Eastern Montana and by extension, the rest of the Northern Great Plains. Concurrently, I will evaluate the response of Government (both State and Federal) and citizen's interest groups to the problems posed by the development of this resource. Out of this analysis I will draw some conclusions and make some recommendations.

It is hard to describe the feeling you get when you are with this land. In the winter the winds come down out of the Canadian Arctic and with nothing in their paths, temperatures of −30°F are not uncommon. In the summer the sun dries up a lot of the smaller streams and temperatures often exceed 100°F. Rainfall in this arid land, ranges from 9'' in the lower elevations (1300 ft.) to 24'' in the high country (4300 ft.).

These Northern Great Plains are marked by rolling hills, broad valleys and sharp coulees. Often the ridges reveal scoria, a red clay like substance which becomes like baked porcelain when an exposed coal seam is ignited and burns below it.

The soils are saline and alkaline. The vegetative cover is restricted to drought resistant, short-prairie grasses and sagebrush. Several species of pines appear at higher elevations.

The land, although not overly productive (15–40 acres are required to sustain one animal for one year), has nurtured a ranching and farming society since the arrival of the white men. Ninety percent of the land is in farms and ranches; and depending on the market prices of wheat, barley, oats or beef, some $50–80 million is contributed to the state's economy annually by agriculture.

The region abounds with wildlife. Deer, antelope, pheasants, grouse, partridges, turkey, fox, coyotes, hawks and eagles are often sighted. Each fall the area is overrun by hordes of hunters trying to get their game. The hunters, by the way, contribute heavily to the local economy by their recreational spending.

The land is always with you. It can swallow you up and hide animals, people and towns. The distances between points are greater than they seem because of the vast expanse of space.

The people who live on this land have had to be tough and self-reliant to withstand the extreme fluctuations of nature and the marketplace. The spirit of independence has fostered a wariness of outsiders, a suspicion which has been well justified in the past. K. Ross Toole, Professor of Western History at the University of Montana writes:

"The Montana pattern has been brief, explosive, frenetic, and often tragic. The economic picture has been one of exploitation, overexpansion, boom, and bust . . . Everyone of the salient industries has been extractive, from beaver through beef to copper . . . The object of men had to be to trap it, mine it, shoot it, and get out . . . The land was far away from the main stream of American life. Its wealth, almost without exception, was of such a nature that it could only be converted into coin of the realm by devices and methods created and paid for outside of the region. The raw material could rarely be fabricated on the spot because of the simple economics of distance. And so the land—what was on it and in it—was given over to others. Distance meant cost, cost meant capital, capital meant absentee ownership, absentee ownership meant absentee control and absentee control meant operation in the essential interest of outsiders with local interests a very secondary consideration. And so it was with beaver, beef, sheep, silver, copper, oil, and to a lesser extent, even with lumber and wheat." [31]

And now, in this decade, perhaps an even more ominous problem presents itself, that of coal. Tradition dictates "boom and bust" type of economy. If present day corporate coal cowboys have their way yet another resource will be torn from the land. But the development of this resource is unlike any other in the history of Montana. The repercussions of a drag line and energy conversion facility are far-reaching and severe. They alter the quality of life and present land uses in a harsh and irreversible manner. The decisions which are now made regarding development will determine what options are available later on. Let's examine the information upon which the decisions are based, the decisions themselves and then their impacts.

People have known about the coal since the days of the Lewis & Clark expedition. Early settlers used coal for heating purposes. The railroads used it to power their locomotives until the late 1950's when the switch to diesel fuel occurred. Large scale use of this resource was not considered economically feasible because of the distance from marketable areas and low BTU content of the coal. (averaging 8–9000 BTU's)

With the advent of the "energy crisis", the energy industries set their sights on the Northern Great Plains. Here was a readily expoitable, easily recoverable, highly profitable source of fuel. There were other factors, however, that prompted interest in this resource.

Federal Air standards were being enforced making it illegal to burn coal with a high percentage content of sulfur. Federal deep-mining safety laws were being enforced, thus making deep mining more expensive. And so, under the broad umbrella of solving a hypothetical need, justification was sought to exploit this specific area and is resource.

There is no arguing the extent of the resource. Various estimates have put the coal reserves in the Fort Union formation that underlies parts of Montana, North Dakota and Wyoming at one and a half Trillion tons, about 40% of the known U.S. reserves. The sulfur content ranges from .2–2.0%, with an average of .9%. The beds of coal, ranging from 7' to 130' in thickness, are covered by soil from 80' to 300' in depth. These are Nature's facts, and indisputable.

The magnitude of the rush to get the coal is as staggering as the extent of the coal beds themselves. Estimates from the Montana Coal Task Force indicate the tempo of the rush. (see Table I).

TABLE I.—Source:[18] Montana coal production

[Production in millions of tons]

Year:	
1969	1
1971	7
1973	16
1975	20
1980	75–80

The urgency of a seventy-five to eighty fold increase in one decade is going to blunt the effectiveness of any planning program that can be established.

The effects of the development of this resource are felt in two stages; stripmining, removing the soil and extracting the coal, and the use of the coal in energy conversion facilities (electrical generation, gasification and liquification plants).

The major portion of the coal presently stripped is now exported for use outside the state. However, there are plans to use it in nine month electrical generating plants, the second stage of development.

"To cite one example, the Bureau of Reclamation in colaboration with some 35 power utilities released a study in October of 1971 entitled the *North Central Power Study*. It proposed that 42 nine month generating plants be constructed in the northern plains area, primarily in Wyoming, Montana, and North Dakota. If constructed, these power plants would produce some 403 billion kilowatts of electricity per year, more electricity than is produced annually by any country in the world save the U.S.S.R. or the U.S. (In 1969, the U.S.S.R. produced 659 billion kilowatts of electricity)." [32]

Given the nature of the rush, its magnitude and implications for the people of the area and U.S. Energy Policy, it is interesting to note the response of the concerned entities, and the validity of the claims of those who would exploit this resource.

The Federal Government first entered the picture in October of 1971 with the previously mentioned *North Central Power Study* and then Followed up with the *Montana–Wyoming Aqueducts* in April of 1972. Both documents were basically blueprints for the construction of a massive generating complex. The public interest was equated with the private utility companies interest; they remain as sterling examples of collusion between the Federal Government and the private utility industry.

The reports had a built-in bias,

Footnotes at end of article.

"An assumption basic to this report is that use of electric energy in the North Central area will continue to increase in the years ahead. Recent history has shown electric consumption to double every 10 years—equivalent to a compound average annual rate of 7%." [21]

Decreased demand due to energy saving measures were not even factored into projections. Lip service was paid to alternative forms of energy.

These reports shocked the people of the area into awareness of the stark realities of resource development. The government shelved its plans for the North Central Power Project because of the opposition of citizens groups, but there was one redeeming aspect of the NCPP. It was a plan, a framework upon which to work. Now that it is in limbo, development is on an "every-utility-company-for-itself" basis. The Federal Government, meanwhile, has come up with another acronym to replace the NCPP, the NGPRP, the Northern Great Plains Resource Program whose primary objective is to

". . . provide an analytical and informational framework for policy and planning decisions at all levels of government. The end result is intended to be a decision making tool for Federal, State and Local interests who together must plan and manage the area's land and natural resources."[22] The NGPRP has yet to produce a public report or have substantial impact on policy making. The Federal stance can best be described as a "non-policy" one. Such avoidance of the issues leads to quick exploitation (a boom), which is favored by the companies involved, but pays little heed to the inevitable result of that type of exploitation, a "bust".

The Montana State Government has responded well to the problems brought about by development. Citizen input by such groups as the Northern Plains Resource Council has raised awareness levels and prompted studies and legislation. The Montana Reclamation Act of 1973, reputed to be the toughest in the country, is one example of Montana's response.

Given the claims made for development and response from the various entities concerned, it is interesting to analyze these claims for their validity.

First is this admission from the NGPRP.

"Although (the coal produced by 2000 A.D.) is a significant increase in production, Northern Great Plains coal *will still be of relatively minor importance* to the national energy picture under the Most Probable forecast for NGP coal production." [8] (Italics Added)

Next it is interesting to note the relative abundance of low sulfur, strippable coal compared to low sulfur coal available by deep mining methods in the Northern Plains States. (See Table II).

TABLE II.—DEEP MINE, STRIP MINE, LOW SULFUR, AND COAL COMPARISONS

[Units in millions of tons, sulfur content 1 percent or less]

State	Total reserves	Deep mine reserves	Strip mine reserves	Ratio [1]
Montana:				
Bituminous	2,104.6	3,104.6	0	0
Subbituminous	132,116.6	127,636.0	3,176	40:1
Lignite	87,481.7	83,984.7	3,497	24:1
Wyoming:				
Bituminous	12,819.0	13,819.0	0	0
Subbituminous	107,903.9	94,518.3	13,377	7:1
North Dakota:				
Lignite	350,698.0	348,623.0	2,075	167:1

[1] Deep mine to strip mine.

The ratio of deep mine, low sulfur coal to strippable, low sulfur coal for the *whole* United States is 30:1 [9]

Is there an alternative to strip mining the Western lands for coal? The figures themselves suggest traditional deep mining as one alternative. The costs of initiating and continuing production in a deep mine are 5 to 8 times those for a strip mine operation. However, the strip mine cost figures do not take into account the environmental impact or economic loss due to agricultural lands being taken out of production. These costs are unacknowledged. If they were injected into cost analysis figures I suspect the Deep mine/strip mine cost-ratio would be lowered. From the Environmental Policy Center,

"With the passage of the Clean Air Act in 1970 the importance of low sulfur coal (coal less than 1% sulfur) became widely acknowledged. The coal industry has been quite reluctant to point out or even admit, however, that the overwhelming percent of low-sulfur coal is deep mineable, not strip mineable, and that *the eastern coalfields contain low sulfur deep mineable coal reserves that are 43 times more abundant than low sulfur strippable coal reserves.*" [7] (Italics added)

Eastern coal, "in terms of its superior quality and heat content (BTU's) . . . represents a far greater energy source closer to the market areas in the East." [9a] If mining is phased out in the East, what will happen to the areas it leaves behind in the East and the Mid-West? Will there be a major shift of population following capital investments? What about the unemployed miners in Appalachia? [9a] [17a] [12] These questions have implications not only for the Great Plains but also for the nation as well.

In light of this analysis, there can be only one conclusion as to why Western coal has become important. It isn't the public interest (however it may be twisted), nor is it needed to meet inflated energy projections, nor is it going to make the U.S. self-sufficient in energy. Simply stated, the reason for the current interest in Western coal is profits. (See [17]). It is the imperative of our free market system that companies make profits, not that they consider the ecological, economic or social impacts of their projects. This is not to say that profits, in and of themselves are bad. It is to say that other environmental costs have not been factored into the costs of development.

Having established a reference base on present and projected land uses (however invalid the rationale for those projections is), I next want to examine the problem of surface vs subsurface ownership rights, a key element to the development of the coal.

There are four broad categories of surface and subsurface ownership in the Northern Plains.

(1) private surface, private mineral
(2) private surface, federal mineral
(3) private surface, state mineral
(4) private surface, indian mineral

Conflict arises when there is a mixed ownership and the two parties have differing views on the land use.

The reason for this grab-bag of ownership lies in the Homestead Acts which deeded land to settlers while the Federal Government retained the mineral rights, the Railroad Siting Act of 1864 which deeded huge tracts of Western land to railroads of the West, and various treaties with the Indians, which have resulted in Indian ownership of coal underneath white owned ranches.

Added to this is the concept of eminent domain, by which "the owner of the minerals can condemn the surface property owner in order to mine them." [11] The implications of this law are frightening. It became standard procedure for coal companies and speculators to threaten condemnation in order to get a reluctant landowner to sell out. The Montana legislature acted to correct these abuses in 1973 when it added the following section to the eminent domain law,

"the use of the surface for strip mining or open pit mining of coal . . . is not a public use and eminent domain may not be exercised for this purpose." [11]

The coal companies have argued that such a limitation is discriminatory and have asked that this section be ruled unconstitutional in federal courts, and cases are in litigation as of this writing.

As an example of the arrogance of the companies involved it is enlightening to recount the story of the dealings of the coal companies with the Northern Cheyenne and Crow Indains, as told in the *Borrowed Times.*[2]

In 1966 the BIA, which is the legal protector of the tribes, started a parade of coal company officials before the Northern Cheyenne Tribal Council. Their purpose was to get the Cheyenne to sign away their mineral rights to the companies. The tribal council leased (for one dollar an acre and 17½ cents a ton royalty) the rights to 243,808 acres of land on the reservation (a total of 56% of the reservation) for Peabody Coal, Consolidated Coal and several speculators.

Meanwhile, showing that there is no honor among thieves, Consolidated coal separately began negotiations for another 70,000 acres of the tribe's lands (bringing the total amount leased up to 72% of the reservation) for $35 an acre and 25 cents a ton royalty. They also held out the plum of a $1.5 million donation for a new medical center, which is badly needed by the tribe. The catch clause was that Consolidated was planning an energy conversion facility that would bring in a population of around 30,000 people. These employees would be eligible for treatment at the center and in time become its major users.

Somewhat similar events were occurring on the Crow reservation. The Crow Tribal Council let out 292,680 acres of land for 17.5 cents a ton royalty. They also gave away options on 140,000 acre/feet of water per year without a penny of payment.

Wholesale degradation of the environment might be the result of these transactions, for there is no Federal Reclamation Law. Montana state laws do not apply to Indian reservations, and the BIA Reclamation regulations are considered worthless. The Northern Cheyenne, seeking redress, have recently asked the BIA "to declare null and void all existing coal mining permits and leases on their reservation . . . (because) the BIA has failed to make the required studies prior to granting the leases and permits." [25] The petition is under consideration as of this writing.

The energy companies have not limited their activities to the private sector. Over 50% of the coal bearing lands in the Northern Great Plains are Federally administered through the Department of the Interior. From the Council on Economic Priorities;

"The Mineral Leasing Act of 1920 and the Omnibus Tribal Leasing Act of 1938 authorize the Secretary of Interior to issue coal leases to private industry. Such leasing must be consistent with Departmental goals of orderly and timely resource development, the receipt of fair market value, and the protection of the environment . . . Industry has taken the initiative in the leasing program in the absence of government direction. At *industry's request,* 67% of all leases were issued between 1960 and 1971 *ahead of market demand.* The result has been an *absence of competition for coal lands, a loss of revenue to the public treasury, and widespread speculation with public resources* . . . (They conclude) *The leasing program has failed abysmally.*" [4a] (Italics added)

The BIA has not protected the interests of the Indian tribes. And the Department of the Interior has catered to the whims of the coal companies, not the need of the American people.

The true concerns of the coal companies are thinly veiled in light of such business practices. Many firms have already contracted to supply Mid-Western utilities with coal, before any impact studies have been made.

Footnotes at end of article.

Now that the nature of the risk is understood it is possible to examine the impacts of strip mining and energy conversion upon the land, air, water and life in the area.

The operation of a surface mine consists of removing the successive horizons of soil until the coal seam is exposed. The coal is then removed, the cuts filled in and the operation moves on. The problems arise when you try to re-establish a vegetative cover on the spoils of a strip mine. This process is termed reclamation.

By reclamation is meant—restoring the land to at least it's former level of productivity and use, in as short a time period as possible. There are difficult and sometimes insurmountable problems to overcome in this process because

". . . surface mining, by its very nature, destroys the original mantle of the mining site. Topsoil salvage reserves a portion of the developed soil but the salvage process itself destroys or alters many important physical characteristics of the soil system which developed over thousands of years. This time development factor cannot be duplicated." [30]

The saline—alkali soils that receive low rainfall in this region are subject to erosion by wind and any rain that does fall.

From research being conducted by the Montana State University Agricultural Station four integral phases of Reclamation have been determnied.[14], [15], [30] They are:

(1) Spoils Segregation—replacement of soils in the order in which they were removed from it, burying toxic material using suitable material for the topsoil.

(2) Surface manipulation—the surface is modified to reduce the rate of water flow and allow for infiltration.

(3) Topsoiling—salvaging the developed layer and placing it on the surface.

(4) Species mixture seeding—to produce a diverse plant cover for establishment of permanent plant communities.

Each of these phases must be implemented for successful reclamation.

The research being done on the subject of reclamation is excellent, but there is far too little of it. An estimate of over 100 acres being used in research would be liberal, but it is appalling when it is considered that ". . . full employment of Montana's strippable reserves could disturb a maximum of 770,000 acres." [18]

Since coal beds are often aquifers, strip-mining can alter ground water patterns. Since the full effects are unknown, studies must be implemented to determine what these effects will be.

When the land is disturbed the wildlife that formerly inhabited the mine area must migrate. Studies were just initiated in 1973 to determine if animals will recolonize strip-mined lands.

Early estimates of reclamation costs ranged from $300–$800 per acre. (19a) More probable estimates are furnished by the Montana Power Company as approximately $930 per acre.[5]

However, the following points must be considered:

(1) No reclamation site has yet to stand the test of use by livestock.

(2) Even with the best results, from the MSU data again, "It may be possible to compress normal successional time requirements into a decade or more . . .".[30]

(3) From Bob Curry, Associate Professor of Environmental Geology at the University of Montana, "We at present completely lack the base line data upon which to assess or conduct reclamation." There is simply a paucity of knowledge on the subject.

(4) A National Academy of Sciences report warned:

(a) Reclamation in the West is much more difficult than in other areas of the world where coal has been extensively stripped.

(b) Some Western land, especially areas with less than 10 inches of precipitation a year, have such low possibility of reclamation that strip mining in many places must be considered as eliminating productive use of the land—perhaps for centuries.

(c) Restoration of Western land (in the sense of returning it to the way it was before mining) is virtually impossible for all western coal areas.

(d) The potential for rehabilitation of any surface mined land in the West is critically site specific.[11] [20]

The response of the state of Montana to this problem has been excellent. In passage of the Montana Strip Mining and Reclamation Act it provided for:

1. An annual permit system and selective denial of permit to mine lands.
2. A complete ban on contour strip mining.
3. Mandatory restoration of the land affected to the approximate original contours.
4. Establishment of permanent, diverse negative cover.
5. Adequate bonding levels; Penalties for violations; Authority to halt operations.
6. Citizens rights.
7. Termination of all existing reclamation contracts entered into before passage of this law.[11]

However, the ultimate success of the law depends on how stringently it is enforced. The Federal response is noted by its vacuum.

Given the state of reclamation research and the problems encountered in reclamation, is it possible to reclaim surface mined land in the West? By following a somewhat circular argument, a tentative answer is yes. Given a strict enforcement of the provisions of Montana law; Reclamation of surface mined lands is possible. When those lands, and only those lands that are identified, through previous studies, as reclaimable are opened for surface mining.

Once the coal is out of the ground there are several options for its utilization. It can be shipped to marketable areas or it can be converted on the spot to some other form. The primary energy conversion method for coal now envisioned is to fire electrical generators. There are also proposals for gasification and liquification plants. For the purposes of this study they will be considered as a single consumptive (of coal and water) entity, except where specific impact is noted.

It is the energy conversion phase of the coal rush that potentially will have the greatest impact on the air, land, and water and people of the Northern Great Plains. The coal fired steam generating plants are the most inefficient, in terms of converting the energy available in the coal into usable energy, ranging from 30–40% conversion. Gasification plants in Europe now recover approximately 69% of the energy available in coal.

The key limiting factor to the development of energy conversion facilities in the area is Nature's not Man's. The availability of water will determine the extent of exploitation.

Water is a scarce commodity in the Yellowstone River drainage system. Most of the water available comes from the nearby mountains as runoff from the melting of snow. Development of Ground water resources is not seen as a viable alternative to surface water appropriation. There is a set amount of water available for everybody's use; industry, agriculture or municipality.

From the Montant Environmental Quality Council,

"Current industrial water use in Eastern Montana is slight, probably less than 10,000 acre/feet per year. The primary use of water is for agriculture, in the Yellowstone Basin about 1.25 million acres are irrigated." [11]

Under a full development scheme, water would be diverted from the free-flowing Yellowstone (which is under consideration for designation as a "Wild and Scenic" River) and channeled, by a system of aqueducts, to the coal fields to cool coal fired steam generating plants.

In a letter to the Regional Director of the Bureau of Reclamation Dr. Ernst Habicht of the Environmental Defense Fund outlined the problems inherent in such a scheme.

"The annual average discharge of the Yellowstone into the Missouri is approximately 8.8 maf (million acre feet). This Aqueduct Report suggests this flow rate could be reduced to 1.7 maf; this represents an 81 percent reduction in mean annual Yellowstone River flows." [13]

During periods of low flow the Yellowstone would become a cesspool. The destruction of aquatic life and the riverine ecosystem and limitations on recreational and agricultural use of the water would be the inevitable results of such action.

And, as is noted by the Montana Coal Task Force; "Once such industrial water consumption commences, it may be expected to continue *regardless* of the flow conditions in the Yellowstone River. The marketplace will continue to demand power." [18] (Italics added)

Obviously some sort of low flow regulation is then required. But there are hydrological problems to be considered as the result of building a dam (aside from a desire to keep the river free flowing). From the Student Environmental Research Center at the University of Montana.

"An increase in flow could make a meandering stream into a braided stream; a decrease in discharge could make a braided stream into a meandering one . . . The implications to farmers and ranchers owning river front property becomes important. Frequently, good hay land is found in the meander loops of streams and rivers. Should the meander pattern suddenly change, these meadows may be cut up into odd-shaped pieces which may make harvesting uneconomical. Some meadows may disappear completely, while new loops are formed elsewhere." [4]

It must be pointed out that projections for water use do not take into account the increased demand for water for human consumption as a result of population increases due to the industrialization of the region.

The conclusions of the National Academy of Sciences are strongly compelling.

"The shortage of water is a major factor in planning for future development of coal reserves in the American West. Although we conclude that enough water is available for mining and rehabilitation at most sites, not enough water exists *for large scale conversion of coal to other energy forms (e.g. gasification or steam electric power). The potential environmental and social impacts of the use of this water for large scale energy conversion projects would exceed by far the anticipated impact of mining alone.* We recommend that alternate locations be considered for energy conversion facilities and that adequate evaluations be made of the options (including rehabilitation) for the various local uses of the available water." [20] (Italics added)

The major impact once the plants are built, the rivers drained to serve them and the prairies stripped for coal, will be on the air quality of the area. Even with the most effective pollution control equipment in use, the sheer magnitude of the coal used to feed the electrical generating plants will produce huge quantities of pollutants.

The effects of the respiration of particulate matter in humans are well known. Diseases such as bronchitis and lung cancer have a much higher incidence in polluted areas. The accumulation of trace metals such as fluoride, mercury, lead and cadmium into the bodies of animals can cause irreversible degeneration of nervous tissue and harm internal organs (such as the kidney) as well. Certain species of shrubs and grasses are extremely sensitive to the presence of fluoride; and destruction of vegetation have been documented elsewhere.[1]

A useful index of the impact of air quality

Footnotes at end of article.

degradation is found in between the pages of the North Central Power Study. Under full development, "this generating complex would produce more air emissions than the New York City and the Los Angeles regions combined, even with the latest air pollution control technology." [23] However vague and ineffectual the guidelines of the NCPS might have been, since its dissolution, admonishments such as the above have been ignored and development is proceeding in a haphazard manner. Permits are granted now on a case by case basis, they do not take the *cumulative* effects of construction into consideration.

The rapid transition from a rural, agriculturally based economy to an urban, industrial base is fraught with many problems. Roads have to be built, sewer and water lines laid, recreational services expanded, law enforcement agencies enlarged, health care delivery programs developed and schools constructed. Initiating such undertakings is a monumental task in itself in any undeveloped area. When the tempo of the rush is added to the pot, chaos, not orderly planned growth will be the result. Depending *on whose* figures you use, an influx of from 100,000 to 800,000 people will magnify the problems that much more. Local governments do not have the expertise (nor the money to hire such expertise) in order to adequately prepare for the deluge.

The companies involved maintain that an increased tax base will be sufficient to cover the increased costs for services. Preliminary reports do not find this to be true in practice. From the Northern Plains Resource Council:

". . . the rapid construction of 2 major mines, 2 railroad spur lines, and a 700 mw delivery programs developed and schools coalfired generating plant developed by Montana Power and Puget Sound Power and Light Company have not returned to Rosebud County sufficient tax monies to develop the associated services required by an increasing population. . . If the benefits from increased population and employment, "increased county tax base", and increased revenue from the Energy companies are to be derived from the development of coal, they are not coming quickly enough to balance the drain upon the county by service delivery.[28]

No projections have been made on what happens to the area after the coal is gone? No studies have been done comparing the renewable contribution of agriculture and the one shot contribution of coal to the area's economy. May be their effects even out after 10, 20 or 30 years? No one can say, because the options haven't been fully explored yet. We have the grim reminders of the after effects of the coal boom in the ravaged hills of Appalachia.

A perusual of the issues raised reveals no simple solution to the problems encountered and envisioned. Given the momentum of the rush, it is unlikely that the drag lines now in use can be brought to a halt. However, their impact can be softened. Their proliferation and that of energy conversion facilities can be planned and regulated.

An examination of the needs for new energy sources has found that projections are narrowly based and alternatives inadequately considered.

The callous disregard for the rights of the local people and the public trust has stripped away the sheep's clothing that the energy companies are fond of wearing.

The impacts on air, water, and that elusive "quality of life" are severe and irreversible. The land may be put back to its former use, may be, after a decade.

The questions we must now ask are these. Should the residents of a rural area, who neither create the demand for the energy nor benefit proportionately from its generation, bear most of the adverse effects of resource development and utilization? Do we favor short range "booming" and avoid thinking about the "bust"? Or do we plan and regulate projects so they provide a steady source of revenue, with adverse impacts minimized?

The projected "life" of the power plants is 30 years. These years are my years. The decisions made now will determine the quality of life we will be able to lead in Montana during the next 30 years. I do not want the options of lifestyle curtailed by a series of nondecisions. By not deciding, a decision has implicitly been made. The results of this analysis lead me to make the following recommendations:

(1) A moratorium on further strip mining starting July 1, 1974 and ending July 1, 1979. If you aren't in the ground by this date, you won't be allowed to initiate operations.

(2) A moratorium (of the same time span) on the construction of energy conversion facilities.

(3) A moratorium (of the same time span) on the appropriation of water for industrial use. (Note: the Montana legislature just passed a 3 year moratorium the first week of April)

(4) Legislation requiring full disclosure of corporate plans for development.

(5) The formulation of a National Energy Policy, with adequate funding for research into:

(a) "alternative" energy sources such as solar energy, methane gas from sewage, and wind power.

(b) improving the efficiency of present methods of extraction and energy conversion.

(6) A heavy federal tax on coal that is strip mined; to foster the development of our more extensive deep mining reserves. And make deep mining more competitive (dollar wise) with strip mining.

During the moratorium period studies on the feasibility of reclamation can be done, land use planning programs can be established, and alternatives considered in depth. Fundamental to all studies should be input from the local people. The job of slowing down the rush and planning for development is a difficult one, but we should find heart in the words of Mrs. Carolyn Alderson of Birney, Montana.

"To those of you who would exploit us, do not underestimate the people of this area. Do not make the mistake of lumping us and the land all together as overburden and dispense with us as nuisances. Land is historically the issue in any war. We are the descendants, spiritually, if not actually, of those who fought for this land once, and we are prepared to do it again. We intend to win." [16]

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SENATE CONCURRENT RESOLUTION 85—PROCLAIMING OCTOBER 14, 1974, A DAY OF NATIONAL OBSERVANCE OF THE 200TH ANNIVERSARY OF THE FIRST CONTINENTAL CONGRESS

Mr. HUGH SCOTT. Mr. President, on behalf of myself and the distinguished majority leader, I send a concurrent resolution to the desk and ask for its immediate consideration.

The **ACTING PRESIDENT** pro temport. The concurrent resolution, with its preamble, will be read.

The assistant legislative clerk read as follows:

S. CON. RES. 85

Concurrent Resolution to proclaim October 14, 1974 a Day of National Observance for the 200th Anniversary of the First Continental Congress, and for other purposes

Whereas, the meeting at Carpenters' Hall in the City of Philadelphia in the Colony of Pennsylvania from September 5 to October 26, 1774, which has become known as the First Continental Congress, will have observed during 1974 its two hundredth anniversary; and

Whereas, the actions of that Congress in uniting, for the first time, the thirteen disparate American Colonies to seek redress of their many grievances against the Parliament and King of England, set in motion a series of events leading to the meeting of the Second Continental Congress which produced the Declaration of Independence and guided the new Nation through the American War for Independence; and

Whereas, the precedents set by the meeting of the first Congress in 1774 from the foundation upon which rests the principles and practices of the existing Congress of the United States of America; and

Whereas, October 14, 1774 was the date on which the delegates to the first Congress adopted the Declaration and Resolves, expressing to the King of England their rights as Englishmen and their determination to achieve those rights, and is therefore, in itself, an historic date; and

Whereas, on October 14, 1974 special ceremonies, sponsored by the City of Philadelphia, the National Park Service of the Department of the Interior and the American Revolution Bicentennial Administration, will be held at Carpenters' Hall in Philadelphia, Pennsylvania to properly and appropriately observe for the Nation the two hundredth anniversary of the First Continental Congress; and

Whereas, the two hundredth anniversary of the First Continental Congress marks one of the first historic commemorative events of the American Revolution Bicentennial celebration: Now, therefore be it

Resolved by the Senate (the House of Representatives concurring), that the Congress hereby proclaims October 14, 1974 to be a Day of National Observance for the 200th Anniversary of the First Continental Congress and calls upon the people of our nation to fittingly observe and honor this important date in our country's history; and

Be it further resolved, that the President Pro Tempore of the Senate and the Speaker of the House be authorized to select, upon the recommendation of the respective majority and minority leaders, four members of each House to represent the Congress of the United States of America at ceremonies in Carpenters' Hall, Philadelphia on October 14, 1974 and to present at said ceremonies to a representative of the City of Philadelphia a copy of this Resolution.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. HUGH SCOTT. Mr. President, this resolution proclaims October 14, 1974 a Day of National Observance for the 200th anniversary of the First Continental Congress. It also calls for the appointment of an eight-member congressional delegation to represent the Congress in ceremonies at Carpenters' Hall in Philadelphia on the 14th of October 1974.

Carpenters' Hall is the actual site of the first meeting of the Continental Congress.

The 200th anniversary of the First Continental Congress is one of the first historic commemorative events of the Nation's bicentennial observance. That Congress is important in that it is viewed as the forerunner of the Congress today.

Mr. President, the resolution warrants swift congressional approval.

I may add, Mr. President, it is the meeting in Carpenters' Hall which most people believe explains the origin of the phrase "upper house," which has so often been derided by our friends in the other body.

Actually, at one time, the Senate met on the upper floor and the House of Representatives met on the lower floor. Therefore, the "upper house" has no meaning of hierarchy and should not be viewed as being pejorative or derogatory in any way whatsoever.

It simply meant that Senators, being more vigorous, had to climb the stairs. [Laughter.]

Mr. ROBERT C. BYRD. Mr. President, is there any explanation as to why Members of the other body run for office in this body?

Mr. HUGH SCOTT. I think the explanation is that the view was better from the upper floor.

Mr. MANSFIELD. The explanation is 6 years.

[Laughter.]

The Concurrent Resolution (S. Con. Res. 85) was agreed to.

The preamble was agreed to.

TRANSCRIPTS OF TAPES SUBMITTED BY THE PRESIDENT: PUBLIC TRANSCRIPTS—VII

Appendix 38, Meeting: The President and Haldeman, Oval Office, April 17, 1973. (9:47–9:59 am)

(Band Music)

H. Yes, Sir.

P. Oh, hello—sit down. I was thinking that we probably ought to use John Connally more to try to hammer out what our strategy is here on Watergate.

P. Rose, I am sorry I didn't intend to push your button now.

RmW. OK.

P. Thank you, Rose, I will call you later.

H. The only question there would be whether we ought to meet earlier on the basis that, well, we—

P. I understand I can't I have the Italian for a while. I could meet at 12:30. No, after that—1:00 o'clock.

H. The reason being, and the only reason, there is felt to be—and we may not want to react to it but we may—there is felt to be—Colson, for instance, called Ehrlichman this morning and said that his sources around town, department sources and everything, say that we've got one more day to act on our initiative.

(Material unrelated to Presidential action deleted)

H. And that all these breaks, this White House is all over town.

P. So we may have to go today.

H. And you have also seen or know the Los Angeles Times has the story.

P. About (unintelligible)

H. The White House has got to move, and the thought is that if we are going to move today we probably ought to meet earlier so we are ready to move by three o'clock or 3:30 or something.

P. Fine. OK. If you just get together. I think we have to move today.

H. Well, if we look like we have anything, we have to get out in front some way.

P. Well you might have to give them the full report today the way it is breaking so fast. Let me say that the problem you've got here—I had quite a long talk with Rogers, etc.—of course he was much more rational than Len. Len's (unintelligible). On the other hand, you've got the problem of you and John sort of being nibbled to death over a period of time.

H. Yep.

P. And by not moving, having a situation where, frankly, the chances of your being—I mean of your being publicly attacked.

And also even the steam of the prosecution is greater. You know what I mean. It is a curious thing, but I am afraid that is the way it operates. You know every day there is some damn little thing that somebody touts around with, you see, so everything can be explained and try to defend and all that sort of thing. But I am not prepared to make that suggestion, but I want you to talk to John about it.

H. Yeh. OK.

P. Dean met with Liddy on June 19th, must have been when he did it. He was in California in January but that is irrelevant. But they keep banging around and banging around. The prosecution gets out the damn stuff. Did John talk with you about it?

H. Yeh, he mentioned it. Dean did tell us that story in Ehrlichman's office last week or two weeks ago.

P. But not to go all through this.

H. I don't think so.

P. Yeh.

H. I think I mentioned it to you. Remember I described the story to you in some detail (unintelligible) walked down 17th Street—

P. This was all after we had started our own investigation.

H. Oh, yeah.

P. I mean it wasn't back then. It wouldn't indicate that we knew about all this, etc. Another thing, if you could get John and yourself to sit down and do some hard thinking about what kind of strategy you are going to have with the money. You know what I mean.

H. Yeh.

(Material unrelated to President's actions deleted.)

P. Look, you've got to call Kalmbach so I want to be sure. I want to try to find out what the hell he is going to say he told Kalmbach? What did Kalmbach say he told him? Did he say they wanted this money for support or—

H. I don't know. John has been talking to Kalmbach.

P. Well, be sure that Kalmbach is at least aware of this, that LaRue has talked very freely. He is a broken man. The other thing is that this destruction of the (unintelligible) things is troublesome, of course. John tells me, too, and basically the culprit is Pat Gray. Does Colson know about that? Is that why they are calling Colson because Colson was in the room when it was handed to Gray?

H. No he wasn't. Well, apparently he wasn't.

P. He says he wasn't?

H. Colson thought, well there was a meeting before that, where they talked about the deep-sixing and all that supposedly.

P. He was in that meeting?

H. Which Colson was supposed to have been in.

P. Right, right, right.

H. Colson doesn't remember being in it, but Colson flatly says that there was never anything where he was where there was a discussion of Hunt getting out of the country. Kehrli says the same thing. He was supposed to be at the same meeting. In fact, Ehrlichman has checked everyone who was at that meeting and nobody recalls that being said except Dean. And we now have the point that Dean is the one who called Liddy and told him to telephone Hunt to get out of the country and then called him later and said not to.

P. I would like a policy. I think, Bob, we have to think, I must say, we've got to think about a positive move. I think it ought to be today.

H. I agree.

P. I think it should be at 3:00 today. We have already, I hope the story doesn't break today in—

H. Even if it does you can get into cycle with it.

P. Yeah. Well, I don't want to be answering it.

H. No.

P. That is the problem with this Italian here. I want a thing done today and you and John have got to think, frankly, in terms, let me say, not just in terms as a national group for the President and all that—but also you have to think in terms of *having* this damn thing continue to be dragged up bit by bit and answers dragged out bit by bit, anyway, I suppose. But the point is that Dean's incentive with the U.S. Attorney, incentive with everybody else will be this and that, you get my point?

H. Yep.

P. I am sure you and John can talk about it. You see what's happened, the prosecutor has been pretty clever. They got Magruder. Well Magruder just caved, but it had to come. It had to come, Bob. It was going to come.

H. Yes I think so. I think it had to and should.

P. That's right. The other point is the other element. The question now that is coming as far as Dean is concerned. He basically is the one who surprises me and disappoints you to an extent because he is trying to save his neck and doing so easily. He is not, to hear him tell it, when I have talked to him, he is not telling things that will, you know—

H. That is not really true though. He is.

P. I know, I know, I know. He tells me one thing and the other guy something else. That is when I get mad. Dean is trying to tell enough to get immunity and that is frankly what it is Bob.

H. That is the real problem we've got. It had to break and it should break but what you've got is people within it, as you said *right* at the beginning, who said things and said them, too, exactly as Dean told them. The more you give them the better it will work out.

P. I have to go. As a matter of fact, I am sure I will be ready by 1:00 o'clock.

H. Ok.

Appendix 39. Meeting: The President, Haldeman, Ehrlichman and Ziegler, Oval Office, April 17, 1973. (12:35–2:30 pm)

(Material not related to Presidential actions deleted)

P. Where did we come out?

E. Well, we got two things, we got a press plan but it rests upon some decisions that you have to make on sort of an action plan.

P. Right, alright.

E. And, I just finished an hour with Colson who came over very concerned and said that he had to see you. That the message he had for you that he had to and wanted to explain in length is why Dean had to be dealt with summarily. His partner has a tie in with the U.S. Attorney's office and they seem to know what is going on there. Very simply put, I think his argument will be that the City of Washington, generally knows that Dean had little or no access to you.

P. True, that's quite right. Dean was just a messenger.

E. That knowledge imputed to us is knowledge imputed to you and if Dean is (unintelligible) and testified that he imputed great quantities of knowledge to us, and is allowed to get away with that, that, that will seriously impair the Presidency ultimately. 'Cause it will be very easy to argue—that all you have to do is read Dean's testimony—

E. Look at the previous relationships—and there she goes! So, he says the key to this is that Dean should not get immunity. That is what he wants to tell you.

P. Well, he told me that, and I couldn't agree more.

E. Now he says you have total and complete control over whether Dean gets immunity through Petersen. Now that's what he says. He said he would be glad to come in and tell you how to do it, why, and all that stuff.

P. I don't want Colson to come in here. I feel uneasy about that, his ties and everything. I realize that Dean is the (unintelligible). Dean, of course, let's look at what he has, his (unintelligible) and so forth about (unintelligible) go popping off about everything else that is done in the government you know, the bugging of the—

E. Well, the question is, I suppose is which way he is liable to do it most.

P. First of all, if he gets immunity he'll want to pay just as little price as he can.

E. Well, the price that—the quid-pro-quo for the immunity is to reach one through us to all of us. Colson argues that if he is not given immunity, then he has even more incentive to go light on his own malfactions and he will have to climb up and he will have to defend himself.

P. Now when he talked to me I said, "Now I understand John. I understand the tactic of all three resigning." I said, "all offered to resign." I told him that, you understand. I told him that you and John had offered to resign so he's aware of that.

H. Well, have they told him that the price of his immunity is that if we resign they'll give him immunity? Do they feel that makes their case? Or, does he have to give them evidence?

P. I don't know. He's going to have a tough time with that.

E. Well, to go on. My action plan would involve—

P. What would your plan be?

E. My action plan would involve your suspension or firing of Dean in the course of a historical explanation of your reliance on the Dean Report—his apparent unreliability—

P. But going out—you see the Garment guy got him in today—Garment says it's all going to come out anyway (unintelligible) etc., etc., etc., with the U.S. Attorneys. That's what Petersen's view is, of course.

E. What's that? The Garment deal?

P. That it is all going to come out, and Haldeman and Ehrlichman are going to resign. He told me that on Sunday. I asked him again yesterday. I said, "Now look at it. That's pretty damned flimsy." He said, "Yes, I'm not talking about legal exposure. I'm just talking about the fact that as this stuff comes out they're going to be eaten, but eaten alive. Mr. President, the clamour is going to be something you cannot stand." I said, "Would it be better for them to get leave or something?" And he said, "No, this is the government. Rather to sit there and later as a result of this tid-bit and that tidbit and so forth—he lied and I don't lie and so forth. Haldeman against Dean and Haldeman against Ehrlichman, Ehrlichman against Dean, who to hell is lying?" He said, "Definitely they'll say, (expletive removed), Mr. President, can't you let these fellas—" Now that's my point. That's what he said.

E. I understand.

P. That's an argument to be made. He said that to Rogers last night and that, of course, is Garment's argument. And I guess Rose, Chapple Rose agrees with that, or whatever. My problem is, at the present time, I just don't want to have to talk to each of these side-line people individually, 'cause I don't know. I think some—Garment came in and was talking about the (unintelligible) story in the *Times*. Petersen told me about it last night. He said (unintelligible) had called. And I said, "That must have leaked out of your place." He said, "No, it didn't." Could it leaked out of here?

E. Could it have been Garment?

H. Could have been, but it isn't at all likely. It's a Justice.

P. But you see—what you say about Dean, I said to him (unintelligible). He supports the Garment plan. He's talked to Garment and Garment has talked to Dean.

E. Dean has talked to everybody in this place.

P. I told him not to talk any more. But you see Dean—let's see, what the hell—what's he got with regard to the President? He came and talked to me, as you will recall, about the need for $120,000 for clemencies—

E. You told me that the other day, I didn't know that before.

H. But so what?

P. What?

H. So what?

P. I said, what in the world John, I mean, I said John you can't (unintelligible) on this short notice. What's it cost (unintelligible) I sort of laughed and said, "Well, I guess you could get that."

E. Now is he holding that over your head? Saying—

P. No, No, No, I don't think Dean would go so far as to get into any conversation he had with the President—even Dean I don't think.

H. Well, he can't—you have both executive privilege in conversation with him.

P. Let's just call it executive privilege, but on the other hand you've got to figure that Dean could put out something with somebody else.

P. That's the only thing I can think of he's told me but I've not got him in yet to ask about this thing about you—Liddy (unintelligible)

E. Oh well, they'll be one of those a day.

P. Well, the point is can we survive it?

E. Well—

P. Can Haldeman and Ehrlichman survive it. The point that I—Let me say this. I know your (unintelligible) It's a hell of a lot different than John Dean. I know that as far as you're concerned, you'll go out and throw yourselves on a damned sword. I'm aware of that. I'm trying to think the thing through with that in mind because, damn it, you're the two most valuable members on the staff. I know that. The problem is, you're the two most loyal and the two most honest. We don't have to go into that. You know how I feel about that. It's not bull—it's the truth. The problem we got here is this. I do not want to be in a position where the damned public clamour makes, as it did with Eisenhower, with Adams, makes it necessary or calls—to have Bob come in one day and say, "Well Mr. President, the public—blah blah blah—I'm going to leave." Now that's the real problem on this damned thing and I don't think that kicking Dean out of here is going to do it. Understand, I'm not ruling out kicking him out. But I think you got to figure what to hell does Dean know. What kind of blackmail does he have? I don't know what all he does—

E. Let me make a suggestion.

P. Alright.

E. You've got Dean coming in to you saying, 'I've talked to the U.S. Attorney and I've told him a lot of things that I did wrong." So you put him on leave. He isn't charged with anything yet, but he's said them to you.

P. I asked him that and he said I'll go on leave along with Haldeman and Ehrlichman.

E. Well, he's not in any position to bargain with you on that. Now when the time comes that I'm charged with anything wrong—

P. Well, John, you have been by a U.S. Attorney and by Petersen to me. Petersen is not charging you legal—

E. That's what I mean. See I understand the difference. You see Dean has broken the law on the face of his (unintelligible) to you—

P. Petersen has said to me, he says that there is—because of the evidence that has come in here—that Haldeman and Ehrlichman should (unintelligible) now I'm faced with that damned hardship.

(Material not related to presidential actions deleted.)

P. Hmmm. Say you get there. So you don't get immunity. Colson thinks it's in order not to give immunity, huh?

E. Right.

P. And tell him. Then he would say, "Well, what are you going to do about Haldeman and Ehrlichman?"

E. What you have to say is nobody—

H. He doesn't have to say that.

P. Yes, he does.

E. What you have to say is nobody in this White House—

P. Dean isn't going to say it. I mean—Petersen—Petersen's the guy that can give immunity.

H. Well, tell him not to give us immunity either.

P. (unintelligible) that's a problem. Now, come on!

H. Well, see, it's none of his business whether you suspend us or not. That's your decision.

P. I know it is. The point is—let me put it candidly. If I do not suspend you, he will probably give him immunity. That's the problem (unintelligible) unbearable. If you do take a leave, I think he will—it's possible—well, it's possible that he would (unintelligible) even if you do leave—that he would (unintelligible) I agree. But Dean is the guy that he's got to use for the purpose of making the case.

H. Yes, but, even Ehrlichman, which he already admits he doesn't have a case on (unintelligible) significance.

P. Well, he says legally, yes, he does. In the case of Haldeman, it'll discuss—the Strachan things have—determine a lot to do with what Strachan says and what Kalmbach says—the 350 thing and that sort of thing.

H. Kalmbach has no relation to me on that.

E. That ah—

P. Have you thought when you say before it gets to (unintelligible) thing out of the way. Have you given any thought to what the line ought to be—I don't mean a lie—but a line, on raising the money for these defendants? Because both of you were aware of what was going on you see—the raising of the money—you were aware of it, right?

E. Yes, sir.

P. And you were aware—You see, you can't go in and say I didn't know what in hell he wanted the $250 for.

H. No—I've given a great deal of thought (unintelligible).

P. Well I wonder. I'm not—look—I'm concerned about the legal thing Bob, and so forth. You say that our purpose was to keep them from talking to the press.

E. Well, that was my purpose—and before I get too far out on that, ah, I want to talk to an attorney and find out what the law is—which I have not yet done.

P. Right!

H. That's just what I want to do too. This is only a draft.

P. Right. Good. The only point is I, I think it is not only that but you see that involves all our people. That's what I feel—it involves Kalmbach—

E. Well.

P. And what to hell Kalmbach was told.

E. Well, Mr. President, when the truth and fact of this is known, that building next door is full of people who knew that money was being raised for these people.

P. EOB?

E. Yes, sir, just full of them.

P. Many who know, but there were not so many actors. In other words, there's a difference between actors and noticees.

E. O.K. Well, apparently not, because I'm not an actor, ah—

H. The question there is testimony, I suppose.

P. I'm not trying to make any case—

E. No, but—

P. I'm not stating a case.

E. No, but I want you to think very critically about the difference here between knowledge of the general transactions going on, on the one hand, and being an affirmative actor on the other, because that's the difference between Dean and me. Now on this business on whether Dean should have immunity, I think you have to ask yourself really, the basic question, whether anybody in the White House who does wrong, ought to get immunity, no matter how many other people he implicates.

P. Strachan included?

E. Anybody—anybody. I just question whether in the orderly administration of justice, it looks right for anybody in the White House to get immunity.

P. I could call Petersen in (unintelligible) basic (unintelligible) public statement out at 3:00 p.m. is that right?

H. Well, yes—but you don't have to.

P. Well, Garment says we have to.

H. Well, yes, but isn't that what Garment said yesterday, the day before, and the week before that? Garment (unintelligible)—

P. Well, understand, I'm not panicking myself but they tell me there seems to be a considerable feeling that a—

E. Well, I agree with you.

P. (unintelligible) LaRue's been called, Strachan's been called, Dean might put up a story of the times. You never know. We don't need a Haldeman/Ehrlichman.

E. Yea, but you see it's typical Dean position. If Dean is treated different from us, he will go out and say he's a scapegoat for higher-ups.

H. That figures 'cause he knows Ostrow and Ostrow is the guy that covers Justice.

P. I see and Petersen told me that. He told about conversations with that the wife of (unintelligible) apparently sat at some table with (unintelligible) libber they addressed, and the top guy, Rosenblatt or something like that, at the Post was talking to somebody else on the staff. "The Press is going to get out in front—we've got a hell of a lot more—we've just held it back." They might be bluffing—I would doubt that they are at this point.

H. I would think they probably have more, but I would guess what they have more of is in the Committee. I don't think they got much more in the White House, unless, I don't know what it could be unless they got Colson stuff—that would be the only area.

P. (unintelligible)

H. Yeah, That's the only area where you have any jeopardy in the White House.

P. Let me say with regard to Colson—and you can say that I'm way ahead of them on that—I've got the message on that and that he feels that Dean—but believe me I've been thinking about that all day yesterday—whether Dean should be given immunity. The point is—I don't know that it can happen, but I can call Petersen in and say he cannot be given immunity, but nobody on the White House staff can be given immunity. And I—whether he'll carry that order out—that's going to be an indicator that that's Dean and (unintelligible). And then what do I say about Dean. Do I tell him that he goes?

E. Well, you see, the thing that precipitated Colson's coming over is that he found that Dean was still here. You see, Dick Howard called Chuck and went through that business of the FBI men sending him into the arms of Dean. So, Colson called and says you've got an asp at your bosom over there, and so, today he checked again, apparently with Howard, and discovered that Dean was still here and he called and said, "I've got to see you." He came in and he says, "You guys are just out-of-your-minds," and said he wanted to see the President. He was fit to be tied about it.

P. Colson was?

E. Yes, because he thinks—

P. But you see if I say, "Dean, you leave today," he'd go out and say, "Well the President's covering up for Ehrlichman and Haldeman" alright. There you are. Because he knows what I know." That's what he would say. I tried to put—I mean—I'm trying to look and see—John—what to hell we are really up against. First it was Liddy (unintelligible) scapegoat, now John Dean is.

H. Well, the answer to that is that if he said it publicly, the President is not covering up for anybody, and will not tolerate—

P. The way he's put it to me, Bob, very cute, as I have said, "Son of a gun (unintelligible) in view of what you have told me, if Haldeman and Ehrlichman are willing to resign, and so forth, I, too, will resign." In other words, he basically put the shoe on the other—which of course is what led me to the conclusion that that's exactly what his attorney told him to do. If he can get Haldeman and Ehrlichman, that some way gets him (unintelligible) that's what you have here.

E. Yeah, because then that will be argued back to the U.S. Attorney, "Well you see, the President thought enough of Dean's charges to let these guys go."

P. I was trying to indicate to him that both of you had indicated a willingness to—in the event—that—you know what I mean.

E. And here's a guy that comes in and in effect, confesses to you the commission of crimes.

P. And charges you.

E. And charges us, that's right.

P. That's right. And I said, "Now wait—these charges are not—" and you see he also has an alibi in the U.S. Attorney—

E. Small wonders.

P. He's asked (inaudible) Attorney General that the President should act—

E. Well, you see my point and—

P. Yeah

E. And you'd have to obviously, call us when—

P. Go ahead. Go ahead on the action—

E. Well, it would involve the suspension because it would involve a recounting of how you happened to get into the personal investigation of this by reason of Dean's being unable to reduce his full report to writing for you. And that that rang a bell, and you personally turned to and have spent a great deal of your time in the last several weeks on this—and have seen dramatic progress in the Grand Jury in the last several days. That would be Step 1. Now in addition to that you would say the Ervin Committee has come up with a good set of ground rules which do provide us with—

P. Well, did you work that out?

E. Well, you'd say this. I think you'll find that they are going to go on television under oath, pretty much regardless, but, the ground rules give you a toe hold. They do provide for Executive Session.

P. Is Executive Session considered executive privilege?

E. And they will consider—

P. And otherwise they will go into open hearings.

E. Yes, but there again executive privilege is reserved.

P. Executive privilege is reserved, fine.

H. At this point, the way we're in the soup now, we can lose nothing by going.

P. That's right.

H. I think we may gain.

P. That's right, I couldn't agree more. So if you can prepare me with at least that much, I'll agree. That I can say that today.

H. Well, that's a hell of a bomb shelter right there.

P. Yes, it is. But, let's get on with rest of it.

E. That's it. That's all I have for today. But it gets you into the case—its you leading it. It notices the progress and the Grand Jury as related to your efforts and it doesn't say what they are.

P. Well, the point is though the story today is that John Dean is suspended, but—and then John Dean is going to be out there plastering—out saying the President has indicated that Haldeman and Ehrlichman too might go.

H. Let me suggest a different process, which is that you don't suspend John Dean, but that you instruct John Dean that he is not to come to work any more. He is in effect suspended, but not publicly suspended.

P. He'll say, "What about Haldeman and Ehrlichman?

H. I would suggest to you that you do the same with us. And I was going to suggest, I was going to request that action. For this reason—I've got to speak for myself. John's got to speak for himself. I have now concluded that my course is that I must put out my story. I must put it out in total and in my words, before I go to the—I don't know about the Grand Jury—before I—

P. Before you go to the Senate Committee?

H. Go to the Senate Committee. I'm going to have to put it out there anyway.

P. I don't think you're ever going to get to the Senate Committee. I don't think the Committee Hearings will ever go forward.

H. I do. I don't think there is any chance of them not going forward. You think because of legal case (unintelligible) O.K. Great if they don't. Then maybe I never tell my story. But my view is that at some point in time I'm going to have to tell it.

P. But you—the way—I would reserve, Bob, the right to tell that story until you felt you did have to go to the Committee Hearings. See what I mean? Or, unless you got to a point where you were nibbled to death.

H. That's right. Or until a partial charge comes up. For instance, if the Grand Jury leaks or the Justice people leak the Strachan stuff, then that forces my hand.

P. John?

E. Well, subject to attorney's advice.

H. That's what I was going to say. I will not make this statement until I have worked it out.

P. Bill said he just couldn't remember.

H. Well, we've got some leads. We're going to start on today, so we've got that, but my interest is served and I will also argue that the better off I come out of this, the better off you come out of it—vis-a-vis me. In other words, anything I do to my interest is to your interest.

P. Let me ask you this, John.

E. What's that?

P. You said that you ought not to come for awhile. On what basis? I mean, we do this on an oral basis.

H. What I'm doing now is requesting you, on an oral basis—

P. Yeah.

H. To not expect me to carry out any duties for awhile because (inaudible) perfect this and get it ready—

P. Where would you do it, at home or in the office here?

H. I can do it wherever you want me to. I think I ought to do it in the office, but—

P. Alright.

E. If Dean says, "What about Haldeman and Ehrlichman?" You say "John, I'm talking to you about you. Now I'll take care of them my own way. I'm not going to have you bargaining with me."

H. I don't think the President can be in the position of making a deal with John Dean on anything.

E. Yeah. "I'll go if they go." Supposing I said, "I won't go unless Henry Kissinger goes!" Yeah, it's ridiculous. Let me speak to this. I have pretty much unplugged myself of my day-to-day stuff, because with this kind of stuff going on you just can't think about anything else.

P. Of course, it's been a little hard for me to also.

E. Sure. Now, I have a need to get into all kinds of records and my date books and these are volumes and volumes of correspondence and stuff. If I couldn't come into the office, I probably couldn't prepare a defense.

P. What about Dean coming in? Why not him? (unintelligible) I think I've told Dean he's to have nothing more to do with this case.

E. Well, he'rs sure not following out your orders, if that's the case.

P. You see what I mean.

E. Now, you'd have another problem, and I don't know what's been going on in the last week or so, but I imagine he's carted stuff out of here by the bale. I just don't know.

H. You don't know that.

E. I certainly—

H. If you suspend him or tell him to leave in any way, you also move in to take care of his files.

P. Could I say this, "John, both Haldeman and Ehrlichman have both requested the opportunity to be relieved of their duties—I mean their main duties, so that they can concentrate on this matter to prepare for their appearance before the Grand Jury." Could I say that?

E. Sure, well—

P. Wait.

H. The trap you're falling into there is that you're admitting to Dean that you regard the allegations that he has raised against us as of the same validity of his own criminal admission to you.

E. If that's the case then maybe that's what you should say.

P. No, no, no, there are two different levels.

E. Then that's the way it ought to be put. He brought in a lot of silly garbage about me which doesn't add up to a nickel's worth of a law suit. Ah, he's come in and told you that he's been involved in all kinds of stuff. It seems to be a very different qualitative problem. Here again, I hate to argue my case—it's very awkward.

P. You should argue, John. I wonder if whether or not I trapped myself (unintelligible) about this business when I said, "Look, John," I said, "both Haldeman and Ehrlichman have offered to resign."

E. Well, I offered to resign at your total and sole discretion. You don't have to have a reason—

P. (expletive removed) (unintelligible) Then I said—

E. Well—

P. Wait a minute. Wait a minute. Then Petersen said, he said, "We've got to have corroborative testimony." So you see what I mean?

E. Yeah.

P. Before we could get—Let me put it this way. He realizes that before he could try to give Dean immunity he's got to have corroborative testimony on the value of Dean's evidence. That's what he's trying to get at the present time. That's why he was calling Strachan, Colson, Kalmbach, et al. The purpose of it being, John, to get corroborative evidence that would say, well, Dean's evidence is so valuable as far as other people are concerned, that we can therefore give him immunity. Now I'm not a criminal lawyer, but does that make any sense?

E. I don't know.

P. But you see what his tactic is?

E. I put it.—I don't know what the previous commitment to him is, but he's not being fired, he's not being suspended, he's being directed to stay away from the office.

P. I might put it that since you are talking to a U.S. Attorney. If I could put it that way to him I might be able to make some hay. Bring the U.S. Attorney in. And I'll say don't give him immunity.

E. From a public policy standpoint.

P. Yeah, (unintelligible) And I'll tell you what Petersen did tell me. He did say this much. I said, "what about Dean?" and he said, "Well, we haven't made a deal with him yet." I think I told you about this—

E. Yep.

P. I said, "Why do you have to make a deal?" And he says "Well, he wants to make a deal." And I said, "What do you mean let him off?" He said, "Well, that's what you do, Mr. President." I said, "Well," I said, "you're sort of (unintelligible)." We've had some real good talks. I mentioned this to Rogers. Rogers just shook his head and said, "That's right." And I said, "They have both said that." And I said "I will certainly have it under consideration."

E. Now there's another matter. If this is awkward for you, the best thing you should do is get rid of me, you know, once and for all.

P. Yep.

E. But if it is anything short of that—

P. Yeah.

E. Then it seems to be that you have to take into account qualitative differences.

P. Yep.

E. And if you don't want to make a formal suspension, then the thing to say is, "I want you to stay away from the office. Just don't come around, because I know everything that happens in this building is being funneled directly to the U.S. Attorney through you, or I have reason to think that, and I cannot have that situation." Now that's the way—Yeah.

P. So he isn't going to do it simply on the basis. He isn't giving Dean immunity simply on the basis of what Dean has already said.

E. I understand. Ah, my fear here is—

P. Dean getting immunity?

E. Dean getting immunity, or anybody in the White House getting immunity, it is in itself treatable as a cover-up. And obviously is we are put in a position of defending ourselves, the things that I am going to have to say about Dean are: that basically that Dean was the sole proprietor of this project, that he reported to the President, he reported to me only incidentally.

P. Reported to the President?

E. Yes sir, in other words—

P. When?

E. Well, I don't know when, but the point is—

P. You see the problem you've got there is that Dean does have a point there which you've got to realize. He didn't see me when he came out to California. He didn't see me until the day you said, "I think you ought to talk to John Dean." I think that was in March.

E. All right. But, but the point is that basically he was in charge of this project.

P. He'll say he reports to the President through other people.

E. Well, O.K. Then you see what you've got there is an imputation. He says then—as that kind of a foundation—"I told Ehrlichman that Liddy did it." What he is saying is that, "I told the President through Ehrlichman that Liddy did it."

H. Which means that it was perfectly acknowledged as far as Ehrlichman was concerned and there was nothing that you were required to do about it anyway.

E. That's right. But you see I get into a very funny defensive position then vis-a-vis you and vis-a-vis- him, and it's very damned awkward. And I haven't thought it clear through. I don't know where we come out.

P. Yeah. You see Dean's little game here (unintelligible). One of the reasons this staff is so damned good. Of course he didn't report to me. I was a little busy, and all of you said, "let's let Dean handle that and keep him out of the President's office." And maybe you didn't want him in there for other reasons too. But he did.

E. Well, the case I'm going to make—

P. Well, of course, he would then say who the hell did he report to?

E. Well, in many cases, to no one. He just went ahead and did things.

P. The other point is that they'll say (unintelligible) the first time he reported to the President—

E. Well statistically, it's interesting. I'm now far enough in my records for last year.

P. You probably had five meetings a month.

E. Less than that. Matched against that, all the other things I was doing—substantive things—and Dean becomes practically the least of my worries.

P. How about you, Bob?

H. I haven't any idea. I don't have a log. Unless Dean does.

P. The only thing he doesn't have is the fact thta you should have come in to see me. Ziegler talked to him, I guess and so forth and so on.

E. Moore—frequently.

P. Moore—all right—Moore (unintelligible) but I haven't talked to Moore either, have I?

E. Well, I think, I've got to think this through. I just don't know where that leads.

P. (unintelligible) White House staff, John Dean, John Dean's highly sensitive information (unintelligible). Well, damn it, John Dean's highly sensitive information was on only one count. Believe me guys we all know—Well—the (unintelligible) stuff regarding Bob. Strachan has got to be worked out. I don't know how that's going to work out. Bob, did Strachan have a—the plan? What he says about whether he did have a plan—whether he did show it to you—remains to be seen.

H. He apparently said he did not.

P. All right. The other point is whether Strachan got information now that is the stuff that is clearly identifiable according to Petersen as being telephone taps. Strachan will probably say no it was not. And so, that's that.

H. The discrepancy between Strachan and Magruder is because what Strachan got that could have been from that it turns out, was not. It was something else. When they get that, they'll get an interesting new problem, because Strachan would say it was Operation GEMSTONE, not Operation SEDAN CHAIR—and GEMSTONE wasn't Watergate so that will uncover that there was something else that they did. I don't know what it was.

P. Something else you mean?

H. I guess, 'cause there was an Operation GEMSTONE that Strachan got reports on.

P. They tell me that GEMSTONE was the code word for everything—GEMSTONE is for everything.

H. Well I thought SEDAN CHAIR was the Watergate thing, O. K. Well if GEMSTONE is the total thing, then what he got was reported from that. And it's a confidential sources indicate that—It did not clearly identify, according to Strachan. I can't tell you anything else.

P. (unintelligible) I want you to know what he's told me.

H. All right.

P. John, I'm just trying to see what the options are on Dean—what we turn loose here.

E. Absolutely. Well, let's go back to the press plan. Maybe that will give us some guidance.

P. Right.

E. If you say in the press plan, "The President got concerned about this," the question, "why didn't he get concerned sooner because this has been in the paper for months and months?" Well, "the reason he didn't get concerned sooner is he was resting secure in the belief that he had the whole story."

P. Right.

E. Well, what made him insecure?

P. Do I ever ask Dean in and ask him answers? The answer is no.

E. No, but the point is that you were resting secure on his assurances.

P. Go ahead.

E. Well—

H. Didn't you at some point get a report from Dean that nobody in the White House was involved.

E. Didn't we put that out way back in August?

P. I mean, I just said "Well, that's all I know now." It was never in writing. He never came in orally and told me Dean—John Dean I never saw about this matter. You better check, but I don't think John Dean was ever seen about this matter until I saw him, when John Ehrlichman suggested that I'd better see John Dean.

E. You better check Bob, back in that period of time July—when we were in San Clemente—my recollection is that he did come and see you at that time—but we can check that.

P. Oh—by himself? No.

E. Well, by himself or with one of us. I don't know.

P. He may have come in, but it was a pretty—I hope he did, hope he did. But he might have come in sort of the end, and someone said, "Look here's John Dean from Washington," and I may have said, "Thanks for all your hard work."

E. Well—let's follow this line and see where it leads us. The President rested secure in the belief that his Counsel had investigated this and assured him that nobody in the White House was involved.

E. O. K. Then, what moved him off of that belief and assurance? Well, what moved him off was the sequence of events leading to John Dean being sent to Camp David to write it all down.

P. What moved him off first were reports that occurred in the court testimony.

E. That's right.

P. Charges were made by McCord—and other charges—Charge were made by McCord. I wouldn't say (unintelligible). Charges were made by McCord that, in open, before a jury committee, The President ordered a full investigation.

E. Well, the first thing you did—and maybe you can avoid saying this—but you're saying you ordered a full press investigation when Dean came back and said to Bob, "I can't write that down."

P. He told me that too.

E. Then that rang a bell. Because if Dean can't write that down, then we must have problems bigger than I ever thought. And so that's when you put on the full court press.

P. Well all right. Here's—you've got the dates on this. Well—

E. I have them in there, yeah. Let's see what Dean says on that. Well he says, "The reason I couldn't write them down is because Dick Moore and others said (unintelligible) said how could I write it down—draw the wagons up around the White House?" That phrase, remember that, isn't that a Dean phrase?

H. Sure. His line was that you could do that because there was no problem at the White House, the problems were at the Committee.

P. What did he tell you with respect? What was Dean's line before he deserted?

E. Well, what he said—

P. My point is—you've got to watch out. He may say, "Well, they were trying to get me—conspired to get me to write a report that was untrue."

E. Well, I understand, except that he was sent to write it without anybody being near him.

P. Except Moore (unintelligible)

E. I'm sure that when he went through this exercise, it was impossible for him to write it down without it being a confession. And he said, "My God, I don't know how this case is going to break, but I'm crazy to have a piece of paper like that around."

P. Then I could say then that I ordered—who conducted the investigation?

E. The way we got it doesn't say—

H. You asked other staff members to explore this—you had Ehrlichman, Moore, Garment, Haldeman.

P. That's right. All right. And then—

E. Then you contacted some people and said, "Don't hold back on my account."

P. Yes, like Hunt—Liddy.

E. Like Mitchell and Magruder.

P. I passed the word to all sources that everybody was to talk, to tell the truth, which I had done previously. I reaffirmed. I reaffirmed specific terms to specific people.

H. Well, you had reason to believe that they might have a misapprehension on it.

P. Any misapprehension and so forth and so on—to all parties involved—who were those people. I should not say—

H. You can't list those people.

P. I should not say—well you can't list the people for a reason that would prejudice them. I talked to all parties concerned that if there was a shred of information which might in any way—which they might have on this case—I reaffirm what I had said publicly—that we must cooperate fully and tell the whole truth. Then, we come to the last weekend. On Saturday—a major development occurred—I can't say, "that as a result—" That would be an overstatement.

E. Nope.

P. Then on Sunday I can't say that I talked with Kleindienst. Just say on Sunday.

E. Except—remember I informed Kleindienst on Saturday—so you—

P. I informed Kleindienst. Then we'll get questions. "Did you inform him in person?" I can say I passed the information.

H. Say you passed the word to Kleindienst.

P. I informed the Attorney General. At my direction Ehrlichman filled in the Attorney General completely on the information that we had found and on Sunday the Attorney General and (unintelligible). They indicated as a result, a major development in the case—these major developments in the case—we've got to get Petersen.

E. Then Ziegler or you could turn it over to Petersen, and let him say something innocuous.

P. And I directed Petersen to direct to me personally on any developments and any member of the White House staff or Federal Government was to be available to the Grand Jury and would testify—would be directed by the President to testify. Now you come to the next thing—you see Garment's scenario here will be (unintelligible) "I have asked that any government people who have been—who might—who have been—who are directly or indirectly—subjects of the investigation, even though having—this is no indication of any guilt—will be relieved of their duties and until the Grand Jury (unintelligible). Anyone who refuses to cooperate will be dismissed. Anyone (unintelligible)."

H. Is that it?

P. Yes (unintelligible) Anyone who refuses to cooperate will be dismissed. Anyone will be given leave until his trial is finished. He's had an opportunity to have his day in court. (unintelligible)

E. How about anyone granted immunity?

P. Anyone granted immunity will be—let me try Petersen on you today?

P. Your idea about Petersen would be to hit him (unintelligible) with that.

E. Trouble policy—I can't have it.

P. Until I do that, the President (unintelligible) follow it or (unintelligible) Petersen has—the President's—

E. Tying our hands—

P. Tying our hands. But we're not telling Dean not to talk. I direct everybody to talk, but nobody is to be given immunity.

E. In other words, you don't need—there

are plenty of ways of proving a case around here—besides granting some fellow immunity.

P. Yeah.

E. You don't need that, and it looks like what you are doing is letting somebody off scot free.

P. That's right. Also, it looks like a cover-up.

H. And particularly somebody—personally associated—in this case.

E. Maybe the point that Petersen is missing—maybe intentionally so, is that Dean is a major act in this thing. And big fish/small fish, nevertheless, if a major actor gets immunity and just walks away from the White House having committed 89 crimes—that—and it is your Justice Department, and the guy that runs it, reports daily to you, what does that say? That says—"Gee, I didn't want my Counsel to get hurt." The only question that remains is why didn't he grant immunity to everybody.

H. What it says is exactly the point—the Counsel knows more than—

P. Now, should I have any more conversations with Dean?

E. No. I don't think you should. I think you should send him a note and tell him what your decision is. Or, have Kehrli or somebody call him and say, "Don't come to work anymore. You're not suspended, you're not fired, but you're not to come into the office until this matter is—"

P. That's a good tough way. What can he do?

E. I don't think he can do anything. If somebody says to him, "Well, did you get suspended?" He can say, "No, I really haven't. I'm just sort of not working until—"

H. He hasn't been to work for a month anyway.

E. He's been out talking to the U.S. Attorney the whole time.

H. Well, he's been here because it serves his purpose to be the inside story. He's been out of the office for a month. He's been—

P. I called him this morning and told him I wanted to talk to him later to ask him about that appointment June 19, but I don't think I better get into that any more.

E. I don't either.

P. And, and he's going to give me some song and dance.

E. Well (unintelligible) for your private information, I have gone back to the participants in that meeting where I was supposed to have said, "send Hunt out of the country." To a man, they say it didn't happen. And two of them said, "Gee if either one of them—"

P. What about the meeting?

E. And they said, "If that had happened, it would have been burned into my recollection." The sort of thing like you ordering—

P. You better damned well remember being—The main thing is this, John, and when you meet with the lawyers—and you Bob, and I hope Strachan has been told—believe me—don't try to hedge anything before the damned Grand Jury. I'm not talking about morality, but I'm talking about the vulnerabilities.

E. Sure, good advice?

P. Huh?

E. Good advice.

P. You guys—damnit—I know you haven't done a damned thing. I do know this—they've tried to track or prejury—you're going have that—

E. Fortunately I have good records—I know who was in that meeting and so, I was able to call—

P. (Unintelligible) attorneys that certain materials. The point is now they talked to people—somebody put those things in the Bag—I suppose Fielding.

E. Fielding or Dean. I don't know. Let me just tell you—

P. Did he inventory? For example, who's going to testify what the hell was in that page?

E. I don't know. May I just finish telling you about this—I think it is important—

P. (Unintelligible)

E. Well—it does—and also—Dean is the guy that made the call sending Hunt out of the country. But, the interesting thing about it all is that Friday, he called Colson and said, "Chuck, do you remember a meeting up in John's office where John said 'So and So and D–6'—and John said—'send Hunt out of the country'—don't you?" And Chuck said, "I told him it never happened." And I didn't raise this with Chuck—he raised it with me. And said, "I had this funny phone call from this guy." So, he's out around planting his seeds.

H. He's playing the Magruder game—flying from flower to flower—planting his pollen.

E. So, I don't think—

P. I think those (unintelligible) you got very clever liars. I told you this before—very clever liars.

E. Yep.

P. (Unintelligible) I got to get out of this—

E. I think you can slide by that by just saying, "Stay home. Don't come in to the office."

P. Yep. I can say, "John, I think it's best that you don't come into the office."

E. I can tell you one way you might do it is to say, "I've had a report that an FBI man about to serve a subpoena on Dick Howard told Howard to come and talk to you. I can't have that. Because you cannot sit there as an agent of the U.S. Attorney."

P. I indicated that already.

H. Dean will say the same thing that you just said, that I can't prepare my case for the Grand Jury if I can't work with my files and so forth, and so if you are telling him not to come in, "I'll send a truck over and have my files brought to my home." That would take care of getting his files—

P. (Unintelligible) his files subpoenaed?

H. Well, there's a question on that—

E. That's the position you ought to take on that.

H. Damn right. All of the files are yours and they are not subject to any action that your files are subject to.

P. Shall I tell him that?

E. Nope. Let's wait until the question comes up.

P. Well, how do I answer the question—Bob, what do I say, "I have to have your files?"

E. Well, he's already made his statement. It's obvious to the U.S. Attorney. He's past that point.

P. I don't think you can write him a note. It's going to anger him anyway. No sense in doing that. See what I mean? We've got to remember whatever he is doing—I don't mean that you can't—he's going to do anything to save his ass. That's what is involved. But on the other hand—

E. O.K.—I got an idea—

P. You got to remember (unintelligible) he put this a lot higher. He could say, "Well, I told the President about $127,000, that we needed $127,000 and the President said, 'well I don't know where we could get it, I don't know'."

H. How could you do that though—that's true (unintelligible).

E. Alright. I'll tell you how you might be able to handle that. The FBI has just served a subpoena on our WH police which asked that they produce the names of people cleared into the WH/EOB complex from 12:01 AM June 18, 1972—to 11:00 PM June 18, 1972.

P. Where were we then?

H. What date?

P. June 18.

E. The day of the bugging.

H. We were in San Clemente.

E. Really?

H. Yeah.

E. Florida.

H. I mean Florida. I'm sorry. That was the weekend that we flew directly to Grand Cay and you went to Walkers and we went over to Key Biscayne.

P. Well, maybe that's an unsafe thing.

E. The WH Police had notified Fred Fielding of the subpoena—

H. See that's your other problem. You have a WH legal case and you have no WH lawyer—another interesting end to look at.

P. Where's Fielding stand on all this?

H. He's Dean's (unintelligible) lives next door to him. Dean sponsored him. That doesn't necessarily mean he goes Dean's way. Fielding is an honorable guy—provincially so—who may not like what Dean is doing any more than we do.

P. Well, when I see Dean I'll say, "We're not going to publish this publicly or anything of that sort—but I do think that you should not—" What you want to do is get him out of the WH and yet Colson's recommendation is to get him out by firing him—

E. Colson would like to discredit him.

P. Well I know. But the question is what he could do to discredit us.

E. Well.

P. That's a problem.

H. Yeah. But I think at some point, like you do on anything else, you gotta face up to the fact that the guy is either a friend or a foe—or a neutral. If he's a neutral you don't have to worry about him; if he's a friend you rely on him, if he's a foe you fight him, and this guy—it seem at this point—is a foe.

P. When I talked to him I said, "Now John, any conversations are (unintelligible)." I said, "Anything (unintelligible) National Security are (unintelligible) you understand?" He said, "Yes (unintelligible) testified to it (unintelligible)."

H. OK. He said it and it was no problem for him to say it. But it was no problem for him to say a lot of things to us over the last couple of weeks too.

P. The point is, if you break it off with him, then he could go out and say, "Screw the (unintelligible)."

H. No he can't. It's not his privilege. It's yours.

P. I know it's mine, but—

H. If he screws the privilege—

P. Well, I think you have to charge Henry Petersen or whoever is in charge here with protecting your privilege and then that's got to go down to Silberman and Silberman has to be cautioned that he is not to go into matters of executive privilege—he is not to go into matters of national security importance.

P. Any matters involving a conversation with the President—or national security, anything like that, they can ask me.

E. Now, the question comes up—I don't know how far this will run—but this caper in California for instance. Colson asked me this thing of Hunt's out there—the national security connected Ellsberg. Well, Petersen knows about it, I think. It's laying around someplace over there. But if the question comes up, Colson says, "How do I handle that?" I said, "Well, Chuck, if I were asked that—I would say that that was a national security project and I'm not in the position to answer a question on that, because I would have to refer to the President for a waiver of executive privilege on that if he desired to do so." And he said, "Well, can I say the same thing?" And I said, "Well, I don't know whether you can or not. He said, "Well, what would the President say if it's referred to him?" I said, "I don't know. I'll go ahead and ask him." That's what we'd say.

P. That's what we'd say.

E. Can I tell him that for you?

P. Yep. Anything on the (unintelligible) thing, the plumbing thing was national security, the ITT thing. No, I can't believe it was that—you know—the Hunt thing there. That will just have to handle the way it is. (Unintelligible) Colson about (unintelligible) Hunt thing?

E. I don't know. If anybody around here did, if anybody did it, was Dean.

H. I doubt if Dean knew about that. You see, Dean and Colson never tracked particularly well together, I don't think.

E. Whoever operates this at the Justice Department has to be told that the inquiry must not jeopardize your privilege. Some day they're going to try and put you in a crunch spot.

P. Sure.

E. And they'll put a question to me and I'll say, "I can't take that question and then I'll be back to you and it's going to be hard."

P. No turning it off. It's national security—national security area—and that is a national security problem.

E. Or, if it is something that you and I have discussed directly.

P. (Expletive removed) it

E. I'll just (expletive removed) that—I'll just—

H. I don't think anybody is going to try to challenge that.

P. (Unintelligible) conversations with the President (unintelligible).

E. (Unintelligible) just got to be told the background—

H. Awful low before you get to that.

P. (Unintelligible) talk to the President about $127,000 we had to get or were we able to get it or something. I don't know how—why it was at that point—that we were still working on money for Hunt—I don't know how the hell—

H. That was the one that Bittman got to Dean on. He really cranked on it. He was very concerned—professed to be concerned because Bittman's threat was that Hunt said that, "If you don't get it to me I'm going to tell them all about the seamy things I did for Ehrlichman." And when Dean hit Ehrlichman on that, Ehrlichman's immediate reaction was let him go ahead—"There's nothing he can hang me on." Dean didn't like that answer and went on worrying about the money.

P. Told me about it.

H. Told you about it, told me about it. I was in here when he told you.

P. Good. What did we say? Remember he said, "How much is it going to cost to keep these guys, these guys (unintelligible). I just shook my head. Then we got into the question—

H. If there's blackmail here, then we're into a thing that's just ridiculous.

P. He raised the point—

H. (Unintelligible) but you can't say it's a million dollars. It may be $10 million dollars. And that we ought not to be in this—

P. That's right. That's right.

H. We left it—that—we can't do anything about it anyway. We don't have any money, and it isn't a question to be directed here. This is something relates to Mitchell's problem. Ehrlichman has no problem with this thing with Hunt. And Ehrlichman said (expletive removed), "If you're going to get into blackmail, to hell with it."

P. Good (unintelligible) Thank God you were in there when it happened. But you remember the conversation?

H. Yes sir.

P. I didn't tell him to go get the money did I?

H. No.

P. You didn't either did you?

H. Absolutely not! I said you got to talk to Mitchell. This is something you've got to work out with Mitchell—not here—there's nothing we can do about it here.

P. We've got a pretty good record on that one, John, at least.

H. But there's a couple of complications he can throw in there (unintelligible) which would be of concern, but I just can't conceive that a guy—I can see him using it as a threat. I cannot see him sinking low enough to use that. I just—although I must admit the guy has really turned into an unbelievable disaster for us. People don't—he's not unAmerican and anti-Nixon. I'll tell you—during that period he busted his ass trying to work this out. It wore him to a frazel. And I think it probably wore him past the point of rationality. I think he may now be in a mental state that's causing him to do things that when he sobers up, he's going to be very disturbed about with himself.

P. Also, he's probably got a very, very clever, new lawyer (unintelligible) I think that's part of the problem.

H. Could very well be. John, I can't believe, is a basically dishonorable guy. I think there's no question that John is a strong self-promoter, self-motivated guy for his own good, but—

P. But in that conversation I was—we were—I was—I said, "Well for (expletive removed), let's—"

H. You explored in that conversation the possibility of whether such kinds of money could be raised. You said, "Well, we ought to be able to raise—"

P. That's right.

H. "How much money is involved?" and he said, "Well it could be a million dollars." You said, "That's ridiculous. You can't say a million. Maybe you say a million, it may be 2 or 10, and 11"

P. But then we got into the blackmail.

H. You said, "Once you start down the path with blackmail it's constant escalation."

P. Yep. That's my only conversation with regard to that.

H. They could jump and then say, "Yes, well that was morally wrong. What you should have said is that blackmail is wrong not that it's too costly."

P. Oh, well that point (inaudible) investigation—

H. (inaudible)

P. You see my point? We were then in the business of—this was one of Dean's—when he was—was it after that we sent him to Camp David?

E. You sent him to Camp David on about the 20th. I think.

P. I would like to know with regard to that conversation, Bob—

E. I think it was about—his trip to Camp David—about the 23rd of March.

H. When was the (unintelligible) trip?

E. I haven't any idea. I have no idea.

P. Well.

E. Well, you'll know the date of your meeting here.

P. Well (inaudible). I suppose then we should have cut—shut it off, 'cause later on you met in your office and Mitchell said, "That was taken care of."

H. The next day. Maybe I can find the date by that—

P. Yeah. And Dean was there and said, "What about this money for Hunt?" Wasn't Dean there?

H. No, what happened was—Ehrlichman and Dean and Mitchell and I were in the office, in my office, and we were discussing other matters. And in the process of it, Mitchell said—he turned to Dean and said, "Let me raise another point. Ah, have you taken care of the other problem—the Hunt problem?" Something like that. I don't know how he referred to it. But we all knew instantly what he meant. Dean kind of looked a little flustered and said, "Well, well, no. I don't know where that is or something," and Mitchell said, "Well I guess it's taken care of." And so we assumed from that that Mitchell had taken care of it, and there was no further squeak out of it so I now do assume that Mitchell took care of it.

P. The problem I have there is—

H. Mitchell (unintelligible). LaRue was Mitchell's agent—

P. I understand that. What I meant is, I'm just seeing what Dean's lines of attack are.

H. Your saying, "Did I know about it?" I did. There's no question.

P. Say, "Yes, there was talk about it and so forth—and Mitchell took care of it." But you, on the other hand, you make the case that—

H. It's (unintelligible).

P. In this office, but not the other—not in your office.

H. In the other office the question of thing never arose. There again, Dean is the agent on it. Dean is coming in and saying what should I do. Dean's the agent on all this—that's where my money goes. All the input to me about the 350 came from Dean, and all the output came from Dean.

P. Then Dean was the one that said, "Look, Bob, we need 350 for or need the rest of this money."

H. No, they didn't even come that way. Dean said, "They need money for the defense, for their fees." And it was always put that way. That's the way it was always discussed.

P. Right—that's why I want that line. I think that's most important. You can work on—Get a lawyer.

H. And I said to Dean at that time, "Well, look, you've got a situation here. We've for the 350" I thought it was 350—actually it was 328. "in cash that we need to get turned back to the Committee. apparently they have a need for money—so we have a coincidence (unintelligible) now you ought to be able to work out some way to get them to take the cash—and that will take care of our needs and we help meet their needs." And he went back to Mitchell and Mitchell wouldn't do it.

H. And then they agreed to take 40 thousand of it which they did and shortly thereafter they agreed to take the rest, which they did.

P. You think—you check with (unintelligible) before the election in some—

H. It was not before the election.

P. Dean says it was before.

H. Strachan says it was in late November—30th or something like that.

E. Incidentally, remember you told me that Strachan had gone over there with Colson's partner and that the Judge wouldn't take him. It turned out that was Howard who went over. Dick Howard went over with one of Colson's partners. The U.S. Attorney kicked up a fuss about it. Saying that there might be a communication between the partner and Colson and so—

H. Strachan's lawyer is a totally (unintelligible) guy that he's acquired from somebody he knew in law school.

P. Good.

E. Now Colson has pitched me to retain his partner, which I think would be a mistake.

P. You

E. Yeah.

P. You can't retain his partner.

E. I don't think so. Be a big mistake because it would create identity between me and Colson that I don't feel comfortable with.

P. I don't want you—

H. You can't. You'd be out of your mind to do it.

P. Don't get in there with Colson. He'll defend himself.

H. Obviously Colson sees that as a way of getting in.

E. Sure.

H. We should not give Colson reason to get squeemish.

P. No.

E. I'm cultivating him.

P. No, sir.

E. I'm keeping him on the team. He feels that there is a coincidence of interest between you and me and him.

P. Right. Fine.

H. Consider (unintelligible) has to continue—

P. Right all the time. Let's go back now to the decision. First, should we make a statement today?

H. I would say yes.

P. I think so.

H. Ziegler should make it.

E. Well, if it is a carefully limited statement.

P. No questions.

E. I think—no. I think it should be a very tight statement—very conservative—well at least you should think it through so that you can stay away from the soft places. But I think broadly—across the country—people are waiting to see your face on the evening news talking about the Watergate case. And making more assurances.

P. Bill Rogers says this (unintelligible) first thought Ziegler—then as we left the boat last night (unintelligible) he totally rules out the 9:00. He says, "Don't make it the only story (unintelligible) 3 or 4 months (unintelligible)."

H. You know where the Watergate story is in the Washington Post today? Page 19.

E. (unintelligible).

P. I know. I know. And it'll be page 19 five months from now if we handle it right.

E. Now I suggested having Petersen stand by. You don't think that's a good idea.

P. No, no. I just think I should go out there and say, "OK" John, let's come back to this business here—let's come back to the business of the—which is the play of the White House leaders (unintelligible) doesn't work.

E. Well, I think, in view of the foregoing, all that's gone and all that's been said, I think if you can get the results of having Dean out of his office, and I wouldn't worry about the files. I think you could put it on a basis that if he needs a file he could get it upon loan, so that at least you would be able to monitor what he was getting. I think that you would say to him, "In view of your relationship with the U.S. Attorney's office, I just don't think it is prudent for you to be on the grounds."

P. That's right.

E. And, you're going to have to work someplace else.

H. "I don't think there's any appearance problem, because you have been for a month anyway!"

E. Right. It won't be noticed. If we are asked in the press room—

P. That's right.

E. Ah, what your status is, we'll finesse it. And the question will come, "Has John Dean been placed on leave? No. Has John Dean been fired? No."

P. All right.

E. And you could say to him, "If you don't bring it up, we won't."

P. All right.

E. "If this leaks, it's going to leak from you because nobody is going—And, as far as Bob and John are concerned, I will make an appropriate arrangement with them."

P. I'm going to make an appropriate arrangement covering them. Course, it's something different—

E. "But, I cannot be in a position of having you dictate to me what it should be."

H. And you can't be in a position—

P. I can tell him, "I've made an appropriate arrangement, but it's got to be in my own way, depending upon what each is doing."

E. I think you could argue with him that the transition from John Dean being away from here and the transition being away from here is a very different kind of thing.

P. Yeah. That's right. We're not asking anybody to resign, John, because I think that would prejudice their rights.

E. Taking a formal leave—

P. All right fine, you can do that, but you're rejecting the Garment proposal that everybody leave until everybody is clear that I talked with you a moment ago?

E. Well, I think a leave is the same as being fired in this context.

P. Do you Bob?

E. Prior to the charges.

H. When you have charges—

P. Here's the point. Let me—let me tell you what's going to happen in my view. And by charges, I don't mean indictments. But when they finally make their deal with Magruder (unintelligible) out of the D.C. jail—they're going to take him into open court. This is their deal, now because Sirica question (unintelligible) John last night. They are going to make this statement. I would assume then the charges would be made, at least as far as Magruder is concerned.

H. And they said Magruder makes charges against me? Interesting!

P. Bob, I don't know whether he does or not. Let's be damned sure (unintelligible). He's certainly going to say that Dean was involved and that Mitchell was involved.

E. And he'll say Strachan was involved.

P. He'll say Strachan was involved.

E. And, "Who's Strachan?" Well, Strachan was Mr. Haldeman's employee. But, my prediction is that if the Judge says, "Well, did Mr. Haldeman tell you to do anything or this or that," he'll say, "No sir, he was never involved in this."

H. He told me that is what he would say.

E. And he told me that is what he would say.

H. He told John that is what he would say in front of his lawyers. That's what he had said, and he flatly says that is what is the truth.

P. Yeah.

H. And it is what's the truth.

P. All right. So your view, John, Bob, is that—you know that you got to look at—at being eaten away and then having to come in and say look, "I'm so impaired, I—

H. No, I don't expect to be eaten away. I think when I get hit, I mean publicly. Let's say Magruder does name me. Let's say Magruder does implicate me publicly.

P. Or Dean. Say Dean names you.

H. Someone that's known publicly. As soon as Dean is known publicly—my view would be that I should then—I should request you to give me a leave of absence so that I can deal with this matter until it is cleared up.

P. You agree with that John?

E. It'll depend a little bit, I should think on degree. If it is a Jack Anderson column—

P. (Unintelligible) another point I make (unintelligible) relation that I have now is this case. Suppose that the Assistant Attorney General comes in, Magruder and Dean have made charges. His argument is, "You have an option sir, and you as President should act. And I'm telling you now that those charges are in the possession of the government." That's what I'm—

H. OK, but what's (unintelligible) you do that. I happen to know what his motive is and I'll sure as hell use it (unintelligible).

E. OK. You say, "Mr. Assistant Attorney General, I want to explain my policy to you so that you'll know what our relationship is. Our policy is that I will immediately suspend—on leave—anybody against whom formal charges are filed by indictable information.

P. By information you mean—

E. In other words, formal charges are filed. "As soon as that happens those men will go on leave. This is a town that is so full of wild charges that if I operated on any other basis, even of those who were brought to me by 20 Bishops and an Attorney General, I couldn't be suspending people around here or the place would look like a piece of Swiss cheese. But let me suggest you do this. You go ahead and diligently pursue the Haldeman and Ehrlichman case because I need to know."

P. Right.

E. And, if you come to me and say that you filed charges and I'll have really no discretion in the matter.

P. If you come to me and say that you are planning to indict criminal charges, then I'll—at that time—move instantly, before we do it publicly.

E. Or Dean, or anybody else. But I can't treat them any different than anybody else. And you have brought me basically, uncorroborated charges. You've said so yourself that you aren't going to be able to deal with Dean.

P. I feel comfortable with that.

E. But, if you lay out the general ground rules first—

P. What, what basically, John, what the hell is the Garment, Rose I guess Moore (unintelligible).

E. They're writing a New York Times editorial which is that this is a terrible cancer at the heart of the Presidency and that there must be drastic surgery. And that in a case like this you lean over backwards and fire and so forth. And, I'm sure it will be an editorial in many, many newspapers, that Dean has raised serious charges and so on so forth. And you'll hear a lot of that. Maybe the thing to do is for Ziegler—if he gets a question about suspension or firing—to say, "This is the President's general policy—without regard to individuals—any individual whose bound by the Grand Jury—"

P. Why don't I say that today?

E. That's fine.

P. Fine. All right. I think I got the message. If you will write up a brief, brief, brief statement. You know—I can use—or do you have one you can get back to me? I have to do it at 3:00. How much time do I have?

E. You've got about 45 minutes.

P. I've got plenty of time.

H. Ziegler should delay the 3:00. They've only scheduled a posting. He can make it 4:00. Briefing at 4:00.

P. Yeah, that's right.

H. You ought to tell him now, though, that you're going to do it though.

P. I better do that.

H. Better get Ron in quickly and review this. Just tell them to send Ron in.

E. Sure.

H. Would you get Ziegler?

H. Any question about my theory now?

E. I wonder if we should talk to him about how to operate the next couple days? (unintelligible) suspicion before grant him immunity. I thought so too. (unintelligible) be on the wires, I would think.

H. Even if they have, could withdraw (unintelligible) get him before he acts.

E. I don't know.

E. Now, with us out of the play here for a couple weeks ah, you're going to need a different mode of operation, I would think on the domestic side—

P. Yeah, Cole.

E. And, Ken is fully abreast of everything.

P. All right.

E. And I think you ought to just call him direct when you have something.

P. I will. I'll use him just like I'd use you. He'll have to wear two hats for awhile.

H. My office can run itself. To cover your bases, you can deal with Steve. On schedule basis you'd be better off to deal with Parker. You haven't started doing it so you probably don't want to.

P. Things we do. I'd like to get acquainted with him anyway.

H. Weekly review and things you would talk to me about, Parker knows the reasons behind eveything.

P. Let us not overlook one greater—let us suppose no charges are filed, and basically—charges are filed. (Unintelligible) thing. Charges might be that Haldeman had knowledge, and that he participated—cover-up—I'm trying, Bob, to put my worse—

H. Sure.

P. Do you agree Bob, they might make that a charge—the heat would really go on.

H. Sure.

P. In John's case they make the deep six charge (unintelligible). I'd (unintelligible) with you on that.

E. It's up to you.

P. No, I mean that's a difference in degree.

H. I think each of those is something that we have to deal with at the time.

P. That's right.

H. In the context of time, because I don't think you can anticipate now what the context will be. You don't know what the newspaper stories will be. For instance, right now—and that's another argument against taking any action regarding me—is that I'm not in the thing at all in the public mind, and it would be startling as hell.

P. Yeah. The reason for not going the Garment road—he wants, John, he wants Mitchell separated. He said, "Mitchell's got to come out (unintelligible). See my point? Don't suppose that's occurred to you? I think what we do, I think I will make a brief statement today, and I was wondering how late I can make it. Don't believe I can make it at 3:00. What do you think?

Z. You got to make it at 4:00 or 4:15.

P. Fine, but I'll have to go to work on it.

Z. We'll have to call them in.

P. Let me ask you this, fellas, you want me on the television?

E. Yes sir, that would be my preference.

P. I'll just walk out.

Z. I think depending on the statement, they'll get it to the lab. Don't worry, they'll get it out.

P. (Unintelligible).

Z. I'll just say you have that flexibility from 3:30 to 4:15.

P. OK. Fine, fine.

E. Oh, Yeah. Ron I'll need that—

Z. This?

E. Yes. Where's page 1?

Z. It's—say page 1—

E. Good work.

P. I wonder, John, I wonder that unless you sank Dean, basically, if we're putting too much emphasis on the fact (unintelligible) in that office. Understand, I'd just thinking what it is worth to us to get him out of that damned office. I relieve him of his duties?

E. Well, the alternative is somehow or other to pass the word to everybody in the place that he's a piranha. I don't know how you do that.

P. What? What do you mean everybody in the place.

E. I mean people like the White House Police. That if they get a subpoena they shouldn't ask him what to do. The Secret Service, a guy like Dick Howard.

H. Who should they ask?

E. Damned good question.

P. Moore?

E. Make Moore Acting Counsel. He has very good judgment.

H. Very good judgment and absolutely no procedural knowledge.

E. Garment?

H. He's worse.

P. Fielding?

H. Let Fielding be the operative. Say that he can take no action without checking with Moore.

P. How's that sound, John?

E. That's good.

H. Fielding is to be the front man as Deputy Counsel, but he is to report to Dick Moore.

P. But you see, I just don't know if that kind of action is worth taking that kind of risk.

E. Well, if he's here, people will go to him for advice. I'm just sure of it.

P. OK. I've told him he's not to give any advice, and he's not to have anything to do with this case at all. All right?

E. I don't know. Maybe I'm being unduly harsh, but—and maybe the negatives are more than the positives—it seems to be that it can be done without breaking any asses.

P. I can just say, "Well, people are coming in. They're on the WH Police now—so forth. I think it's going to look strange if he doesn't."

E. It puts him in an impossible conflict-of-interest situation.

P. That's right.

H. That's the problem. He knows what is coming in—what questions are coming.

P. All right. The second point, with regard to Petersen, ah, that the—that's the highest—I better get him in and tell him (unintelligible).

H. Yeah, and the no immunity thing.

P. And just flatly say, "Now this is the way I'm going to handle the matter. I cannot let people go simply because charges are made until they are corrorborated. That's my decision," and so forth. And second, "I've thought over the immunity thing and I want nobody on the WH staff given immunity. I don't want anybody shown any consideration whatever."

E. This has been a law and order administration.

P. Right, and third, "I'm directing everybody to cooperate (inaudible) They've been told they are not to. I've already helped him on that. I haven't helped him, I've tried. But I will not have a member of the White House Staff testifying in the Senate against others.

E. Yes, sir, and I think that the fourth point that you should cover with him is that if I'm before that Grand Jury and I am asked about Dean's information within the Grand Jury, I will have to say that Dean told me that it came from Petersen.

P. Yeah.

E. And, there's no point in your getting way out by saying out here to the press that I'm relying on Henry Petersen as my good right hand and then have him compromised at a later time.

P. That's right.

H. I think you must, from here on—

P. (unintelligible)

H. Yeah, but also, that you don't, from now on, until this is totally done, maybe never, express confidence in anybody, (expletive removed), don't say, "I know this guy is doing the thing right or anything else." That applies to me, Ehrlichman—

P. Well, you know how I feel.

H. Yes, but don't say it. Just—it just doesn't serve the cause properly. And I don't think you should say it. And you should not about Henry Petersen, Dean, or anybody else. Ron must not say it either. Don't let Ron con you into saying, "Well, I have full confidence in what's his name."

E. I got a name today, and I don't know anything about this fellow—but let me advance his name to you. There's a lawyer here in town by the name of Herbert Miller. You may know him. He was head of the criminal division at the Justice Department. He was there thru 61 to 67, Kennedy and Johnson, but he's a Republican.

P. Yeah, all right.

E. Now, it may be possible to get a fellow like that to substitute.

P. I don't know. This case is moving too fast. You call in a substitute and he's got to learn the damned case.

E. O.K. He reviews it. He gets the complete file with the pros and cons. He goes through it and he draws on seven years experience and he comes over to you and he says I've got to call this shot and I wonder if you have anything to add?

P. (Unintelligible) counsel?

E. Yes, but as your counsel, he has no control over the prosecution.

P. (Unintelligible) Petersen

E. That's right, and he's feeding a bunch of baloney, in my opinion.

H. He also, I understand, told you that Strachan got very good treatment over there.

P. No, no, no. He told me the opposite.

H. Oh.

P. He said that Strachan just got the hell beat out of him.

H. He did. He was absolutely astonished. He came out of there and he said it was just beyond belief. They threatened his life practically, told him he better hire—

P. A lawyer.

H. Best possible counsel. Provide for support for his wife, and because he'd be going to jail, and that he was in serious trouble. Said he would be disbarred.

E. What they are trying to do is put him in the hands of an attorney who'll deal for immunity.

H. They are trying to get him to make the same play that Magruder made.

E. No doubt that they salvaged Dean the same way, and they scored on him. Well, all I'm saying to you is, I don't think in terms of the kinds of stuff they are talking about. That is all that complicated for an experienced man to pick up, so I wouldn't want you to think that this guy is indispensable.

P. Yeah, but should I make that decision today?

E. Well, every day that goes by is going to make it that much tougher on somebody new coming in and you got a guy in here that I wouldn't trust, knowing what I know, and maybe you can.

P. This guy gets relieved, and says well I told the President that he ought to fire Haldeman and Ehrlichman and he fired Dean.

E. I don't think that he would say that. He's a pro. He's been around this town a long time and he knows if he said that, that you would come right back and say, "No, the reason I fired him is that I've reason to believe that he is responsible for leaks out of the Grand Jury," and that would destroy him.

P. OK. Can you get that paper back to me?

E. Yeah, I'll get it right back.

P. Shall I get Dean down first?

E. I would.

P. Tell him that—

E. Tell him you are going to make a statement and that it is not going to refer to him.

P. Yep.

E. Or anybody, and that you're going to deal with the people at the White House on an individual basis.

H. Maybe you ought to get Petersen in first to talk immunity.

P. Yeah, get Petersen in first. Call and tell Petersen to (unintelligible)

H. All right.

Appendix 40. Telephone conversation: The President and Ehrlichman, April 17, 1973. (2:39–2:40 p.m.)

Opr. Yes, sir.

P. Mr. Ehrlichman, please.

Opr. Thank you.

P. John—I don't want to interrupt your statement preparing,

E. Yes, sir. That's all right.

P. But I just wanted to be sure to check the points you want with Petersen. He will be in just 10 minutes so, (1) no immunity. However, I would say that for any of the top three.

E. Uh, huh.

P. In other words, so that I can, if it sort of appears that if you want to give it to Strachan, that is ok. See? Don't you think that is a good line?

E. I think that is good. Any of the people in—The four points as I wrote them down were to inform him that you were making a statement; Your policy with regard to suspension and firing.

P. Which is charges or indictment—

E. Indictment for suspension and firing for conviction, which will be in the statement that I am drafting.

P. Wait a minute.

E. He'll tell the press that.

P. Right.

E. Then privately to him, your policy with regard to immunity for top people.

P. Yeah, and leaks from the Grand Jury.

E. I wouldn't limit it to three. I would say any top person, like Dean or up.

P. Yeah.

E. It will sell.

P. Then I will say, as far as a fellow like Strachan, that is fine. You can do what you want.

E. Yeah.

P. That strengthens the position.

E. Colson, Dean, anybody of that kind, no dice.

P. He has mentioned these four to me. I will just say that.

E. And then, of course, the leaks out of the Grand Jury. And put it to him whether he doesn't think that later exposure would prejudice the whole investigation and whether he shouldn't withdraw at an appropriate time so that a replacement can be obtained.

P. Charges and—I am going to follow a policy of accepting resignations on charges or indictment. Is that it?

E. No. Suspension on indictment and a resignation on conviction.

P. Of course. That is right. Everybody would know that. Suspension on indictment and resignation on refusing to cooperate. Right?

E. Or conviction.

P. Right. And what about charges? I mean remember we had that gray area.

E. Well, there again you will have to reserve the right, depending on the seriousness of the charge—

P. Yeah. I will say if there is a serious corroborated charge,—

E. Then you want him to bring it to you and you will reserve judgment on the individual case.

Appendix 41. Meeting: The President and Petersen, Oval Office, April 17, 1973. 2:46–3:49 p.m.)

Stewart. Mr. Peterson.

P. Right.

P. All right—he can come in.

Steward. Have him come in now, Sir?

P. Yeah.

P. Hi.

HP. Mr. President, how are you?

P. Sit down, sit down.

HP. Thank you, Sir.

P. (Inaudible) meeting—in the middle of the night for a change. The, ah, anything new I need to know?

HP. No, sir, ah.

P. Don't. As a matter of fact, I don't want you really to tell me anything out of the Grand Jury unless you think I need to know it. If it corroborates something or anybody here I need to know it—otherwise I don't want to know about it.

HP. No, Sir.

P. That's good, because I find—Incidentally, if I might—I don't think I like—for example, I haven't been in touch with John Mitchell but he might call me sometime and I don't want to be a position of ever saying anything, see?

HP. Well, I understand how you feel—its a—

P. I guess it would be legal for me to know?

HP. Well yes, I think it is legal for you to know.

P. Is it? Well, but don't do it, right. The problem that concerns me some there (inaudible)—I did see Rogers last night as you know—

HP. Yes, Sir.

P. I wanted to get an independent judgment on this when I was talking (inaudible) . . .

HP. He is an admirable man.

P. Able fellow—was a fine Attorney General, and so forth. I gave it all to him with the bark off and (inaudible). And, his views are somewhat different from yours and I am sure you would respect them—perhaps mine as well—because it is a tough call.

HP. Indeed so.

P. I might say somewhat different—I don't mean in terms of where you come out eventually, I understand.

P. but in terms of timing, and so forth, and so forth. First, there is a problem of—oh—which I don't want you to get in the wringer on this but, the leaks from the Grand Jury—you remember I have already mentioned that to you before.

HP. Yes sir.

P. I think you have to know that Dean has talked very freely to Mitchell.

HP. I am sure that's so.

P. And Mitchell, of course, is—I can imagine, I don't know, but I think you should know that. Whether he has talked to others about that, I do not know.

HP. Well he feels a very close personal relationship with Mitchell. I am almost positive of that—

P. The point is I think you will have to assume that Dean in this period, who was basically sort of in charge of it for the White House (and the rest of us were out campaigning—traveling, so forth, so on) will probably have told people that he has information from the Grand Jury. Now you just have to evaluate that yourself. I just don't want the Department of Justice, and you particularly, after your, ah—the way you have broken your—

HP. Mr. President—I am sure that is so.

P. I don't want to get embarrassed, see?

HP. I have no concern about that.

P. After the pumping of Rogers—I am not enough of a criminal lawyer to know enough about it—but Rogers was greatly concerned about the leaks from the Grand Jury. H asked me that—he said

HP. Well, two things are occurring—one, Magruder is talking, Magruder is going around trying to make peace with each—in other words, he will come in to me and say look I am in this bind and I have to testify and there is nothing I can do but I got to tell the complete truth about the others but with respect to you I am doing the best I can.

P. Yeah.

HP. Which is the pitch he is making, Now,

P. You've talked to—?

HP. We have talked to his lawyers about that. With respect to Dean—it doesn't surprise me that he has gone to Mitchell. He's, he's,

P. Understand what I am driving at?

HP. He's probably getting information from the Grand Jury.

P. What I am concerned about is leaks and leaks from the Grand Jury, not now but leaks during the period—the summer.

HP. Oh, Oh yes.

P. That's the point—during—June, July, August, September, and so forth that is the point that I mean, that a—

HP. I don't think that is a critical problem so far as I am concerned, Mr. President, for this reason.

P. See we don't want—after this agony—I don't want the—well—the man that I'm relying on to be in any kind of a (inaudible) position.

HP. Mr. President, I don't like to be in that position.

P. Well no, you've got your life (inaudible) ahead.

HP. Let me tell you—when I spoke to Dean and I for example, am not going to, I'm not worried about this, I

P. I just want to be sure that—

HP. Well, let me make three points—when I say this, and it's almost awkward to say this—

P. That is why Rogers for example is recommending a special counsel—

HP. Right.

P. He is very much afraid that anybody who has been handling the damn thing up to this point is going to have somebody—

HP. Well, there, ah—

P. (Inaudible) feel about that?

HP. Well with respect to John Dean—it is almost awkward to say it—my conversation with Dean touched upon three things: (1) leaks—which frankly I tell you I don't take very seriously—see what I mean—that's part and parcel of the Washington business;

P. Yeah.

HP. (the second) was Dean's personal involvement—that is to say—

P. What did he do.

HP. Well we didn't suspect him, but what did he do with respect to the securing of the equipment and records in Hunt's office in connection with the motion to suppress where he was a potential witness for the defense on the motion to suppress. And the third was status reports—now from those status reports, I spoke to him in terms of ultimates. Magruder was a good witness in his own behalf. Magruder—the Grand Jury didn't believe what he said about the money—but not the testimony itself—the result of the testimony. So I don't have any problem . . .

P. That has no problem of (inaudible)?

H.P. No sir, and I can disclose to an attorney for the government in the course of my work. Dean was in addition to Counsel for the President, obviously an attorney for the government—and there is not anything improper in that.

P. Right—well good, I am relieved to hear that.

HP. Now, politically if someone wants to say—as they said to Pat Gray—you shouldn't have been talking to John Dean. Well, there is no way out of that.

P. You see that is why I am raising the point.

HP. There is no way out of that.

P. That was perfectly proper for Pat Gray to talk to Dean you know—as a matter of fact, it would be improper for him not to . . .

HP. Indeed

P. . . . Dean was running the investigation of the damn thing and I certainly expected him to get all of the FBI information he could

HP. Yes.

P. What the hell is the FBI for?

HP. That's right. You know—I don't—

P. Gray got a bad rap on that—

HP. I don't think that—that's demagoguery I think—I don't take that seriously.

P. That's right—quite right. The second point is that with regard to our statement now—the one we talked about yesterday—I am working on it today—I don't know whether I can get it ready—for probably this afternoon—but I will give you a call if I do have one. I have decided—I want to tell you—roughly it is sort of like the one we worked on yesterday—but also covers the Ervin Committ too. We worked out a deal with them now where everything on executive session, no, everything on executive privilege we have in Executive Session.

HP. Right.

P. The right of executive privilege will be reserved and all witnesses will appear in public session—that's the way the deal was signed. So they will take all of our people in executive sessions discuss matters—you know like they bring—the judge brings the lawyers around the bench.

HP. I understand—yes sir.

P. Does that sound like a good procedure to you?

HP.—Yes sir—I've only got one reservation and we alluded to this earlier in connection with the Magruder plea, and that is—whether or not Senator Ervin will be willing to hold off public sessions that might interfere with the right of fair trial for the others.

P. Well you and I know it shouldn't but I mean my point is I've got to say our (inaudible) should work for the (inaudible) at the White House on it, but that is your job.

H.P. OK. Just so there is nothing (inaudible) with it.

P. I don't want the damn Ervin Committee to go forward—

H.P. All right. Okay.

P. I think frankly if I were Mitchell I would be praying that the Committee did.

H.P. Yeah. It gives him delay if nothing else.

P. Correct. Delay! If the Committee gets up there and they will splash a lot of this—I mean McCord and all the rest—in there he's sure to get a change of venue for one thing. Secondly, the thing that he'd be (inaudible) of these days, seems to me, venue is the television and the rest, it's ah, I think the Ervin Committee would be highly irresponsible to move forward.

H.P. That's right.

P. (inaudible)

H.P. That's right.

P. So they should drop the Committee investigation the day the Grand Jury took it up seriously.

H.P. Well your accommodation with the Committee makes my job much easier now.

P. Good—how's that? Because—

H.P. Well I think he would have been very suspicious if I had gone up there and there was still the possibility of some confrontation between you and he.

P. (inaudible)

H.P. No, because we still haven't gotten the assent from—

P. Sirica?

H.P. Well, not only Sirica but Magruder's lawyers—we are still waiting for them to come back.

P. It takes a long time—

H.P. Yes, sir.

P. Now with regard to my policy, I think you should know I thought it over a lot—where we come out in the end we shall see, but can be sure Haldeman, Ehrlichman . . . Dean naturally will have to go because he has admitted very deep complicity. Right? There will be no question about it.

H.P. I don't think that.

P. Haldeman and Ehrlichman at this point had (inaudible) with Rogers—I not only let him read what you had given me but then I elaborated everything I knew about this thing. His judgment is this that on Ehrlichman it is a very thin (inaudible).

HP. Very thin indeed.

P. Never going to (inaudible)—he said particularly he said if they have any witnesses for the fact that he handed a packet to the Director of the FBI and Hunt didn't leave the country (inaudible) discussions. I don't know—I am not trying to judge it—but

HP. No, I understand—I agree that it is very thin.

P. They better have a damn lot more than that or they are not going to get Ehrlichman.

HP. That's right.

P. On that—they may get him on something else. And the other point was, that you made, was Dean said that he had talked—that Liddy had told him everything on June 19th. You remember?

HP. Yes, sir.

P. Do you know when he told Ehrlichman?

HP. No, sir.

P. In California after Ehrlichman had been there in March—February?—in March.

HP. Dean told Ehrlichman then?

P. That's right. So, it is a curious thing as to—Gray's concern to me. I said Dean hasn't told you he didn't tell him ahead of Ehrlichman but I mean that he didn't run right over and tell him.

HP. No, No.

P. The point is that Dean conducted his investigation and did not come to Ehrlichman and say "look we have to go to Mitchell" because that's what that was really about.

HP. Yeah.

P. Liddy had involved himself and subsequently said Mitchell and Magruder. That's what I understand to be the truth of the case.

HP. Well what Liddy in effect said was—what he admitted was that he was present at the Watergate—Dean already knew from prior dealings that Liddy was involved; you see?

P. Oh, I see—present at Watergate?

HP. That's right.

P. Oh, I thought he also—I thought you said—he told everything—that you had copies of everything . . .

HP. Well I think that is correct. He probably filled in the details but you recall at least from the meeting in February in Mitchell's office, Dean knew what Liddy was up to.

P. Yeah.

HP. Because he had come back to Haldeman and said we should

P. Yeah.

HP. not be involved with that—

P. That's right—with that—(expletive deleted)

HP. That's right. That's right.

P. (laughs)

P. Which makes it more credible when you use all salty words.

HP. Laughter.

P. OK now—this brings us to a basic command decision with regard—with regard to what you do about White House people. The main thing is (inaudible) and you can look at it in terms of the fact that anybody who this touches should go out—without—(inaudible). You can look at it in terms of the fact that if it touches them (inaudible) that clearly apart from whether or not anything legal stands up. Let's suppose—just take Ehrlichman is a case in point—that this thing brought in by (inaudible) that proves to be (inaudible) don't get anything else on Ehrlichman then the question is that nevertheless that in itself would raise a cloud over Ehrlichman. That would mean that he would be no longer be useful. Therefore, your advice-on Sunday or least it was now—sack Haldeman, Ehrlichman and Dean now—all three—because in the one case Dean should know he has admitted complicity—in the other case there is a possibility of charges which may not be true and which may not be indictable but which from the standpoint of the public will so involve them that it will cut off their legs. And let me say—I understand the point as well—the only thing is the question of how and when you do it—and as that I (inaudible). And so I have decided to handle each on an individual basis—and by that I mean that our policy generally will be that anyone who refused to cooperate will, of course, be sacked immediately. Anyone who is indicted at this time will be put on leave—indefinite leave—until he is tired. You don't—That is our system. Now, if you indict somebody, I will then put them on leave indefinitely which means he is out of a job—he'll have to go.

What would happen in that instance I think, of course, is that most of the people that are involved here would resign immediately so that—I am just saying—

HP. I understand.

P. That the least of the (inaudible) is that you are going on leave—the guy says— oh hell no, I can never come back after four or five months of trial. That's what we would say at this point. It gives them a chance. Now comes the gray area—if any charge is made publicly—you see—I don't mean in the Washington Post or the Los Angeles Times but I mean publicly by Magruder in open court—any charges are made (not released by the Grand Jury) publicly which corroborate in any way against anybody in the White House staff then he will be asked to take leave also.

HP. Umm-uh.

P. Then, of course, what will happen probably—I would predict—I know—they will come in and resign. I mean they will come in and say, look I can't do my job so I am going to go. But what I mean, the point is—my position is—indictment means—well, ah—failure to cooperate—you're fired; indictment means you are asked to take leave until you are cleared. Then the individual will say "I can't do my job" if he is a top individual, or if it is a secretary, for example . . .

HP. Oh, yeah, I understand.

P. (inaudible)—The big three—Dean, Haldeman and Ehrlichman—and third, in the area of charges—charges are made—what I am thinking of here is Magruder—Magruder goes into open court—As I understand what will happen is you make a statement in open court which will name Mitchell for sure

HP. Well—

P. and might name Halderman and might name Ehrlichman. Right?

HP. Well what we propose to do is file a one count conspiracy indictment that would name Magruder and un-indicted co-conspirators.

P. And put their names in the indictment?

HP. Yes sir.

P. Un-indicted.

HP. Co-conspirators. Then when the court questions the defendant with respect to the facts that reflect his guilt, Magruder then would be expounding on the indictment and in effect stating what the evidence was.

P. On the un-indicted co-conspirators this is Magruder—but that would be on the Watergate side—that would be both before and after. Magruder is mainly before on this—

HP. Well he is also involved in the obstruction.

P. He is, Fine, then he is—

HP. Because he perjured himself before the Grand Jury—

P. Yep.

HP. . . . at the suggestion of others.

P. So what you would have on Magruder you would say we hereby indict Magruder and the following unindicted co-conspirators which means that an undicted . . . (explain to me what unindicted co-conspirators means).

HP. That just means that for one reason or another we don't want to charge them at the time. For example, I am indicted—you're named as an unindicted co-conspirator. You are just as guilty as I am but you are a witness—we are not going to prosecute you.

P. I need to know that because . . . inaudible).

HP. But all those people that we name—we propose to name only to the extent that we feel we can corroborate. The one thing we can't afford to do is to name, for example, John Mitchell and then come up six months later without enough evidence to nail him.

P. Or for that matter—Ehrlichman.

HP. That's right.

P. Or Haldeman or anybody else.

HP. That's right.

P. In other words, you are going to put in there people you know you can indict.

HP. That's right. Now—

P. Well then I'll (inaudible)—I can consider that a charge?

HP. That's right.

P. That's right—in other words, if they're in that I would then say—anybody that was an unindicted co-conspirator would then be immediately put on leave.

HP. It would . . .

P. Get my point?

HP. That's right.

P. That's what I'll tell them I will do. Now the other thing I want to tell you though that—and I say this strongly—I have thought about it a lot—I don't care what you do on immunity to Strachan or any other second people but you can't give immunity to any top people—not Dean—needless to say you don't want to to Haldeman or Ehrlichman. Dean is the counsel to the President—after the flap with Gray—I went over this with Rogers—he says—after your flap on the Gray thing and the rest—it would like that you're . . .

HP. Right—you know why I asked

P. I just want you to know that you if give immunity but I will have to talk (inaudible).

HP. OK, well, let me put it this way, I will not do that without your knowledge. If it is necessary for me to do that I will come to you first and then we can reach an agreement that yes you will have to disavow it and that was the decision of the prosecutor. I don't want to make that decision, Mr. President. I don't want to immunize John Dean; I think he is too high in the echelon but—it's a—

P. The prosecutor's got the right to make that decision?

HP. Yes, sir

P. You better, I think . . .

HP. . . . the point of it is, if it comes to a question of—

P. I think it would—look—because your close relationship with Dean—which has been very close—it would look like a straight deal—now that's just the way you've got to figure it.

HP. That's right.

P. The prosecutor has got to know—I can say as far as the President is concerned if John Dean gets (inaudible) then I don't care—but Ehrlichman, Haldeman and all the rest (inaudible)—why the hell did we give him immunization and not the poor damn Cubans? It just doesn't sound right.

HP. Right.

P. It doesn't sound right—it isn't going to sound good for you—because of your relationship—it isn't going to sound good for the President.

HP. Ah, well I hope we don't have to do that—I would rather have a plea to a lesser offense by Dean. I think too that it's going to look awful. We are in no disagreement on that at all.

P. It would look awful, it really would, particularly . . .

HP. The thing that scares the hell out of me is this—suppose Dean is the only key to Haldeman and Ehrlichman and the refusal to immunize Dean means that Haldeman and Ehrlichman go free. That is the decision that we are going to ultimately come down to.

P. Well you will have to come into me with what you've got (inaudible) then there . . .

HP. I will.

P. and let me handle Haldeman and Ehrlichman.

HP. I will sir.

P. Did you get my point?

HP. Yes, sir.

P. If it comes down to that—I may have to move on Haldeman and Ehrlichman—then for example you come to me and say look here's what—Look I am not going to do anything to Haldeman and Ehrlichman just because of what Dean says—I can't do that. Its got to be corroborated.

HP. I agree with that.

P. Do you agree with that?

HP. Yes sir—I am not going to do anything with those two unless it is corroborated either.

P. Dean is—I find, has told two or three different stories. I didn't realize it until lately. I guess when a guy is scared he doesn't——

HP. He is a man under great pressure.

P. Sure, I feel for the poor——

HP. So do I. He took a lot—he knows

P. He is a fine lawyer.

HP. A thirty-four year old man with a bright future——

P. Sure, he's worked his — and (inaudible) everything—I understand it, but I cannot, for example, in good conscience and, you can't in good conscience say that you are going to send Haldeman and Ehrlichman—or anybody for that matter—or Colson—down the tube on the uncorroborated evidence of John Dean. You see—so basically what your problem is and the problem of the prosecutors is to find some corroboration for Dean.

HP. Precisely right.

P. If you come in to me with Dean plus corroboration and you tell me that—then we have a difficult decision on whether or not we want to immunize him.

HP. That the importance . .

P. . . or whether we have these fellows just leave

HP. That is the importance of Strachan.

P. It may be that in that instance—you see that is the other point—of course with Strachan you're (inaudible). Another way you can handle that—it occurs to me—is that—Haldeman and Ehrlichman—well let's take one, let's take Haldeman, for example, no—Ehrlichman—Ehrilchman is the best case—or Colson even, because they seem to be more tangential than Haldeman, right?

HP. Both are more tangential than Haldeman—yes, sir.

P. Right, let's take Ehrlichman—let's say that the only testimony we have is something about (inaudible)—and so for and so on—something about that Dean is supposed to have told him about the Liddy operation or something in March. All right—so is he a co-conspirator? Let's suppose you cannot get anybody to corroborate that—All right, then the question is, however, then that is one thing. If on the other hand—you wouldn't sack Ehrlichman for that?

HP. Mr. President, I wouldn't prosecute Ehrlichman for that.

P. But you might sack him?

HP. Yes sir.

P. Now the second point is, let us suppose . . .

HP. I mean if he were a junior partner in the Petersen-Nixon law firm out in Oskosh, I would not. But as senior advisor to the President of the United States I would. That is the difference.

P. Yeah. Now you come to the other point. Suppose you have Dean in a position of where he makes this charge against Ehrlichman—no, what I am getting at—no, no, no my point is where you come in and say look I've got this charge—wait a minute this is unsubstantiated—but let us suppose you have witnesses who give testimony—and credible witnesses—the other way? Then what would you do with Ehrlichman on that? You have heard—Colson apparently for example is supposed to know about that—and who else was there when they talked about the, the, ah?

HP. Clemency?

P. What? Pat Gray oh talked.

HP. About—Pat Gray?

P. Leaving the country and all that business—Colson?

HP. Liddy—

P. Was Liddy there?

HP. Liddy gets his instructions from Dean.

P. Yeah, All right, so Dean . . .

HP. Liddy passes the information on to Hunt.

P. Dean.

HP. Hunt tells us in the Grand Jury that Liddy said his principals said that I should do this.

P. Yeah.

HP. Hunt doesn't know who the principals are.

P. Right.

HP. . . . he says at this stage of the proceeding. Even if he does know,

P. Right.

HP. he knows only by hearsay.

P. Right.

HP. . . . and probably not going to be admissible.

P. This is where you're going to get the corroboration.

HP. I am not sure that we are. I am not sure that we are.

P. See that's where you give me the tough problem. But on the other hand it seems to me that on that basis the better way to handle it is for you to rather than immunizing Dean—you see if you immunize him for something that can't be corroborated, it's a straight deal between—you know what I mean. Well, I can see Mitchell saying—well John Dean was talking too much to Henry Petersen, and Peterson did this and Dean pulled the plug on him and he had no time to lie. You know?

HP. It's possible.

P. And it's a bad rap, but ah, I'm (inaudible).

HP. But we are not going to do that Mr. President—we are going to have . . will have corroborative witnesses all along the line.

P. Yes, sure.

HP. But I see the problem and I feel—I think we are looking at it a little bit differently—.

P. Sure.

HP. And I see the problem in two dimensions and, of course, I see it in this respect as a neophite. Obviously you and Bill Rogers are much more experienced in these affairs than I, but maybe because I am a neophite and one of the public I see it perhaps more clearly—at least from a different point of view. It seems to me.

P. It's the taint.

HP. That it's just the things that they have done impairs you.

P. I understand. Understand and I agree with you on that. My point though now is a different one—it is the question of the immunity. That worries hell out of me.

HP. Well that—

P. The immunity worries me for the reason that it just is . . I don't think it's good to give it. I don't think in view of the fact that we had this hell of a flap—you know that is the reason Gray wasn't confirmed—because of Dean.

HP. Well Mr. President—

P. We go in and give it. . .

HP. If I could only put your mind at ease—I have been arguing with those *prosecutors* for three days on this issue—

P. I think you've got to understand, I am not suggesting this about Strachan or a secretary or anybody else—no immunity all the way down the line, but it occurred to me that particularly in talking to Rogers said how in the hell can they give John Dean immunity after he's the guy that sunk Pat Gray.

HP. Well if I sound like a devil's advocate—I am. I have been saying the same to the prosecutors—how in the hell can I immunize John Dean?

P. That's the point. Well, I feel it strongly—I mean—just understand I am not trying to protect anybody—I want the damn facts if you can get the facts from Dean and I don't care whether—

HP. Mr. President, if I thought you were trying to protect somebody, I would have walked out.

P. If he doesn't testify in open court—or anything of that sort it doesn't make any difference—I am going to make my decision on the basis of what you tell me Dean has told you and—just a little feel of the whole thing. But I've got to do it my way.

HP. I know—no problem with that.

P. I've got to get (inaudible) handle on it so what I am going to do is this—when charges are made—if your charge is made that certain co-conspirators, and so forth and so on—out!—even when they are unindicted—out, out—so that takes care of that. But that is the time to do it, and I am going to say that—oh, I am not going to use your technical terms—

HP. Well that is understandable.

P. But I am just going to indicate that there must be cooperation, that if there is any evidence to indict anybody on . . .

HP. Let me ask you this, Mr. President, what would you do if we filed indictment against Magruder, hypothetically, and

P. Yeah—Magruder or Dean?

HP. Magruder

P. Magruder—oh you have indicted him.

HP. To which he is going to plead, and we named as unindicted co-conspirators everybody but Haldeman and Ehrlichman—never mind that the variation improves between them for the moment—

P. That you would name Colson for example?

HP. Well I don't know about Colson—Colson is again peripheral, but Mitchell, LaRue, Mardian—what-have-you . . .

P. Colson was a big fish in my opinion.

HP. Yeah, and a

P. Would you name Dean for example?

HP. Oh yes.

P. Oh yes he was—

HP. And we name all of those people. We leave out Haldeman and Ehrlichman. Now one of the things we had thought about—

P. I get your point

HP. leaving them out was to give you time and room to maneuver with respect to the two of them.

P. Let me ask you—can I ask you—talking in the President's office

HP. Yes sir.

[Sets up appointment—had to take time out to sign some papers]

P. You see we've got to run the government too (inaudible).

P. You mean if Haldeman and Ehrlichman leave you will not indict them?

HP. No sir, I didn't say that.

P. That would be a strange (inaudible).

HP. No—it was not a question of that—it was a question of whether or not they were publicly identified in that pleading at that time.

P. Yeah.

HP. And, well, for example, as a scenario—that comes out and you say—

P. (inaudible)

HP. this is a shocking relevation—

P. Yeah.

HP. as a consequence of that I have consulted and I have just decided to clear out everybody here who might have had—and as a consequence Mr. Ehrlichman and Mr. Haldeman are going. Thereafter, we would proceed with the evidence wherever it took us. That is what we were thinking about to be perfectly honest with you.

P. Well you really ought to include them (inaudible) if you include the others.

HP. Well

P. Oh, you don't want names in the indictment of Magruder.

HP. That's right—unless we were able to go forward. Well, I don't want to belabor the point—I have made it clear that my view that I think they have made you very very vulnerable. I think they have made you wittingly or unwittingly very very vulnerable to rather severe criticism because of their actions. At least in public forums they eroded confidence in the office of the Presidency by their actions. Well you know it, I don't have to belabor it here—

P. Well, let's begin with this proposition. Let's not get in the wicket where we've got Dean in an immunity position. He'll talk. He'll talk.

HP. Well that's another thing. Have you decided to accept Dean's resignation?

P. No, I have decided I have to treat them all the same.

HP. I was going to say that would be terrible the effect is he would be out talking to the Press immediately.

P. Oh no, no, no—I told Dean I was going to handle them all the same (inaudible)—no that would be unfair.

HP. I agree.

P. Absolutely.

HP. I agree.

P. No, No, I talked to Dean about it—he said well he would do it if they did it too. He would like to do it if they did too, and I said well we are not going to do it on a conditional basis—I said stay on until we see what happens. No, I am not going to condemn Dean until he has a chance to present himelf. No he is in exactly the same position they are in.

HP. Alright, OK.

P. You see that's the point: see I put all three in the same bag.

HP. Very good.

P. How does that sound to you? Do you see what I mean?

HP. Yes, indeed.

P. So they have the same rule and if Strachan comes in, I am not going to throw Strachan out simply because he's been down before the Grand Jury.

HP. No—I agree with that.

P. If you put his name in that indictment, I'm going to throw him out.

HP. Well you know Strachan right at this point is debating whether he wants to be a potential defendant or a witness.

P. You've got him down there now haven't you?

HP Well, he's not down there now—his lawyer called around noon time and we told him go back and talk to your client and let us know one way or another.

P. Right. (pause) oh you mean you're not covering the immunity thing there?

HP. No—but we have to distinguish between variations of immunity.

P. What?

HP. In all probability there is not enough evidence to implicate Strachan as a—

P. Principal.

HP. principal. There may be some evidence to reflect some degree of culpability, but he is at least at this point in our judgment a fringe character. The type of person where we would not have to formally immunize him we would say look,

P. Yeah.

HP. You are a witness rather than a defendant—tell us what you know.

P. What you mean—you are telling him you will not prosecute him?

HP. That's right but it is distinguished from formal immunity which requires—

P. Oh, I see.

HP. a filing in court.

P. What you say—Look we are having you here as a witness and we want you to talk.

HP. That is described as immunity by estoppel.

P. I see, I see—that's fair enough.

HP. That is really the prosecutor's bargain.

P. That is much better basically than immunity—let me say I am not, I guess my point on Dean is a matter of principle—it is a question of the fact that I am not trying to do Dean in—I would like to see him save himself but I think find a way to do it without—if you go the immunity route I think we are going to catch holy hell for it.

HP. Scares hell out of me.

P. Rogers says (expletive removed) he says "tell Peterson (expletive removed) if you give them immunity here—he sees (inaudible) the Gray thing and all the rest—Dean is." Whatever area we think Dean is in, in the public mind, he is a big shot. Ervin thinks he is a big shot, the whole Senate Judiciary Committee—Dean is the guy that the whole Executive Privilege thing is about. So we give him immunity? I hadn't thought about it when you first talked about it.

HP. Sounds. . .

P. But you must have thought about it.

HP. I have—indeed. It is the toughest decision I have facing me.

P. Well what the hell—he can talk without any immunity can't he? Oh I guess if he is a defendant he wouldn't talk to you.

HP. That's right.

P. (inaudible) of course he wouldn't (inaudible). Is that your problem?

HP. You know if I get—yes—of course even if I come up with a lesser charge that damn Sirica is just liable to blast hell out of all of us to prevent him to plead even to a lesser charge. The ideal position would be the same as Magruder—you plead to one count felony indictment—take your chances.

P. That is what Magruder agreed to plead to?

HP. That's right.

P. To one count felony indictment.

HP. And that's what we are trying to work out with Dean and that's where the . . .

P. (inaudible)

HP. Five years—max.

P. Five years—Out in two years?

HP. Probably.

P. That's the way it works, isn't it?

HP. Yes Sir.

P. Dean's lawyers say (inaudible)

HP. Dean's lawyers say we will try this whole damn Administration.

P. Huh?

HP. They say we'll try this whole Administration.

P. Yeah, I know. I heard that. So that puts you in a hard spot.

HP. That's right. I don't know, I am just aghast at the whole damn thing and you must be too. Because I see no rhyme, reason—

P. Slightly.

HP. anything to . . .

P. Yeah—for all this treatment—for this?

HP. And you know, I look at John Mitchell and I have admired him—and

P. Yeah—I know—good man.

HP. and I'm just shocked.

P. But what happened we know is this: These jackasses got off . . . see this Liddy is crazy and Hunt and that whole bunch conducted this (inaudible) Mitchell wasn't minding the store and Magruder is a weak fellow—and the damn thing—and then afterwards they compounded it by what happened afterwards.

HP. That's right.

P. They were caught in it and they said—Oh we can't—and basically they were trying to protect Mitchell—let's face it. You know that.

HP. Well, you know LaRue broke down and cried like a baby yesterday.

P. He did? That's too bad.

HP. He was not so bad on admitting the obstruction of justice and subornation. Resigned, said he'd probably plead—said he didn't even think it worthwhile to bring a lawyer with him—ah,

P. He had (inaudible)

HP. Not fully—he broke down but when it came to testifying about John Mitchell he just broke down and started to cry. It is a terrible thing . . .

P. (inaudible) as we all do, but we are going to do the right thing. Don't you worry about that. I am just trying to do the right thing in the way that is . . .

HP. Mr. President, if I didn't have confidence in you—I wouldn't be here.

P. Yeah.

HP. You know—

P. Yeah.

P. Did we do any good on the Liddy call?

HP. I don't know—Maroulis.

P. (inaudible).

HP. His lawyer, flew down—

P. (inaudible).

HP. And we had Liddy brought over to a cell block of DC Court and made him available—and that was yesterday and of course I am sure Liddy is thinking it over—but—we'll see. That man is a mental case . . . (inaudible).

HP. I guess Bill Rogers was shocked too? (Pause) God Almighty.

P. Bill—I think everybody is shocked, but we are in it. So what do you do? In this thing—in these things—you've got them, you handle them and go on to something else—that's what we are going to do.

HP. Damn, I admire your strength. I tell you.

P. Well, that's what we are here for.

HP. Well I know but I've been around government long enough . . .

P. Frankly, the Dean thing troubles the hell out of me—I would like in one sense I would like to see the poor bastard you know, out of it and in another sense I think the immunity thing scares me to death.

HP. Well it does me too. I agree.

P. How shall we leave that? You will go back and—you haven't made a decision then?

HP. Well we're still negotiating.

P. You are going to try to see if you can get it another way—

HP. That's right—that solves the problem for me—and if . . .

P. But you may not be able to and then we will have to get Dean. He is the only one, so—otherwise you go the other way.

HP. Yeah. Incidentally, I talked with Pat Gray again—

P. Yeah.

HP. I went back again today.

P. Do you think you can put that piece together?

HP. Yes sir—I'll tell you what happened. He said he met with Ehrlichman—in Ehrlichman's office—Dean was there and they told him they had some stuff in Hunt's office that was utterly unrelated to the Watergate Case. They gave him two manila envelopes that were sealed. He took them. He says, they said get rid of them. Dean doesn't say that. Dean says I didn't want to get rid of them so I gave them to Gray. But in any event, Gray took them back, and I said Pat where are they, and he said I burned them. And I said—

P. He burned them?

HP. I said that's terrible.

P. Unrelated—only thing he can say was—he did it because it was political stuff I suppose?

HP. Well, you know, the cynics are not going to believe it was unrelated.

P. Oh yes of course.

HP. I said, did you read it?

P. Who handed it to him, Dean? Who knows the contents?

HP. Dean and Erhlichman. Dean—Gray says he never looked at it—never read it.

P. Did Dean?—did we ask Dean what the contents were?

HP. I didn't ask Dean because he said it was—

P. Did anybody?

HP. Not at this point. We'll have get to that obviously.

P. Sure. Dumb damn thing to do.

HP. I think it is incredible and I just—

P. Why didn't he just put it (inaudible).

HP. I said Pat why did you do it.

P. Pat's naive.

HP. He said—well, I suppose because I took them at their word.

(Apparently someone brought in a statement).

P. (Inaudible) Oh this is a (inaudible) Senate Select Committee. Let me read it to you if you can (inaudible) it for me a little. "For several weeks Senator Ervin and Senator Baker and their counsel have been in contact with White House representatives, Mr. Ehrlichman and Mr. Garment. They have been talking about ground rules to preserve the separation of powers without stressing facts. I believe that the Committee ground rules that have been adopted totally preserve the doctrine. They provided the . . . appearance by a witness named—in the first instance to be in executive session if appropriate. Second, the executive privilege would be expressly preserved (inaudible) proceeding would be televised (inaudible) . . . that has never been a central issue especially since the separation of powers problem is otherwise solved." (inaudible) Does that sound right to you?

HP. Yes sir.

P. Forthcoming and so forth, and so forth? All White House staff will appear and testify under oath and (inaudible) all proper questions fully as far as I am concerned.

Second announcement—"When the Watergate Case (inaudible) several weeks ago, I began to look into this matter as a result of printed stories in the press and private information which had come to me—private information?

HP. I don't think that ought to be there.

P. Basically it was the LaRue thing—not the LaRue—but the McCord thing that really set my invest . . . that is when I started to work with my . . .

HP. I don't see how you can say private information that came to you without

P. Yeah

HP. Almost becoming personally involved—at least as a result of a witness . . .

P. As a result of some very serious charges that were

HP. Yes, I think that has to be modified. (noise of paper being moved around—obviously the President was working on the statement)

P. We could say that I—what was the term we used?—this says real progress has been made—that isn't very good—what is the term that we wanted to say about significant developments?

HP. Significant developments is a term—

P. Any person in the Executive Branch who is indicted by the Grand Jury my policy would be to immediately suspend him. If he is convicted he would be automatically discharged. No person in past or present positions of importance can (inaudible) the prosecution.

HP. I don't think you ought to say that Mr. President. I mean, I think that is fine for you and I to share your concerns on that, but to state that publicly seems to me will have tendency to prevent people from coming in. In effect, we will be right back to where we were without the immunity statute—where the Fifth Amendment is a complete bar. Now even if we never utilize immunity the fact that it is there and can be used to strip them of the Fifth Amendment rights is a terrible important tactic to have available. That phrase in there takes that tactic away from us.

P. The tactic of?

HP. Of immunity

P. This doesn't refer to . . .

HP. For example, we might want to immunize Strachan.

P. Well no, no—

HP. Well then you get into a question of who is a person of importance—Washington Post may very well think that Strachan is a person of importance. Anybody who works at the White House is a person of importance as distinguished from—minor underlings so far as you are concerned.

P. Should we say major government employees? Government employees holding major positions—how is that?

HP. I would prefer that we not say it.

P. Well I am just trying to cover my tracks on the Dean thing—that is all.

HP. Yes.

P. And if he is—then that is the U.S. Attorney's job.

HP. But that is a sophisticated point isn't it?

P. Yeah. Sure, we could say that Dean was let off? Oooh.

HP. Oh, it is a sophisticated point after the fact but at this point in time in conjunction with this statement it is going to take a rather astute reporter to raise it. Is immunity going to be utilized?—the question is easily defended—you know—that is a prosecutorial tactic and that will be handled by the prosecutors if and when it is necessary.

P. Right.

HP. You could say I would hope—

P. Yeah.

HP. That no significant figures would be immunized.

P. I express my—I want to put something—many of you know—I would hope—what could I say? I would hope any major—any official holding a major position, ah.

HP. I have expressed my concern.

P. My—I express my view.

HP. To the Department of Justice.

P. To the department of justice that no person, that it is my expressed view to the Dept. that no persons should be immunized.

HP. No—that is too strong.

P. Huh?

HP. That is too strong. That's a double entendre if you like—

P. Alright—what would you say then?

HP. In effect that says that you are taking away a prosecutorial tool from them.

P. I express my view to the appropriate authorities—shall we say—

HP. That would weaken it.

P. To the appropriate authorities that I do not favor—

HP. I have expressed my hope to the appropriate authorities that it would not be necessary to immunize any major official in order to develop a prosecutable case.

P. OK—I've got it Henry—otherwise it is nothing new—(inaudible) through the appropriate ways—that all White House especially are expected to cooperate fully—we said that—with the U.S. Dept.

HP. With the prosecution.

P. With the prosecution.

HP. With the prosecution team.

P. With the prosecution team. It says I have (inaudible) an occasion to attempt to pass the word to others who might be able to help to (inaudible) cooperation. I don't think that means anything.

HP. I don't think that means anything and I think it says too much.

P. Yes.

P. Yeah—well what you are in effect saying to me—as I say—I want to be very clear on the Haldeman/Ehrlichman thing. That if they were left out of the non-indicable list it gives me a little running room. I want to be very clear—that understood?

HP. That's right, that's right.

P. It doesn't mean that they aren't eventually be indicated if you get the facts.

HP. That's right.

P. But it does mean that they have an oppor . . . they aren't canned as a result of the fact—that is what we are really getting down to isn't it—you would have to put Dean on tha list wouldn't you?

HP. Yes Sir.

P. I guess you would have to with everything with him because basically Magruder is going to name him.

HP. That's right.

P. Hmp.

HP. And, if we get down to . . .

P. Magruder is not naming Haldeman and Ehrlichman though. That is the problem is it?

HP. Yes but he does—but not in firsthand sense—

P. Only by hearsay.

HP. But you see—if he makes that statement in open court—

P. Yeah, I get it.

HP. It means to me it makes your practical difficulties just as severe as if we had named him in the first place.

P. Well I am glad to get this kind of stuff so I get a clear view of everything—what the options are—

HP. And if we frankly—if we think that Sirica is going to elicit that kind of statement we will include him in the charge to the extent that we can.

P. Yeah—sure you don't want to . . .

HP. Subject only to the fact that we can corroborate it later on.

P. Timing now. What about Magruder—you don't expect him tomorrow?

HP. Well I told them . . . Probably not today, but I guarantee you at least twelve hours notice.

P. Can you give me that much?

HP. I will guarantee you that. I will hold it up to make certain you get it.

P. Yeah. The only—Yeah. On the other hand I suppose you should say (inaudible) story—it got a hell of a big play.

HP. I didn't see it.

P. And other stories that are not so likely to (inaudible) could, could—everything is likely to blow around here. But at least you give met the—there is nothing in this that we irritate the fact that do we (inaudible) til down there in that court we know this damn (inaudible).

HP. That's right

P. So basically we are in a pretty good position to say—that except as I said I don't want the Washington Post to break this case.

HP. That's right. We don't either.

P. I want the Department of Justice—and, frankly, the White House—because as you can see we'll cooperate (inaudible).

P. OK—I can see what you mean. You would anticipate then that if you didn't include Haldeman and Ehrlichman in your general thing that Sirica will question the defendant—Magruder—and he then will bring in—

HP. If he brings that out—if we think that is a real possibility then we will have to decide whether or not as a matter of conscience and professional ethics we can put them in. If we can answer that yes—then we will put them in. If on the other hand, we think there is no basis for it—even if Sirica does bring out the hearsay—we will just have to take the knuckle for it.

P. Sure—which is basically what Sirica wants. Colson—I think we should know about him too.

HP. Well,

P. Not yet, huh?

HP. Well, Bittman went to Colson to urge leniency—Colson then got in touch with Ehrlichman and Dean. Ehrlichman is alleged to have said—

P. Make no commitments

HP. we'll do the best we can—make no commitments. Then thereafter you know apparently money flows—or so we are told—whether there is any relevancy or relationship remains to be determined.

P. What did Bittman want?

HP. Well apparently the funds, but that remains to be developed—ah, Dorothy Hunt was, according to McCord, the intermediary the leniency thing (inaudible)

P. Right.

HP. And another intermediary was LaRue and LaRue used the alias of Baker—two aliases—one was Baker and I have forgotten the other one, for the transmittal of money. One of the things that concerns me in this area and you know again an area in which I may have made a mistake earlier in the game was with respect to Kalmbach. Now I understand he is your personal lawyer—is that a fact?

P. Yes, yes—very capable guy. (Inaudible)—as I understand—they called and said raise some money for the (inaudible) and so forth. I am sure he was no damn co-conspirator. (Inaudible)after the campaign.

HP. Here's one thing—in the earlier stages of the proceedings when they had Segretti in the Grand Jury—

P. Yeah.

HP. I told Silbert—now—damn it Silbert keep your eye on the mark—we are investigating Watergate—we are not investigating the whole damn realm of politics and I don't want you questioning him about the President's lawyer.

P. Right.

HP. Well, he didn't. Well now Kalmbach comes up and you heard on the news I am sure today—he apparently is going to be called by the Senate Committee—but he also comes up in this investigation with respect to actually Kalmbach raising money—or passing on money at Mitchell's direction for the co-conspirators—So we are going—

P. Sure.

HP. To have Kalmbach back into the Grand Jury.

P. Well in that instance, I suppose there you've got to prove what he thought he was raising it for.

HP. Well, even if he didn't know or he was misled—the fact that he

P. (Inaudible.)

HP. did at the time we may very well end up with him being a witness.

P. Damn right—oh I know that. I would seriously—I mean. And again on that particular count—I guess you were the one, I think who said the question is motive—what they raised the money for

HP. That's right.

P. If you are trying to help them out with their defense—that is one thing—but if you are helping them out to keep them quiet that is a hell of (inaudible)—that is an obstruction job.

HP. That's right—you know if you are acting out of Christian charity—

P. Right.

HP. That is fine.

P. That would be Mitchell's defense on that.

HP. Of course all the inferences run the other way and that is a hell of a defense to have to put to the Jury.

P. Well I guess you have given me enough to chew on here—whether I get something out today and we'll know how—about it tonight—I'll see—I may have a little bit of time. You don't think that you are going to indict sometime today.

HP. I will be glad to give you twelve hours notice. Nothing is going to happen today I am certain—even if we get an agreement today—you know I can still hold it off a day.

P. Yeah—you might hold it off even tomorrow, huh?

HP. That's right. If we have to go see Ervin and Sirica—both of them—it may very well take a full day before we can get both things accomplished.

P. I've got to accept a big huge schedule tomorrow—energy message, and so forth, and so forth, and I don't want to tell you to hold it off except apparently it is going to take you some time anyway—I mean there is always a change of leaks—leaks aren't going to mean much—

HP. There are so many i's to dot and t's to cross on this thing—when you talk about holding off a day or two it doesn't make that much difference.

P. Except leaks—what do you think on (inaudible)?

HP. I think it is terribly important—

P. Get out front?

HP. for you to get out front on this thing—irrespective of

P. Even with a statement like this that doesn't say much. Well cooperating with Ervin but that's

HP. It says that—that is significant news. I think it is significant that it reflects that you are taking a personal interest in it—I think it is significant that you say there are significant developments which means you are personally informed and not only have endorsed what the prosecution is doing. It certainly is not significant in terms of evidentiary facts but we are never going to be in a position to do that anyway—unless the public exposure in the court. You know there is another dimension, Mr. President. These fellows Magruder, Dean have talked to us—they'd be less than human if they didn't watch to see if the system was surviving the test—so there is another reason for their delay. Conceivably they say well this may be too strong for the Department of Justice or the President—or the people at the White House—they're not going to have the courage to face up to this—let's wait and see what happens and if we don't see some movement then our bargaining position will become increasingly tougher day by day by day.

P. Yeah. (inaudible)—keep in my mind—(inaudible) get the damn thing over with—and I know the trials of Mitchell and all these people will take a long time—(inaudible)—Mitchell will never plead guilty, never. Fight it all the way down the line, (inaudible). What would you do if you were Mitchell?

HP. I think I would probably go to Saudi Arabia to tell you the truth.

P. Poison.

HP. When I think the former Attorney General of the United States being subject to criminal trial is just—

P. For obstruction of justice—not the bugging—the obstruction of justice.

HP. It is just terrible.

P. OK—alright—thanks for your help. I'll see if I can work something out today and if I don't, maybe tomorrow. We'll see about it.

HP. Thank you. Have a good day Mr. President.

P. Yep—we'll try.

Appendix 42. Meeting: The President, Haldeman, Ziegler and Ehrlichman, Oval Office, April 17, 1973. (3:50–4:35 p.m.)

E. This is John Ehrlichman for Bill Timmons.

E. Ah, I'm in the President's office Bill, can you call—get the first page, first two lines of the second page (unintelligible). Pardon me? No, just tell him that's the statement. Bill, just go ahead and do it. Thanks.

P. I completed the round with Petersen and he said he completely agreed with me, that he's been arguing that with the U.S. Attorneys. He says the problem—

E. He's in total control.

P. He said the problem is (unintelligible). I said, "Well you're going to corroborate it, aren't you?" "Yes, of course." But I put it bluntly. No individual—

Z. Ya, I just want to check. Are we already to go?

P. I don't know if I can really make it. How late can I go? About 4:30. OK. Don't tell anybody yet. Thank you. I'll let you know.

P. Quickly. The new evidence, new leaks. First, I said, I said Rogers and I talked about it and Rogers thought it was totally wrong to immunize the President's counsel. Rogers did say that. However, I talked about the leaks in the Grand Jury (unintelligible) Mitchell, Dean. I said I just want you to know that you are vulnerable. He said, "Well I never gave them substance, I just gave them (unintelligible) on how they did and so forth and so forth." He says, "After all, it's my responsibility." But anyway, I don't know. I didn't get far with that (unintelligible). He talked to Pat Gray and Pat Gray has now told him that he destroyed the packet. He just shakes his head.

H. Why would Gray do that?

P. Gray was told it was political, was told to destroy. I don't know Gray was told it was material, actually nothing to do with Watergate. He was told to destroy it, but

Petersen says that's that. Here's the situation, basically, (unintelligible). They're going to haul him in court, have him plead guilty, put a statement out because Sirica always questions the witnesses who plead guilty. They are going to make it as broad as they can and as narrow as they can at the same time. By being as broad as they can, they are going to say that he has named certain people and they are going to name a group of people that is non-indictable co-*conspirators.* They're going to include everybody on that list. I said, "Is Dean going to be on that list?" He said, "Yes." He said, "Frankly (unintelligible) not include Haldeman and Ehrlichman, which gives you an option." I said, Are you telling me that if Haldeman and Ehrlichman decide to take leave, that you will not then proceed with the prosecution. "No," he said, "I don't mean that." He said, "What I mean is that they are not going to appear on that list and that (unintelligible) Grand Jury and make case there (unintelligible). So there's the—

E. Well, whether we take leave or not doesn't effect the list that they read off.

P. Yes. Yes.

E. Oh, it does? Yes, it does. They will put us on the list if we don't take leave?

P. Yes, because otherwise, he says, he says Sirica is going to question Magruder and he's going to question (unintelligible) and it appears (unintelligible). If he does that, then it will appear that the Justice Department again is covering up. Two questions: One, should we go forward with an announcement today or not, or should—

E. Well, from your standpoint, you must. Even so. This thing will get away from you otherwise.

P. Well, the real question, I suppose, John is (unintelligible). I don't think we can—here's the whole point, in effect—if the—your names will probably be on the list. That's what he's saying unless you decide not to, decide that your not (unintelligible).

H. It isn't that (unintelligible), we have to resign. The (unintelligible) doesn't accomplish anything.

P. (unintelligible)

H. What does he mean from that? I don't understand?

E. The guy to gain from that is Dean.

H. Ya, they're putting us in the same bag with him.

E. Ya.

P. (unintelligible) he said Dean's lawyers say Dean is going to make a case against this Administration. They're going to try this Administration. That's what he said. So, I guess that's where we stand with Dean.

E. Well, it's as broad as it is long as far as I'm concerned. If I'm to take leave—you think I should—that is or has the same effect as being—

P. As resigning? (unintelligible) taking leave you couldn't come back.

E. Ya, I'll never come back.

P. Of course not. I understand that.

E. On the other hand, if I'm indicted and take leave, and then I'm acquitted, I could come back. But to take leave and then not appear on the Magruder list, it's a confession.

P. That's right. So I think their (unintelligible) approach just doesn't work.

H. Well, then you look worse by that than you do the other way. You look better to have us on the list, than to have us take leave and then not be on the list.

E. Cause that looks like you're covering up, that it hasn't come out.

P. I think so, too.

H. If we're going to be on the list, so be it!

P. That's right. I think you're right.

H. I think we're in a terrible—these guys are working in a most bloodthirsty way. They've lied to Strachan. They've told him they had all this stuff. They've not told him what his rights are properly. I'm sure his lawyer has gotten it straightened out, but it's really something.

E. They're trying to get him.

H. Trying to get him to take a cop-out and they won't make a deal. They told Strachan if he covered everything that he had, everybody he knows, they assured him they already had it anyway—

P. That's a tactic.

H. They said you, Strachan, have a chance of getting out because you'll become a witness and not a defendant, but they will not give him immunity.

P. That is immunity, however.

H. Well, unless—it keeps their options open and his closed.

P. Strachan is (unintelligible).

H. (expletive removed), I hope so. And the (expletive removed) you know Strachan made that mistake on the 350, called Silbert the next day and said, "I would like to correct that. I made a mistake." They said, "Fine, come up in the morning and we'll straighten it out." He went up Monday morning, and they laughed at him and said we're not going to put you before the Grand Jury. See that's when they kicked him around, yesterday morning. Then today when he went in they said, "We will not let you correct your statement on the 350, we've got you on a perjury count.

P. That's not true.

H. That's what they told him.

E. It certainly is not fair.

H. Well, apparently by the law.

P. I think under the law if you go forth and volunteer something—

H. But they wouldn't let him go in, so he didn't volunteer, but he sure did it constructively as far as—

P. Well, shall we get to work? Shall I just go out and read it.

E. I think so. I'm having Timmons just read this first part to Ervin.

P. All members of the White House staff will appear (unintelligible) when requested by the Committee and will testify under oath and answer all proper—Are you getting all this or should I get a girl in?

E. Voluntarily, when requested by the Committee—O.K.

P. The next part is what I'm concerned about. "I began new inquiries," shall we say?

E. Well, I don't know.

P. "I began new inquiries into this matter as a result of serious charges which were reported publicly and privately." Should we say that?

E. Publicly, comma "which in some cases were reported publicly."

P. "Four weeks ago we," Why don't we say, shall we set a date? That sounds a hell of a lot stronger if we set a date.

E. All right.

P. "On March 21, I began new inquiries," Strike that. "I ordered an investigation, new inquiries throughout the government—"

E. How about saying, "On March 21 as a result of serious charges which were reported publicly and"—

P. "Some of which were reported publicly and some of which were reported privately to me"

E. "Some of which I subsequently"

P. "As a result of serious charges reported publicly and privately"—

E. "Some of which were reported publicly"—and then not say about the result of them. I—

P. In other words, "On March 21 we started an investigation because of the public hearings."

E. That's right.

P. "As a result of serious charges reported publicly—publicly reported—"I began intensive new inquiries into this whole matter." I think we better get Petersen back in here.

E. Name him.

P. Ya. After all, this Kleindienst thing is very general (unintelligible)

E. "And Assistant Attorney General Petersen."

P. "Assistant Attorney General Petersen have met to review the facts at length in my investigation and the progress of the Department of Justice investigation." How's that? "I can report today that there have been major new developments in the case." Right? That sound right?

E. How about just saying, "Have been major developments in the case concerning which I should not be more specific now, except to say that real progress has been made."

P. "Major developments in the case, concerning which—specific—which would be improper for me to be more specific now except to say that real progress has been made in getting to the bottom." What do you say, "in getting to the bottom of this matter?"

E. "Has been made in exposing the truth."

P. "In finding the truth."

E. All right.

P. "In this whole matter."

E. Well, we've already said matter.

P. Well.

E. "I can report today that major developments in the case, concerning which it would be improper to be more specific now, except to say that real progress has been made in finding the truth."

P. "Real progress has been made in finding the truth."

And then you go on to the (unintelligible).

E. If you don't mind.

P. I don't want to put the immunity thing in. I don't think there's a hell of a lot gained by saying it publicly.

E. Except—

P. All right. "If any person in the Executive Branch is indicted by the Grand Jury, my policy will be to immediately suspend"—Shall we (unintelligible) of what we know is going to happen? Should we say "indicted"? Why don't we just leave it "indicted" and not indicate what charges are made? Don't you agree?

E. I think so. I think "indicted" ought to be the test.

P. "Indicted by the Grand Jury. My policy would be, "If he is convicted," and then I would say, "If he is convicted, he would be automatically discharged." And then, the way I could put it, "I expressed to the appropriate authorities my view that no individual holding a position of major importance should be given immunity from prosecution. That means that no person can expect"—

E. Yep, this is fine.

P. I don't think I want to say "lead to believe." Do we have to say that?

E. No, I was just trying to get you off the hook, and say, you know, well, this—How about going on with the next sentence?

P. "The judicial process is moving to get all the facts." Or, "Moving—"

E. "moving ahead as it should."

P. "Moving ahead as it should. As I have said before, all government employees, especially members of the White House staff, are to fully cooperate with the Grand Jury." Or do we want to say "Grand Jury"?

E. How about "fully cooperate"—period.

P. "Fully cooperate in this investigation." "to fully cooperate with law enforcement authorities." How's that?

E. Ervin and Baker are out of pocket.

P. I don't want to use the next sentence, John.

E. All right.

P. Then I think the last sentence should be—I think if he puts that in there we're going to have a hell of a tough time. (unintelligible)

H. I think if he'll cover the truth—

P. Yep.

H. That's what he's got to do. Answer their questions truthfully.

P. Why didn't he say, "Sure I'll be a witness." Why didn't he just say that, take their offer? Maybe that's what he said. "I'll take your offer."

H. I think that's what we want him to do.

P. I think what you should do is say, "I don't have anything to hide. I'll take your offer," and just make the point.

H. Given that offer, he doesn't have to volunteer anything. All he has to do is answer their questions.

P. That's right Bob, he should just take their offer. Believe me, we don't have to have (unintelligible). He isn't trying to hide anything.

H. I'd feel fine with his doing that, cause— so he says some things that are damaging. They are only slightly damaging, and we've had plenty of damaging things already.

P. That's right. Bob, just tell him to take it. All right? Tell him to take it but tell them the mere truth. You see, they think it is worse than it is. They think he is covering up and they are wrong. That's what it really gets down to.

H. They are trying to confuse him. That's what has him bothered. The poor guy. What's really worried him is that he's covered everything with Dean, every step of the way. Everything he has done, he's talked with Dean about it over the last year and he's scared to death Dean will make up something or take something that is partly right and twist it, which is what Dean is doing, and hang him on it. And I think what he's got to do is just go with what he believes is correct and hang with it.

P. Don't you think we are right (unintelligible) tell the U.S. Attorney, "Fine. You want to name Haldeman and Ehrlichman. You just (unintelligible) they put you on as unindictable co-conspirators, then they've got a case to prove. Now they aren't going to do that unless they figure they can prove the case, so that would give them the problem. I think his argument is, and I must say, I don't know what to hell Petersen is up to (unintelligible) I think, on the other hand, it looks like. Let's look at that.

H. That makes his case for him. That makes his case for him

P. Maybe you're right. I was going to suggest that we would get back, call you, and we get Rogers over here. And I think in this instance, you and Ehrlichman with Rogers can just sit down and talk about this?

H. I think so. Yes.

P. You don't have any other lawyer? Would you mind getting him over at 5:00 p.m.

H. We're meeting with our lawyer at 4:30 to 5:30, which is the only time we could get him. Would you want me to get him in at 5:30?

P. Sure, Bob, my time is your time.

H. Well, I don't want to screw up your time.

P. You're not.

H. That was the only time he could take us. He's taking time out of a deposition.

P. I understand, but hope he can learn from it in that time.

H. Well, we'll give him a quick fill and get him started on it. That's all we can do now, but we need to get started on it.

P. I guess (unintelligible) may resign.

H. That would be a very foolish thing for him to do.

P. Hmm?

H. That would be a very foolish thing for him to do.

P. He didn't say that. But, I mean, you know how strongly he feels. He's wrong. He's wrong, Bob. Look, the point is, (unintelligible) throwing you to the wolves with Dean. What does that accomplish? I don't know what it accomplishes. Except the President learns the facts and as a result of learning the facts (unintelligible). I say, "Fellas, you've been charged and I know that Dean has made some charges." Right?

H. There's another way you could do it. John won't buy this if I don't. I won't do it if John won't. We've got to do it together. Either one of us has to hang together playing this game. But, maybe we request of you a leave of absence on the basis of the information you have, which we have, because we've been involved in the investigation too. Now if we're going to be on that list, we're going to have to ask for a leave of absence anyway, if he puts the list out, and has us on it.

P. It's going to be out. And I don't know that you'll be on it. That's the point. We've got to see. Nevertheless, you will be called. But we've always talked about being called to the Grand Jury.

P. That's right.

H. And said that we would appear. You made a statement weeks ago saying that anybody in the White House would welcome the opportunity to testify before the Grand Jury. Ah. Do you automatically suspend any witness whose called before a Grand Jury? Of course not.

P. Well, now, if you come on that list, the only problem here is that (unintelligible).

E. Oops.

P. The problem we have here, John, as I was just saying (unintelligible) Dean's lawyers, are they going to try this Administration?

E. Believe me, everybody is going to try this Administration regardless of what (unintelligible). Ervin's going to try this Administration.

H. We went through your statements. Why don't we go see the lawyers? Why don't we re-group at 5:30 and decide then?

E. You have the first page intact?

P. Did she use the speech typewriter? I don't want to go through this.

E. Take this back and put in on the speech typewriter.

She's running it off on the typewriter now.

P. Well, maybe it's too soon for Rogers. Well, I guess we just let Dean go ahead and try the Administration.

E. He's going to do his work anyway, with or without immunity. Ervin is going to get him up there if he has immunity or not and will take him over the jumps. What you've done here is to lay a ground rule for Ervin on immunity which is going to be very tough for him to live with if there are Ervin hearings. But eventually there will be Ervin hearings. I don't think there's much (unintelligible). The more—

P. There will be Ervin hearings, Bob.

E. The more battles the President wins, like the economical stabilization performance, the more urgent the Ervin hearings become. It's the only thing they have left, now. You're winning all the big ones.

H. We better leave now. It's 4:30.

E. Yep, ya.

H. If you want to see Bill at 5:00 p.m. ahead of us, we can join you at 5:30.

P. You may not be ready by then.

E. He can only stay an hour.

P. Fine. I'll see him at 5:00. And the situation that you have here is a (unintelligible). Dean (unintelligible) Administration if I'm wrong? Damn, no, it can't.

E. I'll tell you as we lay this out, and I'll be anxious to see what his lawyer has to say, Dean's testimony may not be admissible.

P. On what grounds?

E. That his communication to us was a communication to you, and vice versa. As an alter ego to the President.

P. I don't have any separate existence.

E. But you have to assert privilege, in a sense, but I don't know what kind of political problems that make (unintelligible) Solicitor General, as a disability, strictly from that standpoint (unintelligible).

P. Would you discuss with your lawyer the legal (unintelligible) and let's think about this business, about whether—Ron?

Z. Ya.

P. Come on in.

Z. Len needs the ground rules before he calls, and he's in my office. Could you fill him in?

E. All he has to do is read that to them. Period. He doesn't have any comment, he doesn't have any reflection. O.K.?

P. Who is this?

E. Len Garment. He's going to call back. He's just reading the first page since we can't get Ervin. Look, I don't want him to get into an argument with him.

Z. O.K. All right, fine. Then John, afterwards when they ask me what the ground rules are, I'll just say—

E. Up to the Committee (unintelligible).

Z. We have plenty of video tape recorders, so there's no film problem.

P. They got it yet? Bring it in.

Z. Ya. Did John raise with you the couple of questions in terms of the next day or so? And afterwards just say, "Is Dean still in charge of the investigation?" We ought to just say, "No."

P. Just say that the President—that we discussed and that, "No," that the President is dealing with that the Assistant Attorney General, Mr. Petersen, is in charge of the investigation.

Z. Then, secondly, they will say does the President stand by the August 29 statement that no one presently employed in the White House had knowledge and so forth? There, I think, I suggested to John, that this is an operative statement—position as it stands.

P. You could say that the August 29 statement—that was the report that was made to the President by White House Counsel at that time—and the facts will determine whether that statement is correct, and now it would be interfering with the judicial process to comment further.

Z. I will just say that this is the operative statement.

P. You're not going to answer questions today are you?

Z. No, no. But I mean if I walk into the Press Room they'll be pounding on my door.

P. Of course, Ron. Go ahead. Don't (expletive removed) on Dean.

Z. No, I'm not going to.

P. He is, just say he—

Z. I'll try to avoid it altogether, but I just want to get guidance. Then I could give the wires some background on how aggressively and how much time you've spent on this the past three weeks and so forth. Should I do a little of that?

Appendix 43. Statement: The President, April 17, 1973, (4:42–4:45 p.m.):

The PRESIDENT: Be seated, please:

Ladies and gentlemen:

I have two announcements to make. Because of their technical nature, I shall read both of the announcements to the members of the press corps.

The first announcement relates to the appearance of White House people before the Senate Select Committee, better known as the Ervin Committee.

For several weeks, Senator Ervin and Senator Baker and their counsel have been in contact with White House representatives John Ehrlichman and Leonard Garment. They have been talking about ground rules which would preserve the separation of powers without suppressing the facts.

I believe now an agreement has been reached which is satisfactory to both sides. The committee ground rules as adopted, totally preserve the doctrine of separation of powers. They provide that the appearance by a witness may, in the first instance, be in Executive session, if appropriate.

Second, Executive privilege is expressly reserved and may be asserted during the course of the questioning as to any question.

Now, much has been made of the issue as to whether the proceedings could be televised. To me, this has never been a central issue, especially if the separation of powers problem is otherwise solved, as I now think it is.

All members of the White House staff will appear voluntarily when requested by the committee. They will testify under oath and they will answer fully all proper questions.

I should point out that this arrangement is one that covers this hearing only in which wrongdoing has been charged. This kind or arrangement, of course, would not apply to other hearings. Each of them will be considered on its merits.

My second announcement concerns the Watergate case directly.

On March 21st, as a result of serious charges which came to my attention, some of which were publicly reported, I began intensive new inquiries into this whole matter.

Last Sunday afternoon, the Attorney General, Assistant Attorney General Petersen and I met at length in the EOB to review the facts which had come to me in my investigation and also to review the progress of the Department of Justice investigation.

I can report today that there have been major developments in the case concerning which it would be improper to be more specific now, except to say that real progress has been made in finding the truth.

If any person in the Executive Branch or in the government is indicted by the Grand Jury, my policy will be to immediately suspend him. If he is convicted, he will, of course, be automatically discharged.

I have expressed to the appropriate authorities my view that no individual holding, in the past or at present, a position of major importance in the Administration should be given immunity from prosecution.

The judicial process is moving ahead as it should; and I shall aid it in all appropriate ways and have so informed the appropriate authorities.

As I have said before and I have said throughout this entire matter, all government employees and especially White House staff employees are expected fully to cooperate in this matter. I condemn any attempts to cover up in this case, no matter who is involved.

Thank you.

End (At 4:45 P.M. EST).

Appendix 44. Meeting: The President, Rogers, Haldeman and Ehrlichman, EOB Office, April 17, 1973. (5:20–7:14 p.m.):

P. Come in.

R. Mr. President

P. Well.

R. Well, did you make the announcement?

P. Yeah.

R. Sounds good, I hope.

P. See if I—

R. See I heard it when you did it.

P. Won't hurt anything. I think it was the right move.

R. Yeah—right.

P. After our talk yesterday, I referred to—I was aiming at the Ervin Committee—managed to get that one over (unintelligible) terms we discussed. Figures though—I mean—Len Garment is pretty good. Talked to Petersen again today—he was down here at the White House. And (unintelligible) charged with "got to resign." Just figures you can't keep them. Walked out in the sun and frankly put them ahead of Mitchell. But I just don't think—you have any different views today?

R. No, I don't.

P. You think this is the right step to go?

R. I do.

P. It can occur—it's going to be—it's going to be bloody.

R. I think that.

P. Believe me.

R. That the top people in government deserve the same consideration as anybody else.

P. Damn right.

R. The idea that a top person in government is, you know—it isn't the question beyond reproach, you know. A person could be beyond reproach. Take me—I should have been fired many times because I've been so heavily criticized in the press, many of those were things I didn't do. You remember.

R. Well, as a matter of fact, it's a little bit the same attitude that Lucius Clay had about you and the fund.

P. Right.

R. That there's Mr. Eisenhower and you should get off. Well, that wasn't really what he said.

P. I think the people will probably—they will have a view that—the *New York Times* will have a view in an editorial tomorrow that the President should fire the whole White House staff.

R. Oh well, that isn't—

P. Anybody who did it. But I think the people—I don't know. Correct me if I am wrong. I think they like a man who stands up to them—not to condemn people before they're proven. I don't know.

R. Well, I think that—what did Petersen say on Ehrlichman? Does he have any other evidence except what's in that piece of paper because if he doesn't there wasn't anything in there.

P. Nope—nope. Well, it's hardly anything. Except that Pat Gray now recollects he did get the damn piece of paper and he destroyed it, because he was told it was political material, had nothing to do with Watergate. We'll take him on on this—this has destroyed him. There's no place in the FBI to (unintelligible) it—it's an unbelievable story.

R. Well, now Ehrlichman didn't tell him to destroy it?

P. Hell no. Gray went back—Dean did give it to him. It was in Ehrlichman's office. And, incidentally, I put it hard to Petersen. I'll tell you about that point. I even used your name. I said, "I talked to Bill Rogers about it yesterday and I had a very (unintelligible)." I said, "He looked over this and he said, 'You don't have much of a case on Ehrlichman.'" That problem—and he said—

R. That piece of paper didn't have anything on Ehrlichman.

P. They'll pound on that. They're trying like hell to just frighten people to death. They're going to send 'em to jail and so forth. Strachan—they're trying to break him. I don't understand. Hell, he can either be a witness or a defendant. So—well, the other thing—and I told Haldeman, I said, "Tell him to be a witness."

R. What's happened to Dean?

P. They made a deal with him. And that's why I put in that statement, I hope—that's the point.

P. I said, "Look, I talked to Rogers." I said, "We think we have a grave problem in giving immunity to the President's Counsel." He said, "But, suppose that it's Dean's testimony that we need to get Haldeman and Ehrlichman. Then should we give him immunity—shouldn't we give him immunity?" I said, "No—not unless you have corroboration."

R. Well, well, what you do, Mr. President, on things like that is you say to a fellow, "Well, you've got to—you violated the law. You've got to be indicted. We'll consider the help you've given us when it comes to the question of sentence." In other words, you—

P. Yeah.

R. Hold out the prospect to him.

P. But, how could you give John Dean, the President's Counsel, total immunity when he's involved? He admits involvement throughout.

R. Of course, if you gave him immunity—

P. But, I—

R. You—you get.

P. I said no. I said, by no means, I'd get the rack.

R. They'd say that you worked it out so Dean—

P. Well, they're going to. Then the other way—the way Dean's appeal is the U.S. Attorney's people. Well, Petersen said he agreed with that. He was trying to convince the U.S. Attorneys of that, but they are hot on trying to give him immunity and they're going to. And they want to (unintelligible) Haldeman and Ehrlichman. Frankly, that's it. And then they said—and that it's a cop out (unintelligible). Why do you think they should go? On what basis? Here's what we have in mind. I'll tell you what this statement was on. They're going to have Magruder in open court eventually. Haven't made the deal with him yet either, but they will. (Unintelligible) questions (unintelligible) they're going to put out this statement in which they will name other what they call non-indicted co-conspirators. I keep hearing about the names of people that he must charge. That's all (unintelligible). He said Sirica, otherwise, will ask him questions and he's going to testify publicly in open court about other people. I think that is a hell of a prejudicial thing to do—the rights of an individual—but I don't know how—have you ever heard of that? And I said—and then they said, "Haldeman and Ehrlichman will not be on that list if they take a leave—if you fire them." I said, "Are you telling me if I fire them, you won't prosecute them?" "Oh, no, no, but I mean won't be on that list." "But you—have you said if they're on that list they'll have to take 'em?" And then they said—I said, "Well, what are you saying?" He said, "Well, we just felt we were giving you an option, that you could move ahead of the herd basically by just letting them go." But on the other hand, Bill, I think—I think that whether they're on the list—if I let 'em go they're on the list anyway. It appears that I just—I heard they were going to be on the list and I fired them and they were on it. Then it looks as if we're not prosecuting. That's my problem. We're not prosecuting my two top people and I let them go. I don't think that makes sense at all or do you agree? Am I missing something here?

R. You don't seem to.

P. Well, tell me that. Well, wouldn't it look bad? Bad?

R. Oh, sure. From your standpoint. Yeah.

P. If I let Haldeman and Ehrlichman go and they didn't have them on the list, they will call them before the Grand Jury and then indict them if they get information.

R. Well you see, Mr. President, the only reason a judge questions a defendant when there's a plea of guilty—

P. Yeah.

R. Is to make sure that he's pleading voluntarily and that he knows the nature of his pleading.

P. Yeah. But right. Right. But Sirica has exceeded that hasn't he, Bill? That's the point.

R. Well.

P. He's asking now who else was involved. See that's what he's going to ask. "Was he involved?"

R. It seems to me that if he's doing that—

P. I think he'll act like he did over McCord.

R. Well, if he does that, that's a perversion of the Grand Jury process. The whole idea of the Grand Jury process is to protect people—

P. Yeah.

R. Until they are indicted. And once they are indicted, then they are presumed to be innocent until we go to trial. One of the reasons you have a Grand Jury proceeding is so you don't have innocent names and then (unintelligible) to the public.

P. Well, I'll tell you. Let me put it this way. (Unintelligible) Haldeman and Ehrlichman, on a thing like this—Ehrlichman—frankly, I think he's going to beat it. I don't think it's going to help him, if by letting him go, I know that he's gone to the prosecution. I told him—

R. You shouldn't—you shouldn't be faced with those problems.

P. I know I don't have any (unintelligible). Don't you agree with me that that was—you know I am concerned about my people. I know that Haldeman and Ehrlichman are not guilty of a damn thing. You know what I mean. It's only tangential on that, Bill—tangential. Sure they knew we were raising money for these damn defendants, but they were (unintelligible) in the campaign. I mean, I mean (unintelligible) Dean at the meeting, wasn't he?

R. Yeah.

P. Ehrlichman was handling the whole domestic thing and Haldeman was working with me at the time. They didn't work in the campaign. It was all over with Mitchell. Mitchell was—in this whole thing—and frankly, Dean was handling it for the White House. (unintelligible). Our people were aware that he was. We were aware about that.

R. How did you leave it with Petersen? I don't know whether—I think from now on you better let him go into the brawl. I don't know.

P. I have. I left it with Petersen. He's going to report to me and I said, "If you get any corroborating testimony. I'd like to know." I think that's better.

P. And if I get some corroborative testimony, I said, "I'd like to be warned and I can call in my people and say, 'Look, I found this out and I've got information and you—Therefore, you ought to consider whether you shouldn't resign.'" That's all I told him. Well, I'm not going to talk to him any more about that. After all, I'm the President of the country—and I'm going to get on with it and meet Italians and Germans and all these others. You know, really—

R. Oh, you do that. I think you, I think that—

P. I've been living with this for (unintelligible) that's all I've been doing for half the time now. And having all these (unintelligible) that I had trust in. What trust. I trust Ehrlichman. I had him working. I must say he completed the job. He got to the bottom of the thing. Had a meeting with Mitchell and questioned (unintelligible). This was before Magruder went to the (unintelligible). And he said, "There is a possible, possible situation of the act of—What do you call it?

R. (Unintelligible).

P. If the individuals knew that the purpose was to keep people from talking in court. In court, not openly. Apparently, it's—You might keep 'em from it—but he said, "Anyway, that's the problem." So, I don't know. I still don't know if it is a problem. I don't—see, I'm thinking of Haldeman and his kids, Ehrlichman and Dean and his. You know what I mean. I'm thinking of the possibility of their mocking a great career. Their service has been efficient—marvelously (unintelligible). It's been all over (unintelligible). I'll tell you, if they aren't convicted, Bill, they'll come out. You know what I mean. (Unintelligible) charge, and everybody's going to understand. This'll be in better perspective in a year, I think.

R. I think so. I think once that the—well, the first blush will be—

P. Terrible.

R. It'll be terrible.

P. Yes, sir.

R. No doubt about that.

P. Oh, yes!

R. And it will—it has so many little ramifications that you—

P. Yeah.

R. To this story.

P. Right–right.

R. But when it's all over—finished—

P. The Watergate mess.

R. When it's finished—

P. I'll be here, all along, Bill. The Jury indicts, moves. We're going to get on with this country. A lot of people in the country, we may find, they feel the President is doing the best he can in the damn thing. If I had wanted to cover-up—they probably think the President can cover-up. If I wanted to, I sure haven't done it very well, have I?

R. See, you only got what your—what the press will do to your own people. Press will persecute people.

P. They prosecuted Mitchell.

R. Did Dean at any time give you any indication of what he's going to do?

P. Make a deal. Both—make a deal with Dean. Make a deal. I would think that Dean would just say, "Look son, if you're indicted, I'm coming (unintelligible). Gee, fellows, what the hell is (unintelligible)" and any of the others. But he's going to try this whole Administration I would expect. And my view on that is let him try the whole Administration. Ron Ziegler has an interesting point. He said, "Dean had in February, had said, 'I, for nine months conducted this investigation.' Now he comes in and charges inaction." Dammit, why didn't he come in earlier, and tell me these things, Bill? Why didn't he do it? If he knew, I would think that—

R. It's one of those things that I just—(unintelligible) Mitchell.

P. Oh.

R. Well, these things happened.

P. And once it did happen, not cutting off right then—stepping forward and saying, "I (unintelligible) this. These kids shouldn't have done this and that's my (unintelligible) best judgment." Well, I think I know. They just thought that might hurt the election.

R. Same thing is true in Vesco. That case he's involved in.

P. Belongs to the courts. I'd rather have it there than in the Committee.

R. Oh, sure.

P. Wouldn't you? At least the court doesn't try—

R. Well, that's the way it's supposed to be. That's the system. The system is—

P. It sure shows the system works, though, doen't it? And I get amused. I had (unintelligible) in all Sunday, had 'em in Monday, I had him in here today. I fired out my statement, and I said—

R. What'd he say about your statement?

P. Petersen? Oh, he thought it was fine. I got to thank him for it.

R. Is he going to (unintelligible) accuse other people in open court?

P. That's just like Sirica (unintelligible).

R. Well, I can see, I can see—Sirica was, he was suspicious there was a cover-up.

P. That's right.

R. He was trying to, he was trying to put pressure on the ones who knew so he could—

P. Not only to confess about themselves, but about other ones. That point, of course, they'd say that Magruder has acknowledged, Magruder has confessed—but what about others? What about (unintelligible)?

R. What I mean is here you've got a willing witness. Before he was doing it to reluctant defendants. Here you got a willing, as I understand it, a willing one.

P. Who will testify?

R. Who will testify, has been working with the prosecutor and who's going to, will be called before the Grand Jury. Why the hell he's—that (unintelligible) open court. That's the—that's what the Grand Jury's for. Makes a nice little backdrop for your Italian dinner.

P. Oh, it'll be all right. They'll have a fine dinner and wine.

They just heard the story. "Thank God, the President's finally said something about Watergate." That, I think, is going to be the partial reaction.

R. I do too.

P. I don't know. I'm not taking any—

R. No. I don't either.

P. Comfort out of it, because for a period of time it's going to be painful. When Mitchell gets indicted, and when possibly Haldeman and Ehrlichman get—

R. (Unintelligible).

P. They're talking to them now. I've asked them both to come over here for a minute when they get (unintelligible). I feel frankly that we should. And a question that he makes now which is still open, you see, he still left it open. They, they'll leave if evidence (unintelligible) brought to my attention.

R. Yeah.

P. (unintelligible) Approach that I have my sources. Now, if he doesn't have enough to sink 'em, but he makes these, he's doing enough to sink them—where are you getting (unintelligible) on the other story? Whether or not Haldeman and Ehrlichman ought to wait until their names are publicly brought into this. Magruder shouldn't. He said he'd give me twelve hours' notice on that, but I—I think that probably it's going to (unintelligible).

R. I think John and Bob ought to resign, but talk to their lawyer first (unintelligible) but I don't think—

P. Your immediate reaction though is—

R. My reaction is I don't understand.

P. What should I do?

R. What the hell they're going to. What Magruder's going to do. I don't know. It seems to me if Dean has mentioned them that way that they ought to then take a leave of absence.

P. Yeah.

R. I don't see how—

P. But you would wait until their names were mentioned? That's the whole point.

R. Yeah. I don't see on what basis you need to do it. Now in the case of—

P. Well, on this basis now, let's say that the President had knowledge from the U.S. Attorney that charges had been made against them. Let me emphasize, I nailed him hard. I said, "now let's—" I said, "Rogers and I read this whole thing over. But it's uncorroborated." He says, "I agree."

P. But he wants me to sack 'em.

R. He can't corroborate it?

P. And I have a feeling for a guy that's supposed to uphold the rights of innocent before (unintelligible) are guilty or not. Well, let me say this. I've got to live with myself. I don't want to do it in that (unintelligible). That isn't fair. On the other hand, I'm trying to think of their standpoint. If they're going to get—if they could get some advantage, either—any advantage by not thereby being named in this statement and then, of course, not even being indicted, maybe that's something. But they're going—

R. (unintelligible) specifically almost have to point out—

P. They, they, on the other hand, they're going to be called. They'll be indicted and (unintelligible) Although, I guess appearing as non-indicted co-conspirators—what the hell do you say to that? I mean (unintelligible).

R. When you have a case that's serious and when you have people who are on the periphery and you want to name them in order to have them available as witness, you name them as a co-conspirator without indicting them. Well, the problem first—

P. These guys are available.

R. The problem first—that's just as bad as being indicted, especially when you know somebody was (unintelligible) lying. So you're named, but you can't clear your name.

P. That's right.

R. But in case you're indicted, then you have the opportunity to clear the record. Little trial, then acquittal, then you—this is as if it didn't happen. If you're named as a co-conspirator and forced to resign, then you're convicted without a trial.

R. In that case I'm no really—you got to protect them because I don't—I think probably in the final analysis they—I'm afraid Bob is probably in—

P. Going to be indicted?

R. Trouble. But—

P. I'm not sure he'll be indicted.

R. I'm not sure he'll be indicted but—

P. Well, staying too close to the money. He never can explain that. In terms of legal involvement though but he could never explain to the people and you (unintelligible) some of that damn money back there for *'em*. Testified by Mitchell, by, by Dean. Was it a (unintelligible) of the defense?

R. Why don't we do this? (unintelligible)—or, they're just talking to lawyers. You don't have a chance to assimilate it. But don't let them (unintelligible).

P. Well.

R. And you're going to have twelve hours.

P. Yeah—twelve. I would like for you to put your mind to the problem, if you would, because I really think we've got to start *helping 'em*. Help advise them. They're in the eye of the hurricane.

R. All right. It gives us a little time to see how your, how your statement plays.

P. Always had a (unintelligible) had (unintelligible) I really did think—

R. Oh.

P. But that he probably didn't know about—know what I mean? My feeling was that Mitchell—basically always thought Magruder knew the damn thing. Mitchell just wasn't tending the ship. That's what I understand.

R. I'm surprised about Dean. I thought—I thought. Well from the beginning, I thought Magruder lied and I thought Mitchell probably—he may well have given the go ahead and said, "Oh, yeah, to hell with this," and the damn thing was then approved.

P. Yeah. "Don't tell me about it."

R. "Go ahead. Don't tell me. Go ahead and do it. Well I'm surprised about Dean because I didn't think—Now Dean claims that he didn't have anything to do with having them go ahead. Understand that. After that Dean came in in terms of the obstruction of justice. There's where he's vulnerable. That's all. He's not vulnerable on the first part in my opinion. I think he—

R. From the same position if he's gotten two people he's trying to bargain with—Dean and Magruder—and he—did he say he got *written statements* from both of them?

P. I don't know—I think what they've done is just sat down and debriefed. That's what they call it. It's all (unintelligible) with an agreement certainly, though. Where Dean is concerned nothing they can do to shake him. On that one he stands firm.

R. I would think that the one fellow that had to know about this and should just take a leave of absence is Dean.

P. (unintelligible) what about this—who the hell wants to (unintelligible)? It looks like this might (unintelligible) of course, set him off.

R. We don't.

P. Worse than he is.

R. Well I think your point is true enough. He appears beyond the thing, although he—

P. He was the one.

R. Pretty hard. Pretty hard to say, "The *lawyers*—"

P. Well he was—he was not. Not in this matter, I can assure you. He handled the whole thing. He was depending upon—regarding the fact—when I started my investigation on the 21st of March. I saw Dean at least (unintelligible) times. At Camp David, he was to write the (expletive deleted) up so we could put out a statement. He said, "I really can't write a statement that you can put out." So I must say, I've done everything I can to get to the bottom, Bill, as you can see. I said, "John, you got to let it all hang out—now find out—you got to tell me what the hell the score is so we'll know how to deal with this. We're not going to be nibbled to death by a thousand hurts." That's exactly what we've done. So we've got just (unintelligible) The time when McCord, which I—I don't know what he's talking about. There are—at least, he's made a lot of allegations that he can't prove. But there's enough there that would put anybody on notice that without a doubt there's something wrong.

R. Yeah.

P. That's why I had to move and I have—at least I produced—good. I thought the statement should reveal that I have been working on the (expletive deleted) since the twenty-first of March.

R. (unintelligible) why don't we—why don't we try it again tomorrow night and then—

P. Right.

R. why don't you get—still in the—in the—in a real sense, it's up to the—it's up to John and Bob.

P. Yeah.

R. It's damn difficult for anybody else who doesn't know what the hell he's talking about. For example, I don't really know—you know—what the facts are.

P. Yeah.

R. I.—

P. I'm not sure that I know.

R. You don't either. So it's very difficult for others. Your judgment tends to be superficial. Although a sophisticated fellow John, after all, is a lawyer so he claims that he's (unintelligible). Thoughtful kind of a fellow, and if he isn't shaken now, this is a fellow that's not just a rambling idiot.

P. Yeah—he's taking (unintelligible). Had everybody over this morning. "Going to fight, discredit Dean—discredit the prosecutor." You know—"going to fight." That'll be one hell of a big fight but (unintelligible) the Administration (unintelligible).

R. (Unintelligible).

P. Dean's (unintelligible).

R. You don't expect the head of the FBI to pick up and burn the damn stuff. You can always put it in your safe and say it is unrelated to the investigation. But, burn it? Makes you look like a common crook.

P. We're working as hard as we can. The guy we're thinking of Bill (unintelligible) frankly (unintelligible) a Democrat, Irish, Catholic, bachelor, forty-two years of age. He's finishing the Ellsberg case and received plaudits for being just as fair as he can. Thank God there's a jurist of that kind. And based on (unintelligible) sense of (unintelligible). And I feel I think he'd get a hundred percent because he has the best investigative experience. A great man for the job (unintelligible).

P. He will get a hundred votes in the Senate. I think (unintelligible). Why did you burn it? Wouldn't you say, "There's no place in the FBI. We have nothing to do with politics. This is political material. Turned it over to us, showed it to us because they wanted to be sure they weren't suppressing anything and it did not involve the Watergate. (Unintelligible) thought the best thing to do was the FBI."

H. Do you want us or not?

P. Oh sure, come on in.

R. I was just saying to the President maybe we ought to wait until overnight. The two of you buzzed or just not feeling well—

E. We talked to your Mr. Wilson.

P. Was he lying down? Wilson? An oldtimer?

H. Nothing like—contrary to your feeling that we wouldn't want to work with him, I think we'll find him very good and tough.

E. He's very knowledgeable.

H. Nothing like—contrary to your feeling that we wouldn't want to work with him, I think we'll find him very good and tough.

E. He's very knowledgeable.

H. Sharp as hell. Technically, he's too old, but mentally he's very bright.

P. Just let me say, I'm so glad that you have him, somebody, to talk to. I definitely—

R. My only reservation would be—(inintelligible).

H. Well, that's a problem. If we go to trial, he's got a heart problem and all that so you can't—

P. You don't need a trial lawyer—

H. We need brains right now.

P. What you need is brains, judgment.

H. He's got that.

E. Well, he knows the cast of characters. He knows Petersen. He knows Glanzer. He knows all those people and he despises them.

R. All the people we don't like.

H. Maybe he started out that way before we said anything.

R. Well, I'm glad because I was worried about his condition.

P. Bill brought—incidentally, I asked him about it again, how he liked the Garment approach. And he said, "No problem." We should go with him. I told him this is the only question you see, I don't have anybody to talk to. I never talk to Petersen any more. That's done, except—except for all the information I want. You know what I mean.

E. Wilson said to us, "Beware of Petersen. He talks." He said, he cited a case that he had that Petersen was involved in—

H. And he said that one problem in dealing with him was that every point he makes is accompanied by a story, and that latter is so.

P. He probably foxed him. Well, then maybe all I'll do with Petersen—he said that he'd give me 12 hours notice with regard to the Magruder thing and I think I want that.

H. Yeah.

P. Bill doesn't know how the hell that procedure works—

E. Let me tell you what that procedure is. Wilson explained that to us too. He said that where a man goes in on an information and pleads guilty in this District, it is customary for the judge to interrogate if he wishes to. And also for there to be filed a statement of the case—ah—in the nature of information. Now the information which they will file instead of indictment names the co-conspirators in the conspiracy charge who are not indicted.

E. That does not mean that you won't be indicted later. It means for the purpose of that information which is then filed, you are not indicted. And so this is a list of people who in a description of a conspiracy pattern are co-conspirators. His analysis of the pros and cons of this are that for the prosecutor to come forward and say, "If you will suspend these birds, I will name them in the list of co-conspirators," gets the prosecutor off a difficult political hook because when the judge asks, "Were there any other co-conspirators and so on?" He says, "Well, they have already been suspended—ah, and may be indicted." We reserve the right to indict them but we are going to have them before the Grand Jury.

R. So, are they going to help a bit?

E. Well, it doesn't help us. It helps the prosecutor with his problem. On the other hand, he says, there is a certain negative in it. From a political standpoint for the Administration in that the question will arise, "Well, why weren't their names on there if they're co-conspirators?"

P. Right.

E. Somebody's covered up.

R. Yes.

H. That's worse than putting them on the list.

E. Yeah, and so, he said—

R. I don't know, John. And let me go back for just a moment on this procedure. The information is filed by the prosecutor himself, without a Grand Jury action?

H. Yeah.

R. If the prosecutor names, for all practical purposes, the fact—

P. In the public mind—

R. Particularly that you are going to leave public service—

E. That's what Wilson said.

H. That's what Wilson said.

P. If they are indicted.

R. Well. You've been indicted.

P. That's right. Let's face it.

R. The indictment, Bob, is a charge—

P. It doesn't convict anybody.

R. What the Constitution provides is that before charged, a group of citizens to view the evidence—

E. In secret—

R. In secret, to see if there is sufficient evidence to make a public charge against them. That's the protection that everybody has. If there is an exception and I guess there is in this case, the lesser crime would result. But in this case the gravity is such that it is all baloney. That's all right if somebody is accused of stealing an automobile from the sidewalk or something. You know, people in government positions are entitled to the protection of the Grand Jury because if they want to make a public charge against an individual then present it to the Grand Jury. That's what you have. But here you have a perversion of the system.

E. Sure.

R. Being compelled to leave the government "Hell, as far as the public is concerned, you are already indicted.

E. Really, the job—they have this capacity by using that process. They could ruin you and never give you a day in court.

R. Of course.

E. They could list you as a co-conspirator, don't call you to the Grand Jury, don't take an indictment against you—

H. Force the President to suspend you and—

E. You are cooked forever. You are a conspirator in the Watergate case.

R. As far as the public is concerned, you are indicted even if they don't call it that.

E. That's right.

R. That's what it is nowadays. The President has been forced to have you leave.

E. It's non-actionable. It's privileged. You can't sue for slander.

H. We do have a public record in that regard in that we have a public position that commands substantial attention.

R. See, Bob, the protection of the Grand Jury gives a citizen is that first the charge is heard in public.

H. That's right. To turn this around.

R. Then the charge—then everybody shuts up. The evidence is not disclosed. Nobody says a word and the Judge cautions everybody to take the oath not to repeat the evidence and then you go to trial. And everything is then controlled by the rules of evidence. Then the Jury makes a decision based on that evidence. That's the system. Now if you do it the other way, you don't get the trial. You both would be indicted and convicted by the public beforehand.

E. That's a tough political call—that we were framed up there. In this conversation, we don't need to decide here beyond mentioning it, but its something that will have to be decided. Our relationship to Dean—probably was client to attorney. Because we were already noted and present in all these transactions. What I said to Dean and what Dean said to me is private conversation with no third party present. It could be a question of privilege. The question is, if requested by the prosecutor, to waive the privilege. It is that Dean conversation where he says he came and told me that Liddy had confessed.

P. But he did it in California, didn't he?

E. Well, the only reason to tell me was not for me as me but because I was one of two conduits that he had to the Boss. He didn't have, I mean, the organizational set-up was that way.

H. The President's log is very interesting. I don't know if you've gotten through all of this, but from the time of the Watergate break-in until the end of August when he signed your votes in the office, you never saw John Dean.

P. That's of course—

H. During July and August the President had no communication with Dean at all.

E. Now, he gave a lot of legal advice about this case. A lot of traffic and all that, but there's also developed a poor relationship and sooner or later the President is going to have to decide whether he wants to consider privilege—if Dean becomes—

P. My privilege? Lawyer-client privilege?

E. Yes. In Dean's communications to me and my communications to him. And the same with Bob. I think. That's a tough problem. You probably won't want to reserve it.

P. I'll take a look. In fact I don't mean this politically. What do you think about that?

R. It is really ticklish.

E. Probably the first time it's come up in this generation. Mr. Wilson would like to do a lot of erudite thinking about that for a while.

P. Great old man.

E. He was at the White House once before.

P. I remember. It's almost a year now.

E. Dixon-Yates thing.

H. He was offered the Budget thing. He refused.

E. Canal is open.

H. He stayed at the White House for several months.

R. My only thought on (unintelligible) maybe he is looking out to not hurt himself at all.

P. Like what?

R. Well, what it really means is—it is hard to understand he was Counsel to you as well as to the President.

E. I appreciate what you are saying and that is important, and I understand.

R. How did he contact the President?

H. Dean? He dealt with one of us.

E. In our capacity to make decisions. He was really an advisor in that situation. Not a (unintelligible) and sometimes he followed and sometimes he didn't.

P. That's common. Everyone wants to carve his place.

H. Yeah.

R. Problem is, what do other people say about him?

E. He's a jerk. Sure, that's right.

P. And I deferred to him in his damned investigation. Remember you said, "I think you ought to talk to John Dean." Remember. And I called him in there. And, —, I listened ad infinitum and carted him off to Camp David.

H. (unintelligible) I deferred to him on most occasions.

R. Well, why don't we think it over?

P. Well, let's start with one thing. I don't see anything to be gained by the procedure of Haldeman and Ehrlichman. You see, here's the problem. Kleindienst, Bill, on Sunday—they both came in and said, "Because of Haldeman and Ehrlichman—just the fact that both of these clowns had implicated them and they ought to resign. They haven't served you well, Mr. President," and all that sort of thing.

R. I think that's——

P. They said, "Make them resign, resign, resign." I said, "Well, Damn it, I can't do it on un-corroborated testimony." The point is—I think—a moment of truth for them when they come in—and say they've got corroborative testimony. Do I have to examine the damned testimony? I say, "Look, fellows, I think under these circumstances, you had better voluntarily—" say—See what I mean? That's what, my concern—Bill has made the point that a person in public office should have no more and no less rights than a person out of public office. That's my theory. Right, Bill?

H. Well, there is a good counter argument which is that a person in public office has a higher obligation than a person not in public office. This is one of their points.

R. I think though, that is for the individual to decide. That in effect has to be done. It hasn't been done.

E. I think that if we turned up in this crazy information—junk—even though we are not charged with a crime, in the ultimate sense—I could write you a letter and say that due to these charges, that obviously I don't want to impair your situation and I am going to take a leave.

P. You could say I have asked you to put me on leave until the charges are cleared up.

E. Sure, and I think that is the direction from which it ought to come.

P. I personally think that is really the course of action we should take and let them put it out if they want to that way. And if they do and if you are named you can immediately say, "I am confident that these charges will not stand up and that I, that I, and so forth"—and, "My usefulness, of course, will be seriously impaired and I therefore request a leave until the matter is cleared up." I think that's, I think we can all agree on that without an indictment. I might put a P.S. on there and say, "I am shocked with the procedure followed and when I am reinstated I am going to see to it that the Justice Department changes its procedure."

R. If the prosecutor came to the President and advanced sufficient evidence for you to ask them to resign, and he looks at that evidence and says, "I agree." That's your decision. But in this kind of a case, normally, that kind of a judgment wouldn't mean indictment—that's all we have (unintelligible) but under these circumstances (unintelligible) in effect, Dean would be doing a greater disservice to you than a bona fide Grand Jury indictment.

P. That's right, he would.

R. He's working for and already decided before the Attorney General could come on the case.

P. I think that, I think that before you have your day in Court. That really means something to me.

R. Well, if you were to consult aside from the Attorney General, that's a different matter. I don't—the thing I think—based on what Petersen gave to the President, which I looked at, I don't think there's sufficient there. There may be something I don't know about.

E. Well, I put those to Wilson and he said, "Well, I'll have to—take it with my bed crumbs tonight." You know, his reaction was . . .

P. What are we going to do to—go ahead . . .

R. The STAR Newspaper said that you had meetings in June or something.

P. Say it again. That's what Dean's saying.

E. And even then, after that.

P. That cannot be proper, Bill.

R. But even supposing you had said that. Suppose you said that. Then there was, then it isn't what you say, it's what you did.

P. Yeah.

R. So, what did they do? They turned all. Everything in the safe over to the FBI. They turned over the materials dealing with the Watergate to the agents that were investigating it, they turned over other material not related to Watergate and was not under investigation to the head of the FBI. Now how in hell can you say, "That is obstruction of justice to turn over all the evidence to the FBI?"

P. Except that, when Pat Gray burned it, it makes it look like it—

E. His wild geese—"Deep Six."

R. Pat Gray says, Pat Gray was told to do that. He said—

P. He was *not* told to do that.

E. On the other business, which is very suspicious, and that . . . the business of "should he leave the country," I've checked with everybody in that meeting and they don't remember anything like that. It turns out Dean called Liddy and told him to have Hunt leave the country. Colson recalls Dean mentioning this to him, not in my office, and Colson saying to Dean, "You stupid bastard. What a terrible mistake." Then it was countermanded so—

H. And he didn't leave the country.

E. And he didn't leave the country, so I suspect that Dean may have acted unilaterally on that.

P. Here again—

H. Colson brought him up short.

P. Here he is trying to pass this up to Ehrlichman, too.

E. Well, he has to have an explanation for why he did it.

P. And how is that going to come out from the others if they said, "He was told to leave the country"? Or has Hunt already said it?

E. Well, yeah. There is no question that he got orders from Liddy who said that, "my principals say—" And he said, "Who are your principals?" and he said, "John Dean."

P. John Dean said, "Oh no, it's Ehrlichman"?

E. Yeah. Get into one of these "he said", "I said" sort of thing, it's going to be miserable. But the probabilities against the surrounding circumstances at least as of now look good.

E. Now I have no illusions about this process, when you give it the test of credibility. Everybody gets used up. There is nothing left so you just have to expect that that's the end of the ball game.

P. Well, it is for this time, but now and then you have one fight and win the battle. The three, the three-fifty thing is the toughest thing, Bob, about this whole thing. Mainly, to me there's no question about it, just basically that they had knowledge that it was going to those defendants and so forth. They wanted it for that purpose. And the question is what you thought it was. And then again they'll say that they don't believe you. It'll get down to that.

R. Dash, etc.

P. There again, though, course they have a route to this. LaRue. He broke down and cried, I guess.

E. That's a-right. Are you going to have spaghetti tonight?

R. Spaghetti and sing Toscanini.

P. Well, Bill. You go ahead. I'll—let them go home. it's possible we may ask your advice tomorrow with all—

R. I have reason to feel good that you got John Wilson.

H. We sure appreciate your help.

R. Yeah.

E. He was enormously gratified to hear that you had recommended him.

H. We told him you had suggested him and it was the only name you could suggest and he said that, "Bill, and I have been on the same side and on opposite sides. He wouldn't speak to me on one matter."

E. It was on the Swiss deal—

H. Something he wouldn't speak to me—never (unintelligible) worked over here three days a week and never saw President Eisenhower. Never got an autographed picture and so we said, "Maybe in this case that could be arranged."

P. Provided he had nothing to do with Watergate!

E. He's very clean by the looks of it.

P. Well, so are you. Damn it!

R. OK. Good bye, Mr. President.

P. I'm glad he feels good about having him come over here.

H. Yeah. Well, I don't know about that. I don't know anything about lawyers. I never had one before so. For exactly reasons B thought we wouldn't like it—he's an old man and we won't like working—I do like him.

P. How old is he? Seventy?

H. Seventy-two. Well, he's well-preserved. He has some difficulties. But I'll tell you the guy has got—his mind isn't slow at all. He is right with us and then some. He's got an abundance of stories.

P. Sure.

H. Well, I feel pretty good about him.

P. Well, it's good to have him. Very good. It's a fight.

H. I need—a—he is so devoted to other things. He's just devoted to the cause.

H. He said, "It's a great honor to meet you men."

P. What is his reaction to the whole damned thing? Comic tragedy? Tragedy of errors?

H. He didn't characterize it. He didn't, ah——

P. Hello. Have you been busy? Yes. How did it go? I've heard that. Yeah. Yeah. Yeah, for later. That's right. Either way. That's right. Sure. Well, get a question about whether I talked to Mitchell. Huh? Yeah, Mitchell. But there was a time set. From this period on. From the 21st on, did you talk to Mitchell? Very good. (unintelligible) Very good. How are you? Good luck. (unintelligible) Well. I just feel that, I just went through that, now they may have told you that the basic heart of the matter——

E. Well, I tell you. I think you've put him in a box on that. They are going to have to have some damn good reason for that Sirica thing.

P. Dean's credibility is totally destroyed you know.

H. Dean (inaudible)

P. Sure, Dean was in charge of the investigation. Did they ask him that? Yes. I put it up to Ron and I made this point to Ron. "You know Dean somehow has sold out the White House, the Administration, etc."

H. That's a good statement. It is a good idea. It puts you exactly in the position that you should be in now.

P. We'll get kicked by the press on it.

H. For giving in on Ervin, etc.

P. Giving in on Ervin. Oh Ervin's great—Hell, that doesn't bother me a bit. I was always ready to give in on Ervin and I said, "This is very satisfactory now. We have now accomplished our purpose. This is a good deal. I said, "It not only applies to this case but it can apply to other things." I ad libbed that when I said it. I worked it in.

H. It was a very good answer.

P. No, I shouldn't pick on the press but, "why did the President act so late on this case? Why didn't he act earlier on this matter? He had the charges floating around." The answer is that they are charges that were just floating. I mean, I think *really*, that's true, newspaper charges and so forth.

E. They were all relying on Dean, frankly.

H. Well speed was not of the essence in this case. It wasn't a matter of where by moving quicky we would stop something. It was done. It was a matter now of doing it properly. Not quickly.

P. That's right, Bob. That's the point of the whole Garment thing. There is this tendency John, to talk, and basically I thought he was a (unintelligible) but he was totally non-plussed by that.

H. He said, "Where's the Attorney General?" He's taken himself out of it. Wilson said, "Where's the Deputy Attorney General?" He's not involved in it. Where's the Chief District Attorney? Where's Titus? Who should be on top of this? Why did Silbert call me instead of Titus? Silbert—he's an old boy from the Justice Department and they band together." He said, "Did John Dean ever work for the Justice Department?" He also said, "I bet you those lawyers that Dean has—and Magruder has—both were old Justice Department types." He says that Glanzer is a very bad operator. He knows him well. He doesn't know Silbert but he knows Glanzer very well. Says he's a bad guy. (Unintelligible.)

P. Well, don't you both agree though, John and Bob?

H. He did it. But I've heard he was the L.A. Times leak this morning.

P. I knew about the leak. It was going to come yesterday.

H. No, I don't think it was intended as that. And I don't—not because it triggered us, but because it set the stage.

H. It let out ahead of time that the White House was going to move on something. And then you did.

P. Well, did that story say the White House was going to move? Oh, oh, oh. Heads are going to roll. That probably came directly from Dean. I think Dean did that.

H. "White House likely to admit some Watergate responsibility—will have a dramatic admission of whether one or more high level officials bear responsibility." It doesn't say White House officials. Your action now saying something substantial will develop, and then when the Mitchell bomb breaks, that's all going to fit together rather, rather—

P. Yeah. Yeah (unintelligible) about that—Tell us about that ransacking and (unintelligible). It's been about two years ago. It's about not letting (unintelligible).

H. He said it was 22,000. Was the difference in money material? Can a case be made out of that? Did he keep the money or was there something about that?

P. He called the same day, too, didn't he?

H. No, he called the next day. He called within twenty-four hours. That was the next day. Testified on Thursday and called on Friday.

E. They are using every lever they can lay their hands on—these guys that say that.

H. I saw on ABC news tonight, which also fits into all this. It was in the last three weeks in the White House, Haldeman has been coming down very hard on everybody: "If you have anything to say to say it now. This was the message that was given to Mitchell Saturday at the White House. Haldeman evinced no protection and no apologies. Anyone and everything will be disclosed." It should have been Ehrlichman instead of Haldeman, or get out White House for cracking down hard on the Watergate. It's not bad. It's a damned good position to be in. And when Ziegler talked to him he said, "I can't give you anything official on that but off the record you are not going off base."

P. Was Bill Gill on that one?

H. Not tonight. Gill called and asked for confirmation and said he was going with the story and he wanted Ziegler's comment. Ziegler said, "I can't give you any comment."

P. The story probably isn't even out.

H. Well, that's what I said to Ron, "Hold the statement until tomorrow," and looked up my story (unintelligible) was on. No. It will be on. It's on. There's another item.

P. The right day too. We had to get it out. (Unintelligible.)

H. That's right. That's right. The POST won't put it in tomorrow. If the POST had something to go with tomorrow, I would say they wouldn't go. They'll hold up now and watch for something. They are playing the long game.

P. I get your point, John. On the (unintelligible), I think we, I think we have sped the process up. This kind of stuff, this kind of stuff here would have had stories for three of four months.

H. That's right.

P. That Ervin. Right. We get into the Grand Jury and then they get an indictment.

H. Well, there's no question that it's the best way compared to the Ervin process. It is essential to go this way.

P. That's right. If it weren't for the fact (unintelligible) possibility of (unintelligible). I (unintelligible) my theory to take this thing to the Grand Jury.

E. Yep.

H. We have to face the possibility of indictments and those would have to come anyway. They wouldn't have let you get away with it.

P. Well, I think what would happen for instance with Ervin's problem. They would be saying, "We refer this to the Grand Jury."

H. They would have murdered us. Something would be out every minute. Demanding that you fire everybody. Demanding that you do this and that.

E. Well, as a matter of fact, you might have turned the set up some day and watched your White House Counsel crap—for the glorious television. It would be at least surprising.

H. That's right.

P. Oh, it's done up there?

H. Sure, he pulls it up there.

P. Let's face it, up to this thing, Dean handled a lot of stuff well.

H. That's right. Yes.

E. I would hate to have you appear in the position of not, (unintelligible) sort of conditionally holding the job open much beyond the time that Dean is—

P. I'll say this. I think that one thing for sure John is—I think that I've got to play, I want to play, I know the Dean thing very well. We have played it fairly well. I think what we ought to do—make our deal or not with Dean within a week. I don't see how Dean can possibly miss being involved in whatever they put out on Magruder. He can't miss being—and the way this guy talks, I think all of you, all of you, everybody may get it.

He may get it. He's had (unintelligible) go around and talk with the U.S. Attorney types. I think we may have Wilson go over on the Hill (unintelligible) and say, "OK, you are about to ruin these guys. I just want you to know that they are going to have to go out and protect themselves." You are going to be in a knotty problem. (Unintelligible) I mean. He has quite a close relationship with Titus. He's not going to get much of a total on this. This statement, and he's going to make it, anything he can to press for, not immunity, but functional immunity, so-called where he doesn't need to make a side deal with the boys and they can grant immunity. And that would be my hunch.

P. Alright, we shall go over—Come in.

H. Hello, Mr. President.

P. Same old thing, huh?

E. I would force him to go to Sirica—

P. Put that in the library.

E. Showing the Judge what kind of a witness this is. Come on, get the Hill off the hook of the Executive Branch by having the Judge grant the immunity.

P. The Judge can attack that statement.

E. You are putting yourself with the angels on that.

P. I am just saying that immunity is not granted to any major—

E. I think that will be read as relating to Mitchell and three or four of that ilk as well.

P. Oh, sure.

H. They may decide not to do this.

P. That's the point.

H. Dean will be (unintelligible) or it could be done quickly.

P. But I have told the big five, I told the Assistant Attorney General, specifically, that nobody should be granted immunity in any case. Rogers agrees with this and—(unintelligible).

H. The other point that our attorney makes, which is significant: "That's right, the Judge can grant immunity, but that in the Executive, only the Attorney General can grant it." That holds somewhere else too.

P. Dean is the only one who can sink Haldeman or Ehrlichman.

H. How am I going to explain that, after putting out a statement?

E. What do you say, "Dean is some little clerk?" He's my Counsel.

P. That's right, he's involved in the Gray thing. They are not going to throw the whole thing in there. I am thinking whether to see Dean again unless its useful—I don't think you can control him, he's fanatic. If you feel it would be useful, let me know.

E. I will tell you what is lurking in the back of my mind is that, based on the chain of circumstances, Dean may be provoked to make a public statement which is slanderous and hostile.

P. Another thing. I would like the libel suits. I think both of you, and Bob particularly, you ought to get yourself a libel lawyer, Bob, and check the or have Wilson check and use the most vicious libel lawyer there is. I'd sue every (expletive deleted) (unintelligible). There have been stories over this period of time. That will make—that also helps with public opinion. Sue right down the line. It doesn't make any difference now about the taking depositions and the rest, does it? The important thing is the story's big and I think you ought to go out and sue people for libel.

H. Do you mean Senator Weicker?

P. He's covered.

E. Oh, he's not, not when he was on Issues and Answers.

H. (unintelligible) or using newspaper interviews.

E. That's right.

H. It was not on the Floor, he's too buzzy, stupid.

P. The point is the thing with Weicker (unintelligible) is whether he said—how did he say that? Was it libelous?

H. I think so. I better ask a lawyer.

P. Was he that specific?

H. He was damned specific.

P. That Haldeman knew?

H. Yes. "That Haldeman directed and Haldeman was in personal command of all personnel." I repeat, "all personnel at the Reelection Committee."

P. Good, sue him.

E. I think you should.

H. He said that I was in personal command of Liddy and Hunt.

P. I would sue.

H. And McCord (unintelligible) I have never met or heard of him.

P. John, this libel thing. You may as well get at the libel thing and have yourself a little fun.

E. Might make expenses.

H. Operating procedure-wise we've got to, or my recommendation would be that we should maintain a facade of normal operations as long as you have taken this position. I don't think we want to look like something is radically changed.

P. Nope.

H. Then I think we should come into the office at the normal time in the morning—and a—

P. Right. And have your staff meeting, plus you will be at the meeting tomorrow with the energy conference and you should be at the Quadriad meeting. You are right.

H. Go and go as we go along.

P. Unless and until something happens. Now the only exception here is Dean.

H. Dean should not, but nobody would know whether he does his normal job or not. But see that nobody gives a damn, he is not visible.

P. Well, the thing that—

H. And he has been out of here for a month anyway.

E. Any objection to going to Florida this weekend, if you go?

P. Would you like to go down?

E. Yes.

H. I don't expect to get much sunshine but—

E. It might help.

H. I think we should unless our lawyer keeps us here and he could.

P. Yeah.

H. We normally would and I think we should.

P. Oh, I think you should Bob. Right. now understand that if they crack this—

H. Oh well, then that would be a problem.

E. One concession that I would ask and that is that people on leave be considered for use of Camp David occasionally.

P. Let me say, what I had in mind. I want you to go forward and if this thing comes out which I can't believe, I want you to go forward at all costs to beat the damned rap. They'll have one hell of a time proving it. Yours is a little tougher I think Bob, and it shouldn't be—the 300. That's why I hope you could raise with the Judge and your attorney—that at least gave you the law on that point.

H. Yes, sir. On that point, yeah. We haven't gotten into (unintelligible) of the law at all on obstruction of justice.

E. He's briefing that tonight for us.

H. He says it's damn tough, loose.

E. He cites Glanzer as the leading authority on it. He uses it like a bludgeon.

P. Only if it's a (unintelligible).

E. Oh, he hasn't given us that yet.

H. He didn't give us the opinion. He just said, "I'll tell you on the top that it's very tough. It's Luke's law and cases go all ways."

P. I hope he has an opinion sometime on the case involving Dean to the effect (unintelligible) establishing—

H. Why the hell we didn't see then—

P. Remember I was a little suspicious of Chuck. I was not, after all, I said, "Damn it, what's he talking to these people for?" And remember the way I put it is, "He was saying, 'gee, I have talked to these guys and they're mind-picking.' "

H. Well, they're not in error.

P. And I said, "I think they are taken." Remember? I said that.

H. Yeah, sure did.

P. Well, I don't—I think he was being taken by the Senator.

E. Well, I think he figured rape was inevitable so he was going to enjoy it.

P. Bob, remember, I said, "I think they are taking Dean."

H. Sure do.

E. Well, as I said before. We beat the rap but we're damaged goods.

P. Right, you can't go back in the government, but I will tell you one thing, you are not damaged goods as far as I am concerned. It's one hell of a thing. The point is that let's wait and see what happens before we see where we are.

H. Sure.

P. We ought to expect the worst but I think that what I would like both of you to consider 50% of your time also for editing etc., and so on, with the Foundation. The Foundation is going to be a hell of a big thing, it's bound to be. These first four years are terribly important and so forth. I mean after all, you understand, that looking down the road, looking down the road, as far as—you say your Dad was good at looking down the road?

H. Yep.

P. If you are indicted and tried and found innocent, it washes away.

H. Well—

P. Agree? For government service, I mean.

E. Or for the practice of law.

P. I don't think so. Really?

E. Well, I think so. I think so. Jeanne is furious about it.

H. That isn't true John.

E. It depends on the circumstances. There is nothing I can be discouraged about at this point. But I think we've just about had it. I think the odds are against it.

H. You can always handle traffic cases—

E. Well I am not too pleased with the traffic cases.

P. The hell with the traffic cases. Well, anyway—

H. Well there's all kinds of things we could do.

P. Well I have a Foundation. I just think it is fair, I don't know whether I can find anybody to do it. I don't know whether you would even do it. Incidentally, it is terribly important that poor Kalmbach get through this thing.

H. I think he is alright.

P. How could he learn? Did you talk to him there? Did Dean call him about the money?

H. Yes, Sir.

P. Does he say what said?

E. Dean told me that he told him what it was for. I don't believe him. Herb said that he just followed instructions, that he just went ahead and did it and sent the money back and—

P. They said they need it for?

E. I don't even know if they told him what for. It was an emergency and they needed this money and I don't know whether he can get away with that or if it's more specific than that.

P. You can corroborate then Herb on that one.

E. I can if Dean is the accuser. I can.

P. If Dean is the accuser, you can say that he told you on such and such a date that he did not tell Herb Kalmbach what the money was for.

E. That he has told me—that he has told me—

P. That's right—that's right.

H. If we have to get out of here, I think the Foundation funding—is one thing—but there is a lot of intrigue too—I hope to get funding for the ability to clear my name and spend the rest of my life destroying what some people like Dean and Magruder have done to the President.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 5 minutes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PRESENTATION OF A PETITION

By Mr. PASTORE (for himself and Mr. Pell):

A resolution of the General Assembly of the State of Rhode Island and Providence Plantations. Referred to the Committee on Government Operations:

"Resolution

"Resolution memorializing Congress to institute a national inventory by appropriate Federal agencies to ascertain stocks of raw materials and commodities and to establish a clearing house for such information

"Whereas, the energy crisis we are currently experiencing seems to be having far reaching effects on the entire price structure in this country—whether real or imagined; and

"Whereas, Our citizens have almost hypnotically been conditioned to accept continually rising prices in all areas of our economy simply because the industry involved cries "shortage" of some ingredient used in the manufacture of its product; and

"Whereas, The time has come for the Federal Government to determine just what is in short supply and to what extent it should be allowed to affect the overburdened American consumer; and

"Whereas, The possibility of a "national inventory" conducted by appropriate departments of the Federal Government to ascertain the stocks of raw materials and commodities on hand now and in the future is essential; now, therefore, be it

"Resolved, That the members of congress of the United States be and they are hereby respectfully requested to institute a national inventory by appropriate Federal agencies to ascertain stocks of raw materials and commodities and to establish a clearing house for such information; and be it further

"Resolved, That the secretary of state be and he hereby is authorized and directed to transmit a duly certified copy of this resolution to the senators and representatives from Rhode Island in the congress of the United States."

REQUEST FOR PERMISSION TO FILE REPORT ON H.R. 11864

Mr. CRANSTON. Mr. President, I ask unanimous consent, and this has been cleared on all sides of the aisle, to file a report on H.R. 11864, the "Solar Heating and Cooling Demonstration Act of 1974", for the Committee on Banking, Housing and Urban Affairs and the Committee on Labor and Public Welfare, and that the Committee on Commerce and the Committee on Interior and Insular Affairs, which have expressed no objection, be considered as having been discharged from further consideration of this legislation.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Reserving the right to object, I do object.

Mr. CRANSTON subsequently said: Mr. President, I ask unanimous consent, and this has been cleared with the Senator from Michigan (Mr. Griffin), who objected earlier, to file the report on H.R. 11864 for the Committee on Banking, Housing and Urban Affairs, and the Committee on Labor and Public Welfare, and that the Committee on Commerce and the Committee on Interior and Insular Affairs, having expressed no objection, be considered as having been discharged from further consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CRANSTON, from the Committee on Banking, Housing and Urban Affairs, and the Committee on Labor and Public Welfare, with amendments:

H.R. 11864. An act to provide for the early commercial demonstration of the technology of solar heating by the National Aeronautics and Space Administration and the Department of Housing and Urban Development, in cooperation with the National Bureau of Standards, the National Science Foundation, the General Services Administration, and other Federal agencies, and for the early development and commercial demonstration of technology for combined solar heating and cooling (Rept. No. 93–847).

(The Committees on Commerce and Interior and Insular Affairs were discharged from further consideration of the bill.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. COOK:

S. 3488. A bill for the relief of William T. Owens. Referred to the Committee on Finance.

By Mr. HANSEN:

S. 3489. A bill to authorize exchange of lands adjacent to the Teton National Forest in Wyoming, and for other purposes. Referred to the Committee on Agriculture and Forestry.

By Mr. McCLURE:

S. 3490. A bill providing that funds apportioned for forest highways under section 202(a), title 23, United States Code, remain available until expended; and

S. 3491 A bill to declare Lake Coeur d'Alene, Lake Chatcolet, Hidden Lake, Round Lake and the lower reaches of the St. Joe River, in the State of Idaho, to be nonnavigable waters. Referred to the Committee on Public Works.

By Mr. BROCK:

S. 3492. A bill to prohibit discrimination on the basis of sex or marital status in the granting of credit. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. HATHAWAY (for himself and Mr. Chiles):

S. 3493. A bill to authorize the establishment of the Atlantic Wetlands Research Center. Referred to the Committee on Commerce.

By Mr. HARTKE:

S. 3494. A bill to amend the Internal Revenue Code of 1954 with respect to foreign tax credits, tax deferral, personal exemptions, and social security payroll taxes, and for other purposes. Referred to the Committee on Finance.

By Mr. CRANSTON (for himself and Mr. Stafford):

S. 3495. A bill to amend chapter 79 of title 10, United States Code, to make more feasible the personal appearance of a petitioner before a board authorized to correct discharges and dismissals from the Armed Forces by establishing regional boards of review, and to amend chapter 49 of such title to prohibit the inclusion of certain information on discharge certificates, and for other purposes. Referred to the Committee on Armed Services.

By Mr. BELLMON:

S. 3496. A bill to amend title 38 of the United States Code to provide for cost-of-living increases in educational benefits. Referred to the Committee on Veterans' Affairs.

By Mr. YOUNG:

S. 3497. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for higher education expenses. Referred to the Committee on Finance.

By Mr. DOMENICI (for himself, Mr. EASTLAND, Mr. BAKER, Mr. COOK, and Mr. BURDICK):

S. 3498. A bill to amend section 5 of the Food Stamp Act of 1964 to broaden the authority of the Secretary of Agriculture with regard to providing emergency food assistance to victims of disasters. Referred to the Committee on Agriculture and Forestry.

By Mr. TAFT:

S. 3499. A bill to provide for continued monitoring of the economy to provide authority to enforce decontrol commitments, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HANSEN:

S. 3489. A bill to authorize exchange of lands adjacent to the Teton National Forest in Wyoming, and for other purposes. Referred to the Committee on Agriculture and Forestry.

Mr. HANSEN. Mr. President, I am introducing legislation today which would facilitate an exchange of land between the town of Jackson and the Forest Service.

The purpose of this exchange is to provide for the expansion of the town cemetery. There is little space remaining in the cemetery and there is no more private land available in the vicinity. Teton County is unique in that approximately 97 percent of the land is in Federal ownership.

The town of Jackson owns approximately 25 acres of land on the lower slopes of the Snow King Ski area which the Forest Service would favorably consider in exchange for its land which borders the cemetery. This land is bordered on the south and on the west by national forest. However, it is outside the present boundary of the Forest Service.

Under the general exchange authority of the Forest Service—title 16, United States Code, section 485—national forest lands may be exchanged for other lands if they are within national forest boundaries. No national forest can be created in the State of Wyoming except by an act of Congress—title 16, United States Code, section 471, 471a. Accordingly, to facilitate this exchange, it will be necessary for Congress to authorize the extension of the boundary of the forest so that this exchange may be appropriately pursued.

I ask unanimous consent that this bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3489

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of the Act of March 20, 1922 (42 Stat. 465), as amended and supplemented by the Act of February 28, 1925 (43 Stat. 1090), and the Act of June 11, 1960 (74 Stat. 205), are hereby extended to the following described lands:

Township 41 north, range 116 west, sixth principal meridian

Section 34, northwest quarter, southwest quarter.

Lands conveyed to the United States under this Act shall, upon acceptance of title, become parts of the Teton National Forest and shall be subject to the laws, rules and regulations applicable thereto.

By Mr. McCLURE:

S. 3490. A bill providing that funds apportioned for forest highways under section 202(a), title 23, United States Code remain available until expended. Referred to the Committee on Public Works.

Mr. McCLURE. Mr. President, highway law provides that funds apportioned to States for Federal-aid highway programs shall remain available for 2 fiscal years after the year for which they were authorized. If, at the end of that period, a State for any reason has not obligated its apportioned share, it loses those funds. On July 1, 1974, 39 States stand to lose a total of $13,201,197 in forest highway funds, not because they were unable or unwilling to commit the full amounts apportioned, but because they have been held back by obligational limitations contained in appropriations acts since 1969.

In proposing legislation today I am not suggesting that there were not sound reasons for imposing obligational limits on the forest highway program in past years. I do not believe, however, that by enacting those limitations, Congress intended permanently to deny States the full amounts authorized.

My bill provides that funds authorized for fiscal year 1972, which will lapse on June 30, 1974, if no action is taken, shall remain available to the States until expended. The bill does not permanently exempt forest highway funds from the 2-year limitation imposed on other highways by title 23 of the United States Code but is simply remedial legislation to deal with a problem which, I believe, was not foreseen when Congress earlier enacted spending limitations.

Mr. President, I ask unanimous consent that a list of the States which stand to lose forest highway funds and the amounts which will lapse as of June 30, 1974, be printed at the conclusion of my remarks. Also, I request that the text of my proposed legislation be included.

There being no objection, the list and bill were ordered to be printed in the RECORD, as follows:

(Fiscal year 1972 apportionment subject to lapse)

State:	
Alabama	$38,608
Alaska	1,225,446
Arizona	758,883
Arkansas	183,283
California	1,930,862
Colorado	$968,222
Florida	78,320
Georgia	47,500
Idaho	1,372,716
Illinois	15,539
Indiana	9,038
Kentucky	27,714
Louisiana	31,110
Maine	5,050
Michigan	144,674
Minnesota	186,454
Mississippi	63,601
Missouri	68,908
Montana	1,074,710
New Hampshire	72,047
New Mexico	540,473
North Carolina	84,473
North Dakota	48
Ohio	7,383
Oklahoma	9,299
Oregon	1,859,859
Pennsylvania	35,983
South Carolina	59,067
South Dakota	105,628
Tennessee	598
Texas	43,679
Utah	447,746
Vermont	24,123
Virginia	87,673
Washington	951,030
West Virginia	53,205
Wisconsin	75,398
Wyoming	575,136
Puerto Rico	3,802
Total	13,201,197

S. 3490

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, Notwithstanding the provisions of section 118(b), title 23, United States Code, sums authorized for fiscal year 1972 and apportioned to States for forest highways under section 202(a), title 23, United States Code, shall remain available until expended.

By Mr. BROCK:

S. 3492. A bill to prohibit discrimination on the basis of sex or marital status in the granting of credit. Referred to the Committee on Banking, Housing and Urban Affairs.

EQUAL CREDIT OPPORTUNITY ACT

Mr. BROCK. Mr. President, today I would like to introduce the Equal Credit Opportunity Act to insure that the various institutions in the business of granting credit do so with fairness and impartiality to creditworthy persons without regard to sex or marital status.

I think it is fair to ask why I feel that the Senate need march up the hill again on this type of legislation. It is true that in July of 1973 the "Equal Credit Opportunity Act," title III of Senate bill 2101, passed the Senate by a 90 to 0 vote. That bill incorporated the main features of my original bill S. 1605, and Senator Williams' bill S. 867. S. 2101 was cosponsored by Senators HARRISON WILLIAMS, a Democrat, of New Jersey; and WILLIAM PROXMIRE, a Democrat, of Wisconsin; and myself, and had in addition 44 cosponsors. After passage by the Senate, the bill was moved to the House Banking Committee's Consumer Affairs Subcommittee. There it still remains, and I am concerned that nothing further will be done to promote this very much needed measure.

Instead I am told that there are plans to submit in the House a new equal credit bill which would prohibit credit discrimination on the basis of race, creed, color, age, sex, or marital status. Such a definition would diffuse the effort and limit its effectiveness. No one can object to equal credit opportunity for all, but the purpose of the legislation before us is to help women obtain credit on an equal *basis with* men. That is where the problem lies. To confuse the issue with other elements is to evade the problem.

Thus, my reason for submitting this narrower, stronger legislation is to solve one unconscionable problem—that of credit discrimination on the basis of sex or marital status. To add other restrictions to the bill merely diffuses the primary purpose for such legislation.

In sum this bill is, I think, better legislation than that which we passed last year, and is far preferable to any alternative watered down version.

Rather than diluting the bill with an over abundance of directions, let us stick to *priorities*. The priority in this case is the problem of discrimination on the basis of sex or marital status in credit transactions for women. Let us keep our eyes directly focused on the point and do something definite about it.

It was in a desire to try one more time to achieve this very specific objective that I have introduced this particular bill today.

The Equal Credit Opportunity Act rightfully recognizes the importance of a largely overlooked segment of society: women. Not only do they constitute half the population, but they comprise an enormous portion of the working force. Yet, too often women are treated as second-class citizens in credit matters. Creditworthy women are excluded from credit transactions because of convention and medieval ideas of those who believe women are not as financially reliable as are men.

Credit should be available to every creditworthy applicant on a nondiscriminatory basis. Credit is not a universal right, but it is a privilege for the deserving. Every consumer should have an equal opportunity for access to the credit market and that credit should never be *denied* because of sex or any other factor not related to ability and willingness to repay the indebtedness.

Credit is central to our economic system. If women are denied the privilege of obtaining credit, they are deprived of the full enjoyment of the benefits of our economy.

Denying women credit standing sets off a drastic chain of events. For example, if a woman's salary is ignored when she and her husband apply for a mortgage, then they are forced to live in inferior housing—that is, inferior to that which they could afford in actuality.

The problems which women face in the extensions of credit have been vividly brought to my attention by the correspondence received from my constituents. My letters indicate that credit discrimination knows no geographic boundaries. Tennessee's female discrimination problem is no different from those encountered by women in other States.

As an example, I get many letters from women who have been refused credit, yet their husbands, who are in school or even unemployed, receive unrequested charge cards in the mail.

One married couple applied for a charge card at a department store. The wife was earning $6,000 and the husband, being a student, earned only $2,700 a year. When they applied for the charge, they stated correctly on the application that the wife was their main source of income. They were refused the charge account, told that company policy prohibited the granting of credit either in a woman's name or to couples where the wife carried the main financial responsibility. Thus, although together they earned $8,700, because the wife earned most of it, they were considered credit risks.

This same couple at the same time applied for another charge card—this time at another store and in the husband's name only—and received a charge card shortly thereafter.

Another outrageous example is that of a woman who, after her husband's death, continued using their charge card as if he were still alive. Because the card was registered in her husband's name, she continued signing his name on credit slips. And, until his death he had earned only $3,000 and she had earned $5,500. She had no trouble using it after his death, and had no problems meeting the payments. Yet, when the card expired and she reapplied for the same card in her name, she was refused. She had kept a perfect credit record, yet she was female, therefore a credit liability.

A woman wrote that she had an excellent credit rating as a single woman. Yet, when she married, she automatically lost her own rating and assumed her husband's. Her husband 1 year before the marriage had declared bankruptcy. Now she is also considered a credit risk—simply because she married him. As an unmarried consumer she had never been sued for payment on a charge account, bank loan, or any other form of credit. Yet, due to her husband's faulty record, she was denied credit on her own, even though her credit rating as a single woman had been faultless.

Another example of the lack of progress concerning women's rights is that of a single woman who 3 years ago was granted a mortgage from a credit company. She never missed a payment and maintained a perfect credit rating. Yet, when for convenience sake she applied for another loan at the same company but at a different branch near her home, she was quickly refused. Was this because she is a woman? Her credit rating certainly was not at fault, especially at that company. Her income had increased and she had not missed a payment. Upon investigation her difficulties were corrected and she received her loan.

One final example is that of a woman who, after getting divorced, discovered that she was responsible for bills incurred on the charge card when she was married. She and her husband had a charge registered in her husband's name. When they divorced, he was found legally bound to pay all their bills as a married couple. Yet, after the divorce he could not be found, so although she was not legally bound to do so, she was heartily encouraged to pay the bills. The various stores and credit companies hounded her ceaselessly until she felt compelled to pay, because her husband could not be found. So, although she was never able to have a charge card in her own name, she was entitled to pay the bills. Too many credit companies do not mind if women pay the bills. They object only if the woman applies for the credit rating for herself.

With a society as remarkably progressive in all other policies as ours, why are we still so backward on such an important issue? There is no excuse for our lackadaisical attitude toward women's rights. We, the Congress, are responsible for creating legislation to insure the well-being of all citizens. It is up to us to take immediate action in this pertinent area.

With the help of pressure from women's groups and a rash of State laws prohibiting discrimination, banks and credit companies have begun to eliminate some of the old credit rules and put women on an equal footing with men. But until Federal legislation is passed, discrimination will exist. While the principle of equal economic opportunity for women is sound and just, implementation is difficult without enforced rules. I believe it is time Congress took absolute action to stop this unfair practice.

Mr. President, I, therefore, would like to call for prompt and positive action on the part of Congress. Legislation dealing with this important subject has been kept waiting in the wings for too long. It is time Congress took a stand and moved on such a measure. I call for the House either to act immediately on Senate bill 2101 or for Congress to consider and pass my new "Equal Credit Opportunity Act." Something must be done.

For a subject as important as equal consumer credit for women, I find it hard to believe that Congress has done nothing to promote it. It is time we faced the problem and dealt with our responsibilities as servants of the people.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3492

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Equal Credit Opportunity Act".

SEC. 2. FINDINGS AND PURPOSE. The Congress finds that there is a need to insure that the various financial institutions and other firms engaged in the extensions of credit exercise their responsibility to make credit available with fairness, impartiality, and without discrimination on the basis of sex or marital status. Economic stabilization would be enhanced and competition among the various financial institutions and other firms engaged in the extension of credit would be strengthened by an absence of discrimination on the basis of sex or marital status, as well as by the informed use of credit which Congress has heretofore sought to promote. It is the purpose of this Act to require that financial institutions and other firms engaged in the extension of credit make that credit equally available to all creditworthy customers without regard to sex or marital status.

SEC. 3. The Consumer Credit Protection Act (P.L. 90-321), is amended by adding at the end thereof a new Title VII.

"Title VII.—EQUAL CREDIT OPPORTUNITY

"SEC. 701. PROHIBITED DISCRIMINATION.

(a) It shall be unlawful for any creditor to discriminate against any applicant on the basis of sex or marital status with respect to any aspect of a credit transaction.

(b) An inquiry of marital status shall not constitute discrimination for purposes of this title, provided that said inquiry is for the purpose of ascertaining the creditors' rights and remedies applicable to the particular extension of credit, and not to discriminate in a determination of creditworthiness.

"SEC. 702. DEFINITIONS.

(a) The definitions and rules of construction set forth in this section are applicable for the purposes of this title.

(b) The term "applicant" means any person who applies to a creditor directly for an extension, renewal, or continuation of credit, or applies to a creditor indirectly by use of an existing credit plan for an amount exceeding a previously established credit limit.

(c) The term "Board" refers to the Board of Governors of the Federal Reserve System.

(d) The term "credit" means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment or to purchase property or services and defer payment therefor, whether or not a finance charge or late payment charge is imposed.

(e) The term "creditor" means any person who regularly extends, renews, or continues credit; any person who regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who participates in the decision to extend, renew or continue credit.

(f) The term "discriminate" means to take any arbitrary action based on any characteristic attributable to the sex or marital status of an applicant.

(g) The term "person" means a natural person, a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative or association.

(h) Any reference to any requirement imposed under this title or any provision thereof includes reference to the regulations of the Board under this title or the provision thereof in question.

SEC. 703. REGULATIONS.

The Board shall prescribe regulations to carry out the purposes of this title. These regulations may contain such classifications, differentiations, or other provision, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Board are necessary or proper to effectuate the purposes of this title, to prevent circumvention or evasion thereof, or to facilitate compliance therewith. Such regulations shall be prescribed as soon as possible after the date of enactment of this Act, but in no event later than the effective date of this Act.

SEC. 704. ADMINISTRATIVE ENFORCEMENT.

(a) Compliance with the requirements imposed under this title shall be enforced under:

(1) section 8 of the Federal Deposit Insurance Act, in the case of

(A) national banks, by the Comptroller of the Currency.

(B) member banks of the Federal Reserve System (other than national banks), by the Board.

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors ofthe Federal Deposit Insurance Corporation.

(2) section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions.

(3) The Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal Credit Union.

(4) the Acts to regulate commerce, by the Interstate Commerce Commission with respect to any common carrier subject to those Acts.

(5) the Federal Aviation Act of 1958, by the Civil Aeronautics Board with respect to any air carrier or foreign air carrier subject to that Act.

(6) the Packers and Stockyards Act, 1921 (except as provided in section 406 of that Act), by the Secretary of Agriculture with respect to any activities subject to that Act.

(b) For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law. The exercise of the authorities of any of the agencies referred to in subsection (a) for the purpose of enforcing compliance with any requirement imposed under this title shall in no way preclude the exercise of such authorities for the purpose of enforcing compliance with any other provision of law not relating to the prohibition of discrimination on the basis of sex or marital status with respect to any aspect of a credit transaction.

(c) Except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other Government agency under subsection (a), the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this title shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with the requirements imposed under this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act.

(d) The authority of the Board to issue regulations under this title does not impair the authority of any other agency designated in this section to make rules respecting its own procedures in enforcing compliance with requirements imposed under this title.

SEC. 705. RELATION TO STATE LAWS.

(a) A request for the signature of both parties to a marriage for the purpose of creating a valid lien, passing clear title, or waiving inchoate rights to property, shall not constitute discrimination under this title; provided however, that this provision shall not be construed to permit a creditor to take sex or marital status into account in connection with the evaluation of creditworthiness of any applicant.

(b) Consideration or application of State property laws directly or indirectly affecting creditworthiness shall not constitute discrimination for purposes of this title. For the purposes of this subsection, only those State property laws in effect on the date of enactment of this Act shall be considered or applied: *Provided*, That said laws shall be considered or applied only so long as they are not made more discriminatory in nature by State action subsequent to the date of enactment of this Act.

(c) When both parties to a marriage separately and voluntarily apply for and obtain credit accounts with the same creditor, those accounts shall not be aggregated or otherwise combined for purposes of determining permissible finance charges under the laws of any State.

(d) This title shall preempt any State law that prohibits the separate extension of credit to both parties to a marriage when each party voluntarily applies for separate credit from the same creditor and each party would be eligible for separate credit but for his or her marital status.

(e) Except as otherwise provided in this title, the applicant shall have the option of pursuing remedies under the provisions of this title in lieu of, but not in addition to, the remedies provided by the laws of any State or governmental subdivision relating to the prohibition of discrimination on the basis of sex or marital status with respect to any aspect of a credit transaction.

SEC. 706. CIVIL LIABILITY.

(a) Any creditor who fails to comply with any requirement imposed under this title shall be liable to the aggrieved applicant in an amount equal to the sum of any actual damages sustained by such applicant acting either in an individual capacity or as a representative of a class.

(b) Any creditor who fails to comply with any requirement imposed under this title shall be liable to the aggrieved applicant for punitive damages in an amount not greater than $10,000, as determined by the court, in addition to any actual damages provided in section 706(a): *Provided, however*, That in pursuing the recovery allowed under this subsection, the applicant may proceed only in an individual capacity and not as a representative of a class.

(c) Section 706(b) notwithstanding, any creditor who fails to comply with any requirement imposed under this title may be liable for punitive damages in the case of a class action in such amount as the court may allow, except that as to each member of the class no minimum recovery shall be applicable, and the total recovery in such action shall not exceed $100,000. In determining the amount of award in any class action, the court shall consider, among other relevant factors, the amount of any actual damages awarded, the frequency and persistence of failures of compliance by the creditor, the resources of the creditor, the number of persons adversely affected, and the extent to which the creditor's failure of compliance was intentional.

(d) When a creditor fails to comply with any requirement imposed under this title, an aggrieved applicant may institute a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other action.

(e) In the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court shall be added to any damages awarded by the court under the provisions of subsections (a), (b) and (c) of this section.

(f) No provision of this title imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board, notwithstanding that after such act or omission has occurred, such rule, regulation, or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(g) Without regard to the amount in controversy, any action under this title may be brought in any United States District Court, or in any other court of competent jurisdiction, within one year from the date of the occurrence of the violation.

(h) An action brought under this section regardless of whether administrative remedies have been exhausted by the applicant bringing such action. The exhaustion of administrative remedies by an applicant shall not preclude such applicant from bringing an action under the provisions of this section.

(i) An action brought under this section shall not preclude the applicant in such action from bringing any action based on any provision of law not relating to the prohibition of discrimination on the basis of sex or marital status with respect to any aspect of a credit transaction.

Sec. 707. EFFECTIVE DATE

This title takes effect upon the expiration of six months after the date of its enact*ment.*

By Mr. HATHAWAY (for himself and Mr. Chiles):

S. 3493. A bill to authorize the establishment of the Atlantic Wetlands Research Center. Referred to the Committee on Commerce.

Mr. HATHAWAY. Mr. President, "wetlands" include ponds, small lakes, marshes, sloughs, bogs, swamps, and so forth, as well as shallow parts of coastal waters and large lakes. Millions of Americans rely on these wetlands to furnish them with healthful outdoor recreation in the form of hunting and birdwatching, and to observe unique aquatic situations. Wetlands are particularly important in maintaining the ecological balance necessary to sustain migratory waterfowl.

Over the years, however, wetland acreage has been steadily shrinking. Many of the swamps and marshes, which at first provided some of the basic necessities for life, have gradually disappeared through drainage and filling to provide for agriculture, mosquito control, highways, housing, and industry.

Since colonial times the wetland acreage in the Atlantic flyway has been reduced from 60 million acres to about one-half that.

Although many levels of government including Federal, interstate, State, county, and township have now legislated to preserve wetlands, wetland managers must develop new techniques for upgrading these remaining wetlands. What are these techniques and how can they be effectively applied? What is the present and potential production of wildlife from existing wetlands? What, for example, is the current production of black ducks, woodduck, and ring-neck ducks?

The answers to these and other fundamental questions can only be found through long-range scientific studies. No existing facility now exists, however, in the Atlantic flyway, either in the United States or Canada, which begins to provide the multitude of answers needed for effective wetlands preservation and management.

Mr. President, the purpose of this legislation is to create such a facility. After much consideration, it is recommended by the Atlantic Waterfowl Council that the principal physical location of the station be close to the home campus of the University of Maine at Orono. This site has many advantages. Officials of the University have expressed high enthusiasm for the station and have pledged their support in providing both temporary facilities and long-term essentials such as library services and technical knowledge from the areas of soil science, wildlife management, forestry, agriculture, animal diseases, hydrology, biology, biometrics, and data processing.

Of particular significance is the location of the New England-Atlantic Provinces-Quebec Center for Regional Studies at the University of Maine. This endowed center is designed to encourage graduate study and research in regional topics. It is open to Canadians and Americans in the fields of environmental ecology and offers another bridge for cooperative work on an international basis.

Mr. President, I hope the Senate will enact this important piece of environmental legislation. The proposed Atlantic Wetlands Resource Center would focus on the preservation and management of wetlands especially those of importance for waterfowl production. This includes portions of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, New Jersey, Delaware, Maryland, Virginia, West Virginia, North Carolina, South Carolina, Georgia, and Florida. The station would be indirectly concerned with a diversity of wetland habitats and would coordinate with agencies conducting studies outside the limits of the U.S. portion of the Atlantic Flyway.

If we are to preserve our wetlands, we must coordinate our efforts. This center would enable us to do that.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3493

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of promoting responsible land use planning and the development of management criteria to protect, maintain, and increase the productivity of wetlands which are of particular importance in maintaining the Atlantic Flyway waterfowl population, the Secretary of the Interior is authorized and directed to establish an Atlantic Wetlands Research Center.

Sec. 2. In carrying out the purposes of this Act, the Secretary of the Interior shall establish, administer, and conduct such programs of investigation and research, and undertake such pilot projects for management of wetlands, and develop and demonstrate such techniques, as he determines necessary in order to maintain or increase the biological productivity of the principle migratory bird habitats of the Atlantic Flyway.

Sec. 3. In carrying out the purposes of this Act, the Secretary of the Interior may enter into cooperative agreements with State conservation agencies, land grant colleges, corporations, associations, other business entities, or individuals, and may acquire lands by donation or purchase with donated or appropriated funds, or by lease. The Secretary is authorized to accept donations to carry out the purposes of this Act.

Sec. 4. The Secretary of the Interior shall establish an Advisory Council of no more than seven members to represent the views of the principal agencies, organizations and institutions concerned with the preservation, perpetuation, and management of wetland resources for migratory birds in the Atlantic Flyway and to advise him with respect thereto. The Secretary shall appoint the members of the Council, of whom one member shall be a State Fish and Wildlife Agency Director or Commissioner to represent the Northeast Section of the Atlantic Flyway and one member shall be a State Fish and Wildlife Agency Director or Commissioner to represent the Southeast Section of the Atlantic Flyway. Members of the Council shall serve without compensation as such, but may be reimbursed for travel, subsistence, and related expenses incurred in carrying out their duties under this Act. The Secretary shall designate one of such members as Chairman.

Sec. 5. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. HARTKE:

S. 3494. A bill to amend the Internal Revenue Code of 1954 with respect to foreign tax credits, tax deferral, personal exemptions, and social security payroll taxes, and for other purposes. Referred to the Committee on Finance.

Mr. HARTKE. Mr. President, today I am introducing legislation amending the Internal Revenue Code of 1954 relating to: First, foreign tax credits; second, tax deferrals; third, social security payroll taxes; and fourth, personal income tax exemptions.

The average American taxpayer—and there are 55,683,000 of them—needs relief from the staggering effect of inflation now. In order to counter the severe hardship of rapidly increasing prices, additional purchasing power must be put into the hands of those in the moderate, lower, as well as fixed-income groups. It is these people whose real incomes have been substantially reduced by the inflated costs of essentials like food, clothing, housing, health care, home heating oil, and gasoline.

These people would be helped most by a reduction in their already overburdened tax load. I propose tax relief for them in the form of an increase in the personal exemption on Federal tax returns from $750 to $1,000. The cost of living has risen 13 percent since Congress set the $750 level. An increase to $1,000 would not only keep pace with inflation, it would provide consumers with $8 billion in new purchasing power to help spur the economy and provide new jobs.

I also propose in this bill to lower the social security payroll tax for individuals with a Federal tax liability of $850 or less and provide partial financing of social security benefits from Federal general revenues. These revenues come from income taxes which are far more equitable than the payroll tax.

I believe that it is politically and financially irresponsible to pass an income tax cut and to lower the social security tax in the midst of a dangerous inflation without partially replacing these revenue losses by enacting some long overdue tax reform.

Therefore, in this bill, I propose to plug two gaping tax loopholes: In order to regain much needed revenue, I would shift the foreign tax credit to a deduction and eliminate the deferral of U.S. taxes and make them payable on a current basis.

The foreign tax credit has long provided U.S. based multinational corporations with tremendous tax savings on their U.S. tax liabilities. The tax deferral of U.S. taxes owed by U.S. subsidiaries abroad delays the payment of needed revenues. Both of these items have provided incentives for American corporations to take their operations abroad, depriving American workers of much-needed jobs.

A study by the Joint Economic Committee indicates that a family with a budget of $12,614 had to pay an extra $1,168 just to maintain their 1972 living standards. If the American family ever needed help, this is the time. The legislation I introduce today will do just that.

PERSONAL EXEMPTION INCREASE TO $1,000

I first proposed an increase of the personal tax exemption to $1,000 in January of 1961; I believe it is all the more necessary today.

There is every indication that our economy is headed for a recession. Unemployment insurance claims rose from 251,000 in November to 303,000 in December. It is now at a 5.4-percent level and even administration economists are predicting a 6-percent rate later this year.

The Government's composite index of business statistics virtually stood still in December, growing only one-tenth of 1 percent in that month.

While this slowdown is taking place, inflation is on the march. Consumer prices as a whole went up 8.8 percent last year, with food increasing 20 percent, gasoline 19 percent, and coal and fuel oil 45 percent. Workers cannot keep pace with this steady increase in prices. What wage increases have taken place have only meant increased taxes, thus further limiting the ability of workers to spend money to stimulate the economy.

In fact, in 1973, real average weekly earnings—the amount of money workers actually get—were down 1.5 percent. That means that a worker who increased his salary by 7.2 percent—the national wage increase average—actually wound up in worse condition at the end of the year than at its beginning.

The most effective response we can make to this approaching inflationary recession is to provide tax relief which will put more money into use so that our economy can grow. An increase in the personal exemption will provide that relief. Raising the exemption level from $750 to $1,000 will provide $8.58 billion in new consumer purchasing power. Most of the benefits of this relief will be the families who will spend the money provided by my proposal rather than saving it.

Mr. President, I have a table prepared from data supplied by the Treasury Department which estimates the additional revenue which my proposal will pump into the economy at various levels of income, and I ask unanimous consent that the table be printed in the Record at this point.

There being no objection, the table was ordered to be printed in the Record, as follows:

REVENUE COST IF PERSONAL EXEMPTION IS RAISED FROM $750 to $1,000

[Based on 1972 income levels]

Adjusted gross income	Decrease in tax liability (millions)	Distribution of tax decrease: Percent	Distribution of tax decrease: Cumulative percent
0 to $3,000	$95	1.1	1.1
$3,000 to $5,000	418	4.8	5.9
$5,000 to $7,000	717	8.3	14.2
$7,000 to $10,000	1,485	17.3	31.5
$10,000 to $15,000	2,608	30.4	61.9
$15,000 to $20,000	1,541	17.9	79.8
$20,000 to $50,000	1,440	16.8	96.6
$50,000 to $100,000	220	2.5	99.1
$100,000 and over	56	.7	99.8
Total	8,580	99.8	99.8

Mr. HARTKE. Mr. President, the table makes it clear that 60 percent of the dollar benefits which will accrue from my proposal go to those with less than $15,000 income. Much of this benefit will go into areas of the economy which are suffering from a slowdown caused by reduced consumer purchasing power.

The approach I am following here is supported by the Nobel-prize winning economists, Paul Samuelson, Arthur Okun, a senior fellow at the Brookings Institution, and Walter Heller.

It is the working man and woman in this country who is on the short end of the administration's economic stick. It is the worker who has to pay the grocery bills, the mortgage, and the college tuition bill with less money in 1974 than he had in 1973.

These people need tax relief now, and our economy needs a tax stimulus now.

Mr. President, the cost of living has risen 13 percent since the $750 exemption level was established. If we increase that level to $1,000—as I propose—we will be doing nothing more than keeping pace with inflation and the cost of living.

FOREIGN TAX CREDIT SHIFT TO A DEDUCTION

Mr. President, our tax laws provide that foreign subsidiaries of U.S. corporations may credit their foreign taxes paid against the income tax liability of the parent corporations on foreign source income. Such credits claimed in 1970, and they are far greater today, mounted to $4 billion. The case for crediting is that it secures tax neutrality with respect to the choice between domestic and foreign investment. Indeed, our crediting provisions far overshoot the mark because the foreign tax credit applies to local as well as central taxes, whereas State business income taxes in the United States may only be deducted.

Moreover, any excess foreign tax credits claimed may be carried forward for 5 years and back for 2 years.

What does this system look like in reality?

One of the main reasons that the United States is now dependent upon the Arab world for our supplies of oil and gas is due to the increased profits realizable only abroad by the use of the foreign tax credit and deferral.

The multinational oil companies earned $1,085,000,000 on mining and oil operations abroad in 1970, but because of their use of these tax loopholes, these firms paid not 1 cent in U.S. taxes on that income.

The Arabian American Oil Co. (ARAMCO), which is a huge oil-producing consortium consisting of Exxon, Texaco, Mobil, Standard Oil of California, and the Saudi Arabian Government, is the world's largest oil petroleum producer and the world's biggest money-maker. In 1973, the company had profits after taxes of $3.25 billion. How much did the United States get from them in taxes? Not 1 penny of income tax and a meager $2.7 million in payroll taxes.

These are not exceptions, they are the rule. Manufacturing multinational corporations as well as the petroleum industry have benefited unfairly from the foreign tax credit. Direct U.S. foreign investments have a book value of over $90 billion. Profits thereon are $20 billion or some 20 percent of total profits of domestic corporations.

However, U.S. taxes paid on these foreign profits were only 5 percent or less than $1 billion. The output produced by U.S. affiliates abroad is about $200 billion with sales by manufacturing affiliates several times the level of U.S. manufactured exports.

Ownership of foreign affiliates, finally, is concentrated heavily in a small number of large corporations, the degree of concentration being higher even than for domestic production.

At present, our tax laws make an overseas investment more attractive than one in Indiana. For example, profits earned by a foreign subsidiary of an American firm are not taxed until they are repatriated. To the extent that the firm does pay taxes to a foreign government, these taxes count as a dollar-for-dollar credit against their Federal tax liability. Profits made in Indiana are taxed when earned. Taxes paid to the State of Indiana can only be taken as deductions against gross income rather than as a Federal tax credit.

My measure would plug this gaping loophole and save the U.S. Treasury almost $4 billion annually. The termination of the foreign tax credit would put domestic production in a more competitive position with foreign development and create jobs for American workers.

TAX DEFERRAL

Under sections 881–83 of the U.S. Tax Code, foreign source income earned by foreign based subsidiaries of U.S. based corporations is exempt from U.S. taxation unless distributed to shareholders who are U.S. nationals. The tax is deferred on profits earned by these subsidiaries until such time as they are remitted to the parent corporation.

The corporate subsidiaries abroad do not pay as the average U.S. citizen who earns a salary or wage must pay his taxes—on a current basis when earned. In many cases, the deferral of taxes permits these affiliates to keep the profits abroad and reinvest them abroad which means less production in the United States and fewer jobs for our people.

If you build a textile plant in Japan, you do not have to pay taxes until you bring the profits home to the United States. But if you build that plant in Indiana or anywhere in America, you pay taxes in the year you earn the profits. Deferral is unfair and unequal and should be eliminated.

The deferral is, in effect, an interest-free loan to U.S. subsidiaries abroad which can be manipulated to the advantage of the parent company. The Treasury, because of the deferral mechanism, is losing over $1 billion in revenues annually. My proposal would put a stop to the loss in revenues and eliminate yet another incentive for American enterprise to invest abroad rather than at home where the capital is critically needed.

SOCIAL SECURITY PAYROLL TAX

Mr. President, the social security payroll tax is taking a large chunk out of the paychecks of working men and women. During the 14 years I have had the privilege of serving in the Senate, I have worked to expand the retirement and medical benefits under the social security program because I believe that retirement should not force a person to live in or near poverty. I still believe in the need to expand those benefits, but not at the expense of the current working generation.

Under present law, social security benefits are financed from contributions made by employers, employees, and the self-employed. In 1975, it is estimated that there will be more than $66 billion going into the retirement and disability trust funds with another $12.5 billion being paid into the hospital insurance trust fund. In terms of total Federal revenues, the payroll tax generates about one-fourth of all Federal revenues, whereas, in 1949, it brought in just 4 percent.

Mr. President, these are staggering amounts; but they mean even more to working Americans. At least one-half of all workers who file tax returns pay more social security tax than they do Federal income tax. For the worker with a small family and an income hovering near the poverty line, his effective social security tax rate is 5 times the rate paid by the same worker with a $24,000 income. Study after study has cited the regressive nature of this payroll tax. It hits the low- and moderate-income worker hardest.

The proposal which I offer today does two very basic things to correct this inequity.

First, it establishes a progressive payroll tax rate for low-income workers so that no worker pays more in payroll taxes than he does in Federal income taxes.

For instance, under my proposal, a worker with less than $50 in income tax liability pays only 15 percent of the normal payroll tax. This increases by 5 percent for every $50 of additional income liability until the $850 level—at which point the worker pays the full social security tax.

The loss of revenues to the social security trust fund from this reduction, which is estimated to be about $2.2 billion—will be replaced by general revenues.

Second, my proposal implements a recommendation made several times over the past four decades that general revenues be used to finance a portion of social security benefits.

Mr. President, it is a fact that the current working generation is paying in payroll taxes for the benefits of those now retired. From the early days of the social security program, it was realized that those now working would have to bear a major portion of the burden of paying for the benefits of retired workers, especially during the early years of the program.

Partial general revenue financing takes recognition of this fact, and it also provides a large measure of equity to working men and women because it uses funds from the more progressive income tax to supplement funds from the highly regressive payroll tax.

My proposal establishes a means of providing general revenue financing for one-fifth of retirement and disability benefits and one-third of health benefits under the medicare program. It also provides for a reduction in payroll taxes immediately from 5.85 percent to 5.75 percent, with further reductions to be made in succeeding years. These reductions reflect the income which the social security trust funds will receive from general revenues.

Mr. President, we have spent many years trying to reform the social security system with all too little effect. The basic injustices remain. In this time of inflation and recession, we must look to new means of providing immediate relief to workers and stimulating our economy. My proposals to change the social security tax rate and the method of financing the system will accomplish this objective.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3494

A bill to amend the Internal Revenue Code of 1954 with respect to foreign tax credits, tax deferral, personal exemptions, and social security payroll taxes, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That the Internal Revenue Code of 1954 is amended as follows:

SEC. 1.—REPEAL OF FOREIGN TAX CREDIT ALLOWED CORPORATIONS—

(a) IN GENERAL.—Section 901 of the Internal Revenue Code of 1954 (relating to taxes of foreign countries and of possessions of the United States) is amended—

(1) by revising subsection (a) to read as follows:

"(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer other than a corporation, who chooses to have the benefits of this subpart, the tax imposed by this chapter shall, subject to the applicable limitation of section 904, be credited with the amounts provided in the applicable paragraph of subsection (b). Such choice for any taxable year may be made or changed at any time before the expiration of the period prescribed for making a claim for credit or refund of the tax imposed by this chapter for such taxable year. The credit shall not be allowed against the tax imposed by section 56 (relating to minimum tax for tax preferences).";

(2) by revising subsection (b)(1) to read as follows:

"(1) CITIZENS.—In the case of a citizen of the United States, the amount of any income, war profits, and excess profits taxes paid or accrued during the taxable year to any foreign country or to any possession of the United States; and";

(3) by revising subsection (b)(4) to read as follows:

"(4) NONRESIDENT ALIEN INDIVIDUALS.—In the case of any nonresident alien individual not described in section 876, the amount determined pursuant to section 906; and"; and

(4) by striking out subsections (d) and (e).

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 78 is repealed.

(2) Section 535(b)(1) is amended by striking out "and income, war profits, and excess profits taxes of foreign countries and possessions of the United States (to the extent not allowable as a deduction under section 275(a)(4)), accrued during the taxable year or deemed to be paid by a domestic corporation under section 902(a)(1) or 960(a)(1)(C) for the taxable year," and by inserting in lieu thereof "accrued during the taxable year,".

(3) Section 545(b)(1) is amended by striking out "and income, war profits, and excess profits taxes of foreign countries and possessions of the United States (to the extent not allowable as a deduction under section 275(a)(4)), accrued during the taxable year or deemed to be paid by a domestic corporation under section 902(a)(1) or 960(a)(1)(C) for the taxable year," and by inserting in lieu thereof "accrued during the taxable year,".

(4) Section 841 is repealed.

(5) Section 882(c) is amended by striking out paragraph (3).

(6) Section 884 is amended by striking out paragraph (4).

(7) Section 902 is repealed.

(8) Section 906 is amended—

(A) by striking out "and foreign corporations" in the heading thereof;

(B) by striking out in subsection (a) "or a foreign corporation" and "or deemed, under section 902, paid or accrued during the taxable year)";

(C) by striking out in subsection (b)(3) "or 881 (relating to income of foreign corporations not connected with United States business)"; and

(D) by striking out subsection (b)(4).

(9) Section 904(g) is repealed.

(10) Section 960 is repealed.

(11) Section 1503 is amended to read as follows:

"SEC. 1503. COMPUTATION AND PAYMENT OF TAX.

"In any case in which a consolidated return is made or is required to be made, the tax shall be determined, computed, assessed, collected, and adjusted in accordance with the regulations under section 1502 prescribed before the last day prescribed by law for the filing of such return."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years beginning on or after the date of the enactment of this Act.

SEC. 2. TAXATION OF EARNINGS AND PROFITS OF CONTROLLED FOREIGN CORPORATIONS.

(a) IN GENERAL.—Part III of subchapter N of chapter 1 (relating to income from sources without the United States) is amended by inserting after subpart H thereof the following:

"Subpart I—Controlled Foreign Corporations

"Sec. 983. Amounts included in gross income of United States shareholders.

"Sec. 984. Definitions.
"Sec. 985. Rules for determining stock ownership.
"Sec. 986. Exclusion from gross income of previously taxed earnings and profits.
"Sec. 987. Adjustments to basis of stock in controlled foreign corporations and of other property.
"Sec. 988. Records and accounts of United States shareholders.

"Sec. 983. Amounts Included in Gross Income of United States Shareholders.

"(a) Amounts Included.—

"(1) In general.—If a foreign corporation is a controlled foreign corporation for an uninterrupted period of 30 days or more during any taxable year, every United States shareholder of such corporation who owns (within the meaning of section 985(a)) stock in such corporation on the last day in such year on which such corporation is a controlled foreign corporation shall include in its gross income, for its taxable year in which or with which such taxable year of the corporation ends, its pro rata share of the corporation's earnings and profits for such year.

"(2) Pro rata share of earnings and profits.—A United States shareholder's pro rata share referred to in paragraph (1) is the amount—

"(A) which would have been distributed with respect to the stock which such shareholder owns (within the meaning of section 985(a)) in such corporation if on the last day, in its taxable year, on which the corporation is a controlled foreign corporation it had distributed pro rata to its shareholders an amount (i) which bears the same ratio to its earnings and profits for the taxable year, as (ii) the part of such year during which the corporation is a controlled foreign corporation bears to the entire year, reduced by

"(B) an amount (i) which bears the same ratio to the earnings and profits of such corporation for the taxable year, as (ii) the part of such year described in subparagraph (A)(ii) during which such shareholder did not own (within the meaning of section 985(a)) such stock bears to the entire year.

"(b) Earnings and Profits.—For purposes of this subpart, under regulations prescribed by the Secretary or his delegate, the earnings and profits of any foreign corporation, and the deficit in earnings and profits of any foreign corporation, for any taxable year—

"(1) except as provided in section 312(m)(3), shall be determined according to rules substantially similar to those applicable to domestic corporations,

"(2) shall be appropriately adjusted for deficits in earnings and profits of such corporation for any prior taxable year beginning on the date of the enactment of this Act.

"(3) shall not include any item of income which is effectively connected with the conduct by such corporation of a trade or business within the United States unless such item is exempt from taxation (or is subject to a reduced rate of tax) pursuant to a treaty obligation of the United States, and

"(4) shall not include any amount of earnings and profits which could not have been distributed by such corporation because of currency or other restrictions or limitations imposed under the laws of any foreign country.

"(c) Coordination With Election of a Foreign Investment Company To Distribute Income.—A United States shareholder who, for his taxable year, is a qualified shareholder (within the meaning of section 1247 (c)) of a foreign investment company with respect to which an election under section 1247 is in effect shall not be required to include in gross income, for such taxable year, any amount under subsection (a) with respect to such company.

"(d) Coordination With Foreign Personal Holding Company Provisions.—In the case of a United States shareholder who, for his taxable year, is subject to tax under section 551(b) (relating to foregin personal holding company income included in gross income of United States shareholders) on income of a controlled foreign corporation, the amount required to be included in gross income by such shareholder under subsection (a) with respect to such company shall be reduced by the amount included in gross income by such shareholder under section 551(b).

"SEC. 984. DEFINITIONS.

"(a) United States Shareholder Defined.—For purposes of this subpart, the term 'United States shareholder' means, with respect to any foreign corporation, a domestic corporation which owns (within the meaning of section 985(a)), or is considered as owning by applying the rules of ownership of section 985(b), 10 percent or more of the total combined voting power of all classes of stock entitled to vote of such foreign corporation.

"(b) Controlled Foreign Corporation Defined.—For purposes of this subpart, the term "controlled foreign corporation" means any foreign corporation of which more than 50 percent of the total combined voting power of all classes of stock entitled to vote is owned (within the meaning of section 985(a)), or is considered as owned by applying the rules of ownership of section 985(b), by United States shareholders on any day during the taxable year of such foreign corporation.

"SEC. 895. RULES FOR DETERMINING STOCK OWNERSHIP.

"(a) Direct and Indirect Ownership.—

(1) General rule.—For purposes of this subpart, stock owned means—

"(A) stock owned directly, and

"(B) stock owned with the application of paragraph (2).

"(2) Stock ownership through foreign entities.—For purposes of subparagraph (B) of paragraph (1), stock owned, directly or indirectly, by or for a foreign corporation or foreign estate (within the meaning of section 7701(a)(31)) or by or for a partnership or trust shall be considered as being owned proportionately by its shareholders, partners, or beneficiaries. Stock considered to be owned by a person by reason of the application of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person.

"(b) "Constructive Ownership.—For purposes of section 984, section 318(a) (relating to constructive ownership of stock) shall apply to the extent that the effect is to treat any domestic corporation as a United States shareholder within the meaning of section 984(a), or to treat a foreign corporation as a controlled foreign corporation under section 984(b), except that—

"(1) In applying subparagraphs (A), (B), and (C) of section 318(a)(2), if a partnership, estate, trust, or corporation owns, directly or indirectly, more than 50 percent of the total combined voting power of all classes of stock entitled to vote of a corporation, it shall be considered as owning all of the stock entitled to vote.

"(2) In applying subparagraph (C) of section 318(a)(2), the phrase '10 percent' shall be substituted for the phrase '50 percent' used in subparagraph (C).

"SEC. 986. EXCLUSION FROM GROSS INCOME OF PREVIOUSLY TAXED EARNINGS AND PROFITS

"(a) Exclusion From Gross Income.—For purposes of this chapter, the earnings and profits for a taxable year of a foreign corporation attributable to amounts which are, or have been, included in the gross income of a United States shareholder under section 983(a) shall not, when such amounts are distributed directly, or indirectly through a chain of ownership described under section 985(a), to—

"(1) such shareholder (or any domestic corporation which acquires from any person any portion of the interest of such United States shareholder in such foreign corporation, but only to the extent of such portion, and subject to such proof of the identity of such interest as the Secretary or his delegate may by regulations prescribe), or

"(2) a trust (other than a foreign trust) of which such shareholder is a beneficiary,

be again included in the gross income of such United States shareholder (or of such domestic corporation or of such trust).

"(b) Exclusion From Gross Income of Certain Foreign Subsidiaries.—For purposes of section 983(a), the earnings and profits for a taxable year of a controlled foreign corporation attributable to amounts which are, or have been, included in the gross income of a United States shareholder under section 983(a), shall not, when distributed through a chain of ownership described under section 985(a), be also included in the gross income of another controlled foreign corporation in such chain for purposes of the application of section 983(a) to such other controlled foreign corporation with respect to such United States shareholder (or to any other United States shareholder who acquires from any person any portion of the interest of such United States shareholder in the controlled foreign corporation, but only to the extent of such portion, and subject to such proof of identity of such interest as the Secretary or his delegate may prescribe by regulations).

"(c) Allocation of Distributions.—For purposes of subsections (a) and (b), section 316(a) shall be applied by applying paragraph (2) thereof, and then paragraph (1) thereof—

"(1) first, to earnings and profits attributable to amounts included in gross income under section 983(a), and

"(2) then to other earnings and profits.

"(d) Distributions Excluded From Gross Income Not To Be Treated as Dividends.—Any distribution excluded from gross income under subsection (a) shall be treated, for purposes of this chapter, as a distribution which is not a dividend.

"Sec. 987. ADJUSTMENTS TO BASIS OF STOCK IN CONTROLLED FOREIGN CORPORATIONS AND OF OTHER PROPERTY.

"(a) Increase in Basis.—Under regulations prescribed by the Secretary or his delegate the basis of a United States shareholder's stock in a controlled foreign corporation, and the basis of property of a United States shareholder by reason of which it is considered under section 985(a)(2) as owning stock of a controlled foreign corporation, shall be increased by the amount required to be included in its gross income under section 983(a) with respect to such stock or with respect to such property, as the case may be, but only to the extent to which such amount was included in the gross income of such United States shareholder.

"(b) Reduction in Basis.—

"(1) In general.—Under regulations prescribed by the Secretary or his delegate, the adjusted basis of stock or other property with respect to which a United States shareholder or a United States person receives an amount which is excluded from gross income under section 986(a) shall be reduced by the amount so excluded.

"(2) Amount in excess of basis.—To the extent that an amount excluded from gross income under section 986(a) exceeds the adjusted basis of the stock or other property with respect to which it is received, the amount shall be treated as gain from the sale or exchange of property.

"SEC. 988. RECORDS AND ACCOUNTS OF UNITED STATES SHAREHOLDERS.

"(a) Records and Accounts To Be Maintained.—The Secretary or his delegate may by regulations require each person who is, or has been, a United States shareholder of a controlled foreign corporation to maintain such records and accounts as may be prescribed by such regulations as necessary to carry out the provisions of this subpart.

"(b) Two or More Persons Required To Maintain or Furnish the Same Records and Accounts With Respect to the Same Foreign Corporation.—Where, but for this subsection, two or more persons would be required to maintain or furnish the same records and accounts as may by regulations be required under subsection (a) with respect to the same controlled foreign corporation for the same period, the Secretary or his delegate may by regulations provide that the maintenance or furnishing of such records and accounts by only one such person shall satisfy the requirements of subsection (a) for such other persons."

(b) Technical and Conforming Amendments.—

(1) Section 864(c)(4)(D) is amended to read as follows:

"(D) No income from sources without the United States shall be treated as effectively connected with the conduct of a trade or business within the United States if it consists of dividends, interest, or royalties paid by a foreign corporation in which the taxpayer owns (within the meaning of section 958(a)), or is considered as owning (by applying the ownership rules of section 958 (b)), more than 50 percent of the total combined voting power of all classes of stock entitled to vote."

(2) Section 951 is amended by adding at the end thereof the following:

"(e) Taxable Years Beginning On Enactment of this Act.—No amount shall be required to be included in the gross income of a United States shareholder under subsection (a) (other than paragraph (1)(A)(ii) of such subsection) with respect to a taxable year of a controlled foreign corporation beginning on the date of the enactment of this Act.

(3) Section 1016(a)(20) is amended by striking out "section 961" and inserting in lieu thereof "sections 961 and 987".

(4) Section 1246(a)(2)(B) is amended by inserting "or 983" after "section 951" and by inserting "or 986" after "section 959".

(5) Section 1248 is amended—

(A) by striking out subsection (b);

(B) by revising subsection (d)(1) to read as follows:

"(1) Amounts included in gross income under section 951 or 983.—Earnings and profits of the foreign corporation attributable to any amount previously included in the gross income of such person under section 951 or 983, with respect to the stock sold or exchanged, but only to the extent the inclusion of such amount did not result in an exclusion of an amount from gross income under section 959 or 986.";

(C) by striking out in subsection (d)(3) "section 902(d)" and inserting in lieu thereof "subsection (h)", and by adding at the end of such subsection "No amount shall be excluded from the earnings and profits of a foreign corporation under this paragraph with respect to any United States person which is a domestic corporation for any taxable year of such foreign corporation beginning on the date of enactment of this Act; and

(D) by adding at the end thereof the following:

"(h) Less Developed Country Corporation Defined.—For purposes of this section, the term "less developed country corporation" means—

"(1) a foreign corporation which, for its taxable year, is a less developed country corporation within the meaning of section 955 (c) (1) or (2), and

"(2) a foreign corporation which owns 10 percent or more of the total combined voting power of all classes of stock entitled to vote of a foreign corporation which is a less developed country corporation within the meaning of section 955(c)(1), and—

"(A) 80 percent or more of the gross income of which for its taxable year meets the requirement of section 955(c)(1)(A); and

"(B) 80 percent or more in value of the assets of which on each day of such year consists of property described in section 955 (c)(1)(B)."

(c) Effective Date.—The amendments made by this section shall apply with respect to taxable years of foreign corporations beginning with the date of enactment of this Act, and to taxable years of United States shareholders which end within or with such taxable years of such foreign corporations.

Sec. 3. Increase in Personal Exemption

(a) Effective with respect to taxable years beginning after December 31, 1974—

(1) section 151 of the Internal Revenue Code of 1954 (relating to allowance of personal exemptions) is amended by striking out "$750" wherever it appears therein and inserting in lieu thereof "($1,000)";

(2) section 6012(a)(1) of such Code (relating to persons required to make returns of income) is amended by—

(A) striking out "$750" wherever it appears therein and inserting in lieu thereof "$1,000";

(B) striking out "$2,050" wherever it appears therein and inserting in lieu thereof "$2,300"; and

(C) striking out "$2,800" wherever it appears therein and inserting in lieu thereof "$3,300"; and

(3) section 6013(b)(3)(A) of such Code (relating to assessment and collection in case of certain return of husband and wife) is amended by striking out "$750" wherever it appears therein and inserting in lieu thereof "$1,000", and by striking out "$1,500" wherever it appears therein and inserting in lieu thereof "$2,000".

(b) Effective with respect to wages paid after December 31, 1974, the table contained in section 3402(b)(1) of the Internal Revenue Code of 1954 is amended to read as follows:

"PERCENTAGE METHOD WITHHOLDING TABLE

"Payroll period:	*Amount of one withholding exemption*
Weekly	$19.20
Biweekly	38.50
Semimonthly	41,70
Monthly	83.30
Quarterly	250.00
Semiannually	500.00
Annually	1,000.00
Daily or miscellaneous (per day of such period)	2.70"

Sec. 4. Payroll Tax for Low-Income Individuals

(a)(1) Section 3101 of the Internal Revenue Code of 1954 (relating to tax on employees) is amended by adding at the end thereof the following new subsection:

"(c) Alternate Tax on Low-Income Individuals.—

"(1) In general.—In the case of a taxpayer who is married (as determined under Section 143) whose adjusted social security income for the calendar year is less than $850, there is hereby imposed on the income of such individual (in lieu of the taxes imposed by subsection (a) and (b)) a tax determined under the following table:

PERCENTAGE OF TAXES IMPOSED BY SUBSECTIONS (A) AND (B)

"If the adjusted social security income is:

[In percent]

Less than $0	10
0 to $49	15
$50 to $99	20
$100 to $149	25
$150 to $199	30
$200 to $249	35
$250 to $299	40
$300 to $349	45
$350 to $399	50
$400 to $449	55
$450 to $499	60
$500 to $549	65
$550 to $599	70
$600 to $649	75
$650 to $699	80
$700 to $749	85
$750 to $799	90
$800 to $849	95

"(2) Adjusted social security income.—For purposes of this subsection, the adjusted social security income of an individual for any calendar year is his adjusted gross income for his taxable year beginning in such calendar year (determined under section 62), minus the sum of—

"(A) $1,300, and

"(B) the amount of personal exemptions to which he is entitled under section 151.

In the case of a married individual whose spouse receives wages or self-employment income during such year, his adjusted gross income and the number of exemptions to which he is entitled shall, for purposes of this paragraph, be determined as if he were not married."

(2) Section 3102 of such Code (relating to deduction of tax from wages) is amended by adding at the end thereof the following new subsection:

"(d) Withholding on Wages of Low-Income Individuals.—"(1) In general.—In the case of an individual whose adjusted wages are less than $850 (computed at an annual rate), the employer of such individual shall deduct from the wages paid (in lieu of the amount required to be deducted under subsection (a)) an amount of the tax imposed by section 3101 determined under the following table:

AMOUNT REQUIRED TO BE DEDUCTED UNDER SUBSECTION (A)

"If the adjusted wages (computed at an annual rate) are:

[In percent]

Less than 0	10
0 to $49	15
$50 to $99	20
$100 to $149	25
$150 to $199	30
$200 to $249	35
$250 to $299	40
$300 to $349	45
$350 to $399	50
$400 to $449	55
$450 to $499	60
$500 to $549	65
$550 to $599	70
$600 to $649	75
$650 to $699	80
$700 to $749	85
$750 to $799	90
$800 to $849	95

"(2) Adjusted wages.—For purposes of this subsection, the adjusted wages of an individual for any period is the amount of wages (adjusted to an annual rate), minus the sum of—

"(A) $1,300, and

"(B) the amount of personal exemptions to which he is entitled under section 151.

In the case of a married individual whose spouse receives wages during such period, the number of exemptions to which he is entitled shall be determined as if he were not married.

"(3) Credit against tax.—Amounts deducted from the wages of an employee under this subsection shall be allowed as a credit against the tax imposed on the employee under section 3101.

"(4) Withholding certificates.—Each employee shall furnish his employer with a signed certificate setting forth such information as is necessary to enable the employer to determine whether this subsection is applicable to him, and the amount of tax to be deducted under this subsection. Such certificate shall be in such form, shall be furnished at such time or times, and shall remain in effect for such period as the Secretary or his delegate prescribes by regulations.

"(5) Regulations.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this subsection and section 3101(c)."

(b) Section 1401 of the Internal Revenue Code of 1954 (relating to rate of tax on self-employment income) is amended by adding at the end thereof the following new subsection:

"(c) Alternate Tax on Low-Income Individuals.—

"(1) In general.—In the case of an individual whose adjusted social security income for the taxable year is less than $850, there is hereby imposed on the self-employment income of such individual (in lieu of the taxes imposed by subsections (a) and (b)) a tax determined under the following table:

"PERCENTAGE OF TAXES IMPOSED BY SUBJECTIONS (A) AND (B)

"[In percent]

"If the adjusted social security income is:	
Less than 0	10
0 to $49	15
$50 to $99	20
$100 to $149	25
$150 to $199	30
$200 to $249	35
$250 to $299	40
$300 to $349	45
$350 to $399	50
$400 to $449	55
$450 to $499	60
$500 to $549	65
$550 to $599	70
$600 to $649	75
$650 to $699	80
$700 to $749	85
$750 to $799	90
$800 to $849	95

"(2) Adjusted social security income.—For purposes of this subsection, the adjusted social security income of an individual for any taxable year is his adjusted gross income for such year (determined under section 62), minus the sum of

"(A) $1,300, and

"(B) the amount of the personal exemptions to which he is entitled under section 151.

In the case of a married individual whose spouse receives wages or self-employment income during each year, his adjusted gross income and the number of exemptions to which he is entitled shall, for purposes of this paragraph, be determined as if he were not married."

(c) Section 31(b) of the Internal Revenue Code of 1954 (relating to credit for special refunds of social security tax) is amended by striking out the heading and paragraph (1) and inserting in lieu thereof the following:

"(b) Credit for Excess Withholding of Social Security Tax.—

"(1) In General.—The Secretary or his delegate may prescribe regulations providing for the crediting against the tax imposed by this subtitle of amounts deducted under section 3102 from the wages paid to the taxpayer in excess of the tax imposed on such wages by section 3101, including the amount determined by the taxpayer or the Secretary or his delegate to be allowable under section 6413(c) as a special refund of such tax. The amount allowable as a credit under such regulations shall, for purposes of this subtitle, be considered an amount withheld at source as tax under section 3402."

(d) There is hereby appropriated, out of any monies in the Treasury not otherwise appropriated, to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Health Insurance Trust Fund amounts (as determined by the Secretary of the Treasury) equal to losses of revenues to such trust funds resulting from the application of section 3101(c) and 1401(c) of the Internal Revenue Code of 1954. The amounts appropriated by the preceding sentence shall be transferred from time to time from the general fund in the Treasury to the respective trust funds on the basis of estimates by the Secretary of the Treasury. Proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the amounts which should have been transferred.

PARTIAL GENERAL FINANCING OF RETIREMENT BENEFITS

Sec. 5. (a) In addition to any other funds appropriated or authorized to be appropriated pursuant to other provisions of law for any fiscal year to the Federal Old-Age and Survivors Insurance Trust Fund, and in addition to any other funds authorized by other provisions of law to be appropriated to or deposited in the Federal Disability Insurance Trust Fund for any fiscal year, there are authorized to be appropriated to each of such funds the following amounts:

(1) For the fiscal year ending June 30, 1975, an amount equal to one twenty-fifth of the expenditures from such fund for such year;

(2) For the fiscal year ending June 30, 1976, an amount equal to three-fiftieths of the expenditures from such fund for such year;

(3) For the fiscal year ending June 30, 1977, an amount equal to two twenty-fifths of the expenditures from such fund for such year;

(4) For the fiscal year ending June 30, 1978, an amount equal to one-tenth of the expenditures from such fund for such year;

(5) For the fiscal year ending June 30, 1979, an amount equal to three twenty-fifths of the expenditures from such fund for such year;

(6) For the fiscal year ending June 30, 1980, an amount equal to seven-fiftieths of the expenditures from such fund for such year;

(7) For the fiscal year ending June 30, 1981, an amount equal to four twenty-fifths of the expenditures from such funds for such year;

(8) For the fiscal year ending June 30, 1981, an amount equal to nine-fiftieths of the expenditures from such funds for such year; and

(9) For any fiscal year ending after June 30, 1982—an amount equal to one-fifth of the expenditures from such fund for such year.

(b)(1) Funds authorized to be appropriated under subsection (a) shall be appropriated for any fiscal year on the basis of estimates by the Congress of the amounts which will be expended for such year from the trust fund to which funds are being appropriated, reduced, or increased to the extent of any overappropriation or underappropriation under this section to such fund for any preceding year with respect to which adjustment has not already been made.

(2) The Secretary of Health, Education and Welfare shall furnish to the Congress such information, data, and actuarial studies as may be appropriate to enable the Congress to make the estimates referred to in paragraph (1).

PARTIAL FINANCING FROM GENERAL REVENUES OF COMBINED HOSPITAL AND MEDICAL INSURANCE PROGRAM UNDER TITLE XVIII

Sec. 6. (a) In addition to any other funds appropriated or authorized to be appropriated pursuant to other provisions of law for any fiscal year to the Federal Health Insurance Trust Fund (as redesignated by section 4(a) of this Act), there are authorized to be appropriated to such fund the following amounts:

(1) for the fiscal year ending June 30, 1975, an amount equal to one-fifth of the expenditures from such fund for such year;

(2) for the fiscal year ending June 30, 1976, an amount equal to one-fifth of the expenditures from such fund for such year;

(3) for the fiscal year ending June 30, 1977, an amount equal to one-fourth of the expenditures from such fund for such year; and

(4) for any fiscal year ending after June 30, 1977, an amount equal to one-third of the expenditures from such fund for such year.

(b)(1) Funds authorized to be appropriated under subsection (a) shall be appropriated for any fiscal year on the basis of estimates by the Congress of the amount which will be expended for such year from the Federal Health Insurance Trust Fund, reduced or increased to the extent of any overappropriation or underappropriation under this section to such fund with respect to which adjustment has not already been made.

(2) The Secretary of Health, Education, and Welfare shall furnish to the Congress such information, data, and actuarial studies as may be appropriate to enable the Congress to make the estimates referred to in paragraph (1).

CHANGES IN TAX SCHEDULE

Sec. 7. (a)(1) Section 3101(a) of the Internal Revenue Code of 1954 (relating to rate of tax on employees for purposes of old-age, survivors, and disability insurance) is amended by striking out paragraphs (5) and (6) and inserting in lieu thereof the following:

"(5) with respect to wages paid during the calendar years 1975 through 2019, the rate shall be 4.75 percent; and

"(6) with respect to wages paid after December 31, 2019, the rate shall be 5.4 percent."

(2) Section 3111(a) of the Internal Revenue Code of 1954 (relating to rate of tax on employers for purposes of old-age, survivors, and disability insurance) is amended by striking out paragraphs (1) through (6) and inserting in lieu of such paragraphs the following:

"(1) with respect to wages paid during the calendar years 1975 through 2019, the rate shall be 4.75 percent; and

"(2) with respect to wages paid after December 31, 2019, the rate shall be 5.4 percent."

(b)(1) Section 1401(b) of such Code (relating to rate of tax on self-employment income for purposes of hospital insurance) is amended—

(A) by striking out "and before January 1, 1978" in paragraph (3) and inserting in lieu thereof "and before January 1, 1975"; and

(B) by striking out paragraphs (4), (5), and (6) and inserting in lieu thereof the following:

"(4) in the case of any taxable year beginning after December 31, 1974, and before January 1, 1978, the tax shall be equal to .80 percent of the amount of the self-employment income for such taxable year;

"(5) in the case of any taxable year beginning after December 31, 1977, and before January 1, 1981, the tax shall be equal to 1 percent of the amount of the self-employment income for such **taxable year;**

"(6) in the case of any taxable year beginning after December 31, 1980, and before January 1, 1986, the tax shall be equal to 1.25 percent of the amount of the self-employment income for such taxable year;

"(7) in the case of any taxable year beginning after December 31, 1985, the tax shall be equal to 1.35 percent of the amount of the self-employment income for such taxable year."

(3) Section 3101(b) of such Code (relating to rate of tax on employees for purposes of hospital insurance) is amended—

(A) by striking out "calendar years 1974 through 1977" in paragraph (3) and inserting in lieu thereof "calendar year 1974"; and

(B) by striking out paragraphs (4) through (6) and inserting in lieu thereof the following:

"(4) with respect to wages received during the calendar years 1975, 1976, and 1977, the rate shall be .80 percent;

"(5) with respect to wages received during the calendar years 1978, 1979, and 1980, the rate shall be 1.0 percent;

"(6) with respect to wages received during the calendar years 1980, 1981, 1982, 1983, 1984, and 1985, the rate shall be 1.25 percent;

"(7) with respect to wages received after December 31, 1985, the rate shall be 1.35 percent."

(4) Section 3111(b) of such Code (relating to rate of tax on employers for purposes of hospital insurance) is amended—

(A) by striking out "calendar years 1974 through 1977" in paragraph (3) and inserting *in lieu* thereof "calendar year 1974"; and

(B) by striking out paragraphs (4) through (6) and inserting in lieu thereof the following:

"(4) with respect to wages paid during the calendar years 1975, 1976, and 1977, the rate shall be .80 percent;

"(5) with respect to wages paid during the calendar years 1978, 1979, and 1980, the rate shall be 1.0 percent;

"(6) with respect to wages paid during the calendar years 1981 through 1985, the rate shall be 1.25 percent;

"(7) with respect to wages paid after December 31, 1985, the rate shall be 1.35 percent."

(c) The effective date of all amendments in this section shall be January 1, 1975.

SEC. 8. Effective June 1, 1975, the Secretary of Health, Education and Welfare shall prescribe and publish in the Federal Register such modifications and extensions of the table contained in section 215(a) of the Social Security Act (which shall be determined in the same manner as the revisions in such table provided for under section 215(i)(2)(D) of such Act, and shall be in lieu of any previously made modifications and extensions of such tables) as may be necessary to reflect the amendments made by this Act; and such modified and extended table shall be deemed to be the table appearing in such section 215(a).

By Mr. CRANSTON (for himself and Mr. STAFFORD):

S. 3495. A bill to amend chapter 79 of title 10, United States Code, to make more feasible the personal appearance of a petitioner before a board authorized to correct discharges and dismissals from the Armed Forces by establishing regional boards of review, and to amend chapter 49 of such title to prohibit the inclusion of certain information on discharge certificates, and for other purposes. Referred to the Committee on Armed Services.

S. 3495: LEGISLATION TO IMPROVE MILITARY DISCHARGE PROCEDURES

Mr. CRANSTON. Mr. President, I am introducing today, for appropriate reference, for myself and my distinguished colleague on the Veterans' Affairs Committee (Mr. STAFFORD), legislation to improve military discharge procedures by correcting what I believe to be two particularly unjust practices. The bill, entitled the "Armed Services Discharge Review Procedure Act of 1974," proposes to amend title 10, United States Code, to make more feasible the personal appearance of a petitioner before a board authorized to correct discharges and dismissals from the Armed Forces by establishing regional boards of review, and to amend chapter 49 of such title to prohibit the inclusion of certain information on discharge certificates, and for other purposes.

Mr. President, less than honorable discharges, discharge review procedures, and the separation program number—SPN—located on DD-214 discharge papers present very serious problems to many veterans in determining their eligibility for GI bill benefits, medical care, and job opportunities.

PREJUDICIAL IMPACT OF SPN CODES ON DISCHARGE PAPERS

Since May 1951, the Armed Forces had followed a practice of printing SPN codes on a serviceman's report of separation from active duty, DD-214. These numbers reflected anything from drug abuse or homosexuality to a bad attitude or bed wetting. The interpretation of these numbers was widely known—particularly by large companies—and often a veteran with a discharge under honorable conditions, but a SPN code indicating a bad attitude or homosexuality, for example, would not receive a particular job.

The use of these numbers represented a serious violation of personal rights and privacy already far too prevalent in our society. Millions of former servicemen—9 million in the last decade alone—have had these prejudicial code numbers printed on their discharge papers. Finally, on Friday, March 22, 1974, the Secretary of Defense announced that SPN codes will no longer be used on an individual's DD-214 report of separation from active duty. DOD has already begun to implement this new policy, which is retroactive to any veteran who applies for a new, clean discharge certificate.

SUMMARY OF S. 3495 SPN CODE PROVISIONS

In order to prevent this procedure from being reactivated, we already have legislation pending—S. 1716—prohibiting the appearance of SPN codes, or any other such indicator of reason for discharge, on a discharge certificate.

The legislation I am introducing today, however, in addition to reiterating that prohibition will also require the Department of Defense, to the maximum extent feasible, to issue by mail, without waiting for applications, clean discharge certificates to any veteran who, prior to the March 22, 1974, DOD policy change was issued a discharge certificate with a SPN code.

In recognition that it will be difficult to contact many veterans by mail, this legislation will require the Department of Defense to develop and carry out a substantial program of publicity and outreach, in order to contact the maximum number of veterans with SPN code discharges. To achieve that, the Secretary of Defense would be directed to submit to Congress, within 60 days of enactment, a plan for such a nationwide outreach and information program.

My bill also proposes a number of changes in the procedures for review of military discharges.

DISCRIMINATORY DISCHARGE REVIEW PROCEDURES

Mr. President, all Vietnam-era veterans are faced with unique readjustment problems. Limited job opportunities, inadequate educational assistance benefits, insensitive medical care, and public indifference to their needs plague most returning veterans and their families. The approximately 460,000 Vietnam-era veterans who received other-than-honorable discharges, however, are as handicapped in many respects as those veterans who returned with physical or mental injuries. For them, job opportunities and the possibility of receiving educational assistance are questionable, if not entirely nonexistent.

The handicap of an other-than-honorable discharge, unlike many physical or mental injuries, can be removed for many of the veterans. There are three categories of less-than-honorable discharge for which a veteran is entitled to a discharge review. General discharges, undesirable discharges, and bad-conduct by special courts-martial discharges can be upgraded upon appeal and favorable review by a military discharge review board. Such discharges are given administratively, and most are not the result of a serious crime. Those bad-conduct discharges which are issued by a general court-martial, and dishonorable discharges, on the other hand, are in most cases given to servicemen who have committed more serious offenses.

But statistics indicate the process for obtaining upgrading of less-than-honorable discharges is a reality for very few who are eligible to benefit from it.

MORE LIMITED JOB OPPORTUNITIES AND PLACEMENT HELP

Mr. President, the unemployment rate for honorably discharged young Vietnam veterans aged 20 to 24 for the first quarter of this year has been 9.9 percent, and a staggering 18.9 percent for non-Caucasian veterans. For all Vietnam-era veterans it is 5.1 percent—meaning 291,000 unemployed veterans based on the Labor Department's first quarter figures. Since most employers request information concerning military service, I think we can safely assume that those veterans with other-than-honorable discharges are having even more difficulty in finding jobs.

A veteran with an other-than-honorable discharge may apply for an exemplary rehabilitation certificate which, according to the Department of Labor:

> Is tangible evidence to show employers that you've made good, that you are now among those whose conduct as a civilian is "exemplary."

This certificate indicates the Secretary of Labor's satisfaction that a person has rehabilitated himself, that his character is good, and that his conduct, activities and habits since he was discharged or dismissed have been exemplary for a reasonable period of time, but not less than 3 years.

The certificate entitles individuals to special job-counseling and job-placement services at the local office of the State Employment Service as coordinated by the Veterans Employment Service in the Department of Labor. In order to apply for such a certificate, however, the veteran must have a statement from the chief law enforcement officer of his city, town, or county; statements from at least five people who have known him for 3 years or more; and a statement from an employer for whom the veteran has worked since his discharge. The Secretary will then assess these statements and the veteran's work record, and make a determination as to whether or not the veteran has earned an exemplary rehabilitation certificate.

This procedure is not widely used for a number of reasons, principally because most veterans are not aware of it. The procedure also requires a veteran to have been employed since his discharge, which is most likely the veteran's reason for needing the certificate to begin with—he or she cannot get a job. We thus have a classic "Catch 22" situation.

The real value of these certificates to the veteran is questionable, indeed. In the past 3 calendar years, there have been about 1,000 "requests" for applications for these certificates each year. Of these requests for applications, only 145 actually submitted applications in 1971, 188 in 1972, and 143 in 1973. And of those who did, in fact, apply, only 70 received certificates in 1971, 82 in 1972, and 73 in 1973.

UNAVAILABILITY OF VA EDUCATIONAL ASSISTANCE AND OTHER VA BENEFITS

[GI BILL MOST OFTEN UNAVAILABLE]

A veteran with an other-than-honorable discharge faces equally frustrating difficulties in attempting to obtain educational or training assistance under the GI bill. Although the Veterans' Administration can adjudicate individual cases in favor of veterans with these discharges—by finding that the discharge was actually "under honorable conditions"—chances are slim that educational assistance benefits will be awarded.

A 5-month survey conducted by the VA in 1972 showed that of approximately 1,300 veterans with less-than-honorable discharges who applied for educational assistance, about 900 were denied.

ELIGIBILITY FOR OTHER VA BENEFITS

The possibilities for a veteran with an other-than-honorable discharge to obtain other VA benefits, such as compensation, pension, or a home loan, are equally slim. The main eligibility requirement for these benefits is that a person be a "veteran." Section 101(2), title 38, United States Code, defines "veteran" as "a person who served in the active military, naval, or air service, and who was discharged or released under conditions other than dishonorable." Veterans with honorable and general discharges are automatically eligible for VA benefits, and veterans with dishonorable discharges or bad-conduct discharges by general court-martial are not eligible. Veterans with undesirable discharges or bad-conduct discharges by special court-martial may apply to the VA to have their cases adjudicated so that they may receive benefits.

Eligibility for disability compensation carries the further requirement that, in addition to the disability being service-connected, it must not be the result of the veteran's own willful misconduct. In order to obtain VA pension benefits, a veteran with an undesirable discharge or a bad-conduct discharge by special court-martial must apply to have his or her case reviewed. This review will determine whether or not the veteran receives a VA pension.

For the purpose of obtaining a home loan through the VA, an honorable discharge is considered to be a certificate of eligibility for application for a guaranteed loan. A veteran who received a discharge other than honorable, but not by a general court-martial, may apply to the Administrator for a certificate of eligibility. Here again, the Veterans' Administration can adjudicate individual cases in favor of veterans with these discharges by finding that the discharge was actually "under honorable conditions".

The VA is also responsible for determining whether or not a veteran with an other-than-honorable discharge will receive unemployment compensation through the Department of Labor. A VA representative estimates that of 1,000 to 1,200 applications for VA benefits and Department of Labor unemployment compensation each month, the VA finds favorably in approximately 4 percent of the cases for unemployment compensation and about 7 percent for VA benefits.

INELIGIBILITY FOR VA MEDICAL CARE

Veterans with less-than-honorable or general discharges are presently not eligible for the very broad range of medical care, in- and out-patient, available to most veterans for injuries or illnesses. This ineligibility even extends—most unfairly, I believe—to treatment for disabilities actually incurred in battle or otherwise in the line of duty or during service. The largest category deprived of such care is those with undesirable discharges—and some with bad conduct discharges issued by special court-martial proceedings—which are issued administratively, with far less than due process protections. Few service men or women realize that they are probably forfeiting rights to VA medical care for service-connected conditions—let alone GI bill benefits and employment assistance—at the time they "accept" such an administrative discharge.

What happens now when such a veteran seeks VA medical care for a service-connected condition is that he or she is found not eligible and has to wait at least 6 months to get the VA to decide whether the discharge was or was not "under honorable conditions"—the magic words for determination of eligibility for care—or wait even longer to get a full review in order to upgrade the discharge in an appeal to a military discharge review board.

As chairman of the Health and Hospitals Subcommittee of the Committee on Veterans' Affairs, I have sought to remedy this inequitable situation as to treatment for service-connected disabilities. On March 6, 1973, the Senate unanimously passed my Veterans Drug and Alcohol Treatment and Rehabilitation Act of 1973, S. 284.

A virtually identical bill was passed in 1972, S. 2108, but died in the House with the close of the 92d Congress. This Senate-passed measure, on which I have been assured hearings will begin shortly in the House Veterans' Affairs Committee, includes a provision designed to remedy part of the problem I have outlined for veterans with those types of discharges less than general or honorable which are not the result of general court-martial proceedings—generally veterans with undesirable discharges. Section 2 of S. 284 would make a veteran with such a discharge—although not a veteran with a dishonorable discharge—eligible for full VA medical care for his or her service-connected disabilities.

However, Mr. President, even if this provision in S. 284 is enacted into law, the veterans made eligible thereby will still need the benefits of the bill we are introducing today to acquire an honorable or general discharge which would make them eligible for VA medical care for their non-service-connected disabilities if they are unable to afford private care, and, of course, to acquire eligibility for employment assistance, G.I. bill benefits, and other VA programs.

LOW PERCENTAGE OF DISCHARGES NOW UPGRADED

Mr. President, it seems clear that a veteran with an other-than-honorable discharge will carry a stigma for life, a stigma which will have far-reaching effects on almost everything he or she attempts to do. Many veterans took a less-than-honorable discharge by administrative procedures in order to get out of the service in a hurry. In many cases they were informed, or they assumed there would be no difficulty in having the discharge upgraded once they were out. But judging from the number of cases reviewed and upgraded in fiscal year 1973, for example, this is clearly not the case.

Approximately 70,000 former servicemen were given other-than-honorable discharges, but only 8,911 veterans even applied for review. Approximately 42,000 cases were eligible for review by the Army, but only 4,474 cases were actually reviewed and only 478 were upgraded. The Navy and Marine Corps reviewed 3,167 cases and upgraded 926 of a total of about 20,000 cases eligible for review. The Air Force favorably reviewed 314 out of 1,270 cases submitted, although there were almost 7,000 former members of the Air Force who could have applied for a review.

In 1973, alone, the rate of successful

appeals ranged from 11 percent by the Army to 25 percent by the Air Force, and 29 percent by the Navy and Marine Corps. Since 1967, the Air Force discharge review board has processed 8,565 applications, and approved 3,235 or 38 percent. The Navy and Marine Corps have processed 11,552 applications since 1967, and approved 3,451 or 30 percent. The Army, however, which processed the largest number of applications since 1967 favorably reviewed the fewest. Only 2,176 out of a total of 16,747 applications—just 13 percent—were upgraded.

The stigma associated with less-than-honorable discharges is often undeserved as well. Most veterans with these discharges have not committed serious crimes, but got into trouble, often because of drugs or alcohol, boredom, family pressures leading to repeated AWOL's, or the inability to cope with the demands of a combat situation. The problem may simply be one of immaturity. Some young men of 18 to 19 years of age may lack the patience and endurance needed for many of the situations confronted in the service. Last year alone 484 veterans who initially had received bad conduct, undesirable, or general discharges were granted honorable discharges after getting their cases reviewed.

POOR HARDEST HIT

Further, Mr. President, it has been suggested that a disproportionate number of veterans with less-than-honorable discharges are poor, and educationally disadvantaged. Department of Defense statistics show that nonwhites receive a high percentage of these discharges. In fiscal year 1972, for example, 32.6 percent of the dishonorable discharges issued by the Army went to Blacks. I think it is not just a coincidence that in the first quarter of 1974, the unemployment rate for young, black veterans was 18.9 percent.

For far too many veterans, this type of discharge irrevocably relegates them to a lower economic status in society—often a situation they may very well have been seeking to abandon when they entered military service.

INEQUITIES IN DISCHARGE REVIEW PROCEDURES

Mr. President, the inequity of this situation is further compounded by the present procedure for seeking to obtain an upgrading of a military discharge. A veteran with a less than honorable discharge who appears personally at his discharge review hearing stands a far better chance of having his discharge upgraded than a veteran who does not appear in person. Significantly, of 1,270 cases reviewed by the Air Force, only 142 former servicemen appeared in person. Of those 142, 72 cases were upgraded, or 51 percent. Of the remaining 1,128 cases, only 242, or 21 percent, were favorably adjudicated.

Although the Army, and the Navy/Marine Corps do not keep records of the number of veterans whose discharges were upgraded and who appeared personally, it is noteworthy that out of 4,474 cases reviewed by the Army, only 273 veterans appeared in person, and of 3,167 cases reviewed by the Navy/Marine Corps, only 312 veterans made personal appearances.

Mr. President, since at present Washington, D.C., is the only location for such a review, it is virtually impossible for large numbers of veterans to have their cases considered in the most favorable light. It is, therefore, even more difficult for veterans with less-than-honorable discharges who are poor, and educationally disadvantaged—as veterans with these discharges often are—to upgrade their discharge.

The legislation which I am introducing today attempts to correct this totally unjust and discriminatory situation.

SUMMARY OF S. 3495 DISCHARGE REVIEW PROVISIONS

S. 3495 would:

First, increase the number of discharge review boards to at least 10 centers, geographically dispersed in such a manner—probably in the 10 Federal Government regions—as to be reasonably accessible to veterans living in all parts of the country;

Second, permit the Secretary of Defense—to promote economical operations—to consolidate the various services into one discharge review board, comprised of no less than one member of each service, or, if a civilian, one recommended by each service; although I would contemplate that one board exclusively from each service would remain available—probably in Washington—for the veteran who wished such a review by his or her service alone.

Third, in cases of demonstrated hardship, pay the cost of a veteran's transportation and expenses should he or she wish to make a personal appearance at the regional review board; as an alternative for purposes of economy, the board could be authorized to travel temporarily to a particular location where a number of cases are aggregated; and

Fourth, insure that each military service makes available to each prospective petitioner military counsel to assist him in presenting his case, and advises him in writing of the availability of such assistance and of the right of personal appearance and the opportunity to apply for transportation and per diem costs in hardship cases.

Mr. President, I ask that the full text of this bill be printed in the Record at this point, followed by the applicable present provisions of title 10 of the United States Code, and an April 3, 1974, letter on this subject from the American Veterans Committee to the Secretary of Defense.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 3495

A bill to amend chapter 79 of title 10, United States Code, to make more feasible the personal appearance of a petitioner before a board authorized to correct discharges and dismissals from the armed forces by establishing regional boards of review, and to amend chapter 49 of such title to prohibit the inclusion of certain information on discharge certificates, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Armed Services Discharge Review Procedure Act of 1974".

Sec. 2. Section 1553 of title 10, United States Code, is amended to read as follows:

"§ 1553. Review of discharge or dismissal

"(a) The Secretary of Defense shall, after consultation with the Administrator of Veterans' Affairs, provide for the establishment of regional boards of review throughout the United States to review the discharge or dismissal (other than a discharge or dismissal by sentence of a general court-martial) of any former member of an armed force upon motion by any such board or upon request of the former member or, if deceased, the surviving spouse, next of kin, or legal representative of such former member. A motion or request for review must be made within 15 years after the date of the discharge or dismissal.

"(b) (1) Subject to the provisions of paragraph (2), the Secretary concerned shall appoint a board of review for each region of the United States to review cases within such region of former members of an armed force under the jurisdiction of his department. Each such board shall consist of five members.

"(2) The Secretary of Defense, if he determines that such action is in the best interests of efficiency and economy and will not adversely affect the interests of former members of the armed forces whose discharges or dismissals are reviewed under this section, may provide for the establishment of a single board of review for any one or more regions. Any such board of review established for any region shall be composed of five members, one from or recommended by each of the armed forces, shall be appointed and serve for such period of time as the Secretary of Defense shall prescribe by regulation, and shall have jurisdiction to review the discharge or dismissal of any former member of an armed force, subject to the limitations in subsection (a).

"(c) Any board established under this section may, subject to the review of the Secretary of the armed force of which the person whose discharge or dismissal is being reviewed was a member, change the discharge or dismissal or issue a new discharge to reflect its findings.

"(d) A review by a board established under this section shall be based on the records of the armed force concerned and such other evidence as may be presented to the board. A witness may present evidence to the board in person or by affidavit. A person who requests a review under this section may appear before the board in person or by counsel or an accredited representative of an organization recognized by the Administrator of Veterans' Affairs under chapter 59 of title 38. Upon request, the Judge Advocate General of the armed force of which a person was a former member shall appoint a judge advocate to represent such person before the board. A person who requests a review under this section shall be promptly advised in writing, upon filing his application, of his right to make a personal appearance before the board and of his right to be represented by counsel of his own choosing or appointed by such Judge Advocate, or by an accredited representative.

"(e) As used in this section, the term 'region' means any one of not less than ten geographical areas of the United States delineated by the Secreary of Defense for purposes of this section. In dividing the United States into regions for purposes of this section the Secretary of Defense shall consider, among other factors, the number of former members of the armed forces residing in the proposed region and the travel distances that may be involved in order for former members to reach the regional board's headquarters within any such proposed region.

"(f) In accordance with such regulations as the Secretary of Defense shall prescribe, the Secretary concerned shall pay the reasonable travel expenses in the case of any person described in subsection (a) who wishes to make a personal appearance before a board of review in connection with such person's petition to the board to change a discharge or dismissal if such person is unable to bear such travel expenses or to do so would result in financial hardship. As used in this subsection, the term 'reasonable travel expenses' includes round trip transportation expenses and per diem allowance not in excess of amount that would be authorized for persons employed by the United States traveling on official business."

SEC. 2. (a) Chapter 49 of title 10, United States Code, is amended by adding at the end thereof a new section as follows:

"§ 975. Prohibition against certain information appearing on discharge certificates

"(a) No information (in code or otherwise) shall be included on any discharge certificate by any military department if such information in any way indicates the attitude, opinion, or decision of the military department concerned with respect to whether the person to whom such certificate was issued should be accepted for reenlistment in the armed forces. All such information shall be treated as strictly confidential and may be released to another department or agency of the government only on a need-to-know basis."

(b) The table of sections at the beginning of chapter 49, of title 10, United States Code, is amended by adding at the end thereof a new item as follows:

"975. Prohibition against certain information appearing on discharge certificates."

(c) The amendment made by subsection (a) of this section shall be applicable to all discharges issued by the armed forces of the United States on and after the date of enactment of this Act.

(d) (1) The Secretary of each military department (and the Secretary of Transportation with respect to the Coast Guard) shall, to the maximum extent practicable, issue new discharge certificates to all former members of such department whose last discharge certificate contains any information (in code or otherwise) described in section 975 of title 10, United States Code, as added by subsection (a) of this section.

(2) The Secretary of Defense shall, within 60 days after the date of enactment of this Act initiate and carry out a comprehensive nationwide program designed to contact and inform all former members of the armed forces who have been issued discharge certificates with the type of information thereon described in section 975 of title 10, United States Code (as added by subsection (a) of this section) and who have not been contacted and issued new discharge certificates as provided in paragraph (1). The Secretary shall consult with the Administrator of Veterans' Affairs in carrying out such program, and the Administrator shall utilize the full services and facilities of the Veteran's Administration to assist in contacting such former members. Any action taken by the Administrator of Veterans' Affairs shall be in addition to, and not in lieu of, action to be taken by the Secretary of Defense. Not later than 60 days after the date of enactment of this Act the Secretary of Defense shall submit a written report to the Congress disclosing the plan to be carried out by him under this paragraph.

Chapter 79

Section 1553. Review of discharge or dismissal.

(a) The Secretary concerned shall, after consulting the Administrator of Veterans' Affairs, establish a board of review, consisting of five members, to review the discharge or dismissal (other than a discharge or dismissal by sentence of a general court-martial) of any former member of an armed force under the jurisdiction of his department upon its own motion or upon the request of the former member or, if he is dead, his surviving spouse, next of kin, or legal representative. A motion or request for review must be made within 15 years after the date of the discharge or dismissal.

(b) A board established under this section may, subject to review by the Secretary concerned, change a discharge or dismissal, or issue a new discharge, to reflect its findings.

(c) A review by a board established under this section shall be based on the records of the armed forces concerned and such other evidence as may be presented to the board. A witness may present evidence to the board in person or by affidavit. A person who requests a review under this section may appear before the board in person or by counsel or an accredited representative of an organization recognized by the Administrator of Veterans' Affairs under chapter 59 of title 38. (Added Pub. L. 85–857. § 13(v) (2), Sept. 2, 1958, 72 Stat. 1267, and amended Pub. L. 87–651, title I, § 110(a), Sept. 7, 1962, 76 Stat. 509.)

Chapter 49.—Miscellaneous Prohibitions and Penalties

Sec. 971. Service credit: officers may not count enlisted service performed while serving as cadet or midshipman.

Sec. 972. Enlisted members: required to make up time lost.

Sec. 973. Duties: Regular officers; performance of civil functions restricted.

Sec. 974. Civilian employment: enlisted members.

AMENDMENTS

1968—Pub. L. 90–235, §§ 4(a) (5) (B), 6(a) (6) (B), Jan. 2, 1968, 81 Stat. 759, 762, added items 973 and 974.

1958—Pub. L. 85–861. § 1 (20), Sept. 2, 1958, 72 Stat. 1442, added items 971 and 972.

§ 971. Service credit: officers may not count enlisted service performed while serviing as cadet or midshipman.

(a) The period of service under an enlistment or period of obligated service while also serving as a cadet at the United States Military Academy, the United States Air Force Academy, or the United States Coast Guard Academy, or as a midshipman at the United States Naval Academy, or in the Naval Reserve, under an appointment accepted after June 25, 1956, may not be counted in computing, for any purpose, the length of service of an officer of an armed force.

(b) In computing length of service for any purpose—

(1) no officer of the Navy or Marine Corps may be credited with service as a midshipman at the United States Naval Academy or as a cadet at the United States Military Academy, United States Air Force Academy, or United States Coast Guard Academy, if he was appointed as a midshipman or cadet after March 4, 1913; and

(2) no commissioned officer of the Army or Air Force may be credited with service as a midshipman at the United States Naval Academy or as a cadet at the United States Military Academy, United States Air Force Academy, or United States Coast Guard Academy, if he was appointed as a midshipman or cadet after August 24, 1912.

(Added Pub. L. 85–861, § 1(20), Sept. 2, 1958, 72 Stat. 1442 and amended Pub. L. 90–235, § 6(a) (1), Jan. 2, 1968, 81 Stat. 761.)

HISTORICAL AND REVISION NOTES

Revised section, 971. Source (U.S. Code), 50: 1414. Source (Statutes at Large), June 25, 1956, ch. 439, § 4, 70 Stat. 333.

AMENDMENTS

1968—Pub. L. 90–235 designated existing provisions as subsec. (a) and added subsec. (b).

§ 972. Enlisted members: required to make up time lost.

An enlisted member of an armed force who—

(1) deserts;

(2) is absent from his organization, station, or duty for more than one day without proper authority, as determined by competent authority;

(3) is confined for more than one day while awaiting trial and disposition of his case, and whose conviction has become final;

(4) is confined for more than one day under a sentence that has become final; or

(5) is unable for more than one day, as determined by competent authority, to perform his duties because of intemperate use of drugs or alcoholic liquor, or because of disease or injury resulting from his misconduct;

is liable, after his return to full duty, to serve for a period that, when added to the period that he served before his absence from duty, amounts to the term for which he was enlisted or inducted. (Added Pub. L. 85–861, § 1 (20), Sept. 2, 1958, 72 Stat. 1443.)

HISTORICAL AND REVISION NOTES

Revised section, 972. Source (U.S. Code), 10 App.: 629a, 34 App.: 183b. Source (Statutes at Large), July 24, 1956, ch. 692, § 1, 70 Stat. 631.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 507, 3985, 8925 of this title.

§ 973. Duties: regular officers; performance of civil functions restricted.

(a) No officer on the active list of the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Regular Coast Guard may accept employment if that employment requires him to be separated from his organization, branch, or unit, or interferes with the performance of his military duties.

(b) Except as otherwise provided by law, no officer on the active list of the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Regular Coast Guard may hold a civil office by election or appointment, whether under the United States, a Territory or possession, or a State. The acceptance of such a civil office or the exercise of its functions by such an officer terminates his military appointment. (Added Pub. L. 90–235, § 4(a) (5) (A), Jan. 2, 1968, 81 Stat. 759.)

Section Referred to in Other Sections

This section is referred to in sections 3017, 5036, 8017 of this title.

§ 974. Civilian employment: enlisted members.

Except as provided in section 6223 of this title no enlisted member of an armed force on active duty may be ordered or permitted to leave his post to engage in a civilian pursuit or business, or a performance in civil life, for emolument, hire, or otherwise, if the pursuit, business, or performance interferes with the customary or regular employment of local civilians in their art, trade, or profession. (Added Pub. L. 90–235, § 6(a) (6) (A), Jan. 2, 1968, 81 Stat. 762.)

American Veterans Committee,
Washington, D.C., April 3, 1974.
Hon. James R. Schlesinger,
Secretary of Defense, Department of Defense,
Washington, D.C.

DEAR MR. SCHLESINGER: We were pleased to note the news release of the Department of Defense issued March 22 that Separation Program Numbers (SPNs) will no longer be used on an individual's separation paper, the DD 214. The American Veterans Committee commends you for this action. We have urged the deletion of "Reason and Authority" on the DD 214 for a number of years, and are gratified that you have initiated this important first step in ending the harmful effects of SPN codes.

We are concerned that those veterans who are designed to benefit from this policy will never be aware of it if the primary means of publicizing it are the issuance of press releases. As you undoubtedly realize, many papers will not carry the story, and those which do may bury it in a small column in the middle of the paper. Moreover, our work with veterans with less-than-honorable discharges—which comprises the bulk of those persons who received stigmatizing SPNs—indicates that most of them have limited education and are from the lower socio-economic strata of society. Few of us have the luxury of reading the entire newspaper every day. Yet, if the Department of Defense is relying on the news media to disseminate the new SPN policy, it will require that a veteran not generally inclined to read newspapers on a regular basis read the appropriate page of a particular newspaper on a specific day. Such a combination of events, I think you will agree, is highly unlikely.

We respectfully submit that if the policy is to be a meaningful one, the Department of Defense should send a new DD 214 to all persons who have received stigmatizing SPNs. Recognizing that there will be some technical difficulties in reaching the veterans, we think that the Department of Defense can distribute these new DD 214s to the great majority. We hope you will take immediate steps to issue and distribute the new DD 214s.

This situation is similar to the one which existed when the Department of Defense announced its intent to review for recharacterization all discharges imposed on the basis of the use or possession for personal use of drugs. Our response to that policy was that although it was a desirable one, it would have little practical benefit for veterans since no one would know about it because the Department of Defense relied on press releases and the Veterans Administration as methods of dissemination. A federal district court apparently agreed, for on November 13, 1973, Judge June L. Green ordered in *American Veterans Committee* vs. *Schlesinger*, Civil Action No. 2311–72, that the Department of Defense provide individual notification to certain veterans entitled to benefit from the policy.

Would you kindly provide us with the following information regarding the issuance of future DD 214s? Will Box 11(c) "Reason and Authority" be eliminated? Will the military departments keep their own record of a serviceman's "reason and authority" for discharge? If this is the case, if a veteran requested that information, would he be given it? Would an employer, if he requested it, be given that information? Would anyone else be given access to those records?

We hope that you will respond to these matters as promptly as possible.

Sincerely yours,

JUNE A. WILLENZ,
Executive Director.

By Mr. BELLMON:

S. 3496. A bill to amend title 38 of the United States Code to provide for cost-of-living increases in educational benefits. Referred to the Committee on Veterans' Affairs.

Mr. BELLMON. Mr. President, today, I am introducing legislation which will guarantee that veterans' educational benefits keep pace with the rising "cost of living."

Due to the rate of inflation, increase in tuition and other educationally related expenses, Congress has been required to continuously review and provide significant readjustments in the years 1967, 1970, and 1972 in the benefit levels for the current GI bill, the Veterans Benefits Act of 1966.

This year, Congress has once again been called upon to reexamine the GI bill. On February 19, by a unanimous vote, the House passed H.R. 12628 which provides a 13.6 percent increase in educational benefits. This means that a veteran with no dependents will receive $250 per month instead of the existing $220. The Senate will soon consider S. 2784 which provides an even greater increase in educational benefits. It is my hope that during consideration of this measure by the Senate Committee on Veterans' Affairs, my proposal to provide an automatic annual "cost of living" increase will be included as a part of this bill. If not, I intend to offer this proposal as an amendment when S. 2784 is considered on the Senate floor.

The need for an annual automatic "cost of living" provision in the GI bill has been well documented. According to figures released by the Department of Veterans' Benefits on January 11, 1974, it can reasonably be concluded that the Vietnam era veteran is not treated nearly as fair in terms of educational benefits as were the veterans of World War II. Let me illustrate. A single World War II veteran received approximately $3,804 per year in educational benefits whereas in terms of yearly buying power, the Vietnam era veteran receives only $1,980 per year—a difference of $1,824 per year.

I ask unanimous consent that a chart showing this disparity be inserted in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

APPENDIX G

CURRENT BUYING POWER OF THE VIETNAM ERA GI BILL COMPARED TO THE WORLD WAR II GI BILL[1]

	World War II GI bill (1948)				Vietnam era GI bill (1974)				Difference in buying power				
	Monthly SA[2]	Period of entitlement (months)	Tuition	Yearly buying power	Monthly SA[2]	Period of entitlement (months)	Tuition	Yearly buying power	World War II GI bill	Vietnam GI bill	Yearly difference	Monthly difference
No dependents	$143	9	+$2,517	$3,804	$220	9	+0	$1,980	$3,804	$1,980	$1,824	$203
1 dependent	200	9	+2,517	4,317	261	9	+0	2,349	4,317	2,349	1,968	219
2 dependents	229	9	+2,517	4,578	298	9	+0	2,682	4,578	2,682	1,896	211

[1] Per 9-month school year.

[2] Subsistence allowance.

Conclusion: The Vietnam era veteran actually has $1,896 a year, or $210 a month, less than did his World War II veteran counterpart.

Note: Figures taken from Veterans Administration statistics, Department of Veterans Benefits, *Jan. 11, 1974.*

Mr. BELLMON. The cost of living has increased 200 percent since World War II and the enactment of the first GI bill. Quite simply, benefit levels have not kept pace with this inflationary spiral.

The Congress must guarantee that adequate educational benefits will be provided not only now, but in the future. An automatic escalator clause gives this assurance and will undoubtedly encourage more of our Vietnam era veterans to take advantage of the benefits which are offered in the GI bill.

I ask unanimous consent that the text of this bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3496

A bill to amend title 38 of the United States Code to provide for cost-of-living increases in educational benefits

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 36 of title 38, United States Code, is amended by adding at the end thereof a new section as follows:

"§ 1796. Cost-of-living increases for educational benefits

"(a) As soon as possible after the beginning of each calendar quarter, the Administrator shall determine the extent by which the price index in the preceding calendar quarter was higher than the price index in the applicable base period (as those terms are defined in subsection (e)). If he determines that the price index had risen by a percentage (of its level in the base period) equal to 3 per centum or more, the amount of each benefit otherwise payable under chapters 31, 34, 35, and this chapter shall be increased by the same percentage (adjusted to the nearest one-tenth of 1 per centum), effective with respect to benefits for months after the quarter in which the determination is made.

"(b) In the case of any individual who first becomes entitled to a benefit in or after the month in which an increase becomes effective under subsection (a), the amount of the benefit payable to or with respect to him on the basis of such entitlement shall be determined by applying such increase (or, if more than one increase has become effective under subsection (a), by applying all such increases successively) to the amount of the benefit which would be payable under chapters 31, 34, 35 and this chapter without regard to this section.

"(c) Any increase under subsection (a) shall apply with respect to all benefits payable under chapters 31, 34, 35 and this chapter during the period in which such increase is effective regardless of the provisions under which such benefits are payable or the manner in which the amounts payable are determined, but shall be applied with respect to the benefit payable to or with respect to any particular individual only after all of the other provisions of chapters 31, 34, 35 and this chapter which relate to eligibility for and the amount of such benefit, and all prior increases made in such benefit under this section, have been applied.

"(d) If the amount of the increase in any benefit under subsection (a) is not a multiple of $0.10 it shall be raised to the next higher multiple of $0.10 in the case of a multiple of $0.05 or adjusted to the nearest multiple of $0.10 in any other case.

"(e) For purposes of this section—

"(1) the term 'price index' means the Consumer Price Index (all items, United States city average) published monthly by the Bureau of Labor Statistics; and the average level of the price index for the three months in any calendar quarter shall be deemed to be the level of the price index in such quarter; and

"(2) the term 'base period' means—

"(A) the calendar quarter commencing January 1, 1974, with respect to the increase under subsection (a), and

"(B) the calendar quarter immediately preceding the quarter in which the determination constituting the basis of the most recent increase under subsection (a) was made, with respect to any increase under subsection (a) after the first such increase.

"(3) the term 'benefit' means any benefit payable under chapters 31, 34, 35, or this chapter.

(b) The table of sections at the beginning of chapter 36 of title 38, United States Code, is amended by adding at the end thereof the following:

"1796. Cost-of-living increases for educational benefits.".

SEC. 2. The amendments made by the first section of this Act shall apply only with respect to increases in benefits under chapters 31, 34, 35, and 36 of title 38, United States Code for months in and after the second calendar quarter beginning after the date of the enactment of this Act on the basis of determinations made (under section 1796 of such title, as added by the first section of this Act) in and after the first calendar quarter beginning after the date of the enactment of this Act.

By Mr. DOMENICI (for himself, Mr. EASTLAND, Mr. BAKER, Mr. COOK, and Mr. BURDICK):

S. 3498. A bill to amend section 5 of the Food Stamp Act of 1964 to broaden the authority of the Secretary of Agriculture with regard to providing emergency food assistance to victims of disasters. Referred to the Committee on Agriculture and Forestry.

Mr. DOMENICI. Mr. President, it has become increasingly evident that, while our present food stamp program administered by the U.S. Department of Agriculture serves its current purpose effectively in normal circumstances, there is a problem with its effectiveness in emergency situations. For this reason I send to the desk and request appropriate reference, a bill to amend section 5 of the Food Stamp Act of 1964 to broaden the authority of the Secretary of Agriculture to provide emergency food assistance to victims of disasters and other emergency situations. I am pleased to be joined in introducing this bill by the distinguished Senators from Mississippi (Mr. EASTLAND), Tennessee (Mr. BAKER), Kentucky (Mr. COOK), and North Dakota (Mr. BURDICK).

Under existing law, an individual must go through a lengthy certification procedure to become eligible to receive food stamps. Often a disaster, such as the floods and tornadoes recently experienced by so many Americans, throws an individual into a state of temporary unemployment and even disability. In those instances that person needs help immediately, and in most cases only temporarily, for the necessities of life—medical care, food, shelter, et cetera.

Immediate, temporary assistance in the form of an emergency issue of food stamps is not readily available under present law because the formal application process may take longer than the temporary need of that particular applicant. Meanwhile, the food stamp program is drawing criticism not only from applicants and local distributors, but also from other agencies and individuals who are working to alleviate as many problems as possible during emergency situations.

The amendments we suggest will provide the Secretary of Agriculture discretionary authority to establish temporary emergency standards of eligibility much more flexible than the criteria contained in the Food Stamp Act. The Secretary will be able to eliminate in emergency situations certain current requirements including work registration, income and resource verifications, unnecessary in these emergency situations which needlessly slow the process.

This is an illustration of a point I have tried to make several times when the subject has been disaster assistance. We simply cannot expect that Government programs which are designed to deliver services during normal conditions will be able to provide the same services in times of disaster or emergency. Neither is it realistic to expect the administrative agencies to "bend" the rules or "twist" programs to meet disaster and emergency requirements. This bill will provide the USDA with the flexibility to streamline emergency issuance of food stamps for the benefit of disaster affected Americans at the time of their urgent need.

Mr. President, I request unanimous consent that this bill be printed at this point in the RECORD for the consideration of all Members of this body and I urge that it be included in committee deliberations on Food Stamp Act amendments soon to be submitted by the administration.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3498

A bill to amend section 5 of the Food Stamp Act of 1964 to broaden the authority of the Secretary of Agriculture with regard to providing emergency food assistance to victims of disasters

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) so much of the last sentence of section 5(b) of the Food Stamp Act of 1964 as precedes the colon is amended to read as follows: "The Secretary may also establish temporary emergency standards of eligibility for the duration of any emergency declared by the Secretary, with or without regard (as determined appropriate by the Secretary) to income and other financial resources, for households that are the victims of a disaster which disrupts the distribution of coupons, and for households that are victims of any disaster which disrupted commercial channels of food distribution when he determines that such households are in need of temporary food assistance and that commercial channels of food distribution have again become available to meet the temporary food needs of such households".

(b) Section 5(c) of such Act is amended by adding at the end thereof a new sentence as follows: "The Secretary is authorized to waive the application of this subsection in the case of households located in any area with respect to which the Secretary has established temporary emergency standards of eligibility under the last sentence of subsection (b) of this section, but no such waiver made on behalf of the household in any area may extend beyond the period during which the temporary emergency standards are in effect for such households."

By Mr. TAFT:

S. 3499. A bill to provide for continued monitoring of the economy to provide authority to enforce decontrol commitments, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. TAFT. Mr. President, today I am introducing the Inflation Restraint Act of 1974. This act would not provide authority to impose Government mandated wage and price controls after the Economic Stabilization Act expires on April 30, but it would provide continuing authority for a government agency to act as an anti-inflation watchdog and to work for voluntary efforts to reduce further inflation. It would also include authority for the agency to monitor and enforce the commitments to price restraint and to other anti-inflationary actions which the Cost of Living Council has already obtained from various industries. Thus it is similar to the approach of the Muskie amendment without authority for standby wage and price controls. I am introducing my own bill not just because of the differences between it and other legislative approaches which have been introduced, but also to indicate my dissatisfaction with the Senate's action last week and my belief in the continued need for this type of legislation. From the Senate's action it is impossible even to conclude with certainty whether the similar Muskie proposal was killed by virtue of its own content or parliamentary maneuvering and extraneous amendments. The only vote on the proposal for an economic monitoring agency and authority to enforce "decontrol commitments" was supportive of that proposal.

I indicated last February 11 that I believe that the general phaseout of wage and price controls was overdue. In their final months the controls were hurting as much as helping in most fields.

Nevertheless, the decision to kill any authority whatsoever must be questioned in this time of such crippling inflation. Despite the Senate's action last week, the problems the controls have caused and the high proportion of recent inflation attributed to petroleum—which will remain under price controls—and the food sector—for which price controls are of extremely limited usefulness—I do not see how it can be in our best interests to eliminate even the minimal authority necessary to strengthen voluntary inflation restraint efforts and to give specific legal standing to the Government's own anti-inflation actions of the past several months.

While most of the debate on the similar Muskie proposal focused on the merits of the amendment at all, the authority to enforce "decontrol commitments" is also extremely important. I do not think that many Members of the Congress fully realize the number of voluntary commitments that were obtained from hundreds of firms in various industries by the Cost of Living Council during the decontrol process. In 17 sectors of our economy, the Council obtained voluntary commitments from the leading firms to take serious and constructive measures to alleviate various inflation-related problems existing in their industry. In all but two, fertilizer and zinc, the major firms committed themselves voluntarily to some degree of price and/or profit restraints.

Commitments to increase production and to expand capacity were agreed upon by firms producing fertilizer, cement, zinc, semiconductors, petrochemicals, tires and tubes, canned fruits and vegetables, and coal. Firms in industries such as fertilizer, petrochemicals, paper, and aluminum, made various commitments designed to limit exports or to maintain historic patterns of domestic sales. Improved price reporting to the Bureau of Labor Statistics was agreed upon by firms producing cement, semiconductors, and tires. Firms in the petrochemical sector committed themselves to preparing customer allocation plans, and to submit these plans to the Government.

I believe that for Congress not to provide the Government machinery to monitor and enforce these commitments is to weaken the fight against inflation and to undermine further the Government's credibility. The announcement by the Ford Motor Co. last week of price increases which could conceivably be in compliance with such a commitment only through an escape clause, with mere prior notice and alleged justification to the Government, should serve as an indication of the fragility of these commitments unless specific legislation is passed.

My bill would insure that these agreements with the Government are legally binding as they should be, particularly since they were made voluntarily in exchange for specific Government actions. It does so in a manner which takes into account objections expressed about previous proposals. While the Muskie amendment provided unlimited authority to reimpose controls on violators of decontrol commitments and thus spurred fears of irresponsibly punitive Government actions, my bill limits use of this remedy "to the extent necessary to apply appropritate corrective action" and requires a statement from the President explaining how he has complied with this requirement. In recognition of industry's arguments that major changes in the economic picture necessitate changes in the terms of various decontrol commitments, the President is given explicit authority to modify any commitment if he determines that modification is in the national interest and publishes the reasons for that determination in the Federal Register. However, although the President could receive advice on such matters from affected industries, the decision to modify a commitment would clearly be the Government's alone.

With these modifications I can see no further objections to the provisions allowing enforcement of decontrol commitments and I may offer them as separate legislation if necessary.

I should also like to emphasize the importance of the provisions to allow one Government agency to focus on inflation-related problems. Basically, those provisions would provide the authority necessary for an agency in the executive branch to monitor the economy as a whole, to recommend changes in the program and activities of the Government and the private sector, to review and work with industry and Government to encourage price restraint, to improve wage and price data bases and to review and make recommendations on economic concentration and anticompetitive practices. As an answer to the objections to the breadth of the information provisions in some previous versions of the monitoring agency bill, my bill provides a narrower but adequate authorization for the Government to obtain necessary information. More fundamentally, some have doubted that such an agency could be of much use in the fight against inflation. While this is the kind of argument which cannot be answered definitely unless the agency is actually tried, I believe there is enough of a probability that the agency could make a positive contribution to warrant the benefit of the doubt for the proposal, particularly in this time of rampant inflation.

The bill I originally drafted included provisions which the Senate passed last year to revamp and revitalize the Productivity Commission. The need to increase productivity, or output per man-hour, is at the very heart of the inflation problem because the rate of gains in the efficiency of our industries affects fundamentally the extent to which higher wages and salaries can be paid our workers without augmenting inflation. Yet, there is no part of the Government specifically charged with acting as a catalyst for increasing productivity and dealing with related problems. The provisions I mention would have filled this void, just as my bill would fill a similar void with respect to anti-inflation efforts which would occur if the Cost of Living Council were liquidated and not replaced.

I did not include these provisions in view of indications that the House would act soon on the Senate-passed bill, S. 1752. I am delighted to hear that the House has acted affirmatively on it today.

The bill I originally drafted, also included authority for the President to defer any wage or price increase for up to 30 days upon a finding that the increase appears to contribute significantly to increased inflation. Such a provision, which would allow further examination and discussion of this type of increase before it actually takes effect, has been recommended highly by Chairman Burns of the Federal Reserve Board. In recognition of the close votes last week and the additional hindrance to passage of my bill which this provision could cause, I have deleted it. However, I do believe it is a proposal which permits concentrated attention and further study by the Congress.

Mr. President, recent price statistics make it obvious that prices will continue to climb sharply for at least the next few months, regardless of the future of this bill or any similar bill. In view of that situation and our decision that the continuation of wage and price controls would be unwise, it is incumbent upon us at least to do better than our action of last week and instead to provide the Government with the minimal authority to restrain inflation directly without controls which is contained in my bill.

I ask unanimous consent that the bill be printed in the Record at this point, as well as a recent speech by the Chairman of the Cost of Living Council which outlines some possible anti-inflation actions short of imposing wage or price controls which a Government agency could take.

There being no objection, the bill and statement were ordered to be printed in the Record, as follows:

S. 3499

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Inflation Restraint Act of 1974."

FINDINGS AND PURPOSES

Sec. 2. The Congress finds that inflation threatens the economic well-being of the Nation, and that the Federal Government should have a continuing concern with the rate of inflation and the rate of increases in supply, industrial capacity, and productivity, as means of constraining domestic inflation. It is the purpose of this Act to contribute to the moderation of inflation without incurring the drawbacks of mandatory controls by authorizing a body within the executive branch to take appropriate actions to assure that the Government's direct impact on prices and wages is less inflationary, to encourage private parties and local and State governments to adjust their policies and practices to contribute to a less inflationary economy and to monitor and enforce commitments given in connection with decontrol under the Economic Stabilization Act of 1970, as amended.

PRESIDENTIAL AUTHORITY

Sec. 3. (a) To carry out the purpose of this Act, the President shall—

(1) review the programs and activities of Federal departments and agencies and the private sector which may cause increases in prices and make recommendations for changes in such programs and activities, to restrain prices by increasing supply and otherwise;

(2) review industrial capacity, demand, and supply in various sectors of the economy, working with the industrial groups concerned and appropriate governmental agencies to encourage price restraint;

(3) improve wage and price data bases for the various sectors of the economy to im-

prove collective bargaining and encourage price restraint;

(4) conduct public hearings when appropriate to provide for public scrutiny of inflationary problems in various sectors of the economy;

(5) focus attention on the need to increase productivity in both the public and private sectors of the economy;

6) monitor the economy as a whole, including such matters as wages, costs, productivity, prices, sales, profits, imports, and exports; and

(7) conduct a continuing review of the effect of economic concentration and anticompetitive practices on price and wage inflation and recommend legislation and other appropriate action to reduce the impact of such concentration or practices on inflation.

(b) Nothing in this Act authorizes the continuation, imposition, or reimposition of any mandatory economic controls with respect to prices, rents, wages, salaries, corporate dividends, interest rates, or any similar transfers, except as provided in sections 7 (relating to enforcement of decontrol commitments) and 213 (relating to continuation of authority under the Emergency Petroleum Allocation Act of 1973) of this Act.

RECORDS AND REPORTS

SEC. 4. (a) In exercising his authority under section 3, the President may, by order, regulation, or otherwise, require such maintenance of records and such making of reports as may be reasonably necessary to the exercise of such authority, except that he may not require records or reports to include any information which is a trade secret or which is a copy of a report or record to another department or agency and which may not be disclosed by such department or agency under subsection (b).

(b) The President may request economic information from any department or agency of the United States, and that department or agency shall provide such information to him, except—

(1) information the disclosure of which to another Federal agency is expressly prohibited by law; or

(2) trade secrets, commercial, financial, or demographic information which is privileged or confidential and obtained by an agency from a person for statistical or law enforcement purposes, the disclosure of which to another Federal agency would frustrate development of accurate statistics or proper law enforcement.

(c) For purposes of carrying out this Act, the President may request economic information from State and local governments, including agencies and instrumentalities thereof.

DELEGATION

SEC. 5. The President may delegate the performance of any function under this Act to such officers, departments, and agencies of the United States as he deems appropriate.

SUBPENA POWER

SEC. 6. The President or his delegate is authorized to sign and issue subpenas for the attendance and testimony of witnesses and the production of relevant books, papers, and other documents, and to administer oaths. Witnesses summoned under the provisions of this section shall be paid the same fees and mileage as are paid to witnesses in the courts of the United States. In case of refusal to obey a subpena served upon any person under the provisions of this section, the head of the agency authorizing the subpena, or his delegate, may request the Attorney General to seek the aid of the United States district court for any district in which such person is found to compel that person, after notice, to appear and give testimony, or to appear and produce documents before the agency.

ENFORCEMENT OF DECONTROL COMMITMENTS

SEC. 7. (a) Notwithstanding the expiration of the Economic Stabilization Act of 1970, as amended—

(1) any commitment made or given as a condition of, in connection with, in exchange for, or in the course of decontrol or the grant of other relief from or under such Act, prior to May 1, 1974, shall continue in full force and effect, and except that the President may modify any such commitment if he determines that modification would be in the national interest and publishes in the Federal Register the basis for such determination;

(2) the authority and provisions of sections 203 (relating to Presidential control authority), 208 (relating to sanctions), 209 (relating to injunctions and other relief), and 211 (relating to judicial review) of that Act (as in effect on April 30, 1974) may be invoked against, and shall apply to, any person who violates any commitment made or given as a condition of, in connection with, in exchange for, or in the course of decontrol or the grant of other relief to such person from or under such Act, prior to May 1, 1974, or any modification of any such commitment pursuant to the provisions of this subsection.

(b) The authority conferred by section 203 of the Economic Stabilization Act of 1970 shall be exercised with respect to the violation of a decontrol commitment only to the extent necessary to apply appropriate corrective action to the person who committed the violation, and any such exercise of authority shall be accompanied by a statement explaining the reason for such exercise of authority and the President's analysis of why such exercise of authority constitutes appropriate corrective action within the meaning of this subsection.

PERSONNEL

SEC. 8 (a) Any agency or officer of the Government carrying out functions under this Act is authorized to employ such personnel as the President deems necessary to carry out the purposes of this Act.

(b) The President may appoint five officers to be responsible for carrying out functions of this Act, one of whom shall be appointed by and with the advice and consent of the Senate and who shall be compensated at the rate prescribed for level II of the Executive Schedule (5 U.S.C. 5313), one of whom shall be compensated at the rate prescribed for level III of the Executive Schedule (5 U.S.C. 5314), and three of whom shall be compensated at the rate prescribed for level V of the Executive Schedule (5 U.S.C. 5316). Appropriate titles and the order of succession among such officers may be designated by the President.

(c) Any member of a board, commission, or similar entity established by the President pursuant to authority conferred by this Act who serves on less than a full-time basis shall receive compensation from the date of his appointment at the rate equal to the per diem equivalent of the rate prescribed for level IV of the Executive Schedule (5 U.S.C. 5315) when actually engaged in the performance of his duties as such member.

(d) (1) In addition to the number of positions which may be placed in GS-16, GS-17, and GS-18, under section 5108 of title 5, United States Code, not to exceed twenty positions may be placed in GS-16, GS-17, and GS-18, to carry out the functions under this Act.

(2) The authority under this subsection shall be subject to the procedures prescribed under section 5108 of title 5, United States Code, and shall continue only for the duration of the exercise of functions under this Act.

(e) The President may require the detail of employees from any executive agency to carry out the purposes of this Act.

(f) The President is authorized to appoint, without regard to the civil service laws, such advisory committees as he deems appropriate for the purpose of consultation with and advice to the President in the performance of his functions under this Act. Members of advisory committees, other than those regularly employed by the Federal Government, while attending meetings of such committees or while otherwise serving at the request of the President may be paid compensation at rates not exceeding those authorized for individuals under section 5332 of title 5, United States Code, and, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently. Committees established under this Act which are composed of members representative of labor and management or labor, management, and the general public to provide advice on methods of improving labor-management relations on the collective-bargaining process or assuring wage and salary settlements consistent with gains in productivity and the goals of stabilizing the economy and facilitating development of the Nation's energy reserves are exempt from the provisions of section 10 of the Federal Advisory Committee Act.

(g) (1) Under such regulations as the President may prescribe, officers and employees of the Government who are appointed, without a break of service of one or more workdays, to any position for carrying out functions under this Act are entitled, upon separation from such position, to reemployment in the position occupied at the time of appointment or in a position of comparable grade and salary.

(2) An officer or employee who, at the time of his appointment under paragraph (1) of this subsection, is covered by section 8336 (c) of title 5, United States Code, shall continue to be covered thereunder while carrying out functions under this Act.

EXPERTS AND CONSULTANTS

SEC. 9. Experts and consultants may be employed, as authorized by section 3109 of title 5, United States Code, for the performance of functions under this Act, and individuals so employed may be compensated at rates not to exceed the per diem equivalent of the rate for grade 18 of the General Schedule established by section 5332 of title 5, United States Code. Such contracts may be renewed from time to time without limitation. Service of an individual as an expert or consultant under this section shall not be considered as employment or the holding of an office or position bringing such individual within the provisions of section 3323 (a) of title 5, United States Code, section 872 of the Foreign Service Act of 1946, or any other law limiting the reemployment of retired officers or employees.

REPORTS

SEC. 10. (a) In transmitting the Economic Report required under section 3(a) of the Employment Act of 1946 (15 U.S.C. 1022), the President shall include a section describing the actions taken under this Act during the preceding year and giving his assessment of the progress attained in achieving the purposes of this Act. The President shall also transmit quarterly reports to the Congress not later than thirty days after the close of each calendar quarter describing the actions taken under this Act during the preceding quarter and giving his assessment of the progress attained in achieving the purposes of this Act.

(b) In carrying out his authority under this Act, the President shall study and evaluate the relationship between profit records, the stabilization of the economy, and the creation of new jobs. The results of such study shall be incorporated in the reports referred to in subsection (a) of this section.

(c) The President shall review and appraise the programs and activities of the departments and agencies of the United States in light of the policies set forth in section 2 of this Act for the purpose of determining the extent to which those programs and activities contribute to the achievement of those policies and shall report his conclusions to the Congress in the reports required by subsection (a) of this section.

FUNDING

SEC. 11. (a) There are authorized to be appropriated to the President, to remain available until expended, such sums as may be necessary to carry out the provisions of this Act.

(b) The President may accept and use in furtherance of the purposes of this Act money, funds, property, and services of any kind made available for such purposes by gift, devise, bequest, grant, or otherwise.

EXPIRATION

SEC. 12. The authority under this Act (other than section 15) expires at midnight, April 30, 1975, but such expiration shall not affect any action or pending proceeding, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to May 1, 1975.

EFFECT ON PETROLEUM ALLOCATION ACT OF 1973

SEC. 13. For purposes of administering and enforcing the Emergency Petroleum Allocation Act of 1973, nothing in this Act alters the Economic Stabilization Act of 1970 as incorporated by reference in the Emergency Petroleum Allocation Act.

EFFECTIVE DATE

SEC. 14. This Act shall become effective upon enactment.

TOWARD A LESS INFLATIONARY ECONOMY

(By John T. Dunlop, Director, Cost of Living Council)

Although the economy is performing surprisingly well in real terms, everyone knows inflation is a baffling persistent problem. It appears to be intractable here and abroad. Our CPI was up 10.2 percent in the period March 1973 to March 1974. The GNP deflator was up at a 10.8 percent rate in the first quarter of 1974. Inflation in the CPI in Japan was 26.3 percent in the past year and 13.2 percent in Great Britain.

The tendency of all forecasters has been seriously to underestimate inflation while showing a better record of estimates for output and employment. For instance, early in the year the forecasts for the GNP deflator in the first quarter were in the 7 and 8 percent range; the first quarter was in fact at the annual rate of 10.8 percent. While forecasts for the rest of 1974 typically show a marked reduction in this rate of inflation, it is my view that these estimates, derived from a combination of econometric models and hunch in varying proportions, still have a tendency to underestimate the extent of inflation in the second half of the year. A number of forecasters have again revised these estimates upwards recently.

I wish to propose for our discussion the nagging question of why these inflation rates, and at the same time pose the inescapable enigma of the private and public policies that are appropriate to constrain such inflation over the long term.

As an example of one view of inflation, the April 1974 *Monthly Economic Letter* of the First National City Bank argued against any Federal concern with monitoring private actions or government influence in particular markets as a means to constrain inflation. It held that "Inflation has little to do with the structure of private markets, which change only slowly. Rather, [inflation] depends on the relation between two growing aggregates, the level of monetary demand and the level of physical supply. When money demand grows faster than real output, the price level ultimately rises."

These views are a mirrored image of the perspective of Milton Friedman: ". . . inflation is made in Washington, in that stately and impressive Grecian temple on Constitution Avenue that houses the Board of Governors of the Federal Reserve System. Prices have been rising at faster and faster rates because William McChesney Martin and the other distinguished men who govern the system have decreed that they shall." (*Newsweek*, January 20, 1969, p. 78.) The names and the inflation rates are different today, but the theory is unchanged.

Let it be clear that I have no doubts that monetary policy is a major tool which can restrain or stimulate the economy; indeed, monetary policy and fiscal policy are generally considered to be the major tools. But I reject the absolutism and exclusivity of this and similar analyses of inflation and its antidote, particularly for the long term.

The experience of recent years, in my view, supports the realistic judgment that monetary and fiscal policies are not sufficient tools by themselves to restrain effectively the types of inflation we have had, or that the authorities in charge of these policies—in the executive or legislative branch of government—are constrained in the extent they can use them. For the present purpose it matters little whether monetary and fiscal tools are inherently inadequate to deal with contemporary inflations or that the users are inhibited by practical considerations in their application of these classical measures. The simple fact is that monetary and fiscal tools are not enough, and we must get to the task of developing other measures even though their contribution might be less immediate or powerful.

Another school of thought stresses that inflation is derived, or at least made more virulent, by monopoly power of certain business enterprises and labor organizations. The appropriate relief to this alleged cause of inflation is seen to be more vigorous prosecution of the antitrust laws. Organized consumer groups in the past year have often stressed this view to me, urging a greater role for the Federal Trade Commission and the Justice Department. I readily agree that a more competitive economy in some sectors is desirable. But such policies involve endless litigation and uncertainty and, accordingly, are not likely to make much of an impact on inflation. Further, the contributions of collective bargaining are not likely to be set aside by the American community in favor of extension of the antitrust laws to industrial relations. In the present setting, it has been the competitive sectors of the economy that have shown the greatest inflation.

While not neglecting the contribution of other policy tools, I would like to stress the need for a whole series of structural changes in the economy and in their relations to government in order to constrain inflation over the long pull. These structural changes take time to develop; some are major institutional changes, while others are more modest adjustments.

There is need for a central focus—a continuing Cost of Living Council, or similar type of organization—to work within the Federal Government and in cooperation with private sector institutions to explore, to stimulate and to induce necessary changes. These activities are not to be confused with jawboning or preachments. They involve, rather, seeking to get government and private groups to change their internal decision-making processes, their habits of mind and thought patterns, and their responses to their outside worlds. Such changes cannot be achieved by fiat or regulation, but must emerge from persuasion and hard experience as a series of new consensuses, both within the society and within separate economic groups and institutions.

I should like to set forth a number of examples of the type of structural changes that need to be made in government, in the government's relationships with various groups, in labor-management relations, and in business, all with the objective of creating a less inflationary economy.

GOVERNMENT

1. The single most important structural change needed in government to restrain inflation is a reorganization in the Congress to formulate coherent tax and expenditure policies and thereby to work more cooperatively with any administration toward a viable fiscal policy to constrain inflation. Many public spirited Members of the Congress of both parties have been working on this matter for many years and some progress has been made, but we have a long way to go. We simply cannot constrain inflation in this country until the Congress gets its fiscal house in order.

2. There is a need for change in outdated, outmoded Federal policies which contribute to inflation in specific industries. We have a golden opportunity now to rid ourselves for the long term of the restrictive agricultural policies of the past 30 years that were engendered particularly by the depression of the 1930's. The Cost of Living Council in 1972 and 1973, somewhat belatedly perhaps, took the leadership in pushing for the elimination of many of these restrictive practices—planting restrictions, import restrictions, some provisions of marketing orders, and the like. The extent to which agriculture has been largely transformed to expansionist policies, in my view, is not fully appreciated.

Yet, it is extremely important to maintain these changes in order to constrain inflation for the future, to rebuild stockpiles to provide a degree of cushion from worldwide price and crop fluctuations in the future, and to provide further counters for our foreign policy. Regrettably, there are already signs that the restrictive practices of the past are returning. Agriculture is but one illustration of areas where government policies to encourage supply, or to stop inhibiting supply, are essential to restrain price increases.

3. The involvement of government in various sectors of our economy also dictates a reevaluation of existing private policies. In the health care area the government has come to be the largest purveyor of funds and now is seriously considering new injections of dollars and demand in the form of national health insurance. Its interventions, including Medicaid and Medicare, essentially have provided for cost passthrough and reimbursement, with the inevitable consequences of unnecessary services, inefficiencies and, consequently, more inflation. It is essential that the government's involvement in the health care field be modified to restrain inflation by requiring that prospective budgeting procedures replace automatic cost reimbursement. That was the purpose and design of our Phase IV health regulations.

GOVERNMENT RELATIONS TO SPECIAL PROBLEM AREAS

4. The relationship of government to particular problem areas in our society warrants increased attention. For example, despite some commendable innovations in the last half dozen years, the fate of the housing industry and its fluctuations from year to year depend very largely upon general monetary policy and interest rates. There are enormous costs of instability and inefficiencies in home building which grow out

of the frequent and unpredictable changes in monetary policies. A significant area for institutional and structural change is to develop ways of providing for less violent fluctuations in housing through variable mortgage and deposit interest rates, as in some other countries, or other devices to provide a flow of funds more stable for housing with consequent greater efficiency and lower costs of housing production.

5. Another of the major problems of the society where the government has a role is the interface between work and school, particularly in the age group 16–21. Reported unemployment rates of 17.0 percent for 16 and 17 year olds and 11.4 percent for 18 and 19 year olds, compared to 4.9 percent for all age groups in 1973, may alternatively be viewed as a failure of the labor market, as it usually is, or as a failure in the educational system. No amount of general economic policy is likely to make much of a contribution to this problem and attempts to do so will likely contribute to inflation. Rather, there is a definite need for considerable restructuring of the local arrangements made to bring young people of this age group into contact with the labor market, and for labor market feedback, in turn, into the educational system.

Incidentally, to include these youth in our national unemployment figures, as we conventionally now compute them, whether or not the person has previously held a job, is also to provide a most unsatisfactory and inflationary indicator for general economic problems.

6. One of the areas of policy most likely to affect long-term inflation prospects has to do with the impact of the rest of the world upon the United States through variations in imports, exports and exchange rates. I am convinced that the major lesson of the inflation of 1973 is the reality that we live in a vastly more interdependent world in primary commodities and manufactured goods than ever before. One needs to be very careful not to promote autarky, by restricting unduly either imports or exports. But, at the same time, the United States can no longer afford to be the market of last resort, as in the case of ferrous scrap—the only country to export ferrous scrap, with the consequence that our steel prices must bear the full impact of the residual decisions of all other countries.

Neither is it realistic for a domestic energy program to be entirely dependent on price policies of other oil producing countries where those policies have been used for political purposes. A world in which primary producing countries decide to raise, in cartel fashion, the prices of many other primary products is a very different one than we have previously experienced. Thus, the time has come to equip ourselves with trade policies to deal with these new conditions.

LABOR-MANAGEMENT RELATIONS

7. Today, an opportunity exists as never before for the development of imaginative machinery for the settlement of disputes over the provisions of new collective bargaining agreements in a number of industries. Basic steel and railroads have reflected this atmosphere. Yet, a good deal of further constructive work can be done in other sectors, such as paper, maritime, retail food, construction, newspapers, and the like. The fragmentation of collective bargaining in many industries which conduct local or regional negotiations, with the associated whipsawing and escalation of settlements, is one of the principal ways in which collective bargaining creates inflationary pressures. Dispute settling machineries which deal with these questions, and at the same time direct the attention of the parties to their fundamental long-run problems of technological change, productivity and manpower, can be enormously constructive.

8. Within the labor area, one of the most important structural problems for the future relates to the continued growth in fringe benefits relative to the pay package. There is no doubt that following 1940 it was appropriate to develop a variety of private pension, health and welfare, and other fringe benefit plans. But the question needs to be raised whether these tendencies have not now been excessive as one considers the costs of private pension plans and as one recognizes that the tax system tends to encourage parties to put money into fringes rather than into wages where it might very well better serve the interests of workers and members. Simply stated, when funds put into the pay envelope are taxed at 30 percent or more, while monies placed into certain fringes are tax free, the tax system is biasing the bargaining processes in an inflationary manner.

9. Various structural changes are required in collective bargaining that vary from industry to industry. One illustration may be sufficient. In the construction industry it is imperative that the owners set up a more viable working relationship with the contractors in order to strengthen the management side in collective bargaining. This has never been easy to do, since the contractors feel that the owners will interfere unduly in the bargaining process and seek to eliminate "contracting out." Yet, in the absence of such working relationships, owners often tip the scales in favor of the union side by encouraging particular contractors to work through a strike or to work overtime or by setting completion schedules and volumes of construction in an area which can have only inflationary consequences. In the same way, the jurisdictions of local unions or the group involved at the bargaining table may be inappropriate to represent the best long-run interests of the members in the area. International unions have a more general and long-term perspective than local negotiators and, thereby, should have larger role.

BUSINESS PRACTICES

10. One of the most significant areas of business decision-making have to do with the timing of investment decisions. The present inflationary period has been made very much worse by company decisions not to expand capacity substantially in such industries as steel, fertilizer, paper, cement, oil refining, and the like. The fraction of Gross National Product expended on net new plant and equipment investment has been lower for many years in the United States than among our industrialized competitors. The present purpose is to second guess those decisions. It is essential, rather, to explore ways in various industries to achieve a smoother flow of investment outlays over the future. This is a most difficult matter in the framework of the American legal system. Nonetheless, a more public discussion of these issues, a government-business discussion of the capacity needs of various industries, and an exploration of the means of financing such expansion seem to me necessary in the American economy of the future. It may very well be that in several industries, such as basic steel, the prices that would be required to attract new capital to the industry may be so high, and the inflationary consequences of such prices may be so high, and the inflationary consequences of such prices may be so great for the economy as a whole, that other means of financing modernization of capacity, such as various forms of tax and accelerated amortization and depreciation arrangements, may be preferred to constrain inflation. These issues require urgent and quantitative review.

11. There are occasions, also, when government and the business community can work cooperatively to solve problems which contribute to inflation. In the economy at most times, and particularly when operations are near capacity, there are various bottlenecks, areas of shortages and problems of efficiency and distribution within and among various sectors. At the present time special problems relating to railroad flat car availability, the production of steel for drag lines, the distribution of fertilizer, the production and distribution of roof bolts for underground coal mines, and the supply of ferrous scrap are illustrative. There is a role for the government in assisting to isolate and eliminate such inflationary bottlenecks by providing data, by bringing together representatives of sectors to make a contribution to the resolution of the problem, and by other nonmandatory means.

Both the Cost of Living Council and the National Commission on Productivity have been active in solving these problems, but both may be eliminated by Congressional inaction. The continued identification of a changing agenda of such problems and work with the sectors on these problems can make a contribution to expansion of output and supply without the imposition of mandatory controls and can reduce pressures which lead to Congressional demands for the reimposition of mandatory controls.

12. In the achievement of public objectives, the energy area is bound to be one that will remain for many years at the center of public concerns. In a whole host of ways it should be possible to encourage the generation of capacity and distribution in the energy field so as to minimize the impact upon price and inflation. In this field as in all stabilization matters, there is involved the delicate balancing of prices high enough to generate adequate supply but not so high that they represent an undue burden to consumers and an unnecessary impetus to inflation.

The Administration has proposed for the post controls period the establishment of a small Cabinet-level agency to work on some of these changes without the authority to impose mandatory wage and price controls in order to develop a less inflationary economy. These illustrations can be multiplied many times. Tomorrow and next year there will be new and different opportunities.

These activities are not to replace fiscal and monetary policy, nor are they to provide an excuse for less diligent macroeconomic policies to restrain inflation. These monitoring activities, designed to promote inflation-restraining structural changes, are to be supplementary and supportive. In some circumstances, however, they may be decisive. Dr. Arthur Okun has well made this point, although one need not accept his precise numbers: "Let me replay fiscal and monetary policy with perfect hindsight over the last two years and I don't think I could save you more than a couple of points on the rate of inflation. Let me replay agricultural policy and energy policy, however, and I'll give you five points." (*New York Times*, April 28, 1974, F. p. 24.)

One of the difficulties with the structural change policies here proposed lies in the failure of the discipline of economics itself. Since the 1930's the preoccupation of the core of economics has been with macroeconomic issues and models of the total economy. This area has attracted the best of the younger generation and is the center of attention in the journals and in scholarly writings. Even this body of contemporary theory is not very adequate in analyzing inflation. Abba Lerner stresses this point in the current Economic Literature in discussing Keynesian economics: "A new ball game has been established in which only direct influence on the wage unit by an incomes policy, as a kind of splint on the fractured price mechanism, can restore a free economy working at a satisfactory level of employment."

But this attention to macroeconomics has not helped the making of economic policy very much, in my view, or assisted in the concerns over individual sectors which now require attention. The academic and career field of industrial organization which treats market structures and pricing decisions, or the related fields of labor market analysis, have languished. The result is that, despite a greatly enlarged economics profession, there do not exist many first-rate specialists in microeconomic analysis equal to the challenge before us. There are only a few specialists in the academic world, in business or in government with working knowledge of the institutional structures and the operation of various industries and markets. This intellectual limitation has been a serious impediment in the generation of ideas to deal with sectoral and structural problems that are central to any operating concern with contemporary inflation.

The deficiency is even more serious since economists are not well trained, or adjusted, to pay attention to processes by which institutions change or are changed in this society. They know far too little about the ways in which managements, labor organization, other producer groups and government agencies in fact operate and respond to various economic and political pressures or opportunities. They specialize in predicting results on the basis of varying inputs with the institutions and market structures unchanged. But a major area for anti-inflation policy concerns the understanding and inducing of such changes.

A new breed of analysts and public policy makers is required, with more emphasis on understanding private decision-making, more emphasis upon detailed data, more concentration on problem sectors, and more resort to persuasion and cooperation. The government is deeply involved in private decision making, like it or not, and the government has many counters to play, apart from any *mandatory* wage and price controls, and our interest groups are ordinarily sufficiently willing to participate to warrant a major effort to develop less inflationary policies for all.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 254

At the request of Mr. SCHWEIKER, the Senator from New Mexico (Mr. MONTOYA) was added as a cosponsor of S. 254, a bill to prohibit assault on State and local law enforcement officers, firemen, or judicial officers, and for other purposes.

At the request of Mr. MONTOYA, his name was added as a cosponsor of Senate bill 254, supra.

S. 2665

At the request of Mr. JAVITS, the Senator from California (Mr. TUNNEY), and the Senator from Ohio (Mr. TAFT) were added as cosponsors of S. 2665, to authorize the fourth replenishment of the International Development Association.

S. 2932

At the request of Mr. MONTOYA, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 2932, to amend title 38 of the United States Code to provide that veterans' pension and compensation will not be reduced as a result of certain increases in monthly social security benefits.

S. 3097

At the request of Mr. TAFT, the Senator from Iowa (Mr. HUGHES) was added as a cospsonsor of S. 3097, to amend the Rail Passenger Service Act of 1970 in order to provide for a demonstration project providing certain rail transportation for highway recreational vehicles.

S. 3182

At the request of Mr. MCCLURE, the Senator from Utah (Mr. BENNETT), the Senator from Wyoming (Mr. HANSEN), and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 3182, to prohibit the banning of lead shot for hunting.

S. 3259

At the request of Mr. TAFT, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 3259, to amend the Rail Passenger Service Act of 1970 in order to authorize certain use of rail passenger equipment by the National Railroad Passenger Corporation.

S. 3286

At the request of Mr. KENNEDY, the Senator from Maine (Mr. HATHAWAY) was added as a cosponsor of S. 3286, the Comprehensive National Health Insurance Act of 1974.

S. 3305

At the request of Mr. CLARK, the Senator from Maryland (Mr. BEALL) was added as a cosponsor of S. 3305, a bill to amend the Public Health Service Act to provide assistance for programs for the diagnosis, prevention, and treatment of, and research in, Huntington's disease.

S. 3311

Mr. HATHAWAY. Mr. President I ask unanimous consent to be added as a cosponsor to S. 3311, a bill to provide for the use of simplified procedures in the procurement of property and services by the Government where the amount involved does not exceed $10,000. This bill, which was introduced on April 4, 1974, by the distinguished chairman (Mr. CHILES) and other members of the ad hoc Subcommittee on Federal Procurement of the Government Operations Committee, is a most important and vital amendment to our Government procurement laws.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATHAWAY. Mr. President, as Chairman of the Government Procurement Subcommittee of the Senate Small Business Committee, I have tried to look at this proposed piece of legislation from the point of its effect on the small business contractor. It is my understanding that it contains considerable potential value for the small business community, principally in the fact that it reduces the paperwork burden in a considerable portion of Government contracting. In 1972, the Department of Defense issued nearly 800,000 formally advertised contracts under $10,000. While only 10 percent of all DOD military procurement, it amounts to 98 percent of the contract transactions.

In other words, most of the contracts awarded are small ones. And it is the smaller contracts, generally, which go to the small business contractors.

Government contracts, competed under highly technical circumstances, are typically known for their thickness and complexity. Conversely, small purchases, which do not have to be formally advertised, and are currently defined as $2,500 or less, are designed to simplify the procedures and reduce the administrative costs. This is fine for the Government, but it also is advantageous to the small businessman. In a recent poll of over 130 small business contractors by our Government Procurement Subcommittee, the paperwork burden was cited as one of the chief and continuing problems in this field. They must not only perform the basic work required by contract, but also comply with numerous other requirements.

More than one contractor has commented on the battery of experts needed in order to fully comprehend and abide by the contractual requirement. For instance, one businessman wrote:

> It seems you have to have a legal staff as big as your accounting staff and both are larger than the production staff if an organization (small business) is going to do business with Uncle Sam. From where I sit at present, doing business wtih the government would be more hassle than it's worth—most of the time.

Last year three different small business organizations—the Smaller Business Association of New England, Independent Business Association of Wisconsin, and the Smaller Manufacturers Council, representing a sizable number of small business contractors—all called for an increasing of the small purchase limit from $2,500 to $10,000. It was their position that this requested simplification of the rules would open up much small Government business to the small business firm. They also took the position that—

> The $10,000 limit be periodically reviewed and raised, in line with the GNP deflator, consumer price index, or some such commonly accepted measure of the general change in price levels.

These voices from the small business community are an important expression of position.

Not to be overlooked is the fact that the Congressional Commission on Government Procurement last year similarly recommended this change. With the distinguished former Senator from Florida (Mr. CHILES) as one of the Commissioners, the Commission's expertise in making this recommendation is strong and valuable guidance to the Senate.

Therefore, I would urge my colleagues to support S. 3311, which is expected to reach the floor of the Senate soon.

S. 3316

At the request of Mr. MOSS, the Senator from Arizona (Mr. FANNIN) was added as a cosponsor of S. 3316, to establish National Historic Trails as a new category of trails within the National Trails System, and for other purposes.

S. 3334

At the request of Mr. MONDALE, the Senator from Iowa (Mr. HUGHES) was added as a cosponsor of S. 3334, a bill to amend the Interstate Commerce Act in order to improve service in the transportation of household goods by motor common carriers.

S. 3339

At the request of Mr. HUMPHREY, the Senator from South Dakota (Mr. ABOUREZK) was added as cosponsor of S. 3339 a bill to amend the program of supplemental security income for the aged, blind, and disabled—established by title XVI of the Social Security Act—to provide for cost-of-living increases in the benefits provided thereunder.

S. 3395

At the request of Mr. Bentsen, the Senator from North Carolina (Mr. Ervin) was added as a cosponsor of S. 3395, the Justice Department Reform Act.

S. 3438

At the request of Mr. Mondale, the Senator from South Carolina (Mr. Thurmond) was added as a cosponsor of S. 3438, to amend the Regional Rail Reorganization Act of 1973 in order to expand the planning and rail service continuation subsidy authority under such act, and for other purposes.

SENATE JOINT RESOLUTION 209

At the request of Mr. Montoya, the Senator from Illinois (Mr. Stevenson) was added as a cosponsor of Senate Joint Resolution 209, designating May 12 through May 18, 1974, as "National Migrant Education Week."

ADDITIONAL COSPONSORS OF CONCURRENT RESOLUTIONS

SENATE CONCURRENT RESOLUTION 76

At the request of Mr. Kennedy, the Senator from Iowa (Mr. Hughes) and the Senator from Maine (Mr. Hathaway) were added as cosponsors of Senate Concurrent Resolution 76, relating to arms control in the Indian Ocean.

SENATE CONCURRENT RESOLUTION 79

At the request of Mr. Griffin (for Mr. Goldwater), the Senator from Nebraska (Mr. Hruska) was added as a cosponsor of Senate Concurrent Resolution 79, a concurrent resolution expressing the sense of the Congress with respect to the celebration of the 100th anniversary of the birth of Herbert Hoover.

EDUCATION AMENDMENTS OF 1974—AMENDMENTS

AMENDMENT NO. 1310

(Ordered to be printed, and to lie on the table.)

Mr. HELMS submitted an amendment, intended to be proposed by him, to the bill (S. 1539) to amend and extend certain acts, relating to elementary and secondary education programs, and for other purposes.

AMENDMENT NO. 1312

(Ordered to be printed and to lie on the table.)

Mr. BENTSEN. Mr. President, I am today submitting an amendment intended to be proposed by me to the Education Amendments of 1974, which would establish a program to provide incentive grants to States which adopt statewide plans to equalize educational opportunity by increasing aid to poorer school districts.

The problems of school finance have occupied educators and the courts for several years now, and they culminated a Supreme Court opinion that affected my own State of Texas. In San Antonio School District against Rodriquez, the Supreme Court, on a narrow 5-4 vote, ruled that inequalities in educational support among school districts in San Antonio did not constitute a violation of the equal protection clause in the Constitution.

However, Mr. Justice Stewart, in concurring, noted that our present methods of financing public education within the States are "chaotic and unjust." The Rodriquez decision by no means stilled the debate on school finance, and some State courts have ruled that the tax system with their States is a violation of either State or Federal constitutional principles.

Despite the Rodriquez decision several States have undertaken plans to overhaul their plans for providing aid to schools in order to bring more fairness in the distribution of State funds. These States include California, Colorado, Florida, Illinois, Kansas, Maine, Michigan, Minnesota, Montana, North Dakota, Utah, and Wisconsin. Some States have moved in recognition that there is an inherent unfairness to poor school districts when the variations in taxing abilities of individual school districts within a State have ranged as high as 84 to 1 in Texas, 52 to 1 in Louisiana, and 30 to 1 in Michigan.

This year's Elementary and Secondary Education Act takes note of the public policy decision of many States to move toward an equalization of school district expenditures. Section 534 of the bill provides up to $1 million per State in planning funds to assist States in developing a plan which works in the direction of greater equity in school financing. My amendment, in a new section following this one, is a logical next step in that it provides incentives for States which establish and maintain plans to equalize educational opportunity through State plans to finance education more equitably.

It should be clear, Mr. President, that my amendment does not mandate equalization plans. It is not punitive. It does not compel States to participate. However, it offers incentives to and rewards those States which move to adopt Statewide plans for school financing, which adopt general criteria assuring that State wealth, not local school district wealth, will determine educational quality; that children with greater educational needs, such as the handicapped, receive funds commensurate with their needs; that take into account the higher costs of educating children in areas with higher living costs and other factors contributing to increased educational expenditures.

The amendment purposefully does not require a mathematical equality of spending for education among school districts. That would be counterproductive, since many State equalization plans do not provide for such a procedure. In fact, some plans use a so-called "foundation" approach, in which a State merely guarantees a certain level of per pupil expenditure among school districts, but leaves the districts free above that level to provide for themselves.

The aim of this amendment, then, is not to compel equal spending, but to move the States in a direction in which they adopt Statewide policies to insure that make substantial progress toward a more equitable distribution of funds. And it is not the intention of the amendment to penalize wealthier school districts by "leveling them down" to the level of the poor districts; the purpose is to provide incentives for the States to guarantee that more State funds are spent for education so that the poor districts may be "leveled up" to the spending levels of their wealthier neighbors.

It would have been possible to draw the amendment with very precise language detailing the need for mathematical equality in spending and compelling the States to comply, but even the committee recognized the difficulty of such a task. Not only would such an amendment run counter to the Rodriquez decision, it would nullify the efforts of several States, which, by a variety of methods, have sought to upgrade their financial aid plans to provide greater equity in funding.

No single plan for equalization need be the only model a State can follow. In a field as complicated as this one, a variety of efforts should be welcomed.

The amendment provides no funds until fiscal 1976, to give the States more time to develop their plans. In fiscal 1976, $50 million would be authorized, in fiscal 1977, $75 million; in fiscal 1978, $100 million. No State could receive more than 10 percent of the funds in a given fiscal year.

I believe this amendment can provide a change in policy direction and a recognition by the Federal Government that there are glaring inequities in school finance that must be corrected

At this point, I would to print a copy of the amendment in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

Amendment No. 1312

On page 358, between lines 22 and 23, insert the following new section:

EQUALIZATION INCENTIVE GRANTS TO STATES

Sec. 535. (a) The Congress finds that the Federal Government has an obligation to provide incentives for each State to assist them in equalizing the resources available within that State so that an opportunity to obtain an education appropriate to individual need will be available to all children regardless of their place of residence within the State. It is therefore, the purpose of this section to provide financial assistance in the form of incentives to the States to encourage them to equalize educational opportunity.

(b) The Commissioner is authorized to make grants to States in accordance with the provisions of this section. Incentive grants received under this section may be used to improve the quality of elementary and secondary education among the local educational agencies within each State, in such areas as the State deems vital.

(c) (1) A State is eligible to receive a grant under this section only if the State educational agency provides assurance that—

(A) the quality of education provided to a child within that State is not the result of the wealth of the school district of the local educational agency in which the child attends school, but reflects the wealth of the State as a whole;

(B) amounts commensurate with their needs are expended on children with greater educational needs, including, but not limited to, educationally disadvantaged, gifted and talented, handicapped, and vocational education students; and

(C) amounts commensurate with the education costs are expended in local educational agencies within the State with greater costs, including costs attributable to sparsity of population, high density of population, and high living costs.

(2) The Commissioner is authorized to establish general guidelines for defining the principles set forth in clauses (A), (B) and (C) of Section 534(a)(1) and in this subsection. No guidelines established under this paragraph shall be based upon a formula requiring a mathematical equality of educational expenditures among school districts.

(d) Any State desiring to receive a grant under this section shall submit an application to the Commissioner at such time, in such manner, and accompanied by such information as the Commissioner may reasonably require. Each such application shall—

(1) (A) describe the State equalization program that meets the requirements of subsection (c),

(B) describe, in the case of a state equalization program already in effect, a description of that program which meets the requirements of subsection (c);

(2) provide assurances that the State will make substantial progress to carry out the state equalization program;

(3) Provide for making periodic reports to the Commissioner evaluating the effectiveness of the state equalization program assisted under this section and such other reports as the Commissioner may reasonably require to perform his functions under this section.

(e) The Commissioner shall approve an application which

(1) Meets the requirements of subsection (d), and

(2) Contains provisions that demonstrate that the State does not equalize by removing existing funds from wealthy educational agencies within that State in order to carry out its State equalization program.

The Commissioner shall not finally disapprove an application of a State except after reasonable notice and opportunity for a hearing to a state.

(f) Whenever the Commissioner, after reasonable notice and opportunity for a hearing to any State, finds that there is a failure to meet the requirements of this section, the Commissioner shall notify the state that further payments will not be made to the State until he is satisfied that the requirements have been met.

(g) Unless inconsistent with the purposes *of this* section, the General Education Provisions Act shall apply to the equalization incentive grant program authorized by this section.

(h)(1) There are authorized to be appropriated to carry out the provisions of this section $50,000,000 for the fiscal year ending June 30, 1976, $75,000,000 for the fiscal year ending June 30, 1977, and $100,000,000 for the fiscal year ending June 30, 1978.

(2) No State may receive more than 10% of the funds available for making grants under this section for any fiscal year. Funds appropriated to carry out the provisions of this section shall remain available for the succeeding fiscal year after the year in which they were appropriated.

On page 358, line 24, strike out "Sec. 535." and insert in lieu thereof "Sec. 536."

On page 123, in the Table of Contents, redesignate item "Sec. 535." as "Sec. 536." and insert immediately after item "Sec. 534." the following: "Sec. 535. Equalization incentive grants to States.".

AMENDMENT NO. 1325

(Ordered to be printed, and to lie on the table.)

BUCKLEY-CURTIS-M'CLURE REVENUE SHARING SUBSTITUTE

Mr. BUCKLEY. Mr. President, earlier this year, the Subcommittee on Intergovernmental Relations published the results of a survey on the state of citizen regard for and involvement in government. The report, entitled "Confidence and Concern: Citizens View American Government," contained many informative facts and statistics, among which was the following:

> The public underscores its belief in shared governmental responsibilities with an overwhelming endorsement of two policy propositions:
>
> "(1) State and local governments should be strengthened; and
>
> (2) The Federal government should have power taken away from it."

When asked which level of government can best improve public schools, those polled responded as follows: 50 percent thought that State and local government could best improve public education while only 14 percent thought Federal Government could do that important job.

I think it is clear that the majority of the American people want control of their schools in State and local hands as much as possible. Yet the history of the recent past discloses that the wishes of American citizens in this area have been all too often ignored. Federal aid to education has meant, in effect, increasing Federal control of education.

Perhaps the problem was best summed up by that eloquent and knowledgeable expert of Federal aid to education, EDITH GREEN. In an article in the New York Times, January 16, 1974, Congresswoman GREEN wrote:

> Each new program spawns at least one new administrative unit within the Government. This involves new office space, new staff of many ranks, new organization charts, new regulations. Administrative growth is a galloping cancer. Many listed as new state or city employees are there solely because of Federal funds or Federal requirements . . .
>
> The enormous Federal influence has not yet really entrenched itself, either structurally or philosophically, in the American experience. It is by no means too late to cut discretionary funds to a justifiable and manageable amount, and to do away with the myriad categorical programs. To the extent that financial assistance is required for education programs, such assistance can be supplied through outright block grants with minimum restrictions on how or for what they are spent, once a basic overall need has been established. Decentralization and general aid are key concepts in the rehabilitation of our educational system; they and they alone permit each locality to determine its own priorities, plans and objectives—to focus on its own particular educational problems.

I have quoted Congresswoman GREEN not only because she is a nationally-recognized expert on education, but also because she has stated:

> As a long-time supporter of Federal financial aid for education, I have come to realize with much pain that many billions of Federal tax dollars have not brought the significant improvement we anticipated.

Mr. President, we have here, it seems to me, one of those rare occasions in which the opinion of the public and the opinion of the experts are in total agreement. The high motives and obvious compassion for the needy that have been the hallmarks of our Federal education programs are often thwarted by the clumsy and often impenetrable set of rules and regulations that accompany Federal aid. The States and localities need Federal aid; they most certainly do not need the bureaucratic redtape and regulatory shackles that by now are an integral part of the educational Federal aid to States.

With this in mind, I am therefore today introducing on my own behalf and on behalf of the Senators from Nebraska (Mr. CURTIS) and Idaho (Mr. MCCLURE) an amendment to S. 1539 by way of substitution which proposes, major changes in the manner in which the Federal Government would distribute Federal tax dollars for elementary and secondary education. It represents, in effect, an updating of the Education Revenue Sharing Act that was introduced on April 29, 1971, by the late Winston Prouty. I want to quote from Senator Prouty's remarks when he introduced that bill for the basic principles he cites apply equally to my own amendment to S. 1539. At that time, Senator Prouty said:

> The well-intentioned efforts of Congress in recent years have resulted in a maze of elementary and secondary education programs, which while noble in their intent are cumbersome in their implementation.
>
> Guidelines, regulations, matching fund requirements ensnarl the educator in time-consuming trivia which is counter-productive to the educator's primary role—education.
>
> Clearly, remedial action is necessary to make Federal aid to education more responsive and less cumbersome.
>
> Now that Federal support for elementary and secondary education is well established, it is time to move from categorization to consolidation in such a way that the goals of educational quality and opportunity are met.

We did not institute the needed reforms then, and I fear S. 1539, as reported out, will only make matters worse.

The efforts of the Education Subcommittee have been sincere and well-intentioned, and the subcommittee and its staff are deserving of commendation for their hard and thoughtful work on the maze of Federal aid to education programs. However, S. 1539 does not remedy any of the basic flaws and inadequacies of current Federal aid to education. It does not significantly streamline the inefficient and costly Federal educational bureaucracy. In fact, it mandates a great increase in bureaucracy and personnel. The bill adds 14 new bureaus, centers, and offices to the Federal educational bureaucracy. It also mandates a rigid administrative structure within the Office of Education, in particular restricting efforts toward regional administrative decentralization. These and other provisions of the bill would create, in President Nixon's words,

> A bureaucratic nightmare, entwined in its own red tape, making it impossible for the Department of Health, Education and Welfare to carry out its responsibilities.

As a result, children in educational need would suffer.

More importantly, it does not provide the program consolidation needed to simplify the Federal funding process for elementary and secondary education, thereby continuing to restrict the ability of States and individual communities to set their own priorities. While the bill proposes some consolidated categorical funding, it is virtually in name only, since it only allows for consolidation of 50 percent of the funds above 100 percent of the amounts appropriated in specific prior years.

Tinkering with various programs will not remedy the waste, the abuses, and the ineffectiveness of many Federal education programs. A more fundamental and far-reaching reform is necessary for the benefit of our children and our Nation. That is what our amendment proposes to do.

The Buckley-Curtis-McClure substitute amendment to S. 1539 is an educational revenue sharing alternative to the present system of Federal control over American education. As I indicated earlier, the substitute is in many respects very similar to the administration's original educational revenue sharing proposal of 1971, S. 1669. Let me briefly summarize the amendment:

First. It would make funds available to States and local education agencies in five areas of longstanding concern: education of the disadvantaged, education of the handicapped, vocational education, education of children connected with the Federal Government, and supporting materials and services. In addition, there is a sixth category, reading and special projects, into which the authorizations of the special categorical programs authorized or extended by S. 1539 are considered.

When President Nixon first offered his educational revenue sharing proposal in 1971, he pointed out that it consolidated "more than 30 Federal aid categories." This amendment does the same, reducing the categories to the basic six which are mentioned above.

Second. Funds would flow to the States on the basis of an automatic formula, except that no State would receive less money than it did in fiscal year 1974 from the programs being consolidated.

Third. Each State would be required to prepare a plan for distribution of funds, in consultation with a State advisory council broadly representative of public and private education interests and members of the public, with an opportunity for interested persons to comment on the published plan. However, in a major change from present law, no Federal approval of the plan would be required. Thus, a State will be able to plan for its own needs and priorities, rather than having to adapt to some predetermined Federal plan and agenda.

Fourth. Federal impact funds and funds for disadvantaged children would be passed through by the State directly to the school district. Other education revenue sharing funds would be distributed among the local educational agencies by the State agency, on the basis of their relative needs for additional assistance in the areas of education of the handicapped, vocational education, supporting materials, and reading and special projects. The State education agency would have the flexibility to transfer up to 30 percent of the funds from any one category, with the exception of those funds passed through to local education agencies. Thus, additional funds could be made available for the education of the handicapped, if the State and local school districts felt that they were needed.

Fifth. In addition any administrative savings realized as a result of the consolidation of Federal programs will be distributed back to the States. Savings created by a reduction in the Federal education bureaucracy and its activities should run into the tens of millions of dollars.

If this substitute were to become law all States will receive at least as much additional aid in fiscal year 1975 as they would under the committee's S. 1539. In fact it can be said with some assurance that every State will receive more than they would have under the committee bill because of the administrative costs savings which are inherent in this approach. Support for my substitute constitutes support for more dollars to the States; opposition serves to keep a relative greater amount of money within the discretionary control of policy planners in Washington.

Is there any justification for the Federal Government to continue to exercise its cumbersome, costly and stultifying control over American education? Is there any justification for continuing to prevent State and local education officials from having far greater flexibility in making program decisions more responsive to the needs of their students and communities? I submit that the answer to these questions can only be no, Mr. President.

It is time for the Congress to establish a new relationship between the Federal Government and State and local governments in the field of education, one which demonstrates confidence in the good sense and responsibility of State and local officials, one which will better deal with educational problems of the present, and better anticipate problems and needs of the future. As the President said:

> I believe we must recognize that the Federal Government cannot substitute its good intentions for the local understanding of local problems, for local energy in attacking these problems, and for local initiatives in improving the quality of education in America. We must also recognize that State and local authorities need Federal resources if they are to meet their obligations and if they are to use the peculiar advantages of state and local knowledge, responsibility and authority to their fullest potential. Education Revenue Sharing accommodates the federal role in national education to both these realities, and it lays the foundation for a new and more productive Federal-State relationship in this area of vital national concern.

Mr. President, I send the Buckley-Curtis-McClure subcommittee amendment to the desk, and ask unanimous consent that it be printed in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

Amendment No. 1325

On page 126, line 1, strike out everything through page 130, line 24.

Beginning on page 154, line 21 strike out everything through page 383, line 23 and insert in lieu thereof the following:

TITLE II—CONSOLIDATION OF STATE-ADMINISTERED EDUCATION PROGRAMS

Sec. 201. This title may be cited as the "Consolidated Educational Assistance Act."

AUTHORIZATION OF APPROPRIATIONS

Sec. 202. There are authorized to be appropriated for each fiscal year ending prior to July 1, 1978 such sums as may be necessary for carrying out this title.

ALLOTMENT AND USE OF APPROPRIATED FUNDS

Sec. 203. (a) From the sums appropriated pursuant to section 3 for any fiscal year, the Secretary shall allot to each State an amount equal to 100 per centum of the average per pupil expenditure in the United States multiplied by the number of children in average daily attendance in the public elementary or secondary schools of such State during such year who resided on Federal property, which amount shall be available for any educational purpose.

(b) From the remainder of such sums, the Secretary shall allot to each State an amount which bears the same ratio to such remainder as the sum of the products determined under paragraphs (1) and (2) of this subsection with respect to such State bears to the total of the sums of such products with respect to all States. Such products for any State shall be—

(1) 0.6 multiplied by the number of children in average daily attendance in the public elementary or secondary schools of such State during such fiscal year who (A) resided on other than Federal property with a parent employed on Federal property, or (B) had a parent on active duty in the uniformed services (as defined in section 101 of title 37, United States Code); and

(2) 0.1 multiplied by the number of children aged 5 to 17, inclusive, in the State.

(c) (1) That portion of each State's allotment derived from application of the provisions of paragraph (1) of subsection (b) shall be available for any educational activity.

(2) Except as provided in section 205—

(A) one-sixth of that portion of each State's allotment derived from application of the provisions of paragraph (2) of subsection (b) shall be available only for programs and projects at the preschool or any other educational level designed to meet the special educational needs of handicapped children;

(B) one-third of that portion of each State's allotment derived from application of the provisions of paragraph (2) of subsection (b) shall be available only for vocational education activities; and

(C) one-half of that portion of each State's allotment derived from application of the provisions of paragraph (2) of subsection (b) shall be available only for supporting materials and services.

(d) Programs, projects, or activities assisted under this Act may include construction.

(e) In the event that any State is not eligible to receive funds under this title for any fiscal year, or notifies the Secretary that it does not desire to receive such funds, the allotment of such State for such fiscal year derived from any provision of subsection (b) shall be available for reallotment from time to time, on such date or dates during such year as the Secretary may fix, to other States in proportion to the original amount of the allotment to such other States which was derived from any such provision for that year. Any amount for a fiscal year so reallotted to a State under this subsection shall be deemed part of its allotment derived from the same provision of subsection (b) for such year.

(f) The amounts appropriated and allocated pursuant to this Act shall be paid to the States at such intervals and in such installments as the Secretary may determine, taking account of the objective that the time elapsing between the transfer of funds from the United States Treasury and the disbursement thereof by States shall be minimized.

(g) For purposes of this title, the Secretary shall determine average daily attendance, average per pupil expenditure, and numbers of children, and in doing so he shall use the most recent satisfactory data available to him, referrable with respect to data used for each purpose to the same time period for all jurisdictions. All determinations and computations by the Secretary under this section shall be final and conclusive.

DISTRIBUTION OF FUNDS WITHIN EACH STATE

Sec. 204. (a) Each State shall pay to each of its local educational agencies for a fiscal year an amount equal to the sum allotted to such State pursuant to section 203(a) for such year on account of the number of children in average daily attendance who resided on Federal property in the school district of such agency.

(b) The remainder of each State's allotment shall be available—

(1) for use, in accordance with the provisions of section 203 and 205 and the plan developed pursuant to section 207(b), by the State agency designated pursuant to section 207(a); and

(2) for distribution, for use by them in accordance with the provisions of sections *204* and *206* and such plan, among the local educational agencies of such State on a basis reflecting the relative needs of each of such agencies for the types of assistance for which appropriations under this title are available;

except that not more than 30 per centum of such allotment derived from application of the provisions of section 203(b)(1), relating to the presence within the State of children with a parent employed on Federal property or with a parent on active duty in the uniformed services, may be paid to local educational agencies not having any of such children in average daily attendance in their schools.

TRANSFERS AMONG PURPOSES

Sec. 205. (a) Thirty per centum of that portion of each State's allotment which is available for the purposes described in clause (A), (B), or (C) of section 203(c)(2) may be made available for any of the other purposes described in section 203(c).

(b) The 30 per centum limitations in subsection (a) may be exceeded if the State demonstrates to the satisfaction of the Secretary that such action will achieve more effectively the purposes of this title.

PARTICIPATION OF NONPUBLIC SCHOOL CHILDREN

Sec. 206. (a) The State agency designated pursuant to section 207(a) shall provide that—

(1) except as provided in subsection (b), children enrolled in nonprofit private elementary or secondary schools will be given an opportunity to participate, on an equitable basis, in activities for which funds are made available under clause (A), (B), or (C) of paragraph (2) of section 203(c); and

(2) title to and control of funds received under this title and other property derived therefrom will remain in one or more public agencies.

(b) If the Secretary determines that provisions of State law prevent any State agency designated pursuant to section 207(a) from complying with subsection (a), the Secretary shall, if he finds that the State is otherwise eligible to participate in the program under this title, permit such State to participate, but in such case he shall—

(1) arrange, by contract or otherwise, for children enrolled in the nonprofit private elementary or secondary schools within such State to receive, on an equitable basis, services similar to those provided from the funds made available under clause (A), (B), or (C) of paragraph (2) of section 203(c) to public school children within such State; and

(2) pay the cost thereof out of that portion of the allotment to such State for carrying out each such paragraph or clause.

STATE ADMINISTRATION

Sec. 207. (a) The chief executive officer of each State which desires to participate in the program under this title shall designate a State agency which shall be the single State agency for administration (or supervision of the administration) of such program in such State, except that this requirement may be waived in accordance with the provisions of section 204 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4214).

(b) The State agency designated pursuant to subsection (a) shall, for each fiscal year, develop and publish a plan for the distribution and expenditure of funds available therefor under section 204(c). Such plan shall be developed after consultation with the advisory council appointed pursuant to section 208, shall not finally be adopted by such State agency until a reasonable opportunity has been given to interested persons for comment thereon, and shall be made available to the Secretary.

(c) In administering the program under this title, the State shall comply with the provisions of this title and with regulations prescribed by the Secretary pursuant thereto.

STATE ADVISORY COUNCIL

Sec. 208. (a) The chief executive officer of each State which desires to participate in the program under this title shall appoint an advisory council which shall be broadly representative of the education community in the State and of the public, including at least one person representative of the public elementary or secondary schools of the State; at least one person representative of the nonprofit private elementary or secondary schools of the State; at least five parents of school age children in the State who will be affected by the activities authorized under section 203; and at least one person who has special competence in each of the educational areas described in sections 203(c)(2)(A) and 203(c)(2)(B).

(b) The State advisory council shall——

(1) advise the State agency designated pursuant to section 207(a) on the preparation of, and on matters of general policy arising in the administration of, the plan developed under section 207(b);

(2) evaluate activities assisted under this title;

(3) advise State or local officials who have responsibility for carrying out activities assisted under this title with respect to the planning, evaluation, administration, and assessment of such activities; and

(4) prepare and submit to the Secretary not less often than annually a report of its activities, recommendations, and evaluations, together with such comments thereon as the State agency designated pursuant to section 207(a) and the chief executive officer of the State deem appropriate.

TREATMENT OF FEDERALLY CONNECTED CHILDREN

Sec. 209. The State agency designated pursuant to section 207(a) shall provide that children attending school within the State who reside with a parent on Federal property, who reside with a parent employed on Federal property, or have a parent who is a member of the uniformed services will receive public elementary or secondary education on a basis comparable to that provided to other children in the State.

DEFINITIONS

Sec. 210. For purposes of this title—

(1) the term "adult education" means services or instruction below the college level for individuals (A) who have attained the age of 16, (B) who do not have a certificate of graduation from a school providing secondary education and who have not achieved an equivalent level of education, (C) who are not currently required to be enrolled in schools.

(2) the term "average per pupil expenditure in the United States" means the aggregate current expenditures of all local educational agencies in the United States for any fiscal year, plus any direct current expenditures by the States in which such agencies are located for the operation of such agencies during such year (without regard to the sources of funds from which either of such expenditures is made), divided by the aggregate number of children in average daily attendance to whom such agencies provided public education during such year.

(3) the term "construction" means the erection, acquisition, alteration, remodeling, or improvement of facilities, including the acquisition of land necessary therefor, and the cost of construction includes the cost of architect's fees.

(4) the term "current expenditures" means expenditure for public education, but not including expenditure for community services, capital outlay, and debt services, or any expenditures made from funds allotted under this Act.

(5) the term "elementary school" means a day or residential school which provides elementary education, as determined under State law.

(6) the term "Federal property" means real property which is owned by the United States or is leased by the United States, and which is not subject to taxation by any State or any political subdivision of a State or by the District of Columbia. Such term includes (A) real property held in trust by the United States for individual Indians or Indian tribes, and real property held by individual Indians or tribes which is subject to restrictions on alienation imposed by the United States, (B) for one year beyond the end of the fiscal year in which occurred the sale or transfer thereof by the United States, any property considered prior to such sale or transfer to be Federal property for the purposes of this title, and (C) any school which is providing flight training to members of the Air Force under contractual arrangements with the Department of the Air Force at an airport which is owned by a State or political subdivision of a State. Such term also includes any interest in Federal property (as defined in the foregoing provisions of this paragraph) under an easement, lease, license, permit, or other arrangement, as well as any improvements of any nature (other than pipelines or utility lines) on such property even though such interests or improvements are subject to taxation by a State or political subdivision of a State or by the District of Columbia. Notwithstanding the foregoing provisions of this paragraph, such term does not include (D) any real property used for a labor supply center, labor home, or labor camp for migratory farmworkers, (E) any real property under the jurisdiction of the United States Postal Service and used primarily for the provision of postal services, or (F) any low-rent housing project held under title II of the National Industrial Recovery Act, the Emergency Relief Appropriation Act of 1935, the United States Housing Act of 1937, the Act of June 28, 1940 (Public Law 871 of the

Seventy-sixth Congress), or any law amendatory of or supplementary to any of such Acts.

(7) the term "handicapped children" means mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled or other health impaired children who by reason thereof require special educational services.

(8) the term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(9) the term "nonprofit", as applied to a school, means a school owned and operated by one or more nonprofit corporations or associations no part of net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(10) the term "secondary school" means a day of residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

(11) the term "Secretary" means the Secretary of Health, Education, and Welfare.

(12) the term "State" includes, in addition to the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(13) the term "supporting materials and services" means such materials and services as the purchase of school textbooks, library resources, and educational equipment; the provision of supplementary educational centers and services, of school pupil personnel services, of adult education, and of school meals; the training or retraining of teachers, teacher aides, and other school personnel; the strengthening of State or local educational agency capabilities and of educational planning at the State or local level; the support of the advisory council appointed under section 208; and the administration at the State level of the program carried out under this Act, and

(14) the term "vocational education" includes vocational or technical training or retraining (including field or laboratory work and remedial or related academic and technical instruction incident thereto and work-study programs for students who need the earnings from work in order to commence or continue their education) conducted as part of a program designed to prepare individuals for gainful employment as semiskilled or skilled workers or technicians or subprofessionals in recognized occupations and in new and emerging occupations or to prepare individuals for enrollment in advanced technical education programs, but excluding any program to prepare individuals for employment in occupations generally considered professional or which require a baccalaureate or higher degree; and such term also includes vocational guidance and counseling in connection with such training or for the purpose of facilitating occupational choices; instruction related to the occupation or occupations for which the students are in training or instruction necessary for students to benefit from such training; job placement; and the training of persons engaged as, or preparing to become, teachers in a vocational education program or teachers, supervisors, or directors of such teachers.

REPEAL OF PROGRAMS REPLACED BY THIS TITLE

SEC. 211. (a) Effective with respect to appropriations for fiscal years beginning after June 30, 1974, the following statutes and parts of statutes are repealed:

(1) title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 821–827);

(2) title III of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 841–848);

(3) title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 861–870);

(4) part B of the Education of the Handicapped Act (20 U.S.C. 871–877);

(5) the Smith-Hughes Act (20 U.S.C. 11–15, 16–28);

(6) sections 3 and 4 and 7 of Public Law 81–874 (20 U.S.C. 238–239);

(7) Public Law 81–815 (20 U.S.C. 631–647);

(8) title III of the National Defense Education Act of 1958 (20 U.S.C. 441–455);

(9) subpart 2 of part B of title V of the Higher Education Act of 1965 (20 U.S.C. 1108–1110c);

(10) the Vocational Education Act of 1963 (20 U.S.C. 1241–1391); and

(11) the Adult Education Act (20 U.S.C. 1201–1211a).

TITLE III—SPECIAL PROJECTS

SHORT TITLE

SEC. 301. This title may be cited as the "Special Projects Act".

PURPOSE

SEC. 302. It is the purpose of this title to provide financial assistance to the States to enable them to carry out special projects—

(1) to experiment with new educational and administrative methods, techniques, and practices;

(2) to meet special or unique education needs or problems; and

(3) to place special emphasis on educational priorities of the State.

AUTHORIZATION OF APPROPRIATIONS

SEC. 303. There are authorized to be appropriated for the purpose of carrying out this title $1,700,000,000 for the fiscal year ending June 30, 1975, $1,800,000,000 for the fiscal year ending June 30, 1976, $1,900,000,000 for the fiscal year ending June 30, 1977, and $2,000,000,000 for the fiscal year ending June 30, 1978.

ALLOTMENT OF FUNDS

SEC. 304. (a) From the sums appropriated pursuant to section 303 for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to the total of such amounts as the number of children enrolled in the public and private elementary and secondary schools of that State bears to the total number of children so enrolled in such schools in all of the States.

(b) There is hereby authorized to be appropriated for each fiscal year for the purposes of this subsection an amount equal to not more than 3 per centum of the amount appropriated for such year for payments to States under subsection (a). The Commissioner shall allot the amount appropriated pursuant to this subsection among the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this title. In addition, he shall allot from such amount to the Secretary of the Interior the amount necessary for such assistance for children and teachers in elementary and secondary schools operated for Indian children by the Department of the Interior. The terms upon which payments for such purpose shall be made to the Secretary of Interior shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purpose of this title.

(c) For the purposes of this section, the term "State" means the 50 States and the District of Columbia.

USE OF FUNDS

SEC. 305. The funds allotted to each State pursuant to section 304 may be used by such State for the purposes of this title set forth in section 302. Such purposes shall include the carrying out of programs and projects related to, but not necessarily limited to, any of the following:

(1) education for the use of the metric system of measurement;

(2) gifted and talented children;

(3) community schools;

(4) consumers education;

(5) educational equity for women;

(6) arts in education programs;

(7) dropout prevention;

(8) school nutrition and health services;

(9) correction education services;

(10) ethnic heritage studies;

(11) reading improvement;

(12) desegregation assistance;

(13) drug abuse prevention;

(14) bilingual education (including bilingual vocational education);

(15) Indian education; and

(16) education of the handicapped.

REPEAL OF PROGRAMS REPLACED BY THIS ACT

SEC. 306. Effective with respect to appropriations for fiscal years beginning after June 30, 1974, the following statutes and parts of statutes are repealed:

(1) title VII of the Elementary and Secondary Education Act of 1965;

(2) title VIII of the Elementary and Secondary Education Act of 1965;

(3) the Drug Abuse Education Act of 1970;

(4) the Cooperative Research Act;

(5) the Emergency School Aid Act;

(6) the Indian Education Act; and

(7) parts A, C, D, E, F, and G of the Education of the Handicapped Act.

Beginning on page 384, redesignate title VIII as title IV and renumber sections 801 through 806 as sections 401 through 406, respectively.

On page 384, line 15 delete everything after the comma, through and including the period in line 20, and insert in lieu thereof the following: "except in cases involving children whose parents have made an express, written, voluntary request for, or have given their written, voluntary consent to such transportation, or teachers who have made an express, written, voluntary request for, or have given their written, voluntary consent to such transportation."

At the end of the bill, add the following new title:

TITLE IV—MISCELLANEOUS

DISPOSITION OF ADMINISTRATIVE SAVINGS

SEC. 401. (a) The amount of funds which, by reason of the enactment of this Act, are not required to be appropriated for salaries and expenses of the Education Division but which would have been required to be so appropriated had this Act not been enacted, is hereby authorized to be appropriated for the purpose of making grants to States for the purpose specified in subsection (c).

(b) The funds appropriated for any fiscal year pursuant to subsection (a) shall be allotted by the Secretary to each State in an amount which bears the same ratio to the total of such sums as the number of children enrolled in the public and private elementary and secondary schools of that State bears to the total number of children so enrolled in such schools in all of the States. For the purpose of this section, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(c) Sums allotted to States in accordance with this section shall be available for any educational purpose.

MINIMUM STATE ALLOTMENTS

Sec. 402. The total amount of funds received by each State pursuant to titles II and III of this Act for any fiscal year shall in no case be less than the total amount of funds received by such State in the fiscal year ending June 30, 1974 under the statutes or parts of statutes repealed by those titles. The Secretary is authorized to modify any allocations required to be made pursuant to those titles as necessary to carry out this section.

AMENDMENT NO. 1327

(Ordered to be printed, and to lie on the table.)

Mr. BAYH. Mr. President, I have cosponsored and supported the amendment offered by the distinguished Senator from Arkansas (Mr. McClellan) to more equitably distribute title I funds to aid local school districts with students from disadvantaged homes. For my own State of Indiana this amendment will result in an increase of $2 million in Federal assistance under title I. In fact, 88 of the 92 counties in Indiana will receive more funds under the McClellan amendment than they would under the committee formula for allocating title I assistance.

However, one of the unintended and unfortunate consequences of the McClellan amendment it to penalize schools districts such as those in Lake County, Ind., which have a concentration of students from disadvantaged homes. I understand the desire of the Senator from Arkansas to eliminate the title I, part C aid which gives as much or more money to a single and wealthy county in New York than it does to more than half the States including Indiana. Obviously the formula for determining part C assistance—designed to aid localities with especially high percentages of students from low-income families—is not working if it provides such unfair benefits to a wealthy county which has the means to provide for its own students better than many other localities.

But if we are to adopt the McClellan amendment, adjusting the formula for allocating title I, part A funds, and eliminating part C funding, we have the further responsibility to ease the burden on those school districts across the country for which these changes would impose an unfair burden.

The amendment I am offering would help solve this problem by creating a special fund of $35 million which the Commissioner would be able to allocate to those school districts who will carry the greatest burden with the adoption of the McClellan amendment.

These funds would be available at the Commissioner's discretion to those districts which in any fiscal year would receive 90 percent or less under title I than they received in the previous fiscal year. The Commissioner would be expected to allocate the funds with careful attention to the impact of reduced Federal aid in individual districts and the ability of those districts to make up the loss in Federal assistance with local funds.

In the case of Lake County, Ind., the drop of 12 percent in funds received under title I from fiscal 1974 to fiscal 1975 would pose an unfair burden. I am certain there are other districts across the country which, like Lake County, would be the unintended victims of adoption of the McClellan amendment, which itself remedies many of the inequities of the past.

By providing the Commissioner with a discretionary fund to aid those school districts who would lose 10 or more percent of their title I aid under the McClellan amendment—with special attention to the ability of individual districts to make up the loss of Federal aid so we do not create a trust fund for wealthy districts—we can achieve the laudatory goals of the McClellan amendment without penalizing districts that can least afford it.

AMENDMENT NO. 1328

(Ordered to be printed, and to lie on the table.)

Mr. CRANSTON (for himself and Mr. Gurney), submitted amendments, intended to be proposed by them, jointly, to Senate bill 1539, supra.

AMENDMENT NO. 1329

(Ordered to be printed, and to lie on the table.)

Mr. MONDALE. Mr. President, I am introducing today, with the Senator from New York (Mr. Javits), an amendment to assure continued authority for the Federal support for disadvantaged students studying law, under the sponsorship of the Council on Legal Education Opportunity (CLEO).

This amendment is supported by the administration and the American Bar Association.

It will simply perfect the authority reflected in the 1972 amendments to the Higher Education Act of 1965. Funds have already been appropriated under this existing authority.

The proposed amendment would allow the continuation of the highly successful program administered by the Council on Legal Education Opportunity (CLEO) which, since 1968, has been responsible for the admission of more than 1,300 disadvantaged students to law school. Through a program of recruitment, remedial education prior to admission, and modest stipend support, CLEO has opened the legal profession to those from educationally and economically disadvantaged backgrounds. Experience thus far indicates that the CLEO student competes successfully with his or her peers.

Because of the $1,000,000 limitation on appropriations included in the 1972 amendments, only 31 students could be supported by CLEO. The proposed amendment would allow the Secretary to allocate the funds in such a manner as to benefit the maximum number of students with stipends at a lower level than required under existing authority and by eliminating support payments to educational institutions required by the existing authority.

It is estimated that approximately 200 students could be assisted each year if the proposed amendment is adopted.

AMENDMENT NO. 1330

(Ordered to be printed, and to lie on the table.)

SPECIAL PROGRAMS IN ADVANCED MATHEMATICS FOR DISADVANTAGED CHILDREN

Mr. MONDALE. Mr. President, on behalf of myself and Senators Kennedy, Taft, Hart, and Beall, I send an amendment to the desk.

Mr. President, 3 years ago in Berkeley, Calif., I was privileged to see a class of disadvantaged children solving college-level problems in the mathematical theory of exponents with amazing spontaneity, enjoyment, and obvious understanding.

These children were participating in project SEED, a program in which college-trained mathematicians teach advanced mathematics to disadvantaged children.

In its 11-year history, project SEED—Special Elementary Education for Disadvantaged Children—has demonstrated that disdavantaged children can learn abstract, conceptual mathematics normally taught on the college level. More important, in learning advanced math, these children have also learned to perform well in standard arithmetic and algebra.

And project SEED's sponsors believe that programs like SEED can go far toward breaking the expectation of failure that is perhaps the greatest barrier to successful compensatory education—by proving to the children themselves, their teachers, and families that children of poverty can perform well in the culture-free area of advanced math.

Mr. President, largely through funding by State governments and private sources, and through the donation of free services by mathematicians from universities and private industry, project SEED now reaches roughly 6,000 children in 12 States.

Initial evaluations conducted in California indicate that the SEED approach can produce accelerated learning—above national norms—for disadvantaged students with an investment of $175 per child per year. This is certainly among the least expensive of the hopeful compensatory education programs.

But funding is hit-or-miss. There have been few opportunities to offer the program to students over a period of years. There have been few chances to evaluate the impact of SEED training on children after they have left the program—or its impact on attitudes or performance in academic areas other than mathematics.

It is our belief that this approach deserves sustained funding as an experimental model by the Federal Government, so that its impact can receive the thorough evaluation which it clearly deserves.

Senators Kennedy and Taft joined me in asking the Office of Education to explore possible sources of funding. However, Acting Assistant Secretary of Education Saunders responded that, under existing law, there is no authority for such funding.

I ask unanimous consent that Mr. Saunders' letter may appear in the Record at the conclusion of my remarks.

Without agreeing with Mr. Saunders' analysis, the amendment we offer today is designed to provide authority to the Office of Education to fund programs along these lines.

Our amendment authorizes use of discretionary funds set aside in the Emergency School Aid Act to fund programs conducted by one or more private, nonprofit agencies, in cooperation with local school systems, of special programs for teaching standard mathematics to eligible children through qualified instruction.

Because the pending bill increases the discretionary fund from 6 to 8 percent of appropriations, ample funds should be available if, as we hope, the Assistant Secretary concludes that this approach is worth exploring, and receives one or more acceptable applications.

Mr. President, I am hopeful that the Senate will accept our amendment, and I ask unanimous consent that a collection of materials regarding project SEED, together with the text of our amendment, may appear in the RECORD at the conclusion of my remarks.

There being no objection, the amendment and material were ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1330

Insert at the appropriate place in the bill the following:

SEC. —. Section 708(a) of the Emergency School Aid Act is hereby amended by the addition of the following subparagraph (3):

"(3) The Assistant Secretary is authorized to make grants to, and contracts with, one or more private, nonprofit agencies, institutions or organizations, for the conduct, in cooperation with one or more local education agencies, of special programs for the teaching of standard mathematics to children eligible for services under this Act through instruction in advanced mathematics by qualified instructors with bachelors degrees in mathematics, or the mathematical sciences from colleges or other institutions of higher education, or equivalent experience."

[From Think, September-October 1970]

HOW TO TEACH THE ESOTERIC MATHEMATICAL PRINCIPLE OF INFINITE CONVERGENCE—AND MAKE ANY SIXTH-GRADER EAT IT UP

(By George A. W. Boehm)

(No rules to memorize, no lectures, no dull drill, drill, drill. Yet disadvantaged children from first to sixth grades master math that might topple a bright college undergrad. The secret: combine Socratic questions with a love of math and a belief in kids, as Bill Johntz does. Result: the kids begin believing in themselves.)

One afternoon last spring in the office of a school in Del Paso Heights, California, I sat alone wondering whether 20 children I had just watched were as precocious as they seemed. For most of the previous hour Warren Leffler, a young mathematician trained at the University of California, had beguiled a class of sixth graders with mathematical concepts that would confuse many high school seniors. The children apparently kept up with him every step of the way, for they eagerly volunteered ideas about such arcane topics as fractional and negative exponents.

The demonstration had been nothing less than sensational, but still I had reservations about how well the children really grasped mathematical ways of thinking. For one thing, the school was in an impoverished community and, as everyone has been told, children like these are almost universally backward in reading, writing and arithmetic. Moreover, from the way Leffler had gone over some points again and again, it was obvious that the class was intensively drilled. Conceivably, the apparent brilliance amounted to little more than cleverly coached rote learning.

Five young girls soon dispelled my doubts. On their way home, they spied me in Leffler's office, and after a brief, whispered consultation, they entered. One girl, acting as spokesman, introduced herself as Debra and inquired, "Mister, aren't you the man who watched Mr. Leffler teach us algebra?" I nodded and I explained I was waiting in the office while Mr. Leffler had a conference with the principal. "Good," she said. "Then we're going to teach you some algebra."

* * * * *

While Debbie waited for me to get my bearings, a slender Mexican girl, Christina, bounced to her feet, snatched the chalk, and declared: "Now it's my turn to teach the man." She drew a line on the blackboard and labeled one end 0, the other end 1. By marking it off into halves, quarters, eighths and sixteenths, she showed that Debbie's arithmetic could be portrayed geometrically.

At this point Leffler returned and announced we must leave. I begged time to ask one question of the group: "At the rate you are adding fractions or making marks on the line, how long do you suppose it will take to reach one?" After reflecting no more than 20 seconds, Debbie grinned broadly and said, "*Practically* forever." Her four friends giggled and bobbed their heads in agreement.

They clearly understood the difficult mathematical concept of "converging to a limit"—i.e., gradually approaching a goal without ever quite reaching it. It is a fundamental idea that bothered ancient Greek philosophers, and it was exploited by Newton and Leibniz when they contrived the calculus. I doubt whether many well-taught college freshmen could explain the basic philosophic content of a limit as intuitively and succinctly as Debbie did on the spur of the moment.

As schools open this fall, some 10,000 children like Debbie, Christina and their classmates will be getting similar insights into higher mathematics. For one period a day they will be taught by a professionally trained mathematician, while their regular teacher sits in the back of the room.

These children, ranging from the first through the sixth grades will be participating in Project SEED, an acronym for Special Elementary Education for the Disadvantaged. Though daring, it stands out as perhaps the most promising educational innovation in many years.

THE CHILDREN LOVE IT

It is also singularly noncontroversial. Starting in 1963, a Berkeley high school teacher, William F. Johntz, worked out the method and tested it by teaching in a nearby elementary school during his lunch hours and free periods. In the last three years SEED has spread rapidly from Nome to Tuscaloosa, from San Jose to New Haven. It has won the endorsement and financial backing of more than 100 local school boards and the California legislature. It has recruited as teachers first-rate mathematicians from industry, research institutes and several of the best universities. Most important, children love it.

As Johntz says, ". . . the true intellectuals in our society are the children. Their lust for abstract conceptual reasoning is almost universal until it is crushed. Adult genius is just the part of childhood that is retained."

Johntz's concern dates back to his boyhood in Winston-Salem, North Carolina, two decades before integration became a major issue. He recalls that he was shocked by the realization that the future was dim for black children.

The urge to do something for impoverished children propelled Johntz into teaching. After he graduated from Duke University, where he majored in psychology, he studied mathematics at the University of California at Berkeley.

Gradually Johntz became convinced that conventional education, even in Berkeley's excellent school system, failed to meet the needs of the poor.

As a teacher he had plenty of opportunities to study all kinds of compensatory education, e.g., remedial reading and other intensive programs designed to help lagging children make up ground. The more he saw, the more he was disenchanted: "Virtually all remediation is bound to fail, because it is just more of the same things children have come to dread. Psychologically," he says, "it reinforces habits of failure."

Johntz decided the solution was to go back to the early years of school and teach children something at which they could excel so as to build up their self-esteem. He hit upon mathematics, preferably forms of mathematics far removed from the arithmetic ideas that children pick up by getting change for a dollar or reading the newspaper. Abstract mathematics is one of the few topics in which children from all backgrounds start out on even terms, i.e., virtually from scratch. As Johntz explains. "Many disadvantaged children entering the first grade have spent six years listening to 'bad English' spoken in their homes and neighborhoods. They have not, however, been subjected to six years of 'bad math.' No math, perhaps, but not 'bad math.'"

Besides, young children generally have a natural bent for the kind of fantasy that characterizes pure mathematics. A research mathematician makes up his own rules—a set of arbitrary axioms—then reasons through to a logical conclusion. Similarly, a little girl mothering a family of dolls makes assumptions about their personalities and capabilities and lets them act out roles accordingly. People attuned to both mathematics and children find it not at all surprising that *Through The Looking-Glass* was written by a professional mathematician, Lewis Carroll. The exploration of a world in reverse existing behind a mirror is just the kind of intellectual game that delights children and mathematicians. "Children not only understand the essentially arbitrary nature of mathematics but find great pleasure in mathematical paradoxes as well," says Johntz.

Having made up his mind to teach higher mathematics to lower grades, Johntz sought for a way to involve the children as participants. In his spare-time teaching he worked out what he calls the "discovery method," now standard procedure in all SEED classes. Its aim is to guide and goad students to reinvent mathematical ideas through a continuous flow of provocative questions. The mathematicians who teach these full-sized classes of disadvantaged youngsters never lecture.

Typically, the teacher will begin enticing the children to discover the notion of exponents by writing on the board: 2E4=16, 2E3=8. "If these are true statements," he will say, "what number belongs in the box in this statement: 2E2=☐?" Almost inevitably, after a mixture of logical argument and out-and-out guesswork, the class will arrive at a consensus. They will decide that 2E4 means 2x2x2x2; that 2E3 means 2x2x2; and therefore that 2E2=2x2=4. From that point it is just a matter of time (perhaps two or three class periods) before they arrive at a complete generalization—i.e., that xEy signifies taking the number x and multiplying it by itself y times.

A SILENT RIOT

Johntz soon found he was almost too successful in animating hitherto listless and inattentive children. They became so eager to volunteer ideas and argue about them that classes often degenerated into bedlam. And so, he made up rules. A child wanting to talk has to raise his hand and wait to be called on. Those who cannot resist the urge to express themselves can usually do so through signals. Both hands raised means: "I got that answer, too." Arms crossed above the head, like a football referee calling time out, signifies disagreement with something that has been said or written on the blackboard. Thus, a smoothly running SEED class is usually turbulent—in Johntz's words, "a silent intellectual riot."

As soon as he was satisfied with his techniques, Johntz opened his classes for inspection. Other schoolteachers, child psychologists and university professors came to watch *him perform*. And when he could, he gave demonstrations elsewhere in the Bay Area.

ROBERT'S CARTESIAN TRIUMPH

A SEED class running in high gear excites almost anyone who participates or happens to be watching. Here is a typical mathematical discovery made by a third grader.

In the early days of the program Bill Johntz, who founded it, had spent two or three periods introducing a Berkeley elementary school class to the notion of graphing. In the mathematical terms he freely employed, they had learned that an "ordered pair" of numbers can be mapped as a point in 2-dimensional space. For example, when he wrote (2,3) on the blackboard and asked: "Who wants to show this point?" every child waved one hand eagerly. He picked a volunteer, who literally skipped to the board, drew a large cross, and starting from the center marked off two steps to the right and three steps upward. The rest of the children shot up both hands, a signal indicating they had the same answer written on paper at their desks. This, Johntz considered, was pretty good thinking by a class that was generally subpar in writing and arithmetic.

Then, without warning, he threw the children a curve ball. On the board he wrote (2, 3, 5) and asked: "What do you suppose this could mean?"

For about three minutes the children stewed and scribbled on their note paper. Here and there, two conferred with each other. Then one little boy tentatively raised his right hand. "All right, Robert," said Johntz, "suppose you tell us what it means to you."

Robert explained that he imagined a glass tube marked off in steps like a thermometer. "You hold it so it sticks straight out from the board. Then you slide it along so the end is on point (2, 3). Then you walk out five *steps* on the tube and that is point (2, 3, 5)."

"What do you think of Robert's idea?" Johntz asked. A few children raised both hands in agreement. A few others crossed their arms, signaling they thought Robert was wrong. And then the class began a debate on the merits of Robert's new theory.

Of course, Robert was basically right. Although it was hardly necessary to imagine a glass tube, he had just the same made an important invention, which mathematicians call "3-dimensional Cartesian coordinates." It is the usual way of identifying every point in space by a unique trio of numbers. By translating geometry into algebra it enables physicists and engineers to calculate such things as rocket trajectories or stresses on a steel girder.

Everyone present enjoyed Robert's triumph for a variety of reasons. The regular teacher, sitting by while Johntz taught algebra, *was* thrilled to see her class grapple successfully with a tough mathematical concept. Two parents, watching from the back of the room, were stunned to hear their own children volleying ideas they didn't comprehend in language they hardly understood.

And Johntz himself, an ardent of children, was excited because Robert had discovered a mathematical idea on his own. For such triumphs a growing number of mathematicians are devoting part of their careers to teaching elementary schoolchildren.

Among the first visitors to these educational shows was Leon Henkin, a distinguished mathematician from the University of California at Berkeley. Henkin was delighted with what he saw and wrote a letter to the Berkeley Unified School District, in which he said: "I regard it as one of the most significant projects in elementary education which has come to my attention in recent years."

But Henkin did much more. He urged his own graduate students to visit classes and decide whether they could help. One in particular, Warren Leffler, who taught last year in Del Paso Heights, has made SEED a full-time career. He has been Johntz's right-hand man in California, and this fall he has moved to Michigan to take charge of a new statewide program.

Working through the Academic Senate in Berkeley, Henkin also arranged for the University of California to pick up half of Johntz's salary; the other half is being paid by the Berkeley school system. And he helped set up a Community Teaching Fellows program, in which the university itself administers a part of the SEED program, providing its graduate mathematics students with schoolteaching as an alternative to teaching calculus to the university's own freshmen.

SEED'S TAKE ROOT

In this way the project has become to a large extent self-propelling. One of Leffler's first disciples, for example, was Tad Day, a brilliant young biophysicist at Stanford. Last year and this year again, Day has been spending half his time at Stanford and half at Yale. While on the West Coast he pursues his own graduate studies; while on the East Coast, he runs the New Haven school system's SEED program, teaching several classes himself and training other mathematicians from as far away as Westchester County, New York.

SEED mathematics is being taught in about 500 classes this fall, an increase of more than 80 percent since last spring. It is solidly entrenched in California, where it is financed at the rate of $1,000,000 a year in federal, state and local funds. Nonacademic scientists, too, have been especially helpful in California. Initially, seven researchers, all of them Ph. D's, from IBM in San Jose decided to try the program, on their own time, with first graders. Now IBM has more than a score of professionals involved in SEED projects, and among the other organizations that have shown interest are: RAND, Aerojet General, Chrysler, Ford, Hughes, Lockheed, North American Aviation, Olin Mathieson and New York Life.

Johntz, in his role as sales manager, arrives in town, takes charge of an unselected, full-sized ghetto class, and spends one period teaching them some rudiments of algebra. Then, on the following day, he shows them off before a school board, a group of corporate executives, or a legislative committee. He may not yet know all the children by name, but they know him and what he is driving at, and they almost never fail to astonish the audience by knowingly bandying such terms as "exponentiation" and "multiplicative inverse."

One reason these demonstrations are convincing is that Johntz is a superlative teacher. A tall, angular man with a soft, fervent voice and an unruly shock of brown hair, he exudes a combination of friendliness and enthusiasm that immediately charms most children. Then, too, the children take great delight in demonstrating their intellectual spirit and competence before an adult audience.

A REFRESHING DISCOVERY

Although he conducts demonstrations for many kinds of audiences, Johntz admits he is most comfortable and effective with mathematicians and legislators. Mathematicians almost universally appreciate the imaginative conceptualizing of the children, whereas the legislators find the low per pupil cost (approximately $125/student/year) coupled with hard data[1] substantiating the progress of the disadvantaged children in Project SEED very exciting.

California Assemblyman Newton Russell, Republican from Burbank, California, makes the following observation: "An unending parade of educators continue to seek funds from the legislature for projects that make vague claims about attitudinal changes in disadvantaged children. It is indeed refreshing to at last find a project for the disadvantaged that can demonstrate through careful pre- and post-test evaluation solid achievement in a subject as important to the child's future as mathematics."

In SEED's early days, a teacher-trainee would sit through a couple of Johntz classes, get a few words of advice, and start teaching on his own. This led to an occasional disaster, usually because the SEED specialist did not learn how to maintain discipline or he neglected to develop a working relationship with the regular teacher.

The rule now is that all would-be specialists must serve an apprenticeship of several weeks, first observing SEED teachers at work and later teaching their own classes with someone like Day or Leffler on hand to observe and criticize. Johntz stubbornly refuses to start a new program until enough teachers have been prepared.

THE FUTURE: PRO AND CON

Teaching SEED-style is not at all easy. The teacher must curb his impulse to deliver a lecture when he wants to make an important point; it is much more effective if he works out a line of questioning that leads the children to discover it for themselves. He must make sure that every child is brought into the act several times a period.

Professional mathematical training becomes essential when the children start generating their own concepts. Some of these ideas are so far out of the ordinary that anyone but a trained mathematician would simply dismiss them as wrong. Instead of squelching an unusual idea, an expert SEED teacher tries to get the child to explain the assumptions behind it and then follow it through to a logical conclusion. Most gradeschoolteachers could hardly be expected to do this unless they happened to major in mathematics.

The short-term future of SEED seems bright. But some of Johntz warmest admirers worry a bit about the long range.

He has far from exhausted the supply of mathematicians who are eager to devote part of their careers to elementary schoolteaching. But as yet he has developed no coherent organization for managing the project; it is still mainly a one-man job on which he spends a wearying 80 hours a week. He will eventually have to build up some sort of bureaucracy consisting of professional managers who, while perhaps not themselves fully appreciating quality education in mathematics, can work with mathematics who prefer full-or part-time teaching to research.

SEED may soon begin to suffer for want of a standard curriculum. So far, most teachers concentrate on a few topics that they themselves enjoy and think will appeal to young children. This is all very well for the first year or two, when the main objective is simply to encourage children to think mathematically. But when children change teachers or perhaps schools, they may be discouraged if they take up the same concepts for the second or third time, or if they hear classmates discussing mathematics they have never learned. Johntz intends to put out a syllabus of suggested topics. Eventually, he hopes, SEED teachers will follow the syllabus roughly half the time.

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[1] One of the conclusions of a 200-class evaluation of SEED made by Professor Robert P. Dilworth, a mathematics professor at the California Institute of Technology, was: "The program has had a significant effect on mathematics achievement during the year at both the second and fifth grade levels."

Because of the high mobility of the poor, says Johntz, continuity from year to year is a problem in SEED. No one has yet followed the school careers of early participants for several years to determine whether the program is of lasting benefit. For the last two years, the state of California has supported an evaluation, comparing SEED pupils with non-SEED pupils. The results have been partly inconclusive. Although SEED pupils make extraordinarily rapid progress in arithmetic (actually not taught in the program) and in algebra (taught in the program), there is no solid statistical evidence that they are much better off in reading and other subjects. Robert Dilworth, a Caltech mathematician who has headed the statistical analysis, suspects, however, that the psychological tests on which the evaluation depends may be at fault. Designed to measure progress along conventional educational pathways, they may not reflect the rewards which Johntz regards as the true worth of the program.

His real ambition to teach young children the habit of success and thereby give them the confidence they need to carry them through high school and college and into careers worthy of their innate ability—even though few may ever become professional mathematicians.

THEY BELIEVE IN SEED

Hundreds of regular teachers and principals who have watched SEED in action are indeed impressed by the way the program changes the children's whole attitude toward education and school life.

Many testify that the first brush with sophisticated mathematics quickens children's interest in such familiar subjects as reading and arithmetic. For perhaps the first time in their lives, the children have definite reasons for learning all there is to know.

Last spring, Mildred Chaplin, principal of P.S. 113, the first school in Harlem to adopt SEED, was astonished when she saw pupils in a new algebra class dividing fractions almost as easily as they could add two and two, for they had hardly begun working with fractions in their regular arithmetic period. This show of enterprise helped make Mrs. Chaplin a wholehearted believer. "I like to see them learn algebra," she says, "but now I realize that is only secondary."

Her boss, district superintendent Seymour Gang, well-known in educational circles as a boisterous crusader for quality education, is more outspoken: "SEED's in keeping with what we *don't* know about how kids learn. By that I mean we've spent 50–75 years leveling kids off. We set the curriculum so as not to exceed their limitations. Then when some of them don't do well, we set it lower. It's a descending spiral and a self-fulfilling prophecy. SEED gets at the core of the problem. It proves there really are no limitations in the kids themselves."

[From the East San Jose Sun, Mar. 19, 1969]

Olinder's Experiment in Math: Minuses and Positives Add up to Big Plus for Project SEED

"Minus eight and positive 14 equal 14 minus eight. Is that correct?"

The math instructor calls out names of students seeking their opinions. And he gets several answers.

So, he slowly takes the problem apart so that all will understand.

But this is not a class where you'd expect to find negative numbers being discussed. They're usually associated with algebra courses.

This is a fifth grade class at Selma Olinder School.

The math instructor, who is not trained as a teacher, was Leo Rivera, of Milpitas.

He and nine other Lockheed and IBM employes spend 40 minutes each Monday through Thursday helping Olinder with Project SEED.

Project SEED, which deals only with mathematics, was developed by Dr. William Johntz of the University of California at Berkeley. The idea is being used in several other cities across the nation also. This is its second year at Olinder.

Rivera, for instance, comes in to Ron Low's fifth grade class and teaches them things they would not ordinarily learn about. The regular curriculum includes addition and subtraction, multiplication and division and use of fractions. With SEED, they will learn about the negative numbers, sets, a number line, and some geometry also.

Games also are incorporated into the learning. Rivera asked the children, after an intensive session of adding negative numbers, if they'd like to play a game. They agreed.

The game they played was tic-tac-toe—with negative numbers and even numbers.

The fifth graders don't grasp everything the first time—and such was the case with the even numbers. "What is an even number?" Rivera asked. Odd numbers—nine, 11 and three—were called out by the class. "Are you sure?" he asked.

"What's the definition of an even number?" Someone remembered they were divisible by two. With that explained, the class got back on the track.

Boys were pitted against girls. The tic-tac-toe pattern contained positive and negative numbers. The idea of the game was to place your X or O by adding a number to four to get the amount in the space.

To get his minus 12, one young man did a lot of changing his mind . . . "it's eight; no minus eight; no, wait, it's minus 16". But he got his X. (The game ended in a tie.)

The aim of SEED is to make math interesting and exciting for disadvantaged children. And it seemed to create enthusiasm in Low's fifth grade. One youngster, however, did have problems grasping the negative numbers idea. "I don't get it, I don't understand," he told Rivera.

"What don't you understand?" Rivera asked.

"The whole thing. I don't know what you're doing," the student replied.

Rivera and Low agree such candor is good and encouraged it. They want everyone to understand. Rivera took time out to work with the boy personally, trying to explain what he was doing.

The project is coordinated by the school's resource teacher, Ted Thomas. There are four persons working with the first grade classes; two working with second grades; one with fourth grade; two with fifth grades and one with a sixth grade.

[From IBM magazine, Sept. 1970]

Algebra at Age 6? They Love It

"What's another way to get a zero?" asks San Jose Research Chemist Dr. William A. Lester, Jr., who teaches algebra four times a week in San Jose's Olinder Elementary School.

Hands shoot up all over the first-grade classroom. "Plus three and minus three," a six-year-old answers.

Dr. Lester adds the numbers into the "truth set" on the blackboard and moves a drawing of a little boy, walking toward a house full of candy and toys, one step closer to his goal. The first graders cheer and wait eagerly for the next problem.

Dr. Lester is one of several scientists at the San Jose Research Lab who have left their offices at mid-morning four days a week during the past school year to drive 10 miles to Olinder School near San Jose's central business district, in a predominantly Mexican-American area. There they teach a 40-minute class in algebra to children ranging in age from 6 to about 11—students who would ordinarily begin studying algebra in high school at the age of 14 or 15.

The IBM volunteers made up the time by working after normal hours last year, but during the next school year the Research Lab will allow the volunteers to use some IBM time to teach at Olinder School.

"In view of the success of the program and the commitment you've made, the San Jose Research Laboratory would now like to match your commitment and support the program," Dr. Andrew H. Eschenfelder, lab director, recently told the group.

"The best years for learning abstract mathematics are the early years of a student's education, not the ninth or tenth grade," says Dr. Douglas McLean, another of the IBM volunteers. "That idea still has to be proved to a lot of people, of course. We're trying to help prove it."

Other IBM scientists trying to prove this point include Dr. Paul S. Bagus, Dr. George Castro, Dr. Thomas R. Koehler, and Dr. Erich Sawatzky. Help in establishing the program also came from Dr. James D. Lyons, Dr. Hans Morawitz, Dr. Will Rudge, and Donald E. Schreiber.

The Research Lab scientists started on this voluntary project a little over a year ago when they were invited to Olinder School by the San Jose Unified School District, which wanted to test this new system of teaching algebra. There, they met William F. ("Bill") Johntz, a Berkeley high school mathematics teacher who travels the country urging school districts to teach algebra in their elementary schools. He demonstrated his "discovery method" for teaching algebra in elementary school, and the IBMers, along with a few scientists and engineers from the nearby Lockheed Aircraft Company, took on the project of teaching the subject to a few elementary grades at Olinder.

Johntz's system has had amazing success. Called Project SEED (Special Elementary Education for the Disavantaged), it is a college preparatory math program now used in more than 400 elementary classrooms across the country. Most of the SEED Project schools are in disadvantaged areas where a high percentage of the students are non-white or come from families on welfare.

"Project SEED is aimed at disadvantaged students for several reasons," says Dr. Lester. "First, the casualty rate in mathematics is nearly 100 percent for high school students from poverty backgrounds. In a typical ghetto secondary school, less than one student in 30 succeeds in a college preparatory math program. This shouldn't be the case, since math is the most culture free subject; by that I mean, when they start out, poverty students don't have a disadvantage in relation to students from higher income homes, as they often do in English classes, for instance."

The regular home room teacher remains in the classroom to assist the volunteers during their Monday through Thursday 40-minute teaching sessions.

The Socratic, or "discovery method" is a general teaching technique in Project SEED. A child is asked a question that requires analysis. The reply is accepted without demurring, and then the teacher asks: "Who disagrees?" If several pupils disagree, the teacher asks for other possible answers. Gradually, the correct answer emerges without any of the children being told: "You're wrong!"

"A basic tenet of the discovery method of teaching is eliminating what Bill Johntz calls *failure symbols:* textbooks, tests, and so on. This is possible because our algebra classes are only part of the students' general mathematics study," says Dr. Tom Koehler.

The SEED teachers have developed a number of devices to hold the students' attention. Dr. Koehler, for instance, plays "algebra tic-tac-toe" with his fifth grade class, which is a combination of two regular fifth grade classes and totals about 60 children. With one half of the class playing against the other half, the object for the students is to figure out a given mathematical equation, and use their understanding of the equation to Place X's and O's in the tic-tac-toe squares.

Teddie J. Thomas, resources teacher at Olinder Elementary, says it is a gratifying experience to watch these very young students get excited about the theory of positive and negative numbers; about filling in the variables in truth sets; about the area of rectangles and right triangles; about linear inequalities; and a hundred other complicated principles.

The problem with trying to spread this kind of training throughout entire cities is the lack of money to hire teachers who have the knowledge of higher mathematics, according to Dr. McLean, who says: "How do you get Ph.D.'s to teach elementary school classes? The money for salaries isn't there. The answer that I see is professionals in industry contributing their time and talents."

[From Newsweek, May 4, 1970]

The Common Language

The instructor wrote a complicated algebraic formula on the blackboard and then turned to his class. "Give me a sentence that will check that," he said, as a forest of hands shot into the air. One student carefully presented a description and development of the equation. The others loudly disagreed, some of them waving both hands like semaphores. The instructor went around the room in random order, asking probing questions, involving everyone. By the end of the hour, the students had talked their way through exponentiations, roots and logarithms—and, with a final exuberant burst of mental energy, had used logs to discover irrational numbers.

ETHNIC

For the professionalism of its approach, the class could have been on the university level. But in fact the 24 students—most of them black or Mexican-American—were fifth and sixth graders from the impoverished Del Paso Heights Elementary District in Sacramento, Calif. Their average IQ, by standard testing methods, was below 100. Yet they were working routinely with advanced mathematics, clearly understanding what they were doing and loving every minute of it.

While most ghetto classrooms around the country remain tragic exhibits of American society's failure to teach the simplest material to the children of its ethnic underclass, 700 elementary students in the Del Paso Heights District have been racing through advanced math as part of an exciting project called SEED (for Special Elementary Education for the Disadvantaged). SEED is the brainchild of William Johntz, a lanky, 47-year-old former high-school teacher who, like many educators concerned about teaching ghetto kids, long ago concluded that the schools were failing because they had not yet found a way around using *white* middle-class methods and language with poor, non-white students. Johntz, however, took his analysis a step farther. He reasoned that if language skills, with their forbidding overtones of white culture, were a stumbling block, then math, which is culturally neutral, might be the right place to start. Seven years ago, he began testing out his theory by devoting his lunch hour to teaching algebra to classes of black elementary-school students.

The experiment worked so well that Johntz now devotes all of his time to selling his unique mixture of Socratic method and serious math to school administrators, legislators and businessmen. Thanks to the undeniable success of both his method and his persistence, a score of school districts in California, Alaska and Michigan have publicly funded SEED projects, and the program is rapidly spreading elsewhere.

STATUS

Wherever it is taught, SEED involves the same tough material—abstract, conceptually oriented high-school and college algebra. Anything simpler or more verbally oriented, Johntz believes, would fail for the same reasons other programs of compensatory education frequently strike out; they are so obviously rudimentary and so culturebound that they turn off even the lowest achievers among poor, non-white students. "No black kid is going to feel better about himself for winning a watermelon-eating contest," Johntz argues. "If you're going to motivate kids, they've got to have success in a high-status area."

High-status areas, of course, require highly trained teachers. Johntz believes that, at a minimum, a SEED math teacher should hold a college degree in math. While a poorly schooled teacher can destroy a child's confidence by calling his answer wrong, the highly trained mathematician, through his deep understanding of the structure of the subject, is able to explore the possible value of unexpected responses.

CHEERIOS

In the Del Paso Heights District—the fourth poorest in California—Johntz's math specialists, several of whom work at IBM, have made their subject so popular that the SEED office has become a hangout for students. They come in and try to teach math to the secretary and anyone else who will listen. And some SEED students even substitute as math teachers at nearby grade schools and junior highs.

"I like the work," explains 12-year-old Julius Humphrey, " 'cause there ain't no other kind of work like it." Christina Gonzales, 11, enjoys teaching too. "It builds up your vocabulary," she told NEWSWEEK's William J. Cook, "because of all the words we use" (some of those words are student-invented math symbols like the "cheerio," which is an infinite number equal to all the breakfast-table Cheerios in the world).

But SEED math does not only teach math lingo. Del Paso teachers have noticed that SEED students have lost their fear of the parts of speech. The program also means more than just math to the young mathematicians who teach SEED classes. George Drake, a 26-year-old doctoral candidate who helps instruct the black and brown algebraic prodigies, puts it simply. "This is the first time," he says, "that I've been able to apply math to anything socially useful."

[From the Newsletter, Education U.S.A., Apr. 13, 1970]

Controversial Math Program Works, Study Says

One of the nation's most innovative and controversial mathematics programs now has major statistical evidence to prove that it works. The program, Project SEED (Special Elementary Education for the Disadvantaged), brings professional mathematicians, even Ph.D's, into the classroom to teach abstract math to disadvantaged elementary students. The program's founder and director, William F. Johntz, a former high school math teacher in Berkeley, Calif., says young children can learn algebraic concepts usually reserved for high school and college students and love every minute of it. His beliefs are backed by a new study of 400 second- and fifth-grade California classes. The study was conducted by the state of California (which has given the U. of California more than $300,000 for Project SEED) in conjunction with Stanford U. and Caltech. Preliminary results of the study, still a month away from completion, refute the critics who still can't believe that industrial mathematicians without a single education course can be more successful in a classroom than a trained teacher.

The study shows a significant improvement in the performance of SEED classes, says research director Robert P. Dilworth, a math professor at Caltech. Children in the SEED classes did "much better" on understanding and computing arithmetic than control classes and "enormously better" on understanding principles of algebra and geometry, Dilworth says. They also scored a little higher on reading tests, contradicting critics who say students learn math at the expense of their other subjects.

More praise for SEED comes from Massachusetts Education Comr. Neil V. Sullivan, who was superintendent of the Berkeley schools when Johntz first began SEED seven years ago. "There is no doubt that the program works at Berkeley," Sullivan says. Sullivan and many others across the nation want Johntz to set up SEED programs in their areas as his time permits. SEED already exists in 22 California school districts and in Nome, Alaska, and New Haven, Conn. Next year it will probably expand to Portland, Oreg.; Bloomington, Ind.; New York City, and possibly other areas, including Michigan, where Johntz astonished state legislators recently with a demonstration using local disadvantaged children. But the most important testimonial for SEED may be the fact that university professors, graduate students, and mathematicians from businesses such as IBM, Lockheed, Chrysler, and Ford find it fascinating and exciting to spend about 40 minutes every day working with a class of randomly selected disadvantaged students.

Johntz's project tries to succeed where other programs fail by increasing the self-image of disadvantaged students. Remedial programs reinforce a student's feelings of failure and inferiority, Johntz says. But he considers abstract math (not arithmetic) to be a pure, culture-free subject that allows all students to start with a fresh slate. And success in this field brings the students high status and confidence, especially the Berkeley elementary students in SEED who teach college classes at the U. of California. The keys to Project SEED, Johntz says, are the discovery approach to teaching—a must for success—and the use of instructors who fully understand and love math. Johntz and other speakers at the annual meeting of the National Council of Teachers of Mathematics are still concerned that young children are being turned off math for life by teachers who don't understand and don't like math. (For more information on Project SEED, write Johntz at 1011 Keith Ave., Berkeley, Calif. 94708.)

[From the New York Times, May 12, 1970]

Easier Path to Algebra for the Poor

(By William K. Stevens)

Long before William F. Johntz succeeded in teaching algebra to elementary school children from poor families, he had become convinced that all children—until they come to hate mathematics in school—have "a lust for and high facility in abstract thinking."

He reasoned that math is a widely despised subject largely because children are confused and "corrupted" by elementary school teachers who know too little about the subject.

Further, he thought that if industrial and university mathematicians, with no conventional teacher training, would go into the schools for 40 minutes a day and apply the ancient teaching precepts of Socrates, they could lead children to confront directly the orderly, elegant realm of algebra.

And if that were carried off, Mr. Johntz concluded, young children from even the most deprived backgrounds would soon master concepts that have frustrated and eluded many a high school and college student over the years.

TESTING THE THEORY

Mr. Johntz, a former mathematics teacher from Berkeley, Calif., has put his theory to the test. About 200 mathematicians and scientists from such schools as the University of California and such concerns as the International Business Machines Corporation are now teaching algebra in more than 350 elementary classrooms scattered from California, where the program is financed by the state, to Alaska to Connecticut and New York.

On the basis of this test, Mr. Johntz feels he has shown his theory to be true.

For example:

In New Haven's Dwight Elementary School a few days ago, Tad Day, a 31-year-old biophysicist mathematician who commutes between Stanford and Yale Universities, was leading 24 fifth graders—most of them black and most of them poor, none of them specially selected—through a mathematical forest in which most people lose their way.

Mr. Day was trying to get the children to discover on their own this algebraic truth: When you add up a string of consecutive numbers extending from zero to an upper limit (say, 10) the result will always be one-half the upper limit multiplied by a number equal to the upper limit plus one.

This proposition embodies a process called summation, which is a basic underpinning of integral calculus. * * *

Mr. Day called on one of several children frantically waving their hands to read the "true sentence," as he calls all equations. The child did, quickly and correctly:

"The summation from 'i equals 0,' up to 10, equals the quantity 10 times the quantity one-half, times the quantity 10 plus one."

LOGICAL PROGRESSION

This was no mere repetition by rote; the class clearly knew what the equation meant. This was demonstrated earlier when Mr. Day skillfully led the children from one logical mathematical step to another. Along the way he got them to express and test their own ideas about how the numbers relate to each other.

Mr. Day's technique was Socratic in that he would ask a child a question, usually one requiring analysis, then accept the child's reply without demurring. Then he would ask, "Who disagrees?" If several pupils did, he would ask the first child to call on one of his classmates "to help you out."

In this way the answer or analysis would be subjected to criticism by others in the class. Never did Mr. Day provide an answer himself. And never did he tell a child his answer was wrong.

Using this technique, Mr. Day got the children to write the numbers from zero to 10 in order, then add them up and find that they total 55. Then he led them to dissect and manipulate the string numbers, and soon the class had developed the second half of the summation equation, and tested it out to see if it produced 55. It did.

It was then only a short step to substituting the Greek letters Alpha and Beta for numbers, and the children had created a general statement of mathematical truth.

Through it all, there was sheer electricity in the air. Virtually every child was obviously and thoroughly involved in what was invariably described as "fun."

Miss Etta Fisher, the class's regular teacher, was somewhat skeptical when the four-day-a-week program began last fall. But she says Mr. Day's activities have caused her children to brighten up, speak more, show more confidence in themselves.

She pointed out a boy who "didn't do any arithmetic papers at the first of the year," and who sometimes was a behavior problem. Now he is turning in papers regularly, and getting one-hundreds on them. And he no longer causes trouble, says Mrs. Fisher. Furthermore, she added, the whole class's performance in regular arithmetic lessons has improved greatly.

Her judgment tallies with the preliminary findings of the first controlled study of 200 elementary school classes taking part in the venture—Project SEED (for Special Elementary Education for the Disadvantaged), which was started by Mr. Johntz in Berkeley seven years ago.

The independent study, carried out by the California Institute of Technology, involved unselected second- and fifth-graders in regular-size classes across California who took part in Project SEED for one year.

SUCCESSES REPORTED

The recently disclosed preliminary findings show that SEED classes did "much better" in understanding principles of algebra and geometry, says Dr. Robert P. Dilworth, the Caltech math professor who directed the study.

Mr. Johntz, a lanky, graying, 43-year-old who still directs the SEED classes in Berkeley, is something of an evangelist for the program he started.

He travels about the country much of the time, teaching demonstrating classes and afterward telling stories like the one about how fifth-graders from Los Angeles' Watts district, after five weeks of algebra from a mathematician, taught the subject to classes of nonmathematical students at the University of Southern California.

Last fall, he astonished members of the Michigan Legislature by putting a class of 31 black youngsters from a Detroit ghetto through their algebraic paces in a statehouse demonstration, with the result that there is now a bill before the House to finance Project SEED throughout the state.

Mr. Day, who signed up as an instructor after seeing one SEED class in Palo Alto, established the program in New Haven; and last week he and Mr. Johntz introduced it in Ossining's Park School, where four mathematicians and physicists from the I.B.M. Watson Research Center in nearby Yorktown Heights are participating.

Mr. Day and Mr. Johntz also have introduced the program to P. S. 9 at 100 W. 84th Street in Manhattan, and P. S. 113 at 113th Street and Seventh Avenue, to begin before this school year is out.

The idea of having the expert—a graduate student or doctoral degree holder—confront young children is central to the SEED concept, Mr. Johntz explained in an interview in Ossining the other day.

"I myself look forward to the day when people in business will be deeply involved in elementary work." Mr. Johntz said. "I hope people who have Ph.D.'s will all teach at the elementary level part-time, and that the day will come when they will have to explain why they aren't."

[From SEPIA, Nov. 1970]

Ten-Year-Old Math Teachers?

(The students take the initiative in a sharp switch in technique that bears sweet fruit.)

The notion that mathematics is a subject only for adults was exploded recently when two ten-year-old Harlem schoolgirls from P.S. 113 taught high school algebra to 60 teachers at New York University's School of Education.

The session lasted two hours. When it ended, the teachers (who were the students) were astounded by the knowledge of their instructors. A few admitted they could not keep up with the lesson.

The "professors" were Paula Smith and Sharon Hunter, both from a Harlem public school, who have participated in a six-weeks experimental program called Project SEED (Special Elementary Education for the Disadvantaged).

One-thousand New York school children took part in the program. Sharon and Paula were among those few chosen to teach others, in this case the teachers, and all this after six weeks training.

Project SEED is the brainchild of Berkeley, Calif. educator William F. Johntz, its founder and director. SEED already exists in 22 California school districts and in Nome, Alaska, and New Haven. Next year it will probably expand to Portland, Ore., Bloomington, Ind., New York City and possibly other areas, including Michigan where Johntz astonished state legislators with a demonstration using local disadvantaged children.

Project SEED goes on the assumption children can learn algebraic concepts usually reserved for high school and college students. This is backed up by an impressive lineup of intellectuals, including Prof. Robert B. Davis, formerly professor of mathematics at MIT and Prof. David A. Page, University of Illinois.

This basic truth—if such it can be called—has been termed "One of the most important discoveries ever made in regard to the teaching of mathematics."

The social benefits of this discovery—that young children can learn advanced math—are enormous, especially for the disadvantaged.

Many Negro children entering the first grade have spent six years listening to "bad English" spoken in their homes and neighborhoods. They have not, however, been subjected to six years of "bad math." The Negro student often works from a negative position in English, while in math he usually starts from zero—at the same position as a beginning student from any other background.

The abstract subject—mathematics—becomes the great equalizer from which all blessings flow. Success in math gives motivation in every other subject area, especially in job and college opportunities.

Paula and Sharon, fifth grade students from a ghetto area Harlem School, put on a show that was an eye-opener for their class of teachers. They used the discovery method they had been taught, in which the teacher asks questions, gets the students involved. It is an audience participation technique in which the concepts come from the students.

Sharon and Paula imitated every technique and gesture they had picked up from their teachers, three young women, all of whom are graduate students in mathematics. It was obvious they were having a good time, and so was the class. For the information of the experts, they were demonstrating exponentiation, derived in terms of binary operation and not in terms of notation.

LOW EXPECTATIONS RAISED

It was a myth-buster all around. The class of young teachers, many of whom will be going into schools in disadvantaged areas, saw what could be done with the right teaching, the living example of which was before their eyes.

"Teachers of culturally deprived children often have low expectations for their students. This is due partly to the teacher's prejudice and partly to the low achievement of the students. The expectation of these teachers can be raised dramatically when they see their children learning conceptually-oriented mathematics.

"This effect is particularly vivid when the children are of elementary school age." So says Director William E. Johntz.

The demonstration was a strong plus for math as the great equalizer. Sharon and

Paula proved it all over again. Math, then, could prove to be a balance wheel in making education equal.

It's an ego booster. The effect on the children in dramatic, since their success gives them the confidence they need to improve their work in general.

[From the Boston Herald Traveler, Jan. 10, 1970]

SEED Teaches Disadvantaged To Grasp Abstract Math

(By Muriel L. Cohen)

A class of ghetto children will demonstrate an astonishing grasp of abstract mathematics in the first live educational exhibit ever staged at the State House.

The demonstration of unexpected talent from some of the lowest students on the academic totem pole will launch two significant changes in education in this state.

The program will be the first in a series of actual demonstrations of innovative techniques which will use the State House as a platform.

It will be the opening of a campaign to win legislative support for post college level math courses for disadvantaged elementary *school children.*

State Education Commr. Neil V. Sullivan said yesterday he will propose to the state Board of Education next week that alternate monthly business meetings concentrate on educational practices and curriculum.

To accomplish this, Sullivan will suggest meeting in Gardner Auditorium so that the board, interested legislators and educators can watch some innovative practices in a simulated classroom setting.

Sullivan describes these meetings as the most efficient and effective means of transmitting to the tax-conscious general public and budget-wary Legislature why education spending is important.

He has chosen to kick off these sessions with Project SEED, an acronym for Special Elementary Education for the Disadvantaged.

Sullivan saw it succeed in Berkeley, Calif., during his tenure as superintendent of schools. Last week he invited SEED founder William Johntz, a mathematician and psychologist, to launch the program in Massachusetts.

Johntz spent two days last week with state officials, professors and researchers at MIT and Harvard to prepare for the project.

When skeptics at the state Department of Education questioned whether SEED was simply a "sophisticated mathematical gimmick" in compensatory education Johntz cited a Cal Tech study proving that SEED-trained youngsters improved in academic and social areas as a result of the experience. Data on 400 children show that SEED boosts their reading and arithmetic score while teaching them pure mathematics and logic.

After a single training session, Johntz will take a full-size class of children from an inner city school to Gardner Auditorium for a demonstration. He will show dramatically that youngsters, even those with low intelligence scores, can talk knowledgeably about roots, logarithms and exponientation.

This is the technique he used in California and Michigan where the legislatures have appropriated funds, despite their austerity programs, to support SEED. Johntz took classes into Gov. Reagan's conference room in Sacramento and into the governor's offices in Lansing, Mich. with spectacular results.

SEED mathematics is being taught in about 500 school districts, in 15 states and is soon going international. Johntz is training Indian mathematicians who will begin SEED programs in their country.

In his role as SEED super-salesman, Johntz enjoys the support of public figures from every shade of the political spectrum. In California he has the backing of Max Raffery, conservative former superintendent of schools, as well as of the liberal new superintendent, Wilson Riles.

Johntz attributes his legislative successes to the fact that mathematics is a no-nonsense subject without political, cultural or social implications, and SEED costs about $150 per child, as compared with an average of $300 for most compensatory programs.

Robert Jeffries, Title I coordinator in Massachusetts, estimates that 150,000 to 200,000 disadvantaged children are currently enrolled in federally funded compensatory programs. He said last week that actually there are more children, particularly in Boston and Springfield schools, who could qualify for SEED.

In seeking a commitment from the state, Johntz explained that he begins very slowly in a few pilot schools. Teachers are trained in the classroom and expansion is self-stimulated rather than imposed.

Johntz left his native North Carolina 25 years ago, irritated by the narrow racism of the South. Now he takes particular pleasure in destroying some long held stereotypes about poor blacks on the basis of data produced by SEED.

He claims that most compensatory and remedial programs are "patronizing" and simply reinforce the disadvantaged child's derogatory self image.

A lanky, academic type with the zeal of a Messiah whose time has come, Johntz uses SEED results to refute the controversial hypothesis advanced two years ago in the Harvard Educational Review by his Berkeley colleague Arthur Jensen.

A psychologist, Jensen, roused tempers of blacks and social scientists across the country by arguing that blacks cannot handle abstract reasoning for genetic reasons.

Johntz first radical concept was the use of mathematics to develop academic skills and improve the self concept of disadvantaged children.

A second unorthodox practice is to use university professors, researchers and other highly-trained mathematicians as teachers. In this way, Johntz has made a significant impact on public school education—at least in California.

On the basis of the success of non-credentialed SEED teachers, the state legislature has waived certification requirements for teachers in the $100 million of compensatory programs in California.

Johntz claims another first for the record books because it is the first time that non-certified teachers have worked in public schools on a regular daily basis. There are professors in Berkeley schools now in the second year of a day by day, week by week commitment to SEED.

SEED is also altering the teaching styles of the professors. Johntz has insisted that all SEED teachers refrain from lecturing. All teaching is done by the Socratic method questioning and leading the child to reach a logical conclusion.

Because children can ask way out questions, it is imperative that well-trained mathematicians help them arrive at the answer.

Johntz has no trouble recruiting teachers. After a demonstration at an IBM research installation in California, seven of the 10 mathematicians present volunteered to join the program.

"Why do highly-trained scientists leave their university offices or their research studies every day and drive 30 minutes to a ghetto school to teach for 40 minutes?"

Johntz asks the question himself and shrugs for an answer. He can only say that more and more teachers are moving into SEED, some of them on a full-time basis.

He spends an 80-hour week, helping train teachers—which by his fiat must be done on site—and demonstrating projects.

Others have caught Johntz' fire. One of Yale's best graduate students turned down some attractive university offers last June to accept a full time position in New Haven's SEED program.

Johntz has even more sensational anecdotes about students. One of his favorites is a 15-year-old black girl from the toughest junior high in Oakland, Calif.

Seven of her 13 sisters and brothers are in jail or have been. After SEED training, the 15-year-old is now teaching college graduate students in a special math course at Berkeley and is herself college-bound.

Students turning teacher is another one of SEED's unexpected by-products. Two 11-year-old girls enrolled in a Harlem SEED class last summer were able to teach algebra and abstract math to 60 teachers in a graduate education program at NYU.

Johntz was long convinced that young children have a high facility for abstract thinking which is turned off and corrupted by elementary school teachers who themselves hate math, earlier victims of the same anti-math syndrome.

That is why, he reasoned, he would take highly-trained mathematicians, those who survived the poor teaching and who love the subject, and turn them loose on questioning children.

As a result poor children in SEED classes throughout the country—even in Nome, Alaska—Johntz claims, are experiencing academic success in a status subject.

Johntz fervently hopes that this phenomenon will attract increasing numbers of Ph.D.'s into the nation's classrooms with beneficent returns for all of society.

[From the New York Times, Dec. 31, 1970]

Pupils Concur: Math Can Be Beautiful

"What's another way of saying zero?" asked William F. Johntz.

Hands shot up and some children from the fifth-grade class at Public School 154 in the South Bronx jumped to their feet, begging to be called on.

"O.K., John sub 2, you make up a problem."

John sub 2, so identified because there were three Johns in the class, proudly walked to the blackboard and wrote $18+\square=0$.

"That's a beautiful problem," said Mr. Johntz, creator of a project called Special Elementary Education for the Disadvantaged (SEED), as he gave the children their first algebra lesson.

ONE-HOUR SESSION

John sub 2 was one of about 20 children from P.S. 154 who participated in a classroom demonstration of how to teach algebra to youngsters. The one-hour classroom demonstration took place yesterday on the stage of the Grand Ballroom of the Waldorf-Astoria Hotel as the National Council of Teachers of Mathematics ended its three-day convention.

It was one way math teachers from around the country and Canada shared information on what they regard as their major critical problem—the education of the inner-city child.

The audience of 200 teachers watched intently as Mr. Johntz wandered among the pupils asking probing questions. When a child replied, Mr. Johntz always asked the class if anyone disagreed. Although other answers were usually given, the correct answer gradually emerged without any of the children being told, "You're wrong."

Smiles frequently spread across the room as the children cheered and clapped, when one of their classmates gave the correct answer. Hearty applause resounded as the class ended.

Project SEED is a college preparatory mathematics program now used in more than 400 elementary classrooms around the country. Ninety per cent of the children are urban blacks from poor areas.

The 200 teachers taking part in the program are mathematicians and scientists from such schools as the University of California and from such concerns as the International Business Machines Corporation. No textbooks or tests are used.

TRAVELS WIDELY

Mr. Johntz, a former mathematics teacher from Berkeley, Calif., began developing his elementary education program eight years ago and has traveled throughout the country demonstrating his method of teaching algebra and geometry.

He stresses the importance of using teachers who have an expert grasp of mathematics and of applying a Socratic method in which the pupils develop their own mathematical solutions.

A number of the 2,500 mathematics teachers registered at the convention have expressed concern about their inability to reach inner-city youngsters in their classes.

Several other ways to make mathematics more interesting were discussed at the meeting.

One involves using the camera as a tool, with pupils taking photographs of geometric forms for subsequent analysis of why certain forms are used for specific functions.

Another approach calls for the placement of geometrical objects in a sandbox so that children can experiment as they play. For example, a pupil can fill a cylinder with water and then measure the volume by pouring the water into containers of known volume.

[From Bell Labs News, Mar. 5, 1971]

Group Dynamics With Love Is Key to Helping Children via Math

Murray Hill.—A mathematician using a local fifth-grade class demonstrated last week how teaching higher mathematics to elementary school children helps them improve their school work by bettering their self image.

Many minority children "just don't make it in public schools," said William F. Johntz, founder of a project called Special Elementary Education for the Disadvantaged (SEED). Because large numbers of children have been convinced that they are inferior, an intellectual, culture-free subject is an effective way to help them, the former Berkeley, California, high school teacher said.

Johntz was asked to demonstrate his method here to give BTL volunteers and school officials who might be interested in an opportunity to investigate a potential project together, explained Denny Dudley, coordinator of 330 BTL volunteers in New Jersey community projects.

Johntz said that the project he started by himself eight years ago is being used in more than 500 school systems in 15 states and many foreign countries. The Michigan legislature passed a bill making SEED a statewide project after Johntz and a class of children put on a demonstration before the legislature similar to the one here last week.

"Mathematical ability is universal," Johntz said. Kids with an IQ of 80 do graduate level math. Some of the children we have taught are now teaching math to university students. We teach slow kids something other kids don't know yet. Then, for the first time in their lives they know something the rest of the class doesn't know. We've seen such children move from 27th place in class to the second place and stay there."

Children in the program learn university mathematics vocabulary very quickly, then they feel more confident with words in general, Johntz said. This makes them more articulate. Also, Spanish children learn to speak English much faster after participating in SEED, he said.

In Michigan, children who have been in SEED two months are discovering the existence of rational numbers, and are working with logarithms, radical numbers, interpolation and inverse matrices, Johntz reported.

The teaching method is to ask questions, not lecture, he explained. When you ask questions, you can't leave the class behind. You must frame questions that will get a response. You reward the response, then frame a new question that will get a response.

"Without the method it would be a dreadful failure," Johntz said.

That the method in the hands of its originator is far from a failure was evident from the 25 children from Emerson school. Plainfield, whom Johntz had met only two days before. Arms waved enthusiastically each time Johntz asked a question. Whether the answer was right or wrong, Johntz rewarded the child for answering.

When the demonstration was over and the children went to lunch, Johntz explained some of the details of his method to the audience of people interested in mathematics.

To teach by this method, he said, you have to know mathematics deeply and enjoy it. "The people who work in our project find it enormously more rewarding than working with university students," he said.

"We always use a natural class in a school," he said. "No students are deleted, none are added. Volunteers go into schools daily, and the regular teacher stays in the classroom with us."

Those attending the session, besides nearly 130 Bell Lab scientists, included 57 persons representing 13 New Jersey public schools, 5 New Jersey education officials, 16 representatives from 8 nearby industries, 30 from 7 colleges, and 15 others.

JOHNTZ METHOD PLEASES MANY BTL VOLUNTEERS

Bell Labs employees deeply involved in volunteer programs reacted enthusiastically to the teaching demonstration given at Murray Hill last week by mathematician William F. Johntz of California.

"His analysis of why children are having trouble with their studies will be invaluable to us," said Ruth Bauer, group supervisor of personnel systems at Murray Hill, who coordinates 45 volunteer tutors in a remedial reading program in Livingston, and teaches English to foreign-born adults in Dover. "He showed us how the teacher inspires the pupil. I made many notes on his techniques to vary the teaching pace."

"The people in our project don't have self-confidence, and we have to build it," said Elizabeth Bridgers, a secretary in the research division who heads a Summit volunteer program to teach typing to adults. "I was fascinated by the demonstration," she said. "He used several techniques that will help us."

Carl Weinberger, who coordinates 16 volunteers tutoring mathematics in East Orange, said "I keep thinking how his method can be applied across the board, all the way to college. I can't praise him enough." Carl works in the Engineering Information Center at Whippany.

"The demonstration gave me the desire to teach young children," said Yako Yafet, a physicist who has tutored high school students in physics and mathematics in East Orange, and who taught in the summer science school at Murray Hill last year. A member of the Crystal Physics Research Dept., Yafet said Johntz "could challenge the children continuously, keeping them thinking for themselves, holding their attention."

[From Yale Alumni magazine, June 1971]

Higher Math in Lower School

(By Karen Waggoner)

"Who can read this sentence? . . . Look at all the hands. Nancy says she can read it. Jonathan says so. Nellie has it, and so does Peter. Barbara, can you read it for us?"

She reads: "Quantity two ex-po-nen-ti-a-tion three times quantity two ex-po-nen-ti-a-tion four equals triangle variable ex-po-nen-ti-a-tion quantity square variable plus diamond variable."

The six-syllable words don't quite roll off Barbara's tongue, but it is only the third day of algebra lesson for a class of "disadvantaged" fourth graders at Timothy Dwight School in New Haven.

The class's regular teacher sits at the back of the room while an associate professor of mathematics at Yale, Robert Szczarba, leads the children through a vigorous intellectual exercise that would leave many bright high school students breathless.

Professor Szczarba is a mathematician who teaches undergraduatse and directs graduate student seminars at Yale in topology and Kähler mathematics. But to these fourth graders he's "the algebra teacher." The kids are unimpressed by his credentials; what does matter is that he is teaching them algebra—a subject they thought was "high school."

"What numbers will make this a true sentence?" Prof. Szczarba asks ."What's going to go in the triangle?"

Hands shoot up all over the room. An incorrect answer sets off exuberant arm-waving from those who disagree. Instead of being told he is wrong—sometimes wrong answers are based on profound thinking—the student is asked to "call on someone to help you out," and the class tries to determine what logic led to the incorrect answer.

During the 45-minute period the class generalizes the equation with the Greek letters alpha, gamma and eta. In future lessons they will progress from the additive law of exponents to zero, negative and fractional exponents, summation and limits.

The method of teaching is the "discovery" or Socratic method, and the program is Project SEED (Special Elementary Education for the Disadvantaged). Professor Szczarba and another Yale mathematician, Stuart Sidney, an assistant professor who teaches complex analysis to graduate students, have been released from some of their University teaching duties so they can teach four days a week for SEED. Along with Tad Day, the mathematician who brought SEED to New Haven, and several Yale graduate students, they teach higher mathematics to elementary classes in three New Haven schools. SEED began several years ago on the West Coast. Yale is the first university to release faculty members who want to teach, and other schools are now following Yale's lead.

Project SEED has three basic postulates:

1. Disadvantaged children do poorly in school because they believe the myth of their own inferiority and because their teachers have low expectations of them.

2. The most effective way to destroy this feeling of inferiority is for the children to experience meaningful success. Unlike compensatory or remedial programs, which tend to re-inforce a child's negative self-image, SEED offers success in a high-status subject and can also improve a child's attitude toward other schoolwork. Controlled testing in California schools found SEED students excelling in regular elementary math as well as in algebra.

3. Disadvantaged children will succeed with high school and college algebra if it is taught by someone highly trained in mathematics using the discovery method of asking provocative questions. A regular classroom teacher who tries to teach abstract mathematics, Mr. Day says, would be like an American tourist in Mexico who learns enough Spanish to ask questions but is overwhelmed by the responses. "My children, who are not in a high achievement group, have grasped things I never thought they could do," says Barbara Conte, the classroom teacher for Professor Szczarba's SEED group.

Professor Sidney was an early SEED convert and helped get Yale support for the project. Professor Szczarba was skeptical about the need for Ph. D. level mathematicians as teachers in the fourth grade, but he attended a SEED demonstration when another appointment was cancelled. "I walked in and was overwhelmed," he said. "I decided that day to teach."

Neither professor is thought of as an activist. To them SEED is not a do-gooder volunteer pastime. The program offers them a chance to engage in intellectual activity with people who are interested purely in ideas rather than in correct answers or *grades*—and who don't want to be coddled. If the "algebra teacher" offers too many hints, he is likely to be reprimanded. "You're not spozed to be giving us any clues," they tell him after class.

"I'm interested in people not hating mathematics as they do now," Professor Szczarba says. "The response of my fourth graders is proof to me that mathematics can be an enjoyable activity. It's a magnificent thing when all of a sudden they can read 'gamma times one over gamma is equal to identity element for multiplication.' "

Yale's "algebra teachers" find it hard to *believe that* until two years ago there were no black students in New Haven in college preparatory math; yet they know that in every SEED class there are many students doing high school algebra.

Professor Sidney calls SEED a "spectacular case" of a project designed to fit President Kingman Brewster's guidelines for deciding which community projects Yale should take on and which it should turn down. "It involves real honest-to-God Yale people," he says. "It's something we can do naturally with the resources that we have. And it involves doing those things which Yale is peculiarly suited to do."

The community supports Yale's "algebra teachers" because they're not doing research on the children—they're involved in day-to-day, week-to-week teaching—and because mathematics is culture-free and a white teacher can function in a black classroom.

How successful would SEED's discovery techniques be outside the elementary school classroom?

"The SEED experience has changed my whole attitude toward teaching," Professor Szczarba says. "I'm now convinced that the single most important ingredient is involvement on the part of the student. This new attitude has affected both the way I help my son with his homework and the way I teach my courses at Yale. We do far too much lecturing in most of the courses taught at the college level."

[From the Boston Evening Globe, Mar. 25, 1971]

THE SEED OF A BOLD IDEA: MATH PLUS IMAGINATION EQUALS A DIVIDEND

(By Nina McCain)

William F. Johntz would like to officiate at a marriage between the best trained mathematicians and scientists from local universities and Rte. 128 industries and children from the poorest and least successful elementary schools.

Johntz is not a clergyman, although there is an unmistakable aura of the evangelist about him.

He is a math teacher and director of Project SEED (Special Elementary Education for the Disadvantaged) which uses mathematicians from universities and firms like IBM *to teach* abstract, high-school level math to poor and minority group children who have a high failure rate in school.

SEED is operating in California and Michigan, where it is totally funded by the states, and in such diverse communities as Nome, Alaska, and New Haven, Conn. It has received rave reviews in newspaper and magazine articles and was found, in a study by a Caltech math professor, to produce significantly higher scores both in computation and understanding than ordinary math classes.

Johntz was in town this week to attempt to get SEED started in Massachusetts, a state he considers particularly fertile territory because of its large concentration of scientific manpower, including numbers of highly trained people who are now unemployed.

He launched his campaign with a demonstration math class taught before a roomful of university people, legislators, businessmen and members of the state Board of Education. Using about a dozen fifth graders from the Mackey School in the South End whom he had seen only three times before, Johntz put on a convincing display of his major thesis—that children, including disadvantaged children, have "an amazing talent and lust for the abstract."

The children whipped through an exercise in algebraic equations involving exponents at a pace that left at least some members of the audience several steps behind. In the process, Johntz used the techniques that lie at the heart of his teaching method. With a series of rapid fire questions, Johntz led the children to make their own discoveries and correct their own mistakes. He was relaxed and friendly, always used first names when he addressed the children, and never told a child he had the wrong answer.

The children responded with absorbed, excited interest and eager hand-waving on answer questions. At the end of the hour, Johntz told them, "They do this stuff in second year high school algebra but they don't understand it like you do, they just memorize it."

After the children had left the room, Johntz explained the philosophy behind SEED. The main problem disadvantaged children face, he said, is that they "think of themselves as being inferior."

Most compensatory education programs fail because they focus on the children's failures in school and on remedial work. SEED concentrates instead on providing children with an opportunity to succeed in a "culture free" subject—abstract mathematics—that is also a high status subject because it is considered to be extremely difficult.

Johntz believes that all children have a natural ability for abstractions and symbols and that math normally "wipes out" both poor and middle class youngsters because it is taught by elementary school teachers who hate and fear the subject. The solution, according to Johntz, is to

"Take the early elementary grades, where every child is an intellectual, every child is turned on, and put them into contact with people who love the subject and know it deeply."

He has found that university professors and mathematicians from places like IBM and Bell Labs are willing to go into the public schools and teach regularly because "they find it intellectually and mathematically exciting to work with young children."

Johntz emphasizes that SEED is not like the usual program in which university or business people come into schools to consult or give a guest lecture. The people who teach in SEED handle regular classes, every day usually on a released time basis from their jobs.

The classroom teacher is not displaced but stays in the room while the class is going on, absorbs some of the teaching techniques and "learns a lot of math," according to Johntz.

Johntz, a former high school math teacher in Berkeley, Calif., now spends a good bit of his time traveling around the country spreading the SEED gospel. A demonstration class that he conducted before the Michigan legislature was so impressive that the state now has the program in about 70 classrooms with full state funding.

Johntz would like to get the same kind of state funding in Massachusetts. He has been meeting with legislative leaders and members of the education committee and hopes to get legislation filed this term. He estimates that it would take about $500,000 to get the program started.

State education commissioner Neil Sullivan, former superintendent in Berkeley, is an enthusiastic supporter of the program and brought Johntz to Massachusetts. But Sullivan said yesterday that the State Department of Education will not attempt to file a bill for funding the program this late in the legislative session.

Johntz also is meeting with representatives of the state employment service in an attempt to find ways of using some of the unemployed professionals who have been squeezed out of the electronics and space industries.

[From the Detroit News, Oct. 3, 1971]

SEED MAKES ALGEBRA EASY FOR FOURTH GRADERS

(By Kay Kirby)

The "teacher" wrote an equation on the board and without turning around called out.

"Who can read this?"

A small black girl stood up and read in a high piping voice: "Alpha e lambda times alpha e gamma equals alpha e parenthesis lambda plus gamma end parenthesis."

This was not in a college classroom, but in a standard fourth grade room at Duffield Elementary School and the "student" was reciting in her SEED algebra class, which meets four times weekly.

The "teacher" was Warren Leffler, who holds a doctorate in mathematics and heads the SEED (special elementary education for the disadvantaged) in six Michigan cities. He is a slight, young man whose liking for math is only exceeded by his liking for kids.

"Everybody agree?" he continued. "Then let's translate. Tell me if I'm wrong." And he started writing numbers in place of symbols.

"Stop!" the whole class chorused at one point.

"Tell me what to put in then," he continued. Using a rapid series of questions, he led the class through some algebra that would leave most adults gasping. At one point a problem on the board read 2E500x2E70=2E (500+70).

How would you find that answer?" he asked quickly.

"How about a computer?" a youngster shot back.

"That might take a little time," Leffler countered. "What kind of an answer would you get?"

"Maybe," a tall slender boy said hesitantly, "maybe, infinity?"

Immediately waving arms of protest went up throughout the room.

"There seems to be some disagreement," Leffler said kindly. "Let's see what someone else thinks."

A little girl giggled and said, "It would be a klig-lee-wig" and everybody laughed. (A klig-lee-wig is the name the class gives to a symbol for all the grains of sand on earth—a very large number—but not infinity.)

The idea of teaching abstract math to young children started about eight years ago with Dr. William Johntz at Berkeley, Calif. His SEED program is now being used in 15 states.

Its purpose is to give a youngster an improved self-image and success. Remedial math, according to Johntz, tends to accentuate failure.

Math was chosen because it is considered "culturally free," lacking the built-in failure one often finds with language.

"The true intellectuals in our society are the children," Johntz has said. "Their lust for abstract conceptual reasoning is almost universal, until it is crushed. Adult genius is just the part of childhood that is retained."

The class at Duffield is not a "special" one in any way—just one of the fourth grade rooms selected for the project. The only prerequisite is that the class must be designated as disadvantaged by the state.

An unusual feature of the SEED programs is that they are taught not by teachers but by trained mathematicians. Also in SEED classes there are no "wrong" answers..

"You need a true mathematician to sense the direction of a 'wrong' answer," Leffler maintains. "All answers are based on a principle and you have to feel out the direction of the thinking."

Basically the SEED format is a fast moving question and answer method that dates back to the early Greeks. A SEED teacher candidate observes a class for about four weeks and attends an evaluation session after each class.

When he starts on his own, a SEED supervisor observes at least once a week, and in addition the new teacher is required to observe another class at least once a week.

Many gimmicks are used. If a child disagrees he waves his arms horizonally. If he agrees he raises both hands vertically and if he wants to recite he holds up a name card.

"This cuts down on the noise level," Leffler observed, and referring to the disagreement sign, quipped, "We call it our silent protest movement."

In Michigan last year 4th, 5th, and 6th grade SEED students were tested with others on regular arithmetic performance. Although the study is not completed, Leffler said sixth graders showed marked improvement while scores of the fourth and fifth grade SEED students were "out of sight."

Essential to the program, Leffler insists, is the presence of the regular classroom teacher in the room. Mrs. Pearline Squalls, homeroom teacher at Duffield, participates in discussions and helps with the questions and answers.

According to Mrs. Theresa Denman, elementary math supervisor for Detroit schools, one of SEED's biggest advantages is that regular teachers have an exposure to the "discovery method technique" in action.

[From the Trenton Evening Times,
Apr. 16, 1971]

PUPILS DO THEIR MATH THING IN DISPLAY AT STATE ASSEMBLY

(By Ramona Smith)

"Alpha exponentiation Q, times Alpha exponentiation Beta, equals Alpha exponentiation Q plus Beta."

That was a Trenton elementary school class speaking. In unison.

Two dozen Columbus School pupils did their mathematical thing at the New Jersey Statehouse yesterday, whisking through second-year algebra problems in the state Assembly Chamber.

Their teacher for the day was William F. Johntz, national director of project SEED (Special Elementary education for the Disadvantaged), a program for exposing disadvantaged youngsters to abstract mathematics.

FUNDS SOUGHT

Johntz conducted the demonstration lesson for some 50 educators, reporters and cameramen. Legislators were scarce at yesterday's demonstration but Johntz is hoping the legislature will come up with $500,000 to fund SEED programs for an estimated 3,300 New Jersey children.

A small SEED program is currently functioning in Camden and Assemblyman James J. Florio, D-Camden, has introduced a bill that would give the state Education Department half a million dollars for project such as SEED. That bill is now in the hands of the Assembly education committee.

Johntz, who says that at an estimated $150 per pupil the state "cannot afford not to have" the SEED program, said Trenton would "absolutely" be among the districts involved if the Legislature comes across with the funds.

NO OFFICIAL STAND

Johntz claims "the most solid support" of the state Education Department for the proposal but department officials indicated their agency is taking no official stand on the project.

The Columbus School youngsters, a combination fifth and sixth grade class normally taught by Mrs. Rose Richardson, were chosen for the state-house demonstration as representative of disadvantaged inner-city pupils, Johntz said.

Anticipation of failure becomes "a self-fulfilling prophecy" for such youngsters, Johntz said, but the children can gain confidence through a "success experience" like learning abstract math at a rate that leaves some college graduates behind in the dust.

PARADOX FOUND

Some such graduates appeared to be left behind in the dust yesterday as the children identified the "paradox" of arriving at two conflicting answers to the same problem by correctly using different mathematical methods.

The youngsters, who had had three previous sessions with Johntz or his assistant, were asked for homework to figure out what many adults would recognize as the square root of 11. They breezed quickly through the square roots of nine and 16.

Johntz began the SEED program eight years ago in Berkeley, Calif. and now heads projects in California, Michigan and about 10 other states Project teachers typically have at least two or three years of graduate work in math, he said, and many are loaned to the program by industries or educational institutions.

SCIENTISTS HELP

Thirty-two researchers at Bell Laboratories in Murray Hill have volunteered to work in the proposed New Jersey program, according to Johntz. Training these teachers, he said takes from two to four weeks.

Johntz contended that children "have a universal talent and lust for doing abstract mathematics" but that ordinary school lessons leave pupils "mathematically emasculated."

"Mathematics as it is normally taught is, I think, the most destructive kind of experience that we have in the public schools today," Johntz asserted.

Johntz's teaching method avoids lecturing to students or telling them when their answers are wrong. Mistakes are detected by other members of the class who wave their arms over their heads in a scissors motion that Johntz labels their "gesture of intellectual protest." And Johntz makes deliberate errors to keep them alert and challenging.

[From the Columbus Dispatch, Mar. 5, 1972]

MATH LESSONS TEACH PUPILS SELF RESPECT

(By Melanie Croker)

The 10- and 11-year-old inner city students rattled off such algebraic terms as "gamma," "lambda," "variable" and "exponent" with understanding and enthusiasm that amazed 200 educators.

The performance was by 26 fifth and sixth graders of the Fair Ave. Elementary School, 1395 Fair Ave., at the Bell Telephone Labortories, 6200 E. Broad St., Friday.

The students had learned the terms—and much more—in three prior sessions introducing Project SEED (Special Elementary Education for the Disadvantaged).

The sessions were directed by Warren Leffler, Michigan SEED director. SEED is designed to improve academic achievement of children in poverty surroundings by teaching them abstract, conceptually oriented mathematics in elementary grades.

It is also designed to improve the students' self image, for it is intellectually demanding, and this in turn enables them to do better in all subjects.

Following the students' performance, Columbus Public Schools Supt. John Ellis commented:

"The program has excellent potential. I hope competent mathematicians in the Columbus area will be willing to participate in an area program."

University level teachers and professional persons teach SEED courses.

This is one reason the program is so successful. This level of teacher is totally interested in the subject, program personnel feel. The children are presented advanced mathematics, something they normally wouldn't get until in a higher grade. It makes them feel proud and they want to learn.

"Math is a wipeout as it's presented in the public schools," said William F. Johntz of Berkeley, Calif., founder of the program.

He added, "They (public schools) turn out millions of adults who don't like it (mathematics). The adults let you know quickly they are basket cases in the area. It's treated like a universal phenomenon.

"We believe math is a talent that is universal—until it's destroyed in the public schools. We have one generation of math victims working to make other victims," he philosophized.

"It's 14 years of brainwashing," the Harvard Ph. D. candidate continued.

The SEED method has proven to be of value to the youngsters in at least three states who have adopted it, he said.

Not only do the students take a great amount of interest in mathematics for once because of the individual attention, they also gain interest in other fields of study, he said.

The children get involved in algebraic equations and talk freely about bases, exponents and variables.

The teacher presents the material slowly on a friendly basis, encourages participation, questions. The children do all the work. The teacher guides them.

If students disagree at any time, they signal "No" with hands. It's their show. Everyone participates. That also makes the program successful—"They can't close their minds as in other class work," Johntz said.

"Math is high status. An understanding of it gives one a feeling of power," Johntz said.

His theory is you can't change children until you change their self-image. "If children are surrounded by persons who are unsuccessful they have nothing to work for, he said. "Poor children often feel inferior in the school context, and if someone convinces you you're stupid, no matter how bright you are, you'll act like it."

So by taking a subject "culture free"—algebra—and presenting it to youngsters in poverty surroundings, Johntz feels, the children can learn to gain respect for themselves.

The children in the Fair Ave. group seemed to have gained that respect in four lessons—and they loved the mathematics, many for the first time.

The 11-year-olds all liked the algebra presented in the SEED sessions, which were added along with other school work.

Valerie Howard, 11, said it makes her feel proud of herself, "You don't get tired of it."

Paul Quinichett, 11, added, "You want to learn. This way you can get a head start for junior high work."

[From the Seattle Times, May 18, 1972]

SIXTH GRADERS TEACHING AT UNIVERSITY OF WASHINGTON

(By Grant Fjermedal)

Numbers and equations filled the air of a University of Washington classroom today as two Madrona Middle School sixth-graders taught an algebra class.

The pace was fast as the university students tried to match minds with the two young black students who took turns at the board.

Kenneth Alston, 11, and Rodney Alexander, 12, are participants in a Model City-funded Special Elementary Education (program) for the Disadvantaged. In SEED, university and industrial-research mathematicians teach college-level algebraic concepts to elementary pupils without textbooks.

Kenneth and Rodney, who have participated in the program since it began two years ago, appeared before 20 students of a contemporary education class.

"This will be a study of exponentiation," Kenneth said as he approached the blackboard, covering a good part of the board with blue-chalked figures, "If you know the answer, raise your hand."

A student with long brown hair, mutton-chop sideburns and thick black glasses produced the answer.

But for Kenneth, the concepts, the mechanics are more important than the answer so he pressed on, "How did you get that?"

"From previous experience," the student replied.

In soft-voiced exasperation the 11-year-old teacher said, "Just like a college student, never answers a question." And then went back to work.

Midway through the class, Kenneth turned the chalk over to Rodney who spoke of the multiplicative law. "That's a pretty long word, so I won't spell it."

After some warm-up problems he asked the students to take out a paper and pencil, wrote a problem on the board and walked to the back of the room, asking them to raise their hands when they had the answer.

After a few hands went up he returned to the front of the class. The answer was given—the square root of three to the fourth power.

Proud of his quick class, he repeated the process. And though it took a bit longer, and only two hands went up, the right answer again surfaced—four to the 5,040th power.

At the end of the period Rodney said, "Well, I'd say you are a pretty good class." The students applauded.

In comments after the class, both boys said they planned to major in mathematics in college. Both want to teach the subject someday.

They are looking forward to continuing the program next fall but Dr. Virginia M. Warfield, director of the SEED project here is not so sure the funding will be available.

"Up until this week I was convinced the program would be wiped out for next year in Seattle. Now I see some faint glimmer of hope."

[From the Atlanta (Ga.) Journal and Constitution, Mar. 21, 1974]

IT ALL ADDS UP TO KIDS WITH A HUNGER FOR MATH

(By Jane Leonard)

Hands shot up into the air.

Crossed fingers represented a multiplication sign. Curled fingers above and below a straight one were instructions to divide.

Clinched fists on the end of outstretched arms indicated approval. And when the 25 fifth graders from Gideons Elementary School of Atlanta waved one arm across the other they were disagreeing with the way Dr. Wayne Patterson of Princeton University was solving a math problem.

"What's wrong?" Patterson asked the class as he turned away from the four blackboards he had filled with complicated formulas and saw that the entire class was giving him the sign of "intellectual protest."

"You counted the times sign," yelled Tony, almost falling out of his desk to get the attention of the mathematician.

"Who can get this straight?" asked the university faculty member pretending ignorance.

"Let me. Let me," cried Tony, arms once again thrust upward.

And as soon as one problem was solved by the students who shouted instructions to the teachers, they went on to another—each more difficult than the previous.

When they reached 56 as the answer to an equation, Patterson wanted to quit. "The numbers are getting too big to handle" was his reason.

"So," the fifth graders responded, "let's go up to millions."

"When they reached the thousands he said, "We'd better quit. Just one more."

"Three more," the youngsters begged.

Finally they reached the additive law of exponents and exponentiation.

"Exponentiation," the class members said together, experimenting with the sound of a new word in their mouths.

"Isn't that the biggest word you have ever heard of?" he asked.

"No," replied one in the mostly black class. He thought "Czechoslovakia" was a mite bigger.

"Exponentiation" didn't exactly flow but came out in separate, mumbled syllables.

But the youngsters knew how to use the word to solve math problems. And that was what it was all about.

Patterson was using the class to show a group of about 150 mathematicians and educators that young disadvantaged kids could learn conceptual advanced math and actually enjoy doing it.

Patterson is part of Project SEED (Special Elementary Education for the Disadvantaged) and was showing how the project works at a demonstration this week sponsored by the math department of Emory University and Atlanta Area Teacher Education Service.

"The response is consistently the same," said William F. Johntz, who founded SEED in Berkeley, Calif., about nine years ago.

"Regardless of their background, no one fails to respond with competence," he explained.

Students from poverty areas have "middle-class listening skills," he said, adding that life in the slum where there is little room for privacy teaches them to turn themselves off to persons who talk to them.

And such students also do not have help with homework as do middle-class children whose parents push them from birth to prepare for college. Poor students also don't have books, newspapers and magazines in their homes and therefore have "a different attitude toward symbols on paper."

Middle-class students, even though they may not be as smart as poorer students, do better on tests "because they are brainwashed" to feel the symbol on paper is important.

Because of these disadvantages, the students from poverty areas feel inferior in school. To build confidence in them, Johntz decided to teach them advanced math—"a culture-free subject."

Since they had never been exposed to conceptual math, they could start from scratch on an equal footing with other students. Different from federal programs that concentrate on focusing on the student's problem area, SEED concentrates on what many think is "the world's hardest subject."

Johntz, a math teacher when he started SEED, said "mathematical talent is universal. All can do it until their ability is destroyed." This destruction comes about, he said, by math teachers who dislike the subject and really don't understand it.

And this message that math is dull and difficult has been passed from one generation to the next "for so long people think if they do well in math they are destined by fate."

"Math as it is taught today is a disaster," he said, adding that years of studying the subject give most students not just a neutral feeling toward it, but a negative one.

"But children in general can do math well and at high levels," he said describing youngsters as "the real intellectuals of society."

"They have a genuine lust for doing abstractual things," he continued.

Gammas, thetas, betas and other mathematical lingo seemed as much a part of the fifth-grade vocabulary as peanut butter sandwiches.

As Patterson taught them a new math term, he wrote it on the blackboard. After adding substitution, factoring and variables, he ran out of space and had to erase.

"Please forget these," he teased. "Won't one person in this room promise to forget these for me?"

"No," was the cry from the class.

[From the Newark (N.J.) Sunday Star-Ledger, May 28, 1972]

HIGHER MATH HELPS BUILD CONFIDENCE

(By Dagmaris Cabezas)

While some students raised both arms excitedly in agreement, others waved their arms wildly, disagreeing with the mathematical logic of a fellow student.

"That answer is incorrect," blurted out a tiny black girl. "It doesn't follow the additive law of exponentiation."

These mathematical "geniuses," who may be found in three fifth grade classrooms at Newark's all-black Morton Street School, are participating in Project SEED (Special Elementary Education for the Disadvantaged), geared to improving the academic achievement of disadvantaged elementary school students.

The project, conceived by a Berkeley high school teacher, William F. Johntz, eight years ago, attempts to improve the negative self-image of the disadvantaged child through higher level mathematics.

Prudential Insurance Co. in Newark, which financed the Morton Street School math program, provided four junior actuarial assistants—company mathematicians—who introduced the fifth graders to complicated mathematical logic last December.

"Since our aim is to make education a positive experience, we never tell a child he's wrong," explained Hal Barney, one of the SEED teachers.

"One of the most important things we teach the kids is to think and not be afraid of a wrong answer," added Barney. "Often a student might discover something which is peripheral to the question but which is very praiseworthy and intelligent."

According to the SEED philosophy, higher level mathematics helps the disadvantaged child to improve his self-image by demonstrating that if achievement is possible in this highly complex area, he can develop competence in all others.

"The kids have developed an incredible confidence," reported SEED teacher Neill Cartusciello. "One girl who would never ask questions recently discovered the answer to a problem involving negative exponents."

The SEED program attempts to establish discipline in the classroom by encouraging the children to establish their own system of behavioral rules.

"At the beginning of each course I ask the kids what type of rules they want," explained one SEED teacher. "They realize that in order to learn they cannot do everything they desire."

"It's not only that," said SEED Project Director Helen Smiler. "Because the kids like the subject, it eliminates problems."

One of the regular Morton Street School teachers, Miss Jane Pocknett, who remains with her fifth grade class during their daily one-hour SEED instruction, believes the program has improved the students.

"When they return to my class the children seem less reluctant to answer questions," she commented. "Also they have improved in their regular math class."

Miss Smiler, SEED project director, attributes the success of the program to the high level of competency of the participating SEED instructors, many of whom are mathematical researchers holding post-graduate degrees.

"Instead of just analyzing society's problems, scientists can now work to solve them through project SEED."

[From the Malay Mail, Aug. 26, 1972]

American Education Plan May Help Malaysia's Backward Pupils

Ipoh.—An American educational programme for the disadvantaged may well be the answer to Malaysia's efforts to bridge the gap in academic performances between urban and rural pupils.

"Project SEED (Special Elementary Education for the Disadvantaged) is working well in the United States," said a teacher, Miss Helen Smiler, one of the directors of the programme.

"Socially and economically handicapped children, with no one to help them with their lessons at home, grow up with an inferiority complex.

"The biggest problem they face is thinking that they cannot succeed."

The programme, started nine years ago, is aimed at helping these disadvantaged children progress in their studies by giving them back their self-confidence.

Miss Smiler told the Ipoh Rotary Club luncheon meeting how this change was brought about by giving these children additional lessons in modern maths.

"The project's volunteers move into primary schools with high concentrations of disadvantaged children to give 40-minute special lessons daily.

"We teach these children lower secondary maths by the discovery method, to draw them out of their shells and get them to take part in school work," she said.

Miss Smiler said that maths was taught because it was a neutral subject in which all start as equals unlike other subjects like reading where a pupil from a poor home will begin at a disadvantage.

"And the results have to be seen to be believed," she said.

"I have some 10-year-olds who are capable of conducting a one-and-a-half hour lesson in maths for college students."

As their maths progress, these disadvantaged pupils, once given up for lost, also show marked improvement in their normal school work.

Miss Smiler, who is here on holiday, has started a similar programme in two of the more academically poor classes in Form Two in the Anglo-Chinese School here.

"And she has shown that the 'unteachable' can be taught," said the school's principal. Mr. Teerath Ram.

Miss Smiler was in the school six years ago under an American Field Service teacher-exchange programme. She has been teaching for the past nine years.

[From the Straits Echo (Thailand), Aug. 25, 1972]

New Technique of Teaching Maths to Backward Pupils

Ipoh.—Backward pupils in Malaysia can benefit from an educational project now being successfully undertaken in the United States.

This was disclosed by a Harvard mathematics graduate, Miss Helen Smiler, in a talk to Ipoh Rotarians at their weekly luncheon meeting at the Ipoh Club today.

Speaking on "Project SEED" (special elementary education for the disadvantaged), the pretty American who is one of the programme directors in the United States, captivated her listeners while expounding the new "discovery" technique of teaching mathematics.

"By involving student participation, with the teacher asking questions and the pupils providing the answers, there arises a motivation among the students for solving the problems and thereby creating an interest in the subject," she said.

As interest grows so does the student's self-confidence, she added.

According to Miss Smiler, mathematics is something cultureless and a fresh subject. Everyone starts learning it at the same level, whether a person is from a middle-class environment or from the ghetto.

Big Success

"It's not so with reading because a child from a well-to-do family obviously will have an advantage over one from a poorer family," she pointed out.

She said that Project SEED had proved a big success since it was started nine years ago in the United States and it could prove advantageous to backward students in other parts of the world.

Miss Smiler, who is presently on holiday in Malaysia, has conducted such mathematics classes at the Anglo-Chinese School here.

"I am happy to say that the students I taught have responded very well," she said.

Mr. Teerath Ram, Principal of the ACS, later told newsmen that Miss Smiler had proved that even "unteachables" could be taught provided proper teaching methods were used.

[From the Columbus Citizen-Journal Jan. 31, 1973]

SEED Helping Grade Schoolers Learn College Math Skills

Thanks to a national program known as Project SEED, fourth and fifth graders in five Columbus elementary schools are mastering the same advanced mathematics skills as many college students.

Project SEED, which derived its name from the title Special Elementary Education for Disadvantaged, employs professional mathematicians and scientists from major universities and research organizations to teach abstract math concepts to elementary students on a daily basis.

Already in operation in a number of other school districts across the nation, the program has been operating in the Columbus Public Schools for the past four months.

Disadvantaged pupil funds provided by the state cover the board's share of the cost.

Classes have been established at Fair, Livingston, Main, Ohio and Weinland Park Elementary Schools.

The program is carried out in addition to a student's regular math classes. In addition to providing staff and materials, Project SEED also conducts training sessions for other teachers to acquaint them with methods used in the program.

Prospective SEED teachers are recruited and serve the program voluntarily. They undergo extensive training before entering the classroom and continue their training while "teaching."

The current team of SEED instructors include representatives of Bell Laboratories, Battelle Memorial Institute and Ohio State University graduate students in physics and math.

Brian Stecher of Bell Labs, director of the Columbus SEED project, said there is no problem in attracting local professional and academic talent.

William P. Johntz, founder and director of the project, said students not only learn math concepts they normally would not encounter until college "but they also develop a greater self confidence that enables them to do better in other studies."

Project SEED utilizes what is known as the "Socratic method" with instructors leading pupils through a series of activities designed to emphasize the joy of learning and allowing the student to discover for himself the concepts being taught.

In general, regular teachers have been impressed with results thus far.

"I have never seen a program that surpasses this one in effectiveness, value and organization," said one Livingston Elementary teacher.

"This program has given my students a chance to perform without pressures and the worry of being graded," said a Main Elementary teacher. "It has increased their enthusiasm to learn."

But perhaps the comments of an Ohio-av teacher summed up the program's success best.

"Not only does the carry over happen in math," she said, "but the children are starting to respond with eagerness to other unrelated subjects.

"This 'I can solve any problem' feeling is starting to change a non-reader, non-participator into an excited, curious, natural child who is starting to accept himself as a good person who can function in the world."

[From the Intercom, Feb. 9, 1973]

Project Seed Experiment Underway

Mastering the same advanced mathematics that baffles many a college student is the goal of fourth and fifth graders in five Columbus elementary schools. The youngsters are members of eight Project SEED classes that began operating in the schools over the last four months.

SEED, which stands for Special Elementary Education for the Disadvantaged, is a national program in which professional mathematicians and scientists from universities and research corporations teach abstract math concepts to disadvantaged elementary school children. The program started ten years ago in California, now operates in other school systems throughout the country.

After reviewing a proposal from officials of the program last March, the Board of Education decided to set up a limited SEED program this year in the Columbus schools. Disadvantaged pupil funds provided by the state were used to cover the program's cost—$4,500 annually for each SEED class of about 30 students—and classes were established at Fair, Livingston, Main, Ohio and Weinland Park Elementary Schools. Additional classes are to be in operation at three more elementaries by the end of the year. The classes, each 40 minutes in length, are conducted four days a week, with a fifth day devoted to teacher training activities.

Multiple Benefits Offered

William F. Johntz, founder and director of Project SEED, maintains the program offers multiple benefits for participating schools. Not only do students learn math concepts they normally wouldn't encounter until college, says Johntz, but in doing so they develop a greater self confidence that enables them to do better in other studies.

Johntz is understandably proud of SEED's achievements in other school systems and confident it will do the same for Columbus students. At the same time, however, he attributes much of the program's success to the regular classroom teacher. "Success heavily depends on the regular teacher," he says. "They (teachers) play an extremely important role."

Teachers, as well as students, stand to profit from SEED, Johntz believes. Most importantly, he says, watching her students perform in a SEED class can raise a teacher's expectations for them. He also says the program gives teachers a rare chance to "watch their own class from the rear of the room" and to learn the techniques used by SEED instructors. (The classes are taught by the Socratic method, with instructors leading pupils through a series of activities designed to emphasize the joy of learning and allow the students to discover for themselves the concepts being taught.)

NEW FACES IN THE CLASSROOM

The most unique feature of Project SEED, perhaps, is that it daily brings into the classroom mathematicians and scientists—persons unused to meeting and communicating with elementary school children on a regular basis.

Prospective SEED instructors are recruited from universities and research firms to serve in the program—many voluntarily. They undergo extensive training before entering the classroom and take part in further training sessions once their classes begin. According to Johntz, corporations have shown considerable interest in SEED and believe it offers their employees a valuable experience. *Johntz says* the employees, too, are generally enthusiastic about working as instructors.

SEED recruitment efforts in Columbus apparently have met with the same success experienced in other cities where the program is being conducted. Brian Stecher, director of the Columbus SEED project, says there was no problem in attracting local professional and academic talent. Personnel from Bell Labs and Battelle Memorial Institute and Ohio State University professors and graduate students in physics and math make up the team of Columbus SEED instructors, Stecher reports.

EARLY SIGNS OF SUCCESS

Like those in other school systems, the Columbus SEED project faces an elaborate evaluation to measure its effectiveness. Extensive testing by the school system's evaluation department is expected to accurately indicate what difference SEED may make in the math skills of students taking part in the program. Pupil attitude questionnaires and classroom teacher evaluations are also planned, according to SEED personnel. While results of the formal evaluation will not be complete until April, preliminary indications are that SEED is what officials of the program say it is.

Teachers whose students are members of SEED classes were recently asked to comment on the program. "I have never seen a program that surpasses this one in effectiveness, value and organization," wrote a fifth grade teacher at Livingston Elementary, where the first class of the Columbus SEED project was conducted Oct. 11. Another Livingston teacher said the program has taught her students "to be very alert and discerning in other subject areas."

Meanwhile, a teacher at Fair Elementary observed in one sentence what SEED officials say in several pages of program description: "The most important factor coming out of Project SEED is that the children are learning and thoroughly enjoying the process."

[From Bell Lab News, July 23, 1971]

BELL LABS MAKE THE NEWS

On his own before a class of eager fifth and sixth graders at Emerson school in Plainfield, N.J., is Robert Kurshan, Murray Hill. Kurshan is one of about 15 Bell Labs employees now being trained as Project SEED *instructors*. Project SEED is a program designed to stimulate pupils and build their self-confidence through a group discovery teaching method using abstract mathematics. When trained, the BTL employees will teach classes in Plainfield schools as a supplement to the pupils' regular education throughout the year. Project SEED trainers are now at Murray Hill, and instruction for BTL volunteers will continue through August 13. A fall training program also is planned. Persons wishing to volunteer should call the Volunteers in Action office at Murray Hill, x6145.

[From the Seattle Post-Intelligencer, Jan. 31, 1971]

THAT FRIGHTENING NEW MATHEMATICS LARK TO YOUTH

(By Marjorie Shoemaker)

SEED, which stands for Special Elementary Education for the Disadvantaged, is a federally funded project which takes professional mathematicians into elementary school classrooms in disadvantaged areas to teach math by the group discovery method.

When Mrs. Virginia M. Warfield, Seattle SEED director, asks her fifth-graders to deal with exponentiation, that is, numbers in terms of powers, they wave their hands frantically to volunteer answers.

They handle formulas frightening enough to stop the average high school or college student. What's the secret? Combine a mathematician who loves his subject, a Socratic approach to teaching and a group of youngsters who don't believe that math is terrifying.

"We do not lecture, ever," Mrs. Warfield explained. "We ask questions. If a student asks a question, we ask him others designed to lead him to its answer.

"If a student makes a wrong answer we explore the thinking behind it, often to great profit, since the off-the-track thinking can be at times the result of extremely sophisticated and complex misinterpretations. We never say baldly 'No, that is wrong.' "

And the students seem to learn and to enjoy learning. Mrs. Warfield invited children to come to her office at lunch and work algebra problems on the blackboard.

"They came in mobs, and often the class troublemakers were the first ones there," she said.

One day Mrs. Warfield walked into her office and found the following message:

"From Antonette to Mrs. Warfield, I like algebra and you too. So we can keep it that way. So that's that. Algebra is very important because people all around the world do not know what it means."

SEED has 10 classes at Madrona and three at T. T. Minor Elementary School. By the middle of February, two more will open at Madrona and three at T. T. Minor. SEED also will be offered to fifth graders at Bayley-Gatzert Elementary School.

None of the SEED instructors is a certified elementary teacher, but all are mathematicians. Four SEED instructors and two that are training to teach SEED are University of Washington math professor, and a few are housewives with math degrees.

Mrs. Warfield has her bachelor's degree in math from Bryn Mawr College, her master's in math from Brown University and is close to completing a doctorate.

She explained that an elementary teacher often is not well enough trained in math to explore the value in a child's "wrong" answer. The teacher might call it wrong and destroy a child's confidence.

Because SEED instructors are not usually certified, a teacher must be present with them in the classroom.

A prime purpose of SEED is to teach a student to enjoy mathematical thinking rather than regard it as a chore.

"At this age kids still want to learn, and they haven't developed the sophistication to not want to learn," Mrs. Warfield explained.

They haven't developed what she calls "adolescent madness."

The emphasis is on success, and failure is just not talked about.

"We think of it as an acultural program. The kids start from scratch on the same level. They use their brains, not any previous knowledge," said Mrs. Warfield.

The students develop their own symbolism and their own language in describing what happens in math. To understand negative numbers, they say, "Negative 3 is the number that says no to 3."

When a child offers his ideas in a SEED classroom, it's his peers—not his teacher—who may disagree with him.

When they agree they wave their hands in parallel fashion above their heads. They disagree just as enthusiastically by spinning their hands in front of them.

The SEED teacher never lectures, and Mrs. Warfield admitted many an instructor finds it difficult to train himself out of the lecturing instinct. The students conduct a dialogue with the teacher and among themselves.

"We feel it's a sign of progress when a child writing on the board looks at the class instead of the teacher," Mrs. Warfield said.

SEED is the brainchild of William F. Johntz, a former high school math teacher in Berkeley, Calif., who believes ". . . the true intellectuals in our society are the children. Their lust for abstract conceptual reasoning is almost universal until it is crushed."

Now school districts from Seattle to New Haven, Conn., have introduced SEED to their classrooms.

How is SEED success measured? There are no grades, but Mrs. Warfield believes the success indicators cannot always be measured by a test.

"What we consider success is getting children interested and getting those to succeed who haven't succeeded before," she said.

A study conducted last year by the University of California however showed SEED classes did "much better" on understanding and computing arithmetic than control classes and "enormously better" on understanding principles of algebra and geometry.

[From the San Francisco Chronicle, Dec. 27, 1971]

PLANTING A SEED OF HOPE

(By Judith Anderson)

"Multiply 64 times 64," the lanky fireball of a man instructed a conference room full of adults and children the other afternoon.

Brows furrowed, the adults picked up pencils and began writing on note-pads in their laps. Some concentrated on working the problem out in their heads.

A few seconds later, a 10-year-old boy pumped his hand wildly in the air; "4096," he answered proudly.

A classmate agreed with the answer, and the teacher asked her to go to the blackboard and show how she came up with the answer.

She wrote confidently:

(2E6) x (2E6) equals 2E (6 plus 6) equals 2E12 equals 4096.

The adults, slightly chagrined at being shown up by a bunch of fifth graders, were witnessing a dramatic demonstration of Project SEED (Special Elementary Education for the Disadvantaged). Now in its ninth year, the project was devised by William Johntz, who conducted a recent class at Levi Strauss headquarters, to teach high school and college algebra to minority children from poverty areas.

For an hour the businessmen and women, and educators, watched spellbound as 15 fifth graders (14 black, one Oriental, from Lafayette School in Oakland) grappled with logarithms, worked out lengthy equations and talked knowledgeably of gamma signs and variables. The subject of math obviously turned the eager youngsters on.

Johntz arranges periodic class demonstrations such as this one to encourage financial support from business and government, to attract potential teachers and to show the community what the project is all about.

The aura of excitement, with lots of hand waving and give and take between teacher and pupils, is typical of Project SEED classes, Johntz told the adults after the students had left the room.

Eskimo children in Nome, Alaska ("the worst slum I've ever seen in my life"), respond just like black children in Oakland or Mexican-American children in the Southwest, he said.

Math need not be "the world's deadliest subject," said Johntz, a former Berkeley high school math teacher who now directs Project SEED nationwide.

The secret is the approach. "If we approached arithmetic directly, this place would have been like a morgue," he said.

Arithmetic "clothed in abstract, conceptually oriented math" is what fascinates the children.

Algebra is only one of the lessons the elementary students are learning. More important, in Johntz's view, is the pride they develop by learning a subject far beyond their class level.

Children from poverty backgrounds "don't make it" in public schools, he said. "Every year they fall further behind."

Such children view themselves as inferior. In terms of American success standards of money and education, their parents are considered failures. They have few models to emulate, little encouragement to work toward college or a career.

Johntz has no sympathy for remedial education that praises minority children for doing "trivia." "That's a put-down, a further form of derogation," he commented.

His theory is that if a child can succeed in a subject where he's never had a chance to fail in the past, and in a subject that society values highly, the child will develop "a realistic picture of his own abilities." And a sense of pride, the kind of pride that comes from watching a group of educated adults struggle with a math problem that the children can solve in seconds.

Johntz's teaching concept grew from "an insane idea" into a nationwide project that receives federal, state and corporation funds. (A three-year appropriation of California state funds expired in June; Johntz is writing a new bill designed to renew the state funding.)

Specially trained teachers are professional mathematicians, scientists, insurance actuaries and graduate students who take at least an hour a day, five days a week, to go into public schools and teach. Some work for nothing; others who work for the project full time receive an annual salary of $8000 or $9000.

Johntz said IBM, Bell Laboratories and Prudential Insurance are a few of the corporations that are giving staff mathematicians time off to teach. Presidential also has promised classroom space in its Newark, N.J., headquarters.

The prediction that mathematicians wouldn't go into elementary schools on a daily basis didn't materialize, said Johntz. "They find it intellectually exciting to work with kids."

Progress studies show that Project SEED students score "precisely like middle-class white students on conceptual reasoning tests." The children also improve in reading and regular arithmetic, Johntz said, citing an evaluation made by the Cal Tech math department.

A side benefit of the special classes is that elementary teachers, who are always present at Project SEED sessions, learn math along with their students.

They also discover that their concepts of how much a minority child can learn change radically. The stereotypes crumble, he said.

No amount of explanation from Johntz could have expressed the results of his project as well as the children themselves did at the end of their class last week.

At the end of the hour Johntz reminded them that they were to go on a tour of Levi's factory to see how jeans are made.

"Do we have to?" several protested. "This is fun."

AMENDMENT NO. 1333

(Ordered to be printed, and to lie on the table.)

Mr. BROOKE submitted an amendment, intended to be proposed by him to the amendment (No. 1304) proposed by Mr. McCLELLAN, to Senate bill 1539, supra.

STANDBY ENERGY EMERGENCY AUTHORITIES ACT—AMENDMENTS

AMENDMENT NO. 1311

(Ordered to be printed, and to lie on the table.)

Mr. HELMS submitted an amendment, intended to be proposed by him, to the bill (S. 3267) to provide standby emergency authority to assure that the essential energy needs of the United States are met, and for other purposes.

AMENDMENT NO. 1313

(Ordered to be printed and to lie on the table.)

Mr. BENTSEN submitted an amendment intended to be proposed by him to Senate bill S. 3267, supra.

AMENDMENT NO. 1331

(Ordered to be printed and to lie on the table.)

Mr. DOMENICI. Mr. President, I am today submitting an amendment for the Senator from Utah (Mr. Moss) and myself, to S. 3267, a bill to provide standby emergency authority to assure that the essential energy needs of the United States are met.

This amendment was first introduced as legislation on May 1, 1974, as a result of a finding that construction company operators in New Mexico were experiencing great difficulty in obtaining asphalt used for roofing construction, paving highways, streets, and airport runways.

It has come to my attention that many road contractors in a number of States are experiencing serious problems in finding asphalt. A number of Federal contracts, specifically, Bureau of Indian Affairs contracts, are going to suffer significant delays because of a lack of asphalt.

Roofing contractors have indicated to me that they are having trouble obtaining asphalt for housing construction.

The reason the suppliers give is that they just do not have enough asphalt and there is no allocation authority in the Emergency Allocation Act of 1973.

I am very concerned that there can be no orderly development of our highway program or of our housing program as long as petroleum remains scarce and there is no allocation program for asphalt.

Mr. President, I feel that the Federal Energy Administration acting within the authority given to the President by this amendment should study this problem and take appropriate action to assure the orderly distribution of asphalt.

DUTY EXEMPTIONS FOR CERTAIN FOREIGN REPAIRS TO VESSELS—AMENDMENT

AMENDMENT NO. 1314

(Ordered to be printed and to lie on the table.)

Mr. JOHNSTON submitted an amendment intended to be proposed by him to the bill (H.R. 8217) to exempt from duty certain equipment and repairs for vessels operated by or for any agency of the United States where the entries were made in connection with vessels arriving before January 5, 1972.

Mr. JOHNSTON. Mr. President, the role of women in our society has changed dramatically in recent years. Yet our tax laws have not changed to deal with the new role of women and particularly to recognize the needs of women who wish to be employed. For too long child care expenses have been deemed "personal" expenses—like medical or charitable expenses—rather than recognized as a basic cost of allowing women to be employed. Although the 1973 economic report to the President recognizes that the "labor force participation of women with children under 6 years has increased from 12 percent in 1950 to 30 percent in 1971," the report concludes that "child rearing is probably the major factor causing some women to interrupt and others to curtail their careers." Indeed, the same report notes that women have long experienced unemployment rates substantially above men, with the 1972 unemployment rate for women being 6.6 percent compared to 4.9 percent for men. Moreover, women headed 43 percent of all poverty families in 1972, compared to 23 percent in 1959. And black women suffered the most, heading 64 percent of all poverty families in 1972.

These figures are cause for great concern. We need to encourage all of our citizens to be employed and productive, yet our existing tax system perpetuates this unacceptable situation. The amendment that I am introducing today will, I believe, provide an important step forward in solving this problem.

The amendment to H.R. 8217 that I am introducing today on behalf of myself and the senior Senator from Louisiana (Mr. LONG) is designed to provide needed tax relief to working mothers and certain other individuals who require household and child care assistance in order to be gainfully employed or to attend school. The amendment would provide a deduction from gross income for expenses for the care of dependents up to the age of 15 and for expenses for the care of incapacitated dependents or spouses if such expenses are ordinary and necessary and are incurred to enable a taxpayer to be gainfully employed or to be a student.

Mr. President, I believe the need for this change in the tax law is clear. Under present provisions of the Tax Code, only very limited deductions are allowed for employment-related household and child care assistance expenses, and these deductions are not available at all to the low-income taxpayer who does not itemize his deductions. Moreover, no present deduction is allowed for the cost of household or child care assistance needed to enable a taxpayer to attend school and thus better prepare to be gainfully employed.

The amendment that I am submitting today, for myself and Mr. LONG, recognizes that such household and child care assistance expenses are often necessary and directly related to a taxpayer's ability to be gainfully employed or to attend school and, therefore, provides a business deduction for such expenses to the extent that they are "ordinary and necessary" and are incurred to enable a taxpayer to be gainfully employed or to be a student. Hence, this amendment will provide to working mothers and others qualifying themselves for gainful employment the same right to take a business deduction—instead of an itemized deduction—as a businessman has to deduct his "ordinary and necessary" business expenses.

Mr. President, I might note that this amendment gives great flexibility to the taxpayers in arranging for necessary household or child care assistance. For instance, although an "ordinary and necessary" standard is established to avoid abuse of the provisions of this amendment, it is, of course, not intended that a deduction be denied for child care expenses merely because, for example, a relative might be able to take care of a taxpayer's children at no cost to the taxpayer. However, my amendment would not change existing provisions that prohibit deductions for payments to relatives, as it is important to avoid possible abuses of what I believe is the very sound tax policy contained in this amendment.

Mr. President, I believe that equity, as well as sound economics, dictate a tax policy that enables persons with dependents to be able to be gainfully employed and to attend school. The amendment that I am introducing today accomplishes that result, and I am hopeful that the Congress will move promptly to deal with the intolerable situation we now face.

Mr. President, I ask unanimous consent that the full text of my amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1314

At the end of the bill insert the following new section:

SEC. . DEDUCTION OF HOUSEHOLD AND DEPENDENT CARE EXPENSES FROM GROSS INCOME WHERE EXPENSES ARE NECESSARY FOR EMPLOYMENT OR EDUCATION.

(a) IN GENERAL.—Section 214 (relating to expenses for household and dependent care services necessary for gainful employment) is amended—

(1) by striking out "employment-related" in subsection (a) and inserting in lieu thereof "employment or education related";

(2) by striking out the matter in subsection (b) (2) preceding subparagraph (A) and inserting in lieu thereof the following:

"(2) Employment or education related expenses.—The term 'employment or education related expenses' means amounts paid for the following expenses, but only if such expenses are ordinary and necessary and are incurred to enable the taxpayer to be gainfully employed or to be a student:"

(3) by adding at the end of subsection (b) the following new paragraph:

"(4) STUDENT.—The term 'student' has the same meaning as it has under section 151 (e) (4).";

(4) by striking out subsections (c) and (d) and redesignating subsections (e) and (f) as (c) and (d);

(5) by amending paragraph (2) of subsection (c) (as redesignated by paragraph (4) of this section) to read as follows:

"(2) Gainful employment or student requirement.—If the taxpayer is married for any period during the taxable year, there shall be taken into account employment or education related expenses incurred during any month of such period only if—

"(A) both spouses are gainfully employed on a substantially fulltime basis, or are students,

"(B) one spouse is gainfully employed on a substantially fulltime basis and one spouse is a student, or

"(C) the spouse is a qualifying individual described in subsection (b) (1) (C).

For purposes of this paragraph an indivdual is considered to be gainfully employed on a substantially fulltime basis if he is a student and is gainfully employed for more than 15 hours during each week during the period in which he is a student."; and

(6) by amending paragraph (5) of subsection (c) (as redesignated by paragraph (4) of this subsection) to read as follows:

"(5) REDUCTION FOR CERTAIN PAYMENTS.—In the case of employment or education related expenses incurred during any taxable year with respect to a qualifying individual (other than an individual who is also described in subsection (b) (1) (A)), the amount of such expenses which may be taken into account for purposes of this section shall be reduced by the amount by which the sum of—

"(A) such individual's adjusted gross income for the taxable year, and

"(B) the disability payments received by such individual during the taxable year, exceed $825.

For purposes of this paragraph the term 'disability payment' means a payment (other than a gift) which is made on account of the physical or mental condition of the individual and which is not included in gross income.".

(b) DEDUCTION FROM GROSS INCOME.—Section 62 (relating to definition of adjusted gross income) is amended by adding at the end thereof the following new paragraph:

'(10) HOUSEHOLD AND DEPENDENT CARE EXPENSES.—The deduction allowed by section 214.".

(c) CLERICAL AMENDMENT.—The caption of such section 214 is amended by striking out the period and inserting in lieu thereof "OR EDUCATION.".

(d) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking out the period at the end of the item relating to section 214 and inserting in lieu thereof "or education."

(e) EFFECTIVE DATE.—The amendments made by this Act apply with respect to taxable years beginning after December 31, 1974.

AMENDMENTS NOS. 1315 THROUGH 1324

(Ordered to be printed, and to lie on the table.)

Mr. NELSON. Mr. President, both within and outside the Congress, there is considerable discussion of proposals to cut income taxes at this time. The issue will come before the Congress and be disposed of one way or the other. The objective is to put additional purchasing power into the hands of those in the moderate and lower income groups who have seen their real income eroded by inflation. These are the income groups who have suffered the most because inflation has substantially reduced their capacity to purchase those essentials of food, clothing, housing, health insurance, and so forth. This is a laudable and meritorious objective which deserves the support of Congress.

However, it would be politically irresponsible to pass an income tax cut in the middle of this dangerous inflation without replacing these revenue losses by enacting some long overdue tax reforms. It will throw the Federal budget further out of balance, fuel an already rampaging inflation and play a cruel hoax upon the many people it purports to help.

This may be good election year politics, but it is bad economics, bad for the country and bad news for the taxpayer.

Many noted economists have clearly expressed their views that a tax cut without tax reform would be inflationary. For example, John Kenneth Galbraith, no one's favorite conservative, has written:

> I am very doubtful about a tax reduction. Inflation is still a major problem. It's a tough fact that tax reduction is the wrong medicine for that.

Also, Leon Keyserling, the first Chairman of the Council of Economic Advisers, recently wrote to the Washington Post that:

> Tax reductions should be enacted for those roughly in the lower half of the income structure, with compensating revenues through some increases higher up and closing many loopholes.

Mr. President, this series of amendments would reduce taxes by over $7 billion for 55,683,000 American taxpayers and pay for this relief by closing some of the most notorious tax loopholes that have destroyed the equity of the tax system. Others have proposed a tax cut not paid for by tax reform. Their approach would, first, fuel an already raging inflation; second, further add to the growing Federal debt; and third, play a cruel hoax on the very people it purports to help.

Tax relief without tax reform would be fiscal folly, and a fraud on the American taxpayers.

The amendments offered today were submitted as a separate bill on May 2 and were discussed in great detail at that time. In general, these amendments would, first, provide for tax relief and greater tax equity by substituting a $205 tax credit for the personal exemption; second, end the extraordinary tax preferences enjoyed by the profit-rich oil companies; third, strengthen the minimum tax, insuring that wealthy individuals pay at least some Federal income taxes; and fourth, end other various tax provisions which have granted tax favors to the few at the expense of many, and which have served no useful purpose.

On May 2, I discussed the compelling reasons for tax relief and tax reform. Today, I would like to discuss the economic reasons why a tax cut unaccompanied with revenue-raising measures would be a serious mistake.

Serious inflation amidst recession is an unhappy combination which was considered impossible in the past but is now a reality. In the first 3 months of this year, consumer prices rose 14.5 percent and wholesale prices 24.8 percent, while the gross national product—GNP—declined 5.8 percent—the severest drop since 1958—with unemployment remaining high.

Perhaps the strangest development, however, in this winter of economic discontent is the emergence of a new economic doctrine proclaiming that the economy is separate and divisible; that recession can be treated with little or no effect on inflation. Moving deftly from economic analysis to Aristotelian concept of "prime mover," one noted economist asserts that present "inflation has a life of its own" and, therefore, a tax cut would not be inflationary. Even more than the law, however, the economy is a "seamless web" where each aspect affects each other and the whole. Not surprisingly, to a large extent both the present inflation and recession result from the same cause of inadequate supplies in key economic sectors. Inadequate supplies are not remedied, but exacerbated by increasing demand.

With the 5.8-percent decline in GNP in the first quarter, the rate of growth over the past year was essentially reduced to zero. This 5.8-percent decline, however, was largely attributed to a sharp drop in auto and petroleum output with residential construction suffering a major recession. The decline in the economy has been concentrated extraordinarily in a few sectors of the economy for the last year. After eliminating those sectors of GNP affected by energy shortages and residential construction, the rest of GNP actually rose by 4.4 percent in the last year.

Mr. President, I ask unanimous consent to insert in the RECORD at this time a table showing real growth of GNP from 1973 to 1974.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

REAL GROWTH IN GNP IN 4 SECTORS FROM 1ST QUARTER OF 1973 TO 1ST QUARTER OF 1974[1]

[Dollar amounts in billions]

	1st quarter		Changes—	
	1973	1974	In dollars	In percent
Total GNP	$829.3	$832.0	+$2.7	0.3
Sectors affected by energy shortages:				
(1) Auto products	46.3	29.3	−17.0	−36.7
(2) Gasoline and motor oil	21.9	19.7	−2.2	−10.0
Fuel oil	6.2	5.1	−1.1	−17.7
Natural gas and electric	14.5	14.1	−.4	−2.8
Total	88.9	68.2	−20.7	−23.3
All other			+23.4	
(3) Residential construction	35.6	27.7	−7.9	−22.2
All other	704.8	735.9	+31.1	+4.4

[1] Constant 1958 dollars.

Source: Office of the Secretary, Department of the Treasury.

Mr. NELSON. Mr. President, housing continued to decline sharply in 1974, but this resulted from monetary policy, not inadequate demand. Demand exists, but only a few people can afford the present costs of new homes. A general tax cut has never been considered a proper response to a housing decline. The housing industry is much more influenced by monetary than fiscal policy. A tax cut will compel the Federal Reserve Board to further tighten the already dangerously restrictive money supply.

Unemployment, not rising as dramatically as production has declined, is further evidence of the decline's highly concentrated nature. Unemployment rose 5.2 percent in January, but dropped to 5 percent in April; the same rate as a year ago and the average for the past 20 years. I believe, however, that unemployment will rise again and programs especially tailored to deal with unemployment, such as expanded unemployment compensation and public employment programs, should be passed immediately by Congress. Unemployment figures, however, do not reveal a broad-based economic decline necessitating a tax cut.

Shortages caused by the energy problem have obscured the substantial additional shortages existing throughout our economy. During 1973, many basic industries were operating dangerously close to full capacity. Some industries, such as the paper industry, reached full capacity. Capacity utilization has declined somewhat in 1974, but remains higher than during the first half of 1972 or earlier periods.

Mr. President, I ask unanimous consent to insert in the RECORD at this time a table showing the Federal Reserve Board's index of capacity utilization for certain industries producing basic materials from 1972 to 1974.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

OUTPUT, CAPACITY, AND CAPACITY UTILIZATION OF MAJOR MATERIALS[1]

[1967 output=100; seasonally adjusted]

Item	1972 average	1973 average	1972			
			I	II	III	IV
Output	124.0	133.4	119.3	122.5	125.3	128.8
Capacity	137.4	141.1	136.1	136.3	137.8	139.4
Utilization	90.2	94.5	87.7	89.9	91.0	92.4

Item	1973				1974
	I	II	III	IV	I[2]
Output	131.2	132.5	135.0	134.8	132.5
Capacity	139.9	140.7	141.3	142.6	144.5
Utilization	93.8	94.2	95.5	94.5	91.7

[1] The major materials group includes woven fabrics, cotton and manmade yarns, wood pulp, paper, paperboard, manmade fibers, petroleum refining, raw steel, copper refining, aluminum, cement, and plywood and prefabricated products.

[2] Preliminary.

Mr. NELSON. Stimulating demand for these basic materials hardly seems necessary or wise, and the ominous 37.5 percent annual rate of inflation last month indicates the inflationary danger of a tax in industrial commodity prices forcibly cut.

Inflation has seriously eroded the American's purchasing power. In the past year, real earnings of workers dropped 4.7 percent. Inflation has overwhelmed income, and that, not inadequate demand, is why consumers are not buying as much as they did a year ago. In fact, consumers are spending more and receiving less for their money. It is the tax imposed by inflation that we should reduce.

Inflation now rages throughout the economy, but remains most virulent for food and fuel. Food prices are already declining in anticipation of a very good crop, but the Organizatiton of Petroleum Exporting Countries (OPEC) is making every effort to keep the price of oil artificially high. World oil prices, established by an international cartel, are identical in their economic impact to a tax on oil consumption. At present levels, this tax or increase in oil earnings by the oil exporting countries will be $60 billion in just 1 year. A transfer and concentration of that amount of wealth has a staggering impact on balance of payments for all other countries.

Mr. President, I ask unanimous consent to insert in the RECORD at this time, a table prepared by Alfred Reifman, Senior Specialist in International Economics for the Library of Congress on the impact of the rise in the price of crude oil on selected countries' balance of payments from 1973 to 1974.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

BALANCES OF PAYMENTS ON CURRENT ACCOUNT[1]

[In billions of dollars]

	1972	1973	Projection: 1974	
			Before Dec. oil price rise	After Dec. oil price rise[2]
Oil exporting countries	1.6	6.1	12.5	55.0
United States	−6.2	4.5	9.0	−1.5
All other countries	8.1	−1.1	−21.5	−53.5
Japan	7.0	1.5	−.9	−6.0
France	1.0	.6	−.2	−3.7
Germany	2.2	5.5	3.6	−2.5
Italy	2.4	−1.4	−2.0	−3.5
United Kingdom	.7	−2.4	−3.5	−7.5
Nonoil producing primary producers	−7.5	−9.0	−17.7	[3] −23.0

[1] Goods, services and private transfers.

[2] The estimates also allow for a somewhat lower volume of oil imports and additional exports to the oil producing countries.

[3] Largely nonoil LDC's, but also includes Sino-Soviet countries and errors and ommissions.

Source: 1st 2 co. IMF, OECD "World Economic Outlook" Dec. 26, 1973. 3d col.: Helen Junz of Federal Reserve. 4th col.: OECD, source, Jan. 12, 1974.

Mr. NELSON. Unquestionably, world oil prices are drying up demand and raising the specter of worldwide depression. Some argue that a domestic tax cut should be enacted to counter this international tax on oil consumption. It would be folly to resort to domestic measures stimulating demand before every attempt is made to reduce international oil prices and increase supply. Basically, this is a problem created abroad which cannot be solved by a tax cut by any one country. Furthermore, to pay for oil, countries will try to curtail most other imports by currency devaluation and other measures restricting trade. Last week, Italy imposed a 5-percent surcharge on all imports, except capital goods and raw materials. Such measures result in only temporary gains for one country at the expense of its trading partners and adds to the danger of worldwide depression. It is economic suicide to do anything that stimulates demand and sanctifies present world oil prices. The tax imposed by these prices must be cut by expanding energy supplies and curtailing its demand.

Control of inflation is this country's *top priority. It is* just impossible for most Americans to live with the present rate of inflation for any period of time. If inflation is not controlled, drastic wartime measures will obviously be considered.

A tax cut is like a little boy playing with matches in the midst of the Chicago fire. Just a 1-percent increase in consumer prices adds an $8.5 billion extra burden on consumers—$2.6 billion more than the proposed tax cut. The tax or economic burden imposed by inflation is most inequitable, falling hardest on the poor. In 1973, low-income persons suffered about one-fourth more inflation than did middle- and upper-income persons.

In 1973, a family of four earning $12,614 had to spend $502 more for the same amount of food that it bought in 1972. The Department of Agriculture reports that in March alone, the cost of food for a low-income family rose by 1.4 percent. Is it much more likely that these taxpayers will use any tax reduction to obtain some relief from the high prices of food and fuel? As Senator Mondale stated during the Senate Finance Committee hearings on this issue:

> All studies show that if you give the average family a little more money, the first thing that they do is spend it on better food, higher protein. Most parents are very wise in the way they spend their money and if they had a little more money they would be able to buy more high protein food than they can do today.

While all studies probably overstate the case, this is a commonsense conclusion indicating the danger of increasing demand before supply, which is presently inadequate, is increased.

A tax cut not balanced with tax reform runs the grave risk of increasing inflation. For instance, an increase in *consumer* prices from one-tenth of 1 percent to 4 percent totally eliminates the benefit of the proposed tax reduction. For many taxpayers, less than a 1-percent increase in consumer prices wipes out the proposed tax reduction. My point is not that Americans do not need tax relief—no matter how small—but that if it is not achieved in a responsible way, it will only add to the problem.

Nostalgia for the 1950's and early 1960's is the current fad and perhaps it is understandable that some long to recapture the success of 1964 when a tax cut worked so effectively. Nostalgia is no substitute for sound economic analysis.

Similarities exist between the early 1960's and now, but the differences are greater. Before the 1964 tax reductions, an ominous chain of recessions occurred more and more frequently, interrupting briefer and briefer periods of economic expansion. The 1960–61 recession, for example, occurred after only 25 months of expansion. In contrast, during the 1960's there was the longest and strongest economic expansion in our history and the expansion which preceded the current pause in our economic growth was also a strong economic expansion. One of the major problems in providing tax cuts at the present time is that many areas, despite the economic decline, are still showing signs of marked strain of the type usually associated with economic boom.

Price behavior is another major difference between the two periods. During the early 1960's prior to the 1964 cut, the consumer price index was almost stable, with an annual increase of only a little more than 1 percentage point.

Similarly, the wholesale price index showed little upward movement. For example, in 1963, the wholesale price index for all commodities was slightly below the level existing in 1958. In contrast, we are now faced with a two-digit inflation. Over the past 12 months, the consumer price index has increased more than 10 percent and the wholesale price index has increased more than 20 percent. And the situation seems to be getting worse rather than better. In March, the consumer price index rose at an annual rate of 13.2 percent.

Interest rates are another example of the marked difference between 1964 and now. During the early 1960's, the Government bill rate stood at about 3 percent or less and long-term Government bonds yielded 4 percent or less. At present, we have bill rates with yields from 8 to 8.5 percent, long-term Government bonds rates in excss of 7 percent, and a prime rate which has reached 11 percent. Of course, these high interest rates to a large extent reflect raging inflation, since thse rates necessarily include a premium for inflation.

During the early 1960's, investment was stagnating. In 1962, for example, the rate of investment was almost unchanged from 1957, although the GNP had risen substantially.

In contrast, while the real rate of investment in the first quarter of this year has been relatively modest, business investment in recent years has been very substantial and businessmen, according to the most recent surveys, anticipate a 14- to 18-percent rise in plant and equipment investment this year.

A careful economic analysis shows that while in 1964 there was a good case for granting tax reduction to offset a chronic case of underutilization of our economy and that there was considerable slack in the economy as shown by the stable prices and low rates of interest and of investment, these conditions do not exist today. In today's excessive demand, shortage-plagued economy, a tax cut would be a disaster.

Mr. President, I ask unanimous consent that the amendments which I have submitted be printed in the Record.

There being no objection, the amendments were ordered to be printed in the Record, as follows:

Amendment No. 1315

At the end of the bill, add the following new section:

Sec. 4. Credit Against Tax for Personal Exemptions.

(a) Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits against tax) is amended by redesignating section 42 as section 43 and by inserting after section 41 the following new section:

"Sec. 42. Personal Exemptions.

"There shall be allowed, as a credit against the tax imposed by section 1 or 3, the amount determined under section 151 for personal exemptions. Such credit shall not exceed the tax imposed by section 1 or 3 for the taxable year.".

(b) So much of section 151 of such Code (relating to deductions for personal exemptions) as precedes subsection (b) is amended to read as follows:

"Sec. 151. Credit for Personal Exemptions.

"(a) Amount of Credit.—The amount of the credit allowed by section 42 for the taxable year for personal exemptions shall be $205 for each exemption allowed to the taxpayer under this section for the taxable year.".

(c) Section 151 of such Code is further amended by striking out "of $750" wherever it appears therein.

(d) Part II of subchapter B of chapter 1 of such Code (relating to items specifically included in gross income) is amended by adding at the end thereof the following new section:

"Sec. 84. Certain Income of Child Claimed as Dependent.

"Income received during a taxable year by a child from a trust created by his parent, and dividends, interest, and royalties received during the taxable year by a child from property given him by his parent, shall be included in the gross income of the parent, and not in the gross income of the child, if the parent is entitled to and claims a credit under section 42 for the exemption allowable under section 151 for such child as a dependent. This section shall not apply if the parent does not claim the credit allowed by section 42 on account of such child or, having claimed such credit, if the parent waives the allowance of the credit in such manner as may be provided in regulations prescribed by the Secretary or his delegate. This section shall have no application to income of a trust which is includable in the gross income of the parent under the provisions of subpart E of part I of subchapter J.".

(e) Sections 2(a)(1)(B), 2(b)(1), 141(c)(5), 143(b)(1), 214(b)(3), 874(b), and 931(e) of such Code are each amended by striking out the word "deduction" wherever it appears and inserting in lieu thereof the word "credit".

(f) Section 46(a)(3)(B) of such Code (relating to the investment credit) is amended to read as follows:

"(B) section 42 (relating to personal exemptions), and".

(g) Section 63(b) of such Code (relating to definition of taxable income) is amended by striking out all that follows after the words "adjusted gross income" and inserting in lieu thereof "minus such standard deduction".

(h) Section 72(n)(3) of such Code (relating to special computation of taxable income) is amended by striking out subparagraph (A).

(i) Section 170(b)(1)(C) of such Code (relating to unlimited charitable deduction) is amended by striking out clause (ii).

(j) Section 172(d)(3) of such Code (relating to net operating loss deduction) is amended to read as follows:

"(3) Estates and trusts.—No deduction shall be allowed for the personal exemption allowed an estate or trust under section 642(b).".

(k) Section 214(b)(3) of such Code (relating to care of certain dependents) is amended by striking out "deductions" and inserting in lieu thereof "credits".

(l) Section 443(c) of such Code (relating to return for short period) is amended by striking out "a deduction under section 151 (and any deduction in lieu thereof)" and inserting in lieu thereof "as a credit under section 151 or a deduction under section 642(b)".

(m) The last sentence of section 642(b) of such Code (relating to estates and trusts) is amended to read as follows: "The deductions allowed by this subsectoin shall be in lieu of the credits allowed under section 42 (relating to credit for personal exemptions).".

(n) Section 703(a)(2) of such Code (relating to partnership computations) is amended by striking out subparagraph (B).

(o) Paragraph (3) of section 873(b) of such Code (relating to nonresident aliens) is amended to read as follows:

"(3) CREDIT FOR PERSONAL EXEMPTION.—Except in the case of a nonresident alien individual who is a resident of a contiguous country, only one credit shall be allowed for exemptions under section 151.".

(p) Section 891 of such Code (relating to citizens of foreign countries) is amended by striking out "under section 11 and".

(q) Section 933(1) of such Code (relating to residents of Puerto Rico) is amended by striking out "(other than the deductions under section 151, relating to personal exemptions)".

(r) Section 1211(b)(3) of such Code (relating to deduction of capital losses) is amended by striking out "the deductions provided in section 151 (relating to personal exemptions) or any deduction in lieu thereof" and inserting in lieu thereof "any deduction allowed by section 642(b)".

(s) Section 1402(a) of such Code (relating to self-employment income) is amended by striking out paragraph (7).

(t) The amendments made by this section shall apply to taxable years beginning after December 31, 1974.

AMENDMENT No. 1316

At the end of the bill, add the following new section:

SEC. 4. REPEAL OF ASSET DEPRECIATION RANGE SYSTEM.

(a) Section 167(m) of the Internal Revenue Code of 1954 (relating to the Asset Depreciation Range System) is repealed.

(b) Section 167(a) of such Code (relating to a reasonable allowance for depreciation) is amended by adding at the end thereof the following: "Such reasonable allowance shall be computed, subject to the provisions of Revenue Procedure 62–21 (including the provisions for the reserve ratio test) as in effect on January 1, 1971, on the basis of the expected useful life of property in the hands of the taxpayer.".

(c) The amendment made by subsection (a) shall apply to property placed in service after April 30, 1974. The amendment made by subsection (b) shall apply to taxable years ending after April 30, 1974, but it shall not apply to property placed in service by the taxpayer before May 1, 1974, if an election has been made to have the provisions of section 167(m) applicable to such property.

AMENDMENT No. 1317

At the end of the bill, add the following new section:

SEC. 4. REPEAL OF DEDUCTION FOR WESTERN HEMISPHERE TRADE CORPORATIONS.

(a) Part III of subchapter N of chapter 1 of the Internal Revenue Code of 1954 (relating to income from sources without the United States) is amended by striking out subpart C (relating to Western Hemisphere trade corporations).

(b) Section 170(b)(2) of such Code (relating to charitable deductions for corporations) is amended by striking out subparagraph (D).

(c) Section 172(d) of such Code (relating to the net operating loss deduction) is amended by striking out paragraph (5).

(d) Section 1503 of such Code (relating to consolidated returns) is amended by striking out subsection (b).

(e) Section 1562(b)(4) of such Code (relating to multiple surtax exemptions) is amended by striking out "and 922 (relating to special deduction for Western Hemisphere trade corporations)".

(f) The amendments made by this section shall apply with respect to taxable years beginning after the date of the enactment of this Act.

AMENDMENT No. 1318

At the end of the bill, add the following new section:

SEC. 4. REPEAL OF THE TAX EXEMPTION FOR A DISC.

(a) Section 991 of the Internal Revenue Code of 1954 (relating to tax exemption of a DISC) is amended by adding at the end thereof the following: "This section shall not apply to any taxable year beginning after the date of the enactment of this sentence."

(b) Section 992 (a) of such Code (relating to definition of DISC) is amended by adding at the end thereof the following new paragraph:

"(4) Termination.—No corporation shall be treated as a DISC for any taxable year beginning after the date of the enactment of this paragraph."

AMENDMENT No. 1319

At the end of the bill, add the following new section:

SEC. 4. FOREIGN TAX CREDIT REDUCTION IN CASE OF FOREIGN LOSSES.

(a) REDUCTION IN FOREIGN TAX CREDIT LIMITATION.—Section 904(a) of the Internal Revenue Code of 1954 (relating to limitation on credit) is amended by adding at the end thereof the following new paragraphs:

"(3) REDUCTION IN LIMITATION.—In the case of a taxpayer who in a prior taxable year sustains a loss in a foreign country or possession of the United States and chooses the limitation provided in paragraph (1) for such prior year, the amount of the taxpayer's taxable income from sources within such country or posession for the taxable year (but not the taxpayer's entire taxable income for the same taxable year) shall, solely for purposes of determining the applicable limitation under paragraph (1) or (2), be determined without regard to section 172 (relating to net operating loss deduction) and be reduced by the lesser of—

"(A)(i) the amount of such loss, decreased by

"(ii) the amount of any reduction previously made under this paragraph with respect to such loss or

"(B) an amount which is equal to 50 percent of the taxpayer's taxable income for the taxable year (determined without regard to this paragraph and section 172) from sources within such country or possession.

"(4) ALLOCATION OF LOSSES.—In applying paragraph (3) for any taxable year to which subsection (f) or (g) applies, a loss sustained in a foreign country or possession of the United States shall be allocated to the separate limitation (if any) under such subsection pursuant to regulations prescribed by the Secretary or his delegate.

"(5) SPECIAL LIMITATION ON CARRYBACKS AND CARRYOVERS.—For purposes of subsection (d), the amount by which tax paid or accrued to any foreign country or possession of the United States for any taxable year exceeds the applicable limitation under this subsection shall be determined without regard to paragraph (3).

"(6) CERTAIN DISPOSITIONS OF PROPERTY.—

"(A) Under regulations prescribed by the Secretary or his delegate, if during any taxable year property which is used in the trade or business which gives rise to the loss referred to in paragraph (3) is disposed of and such loss exceeds the amount by which the taxpayer's taxable income was reduced under paragraph (3) for such taxable year and preceding taxable years by reason of such loss, an amount equal to such excess shall be included in gross income for such taxable year.

"(B) No amount shall be included in gross income under subparagraph (A) in any case in which—

"(i) the property which is disposed of is not a material factor in the realization of the income (or loss) from the trade or business in which such property is used or is not a substantial portion of the assets used in, or held for use in, the conduct of such trade or business,

"(ii) the property is disposed of on account of its destruction or damage by fire, storm, shipwreck, or other casualty, or by reason of its theft,

"(iii) the property is transferred by reason of death, or

"(iv) the property is transferred in a transaction to which section 381(a) applies.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to losses sustained in taxable years beginning after December 31, 1974.

AMENDMENT No. 1320

At the end of the bill, add the following new section:

SEC. 4. SEPARATE LIMITATION ON FOREIGN TAX CREDIT WITH RESPECT TO FOREIGN MINERAL INCOME.

(a) LIMITATION ON AMOUNT OF FOREIGN TAXES TO BE TAKEN INTO ACCOUNT.—Section 904 of the Internal Revenue Code of 1954 (relating to limitation on credit) is amended by redesignating subsection (g) as subsection (h), and by inserting after subsection (f) the following new subsection:

"(g) APPLICATION OF SECTION IN CASE OF FOREIGN MINERAL INCOME.—

"(1) IN GENERAL.—If any foreign country or possession of the United States, or any agency or instrumentality of such country or possession—

"(A) requires the payment of any bonus or royalty with respect to property which gives rise to foreign mineral income,

"(B) holds substantial mineral rights with respect to such property, or

"(C) imposes any income, war profits, or excess profits taxes on such income at an effective rate higher than on other income, subsections (a), (c), (d), and (e) of this section shall be applied separately with respect to foreign mineral income from sources within such country or possession.

"(2) FOREIGN MINERAL INCOME DEFINED.—

"(A) GENERAL RULE.—For purposes of paragraph (1), the term 'foreign mineral income' means taxable income from mines, wells, and other natural deposits within any foreign country or possession of the United States, to the extent such taxable income constitutes 'taxable income from the property' within the meaning of section 613. Such term includes, but is not limited to—

"(i) dividends received from a foreign corporation in respect of which taxes are deemed paid under section 902, to the extent such dividends are attributable to foreign mineral income, and

"(ii) that portion of the taxpayer's distributive share of the income of a partnership attributable to foreign mineral income.

"(B) SPECIAL RULES.—

"(i) For purposes of subparagraph (A), if for the taxable year a taxpayer's (or, where a consolidated income tax return is filed, the affiliated group's) foreign mineral income is less than $10,000, no part of the taxable income for such year shall be treated as foreign mineral income.

"(ii) For purposes of clause (i) of subparagraph *(A)*, if less than 30 percent and less than $100,000, of the accumulated profits of the year or years from which dividends are paid, as determined under section 902(c), are attributable to foreign mineral income, no part of the dividends shall be treated as foreign mineral income.

"(3) OVERALL LIMITATION NOT TO APPLY.—The limitation provided by subsection (a) (2) shall not apply with respect to foreign mineral income. The Secretary or his delegate *shall by regulations* prescribe the manner of application of subsection (e) with respect to cases in which the limitation provided by subsection (a)(2) applies with respect to income other than foreign mineral income.

"(4) TRANSITIONAL RULES FOR CARRYBACKS AND CARRYOVERS.—

"(A) CARRYBACKS TO YEARS BEFORE ENACTMENT OF THIS SUBSECTION.—If, after applying subsection (d), taxes paid or accrued to any foreign country or possession of the United States in any taxable year beginning after the date of the enactment of this subsection are deemed paid or accrued in one or more taxable years beginning on or before such date, then the amount of such taxes deemed paid or accrued in such taxable year or years shall be determined without regard to the provisions of this subsection. To the extent the taxes paid or accrued to a foreign country or possession of the United States in any taxable year beginning after such date are not, after applying the preceding sentence, deemed paid or accrued in any taxable year beginning on or before such date, such taxes shall, for purposes of applying subsection (d), be deemed paid or accrued in a taxable year beginning after such date with respect to foreign mineral income, and with respect to income other than foreign mineral income, in the same ratios as the amount of such taxes paid or accrued with respect to income other than foreign mineral income, *respectively*, bear to the total amount of such taxes paid or accrued to such foreign country or possession of the United States.

"(B) CARRYOVERS TO YEARS AFTER ENACTMENT OF THIS SUBSECTION.—Where under the provision of subsection (d) taxes paid or accrued to any foreign country or possession of the United States in any taxable year beginning on or before the date of the enactment of this subsection are deemed paid or accrued in one or more taxable years beginning after such date, the amount of such taxes deemed paid or accrued in any year beginning after such date shall, with respect to foreign mineral income, be an amount which bears the same ratio to the amount of such taxes deemed paid or accrued as the amount of the taxes paid or accrued to such foreign country or possession for such year with respect to foreign mineral income bears to the total amount of taxes paid or accrued to such foreign country or possession for such year; and the amount of such taxes deemed paid or accrued in any year beginning after such date with respect to income other than foreign mineral income shall be an amount which bears the same ratio to the amount of such taxes deemed paid or accrued for such year as the amount of taxes paid or accrued to such foreign country or possession for such year with respect to income other than foreign mineral income bears to the total amount of the taxes paid or accrued to such foreign country or possession for such year.".

(b) CONFORMING AMENDMENTS.—Section 904(b) of such Code (relating to election of overall limitation) is amended—

(1) by striking out "with the consent of the Secretary or his delegate with respect to any taxable year" in paragraph (1) and inserting in lieu thereof "(A) with the consent of the Secretary or his delegate with respect to any taxable year, or (B) for the taxpayer's first taxable year beginning after the date of the enactment of subsection (g)", and

(2) by striking out "If a taxpayer" in paragraph (2) and inserting in lieu thereof "Except in a case to which paragraph (1)(B) applies, if the taxpayer".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years beginning after the date of enactment of this Act.

AMENDMENT No. 1321

At the end of the bill, add the following new section:

SEC. 4. REPEAL OF PERCENTAGE DEPLETION RATES ON OIL WELLS.

Section 613 of the Internal Revenue Code of 1954 (relating to percentage depletion) is amended by adding at the end thereof the following new subsection:

"(e) Disallowance of Percentage Depletion for Oil Wells After 1973.—The allowance for depletion under section 611 for oil wells shall not be determined under this section for any taxable year ending after December 31, 1973.".

AMENDMENT No. 1322

At the end of the bill, add the following new section:

SEC. 4. REPEAL OF INTANGIBLE DRILLING COSTS FOR FOREIGN EXPLORATION.

(a) IN GENERAL.—Section 263(c) of the Internal Revenue Code of 1954 (relating to intangible drilling and development costs in the case of oil and gas wells) is amended by adding at the end thereof the following new sentence: "The provisions of this subsection shall not apply to any oil or gas well located outside of the United States and beyond the Outer Continental Shelf (within the meaning of section 2 of the Outer Continental Shelf Lands Act).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to taxable years beginning after December 31, 1974.

AMENDMENT No. 1323

At the end of the bill, add the following new section:

SEC. 4. TAXATION OF UNDISTRIBUTED PROFITS OF FOREIGN CORPORATIONS.

(a) Part III of subchapter N of chapter 1 of the Internal Revenue Code of 1954 (relating to income from sources without the United States) is amended by adding at the end thereof the following new subpart:

"Subpart J—Undistributed Profits of Controlled Foreign Corporations

"SEC. 985. AMOUNTS INCLUDED IN GROSS INCOME OF UNITED STATES SHAREHOLDERS.

"(a) AMOUNTS INCLUDED.—

"(1) IN GENERAL.—If a foreign corporation is a controlled foreign corporation (as defined in section 957) for an uninterrupted period of 30 days or more during any taxable year, every person who is a United States shareholder (as defined in section 951(b)) of such corporation who owns (within the meaning of section 958) stock in such corporation on the last day in such year on which such corporation is a controlled foreign corporation shall include in his gross income, for his taxable year in which or with which such taxable year of the corporation ends, his pro rata share of the corporation's earnings and profits for such year.

"(2) PRO RATA SHARE OF EARNINGS AND PROFITS.—A United States shareholder's pro rata share referred to in paragraph (1) is the amount—

"(A) which would have been distributed with respect to the stock which such shareholder owns (within the meaning of section 958) in such corporation if on the last day in its taxable year, on which the corporation is a controlled foreign corporation it had distributed pro rata to its shareholders an amount (i) which bears the same ratio to its earnings and profits for the taxable year as (ii) the part of such year during which the corporation is a controlled foreign corporation bears to the entire year, reduced by

"(B) an amount (i) which bears the same ratio of the earnings and profits of such corporation for the taxable year as (ii) the part of such year described in subparagraph (A)(ii) during which such shareholder did not own (within the meaning of section 958) such stock bears to the entire year.

"(b) EARNINGS AND PROFITS.—For purposes of this subpart, under regulations prescribed by the Secretary or his delegate, the earnings and profits of any foreign corporation, and the deficit in earnings and profits of any foreign corporation, for any taxable year—

"(1) except as provided in section 312 (m)(3), shall be determined according to rules substantially similar to those applicable to domestic corporations,

"(2) shall be appropriately adjusted for deficits in earnings and profits of such corporation for any prior taxable year beginning after December 31, 1974,

"(3) shall not include any item of income which is effectively connected with the conduct by such corporation of a trade or business within the United States unless such item is exempt from taxation (or is subject to a reduced rate of tax) pursuant to a treaty obligation of the United States, and

"(4) shall not include any amount of earnings and profits which could not have been distributed by such corporation because of currency or other restrictions of limitations imposed under the laws of any foreign country.

"(c) COORDINATION WITH ELECTION OF A FOREIGN INVESTMENT COMPANY TO DISTRIBUTE INCOME.—A United States shareholder who, for his taxable year, is a qualified shareholder (within the meaning of section 1247 (c)) of a foreign investment company with respect to which an election under section 1247 is in effect shall not be required to include in gross income, for such taxable year, any amount under subsection (a) with respect to such company.

"(d) COORDINATION WITH FOREIGN PERSONNEL HOLDING COMPANY PROVISIONS.—In the case of a United States shareholder who, for his taxable year, is subject to tax under section 551(b) (relating to foreign personal holding company income included in gross income of United States shareholders) on income of a controlled foreign corporation, the amount required to be included in gross income by such shareholder under subsection (a) with respect to such company shall be reduced by the amount included in gross income by such shareholder under section 551(b).

"(e) ADJUSTMENTS AND FOREIGN TAX CREDITS. — Under regulations prescribed by the Secretary or his delegate—

"(1) Adjustments to the basis of stock on account of earnings and profits taxed under subsection (a) shall be made in the manner provided in section 961 (relating to increases and reductions in basis on account of the income tax treatment of subpart F income);

"(2) Elimination of double taxation of previously taxed earnings and profits when distributed shall be made in the manner provided in section 959 (relating to exclusion from gross income of previously taxed subpart F income); and

"(3) Corporations shall be deemed to have paid income, war profits, and excess profits taxes paid (or deemed paid) by foreign corporations to a foreign country or possession of the United States in accordance with the special rules set forth in section 960.".

(b) Section 951 of such Code (relating to taxation of Subpart F income) is amended by adding at the end thereof the following new subsection.

"(e) Taxable Years Ending After December 31, 1974.—No amount shall be required to be included in the gross income of a United States shareholder under subsection (a) (other than paragraph (1)(A)(ii) of such subsection) with respect to a taxable year of a controlled foreign corporation ending after December 31, 1974.".

(c) Section 1248(d)(1) of such Code (relating to treatment of gain on sale of stock in certain foreign corporations) is amended by striking out "under section 951" each time it appears and inserting in lieu thereof "under section 951 or 985", and by striking out "under section 959" and inserting in lieu thereof "under section 959 or 985(e)(2)".

(d) The amendments made by this section shall apply with respect to taxable years of foreign corporations ending after December 31, 1974, and to taxable years of United States shareholders within which or with which such taxable years of such foreign corporations end.

Amendment No. 1324

At the end of the bill, add the following new section:

Sec. 4. Strengthening the Minimum Tax.

(a) Section 56 of the Internal Revenue Code of 1954 (relating to imposition of minimum tax for tax preferences) is amended:

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) In General.—In addition to the other taxes imposed by this chapter, there is hereby imposed for each taxable year, with respect to the income of every person, a tax equal to 10 percent of the amount (if any) by which the sum of the items of tax preference exceeds $10,000.";

(2) by striking out "$30,000" in subsection (b)(1)(B) and inserting in lieu thereof "$10,000"; and

(3) by striking out subsection (c).

(b) The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

AMENDMENT NO. 1326

(Ordered to be printed, and to lie on the table.)

REPEAL THE OIL DEPLETION ALLOWANCE

Mr. RIBICOFF. Mr. President, it is time to eliminate the percentage depletion allowance tax loophole for oil and gas. Senators Magnuson, Jackson, and I are today introducing an amendment to H.R. 8217, the tax bill recently reported out of the Senate Finance Committee, to accomplish that goal.

Every other business can deduct from its gross sales only the actual cost of replacing the goods it sells. Oil companies, however, can deduct 22 percent of their gross revenues from their taxable income, whether or not this deduction bears any relation to the actual cost of replacing the oil sold.

As a result, American taxpayers have been paying the oil companies billions of dollars a year through tax subsidies for the oil industry. The industry saved about $705 million in U.S. taxes in calendar year 1971 because of the oil depletion allowance. It has been estimated that because of rising prices this provision will cost the U.S. taxpayer $2.6 billion in fiscal year 1975.

The Senate will soon be considering a tax cut proposal to stimulate the economy and provide much needed relief for the already overburdened taxpayer. I support this tax cut to help taxpayers regain some of the earning power they have lost through inflation.

I can think of no better way to raise the money to pay for this tax cut for workingmen and women than to remove this special oil interest tax advantage and require the oil companies to pay their fair share of taxes.

The major oil companies' profits are skyrocketing and each of us is paying the price of these profits at the filling station and at tax time.

Look at the record. In the first 3 months of 1974 Exxon's profits were $708 million—39 percent above the same period in 1973.

Texaco's profits rose 123 percent to $589 million. Gulf Oil and Standard Oil of Indiana's profits were up 75 percent. Skelly Oil's profits were up 97 percent.

An Occidental's profits were up 817 percent.

It is unconscionable to allow these companies to reap such dividends at the expense of every working American. While the workingman in the lowest income tax bracket pays 14 percent of his income in taxes, four of the largest oil companies paid U.S. income taxes at an average rate of 2.89 percent. Aramco, the Middle-Eastern consortium of giant oil companies paid U.S. taxes at a rate of one-tenth of 1 percent.

Texaco paid 1.7 percent and Mobil 1.3 percent on incomes of $1.3 billion. These tax breaks helped the industry's profits climb 52 percent over last year to their highest levels ever.

Clearly the percentage depletion allowance is costing billions of dollars.

Is it serving any useful purpose? I strongly believe percentage depletion serves no useful purpose.

Depletion allowances were originally enacted to enable oil companies to subtract from their income a suitable amount to cover the loss which occurs as an oil well wears out or exhausts its supply. The original depletion allowance was called cost depletion. The law was based on the cost of what the oil company actually lost. It was similar to depreciation provisions which most businesses utilize. In the 1920's however, the law was changed, with the support of the oil companies, to allow the companies to subtract a set percentage of their income in computing taxes—originally 27½ percent and now 22 percent.

Today the allowance has little to do with actual costs of depletion, is costly, wasteful, misdirected, and discourages the diversification of our energy resources.

1. THE OIL DEPLETION ALLOWANCE IS COSTLY

In calendar year 1971 the allowance cost taxpayers over $700 million. With rising oil prices it is estimated that it will cost the taxpayers nearly $3 billion in 1975. This is because the allowance is based on income. Thus, as prices and profits skyrocket, so does the depletion allowance. Instead of paying more taxes on more income, the oil companies pay less.

2. THE DEPLETION ALLOWANCE IS A WASTE OF MONEY

Most of the benefit of depletion goes to foreign operations and to people who cannot and do not produce oil. A landowner who receives royalties from an oil company gets the benefits of percentage depletion. But this landowner has nothing to do with exploring or drilling for new oil. In 1968 a major Treasury Department study—the CONSAD study—concluded that 42 percent of the depletion allowance goes to such nonoperating interests in domestic production or to foreign oil producers.

3. PERCENTAGE DEPLETION DOES NOT ENCOURAGE EXPLORATION

That portion of the depletion allowance which goes to domestic oil producers does not encourage exploration.

Since only 10 percent of the exploratory wells strike oil, depletion benefits only a small portion of the high-risk drilling. Oil companies prefer to spend money drilling in existing oilfields to be certain of receiving the oil depletion subsidy. The main effect of the allowance is to encourage overdrilling in known oilfields. A producer can use the allowance to wipe out a maximum of 50 percent of net income on a well before tax computation. This means that the biggest benefit of the subsidy goes to the most profitable wells.

The allowance may actually operate to discourage producers from operating less profitable or marginal wells. The stripper well operator, producing less than 10 barrels a day, gets the short end.

He is forced to pump the wells he has while the big companies can close down their marginal wells and skim the cream off their profitable wells. With generous tax laws such as the depletion allowance, the big companies have more money to buy up and gain control of most of the stripper well operations.

4. DEPLETION ALLOWANCE DISCOURAGES DIVERSIFICATION OF U.S. ENERGY RESOURCES

The United States is too dependent on oil. Yet this misdirected tax subsidy discourages the production of cheaper and more abundant sources of energy. First of all, depletion benefits for minerals are based on the value of those minerals in the ground and not in their final processed form. Therefore, a $7 barrel of crude oil gets the full benefits of the depletion allowance while a $7 barrel of oil made from coal will only receive depletion benefits on the value of the original coal. Since coal costs less than oil, the bulk of the $7 cost of liquified coal lies in processing expenses. These do not qualify for depletion.

At present then, a company producing a $7 barrel of crude oil gets a tax bonus of about $1.30. A company producing the same $7 barrel of oil from coal liquefication would rescue a bonus from the taxpayers of only 10 cents. Those who develop solar energy or a more efficent gas engine would receive no bonus at all.

In sum, the depletion allowance discourages the development of alternative energy resources, provides benefits to producers of foreign oil, pays dividends to foreign and domestic landowners to just sit back and collect royalties. And it gives most of its benefits to the large integrated oil companies and not independents.

I am pleased to note that the Ways and Means Committee has decided to recommend repeal of the percentage depletion allowance. However, the slow phaseout of the allowance contemplated by that committee would have no effect in 1974. Our proposal would return significant revenues to the Public Treasury rather than turning them over to an industry whose profits rose 55 percent in 1973 while the consumer paid the price.

I urge my colleagues to join with me in removing the percentage depletion tax loophole.

I ask unanimous consent that my amendment be printed at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1326

On page , line , add the following:

SEC. 4. REPEAL OF PERCENTAGE DEPLETION FOR OIL AND GAS PRODUCTION

(a) REPEAL OF OIL AND GAS DEPLETION. (1) Section 613(b)(1)(A) of the Internal Revenue Code of 1954, as amended (26 U.S.C. 613(b)(1)(A)), is amended by deleting the words "oil and gas wells" and by inserting in lieu thereof the words "certain gas wells as defined in subsection (e) of this section".

(2) Section 613(b)(7) of such Code is amended by (A) deleting "or" at the end of subparagraph (A) thereof; (B) by deleting the period at the end of subparagraph (B) thereof and by inserting in lieu thereof "; or"; and (C) by inserting the following new subparagraph after such subparagraph (B): "(C) oil and gas wells."

(b) CERTAIN GAS WELLS. Section 613 of the Internal Revenue of 1954 (26 U.S.C. 613) is amended by adding at the end thereof the following new subsection:

"(e) SPECIAL RULE FOR CERTAIN GAS WELLS.

"(1) The gas wells referred to in section 613(b)(1)(A) are—

(A) wells producing regulated natural gas, to the extent of such production, and

(B) wells producing natural gas sold under a fixed contract to the extent of such production.

"(2)(A) The term 'natural gas sold under a fixed contract' means domestic natural gas sold by the producer under a contract, in effect on April 10, 1974, and all times thereafter before such sale, under which the price for such gas cannot be adjusted to reflect to any extent the increase in liabilities of the seller for tax under this section by reason of the repeal of percentage depletion. Price increases subsequent to April 10, 1974 shall be presumed to take increases in tax liabilities into account unless the taxpayer demonstrates the contrary by clear and convincing evidence.

"(B) The term 'natural gas' means any product (other than crude oil) of an oil or gas well if a deduction for depletion is allowable under section 611 with respect to such *product*.

"(C) The term 'domestic' refers to petroleum from an oil or gas well located in the United States or in a possession of the United States.

"(D) The term 'crude oil' includes a natural gas liquid recovered from a gas well in lease separators or field facilities.

"(E) The term 'regulated natural gas' means domestic natural gas produced and sold by the producer, prior to January 1, 1976, subject to the jurisdiction of the Federal Power Commission, the price for which has not been adjusted to reflect to any extent the increase in liability of the seller for tax by reason of the repeal of percentage depletion. Price increases subsequent to April 10, 1974 shall be presumed to take increases in tax liabilities into account unless the taxpayer demonstrates the contrary by clear and convincing evidence."

(c) EFFECTIVE DATES. The amendment made by subsections (a) and (b) of this section shall apply to oil and gas produced on or after January 1, 1974.

Mr. MAGNUSON. Mr. President, high prices have created tremendous windfall profits for oil companies. The size of the windfalls is so large the numbers are hard to grasp. The Joint Committee on Internal Revenue Taxation estimates 1974 profits on domestic oil production alone will be $9 billion after taxes. These windfall profits are in large part attributable to taxpayer subsidies of the oil industry. It is time Congress insists that the oil industry pay their fair share of taxes on their increased profits.

I am pleased to join with Senator RIBICOFF and Senator JACKSON in an amendment to H.R. 8217, the vessel repair tariff bill, to restore equity to the energy tax system. Senator RIBICOFF, Senator JACKSON and myself propose that the Senate act to repeal the oil and gas depletion allowance immediately. This huge tax loophole has outlived any usefulness it may have had. Simple justice requires taxpayers no longer subsidize the industry that is reaping windfall profits far in excess of anything our Nation has ever before experienced.

Immediate repeal of the oil depletion allowance, effective January 1, 1974, as we propose, would yield $2.6 billion more revenues this year than a phased-in repeal such as proposed by the House Ways and Means Committee. By 1980, the total difference between immediate and phased repeal of depletion will total $80 billion.

These extra windfall profits are not needed to finance future oil and gas exploration. The Joint Committee on Internal Revenue Taxation estimates the industry is limited to investing a maximum of 50 percent of recent profit increases. Immediate repeal of depletion will still leave an average $1.50 per barrel increase in profits over 1973, as a price incentive for expanded exploration and development.

Depletion allowances have not stimulated exploration and development. To the contrary, a Library of Congress study concludes they have stimulated overdrilling of existing fields. Further, depletion allowances significantly reward large domestic producers out of proportion to the rewards received by smaller producers. Worst, during today's energy shortages, depletion allowances actively discourage capital expenditures and cheaper, more abundant energy sources such as coal liquefaction, oil shale and solar energy.

The Congress must choose the most efficient incentives to encourage the production of new domestic energy supplies. The existing tax subsidies are inefficient incentives and, in fact, often act as disincentives. Where tax subsidies do have an effect on oil producers, they create out-of-pocket transfers from taxpayers to producers.

Depletion was originally designed to allow producers to recover the loss in value of oil as they took it out of the ground. "Cost" depletion can be considered analogous to ordinary business depreciation. Percentage depletion, on the other hand, results in producers recovering the value of oil wells 16 times over.

Inefficient tax subsidies to oil producers cannot be justified during times of windfall profits. Domestic oil prices have more than doubled over the past year and the price of domestic crude oil continues to rise.

The President's energy message calls for a tax on windfall profits. I, and other Members of the Senate, have called for a price rollback. It is unconscionable to argue that tax subsidies are needed to further increase oil profits today.

The current windfall profits in domestic oil production can be entirely attributed to price increases in foreign crude oil. In 1972, domestic crude oil was more expensive than foreign crude oil. Today, foreign crude oil has a posted price in excess of $10 per barrel. Domestic crude oil production costs average less than $3.50 per barrel. New domestic crude oil is being sold at foreign crude oil prices. Domestic producers are reaping a $6.50 per barrel windfall because of foreign oil price fixing. Repeal of the oil depletion allowance would reduce this windfall by about $1.50 per barrel. So immediate repeal of depletion will still leave massive increased profits as a price incentive to attract capital for expanded oil and gas production.

There is no better time for the Senate to consider repeal of this tax loophole than in the context of tax relief for the ordinary consumer. I am proud of my record in consumer protection. Consumers have grown increasingly more frustrated as oil industry profits skyrocket, energy supplies grow short, and the oil subsidy burden on the common taxpayer increases. Repeal of the depletion allowance, effective January 1, 1974, will yield $19.4 billion more revenues by 1980, than the Ways and Means "oil tax reform" bill. This money is readily available for redistribution to hard-pressed taxpayers.

I sincerely hope that my colleagues will join me in this effort. The time to act is now. The choice is simple. Does the Senate wish to maintain unconscionably high windfall profits for oil companies, or does the Senate wish to provide tax equity for the ordinary workingman?

SOLAR HEATING AND COOLING DEMONSTRATION ACT OF 1974—AMENDMENT

AMENDMENT NO. 1332

(Ordered to be printed, and to lie on the table.)

Mr. CRANSTON (for himself, Mr. KENNEDY, Mr. ABOUREZK, Mr. BIBLE, Mr. CHURCH, Mr. DOMINICK, Mr. FANNIN, Mr. HANSEN, Mr. HASKELL, Mr. HATFIELD, Mr. JACKSON, Mr. MAGNUSON, Mr. MATHIAS, Mr. MCCLURE, Mr. METCALF, Mr. NELSON,

Mr. Tunney, and Mr. Williams) submitted an amendment, intended to be proposed by them, jointly, to the bill (H.R. 11864) to provide for the early commercial demonstration of the technology of solar heating by the National Aeronautics and Space Administration and the Department of Housing and Urban Development, in cooperation with the National Bureau of Standards, the National Science Foundation, the General Services Administration, and other Federal agencies, and for the early development and commercial demonstration of technology for combined solar heating and cooling.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 1304

At the request of Mr. Cook, his name was added as a cosponsor of amendment No. 1304, to the bill (S. 1539) to amend and extend certain acts, relating to elementary and secondary education programs, and for other purposes.

AMENDMENT NO. 1305

At the request of Mr. Mathias, the Senator from Kansas (Mr. Dole), and the Senator from Florida (Mr. Chiles) were added as cosponsors of amendment No. 1305, to Senate bill 1539, supra.

AMENDMENTS NOS. 1239, 1308, AND 1309

At the request of Mr. Ervin, the Senator from North Carolina (Mr. Helms) was added as a cosponsor of amendments Nos. 1239, 1308, and 1308, to Senate bill 1539, supra.

NOTICE OF HEARING ON CHANGING VETERANS DAY

Mr. HRUSKA. Mr. President, on behalf of the Standing Subcommittee on Federal Charters, Holidays, and Celebrations of the Committee on the Judiciary, I desire to give notice that the subcommittee will hold a public hearing on June 3, 1974, on the following general bills which have for their purpose designating November 11 of each year as Veterans Day and to make such day a legal public holiday: S. 41, S. 552, S. 618, S. 2882, S. 2901, and . 3079.

The hearing will commence at 10 a.m. in room 2228, Dirksen Office Building on June 3. Persons desiring to testify or submit statements should notify Thomas B. Collins, counsel, 2226 Dirksen Office Building on or before June 1, 1974.

The subcommittee consists of the Senator from Arkansas (Mr. McClellan) and myself, chairman.

NOTICE OF HEARING ON FLAG CODE REVISION

Mr. HRUSKA. Mr. President, on behalf of the Standing Subcommittee on Federal Charters, Holidays, and Celebrations of the Committee on the Judiciary, I desire to give notice that the subcommittee will hold a public hearing on June 7, 1974, on S. 340, a bill to establish a commission to study the usage, customs, and laws relating to the flag of the United States, and Senate Joint Resolution 91, a joint resolution to codify and emphasize existing rules and customs pertaining to the display and use of the flag of the United States.

The hearing will commence at 10 a.m. in room 2228, Dirksen Office Building, on June 7.

Persons desiring to testify or submit statements should notify Thomas B. Collins, counsel, 2226 Dirksen Office Building, on or before June 4, 1974.

The subcommittee consists of the Senator from Arkansas (Mr. McClellan) and myself, chairman.

ANNOUNCEMENT OF HEARINGS ON "INDEXING"

Mr. JOHNSTON. Mr. President, I wish to announce that the Subcommittee on Production and Stabilization of the Senate Committee on Banking, Housing and Urban Affairs will hold hearings on June 10 and 11 on the question of statutory wage and price escalation—what has come to be known as "indexing." This concept was first put forth in this country by Prof. Milton Friedman. It has generated widespread interest in recent weeks as the rate of inflation climbs and even the most optimistic economists see no end in sight.

The subcommittee hearings will be held in room 5302 of the Dirksen Building at 10 a.m. For further information, please contact my legislative assistant, Jack Weiss, at extension 5824.

Mr. President, for informational purposes I ask that a recent column on indexing be inserted in the Record. The column is by the distinguished columnist Hobart Rowen and appeared in the Washington Post on Sunday, May 5.

There being no objection, the article was ordered to be printed in the Record, as follows:

Climate for Indexing?

(By Hobart Rowen)

Milton Friedman, as I wrote a few weeks ago, has stimulated a lively controversy by suggesting that the way to beat inflation is to use a system of wage and price escalators.

This is sometimes called "indexing," and would be modeled on what is said to be a successful, long-time experience in Brazil.

Most economists who have expressed a public opinion on using escalators to compensate for inflation are against the idea, arguing that it will make matters worse.

But the steady upward march of prices creating the worst inflation in this country since the first World War—gives the idea of indexing at least some surface credence.

One uncontestable fact is that some segments of the public right now get the benefit of indexing, while others do not. Thus, some 4 million members whose leaders were far-sighted enough to get cost-of-living clauses written into their contracts get a measure of protection against inflation.

But since such contracts are still the exception rather than the rule, COL escalators simply become part of higher costs that everyone else has to pay. To take one example, auto workers get a COL adjustment under their contract. That leads to higher prices for cars that must be paid by purchasers whose wages were not similarly "indexed."

Critics of the Friedman proposal range in ideology all the way from liberal economies Arthur M. Okun and Robert R. Nathan to conservatives like Chicago banker Gayland Freeman and retiring Treasury Secretary George Shultz.

Nathan says that indexing "could become a real rat race, with everyone carrying around his own portable computer to check the figures to see he gets his fair share.

Shultz not only agrees that all increased costs "would be built in automatically," but protests that the Brazilian experience isn't applicable to this country in the first place.

It is true that there are great differences between their system and ours. One major one—not noted by Friedman—is that the indexing system there is designed to protect the value of capital investment rather than wages.

Thus, the Brazilian government establishes in advance what the upper limit of wage advances can be, and that is all the collective bargaining process is allowed to work out.

Those who are familiar with what has actually taken place in Brazil say the Government will typically establish 15 per cent as the anticipated rate of inflation, and thus assume a major political commitment to do no worse than that.

Having gone that far, according to a U.S. government source, the Brazilian Government has had to establish controls to give the appearance of success. The result has been black markets, with actual rises in prices under the indexing system perhaps double the officially stated increase.

Says Chicago banker Freeman: "The figures that the Minister of Finance puts out are suspect."

It is easy enough to put aside the notion of emulating Brazil, which is a dictatorship under the Army's thumb. The achievement, under indexing, of a GNP increasing by annual rates of 10 per cent for six years in a row (if the figures are believable) is hardly enough to compensate for a non-democratic form of Government.

But the idea of distributing the burden of inflation more equitably doesn't have to be associated with the anti-social character of the Brazilian Government. David R. Shelton, a Washington attorney, who once raised the question of indexing U.S. savings bonds, says in a letter:

"I have always wondered why our Federal government has been so solicitous to grant cost of living pension increases to retired bureaucrats. . . . and so determined to effectually confiscate the life savings of those little people suckered into putting everything they can accumulate into Series E bonds."

Another correspondent, Harold Robinson of the Agency for International Development, points out that escalator adjustments for inflation have been used in Israel, Bolivia, and Colombia, as well as Brazil.

Shultz' basic argument is that acceptance of indexing would be admission that the "extraordinary 10 per cent rate of inflation" that we've had for a year is "something we are willing to live with."

"I think it is more credible to say 'No, we're not going to have that here in this country' " Shultz said in an interview.

It appears to me that there are three alternatives to the indexing idea:

First, we can continue as we're going with the anti-inflation responsibility saddled on the Federal Reserve Board. The hope would be that with a mild recession, high interest rates, and no worse than 6 per cent unemployment, inflation could be checked.

Second, an even tougher kind of austerity could be enforced, with unemployment pushed to 9 or 10 per cent to break the inflationary cycle.

Third, there is Nathan's proposal for "a year or two of tough but flexible and fair controls to break the spiral."

Inasmuch as all signs point to continuing inflation despite the Fed's efforts; and because no one is ready to advocate a depression; and because even Nathan admits that current support is about zero for controls, the demand for escalators—whether the solution is sensible or not—will grow. The climate is right.

NOTICE OF HEARING ON NOMINATIONS

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Tuesday, May 21, 1974, at 9:30 a.m., in room 2228 Dirksen Senate Office Building, on the following nominations:

Robert M. Duncan, of Ohio, to be U.S. District Judge for the Southern District of Ohio, vice Carl A. Weinman, retired.

H. Curtis Meanor, of New Jersey, to be U.S. District Judge for the District of New Jersey, vice John J. Kitchen, deceased.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Mississippi (Mr. Eastland), chairman; the Senator from Arkansas (Mr. McClellan), and the Senator from Nebraska (Mr. Hruska).

NOTICE OF HEARINGS ON OPEN GOVERNMENT LEGISLATION

Mr. RIBICOFF. Mr. President, I would like to announce for the information of the Senate and the public, 2 days of hearings on S. 260, Government in the *Sunshine Act*, which provides for open meeting of Government agencies and congressional committees.

The hearings will take place at 10 a.m. on May 21, in room 1124 Dirksen Senate Office Building, and May 22, in room 3303 Dirksen Senate Office Building.

Those Senators wishing to testify or those who wish to submit a written statement for the hearing record should write to the Reorganization Subcommittee, room 162, Russell Senate Office Building, Washington, D.C., 20510, or call 225-2308 or 225-5274.

ANNOUNCEMENT OF PUBLIC HEARINGS BEFORE THE SENATE INTERIOR AND INSULAR AFFAIRS COMMITTEE

Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public hearing before the Senate Interior and Insular Affairs Committee.

The hearing will be held on June 6, beginning at 10 a.m. in room 3110 of the Dirksen Senate Office Building. Testimony is invited regarding S. 3362, the so-called Bonneville Power Administration self-financing bill.

Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Interior and Insular Affairs Committee, room 3106, Dirksen Senate Office Building, Washington, D.C. 20510.

NOTICE OF HEARINGS ON S. 1270

Mr. JACKSON. Mr. President, I wish to announce for the information of the Senate and the public that open public field hearings have been scheduled by the Subcommittee on Parks and Recreation on June 15, 1974, in Los Angeles, Calif., on the following bill:

S. 1270

To establish in the State of California the Santa Monica Mountain and Seashore National Urban Park.

NOTICE OF HEARINGS ON S. 3188

Mr. JACKSON. Mr. President, I wish to announce for the information of the Senate and the public that open public hearings have been scheduled by the Subcommittee on Parks and Recreation on May 31, 1974, at 2 p.m., in room 3110, Dirksen Senate Office Building, on the following bill:

S. 3188

To establish the Sewall-Belmont House National Historic Site, and for other purposes.

NOTICE OF HEARINGS ON JUNE 6 ON BILL TO INCREASE PER DIEM AND MILEAGE

Mr. METCALF. Mr. President, on Thursday, June 6, the Subcommittee on Budgeting, Management, and Expenditures will hold a hearing on S. 3341. This bill would increase from $25 to $35 the per diem expenses of Federal employees traveling on official business. It would increase from 12 cents to 14.5 cents the mileage rate of compensation for Federal employees who use their own car for official business. The bill would also provide for continuous study and quarterly reports on employee travel costs by the Comptroller General.

I am pleased to report that the distinguished junior Senator from Kentucky (Mr. Huddleston) will preside at the hearings. It is my intention to convene a meeting of the subcommittee soon after the hearing, so that the members of the subcommittee may make their recommendation to the Committee on Government Operations

The text of S. 3341, the remarks I made upon introducing it, and a study by the General Services Administration regarding the present cost of operating privately owned automobiles appear in the Congressional Record for April 10, beginning on page S5583.

Persons or organizations who wish to testify or submit statements regarding the legislation should write or call the subcommittee, 161 Russell Senate Office Building, Washington, D.C. 20510. The phone numbers are 255-1474—majority, and 255-1481—minority.

ADDITIONAL STATEMENTS

PROSPECTS FOR GROWTH IN THE AMERICAN ECONOMY

Mr. BENTSEN. Mr. President, I ask unanimous consent that a very forceful and perceptive statement by the distinguished majority leader, Senator Mansfield before the Subcommittee on Economic Growth of the Joint Economic Committee on Wednesday, May 8, 1974, be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I serve as chairman of the Subcommittee on Economic Growth of the Joint Economic Committee which was established to analyze the long-term prospects for growth in the American economy. Our purpose is to look ahead at what the potential roadblocks might be—shortages of raw materials, shortages of private and public capital investment, unrelenting inflation and continual high levels of unemployment, and other major issues which must be examined comprehensively as they affect the magnitude and pattern of long-term economic growth in the United States.

We conducted our first round of hearings on May 8 and 9, and were honored by having the majority leader as our first witness. I wish to commend Senator Mansfield for his awareness and thoughtful analysis of the serious problems on the horizon, and thank him for expressing his deep concern and interest in the objectives of this new subcommittee.

Senator Mansfield has shown great initiative in setting up a constructive dialog between the joint leadership of the Congress and several representatives of the executive branch on the disjointed government machinery we have to address the inter-related issues of long-range economic growth.

Those of us on the Subcommittee on Economic Growth share Senator Mansfield's concerns about the economic future of this Nation and I commend his excellent statement to my colleagues.

Statement of Senator Mike Mansfield

Mr. Chairman: I appreciate this opportunity to appear before this Committee on what I regard as an issue of the most pressing national significance and concern. What you are embarking upon and what so many of us in the Congress, in the Executive and elsewhere in our national life have come to view with increasing alarm could be expressed no better than it has been framed by the enabling charter of this panel: A Subcommitee on Economic Growth: to think ahead, to think long range, to analyze in a very measured methodical way the full spectrum of problems that we as a nation confront in terms of capacity and employment needs, of raw materials and resource requirements. It is a charter, may I suggest, that has emerged out of a deep sense of frustration with the disjointed way government has tended for decades not so much to act but instead to react on a crash basis when a component of this gigantic, intricate machine of the American Economy gets out of whack in ways that impose both suffering and hardship upon great segments of the American public.

What we face may, in part, be characterized as follows: cartels, scarcity, diminishing sources, expanding usage, production restrictions, steep price rises and expedient remedies. What needs to be asked and what you, Mr. Chairman, and your committee with its new mandate are asking through these hearings, and what is being asked over in the Commerce Committee and in others is this: how are we as a nation equipped—or ill-equipped—to address the next crisis in resources or materials or commodities. Do we have at the highest level of national life an effective capacity to look at *all* of the information; to identify *all* of the potential areas of crisis and to have the benefit of assessments as to *all* of the various remedies available to avert the next crisis or to minimize its impact on the American people.

These questions are answered by the very nature of what you are undertaking in this Committee, by what Senator Magnuson is undertaking in the Commerce Committee and by what others are doing in the Congress and in the Executive Branch, not to speak of the activities of private foundations and universities and corporate establishments. If I have read the signs correctly, therefore, what they point to is the emergence of a firm resolve that when it comes to basic economic needs, the nation must be better equipped and better able to provide more rational answers in the decision-making process.

For all of us, I think the issue was clarified a few months ago when long lines of automobiles accumulated to vie for short rations of gasoline. It is not only that a decision to build or not to build a new refinery or steel mill or chemical plant, or to start a mining operation can have major repercussions throughout a community, the nation or even abroad, it is also that a shortage of raw materials derived from petroleum can shut down auto plants in Detroit and manufacturers of recording tapes in Los Angeles.

It is not so much a lack of study or an absence of data and information. For a quarter century or more, experts have warned about coming crises with regard to vital basic materials and commodities. More important is that we simply have no systematized method of assessing information in order to determine our needs early enough and to move quickly enough to provide a reasoned answer, or even to make the attempt.

What if Government at any time in the past two decades had established a central information unit—a data bank so to speak—charged with compiling statistics on energy resources, analyzing on a continuing basis the status of supply and sources, projecting consumption rates, reporting refining capacity, evaluating current technology and future application and equipped to report anticipated deficiencies directly to Congress and to the President with specific recommendations. There is little doubt, I think, that had such an agency existed, there would have been no fuel crisis, and, certainly, no reason to have addressed the matter on a crash basis, establishing almost overnight a whole new federal bureaucracy so we could meet immediate requirements for heat, light and transportation.

And if it is energy today, of what will we as a nation be in dire need tomorrow? Three or four years ago, the Interior Department told us that there were at least thirteen basic minerals for most of which we depend upon sources outside the United States. The figure has grown to forty or more. They range from aluminum and chromium, to tin, lead, nickel and so on. For at least thirty of these materials, the nation has already become over 60% dependent upon other countries. In part, the dependence may be answered at some unknown future date by new technologies such as the recapture and recycling efforts that are just now barely more than an idea. For now, however, that dependence is with us and it is complicated by what happens when supplier nations gang together.

I realize full well that the President and Secretary Kissinger are trying to improve the bargaining strength of the consumer nations insofar as petroleum is concerned. But what happened with oil is very likely to happen with bauxite, or copper or nickel or zinc or tin or whatever, when the basic needs of heavy consumer societies must be met by sources beyond their national boundaries. Secretary Kissinger has now gone to the United Nations to stress that interdependence of developed and developing nations with regard to key resources was essential to global stability. But the international instrumentalities he envisioned to accommodate cooperation between producer and consumer nations can be established, it seems to me, only after there is constructed within our own nation a mechanism able to grasp what is needed for our own people not only today but five or ten years hence. It is to this precise task that this Committee has addressed itself. And you are to be commended for your efforts.

As you know, the problem goes well beyond metals or minerals and does not relate only to those in which we are in a dependent status. In 1973, the nation experienced the biggest boost in the cost of groceries in over twenty-five years. Prices for fibers have risen 93 percent. The story of how inflation continues to wrack our people on every front was written graphically in the double digit figures released two or three weeks ago—10½% from March of 1973 to March of 1974; 14½% for the first three months of this year.

And while Americans are made to pay more let us not forget that in some areas of the world, the basic commodities are not even available. The problem is worse in Europe, Asia and Latin America. A whole corridor spanning the African Continent is now caught in a struggle for survival under the twin burdens of drought and famine.

In the United States, however, I believe it is largely the question of basic shortages and related matters which will mandate the crises. And the crises, one after another, will pounce on us most assuredly unless and until as a nation we are prepared to adjust our government apparatus here in the Congress, as this Committee is doing, and in the Executive to meet the fundamental problem.

Let me say again, however, that this problem is not really so much one of the absence of information. At last report, more than fifty federal agencies and administrations were collecting and compiling relevant data and that was before any apparatus was set up to address environmental concerns or to monitor product safety or to perform a host of other recently legislated activities.

Take a specific example. In the Commerce Department there are some 160 professionals in the Office of Business Research and Analysis and twenty or thirty of them alone are dealing with information on industrial commodities. Look at it in broader terms. We find that for data on imports and exports, we can turn to the Agriculture, Treasury and Commerce Departments, the Council on Economic Policy, FEO, the Special Trade Representative and more; for production, there are the Interior and Agriculture Departments, HUD, FEO and more; for basic regulatory decisions, there are DOT, ICC, FTC, EPA, the Federal Reserve and more; and so it goes. While the Commerce Department appears to be tightening up on the exports of materials, Treasury is endeavoring to stimulate exports through the DISC incentives. (In some instances, two or three different agencies with overlapping responsibilities arrive at contradicting appraisals of the present state and future prospects of the same industry.)

The situation is not very different here in the Congress, except in magnitude. When it comes to our diverse and seemingly insatiable appetites for economic information, our Committees reflect the same fractured state as the Executive in terms of who is keeping track of what with regard to such matters as minerals, pesticides, fertilizers, timber and wood materials, tax policy, strategic materials, stockpiles, export policy, foreign trade, production, recycling, resource development, materials allocation, commodity controls, importation, mining and all the rest. It is, therefore, with enormous gratitude that I greet this Committee's efforts to look ahead and help us all to coordinate our efforts and actions in terms of long range implications regarding any one of these or a host of other concerns and actions we may take with respect thereto.

It is to this specific issue that I, along with the Republican Leader. Hugh Scott, and others, have endeavored to address ourselves recently. Before getting into these efforts, let me say that all of us, I believe, seek similar objectives. To that end, Hugh Scott and I are exploring whether or not on the basis of all of the studies and recommendations, there can be created as a part of our national life an instrumentality that would serve to coordinate and to interpret all information, to forecast upcoming problems in terms of shortages or other adversities and to provide meaningful assessments of courses that might be followed to avert catastrophe or help us to endure adversity as painlessly as possible.

After all, it was twenty-two years ago that the Paley Commission, after exhaustive analysis, recommended such a high-level agency to provide a continuing and coordinated analysis of the interdependence of government actions with respect to basic economic decisions. The adverse effects of the government's failure to provide such a capacity has been confirmed a number of times since—most recently by the report of the National Commission on Materials Policy filed last year and by the GAO report released a week or so ago.

It was on the basis of this record that has been so well documented, that the Senate Republican Leader and I put the question in these words in a letter to the President last February:

It is our suggestion that we consider bringing together representatives of the Legislative and Executive Branches of the government on a regular basis with those of industry and labor and other areas of our national life for the purpose of thinking through our national needs, not only as they confront us, today, but as they are likely to be five, ten or more years hence and how they are best to be met. If the government is to intervene in these matters, as it is now doing, an effort ought to be made to put that intervention, as far as possible, on a rational and far-sighted basis.

I think all of us here sense that there exists some kind of requirement to deal with questions of this kind or, I daresay, this Committee would not have undertaken for itself the task of long-range thinking. In the context of the current dialogue on the issue, insofar as my own participation is concerned, I would like to set forth certain questions which have occurred to me.

The first is: What kind of instrumentality, if any, might meet this requirement? To me, it should be one that is freely representative of the nation if it is to be effective; one, therefore, that would embrace representatives not only of the Legislative and Executive Branches but elements of industry, labor, agriculture and other significant segments of our national life. It should be a continuing instrumentality equipped, first, to draw on information from all sources on the status of resources, materials and commodities and other aspects of our economy—tasks performed now by dozens of agencies and organizations across the spectrum of national life, both public and private. Secondly, it must have the means to forecast the problems by drawing information out of the present massive but fragmented system. Thirdly, it must have the capacity to convert its projections into recommended policy options that might embrace such measures as conservation, research, stockpiling, allocation, modernization, manpower, export controls and whatever else may be necessary to keep vital, the nation's economy. Finally, it must be in a position to report its findings and an analysis of proposed remedies to the President and the Congress—the ultimate arbiters of policy and the sources of action for the federal government. In turn, the work product of such an instrumentality could be weighed and evaluated by this and other interested Committees and by the agencies concerned downtown to the end that our overall approach is the most comprehensive and rational that can be devised.

In my view, what the nation needs and needs vitally is a full-fledged Council on Domestic Needs and Economic Foresight, staffed sufficiently and equipped fully to give the President and the Congress and the public the kind of integrated perception of our national requirements now and in the future which has heretofore been lacking.

I should stress, here, Mr. Chairman, that what the Joint Leadership of the Senate is pursuing in concert with the House Leadership and with the President's designees in the Executive, as a course of action similar in scope and magnitude to that upon which you and your Committee have now embarked. In the Commerce Committee and others, similar efforts have been undertaken. All of these endeavors should be pursued unrelentingly and without delay to the end that at the soonest time possible, as a nation, we have acquired a field of vision expanded by the *capacity* to view all of the effects of our action or inaction today not just in the context of tomorrow, but in terms of five or ten years hence.

Whatever the immediate results of any one of these pursuits, including those in which I am engaged, let us keep in mind our common concern: It is that we here in the Congress as the policy makers and those in the Executive as the policy implementors will be fully prepared and equipped to address the next major challenge to our national stability. Steps taken now, to be sure, could not possibly undo the damage of what has been thrust upon the nation with regard to energy. Steps taken now just might, however, *keep the* nation from stumbling headlong into the next crisis, and the next and the next, each contributing more to the irrationality of an already disjointed economic condition that, unless corrected, will lead us inexorably to our economic devastation.

Thank you, Mr. Chairman.

SENATOR HUGH SCOTT ADDRESSES AMERICAN ISRAEL PUBLIC AFFAIRS COMMITTEE

Mr. SCHWEIKER. Mr. President, my distinguished colleague from Pennsylvania (Mr. Hugh Scott) has long been a strong defender of Israel's struggle for self-determination in the Middle East. He recently reaffirmed that commitment in a *speech* before the American Israel Public Affairs Committee conference here in Washington. The speech was his first upon returning from the Soviet Union April 28.

Mr. President, I ask unanimous consent that Senator Scott's address be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Statement by Senator Hugh Scott

We are celebrating the sense of consistency felt by those of us who helped formulate policies first urged by Governor Dewey of New York and then established by President Truman at the founding of the State of Israel in 1948. But I feel more than a sense of intellectual or political consistency, as I reflect upon my own involvement in more than a quarter century of American-Israeli relations. I agree with Emerson:

> A foolish consistency is the hobgoblin of little minds, adored by little statesmen and philosophers and divines.

Mr. Chairman, there are, obviously, no little statesmen, philosophers, or divines in our midst tonight. Emerson went on:

> Speak what you think today in words as hard as cannon-balls, and tomorrow speak what tomorrow thinks in hard words again, though it contradict everything you said today.

I feel more than a sense of political or philosophical consistency about my own stand toward Israel. I feel profound emotional satisfaction, because I have been able to think and speak in the councils of our nation in "words as hard as cannon-balls," to act on deeply felt principles, to support legality, to be true to my natural preferences, and simultaneously to serve the national interest over both the short and the long term.

Until the Yom Kippur War, steadfast proponents of U.S. support for Israel were occasionally attacked from two, paradoxically opposed extremes. On the one hand, we were accused of knuckling under to high-pressure lobbyists and acting on grounds of purely domestic constituency politics. On the other hand, we were accused of a naive commitment to romantic principles which simply have no place in the world of Real-politik, principles put very clearly many years ago by the German philosopher Karl Jaspers (as recently quoted by Rabbi Stanley Rabinowitz of Adas Israel Synagogue in Washington):

> The West cannot abandon Israel without abandoning itself. If Israel falls, so does the West, not because of losing a tiny power position and a few million people, but because of moral, political depravity.

The United States has been principled in the sense in which Irving Kristolf (Wall Street Journal, April 11) speaks of "an instinctive loyalty to a nation which recognizably does share our political values."

We have been principled also because, apart from the Netherlands, ours was the only government that did not give in to the blackmail of the oil embargo, and we were therefore about the only ones to retain our moral and intellectual integrity after last year's conflict.

The Arab-Israeli conflict has demonstrated, perhaps better than anything in our recent history, how finely calibrated our representative system is to elicit the expression of interests and—equally important—to produce acceptable policies: The President and Secretary Kissinger were accessible to groups like yours throughout the crisis. They conceived the brilliantly innovative policy which ended the war and launched the negotiations. Most important, this policy found overwhelming acceptance in the United States. We should not forget that there were many pessimists at the beginning of the oil embargo who predicted a massive backlash of antisemitism as a result of gasoline shortages. We can all be proud of the light cast on the political maturity of the American people by the polls which showed a stronger support for Israel after the embargo than before it.

The United States has done more than, in the words of the Declaration of Independence, show a decent respect for the opinions of mankind. Through Secretary Kissinger's persistent, energetic, tireless, and beautifully balanced diplomacy we have created, for the first time since 1948, a framework and a network of regional and global communications, in which the opinions of mankind can be engaged in, and responsibly brought to bear upon, efforts to resolve the Middle East's most explosive issues. In the course of accomplishing this, we have also improved opinions about the United States held by other nations involved in the conflict, thereby enhancing our potential as peacemakers.

This is of course one of several ways in which we have also served our own national interest, which can thrive best if we succeed, together with others, in building the lasting structure of peace to which President Nixon has dedicated his Administration. As I said in Pittsburgh three months ago:

> "It was the United States, our President and our Secretary of State, that took the initiatives, who alone could talk to all parties, and who extended the foundations of the global structure of peace into the world's most explosive region. They did this without either recrimination or manipulation. They did it imaginatively, purposefully, and creatively. As a result, the evil of the Yom Kippur War has been converted into potential for the good of Israel and her neighbors, the Middle East, and humanity."

I firmly believe that we can be as sure of continued American support of Israel as we can be of anything in international relations, and for three main reasons:

First, we demonstrated by means of the virtually instant military resupply of Israel, through the global alert called by the President, and in other ways, how far we were willing and able to go, and that each step along the way was carefully calculated as to both moral principle and national interest (and did not constitute an undifferentiated global commitment of the kind that sucked us into Indochina).

Second, the Israelis themselves once more demonstrated the kind of courage, self-sacrifice, and determination which elicit admiration and support from Americans, and awe from their adversaries.

And third, the rare coincidence of the moral with the practical (not the moralistic with the opportunistic), of what we ought to be doing with what we want to do, presents the American people and our policy makers, up to the highest levels, in this otherwise morally ambiguous time, with an opportunity which we will not miss:

To be true to our traditions and to our promise;

To speak "in words as hard as cannon-balls," figuratively, and literally, to give cannon-balls and other armaments to Israel, for use in defending values we share, against unreasonable attack;

And to work together with other like-minded peoples and nations, toward building a structure of peace which will relegate cannon-balls, rockets, and other missiles to the realm of metaphors.

DEVEREAUX HOUSE—UTAH BICENTENNIAL MEETING HOUSE

Mr. MOSS. Mr. President, early next month the Senate Subcommittee on Parks and Recreation will hold hearings on the Meeting House Preservation Act (S. 2877) which makes grants available to each State to restore a historic site as a "Meeting House" to be used during the American Revolutionary Bicentennial celebration, and to serve as a focus for the preservation of the area's physical and cultural heritage thereafter. I am a cosponsor of this bill and lend my voice to that of its principal sponsor, Senator Tower, in asking that it be passed quickly and without controversy. The Bicentennial will be upon us before we realize it.

I would like to give the Congress a brief preview today of the structure chosen by the Utah American Revolutionary Bicentennial Commission, with the concurrence of the Utah Heritage Foundation, to be Utah's "meeting house." I visited it recently. It is called the Devereaux House, and it is located in an old section of Salt Lake City not far from the stately Union Pacific Depot, which is also the object of a restoration and refurbishment movement to make it an art and cultural center. In fact, restoration of the Devereaux House is part of a grand plan to turn the west end of historic South Temple Street, on which both it and the station are located, into an elegant promenade and cultural center.

The Devereaux House is well suited for the role planned for it. Built in 1857 for William Staines, it is the first mansion to be constructed in Utah. When one considers that the original large and spacious two-story section was built only 10 years after the Mormon pioneers entered what was then the wilderness of the Salt Lake Valley, the fact that it was erected at all is quite remarkable.

Furthermore, Mr. Staines deviated somewhat from the pattern established by city ordinance that all homes must be built in the center of a lot, and set back 20 feet from the frontage line. Mr. Staines set his house far back in the center of two lots, with his orchards in front.

In 1865, Joseph A. Young purchased the property and added a lot to it. In 1867 it was purchased by William Jennings, who enlarged the grounds to include more than half a city block. Thus the house early attained a commanding location in a city of one-lot houses, most of them set at the same distance from the street. Mr. Jennings enhanced the grandeur of the house by adding a large east wing to the original structure and gave the house its name, the Devereaux House, taken from the Devereaux Estates at Yardley, near Birmingham, England, where has was born.

The house is distinctively Victorian in style, with a cement plaster exterior scored to resemble stonework. The interior is elaborate with heavy carved pine woodwork in all major first floor rooms, grained in oak, mahogany, maple, and marble. There is a striking curved stairway with a magnificently carved knewel post rising out of the front hall, and much of the original wallpaper in the front stair hall and first floor rear corridor is still intact. The massive doorknobs, hinges and other interior detail is also in good condition.

For many years the Devereaux House was the center of Salt Lake City social life. On numerous occasions as many as 300 guests were entertained. Among the distinguished visitors who dined and danced in its palatial rooms were Second Territorial Governor Alfred Cummings, President and Mrs. Ulysses S. Grant, Secretary of State William Seward, and Generals Philip Sheridan and William Tecumseh Sherman.

After the death of Mr. Jennings, the house was used in various ways, including one period when it was a center for alcoholics. It is now an office for a distributor of mining equipment. It was placed on the Utah State Register of Historic Sites in January 1970, and on the National Register of Historic Places in March 1971.

Many historic and civic organizations in Utah view restoration of the Devereaux House as a most worthy and essential project, and I am confident that with the financial assistance made available through enactment of the "Meeting House" bill, its restoration would be assured.

Its elegant first floor could be used as a reception center for both public and private functions; its second floor for offices as headquarters for civic and professional groups, and its third floor for resident caretakers. With its grounds restored as gardens and public park, it would add immeasurably to the beauty and interest of an old and historic section of downtown Salt Lake City.

POLITICS AND TAX LEGISLATION

Mr. McCLURE. Mr. President, David Broder has once more written an entertaining and cogent column. This time he has zeroed in on how we play politics with our tax legislation on both sides of the Hill.

The Post, unfortunately, was unable to print this particular article so I ask unanimous consent that it be printed in the Record.

There being no objection the column was ordered to be printed in the Record, as follows:

Washington.—Like flowers that bloom in the spring, tra-la, the Democrats are bursting with plans to spare you from the burden of taxes. Their biennial tax reform ballet is here—as spectacular, and predictable in its way, as lilac time in the capital.

Say what you will about the Democrats—they do know how to manage these bits of political pageantry. About a month ahead of show time, the Congressional Joint Economic Committee, Maestros Patman and Proxmire conducting, will whip up the overture, with a fanfare of brass in their annual report for "elimination of various tax preferences which favor the highest income families and a reform of the regressive payroll tax."

Such long-time favorite performers as Walter Heller and Arthur Okun are provided suitable Capitol Hill stages from which to serenade the virtues of a bit of stimulus for the economy and a jolt of equity for the old Internal Revenue Code.

By April 9 the stage is set for Speaker Albert to do one of his infrequent solo numbers—a formal statement and press conference on the economy and taxes.

Two days later, Sen. Edmund S. Muskie arranges a corps de ballet exercise for more than a dozen of his Democratic colleagues (and a handful of willing Republican handmaidens, many of them up for re-election this year), who fill the Senate stage with bassoon blasts at the unfairness of the tax laws they and their predecessors wrote.

On the weekend of the income tax deadline, a pair of Brookings Institution scholars, Joseph A. Pechman and Benjamin A. Okner, conveniently chime in with a study showing that in the U.S. tax system, the poor man is privileged to pay just as steeply as the rich, which is not exactly what the civics texts say.

Finally, on Deadline Day itself, none other than the master of the 1972 Democratic Tax Revels, George McGovern, announces that "he will shortly introduce a comprehensive tax reform bill patterned after the tax proposals he outlined during the 1972 presidential race."

Since McGovern has spent most of the last two years denying to his South Dakota constituents that he ever heard of the fellow by the same name who ran for President in 1972, his unpacking a proposal from that campaign kit is evidence that something big is afoot.

And it is. Encouraged by Mr. Nixon's personal tax troubles and the signs of voter revolt in the special elections, the Democrats really are about to revive the issue that looked so promising to so many of them in the 1972 spring primaries—the broadly shared feeling among American voters that they are being rooked on their taxes.

It's a good issue for the Democrats. Unlike so many others, it does not set them cursing each other. And it addresses itself to a genuine public concern, a sense of unfairness which Pechman and Okner, in their little book, "Who Bears the Tax Burden?," say is based in a genuine grievance with the lack of progressivity in the overall tax structure.

Among those who can taste the political succulence of the tax issue are those prospective 1976 rivals, Ted Kennedy and Walter Mondale. They happen to be the principal sponsors of the major alternative tax proposals the Senate will consider shortly after its return to work this week. Both want to cut the taxes of low and moderate-income workers, as a stimulus to what they see as a lagging economy.

They have different methods for doing so. And their efforts to attach one plan or the other on HR 8127, the innocuous tariff bill on certain ship repair equipment which Sen. Russell Long has served up as a vehicle for this exercise, will offer a polite preview of what may be a more serious competition two years hence.

Later on, impeachment permitting, the Democrats may attempt more ambitious tax reforms, building on the energy legislation, in which the House Ways and Means Committee has already taken a sizable bite out of the oil depletion allowance.

The chairman of that august committee, the redoubtable Wilbur Mills, is in a mood to play some tax law politics himself. He is busy defending his committee jurisdiction from a reform proposal which would strip him of control of health care and trade legislation.

Eager for allies in the Democratic caucus, Mills may well decide not to throw his body in front of the tax-reform express. In that case, the Democrats' baby may well wind up, as everything else seems to nowadays, on Mr. Nixon's doorstep.

The Democrats would dearly love to confront that gentleman with the prospect of having to veto a tax cut and/or tax reform bill just at the time he will be appealing to the public to help save him from impeachment.

It should be quite a show.

A LETTER FROM JOCELYN

Mr. ERVIN. Mr. President, during the hearing the Constitutional Rights Subcommittee held recently on criminal justice data bank legislation, S. 2963 and S. 2964, there was a lot of controversy about the proposal to seal the records of persons who have been convicted of crimes. The proposal is that if a person has no further contact with the law 7 years after he is released from custody, parole or probation, then his record would become unavailable for normal access by police or private groups.

This idea, which has as its justification the principle of forgiveness, was opposed by many witnesses. Senator Huddleston has referred to me a letter from a 15-year-old junior high school student and her letter is a strong answer to that criticism.

I ask unanimous consent that the text of the letter be printed in the Record. I have omitted her last name and address to preserve her privacy.

There being no objection, the letter was ordered to be printed in the Record, as follows:

April 8, 1974.

Dear Mr. Huddleston: I am just fifteen, and in junior high. But I am writing to you because I want you to do something to help people who I know including my Dad, who has a record.

He is a good person, and he did wrong so many years ago. Could he have his record made so that nobody but the judge could see it?

He told me not to worry about it, but I can't help it. He is a very smart man, and it hurts to see him when he comes home from his job at the diner.

Many people cannot get good jobs because they were in jail. This should be changed so that they would have as much chance as anybody else.

Thank you very much.

JOCELYN.

PROPOSED RAIL ABANDONMENTS

Mr. CASE. Mr. President, according to recent press reports, the Department of Transportation has advised the Penn Central Railroad that future cash assistance will be conditioned on its submission of plans for abandonment of so-called uneconomic lines.

The cash assistance is available under a recently passed law providing for the restructuring of the Penn Central and other bankrupt lines in the Northeast and Midwest.

The purpose of the cash assistance is to keep the bankrupt lines running until the final plan of the new Northeast system is drawn up and implemented.

The law conditions the provision of such case assistance not on abandonment of service, but agreement of the recipient to maintain service "at a level no less than that in effect on the date of enactment" of the Northeast law.

Congress adopted this approach to be sure there will be something left to reorganize at the end of the long, complicated planning process now underway.

The Transportation Department's action in seeking abandonments by the Penn Central in return for cash assistance threatens to thwart the sensible approach taken by Congress and to undermine the planning work already done.

That the Department is out of line on this matter is made clear by a recent letter to me from the Rail Service Planning *Office of* the Interstate Commerce Commission. In that letter, Public Counsel A. Grey Staples, Jr., stated:

> The Secretary (of Transportation) can and should insure the proper use and accounting of such (interim operating assistance) funds by establishing terms and conditions on their payment. This provision does not, however, contemplate the Secretary's using the funds to enforce compliance by the recipient with the Secretary's preconceived notions of an appropriate railroad system. Indeed, for the Secretary to request abandonment as a quid pro quo for the payment of emergency assistance funds contradicts Congress' expressed intention in the last phrase of Section 213(a) that the recipient maintain services existing on the date of enactment of the Act.

Mr. Staples also takes strong issue with any effort to circumvent the authority of the ICC in handling rail abandonments.

This comes up, because the Transportation Department apparently is trying to carry out the Penn Central abandonments under section 304(f) of the Northeast law, a provision providing minimal abandonment authority during the present planning process.

Under this section, abandonments are possible so long as they are authorized by the U.S. Railway Association, which was formed to plan and finance the Northeast system, and so long as State and local transportation officials do not raise "reasonable" objections to them.

Press reports indicate DOT may believe that under 304(f) the authority vested in USRA supersedes the ICC's traditional authority to approve or disapprove rail abandonments.

I believe any such interpretation to be erroneous and I am supported in this by the letter from Mr. Staples, who states:

> (U)nder our interpretation of the Act, no railroad in reorganization may abandon any line or service prior to the implementation of the final system plan unless: (1) the line or service has been approved for abandonment under normal ICC abandonment procedures; (2) the (U.S. Railway) Association has authorized such abandonment; and (3) no State, local or regional transportation authority has expressed a reasonable opposition to the abandonment.

I believe the letter from Mr. Staples sets the record straight as to what is, and what is not, permissible under the Northeast law.

Further, I am glad to note Mr. Staples' determination to "make appropriate measures" to insure the interpretations provided me "are adequately represented throughout the rail reorganization process."

Mr. President, I ask unanimous consent that the full text of Mr. Staples' letter to me be printed in the RECORD at the conclusion of my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

INTERSTATE COMMERCE COMMISSION,
Washington, D.C., May 3, 1974.

Hon. CLIFFORD CASE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CASE: You have requested the opinion of the Rail Services Planning Office on certain matters pertaining to the Regional Rail Reorganization Act of 1973 ("Act"). Your inquiry pertains to: (1) the existing procedures for abandonment of rail lines by railroads in reorganization under Section 304(f) of the Act before the effective date of the "final system plan" and (2) the authority of the Secretary of the Department of Transportation to condition the payment of emergency assistance funds to a railroad in bankruptcy under Section 213 of the Act, upon the railroads' undertaking the abandonment of certain lines.

Section 304(f) of the Act requires railroads in reorganization desiring discontinuance of service or abandonment of any line after the date of enactment of the Act to do so in accordance with the provisions of the Act "unless it is authorized to do so by the Association and unless no affected State or local or regional transportation authority reasonably opposes such action."

We interpret this section to allow the continuance of abandonment proceedings before the Interstate Commerce Commission and state regulatory agencies subject to the veto of the Association and state, local or regional transportation authorities until the effective date of the "final system plan." At that time, such matters will be treated under the procedures found in Section 304 (a), (b) and (c).

Some have suggested that this provision grants the Association the exclusive authority, in addition to those powers granted to it in Section 202, to permit bankrupt railroads to discontinue service within the region prior to the adoption of the final system plan. Such an interpretation implies that Congress intended to abrogate all existing procedural safeguards and standards with respect to railroad abandonment and give the Association the plenary power to make such determinations with no definition of standards or procedures, save for the reasonable opposition of certain transportation authorities. No private part, shipper or passenger would be given any right to be heard or to present evidence.

We find the more logical interpretation of the provision of the Act, based on the context of the Act and its legislative history, to be a simple modification of existing Interstate Commerce Commission and state regulatory agency procedures that give organizations concerned with reorganization planning the opportunity to stop any abandonment that would conflict with their ultimate designs for railroad operation.

Therefore, under our interpretation of the Act, no railroad in reorganization may abandon any line or service prior to the implementation of the final system plan unless: (1) the line of service has been approved for abandonment under normal ICC abandonment procedures; (2) the Association has authorized such abandonment; and (3) no State, local or regional transportation authority has expressed a reasonable opposition to the abandonment.

With respect to the emergency assistance funds authorized by Section 213 of the Act, these funds are intended to keep the railroads in reorganization operating until the implementation of the final system plan. The Secretary of the Department of Transportation is authorized to make such payments "upon such reasonable terms and conditions" as he might establish as long as the recipients agree to maintain service "at a level no less than that in effect on the date of enactment" of the Act.

The Secretary can and should insure the proper use and accounting of such funds by establishing terms and conditions on their payment. This provision does not, however, contemplate the Secretary's using the funds to enforce compliance by the recipient with the Secretary's preconceived notions of an appropriate railroad system. Indeed, for the Secretary to request abandonment as a quid pro quo for the payment of emergency assistance funds contradicts Congress' expressed intention in the last phrase of Section 213(a) that the recipient maintain services existing on the date of enactment of the Act.

We believe that the above interpretations of the Act comport with Congressional intent and adequately protect the public interest prior to the adoption of the "final system plan." Please rest assured that the Public Counsel's Office will take appropriate measures to assure that these interpretations are adequately represented throughout the rail reorganization process.

Very truly yours,

A. GREY STAPLES, Jr.,
Public Counsel.

NASA'S EEO PROGRAM

Mr. MOSS. Mr. President, in recent months, NASA's Equal Employment Opportunity—EEO—program has been the subject of considerable criticism. In view of the importance of this subject to NASA and the Nation, I want to inform my colleagues of the reasons for this criticism and the most recent status of the NASA EEO program.

In 1969, the year of the lunar landing, only 4.6 percent of all NASA employees were from minority groups. During the decade of the 1960's, NASA's efforts had been directed toward achieving the goals of the Apollo program, and the EEO function had been carried out by NASA's Director of Personnel, on a part-time basis. It was evident that this approach was entirely inadequate, and an EEO office was established at NASA in 1971. At that time, total NASA minority employment still consisted of 4.6 percent, and women made up 16.4 percent of the NASA work force. The EEO office established programs directed at increasing minority and female employment at NASA, but charges were made that these efforts continued to be inadequate.

The Committee on Aeronautical and Space Sciences conducted a hearing on January 24 to investigate these allegations. The hearing revealed that progress was being made, although somewhat slowly. At the time of the hearing, approximately 5.5 percent of the total NASA employees were minorities. The main obstacle preventing more rapid increase of minority employment has been the steady reduction of the total NASA work force. NASA employment has decreased from 34,000 in 1971 to 25,512 as of March 31. Thus, hiring by NASA has been reduced. However, there is still some hiring by the Agency and, therefore, some opportunity for minorities and females to accede to a NASA position. What has NASA's record been in this area over the past 3 years? In 1971, 10.3 percent of all hires were minorities and 43.6 percent of all hires were women. In 1972, minorities consisted of 13.2 percent and women made up 59.5 percent. Finally, in 1973, 16.3 percent of all hires were minorities and 50.8 percent were women. Thus, in spite of reductions in force, NASA was able to make some progress in minority and female employment. Equally as important as total employment figures are those figures which reveal the categories and professions for which persons are being hired. In fiscal year 1973, of professional hires, 7 percent were minority and 10 percent women. These figures are much lower than the total rate of minority and female hiring. The major difficulty is that 47 percent of all NASA positions are scientific and technical, while only 3.5 percent of scientists and engineers in the United States are minority and 9 percent are women. In NASA, 3.4 percent of the scientists and engineers are minorities, and 4 percent are women.

What plans did NASA have to improve upon this situation? NASA has several programs underway such as:

First. Goals and timetables for minority and women accessions in 1974. This includes achievement of 6.1 percent total minority employment, and placing 80 minorities and 80 women in professional positions.

Second. Upward mobility to bridge positions at the professional level.

Third. Cooperative education program to bring large numbers of minorities and women into science and engineering fields.

Fourth. Aerospace fellowship program to further help minorities and women embark upon a career in aerospace.

Aside from its internal EEO program, NASA also has a contract compliance program. NASA currently has responsibility for 252 contractors employing over 47,000 employees. Ever since 1970, NASA has had responsibility for the EEO compliance of NASA contractors operating on or near NASA centers. Over the past several years, there has been a continuous increase in the number of minorities employed in the contractor work force, through the overall work force has decreased. Minority employment went from 11.2 to 14.5 percent of the total while the number of jobs decreased 7.9 percent. The proportion of female employment increased continuously from 15.7 to 17.5 percent. The NASA contract compliance program office sets goals, reviews the progress of contractors, and provides training, guidance, and coordination to the field staffs.

I feel that continued oversight of NASA's EEO activities is necessary. Therefore, I have asked NASA to submit quarterly reports to the Committee on the progress of the NASA EEO program.

The committee recently received a report covering the first 3 months of 1974. The report indicates that, of the total accessions to NASA in the past quarter, 53.7 percent were female and 20.1 percent were minorities. In scientific and engineering professions, 5.4 percent were female and 8.9 percent were minorities. The total NASA employment figures show that women account for 16.9 percent and minorities 5.7 percent.

I look forward to continual improvement in these efforts.

Mr. President, I ask unanimous consent that a table setting forth the pertinent data, and a brief quotation from the report of my committee on the NASA authorization bill for fiscal year 1975, be printed in the RECORD.

There being no objection; the table and statement were ordered to be printed in the RECORD, as follows:

NASA-EEO STATISTICS, JAN. 1 THROUGH MAR. 31

Minority action counts

	Percent of total
1. Accessions:	
Minorities	20.1
Female	53.7
2. Accessions by profession:	
Professional administrative:	
Minorities	22.4
Female	24.5
Scientific and engineering:	
Minorities	8.9
Female	5.4
3. Separation:	
Minorities	7.0
Female	32.7
4. Promotions:	
Minorities	10.8
Female	32.7
5. Downgrades:	
Minorities	5.3
Female	31.6
6. Quality increase:	
Minorities	3.5
Female	28.1

Minority strength distribution

[As of Dec. 31, 1973]

1. Agencywide:	
Minorities	5.5
Female	16.8
2. By profession:	
Professional administrative:	
Minorities	4.0
Female	15.1
Scientific and engineering:	
Minorities	3.7
Female	2.4

[As of Mar. 31, 1974]

1. Agencywide:	
Minorities	5.7
Female	16.9
2. By profession:	
Professional administrative:	
Minorities	4.7
Female	15.7
Scientific and engineering:	
Minorities	3.7
Female	2.4

COMMITTEE COMMENT FROM REPORT ON NASA AUTHORIZATION FOR FISCAL YEAR 1975

Earlier this year the Committee held a hearing to review NASA's Equal Employment Opportunity program. It became clear that NASA's performance in this area was less than satisfactory, a condition forthrightly acknowledged by the Deputy Administrator at this hearing and by the Administrator during the initial hearing on the FY 1975 authorization request. At the same time, however, these top management officials outlined a series of goals and timetables and committed NASA to an aggressive program to comply with national policy. While the Committe recognizes the highly technical composition of the NASA workforce, and the fact that this may in itself impose some recruitment and employment difficulties, and while the Committee is also aware that NASA has been in a reduction-in-force posture for the last several years thereby limiting the number of available openings for new recruitment, the Committee is not satisfied with NASA's performance to date and strongly urges that the top management move aggressively, taking such actions as may be necessary, including an increase in EEO staff, to assure that the goals and objectives presented to the Congress for its Equal Employment Opportunity program are realized. Further, the Committee expects that NASA will continue to furnish the Committee quarterly reports on its progress in its Equal Employment Opportunity program following the report already submitted to the Committee for the first quarter of Calendar Year 1974.

TELEVISION NEWS AS DOCUMENTATION OF U.S. HISTORY

Mr. McCLURE. Mr. President, it is clear that the role of the media is still evolving. The United States is still not sure what to make of its instant, visual, flash-on, flash-off television news. Radio was accepted as an extension of the written press—somebody read you what you otherwise would have read yourself. But television news is a performance in and of itself. At this time there is considerable discussion of the rights and responsibilities of the media. In the midst of debate about such matters as a press shield, it hardly seems helpful of the television networks to refuse to make their programs part of the permanent public record. It could also hurt them as they might lack the materials with which to make an appropriate defense against illfounded charges. But most of the network personnel, I am sure, feel that their programs are a genuine contribution to the accumulated documentation of U.S. history and should be delighted that their efforts are to be preserved.

Mr. President, I ask unanimous consent that article from Human Events be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

In Erasing History?

Over the last half-decade, Nixon speechwriter Pat Buchanan noted in *TV Guide* recently, the networks have been accused of distorting the news, exacerbating racial conflict, undermining the home front during the Vietnam War and "consciously promoting the causes and candidates of the political left, of systematically discriminating against American business."

But future historians will be unable to either rebut or verify the charges if the primary evidence—the tapes of the network news shows—is lost or destroyed. But today, argued Buchanan, the Columbia Broadcasting System is threatening to erase the tapes.

Oddly enough, the networks have not maintained a library of the tapes of their evening news shows and until mid-1968, no collection existed. In August 1963, however, a Tennessee insurance man, Paul Simpson, began the nightly taping of the networks' news and painstakingly constructed a library of tapes, containing not only the evening news, but the political conventions of *1968* and *1972*, network 'specials' and the entire Watergate hearings.

Located in the Vanderbilt University Television News Archives, these tapes have more than 3,000 hours of news and are available for rent and study by scholars, journalists and media critics all over the country.

The collection of these tapes, writes Buchanan, has met with a curious and mounting hostility from CBS. On December 21 of last year, its Tennessee legal auxiliaries "marched into court to demand an end to the taping and renting, and the transfer of jurisdiction of the Cronkite tape, temporarily to the courts."

What is CBS' purpose? Val Sanford, a CBS attorney in Tennessee, stressed: "Prob*ably the simp*lest way [to dispose of the tapes] would be for them to be erased." While CBS President Arthur Taylor denied this was the network's intention, the fact that the network systematically destroys tapes of the Cronkite show, said Buchanan, "is hardly grounds for confidence in CBS as the custodian for the Vanderbilt tapes."

In its suit, CBS conceded that Vanderbilt has not abused its tape library, and that "none of them have been reproduced for sale." What, then, asked Buchanan, is CBS afraid of? According to CBS, it finds, ". . . particularly outrageous and potentially damaging to our credibility and reputation the unauthorized editing and excerpting of our news product by those who are in no *way connected* to or responsible to the people who gather the news."

"This translates," Buchanan remarked wryly, "into a sweaty concern that some critics might use the Cronkite tapes to quote the Most Trusted Man in America out of context; or—in his selective choice of footage—do unto Brothers [Fred] Graham and [David] Schorr precisely what Brothers Graham and Schorr are charged with doing to their subjects."

CBS' apprehension, argued Buchanan, is no justification for denying scholars, journalists and media critics the full access to an invaluable part of recent history. Moreover, CBS' demands are "arrant nonsense."

What would the federal court say, asked Buchanan, if the editor of the New York *Times* demanded an end to all clipping and scissoring of the *Times* done at libraries, lest the *Times'* writers he quoted out of context?

CBS has finally come up with a compromise, *of sorts.* Vanderbilt would be permitted to continue to tape, but no longer to index, categorize and rent segments of the show by subject matter.

"But that is no compromise, said Buchanan, "it is a demand that Vanderbilt capitulate and sell out the American people's right to know what they saw and heard passed off as hard news to them two months and two years ago. It would effectively deny that library to journalists and scholars who might have the few dollars needed to rent, air-mail, back tapes—but who lacked the time and money to fly to Nashville and review them."

It is of interest to note, Buchanan continued, that Winston Smith, the protagonist in George Orwell's *1984,* who worked in the Ministry of Truth, "was engaged in dropping daily and irretrievably down the 'memory hole' all clippings and tapes that contradicted the party's latest version of history. Smith might have done his apprenticeship at CBS.

"More surprising, however, than CBS' raid on the Vanderbilt tapes is the silence with which it has been greeted. Instead of behaving like hairy-chested defenders of the 'people's right to know,' which they profess themselves daily to be, ABC and NBC, the Washington *Post* and the New York *Times. Time* and *Newsweek,* have reacted to CBS's assault with the indulgent silence of fellow signatories to the Warsaw Pact.

"Had the Nixon Administration slipped into federal court to demand 'safekeeping' of the tapes, hell would have broken loose. Why, then, the journalistic conspiracy of silence when the attempted rape of the people's right to remember is perpetrated by one of their own?"

JUSTICE REPORT—HEARINGS FOCUS ON PRIVACY LIMITATIONS ON USE OF FBI DATA

Mr. ERVIN. Mr. President, as many of my colleagues are aware, the Senate Subcommittee on Constitutional Rights, which I chair, is presently conducting hearings into legislation designed to control the use and dissemination of criminal justice information. As I have stated many times, this legislation is important because it is designed to protect our constitutional rights in the face of the rapidly increasing capabilities of computerized data banks, and of the growing needs of law enforcement.

Last December, I had the pleasure of inserting in the Record a copy of an article by Mr. Richard E. Cohen that appeared in National Journal Reports. Mr. Cohen's article traced the evolution of criminal history data banks and demonstrated insight and perception in dealing with the many important issues raised by the collection of data by criminal justice agencies. In a recent edition of the National Journal, a followup article by Mr. Cohen appeared that analyzes the content and development of the legislation presently under consideration by the subcommittee. Mr. President, I feel that Mr. Cohen's second article is as informative and enlightening as his first, and I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From National Journal Reports, February 16, 1974]

Justice Report/Hearings Focus on Privacy, Limitations on Use of FBI Data

(By Richard E. Cohen)

The Senate and House Judiciary Committees soon will begin separate hearings on controversial proposals to legislate the first national rules on the quality, use and dissemination of criminal justice information.

Proposed legislation would impose significant restrictions on the operations of the Federal Bureau of Investigation (FBI) and the thousands of police departments across the country that exchange information with the FBI.

Congressional and public interest in regulating the data exchange has been aroused by the development of a national computerized system for exchanging criminal records, and concern that the lack of federal rules governing the traditional manual police records systems could result, with the use of more sophisticated technology, in a dangerous invasion and abuse of personal privacy.

Three principal bills have been introduced, two of them by the Members whose subcommittees will be forums for the hearings:

S. 2963, sponsored by Sen. Sam J. Ervin Jr., D-NC., chairman of the Senate Judiciary Subcommittee on Constitutional Rights;

S. 2964, a Justice Department bill introduced by Sen. Roman L. Hruska, R-Neb., ranking minority member on the Senate Judiciary Committee;

H.R. 9783, introduced by Rep. Don Edwards, D-Calif., chairman of the House Judiciary Subcommittee on Civil Rights and Constitutional Rights.

FBI regulation: Sponsors of the proposals have emphasized that the bills are designed primarily to ensure the "right of privacy." But they have been hesitant to say publicly that the legislation, which stands a good chance of being passed by Congress this year, would be the first significant statutory regulation of the FBI's record-keeping operations. Passage of the bill would also represent the first full-scale effort to impose standards on the bureau since its creation in 1908.

In introducing his bill Feb. 5, Sen. Ervin said the FBI's nationwide system of distributing criminal records "operates without formal rules." In imposing upon criminal justice data banks—both computerized and manual—"strict but manageable privacy limitations," the bill "would for the first time give firm statutory authority" for these systems, Ervin said.

Since its establishment, the FBI has kept records by its own rules pursuant to 28 USC 534, which give the Attorney General power to "acquire, collect, classify and preserve" criminal identification and other records, and to exchange them "with, and for the official use of, authorized officials of the federal government, the states, cities and penal and other institutions."

During the tenure of J. Edgar Hoover as the bureau's longtime director (1924–72), most of the rules—to the extent that they were written down—were set by Hoover and received the pro forma approval of a succession of Attorneys General. As an example, there is not available for public consumption, even for local police officials, a comprehensive listing of the procedures and restrictions on the use and exchange of criminal records with the FBI. The bureau's central files in Washington include 70 million criminal fingerprint cards representing 20 million persons. Each day, 3,300 new cards are added to the repository.

Rep. Charles E. Wiggins, R-Calif., ranking Republican on the House Judiciary Subcommittee on Civil Rights and Constitutional Rights, said in an interview: "Congress, as a whole, has been concerned with the relative insulation of the FBI from oversight.

"The personality and political clout of J. Edgar Hoover kept the bureau from previous regulation. He's gone now, and we revere his work, but review of the FBI's operations is desirable. We won't interfere with their proper functioning, but regulation of their use of criminal records is a proper legislative purpose."

Wiggins also expressed reservations about the scope of the bills under consideration.

Federalism: Ervin, who is retiring after this year, has gained a reputation in his 20 years in the Senate as one of its leading spokesmen for "states' rights" in the federal system. But he faces criticism that his bill would impose tough federal guidelines upon state and local governments in the area of law enforcement, which they traditionally, have regulated themselves.

Lawrence M. Baskir, chief counsel of Ervin's constitutional rights subcommittee, said the staff recognized the danger of federal control and searched carefully "for a device to unify national policy without giving it to the federal government." He said he could not guarantee that the Ervin formula would operate as conceived, but added: "If New Federalism has meaning anywhere, it should mean the states ought to be able to operate their own police forces. The last thing we want is a federal police force."

The solution proposed in the Ervin bill is the setting of broad federal rules governing the use and dissemination of criminal records, with enforcement lodged under the aegis of a federal-state mechanism. Both the Justice Department and Edwards bills provide for continued supervision of the FBI records by the Attorney General. In the past, the Attorney General has delegated this responsibility to the FBI director.

Martin B. Danziger, associate deputy attorney general responsible for the drafting of the Justice Department bill, said in a press briefing Feb. 1 that federal controls of the use and dissemination of criminal records are necessary because "as the technology of data collection has changed, it demands a control on the handling of the records. If you allow the 50 States to act on their own, the ability to exchange information in a positive sense will break down. Thus, there is a need for the federal government to enter the field."

Francis B. Looney, deputy commissioner of the New York City police department and president of the International Association of Chiefs of Police, said in an interview he hopes Congress will not pass legislation "that will prevent local police agencies from carrying out their functions."

FBI Director Clarence M. Kelley said in a Feb. 13 speech to a group of law enforcement officers: "My opinions and concerns on this issue must necessarily represent yours."

The chief inspector of the FBI's identification division, Beverly E. Ponder, predicted that "Congress will get much backlash from a wide variety of sources if it tries to restrict dissemination of records." Ponder, who has been one of the officials responsible for determining whether an applicant is entitled to access to FBI records, said that in addition to law enforcement agencies, other public and private agencies, such as banks, "consider this information vital."

White House stance: The Justice Department bill was introduced six days after President Nixon announced Jan. 30 in his State of the Union message a Cabinet-level review of government and industry practices relating to the right of privacy, and of steps that can be taken to ensure a balance is struck "between legitimate needs for information and the right of privacy."

However, neither the President's oral nor written statements to Congress made any reference to the Justice Department bill, which had been circulating within the Administration for four months, and was extensively reviewed by the Office of Management and Budget (OMB).

Geoffrey C. Shepard, associate director of the President's Domestic Council, told *NJR* that "the Justice Department bill is not the President's initiative, although it does have the normal OMB clearance."

Shepard said the Administration's review of privacy policies would take several months to complete, and it would be "silly to hold up the Justice Department bill that's been ready for two months."

One reason for the President's reluctance to give prominent endorsement to the bill may have been the continued opposition to parts of the bill from several other federal agencies, including the HEW and Defense Departments, Civil Service Commission and Small Business Administration.

Shepard said the report of the Cabinet-level committee will become "the program of the Presidency." He predicted that additional privacy legislation will be submitted later this year.

The study will follow on the heels of a report by an advisory committee of the HEW Department, which recommended last year broad steps for regulating both publicly and privately operated computer systems. (For background on the HEW report, see box, Vol. 5, No. 43, p. 1602–03.)

David B. H. Martin, executive director of the advisory committee, said he welcomes the President's action concerning privacy. He said that because no process has been established that would allow other agencies to react to the HEW report, "it might have been awkward to introduce legislation based solely on our report."

While emphasizing that the HEW report was "thorough," Martin said it did not address all federal problems. "You don't want to bite the bullet if it's going to explode in your mouth," he said.

Hope Eastman, associate director of the American Civil Liberties Union's Washington office, said she was pleased that privacy is "one of the President's top 10 issues," but that "the issue has been studied to death, the problems are fairly clear, and we need recommendations now."

BACKGROUND

The Feb. 5 filing of separate bills by Sens. Ervin and Hruska represented the culmination of parallel efforts to draft detailed legislative guidelines for the operation of criminal justice information systems. Ervin first became interested in the subject as the result of his constitutional rights subcommittee's hearings on privacy in 1971. Subcommittee assistant counsel Mark H. Gitenstein supervised the preparation of Ervin's bill beginning a year ago.

The Justice Department process was launched last summer by then Attorney General Elliot L. Richardson, and most likely would have been completed three months sooner had it not been for Richardson's abrupt resignation Oct. 20, when he refused President Nixon's order to fire the then special prosecutor Archibald Cox. Hurdles: Justice Department officials had to overcome a series of hurdles before Attorney General William B. Saxbe gave final approval to the introduction of the department's bill by Hruska. Conflicting sets of interests had to be considered, each of which will likely undergo further testing during congressional consideration of the bill. They include:

The relationship within Justice between the FBI and Law Enforcement Assistance Administration (LEAA);

The opposition to the bill by other government agencies;

An effort by new Attorney General Saxbe to foster a closer cooperation between Congress and the Justice Department under its new leadership.

In the meantime, the two Judiciary Committees marked time until the Justice Department bill was introduced. Two days of hearings were held on Rep. Edwards' bill by his subcommittee last year.

Justice Department: The key policy disputes within the department were resolved by Richardson before he resigned. The department's bill (S. 2964) generally reflects his goals, although the issues were reexamined twice following his resignation.

"For all intents and purposes, this bill was in the can before Richardson's resignation. It was his insight and support that have made this bill possible," said Danziger, the principal coordinator of the bill's drafting, who left Justice Feb. 8 to become director of the United Mine Workers Welfare and Pension Fund.

The nub of the policy dispute at Justice centered on the institutional differences between the FBI, which for the most part has represented the views of police departments, and LEAA, which acts on behalf of agencies throughout the criminal justice system. In particular, LEAA finances Project SEARCH, an interstate consortium evaluating the utility of criminal history data transfer. A 1970 Project SEARCH report was one of the early working papers in the use of such a system.

Although department officials will not discuss publicly the substance of the disagreements between the two agencies, Norman F. Stultz, chief of the bureau's computerized National Crime Information Center (NCIC), said the differences in viewpoint reflect the distinction between an "operational" agency and a "funding" agency.

LEAA Administrator Donald E. Santarelli said the FBI went to Robert H. Bork, who was acting Attorney General from Oct. 20, 1973, until Jan. 4, and then to Saxbe in an effort to reopen issues that previously had been resolved. Both Santarelli and Mary C. Lawton, deputy assistant attorney general (office of legal counsel) said there were no substantial changes between the Richardson proposal and S. 2964.

OMB: While the Justice Department was attempting to keep a united front on its bill, it also was working last fall through OMB to gain White House support of its plan. In addition to going through the normal routine of convincing OMB officials of the merits of their proposal, Justice officials had to overcome the objections to their proposal from agencies that stand to lose access to FBI files. (*For discussion of OMB's legislative role, see Vol. 5, No. 43, p. 1589.*)

The result of this process was that instead of receiving the traditional designation of being "in accord with" or "consistent with" the President's program, the bill went to Congress with a statement that OMB "has advised (the Justice Department) that there is no objection to the submission of this proposal from the standpoint of the Administration's program."

Also, OMB will permit objecting agencies to present their views to Congress.

Explaining OMB's action, general counsel Stanley Ebner called the proposal "an unusual piece of legislation which addresses a controversial area about which there is much to be learned." He said it was a "Justice Department bill" and that OMB allowed Justice to introduce the bill only after "a point of diminishing returns had been reached at OMB in resolving the issues."

Anthony L. Mondello, general counsel of the Civil Service Commission, said that "OMB neither tried to force the Justice Department bill down our throats nor allowed Justice to go its own way." Nor, he said, was there any effort to develop an Administration consensus behind the bill. He said the commission's basic objection to the bill is that it would be inhibited from continuing to perform its own background investigations on persons seeking federal employment.

Another agency that participated in the OMB review process and has objections to S. 2964 is the Small Business Administration (SBA). Its general counsel, H. Gregory Austin, said SBA favors limiting access to criminal records, but that it wants continued access to offender records.

Citing past incidents in which Congress and the public vigorously criticized SBA for making loans to organized crime figures, Austin said: "To prevent making loans Congress finds objectionable, we need access to information in the FBI data banks. If it was generally known that the SBA was denied access to this information, Congress might make open warfare on the SBA.

"SBA is not an investigatory agency; there is no way we can substitute for access to FBI information."

In a press briefing, Senate Constitutional Rights Subcommittee chief counsel Baskir predicted that "Sen. Ervin won't be sympathetic to giving exemptions to agencies."

Bill introduction: The Feb. 5 introduction of the Justice Department bill and of the Ervin bill marked an unusual degree of cooperation between parties who have cooperated on few matters in the past five years, particularly in the year that Ervin has headed the Senate Select Committee on President Campaign Activities, investigating the Watergate scandal.

Ervin and Hruska co-sponsored each other's bill and both bills were co-sponsored by Senators covering a broad band of the political spectrum. They included Sens. Quentin N. Burdick, D–N.D., Robert C. Byrd, D-W. Va., Hiram L. Fong, R-Hawaii, Charles McC. Mathias Jr., R-Md., Hugh Scott, R-Pa., and Strom Thurmond, R-S.C., all members of the Judiciary Committee.

A Judiciary Committee aide, who did not want to be identified, said the bipartisan congressional cooperation as well as the cooperation with the Justice Department, resulted from having "a new kind of Attorney General, one who is willing to deal with Congress, and who cares about legislation."

The Democratic aide said he was referring to both Richardson and Saxbe. He said the Nixon Administration's previous Attorneys General, John N. Mitchell (1969–72) and Richard G. Kleindienst (1972–73), "cared more about publicity than substantive legislation." He also said Sen. Hruska, the committee's ranking Republican member, played a "key role" in bringing the two sides together.

Regulations: Contemporaneous with the Justice Department's effort to prepare legislation for regulation of criminal justice data banks was a departmental effort to establish interim regulations for the use of LEAA-funded data systems. The regulations were required by an amendment to the Crime Control Act of 1973 (87 Stat 197).

In the proposed regulations issued Feb. 14, Justice requires each state to submit to LEAA by July 1 a plan for the maintenance of criminal records, and to implement the plan by July 1, 1976. The proposal would require each state to set rules on dissemination of criminal records and to ensure that each element of an individual's record be listed within 30 days of the transaction. Public hearings will be held beginning March 1 prior to final enactment of the regulations later this spring.

PROPOSALS

The scope of coverage of the Ervin and Justice Department bills is broad. Also, both bills would impose comprehensive federal rules on the files that would be regulated. (The Edwards bill is less comprehensive and detailed than either of the others. Its provisions are closer to the Ervin bill than to the Justice Department bill.)

"It would be hard to find a criminal history information system not covered by this bill," said Danzinger of the Justice Department bill. Not only would it apply to any system operated by the federal government or participating in an interstate system, but it also would include any system operated by a state or local government, which either receives some funding from the federal government or exchanges information with a federal or federally funded system.

Key issues: Among the provisions in the bills that would most significantly affect current practices, and stir opposition from hitherto participating agencies, are rules on who may receive FBI criminal records, criteria for what records may be disseminated, requirements that those records be complete and how the rules shall be enforced.

Dissemination.—The issue of who may exchange criminal records with the FBI is treated separately for law enforcement agencies and non-law enforcement agencies.

With some exceptions, the Ervin bill would permit only the dissemination of complete conviction records—information disclosing a plea of guilty or a conviction—while the Justice Department bill would apply the less rigorous standard of "criminal offender record information," which includes a factual summary of each event of the criminal justice process. In short, the Ervin bill would require a conviction, while the Justice bill would require only the listing of a disposition to the complaint.

Each bill would permit use of these records only for the administration of criminal justice, except where there is a federal or state statute, which specifically authorizes the dissemination.

Arrest records.—Dissemination of arrest records, those on which no disposition of a pending complaint is listed, would be strictly limited by each proposal. The Ervin bill would permit use of such data only if the individual has applied for employment at a law enforcement agency, the matter about which the arrest record pertains has been referred to the agency for prosecution, or if an individual has been arrested and there has been a prior arrest less than one year before the latter arrest which is pending.

The Justice bill would permit dissemination of arrest records under court order, in cases of the appointment of judges or civil officers by the President, or if the Attorney General determines that the matter affects the national defense or foreign policy.

Intelligence.—The Ervin bill would prohibit maintenance of criminal justice intelligence information—which is primarily investigative data—in a criminal justice information system. Baskir called use of intelligence data a "much more dangerous abuse of privacy" than the use of arrest records.

The Justice Department bill would permit storage of intelligence files in accordance with regulations to be developed under the act. An agency would have the burden of establishing its need for the intelligence data.

Updating.—Each bill would require contributing agencies to keep criminal data complete and accurate so that there would be a full record, especially on the disposition of a complaint.

Sealing.—Each bill would require the removal from the data systems of information concerning an individual who has not been convicted of a felony offense in the previous seven years. In an NJR interview, FBI Director Kelley called the seven-year limitation "unrealistic" and said "it needs more consideration reflecting the views and needs of law enforcement officers."

However, Senate and Justice Department individuals familiar with this issue, who did not want to be identified, said that the problem may not be so great as it appears, because the FBI uniform crime reports for 1972 indicate that the average criminal career lasts only five years.

Enforcement.—The Ervin bill would establish a complex federal-state administrative system. General responsibility for administration and enforcement of the new law would rest with a Federal Information Systems Board. Each of the board's nine members would be appointed by the President, and it would include three federal officers, three representatives of state government, and three private citizens well-versed in constitutional law and information systems technology. Also created would be an advisory, committee composed of one representative from each participating state who would be appointed by the Governor.

The Justice Department bill retains for the Attorney General power to regulate the act. In the past, this power has been delegated to the FBI director and the bill does not appear to prohibit such a practice.

Norman Stultz, head of NCIC, the FBI's computerized criminal history system, said that while the bureau would work under whatever system the Congress creates, he would "hate to see too many layers of authority."

Sen. Ervin said the purpose of the federal-state board is to "create an agency, which is outside the present law enforcement community and without vested interests in present law enforcement data banks, to administer the act." He also said the mechanism would give the states "their proper role in the development of policy."

Rep. Wiggins was in some agreement with Ervin on this point, saying he "questioned the extensive power given to the Attorney General in the Administration bill."

Reaction: Detailed responses to the proposals will be presented during the hearings to be held by both the House and Senate Judiciary Committees in the next month. In preliminary comments, officials of agencies utilizing the FBI records raised doubts about the bills while advocates of greater protection of privacy generally expressed satisfaction.

Anthony Mondello, general counsel of the Civil Service Commission, said he objects to any bill to the extent it would cut off the commission from FBI records. He said these records are used by a large number of federal agencies.

Clarence A. H. Meyer, Nebraska attorney general and chairman of the criminal law and law enforcement committee of the National Association of Attorneys General, favored keeping criminal records in the criminal justice community: "Law enforcement records are now out of hand because individual police don't have the power to resist giving records to outsiders."

A view that possibly reflects that of many local police departments was expressed during a hearing before the House Civil Rights and Constitutional Rights Subcommittee Oct. 11, 1973, by Allen W. Sill, chief of police in West Covina, Calif.

". . . If there are instances of abuse practiced by local law enforcement agencies," Sill said, "then it seems only reasonable to me that local legislation, not federal, is the answer."

However, Andrew Klein, aide to Massachusetts Gov. Francis W. Sargent, R, who has led that state's effort to establish the nation's most comprehensive state law on privacy, called the proposals "a minimum safeguard of constitutional rights which the federal government has a responsibility to protect." Klein said the legislation might cause a problem for a state like Massachusetts, which might have tougher standards than does the federal proposal, if it seeks to protect its citizens' records when they are given to another state.

OUTLOOK

Forecasts on the possibility of passage of criminal justice privacy bills this year range from cautious to optimistic.

The resolution of the privacy issue will affect not only the FBI and other criminal justice system operations, but may be the first step taken by the federal government in regulation of all data banks and their information.

Senate: The Constitutional Rights Subcommittee will hold six days of hearings on the Ervin and Justice Department bills the first two weeks in March.

Baskir, the subcommittee's chief counsel, said witnesses will include representatives of federal and state government, the public, the police and government employees.

He said the legislation may be "a grindingly slow process and we want to get the subject before Congress before Sen. Ervin retires."

LEAA Administrator Santarelli said he doubts legislation can be passed this year because Ervin would continue to be busy with the work of his Watergate committee. Baskir vigorously disputed that contention.

House: The situation is somewhat less clear in the House Judiciary Committee, which will be spending much of its time in the next few months on its inquiry into the impeachment of President Nixon. Although Chairman Peter W. Rodino Jr., D-N.J., has ordered the committee staff to proceed with the normal legislative workload, the work of the committee may be held up if members lack time to invest in other legislation.

Beyond that point, there is less enthusiasm for the privacy legislation among the Republican members of the committee than appears to be the case in the Senate. When the Justice Department bill was introduced in the House (HR 12574) Feb. 5, it was done as a courtesy by two Democrats, Rodino and Edwards. (They also introduced the Ervin bill as HR 12575.)

Rep. Wiggins, the ranking Republican on the Civil Rights and Constitutional Rights Subcommittee, which has jurisdiction over the bill, said Feb. 7 he would file an identical bill. He explained the delay in an interview by saying "I was not fully satisfied with the bill but I recognize the desirability of having some initial Republican support." Wiggins did say, however, he hoped the committee could report a bill to the House this year.

Rep. Edwards, chairman of the subcommittee, has invited Saxbe, Santarelli and Kelley to testify before the panel later this month. He expressed hope that his subcommittee will be able to produce this year "a piece of legislation tailored to the delicate balance necessary in this area."

FBI's 70 Million Fingerprint Files Face Scrutiny, Restricted Use

Enactment of proposed legislation to regulate the use of criminal records would cause a tremor-like reaction in the identification division of the FBI. The division's criminal files hold 70 million cards with the fingerprints of 20 million persons, with cards on approximately 3,300 new persons added to the files each day.

An FBI brochure describes the collection as "The world's greatest repository of fingerprints."

Bills introduced in Congress by two Democratic subcommittee chairmen with jurisdiction over the subject matter, as well as a separate Justice Department bill, would impose outside controls on the bureau and open its processes to a public scrutiny unparalleled in the FBI's 66 year history. The changes proposed in FBI operating procedures would affect the contents of its criminal records, agencies entitled to receive them and review of the setting and enforcing of the division's rules.

In an interview a week before the release of the Justice Department's bill, Beverly E. Ponder, chief inspector of the division, said: "Our experience since 1924 leads us to believe there is no reason for us to conduct a review of how FBI records are used by police agencies."

But the identification division's data collection process was termed "out of effective control" by Judge Gerhard A. Gesell of the U.S. District Court for the District of Columbia in his June 15, 1971, decision in Menard v. Mitchell. (For background on the Menard decision and congressional reaction, see Vol. 5, No. 43, p. 1607.)

The pending legislation, which would regulate all criminal justice information systems, originally was prepared in response to concern over the developing computerization of police records by the FBI. But the effect of the proposal, if enacted, would be to impose similarly tight restrictions on the FBI's manual record-keeping operation, which has approximately 17 times more entries than the computerized system, which so far includes only six states.

Operation: The identification division operates today much as it did in 1924, when it was created to serve as a national repository of criminal identification data in the reorganized FBI. Fingerprint identification is a laborious process based on a one-by-one examination of the prints; Ponder said the division hopes to have a computerized scanner in operation by 1978.

The division's 3,300 employees work around the clock cataloguing 11,000 new entries each day—70 per cent of them on individuals with a prior record—and disseminating approximately 10,000 "rap sheets" to the 7,000 "contributing agencies" entitled to exchange records with the FBI. All but 800 of those agencies are local law enforcement units; the others are federally chartered banks, and federal and state agencies that are authorized by statute to exchange records.

In exchange for sending the bureau a fingerprint card that includes the individual's name and physical characteristics, the date of arrest, charge and disposition, if any, the contributing agency receives the "rap" sheet listing all recorded incidents of the individual's criminal activity anywhere in the nation.

(The division's separate civil file houses 88 million fingerprint cards on 38 million persons. The civil file includes records on individuals such as military personnel, federal employees, aliens and Boy Scouts who have received a merit badge in fingerprinting. The file, established by various Presidential and Cabinet-level orders and kept as a repository for noncriminal identification purposes, would not be regulated by the proposed legislation.)

Ponder said that when the division was established "the idea of the criminal file was to assist law enforcement by exchanging information about interstate criminals." He said only Congress can limit what information the bureau may collect. (Current law, 28 USC 534, gives the FBI broad authority in data collection.)

Menard.—Following the *Menard* decision in 1971, in which Judge Gesell banned further dissemination of criminal data outside of law enforcement agencies. Congress gave the FBI temporary authority to exchange records with federally chartered banks and authorized government agencies upon approval of the Attorney General.

A Jan. 17, 1972, order by Attorney General (1969–72) John N. Mitchell delegated to the FBI power to approve such exchanges. Since that time, "there have been no steady checks on the bureau, but they have called us when they have a question about the authority of the state statute, and we check it," said Mary C. Lawton, deputy assistant attorney general (Office of Legal Counsel), who has acted as the Justice Department liaison officer with the FBI on the issue.

Ms. Lawton acknowledged that there have been "relatively few" referrals to her since she refused five requests in 1972 on the basis that the statutes were not specific enough. She said this action established a pattern of policy and that the FBI "responds positively" to most specific state statutes. "The bureau doesn't like to exercise discretion, and I'd rather it not do so," she said. "There is a need for tightening up the system with legislation."

State statutes.—A 1972 FBI "compilation of fingerprint legislation" shows that state laws require agencies to exchange fingerprint checks for a wide assortment of professions.

Among the persons subject to fingerprint checks in New York are private investigators, securities and insurance agents, and hospital and medical school employees. Florida statutes include fire fighters, bail bondsmen and applicants for real estate licenses. District of Columbia statutes require the fingerprinting of auctioneers, bowling alley operators and hackers, among others. The number of such groups has been reduced considerably since the 1971 *Menard* decision, according to Ponder.

Criticism: Critics of the identification division focus primarily on its lack of formal procedures and enforcement. Sen. Sam J. Ervin Jr., D-N.C., chairman of the Senate Judiciary Subcommittee on Constitutional Rights, said: "Custom and several letters from the director of the FBI to local police departments seem to be the only limitation on access to the information," and that "in all too many cases, (the rap sheets are made available) to private employers." (Ervin's bill prohibits such dissemination.)

Ervin criticized the bureau's practice of disseminating a rap sheet even if it does not show how the arrest case was disposed of. He said, "There are probably several million so-called criminal records on persons who were never prosecuted or convicted of the charge for which they were arrested."

Ralph J. Temple, an attorney with the Washington chapter of the American Civil Liberties Union (ACLU), said that while "the FBI knows its records and their exchange with local businesses are dear to the heart of local police, the FBI has made no effort to make any kind of showing of improper conduct of local police officials." He called "phony" the FBI policy to enforce its restriction on secondary dissemination.

John H. F. Shattuck, national staff counsel with ACLU, said, "The bureau responds to every possible request even though nothing requires it to give out the information."

Response: Norman F. Stultz, chief of the FBI's computerized recordkeeping operation, responded that law enforcement officers "recognize the need for some privacy regulations." Also, he said, "(state) legislatures and the Congress have set additional requirements for the use of criminal records, which police haven't asked for."

In an interview, Stultz said that these officials are concerned about uses outside of law enforcement because "they don't want to destroy the effectiveness of these records which were intended for law enforcement purposes."

Ponder said he agrees with Ervin that arrest records should show the disposition of the case. He said the FBI would welcome legislation forcing local authorities to provide mandatory reporting of dispositions.

THE MINIMUM WAGE LAW

Mr. THURMOND. Mr. President, a recent editorial which appeared in the Aiken Standard of Aiken, S.C., graphically describes the economic folly imposed on this Nation by the new minimum wage law.

It points out that the law which was presumably passed to aid people at the lower rungs of the economic ladder will, instead, impose hardships on them. Many working mothers, for example, as noted in the editorial, will be unable to pay domestic employees who will now be making salaries to rival their own.

The result, according to the Aiken Standard, will be that many such working mothers will leave their jobs. That would mean, of course, that many domestic employees will lose their jobs. Reliance on welfare and food stamps will grow, a situation we do not need in this country.

While salaries will be increasing all along the financial scale, prices will be rising accordingly, even as unemployment rises at the lower levels.

This is the economic folly we have imposed on ourselves and the Aiken Standard has described it so well.

Mr. President, I ask unanimous consent that the editorial entitled, "Our New Economic Blessing, The Minimum Wage Law," which appeared in the Aiken Standard, Aiken, S.C., May 1, 1974, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

Our New Economic Blessing, The Minimum Wage Law

Today should go down in United States history as some sort of high water mark for economic insanity.

Hardly does our government take the lid off the controls which held wages down before we have new legislation which will surely increase wages.

On its surface, the new minimum wage law is intended to raise the income of our lowest economic segment. In dollars and cents, it will. It seems apparent, however, that inflation will quickly negate the newly increased buying power.

And obviously, the new minimum wage law will force pay increases all along up the line. This was the very thing that the economic controls, just lifted, sought to halt.

With this sort of stop-and-go helmsmanship, is it any wonder that we find our country in economic chaos?

The new law will probably find the most telling effect in the area of domestic employees. It will cover the vast majority of domestic employees. Two tests indicate its all-inclusive nature. Domestic workers are covered by the new law which became effective today if they are paid at least $50 by an employer in a calendar quarter, or if they work as little as eight hours a week.

The economic result is sure to be felt first by working mothers.

State Labor Commissioner E. L. McGowan estimates that South Carolina's working mothers average about $100 a week. The new minimum wage will require payment of $76 a week to a 40-hour domestic employee. Thus the working mother in effect nets $24 a week for working away from home.

Look a little closer.

Many of the nation's estimated 13,017,000 working mothers are going to reason, "It's not worth it!"

Many working mothers are likely to give up jobs away from home and dismiss their domestics.

By this action, two taxable incomes have been wiped off the books.

The domestic very well may go on welfare and food stamps, creating a heavier burden for taxpayers.

There is another solution which may be offered by some of our socio-economists: child care centers. Working mothers could drop off children at child care centers and keep right on working.

This is hardly new. State-operated nurseries have been provided in China and Russia for many years. Are we being led into this same pattern?

Social security retirement benefits are rigged so as to discourage elderly citizens from working to supplement their retirement incomes. They constitute a work force deliberately shunted aside by our "system." Many of these would like to work, in preference to sitting idle, just for the satisfaction of feeling useful.

This latest tampering with the economy comes at a time our nation's economic activity is declining at the steepest rate in 16 years, and inflation is accelerating more than any time since 1951.

We have just witnessed the failure of federal controls. Inflation seems to be growing worse, as amply demonstrated by the sharp rise in interest rates recently in the money market.

The economic outlook is confused.

Now we seem determined to reduce the number of domestic employees throughout the country and in the same stroke of economic genius, reduce the number of able and intelligent working mothers from the work force, and add to the taxpayer load.

We seem determined to do anything to keep that inflation spiral spinning ever skyward.

COMMENCEMENT ADDRESS BY MR. PAUL DUNCAN

Mr. ALLEN. Mr. President, earlier this month the Atlanta College of Art held its 44th annual commencement exercises with Paul Duncan of Washington, D.C., as the commencement speaker.

The Atlanta College of Art, as you may know, is a part of the Atlanta Memorial Arts Center, which brings together music, drama, and the visual arts into a magnificent community enterprise.

The College of Art, its faculty and its students are a constant resource for strengthening and enriching Atlanta's cultural life through their contributions to art education, their own artistic production, and their participation in the social and aesthetic growth of the city.

I ask unanimous consent that the commencement address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Remarks by Paul Duncan

It has been the fashion lately to use long titles for plays, books, movies, and the like. This is the Helen Gurley Brown influence.

So I am taking the liberty of talking tonight on this subject: "If Charles Ives Were a Printmaker, How Would He Handle a Problem? or, The Wayward Path of the Creative Impulse."

You are entitled to wonder why I should choose Charles Ives, a composer of very difficult music when he was not acting as a Wall Street businessman.

That combination is perplexing enough, you might say, without compounding it by trying to consider him as printmaker, as well.

Now, this is not so frivolous as it might seem. What we are trying to do here is to examine the creative process, to look inside the creative mind at work, and to see what's going on.

What better mind to use, then, than the energetic, inquisitive, and fermenting mind of Charles Ives? And what better way to take a refreshing look at your own work than by taking yourselves outside the visual arts, where you are at home and perhaps a little too comfortable, into the abstract world of music?

Charles Ives was a composer who in only twenty mature years put down a whole new world of music, prophetically suggesting or developing aspects of music whose later "discovery" by other men was to make them famous for years to come.

Another reason for turning to Charles Ives is that his was a uniquely American genius.

Ives was determined to break away from the weak and Europe-dominated composition of the time. And he was determined to speak from the native American spirit.

He deliberately turned to unsophisticated music for his sources. He committed himself to the American vernacular in seeking the grammar of a new symphonic speech.

His music had its roots in the New England church, in the dance hall, and in the Sunday parlor of a small-town American family.

Ives' music reflects the patterns of activity he saw around him. And it records, therefore, not a thing that happens, but the way it happens. Because events do not move on one plane, but carry memories and forecasts with them, colliding and conflicting with other events, Ives' music moves in many directions at once. It is built on many levels, in the same way that experience takes place on many levels of the mind.

Think of this in visual terms, for a moment, and imagine what kinds of graphic images you might produce.

When we turn to the non-musical aspects of Ives' mind, we find again a peculiarly American combination of wit, very often like that of Mark Twain; a moral and religious intensity that derives from his transcendentalist New England church; a political awareness that often drew him away from his music; and a practical understanding of the need for financial security.

This last, I believe, was a part of his Yankee stubbornness—his insistence that if he were dependent on selling his music, it would destroy the music that he wanted to write.

Charles Ives' father was a Civil War band leader and town musician, who finally took a job as a bank clerk to support his family. Ives' mother sang in the church choir.

This can be called a musical background, but we would hardly expect it to produce a musical genius.

But there are clues in the early life of Charles Ives.

His father was a lively jack-of-all musical trades, a man filled with intense musical curiosity. He had a sound musical training, but he considered conventional music theory as merely a point of departure for his own thinking. He was fascinated by accidental rhythmic and tonal collisions, and tried to capture the counter-rhythms of such things as a whistler in the street and the hymn his wife was singing in the kitchen. He often set up these collisions, once by having two bands march in opposite directions, to meet and pass, each blowing away at its own tune.

These experiments by his father remained permanently in Charles Ives' mind, and the germ of every new type of musical behavior that he later developed can be found in them.

Undoubtedly the memory of these experiments had a strong influence, but could this alone have provided sufficient foundation for the revolutionary artistic independence he achieved? Perhaps the key may be found in the transcendentalist influences of his New England environment, principally from Ralph Waldo Emerson and Henry David Thoreau.

Emerson provided the philosophical support for Ives' artistic independence. "The objection," he said, "to conforming to usages that have become dead to you, is that it scatters your force . . . But do your work, and I shall know you. Do your work, and you shall re-inforce yourself."

Thoreau influenced Ives' approach to living. We can understand why. Ives looked on Thoreau as a great musician, not because he played the flute, but because Thoreau knew how to listen to the rhythms of Nature and to enjoy the harmony of her silences.

Ives was quite conscious of the fact that the source for his music was Nature—men and the things of Nature—and he recognized the problem of expressing them in music.

"How far is anyone justified," he asked, "in trying to express in terms of music the value of anything material, moral, intellectual, spiritual? How far afield can music get? Can a tune literally represent a stone wall?"

He never had any doubt that subconscious inspiration—intuition—was at work, but as he said, "We are trying to consider music made and heard by human beings, not by birds or angels, (and) it seems difficult to suppose that even subconscious images can be separated from human experience."

Ives was not reluctant to explore the processes of intuition. But he was a composer and hence always confronted with the need, the compulsion to produce.

How typical was his experience?

Jacques Maritain, in the Mellon Lectures at the National Gallery of Art, defines and refines at some length the "intellectuality of art." He talks of the practical intellect and the speculative intellect, the reason of logic and the reason of intuition, and many other things concerning the preconscious activity of the human spirit.

Maritain is a philosopher and thereby entitled to dwell upon these things. But when he finishes, the essential message of Maritain, to me at least, is this:

". . . A poetic intuition can be kept in the soul a long time, latent (though never forgotten), till some day it will come out of sleep, and compel to creation. At that moment, there is no need for any additional element, it is only a question of application to actual exercise. Everything was already there, contained in poetic intuition. Everything was given, all the vitality, all the insight, all the strength of creativity which is now in act . . . The totality of the work to be engendered was already present in advance . . ."

I believe we can agree then, that the creative process is the release of long-stored impressions, sensations, insights, and experiences—organized by training and discipline—that have accumulated in the mind and the psyche of the individual.

They have become the storehouse of an artistic arsenal—the gunpowder of the mind—periodically triggered into creative explosion.

We can agree too that the trigger is intuition, which comes as a flash from Divine Providence. But we can't simply sit back and wait for Providence, placing a primitive reliance on emotion or intuition. As Aaron Copland says: "What's the use of all these emotions if you don't have the technique to express yourself?"

So we arrive at what looks dangerously like a cliche: the creative process is a lot of hard work. This need not disturb us. Cliches are the Eternal Verities, arrayed in everyday garments so as to cause no alarm.

The important thing is that we should be prepared for that moment when the Divine Providence points his finger. We must have developed the techniques Aaron Copland speaks of. We must sharpen both our wits and our skills. And when the flash of inspiration comes, we are ready.

In the words of one of the old hymns that Charles Ives' mother used to sing—

Work for the night is coming.
Work till the break of day.

PRESIDENT MUST VETO CONFERENCE BILL ON LEGAL SERVICES

Mr. HELMS. Mr. President, the conference has agreed upon a bill reported as H.R. 7824, a bill establishing an independent legal services corporation. Some people are already saying that this bill is a compromise between the House and Senate versions.

Mr. President, this is language we have heard before. The Senate bill itself was labeled a compromise by those who wanted a bill even more extreme. But it was hardly a compromise when compared with the administration bill, or with the bill for true reform sponsored by the distinguished Senator from Tennessee (Mr. BROCK) and myself. It was so far from a compromise that even the eminent newspaper columnist, Mr. James Jackson Kilpatrick, who has often been quoted in favor of the concept of a legal services corporation, felt obliged to call upon the President to veto it in its final form.

Now this new bill, this new so-called "compromise," has emerged from the conference. It is already being touted as the House bill, and sports the number of the House bill. But it reflects the House bill only where the House bill was more permissive than the Senate bill; so the new result is a bill that is worse than either of its predecessors, if possible.

I call upon the President to veto this new bill as lacking in the necessary safeguards, and completely unresponsive to the real needs of poor people in regard to the delivery of legal services.

One standard of measurement for gauging whether the safeguards demanded by the House have been honored may be obtained by a review of the 24 amendments which had been voted onto the bill in the House. Seventeen of the 24 have been either eliminated or altered in such a manner as to destroy their original meaning and impact.

For example, the following amendments have been eliminated entirely:

The Green amendment to prevent the funding of backup centers for nonresearch activities—amicus briefs, cocounsel work, assistance to activist organizations, issue advocacy publications and travel, law reform non-client-generated test cases, policy lobbying, et cetera;

The "congressional accountability" amendment which would have limited the power of the American Bar Association to assume primary responsibility for project employee behavior and performance, and obligations via modifications in the Code of Professional Responsibility and Canons of Ethics;

The two Green amendments requiring annual appropriations and barring multiyear appropriations without congressional review.

Mr. President, of at least equal importance, other vital safeguards were completely vitiated by cleverly worded modifications which destroyed the original meanings of House-passed amendments:

The prohibition on aid to "any picketing, boycott, or strike" is wiped out with the phrase "except as permitted by the law", since such activities are clearly legal, however undesirable it may be to subsidize them with public funds.

The House prohibition against assigning personnel or resources in connection with campaigns to affect the outcome of State ballot issues—like Governor Reagan's proposed tax ceiling plan, the attempted recall of Governor Williams in Arizona, and the sales tax referendum in Montana—has been rendered meaningless by the proviso that such ballot campaign activity is permitted when it takes the form of representation for "eligible clients with respect to such clients' legal rights". The catch is that every group which alleges to concern itself with poverty issues can be an eligible client under the proposed act—thus, whether the cause relates to the elderly, National Council of Senior Citizens; or women, National Organization for Women; or the "right" of the poor to abortions, Planned Parenthood; or Cesar Chavez, United Farmworkers; or Indians, American Indian Movement; or whatever, the prohibition is without effect.

The Green amendment which stated that "(i)f an action is commenced by the corporation or by a recipient and a final judgment is rendered in favor of the defendant and against the corporation's or recipient's plaintiff, the court may, upon proper motion by the defendant, award reasonable costs and legal fees . . ." has had its intent altered by a conference proviso that such relief to innocent private parties ensued at the discretion of legal aid employees would be available only "upon a finding by the court that the action was commenced for the sole purpose of harassment . . . or a recipient's plaintiff maliciously abused legal process."

Thus where a guiltless victim of a legal services suit could not prove harassment or malicious abuse, such victim, however poor or aggrieved, would have to sustain the full financial cost of legal services assault.

The requirement that full-time staff attorneys be subject to corporation laws and regulations at all times and devote full professional attention to their tax-subsidized responsibilities was rendered ineffective by addition of language that such "outside practice" activities were fully permissible if not entered into for purposes of financial compensation—A standard legal services defense against evidence of impropriety has been the disclaimer that the incident to which objection had been made occurred on one's "own time," or in connection with "outside practice" of law.

The very important antilobbying ban imposed by the House on a 200–181 rollcall vote—which had prohibited lobbying on State or Federal issues, except to permit statements or testimony—has been replaced with language authorizing legal services efforts "to influence the passage or defeat of any legislation by the Congress of the United States, or by any State or local legislative bodies" whenever one "member thereof . . . requests personnel of any recipient to make representations thereto;". Furthermore, continuation of the practice of having registered legal services lobbyists in State legislatures is fostered by permission of lobbying "representation by an attorney for any eligible client." "Eligible clients" would include lobbying organizations concerned with issues as diverse as passage of the Equal Rights Amendment and gun control.

The intention of the House amendment to bar aid to public interest law firms is wiped out by another tricky semantic change. Where the House would have denied Corporation aid to any such Nader-style firms which expended 50 percent or more of its resources and time litigating issues either in the broad interests of a majority of the public or in the collective interests of the poor, or both, the carefully worded conference bill, by deleting the phrase: "or in the collective interests of the poor, or both" in effect authorizes use of Government funds to support any radical cause which claims to be acting for the poor as a class.

The very important House amendment limiting the authority of project attorneys to represent persons under 18 without parental approval has been divested of meaning through a smooth rewrite job permitting such representation—whether with respect to abortion, school discipline, or similar issues—"where necessary . . . for the purpose of securing, or preventing the loss of . . . services under law, or in other cases not involving the child's parent or guardian as a defendant or respondent."

Also eliminated was the Mizell amendment relating to institutions of higher education, which many had hoped would serve as a barrier to pro-quota briefs of the sort filed by legal services projects in the DeFunis case.

The anticommingling amendment adopted by the House—to prevent involvement of corporation-subsidized programs in prohibited activities under cover of the argument that local share funds or State funds were involved in the improper activity—is knocked out of the proposed act through a conference-devised loophole asserting that "this provision shall not be construed . . . to prevent recipients from receiving other public funds . . . and expending them in accordance with the purposes for which they are provided." If tax-exempt Ford Foundation grants were defined to be public funds—as a careful reading of the relevant provision can imply—the entire section has been rendered meaningless.

Mr. President, it is not just in its disregard for 17 House-passed amendments that the conference committee cast down the gauntlet to those who favor limits on the power of freewheeling attorney activists to determine what is best for the poor and for the country. The conference bill also retains some other very unfortunate aspects of the Senate-passed bill, while erasing important original parts of the legislation adopted by the House on June 21.

Objectionable aspects of the Senate version which have been grafted on to the almost totally ignored House plan include:

Making the corporation authorization part of the Economic Opportunity Act—an ill-disguised effort to promote exclusive control of confirmation of corporation board members by the Senate Committee on Labor and Public Welfare.

Adopting a preamble which affords the statutory presumption of continuation to *current grantees* and administrative policies of the present vital legal services program and which strongly implies that staff attorneys supported by the program should have full freedom from accountability to the American people who pay the bills. The Senate bill, to which House conferees deferred, has an ominously sweeping provision allowing the corporation to make such other grants and contracts as necessary to carry out the purposes of the title. Given the very broadly defined purposes of the conference plan that means simply "anything goes"—all not specifically prohibited is consequently allowed. For example, as now written, corporation officials could fund almost any group of their choosing, so long as it was not involved in directly aiding candidates for office.

Denying the President authority to designate the chairman of the corporation's board of directors, except in the first instance.

While denying the importance of existing influence of ADA and the National Lawyers' Guild-oriented values in the present control and management of the legal services program, future changes in a more moderate or conservative direction are blocked by the convenient requirement that hereafter "No political test or political qualification be taken into account in personnel policies for the $100 million per year program."

The astonishing assertion that, though federally funded, "the corporation shall not be considered a department, agency, or instrumentality of the Federal Government."

At the same time, however, while denying Federal accountability, Corporation employees are given all the benefits of Federal employment, including the right to remain eligible for social security benefits, without paying additional social security or self-employment taxes, while building up a Federal retirement nest egg.

Requiring a special determination by the Board before program control can be assigned to elected State and local officials, while at the same time permitting the lowliest legal services employee with control of grant money to fund private organizations of his choosing.

While purporting to prevent employees from acts which would intentionally identify the Corporation with party or candidate-related political activity, section 1006(e) of the conference plan would define project employees themselves as "deemed to be State or local employees for purposes of chapter 15 of title 5, United States Code." Title 5, "does not prohibit political activity in connection with * * * (2) a question which is not specifically identified with a Nation or State political party. For the purpose of this section, questions relating to constitutional amendment, et cetera * * * are deemed not specifically identified with a National or State political party." Thus, while personnel cannot identify the Corporation with partisan—and perhaps even nonpartisan—political activity, they can do virtually as they please in organizing for noncandidate or nonparty related issues like, for example, those concerning taxation or education or socialized medicine.

Mr. President, Senate language in the conference bill encourages perpetual funding for presently funded projects and contractors by compelling the Corporation to insure that every grantee, contractor, or person or entity receiving financial assistance under this title or predecessor authority under this act which files with the Corporation a timely application for refunding is provided interim funding necessary to maintain its current level of activities until: First, the application for refunding has been approved and funds pursuant thereto received; or second, the application for refunding has been finally denied in accordance with section 1011 of this act. Section 1011 reads: "Financial assistance under this title shall not be terminated, an application for refunding shall not be denied, and a suspension of financial assistance shall not be continued for longer than 30 days, unless" the procedural requirements defined in this act and by court precedent have been fully satisfied. In brief, there is just no way to cut them off.

The conference plan also defers to the Senate in its stipulation that the "President may direct that appropriate support functions of the Federal Government may be made available to the Corporation in carrying out its activities under this title to the extent not inconsistent with other applicable law." While less blatant than the original Senate language, this proviso would still make it possible for a President of the United States to give private organizations aided by the Corporation the benefit of a full range of Government services and equipment free of charge. This could include everything from Xerox machines to motor vehicles to long-distance phone service.

Given the political nature of many groups previously aided and prospectively eligible for aid by legal services, this remains a very dangerous section, which was wisely absent from the more moderate House bill.

Another Senate victory lies in the conferees' agreement to transfer present OEO legal services career employees and to perpetuate the radical OEO union agreement, at the corporation.

Another area which particularly highlights the disingenuous modus operandi practiced in drafting the final conference language is a special section which purports to deal with widespread concerns about political manipulation and control backup centers in behalf of liberal causes. In an effort to reduce opposition to the bill, the conferees suggest that the centers will not continue beyond 1977, unless there is affirmative action by the Congress for their continuation. The conscious misrepresentation of this section lies in the fact that it deals only with backup center "research" activities, omitting even that mild restraint on more obnoxious backup center activities entirely unrelated to research—for example, information clearinghouse, training, lobbying, group representation, and issue explanation. These neutral phrases have long served to cover up and excuse many backup activities much more closely related to political causes than poverty representation.

Right-to-life groups are particularly outraged by continuation of the backup centers, since several of them—National Health Law Project, Bureau of Social Science Research, National Juvenile Law Center, and so forth—have been in the forefront of successful drives for liberalized abortion laws and regulations.

In choosing the House ban on legal assistance with respect to any proceeding or litigation which seeks to procure a nontherapeutic abortion, as opposed to the Senate version which barred such assistance on abortion unless the same be necessary to save the life of the mother, the conferees were playing into a trap well set by pro-abortion legal services activists.

The April publication of OEO's National Clearinghouse for Legal Services, and a cover story by Patricia Butler of the National Health Law Program—a backup center—says:

> Any abortion which a woman requests is medically necessary, since the very request for the procedure indicates the importance of terminating the pregnancy to the woman's health, whether physical, mental or emotional.

Thus, there is no such thing as a nontherapeutic abortion in the official view of the legal services backup center which is most prominent in dealing with abortions. Accordingly, the conference prohibition would be without force.

Even if the bill really did establish restrictions on the backup centers, the gradual conversion by national OEO officials of neighborhood law offices to local law reform units would negate much of its value.

There are still other weaknesses to be found in the conference plan, when it is compared with the House bill:

The House bill gives Governors a free hand in designating State advisory committee members; the Senate conference plan requires Governors to wait for recommendations from the organized bar before acting.

A House provision intended to limit aid to militant prison groups by barring assistance in civil actions to persons who have been convicted of a criminal charge where the civil action arises out of alleged acts or failures to act connected with the criminal conviction and is brought against an officer of the court or against a law enforcement official has been materially changed to preclude such cases only where they challenge the validity of the criminal conviction.

While the conference did make a few prearranged changes in the Senate bill, like dropping specific provisions for a National Advisory Council—still permitted, but not structured into the bill—and deleting some of the more objectionable language in the Senate section barring Federal control of the new entity, those who take the time to study the final plan, in comparison with the House and Senate versions, will clearly observe an almost total Senate victory over the House. Furthermore, where the House did prevail, it was often because its language was as permissive or more permissive than that of the Senate. In some cases, as with regard to the ban on aid to Selective Service law violators, the conferees had no choice, since the prohibition was included by both House and Senate.

To give credit where due, the one real victory scored by the House was the personal achievement of Kentucky Congressman CARL PERKINS who had insisted that local attorneys be given preference in filling project staff vacancies. Yet all of this explanation does not even begin to remind the reader that the House bill, vastly better than the conference result, was itself more liberal in 13 key respects than was the administration plan announced last May 15. And of course, that plan was also a compromise, redrafted post-Watergate in a vain attempt to appease liberal demands.

Mr. President, I call upon those who were looking for true reform in the delivery of legal services to the poor to examine this bill closely when the conference report comes to the floor, and to reject the conference report. And if the conference report should not be rejected, I urge the President to veto it forthwith.

ALBERT COATES: THREE NORTH CAROLINIANS WHO HAVE STOOD UP TO BE COUNTED FOR THE BILL OF RIGHTS—SAM SPENCER, ZEB VANCE, AND SAM ERVIN

Mr. McCLELLAN. Mr. President, one of North Carolina's most distinguished citizens is Albert Coates, of Chapel Hill, longtime professor in the Law School of the University of North Carolina at Chapel Hill and founder of that most unique institution, the Institute of Government at the University of North Carolina at Chapel Hill. On Thursday, evening, October 18, 1973, Dr. Coates made a speech at a meeting of the North Carolina Democratic Club of Washington, D.C., in which he paid tribute to three of North Carolina's sons, Judge Sam Spencer, Governor and Senator Zeb Vance, and our colleague, Senator SAM ERVIN, as "three North Carolinians who have stood up to be counted for the Bill of Rights."

I ask unanimous consent that a copy of this speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

THREE NORTH CAROLINIANS WHO HAVE STOOD UP TO BE COUNTED FOR THE BILL OF RIGHTS

(By Albert Coates)

I thank the leaders of the North Carolina Democratic Club in Washington for this opportunity to talk to you. There are many things I have wanted to say, and I cannot think of a better time and place to say them. I want to talk to you about the historic tradition of North Carolina and the Bill of Rights as we know it today.

If I had to pick out three North Carolinians who have stood up to be counted for the Bill of Rights at critical moments in our history, and limit the picking to three, I would pick out Sam Spencer of Anson County in the 1760's, Zeb Vance of Buncombe County in the 1860's, and Sam Ervin of Burke County in the 1960's. Let me tell you why.

Sam Spencer of Anson County, in 1788 in the Constitutional Convention in Hillsborough Courthouse:

Our rights are not safeguarded. There is no declaration of rights, to secure every member of society those unalienable rights, which ought not to be given up to any government. . . . I know it is said that what [power] is not given up to the United States will be retained by the individual states, I know it ought to be so, and should be understood; but, sir, it is not declared to be so . . . there ought to be something to confine the power of this government within its proper boundaries. . . . The government is proposed for individuals. The expression "We the People of the United States" shows that this government is intended for individuals. There ought therefore to be a Bill of Rights.

I.—SAM SPENCER

Who was Sam Spencer? He was born in Connecticut in 1738; graduated from Princeton University around 1758; moved to North Carolina and became Clerk of Court in Anson County in the 1760's.

The rule of Law and the Bill of Rights got into the mind of Sam Spencer as he read and studied the Charter from the Crown in 1663, guaranteeing to settlers in the Province of Carolina, the rights and privileges of Englishmen living in England. As he learned that these rights and privileges had been spelled out in Magna Carta in 1215 and the Petition of Right in 1628, and promised to "the freemen of England and their heirs forever." As he learned that they had been reaffirmed and expanded in the Declaration of Rights in 1689.

They became more than words to him in the 1760's, 70's, and 80's and got into his bloodstream as he saw the King and Parliament denying these elemental rights to North Carolinians—vetoing act after act of the Colonial Assembly in the growing conflict of interests between the Colony and the Crown. As he saw Cornelius Harnett lead five hundred angry citizens to the doors of the Governor's palace to protest against the Stamp Act. As he saw the Royal Governor flee the Colony to the protection of a British Warship in the Wilmington harbor in the 1770's. As he marched with the Anson County militia in the American Revolution and became their fighting colonel.

He stood up to be counted for them as a delegate to the Provincial Congress in North Carolina which drew up the Halifax Resolves, authorizing "the delegates for this colony in the Continental Congress to concur with the delegates of the other colonies in declaring independency."

The American historian, George Bancroft, wrote this about the Halifax Resolves: "The first voice for dissolving all connection with Great Britain came, not from the Puritans of New England, the Dutch of New York, or the planters of Virginia, but from the Scotch Presbyterians of North Carolina."

He stood up to be counted for them again as a delegate to the Convention which met at Halifax from November 12 to December 18, 1776, and wrote into the State's first Constitution the relevant rights and privileges of the people which had been spelled out in Magna Carta, the Petition of Right, and the Declaration of Rights.

To make assurance of these rights and privileges doubly sure, he was one of the delegates who added the provision: "That the Declaration of Rights to hereby declared to be part of the Constitution of this State and ought never to be violated on any pretence whatsoever."

He stood up to be counted for them again on the floor of the State Convention in Hillsborough Courthouse in 1788 as a delegate from Anson County, and refused to vote to ratify the United States Constitution, drafted in Philadelphia the year before, because it did not include a Bill of Rights, such as he had helped to write into the North Carolina Constitution in 1776.

Here is what he said in debate on the floor of the Convention in Hillsborough Courthouse:

"Our rights are not safeguarded. There is no declaration of rights, to secure every member of society those unalienable rights, which ought not to be given up to any government. . . . I know it is said that what [power] is not given up to the United States will be retained by the individual states, I know it ought to be so, and should be understood; but, sir, it is not declared to be so . . . there ought to be something to confine the power of this government within its proper boundaries. . . . The government is proposed for individuals. . . . The expression 'We the People of the United States' shows that this government is intended for individuals. There ought therefore to be a Bill of Rights."

He foresaw

Sam Spencer did not share the view of James Madison and his associates, who believed the people could do no wrong, that the rights of the people were safe in the people's hands, and therefore did not need a Bill of Rights in the United States Constitution.

He foresaw the abuse and the dangers of raw power in *anybody's* hands. He foresaw the doctrine of Lord Acton that "All power corrupts and absolute power corrupts absolutely." And he might have had some sympathy for the latter day observation that it is "being out of power that corrupts absolutely."

He foresaw what we have lived to learn in the hundred and eighty-six years from 1787 to 1973: That the commonwealth may be plundered by favorites of the people as well as by favorites of the King. That to the victor belong the spoils may be the slogan of elected office holders as well as hereditary rulers. That shades of the ancient spoilsmen may gather in the modern sheriff's eyes. That remnants of the divine right of kings may still crack down in a policeman's billy. That the aristocratic doctrine that some men are not as good as other men may be changed into the democratic doctrine that "every man is as good as every other man, and a damn sight better."

If he had lived a few years longer, he would have felt his foresight was vindicated when the General Assembly of North Carolina in 1807, tried to deny a seat to a duly elected member because he was a Jew, and this Jew saved his seat by invoking the provision Sam Spencer had helped write into the Declaration of Rights guaranteeing to every citizen the "right to worship God according to the dictates of his own conscience."

So much for a thumbnail sketch of Sam Spencer of Anson County, how the Rule of Law and the Bill of Rights got into his mind and bloodstream, and why he stood up to be counted for them in North Carolina in the 1760's and thereafter.

In 1862 in a letter to the President of the Confederacy on learning that forty citizens of North Carolina had been taken from their homes and put in prison without a hearing:

As Governor, it is my duty to see that the citizens of this state are protected in whatever rights pertain to them, and, if necessary, I will call out the State Militia to protect them and to uphold the principles of Anglo-Saxon liberty—trial by jury, liberty of speech, freedom of the press, the privileges of Parliament, habeas corpus, the right to petition and bear arms; subordination of military to civil authority; prohibition of *ex post facto laws.*

II.—ZEB VANCE

One hundred years later, in the 1860's, Zeb Vance stood up to be counted for the Rule of Law and the Bill of Rights in critical moments of its life in North Carolina.

Zeb Vance was born in Buncombe County in 1830, went to the University of North Carolina in 1850–51; practiced law; went to the State Legislature in 1852; went to the National Congress in 1854, at the age of twenty-eight; became Governor of North Carolina in 1862, at the age of thirty-two, while he was fighting in the Confederate Army; became Governor again from 1876 to 1878; went to the United States Senate in 1878 and stayed there until the 1890's.

The Rule of Law and the Bill of Rights got into Zeb Vance's mind while he was a student in the University of North Carolina in the 1840's. He took a course given by David Lowry Swain, President of the University, and described in the catalogue in these words:

"A regular course of lectures is delivered on the History of Constitutional Law, presenting an analytical review in chronological order, of the Magna Carta of King John; the Petition of Right; the Charters of Carolina; the Fundamental Constitutions (by John Locke); the Habeas Corpus Act; the Bill of Rights; the Declaration of Independence; The Articles of Confederation; the Treaty of Peace with Great Britain, and the Constitution of the United States."

In later years Zeb Vance wrote this description of one of President Swain's lectures in this course:

"I entered the University in 1851 and joined the senior class as an irregular. The first lesson was in Constitutional Law. A single general question was asked and answered as to the subject in hand and from these, [he] went back to the men and the times when the great seminal principles of Anglo-Saxon liberty were eliminated from feudal chaos, and placed one by one as stones polished by the genius of the wise, and cemented by the blood of the brave, in the walls of the temple of human freedom. He told us of the eloquence of Burke, of the genius of Chatham; he took us into the prison of Eliot and went with us to the death-bed of Hampden; into the closet with Coke and Seargent Maynard; and to the Forum where Somers spoke. . . ."

If the Rule of Law and the Bill of Rights got into Zeb Vance's mind through his college course with David Lowry Swain, they got into his bloodstream in his fight against secession by the General Assembly of North Carolina in 1860 and 1861.

He stood up to be counted for them as Congressman in 1860. Glen Tucker tells the story of a statewide rally of the Whig forces in Salisbury in 1860 to proclaim to the world "their stand for the preservation of the Union." Zeb Vance, a thirty-year-old Congressman from western North Carolina, "little known to the leaders of North Carolina politics . . . was called to the platform . . ." Any sentiment for secession which might have prevailed in the large gathering was swept aside by the words which poured from this young man's lips, as he said: "We fight for the Constitution, for the Union, and the Laws. We fight within the Constitution for the Union and the Laws. We will not be led off by seceders." He went on to say that:

"If they [the people] choose to undo the work of their wise and heroic ancestors, if they choose to invite the carnage to saturate their soil and desolation to waste their fields, they cannot say their public servants precipitated them into it! The people must and should rule, but we must see to it that we do our duty in warning, instructing, and advising them."

Under this sort of leadership the people of North Carolina voted down even the suggestion that a convention be called to look into the advisability of secession. In his own words: "I was canvassing for the Union with all my strength. I was addressing a large and excited crowd . . . and literally had my arm extended upward in pleading for peace and the Union of our fathers when the telegraphic news was announced of the firing on Fort Sumter and the President's call for seventy-five thousand volunteers, and my arm fell slowly and reluctantly to the side of a secessionist."

He stood up to be counted for them again as Governor in 1862. Glen Tucker tells the story:

"General French moved into eastern North Carolina in the latter part of 1862 and officers under his command arrested forty citizens on the suspicion that they were disloyal and sent them to a military prison at Salisbury for safe keeping—without notice or a hearing."

Vance wrote to the President of the Confederacy in Richmond, saying that as Governor of North Carolina it was his duty to see that these citizens were protected in whatever rights pertained to them, and that if necessary, he "would issue a proclamation recalling the North Carolina soldiers from Virginia and call out the state militia to protect the liberty of its citizens" and to uphold "the principles of Anglo-Saxon liberty—trial by jury, liberty of speech, freedom of the press, the privileges of Parliament, the right to petition and bear arms; subordination of military to civil authority; prohibition of ex post facto laws.

"If, in short, the merest citizen in all the land cannot instantly command for his protection in the commonest, simplest personal right, the entire physical and moral weight of the Republic . . . then, indeed, it is no more entitled to your reverence and attachment than is the autocratic splendor of the Czar or the idle magnificence of the Grand Turk."

He advised President Davis to go slow in suspending the writ of habeas corpus, "before shocking all worshipers of the common law throughout the world by hounding freemen into sheriffless dungeons for opinion's sake."

He knew what Sir Edward Coke meant when, in the debates involving the Petition of Rights in 1628, he said that "the greatest inheritance that a man hath is the liberty of his person, for all others are accessory to it."

He knew that the writ of habeas corpus was the protector of other rights in the Constitution, and while it was suspended in Northern states by President Lincoln, and in Southern States by President Davis, Zeb Vance refused to suspend it at any time in the state of North Carolina.

He stood up to be counted for them again on May 11, 1863, when he issued a proclamation to militia officers "not to arrest any man as a conscript or deserter who had been discharged under a writ of habeas corpus issued by a Supreme or Superior Court Judge of the State" and to "resist any such arrest by any person not authorized by the legal order or process of a court or judge having jurisdiction of such cases."

HIS PROUDEST BOAST

In later years he said that the "proudest boast" of his governorship was that "the laws were heard amidst the roar of cannon. No man within the jurisdiction of North Carolina was denied the privilege of the writ of habeas corpus, the right of trial by jury, or the equal protection of the laws, as provided by our Constitution and the Bill of Rights."

Sam Spencer would have thrilled to this record.

So much for this thumbnail sketch of how the Rule of Law and the Bill or Rights got into the mind and bloodstream of Zeb Vance, and why he stood up to be counted for them in the 1860's.

Sam Ervin, of Burke County, in 1973, in a speech to the Student body of the University of North Carolina at Chapel Hill:

"So long as I have a mind to think, a tongue to speak, and a heart to love my country, I shall deney that the Constitution confers any arbitrary power on any President, or empowers any President to convert George Washington's America into Caesar's Rome."

III.—SAM ERVIN

A hundred years later, in the 1960's, Sam Ervin stood up to be counted for the Rule of Law and the Bill of Rights in critical moments in the history of the United States.

I have talked about Sam Spencer and Zeb Vance from a background of reading and research. I shall talk about Sam Ervin from a background of observation and experience. I have known him since college days at the University of North Carolina in 1914.

He was born in Morganton, Burke County, North Carolina, in 1896; graduated from the public schools in 1913, and from the University of North Carolina in 1917; went from college campus to training camp and World War I in the spring of 1917; graduated from the Harvard Law School in 1922; began practicing law and went to the General Assembly of North Carolina in 1923; became judge of the Burke County Criminal Court in 1935; Judge of the Superior Court of North Carolina in 1937; Congressman in 1946; Justice of the Supreme Court of North Carolina in 1948; and United States Senator from North Carolina in 1954.

The Rule of Law and the Bill of Rights got into Sam Ervin's mind by way of his lawyer-father who put him to reading Blackstone's Commentaries on the Laws of England when he was fifteen years old, and by way of teachers in the University of North Carolina just before and after World War I.

In talking to the University faculty in Chapel Hill in the spring of 1973, here is what he said about Dr. de Roulhac Hamilton's course in American Constitutional History: "He made it plain that if one is to understand the fundamental principles of the Constitution he must know the history of the events which brought those principles into being. I cannot overmagnify the benefits which I received from his instruction." Here is what he said about Dean Lucius Polk McGehee's course in Constitutional Law: "Dean McGehee was one of the greatest lawyers as well as one of the greatest scholars I have ever known, and he emphasized above all things the necessity of being thorough in one's studies and endeavors, and being completely honest intellectually. I cannot adequately express my appreciation of the aid which his instruction has given me through all the intervening years."

They become more than words to him as he sat in the assembly of students in Chapel Hill in the spring of 1917, when college seniors were leaving the campus for the training camp in World War I, and President Edward Kidder Graham called the roll of great landmarks in this history of liberty—Magna Carta, the Petition of Rights, the English Declaration of Rights, the Declaration of Independence, the United States Constitution, and the First Ten Amendments, and said: "Young gentlemen, these are not empty phrases. Cut them and they bleed."

He stood up to be counted for them in the 1950's in a speech on the floor of the United States Senate, involving a provision in the United States Constitution, saying, "that . . . for any speech or debate in either House [Senators and Representatives] shall not be questioned in any other place."

Senator Joseph McCarthy had been using this provision as a cloak of immunity from prosecution while he was smearing the reputations and characters of American citizens whom the Bill of Rights was designed to protect. Sam Ervin spoke in support of a Senate Resolution censuring Senator McCarthy for this abuse of a Senator's privilege. In my opinion that speech was his finest hour up to that time.

He has stood up to be counted for the Rule of Law and the Bill of Rights again and again throughout the 1960's and 1970's, as he has spoken out on the floor of the U.S. Senate:

In protest against a bill before the Senate permitting police to break into a man's house by day or night "without knocking," on mere suspicion that he had "dangerous substances" in his possession which he might destroy if he was not taken by surprise.

In protest against bills permitting the courts to deny the right to bail to persons whom police and judges "suspect" might commit new crimes while out on bail.

In protest against regulations of the Post Office Department that would permit the opening of sealed letters from abroad without notice to the writer or addressee, if it is "suspected" that the letters contain pornographic pictures, lottery tickets, or narcotics.

In protest against regulations of the Census Bureau and other government agencies permitting data collecting programs, sophisticated surveillance techniques, and the use of the computer and data banks in ways violating the individual's historic right of privacy.

In protest against regulations of government employment agencies permitting probing questions about religion, family, and sexual matters. Questions calling for the disclosure of personal finances and creditors of employees and their relatives. Practices coercing employees to buy bonds and support political parties and participate in community activities having nothing to do with their jobs, and to conform their personal behavior and associations outside the office to agency rules and a supervisor's whim.

In protest against activities of military agencies operating a data bank "collecting files on private citizens" and spying on the lawful pursuits of Americans in public and private assemblies throughout the country.

Reminding privileged students on college campuses, as well as the underprivileged inhabitants of slums and ghettos, that the freedoms guaranteed in the U.S. Constitution do not go so far as to provide a cloak of immunity for such crimes as "treason, felony, or a breach of the peace" committed by anybody, anywhere, at any time.

Sam Spencer and Zeb Vance would have thrilled to this record.

Sam Ervin and the Senate Select Committee in 1973

The portals of the National Department of History and Archives carry this legend: "What Is Past Is Prologue." "What does that mean?" asked a tourist of a taxi driver, and got this answer: "It means you ain't seen nothing yet." That legend is true of Sam Ervin today as he stands at the threshold of his greatest challenge and his greatest responsibility as Chairman of the Senate Select Committee, appointed on the fifth day of February 1973, "to conduct an investigation and study of the . . . illegal, improper, or unethical activities . . . engaged in by any persons, . . . in the presidential election of 1972, or any campaign, canvass, or other activities related to it."

North Carolina can take pride in the fact that one of her sons, coming to the United States Senate in 1954, in nineteen years of intimate association won the confidence of his fellow Senators in his ability, integrity, and fairness, to the point that the Senate Majority Leader, Mike Mansfield said in appointing him Chairman of this Select Committee, "We are looking for a good, fair, impartial investigation, and Sam Ervin is the only man we could have picked on either side of the aisle who would have the respect of the Senate as a whole."

The Senate Select Committee comes at a time when men who ought to know better believe that loyalty to a candidate for political office is more important than loyalty to the laws, the Constitution, and the Bill of Rights, and carries more weight than the ten commandments. At a time when men distort the Golden Rule into saying: "Do unto others what you think they are going to do unto you and do it first." "Thrice armed is he who feels his cause is just," these men are saying, "but thrice times three who gets his licks in fust."

At a time when the Rule of Law and the Bill of Rights are being called into question as never before in the twentieth century. Let me illustrate my meaning.

Old liberties in new settings

The 39th Article of Magna Carta, written in 1215, promised to "the freemen of England and their heirs forever", that:

"No freeman shall be arrested, or detained in prison, or deprived of his freehold, or outlawed, or banished or in any way molested . . .; and we will not set forth against him, unless by the lawful judgment of his peers and by the law of the land."

This provision was brought forward in the Constitution of North Carolina in 1776, and in the Constitution of the United States in 1791. It takes on fresh and vivid meaning in the setting of 1973, as we listen to testimony that governmental agencies are being used to harass citizens by politically motivated audits, "quickie" investigations, and other tactics prostituting normal governmental activities to partisan political ends.

The 40th Article of Magna Carta reads like this:

"To no one will we sell, to no one will we deny or delay right or justice."

This provision was brought forward in the North Carolina and United States Constitutions. It takes on fresh and vivid meaning in the setting of 1973, as we listen to testimony about slowing down the processes of the courts in civil litigation, and suggesting a prestigious appointment to a judge while he is trying a criminal case—by an administration interested in the outcome of cases before the court.

A provision in the Petition of Right in 1628 reads like this:

"That no man be hereafter compelled to make or yield any gift, loan, benevolence, or tax, or such like charge, without common consent by act of Parliament."

This provision was brought forward in the Constitutions of North Carolina and the United States. It takes on fresh and vivid meaning in the setting of 1973, as we listen to testimony about political pressures for campaign gifts from competing corporations. Testimony about rulings increasing the price of products in return for campaign contributions. Testimony about shifting profits from producers to middle-men by withholding information about massive sellings in the offing. Testimony about mergers of business influenced by proffered donations to subsidize the site for political conventions.

A provision in the Declaration of Rights in 1689 read like this:

"That election of members of Parliament ought to be free."

This provision was brought forward in the Constitutions of North Carolina and the United States. It takes on fresh and vivid meaning in the setting of 1973, as we listen to testimony about uncounted millions of dollars used to manipulate elections by the fraudulent devices of lying, concealment, and non-disclosure, and the calculated use of "dirty tricks" without stint or limit.

A provision in the Declaration of Rights in 1689 reads like this:

"That it is the right of the subjects to petition the King . . . and that for redress of all grievances, and for the amending, strengthening, and preserving of the laws, Parliaments ought to be held frequently."

This provision was brought forward in the Constitutions of North Carolina and the United States, and the first amendment to the United States Constitution guaranteed "the right of the people peaceably to assemble, and to petition the government for a redress of grievances."

It takes on a fresh and vivid meaning in the setting of 1973, as we listen to testimony about military agencies operating data banks, collecting files, and spying on American citizens attending lawful assemblies.

The fourth amendment to the Constitution of the United States reads like this:

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the places to be searched, and the persons or things to be seized."

It takes on fresh and vivid meaning in the setting of 1973, as we read of the practice of "no-knock" entries into homes to take the occupants by surprise, preventive detention of suspected persons, electronic surveillance, and burglaries of dwellings and business establishments, whenever possession of "a little brief authority" requests it.

Buildups and let-downs in the flow of freedom

The flow of freedom from the Establishment to the People throughout the centuries has not been uniform or smooth. It has been irregular and disjointed. Many times it has gone under in the undertow, and later come to a new advance with a returning wave—adding a new beachhead to the main, and expanding our liberties by slow and gradual accretion. Let me illustrate my meaning:

On April 19, 1783, the Governor of North Carolina wrote to members of the North Carolina General Assembly that

"His Britannic Majesty having acknowledged the United States of America free, sovereign and independent, . . . Nothing new remains but to enjoy the fruits of uninterrupted Constitutional freedom, the more sweet and precious as the Tree was planted by virtue; raised by the toil and nurtured by the blood of Heroes."

With this invitation to rest on their oars, thirteen "free and independent" states began withdrawing from each other. They withdrew long enough to find that they could live *in* liberty but they could not live *on* it, long enough to find that they could not "go it alone," long enough to find that every state could not do as it pleased and let every other state do as it pleased, long enough to understand that they must pull together "in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty for ourselves and our posterity."

This experience of build-up and let-down has been repeated throughout our history. The let-down followed Magna Carta, and the build-up came with the Petition of Right. The let-down followed the Petition of Right, and the build-up came with the Declaration of Rights. The let-down followed the Charter from the Crown, and the build-up came with the Declaration of Independence.

This let-down and build-up in the flow of freedom from one generation to another is a little like the flow of oil in a pipe line—starting out strong, and slowing down almost to a stop from the friction and erosion of the surrounding pipe, until a booster station pumps new life and vigor into the flow. It was in this way that Magna Carta, the Petition of Right, the Declaration of Rights, the Charter from the Crown, and the Declaration of Independence became "booster stations" in the flow of freedom. And so with the 13th, 14th, and 15th amendments in the 1860's, the Segregation Decision in the United States Supreme Court in 1954 and the decisions triggered by it, the Civil Rights Act of 1964 and the Voting Rights Act of 1965 in the United States Congress.

Flowing through the centuries like some magic gulf stream these historic documents have changed the climate and tempered the habits, customs, and manners of men wherever the current has gone. They are joints in the backbone of our liberties. The fluid in the spinal column. The marrow in the bones. The spark of life in the customs, laws, and Constitutions of North Carolina and the United States. Let the spark of life go out of the human body and the human body goes to rot. Let that spark of life go out of our customs, laws and constitutions, and our customs, laws and constitutions go to rot.

I believe it was a vivid awareness of this tragic flaw of build-up and let-down in human nature and in the body politic which caused Sam Spencer and his associates to write Section 35, Article 1, into the North Carolina Constitution in 1776, saying: "That a frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty."

I believe it was this vivid awareness which caused them to follow-up Section 35 of Article I with another provision, saying that the North Carolina Declaration of Rights is "hereby declared to be part of the Constitution of this State and ought never be violated on any pretense whatsoever."

Revelations going on around us today demonstrate with all the stinging freshness of demonstrated truth that "a frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty." This is simply another way of phrasing the well-worn observation that "eternal vigilance is the price of liberty."

The task of the Senate Select Committee

The task of the Senate Select Committee is both simple and profound. It is (1) to find the facts, (2) inform the people, and (3) recommend laws and procedures to correct the evils they uncover.

It is well on its way to finding the facts, and it will keep on going until it finds them. It is well on its way to informing the people, and it will keep on going till it informs them. It will then propose legislation to strike at the roots of the evils it uncovers.

I do not know how many paragraphs and pages it will take for the Senate Select Committee to spell out the grievances of the people in 1973, as the predecessors spelled out the grievances of the people in 1215, 1628, 1688 and 1776. But I do know that its report must begin with a reaffirmation of the "ancient rights, liberties and inheritances," promised by Magna Carta to "the freedom of England and their heirs forever." Reaffirmed and expanded in the great historic documents which have punctuated the flow of freedom from one generation to another throughout our history.

If the Senate Select Committee draws up a document reaffirming and expanding our "ancient rights and liberties and inheritances," in this day, as their predecessors have done before them.

If it strikes at the roots of our grievances today, as its predecessors struck at the roots of the grievances of their day.

It will give the American people something to celebrate as the 200th anniversary of American Independence arrives in 1976; something above and beyond anything that any Bicentennial Commission is likely to propose; something that will help to turn "the Watergate Affair" into another "booster station" in the flow of freedom from the Establishment to the People.

What will the people do?

Mary McCarthy, writing in the New York Review of July 19, 1973, says this of Sam Ervin and his leadership of the Senate Select Committee: "It is the old America which Senator Ervin believes in. This house, he feels, can be cleansed, and restored to its semi-pristine condition. That is why he is stubbornly convinced that the hearings will arrive at their destination—the truth.

"But if it doesn't come out that way," I said to him. "If they fail? Just take it as a hypothesis." "I refuse to entertain the thought," was Sam Ervin's answer. "As though the thought was a felon seeking entry into his mental house. He is becoming a folk hero, because of that stout old-fashioned attitude."

Mary McCarthy goes on to say:

"I hope that Senator Ervin is right, but if he is right and nothing happens—a strong possibility—then we are worse off than we were before. If we know, that is, and don't act, can find no frame for action, then the powers that be, knowing that we know and won't do anything, will have nothing more to fear."

Sam Ervin is old fashioned enough to believe that the people will act. He knows that "the boughs of the Tree of Liberty have been swayed this way and that" throughout our history. He knows that "their strength to withstand the wind comes from the depth and toughness of their roots in the past. He knows that "the greatest danger to the people is that they themselves may erode these roots by forgetfulness and indifference,—the slow smokeless burning of decay."

He also knows that in 1973, the people are seeing these revelations of what has been going on around them—revelations on their television screens by day and by night, reading about them in their morning and afternoon papers, and talking about them wherever they are. They are becoming as much aware of the pollution in the body politic as they are aware of the smog which obscures the sun and the waste which fouls their streams. As much aware of the gradual erosion of their liberties as they are aware of the general erosion of their top soil and the blighting of their landscape. Aware of the smug and arrogant complacency of a witness under oath recognizing their erosion and bragging about his part in it.

He is old fashioned enough to believe that a self-respecting people will not listen to seductive and self-serving cries from those who would stop the hearings before the truth comes out, any more than he believes that a self-respecting dentist will put a cement filling in a decaying tooth before rooting out the rot. He does not believe the American people are willing to be a party to the stultifying process of covering up the "cover up".

Commonsense and mother wit

I think there may be something to Mary McCarthy's suggestion that he is becoming a folk hero because "of his stout old-fashioned attitudes." There are in him qualities giving color of title to his talk.

He is himself and nobody else. He moves in his own orbit, along inner directed courses. He is full of common sense and mother wit. Whether he is quoting the Bible or the Constitution he is illustrating his own philosophy and religious thinking and beliefs. He is all of a piece—not a lot of planks nailed together, but a growing tree with the sap of life flooding through it.

A great compassion

It surfaced at a hearing of the Senate Select Committee the other day, in saying that the Watergate affair may turn out to be a greater tragedy than the Civil War. Ed Yoder points out in the Greensboro *Daily News* that Sam Ervin is using "tragedy" in its precise and classical meaning:

"Those who recall its ancient resonances, as discussed by Aristotle, may feel that it fits the Watergate matter very precisely. Tragedy, said Aristotle, is the calamity of the man of overwhelming pride, neither exceedingly good nor exceedingly bad, who is betrayed by a tragic flaw and punished for his lapse by the gods. In King Oedipus the flaw was anger; in some of the Watergate principals—one thinks, for instance, of former Atty. Gen. John Mitchell—it was a dangerous mixture of cynicism and arrogance; in others, a misplaced, almost mindless, loyalty. . . .

"When one feels, as Senator Ervin seems to feel, that the frailty of pride has undone the men of Watergate, and reflects that this frailty is universal, the natural response is indeed pity and fear—or what we mean when we think, "there but for the grace of God go I." One may not agree with the Senator that Watergate, in the scale of delinquency or present retribution, rivals the Civil War. But both, equally, were collisions of arrogant men "dressed in a little brief authority" that constitutes tragedy.

"Senator Ervin, as usual, has defined the matter with a precision his critics do not grasp."

In the twisted lives and tortured reputations of witnesses unfolding in succession before the Senate Select Committee, Sam Ervin has seen and heard and felt the "still sad music of humanity, not harsh nor grating, but with ample power to chasten and subdue."

He knows what the Grecian poet was talking about twenty-five hundred years ago when he wrote of the "God whose law it is that knowledge comes through suffering. . . ." How "Sorrow falls, drop by drop upon the heart, until, against our will, and even in our own despite, comes wisdom to us by the awful grace of God. . . ."

Along with these qualities of common sense, mother wit, and compassion, he brings to the leadership of the Senate Select Committee another all important quality—which was pointed out in a Memorial Day address in 1884 to Union Veterans of the Civil War, by Mr. Justice Holmes: "Above all, we have learned that whether a man accepts from Fortune her spade, and will look downward and dig, or from Aspiration her axe and cord, and will scale the ice, the one and only success which it is his to command is to bring to his work a mighty heart."

In a speech on the Senate floor supporting the resolution to censure Senator Joseph McCarthy in the 1950's, Sam Ervin said in answer to a question, that if his name was called in question as Senator McCarthy's was, while he was on the other side of the Potomac as Senator McCarthy was, and if the Potamac was a river of fire instead of water he would somehow cross it to appear in defense of his name.

I call your attention to the fact that Sam Ervin said he would walk through fire. He knew he could do this, because he had done it before when he belonged to Company I of the 28th Infantry, selected as the first regiment of American troops to go "over the top" at the Battle of Cantagny—the first engagement fought by American troops in World War I. His part in the battle is described as follows: "Private Samuel J. Ervin, with exceptional courage and perserverance, led a carrying party through heavy fire; he made several trips from the rear to the front until he was wounded."

In the Battle of Soissons, on the 18th day of July, the 28th Infantry was halted by machine gun fire from an emplacement one hundred yards ahead. Most of the officers of the Company had been killed. At this point, twenty-two year old Sam Ervin called for volunteers to help silence the enemy gun. Four men responded and they charged the gun. Here is an affidavit of one of those men: "One man was mortally wounded. Another was killed. Ervin was knocked down by a shell fragment in front of the gun. The two remaining reached the machine gun, killed its crew, seized the gun," and the troops went on to victory.

The affidavit goes on to say: "We went back to Ervin and bandaged his wounds to stop the flow of blood and wanted to carry him back to safety, but he refused to be assisted and told us to go back and join the other soldiers if we could.

"It was only due to Ervin's initiative and gallantry that the gun was captured. Throughout the engagement he directed the fire upon the machine gun, and after being wounded he urged us to capture the gun and showed himself unmindful of his own safety. Though wounded so severely he was unable to walk, he refused to go to the rear, but crawled back and organized an advance automatic rifle post where he remained on duty until all danger of a hostile counter attack was over."

In speaking to five thousand students at the University of North Carolina in Chapel Hill some days ago, Sam Ervin said: "As long as I have a mind to think, a tongue to speak, and a heart to love my country, I shall deny that the Constitution confers any arbitrary power on any President, or empowers any President to convert George Washington's America into Caesar's Rome."

Anyone who knows Sam Ervin knows that he will live and die fighting on this front—fighting with his face to the enemy and with his wounds to the fore. Anyone who knows Sam Ervin knows that in 1973 he is doing this as instinctively, as deliberately, and as knowledgeable as he charged the machine gun firing on his comrades in the Battle of Soissons on the 18th day of July, in 1918.

A love letter to Sam Ervin

When I read what I had written up to this point to my wife, she said, "It reads like a love letter to Sam Ervin," As indeed it is. Let me tell you how we came to know Sam Ervin.

He was in the Class of 1917 and I was in the Class of 1918, in a University with a thousand students who knew each other—always by sight and nearly always by name. We felt the accuracy with which he was characterized in the college annual by one who knew him: "Everything he meets responds, and at once a sympathetic friendship ensues. Like Midas, he has that magic touch which makes everyone he meets his friend; and consequently he is liked by all."

He became a dramatic figure in the eyes of my wife and myself when the classes of 1917 and 1918 held a joint reunion in June 1929. This incident occurred as one returning alumnus after another stood up around the table giving his name and telling what he was doing in post-war years—until a ten-year-old boy was introduced as the son of Oliver Ransom of the Class of 1917.

At this point in the proceedings, my wife saw a tall and slender young man, elegant in dress and bearing, come to his feet in tribute to this ten-year-old boy's father, and the spirit that had moved him to:

> . . . pour out the red,
> Sweet wine of youth; give you the years to be
> Of work and joy, and that unhoped serene
> That man calls age.

My wife had come to Chapel Hill from Virginia as a bride the year before, and had never seen Sam Ervin until that night. She marvelled at his power to stir a cynical post-war generation in 1929 with the poetry of Rupert Brooke—until I told her that Oliver Ransom was Sam Ervin's friend and classmate, who had gone to war with him in the spring of 1917, and was killed in action early in the War and left behind him a bride who had become a wife, a widow, and a mother within a year, and this ten-year-old boy was the son that Oliver Ransom had never seen.

We followed Sam Ervin's career in the years after this 1928 reunion as the morning paper brought to our breakfast table the news of his election as Congressman, his appointment and election as Superior Court Judge, Supreme Court Justice, United States Senator. Each time my wife and I have interrupted our breakfast to call him on the phone to tell him of our delight and to wish him well.

We have voted for him in successive elections, not because of how he stood on any one particular issue—we never asked him—but because he was the sort of man he was; and we knew without his telling that he would vote and act from forces welling up within him and not from any outside force or external pressure, and because we felt he was headed in the general direction we wanted to go.

We have never had any fear that he would get lost along the way. There is a story told to us by Miss Beatrice Cobb, editor of his hometown paper, that Sam had been reported "missing in action" in World War I and continued on the missing list for a long time. When he finally turned up the whole worried community came together in a sigh of relief that "little Sam" had been found. "I was never lost," he told them. "I knew where I was all the time." And so it has been from that day to this. Sam Ervin is all there, all at once, and all the time.

Let me bring this love letter to a close by saying that my wife has read all that I have written, and begs exemption from the common law doctrine that man and wife are one and the man is the one, long enough to sign her own name to this letter.

The great tradition

I have heard it said from boyhood days that one could pick up a seashell, hold it to his ear and hear the sound of ocean waves beating upon the shore. Not long ago I ran across this notion in a poem:

> The hollow sea-shell, which for years hath stood
> On dirty shelves, when held against the ear
> Proclaims its stormy parent, and we hear
> The faint, far-off murmur of the breaking flood.

This poetic folklore is a matter of fancy rather than of fact, but I have no doubt that imagination may call up the "far-off murmur of the breaking flood" to ears familiar with the sea.

As North Carolinians, we can take pride in the fact that when our freedoms have been in danger here in North Carolina, there have been among us men who have held the historic documents of our liberties to their ears and heard their music and gone into battle in their defense.

Sam Spencer in the 1760's, Zeb Vance in the 1860's, and Sam Ervin in the 1960's and 70's take their places in the great tradition of Stephen Langton and his associates in the Magna Carta, Sir Edward Coke, Sir John Eliot and John Somers and their associates in the Petition of Right, and the Declaration of Rights; Thomas Jefferson, in writing the Declaration of Independence in 1776; James Madison and his associates in drafting the First Ten Amendments to the U.S. Constitution in 1791. Men who stood up to be counted for the Rule of Law and the Bill of Rights. Men who were, in Stephen Spender's words:

> Born of the sun, [and] traveled a short while toward the sun,
> And left the vivid air signed with their honor.

LAND USE PLANNING: A NATIONAL ISSUE

Mr. PACKWOOD. Mr. President, very few citizens claim not to support sound land use planning. We all recognize the need to instigate some changes in present land use practices, many of which show little or no regard for our Nation's vast natural resources. One would think that a strong Federal land use policy would garner overwhelming support from legislators and citizens alike. Unfortunately, the Federal Land Use Planning Act has met with some resistance in the House.

The Senate managed to pass its own version of the bill June 21, 1973. It is therefore with some disappointment that I make note of the delays encountered in the House. We cannot afford the kind of procrastination which has accompanied discussion of land use planning. It is imperative that an effective Fedral land use policy be enacted at the earliest date if we are to avoid what Mr. Hurlon C. Ray, Assistant Regional Administrator for Management, EPA Region X, terms a "Land Use Crisis."

Contrary to popular belief, the measure which was adopted by the Senate did not provide for Federal control of State and local land use decisions. In its final form, the Senate bill was basically a grant-in-aid program to assist States in developing land us programs. The emphasis throughout the bill was on local control and implementation of land use decisions.

I think the remarks of Mr. Ray are worth noting. He discusses the need for sound land use planning and describes the important role which would be played by a strong Federal land use policy. As Mr. Ray points out in his statement, such a program could lend impetus to those efforts already underway in several States and would provide the needed support for continuation of those efforts.

Mr. President, I ask unanimous consent that Mr. Ray's remarks be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

SOME IMPACTS OF FEDERAL ACTIVITIES AND LAND USE DECISION NEEDS ON ENVIRONMENTAL QUALITY

(By Hurlon C. Ray)

(An address before the Workshop on Land Use Planning and Management of Federal Programs, sponsored by the Portland Federal Executive Board, Portland, Oregon, May 8, 1974)

I consider it a real privilege to meet with and talk to the First Meeting on Land Use Planning and Management, sponsored by the Portland Federal Executive Board and to have the opportunity to discuss some impacts of Federal Activities and on Land Use.

In two years our country will be 200 years old. Unless a Federal Land Use Brake is applied soon to the 7,000 acres of land lost daily to some type of development, we will so soon have a "Land Use Crisis." We are not only killing the land, (For example: Strip *mining* may soon claim 75,000 square miles of land.) we are running out of land. (Example: 1,200 people move to Colorado weekly.) Land Use talk is a time-honored tradition and nobody wants it to be regulated by the Federal Government. I believe there is a great future for local initiative and citizen participation in all environmental planning matters.

The pendng National Land Use Policies and Planning Assistance Act is another "NEPA" (National Environmental Policy Act) in the high ranking Congressional environmental laws to defend the exhaustible natural resources from rank and reckless exploitation.

Nothing has invigorated my faith in America so much as the new einvironmental ethic which has evolved during the past five years as a result of the provisions of NEPA. The environment belongs to all of us. NEPA has proved to be an effective and reasonable way to curb pollution and disruption of the great Northwest environment. I think our environment has been well served by the provisions of NEPA.

There is, in my judgment, no more important legislation before the Congress than the land use bill. Its importance does not lie in the fact that it would have any immediate or earthshaken impact upon land use patterns or practices in this country. The *bill* is a thoroughly modest measure where *importance lies in* the fact that it would give new force and focus to efforts already underway in a number of states (Oregon) to give the citizens of this country a real say in determining the course and quality of our physical growth. It is a bill that would help us build upon these efforts and that, by making it harder for isolated groups and individuals to make so many of the critical decisions that shape our human environment, would go a long way toward restoring the rule of democracy in this land.

There is hardly a social, economic, environmental issue before this country that is not somehow deeply and directly bound up with questions of land use—with questions of how and where we organize our activities in space. And we cannot hope to really come to grips with these other issues—of housing, of transportation, of air and water pollution, of equality of opportunity as well as quality of life—until we *begin to* devise effective and democratic ways of dealing with our patterns of growth and development.

Our environmental programs cannot be carried out without major impacts upon patterns of land use, and our environmental goals cannot be achieved without real progress in land use. Our present statutes force us into land use. But they are inadequate. Present statutes did not give us—or anyone else—a sound framework to cope with the problems of unwise land use. . . .

What is required is a full-scale national focus on land use. We need a statute with stiff provisions as in NEPA to deal with land use as bold, as comprehensive and as far-reaching as the 1970 Clean Air Act or the 1972 Water Pollution Control Act. But first, to obtain such a statute and such a commitment cannot come from a small handful of leaders nor from a quick legislative maneuver. They can come only from a broadly based keenly felt and forcefully advocated national concern for the issue. The complexity and magnitude of the challenge absolutely require a comparable magnitude of public support.

Public support resulting in many major court decisions has made NEPA work. NEPA has vanguarded new values in the Northwest; values which give priority to quality of life and long-term ecosystem stability. We have neglected the warnings too long, and now we have begun to pay the high price of corrective action. In many cases, crimes of the past have caught up with us.

Environmental concern is not a passing national fancy. NEPA has set in motion events that will have a long-term impact on our environment. Environmental problems have taken on the national agenda alongside traditional concerns of social justice and quantitative prosperity. Growing is exciting, but the American people want controlled growth to safeguard the national heritage and maintain an ecological balance not jeopardized by imprudence. For engineering expertise to be the means for developing a quality life is a massive challenge. It is a challenge worthy of the highest dedication, and it is a challenge which must be met if we are to secure a liveable world for ourselves and for future life. One reason why NEPA is working in the Northwest is its requirements for full exposure, public involvement, conviction, coordination, integrity, participation, and partnership: no silent partners, no secrets, no deals.

Today, and what we do today, constrains what we can and cannot do tomorrow and determines what tomorrow will be like. Profit, economic growth, and technological expansions are not good, at the expense of a lower environmental quality of life. There are ethical and aesthetic premises that may equal, if not transcend, economics. NEPA has been instrumental in bringing to public awareness the complexity of the pattern of relations between people and their environment.

We cannot develop projects in the Northwest haphazardly or misuse land without regard to the consequences. We must concern ourselves with the prevention of ecological disasters so that costly clean-up will not be necessary.

NEPA has limited effectiveness in the field of land use planning. Its application is generally made on a project-by-project basis over the short range and does not address projects which may be undertaken many years hence, but rather projects which are about ready to be gotten underway.

Federal activities impact land and the environment in many ways. The influence of Federal actions and ways of doing things have a great deal to do with the condition—good or bad—in which we find our environment today.

Federal decisions, activities and actions, however, come about as a result of public demands, many of which are diversified and often conflicting, resulting sometimes in bad decisions. It is somewhat ironic that Governmental decisions which are designed to serve the public interest, sometimes result in a disservice in terms of environmental damage.

There are two major areas in which Federal activities impact land use and the environment. These are:

1. Environmental impacts resulting from direct management of Federal lands.
2. Indirect impacts resulting from regulatory influences on non-Federal lands and natural resource development, including influences on shorelines, wetland, and aquatic and marine environments.

We have seen considerable Federal impact on the environment in the Northwest in relatively recent years—say the past 20–25 years.

Federal management activities on Federal forest, mining and range lands have had profound effects on rivers and streams in terms of sediment deposition and turbidity. Road building, clear cutting logging and grazing practices have been the dominant factors. The designation of wilderness areas has been a plus factor, however, in this regard.

Federal activities have impacted field crop agriculture in terms of dry land conversion to irrigation, resulting in excessive stream depletions and degraded return flow quality.

Federal public works projects and financial assistance programs have impacted land use for highways and power transmission right-of-ways, causing destruction of habitat, increased soil erosion and stream sedimentation. Shoreline and river bank alterations for ports, industrial sites and navigation have produced environmental degradation in terms of waste discharges, dredging and filling and spoils disposal.

Subtle but significant also are indirect impacts of Federal resource and conservation policies, guidelines, and practices on air, water and land, including effects on public health where pesticides, fertilizers, or other hazardous or toxic materials may be used. Policies and guidelines for controlling their own actions in many of those fields, however, are being adopted by Federal agencies themselves.

Environmental legislation at the Federal level has been strengthened considerably in recent years, not only to combat pollution originating from municipal and industrial sources, but to require close examination by the Federal Government of its own effects on the environment.

Executive Order 11752, signed by the President last December, charges Federal agencies with the responsibility of complying with all environmental quality standards, and to recognize and comply with whichever standard at the local, State or Federal level may be the most stringent.

It is being recognized more and more that land use decisions are basic to the preservation of environmental quality. The Clean Air Act addresses siting problems under Section 110, for example, requiring the establishment of State Implementation Plans for meeting National primary and secondary ambient air quality standards.

The Federal Water Pollution Control Act Amendments similarly contain provisions for review of siting and for land use controls, most notable in Section 208, which provides for area-wide waste treatment management plans.

The Federal establishment and its facilities are as much a part of these plans as any other entity. Federal agencies are not complacent about their environmental responsibilities and I am confident that, given the proper direction, they will welcome being a partner to the task.

The trend, most appropriately nowadays, is towards stronger and stronger State control over environmental matters. Strong land use planning legislation at the State level, therefore, is urged. Last year, the Oregon Legislature passed a statewide land use bill. The concern and action by Oregonians regarding her natural resources and environment have long received national attention.

What is needed now is individual action and deliberate appraisal and a growing national momentum of the unique attitude toward land use by Oregonians under the statewide leadership by Governor Tom McCall. If the Oregon story and philosophy can multiply and spread then it is possible that the swelling tide of uncontrolled growth may be halted or even revised. Generally, most people are tired of having their land raped, want to protect the environment and are interested in land use. The big problem is when there is interference with private property rights. Some believe that the land belongs to the living—to treat, trade, sell, etc., in any way we want, if we will be here forever. So! it is expedient to do little or nothing now and let others at a later time handle the problems.

The American public, which includes the Oregonians, hold title to a remarkable acreage of Federal land in Oregon. (32,089,000 acres or 52% of total land area.) I don't think we are taking a risk in that the Federal family join together and present an effective land use plan now. It is timely that the Federal agencies in Oregon join hands with State officials to come up with a land use venture.

I believe now is the time for the Federal agencies in the Northwest to really face up to what non-degradation really means and produce a land use plan that is significantly against degradation in the long haul.

In closing, I believe that the urgent demand of our natural resources should not be used to frighten or scare the public into hasty and ill-considered programs. No earth-shaking action is called for in the land use bill introduced by Senator Henry Jackson in January 1973.

We have got to get moving now—this year. There isn't even a rough blueprint for land use in this country, let alone a master plan. It is my expectation, however, that by the end of this session we shall have a Federal land use law. Such legislation is essential to protect the Oregon initiatives and to back them up with certain basic criteria that will apply uniformly to all jurisdictions in the United States.

With passage of the Land Use Bill, the States will be provided with funds to help them pay for land planning costs. They would be encouraged to assert jurisdiction over land use decisions in cases where assets of State-wide importance were to be developed. The vast preponderance of such decisions would, of course, be made at the local level where they belong. The people are a unique resource that has been neglected as our country grew bigger and more complex.

I know full well many communities are frightened of the prospect of State-wide land use planning. It flies in the face of short-run convenience and age-old traditions. But by failing to act today, we foreclose future options and guarantee the imposition of some form of massive Federal controls on land exploitation.

EXPANDING THE USE OF SCHOOL FACILITIES

Mr. MONDALE. Mr. President, maximizing the use of educational facilities should be a matter of first concern to all. Communities invest a large portion of their revenues in school equipment and buildings, facilities which go unused for the most part in the evenings, on weekends, and during the summer months.

Many localities already use their schools in the evenings for adult education classes, or as summer recreation sites during the long vacation period. In most areas though, the use of these educational resources is not being maximized. The local school building is ideally suited as a true community center, a place available for recreation and cultural activities, educational, and health-care services. Families can benefit greatly from the expanded use of their schools as local residents are drawn to the school as a center for a wide range of activities.

Minnesota has taken an important step toward opening the schools in that State to greater use by more people. In 1971, Minnesota passed a community schools act designed to encourage local schools to increase the use of their facilities. A variety of programs and services have been established in the schools since then to become part of a coordinated community education program. Dr. Jerome M. Hughes, Minnesota State Senator and chairman of the Minnesota Senate Education Committee, testifying before the U.S. House of Representatives General Subcommittee on Education thoughtfully described the need for expanded use of school facilities and the role Minnesota has taken in this endeavor. I ask unanimous consent that Dr. Hughes' testimony be printed in the RECORD, along with material detailing the community school programs in Minnesota.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TESTIMONY OF DR. JEROME M. HUGHES

Mr. Chairman, members of the committee, during the preparation of this testimony, I realized that when I came before this committee, I would fill a number of character roles—Chairman of the Minnesota Senate Education Committee; Chairman of the State Advisory Council on Community Education; a certified professional educator for over twenty years; and a father of six, concerned with the direction education will take in the coming decades. And, I am encouraged by the fact that the testimony I will present will allow me to fill my responsibilities in all four roles with no conflict of interest. I want to try to explain to you today what it means to a community; to the people in the community; to the institutions in a community; to the problems of a community; to have a community education program.

The United States has, in the past, faced educational crises. In the late 1950's, we faced the enrollment bulge of the post-war baby boom. We reacted with an emphasis on large group education, which not only force fed every student the same educational prescription regardless of need, but also isolated the school from the community.

The pupil load was so high, the educational leaders so overburdened, that the school (often a community center in the early 1900's) became an institution—albeit an institution dedicated to education. Perhaps, and it appears to be so, that was the wrong decision. Today, any high school teacher, or college English professor, will be quick to lament on the reading proficiency of the students our "mass education" has turned out. The community and family have declined in importance in our society, which may be at least partially due to the decline of the school as a community center. We now have a transient or, if you prefer, mobile society with loose community, church and family ties. A situation which I believe has worked to the detriment of "American life" as a whole.

Shortly after we "solved" the baby boom problems with huge class loads (30 to 40 students in each class) we were beset with another crisis—the scare of being behind the Russians in technical education. Suddenly in high school and college new emphasis was placed on specialization, especially in engineering and the sciences. It worked; we caught up—as evidenced by both our medical and space programs and the large number of unemployed scientists and engineers.

It is evident from these two reactions that we have not considered the overall picture when responding to educational problems; and later I will also relate this to our neglect to deal with the overall individual in the educational system. Now we face new problems—declining enrollments and a way of life advancing in complexity so fast that continuing education is a necessity—not a luxury of the upper classes. And *that*, gentlemen, is where community education comes into the picture.

But before I go any further, let me make three assumptions—to which I am sure you will agree—first, today we are more aware than ever that education must be a life-long process if we are to achieve the optimum of human development for each individual and the highest quality of life; second, the schools are the best mechanism we have to meet this challenge but they cannot provide this type of learning opportunity on their own; and, third, we must maximize the use of our educational resources, both human resources and facilities (which represent the highest commitment of our local and state budgets) if we are to provide comprehensive and coordinated education.

Dealing with that first assumption, we now know that a child's education and character begin to develop in the pre-natal period. Further, the basic growth which takes place before age six, when formal education normally begins, is at least as important as the development which occurs after age six. Certainly these findings point out a tremendous need for early childhood education, as well as pre-natal education for the family. Motivation and early education have up to now been the product of early home life. This means that, although the child's early character may very well be affected by his parents' love, the motivational and educational base he must acquire to successfully continue his education may not be provided because his parents lack the knowledge to deal with it. Perhaps the answer here is two-fold. The child must be provided early educational experiences. The family also must be instructed in family life and in child raising, as well as in the basic approaches necessary to deal with early physical, mental and social needs of the child.

This approach to education, both of parents and children, must be directed towards developing a sturdy physical, intellectual, social and psychological foundation for the child to build upon. We now know more about the process of education and learning than ever before. We need to put this knowledge of the professional educator into practice in order to make a difference in people's lives. This means education for living, beginning very early and continuing all through life—comprehensive education which will require the cooperation of many specialists, community groups, agencies and individuals. Here we begin to see why (as in assumption two) the school cannot do it alone. It is obvious that an undernourished child, a socially disadvantaged child, or a psychologically disturbed child is unprepared to compete in the education world of today. In fact, each of these "disadvantages" is related and will show up in later life in success, crime and welfare statistics. Currently, our health care, welfare, criminal justice, and educational systems are trying to deal with these areas separately—a mistake. They are inter-related. That fact calls for coordination of the resources of all our social service systems with the educational system. The activities of these groups, now each dealing with its special aspect of the individual's character, must be coordinated so that their efforts neither duplicate nor contradict each other. This is what community education can do for our people and our communities. Every community has a school and through community education that school can become identified by everyone as a place to come for a variety of services and information, for many kinds of education and assistance. Schools could become centers of human development, of community action and coordination. A community school can and should be a center for education, culture, recreation, social activities, neighborhood and community life, social services, health care and services, family life, family needs of all types and for all ages, and perhaps even more.

Let me now thrust upon you another assumption, and as an elected official, I realize how wary you may be of assumptions. But I would like to have you assume that the misapplication of any of these services—health care, the social worker, psychological counseling, education—or the improper coordination of them, can lead to a disadvantaged child—a child with fewer opportunities to "reach his potential" and achieve a satisfying life. A child who may very well, statistics indicate, end up as a number in our correctional system, or a statistic on our welfare roles.

Assuming this, the education of the child and his development can be compared to the process of a hospital. The child goes in for a physical, tests are taken, the results determined by a variety of specialists located in the hospital. Each deals with his own particular portion of the child's health, but the results of specific tests are combined and acted upon by the doctor. Now if each specialist were allowed to act independently, there is a distinct possibility that one specialist may undo the other's work. For example, a nutritionist without knowledge gathered from another specialist may prescribe a sugar-based medication for a diabetic. That is why the doctor coordinates the treatment. He may choose to send the child to a specialist if problems are present, but even then the activity of the specialist will be monitored by the "family" doctor.

People in positions of educational leadership must understand the interdependence of the physical, psychological and socio-economic factors and their effects on total human development. This development requires the service of any one or a combination of parents, doctors, dentists, nurses, social workers, teachers, clergy, psychologists, technicians, therapists, non-professional aides or community workers.

The child deserves the same efficient and organized care in all areas of development. There should be a central administrator—a sort of "family doctor" to coordinate his early development and ensure that the child's overall foundation is the product of directed and coordinated assistance—to both the child and his family. This type of coordinated education can produce a person who will learn to live in society. This can be preventive education; lowering our crime and welfare statistics. This can be education of the child in the context of the total society—even as the whole community educates the child; we can educate the whole community. This can be education of the whole person at all ages, addressing the total environment. We can provide a place for people to start working together to solve problems; to assess the needs of the individual children in the community and of the community as a whole. We then will bring the community together with the leadership and coordination provided by the school as a catalyst to meet the needs of the community. Thus a cooperative atmosphere is created.

And where would all this cooperation take place? If we look at resource use (assumption three), we see that our schools represent an extreme case of American extravagance—doors closed in the evenings, on weekends, and through much of the summer. Schools represent an unrecognized source of *space for* such coordinated programs. The development of the school as a community center could provide the impetus for a better utilization of these resources, and as long as they are available, we are mistaken, even foolish, not to use them. In Minnesota we have taken a strong first step toward the total utilization of these expensive school facilities. Our investment in local elementary and secondary school buildings and other facilities amounts to over $1.397 billion in Minnesota. Legislators have recognized that unless we maximize the use of these facilities throughout the state, there is a great amount of economic waste in this large investment. Therefore, in 1971 Minnesota passed our community schools act—an effort to encourage local school districts to increase and coordinate the use of their facilities. The act provides funds for up to $5,000 of the salary of a community schools director for 67 of our 436 school districts. This legislation had strong bi-partisan support in our legislature and this support has continued as programs have been established in the local schools. An indication of the success of the community education program is the fact that in the 1973 legislative session local school districts were authorized to levy $1 per capita exclusively for community services.

We also expect to be able to expand the state funding for community school directors to 100 school districts. This combination of state and local dollars provides a strong commitment to community school programs in Minnesota. Despite this commitment at the state and local level, we cannot begin to provide the kind of comprehensive programs and use of facilities that I have been describing to you this morning. A level of Federal commitment that would equal what we are doing in Minnesota is becoming necessary. We are prepared in Minnesota to use a Federal contribution to the fullest in a most efficient manner—we have facilities; we have trained professional people; we have established local and state advisory councils of citizens and professional people who are willing, even anixous, to take the time and make the effort to advise and make recommendations to elected officials. As you can see, we are proud of our system; but we know that we are not doing the whole job. Minnesota ranks among the very top of the 50 states in quality of education; yet, we still have approximately 845,000 adults who have not finished high school; we have individuals on welfare who are looking for productive lives, who want to assure that their children have a good home and community environment, and we have school facilities standing unused in the evenings and during the summers. We believe that with an additional investment we can begin to solve some of these problems through good community school programs and we believe that an investment now in community education will save money in the long-run through lower dollar needs for crime, welfare, and social service areas—all we are lacking is dollars. With a larger commitment of money for community education we will be able in Minnesota to continue the story of the school as a community center, maximizing the use of our total range of resources. We have made a major step with local dollars for our buildings. Only with a match of federal funding can we make this effort significant.

And with that use, the student would develop a new tie—his school, has *community center,* would become a central force in his life. It would be where his parents came for prenatal counseling, or nutritional instruction, where he has gone for early childhood education, where families continue to come for counseling and services—a location that has become important to his entire family. It would be the place where there are bridges available between the home, the school, the church, and the society—a place where there can be an extended family of people helping themselves and each other. Here the elderly and the young can come to make a contribution to the school and the community. The lack of sense of community and family which we experience in our mobile society can be diminished because the community in the traditional sense of people working together would be found in the school.

And, when the child enters the traditional education system, K–12, with this earlier background, it would not need be so traditional. By age six, the integration of social, physical, psychological and intellectual development would provide educators an accurate picture of what the child needs to reach his potential. His education and counseling could continue to be patterned toward what he, as an individual, needs if he is to function in society.

But the question can be asked, "Can we provide that individual training?" The answer seems to be "yes." Declining enrollments indicate classes are now smaller, teachers are more plentiful (many, in fact, are unemployed, a tremendous underutilized resource, and could be used gainfully with funding for the community concept) and classrooms are more often empty. Once again, we see that education can be advanced merely by using what we have on hand to widen its scope.

And we must not lose sight of the fact that education going onward is still development—that the physical, social, psychological and intellectual character of the student (even in adolescent years) must continue to be coordinated. We have the human resources to continue that counseling and declining enrollments and empty classrooms indicate the space is also available. *But* we are not using those resources to the fullest.

And, what about jobs? Here again, the community education concept calls for more direction. Development is a combination of many factors designed to fulfill a need. Planning toward fulfillment of each individual's ambition includes among its counseling services, job counseling and special education based on the desires, abilities and needs of the individual and of the community. We can provide that special education.

But, education cannot stop there. In the past, once a person had the basic Latin grammar skills, he could begin to function in society satisfactorily. Today, with our more complex society, the formerly simple act of grocery shopping requires basic knowledge in economics, science, nutrition and psychology. In short, if we are to advance people's ability to achieve potential, we must continue their education so that they may keep pace with the continually changing "American way of life."

Early education must be provided to new families—both for the parents and as assurance that the children will have a "real opportunity" toward reaching their potential. And this continuing education ought to apply to our more senior citizens who, slowed by age, must strive even harder and have even more knowledge to keep pace with the fast moving, changing society we all call "home."

And the educational system again provides the most available resource for such activity. Many college campuses have space available, many high schools and grammar schools have space available—and educators and educators and counselors are available at all levels. By using presently available facilities, we can save taxpayers the added expense of duplicate buildings such as youth centers, meeting places, libraries, cafeterias, gymnasiums. By eliminating duplication, we can provide each community, and therefore the individuals that are part of that community, with the educational, social, psychological and health care services they need. To do less is to cheat at least a portion of the population out of an equal opportunity to achieve "success" by any definition of the term. What we are envisioning, then, is a community education system that not only teaches the Justinian Code and United States history, but also equips our citizens to cope with and take fullest advantage of what is available in the most prosperous nation in the world. We are envisioning total education, cutting across all barriers from age to income, to clinic background, based in a strengthened community and strengthened family. We are envisioning total use of resources, morning through evening, throughout the year. The 1970's ushered in an era of alcoholism, drug abuse, family instability, promiscuity, and a transient population. With the proper application of our available resources through continuing education, widened in scope—we can usher those times out again. As far as the one room school house (formerly the hub of the community) goes, we can truthfully say, "they don't build 'em like they used to." Let us use that to our advantage, rather than our disadvantage.

ADDENDUM TO TESTIMONY OF DR. JEROME M. HUGHES, STATE SENATOR, MINNESOTA

At the very time that we are attempting to meet the needs discussed in the preceding paper, the following describes the situation in our capital city of St. Paul with regard to Federal funds that have been used for basic continuing education. Because of funding cutbacks at the Federal level, the following programs have been eliminated:

(1) Evening classes at Hammond School serving about 130 adults who did not finish grade or high school.

(2) Evening classes at Retreat House, a half-way house for former prison inmates.

(3) Evening classes at East Consolidated School, serving about 150 adults who did not finish grade or high school.

(4) Morning classes at Oneida Community College, serving about 50 adult Mexican-Americans in English as a second language class and about 50 American born adults who needed to complete grade or high school.

(5) A home management class for AFDC mothers, serving about 60 people.

(6) Three WIN continuing education classes for about 100 Welfare recipients needing grade or high school training.

(7) An American Indian basic education program serving close to 100 American Indian adults needing grade school education.

(8) Three basic and GED preparation classes for AFDC mothers enrolled in the Ramsey County Welfare Department Work and Training Project.

COMMUNITY SCHOOL PROGRAMS

121.85 Purpose. The purpose of sections 121.85 to 121.89 is to make maximum use of the public schools of Minnesota by the community and to expand utilization by the school of the human resources of the community, by establishing a community school program.

[*1971 c 900 s 1*]

121.86 Administration. There is hereby created within the department of education the position of state director of community school programs who shall administer sections 121.85 to 121.89 subject to the control of the state board of education. The director shall prepare and submit to the board recommended rules and regulations defining program areas, reimbursement procedures, and any other requirements relevant to the promotion, implementation, and operation of community school programs throughout the state. The board shall adopt such recommended rules and regulations as it deems necessary and appropriate to forward the purposes of sections 121.85 and 121.89.

[*1971 c 900 s 2*]

121.87 State Community School Advisory Council. Subdivision 1. A 25 member state community school advisory council shall be established for the purpose of promoting the furtherance of sections 121.85 to 121.89, and the advancement of educational, recreational and social opportunity through the maximum utilization of public school facilities throughout the state of Minnesota. The council shall be appointed by the governor and shall consist of two lay members from each congressional district and nine members selected at large who shall represent government and professions most closely related to community school activities, functions and school administrative jurisdictions. The term of office of said council members shall be for a period of four years except that for purposes of implementation, the term of office of one member from each congressional district and four members at large, so designated at the time of appointment, shall expire December 31, 1972 and the term of office of all other original members shall expire December 31, 1974; however, every member shall continue in office until his successor has been duly named and qualified.

Subd. 2. Immediately after appointment, the council shall meet to organize, at a time and place designated by the state director of community school programs who shall serve as temporary chairman for said meeting. The council shall elect a chairman and such other officers as it deems necessary except that the state director of community school programs shall serve as the executive secretary of said council.

Subd. 3. Council members shall serve without pay or remuneration, but shall be allowed travel expenses to and from meetings at the rate of ten cents per mile not to exceed four meetings in any given year. Clerical, mailing, printing, and other justifiable expenses incurred by the council shall be paid from funds set aside for the administration of the office of the director of community school programs.

[1971 c 900 s 3]

121.88 District Programs; Citizens Advisory Council. The board of education of each school district of the state is hereby authorized to initiate a community school program in its district and to provide for the general supervision of said program. Each board may, as it considers appropriate, employ community school directors and coordinators to further the purposes of the community school program. The salaries of the directors and coordinators shall be paid by the board. Each board shall provide for a citizens advisory council to consist of members who represent the various service organizations, churches, private schools, local government, and any other groups participating in the community school program in the school district. The council shall function in cooperation with the community school director in an advisory capacity in the interest of promoting the goals and objectives of sections 121.85 to 121.89.

[1971 c 900 s 4]

121.89 Reimbursement by State. Subject to the limitations imposed by section 121.87, subdivision 2, the state board of education shall reimburse each school district operating a community school program in compliance with the rules and regulations established by the state board an amount which is equal to one-half of the salary up to $5,000 of each community school director and coordinator employed by the district. During the fiscal years 1972 and 1973, no more than 67 directors and coordinators positions shall be subject to reimbursement, no more than one-third of which may be allocated to school districts in each one-third of the total number of school districts ranked according to size of enrollment, provided that any such positions remaining unfilled may be reallocated at the discretion of the state board. In order to insure the maximum use of school facilities and insure the efficient application of funds appropriated by Laws 1971, Chapter 900, the department of education is encouraged to give priority to the funding of those community school programs which have been jointly planned and developed under the terms of a cooperative agreement or program between the school district and the park board, recreation department or other similar agency having jurisdiction within the school district.

[1971 c 900 s 5]

MINNESOTA LAWS 1973

CHAPTER 683, SECTION 19

(8) In 1973, and each year thereafter, for a district which has established a community school advisory council pursuant to section 121.88, whether or not the district receives reimbursement from the state pursuant to section 121.89, an amount of money raised by the greater of (A) $1 per capita, or (B) the number of mills not to exceed the number of mills necessary in 1973 to raise $1 per capita in 1973 for community services including summer school, nonvocational adult programs, recreation programs, and programs contemplated by sections 121.85 to 121.89.

The population of the district for purposes of this clause is the population determined as provided in section 275.14 or as certified by the department of education from the most recent federal census.

TIMELY PASSAGE OF BILL TO EXTEND GI BILL BENEFITS

Mr. CRANSTON. Mr. President, 13 days ago, the Senate Committee on Veterans' Affairs, on which I serve, met in executive session to consider a number of important bills. Under the able and dedicated leadership of its chairman, Senator HARTKE, the committee reported several bills of great importance to veterans.

I was especially pleased that we were able to move quickly on one measure, S. 3398, a bill to extend for 2 years—from 8 to 10—the delimiting period for the pursuit of educational programs by veterans, wives, and widows. At that time, I asked Senator HARTKE to do everything possible to move this bill swiftly through the Senate. I want to take this opportunity to thank Senator HARTKE for his efforts in bringing this bill to the Senate floor and securing its passage yesterday. I congratulate my colleagues in the Senate for their prompt action on this important measure.

Mr. President, this bill will make it possible for almost 285,000 of the 1.5 million veterans currently in training to use their GI bill benefits beyond this May 31. Under present law, eligibility for up to 36 months of educational assistance benefits ceases at the end of 8 years from the date of a veteran's last release from active duty after January 31, 1955; with those veterans released from active duty before June 1, 1966, being so eligible until May 31, 1974. The World War II and the Korean conflict GI bills contained similar time limitations. The primary purpose of these bills was to assist veterans in their readjustment from military to civilian life. Accordingly, a time limitation was set which would provide veterans with a reasonable amount of time to take advantage of their educational benefits and complete their education.

I am very well aware, however, that the readjustment problems facing today's returning veterans are different from those of his father and older brother after World War II and the Korean conflict. Aside from the very basic, very serious problems caused by the inflated economy, the scarcity of jobs, and the lack of adequate GI bill benefits until very recently, Vietnam-era veterans have had to face other very complex and very different readjustment problems. The United States is an immeasurably more complicated and confusing society now than it was then, and the very war these veterans fought contributed substantially to this confusion and complexity.

Mr. President, I believe these factors

make an extension of the 8-year readjustment period absolutely essential. Additionally, the ongoing problem, in recent years, of the VA's inability or unwillingness to administer and operate the educational benefits program in an efficient and effective manner has resulted in many veterans being forced to drop out of school.

Mr. President, I hope that our colleagues on the House side will take immediate action on this most important measure so it can become law before the 1966 and pre-1966 eligibility of many veterans expires.

A comprehensive measure concerning veterans educational assistance has already been passed by the House with this same provision to extend the delimiting date by 2 years. The Senate committee's bill, S. 2784, the Vietnam Era Veterans' Readjustment Assistance Act of 1974, which would provide a 23-percent GI bill rate increase and make numerous other readjustment assistance improvements, is under active consideration in committee. Hearings have been completed, and we should be starting executive session within a week. Our goal is to bring the comprehensive bill to the floor by the end of this month. In the meantime, however, the 2-year extension of the delimiting period, passed unanimously by the Senate yesterday, will prevent any unnecessary disruption in the education or training of veterans whose benefits would cease on May 31.

THE QUALITY OF MEDICAL CARE

Mr. KENNEDY. Mr. President, it has become clear to me during the many years of my interest in health care that, in some respects, our health care system is the finest in the world. We have centers of unparalleled excellence in health care. However, evidence is accumulating rapidly that the quality of health care throughout the United States is not uniform. The frequency of hospitalization varies from one part of the country to another, and even within communities. In many instances, general agreement upon the indications for a specific therapeutic procedure, a specific drug, on other forms of medical intervention does not exist.

The professional standards review organization law, enacted in 1972, establishes a mechanism to review the quality of health care services provided to medicare and medicaid recipients. But problems of quality are not limited to beneficiaries of Federal programs, and the law does not address the important issue of the best way to determine both the effectiveness and appropriateness of particular medical services.

I believe those of us responsible for the formulation of public policy also have responsibility to make certain that the appropriate techniques are available to implement that policy.

Public Law 93–222, the Health Maintenance Organization Act of 1973, contains a provision directing the Secretary of Health, Education, and Welfare to contract for a major study of methods for assuring the equality of health care provided to the American people. The requirement for this study resulted from very careful consideration by the Senate and House committees in developing that legislation. In my view, this study has very great potential significance. Assurance of the quality of care is a complex and controversial matter, subject to much political pressure by those forces within the medical profession who seem to be motivated more by their own self-interest than a desire to consider the issues and develop sound approaches to the assessment and assurance of health care quality.

It is imperative, therefore, that this study be conducted by an organization that has access to technical competence, but also has a reputation for objectivity and high respect from the many organizations and individuals in the health system who are truly interested in seeking methods to improve the health of the public. The Institute of Medicine of the National Academy of Sciences is clearly such an organization. The Institute has a distinguished membership drawn from all of the disciples relevant to this issue. It has achieved a strong reputation in the last several years for competence and objectivity in the conduct of complex studies on issues of interest to the Congress. The Institute has recently prepared a policy statement on the subject of quality assurance, soon to be released, which demonstrates its interest in and understanding of this field. I can think of no other organization which is so uniquely suited to the difficult task set forth by the Congress in this study.

I have been disappointed that the Department of HEW has not yet proceeded to implement the contract as directed by the Congress. I strongly urge that the Department turn now to the Institute of Medicine for the conduct of this study that must provide guidance in a vital area for years to come.

Mr. President, I would like to ask unanimous consent that a recent Washington Post article, reporting the concerns of a number of prominent physicians, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Studies Show Doctors Forget Old Rule: First, Do No Harm

(By Stuart Auerbach)

The cardinal rule of medicine, dating back to ancient times is, "First, do no harm."

Yet a series of scientic studies, published in the nation's most respected medical journals, indicates that doctors are harming their patients with too much surgery, irrational prescribing of powerful drugs and failure to keep up with the latest concepts of medicine.

These studies show that as many as a half-million Americans are hospitalized each year because of adverse reactions to medicines prescribed by their doctors and that parts of the country in which there are high rates of surgery—some of it unnecessary also have high death rates.

"It's a pox on the profession to let this kind of foolishness go on," says Dr. John H. Knowles, former director of Boston's Massachusetts General Hospital and current president of the Rockefeller Foundation.

The issue of the quality of American medicine—and what doctors can do to improve it—will be the focus of hearings today and Thursday by the health subcommittee of the Senate Finance Committee.

The subcommittee, headed by Sen. Herman E. Talmadge (D.-Ga.), will be studying Professional Standard Review Organizations (PSROs)—a mechanism, passed as part of last year's Social Security amendments, that compels doctors to monitor the quality and the cost of medical care given Medicaid and Medicare patients.

Doctors insist they are the only ones who can judge the quality of care, and some of them say they cannot do it under the gun of government regulations as represented by PSROs. Yet as Medical World News reported recently, they have not done a good job of policing themselves.

"When I was in Massachusetts," Knowles said at a recent meeting of Medical World News' editorial board, "the medical society was alerted to a guy doing about 80 (spinal) disk operations a year. That was as many as Mass. General with a stable of the finest orthopedic surgeons in the world was doing. And every doctor in the guy's community knew he was doing it. Yet no one had complained."

Dr. Henry E. Simmons, deputy assistant secretary for health in the Department of Health, Education, and Welfare and the man in charge of the PSRO program, says:

"We do know there are significant problems in the way we are delivering medical care today that need to be addressed and can be addressed through the PSRO mechanism.

"If the existing system could have done it, it would have done it."

Several scientific studies support that conclusion.

Dr. Thomas C. Chalmers, for example, told the American College of Physicians last month that many American doctors ignore scientific reports showing that traditional methods of treatment don't work.

Chalmers, former director of the Clinical Center at the National Institute of Health and now dean of Mount Sinai School of Medicine in New York, said doctors continue to prescribe anti-diabetes drugs that were shown to do no good and to cause heart disease.

Similarly, he said, doctors used stilbesterol as a drug to prevent miscarriages for 20 years after studies showed it was useless. They stopped prescribing it in 1971, after the Food and Drug Administration banned its use for that purpose as a result of studies showing it caused cancer in daughters of women who were given it during pregnancy.

Other studies show that doctors prescribed antibiotics far more than they are needed and for ailments such as colds and viral infections, where they do no good.

Evidence of unnecessary surgery, and the lack of knowledge among doctors as to when an operation is justified and when it is not, is even more dramatic.

Summarizing a series of studies, Drs. John P. Bunker and John E. Wennberg of Harvard medical school wrote in the New England Journal of Medicine:

"Operation rates in the United States are double those in England and Wales. Residents in some geographic areas of Kansas are two, three and four times more likely to undergo elective surgery than residents of other areas of the same state. The same phenomenon has recently been demonstrated to occur in Vermont. And now Dr. Eugene Vayda has again demonstrated that there are large differences in the rates at which operations are performed on either side of the Atlantic.

"We still do not know whether it is better to have more operations or fewer," Bunker and Wennberg wrote.

"But Vayda does make the interesting suggestion that for at least one operation, cholecystectomy (gall bladder removal), there may be an adverse correlation between operation rate and one important index of quality—namely death. . . . He cautiously suggests that some excess mortality may be attributed to the increased surgery."

"The most spectacular finding" of Bunker's study, reported in the current New England Journal of Medicine, is that half of all the doctors' wives will have hysterectomies by the time they are 65.

He said that half of those hysterectomies "would be considered unnecessary by conventional medical criteria."

"It is comforting to know," he concluded, "that doctors use the same criteria for their own care that they use for their patients."

TRANSCENDENTAL MEDITATION AND DRUG ABUSE

Mr. SCHWEIKER. Mr. President, the Subcommittee on Alcoholism and Narcotics of the Committee on Labor and Public Welfare held hearings in Philadelphia on April 23 and 24, 1973, on the drug and alcohol abuse crisis. Mr. Raymond J. Monahan, a counselor at the Philadelphia Psychiatric Center drug treatment program and teacher of transcendental meditation at the Students' International Meditation Society provided the subcommittee with testimony to be included in the record, but, by error, his testimony was not included in the printed record of the hearings. Therefore, I ask unanimous consent that Mr. Monahan's statement on transcendental meditation and drug abuse be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Transcendental Meditation and Drug Abuse: A Review of the Literature and Recommendation for Government Support

(By Raymond J. Monahan, A.B.)

Other witnesses have testified to the epidemic proportions of the drug abuse problem in the Philadelphia area and in the nation as a whole. Causes of the problem have been put forth on psychological, sociological, economic, and pharmacological levels and elaborate theories have been developed to explain the magnitude of the current crisis situation. My purpose here today is not to add another hypothesis to the literature of probable and possible causes of wide spread drug addiction in modern American society. Let's not concern ourselves so much with investigating the problems, let's concern ourselves with implementing the solutions. Specifically, the Senate Subcommittee on Alcoholism and Narcotics should take a serious look at a recent development in the field of treating addictive diseases—Transcendental Meditation.

In the late 60's, researchers in the United States noticed an interesting phenomenon for the first time—that most drug abusers who learned and practiced the technique of Transcendental Meditation (TM) spontaneously discontinued the use of illegal chemicals. (24, 25) One study by Benson of Harvard Medical School on 1862 meditators who had formerly been involved in drug abuse to some degree showed that, following the start of TM, there was a marked decrease in the number of abusers for all drug categories from cigarettes and coffee to barbiturates and heroin. Of those who had been engaged in drug selling activities, during only the first three months of meditation, 71.9% had stopped selling entirely and 12.5% had decreased the amount of selling.(5) As the practice continued, the subjects progressively decreased all aspects of their illegal drug behavior until after 21 months, 95% had completely stopped both use and sales. A high percentage of these subjects felt that TM was a very important influence on their behavioral modification. A further study by Otis at the Stanford Research Institute on 570 subjects verified the Benson findings and also noted that meditators decreased their usage of prescription drugs received legally from a physician.(17) The idea that drug users are merely providing themselves with chemotherapy on the street and the fact that the prescription chemicals in the Otis research were primarily for pain, sleep, or nervousness implies that TM somehow deals directly with the very cause of drug taking behavior whether legal or illegal. These and subsequent findings prompted the Illinois House of Representatives to pass a resolution last May which says, "Transcendental Meditation offers an alternative to drug abuse . . . and shows promise of being the most effective drug prevention program being presented in the world today" and that the state's ". . . mental health department incorporate the course in TM in the drug abuse program."(19)

The term "Transcendental Meditation," when first heard, sometimes conjures up an occult impression—an obscure religion, a mystical philosophy, strange physical exercises, or a life of negation and denial—the picture of an ascetic monk living in seclusion on a mountain top or in a jungle forest in foreign lands. TM is none of these things. TM is a simple mental technique. It is not a lifestyle. The process of TM is purely mechanical and requires no predetermined religious or philosophical belief. TM bypasses traditional ethnic and religious barriers, as well as those of age, sex, attitude, intelligence, and physical health. (7) Anyone who is capable of having a thought can meditate.

What, then, is TM? "Meditation" means thinking and "transcend" means to go beyond. Transcendental Meditation is this by definition, a way to go beyond thinking. TM is an effortless mental technique derived from the Vedic Tradition of India and made practical for life in the modern western world. Representative of this ancient tradition and chief exponent of TM in the world today, Maharishi Mahesh Yogi, defines the technique as a method of "turning the attention inwards toward the subtler levels of a thought until the mind transcends the subtlest state of thought and arrives at the source of thought." (8) The practitioner simply sits in a comfortable position with the eyes closed for two 15 to 20 minute periods in a daily routine—once in the morning and once again in the early evening. By a systematic method which he has been taught, he perceives a suitable thought or "sound" and, without attempting to concentrate on it, he allows his mind to experience it freely and his awareness goes to a subtle and more refined and creative level of mental activity in an easy and natural manner. (21)

The Students' International Meditation Society (SIMS) and Maharishi International University (MIU), both non-profit, tax-exempt educational organizations, have been formed for the sole purpose of making this technique available throughout the nation and the world. TM and its theoretical framework, the Science of Creative Intelligence (SCI) are taught exclusively by qualified teachers who have attended intense and extensive residential training courses with Maharishi. The practice has so far spread almost exclusively by word-of-month although the Science of Creative Intelligence is offered for credit at a number of colleges, including Yale and Stanford, and in the Eastchester, New York, public school system with good results. (7) TM has also been given the Army's low-key, informal blessing in voluntary programs for addicts.

The most comprehensive scientific data accumulated at this time has been on the physiology of meditation, indicating a profound state of deep rest during the practice of TM—much deeper than in a night of deep sleep. There is a reduction of oxygen consumption and carbon dioxide elimination: a reduction of the rate and volume of respiration; there is a slight increase in the acidity of the blood and a marked decrease in blood lactate level; a slowing of the heart rate and cardiac output although there is an increase of bloodflow in the forearm; a considerable increase in galvanic skin resistance which is a measure of anxiety (sometimes as much as 400%); and an electroencephalographic pattern of intensification of slow alpha-wave and occasional theta-wave activity. (21) Meditation generates an integrated response, or reflex, that is mediated by the central nervous system and appears to be the opposite of the familiar "fight or flight" response. The physiologic changes during TM differ from those during sleep, dreaming, hypnosis, autosuggestion, and the ordinary waking state of consciousness. These changes characterize a wakeful hypometabolic state and correspond the meditator's subjective experience of restful alertness. (22) Significant is the fact that the meditator is trying for none of these responses, he simply practices the effortless mental technique and all these results follow spontaneously.

In the introductory lecture on the vision of possibilities through the regular practice of TM, teachers of transcendental meditation explain the basic operating principle in these terms: the qualitatively unique state of deep rest achieved during TM releases deep rooted stresses. That the body tends to heal and regenerate itself is a truism and this specific level of rest in TM may well be responsible for the good health reported by meditators. (14) A life of stress which results in a general feeling of tenseness at all times inhibits healthy functioning of the body and the mind. A large number of psychosomatic diseases have been associated with the chronic activity of the sympathetic nervous system. (18) This activity is associated with tension and anxiety. TM has been found to stabilize autonomic functions and reduce resting levels of the sympathetic nervous system activity. (14) Thus we see that TM may be useful in eliminating the cause of most psychosomatic diseases—anxiety. The change in function of the nervous system in meditators is in a direction associated with higher evolution and greater maturity according to some experts in the field. (14)

On the basis of this effortless activity of gaining deep rest on a daily basis and in a systematic manner, some interesting psychological and sociological developments are seen to occur. The subjective testimonials of meditators would seem to indicate that TM is a panacea for all the cares and woes of life in the modern technological society. In fact, psychological testing has shown that experienced meditators are more internally controlled and less anxious than similar groups of non-meditators. (6) Studies of individuals before and again after about ten weeks of meditating regularly show significant differences in the direction of self-actualization. (12, 13) Research in the Netherlands gives evidence that the practice of TM can increase intelligence and lower neuroticism as measured by psychological testing. (20) Maharishi himself states that "Crime, delinquency and the different patterns of anti-social behavior express the tensions which arise from a deep discontent of the mind," and that, ". . . the practice of transcendental meditation has been found to relieve all kinds of tensions and to change a hard, cruel nature to one of tolerance and compassion." (9) While TM may not be a panacea, there is certainly enough scientific documentation accumulated to warrant serious consideration of the technique and its application to a variety of individual and social ills of the nation today.

Unlike Zen Buddhism and Hatha Yoga, which can take up to 15 years to produce similar physiologic readings which correspond to a state of "enlightenment", TM can be learned by anyone in a week. (23) It takes only four or five sessions of about two hours each to learn TM (and for the teacher to feel certain that the student has learned correct meditation) and practitioners spend only 15 to 20 minutes in the meditative state twice a day, not altering their life in any other way. (3) TM must be learned in approved classes, there is no way to learn in a do-it-yourself home study course. And although there is a continuing program of advanced lectures and other services offered by SIMS, it is not necessary to ever attend a formal meeting after those first four sessions. Emphasis is not on the meditative state itself but on life in the world. Practitioners find that instead of dropping out, they feel better prepared to handle the rat race. (23) Teachers of TM say: we don't meditate for the sake of meditation but because of the dynamic effects meditation has in enhancing the quality of our day to day life.

Concerning the application of TM to mental health and drug abuse treatment, it would seem that the general reduction in anxiety and increased alertness would complement any psychotherapeutic process. (11) Although the general approach in TM is nonspecific, it has been found to succeed as the tool for systematic desensitization where a more established relaxation technique had failed. (1) The high percentages of drug free behavior in the earliest reports does deserve some qualification. First of all, teachers of TM, as a routine policy, ask new students to voluntarily refrain from the use of recreational chemicals for a period of 15 days before personal instruction begins. This procedure may screen out a large number of people who would rather continue using drugs. (3) In fact, however, there is no way of enforcing this policy, such as urinalysis, and some people do start TM without meeting this requirement. Secondly, the Benson study mentioned above, measured only those who continued regular meditation and were motivated enough to attend a special training course offered by SIMS. There is no way to tell how many drug abusers began meditating and eventually stopped, choosing to live on in the drug subculture instead. Thirdly, it may be the case that those who are interested in TM are prone to spontaneous recovery. (2) Now that the literature is so well known and the word is out, we can suppose that any drug abuser who attends classes in TM must have some prior motivation to discontinue illegal use of drugs. It would not be fair, though, to imply that other drug rehabilitation statistics are not distorted by the same type of bias. Anyone who is involved in a drug program has some motivation to stop, whether it is a positive desire to improve some aspect of his individual life or some negative motivation such as avoiding a prison sentence. Quite often, when a client first steps through the front door of a community outreach center, he hasn't the faintest intention of giving up drugs forever. He knows that something is not right with his life and would like help with that specific problem while being able to continue drugs. It is the skill of the clinician to take this vague feeling of discomfort and to develop the client's motivation until there is a desire to alter the style of life.

Programs in TM and SCI have applications in two areas of a comprehensive national attack on the epidemic of drug abuse—prevention and treatment. By promoting physical and psychological health in the adolescent through the regular practice of TM, we will develop a population less susceptible to the disease of addiction. My own concern and area of expertise is clinical. I see both immediate and long term advantages to the use of *TM* as a therapeutic modality. The meditative state itself is essentially anxiety free. From the viewpoint of providing a nonchemical alternative means of immediate gratification TM has impressive possibilities. A large part of drug seeking behavior has its roots in feelings of discomfort-tension, nervousness and anxiety. The addict often converts this emotional experience into something he is more familiar with—withdrawal symptoms—and initiates drug seeking behavior as a way to deal with these unpleasant feelings. TM can diminish if not remove these feelings entirely. And after meditation, practitioners report a feeling of relaxation and well-being which lasts for some time. (10) A study of 12 narcotics addicts at La Tuna Federal Penitentary in Texas showed very definitely that the more a subject meditates, up to the prescribed number of twice daily, the more he simultaneously gains in physiological stability, and behavioral flexibility; and that these results are accompanied by an increased social out-goingness. (15) Physiological stability was measured by fewer spontaneous galvanic skin responses which indicates less anxiety. The increase in behavioral flexibility is important because addiction is a compulsive behavior and in order to recover, an addict must find some new behavior patterns. The increase in social outgoingness is a distinct contrast to the clinical impression of most addicts—withdrawn alienated, loners. These data indicate that the meditating drug user is getting well. It is clear from this data that the effects of meditation are cumulative. Statistics from earlier research showed that of those who continued to use drugs after learning TM 55% had been irregular and 25% had stopped meditating for a week or more. (5) Therapeutically then, there are now two apparent benefits from TM: the immediate lessening of anxiety and other such feelings which can lead to drug use; and the cumulative effects of regular meditation over a period of time which lead to a healthier mental state . . . more stabile, more relaxed and confident in the midst of the normal trials of daily activity.

Also, the idea of becoming a meditator is an acceptable alternative role for the young drug abused. Rather than becoming "straight" the young "junkie" or "freak" finds a less traumatic identity transformation in becoming a "meditator." TM is usually presented as a program for personal development and the decline in drug use is seen as only a side effect. Therefore, there is no threat to the value system of the committed and dedicated drug user. (5) In Sweden, a controlled research project found that most of the subjects who were trained in TM became completely drug free within a few months. The experimenters hypothesized three reasons for their success:

(a) the subjects who began TM felt that life became more joyful and fulfilling,

(b) TM opened up up new social contacts without drugs,

(c) TM offered an opportunity to break with previous role expectations and find a new role—mediator. (2)

Interestingly enough, although this study was originally scheduled to run for six months, after only three months the control group insisted on learning TM themselves, were trained and began to show the same results as the experimental group. The conclusion of the report was that therapy consisting of TM and supported by regular social group contact with other young meditators could be expected to have a "good effect" on chronic drug abusers. It is admittedly a long way from Sweden to the inner-city American ghetto, but emotions such as anxiety are common to both locales. It seems that TM will become an essential therapeutic tool for at least a certain part of the addicted population.

In response to the pressing needs of society, The American Foundation for the Science of Creative Intelligence (AFSCI) has developed a twelve week clinical service program to teach the technique of Transcendental Meditation to persons who have recently been involved in alcohol or drug abuse and to facilitate their stability in independent, regular, and correct meditation. An outline of this program follows:

A. Personal Instruction in TM (7-step program)

1. *Introductory Lecture*—Informal group, potential benefits of TM in the areas of mental, physicial health, social behavior and more harmonious group action.

2. *Preparatory Lecture*—Informal group, mechanics of TM, how it is taught, the Tradition from which it is derived, the agreement of mutual consent and commitment required between student and teacher to follow the syllabus of the clinical program.

3. *Personal Interview*—one to one session, standard interview data gathering form, information which will aid the teacher in teaching, personal questions are answered, teacher and student get acquainted.

4. *Personal Instruction*—one to one session, teacher imparts the technique of TM, teaching at a rate of learning and experience according to the student's needs on an individual basis.

5, 6, 7. *Post Instruction Groups*—Informal meetings for 2 hours a night on the three nights immediately following the day of personal instruction. Additional information is given out on the basis of the preceding days experiences. Group procedure of verification and validation of correct meditation.

B. Clinical Follow-up Program

1. *Checking* (group or individual)—a systematic, standardized procedure which establishes correct practice of meditation.

2. *Advanced Lectures*—informal group, discussion on various aspects of the philosophy, principles and the practice of TM. audio & video tapes, books & reprints

3. *Residence Courses*—two days of closely supervised, fully structured program of meditating more than twice a day and gaining deeper experience and understanding of the further applications of TM. Once every 4 weeks.

C. Clinical Service Support System (CSSS) the basic operating principle of TM is the release of stress from the nervous system through deep rest. This is experienced either mentally or physically during mediation. CSSS facilitates this stress release in the most rapid and comfortable manner.

The system provides centralized, maximum information about the progress and condition of each participant. This information is obtained though clinical observation and is used to plan and regulate treatment according to individual needs. The essential components of the system are:

1. *checking*—(see B.1., above)

2. *personal contact*—advanced lectures and one to one sessions as needed.

3. *physiotherapy*—experience has shown that in some situations the release of stress is ameliorated by physical techniques such as exercise, massage, hydrotherapy, sauna bath, etc.

The advanced lecture series, group meditation and checking procedures over a twelve week period will serve to strengthen the patient's role as a meditator, satisfying the identity transformation goal of therapy. Meanwhile, the schedule of regular meditation and residence courses during this period should diminish the intensity of pathologic symptoms. Finally, the immediate feelings of relaxation and peacefulness which occur during meditation and linger on to some extent afterwards should make it easier to cope with day to day problems and persevere with the overall therapeutic program.

A study done on counselors at a Texas drug treatment program showed that after 10 weeks of meditation, there were significant decreases in manifest anxiety, hypochondriasis, and schizophrenia as measured by the Minnesota Multiphasic Personality Inventory, a standard clinical test. (16) It would seem reasonable that the more stress free a person is, the better he could perform the duties of his position in life. Will the meditating counselor be more effective in psychotherapy? Maybe so! At any rate, an understanding of the patient's experiences in meditation would be essential to continue in a progressive counselor/patient relationship. For this reason, AFSCI has also developed an eight week staff training program to begin before the clinical service program is inaugurated. The overall TM/SCI approach is comprehensive and should supplement any existing program's total treatment approach.

So far, only a handful of agencies around the country are employing TM and SCI in their treatment approach. There should be more! I propose that the Subcommittee on Alcoholism and Narcotics recommend the establishment of an AFSCI clinical service program in the Philadelphia area to accept appropriate referrals from other agencies. This program should be used in conjunction with and not as a replacement for existing programs and more traditional therapeutic approaches. This TM and SCI program should serve as a pilot project to determine if, when and how similar programs should be established across the nation to deal with the current epidemic of drug abuse and addiction which is destroying so many otherwise productive and responsible people—the country's greatest natural resource.

SUMMARY

There is a large body of scientific data which suggests that Transcendental Meditation is an alternative to drug abuse. TM is an effortless mental technique which can be learned by anyone regardless of race, creed, sex, or national origin. Meditators stop using drugs. TM appears to operate by providing deep rest which eliminates stress from the nervous system. Regular meditation decreases anxiety and improves social behavior. The role of "meditator" is acceptable to most drug abusers. AFSCI has developed a program to serve the addicted population. Recommend government support of TM/SCI as an additional weapon in the therapeutic arsenal to be used in the national struggle against drug abuse.

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AN ANSWER TO RISING INFLATION

Mr. HARTKE. Mr. President, I ask unanimous consent that the text of a proposal for solving the serious problems cause by rising inflation be printed in the Record following my remarks. The proposal was presented by Tilford E. Dudley, director of the Washington office of the Center for Social Action and a member and former chairman of the D.C. Democratic Central Committee. I also ask unanimous consent that a letter to the Washington Post, printed on May 8, 1974, on the same subject be printed following my remarks.

Over the years, I have come to know Tilford Dudley quite well. We have worked together and I have developed a high degree of respect for him. I commend his proposal to my colleagues for their consideration.

There being no objection, the material was ordered to be printed in the Record, as follows:

Stopping Inflation

(By Tilford E. Dudley)

The nation faces soaring inflation which will ruin the economy, steal from those dependent on savings, and disastrously impoverish those already poor. This is not necessary. Unfortunately, the Nixon Administration is so committed to business interests that have openly or impliedly bribed it with payoffs and contributions that it can offer no program. Its policy is to let the corporations charge what they will—whatever they can extract from the public—as their price for producing products the people need.

We believe the Government should act. We believe decisive steps can be taken within the free enterprise system by the Government itself showing a little enterprise. With both stimulation, regulation and showing the way, the Government can bring prices down. We suggest the following as examples:

1. Congress should not only close the well-known tax loopholes, including especially depletion allowances for natural resources, but should change the corporate tax from the present fixed rates around 50% to sliding rates that increase as the profits increase. It should be clear that if corporations raise their prices to raise profits, those excess profits will be taken by taxation.

2. Congress should roll back postage rates for 1st class mail to 5 cents per ounce and pay the resulting cost from general funds. In this way the communication so necessary for business and for a civilized way of life is stimulated. Low income concerns and individuals are aided. The cost comes from those able to pay instead of a blind across-the-board assessment.

3. Congress should augment financial assistance available for construction and operation of mass transit facilities. Included in such loans or grants should be provisions requiring or at least encouraging abolition of the fare box. Metropolitan Washington, D.C. is an ideal place to start free rides on bus and subway systems.

4. Congress should establish a Federal Oil and Gas Corporation (as provided in Title III of the pending Consumer Energy Act of 1974) which would produce and market natural gas and oil from federally owned lands. Profits from publicly owned oil reserves should go to the public instead of to rapacious private corporations. Such a government corporation would also serve as a measure for legitimate costs, could encourage the independent oil companies, and be an example for private business, as TVA and Bonneville Power have been.

5. Congress should convert America's private oil companies into government regulated public utilities, similar to private but regulated electric, gas, water, telephone and transit companies.

6. Congress should create a national bank or finance corporation which would extend credit at reasonable interest rates, such as 6%, to businesses and individuals wanting loans on normal security for normal purposes. Such loans would be in addition to special loans now given for special purposes such as small and minority businesses. Since this new credit corporation would be in competition with the private banking industry, borrowers would be required to apply first to private banks. Such a supplement to private banking has precedents in similar crises, such as the Federal Farm Loan Banks, the Reconstruction Finance Corporation and the Home Owners Loan Corporation.

Bringing Prices Down

(By Tilford E. Dudley)

It is not necessary for the nation to be ravaged and the economy ruined by the soaring inflation now upon us. The government can take various steps to bring prices down. For example, Congress should roll back postage rates to 5¢ per ounce for first class mail and pay the deficit out of general funds. Low income businesses and individuals would thus have lower costs with the burden shifted to those better able to pay.

Grants and loans to mass transit facilities should be increased and should encourage or perhaps require free rides by the public. Abolition of the fare box will encourage travel and business. Washington, D.C. is an ideal place to start.

Congress should establish the Federal Oil and Gas Corporation to produce and market natural gas and oil from federally owned lands. Profits from publicly owned oil reserves would thus go to the public and a yardstick established for determining reasonable costs of private production, as in the case of TVA. Private oil companies should be converted into regulated public utilities.

Congress should create a national bank or finance corporation which would extend credit at reasonable rates, such as 6%, to businesses and individuals wanting loans for normal business purposes, as with the old R.F.C. High interest rates increase costs. Money supply can be better controlled directly. Corporation tax rates should escalate as profits increase. It should be clear that if prices are raised to increase profits, those excess profits will be taken by taxation.

WYOMING BEAUTY AMERICA'S JUNIOR MISS

Mr. McGEE. Mr. President, last week in Mobile, Ala., an 18-year-old Cheyenne, Wyo., beauty, Miss Karen Morris, captured the 17th annual U.S. Junior Miss title.

Miss Morris, the daughter of Mr. and Mrs. John Morris of the Polo Ranch northwest of Cheyenne not only won the national title and a $10,000 scholarship to the college of her choice, but she also won three preliminary contests, including the poise and appearance and youth fitness categories.

Loraine and I viewed the finals on television last Monday night, and one can imagine how exicited and proud we were of Wyoming's representative to the Junior Miss competition. However, Karen Morris' selection to reign as the 1974 U.S. Junior Miss hardly came as a surprise to us, for she is a very poised, talented and beautiful young woman.

Karen Morris is an outstanding young woman; and I know I speak for the entire State when I pay tribute to the honor and recognition she has brought not only to herself, but Wyoming as well.

Karen, who is an excellent student, plans to attend the University of Wyoming this fall where she will major in speech pathology. Her sincerity and concern for others was so aptly demonstrated when, during the competition, she responded to the question of why she wanted to enter the field of speech pathology by replying:

> Through speech pathology, I can help people who have a problem communicating with other people. I think that would be very beautiful.

Her unique abilities were once again demonstrated during the talent portion of the pageant where she played the guitar and sang "My Way."

Karen Morris is a special type of individual. This uniqueness is best captured in an article written by Kathryn Gress of the Wyoming State-Tribune. Kathryn interviewed Karen prior to her leaving for Mobile and the national competition.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

INTERVIEWER PRAISES AMERICA'S JUNIOR MISS

(By Kathryn Gress)

Only a handful of people were at the municipal airport two weeks ago when Wyoming's Junior Miss, Karen Morris, boarded a plane for Denver to join other hopefuls for the trek to Mobile, Ala., where each would vie for the crown Karen won Monday night.

There to see her off were her parents, John and Norma Morris and George Hain, the Junior Miss Pageant chairman from Laramie.

It isn't easy to get pictures of persons leaving the airport since the safety restrictions have been imposed and that Thursday morning was no exception.

With only a few minutes to take-off time, decisions were made quickly. We told Karen to meet us outside the fence on the field so a picture of her could be taken with the plane in the background.

When we dashed around the terminal building and onto the deck, our only vantage point, Karen was waiting there in the pose we wanted. Seconds later the picture of her leaving for Mobile was taken and Karen was climbing the steps to the plane that would take her to glory only a few girls know in a lifetime.

Karen showed this same consideration for others when we did an official interview at her ranch home northwest of the city. When we arrived, Karen was ready for whatever we had in mind as far as pictures and questions were concerned. She took only seconds to change from one outfit to another. Her horse was saddled and ready in the corral.

She made one request. She wanted a picture of herself with some of the ranch cattle in the background.

"I think it's so beautiful over there," Karen said, pointing to the cattle grazing near haystacks in a meadow.

A true rancher's daughter, Karen has ridden horses since she was able to walk and has spent hours enjoying the simple, majestic beauty of the Wyoming prairies. She has taken part in branding operations ever since she can remember, and helping to round up cattle is something that has been expected of her.

Although Karen has spent her 18 years on a ranch, her life has not been limited to riding horses, feeding cattle and ranching chores.

Karen and her older sister, Betsy, have sung together and accompanied themselves on guitars since they were small.

Believing that the girls were gifted, as many parents do, John and Norma Morris gave their daughters every opportunity to develop their abilities. Karen has followed her older sister through many competitions, giving her encouragement and attempting to see what it takes to win.

Karen is careful not to slight her younger sister, Marsie, who is only 9.

"She's really talented," Karen said. "Mother has taken her to her piano lessons right now."

In an age when many young people seem to lack consideration for the views of their parents and other adults, Karen comes upon the national scene as a child who outwardly shows respect for them.

Whatever suggestions Norma and John made to Karen while the pictures were being taken, Karen accepted. When we asked her to repeat her run on her horse time after time, so just the right angle for a photo could be obtained, Karen obliged.

Karen's question in the pageant competition concerned communication between people. It would seem that this daughter of a Wyoming cattleman touched hearts in Mobile with her own "brand" of communication—beauty, humility and consideration for others.

THE CHAMPION BOSTON CELTICS

Mr. BROOKE. Mr. President, a truly memorable sporting series took place during the past fortnight. It reached its climax in Milwaukee this past Sunday night when the Boston Celtics regained the National Basketball Association Championship that has been their's so often in the past.

A tribute to this event appeared on the sports pages of the May 14 Boston Globe in an article by columnist Mike Barnicle. It is reminiscent of the moving pieces of sports prose we associate with writers such as Grantland Rice, Shirley Povich, or Stanley Woodward.

I ask unanimous consent, Mr. President, to have Mike Barnicle's article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AN OCCASION FOR THE POET

(By Mike Barnicle)

We needed a poet this weekend, an old one whose heart and wisdom were full of ideas of romance and fate; one who was capable of carving out romantic tales of flight through dark times to places where heroes lived. A poet who could tell us about the Havliceks and Cowens and Silases of this team we call the Celtics.

But more than that, since men are mere mortals and basketball is only a game, the poet would have felt compelled to deal with that mystical element that arises when athletes become heroes and a game becomes a symbol. He would have to deal with the town that gave them their name and the moment that gave them their status as champions.

He would talk about Friday night and the double overtime loss when a national television audience found out that Abdul Jabbar was one of the greatest athletes to ever grace any court or field. And while in the process of finding out about Jabbar, these same people would also have seen the single greatest competitor in professional sport—John Havlicek.

The poet would have followed this small band of men through their championship day on Sunday—when heart was allowed to triumph because it was an element that had been blended with skill and thirst for victory. But his tale would have only begun.

Any team—in any sport—is a product of the town that invents them. And the Celtics are not so much a part of basketball as they are of Boston.

An estimated 5000 people turned out in the rain on Sunday evening to welcome home a plane load of spirit. There were no ugly incidents. No violence. Just the pure pleasure of people enjoying the good times of winning. It was Woodstock revisited.

The people were there because they knew how far their team had come: from defeat and humiliation in five long years. They had come all the way back, losers turned winners, all the way to that final few seconds when a new generation of Celtics could look at a Havlicek and a Nelson and, together, smile like winners.

Now, finally, after all of the years of rebuilding and waiting, the city is going to turn out in celebration for a team that carried the town's banner for too many years without any official recognition.

Caught up in the hockey craze, the Greater Boston area mushroomed in joy over men who skated while ignoring other men who played a game of much greater skill and grace. A few years ago, City Hall Plaza was overflowing with hero worshippers as the Bruins took their bows. But yesterday, the Bruins were in Philadelphia playing like dogs . . . and the Celtics were winners.

The poet would know how to handle that. He would know how to couple his verses and describe that item they call spirit. He could set the word "class" down on paper so that people might have some small understanding about what it means.

But, in the absence of a Yeats, all that really has to be done to understand both terms would be to take a walk down to City Hall Plaza at noon today to see Boston and its Celtics celebrate a championship.

The meeting of a town and its team will be a communion of grace. And the honors that will come down will be well deserved and long overdue.

It's been a long time since the days of Cousy and Sharman and Russell. A long time in between world's championships. But Boston is a city of history; a town that has survived through the years and now seems to be undergoing a vital rebirth of spirit. And so too . . . the Celtics.

RUMANIAN NATIONAL HOLIDAY

Mr. PROXMIRE. Mr. President, I would like to note the Rumanian national holiday, observing the achievement of that nation's independence and the founding of the kingdom of Rumania. The 10th of May marked three great events in Rumanian history.

On May 10, 1866, the Rumanian people won the right of electing as their ruler a member of one of the nonneighboring reigning families. Charles, Prince of Hohenzollern-Sigmaringen, was proclaimed Prince of Rumania in Bucharest. Founding the Rumanian dynasty was the first success of the Rumanian people in their long struggle for freedom.

The new Prince of Rumania ended the strifes and rivalries among the native candidates to the throne. That peace, however, was broken by the turmoil of the Russo-Turkish War. As an ally of Russia, the young Rumanian army fought bravely against the Turkish forces. May 10, 1877, was the day the principality of Rumania proclaimed her independence from the Ottoman Empire. The Congress of Berlin of 1878 confirmed Rumanian independence and conferred Europe's official recognition of the new nation.

Exactly 4 years after independence, Rumanians raised their country to the rank of a kingdom. On May 10, 1881, Charles I was crowned King of Rumania opening a prosperous era which lasted over six decades.

It is appropriate for all Americans to salute the Rumanian people. We must never forget the people still subject to foreign domination with little or no freedom. Their national holiday should remind us of the fights for liberty and independence which will continue until all peoples win their freedom. Until that day, we who are fortunate enough to live in the free world should help commemorate Rumania's national holiday in the hope that their freedom shall soon be restored.

UNITED STATES SOUTHERN AFRICAN POLICY

Mr. KENNEDY. Mr. President, the recent coup in Portugal and the resulting implications in Southern Africa are perceptively dealt with in recent articles in the Washington Post by Tad Szulc, "A New Beginning for Portugal," May 2, 1974, and David Ottoway, "South Africa Seeks U.S. Support Through "Back Door," May 12, 1974.

These articles in their implications for U.S. policy toward the government of South Africa, raise once again the disturbing question of whether the United States is for freedom or simply against communism. The visit of Adm. Hugo Biermann, the commander in chief of the South African Defense Forces, last week and the planned visit of South Africa's Foreign Minister and Finance Minister next week indicate the possibility of a concerted South African campaign to entice the United States to assist in pulling South Africa's apartheid chestnuts out of the fire should the Portuguese territories in Southern Africa gain their independence in the future. Although I realize that U.S. policy toward South Africa has been a matter of secondary priority for Secretary Kissinger and this administration in the past months, the time has come to close the "back door" and come forward to the American people with a comprehensive statement of U.S. policy toward the Southern Africa area in the light of recent events, and I urge Secretary Kissinger to do so as soon as possible.

Mr. President, in order that my colleagues may better appreciate these questions raised, I ask unanimous consent to have printed in the RECORD the articles of Mr. Szulc and Mr. Ottoway.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

'NEW BEGINNING' FOR PORTUGAL

Portugal's military coup d'etat of April 25 has produced some of the most encouraging news in quite a few years for the cause of freedom in the world.

At a time when new repressive dictatorships are sprouting elsewhere and the old ones are becoming more frozen, the Portuguese Junta succeeded in overthrowing the world's most durable dictatorship this side of the Soviet Union and, hopefully, setting the peninsular country on the road to democracy for the first time in 46 years.

And while neo-colonialist and "white rule" tendencies were reasserting themselves in much of Africa, the Lisbon Junta's action carried the promise that the long and bloody colonial war in Angola, Mozambique and Portuguese Guinea may finally find a peaceful and rational solution.

Yet, in ejecting the Caetano dictatorship—essentially a combination of extreme rightist politics supported by a cruelly efficient secret police and powerful economic groups drawing their weight from the wealth of the African colonies—General Antonio de Spinola, the Junta chief, has set in motion new and contradictory forces that still leave much of the future in doubt.

If there is a valid precedent for the Spinola coup, it is General de Gaulle's return to power in 1958, signaling the end of the Algerian war and the start of negotiations with the rebels that led to Algeria's independence. At first sight, there is a certain parallel between the conditions that moved De Gaulle and, 16 years later, Spinola to take national matters in their own hands. Both metropolitan nations were exhausted and embittered by lengthy colonial wars, and internal unrest was growing. Both De Gaulle and Spinola concluded that military victory was impossible and that new answers were required.

But this is where the similarities end.

De Gaulle's basic problem was to win at home (and among Algeria's French *colons*) the acceptance of the inevitability of a peace settlement largely on the Algerians' terms. To be sure, he had to endure for awhile the menace of military counter-coups, and the terrorism of the OAS (Secret Army Organization). But he was spared the trauma of transforming a nation from a primitive dictatorship into a reasonably functioning democracy when hatreds and frustrations bottled up for nearly a half-century were surging to the fore. This, of course, is General Spinola's primary task.

Furthermore, De Gaulle's decision to make peace in Algeria was chiefly a French affair. Spinola, on the other hand, has created a situation in which other interests than those of Portugal and the African nationalist guerrillas are involved. What happened in Lisbon on April 25, affects deeply the immediate national security of South Africa and Rhodesia, as their governments perceive it, as well as the whole balance of power in sub-Sahara Africa.

The upheaval in Lisbon is also of concern to the United States and some of its allies in the North Atlantic Treaty Organization. One fear is that the ultimate establishment of unfriendly black regimes in Mozambique and Angola, a distinct possibility in time, may threaten South Africa's stability and endanger the sea lanes around the Cape and to the Indian Ocean. The Soviet Union and China who have long supported the rebels, notably Frelimo in Mozambique, have a stake in the outcome as well. Among the fears is that lack of access to southern Africa may deprive the U.S. and NATO countries of raw materials, ranging from uranium and other strategic metals to gold.

As long as a year ago, when it became obvious that the rebels were gaining in strength in Mozambique, the U.S. and NATO began to draw up secret contingency plans for air and naval defense of South Africa. In June, 1973, NATO's Defense Planning Committee (DPC) instructed Saclant (Supreme Allied Commander, Atlantic) headquarters in Norfolk, Va., to draw up plans for an allied air-naval task force to stand ready to assist South Africa, should the need arise.

This was part of broader United States strategy, as visualized at the Pentagon, to reinforce positions in the Indian Ocean—from South Africa to the Indian subcontinent—against a Soviet threat in the area. Plans for establishing a naval base at Diego Garcia fit into this pattern. Following a December 1969 National Security Council decision to preserve a "balance" in southern Africa, the United States has been quietly selling Portugal "non-lethal" military end-items such as jeeps, radio systems and spotter planes as well as defoliants. It has trained Portuguese officers in counter-insurgency at the jungle warfare Army school at Ft. Gulick in the Panama Canal Zone and helped in training Portuguese pilots at bases in Western Germany.

In a bilateral arrangement, France has been selling arms to Portugal and South Africa (Britain, too, has been selling weapons to the South Africans during the Tory government). This month, South African and French naval units conducted joint exercises in the area. Rhodesian detachments have been fighting with the Portuguese in Mozambique against the Frelimo.

In the light of the new uncertainties emerging from the Lisbon coup, all parties concerned will inevitably rethink their strategies. Inevitably, General Spinola will be the target of powerful international pressures.

But even in terms of direct dealings with the rebel movements, General Spinola faces serious problems.

For one thing, unlike in the Algerian situation, there is no unified rebel leadership in the Portuguese "overseas provinces." Since the 1969 murder of Dr. Eduardo Chivambo Mondlane, the top leader, Frelimo has been run by a politburo group in which Samora Machel, who was Mondlane's chief lieutenant, is the only clearly identifiable personality. Very little is known about others, including Frelimo officials in charge of "liberated zones" in Mozambique.

In Angola, the rebels are divided into two groups: the National Front for the Liberation of Angola headed by Holden Roberto, and the Popular Movement for the Liberation of Angola led by Dr. Antonio Neto. A fairly firm leadership exists in the Portuguese Guinea.

Spinola's problem, therefore, is to establish with whom he should negotiate and who has the power of decision.

The Junta seems to have defused the danger that white settlers in Mozambique and Angola would proclaim "unilateral declarations of independence" on the Rhodesian model to impose white rule.

What General Spinola, therefore, must first do is to ascertain whether his "gradualism" approach—he has called for a federation of the three colonies with metropolitan Portugal—can serve as the basis for subsequent negotiations, possibly leading to a form of independence in which the three provinces would be tied to Portugal in the way in which the African Francophobe states are to France.

Spinola has ruled out a ceasefire for the time being, but domestic pressures from the newly emergent democratic parties—from Christian Democrats to the left—may force him to reconsider his stand and try for a De Gaulle formula, if he can find responsible interlocutors in Portuguese Africa.

April 25, 1975 in Portugal marks a significant new beginning for the country and its embattled colonies. But a great deal of flexibility is required of the Junta to find the proper solutions at home—and in Africa.

South Africa Seeks U.S. Support Through "Back Door"

(By David B. Ottaway)

South Africa has mounted a major behind-the-scenes campaign to convince the U.S. government of its strategic importance, provoking complaints of "back-door" diplomacy among black American political leaders and even some State Department officials.

Located on the southern tip of Africa, the white-ruled nation astride the Indian Ocean oil lanes from the Persian Gulf is inviting the U.S. Navy to use South African ports and to coordinate strategy to counter the growing Soviet presence in the area, knowledgeable diplomats say.

The South African campaign is aimed at overturning an 11-year-old U.S. embargo on arms sales to South Africa and a prohibition on visits by American naval ships to its ports. But the South Africans apparently hope to get much more, namely U.S. support for its defense against nationalist movement seeking to overthrow the white governments of southern Africa.

The campaign, which already shows signs of considerable success, has far-reaching implications for U.S. policy in the Indian Ocean and toward black Africa. Its American supporters, with naval strategists and those concerned about Soviet expansionism in the forefront, argue that South Africa and Portuguese-controlled Mozambique offer some of the best air and naval bases available to the United States in the Indian Ocean.

But its opponents, black and church groups particularly, warn that overt U.S. support of South Africa would be disastrous to the American position in black Africa.

The intensive lobbying effort comes at a time when the independence of Portugal's African colonies, which have long served as buffers for South Africa against African guerrilla incursions, is openly being discussed in Lisbon following the recent coup there.

In the past few months, two ranking South African officials have come here on "private visits" and made numerous contacts with high-level U.S. government officials. Several others, including the foreign and finance ministers, are making trips to the United States this month, speaking to private groups.

The Washington visit last week of Adm. Hugo H. Biermann, commander in chief of the South African defense forces, has resulted in a diplomatic and congressional flap *about his* visa and his subsequent visit Tuesday to the Pentagon office of Acting Secretary of the Navy J. William Middendorf.

Rep. Charles E. Diggs (D-Mich.), black America's pro-African lobby, the Washington Office on Africa; various church groups and a number of African diplomats stationed at the United Nations got wind of the low-key Biermann visit and have spoken out against it.

Biermann, who publicly has advocated a U.S.-South African military alliance, first was refused a visa by the State Department, according to Sen. Harry F. Byrd, Jr. (Ind.-Va.) The senator said Monday that only after he protested to the department was the visa finally issued.

State Department sources said the visa was granted after Biermann assured the U.S. embassy in South Africa that "he would make no official contacts" while in Washington and after officials "at the highest level" ordered it.

Tuesday, the South African admiral called at Middendorf's office for what a Pentagon official described as an "informal and personal visit."

"We sure didn't consider it an official visit," said a spokesman for Middendorf. He said that Biermann and the acting secretary had talked only about a mutual friend and that Middendorf was not aware of the conditions under which Biermann's visa was issued.

A State Department spokesman later said: "We are very disturbed about this because we feel it violates the understanding we had" with Biermann. He said the department would take up the issue with the Pentagon.

Biermann, invited here by the Washington-based United States Strategic Institute, has followed the pattern of previous South African officials in bypassing both his own embassy and the State Department. Instead, he had been seeing congressmen and other government and military officials friendly to the South African cause at informal gatherings.

One dinner, given by Rep. Robert E. Bauman (R-Md.) in honor of the admiral, is said to have included 17 U.S. admirals. Asked about the dinner, the congressman's secretary said, "I am not allowed to comment on it."

This "back-door diplomacy" policy reportedly was devised by Eschel Rhodie, an advisor to Connie P. Mulder, the powerful South African interior and information minister widely regarded as the probable successor to Prime Minister John Vorster. The policy was initiated by Mulder himself in January when he made a two-week unofficial visit to the United States.

During his stay, Mulder saw an impressive array of American leaders, including vice President Gerald Ford, Senate minority leader Hugh Scott, Senate minority whip Robert Griffin, House majority leader Tip O'Neill and several other influential House and Senate members.

He also is reported to have met with Vice Admiral Ray Peet, deputy assistant secretary in the office of the assistant secretary of defense for international security, which has responsibility for planning strategy in the Indian Ocean.

Adm. Biermann has been seeking to promote greater U.S. interest in South Africa, pointing out its valuable location for any Western defense of the oil lanes to the Persian Gulf in the face of the Soviet naval buildup in the Indian Ocean.

In an interview published in Newsweek's international edition Nov. 26, the South African military leader argued that the Cape of Good Hope oil route was endangered both by Soviet warships and Communist-armed guerrillas in white-ruled Rhodesia and the Portuguese overseas territories of Mozambique, Angola and Guinea-Bissau.

Biermann argued that the South African system of apartheid—strict racial separation—should not be regarded as a stumbling block to U.S.-South African cooperation. "After all," he said, "the United States would not be creating a precedent by entering into a military alliance with a nation whose internal policies it did not approve of."

As the Soviet naval buildup in the Indian Ocean causes increasing concern by U.S. strategists, South Africa appears to be winning more allies for its arguments, particularly in Congress, and at the Pentagon.

The U.S. Navy now is hard put to maintain more than a token presence in the Indian Ocean partly because of a shortage of suitable port facilities there. The government is negotiating with Britain to obtain use of facilities on Diego Garcia, an island south of India, but the new Labor government has said it wants to reconsider the deal.

The South African naval base at Simonstown at the Cape of Good Hope is regarded as one of the best in the entire Indian Ocean area, but the Johnson administration ordered a halt in 1967 to U.S. naval ships calling there. The U.S. embargo on arms sales to South Africa dates back to 1963.

The U.S. National Aeronautics and Space Administration still has a tracking station there, but it is being phased out over the next two years. There also is the terminal station for the South Atlantic missile testing range, now in a "relatively inactive status," according to State Department sources.

"None of them have anything to do with the Indian Ocean or tracking Soviet vessels there," said one department official.

Despite South Africa's enhanced value as a result of the burgeoning East-West rivalry in the Indian Ocean, the Pentagon strongly denies reports that the NATO command has drawn up secret contingency plans for possible air and naval defense of that country.

According to one recent report, NATO's defense planning committee in June 1973 instructed the alliance's Atlantic headquarters in Norfolk, Va., to study the possibility that an allied task force could assist South Africa in an emergency. But the Defense Department insists there are no NATO instructions "for any such planning" in the case of either South Africa or "any other country in southern Africa."

The Pentagon said that "it supports neither side in the disputes between Portugal and the African nationalist movements in its territories."

But there is growing concern among State Department African affairs specialists over the possible erosion of this official policy in the face of the South African offensive here and demands Portugal has made on Washington.

Portugal, under the now ousted Caetano government, asked the United States to lift its embargo on the sale of arms destined for use in the African colonies. It also asked for U.S. diplomatic support at the United Nations for its African policies in return for continued American use of Portuguese bases on the mid-Atlantic Azores Islands.

PRIVATE FOUNDATIONS: BLUEPRINT FOR PROGRESS

Mr. HARTKE. Mr. President, I ask unanimous consent that the text of my opening statement at the hearing held by the Subcommittee on Foundations, May 13, 1974, together with an attachment thereto, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Today we begin the first in a series of hearings to be held this year by the subcommittee on foundations.

Four years ago, foundations were one of the prime targets of tax reform legislation. Congress closely examined the benefits received by the public from the tax exemption afforded foundations. Almost all of the witnesses appearing before the Senate Finance Committee in 1969 agreed that there were abuses of the tax exemption privilege by foundations.

Some saw the accumulation of wealth in the hands of a few and its use to further the personal interests of those long deceased as inconsistent with our democratic values. Still others objected to foundation activities in politically sensitive areas. And some objected to foundation control of segments of the private sector.

On the other side were posed those in the foundation community who saw private charity as relieving Government of responsibilities it would otherwise have to discharge, and those whose programs depended on the support of foundation grants.

There are those who say now that the Tax Reform Act of 1969 cures most of the ills afflicting the foundation community. Quite frankly, I have no idea whether that assertion is true. In fact, I am concerned about our continuing lack of knowledge in this field.

Hard facts were lacking when Congress acted in 1969—they are still in short supply today. On March 22nd of this year, I sent a letter to the Commissioner of Internal Revenue, Mr. Donald Alexander, asking him to respond to 17 essential questions. I am placing that letter in the hearing record today so that the public may become aware of some of my initial requests for the information which has been lacking so far. Those 17 questions can be grouped into two categories:

First, how is the I.R.S. organized to administer tax exempt organizations, and just what administrative functions does it now perform?

Along this line, I asked for projections of what changes might occur if the special office within I.R.S. for tax exempt organizations proposed in both House and Senate pension bills becomes law.

Second, just what impact has the 1969 tax reform act had on exempt organizations? How many new foundations have been created since 1969? How many have gone out of existence? How many have changed their exempt status to or from a private foundation? What evidence is there that the 1969 act has resulted in proportionately more foundation wealth going to charitable purposes?

Unfortunately, Commissioner Alexander was unable to be with us today, but he will appear before this subcommittee within the next few weeks. If the I.R.S. is able to respond to my questions, the data will shed some useful light on this important subject.

Let me make it understood at the outset that I come into these hearings with an open mind. I have no predetermined position on private foundations. These hearings are designed to help the members of this subcommittee assess the position and role of foundations in our society. This is 1974—not 1969, and we will not rehash the arguments of the past, instead, I want to know just what foundations are doing today and where they may be going in the future.

In making this assessment, it is not enough to say that private charity has been around since the Romans, or that it had an important place in the very early days of this republic. All of this is true, but it says very little about the role of private charity today.

Nor is it enough to say that, if private foundations ceased to exist, government would have to take up the slack. If foundations are merely on a parallel course with government, they are existing on a very slender reed.

The meaning of private charity has changed from the days of the Romans and colonial America. Perhaps it is not so much that it has changed, but that it has expanded. We may still need private efforts to aid the poor and the handicapped and the infirm, but there is now a much greater need for private charity.

Foundations have a unique opportunity as we begin the third century of our experiment in democracy. They can be truly philanthropic by providing for new opportunities to open our society to new ideas and new approaches to the solution of problems which have plagued mankind for centuries. There is injustice all around us, from malnourished babies, to needless deaths which result from insufficient medical knowledge, to inadequate housing and insufficient education, to human lives which are wasted because we have erected barriers in our society or in our economy which have inhibited people from achieving their full potential.

So much remains to be done, and foundations have the resources and the freedom to meet the challenge. From the smallest to the biggest, foundations can help to solve community and national problems.

What was asked in 1969 will also be asked in 1974—just how much does the public benefit from the tax subsidy which it gives to private charity? That is the ultimate question before this subcommittee, and I suggest that private foundations and their grantees can answer that question best by defining their purposes in terms of essential American needs.

In a speech I made earlier this year, I made the following pertinent points:

1. There is nothing in American society which *requires* that foundations exist. Public needs can be defined by elected officials who are responsive to the people they serve.

2. Rather than consider foundations "essential" to American society, we should talk of their "desirability". Ours is a pluralistic society, and we should encourage the participation of diverse groups of citizens in the process of defining and meeting the needs of people. Foundations can help fill this need.

3. If foundations are to earn their right to continued existence, they must have a well-defined purpose and clearly delineated policies in pursuit of that purpose.

I do not say that all foundations are without a clear purpose, but I do say that the foundation community as a whole is lacking a clearly defined conception of their role in contemporary American society.

I believe that foundations should be the cutting edge of innovation and experimentation, that they should be probing the resources of America so that we can raise the quality of life for all Americans.

It is true that some foundations came into existence for the purpose of tax avoidance, but if those same foundations can use their resources to better our way of life, the motives behind their creation may be inconsequential. What I am suggesting is that we look beyond the superficial issues to determine just how the public is benefitting from the wealth of private foundations.

This subcommittee can shed some light on this question, but foundations themselves must undergo a critical period of self-examination. They must determine just how well they are responding to the needs of our society.

In my February speech, I also suggested that foundations should open themselves to the public. I recognize that vast improvements have been made in terms of annual reports, newsletters and the like—but I have a greater meaning in mind. There is an inherent danger in private foundations where the boards of directors are composed of wealthy people who may be associated with other charitable endeavors. This is an elitist danger, and it can only be resolved by expanding boards to include more members of the public and opening up the grant-making decision process to the public to a greater extent than is now practiced.

The current strain of elitism means that foundations may be all too prone to support "safe" activities—activities which reflect the values of the members of the board. Diversification of the personnel involved in the grant-making decision process will open up foundations to new insights and new approaches.

I realize that I am painting with a broad brush, but the public views foundation activity in terms of its general impact and its general value. I do not discount the work done by many individual foundations, by the Council on Foundations, and by local and regional associations of foundations to encourage innovation and facilitate cooperation among foundations. By and large, the foundation community is a responsible one which seeks to avoid the mistakes which led to provisions of the Tax Reform Act of 1969.

At the same time, I note that the excellent program of the recent annual conference of the Council on Foundations was entitled "Blueprints for Survival." There is a certain defensiveness connoted by that title—a defensiveness which recognizes that the foundation community remains under attack. But the best defense is an offense, and I trust that foundations will take to the offense, not in a public relations effort to show us how many grants they make or how much money they spend, but an offense based on the substance of progress and positive contribution to our society.

I open these hearings both with a concern about the role of foundations in our society today and an excitement about the potential of that role.

There is much to be done to make the dreams of our Founding Fathers and the hopes and aspirations of all American men and women a reality. If the wealth of foundations can be harnessed in the effort to realize those dreams, they will have the support of this subcommittee and of the American people.

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., March 22, 1974.

Hon. DONALD C. ALEXANDER,
Commissioner, Internal Revenue Service,
Washington, D.C.

DEAR COMMISSIONER ALEXANDER: The Subcommittee on Foundations plans to hold hearings on the subject of problems raised by the administration of private foundations by the Internal Revenue Service, in the latter part of April. We would appreciate having your comments on this subject during our hearings and I would specifically like you to direct your attention to the series of questions which follows.

1. a. How is the Internal Revenue Service presently organized with respect to exempt organizations?

b. What functions are performed?

c. How many people are involved?

d. How many man-hours are involved?

e. What activities are undertaken?

f. How much money is budgeted for this activity?

g. How often are audits performed?

h. What was the impact on your normal exempt organization audit activities of programs related to the Economic Stabilization Act and the energy program?

2. a. In your auditing activities do you treat private foundations differently from other exempt organizations?

b. How much of your budget goes to auditing private foundations?

c. How many man-hours are involved in audits of private foundations?

3. a. What changes do you anticipate in your activities related to exempt organizations if the Special Assistant Commissioner proposed by both House and Senate pension bills become law?

b. What plans does the Service have for recruiting, employing and training specialized personnel in the exempt organization field?

4. a. How many organizations are exempt under section 501(c)(3)?

b. How many of these organizations came into existence after 1969?

c. How many were already in existence but first brought forth their existence to I.R.S. after 1969?

5. a. Of the section 501(c)(3) organizations now registered with I.R.S., how many

are so-called "public charities" under *each* of the clauses (i) through (v) of section 170 (b) (1) (A)?

b. How many are "publicly supported" under clause (vi) of section 170(b) (1) (A)?

c. How many are section 509(a) (2) organizations?

d. How many are section 509(a) (3) organizations?

e. 1. How many are private operating foundations?

2. How many are non-operating foundations?

3. What is the asset value of operating foundations and of non-operating foundations?

4. What is the asset value of foundations formed after the 1969 Tax Act?

f. What figures does the Service have on foundation terminations, including a breakdown based upon operating and non-operating foundations and the assets of each?

g. The answers to the above questions are based on information as of what date?

6. a. Of the section 509(a) (3) organizations, what are the patterns of relationship to "public" charities, and to section 509(a) (2) organizations?

b. How many qualify because they are "operated in connection with" a public charity?

7. How many of the 509(a) (3) organizations provide funds as their sole or primary service to their public charity or section 509 (a) (2) organization?

8. a. How frequently have each of the categories of public charities and private foundations been audited since 1969?

b. How many man-hours or man-years have been used in performing these audits?

c. Have these audits generally been conducted by personnel whose primary activity is the auditing of taxable income?

9. a. How much has been collected under each of the categories of private foundation taxes other than the tax on investment income in each of the years since the 1969 Act?

b. Of this amount, how much constituted "first-level" taxes and how much constituted "second-level" taxes?

c. How much constituted penalties under section 6684?

d. How much constituted "wringer" taxes under section 507?

e. How many proceedings are still outstanding or a "first-level" tax has been determined but the case has not yet been closed?

10. Generally, are "first-level" taxes determined as a result of the exempt organization volunteering the information received from State authorities, or information developed from I.R.S. examination of returns and I.R.S. audits? To what extent has State authorities participated in the closing of cases so as to avoid the necessity for "second-level" taxes?

11. To what extent does I.R.S. coordinate the audits of charitable organizations and individual taxpayers?

12. Why does the federal tax return no longer require disclosure of the names of specific charitable organizations to which the taxpayer contributed if he has retained cancelled checks?

13. a. To what extent does I.R.S. monitor the requirement that private foundations publish a notice of the availability of their report for public inspection and that it be available?

b. Have you found any situation in which a foundation was not in compliance with this requirement?

c. If so, list each such foundation and any subsequent corrective action.

14. What evidence is there that the payout requirement has resulted in an increased amount of current expenditures for charity by private foundations?

15. Of the organizations on the Treasury Department's cumulative tax exempt list, how many use the term "foundation," "fund," or trust" in their name? How many of these organizations are not classified by the I.R.S. as private foundations?

16. a. How many rulings have been issued under the Tax Reform Act which affect private foundations?

b. How many of these rulings have been published?

17. Please supply the Subcommittee with the I.R.S. regulations applying to the requirements of the Freedom of Information Act.

To expedite the preparation for the Subcommittee's hearings, I would appreciate if you would designate a member of your staff to work with Howard Marlowe of my staff. Please have your designee contact Mr. Marlowe at the earliest possible time by calling 225-4814.

With my best wishes, I am

Sincerely,

Vance Hartke,
Chairman, Subcommittee on Foundations Senate Finance Committee,

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MEMORANDUM

To: Senator
From: Howard
Date: February 13, 1974
Re: Revised Recommendations for Foundation Subcommittee Hearings

Attached are my revised recommendations for a series of foundation hearings this year.

I worked on these in cooperation with the Finance Committee staff.

If they are acceptable to you, I would suggest that a letter to Senator Long be prepared informing him of your plans.

LEGISLATIVE RECOMMENDATION, SUBCOMMITTEE ON FOUNDATION, HEARINGS: 1974

No. 1: *Problems Raised by the Administration of Private Foundations by the Internal Revenue Service and State Officials*

a. IRS and Treasury: rules, regulations and judiciary review of IRS determinations

b. State officials: regulations and litigation

3. Foundation officials: problems and costs of compliance

d. General public: awareness of extent of regulation

No. 2: *Experience of Private Foundations under the 1969 Tax Reform Act*

a. 4% Tax on Investment Income:

(1) justification

(2) revenue produced

(3) reduction in tax as opposed to distribution of excess to state attorneys general

(4) earmarking 2% of the 4% tax for an Assistant Commissioner for exempt organizations

b. Payout Provision:

(1) underlying assumptions of the 1969 law

(2) current assessment of return on investment

(3) relationship of payout provision to future maintenance of the current role of private charity in American society

(4) possibility of payout requirement applying to a term in excess of 1 year as opposed to an annual requirement

c. Excess Business Holdings:

(1) is the rule too restrictive?

(2) does the rule apply to debt securities? If not, what limitations are necessary to prevent avoidance of the prohibition against lending money to insiders?

d. Program restrictions:

(1) should the restrictions of legislative activities be retained?

(2) are the limitations on grants to individuals too restrictive?

(3) are the expenditure responsibility requirements too cumbersome?

e. Birth, mortality and transfiguration:

(1) what has been the impact of the 1969 Tax Act on the birth, mortality and transfiguration of private foundations?

No. 3: *Activities and Practices of Public Charities*

a. fund-raising practices

b. overhead costs

c. amount of support from public

d. degree of public involvement and control

e. degree of public financial disclosure

f. duplication of effort

No. 4: *Problems of Small Foundations*

a. should foundations below a certain size be governed by less restrictive rules?

b. should special status be given to small memorial scholarship funds?

No. 5: *Problems of Community Foundations*

a. special problems of community foundations

b. promulgation of final regulations

No. 6: *Establishment of an Independent Regulatory Agency for Foundations*

a. should such an independent agency be established?

No. 7: *Relationship between Foundations and Government*

a. can cooperation be improved?

b. How much duplication is there and what is the relationship between duplication and a pluralistic society?

No. 8: *Charitable Provisions of the 1969 Tax Act*

a. limitation of the legislative activity of public charities

b. rules on gifts of appreciated property

c. effects of 1969 Act on charitable contributions to higher education

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MORE CAP BULLYING

Mr. HANSEN. Mr. President, over the weekend, I attended the Republican State Convention at Casper, Wyo., and returned to Washington through Chicago on commercial airline.

While at Chicago, I bought a Chicago Tribune, dated May 13, and was surprised to read that a group the Tribune termed "senior citizen bullies" had employed militant tactics in a lobby effort conducted in the office of the distinguished senior Senator from Illinois (Mr. Percy).

As a fellow member of the Senate Special Committee on Aging, I can assure my colleagues, as can every other member of that committee, that no one has greater concern for the senior citizens of this country than the able senior Senator from Illinois. His performance record for the elderly, and his legislative initiatives in their behalf, set a high goal for any to match.

Only 2 weeks ago, our highly regarded colleague introduced a legislative package designed to achieve income security for the elderly. He has prepared for introduction later this week additional legislation relating to long-term nursing home care for the elderly.

Yet, despite the Senator's continuing effort in their behalf, according to the Tribune, members of a group known as the citizens action program came to the Senate Office Building and "amidst much shouting and abusive language" attempted to make demands to the senior Senator.

The Tribune very accurately called the conduct of this group "detestable." And the Tribune wisely admonished that such conduct "For all they generate prime-time television coverage, their invariable result is hostility, not cooperation, and thus they serve to defeat their own purposes."

Mr. President, it is my hope that this group and any other so inclined will heed the Tribune's observations about the incident, and take note that such behavior will not be tolerated nor will it be rewarded.

I ask unanimous consent that the Tribune editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

MORE CAP BULLYING

Senior citizen bullies? The description would seem absurd except for the fact that the senior citizens in question are members of the Citizens Action Program, whose use of media-oriented public disruption has intimidated many.

The latest target of this band of activists was Sen. Charles Percy, whom a CAP senior citizens contingent cornered in the Dirksen Federal Building recently. Amidst much shouting and abusive language, the CAP members "demanded" that Mr. Percy sign a statement promising to lobby for two drug bills in the Illinois legislature. It was also "demanded" that Mr. Percy refuse any campaign contributions from a drug manufacturer if the manufacturer did not support the bills.

"If Haldeman and Ehrlichman . . . couldn't bully me," Mr. Percy said. "you can rest assured you won't, either. I refuse to be intimidated."

Among the responses to Mr. Percy's refusal to sign the statement was the question: "Does that mean you'd accept contributions from the American Nazi Party?"

Without going into the merits of the drug bills in question, or how anyone could realistically expect a United States senator to assure their passage by a state legislature, it must be conceded that some of the goals of the C.A.P. are worthwhile. Their abusive and disruptive tactics, however, are frequently detestable. For all they generate prime-time television coverage, their invariable result is hostility, not cooperation, and thus they serve to defeat their own purposes.

In response to the CAP member's question, it is interesting to note that, in the late 1920s, there was a political party that practiced the same tactics of breaking up meetings, intimidating opponents, and shouting down speakers. It was called the National Socialist German Workers Party, or "Nazi," for short.

LYN JACKSON: SENATOR SAM J. ERVIN, JR.

Mr. MAGNUSON. Mr. President, one of my most brilliant young constituents, Lyn Jackson, who is the daughter of one of the aides of a distinguished Congressman from the State of Washington, the Honorable Floyd V. Hicks, has written a most eloquent article commenting upon the career of our colleague, Senator SAM J. ERVIN, JR.

I ask unanimous consent that a copy of the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LYN JACKSON: SENATOR SAM J. ERVIN, JR.

Senator Samuel James Ervin of North Carolina has been defined as a constitutional fundamentalist. He is the Senate's ranking constitutional expert, the strictest constructionalist of them all, and one of the Senate's ablest civil libertarians—one who advocates liberty, especially with regard to thought or conduct. Yet, despite all the jeers and cheers he's received, Sam Ervin still maintains he's "just a pore ol' country lawyer from North Carolina." Senator Howard Baker of Tennessee in his introduction to Bill Wise's book *The Wisdom of Sam Ervin,* says that whenever Senator Ervin does this, "First, out of reflex, I put my hand on my wallet, then I gently remind him that while he may consider himself to be just a pore ol' country lawyer, he is also an honors graduate of Harvard Law School." [1]

That's when Chairman Sam raises his magnificent eyebrows, cocks his head, beams his benign smile, and whispers, "Yes, Howard, but nobody can tell it." [2]

This is the one time Senator Ervin is not advocating the truth. He possesses such grandiloquence, so sharp a wit and knowledge of the Bible that it is taken for granted that he graduated from Harvard with honors. What is also unfortunately forgotten sometimes is the fact that he is someone who has enough courage to abide by his moral convictions in a world where people of his rank and position tend to forget the words "truth" and "justice," and think only of themselves and how favorable they will look to certain people.

One such example of this was his position as Chairman of the Watergate Investigation Committee. Last February, the Senate voted seventy-seven to zero [3] to set up a special Committee, chaired by Ervin to investigate all aspects of the Watergate bugging case including questions of White House involvement with it. Ted Kennedy's subcommittee staff had been working long and hard on the Watergate investigation. He realized his own vulnerability and hoped all along that Ervin would take it over. "He is a man beyond ambition," said Kennedy.

Critics have complained that Ervin is more out to get Nixon than the truth. But his image of constitutional honesty, his country humor, and clever self-mocking senatorial use of lofty words have turned him into a major American personality. After his election, Ervin vowed, "There will be no witch hunt, but I am going to get to the bottom of this thing—and the top."

Recently, because of interference with impeachment investigations and the trial of John Mitchell and Maurice Stans, the Committee has been called off.

There have been other examples that play behind the lights of Watergate hearings have shed upon him. The issues he speaks have been of such importance that he cannot be ignored. For example, in 1970, he led the fight against the D.C. Crime bill—which provided for broadened wiretap powers, preventive detention, and "no-knock" entry when police officers feel that revealing their identity might result in destruction of evidence or endanger their lives. He felt that it was not constitutional, but was only able to persuade two Southern colleagues and was opposed by Northern liberal friends. When Mike Mansfield asserted that fine destinctions could be decided later in the courts, Ervin protested that by then the D.C. bill would lie a model for a federal law affecting the entire nation. He called it a "garbage pail of some of the most repressive, intolerant, unfair, and vindictive legislation that the Senate has ever been presented." [4]

Another piece of legislation he strenuously objected to was the late Senator Dirksen's proposed amendment that would have allowed voluntary prayers in public schools. "I believe in a wall between church and state, said Ervin, so high that no one can climb over it." [5]

He is currently combating the Equal Rights Amendment, which he contends would deprive women of many of the legal rights they now enjoy. Said Ervin, "I had a group [of Women's Libbers] come to my office after I had spoken on the Senate floor against [the Equal Rights Amendment]; some members of their committee asked for an audience, which I granted, and they asked me why I had spoken against this amendment.

"I pointed out that women would be drafted and sent into combat, and these ladies, who were not quite as ancient as I am, though some of them were approximately that, said that that was exactly what they wanted, that they wanted to be drafted and that they wanted to serve in combat.

"I said, 'Ladies, I have always tried to be a gallant gentleman. I have made a practice all of my life never to refer to a lady's age. But looking at you, I am compelled to conclude that, despite your very youthful appearances, you are at least a month above the draft age. If you want to persuade me that women want to be drafted and sent out like the men, to face the bullets of the enemy and to have their fair forms blasted into fragments by the enemy's bombs, you are going to have to send some of the sweet young things within the draft age up here to persuade me on that point." [8]

To many he would be called a chauvinist pig for his beliefs on Women's Rights. It clearly points out that he cares about the welfare of people. He does not want to see them hurt.

An example of his deep concern for people's well-being would be the hearings Ervin began March 1, 1971; which were against files that are being computerized by snoops, ranging from credit bureaus to Army agents, who allegedly concentrate on protestors. He especially criticized the Army, as well as the FBI, and accused them of snooping in a way that put in danger the First Amendment freedoms of speech, thought, and privacy. Stated Ervin, "If we are going to be a free society, the Government is going to have to take some risks; they can't put everyone under surveillance.

To prove his point, Ervin showed those present at the hearings a 1,245 page Bible and a two-inch square of microfilm, each containing 773,746 words. Said Ervin, "Someone remarked to me that this meant the Constitution could be reduced to the size of a pinhead. I said I thought maybe that was what they had done with it in the Executive Branch, because some of the officials could not see it with their naked eye." [10]

Senator Ervin began pumping for an inquiry into the impact of Government data banks since 1967. At that time he found out that the Health, Education, and Welfare Department was using stored information to blacklist scientists for their political views. In 1969, he learned that the Secret Service had a data bank, containing information on approximately fifty-thousand people." Some of these people are called "professional gate crashers," also those "who insist upon personally contacting high Government officials for the purpose of redress of imaginary grievances," or in other words, complaining. During the hearings Senator Ervin heard evidence that different types of agencies keep ten to twenty dossiers on virtually every American. They stress political activity, sexual behavior, and credit records, all of which invite misuse by officials, as well as employers. According to Ervin, "There is not one syllable in the Constitution that gives the Federal Government the right to spy on civilians." [14]

Ervin hoped that the hearings would lead to federal privacy legislation giving citizens the right to access on the files compiled about them. At any rate snooping must be curbed. Ervin fervently believes: "When people fear surveillance, whether it exists or not, when they grow afraid to speak their minds and hearts freely to their Government or anyone else, then we shall cease to be a free society." [15]

Footnotes at end of article.

From an economic standpoint, Ervin led hearings last February 12-18 of 1973 on another bill that would force the President to seek the consent of Congress before impounding anymore funds. He agrees that much of the money Nixon has impounded should not be spent; he voted against some of those bills. He regards Nixon as something of a spendthrift, and voted against some of Nixon's own spending plans like revenue sharing, but that is not the issue. Ervin explained: "He is treading on our Constitution. I would suggest two books that should be in the White House. One is the Constitution of the United States, and the other is Dale Carnegie's book *How to Win Friends and Influence People*."[16]

Ervin's bill to require congressional approval of any new Director and Deputy Director of the Office of Management and Budget was passed overwhelmingly on the Senate floor the same week, and he also laid plans to begin a hearing February 20, 1973, on a bill to protect newsmen from official *interrogation* about confidential sources.

Ervin has always been a strong defender of the First Amendment and the freedoms of thought, privacy and speech it gives to every American, so it is not surprising that he headed a hearing on freedom of the press in November of 1971 and February of 1972. It is also not surprising that he was the only one who stayed with the news hearings throughout their entirety. Many Senators sign letters, catch up on minor paper work, even daydream at hearings, but when Ervin is truly involved with a hearing he has an intensity of concentration that is awesome. They are no ritual to him. He learns from his witnesses; and in other hearings on other days, he has learned things that have led directly to legislation.

His vision of free press is both simple and profound; simple because his ideas do not go far from the world of the Founding Fathers and the early printing presses; profound because no matter how the press might defame his beliefs, his religion, his very being, his struggle to maintain a free press continues with undaunted zeal.

Laurence Leamer, a journalist covering the hearings, commented, "There had been something so admirable, so likable about Senator Ervin and the manner in which he conducted the hearings. Even those mountain stories, he couldn't resist telling them, but then he would hurry through, the words spilling down his chest so that much of the time it was *impossible to* understand; but everyone would laugh anyway. When he talked of the meaning of a free press—unaware of reporters or cameras or anything but his ideas, as if his very words might reaffirm belief in liberty—he was truly inspiring."[17]

To Ervin the Constitution is the most precious of American possessions, and he speaks of it with language and emotion one rarely hears, even on the Fourth of July. In this perspective, it is no irony that Sam Ervin, firm defender of the first amendment, is also the Senate's most brilliantly effective opponent of civil rights legislation. He takes as his dictum Justice Brandeis' statement that, "the great dangers to liberty lurk in the insidious encroachment by men of zeal, well-meaning, but without understanding."[18] Ervin certainly understands, which makes his arguments all the better.

Many people wonder why Ervin has emerged as the "enfant terrible"[19] of Congress instead of more obvious leaders like Mike Mansfield or Ted Kennedy. It is partly due to his seniority as a Senator of twenty years, after replacing Clyde Hoey after his sudden death in early summer of 1954. But mostly it is because he is known as one of the most high ranking constitutionalists in the Senate, a man of personal prestige, of such judicial temperament, that he is not easily attacked. His beliefs, or principles, can be traced to his early childhood and beyond.

Sam Ervin was born in Morganton, North Carolina (population 13,000) on September 27, 1896 into a family where both his father and grandfather were lawyers. It was his father who taught him that the threat to liberty comes from Government, and instilled in him a fierce sense of independence and individuality.

As a young boy, Ervin was addicted to learning and toy soldiers. He was either reading up on his ancestorial past, or hanging around the Burke County Courthouse as his father, in Victorian cut-away tails, tried trials.

In 1917, he enlisted as a private in the infantry, served in France, where he was wounded twice, cited for gallantry twice, and awarded the French Fourragere, Purple Heart with Oak Leaf Cluster, Silver Star, and Distinguished Service Cross. He was admitted to the North Carolina Bar in 1919. He then entered Harvard Law School as a third year student, in hopes that he would acquire a better education. Mainly, it was because he was in love with his childhood sweetheart, Margaret Bruce Bell, and feared that she would not wait four years so he could complete law school. Ervin graduated in 1922; marrying soon afterward. He and his wife, Margaret, have been married almost fifty years and have three grown children, and seven grandchildren.

Soon after Ervin's graduation, he joined his father's law firm. Said Ervin about beginning law: "My father, who was an active practitioner at the North Carolina Bar for sixty-five years, gave me this sage advice on this point when I entered his law office many years ago: 'Salt down the facts; the law will keep.' "[20]

Ervin still had bushy eyebrows that juttered up and down when he got nervous, and an occasional stutter. In court he depended on his wit and stories just as today in some instances. He was (and still is) extremely patriotic, and joined and boosted many organizations. He was the Commander of the local National Guard unit, a member of the Masons, the Knights of Pythias, the Sons of the American Revolution, and the Society of the Cincinnati.

After becoming Senator in 1954, he thrust himself in the front pages with a down-to-earth anecdote underlining his contempt for Joe McCarthy, his Communist-hunting colleague. According to Ervin, Uncle Ephraim Swink a sick arthritic mountaineer was called upon to testify to his religious experience at a revival meeting. Uncle Ephraim remained silent. Finally the minister said, "Brother Swink, suppose you tell us what God has done for you." Uncle Ephraim pulled his crippled body from his seat and replied, "Brother, he has mighty nigh ruint me." Said Ervin, "Mr. President, that is about what Senator McCarthy has done to the Senate."[21]

Later he became Chairman of the Judiciary Subcommittee on Constitutional Rights, and has startled conservatives and liberals alike with some of the positions his seniority allows him.

As a result of the Watergate hearings, Ervin was forced to get an unlisted phone number, as well as be accompanied by two plain-clothes policemen, whose presence embarrassed him at first, but later on praised for their assistance. People became so enthralled at the sight of him, that last July it was almost impossible to get through a crowd with his four grandchildren. Said twelve-year-old Bobby Ervin, "It's like going to the circus with the organ-grinder."[22]

Personally, Ervin is known to like good food, and has a large, hearty breakfast every morning before walking the few hundred yards to work from his two bedroom apartment he and his wife share in Washington, D.C. They have a larger home in Morganton, North Carolina which they sometimes occupy during Ervin's time off. He has few close friends. "Sam sticks pretty close to his wife and the Constitution," said Mike Mansfield. "He's married to both."[23]

On December 19, 1973, Sam Ervin announced his retirement from the Senate after his present term expires which will be in 1975. His reason is encroaching old age, which shortens an all too shortened lifespan, and slows even the most ambitious of the world. Ervin believes he works harder than most Senators of any age, and has no doubt he could win another six-year term, but he cannot ignore the fact that he would be eighty-four at the end of it, however. Ervin explained: "Since time takes a constantly accelerating toll on those of us who live many years, it is simply not reasonable for me to assume that my eye will remain undimmed and my natural force stay unabated for so long a time."[24]

It took him six months of mental struggle to resolve what he called "the hardest problem which has ever confronted me."[25]

During retirement he will fish and no doubt write his family history, which he has traced back to their Scottish origins and their arrival into the colonies in 1732. He was not seeking any family crest, nor any notables, when he traced his geneology. He did it to deepen his sense of uniqueness and freshness of the American experience.

Sam Ervin has proven to be an undefiable personage, someone unafraid to speak what he feels. He has restored my faith in the Government, for I know there is at least one man in an extremely important position who is on the side of "we the people."[26] He advocates freedom for all, and is in a position where he can do something about it. As he himself once said, "The tides of fear are rising and the anchors of faith are dragging. It is in such a time frightened humanity needs freedom most.

"Since courage is better than fear and faith is better than doubt, let us spurn fear, cherish faith, and dedicate ourselves to this proposition:

"Freedom is life's supreme valve and must be preserved for ourselves and our posterity, cost what it may."[27]

The day Senator Ervin retires, I truly shall mourn, not just because I will no longer be able to follow him along the path of his momentous life, but because our country will have lost the one link we had to the wisdom and knowledge by which our Founding Fathers built a nation.

FOOTNOTES

[1] Bill M. Wise, *The Wisdom of Sam Ervin* (New York, 1973), p. xxiv.

[2] *Ibid.*

[3] "Right Man, Right Time," *Time*, vol. 101 (February 19, 1973), p. 22.

[4] *Ibid.*

[5] "Right Man, Right Time," *Time*.

[6] "Conservative Libertarian," *Time*, vol. 97 (March 8, 1971), p. 38.

[7] *Ibid.*

[8] Bill M. Wise, *The Wisdom of Sam Ervin* (New York, 1973), p. xxiv.

[9] "Conservative Libertarian," *Time*, vol. 97 (March 8, 1971), p. 38.

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[11] "Drifting Towards 1984," *Time*, vol. 97 (March 29, 1971), p. 16.

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[13] "Drifting Towards 1984," *Time*.

[14] "Conservative Libertarian," *Time*, vol. 97 (March 8, 1971), p. 38.

[15] *Ibid.* p. 39.

[16] "Right Man, Right Time," *Time*, vol. 101 (February 19, 1973), p. 22.

[17] "The Sam Ervin Show," *Harper Magazine*, vol. 244 (March, 1972), p. 86.

[18] *Ibid.* p. 81.

[19] "Right Man, Right Time," *Time*, vol. 101 (February 19, 1973), p 22.

[20] Bill M. Wise, *The Wisdom of Sam Ervin* (New York, 1973), p. 130.

[21] "Conservative Libertarian," *Time*, vol. 97 (March 8, 1971), p. 39.

[22] "To the Circus With the Organ Grinder," *Time*, vol. 101 (July 30, 1973), p. 8.

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RESEARCH TO EXPAND FOOD PRODUCTION

Mr. HUMPHREY. Mr. President, I would like to call the attention of my colleagues to a very thoughtful article, "Food, Fiber, and Energy," by S. H. Wittwer, director of Michigan State University's agricultural experiment station.

In it he points out the need for research to maximize food production. The two most important energy-free but energy-producing biochemical processes, photosynthesis and biological nitrogen fixation, are receiving totally inadequate priority and funding. A third research priority would be to reduce the present "wasteful" conversion of grain to meat.

The author also recommends that we attempt to increase agriculture production by 50 percent over the next 5 years and rebuild our reserve food stocks.

Mr. President, I ask unanimous consent that this thoughtful article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FOOD, FIBER, AND ENERGY

(By S. H. Wittwer)

The rapidity of change in food and fiber supplies and prices is cause for national alarm and frustration.

Never has food production been so great and the harvests been so bountiful as they were in 1973. Record crops of corn, wheat, soybeans and sorghum were harvested. Yet, the United States has, in a few months, gone from the threshold of burdensome surpluses to nagging and persistent shortages of food, feed, fiber and energy.

There have been dramatic increases in national and global consumption and acquisition of food, feedstuffs, forest products, and natural fibers. Parallel with these are escalating demands and rising costs for energy dependent fertilizers and crop protecting chemicals. Greater incomes and affluency at home and abroad, coupled with population increases, have created a demand for resources which appears almost boundless. Agricultural exports have escalated from $8.5 billion to an estimated $19 billion in just two years, each year almost doubling the record of the previous one. The result has been diminishing land and water reserves, dwindling stocks of grains and processed foods, and soaring prices.

Agriculture is the only major industry in this nation, with the possible exception of the petroleum refining and electric power generation where the energy output is greater than the input. This is true at least for crop production.

Our renewable resources.—The products of agriculture, forestry, fisheries, wildlife and range are renewable resources. Food, fiber (cotton, wool, silk) and timber are reproducible because solar energy fixation through photosynthesis and biologically fixed nitrogen are free and essentially inexhaustible. We can go back to the land, the water, and the air—year after year and renew them, or reproduce the process. It is true that some nonrenewable resources such as fertilizers, chemicals, machinery, and fuel are needed, but the energy return is still better than two to one—even for the most advanced technological inputs.

Our agriculture and forests are a major source of energy production but are seldom considered as such in the same vein as electricity and fossil fuels. A recent report, also shows that the ratio of kilocalorie return to input has decreased. It is generally implied that agriculture has become less efficient in energy utilization. The release of land through higher yields, however, is ignored. The amount of land needed to produce a bushel of corn has been reduced by sixty percent since 1945. This has released vast acreages for the production of additional crops including soybeans.

Moreover, food production is more than just calories. Proteins, vitamins, minerals and flavoring compounds are a part of food. Even indigestible fibers and roughages play an essential role in human nutrition, digestive well being, and intestinal health. Prevalence of cancer of the colon and ulcerative colitis has been identified with a lack of roughage in the diet.

Research needs.—Critically needed are research investments to maximize or optimize the production of all food components with the least expenditures in energy accompanied by the greatest return. This is where our national priorities are all fouled up. The two most important energy-free (there is no charge for solar energy) but energy-producing biochemical processes on earth, namely, photosynthesis and biological nitrogen fixation, both intimately bound with the production of carbohydrates, proteins, fiber and energy, are receiving only token research and development priority and support.

Among the 21 national problems warranting greater research and development efforts as reported in 1973 by the National Science Board of the National Science Foundation, food production is not listed. This is not surprising since there is a complete absence of people even remotely connected with biology, let alone agriculture, in the top echelon of the National Science Foundation. This reflects the need for well balanced, interdisciplinary teams to screen, guide, and project national programs. Biological and agricultural input for the most esteemed of the national science funding agencies is crucial.

Photosynthesis.—This is the most important biochemical process on earth. By it, the sun's electromagnetic energy is converted to chemical energy stored in plants. It remains today as the world's most important renewable energy producing process. From it has come the great energy reserves, the fossil fuels, which we are now utilizing at an ever accelerating pace. To meet current food and fiber needs terrestrial plants alone appropriate approximately 15 billion tons of carbon dioxide a year from the earth's atmosphere. Man has, through the ages, evolved strategies for manipulating the plant and its environment to maximize this energy conversion process. It is called *agriculture*. The technologies include crop fertilization with mineral nutrients applied to the soil and foliage, spacing, irrigation, improved light receiving systems through plant structure modifications and leaf display, variety development, improvement, and selection; pest control, training and pruning, and tillage. Ultimately, all agronomic, forestry, range, and horticultural practices are directed toward increasing the efficiency of the photosynthetic energy producing process.

Through photosynthesis the energy resources of the earth, the so-called "wealth of nature", can be added to. The result has not been an ecological disaster, but a marshalling of resources, most of which are renewable, for the lasting benefit of mankind. This has relieved 95 percent of the working force of this nation from food production, that other goods and services might be provided.

Biological nitrogen fixation.—The second most important biochemical reaction on earth is biological nitrogen fixation. Worldwide, this process currently exceeds by sevenfold all chemical fixation for nitrogen fertilizer production. Energy from photosynthesis has recently been identified as the major limiting factor for symbiotic nitrogen fixation in the root nodules of soybeans. Thus, a close linkage has been established between photosynthetic capability and biological nitrogen fixation. Further, it is now possible to monitor the magnitude of biological nitrogen fixation under field conditions. This provides capability to maximize the process through varietal selections of crops, and the management practices of time of seeding, tillage, fertilization, spacing, and irrigation.

Biological nitrogen fixation is the second process where the resources of the earth, or nature, can be added upon. It is essentially an unlimited resource for the production of needed protein in human nutrition. The immediate results could be realized in the protein-rich legumes (peas, beans, lentils, pulses).

Improved plant efficiency.—A critical research need and partial answer to the energy crisis would be to increase the efficiency and enhance the magnitude of food producing systems. Regulation of yields of major food crops should be a worldwide objective of top priority. An increase of only one percentage point in the efficiency of energy conversion in the green plant would have a remarkable impact.

It is a sad commentary that among the energy options currently listed for the future in the leading articles of the most prestigious scientific journals, and in the deliberations of the congressional subcommittees on energy and the White House Council for Environmental Quality, maximization of energy production through photosynthesis and biological nitrogen fixation as "renewable resources" are not worthy of mention. For the short run the emphasis is on nuclear fission and utilization of coal reserves. Geothermal energy, solar energy, and nuclear fusion are suggested as possibilities for the year 2000 or thereafter. The one process, namely photosynthesis, whereby the nonrenewable fossil fuels which have heretofore provided the primary energy base of the nation and world is not on the list.

Increased agricultural productivity.—On a positive note, I propose that we establish as a national goal, a 50% increase in agricultural productivity during the next five years. The proposition is creative, not destructive. There is an almost inexhaustible reserve of carbonates, including CO_2 in the earth, oceans, and atmosphere that could be photosynthetically fixed as carbohydrates. There is no shortage of nitrogen in the atmosphere that could be biologically fixed for protein synthesis. Increased productivity per unit land area would also release additional land and the solar energy that falls upon it for additional food or fiber cropping or for other alternatives. Food, fiber, timber, and energy may be considered as one. The products of agriculture, forestry, and the range can all be viewed, alternatively, as food or fiber, on the one hand, or as energy, on the other. Agricultural products and by-products constitute a vast energy resource. Increased productivity enlarges that resource.

The tens of millions of tons of agricultural commodities now being exported abroad also represent a massive export energy. No one has yet provided the answer as to how much energy is exported with each bushel of wheat, corn, or soybeans. A bushel of corn will produce three to four gallons of alcohol. In this light we are a major energy exporting nation.

It takes seven to ten pounds of grain to produce a pound of beef, and everyone wants to eat beef. Three to four pounds of grain are required to produce a pound of pork, and two pounds for chicken. Those in human nutrition may well question the dietary need for all this meat. Reduction of the present "wasteful conversion" of grain to meat should be a third research priority. Annual per capita food consumption in this nation approximates the equivalent of 2,000 pounds of grain. In India and Bangladesh, it is 500 pounds. Based on calorie equivalents, it is 11,000 per day. Obviously, we do not consume such enormous amounts of grain. Most of it is inefficiently converted to the meat, milk, and eggs which we eat.

We have witnessed a doubling of both energy and food prices in a matter of months. We cannot deal with one without the other. A national goal of 50% increase in agricultural productivity would be less than 10% a year, since it would be compounded annually. It should have a significant impact on world trade, balance of payments, reestablishing the integrity of the dollar, and meeting the food needs of hungry nations with money; and, for people in the lesser developed nations with no money. It would rebuild dangerously low food stocks and reestablish price stability. A powerful political force could thus be exerted for world peace. Seventy percent of all the food surplus on this planet is already provided by the U.S.A.

Reevaluation of national goals.—Such a goal would force a reassessment of land and water uses. Social, political, and economic constraints on food producing systems would need reevaluation. Priorities would need to be established as to uses of energy, land, water, and some nonrenewable minerals. The impact on the environment and natural ecosystems would need reassessment. Finally, a basic philosophical change must occur in the minds of the American people. Namely, it would be important and desirable to live in harmony with food producing systems as well as in harmony with nature. The two are not incompatible.

A goal of 50% increase in productivity in five years, would require rapid replenishment of dwindling technology reserves. The boxcars need refilling. There is much technology that is now in the experimental stage that can be released in the near future, especially if there is an economic incentive. Such research in progress includes greater photosynthetic efficiency and the inhibition of photorespiration of plants, genetically, physically, and chemically; enhancement of biological nitrogen fixation; somatic cell hybridization for the creation of new plant species; improved water and fertilizer management, including drip irrigation; improved grain quality, especially amino acid distribution in food grains; new strategies for pest control; protected cultivation; carbon dioxide enrichment; multiple, relay and intensive cropping; reduced tillage, especially important in that it conserves soil, water, and energy; plant growth regulants; new crops; use of nonprotein nitrogen (NPN) in ruminant rations; crop residues and pasture improvement for optional utilization of acreage for grazing and livestock feeding; crossbreeding in livestock; producing beef carcasses of grade good rather than choice which would reduce feeding requirements of over 1,000 pounds of grain per animal and release over half a billion bushels of grain; opportunities for disease control in livestock and new vaccines for poultry; and increased fertility in swine and multiple births in sheep and cattle.

As one views a world of scarcities ahead—shortages of food, energy, and natural fibers; an accelerating global demand for foodstuffs generated by population growth and affluence; and soaring food, energy, land and water prices, one looks to production capacity reserves. It would be a noble experiment and a likely opportunity, with an economic incentive, to demonstrate our capability by taking the lid off U.S. agricultural production.

Let's look at a goal of 50% increase in five years. I believe it is realistic. Certainly, it is needed. Its accomplishment would depend strongly on the input complimentaries of land, water, fertilizer, pest control, credit and the weather. Only in this manner, however, with reserve technology at hand, and more that can be generated—there are no bounds to human creativity—; and a driving economic incentive, coupled with an urgency to perform, can we assess the food production capacity of this nation, and the world.

Technology reserves become focal in a world food and energy situation which has become more difficult than at any time since the devastations of World War II. Some major changes in diet might be necessary. One has already occurred in the decreased per capita consumption of beef in 1973. These changes could be beneficial. What other acceptable alternatives do we have?

The issue is also one of renewable versus nonrenewable resources. No one has been able to put a price, or a limit, on the solar energy which could be captured in photosynthesis nor the nitrogen from the atmosphere that is fixed by soil micro-organisms.

A TAX CUT NOW WOULD MAKE NO SENSE

Mr. BENNETT. Mr. President, on Sunday, May 5, 1974, an article written by Senator Charles H. Percy entitled "A Tax Cut Now Would Make No Sense," appeared in the Washington Star-News. In this article, the Senator gives reasons why a tax cut would be economically impractical although it may sound politically attractive at first glance. I believe that Senator Percy's article is extremely interesting and presents facts that should be carefully considered.

I ask unanimous consent that the Senator's remarks be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Star-News, May 5, 1974]

A Tax Cut Now Would Make No Sense

(By Senator Charles H. Percy)

The recently proposed cut in federal taxes may be politically appealing for some, but it would be economically disastrous for all.

No one questions that the bleak phenomenon of double-digit inflation is just about the worse of the array of problems presently facing the nation. Certainly the government must do all in its power to turn the spiral around.

Inflation has many parents, not all of them easily identified. But we do know that a high level of business activity, blended with a high level of spendable income and spiced by huge federal deficits, creates a sure recipe for rising prices.

The best way to dampen such inflation is to moderate these elements. To cut taxes now as urged by some Democrats would only add to the unfortunate mix.

We should not hold out the hope that reduced taxes will increase individual buying power when we know full well that such buying power would soon be more than offset by the inflationary pressures created. Those who are already bearing the major burden of inflation—the poor and those millions on low, fixed retirement incomes—would benefit not at all by a cut in taxes. Yet their ability to buy what they need would be even further impaired.

It has been argued that a tax cut is needed to stimulate the economy and reverse the decline in growth which the nation experienced in the first three months of this year. I disagree on three counts.

First, by the time the money from any tax cut actually gets into the consumer's pocket, we will have entered a period in which most economists foresee an upturn in real growth. This would be just the time when a jump in consumer spending could be most harmful.

Second, the rising prices of some items—starting with industrial raw materials—can be traced directly to a shortage of supply. To increase consumer demand for these goods would only add to the upward pressure on their prices.

Finally, those sections of the economy in which there may be a need for economic stimulus will not be helped at all by a tax cut. Sluggish automobile production and lagging residential construction accounted for most of the negative growth rate in the recent first quarter; to be vigorous, these sectors must have lower interest rates and an easing of credit. Yet Arthur Burns and the Federal Reserve have made it clear that there will be no easing of credit or lowering of interest rates until inflation is brought under control.

The only way to bring interest rates down is to cool the pressures that forced them up in the first place. A tax cut would have the opposite effect. As Burns has said, additional stimulative measures at this time will surely give us double-digit inflation for the entire year.

Furthermore, the particular kind of tax cut suggested—an increase in the personal income-tax exemption—is plainly inequitable. On our graduated tax scale, taxpayers in the higher income brackets would have their tax bills reduced more than those with lower incomes, who most need relief. If and when a tax cut should become the right thing to do, the fair way to do it will be through a reduction in the tax rates themselves.

I believe the best course for Congress in the weeks ahead is to reject any measure that will reduce federal revenues and work to keep federal spending at no more than its current level. We must also achieve final passage of the budget reform bill, now in conference. It will give us the mechanism—and perhaps the discipline—needed to bring down federal spending at times of heated business activity—and thus neutralize one of the elements of inflation.

Only if the developing economic indicators later this year do not signal the expected economic recovery should Congress consider stimulative measures. If unemployment, for instance, remains a serious problem or worsens, we should respond through such direct and selective means as increased funding for public employment programs. Another stimulus would be to correct the payroll withholding schedule, so that the billions now overwithheld would stay in the economy.

In the meantime, let's not be tempted to put politics before the public pocketbook. Bad economics, we should know by now, is also bad politics.

TAKING THE "E" OUT OF HEW

Mr. DOMENICI. Mr. President, I have become a cosponsor of a measure which I believe merits the serious attention of all my colleagues. This bill, S. 1059, is a proposal to establish a separate Department of Education.

This action on my part is by no means a signal to society that education in its present organization has failed. On the contrary, because education in its present form has been successful over the years, we have educated our population so that we have developed an advanced technology that in turn requires centralization and a concerted effort to insure an educated population.

According to the National Education Association, education is the Nation's second largest enterprise, involving pupils, teachers, supervisors, and administrators, who comprise more than one-third of the entire U.S. population.

The question arises, why does not our Federal Government already have a separate Department of Education? One reply to this question is that education has been considered a State function—which it is. However, the emphasis on education today is national concern and the number of Federal dollars supporting education is substantial.

When President Eisenhower created HEW in 1953, health, education, and welfare were all miniscule in terms of the size of their organization as compared to their current proportions. In fact, opponents of HEW at that time questioned the need for areas they considered none of the Federal Government's business. Today there can be no denial that we are involved in health, education, and welfare, and there is confirmation by the public that the Federal Government has a legitimate role to play. In fiscal years 1953 and 1954 the total expenditure for HEW was under $2 billion. By fiscal 1973, the HEW budget was $89 billion, more than 40 times the amount in 1953. The question confronting us today is whether or not Government involvement would be more efficient in a separate Department of Education or in the current conglomerate known as HEW.

WHY TAKE THE "E" OUT OF HEW?

First, there is a need for a strong voice in education with direct accessibility to the White House. At the present time, there is no Cabinet-level position specifically designated for education alone. We are the only major nation which does not have a separate Cabinet-level post for education. The vast priorities of health, education, and welfare are currently presided over by a single Cabinet officer whose directives in health and welfare often overshadow education. The Secretary of Health, Education, and Welfare has been confronted with the problems of welfare reform on top of inflationary health care costs, coupled with the problems in education including the financial crunch of schools and colleges. This is too big a burden for one man to bear. In creating a Cabinet level post there would be a greater Federal commitment to education. A Department of Education with a Secretary of Education would insure a fair hearing on educational needs, plans, and programs before the President.

A second reason for taking the "E" out of HEW is that educators have urged the establishment of a Department of Education for some time remarking that HEW is too big. Six education organization—American Association of School Administrators, Council of State School Officers, National Association of State Boards of Education, National Congress of Parents and Teachers, National Education Association, and the National School Boards Association—have recommended that we can best focus on achieving excellence in education by establishing a Department of Education. They contend that HEW is becoming an anachronism, and that while health and welfare could easily remain under the same organizational roof, education is of a different nature and should stand apart. The present Department of Health, Education, and Welfare is a monstrous bureaucracy second only to Defense in size. There is little chance that the position of the Office of Education would improve within HEW.

A third reason for a Department of Education is a need to consolidate the Federal education effort. It is estimated that approximately 40 different governmental units are directly involved in education in several hundred separate programs. Education-related activities reside in so many different agencies that the result is a scattered and divided educational effort. Also, there is quite often fierce competition between agencies and wasteful duplication. In effect, the Department of Education would eliminate the waste that goes on due to duplication of programs. The National Education Association indicates that the consolidation of all education programs is the only way to give education the status it needs, the confidence and inspiration it needs, to provide and improve education for all children.

A fourth reason for taking the "E" out of HEW and establishing a Department of Education is that the Federal education budget is already larger than that of some existing Departments: Commerce, Justice, and Department of State, for example. The total budget by account in fiscal year 1975 for Commerce is estimated at $1.7 billion, for State is $893 million and for Justice is $2.1 billion—all of which are below the fiscal year 1975 budget authority for education programs at $7.6 billion. The size of the education budget alone is enough to demand a Cabinet level position.

Finally, a Department of Education headed by a Secretary of Education would in a sense help the workings of Congress. That is to say, that a cabinet-level official would provide a single authority to answer the questions posed by Congress concerning authorizations and appropriations legislation, and one man would leash the responsibility of priorities in education, hitherto engulfed in the triad of HEW.

HOW CAN WE SUCCESSFULLY TAKE THE "E" OUT OF HEW?

I propose that a Department of Education be established. This department would be administered by a Secretary of Education, a cabinet level post. My bill would transfer those offices concerned with education to the new Department so that there would be strong coordination of education programs.

The first concern of educators and of Congress in contemplating this change should be that the educational needs of our children have the highest priority. We must find the best organizational structure to address those needs. Education is big business. In school year 1972-73, Federal expenditures for education were approximately 11 percent of total educational expenditure in the United States. Federal expenditures for education-related programs will reach $16 billion in 1975, according to the fiscal year 1975 budget. In fact, NEA asserts that 6 percent of the Federal budget supports education if we delve into the programs of all agencies. To take the "E" from HEW will, of course, split up the triad, but the "E" of education will be longest and strongest when standing apart.

CUTTING TAXES

Mr. HUMPHREY. Mr. President, since early this year, several of my Senate colleagues and I have been calling for some form of tax relief to ease the crushing burden of inflation on low- and moderate-income consumers. We have also called for a number of specific and much needed tax reform measures.

This morning the Washington Post published an article explaining my views on this subject and the reasons for them. Since the Senate will soon consider the proposed tax cut-tax reform measures, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CUTTING TAXES

(By HUBERT H. HUMPHREY)

In recent days there has been considerable criticism, including an editorial in The Washington Post, of the proposal that we cut income taxes for low and moderate income consumers. I have proposed this course of action, as have others, as a means of buttressing consumer purchasing power and in that way fighting the recession that is already upon us. I believe the arguments against a tax cut are based on a serious misreading of the current economic situation.

In the first place, the federal budget presently provides no real stimulus to the economy. As Mr. Nixon correctly said in his budget message, "the recommended budget totals continue (the) policy of fiscal restraint as part of a continuing anti-inflation program." To be more precise, the unified budget is becoming more restrictive, rising from a full employment surplus of $4 billion in fiscal 1974 to an $8 billion surplus in fiscal 1975. This means the $6 billion dollar tax cut now being discussed would lower the full employment budget surplus for fiscal 1975 to about the level of restraint in last year's budget. Even without any revenue gaining measures, a $6 billion tax cut would not push the budget into an expansionary position.

In addition to misreading the current fiscal position of the federal budget, several critics of a tax cut have not looked at the fine print of the proposals. The proposal I prefer, and intend to fight for, is a tax cut coupled with revenue-gaining tax reform along the lines recommended by the Joint Economic Committee earlier this year. This would mean a tax cut for low and moderate income consumers, largely offset by a package of tax reform focusing on percentage depletion, intangible drilling expenses, foreign tax preferences, and a strengthening of the minimum income tax. With major oil companies reporting first quarter profits increases as high as 123 per cent, while the real spendable earnings of consumers declined 3 per cent during the same quarter, tax reform is essential to restoring consumer confidence in the fundamental fairness of our economic system.

Second, those who oppose a tax cut usually misunderstand the nature of the present inflation. Rather than being the result of excessive federal stimulus, the pressure on prices has come from other sources. The *inflation of 1973* was primarily the result of food and fuel supply problems that had their origin in specific policy errors and market disruptions. A secondary source of inflation was the worldwide boom in commodity prices. These previous price increases are this year working their way through the production cycle as well as stimulating a sharp rise in labor costs. And inflation this year will get a further jolt as business and labor seek to get "ahead" of inflation after all formal controls have ended on April 30.

In other words, inflation in 1974 has a life of its own outside of the conventional macro-economic framework. It is now nourished by a variety of cost factors that unfortunately were injected into the system last year, and which now lie beyond the impact and grasp of ordinary fiscal policy.

I would like this point even further, arguing that those who believe that the current inflation is the result of excessive fiscal stimulus, or that it can be dealt with by conventional policies of aggregate restraint, do real harm to the formulation of an effective anti-inflationary policy.

While I don't pretend to have a neat package of solutions to the problem of inflation, it is obvious to me that we need to develop new techniques in this battle to complement our present economic tools. It is my judgment that the federal government must establish a permanent institution to focus on the problem of inflation. In addition to developing an information system that identifies price problems before they become crises, such an institution should have the power to hold hearings, postpone public and private decisions that could seriously undermine price stability, make recommendations to the Executive and Congress to improve price stability, and have limited power to impose legal sanctions.

Just as they have misread the nature of the current inflation, many of those who oppose a tax cut also fail to read the unmistakable signs of the serious recession that is upon us. The huge drop in real GNP in the first quarter is, after all, the worst decline in economic output since 1958, and much worse than the administration's February forecast that the economy would probably only decline a little in the first quarter. More important, the recent statistics do not reveal any sectors of the economy with sufficient strength to bring about recovery.

Consumption spending has been weak for the last six months and cannot be expected to lead any recovery. In the first quarter, real per capita disposable income fell at a 7 per cent annual rate, only the sixth decline that has occurred in the last 20 years, and the sharpest fall since 1949.

Residential construction expenditures in the first quarter dropped 8 per cent and have fallen 16 per cent in the last six months. Housing starts in the first quarter were 34 per cent below year earlier levels. In view of the recent sharp rise in interest rates, and the incredible announcement by Federal Reserve Board Chairman, Arthur Burns, that money will stay tight no matter what it does to housing, there is presently no hope that homebuilding will experience the turnaround forecast by the administration earlier this year.

Business spending on plant and equipment, which has always been offered as the backbone of a recovery in the second half of 1974, only increased at a 7 per cent annual rate in the first quarter. This is considerably below the 11 per cent annual rate of increase in the previous quarter and below the expectations for capital expansion this year.

Finally, net exports declined $3.3 billion in the first quarter of this year, compared to an increase of $5.2 billion in the fourth quarter.

Because the current inflation is not significantly due to excessive budget stimulus, and because the recession is upon us with no signs of recovery, it seems to me that the case for a tax cut is made. This conclusion is not reached, as some commentators have inferred, because I regard unemployment as more serious than inflation. On the contrary, I regard both inflation and unemployment as harmful to the economic and social fabric. But it is my belief that a modest tax cut, coupled with tax reform, will not increase inflation but will express itself in higher output, jobs, and income.

FOOD AND THE POPULATION CRISIS

Mr. McGOVERN. Mr. President, the worldwide problems of food supply and increasing world demand brought on by rapid population growth are every day becoming a more crucial concern to the United States and enlightened people in the world over.

The Declaration on Food and Population by the Population Crisis Committee endorsed by concerned citizens from over 80 countries and by many Members of Congress, represents a momentous call for immediate attention and positive action to meet the demands of these two interrelated problems which are at the heart of the future welfare of the world.

The Declaration on Food and Population presented to Secretary-General Kurt Waldheim, of the United Nations, on April 25, 1974, is a dynamic statement of new and obtainable policy objectives in this area. The encouraging response to it from Secretary-General Waldheim, His Imperial Majesty, the Shahanshah Aryamamehr, of Iran, Ambassador Samar Sen, Permanent Representative to the United Nations from India, His Excellency Leopold Senghor, President of Senegal, Prime Minister Sirimavo Bandaranaike, or Sri Lanka, His Excellency Dong-jo Kim, Minister of Foreign Affairs, the Republic of Korea, and Secretary of State Henry A. Kissinger, is hopefully a harbinger of real progress in this matter of life and death.

I applaud this sober effort to deal with this crisis. As a former director of Food for Peace who has seen firsthand the face of starvation, I can only pray that the community of nations will take heed of this call to action.

I ask unanimous consent that the Declaration of Food and Population and the attached statements in support of it from the distinguished world leaders I have mentioned be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Declaration on Food and Population

No link unites the family of man more than his need for food. For food is an essential condition of life, common to all people; wherever they are, whatever they do, they share alike in this need.

The stark truth is that man's ability to produce food is not keeping pace with his need. Despite efforts by governments and the international community to solve world food problems, more people are hungry today that ever before.

Hundreds of millions of the world's people are undernourished. Population growth is adding 75 to 80 million more people each year, 200,000 each day. Within the next 25 years or so our present numbers of nearly 4 billion will be nearly 7 billion. They must all be fed.

The world food situation took a sharp turn for the worse in 1972 and 1973:

1. Stocks of grain have hit an all-time low since the end of World War II. Surplus stocks formerly held in reserve have nearly been exhausted and no longer offer security against widespread hunger and starvation.

2. Food prices have reached new highs. Last year, despite a record world harvest, escalating demand nearly doubled grain prices. The increasing cost of food threatens to cause serious hardship for many people already spending most of what they have on food.

3. Less of the cheaper protein foods, which normally supplement grain diets, is available. The world's fish catch and per caput production of protein-rich legumes, the staple diet in many countries, have declined.

4. Food shortages have created serious social unrest in many parts of the world and are particularly severe in countries where hunger and the diseases that thrive on undernourished bodies are prevalent. This scarcity has been aggravated by the consumption of more and more grain to produce meat, eggs and milk.

5. Mounting fertilizer and energy shortages are reducing food production in certain areas and increasng food prices.

In this new and threatenting situation, a bad monsoon in Asia (which could occur in any year), or a drought in North America (like those in the 1930's and 1950's), could mean severe malnutrition for hundreds of millions and death for many millions.

This dangerously unstable world food picture, when seen against an unprecedented population increase, has created an immediate sense of urgency. The dangers of food shortages could remain a threat for the rest of this century—even if, hopefully, bumper crops in some years create temporary surpluses and even if the trend toward reduced birth rates becomes general throughout the world.

World food production in the years ahead must rise at least 2 percent a year to keep pace with the present rate of population growth. But it must rise a good deal more if the world's people are to be provided with an adequate diet. This required annual increase in food production is considerably greater than that which occurred during recent decades—and seems to be increasingly harder to achieve each year. But unless there is this necessary and continuous increase in food production, there will be even more hunger and malnutrition and soaring food prices.

The need to seek solutions is pressing. The nature of the problem, the precarious state of world food production made critical by predicted expectations of continued population growth, calls for concerted action by the world community. There is only one cure for hunger and that is food. No palliatives or panaceas in the form of reports or resolutions can alleviate the pain of empty stomachs that must be filled. International resolutions, however high-minded, are a mockery if they do not have a tangible impact on the human condition.

The United Nations is now providing leadership on both these problems. In August the United Nations will convene the World Population Conference in Bucharest. In November it will convene the World Food Conference in Rome. These are the first occasions when governments have agreed to meet to consider these crucial questions and to consider taking action on them.

With these two conferences only a few months away, we urge governments, acting before, at and after these two global conferences, to consider realistic and purposeful measures such as the following:

1. Give high priority to programs in each country which will increase the production of grains, legumes and other staple food crops; ensure the availability of protein-rich foods, particularly to the more vulnerable population groups; expand the production of fertilizer; and improve the opportunities for small farmers to make a reasonable living. Develop a comprehensive and constructive World Food Plan for adoption at the World Food Conference.

2. Support sound population policies relevant to national needs which respect national sovereignty and the diversity of social, economic and cultural conditions; accept and assure the human right of each couple to decide for themselves the spacing and size of their families;* and recognize the corresponding responsibility of governments to provide their peoples the information and the means to exercise this right effectively.** Embody these policies in a World Population Plan of Action to be agreed upon by governments at the World Population Conference.

3. Recognize that the interdependence of the world community creates an obligation to assist in the necessary funding of food and population programs by both developing and developed countries. This call for the elaboration and implementation of a global strategy by the United Nations and its family of agencies, including the Food and Agriculture Organization of the United Nations and the United Nations Fund for Population Activities.

4. Establish sufficient food reserves through national and international efforts to provide continuing vital insurance against food shortages.

5. Recognize that, in our finite world where resources are limited, the family of man must one day, and hopefully fairly soon, bring birth rates into reasonable balance with the lowered death rates that have been achieved. Many governments see the need to guide national policy toward this objective.

A solution to the present world food crisis must be found within the next few years. The social transformation which can lead to a reduction in the world rate of fertility, along with lowering the rate of mortality will take decades to accomplish. But a start must be made now because the millions of people being born each year place a heavy burden on the resources available to many nations for education, health, employment and the maintenance of environmental quality. A reduction in population growth could help alleviate this burden. Effective measures toward resolving both the world food and population problems must come within a total strategy of development. Not only is social and economic development desirable in itself, but also it contributes to moderating population growth. All these measures are designed to improve the quality of life.

In this Declaration, we focus on food because it is the most critical of the pressures on the world today. It is the greatest manifestation of world poverty, which has many aspects. The absolute numbers of desperately poor are far greater today than ever before in history. The need to eradicate acute poverty is being recognized more than ever as a collective responsibility. It is a task which global partnership and the demands of social justice make imperative.

We repeat, food is crucial because literally tens of millions of lives are suspended in the delicate balance between world population and world food supplies. Growing populations, denied sufficient food needed for survival, resist all efforts to secure a peaceful world. With increased production and more equitable distribution of food, the future could provide a prospect of less misery and more hope for countless people now deprived of the basic necessities that are their right.

The World Food Conference represents a unique opportunity. This opportunity must not be missed. Comprehensive international agreements must be reached to assure at least minimal food supplies, with sufficient annual carry-over stocks. Disastrous breakdowns in the world food supply can thus be avoided. All nations may then rest secure in the knowledge that this, the most critical of their immediate problems, is being attacked with wisdom, vigor and unity of purpose.

In the name of humanity we call upon all governments and peoples everywhere, rich and poor, regardless of political and social systems, to act—to act together—and to act in time.

STATEMENT BY SECRETARY-GENERAL ON RECEIVING A DECLARATION ON FOOD AND POPULATION

Following is the text of a statement made by Secretary-General Kurt Waldheim on receiving a declaration on food and population presented by a group of eminent intellectuals and scientists at a ceremony at United Nations Headquarters today:

I am grateful to be given this Declaration. It is marked by a profound concern for the improvement of the human condition. The Declaration is important of itself by virtue of the authority of the signers whose standing in all walks of life is reflected by the stature of those who have come to the United Nations today to bear witness to it.

I have recently described the times we are living in as being characterized by mass poverty, food shortages, an energy crisis, a continuing oppressive burden of military expenditure, inflation exacerbated by world monetary instability, and the prospect before us of a doubling of human numbers by the turn of the century.

The Declaration addresses itself primarily to the dramatic depletion of available food reserves and the shortfall in world food production. There is no more immediate task than that of rescuing the world from a situation which, for many, has always been precarious and is now even more hazardous. Short-term measures, while essential, must not be allowed to become palliatives, for the coming years will increase our vulnerability.

Virtually in no other area is it more pressing than in the one to which your Declaration addresses itself: the need to assure that the men, women, and children of Africa, Asia, Europe and the Americas, whatever their origin, their religion, their political philosophy, their age, their social condition have the basic foods which are the one essential and undebatable pre-condition of a life of dignity and decency. Without an assured supply, all our other aspirations for peace, for social justice, for growth and creativity, both as individuals and as nations, lose their meaning and take on a hollow ring.

I cannot but be sharply and painfully conscious of the dangers posed by the Declaration, having recently returned from the Sahel. There, the suffering provoked by a six-year drought is resulting in premature death, disease and a dreadful sense of helplessness. The tragic spectacle of dying cattle and their owners fleeing the encroaching desert induces a sense of desperation into what should be the objective analysis of the world's food situation and prospects.

It is no accident that this Declaration is presented at the United Nations. This body was established in the final phase of the most devastating war in history not merely to embody the highest aspirations of mankind, but to provide an operational vehicle for global action. The present crisis and those that we can see looming ahead can be overcome. They are indeed a serious challenge to use all our forces, our determination and ingenuity to provide a better life for future generations.

This is a year in which the international community, with some brutally abrupt reminders of what the future may hold, is facing up to the situation. At its present special session, the General Assembly is devoting its attention to finding the basis of a more equitable and workable economic system—a system which takes into account not only the needs of all nations, but also the imperative interrelationships of the several parts of the problem: poverty, the conservation and just apportionment of natural resources, the preservation of the environment, and the problems of trade and monetary system. Food and population, the two urgent issues to which your Declaration addresses itself, form an integral part of this whole.

In August, in Bucharest, for the first time Governments will hold a world population conference. Shortly afterwards, in Rome, the World Food Conference will offer Governments the opportunity to tackle the world food problem. Your call therefore for international co-operation to ensure supplies of food comes at an opportune moment. The World Food Conference will present the Member States of the United Nations with the unique opportunity to take immediate practical and urgently needed steps to redress a tragic situation which we can no longer afford to ignore.

The unprecedented growth of the world's population is compounding man's difficulties in feeding himself. The time at our disposal is very short. You point out that the world's food production has barely kept pace with population increases. Our goal is not mere survival but a life of dignity and peace with hope for each new generation to improve the conditions of life for the billions of men, women and children who will inhabit the earth in the coming decades.

Whether or not we can increase food production depends, as the Declaration states, not on a torrent of words and resolutions, but on adopting new and tangible objectives, hammering out the global strategies needed and revitalizing the machinery to achieve them. In spite of its ideological complexity and the political and other constraints that must exist in any global body, the United Nations can and will respond.

It is in this same spirit of commitment and determination that I receive this Declaration. I am confident that the international community can and will find humane solutions to the serious problems of food and population which confront mankind.

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*United Nations Teheran Declaration of Human Rights, 1968 (para. 16)

**Resolution 1672 (LII) of the United Nations Economic and Social Council, 1969

IMPERIAL EMBASSY OF IRAN,
Washington, D.C., April 22, 1974.
Gen. WILLIAM H. DRAPER,
Population Crisis Committee,
Washington, D.C.

DEAR GENERAL DRAPER: I have the honor to forward herewith a message from His Imperial Majesty, the Shahanshah Aryamehr, which is to be presented to His Excellency Kurt Waldheim, the Secretary General of the United Nations Organization, along with the Declaration on Food and Population on April 25, 1974.

I am also pleased to add my own signature to the list of those who have signed the Declaration on Food and Population. You will find enclosed a copy with my name affixed.

May I say how very much I appreciate the fact that you and Senator Tydings were kind enough to bring this matter to my attention.

Very truly yours,

ARDESHIR ZAHEDI.

MESSAGE FROM HIS IMPERIAL MAJESTY, THE *SHAHANSHAH* ARYAMEHR OF IRAN, TO HIS EXCELLENCY KURT WALDHEIM, THE SECRETARY-GENERAL OF THE UNITED STATES

I have learned with pleasure of the Declaration on Food and Population signed by a group of distinguished people which will be submitted to the Secretary General of the United Nations Organization on the 25th of April, 1974.

It is my sincere hope that this declaration will create a sense of urgency and contribute to a greater awareness among nations of the grave problems facing mankind in view of the rapid population growth on the one hand and the precarious state of the world food production on the other.

Priority must be given by governments to implementing sound population control and environmental protection policies, to devising methods of increasing food production especially that of grains, to encouraging increased cooperation between developing and developed countries in order to provide aid for population control and food production programs and to making provisions for sufficient food reserves to guard against famine.

I earnestly hope that the World Population Conference and the World Food Conference organized by the United Nations and to be held in August and November respectively will help to promote a concerted effort on behalf of all the nations of the globe to seek wise solutions to these crucial issues which will have a vital bearing on the future of mankind.

AMBASSADOR SAMAR SEN

Ambassador Samar Sen, Permanent Representative to the United Nations from India, at the ceremony on April 25 when the Declaration on Food and Population was officially presented to Secretary-General Waldheim, speaking on behalf of the Prime Minister Indira Gandhi expressed her support of the Declaration on Food and Population and her hope that this worldwide initiative dealing with the two important and related problems of food shortages and too rapid population growth would be successful. The Ambassador concluded by stating that in India, as the Prime Minister herself has stated publicly, "Family planning is at the base of our whole endeavor of national development."

HIS EXCELLENCY, LEOPOLD SENGHOR

(Translation from French.)

A Message from His Excellency, Leopold Senghor, to United Nations Secretary General Kurt Waldheim on the occasion of the Presentation of the Declaration on Food and Population, Delivered by Ambassador Medoune Fall on April 25, 1974

Mr. Secretary General, Ladies and Gentlemen. On behalf of the President of the Republic of Senegal, His Excellency Leopold Senghor, I come to bring you the support of my country, of my government for this Declaration on Food and Population, and also on behalf of my President, my government and my people to bestow congratulations from Senegal to those who undertook this generous and opportune initiative. I thank you gentlemen.

Following cable was received from Prime Minister Sirimavo Bandaranaike of Sri Lanka to General William H. Draper, Jr.

I thank you for inviting me to join a group of leaders to present a Declaration on Food and Population to the Secretary-General of the United Nations. I regret my inability to accept the invitation due to other commitments Stop

I have noted with great satisfaction the initiatives taken by you and other distinguished world citizens to focus attention through this Declaration on one of the most crucial problems facing mankind today Stop

We of the developing world are particularly conscious of the gravity of this problem Stop

I am happy to associate myself with the Declaration Stop

My government will support all international action to avert a world food and population crisis End of message.

Dictated over phone by Ambassador of Sri Lanka.

APRIL 25, 1974.
His Excellency KURT WALDHEIM,
Secretary-General,
United Nations:

On behalf of the Government and people of the Republic of Korea, I take great pleasure in expressing our firm support for the Declaration on Food and Population signed by distinguished individuals from around the world. It is our sincere hope that, under your prominent guidance, the said Declaration will receive the prompt attention of all governments and peoples regardless of political and social systems, and be translated into concerned action in order to mitigate misery and create more hope for mankind in the future.

DONG-JO-KIM,
Minister, Foreign Affairs,
Republic of Korea.

THE SECRETARY OF STATE,
Washington, April 25, 1974.
His Excellency DR. KURT WALDHEIM,
Secretary General of the United Nations, N.Y.

DEAR MR. SECRETARY GENERAL: The Declaration on Food and Population presented to you today vividly portrays the connected global problems of food supply and rapid population growth.

It is a timely call by distinguished citizens of many countries for urgent attention to two central problems of human welfare. It recognizes that in this increasingly interdependent world there is no acceptable alternative to nations working together to solve global problems, of which food and population are among the most pressing. It reminds us that the individual nations and the United Nations must approach the World Population Conference and the World Food Conference with the determination to seek and agree on common approaches.

As I stated in my address to the Special Session of General Assembly, the United States will do its part. We strongly support a global cooperative effort to increase food production and have removed all domestic restrictions on our output. We will endeavor to increase the quantity of our food aid to needy countries, give technological and material help to efforts of developing countries to expand their food output, assist in the production of more fertilizer and in its more effective use, and join other governments in a worldwide effort to rebuild food reserves.

We hope that other countries able to do so will make similar contributions and that all countries will take active measures to bring population growth and food production into better balance.

The food and population crises threaten the welfare and stability of peoples and nations. We must act together with the purpose, the mutual confidence and the determination to overcome them.

Best regards,

HENRY A. KISSINGER.

FINANCIAL STATEMENT BY SENATOR WEICKER

Mr. WEICKER. Mr. President, I ask unanimous consent that a joint statement of assets and liabilities of my wife and myself as of December 31, 1973, be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

WIENDIECK & CO.,
Greenwich, Conn., May 8, 1974.
Hon. LOWELL P. WEICKER, Jr.,
Senator From Connecticut,
Washington, D.C.

DEAR SENATOR WEICKER: Pursuant to your request we have prepared the enclosed joint statement of assets and liabilities for you and Mrs. Weicker as of December 31, 1973. Where applicable this statement is based on estimated values as more fully explained in the accompanying notes.

The items contained herein were determined in accordance with generally accepted auditing standards and the application of such other auditing procedures as we considered necessary in the circumstances.

In our opinion the aforementioned statement presents fairly your assets and liabilities at December 31, 1973.

Respectfully submitted,

WIENDIECK & CO.

STATEMENT OF ASSETS AND LIABILITIES—DECEMBER 31, 1973

Assets:	
Cash	$4,565
Marketable securities (Schedule 1 and Notes 1 and 6)	67,218
Cash value of life insurance	3,780
Interest in W-Ventures, partnership (Investment Club)	2,995
Residence, pledged on mortgage note (Note 2)	219,750
Automobiles	4,825
Household furnishings, paintings, jewelry, personal property	70,175
Accumulated deductions for Civil Service retirement	16,619
Deposit on real estate (Note 3)	5,300
Contingent asset (Notes 4 and 5)	
Total assets	395,227
Liabilities:	
Accounts payable	671
9% demand loan (monthly interest-voluntary reductions) (Note 6)	20,000
10% demand loan (monthly interest-voluntary reductions) (Note 6)	10,000
7½% mortgage, maturing in 1998, secured by residence (annual amortization and interest payments amount to $8,868)	99,187
Total liabilities	129,858
Excess of assets over liabilities	265,369

The Notes to the Statement of Assets and Liabilities are an integral part of this statement.

MARKETABLE SECURITIES

	Shares	Market value
Stock:		
American Brands, Inc	100	$3,225
American Express Co	75	3,375
Block Drug Co	550	6,600
Charter Publishing Co	377	1,885
Colonial Penn Group Inc., common	50	2,869
Friendly Ice Cream Corp	475	6,650
Garfinckel, Brooks Bros., Miller & Rhoads, Inc	125	1,500
General Signal Corp., common	83	4,109
Heublein, Inc	160	7,980
Hewlett—Packard Co., common	50	4,043
Maryland Cup Corp., common	175	2,406
Marriott Corp., Inc	125	2,375
Merck & Co., Inc., common	38	3,069
Mesa Petroleum	50	1,913
National Airlines, common	125	1,891
Pacific Power & Light	60	1,515
Scudder Common Stock Fund	239	2,053
Subtotal		57,458
Bonds:		
Heublein, Inc. 4½ percent convertible debenture due May 15, 1997 (face value)	$6,000	5,280
Maryland Cup 5⅛ percent due 1994 (face value)	7,000	4,480
Subtotal		9,760
Total		67,218

NOTES TO THE STATEMENT OF ASSETS AND LIABILITIES

Note 1.—Marketable Securities. The amounts shown represent the market value at December 31, 1973 as represented by the quoted closing or latest bid prices.

Note 2.—The assessed value for property taxes was ascertained to be $175,800 and taking into consideration the usual relationship of assessed value to actual market values an estimated value of $219,750 was indicated.

Note 3.—This represents a down payment on the purchase of a condominium at the Coloney Beach & Tennis Club, Sarasota, Florida. The total purchase price will be $53,000.

Note 4.—Senator Weicker is a beneficiary of certain trust funds which produced an income of $9,290 in 1973. In one instance he has the power of appointment but cannot inherit the principal. In connection with the other trusts, he does not have the power of appointment. One trust fund permits him to take down 10% annually. The value of this trust on December 31, 1973 was $182,340.

Contingencies within certain other trusts preclude the actuarial determination of a present value. He is not a trustee and has no control over investments of any trust.

Note 5.—Mrs. Weicker is a beneficiary of a trust established for her mother and aunt which provides income of roughly $1,000 a year to her. Upon her mothers death, Mrs. Weicker would inherit one-third of her mothers interest. As of December 31, 1973, the value of Mrs. Weicker's one-sixth share amounted to approximately $28,000.

Note 6.—As of December 31, 1973, the following securities were held as collateral for the demand loans:

	Shares	Market value
Stock:		
Maryland Cup Corp., common	175	$2,406
Marriott Corp., Inc	125	2,375
Friendly Ice Cream Corp	265	3,710
Merck & Co., Inc., common	38	3,069
Colonial Penn Group, Inc., common	50	2,869
Hewlett-Packard Co., common	50	4,044
Block Drug Co	350	4,200
National Airlines, common	100	1,513
Pacific Power & Light	35	883
Total		25,069

FORMER PENTAGON OFFICIALS URGE $14.9 BILLION CUT IN MILITARY BUDGET

Mr. PROXMIRE. Mr. President, yesterday a group of 21 distinguished former Pentagon and National Security Council officials released an analysis of the fiscal year 1975 military budget indicating that some $14.9 billion could be cut without any negative effect on national security.

They proposed a $5.9 billion cut in general purpose forces, $4 billion in military efficiency, $2.5 billion in strategic forces, $1.4 billion for Southeast Asia military assistance and $1.1 billion for military assistance programs.

Although I personally think this recommendation is too high, the expertise that went into this study forces any reader to consider carefully what has been proposed.

The list of names reads like a who's who of the defense world: Former Assistant Secretaries of Defense, Director and Deputy Director of the Arms Control and Disarmament Agency, a Deputy Director of the CIA, a Director of Defense Research and Engineering, staff members of the National Security Council.

The names go on and on representing countless years of experience at the highest policy levels of Government under Democratic and Republican administrations. Their recommendations cannot be dismissed with a wave of the hand or a short statement of rebuttal.

Mr. President, I urge all Members to read this document regardless of their feelings on the military spending issue. We simply cannot ignore the scope of knowledge and talent that went into this study.

Mr. President I ask unanimous consent that this report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

MILITARY POLICY AND BUDGET PRIORITIES—FISCAL YEAR 1975

Presented by:

Paul C. Warnke, Convener—Former Assistant Secretary of Defense (International Security Affairs).

Adrian S. Fisher—Former Deputy Director, U.S. Arms Control and Disarmament Agency.

Alfred B. Fitt—Former Assistant Secretary of Defense (Manpower).

William Foster—Former Director, U.S. Arms Control and Disarmament Agency.

Alvin Friedman—Former Deputy Assistant Secretary of Defense (International Security Affairs).

Roswell Gilpatric—Former Deputy Secretary of Defense.

Morton Halperin—Former Deputy Assistant Secretary of Defense (Policy Planning and Arms Control).

Townsend Hoopes—Former Under Secretary of the Air Force.

Brig. Gen. Douglas Kinnard, U.S. Army, Ret.—Formerly in the U.S. Military Assistance Command, South Vietnam.

George B. Kistiakowsky—Former Presidential Science Advisor to President Eisenhower.

Anthony Lake—Former staff member, National Security Council.

Rear Adm. Gene LaRocque, U.S. Navy, Ret.—Former Commander, Carrier Task Group, U.S. Sixth Fleet.

Vice Adm. John M. Lee, U.S. Navy, Ret.—Former Assistant Director, U.S. Arms Control and Disarmament Agency.

Earl Ravenal—Former Director, Asian Division (Systems Analysis), Department of Defense.

Herbert Scoville, Jr.—Former Deputy Director, Central Intelligence Agency.

Ivan Selin—Former Deputy Assistant Secretary of Defense (Strategic Programs).

Richard C. Steadman—Former Deputy Assistant Secretary of Defense (East Asia and Pacific Affairs).

James C. Thomson, Jr.—Former staff member, National Security Council.

Adam Yarmolinsky—Former Deputy Assistant Secretary of Defense (International Security Affairs).

Herbert F. York—Former Director of Defense Research and Engineering.

Walter Slocombe, Editor—Former staff member, National Security Council.

SUMMARY OF FEASIBLE REDUCTIONS IN FISCAL YEAR 1975 MILITARY BUDGET AUTHORITY

[In billions]

General purpose forces	$5.9
Asia committed forces	2.4
Indian Ocean carrier	.1
Reserves	.6
Procurement	2.8
Military efficiency	4.0
Military support personnel	2.0
Civilian bureaucracy	2.0
Strategic forces	2.5
Counterforce program	.3
Trident submarine	1.4
B–1 bomber	.5
Strategic defense	.3
Southeast Asia military assistance	1.4
Military assistance program	1.1
Total feasible reductions	14.9

MILITARY POLICY AND BUDGET PRIORITIES

The Nixon Administration has proposed to Congress the largest peacetime military budget in our history. The Administration juggles its figures to seek to give the impression that the proposed increase over last year is only large enough to cover pay and price increases—about $5 billion. But the truth is that, if all the requests that are really part of the FY 1975 program are counted, the actual increase is about $13 billion. This proposal comes at a time when the Administration is freezing budgets and impounding funds appropriated by Congress for vital domestic programs. Moreover, the Secretary of Defense has admitted that his request for national defense needs would have been more than $6 billion lower had he not been encouraged to include funds in the hope that more military buying might stave off a recession.

The huge size of the request the attempt to camouflage the real increase from last year and the open admission that extra billions for the Pentagon are included to stimulate the economy make it more necessary than ever that Congress looks independently and critically at the real need for military spending to serve our national interests—and at how much of the Nixon Administration's proposals involves waste, continuance of unwise past programs and unsound efforts at pump-priming.

In this report, we propose an approach to end the remorseless growth of the defense budget. Also outlined are certain feasible measures that can be taken and programs that can be cut without risk to our national security. These reductions, which are illustrative rather than comprehensive, would total nearly $15 billion, well in excess of the amount necessary to achieve the $11 billion in savings we recommended for FY 1975.

THE REAL FY 1975 BUDGET

Despite the end of direct U.S. combat in Southeast Asia and the much-advertised detente, the military budget* for FY 1975, accurately calculated, is significantly higher than that for FY 1974. As shown in the table, after pay and price increases are taken into account, the net increase (FY 1975 constant dollars) amounts to $8.0 billion or 9.4 percent. This increase in real spending indicates that military functions are being expanded very substantially.

Military [*budget authority in billions of dollars*]

Fiscal year 1974	
Enacted by Congress: [1]	
Department of Defense	$76.5
Military assistance	4.2
AEC—*military*	2.4
Add supplementals: [3]	
Pay increases	3.4
Fuel price increases	.5
Middle East payback	.2
Delete (for comparison):	
Emergency aid to Israel [2]	−2.2
Total FY 1974	85.0
Fiscal year 1975	
Administration request: [1]	
Department of Defense	91.0
Military assistance	1.9
AEC—military	3.1
Add supplemental for "readiness" [3]	2.1
Total FY 1975	98.1
Increase from FY 1974 to FY 1975 (15.4%)	13.1
Less pay and price increases (DoD estimate) [3]	5.1
Real increase from FY 1975 to FY 1975 (9.4%)	8.0

[1] Source: *Budget of the United States Government: Fiscal Year 1975,* Table 13, page 303.

[2] *Ibid.*, page 73.

[3] Office of the Assistant Secretary of Defense (Public Affairs), "FY 1975 Department of Defense Budget", News Release 43–74, Feb. 4, 1974.

These actual figures are distorted by the Administration's budget presentation. The Administration claims an increase in budget authority of only $6.6 billion or 7.4 percent, creating the illusion that this year's military budget, in Secretary Schlesinger's words, in real terms "means doing no more than holding our own as compared to 1974".

This illusion depends on two key budget manipulations:

Last year's budget would be retroactively increased through a $2.1 billion "supplemental" to buy new capability. This kind of request—made at the same time as the FY 1975 budget—should properly be submitted as part of that budget.

Aid of $2.2 billion for Israel—not a direct part of the defense costs for the U.S.—is counted in the FY 1974 figures to which the FY 1975 request is compared. The FY 1975 budget, as presented, does not include any comparable request for Israel. White House Deputy Press Secretary Warren, moreover, has announced that Israel will be expected to pay back $1.2 billion of this arms aid.

Despite the attempted distortion, the FY 1975 request is higher in absolute amount than any peacetime military budget in our history, higher indeed than any during the Vietnam War years. Even allowing for the reduced value of today's dollars, the contrast with other post-war budgets is striking. By 1948, the defense budget was less than 10% of its World II high; after Korea, in two years defense spending fell to 45% of its 1952 peak.

The Administration has fostered the impression that the increased military request results largely from military pay and the cost of the volunteer force. But compared to FY 1974, other areas of the budget have been increased more. For example, procurement is up 23.4 percent ($5 billion), research, development, test and evaluation would get a 15.9 percent increase ($1.3 billion) and operation and maintenance would rise by 13.7 percent ($3.3 billion). By contrast, the costs for active duty military personnel have increased only 6.5 percent or $1.6 billion. If the volunteer force were terminated, no more than $750 million would be saved.

ECONOMICS AND THE MILITARY BUDGET

Secretary Schlesinger told the Mahon Defense Appropriations Subcommittee in February that his budget request would have been only $85 billion (TOA), instead of the $91.3 billion actually sought, except that this large amount was added to the FY 1975 military budget request to try to stimulate the economy during the present downturn. No one outside the Nixon Administration can know exactly where this anti-recession padding has been hidden. But it is clear that inflating the military budget is a grossly wasteful device for economic stimulation.

Any form of government spending arguably can stimulate economic activity. But for four primary reasons, spending through the Department of Defense is a clumsy and crude approach when compared to other available measures. First, military spending is generally slower in impact than increasing other programs because of built-in lags necessary for cost-effective contracting. Figures on outlays in the budget document indicate that nearly 70 percent of the budget increases in military programs that might be used for stimulation will not be expended until after July 1, 1975. Greater military spending thus would have its major impact not when it might help but at the time when boom conditions are predicted by the Administration.

Second, countercyclical spending is less desirable through the Department of Defense than through other federal agencies, because it cannot be targeted to particular geographic depressed areas as effectively. The locations of the military contractors or the installations at which stimulative spending could take place have no necessary correlation to economic trouble spots, especially if contracts are to be awarded on an efficient and competitive basis.

Third, military spending goes largely to industries employing skilled, well-paid workers. Unemployment is most severe among unskilled, low-income people. Because of the high rate of inflation in food and fuel, this same group suffers even greater hardships from present economic conditions. Increasing the military budget provides little in the way of direct relief for the hardest hit among the unemployed.

Fourth, military spending as a stimulus to the economy is particularly wasteful, because, instead of creating social capital and providing services vitally needed in our states, cities, and rural communities, it creates only superfluous military hardware.

To grasp the significance of the $6 billion injected into the military budget for nonmilitary reasons, Congress need only look at the amounts of total federal funding for other programs: education ($7.5 billion), drug abuse enforcement and prevention ($750 million), community development and housing ($6.4 billion), manpower ($3.3 billion), pollution control ($700 million), general revenue sharing ($6.2 billion), energy research ($2.1 billion). The Administration has impounded some $11 billion for water treatment, housing, health, education, welfare and mass transportation using as a justification the need for greater fiscal responsibility. When $375 million for urban transit is impounded at a time of both an energy crisis and high unemployment while $6 billion is pumped into the Pentagon, it would seem that the Administration favors unneeded military spending over even the most essential and worthwhile domestic programs.

Of course, spending for other government programs is not the only alternative to greater Pentagon waste as a means to provide the needed degree of economic stimulation. Instead, more money could be put into the hands of the working people who are hit hardest by both recession and inflation through expanded and extended unemployment compensation benefits, quick-impact local programs of public employment, a temporary reduction of the social security withholding rate or a reduction in the income tax on low incomes.

While the economy is experiencing a slowdown, inflation is rampaging. This unique economic quandary—known as stagflation—means that if federal spending is used to influence economic activity emphasis should be placed on both job creation and inflation control. Military spending is perhaps the worst form of federal spending in this regard. As noted on the recent "Monthly Economic Letter" of the First National City Bank of New York. "Historically, it has seldom proved good economics to give an economy a fiscal shot in the arm by upping defense outlays". In reference to the proposed increase for FY 1975, they add, "the result could be inflationary stimulus to an economy that has already started on the road to recovery".

Military spending contributes to inflation, because it diverts resources which are then not available to meet demand by consumers or other agencies of government. As demand is being stimulated by counter-recessionary spending through the military budget, there will be greater upward pressure on prices for goods than normally is the case with military spending. As output nears production capacity the pressure on prices becomes even more intense.

THE REAL WORLD OF TODAY AND MILITARY NEEDS

The large real increase in proposed defense expenditures would suggest that somehow the military threat to the United States has increased. If this were so, the Administration would have been derelict in its failure to alert the people of the United States to the greater danger. But it is not so. Rather, as Secretary Schlesinger recognizes in his current Posture Statement, the world is "militarily dominated by two states—ours and the Soviet Union." He asserts that "the Soviet Union has historically been a relatively prudent and sober power" and that the contingencies of any Soviet aggression against Western Europe are "unlikely."

Instead of warnings of greater military threats, we are told that an era of confrontation has yielded to an era of negotiation. Current activity supports this contention. The United States and the Soviet Union are engaged in continuing talks on the limitation of strategic nuclear arms, and President Nixon still plans for a summit review in Moscow within the next couple of months. Other negotiations between the super-powers include those on mutual troop reductions in Central Europe and on European security and cooperation. We and the U.S.S.R. are co-participants in the Geneva conference intended to bring stable peace to the Middle East.

In Asia, the military capacity of the

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*For purposes of this analysis, the military budget includes funding for the Department of Defense, Military Assistance Program and military activities of the Atomic Energy Commission.

People's Republic of China is dwarfed by our own strategic air and naval forces. Our relations with China have improved, and there is now an exchange of high diplomatic representatives. The only current threat of Russian or Chinese aggression in Asia is that of a possible fratricidal fight between these two great Communist powers. Their mutual hostility helps restrain each from military adventures elsewhere.

We are, after tragic delay, no longer fighting or bombing in Indochina. The Secretary of Defense notes that this is the "first budget in a decade or more that does not include support of United States forces in combat."

Further swelling of our defense budget cannot helpfully affect the course of events in the Middle East. We have already in abundance the military power that lends weight to our diplomatic efforts to bring about a settlement.

Steps have been taken in the past and can be taken in the future, outside the regular defense budget, to see that Israel has the arms it needs for its own defense. And certainly any direct U.S. military involvement would only hazard a confrontation there between the military superpowers with disastrous consequences for Israel and for world peace.

Nor does the United States enter this new era of international relations militarily weak. Despite the tendency of the Nixon Administration and the military services to poormouth U.S. defense capability at budget time, the U.S. retains important advantages over the U.S.S.R. militarily. For example, the U.S. has been about five years ahead of the Soviets in the development of MIRV's, multiple warheads which can be aimed at separate targets, and will continue to lead them in the number of missile warheads well into the 1980's no matter what the Russians do. Nevertheless, we are moving on to the next generations of nuclear warheads without waiting to see whether this dangerous and expensive race can be halted. The U.S. does not lead the U.S.S.R. in every category of weapons or units—nor need we seek to do so. We are today the strongest military power in history. What we must maintain is the strength, together with our allies, to deter or deflect any Soviet aggression against our territory or that of nations whose security is integral to our own.

But, despite these facts, we are asked now to supply more tax dollars for defense appropriations and expenditures, while badly needed domestic programs are starved for funds and inflation runs rampant. Our true national security is sacrificed to a mindless drive for more weapons of unneeded complexity and inordinate expense and for the maintenance at home and overseas of military forces designed for contingencies in which our military involvement would disserve our national interests. For our true national security is neither measured nor insured by tanks, planes, missiles, warships and armed men but by the fundamental strength, unity and confidence of our people in our institutions, our economy and our society. We do not protect but endanger that real security by excessive military spending.

GENERAL PURPOSE FORCES

Feasible savings: $5.9 billion

General purpose forces—Army and Marine divisions, land and sea based tactical aircraft and naval vessels other than strategic missile submarines—are the most expensive part of our military budget. They absorb with their support, at least 60 percent of the total budget.

Policy and Deployments

Our general purpose forces and where they are deployed are a major key to our foreign policy in reality—as opposed to our policy in words. The world has changed much in the last decade, but the conventional forces of the United States have changed little. Even on the Defense Department's grossly inflated "constant dollars" basis, which minimizes current costs, we are spending virtually as much on general purpose forces in 1975 as we spent in 1964 to maintain a strikingly similar force structure. The Pentagon claims that our conventional forces have declined sharply since 1964, but the truth is that the "peacetime" force for the 70's, although quantitatively somewhat smaller, is qualitatively far more powerful than in 1964. We maintain essentially the same number of tactical air wings. The Navy has the same number of attack carriers and three times as many nuclear attack submarines. The Pentagon itself explains the significant decline in the number of surface war ships as due to retirement of "marginally effective ships". The small decrease in the number of ground divisions from 19⅓ to 16 has reflected deactivation of forces remaining in 1964 from the earlier Berlin buildup and the abandonment of plans to fight 2½ major land wars simultaneously in Asia and Europe. (The number of divisions is now to be increased.) The individual weapons in the 1974 force now are immensely more powerful and sophisticated than those of 1964. To give just one example, the number of helicopters in the Army has doubled in that period and the capability of each has greatly increased.

Our deployments of these forces are also relatively little changed despite the vast changes in the world. The Asian deployments merit more attention than they have received. Even after the end of direct U.S. military involvement in the fighting in Southeast Asia and 24 years after the Korean conflict broke out, we still station some 181,000 troops in the Western Pacific and Asia, about two-thirds as many as in Europe. Most of the 36,000 troops based in Thailand are classified as incremental to the baseline force and are intended solely for possible reintervention into Vietnam hostilities. In addition, despite what we should have learned from the Vietnam experience about the folly of fighting a major land war in Asia, much of our general purpose force at home is committed to just such a possibility. Independent estimates of baseline force allocations slot at least 3 of our 16 ground divisions and 8 of our 39 tactical air wings to Asian contingencies.

We recommend that most of the forces maintained for Asian intervention, including the incremental force earmarked for Vietnam, be eliminated. This reduction of the force structure will yield savings of $463 million in incremental costs for Vietnam plus another $1.9 billion for demobilization of 3 divisions, 8 air wings and one carrier with attendant direct fleet and shore support.

A minimal first step Congress could take this year should be withdrawal and demobilization of 125,000 U.S. military personnel stationed in Asia. This would include the 36,000 troops in Thailand and our division in Korea. Even without the U.S. ground forces in Korea, the South Koreans would retain about a 2-to-1 advantage over the North Korean army. More than 20 years after the Korean War these forces serve only to foreclose the option of non-involvement of American personnel in the event of conflict. Now the time has come to eliminate this last remaining automatic commitment of American forces outside of Europe. The American forces remaining in Asia after this 125,000 reduction would be more than ample to provide stabilizing evidence of continued American interest.

The most hotly debated aspect of our overseas deployments have been the forces stationed in Europe. In the interest of the United States, providing the forces necessary to give the NATO alliance military and political credibility must remain our highest conventional force priority. However, Congress has properly insisted that our allies neutralize the effect of our NATO forces on our balance of payments through the device of off-set payments.

There is certainly no military necessity nor any diplomatic purpose for maintenance of all our present 300,000 troops in Europe indefinitely. Nor can we wait indefinitely for complex arms control negotiations to begin this process of reduction. We should work out with our European allies a practical program for restructuring our NATO conventional plans in ways that will permit gradual but significant reductions in the U.S. force. As a very modest initial step, European forces and bases should be included in an immediate fifteen percent cut in suport personnel. In fact, the Secretary of Defense acknowledged recently that at least 20,000 support personnel could be withdrawn. Significant economies of personnel and money would be available by reducing tactical nuclear weapons in Europe, and this can actually increase our security by minimizing the risk of nuclear war. Moreover, abandoning the illusion—shared neither by the U.S.S.R. nor our allies—that a long conventional war in Europe is a real possibility would sharply reduce our support billets there.

Finally, the Congress should proceed with caution in considering the relatively modest request for $29 million to expand the present small communications facility at the remote Indian Ocean island of Diego Garcia. This must not be allowed to become the first step toward a new and separate fleet for a continuous U.S. naval presence in the Indian Ocean or an excuse for maintaining higher carrier levels. The Soviet naval forces there pose no threat to our security. If the opening of the Suez Canal makes that remote marine expanse more accessible to Soviet ships, the ease with which it could be closed could threaten an aquatic trap for Soviet naval forces in time of conflict. A decision not to create a massive U.S. military presence in the Indian Ocean would contribute to rationality and restraint in our foreign policy and save immense amounts of money through the prevention of long-term costs.

The FY 1975 budget reveals plans to keep a World War II type carrier in commission an extra year for duty in the Indian Ocean. This ominously suggests that the Navy is trying to keep the slot open for a future request for a fifth nuclear carrier to maintain the traditional total of 15 attack carriers rather than proceeding to implement earlier Navy plans to reduce the carrier fleet to 12 ships. This carrier should be deactivated for a savings of $100 million in FY 1975.

Streamline the Reserves

Considerable waste, duplication and inefficiency can be spared from the Administration's request of $4.8 billion for the reserves (including the national guard). This is up 9 percent over FY 1974.

With the end of conscription, the reserves have replaced the draft as the principal means for expanding military forces in a national emergency. However, despite the goal of "total force planning", the precise role of the reserves in current national security planning remains unclear.

In view of actual capabilities, the reserves appear to be designed for a conventional war of indefinite duration. A significant portion of the reserve units is to perform support activities designed for a World War II type conflict, e.g., in governing occupied nations.

Since escalation of major conflict to a nuclear war has become a dominant reality for military planning, full mobilization of the reserves for protracted conventional wars seems unlikely. Given the present readiness of the reserves, it is unlikely that a reserve division could be deployed in time to effect the outcome of a short conventional war. Deterrence of conventional war now depends on forces in being which can react quickly. Even during the Vietnam War—the longest conventional war in U.S. history—there were only token mobilizations of the reserves.

In recent years, actual deployment of the reserves has been limited to domestic requirements such as disaster relief and quelling civil disorders.

If only the reserve units which could be used in a short war or for domestic emergencies are retained, reserve personnel and costs could be cut by two-thirds. We urge the Congress to begin a thorough review of the unit missions of the reserves and to begin paring back non-essential units which do not meet the practical realities of present day military requirements. It might be possible to save several billions of dollars in future years.

But without redefining the role of the reserves in upholding U.S. national security interests, significant savings can be achieved in FY 1975 primarily through greater efficiencies.

Marginal and inappropriate functions should be eliminated, particularly those which survive from the World War II era only through bureaucratic momentum. Many administrative, recruiting and training activities and facilities of the Army and Air National Guard should be merged with reserve counterparts. In some instances, reserve personnel could be substituted for more costly active duty personnel in support billets. The manning for some units should be reduced to cadre status. If these reforms were to be implemented in FY 1975, as much as $600 million could be saved.

Procurement of New Weapons

Our general purpose forces, like our strategic forces, are marked by increasingly complex and expensive weapons systems. There is a danger that by neglecting practical combat effectiveness for goldplating and super sophistication, the Pentagon may well actually be reducing real military power. Significantly, the Pentagon admits that the experience of the Middle East War showed that basic combat readiness—maintenance, organization of supply and ammunition stocks—has not been adequate for modern conventional combat.

We recommend that research, development and procurement of weapons for general purpose forces be reduced by $2.8 billion through a combination of terminating and stretching out programs. Any additional costs incurred from implementing these cutbacks should be met out of the unobligated balances of budget authority now totaling some $10 billion.

Examples of weapons systems which can and should be eliminated or cut back as we bring the size, deployments and mission of our conventional forces up to date include:

Cancel AWACS, an electronics-laden Boeing 707 for airborne battle management and air defense command and control, which was suddenly and unconvincingly shifted from a strategic to a tactical mission ($770 million).

Halt the Navy F–14 aircraft program ($756 million) and the Phoenix missile being developed for it ($100 million). This aircraft represents too little improvement over the F–4 at skyrocketing per-unit costs to be continued. The new VFX "austere" carrier aircraft proposal is far more promising.

Stretch out procurement of the SSN–688 nuclear attack submarine. Only two instead of three boats should be built in FY 1975 for a savings of $100 million.

Suspend new tank development. The Middle East War raises very serious questions about the role of the traditional tank in modern combat environments in which missiles are used extensively. Yet the Pentagon response has been to accelerate procurement of M60 tanks ($237 million) and to revive the main battle tank (XM–1) killed by Congress in 1971 ($69 million). Clearly some new tanks are needed, but massive procurement and development of a super tank are hardy justified at present. The appropriation for tanks should be limited to $100 million in FY 1975.

Stretch out procurement of the DD–963 by cutting the FY 1975 build from seven to three ships and reducing the $464 million request to about $200 million. The unit cost of this oversized, rapidly obsolescing destroyer is nearing $100 million. At the very least, the program should be decelerated while the financial and technical problems are resolved.

Slow procurement of the Patrol Frigate ($437 million). This imaginative concept for a lower cost, less complex ASW ship is threatened by a forced-pace, high concurrency rush to procurement. The lessons of the DD–963 are being ignored. A more modest pace would save $200 million in FY 1975 and, equally important, would increase the chances for success in the program.

Cuts such as these and a more critical look at other aircraft, missile, ship and vehicle programs in terms of both procurement efficiency and a recognition of the limits to U.S. need for conventional intervention forces—especially in Asia—could yield an additional $300 million. Simpler and more workable weapons could actually enhance the effectiveness of our force.

Personnel

General purpose forces and their support are the largest users of personnel. So it is here that the greatest benefits would result from economy in use of this expensive resource—and here that the need is greatest. Headquarters, training, base operations and other areas in which waste abounds (detailed elsewhere in this report) have their biggest impact on general purpose forces.

A particular Pentagon anomaly, new in this year, needs to be stopped now. The Chairman of the Joint Chiefs of Staff proposes to increase the Army a full division by the end of 1975—and possibly by 3 divisions in two or three years—as the result of personnel savings from efficiencies. There is no convincing evidence we need any such build-up of ground forces either to meet new threats or to negotiate away in arms control talks. In fact, heavy emphasis is placed on the build-up as an "incentive" to the Army to cooperate with efforts to shrink swollen support costs. This amounts to giving the army—and presumably the other services as well—a permanent claim on the dollars and manpower slots saved by eliminating their past waste and inefficiencies, to prevent them from sabotaging the efficiency program. This is an abdication of management, and it is an insult to our military services to suggest that only this kind of tactic will induce them to eliminate waste. Instead of "beating fat into more swords", this waste should be converted for non-military purposes.

MILITARY EFFICIENCY

Feasible savings: $4.0 billion

Through implementation of operating efficiencies at least $4.0 billion or 8.3 percent could be saved in FY 1975 from a portion of the budget totaling some $48 billion. This covers $21.2 billion in military support personnel (excluding reductions outlined in an earlier section), civilian pay of $14.7 billion and the non-pay portion of operation and maintenance of about $12 billion. Greater efficiency can be achieved with no significant effect on U.S. military capabilities.

Eliminate Excess Support Troops

A growing problem for the military is that, despite improved combat effectiveness supposedly gained from better technology, the support bureaucracy is becoming more complex and cumbersome. The overwhelming majority—about 83 percent—perform direct or indirect support tasks such as administration, logistics, training or maintenance. This is an area in which personnel savings can be realized. Only strict oversight by Congress and tough management by the Pentagon will stop this drain of valuable resources.

We recommend that fifteen percent of all support personnel be cut. Excluding the billets eliminated in the section of this report covering general purpose forces, the net reduction would be about 175,000. Assuming that reductions take place early in the fiscal year, savings could amount ot $2 billion in payroll and attendant operation and maintenance costs. This goal could be reached readily by limiting the 473,000 accessions planned for FY 1975. Congress has used such a procedure in the past to limit the number of replacements.

Reduce the Civilian Bureaucracy

The Administration has requested 1,128,000 direct-hire civilian positions for FY 1975. This figure represents an increase of 18,000 over the level approved by Congress last year.

There is nearly one civilian for every two people in uniform. Excluding the Postal Service, the Department of Defense has roughly as many civilians as all other federal agencies combined.

President Nixon said shortly after his 1972 election victory, "But in terms of the masses of civilian employees who are getting in the way of each other over the Pentagon and around the country, they are going to have to take a thinning down". This view was echoed by Chairman John Stennis of the Senate Armed Services Committee when the FY 1975 request was submitted, "This proposed increase seems inconsistent with the announced intent of the Department to achieve greater manpower efficiencies". Certainly this problem should receive careful scrutiny.

Although we support the basic objective of civilianization—to use civilian personnel in jobs which do not require military incumbents and thereby reduce the requirement for military personnel—we believe that greater effort should be made to reduce the civilian work force while meeting civilianization goals. An excessively large civilian bureaucracy will drain resources from more vital military programs.

We recommend a fifteen percent cut in the civilian personnel slots requested for FY 1975. About $2 billion in payroll and attendant operation and maintenance costs can be saved if staff reductions are made early in the fiscal year. As in the case of active forces, this goal can be reached primarily through reduction of accessions.

The Administration has requested an additional 24,000 jobs in the FY 1974 Supplemental and the FY 1975 budget to "improve combat readiness" by "reducing backlogs in depot maintenance and ship overhaul and increasing logistics and base operations support activities". It seems apparent that these jobs were added as part of the increment designated to stimulate the economy, and, therefore, should be eliminated.

Further economies can be made by cutting some of the 953,000 support slots for land forces, base operations, command, logistics, training, personnel management, medical services and reserve units.

Trim Support Services

Some of the major ways in which support positions both civilian and military can be reduced are:

24,000 excess support troops are being used to create additional land forces. Instead of "beating fat into swords" the fat should be rendered for consumption by domestic priorities.

"Grade creep"—a growing number of higher grade officers and senior civilians in a smaller total force—should be minimized. For example, there are now more field grade (lieutenant colonel or commander and above) and flag officers to command a force of 2.2 million than there were in 1945 when the military numbered 12.1 million.

The military enjoys a much higher teacher/staff to student ratio (1.7 to 2) than practically any civilian institution offering comparable individual training. Greater emphasis should be given to on-the-job training, shortening specialized training, courses and inter-service courses. The number of pilots trained per active aircraft has grown unreasonably and should be decreased. Thus pilot training costs and student billets can be pared.

Some 1,181,000 military and civilian personnel are engaged in personnel management, command, base operating support and logistics activities. Reductions can be made by making operations more efficient and closing facilities having marginal utility.

Given the fact that major conventional wars are likely to be short, support forces geared for sustaining long term combat should be reduced.

The average time a soldier spends on a duty station can be extended thereby reducing the number of billets allocated to transients and the costs of permanent change of station moves. Current efforts in this direction are highly desirable and should be continued.

In view of force modernization, the requirements for overhaul and maintenance should be cut back, not increased.

The number of full-time personnel used to support reserve components should be trimmed.

STRATEGIC NUCLEAR FORCES

Feasible savings: $2.5 billion

The basic principle of U.S. nuclear forces since even before our nuclear monopoly was broken has been the absolute deterrence of nuclear war by maintaining an ability utterly to destroy any attacker even after absorbing the worst possible first strike. Statements surrounding the FY 1975 budget suggest that President Nixon's oft stated, but never defined, desire to have alternatives to our basic strategic policy of deterrence has led to a new strategic doctrine.

Counterforce Weapons and New Strategies

The Nixon Administration appears confused over what the new policy is—targeting military installations as well as cities, more flexible planning and command or a new requirement for weapons with enhanced capabilities for counterforce, i.e., for attacking enemy nuclear forces. Our plans have always included military targetting, so the announcement of a "new" targetting strategy is only a public announcement of an existing option. Similarly, insuring that our command and control and our planning are flexible enough to give us choices besides a final world-destroying spasm is scarcely a novel idea and certainly requires no new weapons.

But neither the new policy nor the admitted uncertainties of Soviet programs and plans justify Administration requests to build weapons with enhanced capabilities to destroy Soviet missiles—a capability President Nixon and his earlier Secretary of Defense Melvin Laird once denied seeking—by higher accuracies and yields for our ICBM's. These programs include new warheads, new guidance systems and advanced work on a new ICBM. Their approval would be a mistake and a dangerous one.

New counterforce weapons would introduce a major new and very dangerous element into the strategic equation, for they could be construed to threaten the entire Soviet land-based missile deterrent and thereby provide a strong impetus to the arms race. They are not the right answer to potential Soviet counterforce capability. Instead of reducing the feared vulnerability of U.S. ICBM's to a Soviet counterforce strike, they would increase the attractiveness of our ICBM's as targets.

For these reasons, none of the counterforce programs—costing about $300 million—should be included in the FY 1975 budget. This relatively low request for research and development money would be the opening wedge for programs which could in time cost billions of dollars. We should halt these dangerous and unnecessary new programs now before they start; not start them as "bargaining chips". Experience has shown that we cannot rely on arms control negotiations to stop such developments once really underway.

Ballistic Missile Submarines

More than $2 billion, an increase of $600 million, is sought for the Trident program in FY 1975. This program is a technical, military and fiscal fiasco. These submarines will cost $1.3 billion or more per boat. The Soviet anti-submarine warfare threat to the existing Polaris-Poseidon fleet cannot even be defined. The replacement of Polaris and Trident boats would, in the long run, increase the vulnerability of the fleet as a whole, because it would concentrate more of our missiles in a smaller number of ships.

Fortunately, an alternative could be available when Polaris eventually needs to be replaced in the late 1980's or early 1990's. The new budget includes funds for research and development for the first time for a new, smaller missile submarine using the existing quiet Narwhal reactor. This would have essentially the same protection against anti-submarine warfare as the Trident but place fewer missiles in any given ship and be able to be based so as to operate in both the Atlantic and Pacific oceans. This program should be strongly supported. The 4,000 mile Trident I missile—usable in the existing force—is a worthwhile program, but the Trident submarine and the 6,000 mile Trident II missile (all but $661 million of the $2,042 million Trident request) are not and should be suspended at least until an evaluation can be made as to the proper replacement for Polaris.

Strategic Bombers

The budget seeks one half billion dollars for development of the B–1 intercontinental bomber and proposes to begin work on the fourth and fifth aircraft even though the program is in serious technical and financial difficulties. The unit cost of these planes has been rising almost daily to the present $61.5 million. Moreover, developments in surface-to-air missiles make it very desirable to restudy the proposition that the best bomber option for the future is a high-performance aircraft designed for penetration of Soviet air defense at the sacrifice of endurance and payload. Procurement of additional B–1 aircraft should be halted and development work begun on a follow-on to the B–52 bomber which could use the stand-off air-to-surface weapons now under development. The FY 1975 budget also includes $20 million for an advanced tanker aircraft which could carry both ballistic and cruise missiles. Inasmuch as the B–52's can remain in service well into the 1980's, these stand-off bomber options should be encouraged.

Strategic Defense

Even two years after the signing of the ABM Treaty, the budget calls for almost one half billion dollars for procurement of new strategic defense systems. $374 million is for the development of more modern ABM's, the development of which would be forbidden by treaty. These programs should be held to research on advanced technology without the procurement of hardware. Another $86 million is for civil defense programs including evaluation of evacuation procedures and shelters.

MILITARY ASSISTANCE TO SOUTHEAST ASIA

Feasible savings: $1.4 billion

The continuing war in Southeast Asia is still costing the United States about $2 billion a year in military aid alone. $1.45 billion in new appropriations for the Department of Defense is slated for military aid to South Vietnam. In the Military Assistance Program budget, $390 million is sought for Cambodia and $90 million for Laos, even though a political coalition has ended the conflict there. All but $500 million of the new aid money for Indochina should be cut. The aid ceiling should be set at the same level to avoid inflating the program by rapid use of "pipeline funds". In addition, 36,000 U.S. troops in Thailand should be withdrawn and demobilized as suggested in the section of this report on general purpose forces.

Many Americans would end military aid to Saigon entirely this fiscal year. In any event, the amount should be drastically reduced, not increased over last year, as sought by the Administration. Last year Congress appropriated $900 million in Pentagon-funded aid to Vietnam and set an overall ceiling of $1.126 billion to authorize the spending of some unobligated funds from previous years. We consider the decision by Congress to reduce the request last year wise and recommend that this year the amount of new appropriations be held to $500 million as a further step in a definite program for an early end to this vestige of our involvement in the Indochina war.

MILITARY ASSISTANCE PROGRAM

Feasible savings: $1.1 billion

The United States distributes an ever-increasing amount of military equipment around the world in free military assistance, training and sales. The reasons given are a mix of military and non-military: partly to mollify countries where the U.S. military maintains bases and troops (Spain, Portgugal, Greece, Philippines, Korea); partly to favor the U.S. balance of payments; partly to gain political influence with the recipient country. This massive distribution of military weapons does little or nothing to bring about world peace. Several conflicts in Asia, Africa and Latin America have been fueled with U.S. military aid.

In FY 1975, military and related assistance and arms sales programs will probably total more than $10 billion. A large amount of military assistance, over $5 billion, is made available through programs which require no Congressional appropriations—Department of Defense foreign military cash sales, excess defense articles and ship loans.

Certainly some military assistance and sales are in the interests of peace and our national security, but the bulk of the proposed program contributes to neither. The countries of the world can no longer be realistically divided into the free and the non-free, based solely on a Communist/non-Communist definititon of government. For example, among the countries that receive some form of military assistance from the United States, there are twenty-seven that permit no political opposition and several that severely repress individual rights and liberties. Our military aid, at our expense, can gain us the lasting hostility of the people oppressed.

In addition to the savings outlined for new funding, we recommend that Congress reduce significantly cash sales and the distribution of excess defense articles and loaned ships to developing nations.

Military Assistance Advisory Groups, missions and military groups that are attached to U.S. embassies around the world, but which report directly to the Department of Defense, can easily be reduced. There are some countries with no military aid program where these groups still exist. We recommend a 25 percent cut this year as a step toward a total phase out of the program.

FEASIBILITY REDUCTIONS IN THE FOREIGN MILITARY ASSISTANCE PROGRAM

[Budget authority in millions of dollars]

Program	Fiscal year 1975 budget request	Proposed	Savings
Military grant assistance	925	150	775
Foreign military credit sales	315		315
Credit sales ceiling	(543)	(228)	
Offsetting receipts	−161	−161	
MAP trust funds	846	846	
Total	1,925	835	1,090

LEVELING OFF AND REDUCING MILITARY APPROPRIATIONS

It is important for the Congress to have before it alternative views of the specifics of the military budget. As what has come before in this report makes clear, we believe that many substantial specific reductions can be made in military spending without reducing American security. Indeed we believe that the proper cuts will increase our security.

We believe that each of the reductions in the FY 1975 budget proposed here can and should be made by Congress. Scrutiny of the details of the defense program by Congress and its committees in the past has made important direct and indirect contributions to a more rational and more economical policy. But we are not unmindful of the practical legislative difficulties for Congress in seeking to control the military budget by eliminating or cutting particular programs, especially on the floor of either house.

Moreover, the relationship between the size of the military budget over a period of several years and the elimination of one or more programs is not very close. If one program is eliminated, other programs or other Pentagon uses of the funds "saved" will quickly step forward to fill the void within the military budget ceiling established each year within the Executive Branch. The obstacles to trying to influence the overall size of the military budget by identifying waste or cutting particular systems was made clear when Secretary of Defense Schlesinger told the Senate Armed Services Committee that there was significant waste in the military budget and that he was determined to eliminate it, but that any money saved would go for larger general purpose forces. Similarly, the decision to forego a complete ABM system has not led to reduced spending for strategic weapons. Compared to FY 1974, the funding for new strategic weapons has increased 15 percent.

Thus a weapon by weapon approach faces formidable difficulty for both the Congress and the Executive. Curtailing a weapons system on the floor of Congress should be attempted when important policy questions are involved. We suggest that as an alternative Congress, in light of its concern for fiscal responsibility, for shaping national priorities and for insuring that the Executive departments are run efficiently, develop a long term plan for controlling the total size of the military budget.

We propose that Congress establish a ceiling on the total military budget each year. This ceiling would be applied proportionately to the four major military appropriations bills (Department of Defense, Military Construction, Military Assistance and the military portion of Public Works-AEC). A Congressional ceiling would be fully consistent with the budgeting procedures used within the Administration. Since Congress has the responsibility for allocating federal resources, an annual ceiling would facilitate the determination of budget priorities in general. Legislation now pending to reform the budget process already incorporates the notion of ceilings for each major appropriation.

The effort to gain Congressional control of the defense budget in FY 1975 should, first of all, accept the view supported in this report that the world situation will not require, for the foreseeable future, constant dollar increases in the military budget. Thus, in considering the FY 1975 budget, Congress should begin with the constant dollar equivalent for FY 1974—about $90 billion, the amount appropriated for FY 1974 adjusted to take account of legitimate supplementals and price increases—rather than with the substantial increase reflected in the Administration's request of $98 billion.

Congress, however, should go beyond merely holding the military budget constant and should begin to require the Pentagon to squeeze the fat out of the budget that has been inadequately controlled for twenty-five years. This could best be done if Congress would establish an annual objective for efficiency in the operations of the Department of Defense to be achieved for several years. This efficiency program could be implemented by a 3 percent reduction in appropriations, in constant dollars, for each of the next five years. With an efficiency cut of just under $3 billion, the appropriations ceiling for all military functions would be $87 billion in FY 1975 or an $11 billion reduction from the Administration request. By FY 1979, the military budget would total $77 billion in FY 1975 constant dollars.

Congress need not attempt to define how these efficiency and economy cuts would be made but should leave the task to the Secretary of Defense who has already elaborated many areas of waste. As this report shows, the Penatgon could readily make the necessary $11 billion in reductions for FY 1975. Indeed the purpose of the five year efficiency program would be to give the Secretary the time and the motivation to plan ahead for future economies. Congressional hearings and debates as well as reports prepared by the Executive Branch would provide a means for oversight of progress made by the Department of Defense.

A congressionally directed 3 percent economy/efficiency dividend each year for five years would not in itself determine the size of the military budget in current dollars. Congress should permit the budget to rise to take account of inflation. For example, if a 7 percent rise in costs due to inflation were combined with a 3 percent cut for efficiency, the budget would increase by 4 percent (in constant dollars).

Beyond increases for inflation and decreases for efficiency, Congress would be free to legislate a further reduction (or increase) in defense spending based on a significant change in military threats or in military strategy.

We are now in a period of increasing scarcity of fuels, food and other goods. Americans are all being asked to economize in the use of scarce resources. The success of these conservation efforts depends on the willingness of all segments of American society to take stern measures to eliminate waste and inefficiency. To exclude the Department of Defense, which consumes so high a proportion of our funds and resources, would further undermine publice confidence in government.

SENATE PASSAGE OF S. 411, POSTAL RATES

Mr. CLARK. Mr. President, the Senate has taken a major step forward in the effort to preserve the free flow of information and ideas with the overwhelming passage of S. 411, legislation to extend the phased implementation of second class and other postal rate increases.

When the Postal Reorganization Act of 1970 was considered, the Congress seriously underestimated the massive increases in postal rates that have taken place in the past few years—rate hikes that could amount to 300 percent for regular second class mail and 700 percent for nonprofit mail.

Increases of this dimension would place a considerable burden on many newspaper and magazine publishers, already operating with low profit margins. And the impact would fall most heavily on the smaller publishers who serve a vital function in a democratic society. The rate increases also would greatly affect the nonprofit organizations that depend on low postal rates to communicate with their memberships or to solicit contributions.

The Postal Reorganization Act was designed to provide a more efficient, economical postal service, not to place further obstacles in the way of organizations and individuals. That is why, early last year, I joined the distinguished Senator from Arizona (Mr. Goldwater) and the distinguished Senator from Massachusetts (Mr. Kennedy) in cosponsoring S. 842. Although S. 411 does not go as far as that bill, it does serve essentially the same purpose: to extend the implementation of the postal rate increases and, in the process, to help insure that rising mailing costs do not greatly alter or eliminate the publication of many magazines, newspapers, and periodicals. I joined as a cosponsor of S. 411 as well.

During the Senate's consideration of S. 411, Senator Goldwater very eloquently pointed out its significance. He called it a crucial step toward preserving:

> The democratization of knowledge, the unique achievement of America which has given our people ready access to the printed word on a scale unmatched anywhere else in the world.

The Senate's passage of this important legislation on May 9 was very significant, and I hope that it is rapidly approved by the House.

Mr. President, I ask unanimous consent that a table prepared by the U.S. Postal Service, which illustrates a representative sample of average per piece mailing cost under present law compared with rates under S. 411, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

VETERANS' MAGAZINE (NONPROFIT)

[Frequency: Monthly; Advertising: 20 percent; Weight: 4 oz; Distribution—In-county: Negligible; zones 1 and 2: 3 percent; zone 3: 17 percent; zone 4: 32 percent; zone 5: 36 percent; zones 6–8:[1] 12 percent]

Fiscal year	Step	Average postage per piece (cents)	
		Current[2]	S. 411[2]
1975	3	1.6	[3]1.4
1976	4	1.9	1.6
1977	5	2.3	1.8

Fiscal year	Step	Average postage—per piece (cents)	
		Current[2]	S. 411[3]
1978	6	2.6	2.0
1979	7	2.9	2.2
1980	8	3.2	2.4
1981	9	3.6	2.6
1982	10	3.9	2.7
1983	11		2.9
1984	12		3.2
1985	13		3.3
1986	14		3.5
1987	15		3.7
1988	16		3.9

[1] Assumes uniform distribution to each zone.
[2] Includes effect of pending USPS rate proposals.
[3] Assumes effective date of July 6, 1974.

LABOR NEWSPAPER (NONPROFIT)

[Frequency: Weekly; Advertising: 3 percent; Weight: 1.4 oz.; Distribution: All zones; in-county portion negligible]

Fiscal year	Step	Average postage per piece (cents)	
		Current[1]	S. 411[1]
1975	3	0.9	[2]0.7
1976	4	1.1	.9
1977	5	1.4	1.0
1978	6	1.7	1.1
1979	7	1.9	1.3
1980	8	2.1	1.5
1981	9	2.4	1.7
1982	10	2.7	1.8
1983	11		1.9
1984	12		2.1
1985	13		2.2
1986	14		2.4
1987	15		2.6
1988	16		2.7

[1] Includes effect of pending USPS rate proposals.
[2] Assumes effective date of July 6, 1974.

NEWS MAGAZINE

[Frequency: Weekly; Advertising: 51 percent; Weight: 6 oz; Distribution [1]—In-county: 3 percent; Zones 1 and 2: 63 percent; Zone 3: 23 percent; Zone 4: 9 percent; Zones 5-8: 2 percent]

Fiscal year	Step	Average postage per piece (cents)	
		Current[2]	S. 411[2]
1975	3	4.2	[3]3.6
1976	4	5.3	4.1
1977	5	6.6	4.8
1978	6		5.4
1979	7		5.9
1980	8		6.6

[1] Assumes multiple entry points.
[2] Includes effect of pending USPS rate proposals.
[3] Assumes effective date of July 6, 1974.

GENERAL-INTEREST MAGAZINE

[Frequency: monthly: advertising: 37 percent; weight: 8 oz; distribution [1]—In-county: negligible: Zones 1 and 2:50 percent: Zone 3: 33 percent; Zone 4: 15 percent; Zones 5-8: 2 percent]

Fiscal year	Step	Average postage per piece (cents)	
		Current[2]	S. 411[2]
1975	3	4.9	[3]4.3
1976	4	6.1	4.9
1977	5	7.6	5.6
1978	6		6.2
1979	7		6.9
1980	8		7.6

[1] Assumes multiple entry points.
[2] Includes effect of pending USPS rate proposals.
[3] Assumes effective date of July 6, 1974.

RURAL NEWSPAPER

[Frequency: Weekly; Advertising: 50 percent; Weight: 4 oz.; Distribution [1]—In-county: 65 percent; Zones 1 and 2: 30 percent; Zones 3-8: 5 percent]

Fiscal year	Step	Average postage per piece (cents)	
		Current[2]	S. 411[2]
1975	3	1.3	[3]1.1
1976	4	1.6	1.3
1977	5	1.9	1.5
1978	6	2.1	1.7
1979	7	2.3	1.8
1980	8	2.5	1.9
1981	9	2.7	2.0
1982	10	2.9	2.1
1983	11		2.3
1984	12		2.4
1985	13		2.5
1986	14		2.6
1987	15		2.7
1988	16		2.9

[1] Assumes uniform distribution to zones 3-8, but fewer than 5,000 copies to all outside-the-county zones.
[2] Includes effect of pending USPS rate proposals.
[3] Assumes effect date of July 6, 1974.

FUND APPEAL LETTER (3D CLASS BULK-RATE NONPROFIT)

[Weight: 1 oz; Distribution: Nationwide]

Fiscal year	Step	Average postage per piece (cents)	
		Current[1]	S. 411[1]
1975	3	1.9	[2]1.7
1976	4	1.9	1.9
1977	5	2.1	1.9
1978	6	2.1	1.9
1979	7	2.3	1.9
1980	8	2.3	2.1
1981	9	2.5	2.1
1982	10	2.5	2.1
1983	11		2.3
1984	12		2.3
1985	13		2.3
1986	14		2.3
1987	15		2.5
1988	16		2.5

[1] Includes effect of USPS pending rate proposals.
[2] Assumes effective date of July 6, 1974.

CLASSROOM FILMS (LIBRARY RATE)

[Weight: 4 lbs; Distribution: Nationwide]

Fiscal year	Step	Average postage per piece (cents)	
		Current[1]	S. 411[1]
1975	3	17	[2]15
1976	4	17	17
1977	5	22	17
1978	6	25	20
1979	7	27	20
1980	8	27	22
1981	9	32	25
1982	10	32	25
1983	11		27
1984	12		27
1985	13		30
1986	14		30
1987	15		32
1988	16		32

[1] Includes effect of USPS pending rate proposals.
[2] Assumes effective date of July 6, 1974.

BOOK PARCEL

[Weight: 4 lb; Distribution: Nationwide]

Fiscal year	Step	Average postage per piece (cents)	
		Current[1]	S. 411[1]
1975	3	44	[2]43
1976	4	52	48
1977	5	60	51
1978	6		52
1979	7		58
1980	8		60

[1] Includes effect of pending USPS rate proposals.
[2] Assumes effective date of July 6, 1974.

CONTROLLED CIRCULATION PUBLICATION

[Frequency: Monthly; Advertising: 70 percent; Weight: 8 oz.; Distribution: Nationwide]

Fiscal year	Step	Average postage per piece (cents)	
		Current[1]	S. 411[1]
1975	3	8.0	[2]7.3
1976	4	8.5	8.0
1977	5	9.0	9.3
1978	6		8.5
1979	7		8.7
1980	8		9.0

[1] Includes effect of pending USPS rate proposals.
[2] Assumes effective date of July 6, 1974.

THE PRESIDENTIAL TRANSCRIPTS

Mr. FANNIN. Mr. President, because of the awesome responsibilities we may face, I do not intend to comment on the content of the White House transcripts which have been turned over to the House Judiciary Committee.

It does seem to me, however, that it would be appropriate to challenge those who contend that these transcripts raise more questions than they answer.

Columnist James Kilpatrick puts this in proper perspective in a column which I read last Saturday in the Arizona Republic. I ask unanimous consent to have this excellent column printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TRANSCRIPTS ANSWER A GOOD MANY OF OUR QUESTIONS

When it was announced the White House would release transcripts of certain presidential tapes, I voiced a sure prediction: Someone is going to say, "The transcripts raise more questions than they answer."

Sure enough, the next voice on the television screen was the voice of Carl Stern of NBC. He was saying, "The transcripts raise more questions than they answer."

Nonsense. The transcripts do raise certain new questions, having to do with the transcripts themselves, but this monumental publication answers more Watergate questions than most Americans will ever want to ask.

What were the big questions? Let me grapple with two or three.

Did the President know in advance about the bugging and burglary of Democratic National Headquarters? The answer is, he did not. In these 1,300 pages there is not a line, a hint, or a breath of a suggestion of any such foreknowledge.

Did Nixon know of the ensuing coverup? He did not. By early March 1973 he had inklings, but it was not until 10:12 a.m. March 21 that he began to get the whole story.

Do the transcripts tell us how and why Watergate happened? Yes, they do. This wretched business happened because Gordon Liddy was strong and persistent, because John Mitchell was weak and preoccupied; because Charles Colson was vain and presumptuous; because Jeb Magruder was obedient and inexperienced.

The subsequent cover-up resulted out of the misguided loyalty and bad judgment of John Dean, John Ehrlichman and H. R. Haldeman. They kept their knowledge from the President.

Did Nixon act wisely and responsibly once he heard the story? The answer is yes and no. He acted humanly.

Let me dwell on this last point especially. The President's critics are stuffed like sausages with wisdom, virtue, and morality. For the past week they have been clucking and sighing.

Nixon, they say, did not react instantly with public cries of shame and remonstrance; the President did not leap from the Oval Office and cry for guards to haul his aides away in chains. The President resisted—and still resists—full disclosure of his words and acts.

Very well. Let me suggest an analogy from *every-day life*. The parents of a 16-year-old girl suspect something is wrong. They are concerned and anxious, but no one likes unpleasantness. They avoid direct confrontation.

Then one day in March she faces them: "You have to know," she says, "I'm pregnant."

To listen to the sausage moralists, you would suppose that the girl's parents should react with instant sermons on chastity; they should cry reproaches; they should hurl her into the street.

This is not the way the world is. The probabilities are 99 in 100 that the girl's parents would respond with questions. They would try to think what to do next. They would discuss options: Forced marriage? Abortion? Have the child in secret? It might be a long while before someone said of abortion, "but that would be wrong."

They would be concerned with salvaging whatever might be salvaged of their daughter's reputation and future.

The girl's father might keep saying, "I am just trying to think . . . I want to get all of this in my mind if I can."

Mr. FANNIN. Mr. President, one of the popular games today, especially in the press, is guessing when President Nixon will resign.

Those expecting or urging the resignation of the President apparently are ignoring the courage of Richard Nixon as demonstrated by history. He has been defeated several times in his political career, but I do not see that he has ever given up. I do not expect him to give up now.

Nor do I believe that he should resign.

My opinion is not based solely on the fact that I support the President, which I most certainly do.

My opinion would be the same regarding resignation even if I were to believe the very worst of the President, which I certainly do not.

The machinery of impeachment has been set in motion, and resignation is not the answer to our national dilemma.

Mr. President, the Phoenix Gazette ran an editorial last Friday which expresses my feelings on this issue better than I could. I ask unanimous consent that it be printed in the Record for the benefit of my colleagues.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Resignation? No!

Resignation of the President of the United States would inflict a mortal wound on the republic.

Far from being the quick and simple remedy that those clamoring for it say it would be, President Nixon's resignation would set a precedent that could effectively destroy America's venerable system of government.

In their wisdom, the framers of the Constitution provided for the impeachment process to decide whether a President should be removed from office.

That process is now at work. It should be pursued with all deliberate speed.

Whatever else might be said about Mr. Nixon, he deserves credit for his willingness to continue facing his accusers. Resignation might be an easy way out for him. Instead, he has thus far stood fast against those seeking to oust him, and this can only help to preserve the institution of the presidency.

Were Mr. Nixon to resign, it would leave the office of President vulnerable to future assaults from determined forces that would copy the pattern of prosecution being set by those who are intent on overriding the vote in the 1972 election. The day would come when the White House would have to be equipped with a revolving door.

Resignation would leave many questions unresolved. The most important one would be whether Mr. Nixon was or was not in fact guilty of a high crime and misdemeanor.

To leave that question hanging, as it would be if the President were to resign, would be to leave the nation sorely divided for a long time to come.

However the impeachment proceedings come out, the nation will be divided anyway. But the division is not likely to be nearly so unhealable as it would be if the due constitutional process were not followed.

Many members of the House of Representatives doubtless would like to have Mr. Nixon relieve them of taking a stand on impeachment by resigning. Many senators doubtless likewise hope to be relieved of having to act as jurors in a trial of the President.

But those are among the duties representatives and senators swore to perform when they took their oath of office, to uphold the Constitution.

Let them get on with it. Impeach the President or get off his back.

DANIEL ODUBER—MAN OF THE PEOPLE—INAUGURATED PRESIDENT OF COSTA RICA

Mr. CHILES. Mr. President, I had the distinct honor and privilege of being chief of the U.S. delegation to the inauguration of Daniel Oduber as President of Costa Rica. I was extremely pleased that Congressman Manuel Lujan, Jr. of New Mexico and his wife, and Mr. Lyle F. Lane, Charge d'Affaires ad interim of our Embassy in Costa Rica, and his wife were also members of the delegation. My wife, Rhea, and I, very much enjoyed having the opportunity to participate in the ceremonies with the other members of the delegation and their wives.

I met Daniel Oduber for the first time in February of 1972 and have seen him campaign for public office. He is very much a man of the people, conscious of the dilemma his people face between preserving their heritage and exposing themselves to the values and technology of the industrialized world.

I think that Daniel Oduber is exemplary in his way of seeing himself as one of the people rather than enshrouding himself in the trappings and aura of the Presidency. I was most impressed by the inauguration ceremony which was held in a soccer stadium. There was an easy and relaxed atmosphere, with school children everywhere and a spirit of it being the peoples' function rather than something for dignitaries. The day after becoming President, Daniel Oduber went downtown to walk the streets as if to show that he is still one of the people. He is going to live in his own house and operate part of his office from his home.

I think all this says a great deal about Daniel Oduber as a man of the people, and it says a great deal too about the Costa Rican people. They have not made a king of their President. There is a tone of unpretentiousness, not only about the man but about the Costa Rican people which they are determined to preserve.

There are some very valuable thoughts in Daniel Oduber's inauguration address which I would like to share with my colleagues. His speech reveals the concern he and his country have for their future and for the preservation of their own sense of individuality and heritage in a world of rapid change and material growth.

It was a great pleasure for me to serve as chief of the U.S. delegation to Costa Rica and represent the United States as Daniel Oduber became President. Our Embassy in San Jose was extremely helpful in making the trip a valuable one for the entire delegation. I am particularly grateful to Mr. Lyle Lane, Charge d'Affaires of the Embassy, and Mr. Peter Johnson, Chief of the Political Section, and their wives for their gracious hospitality. I was also pleased that my executive assistant, Dale Marler, was able to attend the inaugural ceremonies.

I recommend to my colleagues his inauguration address and ask unanimous consent that it be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Inaugural Address

Before the Legislative Assembly, in the presence of the Honorable Special Delegations of so many friendly Governments, with the blessings of the high Ecclesiastical Authorities present, and under the watchful and benevolent gaze of the Costa Rican people, I receive with deep emotion this presidential band that has, from the founding of the Republic, encircled the noble breast of illustrious citizens that have been elevated, by the will of the people, to the Highest Office of the Nation.

I receive this presidential band, which is the symbol of the greatest honor and the greatest responsibility of Costa Rican democracy, from the hands of a worthy man who, like myself, belongs to a generation that has, for three decades, been struggling for national progress.

I receive this presidential band fully aware of the role that history has set out for me, to conduct the members of my generation and of coming generations, from the various political groups, to carry out with me the task of exercising power in order to achieve, before the end of the Twentieth Century, the ideals of a prosperous, just and free society.

I receive this symbol of authority with humility because I know that many Costa Ricans of the past and of the present, surpass me in many noble qualities. However, I am certain that I am not, by any means, inferior to them in my love for Costa Rica.

Heartened by these feelings, ready to find in the experience of my predecessors the wisdom reaped by them in order to avoid mistakes, certain that I will find, in the good will of many Costa Ricans, the light to guide me and the strength to act, and, lastly, trusting in God, I assume, as of this moment and for the coming four year term, the guidance of national destiny.

The kind of society we Costa Ricans are proud of is not the work of one single generation, one social class or one political party. It is the result of centuries of work by all of those born in this country or who have become a part of it. All of them have been giving shape, through common experiences, pleasant or painful, to a particular national consciousness based on values and aspirations, institutions and norms, purposes and ideals, that have come to constitute a culture that is authentically Costa Rican. That authentic culture can and should absorb and assimilate new contributions, whether self-generated through adaptation to new circumstances or assimilated from other areas; but we can never accept a design for Costa Rican society that is not created in keeping with the essential elements of our authentic historical being. This is fundamental and the irreplaceable starting point of all political action and of every purpose of government. Let us never forget this.

Without any appreciable mineral resources and, fortunately, without any indigenous population offering human energy on the basis of slavery, our ancestors built, in the marvelous scenery, the splendid climate and the fertile lands of the Central Valley, a society that, while definitely poor, was egalitarian and democratic, deeply rooted in the small agrarian property with the culture, the beliefs and the elementary technology of European farmers.

During the first stage of our republican life, that agrarian society, with a subsistence economy, started to expand when its leaders established connections with world economic centers and, as a result, they opened the doors to cultural currents of other areas. The result was, on the one hand, to definitely establish the modern bases for the State and the guarantee of political freedom, which in reality only benefited a few privileged people; but on the other, the egalitarian dimension of society was reduced because, as a result of the inflow of mercantilistic ideas of the times—brought in and superimposed on our national reality—there appeared the large agricultural plantations with the first signs of concentration of wealth and of large groups of workers without land, wage earners and proletarians.

During the second stage of our Republic, beginning in the 1940's, it fell to our generation to cooperate with the previous generation in an effort to give impetus to the development of our material wealth which, going beyond the limited area of the Central Valley, began to incorporate into the structure of national progress, the entire geography and population of the country. It also fell to us, on the one hand, to struggle for the strengthening of the democratic system with a more conscious participation of a larger number of sectors of the population and, on the other, restore the egalitarian status of the inception of our nationality, giving real effectiveness to the principles of social justice and bringing forth new forms of cooperative organization, particularly in regard to the farmers.

A very important result of our action has been the expansion of social mobility, which has resulted in expanding and strengthening the middle sectors of our society. These sectors, in turn, have contributed to the economic and political development of our country as standard bearers of its modernization.

The fortunate result has been the existence, in this small territory of Central America, of a country devoted to peace, to the exercise of political freedom within the limits of respect for human rights, to the advancement of the cultural education of the country's people, and to economic development with greater social justice. Allow me, Honorable members of the Foreign Diplomatic Missions and very distinguished visitors, to present this national reality for your examination, so that you will be able to see the reasons I have for feeling the simple pride of being a Costa Rican and of being the President of this Republic.

Woe to the individual or nation that falls into complacency against its own objective realities: Our democracy is not yet perfect. There is still a long way to go until social, cultural and material benefits cover those sectors of the population that either do not receive them, or receive them only to a limited extent. Far from ignoring the accomplishments of those who came before us, the generation which I am to lead must continue and expand their work. What is more, it must redirect it with courage in that process of deep change that our society, as in the case of the rest of Latin America, is experimenting in its transition from an unjust society into a modern society.

The time is one of crisis. Everything is questioned: the parties, the state, the church, the development structures, and moral and philosophical values. Our generation is faced with the double challenge of the 1970's: on the one hand, how to preserve our spiritual and historical heritage with its basic values and yet meet the requirements of impatient popular masses; on the other, how to enrich our society by incorporating the new, emerging popular sectors: peasants, farmers, wage earners, marginal strata—in order to lead them to full political participation and to full enjoyment of the benefits of economic development. In order to meet these challenges, considerable political imagination is needed, together with a strong will to do whatever must be done. It is indispensable to place political and intellectual honesty at the service of the weaker sectors of our society. If my companions of this generation and of coming generations will assist me, we shall proceed to carry out the transformations of our present system, and thus we shall build the Costa Rican society of the future on the eternal value we have inherited from the past.

The indispensable requisite in the struggle against want and poverty is productive work. I invite Costa Ricans, without any political or ideological differences, to intensify the great battle for production. The worldwide food crisis is more serious than the energy crisis. Let us start by modernizing food production and diversifying our agriculture. Let us encourage that productive effort by seeking markets beyond our frontiers. With this in mind, let us continue the steps already taken to establish, in cooperation with other countries in the area, a modern air cargo fleet and a merchant marine to seek markets where the products of our fields may be valued even more. Along with agriculture, we shall intensify even more the authentic industry for the real utilization of our natural resources. Moreover, we must think in terms of big industry. We already have offers for the development of our petrochemical industry by the construction of a large refinery on the Atlantic coast. Let us continue the electrical development at Terraba, combined with an industrial complex that will enable us to process our bauxite and produce metallic aluminum. Let us not hold back in the Arenal hydro-electric project nor in the construction of the cement plant in Abangares. To engineers and entrepreneurs we submit a challenge: the possibility of developing sulphur and copper, iron and gold. These challenges put our will to overcome underdevelopment to the test. They require an investment of more than twenty billion colones and the work of thousands of Costa Ricans. Let us not be frightened by the apparent magnitude of these undertakings. We have proved, by carrying out large hydroelectric, electronic and communications projects that Costa Ricans can rise by their own efforts when they make the decision. Without this struggle for production, all our dreams become simple day-dreams.

Our efforts toward economic development must have man as the goal. It is up to us to define the type of man and the type of society in which that man is going to live in Costa Rica at the turn of the century. This is the essential question. Those of us who govern cannot improvise, from day to day, the route that must be defined by clear national goals. I call on Costa Ricans to meditate, in order to answer questions such as these: what type of man does the Costa Rican aspire to be? What kind of education is required to shape such a human being? and what kind of social organization best fits with our history and traditions? For my part, I propose to the Costa Rican people that, without overlooking the broader world of which we form part and without repudiating the positive teachings left by other experiences, we orient our national activities starting from what we are, from our own idiosyncrasy, and that we build the country on our own cultural patrimony.

The main and the best resource our country has is the one offered by the human quality of her peasants—men and women—whether they are still engaged in agriculture or have emigrated to the cities. This resource must be protected, developing Costa Rican agriculture, offering farmers the possibility to improve their productivity as well as adequate access to the cultivation of the land, within an appropriate social organization and a complete network of material works and basic services which should include industrial facilities capable of transforming and preserving the produce, and manufacturing plants that will provide well-paid employment that will contribute to modernization.

Let this be one of our dominant tasks for the remainder of this century. Modern technology makes it possible to substantially improve the standard of living of small farmers. We, ourselves, have shown that this is possible, as witnessed by farm modernization in the Central Valley and the penetration of material civilization into the Northern Puntarenas and Guanacaste area, the South Pacific, the El General Valley and San Carlos—Sarapiqui. Let us ready ourselves to push forward the frontiers of material progress and of social services. Let us make sure that this material and institutional progress will be the basis for the advancement of our peasant class and that it will not rather serve to confirm its subjugation to the plantation system we want to overcome.

We must act with clear ideas, so that we can discriminate between what we wish to bring in from outside and what it is advisable to keep of that which we have. Of the gigantic scientific revolution that has occurred in our times in industrialized countries, let us utilize whatever can help us to improve. But let us not try—as others have deplorably done—to copy from those countries, modes of living that, since they are modeled on peculiar values and characteristics alien to our culture, might bring to our communities and to our homes a deterioration of values and of goals peculiar to our national being. Powerful and wealthy nations can give us a great deal in the field of science and of technology, but they cannot offer us a substitute for our way of life.

I insist that Costa Rican values must continue and must guide the great transformations that must be carried out. I do not want a Costa Rica of men and women guided by imported materialist criteria. We must prevent the urge for personal enrichment from destroying more important things that have been handed down to us by our history.

The great evils that assail our country are the result of a situation of reckless change in values which, drawing away from a proper balance between what must be kept and what must be discarded, rushes on like a torrent demolishing everything through the frustration, the impatience or bad faith of many. It is essential to stop that torrent if we do not want to lose the most valuable assets of our national heritage. Let us put a stop to public and private corruption, to drugs and prostitution. Let us put a stop to violence. This is all the result of the importation of false goals and of the inability of homes and schools to devote themselves to the great process of educating Costa Ricans at a time of crisis which is peculiar to the transition of our society.

The task cannot be achieved by the person in office alone, but by the entire country. Today we have paid homage to a national athlete, the young girl Maria del Milagro Paris, because in my opinion she is the symbol of what Costa Rica's youth should stand for: effort, sacrifice and patriotism. That is the School that must be formed, both by the parents in each home and by teachers in grade and high schools.

Let us not blame our social vices on young people who commit offenses; let us blame ourselves, as a generation, for not having given deep thought to what we used to have and to how we have changed, in order to realize that we have repudiated what was our own to implant modes of conduct that have warped our society.

There is still time. I call on every Costa Rican father and mother to join with the powers of the State and devote all of our efforts to one single goal: rescuing our national heritage.

People from other areas and from other countries give the impression of having discovered Costa Rica. They have come and they have shown us what we had. They attach great value to what we did not appreciate. Let us listen to them attentively and we will hear them speak of clean air; of crystal-clear water in our creeks, rivers and seas; of weather; of mountains, of valleys and of plains, and of the unpretentiousness of Costa Rican homes, where hospitality and human solidarity still prevail.

But there are other persons from those same countries and areas who come here and try to deceive us with false coins, to destroy what we have, disrespecting our laws, our environment and our culture. These persons—whether they are entrepreneurs, investors, diplomats, intellectuals, or simple tourists—will not be received.

On the contrary, those who wish to come with their families, to struggle side by side with us in our national crusade for preserving and improving what we have, will be welcome irrespective of race, religion or political beliefs. This is no invention of mine today. It is merely paraphrasing what our ancestors announced when they founded this republic.

The Costa Rican society of the future will be not only the result of economic and technological transformations, nor of our effort to preserve aspects of our culture that we consider to be important. It is also indispensable to renew and perfect the political system of our democracy.

All over the world it may be observed that the old ideas about representative democracy do not satisfy the needs of the times. New administrative and political thought has replaced the legal forms that our ancestors patiently discussed to organize the State. If this new thought is not adopted, the very survival of the democratic regime could well become seriously jeopardized. This has happened in countries in America and Europe.

I always cherished the idea of calling a National Constituent Assembly that, with care and without haste, would discuss the changes needed in our country, mainly in the field of State organization. Some groups opposed this idea: some of them for fear of losing economic privileges, others for fear of losing social advances.

It seems to me advisable to focus our attention this year on a study of the changes in the structure of the State and, if it is deemed advisable, all of the political groups could discuss the possibility of calling a Constituent Assembly, or of proceeding gradually to introduce partial amendments into our Constitution.

In the meantime, I have talked with the Magistrates of the Supreme Electoral Court in order that, with the least possible delay, we undertake a revision of our electoral system which is already outdated to handle the number of voters we have today. I believe that the present system is the result of a number of measures to prevent fraud, which have piled up to the point to represent, in many cases, powerful obstacles to the casting of votes. With the new technology and mechanization used in countries similar to ours, the electoral system must be revised to make it as easy as possible for citizens to cast their vote.

For many years, and as part of our ideas on the need for change, we have recognized that our prospects are inadequate if we remain isolated, and we have made efforts to expand the economic space for our country's development. We cannot foresee our development except in terms of Central America.

During the past weeks I have personally talked with the Heads of State and chief leaders of our sister countries and I can state today that the long struggle by sincere Central Americans is beginning to bear fruit. There is a yearning for peace between the countries at odds. The Presidents of Honduras and El Salvador recognize the urgency to consolidate an honorable peace, as a prior requisite to revise the economic integration of the Isthmus.

Great efforts are being made to bring together the Heads of State of Central America to hold talks and seek solutions. I harbor the most ardent hopes that we will be able to do this in Nicaragua before this month is over, to start the task of meeting frequently, without protocol or formalities, and face the task of saving the Central American economic community, in which we permanently include Panama.

The men who have worked toward these ideals in governments and in regional organizations have my sincere congratulations as a Central American, and my unstinted support for their ideals. Having kept our trade with Central America at levels that are quite high and continue to grow rapidly from year to year, is a national asset that we owe to these men in both the private and the public sector. I express my thanks to all the workers and entrepreneurs who, notwithstanding a fratricidal conflict already five years old, have kept Central America united in the ideals of development and change that are possible only with a regional outlook increasingly stronger and increasingly broad.

The lack of fairness in the system of international economic relations continues to be one of the main obstacles to greater success in our efforts toward change, transformation and progress. Costa Rica is going through its greatest social crisis in a quarter of a century. It had to be so. The structures on which the economic systems of the large countries after World War II had been built made them vulnerable. Food became scarce and oil became scarce, and the crisis began. But this time, the blow fell not only on the back of small peoples; the citizens of rich countries also felt on their own flesh the whip of scarcity and of inflation.

The United Nations Conference on Raw Materials and Development, the new Dialogue started in Tlatelolco and continued in Washington, and the latest meeting of the General Assembly of the OAS, mark the proper direction toward solidarity and international justice. Our position of support for the countries of OPEP, although it is costly to us, is based on the assurance that they will make common cause in our struggles, as the American chancellors did recently in Washington, when a badly informed group of North American workers opposed the aspirations of peoples that have made possible—to a lesser or greater extent—the well-being they enjoy.

This same feeling of solidarity compelled the Foreign Ministers of Latin America to proclaim in Bogotá, in Tlatelolco and in Washington, their support to the Republic of Panama in its struggle to reconquer its full sovereignty over the Canal Zone, and to negotiate with the United States a fairer Canal Treaty.

I wholeheartedly support the proposition made by President Carlos Andrés Pérez of Venezuela in his Inaugural Address when he stated: "it would be a great homage to the Fathers of Latin American Independence that this Panamanian claim could be achieved and celebrated on the next 7th of December, when we shall commemorate the 150th Anniversary of the Congress of Panama".

In this struggle, since 1950, Mr. José Figueres, the former President, has stood out more than anybody else. Costa Rica and the developing countries recognize that it was he who started the struggle for fair international prices, with his letter of that year to the FAO Conference in New Delhi.

The struggle has already taken a worldwide turn. Oil producers joined under OPEP and have shown their strength. Bauxite producers joined in Conakry and a struggle has started to organize and to improve international conditions and prices of aluminum. Next came coffee, cacao and sugar.

In New York, the countries of the third world managed to call a Special Meeting of the UNO to set up the bases for a fairer international economy. The Charter of the Economic Rights and Duties of the States, proposed by the President of Mexico, Lic. Luis Echeverria, continues to be our goal.

Ex-President José Figueres must continue in that struggle. As soon as I set up my Government, I will ask him to give a few more years to Costa Rica and to the world, in the struggle for an international system for justice and social improvement, the only basis on which worldwide peace can be built. As the Representative of the President of the Republic of Costa Rica, and by his own worth, Ex-President Figueres will be able to carry forward, at world forums and conferences, a banner that he has carried, with foresight and valor, for a quarter of a century.

The society of the future, the shaping of which will be a permanent effort of my Government, cannot be based on national efforts that will only serve a few, or that will consolidate unfair social systems. We have a long way to go to attain a harmonious development: man, land, capital and culture must go hand in hand, or the inequalities of growth will inevitably bring the explosions of change.

It is not fair that, in the Costa Rica of today, there should be a palace alongside of a shock. This is an invitation to those who have nothing, to take justice into their own hands. Costa Rica has no right to have palaces, nor is it fair that those who have a fortune through the efforts of all, should make aggressive ostentation of their opulence.

The entire political and fiscal system of the Nation must be aimed at having accumulated income reinvested so as to create more work and more wealth, and to pave the way for more and more Costa Ricans to attain the standard of living of a middle class. Let the wealthy class spend less on luxury and save more in order to invest more. Let the middle classes continue to progress, but let them refrain a little from the desire to copy the bad things of those who have greater incomes, and initate them in whatever is good. And let the working class continue to advance soundly, in field and city, as it has done for a quarter of a century. My Government assures now, and will continue to do so for the next four years, that it will stand by those who produce, suffering with them, feeling with them, struggling with them, to make each productive unit stronger. Enterprises large and small, large and small farmers, will know that there will be, at their side, public officers ready to serve them, and that if those officers fail to do so, there will be a President that will not allow any official to serve himself instead of those who need most to be served.

Costa Ricans, let us go together toward the Twenty-First Century. The Costa Rica of our children is what we make of it. Let us always turn our eyes toward our traditions, toward our history and toward our ancestors. Together with them, with their spirit, let us defend Costa Rica. Let it not be taken away from us. Let it not be harmed. Let it not be soiled. I need all of you. Alone I am weak to struggle. But with God's help and the support of all of you, we will give those who follow us in time an exemplary country, in the center of America, where people live in freedom, enjoy a marvelous nature, work for the well-being of everybody, and ceasely cultivate the best values of the spirit.

TAX CREDIT FOR PROPERTY TAX

Mr. MONTOYA. Mr. President, on May 6, 1974, I introduced a bill to replace the tax deduction for home mortgage interest and property tax with a tax credit for the same purpose.

Because interest in the tax credit proposal has been vigorous, I wish today to insert for the RECORD three tables on the subject prepared by Mr. Henry Schechter, senior specialist in housing at the Library of Congress. Mr. Schechter was aided in this project by his research assistant Mr. Richard Wellons.

Based on the statistics of income for individuals in 1970, the charts show estimates of: First, the average amounts of tax benefit homeowners presently receive; second, for units built from 1960–1969, the average tax credit and government cost in this proposal based on the credit given during the 5th taxable year—calculated on the assumption that the average age for homes in each income class is 5 years, which was about the average age in 1970 of homes built in 1960–1969; third, for units built prior to 1960, the average tax credit and government cost based on the 11th taxable year.

These charts make clear the increased benefits to most homeowners, and the new, middle- and low-income buying power which would result from a substantial tax credit. I offer this information for the benefit of my colleagues. I hope it will also aid anyone else who wishes to study the tax credit concept.

I ask unanimous consent that the three tables be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE 1.—HOME MORTGAGE RATE DEDUCTIONS PLUS REAL ESTATE TAX DEDUCTIONS FROM FEDERAL INCOME TAXES—1970

Size of adjusted gross income	Real estate taxes—Number of returns		Deduction—Amounts		Average amount (3÷1) (5)	Marginal tax rate (percent) (6)	Estimated value of tax benefit (5×6) (7)
	Number (1)	Percent of total (2)	Real estate amount plus interest amount (3)	Percent of total (4)			
All returns, total	26, 088, 121	100. 0	$25, 358, 209, 000	100. 00	972. 02		
$1 under $1,000	28, 517	.1	23, 087, 000	.09	809. 58	0. 1416	114. 63
$1,000 under $2,000	113, 082	.4	62, 453, 000	.25	552. 28	.1416	78. 20
$2,000 under $3,000	399, 558	1. 5	221, 745, 000	.87	554. 97	.1416	78. 58
$3,000 under $4,000	812, 068	3. 1	415, 000, 000	1. 64	511. 04	.1658	84. 73
$4,000 under $5,000	1, 015, 112	3. 9	564, 392, 000	2. 23	555. 98	.1658	92. 18
$5,000 under $6,000	1, 130, 170	4. 3	678, 198, 000	2. 67	600. 08	.1751	105. 07
$6,000 under $7,000	1, 248, 095	4. 8	818, 666, 000	3. 23	655. 93	.1751	114. 85
$7,000 under $8,000	1, 512, 490	5. 8	1, 052, 127, 000	4. 15	695. 62	.1971	137. 10
$8,000 under $9,000	1, 764, 724	6. 8	1, 312, 591, 000	5. 18	743. 79	.1971	146. 60
$9,000 under $10,000	1, 924, 834	7. 4	1, 540, 450, 000	6. 07	800. 30	.1971	157. 73
$10,000 under $11,000	1, 943, 331	7. 4	1, 686, 352, 000	6. 66	867. 76	.2082	180. 66
$11,000 under $12,000	1, 893, 894	7. 3	1, 714, 295, 000	6. 77	905. 16	.2082	188. 45
$12,000 under $13,000	1, 724, 688	6. 6	1, 639, 024, 000	6. 47	950. 33	.2082	197. 85
$13,000 under $14,000	1, 582, 714	6. 0	1, 590, 346, 000	6. 27	1, 004. 82	.2082	209. 20
$14,000 under $15,000	1, 421, 300	5. 4	1, 468, 191, 000	5. 79	1, 032. 99	.2082	215. 06
$15,000 under $20,000	4, 192, 670	16. 0	4, 878, 012, 000	19. 24	1, 163. 46	.2367	275. 39
$20,000 under $25,000	1, 564, 855	6. 0	2, 199, 865, 000	8. 68	1, 405. 79	.3164	444. 79
$25,000 under $30,000	646, 790	2. 5	1, 052, 294, 000	4. 15	1, 626. 94	.3164	514. 76
$30,000 under $50,000	788, 265	3. 0	1, 447, 172, 000	5. 71	1, 835. 89	.3164	580. 87
$50,000 under $100,000	311, 147	1. 2	728, 031, 000	2. 87	2, 339. 82	.5112	1, 196. 12
$100,000 under $200,000	56, 058	.2	181, 625, 000	.72	3, 239. 94	.5915	1, 916. 42
$200,000 under $500,000	11, 553	.04	59, 827, 000	.24	5, 178. 48	.5915	3, 063. 07
$500,000 under $1,000,000	1, 606	.006	14, 129, 000	.06	8, 797. 63	.5915	5, 203. 80
$1,000,000 or more	600	.002	10, 337, 000	.04	17, 228. 33	.5915	10, 190. 55

Source: "Individual Income Tax Returns—Statistics of Income, 1970," Department of the Treasury, Internal Revenue Service, publication 79 (October 1972), table 38, p. 123 for col. 1, table 38 and table 40, p. 125 for col. 3.

TABLE 2.—FOR UNITS BUILT 1960-69—ESTIMATED TAX CREDIT AND GOVERNMENT COST BASED ON THE 5TH TAXABLE YEAR AT 46 PERCENT AND $1,100 LIMITATION

Gross income	Number of returns[1] (1)	Percent (2)	Average amount of deduction (3)	Estimated value of deduction—tax benefit (4)	Estimated average tax credit (5)	Tax gain or loss (−) for average taxpayer (5-4) (6)	Aggregate gain (6×1) (7)
All returns (total)	9, 400, 000	100. 00	$972. 02				
$5,000 under $6,000	447, 440	4. 76	600. 00	$105. 07	$276. 04	$170. 97	$76, 498, 816
$6,000 under $7,000	494, 440	5. 26	655. 93	114. 85	301. 73	186. 88	92, 400, 947
$7,000 under $8,000	598, 780	6. 37	695. 62	137. 10	319. 99	182. 09	109, [illegible]31, 850
$8,000 under $9,000	698, 420	7. 43	743. 79	146. 60	342. 14	195. 54	136, 569, 046
$9,000 under $10,000	762, 340	8. 11	800. 30	157. 73	368. 14	210. 41	160, 403, 959
$10,000 under $11,000	769, 860	8. 19	867. 76	180. 66	399. 17	218. 51	168, 222, 108
$11,000 under $12,000	750, 120	7. 98	905. 16	188. 45	416. 37	227. 92	170, 967, 350
$12,000 under $13,000	683, 380	7. 27	950, 33	197. 85	437. 15	239. 30	163, 532, 834
$13,000 under $14,000	626, 980	6. 67	1, 004. 82	209. 20	462. 22	253. 02	158, 638, 479
$14,000 under $15,000	563, 060	5. 99	1, 032. 99	215. 06	475. 18	260. 12	146, 463, 167

TABLE 2.—FOR UNITS BUILT 1960-69—ESTIMATED TAX CREDIT AND GOVERNMENT COST BASED ON THE 5TH TAXABLE YEAR AT 46 PERCENT AND $1,100 LIMITATION—Continued

Gross income	Number of returns[1] (1)	Percent (2)	Average amount of deduction (3)	Estimated value of deduction—tax benefit (4)	Estimated average tax credit (5)	Tax gain or loss (−) for average taxpayer (5-4) (6)	Aggregate gain (6×1) (7)
$15,000 under $20,000	1, 660, 980	17. 67	$1, 163. 46	$275. 39	$535. 19	$259. 80	$431, 522, 604
$20,000 under $25,000	619, 460	6. 59	1, 405. 79	444. 79	646. 66	201. 87	125, 050, 390
$25,000 under $30,000	255, 680	2. 72	1, 626, 94	514. 76	748. 39	233. 65	59, 734, 518
$30,000 under $50,000	312, 080	3. 32	1, 835. 89	580. 87	844. 51	263. 64	82, 276, 771
Subtotal							2, 081, 312, 839
50,000 under 100,000	123, 140	1. 31	2, 339. 82	1, 196. 12	1, 076. 32	—119. 80	—14, 752, 172
$100,000 under $200,000	21, 620	. 23	3, 239. 94	1, 916. 42	1, 100. 00	—816. 42	—17, 651, 000
$200,000 under $500,000	3, 760	. 04	5, 178. 48	3, 063. 07	1, 100. 00	—1, 963. 07	—7, 381, 143
$500,000 under $1,000,000	629	. 0067	8, 797. 63	5, 203. 80	1, 100. 00	—4, 103. 80	—2, 581, 290
$1,000,000 or more	235	. 0025	17, 228. 33	10, 190. 55	1, 100. 00	—9, 090. 55	—2, 136, 279
Subtotal							—44, 501, 884
Total							2, 036, 810, 955
Plus							101, 840, 547
Total 1970 estimated cost of such a tax credit to the Government is adjusted upward by 5 percent to account for the net increase in homes since 1970							

[1] Of the 26,088,000 homes in 1970, 9,400,000 were 10 yrs or less old, with an average age of 5 yr. Calculations for table 2 are based on the assumption that all of the 9,400,000 were owned by households distributed among $5,000 and above income classes in the same relative distribution as for all homeowners with $5,000 and above income. Taking deductions, and the average amount of deduction was the same for each income class. On the assumption that the average age for homes in each income class is 5 yr. The applicable percentage in 46 percent with a $1,000 limitation.

Source: Data in cols. 3 and 4 from table 1, cols. 5 and 7, with calculations as indicated. Data in col. 1 for 1- and 2-family units built 1960-69 from "Housing Starts," Construction Report, Bureau of the Census, Department of Commerce.

TABLE 3.—FOR UNITS BUILT PRIOR TO 1960—ESTIMATED TAX CREDIT AND GOVERNMENT COST BASED ON THE 11TH TAXABLE YEAR AT 40 PERCENT AND $500 LIMITATION

Size of adjusted gross income	Number of returns[1]		Average amount of deduction	Estimated value of deduction—tax benefit	Estimated average tax credit	Tax gain or loss (−) for average taxpayer (5−4)	Aggregate gain (6×1)
	Number (1)	Percent (2)	(3)	(4)	(5)	(6)	(7)
All returns, total	14, 327, 380	100. 00					
$5,000 under $6,000	682, 750	4. 76	$600. 00	$105. 07	$240. 03	$134. 96	$92, 141, 241
$6,000 under $7,000	753, 655	5. 26	655. 93	114. 85	262. 37	147. 52	111, 179, 186
$7,000 under $8,000	913, 710	6. 37	695. 62	137. 10	278. 25	141. 15	128, 970, 167
$8,000 under $9,000	1, 066, 304	7. 44	743. 79	146. 60	297. 52	150. 92	160, 926, 600
$9,000 under $10,000	1, 162, 494	8. 11	800. 30	157. 73	320. 12	162. 39	188, 777, 400
$10,000 under $11,000	1, 173, 471	8. 19	867. 76	180. 66	347. 10	166. 44	195, 312, 513
$11,000 under $12,000	1, 143, 774	7. 98	905. 16	188. 45	362. 06	173. 61	198, 570, 604
$12,000 under $13,000	1, 041, 308	7. 27	950. 33	197. 85	380. 13	182. 28	189, 809, 622
$13,000 under $14,000	955, 734	6. 67	1, 004. 82	209. 20	401. 93	192. 73	184, 198, 614
$14,000 under $15,000	858, 240	5. 99	1, 032. 99	215. 06	413. 20	198. 14	170, 051, 674
$15,000 under $20,000	2, 531, 690	17. 67	1, 163. 46	275. 39	465. 38	189. 99	480, 995, 783
$20,000 under $25,000	945, 395	6. 59	1, 405. 79	444. 79	500. 00	55. 21	52, 195, 258
Subtotal							2, 153, 128, 662
$25,000 under $30,000	391, 110	2. 72	1, 626. 94	514. 76	500. 00	—14. 76	—5, 772, 783
$30,000 under $50,000	476, 185	3. 32	1, 835. 89	580. 87	500. 00	—80. 87	—38, 509, 061
$50,000 under $100,000	188, 007	1. 31	2, 339. 82	1, 196. 12	500. 00	—696. 12	—130, 875, 433
$100,000 under $200,000	34, 438	. 24	3, 239. 94	1, 916. 42	500. 00	—1, 416. 42	—48, 778, 672
$200,000 under $500,000	7, 793	. 05	5, 178. 48	3, 063. 07	500. 00	—2, 563. 07	—19, 974, 004
$500,000 under $1,000,000	977	. 0068	8, 797. 63	5, 203. 80	500. 00	—4, 703. 80	—4, 595, 613
$1,000,000 or more	365	. 0025	17, 228. 33	10, 190. 55	500. 00	—9, 690. 55	—3, 537, 051
Subtotal							—252, 042, 637
Total							1, 901, 086, 025
Plus							95, 054, 301
Total cost to Government adjusted upward by 5 percent to account for net increase in homes							1, 996, 140, 326
Plus							2, 138, 651, 502
Total cost of such tax credit to Government, adjusted upward by 5 percent (equal to total for units built 1960–69 plus total for units built prior to 1960)							4, 134, 791, 828

[1] Number of returns is equal to all returns in table 1 minus those in table 2 for each income class. All deductions subject to 11th taxable year percentage of 40 percent and $500 limitation.

Source: Data from tables 1 and 2, and calculated as indicated.

THE GREAT AMERICAN GENERATION

Mr. BELLMON. Mr. President, last Saturday night President Nixon delivered the commencement address at Oklahoma State University. Four thousand graduates and their 30,000 guests heard the President describe his vision of the part these graduates can play in making this "The Great American Generation" between now and the year 2000.

Mr. President, our President spoke at a time of great stress for his administration. He spoke at a time of great clamor over the Watergate scandal which has besmirched his record and his accomplishments which are many.

It is noteworthy that the President's remarks and presence were warmly and courteously received in Oklahoma. It made me especially proud to be an Okahoman.

But, this reception was more than hospitality. It should show to all who have come to doubt it that there is still great affection in the hearts of his countrymen for both the office and the man.

Unfortunately, because of the preoccupation of the media with a few comments the President made on the Watergate situation, in deference to the nonpolitical character of the occasion, not many people outside the OSU Stadium have had the opportunity to give his remarks the attention and reflection they deserve.

Mr. President, I ask unanimous consent that the President's remarks be printed in full in the RECORD in the hope that many of his fellow citizens will read them in full and ponder their significance and meaning in their lives. I think we can all join sincerely in the President's hope that this will be a "Great American Generation."

There being no objection, the address was ordered to be printed in the RECORD, as follows:

REMARKS OF THE PRESIDENT, AT COMMENCEMENT EXERCISES, OKLAHOMA STATE UNIVERSITY, LEWIS FIELD

Dr Kamm, all of the distinguished guests on the platform, all of the distinguished members of the faculty, and particularly, of course, the most distinguished people here of all, those who are to receive degrees, both graduate and undergraduate, and your friends and those who have made it possible for you to be here today:

Let me say, Dr. Kamm, that I am most grateful for the invitation that was extended to me to come to this University. My good friend, Senator Henry Bellmon, said that this school had had once a tradition of noncontroversial speakers. Well, now you have changed it tonight. (Laughter)

And in the great tradition of an educational institution, I am very happy that there are some here who obviously disapprove of the speaker and there are others who approve of the speaker.

And all of you, of course, are welcome and my remarks will be directed to all of you in the sense that I know you will receive them, of what this day means to those who are receiving their degrees from one of America's greatest educational institutions.

I would like to say, first, however, before getting into the more serious parts of my remarks, that I am very happy to be standing here at this particular spot. As some of you probably have heard, I am somewhat of a sports fan and as some of you probably know, the university that is best known from Oklahoma in football is not the Cowboys, but the Sooners.

On the other hand, I am aware of the whole realm of sports, and I am aware of the fact that, except for my wife's alma mater, the University of Southern California, the university in all the United States that has won more national championships across the board is OSU. So congratulations. I know you are very good at wrestling. I could learn a little from you at that, too.

Let me say, too, that when I spoke of the fact that I was somewhat of a sportsman, I was one of those who spent virtually all of my time on the bench, and to be in the middle of the field is really an unusual experience, and I thank you for that, too. (Laughter)

On this particular day, I also want to pay tribute not only to the graduates to whom my remarks will be addressed primarily, but as already has been done so eloquently in the invocation, and also by Dr. Kamm, to those who taught them and to their parents and others who made it possible to get their education, and I can say to you who are graduating today, as the years go by, each year you will appreciate more the sacrifices of your parents who made it possible for you to get an education that they may not have received. I have always felt that way. And as the years go by, you will appreciate more the dedication of those who taught you and, as a matter of fact, strangely enough, you will probably appreciate the most those who graded you the hardest, because they are the ones who made you toe the line.

And so, to the faculty and to the parents, and all those who made it possible for this great day of achievement, the congratulations not only of this great audience here go, but of the whole Nation, for producing 4,000 fine young men and women to go forth in the service of their communities, of their States and the Nation and, as I will point out, also of the entire human race.

On an occasion like this, it is, of course, customary to talk, as we should, about the future. It is, however, on an occasion like this, certainly not appropriate to disregard problems of the present. I know, for example, from talking to both of your two great Senators and to the two Congressmen who are here, John Jarman and Happy Camp, and Senator Bartlett and Senator Bellmon, that farmers in Oklahoma, like farmers in the other places, are concerned by the effect of the energy crisis on them, the shortages in fertilizers and other areas.

I know that the cattlemen, for example, are concerned in Oklahoma, as they are in other parts of the country, because after two very good years they have a tough year this year because of a tough price squeeze. I know, too, that every housewife or budget keeper, should we say, is concerned about the problem of inflation, which is not limited to America. It is worldwide, as you know, but that makes it no less a difficult problem, or one that we should be less concerned by the fact that it is others, as well our own, and I know, too, that those who are interested in our country have been concerned, as I have been deeply concerned, by the political problems that we have had in Washington.

I can only say on this nonpolitical occasion this: That having presented all of the evidence to the Congress of the United States, I trust that the House of Representatives will act promptly so that we can reach a decision so that the President, the Congress, can get on with the people's business, as we should.

And having spoken of those problems, let me also remind ourselves of some of those things on this magnificent evening we can be thankful for. We can be thankful for the first time in 12 years the United States is at peace with every nation in the world.

We can be thankful that for the first time in eight years, every American prisoner of war is home where he belongs and that he came home on his feet and not on his knees.

And most of all—and I say this not only to those in the graduating class, but to the juniors and sophomores and the freshmen, and I trust the generation to come—we can be thankful for that for the first time in 25 years no young American is being drafted to serve in the Armed Forces of the United States.

As we look at our economic situation, we see its problems. But just a few weeks ago in Paris, I talked to the leaders of 35 nations, the great nations of Europe and of Asia, and some of the smaller nations of Latin America and Africa. I talked to them of their problems and we talked of ours. And today, on this beautiful evening, we can also be thankful that whatever our problems are, that in America, Americans enjoy more freedom, more opportunity, better jobs, higher wages, and a greater chance for a great future than in any place in the world.

That is America. This is a great and a good country. But we must go from here to more greatness. As you study history, you will inevitably find that the time of a nation's potential destruction is not when it is weak, but when it is strong, or appears to be; not when it is poor, but when it is rich. Because what happens inevitably is a certain complacence, a certain softness that erodes the strength and the fiber that made the Nation the great Nation that it was.

In two years, the United States will reach that period of 200 years old and already, there are those who look at America and wonder: Will we be rich, as we will be? Will we be strong, as we will be? But most important, will America still have the sense of vision, the sense of destiny, the sense of character and drive and determination that brought us across the mountains, across the prairies, and made us the great and strong Nation that we are? That is the question.

And it is a question that is very important to Americans. But it is also important to all the people who live on this earth today.

Dr. Kamm was telling me that this University proudly has in its graduating class representatives from over 40 countries abroad, as well as representatives from 47 States. So, this is truly a university in the true sense of universal, and therefore, as I lay before you the challenges of the future, whether America has seen its great period, or whether the next 200 years may be greater, as I lay those great challenges out, you will see that they are not just America's challenges, but they are those in which what America does will contribute to the benefit of all the people in the world.

I start with one that is very timely, and that is the problem of energy. And on that problem, those in this university have special skills and knowledge far beyond my own, but I do know this: That America consumes approximately 35 percent of the energy in the world.

I know, too, however, that America is blessed with great natural resources and great human and technological skills which makes it possible for this Nation—one of the few nations in the world, incidentally, of the industrial nations—to set a goal which it can achieve, a goal of being completely independent in terms of its energy needs.

Let me tell you why we should have that. In September and October and November of last year we went through a great crisis. It rebounded throughout our entire economy. It hurt all sectors of it in various ways. We are just recovering from it.

We want good relations with all nations in the world. But if the United States has the resources to become independent of any other nation for our energy, let's do it, and we can do it and we shall do it by the year 1980. Now, what does that require? It requires the development of our oil and gas resources, and some action by the Congress that will allow their full development. It requires the development of our coal resources, in which we have two-thirds of all the known coal resources in the free world. We have not used them adequately because of environmental problems and other problems recently, but it is possible not only to extract coal, but to use coal and to make it a clean fuel, and if we do so, that can help make America self-sufficient in energy, and that is why we should move on that front.

And third, in areas little dreamed of 15, 20 years ago—nuclear power, which can be the cleanest and the safest of all power; solar energy, far out perhaps in terms of what the science and arts would now seem to suggest, but certainly possible—what I am simply saying to this graduating class is that we have a goal. That goal is, by the year 1980, to be independent in energy. It is going to take the cooperation of Government. It is going to take your technological and other abilities to the extent that you work in these various areas, but it is a goal worth achieving. It will help us, and it will help other nations as well.

To put it in its proper context, let us understand what the mix is in terms of who does what. The Federal Government has a great role to play in this respect. We will be spending approximately $15 billion in research in the field of energy over the next three to four years. That is a very large amount of money. On the other hand, over the next ten years private enterprise will be spending $500 billion, a half a trillion dollares, to achieve the goal that I am referring to.

And it allows me to make this point: America became what we are—we became rich and productive and strong—not because of what Government did, but because of what people did, and it is people in our private capacities. That is what counts. You are the ones who are going to make America move forward in this [illegible] in all the other areas as well.

And now to a second great challenge for this splendid generation of Americans, and I refer to the challenge of food. We are blessed richly in America in this respect. I know that many who write me about the cost of living speak about high grocery bills, and yet even at their highest, due to the productivity of America's farmers, due to the fact that they have been able to produce more with less people, today the American housewife pays a smaller percentage of her budget for food than does any housewife in the world.

That is to the credit of America's farmers. It is to the credit of our distribution system. It does not mean that we perhaps cannot do better over a long period of time in bringing those prices within those realms that everyone feels that he or she can afford, but what I do say is this: This is no time for jingoism as to who is Number 1 or Number 2 on this or that or the other between countries, but there is one area where America is by all odds Number 1, and that is in agriculture.

And looking to the future, the fact that America is so productive in agriculture that we produce enough to feed all of the American people, to clothe the American people, and to provide billions of dollars in aid, as well as in sales to countries abroad, that is a great instrument for peace in the world, and we are using it for peace as well as for humanity. So those who are in this field of American agriculture deserve the thanks of the Nation, and this university has played, I know, a very great role in that respect.

When I think, too, of one of your former presidents, Dr. Bennett, the first director of Point IV, I think of another area in which American agriculture can play a role in dealing with the problem of hunger for the whole world. In a visit to Brazil in 1967, I was talking to the then President. Northern Brazil at that time was one of the poorest areas of the world. It is still very poor. I have seen poverty in many places—in India, in Bolivia, in Brazil, in China—and I can tell you that as you look at the hungry faces, it doesn't make any difference what the political philosophy may be of those who rule them. When you see the hungry children, it make no difference about what the attitudes of their leaders may be.

It is a problem. Your heart goes to them. And America, to its credit, has always been very, very generous in providing from our *surplus for their* needs. But now what has happened? The world is producing a little more. The demands are becoming greater. And as a result, we find that we face a potential situation with regard to food, a shortage not only in America but in the world.

I come back to my conversation with the President of Brazil, and what America can do there and in many other places. You have heard of the miracle rice and the miracle wheat, what it has done, for example, in Latin America in the one instance, and in the case of rice, in Southeast Asia, in alleviating hunger by increasing production.

But there is another phase. It is not just in teaching farmers how to plant, but it is the whole process of not only producing food, but distributing it. And in Brazil, for example, the President told me that over one-half of everything grown on the farms in Brazil spoiled on the way from farm to market.

That is one country. I could repeat that for others, for India, certainly for China, for many others around the world.

What can America do about it? I am not suggesting that we export our farmers, but I am suggesting that American know-how, American technology, in this area is a place where we, we can do something not only for ourselves but for others as well.

And that is why the World Food Conference which we have helped to initiate this November is a great enterprise and one that this young generation, I trust, those in this field, will follow through on in the years ahead. Because even though it may not be very close at home to you, think of those people, as my wife and I have seen them, in virtually every country of the world. When a person is hungry, when a person is poor, we cannot have a world that will live in safety if that situation is not remedied. It can be remedied and we can help and you have already helped.

The third area that I want to speak of where we have a great challenge is in the field of health. I understand from Dr. Kamm you do not have a school of medicine, but you have many who will, of course, be involved in the various medical arts in one way or another, and all of you, of course, will have an interest, I am sure, in this area.

But here what we have now before us in an achievement that Americans have dreamed about but have never been able to achieve before, a program in which every American will have health insurance if he needs it; where every American will have protection against catastrophic illness where he needs it or wants it, and where this can be accomplished without additional taxes, and most important, where it is accomplished not by destroying the existing private medical system which has given us the best health care in the world, but by building on it. Because I say to you, let us remember when an individual is sick, I think he prefers to have a doctor who is working for the patient rather than for the Federal Government, and that is what this program is all about.

The fourth area is related to the third in a very interesting way. You hear of the great hostility, and there is hostility at times in the philosophy of the United States and that of the great super power, the Soviet Union, and the super power of the future, the People's Republic of China. And you wonder what areas are there where our interests do not collide? What areas are there where our interests are together? And there are many.

They do not receive the attention that they should. The joint project, for example, of the United States and the Soviet Union exploring space peacefully; the joint programs that we have developed with the Soviet Union and some also with the People's Republic of China, in the field of the environment where we share what we learn with them and they with us. And the joint programs, for example, that we have, and I mention this particularly, in the field of health.

I found that in my talks with Mr. Brezhnev, and with Mr. Chou En-lai and Mr. Mao Tse-tung, each in individual conversations emphasized the need, whatever differences in philosophies that we have, that the scientists and the medical technicians and doctors of the world should have no disagreement about working together against the diseases which are the scourges of mankind.

Just to recount to the younger members of this graduating class how much has happened in so few years, it is hard to realize that the man who served longest as President of the United States—12 years—was crippled with polio, because that was before the days of television and we did not think about it. He served well. But it is also well for us to realize that today, he would not have had polio.

We all think of this in permanent terms. And I remember in our own family, 45 years ago, two brothers—one younger, one older died of tuberculosis within two years of each other. Today, that would not happen; not in my family or in yours, because they have found the virus and they can kill it.

And that is why we have mounted within the Government of the United States a great program to find the cure, or a number of cures, and it may be a number, for different types of cancer. That is why we have mounted programs, also, in the field of heart disease and many other areas. Oh, I do not mean to suggest that we are looking forward to a time when there will be no diseases and when men and women live forever, but I am saying this: That what we do here in the United States will be great in the years ahead, because of the effort that we are putting in, but I also know that in the Soviet Union—and I have seen their hospitals there—and in the People's Republic of China where one-fourth of the ablest people in the world live, that there are doctors, there are people—men and women of genius—and if there is a way that the genius that they have and the genius that we have, or that some other people, whether they are in Europe or Latin America or Southeast Asia, has, where those two types of genius can run together we may get that spark that otherwise might not occur if we live in isolation.

And that is why I say what a great time for a new generation to think that you live in an open world; that you live in a world where we are not isolated from one-fourth of all the people in the world; that you live in a world where we still have differences that we are attempting to negotiate rather than to fight about; but that you live in a world where you can look forward to working with other people whoever they are, whatever the color of their skins, whatever their background, whatever their political philosophy, but to work with them and not against them in those common causes of a better environment, a healthier world, a better world. This is a great goal.

And I say to you tonight that on this goal you have often heard me speak of the need for us to work for what is called the generation of peace. That is stating it in much, it seems to me, too inadequate terms, although it would be more than we have had in this century, because Americans fought World War I, and thought it was the last. And then came World War II for the sons of those of World War I. And after World War II, and the United Nations and all the great hopes, we thought, "Now a period of peace." And the younger brothers of World War II were killed in Korea. And after Korea came Vietnam and the sons of those who fought in World War II and Korea, or their younger brothers, lost their lives there.

And now what? It is not enough to end wars. What we must do is to build a new structure of peace in the world, and that requires something that America, and America only, must play a leading—and in the free world the leading—role.

Because today, as distinguished from the period before World War I and World War II, we cannot look across the seas to Europe and say, "Oh, the British can do it, or the French can hold the line." There is no other nation in the free world that has the strength militarily, that has the productivity economically, that can provide the leadership role that America is providing today in negotiating a reduction of nuclear arms with the Soviet Union; in opening a dialogue with the People's Republic of China: in attempting to find, in one of the most diplomatic ventures of all time, in attempting to find a way in which peace can be brought to the cradle of civilization, the cradle of civilization and the religious—of the many—religions—in the Mideast, which could well be equated as the Balkans of the 1970s, unless we do something about it and do something now.

I do not suggest to this audience where you particularly, in your schools of arts and sciences, have concentrated on these subjects, that the way to peace is easy and I would never suggest that once you get peace, you have it, because peace is a continuing process, it is never an end.

But the United States today has the unique position, because of our strength, because of our wealth, because we are respected, becase it is known throughout the world that we seek domination over no other country, that we will not use our power to destroy peace any place or to destroy freedom, only to defend it. Because of these factors, America now has a chance, a chance that may never come again, to play the role of peacemaker in the world, and the question is, will we meet the challenge?

And the answer is not just in Government, not just in the present leaders, the answer is in all the great mass of the American people, whether a nation that has sacrificed so much is willing now still to play a world role, whether a nation like America, which is so rich, still has the strength, the vision, the sense of destiny to play that role.

To the members of the graduating class, I think you have it. To the members of the graduating class, I want you to know that in 25 years, plus one, they are going to be celebrating a new year. Most of us will not be around, but you will. It comes once in a thousand years. And on that new year you will look back to this day and then you will judge your generation.

Let me tell you what I think you will be able to say. Yours was the generation that was there, that had the strength and stamina to see that America played a responsible role so that we do have peace in the world for a generation. Yours was the generation that helped America become self-sufficient in energy, that helped America to develop the food resources for ourselves and other nations so that the level as far as people's abilities for nutrition is concerned was raised not only for ourselves but for all people. Yours was the generation during which great strides were made forward in terms of fighting the scourges of disease wherever they existed throughout the world. And most of all, that yours was the generation, a generation that asked questions, a generation not afraid of controversy, but a generation that when the chips were down was strong, in the right, believed in what we were doing.

I say to you, when the year 2000 comes, I am confident that the members of the class of 1974 of Oklahoma State University will look back and say: Yes, we met the test. Ours was the great American generation.

BUSINESS WEEK AND COAL DEVELOPMENT

Mr. MANSFIELD. Mr. President, in my continuing effort to keep my colleagues here in the Senate informed on issues surrounding the development of vast coal deposits in the West, I would like to direct your attention to the current issue of Business Week, May 11, 1974, which contains yet another interesting feature on the development of low sulfur coal deposits in the West.

This article analyzes the more recent controversy associated with the move of coal company interests from the East to the West. The new concentration on the coal resources of the Northern Great Plains is likely to have less than a happy influence on the existing coal industry in the Eastern half of the Nation.

Interestingly, the Business Week article examines another aspect of the current move toward surface mining of coal in the West. It is pointed out that most western coal will not be mined in large quantities until the 1980's. According to present projections, the 1980's are when we anticipate that technology for purging sulfur oxides from utility stacks will probably be successful. This will enable utilities to burn the vast high sulfur reserves in the East. The question then arises, why look to the West for coal deposits, especially when this is a development which is not eagerly anticipated by many residents of the Great Plains. The article explores this aspect giving some interesting observations.

Mr. President, I ask unanimous consent to have the Business Week article entitled "The Coal Industry's Controversial Move West" printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE COAL INDUSTRY'S CONTROVERSIAL MOVE WEST

Half of America's coal now comes from strip mines, and every week giant power shovels strip another 1,200 acres of land. Less than half the mined-out land has been adequately restored, and the scars of stripping still deface some two-million acres—roughly the size of Delaware and Rhode Island. So last fall, the Senate overwhelmingly passed a tough bill to regulate reclamation.

Then, just as the House began action on a similar bill, the Arabs launched their oil embargo, plunging the nation into energy chaos and strengthening the hand of the coal companies that eagerly want to expand strip mining in the West. As a result, the House bill has been tied up as environmental and industry lobbyists haggle over such technical matters as land contour, spoil banks, and revegetation.

But underlying the strip-mining fight is a much broader question of regional energy development: Should the U.S. concentrate its coal programs in the deep mines of Appalachia or in the Western plains, from Montana to New Mexico? The answer will set the growth patterns of the nation's major energy suppliers for years to come, decide the fate of the coal-dependent Appalachian economy, and determine the environmental quality and economic development of the West.

VIEWPOINTS

On one side are the environmentalists, led by the Environmental Policy Center, who claim that since Eastern deep mines contain 40% of the nation's vast coal reserves (table), the U.S. can have all the coal it needs without stripping the Western plains. They are backed by the United Mine Workers, which fears job losses in Appalachia if the coal industry continues its westward flight, and by some Western ranchers and farmers, who worry that strip mining will ruin their land and disrupt their rural life. These forces have coalesced behind a Senate-passed amendment, introduced by Senator Mike Mansfield (D-Mont.), that bans strip mining on all private land for which the federal government owns the mineral rights—roughly 35% of Western surface reserves.

On the other side are the coal companies that see a new frontier in the West, free of the high-cost mines of Appalachia, free of the health and safety problems of deep mining, and free of the militant demands of the strike-prone UMW. They are supported by some Westerners who expect an economic bonanza if the region's resources are developed. But their chief allies are unquestionably the electric utilities, which desperately need assured sources of low-sulfur coal. Pressed to meet air quality standards and convinced that the technology to purge the sulfur from dirtier Eastern coal is unproven and costly, the utilities are eying and buying the West's low-sulfur coal. Says Carl E. Bagge, president of the National Coal Assn.: "The coal reserves of the Northern Great Plains are a vital part of the fuel resource base necessary for both energy growth and national self-sufficiency."

UNITED STATES HAS PLENTY OF COAL, BUT MOST LOW-SULFUR COAL IS IN THE WEST

[In billions of tons]

	United States	West[1]	East
Recoverable reserves, underground	293	125	168
Recoverable reserves, surface	135	100	35
Total	428	225	203
Recoverable reserves, 1 percent sulfur or less	105	75	30

[1] West of the Mississippi River.

Source: Bureau of Mines.

The debate is more than academic, for the industry is already trekking West, like an eager prospector in Gold Rush days. Western coal, most of it strip-mined, now accounts for more than 10% of the 600-million tons of coal the U.S. produces annually, up from 5% in 1966. In Wyoming, for instance, coal production has jumped from three-million tons in 1968 to 14-million tons last year and may reach 40-million tons by 1980 and 100-million tons by 2000. Meanwhile, production in West Virginia has fallen from 145-million tons in 1968 to 115-million tons last year and may drop further. In all, says a study by the Atomic Energy Commission, Western strip-mined coal will provide 55% of the 1.8-billion tons of coal produced in the U.S. by 1985.

So eager are the utilities to buy low-sulfur Western coal that they are paying big premiums to haul it East. Detroit Edison Co., for example, has signed a 26-year contract with Decker Coal Co. for 180-million tons of Montana coal. The coal will cost $1 billion but transportation costs will reach $2 billion. Similarly, American Electric Power Co., with power plants in Appalachia and the Midwest, recently signed a 30-year contract with Carter Oil Co., a division of Exxon, for more than 150-million tons of Wyoming coal that will be shipped to two plants on the Ohio River. The coal will cost about $12 a ton initially ($9 of it for transportation), and its sulfur content is 0.4%. "We would rather burn Illinois coal," sighs Paul D. Martinka, AEP's senior vice-president for fuel supply, "but we can't get anything less than 2½% to 3% sulfur."

The sulfur problem is critical because the standards set under the Clean Air Act start taking effect in July, 1975. And since some states have tightened standards even more than the act requires, 200-million tons of coal now mined will be unusable, according to Thomas Falkie, director of the Bureau of Mines. Falkie and others want the states, such as Ohio, to relax their standards to federal levels. Otherwise, he says, "the Eastern coal industry could be in trouble."

THE MOVE

But the quest for low-sulfur fuel does not fully explain the move west. For one thing, not all Eastern coal is high in sulfur. "Appalachian deposits contain an estimated 28% of the U.S. demonstrated reserves of low-sulfur coal," Falkie says. For another, Western coal is low in heat value, averaging 9,000 Btu per lb., compared with about 12,000 Btu per lb. for Eastern coal. Since air quality standards are based on sulfur oxide emissions per million Btu's, some Western coal with a sulfur content of less than 1% based on tonnage will not satisfy the standards. Finally, most Western coal will not be mined until the 1980s, when the technology for purging sulfur oxides from utility stacks will probably be ready. That, of course, will enable utilities to burn the vast high-sulfur reserves in the East.

In short, the coal industry has other long-term reasons for moving west:

LOWER COSTS

Western coal seams are often more than 100 ft. thick and near the surface for easy stripping. As a result, some operators in Wyoming and Montana can strip about 100 tons per man-day of labor, compared with only 12-tons in an Eastern deep mine and about 35 tons in an Ohio strip mine. Also, Western strip mines avoid the high cost of the 1969 Coal Mine Health & Safety Act, which has added $1.50 per ton to Eastern deep mine costs.

EASIER ACQUISITION

Assembling vast tracts of Eastern coal for long-term contracts is difficult because ownership is highly fragmented and much Eastern coal is tied up by the steel industry. But in the West, coal ownership is concentrated in the hands of the government and Indian tribes, enabling the industry to sign long-term leases with single suppliers. Though the government has temporarily halted lease sales pending environmental studies, it has already leased 682,000 acres to such companies as Exxon, Texaco, and Atlantic Richfield. And such railroads as Burlington Northern and Union Pacific, also control billions of tons.

FEWER LABOR WOES

Many coal operators are quietly trying to escape the jurisdiction of the militant UMW. In the West, most strip miners either belong to the International Union of Operating Engineers or to no union at all. Thus the industry can avoid paying an 80¢ per ton royalty to the UMW's welfare fund and, more important, can gain relief from the frequently bitter strikes that have hurt Eastern operators. Says Ralph E. Bailey, executive vice-president of Consolidation Coal Co.: "The deterioration in attitude of some of our work force . . . has led to a major decline in productivity."

The result of all this is that coal can be strip-mined in the West for $3 to $5 a ton, compared with $9 to $14 in Eastern deep mines—enough of a saving to offset transportation costs as far east as West Virginia. To realize the full saving, many utilities are building power plants near the coal sites. The trend started in the 1960s, when utilities began the huge complex in the four corners region of the southwest to supply power to Los Angeles. Now the action is moving north. Montana Power & Light, Utah Power & Light, and Pacific Power & Light are all building plants in Western coal country, and they will feed some of the electricity to the Pacific Northwest.

UNANSWERED QUESTIONS

All this is just the beginning, for energy companies hope to build an array of plants that will convert coal to synthetic gas or oil. The Federal Power Commission has already received applications for two gasification plants in New Mexico, while Wyoming projects up to 16 plants within a decade. And a memo recently circulated by Commerce Secretary Frederick B. Dent envisions as many as 72 gasification and liquefaction plants in the West.

If such massive development of Western energy occurs, it is bound to hurt the deep-mining industry, still the backbone of the Appalachian economy. Says Pennsylvania Governor Milton Shapp: "I think it will mean the eventual destruction of the Appalachian region. It's so much more economical to start in a new region where the companies control everything." And, asks Senator Mansfield: "What is going to happen to the vast quantities of mineable coal in the Eastern U.S.? Will a major shift to the West bring about serious unemployment in Appalachia? These are questions my Eastern colleagues should be asking."

Mansfield's questions are important because strippable Western reserves will be depleted long before Eastern reserves. "If we shift entirely to strip mining, we'll consume all the strippable coal we have in a generation," says Representative John F. Seiberling (D-Ohio). "We need a continually operating deep mine coal industry."

To coal men, such rapid depletion seems unlikely. The West has at least 100-billion tons of strippable coal, they note, and even on a Btu basis that should last well into the 21st Century. Moreover, says Bagge of the Coal Assn., Western reserves are probably greater than current estimates. "Every time we take another fix on the amount of coal out there, estimates go up."

Bagge, who frequently refers to his lobbying opponents as "kooks," also contends that the East is not being abandoned. "If we're going to reach two-billion tons a year by 1985, we're going to have expansion everywhere—in Appalachia, in the Midwest, and in the West. Indeed, some companies are already expanding operations in the deep mines of Appalachia. American Electric Power, for one, has recently acquired two companies with 150-million tons of low sulfur reserves in West Virginia, and it claims it will be able to supply all its low-sulfur coal needs in West Virginia, Virginia, and Kentucky with deep-mined Appalachian coal.

ROADBLOCKS

Nonetheless, if government projections are correct, Eastern coal, now 90% of U.S. production, will drop to 45% within a decade—a trend that may retard job opportunities and spur migration of potential miners. By 2000, when everyone agrees that much more Eastern coal will be needed, the industry could have trouble finding the necessary work force.

If Mansfield has his way, no such decline will occur. Just before the Senate passed its strip-mine bill, he inserted an amendment barring the industry from stripping any coal owned by the federal government beneath land that is privately owned. Such divided ownership is common in the West, where the government retained the mineral rights on land deeded to homesteaders. The Interior Dept., which opposes the amendment, says it will prevent strip mining of 35% of Western surface coal. And though private holdings are large, they are often next to government reserves, creating a vast checkerboard pattern that would make it uneconomical to strip some private coal, too. "If legislation makes it impossible to recover these resources, coal gasification will continue to be a gleam in somebody's eye," says D. Michael Rappoport of the Salt River Project, a public power operation in Arizona.

Though Mansfield's amendment may not survive, industry lobbyists are worried. Says one: "Mansfield has great power as majority leader, and he doesn't use it often for a bill of his own." Mansfield himself says he is "adamant" about keeping his provision.

The industry's westward drive faces other roadblocks, too. New coal-fired power plants in the West may be stalled by air pollution problems. A provision of the Clean Air Act, upheld by the Supreme Court, bars "significant deterioration" of air quality in regions that already meet federal standards. Though the EPA has yet to define significant deterioration, most experts say the court ruling probably means that few, if any, coal-fired power plants can be built in clean-air regions of the West. The coal industry has asked Congress to amend the law.

Worse yet for the industry's ambitious plans is the potential shortage of water in the arid West. In some areas the coal seams themselves form part of the aquifers. Moreover, to convert coal to synthetic gas requires enormous quantities of water. A report prepared by the National Academy of Sciences states flatly that "not enough water exists for large scale conversion of coal to other energy forms." Montana, concerned that its farmers will not have enough irrigation water, has already declared a three-year moratorium on any new commitment of water from rivers in Eastern Montana.

RESTORATION

Many Westerners also worry that strip-mined land cannot be effectively restored. Unlike Appalachia, where the hills and hollows make restoration difficult and costly, the plains are flat and easy to regrade after mining. But the soil is fragile, and rainfall is scant, making revegetation a chancy business. If the vegetation does not take root, the wind can scatter the top soil, making grazing impossible.

Many coal companies have planted a wide variety of trees and grass, hoping to find the most promising species. In most cases, the revegetation is so new that no one knows for sure whether it will last. But there have been some successes, notably by Peter Kiewit Sons, Inc., at its Big Horn, (Wyo.) mines. And Decker Coal, jointly owned by Kiewit and Pacific Power & Light, expects its reclamation to boost the land's grazing productivity fivefold.

Such results are supported by the NAS study, which says that revegetation is feasible only where rainfall averages more than 10 in. a year. Montana, Wyoming, and the Dakotas receive about 15 in., and the NAS says stable revegetation is possible there for only pennies a ton. But successful revegetation is not likely in New Mexico and Arizona, where rainfall averages less than 5 in. a year.

Perhaps more important, many Westerners worry that growth itself will prove more of a problem than land reclamation. Campbell County, Wyo., which now has a population of 13,000, will grow to 50,000 by the year 2000 if coal development goes as expected. "The whole public service sector there is already under a lot of pressure," reports a researcher at the University of Wyoming. "The sewerage is poor, the water supply is poor. They'll have a lot of work to do."

For now, industry and residents alike are marking time, waiting the outcome of the strip-mining bill in Congress. For if the Mansfield amendment becomes law, most of the ambitious plans for Western coal will probably be abandoned, and the industry will be forced back to the underground mines of Appalachia.

How much coal does the U.S. have? There is no single answer, and even government estimates differ. The U.S. Geological Survey has identified 1.5-trillion tons—theoretically enough to last for 2,500 years at the present mining rate of 600-million tons a year. But most of this coal cannot be recovered.

A more meaningful estimate of coal reserves is 428-billion tons, the amount that can be mined with existing technology at current prices (table). As prices rise and technology improves, more of the 1.5-trillion tons will become available. But even the 428-billion tons is a vast resource. If two-billion tons a year are mined by the 1990's, the U.S. has enough easy-to-recover coal to last more than two centuries.

UNIFORM ORIGINAL ENLISTMENT QUALIFICATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 803, H.R. 3418.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill (H.R.

3418) to amend section 505 of Title 10, United States Code, to establish uniform original enlistment qualifications for male and female persons.

The ACTING PRESIDENT pro tempore. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill was ordered to be read a third time, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 93-839), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to establish uniform original enlistment qualifications for male and female persons in the armed services.

EXPLANATION OF THE BILL

Under current law, the Secretary concerned may accept original enlistment in the Army, Navy, Air Force, Marine Corps, or Coast Guard, as the case may be, of qualified, effective and able-bodied males who are not less than seventeen years of age, and females who are qualified, effective, and able-bodied persons who are not less than eighteen years of age. However, no male person under eighteen years of age, or female person under twenty-one years of age, may be originally enlisted without the written consent of his parent or guardian. Also, under current law, a person may be enlisted as a member of one of the Regular Services if he is a male, for the duration of his minority or for a period of two through six years, and, in the case of a female person, for a period of two through six years.

This bill would change the law so that the enlistment standards would be the same for both male and female persons—in other words, no difference in age, parental consent, or time of enlistment options.

There are two provisions in section 505 of title 10 that would not be changed. It would not eliminate the discretionary authority of the Secretary to set as a matter of policy a higher minimum age than seventeen or a lower maximum age than thirty-five for accepting enlistments.

FISCAL DATA

There will be no increased cost resulting from enactment of this bill.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there further morning business?

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT OF 1974

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of H.R. 14368.

The Senate proceeded to consider the bill (H.R. 14368) to provide for means of dealing with energy shortages by requiring reports with respect to energy resources, by providing for temporary suspension of certain air pollution requirements, by providing for coal conversion, and for other purposes, which was read twice by its title.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged to either side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I ask unanimous consent that during consideration of and voting on H.R. 14368, the following staff members of the Committee on Public Works be allowed the privilege of the floor: M. Barry Meyer, Phillip Cummings, John W. Yago, Richard Grundy, Leon Billings, Bailey Guard, Richard Hellman, Richard Herod, Charlene Sturbitts, and Jackie Schaefer.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, a point of clarification.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. RANDOLPH. The control of the time agreed to yesterday was between the chairman of the Committee on Public Works and the ranking minority member of the Committee on Public Works. In view of that parliamentary situation, I yield control of the time to the Senator from Maine, who is chairman of our Subcommittee on Environmental Pollution, Mr. MUSKIE, to manage this proposal on behalf of the committee.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield.

Mr. BAKER. The RECORD discloses, that time on this bill be allocated to him and to me. I wish to cede the time under my control to the Senator from New York (Mr. BUCKLEY), who will be here shortly and will handle the floor debate from the minority standpoint.

Mr. MUSKIE. Mr. President, I ask unanimous consent that Jackie Schaefer, a member of the staff of the committee, be granted the privilege of the floor during the consideration of this measure.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I call up my amendment No. 1303 to the pending measure and ask that it be stated.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; PURPOSE.

(a) This Act, including the following table of contents, may be cited as the "Energy Supply and Environmental Coordination Act of 1974".

TABLE OF CONTENTS

Sec. 1. Short title; purpose.
Sec. 2. Suspension authority.
Sec. 3. Implementation plan revisions.
Sec. 4. Motor vehicle emissions.
Sec. 5. Conforming amendments.
Sec. 6. Protection of public health and environment.
Sec. 7. Reports.
Sec. 8. Coal conversion and allocation.
Sec. 9. Extension of Clean Air Act authorization.

(b) The purpose of this Act is to provide for a means to assist in meeting the essential needs of the United States for fuels, in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

SEC. 2. SUSPENSION AUTHORITY.

Title I of the Clean Air Act is amended by adding at the end thereof the following new section:

"ENERGY-RELATED AUTHORITY

"SEC. 119. (a)(1)(A) The Administrator may, for any period beginning on or after the date of enactment of this section and ending on or before the earlier of June 30, 1975, or one year after the date of enactment of this section, temporarily suspend any stationary source fuel or emission limitation as it applies to any person, if the Administrator finds that such person will be unable to comply with such limitation during such period solely because of unavailability of types or amounts of fuels. Any suspension under this paragraph and any interim requirement on which such suspension is conditioned under paragraph (3) shall be exempted from any procedural requirements set forth in this Act or in any other provision of local, State, or Federal law; except as provided in subparagraph (B).

"(B) The Administrator shall give notice to the public of a suspension and afford the public an opportunity for written and oral presentation of views prior to granting such suspension unless otherwise provided by the Administrator for good cause found and published in the Federal Register. In any case, before granting such a suspension he shall give actual notice to the Governor of the State, and to the chief executive officer of the local government entity in which the affected source or sources are located. The granting or denial of such suspension and the imposition of an interim requirement shall be subject to judicial review only on the grounds specified in paragraphs (2)(B), (2)(C), or (2)(D) of section 706 of title 5, United States Code, and shall not be subject to any proceeding under section 304(a)(2) or 307 (b) and (c) of this Act.

"(2) In issuing any suspension under paragraph (1) the Administrator is authorized to act on his own motion without application by any source or State.

"(3) Any suspension under paragraph (1) shall be conditioned upon compliance with such interim requirements as the Administrator determines are reasonable and practicable. Such interim requirements shall include, but need not be limited to, (A) a requirement that the source receiving the suspension comply with such reporting requirements as the Administrator determines may be necessary, (B) such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to health of persons, and (C) requirements that the suspension shall be inapplicable during any period during which fuels which would enable compliance with the suspended stationary source fuel or emission limitations are in fact reasonably available to that person (as determined by the Administrator). For purposes of clause (C) of this paragraph, availability of natural gas or petroleum products which enable compliance shall not make a suspension inapplicable to a source described in subsection (b)(1) of this section.

"(4) For purposes of this section:

"(A) The term "stationary source fuel or emission limitation' means any emission limitation, schedule, or time table for compliance, or other requirement, which is prescribed under this Act (other than section 303, 11(b), or 112) or contained in an applicable implemention plan (other than a requirement imposed under authority described in section 110(a)(2)(F)(v)), and which is designed to limit stationary source emissions resulting from combustion of fuels, including a prohibition on, or specification of, the use of any fuel of any type or grade or pollution characteristic thereof.

"(B) The term 'stationary source' has the same meaning as such term has under section 111(a)(3).

"(b)(1) Except as provided in paragraph (2) of this subsection, any fuel-burning stationary source—

"(A) which is prohibited from using petroleum products or natural gas as fuel by reason of an order issued under section 8(a) of the Energy Supply and Environmental Coordination Act of 1974, or

"(B) which the Administrator determines began conversion to the use of coal as fuel during the ninety-day period ending December 15, 1973, and, consistent with the criteria established in this section should use coal after the expiration of any suspension approved pursuant to section 119(a) of the Clean Air Act,

and which is located in an air quality control region in which applicable national primary ambient air quality standards are not being exceeded and which converts to the use of coal as fuel, shall not, until January 1, 1979, be prohibited, by reason of the application of any air pollution requirement, from burning coal which is available to such source. For purposes of this paragraph, the term 'began conversion' means action by the owner or operator of a source during the ninety-day period ending on December 15, 1973 (such as entering into a contract binding on the operator of the source for obtaining coal, or equipment or facilities to burn coal; expending substantial sums to permit such source to burn coal; or applying for an air pollution variance to enable the source to burn coal) which the Administrator finds evidences a decision (made prior to December 15, 1973) to convert to burning coal as a result of the unavailability of an adequate supply of fuels required for compliance with the applicable implementation plan, and a good faith effort to expeditiously carry out such decision.

"(2)(A) Paragraph (1) of this subsection shall apply to a source only if (I) the Administrator finds that emissions from the source will not cause or contribute to concentrations of air pollutants in excess of national primary ambient air quality standards and (II) if the source has submitted to the Administrator a plan for compliance for such source which the Administrator has approved, after notice to interested persons and opportunity for presentation of views (including oral presentation of views). A plan submitted under the preceding sentence shall be approved only if it (i) meets the requirements of regulations prescribed under subparagraph (B); and (ii) provides that such source will comply with requirements which the Administrator shall prescribe to assure that emissions from such source will not cause or contribute to concentrations of air pollutants in excess of national primary ambient air quality standards. The Administrator shall approve or disapprove any such plan within 60 days after such plan is submitted.

"(B) The Administrator shall prescribe regulations requiring that any source to which this subsection applies submit and obtain approval of its means for and schedule of compliance. Such regulations shall include requirements that such schedules shall include dates by which such sources must—

"(i) enter into contracts (or other enforceable obligations) which have received prior approval of the Administrator as being adequate to effectuate the purposes of this section and which provide for obtaining a long-term supply of coal which enables such source to achieve the emission reduction required by subparagraph (C), or

"(ii) if coal which enables such source to achieve such emission reduction is not available to such source, enter into contracts (or other enforceable obligations) which have received prior approval of the Administrator as being adequate to effectuate the purposes of this section and which provide for obtaining (I) a long-term supply of other coal or coal derivatives, and (II) continuous emission reduction systems necessary to permit such source to burn such coal or coal derivatives, and to achieve the degree of emission reduction required by subparagraph (C).

"(C) Regulations under subparagraph (B) shall require that the source achieve the most stringent degree of emission reduction that such source would have been required to achieve under the applicable implementation plan which was in effect on the date of enactment of this section (or if no applicable implementation plan was in effect on such date, under the first applicable implementation plan which takes effect after such date). Such degree of emission reduction shall be achieved as soon as practicable, but not later than January 1, 1979; except that, in the case of a source for which a continuous emission reduction system is required for sulfur-related emissions, reduction of such emissions shall be achieved on a date designated by the Administrator (but not later than January 1, 1979). Such regulations shall also include such interim requirements as the Administrator determines are reasonable and practicable including requirements described in clauses (A) and (B) of subsection (a)(3) and requirements to file progress reports.

"(D) The Administrator (after notice to interested persons and opportunity for presentation of views, including oral presentations of views, to the extent practicable) (i) may, prior to the earlier of June 30, 1975, or one year after the date of enactment of this section, and shall thereafter prohibit the use of coal by a source to which paragraph (1) applies if he determines that the use of coal by such source may cause or contribute to concentrations of air pollutants in excess of national primary ambient air quality standards; and (ii) may require such source to use coal of any particular type, grade, or pollution characteristic if such coal is available to such source. Nothing in this subsection (b) shall prohibit a State or local agency from taking action which the Administrator is authorized to take under this subparagraph.

"(3) For purposes of this subsection, the term 'air pollution requirement' means any emission limitation, schedule, or timetable for compliance, or other requirement, which is prescribed under any Federal, State, or local law or regulation, including this Act (except for any requirement prescribed under this subsection, section 110(a)(2)(F)(v), or section 303), and which is designed to limit stationary source emissions resulting from combustion of fuels (including a restriction on the use or content of fuels). A conversion to coal to which this subsection applies shall not be deemed to be a modification for purposes of section 111(a)(2) and (4) of this Act.

"(4) A source to which this subsection applies may, upon the expiration of the exemption under paragraph (1), obtain a one-year postponement of the application of any requirement of an applicable implementation plan under the conditions and in the manner provided in section 110(f).

"(c) The Administrator may by rule establish priorities under which manufacturers of continuous emission reduction systems necessary to carry out subsection (b) shall provide such systems to users thereof, if he finds that priorities must be imposed in order to assure that such systems are first provided to users in air quality control regions with the most severe air pollution. No rule under this subsection may impair the obligation of any contract entered into before enactment of this section. To the extent necessary to carry out this section, the Administrator may prohibit any State or political subdivision from requiring any person to use a continuous emission reduction system for which priorities have been established under this subsection except in accordance with such priorities.

"(d) The Administrator shall study, and report to Congress not later than six months after the date of enactment of this section, with respect to—

"(1) the present and projected impact on the program under this Act of fuel shortages and of allocation and end-use allocation programs;

"(2) availability of continuous emission reduction technology (including projections respecting the time, cost, and number of units available) and the effects that continuous emission reduction systems would have on the total environment and on supplies of fuel and electricity;

"(3) the number of sources and locations which must use such technology based on projected fuel availability data;

"(4) priority schedule for implementation of continuous emission reduction technology based on public health or air quality;

"(5) evaluation of availability of technology to burn municipal solid waste in these sources including time schedules, priorities analysis of unregulated pollutants which will be emitted and balancing of health benefits and detriments from burning solid waste and of economic costs;

"(6) projection of air quality impact of fuel shortages and allocations;

"(7) evaluation of alternative control strategies for the attainment and maintenance of national ambient air quality standards for sulfur oxides within the time frames prescribed in the Act, including associated considerations of cost, time frames, feasibility, and effectiveness of such alternative control strategies as compared to stationary source fuel and emission regulations;

"(8) proposed allocations of continuous emission reduction systems which do not produce solid waste to sources which are least able to handle solid waste byproducts of such systems; and

"(9) plans for monitoring or requiring sources to which this section applies to monitor the impact of actions under this section on concentration of sulfur dioxide in the ambient air.

"(e) No State or political subdivision may require any person to whom a suspension has been granted under subsection (a) to use any fuel the unavailability of which is the basis of such person's suspension (except that this preemption shall not apply to requirements identical to Federal interim requirements under subsection (a)(3)).

"(f)(1) It shall be unlawful for any person to whom a suspension has been granted under subsection (a)(1) to violate any requirement on which the suspension is conditioned pursuant to subsection (a)(3).

"(2) It shall be unlawful for any person to violate any rule under subsection (c).

"(3) It shall be unlawful for the owner or operator of any source to fail to comply with any requirement under subsection (b) or any regulation, plan, or schedule thereunder.

"(4) It shall be unlawful for any person to fail to comply with an interim requirement under subsection (i)(3),

"(g) Beginning January 1, 1975, the Administrator shall publish at no less than one-hundred-and-eighty-day intervals, in the Federal Register, the following:

"(1) A concise summary of progress reports which are required to be filed by any person or source owner or operator to which subsection (b) applies. Such progress reports shall report on the status of compliance with all requirements which have been imposed by the Administrator under such subsections.

"(2) Up-to-date findings on the impact of this section upon—

"(A) applicable implementation plans, and

"(B) ambient air quality.

"(h) Nothing in this section shall affect the power of the Administrator to deal with air pollution presenting an imminent and substantial endangerment to the health of persons under section 303 of this Act.

"(i)(1) In order to reduce the likelihood of early phaseout of existing electric generating facilities, any electric generating powerplant (A) which, because of the age and condition of the plant, is to be taken out of service permanently no later than January 1, 1980, according to the power supply plan (in existence on January 1, 1974) of the operator of such plant, (B) for which a certification to that effect has been filed by the operator of the plan with the Environmental Protection Agency and the Federal Power Commission, and (C) for which the Commission has determined that the certification has been made in good faith and that the plan to cease operations no later than January 1, 1980, will be carried out as planned in light of existing and prospective power supply requirements, shall be eligible for a single one-year postponement as provided in paragraph (2).

"(2) Prior to the date on which any plant eligible under paragraph (1) is required to comply with any requirement of an applicable implementation plan, such source may apply (with the concurrence of the Governor of the State in which the plant is located) to the Administrator to postpone the applicability of such requirement to such source for not more than one year. If the Administrator determines, after balancing the risk to public health and welfare which may be associated with a postponement, that compliance with any such requirement is not reasonable in light of the projected useful life of the plant, the availability of rate base increases to pay for such costs, and other appropriate factors, then the Administrator shall grant a postponement of any such requirement.

"(3) The Administrator shall, as a condition of any postponement under paragraph (2), prescribe such interim requirements as are practicable and reasonable in light of the criteria in paragraph (2).

"(j)(1) The Administrator may, after public notice and opportunity for presentation of views in accordance with section 533 of title 5, United States Code, and after consultation with the Federal Energy Administrator, designate persons to whom fuel exchange orders should be issued. The purpose of such designation shall be to avoid or minimize the adverse impact on public health and welfare of any suspension under subsection (a) of this section or conversion to coal to which subsection (b) applies or of any allocation under section 8 of the Energy Supply and Environmental Coordination Act of 1974 or the Emergency Petroleum Allocation Act of 1973.

"(2) The Federal Energy Administrator shall issue exchange orders to such persons as are designated by the Administrator under paragraph (1) requiring the exchange of any fuel subject to allocation under the preceding Acts effective no later than forty-five days after the date of the designation under paragraph (1), unless the Federal Energy Administrator determines, after consultation with the Administrator, that the costs or consumption of fuel, resulting from such exchange order, will be excessive.

"(3) Violation of any exchange order issued under paragraph (2) shall be a prohibited act and shall be subject to enforcement action and sanctions in the same manner and to the same extent as a violation of any requirement of the regulation under section 4 of the Emergency Petroleum Allocation Act of 1973."

Sec. 3. Implementation Plan Revisions.

Section 110(a) of the Clean Air Act is amended in paragraph (3) by inserting "(A)" after "(3)" and by adding at the end thereof the following new subparagraph:

"(B) For any air quality control region in which the Administrator determines the applicable primary air quality standard is being exceeded, the Administrator shall review the applicable implementation plan and no later than ninety days after such determination report to the State on whether such plan can be revised in relation to fuel burning stationary sources without interfering with applicable national primary ambient air quality standards which the plan implements. If the Administrator determines that any such plan can be revised he shall notify the State that a plan revision may be submitted by the State within three months after the date of notice to the State of such determination. Any plan revision which is submitted by the State after notice and public hearing shall be approved or disapproved by the Administrator, after public notice and opportunity for public hearing, but no later than three months after the date required for submission of the revised plan."

Sec. 4. Motor Vehicle Emissions.

(a) Section 202(b)(1)(A) of the Clean Air Act is amended by striking out "1975" and inserting in lieu thereof "1977"; and by inserting after "(A)" the following: "The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the interim standards which were prescribed (as of December 1, 1973) under paragraph (5)(A) of this subsection for light-duty vehicles and engines manufactured during model year 1975."

(b) Section 202(b)(1)(B) of such Act is amended by striking out "1976" and inserting in lieu thereof "1978"; and by inserting after "(B)" the following: "The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the standards which were prescribed (as of December 1, 1973) under subsection (a) for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model year 1977 shall contain standards which provide that emissions of such vehicles and engines may not exceed 2.0 grams per vehicle mile."

(c) Section 202(b)(5)(A) of such Act is amended to read as follows:

"(5)(A) At any time after January 1, 1975, any manufacturer may file with the Administrator an application requesting the suspension for one year only of the effective date of any emission standard required by paragraph (1)(A) with respect to such manufacturer for light-duty vehicles and engines manufactured in model year 1977. The Administrator shall make his determination with respect to any such application within sixty days. If he determines, in accordance with the provisions of this subsection, that such suspension should be granted, he shall simultaneously with such determination prescribe by regulation interim emission standards which shall apply (in lieu of the standards required to be prescribed by paragraph (1)(A) of this subsection) to emissions of carbon monoxide or hydrocarbons (or both) from such vehicles and engines manufactured during model year 1977."

(d) Section 202(b)(5)(B) of the Clean Air Act is repealed and the following subparagraphs redesignated accordingly.

Sec. 5. Conforming Amendments.

(a)(1) Section 113(a)(3) of the Clean Air Act is amended by striking out "or" before "112(c)", by inserting a comma in lieu thereof, and by inserting after "(hazardous emissions)" the following: ", or 119(f) (relating to energy-related authorities)".

(2) Section 113(b)(3) of such Act is amended by striking out "or 112(c)" and inserting in lieu thereof ", 112(c), or 119 (f)".

(3) Section 113(c)(1)(C) of such Act is amended by striking out "or section 112(c)" and inserting in lieu thereof ", section 112 (c), or section 119(f)".

(4) Section 114(a) of such Act is amended by inserting "119 or" before "303".

(b) Section 116 of the Clean Air Act is amended by inserting "119 (b), (c), and (e)," before "209".

Sec. 6. Protection of Public Health and Environment.

(a) Any allocation program provided for in section 8 of this Act or in the Emergency Petroleum Allocation Act of 1973 shall, to the maximum extent practicable, include measures to assure that available low sulfur fuel will be distributed on a priority basis to those areas of the country designated by the Administrator of the Environmental Protection Agency as requiring low sulfur fuel to avoid or minimize adverse impact on public health.

(b) In order to determine the health effects of emissions of sulfur oxides to the air resulting from any conversions to burning coal to which section 119 of the Clean Air Act applies, the Department of Health, Education, and Welfare shall, through the National Institute of Environmental Health Sciences and in cooperation with the Environmental Protection Agency, conduct a study of chronic effects among exposed populations. The sum of $3,500,000 is authorized to be appropriated for such a study. In order to assure that long-term studies can be conducted without interruption, such sums as are appropriated shall be available until expended.

(c) No action taken under the *Clean Air* Act, or under section 8 of this Act for a period of one year after initiation of such action, shall be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 856). However, before any action under section 8 of this Act that has a significant impact on the environment is taken, if practicable, or in any event within sixty days after such action is taken, an environmental evaluation with analysis equivalent to that required under section 102(2)(C) of the National Environmental Policy Act, to the greatest extent practicable within this time constraint, shall be prepared and circulated to appropriate Federal, State, and local government agencies and to the public for a thirty-day comment period after which a public hearing shall be held upon request to review outstanding environmental issues. Such an evaluation shall not be required where the action in question has been preceded by compliance with the National Environmental Policy Act by the appropriate Federal agency. Any action taken under section 8 of this Act which will be in effect for more than a one-year period or any action to extend an action taken under section 8 of this Act to a total period of more than one year shall be subject to the full provisions of the National Environmental Policy Act notwithstanding any other provision of this Act.

Sec. 7. Reports.

The Administrator of the Environmental Protection Agency shall report to Congress not later than January 31, 1975, on the implementation of sections 2 through 6 of this Act.

Sec. 8. Coal Conversion and Allocation.

(a) The Federal Energy Administrator shall, to the extent practicable and consistent with the purposes of this Act, by order, prohibit, as its primary energy source, the burning of natural gas or petroleum products by any major fuel-burning installation (including any existing electric powerplant) which, on the date of enactment of this Act, has the capability and necessary plant equipment to burn coal. Any installation to which such an order applies shall not be prohibited from using petroleum products or natural gas unless the installation is located in a region described in the first sentence of section 119(b)(1), and the Administrator has made the finding specified in section 119(b)(2)(A)(I) with respect to emission from such installation. A prohibition on use of natural gas and petroleum products under this subsection shall be contingent upon the availability of coal, coal transportation facilities, and the maintenance of reliability of service in a given service area. The Federal Energy Administrator may require that fossil-fuel-fired electric powerplants in the early planning process, other than combustion gas turbine and combined cycle units, be designed and constructed so as to be capable of using coal as a primary energy source instead of or in addition to other fossil fuels. No fossil-fuel-fired electric powerplant may be required under this section to be so designed and constructed, if (1) to do so would result in an impairment of reliability or adequacy of service, or (2) an adequate and reliable supply of coal is not available and is not expected to be available. In considering whether to impose a design and construction requirement under this subsection, the Federal Energy Administrator shall consider the existence and effects of any contractual commitment for the construction of such facilities and the capability of the owner or operator to recover any capital investment made as a result of the conversion requirements of this section.

(b) The Federal Energy Administrator may by rule prescribe a system for allocation of coal to users thereof in order to attain the objective specified in this section.

(c) It shall be unlawful for any person to violate any provision of this section, or to violate any rule, regulation, or order issued pursuant to any such provision.

(d)(1) Whoever violates any provision of subsection (c) shall be subject to a civil penalty of not more than $2,500 for each violation.

(2) Whoever willfully violates any provision of subsection (c) shall be fined not more than $5,000 for each violation.

(3) It shall be unlawful for any person to offer for sale or distribute in commerce any product or commodity in violation of an applicable order or regulation issued pursuant to subsection (b). Any person who knowingly and willfully violates this paragraph after having been subjected to a civil penalty for a prior violation of the same provision of any order or regulation issued pursuant to subsection (b) shall be fined not more than $50,000 or imprisoned not more than six months, or both.

(4) Whenever it appears to any person authorized by the Federal Energy Administrator to exercise authority under this section that any individual or organization has engaged, is engaged, or is about to engage in acts or practices constituting a violation of subsection (c), such person may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with any provision, the violation of which is prohibited by subsection (c).

(5) Any person suffering legal wrong because of any act or practice arising out of any violation of subsection (c) may bring an action in a district court of the United States, without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment or writ of injunction. Nothing in this paragraph shall authorize any person to recover damages.

(e) Authority to issue orders, or rules under subsections (a) and (b) of this section shall expire on midnight, June 30, 1975, but the expiration of such authority shall not affect any administrative or judicial proceeding pending on such date which relates to any act or omission before such date.

Sec. 9. Extension of Clean Air Act Auyhorizations.

(a) Section 104 of the Clean Air Act is amended by striking "and $150,000,000 for the fiscal year ending June 30, 1974" and inserting in lieu thereof ", $150,000,000 for the fiscal year ending June 30, 1974, and $150,000,000 for the fiscal year ending June 30, 1975."

(b) Section 212 of such Act is amended by striking "three succeeding fiscal years." and inserting in lieu thereof "four succeeding fiscal years.".

(c) Section 316 of such Act is amended by striking "and $300,000,000 for the fiscal year ending June 30, 1974" and inserting in lieu thereof ", $300,000,000 for the fiscal year ending June 30, 1974, and $300,000,000 for the fiscal year ending June 30, 1975".

Mr. MUSKIE. Mr. President, the Committee on Public Works has again examined the legislation passed by the House to amend the Clean Air Act to facilitate energy conservation. We have determined, on the basis of information available to us, that the enactment of limited amendments to the Clean Air Act at this time will be of value.

We do not believe, however, that amendments as far-reaching as the House bill are necessary, and it is for that reason that the committee has taken the rather unusual step of meeting in executive session yesterday to consider the House bill, and to report, by way of this amendment, to the Senate as a whole those amendments which we consider to be necessary at this time. We bore in mind the admonition of the distinguished chairman of the full committee that we should at this point separate from the controversial issues that have been generated by the attempts to enact emergency energy legislation those elements which are relatively noncontroversial, which have been agreed upon by a sufficient number on both sides of the Capitol so that they have a chance to reach the President's desk in the relatively near future, and it is in this spirit, Mr. President, that the Committee on Public Works has considered what is needed and proposes this amendment in the form of a substitute to H.R. 14368 which deals only with those aspects of the House bill which are critical. Not only is the Committee prepared to offer a substitute, but we are prepared to go immediately to conference with the House Interstate and Foreign Commerce Committee for the purpose of determining what can be agreed upon at this time and sent to the President.

We believe that prior to the Memorial Day recess, the President can have legislation which is needed to continue the Nation's effort to achieve greater energy conservation and to provide the automobile industry with the certainty needed to proceed with the development, certification and production of 1976 model year automobiles.

Mr. President, the amendments which I have offered fall into five categories:

First. The committee proposes to modify the coal conversion proposal of the House to narrow its application to assure, at a minimum, protection of public health.

Second. The committee proposes to limit exceptions to the Clean Air Act to permit coal conversions to areas where public health-related primary ambient air quality standards are not now exceeded. Further, no coal conversions could take place where the conversion itself would cause public health standards to be exceeded.

Third. The committee proposes to adopt an identical provision to the House bill relating to auto emissions to end any doubt as to what auto emission standards will be required for the 1976 model year vehicle.

Fourth. The committee proposal would clarify the relationship between the National Environmental Policy Act and the Clean Air Act.

Fifth. Finally, the committee proposes to extend Clean Air Act authorization for 1 year.

Let me expand upon these points briefly, for the Record.

The Committee on Public Works has tried to respond to the need to continue our efforts to utilize our domestic fuel supplies where such utilization will not interfere with the health of our people. We recognize that the winter of crisis is behind us. We have tried to anticipate future crises, whether those crises result from spot-shortages of fuel or international disputes.

It is in the context of standby authority and in recognition of the need to continue energy conservation efforts that this legislation is proposed. We are not, under the threat of crisis, abandoning our environmental goals, but we are trying to propose a mechanism which will balance those environmental goals with what we perceive to be the long-term energy needs of the country.

In addition to other provisions which are identical to the House bill and the earlier conference agreement, the committee has retained the emergency suspension features of earlier proposals. Only the final date has been changed. Under this provision the Administration could waive, temporarily, clean air requirements where there was a demonstrated unavailability of conforming fuel. Waiver authority continues until June 30, 1975, but waivers can be granted only when fuels with the pollution characteristics required by State clean air implementation plans are unavailable.

The amendments to both the coal conversion and clean air section would, in accordance with a proposal advanced by Senator BUCKLEY, prohibit coal conversion in air quality control regions where primary air quality standards for sulfur oxides and/or particulates are now being exceeded.

Thus, there would be, by statute, a bar to further deterioration of already unhealthy air.

Further, pursuant to another Buckley amendment, no specific conversion could be ordered if the coal to be used in a specific facility would cause concentrations of SO_2 or particulate in excess of national primary ambient air quality standards.

The floor is protection of public health. This floor combined with the June 30, 1975, expiration date on issuance of conversion orders, should assure minimal environmental risks while providing an adequate opportunity to examine the implications of the policy we propose.

I would like at this point, Mr. President, to compliment the distinguished Senator from New York for these two amendments to the bill, which, in my judgment, improve it enormously.

In the near-term, coal conversions resulting from this act may be as few as a dozen, but those conversions can and will take pressure off the oil market without endangering public health.

They can and will stimulate long-term investment in development of domestic coal resources. And they can and will provide a basis for future legislation to increase our capability to use coal.

This limited program can and will be initiated while the Congress continues to review the Clean Air Act and examines the need for broader authority to reduce dependency on foreign fuels.

As a part of that review Congress must determine the extent to which our major fuel burning stationary sources are going to have multiple energy use and environmental control capacity. And we must determine the impact of such policies on consumers.

In order to examine the environmental implications of these proposals, the Administrator of the Environmental Protection Agency is required to report to Congress on the impact of conversion.

Also, in order to maximize the potential use of limited resources, the Administrator is required to review State air quality implementation plans to determine whether or not different fuels with different pollution characteristics can be burned in designated air quality control regions without threatening public health.

Under the Conference agreement of last year, this review triggered a mandatory revision of State clean air plans. Under this bill, the States retain the authority to determine whether or not, on the basis of the review by the Administrator, a revision of any aspects of applicable implementation plans is desirable. A key feature in the proposal is the reaffirmation of State authority to make both clean air and economic growth decisions. For all practical purposes the preemption of prior legislation has been replaced with advice and assistance.

The committee bill also includes certain noncontroversial provisions of the House bill which have been before the Senate in the earlier, vetoed bill. I ask unanimous consent to include in the RECORD at the end of my remarks appropriate portions of that legislative history modified to reflect the changes in the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MUSKIE. Mr. President, the committee bill does not include provisions of the House-passed bill relative to air quality transportation and land use controls; fuel economy studies; energy conservation studies; and energy company reporting.

The committee has included two additional amendments which were not included in the House-passed bill. We have extended for 1 year Clean Air Act funding authority. Though we have commenced hearings to review the Clean Air Act and though we are committed to a thorough review before any necessary modifying legislation is proposed, we believe it is altogether possible that the schedule of congressional activities this summer and fall may make difficult full and adequate consideration of major changes in clean air policy.

The committee wants adequate time to review the act. We want to know the results of the reports required by these amendments, and we want to have an opportunity to review, in detail, the findings of the National Academy of Sciences, expected this summer, as to the adequacy of present health-related standards and the optional control strategies which might be available to achieve those goals.

It is our intention to continue this review through the fall, as the schedule of congressional activities permits. The committee would hope to have legislative proposals on the Clean Air Act completed by early in the next session of Congress.

Mr. President, another provision in this legislation relates to clarification of the relationship between the National Environmental Policy Act and the Clean Air Act. As my colleagues know, at the time the National Environmental Policy Act was enacted in 1969, its principal sponsor, Senator JACKSON, agreed with members of the Senate Public Works Committee that the environmental review procedures were intended to apply to mission agencies—agencies whose activities impacted the environment—and not to environmental protection agencies.

The courts have repeatedly upheld the position to which Senator JACKSON and I agreed nearly 5 years ago. Unfortunately, the Environmental Protection Agency has chosen, as a result of the pressure from the other body, to ignore that intent, to ignore those court decisions, and to proceed to prepare environmental impact statements as required by section 102(2)(c) of the National Environmental Policy Act.

Mr. President, I am deeply concerned that this policy will result in extensive litigation which will interfere with both the goals and the time schedules of the Clean Air Act.

Let me provide just one example. Under the bill that passed the House and in accordance with the substitute proposed by the Senate, the auto industry could apply to the Administrator of the Environmental Protection Agency for an additional 1 year in which to meet statutory auto emissions standards. Under the law, the Administrator would have 60 days in which to make his findings. Every Senator knows that the National Environmental Policy Act procedure requires much more than 60 days to prepare an impact statement. It would take but one court, holding that the Administrator's finding on this issue was subject to those procedures, to derail the production schedules of the auto industry. Chaos would result. The Congress would be asked to respond in a panic situation.

But it is not just this kind of major chaos which I fear. The Environmental Protection Agency has, under the Clean Air Act, a wide variety of responsibilities, including registration of fuel additives, regulation of toxic emissions, establishment of test procedures for automobiles and other authorities which are major actions in the context of the proposed voluntary regulations. Should the policy forced on Administrator Train be held mandatory by the courts, the disruption to American business and the adverse impact on the environment could be equally severe.

We cannot afford to take the risk of creating confusion and doubt in the minds of the American people as to issues the magnitude of these. The amendment which is contained in the substitute would make clear, without any doubt, that regardless of Mr. Train's "voluntary" action, there is no legal responsibility on the part of the Agency to comply with the procedures of the National Environmental Policy Act. With the adoption of this amendment, Mr. Train could freely develop a policy examining the environmental and other implications of environmental regulations without sacrificing either environmental goals or regulatory certainty. He could determine the appropriate actions for this kind of review and he could make such review voluntarily. But there would be a statutory bar to any court holding that EPA's voluntary compliance with NEPA could be construed to be mandatory.

Mr. President, as I have indicated, we have tried to narrow these amendments to those which reflect our continuing concern with energy conservation and the critical need to answer pressing questions such as auto emission standards, Clean Air Act authorizations, and the NEPA/EPA controversy.

This is a good bill. It protects public health, but it permits coal conversion. It facilitates energy conservation. And it promotes self-sufficiency. It creates certainty for the auto manufacturers.

The bill provides adequate opportunity to review fully the implications of the 1970 Clean Air Act, taking maximum advantage of the studies of the National Academy of Sciences and others, and it clears up what I believe to be a grave and *threatening* controversy engendered as a result of the decision of application of NEPA to EPA.

I strongly urge that my colleagues adopt this substitute—and that they do so without amendment so that we may speedily go to conference, consider the other House proposals on which we have held no hearings, and return to this and the other body with a compromise agreement which can be sent to the President in fulfillment of our responsibilities on this issue.

SECTION 2. SUSPENSION AUTHORITY

This bill adds a new section 119 to the Clean Air Act which will permit the Administrator of the Environmental Protection Agency to suspend until not later than June 30, 1975—or 1 year after enactment—any stationary source fuel or emission limitation, either upon his own motion or upon the application of a source or a State, if the source cannot comply with such limitations because of the unavailability of fuel. The Administrator of the Environmental Protection Agency is directed to give prior notice to the Governor of the State and the chief executive of the local governmental unit where the source is located. He is also directed to give notice to the public and to allow for the expression of views on the suspension prior to granting it unless he finds that good cause exists for not providing such opportunity. Judicial review of such suspension would be restricted to certain specified grounds.

The Administrator is required to condition the granting of any suspension upon adoption of any requirements that he determines are reasonable and practicable. These interim requirements must include necessary reporting requirements, and a provision that the suspension would be inapplicable during any period when clean fuels were available to such source. The Administrator would be required to determine when such fuels were in fact available. It is the intent of the committee that the Administrator in making such determination take into consideration the costs associated with any changes that would be required to be made by the source to enable it to utilize such fuel. No source which has converted to coal under section 119, however, could be required under this provision to return to the use of oil or natural gas.

The suspension would also be conditioned on adoption of such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to the health of persons. This would authorize not only requirements that a facility shutdown during air pollution emergencies, but also—for example—a requirement that it keep a reserve supply of clean fuels on hand to be burned to avoid such emergencies.

In recognition of the need to balance energy needs with environmental requirements and the unique problems facing any source which converts to coal in response to the emergency, the amendment would authorize sources which are either ordered to convert to coal or which began to convert to coal during the 90-day period prior to December 15, 1973, to continue to use coal in compliance with the Clean Air Act as amended by this act, until as late as January 1, 1979. The authorization would only apply if the source were placed, after notice and opportunity for oral presentation of views, on a schedule approved by the Administrator of the Environmental Protection Agency. The schedule must provide a timetable for compliance with the fuel or emission limitations of the applicable implementation plan no later than January 1, 1979.

All compliance schedules under section 119(b) must also provide for compliance with interim requirements that will assure that the source will not cause concentrations of pollutants in excess of primary standards.

The committee emphasizes that the Administrator would not be able to approve a plan under section 119(b) for a utility generally. Rather, each plan approval must be for a specific plant.

There are three basic reasons for the decision to encourage continued burning of coal until at least 1979. First, in order to encourage the opening of new coal mines to increase energy supplies, the committee intends to encourage an ongoing substantial demand for such coal. Without reasonable likelihood that new coal mines will be able to market their new production, the opening of new mines and expansion of existing mine capacity may be regarded too risky. Second, to the extent that electric generating powerplants can be encouraged to cease burning oil and natural gas, these fuels would be available to meet other energy needs, such as production of gasoline and home heating oil. Finally, since continuous emission reduction technology is available for sources such as homes, apartment houses, and small businesses, the purposes of the Clean Air Act can be better effectuated by having low pollution oil and natural gas burned to the maximum extent feasible, in sources for which no effective clean up technology is available.

The committee believes that the priority effort of each source which is subject to section 119(b) should be to obtain low sulfur coal. If an adequate, long-term supply of low sulfur coal is available to such a source, the Administrator should only approve a plan which requires its use—and thus compliance with air pollution requirements—as expeditiously as practicable. In such a case, the Administrator would have to disapprove a plan which proposed to wait until January 1, 1979, before beginning to burn low sulfur coal. The committee believes that requiring priority consideration of the use of nonmetallurgical low sulfur coal will reduce the likelihood of extended violation of applicable emission standards.

If a source is unable to obtain an adequate, long-term supply of low sulfur coal, it may seek to come into compliance by use of a continuous emission reduction system or by use of coal byproducts which would achieve the required degree of emission reduction. In such case, the source would still be required to act expeditiously to obtain an adequate supply of coal. However, compliance with all air pollution requirements would be required not later than January 1, 1979, and by a date established by the Administrator.

It is expected that the Administrator would include, but would not be limited to, the following requirements in any compliance schedule:

First, the dates by which the source will solicit bids and enter into binding contractual agreements—or other equally binding commitment—for the procurement of an adequate fuel supply to permit continued long term operation of the source;

Second, where the coal obtained by the source has sulfur content which will require installation of continuous emission reduction equipment to enable the source to comply with emission limitations, the dates for soliciting bids for such equipment, contracting for such equipment, and installation and startup of such equipment by a date that will permit a reasonable time for necessary adjustments of the equipment to maximize the reliability and efficiency of the system prior to January 1, 1979; and

Third, reasonable interim measures which the source should employ to minimize the adverse impact on air quality.

In establishing date for contracting for coal, the Administrator should determine the earliest date that is reasonable and which will permit compliance by the time specified in this section. Because the dates for obtaining coal or continuous emission reduction systems may occur at approximately the same time for more than one source which may overburden suppliers, the Administrator is specifically authorized to establish differing dates for obtaining coal or such systems to insure availability of supplies of such coal or equipment. In making such decisions, it is expected that the Administrator will provide the earliest date for those sources in areas with the most serious pollution problems.

It is intended that when the coal available to the source necessitates the use of continuous emission reduction equipment for control of sulfur-related emissions, the source will have as much time as necessary to install the equipment and achieve timely compliance, in order to permit orderly development of technology.

In recognition of the complex factors involved in determining schedules for the various sources, the committee intends that the Administrator have broad discretion in prescribing and approving schedules of compliance to insure that sources meet the requirements of this section without overburdening production capacity for continuous emission reduction systems for sulfur control or causing unacceptable disruption in energy production capacity.

The committee does not intend to permit delay of existing compliance schedules for control of particulate emissions. Some slight delay may be necessary in light of revised compliance schedules for control of sulfur-related emissions. However, only such minor adjustments as the Administrator determines to be unavoidable should be permitted in existing compliance schedules and emission limitations for control of particulates.

SECTION 4: MOTOR VEHICLE EMISSIONS

The committee proposal amends section 202 of the Clean Air Act to continue the emission standards established by the Administrator for 1975 model year automobiles during the 1976 model year. The effect of this provision is to maintain in the 1976 model year a Federal 49-State standard of 1.5 grams per mile of hydrocarbons, 15 grams per mile of carbon monoxide and 3.1 grams per mile of oxides of nitrogen, and a standard for California of 0.9 grams per mile of hydrocarbons, 9 grams per mile of carbon monoxide, and 2 grams per mile of oxides of nitrogen. These standards apply to automobiles produced by all manufacturers, whether or not any individual manufacturer had applied for or received a suspension under section 202(b) (5) previous to the enactment of this act.

The amendment provides that after January 1, 1975, an automobile manufacturer may seek a single 1-year suspension of the statutory standards for hydrocarbons and carbon monoxide applicable to the 1977 model year. The Administrator would be required to establish interim emission standards for 1977 model automobiles for hydrocarbons and carbon monoxide if he grants the suspension.

The bill amends section 202(b) (1) (B) of the Clean Air Act to establish a maximum emission standard for oxides of nitrogen of 2 grams per mile applicable nationwide to 1977 model year automobiles. This defers the previous statutory standard of 0.4 grams per mile of oxides of nitrogen until the 1978 model year. No administrative suspension would be possible from either the 1977 or 1978 standard. While the 1977 model year standard is a maximum of 2 grams per mile nationwide, under the amendment California retains the right under section 209 of the Clean Air Act to seek a waiver for a more stringent standard.

The committee is concerned with what may be unwarranted or, at least, untimely changes in EPA's certification test procedures for new automobile emissions. It is intended that uncertainty as to requirements for compliance with such standards be minimized. Any changes in test procedures shall be kept to an absolute minimum and should occur only where such changes improve instrumentation, reduce cost of testing or improve the reliability and validity of the test results.

Mr. President, I ask unanimous consent to have printed in the Record from hearings we held on the NEPA-EPA problem, a portion of the opening statement I made undertaking to spell out the legislative history of the environmental impact statement; also portions of an exchange between Senator Baker and former EPA Administrator William Ruckelshaus defining the Agency's view with respect to its obligation under the National Environmental Protection Act; also a summary of excerpts from court decisions bearing on this issue, and a summary of NEPA's legislative history on this point to enlighten the Senate and round out the Record on this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

At this point I would like to refer to this committee's longstanding interest in the environmental performance of governmental agencies and programs outside the environmental agencies almost from the day that we assumed jurisdiction over air and water pollution.

We were concerned and challenged by the question that at the same time that we were writing tough policy enforcing the environmental performance standards upon the private sector that the Government itself, a major polluter, was not approaching the task with clean hands.

So each time that we undertook the consideration of legislation to toughen our policy with respect to the private sector, there were those in the private sector who said, "Now, when is Uncle Sam going to measure up to what you are asking us to do?"

So we wrote language into the environmental laws, precatory language largely, trying to prod the Department of Defense, the Corps of Engineers, the Atomic Energy Commission and other Federal agencies to develop an environmental conscience. When the National Environmental Policy Act came down the pipe it was decided to use that for this purpose.

The objective language was to stimulate the development of an environmental conscience in what we later came to describe as the environmental impact agencies. That is, those agencies of the Federal Government whose activity is impacted or impacted potentially in an unfavorable way upon the environment.

We decided to use the National Environmental Policy Act for that purpose. At the insistence of the Committee on Public Works a requirement was adopted, that these environmental impact agencies before they adopted any major action, policy or program that impacted upon the environment to file an environmental impact statement.

It was not considered necessary that that requirement be imposed upon those agencies whose mission it was to protect the environment. So throughout our discussions we carefully distinguished between the environmental impact agencies and the environmental protection agencies.

It was clearly our intention (whether or not we succeeded in making that clear in the legislative history or in the statutes), to impose that requirement only upon the environmental impact agencies and that in all of our discussions, the conference between the Senate and the House, the conferences among Senators, we adopted that phraseology which didn't appear in the legislation.

We were distinguishing between the environmental impact agencies and the environmental protection agencies.

Our whole purpose, I will repeat, was to force the environmental impact agencies to take into account environmental impacts which could result from major actions taken by them. That pure and simple was the purpose.

We did not, deliberately did not want that requirement to be imposed upon the environmental protection agencies. Why not?

Number one, because it was the chief mission of environmental agencies to protect the environment. It wasn't an incidental, peripheral one. It was their chief mission.

Secondly, because it was, environmental standards to be applied were decided by the Congress of the United States and were not to be subjected to dilution by values brought into policy-making decisions by other agencies whose mission was otherwise.

We wanted the Act to impose environmental values upon the AEC, but we didn't want the Act to have the effect of permitting the AEC to impose their mission-oriented values upon EPA. That was our clear distinction.

The third reason was that, as we were writing the environmental laws, we were writing in very specific requirements as to deadlines, compliance schedules, implementation plans and so on, judicial review and all the rest.

Now to subject those very specific requirements that were written into law by the Congress of the United States to another procedure designed to be applied to mission-oriented or other mission agencies would have the effect of delaying the procedures established in the environmental laws.

This was the rationale and it was one that was developed over a decade, Mr. Train. There is no doubt in the mind of any of us who were involved in shaping NEPA what our intent was. By and large, the courts up to this point have recognized that intent and have supported it. But now having given that brief review of this committee's involvement in that issue may I read the rest of my opening statement?

Those of us who helped to formulate NEPA undertook to structure that statute to avoid the confusion which would result from applying the procedural requirements of NEPA to the environmental agencies.

Subsequently this committee extended NEPA to certain water pollution control actions, construction grants and permits for new water pollution sources.

So this has been a deliberate policy and for three years EPA policy as articulated in regulations and litigations has recognized this intent. The courts have upheld this intent and now, if I understand what has happened on the other side of the Capitol in a change in policy, not preceded by a change in law, EPA proposes to abandon these principles.

Senator Muskie. What are the implications of this new policy? What would happen to the pace of environmental enhancement if the courts hold that the policy cannot be as selective as the proposed regulations specify?

What would happen to standards already set to actions already in progress?

Will established health-related air quality standards be suspended pending a NEPA review? Will existing implementation plans including compliance schedules, emission limits and transportation controls be suspended pending compliance with NEPA procedure and associated litigation.

What would be the impact on the judicial review procedures specified in the Clean Air Act if a separate, independent NEPA-related judicial review is available?

How will conflicts between statutory deadlines and NEPA's regulatory time constraints be resolved? How could variances such as those required this winter to cope with energy shortages have been approved without unacceptable delay?

These are but a few of the many questions raised by EPA's proposed reversal of policy. It is because of those doubts that this policy must necessarily be the result of the legislative process. EPA is prohibited from complying with NEPA. To carry out the proposed policy requires a change in the law. The principal sponsor of NEPA in the other body has introduced such legislation.

I would hope that the result of these hearings would be the administrator's agreement to adhere to the legislative process and to abandon his unilateral course and reject this dubious policy.

U.S. Senate,
Committee on Public Works,
Washington, D.C., October 3, 1973.

To Senator Edmund S. Muskie.
From Leon G. Billings.
Subject Additional Issues Regarding NEPA–EPA.

Last Friday afternoon you asked for the basic arguments to justify the position that the application of the National Environmental Policy Act to the regulatory activities of the Environmental Protection Agency would be substantive rather than procedural. This issue was addressed in joint hearings with the Committee on Interior in March of 1972. At that time, Administrator Ruckelshaus testified that EPA did not believe that the procedures of NEPA were applicable to all environmental programs. The following statements from his testimony are relevant:

"Our programs fall into two groups according to the categories set forth in CEQ's guidelines on Federal agency responsibilities under NEPA. Under the guidelines, EPA, as an environmental regulatory Agency, was not responsible for preparing impact statements for its environmental regulatory activities, but was required to prepare them for its other activities."

"We believe that most of our standards setting and enforcement activities, including the pesticides registration, water quality standards approval and enforcement, standards setting implementation plans under the Clean Air Act, and others, fall within the category of environmental regulatory activities. Accordingly, we do not believe that NEPA required impact statements for our actions under these programs. Nor do we believe that this policy should be changed until the full implications and ramifications of such change have been thoroughly examined.

There was considerable discussion of the impact of applying NEPA to EPA in an exchange of correspondence between Senator Baker and the Administrator. In response to the question:

"Assuming for the purposes of this question that all EPA activities are held subject to NEPA by the judiciary, and assuming for the purposes of this question that no legislative or regulatory relief from such a holding is forthcoming, given the Calvert Cliffs doctrine that NEPA requires an overall "balancing judgment" with respect to each "major federal action," would you interpret NEPA in such a way as to:

a. alter in any way your mandate under the Clean Air Act to establish ambient air quality standards with an adequate margin of safety at a level necessary to protect public health?

b. alter in any way the mandate of the Clean Air Act that new source performance standards be established with reference to the best available technology?

c. permit the EPA to modify any of its basic enabling statutes, on the basis of the "balancing judgment," so as to impose a less stringent standard than would otherwise have been imposed?

d. similarly, permit the EPA to impose more stringent standards than those provided for in the basic enabling Acts; and if so, against what criteria?" . . .

Administrator Ruckelshaus replied:

"In short, EPA's basic enabling statutes specify the levels at which various standards must be set, and specify the factors that must be taken into account in setting the standards. We intend to comply with these Congressional directives, to the best of our ability. We do not think that we can violate these directives by making the standards either more stringent, or less stringent, than our basic enabling statutes.

"The point is that the preparation of environmental impact statements required under NEPA is designed to set forth information concerning the environmental consequences of proposed Federal actions, the alternatives to such actions, and other related factors. The purpose of gathering this information is to lay a foundation for a balancing by the Agency. This balancing is intended to affect Federal decision-making to assure that environmental considerations be given appropriate weight.

"In other words, environmental impact statements are not merely sterile academic exercises; they are intended to—and they do—have an actual substantive effect on Federal agencies' decisions.

"Where Congress has specifically directed the factors to be considered in establishing environmental protective regulations, the Federal action often will be quite different from a decision which would result from balancing the broader range of values covered by NEPA. For these reasons, application of NEPA to our regulatory programs would pose a difficult dilemma. We cannot speculate what directives might be given to EPA by a court if it concluded that NEPA does apply to our environmental regulatory activities. As indicated above, we believe that the specific statutes governing our environmental regulatory programs are at least to some extent inconsistent wih the provisions of NEPA. Therefore, if a court concludes that we are subject to NEPA it quite logically might also go on to direct that we disregard certain limitations imposed by our basic statutes. This in turn might require us to issue standards at levels either more stringent or less stringent than those called for by our basic statutes."

CITATIONS ON NEPA–EPA QUESTION

1. *Getty Oil Company* v. *Ruckelshaus* (3rd Circuit—September 12, 1972).

"It's apparent that the Clean Air Act itself contains sufficient provisions for the achievement of those goals sought to be attained by NEPA."

2. *International Harvester* v. *Ruckelshaus* (D.C. Circuit February 10, 1973).

"Although we do not reach the question whether EPA is automatically and completely exempt from NEPA, we see little need in requiring a NEPA statement from an agency whose raison d'etre is the protection of the environment and whose decision on suspension is necessarily infused with the environmental considerations so pertinent to Congress in designing the statutory framework. To require a "statement" in addition to a decision setting forth the same consideration, would be a legalism carried to the extreme."

3. *Appalachian Power* v. *EPA* (4th Circuit April 11, 1973).

"We are convinced that while NEPA applies to "all agencies of the Federal government" and requires an impact statement for every major Federal action "significantly affecting the quality of the human environment," it is inapplicable to the action of the Administrator in seeking, through the approval of State implementation plans, to improve "the quality of human environment." (The court also cited Getty Oil 467 F.2d 359)

4. *Duquesne Light Co.* v. *EPA* (3rd Circuit June 5, 1973).

"Presented with the square holding of the 4th Circuit (Appalachian Power case), and the logically appeal pronouncements of this court, the District of Columbia Circuit Court and the District Court in Delaware, we hold that, in approving the State implementation plans, the Administrator is not required to meet the impact statement requirements of the NEPA—certainly in the context of this case."

5. *Anaconda* v. *Ruckelshaus* (10th Circuit August 8, 1973).

"The important point here is that the EPA's sole mission is to improve the quality of the human environment. To compel the filing of impact statements could only serve to frustrate the accomplishment of the Act's objectives. Moreover the legislative history which is developed in *Portland Cement Association* v. *Ruckelhaus* (D.C. Circuit June 29, 1973), clearly establishes that such a statement was not contemplated by Congress." Furthermore, no Court of Appeals has held that such an impact statement is necessary and the several decisions which have considered it have ruled that it is not. See *Appalachian Power* v. *EPA* 477 F. 2d 495, 4th Circuit April 11, 1973; *Duquesne Light Co.* v. *EPA* 3rd Circuit June 5, 1973; *Buckeye Power, Inc.* v. *EPA* 6th Circuit June 28, 1973; *International Harvester* v. *Ruckelshaus* D.C. Circuit February 10, 1973).

6. *Essex Chemical Corporation* v. *Ruckelshaus* (D.C. Circuit September 10, 1973).

This case quotes the Portland Cement case and continues the view that the regulatory functions of EPA under the Clean Air Act, in this case the new source performance standards under section 111, do not require environmental impact statements under NEPA. The court in Essex Chemical quoted the court decision in Portland Cement. "What is decisive, ultimately, is the reality that, section 111 of the Clean Air Act, properly construed, requires the functional equivalent of a NEPA impact statement."

I do not have copies of the Portland Cement case cited above or another case, *Buckeye Power, Inc.* v. *EPA* (6th Circuit, June 28, 1973). Both cases support the same concept.

1. Getty Oil.

Enforcement of a violation of a provision in an implementation plan.

2. International Harvester.

Section 202 automobile extension challenge.

3. Appalachian Power.

Challenge of approval of State implementation plan.

4. Duquesne Light.

Challenge of approval of State implementation plan.

5. Anaconda.

Challenge of substitution for State implementation plan.

6. Essex.

Challenge of new source performance standards.

LEGISLATIVE HISTORY OF NEPA

It was clearly intended, at the time Congress enacted NEPA, that environmental regulatory agencies such as those authorized by FWPCA and the Clean Air Act would not be subject to NEPA's provisions.

The debate in the Senate and the House at the time of approval of the Conference Report on NEPA is abundantly clear.

In a summary of major changes adopted by the Conference Committee which Senator Jackson (primary sponsor and floor manager of NEPA) included in the Record, the following statement appears:

"Many existing agencies such as the National Park Service, the Federal Water Pollution Control Administration, and the National Air Pollution Control Administration already have important responsibilities in the area of environmental control. The provisions of section 102 (as well as 103) are not designed to result in any change in the manner in which they carry out their environmental protection authority."

"It is not the intent of the Senate conferees that the review required by section 103 would require existing environmental control agencies such as the Federal Water Pollution Control Administration and National Air Pollution Control Administration to review their statutory authority and regulatory policies which are related to maintaining and enhancing the quality of the environment. This section is aimed at those agencies which have little or no authority to consider environmental values." Congressional Record, vol. 115, pt. 30, p. 40423.)

Senator Muskie made the following statement as regards Senator Jackson's explanation:

"It is clear then, and this is the clear understanding of the Senator from Washington and his colleagues, and those of us who serve on the Public Works Committee, that the agencies having authority in the environmental improvement field will continue to operate under their legislative mandate as previously established, and that those legislative mandates are not changed in any way by Section 102–5." Congressional Record, vol. 115, pt. 30, p. 40423.)

Also, in a colloquy with Senator Boggs, Senator Muskie extended his comments on the understanding of the Senate as regards the relationship between FWPCA and NEPA:

"Mr. Boggs. Am I correct that the thrust of the direction contained in S. 1075 deals with what we might call the environmental impact agencies rather than the environmental enhancement agencies, such as the Federal Water Pollution Control Administration or National Air Pollution Control Administration.

Mr. Muskie. Yes. Sections 102 and 103, and I think Section 105, contain language designed by the Senate Committee on Interior and Insular Affairs to apply strong pressures on those agencies that have an impact on the environment—the Bureau of Public Roads, for example, the Atomic Energy Commission, and others. This strong language in that section is intended to bring pressure on those agencies to become environment conscious, to bring pressure upon them to respond to the needs of environmental quality, to bring pressure upon them to develop legislation to deal with those cases where their legislative authority does not enable them to respond to these values effectively, and to reorient them toward a consciousness of and sensitivity to the environment.

Of course this legislation does not impose a responsibility or an obligation on those environmental-impact agencies to make final decisions with respect to the nature and extent of the environmental impact of their activities. Rather than performing self-policing functions, I understand that the nature and extent of environmental impact will be determined by the environmental control agencies.

With regard to the environmental improvement agencies such as the Federal Water Improvement Administration and the Air Quality Administration, it is clearly understood that those agencies will operate on the basis of the legislative charter that has been created and is not modified in any way by S. 1075." Congressional Record, vol. 115, pt. 30, p. 40425.)

Finally during consideration of the NEPA Conference Report in the House of Representatives, the following exchange between Representative George Fallon and House floor manager Representative John Dingell appears:

"What would be the effect of this legislation on the Federal Water Pollution Control Agency?

Answer: Many existing agencies such as the Federal Water Pollution Control Agency already have important responsibilities in the area of environment control. The provisions of Sections 102 and 103 are not designed to result in any change in the manner in which they carry out their environmental protection authority. This provision is primarily designed to assure consideration of environmental matters by agencies in their planning and decision-making—but most especially those agencies who now have little or no legislative authority to take environmental considerations into account. (Congressional Record, vol. 115, pt. 30, p. 40925.)

SENATOR RANDOLPH ADVOCATES A RECONCILIATION OF ENVIRONMENTAL AND ENERGY POLICIES

Mr. RANDOLPH. Mr. President, I hope that we can have a prompt and a reasoned discussion on the important matters that are contained in this action, finalized by the Public Works Committee yesterday.

Senator Jackson has informed me that there is no problem in the Interior and Insular Affairs Committee in reference to the Public Works Committee's action on this legislation today. There also will be an opportunity, of course, for the Senator from Washington (Mr. Jackson), or others of that committee, to discuss the matters in which they may be concerned.

The proposed committee substitute for the House-passed version of the Energy Supply and Environmental Coordination Act of 1974 is concerned with matters—and I emphasize this—matters that have previously been considered by the Senate.

For the most part, what we are doing here is amending the Clean Air Act to provide that statute with additional flexibility to adjust to the realities of uncertain and inadequate energy supplies and with adjustments in the schedule for meeting Federal automobile emission standards.

All of these items have been carefully considered in the past by the Committee on Public Works. We held extensive hearings last year and participated actively in the conference on the Emergency Energy Act which included the subject matter that will be discussed today.

Mr. President, the measure before us now originally was title II of S. 3267, the Standby Energy Emergency Authorities Act, which has been discussed in recent days in this body. Members of our committee and others also have discussed the matters as part of the broader proposal presented by the Interior and Insular Affairs Committee.

Title II of that measure was deleted from the bill reported by the Committee on Interior and Insular Affairs. Since most of its provisions fall within the jurisdiction of the Committee on Public Works, we once again reviewed them in the context of the events of recent months.

During this period, members of our committee conferred with our colleagues in the House of Representatives, and it was agreed that the other body would act first on this legislation. The House did act and passed H.R. 14368 on May 1, 1974. The Committee on Public Works then met and approved the substitute version which, as I have indicated, is now before the Senate for consideration.

All members of the Committee on Public Works have been greatly concerned with this problem. They have been diligent in their attention to both the short-term and long-range ramifications of the energy situation, particularly as they relate to our efforts to improve environmental quality. In the preparation of this measure which we consider today the chairman of our Subcommittee on Enirvonmental Protection, Senator Muskie, made valuable contributions, as did the ranking minority members of the full committee and subcommittee, Senators Baker and Buckley. Our success in bringing this measure promptly to the Senate also was greatly facilitated by the efforts and participation of the other members of the committee, Senators Montoya, Gravel, Bentsen, Burdick, Clark, Biden, Stafford, William L. Scott, McClure, and Domenici.

One of the problems that we have dealt with in this legislation, which is of great importance, is our efforts to be realistic in meeting problems imposed by inadequate and uncertain fuel supplies.

We recall, Mr. President, that last year during the energy crisis, particularly last winter, a number of electric generating plants were permitted to switch temporarily from the use of oil to coal.

The legislation we have in the Senate today clarifies and revises the legal basis for this coal conversion so that the Federal Energy Administrator can mandate this step, in appropriate cases, to provide substantial relief from the unavailability of short supplies of clean fuels.

I turn aside at this moment to note that one firm, a utility company in New England, had purchased $20 million worth of coal, some 500,000 tons of coal, for use in its reconversion process. Waivers had been granted by the State of Massachusetts to permit this action. Then the Federal Environmental Protection Agency, acting, I am sure, on their interpretation, of the Clean Air Act found that the reconversion could not move forward, even for a temporary period of time.

Therefore, we provide in this legislation, for electric utilities and other major fuel-burning facilities to continue to burn coal after June 1975, when the present regulations, under the Clean Air Act, Mr. President, might prevent the necessary—and I use the word advisedly—burning of coal. My amendment contains language temporarily postponing compliance with certain standards of reduction of automobile emissions. These provisions are identical to those earlier approved—I want to emphasize "those earlier approved"—by the Senate and House conferees, and later ratified by the Senate itself.

This legislation clarifies and revises the legal basis for coal conversion so that the Federal Energy Administrator can mandate this step in appropriate cases to provide substantial relief from short supplies of the clean fuels. It provides authority to continue burning coal after June of 1975, when regulations under the Clean Air Act as it presently stands might prevent the necessary burning of coal.

The amendment also contains language temporarily postponing compliance with certain standards for the reduction of automobile emission standards. These provisions are identical to those earlier approved by a Senate-House conference and ratified by this body.

Mr. President, although the energy crisis has been temporarily alleviated, it is not over. Continuing energy shortages and the real prospect of future crises are now part of our way of life.

The provisions of the legislation before the Senate are part of an arsenal that is being accumulated to help us react responsibly to present and potential energy supply situations. This measure must be passed so that we can meet without delay in conference with the House of Representatives to bring it to final action.

I hope that Senate will act promptly and affirmatively so that we can go on to the next step in meeting the challenge imposed by the energy crisis.

Mr. President, since enactment of the Air Quality Act of 1967 and the Clean Air Amendments of 1970, the American people have not done well in finding a suitable, or equitable, balance between energy and the environment. I emphasize, energy and environment. For it seems that the advocates of both energy and the environment have adopted a national posture of one versus the other, to the substantial disadvantage of domestic energy supplies.

At stake now is the adequacy of the commitment by the Congress, by government, by industry, and by the American people toward simultaneous achievement of national environmental and energy goals. For we must assure that both these goals are not jeopardized.

Rather, we must achieve a reconciliation between the extreme positions of environmental advocates and the proponents of unconstrained energy consumption. For an equilibrium must be reached between the three forces of economic, social, and environmental interests.

The challenge is there, Mr. President, the question is one of national acceptance and a solid commitment by the American people toward meeting our country's social and energy policies consistent with a concurrent national commitment to environmental policies. The goal attendant to each of these policies can be achieved if the approachment of our national capability to their solutions is reasonable and not fanatical.

As a result of the recent oil embargo, the Congress and the American people are now faced with the formulation of national energy and environmental policies to insure sufficient domestic energy supplies to meet our country's long-term economic requirement—consistent with Federal and State long-term environmental goals.

Mr. President, the legislation under consideration today represents an initial attempt at a reconciliation between energy and environmental policies. The proposed amendments to the Clean Air Act were originally written last December by Senate and House conferees on S. 2589, the Emergency Energy Act of 1973. The legislation under consideration today, H.R. 14368, the Energy Supply and Environmental Coordination Act of 1974, represents a refinement on the earlier measure. Nevertheless, it must not be viewed as a final answer to our present need for a reconciliation of environmental and energy policies. Rather, H.R. 14368 must be viewed as a first attempt toward finding the equilibrium position between long-term economic, social, and environmental concerns—of which I spoke earlier.

Substantial increases in coal utilization will be required as part of the many faceted solution to our country's energy problem. The challenge will be to carry it out in an environmentally responsible manner at acceptable costs to the producer and consumer.

This legislation reaffirms that compliance with the primary ambient air quality standards advocated in the Clean Air Act is a basic environmental goal. While temporary variances in emissions standards will be necessary in some instances, handling these on a case-by-case basis rather than through blanket exceptions will allow the necessary consideration in arriving at decisions which are fair to the utilities concerned and at the same time provide maximum protection to air quality.

In 1967, when the Committee on Public Works formulated the Air Quality Act, we knew the full implications of the policies we were enacting would be difficult to predict. Later, in 1970 we knew the Clean Air Amendments represented perhaps the most significant economic policy to be enacted in the interest of promoting environmental quality.

The premises on which this legislation was formulated are still valid. And in formulating the Energy Supply and Environmental Coordination Act of 1974 every attention was devoted to assure the basic integrity of present Federal and State programs are not undermined because of an overreaction to the energy crisis facing our country.

It would be a mistake to view these amendments to the Clean Air Act as a retreat from our earlier commitment to clean air. Rather, they are a realistic short-term response to the current energy situation and a need to provide for coal reconversion in this legislation.

The extensions are simply temporary actions to deal with the next 5 years. As such this measure provides Federal and State government with realistic tools to cope with environmental-energy issues attendant to coal conversion.

The legislation authorizes the Federal Energy Administrator to direct the conversion of electric utilities and major industrial facilities with the capability to use coal to discontinue their use of natural gas or oil. In order to facilitate these reconversions a 1-year exemption is provided from the requirements of the National Environmental Policy Act for an environmental impact statement.

There then remains the need to provide a mechanism for addressing the issues attendant to present Federal and State air pollution control standards.

PRESENT EPA AUTHORITY

An examination of the present authority of the Environmental Protection Agency to resolve energy related problems leads to the following conclusions:

First, presently EPA can grant short-term variances at the request of a State. The legislation would provide the EPA with authority to grant such variances on its own motion.

Second, in the recent Fifth Circuit Court of Appeals decision in Natural Resources Defense Council against EPA, the court held that the only procedure available for granting variances pursuant to the Clean Air Act is section 110 (f). This bill would clarify EPA's authority for permitting fuel variances in the fifth circuit.

Third, although this is not necessarily the case, the EPA believes that its authority is largely restricted in granting variances to the terms submitted by a State. The legislation would clarify the EPA's authority to impose interim requirements that both protect air quality and insure appropriate efforts are taken to secure continuous emission control systems or conforming fuels.

Fourth, although the Administration assumes it has authority to allow coal conversions in the furtherance of Project Independence, EPA cannot permit noncompliance with emission limitations or other terms of State implementation plans beyond statutory deadlines. The legislation would enable the EPA to allow short-term and intermediate-term conversions from oil to coal in many situations which might not qualify under present law.

Fifth, the EPA also is provided with complementary authority to allocate low-sulfur energy supplies to critical areas and sources in order to minimize adverse impacts on public health or welfare.

This legislation would provide a mechanism for providing temporary variances from applicable emission standards on a case-by-case basis rather than through blanket exceptions without provision for maximum protection of ambient air quality.

CLEAN AIR PROVISIONS

The clean air provisions incorporated in this legislation reflect a carefully thought out approach to reconciling the interrelationship between the need for a greater reliance on coal if energy self-sufficiency is to be successfully approached and a concomitant need for protection of the long-term integrity of environmental protection programs. The measure under debate incorporates several minor modifications in the language of the House passed clean air provisions as well as the coal conversion provisions.

The intent is to provide a mechanism

for the reconversion to coal of the few major energy facilities which now have the capability to use coal but are using natural gas and oil. Later, the Congress will examine the issues attendant both to requiring existing energy facilities to possess a dual fuel capability, including a coal burning capability. Now is not an appropriate time.

Mr. President, this legislation concerns itself with variances for the short-term appropriately termed phase I for an intermediate period, phase II, and for a longer term situation, phase III. The first phase authorizes temporary variances until June 30, 1975, to permit conversions from oil and natural gas to nonconforming coal in the face of immediate and short-term energy supply problems such as occurred both during the winter of 1972 to 1973 and during the OPEC embargo last winter.

Similar suspension are available under H.R. 14368 for an intermediate term until January 1, 1979, with a potential additional 1-year extention, for those facilities which convert to coal on modified compliance schedules to achieve applicable clean air standards by 1979.

This second phase provides for modification of State air quality implementation plans so that reconversions to coal may continue for a longer time. Under these provisions, a limited number of installations will be able to elect to continue to use noncomplying fuels beyond June 30, 1975.

In order to be eligible for this extension, emissions from the converted source cannot cause or contribute to ambient air quality levels in excess of national primary—or health related—ambient air quality standards conversions cannot take place in regions where the primary ambient air quality standards are presently being exceeded.

Moreover, the new compliance schedule must mandate steady progress toward compliance with present emission limits which must be achieved not later than January 1, 1979.

The modified air pollution control schedule must include dates by which the installation's owners must either enter into long-term contracts for low-sulfur coal or the necessary emission reduction systems to achieve compliance with applicable air pollution control standards.

EXTENSION OF MOTOR VEHICLE EMISSION STANDARDS

Transportation is a necessary service, and it is provided under an extensive system of Government regulations, often heavily subsized by public funds. In many American cities, a pattern of decisions at all levels of Government has shaped a diffuse and auto-dependent transportation network. This network itself is often as much a source of air pollution and energy waste as the emissions from the individual automobiles themselves.

Actions at all levels of government will be required to change this. In the future, State and local governments will have to insure total transportation systems that are developed and operated so as to be consistent with environmental policies.

To date, principal air pollution control strategy has been federally established uniform automobile emission standards. Present emission control requirements stem from the Clean Air Amendments of 1970. In the interim period, however, it has become apparent that additional time is warranted for achievement.

In December 1973, the Senate passed S. 2772, a bill extending for an additional year the emission standards applicable to 1975 model automobiles. This action resulted from extensive study by the Committee on Public Works on the total question of motor vehicle pollution and the requirements for reducing it. The committee felt that this was the only change in the program that was warranted at that time.

On May 1, 1974, the House of Representatives passed H.R. 14368, containing similar provisions modeled on the earlier conference action on S. 2589, which was vetoed by the President.

This legislation provides for a 1-year extension of the 1975 emission standards for hydrocarbons and carbon monoxide and gives the Administrator of the Environmental Protection Agency the authority to grant another 1-year extension.

In addition, H.R. 14368 provides an emission standards for oxides of nitrogen at 2 grams per mile in model year 1977, without any further extension of the statutory standards.

This measure does not represent a final decision by the Committee on Public Works on the appropriate standard for oxides of nitrogen or on the technology for control of automobile emissions, and their implication. Rather, the Committee is simply taking necessary action to give certainty to Detroit in its production for model years 1975 and 1976.

Mr. President, I should like to call on the Senator from Tennessee (Mr. BAKER), on this particular for an explanation of the legislations as it affects the automobile companies. We are really working, in a sense, after the fact.

Mr. BAKER. The distinguished chairman is entirely correct. As a matter of fact, as he called my attention to this matter, I was in a conversation with the distinguished junior Senator from Michigan (Mr. GRIFFIN), who was pointing out that we are in the untenable position of having forced the automobile industry into a situation where they soon will be technically in violation of the law because of our failure to date to amend the statute.

I think it is absolutely imperative from a moral standpoint, that we have an undoubted responsibility to attend to changes in the requirements of the law on automobile emissions, if for no other reason than to assure that we are being fair and square with the largest industry in the United States, the automobile industry.

We ought to keep in mind that we are not weakening the requirements of the environmental standards. We are maintaining and in some cases stiffening the requirements and are seeing to it that they are steadfastly adhered to in the automobile manufacturing industry.

The law now requires the automobile industry to devise environmental control systems. In effect they are saying to us: "You have made us do this and have caused us to spend upward of $1 billion, according to some estimates, to comply with the requirements, but you are not amending the law to permit us to come into compliance with the statutory requirements. You are requiring us to be in compliance with an extremely, stringent standard, one that we thought would be changed by now, and to go on with this business."

Our distinguished chairman, as usual, is absolutely right. We have not only a legal, but also a moral, obligation to get on with the business of making compliance with the standards a possibility.

It is my personal hope that we will act today and that the Senate will pass this bill today. I hope, then, that some staff lawyer in the automobile industry will report to his superiors that their company is no longer in legal jeopardy with respect to the emission standards.

Mr. RANDOLPH. Mr. President, I appreciate the opportunity to have had this colloquy and of raising this point with the able Senator from Tennessee (Mr. BAKER).

OPEC OIL EMBARGO

The United States' only option is our long term interest in energy self-sufficiency. This entails a greater development of nuclear electric power and more importantly a significantly increased reliance on domestic coal resources beyond levels previously considered achievable.

Before the OPEC oil embargo last year our country's ad hoc energy policy was synonymous with an imported oil policy. Despite the effects of the embargo which dramatized the desirability for energy self-sufficiency, we are now returning to the earlier posture of looking to the Middle East for new energy supplies. Under current projections by 1980 almost 50 percent, one-half of our oil supplies, would be coming from the Middle East.

Yet, recent events have demonstrated the fallacy of this proposed dependence on the Middle East—even from a short term perspective. Yet, as a Nation, we are not taking the necessary steps to assure alternate domestic supplies. One such possibility is reconversion of electric powerplants and major industrial users of imported oil back to domestic coal supplies.

The primary lesson that is to be learned from the oil embargo is that air pollution control strategies that depend primarily on fuel-switching to foreign sources of low-sulfur oil are—as declared by Senator BAKER on February 19, 1974, in this Chamber—"neither environmentally safe nor politically prudent." Quoting further from the remarks of my colleague from Tennessee, who is the ranking minority member from the Committee on Public Works, he observed:

> During the past several years, several air quality regions have depended heavily upon foreign low-sulfur oil to avoid serious air quality problems. It is ironic and tragic that these communities which had most rapidly moved to meet air standards in response to urgent health problems are now confronted by the ineffectiveness of their strategy.

Returning to a greater reliance on the utilization of domestic coal supplies is unlikely to expedite the achievement of environmental goals that go beyond the protection of public health to the protection of broader societal concerns such as welfare. However, as recent events exhibit, the goal of energy self-sufficiency also will lead our country to more reliable clean air programs.

COAL RECONVERSION

In response to the Arab oil embargo, the U.S. utility industries were encouraged by the Federal Government to convert some of their facilities from oil to domestic supplies of coal. As of the end of February, some 22 units at 11 locations on the east coast had responded and made such conversions. The resultant savings in February alone were 53,140 barrels of residual oil per day. And the estimated oil savings for March were *slightly* higher, 67,980 barrels per day.

These conversions were undertaken by utility executives in response to a special message by President Nixon and encouragement by then Federal Energy Office Administrator William E. Simon when our country was faced with a national energy emergency. Such conversions also were supported by the Congress.

However, there are indications that this program is now jeopardized. On April 24, 1974, Carl E. Bagge, president of the National Coal Association, sent a telegram to President Nixon urging a reaffirmation of the administration's support for coal reconversion, declaring:

> The virtual elimination of this program would also constitute a serious breach of faith with the coal industry. At the request of former FEO Administrator Simon and in agreements signed with the Cost of Living Council earlier this year, major coal producers agreed to invest in equipment needed to expand production so that the fuel requirements of the converted powerplants could be met. Yet now they face the prospect of having the coal but not the markets.

Encouraged by the Federal Government and the promise of appropriate legislation, some 22 units at 11 powerplants on the east coast had converted to coal by the end of February. The resultant savings in February were 53,140 barrels per day of residual fuel oil or 13,280 tons per day of coal. For March, the estimated savings were slightly higher—67,980 barrels per day of oil or 16,996 tons per day of coal.

Another 15 electric powerplants with a total of 33 units have indicated they can and are willing to convert provided environmental, technical, transportation, and supply problems are solved. This second category represents a further savings of 113,991 barrels per day of oil or 28,498 tons per day of coal.

Yet on April 10, former Federal Energy Office Administrator William Simon testified before the House Government Operations Committee that because the air quality variances for all of these facilities—22 units—would expire by May 15, they would have to be reconverted back to oil.

In summary, the utility industry responded in good faith to the President's encouragement to convert to coal on either a short-term or long-term basis. Now even where a utility desires to remain on coal, reconversion to oil may be required. In short, the domestic coal industry responded to a national energy crisis but now that the crisis is over we are returning to oil ways—imported oil.

This legislation, however, enables those facilities which have access to coal supplies that do not cause or contribute to concentrations of air pollution in excess of national primary ambient air quality standards, to remain on coal subject to a commitment to meet applicable emission standards by January 1, 1979.

FEASIBILITY OF INCREASED COAL PRODUCTION

The National Coal Association estimated that the industry could produce an additional 50 million tons of coal over and above their earlier expectations for coal supply in 1974. The prediction was based on a number of assumptions. Among these were labor stability, effective enforcement of Federal and State mine, health and safety laws "without harassment or unnecessary mine closings" by inspectors, continued surface mining "with effective reclamation," adequate coal transportation, "use of present machinery and manpower without considering costs" and exemption from Federal price controls.

More recent information from the Federal Energy Office indicates that the demand for coal from expected reconversions would be less than the National Coal Association's estimate of 50 million additional tons of production capacity. Nevertheless, the association's statement points up the many problem areas affecting coal supplies which must be considered in evaluating the feasibility for a greater emphasis on coal conversion.

ENVIRONMENTAL IMPLICATIONS OF COAL CONVERSION

At the request of the Federal Energy Office, the Environmental Protection Agency conducted preliminary analyses of 37 identified electric power plants which might be required to burn coal instead of oil. Although more detailed considerations are needed, as discussed in the March 1, 1974, EPA staff report; I quote:

> In many of the situations studied, the environmental suitability of conversions to coal is heavily time-dependent. It depends on the effectiveness (or existence) of emission control systems at the time of conversion.
>
> In a number of the plants studied, the electrostatic precipitators have been allowed to deteriorate because there was not requirement for good operation once the unit was converted to oil. The collection efficiency for coal can only be approximated. Some utilities guess as low as 50 percent to 70 percent and one assumes nearly 0 percent because of the condition of the equipment. If coal were to be burned in such units before work could be done on the equipment, heavy emissions of particulate matter could be expected.
>
> The time and feasibility of repair become important factors in assessing the environmental aspects of conversion. The units would, in many cases, have to be shut down during repair and maintenances and, since units burning coal are generally planned for base-loading, the shut-downs would have to be carefully scheduled. Estimates of time of repair range from a week or two to as high as 18 months.
>
> Estimates of the feasibility of retrofit and the time required to install flue-gas desulfurization indicate that, in nearly all the plants studied, sulfur dioxide emissions would remain unchecked for much longer periods, and some cases for the life of the unit because of the infeasibility of installing such equipment.

The EPA staff report then adds the comment:

> It should be noted than many power plants would be environmentally suitable for coal-burning if the installation of good emission control systems preceded the use of coal.

Particular note should be made of the fact that reliable estimates of the quality of the coal that would be used in reconverted units was not available. However, as noted in the EPA staff report:

> A clearer picture of the available coal and its quality will emerge before decisions are made and assessemnt of the environmental aspects of these conversions can be developed on more valid bases.

The EPA staff report than recommends:

> Before any (final) decisions are reached, the range of possibilities should be discussed and the conversions and fuel qualities most responsive to both the supply of fuels and the environmental considerations selected.

Nevertheless, Mr. President, it was possible for the EPA staff to conduct preliminary analyses on the basis of carefully selected assumptions which are described in this excerpt from its report, that I request appear in the Record at this point in my remarks.

> Data used in the modeling effort to define plant characteristics include: stack height, stack diameter, stack temperature and gas volume when the associated boilers are operating at full load, design fuel consumption for each boiler, and the excess air used. In most cases these data are the latest available from the Federal Power Commission Form 67, as reported by the power companies. When available, updated are obtained from state and local pollution control agencies or from the plants themselves.
>
> The fuel quality (percent sulfur, percent ash, and heat content) of fuels currently being burned is obtained from the FPC data. These parameters for the coal which the plant might be required to burn are estimated from data on current and projected supplies. For existing pollution control devices within each plant, a control efficiency is assumed considering design and test data recent history of use and estimations from local agencies and the power companies. It is recognized that an electrostatic precipitator which has not been in use, or has been used in conjunction with an oil-fired boiler, will operate at an efficiency significantly less than the design efficiency. In many cases, two years or more may be required before maximum efficiency can be achieved.
>
> Standard EPA methods are used to relate quantities of fuels burned and the resulting pollutants emitted. (Reference: "Compilation of Air Pollutant Emission Factors," U.S. Environmental Protection Agency publication No. AP-42, revised April, 1973.)

Mr. President, I also ask unanimous consent that there be printed in the Record at this point two tables which summarize the results of these preliminary evaluations by the Environmental Protection Agency.

There being no objection, the tables were ordered to be printed in the Record, as follows:

CONVERSIONS TO RESPOND TO RESIDUAL OIL SHORTAGES WITHOUT SIGNIFICANT VIOLATIONS OF PRIMARY AMBIENT AIR QUALITY STANDARDS

Plant name, location	Urged to convert to coal in FEO telegram (26 plants)	EPA region	Units for conversion	Estimated oil savings (barrels/day)	Comments
Crystal River, Red Level, Fla	No	IV	1	9,425	Measured air quality, modelling predictions, low population impact and lack of other major sources in the area all make this plant a good candidate for short-term conversion. The particulate matter collection equipment should be put into good operation before conversion if possible.
			2	12,186	
Morgantown, Newburg, Md	Yes	III	1	11,500	A good candidate for short-term conversion—no known air quality problems in impact area, good dispersion, good particulate matter collection, and no other large sources in area.
			2	11,500	
Chalk Point, Aquasco, Md	No	III	1	*2,500	A good candidate for short-term conversion—good particulate control, measured air quality acceptable, area thinly populated, no other large sources in area.
			2	*2,500	
Sutton, Wilmington, N.C	Yes	IV	1, 2	*5,672	A good candidate for short-term conversion—no known air quality problems, dispersion appears good from the tall stacks, the short stacks may cause some problems, but they are not expected to be severe or frequent.
			3	*3,539	
McManus, Brunswick, Ga	Yes	IV	1, 2	7,890	A good candidate for short-term conversion—low population exposure, modelling predictions; some possible problems with TSP, but should not be severe.
England, Beesleys Point, N.J	Yes	II	1, 2	*9,920	A good candidate for short-term conversion—low population exposure, good air quality, modelling predictions, and no other major nearby sources.
Mt. Tom, Holyoke, Mass	Yes	I	1	*4,700	A good candidate for short-term conversion—good air quality, and low population exposure.
Danskammer, Rosetown, N.Y	No	II	1	1,900	Tentative—A good candidate for short-term conversion—low population exposure, plus reasonably good air quality. No study of this plant has been requested by FEO.
			2	2,000	
			3	4,000	
			4	6,300	
Middletown, Middletown, Conn	Yes	I	1	*1,750	A good candidate for short-term conversion—low population exposure, and good air quality.
			2	*3,540	
Montville, Montville, Conn	Yes	I	1	110	A fair candidate for short-term conversion—major impact area has low population exposure and fairly good air quality; some possible problems in pollutant channeling to nearby towns.
			2	85	
Salem Harbor, Salem, Mass	No	I	1	*1,200	A fair candidate for short-term conversion—modelling predictions fairly good air quality (AQ impact from plant less severe in winter than remainder of year).
			2	*2,600	
			3	*5,000	
Brayton Point, Fall River, Mass	No	I	3	22,000	A fair candidate for short-term conversion—good dispersion, good particulate control, and fairly good air quality.
Chesterfield, Chester, Va	Yes	III	6	12,300	A fair candidate for short-term coa. conversion—good dispersion, good particulate control, and low density area.
Deepwater, Pennsgrove, N.J	Yes	II	1	*2,680	A marginal candidate for short-term conversion—marginal air quality, dense area.
			8	*2,360	
Lovett, Tompkins Cove, N.Y	Yes	II	4	*3,630	A marginal candidate for short-term conversion—low population exposure; however, poor dispersion
			5	*4,150	
Schiller, Portsmouth, N.H	Yes	I	4	1,000	A marginal candidate for short-term conversion—possible TSP problem.
			5	1,000	
Burlington, Burlington, N.J	Yes	II	5	*2,500	A marginal candidate for short-term conversion—marginal air quality, dense impact area, and multiple industrial sources.
			6	*2,500	
Far Rockaway, Far Rockaway, N.Y	No	II	1	3,050	A marginal candidate for short-term conversion—marginal air quality, reasonable dispersion.
Bergen	Yes	II	1	*5,000	A marginal candidate for short-term conversion—marginal air quality, dense impact area, fairly good dispersion.
			2	*5,000	
Total				176,987	

PLANTS CONSIDERED TO BE NOT ENVIRONMENTALLY ACCEPTABLE FOR SHORT-TERM CONVERSIONS

Arthur Kill, Staten Island, N.Y	No	II	30	12,400	Poor candidate for short-term conversion—poor air quality area.
Ravenswood, Queens, N.Y	No	II	3N, 3S	25,600	Poor candidate for short-term conversion—poor air quality area.
Barrett, Island Park, N.Y	Yes	II	1–2	9,300	Poor candidate for short-term conversion—marginal air quality, poor particulate control.
Albany, Albany, N.Y	Yes	II	1–2–3–4	11,500	Poor candidate for short-term conversion—modelling predictions, poor particulate collection, terrain problems.
Gilbert, Milford, N.J	Yes	II	1–2–3	2,610	Poor candidate for short-term conversion—modelling predictions, constrictive terrain.
Sayreville, Sayreville, N.J	No	II	7–8	8,820	Poor candidate for short-term conversion—poor particulate control, poor air quality area, dense population in impact area.
Barbados, West Morristown, Pa	Yes	III	31	2,600	Poor candidate for short-term conversion—poor air quality area, industrial location, dense population in impact area, limiting terrain.
			41	2,600	
Cromby, Phoenixville, Pa	No	III	2	6,800	Poor candidate for short-term conversion—short stacks, very hilly region large contribution to SO_2 concentrations, uncertain precipitator efficiency.
Edge Moore, Wilmington, Del	No	III	1	1,743	Poor candidate for short-term conversion—poor particulate control, dense impact area, poor air quality.
			2	1,621	
			3	2,113	
			4	3,903	
Possum Point, Dumfries, Va	Yes	III	1	1,940	Poor candidate for short-term conversion—poor particulate control, modelling predictions, poor dispersion.
			2	1,940	
			3	3,200	
			4	6,720	
Vienna, Vienna, Md	Yes	III	5	800	Poor candidate for short-term conversion—poor particulate control, modelling predictions.
			6	800	
			7	1,700	
Mason, Wiscasset, Maine	Yes	I	3	1,302	Poor candidate for short-term conversion—poor dispersion, modelling predictions of high SO_2 TSP concentrations.
			4	1,285	
Devon, Milford, Conn	Yes	I	7, 8	7,534	Poor candidate for short-term conversion—poor air quality, probable high SO_2 impact.
Norwalk Harbor, Norwalk, Conn	Yes	I	1, 2	4,500	Poor candidate for short-term conversion—poor air quality, dense impact area.
West Springfield, Springfield, Mass	Yes	I	1, 2, 3	1,200	Poor candidate for short-term conversion—marginal air quality, dispersion problems.
South Meadow, Hartford, Conn	Yes	I	6, 7, 8	2,679	Poor candidate for short-term conversion—dense impact area, marginal air quality, poor particulate control equipment.
Somerset, Fall River, Mass	No	I	1, 2, 3, 4, 5, 6	11,000	Poor candidate for short-term conversion—poor dispersion capability, poor particulate control, proximity to Brayton Point.
South Street St., Providence, R.I	Yes	I	*121	1,275	Poor candidate for short-term conversion—poor air quality, high density impact area, poor particulate control; since conversion to coal, substantial plume opacity problems and high local readings of TSP and SO_2.
			*122	774	
Total				146,680	

*These units converted to coal.

In summary, of the 37 plants and locations EPA studied, significant violations of the primary standard for either sulfur dioxide or particulates—and in some cases both—are possible in 18 of the situations. The EPA, however, was not able to qualify the degree of health endangerment in relation to the magnitude of the violation.

OTHER CLEAN AIR ENERGY POLICY ISSUES

Nevertheless, Mr. President, a number of other environmentally related energy policy issues remain. Our national objective is successful achievement of equitable energy and environmental goals. This will require the cooperation of and leadership from the electric utility industry.

What is clear, Mr. President, is that a concerted effort by the electric utility industry, by government, and by concerned environmental advocates is essential if we are to solve the complex interrelationships between clean air, available fuel supplies, energy demand and adequate and reliable supplies of electric power.

The overriding concern is how to direct the national capability that exists for air pollution control so that it initially achieves the maximum protection of public health and later is directed toward protection of public welfare.

On April 23, 1974, the Department of the Interior's Bureau of Mines released a report entitled, "Assessment of the Impact of Air Quality Requirements on Coal in 1975, 1977, and 1980."

This report concludes that if present Federal and State air pollution control standards are enforced in mid-1975, roughly one-third of the Nation's coal supply cannot be used without violating applicable standards. By 1977, the "deficit" in conforming coal with acceptable sulfur content could reach 254 million tons and it could grow to 275 million tons in 1980.

The Bureau concluded, however, that this shortfall could be reduced to as little as 199 million tons in 1975—and 190 million tons in 1980—if, first, stack gas "scrubbers" are widely used at new electric utility plants that cannot get conforming coal; second, if variances from clean air standards are provided for some of the facilities where the coal contains too much sulfur; or, third, if coal supplies can be better matched with emission standards by allocating coal supplies among various air quality control regions to reflect environmental factors.

With regard to stack gas cleaning the Environmental Protection Agency has stated that flue gas desulfurization facilities are available. Therefore, there does not appear to be a need for a shutdown of powerplants for nonconformity with air pollution requirements. The Environmental Protection Agency concluded in January 1974, that—

> (1) . . . some utilities . . . have applied greater efforts to defending their lack of progress or to attempting to change existing emission requirements than they have in controlling CO^x emission.
>
> (2) . . . Vendors . . . generally offer guarantees for these systems that are comparable to the guarantee provided for other equipment purchased by a utility . . . guarantees now offered by vendors are appropriate; . . . the utility creating the pollution must assume the remaining risks associated with control of that pollution.
>
> (3) . . . these costs, while substantial, are reasonable and will not impose an undue burden on either the electric utility industry or its customers.

The Federal Power Commission disagrees with the Environmental Protection Agency. A February 25, 1974, report of the Federal Power Commission declared that strict adherence to 1975 air pollution control standards on a national basis will endanger the reliability of electric service in seven out of the nine electric reliability regions. The areas most severely affected will be the East Central Area Reliability Council, Southeastern Electric Reliability Council, and Mid-America Interpool Network, which together cover about a third of the country.

The Federal Power Commission concluded that if variances are not granted for this affected capacity, either to burn available fuels or use some form of supplemental controls, a deficient power supply situation would prevail and curtailments of electric service would be necessary. The noncomplying capacity in 1975 would be in Ohio, Indiana, West Virginia, Kentucky, Tennessee, Alabama, Illinois, and Missouri.

In summary, the Federal Power Commission is of the opinion that flue gas desulfurization facilities are neither available in the quantity needed nor do they have a reliability compatible with operating steam electric plants. Even when emission control systems of demonstrated reliability become available, considerable time will be required to retrofit existing generation facilities.

CONCLUSION AND RECOMMENDATION

During my 15½ years in the Senate, I have been deeply involved in energy and environmental questions. Throughout this period there has been an inclination by some people to place the entire blame for the energy crisis on environmental protection programs. I consider this evaluation to be in error.

Both energy and environmental goals can be achieved if there is commitment on the part of all affected parties. As duly elected representatives of the American people, Members of Congress enacted environmental protection laws designed to protect public health. These policies are now the law of the land.

In some instances, earlier established Federal and State compliance schedules now appear unduly optomistic. Nevertheless, the basic goals still are valid.

The provisions of the Energy Supply and Environmental Coordination Act of 1974 are in no way a retreat from the commitment of the Congress to put an end to environmental pollution and enhance the quality of our environment. Rather the legislation simply facilitates short-term and intermediate-term variances from some of the requirements of the Clean Air Act in order to accommodate the more recently adopted national objective to promote greater energy self-sufficiency through coal reconversion.

Therefore, for the reasons I have discussed today I urge enactment of H.R. 14368, the Energy Supply and Environmental Coordination Act of 1974.

Mr. President, I shall close in just 2 or 3 minutes.

I want to emphasize very strongly as my own opinion that the energy crisis may be temporarily set aside also. There may be an easing of the impact of this problem, but I can say that this problem is not over. Let us think for just a moment of the consequence of what is happening as a result of the increased price which American consumers are paying for fuel—fuel of many types. It is a continuation of the energy problem when the price rises, let us say, 10 cents on the gallon, whether it is regular or high test gasoline. From the standpoint of the consumer, the increased price, the inflationary spiral, really skyrockets and is in effect a part of the energy problem, which is a continuing one, regardless of whether there is an embargo.

We do have to consider the conservation of fuel in this country at this time. Yesterday I endorsed and spoke for the continuance of the 55-mile-an-hour speed limitation. I am gratified that the Senate in its reasoned judgment kept the 55-mile-an-hour limit and did not act yesterday to increase the limit by 5 miles an hour.

We must not be complacent. We must not be apathetic. We must be very careful to assess the situation properly. I think that to do it properly we shall have to do what is in the legislation before us. These shortages and the real prospects of future problems will be our way of life. So the provisions before us now are a part of what I like to call an arsenal of techniques that must be accumulated to help the American people react responsibly not only to current conditions, but also to the potential supply situations which could become very, very acute in the coming months.

This measure must be passed so that we can meet, without delay, in conference with the House of Representatives. I believe that we can have a rather quick conference in bringing this matter through the conference process, and placing the legislation on the desk of the President, unimpaired, with the items that have been vetoed, I will say to the able chairman of our subcommittee (Mr. MUSKIE), by the President of the United States.

We have tried to bring to the Senate this bare-bones legislation to take care of automobile emissions and the reconversion to coal. I trust that we shall act affirmatively. We will, of course, be challenged to do the job that is necessary to be done. We must move ahead, and we must do so in a knowledgeable way, realizing that we have an opportunity—and the American people want us to embrace it—to act.

I thank my colleagues, especially the chairman of the subcommittee (Mr. MUSKIE), the ranking minority member of the subcommittee. (Mr. BUCKLEY), and the ranking minority member of the committee (Mr. BAKER).

Mr. MUSKIE. Mr. President, I thank my good friend, the chairman of the Committee on Public Works (Mr. RANDOLPH), for his statement and for his unfailing cooperation with the members of the committee, so as to reach agreement to move the legislation to the floor. What we have before us today is consistent with that pattern.

Mr. BAKER. Mr. President, the Public Works Committee amendment to H.R. 14368, the Energy Supply and Environmental Coordination Act of 1974, will grant significant new authority to the Environmental Protection Agency and the Federal Energy Administration. While the need for such authority is not as critical to the Nation's energy problems as it appeared last winter when we considered and passed similar legislation, which was later vetoed, it is still necessary and desirable.

The bill will give automobile manufacturers an added year and, if need be, 2 years, to solve any remaining problems which they may have with the new catalyst emission control systems that will be introduced on the 1975 models. Setting a level of 2 grams per mile for emissions of nitrogen oxides in 1977 will give the manufacturers the incentive to develop and introduce cleaner engines with better fuel economy and driveability such as the stratified charge engine and diesel.

More important, the bill will encourage use of our plentiful supplies of domestic coal in preference to foreign oil. It will do this by authorizing the Federal Energy Administration to require that plants capable of burning coal do so and to order that new plants be designed to burn coal in addition to or instead of natural gas or petroleum products. The Environmental Protection Agency will be authorized to grant short-term suspensions of clean air requirements with appropriate safeguards until June 1, 1975, or 1 year from enactment, whichever is earlier. EPA also will be permitted to allow plants which convert to coal to have until 1979, or in some cases 1980, to meet the primary, health-related standards in State implementation plans under the Clean Air Act. The action of the Public Works Committee on the coal conversion-related sections of the bill probably reduces the number of plants which may be converted in compliance with Clean Air Act requirements but makes it more certain that such conversions can be continued beyond July 1, 1975, by reducing the possibility that conversions will be tied up in administrative or judicial delays.

This is accomplished by changing the test which must be met before a plant can be converted from the House bill which requires that the source "will not materially contribute to a significant risk to public health" to a requirement that conversions be allowed where primary ambient air quality standards are not exceeded now and will not be exceeded as a result of the conversion. We understand that enough plants can be converted under this authority to spur significant new coal production at an orderly pace. Another problem in the House bill which the action of the committe has corrected is to remove the prohibition on enforcement of coal conversion orders after June 30, 1975. Therefore, coal conversions can continue in effect under FEA orders.

In order to permit FEA to order coal conversion where a plant has the capability of burning coal, the requirements in the House bill for a plant-by-plant environmental balancing and for prioritization of plants before any are ordered to convert have been removed as a result of our committee's action. This should also reduce the potential for administrative or judicial challenge to coal conversion orders.

The House bill would provide that those who voluntarily converted to the use of coal between September 15, 1973, and the date of enactment could continue to burn coal under certain conditions. In this context, "voluntary conversion" means having applied for a waiver from Clean Air Act requirements or having entered into a contract to purchase coal or having made a substantial investment in necessary plant equipment to burn coal. In many cases, these voluntary converters never in fact burned coal or did so only for several days. Therefore, in order to permit FEA to order those plants to convert where the potential for energy savings is greatest and to authorize EPA to keep air quality at a maximum, the Senate bill cuts down the period for voluntary conversion to the September 30 to December 15, 1973, period which was contained in S. 2589, the vetoed energy emergency authorities bill.

Section 119, as added by section 2 of the committee amendment, provides for treatment of sources which voluntarily converted to the use of coal during the period September 15 to December 15, 1973, or which are prohibiting by FEA order from burning petroleum products or natural gas and therefore must burn coal. It provides that those who convert to the use of coal may not be prohibited from burning coal and may receive an extension of clean air requirements to 1979, or in some cases 1980, where such a source "is located in an air quality control region in which applicable national primary ambient air quality standards are not being exceeded." As used here, the word "applicable" is intended to refer to those pollutants which are emitted from a powerplant, such as sulfur dioxide and particulates. This new section, of course, does not affect the other substantive provisions and procedures of the Clean Air Act and the implementation plans developed persuant to it under which a source may choose to convert to coal so long as emission controls or conforming fuels insure compliance with emission limitations, implementation plans, and other requirements of the act by the applicable deadlines under the act.

The authority section 8 grants to the Federal Energy Administrator to require that new fossil fueled electric powerplants be designed and constructed to be able to burn coal instead of or in addition to other fossil fuels has been made discretionary in the committee amendment, rather than mandatory as in the House bill. Some of the factors which must be considered in FEA's determination include the anticipated impact of the new source performance standards and the requirements of State implementation plans which will apply to such plants under the Clean Air Act.

Many of the provisions of H.R. 14368 as passed by the House do not relate directly to the Clean Air Act or to the need to conserve energy resources. Therefore, as Senator MUSKIE indicated, the committee deleted section 11 of the House bill on industry data reporting, section 3(b), transportation controls; section 7, energy conservation study; section 8, reports; and section 9, fuel economy study.

In view of the National Academy of Sciences clean air study we commissioned and our present hearings which will extend into June, a 1-year extension of Clean Air Act funding authorizations at fiscal year 1974 levels is included in the committee amendment.

Mr. President, the committee amendment probably does not satisfy anyone's wishes completely, but I believe it is a workable and productive compromise. It achieves the immediate adjustments in the Clean Air Act that are required while deferring any more fundamental readjustments that may be needed until after the comprehensive hearings in which we are now engaged.

I commend the distinguished chairman of our committee (Mr. RANDOLPH) and the most able chairman (Mr. MUSKIE) and ranking minority member (Mr. BUCKLEY) of the Environmental Pollution Subcommittee for this excellent legislation which they have worked so hard to produce, and I urge its prompt passage by the Senate.

Mr. BUCKLEY. Mr. President, I want to express my appreciation as a member of the Public Works Committee for the leadership and sense of purpose we have seen in the activities of the chairman of the committee, Senator RANDOLPH, the chairman of the subcommittee, Senator MUSKIE, and the ranking minority member of the full committee, Senator BAKER. We have seen responsible legislation and a responsible approach to an enormously important problem.

We have seen, in the atmosphere of the energy crisis, a rare application of intelligence and balance in meeting our energy needs in a responsible manner.

Members of the Public Works Committee and the Subcommittee on Environmental Pollution I believe have distinguished themselves in the manner in which they have approached this problem. We have in the substitute that was introduced by Senator MUSKIE a more precise attack on the problems that now face us, especially in light of the situation in which the automobile industry finds itself.

The substitute amendment, in other words, has discarded all those extraneous provisions in the House version that could be controversial and that could delay the attempt to provide that degree of certainty with respect to emission standards without which the automobile industry simply cannot proceed with its scheduled production.

So, in the first instance, we are keeping faith, although belatedly, with the largest employer in the United States.

In the second instance, we are doing it in a manner which will not compromise essential environmental goals.

The other aspect of the amendment is that it grants the necessary authority to the EPA to suspend sulfur emission limitations where conversions to nonconforming fuels are required to meet energy needs during the period of the coming winter.

In other words, this authority is extended until July of 1975; but in providing the authority to suspend the sulfur emission standard beyond 1975 we do not in the process threaten health, as in every instance the language of the amendment makes clear that primary standards shall be met, that primary standards shall not be compromised where human health is at stake.

There are those who will say that the language of the amendment is too restrictive, in that it will not permit conversions from oil to coal in sufficient measure to alleviate the drain on oil in the event there should be a recurrence of an oil embargo.

I point out, Mr. President, that our coal-producing capacity is not such at this time as to permit a much larger conversion than is contemplated by the proposed legislation. In other words, we have not yet seen a stimulation of an expansion of coal-producing capacity sufficient for large-scale conversions from oil.

There is another feature of the amendment on which I would like to comment, and that is the encouragement it gives to the States to review the implementation plans that are to go into effect in July 1975.

Before the energy crisis came to national attention, before the prospect of shortages of petroleum was injected into the thinking of our planners, many States adopted plans that would move ahead of the statutory requirements and move toward the meeting of secondary standards. This is all well and good under normal circumstances; but in meeting secondary rather than health-related standards, many State plans would require a shift from coal to residual oil, which is that kind of oil in which we have our largest dependence on foreign sources. I understand that at the present time we import approximately 90 percent of the residual fuels we consume on the east coast.

Thus, by encouraging the States to review their implementation plans, they can take into consideration the availability of scarce fuels and perhaps slow down the rate at which we advance toward our ultimate need to meet those secondary standards.

As I suggested earlier, Mr. President, in studying the proposed legislation, the Committee on Public Works decided to eliminate those portions of the House bill which were either controversial or which were extraneous to the essential task of finally establishing automobile exhaust standards for the coming production models and the flexibility required by the Administrator of EPA to grant variances. We have eliminated all those areas which could be controversial and which could delay action on this essential legislation.

Therefore, I hope that not only will the Senate adopt the substitute amendment, but also that Members of the Senate will restrain themselves in any efforts to "Christmas tree" this legislation, as it is far too important to the economy to invite delays. If this substitute is adopted, I believe there should be no difficulty in coming to a rapid agreement with the House conferees as to the nature of the legislation that can be enacted in short order for submission to the President.

Mr. JACKSON. Mr. President, I rise in support of amendment No. 1303, an amendment in the nature of a substitute of H.R. 14368, the Energy Supply and Environmental Coordination Act of 1974.

The amendment proposed by the Senate Public Works Committee to the House passed measure makes a number of changes which I believe will substantially improve the bill. While important *amendments* to the Clean Air Act have been retained and perfected, a number of provisions that are redundant with other legislation have been altered or omitted.

H.R. 14368 contains a number of provisions which were originally in S. 2589, the Energy Emergency Act, which was passed twice by the Senate and vetoed by the President on March 6.

After the Senate failed to override that veto, lengthy negotiations were held between the Congress and the administration to arrive at a substitute energy emergency measure more satisfactory to all parties. In the Senate, this measure was introduced as S. 3267. In the House, the identical provisions were divided into two bills: H.R. 13834 and the present bill H.R. 14368. The bills were moved separately by the House in the interest of expediency and this same procedure is now being followed in the Senate.

Mr. President, I commend both the House and the Senate Public Works Committee for their timely and responsible action in moving this urgently needed legislation.

GRANTS-IN-AID FOR STATE GOVERNMENT

Mr. President, it has become evident that the State governments have been carrying a considerable burden in conducting energy allocations and conservation programs. This has resulted in severe drains on their treasuries. For example, under section 5(b) of the Emergency Petroleum Allocation Act:

> The President may delegate all or any portion of the authority granted to him under this Act to such officers, departments, or agencies of the United States, or to any State (or officers thereof), as he deems appropriate.

The Allocation Act does not authorize grants-in-aid to State government to support the exercise of delegated authorities. During the recently ended embargo the performance of State and local government in meeting the challenge of energy shortages was excellent.

In support of that view I would like to read to my colleagues several excerpts from the March 15, 1974 report of the Federal Trade Commission, "An Evaluation of the Mandatory Petroleum Allocation Program."

In response to the question, "How successful have been the management and administration of the allocation program?" the FTC report states:

> "One of the most important elements of the program has been the role and performance of the states. Under the regulations, the state offices are provided set-aside supplies to alleviate emergencies and hardships. In actual practice, their role has gone much beyond the original expectations. By providing basic information, by being responsive to citizen concerns, by matching supplier and purchasers, and by judiciously allocating their set-aside supplies, the states have in the main kept the program afloat. Moreover, they have filled the vacuum as the regional offices were building their organization."

Subsequently, the reports notes:

> The States have played a significant and valuable role in the allocation program, often backstopping delayed decision-making by the FEO."

Section III–E of the FTC's report details the "role of the States" in the administration of the mandatory petroleum allocation program.

Several of the findings set forth therein are particularly noteworthy:

> Under the mandatory allocation regulations, the States are responsible for allocating the State set-aside to meet emergencies and hardships and for resolving complaints from end-users. In actual practice, the States have played a very special, and much larger role during the first six weeks of the allocation program that goes far beyond what is defined by the Regulations.
>
> By matching suppliers and purchasers at all levels, by judicious use of the State set-aside, and by providing basic data on which to base FEO's response to regional imbalance in gasoline, the States have kept the allocation program afloat while FEO was building an organizational and procedural base at the Federal level. . . .
>
> The states really came to the fore in dealing with the gasoline crisis. Not only did they meet spot shortages by using the set-aside, but they also aided FEO by providing detailed information about state consumption patterns and the nature and scope of shortages within the state. In addition, the states were a major catalyst in bringing about FEO action to correct the imbalances. In states that received more fuel, distribution of the additional supplies was planned and supervised by the state allocation office. In retrospect, it is difficult to see how FEO could have responded effectively to the gasoline crisis had there not been state allocation offices. . . .
>
> In several states—for example, Massachusetts, Maryland and Iowa—the state allocation office was better prepared and more sophisticated in its operation than FEO. However, most states did not have staff and data systems in place to deal with the shortages and, as a result, had to mobilize ad hoc organizations on short notice with many of the same problems experienced by FEO though on a smaller scale.
>
> The states have played a particularly valuable role in meeting the needs of priority end-users, especially for agriculture and emergency services in rural areas and small towns. . . .
>
> . . . . there are several improvements that would enhance the strengths states now bring to the allocation program. These include: . . .
>
> . . . . the states were nearly unanimous in pointing out the need for funds to acquire the staff and systems needed for an effective state allocation program. Some consideration should be given to ensuring that the state offices resources match their responsibilities.

Although the embargo has ended, spot shortages continue and promise to worsen during the summer if energy conservation cannot be made a reality. For so long as this situation continues, the role of the States will continue to be most important. With this will continue the severe strain on State treasuries which has been imposed by the development and implementation of plans to compliment and support those of the Federal Government.

In passing the Federal Energy Administration Act the Congress enacted a second statute which has the potential to make financial demands upon the States For example section 5(a) of that act requires that the Administration shall "develop effective arrangements for the participation of State and local governments in the resolution of energy problems."

Section 7(d) states that:

> The Administrator may utilize, with their consent, the service, personnel, equipment, and facilities of Federal, State, regional, and local public agencies and instrumentation, with or without reimbursement therefor, and may transfer funds made available pursuant to this Act, to Federal, State, regional, and local public agencies and instrumentalities, as reimbursement for utilization of such services, personnel, equipment, and facilities.

Once again however, no provision is made for the appropriation of the funds which, in my view should be granted to the States in payment for that part of the nationwide burden that they have shouldered.

In enacting the Energy Emergency Act Congress provided for the needs of the States. Section 123 authorized funds for the Administrator of the Federal Energy Emergency Administration to make grants to States for the purposes of implementing authority delegated to them, or for the administration of appropriate State or local conservation measures where exempted from Federal conservation regulations under the act.

Section 127 authorized an appropriation to the Federal Energy Emergency Agency to carry out its functions and to make grants to States under section 123, of $75 million for each of the fiscal years 1974 and 1975. In addition for the purpose of making payments under grants to States to carry out energy conservation measures, $50 million was authorized to be appropriated for fiscal year 1974 and $75 million authorized to be appropriated for fiscal year 1975. Also, for the purpose of making payments to States for unemployment assistance, $500 million was authorized to be appropriated for fiscal year 1974.

This funding authority was annulled by the President in his veto of the emergency bill.

These same provisions are retained in S. 3267 which I am confident we shall soon pass. However, we are here concerned with ongoing programs, ones which have been in effect for over 5 months; ones that are making a vital contribution, ones which must continue.

As the FTC report notes, by the end of February 40 States were experiencing problems in their energy programs due to funding shortages. There is every indication that the situation has worsened. State budgets cannot stand the strain. We are confronted with a choice between supporting proven, effective, in place programs and thus ensuring their continuance and that of seeing them terminated. If we choose the latter, we are opting for control of local problems by a Washington bureaucracy. I do not believe such to be efficient, effective, or desirable.

I had intended to call upon my colleagues to support an amendment, H.R. 14368, to insure the expeditious channeling of funds to where they may be most effectively expended. In the interest of expeditious action on this measure, however, I will not offer the amendment at this time, but will propose language in conference committee to provide grants-in-aid to State government.

Mr. President, I ask unanimous consent that extracts from the FTC report and an FEO report on State programs be inserted at this point in the RECORD.

The PRESIDING OFFICER. There being no objection, the articles were ordered to be printed in the RECORD, as follows:

(Staff report to the Federal Trade Commission, March 15, 1974)

AN EVALUATION OF THE MANDATORY PETROLEUM ALLOCATION PROGRAM, JANUARY 15 TO FEBRUARY 28, 1974

E. THE ROLE OF THE STATES

Under the mandatory allocation regulations, the States are responsible for allocating the State set-aside to meet emergencies and hardships and for resolving complaints from end-users. In actual practice, the States have played a very special, and much larger role during the first six weeks of the allocation program that goes far beyond what is defined by the Regulations.

By matching suppliers and purchasers at all levels, by judicious use of the State set-aside, and by providing basic data on which to base FEO's response to regional imbalances in gasoline, the States have kept the allocation program afloat while FEO was building an organizational and procedural base at the federal level.

Based on the FTC sample case analysis, the products involved in allocation cases at the state level are heating oil, diesel fuel and other middle distillates which account for over 60% of state cases in the FTC sample, and gasoline which accounted for over 36% of the total. These figures should be reversed during the summer months as gasoline consumption increases and the use of #2 oil for heating tapers off.

As would be expected, the overwhelming majority of state cases involve use of the State set-aside. However, nearly 10% of the FTC sample cases were considered "assignment of supplier" cases by the states which, in fact, do not have the *de jure* authority to perform this function under the federal allocation Regulations. In fact, states appear to be performing this function on at least an informal basis much more frequently than the 10% figure suggests.

As mentioned earlier in this chapter, the states generally move much faster than FEO in resolving cases. This should be expected since most state cases are emergency and hardship cases in which fast action is required. In addition, there is generally less paperwork required or used at the state level. The other side of this is that states generally do not do as well as FEO in recording either the allocation decisions made or why they were made. FTC field teams noted the lack of explicit criteria for use of the State set-aside in 15 states and reported that 9 of the 50 states do not even have systems that permit them to keep track of the rate at which the State set-aside is used. On balance, however, the quick action of states in meeting emergency needs appears to have been crucial in maintaining public confidence and reducing panic buying.

The most frequently mentioned problems at the state level concern relations with FEO and suppliers. For example, 18 states reported considerable difficulty in obtaining compliance by suppliers with State set-aside allocation orders—a potentially serious problem when emergency and hardship needs are involved. Interviews with state officials and/or company representatives indicate that these difficulties arise principally from two sources: local distributors affiliated with larger oil companies have been seeking approval from corporate officials before complying with state directives which delays delivery of the needed supplies, sometimes for days. In addition, there have been instances in which state directives prove to be confusing in regard to what is to be delivered and where it is to be delivered.

With respect to FEO, 28 states complained about FEO's failure to inform them of FEO decisions affecting suppliers and purchasers in the state. (See chart, next page.) An even more common problem was the need to use the State set-aside to supply petitioners who have sought FEO help and not yet obtained it. Nearly 75% of the states—37 of the 50—cited this as an important problem. In general, states experienced the same confusion and frustration in dealing with FEO as did suppliers and wholesale purchasers.

The states really came to the fore in dealing with the gasoline crisis. Not only did they meet spot shortages by using the set-aside, but they also aided FEO by providing detailed information about state consumption patterns and the nature and scope of shortages within the state. In addition, the states were a major catalyst in bringing about FEO action to correct the imbalances. In states that received more fuel, distribution of the additional supplies was planned and supervised by the state allocation office. In retrospect, it is difficult to see how FEO could have responded effectively to the gasoline crisis had there not been state allocation offices.

COMMON STATE OFFICE PROBLEMS—PROBLEM CATEGORIES BY FEO REGIONS

MANAGEMENT PROBLEMS

National FEO operations

Contact with National FEO (Delta, Training, Interpretations Policy):

Region I: None.

Region II: None.

Region III: Pennsylvania, West Virginia, Maryland, District of Columbia.

Region IV: North Carolina.

Region V: Michigan, Illinois, Wisconsin, Minnesota, Indiana, Ohio.

Region VI: Texas, New Mexico.

Region VII: Nebraska, Missouri.

Region VIII: Montana, North Dakota, South Dakota, Colorado, Utah.

Region IX: Arizona.

Region X: None.

Total States: 21.

Regional FEO operations

Data, Training, Interpretations, Policy:

Region I: Maine, Vermont.

Region II: New York.

Region III: Pennsylvania, Delaware, Virginia, West Virginia, Maryland, District of Columbia.

Region IV: North Carolina, Georgia, Alabama, Mississippi, Tennessee, Kentucky.

Region V: Michigan, Illinois, Wisconsin, Minnesota, Indiana, Ohio.

Region VI: Texas, Louisiana, New Mexico.

Region VII: Nebraska, Kansas.

Region VIII: Wyoming, North Dakota, South Dakota, Utah.

Region IX: Arizona, Hawaii.

Region X: Washington, Oregon.

Total States: 34.

Feedback on Case Resolutions:

Region I: None.

Region II: New York.

Region III: Pennsylvania, Delaware, West Virginia, Maryland, District of Columbia.

Region IV: North Carolina, South Carolina, Georgia, Alabama, Mississippi, Tennessee, Kentucky.

Region V: Michigan, Illinois, Wisconsin, Minnesota.

Region VI: Texas, Louisiana, Oklahoma, New Mexico.

Region VII: Nebraska, Missouri.

Region VIII: Wyoming, North Dakota, South Dakota, Utah.

Region IX: Arizona.

Region X: None.

Total States: 28.

Delay in Processing Petitions Causing Interim State Set-Aside Use:

Region I: Maine, New Hampshire, Massachusetts, Connecticut.

Region II: New York, New Jersey.

Region III: Delaware, Virginia, Maryland, District of Columbia.

Region IV: North Carolina, South Carolina, Tennessee.

Region V: Michigan, Illinois, Minnesota, Indiana, Ohio.

Region VI: Texas, Louisiana, Arkansas, Oklahoma, New Mexico.

Region VII: Iowa, Nebraska, Missouri.

Region VIII: Wyoming, North Dakota, South Dakota, Colorado, Utah.

Region IX: California, Nevada, Arizona, Hawaii.

Region X: Washington, Idaho.

Total States: 37.

State operations

Funding and/or Staffing:

Region I: Maine, New Hampshire, Rhode Island, Massachusetts, Connecticut.

Region II: New York, New Jersey.

Region III: Delaware, Virginia, West Virginia, Maryland, District of Columbia.

Region IV: North Carolina, South Carolina, Florida, Alabama, Mississippi, Tennessee, Kentucky.

Region V: Illinois, Minnesota, Indiana, Ohio.

Region VI: Texas, Louisiana, Arkansas, New Mexico.

Region VII: Iowa, Nebraska, Missouri, Kansas.

Region VIII: Wyoming, North Dakota, Colorado, Utah.

Region IX: California, Nevada, Hawaii.

Region X: Washington, Alaska.

Total States: 40.

Use of State Set-Aside:

Region I: None.

Region II: None.

Region III: None.

Region IV: None.

Region V: None.

Region VI: None.

Region VII: None.

Region VIII: None.

Region IX: None.

Region X: None.

1. Supplier Delay in Providing Set-Aside:

Region I: Maine, New Hampshire, Vermont.

Region II: None.

Region III: Pennsylvania, District of Columbia.

Region IV: None.

Region V: Illinois, Minnesota, Indiana.

Region VI: Texas, Louisiana, Arkansas, New Mexico.

Region VII: Missouri.

Region VIII: Wyoming, North Dakota.

Region IX: Hawaii.

Region X: Washington, Oregon.

Total States: 18.

2. Lack of Specific Criteria for Allocating Set-Aside:

Region I: Connecticut.

Region II: New York.

Region III: Pennsylvania, Virginia.

Region IV: Georgia, Mississippi.

Region V: Illiniois, Indiana.

Region VI: Texas, New Mexico.

Region VII: None.

Region VIII: Wyoming, South Dakota, Utah.

Region IX: Arizona.

Region X: Idaho.

Total States: 15.

3. Lack of Adequate Accounting System in Using Set-Aside:

Region I: None.

Region II: None.

Region III: None.

Region IV: Mississippi.

Region V: None.

Region VI: Texas, Arkansas, New Mexico.

Region VII: Missouri, Kansas.

Region VIII: Utah.

Region IX: California, Nevada.

Region X: None.

Total States: 9.

GENERAL PROBLEMS

Liaison with Federal Allocation Officers:

Region I: None.

Region II: None.

Region III: Delaware, District of Columbia.

Region IV: Kentucky.

Region V: Michigan, Illinois, Minnesota, Ohio.

Region VI: Texas, Louisiana, Arkansas, New Mexico.

Region VII: None.

Region VIII: North Dakota, South Dakota.

Region IX: Hawaii.

Region X: Washington, Alaska, Oregon, Idaho.

Total States: 18.

Authority to Enforce Allocation Orders:

Region I: None.

Region II: None.

Region III: None.

Region IV: None.

Region V: Michigan, Illinois.

Region VI: Texas, Louisiana, Arkansas, New Mexico.

Region VII: Missouri.

Region VIII: South Dakota.

Region IX: Arizona.

Region X: None.

Total States: 9.

Unrealistic 1972 Base Period:

Region I: None.

Region II: None.

Region III: Pennsylvania.

Region IV: None.

Region V: Minnesota.

Region VI: None.

Region VII: None.

Region VIII: None.

Region IX: Arizona, Hawaii.

Region X: Idaho.

Total States: 5.

Priority End-Users Competing with Non-Priority End-Users at Retail Gasoline Stations:

Region I: Maine, Vermont, Connecticut.

Region II: New York, New Jersey.

Region III: Delaware, Virginia, West Virginia, Maryland, District of Columbia.

Region IV: North Carolina, South Carolina, Florida, Alabama, Tennessee.

Region V: Indiana.

Region VI: Louisiana.

Region VII: Missouri.

Region VIII: Wyoming, Colorado.

Region IX: California, Nevada, Arizona, Hawaii:

Region X: None.

Total States: 24.

In several states—for example, Massachusetts, Maryland and Iowa—the state allocation office was better prepared and more sophisticated in its operation than FEO. However, most states did not have staff and data systems in place to deal with the shortages and, as a result, had to mobilize *ad hoc* organizations on short notice with many of the same problems experienced by FEO though on a smaller scale.

The states have played a particularly valuable role in meeting the needs of priority end-users, especially for agriculture and emergency services in rural areas and small towns. This can be further seen from a comparison of state and regional cases in the FTC sample which shows that a high proportion of state cases involve high priority end-uses. Figures which reflect this are as follows:

	Percent of cases in FTC sample	
	States	FEO regions
Agricultural production	17.1	15.9
Transportation services	12.4	12.7
Space heating	21.6	10.5
Industrial and manufacturing	9.0	10.3
Total high priority	60.1	49.4

Prior to February 1, each state was assigned a Federal Allocation Officer (FAO) who was usually stationed in the state capital in close proximity to the State Office of Petroleum Allocation. While a number of these people have since returned to their former agencies and it appears that the FAO concept has been dropped, this position deserves further consideration. Where conditions were right—a skilled, active FAO stationed close to the State Office—the FAO proved invaluable to the States in providing liaison with the Federal Energy Office regional staff.

At the same time, there are several improvements that would enhance the strengths states now bring to the allocation program. These include:

Most states need better systems for forward planning in energy distribution and consumption. All but the most sophisticated state allocation offices experienced some difficulty in carrying out the greatly expanded role they were asked to play in FEO's efforts to correct regional imbalances in gasoline.

Again, except for a few cases such as Massachusetts, Iowa, and Maryland, states could use assistance in establishing a means for monitoring use of the State set-aside.

Consideration should be given to structuring a formal role for State Offices in monitoring the adequacy of the petroleum distribution system to ensure that rural areas and small towns do not suffer shortages as they did during February.

Improved systems for communicating with the FEO regional office would go a long way toward alleviating those problems that have existed between FEO and the states when FEO takes an action concerning an end-user or supplier in the state.

Finally, the states were nearly unanimous in pointing out the need for funds to acquire the staff and systems needed for an effective state allocation program. Some consideration should be given to ensuring that the state offices resources match their responsibilities.

FEDERAL ENERGY OFFICE, OFFICE OF ENERGY CONSERVATION—STATE GOVERNMENT ENERGY CONSERVATION STATUS REPORT FEBRUARY 1974

	State gasoline "rationing" plan						
State and Governor	Mandatory	Voluntary	Local	State plan to ration in future?	State energy conservation plan in effect?	Current speed limits (P/E)[1]	Other conservation measures, State Agency Carpooling plan (SAC)
Alabama, George Wallace			None	No plans	Yes	70 mph Inst	(SAC) and statewide energy conference on Mar. 12.
Alaska, William Egan			do	do	Yes	50 mph P and E	(SAC) and compact fleet cars, conservation media campaign.
Arizona, John Williams			do	Standby	Yes, late February	55 mph posted	(SAC) and minibus mass transit plans for Phoenix.
Arkansas, Dale Bumpers			do	No plans	Yes	55 mph P and E	(SAC) and compact fleet cars, conservation publications.
California, Ronald Reagan			Yes on counties		Not presently	do	(SAC) and compact fleet cars, conservation media campaign.
Colorado, J. Vanderhoof			None	No plans	Not presently (planning)	do	(SAC) and compacts and mass transit and media campaign.
Connecticut, Thomas Meskill			Yes on counties		Not presently	50 mph P; 55 mph E.	Do.
Delaware, Sherman Tribbitt	Yes				do	55 mph P and E	(SAC) and compacts and mass transit and conservation seminar (March.)
Florida, Reuben Askew			Yes on counties		do	do	(SAC) and media campaign and regional conservation seminars.
Georgia, Jimmy Carter			None	Standby (April)	Yes, late February	do	(SAC) and mass transit (Atlanta), media campaign.

State and Governor	State gasoline "rationing" plan: Mandatory	State gasoline "rationing" plan: Voluntary	State gasoline "rationing" plan: Local	State plan to ration in future?	State energy conservation plan in effect?	Current speed limits (P/E)[1]	Other conservation measures, State Agency Carpooling plan (SAC)
Hawaii, John Burns[2]	Yes				Not presently (planning)	do	(SAC) and compacts and mass transit and media campaign.
Idaho, Cecil Andrus			None	No plans	do	do	(SAC) and compact fleet cars, media campaign.
Illinois, Daniel Walker			Yes in Chicago	Minimum dollar purchase plan.	Not presently	do	(SAC) and compact fleet cars, conservation seminars held.
Indiana, Dr. Otis Bowen			None	No plans	Yes	do	(SAC) and Indy-mass transit, media campaign and compacts.
Iowa, Robert Ray			do	do	Not presently	do	(SAC) and compact fleet cars, media campaign and seminars.
Kansas, Robert Docking			do	do	do	70 mph P and E	(SAC) and conservation seminars.
Kentucky, Wendell Ford			Yes on cities		do	55 mph P and E	(SAC) and compact fleet cars, media campaign and seminars.
Louisiana, Edwin Edwards			None	No plans	do	do	(SAC) and compact fleet cars.
Maine, Kenneth Curtis			do	do	Yes	55 Intst.; 50 other	(SAC) and compact fleet cars, media campaign and seminars.
Maryland, Marvin Mandel	Yes				Not presently	55 mph P and E	(SAC) and mass transit plans, conservation media and seminars.
New Mexico, Bruce King			None	Standby	Yes	do	(SAC) and compacts and mass transit and media campaign.
New York, Malcolm Wilson	Yes				Yes	do	(SAC) and compacts and media campaign and conservation seminars.
North Carolina, James Holshouser		Yes			Not presently	do	(SAC) and compacts and mass transit plans and seminars.
North Dakota, Arthur Link			None	No plans	do	do	(SAC) and compacts and mass transit plans.
Ohio, John Gilligan			None	do	Yes	70 Intst.; 60 other	(SAC) and conservation campaign.
Oklahoma, David Hall			None	do	Yes	55 mph P and E	(SAC) and compacts and mass transit, media and seminars.
Oregon, Thomas McCall		Yes		Model, odd/even ration plan.	Yes	do	Do.
Pennsylvania, Milton Shapp		Yes			Not presently	do	Do.
Rhode Island, Philip Noel		Yes			Yes	50 mph P and E	Do.
South Carolina, John West		Yes			Yes	55 mph P and E	(SAC) and media campaign, mass transit and seminars.
Massachusetts, Francis Sargent		Yes			Yes	do	(SAC) and compact fleet cars, mass transit and media campaign.
Michigan, William Milliken			None	Standby planned	Not presently	70 Intst. (in legislation.)	(SAC) and compact fleet cars, transit, media and seminars.
Minnesota, Wendell Anderson			do	No plans	Yes	55 mph, voluntary	(SAC) and compacts and mass transit and media campaign.
Mississippi, William Waller			do	do	Not presently	70 Intst.; 65 other	(SAC) and compacts and media campaign and local seminars.
Missouri, Christopher Bond			do	Standby planned	do	55 mph P and E	(SAC) and compacts and mass transit media campaigns.
Montana, Thomas Judge			do	No plans	do	No limit day/65 p.m.	(SAC) and compact fleet cars, mass transit and media campaign.
Nebraska, J. James Exon			Yes on cities	Minimum dollar purchase plan.	do	75 Intst. 65 other	(SAC) and compacts and mass transit and media campaigns.
Nevada, M. O'Callaghan			None	No plans	Yes	55 mph, voluntary	(SAC) and compacts and mass transit and conservation seminars.
New Hampshire, Mel Thompson		Yes			Not presently	55 mph P and E	(SAC) and compacts and media campaign and seminars.
New Jersey, Brendan Byrne	Yes				do	do	(SAC) and mass transit plans, conservation seminars.
South Dakota, Richard Kneip			None	No plans	Not presently	do	(SAC) and compacts and media campaign and seminar.
Tennessee, Winfield Dunn			do	do	Yes	75 Intst. 65 other	Do.
Texas, Dolph Briscoe			do	do	Yes	55 mph P and E	(SAC) and compact fleet cars.
Utah, Calvin Rampton			do	do	Not presently	do	(SAC) and mass transit plans.
Vermont, Thomas Salmon		Yes			do	do	(SAC) and compact and media campaigns and seminars.
Virginia, Mills Godwin	Yes				Yes	do	(SAC) and media campaigns.
Washington, Daniel Evans		Yes			Not presently	do	(SAC) and compacts and mass transit and media campaign.
West Virginia, Arch Moore			Yes on counties		do	do	(SAC) and media campaign, regional seminars.
Wisconsin, Patrick Lucey			None	No plans	Yes	do	(SAC) and compact fleet cars, conservation media campaign.
Wyoming, Stanley Hathaway			do	do	Not presently	do	(SAC).

[1] P—posted; E—enforced.
[2] Acting Governor Aryoshi.

Note: Survey conducted Feb. 14–19, 1974, by Office of Energy Conservation—State and local programs.

ENERGY INFORMATION

Mr. JACKSON. Mr. President, H.R. 14368, as it passed the House, included several provisions dealing with the collection and dissemination of information by the Federal Energy Administrator.

These provisions were intended to supplement the authority conferred on the Administrator by the Federal Energy Administration Act of 1974. However, because the FEA act was still being considered by Congress while H.R. 14368 was before the House, the energy information provisions of H.R. 14368 could not be properly meshed with the final language of the FEA act.

In light of the fact that the FEA act, including substantial energy information provisions, has now become law, enactment of much of the language on this subject in H.R. 14368 is no longer necessary. In fact, adoption of some of the provisions of H.R. 14368—such as those providing subpena powers—would only duplicate authority already conferred by the FEA act.

There are, however, two provisions of H.R. 14368 relating to energy information which constitute substantive additions to the requirements of the FEA act. One of these provisions requires the Administrator to prepare quarterly reports providing information on such subjects as imports, reserves, production, inventories, and refinery runs. The other makes clear that there is no legal barrier to access by Congress to the information collected or received by the Administrator.

Because the Public Works Committee did not include the House-passed energy information sections in its substitute, I had considered offering an amendment to the substitute to add these two significant provisions.

In the interest of early action on this measure I will not offer this amendment. The conferees on the bill will have full latitude and authority to insure that there is no duplication between section 11 of the House-passed bill and the information provisions of the recently enacted Federal Energy Administration Act.

Mr. President, I ask unanimous consent that the text of both amendments be printed in the Record as a part of the legislative history on this measure.

The PRESIDING OFFICER. There being no objection, the amendments were ordered to be printed in the Record, as follows:

On page , line , insert the following: Add a new Section at the end of the bill as follows:

"GRANTS TO STATE GOVERNMENTS

"Sec. (a) There are authorized to be appropriated to the Administrator of the Federal Energy Administration for the purpose of making payments as grants to states, $30,000,000 for the fiscal year 1974 and $60,000,000 for the fiscal year 1975, such sums to remain available until expended.

"(b) Such grants to states shall be made for the exercise of those authorities delegated to any state (or officer thereof) under the Emergency Petroleum Allocation Act of 1973; for the fulfillment of any role which the Administrator delineates that state governments will perform in achieving the purposes of the Federal Energy Administration Act of 1974, or for the administration of state or local energy conservation programs."

Amendment to amend the Amendment in the Nature of a Substitute for H.R. 14368 by adding a new Section 10, as follows:

"Sec. 10—Energy Information Reports.

Section 15 of the Federal Energy Administration Act of 1974 is amended by adding at the end of subsection (e) a new subsection (f), as follows:

(f) In addition to other reports required by this Act, the Administrator shall prepare and publish for each calendar quarter beginning with the first complete calendar quarter following the date of enactment of this section a report containing such statistical and economic analysis, data, information, reports, and summaries of energy information obtained by him, which are necessary to keep the public fully and currently informed as to the nature, extent, and projected duration of shortages of energy supplies, the impact of such shortages, and the steps being taken to minimize such impacts, and such report shall include the following data:

(A) Imports of crude oil, residual fuel oil, refined petroleum products (by product), natural gas, and coal, identifying country of origin, arrival point, quantity received, and, where practicable, the geographic distribution within the United States. (B) Domestic reserves and production of crude oil, natural gas, and coal.

(C) Refinery activities, showing for each refinery within the United States (i) the amounts of crude oil run by such refinery, (ii) amounts of crude oil allocated to such refinery pursuant to regulations and orders of the Federal Energy Administrator or of any other person authorized to issue regulations and orders with respect to the allocation of crude oil, (iii) percentage of refinery capacity utilized, and (iv) products refined from such crude oil.

(D) Inventories on a national, regional, and State-by-State basis, of refined petroleum products by product.

(E) Production of refined petroleum products by product during the preceding calendar quarter preceding such report, anticipated production of refined petroleum products by product during the succeeding calendar quarter following such report, and any anticipated excess or shortfall of refined petroleum products by product during such succeeding calendar quarter."

Section 14 of the Federal Energy Administration Act of 1974 is amended by adding at the end of subsection (c) a new subsection (d), as follows:

"(d) Notwithstanding any other provisions of law, energy information collected and received by the Administrator may be disclosed to the Congress, or any Committee of Congress, upon request of the Chairman."

Mr. JACKSON. Mr. President, I ask unanimous consent that James Barnes, Lucille Langley, and William Van Ness have the privilege of the floor during the consideration of the pending matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I ask unananimous consent that Mike Hathaway of my staff be accorded the privilege of the floor at all stages of the proceedings on the pending bill.

The PRESIDING OFFICER (Mr. Hathaway). Without objection, it is so ordered.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. BUCKLEY. I yield.

Mr. McCLURE. Mr. President, one question has been raised which I think demands a little more analysis than has been given it. I do not intend at this time to do any more than raise the question and point to the fact that there may ultimately be further legislative debate and perhaps legislative resolution of a problem which was first raised by the Senator from Maine (Mr. Muskie) as he dealt with the question of environmental impact statement requirements by the Administrator of the Environmental Protection Agency.

Senator Muskie says that the legislative history is abundantly clear that this is present law. It well may be that the courts would find that to be true, or it may well be that the courts might disagree with that finding. If the latter be the case, this is not a restatement of the law but a creation of statute.

Rather than simply pass it by at this time without comment, I think some question should be raised as to whether or not the Environmental Protection Agency in every instance should operate outside the law which applies to all other Federal agencies, requiring them to file an impact statement. The National Environmental Policy Act very definitely has a careful balance written into the statute requiring several different factors to be considered in any Federal decision, and the impact statement that is required of other Federal agencies requires a balancing of those factors in the statement and discussion of that balance in the promulgation of the statement.

The Senator from Maine is quite correct that there are times when decisions required of the administrator by the statute are not sufficiently long to give him the opportunity to develop an environmental impact statement within the time frame required by the statutes. It is very true. It is equally true of all other administrative agencies which must meet the requirements of the impact statement law. It is also suggested that it would subject the Administrator's decisions to prolonged litigation, and this is possibly true. That is equally true of other administrative agencies.

While I do not intend at this time to attempt to change the language that has been inserted in this measure, because I think it needs a more thoughtful and lengthy discussion than we would give it today, I do think the question ultimately will have to be resolved by Congress, after a full debate of the extent to which the Administrator of the Environmental Protection Agency should be exempted from a law which applies to every other Federal Administrator but, under this language, not to him.

I believe that the balancing of public discussion that is required in the development of the impact statement in many, if not most—if not all—of the Administrator's decisions would be in the public interest, even though it might at times make it more difficult for the Administrator to arrive at a decision.

I take this time—and I thank the Senator from New York for yielding this time to me—only to raise the issue as a subject for continuing discussion and perhaps ultimate resolution; because I believe a serious fundamental question which has been raised, which ought to have a full discussion and final decision by Congress.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. BUCKLEY. I yield.

Mr. MUSKIE. I understand that we have been making a record on this question.

Let me make the point, as the originator of the environmental impact statement, as the author of it, as the prime force in having the requirement to prepare an environmental impact statement included in the National Environmental Policy Act, as to what its intention was.

It was our intention to inject into the decisionmaking of mission-oriented agencies environmental values that were not previously taken into account. In the discussion of this proposal—which I repeat was mine—we developed phraseology to distinguish between two categories of agencies: we referred to the agencies to be covered as environmental impact agencies and the agencies to be excluded as environmental protection agencies. the courts understood that.

For example, in International Harvester against Ruckelshaus, which was decided in the District of Columbia Circuit, on February 10, 1973, the court said this and it captures the essence of the legislative intent right on the nose:

> Although we do not reach the question whether EPA is automatically and completely exempt from NEPA, we see little need in requiring a NEPA statement from an agency whose raison d'etre is the protection of the environment and whose decision on suspension is necessarily infused with the environmental considerations so pertinent to Congress in designing the statutory framework. To require a "statement" in addition to a decision setting forth the same consideration, would be a legalism carried to the extreme.

I would like to be able to persuade the distinguished Senator from Idaho and the distinguised Senator from New York to my point of view, but I make the limited point on which I hope the Senators would agree. That point is that the environmental laws written since NEPA was written were developed on the basis of an assumption that NEPA did not apply. Thus, we wrote into the laws many specific regulatory requirements and deadlines that did not take into account the potential delay that would be cranked in by a NEPA application or values that might be cranked in that were not reflected in the standard setting procedures of the environmental law.

If we want to undo and crank in NEPA, what we would need is a thorough committee review in both Houses as to the impact, in specific detail, on environmental laws.

When one looks at the list of current and future rulemaking actions possibly affected I think the point is clear.

Mr. President, I ask unanimous consent to have printed in the Record a list of current and future rulemaking actions possibly affected by this decision.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

CURRENT AND FUTURE RULEMAKING ACTIONS POSSIBLY AFFECTED BY EIS PROVISION

AIR

1. SIP variances from fuel/sulfur regulations.

2. SIP revisions to implement Clean Fuels Policy.

3. Transportation control plans.

4. Complex source review regulations.

5. New source performance standards:

Group II: Asphalt plants, petroleum refineries, petroleum storage tanks, iron and steel (basic oxygen furnaces), sewage sludge incinerators, brass and bronze, and secondary lead smelters

Group IIA: Primary copper, lead, and zinc smelters.

Group III: Aluminum reduction, ferro-alloy plants, kraft pulp mills, iron and steel (electric furnaces), phosphate fertilizer plants, and stationary gas turbines.

6. Lead additive regulations (to limit lead content of leaded grades).

7. Approval of SIPs to implement secondary standards for particulate matter.

8. Supplementary control systems regulations.

9. Regulations to prevent significant deterioration.

Mr. MUSKIE. I will not give a complete recital of the list at this time but I have placed it in the RECORD for the perusal of Senators.

Mr. McCLURE. Mr. President, will the Senator yield further?

Mr. BUCKLEY. I yield.

Mr. McCLURE. The thing that concerns me is whether or not the balance that is written into the National Environmental Policy Act is also a balance which is always followed at EPA in their decisions.

Mr. MUSKIE. Mr. President, if the Senator will yield, on one point clearly it is not and that is the underlying basis of the Clean Air Act. We said in the Clean Air Act that health and health alone shall dictate the primary air quality standards; that neither economic nor technological considerations should compromise those standards. How rapidly that should be achieved is a compromisable issue but on the standards the entire Congress said that the health basis shall be the only basis. If NEPA applies, presumably that basis could be followed.

Mr. McCLURE. I did not raise the point of whether NEPA had a balancing requirement with respect to the Clean Air Act, but under other acts—

Mr. MUSKIE. I just said with respect to the clean air standards Congress itself did not compromise health considerations by economic or technological considerations, and that was clear. Nobody was fooled by it; that was clear.

Mr. McCLURE. I do not argue that point with the Senator from Maine. I think that is obvious.

Mr. MUSKIE. That is the heart of my point.

Mr. McCLURE. The question is whether or not the Environmental Protection Agency should be exempted from filing impact statements in the broad range of the subjects and not just the Clean Air Act.

Mr. MUSKIE. The question is the same. NEPA was designed to insure that mission-oriented decisions like those of the Atomic Energy Commission must take into account environmental considerations. NEPA was not designed in the view of one of its authors, namely, me, to enable the Atomic Energy Commission to compromise environmental standards set by the Environmental Protection Agency. It is that simple. If Congress decides that the Atomic Energy Commission, or the Corps of Engineers, or other mission-oriented agencies should have the right and power to compromise environmental values, that certainly is the prerogative of Congress.

What I object to is to see that result achieved through the backdoor and nonlegislative means.

Mr. McCLURE. Let us make a distinction here and it needs to be made because apparently I have not made myself understood. I do not quarrel with the fact that Congress has set standards in the Air Quality Act. There is no question about that. The question I have is the implication of a statement or a policy that the Environmental Protection Agency does not have to balance factors where they are mandated by Congress, because the National Environmental Policy Act said they must be balanced.

Mr. MUSKIE. That question depends on whether NEPA applies to EPA, and on that the Senator and I disagree.

Mr. McCLURE. That is the point I am trying to make: Not the air quality standards set by Congress, but the balancing requirements of the National Environmental Policy Act which many people feel are not being adequately carried out by the decisions of the Environmental Protection Agency.

The question does not come at this time whether the goals of the Air Quality Act should be compromised. The question is: Absent those goals and standards mandated by Congress, the Environmental Protection Agency should reach a balanced judgment.

Mr. MUSKIE. That is my point. What is the Senator going to balance the health standards against? The Senator is talking about balancing as though those values would be balanced against some unknown.

The people who want to achieve this balancing judgment by imposing NEPA on EPA want to compromise those environmental values by forcing the agency to take into account values Congress has already taken into account and decided in favor of the environmental values.

What is the purpose of the balancing exercise in the name of health standards? What is the purpose? Is it to protect them?

Mr. McCLURE. I would say that the Senator is focused on the Air Quality Act.

Mr. MUSKIE. It is as good an illustration as any of what I am talking about.

Mr. McCLURE. It is not because Congress set those standards in that instance. It said, "Do not balance it; apply these standards." But Congress did not in every environmental field say, "Ignore balance." It specifically said to apply balance except where Congress specifically provided otherwise, as we did in the Air Quality Act.

The development of the environmental impact statement is the guarantee of public input and discussion that will bring about the balance Congress required in the Environmental Policy Act.

Mr. MUSKIE. It really is not quite that simple. First, this amendment applies only to the Clean Air Act.

Mr. McCLURE. That is correct.

Mr. MUSKIE. Second, with respect to the Clean Water Act Congress legislated a clarification of the application of NEPA to the Clean Water Act and the intent is that the regulatory functions of NEPA with regard to water pollution are not covered by NEPA.

With respect to air, the health basis is simply the underlying philosophy but it is translated across the board—with respect to the automobile stationary forces, implementation plans of the States—and in each case addition of the balancing judgment required by NEPA means other agencies not concerned with the environment should have the opportunity to dilute the philosophy of the Clean Air Act, as reflected in the standards set under that act. I tried to use a simple illustration, which I think is pertinent, but I am happy to get into the more complex standard-setting procedures of EPA; but they are the same as what the courts have held insofar as the courts have spoken on it.

Mr. McCLURE. Either the Senator misses my point or he does not want to debate my point.

Mr. MUSKIE. I see the Senator's point. The Senator does not see my explanation.

Mr. McCLURE. The Senator's explanation is tied to the Clean Air Act.

Mr. MUSKIE. Yes.

Mr. McCLURE. Would the Senator permit me to make my statement? I would appreciate that. I thank him for his courtesy.

The question is not involved with the standards set under the Clean Air Act, because the Congress has mandated them, and I know the amendment we are dealing with here today should deal only with the Clean Air Act. That is why I am not attempting to go into any change in the amendment that is adopted in the bill. But the statement of the Senator from Maine goes far beyond this amendment and he has said that the Environmental Protection Agency should be exempted from the balancing that is required of all other agencies, and I am saying that the Environmental Policy Act requires that balancing. We start off with a fundamental disagreement or misunderstanding, perhaps, of what the environment is.

We debated this in the Interior and Insular Affairs Committee, of which the Senator from New York and I are both members, for hours on end in trying to adopt a definition of the term "environment," because there are people who have a narrow definition of the term "environment" that excludes all economic, social, and political considerations that go into the entire environment of a person in this country. One cannot ignore part of it without in some way damaging the environment in which people live.

What good does it do for us to have

clean air and clean water for people who are starving to death or freezing? There is a balancing that is required in some of these decisions, and what I am suggesting is that Congress recognize that at the time the National Environmental Policy Act was adopted, it inserted into the Environmental Policy Act the consideration of factors broad enough, much broader, I believe, than some people have suggested that the term "environment" embraces.

There are those who believe, apparently, that the only thing in the environment that is worth protecting is what God put in it. I would suggest that there are many things that man put in it that are worthy of protection as well. Man has made it possible for men and women to live better than animals and make them less subject to the forces of nature, and those things are worthwhile and they are worth protecting, and the National Environment Policy Act recognizes that from that necessity. I do not think the Environmental Protection Agency should be exempted from the principle that applies to every other agency, to determine whether or not they have made a proper evaluation of the tradeoffs that are required in these decisions.

Again, I would say I know this amendment in the bill applies only so far as the Clean Air Act is concerned. I take this time only so that I do not want this discussion to assume that I accept this rationale as being applicable to every decision made by the Environmental Protection Agency, because I believe we are running into a great deal of trouble because of that very narrow, limited interpretation of the word "environment," and the very narrow and limited interpretation of the responsibility of the Environmental Protection Agency.

I think it is an important fact which the Congress must sometime at least confront—that the Environmental Protection Agency is not God Almighty, that the Environmental Protection Agency has at times put blinders on in ignoring some of the factors which Congress directed it should consider, and I think the environmental impact statement should be directed toward those broad considerations in a manner which would not interfere with the ability to make decisions by the Environmental Protection Agency which would in the long run best be served by that policy, and certainly as the public, the people of the country who live here in this total environment, would best be served by that interpretation of the Act.

I am quite sure, despite statements that have been made that court decisions always find the other way, there are court decisions that have found that the Environmental Protection Agency must make that balanced finding and that the decisions that the Environmental Protection Agency makes are sometimes indeed major Federal decisions which require an impact statement as required by the NEPA Act itself.

I thank the Senator again for yielding this time.

Mr. BUCKLEY. Mr. President, I think the colloquy we have just listened to is an enormously useful one. I think it touches a subject that must be studied at great length at an appropriate time.

I must confess that I do not share the distinguished Senator from Maine's apprehensions as to the effect of the House Appropriations Committee action. As I read that statute, it does not in any degree change existing law, though; to the extent that NEPA impacts on EPA, there has been no change whatever; therefore, curative amendments are not required. But I do believe the NEPA procedure requires a check list, as it were, that is enormously useful, and it is one that I believe from time to time the EPA could have availed itself of with great benefit to all concerned.

But I do agree that what we are discussing here affects only the Clean Air Act, and I do hope that at some later time we might have a chance, in a review of the NEPA legislation, to have the opportunity to explore further whether or not environmental needs, broadly defined, would not be better served by bringing EPA under the overall umbrella of requiring impact statements.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. BUCKLEY. I yield.

Mr. MUSKIE. I would like to make the point which I made in my opening statement, that adoption of this amendment would not prohibit Mr. Train from filing "voluntary" statements which he has announced he will file, but it would prohibit the imposition of mandatory requirements which would have the effect, conceivably, of upsetting statutory EPA procedures.

So, as I understand what the Senator is saying, it seems to me this amendment is consistent with his view of what ought to be done if Mr. Train follows through on the "voluntary" statements.

Mr. BUCKLEY. I thank the Senator from Maine for that clarification. He does, of course, state the intent of his amendment—that it does not preclude voluntary compliance.

I would say that one thing I am a little concerned about with reference to the Senator from Maine's statement, namely, that it was not the intention of the environmental policy legislation to affect environmental protection agencies, and I say that because I believe the debate at the time named the National Park Service as an environmental agency.

Mr. MUSKIE. No. What we had in mind, may I say to the Senator—and I appreciate this opportunity to clarify that—was those environmental protection agencies with regulatory authority, without spelling out the authority in the statute. We wanted to exclude agencies whose legislators responsibility could be offset by that legislation. It is in that limited sense, not in the overall sense, including the Park Service, the Forest Service, and all the rest, that we used the term environmental protection activities.

Mr. McCLURE. Mr. President, will the Senator yield just briefly, because I think it would be instructive if we included in the RECORD at this point, so that people reading the RECORD might have it forthwith, without having to go outside the RECORD to determine what it is I am trying to say, the applicable part of the statute?

The National Environmental Policy Act in title I, section 101, includes in its first subsection the following language:

> To use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.

I think it is useful to have that language from the Environmental Policy Act included in this act.

Mr. President, I thank the distinguished Senator from Maine for yielding.

Mr. MUSKIE. Mr. President, I subscribe fully to that philosophy. I did so at the time I offered the environmental impact statement amendment to the act.

Mr. BUCKLEY. Mr. President, I yield to the distinguished Senator from Maryland.

Mr. MATHIAS. Mr. President, I call up my amendment which is at the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. MATHIAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 17, after line 2, add a new paragraph (c).
>
> "(C) No parking surcharge regulation may be required by the Administrator under paragraph (1) of this subsection as a part of an applicable implementation plan. All parking surcharge regulations previously required by the Administrator shall be void upon the date of enactment of this subparagraph. This subparagraph shall not prevent the Administrator from approving parking surcharges if they are adopted and submitted by a State as part of an applicable implementation plan. The Administrator may not condition approval of any implementation plan submitted by a State on such plan's including a parking surcharge regulation.

Mr. MATHIAS. Mr. President, I asked that the clerk not read the amendment further because the language is very simple. It eliminates a surcharge on downtown parking.

The language is similar to that of the bill as passed by the House of Representatives. It is a part of the bill which has already been passed in the other body. It is language with which we are familiar because the Senate adopted similar language. I feel that it is necessary language, not because I have any lack of concern over the congestion in downtown Washington, which brings about many problems, including the problem because it is a complex problem, a problem with social overtones, a problem with economic overtones, it goes to the heart of every urban concern we have.

This is not a decision which should be made by any single agency. It is a problem of a complex nature. Many countries in the world have attacked the problem of downtown traffic in a variety of ways. I think we ought to have before us some of the alternatives, some of the several different kinds of solutions, and not merely be restricted to a single, rather dull, blunt economic club which can be waved over the heads of those who have to commute into urban areas in order to earn a living. We ought to have a full variety of solutions available before we make the decision. I should like to see an economic surcharge provision included in the pending bill as it is included in the House bill.

Mr. MUSKIE. Mr. President, I fully understand the Senator's concern and his point of view.

This provision, which was included in the earlier conference report on this general subject, is not included in the Senate bill at this point because the Senate committee has never held hearings on this subject. The House committee has. It included the provision in the legislation last December and insisted upon it vigorously in conference. We accepted it at that point for the purpose of that legislation.

Mr. MATHIAS. Mr. President, I think the fact that we have not had hearings in the Senate is all the more reason to withhold this particular power at this time.

Mr. MUSKIE. I understand the Senator's point. The other reason why we did not include the provision in the bill at this time is that we thought that in the emergency, favorable terms have appeared during the past few months, and we ought at least to discuss this issue again in conference.

We would not have a meaningful discussion if the issue were not in conference, and we fully expect to have a discussion. We fully expect that the House will be vigorous in its presentation of its point of view. We are conscious of the fact that the Senator from Maryland and others share that point of view. We will fully take that matter into account as we get into the conference.

Mr. MATHIAS. Mr. President, I am reassured by the opinion or view just expressed by the distinguished Senator from Maine. I want to be assured, however, that there is a body of opinion in the Senate which questions whether or not that particular power should be delegated at the expense of those who have to earn their living by driving into metropolitan areas all over the country. We believe that the variety of other solutions should be examined very carefully before we take action.

Mr. MUSKIE. Mr. President, I may say further that it was the purpose of the earlier conference agreement in that the parking surcharge provision should be set aside so that we could have hearings this year. The Senate committee fully expects to have hearings sometime this year on this issue.

Mr. MATHIAS. Mr. President, with that assurance, on which I know I can rely, and know that all Senators can rely, that this problem will get some sympathetic consideration from the conferees, I will not insist on a vote on this amendment at this time.

Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The question is on agreeing to the amendment offered by the Senator from Maine.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the third reading and passage of the bill.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. MUSKIE. Mr. President, I am happy to yield to the distinguished Senator from Idaho.

Mr. McCLURE. Mr. President, I know that we are fighting a time constraint under the previous unanimous-consent agreement. However, I think that there is a potential conflict, or a bit of a conflict, between two of the acts we are dealing with. That conflict comes up because of the change that we have made in the coal conversion sections of the bill that did not exist under the previous sections of the bill, when we had agreed that the Federal Administrator could mandate coal conversion.

We can now under this arrangement only suggest it and stimulate it. However, if the State or local regulations are more stringent, we can suggest to them that they change those restrictions, but we cannot mandate them. The result could be that under a strict State statute, some State standards may require the use of low sulfur fuel beyond that necessary to meet primary or secondary standards under the act.

It might be felt that the Federal Administrator must allocate the low sulfur fuel and leave the rest of the country to buy whatever higher sulfur fuel might exist.

There is a section in this act that we are now considering which seeks to say that that result would not necessarily occur, and that whatever changes are necessary in the administration of the Mandatory Allocation Act would occur because of the amendment to this act.

Mr. MUSKIE. The Senator is correct. The Senator raised this point in the executive meeting of the Public Works Committee yesterday, and I think it has been resolved in section 6(a), which reads:

> Any allocation program provided for in section 8 of this Act or in the Emergency Petroleum Allocation Act of 1973 shall, to the maximum extent practicable, include measures to assure that available low sulfur fuel will be distributed on a priority basis to those areas of the country designated by the Administrator of the Environmental Protection Agency as requiring low sulfur fuel to avoid or minimize adverse impact on public health.

To give this meaning in my own words, it is the intent of this provision to insure that clean fuels and conforming fuels are used, with the highest priority given to protecting primary ambient air standards, which are the health protection standards, and that beyond that, fuel should be distributed in accordance with the general authority of the administrator.

Mr. McCLURE. So that it could not, then, result in violation of primary ambient air standards in one area of the country in order to comply with stricter standards in some other State or local area?

Mr. MUSKIE. The Senator is correct.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. McCLURE. I yield.

Mr. RANDOLPH. I wish to reaffirm what the able Senator from Maine (Mr. Muskie) has stated. The Senator from Idaho (Mr. McClure) addressed this subject in a very knowledgeable manner within the committee's executive session on this legislation. I appreciate, as I am sure all of us do within the committee, the opportunity to clarify this point as it has been done by Senator Muskie.

As I noted, I wish to reaffirm what Senator Muskie has said.

I think it is important and necessary to clarify situations of this type. I again commend the Senator from Idaho for bringing this matter to our attention, so that it could be handled and clarified in this manner.

Mr. McCLURE. I thank both Senators for their information. That is certainly in accord with my understanding.

Mr. President, during consideration of the bill before us, I believe that it is important that we keep in mind another bill—considered and passed last year—the Emergency Petroleum Allocation Act. When Congress passed that measure, we granted the President of the United States the authority to take fuel from one State, and give it to another. Not only did we grant that authority, we directed him to exercise it.

The changes in the Clean Air Act being considered today are directly related to that allocation authority granted last year. And, one of the key issues involved is the setting of sulfur standards by local or State governments which are far stricter than those required by Federal law. Are we, in effect, to reward cities and States which set unreasonable standards for the sulfur content of fuels, and penalize regions which have not. Are we to see continued use of home heating oil by utilities and industries, who could use coal or residual fuel oil? I believe that it is essential that local and State governments recognize their responsibility to set reasonable standards for fuel composition, and not bow to political pressures with the hope that the Federal Government will bail them out, at the expense of their neighbors.

Obviously, it would be politically advantageous for any locality to demand almost zero sulfur content for any fuel burned within its boundaries, if they could be certain that they would receive adequate fuel supplies at their neighbor's expense. I believe the Congress should be firmly on record as opposed to such actions. During these times of continuing fuel shortages and continuing concern for clean air, every State, county, and city has an obligation to carry its share of the burden, and not to expect to burn all natural gas or home heating oil, while others burn 3 percent sulfur coal.

I am pleased to join with my colleagues on the Public Works Committee in introducing this proposed legislation. It does not represent—as some have charged—a "gutting" of the Clean Air Act—nor does it represent an ideal solution to the critical energy problems facing this country.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 14368) was read the third time.

Mr. *BUCKLEY*. Mr. President, I yield 1 minute to the Senator from Tennessee.

Mr. BAKER. Mr. President, I rise only to make a statement with regard to my personal relationship to this measure. As the senior Republican on the committee, it has been my duty to follow the development of the automobile emissions section and the coal conversion section of the bill.

It is the responsibility of each Member of the Senate, of course, to determine whether or not he has a conflict of interest. It is my judgment that I do not. But so the Record will be entirely complete, and everyone will understand what the situation is, I would point out to my colleagues that I am the owner of a partnership interest in a substantial tract of land in Tennessee which I purchased from my father's estate, on which there are known coal reserves and known oil and gas reserves. I am not involved in production of either oil and gas or coal, but lest I be misunderstood, I wanted to make that statement.

The PRESIDING OFFICER. The bill having been read the third time, the question is: Shall it pass?

The bill (H.R. 14368) was passed.

Mr. MUSKIE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GRIFFIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MUSKIE. Mr. President, I move that the Senate insist on its amendments to H.R. 14368 and request a conference with the House of Representatives on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. Randolph, Mr. Muskie, Mr. Montoya, Mr. Jackson, Mr. Bible, Mr. Baker, Mr. Buckley, and Mr. Fannin conferees on the part of the Senate.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States, transmitting the Protocols for the Extension of the Wheat Trade Convention and the Food Aid Convention constituting the International Wheat Agreement, 1971, was communicated to the Senate by Mr. Marks, one of his secretaries.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will now resume the consideration of S. 3267, which the clerk will state.

Mr. ROBERT C. BYRD. Mr. President, I believe the final order of yesterday provided for the Senate's taking up the education bill at this time, rather than the energy bill.

The PRESIDING OFFICER. That was at 12 o'clock.

Mr. ROBERT C. BYRD. No; I prepared the order that upon the disposition of the House message, and no later than 12 o'clock noon, the Senate would go to the education bill.

EDUCATION AMENDMENTS OF 1974

The PRESIDING OFFICER (Mr. Hathaway). Under the previous order, the Chair lays before the Senate the unfinished business, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 1539) to amend and extend certain acts relating to elementary and secondary education programs, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time that has been consumed by the quorum call not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess until the hour of 12:30 p.m. today, and I ask unanimous consent that the time for the recess not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to; and at 11:57 a.m. the Senate took a recess until 12:30 p.m., at which time the Senate reassembled at 12:30 p.m., when called to order by the Presiding Officer (Mr. Nelson).

MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (H.R. 6574) to amend title 38, United States Code, to increase the maximum amount of Servicemen's Group Life Insurance to $20,000, to provide full-time coverage thereunder for certain members of the Reserves and National Guard, to authorize the conversion of such insurance to Veteran's Group Life Insurance, to authorize allotments from the pay of members of the National Guard of the United States for group life insurance premiums, and for other purposes.

The enrolled bill was subsequently signed by the Vice President.

EDUCATION AMENDMENTS OF 1974

The Senate continued with the consideration of the bill (S. 1539) to amend and extend certain acts, relating to elementary and secondary education programs and for other purposes.

Mr. TOWER. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATHAWAY. Mr. President, during the consideration of the present bill in the committee, I gave a great deal of study to the inequities and anomalies in Public Law 81–874, the so-called impact aid program. During this time, I attempted to analyze the basic rationale for the program and then develop an approach to the distribution of this aid which would be more fully in keeping with the basic intent of the original act. I made a proposal on this matter which was not accepted by a majority of the committee, at least in part, because the data upon which a projection of its impact could be based was unavailable. Today, I am submitting an amendment which would simply mandate that the necessary data be collected as part of a general collection of Public Law 81–874 data by the new National Center for Educational Statistics. But before calling up this amendment, I would like to explain my proposal, for the information of my colleagues.

The basic intent of the impact aid program, as I understand it, is to reimburse those areas which are somehow injured as a result of the proximity of a tax-free Federal installation. In many cases, there certainly is such injury. An example would be a military installation occupying relatively valuable land and which pays its employees lower-than-average wages for the area. But in the almost 30 years since the initiation of this program, there have been changes in the nature of Federal installations as well as Federal salary levels. The result has been many situations where the location of a Federal installation in a community, especially a facility which takes a limited amount of property and whose employees are paid considerably above the local average, is actually a significant boon to the local economy rather than any detriment to it. The relatively higher salaried Federal employees are able to live in more expensive houses (which pay higher property taxes), and they spend their salaries with local merchants, thus paying sales taxes as well as enriching the local economy. That such installations are no drag on their localities is clearly demonstrated by the tremendous howl that is raised when one of these facilities is closed down or moved.

My basic contention is that because Federal money for education is a severely limited commodity, the amounts flowing to districts which are actually being enriched by the Federal presence (even after the tax loss on the building is deducted) should be somewhat curtailed. The limited resources we have available should be channeled to those areas most in need of it (under title I and other sections of this bill) and to those areas most deserving of it, in terms of the original intent of Public Law 81-874.

In light of this, the proposal I made would attempt to measure, or at least get some indication of, the actual impact of a given Federal facility in a school district. Clearly, this "actual impact" is difficult to measure with any kind of precision. Indeed, the present program makes no attempt to take such a measurement at all, but instead assumes a uniform negative impact in all types of school districts by all types of installations. My proposal would alter this by determining how the per capita income in the individual school district related to the national per capita income. If the district figure exceeded the national figure, this would be taken as an indication that the Federal facility in that district was probably assisting in the economic strength of the district or at least was not as much a negative influence as a similar facility in a lower income district. Therefore, the "rich" district's entitlement to funds under this program would be decreased to the extent that the district's per capita income exceeded that of the Nation at large. In other words, a district whose per capita income was twice the national average would lose one-half its entitlement.

Obviously, a proposal of this kind would have to be phased in, and provision for this would have to be made. Also districts unusually heavily dependent on this program probably should be given some special consideration.

Unfortunately, the detailed impact of this or any similar proposal is impossible to determine at the present time because of the unavailability of the school district per capita income figures. I am informed that this data can be assembled and am, therefore, moving that this task be assigned to the new National Center for Educational Statistics established in the bill. In this way, the base will be available for the exploration of all alternatives for the reform of this program.

The proposal I have put forward is not set in concrete; I welcome the comments and suggestions of those interested in this problem. It is my hope that out of this year's work by the committee, which, I should say, is a significant reform in itself, and future consideration of other alternatives, we may arrive at a more rational and equitable impact aid program.

Mr. President, I ask unanimous consent that the text of the proposal I made to the Committee on Labor and Public Welfare be inserted at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

(3) Amend section 3(d) of PL 874, 81st Congress, as proposed to be amended in S. 1539 by adding at the end thereof the following:

"(3) (A) (i) In the case of any fiscal year beginning after June 30, 1975, if the per capita income in the school district of a local educational agency for the preceding fiscal year exceeds the per capita in the United States for such fiscal year, the amount of the payment to which such agency shall be entitled under this section with respect to children to whom a determination is made under subsection (b) for that fiscal year shall be reduced as is provided in division (ii).

"(ii) The amount by which the entitlement of any local educational agency shall be reduced shall be the percentage expressed when the product obtained by multiplying the quotient obtained by dividing the per capita income of the United States for the preceding fiscal year by the per capita income of the school district of such agency for such year by the reduction factor for that year (specified in division (iii)) is subtracted from 1.00.

"(iii) For the purposes of division (ii) the reduction factor shall be—

"(I) 1.4 for the fiscal year ending June 30, 1976;

"(II) 1.25 for the fiscal year ending June 30, 1977;

"(III) 1.1 for the fiscal year ending June 30, 1978;

"(IV) 1.0 for the succeeding fiscal years.

"(B) (i) For the purposes of subparagraph (A), the term 'per capital income' means the total personal income in the school district or in the United States, as the case may be, divided by the population in the school district or in the United States, as the case may be.

"(ii) The Commissioner shall determine the per capita income for each school district in the United States entitled to payment under this section and for the United States and determine the percentage by which the per capita income in each school district exceeds that of the United States for the purpose of subparagraph (A) and publish such determinations in the *Federal Register* between July 1 and August 31 of each even-numbered year, beginning with calendar year 1974. Each such determination shall be conclusive for each of the two fiscal years beginning after such publication.

"(iii) Determinations under divisions (i) and (ii) shall be on the basis of the average of the per capita incomes for the three most recent consecutive years for which satisfactory data is available to the Commissioner from the Department of Commerce.

"(D) The provisions of this paragraph shall not apply to any local educational agency—

"(i) with respect to which the number of children determined under subsection (b) amounts to at least 30 per centum of the total number of children who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education; or

"(ii) during any fiscal year in which such agency receives more than 25 per centum of the funds for its total current expenditures from payments under this title as calculated without regard to this paragraph; or

"(iii) with respect to which the number of children determined under section 131 (b) (3) (C) of title I of the Elementary and Secondary Education Act of 1965 amounts to at least 10,000."

In determining the total number of children in attendance at the schools of a local educational agency pursuant to clause (i) in the preceding sentence for any fiscal year, the Commissioner shall not include any children with respect to whom a determination is made under subsection (a).

"(E) For the purposes of this paragraph, the term 'United States' means the fifty States and the District of Columbia."

Mr. PELL. Mr. President, will the Senator yield?

Mr. HATHAWAY. I yield.

Mr. PELL. I commend the junior Senator from Maine for his efforts in the committee and here on the difficult problem of impact aid reform. He had some very constructive thoughts in some of the amendments that we considered in the committee, but we did not know the full effect of those amendments, and for that reason they were not acted upon at that time.

Mr. President, this is why I think the proposal of the Senator from Maine in his data collection amendment is excellent. It would give us the information we might need at another time in order to make a better judgment and evaluation on those factors. So I believe that the Senator's approach is correct.

Does the Senator from Maine wish to call up his amendment at this time?

Mr. HATHAWAY. I do. I believe that it is appropriate to call up my amendment. It would mandate that information regarding school district per capita income be collected and the information be examined along with other information concerning the impact aid program.

I have already explained the amendment and the need for it. I hope that the information it produces will be helpful to the committee.

The PRESIDING OFFICER. It would require unanimous consent for the Senator to call up his amendment.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that my amendment be considered at this time.

The PRESIDING OFFICER. Who yields time?

Mr. HATHAWAY. Mr. President, I ask that the Senator from Rhode Island yield me 1 minute.

Mr. PELL. Mr. President, I yield 1 minute to the Senator from Maine.

Mr. JAVITS. Mr. President, reserving the right to object, may I know what the amendment is about?

Mr. HATHAWAY. It is basically an amendment calling for a study to get information with respect to the income level in impacted aid school districts. It has no actual effect on the allocation at this time.

Mr. JAVITS. Mr. President, is this the amendment to the McClellan amendment?

Mr. HATHAWAY. No. It is a separate amendment. It would require unanimous consent to call it up.

Mr. JAVITS. Is the amendment of the Senator from Arkansas being set aside for this purpose?

Mr. McCLELLAN. My amendment has not been called up as yet.

Mr. JAVITS. I have no objection.

The PRESIDING OFFICER. Without objection, the Chair recognizes the Senator from Maine.

Mr. HATHAWAY. Mr. President, I ask that the amendment be read.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 293, line 21, omit "and";

On page 293, line 25, omit the period and insert in lieu thereof ", and" and the following new subsection:

"(6) an estimate of the per capita income for the area served by each local educational agency which is entitled to financial assistance under such sections 3(a) and 3(b) for the second preceding fiscal year, such estimate to be based on the Bureau of the Census 1970 decennial census or other suitable data as may be available and to include a listing of the specific procedures and assumptions used in deriving such estimate and an analysis of any data or other procedural limitations."

Mr. HATHAWAY. Mr. President, I have already explained the amendment in my previous remarks. I do not see any necessity to re-explain it. It simply calls for the collection of per capita income data for impacted aid school districts and will have no effect on the allocation of funds under this program.

Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

The amendment was agreed to.

Mr. HATHAWAY. I thank the Senator from Rhode Island for accepting the amendment.

Mr. McCLELLAN. Mr. President, I call up my amendment No. 1304, which has *some* 30 cosponsors, and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the further reading of the amendment be discontinued.

The PRESIDING OFFICER. Without objection, it is so ordered. The amend*ment will* be printed in the RECORD.

The amendment is as follows:

On page 131, beginning with line 16, strike out through line 10 on page 152 and insert in lieu thereof the following:

(2) (A) (i) Section 103(a) of such title I is amended to read as follows:

"SEC. 103. (a) (1) There is authorized to be appropriated for each fiscal year for the purpose of this paragraph 3 per centum of the amount appropriated for such year for payments to States under section 143(a) (other than payments under such section to jurisdictions excluded from the term 'State' by this subsection, and payments under part B), and there shall be authorized to be appropriated such additional sums as will assure at least the same level of funding under this title as in fiscal year 1973 for the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and to the Secretary of the Interior for payments pursuant to paragraphs (1) and (2) of subsection (d). The amount appropriated pursuant to this paragraph shall be allotted by the Commissioner (A) among the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for grants under this part, and (B) to the Secretary of the Interior in the amount necessary (i) to make payments pursuant to paragraph (1) of subsection (d), and (ii) to make payments pursuant to paragraph (2) of subsection (d). The grant which a local educational agency in the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands is eligible to receive shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this title.

"(2) In any case in which the Commissioner determines that satisfactory data for that purpose are available, the grant which a local educational agency in a State shall be eligible to receive under this part for a fiscal year shall (except as provided in paragraph (3)) be determined by multiplying the number of children counted under subsection (c) by 40 per centum of the amount determined under the next sentence. The amount determined under this sentence shall be the average per pupil expenditure in the State except that (A) if the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, such amount shall be 80 per centum of the average per pupil expenditure in the United States, or (B) if the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, such amount shall be 120 per centum of the average per pupil expenditure in the United States. In any case in which such data are not available, subject to paragraph (3), the grant for any local educational agency in a State shall be determined on the basis of the aggregate amount of such grants for all such agencies in the county or counties in which the school district of the particular agency is located, which aggregate amount shall be equal to the aggregate amount determined under the two preceding sentences for such county or counties, and shall be allocated among those agencies upon such equitable basis as may be determined by the State educational agency in accordance with basic criteria prescribed by the Commissioner.

"(3) (A) Upon determination by the State educational agency that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children described in clause (C) of paragraph (1) of subsection (c), who are living in institutions for neglected or delinquent children, the State educational agency shall, if it assumes responsibility for the special educational needs of such children, be eligible to receive the portion of the allocation to such neglected or delinquent children, but if the State educational agency does not assume such responsibility, any other State or local public agency, as determined by regulations established by the Commissioner, which does assume such responsibility shall be eligible to receive such portion of the allocation.

"(B) In the case of local educational agencies which serve in whole or in part the same geographical area, and in the case of a local educational agency which provides free public education for a substantial number of children who reside in the school district of another local educational agency, the State educational agency may allocate the amount of the grants for those agencies among them in such manner as it determines will best carry out the purposes of this title.

"(4) For purposes of this subsection, the term 'State' does not include the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.".

(ii) Section 103(b) of such title I is amended by striking out "aged five to seventeen, inclusive, described in clauses (A), (B), and (C) of the first sentence of paragraph (2) of subsection (a)" and inserting in lieu thereof "counted under subsection (c)".

(B) Section 103(c) of such title I is amended to read as follows:

"(c) (1) The number of children to be counted for purposes of this section is the aggregate of (A) the number of children aged five to seventeen, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraph (2) (A), (B) two-thirds of the number of children aged five to seventeen, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (2) (B), and (C) the number of children aged five to seventeen, inclusive, in the school district of such agency living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to section 123 for the purposes of a grant to a State agency, or being supported in foster homes with public funds.".

(C) (i) Subsection (d) of section 103 is redesignated as paragraph (2) of subsection (c).

(ii) The first sentence of such paragraph (2) as redesignated by this section is amended to read as follows:

"(A) For purposes of this section, the Commissioner shall determine the number of children aged five to seventeen, inclusive, from families below the poverty level on the basis of the most recent satisfactory data available from the Department of Commerce for local educational agencies (or, if such data are not available for such agencies, for counties); and in determining the families which are below the poverty level, the Commissioner shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census.".

(iii) The second sentence of paragraph (2) of such subsection (c) (as redesignated by this section) is repealed.

(iv) The third sentence of such paragraph (2) is amended to read as follows:

"(B) For purposes of this section, the Secretary of Health, Education, and Welfare shall determine the number of children aged five to seventeen, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census for a nonfarm family of four in such form as those criteria have been updated by increases in the Consumer Price Index. The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of January of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the second calendar year preceding such month of January) or, to the extent that such data are not available to him before April 1 of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to him at the time of such determination.".

(v) The fourth sentence of such paragraph (2) (as redesignated by this section) is amended by striking out the word "When" and inserting in lieu thereof the following: "(C) When"; and by striking out "having an annual income less than the low-income factor (established pursuant to subsection (c))" and inserting in lieu thereof "below the poverty level (as determined under paragraph (A) of this subsection)".

(vi) Section 103(e) of such title is repealed.

(D) Section 103 of such title I is amended by adding at the end thereof the following:

"(d)(1) From the amount allotted for payments to the Secretary of the Interior under clause (B)(i) in the second sentence of subsection (a)(1), the Secretary of the Interior shall make payments to local educational agencies, upon such terms as the Commissioner determines will best carry out the purposes of this title, with respect to out-of-State Indian children in the elementary and secondary schools of such agencies under special contracts with the Department of the Interior. The amount of such payment may not exceed, for each such child, 40 per centum of (A) the average per pupil expenditure in the State in which the agency is located or (B) 120 per centum of such expenditure in the United States, whichever is the greater.

"(2) The amount allotted for payments to the Secretary of the Interior under clause (B)(ii) in the second sentence of subsection (a)(1) for any fiscal year shall be, as determined pursuant to criteria established by the Commissioner, the amount necessary to meet the special educational needs of educationally deprived Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. Such payments shall be made pursuant to an agreement between the Commissioner and the Secretary containing such assurances and terms as the Commissioner determines will best achieve the purposes of this title. Such agreement shall contain (A) an assurance that payments made pursuant to this subparagraph will be used solely for programs and projects approved by the Secretary of the Interior which meet the applicable requirements of section 141(a) and that the Department of the Interior will comply in all other respects with the requirements of this title, and (B) provision for carrying out the applicable provisions of sections 141(a) and 142(a)(3).".

(E) Such title I is amended by striking out parts B and C and inserting in lieu thereof the following:

"PART B—STATE OPERATED PROGRAMS

"PROGRAMS FOR HANDICAPPED CHILDREN

"SEC. 121. (a) A State agency which is directly responsible for providing free public education for handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education), shall be eligible to receive a grant under this section for any fiscal year.

"(b) Except as provided in section 124, the grant to which a State agency shall be entitled under this section shall be an amount equal to—

"(1)(A) 50 per centum of the average per pupil expenditure of all the local educational agencies in the State, or

"(B) 50 per centum of the average per pupil expenditure of all the local educational agencies in all the States,

whichever is greater,

multiplied by—

"(2) the number of such children in average daily attendance, as determined by the Commissioner,

at schools for handicapped children operated or supported by the State agency, including schools providing special education for handicapped children under contract or other arrangement with such State agency, in the most recent fiscal year for which satisfactory data are available.

"(c) A State agency shall use the payments made under this section only for programs and projects (including the acquisition of equipment and, where necessary, the construction of school facilities) which are designed to meet the special educational needs of such children, and the State agency shall provide assurances to the Commissioner that each such child in average daily attendance counted under subsection (b) will be provided with such a program, commensurate with his special needs, during any fiscal year for which such payments are made.

"(d) In the case where such a child leaves an educational program for handicapped children operated or supported by the State agency in order to participate in such a program operated or supported by a local educational agency, such child shall be counted under subsection (b) if (1) he continues to receive an appropriately designed educational program and (2) the State agency transfers to the local educational agency in whose program such child participates an amount equal to the sums received by such State agency under this section which are attributable to such child, to be used for the purposes set forth in subsection (c).

"PROGRAMS FOR MIGRATORY CHILDREN

"SEC. 122. (a)(1) A State educational agency or a combination of such agencies, upon application, shall be entitled to receive a grant for any fiscal year under this section to establish or improve, either directly or through local educational agencies, programs of education for migratory children of migratory agricultural workers or of migratory fishermen. The Commissioner may approve such an application only upon his determination—

"(A) that payments will be used for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of migratory children of migratory agricultural workers or of migratory fishermen, and to coordinate these programs and projects with similar programs and projects in other States, including the transmitttal of pertinent information with respect to school records of such children;

"(B) that in planning and carrying out programs and projects there has been and will be appropriate coordination with programs administered under part B of title III of the Economic Opportunity Act of 1964;

"(C) that such programs and projects will be administered and carried out in a manner consistent with the basic objectives of clauses (1)(B) and (3) through (12) of section 141(a); and

"(D) that, in planning and carrying out programs and projects, there has been adequate assurance that provision will be made for the preschool educational needs of migratory children of migratory agricultural workers or of migratory fishermen, whenever such agency determines that compliance with this clause will not detract from the operation of programs and projects described in clause (A) of this paragraph after considering the funds available for this purpose.

The Commissioner shall not finally disapprove an application of a State educational agency under this paragraph except after reasonable notice and opportunity for a hearing to the State educational agency.

"(2) If the Commissioner determines that a State is unable or unwilling to conduct educational programs for migratory children of migratory agricultural workers or of migratory fishermen, or that it would result in more efficient and economic administration, or that it would add substantially to the welfare or educational attainment of such children, he may make special arrangements with other public or nonprofit private agencies to carry out the purposes of this section in one or more States, and for this purpose he may use all or part of the total of grants available for any such State under this section.

"(3) For purposes of this section, with the concurrence of his parents, a migratory child of a migratory agricultural worker or of a migratory fisherman shall be deemed to continue to be such a child for a period, not in excess of five years, during which he resides in the area served by the agency carrying on a program or project under this subsection. Such children who are presently migrant, as determined pursuant to regulations of the Commissioner, shall be given priority in this consideration of programs and activities contained in applications submitted under this subsection.

"(b) Except as provided in section 124, the grant to which a State agency shall be entitled under this section shall be an amount equal to—

"(1)(A) 50 per centum of the average per pupil expenditure of all the local educational agencies in the State, or

"(B) 50 per centum of the average per pupil expenditure of all the local educational agencies in all the States, whichever is greater,

multiplied by—

"(2)(A) the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State full time, and

"(B) the full-time equivalent of the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State part time, as determined by the Commissioner,

except that if, in the case of any State, such amount exceeds the amount required under subsection (a), the Commissioner shall allocate such excess, to the extent necessary, to other States whose total of grants under this sentence would otherwise be insufficient for all such children to be served in other States. In determining the number of migrant children for the purposes of this section the Commissioner shall use statistics made available by the migrant student record transfer system or such other system as he may determine most accurately and fully reflects the actual number of migrant students.

"PROGRAMS FOR NEGLECTED OR DELINQUENT CHILDREN

"SEC. 123. (a) A State agency which is directly responsible for providing free public education for children in institutions for neglected or delinquent children or in adult correctional institutions shall be entitled to receive a grant under this section for any fiscal year (but only if grants received under this section are used only for children in such institutions).

"(b) Except as provided in section 124, the grant to which a State agency shall be entitled under this section shall be an amount equal to—

"(1)(A) 50 per centum of the average pupil expenditure of all the local educational agencies in the State, or

"(B) 50 per centum of the average per pupil expenditure of all the local educational agencies in all the States, whichever is greater,

multiplied by—

"(2) the number of such children in average daily attendance as determined by the Commissioner, at schools for such children operated or supported by that agency, including schools providing education for such children under contract or other arrangement with such agency, in the most recent fiscal year for which satisfactory data are available.

"(c) A State agency shall use payments under this section only for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of such children.

"RESERVATION OF FUNDS FOR TERRITORIES

"SEC. 124. There is authorized to be appropriated for each fiscal year for purposes of sections 121, 122, and 123, an amount equal to not more than 3 per centum of the amount appropriated for such year for such sections for payments to the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands under each such section. The amounts appropriated for each such section shall be allotted among the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for such grants, based on such criteria as the Commissioner determines will best carry out the purposes of this title.".

(F) Section 144 of such title I is amended by striking out the first sentence and inserting in lieu thereof the following: "If the sums appropriated for any fiscal year for making the payments provided in this title are not sufficient to pay in full the total amounts which all local and State educational agencies are eligible to receive under this title for such year, the amount available for each grant to a State agency eligible for a grant under section 121, 122, or 123 shall be equal to the total amount of the grant as computed under each such section. If the remainder of such sums available after the application of the preceding sentence is not sufficient to pay in full the total amounts which all local educational agencies are eligible to receive under part A of this title for such year, the allocations to such agencies shall, subject to adjustments under the next sentence, be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amount so appropriated. The allocation of a local educational agency which would be reduced under the preceding sentence to less than 85 per centum of its allocation under part A for the preceding fiscal year, shall be increased to such amount, the total of the increases thereby required being derived by proportionately reducing the allocations of the remaining local educational agencies, under the preceding sentence, but with such adjustments as may be necessary to prevent the allocation to any remaining local educational agency from being thereby reduced to less than 85 per centum of its allocation for such year.".

(G)(i) Part D of such title I (including all references thereto) is redesignated as part C.

(ii) Section 141(a)(4) of such title is amended by striking out "section 145" and inserting in lieu thereof "section 433 of the General Education Provisions Act".

(iii) Section 141(a)(1)(B) of such title is amended by striking out "maximum".

(iv) Section 141(c) of such title is repealed.

(v) Section 143(a)(2) of such title is amended by striking out "maximum".

(vi) Section 142 of such title is amended by striking out "described in section 141(c)" and inserting in lieu thereof "provided for in section 122".

(vii) Section 142(a)(1) of such title is amended by striking out "section 103(a)(5)" and inserting in lieu thereof "section 121".

(viii) Section 143(a)(2) of such title is amended by striking out "or section 131".

(ix) Section 143(b)(1) of such title is amended to read as follows:

"(1) 1 per centum of the amount allocated to the State and its local educational agencies as determined for that year under this title; or".

(x) The third and fourth sentences of section 144 of such title are each amended by striking out "section 103(a)(6)" and inserting in lieu thereof "section 122".

(xi) Section 146 of such title is amended by striking out "section 141(c)" and inserting in lieu thereof "section 122".

(xii) Section 147 of such title is amended by striking out "section 141(c)" and inserting in lieu thereof "section 122".

(xiii) Section 403 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by adding at the end thereof the following new paragraph:

"(16) For purposes of title II, the 'average per pupil expenditure' in a State, or in the United States, shall be the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made (or if satisfactory data for that year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available), of all local educational agencies as defined in section 403(6)(B) in the State, or in the United States (which for the purposes of this subsection means the fifty States, and the District of Columbia), as the case may be, plus any direct current expenditures by the State for operation of such agencies (without regard to the source of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.".

Mr. McCLELLAN. Mr. President, how much time is allocated to this amendment?

The PRESIDING OFFICER. Three hours have been allocated to the amendment, 2 hours to the Senator from Arkansas, and 1 hour to the manager of the bill.

Mr. McCLELLAN. Mr. President, how much time has been allocated to the bill?

The PRESIDING OFFICER. Twenty hours have been allocated to the bill.

Mr. McCLELLAN. Twenty? Then we shall not get through today.

Mr. President, I yield myself 10 minutes.

Mr. President, education is the keystone in the arch of freedom and progress. For the individual, the door of the schoolhouse leads to many of the richest treasures of our society. For the Nation, increasing the availability and quality of education is vital to our national security and to our social, cultural, and economic progress.

To promote and pursue these goals was the main purpose for the enactment of the Elementary and Secondary Education Act of 1965. In passing this law, the Congress established a pattern of Federal aid to our States—and through them to the local school districts—to assist those with large numbers of poor children and to provide them more equal educational opportunities.

Undoubtedly, the most important section of this law is title I which provides funds to local education agencies for compensatory educational programs for poor and educationally deprived children in both urban and rural areas.

The present statute was enacted 9 years ago in response to a serious national problem—the educational deprivation prevailing among children of poor families. Studies and reports had shown a high correlation between poverty and low educational achievement. The problem appeared to be particularly acute in school districts with high concentrations of poor citizens—districts which have extreme difficulty in financing adequate educational programs.

Through the use of title I funds, we provided a substantial amount of assistance to pupils residing in those districts that are most in need of educational assistance. But the goal we set for ourselves to provide this assistance to those pupils and school districts most in need is not now being achieved—primarily because the formula heretofore and now used to allocate title I funds has become outdated.

This formula has created serious distortions, inequities, and imbalances in the distribution of funds to the individual States and their local education agencies. Paradoxically, the wealthy States in recent years have received disproportionately more assistance than the poorer States—which was clearly not the intent of Congress when this legislation was enacted.

The present law provides that local school districts receive title I grants on the basis of two factors:

First, the number of children in those districts from families with incomes under $2,000 a year, according to the decennial census; and

Second, the number of children from families with incomes over $2,000 from payments under the Federal program of Aid to Families with Dependent Children—AFDC.

Each school district's entitlement is computed by multiplying the total number of children from these two categories by one-half the State or national average per pupil expenditure for elementary and secondary education, whichever is higher.

When the title I formula was first placed in effect during the 1966 fiscal year, 90 percent of the children included under title I were those counted from the census, and only 10 percent were AFDC children. Now the AFDC children have overwhelmed the children counted from the census. The AFDC children now total more than 60 percent of all children included under title I.

Thus, Mr. President, title I money is now being principally distributed not on the basis of nationally uniform census data but rather upon the basis of AFDC caseload counts—a factor that is clearly prejudicial to the interests of many of the less wealthy States—States that have the most compelling need for Federal assistance.

This paradoxical situation results from the fact that the wealthier a State is the more likely its level of AFDC benefits will be higher than is that of the less wealthy States. Thus, by its own action of paying higher AFDC benefits, a wealthy State can increase its AFDC count and receive more title I benefits. This is manifestly inequitable.

When the new 1970 census data was used for the first time in fiscal year 1974, the outdated nature of the current formula became clearly apparent.

For example, New York, which ranks very high in per capita income, $3,608, in the Nation, according to the 1970 census, received nearly 2½ times as much title I assistance during fiscal 1974 as did Texas, which ranks thirty-second in per capita income, $2,792. Thus, New York received 14.7 percent of total title I funds compared to 5.93 percent for Texas. Also, it should be noted that Texas has more poverty children than New York—7.66 percent of the national total as compared to 6.33 percent in New York. Many other States are similarly discriminated against.

What is the explanation for this significant, and I believe, indefensible disparity?

The principal reason is that New York, as a wealthy State, makes higher payments in its AFDC program than does Texas. Therefore, New York has been able to add 564,248 AFDC children to its total count of title I eligible children since fiscal 1966, while Texas has been able to add only 81,854 children to its rolls.

Mr. President, I submit the present title I formula because of its great reliance on AFDC statistics, now operates inequitably among the several States. It has become discriminatory, unfair, and unjust. The results are completely contrary to the original intent and major purpose of title I, which was to provide assistance to those school districts and to States whose ability to operate adequate educational programs is seriously impaired and made difficult by reason of concentration of low-income families in such States and districts.

While thousands of AFDC children have been added to the counts taken in the richer States over the last 8 years, 3 of the poorest States in the Nation—Arkansas, South Carolina, and Mississippi—have not been able to add a single child to their AFDC rolls. A number of other States have been able to make only small additions.

Mr. President, I am pleased to note that both the Senate in S. 1539 and the House in H.R. 69 have recognized that title I must be reformed to end the obvious discrimination being practiced against the schoolchildren residing within the less wealthy States.

But I am convinced that the title I provisions contained in H.R. 69 would be far more equitable and just than those now before us in S. 1539. The provisions in H.R. 69—and in my amendment—would restore the better balance of distribution which was in the original program that was enacted in 1965. For this reason, I have offered for myself and for 30 other Senators, an amendment which would, in effect, substitute the House formula in title I for that contained in S. 1539. My amendment would, however, retain the Senate payment rate for State agency programs—institutionalized handicapped, neglected, and delinquent children and migrants.

Both the Senate and the House bills are in agreement that the Orshansky Index—the accepted Federal Index of Poverty—should be the prime factor in determining the number of children to be covered by title I aid in any given local education agency.

However, the Senate bill places undue emphasis on the number of children whose families are receiving AFDC payments. The formula in the Senate bill would count poor children twice if their families are receiving AFDC payments, thus making higher payments to wealthy States which can afford and which provide larger welfare programs.

My admendment would reduce the emphasis on the AFDC factor by counting only two-thirds of AFDC children whose families have incomes above the poverty level.

Mr. President, every Senator should realize and understand that the base year provision in the Senate bill would insure that no local education agency will ever receive less funds than it received in fiscal year 1974. Such a provision simply adopts and perpetuates the existing inequities and discriminations that now prevail. Fairness and justice dictate that those inequities and discriminations be eliminated—not perpetuated. The Senate bill retains them—my amendment removes them. This base year provision means that during fiscal year 1975, 89 percent of the title I local education agency money would be distributed, not under the formula set out in S. 1539, but instead under the obsolete formula of existing law which in effect states that you are poor unless your family has an income of less than $2,000.

My amendment contains an 85 percent hold-harmless clause for local education agencies. This would provide the funding assurance necessary to enable proper year-to-year planning of title I programs, without freezing in the present inequitable distribution of Federal funds.

Another grave concern to me is part C of title I in S. 1539. Part C purports to furnish special grants for urban and rural areas with concentrations of children from low-income families. Bear in mind that part C funds are taken from general local education agency funds. Also note that for part C, title I funds the Senate bill provides a different formula for determining the number of children to be counted. Section 131(b)(1), page 144 of the Senate bill fixes $3,000 as the poverty level rather than using the Orshansky formula.

I confess that I do not know why this change in formula—why this $3,000 level is substituted for the Orshansky formula.

Another condition of eligibility under this part C formula is a requirement that a school district must have twice the average number of poor children in all counties of the State; or, 10,000 such children which amounts to 5 percent of the total number of such children in the county.

On April 25, 1974, an insert was placed in the CONGRESSIONAL RECORD by the junior Senator from Rhode Island, pages 11848–50, which listed counties that would receive funds from part C. A careful examination of this insert reveals that more than 25 percent of the part C funds, which are intended to go to concentrations of poor children will actually go to one of our richest States.

Under this formula, a county such as Newton County, Ark., where 43 percent of its families have a total income of less than $3,000 per year and where the per capita income is only $1,308 per year, will not receive any of these funds whatsoever. Notwithstanding that part C is purportedly aimed at aiding local education agencies containing concentrations of poor children, it miserably fails to achieve that result.

To illustrate, Westchester County, N.Y., one of the wealthiest counties in the Nation, with only 4.9 percent of its families having total incomes of less than $3,000 per year and with a per capita income of $5,059 will receive $619,833 under the part C formula in the Senate bill, S. 1539—almost double the total that will go to the entire State of Arkansas.

Mr. President, there are some 32 other counties in Arkansas in addition to Newton County to which I have referred—where more than 25 percent of the families have incomes of less than $3,000 per year, that will receive none of part C funds under provisions of S. 1539. I might mention also that the highest per capita income of any of these 32 counties is only $1,887.

I, therefore, respectfully suggest that each Senator may wish to examine part C of title I of the Senate bill and ascertain whether it is fair and equitable to, or if it discriminates against children of his State as it does to the State of Arkansas.

Mr. President, in the neighboring State of Missouri, may I point out, there are some 25 counties whose per capita incomes are less than $3,000 per year and they do not get one dime of these funds, while New York State gets 25.9 percent of every dollar of these funds.

I simply suggest that the kind of formula in S. 1539, part C Funds, to distribute monies to help to educate the poor children of this Nation, is indefensible.

The Coleman report, issued in 1966, indicated that concentrations of poverty did cause less than equal educational opportunity for many children, because of the tendency of children to learn from their classmates. Surely anyone can see that the children in Newton County, in the 25 counties in the adjoining State of Missouri, and in a number of counties in other States of the Union, need educational assistance more than the children of Westchester County, N.Y.

On December 31, 1972, the Select Committee on Equal Educational Opportunity chaired by the senior Senator from Minnesota, issued its report. The report of a majority stated:

> It is a fundamental goal of our democratic system that life's opportunities be distributed on the basis of each individual's capacity and choice and that no individual be denied the chance to succeed because of his membership in a racial, religious, social economic or other group in society.

The children in these counties in the poorer States which I have mentioned, under this formula, are being denied equal educational opportunities by the Federal Government if we pass this bill in its present form.

Mr. President, part C of title I of S. 1539 flies in the face of this definition of equal educational opportunity. The granting of extra educational assistance to such counties as Westchester County in New York where the average per pupil expenditure substantially exceeds the per capita income in Newton County, Ark., and not grant such assistance to the poor children of Newton County, is indefensible. We should not give such Federal assistance to children and counties who need it least, while denying such assistance to children and counties who need it most. And that is exactly what part C title I of S. 1539 does.

S. 1539 will not accomplish what its authors and the committee report claim for it. It will not equitably distribute Federal aid to all educationally disadvantaged children. Instead, in many instances it actually favors educationally advantaged children. I cannot agree to nor support such a discriminatory measure.

My amendment strikes part C from the bill—my amendment seeks to carry out the true purpose of the bill—to provide Federal aid to educate children from poor families.

Mr. President, providing a sound, quality education for our children is one of the most important and responsible functions of government. Education is not only vital to the protection and continuance of our liberties and freedom but is also our obligation to posterity.

These children in the poorer counties, as I have mentioned, are part of that posterity to which we have this obligation.

Most of the children currently in our schools will spend much of their lives in the 21st century. We must provide equal opportunity in all parts of the Nation for the quality education that is required to meet the demands of the future.

My amendment is designed to and will insure that Federal assistance for education is allocated and distributed more equitably and so as to go where the need is greatest among the children and school districts of the several States.

Mr. President, I most earnestly solicit and urge all Senators' support of this amendment to the pending bill.

Mr. President, how much time did I use?

The PRESIDING OFFICER (Mr. JOHNSTON). The Senator has used 20 minutes.

Mr. McCLELLAN. I thank the Chair.

Mr. CHILES. Mr. President, will the Senator from Arkansas yield me 4 or 5 minutes?

Mr. McCLELLAN. I yield 5 minutes to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized for 5 minutes.

Mr. CHILES. Mr. President when President Lyndon B. Johnson first proposed to the Congress legislation to insure full educational opportunity for all our children, he said:

> Nothing matters more to the future of our country: not our military preparedness—for armed might is worthless if we lack the brainpower to build a world of peace; not our productive economy—for we cannot sustain growth without trained manpower; not our Democratic system of government—for freedom is fragile if citizens are ignorant.

The same goals which guided President Johnson when he introduced the Elementary and Secondary Education Act of 1965—to assist those in poverty to achieve equal education opportunity—still guide us 9 years later.

Title I of this law was enacted by the Congress to provide sorely needed financial resources to school districts which were experiencing difficulties in funding adequate educational programs to meet the needs of large concentrations of low-income families.

Title I was designed to provide such financial assistance equitably to all States—both urban and rural—on the basis of need.

But over the years, title I has become less responsive to the needs of school districts with large concentrations of children of low-income families. Thus, those children most in need of additional educational assistance have been deprived of such aid while it has been increasingly channeled to those areas that have relatively less need for such aid.

As has been so ably pointed out by the senior Senator from Arkansas (Mr. McCLELLAN) the basic cause of this problem is that the formula used to calculate and allocate title I funds has become distorted over the years and is no longer a proper reflection of the actual situation in our various States.

We in Florida have been particularly sensitive to this issue. We have been unable to add AFDC children to our rolls to the same extent as some of our wealthier States, and as a consequence, we have been discriminated against in the allocation of title I funds.

Senator McCLELLAN's amendment will help alleviate the distortion and imbalances created by the current formula and perpetuated by S. 1539. It will provide for a more equitable distribution of funds to the States most in need of such assistance.

Let us look at the example of Florida: under the bill before us, Florida would receive only 2.53 percent of the total allocations under title I. Yet, under the Orshansky definition of poverty, Florida has 3.60 percent of the poor children in the Nation. The McClellan amendment would provide 3.78 percent of the total allotment of funds—a much fairer distribution.

In monetary terms, Florida would receive $47 million in title I assistance under the committee version of S. 1539. Under the McClellan amendment, this would be increased to $69 million.

Let us now turn to part C funds. Part C of title I was designed to aid areas of the country with high concentrations of poor children. There are 12 counties in Florida with more than 25 percent of their families having incomes under $3,000 a year. One of these, Holmes County, has 32.4 percent of its families with incomes under the $3,000 level. But none of these counties receive any part C funds.

Thus, Mr. President, it is clearly evident that part C funds are not going to those school districts with high concentrations of poverty, but to areas with a lesser need and are better able to pay the costs of education. Whatever the rationale for this formula, it is not serving the stated purpose of the Elementary and Secondary Education Act.

I wish to emphasize that the McClellan amendment would retain the committee's payment rate for allocation of funds to State agencies for aid to handicapped, migrant, and institutionalized, neglected and delinquent children. Under this formula and in the existing law, State agency grants are computed using a payment rate of 50 percent of the State average per pupil expenditure or 50 percent of the national average per pupil expenditure, which ever is greater.

In addition, the McClellan amendment incorporates a provision included by the house in its version of the bill H.R. 69). This would enable the Commissioner of Education to use the migrant record transfer system data or other data which accurately reflects the actual number of migrants in a given area.

The time has come, Mr. President, for a fair distribution of title I funds. I believe that quality education should be the birthright of all Americans, so that children throughout our great Nation will be given the true opportunity to learn.

It is for these reasons that I cosponsored the McClellan amendment and urge its approval by the Senate.

Mr. PELL. Mr. President, this entire question of title I allocation is about as complicated and involved a problem as one could find.

The Library of Congress has run off innumerable tables for the study of the subcommittee. Indeed the Library has set up its own computer capability to do this. We worked long, hard, and diligently both in the subcommittee and full committee to arrive at a formula that would be fair to the Nation's poor and disadvantaged children, no matter where they are.

We went through a variety of projections of figures in the committee, in order to arrive at a consensus. We sought to really focus on the question of where the kids were. As we moved ahead, we felt that the various special categories already contained in title I should be maintained. Unfortunately, the House formula and Senator McCLELLAN's formula exclude part B, the special incentives grants to the States exceeding the national average and part C payments where there are extra concentrations of disadvantaged children. We also maintained 100 percent payment for the handicapped migrant and Indian children whose payment would now be cut to 50 percent.

That meant that our formula initially allocated $1.5 billion, because the other $0.3 billion was being allocated according to those special areas I mentioned above. Naturally, if you are dealing with $1.5 billion, the charts do not compare favorably with a formula distributing $1.8 billion.

The fact is that the disadvantaged children seem usually to be concentrated in urban areas. This is where the poverty seems most acute, where the rats still run around, where the doors are open, where the windows are boarded up. Because they are usually in the North, these urban concentrations suffer from climatic variance. The cost of living is higher because of the fuel and clothes needed to keep warm. I read in the press the other day that the cost of living in the Northeast was more than 20 percent above the national average.

These kids, who must be judged by the poverty index, by how much food they have, by how warm they are, by the nutrition they receive, by their exposure to poverty, seem to be more concentrated in the northern urban areas than anywhere else.

The way the formula worked out, it recognized this fact, and this naturally causes a problem, because it looks as though it is giving favoritism to one section of the country. It is giving favoritism to one section of the country. However, the northern urban areas are where a large number of poor and miserable children are, that is unfortunately a fact of life. We adopted this formula, to meet this need, an action which was not easy for me, because my own State had problems with it, but it seemed the best; and for that reason, I commend it to my colleagues.

Mr. LONG. Mr. President, will the Senator yield me 5 minutes?

Mr. McCLELLAN. I yield 5 minutes to the Senator from Louisiana.

Mr. LONG. Mr. President, I support the McClellan amendment because it provides a more equitable distribution of title I funds to local education agencies. The stated purpose of title I is to enable elementary and secondary schools to provide compensatory education to educationally disadvantaged children; and, all versions of the formula for computing these payments have been premised on the correct assumption that the determining factor should be based on the number of poor children within each local education agency. However, the method of determining the number of poor children in any given local education agency raises serious questions with respect to equitable allocation of these funds.

One problem with the Senate version that the McClellan amendment would correct is the greater emphasis placed on the number of children whose families are receiving AFDC payments. In Louisiana, for example, H.R. 69, the House version, lists 308,850 "Orshansky" children and 3,436 special population children for a total of 312,286. If, however, the Senate formula were used, an additional 194,321 AFDC children would be added. The result of this formula would be a double counting of poor children if their families also received AFDC payments, resulting in higher payments to wealthy States that can afford larger welfare programs, with large numbers of children on those programs.

Another problem is that there are too many disproportionate allocations of title I funds based upon the percentage of poverty level children within a given State in relation to the percentage of funds that State receives.

Under the Senate version, Louisiana's target children population represents 3.12 percent of the national total, while Louisiana's share of title I funds is only 2.33 percent of the total. The effect of the McClellan amendment is to bring these percentages much closer together, reflecting accurately the very high concentrations of needy children in certain States. In Louisiana, for example, the percentage of target children is 3.63 percent of the national total, and our grants would represent 3.28 percent of the total grants. It can be argued that we ought to be receiving a higher percentage than that. At least, this is far better justice than proposed by the committee.

An even greater problem is the title I, part C special grant distributions for urban and rural areas with large numbers of children from low-income families. In Louisiana, only 5 parishes—counties—would share in these funds, despite the fact that an additional 29 parishes with over 25 percent of the families receiving less than $3,000 per year income would receive no part C funds at all. Certain counties in more populous Eastern States with much high per capita incomes and far fewer families having total incomes of under $3,000, will receive as much as two-thirds of the amounts going to the entire State of Louisiana.

The PRESIDING OFFICER (Mr. JOHNSTON). The Chair, as the junior Senator from Louisiana, wishes to be associated with the remarks of the senior Senator from Louisiana.

Who yields time?

Mr. WILLIAMS. Mr. President, I yield myself 10 minutes.

Mr. President, I strongly oppose the McClellan amendment to the committee bill, S. 1539. His amendment would alter the formula under title I for programs for educationally disadvantaged children, and I urge my colleagues to vote against his amendment.

Mr. President, my committee has been working on the title I formula for more than 6 months. This formula is a highly complicated one, and one which is made more difficult by the lack of adequate statistics. My committee has delayed bringing this bill to the Senate floor because we wanted to make sure that we had a fair and equitable formula for all the States.

The McClellan amendment, however, would tamper with all parts of this formula, and will cause wide variations in the next few years as a result. The amendment offered by the Senator from Arkansas is almost identical to the formula adopted by the House committee with only limited debate and without carefully examining its impact in areas within the States. I caution my colleagues at the outset that if they only examine their State totals, they should not be surprised to get phone calls later this year from local districts complaining that their title I allocations have been cut.

The McClellan formula does not simply change one factor or introduce a new method of counting children. In fact, this is a completely changed approach and bears no relationship to the strengths of the existing title I formula.

This amendment cuts the amounts of per-pupil expenditures for which States can be reimbursed, and, thus, eliminates any incentive they have for raising additional amounts of money for education.

It further adopts a method of measuring poverty which is so different that 606 counties suffer a loss from what they received this year, even though the McClellan formula is based on a higher appropriations level. And, in addition, more than 250 counties throughout the country will still be relying on the 85-percent regressive hold-harmless 2 years from now.

Mr. President, I want to again emphasize that we are not talking about mythical losses for these 606 counties. These are losses of actual dollars in 42 States. It represents a decrease that these counties can expect from their fiscal year 1974 allocations, despite the fact that the McClellan formula is based on an increase in appropriations to $1.885 billion.

THE USE OF ORSHANSKY

Mr. President, the Senator from Arkansas argues that the House and Senate are in agreement that the Orshansky index should be used as the prime factor in determining children eligible under title I. He also argues that Orshansky is the "accepted" Federal index of poverty.

It is true that both the House and the Senate include the Orshansky index as part of the formula for allocating funds under title I, but there are substantial differences in the way the Senate Committee uses this index and in the way the House and the McClellan amendment would use it.

It may be that the Orshansky poverty index is much more sensitive to variations in individual family needs than a single dollar level can be.

But the Orshansky index is not without its problems. It is derived based solely on the cost of food for a family of a given size. I point out to my colleagues that under this index no further adjustments are made for variations in housing costs, transportation costs, medical costs, or for the cost of other necessary services.

Mr. President, this is the point that the Senator from Rhode Island began to develop, and it is very important to an understanding of how this abbreviated approach to a definition of poverty is being used within the Orshansky formula.

The only adjustment which is made for area of residence is a small variation for farm or nonfarm family; but there is no adjustment for urban, suburban, or rural nonfarm cost-of-living variations.

The Orshansky index is further limited by the fact that it can only be applied against static census population figures and therefore is not reflective of changes which occur between the 10-year period of census counts. We would have no way of updating those figures until 1983.

The Senator from Arkansas argues that Orshansky is the universally accepted poverty index of the Federal Government and is adequate by itself. But it should be made clear to everyone that Ms. Mollie Orshansky, who developed this index, has forthrightly counseled the Congress against adopting this index as the sole indicator of poverty. Thus, we cannot rely on Orshansky alone and we must recognize that AFDC provides current data and an additional measure of differing regional living costs.

THE USE OF AFDC

The Senator from Arkansas further argues in support of his amendment that the Senate committee formula places undue emphasis on the number of children whose families receive AFDC payments.

Instead, the McClellan amendment proposes to effectively eliminate AFDC as a formula factor.

Mr. President, this aspect of the proposed amendment just does not make sense. First, there can be no rationale for only counting two-thirds of children from AFDC families over $4,250. This is *especially* true when you consider that poor populations are traditionally undercounted in census figures, and that most of this undercounting takes place in urban areas—the Urban League estimates a 5.3 million undercount.

Second, despite that fact that the McClellan amendment may have accompanying charts showing Senators how their States would come out, I point out to my colleagues that there are no statistics which accurately count AFDC families receiving payments over the Orshansky level. This is precisely the reason why my committee has included the entire AFDC caseload in working out the formula.

Third, I also point out to my colleagues that by counting only the AFDC children over $4,250, the Senator from Arkansas is doing precisely what he counsels against. That is, utilizing formula factors in which only some States can participate. In fact, there are a total of 26 States which could not, under his amendment, participate in this share of the money.

Now, Mr. President, much has been made of the alleged fact that so-called "wealthier" States unduly benefit from having AFDC children counted. I would like to take issue with that statement very directly. I come from a so-called wealthier State. And I challenge anyone to tell me that in the cities and the more rural areas of my State that there is not poverty. I further challenge anyone to tell me that costs are not higher in the State of Michigan than they are, for instance, in the State of Arkansas.

The facts are, Mr. President, that costs do vary across this Nation. I point out that, according to a Gallup poll, although food costs on an annual basis average $2,080 for other areas of the country, in the Eastern States food costs are $2,548 for an average family of four. Furthermore, although the national average of monthly housing rents is $81.26, in some States the average monthly rents drop as low as $47. And in New Jersey, monthly rents are $111, while in Arkansas rents average $52.

And just as family costs vary, cost to State and local governments for providing education services also vary.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. WILLIAMS. Mr. President, I request 5 additional minutes.

Mr. PELL. Mr. President, I yield 5 minutes to the Senator.

Mr. WILLIAMS. May I ask the distinguished chairman to yield me a little additional time if I should still be talking at the end of that time?

Mr. PELL. How much time remains for the opponents of the amendment, Mr. President?

The PRESIDING OFFICER. Forty-four minutes remain to the Senator from Rhode Island, and 90 minutes to the Senator from Arkansas.

Mr. PELL. Mr. President, I yield to the chairman of the full committee as much time as he may desire.

Mr. WILLIAMS. Mr. President, for example, the average salary of teaching staff varies from a low of $7,100 in the State of Mississippi to a high of $14,000 in the State of New York. For New Jersey, the average salary was $11,750; whereas in Arkansas, this figure is $7,653.

And, in terms of the amounts these two States would be eligible for if title I were fully funded under the existing law, the State of Arkansas could receive 82.3 percent of its total per pupil expenditure from the Federal Government under this program, whereas the State of New Jersy is only eligible to receive 50 percent of its total per pupil expenditure.

Particularly, Mr. President, my colleagues should know that this AFDC issue is a very strange one. You know, we are told that it is only the large industrial States which continue to gain under AFDC, that the AFDC populations of these States keep growing, and that they have a much more substantial part of the population. Now, that is just not true. In point of fact, the top four States showing increases in AFDC payments from fiscal year 1972 to fiscal year 1973 were: Georgia, Indiana, North Carolina, and Louisiana. The State of New Jersey was 35th in ranking for increases of AFDC children.

Furthermore, it just is not true that AFDC represents a greater proportion of the Northern States' populations. Nationally, AFDC represents 11.2 percent of total population aged 0–17. For the State of Mississippi, it is 16 percent; for the State of Louisiana, it is 14 percent; for the State of Georgia, it is 15 percent; for the State of New York, it is 15.3 percent; for the State of New Jersey, it is 12.5 percent; and for the State of Missouri, it is 11 percent.

Finally, on this point, the Senator from Arkansas argues that the use of Orshansky and total caseload for AFDC in the Senate formula results in substantial "double counting" of children for title I purposes. Mr. President, because of the substantial undercounting of poverty populations by the census in the first place, this method will insure that all children in need of services are counted. Furthermore, because there are no statistics on AFDC over the $4,250 income level, this method insures that we are making allocations based on actual numbers and not estimates. And this method assures that all States will share in distribution of funds under all factors of the formula.

VARIATION IN PAYMENT RATES

Mr. President, the Senator from Arkansas has also argued that a change is needed in payment rates to the States because under existing law, and under the committee bill, these payments vary. In my view, however, the existing payment rate provision has been one of the great beauties of title I.

Yet the McClellan amendment would change all that. It will mean that those States with much lower education expenditures will only be brought up to 80 percent of the national average, and States with higher education spending will be artificially reduced to a maximum of 120 percent of the national average. Mr. President, this 120-percent ceiling at the present rates of expenditure will affect five States: Connecticut, Alaska, the District of Columbia, New Jersey, and New York. But many States are now enacting school finance reform and increasing expenditures, and many other States including Delaware, Hawaii, Illinois, Maryland, Michigan, Minnesota, Oregon, Pennsylvania, Rhode Island, Wisconsin, and Wyoming are already near this upper limit on State spending.

THE USE OF THE BASE YEAR APPROACH

The Senator from Arkansas has also argued that he is disturbed by the base year approach because it would assure all local education agencies of the funding they had in fiscal year 1974. He further argues that an 85 percent hold harmless provision is sufficient to provide these agencies stability for future planning.

As I have said before, Mr. President, this could mean a loss of 15 percent of the total funds that have been previously available to a school district. Yet we are completely changing the format for local school districts and imposing a new way of measuring poverty. Therefore, it is irresponsible, I believe, to change that format and not provide the children who are served under this program some stability.

The effect of the McClellan amendment is not a simple, continuing 85 percent hold harmless provision. A school district could receive 85 percent of its 1974 allocation in 1975, but 85 percent of that 85 percent in 1976—or 72 percent of its 1974 allocation; and 85 percent of that amount in 1977—or 61 percent of its 1974 allocation—and 85 percent of that amount in 1978—or 51 percent of its 1974 allocation. This means that a district could be reduced by close to 50 percent over that 4-year period.

The continuity that the base year approach provides is a necessity under this bill or any other bill.

URBAN AREAS

Finally, Mr. President, the Senator from Arkansas argues that the committee bill is inequitable in the way it distributes funds to States and that the formula is discriminatory. But a careful examination of the McClellan amendment shows that while many of the States may show an overall increase in funds which they receive under his proposed formula, the flow of funds within their States has the opposite effect. Mr. President, 606 counties will suffer an absolute loss under this formula in all areas of the country. The repeal of part C, changes made in payment rate, and the virtual elimination of AFDC as a factor will have great effects on distributions within every State.

Moreover, at least 35 of the 100 largest cities will lose funds under his formula, even assuming the increase in appropriations from fiscal year 1974 to 1975. Some of these cities include: Atlanta, Louisville, Wichita, St. Louis, Gary, Baltimore, Chicago, Newark, Richmond, Seattle, Los Angeles, Detroit, the District of Columbia, and Oakland.

The formula which the Senator from Arkansas offers to the Senate is a variation on the House committee formula, which was considered in one day by that committee, and was accepted by that committee without even looking at the effects that it would have within States.

I come back to this now for the third time. This has not been analyzed at all. The effects, not just at the top in State totals, but the effects within the States and the communities, means that we would be shortchanging the needs of the children of this country. Mr. President, let us not forget that under the committee formula, no local education agency will lose one penny. I urge my colleagues, for all the reasons advanced, and I am sure I am anticipating some to come, to reject this amendment.

Mr. McCLELLAN. Mr. President, I yield myself 3 minutes, I should like to ask the Senator from New Jersey a question or two.

In the Senate bill, was it the Senator's intention to exclude from participation in part C of S. 1539, 32 counties in Arkansas and 25 in Missouri, and countless numbers of counties in other States, from any participation in this grant of funds for extreme poverty areas, where the families have incomes of less than $3,000 per year? Was that deliberate, or was it accidental? I know that the Senator studied the question for 6 months.

Mr. WILLIAMS. I am looking at the counties we have listed in the grants for Arkansas. For example, Crittenden, this is the amount to be received: $48,892; for Jefferson County, $50,421; for Mississippi County——

Mr. McCLELLAN. The Senator is reading the names of counties where he has included the sums.

Mr. WILLIAMS. That is right. The amounts I have listed are for the counties I am naming in the State of Arkansas. Pulaski County is $79,564. For St. Francis, it is $34,971. These are allocations under part C, title I, as amended by the bill that was reported by the committee.

Mr. McCLELLAN. Yes; I am sure that is correct. The Senator has mentioned six of the richest counties in the State. I have a list of 32 of the counties in the State where the children are from families having incomes of less than $3,000. I am asking whether that exclusion was intentional or was inadvertent. What caused that?

In Newton County, the per capita income is $1,300 a year, where 43 percent of the families have incomes of under $3,000 a year. Not one dime has been provided from these extra, special funds for areas of high concentration of poor people. Not one dime will go to that county.

That is true throughout the Nation; it does not apply only to Arkansas. There are 25 counties in Missouri. I do not know whether that is inadvertence, after a 6-month study, or whether it is deliberate.

Mr. WILLIAMS. The operation of these formulas—either the McClellan formula or the committee's—is not that simple. That is why I say that this is worth a lot more study than the 1 day, as I am told, developed in the House. For example, I point out to the Senator, three of the counties in Arkansas that I did not mention earlier, under the formula advanced by the Senator from Arkansas, would receive less money than they would receive under the bill, S. 1539. Greene County, for example, would, under S. 1539, receive $342,740. For the first year under the Senator's amendment that would be $274,187.

Howard County has a reduction. I will not go through all the numbers, but I can state the figures under the formula allocation. Newton, Howard, and Sharp Counties show a difference and a lesser sum under the amendment offered by the Senator from Arkansas than the bill we have from the committee. There is no reduction, however, under the committee bill.

Mr. McCLELLAN. I am not talking about a reduction. I am talking about the title I, part C funds, which are supposed to help the poorest districts and the poorest children. Thirty-two counties of Arkansas have been eliminated, and 25 have been eliminated in Missouri. We can carry that all across the Nation to show that they get not a dime out of it. Yet one of the richest counties in New York State, Westchester County, under that provision, with a smaller percentage of poor children, gets a grant which is almost twice as much as is given to the whole State of Arkansas.

I do not think it is deliberate; I think the formula the Senator has presented is defective. It ought to be revised. I think the House formula is much better.

Mr. WILLIAMS. May I ask the Senator a question?

Mr. McCLELLAN. Yes.

Mr. WILLIAMS. I believe the Senator mentioned the county of Newton in the State of Arkansas.

Mr. McCLELLAN. Yes.

Mr. WILLIAMS. I did not hear exactly how he described the results.

Under the bill, my figures show that the county of Newton will receive $141,075. Under the McClellan amendment for fiscal 1975, it will receive substantially less. The figure would be $112,000.

Then, in fiscal 1976, under that provision, I gather, it is again at 85 percent held harmless. It goes down to $108,000. So the children of Newton County, for their education, would, under the Senator's amendment, be reduced to $141,000 for 1976. Under the amendment proposed, the amount would be reduced some $30,000, to $108,000.

Mr. McCLELLAN. The Senator gets away from the question. I asked him about title C. I just could not conceive how he could give me additional information justifying part C.

The PRESIDING OFFICER. The Senator's time is expired.

Mr. McCLELLAN. Mr. President, I yield myself 1 more minute.

I cannot conceive that the Senator from New Jersey, the Senator from Rhode Island (Mr. PELL), and the Senator from New York (Mr. JAVITS) would want to enact a provision under which the underprivileged counties would simply get less than one of the richest counties in the Nation. The poorest counties would not get it; the poorest counties would get absolutely nothing. I cannot conceive that that is the intent.

Mr. WILLIAMS. If Newton is one of the poorest counties, it gets more money under the bill than it would get under the Senator's amendment.

Mr. McCLELLAN. That is because it has fewer children. I think, as to the special children, the Senator made a mistake. I think the special children, those who need the dollar most——

Mr. WILLIAMS. I say that a dollar is a dollar and 80 cents is 80 cents; and if the Senator from Arkansas gives them 80 cents, they are better off with the dollar.

Mr. McCLELLAN. The Senator is not giving them a dollar for special help. He is giving it to the richest counties.

Mr. BENTSEN. Mr. President, will the distinguished Senator from Arkansas yield me 5 minutes?

Mr. McCLELLAN. I yield 5 minutes to the distinguished Senator from Texas.

Mr. BENTSEN. Mr. President, I am pleased to rise and support the amendment offered by the distinguished Senator from Arkansas, chairman of the Committee on Appropriations. I have been involved in the controversy over title I since last October, when I offered an amendment to the continuing resolution. I am sure that no school district would lose school funds because of the distortions caused by the outdated title I formula.

The essence of the problem is quite simply this: The AFDC factor in the committee formula is an unwise and unfair method of determining where the poor children are living. If the argument is that title I funds should go to those districts which have increased numbers of poor and disadvantaged children, then the committee bill is deficient.

In 1968, when AFDC was placed in

the formula there were less than 580,000 AFDC children; today there are in excess of 3 million. The result has been that AFDC has overwhelmed the formula and States which cannot afford to pay substantial walfare payments have been penalized.

I do want to say, Mr. President, that the committee bill is an improvement over the current title I formula in that it counts total AFDC caseload rather than the level of AFDC payments. That is an evidence that the committee recognized the inequities in present law.

However, the committee bill, by basing its formula 40 percent on AFDC caseload keeps many of the problems inherent in present law.

By any criterion, AFDC is a poor *standard* of measurement. Let us look at some of the problems in the committee bill.

The first is that different States have radically different standards for determining who receives AFDC payments. For instance, half of the States allow AFDC payments if there is an unemployed father in the home, but the other half refuses payments in similar circumstances.

States vary in their requirements on the value of a homestead an AFDC recipient can own. One State allows a home of $2,500 in value; another allows a home of $25,000 in value; and many States require that recipients own no home at all.

With these widely differing standards for determining who receives AFDC, is it a fair measure of determining poverty levels and the location of poor children? Obviously it is not, and that is why I oppose it.

There are other problems with AFDC, and one is that there is substantial controversy over the accuracy of AFDC statistics. HEW found recently that over 10 percent of the AFDC caseload nationally was not eligible under the law for assistance. Another 22.8 percent received payments in excess of eligibility, and 8.1 percent were underpaid. From April to *September 1973* the error rate in the AFDC program was found to be over 40 percent of the caseload. Granted that title I cannot ever be mathematically exact, but the magnitude of the error here suggests that AFDC is not a reliable source of data.

Mr. McCLELLAN. Mr. President, will the Senator repeat that again? Is that the national average of error?

Mr. BENTSEN. That was the national average in the program from April to September, 1973. It was found to be over 40 percent of the caseload, and I think that is an indictment of using it as a criterion.

Finally, the committee bill not only uses AFDC, it actually double counts AFDC children. If the formula is based 60 percent on the poverty index and 40 percent on AFDC caseload, many of the same children who are counted under the AFDC factor will have also been counted in the poverty index. So, in effect, we compound the AFDC error by multiplying it and the distortions remain.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. BENTSEN. May I have another 3 minutes?

Mr. McCLELLAN. I yield the Senator 5 additional minutes.

Mr. BENTSEN. Mr. President, let me say that I know it is a very difficult matter to come up with an equitable title I formula. Frankly, I have explored several attempts to modify the House formula so that no State would be disadvantaged. But the efforts I made convinced me that there is no single formula that will please all States. Inevitably, someone is going to receive less than he believes he is entitled to.

But what I really deplore is the practice of reading the numbers on charts to determine which State will receive the most under the various formulas, but, in all candor, most of us realize that this is the way many Senators will judge this issue.

That is the way too many will vote on this floor this afternoon. What we ought to be looking at is where the poor children are living.

Let me just say this: The principle behind title I should be that Federal funds should be placed in school districts that have large numbers of disadvantaged children. If districts have had increases in the numbers of disadvantaged children, the formula should make allowances for that. The formula should not be based on extraneous factors which are no real indication of where the poor children are located.

The McClellan amendment is not a Southern amendment, nor a Northern amendment; it benefits States in all sections of the country that have had an influx of disadvantaged children measured on a widely accepted Federal definition of poverty. I am convinced that it is fair and reasonable, and I urge its adoption by the Senate.

I yield back to the chairman the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. I presume the other side wants to use some time.

Mr. HUDDLESTON. Mr. President, will the distinguished Senator from Arkansas yield me 15 minutes?

The PRESIDING OFFICER. Does the Senator from Arkansas yield to the Senator from Kentucky?

Mr. McCLELLAN. I yield the Senator 15 minutes.

Mr. HUDDLESTON. Mr. President, in 1965, the U.S. Congress enacted a landmark piece of legislation—the Elementary and Secondary Education Act, the first general educational aid bill in the history of this Nation. In the years since 1965, there have been numerous disagreements over education aid—over how it should be used, how much should be concentrated on one child, how it should be distributed—but there have been few disagreements over the need for such aid. Instead, such aid has come to be viewed as an essential ingredient in providing our schoolchildren with those tools and skills which will enable them to develop their own potential and meet the ever-increasing demands of daily life in a complex society.

Since the act's initiation, some 61 million children throughout the United States have participated in the title I program, the major program authorized under the law, which provides assistance for educationally disadvantaged children. Some 1.8 million school students in Kentucky have benefited from the program. In fact, last year, the State received more than $32 million in Federal funds from title I, with 229,747 children, some 27.6 percent of the elementary and secondary students in the State eligible.

Recent developments—and the deliberations over them—have, however, revealed a number of difficulties with existing law, especially the title I formula. Under the original method of distributing title I funds, local school districts were eligible for a sum equal to the number of children from families with incomes below $2,000 a year—or above, if the family was receiving aid to families with dependent children payments—times one-half the State or National average per pupil expenditure, whichever was higher. Census data was used to determine the number of children from low-income families.

From 1966 through 1972, the 1960 census data was used to identify children from families with incomes of $2,000 or less—a figure which remained stable throughout the period—while the number of AFDC children was consistently changed, as the States reported variances in eligibility.

Use of the formula had two significant results. First, because of the growth in the number of AFDC children as compared with the stable number of children from low-income families, the former, which originally accounted for approximately 10 percent of total title I children—or about 600,000 out of a total of 5.5 million in 1966—expanded by 1974 to nearly 60 percent of the total number of children eligible for title I—or about 3.6 million out of a total of 6.2 million.

Second, when the 1970 census data became available—the 1973–74 school year—severe shifts of funds were due to occur, principally because of the drop in the number of children from families with incomes of less than $2,000—and the consequent emphasis on AFDC children—and because of the movement of children during that period. For a number of rural districts, the shift in funds was to be dramatic.

To moderate the shift which was to occur—and looking forward to a new authorization bill—the Congress, for the current school year, provided that the new census data would be used but that there would be a "hold-harmless" procedure to prevent school districts and States from losing or gaining more than a certain percent of the amount which they received the previous year. This was essentially a stopgap move to prevent major gyrations in the flow of funds until the Congress could examine and revise the existing formula.

The bill passed by the House and the one reported by the Senate Labor and Public Welfare Committees represent efforts to come to grips with the problems which have arisen under the original formula and to devise an authorization standard which will be equitable and realistic in meeting the objectives of the title—the provision of special services to those children who are educationally deprived.

Quite simply, the question is: Who is an educationally deprived child? Just how do you identify one?

S. 1539, the Senate bill, proposes one answer. It would distribute funds according to a formula which would guarantee each local school district the amount it received in fiscal 1974. From any funds appropriated in excess of this "base year" allocation, 60 percent would be distributed on the basis of the number of Orshansky poverty level children and 40 percent would be distributed on the basis of the number of children on AFDC.

Thus, under S. 1539, as reported, the greatest share of the money—89 percent—would be allocated to school districts according to what they received in fiscal year 1974 when the stop-gap formula was used. As previously noted, between 1966 and 1973, 1960 census data was used in determining the number of children from low-income families. But, in the school year 1973–74, 1970 census information was used, together with the hold-harmless provision. The latter in effect, kept the old 1960 census information pretty much intact in nonurban areas and S. 1539 would lock in this situation and use it for every subsequent year.

Also locked in to the formula would be the imbalance in AFDC children in urban areas. In 1974 the States with large numbers on public assistance received increased grants. This resulted because half as many children were counted under the census—the $2,000 limit—while a greater number of AFDC children were counted.

Therefore, funds shifted to the States which could afford the higher public assistance programs. Furthermore, funds also shifted within States to the urban areas since urban areas within States tend to have more AFDC children than rural areas.

Another problem with the Senate formula is that it would double count some AFDC children. Thus, again higher payments would be shifted to States which have large public assistance programs.

While the AFDC factor has been defended as a minor updater in the title I program, the error rate in the AFDC program is large, which raises question over its use. HEW recently found that 10.2 percent of the AFDC caseload carried nationally was actually not eligible for assistance. Another 22.8 percent received payments in excess of eligibility, and 8.1 percent were underpaid. Additionally, the error rate is not equitably distributed among the States.

Along with this, AFDC also varies within the States. The urban areas are more likely to provide higher AFDC payments and more AFDC than the nonurban areas.

The committee bill not only has the problems noted above with the count of children, but the second part of the formula—the payment rate for these children—has also produced some grave inequities. Under S. 1539, school districts are eligible to receive either one-half of the State or one-half of the national average expenditure, whichever is higher. Since there is no ceiling on the payment rate which a State can receive, the wealthier States have again benefited.

For example, the actual salary cost of providing classroom instruction in New York State in 1972 was $11,831, only slightly more than 20 percent above the national average. Yet, under S. 1539, New York would receive almost 40 percent more than the national average per pupil expenditure.

Amendment No. 1304 offered by the distinguished Senator from Arkansas poses another answer.

Under this amendment, the title I formula would be based upon new census data and new poverty criteria, the Orshansky index which defines poverty according to the number of children in the family, the sex of the head of the household, and the farm or non-farm status of the family. Although the Orshansky index is not perfect, last year, the Office of Management and Budget, after a 6-month study, concluded that it was still the best measure of poverty currently available. Furthermore, an 85 percent hold harmless over the previous year would provide the stability necessary to allow local school districts to plan ahead without locking in the present inequitable payment rates.

Under amendment No. 1304, the base reimbursement figure is also new. Each school district's total number of eligible children—those coming under the Orshansky definition plus two-thirds of those on AFDC—would be multiplied by 40 percent of the State average per-pupil expenditure, except no State would be entitled to a payment that is less than 80 percent nor more than 120 percent of the national average per-pupil expenditure. This, in effect, puts a floor and a ceiling on the variations among States. It would allow higher spending States to receive an adequate additional compensation for their title I program, but would not allow these rates to become so high that they would work to the disadvantage of other States, which may have less to spend on education. In other words, it would reduce the extremes in payments which would be made under the formula proposed in S. 1539, and group all States closer to a national average payment per student.

For the reasons stated above, I believe amendment No. 1304 which I am cosponsoring, represents the fairest and most balanced approach to meeting the needs of culturally deprived children wherever they may be—in urban or rural areas, in wealthy or less endowed states, in localities with high public assistance payments or in localities with low ones.

The residence of a child should not be the measure-stick of need. In that case, the accident of location either rewards or deprives a child.

What is required instead is a standard which relates to a child's educational opportunities and his ability to utilize those opportunities vis-a-vis those of other children in this country. That is what this amendment seeks to do. It will utilize an accepted definition of poverty to identify disadvantaged children throughout our land. It will allow the counting of two-thirds of the children on public assistance—a move which should benefit the States with large caseloads, without unduly infringing upon the funds available to States which may have a large number of children from low-income families but not necessarily receiving public assistance. It will moderate the differences in per pupil expenditures among the States—differences which exist in some cases despite major tax efforts by States with low per capita earnings—allowing wealthier States a greater reimbursement because of their larger expenditures but restricting the loss which less wealthy areas might suffer. It will recognize new conditions but phase in the losses of funds which occur as children move and eligibility rates change by limiting authorization decreases to 15 percent a year.

I believe this is a good amendment. I believe that over time it would be the best means of securing special educational assistance for those children in all parts of our Nation with special education needs. I hope the Senate will adopt it.

Mr. President, I yield back the remainder of my time.

Mr. BROOKE. Mr. President, will the Senator from Rhode Island yield?

Mr. PELL. How much time does the Senator need?

Mr. BROOKE. Four minutes.

Mr. PELL. I yield the Senator 4 minutes.

The PRESIDING OFFICER (Mr. JOHNSTON). The Senator from Massachusetts is recognized for 4 minutes.

Mr. BROOKE. Mr. President, I rise in opposition to the amendment offered by the distinguished Senator from Arkansas. I support the committee formula because it sends title I funds to where the needs are greatest. I eschew any battle of the charts in considering this formula because it has become quite apparent to me, having looked at the figures inserted in the RECORD yesterday by the Senator from Rhode Island (Mr. PELL) that while some States may receive more money under the McClellan formula than do others, the fact remains that even within those States important communities will face a diminution of title I funds in the next year.

I am particularly impressed by the method of allocating funds in the committee bill by which every locality in the Nation will receive in fiscal year 1975 more title I funds than they received in fiscal year 1974. No Member of this body will be embarrassed to explain to his constituency why some important segment of his State is getting less Federal education help at a time when costs are mounting rapidly, especially in the light of the fact that title I is funded at only a fraction of the entitlement. When every school district has to look to the Federal Government for funds, it makes no sense to require some to search frantically for new revenue sources in order that others may get even more.

In my own State, Massachusetts, 11.4 percent of children between the ages of 5–17 are in families receiving AFDC. This is only slightly more than the national average of 11.2 percent. These children number some 1.87 million. Yet, if the McClellan amendment is adopted, only some 50,000 of these 1.87 million youngsters, according to HEW estimates, would be counted as title I AFDC eligibles. In contrast the committee bill *counts all* AFDC school-age children.

I do not seek the lion's share of this program for Massachusetts. As the law presently stands, and this aspect of the law is continued by S. 1539, the payment rate for title I-A for Massachusetts is 50 percent of our annual per pupil average expenditure; thus Massachusetts has an entitlement sufficient to purchase 4½ months of education for each eligible child, based on a 9-month school year. On the other hand, Arkansas would receive 82 percent of its annual per pupil expenditure, sufficient to purchase 7.4 months of education. And, I do not object because I recognize the special problems faced in Arkansas and other low-income States.

But the acceptance of this responsibility should not mean that grant-in-aid programs should be distorted to our greater disadvantage. There are poor children in Massachusetts, too, almost 117,000 of them below the Orshansky poverty level. Massachusetts would lose as much as $3.7 million under the McClellan amendment. I cannot countenance depriving overburdened school districts in Massachusetts of the funds necessary to aid their education.

I hope that my colleagues will reject the McClellan amendment so that we can move without interstate rivalry, to give our children the educational assistance which they so sorely need.

Mr. HOLLINGS. Mr. President, 9 years ago the Congress of the United States enacted one of the most important pieces of legislation in its recent history—the Elementary and Secondary Education Act of 1965.

This legislation was a landmark in our efforts to furnish all our children—black and white, city dweller and farm child—with equality of educational opportunity. It was a law of which we could all be proud.

In title I of the Elementary and Secondary Education Act of 1965 we provided badly neeed financial resources to school districts which were having difficulties in funding adequate educational programs to meet the needs of large concentrations of low-income families.

But in the 9 years since this act was approved, it has not fulfilled its promise—primarily because the money is not going to those areas where there are large numbers of deprived children.

The senior Senator from Arkansas (Mr. McClellan) has eloquently summed up the situation in which we find ourselves. We face a paradox. Title I funds are being allocated in ever-*increasing* amounts to the more wealthy areas while those that have the greatest need come away almost empty-handed.

The basic problem is the formula used to calculate and allocate title I funds has become distorted over the years and is no longer a proper reflection of the actual situation prevailing in many of our States.

We in South Carolina have been unable to add AFDC children to our rolls in order to qualify for title I funds in the same manner that many of our wealthier States have been able to do. We just do not have the money to do that.

As a result, South Carolina is clearly being discriminated against.

Although we have 2.49 percent of the poor children in the Nation as defined by the Orshansky Index of Poverty, we will receive only 1.95 percent of the funds available under title I.

I am fully cognizant of the fact that under the committee bill now before us we would receive more money this year than under the McClellan amendment. But my state supports the McClellan formula because it will provide a more equitable allocation of funds in future years—an allocation that will prevent the distortions which have plagued us in the past.

I also support the senior Senator from Arkansas' proposed abolition of part C of title I. South Carolina currently receives some money under this program. But there are 10 counties in my State where more than 25 percent of the population have incomes under $3,000 annually which do not receive any part C funds. Clarendon County has over 35 percent of such families, but it does not receive so much as a single penny of this money.

I can see no rationale for such allocations when the stated purpose of part C is to help areas with high concentrations of poor people.

Mr. President, the people of South Carolina have awaited patiently for years for a just and fair distribution of title I funds to which they are entitled. The time to make such a distribution is at hand rather than to perpetuate an unfair system. It is for this reason that I cosponsored the McClellan amendment and strongly urge its approval.

Mr. BAKER. Mr. President, the amendment of the distinguished Senator from Arkansas (Mr. McClellan) is surely one of the most important and far-reaching that we will consider in connection with S. 1539 because it is directed at title I, the major Federal program of aid to elementary and secondary schools.

As a cosponsor of the amendment, I feel strongly that it will insure the fairest possible distribution of limited appropriations for the title I program and direct those funds to local educational agencies with the greatest need.

The title I formula is extremely complex, and I know that all aspects of it will be thoroughly discussed during this debate. There are several points of contention between the House approach to the formula—which Senator McClellan's amendment would substitute—and that taken by the Committee on Labor and Public Welfare which especially concern me and which I would like to address in these brief remarks.

First, I believe that census figures determining the number of poor children according to the Orshansky Index are a more accurate indicator by far of the distribution of poor children throughout the States than are figures showing the number of children from families receiving aid to families with dependent children. Differences in AFDC payment levels do not reflect only differences in the cost of living between various areas of the country. They also reflect a wide variation among the States in criteria for eligibility which, as stated in the House committee's report on H.R. 69, "make AFDC statistics unsuitable for use as a major determinant in the distribution of Federal aid."

S. 1539, which would count all children from families receiving AFDC payments and which would apportion 40 percent of the funds available for title I after the "hold-harmless" provision has been satisfied according to AFDC figures, clearly makes AFDC statistics a major determinant in the new formula. In my opinion, this approach rewards States which have the fiscal capability to administer generous welfare programs and ignores the needs of poor children in States which are unable to adopt such programs. The formula approved by the House and offered by Senator McClellan in his amendment would insure a more equitable apportionment of funds and would use AFDC statistics only as a minor modifier to update census statistics.

A second point on which the House and Senate bills disagree is the level of the hold-harmless provisions. By adopting a "base year" concept guaranteeing all school districts 100 percent of the amounts they received in fiscal 1974, S. 1539 would freeze into law the allocation of most title I money for future fiscal years on the basis of a formula and a fixed-income poverty level which all agree is inequitable. In fiscal 1975, the 100 percent hold-harmless clause would mean that 89 percent of the funds appropriated would be apportioned according to the old formula and the old definition of poverty and only 11 percent would be distributed on the basis of the revised formula.

While I agree that a cushion should be provided so as to obviate drastic changes in entitlements to individual school districts, I believe that the 85 percent hold-harmless provision in H.R. 69 and Senator McClellan's amendment would provide adequate protection to school districts while insuring distribution of more funds on the basis of the new, more equitable formula.

Third, I am deeply concerned about the Senate committee's adoption of a new funding formula for part C of title I, grants for schools with the highest concentration of children from low-income families. Senator McClellan's amendment would delete part C and discontinue the program on the basis that it saps funds from the local educational agency program and poses administrative burdens which outweigh its value. The formula by which S. 1539 would apportion over $73 million of the title I appropriation in fiscal 1975 emphasizes the difficulty of singling out school districts with a special need over and above those eligible for grants under title I.

For example, Hancock County, Tenn., which has a per capita income of $1,045 and in which 53.5 percent of the families have an income of less than $3,000 per year, would be eligible for no money whatsoever under part C as drafted in S. 1539. Westchester County, N.Y., however, which has a per capita income of $5,059 and in which only 4.9 percent of the families have incomes of less than $3,000 per year, will receive $619,833 under part C, more than the entire State of Tennessee would be entitled to.

A formula which produces inequities such as this should not, in my opinion, be approved by the Congress—especially when it would drain badly needed money from the entire title I program, a program in which appropriations cannot keep pace with educational needs from year to year.

Mr. President, the McClellan amendment would insure a fair distribution of these limited funds on the basis of a formula which identifies, as accurately as possible, the districts where the need is and directs money to those districts as simply as possible. I urge the Senate to adopt this amendment in order to insure the continued success of the title I program throughout the country.

Mr. BAYH. Mr. President, as a cosponsor of the pending amendment, offered by the distinguished Senator from Arkansas (Mr. McCLELLAN), I urge its adoption.

This amendment would insure a more equal distribution of title I funds than the committee bill funds earmarked for special assistance to disadvantaged students. The amendment offered by the Senator from Arkansas parallels a similar one successfully submitted in the other body by my Indiana colleague, Representative JOHN BRADEMAS, who has come to be known as a leader in education legislation.

If the title I program is to succeed, it is important that the distribution of funds be fair. Yet under the committee bill sharp differences in per pupil assistance under title I would continue. Wealthier States would receive a lopsided share of title I funds. For example, one extremely wealthy county in New York—Westchester County—would reap as great a benefit from part C money as my entire State of Indiana and as much or more than 29 other States. Such unequal distribution is simply unfair.

Adoption of this amendment would follow the House formula for dispensing title I funds. Such a change would provide approximately $2 million more in title I funds to 88 of Indiana's 92 counties and more funds to less wealthy States. Indeed, unless this amendment is adopted there are a number of cities and towns in Indiana and around the country which will be unfairly penalized and shortchanged by the present formula for distributing title I funds.

Mr. President, this is an important program, one of the key categorical programs which the Congress fought to retain in its insistence that the Elementary and Secondary Education Act not be replaced with the Nixon administration's education revenue sharing. We fought to keep title I assistance alive, now we must vote to keep it fair.

We must not accept an artificial formula which provides more funds for rich States by relating the size of education assistance to a State's ability—by virtue of its greater wealth—to sustain a more generous welfare program. Yet this is exactly what will happen if the pending amendment is defeated. We will penalize the poorer States which are the very States that most need the benefit of aid for disadvantaged students.

Mr. President, this is a fair and just amendment to serve more needy students nationwide and one that will provide a needed and welcome $2 million more to aid disadvantaged students in Indiana.

Mr. KENNEDY. Mr. President, I rise to express my opposition to the amendment offered by Senator McCLELLAN.

After carefully studying the formulas in both S. 1539 and the McClellan amendment, I remain convinced that the S. 1539 formula is more equitable than the McClellan formula.

Briefly, Mr. President, the McClellan amendment does not take into sufficient consideration the increasing numbers of poverty-level children in urban areas, nor the fact that the costs of educating such children are greater in urban areas than in rural areas.

The McClellan amendment, for example, would eliminate part C. "Special Grants for Urban and Rural Schools Serving High Concentrations of Children From Low-Income Families." from title I. This is an extremely important program for Massachusetts which has such high concentrations of low-income families. By repealing part C., Massachusetts would lose nearly $2.3 million in funds that it would otherwise receive for this part under S. 1539.

Furthermore, the McClellan amendment places a payment rate ceiling of 120 percent of the national average of per pupil expenditure. This would be severely restrictive for Massachusetts, and other urban States, where the cost of living, particularly in the larger cities, is higher than the national average.

In virtually all States, the effect of this amendment will be to diminish the level of funding for cities within those States.

Most importantly, Mr. President, the McClellan amendment would virtually eliminate as one criterion in determining the numbers of poverty-level children in a State the total caseload of children aged 5 to 17 covered by the aid to families with dependent children (AFDC) program. It would include only two-thirds of those children from families with income over $4,250. This would eliminate most of the AFDC criterion for calculating the numbers of poverty children in a State. It would reduce by half the numbers of poverty children in Massachusetts to be included as eligible for the purposes of Federal funds to the State.

Mr. President, of Massachusetts' total population in the ages of zero to 17, 11.4 percent fall into the AFDC category. The McClellan amendment would effectively eliminate these from the program.

On the other hand, the McClellan amendment would rely primarily on the Orshansky index to calculate the numbers of poverty children in a State. Yet, Mr. President, the Orshansky definition of poverty alone is not sufficient. It is not updated annually, as the AFDC count is. Furthermore, it does not take into consideration variations in the costs of educating poverty children from one area to another. It is based only on the estimated cost of feeding a family, assuming that the cost will always be one-third of the cost of necessities for a family. It does not account for variations in costs of housing, variations in costs of medical expenses, or variations in costs of transportation.

Mr. President, last year Massachusetts received approximately $30.1 million from all parts of title I. Because of the increase in the cost of living over last year, additional allocations have been considered necessary for all States to continue the same programs they had last year. Under S. 1539, Massachusetts this year would, therefore, receive $37.5 million. However, under the McClellan amendment Massachusetts would only receive $33.8 million. Massachusetts would, therefore, receive an additional $3.7 million under S. 1539 as compared to the McClellan amendment.

Of our major cities, Boston would receive $9.2 million under S. 1539, compared to $7.2 million under the McClellan amendment; Worcester would receive $3 million under S. 1539, compared to $2.8 million under the McClellan amendment; and Springfield would receive $3 million under S. 1539, compared to $2.8 million under the McClellan amendment.

On the county basis, Suffolk County received $8.3 million in fiscal year 1974; it would be decreased to $7.6 million under the McClellan amendment; while it would receive $9.9 million under S. 1539. In addition, Dukes County would receive fewer funds than last year under the 15 percent "hold harmless" provision of the McClellan amendment.

Mr. President, I am completely in agreement that Federal funds, under title I, should be allocated equally to assist the States in their programs for educating their poverty children.

However, I do not believe that the McClellan amendment meets that goal, particularly with respect to Massachusetts.

It does not sufficiently take into consideration Massachusetts' cost-of-living factor. It severely penalizes our largest cities. It repeals over $2 million in special grants for Massachusetts schools with high concentrations of low-income families.

Finally, Mr. President, it creates much uncertainty for our educational administration by not assuring them of a continuity of funds from one year to the next. By not using fiscal year 1974 funds as a base year, and by setting a ceiling of 120 percent of the national average per pupil expenditure, our administrators would experience great difficulty in meeting the educational obligations they have already made.

Mr. President, in view of these implications for the State of Massachusetts, as well as for the many other States in a similar situation, I cannot support the amendment of Senator McCLELLAN. I urge my colleagues to vote against it.

QUORUM CALL

Mr. PELL. Mr. President, I suggest the absence of a quorum, with the time to be charged equally to both sides.

Mr. McCLELLAN. Mr. President, reserving the right to object, why could we not have it charged to neither side?

Mr. PELL. All right.

Mr. President, I make that unanimous consent.

The PRESIDING OFFICER (Mr. BARTLETT). Is there objection to the unanimous-consent request of the Senator from Rhode Island? The Chair hears none, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATHAWAY. Mr. President, will the Senator yield?

Mr. PELL. I yield to the Senator as much time as he may require.

Mr. HATHAWAY. I rise in opposition to the amendment by the Senator from Arkansas. It is not merely because, as a member of the committee, I was one of those who supported the proposed formula in the unanimous committee vote. It is because I feel the committee formula is equitable and fair. It is one which, if it stands, will insure the support of Senators and Representatives from all the States for adequate appropriations for title I, our biggest education grant-in-aid program.

In a sense, it can be argued that the needs of practically all of our school districts are so great as to make arguments over distribution formulas academic. The money is needed wherever it is sent. But the thrust of title I, and the fact of limited resources, impels us to make every effort to put the funds where they will do the most good. And it was with both of these factors in mind that we devised the approach of the committee bill.

Providing a base year which protects States and, more importantly, local educational agencies, eliminates the uncertainties that have plagued the local administration of this program for the last 2 years. And it recognizes that whatever defects there were in the old formula, and I concede there were such defects, there were and still are needs to be met where the mony has been going.

There has been a great deal of criticism of the use of AFDC in the committee formula. But I think there is a definite place for this factor, provided its influence on the distribution is limited. The committee bill would do that by holding the AFDC factor at 40 percent. In this way the wide fluctuations caused by changes in State AFDC policy in the past will not be repeated. But, and this is the important point, there will be at least part of the formula—the AFDC factor—which will be responsive to population and economic changes which occur in between the censuses. We all saw the tremendous shifts which occurred in only 5 years which were revealed by the 1970 census. Do we have any reason to think that there will not be comparable changes over the next 10 years?

Another factor favoring the use of an AFDC element in the formula is that AFDC is more reflection of cost-of-living differentials between areas of the country than is the Orshansky index. While Orshansky recognizes differences between farm and nonfarm families, it makes no distinction between urban and nonfarm rural costs-of-living. And although my State can by no stretch of the imagination be denominated urban, I must recognize that any formula which does not take into consideration this difference cannot possibly be fully responsive to the substantial needs of the urban poor.

Finally, I should warn my colleagues not to judge the merits of the two proposals too heavily on the per-State distribution figures. For one of the important lessons gained from the work that has been done on this question, is that distribution within a State is as important as distribution among the States. Although your State may appear to gain or stay even under the proposed amendment, there may be extremely significant shifts within school districts in your State. And these shifts, even with the 85-percent local hold harmless in the amendment, could be catastrophic for many small, relatively poor school districts.

In conclusion, Mr. President, I can only repeat my original point. What we are engaged in here is based to a large extent on approximation and guesswork. Neither of these proposals—and no others of which I have heard—represent a perfect distribution of funds to those in the most need. Recognizing this fact then should lead us to try to minimize disruptions as we move from one attempted solution to another. And, any problems in the old formula which are "locked in" by this approach will disappear as appropriations under this title increase. It is for this reason that I feel the terms of the committee bill are responsible to our constituents as well as responsive to the intent of title I.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. I yield 10 minutes to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 10 minutes.

Mr. CASE. Mr. President, from the beginning, the two major problems of title I of the Elementary and Secondary Education Act have been the lack of sufficient funds to aid all our educationally disadvantaged children and the lack of a formula to distribute available funds equitably.

The provisions of the bill before us, S. 1539, that are designed to meet these problems are the very provisions that would be changed by the McClellan amendment.

For example, S. 1539 provides that no school district would receive less title I funds at any time in the future than it did in fiscal year 1974. This is designed to give school districts assurance of minimum amounts they can expect so they can plan ahead their ongoing programs.

In the first annual report on title I in 1966, one of the major problems cited was the lack of any assured level of funding. The report said:

> Local school districts also said that they were more hesitant to plan programs and hire additional personnel without assurances that a specific level of funding would be maintained over several years.

This has been a continuing problem. Local school officials still point out that a title I program cannot be a hit-or-miss, 1 year cram course. It has to be a long-term process that provides the additional educational services disadvantaged children need on a sustained basis.

The base year concept contained in the bill is a significant step toward solving this problem. It gives an Administrator assurance that he will receive funding at least equal to his present allocation and that he can plan a program accordingly.

The McClellan amendment would eliminate the base year concept and substitute for it a provision that would assure each school district only 85 percent of the amount it received the previous year. This would mean that a school district, by losing 15 percent of its previous year's allotment in each of 4 successive years, could wind up with only 49 percent of the funds it had started with. Obviously, that would not permit long-range planning of an ongoing program.

In my view, the base year concept is needed to provide for effective use of the funds the Congress provides for title I programs.

But the base year concept would not assure equitable distribution of funds under title I.

Unfortunately, we do not have sufficient information about educationally disadvantaged children to assure that title I funds will be distributed to those most in need in every case.

Ms. Mollie Orshansky of the Social Security Administration developed a poverty index based on food costs to a family of a particular size, taking into account the age and sex of the head of the household and whether it is a farm or nonfarm family.

But Ms. Orshansky has counseled Congress against using the index as the sole indicator of poverty. As she pointed out, the Orshansky formula concentrates only on "the income-food relationship, although in urban families, particularly those handicapped not only by lack of money but by minority status and large families, the cost of housing may be critical."

The Orshansky formula is further limited by the fact that it can only be applied against static census population figures and, therefore, is not reflective of changes occurring within the 10-year periods between census counts.

To compensate for the limitations of the Orshansky index, S. 1539 contains a formula that relies in part on the number of children in a State whose parents are receiving aid for dependent children (AFDC) payments.

Under the formula in the bill, funds appropriated in excess of the amount needed to meet the base year allotments would be allocated on a ratio of 60 percent based on the Orshansky index and 40 percent based on the AFDC count.

While this formula probably will not provide full equity, it will approach that goal more closely than would reliance solely on either the Orshansky index or the AFDC count alone.

Since the McClellan amendment relies principally on the Orshansky index, I believe the formula in the bill as reported provides a greater degree of equity.

Once the number of children eligible for title I payments has been determined, the rate of payment has to be decided upon.

S. 1539 provides that the rate of payment will be 50 percent of either the average per pupil expenditure of the State or the national average per pupil expenditure, whichever is greater.

The McClellan amendment provides for a payment rate of 40 percent of the average State-per-pupil expenditure with a floor of 80 percent of the national per pupil expenditure and a ceiling of 120 percent of the national average.

The payment rate in S. 1539 would bring low spending States up to the national average and not limit the efforts of those States spending a great deal more than the national average.

In addition, the McClellan amendment would eliminate parts B and C of title I.

Part B of title I provides for special incentive payments to States that make an extra effort. This extra effort is measured by the relationship of the amount a State spends on education to the per capita income of the State.

Part C of title I provides additional funds for areas with the highest concentrations of disadvantaged children. This provision was adopted several years ago in recognition of the special problems these areas have in raising revenues for education. The amount set aside for this program is limited to 15 percent of the title I funds. The bill also restricts these payments to those school districts that have twice the State's average number of poor children or at least 10,000 disadvantaged children.

In other words, part B provides a special incentive to States to make an extra effort and part C provides extra help to school districts with the heaviest burdens. I believe both provisions are needed.

For all of the reasons I have stated, I will support the title I provisions of S. 1539 and oppose the McClellan amendment.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, I suggest the absence of a quorum, without the time to be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. I yield 10 minutes to the distinguished Senator from Alabama.

The PRESIDING OFICER. The distinguished Senator from Alabama is recognized for 10 minutes.

Mr. ALLEN. I thank the distinguished Senator from Arkansas.

Mr. President, we have heard a lot about the Orshansky formula. This is a formula by which the definition of poverty is arrived at. It computes the minimum money income that is necessary to support a family at the lowest level consistent with the standard of living of the United States.

It is based on the amount of money needed by families of different sizes and compositions to purchase a nutritionally adequate diet, assuming that no more than one-third of the family income is spent for food.

The index is derived from three factors, one, the number of children in the family; two, the sex of the head of the family; and three, whether the family residence is farm or nonfarm.

The Orshansky index is updated annually according to changes in the Consumer Price Index. In this way it takes into account inflationary trends.

The Orshansky index was adopted by the Federal Government in 1969 as the official definition of poverty. It has been utilized in the reports of the Senate Labor and Public Welfare Committee in S. 1539 and the House Committee on Education and Labor in H.R. 69.

One might say that is a proper method of distributing the funds nationwide to the disadvantaged families, the families that live in poverty, according to a well-defined and well-recognized definition.

Translated into dollars and cents, what does the Orshansky index or formula provide as a poverty level in the United States? It is going to be updated again in June of this year, but at the present time, for a family of four, nonfarm, the amount of the poverty level in the Orshansky index or formula is said to be $4,540 in nonfarm areas and $3,860 in farm areas.

In brief, what do these two formulae provide? What is the difference between the House bill in H.R. 69 that is being translated over in the McClellan amendment to the pending bill, S. 1539? What does the bill provide?

Well, it takes all children covered by the Orshansky formula. That is one factor. Then they add to that another factor, which is two-thirds of the AFDC families—aid to families with dependent children—those families that are above the Orshansky index or level.

By setting it at that figure, two-thirds of the AFDC families above the Orshansky level, it keeps from counting these children two times, as is provided in the Senate bill.

I am frank to say that the addition of two-thirds of the AFDC families does not add one single person in the State of Alabama to the computation. Actually, it would be better just to have the Orshansky formula—that is, the poor children, the disadvantaged children. Why do we need still another factor to plow into it?

What does the Senate bill do? It takes the same Orshansky formula, but then it adds to that formula, in other words, it counts again, all children who are members of families receiving AFDC assistance.

So, as a result, under the Senate formula the disadvantaged children are counted two times. What is the use of doing that? Actually, the Orshansky formula alone should be used, because that would be to help the poor children wherever they are found. If they are found in New York, fine. If they are found in Alabama, fine. If they are found in Arkansas, fine, but do not count them twice, and that is what happens under the Senate formula.

Mr. President, the Senate committee's formula presents several problems.

First, it takes the base year. It freezes in an inequitable distribution of title I funds by using this base year allocation. The 1974 appropriation for title I resulted in the wealthier States of the country receiving increased grants because the use of the 1970 census data for the first time that year with the outdated 1965 poverty criteria resulted in half as many children being counted from the census under the formula, while at the same time a greater number of AFDC children were counted.

By freezing in these appropriations guaranteeing that no district would get less than it got in the fiscal year 1974, what happens is that, no matter what change is made in the composition of the people living in that school district and going to that school, the district would get no less than it got in 1974. So there might be one school district lying alongside another school district, and the underprivileged children from one district might move into the adjoining district, but that would not result in a reduction in the amount paid to the district losing such children. So the freezing in of these appropriations is an unrealistic approach.

What should be done is to provide money on the basis of the underprivileged children—that is what the program is for—and not count them twice; but count them once.

The McClellan amendment, which is in effect the House bill provisions, goes a step further than I feel it should go by providing that two-thirds of the AFDC children above those covered by the Orshansky formula would be counted. But that is a whole lot more realistic than the Senate committee provision—the Senate bill, if you please—which counts for a second time all those children covered by AFDC. It is counted already under Orshansky; then they are counted again, and that hardly seems fair to the Senator from Alabama.

The McClellan amendment provides an equitable title I formula which, in my opinion, will enhance the educational opportunities of deprived children nationwide.

How could any school district object to having the amount of money it received being based on the number of underprivileged children, especially where there is cranked in an addition, as provided by the McClellan amendment, of two-thirds of all those AFDC children in families of over the Orshansky level—which, by the way, as I pointed out, in urban areas at the present time is $4,540 and in farm areas is $3,860. I think we can count on that being raised possibly 10 to 15 percent when the new figures come out in June of 1974. So it is pretty well going to keep the nonfarm poverty level, just as a guess, for families of four, up in the neighborhood of $5,000 or more.

Mr. President, I refer to the formula utilized in 1973 to allocate the funds available.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. McCLELLAN. Mr. President, I yield 5 more minutes to the Senator from Alabama.

Mr. ALLEN. Mr. President, the 1973 formula utilized to allocate funds available for the Elementary and Secondary Education Act title I program, as amended, among the various States, incorporated children in families having incomes under $2,000 as determined by the 1960 census along with children in families receiving AFDC payments in excess of $2,000. The sum of these two factors was multiplied by a dollar figure equal to 50 percent of each State's average per-pupil expenditure, or, if higher, 50 percent of the national average per-pupil expenditure.

The effect of this freezing-in process this base year is that $2,000 in effect would be considered the poverty level for States that are losing the underprivileged children. It would be freezing in a poverty level of $2,000 as against the Orshansky formula, because that guarantees that they will not lose any funds from the time when the $2,000 was determined to be the top level or the poverty level.

The distribution of title I funds among the various States in fiscal 1974 was still based on the 1960 census with a hold-harmless provision. Another way of saying that is that the 1970 figures would cause them to lose, and they would be protected by the hold-harmless provision.

Several States did, in fact, receive increases in title I funds in fiscal 1974. This increase was brought about because of the disproportionate count of AFDC children.

The House of Representatives, on March 27, 1974, passed a bill—H.R. 69—providing for the allocation of title I funds on the basis of a formula embracing the Orshansky definition of poverty, which includes two-thirds of the total number of AFDC children under the Orshansky definition and a revised method of calculating the maximum grant per child. In other words, the two formulas are the same up to a point. They both make use of the Orshansky program. But then the McClellan amendment cranks in less of the second amount, so to speak.

The second count of these children cranks in only two-thirds of the AFDC children from families receiving more than the Orshansky formula level. In other words, that would prevent them from being counted twice. But the Senate provision takes the Orshansky level, which covers everybody up to the poverty level, and then cranks in everybody—all the children on the AFDC list—so they are counted twice.

The problem gets down to this, and this is the meat in the coconut: The wealthy States are able to put more children into the AFDC program than are the poorer States, the smaller States. Since they are able to do that, they get more children into the formula for the distribution of those funds.

Mr. LONG. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. LONG. The usual expression is that they get the top of the tip.

Mr. ALLEN. Yes; and also, those that have, shall receive. That is another truth.

Table I compares the allocations of funds for fiscal year 1974 with allocations computed from the formula of H.R. 69. Under the proposed allocation, only four States—Alaska, New Jersey, New York, and North Carolina—and the District of Columbia receive reduced allocations. Many States received only 90 percent of their allocation in fiscal year 1974. The anticipated reduction for the four States and the District of Columbia does not represent an actual decline in the funds available for 1975 from 1974.

In allocating the funds available for the title I programs, H.R. 69 and the title I formula amendment to S. 1539 has attempted and succeeded quite well in coping with the following trends:

First. The shift of the population from the rural South to the urban areas primarily located on the east coast and the Midwest. It is estimated that between 1950 and 1970 2.7 million people migrated from the rural areas to the urban areas. Unfortunately, these people carried few portable skills with them, and, in the main, were functional illiterates.

Second. Despite the population shift mentioned previously there still remains a high concentration of children living on or below the recognized poverty level as illustrated in table II.

Third. The more subtle population shifts that have occurred within virtually all States as people left rural areas in search of opportunities in the urban areas within their State of residence.

Table II compares the percentage distribution of funds allocated for fiscal years 1974 and 1975 with the percentage distribution of needy children defined by the Orshansky definition of poverty. This table also provides for a comparison of the concentration of needy children within each State. In 19 States and the District of Columbia, the percentage share of the total amount of funds allocated exceeds the share of the total number of needy children. These 19 States are primarily located on the east and west coasts and in the Midwest. Consider as an example a State scheduled to receive 10.85 percent of the total funds allocated yet has only 6.85 percent of the total poverty number with a relatively low concentration ratio.

Those States located primarily in the South and Southeast received a percentage of available funds which is less than the total of needy children located within their borders. Ironically, it is these very same States that have the highest concentration of needy children. Obviously, those responsible for allocating funds are faced with a dilemma. On the one hand, the needs of the urban States are great. The general decline in the fortunes of the cities along with the impact of the migration of the poor to these areas has generated a great need for the infusion of Federal moneys. While on the other hand, a shift of funds away from the rural States will only exacerbate the future plight of the urban States. Given existing conditions, the distribution of available funds as illustrated in tables I and II represents a workable compromise and the most equitable distribution of funds.

The members of our distinguished Education Committee have agreed to use the Orshansky definition of poverty in helping to determine the number of children from low-income families.

The Orshansky definition of poverty has been criticized by numerous people from many viewpoints. For some, the poverty thresholds appear too high; others reflect the thresholds as being too low. Urban policymakers contend the Orshansky definition does not reflect the high cost of living in urban areas. Rural policymakers complain that the definition fails to take into consideration the lack of opportunities for employment, education, and medical services in their areas. They also complain about the Orshansky assumption that the rural poor are able to supply a portion of their own food needs. Nevertheless, the Orshansky definition of poverty has gained wide acceptance simply due to the necessity of an arbitrary convenience for measurement.

The committee has also included AFDC as a part of the formula. While AFDC is tremendously unfair in the committee report in that children are counted twice, both in the poverty index, and in counting all AFDC children and penalizes these States that cannot afford high AFDC payments, I find that the formula included in the amendment to S. 1539 and in H.R. 69 is the fairest and most equitable formula including AFDC payments.

Thirty-nine States and the District of Columbia provide payments to welfare recipients in the form of AFDC. The payments for certain families exceed the Orshansky poverty thresholds. The formula adopted in the amendment to S.

1539 and in H.R. 69 permits these States and the District of Columbia to include two-thirds of the total number of such children in the total number of children eligible for the title I program.

Data revealed by HEW on February 15, 1974, indicated that 958,800 children located in 39 States and the District of Columbia are members of families receiving AFDC payments in excess of $4,200. However, of this total figure, 812,244 children or 77 percent are located in only 7 States—California, Illinois, Massachusetts, Michigan, New Jersey, New York, and Pennsylvania. Thus, the inclusion of AFDC recipients in the formula results in the shift of a considerable portion of the total funds available to these seven States and the District of Columbia.

The formula employed in allocating the funds available for fiscal year 1974 permitted each State a maximum grant per child equal to 50 percent of the States average per pupil expenditure or, if higher, 50 percent of the national average per pupil expenditure. Under this formula, if the national average figure amounted to $929, a State could choose to receive either $464 or, if higher, 50 percent of its average per pupil expenditure. Based on a national average figure of $929, 33 States would probably receive a maximum grant per child equal to $464, whereas, 17 States and the District of Columbia would probably receive maximum grants per child ranging from $471 to $771.

This method of determining the maximum grant per child appears to be somewhat unequitable. Consider, for example, the inequities introduced into that area of the Nation where New York, New Jersey, and Pennsylvania share a common border. A child living in poverty, in Milford, Pa., would be provided a grant of $513 in Federal funds whereas the child's counterpart just a few miles across the State line in New York would generate $771 in Federal funds, and another child nearby but living in poverty in New Jersey would receive $596.

The formula included in the title I amendment to S. 1539 provides for a more equitable distribution of available funds. Under this formula each State may receive a grant per child equal to 40 percent of the State's average per pupil expenditure. However, no State will receive a grant per child less than an amount equal to 32 percent of the national average per pupil expenditure, nor will any State receive a grant per child in excess of 48 percent of the national average. Based again on a national average per pupil expenditure of $929, no State would receive less than $297.20 per child or more than $445.92 per child. Hence, the formula attempts to inject some degree of equity into the distribution of title I moneys but not to the extent that all States receive equal dollars per pupil. The formula does take into consideration the differences between States in their commitment to expenditures for education.

For several years the U.S. Office of Education allowed children of migratory fishermen to participate in the migrant education program as a part of title I, ESEA. In the past few years, however, the Office of Education has changed its mind and has deleted children of migratory fishermen from children that may participate in the migrant education program. My State, as well as numerous other States was not allowed to let large numbers of children participate in this program as a result of this ruling by the Office of Education. Children of migratory fishermen are included in the definition of a migrant child in H.R. 69 and I urge the Senate conferees to accept this definition of a migrant child when the bill goes to conference.

H.R. 69 provides for parent advisory councils in every title I school. This seems to be an undue burden upon the local education agencies participating in this program. We have long supported the inclusion of parents in the decision-making process but feel very strongly that to require a local educational agency to have an advisory council in every school is taking the matter too far. I urge the Senate conferees to work for the deletion of this section of H.R. 69.

Mr. President, I commend the distinguished committee for limiting the discretionary funds which the Commissioner of Education can use to "dole out" funds to the States and local education agencies. However, there is one program that I feel has been tremendously successful in helping our State education agencies "tool up" and stay informed about things that are happening in education in our great Nation. I am speaking of the so-called 505 program which authorizes interstate cooperative education projects.

The program in section 505—special project grants for State education agencies—of the Elementary and Secondary Education Act should be included in S. 1539. That program provides a resource for State educational agencies to use as part of an overall effort to bring quality education to our Nation's schools.

Section 505, under present law, requires the Commissioner of Education to grant 5 percent of the sums appropriated for ESEA title V, part A, to State educational agencies for experimental projects for developing State leadership or establishing educational services which hold promise of making a substantial contribution to the solution of problems common to those agencies of all or several of the States.

Given the complex structure of Federal, State, and local relationships in the governance of education, it is difficult to bring to bear in any uniform fashion the expertise required to study and resolve major problems affecting education. However, within the structure for the governance of education in the Nation, the State educational agency is the key. Strong or weak, capable or incapable, forward looking or traditional, the SEA is responsible for education within the State boundaries. When Congress enacted ESEA in 1965, it recognized that this Nation has not one, but 50 State systems of education, each one being the responsibility of its respective government.

Congress, in enacting title V of the act, further recognized that it is essential to have strong, capable, and forward looking SEA's if the citizens of this Nation are to have improved opportunities for quality education. As efforts are made to improve education, the success of those efforts largely depend on the strength and the vitality of the Nation's SEA's. It is essential that SEA's have the capacity to provide leadership in State educational matters and to plan for and manage Federal and State educational programs. As to the federally supported programs for education, the Federal Government just depends on SEA's to perform a series of leadership and management activities necessary to transform authorizing statutes into operational programs.

Since the establishment of section 505 in 1965, 68 projects have been funded throughout the Nation, including three in my home State of Alabama. Every SEA has been directly involved in one or more of these projects.

Among the noteworthy accomplishments and activities of the program are:

First. The establishment of an ongoing network of eight regional interstate projects to which all SEA's participate for staff development in such critical areas as urban education, planning, evaluation, management improvement, rural education and alternative schools, and bicultural education. The administering States of these projects are Colorado, Oregon, Louisiana, Wisconsin, Iowa, New Jersey, New Hampshire, and West Virginia.

Second. The study and development of model legislation and strategies for educational accountability, the development and field testing of processes and instruments for consolidated grants at the local level, the development of strategies and criteria for improving the management of compensatory education, and the investigation of performance-based teacher certification.

Third. In major project on school finance planning, first a small group of States and later all the States cooperated in developing a school finance data force and analyses of great value to the States, the courts, and the President's Commission of School Finance in attempts to develop more equitable and adequate State school finance programs.

Fourth. The provision of inservice training programs for chief State school officers and State school board members.

Through these and other projects the 505 program has stimulated and assisted the State education agency toward more creative and dynamic leadership and services in the utilization of Federal, State, and local resources. But the need for resources to cope with emerging educational problems continues. Rapidly changing circumstances require new and different solutions. Discontinuation of section 505 would remove one of the more effective and adaptable tools now available to the States for fast and concerted action. The best interest of the States and of the Nation require that it be continued.

We must offer our State education agencies an opportunity to continue these programs that already have begun to have such a tremendous impact upon education in the Nation.

Mr. President, education is our most important domestic program. We know that education and earning power go hand in hand. The persons with the best educations inevitably earn the highest incomes. Good education means jobs, rising incomes, and greater purchasing power.

Education is also one of our most important defense programs. The strength and security of America against agression is bound inexorably to education.

In this time of challenge and with the security of our Nation constantly being threatened by ruthless, ambitious communism there is a compelling need for the best possible educated minds. Education is democracy's indispensable weapon. Not only must we look to our educational systems—particularly our public school system—to provide new knowledge, we must look to education as well to instill patriotism and the sense of duty to work for the preservation of freedom.

Mr. President, I am sure that all will agree that our children are our most precious asset. Upon their shoulders rest the hopes of America's future. Indeed, upon them rests the hope of our Nation and the world for peace—the hope for a good life in a free world.

The quality and completeness of our children's education will not only determine the destiny of our Nation, but the kind of world their children will live in. I agree with the words of Thomas Jefferson that—

> No surer foundation can be devised for the preservation of freedom and happiness than public education.

Mr. President, I ask unanimous consent that two tables I have prepared be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE I.—COMPARISONS FOR S. 1539 AND H.R. 69 TITLE I FORMULA ALLOCATION

	Total LEA only, pt. A		Total State agencies		Total State administration		Total, pt. B, special incentive grants		Total, pt. C, high concentration low-income children		Total all grants	
	S. 1539[1]	H.R. 69[2]	S. 1539[3]	H.R. 69[4]	S. 1539[5]	H.R. 69[5]	S. 1539[6]	H.R. 69[7]	S. 1539[8]	H.R. 69[9]	S. 1539[10]	H.R. 69[11]
Alabama	38, 489, 317	44, 284, 325	1, 588, 125	1, 016, 400	400, 774	453, 007	0	0	500, 000	0	40, 978, 216	45, 753, 732
Alaska	3, 202, 543	3, 543, 875	1, 551, 506	866, 868	150, 000	150, 000	600, 000	0	100, 000	0	5, 604, 049	4, 560, 743
Arizona	9, 571, 979	15, 242, 110	2, 954, 220	2, 077, 481	150, 000	173, 195	0	0	400, 000	0	13, 076, 199	17, 492, 786
Arkansas	23, 137, 182	25, 242, 953	2, 198, 943	1, 407, 323	253, 361	266, 502	0	0	300, 000	0	25, 889, 486	26, 916, 778
California	135, 447, 031	144, 873, 549	13, 770, 567	10, 969, 020	1, 492, 175	1, 558, 425	200, 000	0	9, 700, 000	0	160, 609, 773	157, 400, 994
Colorado	12, 284, 535	14, 733, 941	3, 229, 668	2, 448, 902	155, 141	171, 828	100, 000	0	700, 000	0	16, 469, 344	17, 354, 671
Connecticut	15, 614, 201	17, 331, 200	2, 398, 159	1, 895, 605	180, 124	192, 268	300, 000	0	1, 300, 000	0	19, 792, 484	19, 419, 073
Delaware	2, 764, 886	4, 451, 959	1, 215, 417	972, 333	150, 000	150, 000	100, 000	0	0	0	4, 230, 303	5, 574, 292
Florida	30, 486, 742	55, 769, 210	14, 453, 382	10, 484, 596	449, 400	662, 538	0	0	1, 600, 000	0	46, 989, 524	66, 916, 344
Georgia	45, 644, 966	48, 110, 676	2, 002, 924	1, 281, 871	476, 478	493, 925	0	0	700, 000	0	48, 824, 368	49, 886, 472
Hawaii	4, 586, 881	5, 417, 634	295, 552	236, 441	150, 000	150, 000	0	0	300, 000	0	5, 332, 433	5, 804, 075
Idaho	3, 095, 587	4, 008, 265	1, 194, 229	764, 306	150, 000	150, 000	0	0	100, 000	0	4, 539, 816	4, 922, 571
Illinois	85, 747, 651	85, 679, 664	7, 086, 934	5, 669, 547	928, 349	913, 492	0	0	5, 300, 000	0	99, 062, 934	92, 262, 703
Indiana	21, 134, 411	24, 581, 158	3, 539, 025	2, 591, 435	246, 734	271, 725	200, 000	0	700, 000	0	25, 820, 170	27, 444, 318
Iowa	15, 868, 791	16, 057, 158	1, 071, 693	857, 355	169, 404	169, 145	100, 000	0	400, 000	0	17, 609, 888	17, 083, 668
Kansas	10, 763, 600	12, 494, 833	1, 980, 163	1, 408, 972	150, 000	150, 000	0	0	400, 000	0	13, 293, 763	14, 053, 805
Kentucky	35, 336, 451	34, 493, 527	865, 828	554, 129	362, 022	350, 476	0	0	500, 000	0	37, 064, 301	35, 398, 132
Louisiana	36, 178, 824	54, 841, 554	3, 089, 389	2, 159, 712	392, 681	570, 012	2, 200, 000	0	1, 000, 000	0	42, 860, 894	57, 571, 237
Maine	6, 411, 909	6, 666, 795	755, 277	510, 368	150, 000	150, 000	100, 000	0	100, 000	0	7, 517, 186	7, 327, 168
Maryland	25, 624, 788	29, 447, 518	2, 964, 555	2, 371, 644	285, 909	318, 191	0	0	1, 200, 000	0	30, 075, 252	32, 137, 353
Massachusetts	31, 040, 931	30, 608, 511	3, 838, 650	3, 070, 920	348, 795	336, 794	500, 000	0	2, 300, 000	0	38, 028, 376	34, 016, 225
Michigan	65, 313, 982	71, 813, 815	9, 986, 682	7, 989, 345	753, 007	798, 031	3, 600, 000	0	4, 000, 000	0	83, 653, 671	80, 601, 191
Minnesota	23, 013, 374	26, 881, 731	1, 638, 927	1, 311, 141	246, 522	281, 928	3, 400, 000	0	900, 000	0	29, 198, 823	28, 474, 800
Mississippi	39, 817, 989	42, 336, 139	1, 833, 846	1, 173, 661	416, 517	435, 098	0	0	400, 000	0	42, 468, 352	43, 944, 898
Missouri	26, 583, 044	30, 714, 096	2, 449, 308	1, 676, 560	290, 322	323, 906	0	0	800, 000	0	30, 122, 674	32, 714, 562
Montana	3, 265, 432	4, 708, 796	1, 339, 618	971, 331	150, 000	150, 000	400, 000	0	100, 000	0	5, 255, 050	5, 830, 127
Nebraska	7, 925, 881	8, 971, 951	731, 123	542, 740	150, 000	150, 000	0	0	200, 000	0	9, 007, 004	9, 664, 691
Nevada	1, 315, 766	2, 220, 015	289, 848	221, 604	150, 000	150, 000	0	0	100, 000	0	1, 855, 614	2, 591, 619
New Hampshire	2, 562, 547	3, 037, 338	457, 532	316, 760	150, 000	150, 000	0	0	100, 000	0	3, 270, 079	3, 504, 098
New Jersey	57, 994, 938	51, 797, 440	7, 064, 388	5, 285, 489	650, 593	570, 829	1, 400, 000	0	3, 800, 000	0	70, 909, 919	57, 653, 758
New Mexico	8, 615, 385	13, 477, 540	1, 540, 746	1, 011, 286	150, 000	150, 000	600, 000	0	200, 000	0	11, 106, 131	14, 638, 826
New York	239, 301, 136	195, 296, 710	15, 478, 478	8, 942, 479	2, 547, 780	2, 042, 391	3, 600, 000	0	18, 900, 000	0	279, 827, 394	206, 281, 580
North Carolina	55, 920, 419	51, 557, 979	4, 848, 915	3, 103, 305	607, 692	546, 612	0	0	800, 000	0	62, 177, 026	55, 207, 896
North Dakota	4, 482, 512	4, 776, 326	1, 142, 670	741, 581	150, 000	150, 000	0	0	100, 000	0	5, 875, 182	5, 667, 907
Ohio	50, 999, 204	52, 876, 955	7, 661, 927	5, 412, 339	586, 610	582, 892	0	0	2, 000, 000	0	61, 247, 741	58, 872, 186
Oklahoma	18, 578, 182	20, 159, 610	2, 053, 090	1, 313, 977	206, 312	214, 735	0	0	300, 000	0	21, 137, 584	21, 688, 322
Oregon	9, 906, 521	14, 084, 948	3, 580, 513	2, 864, 410	150, 000	169, 493	900, 000	0	500, 000	0	15, 037, 034	17, 118, 851
Pennsylvania	77, 098, 855	80, 611, 976	7, 620, 088	6, 096, 070	847, 189	867, 080	800, 000	0	3, 700, 000	0	90, 066, 132	87, 575, 126
Rhode Island	5, 639, 400	6, 788, 566	582, 230	465, 784	150, 000	150, 000	0	0	300, 000	0	6, 671, 630	7, 404, 350
South Carolina	32, 759, 389	33, 715, 276	2, 634, 644	1, 686, 172	353, 940	354, 014	0	0	500, 000	0	36, 247, 973	35, 755, 462
South Dakota	5, 971, 328	6, 003, 698	428, 733	274, 389	150, 000	150, 000	200, 000	0	100, 000	0	6, 850, 061	6, 428, 087
Tennessee	35, 056, 235	40, 141, 578	1, 956, 474	1, 252, 143	370, 126	413, 937	0	0	500, 000	0	37, 882, 835	41, 807, 658
Texas	77, 178, 801	103, 816, 070	26, 541, 530	16, 986, 579	1, 037, 201	1, 208, 026	0	0	2, 500, 000	0	107, 257, 532	122, 010, 675
Utah	5, 041, 664	5, 634, 968	781, 289	500, 024	150, 000	150, 000	300, 000	0	300, 000	0	6, 572, 953	6, 284, 992
Vermont	2, 344, 384	3, 045, 331	810, 088	642, 015	150, 000	150, 000	500, 000	0	40, 000	0	3, 844, 472	3, 837, 346
Virginia	34, 820, 657	38, 936, 837	2, 791, 180	1, 955, 376	376, 117	408, 922	0	0	900, 000	0	38, 887, 954	41, 301, 135
Washington	16, 862, 767	20, 216, 868	3, 929, 809	3, 143, 847	207, 925	233, 607	1, 100, 000	0	1, 100, 000	0	23, 200, 501	23, 594, 322
West Virginia	18, 912, 526	17, 681, 039	977, 308	625, 477	198, 898	183, 065	100, 000	0	300, 000	0	20, 488, 732	18, 489, 581
Wisconsin	20, 901, 793	27, 806, 555	3, 237, 199	2, 589, 759	241, 389	303, 963	2, 100, 000	0	900, 000	0	27, 380, 381	30, 700, 277
Wyoming	1, 350, 092	2, 246, 096	464, 289	371, 431	150, 000	150, 000	300, 000	0	50, 000	0	2, 314, 381	2, 767, 527
District of Columbia	12, 414, 356	10, 278, 233	1, 292, 829	965, 416	150, 000	150, 000	0	0	900, 000	0	14, 757, 185	11, 393, 649
Total	1, 554, 381, 765	1, 669, 514, 895	188, 189, 507	134, 047, 718	19, 079, 487	19, 540, 052	23, 700, 000	------------	72, 890, 000	------------	1, 858, 240, 759	1, 823, 102, 665

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[1] LEA grants in S. 1539 based on 1974 base year, 60 percent of excess distributed according to Orshansky, 40 percent according to total AFDC. Payment rate of ½ State or national APPE. Figures taken from "Education Amendments of 1974 Report Together With Supplemental and Additional Views of the Committee on Labor and Public Welfare United States Senate on S. 1539," p. 27, *table VI. Allocations* under pt. A, title I, as proposed.

[2] H.R. 69 formula is number of children below Orshansky in 1970 census plus ⅔ number of children from families on AFDC in excess of current Orshansky × 40 percent of State APPE with a floor of 80 percent of national average and a ceiling of 120 percent of national average APPE.

[3] Figures taken from "Education Amendments of 1974 Report Together With Supplemental and Additional Views of the Committee on Labor and Public Welfare United States Senate on S. 1539," p. 27, table VI. Allocations under pt. A, title I, as proposed.

[4] This formula not available at this time.

[5] 1 percent of grants to LEA and to State educational agencies or $150,000, whichever is greater.

[6] Pt. B of S. 1539 rewards States for effort above national average at rate of $1.50 per child for each 0.01 percent of effort in excess of national average. Preliminary estimates.

[7] H.R. 69 does not contain provisions for pt. B.

[8] Pt. C in S. 1539 is allocated to districts provided their target population is at least 200 percent of State average and is at least 10,000 children or 5 percent of total school population of county. Target population is defined as children below $3,000 or from AFDC families in excess of $3,000.

[9] H.R. 69 does not contain provisions for pt. C.

[10] Total is only for $1,858,240,759. Amount for outlying territories would increase this figure to $1,885,000,000.

[11] Total is only for $1,823,102,665. The amounts for outlying territories and evaluation would increase this figure to $1,885,000,000.

Note: Funds for outlying territories and evaluation not included.

TABLE II.—A COMPARISON OF THE PERCENTAGE DISTRIBUTION OF FUNDS ALLOCATED FOR FISCAL YEAR 1974 WITH THE ALLOCATION AS PROPOSED IN H.R. 69 AND WITH THE PERCENTAGE DISTRIBUTION OF CHILDREN LIVING IN POVERTY

	Percentage distribution			Concentration of needy children
	Of fiscal year 1974 allocation	Of fiscal year 1975 allocation	Of needy children Orshansky	
Alabama	2.28	2.47	3.53	29.49
Alaska	.29	.25	.16	14.55
Arizona	.71	.94	1.09	17.52
Arkansas	1.46	1.45	2.01	31.56
California	8.52	8.49	7.74	12.12
Colorado	.89	.94	.93	12.25
Connecticut	1.04	1.05	.72	7.24
Delaware	.23	.30	.23	11.95
Florida	2.51	3.61	3.89	18.90
Georgia	2.68	2.69	3.82	24.36
Hawaii	.28	.31	.25	9.65
Idaho	.25	.27	.31	12.02
Illinois	5.20	4.98	3.93	10.69
Indiana	1.41	1.48	1.60	9.02
Iowa	.99	.92	.94	9.80
Kansas	.73	.76	.84	11.46
Kentucky	2.09	1.91	2.71	25.09
Louisiana	2.17	3.11	4.01	30.07
Maine	.41	.40	.47	14.16
Maryland	1.62	2.80	1.52	11.46
Massachusetts	2.01	1.83	1.52	8.36
Michigan	4.34	4.35	2.86	9.09
Minnesota	1.42	1.54	1.28	9.49
Mississippi	2.38	2.37	3.40	41.52
Missouri	1.63	1.76	2.25	14.83
Montana	.27	.31	.32	12.95
Nebraska	.50	52	.60	11.99
Nevada	.10	.14	.14	8.74
New Hampshire	.18	.19	.19	7.70
New Jersey	3.78	3.11	2.02	8.74
New Mexico	.57	.79	1.05	26.31
New York	14.72	10.85	6.84	12.23
North Carolina	3.56	2.98	4.06	23.96
North Dakota	.34	.31	.36	15.72
Ohio	3.34	3.17	3.55	9.81
Oklahoma	1.18	1.17	1.59	19.48
Oregon	.78	.92	.70	10.28
Pennsylvania	4.87	4.72	3.96	10.56
Rhode Island	.36	.40	.32	11.00
South Carolina	2.05	1.93	2.67	29.07
South Dakota	.38	.35	.44	18.27
Tennessee	2.09	2.26	3.18	24.77
Texas	5.94	6.58	8.27	21.48
Utah	.34	.34	.40	9.97
Vermont	.19	.21	.17	11.37
Virginia	2.16	2.23	2.78	18.18
Washington	1.20	1.27	1.04	9.05
West Virginia	1.15	1.00	1.38	24.27
Wisconsin	1.38	1.66	1.35	8.73
Wyoming	.11	.15	.13	11.16
District of Columbia	.79	.61	.48	23.15
Puerto Rico	(1)	1.75	(1)	(1)

[1] Not available.

Note: Computed by dividing the total number of children age 5 to 17 living in poverty by the total number of children age 5 to 17.

TABLE III.—A COMPARISON OF THE DISTRIBUTION AMONG THE STATES OF THE POPULATION CATEGORIES AS LIVING IN POVERTY IN 1960 AND 1970

	1960 census income less than $2,000	1970 census income less than $2,000	1970 census Orshansky definition
Alabama	$4.90	$3.62	$3.53
Alaska	.10	.16	.16
Arizona	.79	1.11	1.09
Arkansas	2.99	1.97	2.01
California	4.17	8.10	7.74
Colorado	.68	1.25	.93
Connecticut	.42	.84	.72
Delaware	.15	.21	.23
Florida	2.88	3.81	3.89
Georgia	4.85	3.52	3.82
Hawaii	.18	.27	.25
Idaho	.25	.28	.31
Illinois	2.98	3.92	3.93
Indiana	1.54	1.58	1.60
Iowa	1.45	.85	.94
Kansas	.81	.84	.84
Kentucky	3.91	2.60	2.71
Louisiana	4.06	4.33	4.01
Maine	.37	.38	.47
Maryland	1.09	1.63	1.52
Massachusetts	.95	1.58	1.52
Michigan	2.52	3.16	2.86
Minnesota	1.56	1.21	1.28
Mississippi	5.15	3.73	3.40
Missouri	2.53	2.24	2.25
Montana	.29	.31	.32
Nebraska	.70	.60	.60
Nevada	$0.07	$0.15	$0.14
New Hampshire	.12	.17	.19
New Jersey	1.21	2.18	2.02
New Mexico	.76	1.06	1.05
New York	4.04	7.35	6.84
North Carolina	6.53	3.75	4.06
North Dakota	.47	.31	.36
Ohio	3.07	3.94	3.55
Oklahoma	1.71	1.41	1.59
Oregon	.48	.74	.70
Pennsylvania	3.54	3.86	3.96
Rhode Island	.24	.33	.32
South Carolina	4.18	2.72	2.67
South Dakota	.62	.41	.44
Tennessee	4.45	3.07	3.18
Texas	8.05	7.28	8.27
Utah	.24	.36	.40
Vermont	.15	.13	.17
Virginia	3.39	2.56	2.78
Washington	.67	1.12	1.04
West Virginia	2.15	1.34	1.38
Wisconsin	1.18	1.31	1.35
Wyoming	.11	.13	.13
District of Columbia	.30	.49	.48

The PRESIDING OFFICER. The time of the Senator from Alabama has expired.

Mr. WILLIAMS. Mr. President, may I ask the Senator a question on my time?

The PRESIDING OFFICER. The Senator from New Jersey is recognized. How much time is yielded?

Mr. PELL. Mr. President, I yield as much time as the Senator cares to have.

Mr. WILLIAMS. I shall be brief.

The Orshansky formula is an approach to defining the poverty level that I think falls short of an accurate method of determining the families that live in poverty or relative poverty. I wondered whether the Senator from Alabama in a part of his remarks dealt with the factors considered in arriving at poverty under the Orshansky approach.

Mr. ALLEN. Yes; I tried to touch on that to some extent.

Mr. WILLIAMS. I should like to have the Senator's observation on one of the failing factors of the Orshansky approach. As I see it, there is only one element in the cost of living that is made a part of Orshansky, and it is the trigger for the formula, which is the cost of food.

Mr. ALLEN. Yes.

Mr. WILLIAMS. There are no factors relating to the other basic essentials of life. The cost of housing and rents are not included.

Mr. ALLEN. They are included to this extent. The Orshansky formula, as the Senator from Alabama understands it, would take the consumer price index as furnished by the Department of Agriculture, and estimate that food in the average low income family would approximate one-third of the absolute, rock-bottom essentials necessary to hold the family together financially. So it does take other factors into account by estimating that they would be two-thirds, and the food one-third.

That is the way the Senator from Alabama understands it. I am sure that the Senator from New Jersey, being chairman of the committee that produced the Senate bill, which embraces the Orshansky formula, must have felt that it had some merit; otherwise he would not have included it as one of the elements in the bill.

Mr. WILLIAMS. I knew that we had to find some rational approach. This was one that was available, and unfortunately no alternative approach is available. In the bill, we provide that the Department is directed to include the other factors of the cost of living that are not included in the Orshansky formula. I frankly say that I spent some time with Ms. Orshansky. She knows how short of accurate the formula is, and she regrets it. She realizes that there is nothing else available.

In terms of the cost of living, with a multiplying factor of three the cost of food comes to be considered as one-third of the cost of living.

But no calculation is made for rent, medicine, nothing for utilities—for example, how much coal do you burn to keep a house warm in Florida, and how much in Rhode Island? That difference is not included. The fact of the matter is that in the northern areas the poor people are probably spending a very great percentage of their limited income—and we are talking about poor people—to keep warm in the winter. There are other parts of the country where there are poor people who do not have to spend a nickel to keep warm in winter. That is not reflected in the Orshansky formula.

We all know it, particularly, and most prophetically, I submit, from Ms. Orshansky herself, who recognized the limitations of her formula. But there is one thing we know, and we know it every year: the number of poor families getting aid for dependent children. That is why, faced with the limitations of Orshansky, we included a known annual factor of young people who need to live under assistance. We have included them all as part of the formula, obviously not exclusively, but as a part. It is a comprehensive approach, in a system where we just do not have the ability to press the computer button and have a readout on the most scientifically equitable basis to support the poor youngsters in this country whose education should be in part supported.

That was more than a question, and I apologize to the Senator for taking his time.

Mr. ALLEN. I appreciate the question, and I would like to have an opportunity to answer it.

The Senator from Alabama is not vouching for the Orshansky formula. He has merely noted that that is one phase of the equation in the McClellan amendment, in the House bill, and in the committee bill of the committee chaired by the distinguished Senator from New Jersey, which is now before us.

So the Senator from Alabama is not vouching for this formula. He is just stating that this is the formula that is in both bills. He is not saying that it is adequate. He feels it is inadequate to furnish the bare necessities. But he is just going on what the Senator's committee has brought to the floor here.

Another thing, while the——

Mr. WILLIAMS. Before we go to another thing, will the Senator yield——

Mr. ALLEN. Yes.

Mr. WILLIAMS (continuing). For me just to say that in part, what the Senator is arguing in support of is an amendment that effectively eliminates the other factors in the formula and puts the total burden of distribution on Orshansky, which we now agree is inadequate.

Mr. ALLEN. No, I would respectfully disagree with the distinguished Senator, because it has the second factor of including two-thirds of those children in families receiving AFDC over the amount of the Orshansky formula. So that is being cranked in.

What the Senator from Alabama is objecting to is what the Senate committee does in not only counting the children under Orshansky, but also counting them again if they fall under the AFDC, so that one child could be counted on two occasions. It is not just a composite mix of formulas in coming up with one formula; it is the counting of one child two times that the Senator from Alabama objects to.

Mr. WILLIAMS. Well, as the McClellan amendment proceeds, as the cost of living increases, we will be moving inexorably in the direction of eliminating that other part of the formula, AFDC. That has to be the nature of things, unless we have a reduction in the cost of living, which I would hope we might see but it is not realistic.

Mr. ALLEN. Why should the children be counted twice, is what the Senator from Alabama does not understand.

Mr. WILLIAMS. Because there are so many who were not counted at all in the census figures, for one reason. We do know the annual census of needy children under AFDC. And we do know the number left out in the basic census figures was large indeed. It has been estimated that as many as 5 million families were left out.

Mr. ALLEN. Why did the Senator bring the bill back to the floor based on the Orshansky formula, if, as he is now pointing out, it is not a proper formula?

The PRESIDING OFFICER. Who yields time?

Mr. ALLEN. Hearing no answer, I yield the floor.

Mr. WILLIAMS. Excuse me. Was that directed to me? Was there a question to me?

Mr. ALLEN. What was my question?

The PRESIDING OFFICER. The question will be repeated by the Reporter.

The Official Reporter (Grant E. Perry) read as follows:

> Why did the Senator bring the bill back to the floor based on the Orshansky formula, if, as he is now pointing out, it is not a proper formula?

Mr. WILLIAMS. That is a very worthy question, and, believe me, we have been under great pressure to have this bill here long before this, and we have been on a search for what I would consider a better approach than Orshansky, particularly now that we are faced with Orshansky almost pure in this amendment.

Quite frankly, this administration did not come up with figures that would guarantee the most equitable distribution. We do not have it in the bill, but it is a lot more equitable, I would suggest, in the bill the committee brought out than in this single approach of the faulty Orshansky formula.

Mr. ALLEN. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, is any time left in opposition to the amendment?

The PRESIDING OFFICER. There is 12 minutes remaining.

Mr. JAVITS. I yield myself 10 minutes.

Mr. President, it is very interesting to me how the text of the amendment itself defies a good many of the arguments made in its favor as against the amendment of the committee. For example, with all the decrying of the AFDC children as a proper element in the formula, it is a fact that Senator McClellan's amendment cranks in, not all the AFDC children above the poverty level, but only two-thirds of them, as if there were two-thirds of a poor child. Nonetheless, they are cranked in, so there must be some self-consciousness in the author of the amendment that this is an essential element of the situation. I will come back to that in a minute.

Also, Mr. President, with all the decrying of a base year, the fact is that though they very considerably reduced the effect of the base year, they cranked that aspect in, too, in an altered form—to wit, 85 percent of the preceding year hold harmless, and then after that 85 percent in the preceding year.

Now, Mr. President, one other thing: We are proceeding, in respect of this amendment, against a tradition, here, which has established a 100 percent hold harmless situation in respect of this very Federal aid to education. That was contained in the first continuing resolution for the current fiscal year, and was contained also in the fiscal year 1974 Labor-HEW appropriation, the definitive appropriation which obtains for this fiscal year.

Finally, Mr. President, to go further with it, we are told that in order to get precision, definiteness, we have to adopt the McClellan amendment; but the McClellan amendment puts us more than ever on an uncharted sea.

Let us just take one example of that. It is argued that the Orshansky formula is definitive for those children, and that the AFDC formula is indeterminate. But the fact is that it is complained, for example, according to an Urban League estimate, that the Orshansky formula, which is based upon the 1970 census undercounts the poor children by 5.3 million. That is an infinitely bigger margin of error, Mr. President, than even 40 percent of the children under AFDC, which would amount, on that basis, to something in the area of 3 million, even if you took it on its face.

The reason, Mr. President, for cranking in the AFDC formula, as we do and the McClellan amendment does—exactly the same thing in terms of acceptance of the principle—is that the Orshansky is a static index.

We only change it every 10 years based on the census. That will not be for 9 years to come, whereas AFDC is a moving index. It changes all the time, depending on the group of children concerned and their poverty area. So I think this is critically important because taken at its face, it is still very good until we begin to break it down.

One other thing that is critically important to break down and that is the global figure. Let us remember that the global figures taken here, by eliminating the two gifted provisions—parts B and C—relating to incentives to the States to do better in education and the unusually high concentration of low-income children, are eliminated so that the global sum used in the McClellan amendment becomes a greater sum. Certainly, no matter how we slice it, the individual amount distributable under that formula would appear to be greater.

The figures are given by States, but the money is not distributed by States. This is the key fallacy which I hope the Senate will carefully scrutinize. The money is not distributed by States but by local educational districts. So the State may, in a global sense, look good, but the State is not the entity that gets the money. The entity that gets the money is the local educational district. When we break that down into local educational districts, according to the formula proposed by the Senator from Arkansas (Mr. MCCLELLAN), we find that 600 counties out of some 3,000 counties in the Nation will receive less in fiscal year 1975 than in the current fiscal year.

This, to me, is the real nail that should be driven into the internment of the McClellan amendment, the point about the populations. We are talking about people, the population of those 600 counties as compared with the population of the other 2,400. That will give us a real measure of what this means. The 600 counties are disadvantaged. They include the primary metropolitan areas of the country.

This country is no longer rural. Seventy-five percent of our people live in urban areas. Practically every State has an important metropolitan area. So those are the very key reasons why such diverse entities as the American Federation of Labor, the National Education Association, the American Federation of Teachers, and the United Automobile Workers of America, all espouse the committee's formula, because taking everything together it did the best justice. In addition, it obeyed and conformed to the tradition which we have established, because of the shifting nature of the formula bases, the tradition of a hold-harmless formula based on the preceding year.

Finally—and we shall have more time to debate this, I do not want to take more than the time allotted to me at this moment—there is one more critically important fact that I should like to point out. It is a very popular sport, Mr. President, on the floor of the Senate—and I have been here a considerable time and I have heard it countless times and have seen the game played time and time and time again—to point the finger at New York. Look at New York. Look at what has happened in New York. Look at what New York is getting.

When we do that, let us remember that no matter what we do, New York is the State that will always be ahead. Take the McClellan formula or any other formula and New York will still get a lot of money. The McClellan formula gives New York the most of any State. It gives New York well over $200 million. Why? Because we cannot avoid the issue that there are simply more poor children in New York. There are simply that many poor children in New York. I do not care what formula we take. That is critically important. Because we cannot make it a game of sport on New York, if we want to go where the poor are, as they affect the mainstream of this country. We have got to go to all the major metropolitan areas, and New York is the biggest. We cannot use that as a stalking horse for distorting everything in order to get at New York and cost them $50 million.

One other thing. Where does this tax money come from? Arkansas schools, for example, and I do not begrudge it, get 16 percent of their total educational bill out of the Federal Government by Federal aid to education. In that hierarchy, Mr. President, it is also interesting to see where New York stands. New York stands 43d on that list, Mr. President.

New York gets out of the Federal aid to education, 4.9 percent. The national average is 7.5 percent.

I was here when my former colleague from New York, Mr. Keating, a very distinguished Senator, voted against the major education bill because he said it made an awful lot of sense—although I did not go with him because I do not follow that philosophy—but New York is paying $2½, $3, $4, $5, $6 for every dollar it gets in Federal aid to education. Forget it. Let us eliminate all Federal aid to education and we will be better off.

One other thing, Mr. President, which is critically important, in the percentage of the Federal tax paid by the various States, Arkansas pays .04 percent. New York pays 14.8 percent. Again, we do not begrudge that, but do not walk all over us because we produce all this revenue for the United States.

Mr. President, these are very, very important factors because that has been the big argument here, that New York gets so much. New York will get a lot anyhow and we cannot do anything about it. But, at the same time, let us have some perspective on why. It is that sense of perspective, Mr. President, that I am trying to introduce into this debate.

I hope very much that the Senate will have the perspective and will not distort a whole structure so painfully built up in its various parts at the last moment just because, superficially, X State gets $5,000 more or $5,000 less, without looking at what is inside the package.

I believe that the Senate has shown its ability on previous occasions to look at this situation in its totality, and not simply by the label on the bottle.

For all these reasons, Mr. President, I hope that the amendment will be rejected.

Mr. PELL. Mr. President, I should like to reinforce what the Senator from New York has just said in a far more articulate way than I did earlier. The objective is to try to get title I funds going where the youngsters suffer from the greatest misery, hunger, and poverty. It costs more money to be poor in New York than it does in many other parts of the country, to feed oneself, to clothe oneself, to warm oneself, or to keep glass in the windows, if necessary. These are facts of life.

I know that the Senator from New York wishes he did not have to receive any funds under title I at all. It is not a great distinction to have the largest number of poor in the country in one's State, but that is the position in which he is in. We are a national body here and we should, I think, have the funds go where the need is greatest.

We should also bear in mind that we have become an urban country. The Senator from New York said that 30 percent of our people live away from the cities now. Actually, only 6 percent of the people of this country are engaged in agriculture. Whether we like it or not, whether it is good for the American spirit, we are an urban country today with about 95 percent of our people not engaged in agriculture as a form of livelihood.

I yield the floor.

Mr. McCLELLAN. I yield 5 minutes to the Senator from Texas.

Mr. TOWER. Mr. President, I am pleased to be one of many Senators joining Senator McCLELLAN in offering amendment No. 1304 to S. 1539, the education bill. The amendment would substitute with minor modifications the House provisions on the formula for distributing title I funds for the formula recommended by the Senate Labor and Public Welfare Committee.

All Senators are aware of the problems that have confronted local education agencies in attempting to plan their educational programs by utilizing title I funds. They have witnessed in recent years conflicting formula changes in appropriations bills, culminating in total confusion for the local education agencies. I can, in fact, recall one school superintendent writing to my office informing me that after he has just hired new teaching personnel in response to congressional approval of a continuing resolution that included title I changes, the Congress changed the formula a few months later forcing him to lay off the teacher he had just hired.

We all knew that when we were tinkering with the title I formula it was temporary and that eventually a better method would have to be found. The Senate Labor and Public Welfare Committee has recommended a formula which, on its face at least, recognizes the instability in the funding method and the need for local education agencies to have some leadtime as to the amount of funding they are to expect. However, the formula is regressive, inequitable, and discriminatory.

The so-called Government poverty-index, the Orshansky formula, is universally accepted and the committee formula in S. 1539 adopts it. However, it continues to place undue emphasis on the aid to families with dependent children program for estimating the entitlements to the local school districts. The committee formula, therefore, counts all children within the Government poverty index as well as all children receiving AFDC.

The Senate must recall that the title I distribution formula was originally considered unsatisfactory because during the 9 years since ESEA was approved in 1965 the AFDC caseload has risen tremendously. The end effect has been that the measuring stick for the formula has not been the quantity of disadvantaged children but rather the quantity of the AFDC caseload. Since the committee formula counts the entire AFDC caseload throughout the Nation, the debate here today directly relates to the issues concerning welfare reform—an issue which even by a stretch of one's imagination only remotely relates to the Nation's educational system. Our 50 States and territories vary with respect to AFDC eligibility. Yet, the Senate formula continues to disproportionally consider AFDC caseload as a measuring stick.

The most distressing and regressive aspect of the committee formula is that it provides a 100 percent hold-harmless provision with the 1974 entitlement as the base year. This is both inequitable and contrary to the expressed intent of compensatory education as dictated by the congressional intent of title I. The fiscal year 1974 appropriations bill contained a 90 percent hold-harmless for local education agencies based upon a formula that estimated payments by utilizing 1960 census data which was taken in 1959.

Mr. President, with all due respect to the proponents of the committee's formula, I must conclude that this provision is a sham. It locks in and therefore distributes for the next 5 years, if not in perpetuity, 89 percent of all title I funding to school districts on the basis of 1960 census data plus the AFDC factor which, I might add, was based upon a high level of payments which many States do not grant to their AFDC clientele.

Consequently, Mr. President, this 1974 base year provision means that only new funding or 11 percent of the entitlements will be based upon the new formula in S. 1539, which by itself is subject to great criticism. In the interest of stability, according to the proponents of the Senate formula, the bill as currently drafted does not take into consideration changes in income levels or population shifts.

Mr. President, the Texas Education Agency has convinced me of the regressive features of this formula. The clear congressional intent of title I is to provide Federal funding for disadvantaged children. The committee formula runs contrary to that intent. In Texas, we will be providing title I funding to local education agencies where there is no longer a sufficient quantity of poor children to merit Federal assistance. In other parts of the State, the funding entitlement will be way below the actual need of the entitlements.

I am sponsoring the McClellan amendment because it allows for the maximum amount of equity and flexibility as can be imputed into this complicated formula. The Senate must recognize that some change is in order with respect to this funding formula. If we reach the premise that the emphasis upon the AFDC caseload has in fact distorted the title I program, then we must accept the significant redirection of funding that is called for in the McClellan amendment. Texas is certainly entitled to the $20.9 million increase in funding that would inure to it if this amendment is adopted. Texas should not be penalized because its welfare requirements are more strict and its payment levels are not as high as some of the northern States. Under the pending amendment, funds would be distributed to Texas on the basis of the quantity of disadvantaged children. Some school districts will see a reduction in their funding due to population shifts. This is as it should be. Many more school districts will gain added funding due to population shifts which have resulted in severe problems in their educational programs.

The pending amendment would provide for an 85 percent hold-harmless, thus providing the necessary balance between the need for stability and the need to recognize interstate and intrastate demographic changes. It would only count two-thirds of the AFDC caseload, therefore recognizing the need for a factor in the formula to update statistical data between the census. At the same time, by counting only two-thirds of the AFDC caseload, it will avoid the double-counting problem whereby a child is counted twice because he or she is a member of a family below the Government poverty level and is receiving AFDC payments.

The end effect of the McClellan amendment in that the Government poverty index will be the primary factor in determining the formula and the AFDC caseload will again be the minor secondary factor that it originally was intended to be when the Elementary and Secondary Act was approved in 1965.

Mr. President, I urge adoption of the amendment.

Mr. McCLELLAN. Mr. President, I yield 2 minutes to the distinguished Senator from North Carolina.

Mr. ERVIN. Mr. President, I rise to urge the Senate to adopt the amendment offered by the distinguished Senator from Arkansas (Mr. McCLELLAN). I am privileged to be a cosponsor of this amendment. I cosponsored it at the request of the North Carolina State Board of Education and the North Carolina Superintendent of Public Instruction. They believe—and I share the belief—that under this amendment, the sums to be devoted to the education of disadvantaged children will be distributed far more equitably and far more fairly than under the provisions of the original bill.

For this reason, I feel that I cannot urge my fellow Senators too strongly to support the pending amendment.

I thank the distinguished Senator from Arkansas for yielding this time to me.

Mr. McCLELLAN. Mr. President, I have listened with a great deal of interest to the arguments against this amendment. I have listened to arguments that try to sustain the part C funds that are in the bill.

I hear expressed over and over that what we really want is the money to go where the children are, but I have not heard anybody say that it should go twice to any child. I suggest that under this AFDC formula, many of those children are counted twice. All of these children from families below the poverty level whose families are receiving AFDC funds are counted twice. That accounts for some of this very disproportionate amount of money that is going to some of the wealthier States, such as New York.

Mr. President, I would like to see us put into practice what we are saying here about getting this money to the poor children where they are. We are not getting it to the poor children in Arkansas, South Carolina, Texas, Michigan, or anywhere else, by counting these children twice in States where they have a very high roll of AFDC children. It takes away from those States and it gives it twice to a State like New York.

My good friend said that we talk about New York. Look at the formula, Mr. President, let us take the part C formula. Let us see what it does. We have to talk about where the inequities are.

In this part of S. 1539, the part C formula, this is the money that is supposed to go to the children in those districts or those areas where there is a high concentration of poor children, and that is according to the statement made by the distinguished manager of the bill a few days ago in this Chamber; that is the purpose of it, in order to try to reach those children where the concentration is heaviest, where there are the most poor families. That is the purpose of these part C funds.

But let us see what happens, Mr. President. In Arkansas we have 2.05 percent of the number of low-income children under $3,000. They set up a new formula here that did not go by the old formula. I do not know why. But we have 2.05 percent of the low-income children and yet we only get .41 percent of the money. How do they justify taking that money away from our children and not giving them their fair share? Then, when we look at the figures for New York it is a different story. New York has 6.94 percent of the total poor children from families with less than a $3,000 annual income and yet New York gets 25.92 percent of the money. I do not know why. I do not believe the Senator from Rhode Island (Senator PELL) would dare to say that that is equality and justice. Here is a special fund that is purportedly designed to reach the poor children where they are. In Arkansas there are 32 counties where there are more than 25 percent of families with incomes of $3,000 or less that do not get one dime of this money, not a dime.

In Missouri, a neighboring State, 25 counties with families having incomes of $3,000 or less do not get a dime of it. We cannot help but talk about New York. New York is a wonderful State; New York is a rich State, and very much so. I am not criticizing the Senator. If he can get by with this, very good. But I do not think it is fair to the other States of this Nation. I do not think it is right and just. I do not think the manager of the bill or the Senator from New York (Senator JAVITS) down in their hearts feel it is right for New York to take 25 percent plus of the money that is intended to go to the poorest children where there is the highest concentration throughout the Nation and leave out 32 counties in Arkansas, 25 counties in Missouri, 25 counties in another State, and 30 counties in another State, all across the country. Do we call that justice? Do we call that equity?

They worked for 6 months on the formula and then they say we should not jump on anybody.

I wish to point out the gerrymandering that is done here in this kind of formula to eliminate the poor children in many counties throughout the Nation, while providing the richest county in New York with over $600,000 from this fund, more than twice as much as the total amount all of Arkansas will receive. That situation applies to a number of other States. All we have to do is look across the board. We are talking about seeking equity.

I wish to have printed in the RECORD at this point on the S. 1539 formula a matter with reference to the 100 percent hold-harmless clause. Last year when this bill was before us the distinguished Senator from New York condemned that provision. I do not have time to read all of it but I would like to place in the RECORD an excerpt from his remarks made on October 3, 1973, when he said:

> I offer right now, so far as I am concerned, to cast my vote for any proposition which eliminates the hold harmless. Let us actually go ahead and put the money where the children are, just literally where the children are.

Mr. President, that is what I am pleading for today: to put the money literally where the poor children are, and not have gerrymandering.

Another matter I wish to refer to is that on the AFDC approach we count two-thirds of the AFDC children above the Orshansky level. The third we take off probably eliminates any possibility of a double count. I would like to call to the attention of my colleagues a paper entitled "Quality Control—AFDC Error Rates by State, April–September 1973," and I ask unanimous consent to have that table printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

QUALITY CONTROL—AFDC ERROR RATES BY STATE, APRIL-SEPTEMBER 1973[1]

State	Cases with errors as a percent of total cases: In-eligible	Cases with errors as a percent of total cases: Eligible but over-paid	Cases with errors as a percent of total cases: Eligible but under-paid	Amount of payment errors as a percent of total payments: In-eligible	Amount of payment errors as a percent of total payments: Over-paid	Amount of payment errors as a percent of total payments: Under-paid
National average	10.2	22.8	8.1	8.9	7.1	1.4
Alabama	10.5	15.1	8.4	9.2	5.9	2.4
Alaska	14.2	13.5	5.8	12.3	6.1	.8
Arizona	9.3	23.6	7.3	8.0	7.4	1.3
Arkansas	2.2	7.1	7.3	1.8	1.8	1.9
California	8.4	17.8	7.9	6.9	5.4	1.3
Colorado	4.4	15.9	6.5	2.6	4.7	.9
Connecticut	6.5	16.2	5.4	5.5	4.5	1.1
Delaware	14.1	29.6	9.7	10.1	8.5	1.6
District of Columbia	10.9	24.5	3.8	9.9	7.6	.6
Florida	11.0	27.1	9.3	10.1	11.4	2.3
Georgia	7.0	24.9	10.5	5.2	9.1	2.7
Hawaii	4.6	19.9	5.6	4.6	5.3	1.5
Idaho	5.8	13.0	1.9	6.0	3.0	.2
Illinois	11.7	37.6	10.6	9.6	11.4	1.2
Indiana	8.0	19.5	4.4	6.8	5.8	.9
Iowa	9.7	20.0	7.3	7.7	7.0	1.4
Kansas	10.3	26.0	9.2	8.5	6.7	1.7
Kentucky	10.1	29.4	7.7	7.8	9.6	1.0
Louisiana	14.8	21.1	5.4	13.7	7.7	1.2
Maine	3.7	7.2	1.8	3.1	2.7	.6
Maryland	14.7	28.5	10.3	13.1	9.8	1.9
Massachusetts	9.6	29.7	13.5	8.0	7.1	.9
Michigan	5.7	20.3	4.9	5.2	4.9	.5
Minnesota	6.0	28.1	12.9	5.3	4.7	1.2
Mississippi	2.3	8.6	5.2	1.7	3.0	1.3
Missouri	7.1	14.2	4.4	6.2	5.4	1.4
Montana	10.3	18.6	4.2	7.2	8.2	1.2
Nebraska	6.5	10.3	2.7	5.4	2.5	.2
Nevada	2.6	7.8	4.6	1.5	1.8	.7
New Hampshire	11.9	40.9	7.5	9.2	10.8	1.2
New Jersey	4.3	18.3	4.4	3.4	5.2	.8
New Mexico	5.0	13.2	4.2	3.5	4.7	1.0
New York	17.5	31.9	11.1	16.7	9.3	1.7
North Carolina	7.7	21.3	19.2	6.5	6.6	3.9
North Dakota	1.9	8.4	1.9	.8	1.8	.1
Ohio	13.7	27.0	8.3	12.2	9.5	1.0
Oklahoma	4.1	13.5	2.9	3.1	5.1	.6
Oregon	6.3	16.2	3.5	6.4	4.3	.7
Pennsylvania	16.7	24.8	8.1	14.7	7.5	1.1
Puerto Rico	16.4	19.9	7.7	14.6	8.4	2.7
Rhode Island	4.5	21.3	3.5	3.1	6.3	.3
South Carolina	10.1	27.3	10.0	9.1	8.3	2.6
South Dakota	2.5	14.5	4.4	2.0	5.4	.9
Tennessee	9.1	12.8	6.3	7.6	4.5	1.6
Texas	10.4	16.3	3.5	8.8	6.3	1.2
Utah	5.9	14.7	3.9	5.3	3.2	.9
Vermont	10.3	27.2	6.0	11.3	7.9	.6
Virgin Islands	5.8	15.2	14.5	4.2	5.2	1.7
Virginia	5.3	27.4	13.3	3.8	8.2	2.2
Washington	4.5	10.2	2.8	4.3	2.7	.4
West Virginia	5.6	10.7	4.3	4.7	3.3	1.0
Wisconsin	4.7	14.5	16.5	3.8	2.3	1.9
Wyoming	8.0	14.2	8.6	6.5	3.5	1.8

[1] These error rates for aid to families with dependent children (AFDC) programs are based on State quality control reviews of 44,000 cases selected in accordance with established sampling procedures from an average monthly national caseload of over 3,000,000 families. On Jan. 1, 1974, all States begin an intensive 18-month effort to implement corrective action plans designed to reduce ineligible case rates to no more than 3 percent and eligible overpaid case rates to no more than 5 percent by June 30, 1975. Underpayment rates will also be reduced by this effort.

Source: DHEW-SRS, Dec. 20, 1973.

Mr. McCLELLAN. Mr. President, I call attention to the fact that of those AFDC families on the rolls in New York, 17.5 percent of them were found to be ineligible. They are counted and some of them are counted twice in arriving at the money under the general title I formula. That is in this bill.

Mr. President, this table further shows that 16.7 percent of the entire funds in New York for the AFDC program went to ineligibles. They are counted here. They are counted against poor counties in Arkansas and they are counted against the poor counties in the rest of the Nation.

The House formula was supported by a vote of 3 to 1 on 3 rollcall votes in the House, where they tried to modify this formula. We are seeking here today to move in the direction of reform. This is not complete reform. This does not get the whole job done. This moves us back, as the chart shows, nearer the direction of helping poor children instead of having them ignored as they are in many parts of the Nation under this part C, which is purportedly to help the most destitute.

Mr. President, I hope my amendment with an 85 percent hold-harmless clause will be adopted. It certainly is a great improvement over the "hold harmless" or "base year" 100 percent provision in S. 1539. Under S. 1539 only 11 percent of the money appropriated is even to be allocated under the formula. There is a 100-percent "hold harmless" provision which gives them what was done last year. From now on, not only will it be funded, but it becomes permanent law. They could never get less than they got last year, no matter how many children needed it, no matter how the situation changes. They never can get less. But that excess part which is appropriated will be subject to the allocation under the formula, and under the bill as it is now, it will be only 11 percent.

Mr. President, I am willing to yield back the remainder of my time.

Mr. STENNIS. Mr. President, will the Senator yield me 2 minutes?

Mr. McCLELLAN. I yield the distinguished Senator from Mississippi 2 minutes.

Mr. STENNIS. Mr. President, first, I certainly want to thank the Senator from Arkansas for the unusual amount of work and the fine presentation he has made with respect to the very serious situation existing in this bill. I have the privilege, and it is a privilege, to be one of the Senators from one of the so-called low-income States. I am not begging for them. On the matter of education and local taxes for education, my State once led the Nation in the percentage of local taxes spent for education. I am proud of that, regardless of the so-called low per capita income.

What is right is right; what is just is just. I am sure no one intends to do a wrong to anyone, but we point out that under this formula, complex as it is—and it is difficult to get any formula applying across the Nation, I fully realize, but in a bill that is dedicated solely to compensatory education, to educating the disadvantaged children better, that being the primary purpose, really, and the only and major purpose of this bill——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. STENNIS. May I have 1 additional minute?

Mr. McCLELLAN. I yield 2 minutes to the Senator.

Mr. STENNIS. This formula is unjust in its application.

The time for debate is limited. I think the whole story has already been told on the floor by the Senator from Arkansas, but I want to preserve the points he made in a letter addressed to many Senators under date of May 2, 1974.

I ask unanimous consent that the letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, D.C., May 2, 1974.

Hon. JOHN C. STENNIS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STENNIS: Enclosed is a copy of an amendment I intend to offer to S. 1539, the Elementary and Secondary Education Act Amendments of 1974. Other explanatory materials are also enclosed.

The Amendment would adopt the provisions of the House bill (H.R. 69) for the purpose of computing payments to local education agencies under Title I of the Elementary and Secondary Education Act of 1965. The stated purpose of Title I is to enable elementary and secondary schools to provide compensatory education to educationally disadvantaged children. All versions of the formula for computing these payments have been premised on the very proper assumption that the formula should be based on the number of poor children within each local education agency. Unfortunately, however, the method of determining the number of poor children in an local education agency and the extent to which the payment levels will vary from state to state have raised serious questions with respect to equitable allocation of these funds and have given rise to warranted criticism.

Both the Senate and the House bills are in agreement that the Orshansky Index (the accepted Federal Index of Poverty) should be the prime factor in determining the number of children to be covered by Title I said in any given local education agency.

However, the Senate version of the bill places undue emphasis on the number of children whose families are receiving AFDC payments.

The formula in the Senate bill would

double the count of poor children if their families also receive AFDC payments, thus, making higher payments to wealthy states which can afford and which provide larger welfare programs.

My amendment would reduce the emphasis on the AFDC factor by counting only ⅔ of AFDC children whose families have incomes above the poverty level.

I am disturbed by the base year provision in the Senate bill which would insure that no local education agency will ever receive less funds than it received in Fiscal Year 1974. This base year provision means that during Fiscal Year 1975, 89% of the Title I money would be distributed not under the formula set out in E. 1539, but under the obsolete formula of existing law which states that you are not poor unless your family has an income of less than $2,000.

My amendment contains an 85% hold-harmless clause for local education agencies. This would provide the funding assurance necessary to enable proper year-to-year planning of Title I programs, without freezing in the present inequitable payment rates.

Even of greater concern to me, however, is Part C of Title I. Part C purports to furnish special grants for urban and rural areas with large numbers of children from low income families. Bear in mind that Part C funds are taken from general local education agency funds.

On April 25, 1974 an insert was placed in the Congressional Record (pp. 11848–11850) which listed counties that would receive funds under Part C. A careful examination of this insert in the Record reveals that more than 25% of the funds which are intended to go to concentrations of poor children will actually go to one of our richest states. A county such as Newton County, Arkansas, where 43% of its families have a total income of less than $3,000 per year and where the per capita income is only $1,308 per year, will receive none of these funds whatsoever, notwithstanding that Part C is purportedly aimed at aiding local education agencies containing concentrations of poor children.

However, Westchester County, New York, one of the wealthiest counties in the nation, with only 4.9% of its families having total incomes of less than $3,000 per year and with a per capita income of $5,059 will receive $619,833 under Part C—almost double the total that will go to the entire state of Arkansas. I, therefore, respectfully suggest that each Senator may wish to examine Part C of Title I of the Senate bill and ascertain whether it is fair and equitable to, or if it discriminates against, the children of his state.

S. 1539 will not accomplish what its authors and the Committee Report claim for it. It does not equitably distribute federal aid to all educationally disadvantaged children. Instead, in many instances it will actually favor educationally advantaged children. I cannot agree to nor support such a discriminatory measure.

My amendment seeks to carry out the true purpose of the bill, i.e., to provide federal aid to educate children from poor families.

The Title I formula is extremely complicated, and it is obviously inequitable. It should be revised and I earnestly invite cosponsorship of my amendment.

Should you or your staff have any questions, or desire a briefing, please call Mr. Emon Mahony at extension 7229 or 7297. I intend to introduce the amendment next Monday, and will, of course, add cosponsors at any time prior to floor consideration of the amendment.

With kind regards, I am

Sincerely yours,

JOHN L. MCCLELLAN.

Mr. PELL. Mr. President, I yield myself 1 minute on the bill.

I am struck by the fact that while the statements of the Senator from Mississippi and the Senator from Arkansas are absolutely correct from the viewpoint of their own States' contributions, the State of Mississippi received the largest percentage of revenue for public elementary and secondary schools from the Federal Government of any State—25 percent—and the State of Arkansas received the third largest amount in the United States—16.3 percent.

Nobody begrudges the fact that Mississippi and Arkansas receive the largest amounts of Federal funds for education on a per capita basis. That is not it. They need help, and we are all glad to help them. But the House formula basically moves assistance away from the cities back to the rural areas. The trouble with that formula is that the population is moving in just the opposite direction. It is moving from the rural areas into the urban areas. The reason for part C and the reason why New York needs it, for example, is that that is where there is an intense concentration of poor children. Arkansas is fortunate that it does not have that concentration; they are spread over a wider base and part C does not apply. I think that has to be borne in mind when we consider the question

Mr. JAVITS. Mr. President, I yield myself 2 minutes on the bill, with the permission of the Senator from Pennsylvania (Mr. HUGH SCOTT).

Mr. President, I have a number of amendments which I shall wish to propose to the amendment of the Senator from Arkansas, as have other Senators, and I understand that the voting on rollcalls is deferred until 4 o'clock in respect to all matters, the amendments to the McClellan amendment and the amendment itself. I just wish to announce that so that Senators might have a sighting on the time situation.

Also, Mr. President, I wish to call attention to the fact that the formula in part C of title I grants, which has just been argued by the Senator from Arkansas, applies not only to urban but to rural schools. The only criterion is the highest concentration of children from low-income families.

That goes directly to the argument made, to wit, that where there is a special impact—the definition certainly calls for special impact of children—that community is simply in trouble, and it does not make any difference whether that community is in New York or in Arkansas. It will be equally treated if it meets the criteria.

Finally, there are some very strange results which can result from this switch in formuli.

It is necessary to point to the example of the difference between a county in Arkansas and a county which is called the wealthiest county in the Nation, Westchester County. The fact is that under the McClellan amendment that particular county which is the basis of comparison, Newton County, receives materially less money than it does under the committee amendment.

Mr. President, I ask unanimous consent that an analysis of that may be made a part of the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

NEWTON COUNTY, ARK.

TITLE I

Newton county is one of the poorest per capita income areas in Arkansas. Senator McClellan charges that the S–1539 Title I formula treats Newton county unfavorably since it would receive no money under Part C of S–1539.

In actuality, however, Newton county would receive $28,956, or 26%, more under Part A of S–1539 than it would receive under the McClellan amendment which combines Parts A, B, and C.

In fact, Newton county would lose $19,786, or 15%, of its current receipts (FY '74) under the McClellan formula! This seems most inequitable for a poor county like Newton, especially at a time when the Administration's budget (on which these figures are based) increases funds for Title I.

Mr. JAVITS. Mr. President, I point that out not to score debating points, but to indicate and validate the basic thrust of our argument and to point out what this formula really means. We really have to protect the children in the educational districts when we do this. The McClellan formula adversely affects the key metropolitan areas of the country, and this just does not wash in terms of the fundamental purpose of this bill.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Has all time expired?

The PRESIDING OFFICER. The Senator from Arkansas still has 23 minutes. All time of the opponents has expired.

Who yields time?

Mr. HUGH SCOTT. Mr. President——

Mr. McCLELLAN. Mr. President, does the Senator want 2 or 3 minutes?

Mr. HUGH SCOTT. If the Senator will yield for the purpose of offering an amendment, I shall do so.

I think I had better withhold it now.

Mr. McCLELLAN. The Senator from Colorado has been waiting to offer an amendment.

Mr. HUGH SCOTT. I think the Senator from Colorado had better be heard first. I will withhold mine.

Mr. JAVITS. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Has the time expired?

The PRESIDING OFFICER. The Senator from Arkansas has 23 minutes. The time of the opponents has expired.

Mr. DOMINICK. Mr. President, if the Senator from Arkansas would yield back the remainder of his time, I can come forward with an amendment which I think is agreeable to him.

Mr. McCLELLAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. McCLELLAN. I am willing to yield back my time if we are to vote on my amendment at 4 o'clock. I was not consulted about extending the time beyond 4 o'clock.

I have some folks who have been waiting. I am ready to vote. I thought we were to vote at about 3 o'clock—three something. If we had been ready to vote at that time, I would have been ready to vote. If we are not going to have a vote at 4 o'clock, I am perfectly willing to let other amendments come up and be considered.

Mr. HUGH SCOTT. Mr. President, if I understand the parliamentary situation correctly, another amendment may be offered. I think the Senator from Colorado has an amendment, if the Senator is agreeable; and I have an amendment which will not take 5 minutes.

Mr. McCLELLAN. Mr. President, I should like to have my parliamentary inquiry answered. Will the Senate vote at 4 o'clock on the pending amendment?

The PRESIDING OFFICER. No. Under the pending amendment, the Senate will vote not earlier than 4 o'clock, but not necessarily at 4 o'clock.

Mr. HUGH SCOTT. Would the Senator from Arkansas be willing to yield back the remainder of his time?

Mr. McCLELLAN. I could do that, but I had hoped that we would reach some agreement to vote.

Mr. President, I ask unanimous consent that amendments may be offered without my losing my remaining time.

Mr. JAVITS. Mr. President, reserving the right to object, let us understand what this means. I certainly have no objection to the Senator from Arkansas having an extra 21 minutes to play with, or to do whatever he wishes to do about his amendment. But I do object to any implication in the request I made. I make this in the nature of a parliamentary inquiry: When are we to vote on the amendment of the Senator from Arkansas?

Mr. HUGH SCOTT. Not earlier than 4 o'clock.

The PRESIDING OFFICER. Amendments are in order.

Mr. JAVITS. Is there a time limitation?

The PRESIDING OFFICER. There is.

Mr. JAVITS. What is the time limitation?

The PRESIDING OFFICER. Thirty minutes.

Mr. JAVITS. Fifteen minutes to a side?

The PRESIDING OFFICER. That is correct.

Mr. JAVITS. So we shall vote on the McClellan amendment when all amendments thereto have been presented and considered.

The PRESIDING OFFICER. That is correct. After his time has expired.

Mr. HUGH SCOTT. Mr. President, if the Senator from Arkansas will yield me 1 minute, I should like to make the point that the Senator from Colorado is seeking recognition. Much as I love him, I should like to get his amendment out of the way, so that I may offer my amendment.

Mr. McCLELLAN. Mr. President, another parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Arkansas will state it.

Mr. McCLELLAN. Under the order, when the hour of 4 o'clock arrives, may amendments be offered to the McClellan amendment?

The PRESIDING OFFICER. Yes, they would be in order.

Mr. McCLELLAN. And then could be debated?

The PRESIDING OFFICER. Yes; they may be debated for 30 minutes.

Mr. McCLELLAN. Mr. President, I think we might as well start. We can let the time begin to run on amendments. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back on the amendment offered by the Senator from Arkansas.

The Senator from Colorado is recognized.

Mr. DOMINICK. Mr. President, I offer an amendment to the amendment offered by the distinguished Senator from Arkansas.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. DOMINICK. Mr. President, I ask unanimous consent that the further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follow:

Intended to be proposed by Mr. Dominick to the amendment (No. 1304) proposed by Mr. McClellan (for himself and others) to S. 1539 etc.

On page 1, strike out lines 1 and 2, and insert in lieu thereof the following:

"(2) (A) (i) (I) Such title I is amended by inserting immediately after the heading of part A the following new heading:

'Subpart 1—Grants to Local Educational Agencies'

"(II) Section 103(a) of such title I is amended to read as follows:".

On page 9, strike out lines 19 through 21, and insert in lieu thereof the following:

"(E) Such title I is amended by inserting at the end of part A the following:

"Subpart 2—State Operated Programs' ".

On page 17, between lines 2 and 3, insert the following:

"(F) (i) Section 121 of such title I and all references thereto are redesignated as section 126,

"(ii) Section 126(b) of such title I (as redesignated by this subparagraph) is amended—

"(I) by inserting '(1)' after '(b)';

"(II) by striking out '$1' and inserting in lieu thereof '$1.50';

"(III) by striking out 'clauses (2), (5), (6), and (7) of section 103(a)' and inserting in lieu thereof 'section 103 and subpart 2 of part A'; and

"(IV) by inserting at the end thereof the following new paragraph:

" '(2) (A) The aggregate of the amounts to which the States are entitled under this part for any fiscal year shall not exceed $75,000,000. If, for any fiscal year, such amounts, without the limitation in the preceding sentence, exceed $75,000,000, each of the entitlements created under this part shall be reduced ratably until such amounts do not exceed such limitation.

" '(B) For the purpose of making entitlement payments under this part there are authorized to be appropriated not in excess of $75,000,000 for the fiscal year ending June 30, 1974, and for each of the four succeeding fiscal years.' ".

On page 17, line 3, strike out "(F)" and insert in lieu thereof "(G)".

On page 18, line 6, strike out "(G)" and insert in lieu thereof "(H)".

Mr. DOMINICK. Mr. President, this is a relatively simple amendment. It is designed to put back into the McClellan amendment, part B, which is now in the formula and has been in it for a number of years. It is what is called an incentive grant amendment.

I may say to the distinguished Senator from Arkansas that I was very much opposed to the ESEA formula as the bill was put into law originally, and I argued with the former Senator from Oregon (Mr. MORSE) at length on this question, both in committee and on the floor of the Senate, because my position at that time was that in the formula as it had been suggested, the rich get richer, the poor get poorer, and the money did not go into the areas where it was needed.

I got nowhere in that argument. I could not win in committee, and I did not win on the floor of the Senate, although the vote was fairly close. So I changed what I was trying to do and created a separate fund, now authorized by law at $75 million. The same authorization is contained in the amendment I am proposing. It would be divided among the States whose support of schools is higher than the national average. I believe the original part B incentive grant program worked out in such a way, to my surprise—I did not know this when I put it in—worked out in such a way that a good number of western and southern States received funding from this formula which they otherwise would not have received because those States were the ones that were putting more of their own local tax money into the schools than were some of the big, so-called rich industrial States.

Consequently, the big, rich industrial States did not get a very big share of this money. They did get some to the extent they were above the national average; but they did not get very much. About half the States in the country, which were expending more of their own property tax and State and city income taxes for the support of their schools at a level above the national average, they were given, in effect, a bonus.

It seems to me that this is a good program. It is not one that necessarily says that we are going to give a large amount of money to the wealthy States. It simply says that those States that are exerting their own efforts, using their own taxes, and their own muscle power to support their schools should be given recognition under the bill; and they will not get recognition unless this amendment is adopted.

I reserve the remainder of my time.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. DOMINICK. I am happy to yield.

Mr. McCLELLAN. Do I understand that the $75 million authorized here would be an appropriation in addition to the other funds in the other titles of the bill?

Mr. DOMINICK. That is correct. $75 million of the amount is at present authorized under part B. I am keeping the same amount, and it would be a separate line item in the appropriation.

Mr. McCLELLAN. It would not come out of the other title I funds?

Mr. DOMINICK. That is correct. I tried that once before, and I found that the local education agencies were losing money under title I to the State education agencies under that method.

Mr. McCLELLAN. Within limits.

Mr. DOMINICK. So we made separate funds.

Mr. McCLELLAN. The authorization of $75 million is a special line item, and it would be up to Congress to determine how much of that we wished to appropriate each year.

Mr. DOMINICK. Mr. President, I am sorry, but I cannot hear because of what is going on. I did not hear the Senator's question.

Mr. McCLELLAN. This does not take any money away from title I.

Mr. DOMINICK. No, sir; not a bit.

Mr. McCLELLAN. Not at all. Therefore, it would be over and above the title I funds?

Mr. DOMINICK. That is correct.

Mr. McCLELLAN. It would be distributed according to a formula?

Mr. DOMINICK. Yes, sir.

Mr. McCLELLAN. Congress could make a separate appropriation as they evaluate it and could appropriate not to exceed $75 million. It could appropriate less.

Mr. DOMINICK. The Senator is correct.

Mr. McCLELLAN. It could appropriate less?

Mr. DOMINICK. The Senator is totally correct.

Mr. McCLELLAN. But it is separate and not involved in title I funds?

Mr. DOMINICK. That is right. And last year, the Appropriations Committee for this program appropriated about $18 million. We have the authorization in my amendment the same as it was in that bill, which is $75 million. I hope we will get an appropriation that high. Even if we do not, we have made some progress toward rewarding those States which are using their own efforts.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. My understanding is that it was not in the House bill.

Mr. DOMINICK. No, part B is not in the House bill, that is correct.

Mr. McCLELLAN. Mr. President, I have no objection to taking it to conference, so that the conferees will have an opportunity, if they want to go over and above the title I funds.

Mr. DOMINICK. I thank the Senator.

Mr. McCLELLAN. I have no objection, unless someone else does.

Mr. PELL. Mr. President, I am not sure I understand the amendment. The proposal would be for a new categorical program setting up funds over and above the $1.8 billion, to reward States for their efforts in looking after the poorer children?

Mr. DOMINICK. That is not entirely correct. It is not a program; it is simply a bonus or incentive for those States who are putting more of their own tax money into supporting their own schools. It is an incentive toward keeping up the local effort.

Mr. PELL. But it would be new money?

Mr. DOMINICK. It is new money. It is not title I money.

Mr. PELL. So it would require another line item in the appropriation bill?

Mr. DOMINICK. That is correct. There is such a provision already in the bill; and it has been in the law for several years. It has had money appropriated for it before, and I hope it will again.

Mr. PELL. Mr. President, I do not have the same resistance to categorical programs that some of my colleagues have. I would be delighted to accept this one more excellent program.

Mr. DOMINICK. I thank the Senator. I do want to state for the Record, however, that it is not a categorical program, but it is simply more money to provide a reward to those States which are helping themselves by taxing themselves.

Mr. ALLEN. Mr. President, will the distinguished Senator from Arkansas yield me 2 minutes?

Mr. McCLELLAN. I yield the Senator 2 minutes.

Mr. ALLEN. Mr. President, I would like to ask the distinguished Senator from Colorado—I understood him to say this would provide additional funds for some of the Southern and Western States; is that correct?

Mr. DOMINICK. That is correct, provided they use more of their own per capita income to support their own school systems than the national average.

Mr. ALLEN. Yet I note from the table that I have here that Alabama would receive no portion of this addition, Arkansas would receive no portion of it, Florida would receive no portion of it, and Georgia would receive no portion.

Mr. DOMINICK. Well, then, they may be right at the national average. I remember that when I computed it before, which was some years ago, that Arkansas and Alabama were substantially ahead of the national average in their per capita load for educational purposes.

Mr. ALLEN. North Carolina would receive nothing, South Carolina would receive nothing, Tennessee nothing, Texas nothing, Virginia nothing—I just wondered what Southern States were going to profit by it.

Mr. DOMINICK. It may be that they are now right at the national average. I say to the Senator from Alabama, I do not have up-to-date figures on this, and I am frank to admit that. All I can say is that if you are above the national average as computed by HEW, you get the money. If you are not, you do not.

Mr. ALLEN. Mr. President, I am not going to ask for a rollcall vote, but I would like to ask that the Record show that the Senator from Alabama voted "no" on the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. DOMINICK. In further answer to the Senator from Alabama, Louisiana would get some money. Florida, if that is considered a Southern State, does not. Georgia apparently does not, and I do not know why, frankly, because I thought they were all above the national average. But it falls wherever it falls.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, I yield back the remainder of my time.

Mr. DOMINICK. I yield back the remainder of my time, and I ask that a table, prepared by the Congressional Research Service, be inserted in the Record to illustrate which States would receive special incentive grants under my amendment, and the amount of such grants, if the full $75 million which would be authorized is appropriated.

There being no objection, the table was ordered to be printed in the Record, as follows:

Estimates of special incentive grants to States based on Dominick amendment with a total appropriations level of $75 million with no State to receive more than 15% of that and based on H.R. 69 LEA populations and current law sea populations

Alabama	$0
Alaska	2, 216, 515
Arizona	0
Arkansas	0
California	501, 956
Colorado	168, 437
Connecticut	963, 150
Delaware	208, 342
District of Columbia	0
Florida	0
Georgia	0
Guam	----------
Hawaii	0
Idaho	0
Illinois	0
Indiana	564, 408
Iowa	3, 386, 553
Kansas	0
Kentucky	0
Louisiana	7, 009, 993
Maine	1,743, 420
Maryland	1, 144, 245
Massachusetts	0
Michigan	11, 249, 996
Minnesota	10, 436, 377
Mississippi	0
Missouri	0
Montana	1, 394, 442
Nebraska	0
Nevada	0
New Hampshire	0
New Jersey	3, 598, 403
New Mexico	1, 869, 071
New York	11, 249, 996
North Carolina	0
North Dakota	0
Ohio	0
Oklahoma	0
Oregon	1, 147, 221
Pennsylvania	2, 011, 397
Puerto Rico	----------
Rhode Island	0
South Carolina	0
South Dakota	618, 281
Tennessee	0
Texas	0
Utah	831, 398
Vermont	1, 691, 075
Virgin Islands	----------
Virginia	0
Washington	3, 284, 313
West Virginia	370, 885
Wisconsin	6, 463, 879
Wyoming	876, 209
Total	75, 000, 000

The PRESIDING OFFICER (Mr. Bartlett). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Colorado.

The amendment was agreed to.

Mr. HUGH SCOTT. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 5, line 21, strike out "two-thirds of".

Beginning on line 7, of page 7, strike out "; and in making such determinations the Secretary" and the remainder of the sentence, and insert in lieu thereof a period.

Mr. McCLELLAN. Mr. President, is the amendment printed?

Mr. HUGH SCOTT. The amendment is not printed.

Mr. President, I demand the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. HUGH SCOTT. Mr. President, my amendment will amend the McClellan amendment No. 1304. The amendment introduced by the Senator from Arkansas counts all children below the so-called Orshansky poverty level. That is very necessary. It also counts children from AFDC—aid to families with dependent children—families above the Orshansky level, but only two-thirds of such children. My amendment counts all of the AFDC children above the Orshansky level.

Mr. President, I am very pleased, on this amendment, to have the cosponsorship of the distinguished Senator from Maine (Mr. Hathaway). If two-thirds of the children from AFDC families above the Orshansky index are to be considered poor—and they most assuredly are or their families would not be welfare recipients—then the other third should also be considered. There is no such thing as being two-thirds poor.

I do not argue that my amendment will make AFDC the vital factor it should be in title I. The committee bill, S. 1539, does that. But my amendment, by counting all, not just two-thirds, of the AFDC children above Orshansky and without eroding it in the future, has the virtue of consistency and logic.

An AFDC child should no more be counted as two-thirds of a child than his parent's vote should be counted as two-thirds of a vote.

I urge my colleagues to weigh the implications of the McClellan amendment and then to compare it with the Scott amendment. I think my amendment speaks for itself.

The PRESIDING OFFICER. Who yields time?

Mr. HUGH SCOTT. Mr. President, does the Senator from Arkansas wish to be recognized?

Mr. McCLELLAN. Mr. President, I yield myself 5 minutes.

We have discussed this matter at some length earlier in the day, this provision about the AFDC children and that part of the formula.

I might say to my friend from Pennsylvania that all of these children who are over the poverty level as determined, who are counted here, may be counted twice, because they were counted under the poverty level and may be counted under AFDC also as your payments rise. In past years you count a lot of these children twice in your AFDC total to get your roll. They were counted below it and also above it.

This is to try to offset, to some extent, the double count of those children. I think it is fair. Another thing I would like to point out is that, as I have put in the Record, particularly in the State of New York, 17.5 percent of those AFDC families were found to be ineligible, of those that were on the rolls between April and December of 1973, and in the Senator's State of Pennsylvania 16.7 percent were found to be ineligible.

With the double count on a lot of them, and with the ineligibles, I think it is only fair that we make some reduction when we go to count and arrive at a formula to pay out money on the basis of the number of poverty-afflicted children.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. HUGH SCOTT. I am glad to yield the Senator from New York such time as he may require.

Mr. JAVITS. Mr. President, the deficiency in the argument which has just been made about this matter is twofold: First, there is just as big if not a bigger claim of inaccuracy in the Orshansky formula, because the claim is that over 5 million of the poor have not been counted. If you lay that side by side with 16 or even 20 percent of the AFDC children, you get a much lesser figure. There are estimated to be—if my memory serves me correctly—somewhere near 7 million or 8 million AFDC children in the country of all ages.

The other point is that the author of the amendment himself had to crank in the AFDC children. He had no other choice because the Orshansky formula count comes from the census every 10 years and does not show the regional differences in the cost of living. It is not a moving index, which we certainly would have a right to expect over a span of 10 years. This bill is only for 4 years. So we cannot have it both ways. If we want to crank in the AFDC children, because that is the fair thing to do, then crank in all the AFDC children.

As I understand the Scott-Hathaway amendment, it would eliminate the escalating factor. That is critically important especially if we want to equate it with the Orshansky formula. The Orshansky formula does not crawl up. It is shifted every 10 years. Whereas under the way in which the Senator from Arkansas has loaded the AFDC factor, it does crawl up, depending on the increases in the cost of living, reducing constantly the number of AFDC children, and therefore worsens the formula in terms of its rigidity over what it is now under his amendment.

So for all those reasons, I think this amendment is a very fair and proper one, following exactly the principle which had to be accepted. We could not do it any other way. But at least, if we go that way in terms of principle, then let us go the way the principle dictates, but do not suddenly abort it by making it two-thirds instead of 100 percent, which is what the Scott-Hathaway amendment is trying to do, to try to bring the formula back to some kind of relationship to principle.

This amendment should be adopted.

Mr. McCLELLAN. Mr. President, I am advised that this amendment also, in effect, freezes the Orshansky formula regarding the AFDC count, in that the Orshansky level does not move up any further. The only increase would come from the AFDC children that are added hereafter. This strikes out of the amendment this provision:

In making such determination, the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census for a nonfarm family of four, in such from as those criteria have been updated by increases in the Consumer Price Index.

It strikes all that out.

It seems to me that the Orshansky formula has been adopted and is in use throughout the Government now; it is therefore the proper and basic formula for us to recognize and legislate into this education bill, and update it to prevent double counting.

Again I point out that every State can increase—and some do—the AFDC payments. The richer States can increase it, where the Orshansky formula will be frozen. That means that each year they get more and more of this money—the bigger percentage.

Mr. HUGH SCOTT. If there are no further demands for time to speak, I will be glad to yield back time on this amendment and then we can go to the next amendment.

Mr. McCLELLAN. I am ready. I yield back the remainder of my time.

Mr. HUGH SCOTT. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on this amendment has now been yielded back.

The question is on agreeing to the amendment of the Senator from Pennsylvania (Mr. Hugh Scott) to the McClellan amendment.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Aranksas (Mr. Fulbright), the Senator from Alaska (Mr Gravel), the Senator from Alabama (Mr. Sparkman), the Senator from Hawaii (Mr. Inouye), the Senator from South Carolina (Mr. Hollings), the Senator from Utah (Mr. Moss), and the Senator from West Virginia (Mr. Randolph) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. Randolph) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Kentucky (Mr. Cook), the Senator from Florida (Mr. Gurney), and the Senator from Illinois (Mr. Percy) are necessarily absent.

I also announce that the Senator from Nebraska (Mr. Curtis), and the Senator from Arizona (Mr. Goldwater) are absent on official business.

On this vote, the Senator from Nebraska (Mr. Curtis) is paired with the Senator from Illinois (Mr. Percy).

If present and voting, the Senator from Illinois would vote "yea" and the Senator from Nebraska would vote "nay."

I further announce that, if present and voting, the Senator from Florida (Mr. Gurney) would vote "nay."

The result was announced—yeas 41, nays 47, as follows:

[No. 193 Leg.]

YEAS—41

Abourezk
Beall
Biden
Brooke
Buckley
Burdick
Byrd, Robert C.
Case
Clark
Cranston
Dole
Griffin
Hart
Hartke
Hathaway
Hughes
Humphrey
Jackson
Javits
Kennedy
Magnuson
Mathias
McIntyre
Metcalf
Metzenbaum
Mondale
Muskie
Packwood
Pastore
Pearson
Pell
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Taft
Tunney
Weicker
Williams

NAYS—47

Aiken
Allen
Baker
Bartlett
Bayh
Bellmon
Bennett
Bentsen
Bible
Brock
Byrd, Harry F., Jr.
Cannon
Chiles
Church
Cotton
Domenici
Dominick
Eagleton
Eastland
Ervin
Fannin
Fong
Hansen
Haskell
Hatfield
Helms
Hruska
Huddleston
Johnston
Long
Mansfield
McClellan
McClure
McGee
McGovern
Montoya
Nelson
Nunn
Proxmire
Roth
Scott, William L.
Stennis
Symington
Talmadge
Thurmond
Tower
Young

NOT VOTING—12

Cook
Curtis
Fulbright
Goldwater
Gravel
Gurney
Hollings
Inouye
Moss
Percy
Randolph
Sparkman

So Mr. Hugh Scott's amendment to Mr. McClellan's amendment was rejected.

Mr. McCLELLAN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. ERVIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I ask unanimous consent that Gary Aldridge, of my staff, be granted the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that from here on out for the remainder of this day time on any rollcall vote be limited to 10 minutes, with the warning bells to be sounded after the first 2½ minutes. It is my understanding that this is agreeable to the leadership on the other side of the aisle.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to object, and, of course, I shall not object, I just wanted to acquaint the Senator with the fact that I have a series of amendments to the McClellan amendment, so that we may have an idea as to the limitations of time. I understand also that the Senator from Massachusetts (Mr. Brooke) has an important amendment. I do not want this to be taken as an indication that we can get through here in the next few minutes. I do not know if we can or not. But I have no objection to the request.

The PRESIDING OFFICER. Is there objection?

Mr. WILLIAM L. SCOTT. Mr. President, reserving the right to object, I would ask the distinguished majority whip if this is to occur only on back-to-back votes.

Mr. ROBERT C. BYRD. No; it would pertain to any and all rollcall votes during the remainder of the afternoon.

Mr. WILLIAM L. SCOTT. Mr. President, any time I am on the floor I am going to object to 10-minute rollcall votes because they do not provide sufficient time to get to the floor.

The PRESIDING OFFICER. Objection is heard.

Mr. JAVITS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. ROBERT C. BYRD. Mr. President, the clerk cannot be heard. May we have order in the Senate? I think progress will be made and the business will be expedited if order is maintained.

The PRESIDING OFFICER. The Senate will be in order.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record.

The amendment is as follows:

On page 20, line 8, insert the following:

"(H) To the end of affording the responsible State, local, and Federal officers adequate notice of available Federal financial assistance under this Act, appropriations for carrying out this Act for any fiscal year shall be included in the appropriation Act for the fiscal year preceding such fiscal year. In order to effect a transition to this method of timing appropriation action, the preceding sentence shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of appropriations for each of two consecutive years."

Mr. JAVITS. Mr. President, I yield myself 5 minutes.

Mr. KENNEDY. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. JAVITS. I yield.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Mark Schneider of my staff be permitted on the floor during the consideration of this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. HANSEN. Mr. President, I ask unanimous consent that Sunny Nixon may have the privilege of the floor during the consideration of this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, this amendment provides for forward funding in respect of Federal aid to education. I include the amendment here because obviously it should be included wherever we believe it is necessary. Forward funding is required in this way. This would fund, at least seat the fund, because after all we cannot control the appropriations process absolutely, for school districts a year before the school year in which they are going to use the funds.

The President, in his January 24 message, Proposals for Improvement in the Education System, laid particular stress on the importance of forward funding in educational programs to facilitate planning and effective use of funds by State and local authorities.

The schools should know, as the President point out, how much Federal money they would have before the school year begins, not several months after the school year has begun.

He said further:

> The Federal funding process has created a situation in which school districts develop future budgets with a minimum degree of competence or accuracy.

The Library of Congress advises me that education appropriations have been late for every year since 1963. The National Education Association this past Friday gave me up-to-date figures on the percentages of Federal funds of the education funds used in the States. The national average is 7.5 percent in Mississippi to a low of 3 percent for New Hampshire. My State is in the lower range of 4.9 percent, ranking 43d among the States.

As we look over this list of estimated percentages of revenue there are 29 States that are above the national average in percentage of Federal aid in their total school expenditure, and 21 States under the line, as it were, below that average.

Mr. President, it is critically important from the point of view of knowing what they will have to do in the school year ahead that there should be this mandatory advanced funding.

I have called up this amendment which replaces the present discretionary or optional advance funding idea, and the amendment makes it mandatory and provides that appropriations to carry out the purposes of this act for any fiscal year shall be included in the Appropriation Act for the fiscal year preceding such school year.

Mr. PASTORE. Mr. President, will the Senator yield for a question?

Mr. JAVITS. I yield.

Mr. PASTORE. Mr. President, may we have order? This is important legislation.

The PRESIDING OFFICER. The Senate will be in order. The Senator from Rhode Island may proceed.

Mr. PASTORE. Mr. President, members who have dealt with this problem have spent countless hours in figuring out what formula for what State and under what conditions. The rest of us, of course, realize this is a very complex and complicated exercise and we are at a loss to understand all these amendments that are being advanced.

We are being told one time that a State will get 6.7 percent under one formula or 7.3 percent under another formula.

I woud like to ask the Senator: What precisely does his amendment do for the State of Rhode Island?

Mr. JAVITS. It does for the State of Rhode Island what it will do to the other 49 States. Hopefully it will mean that the State of Rhode Island, in advance of its school year in which funds are going to be used, will have a complete grasp and knowledge of what Federal aid it will receive.

Mr. PASTORE. Then it has nothing to do with the formula?

Mr. JAVITS. It has nothing to do with the formula.

Mr. PASTORE. This is a guarantee that the State will know in advance what it is going to get?

Mr. JAVITS. Well in advance, which has not been the practice until now.

Mr. PASTORE. I thank the Senator.

Mr. JAVITS. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. McCLELLAN. Mr. President, for clarification, under the Senator's amendment what would be the action of the Committee on Appropriations this year? Would we appropriate for 2 years or 1?

Mr. JAVITS. They could appropriate for the I year but that would not meet the requirements of this amendment.

We would really be appropriating for 2 years, if I may say so, the first time. In other words, to get this concept off the ground, Congress would appropriate for 2 years. That does not mean we could not have supplemental appropriation bills, but to get it started, we would appropriate for 2 years. Thereafter it would be for 1 year.

Mr. McCLELLAN. So the only issue in this amendment is whether this year we appropriate for 2 years or for 1 year if this bill passes?

Mr. JAVITS. That is exactly it.

Mr. McCLELLAN. May I ask the Senator one other question?

Mr. JAVITS. Yes.

Mr. McCLELLAN. It has been suggested by both Senators from Rhode Island that a great deal of study has gone into this bill, and it has been a matter of concern for all of us for some years. Would the Senator advise why the committee did not consider this proposal, why it was not submitted to the committee, but was brought to the floor? The committee has been considering this matter for several months. I am just wondering.

Mr. JAVITS. I did not quite hear the question.

Mr. McCLELLAN. The committee has had several months to study the bill and report it to the Senate. I am sure the committee gave the bill a great deal of consideration. Why was this proposal not submitted by the Senator to the committee? I believe he serves on the committee.

Mr. JAVITS. I do.

Mr. McCLELLAN. Why was it not submitted to the committee and worked out there and placed in the bill? Why do we wait until now? I am not being critical except to say that to bring these matters up at the last minute means we do not have time to weigh them. It is not that I have any objection to this amendment, but we do not have time to weigh such proposals and consider them and take into consideration all the facts that might be considered. I am reluctant to vote for it primarily for that reason.

Mr. JAVITS. I may say to the Senator—and again I do not want to sound critical—he should remember that the McCLELLAN amendment was not printed until this morning, and before it was not even paginated——

Mr. McCLELLAN. This amendment has nothing to do with the McClellan amendment.

Mr. JAVITS. I understand, but the Senator asks me why it comes up at the last minute. It is not quite the last minute. We have a week to debate the bill. What I am doing is not something that is never done on major matters.

Mr. McCLELLAN. More than a week ago we mailed a copy of the amendment I proposed to each Senator. I simply withheld it to give an opportunity to have cosponsors. That was the only reason, but I did not withhold the information from the Senator or from the Senate as soon as I determined to offer it.

Mr. JAVITS. I am not niggling about this. The fact is that the amendment could have been changed until it was actually submitted.

Be that as it may, if the chairman of the Appropriations Committee wants an opportunity to look at the amendment, I will not press it. I will withdraw it and put it to another part of the bill.

Mr. McCLELLAN. It would not be an appropriation issue, but it would require authorizing legislation. It would take legislation to do what the Senator wishes to do, in my judgment. I am not necessarily opposing it, but I point out that when unprinted amendments like this come up, we do not have the opportunity to weigh them and give them due and proper consideration. Other members of the Appropriations Committee might want to express themselves.

Mr. JAVITS. Mr. President, I have no desire to press this amendment if, as I say, the chairman of the Appropriations Committee would wish to look at it.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. MAGNUSON. I think the Senator is trying to do something that school officials for years have been telling the Appropriations Committee to do, because they cannot plan from July 1 to July 1; but how does the Senator get around the fact that one Congress cannot bind another?

Mr. JAVITS. We have the authority to appropriate for 2 years. It is true that we cannot bind another Congress. Another Congress may undo what we have done, but we have passed laws that last for 50 years, and they remain in effect unless another Congress decides to repeal them.

Mr. MAGNUSON. But we cannot bind them.

Mr. JAVITS. That is right, but a school district has the right to have 90 percent confidence in the expectation that when such money is appropriated, future Congresses will not undo it.

Mr. MAGNUSON. I have seen that happen.

Mr. JAVITS. That is right.

Mr. MAGNUSON. The Senator would have Congress appropriate under this plan, and it would be for 2 years?

Mr. JAVITS. That is right.

Mr. MAGNUSON. The budget for the first year would come up when it was half over. Is that correct? Or would the Senator appropriate the first 2 years next year? Would he appropriate the whole thing?

Mr. JAVITS. The first time. We would have to appropriate it only once. Just the first time would it be a 2-year appropriation.

Mr. MAGNUSON. It would not be binding, because in the following session Congress could undo it.

Mr. JAVITS. It could undo it, that is right.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. PASTORE. I hope the Senator would temporarily withdraw his amendment, because it has tremendous merit. From experience, we all know that the chief lament of the school authorities has been that they prepare their budgets, expecting a certain amount of money from the Congress, and the money may be more or, in all probability, much less. For that reason, it throws their whole budget out of balance, because they do not know exactly how much money they are going to have to deal with.

As I understand the Senator's amendment, he would do it the first time for 2 years, so from then on it will be an anticipatory appropriation rather than a protracted bill.

Mr. JAVITS. That is right.

Mr. PASTORE. I hope the Senator would withdraw the amendment so it could be studied.

Mr. JAVITS. I will.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. MAGNUSON. Does the Senator start the first year at the beginning of a session?

Mr. JAVITS. For practical purposes, that is what we would be doing, because we would be appropriating for expenditures in each of 2 fiscal years.

Mr. MAGNUSON. The school people are now in the process of making up their budgets for next September.

Mr. JAVITS. Exactly.

Mr. MAGNUSON. And they do not know what we are going to do.

Mr. JAVITS. Exactly. That is true every year.

Mr. MAGNUSON. This would cure it.

Mr. JAVITS. Mr. President, in deference to my colleagues on the Appropriations Committee, as the bill will be open to further amendment, I withdraw the amendment and suggest the absence of a quorum.

The PRESIDING OFFICER. The amendment is withdrawn.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 3, strike out "3 per centum" and insert in lieu thereof "1 per centum".

On page 2, lines 9 and 10, strike out "the Commonwealth of Puerto Rico,".

On page 2, line 15, strike out "the Commonwealth of Puerto Rico,".

On page 2, line 22, strike out "the Commonwealth of Puerto Rico,".

On page 5, between lines 4 and 5 insert the following:

"(C) The grant which Puerto Rico shall be eligible to receive under this part for a fiscal year shall be the amount arrived at by multiplying the number of children counted under subsection (c) by 40 per centum of (i) the average per pupil expenditure in Puerto Rico or (ii) in the case were such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States.".

On page 5, line 6, strike out "the Commonwealth of Puerto Rico,".

On page 10, line 7, strike out "A State agency" and insert in lieu thereof the following: "an agency (other than the agency for Puerto Rico)".

On page 10, line 73, after the period insert the following: "The grant which Puerto Rico shall be eligible to receive under this section shall be the amount arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average is more than 120 per centum of the average per pupil expenditure in the United States, the average per pupil expenditure in the United States.".

On page 15, line 2, after the period insert the following: "The total grant which shall be made available for use in Puerto Rico shall be arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States.".

On page 16, line 7, after the period insert the following: "The grant which Puerto Rico shall be eligible to receive under this section shall be the amount arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States.".

Mr. JAVITS. Mr. President, the purpose of the amendment is to deal with a situation in Puerto Rico. It will be noted that the McClellan amendment seeks to conform the Senate formula to the formula adopted by the other body. One of the elements in the formula in the other body is omitted from the McClellan formulation. I shall repeat that, because we want to be perfectly straight about it. The McClellan formula proposes to adopt what was adopted in the House of Representatives. However, it makes the change from the formula adopted in the House in respect to Puerto Rico.

We have offered a Puerto Rico amendment anyhow, even to our own bill. Certainly it is essential to do justice to the particular place concerning which the amendment is being offered.

Under the present law, Puerto Rico shares a 3-percent set-aside of title I funds with Guam, American Samoa, the Virgin Islands, and the Trust Territories of the Pacific. This is identical with the provisions in the McClellan amendment.

My amendment would determine the entitlement of Puerto Rico by multiplying the number of eligible children by 40 percent average pupil expenditures in Puerto Rico or in such case where such average pupil expenditure is more than 120 percent of the average 120-percent expenditure, the theory then being that Puerto Rico would be treated, as I said, in order to effectuate fairness to the other trust territories and possessions. I have reduced the 3-percent set-aside to 1 percent for Guam, American Samoa, the Virginia Islands, and the Trust Territories of the Pacific, since Puerto Rico will be withdrawn by that set-aside which is reduced by two-thirds.

My reason for this is that it is very helpful to the United States, in toto, to help to alleviate the pressing educational needs and school problems of Puerto Rico because of the voluntary free admittance of Puerto Ricans to the United States. This soon becomes a school problem in New York, New Jersey, Illinois, Massachusetts, Florida, and other States, because Puerto Rican families come from the island to the United States as a matter of right. In essence, we are all one Nation, and these, too, are our children. Puerto Ricans serve in our Armed Forces as a right. The effect upon the aggregate McClellan amendment would not be great, because the population of Puerto Rico is about 3 million.

Mr. President, I have been asked whether I feel constrained to go through with this amendment tonight. If it is going to be contested, I would just as soon deal with it tomorrow, but if the Senator from Arkansas wants to accept the amendment, I shall be glad to have him take it.

Mr. ROBERT C. BYRD. Mr. President, would it be agreeable to Senators on both sides of the question and on both sides of the aisle that a vote on the McClellan amendment be taken at 12 o'clock noon tomorrow?

Mr. JAVITS. I have just one caveat to that, and I ask the Senator from West Virginia and the Senator from Arkansas to listen to it. We contemplate offering an amendment—at least, it has been discussed with the Senator from Arkansas —which would take care of part C, which deals with the concentration of urban and rural children. If time were afforded in the morning for that amendment—and I will find out from the Senator if we could have that amendment debated in the morning—then it could be voted on before the McClellan amendment at 12 o'clock.

Similarly with this amendment, if we could have 5 minutes to a side on this one, and if we had a yea-and-nay vote before the McClellan amendment——

Mr. McCLELLAN. Whose amendment is it?

Mr. JAVITS. It is expected that it would be offered by the Senator from Massachusetts (Mr. BROOKE).

Mr. McCLELLAN. I wonder if we could have a copy of the amendment tonight.

Mr. JAVITS. Of course. It is simply a provision in the bill from the Senate committee which deals with part C and provides for separate funding, just as Senator DOMINICK's did with part B.

Mr. McCLELLAN. Will it be an amendment to provide for separate funding?

Mr. JAVITS. Exactly; just as Senator DOMINICK'S.

Mr. McCLELLAN. Is that the substance of the amendment?

Mr. JAVITS. That is it exactly.

Mr. McCLELLAN. I suggest that we dispose of the pending amendment tonight. If I could have an opportunity to have a colloquy with the Senator briefly, maybe we could dispose of this amendment this evening. If this is the only amendment to be considered tonight, I suggest that the Senator offer it tonight and let it be the pending business. Then we could start on it at 11 o'clock tomorrow or at whatever time the Senate decides upon.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. ROBERT C. BYRD. The order has already been entered for the Senate to come in tomorrow at 9 o'clock, and after routine morning business, which will not consume more than 15 minutes, the Senate will resume the consideration of the unfinished business, the education bill, at which time an amendment by Mr. GURNEY will be called up. Under the agreement, all amendments tomorrow were to be so-called busing amendments, but I am quite sure it would not interfere too much with the busing amendments tomorrow if we could agree at this time that, say, at 11:30 a.m. tomorrow we would go back to the McClennan amendment and the amendment to the McClellan amendment, take 30 minutes to be equally divided, and then vote back-to-back on the two.

Mr. McCLELLAN. Immediately after the consideration of that amendment we would vote on the bill?

Mr. JAVITS. Mr. President, I would suggest that it be done at 11, for this reason: The Senator from Maine (Mr. Hathaway) feels he may wish to say something further on the McClellan amendment. I would suggest we come in at 11, take up Senator Brooke's amendment which will be offered at that time that deals with that, at 11:30 for 30 minutes have kind of a wrap-up on the McClellan amendment, and then vote on Brooke, followed by a vote on McClellan at noon.

Mr. ROBERT C. BYRD. The problem there is that we had agreed that there would be a 6-hour limitation on the Gurney amendment with a final vote on the amendment at 5 p.m. There will be amendments to the Gurney amendment, and whether or not we can take out an hour for debate on the Brooke and McClellan amendments, and 30 minutes for the votes, is something else. That will cut pretty deeply into our time tomorrow.

Mr. JAVITS. Mr. President, I am not going to cavil about that, but I say to the Senator that we may discuss the amendment before 11:30, if we may have time on the amendment. In other words, I would not want the Senator to think there is anything to prevent our discussing the McClellan amendment.

Mr. ROBERT C. BYRD. Except the Pastore rule.

Mr. JAVITS. I do not think the Pastore rule applies to anything but the issue before the Senate.

Mr. ROBERT C. BYRD. The questions before the Senate would be the Gurney amendment.

Mr. GRIFFIN. Under the unanimous-consent agreement.

Mr. JAVITS. That does not mean you can restrict debate on the bill generally.

Mr. ROBERT C. BYRD. I disagree with the Senator and would be very glad to have the Senator put that question to the Chair.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Is an individual Member's debate tomorrow morning, notwithstanding this agreement we are about to enter into, restricted to debating only the Gurney amendment?

The PRESIDING OFFICER (Mr. Bartlett). At such time as the Gurney amendment is being debated, the debate would be on the Gurney amendment.

Mr. JAVITS. Mr. President, any Member can say anything he wants to on anything under the sun, can he not, when he has the floor?

Mr. ROBERT C. BYRD. Not if there is an objection, during the first 3 hours.

The PRESIDING OFFICER. There is germaneness of debate for the first 3 hours.

Mr. JAVITS. That is my point. Is the germaneness related to the measure before the Senate, to wit, the education bill, or to the Gurney amendment.

The PRESIDING OFFICER. For the first 3 hours, germaneness would require that the debate be on the Gurney amendment.

Mr. JAVITS. On the Gurney amendment? Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. JAVITS. All right. Then I would ask Senator Hathaway, in view of the fact that we will undoubtedly finish with this matter in a few minutes, whether he will address the Senate tonight, if that would be just as convenient to him.

Mr. HATHAWAY. Yes. I thank the Senator for his deference to my desires. It is just as convenient, and probably better for me, to address the Senate tonight on the matter I wanted to take up.

Mr. JAVITS. One other point, Mr. President, on the issue of germaneness. When we get on the amendment which Senator Brooke will offer, is there then any germaneness rule which prevents a Member from discussing the McClellan amendment as well as the Brooke amendment?

The PRESIDING OFFICER. It would depend upon whether or not the 3 hours had expired.

Mr. JAVITS. Then, Mr. President, I will ask, as a condition of my concurrence with the unanimous-consent request which is made to proceed to the Brooke amendment at 11, that it also include the fact that the debate may then also be germane to the McClellan amendment or to the pending bill.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, as the able Senator knows, I do not care what we talk about tomorrow.

Mr. JAVITS. I understand that.

Mr. ROBERT C. BYRD. All I am trying to do is get an agreement which will satisfy both sides and allow us to keep faith with the agreement we have already entered into.

Mr. JAVITS. I thoroughly agree, and I have no desire to discommode us, but I think when we get on the Brooke amendment we ought to also be able to say whatever we please about the McClellan amendment.

The PRESIDING OFFICER. Is the Brooke amendment an amendment to the McClellan amendment?

Mr. JAVITS. That is right.

The PRESIDING OFFICER. In that case, debate may be directed at either the Brooke amendment or the McClellan amendment.

Mr. McCLELLAN. Mr. President, I did not understand. What was the ruling of the Chair?

The PRESIDING OFFICER. With the Brooke amendment being a proposed amendment to the McClellan amendment, the debate can be on either the Brooke amendment or the McClellan amendment.

Mr. JAVITS. It will only be a half hour, anyway. It is not a big deal.

Mr. McCLELLAN. A half-hour on the Brooke amendment?

Mr. JAVITS. That is right.

Mr. McCLELLAN. Would the Senator from Massachusetts advise what the amendment is, or will he have it so I could have a copy overnight?

Mr. BROOKE. The Senator will have it. I will certainly furnish one to the distinguished Senator from Arkansas tonight. But my question is, at what time will I be permitted to lay down the amendment?

Mr. ROBERT C. BYRD. That has not been agreed on yet.

Mr. BROOKE. Is that a part of the unanimous-consent agreement?

Mr. GRIFFIN. 11:30.

Mr. BROOKE. That is when we are going to debate it. As I understand, we will begin the debate on it at 11:30, and vote on it thereafter.

Mr. GRIFFIN. The request is pending, as I understand.

Mr. BROOKE. That is the unanimous-consent request, as I understand it. Is it further stated by the majority whip that we will lay down that amendment tonight? Is that a part of the unanimous-consent request?

Mr. ROBERT C. BYRD. Actually, I have not made any unanimous-consent request as yet.

The PRESIDING OFFICER. There was a unanimous-consent request by the Senator from New York.

Mr. ROBERT C. BYRD. What is that?

Mr. JAVITS. My request is that during the period from 11:30 to 12 o'clock provided for the Brooke amendment, it shall also be available, in the same time slot, to discuss the McClellan amendment.

Mr. WILLIAM L. SCOTT. Mr. President, reserving the right to object, I have a speaking engagement across the river at 11:30. If we could move this 15 minutes, to make it 12:15, I would have time to get back here.

The PRESIDING OFFICER. The Chair might state to the Senator from New York that since the Brooke amendment is an amendment to the McClellan amendment, no unanimous-consent agreement is necessary.

Mr. JAVITS. I thank my colleague. That is what I hoped.

Mr. McCLELLAN. Mr. President, will the Chair restate what the unanimous-consent agreement is? I did not understand it.

The PRESIDING OFFICER. When the Brooke amendment to the McClellan amendment is pending tomorrow morning, there can be debate on either the Brooke amendment or the McClellan amendment, as a Senator desires.

Mr. GRIFFIN. Mr. President, is it not the case that there has been no unanimous-consent agreement entered into with respect to the Brooke amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, may I see, now, if I have understood what the wishes of my colleagues are? I will propound it in the following manner. I ask unanimous consent——

The PRESIDING OFFICER. The time

of the Senator from New York on his amendment has expired.

Mr. McCLELLAN. I have not used any of my time, have I?

The PRESIDING OFFICER. The Senator has 15 minutes.

Mr. McCLELLAN. I yield the Senator from West Virginia any part of my time the Senator may require.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at 11:30 a.m. tomorrow, the distinguished Senator from Massachusetts (Mr. Brooke) be recognized to call up his amendment to the McClellan amendment, and that debate ensue thereon until the hour of 12:15 p.m., at which time a vote occur on the amendment by Mr. Brooke, to be immediately followed by a vote on the amendment by Mr. McClellan as amended, if amended.

Mr. McCLELLAN. Mr. President, reserving the right to object, I think that should include that the debate during that 45-minute period may be either on my amendment or on the Brooke amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BIDEN. Was there unanimous consent that the Buckley amendment be brought up upon disposition of the McClellan amendment, and does this mean that the Buckley amendment will not be discussed until sometime tomorrow afternoon?

Mr. ROBERT C. BYRD. I think the understanding was, at the time the agreement was entered into, that the McClellan amendment would be disposed of today, and then the Senate would then proceed to take up the two Buckley amendments. I think, if this order is agreed to, we would take up the two Buckley amendments this afternoon.

Mr. ROTH. Mr. President, reserving the right to object, I should like to inquire of the majority whip, I wonder what the intention is, if there is agreement on this unanimous-consent request——

Mr. ROBERT C. BYRD. The intention would be to proceed with the two amendments of Senator Buckley which were ordered to be considered today. In further explanation, under the agreement, all of tomorrow was to be taken up with debate on the so-called busing amendment by Senator Gurney, and amendments thereto, and all of Thursday up until 1 p.m. was to be taken up by consideration of busing amendments. Following disposition of the amendments on Thursday, the Senate was to proceed to the consideration of the Curtis-McClure-Buckley substitute, which would consume all of Thursday.

So what I am saying is that tomorrow and Thursday have been pretty much blocked out for the busing or the so-called civil rights amendments and the substitute by Senator Curtis, et al.

Mr. ROTH. Does the Senator anticipate any votes tonight?

Mr. ROBERT C. BYRD. I would assume there will be votes on the Buckley amendments yet today.

Mr. ROTH. No votes were held until 4 o'clock this afternoon. I asked yesterday that my rights be protected, as I have a speaking engagement tonight. So if there is a further vote tonight, I intend to object.

Mr. ROBERT C. BYRD. The Senator has a right to object. I would hope that he would not hold the entire Senate hostage with regard to progress just on the basis that he has a speaking engagement tonight.

Mr. ROTH. I would point out to the majority whip that no votes were held until 4 o'clock today and that this matter was taken up on yesterday in order to protect my rights.

Mr. ROBERT C. BYRD. My understanding is that this is election day in certain parts of the country. The same request may be made when the Senator from Delaware is involved in an election. The leadership on both sides would try to be accommodating to him in such event.

Mr. GRIFFIN. It is altogether possible, is it not, that if we could discuss the Buckley amendments now, they would not take too long and we could handle, perhaps, at least one vote tonight.

Mr. ROBERT C. BYRD. Exactly. The Senator from New York (Mr. Buckley) is usually very brief in the explanation of his amendments. It is possible that we can dispose of them.

The PRESIDING OFFICER (Mr. Tunney). Is there objection to the unanimous-consent request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. BUCKLEY. Mr. President——

Mr. ROBERT C. BYRD. I thank all Senators.

Mr. JAVITS. Mr. President, may we know——

Mr. ROBERT C. BYRD. Mr. President, will the Chair please maintain order in the Senate and ask Senators to take our seats?

The PRESIDING OFFICER. The Senate will please be in order. The Chair was recognizing the junior Senator from New York (Mr. Buckley).

Mr. BUCKLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. JAVITS. I am afraid my time is up. Could we do it on the bill or accommodate the Senator under unanimous consent without it being charged to either side for the quorum?

Mr. BUCKLEY. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent again that time on any rollcall vote today be limited to 10 minutes, with the warning bells to be sounded after the first 2½ minutes. This will help the Senator from Delaware (Mr. Roth).

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, on the same conditions as were previously stated by the able Senator from New York.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, a parliamentary inquiry.

May I ascertain whether I have any time on this amendment? I yielded here for the purpose of trying to get a unanimous-consent agreement. I yielded my time or I yielded time for that.

The PRESIDING OFFICER. The Senator from Arkansas has 4 minutes remaining.

Mr. McCLELLAN. Four minutes. I thank the Chair. I yield 1 minute to the distinguished Senator from Maryland.

Mr. MATHIAS. Mr. President, I ask unanimous consent that Colby King may have permission to be on the floor during the process of this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, will the Senator from New York yield to me?

Mr. JAVITS. I yield.

The PRESIDING OFFICER. The Senator from New York (Mr. Javits) has no time——

Mr. McCLELLAN. Mr. President, I ask unanimous consent to add the name of Senator Cook of Kentucky as a cosponsor of the McClellan amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Now I would ask the Senator from New York (Mr. Javits), would he tell me briefly what his amendment does? Does it take any money from the States and give it to Puerto Rico?

Mr. JAVITS. If Puerto Rico, under this amendment, would get more than 2 percent of the appropriation—I am told they may get as much as 3 or 4 percent, but if it takes more than 2 percent, then it takes a small sum away, because if we treat Puerto Rico as a State, it may do better than 2 percent which we deduct out of the 3 percent.

Mr. McCLELLAN. Why was this not done in committee? I do not know how to determine this on such short notice, I really do not.

Mr. JAVITS. If the Senator wishes, this matter can be held overnight or, if necessary, we can have a rollcall vote on it. We will have a 10-minute rollcall vote on it immediately before the Buckley amendments.

Mr. McCLELLAN. Give us 5 or 10 minutes on the——

Mr. ROBERT C. BYRD. Mr. President, if we are not careful, we are going to get in one h-e-c-k of a fix tomorrow on the Gurney amendment. The Senator was here when we entered into this agreement. I hope we will not abuse that agreement——

Mr. JAVITS. If the Senator needs a few minutes to consider it, I would ask unanimous consent that I may yield for 10 minutes to the junior Senator from New York (Mr. BUCKLEY) to discuss whatever amendments he brings up, with leave to present this amendment and then to return to the amendment which I have pending.

The PRESIDING OFFICER. Is the Senator for yielding time from the bill?

Mr. JAVITS. I cannot yield time. He has got to do it on his own time. I ask unanimous consent, Mr. President, that I may lay aside the amendment which I have pending for 10 minutes and then return to it.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New York (Mr. JAVITS)? The Chair hears none, and it is so ordered.

Mr. GRIFFIN. Mr. President, reserving the right to object, I did not understand that the Senator from New York had an amendment pending.

Mr. JAVITS. I do.

Mr. GRIFFIN. Is there a time limitation on it?

Mr. JAVITS. Yes; there is a time limit on it of 30 minutes. My time has expired but Senator McCLELLAN's time has not. I could get time from the bill, of course.

Mr. McCLELLAN. I have only 2 more minutes remaining because I yielded my time trying to get the unanimous-consent agreement.

Mr. PELL. Mr. President, I am delighted to yield 10 minutes if it will help us move along on the pending bill.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New York? The Chair hears none, and it is so ordered.

The junior Senator from New York (Mr. BUCKLEY) is now recognized.

AMENDMENT NO. 1289

Mr. BUCKLEY. Mr. President, I call up my amendment No. 1289 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 330, between lines 17 and 18, insert the following new section:

"PROTECTION OF THE RIGHTS AND PRIVACY OF PARENTS AND STUDENTS

"SEC. 437. (a) RIGHT OF ACCESS AND OF A HEARING.—(1) No funds shall be made available under any applicable program to any State or local educational agency, any institution of higher education, any community college, any school, preschool, or any other educational institution which has a policy of denying, or which effectively prevents the parents of students under eighteen years of age attending any school of such agency, or attending such institution of higher education, community college, school, preschool, or other educational institution, the right to inspect and review any and all official records, files, and data directly related to their children, including all material that is incorporated into each student's cumulative record folder, and intended for school use or to be available to parties outside the school or school system, and specifically including, but not necessarily limited to, identifying data, academic work completed, level of achievement (grades, standardized achievement test scores), attendance data, scores on standardized intelligence, aptitude, and psychological tests, interest inventory results, health data, family background information, teacher or counselor ratings and observations, and verified reports of serious or recurrent behavior patterns. Where such records or data include information on more than one student, the parents of any student shall be entitled to receive, or be informed of, that part of such record or data as pertains to their child. Each recipient shall establish appropriate procedures for the granting of a request by parents for access to their child's school records within a reasonable period of time, but in no case more than forty-five days after the request has been made.

"(2) Parents shall have an opportunity for a hearing to challenge the content of their child's school records, to insure that the records are not inaccurate, misleading, or otherwise in violation of the privacy or other rights of students, and to provide an opportunity for the correction or deletion of any such inaccurate, misleading, or otherwise inappropriate data contained therein.

"(b) PARENTAL CONSENT.—(1) No student shall, as a part of an applicable program, be required to undergo medical, psychological, or psychiatric examination, testing, or treatment, or immunization (except to the extent necessary to protect the public from epidemics of contagious diseases), or to reveal information about his or her personal or family life without the prior, informed, written consent of the student's parents.

"(2) No student shall, as a part of any applicable program, be required, without the prior, informed, written consent of the student's parents, to participate in any project program, or course, the primary purpose or principal effect of which is to affect or alter the personal behavior or personal values of a student, or to explore and develop teaching techniques or courses primarily intended to affect such behavior and values.

"(3) Parents shall be informed, reasonably in advance and in writing, of the intended participation of their child in any research or experimentation project which is a part of an applicable program. No child shall participate in such a project if the parents of such child object to such participation.

"(4) As used in this subsection the term 'research or experimentation project' means any project or program which is a part of an applicable program, and which is authorized by an administrative officer of an education agency, a State or local education agency, or any education institution, including preschools, for the purpose of research or experimentation, except that research or experimentation projects shall not include projects in the field of reading or bilingual education, as determined by the Commissioner.

"(c) CONDITIONS FOR THE RELEASE OF PERSONAL DATA.—(1) No funds shall be made available under any applicable program to any State or local education agency, any institution of higher education, any community college, any school, preschool, or any other educational institution which has a policy of permitting the release of records or files (or personal information contained therein) of students without the written consent of their parents to any individual, agency, or organization, other than the following—

"(A) other school officials, including teachers within the educational institution or local educational agency who have legitimate educational interests;

"(B) to officials of other schools or school systems in which the student intends to enroll, upon condition that the student's parents be notified of the transfer, receive a copy of the record if desired, and have an opportunity for a hearing to challenge the content of the record.

"(2) No funds shall be made available under any applicable program to any State or local educational agency, any institution of higher education, any community college, any school, preschool, or any other educational institution which has a policy or practice of furnishing, in any form, any information contained in personal school records, to any persons other than those listed in subsection (c)(1) unless—

"(A) there is written consent from the student's parents specifying records to be released, the reasons for such release, and to whom, and with a copy of the records to be released to the student's parents and the student if desired by the parents, or

"(B) such information is furnished in compliance with judicial order, or pursuant to any lawfully issued subpena, upon condition that parents and the students are notified of all such orders or subpenas in advance of the compliance therewith by the education institution or agency.

"(3) In any case in which the Secretary or an administrative head of an education agency is authorized under any applicable program to request or require any State or local educational agency, any institution of higher education, any community college, any school, preschool, or any other educational institution to submit to a third party (or to the Secretary or an administrative head of an education agency, as defined in section 409 of this Act) any data from personal statistics or records of students, such data shall not include the names of students or their parents (in code or otherwise) without the written consent of the student's parents, except—

"(A) in connection with a student's application for financial aid;

"(B) in compliance with any court order, or pursuant to any lawfully issued subpena, if the parents and students are notified of any such order in advance of the compliance therewith by the State or local educational agency, the institution of higher education, the community college, the school, preschool, or other educational institution.

"(4)(A) With respect to subsections (c)(1) and (c)(2) and (c)(3), all persons, agencies, or organizations desiring access to the records of a student shall be required to sign a written form which shall be kept permanently with the file of the student, but only for inspection by the parents or student, indicating specifically the legitimate educational or other interest that each person, agency, or organization has in seeking this information. Such form shall be available to parents and to the school official responsible for record maintenance as a means of auditing the operation of the system.

"(4)(B) With respect to this subsection, personal information shall only be transferred to a third party on the condition that such party will not permit any other party to have access to such information without the written consent of the parents of the student.

"(d) PROTECTION OF PERSONAL DATA.—The Secretary shall adopt appropriate regulations to protect the rights of privacy of students and their families in connection with any surveys or data-gathering activities conducted, assisted, or authorized by the Secretary or an administrative head of an education agency (as defined in section 409 of this Act). Regulations established under this subsection shall include provisions controlling the use, dissemination, and protection of such data. No survey or data-gathering activities shall be conducted by the Secretary, or an administrative head of an education agency have responsibilities under an applicable program unless such activities are authorized by the Act establishing such a program.

"(e) For the purposes of this section, whenever a student has attained eighteen years of age, the permission or consent required of and the rights accorded to the parents of the student shall thereafter only be required of and accorded to the student.

"(f) No funds shall be made available under any applicable program unless the recipient of such funds informs the parents of students, or the students, if they are eighteen years of age or older, of the rights accorded them by this section.

"(g) The Secretary, or an administrative head of an education agency, shall take appropriate actions to enforce provisions of this section and to deal with violations of this section, according to the provisions of this Act.

"(h) The Secretary shall establish or designate an office and review board within the Department of Health, Education, and Welfare the purpose of investigating, processing, reviewing, and adjudicating violations of the provisions of this section and complaints which may be filed concerning alleged violations of this section, according to the procedures contained in subsections (c) and (d) of section 421 of this Act.

"(i) With respect to any funds obligated prior to the effective date of this section to any State or local educational agency, any institution of higher education, any community college, any school, preschool, or any other educational institution, continued furnishing of such funds shall cease January 1, 1975, if the recipient has failed to meet the conditions for funding established by this section.

"(j) The provisions of this section shall become effective ninety days after the date of enactment of this Act.

"(k) This section may be cited as the 'Family Educational Rights and Privacy Act of 1974'."

On page 122, in the table of contents, after the item "Sec. 512" insert the following:

"Sec. 513. Protection of the rights and privacy of parents and students.".

Mr. BUCKLEY. Mr. President, I send to the desk two perfecting amendments. Through some oversight the Printing Office failed to include two provisions in the amendment.

The PRESIDING OFFICER. Does the Senator from New York ask unanimous consent that his amendment be so modified?

Mr. BUCKLEY. Mr. President, yes, I so request.

The PRESIDING OFFICER. Without objection, it is so ordered, and the amendment is so modified.

The text of the perfecting amendments is as follows:

On page 1, between lines 2 and 3, insert the following:

PROTECTION OF THE RIGHTS AND PRIVACY OF PARENTS AND STUDENTS

Sec. 513. Part C of the General Education Provisions Act is amended by adding at the end thereof the following new section:

On page 4, line 23, after the word "other" insert the word "local".

Mr. BUCKLEY. Mr. President, as more stories come out in the media about the abuses of personal data by schools and Government agencies, the public and Congress have become increasingly aware of the problems such abuses pose. In addition, the revelations coming out of Watergate investigations have underscored the dangers of Government data gathering and the abuse of personal files, and have generated increased public demand for the control and elimination of such activities and abuses. It is appropriate, therefore, that we take this opportunity to protect the rights of students and their parents and to prevent the abuse of personal files and data in the area of federally assisted educational activities.

Many absurd and sometimes tragic examples of similar abuses exist. Let me recount one of the cases described in the recent article, "How Secret School Records Can Hurt Your Child," in Parade magazine:

> The parents of a junior high student are told their daughter won't be able to attend graduation ceremonies because she's a "bad citizen." What has she done that's bad, the parents ask? Well, the principal says, the school had a whole file on her "poor citizenship," but the parents can't know what's in that file. In this Catch-22 case, one of the few to get a legal hearing, the New York State Commissioner of Education, Ewald B. Nyquist, stated flatly that the school's argument that it was acting in the best interest of the student in refusing to reveal the information to the parents—had no merit. The commissioner concluded: "It is readily apparent that no one had a greater right to such information than the parents."

When parents and students are not allowed to inspect school records and make corrections, numerous erroneous and harmful material can creep into the records. Such inaccurate materials can have devastatingly negative effects on the academic future and job prospects of an innocent, unaware student.

Many examples of abuses can be found in recent letters to the National Committee for Citizens in Education which has for a long time carried on the fight for the right of parents to have access to their children's records by alerting and assisting parents across the Nation. I would like to take this opportunity to commend that committee for its dedicated efforts, and to mention that the NCCE will very shortly publish a major study entitled "Children, Parents and School Records." It is must reading for anyone who is concerned with the issue of privacy and the schools.

Violations of the privacy of students and their parents occur daily in schools across the Nation, through courses requiring the student to reveal personal data and feelings, and by means of demands by the Federal Government for personal information on students and parents. The recent refusal of the District of Columbia School Board to refuse to administer a battery of tests, despite a threat by the Federal Office of Education to cut off nearly $6 million in Federal funds to the city's public school system, is a good case in point. The superintendent of the schools, Barbara Sizemore, charged that many items in the tests, which are required in other school districts around the Nation, are a violation of privacy and could cause psychological damage to students.

The New York City School Board refused to comply with a similar demand. Dr. Seymour Lachman, president of the school board, said that the original demand "violated the confidentiality of student records" and that, lacking proper safeguards, the data might be misused or abused. He added that:

> These kinds could have been categorized, codified, and stereo-typed for life on the basis of information put on the tape while they were in school.

In addition to being denied access to their children's school records, parents are often unable to readily review the instructional materials in various courses in which their children are enrolled. And often they are not asked to give their consent before their child is given very personal or psychological tests, or participate in experimental programs or attitude-affecting courses.

The secrecy and the denial of parental rights that seem to be a frequent feature of American education is disturbing. Some school administrators and educators seem to have forgotten that parents have the primary legal and moral responsibility for the upbringing of their children and only entrust them to the schools for basic educational purposes.

Some educators seem to feel that they know much more about the welfare and best interests of the child than do the parents, and therefore, once a child comes under their sway, they think they have the right to do what they themselves think is best for the child, without regard for values and beliefs of the parents.

The world-famous child psychiatrist, John Bowlby, noted in an interview concerning the care of young children last year, that:

> The criticizing of parents and taking the children out of the home and putting them into the schools as is being commonly suggested these days actually undermines the parental confidence in the parents' own role, and in their potential role. There is entirely too much criticism. The educators are guilty of undermining the home rather than building it up.

There has been an increasing chorus of complaints from parents in the last few years about just such attitudes and actions on the part of some educators. The sense of a loss of control over one's life and destiny, which many social commentators say is growing amongst our citizens, seems to be increasingly felt by parents with respect to the upbringing of their own children.

Such elitist and paternalistic attitudes reflect the widening efforts of some, both in and out of Government, to diminish the rights and responsibilities of parents for the upbringing of their children, and to transfer such rights and functions to the State—to separate, figuratively, and in some cases, literally, the child from his parents, and to turn him over to the care of the State, as represented by schools and other arms of its administration.

My amendment seeks to restore parental rights and to protect privacy. It will:

First, help insure that parents have the right of access to their children's school records;

Second, help prevent the abuse and improper disclosure of such records and personal data on students and their parents;

Third, require parental consent before such records are disclosed to most third parties;

Fourth, require parental consent or notification before their children are made to undergo certain forms of testing or partake in certain experimental or attitude-affecting programs or activities; and

Fifth, make instructional materials used in the classroom available for review by parents upon request.

In addition, my amendment requires the Secretary of HEW to adopt appropriate safeguards to protect the rights and privacy of students and their families in regard to Government authorized surveys and other data gathering activities.

My amendment broadens the protection of civil rights to include the civil rights of parents and students vis-a-vis the schools. As a matter of fact, a recent Federal court decision has made the civil rights aspect of privacy and parental consent more explicit.

The case was Merriken against Cressman, heard in the U.S. District Court of Eastern Pennsylvania last fall. Let me quote from the summary of the case in "The United States Law Week" of October 16, 1973:

> A school district proposed to use a program entitled Critical Period of Intervention (CPI) for the purpose of identifying potential drug abusers among its eighth-grade students. Additionally, the program would "prepare the necessary interventions, identify resources to train and aid the district personnel to remediate the problems and, finally, to evaluate the results." Parental consent is a prerequisite to a student's participation in the program. Such consent is solicited by a letter which is admittedly a "selling device" and "an attempt to convince the parent to allow the child to participate."
>
> Two child psychiatrists testified without contradiction as to several * * * dangerous aspects of the CPI Program, none of which are mentioned * * * in any of the materials to be made available to parents. These dangers include the risk that the CPI Program will operate as a self-fulfilling prophecy in which a child labeled as a potential drug abuser will by virtue of a label decide to be that which people already think he or she is anyway * * * Another danger mentioned is that of scapegoating in which a child might be marked out by his peers for unpleasant treatment either because of refusal to take the CPI test or because of the result of the test." Additionally, there is a "severe loyalty conflict that might result by asking children the types of personal questions about their relationship with parents and siblings which are included in the CPI questionnaire." Finally the qualifications of the school district personnel who will administer the interventions once potential drug abusers have been identified are woefully inadequate.

The court found that the confidentiality of the program broke down when the school superintendent was informed of the potential drug abusers, who were then required to undergo attempted psychological remediation by ill-trained faculty members. But, said the Judge:

> The ultimate use of this information, although possibly gained with a great deal of scientific success, is the most serious problem that faces the Court. How many children would be labeled as potential drug abusers who in actuality are not, and would be subjected to the problem of group therapy sessions conducted by inexperienced individuals?
>
> Strict confidentiality is not maintained after evaluation and there are many opportunities for a child to suffer insurmountable harm from a labeling when the cruelty of other children is at an extreme. The seriousness of this problem is illustrated by the fact that if one child is so harmed and would be temporarily or permanently damaged by the label of "drug abuser," is this Program worth the effort to identify other actual "drug abusers."
>
> When a program talks about labeling someone as a particular type and such a label could remain with him for the remainder of his life, the margin of error must be almost nil.

The court found that the potential for harm of this program outweighed any good that might accrue, and concluded as a matter of law that the CPI program violated the right of each student and his parents to privacy inherent in the penumbra of the Bill of Rights of the U.S. Constitution.

This case is a microcosm of the problems addressed by my amendment—the violation of privacy by personal questionnaires, violation of confidentiality and abuse of personal data—with its harm to the individual—and the dangers of ill-trained persons trying to remediate the alleged personal behavior or values of students. It describes the potential harm that can result from poorly regulated testing, inadequate provisions for the safeguarding of personal information, and ill-devised or administered behavior modification programs.

In fact, it shows that even the requirement of parental consent can be an inadequate safeguard in the face of the slick and deceptive selling techniques of some educators. Yet, at least the requirement of parental consent informs the parents, to some extent, about what is being done with and to their children in schools, and it offers the best available protection against educational abuses that I can think of. Additionally, it will encourage schools to improve these types of programs and to eliminate the potential for abuses beforehand, thereby tending to reduce the future occurrences of irate parents going to court because of shoddy and harmful programs in the schools.

If anyone doubts the seriousness of the problem, I direct their attention to a recent communication from the National Education Association (NEA) in which that organization announced its opposition to my amendment which would require school officials to obtain prior, written, informed consent whenever the school officials would have those parents' children subjected to a project, program or course, the primary purpose or principle of which is to affect or alter the personal behavior or personal values of a student. Mr. President, I would like to point out the implication of the NEA's position. It is their position that as between the parent and the school official, the latter has the more fundamental right to determine whether the child should be subject to programs of behavior alteration and value modification.

Beneath such a position is a very serious threat to the traditional notion long respected by this Nation that it is the parents who are ultimately responsible for the welfare of their children. It borders on shocking that one of the national organizations representing educators would move to have the Senate oppose a reaffirmation of this important and real parental right. Further, the attempt to characterize the amendment as one which intends to curtail freedom of expression between child and teacher is incredible. It is more accurate to conclude that it is the NEA's position that the teacher should come between parents and child on such important matters as school programs, the primary purpose of which is behavior modification and values alteration.

I would respectfully suggest, Mr. President, that the burden to secure consent of the parent is not too great. Surely, most conscientious teachers would have no problem gaining the consent of a parent providing the teacher has demonstrated the worth of his proposal. To suggest otherwise is to insult the parent and underestimate the resources of America's educators.

Some may argue that my amendment will create too much additional work and redtape for schools and the educational bureaucracy. To that argument I must reply that I am not so much concerned about the workload or convenience of the educational bureaucracy but, rather, with the personal rights of America's children and their parents. I believe that their rights should properly take such priority in whatever educational legislation the Senate, in its wisdom, shall enact.

It has been argued that portions of my amendment would throttle innovation and virtually close down title III and other innovative educational efforts sponsored by the Federal Government. This is surely not the intent of my amendment, nor would it be the effect. My amendment simply gives individual parents the right to be informed about out-of-the-ordinary federally funded programs in which their child might participate, and assures the parents the right not to have their particular child participate if they find such a program objectionable. Granted that there will be some inconveniences and logistical problems involved in this. But what sufficient reason is there for anyone to stand up and say that parents must be denied these rights? What do the schools and the Federal agencies have to hide?

As a matter of fact, my amendment need not create undue problems. For example, the Russell Sage Foundation published a very thoughtful study in 1969 entitled, "Guidelines for the Collection, Maintenance, and Dissemination of Pupil Records," which included samples of simple forms that could be mailed to parents to obtain their permission for certain activities with regard to their children. I would also further note that many schools and a number of States already routinely require the prior consent of parents on a number of matters, including both special testing and some special programs or projects, such as drug programs or sex education.

Permit me to add, also, that many elements of my amendment follow the recommendations of the report of the Secretary's Advisory Committee on Automated Personal Data Systems at HEW, entitled "Records, Computers, and the Rights of Citizens."

Equally important as the other effects of my amendment is the likelihood that the obligation to inform parents will begin to close the gap of hostility that too often exists between parents and teachers, each distrusting the other. The increased openness and communication with parents on the part of the schools which would follow from my amendment would enhance parental interest and involvement in their children's education, and in the long run could lead to improved education and more harmonious school-community relations.

Mr. President, it is time for the U.S. Senate to take a stand in favor of, and to act to protect the rights and privacy of parents and students where the Federal Government and Federal funds are involved. Therefore, I urge the Senate to give favorable consideration to my amendment.

I reserve the remainder of my time.

Mr. MATHIAS. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Under the unanimous-consent request, the Senate must return to consideration of the Javits amendment.

Mr. JAVITS. I yield myself 2 minutes on the bill.

After discussion with Senator PELL, I wish to state the following facts: One, Puerto Rico is treated as a State in the House, so the amendment will be in conference. Two, we should figure out exactly what the relationship would be of the poor children who would be covered in Puerto Rico, which we will do, compared to the other States, and see, therefore, whether my estimate of something a little more than 2 percent, but not substantially over that, is justifiable. I want to check that out. Three, I now ask the Chair to make a ruling on this: Notwithstanding the fact that a substantive question may be affected, an amendment may occur at a later part of the bill, notwithstanding the adoption, if it should be adopted, of the McClellan amendment, which may make a substantive change, provided it does not cover the same language which is contained in the McClellan amendment—whether another amendment, under the rules of the Senate, would lie at the end of the bill.

The PRESIDING OFFICER. So long as the amendment is redrafted, so long as it does not affect the text of the amendment, it would be in order.

Mr. JAVITS. Under those circumstances, Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. MATHIAS. Mr. President, will the Senator yield?

Mr. PELL. Mr. President, we are on the Buckley amendment, with how much time on each side?

The PRESIDING OFFICER. The McClellan amendment is before the Senate at the moment. A unanimous-consent request would be in order to proceed to the Buckley amendment.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of the Buckley amendment, No. 1289.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. MATHIAS. Mr. President, will the Senator from New York yield me 3 minutes?

Mr. JAVITS. Yes, in opposition.

Mr. MATHIAS. I have some questions I would like to ask the distinguished junior Senator from New York, because I salute the thrust and the purpose which I think he seeks to accomplish by this amendment.

But I do want to be perfectly certain that I understand the practical effect of it. Turning to section 437(b)(1), page 3, I am wondering what effect this provision would have in the case of a student who was the victim of an accident in the school, or the victim of an accident on a playground. Would it prevent the school from arranging to have him immediately examined and medical treatment given to him?

Mr. BUCKLEY. No, of course not. Normal medical advice and hospital procedures usually require parental consent, and in those situations where the parents could not be contacted the treatment would be available.

Mr. MATHIAS. Would it not be necessary then, to have an exception because there is an exception in the general immunization, and I think the case of emergency treatment would have to be made in an excepted case or else the school would be under some jeopardy here.

Mr. BUCKLEY. I would be glad to ask unanimous consent to amend my amendment by inserting on line 11, page 3, following the word "immunization" the words "or emergency medical treatment."

The PRESIDING OFFICER. Is there objection to the Senator from New York modifying his amendment to that effect? The Chair hears no objection, and it is so ordered.

Mr. MATHIAS. If there were a course being given which is clearly a course which is causing the student to alter his behavior for the good, let us say in the matter of grooming, as the result of a course in civics, where he has become more interested in the system, and we have a course which is a positive influence on the student's life, would the Senator's amendment require the parents' "prior, informed, written consent" for that type course?

Mr. BUCKLEY. Quite obviously in one sense all education has an effect on attitudes, and so forth. I believe there is a tacit rule of commonsense that applies to the interpretation and application of all legislation and I speak of courses, the primary purpose of which is to modify behavior.

The PRESIDING OFFICER. The time of the Senator from Maryland has expired.

Mr. MATHIAS. Will the Senator yield to me for 3 additional minutes?

Mr. PELL. I yield.

Mr. BUCKLEY. So clearly the example of the Senator from Maryland would not be covered.

Mr. MATHIAS. Of course, my concern is that the language of the amendment might cover it. That is what gives me some uncertainty.

Let us pass to section 437(c)(1). Let us assume the unhappy possibility that a student is suspected of having bombed the chemistry laboratory and the FBI or another law enforcement agency comes into the school, let us say, without a judicial order. Would they be unable to examine the records or files of the student without the "prior, informed, written consent" of the student's parents?

Mr. BUCKLEY. I believe they should get a court subpena to have access to the records.

Mr. MATHIAS. The amendment does not even provide for access with a subpena without parental consent.

Mr. BUCKLEY. I refer to page 6, where it is stated:

> In compliance with any court order, or pursuant to any lawfully issued subpena, if the parents and students are notified of any such order in advance of the compliance therewith . . .

Mr. MATHIAS. The Senator is correct but also it would require the warrant or the written consent, even in the case I suggested.

Now, I wish to ask the Senator this question. Does the provision allow the use of any identification device other than the names of students or the names of parents?

Mr. BUCKLEY. No, it does not.

Mr. MATHIAS. So that would be the only possible identification, there could be no other identification of any sort?

Mr. BUCKLEY. No.

Mr. MATHIAS. And the Senator feels that that is a useful provision.

Finally, there are certain programs in which there is some testing, specifically, HEW through the National Institute of Education has made a grant to test and experiment with an educational voucher program. I am sure the Senator is familiar that such programs are now underway in California and Vermont.

Under this provision if the parents of a child object to the child's participation, then that child would not be able to take part. Is that correct?

Mr. BUCKLEY. That is correct.

Mr. MATHIAS. What will happen to a program of that sort?

The PRESIDING OFFICER. The time of the Senator from Maryland has expired.

Mr. MATHIAS. Mr. President, will the Senator yield to me for 1 additional minute?

Mr. PELL. I yield 1 additional minute to the Senator from Maryland.

Mr. MATHIAS. What will happen to that child if the entire school is involved? What happens to that child when the whole school is involved, as in the case of California and Vermont? Does the child have to be withdrawn from that school and some alternative education provided?

Mr. BUCKLEY. That child would obviously be handled in the school as if he were not—in other words, his State directly would pay for that tuition.

Mr. MATHIAS. Then, the Senator's concept is that under this provision——

Mr. BUCKLEY. It would not abort the experiment.

Mr. MATHIAS. But the child would have to have some other education provided in some other location or in some other manner.

Mr. BUCKLEY. If a parent did not want to accept the voucher the child would continue to be educated in the school he attended.

Mr. MATHIAS. But if the whole system were committed to the program, there would be no other school for him to attend. That seems to be the nub of the problem.

Mr. BUCKLEY. I disagree. I do not believe it would be interpreted in that way.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, the junior Senator from New York and I have previously discussed this amendment. I ask unanimous consent that a letter from the National School Boards Association be inserted in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

National School Boards Association,
Evanston, Ill., May 2, 1974.

Hon. Claiborne Pell,
U.S. Senate, Old Senate Office Building, Washington, D.C.

Dear Senator Pell: Pursuant to his "dear colleague" letter dated April 26, 1974, Senator Buckley set forth proposed amendments to S. 1539 relating to "Protection of the Rights and Privacy of Parents and Students" (Sec. 513). In general, the National School Boards Association believes that the intent of the amendment is meritorious, but that operationally its accomplishment will generate unacceptable confusion because of the complicated legislative language and local administrative conditions associated with the approach taken in the amendment. We have been in contact with the Senator and he has some of our specific concerns under advisement. Those concerns are outlined below:

1. The amendment requires that parents have the right of access to their child's school files and that their consent be obtained prior to release of such files to third parties (with certain exceptions). However, if the rights of students are distinguishable from the rights of parents, and if the assertion of those rights should not be solely dependent upon parental willingness, the amendment should give students an independent right of access to, and consent with respect to the divulgence of, their files. At the same time, it may be advisable to impose a minimal age, such as 15 years, at which the child's independent rights would attach.

2. The amendment requires that school authorities provide parents with student files within thirty days after the request is made. In many instances, records may have to be screened in order to delete references to third persons, or the records sought may be stored in a central school district file or at the state level. Accordingly, while administrative footdragging can not be condoned, compliance in many instances will not be possible unless the time limit is extended to 45 days—and preferably 60 days.

3. Subsection (b) of the amendment provides that no student "participating in an applicable program" shall be required to undergo medical, psychological, et cetera, examinations without parental consent. This means that if a state or local agency is operating an examination program of that kind and is not receiving federal aid, consent is not required. But if the education agency is receiving ESEA II library funds, for example, then consent is required. The basis for this distinction is difficult to understand. Since the examination in question would be pursuant solely to a state program authorized and perhaps mandated by state law, federal legislation would be inappropriate in either case as a matter of policy. However, a different situation *may* arise when the education agency includes such an examination as *part* of one of its federal programs. If the latter situation is a proper area for federal involvement, then the overbreadth of subsection (b)(1) can be corrected if, after the words "no student" the words "participating in" are deleted and the words ", as a part of," are substituted in lieu thereof.

4. Subsection (b) of the amendment also prohibits the participation of any student in an applicable program which involves *any* research or experimental project without the consent of the student's parent. Research and experimental project is then defined as "includes but is not limited to, any program or project designed to explore or develop new or unproven teaching methods or techniques, or to explore or develop teaching techniques or courses affecting the social development, personal behavior, or values of the student." Given the broad brush of the above definition, quite conceivably almost any classroom effort would be subject to challenge on the grounds of "new" pedagogical style or personal impact upon particular students. But even at some point short of a literal application, the above definition will grind public education into a stultifying routine rather than the creative experience which it should present for children. And, to the extent any innovation is challenged there is some question whether the Department of Health, Education and Welfare will make nationally or community based judgments as to new techniques or definitions of student values. In either case it is also questionable whether the federal government can or ought to be involved in deciding questions relating to "social development, personal behavior, or values of the student." The requirement of individual parental consent to all programs raises other questions of federal policy. We now have federally mandated state advisory committees, local advisory committees, and even in some programs, school by school parental committees. That amendment adds yet another layer to the existing stream of administrative costs and formalities associated with school board policy implementation. One might begin to ponder the role of the taxpayer voter in our education system after one more review is added on top of the governmental structure which he elects to represent him. Although this restriction only applies to federal programs (which in itself is perplexing, inasmuch that if restrictions on experimentation is the object sought, the source of funds should be irrelevant), that too is overboard. If such a restriction is really advisable, it should only be applied to ESEA Title III programs, which are designed for experimental purposes, and not to programs such as ESEA Title I or NDEA III, which are not intended to expose the child to innovative techniques on other than a random or incidental basis.

5. Subsection (c) requires parental consent for the release of personal data, except in certain instances, including the "order of administrative agencies having the power of subpoena." It would appear that a federal agency, which is so empowered, can by-pass the amendment merely by issuing a general order applicable to all students who, for example, attend a particular school, are involved in particular activities, etc. While investigations by federal officials may be necessary in certain circumstances, if the scope of the above exception is as broad as we suggest, then the basic purpose of the amendment is defeated.

6. Subsection (c)(4) of the amendment requires that a list of all persons or agencies desiring access to a student's records shall be maintained in that student's file. Although parents, students, and *certain* school officials should have access to that list, other persons or agencies should not—lest the student be characterized by the innuendo of previous searchers of his files.

It should be mentioned that the financial costs of producing records, implementing parental consent procedures for innovation and divulgence of information, and maintaining information requests lists are subordinate to the primary objective sought by the amendment—but should be taken into account nevertheless. Unfortunately, we *do* not have ample time to develop cost figures.

In summation, we urge that you withhold support for the amendment, unless the above described problems are resolved.

Sincerely,

August W. Steinhilber,
Assistant Executive Director, Office of Federal Relations.

Mr. PELL. Mr. President, I am not enthusiastic about the amendment, but it does have some merit. Section (b) concerns me.

The amendment disturbs me in that it states that:

> No student shall be required to undergo . . . testing without prior written consent of the student's parents in any project.

The thought I have is that if the Senator would withdraw that section (b), we could decide the fate of his amendment by voice vote, and my voice would be saying "aye" or if he insists on leaving it in, which from my side of the aisle I do not recommend, I would have to ask for a rollcall vote.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. PELL. I yield.

Mr. JAVITS. Under these circumstances the amendment could be taken to conference, but the administration has grave problems with other parts of it. Having reviewed the administration's wishes, I believe they would be susceptible to handling it in conference. However, I do not want my colleague to feel we have written letters of love that we are going to preserve all of it. I think the administration's suggestions do not change its fundamental thrust, but takes certain precautions. I hope in conference we can work it out that way.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. PELL. I yield.

Mr. STEVENS. Mr. President, I have serious questions about subsection (c) which I think runs contrary to a great many Federal policies and the best interests of the student. I intend to offer an amendment to either delete that section or to modify it substantially in several ways. I just want to let my friend from Rhode Island realize that. I hope to have a chance to have an exchange with the Senator from New York concerning that.

As I understand subsection (c), it would prevent a high school from giving to a bank that wants to send out information about its loan program to students, the names and addresses of students without consent of the students' parents. I cannot understand this overprotectionism to the point that it could not offer to those students information about Federal loan funds. One could not get the names and addresses of students in one's State to get them the information of the opportunities available under the Federal student loan program.

Under subsection (c), if I were a probation officer, I could not sit down and talk with the teacher to get personal information from the teacher about the student who was subject to a criminal process. I do not know whether the Senator realizes how many cases go through the juvenile courts these days, but it is a fantastic number.

So I hope the Senator does not think this is going to breeze through without any debate.

Mr. BUCKLEY. Mr. President——

Mr. PELL. Mr. President, I yield to the Senator from New York, on his time.

Mr. BUCKLEY. Mr. President, I believe that argument is a paper tiger. We are talking about invasion of personal, private data. My amendment does not affect matters of public record, which may be names and addresses of people who happen to be students in a school.

Mr. STEVENS. Let me read from subsection (c):

> Permitting the release of records or files (or personal information contained therein) of students without the written consent of their parents to any individual, agency, or organization . . .

Does the Senator interpret that to mean a bank could not say, "Give me the names and addresses of your graduating seniors?" Does the Senator interpret that to mean a probation officer could not get information from teachers or the files that would help a juvenile accused of a crime?

As prosecuting attorney, I can tell the Senator that probation officers need such information to help the students. I think this is a shotgun approach. I applaud the Senator's desire to protect students, but we are overprotecting in this way with regard to many activities in a school. I do not want to hurt any student, but we are not going to be able to help him with this amendment. That is the trouble with it.

Mr. BUCKLEY. I believe the parents have as much interest in protecting their child as does the Senator from Alaska, but the Senator is reading into the amendment the inclusion of the simple listing of names and addresses in a student's records and files.

Mr. STEVENS. I am happy to know that, but how does a probation officer go about getting that information? I saw a lot of probation officers as district attorney. If they were to have to go to busy juvenile court judges and subpena that information, or if they want to talk to teachers, they are not going to get it. I do not see the necessity for subsection (c). What is the necessity for it?

Mr. BUCKLEY. I described it in my statement. The fact that this information gets leaked out all over the place is injurious to the child. It haunts children in their later lives. I think we ought to put a stop to it.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 18 minutes remaining.

Mr. BIDEN. Mr. President, will the Senator yield me some time to ask the Senator from New York some questions?

Mr. BUCKLEY. Mr. President, I yield 5 minutes to the Senator from Delaware.

Mr. BIDEN. The Senator from New York, I think, should be complimented on this amendment. I think it is long overdue. I do not share the concerns of the Senator from Alaska. Having been a public defender, I do not think a probation officer should be able to sit down and talk with teachers about these matters. They think they are psychologists and psychiatrists, and they do more harm to the child than they help him. But my objection relates to subsection (b).

I am an early cosponsor of this amendment, but I think subsection (b) should be clarified so we understand what it would do. In that section it says:

> No student shall, as a part of any applicable program, be required, without the prior, informed, written consent of the student's parents, to participate in any project, program, or course, the primary purpose or principal effect of which is to affect or alter the personal behavior or personal values of a student, or to explore and develop teaching techniques or courses primarily intended to affect such behavior and values.

If that were to be misread, it could be a very, very restrictive section.

I would like, for the record, to ask a few questions.

Specifically, in a school for the deaf, will a project designed to test the effectiveness of a new audiology machine be termed "research and experimentation" under this amendment?

Mr. BUCKLEY. Certainly not. This is directed toward developing new, experimental educational techniques. Certainly, new devices for helping—it is really a medical device—the deaf to hear, or new research involving such things as "new math," traditional courses—would not be affected at all by this amendment.

Mr. BIDEN. Would diagnostic tests given to students at the beginning of a course in order to gage the strengths and weaknesses of students in various academic disciplines be considered "research"?

Mr. BUCKLEY. No; this is normal research; it is not experimental. It is not research into new research activities.

Mr. BIDEN. So it is not intended to really alter the traditional academic disciplines? The Senator is not going after that?

Mr. BUCKLEY. That is correct.

Mr. ERVIN. Mr. President, will the Senator yield?

Mr. BUCKLEY. I yield.

Mr. ERVIN. This would prevent schools from making guinea pigs out of children and delving into their personal attitudes and their attitudes toward their families, as has been done in many schools throughout the United States. Is that correct?

Mr. BUCKLEY. Yes.

Mr. ERVIN. It is designed to prevent disclosure, except to those who are authorized to receive them, of personal data about these children. Is that correct?

Mr. BUCKLEY. The Senator is correct.

Mr. ERVIN. I am personally in favor of the proposal.

Mr. President, I am pleased to cosponsor the amendment concerning right to privacy and school records proposed by Senator BUCKLEY to S. 1539, the Elementary and Secondary Education Amendments of 1974. The issue of rights to privacy of public school pupils and their parents is one which has recently become highly publicized in many different circles, but it is a problem that has long been with us. The time has come to do something about it.

This amendment would accomplish several worthy objectives. It would give parents of public schoolchildren the right of access to their minor children's school records. Importantly, parents would be able to challenge any part of the contents of the records for their authenticity. The only persons having access to those records in addition to the parents would be school officials, the board of education, and officials at a school to which the pupil might be transferring. In order for any other person to have access to the records, the parents must give their written permission and the permission form would then become a part of the student's permanent record. In addition, no student could participate in any medical or psychological testing program without the prior, informed, and written consent of his parents. Parents of the pupils would be able to review any and all instructional materials that are used by their child's teacher.

One of the primary aspects of this new legislation is the provision stating that the schools, through the board of education, the principal, or the teacher, would bear the burden for informing the parents and students of their rights and for keeping them fully posted at all times of anything that would come within the scope of this legislation. The penalties for noncompliance with this act would be a loss of the Federal funds that had been made available to the school.

Much of the controversy concerning these school records centers around the use of classroom questionnaires that are financed by governmental grants, often the Department of Health, Education, and Welfare or a similar agency at the state or local levels of government. These questionnaires are thinly disguised as "research projects," although in actuality they often amount to highly objectionable invasions of the psychological privacy of schoolchildren. Oftentimes, the students are told that the responses they give are classified and will not be used for any other purpose than to gather and analyze statistical data on the educational situation in the public schools. However, it has been too often demonstrated that these data stand strong possibilities of being incorporated into computerized data banks or in other ways being disseminated to persons not connected with the educational process.

The questionnaires usually cover many aspects of the student's personal life and personality. The categories cover the student's attitudes toward his home and family, his school and teachers, his feelings about himself, and his feelings about his peers and classmates. It is my belief that no governmental agency has any business conducting such inquiries unless the parents of the children are made fully aware of the subject matter of the inquiry and subsequently give their full consent. The situation now is that children are rarely given a free and unprejudiced choice of answering or not answering the questionnaires. In addition, parents would be able to request to review their children's school records and would have the right to challenge any adverse content.

Mr. President, I intend to ask soon for unanimous consent that some of these questionnaires and summaries of questionnaires be reprinted in the RECORD. However, I do wish to read, for purposes of emphasis, some of the more offensive questions although they are all certainly in that category. The examples that I use are from public schools in the States of Maryland and New Jersey, although there exists strong evidence that these unfortunate practices know no geographical boundaries. Practically all of the questions can be answered with a yes or no or multiple choice answer. There is no room for explaining an answer:

HOME AND FAMILY SITUATION

Are you an important person to your family?

Would you like to run away from home?

Are your parents strict or lenient?

Do you often argue with your parents?

What types of appliances, books, furnishings, and leisure facilities do you have in your home?

SELF-EVALUATION

Do you admire students who are bright?

Can you give a good talk in front of people?

Do you wish you were a different child?

Do you feel lonely very often?

Are you one of the last to be chosen for games?

Do you like being just what you are?

SCHOOLS AND TEACHERS

Are some students favored over others by your teachers?

Do most other students want to go to school?

Who are your three best friends (complete names)?

For what reasons have you been scolded in class?

How do you rate your teachers to other teachers at your grade level?

Do you ever miss school or a class simply because you do not wish to go?

Does a diploma from your school mean that you behaved yourself or that you really learned something?

PEERS AND CLASSMATES

Do you have many friends?

Does being with other children bother you?

Is it easy for you to make friends?

Do other children get you into trouble at school?

Would you rather play with friends who are younger than you or older than you?

I certainly believe that this is most important legislation and that the Congress should act wisely and in a forthright manner to recognize the rights to privacy of public schoolchildren and their parents. I am particularly impressed by the strong bipartisan support that this amendment has received from members of Congress and from many public and private sectors of our society. I urge the Senate to adopt this Buckley amendment to the Elementary and Secondary Education Act of 1974.

In my mind school officials should not be allowed to maintain any records outside of the reach of parents, much less records of such a personal nature as those that we have seen. A parent has every right to know exactly what information is being collected concerning his children, and the provisions of this amendment constitute what I feel are minimum considerations in the protection of that right. While the measures provided for are strong, I feel the seriousness of the issue well justifies the approach. The parent must have ultimate responsibility for the well being of his children. This amendment recognizes that responsibility.

Mr. President, I ask unanimous consent that the questionnaire from the Hackensack Public Schools of Hackensack, New Jersey, be submitted for reproduction in the RECORD. In addition, I ask unanimous consent that the transcript of a press conference held on April 19, 1974, by an organization known as Parents Who Care, based in Wheaton, Md., which recounts this problem in greater detail also be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HACKENSACK PUBLIC SCHOOLS,
Hackensack, N.J.

LEARNING EXPERIENCE MODULE—FANNY MEYER HILLERS SCHOOL

STUDENT ATTITUDE INVENTORY

Name ______________________________________

Boy ______Girl______LEM______Grade______

Date________________

Directions: Listen carefully to each question and decide how you think and feel. If you don't understand a question, ask about it. Answer each question by drawing a circle around either "yes" or "no".

Responses

Attitude Toward Home and Family: yes, 5; no, 3.

Attitude Toward Peers: yes, 5; no, 6.

Attitude Toward Self: yes, 12; no, 9.

Attitude Toward School and Teachers: yes, 13; no, 6.

SCHOOL AND TEACHERS

(Yes or No Answers)

1. Are your teachers interested in things you do at home?
2. Do your teachers give you work that is too hard?
3. Is the LEM a happy place for you to be?
4. Do you like to read at school?
5. When you don't understand something, are you afraid to ask your teacher?
6. Do you like to paint pictures at school?
7. Do you like to write stories at school?
8. Does your teacher help you with your work when you need help?
9. Do you like doing arithmetic problems at school?
10. Do you wish you were in a different class that was not in LEM?
11. Do you like to learn about science?
12. Does the LEM have too many rules?
13. Do you always have to do what the other children want to do?
14. Do you like the other children in the LEM?
15. Do your teachers like some children better than others?
16. Do other people at school really care about you?
17. Are you proud to be in the LEM?
18. Do you often get a chance to make decisions with others in your group?
19. Do you tell people that you like the LEM?

SELF

(Yes or No Answers)

1. Do you often get sick at school?
2. Can you give a good talk in front of people?
3. Do you wish you were younger?
4. Do you wish you were older?
5. Do you often feel happy in school?
6. Are you a good reader?
7. Do you wish you were a different child?
8. Can you wait your turn easily?
9. Are you good in your schoolwork?
10. Are you a good child?
11. Are you one of the last to be chosen for games?
12. Do you feel lonely very often?
13. If you have something to say, do you usually say it?
14. Do you like the teacher to ask you questions in front of the other children?
15. Do the other children in the class think you're a good worker?
16. Do you find it hard to talk to your group?
17. Are most children able to finish their schoolwork more quickly than you?
18. Do you often act silly just so people will pay attention to you?
19. Do you like most of the people you know?
20. Can you be depended on?
21. Do you like being just what you are?

PEERS

(Yes or No Answers)

1. Do other children get you into trouble at school?
2. Do you have to do what the other children want to do?
3. Do you like the other children in the LEM?
4. Do other children in the LEM like you?
5. Do you always let other children have their way?
6. Do you have many friends?
7. Are other children often mean to you?
8. Do your friends usually do as you say?
9. Does being with other children bother you?
10. Is it easy for you to make friends?
11. Would you rather play with friends who are younger than you?

HOME AND FAMILY

(Yes or no answers)

1. Are you an important person to your family?
2. Do you have certain responsibilities at home?
3. Do you tell your family when you are mad at them?
4. Would you like to run away from home?
5. Is it pleasant to stay at home on days when there is no school?
6. Do you get upset easily at home?
7. Do brothers and sisters prevent you from being happy?
8. Do your parents think school is important?

Statement by a Coalition of Concerned Parents From Eight Maryland Counties Representing Five Citizens Organizations on Invasion of Privacy by Maryland Public Schools

Good Morning: My name is Malcolm Lawrence. I am Director of Public Relations for Parents Who Care, a Montgomery County citizens group founded in October 1971. In addition to the Parents Who Care group, I speak today on behalf of individuals from seven other counties in Maryland representing four other citizens organizations.

I should like to introduce the other memlers of the group.

Mrs. Jean Carter, from Howard County, representing Citizens Advocating Responsible Education (CARE).

Mrs. Pat Dunlap, from Prince Georges County, representing Citizens for Community Schools (CCS).

Mrs. Margaret Kuhn, from Prince Georges County, representing Guardians for Traditional Education.

The remaining individuals represent the Maryland Committee for Public Disclosure in Education; they are:

Mr. James E. English, from Allegany County.

Mrs. Gloria Donohue, from Anne Arundel County.

Mrs. Betty Fahey, from North Baltimore City.

Mrs. Isabel Fox, from West Baltimore City.

Mrs. Rita Ann Ayd, from Baltimore County.

Mrs. Jo Ann Spriggs, from Carroll County.

Mrs. Barbara M. Morris, from Howard County.

I have a statement to make, following which we shall be happy to entertain questions.

The United States Constitution guarantees to the American citizen a number of fundamental rights that can not be infringed by the federal or state governments without compelling justification. These rights include the right to marry, the right to bear children and to maintain a family, the right to control one's own body, and the right to direct the upbringing of one's children.

The essence of these rights is that they are so basic to personal liberty that they merit a high level of protection from invasions by the state. The rights we have cited are sometimes described as "fundamental" or "natural" rights inherent in American tradition or Western values; sometimes they are based upon the 14th Amendment's guarantee of liberty or the 9th Amendment's reservation of rights to the people; in other cases such rights are based on common law principles. Whatever the basis, it is clear that parents, as part of their right to raise a family, retain basic decision-making authority and responsibility concerning their children's education that cannot be abridged by the states whether by direct exclusion of the parents or by indirect exclusion through the withholding of crucial information about their children.

We have called this press conference today to express publicly our strong objections to materials and practices in the public schools of the State of Maryland which we feel constitute invasions of privacy of both students and parents. It is our view that many teachers are similarly in opposition to these materials and practices, but are unwilling to openly denounce them for fear of reprisal or dismissal from the public school system. We are urging the Governor of Maryland to take immediate steps to safeguard the rights of students, the parents, and the teachers.

Our leading candidate for removal from Maryland public schools is an extensive questionnaire which has just been given to more than 7,000 students in Howard County. The questionnaire was given as part of a research project administered by the Center for the Social Organization of Schools at Johns Hopkins University, funded by a $200,000 grant from the National Institute of Education of the Department of Health, Education and Welfare (Contract No. NE–C–00–3–0114). Last year 7,200 students in grades 4, 5, 6, 8, and 11 were surveyed. This year, between February 1 and March 15, the same students were given a follow-up survey. For each class tested, a team of trained administrators from Johns Hopkins University marched in; the teacher was asked to leave the class; and the students were handed a 17-page questionnaire and told, "This is not a test. There are no right or wrong answers. Your answers will not be given to your teachers or anyone who knows you."

According to a December 1973 report of the Center for Social Organization of Schools, the Johns Hopkins study is designed to "investigate the effects of open environment schools on student reactions to school life, student self-reliance, student ability to make realistic judgments, and student achievement on standard tests of academic performance." A January 14, 1974 memorandum from the Howard County Superintendent of Schools to Directors, Supervisors, and Principals reported that three evaluating teams will operate in Howard County schools this year: the fifth year of a program being conducted by the University of Maryland, the project of Johns Hopkins University, and a study of the entire school system to be undertaken by the Institute of Field Studies of Columbia University. The Columbia study was described as a survey of data produced by the Maryland and Hopkins surveys, with the purpose of synthesizing these and other findings to come up with "recommendations for future development of the school system."

Three weeks ago, representatives from our groups called on the National Institute of Education to obtain more information on the scope of these projects and to learn where else these programs were either being undertaken or envisaged. The spokesman for the NIE did not shed any further light on the Johns Hopkins survey and refused to respond to the question as to whether NIE was also financing the University of Maryland and Columbia University projects.

I should like at this point to give the substance of a number of questions from the Johns Hopkins University survey. We have divided the questions into three general categories: 1) Family Situation, 2) Self-Evaluation, and 3) Feelings and Attitudes toward the School and Teachers.

First, Family Situation:

The student is asked how most decisions about him are made in the family.

How much a part he plays in the decisions.

How far in school his father went.

How far in school his mother went.

Whether his parents are strict or lenient.

If his parents want him to follow their directions even if he disagrees with their reasons.

Whether his parents often worry that he is up to something they won't like.

Whether his parents disapprove when he disagrees with them in the presence of their friends.

The student is asked whether he knows why he is supposed to do what his parents tell him to do.

Whether he has a lot of loud arguments with his parents about their rules and decisions regarding his activities.

And whether his parents treat him more like a little kid than an adult.

The student is asked if his parents have definite rules relating to the following activities:

The time to be in at night on weekends;
The time to be in on school nights;
Time spent watching television;
Going around with certain boys;
Going around with certain girls;
Eating dinner with the family;
Using the telephone;
Clothing;
Hairstyle;
Church attendance;
Household chores;
Returning home from school;
Smoking;
Age for starting to date;
Going steady; and
Frequency of dating.

The student is asked to answer YES or NO as to whether the following items are in his home:

Telephone;
Two telephones;
Vacuum cleaner;
Stereo hi-fi hecord player;
Air conditioner;
Electric dishwasher;
Your own family washing machine;
Your own family clothes dryer;
Dictionary;
Encyclopedia;
Daily newspaper;
Three or more magazine subscriptions;
Black and white TV;
Color TV;
Car;
Second car;
Two bathrooms;
Tape recorder;
Home movie projector;
Home slide projector;
Typewriter;
Piano; and
Skis or golf clubs.

The organizations represented here today consider these questions on the family situation to be clear invasions of privacy of the student and of the home by the school system. Whatever the purpose of the Johns Hopkins University questionnaire, we strongly protest against this type of probing into the personal affairs of the student and his family life.

Let us turn next to the category of self-evaluation in the Johns Hopkins questionnaire:

Here, the student is asked whether he pretends to be busy in class when he is really just wasting time.

Whether being popular with other people his age is more important than anything else to him.

If someone often has to tell him what to do.

If he admires students who are very bright.

When he doesn't know the answer, if he will try to fake it rather than say he doesn't know.

Whether he will usually give in because he doesn't want to upset his friends.

If he is known as a person who will dare to be different.

If he knew the teacher was not going to collect his homework, whether he would no his best.

Whether he gets blamed for things that are not really his fault.

The student is asked if the best way to get ahead in life is to be nice to all people.

Whether he likes to be by himself because he has a lot of things he likes to do alone.

Whether he feels uncomfortable if he disagrees with what his friends think.

If the student sometimes feels angry when he doesn't get his way.

If it would be hard for him to face the "cold, cruel world."

If he can say "No" when his friends call him to do something with them.

He is asked whether he will put off leaving his home and friends for as long as possible.

If he didn't like the way things were going in a group, whether he would hesitate to tell the leader.

Whether he really cares if some people don't want to be friends with him.

Whether he tries to get out of doing work and hopes no one will find out.

If he prefers to let other people in a group make the decisions.

It is our view that this line of self-evaluation, self-analysis, self-criticism, and confession is pure and simple an invasion of psychological privacy of the child. Students of all ages are asked to direct their thoughts to introspection and unwittingly lay bare their inner-most feelings to the data collector for whatever purpose he may wish to make use of them.

Our third and final category of the Johns Hopkins test deals with feelings and attitudes toward the school and teachers:

The student is asked if he feels lost in school.

If he feels the tension build up in him when he is in school.

If he often does not know what he is supposed to do.

Whether most of his teachers want him to do things their way and not his own way.

Whether his teachers tolerate a lot of questions during a lesson.

If certain students in his classes are favored by the teachers more than the rest.

If the teachers in his school often act as if they are always right and he is wrong.

Whether he is considered weird when he gets involved and excited in his classwork.

If he daydreams a lot in class.

Whether he wants to go to school.

Whether he ever does anything exciting in class.

If he counts the minutes until the class ends.

Whether he sits on the floor in many of his classes.

Whether most other students want to go to school.

If a diploma from his school means more that you behaved yourself than that you really learned something.

He is asked if he and his teachers are: (1) on the same wave length, (2) on the same planet, (3) somewhere in the same solar system, or (4) in two different worlds.

If his classwork is: (1) great stuff, (2) good stuff, (3) OK, or (4) dull stuff.

How he would rate the ability of most of his teachers compared to teachers in other schools at his grade level: (1) far above average, (2) above average, (3) average, (4) below average, or (5) far below average.

If he and the school are: (1) good friends, (2) friends, (3) distant relatives, (4) strangers, or (5) enemies.

The student is asked to provide the full names of his three best friends.

And also the full names of students in the following categories:

Very popular with other students;

Independent;

Hard to fool; and

Fools around in class instead of working.

The student is queried as to whether he was ever scolded in class for:

Fooling around;

Not paying attention;

Fighting in class

Talking back to teachers

Not handing in enough work;

Telling off a teacher; and

Shouting or laughing out loud.

If he ever stayed away from school just because he didn't want to go: (1) never, (2) 1 or 2 days, (3) 3 to 5 days, or (4) more than 5 days.

Whether he has ever cut classes just because he didn't want to go to them: (1) never, (2) 1 or 2 classes, (3) 3 to 5 classes, or (4) more than 5 classes.

A lot of the questions in the Johns Hopkins survey relating to student feelings and attitudes toward school and teachers are simply absurd and a sheer waste of time and resources. Perhaps the most ridiculous question is the one asking students to rate teachers in other schools at the same grade level. Leaving aside the ability of a young student to evaluate his teachers, how could he be expected to compare them with teachers in other schools whom he has neither seen nor heard? A good many of the queries are negative in tone; in our judgment they foment inner frustrations in the students and create student animosity toward the teachers and the particular school attended. As I have indicated, the regular classroom teacher is not involved in this test and is therefore unable to respond or even know about the criticisms by the students. But the most damaging questions in this category are those which extract self-incriminating information from the students themselves on truancy, insolence, and other improper activities in school. Self-confessions by students on such things as fighting in class and telling off the teacher provide an evaluation team with data to be entered into a permanent personality record classifying students as maladaptive, aggressive, antisocial, emotionally disturbed, and predelinquent.

The Johns Hopkins test may have run its course for this year with the students, but the survey continues for teachers and parents. We are asking that this project be withdrawn forthwith and prevented from spreading to other counties in the State of Maryland.

Our second candidate for removal from Maryland public schools is a questionnaire currently being administered to 50 classes in 26 elementary schools in Montgomery County. This survey, which is being financed by the Spencer Foundation, is designed to gain insight into students' motives and goals and likes and dislikes. In addition, assessment of the children's educational growth, with both standard academic measures and some non-academic measures, will be made toward the end of the school year. According to an explanatory letter to parents by a psychologist with the Psychological Services Department of the Montgomery County Public Schools system, "characteristics of the classroom environment will be assessed by observers in a series of several visits during the year." The information gained by this project will be sent out of State and fed into computer data banks for use in diagnosing and prescribing the handling of students.

Some sample questions from the Spencer Foundation survey are:

If your parents tell you you're acting silly and not thinking clearly, it is more likely to be: (a) because of something you did or (b) because they happen to be feeling cranky?

Suppose your parents say you aren't doing well in your school work. Is this likely to happen to you: (a) because your work isn't very good or (b) because they are feeling cranky?

If your parents tell you that you are bright and clever, is it more likely: (a) because they are feeling good or (b) because of something you did?

The students are asked to answer a number of "I think I am" questions, circling the appropriate degree to which they are:

Able to get along with other kids;

Not able to figure things out in school;

Scared to take chances;

A good worker in school;

Happy with myself;

Not as smart as other kids in school;

Trying my best in school;

Not the way I would like to be;

Sure of myself;

Doing poorly in school; and

Angry with myself.

The complaints and concerns of the organizations represented here today are by no means limited to specific surveys, such as those financed by the National Institute of Education and the Spencer Foundation. We are opposed to all abuses by the schools of the right to privacy, the right to be left alone. It so happens that the school administrative personnel and the social researchers in the State of Maryland have found a veritable gold mine in grants, contracts, and techniques that are turning public school children into a collection of guinea pigs who are constantly being battered with questionnaires, personality tests and a variety of other inquisitions which are clearly invasions of privacy of both the student and the home.

To cite one widespread example, the Maryland State Board of Education By-laws call for a compulsory treatment of subject matter known as Interpersonal Relationships. No child in public schools in the State of Maryland may be excused from these discussions and classroom activities, which are interspersed throughout the curriculum from kindergarten through the 12th grade. Under this program, children must be subjected to all types of probes into their psyches and family situations. Here in Montgomery County, for example, elementary school children are forced to participate in the following material and questions:

Discuss family size, pointing out advantages of both large and small families.

Role play the family at dinner.

Role play an increase in conflicts with parents.

Role play other meaningful family situations.

Have children keep records of their activities; note those children who seem to be overburdened with responsibilities.

Have children write paragraph about being afraid; encourage them to verbalize their fears due to dark places, being hurt, dreams or nightmares, personal loss, experience with death, punishment, and the unknown.

Have children observe their family for a week; have them jot down notes on the way love was shown.

Have children write examples of times when they felt angry, afraid, shy.

Have role playing situations based on these experiences.

Here are some sample questions:

What kind of things make you angry?

What do you like to do when you are alone?

Should you expect to be paid for chores done at home?

Whom does your family entertain at your house?

How do you cooperate with your family?

What happens when and if you refuse to cooperate?

Do you think you are being treated fairly?

Do you think you would like to live and work alone?

What do you expect of your father and mother?

Under what circumstances have you felt unloved, unwanted, lonely, shy, or fearful?

As these examples from the K-through-6 curriculum demonstrate, the Interpersonal Relationships approach emphasizes negative attitudes; it dwells on fears, death, sorrows, anxieties, and other personal feelings and the inter-relationship of these factors with parents and the home situation. The student—particularly the younger child—has a weak defense against such techniques and can easily be induced to yield to classroom pressure or forced to work his imagination overtime for the sake of satisfying the teacher's demands.

Such prying by the schools into the home and into parental authority can be a most dangerous business. In Montgomery County, the School Board recently (August 27, 1973) approved an expanded definition of child abuse, under which teachers are asked to make official reports to the police and the social services authorities on children who have been "denied normal experiences that produce feelings of being loved, wanted, and secure." These are labelled as children who have been subjected to so-called "emotional neglect." Moreover, teachers are required to submit a report on any child who is "overworked" by his parents or exposed to "continuous friction in the home." Whatever the charge, the school system policy stipulates "if there is any doubt or question in reporting such cases, it should be resolved in favor of the child."

It can, of course, readily be appreciated by one and all that the questions in the compulsory Interpersonal Relationships curriculum as well as a good many of the questions in the Johns Hopkins survey could provide data which may well be diagnosed incorrectly or misinterpreted by the social scientists as child abuse or child neglect cases. Moreover, many children could be labelled as what the social engineers like to call "disadvantaged children." We parents are most disturbed over this kind of role being assumed by the public schools. The schools were established in the United States to provide a service to the parents and taxpayers. The schools, therefore, work for us; not the other way around. The teachers, who in our view are thrust into and trapped in the middle of the situation, have an equally valid and justifiable complaint.

Whatever the stated goal of the educators and the social planners, the whole question of labelling children and predicting their behavior on the basis of questionnaires and classroom confessions is being challenged by parents and legal authorities throughout the United States. An important question is: Who has access to the data? Another, how will the data be used? An even more important question might be: What are the values and attitudes of the evaluators? The Congress of the United States is very much concerned with all of these questions. And we here today, who speak for five citizens orgnaizations with representation from eight Maryland counties, feel that the Maryland State public officials should be similarly concerned.

Therefore, by letter of April 19, 1974, we are strongly urging the Governor of Maryland to take steps to remove the Johns Hopkins University survey, the Spencer Foundation survey, and all similar tests and activities from the public schools of Maryland and to charge the Maryland State Board of Education with the task of reviewing all curriculum and practices in the classrooms for the purpose of removing those parts which violate the rights of the students and the parents as guaranteed by the Constitution of the United States of America. We are saying to the Governor "Enough is enough." We are asking him to remove the inquisitions of the master social planners from our public schols and to ensure us that our educators will concentrate, instead, on the basic concepts of education which our tax dollars were intended to finance, and education that will assist and prepare our children to face a mature, real world.

Mr. BIDEN. Mr. President, is the parliamentary situation such that I still have a few minutes of the time yielded to me by the Senator from New York?

The PRESIDING OFFICER. The Senator was yielded 5 minutes. One and a half minutes of that time still remain.

Mr. BUCKLEY. Mr. President, I yield 2½ minutes to the Senator.

Mr. BIDEN. I have one question. In subsection (b)(2), does the Senator have any objection to removing the words "or principal effect" on line 19, page 3, where it reads "the primary purpose or principal effect of which * * *"?

Mr. BUCKLEY. No, I do not. I think that would be very helpful. I thank the Senator from Delaware for suggesting it.

Mr. President, I ask unanimous consent that the three words at the end of line 19 on page 3 be eliminated.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is so modified.

Mr. BIDEN. I have no further questions of the Senator. He has indicated to me, in private and in the colloquy, that this is intended to go only to those programs which would be considered experimental. I think the single most burning issue before the country is the invasion of privacy at all levels. School records are private. No one should have access to them unless it is with the consent of the parents.

I am glad to be a cosponsor of the amendment.

Mr. HART. Mr. President, would the Senator yield for 1 minute?

The PRESIDING OFFICER. Who yields time to the Senator from Michigan?

Mr. PELL. I yield 1 minute. Which side is he on?

Mr. HART. I guess my honest answer is that I do not know which side I am on. I wish we had had a study or report on it. To say that the programs for research and experimentation are to be prevented unless the parents say OK is something unique and not really in the nature and order of the evolving educational techniques, when, on page 4 it is stated:

> As used in this subsection, the term "research or experimentation project" means any project or program which is a part of an applicable program and which is authorized by an administrative officer of an education agency, a State or local education agency, or any education institution, including preschools, except that research or experimentation projects shall not include projects in the field of reading . . .

Maybe that is visual education. I do not know.

It seems to me that the definitions excludes experimentation on anything except speech and language. However, this is but one example of the difficulty I have and that other Senators have in considering and understanding the reach of the bill without hearings. Of course, everyone is for protecting privacy; that is great. However, what do we do with experimentation?

Mr. BUCKLEY. Mr. President, I should like to address myself to the remarks just made. First of all, the amendment explicitly excludes reading and bilingual education. However, some parents might choose to have their child take those subjects. They do not destroy the educational apparatus of this program. They do not destroy the ability to develop a program with cooperative parents. If a program is so alarming to the average parent that no parent will cooperate, then we should examine the program to see whether that program should be in effect. I do not believe that the remarks dealing with such affairs would be justified.

Mr. HART. Mr. President, what about the new math, which I still do not understand, but to which my children have been exposed? Could I say "no" if we were to adopt this amendment?

Mr. BUCKLEY. That is not at all the situation. A normal person would agree to experimentation with new math.

We are not talking about educational disciplines or perhaps new textbooks or new apparatus, or anything else along that line. We are talking about new departures from teaching methodology.

Mr. MATHIAS. Mr. President, if the Senator would yield me a minute to pursue that line of inquiry, as much as I want to share that concept, I share with the Senator from Michigan some lack of comprehension as to whether it will do this. The Senator from Michigan raises a question about new math or any other method of teaching a new subject. What about the question I asked earlier as to whether this amendment would prevent any idenification symbol? If students cannot be identified in a statistical sense, how can we make any kind of longitudinal studies as to whether a new teaching program on any subject is successful? How do we evaluate programs? How do we make any judgments beyond the isolated case of one student at a time?

Mr. BUCKLEY. Mr. President, schools are quite capable of evaluating the experience with students which they have in their own classes. I see no difficulty at all. Again, I think the Senator is emphasizing that the amendment is not destroying the ability of programs or research to go forward in the case of experimental programs.

All the amendment requires is no identification, and then the parent has the right to withdraw the child. He does not need to consent in advance. In general, the premise is that parents are generally responsible adults, having prime responsibility for their children. I have no doubt that they would act responsibly.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, I yield myself 5 minutes.

I think the junior Senator from New York knows of the regard and high respect I hold for him. As much as I would like to see the Senator succeed in his proposal as he explains it, we are concerned here not with what the Senator from New York intends the language he proposes to accomplish. It is what the language would do.

This is what bureaucrats in future years will rely on, what the language in the bill is.

They will not look up the debate on the floor at the time of passage of the bill. However, the language of the bill reads specifically:

> Parents should be informed in advance and in writing of the participation of their child in any research program which is part of a school program * * * parents of such child objects to participation.

I believe that this language says that if there is to be a new experimental program of learning new math, or a psychological program, or something of that sort, every parent must be informed in writing. We should consider the postage and redtape involved. It would kill most new programs.

I hope the Senator from New York might be willing to withdraw at least subsection (b). I wonder what the wishes of the Senator might be in that regard.

Mr. BUCKLEY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUCKLEY. Mr. President, is it not possible to have a division ordered so that we could vote on section (b) alone?

The PRESIDING OFFICER. If it is in the pending provision, the answer is yes.

Mr. BUCKLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. DOMINICK. Mr. President, will the Senator withhold that request for just a moment?

Mr. BUCKLEY. Mr. President, I withhold my suggestion of the absence of a quorum.

Mr. DOMINICK. Mr. President, I want to ask the Senator, not about section (b), because I must say that I share my compatriot's concern over that. But on section (c) I have been very active since I became a member of the Education Subcommittee in trying to make the program available for children who are going from high school to college or graduate school.

It looks to me as though what we have done under subsection (c) is to prevent whatever institution might be seeking the records of a youngster concerning his personality to determine whether he is eligible (a) either for a loan, or (b) for a work-study program, or (c) for a well deserved and perhaps not fully qualified minority student, as to his ability to get this background without the consent of the child's parents. He may be trying to get away from the parents, who may be lushes, and he may be trained to get away from them.

Mr. BUCKLEY. I would point out that the amendment states that—

> Whenever a student has attained eighteen years of age, the permission or consent required of and the rights accorded to the parents of the student shall thereafter only be required of and accorded to the student.

Mr. DOMINICK. Mr. President, I understand that. However, I would presume that the Senator from New York or any Senator, as well as the Senator from Colorado, went to college when he was 17. A great number of children go to college when they are 17.

All I can say is that I think this is just a roadblock. It is something which I do not think the Senator from New York wants to do, in which we are trying to promote this subject and are not trying to restrict it.

I think that what the Senator is driving at in section (c) is the relief of a group of people who are trying to make some kind of psychiatric research program, totally devoid of the educational process in order to get their master's thesis or write something for the Brookings Institution, or something of that kind.

I am afraid that the language goes much further than that kind of restriction.

Mr. BUCKLEY. I find it implausible that parents would not cooperate in helping a child qualify for financial help.

Mr. DOMINICK. Well, they would not hesitate if he were going to be bringing the financial help back home, but I know a great number of people who do not give a whoop whether their children go to college, graduate school, or anything else; in fact, they would prefer they did not, and if he is trying to get a loan all of a sudden which they may ultimately be called on to repay, they may say no.

Mr. BUCKLEY. I point out to the Senator from Colorado that on page 6, line 12, we make an exception for financial aid.

Mr. DOMINICK. That is true. I had not seen that. Does that apply to all of subsection (c)?

Mr. BUCKLEY. Yes, it does.

Mr. DOMINICK. That helps materially. I will go back to the drawing board.

Mr. BUCKLEY. I thank the Senator.

Mr. President, in an attempt to make this amendment as acceptable as possible, I would make at this time, in response to some of the concerns expressed by the Senator from Maryland and the Senator from Michigan, the following modification: On page 4, line 13, to add in, as an exception in the definition of experimental programs, after the words "bilingual education", the words "or for the development of new techniques for the teaching of traditional disciplines". I ask unanimous consent that I may so modify my amendment.

The PRESIDING OFFICER. Without objection, the amendment will be so modified.

Mr. PELL. Mr. President, reserving the right to object, I could not hear. What was the modification?

Mr. BUCKLEY. On page 4, line 13, after the word "education," I insert the words "or for the development of new techniques for the teaching of traditional disciplines."

The PRESIDING OFFICER. Without objection, the amendment is so modified.

Mr. PELL. Mr. President, I will not object to the modification, but this will be the fourth modification made on the floor. I really think this matter should be considered in the committee. I shall be compelled to vote against it, but I do not object to the modification.

Mr. BUCKLEY. May I now ask the Presiding Officer whether the Parliamentarian has made a determination as to whether section (b) would stand on its own?

The PRESIDING OFFICER. (Mr. TUNNEY). Section (b) is written in such a way that it is independent and is divisible.

Mr. BUCKLEY. Under those circumstances, Mr. President, and on condition that the sponsor will accept the balance of the sections—Mr. President, if I may have the attention of the distinguished manager of the bill—I am willing to ask for a division, so that we may vote separately on section (b), provided the manager will accept the remainder of the amendment.

Mr. PELL. I would ask for a rollcall vote on subsection (b), and as far as section (c) goes, I would ask my colleague from Alaska whether he has any objection.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. PELL. To be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. This procedure would be acceptable, and I am perfectly willing to have either a voice or a division vote or sections (a), (c), and (d).

Mr. BUCKLEY. Mr. President, before asking for a division, I ask unanimous consent to have printed in the RECORD a statement prepared by the Senator from Arizona (Mr. GOLDWATER) in support of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR GOLDWATER

PARENTAL AND STUDENT RIGHTS

Mr. President, it gives me great pleasure to join with my good friend from New York, Senator Buckley, and others of my colleagues, in sponsoring an amendment to protect the right of privacy of school children and their parents. I have a particular interest in the amendment because it would legislate in the education field certain, basic safeguards for the right of personal privacy which I have been trying to get enacted for over a decade.

Subsection (a) of our amendment would provide statutory confirmation of the right of parents to see the contents of their own children's school records. Parents would also be guaranteed a right to challenge information in their child's school records and to correct any inaccurate or misleading data. This is identical to the safeguards standards which are included in S. 2810, a bill which I have introduced regarding the privacy and accuracy of personal data systems of all types.

Subsection (b) of our amendment would create a system of parental consent which would give parents a right of control over "personality" tests given to their children in the public schools. This provision is identical to legislation which I first introduced thirteen years ago, in 1961. In the early '60's, I was concerned that the new Federal authorities for direct funding of educational programs, which were just getting underway, would allow Federal monies to be spent for testing programs in which school children could be used as involuntary "guinea pigs" in experimental programs unrelated to the true purposes of education.

Needless to say, Mr. President, I was shocked to learn of the existence of surveys being conducted in our public schools which probed the most intimate personal aspects of the lives of school children and their relationships with their parents and families. I was especially surprised to discover one survey, financed with Federal funds, which consisted of some two hundred questions being asked of Junior High School students ranging in age from 11 to 14 years.

These quetsions inquired of the student:

"Is your father fairer about punishment than your mother?

Did you "steal more than $2 from your parents?"

Did you "fight physically and bodily with an adult relative?"

The student was also asked to reveal to the school whether he or she had "gone further than petting with a person of the opposite sex."

In addition, the student was asked to rate his or her own family. The student was required to give a yes or no answer, for example, to these questions:

"I wish my family had nearly as much money as the families of many of my classmates."

"Are the children in your family punished more severely than in other families?"

"I wish my father and mother were better educated, like the parents of many of my classmates."

Mr. President, these questions were just a few of the two hundred questions that were actually being asked of American school children in a questionnaire financed in part by Federal funds granted by the Department of HEW.

Yet, I was told it wasn't done. I was told it couldn't be done. On the one hand, I was informed that such questions were not permitted under the administrative interpreta*tions of* the Department. On the other, I was advised that leading "experts" believed that my amendment "would greatly inhibit much-needed educational research. . . ."

So there you have it, Mr. President. The agency told me that my amendment was not needed because it would duplicate their own policy interpretations; but that if it was put into law, it would impair research that the bureaucrats wanted to allow to go on. I never could make sense out of this, but the Department's view prevailed and the Senate rejected my amendment.

Mr. President, perhaps the climate of this country has caught up with the wishes of ordinary parents and ordinary school children. Perhaps the concept of the personal freedom of the average citizen and his family has grown to the point where Congress is willing to be the guardian of his privacy against prying and inquisitive minions of the bureaucracy.

Mr. President, our public schools have no compelling need for psychological and personality tests which pry into the private lives of a captive audience of school children. Even if the child is not specifically told that he is required to answer these tests, it would be a rare and unusual child who would dare to defy the authority of a school by refusing on his or her own initiative.

Questions of this kind are an intolerable invasion of the right of privacy. They exemplify the ever-watchful eye of "Big Brother" spying into the most personal thoughts and habits of American families, and doing it, by abusing the trust of innocent school children.

Moreover, Mr. President, these types of questions are calculated to raise doubts, suspicions, and hostility in the minds of our children toward their own parents and a skepticism about the basic moral principles of our society. In this sense, these tests could be used by governmental planners for purposes of influencing or conditioning the social and political thinking of our youth, and through them, American society.

Mr. President, the time to preserve what is left of our personal privacy is now. Sufficient thought and action must be given to the problem while there is still some measure of personal liberty left to cherish. It is *for us* today to determine just how much freedom shall remain for the individual in the future. I implore my colleagues to vote for the Parental and Student Rights Amendment.

Mr. President, I include the junior high school student survey which was conducted in the early 1960's, in part with Federal grants:

Junior High School Survey Supported by Grants From the U.S. Public Health Service and the University of Kansas (1961)

FACTS ABOUT YOURSELF

Please answer all questions completely.

5. How old are you? (Check only one answer.)

(1)—11 years or younger.

(2)—12 years old.

(3)—13 years old.

(4)—14 years old.

(5)—15 years old.

(6)—16 years old or older.

6. Sex:

(1)—Boy.

(2)—Girl.

7. What grade in school are you now in?

(7)—Seventh grade.

(8)—Eighth grade.

(9)—Ninth grade.

8. Are you (check only one answer)—

(1)—An only child?

(2)—The youngest child in your family?

(3)—The oldest child in your family?

(4)—Neither the youngest nor the oldest child?

9. How many living brothers and sisters do you have?

(0)—None.

(1)—One.

(2)—Two.

(3)—Three.

(4)—Four.

(5)—Five or more.

10. What was the highest grade your father finished in school?

(1) — Eighth grade or less.

(2) — Some high school.

(3) — Finished high school.

PART I. RULES WE ALL BREAK

The questions in part I are about more personal things concerning you and your friends. Do you put your name or address on this questionnaire. We want to assure *you* that your answers will be kept completely *secret* and *confidential*. No one will ever know how you answered any of the following questions. We encourage you to be completely honest with your answers.

For the purpose of this study, we are interested in the things you have done during the *last 2 years only*.

11. Damage or disfigure furniture in schools, such as chairs, tables, and desks:

(1) — No.

(2) — Yes.

12. Steal goods from warehouses or storagehouses:

(1) — No.

(2) — Yes.

13. Damage cemetery property:

(2) — Yes.

(1) — No.

14. Damage or destroy public signs or road markers:

(1) — No.

(2) — Yes.

15. Steal automobile parts such as hubcaps, mirrors, ornaments, etc.

(1) — No.

(2) — Yes.

16. Kicked, bit or scratched a student of about your own age:

(3) — Three or more times.

(2) — Twice.

(1) — Once.

(0) — Never.

17. Get out of going to school by writing a fake excuse for yourself:

(2) — Yes.

(1) — No.

18. Steal or siphon gasoline from cars, trucks, or other kinds of vehicle equipment:

(2) — Yes.

(1) — No.

19. Damage or destroy mailboxes:

(1) — No.

(2) — Yes.

20. Steal more than $2 (money) from your parents:

(2) — Yes.

(1) — No.

21. Puncture or cut automobile tires, bike tires:

(1) — No.

(2) — Yes.

22. Steal materials or equipment from buildings that are being constructed:

(2) — Yes.

(1) — No.

23. Kicked, scratched or bit an adult relative (mother, father, guardian, or uncle, for example):

(0) — Never.

(1) — Once.

(2) — Twice.

(3) — Three or more times.

24. Damage or destroy toys or games that belonged to persons your own age:

(1)—No.

(2)—Yes.

25. Steal from buildings that are being torn down:

(1)—No.

(2)—Yes.

26. Tied a person up with rope, string, or wire to a tree or similar object and then left them that way:

(0)—Never.

(1)—Alone.

(2)—With one or more others.

(3)—Both alone and with others.

27. Steal things from your parents that were worth more than $2:

(2)—Yes.

(1)—No.

28. Teased severely, hurt or killed a cat or dog:

(1)—Alone.

(2)—With one or more others.

(0)—Never.

(3)—Both alone and with others.

29. Scratch the paint on someone's car on purpose:

(1)—No.

(2)—Yes.

30. Steal more than $2 (money) from your brothers or sisters:

(2)—Yes.

(1)—No.

31. Skip school with one or more friends or classmates:

(2)—Yes.

(1)—No.

32. Steal articles of clothing worth more than $5 from clothing or department stores:

(1)—No.

(2)—Yes.

33. Become so mad or angry that you threw things at or hit a teacher or principal or other school official:

(3)—Both alone and with others.

(0)—Never.

(1)—Alone.

(2)—With one or more others.

34. Steal a bicycle from anyplace other than a place that sells bicycles (like from neighborhoods, school grounds, or public places where bikes may be parked):

(2)—Yes.

(1)—No.

35. Remove spark plugs or wires from cars:

(1)—No.

(2)—Yes.

36. Steal a car for joyride without the owner's knowledge or permission:

(2)—Yes.

(1)—No.

37. Break or crack windows in automobiles:

(1)—No.

(2)—Yes.

38. Skip school with three or more friends or classmates:

(2)—Yes.

(1)—No.

39. Steal articles of clothing worth less than $5 from clothing store or department store:

(1)—No.
(2)—Yes.

40. Damage flowerbeds or gardens on purpose:
(2)—Yes.
(1)—No.

41. Steal gasoline from gas stations, farms, or other private places:
(1)—No.
(2)—Yes.

42. Taken part in fights where knives or switchblades were used:
(1)—No.
(2)—Yes

43. Steal a bicycle from a store that sells or repairs bikes:
(2) — Yes.
(1) — No.

44. Skip out of certain class periods, but not the whole day, without permission (like gym class or student assemblies):
(2) — Yes.
(1) — No.

45. Fought physically and bodily with an adult relative such as mother, father, or aunt (that is, fought in anger or fear, not in sheer fun):
(0) — Never.
(1) — Alone.
(3) — Both alone and with others.
(2) — With one or more others.

46. Steal things (not money) from your brothers or sisters that were worth more than $2:
(2) — Yes.
(1) — No.

47. Get out of school early by pretending to your teacher that you were sick or not feeling well:
(2) — Yes.
(1) — No.

48. Steal anything because an adult asked you to steal it:
(1) — No.
(2) — Yes.

49. Beat up a person much older than yourself in a fight:
(0) — Never.
(2) — With one or more others.
(1) — Alone.
(3) — Both alone and with others.

50. Steal more than $2 (money) from your friends or classmates:
(2) — Yes.
(1) — No.

51. Damage parking meters on purpose (break glass, jam slot):
(1) — No.
(2) — Yes.

52 Steal jewelry worth more than $2 from jewelry, department, dime or drug stores:
(2) — Yes.
(1) — No.

53. Skipped school or stayed out of school without a genuine excuse for more than 1 day:
(1) — No.
(2) — Yes.

54. Damage or break coin machines of any kind on purpose:
(1) — No.
(2) — Yes.

55. Damage or ruin personal clothing of classmates or other schoolchildren:
(1) — No.
(2) — Yes.

56. Get out of going to school by pretending to your parents that you were sick:
(2) — Yes.
(1) — No.

57. Steal more than $2 (money) from candy, coke, or cigarette machines:
(2) — Yes.
(1) — No.

58. Leave home with intention of going to school, but just never making it to school (without a good reason):
(1) — No.
(2) — Yes.

59. Injured or hurt someone not in your family, but arranged matters so that someone else got the blame:
(1) — Alone.
(2) — With one or more others.
(3) — Both alone and with others.
(0) — Never.

60. Steal more than $2 from school:
(2) — Yes.
(1) — No.

61. Leave school early without permission:
(2) — Yes.
(1) — No.

62. Try to "get by" without paying the bill in restaurants, cafes, soda fountains:
(1) — No.
(2) — Yes.

63. Skip school by yourself without good excuse from parents:
(2) — Yes.
(1) — No.

64. Taken part in a gang fight against another gang or against one or two other persons:
(1) — Once.
(2) — Twice.
(3) — Three or more times.
(0) — Never.

65. Steal things from inside of parked cars:
(1) — No.
(2) — Yes.

66. Break windows on purpose in vacant homes, garages, or other buildings:
(1) — No.
(2) — Yes.

67. Damage or destroy anything because someone "dared" you to do it:
(1) — No.
(2) — Yes.

68. Steal things worth more than $2 from foodstores:
(2)—Yes.
(1)—No.

69. Damage school property other than chairs, tables, and desks:
(1)—No.
(2)—Yes.

70. Curse or use obscene language in speaking to a teacher or other school official:
(2)—Yes.
(1)—No.

71. Steal anything and then sell it to an older teenager or adult:
(1)—No.
(2)—Yes.

72. Damage or destroy anything that belonged to another person, in order to "get even" with that person:
(1)—No.
(2)—Yes.

73. Steal money from public telephones or parking meters:
(1)—No.
(2)—Yes.

74. Hit or strike a teacher, coach, or other school official:
(2)—Yes.
(1)—No.

75. Take part in fights where BB guns, air-pellet guns, or slingshots were used:
(1)—No.
(2)—Yes.

76. Tease or embarrass someone by stripping or taking his or her clothes off?
(2)—Yes.
(1)—No.

77. Damage or destroy anything "just for the heck of it":
(1)—No.
(2)—Yes.

78. Steal less than $2 (money) from candy, coke, or cigarette machines:
(2)—Yes.
(1)—No.

PART II. ALONE OR WITH OTHERS

Instructions.—We are interested in how certain rules are broken. Some people break rules only when they are with others, some break rules only when they are alone, and other persons. For each item, *check the box that applies to you.* If it does not apply to to you, leave that item blank.

In the last 2 years, did you:

	Only when alone (1)	Only when with other persons (2)	Both alone and with other persons (3)
11. Steal hubcaps, mirrors, etc. from cars			
12. Puncture or cut tires, convertible tops, scratch the paint on cars			
13. Tie a person up with rope or string and left them that way			
14. Tease, hurt, kill harmless animals			
15. Steal clothing worth less than $5			
16. Steal a car for a joyride			
17. Beat up a person much older than you			
18. Damage or break coin machines			
19. "Get by" without paying the bill in cafes, soda shops, movies, other events			
20. Damage school property on purpose			
21. Steal things in order to sell them			
22. Damage or destroy road markers, signs, mailboxes, street lights			
23. Steal anything worth more than $5 but less than $50			
24. Beat up an adult for his money			
25. Steal anything worth $50 or more			
26. Break into and enter a locked store, gas station, or other buildings			

PART III. YOUR SOCIAL ACTIVITIES

Instructions.—In this section are statements about what some boys and girls do most of the time in their time after school and on weekends. Read each statement and decide whether it fits you or does not fit you as you are right now or during this year. If the statement is true of you, that is, if you would say *"Yes"* to the statement, put a No. 1 next to it. If the statement is not true of you, that is, if you would say *"No"* to the statement, put a No. 2 next to it.

Be sure to read and to answer each statement with a 1 or a 2. If it fits you fairly well but not exactly, put a 1.

Answers.—Put 1 for a *"Yes."* Put 2 for a *"No."*

27. I spend a lot of time with one special friend who is not a member of my family.—
28. I stick pretty much to myself.—
29. I never disobey my parents.—
30. I spend a lot of time with one friend at a time, although I have several close friends.—
31. I spend a lot of time with two or three friends. The group of us play together.—
32. I do some talking about or listening to talk about sexual matters when I am with my friends.—
33. I play with a large group of four or more children in or near my home neighborhood.—
34. I mostly play alone or with my brothers or sisters.—
35. I belong to a group that is often chased after by some adults such as storekeepers, police, or homeowners.—
36. I never catch cold in the winter or spring.—
37. I play with friends my parents do not like.—
38. I never tell lies.
39. I often share secrets and ideas or hopes with my friends.—
40. I have taken part in kissing and necking while on a date or while alone with a person of the opposite sex.—
41. Most of my friends are my own age or between 11 and 14.—
42. I have never spent a night in a detention home or jail.—

43. Most of my friends are 2 or 3 years older than I am.—

44. I have petted with a person of the opposite sex while on dates or when **we were** alone.—

45. Most other boys and girls like me.

46. I try to get other boys and girls to like me.—

47. I have gone further than petting with a person of the opposite sex.—

48. I care a great deal about what other boys (or girls) think of me.—

49. I want to be different somehow from others in my own age group.

50. I have answered ads in comic books or other magazines which advertised pictures, photographs, or stories about sexual matters.—

51. I like most of all to spend my free time alone.—

52. Some of my friends do not like the way I act.—

PART IV. LEISURE ACTIVITY AND FAMILY LIFE

Instructions.—The statements in this section are like those in the section you just completed. But these have to do with *how* you spend your spare time and how you are treated by your parents.

Read each statement. If it applies to you as you are right now or have been during this year, mark the statement with a 1 for a "*Yes.*" If it does not apply to you, mark it with a 2 for a "*No.*"

The statements.—Write 1 for a *Yes*, and 2 for a *No.*

53. Do you spend more of your free time with your friends than with your family?—

54. Do you go to dances more than once a month?—

55. Do you go out with your mother or father more than once a month? (Movies, dining, social events, etc.) —

56. Is your father fairer about punishment than your mother?—

57. Do you study schoolwork at home less than five times a week?—

58. Is your mother fairer about punishment than your father?—

59. Do you work at a part-time job once or more a week?—

60. When you do something extra, do your parents reward you with praise or special privileges or with money?—

61. Do you help around the house doing chores almost every day?—

62. When you have done something wrong or "bad" do your parents try to reason with you?—

63. Do you usually attend at least one movie a week?—

64. Are some children in your family punished more severely than others?—

65. Do you spend time after supper at a local hangout (drugstore, soda shop, bowling alley, etc.) at least two times a month?—

66. Do your parents get all the facts before they punish you?—

67. Do you usually have one or two dates a month or more?—

68. Are the children in your family punished more severely than in other families?—

69. Do you think that your friends have better ideas than your parents do about what a young person should do in his spare time?—

70. Do you usually spend three or more evenings a week away from home?—

71. Are the children in your family ever punished when they do not need it?—

72. Does your father punish you when your mother does not think you should be punished?—

73. Would you like to spend more of your free time with your friends than your parents now allow?—

74. Does your mother punish you when your father does not think you should be punished?—

75. Do you feel your mother punishes you fairly?—

76. Do you feel your father punishes you fairly?—

77. Below is a line that stands for your *grades* or *marks* in school this year, thinking of them lumped together. Make only one check (√) where you best fit.

"A" or best possible, 100.
"B" or high, 90.
"C" or average, 80.
"D" or below average, 70.
"F" or failing, 60.

PART V. GUESSING CAUSES

Instructions.—Reprinted below is a news story that appeared not long ago in the Kansas City Star. After you read the story carefully, pretend that you are talking the story over with some school friends. None of you knew the boy in the story directly or indirectly, but you are all *guessing* about why he did what the police claim he did. Then the questions that follow the story, indicating what your guesses would probably be. (Names and places in the story have been added or changed.)

The story

The Kansas City Police last night arrested Walter Stevens, age 13, who was caught by Police Sergeant Daniels. Daniels charged the boy with stealing coins from the coin machine and washing machines in the Whirlaway Laundromat. The policeman said he saw Stevens pry open the coin slots on the machines and remove quarters and dimes. He had $15 in coins in his pocket when arrested.

The boy's mother, Mrs. William Stevens, said she thought her son was at work at his part-time job in the nearby Roll Em Bowling Alley. He had worked there 2 nights a week for 2 months, she said, and had been earning about 60 cents an hour. The boy's father, William Stevens, 48, is a clerk in the central post office. He works the night shift and was away at the time of the arrest.

Walter Stevens is a seventh grade student at Wiltmore Junior High School. The Wiltmore principal, Mr. John Savage, reported that young Stevens had been doing very poorly in school for several months, and said that he had been expelled once for breaking school property and had often skipped school.

When interviewed, young Stevens told this reporter that his father had to work such long hours that he was very seldom home and that his mother was often ill and had to remain in bed. He claimed, "Nobody at school understands me or tries to help me."

Instructions.—Now check the statements below that you think provide the best possible explanations for why Walter Stevens did what he did. Remember that these are guesses and that all of them may be true or all may be false.

Put a 1 if you agree, and a 2 if you disagree.

11. Walter wanted to get more money than he could earn at his job in order to help his poor parents.—

12. Walter was lonely and unhappy at school, where no one understood him.

13. Walter was raised by bad standards and had not been taught properly what was right and wrong.

14. Walter had everything against him. He was bound to get into trouble when everything at school and at home went wrong.

15. Walter was fired from his job at the bowling alley but didn't want to worry his mother, who needed the money he had been giving her.—

16. A gang of young boys managed by a professional thief had organized stealing from laundromats and other service stores, and Walter had fallen in with this gang through his acquaintances at the bowling alley.—

17. Walter liked to steal and had probably been stealing one thing and another for several years before he was caught.—

18. Walter was sick, mentally or physically, but no one at school or at home understood this and helped him.—

19. Other children at school had been selfish and unkind in the past and had kept Walter from building any friendships. His loneliness led him to steal.—

20. Older boys in a gang really broke the coin machines and did the stealing, but they left Walter, who thought they were his friends, when they heard the police car and dumped the coins into his pocket.—

21. Walter's parents had never taken him to Sunday School, where he could have learned what is right and wrong.—

22. Walter wanted to find a way to get decent clothes and money for an allowance. His parents could not give him these things, but he needed them to try to make friends at school.—

PART VI. WISHES

Below are listed some wishes that have been expressed by boys and girls in other junior high schools. Read each wish carefully. Then check the wish with an X if you feel it is a wish that you have made or thought about any time during this year. If the wish does not fit you, leave it blank.

Check (X) here

23. I wish I could buy my lunch in the cafeteria more often.—

24. I wish I could afford to go to the movies as often as many of the others in my school.—

25. I wish my family could take me on vacation trips like those that many of the persons in my school have enjoyed.—

26. I wish I were able to dress as well as most or many of the persons in my school.—

27. Many of the students in my class will get to go to college some day, but I probably won't get the chance.—

28. I wish I were physically better built or more attractive.—

29. I wish I were as attractive to the opposite sex as many of my schoolmates.—

30. I wish I could join the Boy or Girl Scouts like many of my classmates.—

31. I wish my parents were more understanding, like the mothers and fathers of many of my classmates.—

32. I wish my family had nearly as much money as the families of many of my classmates.—

33. I might like to be an engineer or a scientist when I grow up, but I probably will not get the chance.—

34. I won't have as good opportunities when I grow up as many of my classmates.—

35. I wish my parents were not so strict with me, and more like the parents of many of my classmates in this way.—

36. I wish my parents were a little more strict with me, like the parents of many of my classmates.—

37. I wish my father and mother were better educated, like the parents of many of my classmates.—

38. I wish my father had as good a job as many of my classmate's fathers.—

39. I wish I could go on dates the way many of my classmates do.—

Now write down one wish that you have felt strongly about this past year.

PART VII. SOCIAL VALUES AND FEELINGS

Please answer each question by making a check in the space next to agree or disagree. There are no right or wrong answers. Just report your opinion.

40. Watching television programs such as "Sugarfoot" and the "Donna Reed Show" and "Dobie Gillis" is boring or dull and a waste of time:

(0)—Agree.
(1)—Disagree.

41. Having a coke in a drugstore with other boys and girls after school or on a week end is dull and a waste of time:

(0)—Agree.
(1)—Disagree.

42. Watching school athletic contests is boring and a waste of time:
(0)—Agree.
(1)—Disagree.

43. Watching school basketball or football games is fun:
(1)—Agree.
(0)—Disagree.

44. Television programs such as "Cheyenne" and "National Velvet" and "Lassie" are fun to watch:
(1)—Agree.
(2)—Disagree.

45. The people who get the best jobs when they grow up are usually the people who have friends who do favors for them, rather than the people who are best trained or educated:
(0)—Agree.
(1)—Disagree.

46. Teachers give their praise and recognition to the students who find a way to become their special favorites, whether these students are good workers in school or not:
(0)—Agree.
(1)—Disagree.

47. Most teachers do not really like to help students:
(0)—Agree.
(1)—Disagree.

48. Teachers give their praise and recognition to the students who work the hardest and learn the most:
(1)—Agree.
(0)—Disagree.

49. The popular children in any school are the ones who have earned the respect and admiration of other students:
(1)—Agree.
(0)—Disagree.

50. Teachers have such different ideas about what you are supposed to learn in school that it is impossible to get a clear idea of what is best:
(0)—Agree.
(1)—Disagree.

51. People have such different ideas about what is right and wrong that you can't ever get clear ideas on this question:
(0)—Agree.
(1)—Disagree.

52. Once some teachers decide that a certain boy or girl is "bad" or a "troublemaker," there is nothing you can do to change their minds:
(0)—Agree.
(1)—Disagree.

53. Teachers can usually tell quite well who is learning a lesson and who is not:
(1)—Agree.
(0)—Disagree.

54. Most parents have very clear ideas about how their children should act on dates and about matters like kissing:
(1)—Agree.
(0)—Disagree.

55. People in any town have a lot to say about how their town government is run:
(1)—Agree.
(0)—Disagree.

56. The children and adults in any town can help the police do a good job of enforcing the law:
(1)—Agree.
(0)—Disagree.

57. Students in junior high schools never have any say or influence in what they are taught in their classes.
(0)—Agree.
(1)—Disagree.

58. So many other people voted in the national election last fall that it didn't matter to me whether my parents voted or not.
(0)—Agree.
(1)—Disagree.

59. If a group of children decide they do not like you, there is nothing much you can do to change their minds:
(0)—Agree.
(1)—Disagree.

PART VIII. WAYS OF DISCIPLINING YOUNG PEOPLE

Below are various ways by which many parents discipline children and young people. *Please answer each question by checking the choice which best tells how your parents have disciplined you during the last 2 years.* Answer each question for your mother and your father separately.

Do your parents take away your allowance?
61. Father:
(0)—Never.
(1)—Very seldom.
(2)—Sometimes.
(3)—Frequently.
62. Mother:
(0)—Never.
(1)—Very seldom.
(2)—Sometimes.
(3)—Frequently.

Do your parents refuse to speak to you?
63. Mother:
(1)—Very seldom.
(2)—Sometimes.
(3)—Frequently.
(0)—Never.
64. Father:
(2)—Sometimes.
(0)—Never.
(3)—Frequently.
(1)—Very seldom.

Have your parents slapped you or given you spankings?
65. Mother:
(3)—Frequently.
(2)—Sometimes.
(0)—Never.
(1)—Very seldom.
66. Father:
(2)—Sometimes.
(3)—Frequently.
(1)—Very seldom.
(0)—Never.

Do your parents forbid you to do something that you were especially planning on doing?
67. Father:
(3)—Frequently.
(2)—Sometimes.
(0)—Never.
(1)—Very seldom.
68. Mother:
(3)—Frequently.
(2)—Sometimes.
(0)—Never.
(1)—Very seldom.

Do your parents tell you to leave home, or to find a new home if you can't be better?
69. Mother:
(1)—Very seldom.
(2)—Sometimes.
(0)—Never.
(3)—Frequently.
70. Father:
(2)—Sometimes.
(0)—Never.
(3)—Frequently.
(1)—Very seldom.

Do your parents spank you with a stick, belt, hairbrush, or things other than their hands?
71. Mother:
(1)—Very seldom.
(0)—Never.
(3)—Frequently.
(2)—Sometimes.
72. Father:
(0)—Never.
(3)—Frequently.
(2)—Sometimes.
(1)—Very seldom.

Do your parents take away some special privileges?
73. Mother:
(2)—Sometimes.
(3)—Frequently.
(0)—Never.
(1)—Very seldom.
74. Father:
(2)—Sometimes.
(3)—Frequently.
(0)—Never.
(1)—Very seldom.

Do your parents say they don't love you or warn you that they will stop loving you?
75. Father:
(3)—Frequently.
(2)—Sometimes.
(0)—Never.
(1)—Very seldom.
76. Mother:
(2)—Sometimes.
(3)—Frequently.
(1)—Very seldom.
(0)—Never.

Have your parents beat you up (using their fists, etc.)?
77. Father:
(2)—Sometimes.
(0)—Never.
(3)—Frequently.
(1)—Very seldom.
78. Mother:
(3)—Frequently.
(2)—Sometimes.
(1)—Very seldom.
(0)—Never.

Mr. PELL. Mr. President, I ask for the yeas and nays on section (b).

The yeas and nays were ordered.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. STEVENS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. Is this amendment still open to amendment?

The PRESIDING OFFICER. Is the amendment open to amendment?

Mr. STEVENS. Yes.

The PRESIDING OFFICER. The Senator from New York has requested the division of his amendment, and section (b) will be voted on separately. All the rest will be voted on by voice vote first.

Mr. STEVENS. Is it in order to submit an amendment to delete subsection (c) at this time.

The PRESIDING OFFICER. That would be in order now.

Mr. STEVENS. I send such an amendment to the desk.

The PRESIDING OFFICER. Have the Senator from New York and the Senator from Rhode Island yielded back their time?

Mr. PELL. My recollection is not acute on that. What does the RECORD show?

The PRESIDING OFFICER. Does the Senator yield back his time?

Mr. PELL. I yield it back.

Mr. BUCKLEY. I yield back the remainder of my time.

The PRESIDING OFFICER. The clerk will state the amendment of the Senator from Alaska.

The assistant legislative clerk read as follows:

On page 4, line 14, delete subsection (c).

Mr. STEVENS. Mr. President, I again applaud what the Senator from New York is trying to do, but I think any proposal that has to have so many amendments on the floor to try to perfect the original intent is a measure that should not be passed.

Subsection (a) is a good subsection. Subsection (d), as I read it, on protection of personal data, gives the Secretary and the schools the right to protect personal data under any regulations that are necessary to control the use, dissemination, or protection of such data.

Subsection (c) is not necessary, and what is more, again I point out that it would harm the students. It would prevent those with legitimate interests from going to a school and getting the information that is necessary. It would prevent the Senator from New York from deciding to recommend a student for some national award without going and telling him, if he was over 18. One would have to have his consent to get any information from his record.

It would prevent a probation officer—notwithstanding the argument of my good friend from Delaware, I still have faith in the probation system, and I think the probation officer ought to be able to go in and get the information *necessary not* only when a student is subject to a juvenile proceeding, but in order to continue the work that he has to do during the period before a juvenile is sentenced. Many times they have to keep up with what they are doing. It is a probation officer's duty to find out what he is doing in school, or whether he is attending school. This would even prevent a probation officer from getting attendance data. I cannot understand us putting such a cloak of secrecy around a student.

On the other hand, subsection (c), as I understand it, gives the school authorities complete authority to adopt appropriate regulations. That would be subject to the Administrative Procedures Act. Everyone concerned would be involved in a hearing.

This has not been the subject of hearings by committee, and I do not think it is the kind of thing that ought to be passed on the floor of the Senate without further consideration. Therefore, to save time, I ask the deletion of that section.

I yield back the remainder of my time.

Mr. PELL. Mr. President, I think there is merit in what the Senator from Alaska says, and I would vote the same way. I yield back the remainder of my time.

Mr. BUCKLEY. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The **PRESIDING OFFICER.** Does the Senator from Rhode Island yield back his time?

Mr. PELL. Mr. President, I yield back the remainder of my time.

The **PRESIDING OFFICER** (Mr. Nunn). All time has now been yielded back——

Mr. ERVIN. Mr. President, a parliamentary inquiry. What are we voting on?

The **PRESIDING OFFICER.** On the amendment of the Senator from Alaska (Mr. Stevens) to strike section (c).

Mr. BUCKLEY. Mr. President, I do not believe I yielded back my time yet.

The **PRESIDING OFFICER.** On the Stevens amendment, the Senator from New York does not have any time.

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senator from New York (Mr. Buckley) may have 5 minutes to respond. I think that is only fair.

The **PRESIDING OFFICER.** Is there objection to the unanimous-consent request of the Senator from Alaska? The Chair hears none, and it is so ordered.

Mr. BUCKLEY. Mr. President, if the distinguished Senator from North Carolina (Mr. Ervin) wants to address himself to that point, I yield to him to do so.

Mr. President, I would merely say that the area addressed by the Senator from Alaska (Mr. Stevens) is but one area. Probation reports have also been leaked to the FBI, and other files as well. This is an area of extreme sensitivity. I do not believe that, absent appropriate court orders, this information should be made available.

Mr. ERVIN. Mr. President, section (d), as I understand it, provides that—

> The Secretary shall adopt appropriate regulations to protect the rights of privacy of students and their families in connection with any surveys or data-gathering activities conducted, assisted, or authorized by the Secretary . . .

I do not see any objection to protecting the privacy of children. I do not see that they should be made guinea pigs by social scientists. That is why I support the bill.

Mr. STEVENS. Mr. President, with all due respect to the distinguished Senator from North Carolina, my amendment is to delete section (c), not (d).

Mr. BUCKLEY. Mr. President, I yield back the remainder of my time.

The **PRESIDING OFFICER.** All time on this amendment has now been yielded back.

The question is on agreeing to the amendment of the Senator from Alaska (Mr. Stevens) to strike section (c).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Fulbright), the Senator from Alaska (Mr. Gravel), the Senator from South Carolina (Mr. Hollings), the Senator from Hawaii (Mr. Inouye), the Senator from Utah (Mr. Moss), the Senator from West Virginia (Mr. Randolph), the Senator from Alabama (Mr. Sparkman), the Senator from Texas (Mr. Bentsen), and the Senator from Missouri (Mr. Symington) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. Randolph) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. Bennett), the Senator from Kentucky (Mr. Cook), the Senator from Florida (Mr. Gurney), the Senator from New York (Mr. Javits), and the Senator from Illinois (Mr. Percy) are necessarily absent.

I also announce that the Senator from Nebraska (Mr. Curtis), and the Senator from Arizona (Mr. Goldwater) are absent on official business.

I further announce that, if present and voting, the Senator from Nebraska (Mr. Curtis) would vote "nay."

The result was announced—yeas 35, nays 49, as follows:

[No. 194 Leg.]

YEAS—35

Aiken
Bayh
Bible
Byrd, Robert C.
Cannon
Clark
Cotton
Dominick
Eagleton
Griffin
Hart
Hartke
Haskell
Hathaway
Huddleston
Jackson
Kennedy
Magnuson
McGee
McGovern
McIntyre
Metcalf
Metzenbaum
Nelson
Nunn
Packwood
Pell
Proxmire
Ribicoff
Stennis
Stevens
Stevenson
Taft
Talmadge
Williams

NAYS—49

Abourezk
Allen
Baker
Bartlett
Beall
Bellmon
Biden
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Case
Chiles
Church
Cranston
Dole
Domenici
Eastland
Ervin
Fannin
Fong
Hansen
Hatfield
Helms
Hruska
Hughes
Humphrey
Johnston
Long
Mansfield
Mathias
McClellan
McClure
Mondale
Montoya
Muskie
Pastore
Pearson
Roth
Schweiker
Scott, Hugh
Scott, William L.
Stafford
Thurmond
Tower
Tunney
Weicker
Young

NOT VOTING—16

Bennett
Bentsen
Cook
Curtis
Fulbright
Goldwater
Gravel
Gurney
Hollings
Inouye
Javits
Moss
Percy
Randolph
Sparkman
Symington

So Mr. Stevens' amendment was rejected.

Mr. CRANSTON. Mr. President, the Senator from New York (Mr. Buckley) has proposed an amendment regarding the confidentiality of student records and requiring parental consent for certain school activities that causes me some concern.

The first portion of the amendment seeks to guarantee the right of access and review of a students school records, by parents and by students—if 18 years of age or over—and prevent the disclosure of such records to most third parties without parental or student consent.

I would wholeheartedly support this portion of the Senator's amendment. It seems to me that it seeks to preserve a right to confidentiality of records of student academic and personal performance that should be guaranteed. I would point out, however, that in my State of California, this right of access and review is presently guaranteed under the California Public Records Act.

The section of the amendment that deals with "parental consent," however, causes me serious concern.

First, I question the advisability of the Congress enacting legislation that, in effect, would thwart a State's compulsory attendance laws. Under this amendment, a parent may refuse to have his child attend a class if, after notification, the parent finds the content of the course or activity to be objectionable. While I do not object to "parental consent,'' I do question Federal interference in what I believe to be a question that should be decided by locally elected school officials, rather than the Federal Government.

Second, subsection (b)(2) of the amendment would require parental consent for students—and I quote:

> To participate in any project, program, or course, the primary purpose or principal effect of which is to affect or alter the personal behavior or personal values of a student, or to explore and develop teaching techniques or courses primarily intended to affect such behavior and values.

Mr. President, this language is breathtaking in its sweeping generalities. How do you determine in advance, and provide notification to the parent, of classroom activities that might bear on the values of a student? A course in American history, for example, that discusses contemporary American ethics in the light of Watergate could be construed as tending to "affect the personal values" of a student. Or, how do you go about discouraging violent or overly aggressive behavior without tending to "alter the personal behavior" of a student?

These are serious questions, Mr. President, that we cannot take lightly. Because the penalty for even accidental transgression of these Federal directives is the total loss of Federal funding to any educational institution—public or private, preschool through postsecondary—that is found "out of compliance.

Finally, Mr. President, the amendment directs the Secretary of Health, Education, and Welfare with the responsibility for—and again, I quote:

> Investigating, processing, reviewing, and adjudicating violations of the provisions of this section and complaints.

Frankly, I question the wisdom of charging a Federal agency with the power to probe the questions that would have to be probed in order to investigate complaints of alleged violations of the act. Such questions could include:

Was the purpose of the course to affect the values of the child, or were they affected accidentally, or at all?

Even if the purpose of the course was not to alter the values of the child, did it have the effect or altering the values of the child?

What were the values of the child before they were "altered"?

Mr. President, I believe my point is obvious: This section of the Senator's amendment brings the Federal Government and its agencies dangerously close to deciding issues of academic and personal freedom that should be in the hands of local and State school officials, and the people who elected them, not the Federal Government.

I do not believe the Senate of the United States should take any action that could be legitimately construed as having the primary effect of circumventing local control of curriculum and school practices, discouraging innovation, or stifling educational reform.

For these reasons, and because I support the major premise of the Senator's amendment, I would hope he would consider deleting the section of the amendment to which I have referred.

The PRESIDING OFFICER. The question now occurs on the first part of the amendment of the Senator from New York.

Mr. PELL. The vote is now on section (b), is it not? What is the parliamentary situation?

The PRESIDING OFFICER. The question now occurs on all of the amendment except section (b).

The amendment was agreed to.

The PRESIDING OFFICER. The question now occurs on section (b) of the amendment. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. MANSFIELD. Mr. President, what are we voting on?

The PRESIDING OFFICER. On section (b) of the Buckley amendment.

The second assistant legislative clerk proceeded to call the roll.

Mr. ERVIN. Mr. President, precisely what is this?

The PRESIDING OFFICER. The rollcall is now in progress.

Mr. HUMPHREY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The question is on the adoption of section (b) of the Buckley amendment.

Mr. HUMPHREY. Up and down on section (b)?

The PRESIDING OFFICER. That is correct.

The question is on the adoption of section (b) of the Buckley amendment.

The clerk will call the roll.

The second assistant legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Utah (Mr. MOSS), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT), the Senator from Kentucky (Mr. COOK), the Senator from Florida (Mr. GURNEY), the Senator from New York (Mr. JAVITS), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I also announce that the Senator from Nebraska (Mr. CURTIS) and the Senator from Arizona (Mr. GOLDWATER) are absent on official business.

I further announce that, if present and voting, the Senator from Nebraska (Mr. CURTIS) would vote "yea."

The result was announced—yeas 40, nays 43, as follows:

[No. 195 Leg.]

YEAS—40

Baker
Bartlett
Beall
Bellmon
Brock
Buckley
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Chiles
Church
Dole
Domenici
Eastland
Ervin
Fannin
Fong
Griffin
Hansen
Helms
Hruska
Huddleston
Johnston
Mansfield
McClellan
McClure
Metcalf
Montoya
Nelson
Pastore
Pearson
Proxmire
Roth
Scott, Hugh
Scott,
  William L.
Stennis
Taft
Thurmond
Tower
Weicker
Young

NAYS—43

Abourezk
Aiken
Allen
Bayh
Bible
Biden
Brooke
Burdick
Cannon
Case
Clark
Cotton
Cranston
Dominick
Eagleton
Hart
Hartke
Haskell
Hatfield
Hathaway
Hughes
Humphrey
Jackson
Kennedy
Long
Magnuson
Mathias
McGee
McGovern
McIntyre
Metzenbaum
Mondale
Muskie
Nunn
Pell
Ribicoff
Schweiker
Stafford
Stevens
Stevenson
Talmadge
Tunney
Williams

NOT VOTING—17

Bennett
Bentsen
Cook
Curtis
Fulbright
Goldwater
Gravel
Gurney
Hollings
Inouye
Javits
Moss
Packwood
Percy
Randolph
Sparkman
Symington

So section (b) of Mr. BUCKLEY's amendment (No. 1289) was rejected.

Mr. PELL. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. EAGLETON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. DOMINICK. I yield to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. DOMINICK. Mr. President, I yield to the Senator from Missouri.

Mr. EAGLETON. Mr. President, I ask unanimous consent that James Murphy and Marsha McCord be accorded the privileges of the floor during consideration of the education bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE 200TH ANNIVERSARY OF THE FIRST CONTINENTAL CONGRESS

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that action on Senate Concurrent Resolution 85 taken this morning be reconsidered, and that it be amended in three respects.

I send the amendments to the desk and ask the clerk to read the concurrent resolution as it would be so modified.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will read the concurrent resolution, as modified.

The assistant legislative clerk read the concurrent resolution, as modified, together with its preamble, as follows:

S. CON. RES. 85

Whereas the meeting at Carpenters' Hall in the City of Philadelphia in the Colony of Pennsylvania from September 5 to October 26, 1774, which has become known as the First Continental Congress, will have observed during 1974 its two hundredth anniversary; and

Whereas the actions of that Congress in uniting, for the first time, the thirteen disparate American Colonies to seek redress of their many grievances against the Parliament and King of England, set in motion a series of events leading to the meeting of the Second Continental Congress which produced the Declaration of Independence and guided the new Nation through the American War for Independence; and

Whereas the precedents set by the meeting of the first Congress in 1774 form the foundation upon which rests the principles and practices of the existing Congress of the United States of America; and

Whereas October 14, 1774, was the date on which the delegates to the first Congress adopted the Declaration and Resolves, expressing to the King of England their rights as Englishmen and their determination to achieve those rights, and is therefore, in itself, an historic date; and

Whereas on October 14, 1974, special ceremonies, sponsored by the City of Philadelphia, the National Park Service of the Department of the Interior and the American Revolution Bicentennial Administration, will be held at Carpenters' Hall in Philadelphia, Pennsylvania, to properly and appropriately observe for the Nation the two hundredth anniversary of the First Continental Congress; and

Whereas the two hundredth anniversary of the First Continental Congress marks one of *the first* historic commemorative events of the American Revolution Bicentennial celebration: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that October 14, 1974, be proclaimed a Day of National Observance for the 200th Anniversary of the First Continental Congress and calls upon the people of our Nation to fittingly observe and honor this important date in our country's history.

SEC. 2. That the President pro tempore of the Senate and the Speaker of the House be authorized to select, upon the recommendation of the respective majority and minority leaders, four Members of each House to represent the Congress of the United States of America at ceremonies in Carpenters' Hall, Philadelphia, on October 14, 1974, and to present at said ceremonies to a representative of the City of Philadelphia a copy of this resolution.

SEC. 3. That the Expenses of the Members are authorized to be paid from the contingency funds of the Senate and House of Representatives as approved, respectively, by the Committee on Rules and Administration and the Committee on House Administration.

The Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. Without objection, the three amendments are agreed to.

Without objection, the resolution as amended is agreed to.

Without objection, the preamble is agreed to.

EDUCATION AMENDMENTS OF 1974

The Senate continued with the consideration of the bill (S. 1539) to amend and extend certain acts, relating to elementary and secondary education programs, and for other purposes.

Mr. DOMINICK. Mr. President, I had an amendment to the McClellan amendment earlier today to part (b), which I added, and which was adopted, and I ask unanimous consent that the Secretary may make a technical correction in it which will extend it for as long as the bill presently extends, instead of cutting it off shorter.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BUCKLEY. Mr. President, I call up my amendments No. 1306.

The PRESIDING OFFICER. The clerk will read the amendments.

The assistant legislative clerk proceeded to read the amendments.

Amendments No. 1306 are as follows:

On page 330, between lines 17 and 18, insert the following new section:

"LIMITATION ON WITHHOLDING OF FEDERAL FUNDS

"SEC. 513. Part C of the General Education Provisions Act is amended by adding at the end thereof the following new section:

" 'LIMITATION ON WITHHOLDING OF FEDERAL FUNDS

" 'SEC. 437. The refusal of a State or local education agency and institution of higher education, community college, a school, preschool, or any other educational institution, to administer a test or project or to provide personally identifiable data on students or their families, as a part of an applicable program, to any Federal office, agency, department, or other third party, on the grounds that it constitutes a violation of the right to privacy and confidentiality of students, their parents, or is an unacceptable research or experimentation project, or is for the purpose of altering the personal behavior or values of a student, or is potentially psychologically or otherwise harmful to students or their families, shall not constitute sufficient grounds for the suspension or termination of Federal assistance. Further, such a refusal shall not constitute sufficient grounds for a denial of, a refusal to consider, or a delay in the consideration of funding in succeeding fiscal years for such a recipient.' "

On page 122, in the Table of Contents after item "Sec. 512." insert the following:

"Sec. 513. Limitation on withholding of Federal funds.".

Mr. BUCKLEY. Mr. President, for the benefit of Senators present, I understand the managers of the bill will accept the amendment.

I think I can best illustrate its purpose by quoting one article that appeared in the New York Times on November 21, 1973, relating to a questionnaire that HEW was demanding the New York City Board of Education circulate among its students:

> The "New York" city's Board of Education accused the United States Department of Health, Education and Welfare yesterday of directing a number of schools here to administer pupil questionnaires.

Mr. President, has the other amendment been voted on?

The PRESIDING OFFICER. The amendment was in two parts, and has been disposed of.

Mr. BUCKLEY. I thank the Chair.

Mr. CRANSTON. Mr. President, I want to state my firm support for the amendment offered by the distinguished Senator from New York (Mr. BUCKLEY) which would protect schools from the loss of Federal funds if they choose not to administer tests prescribed by the Federal Government.

Sadly, we seem to live in an age of sophisticated snoops, both electronic and human. It seems to me that Senator BUCKLEY's amendment protects the right of schools to reject testing instruments that these local officials find to be objectionable.

Mr. ERVIN. Mr. President, a point of order.

The PRESIDING OFFICER. Does the Senator from New York yield for a preliminary inquiry?

Mr. BUCKLEY. I yield.

Mr. ERVIN. Mr. President, a point of order. The Senate had a vote on the motion of the Senator from Alaska to delete section (c). Then we had a separate vote on section (b), did we not?

The PRESIDING OFFICER. By voice vote, the Senate agreed to all parts of the amendment with the exception of section (b).

Mr. ERVIN. I beg the Chair's pardon. I never heard it.

The PRESIDING OFFICER. The voice vote was taken on all parts of the amendment with the exception of section (b), which was a rollcall vote. The voice vote was on all other parts.

Mr. BROCK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BROCK. Was not the voice vote taken prior to the vote on the amendment of the Senator from Alaska on section (c)?

The PRESIDING OFFICER. The Senator from Alaska's motion to strike was first of all voted on, and then there was a voice vote, and then there was a vote on section (b).

Mr. BUCKLEY. Mr. President, I was reading from an article in the New York Times in which the following was stated:

> The (New York) city's Board of Education accused the United States Department of Health, Education and Welfare yesterday of directing a number of schools here to administer pupil questionnaires that the board said were "racist," "highly inflammatory," and "polarizing."
>
> Dr. Seymour P. Lachman, the president of the board, said the Federal department had "once more shown its callous insensitivity to the needs of children and good intergroup relation."
>
> A statement by Dr. Lachman noted that the preface to the 23-item Federal questionnaire said: "To the student: These questions are to find out how you feel about students who are different from you. If you are Black, we want to know how you feel about students who are not Black. If you are White, we want to know how you feel about students who are not White. If you are Brown, we want to know how you feel about students who are not Brown. Whatever you are, we want to know how you feel about students who are different from you."
>
> Dr. Lachman said that the form then asked such questions as the following:
>
> "How do you think your parents feel about Black and White (or Brown and White or Black and Brown) students going to the same school together.
>
> "Do you think that Black (or White or Brown) students in this school cause more trouble than other kinds of students?" "How do you think your principle feels about all different kinds of students going to the same school together?"
>
> Dr. Lachman said that it was inconceivable to him how such a questionnaire "could be administered in good faith to fourth- and fifth-grade students."

I would now like to quote two brief paragraphs of an article that appeared in the Washington Post on May 7 of this year. The headline was "Schools Balking at Pupil Quiz":

> District of Columbia school officials announced yesterday they will risk cancellation of $3.4 million in federal funds for educationally disadvantaged children rather than ask students and teachers 24 questions they consider "sociologically or psychologically damaging."

The questions, part of a battery of tests one-and-a-half inch thick to be administered to 720 students and teachers, concern the students' home lives and expectations in school.

My amendment simply limits the ability of HEW to withhold funds from school districts that refuse to circulate questionnaires of this kind or which believe them to be harmful or potentially pose psychological harm to their students.

I understand the managers of the bill are willing to accept the amendment.

Mr. PELL. Mr. President, the Senator is correct. We look favorably at this amendment, especially on the majority side. There seems to be no great objection to it. I would recommend to my colleagues that we adopt it.

Mr. DOMINICK. Mr. President, if the Senator will yield, I agree. It is a good amendment, except it should have been done a long time ago.

Mr. HART. Mr. President, will the Senator yield?

Mr. PELL. I am glad to yield.

Mr. HART. I, of course, do not wish to ask for a rollcall. I rise to express concern again that the Senate, at 20 minutes to 7 tonight, is adopting language at least some of which is unclear to anybody, particularly to reserve to a school board the right to continue to receive Federal money even though it rejects a project if the project is for the purpose of altering the personal behavior or values of a student.

Again, I suggest that that really is the meat and potatoes of education, and I just continue to think we would have been much better off if the committee had been able to evaluate exactly what would happen under this. I am sure that concern will be voiced with respect to it.

Mr. BUCKLEY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUCKLEY. Mr. President, has all time been yielded back?

The PRESIDING OFFICER. Has all time been yielded back?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I ask unanimous consent that Rick Bayard and Reid Feldman be granted the privilege of the floor during the debate on the education bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHANGE OF VOTE ON VOTE NO. 194

Mr. HUMPHREY. Mr. President, I ask unanimous consent that on the Stevens amendment, on which I voted "yea," I be recorded as voting "nay."

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the role.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, what is the pending question?

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York. All time has been yielded back.

The amendment was agreed to.

Mr. McCLURE. Mr. President, I move that the Senate reconsider the vote by which the amendment was agreed to.

Mr. BUCKLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATHAWAY. Mr. President, there is one point with regard to the McClellan amendment which should be made about the overall effect of the McClellan amendment. That is the substantial shifts in title I funds which will take place within States, even States which gain, under the amendment. For example, although the State of Virginia would gain overall, the city of Richmond would lose, along with 20 Virginia counties. Omaha is another major example. In all, more than 600 counties nationwide will lose—and many of these counties are in States which show an overall gain under the McClellan amendment.

These are not speculative losses. These are actual dollar losses which will affect these school districts this fall. I hope that Senators from those States which appear to gain under this amendment will consider the problems they are still going to have when the county-level effect of the amendment manifests itself in their States.

Mr. President. I ask unanimous consent that a table showing the number of counties which will lose under this amendment—broken down by States—be printed at this point in the RECORD. I would also call the attention of Senators to Senator PELL's information contained in the May 13 RECORD at pages 14334–37.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Number of counties per State receiving a decreased allocation under the McClellan amendment

Alabama	17
Alaska	7
Arizona	0
Arkansas	12
California	2
Colorado	5
Connecticut	0
Delaware	0
Florida	1
Georgia	48
Hawaii	0
Idaho	6
Illinois	12
Indiana	4
Iowa	41
Kansas	21
Kentucky	42
Louisiana	2
Maine	2
Maryland	0
Massachusetts	2
Michigan	2
Minnesota	10
Mississippi	27
Missouri	27
Montana	5
Nebraska	18
Nevada	1
New Hampshire	0
New Jersey	10
New Mexico	1
New York	19
North Carolina	54
North Dakota	15
Ohio	3
Oklahoma	14
Oregon	1
Pennsylvania	1
Rhode Island	0
South Carolina	19
South Dakota	27
Tennessee	35
Texas	32
Utah	7
Vermont	0
Virginia	20
Washington	0
West Virginia	24
Wisconsin	2
Wyoming	1
District of Columbia	1
Total	600

BUSING TO DESEGREGATE SCHOOLS: THE PERSPECTIVE FROM CONGRESS

Mr. PEARSON. Mr. President, in view of the legislation pending before the Senate, and in view of the ongoing debate on the issue of busing, I am inserting a timely article written by our distinguished minority leader, the Senator from Pennsylvania. Entitled "Busing To Desegregate Schools: The Perspective From Congress." This University of Richmond Law Review article offers a calm perspective in the face of growing controversy on busing. I ask unanimous consent that this article be printed at this point in the RECORD.

There being no objection, the article is ordered to be printed in the RECORD, as follows:

BUSING TO DESEGREGATE SCHOOLS: THE PERSPECTIVE FROM CONGRESS

(By HUGH SCOTT) *

In the end, I expect that the courts will solve the problem—not Congress.[1]

This controversy over transporting pupils to desegregate schools or "busing" as the issue popularly is known, is the narrowest and perhaps most limited aspect of school desegregation. Yet, it threatens to undo school desegregation completely unless the issue is resolved in a way which will permit continued desegregation of schools accompanied by the understanding and support of the majority of people of all races.

A year ago it seemed virtually assured that Congress would pass a major anti-busing law. That event was averted in the Senate when the anti-busing forces were unable to force cloture of the debate on the "Equal Educational Opportunities Act of 1972"[2] and failed to defeat a subsequent motion to proceed to other business.[3]

This turn of events resulted from several factors. First, Congress earlier in the year had enacted important guidelines on the use of pupil transportation as a means of school desegregation.[4] Second, many members of Congress had confidence in the discretion of the

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Footnotes at end of article.

Supreme Court to limit excessive busing on a case by case basis, while at the same time formulating well-reasoned and appropriate guidelines for the lower courts to follow in asserting decrees. Third, the legislative proposals to limit busing went far beyond what was reasonable or necessary. Instead, the proposed "Equal Educational Opportunity Act," as passed by the House of Representatives, virtually repealed substantial portions of the Civil Rights Acts and guaranteed that desegregation would never occur in some metropolitan areas.[5] The bill actually made possible re-segregation in those cities and towns found to have racially segregated neighborhoods. Fourth, many of the members of Congress were convinced that anti-busing legislation was not only unwise but unconstitutional as well.

In this article it is suggested that we now have established principles, through legislation by Congress and decisions of the courts, within which we can resolve the complexities of limiting pupil transportation in a fair and practical manner without resegregating schools.

The greatest single reason for the impasse between opposing groups in the debate over school desegregation has been the adamant and mutual refusal of both sides to recognize and respect what has been accomplished in school desegregation and the nature of the problems yet unresolved. Those who oppose pupil transportation to desegregate schools often give the impression that they have conveniently forgotten the recent history of schemes to evade Constitutional mandates. On the other hand, the proponents of busing often appear blind to the fact that desegregation is accepted today by an overwhelming majority of people, including many who once vehemently opposed it.[6]

The point has been reached where the issue of good faith should no longer be a major element of any debate about a remedy. Congress, the courts and the executive have demonstrated repeatedly that they find another era of segregation constitutionally unacceptable. Happily, there are indications that the country may be able to reason its way through some of the knotty and complex problems of desegregation without becoming embroiled in accusations of bad faith and the accompanying recriminations.

In devising remedies which will be fair and which will be supported by the majority of people, it must be kept in mind that we are no longer dealing with modest rural school districts, but with major school systems such as those in the metropolitan areas of Richmond, Atlanta, Denver and Detroit.[7] National policy must continue to be committed to integration, but the implementation of that policy must be fair and flexible and must have the broad based support of the people. The potential for devising a fair and flexible means of implementing desegregation is available, but building understanding and support among people generally appears to be the greatest challenge. This can be accomplished, however, if, as a first step, confrontations are avoided, and reasoned debate is employed in order to achieve the national goal of a desegregated society.

Twenty years ago this May 17 the Supreme Court announced its historic decision in *Brown* v. *Board of Education*.[8] It is a mark of the passage of time that only one justice who was a member of that Court, Justice William O. Douglas, is still a member of the Supreme Court; it is a mark of what we have accomplished that the man who argued the cause of the black plaintiffs in *Brown* sits today as the first black justice of the Court. That Justice is Justice Thurgood Marshall, who was appointed by a Southern President.

Shortly after the decision in *Brown*, the Commonwealth of Virginia vowed "massive resistance." Today, Virginia's schools for the most part are desegregated. A distinguished Virginian, Lewis F. Powell, Jr., is an Associate Justice of the Supreme Court, and has contributed valuable insights and great intellect to solving the problems of desegregation since his recent appointment to the Court.

The progress of the past twenty years has not been easy. Prior to *Brown*, racial segregation under law was the accepted way of life in the southern states. All schools and public facilities were segregated by race. Public transportation was segregated, and the law required the private businessman to operate segregated places of accommodation. The masses of black citizens were denied the right to vote. Where the law did not require segregation, racial discrimination and custom imposed an equal effect. Discrimination against blacks in employment and housing was the rule everywhere.

The legacy and effect of de jure segregation spilled over into the north where racial discrimination was practiced openly and often in definance of state laws prohibiting discriminatory practices. In the year 1954, the black man, ninety years after Emancipation, was confronted with social policies that were in many respects as degrading as involuntary servitude. *Brown v. Board of Education* overruled this epitaph. Since that decision, this nation has been headed steadily on a course toward full equality of opportunity for every citizen and toward the elimination of the vestiges of segregation from every aspect of our lives. I doubt if there are many today who would vote to overturn *Brown* and return to a "separate but equal" society.

Ten years after *Brown* little progress had been made to desegregate schools except in the border states and the District of Columbia.[9] The spectacle of United States Army troops surrounding Central High School in Little Rock, Arkansas forced this country to realize that desegregation on a case by case basis would be a long term and tumultuous proposition. It was clear that unless voluntary compliance with the letter and spirit of *Brown* was forthcoming, and that did not appear to be likely, little was going to happen until Congress acted.

Effective congressional action did not come easy. From Reconstruction until 1957 no general action had been taken by the Congress to require implementation of the fourteenth amendment. The first steps by Congress toward enacting guarantees of full and equal citizenship were taken during the Eisenhower-Nixon Administration in 1956 and 1957. The initial actions taken by Congress seemed timid to critics, but in reality they were precedent-shattering moves which cleared away several time-encrusted procedural obstacles to the passage of civil rights legislation. The first procedural move was the decision by Senate Majority Leader Lyndon B. Johnson to use a relatively weak civil rights bill as the vehicle for breaking the traditional southern filibuster against civil rights legislation. At that time, many did not realize the true proportions of this procedural victory, but without it, the great civil rights acts of the 1960's would have been virtually impossible to enact.

The 1957 Civil Rights Act,[10] modest in dimensions and ambitions, has proven to be the base on which a large part of the federal civil rights effort has been founded. The Act created the United States Commission on Civil Rights to study civil rights problems and to report to the nation, the Congress and the President. The Commission is still serving the nation and will continue to so serve through its current extension until 1978.

Title II of the Act of 1957 also created the Civil Rights Division of the Department of Justice. This is perhaps the most substantial achievement of the Act. Title IV authorized the Attorney General to go into court to enforce the right of all citizens to vote under the fifteenth amendment. This brought the federal government into court on the side of civil rights plaintiffs. No longer would the government be a powerless or neutral observer on the sidelines. It now was actively committed to securing the civil rights of all citizens.

Obviously, this development did not go unchallenged by those states and localities which felt threatened by the use of federal power to protect and secure the rights of citizens under the fourteenth and fifteenth amendments. "Massive resistance" in Virginia and elsewhere was the most organized challenge to federal authority. Violence and confrontation, often incited by demagoguery, occurred throughout the south while the north looked on, all too complacently, from the sidelines. During this period a growing awareness, sharpened by the reports of the United States Commission on Civil Rights, developed that desegregation of schools was only one part of a struggle for equal opportunity which was taking place on several fronts simultaneously. The first report of the Civil Rights Commission in 1959 dealt with voting, education and housing. The report made it clear that progress in each area was dependent upon progress being made in the other areas as well. To attempt to find a priority target was to search for the beginning of a circle. It was against such a background that Congress moved to consider the major civil rights acts of the 1960's.

Overall, the Civil Rights Act of 1960[11] was a disappointment.[12] The strong recommendations of the Civil Rights Commission, which had provided the impetus for the legislation, were systematically weakened and replaced until few of substance remained. The Act was generally viewed as a failure.

Despite increased national focus on the civil rights movement, the first two years of the Kennedy Administration passed without any civil rights action by Congress. Litigation became the chosen weapon of the Administration for achieving civil rights. Since the only source of effective civil authority possessed by the Attorney General was in the field of voting, the belief was that school desegregation and other gains would come about through an expansion of the political process resulting from greater enfranchisement of Negroes.

Despite heroic and dedicated efforts by outstanding lawyers in the Civil Rights Division, the Department of Justice was not successful in vindicating civil rights for Negro citizens through the judicial process. At the end of 1962, the additional number of black citizens who could vote as a result of cases brought by the Department was small.[13] Equally small was the amount of school desegregation achieved through private litigation.[14]

At the start of the 88th Congress, the Kennedy Administration had virtually no civil rights legislative program. The Administration's civil rights bill in early 1963 consisted of a modest proposal to extend the life of the Commission on Civil Rights and to expand the Commission's jurisdiction to provide clearinghouse services.[15] Liberal Republicans in the House and the Senate joined with Democrats in seizing the initiative with strong civil rights proposals pointing the way for major civil rights enactments. Elsewhere in the nation the civil rights movement increased in momentum.

Events in Birmingham, Alabama in April, 1963 suddenly ignited the conscience of the nation. Police Commissioner Eugene "Bull" Connor, his dogs and fire hoses, and the bombings, riotings and rage of the inner city shocked the people of America. On June 12, 1963 Medgar Evers was ambushed and killed in front of his home in Jackson, Mississippi.

Footnotes at end of article.

On June 19, the Kennedy Administration finally sent a major new civil rights bill to Congress. During a summer-long consideration of the bill, the great march on Washington took place. There, Dr. Martin Luther King intoned his greatest speech, "I Have a Dream," but Congress did not act.

In the autumn of 1963, the President was assassinated in Dallas. The death of President Kennedy may not have been responsible for the Civil Rights Act of 1964, but it did cause many people to realize that the time for making the ideal of social justice a reality was long overdue. Against a somber, more responsible background, Congress duly considered and enacted that monumental charter of civil rights, the Civil Rights Act of 1964.[16]

The Act carried forward the concept of making basic gains in equal opportunity simultaneously on several fronts, notably in public accommodations, education, employment and nondiscrimination in federal programs. The work of the 1964 Act subsequently was completed by passage of the Voting Rights Act of 1965[17] and the Fair Housing Act of 1968.[18]

The 1964 Civil Rights Act also provided for double-barreled implementation of desegregation of schools and of federal programs in the states. One implementation was administrative sanctions imposed by the secretaries and heads of agencies charged with enforcing the nondiscriminatory requirements of Title VI.[19] The other implementation was the power of the Attorney General to bring suit to desegregate schools.[20] With the enactment of substantial assistance programs for education, school administrators and officials were forced with hard choices: to forego federal financial assistance only to face the Department of Justice in Court in the end, or to give assurances of nondiscrimination, follow desegregation guidelines and take the money. The majority of school boards decided to take steps toward compliance.

Education was not the only sector of society required to accept desegregation. The 1964 Act achieved quick desegregation of places of public accommodation, and other sectors of society also began to desegregate. Additionally, employers were required to eliminate discriminatory business practices. The pervasive impact of the Voting Rights Act of 1965 also made itself felt as black voters joined with white moderates to oust from office those public officials who had counseled and led resistance to desegregation.[21]

What had been accomplished through legislation was a complete reversal of the legalized segregation which had prevailed only ten years earlier. Yet, even at the height of the civil rights tide, when Congress was debating the Civil Rights Act of 1964, issues were arising which would turn congresssional efforts away from implementing school desegregation toward directly opposing it.

In large part the development of these issues stemmed from the growing realization that school desegregation would be determined by the answers to definitional problems. What is school desegregation? For example, if the racially segregated schools that existed in the south had to be dismantled and replaced by "unitary" systems, what, in fact, constitutes a "unitary" system? Practical and mechanical problems also were involved: are we going to transport children to integrate schools if they live in racially segregated neighborhoods? Finally, while the Supreme Court in *Brown* was concerned with racially segregated school systems resulting from the enactment of laws requiring or expressly sanctioning them (de jure segregation) what of school segregation resulting from factors other than state or local laws?

What if school segregation results from administrative decisions of school officials such as the location of school attendance lines, selection sites for new schools and the size of particular schools, made with the purpose and effect of maintaining racial separation, but in the absence of any law requiring it?

What if school segregation results not from administrative decisions of school officials, but from residential segregation for which other state or local governmental bodies, such as local public housing authorities, urban renewal agencies, zoning boards and city councils are responsible?

And what of school segregation that results from fortuitous factors, such as population shifts and other changes, in which government officials have played no part? Does this form of de facto segregation violate the Constitution?

These questions were present in some minds during the 1964 debates, but with only 2.25 percent of the Negro children in the deep South attending integrated schools (i.e., any school with less than 100 percent black enrollment), the focus of concern was on eliminating the blatant defiance of the Supreme Court which was evident in the continuation of dual and racially-separate school systems. This concern prepared the way for amendments to Title IV of the Civil Rights Act of 1964 which closed off federal efforts to deal with de facto and other forms of segregation brought about by means other than de jure (as narrowly defined).

The strategy of those opposed in fact to desegregation but who recognized the futility of a direct attack on the principles of *Brown v. Board of Education* has been built around the thesis that *Brown* merely commands racial neutrality in school admissions policies, no more and no less. Once the pupil by pupil, case by case approach fell, the opponents of desegregation recognized that the next line of defense was to prevent the courts from examining whether or not desegregation policies of school boards had in fact achieved any desegregation at all. Their principal hope was pinned on the "freedom of choice" plans for desegregating schools. Under such plans children were free to attend the school of their choice. Of course, no whites freely chose to go to black schools which were publicly acknowledged to be inferior. In many areas, only a handful of black families were willing to risk the very real dangers of retaliations involving loss of life, limb and employment of the breadwinner,to send a child to white schools.[22]

A strong buttress of this strategy was the firmly held belief by its champions in Congress that if northern school districts could be forced to deal with their de facto segregated school districts, the south would have a generous supply of allies who would assist in defeating efforts to implement school desegregation and eventually enact a rollback of desegregation altogether. The first fruit of this alliance was the famous racial balance language found in the definition of "desegregation"[23] and in the limitations on the power of the Attorney General to bring suit to desegregate schools in Title IV.[24] This joinder of northern and southern concerns is explicit in the explanation of the amendment given by its sponsor in the House, Representative Cramer (R-Fla.):

"The purpose is to prevent any semblance of congressional acceptance or approval of the concept of "defacto" [*sic*] segregation or to include in the definition of "desegregation" any balancing of school attendance by moving students across school district lines to level off percentages where one race outweighs another."[25]

A series of incisive opinions by the courts have deprived the amendment's southern supporters of their home that it would effectively bar desegregation of schools by plans other than freedom of choice plans and similar token efforts.[26] It is my view that these decisions were necessary in order to uphold the constitutionality of the racial balance language of Title IV. Had the language of Title IV been applied as Congressman Cramer had hoped it would, the Civil Rights Act of 1964 would have been rendered a nullity as far as school desegregation is concerned. Such a decision would have been a complete misreading of the hope and intent of Congress that the schools of the land be desegregated through the Act.

For a number of years, efforts were made in Congress to restate the limitations contained in Title IV in a way that would stop desegregation.[27] The legal effect of these efforts, and to a large extent their practical results, had little or no impact on school desegregation, other than to encourage the north to continue to do nothing about segregation of schools caused by state action in its own precincts. The political effect, however, has been considerable.

The racial balance language of Title IV, the decisions limiting its application, futile efforts in Congress to undo what has been accomplished have nourished an unfortunate myth in certain regions of the country that judges sitting in federal courthouses have cheated the people out of their legislative victories. This has kept alive sparks of resistance to desegregation in many pockets throughout the south, and, as unconstitutional aspects of school segregation in the north became increasingly apparent, it has fed flames of violent resistance in such communities as Pontiac and Denver. Far worse, it has prevented the possibility of rational discussion of how to achieve desegregation fairly, without unduly interrupting the education of young children. Instead, we seem to be wasting our time by debating whether we will have desegregation at all. Out of this ferment came the antibusing campaign of 1972.

Swann v. Charlotte-Mecklenberg Board of Education[28] is credited with feeding the emotional storm that swept many sections of the country concerning busing.[29] Yet, *Swann* also contained the formulation for the practical and common sense limitation of busing, even though few would, or could, listen to what the Court actually was saying.[30]

The formulation of Chief Justice Burger[31] became the basic building block in the pupil transportation amendments to the General Education Amendments of 1972 offered by myself and Senator Mansfield. Basically, the amendment states that Congress believes the objections to busing stated in *Swann* do have validity, indeed, that busing funds may not be awarded where effectiveness of the educational process would be impeded by the time or distance of travel.

In my view, Title VIII of the Education Amendments of 1972[32] sets the limits on how far Congress can responsibly go in placing restrictions on pupil transportation to desegregate schools. The simple scheme of the amendment ensures that federal officials cannot circumvent the reasonable standards for busing established by the Supreme Court in *Swann*. It is aimed at preventing the sort of extreme busing that critics fear can occur; it is not directed at limiting the powers of the Court. It leaves open the "flexibility" and "balance" necessary to implement desegregation in an equitable manner.

The defeat of the anti-busing legislation in the Senate in 1972 and the virtually complete disestablishment of the separate school systems of the south marks the entrance of the country into a new era in school desegregation which has been most clearly signalled by the Court's decisions in *Bradley* v. *School Board of City of Richmond*[33] and *Keyes* v. *School District No. 1. Denver, Colo.*[34] The era we are in is the era of large city desegregation and of remedying segregation of schools brought about by unconstitutional state action.

Footnotes at end of article.

The constitutional problems of finding state action in northern school de facto segregation are not difficult in my opinion, but devising a remedy is. In fact, it is the difficulty of developing an acceptable and effective remedy that may be staying the Court's hand more than the conceptual difficulties in defining the wrong.

Justice Powell's concurring opinion in *Keyes*[35] is interesting and hopeful, not because I necessarily agree with all of it, but because it demonstrates fresh and major innovative thinking on the Court about the problems of desegregation. Although the suspicious may find many pitfalls in Justice Powell's opinion, its significance is in the desegregation guidelines it establishes.

First, Justice Powell would obliterate the distinction between de jure and de facto segregation on the grounds that state action always is present in the operation of a segregated school system. In this view he has the distinguished company of Justice Douglas[36] and the United States Commission on Civil Rights.[37]

Second, Justice Powell defines the concept of "integrated school system" in a way which allows continuance of all-black and all-white schools under certain conditions. Presumably, we must look to previous opinions of the Court to determine under what conditions an all-white or an all-black school is constitutionally permissible.[38] But Justice Powell leaves no doubt that in his view the Constitution does not require the elimination of individual schools which have all-white or all-black or all-Chicano enrollments. An "integregated school system" is one in which the following conditions are present:

(1) faculties and administrative staff are integrated;

(2) equality of facilities and of education program exists;

(3) school attendance zones have been drawn to promote integration;

(4) new schools are located, old ones closed, and regrouped by size and grade categories to promote integration;

(5) if a district transports pupils, transportation must be carried out with integration in mind.[39]

If a school district is found to be operating a segregated school system, then it has an affirmative duty to achieve the above with busing a possible remedy. In devising remedies courts would be guided by equitable principles. As Justice Powell stated:

"This would result . . . in no prohibition on court-ordered student transportation in furtherance of desegregation. But it would also require that the legitimate community interests in neighborhood school systems be accorded far greater respect."[40]

In developing remedies, courts would be asked to balance various competing consideration. Justice Powell pleads that courts should give greater weight to the values of the neighborhood, to the parental interest in education of their children, to the rights of children and to the economic and social consequences of extensive pupil transportation plans.[41]

Justice Powell's suggestion that age per se should be a factor in limiting busing warrants careful review. Ironically, integrated education is more successful among the young, i.e., those under 12 years of age, than among children of high school age.[42] Experienced educators report that somewhere after the ninth grade, adolescents not only segregate themselves by race, but by class and social background as well, these latter factors perhaps being more determinative than race or color.

Special consideration is warranted where neighborhoods are already racially integrated. A priority exemption should be given to such neighborhoods from any plan of desegregation which required pupil transportation. Although neighborhoods are an integral part of our urban life, we should keep in mind that the neighborhood easily can be transmuted into "territory" or "turf" to be protected at all costs, some of them too horrible to contemplate. Not all of the best of our national character is expressed in the concept of "neighborhood." One example is the tragic burning of a young woman in Roxbury, Massachusetts, simply because she happened to be of the wrong color at the wrong place at the wrong time. However, Justice Powell's concurrence in *Keyes* strengthens my confidence that we can look to the courts to develop intelligent, fair and effective remedies for desegregating schools. Justice Powell sets forth our duty under the fourteenth amendment in positive terms—to operate integrated school systems.

It should be remembered that school desegregation has not yet reached the large numbers of minority group persons living in cities, North, West and South.[43] A new minority group, Mexican Americans, is also involved as *Keyes* indicates. Its problems cannot be equated automatically with those of the black-white desegregation context of the south.[44] An enormous task is involved which, if it is not approached in a spirit of humility, will be overwhelming. Justice Powell suggest some manageable guidelines by which lasting desegregation standards may be evolved.

We have breached the "massive resistance" of the Old South. During the first Nixon Administration we completed the job of disestablishing the former dual and segregated school systems of the past. What we now face is the challenge of operating integrated school systems and of remedying school segregation wherever it exists.

While I may not agree with every particular in Justice Powell's opinion, I believe that it offers a path which will enable us to achieve desegregation without extreme social upheaval. If the movement toward integration begun twenty years ago is not to be lost or set back by reactionary backlash movements, then Justice Powell's counsel should be heeded:

"It is time to return to a more balanced evaluation of the recognized interests of our society in achieving desegregation with other educational and societal interests a community may legitimately assert. This will help assure that integrated school systems will be established and maintained by rational action, will be better understood and supported by parents and children of both races, and will promote the enduring qualities of an integrated society so essential to its genuine success."[45]

The progress that has been made toward the goal of a just and free society has been substantial. The tools for further advances in achieving social justice can be formulated to produce rational and flexible remedies to the complex problems that remain.

FOOTNOTES

*United States Senator from Pennsylvania; Member of the Senate Judiciary Committee; LL.B. University of Virginia, 1922.

[1] Birmingham News, Feb. 21, 1972, at 8, col. 8.

[2] H.R. 13915, 92d Cong., 2d Sess., introduced on March 20, 1972; reported from the General Subcommittee on Education of the Committee on Education and Labor, July 25, 1972; reported from Committee on August 14, 1972, H.R. Rep. No. 92–1335; considered and passed the House of Representatives with amendment, August 17 and 18, 1972.

H.R. 13915 and the accompanying measure, the Student Transportation Moratorium Act of 1972, H.R. 13916, were the subjects of extensive hearings in both the House Committee on the Judiciary and the Committee on Education and Labor.

[3] CONGRESSIONAL RECORD, vol. 118, pt. 26, pp. 33996, 34262, 34410, 34488, 34856, and pt. 27, p. 35231.

[4] Pub. L. No. 92–318, 86 Stat. 372.

Title VIII of the General Education Amendments of 1972 provides essentially:

Section 810 states that no provision of the Act "shall be construed to require the assignment or transportation of students or teachers on order to overcome racial imbalance."

Section 802(a) prohibits the use of federal funds—

To transport students or to buy buses in order to overcome racial imbalance;

For busing to carry out a plan of desegregation "except on the express written voluntary request of appropriate local school officials;"

To provide for transportation if the time or distance is so great as to threaten the health or impinge on the educational process of children;

To provide transportation, if such transportation would result in children being assigned to a school substantially inferior to the one they would be assigned to under a non-discriminatory geographic zone assignment plan.

Section 802(b) prohibits Federal officials from requiring the use of non-federal funds for busing to correct racial imbalance or achieve desegregation or to condition a grant of Federal funds on student transportation plans "unless constitutionally required."

Section 803 postpones the effectiveness of any district court order "which requires the transfer or transportation of any student or students . . . for the purpose of achieving a balance among students with respect to race, sex, religion, or socioeconomic status" until all appeals have been exhausted or until January 1, 1974.

Section 804 gives parents the right to intervene in desegregation suits if busing standards violate Swann v. Charlotte-Mecklenberg Bd. of Educ., 402 U.S. 1 (1971).

Section 805 requires rules of evidence in desegregation cases to be uniform throughout the United States.

Section 806 expresses the intent that Section 407(a) of the Civil Rights Act of 1964 shall be applied uniformly.

[5] H.R. 13915, as passed by the House of Representatives, August 18, 1972, Senate Calendar No. 1042.

[6] An opinion poll analysed by the U.S. Commission on Civil Rights shows that sixty-seven percent of the public support integration as a national objective. U.S. COMMISSION ON CIVIL RIGHTS, PUBLIC KNOWLEDGE AND BUSING OPPOSITION: AN INTERPRETATION OF A NEW NATIONAL SURVEY (1973).

[7] The analysis of the poll prepared by the Commission, *supra* note 6, indicates that among those who support integration as a national goal only twenty-seven percent support busing to achieve integration.

[8] 347 U.S. 483 (1954).

[9] The U.S. Commission on Civil Rights in its 1961 Report, Vol. 2, Education, reported that in May 1961, 775 out of 2,837 biracial school districts in 17 states and the District of Columbia had reported some desegregation. The overall increase since the Commission's 1959 report was said to be only 1.5 percent. 1961 U.S. Commission on Civil Rights Report, Education Book 2, at 39, app. IV.

In 1964, only 2.25 percent of the Negro children in the 11 states of the old Confederacy and 10.9 percent in the entire region encompassing the southern and border states attended school with white children. Over 3 million Negro children in 1964 were attending segregated schools in the south. U.S. Commission on Civil Rights, Survey of School Desegregation in the Southern and Border States 1965–1966, at 1 (1966).

[10] Act of September 9, 1957, Pub. L. No. 85–315, 71 Stat. 634.

[11] Act of May 6, 1960, Pub. L. No. 86–449, 74 Stat. 86.

[12] For an excellent account of the legislative history of the 1960 Civil Rights Bill, see Berman, How A Bill Became Law (1962).

[13] U.S. Commission on Civil Rights, Political Participation 10 (1968).

[14] U.S. Commission on Civil Rights, Southern School Desegregation 1966–67, at 5 (1967).

[15] Civil Rights Message of the President, Feb. 28, 1963.

[16] Act of July 2, 1964, Pub. L. No. 88–352, 78 Stat. 241.

[17] Act of August 6, 1965, Pub. L. No. 89–110, 79 Stat. 437.

[18] Act of April 11, 1968, Pub. L. No. 90–284, 82 Stat. 73.

[19] 42 U.S.C. § 2000d (1970).

[20] 42 U.S.C. § 2000c-6 (1970)

[21] Political Participation, *supra* note 13.

[22] For an excellent account of the experience under freedom of choice plans, see U.S. Commission on Civil Rights, Southern School Desegregation 1966–67, at 45–70 (1967).

[23] U.S.C. § 2000c (b) (1970):

"Desegregation" means the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin, but "desegregation" shall not mean the assignment of students to public schools in order to overcome racial imbalance.

[24] 42 U.S.C. § 2000c–6(a) (1970):

Provided that nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards.

[25] Cong. Rec. 2280 (1964).

[26] The key decision was United States v. Jefferson County Bd. of Educ., 372 F. 2d 836 (5th Cir. 1966), *aff'd on rehearing,* 380 F. 2d 385 (5th Cir. 1967), *cert. denied,* Caddo Parrish School Bd. v. United States, 389 U.S. 840 (1967).

[27] These efforts were the so-called "Whitten Amendments" attached to appropriations bills in the House of Representatives and which forbade the use of federal funds to require assignment or transportation of pupils. These proposals inevitably would be amended in the Senate so that the limitations only prohibited officials from carrying out unconstitutional directives.

[28] 402 U.S. 1 (1971).

[29] "Busing" meant only one thing, school desegregation, even though 20 million children were bused to school daily in 1971 and buses traveled 2.2 billion miles, virtually all of it totally unrelated to desegregation purposes. See U.S. Commission on Civil Rights, Your Child and Busing (1972).

[30] Eventually, the real meaning of *Swann* began to become apparent, and I believe helped to defeat the anti-busing bill in the 92d Congress.

[31] The by-now classic statement reads:

An objection to transportation of students may have validity when the time or distance of travel is so great as to either risk the health of children or significantly impinge on the educational process.

Swann v. Charlotte-Mecklenberg Bd. of Educ., 402 U.S. 1, 30–31 (1971).

[32] Pub. L. No. 92–313, 86 Stat. 372.

[33] 93 S. Ct. 2773 (1973).

[34] 93 S. Ct. 2686 (1973).

[35] *Id.* at 2701–20.

[36] *Id.* at 2700.

[37] U.S. Commission on Civil Rights, Racial Isolation in the Public Schools (1967).

[38] Keyes v. School Dist. No. 1, Denver, Colo. 93 S. Ct. 2686, 2706–07 (1973).

[39] *Id.* at 2706.

[40] *Id.* at 2718.

[41] Keyes v. School Dist. No. 1, Denver, Colo. 93 S. Ct. 2686, 2711–19 (1973).

[42] Denmark, Guttentag & Riley, Communication Patterns and Integrated Classrooms and Pre-Integration Subject Variables as They Affect the Academic Achievement and Self-Concept of Previously Segregated Children (1967); U.S. Commission on Civil Rights, The Diminishing Barrier, A Study of School Desegregation in Ten Cities (1972).

[43] The U.S. Bureau of the Census reports that nearly half the nation's population of blacks is concentrated in 50 cities and at least one third of the total is in 15 cities. The top 15 cities are New York City, Chicago, Detroit, Philadelphia, Washington, Los Angeles, Baltimore, Cleveland, New Orleans, Atlanta, St. Louis, Memphis, Dallas, Newark and Indianapolis.

[44] On the subject of Mexican-American education see the five volume series of reports, U.S. Commission on Civil Rights, Mexican American Education (1972).

[45] Keyes v. School Dist. No. 1, Denver, Colo., 93 S. Ct. 2686, 2719–20 (1973).

ANTIBUSING AMENDMENTS

Mr. JAVITS. Mr. President, tomorrow, the Senate will consider a number of amendments to this bill concerned with busing. Foremost among these is the amendment to be offered by the Senator from Florida (Mr. Gurney) which is identical to the House-passed Esch amendment.

So that my colleagues may have everything bearing on the legal and constitutional implications of this proposal I ask unanimous consent that a memorandum of law on the constitutionality of the Esch-Gurney amendment be printed at this point in the Record. I also ask unanimous consent for the printing of two additional documents: the views of the U.S. Civil Rights Commission, prepared at my request, and signed personally by every member of the Commission; and a statement issued today by the black caucus of the House of Representatives.

There being no objection, the material was ordered to be printed in the Record, as follows:

Memorandum of Law—The Constitutionality of Esch-Gurney Amendment to the Elementary and Secondary Education Amendments of 1974

The regressive, anti-desegregation legislation now before the Congress was offered in the House of Representatives as Title II "Equal Educational Opportunities" of H.R. 69—The Elementary and Secondary Education Act of 1974. It is very similar to H.R. 13915 (92nd Congress), the so-called Equal Educational Opportunities Act of 1972 which was offered by the President for consideration in 1972. The amendment was sponsored by Representative Marvin Esch in the House and Senator Edward Gurney, in the Senate. It seeks to limit the authority of federal courts transportation of students beyond the closest or next closest school.

But the proposal is even more than prospective legislation. One section permits the reopening of court ordered desegregation plans, and plans under Title VI of the Civil Rights Act of 1964, to conform them with the provisions of the bill, even though many of those cases do not involve busing. As the Committees on Federal Legislation and Civil Rights of the New York City Bar Association concluded after its analysis of this proposal:

"While this is arguably permissible under the usual doctrine that equity decrees are always subject to review because of change of circumstances, this is in fact an invitation to reverse the school desegregation of the past eighteen years, particularly in the school district where desegregation has long been achieved. Presumably in such districts, the alleged disadvantages of pupil transportation have long since been overcome. It is cynical in the extreme, therefore, to permit new rounds of litigation where successful adjustment to constitutional order exists."*

This section raises then important questions of policy. Principally, however, this Memorandum questions the constitutionality of the direct and arbitrary prohibition of busing as a judicial remedy. The reasons are as follows:

I. The Esch/Gurney amendments will prevent the Federal courts and school authorities from implementing the constitutional requirements established by *Brown v. Board of Education* and subsequent cases.

Eighteen years ago, Brown v. Board of Education, 347 U.S. 483 (1954) established that State-imposed segregation by race in public schools denies equal protection of the laws under the Fourteenth Amendment. To correct such violations, the Fourteenth Amendment commands that the discriminating authority take whatever steps are necessary to convert to a racially, nondiscriminatory school system. *Brown v. Board of Education,* 349 U.S. 294, 301 (1955) (Brown II); *Green v. County School Board of New Kent County,* 391 U.S. 430 437–38 (1968). If school authorities fail in fulfilling their affirmative constitutional obligations, "judicial authority may be invoked." *Swann v. Charlotte-Mecklenburg Board of Education,* 402 U.S. 1, at 15 (1971). The court's power in fashioning an appropriate and truly effective remedy is broad, for "breadth and flexibility are inherent in equitable remedies." *Swann* at 15. *Brown II.*

Busing is only one of many techniques available for use in desegregating dual school systems. But sometimes busing is found to be the *only* effective remedy for the speedy desegregation plans mandated by the Court in *Green v. County School Board of New Kent County, supra.* Thus, the Supreme Court has recognized busing as an *"integral part* of the public education system for years," and as a "normal and accepted tool of educational policy." *Swann* at 29 (emphasis added). In *Swann,* the Court found "no basis for holding that the local school authorities may not be required to employ bus transportation as one tool of school desegregation." It added, "Desegregation plans cannot be limited to the walk-in school." *Swann, supra* 402 U.S. at p. 30.

If these amendments are adopted the legislation will overrule the principles of *Swann, supra, North Carolina State Board of Education v. Swann,* 402 U.S. 43 (1971) and *Brown v. Board of Education* (II), supra. It will prohibit the use of busing in any meaningful manner, by school authorities and federal district courts, as a remedial tool for school desegregation. It will prohibit busing in every case, for every child of school age, regardless of time and distance or number of children involved.

II. Congress, as well as the States, may not enact legislation which obstructs the Federal courts from fulfilling the mandate of the fourteenth amendment's equal protection clause.

The Supreme Court has declared that no State enactment may frustrate the constitutional mandate of the Fourteenth Amendment. *North Carolina State Board of Education v. Swann,* 402 U.S. 43 (1971). "An absolute prohibition against transportation of students," the Supreme Court said, "will . . . hamper the ability of local authorities to effectively remedy constitutional violations," *Id.* at 46. Thus, the Court declared North Carolina's antibusing law to be unconstitutional are held:

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* (See *Congressional Record,* vol. 118, pt. 21, pp. 27463–65 at p. 27464.)

"If a State-imposed limitation on a school authority's discretion operates to inhibit or obstruct the operation of a unitary school system or impede the disestablishing of a dual school system, it must fall; state policy must give way when it operates to hinder vindication of federal constitutional guarantees." *Id.* at 45.

See also Goss v. Board of Education of City of Knoxville, Tennessee, 444 F. 2d 632, 637 (6th Cir. 1971); *Clark v. Board of Directors of Little Rock School District,* 328 F. Supp. 1205, 1212 (E.D. Ark, 1971); and *Taylor v. Coahoma County School District,* 330 F. Supp. 174 176, 183 (N.D. Miss. 1970) *aff'd* 444 F. 2d 221 (5th Cir. 1971).

Congress has a no less stringent constitutional duty in this regard than any state agency. Yet, if Congress were to enact the Esch/Gurney Amendment it would be implicating itself in exactly the kind of segregatory activity prohibited for school boards, state legislatures and governors. Congressional action would be the direct cause of continuing denial of equal protection, where a constitutional violation has already been found and where busing has been decreed a necessary part of the effective remedy. In short, by staying implementation of an effective remedy, Congress would be acting in aid of racial discrimination, and therefore in violation of the due process clause of the Fifth Amendment. *Bolling v. Sharpe,* 347 U.S. 497 (1954); *Gautreaux v. Romney,* 448 F. 2d 731 (7th Cir. 1971). See *Green v. Kennedy,* 309 F. Supp. 1127, 1136 (D.C. 1970), *dismissed for want of juris., sub nom., Coit v. Green,* 400 U.S. 986 (1971). *Cf. Battaglia v. General Motors Corporation,* 169 F. 2d 254, 257 (2d Cir.), *cert. denied,* 335 U.S. 887 (1948). And as *Kelley v. Metropolitan County Board of Education of Nashville and Davidson County,* — F. 2d — (No. 71–1178–79) (6th Cir. May 30, 1972) emphatically suggests: ". . . no one may forbid a school board (or a federal court) from employing any of the tools of modern life in carrying out a constitutional mandate. *Davis v. Board of Commissioners of Mobile County,* 402 U.S. 33, 37–38 (1971)" [emphasis added].

III. Neither Congress' authority to regulate the jurisdiction of federal courts nor its authority to enforce the fourteenth amendment authorizes legislation which would prevent Federal courts from effectuating a constitutional mandate.

Although Article III of the Constitution authorizes Congress to regulate the jurisdiction of Federal courts, the principle of separation of powers precludes Congress from limiting the authority of the courts in interpreting the Constitution and effectuating Constitutional rights. *Marbury v. Madison,* 5 U.S. (1 Cranch) 137 (1803), *Martin v. Hunter's Lessee,* 14 U.S. (1 Wheat) 304 (1816). Congress, in the guise of a jurisdictional statute, cannot deprive a party either of a right created by the Constitution or of any remedy the courts deem essential of enforce that right.

Nor can Congress enact legislation which prescribes a particular result in a case. In United States v. Klein, 80 U.S. (13 Wall.) 128 (1972) the Court held that the statutory limitation of the Federal courts' jurisdiction—offered by a Congress anxious to correct what it thought was an erroneous line of cases—was unconstitutional:

"We are directed"—said the Supreme Court—"to dismiss the appeal, if we find that the judgment must be affirmed. . . . Can we do so without allowing one party to the controversy [the Congress] to decide it in its own favor? Can we do so without allowing that the legislature may prescribe rules of decision to the Judicial Department of government in cases pending before it? "We think not. . . . We must think that Congress has inadvertently passed the limit which separated the legislative from the judicial power." *Id.* at 146–47

The Klein case was decided after *Ex parte McCardle,* 74 U.S. (7 Wall) 506 (1868), which upheld a post-Civil War Act of Congress that deprived the Supreme Court of appellate jurisdiction over lower federal court decisions in habeas corpus cases. But it is clear from this case that the Court was not sanctioning unrestricted Congressional power to deprive it of jurisdiction to consider Constitutional claims. Despite the act of Congress which it sustained, the Court still had original habeas corpus jurisdiction as well as power to review lower court habeas corpus decisions by writ of certiorari. *Ex parte Yerger,* 75 U.S. (8 Wall) 85 (1868). Professor Alexander Bickel, moreover, has described the *McCardle* case as "aberrational" and has noted that, in common with Professor Henry M. Hart, Jr., he reads it "as a fairly narrow holding." (See Bickel, "What's Wrong with Nixon's Busing Bills?"

Nor do Congressional restrictions on the jurisdiction of courts found in the Emergency Price Control Act of 1942 and the Norris-LaGuardia Act justify the busing limitations contained in Esch/Gurney. The structure under the former statute preserved a full remedy in federal courts (See *Yakus v. United States,* 321 U.S. 414 (1944) and *Lockerty v. Phillips,* 319 U.S. 182 (1943) and the latter statute did not restrict constitutional rights because a businessman does not have a constitutional right to have a federal court enjoin a strike growing out of a labor dispute. In fact the Norris-LaGuardia statute served to implement the First Amendment right to peaceful, non-coercive picketing. See *Thornhill* v. *Alabama,* 310 U.S. 88 (1940).

Finally, Section 5 of the Fourteenth Amendment, which authorizes Congress to enforce that Amendment "by appropriate legislation," provides no basis for sustaining the legislation in question.

Section 5 does not authorize Congress to contract the scope of protection guaranteed by the Fourteenth Amendment. The Equal Protection Clause of the Fourteenth Amendment was designed to expand and to extend constitutional protection to those who had previously been denied such rights. Congress may not thwart this purpose.

The Court spoke specifically to this point in *Katzenbach v. Morgan,* 384 U.S. 641, 651 n. 10 (1966) when it stated: "§ 5 does not grant Congress power to exercise discretion in the other direction and to enact 'statutes so as in effect to dilute equal protection and due process decisions of this Court.' We emphasize the Congress' power under § 5 is limited to adopting measures to enforce the guarantees of the Amendment; § 5 grants Congress no power to restrict, abrogate, or dilute these guarantees."

Section 5, moreover, cannot be used as a basis for regulating the jurisdiction of the Federal courts. That Section concerns only questions of federalism—the Federal Government's relations with the states—not issues of checks and balances between Congress and the Federal Judiciary. The history of Section 5 plainly demonstrates that its purpose was simply to enable "Congress, in case the States shall enact laws in conflict with the principles of the Amendment, to correct that legislation by a formal Congressional enactment." Remarks of Senator Howard, who reported the Fourteenth Amendment to the Senate from the Joint Committee on Reconstruction, *Cong. Globe,* 39th Cong., 1st Sess., 2766, 2768 (1866). Section 5 was not intended to give Congress greater power than the Federal Courts to define Constitutional rights.

The legal impact of this proposal will be to eliminate busing as a viable tool for school desegregation. Though the bill's language states "except to the closest or next closest school," busing restricted to these conditions will prove ineffectual in countervailing the impact of residential segregation upon school attendance patterns of children. Where busing is an indispensable and effective method of desegregation, federal courts will find themselves constrained to render less than effective remedies.

For these reasons, this bill contracts the scope of constitutional guarantees afforded by the Fourteenth Amendment. It cannot be sustained upon a reading of Section 5.

U.S. COMMISSION ON CIVIL RIGHTS,
Washington, D.C., May 6, 1974.
Hon. JACOB K. JAVITS,
U.S. Senate, Washington, D.C.

DEAR SENATOR JAVITS: We have received your request for our findings and recommendations relative to the Gurney, Ervin, and Scott-Mansfield Amendments to the Elementary and Secondary Education Act of 1974. We are pleased to comply.

The most extensive of these Amendments is the Gurney Amendment. The major thrust of the Gurney Amendment is to prohibit student transportation to promote school desegregation. In its place, the Amendment would require the acceptance of the neighborhood school as the appropriate basis for determining public school assignments. The Amendment makes several findings: (1) Large amounts of funds have been spent by local educational agencies on student transportation for desegregation; (2) Such transportation has created "serious risks" to the health and safety of students and has been excessive; and (3) Court guidelines have not been "clear, rational and uniform" on the question of reassigning and transporting students to effect desegregation.

The Amendment defines as unlawful various practices if taken on account of race, color, sex, or national origin—for example, "deliberate segregation" and faculty or staff employment discrimination. It would also prohibit the assignment of students to schools other than the one closest to their residence if such assignment resulted in a greater degree of segregation. The Amendment would permit a court in its discretion to award costs and attorneys' fees to the prevailing party. In addition, the Amendment prohibits the busing of students as a desegregation remedy unless the busing is to the school closest or next closest to the student's place of residence. Another of its provisions would permit school authorities to "reopen" all court orders and Title IV desegregation plans now in effect.

The United States Commission on Civil Rights has appeared before Congressional Committees on five occasions during the 92nd and 93rd Congresses to testify on the so-called "busing" issue. On all five occasions we have opposed efforts which would prevent a court, department or agency of the United States from utilizing transportation in order to achieve the objective of desegregating the schools of our Nation. We have consistently opposed all legislation which would weaken the constitutional prohibition against governmentally-sanctioned segregation of public schools.

Our opposition to these proposals has been based on three principles:

First, that public education next to the family is the Nation's most important social institution. In the words of the Supreme Court, it is "the principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment."

Second, that governmentaly-segregated public schools are "inherently unequal" and are therefore violative of the 14th Amendment right to equal protection of the laws.

Third, that participation in the educational programs of desegregated schools is the best way to prepare students to live under and to help implement the principles embodied in the Constitution.

In addition, our opposition to these proposals has been based on evidence, growing out of studies conducted by the Commission, which point conclusively to the fact that there are situations where pupil transportation is the only method that will effectively prevent students from being forced to attend segregated schools.

We are fully aware of the complex problems that have confronted and do confront communities in the nation that are providing transportation so as to prevent students from being forced to attend segregated schools. We have found that many of these problems have been resolved in a constructive manner.

Nevertheless we understand that persons living in communities that confront the necessity of inaugurating pupil transportation programs in order to prevent students from being forced to attend segregated schools ask in good faith whether the price that we must pay should be paid. Our response must be that constitutional rights designed to open doors of opportunity for all of our people must be treated as absolutes. We cannot afford to turn our back on them because of difficulty of implementation. Any other course of action undermines our constitutional form of government.

It is in the light of these principles and considerations, Commission research, and our analysis of the legislation that we are now presenting the following findings and recommendation relative to the Gurney, Ervin, Scott-Mansfield Amendments. In most instances we are stating our findings and only briefly summarizing the evidence on which each finding is based. In all instances, however, we are prepared to support our findings with evidence based on studies and legal analyses conducted by the Commission and by others working in this field.

THE GURNEY AMENDMENT

1. The Gurney Amendment would deny to Federal Courts or administrative agencies the right to prevent students from being forced to attend segregated schools where pupil transportation is the method necessary to achieve actual desegregation.

Congress by adopting such an Amendment would be attempting to overrule the Supreme Court's decision in *Swann* v. *Charlotte-Mecklenburg Board of Education,* 402 U.S. 1 (1971) that transportation is one of a number of viable techniques by which schools can be desegregated. In some school districts, transportation either alone or in conjunction with other desegregation techniques is a "must" if the constitutional mandate eliminating state-imposed segregation is to be carried out.

It is recognized that any attempt by Congress to legislate a dual school system would be unconstitutional. The Supreme Court has found in *North Carolina State Board of Education* v. *Swann,* 402 U.S. 43, 45 (1971) that legislation which attempts to reach the same result through indirect means is just as unconstitutional.

The Gurney Amendment would lead to such a result by denying the courts one of their most potent weapons namely, pupil transportation. In essence, while the Amendment recognizes and endorses the rights of children to be free from governmentally established segregated schools, it would take away the means to assure that right.

2. The provision in the Gurney Amendment which would permit the reopening in the courts of desegregation plans now in effect because of their alleged conflict with the transportation provisions of the Gurney Amendment would re-open old wounds in many communities, bring to a halt the steps that are being taken to achieve genuine desegregation, and would undermine efforts of conscientious officials who under extremely difficult circumstances have obeyed the Constitution.

In addition to unitary school districts already existing, there are roughly 1,500 school districts which are and have been desegregating their school systems since 1954 pursuant to court orders or plans accepted by the Department of Health, Education, and Welfare. Students in these schools are in the process of having their constitutional guarantee of equal protection of the laws fulfilled.

The Gurney Amendment, however, seeks to stop this process while the courts are asked to determine whether some of the students in these formerly *de jure* districts should be returned to segregated schools. This backward step would be an indefensible expenditure of time, energy and money.

3. The provisions of the Gurney Amendment establishing the so-called "neighborhood school" as the appropriate basis for student assignment would in fact cause many students to attend *de jure* segregated schools.

There is nothing about a neighborhood school that compensates for the denial of a constitutional right. We, therefore, see no point in entering into a discussion of the pros and cons of neighborhood schools. In passing, however, it should be pointed out that the argument for neighborhood schools has been advanced vigorously only since the advent of desegregation. In connection with our responsibilities under the Civil Rights Act of 1957, as amended, it is sufficient for us to point out that the Gurney Amendment is in direct conflict with the declaration of the Supreme Court of the United States in *Swann* v. *Charlotte-Mecklenburg Board of Education,* 402 U.S. 1, 30 (1971) that "desegregation plans cannot be limited to the walk-in schools."

4. The provision in the Amendment that no unitary school system shall be required to formulate or implement a desegregation plan because of "residential shifts in population . . . which result in school population changes in any school within such a desegregated school system . . ." is misleading and unnecessary.

Since the *Brown* decision, the courts have distinguished between *de facto* school segregation caused by residential change or population movement and *de jure* school segregation resulting from the official actions of educational authorities. Every school desegregation order that has ever been supported by the Supreme Court has been based upon a factual finding of *de jure* segregation. This provision is therefore misleading in that it creates the impression that action is required in an area in which it is not required.

5. The provision of the Amendment that failure to "attain a balance, on the basis of race, color, sex, or national origin, of students" within a school district "shall not constitute a denial of equal educational opportunity, or equal protection of the laws" is misleading and unnecessary.

The federal courts have never required such a balance of students. As the Supreme Court stated in Swann, "the constitutional command to desegregate schools does not mean that every school in every community must always reflect the racial composition of the school system as a whole . . . ." (at 24)

6. The provision of the Gurney Amendment that could result in the parents of children being compelled to pay the legal expenses of the defendant educational agency, as well as their own, places an indefensible obstacle in the path of parents who attempt to vindicate their constitutional rights in this area.

This finding speaks for itself.

7. The flexibility which the Supreme Court has demonstrated in the development of guidelines for desegregation by the courts, departments and agencies of the United States has encouraged the development of desegregation plans which are responsive to varied local situations.

The Gurney Amendment adopts the opposite point of view. In so doing the authors and sponsors reflect a lack of confidence in a process which gives full recognition to local conditions and yet, at the same time, achieves the objective of implementing constitutional rights.

In the *Swann* case, for example, the Supreme Court stated that "no rigid guidelines as to student transportation can be given for application to the infinite variety of problems presented in thousands of situations." (at 29)

The flexibility which the Supreme Court has encouraged permits local school districts to design their own plans, in close consultation with the local district court or other federal agencies if necessary, and to choose from a wide range of tools those best suited to deal with the situation as it exists in their own districts. In this way local desegregation plans may be fashioned in the most practical and reasonable manner and yet still meet current constitutional and statutory standards.

8. The provision of the Amendment which would make it an "unlawful practice" to "assign a student to a school other than the one closest to his or her place of residence . . . if such an assignment results in a greater degree of segregation of students on the basis of race, color, sex, or national origin . . ." would be an administrative nightmare for school officials and governmental authorities.

Local school officials who conscientiously wished not to violate the law would be thrust upon the horns of a virtually impossible dilemma by this section of the Amendment. One way that a school district could be sure that it was not engaging in the "unlawful practice" would be to assign all children to the school closest to their homes. This would compel school officials to compute the precise distance between the homes of all children and the surrounding schools, and based on these computations, to engage in the wholesale transfer of thousands of children who presently do not attend the closest school. Moreover, school authorities would have to update the school-home distance computations to account for the construction of new schools, new residences, and the closing of obsolete facilities, and transfer countless additional children annually.

The other means by which local school officials could insure their full compliance with the law created by the Amendment is even more administratively complex and mind-boggling. So that school officials could continue the often-necessary administrative practice of assigning children to schools other than the one closest to their residence, they would be compelled to compute annually the precise student ratios for all schools in the district "on the basis of race, color, sex, and national origin." Then school officials would have to determine that the assignment of a child to a school other than the closest one would not contribute to an increased level of segregation.

It is ironic that a constitutionally defective Amendment is, in addition, administratively onerous. Needless to say, should the Amendment be made administratively feasible, its unconstitutionality should preclude legislative enactment.

9. The portion of the Gurney Amendment which provides for the elimination of excessive transportation of students when necessitated by desegregation which allegedly "creates risks to their health and safety" and "disrupts the educational process" is unnecessary and misleading.

The Supreme Court in *Swann* forbade the use of transportation in school desegregation plans "when the time or distance of travel is so great as to risk either the health of the child or significantly impinge on the educational process." (at 30–31)

Statistics of the U.S. Department of Transportation show that approximately one percent of the increase in public school transportation from the period 1954 to 1972 can be attributed to school desegregation.

THE ASHBROOK AMENDMENT

In the event the Ashbrook Amendment, which was adopted by the House of Representatives, is offered during the Senate debate, we are providing our comments on it.

The Ashbrook Amendment would prohibit the use of Federal education funds for transportation costs involved in school desegregation plans.

10. The Ashbrook Amendment seeks to erect a roadblock to the granting of equal educational opportunity by denying the use of Federal funds for any plan, voluntary or otherwise, which seeks to implement those rights by spending money on pupil transportation.

Like the Gurney Amendment it seeks to accomplish indirectly what the authors and sponsors know cannot be accomplished directly; namely, the denial of rights of students to attend schools which are not segregated.

THE ERVIN AMENDMENT

The Ervin Amendment would prohibit federal officials from using federal funds for the purpose of inducing school boards operating dual schools to convert to unitary systems. It would permit such school systems to implement "freedom of choice" plans regardless of the resulting racial composition of the system's schools.

11. The Ervin Amendment if adopted would effectively repeal Title VI of the Civil *Rights Act* of 1964 as it applies to education and seeks to overrule the decision of the Supreme Court in Green v. County School Board of New Kent County, 391 U.S. 430 (1968) which ruled that if freedom of choice plans are to be found constitutional they must be effective in that they achieve actual desegregation. In Green the court found that the plan before it was ineffective.

In support of the Commission's position on this Amendment we enclose a copy of our testimony presented before the Senate Subcommittee on Constitutional Rights on February 21, 1974.

THE SCOTT/MANSFIELD AMENDMENT

The Scott/Mansfield Amendment would prohibit the use of appropriated funds for the transportation of students in connection with court ordered desegregation, make illegal the assignment of pupils to overcome "racial imbalance," and postpone the implementation of district court orders which require the transportation of pupils until all appeals are exhausted.

12. The provisions of this amendment would slow down the process of implementing the constitutional rights set forth in Brown.

These provisions were included as Sections 801 and 802 of the General Education Amendments of 1972 (P.L. 92–318) and incorporate certain decisions by the United States Supreme Court related to transportation distances and the provisions in Section 407(a) of the 1964 Civil Rights Act related to so-called busing for racial balance.

RECOMMENDATION

On the basis of these findings there is just one recommendation that we can make; namely, that the Senate reject the Gurney, Ervin, Scott-Mansfield and Ashbrook Amendments.

CONCLUSION

On May 17 this nation will commemorate the 20th anniversary of the unanimous decision of the Supreme Court of the United States to strike down the major legal barrier to racial equality—the "separate but equal" doctrine. This event was second only to the Emancipation Proclamation from the point of view of its potential contribution to the long struggle, both inside and outside the minority communities, to implement the civil rights guaranteed by the Constitution.

The passage of any legislation which would deny to the Federal Courts or administrative agencies the right to prevent students from being forced to attend segregated schools where pupil transportation is the method necessary to achieve actual desegregation would turn the celebrations planned for the 20th anniversary of the *Brown* v. *Board of Education* Supreme Court decision into a dirge. Such an action would convey the following message to the parents of all children—

"If you live in a location where your children can walk to a desegregated school, your children can benefit from the constitutional prohibition against governmentally segregated schools and participate in the educational opportunities provided by a desegregated school.

"If, on the other hand, you live in a location where your children need transportation to a desegregated school, your children will be denied the benefits of the constitutional prohibition against state sanctioned segregated schools and will be unable to participate in the educational opportunities provided by desegregated schools."

Once again hope will be replaced by despair.

We believe the *Report of the National Advisory Commission on Civil Disorders* was right when in 1968 it pointed to the danger of our Nation moving toward two societies, one black, one white—separate and unequal. The enactment of the proposed amendments on which we have commented in this letter would contribute to such a tragic development. We hope that instead of moving in this direction the Congress will hold fast to the sure promise of a more united and peaceful Nation under desegregated institutions.

Respectfully yours,

ARTHUR S. FLEMMING, *Chairman*; STEPHEN HORN, *Vice Chairman;* FRANKIE M. FREEMAN, ROBERT S. RANKIN, MANUEL RUIZ, JR., JOHN A. BUGGS, *Staff Director*.

CONGRESSIONAL BLACK CAUCUS INC.,
Washington, D.C., May 14, 1974.
Senator PHILIP A. HART,
Washington, D.C.

DEAR SENATORS HART, JAVITS, KENNEDY, MONDALE: The Congressional Black Caucus is extremely concerned over the anti-busing amendments which will be offered when the Senate considers S. 1539, a bill to extend the Elementary and Secondary Education Act for three more years. The sixteen black members of the House voted against the anti-busing amendments to H.R. 69, which was passed in the House.

Of major concern to the members of the Caucus is the fact that the Esch amendment represents an assault against the independence and the integrity of the judicial system. The Esch amendment which is clearly unconstitutional, also presents the grave danger of the legislative body trying to usurp the powers of the judicial branch of the government.

The addition of anti-busing amendments to S. 1539 will be an enormous setback to the school desegregation and civil rights gains achieved over the last 20 years. The Congressional Black Caucus is urging members of the Senate to defeat all anti-busing amendments to S. 1539.

Sincerely,

Yvonne Braithwaite Burke, Shirley Chisholm, William Clay, Cardiss Collins, John Conyers, Jr., Ronald V. Dellums, Charles C. Diggs, Jr., Walter E. Fauntroy, Augustus F. Hawkins, Barbara Jordan, Ralph H. Metcalfe, Parren J. Mitchell, Robert N. C. Nix, Charles B. Rangel, Louis Stokes, Andrew Young.

EDUCATION PROGRAMS FOR HANDICAPPED CHILDREN

Mr. MATHIAS. Mr. President, in my introductory remarks on amendment No. 1305 for aid to the handicapped, I referred to the recent court decree in the State of Maryland to highlight the critical need to expand and improve education programs for handicapped children. In the context of this urgent need, I have received several communications in support of my amendment from various Maryland school superintendents. I ask unanimous consent that the text of these communications be included in the RECORD.

There being no objection, the communications were ordered to be printed in the RECORD, as follows:

BOARD OF EDUCATION
OF SAINT MARYS COUNTY,
Leonardtown, Md.
Hon. CHARLES MATHIAS, Jr.,
Capitol Hill,
Washington, D.C.

Please support the proposed amendment to S. 1539 for Federal aid for handicapped. Saint Marys County would benefit by about 180,000 dollars for use with handicapped children. This aid would contribute greatly to our expanding handicapped program.

ROBERT E. KING, Jr.,
Superintendent of Schools.

PRINCE GEORGE'S COUNTY PUBLIC SCHOOLS,
Upper Marlboro, Md., April 30, 1974.
Hon. CHARLES McC. MATHIAS, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MATHIAS: It has come to my attention that you plan to introduce legislation, on or about May 2, 1974, which promotes the national commitment to improving programs for handicapped children. This encouraging prospect prompted my desire to express support for your efforts.

In the recent decade, the State of Maryland has been in the forefront of educational programs for its handicapped children. Recent legislation passed in the '73 Legislature (106–D of Article 77, Public Schools Laws of Maryland) provides that all children 0–20 shall have the advantage of programs of education regardless of the nature and severity of their handicap. Programs that will address themselves to preschool children will come into being throughout the state and be fully implemented by 1980. Current costs of educating children continue to soar.

Presently, programs in special education receive funding from both educational agencies and the State Department of Education. The situation in Prince George's County is about a 50–50 proposition. With increased pressures to decrease property taxes and, indeed, state taxes, it is going to be more and more difficult for counties and states to sufficiently fund programs for their handicapped children and youth. A special subsidy provided by the federal government would ease the burden of local governments and, at least, make the federal government a partial partner in the responsibility of educating the handicapped in order that they may become fully participating and contributing members of society in the future.

We, in Prince George's County, are most grateful for your continuing efforts to improve the quality of public education in the state and nation.

Very truly yours,

CARL W. HASSEL,
Superintendent of Schools.

[TELEGRAM]

CHESTERTOWN, MD.

Senator CHARLES MAC. MATHIAS,
Senate Office Building,
Washington, D.C.

Urge you support amendment to SB1539 which will provide $15.00 per pupil for improved programs for the handicapped.

RICHARD L. HOLLE,
Superintendent of Schools.

BOARD OF EDUCATION OF GARRETT COUNTY,
Oakland, Md., May 1, 1974.

Hon. CHARLES MCC. MATHIAS, Jr.,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MATHIAS: Let me begin by thanking you for the interest shown to education in the State of Maryland. The superintendents of the State, and I am sure, the public, respect the leadership that you are exerting in federal aid legislation for education.

Please lend your support to Senate Bill 1539—Federal Aid for the Handicapped. We in Garrett Country are trying to double our services to these students over the next three years and this legislation will be a small step in helping to move us in that direction. Many thanks for your support in this matter.

Sincerely yours,

WILLIAM H. BUSER,
Superintendent of Schools.

ROCKVILLE, MD., *April 30, 1974.*

Hon. CHARLES MCC. MATHIAS, Jr.,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR MATHIAS: We want you to know of our strong support for your intention to offer an amendment to the extension of the Elementary and Secondary Education Act (S. 1539), which would provide $15 per enrolled child to be designated for programs and services for handicapped students.

The school system's responsibility for the education of all children, regardless of need, has been given a high priority by our Board of Education. The Maryland General Assembly has mandated a comprehensive educational program for handicapped pupils, and a recent Maryland Circuit Court decision has affirmed the right of handicapped pupils to equal educational opportunities. This undertaking, however, will be extraordinarily expensive; and Federal aid, such as you propose, will be essential to speedy implementation of these programs.

We have aggressively pursued all available state and federal support to supplement local funds on behalf of our handicapped students. However, in spite of these efforts, additional support is necessary to provide appropriate educational programs offered by staff and specialists adequately trained to offer the very specialized services required by our seriously handicapped school-age population.

While we believe that S. 6 and H.R. 70 provide the proper long-range approach, it appears that these bills will not be passed in the near future. Since we feel that our need is immediate, we appreciate your efforts in assisting us to meet our responsibility for the education of handicapped pupils.

Sincerely,

DONALD MIEDEMA,
Deputy Superintendent of Schools.
HOMER O. ELSEROAD,
Superintendent of Schools.

BOARD OF EDUCATION OF SOMERSET COUNTY,
Princess Anne, Md., May 1, 1974.

Hon. CHARLES MCC. MATHIAS, Jr.,
U.S. Senate,
Washington, D.C.

MY DEAR SENATOR MATHIAS: Senate Bill 1539, Federal Aid for the Handicapped, upon enactment would greatly assist this County and the State.

Please be aware of this County's strong support of this piece of legislation. Your efforts regarding its Senate passage would be greatly appreciated.

Kindest personal regards,

Sincerely yours,

JACK B. KUSSMAUL,
Superintendent of Schools.

[Telegram]

MONTGOMERY COUNTY PUBLIC SCHOOLS,
Rockville, Md.

Hon. CHARLES MCC. MATHIAS, Jr.,
Washington, D.C.

We strongly support the legislation you plan to introduce on behalf of handicapped children. The Maryland General Assembly has mandated a comprehensive educational program for handicapped pupils, and a recent Maryland circuit court decision has affirmed the right of handicapped pupils to equal educational opportunities.

Provision of appropriate services to all of our seriously handicapped school age population will be extraordinarily expensive. Federal aid, such as you propose, is urgently needed to supplement State and local resources for speedy implementation of these programs.

HOMER O. ELSEROAD,
Superintendent of Schools.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. PELL. Mr. President, I ask unanimous consent that the time for the quorum call be charged to neither side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY FROM THE INTERNATIONAL WHEAT AGREEMENT, 1971 (EX. C, 93D CONG., 2D SESS.)

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Protocols for the Extension of the Wheat Trade Convention and the Food Aid Convention constituting the International Wheat Agreement, 1971, open for signature in Washington from April 2 through April 22, 1974—Executive C, 93d Congress, 2d session—transmitted to the Senate today by the President of the United States, and that the protocols with accompanying papers be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

The PRESIDING OFFICER (Mr. NUNN). Without objection, it is so ordered.

The message is as follows:

To the Senate of the United States:

For the advice and consent of the Senate to ratification, I transmit herewith the Protocols for the Extension of the Wheat Trade Convention and the Food Aid Convention constituting the International Wheat Agreement, 1971, open for signature in Washington from April 2 through April 22, 1974. The Protocols were formulated by a Conference of Governments which met in London on February 22, 1974.

I transmit also, for the information of the Senate, the report of the Department of State with respect to the Protocols.

The Protocol for the Extension of the Wheat Trade Convention, 1971, extends the Convention until June 30, 1975, and maintains the framework for international cooperation in wheat trade matters. It also continues the existence of the International Wheat Council.

The Protocol for the Extension of the Food Aid Convention, 1971, also extends until June 30, 1975, commitments of parties to provide certain minimum annual quantities of food aid to developing countries. The United States intends not to deposit ratification of this Protocol unless the European Economic Community remains a party. This intention was formally recorded by the United States in a written declaration made at the time the Protocols were signed.

Both Protocols provide that instruments of ratification shall be deposited no later than June 18, 1974. The Wheat Council may, however, grant an extension of time to any signatory government that has not deposited an instrument of ratification by that date.

It is my hope that the Senate will give favorable consideration to the two Protocols so that, subject to the European Economic Community remaining a party to the Food Aid Convention, ratification by the United States can be effected and instruments of ratification for the Wheat Trade Convention and the Food Aid Convention can be deposited without undue delay.

RICHARD NIXON.

THE WHITE HOUSE, *May 14, 1974.*

ORDER FOR CONSIDERATION OF UNFINISHED BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized on tomorrow, without any morning business occurring at that time, the Senate proceed to the consideration of the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Now, Mr. President, is it automatic that the question at that time would be on the adoption of the amendment by Mr. GURNEY?

The PRESIDING OFFICER. That will be laid before the Senate as the pending question under the agreement.

Mr. ROBERT C. BYRD. After the two leaders or their designees have been recognized?

The PRESIDING OFFICER. The Senator is correct.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at the hour of 9 a.m. After the two leaders or their designees have been recognized under the standing order, the Senate will resume the consideration of the unfinished business (S. 1539), at which time an amendment by Mr. Gurney will be the pending question before the Senate.

There is a time limitation on that amendment of not to exceed 6 hours, with a final vote to occur thereon at 5 p.m. tomorrow.

It has already been ordered that Mr. Bayh and Mr. Ervin may offer amendments to the Gurney amendment, with the understanding that the Ervin amendment would be called up at no later than the hour of 3 o'clock p.m. tomorrow.

At the hour of 11:30 a.m., the Gurney amendment will be temporarily laid aside, and the amendment by Mr. McClellan will again be before the Senate, with an amendment thereto to be proposed by Mr. Brooke.

There is a time limitation on the amendment of the Senator from Massachusetts (Mr. Brooke) to the amendment of the Senator from Arkansas (Mr. McClellan) of not to exceed 45 minutes, with a vote to occur on the Brooke amendment to the McClellan amendment at the hour of 12:15 p.m.

The vote will occur on the McClellan amendment, as amended if amended, immediately following the vote on the Brooke amendment.

The Senate will then resume the consideration of the Gurney amendment. With the exception of the Brooke amendment and the McClellan amendment, it was agreed some days ago that all amendments to be considered to the bill tomorrow will be so-called busing amendments.

Have I correctly stated the program for tomorrow, may I ask the Chair?

The PRESIDING OFFICER. The Senator has correctly stated the program for tomorrow, in accordance with the Chair's records.

Mr. ROBERT C. BYRD. I thank the Chair.

Conceivably then, Mr. President, I think Senators should be alerted to the fact that rollcall votes could occur prior to the hour of 11:30 a.m., at which time the Senate will begin consideration of the Brooke amendment to the McClellan amendment. Undoubtedly two rollcall votes will occur beginning at 12:15 p.m., back to back, with one on the Brooke amendment to the McClellan amendment, to be followed by the vote on the McClellan amendment as amended, if amended.

This does not rule out, however, the possibility of rollcall votes occurring on the Bayh or Ervin amendments to the Gurney amendment prior to 11:30 a.m.

According to the program I have stated, the Senate will resume the consideration of the education bill at about 9:05 a.m. tomorrow, at which time the Gurney amendment will be before the Senate.

Mr. GRIFFIN. Mr. President, will the Senator from West Virginia yield for a question?

Mr. ROBERT C. BYRD. I am glad to yield to the Senator from Michigan.

Mr. GRIFFIN. As I understand it, the Senator from Florida (Mr. Gurney) has been assured that there will be 6 hours of debate on his amendment.

On the other hand, there is also an agreement that there will be a vote on the Gurney amendment at 5 p.m. There has been a modification, that the Brooke and McClellan amendments will be taken up and voted on tomorrow.

I am a little concerned about whether there will be 6 hours of debate on the Gurney amendment if other amendments to the Gurney amendment can be voted on during consideration of the Gurney amendment. Is that a possibility?

Mr. ROBERT C. BYRD. Mr. President, in response to the question from the distinguished assistant Republican leader, that is a possibility, but I think the situation will work out all right. Under the agreement, it would be in order for Mr. Ervin and Mr. Bayh to offer amendments to the Gurney amendment at any time during the day, with the proviso that Mr. Ervin is required to offer his amendment not later than 3 p.m. But if I understand the agreement, any other amendments to the Gurney amendment—unless by unanimous consent they were allowed to come in prior to the expiration of the time, or the hour of 5 o'clock p.m., whichever is earlier—could not be offered until the hour of 5 p.m. They could then be offered but without any time for debate thereon. A vote could be gotten on such amendments to be immediately followed by a vote on the Gurney amendment, as amended.

The PRESIDING OFFICER. The Senator is correct.

Mr. GRIFFIN. Mr. President, is it not also correct that under the unanimous-consent agreement time on the bill is under the control of the majority leader and the minority leader or their designees?

The PRESIDING OFFICER. The Senator is correct.

Mr. GRIFFIN. I thank the Chair.

ADJOURNMENT TO 9 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9 a.m. tomorrow morning.

The motion was agreed to; and at 7:24 p.m. the Senate adjourned until tomorrow, Wednesday, May 15, 1974, at 9 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 14, 1974:

COASTAL PLAINS REGIONAL COMMISSION

Russell Jackson Hawke, Jr., of North Carolina, to be Federal Cochairman of the Coastal Plains Regional Commission.

DEPARTMENT OF JUSTICE

David O. Trager, of New York, to be U.S. attorney for the eastern district of New York for the term of 4 years.

John T. Pierpont, Jr., of Missouri, to be U.S. marshal for the western district of Missouri for the term of 4 years.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

HOUSE OF REPRESENTATIVES—*Tuesday, May 14, 1974*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

The Lord is my light and my salvation; whom shall I fear?—Psalms 27: 1.

Eternal God, our Father, who art our refuge and our strength in every age Thou art with us in this present hour seeking to strengthen us, endeavoring to enlighten us and striving to support us in every effort we make for a righteous, a sober, and a genuinely good nation.

Lift us all, we pray Thee, out of the depths of discouragement and disillusionment and lead us up to the endless splendor of a new and greater day when men shall repent of their sins, receive Thy forgiveness, and learn to live together in love for one another and in peace with all Thy family.

Almighty Father, who dost give
The gift of life to all who live,
Look down on all earth's sin and strife
And lift us to a nobler life.

Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5621. An act to amend title 10, United States Code, to provide for the presentation of a flag of the United States for deceased members of the Ready Reserve.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 634. An act to declare that certain federally owned lands shall be held by the United States in trust for the Kootenai Tribe of Idaho, and for other purposes;

S. 1411. An act to authorize the Sisseton and Wahpeton Sioux Tribe of the Lake Traverse Reservation to consolidate its landholdings in North Dakota and South Dakota, and for other purposes; and

S. 3398. An act to amend title 38, United

States Code, to provide a 10-year delimiting period for the pursuit of educational programs by veterans, wives, and widows.

INTRODUCING OLD FOLKS LEGISLATION

(Mr. YOUNG of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YOUNG of South Carolina. Mr. Speaker, inflation is a cruel thing. And it is particularly cruel to our older people who have to live on a fixed income.

Today, as all of our prices and costs of living continue to rise, many of our senior citizens are in real economic trouble, particularly those whose retirement income is from sources other than social security or railroad retirement, because this income does not get the same tax credits as are available for social security income benefits.

The Internal Revenue Code of 1964 granted the same relief to these people that is allowed for those receiving retirement benefits from social security and railroad retirement. But the relief granted in 1964 was for a fixed dollar amount, an amount equal to the then top social security payment. Today, that same fixed dollar amount, $1,524, still prevails for these people although social security benefits and retirement benefits have risen again and again and again.

I am proposing legislation today that will bring equal tax relief to those on programs other than social security and railroad retirement. This was the intent of the code of 1964 and all we need to do to make this a parallel benefit is to place the credit on a basis equal to that allowed on social security or railroad retirement rather than tying it to a fixed dollar amount.

Under this legislation identical tax credits will be allowed to our senior citizens no matter what their retirement program might be. These people need this help. I am sure that all of you will join me in immediately correcting this inequity.

CALL OF THE HOUSE

Mr. WYDLER. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 218]

Addabbo
Alexander
Anderson, Ill.
Andrews, N.C.
Arends
Ashley
Badillo
Biaggi
Blatnik
Brasco
Breckinridge
Buchanan
Burke, Calif.
Burke, Fla.
Camp
Carey, N.Y.
Carter
Casey, Tex.
Chisholm
Clancy
Clark
Clay
Conyers
Davis, Ga.
Davis, S.C.
de la Garza
Delaney
Dellums
Dennis
Devine
Diggs
Dingell
Dorn
Dulski
Frey
Gettys
Giaimo
Gibbons
Gilman
Grasso
Gray
Green, Oreg.
Gunter
Harrington
Hastings
Hawkins
Hébert
Heinz
Helstoski
Holifield
Hudnut
Hunt
Jarman
Johnson, Pa.
Karth
Kyros
Litton
McCloskey
McKinney
Matsunaga
Mills
Mink
Mollohan
Morgan
Murphy, N.Y.
Nelsen
Nix
Pettis
Preyer
Rees
Reid
Rhodes
Rogers
Roncallo, N.Y.
Rooney, N.Y.
Rose
Sandman
Scherle
Shuster
Slack
Staggers
Stephens
Stubblefield
Sullivan
Symington
Talcott
Taylor, N.C.
Teague
Thone
Traxler
Udall
Vander Jagt
Waldie
Williams
Wyatt

The SPEAKER. On this rollcall 338 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. MURPHY of Illinois. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

EXTENSION FOR THE PRESIDENT'S NATIONAL COMMISSION ON PRODUCTIVITY

Mr. MURPHY of Illinois. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 895 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 895

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 1752) prescribing the objectives and functions of the National Commission on Productivity and Work Quality. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Currency, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Illinois (Mr. MURPHY) is recognized for 1 hour.

Mr. MURPHY of Illinois, Mr. Speaker, I yield the usual 30 minutes to the minority, the distinguished gentleman from California (Mr. DEL CLAWSON). Pending which, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 895 provides for an open rule with 1 hour of general debate on S. 1752, a bill authorizing the extension of the President's National Commission on Productivity.

S. 1752 sets clear priorities for the Commission's work by mandating that it concentrate its efforts in trying to promote the productivity of the American economy and to improve worker morale and quality of work. It has three primary means to implement these objectives: First, to create labor-management productivity councils, which can be of the type now being applied in the steel industry; second, to conduct research that is directly necessary to achieve its objectives; and third, to promote its objectives through public information work.

S. 1752 also provides that the Commission shall coordinate with the Council of Economic Advisers and submit annual reports which document its past activities and future plans. The bill authorizes the appropriation of $5 million for the period ending June 30, 1974.

Mr. Speaker, I urge adoption of House Resolution 895 in order that we may discuss and debate S. 1752.

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 895 is the rule which provides for the consideration of S. 1752, Extension of the President's National Commission on Productivity, under an open rule with 1 hour of general debate.

The primary purpose of S. 1752 is to authorize the extension of the President's National Commission on Productivity.

The name of the commission is to be changed to the National Commission on Productivity and Work Quality.

The purpose of the commission is to promote productivity and to improve worker morale. The three primary means to carry out these purposes are: First, create productivity councils; second, conduct relevant research; and third, promote objectives through public information.

Mr. Speaker, I do not object to the adoption of the rule.

Mr. Speaker, I yield 5 minutes to the gentleman from Iowa (Mr. GROSS).

Mr. GROSS. Mr. Speaker, to refresh the memories of the Members of the House with respect to this legislation, an attempt was made to pass it under suspension of rules on July 17, 1973, which is less than a year ago. The vote was 237 against and 174 in favor.

What in the world it is doing back here is beyond me. I take this time in order to try to find out just what has happened in the interim and why, in view of that vote against the bill, the Committee on Banking and Currency has the nerve to bring it up again.

Just what has happened in the interim that makes them think that the House is in any more of an acceptable mood than it was on July 17 last year?

Could the distinguished chairman of the Committee on Banking and Currency, the gentleman from Texas (Mr. PATMAN), please inform the House of the necessity to extend the life of this Commission that was so soundly beaten down last July?

Mr. PATMAN. Mr. Speaker, will the gentleman yield?

Mr. GROSS. Mr. Speaker, I am glad to yield to the gentleman from Texas.

Mr. PATMAN. Mr. Speaker, I say to the gentleman that many people in this country think that this is a good bill. It has been considered quite a while. It has been discussed all over the Nation. A lot of people are well informed on it; some are not so well informed on it. There is a difference of opinion on either side, I assume, but this is an administration bill. This is a Democratic Congress, House and Senate.

Mr. GROSS. Does it make it any more acceptable that the administration is supporting it? Does that make it any more acceptable today than it was unacceptable last July?

Mr. PATMAN. Not from my standpoint, I will state to the gentleman, but there is a little difference here. The other party decided that they did not get the square deal before, that their people were not here and therefore the vote was lost. They did not feel that they had gotten just the square deal which they should have gotten, and asked for a reconsideration.

It is not unusual to have reconsideration of a bill. It is certainly an exception that is not granted very often, and this is not granted very often, but this will be on its merits. There is no gag rule here. It is open for amendments, and any Member can offer an amendment. There is nothing about it that is unusual in legislation.

Mr. GROSS. I do not know of anyone who would want to amend a proposal of this kind that has so little merit. Why do we not just kill it under the rule again and get rid of it? I know the work schedule for today is not heavy, but why waste further time on a piece of legislative trash such as this?

Mr. PATMAN. The gentleman has a right to vote any way he wishes. He often does that, and he is often right. I do not say he is wrong any time. I do not know of any vote in which he has taken a position against the public interest, but all the rest of the Members have the same voice and every Member should vote his own conviction, and no one has a right to criticize the vote of another Member of the House.

Mr. GROSS. Just a moment, I am not criticizing the votes of other Members of the House. I am criticizing the fact that this legislation is even before the House. That is what I am criticizing. Having been decisively defeated once, why would we have it up here again? We can find better ways than this to spend $5 million; can we not?

Mr. PATMAN. This is not unusual, to have a bill revived and another rule granted and even passed. There are many laws on the statute books today that are only laws after reconsideration, and which were passed on reconsideration.

Mr. GROSS. This is not reconsideration in the strict sense of the word. This is merely a rerun of a piece of once-dead legislation.

The SPEAKER. The time of the gentleman from Iowa has expired.

Mr. DEL CLAWSON. Mr. Speaker, I yield 5 additional minutes to the gentleman from Iowa.

Mr. SISK. Mr. Speaker, will the gentleman yield?

Mr. GROSS. Mr. Speaker, I yield to the gentleman from California.

Mr. SISK. Mr. Speaker, I appreciate my colleague from Iowa yielding to me. Let me say that I will take some responsibility, I suppose, for this bill being back on the floor, since I did take leadership in securing a rule on the legislation.

Let me say to my colleague from Iowa that I am going to bare my soul to him. I was one of those who voted against this bill when it was before the House before. I have had an intimation since that time, very frankly, that the Commission did accomplish a great deal in connection with various sources of economics of this country. They were particularly helpful in connection with transportation, I came to find out. Let me say, as one who did take the initiative in securing a rule, that I think we are under an open rule where I understand an amendment very likely will be offered, which I may very well support, to reduce the amount of authorization from probably $5 million to, I believe, $2½ million. That is probably in order, so I think the House should be entitled to discuss this on its merits.

Mr. Speaker, let me say that I am here baring my soul as one of those who did vote against it. I have repeated because I have come to find out that in practice the Commission has been most helpful, particularly in the transportation industry in this country, by getting shippers, growers, producers, manufacturers, and others together.

Mr. GROSS. Mr. Speaker, I would like to accommodate the gentleman from California. I appreciate the fact that he did arise to bare his soul and say, "I made a very bad mistake a year ago that I did not vote to give this Commission $5 million." For what, I do not know. But I am sure the gentleman can explain it.

Tell me why this Commission has been so effective in the matter of productivity; we do not read something about it in this, the brief report accompanying the bill. Where is the report of the Commission and its claim of accomplishment?

Mr. SISK. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I am happy to yield to the gentleman from California.

Mr. SISK. Mr. Speaker, I, of course, did not write the report and do not claim any responsibility one way or the other. I have had opportunity, though, since we last discussed this matter, to make a rather comprehensive study of its activities and of its accomplishments. Let me assure the gentleman that if the House is given an opportunity to discuss this, I think we, in fact, can prove that they have been helpful in productivity, because the area of productivity is where, to a large extent, this country is failing.

Mr. Speaker, unfortunately, our ability to produce is not being justified under the inflationary pressures that we are in, and this Commission has made some headway in helping in this area.

Mr. GROSS. Mr. Speaker, my friend, the gentleman from California, does not believe for 1 minute—and I know he does not believe for 1 minute—that the extension of the life of a commission to study productivity is going to make any real difference until the root evil and cause of what is taking place is disposed of. The evil is unbalanced Federal budgets, huge deficits, and inflation.

Mr. SISK. Mr. Speaker, will the gentleman yield on that point?

Mr. GROSS. I yield to the gentleman from California.

Mr. SISK. Mr. Speaker, this Commission goes far beyond any study. They are not just studying. They have been active. In fact in California they were responsible for getting the growers, the shippers, the railroads, and the receivers to sit down together and work out a program where we cut the turnaround time on refrigerator cars on the west coast by more than half.

Mr. GROSS. Mr. Speaker, evidently this commission spent all its time in California, because it does not show any results in Iowa or elsewhere.

Mr. HUNGATE. Mr. Speaker, will the gentleman from Iowa yield?

Mr. GROSS. I yield to the gentleman from Missouri.

Mr. HUNGATE. As I drove up this morning, I saw a billboard that says, "America only works halftime." Unless I misread it, that was put up by the Council on Productivity. Is it possible that I read that correctly? Is that being consistent?

Mr. GROSS. It certainly does not appear to be consistent.

Mr. HUNGATE. I thank the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, here we are asked to spend $5 million, but it is suggested that can be cut to $2½ million. This is the first admission there is not very much to the substance of this commission when it is proposed to cut it to $2½ million.

Mr. SISK. Will the gentleman yield?

Mr. GROSS. Yes, I yield to the gentleman from California.

Mr. SISK. Mr. Speaker, I would support the bill for $5 million, because I think they are worthy of the moneys allocated. Frankly, I am being realistic. I would hope that my colleague, the gentleman from Iowa, would go along and support the bill for $2½ million. I am just being realistic. Let us be frank about it.

Mr. GROSS. Mr. Speaker, as far as the gentleman from Iowa is concerned, there is no substantiation to be found for this bill. I do not even know whether the $5 million is budgeted or not. There is no statement from the Office of Management and Budget. There is no statement from any other department or agency of the Government justifying it.

Mr. Speaker, this rule and the bill ought to be defeated.

Mr. DEL CLAWSON. Mr. Speaker, I have no further requests for time.

Mr. MURPHY of Illinois. I yield 2 minutes to the gentleman from California (Mr. SISK).

Mr. SISK. Mr. Speaker, I just want to answer the last comment by my colleague, the gentleman from Iowa (Mr. GROSS). It is a budgeted item. It is a matter that the administration is interested in. It is one in which former Secretary of the Treasury, Mr. Shultz, was very much interested in.

On the basis of its record he felt that it would be very helpful to the economy of our country.

I now yield to my colleague from California.

Mr. McFALL. Mr. Speaker, I agree with my distinguished friend from California. We share the great productive San Joaquin Valley districts, and this productivity commission has helped in the shipment of vegetables and fruits to the East. I think it is a very worthwhile commission. They are doing a good job, and certainly, if there is further discussion on this floor, I hope the Members will vote for the rule.

Mr. DEL CLAWSON. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. WIDNALL).

Mr. WIDNALL. Thank you.

Mr. Speaker, I rise in support of the rule. I believe the Commission has already demonstrated its ability to be productive and its ability to be constructive and to do the things that are vitally needed for the benefit of our economy.

In order really to meet what I see as the mood of the House on this, carrying over from last year, I will offer an amendment which will reduce the $5 million authorization to $2.5 million. I believe the Commission can be fully justified by all the material we have gathered as to what they have been doing up to now.

I would like to call to the attention of the Members on this side of the aisle a letter that they received which was jointly signed by JOHN RHODES and by me endorsing this bill and calling for your support and saying that it was something that the administration wants and needs and something which can be very helpful.

I do not think you should act on an emotional basis toward changing the proposal just because a dollar mark is affixed to it. At this point I include in the RECORD a copy of a letter to the minority leader, Congressman RHODES, from former Secretary of the Treasury George P. Shultz strongly favoring continuance of the work of the National Commission on Productivity. Congressman RHODES has asked me to see that it is placed in the RECORD.

I urgently ask you for your support on the rule and later on the bill.

The letter follows:

THE SECRETARY OF THE TREASURY,
Washington, February 20, 1974.

Hon. JOHN J. RHODES,
House of Representatives,
Washington, D.C.

DEAR MR. RHODES: I want you to know how strongly I favor the continuance of the work of the National Commission on Productivity.

The Commission's first full year of program funding has been very successful. By working closely with labor unions, corporations and government departments, the Commission has developed a practical and useful program in food, health, transportation and government productivity. It is fulfilling its objective to promote labor-management cooperation to affect public policy, and to educate the public on the need for the benefits of productivity growth.

It is vital that S. 1752 be favorably acted upon by the House to provide continuing authority for the Commission, in order to preserve a small but very important advocate for productivity improvement in this country.

Sincerely yours,

GEORGE P. SHULTZ.

Mr. MURPHY of Illinois. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Speaker, I thank the distinguished gentleman from Illinois for giving me this opportunity.

This is the first time I rise in opposition to a rule since I have been in the House. I reluctantly do so and hate to disagree with my distinguished colleagues such as the gentleman from California (Mr. SISK) and our very distinguished chief whip, his fellow colleague from California (Mr. McFALL), but I am compelled to do so by the fact that what the gentleman from Iowa said is very correct. He is not wrong.

Nothing has transpired since the last consideration by this House of this legislation to add one argument in behalf of committing the Congress toward the preservation of this commission much less $5 million worth.

The truth of the matter is that those of us who considered this matter in the committee looking at the only reports presented to us clearly and honestly could not conceive that it was worthwhile to continue this commission.

In the first place, let us consider what happened since we last considered the matter here and overwhelmingly voted against this bill. It came up under a suspension of the rules and the vote against it was so bountiful that it was in excess of the majority saying that they were against this bill.

Let us review what has happened since then.

In my case I received one report triggering off correspondence from Texas obviously on the basis that if some Texans would write to me, I might change my mind on the matter. What they were writing about was the efforts of the commission on, guess what? A productivity committee study on hospital care. The HEW has millions and billions of dollars; it has bureaus of all kinds. So I cannot imagine spending another $1 million on the part of a productivity commission studying productivity of hospitals or illness or reductions in cost.

What it is, I do not know.

Whatever studies they are contemplating, at least in the opinion of this Member, hardly justifies the creation or the perpetuation of a new commission.

Mr. Speaker, I am opposed to the bill, and on this occasion I am opposed to the rule also because there is no reason to warrant, as the gentleman from Iowa (Mr. GROSS) has said, a reconsideration of this matter based on any new presentation of fact to justify the continuation of this commission.

In effect this commission is really just another governmental employment service. It has not performed one service that I can see. For instance, the one great source or study that they give us was the study having to do with the water content of tomatoes—California tomatoes. If anyone can tell me how one can justify a new commission to study that when we have the millions of dollars that have been earmarked for that kind of study in the Department of Agriculture, then maybe they can convince me of that, and maybe I will reverse my mind. But, as it stands, I must appear here before the Members and be brutally frank, and say that it represents nothing more than just one more governmental employment agency which has given jobs to some. That is it.

Let us be done with this business of creating a national commission on every conceivable problem. This very House in its reform efforts has acted on that, and said that this is bad policy, this idea of creating new commissions or perpetuating commissions and earmarking millions of dollars here, there, and everywhere. This is no good. In fact, that is unproductive.

Let us address ourselves to the real problem in this country. Are we unproductive? No. Could we be more productive? Yes. But we do not need a commission to tell us that. We need to look at the real world, and in that real world high productivity comes out of a high level of competition and a generally sound economy and a good level of spending on new plants and new kinds of equipment. There is no secret or mystery about that.

When the distinguished gentleman from California points to some work in coordinating transportation in California the gentleman in effect is adding a very strong argument against perpetuating this commission, because it clearly reveals that the millions and millions of dollars that the Secretary of Transportation has been telling us about for the last 5 years has been spent for that purpose, has been duplicated by this so-called Commission on Productivity.

Mr. DEL CLAWSON. Mr. Speaker, I yield 4 minutes to the gentleman from Georgia (Mr. BLACKBURN).

Mr. BLACKBURN. Mr. Speaker, I am afraid that there is some misrepresentation being made here about what this Commission has done or has not done, and I am convinced that perhaps the Commission has been unfairly portrayed in some of the observations that have been made by some of my colleagues.

Let me point out some of the productive acts that this Commission has engaged in, and some of the contributions it has made to the well-being of America, and to the American consumers.

First of all in the food industry the National Commission on Productivity put forth a plan for a daily train from the west coast to the east coast to handle perishable fruits and vegetables. Prior to that time each car had to be loaded separately, and each car might be stopped in some railroad yard for 12 to 14 hours, or perhaps overnight. As a result, there was a great deal of waste, and a great spoilage in the delivery of fruits and vegetables from the west coast to the east coast. Today there has been established a unit train which is directly attributable to the activity of this National Productivity Commission.

Further, as a result of this Commission's activities the Interstate Commerce Commission has opened the way for more expeditious use for back hauls by retailers. As the Members, I am sure, are aware, under current and previous regulations a truck which hauled a complete load going to one location generally would have to go back to its point of origin completely empty.

We talk about the waste of energy and we talk about the conservation of gasoline and diesel fuels, that are becoming increasingly in short supply, but just through this one very simple step it has made it far more productive through calling this to the attention of the Interstate Commerce Commission, and thus reducing considerably the consumption of energy in the transportation of our goods throughout the country.

Another activity in which the Commission has been most productive and most helpful is in acting with State and local governments to improve the delivery of governmental services at the local level. For example, they have made studies in connection with the FBI to show the best methods of delivering police protection services in communities of similar size and similar economic backgrounds.

The Commission has even made recommendations for the best methods of collecting waste garbage or solid waste in trash collection systems throughout our country. One of the most serious problems facing our country today, and every local government in America, whether it is a city government or a county government, is handling such a *simple matter* as solid waste disposal. This productivity commission has made solid, concrete suggestions that can be utilized by every city and every county government in America. This is the only central organization in the country that is performing this most valuable service.

Mr. SMITH of New York. Mr. Speaker, will the gentleman yield?

Mr. BLACKBURN. I yield to the gentleman from New York.

Mr. SMITH of New York. I thank the gentleman for yielding.

The gentleman from Texas brought up a question in regard to railroad car turnarounds, as to why the Department of Transportation did not handle that, not this Commission. Would the gentleman care to comment on that and also its activities in the solid waste disposal?

Mr. BLACKBURN. I really did not hear the gentleman's observations about the railroad turnarounds.

Mr. SMITH of New York. What he said, in effect, was that this was duplicating what the Department of Transportation was supposed to do.

Mr. BLACKBURN. I certainly am not afraid of duplicating some of the activities of the Department of Transportation. In fact, I find that many times an agency which has an administrative function over some aspect of our commercial lives itself becomes captive of the very organization it is supposed to regulate. That could well be the situation with the Department of Transportation. They are going to railroad people asking them how to handle railroad cars, and they are being told to handle them in the exact same way they have been handling them for the last 100 years.

The SPEAKER. The time of the gentleman has expired.

Mr. DEL CLAWSON. I yield 1 additional minute to the gentleman from Georgia.

Mr. BLACKBURN. I thank the gentleman.

Mr. SMITH of New York. Mr. Speaker, will the gentleman yield?

Mr. BLACKBURN. I yield to the gentleman from New York.

Mr. SMITH of New York. Mr. Speaker, I think the gentleman is correct on that. It seems to me that a Commission whose function and objective is to look for means to increase productivity might be a very good one to go into many different fields and many different agencies to pick up the areas there that they have not been able to handle.

Mr. BLACKBURN. I certainly agree with the gentleman from New York.

Mr. Speaker, I urge my colleagues to support the rule.

Mr. J. WILLIAM STANTON. Mr. Speaker, will the gentleman yield?

Mr. BLACKBURN. I yield to the gentleman from Ohio.

Mr. J. WILLIAM STANTON. I think the gentleman for yielding.

I wonder if the gentleman in the well will not verify that when there was objection to this bill last July, the big hue and cry was that we were not in a parliamentary procedure under which this bill could be amended. I read the transcripts last July and the arguments were that the gentleman from Iowa was dead set against the whole thing. The other argument was that the bill was going to cost $5 million. Here we are back again. Let us go ahead and vote on this rule.

Mr. BLACKBURN. I certainly agree with the gentleman. It has been stated that the amount of money involved would be cut in half over what we requested some months ago, so the bill is certainly far more palatable today.

Mr. Speaker, I urge my colleagues to vote for the rule.

The SPEAKER. The time of the gentleman has expired.

Mr. DEL CLAWSON. Mr. Speaker, I reserve the balance of my time.

Mr. MURPHY of Illinois. Mr. Speaker, I have no further requests for time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. GROSS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 308, nays 57, not voting 68, as follows:

[Roll No. 219]

YEAS—308

Abdnor
Abzug
Adams
Andrews,
N. Dak.
Annunzio
Armstrong
Ashley
Aspin
Badillo
Bafalis
Barrett
Beard
Bell
Bennett
Bergland
Biester
Bingham
Blackburn
Boggs
Boland
Bolling
Bowen
Brademas
Bray
Breaux
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Mass.
Burlison, Mo.
Burton
Butler
Byron
Carney, Ohio
Cederberg
Chamberlain
Chisholm
Clausen,
Don H.
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Conyers
Corman
Cotter
Coughlin
Crane
Cronin
Culver
Daniel, Dan
Daniel, Robert
W., Jr.
Daniels,
Dominick V.
Danielson
Davis, Ga.
Davis, Wis.
Dellenback
Denholm
Dent
Donohue
Downing
Drinan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Findley
Fish
Fisher
Flood
Flowers
Foley
Forsythe
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gibbons
Gilman
Goldwater
Green, Pa.
Grover
Gubser
Gude
Guyer
Hamilton
Hanley
Hanna
Hanrahan
Hansen, Idaho
Hastings
Hays
Hébert
Heckler, Mass.
Heinz
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holt
Holtzman
Horton
Hosmer
Huber
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, Okla.
Karth
Kastenmeier
Kemp
Ketchum
Kluczynski
Koch
Kyros
Lagomarsino
Lehman
Lent
Long, La.
Long, Md.
Lott
Lujan
Luken
McClory
McCollister
McCormack
McDade
McEwen
McFall
McKay
McSpadden
Macdonald
Madden
Madigan
Mahon
Mallary
Mann
Maraziti
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Mayne
Mazzoli
Meeds
Metcalfe
Mezvinsky
Michel
Milford
Miller
Minish
Mink
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Montgomery
Moorhead,
Calif.
Moorhead, Pa.
Mosher
Moss
Murphy, Ill.
Murtha
Myers
Natcher
Nelsen
Nichols
Obey
O'Brien
O'Neill
Owens
Parris
Passman
Patman
Patten
Pepper
Perkins
Peyser
Pike
Podell
Preyer
Price, Ill.
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Regula
Reuss
Riegle
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Roncalio, Wyo.
Rooney, Pa.
Rosenthal
Rostenkowski
Rousselot
Roy
Roybal
Runnels
Ruppe
Ruth
Ryan
St Germain
Sarasin
Sarbanes
Satterfield
Schneebeli
Schroeder
Sebelius
Seiberling
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Stanton,
J. William
Stark
Steed
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stokes
Stratton
Stuckey
Studds
Symington
Taylor, Mo.
Taylor, N.C.
Thomson, Wis.
Thornton
Tiernan
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Veysey
Vigorito
Waggonner
Waldie
Walsh
Wampler
Ware
Whalen
White
Whitehurst
Widnall
Wilson, Bob
Wilson,
Charles, Tex.
Winn
Wolff
Wydler
Wylie
Wyman
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—57

Alexander
Anderson,
Calif.
Archer
Ashbrook
Baker
Bauman
Bevill
Brinkley

Burke, Fla.
Burleson, Tex.
Casey, Tex.
Clawson, Del
Dennis
Devine
Dickinson
Duncan
Fascell
Flynt
Ford
Fountain
Ginn
Gonzalez
Goodling
Griffiths
Gross
Haley
Hammerschmidt
Harsha
Hechler, W. Va.
Henderson
Jarman
Jones, N.C.
Jones, Tenn.
Jordan
Kazen
King
Kuykendall
Landgrebe
Landrum
Latta
Leggett
Martin, Nebr.
Melcher
Nedzi
O'Hara
Pickle
Poage
Powell, Ohio
Price, Tex.
Rarick
Roush
Stanton, James V.
Symms
Teague
Traxler
Whitten
Wilson, Charles H., Calif.

NOT VOTING—68

Addabbo
Anderson, Ill.
Andrews, N.C.
Arends
Biaggi
Blatnik
Brasco
Breckinridge
Burke, Calif.
Camp
Carey, N.Y.
Carter
Chappell
Clancy
Clark
Collier
Davis, S.C.
de la Garza
Delaney
Dellums
Derwinski
Diggs
Dingell
Dorn
Dulski
Gettys
Giaimo
Grasso
Gray
Green, Oreg.
Gunter
Hansen, Wash.
Harrington
Hawkins
Helstoski
Howard
Johnson, Pa.
Litton
McCloskey
McKinney
Matsunaga
Mills
Mollohan
Morgan
Murphy, N.Y.
Nix
Pettis
Rees
Reid
Rhodes
Rogers
Roncallo, N.Y.
Rooney, N.Y.
Rose
Sandman
Scherle
Slack
Staggers
Stephens
Stubblefield
Sullivan
Talcott
Thompson, N.J.
Thone
Wiggins
Williams
Wright
Wyatt

So the resolution was agreed to.

The Clerk announced the following pairs:

Mr. Thompson of New Jersey with Mr. Rhodes.

Mr. Biaggi with Mr. Blatnik.

Mr. Delaney with Mr. Dorn.

Mr. Morgan with Mr. Gettys.

Mr. Matsunaga with Mrs. Green of Oregon.

Mrs. Sullivan with Mr. Arends

Mr. Rooney of New York with Mr. Mills.

Mr. Carey of New York with Mr. Camp.

Mr. Hawkins with Mr. Harrington.

Mr. Howard with Mr. McKinney.

Mr. Rogers with Mr. Clancy.

Mr. Staggers with Mr. Johnson of Pennsylvania.

Mr. Mollohan with Mr. Anderson of Illinois.

Mr. Stubblefield with Mrs. Hansen of Washington.

Mr. Dulski with Mr. Pettis.

Mr. Giaimo with Mr. Carter.

Mr. Brasco with Mr. Sandman.

Mr. Chappell with Mr. Andrews of North Carolina.

Mr. Clark with Mr. Reid.

Mr. de la Garza with Mr. Collier.

Mr. Dingell with Mr. Dellums.

Mr. Gray with Mr. Diggs.

Mrs. Grasso with Mr. Roncallo of New York.

Mr. Addabbo with Mr. Scherle.

Mr. Rees with Mr. Derwinski.

Mr. Rose with Mr. Slack.

Mr. Stephens with Mr. Talcott.

Mr. Davis of South Carolina with Mr. Thone.

Mrs. Burke of California with Mr. McCloskey.

Mr. Breckinridge with Mr. Wiggins.

Mr. Litton with Mr. Williams.

Mr. Nix with Mr. Gunter.

Mr. Murphy of New York with Mr. Helstoski.

Mr. Wright with Mr. Wyatt.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. PATMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the Senate bill (S. 1752) prescribing the objectives and functions of the National Commission on Productivity and Work Quality.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. PATMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE HOUSE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the Senate bill (S. 1752) with Mr. SISK in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. The gentleman from Texas (Mr. PATMAN) will be recognized for 30 minutes, and the gentleman from New Jersey (Mr. WIDNALL) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas.

Mr. PATMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of S. 1752 which authorizes the continuance of the National Commission on Productivity. This is an administration-supported bill and is considered by many in the administration—most notably former Secretary of Treasury Shultz and Cost of Living Council Director Dunlop—to be a critical piece of legislation in the effort to stem the tide of inflation. Its importance lies in the role it will play in increasing this country's productivity.

While there is little controversy over the need for increased productivity, there has been some sharp questioning of whether this Commission is the appropriate body to insure increased productivity. However, I have been assured by the administration that the Commission is making progress and obtaining results that translate into real dollar savings. To give you an idea of what the Commission has done, I will list just a few of the projects the Commission has been engaged in during the past year.

In the food industry it is sponsoring a demonstration project to show the feasibility of using unit trains to bring fresh produce from the West to the East. If this project is successful, it could result in lower food costs by reducing transportation time and cutting the spoilage.

In other areas the commission has sponsored conferences or programs designed to discover and put into action ways to increase productivity in the health care industry and State and local government. A substantial portion of this work done by the Commission is in the beginning stages and the actual dollar savings that will result are not yet known, but I am assured by the administration that the savings will be substantial.

As you know, the House has had an opportunity to vote on this bill previously on July 17 on a Suspension Calendar but failed to receive the two-thirds majority necessary for passage. The administration has argued that the reason the House failed to suspend the rules and pass S. 1752 is that the Commission had failed to inform the Members of its activities and had failed to prove its worth. Since that time, according to the administration an intensive educational effort has been undertaken and that there is now a much more receptive attitude in the House toward the Commission and its work. In fact, a number of Members have indicated to the administration that they intend to change their July vote in favor of the committee authorization.

The gentleman from New Jersey (Mr. WIDNALL) will offer an amendment which will reduce the authorization for the Commission from $5 to $2.5 million for the period from July 1, 1974, to June 30, 1975. I support this amendment.

Therefore, in light of the need to do something to enhance the ability of this country to improve its productivity and in light of the apparent change in attitude of the House toward the Commission, I bring this bill before the House and urge your favorable consideration.

Mr. WIDNALL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of S. 1752. This bill passed the other body by voice vote on May 10 last year and subsequently was reported favorably by our committee, again on a voice vote. I think it is most unfortunate that the bill was defeated when it was brought before the House under suspension.

Mr. Chairman, I believe the concept of the National Commission on Productivity is completely sound and deserves our wholehearted support. This is not the beginning of a large new bureaucracy but a small group working with leaders of government, industry, and labor not only to focus national attention on the needs and benefits of improving our productivity but to demonstrate through pilot projects what can actually be accomplished. To date, the Commission has demonstrated a unique ability to enlist the support and cooperation of divergent sectors of the economy, labor, management, and State and local governments. In addition, there have been strong expressions of support from industry.

Let me emphasize that it is not the function of this Commission to tell anyone how to run their business or their labor union. Nowhere in this legislation is any authority granted or implied which could, by any stretch of the imagination, be construed as giving the Commission such a right.

Rather its function is to serve as a catalyst bringing together various elements in the production process to explore means of increasing productivity. As these explorations develop feasible possibilities, it assists in the conduct of trial runs. It is to defray the costs of such trials and disseminate the results that the modest $5 million budget was proposed and approved by the committee.

I should point out at this point that in deference to those who are dubious about the possibilities of achieving success in such an effort as this, an amendment will be offered today reducing that $5 million figure to $2.5 million. We believe this is a worthwhile effort which should be continued.

As I reflect on a variety of matters which have come before the Banking and Currency Committee, the Joint Economic Committee, and others, relating to the problems of inflation, our balance of trade and related matters, I recall one oft repeated admonition. The sagest of the spokesmen on all these subjects have usually concluded by reminding us that the ultimate solution to these problems depended in the long run on our ability to increase productivity, or stated differently, on improving our competitive posture in world markets.

Mr. Chairman, I think it should be apparent to all of us that like it or not, we must all face up realistically to the fact that today we live in—and are dependent on—an international economic community. Proud as we are of our Nation's achievements, we cannot bury our heads in the sand. Productivity has not increased as rapidly in the United States during the last decade as it has in other nations who compete with us in international markets. True, we are still more productive but our advantage is diminishing. We cannot let that happen. It is right and proper that the Government should take a leadership role with American labor and industry to preserve the productive superiority which has brought so many benefits to our people. That is what this bill is designed to provide. I support enactment of the bill with two amendments that I will offer during the debate.

Mr. J. WILLIAM STANTON. Mr. Chairman, will the gentleman yield?

Mr. WIDNALL. I yield to the gentleman from Ohio.

Mr. J. WILLIAM STANTON. Mr. Chairman, I rise in support of this legislation, S. 1752.

This bill will affect the vital interests of all Americans. It is urgently needed in the light of changing competitive conditions in world trade.

In 1971 and 1972, we experienced mounting deficits in our trade balance.

We became keenly aware that other industrial countries had been modernizing their technology, plant and management, at a rapid rate. They are closing the gap that once set our industry apart from all other nations.

The figures on productivity show this quite clearly. From 1965 to 1972, output per manhour in manufacturing rose by 20 percent in the United States compared to a phenomenal jump of 130 percent in Japan, 53 percent in France, and 42 percent in West Germany. While we had trade deficits they showed surpluses.

In order to remain competitive we have had to devalue. This must be followed up by efforts to improve the rate of gain in productivity.

This legislation would enable the National Commission on Productivity to continue its efforts to bring together labor, management, and the public in a concerted drive to improve our performance.

Its work in the fishing industry is an example of the potential service this Commission can render.

Twenty years ago about a fourth of all seafood products consumed in the United States was imported. Now imports are up to about 75 percent.

Imported fish and fish products total about $1 billion in 1972—a big part of the U.S. trade deficit.

Productivity of U.S. fishing fleets has declined in the last 10 years, despite increased investment in equipment.

The Commission, with the help of industry, labor, and Government representatives, has identified opportunities for marked improvement. For example, large quantities of potential marketable species have not yet won consumer acceptance and the technology for catching them has not been developed.

The Commission is a catalyst in getting action on this and other important ways of improving productivity in the food industry.

We urgently need such a Government body that provides information and ideas to the private and public sectors about the value of improving productivity.

We need the National Commission to advise Government agencies about policies for improving productivity.

And we need the Commission as a forum for representatives of labor, management, State, local, and Federal government to discuss constructively problems in which they have a common interest.

This meeting together promotes understanding and increases the possibility of cooperative action on many important issues.

Support for this bill and for the work of the Commission may be one of the most important steps we can take to strengthen the American economy and improve the well-being of consumers.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. WIDNALL. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I, too, support this bill with the same enthusiasm as does the distinguished gentleman from New Jersey (Mr. WIDNALL).

Mr. Chairman, I rise in support of S. 1752, a bill to extend the National Commission on Productivity and Work Quality.

National economic growth and national productivity have become increasingly complex combinations of elements. That is why we need the National Commission on Productivity. As a system grows in complexity, the need for a central clearinghouse of information becomes even more vital.

The component systems of the U.S. economy have become so highly interdependent that the economic efficiency of one industry or governmental sector of the economy has come to depend on the efficiency of others.

In a simpler age, self-reliance and self-improvement were sufficient to move the entire economy ahead. Now they are not. The whole economy is at the mercy of its inefficient parts. In such a situation, there is a vital role for the productivity commission and it has been performing that role well.

Productivity growth, in short, depends more and more on coordination and cooperation among disparate groups. Such coordination cannot be achieved simply through legislation or Government decree.

The Productivity Commission is better equipped to do that job than any other organization on the national scene right now. It has representatives of the major economic interest groups in the Nation on it. Its membership includes the top leaders of business, organized labor, and the executive branch of the Federal Government as well as spokesmen for the general public.

No other organization in the country performs this role—that of a catalytic agent for constructive change. Individual segments of the economy are working energetically and imaginatively on improving productivity in their own sectors—as they always have. But no one—aside from this Commission—is looking at the big picture, no other agency of the Government nor any institution in the private sector.

This legislation is particularly important since the Congress made its decision to turn away from wage/price controls as a means of curbing inflation. Some Members have complained that we no longer have an agency which will be a watchdog on the economy. We have the Bureau of Labor Stastistics, the Commerce Department, and the Council of Economic Advisers to tell us what has been happening with the economy, but we need to supplement and coordinate this team with an agency which will coordinate efforts to improve and strengthen the economy. Most Members of the House realize the importance of increased productivity as a means of combating shortages and inflation. If ever there was a time to extend the life of a Commission on Productivity and Work Quality, now is the time.

We know that there is great concern being expressed over how America and the lesser-developed nations of the world will pay for the more expensive petroleum that we must have. The key to making ends meet in this area is a favorable balance of payments. We must keep our world markets in order to buy oil. And the only way we can really hang on to our share of world markets, is to maintain our productivity and the competitive edge which it gives us. The best trade bill in the world cannot save us from our own economic lethargy. That is why we need a strong advocate for increased productivity. The NCOP&WQ is that advocate, and will help to maintain our edge in an increasingly interdependent world economy.

I intend to vote in favor of the bill and I urge my colleagues to do likewise.

Mr. ANNUNZIO. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. ASHLEY).

Mr. ASHLEY. Mr. Chairman, within the service sector of our economy, government is the largest and fastest growing element. One out of six Americans are government workers, and 80 percent of these are at the State and local level.

Over 40 percent of the American income dollar is spent by government. Federal spending alone equals about 26 percent, and the States and localities total another 15 percent. This represents an increase of almost 33 percent over just

20 years ago. when all governmental expenditures combined amounted to 31 percent of national income.

But demands for government services continue to increase—at the same time that revenue yields are diminishing. The situation has created a growing awareness of the need for productivity improvement programs among governments at all levels—a need to get more mileage out of the resources available; to organize work so that more results for the same or less efforts; to work and think smarter, rather than harder. As a deputy mayor said:

> Our option is not whether to improve productivity, but how to do it.

The National Commission on Productivity, under a mandate to focus national attention on the need for productivity growth and to coordinate public and private action, is working to do just this—to improve productivity in Federal, State, and local government:

NCOP is helping pilot productivity improvement projects in St. Petersburg, Fla., and Nashville/Davidson County, Tenn.

A joint labor-management team, partially sponsored by NCOP, is working in Nassau County, N.Y., to find opportunities for more effective operations, with the benefits of such improvement to be shared with employees through collective bargaining.

Other locally sponsored productivity improvement projects are being identified by NCOP, with the results to be made available for use by other jurisdictions.

NCOP task force of top police administrators and experts identified opportunities for more effective operations; findings have been disseminated to police departments and local government throughout the country, working with the FBI and International Association of Police Chiefs.

Another NCOP task force of top administrators and experts in solid waste management identified specific ways to improve residential collection service and reduce cost; findings are being disseminated to local governments throughout national and regional organizations throughout the country.

NCOP is coordinating help to State and local governments by identifying measures and experience throughout the government sector in order to avoid costly duplication of development effort.

An NCOP-funded sample has shown that productivity varies in services by as much as 1,000 percent in municipalities of comparable size. If the performance of all localities could be raised closer to the level of the top performers, the implications for service improvements and cost savings nationwide are indeed impressive.

NCOP is providing financial support to the joint measurement systems project to develop productivity measures for the Federal Government.

NCOP, in a joint project, has initiated demonstration projects on the work environment in Federal agencies with large-scale clerical operations: Social Security Administration, Bureau of Engraving and Printing, Defense Supply Agency, and Navy Finance Office.

The growing awareness of the need for productivity improvement programs among all levels of government is being reinforced and at the same time translated into action by the public sector work of the National Commission on Productivity.

Mr. WIDNALL. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. ROBISON).

Mr. ROBISON of New York. Mr. Chairman, everyone agrees that productivity improvement is one of the principal keys to a better standard of living in the seventies as it has been in the past.

Economists are in dispute on many issues but they are virtually unanimous about the vital role of productivity growth in fostering noninflationary expansion and a strong economy.

In a world of shapening competition, as advanced technology spreads we must maintain a high growth rate in productivity if American industry is to keep its leading position.

For these reasons, the lag in our rate of improvement from 1965 to 1972—2.3 percent per year compared with 3 percent over the whole postwar period—is a truly disturbing trend. The recent figures show an even greater drop over the past year. It calls for an all out campaign by all sectors of the economy.

There is no question that we have the science and technology, worker skill, and managerial ability for a much better productivity performance.

However, we must remove hidden road blocks that prevent us from realizing our tremendous potential.

We need, therefore, a national entity that focuses public attention on the barriers and on the opportunities for improvement. We need a catalyst for constructive action.

The National Commission on Productivity is such an agency. It has done an outstanding job in uncovering specific roadblocks to improvement and starting the process of removing such barriers in several areas that affect the consumer—food, health services, and State and local government, to name three.

In the food industry, for example, the Commission, with the help of about 200 experts from industry, labor, and universities, has found that conflicting or outdated Government regulations about packaging, labeling, handling, and grading can be a serious bottleneck for improving productivity.

The Commission is now the principal advocate in the Federal establishment for identifying and getting rid of such outmoded rules that impede productivity.

Misconceptions about who benefits from productivity gains can also be an obstacle. The Commission is doing a first rate job in trying to inform people about the issues. Its nationwide information campaign is now in full swing.

By drawing on the ideas of labor, management, and Government in all its programs, the Commission is trying to foster a climate of awareness and acceptance of productivity improvement.

There is no other agency with such broad representation that performs this urgently needed coordinating and catalystic function. This bill would continue and expand its activities in sectors where we face intense international competition.

Mr. Chairman, I believe that the National Commission on Productivity is playing a vital role in bringing together business, labor, and the public to overcome the roadblocks to higher productivity. It is laying the foundation of a stronger and more prosperous America.

Mr. WIDNALL. Mr. Chairman, I have no further requests for time.

Mr. ANNUNZIO. Mr. Chairman, I yield 1 minute to the gentleman from California.

Mr. McFALL. Mr. Chairman, during the course of the Commission's study of the food industry, which was carried out at the request of Secretary of Treasury George P. Shultz, the Commission received a number of requests from growers, manufacturers, and retailers to assist in improving rail shipment of perishables. Working with representatives of the railroads, the Commission has been able to act as the catalyst for some needed changes.

Service and reliability of delivery of perishables from the major growing areas of California and Arizona to the major population centers of the East has slipped slowly over the years. With each decrease in service, the customers have sought more special privileges; with each special privilege granted, railroad costs increased, and their interest in providing services understandably lessened.

When the railroads, shippers and retail food stores were brought together by the Productivity Commission to consider their mutual interest in improved service, they were able to agree on a number of changes to procedures to improve productivity of these operations. As a consequence, a new railroad service began late in September, called "fresh-from-the-West" to major east coast markets delivering fine Californian produce on the sixth morning after shipment, a schedule which has not been seen in many years. This experiment holds the potential for fresher, tastier fruit and vegetables on the shelves of the retail stores, lower inventory costs for the retailers, and a bigger share of the cross-country transportation market for the railroads, and importantly a better market for California growers. Further, this experiment has spurred other innovations by the railroads as opportunities have been opened.

While all of these are important to us as consumers, the Commission's efforts to show how these groups can work together to improve this service is the real gain the Nation is making from this experiment.

Mr. BROWN of Michigan. Mr. Chairman, we are in a world economy which makes us all increasingly interdependent.

Between 1960 and 1965 the total of U.S. exports and imports grew from about 34 billions to about 47 billions. Between 1965 and 1970 they grew from 47 billions to 81 billions. Between 1970 and 1972 they grew from 81 billions to 145 billions.

We rely on being able to import many materials essential to our economy, but we cannot continue to import oil, coffee, nickel, rubber, and other essential commodities unless we can pay for them with our goods. These goods must be competitively priced in the world markets.

Since 1965 the major trading partners of the United States have increased their productivity by anywhere from two to six times the U.S. rate of increase.

Last year U.S. productivity rose by 4 percent, about double the average U.S. productivity increase since 1965.

This year U.S. exports, helped by that productivity gain and devaluation have cut sharply into negative trade balances. We cannot afford to relax. We are in fact at the exact point in the business cycle when productivity gains may be expected to fall off sharply, at the end of an expansionary period when employers apprehensive of the future, begin to cut back on productivity improving projects, and to curtail their efforts at expanding markets.

Productivity gains in one industry, or in one place in the economy affect productivity in every other industry.

Productivity losses in fishing decrease the supply and increase the price of fishmeal for animal feeds, making the poultry raisers' job more difficult.

Productivity problems in State and local government increase taxes and cut into services for businesses operating in these States, cities, and counties, and raise the general level of interest rates which businesses must pay to acquire new capital.

Productivity losses in health care make less health services available to the population at large and keep many workers from getting the most out of their jobs.

Productivity problems are everybody's problems.

Mr. FULTON. Mr. Chairman, the city of Nashville and Davidson County have consolidated into one governmental unit. This in itself has resulted in money saved and services to the taxpayer improved. However, unless a continuing program resulting in significant management and operating improvements can be carried out the potential efficiencies cannot be fully realized.

The project of the NCOP in our metro government is extremely important in leading our departments to accomplishments in productivity that they would not have had the resources or expertise to do for themselves. By encouraging and assisting our people to develop their own abilities, long term objectives can hopefully be realized.

It is particularly significant to mention that much of this progress would not have been possible without the support of the NCOP and, as the work continues, the return for metro will more than justify the Commission's investment.

Furthermore, the lessons learned and techniques developed by NCOP in working with us can be equally helpful to other cities throughout the country.

Mr. BLACKBURN. Mr. Chairman, the work and role of the National Commission on Productivity are unique and could not be relocated in any currently existing Government agency, or private organization.

If the Commission's work were limited to research into the various aspects of how to improve productivity, then it would be a superfluous organization. Even if its job were to collect all such research done elsewhere, it would be doing something which could be handled within the existing bureaucracy.

But the National Commission on Productivity has a much more complicated and a much more unique job to do. The major thrust of its work is to engender cooperation among various segments of the economy; to give, for example, management and labor the opportunity and the encouragement to sit down, discuss, and attempt to solve common problems.

This is reflected in the way the staff approaches problems and opportunities in different industries. When the Commission undertakes such projects, from the very beginning it enlists the assistance of knowledgeable people in that industry who are on the firing line day to day. This not only increases their usefulness, it also increases the probability that the recommendations will not be rejected out of hand by one side or another, since all played a role in developing them.

Improving productivity is everyone's problem and everyone has a contribution to make in solving it.

But, we need an organization which can focus on the opportunities for improvement—the National Commission on Productivity is just such an organization. I include at this point a summary:

Summary of Recent Accomplishments of National Commission on Productivity (NCOP)

IN THE FOOD INDUSTRY

Unit Train Started: NCOP plan for daily West to East unit train for perishable fruits and vegetables has been put into effect. Transit time has been cut, spoilage reduced, and rail traffic increased.

Backhaul Supported: As a result of NCOP study and recommendation, Instrastate Commerce Commission has opened way for more extensive use of backhaul by retailers. Potential savings in gasoline costs from reducing empty trucks on the road could be as high as $200 million.

Local Laws Reviewed: Following NCOP study and initiative, Grocery Manufacturers' Association has set up a committee to work with local legislators to eliminate obsolete and inconsistent laws that provide no protection to consumers but impede productivity and increase costs.

IN STATE AND LOCAL GOVERNMENT

Local Action Startup: Through conferences, publications, and information, the Commission has aroused widespread interest in productivity among elected officials and administrators. Twenty local jurisdictions have started up improvement programs. Three, with NCOP support, are testing practicality of various measures for demonstration to others.

Law Enforcement Improvements: Recommendations for making more effective use of police manpower and equipment have been drawn up by panel of experts including police chiefs of 10 jurisdictions and sent to 12,000 officials. Report has been made part of FBI Training Program for local law enforcement officials.

Improving Solid Waste Collection: Recommendations to NCOP on "best practices" for providing trash collection services, a city function that costs taxpayers over $3 billion annually, have been drawn up by top experts and will be sent to over 15,000 local officials. Potential savings could exceed $200 million annually.

IN RAILROAD INDUSTRY

Railroad Practices: NCOP report recommendations, described as a "blueprint" for reform, could provide basis for improving productivity.

Freight Car Utilization Panel: A NCOP Panel has been formed to develop ways of improving the use of railroad cars as a means of reducing car shortages.

IN HOSPITALS

Best Practices Recommended: Over 85 leading hospital administrators took part in developing improved practices to reduce cost pressures. Texas Hospital Association has agreed to test and evaluate "best practices" in 600 hospitals.

IN FEDERAL GOVERNMENT

Quality of Work: Five agencies with NCOP support have begun projects to improve work environment of employees.

Measurement of Productivity: The Commission has supported first government-wide program to measure changes in productivity and to study ways to improve performance.

PUBLIC INFORMATION

Public Service Campaign: The Advertising Council conducted for the Commission a nationwide campaign appealing to American pride in accomplishment. Advertising messages have been broadcast as a public service by 1,900 radio and 800 TV stations and printed in 750 newspapers. Over 150 million Americans have heard or read the basis theme: "America. It Only Works as Well as We Do." Over 12 million dollars in print and broadcast time have been donated.

Information: NCOP's publications on productivity for laymen have been widely distributed. Conferences of labor and management have been held on construction productivity and economics of productivity.

Mr. REUSS. Mr. Chairman, this bill deserves support. The recent Wisconsin Wingspread Conference, convened by the National Commission on Productivity with the support of the Johnson Foundation, reflects the growing concern of local officials with the need for productivity gains in State and local government.

More than 60 public officials—Governors, mayors, county administratives, and union officials of every political persuasion—met in Racine this summer in informal, give-and-take meetings to search for ways of improving productivity in State and local government.

Government on every level is increasingly important to the productivity of our economy: Government accounts for 21.6 percent of total GNP, and one of four new jobs will be a government job in the next decade. Yet formal current productivity improvement efforts currently involve less than 1 percent of local governments, at a time on increasing demands for government service and of diminishing revenue yields.

The National Commission on Productivity convened the Wisconsin meeting for two primary purposes: To test the applicability of productivity concepts to State and local governmental problems, and to see how productivity concepts can best be spread among State and local officials.

The participants—knowledgeable and experienced professionals who have been working on improving productivity at every level of government—determined that—

Productivity improvement in government is feasible;

Payoffs in quality, quantity and dollar savings are tangible and greater than the investment; and

Benefits can be politically advantageous.

In effect, politicians, taxpayers, and public employees all can gain when States and cities try to slow soaring governmental costs through productivity gains:

Politicians can ease taxpayer discontent;

Taxpayers can profit from careful use of tax money which will lead to better services; and

Public employees can improve their image, share in productivity gains through better pay, and find greater job satisfaction.

Clearly, the efforts of the National Commission on Productivity to translate into action the recommendations of the Wingspread Conference throughout the Nation merit encouragement and support.

Mr. CLEVELAND. Mr. Chairman, I rise in support of S. 1752, a measure to extend the life of the National Commission on Productivity and to bring about refinements and redirection of its efforts.

This is a modest bill in terms of funding, $5 million for this fiscal year, but far more ambitious in scope. I think it safe to say that increasing the productivity of our workers and the quality of their output is the single most promising long-term hope for restoring stable prosperity to our economy. And of all approaches to the problem of inflation, it is unique in that it does not represent a short-term fix which bomerangs later.

Wage and price controls merely offer the surface appearance of containment while creating their own distortions and equities, which in turn give rise to demands for controls to deal with them, and even greater price pressures.

This would be true in any inflationary period. But it is particularly appropriate to consider this approach at a time when much of the price pressure stems from scarcity and growing demand at home and abroad. It is still my conviction that these are problems which this country, with its wealth of technological capability backed by our extensive educational system, is best equipped to deal over the long run.

I commend the thrust of refinements in the bill's provisions focusing emphasis on those areas in which greatest advances in productivity appear most likely. Also commendable is the enumeration of priority areas including:

First. The morale and quality of work of American workers, which I regard as inherently related;

Second. The international competitive position of the United States;

Third. The efficiency of government, given the tremendous growth of the public sector, its growing impact on the taxpayer, and the difficulties involved in measuring the quality of services—governmental or otherwise; and

Fourth. The cost of goods and services most basic to the needs of the people. This most certainly includes medical care and food, areas in which Commission Chairman John Dunlop has outlined promising beginnings in the recent past and prospects for more initiatives along the same line in the near future.

Concentration on these objectives, through the labor-management productivity councils, research and public information programs, should provide the basis for a sustained effort which will be worthy of our expanding considerably in future years.

It may be a little old fashioned to suggest that production on the farm and in the factory, have made us a great nation. But old fashioned or not, to me at least I am convinced that in the improvement of productivity, we have an important response to the crippling devastation being wrought upon us by inflation.

Mr. DRINAN. Mr. Chairman, I believe that the new focus and priorities of the National Commission on Productivity and Work Quality justify its extension for an additional year. The problem of worker disenchantment and boredom continues to spread as our reliance upon technology grows. I am hopeful that this Commission, armed with a fresh mandate, will provide valuable direction to the public and private sectors toward improving worker morale and upgrading the quality of working life.

The Commission will also continue to investigate methods of streamlining industrial production and the delivery of public services. During the past few years, the Commission has offered useful suggestions in such diverse areas as transportation of fresh produce, standardization of shipping containers, use of backhauling in shipping, and delivery of health care services at the local level. The advisory character of the Commission and the diversity of its membership enable it to develop coordinated solutions to these and similar problems which could not be matched by a single agency or industry.

Finally, I believe that the reduction in funding to $2.5 million for the coming fiscal year will largely eliminate unnecessary spending by the Commission while leaving it sufficient funds to accomplish its objectives. Since the Commission must report regularly to Congress and justify its continued existence on an annual basis. I am confident that the Members of this House will have adequate information to determine whether or not further funding is warranted when the present authorization expires.

Mr. ANNUNZIO. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) it is the policy of the United States to promote increased productivity and to improve the morale and quality of work of the American worker, for the purpose of providing goods and services at low cost to American consumers, improving the competitive position of the United States in the international economy, and faciliating a more satisfying work experience for American workers.

(b) The President's National Commission on Productivity shall hereafter be referred to as the National Commission on Productivity and Work Quality (hereinafter referred to as the "Commission"). The Commission shall carry out the objectives and exercise the functions hereinafter prescribed.

(c) The objectives of the Commission shall be to help increase the productivity of the American economy and to help improve the morale and quality of work of the American worker.

(d) To achieve the objectives of subsection (c), the Commission shall have the following primary functions:

(1) To encourage and assist in the organization and work of labor-management committees which may also include public members, on a plant, community, regional, and industry basis. Such committees may be specifically designed to facilitate labor-management cooperation to increase productivity or to help improve the morale and quality of work of the American worker.

(2) To conduct such research as is directly necessary to achieve each of the objectives set forth in subsection (c) when such research cannot appropriately be accomplished by other Government agencies or private organizations.

(3) To publicize, disseminate, and otherwise promote material and ideas relating to its objectives.

(e) In addition to its functions under subsection (d) the Commission shall—

(1) advise the President and the Congress with respect to Government policy affecting productivity and the quality of work;

(2) coordinate and promote Government research and technical assistance efforts relating to productivity; and

(3) provide technical and consulting assistance.

(f) In pursuing its objectives under subsection (c), and

in carrying out its functions under subsections (d) and (e), the Commission shall concentrate its efforts on those areas where such efforts are likely to make the most substantial impact on—

(A) the morale and quality of work of the American worker;

(B) the international competitive position of the United States;

(C) the efficiency of government; or

(D) the cost of those goods and services which are generally considered to fulfill the most basic needs of Americans.

(g) (1) The Executive Director of the Commission shall be the principal executive officer of the Commisison in carrying out the objectives and functions of the Commission under this section.

(2) The Executive Director of the Commission, with the approval of the Chairman of the Commission, is authorized (A) to appoint and fix the compensation of such officers and employees, and prescribe their functions and duties, as may be necessary to carry out the provisions of this section, and (B) to obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

(3) The Commission may accept gifts or bequests, either for carrying out specific programs which it deems desirable or for its general activities.

(h) In carrying out its activities under this section, the Commission shall consult with the Council of Economic Advisers.

(i) The Commission shall transmit to the President and to the Congress, not later than March 1 of each year, a report covering its activities under this section during the preceding calendar year. The Commission shall also, not later than January 15, 1974, and January 15 of each year thereafter during the life of the Commission, submit to the Committee on Banking, Housing and Urban

Affairs of the Senate and the Committee on Banking and Currency of the House of Representatives a report describing in detail the program to be carried out by the Commission under this section during the next fiscal year. Such reports shall include an explanation of how the Commission's program has complied or will comply, as the case may be, with the provisions of subsection (f).

(j) There are hereby authorized to be appropriated such sums, not to exceed $5,000,000, as may be necessary to carry out the purposes of this section during the period ending June 30, 1974.

Mr. ANNUNZIO (during the reading). Mr. Chairman, I ask unanimous consent that the Senate bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. GROSS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the more I listen to this bill the more convinced I am that it is designed, as it has worked in the past, almost exclusively for the benefit for the State of California. I see no evidence of any accomplishment in any other direction.

Is there anybody here who can put his finger on any substantial accomplishment anywhere else in the country? I like California and Californians, but I do not believe Congress should be in the business of taking care of California exclusively. Perhaps the State of Georgia has been benefited; if so I should like to hear from Georgia.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. BLACKBURN. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I was expecting California to rise to express appreciation for the money that has already been spent on this boondoggle, but I will yield and listen to the gentleman from Georgia.

Mr. BLACKBURN. I appreciate the gentleman's yielding.

Let me assure the gentleman that while we have given specific references of the improvement of train facilities as far as the east and west coasts are concerned, both areas of the country have benefited by this. The improvement in the use of long-haul trucks in permitting them to be utilized for hauling goods back from the point of origin, where in the past they have not, is certainly of national benefit.

It is not restricted to that particular area of the country. There are studies from the National Commission on Productivity working with the Grocery Manufacturers Association which is working with local legislators to improve productivity in the grocery distribution and handling business. It is certainly not provincial in its character whatsoever and I suspect they work in the State of Iowa as well as other States.

Mr. GROSS. I might as well advise the gentleman from Georgia that my wife has not reported to me that she can trace any benefits back to this Commission insofar as her shopping at the grocery store is concerned.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Ohio. Has the State of Ohio benefited too from this organization?

Mr. ASHLEY. Yes, I would say so. The Commission has been working with units of local government not just in the State of California or in the State of Ohio but also as a matter of fact on a rather broad scale, so I think the question with respect to the Commission's parochial interest is not well taken.

Mr. GROSS. Of course when one starts dealing with the bureaucrats he will find that they will say they work for anybody anywhere, any place around the world. But let me get down to a case or two with the gentleman from Ohio. What has been accomplished by this Commission in the last few months? How has this outfit lived for the last few months? Have they had money to spend? What have they been doing?

Mr. ASHLEY. We know that the legisation is necessary.

Mr. GROSS. No, no. I am talking about their operations late last year and up to this point this year. What have they been living on?

Mr. ASHLEY. My understanding is that they have been working in cooperation with the Cost of Living Council and have been funded in part on the basis of supplementary appropriations.

Mr. GROSS. From December 23 to February of 1974 I hear they have been using temporary 60-day appointments, 10 from the staff were detailed to Treasury and 10 to the Cost of Living Council because the outfit did not have enough money to run on. What is the story? How has this boondoggle been operating up to this point?

Mr. WIDNALL. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from New Jersey.

Mr. WIDNALL. Mr. Chairman, I believe what the gentleman stated is correct. I am not admitting it is a boondoggle because I believe it is not. They did use temporary 60-day appointments and the work has been very effective. Ten of the staff were detailed to Treasury and 10 to the Cost of Living Council from December 23 through February 1974.

Mr. GROSS. Where do they get money to operate if they have accomplished anything, and I do not believe they have, in the last few months?

Mr. WIDNALL. In February 1974 to the present, the National Commission function as such was phased out.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

(By unanimous consent, Mr. GROSS was allowed to proceed for 3 additional minutes.)

Mr. WIDNALL. Mr. Chairman, if the gentleman will yield further, the Office of Productivity was created within the Cost of Living Council under authorities contained in the Economic Stabilization Act. Ten people were assigned to this office. Temporary assignments were not renewed. Since April 30, the Cost of Living Council has been closing down under temporary authority.

Mr. GROSS. Yes, so they have been living hand to mouth and what in the world have they accomplished? And with respect to expenditures, no matter who paid the bill, what have they been accomplishing?

Mr. WIDNALL. They have not been able to accomplish very much because of the opposition from the gentleman from Iowa and a few others, and because of that the Commission have been living hand to mouth.

Mr. GROSS. The point is that they have not accomplished anything. I hear nothing except two or three Members arising from the State of California to claim they have accomplished anything of a tangible nature, and I am not convinced they have accomplished very much in that State. There is nothing in this report to show any record of accomplishment on the part of the Commission. There is no recommendation on the part of any other agency or department of the Government that this outfit ought to be continued.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I thank the gentleman for yielding. I am happy to report to the gentleman that there are other areas of the country that have benefited from this Commission. I want to show the gentleman a report I hold in my hand that has produced a good résumé of their 1973 activity. On page 53 they discuss the work of this Commission with the Chicago Construction Coordinating Committee which was set up in the city of Chicago to deal with and wrestle with the problems of increased productivity in the construction field.

They made recommendations to that committee. I can acknowledge to the gentleman that the building industry in the city of Chicago has acknowledged that this has been helpful in trying to put a better handle on productivity in the construction industry in Chicago; so that the answer to the gentleman's question is that this was a specific activity. It did not just come into play spontaneously.

Mr. GROSS. We have Commissions, Councils, and advisory boards running out of our ears in this Government.

Mr. ROUSSELOT. I understand that.

Mr. GROSS. Why must we spend $5 million or even $2.5 million more on still another Commission when we have them running out of our ears?

We have a Labor Department that ought to be interested in productivity. What in the world are we doing with another outfit of this kind for the taxpayers to pay for and wet nurse?

Mr. ROUSSELOT. Will the gentleman yield further?

Mr. GROSS. Yes. I yield further to the gentleman from California.

Mr. ROUSSELOT. I could not agree with the gentleman more. I think there are an awful lot of unnecessary commissions in this Government. I joined him in the past in opposing continuation of many of these.

I believe that this Commission with a relatively small amount of money has had a good productive life and produced something of value.

Mr. GROSS. The issue that ought to concern the House and its Members this afternoon is a balanced Federal budget to halt the inflation that is wrecking the economy and the budget will not be balanced by voting $5,000,000 or $2,500,000 to continue a Commission the activities of which, if any, duplicate a dozen other agencies and departments of government. There will come a day when Congress, by force of dire necessity, will stop this kind of boondoggling.

AMENDMENT OFFERED BY MR. WIDNALL

Mr. WIDNALL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WIDNALL: Strike subsection (j) on page 5, lines 6 through 9, and insert the following:

"(j) There is hereby authorized to be appropriated such sums, not to exceed $2,500,000, as may be necessary to carry out the purposes of this section during the period from July 1, 1974, through June 30, 1975."

Mr. ANNUNZIO. Mr. Chairman, will the gentleman from New Jersey yield?

Mr. WIDNALL. I yield to the gentleman from Illinois.

Mr. ANNUNZIO. I want to inform the gentleman from New Jersey that his amendment is acceptable on our side.

Mr. WIDNALL. Mr. Chairman, I believe this is a sound amendment and should meet the opposition of a few Members of Congress who believe that this is being financed at too high a level.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. WIDNALL. I yield to the gentleman from California.

Mr. ROUSSELOT. Is it not true that a funding level of $2.5 million for the funding budget does bring it back to a more proper funding level?

I commend the gentleman for his amendment.

Mr. GROSS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask the gentleman from New Jersey, what period of time does this cover?

Mr. WIDNALL. This is for 1 year.

Mr. GROSS. From what date, for the past year or for forward spending?

Mr. WIDNALL. July 1 to next year.

Mr. GROSS. July 1 to June 30, is that right?

Mr. WIDNALL. Yes.

Mr. GROSS. This is a come-along from $5 million down to $2.5 million. This is just a come-along, the old sugar coating council.

I hope not, but I am afraid the House will swallow this—hook, line, and sinker.

I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. WIDNALL).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WIDNALL

Mr. WIDNALL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WIDNALL: Page 4, line 17, through page 5, line 5, subsection (i) is amended to read as follows:

"(i) The Commission shall transmit to the President and to the Congress, not later than July 1, 1974, a report covering its activities during Fiscal Year 1974 and describing in detail the program to be carried out by the Commission under this section during Fiscal Year 1975. Such report shall include an explanation of how the Commission's program has complied or will comply, as the case may be, with the provisions of subsection (f)."

Mr. ANNUNZIO. Mr. Chairman, will the gentleman yield?

Mr. WIDNALL. Mr. Chairman, I yield to the gentleman from Illinois.

Mr. ANNUNZIO. Mr. Chairman, we have examined the gentleman's amendment, and it is acceptable on this side.

Mr. WIDNALL. Mr. Chairman, I believe that this provides the additional information the Congress would want and would be entitled to as to the activities during fiscal year 1974, describing in detail the program to be designed in the future by the Commission.

Mr. Chairman, I urge its adoption.

Mr. GROSS. Mr. Chairman, I move to strike the next to the last word at this time.

Mr. Chairman, this is very interesting. A year ago, the committee called this bill up under suspension of the rules which prohibited amendments of any kind; no amendments and 40 minutes of debate. Now, we have it up under an open rule, the same bill, apparently word for word, which was brought up July 17 of last year and defeated.

Now, members of the committee are proceeding to offer all the amendments to the bill. What has happened in the meantime? What changed the minds of so many members of the Committee on Banking and Currency?

Mr. ANNUNZIO. Mr. Chairman, will the gentleman from Iowa yield?

Mr. GROSS. Mr. Chairman, I yield to the gentleman from Illinois.

Mr. ANNUNZIO. Mr. Chairman, I can only speak for myself. I voted against the bill under suspension last year, but this year I have supported the bill. I am a little wiser now than I was last year.

Mr. GROSS. Mr. Chairman, I took it for granted that the gentleman was supporting the bill, since he is accepting all the amendments that are being offered, amendments that could not be offered a year ago, because the committee insisted on a closed rule by way of suspension of the rules.

Mr. ANNUNZIO. I am supporting the amendment cutting it from $5 million to $2½ million.

Mr. CEDERBERG. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I support S. 1752, which authorizes the extension of the President's National Commission on Productivity. We must have significant and sustained improvement in labor productivity if we are to control inflation, and retain free and competitive national and international markets.

Yet the 93d Congress fiddles while inflation burns. We have received from the President at least 14 legislative proposals intended to deal with the problem of inflation. This bill is only the second of those proposals to be brought before the House. While the productivity of this Congress is so low, let me remind the Members what is happening to prices and earnings.

During the first quarter of this year, seasonally adjusted consumer prices rose at an annual rate of 14.5 percent, and real per capita personal income dropped at an annual rate of 7.1 percent. Although gross national product increased 4.4 percent at an annual rate, this gain was totally erased by inflation. Real GNP declined at an annual rate of 5.8 percent.

Mr. Chairman, for rich and poor, for pensioner and workingman, for giant corporation and small business, inflation has become the No. 1 issue of 1974. Inflation has become more than a steady erosion of our standard of living. It is a threat to confidence and stability in our economic system.

We know the painful effects of inflation on the purchasing power of individual citizens. Less obvious is the equally painful effect which inflation has on the purchasing power of the Federal Government itself.

For example, between fiscal 1960 and fiscal 1975, it is estimated that:

Total Federal spending, in current dollars, will increase by $212.2 billion, or 230.2 percent. However, in 1969 dollars, total Federal spending will increase by $86.8 billion, or 72.3 percent. Only one-third of the growth rate is real; the rest is inflation.

Defense spending, in current dollars, will increase by $41.8 billion, or 91.1 percent. However, in 1969 dollars, defense spending will decrease $0.6 billion, or 1 percent. None of the growth is real; it is all due to inflation.

Nondefense spending, in current dollars, will increase by $170.4 billion, or 368 percent. However, in 1969 dollars, nondefense spending will increase by $87.4 billion, or 139.8 percent. Slightly more than one-third of the growth rate is real; the rest is inflation.

Mr. Chairman, it is also interesting to compare defense and nondefense priorities during fiscal years 1960–69, when the opposition party controlled the White House and the Congress, and fiscal years 1969–74, when the opposition party has been out of power in the executive branch.

Defense spending, in constant (1969) dollars, increased an average of 4.3 percent per year during fiscal year 1960–1969. During fiscal years 1969–75, it is estimated that defense spending in constant (1969) dollars will decrease an average of 5.7 percent per year.

Nondefense spending, again in constant (1969) dollars, increased an average of 6.2 percent per year during fiscal years 1960–69, and an average increase of 6.4 percent per year is estimated for fiscal years 1969–75.

These facts should lay to rest the myth of "runaway defense spending," and give a more accurate picture of defense and nondefense priorities. Since fiscal 1969, all of the real growth in the Federal budget has been in nondefense spending.

Equally apparent is the self-defeating nature of inflationary Federal spending, which reduces the purchasing power of the Government itself, as well as that of the individual citizen.

In the face of these outrageous conditions, Congress controlled by the opposition party for some 20 straight years, continues three of its most cherished traditions.

The first tradition is busting the President's budget. During the first 4 full fiscal years of this administration, 1970–73, congressional actions and inactions increased Federal spending by $8.7 billion. Last session, our actions and inactions on the President's budget requests for fiscal 1974 are estimated to increase spending in this fiscal year by $3.5 billion. In total, during these 5 fiscal years, Congress has increased Federal spending by $12.3 billion.

A further examination of these figures provides a definitive illustration of congressional priorities, as well as some facts of life of congressional "control" of the budget.

During the 5 fiscal years 1970–74, congressional action through the appropriations process, led by the House Committee on Appropriations, has reduced spending by $6.7 billion; a record in which I take great personal pride. This action consists of a reduction of $8.6 billion in regular appropriations bills for the Department of Defense and Military Construction, and an increase of $1.8 billion in all other appropriations bills.

Unfortunately, during this period congressional action outside of the appropriations process—backdoor and mandatory spending—and congressional inaction, has increased spending by $19.3 billion.

I include the following:

ADMINISTRATION PROPOSALS INTENDED TO DEAL WITH INFLATION

Bill number and title	Presidential message date	House committee	Action[1]
H.R. 7153: Stockpile Disposal		Armed Services	
H.R. 13576: Economic Stabilization Act Amendments.		Banking and Currency	
H.R. 13840, S. 3232: Export Administration amendments.		do	
H.R. 10990: Financial Institutions Act.	Aug. 3, 1973	do	
S. 1752: National Commission on Productivity.		do	May 10, 1973[2]
H.R. 12942: Economic Adjustment Act.	Feb. 19, 1974	Public Works	
H.R. 12684: Comprehensive Health Insurance.	Feb. 6, 1974 Feb. 20, 1974	Ways and Means	
H.R. 8600:			
Job Security Assistance	Apr. 12, 1973	do	
Special Unemployment Compensation.	Jan. 23, 1974	do	
Tax Reform Act (includes investment tax credit).	Feb. 20, 1973 Jan. 23, 1974	do	
H.R. 10710: Trade Reform Act (includes Anti-Inflation Trade Act).	Apr. 10, 1973	do	Dec. 11, 1973[3]
H.R 14462: Windfall profits	Feb. 1, 1974	do	

[1] Based on information obtained from each committee on May 7–8, 1974.

[2] Passed Senate.

[3] Passed House.

It is no wonder that during the last 20 years, with the opposition party controlling the Congress, and the Congress controlling the purse strings, this country has and will run budget deficits estimated to total $218 billion, adding $234 billion to the national debt.

I should add that there may be a glimmer of hope in this shameful record. In late 1972 Congress established a Joint Committee on Budget Control, on which I had the honor to serve. A year ago that committee made specific legislative recommendations intended to provide for congressional control over total expenditures and receipts. That legislation has passed both the House and the Senate, with some modification, and may become law before the end of the year. Such a law would not automatically solve all of our fiscal problems, but it would pro*vide a mechanism* for congressional responsibilty, if Congress has the will to be responsible. We shall see.

The second tradition is inaction on critical legislation. The President has submitted to the 93d Congres a number of legislative proposals specifically intended to deal with the problem of inflation. I submit for the information of the House a list of 14 specific legislative proposals. Only two of these proposals have passed either the House or the Senate, and none have been enacted into law. In a Congress where the opposition party has strong majorities in both Houses, this dismal record speaks for itself.

The third, and perhaps the most cherished, congressional tradition, is the wrong solution for the wrong problem at the wrong time. In hearings before the Committee on Appropriations during February of this year, Dr. Arthur Burns, Federal Reserve Chairman and a widely respected economist, spoke to the committee about public employment legislation. He said:

> In the event that unemployment exceeds 5½ percent, I would think very seriously of passing such legislation.

In January, the national unemployment rate was 5.2 percent. Since then the rate has dropped to 5.1 percent in February and in March, and 5 percent in April. In spite of this clear evidence that the unemployment problem is local, not national, Congress has added to the President's budget $413 million for public employment under section 5 of the old Emergency Employment Act. Congress itself has terminated this program, effective June 30, 1974, precisely because it was intended to deal with national unemployment, and was considered unsuited for persistent and high unemployment in specific local areas.

A second political expedient which the opposition party would sell to the voters and to the Congress is a tax cut. At a time of severe shortages of commodities and raw materials, of accelerated inflation, of declining unemployment, and high utilization of industrial capacity, a tax cut would be, in the words of Will Rogers, a joke that becomes a law, and a law that becomes a joke. Only the joke would be further inflation that reduces that standard of living of all Americans, and particularly the poor and those on fixed incomes.

In this connection I would like to quote from a statement on the Senate floor, on April 25 of this year, by Senator PROXMIRE of Wisconsin, the opposition party's senior Senator on the Joint Economic Committee:

> A tax cut now would be a tragic and foolish economic policy. Inflation is here. It is rampaging. It will probably get worse. This is the worst of all times to stimulate the economy through either a tax cut or a big increase in spending.
>
> As vice chairman of the Congressional Joint Economic Committee, I have listened to the administration and private economic experts on this subject.
>
> While it is true that the economy is suffering from both inflation and a falling off of the GNP at the same time, inflation is rampaging while a recession is not yet here. The record of economists in predicting the economic future ranges from poor to terrible. We should, therefore, concentrate on the clear and visible and certain problem, that is the virtually unprecedented rise in prices and the overwhelming evidence that it will continue to get worse.

On the issue of a tax cut, I wish that the opposition party, and candidates for office across the country, would heed Senator PROXMIRE's advice.

Mr. Chairman, for the information of Members of the House, I include some additional information: First, a table showing a breakdown of congressional actions and inactions on the President's budget for fiscal years 1970–74; second, a technical paper prepared by the Office of Management and Budget which contains a number of tables showing Federal spending in current and constant dollars, and several technical notes on the derivation of those tables:

IMPACT OF CONGRESSIONAL ACTIONS AND INACTIONS

[In millions of dollars]

Fiscal year	Defense military construction bills	Other appropriation bills	Total appropriation bills	Backdoor	Mandatory	Backdoor plus mandatory	Inaction	Backdoor mandatory inaction	Net legislative actions
IMPACT ON BUDGET AUTHORITY									
1970	−5,994	+558	−5,436	+5,340	+364	+5,704	+1,470	+7,174	+1,738
1971	−2,247	−370	−2,617	+5,813	+2,539	+8,352	−4,613	+3,739	+1,122
1972	−3,118	+125	−2,993	+200	+473	+673	[1] −5,476	−4,803	−7,796
1973	−5,559	[2] +673	−4,886	+14,765	+864	+15,629	[3] −4,735	+10,894	+6,007
1974[4]	−3,822	+502	−3,320	[3] +8,333	+897	+9,230	−295	+8,935	+5,615
1970–74	−20,740	+1,488	−19,252	+34,451	+5,137	+39,588	−13,649	+25,939	+6,686
IMPACT ON OUTLAYS									
1970	−3,229	+360	−2,869	+123	+1,352	+1,475	+1,388	+2,863	−6
1971	−890	+233	−657	+50	+4,114	+4,164	−221	+3,943	+3,287
1972	−1,203	+144	−1,059	0	+3,714	+3,714	−[1] 3,333	+381	−678
1973	−1,759	+[2] 133	−1,626	+3,295	+4,565	+7,860	−107	+7,753	+6,127
1974[4]	−1,510	+976	−534	+15	+3,317	+3,332	+728	+4,060	+3,526
1970–74	−8,591	+1,846	−6,745	+3,483	+17,062	+20,545	−1,545	+19,000	+12,256

[1] Excludes amounts requested for fiscal 1972 for revenue sharing to avoid double counting of inaction thereon in both the 1st and 2d sess. of the 92d Cong.

[2] Amount for Labor/HEW is an estimate of amounts available under the continuing resolution.

[3] Includes $3,890,000,000 shifted from 1973 to 1974 due to timing of congressional action on budget requests.

[4] Action by the 1st sess., 93d Cong.

Source: Prepared by the minority staff, House Committee on Appropriations, from data provided by the Joint Committee on Reduction of Federal Expenditures.

FEDERAL BUDGET OUTLAYS IN CONSTANT DOLLARS

The budget documents provide historical data on Federal outlays in order to permit comparison of the outlay totals and composition over time. (See Tables 14, 17, 19, and 20 of the 1975 Budget.) These data are presented in "current dollars," i.e., without adjustment for price changes, because these are the dollars that the Federal Government spends each year.

For many purposes, there is a need to abstract from price changes—for example, in answering such questions as: "What is the size of our defense program today relative to that of five or ten years ago?", and "Are Federal grants to State and local governments keeping pace with inflation?" The problem of price change is particularly acute when comparisons are made over long periods of time, when the comparisons cover periods of significant inflation, or when the rates of price change for major components of the budget differ significantly. The attached tables attempt to meet this need.

There is—of course—no perfect way of producing a constant price series of spending for anything as complex as the Federal budget. The deflators used in compiling the attached estimates (and discussed in Appendix B) are reasonable magnitudes, not precise measures. They can be used to estimate constant dollar outlays that are reasonable indications of both amounts and trends.

A note of caution: The fact that deflators (or indicators of rates of price change) differ for different components of budget outlays does not, *per se*, tell us anything about whether the spending or change in spending for the various components is "appropriate." That is decided by the President and the Congress on the basis of an overall evaluation of our national needs. For example, the elimination of the draft, which was agreed upon by the President and the Congress, has required higher rates of pay for servicemen in order to maintain any given level of military strength. This is reflected as a higher rate of price increase (paying more money per serviceman per year) in the defense area and is the price being paid to eliminate the inequities of the draft. Likewise, the existence of a higher rate of price increase in State and local purchases than in the consumer price index does not—by itself—tell us whether future Federal spending should provide for a higher rate of increase in grants-in-aid to State and local governments than for direct payments to individuals. That is a matter for the President and the Congress to decide after considering a host of social, economic, and political factors—of which relative price changes are only one.

The basic tables included in this report show actual data for each fiscal year during 1952–1973 and estimates by Office of Management and Budget staff for 1974 and 1975. These tables are:

1. Federal Budget Outlays in Current Dollars
2. Federal Budget Outlays in Constant (1969) Dollars
3. Implicit Price Deflators for Federal Budget Outlays
4. Percent Distribution of Constant Dollar Federal Budget Outlays

Appendix A provides a description of the budget categories shown in tables 1–4. Appendix B provides a discussion of how each of these components was deflated into constant dollars.

TABLE 1.—FEDERAL BUDGET OUTLAYS IN CURRENT DOLLARS

[In billions of dollars]

Fiscal year	Total outlays	National defense			Nondefense				
		Military retired pay	All other	Total	Payments to individuals	Grants-in-aid to State and local governments	Net interest	All other	Total
1975 estimate	304.4	6.0	81.7	87.7	111.5	51.7	22.0	31.5	216.7
1974 estimate	274.7	5.2	75.4	80.6	95.1	48.2	21.3	29.4	194.1
1973	246.5	4.4	71.6	76.0	80.6	43.9	17.4	28.7	170.5
1972	231.9	3.9	74.5	78.3	70.0	35.9	15.5	32.1	153.5
1971	211.4	3.4	74.3	77.7	62.2	29.8	14.8	26.9	133.8
1970	196.6	2.8	77.4	80.3	50.9	23.9	14.4	27.1	116.3
1969	184.5	2.4	78.8	81.2	45.4	20.2	12.7	25.0	103.3
1968	178.8	2.1	78.4	80.5	39.5	18.6	11.1	29.1	98.3
1967	158.3	1.8	68.3	70.1	35.2	15.2	10.3	27.4	88.2
1966	134.7	1.6	55.2	56.8	29.8	12.9	9.4	25.8	77.9
1965	118.4	1.4	48.2	49.6	26.7	10.9	8.6	22.7	68.9
1964	118.6	1.2	52.4	53.6	26.2	10.1	8.2	20.4	65.0
1963	111.3	1.0	51.2	52.3	25.6	8.6	7.7	17.1	59.1
1962	106.8	.9	50.2	51.1	23.8	7.9	6.9	17.2	55.7
1961	97.8	.8	46.6	47.4	23.0	7.1	6.7	13.7	50.4
1960	92.2	.7	45.2	45.9	20.1	7.0	6.9	12.2	46.3
1959	92.1	.6	46.0	46.6	19.0	6.7	5.7	14.0	45.5
1958	82.6	.6	43.8	44.4	17.1	4.9	5.6	10.6	38.2
1957	76.7	.5	42.2	42.8	13.6	4.0	5.4	11.0	34.0
1956	70.5	.5	39.8	40.3	12.0	3.7	5.1	9.4	30.2
1955	68.5	.4	49.8	40.2	11.2	3.3	4.9	8.9	28.3
1954	70.9	.4	46.3	46.6	9.6	3.1	4.8	6.8	24.2
1953	76.8	.4	50.1	50.4	8.0	2.8	5.4	10.1	26.4
1952	68.0	.3	43.7	44.0	8.1	2.4	4.8	8.6	23.9

TABLE 2.—FEDERAL BUDGET OUTLAYS IN CONSTANT (FISCAL YEAR 1969) DOLLARS

[In billions of dollars]

		National defense			Nondefense				
Fiscal year	Total outlays	Military retired pay	All other	Total	Payments to individuals	Grants-in-aid to State and local governments	Net interest	All other	Total
1975 estimate [1]	206.8	4.4	52.5	56.9	81.7	37.2	12.0	19.0	149.9
1974 estimate [1]	197.4	4.0	51.6	55.6	73.2	37.1	12.3	19.1	141.8
1973	193.5	3.7	53.1	56.7	67.1	35.7	13.0	21.0	136.8
1972	191.8	3.4	59.5	62.8	60.7	30.4	12.8	25.2	129.0
1971	183.7	3.0	63.7	66.8	55.9	26.3	12.5	22.2	116.9
1970	181.4	2.7	71.1	73.8	48.1	22.5	12.3	24.7	107.5
1969	184.5	2.4	78.8	81.2	45.4	20.2	12.7	25.0	103.3
1968	189.8	2.2	82.3	84.5	41.4	19.6	13.8	30.5	105.3
1967	173.3	2.0	73.5	75.5	38.2	16.9	13.1	29.6	97.8
1966	153.0	1.8	61.1	62.9	33.3	15.0	13.4	28.4	90.1
1965	139.4	1.6	54.9	56.5	30.5	13.0	13.5	25.8	82.8
1964	143.7	1.4	61.9	63.3	30.3	12.4	13.5	24.1	80.4
1963	138.7	1.2	62.3	63.5	30.0	10.8	13.6	20.8	75.2
1962	135.6	1.1	61.6	62.7	28.2	10.1	13.4	21.2	72.9
1961	124.7	.9	57.1	58.0	27.5	9.3	13.0	16.8	66.6
1960	120.0	.8	56.6	57.5	24.4	9.6	13.1	15.4	62.5
1959	122.2	.8	57.7	58.5	23.4	9.2	13.2	17.9	63.7
1958	112.9	.7	57.0	57.7	21.3	6.9	13.0	14.0	55.2
1957	108.7	.7	56.6	57.3	17.6	5.8	13.0	15.1	51.4
1956	105.5	.6	56.0	56.7	15.9	5.6	13.7	13.7	48.8
1955	107.5	.6	59.1	59.7	14.9	5.0	14.3	13.6	47.8
1954	114.5	.5	71.5	72.0	12.8	4.7	14.3	10.7	42.4
1953	122.3	.5	76.6	77.1	10.8	4.4	14.1	16.0	45.2
1952	110.9	.4	67.8	68.3	11.0	3.9	14.1	13.7	42.7

[1] These estimates are unofficial OMB staff projections consistent with the 1975 Budget and the 1974 Economic Report of the President.

TABLE 3.—IMPLICIT PRICE DEFLATORS FOR FEDERAL BUDGET OUTLAYS

[Fiscal year 1969=100]

Fiscal year	National defense	Payments to individuals	Grants-in-aid	Net interest	All other	Total budget	Fiscal year	National defense	Payments to individuals	Grants-in-aid	Net interest	All other	Total budget
1975 estimate [1]	154.26	136.50	139.03	182.76	165.84	143.95	1963	82.31	85.33	79.86	56.97	82.22	81.72
1974 estimate [1]	144.97	129.85	130.02	173.19	153.87	136.39	1962	81.49	84.33	78.07	51.32	81.19	80.53
1973	134.02	120.06	123.13	133.19	136.58	125.82	1961	81.67	83.47	76.04	51.46	81.36	80.34
1972	124.65	115.40	118.25	121.30	127.58	119.97	1960	79.86	82.40	73.57	52.77	79.38	78.85
1971	116.28	111.38	113.17	119.20	120.92	114.62	1959	79.67	81.26	72.28	43.44	78.64	77.35
1970	108.75	105.92	106.06	117.22	109.83	107.97	1958	76.89	80.16	71.54	43.06	75.50	75.43
1969	100.00	100.00	100.00	100.00	100.00	100.00	1957	74.62	77.59	69.67	41.23	72.67	73.01
1968	95.33	95.40	94.49	80.43	95.60	94.93	1956	71.09	75.39	66.46	37.12	68.63	69.51
1967	92.84	92.32	89.91	78.59	92.71	29.09	1955	67.44	75.12	65.70	33.96	65.55	66.54
1966	90.32	89.55	86.04	69.91	90.61	89.05	1954	64.76	75.45	65.40	33.65	63.19	64.62
1965	87.71	87.65	83.44	63.48	87.91	86.44	1953	65.38	74.81	64.32	38.07	63.49	64.81
1964	84.62	86.54	81.38	60.46	84.93	83.93	1952	64.49	73.73	62.98	34.37	62.34	63.59

[1] These deflators are unofficial OMB staff projections that are consistent with the 1975 Budget and the 1974 Economic Report of the President.

TABLE 4.—PERCENTAGE DISTRIBUTION OF CONSTANT DOLLAR FEDERAL BUDGET OUTLAYS

		National defense			Nondefense				
Fiscal year	Total outlays	Military retired pay	All other	Total	Payments to individuals	Grants-in-aid to State and local governments	Net interest	All other	Total
1975 estimate	100	2.1	25.4	27.5	39.5	18.0	5.8	9.1	72.5
1974 estimate	100	2.0	26.1	28.2	37.1	18.8	6.2	9.7	71.8
1973	100	1.9	27.4	29.3	34.7	18.4	6.7	10.8	70.7
1972	100	1.8	31.0	32.8	31.6	15.8	6.7	13.1	67.2
1971	100	1.7	34.7	36.4	30.4	14.3	6.8	12.1	63.6
1970	100	1.5	39.2	40.7	26.5	12.4	6.8	13.6	59.3
1969	100	1.3	42.7	44.0	24.6	11.0	6.9	13.6	56.0
1968	100	1.2	43.3	44.5	21.8	10.4	7.3	16.1	55.5
1967	100	1.1	42.4	43.6	22.0	9.8	7.6	17.1	56.4
1966	100	1.2	39.9	41.1	21.7	9.8	8.8	18.6	58.9
1965	100	1.1	39.4	40.6	21.9	9.3	9.7	18.5	59.4
1964	100	1.0	43.1	44.1	21.1	8.6	9.4	16.8	55.9
1963	100	.9	44.9	45.8	21.6	7.8	9.8	15.0	54.2
1962	100	.8	45.5	46.3	20.8	7.4	9.9	15.6	53.7
1961	100	.8	45.8	46.5	22.1	7.5	10.4	13.5	53.5
1960	100	.7	47.2	47.9	20.3	8.0	11.0	12.8	52.1
1959	100	.6	47.2	47.9	19.2	7.5	10.8	14.6	52.1
1958	100	.6	50.5	51.1	18.9	6.1	11.5	12.4	48.9
1957	100	.6	52.1	52.7	16.2	5.3	11.9	13.9	47.3
1956	100	.6	53.1	53.7	15.1	5.3	13.0	12.9	46.3
1955	100	.5	55.0	55.5	13.9	4.6	13.3	12.7	44.5
1954	100	.4	62.5	62.9	11.1	4.1	12.5	9.3	37.1
1953	100	.4	62.7	63.1	8.8	3.6	11.5	13.0	36.9
1952	100	.4	61.1	61.6	9.9	3.5	12.7	12.4	38.5

Appendix A—Description of the Categories Used in Development of a Constant Price Series on Federal Budget Outlays

National defense is the national defense function as shown in the 1975 budget. Any outlay not included in the national defense function is classified as nondefense.

Payments to individuals includes all of the programs (including proposed legislation) shown as payments for individuals in Table 14 (pages 318–319) of the 1975 budget except military retired pay and those payments that are part of Federal grants-in-aid. For example, food stamps, public assistance, and Medicaid are included as payments for individuals in Table 14, but because the payments are channeled through State or local governments they are classified for purposes of the constant dollar estimates as grants and are excluded from payments to individuals.

Grants-in-aid are all the transactions listed as grants-in-aid or shared revenue in Special Analysis N of the 1975 budget except for those payments ($53 milion in 1975) that are included in the defense function.

Net interest is composed of the "interest" function shown in the 1975 budget, minus interest received by trust funds.

All other is any transaction included in budget outlays that is not included in one of the above categories. It is composed primarily of nondefense purchases of goods and services but includes other transactions such as subsidies and loans.

Appendix B—Methods Used by OMB Staff in Deriving Deflators To Produce Constant Dollar Budget Outlays

Constant dollar budget outlays were estimated by deflating each category described in Appendix A by the price index that seemed most appropriate to the expenditures in that category, using fiscal year 1969 as the base year. One basic assumption critical to producing these estimates is that—in the main—income is fungible. This means that if the Government pays certain bills or provides certain goods or services (such as food, housing, or medical care) at a reduced charge or no charge, the beneficiary is free to redistribute his remaining spending among other needs. Thus, for this purpose the benefit is considered an increase in the beneficiary's total income, not a net increase in his consumption of the particular subsidized goods or services. Hence, no effort was made to deflate benefits in kind by specialized deflators; all *payments to individuals* were deflated by a broad-based measure of the cost of living: the consumer price index (CPI).

On the same basic assumption, *grants-in-aid* were deflated using two broad price indexes. That part of grants-in-aid (mainly food stamps, housing payments, public assistance cash, and medical care) that are included in Federal payments for individuals were deflated by using the CPI. The remaining grants—including General Revenue Sharing—are assumed to provide State and local governments with money to finance their general operations. The deflator used for this spending is the National Income Accounts (NIA) deflator for State and local government purchases of goods and services.

Net interest in constant dollars was estimated in three steps. First, debt held by the public was deflated by the GNP deflator to produce an estimate of real debt held by the public. Second, real debt held by the public was coverted to an index (fiscal year 1969=100). Then real net interest was calculated by multiplying this index by the base year net interest. (The second and third steps are equivalent to multiplying real debt held by the public in each year by the base year price, i.e., the interest rate in the base year.)

This method of deflating net interest is based on the premise that interest is a payment for the use of funds measured in constant dollars (i.e., for real debt held by the public). It follows that a rise in the price of debt—the interest rate—does not change the quantity of services that the Government buys; whereas a rise in the general price level reduces the real value of a given amount of nominal debt and thereby decreases the quantity of services bought. Thus, a percentage change in real debt should be reflected by an equal percentage change in real net interest.

Three different deflators were used to estimate national defense outlays in constant dollars. Military retired pay was deflated by the same index that was used for nondefense payments to individuals: the CPI. All other military outlays of the Department of Defense (DOD) and Military Assistance were deflated using a price index produced by DOD. The DOD series is similar to the NIA deflator for purchases of goods and services, except that the Defense series treats any change in average grade structure (also known as "grade creep") as a change in real purchases, while the NIA treats such changes as being price increases. Hence, the DOD deflator increases less rapidly than the NIA deflator for defense purchases. For the remainder of defense spending (mainly for atomic energy and defense stockpiles) the NIA deflator for Federal purchases of goods and services was used.

The all other category of nondefense spendinf was deflated by the NIA deflator for Federal purchases of goods and services.

In all cases, the deflators used in calculating 1974 and 1975 outlays in constant dollars are unofficial OMB staff estimates that are consistent with the 1975 *Budget* and the 1974 *Economic Report of the President*.

All of these deflators have weaknesses. They do, however, provide reasonable indications of the magnitude of changes in "real" spending.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. WIDNALL).

The amendment was agreed to.

Mr. ROUSSELOT. Mr. Chairman, I rise in support of this legislation because I think this Commission has produced effective results in analyzing the productivity of this Nation in many important areas. I, too, like the gentleman from Iowa, am very concerned about the rapidly growing number of commissions, special committees and everything else in the Government, but I think that this Commission has become highly important, not only as an internal domestic tool, but also as it relates to our ability to compete overseas on the basis of proper productivity.

Mr. Chairman, I would like to remind my colleagues that in the report produced by this Commission in 1973, the Commission cited several projects it has initiated in the private sector. These projects include productivity in the food industry, productivity in health care, productivity in food service, and productivity in banking. In addition to its own efforts, the Commission has been observing efforts, such as the Chicago Construction Coordinating Committee, and the Joint Advisory Committees on Productivity at each plant in the steel industry.

Another important area to which the Commission has given high priority is productivity in government—at the Federal, State, and local levels. This 1973 report points out that—

> Government purchases of goods and services now absorb about 22 percent of the Nation's gross national product, compared with 13 percent in 1950 and 10 percent in 1930.

Its public sector initiatives include, measuring and enhancing productivity in the Federal sector, measuring and enhancing productivity in State and local governments, and productivity in solid waste management and law enforcement. I believe that it can be shown that this has been an effective Commission.

I do not think that the argument should be made, that just because this Congress has, in my judgment, created too many commissions, that every single commission is bad. This Commission has, in fact, produced worthwhile material.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. Yes, I will yield in just a minute, but I promised my colleague, the gentleman from Indiana, that I would yield to him first.

Mr. Chairman, I yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Chairman, I thank my friend, the gentleman from California, for yielding.

I have looked at the bill and the report. I must say that it seems to me pretty vague as to exactly what this bill really is intended to accomplish, but I will ask the gentleman from California this: The thing that really strikes me about the bill even more than its vagueness is that it seems to me, insofar as I understand the measure, that it is the kind of thing which both the gentleman from California and I normally think ought to be done by private enterprise.

I wonder why the gentleman thinks in this instance that we need to spend two and one-half million dollars in creating a new governmental operation to do things which it seems to me private industry should do, and as a matter of fact, is doing pretty much.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman's question, and I do agree that most of the time we are in total agreement that the private sector of our economy could, in fact, produce these kinds of results. But the reason that I believe the President set this up, and I think with good reason, is that when we found runaway inflation was occurring in this country, the President needed additional facts on which to base decisions. He felt that the Congress should, as it relates to the increase in the inflationary spiral that does occur as a result of not having a good handle on what our productivity rises are, determine what they should be and determine to what degree a lack of productivity increases is causing the inflationary spiral.

Second, the President, as he stated when he formed this Commission—and I praised him when he made this speech some 3 years ago on this subject—felt that for this Nation to compete effectively overseas with nations like Japan, we needed to have a better analysis of our productivity increases. I feel this is a very reasonable facility within the executive branch, a commission that operates on a budget of $2.5 million. That is why I complimented my colleague, the gentleman from New Jersey, in cutting back from $5 million to $2.5 million on this particular bill. I feel that we need this kind of information and capability to deal with our competitors overseas.

Mr. Chairman, I believe that on these two points alone that it is a worthwhile commission. The commission has, in fact, produced some of the needed information. It has not quite completed its job, and I believe that we will be able to see in another year that this Commission is producing the kind of information that will answer those two basic questions posed by the President 3 years ago.

The CHAIRMAN. The time of the gentleman from California (Mr. ROUSSELOT) has expired.

(On request of Mr. GROSS and by unanimous consent, Mr. ROUSSELOT was allowed to proceed for 1 additional minute.)

Mr. GROSS. Mr. Chairman, will the *gentleman yield?*

Mr. ROUSSELOT. Mr. Chairman, I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Chairman, I thank the gentleman for yielding. I would ask him if the $2.5 million to be authorized for the continuance of this boondoggling commission will not be a contribution to more inflation.

Mr. ROUSSELOT. Mr. Chairman, no, I do not believe it will, and I will tell my colleague, the gentleman from Iowa, why: Because I believe it will do exactly the opposite. It will help contribute to both the ability of the Congress and the executive branch to have a better understanding of the productivity rises or decreases, whichever it may be, in any given industry. I think that this is, in fact, an important needed contribution to our ability to cope with inflation.

Mr. GROSS. Mr. Chairman, let me ask the gentleman what the report he has in his hand cost the taxpayers.

Mr. ROUSSELOT. Mr. Chairman, I do not have the exact figures, but I would estimate it would cost anywhere from $20,000 to $30,000.

Mr. GROSS. $20,000 to $30,000?

Mr. ROUSSELOT. Yes.

Mr. GROSS. How much money has been expended on this commission up to this point?

Mr. ROUSSELOT. My understanding is that it was $2.5 million roughly in 1973, and I believe, but I am not absolutely sure, that it was about $1 million since that time.

Mr. GROSS. So would the gentleman like to amend his statement to say that it probably cost about $2 million since this is the only report in evidence?

Mr. ROUSSELOT. No. The gentleman asked me what I thought this report costs. All the personnel were not dealing just with this report; they were dealing with other agencies that gathered this information.

Mr. Chairman, as we all know, productivity is the mainspring of economic stability, growth, and prosperity. It is a *measure of how effectively capital, labor,* and technology are utilized in producing output. In the long run, productivity growth is the only real cure for inflation. Only if productivity goes up can wages rise without pushing up prices. Only if productivity goes up can we expect to correct our unfavorable balance of trade. All of us in this body are aware of these simple truths and many among us have risen on the House floor in recent years to make declarations on the need for higher productivity. Productivity growth in the U.S. manufacturing sector of the economy between 1965 and 1970 averaged 1.9 percent annually—the lowest rate among the 11 leading non-Communist industrial nations. Japanese manufacturers increased their productivity during the same period by an average of 14 percent a year and the Common Market nations by an average of 6 percent. Productivity more recently has returned to normal levels but it still remains a major source of concern because of inflation.

I know of only one Government organization devoting full-time attention to productivity—the National Commission on Productivity. It has a monumental assignment. But in the past year, its first year in full operation on its own budget, the Commission has begun to make impressive headway in steering those in management, labor and government responsible for productivity-related decisions toward new approaches to cost saving that promise a high return on the taxpayer's investment.

As amended by the House, S. 1752, would provide $2.5 million for the commission's budget authority in fiscal year 1975. This amount is adequate, I believe, to finance the commission's full-scale operation of programs.

Productivity improvement, in its nature, is a long-term process. We cannot expect to see dramatic results overnight. Our trading competitors in the Common Markets nations, and Japan have had permanent public productivity centers for the last decade. Although we encouraged—through the Marshall plan—the establishment of productivity centers in these nations, we ourselves did not establish one until the Productivity Commission was formed.

If the program of the National Commission on Productivity results in an extra one-tenth of 1 percent in the growth of output per man-hour—the dividends for the economy would be enormous. The U.S. productivity growth rate has averaged 3.1 percent since 1950. If it could be increased to an average of 3.2 percent during the next decade, it could mean an extra $60 billion in additional gross national product in that period.

The CHAIRMAN. If there are no further amendments, under the rule the Committee rises.

Accordingly the Committee rose; and The Speaker having resumed the chair, Mr. SISK, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the Senate bill (S. 1752) prescribing the objectives and functions of the National Commission on Productivity and Work Quality, pursuant to House Resolution 895, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time and was read the third time.

The SPEAKER. The question is on the passage of the Senate bill.

The question was taken, and the Speaker announced that the ayes appeared to have it.

Mr. GROSS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 238, nays 139, not voting 56, as follows:

[Roll No. 220]

YEAS—238

Abdnor
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Armstrong
Ashley
Aspin
Bafalis
Baker
Barrett
Bell
Bennett
Bergland
Biester
Blackburn
Boggs
Boland
Bolling
Bowen
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Mass.
Burton
Butler
Byron
Carney, Ohio
Cederberg
Chamberlain
Chappell
Clausen, Don H.
Cleveland
Cochran
Cohen
Collier
Conable
Conlan
Conte
Corman
Cotter
Coughlin
Cronin
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, Wis.
de la Garza
Dellenback
Dent
Derwinski
Dingell
Donohue
Drinan
du Pont
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Findley
Fish
Fisher
Flood
Foley
Forsythe
Fraser
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gibbons
Goldwater
Gray
Green, Pa.
Grover
Gude
Guyer
Hamilton
Hammerschmidt
Hanley
Hanna
Hanrahan
Hansen, Idaho
Hansen, Wash.
Hastings
Hébert
Heckler, Mass.
Heinz
Hillis
Hinshaw
Hogan
Holifield
Horton
Hosmer
Howard
Hudnut
Johnson, Calif.
Jones, Ala.
Jones, Okla.
Jones, Tenn.
Karth
Kastenmeier
Kemp
Kluczynski
Kuykendall
Kyros
Lagomarsino
Lent
Long, Md.
Lott
Lujan
McClory
McCollister
McCormack
McDade
McEwen
McFall
McSpadden
Macdonald
Madden
Madigan
Mallary
Maraziti
Martin, N.C.
Mathias, Calif.
Mayne
Meeds
Melcher
Michel
Miller
Minish
Minshall, Ohio
Mitchell, N.Y.
Mizell
Moakley
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Mosher
Murphy, Ill.
Murtha
Myers
Natcher
Nelsen
Obey
O'Brien
O'Neill
Owens
Patman
Patten
Pepper
Perkins
Peyser
Pike
Preyer
Price, Ill.
Quie
Quillen
Railsback
Randall
Rees
Regula
Reuss
Riegle
Rinaldo
Robison, N.Y.
Rodino
Roe
Roncalio, Wyo.
Rooney, Pa.
Rousselot
Roy
Ruppe
Ruth
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Schneebeli
Sebelius
Shipley
Shriver
Shuster
Sikes

Sisk
Skubitz
Smith, N.Y.
Stanton, J. William
Steed
Steele
Steelman
Steiger, Wis.
Stephens
Stratton
Symington
Thomson, Wis.
Tiernan
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Waggonner
Walsh
Ware
Whalen
Whitehurst
Widnall
Wiggins
Wilson, Bob
Winn
Wydler
Wylie
Wyman
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Ill.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—139

Abzug
Adams
Alexander
Archer
Ashbrook
Badillo
Bauman
Beard
Bevill
Bingham
Brademas
Bray
Breaux
Brinkley
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Casey, Tex.
Chisholm
Clawson, Del
Clay
Collins, Ill.
Collins, Tex.
Conyers
Crane
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Dellums
Denholm
Dennis
Devine
Dickinson
Downing
Duncan
Eckhardt
Eshleman
Evans, Colo.
Fascell
Flowers
Flynt
Ford
Fountain
Gilman
Ginn
Gonzalez
Goodling
Griffiths
Gross
Gubser
Haley
Harsha
Hays
Hechler, W. Va.
Henderson
Hicks
Holt
Holtzman
Huber
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Colo.
Jones, N.C.
Jordan
Kazen
Ketchum
King
Koch
Landgrebe
Landrum
Latta
Leggett
Lehman
Long, La.
Luken
McKay
Mahon
Mann
Martin, Nebr.
Mathis, Ga.
Mazzoli
Metcalfe
Mezvinsky
Milford
Mink
Mitchell, Md.
Moss
Nedzi
Nichols
O'Hara
Parris
Passman
Pickle
Poage
Podell
Powell, Ohio
Price, Tex.
Pritchard
Rangel
Rarick
Roberts
Robinson, Va.
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Satterfield
Schroeder
Seiberling
Shoup
Smith, Iowa
Snyder
Spence
Stanton, James V.
Stark
Steiger, Ariz.
Stokes
Stuckey
Studds
Symms
Taylor, Mo.
Taylor, N.C.
Thompson, N.J.
Thornton
Traxler
Vander Veen
Waldie
Wampler
White
Whitten
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wolff
Young, Alaska
Young, S.C.

NOT VOTING—56

Addabbo
Anderson, Ill.
Arends
Biaggi
Blatnik
Brasco
Breckinridge
Burke, Calif.
Camp
Carey, N.Y.
Carter
Clancy
Clark
Davis, S.C.
Delaney
Diggs
Dorn
Dulski
Evins, Tenn.
Frelinghuysen
Gettys
Giaimo
Grasso
Green, Oreg.
Gunter
Harrington
Hawkins
Helstoski
Johnson, Pa.
Litton
McCloskey
McKinney
Matsunaga
Mills
Mollohan
Morgan
Murphy, N.Y.
Nix
Pettis
Reid
Rhodes
Rogers
Roncallo, N.Y.
Rooney, N.Y.
Rose
Scherle
Slack
Staggers
Stubblefield
Sullivan
Talcott
Teague
Thone
Williams
Wright
Wyatt

So the Senate bill was passed.

The Clerk announced the following pairs:

Mr. Morgan with Mr. Rhodes.
Mr. Rooney of New York with Mr. Blatnik.
Mr. Teague with Mr. Breckinridge.
Mr. Delaney with Mr. Davis of South Carolina.
Mr. Murphy of New York with Mr. Gettys.
Mr. Giaimo with Mrs. Green of Oregon.
Mr. Rogers with Mr. Camp.
Mr. Stubblefield with Mr. Mills.
Mr. Carey of New York with Mr. Anderson of Illinois.
Mr. Biaggi with Mr. Frelinghuysen.
Mr. Diggs with Mr. Gunter.
Mr. Addabbo with Mr. Pettis.
Mrs. Grasso with Mr. Roncallo of New York.
Mr. Matsunaga with Mr. Arends.
Mr. Staggers with Mr. Scherle.
Mr. Slack with Mr. Carter.
Mr. Mollahan with Mr. Talcott.
Mr. Dorn with Mr. Johnson of Pennsylvania.
Mr. Clark with Mr. Clancy.
Mr. Brasco with Mr. Thone.
Mr. Harrington with Mr. McCloskey.
Mr. Reid with Mr. Hawkins.
Mr. Nix with Mr. Litton.
Mr. Rose with Mr. Williams.
Mr. Evins of Tennessee with Mr. McKinney.
Mrs. Sullivan with Mr. Wyatt.
Mr. Wright with Mr. Helstoski.
Mr. Dulski with Mrs. Burke of California.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PATMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the Senate bill just passed (S. 1752).

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

STATEMENT OF CONGRESSMAN JIM WRIGHT IN RE JACK ANDERSON COLUMN

(Mr. WRIGHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WRIGHT. Mr. Speaker, in a syndicated column issued for release today, Jack Anderson wrongly accuses me of sabotaging the "dream of scenic highways."

Mr. Anderson is completely wrong in his conclusion and quite inaccurate in certain of the facts he purports to report. The following information is submitted in the interest of accuracy and perspective:

First. It was I who served at the request of then President Johnson as floor leader in the House for the Highway Beautification Act of 1965. It also was I who defended continuation of the Act in 1970 when it was under active attack on the House floor and came within one vote of being terminated;

Second. Contrary to Mr. Anderson's assessment, it is absolutely not true that "more billboards now clutter the roadside than in 1965" or that the law has failed. Since 1965, $214 million has been authorized for beautification projects out of general revenues, and some $74 million of this has been allocated to the removal of billboards and the control of outdoor advertising. States have reported the removal of 225,000 illegal and nonconformity signs under this law. An additional $739 million has been expended out of highway trust funds for scenic enhancement and beautification of new highways;

Third. Mr. Anderson very inaccurately declares that "a cabal of Congressmen" under my leadership "brought pressure" on the Transportation Department "not to enforce the law." Quite the reverse is true. My only representations to the administrative officials is that they should indeed enforce the law and not their private whims.

Fourth. Mr. Anderson betrays his unfamiliarity with the law when he says:

> Wright is trying to give states the right to zone rural land along highways as commercial.

It is the law itself, not Wright, which affirms the right of States to do their own zoning. Here is what the law says (sec. 131(d) of title 23, U.S.C.):

> The States shall have full authority under their own zoning laws to zone areas for commercial or industrial purposes, and the actions of the States in this regard will be accepted for the purposes of this Act.

Fifth. Anderson says that Wright "scribbled his views" on a napkin and passed it across the table to DOT lawyer David Wells. It was not my views which I scribbled on the napkin; it was the above text of the law itself. Mr. Wells will confirm this statement if Mr. Anderson will call and ask him;

Sixth. It is true that I have served as chairman of the Highway Beautification Commission. I did not seek that position. I was appointed to the Commission by Speaker ALBERT and elected to the chairmanship by the other 10 members. The Commission made some 52 recommendations. All but three or four were unanimous recommendations, and only three of the 11 members expressed dissenting views on any point. I believe that neither Mrs. Brown nor any other member of the Commission would say that I have at any time been personally "discourteous and high-handed" in my treatment of any other member. If any newsman is in doubt, I invite him to ask any other member of the Commission, including Mrs. Brown, as to this point;

Seventh. Among the Commission's recommendations are the following: That we extend control to disallow the huge "jumbo" billboards which have been erected 661 feet beyond the right-of-way, that the Federal Government participate with the States in all costs attendant to such removal, that we develop a program for the removal of litter and junked automobiles, that we screen all junkyards visible from the highways, that we give more attention to the planting of indigenous shrubs and wild-flowers to beautify the roadways, and that we develop a program of roadside rests stops and scenic overlooks for the purposes of safety as well as scenic enhancement; and

Eighth. The Commission also recommended that a distinction be made between those signs which simply tout nationally advertised products—cigarettes, cigars, whisky, soft drinks, et cetera—on the one hand and those which provide useful directional information with regard to where a motorist may find needed roadside services—restaurants, restrooms, automotive services, and motels.

Apparently it is this to which Mr. Anderson objects. That is his right. But the public at large desires that such a distinction be made, according to two nationwide polls conducted for the Commission by the deKadt and Sindlinger organizations.

Presumably it is the traveling public for whom we are both building and beautifying the highways. Their wishes, in my opinion, ought to be paramount. A very substantial majority of the public, according to these polls, do not desire the total removal of all information as to the location of these necessary services.

It is not some nebulous "billboard lobby" which Congress is attempting to please, Mr. Anderson's views to the contrary notwithstanding. It is the general public. They are the ones paying for the highways, and they are the ones whose wishes we should be attempting to accommodate.

SOCIAL SECURITY CONTRIBUTION FOR COMMUNITY ACTION AGENCY

(Mr. ROBERT W. DANIEL, JR. asked and was given permission to address the House for 1 minute, and to revise and extend his remarks and include extraneous matter.)

Mr. ROBERT W. DANIEL, JR. Mr. Speaker, I am today introducing a bill which should not be necessary. It involves the withholding of social security contributions for the Community Action Agency in the Tidewater Virginia area, which should be corrected administratively. The organization failed, in effect, to request permission to collect social security taxes and to make employer contributions in behalf of its employees. Thus far, Internal Revenue insists on going through their ruling procedures under Revenue Procedure 72–3.

Mr. Speaker, the facts in this case are perfectly clear. On June 17, 1966, the District Director of Internal Revenue in Richmond issued a form indicating that the Southeastern Tidewater Opportunity Project organization was exempt from Federal income tax. The letter also stated, I am told—

> You are not liable for the taxes imposed under the Federal Insurance Contributions Act unless you file a waiver of exemption certificate as provided in such act.

However, neither the local social security office nor the local and regional Internal Revenue Service offices have been able to locate the exemption certificate.

Since the incorporation of the STOP organization, social security taxes have been collected from the employees and the organization has, as an employer, paid its share of social security taxes. Internal Revenue has continued to accept the taxes since 1966. The STOP organization has conducted summer programs since 1966 averaging some 2,200 temporary employees and enrollees, all of whom STOP considered to be subject to social security taxes. The organization has had thousands of employees and enrollees through their program since 1965. To attempt at this time to locate all of these employees and refund to them the funds which have been paid to Internal Revenue Service would be a bureaucratic nightmare and probably would be an impossible task.

I feel certain that if the situation were reversed and STOP had failed to collect social security taxes and to pay them when they were required to do so, that organization would not have to follow Revenue Procedure 72–3 in order for IRS to move against STOP.

The bill which I introduce today, simply stated, provides that the Southeastern Tidewater Opportunity Project of Norfolk, Va., shall be deemed to have filed on June 1, 1966, a certificate certifying that it desired to have the insurance system established by title II of the Social Security Act extended to services performed by its employees and that STOP on June 1, 1966, shall be deemed to have concurred in the filing of such certification. I have twice asked the Commissioner of the Internal Revenue Service to handle this matter administratively. Apparently IRS is unable to understand this simple problem. I hope, however, that the committee having jurisdiction will promptly report this legislation in order that we may save the cost of going through a procedure which should be unnecessary of attempting to locate the individuals, refigure and refund the contributions which these employees and the STOP organization have made.

MARYLAND MAKES DR. KING'S BIRTHDAY A LEGAL STATE HOLIDAY

(Mr. MITCHELL of Maryland asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MITCHELL of Maryland. Mr. Speaker, as my colleagues know, Members of the Congressional Black Caucus and others have attempted to have the Congress pass legislation that would make the birthday of the late Dr. Martin Luther King, Jr., a holiday. Such actions, however, have not been limited to the national legislature. State legislators across the country, noting the absence of any national legislation, have introduced bills in our State legislatures honoring Dr. King. I am happy to say that one such attempt, which was successful, occurred in the Maryland State Legislature. I am inserting in the CONGRESSIONAL RECORD, for the consideration of Members of Congress, an article from a recent Baltimore Afro-American Newspaper:

Delegate Kenneth L. Webster said:

> This is one of the proudest moments of my life.

Delegate Webster sponsored H.B. 320, a bill to make Dr. Martin Luther King's birthday a legal State holiday.

> I am proud of the fact that Maryland is one of the first States to legalize Dr. King's birthday as a holiday. I am especially proud of the way the black community responded and fought to make this day our special day.

When H.B. 320 was heard the first time before the house ways and means committee, over 100 people jammed the meeting room—including a busload of ministers from Baltimore City and a contingent of community leaders from the city of Annapolis.

Two black members of the committee, Delegates Troy Brailey and Walter R. Dean, Jr., both noted that in spite of the moving testimony, there was some reticence about honoring a black man.

Delegate Walter Dean said:

> We really had to lobby. However, we had the sympathetic ear of our chairman, Delegate Benjamin Cardin (D-5th), who understood the symbolic value of the bill.

In spite of the sympathy for the bill, H.B. 320 failed on its first vote for passage in the House of Delegates by 1 vote.

Delegate Webster, defying conventional political wisdom, asked immediately for a recount. When the final vote was taken, H.B. 320 passed the house by an 11-vote majority. It was then sent to the senate.

H.B. 320 would not have passed the house if it had not been for intensive activity by many people.

Delegate Webster said:

> This was truly a community effort. This is clearly a bill that has been passed by the collective efforts of black people and their allies.

NATIONAL COAL ASSOCIATION SMOKESCREEN REFUTED

(Mr. MELCHER asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MELCHER. Mr. Speaker, recent claims by the National Coal Association that the House coal strip mining reclamation bill is unnecessarily stringent portray a lack of understanding of what the bill requires.

The National Coal Association has stated that the requirement of returning the land to its approximate original contour is an impossible provision and that claim has been echoed by others. Their claims need to be refuted and the facts clarified.

Section 210(b)(8) is the pertinent language dealing with the term "original contour" and it is to assure that both the integrity of the topography of the land and the water drainage pattern is maintained.

In addition, section 705(22) gives the definition of "approximate original contour," stating the term "means that a surface configuration achieved by back filling and grading of the mined area so that it closely resembles surface configuration of the land prior to mining and blends into and is in accordance with the drainage pattern of the surrounding terrain."

I am including a letter from Louis A. Sigler, who is the House Interior and Insular Affairs Committee consultant and former general counsel, to provide a legal interpretation.

His letter follows:

COMMITTEE ON INTERIOR
AND INSULAR AFFAIRS,
Washington, D.C., May 14, 1974.

HON. JOHN MELCHER,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN: The National Coal Association in a release dated May 1, 1974, regarding the House surface mining bill is under a serious misapprehension regarding one of the bill's provisions. The Association says that the bill "would require land to be reclaimed to the original contour except where the mine follows the coal seam vertically."

This is not true.

Subsection (8) beginning on page 43 of the bill requires the mining operator to restore the land to its *approximate* original contour. This is not an absolute requirement. "Approximate" does not mean "identical."

In addition, if the "deposit" is large in comparison with the overburden, the mining operator is required to restore the "approximate original contour" only to the extent of the available spoil and other waste materials.

Moreover, the rule and the exception apply to all surface coal mining regardless of whether the seam being mined is horizontal, diagonal, or vertical.

The Association's abbreviated analysis is not an adequate reflection of the bill's requirements.

Sincerely,

LEWIS A. SIGLER,
Consultant and Former General Counsel.

All in all, this requirement is no more than what has been anticipated by mining companies in a national reclamation bill and is comparable to State statutes where coal strip mining is being done. The charge made by the May 1 National Coal Association newsletter is an outrageous smokescreen seeking to confuse Members of Congress, coal companies, and utility companies in an effort to either defeat or water down the bill.

Coal mining companies that are interested in protecting the land and the water resources of this country will be able to follow the provisions of the bill without undue hardship.

In addition, some grumbling has been done by industry concerning an amendment I sponsored in committee that recognizes the landowner's rights when the coal underneath his land is owned by the Federal Government. Previous to my amendment, the House bill only required a mining company to post a bond before strip mining the land. That is no more nor no less than giving a coal company the right of eminent domain and was totally unfair.

Now with my amendment the House bill requires the written consent of the surface owner before this federally owned coal can be mined underneath his land and the coal companies right of eminent domain in these cases of private owned land over federally owned coal has been removed from the bill.

OFFICIAL RESIDENCE FOR THE VICE PRESIDENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. BROOMFIELD) is recognized for 5 minutes.

Mr. BROOMFIELD. Mr. Speaker, I am today reintroducing with additional sponsors a joint resolution designating the quarters occupied by the Chief of Naval Operations as the official residence of the Vice President. The proposal would become effective upon the retirement this June of the present Chief of Operations, Adm. Elmo Zumwalt.

Every time a new Vice President takes office the Government spends thousands of tax dollars installing Secret Service quarters and security devices in his home. The bill for former Vice President Agnew's home alone was over $140,000.

It is time we stop this wasteful process and create a permanent residence for the Vice President. The American taxpayers should be spared the expense of underwriting the modification of homes of future Vice Presidents.

A companion resolution has been introduced in the Senate and hearings have already been held. I hope the House Armed Services Committee follows this lead and acts swiftly on this resolution.

Mr. Speaker, I include the text of this resolution in the RECORD at this point:

H.J. RES. 1011

Joint resolution designating the premises occupied by the Chief of Naval Operations as the official residence of the Vice President, effective upon the termination of service of the incumbent Chief of Naval Operations

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, effective upon termination of service by the incumbent in the office of Chief of Naval Operations, Department of the Navy, the government-owned house together with furnishings, associated grounds and related facilities which are and have been used as the residence of the Chief of Naval Operations, shall thenceforth be available for, and shall be designated as, the official residence of the Vice President of the United States.

SEC. 2. As in the case of the White House, the official residence of the Vice President shall be adequately staffed and provided with such appropriate equipment, furnishings, dining facilities, services, and other provisions as may be required, under the supervision and direction of the Vice President, to enable him to perform and discharge appropriately the duties, functions, and obligations associated with his high office.

SEC. 3. The Administrator of General Services is authorized to provide for the care, maintenance, repair, improvement, alteration, and furnishing of the official residence and grounds, including heating, lighting, and air conditioning, which services shall be provided at the expense of the United States.

SEC. 4. There is hereby authorized to be appropriated such sums as may be necessary from time to time to carry out the foregoing purposes. During any interim period until and before such funds are so appropriated, the Department of the Navy shall make provision for staffing and other appropriate services in connection with the official residence of the Vice President, subject to reimbursement therefor out of any contingency funds available to the Exectuive.

SEC. 5. It is the sense of Congress that living accommodations, generally equivalent to those available to the highest ranking officer on active duty in each of the other military services, should be provided for the Chief of Naval Operations.

SEC. 6. The Act entitled "An Act authorizing the planning, design, construction, furnishing, and maintenance of an official residence for the Vice President of the United States", approved April 9, 1966 (80 Stat. 106), is repealed.

FIRE PREVENTION AND CONTROL ACT OF 1974

The SPEAKER. Under a previous order of the House, the gentlewoman from Massachusetts (Mrs. HECKLER) is recognized for 30 minutes.

Mrs. HECKLER of Massachusetts. Mr. Speaker, I want to urge the House and Senate conferees that will be appointed to settle the differences in the two versions of the Fire Prevention and Control Act of 1974 to reach an agreement quickly so that this urgently needed legislation may be enacted into law.

I am certain that all of us have known a firefighter or member of a community fire department at one time or another. We have thought of these men as our friends, our neighbors, as the stalwart citizen who has always donated his time and energies to protect his community against fires and to assist in various rescue missions. It is now time that these courageous men, who often have risked their lives for others, be given more than praise. It is time that we show these men our appreciation for their services through the utilization of science and technology to work in their behalf.

Firefighting is the most dangerous occupation in the Nation. More than 12,000 persons, including close to 200 firefighters, lose their lives in fires in the United State annually It is appalling that we as the most technologically advanced country in the world have the highest rates of death and property losses due to fire of all the major industrial nations. During a year, the United States reports 13 fires for every 1,000 residents, while Japan, also a highly industrialized country, records only 0.61 fires per 1,000 population.

Every minute there is a fire in an American home and every day approximately 170 Americans are killed or permanently scarred by fire. Property losses each year due to fires total about $2 billion.

Indicative of the seriousness and enormity of the fire problem is the fact that there are more than 20,000 fire departments in the United States with 200,000 paid firefighters and 20 million volunteers. From any perspective, firefighting is a hazardous and costly occupation. Injury rates for paid firefighters are two to three times the national average for that of manufacturing industries. Injury rates for volunteers are even higher than for paid firemen.

The legislation we recently passed in the House is a comprehensive bill designed to alter these horrible statistics by improving research, training, and education for the control and prevention of fires.

I believe it is important that the Federal Govermnent assist local governments in a national effort to combat fires. The Fire Prevention and Control Act provides for the creation of a U.S. Fire Academy to offer the most advanced scientific, technological, and educational instruction to firefighters. The establishment of the National Fire Academy is a step forward in upgrading the quality of training available to our firefighters through courses at the academy and through instruction given in community colleges and universities at the local level.

The Fire Academy will fall under the jurisdiction of the National Bureau of Fire and Safety which will be established within the Department of Commerce. The overall function of the Bureau of Fire and Safety will be to improve and promote programs for training firefighting personnel through cooperation with State and local fire departments. Also within the Commerce Department the bill calls for the creation of a new fire research center to conduct basic and applied research for the development of new firefighting equipment to aid our firefighters in this dangerous profession.

Finally, under the Department of Health, Education, and Welfare, the bill establishes a program of improved treatment and rehabilitation for burn victims through the creation of burn centers which will be separate hospital facilities.

The programs advanced by the Fire Prevention and Control Act of 1974 will greatly contribute to the safety of our firefighters through research into improved protective equipment and through quality training and teaching of new firefighting techniques. Simultaneously, the bill develops programs to educate the public regarding fire prevention so that firefighters and residents of communities throughout the country can join together to launch a national campaign against fire—the No. 2 accidental killer in this country.

LEGAL SERVICES CONFERENCE REPORT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. BLACKBURN) is recognized for 20 minutes.

Mr. BLACKBURN. Mr. Speaker, in a new attempt to mislead the trusting and prey upon the good faith of the public, the Senate-House legal services conference committee reported to the public on May 9, via prearranged stories in the New York Times and the Washington Post, that a Legal Services Corporation plan had been adopted which assertedly represented a yielding by the Senate to the more stringent safeguards against legal services abuse which had been adopted by the House of Representatives last June 21, 1973.

One standard of measurement for gauging whether the safeguards demanded by the House have been honored is adducable by review of the 24 amendments which had been voted onto the bill in the House. Seventeen of the 24 have been either eliminated, or altered in such a manner as to destroy their original meaning and impact.

PARTIAL LIST OF ELIMINATED HOUSE AMENDMENTS

For example, the following amendments have been eliminated entirely:

The Green amendment which would have liquidated the Corporation in 1978, requiring affirmative congressional action if it were to be continued beyond June 30 of that year;

The Green amendment to prevent the *funding* of backup centers for nonresearch activities—amicus briefs, cocounsel work, assistance to activist organizations, issue advocacy publications and travel, law reform, non-client-generated test cases, policy lobbying, et cetera;

The "congressional accountability" amendment which would have limited the power of the American Bar Association to assume primary responsibilty for project employee behavior, performance, and obligations via modifications in the Code of Professional Responsibility and Canons of Ethics;

The two Green amendments requiring annual appropriations and barring multiyear appropriations without congressional review.

PARTIAL LIST OF HOUSE AMENDMENTS WEAKENED

Of at least equal importance, other vital safeguards were completely vitiated by cleverly worded modifications which destroyed the original meanings of House-passed amendments:

The prohibition on aid to "any picketing, boycott, or strike" is wiped out with the phrase "except as permitted by law," since such activities are clearly legal, however undesirable it may be to subsidize them with public funds.

The House prohibition against assigning personnel or resources in connection with campaigns to affect the outcome of state ballot issues has been rendered meaningless by the proviso that such ballot campaign activity is permitted when it takes the form of representation for "eligible clients with respect to such client's legal rights." The catch is that every group which alleges to concern itself with poverty issues can be an eligible client under the proposed act—thus, whether the cause relates to the elderly—National Council of Senior Citizens—or women—National Organization for Women—or the "right" of the poor to abortions—Planned Parenthood—or Cesar Chavez—United Farmworkers—or Indians—American Indian Movement—or whatever, the prohibition is without effect.

The Green amendment which stated that

> (i)f an action is commenced by the corporation or by a recipient and a final judgement is rendered in favor of the defendant and against the corporation's or recipient's plaintiff, the court may, upon proper motion by the defendant award reasonable costs and legal fees . . .

Has had its intent altered by a conference proviso that such relief to innocent private parties sued at the discretion of legal aid employees would be available only—

> Upon a finding by the court that the action was commenced for the *sole* purpose of harassment . . . or a recipient's plaintiff maliciously abused legal process.

Thus where a guiltless victim of a legal services suit couldn't prove "harassment" or "malicious" abuse, such victim, however poor or aggrieved, would have to sustain the full financial cost of legal services assault.

The requirement that full-time staff attorneys be subject to Corporation law and regulations at all times and devote full professional attention to their tax-subsidized responsibilities was rendered ineffective by addition of language that such "outside practice" activities could be fully permissible if not entered into for purposes of financial compensation. A standard legal services defense against evidence of impropriety has been the disclaimer that the incident to which objection had been made occurred on one's "own time," or in connection with "outside practice" of law.

The very important antilobbying ban imposed by the House on a 200 to 181 rollcall vote—which had prohibited lobbying on state or Federal issues, except to permit statements or testimony—has been replaced with language authorizing legal services efforts "to influence the passage or defeat of any legislation by the Congress of the United States, or by any State or local legislative bodies" whenever one "member thereof requests personnel of any recipient to make representations thereto;". Furthermore, continuation of the practice of having registered legal services lobbyists in state legislatures is fostered by permission of lobbying "representation by an attorney as an attorney for any eligible client". "Eligible clients" would include lobbying organizations concerned with issues as diverse as passage of the equal rights amendment and gun control.

The intention of the House amendment to bar aid to "public interest" law firms is wiped out by another tricky semantic change. Where the House would have denied Corporation aid to any such Nader-style firm which expended 50 percent or more of its resources and time "litigating issues either in the broad interests of a majority of the public or in the collective interests of the poor, or both," the deceptively worded Conference bill, by deleting the phrase: "or in the collective interests of the poor, or both" in effect authorizes use of government funds to support any radical cause which claims to be acting for the poor as a class.

The very important House amendment limiting the authority of project attorneys to represent persons under 18 without parental approval has been divested of meaning through a sleazy rewrite job permitting such representation—whether with respect to abortion, school discipline, or similar issues—"where necessary for the purpose of securing, or preventing the loss of services under law, or in other cases not involving the child's parent or guardian as a defendant or respondent."

Also eliminated was the Mizell amendment relating to institutions of higher education, which many had hoped would serve as a barrier to proquota briefs of the sort filed by legal services projects in the DeFunis case.

The "anticommingling" amendment adopted by the House—to prevent involvement of Corporation-subsidized programs in prohibited activities under cover argument that only "local share" funds or "state funds" were involved in the improper activity—is knocked out of the proposed act through a conference-devised loophole asserting that "this provision shall not be construed to prevent recipients from receiving other public funds . . . and expending them in accordance with the purposes for which they are provided." If tax-exempt Ford Foundation grants were defined to be "public funds"—as a careful reading of the relevant provision seems to imply—the entire section has been rendered meaningless.

SENATE PROVISIONS KEPT; HOUSE PLAN ALTERED

It is not just in its disregard for 17 House-passed amendments that the conference committee cast down the gauntlet to those who favor limits on the power of free-wheeling attorney activists to determine what is best for the poor and for the court. The conference bill also retains some other very unfortunate aspects of the very liberal Senate-passed bill, while erasing important original parts of the legislation adopted by the House on June 21.

Obnoxious aspects of the Senate version which have been grafted on to the almost totally ignored House plan include:

Making the Corporation part of the Economic Opportunity Act—an ill-disguised effort to promote exclusive control of confirmation of Corporation board members by the liberal Senate Committee on Labor and Public Welfare;

Adopting a preamble which affords the statutory presumption of continuation to current grantees and administrative policies of "the present vital legal services program" and which strongly implies that staff attorneys supported by the program should have "full freedom" from accountability to the American people who pay their bills;

The Senate bill, to which House conferees receded, has an ominously sweeping provision allowing the Corporation to make "such other grants and contracts as necessary to carry out the purposes of the title"—source: conference report. Given the very broadly defined purposes of the conference plan that means simply: "anything goes"—all not specifically prohibited is consequently allowed. For example, as now written, Corporation officials could fund almost any group of their choosing, so long as it was involved in directly aiding candidates for office;

Denying the President authority to designate the chairman of the Corporation's board of directors, except in the first instance;

While downplaying the importance of existing influence of ADA and NLG-oriented values in the present control and management of the legal services program, conferees would prevent future changes in a more moderate or conservative direction by the convenient requirement that hereafter "no political test or political qualification" be taken into account in personnel policies for the $100 million per year program.

The arrogant assertion that, though federally funded, "the Corporation shall not be considered a department, agency, or instrumentality of the Federal Government." At the same time, however, while denying Federal accountability, Corporation employees are given all the benefits of Federal employment, including the right to remain eligible for social security benefits, without paying additional social security or self-employment taxes while building up a Federal retirement nest egg;

Requiring "a special determination by the Board" before program control can be assigned to elected State and local officials, while at the same time permitting the lowliest legal services employee with control of grant money to fund private organizations of his choosing;

While purporting to prevent employees from acts which would "intentionally identify the Corporation" with party or candidate related political activity, section 1006(e) of the conference plan would define project employees themselves as "deemed to be State or local employees for purposes of chapter 15, of title 5, United States Code." It is important to note that title 5—

> . . . does not prohibit political activity in connection with . . . (2) a question which is not specifically identified with a National or State political party. For the purpose of this section, questions relating to constitutional amendments (etc.) . . . are deemed not specifically identified with a National or State political party.

Thus, while personnel can't "identify" the Corporation with partisan—and perhaps even nonpartisan—political activity, they can do virtually as they please in organizing for noncandidates or nonparty-related issues like, for example, those concerning taxation or education or socialized medicine.

Senate language in the conference bill encourages perpetual funding for presently funded projects by compelling the Corporation to "insure that every grantee, contractor, or person or entity receiving financial assistance under this title or predecessor authority under this act which files with the Corporation a timely application for refunding is provided interim funding necessary to maintain its current level of activities until the application for refunding has been approved and funds pursuant thereto received, or the application for refunding has been finally denied in accordance with section 1011 of this Act." Section 1011 reads:

> Financial assistance under this title shall not be terminated, an application for refunding shall not be denied, and a suspension of financial assistance shall not be continued for longer than thirty days, unless the procedural requirements defined in the Act and by court precedent have been fully satisfied.

In brief, there's almost no way to cut them off.

DANGERS DISGUISED

The conference plan also defers to the Senate in its stipulation that—

> The President may direct that appropriate support functions of the Federal Government may be made available to the Corporation in carrying out its activities under this title to the extent not inconsistent with other applicable law.

While less blatant than the original Senate language, this proviso would still make it possible for a President of the United States to give private organizations aided by the corporation the benefit of a full range of Government services and equipment free of charge. This could include everything from Xerox machines to motor vehicles to long distance phone service. Given the political nature of many groups previously aided and prospectively eligible for aid by legal services, this remains a very dangerous section, which was wisely absent from the more moderate House bill.

Another Senate victory lies in the conferees' implied agreement to transfer present OEO Legal Services career employees and to perpetuate the radical OEO union agreement, at the Corporation.

Also highlighting the deviousness and unscrupulous deception practiced in drafting the final conference language is a special section which purports to deal with widespread concerns about political manipulation and control of backup centers in behalf of liberal causes.

In an effort to reduce opposition to the bill, the conferees suggest that the centers will not continue beyond 1977, unless there is affirmative action by the Congress for their continuation. The conscious misrepresentation of this section lies in the fact that it deals only with backup center "research" activities, omitting even that mild restraint on more obnoxious backup center activities entirely unrelated to research—for example, "information clearinghouse," "issue explanation." These neutral phrases have long served to cover up and excuse many backup activities much more closely related to political causes than poverty representation.

Right to life groups are particularly outraged by continuation of the backup centers, since several of them—National Health Law Project, Bureau of Social Science Research, National Juvenile Law Center, et cetera—have been in the forefront of successful drives for liberalized abortion laws and regulations on both a State and national level.

Even if the bill really did establish restrictions on the backup centers, the gradual conversion by national OEO officials of neighborhood law offices to local law reform units would negate much of its value.

OTHER WEAKNESSES

There are still other weaknesses to be found in the conference plan, when it is compared with the House bill:

The House bill gives Governors a free hand in designating state advisory committee members; the Senate/conference plan requires Governors to wait for recommendations from the organized bar before acting.

A House provision intended to limit aid to militant prison groups by barring "assistance in civil actions to persons who have been convicted of a criminal charge where the civil action arises out of alleged acts or failures to act connected with the criminal conviction and is brought against an officer of the court or against a law enforcement official" has been materially changed to preclude such cases only where they "challenge the validity of the criminal conviction."

RIGHT TO LIFE CONCERN

While the conference did make a few prearranged changes in the Senate bill, like dropping specific provisions for a National Advisory Council—still permitted, but not structured into the bill—and deleting some of the more frightening Senate language barring "Federal control" of the new entity, those who take the time to study the final plan, in comparison with the House and Senate versions, will clearly observe an almost total Senate victory over the House. Furthermore, where the House did prevail, it was often because its language was as permissive or more permissive than that of the Senate.

In choosing the House ban on "legal assistance with respect to any proceeding or litigation which seeks to procure a nontherapeutic abortion," as opposed to the Senate version which barred such assistance on abortion "unless the same be necessary to save the life of the mother" conferees were playing into a trap well set by proabortion legal services activists.

The April publication of OEO's National Clearinghouse for Legal Services, in a cover story by Patricia Butler of the National Health Law Program—a backup center—says:

> Any abortion which a woman requests is medically necessary, since the very request for the procedure indicates the importance of terminating the pregnancy to the woman's health, whether physical, mental or emotional.

Thus, there is no such thing as a "nontherapeutic abortion" in the official view of the legal services backup center issue which is most prominent in dealing with abortions. Accordingly, the conference prohibition would be without force.

ON SOME ISSUES, COMMON LANGUAGE GAVE CONFEREES NO CHOICE

In some cases, as with regard to the ban on aid to Selective Service law violators, the conferees had no choice, since the prohibition was included by both House and Senate. To give credit where due, the one real victory scored by the House was the personal achievement of Kentucky Congressman Carl Perkins who had insisted that local attorneys be given preference in filling project staff vacancies.

Yet all of this explanation does not even begin to remind the reader that the House bill—vastly better than the conference result—was itself weaker in thirteen key respects than the administration plan announced last May 15. And, of course, that plan was also a "compromise."

SOCIAL SECURITY SYSTEM STRUCTURE SHOULD BE CHANGED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Idaho (Mr. Symms) is recognized for 30 minutes.

Mr. SYMMS. Mr. Speaker, the more I inquire into the social security system, the more concerned I become that enough Members in this body do not know the glum facts about its financially precarious structure. When we vote in favor of exorbitant social security increases, I wonder if most Members base their vote on a concern for the elderly in these inflationary times and an ignorance of the facts, or, do we vote with a knowledge of the facts for the sake of political expediency? I am hoping the former is true and that once the facts are set forth, the Members of this body will undertake the hard task of making some real changes for the better in the social security structure—changes which will insure the ability of the system to meet the demands of future retirees. Mr. Speaker, I feel that there are some basic questions about social security which need to be answered—and the answers point out that we in this Congress have heaped too many abuses upon the system. These abuses could well cause its downfall.

First, how much has the social security payroll tax escalated?

In 1935, the social security tax was only 2 percent and proponents of the scheme had argued that 1 percent would be sufficient. The maximum amount that could be paid into the system was $60 annually. In 1961, the tax had risen to 6 percent and now in 1974, the tax is 11.7 percent of the first $13,200 of earned income. That means a maximum of $772 can be contributed. Since the employer contributes an equal amount there are only two questions: First, is this money that would otherwise have gone to the employee as wages, making his total real contribution $1,544? or second, is this an additional cost which would otherwise not be reflected in the price of goods to the consumer? Either way, the average contributor to the social security system is having that money extracted, either from wages or hidden in high prices of consumer goods. To project into the future, by 1986 the Social Security Administration has estimated that the tax will be 12.9 percent but they are unable to estimate what wage base it will be applied to. The most recent increase voted on last December was financed by raising the wage base from $10,800 to $13,200 so we can gather a few clues from that fact.

Second, is social security payroll tax based on ability to pay? Posed another way, the question goes, who gets hit the hardest?

The Brookings Institution calls the social security tax the most regressive of all taxes. People below the poverty level who don't pay Federal income taxes must still pay the social security tax. The tax puts the burden of supporting present recipients mainly on poor and middle-income workers who don't earn in excess of the wage base. It is like a perverted Robin Hood—instead of taking from the rich to give to the poor, social security just takes from the poor and rich indiscriminately to give to "qualified" recipients.

Third, what is the ratio of workers contributing into the system to recipients receiving from the system?

The trend is toward smaller numbers of the former and greater numbers of the latter—a very dangerous trend. In 1947, 22 workers supported one recipient; in 1957, 6 workers supported each recipient; and in 1973, only 3 workers supported one recipient. The most frightening aspect of this ratio is a forward look to the years in which "zero population growth" has been realized and the baby boom children are retiring. At that time there will be more recipients than workers—an explosive situation of the first magnitude. Mr. Speaker, I submit to you and the Members that if we have not already experienced a tax revolt by that time, this will be enough to instigate one. Many experts have called social security a time bomb and I believe that that is exactly what it is!

Fourth, how much have benefits increased?

The answer to that is contained in one word—"Drastically"! Since January 1, 1973, there has been a total increase of 68.5 percent. To those who argue that payments are not keeping up with the cost of living, I would like to point out that the increase of the cost of living in the same time period has been 24.4 percent. For more than 10 years, benefits have been increasing twice as fast as wage and salary income in this Nation. This fact, coupled with the constant arguments about payments being insufficient to keep up with living costs makes me wonder if social security was intended to be supplementary income or a complete source of income. That leads us to the next question:

What is social security—a pension plan or an insurance fund?

The answer is neither—at least not within the original intent behind the social security system. Rather than being a complete source of retirement income for so many people, it was intended to be supplementary in nature for all but the most needy cases. The system now is the complete source of income for far more people than originally intended. It is far too underfunded to be a pension plan or an insurance plan and here is why:

When social security was started in 1935, it was supposed to build up a fund which would collect interest and then could be drawn from by those who had contributed over the years. At best, the "fund" is a myth—at worst, a boldface misrepresentation by the Government. The Government has used incoming funds all along to give itself a "loan" at 4 percent interest so that it could meet current operating expenses. If the social security system should go bankrupt tomorrow and people started asking "Where did the money go?" the only honest answer would be that it was never there in the first place. In 1972, Congress enacted legislation which recognized this gamesmanship of the Social Security Administration. Now this pay-as-you-go operation is legally based. In fact, the changeover allowed the Social Security Administration to use what new funds it had in reserves to fund the 20-percent increase which was passed in that same year. As of last July 1973 the reserves had dwindled to $37 billion. If it seems like a lot, let me warn you that it is only enough to cover around 9 months of payments to beneficiaries. Besides, a good part of that $37 billion has probably been used up by now, so it is anyone's guess what the present reserves are. The appalling lack of reserve funds is what private pension plans call an unfunded liability—that it, if all the people with vested rights to benefits should all at once demand a lump sum payment, what would happen? A plan—private, that is—might be able to fork over some of the money it owed, and that part which it could not pay would be it unfunded liability.

The social security system at this time has an unfunded liability approaching $2 trillion! No insurance or pension plan in the country could get away with that. Insurance commissioners should shut them down pretty fast! In fact, Congress recently passed into law H.R. 2, which puts the Government's teeth into private pension plans by demanding that they have no unfunded liability by the end of their first 30 years in existence. I submit to you, my colleagues, that we in the Congress should have cleaned up the mess on our own doorstep—social security—before tampering with private plans that have over $150 billion in their reserves! I have been assured however that these days the concept of "unfunded liability" applies only to private pensions, the Government and the Social Security Administration considers it passe!

If social security is not a pension plan or an insurance fund, as I believe the preceding statements have pointed out, what is it?

My colleagues, it is a mess. In addition it is nothing less than the disguised redistribution of income earned by workers to nonworkers—a transfer of payment of currently earned wealth. For those who argue that the transfer is between the generations, from workers to retired workers who deserve their fair share of payments, let me point out the statistics. Out of the $4.6 billion spent each month for benefits payments, only slightly more than half, $2.4 billion, goes to retirees. The rest goes to programs that are quasi-insurance or quasi-welfare in nature. Workers today are not just paying for worthy members of the older generation, they are maintaining their own generation to a large extent.

Another question which needs to be asked is how big is the social security bureaucracy and what does it consume in costs to the taxpayer?

The answer is that the system is big enough to be a real nonproductive drain on the economy. It has 636 district offices with 384 branches and 129 metropolitan branch offices around the Nation. Administrative expenses have risen from a "mere pittance" of $27 million in 1940 to over $1 billion annually at the present time. Out of the 120,000 Health, Education, and Welfare Department employees, 63,222 work for social security—enough to populate a city that would be the second largest in my home State of Idaho!

Another question which bears looking into is how the system runs under the 1972 legislation. I maintain that this legislation has made the system an actuarial nightmare. And Mr. Robert J. Myers, the former social security chief actuary apparently shares my views. The legislation adopted "dynamic assumption" which will feed the flames of the inflationary fires. Myers points out that this will place social security in the position of granting higher benefits annually and then hoping that inflation will follow. This theory will be implemented into practice in 1975 and I am sure we will all see that if there is any sure way to perpetuate the inflationary cycle in this country, it is to make built-in assumptions like this. "Dynamic assumptions" will: First, force employers to offset their ever increasing payroll taxes by increasing prices to consumers; and second, let benefits and contributions increase one step ahead of the real inflation—helping thereby to cause that inflation in part. To quote Mr. Myers, dynamic assumption theory is "an unsound procedure."

> Actuarial soundess will wholly depend on perpetual inflation and a borrowing from the next generation to pay the current generation's benefits.

Francisco Bayo, the Deputy Chief Actuary for the Social Security Administration, stated that it used to be normal for the Administration to compute the significance of new social security increase over the long range. However, when the 1972 legislation was passed, the Social Security Administration quit its efforts at computation because, and I quote Mr. Bayo—

> The figures were so huge that it got too scary!

Barron's, the financial newspaper, decided to go where angels and Mr. Bayo feared to tread. They computed the long-term consequences of the legislation, making the typical assumptions of maximum contributions and maximum benefits that the Social Security Administration utilizes in computations.

What did the Barron's statistics reveal? They found that for today's 18-year-old worker, the wage base when he reaches retirement in 47 years will be $125,000. His total contribution to the system during his working years will have totaled $108,904—or if you figure in his employer's matching contributions that sum will double to $217,808. He will draw $4,950 per month. I begin to sympathize with Mr. Bayo's "scary" feelings! Since you might have a hard time relating to an 18-year-old worker who would not retire until 2021, however, let us look at the computations for a 40-year-old worker. At age 65, his wage base subject to social security payroll taxes will be $42,600 and his monthly benefits after retirement will be $1,187.20. My colleagues, this is the not-too-remote future that I am talking about!

Still another question we should all be asking ourselves as we vote in these laws affecting every working person in the private sector is this—how would the same amount of money spent for contributions fare in private investments?

The answer to that is much better. Assuming a 7-percent interest rate to be conservative that same amount of money could be earning the 18-year-old a cushy $7,432 per month—nearly $25,000 more than social security. For the 40-year-old worker the monthly payment would be $1,716 or over $500 more than social security will pay him.

The only question now, my colleagues, is what are we in this Congress going to do? Are we going to continue to be creatures of political expediency and yield to the pressure groups that are the most vociferous? The panacea, the magic cure that these groups are calling for is the proverbial cure that kills the patient. I cannot blame those recipients and pressure groups who cry "More, more." We in this Congress have promised them a decent benefit. We in this Congress, however, have defaulted on this promise by our deficit spending patterns which cause inflation. And now we try to make amends by voting for these lethal increases. I call them lethal because they only serve to worsen inflation and necessitate additional increases. Our track record since January 1, 1970, in which a total of over 68 percent in increases were passed points this out.

Another factor militating in favor of the increases is that we have found payroll taxes to be a "painless" way of separating a man and his money—so we become downright extravagant in promising new benefits from this payroll tax.

Mr. Speaker, I am quite frankly sick with disgust at the manner in which we have been voting in social security increases. And I feel increasing frustration with the way the House Ways and Means Committee has been able to ramrod these measures through the Congress. We never see a social security bill without a closed rule. In fact, when the 1972 legislation came before Congress the committee did not even give the prerequisite 4 days' notice. Nor did the members on the committee give more than a passing glance at the drastic "dynamic assumptions" theory—an extremely crucial matter which should have received the closest possible congressional scrutiny.

Unless we change our ways, Mr. Speaker, I believe that someone, someday is going to be paying the social security piper. And that day is not far off. Furthermore, I do not believe that the American people should be forced by us into this position. After all, we in the Congress are in a special and protected situation. We have our own pension plan and do not pay into social security—would we be voting the same way if our own vital interests in the system were at stake? I submit to you that we would not.

CHILD CARE DEDUCTION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 15 minutes.

Ms. HOLTZMAN. Mr. Speaker, today I am introducing a bill to improve the child care deduction provision of the Internal Revenue Code. By liberalizing these provisions, my bill will facilitate women's participation in meaningful activity outside the home.

The current deduction for child care expenses is deficient in several respects. First, it is not available to married couples if one spouse is working part-time, even though the other spouse is employed on a full-time basis. Yet, one-quarter of the women in this country, comprising 13 percent of the population, work on a part-time basis. By not allowing the deduction in the case of part-time employment, we penalize these women. Furthermore, the current provision has the effect of forcing women to choose between full-time employment and full-time household and child care duties. It thus discriminates against those women who prefer to spend at least part of the day with their children and part of the day at work.

Second, the deduction is not available

where one spouse is a full-time student. This has a harsh impact on women who wish to return to school, after having children, to prepare for a career. It is equally harsh on families where the husband is a full-time student, and the wife has to work full time.

Third, child care expenses are now deductible *only* as personal expenses rather than as ordinary business expenses. This means that the deduction is not available to families who use the standard deduction form. Since 68 percent of the families with earnings of $10,000 or less do not itemize deductions, they cannot take advantage of the present child care tax provisions. Yet, these are often the people who most need and most deserve assistance from tax relief.

Finally, the present child care deduction is not available to a person who has *been* separated from his or her spouse for less than the entire taxable year. Thus, an individual whose spouse has been absent for 11 months of the taxable year does not get the benefit of any part of the deduction.

My bill will correct these deficiencies and will give the benefits of the child care provisions to those who legitimately need them:

First. It makes the child care deduction available to couples who work part time and to full-time students with working spouses;

Second. It allows the deduction as an ordinary and necessary business expense rather than as a personal expense. The deduction will be available on the same basis as any other business expense deduction subject to such rules and regulations as the IRS may provide;

Third. It makes the deduction available to a person whose spouse has been absent for more than half of the taxable year; and

In addition, my bill makes the following changes for purposes of simplicity: It replaces the monthly limitations on deductible expenses with an annual limitation. This will ease both the filing and administrative process. It abolishes the distinction in present law between care in the home and care outside the home. In addition, it eliminates the adjustment for disability payments.

I believe this bill will advance the cause of women's right to work. It is not intended to replace the necessity of a *national* child care system. It does not pretend to solve the problems of working parents and child care. Hopefully, comprehensive legislation will be enacted to make available high-quality child care facilities to our Nation's children. In the meantime, my bill will serve to ease the economic burden of countless moderate- and low-income families, eliminate discrimination in present provisions, and make a strong commitment to the special *needs* of working parents, particularly those women who must or want to work.

SSI—H.R. 14753, COMPREHENSIVE REMEDIAL SSI LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman fom New York (Ms. ABZUG) is recognized for 15 minutes.

Ms. ABZUG. Mr. Speaker, since early January of this year, my office, like that of every other Member of the House, has received thousands of letters and telephone calls from anguished elderly, blind, and disabled SSI recipients. It would be easy to blame the administration for all of the hardships and indignities which are being borne by all of those blameless old and sick. In all seriousness, we must not and cannot, take that easy way out. Every Member of this House, and every Member of the Senate, must accept the ultimate responsibility for what is happening to more than 3 million of this Nation's poor and helpless old and infirm citizens.

The bill that I have introduced, H.R. 14753, makes a very limited but very necessary beginning in the acceptance of that responsibility. It is a limited beginning because I agree with many of my concerned colleagues that we should be careful that we do not act too precipitously. In our zeal to correct deficiencies in the SSI program, we must recognize that satisfactory legislative solutions for some problems must await clearer definition through committee hearings and through investigation and study by interested organizations and individuals. However, the "laudable counsel of care and caution" should not deter us from dealing with those problems whose outlines and solutions are more apparent. That is the purpose of my bill.

Probably the first, and one of the most striking, problems which became clearly apparent was our failure to provide authority to the Secretary of HEW to make emergency payments to recipients who have not received their monthly payments.

I do not want to dwell upon the very large number of checks that were undelivered, or delivered late, in January. Again, that would be the easy way to justify an amendment broadening the Secretary's emergency check issuance authority. The experience of January was not very typical. Fortunately, for many, many recipients who did not receive their checks when due, the Secretary was able to provide some help by imaginative use of his authority under section 1631(a)(4)(A) of the act. That section provides that the Secretary "may make to any individual initially applying for benefits" an advance of $100 from the first month's benefit. Under this section, checks are made out in advance in denominations of $50, $10, and $5. It is not necessary to wait for the Treasury Department to issue an individualized check. Thus, it takes only a matter of minutes for the local social security official to endorse combinations of these checks—called prepositioned checks—to reach the appropriate total for the individual.

In January, the Secretary simply declared that all of the 3 million people who were automatically converted over to Federal administration were initial applicants, thus allowing him to make advances under section 1631(a)(4)(A). While this may have been stretching the meaning of that section somewhat, none of us can fault the Secretary for skillful, imaginative, and humane stretching of the law, given the emergency. However, it is obvious that even that generous interpretation of that section cannot be extended beyond initial applicants to ongoing recipients. Once a person begins to receive SSI benefits, it is not possible to characterize him as an initial applicant. Thus, if a person, through absolutely no fault of his or her own, does not receive the regular monthly SSI check, the Secretary has absolutely no authority to make an emergency payment.

Section 1 of my bill would provide that authority. Currently, without such authority, innocent recipients are made to bear the burden of agency mistakes, postal service errors, delays and thefts, or whatever. While they wait, they often must go without food and they often face the threat or reality of immediate eviction. If they are fortunate, private welfare agencies, churches, community action programs, and other organizations and individuals may partially assume our responsibility. Enactment of section 1 of my bill will place that responsibility where it belongs. Significantly, Governor Reagan has recently expressed his support for enactment of similar legislation by Congress; I think this demonstrates the noncontroversial nature of this provision.

Section 2 of my bill seeks to have both the Federal Government and the States maintain their level of assistance in the face of the rampant inflation that appears to have become a permanent fixture of our society. It is not necessary to belabor the point that those individuals who must rely on the SSI program are the most vulnerable to inflation. We all know that. What I will belabor is the means by which we address that cruel fact.

The very first thing that we should keep firmly in mind is that inflation also results in higher tax receipts. So, to the extent that we fail to provide an inflationary factor in the SSI program, we actually reduce the percentage of revenues committed to the millions of elderly and sick people who have nowhere else to turn. In other words, we fail to maintain our former levels of effort. By so failing, we are doing nothing less than imposing grant cutbacks. We cannot blind ourselves to this fact; if not apparent to us, it is abundantly apparent to recipients.

Each of the subsections of section 2 of my bill is designed to deal with one aspect of the inflation problem. Together, they do nothing more than keep people from becoming worse off. That is, the level of governmental effort is maintained at its initial level. I would hope that someday very soon we can actually increase our level of effort.

Section 2(a) of my bill permits, but does not require, each State to maintain at the very least the level of effort which it had made immediately prior to conversion from the State programs to SSI. When we passed H.R. 1 in October of 1972, we permitted the States, in section 401—the so-called hold-harmless section—to maintain the levels of effort they had established on January 1, 1972. If a particular State had a January 1972, grant level for the elderly of, say, $175 per month, we permitted it to add $45 to the Federal SSI payment of $130, so it could maintain its level of effort, and insured the State that if it did so, it would not have annual costs for its elderly poor which exceeded its calendar year 1972 costs.

It was then necessary to use an antecedent date because to do otherwise would be to extend a very tempting invitation to the States to take advantage of the Federal Government. For example, if, in October 1972, we had utilized the December 1973—grant levels as a maintainance of effort—hold harmless—level, it would have been possible for our hypothetical State to increase its grant level to $500 per month in November 1973. Thus, by incurring the necessary increased costs for 2 months, the State could have "bought" a permanent supplemental grant level of $500 per month for its recipients for just the cost of two months grant expenditures. That would have been a literal steal. Such exploitation, sadly, is not merely hypothetical.

However, since January 1, 1974 has come and gone, such exploitation is no longer possible. Because section 401 of H.R. 1 did not recognize any grant increases made by the States after January 1972, any States which made such increases did so for reasons other than attempts to exploit the Federal Treasury.

Indeed, it should be clear to anyone who takes the trouble to look that such increases were made only for the purpose of helping recipients try to keep pace with the cost of living. For example, California, since 1961, has had a statutory requirement that the grants to the aged, blind, and disabled be increased each December to allow for inflation during the past year. Pursuant to that statute, the grants to California's elderly recipients were increased by $5 in December 1972, and by $7 in December 1973. These were not really increases; without these adjustments, the true purchasing power of the grants would have declined by those amounts for each year. It is obvious that these "increases" were not motivated by a desire to exploit the Federal Treasury.

Yet, California's decision not to cut its grants by this $12 upon conversion to SSI meant that it had to assume 100 percent of the fiscal burden, a burden equal to $84 million per year. But California should not be penalized, as it is under the present section 401, for not cutting back its grant levels, in January of 1974, to the January 1972 levels. I am sure that we did not want to provide the States with incentives or inducements to cut back grant levels at the time of conversion to SSI. But that is what we have done in section 401 by providing for a fixed date—January 1972.

Thus, section 2(a) of my bill at least provides the States the opportunity to maintain their level of benefits as of December 1973, without putting them to the Damoclean choice of boosting the relative tax burden of its citizens above what we had promised would be an upper maximum—that is total calendar 1972 welfare expenditures—or cutting grant levels. Many States took the latter choice and I am sorry to say that we are responsible for having caused that. How can any of us justify reducing grants to some helpless old man or woman or some blind or crippled person during the Nation's worst inflationary period? I do not think that any Member of this or the other body would consciously desire such a cruel, unfeeling result.

The next three provisions provide for a comprehensive post-January 1974 maintenance of effort. The first such provision, section 2(b)(1)(i)(1), provides that the Federal benefit levels—presently $140 and $210 for individuals and couples, respectively—shall be automatically increased in the future by the same percentage of any increases in title II social security benefits. Thus, the recently enacted automatic mechanism designed to provide for inflation adjustments in title II would be incorporated into the title XVI program. Such a provision would fulfill the President's request expressed in his budget message to Congress on February 4, 1974. He then said:

> I propose * * * automatic cost of living increases for the aged, blind and disabled beneficiaries of the Supplemental Security Income program.

My provision will fulfill this request.

The next section of my bill, section 2 (b)(1)(i)(2) is a closely parallel provision. It requires a similar periodic increment in the "mandatory supplemental" benefits provided by section 212 of Public Law 93-66 which sought to prevent actual cutbacks to pre-January 1974 recipients. To maintain the spirit of that provision, we must provide for inflationary adjustments to that commitment; my bill will keep that commitment from backtracking.

The final link in this chain is in section 2(b)(2) of my bill. It provides for post-January 1974, inflationary adjustments in the levels of optional State supplementation. It does so by adding the absolute amount of the increases in the Federal SSI benefit levels to a State's section 401 "adjusted payment level"—sometimes called the hold-harmless level. This permits the States to maintain their levels of effort after January 1974. The section also provides a strong encouragement to pass these Federal increases fully onto recipients by conditioning Federal payments under title XIX upon the State's willingness actually to pass these benefits on to recipients. Presently, such "increases" to recipients in States with supplemenal benefit levels in excess of the Federal minimums are most likely to result in inaction by the States. Such inaction results in a decrease in a State's supplemental costs, that is, a reduction, not a maintenance of effort. The best way to show this is graphically.

In the pre-January 1974 condition of things, the State's monthly fiscal share is $70 multiplied by the caseload. On January 1, 1974, the Federal benefit level went up $10. Because of present law, the State remains idle and reduces its monthly costs to $60 multiplied by the caseload. Similarly, on July 1, 1974, the $6 Federal benefit increase further reduces State costs. While present law is intended to benefit recipients by at least allowing them to keep pace with inflation, it creates the very strong likelihood of a reduction of effort by a State. My bill will, over time, maintain a State's level of effort at the fixed level—$70—of pre-January 1, 1974. If we like the President conclude that the Federal Government should at the very least maintain its level of effort in SSI, it is not too much to require the States to do likewise.

I would also like to point out that this last provision in my bill will not insure a full inflationary adjustment for SSI recipients in States which supplement the Federal payment. For example, if the change in Consumer Price Index from July 1974 to July 1975, is 5 percent—should we be so lucky—the Federal benefit will increase $7 to $153. In a State which had a supplemental level of $200, an increase to $210—5 percent of $200 is $10—would be necessary to keep recipients from backsliding. However, my bill would require only an increase to $207. The State would be left with the free choice of adjusting its $54 supplement by 5 percent or $3.

Section 4 of my bill is a simple provision designed to deal with the delay inherent in making determinations of disability. It provides that the Secretary shall reimburse any State or local government which makes any home relief, sometimes called general assistance payments to a disability applicant during the period of time that the application is being processed. It further provides that the Secretary shall consider those payments to an applicant as income and reduce the initial payment by a like amount.

For example, a person who applies on July 1, 1974, and who is determined eligible on September 1, 1974, will receive benefits from the date of application, July 1, 1974. Back benefits will be $292, 2 times $146. My bill provides that if the person received, say, $100 per month in home relief, that person's back benefits should be reduced to $92—$292 minus $200—and the $200 recovery should be paid over to the State or local government that paid the home relief. Thus, it can be seen that this provision will not have any cost consequences whatsoever. All it does is induce the States and counties to help us by encouraging the provision of home relief to our applicants during the period of application.

Sections 5 and 6 are closely related provisions designed to improve upon the statutory provisions relating to representative payees. Section 1631(a)(2) of the act now imposes an inflexible requirement that any disabled recipients who, in addition to other infirmities, may also suffer from alcoholism or drug addiction must have his SSI payments made to a third person—called a representative payee. That person will then manage the recipient's grant and insure that landlords, grocers, et cetera are paid.

My amendment to this provision would allow the Secretary to lift this requirement when such a recipient is receiving rehabilitation treatment and when the chief medical officer of the treatment facility certifies in writing that direct *payment to* the recipient would have therapeutic value to him or her; and that the medical officer certifies that there is a substantial reason to believe that the recipient would not misuse or improperly spend his or her SSI payment. Such authority is necessary to assist rehabilitation facilities in achieving full rehabilitation of their patients.

During the course of treatment, it is necessary to give increased personal responsibility to the patient, under supervised and controlled conditions, to insure personal growth. Our present inflexible rule now serves only to frustrate the laudable goals of rehabilitation that we seek to achieve by imposing the requirement that such a recipient accept rehabilitation treatment. My amendment allows a responsible medical officer to make the decision about each individual's ability to shoulder the responsibility of handling his or her funds.

Section 6 clarifies an important aspect of SSI recipients' appeal rights with regard to representative payee situations. Although the Secretary is under no compulsion to do so, he has adopted regulations which deny recipients the right to challenge the Secretary's choice of a representative payee. When we deprive a person of the right to manage his or her own affairs, we should recognize that we are treading upon very sensitive and important rights of personal freedom. An affected recipient may grudgingly accept this deprivation if someone other than the person chosen by the Secretary is the representative payee. Now, because of the Secretary's regulations, the Secretary's choice cannot be questioned. Such dictatorial power should not exist in such a *sensitive* area of personal freedom.

Section 7 provides for an important omission from present law. Presently, there is absolutely no period of time within which HEW must act upon an application. As far as the law is concerned, HEW can take 6 months, or even 6 years, to act. HEW's practice up to now has been shocking. From July 1, 1973, when it began accepting applications, to April 4, 1974, 1,333,000 applications were taken. Of those, 79,000 were denied and 200,000 have been put on payment status. The remaining 1,050,000 are doing just that, remaining.

Precisely because most applicants have no other means by which to live, we had, from 1950, imposed a "promptness" requirement on the States under the former grant-in-aid programs.

We required the States to action all applications within 30 days, except for disability claims which were allowed 60 days. We should require no less of the Social Security Administration. Surely, in light of its more sophisticated managerial techniques, including highly sophisticated computer equipment, it should be able to act more swiftly than the States. For years prior to enactment of H.R. 1, HEW Secretaries, Presidential counselors, and the President himself constantly reminded us of the wisdom, necessity, and cost savings of a uniform nationally administered system. If they did not intend a cruel hoax, they certainly can live with the time limits that the States learned to live with.

Section 8 of my bill, I believe, fairly resolves the issue of food stamp eligibility of SSI recipients which has so engaged us for the past 18 months. During that time, we have changed the law three times, and because of the third change in Public Law 93-233, section 8, we must act again before the end of this fiscal year. What I propose is that we make permanent the State option of cashout or food stamps embodied in Public Law 93-233, section 8. However, I believe two minor oversights must be corrected.

First, the cashout amount in section 401 of H.R. 1 is fixed in time back in January 1972. It is the bonus value of food stamps on that date. Because the bonus values are changing due to inflation, we should provide for such changes. Otherwise, recipients in those States which have chosen to retain food stamp eligibility will get increasingly larger benefits while those who opted for the cashout will be locked into the bonus value of the food stamp program of January 1972.

The second food stamp omission which my bill seeks to resolve relates to those States which have chosen to cashout food stamps. Because of the complicated mathematical changes brought about by conversion from the old State programs, which had highly individualized "special needs" grant provisions, to the new "flat grant" concept in SSI, conversion from the old to the new programs would have meant grant reductions to hundreds of thousands of people throughout the country.

Through the leadership of Chairmen MILLS and LONG, Congress passed the "mandatory supplementation" provisions of Public Law 93-66. This required that no individual's grant could be cut if it fell on the high side of the averaging process. However, we failed to realize that even if the grant levels were stabilized, an individual who also participated in the food stamp program could suffer a reduction in total purchasing power if his or her State chose to cashout food stamps.

For example, the flat grant level, including the food stamp cashout, in New York is $207. For any person who received a cash grant of $197, or less, and also participated in the food stamp program, thus obtaining $10 in bonus value, the conversion to a flat grant and a cashout did not bring about a reduction in purchasing power. But, many, many of New York's poor, aged, blind, and disabled received grants of $207 and above because of their peculiarly high "special needs." Public Law 93-66 meant that only the cash grant would be maintained. But, if that person also benefited from the food stamp program, there was no requirement that the bonus value which that person lost be added to the mandatory supplemental payment. That is what my bill proposes in section 8(g). Such a provision is of absolute necessity if we are to fulfill our intended promise that no recipient would be worse off because of the new SSI program.

Section 9 of my bill would amend section 1614(b) of the act to provide that the fact of the continued existence of a marital relationship be determined in relationship to the facts of the particular case. Presently, the statute conclusively presumes that a couple who have decided to sever their marital relationship are still living together. When they are living together, they each get a check for 50 percent of a couple's grant. Under present levels, each gets $105. This level is 25 percent less than the combined grants for two individuals. We have established that lower couple's level on the very understandable desire to, as the Ways and Means Committee put it—

> Take account of the fact that two people living together can live more economically than they would if they each lived alone. (H. Rpt. No. 92-231, page 150.)

The gross unfairness of section 1614 (b) is that each member of an actually separated couple continues to receive only half of a couple's grant, $105, instead of an individual's grant, $140, for a full 6 months from the date of separation.

For 6 months, each must live on 25 percent less than a single individual yet his needs are the same as that single individual. I suspect that the provision got into the law at the request of HEW. Such an automatic rule which, in effect, says that a couple is not really separated until they have been apart for at least 6 months makes it much easier for bureaucrats to perform their job. With it, they do not have to make an individual determination of the likelihood of the permanence of the separation.

But such conclusive presumptions which preclude affected individuals from providing rebuttal evidence, no matter how convincing, and thus overcoming their consequences, have been struck down by the U.S. Supreme Court as a denial of due process of law for over 50 years. The latest of the Supreme Court's expression of disfavor was contained in *USDA* versus *Murray* (413 U.S. 508 (1973)). We should recognize that we, as well as the Supreme Court, have a duty to insure that our legislation is not constitutionally defective. We should enact section 9 of my bill before it becomes necessary for the Court to assume that burden.

Section 10 of my bill seeks to clarify an important aspect of SSI recipients' appeals rights. Presently, section 1631 (c)(3) provides for judicial review of the Secretary's decisions in the administrative appeals process, "except that the determination of the Secretary after such hearing as to any fact shall be final and conclusive and not subject to review by any court." Presently, the Administrative Procedure Act, which applies to such review, requires that "there be substantial evidence to support a finding of fact of any administrative agency."

No court can make a finding contrary to an administrator for when we lodge the responsibility to make findings of fact in the administrator, we do not expect that courts will disturb those findings unless, under the time-honored responsibility of the judicial branch to insure that arbitrary decisions are not made by administrative agencies, a court determines that a finding is not supported by evidence in the record. Otherwise, the courts would be powerless to insist that administrators act not upon whim but upon the basis of evidence. This would be a fundamental denial of the fifth amendment right to due process of law.

In *Schware* v. *Board of Bar Examiners*, 353 U.S. 232, 239 (1953), the Court unanimously overturned the decision of State officials denying a lawyer admission to the bar where there was no substantial evidence to support the administrative finding as to "good moral character." Mr. Justice Black, speaking for the Court, said:

> Even in applying permissible standards, officers of a State cannot exclude an applicant when there is *no* [evidentiary] basis for their finding that he fails to meet these standards. . . .

Justice Black concluded that—

> Because there was no evidence in the record which rationally justifies a finding that Schware was morally unfit to practice law . . . the State of New Mexico deprived [him] of due process. . . . 353 U.S. at 246–47.

To allow the Secretary to make findings of fact, and then to completely preclude the courts from determining whether there was some evidence to support that finding, is a license for administrative arbitrariness. Prof. Raoul Berger, just a few years ago, wrote five law review articles on the subject. In one of those articles "Administrative Arbitrariness and Judicial Review," 65 Columbia Law Review 55, 72–73 (1965), he said:

> Among the attributes of law upon which freedom is dependent . . . are the restrictions it places on the discretion of authority. From Caesar to Napoleon to Hitler, disaster followed when that lesson was ignored. Vague as the contours of the broadest delegation may be, the delegation cannot be boundless. To foreclose review is to make possible the exercise of boundless power . . . an attempt to limit such review would be unconstitutional.

Particularly in these days of growing disrespect for authority, indeed for Congress as well, we should not tell those millions of helpless aged, blind, and disabled that we have denied them the right to have the courts performing their basic role of checking and balancing executive excesses. This is hardly the time for Congress to remove that crucial safeguard against abuses of power by the executive branch.

Sections 11 to 15 of my bill contain five more important SSI amendments. These amendments were first proposed by Senator Cranston during the Senate debate on the Social Security Amendments of 1973, H.R. 3153. That bill has been in conference for several months now and it is unclear whether an agreement can be reached because of controversies surrounding numerous other provisions. I believe there is no disagreement over the value and necessity of Senator Cranston's amendments. I have included them in my bill to give the Ways and Means Committee and the full House an opportunity to voice approval as well as to provide another legislative vehicle should H.R. 3153 falter. Rather than attempting to paraphrase Senator Cranston's lucid and eloquent explanation of his proposals, I would refer my colleagues to his discussion in the Congressional Record, volume 119, part 30, pages 38916–18.

DOES THE CONSTITUTION REQUIRE HIGH CRIMES OR MISDEMEANORS FOR IMPEACHMENT?

The SPEAKER pro tempore Under a previous order of the House, the gentleman from Wisconsin (Mr. Reuss) is recognized for 20 minutes.

Mr. REUSS. Mr. Speaker, on May 9, in the course of the televised portion of the House Judiciary Committee's impeachment inquiry, the distinguished ranking minority member, Mr. Hutchinson of Michigan, said:

"The Constitution itself limits the scope of impeachment of a President to treason, bribery or other high crimes and misdemeanors."

Three days later, on "Face the Nation," Mr. J. Fred Buzhardt, Special Counsel to the President, made a statement to the same effect:

> . . . the House impeachment inquiry is looking into the question of whether the President has committed treason, bribery or other high crimes of misdemeanors.

The premise these gentlemen share, that the offenses they list are the only ones for which the Constitution authorizes impeachment, seems to have attained general acceptance. Yet all the constitutional provision referring to these offenses says is that a civil officer of the United States found in an impeachment proceeding to have committed any of them must be removed. The rest of the Constitution, as well as the English and American history of impeachment suggest that there may be removal for other offenses.

Prof. Max Isenbergh of the University of Maryland Law School and his son Joseph, a student at Yale Law School, have prepared a memorandum on the thesis that the Constitution does not require treason, bribery, or some other high crime or misdeameanor for an impeachment. Since the outcome of the proceedings under way in the House, as well as the possibility of further proceedings in the Senate, may turn on this question, I append their memorandum.

The President's lawyers, the staff of the House Judiciary Committee, and others who have spoken on the subject do not agree on what a high crime or misdemeanor is, but they all agree that without one there cannot be an impeachment conforming with the Constitution. Article II, Section 4, on which they rely for this common starting point, provides that—

"The President, Vice President and all civil Officers of the United States shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors."

Remembering that the Constitution uses "shall" sparingly, always in the sense of "shalt" in the Ten Commandments, one wonders why a Constitutional command to remove public officers, the President among them, for high crimes and misdemeanors should be read as a definition of the whole range of impeachable offenses. That the President *must* be removed for a stated kind of misconduct does not preclude the existence of other kinds of misconduct for which he *may* be removed or for which a penalty different from removal may be imposed.

The hypothesis of impeachable offenses other than high crimes and misdemeanors is not only compatible with the words of Article II, Section 4, taken at face value, but is also affirmatively supported elsewhere in the Constitution. Article I, putting first things first in a democracy, provides for the Congress and grants it its powers. The powers of impeachment it distributes as they had been distributed in the model the draftsmen knew best, the British Parliament, giving the accusatory power (which had belonged to Commons) to the House and the judging power (which had belonged to Lords) to the Senate:

"The House of Representatives . . . shall have the sole Power of Impeachment." (Section 2.) "The Senate shall have the sole Power to try all Impeachments." (Section 3.)

When the Constitution, hammered out as it was by the best lawyers this country had, uses the word "impeachment" in a familiar context without explanation or qualification, how else should one read it but in its established sense? The evidence is strong that the established sense in 1787 and for at least a century and a half before then comprehended impeachment for a broader range of misconduct than high crimes and misdemeanors.

Supporting historical precedents are too plentiful to catalogue here, but the following small sample will give an idea of their power. In 1626, the House of Commons issued articles of impeachment against the Duke of Buckingham, founded upon allegations that, although young and undeserving, he had deprived more experienced and deserving candidates of offices by procuring them for himself. In 1680, Edward Seymour, Treasurer of the Navy, was impeached for applying funds to public purposes other than those for which they had been appropriated. In 1710, Mr. Henry Sacheverell, a minister of the Established Church, was impeached and convicted for preaching that "her Majesty's administration, both in ecclesiastical and civil affairs, tends to the destruction of the constitution.'' And Howell's State Trials gives accounts of at least five other similar impeachments in England during the same span of years.

Blackstone, by 1787 a towering authority on both sides of the Atlantic, neatly revealed his stand on the question. In Book Four (which, incidentally, he describes as treating of "public wrongs, or *crimes and misdemeanors*") of his *Commentaries*, he says (pages 256–257 of the original edition, 1769) of the practice in England since the fourteenth century: "A commoner can . . . be impeached . . . only for high misdemeanors: a peer *may be impeached for any crime*." In his view, then, for peers at least—and more than half of the eighty or so impeached in England before 1787 were peers—"high crimes and misdemeanors" did not define impeachable offenses.

We have found references to only three impeachments in the American colonies and states before 1787, all inconsequential for present purposes, but Poore's *Federal and State Constitutions, Colonial Charters* reveals that the constitutions of nine of the thirteen original states provided for impeachment and defined impeachable offenses with one or another of the following formulae: "maladministration," "maladministration, corruption, or other means by which the safety of the State shall be endangered," "misbehavior," "maladministration or corruption," "mal and corrupt conduct in . . . office," "mis-conduct and maladministration in . . . office."

If we now return to the Constitutional text, bearing in mind such a prior history as well as the Founding Fathers' reputation for good sense, the reading here suggested commends itself still more. What would be more natural for responsible draftsmen of the 1780's, aware that impeachment in England and the United States comprehended both high crimes and misdemeanors *and* other misconduct, than to want to invest the legislature of their own new nation with an equally comprehensive power, and to seek to achieve this desire by using plain words in their established sense? And what would be less natural, if on the contrary they had wanted to restrict the Congress to a narrower power of impeachment, than to omit such a restriction from the initial grant of power and put it in obliquely in a later Article couched in terms of mandatory removal?

That the impeachment provided for in the Constitution extended to other misconduct than high crimes and misdemeanors was surely the understanding abroad during the period of ratification and immediately afterwards. Alexander Hamilton, for example, referred in Federalist Paper Number 65 to the Senate's jurisdiction in impeachment as comprehending "those offenses which proceed from the misconduct of public men"; and in the debates on Executive Departments in the first Congress of 1789, James Madison said on one occasion that "the President [would be] subject . . . to impeachment himself, if he . . . neglects to superintend [his subordinates'] conduct," and on another that "the President . . . will be impeachable by this House before the Senate for such an act of maladministration [as] wanton removal of meritorious officers." (1 Annals of Congress 387 and 517.)

Elliot's *Debates in the Several State Conventions on the Adoption of the Federal Constitution* supplies copious evidence that the same understanding was dominant (but not unanimous) among the diverse and far-flung critics whose examination the Constitution had to pass to come into effect. Elliot reports proceedings in Massachusetts, North Carolina, South Carolina, and Virginia, in which the Constitutional provisions on impeachment are referred to as comprehending the following: "behaving amiss or betraying public trust," "abuse of public trust," "conduct inviting suspicion," "malconduct," "mal-administration," and "misbehaviour." 2d Ed. 1836, Vol. 2, pp. 45, 168–169, Vol. 3, pp. 17, 201, Vol. 4, pp. 114, 124–125.

One may wonder why a reading of the Constitution which takes the words for just what they say, which made good sense in 1787 and makes it now, and which is supported by past history and contemporaneous understanding, has not come into prominence in the current controversy. Perhaps it is because of the popular confusion of "impeach" with "remove", as in the "Impeach Earl Warren" bumper stickers of a decade ago, and its subliminal influence on those of us who consciously know better. But speculation on that is not the business at hand. What we must do to complete the textual defense of the thesis here advanced is examine the few other sentences in the Constitution pertaining to impeachment, all in the last two paragraphs of Article I, Section 3, for whatever light they may yield.

Most of them are irrelevant to our inquiry. The procedural provisions—that the Senate "shall be on Oath or Affirmation"; that "When the President . . . is tried, the Chief Justice shall preside"; and that conviction shall require "the Concurrence of two-thirds of the Members present"—are as well suited to a narrower as to a broader range of impeachable offenses. And so is the provision that "the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment, and Punishment according to Law."

The only other Constitutional words on impeachment left to consider are these:

"Judgment in Case of Impeachment shall not extend further than to removal from Office and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States."

This provision does bear upon the range of impeachable offenses, in two fundamental ways.

First, it shows that when the draftsmen wanted to depart from English precedents, they knew how to do it. Thus, aware as they certainly were that the House of Lords had handed down judgments in cases of impeachment ranging from censure to hanging, drawing, and quartering, and evidently not wanting the Senate's prerogatives to extend that far, they simply put in a limit at the harsher extreme, where there had been none in England. It is not believable that if they had also wanted to provide for a narrower range of impeachable offenses than had been established in England, they would have refrained as they did from adding a similar limitation when, in the same Article, they granted to Congress the very powers of impeachment exercised in England by the Parliament.

Second, the phrase "judgment . . . shall not extend further than to removal from Office" plainly countenances that judgment can extend less far. This hardly resistable corollary reinforces our contention that "shall be removed" as used in Article II, Section 4, means what it says and nothing else, and that "high crimes and misdemeanors" as there used merely defines the conduct which calls for mandatory removal. Article I having made removal and disqualification the furthest judgment can ever go, it would be unreasonable, even if the words of Article II admitted the possibility more than they do, to read the command that one of the extreme judgments be imposed for certain impeachable offenses as a comprehensive definition of all of them.

Besides syntax, inference from the rest of the Constitution, and history, there is another reason for taking Article II, Section 4, at face value: the plain wisdom of making removal mandatory for the offenses specified and merely permitting it for other impeachable offenses. If this wisdom is not immediately apparent to lawyers of 1974, it is because they are not sensitive, as any lawyer of 1787 would have been, to the significance of "high," which the grammatical construction of Article II, Section 4, requires to be taken as a modifier of all the offenses named there. Blackstone and earlier authorities make it clear that the distinguishing feature of a *high* crime or misdemeanor, serious as it always is, is not seriousness, but aim—aim against the sovereign or his government, the highest powers of the state. With the perception that Article II, Section 4, naturally read, singles out public officers found guilty of lese-majesty for mandatory removal, leaving to the Senate's discretion removal of public officers whose misconduct strikes lower, one may feel less impelled toward a strained reading of the clause which erases this sensible distinction and treats high crimes and misdemeanors as a definition of the whole range of impeachable offenses.

In 1876, in the course of the impeachment trial in the Senate of William Belknap, former Secretary of War (who, incidentally, having resigned before the proceedings began, was necessarily being put in jeopardy of a sanction other than removal), at least nine Senators—Edmunds of Vermont, Whyte of Maryland, Wright of Iowa, Mitchell of Oregon, Morrill of Vermont, Booth of California, Norwood of Georgia, Stevenson of Kentucky, and Key of Tennessee—expressly described Article II, Section 4, as a provision for mandatory removal and not a definition of impeachable offenses. Senator Key's declaration, in particular, is a full statement of the central argument we have made here:

"[Article II, Section 4,] says that if the President, Vice-President, or any other civil officer of the United States shall be convicted on impeachment for treason, bribery, or other high crimes and misdemeanors, he *shall be removed* from office. . . . It does not say that only treason, bribery, and high crimes and misdemeanors shall be impeachable offenses. We can all see how a case might happen which would demand the removal of a public officer who had been guilty of no such offense. Suppose a President, by injury, disease, or other cause, should become imbecile to such an extent as to make him incompetent to discharge the duties of his high office—suppose he should insist on the exercise of the functions of the office to which he had been chosen, believing himself fully qualified to discharge them, how should we get rid of him? He cannot be said to be guilty of treason, of bribery, or of high crimes or misdemeanors, for these are all criminal offenses, and an evil intent is a necessary ingredient of the charge, and there is with him no such intent."

* * * * *

"The Constitution does not undertake to define the nature and form of impeachment, or its scope and boundaries. It treats of the whole subject as of a matter which is already defined, bounded, and understood. I think the House of Representatives may impeach for other offenses, abuses, failures, and wrongs than those included in the terms 'treason, bribery, and other high crimes and disdemeanors.' " Congressional Record (1876) Vol. 4, part 7, pp. 546.

We have not set forth Senator Key's view or our own gloss on it as the last word on the subject. We are well aware that undiscovered history or practice or decisions may emerge to prove the Senators of 1876 and ourselves wrong. What matters is that the currently ascendant theory be challenged to see if it can stand against unbiased scrutiny. If it can or if it cannot, Congress will know how to proceed in the historic controversy now before the nation.

OIL WINDFALL PROFITS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, last week in a statement to the House, I reviewed the recent Ways and Means Committee oil windfall profits bill. At that time, I expressed my dissatisfaction with the committee bill; it is a hopelessly complex piece of legislation which has no positive policy direction. My principal misgivings are focused on the area of taxation of the oil companies' foreign source income.

Serious consideration should be given to the elimination of all taxpayer subsidies to foreign oil production for the following reasons:

First. These subsidies are unjustified. There is no reason why the American taxpayer should subsidize the foreign operations of the oil companies. The vast majority of these foreign operations are geared to serve foreign markets. The American consumer receives very little direct benefits.

Second. These subsidies are costly. The foreign tax credit and the intangible drilling expense on foreign wells cost the Treasury over $2 billion.

Third. These subsidies do not serve the national interest. Our national security will best be served by developing our own domestic sources of energy as outlined in Project Independence. There is little security in promoting the development of foreign production capacity which can easily be controlled by other nations.

Fourth. The oil companies can operate without subsidies. There are already substantial incentives for the oil companies to invest abroad: lower costs, the offer of tax holidays, fewer environmental restrictions and rapidly expanding demand all contribute to make the development of foreign markets attractive to the oil companies regardless of how we choose to tax them.

Fifth. There is no concrete evidence that increased U.S. taxes will jeopardize the competitiveness of U.S. firms in international markets. Increased taxes will, of course, lower after tax profits for the oil companies. But these profit levels are already enormously high. Eliminating foreign tax subsidies will mean that these enormous profits will shrink to large profits, but that does not mean the oil companies will not be competitive.

Sixth. Elimination of the tax benefits on foreign oil production is not punitive. Subsidies are not the vested right of the oil companies. In the case of the foreign tax credit, the oil companies have abused this taxpayer privilege and it should be taken away.

Seventh. For over a decade the oil companies have been paying no tax on their foreign operations. Since 1962, the aggregate value of credits available to the oil companies has exceeded their U.S. tax liability on foreign income. The real windfall profits of the oil companies are being made abroad, not at home. The way to eliminate these windfall profits is to subject them to fair and equitable taxation.

FOREIGN PROFITS AND THE OIL COMPANIES

If the Congress really wants to do something about astronomical profits in the pertoleum industry, the place to start is with the foreign operations of the oil companies. This is where the profit surge has been. Texaco presents a typical case for most of the majors. On April 23 of this year, Maurice Granville, chairman of Texaco, announced to his stockholders:

> Approximately 27% of Texaco's earnings in the first quarter was attributable to U.S. operations and 73% to other areas worldwide. The increase in the first quarter of 1974 attributable to the U.S. over the same period in 1973 was approximately 39% while the increase in such earnings in foreign areas was 187%.

Despite the fact that most of the profits are being made abroad, the Ways and Means Committee reported a bill which was heavily slanted toward taxing domestic profits. The revenue impact of the committee bill breaks down as follows:

Revenue impact of Ways and Means Committee bill

[In billions]

	Domestic	*Foreign*	*Total*
1974	0.67	0.33	1.0
1975	1.40	.40	1.8
1976	1.56	.35	1.9
1977	2.28	.25	2.5
1978	2.43	.15	2.6
1979	3.30	.06	3.4
Total (1974–79)	11.64	1.54	13.2

NOTE.—Slight variations due to rounding.

To understand why the committee bill treads so lightly on the foreign profits of oil companies, we must understand what the committee did, but, more importantly, what the commitee did not do.

THE MECHANICS OF THE FOREIGN TAX CREDIT

The principal reason the committee's recommendations on foreign oil taxation are so timid is that the committee sidestepped—without thorough consideration—the question of whether our present pattern of tax subsidies for overseas oil production is, in fact, justified. As the result, the committee bill seeks to curb abuses rather than decide matters of policy. But even here, the legislation is cumbersome, confusing and needlessly complex.

What are the abuses the committee bill attempts to correct? Essentially, there are two: The accumulation of vast amounts of foreign tax credits by oil companies on their income from overseas oil production and the provision of the tax law which enables oil companies to deduct foreign losses against their U.S. income. To see how these abuses arise requires a more complete understanding of how the oil companies have manipulated the foreign tax credit provision of the tax law.

For the oil companies, like virtually all U.S.-based multinational firms, the foreign tax credit provides a significant tax benefit. It allows the U.S. taxpayer operating abroad to credit foreign income taxes against his U.S. tax liability on that income. The ostensible purpose of this provision is to eliminate double taxation of the same dollar of income. Its practical purpose is to eliminate income taxation as a consideration in investment decisions. Only income taxes are creditable—other taxes and charges such as excise taxes and royalties are assumed to be a cost of production which is passed directly on to the consumer. Therefore, no credit on these payments is allowed.

There are two ways of calculating the foreign tax credit. These can be summarized as follows:

The per-country limitation. Under this method a separate determination of U.S. tax liability and allowable foreign tax credits is made for each country in which income is earned.

The overall limitation. The taxpayer may elect a second method of computation in which he pools all his foreign source income and computes his foreign tax credit by aggregating all his foreign income taxes paid. These credits are then applicable to the taxpayer's U.S. tax liability on his total foreign source income.

The foreign tax credit can only be used to offset a U.S. tax liability on foreign source income. To the extent that credits are available in excess of U.S. tax liability, these excess credits may be applied to a similar liability backward for two years and forward for 5 years.

If a taxpayer suffers a loss in a foreign country in which he is operating, he would treat that loss differently for tax purposes, depending upon which method of computing the foreign tax credit he chose. In most cases with the overall method, a loss in country A would be simply absorbed by a taxpayer's other foreign source income from countries B, C, and D. With the per country limitation, however, the taxpayer could, under most conditions, subtract his loss in country A from his domestic U.S. income for the purpose of determining his total taxable income. In short, a foreign loss would be treated simply as a business deduction.

THE ABUSE OF THE FOREIGN TAX CREDIT

The oil companies have been extended the privilege of the foreign tax credit by the American taxpayer. But over the years they have learned to abuse it. The first instance of abuse developed in 1950 when Aramco—owned jointly by Exxon, Texaco, Standard of California, and Mobil—worked out an arrangement with Saudi Arabia whereby increased payments to Saudi Arabia by Aramco would be classified as income taxes instead of royalties. The benefit of this arrangement to Aramco was immediate. Royalty payments under U.S. tax law are treated as deductions from gross income in order to determine taxable income. Foreign income taxes, however, are creditable directly against U.S. income taxes, as we have seen.

A look at the detail of this arrangement reveals how profitable it was for both Aramco and Saudi Arabia. In 1950, the company paid $50 million in taxes to the United States. A year later, this tax liability had shrunk to only $6 million. Saudi Arabia, which had collected $66 million in royalties in 1950, collected $110 million in taxes in 1951. The foreign tax credit had become a pipeline through which payments by American consumers in the form of higher prices passed on directly to the coffers of the producing countries.

Since 1950, this arrangement has been imitated by other producing countries and the oil companies. There is significant evidence to indicate that this practice of treating de facto royalty payments as income taxes was the catalyst which created the present pricing system for world oil and gave the producing countries the tool by which they could effectively engineer a cartel. As noted oil expert Morris Adelman states:

> The producing nations cannot fix prices without using the multinational companies. All price-fixing cartels must *either* control output *or* prevent individual price reductions, which would erode the price down to the competitive level. The OPEC tax system accomplishes this simply and efficiently.

THE FOOLISHNESS OF THE INTANGIBLE DRILLING EXPENSE

In computing the foreign tax credit, most oil companies use the per-country limitation despite the fact that most nonpetroleum corporations chose the overall method. The reason is obvious. Under the per-country limitation, if an oil company loses income in a foreign country it may deduct this loss against his U.S. income. In the first years of any business venture it is to be expected that no income will be earned. But in the case of a petroleum company exploring for oil, our tax laws are structured to exaggerate the oil company's loss in the years before commercial production can begin. Through the intangible drilling expense provision, an oil company is allowed to deduct most of the expenses of drilling a well as they are incurred. Ordinarily, these investments would be capitalized and deducted—a fraction at a time—over the useful life of the property. Intangible costs—expenditures for labor, fuel, equipment rental and the like—ordinarily account for about 70 percent of the costs of drilling a well.

As a result of this expensing provision, the oil companies, when exploring for oil abroad, take heavy losses in the years before production begins. These losses are directly deducted from U.S. income. Quite simply, the intangible drilling expense provides a taxpayer subsidy—48 cents of every dollar which is spent abroad for the exploration of oil abroad.

WAYS AND MEANS COMMITTEE ACTION: BALANCING EQUATIONS

In response to these two abuses, the Ways and Means Committee attempted to define limitations on the existing tax provisions. The result is a series of abstract, convoluted formulae for determining U.S. tax liabilities on foreign source oil income.

With regard to the accumulation of massive foreign tax credits, the committee decided to limit credits available in the production of oil and gas to 52.8 percent of production income. Since the U.S. corporate rate is 48 percent, the oil companies under this formula, would still be able to eliminate all their U.S. tax liability on foreign production income and still generate enough additional credits to shelter income not related to the production of crude oil. In an attempt to curb this potential abuse, the committee provided that foreign tax credits arising from oil and gas production income could only be used as a credit against foreign oil-related income. But the committee defined "oil-related income" as everything from extraction to refining, transportation, distribution, and retailing. This means that under the committee formula, the oil companies will be able to escape all taxes on their overseas oil production activities while at the same time generating approximately $1.9 billion in excess credits from oil production which can be used to shelter income from virtually every other phase of their foreign petroleum operations—from pipelines to gas stations.

With respect to the problem of the deductibility of foreign losses against U.S. income, the committee could have taken a very simple step to eliminate the abuse by disallowing the intangible drilling expense on foreign wells. But the committee chose not to take the easy way. Instead, it provided for a complex formula of eliminating foreign losses. First, oil company foreign income is divided into that which is directly related to the production of oil and gas and that which is not. For this foreign oil-related income, the use of the per-country limitation in computing the foreign tax credit is disallowed. As the result, if an oil company sustains a loss in 1 year which is related to the production of petroleum, it would have to balance that loss against all its foreign source income from oil and gas production. If the company still ends up with a net loss—that is, a net loss on all its foreign oil-related activities—it would be able to deduct this loss from its domestic income. However, the committee provided that this subsidy for foreign oil exploration—that is, the deduction of foreign losses against U.S. income—would be "recaptured." The method of recapture is to reduce the foreign tax credit in subsequent years of profitable operations by the amount of the loss. These sections are perhaps the most complex pieces of tax legislation ever to be drafted.

A CONSTRUCTIVE ALTERNATIVE

A tremendous stride toward tax equity and our goal of energy independence would be (1) the elimination of the foreign tax credit on income from overseas oil and gas extraction and (2) termination of the intangible drilling expense on foreign wells. The elimination of the intangible drilling expense is perhaps most easy to defend. The committee has essentially eliminated the intangible drilling expense with its complex formula of recomputing the foreign tax credit. Elimination of this formula and substitution of an amendment to simply eliminate intangible on foreign property would have no impact on the substance of the committee bill. It would enormously simplify and clarify an area of tax law which is sorely in need of reform. The question is, "Why take 10 pages when 1 page will do?"

The foreign tax credit is the most important single provision reducing U.S. tax payments by U.S. oil companies on their foreign earnings. Elimination of the foreign tax credit on oil production income would result in substantially higher taxes for the oil companies. Is it in our national interest to follow such a course?

The oil companies defend tax benefits for their foreign operations with a disarmingly simple, but unsound and misleading logic. The industry line goes something like this:

New taxes on foreign earnings will endanger the oil companies' competitive position;

It is in the national interest for U.S. oil companies to compete overseas; and

Therefore, additional taxes on the oil companies foreign operations is not in the national interest. Should we be convinced with this simplistic syllogism? Closer examination tells us "No."

First of all, there has been virtually no evidence presented that by paying some taxes on their foreign operations, the U.S. oil companies would be disadvantaged with their competitors. That new taxes will cut into profits is unmistakable, but it does not follow that a reduction in profit levels which are extremely high will hinder the oil companies' ability to compete.

Secondly, it is not at all clear that our national interest and the interests of the oil companies are identical. We have learned the painful lesson that following the private whims of the industry is no substitute for a national energy policy. In discussing subsidies to foreign oil exploration and production by U.S. companies, it is important to remember that these foreign operations are almost entirely foreign. The oil companies are producing, refining, transporting, and marketing oil primarily for the foreign market. The American consumer receives only a marginal benefit. Further, the notion that it is in the national interest to subsidize foreign oil production flies in the face of the entire purpose of Project Independence, which is to develop our own domestic energy sources to the point of self sufficiency.

It is difficult to construct a convincing case for allowing taxpayer subsidies on foreign oil production. When we reach the bottom line, we are still confronted with the difficult question, "Why should the American taxpayer subsidize the production of foreign oil for foreign markets?"

THE FOREIGN TAX CREDIT AND THE WORLD PETROLEUM MARKET

A major argument against the outright elimination of the foreign tax credit is that such a step would be disruptive to a volatile world petroleum market. While this concern is justified, it should not stand in the way of reform. A principal failing of our national energy policy has been the lack of involvement of our Federal Government in critical oil negotiations. We have left our fate to the oil companies and they have served us poorly. The lesson is clear; our National Government must take a more active role in future negotiations with the producing countries in order to insure that the interests of the American people are protected.

Any effort to reform the tax treatment of the foreign operations of our oil companies must be sensitive to the need for flexibility in constructing our future energy policy. For this reason, my amendment to the Oil and Gas Energy Tax Act which seeks to eliminate the foreign tax credit on overseas oil production will also provide that new tax arrangements and treaties may be negotiated between the United States and the producing countries. This opens the door to the negotiation of international tax agreements, if it is in our national interest to conduct such negotiations. Stanford G. Ross of the Washington law firm of Caplin & Drysdale has stated in support of this approach to sensitive international tax questions:

> A principal advantage of the international tax agreement approach is that tax relationships as an important international economic relationship are negotiated out government-to-government. If the United States is making concessions, it does so with the other government directly and in a conspicuously public format. Further, the treaty then goes before the Senate Foreign Relations Committee and ultimately the Senate for approval. Thus the political wisdom of a coordinate branch is brought to bear. The obligations being undertaken reflect, hopefully, a broad, national political consensus.

There appears to me to be no reason why the American taxpayer should subsidize the production of foreign oil at a time in which we need to develop our domestic resources. As it would be unwise to continue these subsidies, it would be equally unwise to make a determination at this stage that we shall never enter into tax agreements in the future. We should build in flexibility to our energy policy. Allowing for future international tax agreements between ourselves and the producing countries not only achieves this flexibility but also insures that in the future our government will be actively involved in the promotion and protection of our national interest.

FORTY-FIVE YEARS OF DEVOTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Podell) is recognized for 10 minutes.

Mr. PODELL. Mr. Speaker, if we are fortunate, there will be a number of times when our lives are touched by a truly good person. I have had this honor in knowing Rabbi Harry Halpern, the spiritual leader of the East Midwood Jewish Center, of which I am proud to be a member.

Dr. Halpern has risen to a position of eminence in the Jewish community during a career that spans nearly half a century. He is superbly educated, having received degrees from the City College of New York, Columbia University, Brooklyn Law School, and the Jewish Theological Seminary. He is familiar with both the secular and religious worlds. He has never lived the cloistered life of a scholar, but has always sought to apply his knowledge to the problems of everyday living.

In these days when it is so rare to see someone truly dedicated to his faith and his profession, it is refreshing to know somebody like Dr. Halpern. He is a man who has spent his entire adult life in service to his fellow men. He embodies the greatest teachings of the Jewish faith, for his is a man of compassion, charity, learning, and peace. He has given his life to the principle of helping others so that they may help themselves.

Today, too many young people say that religion is sterile. They complain it offers them nothing, and that houses of worship are places filled with hypocrisy. I wish that every young person who feels this way could meet Rabbi Halpern. His life is an example to all of us, of what can be done when one has faith.

In his work as rabbi of East Midwood Jewish Center, and in all the other religious and civic activities to which he has given himself unsparingly, he has demonstrated that a man of God need not isolate himself from the world. A true man of God works in the world, showing people that the eternal message of the Torah is one which has applications every day, and not just on the Sabbath.

Such a man has overwhelming strength of character. He needs it, for the job of rabbi is incredibly difficult. He not only shares the joys of his congregation, but he must be there for them to lean on whenever sorrow or tragedy strikes a family. In many ways, a rabbi's life is not his own. But the satisfaction he can derive from knowing that he has helped people, from knowing that he has touched lives and hopefully changed them for the better is a great reward indeed.

Forty-five years is such a long time to spend in the service of one's fellow man. I am fortunate indeed, and I think I speak for the entire congregation of East Midwood Jewish Center, to know Rabbi Halpern. Merely saying thank you to him for his years of dedication and devotion to the welfare of his congregation and the Jewish people seems hardly sufficient. He has given us all so much.

He has helped generations reach adulthood, proud, and secure in their knowledge of Judaism and their Jewish heritage. He has joined couples in marriage, including my parents, and my wife and I. He has watched families grow and laid the elderly to their final rest. Through all this, he has been a source of strength and pleasure to the members of our community. Mere words cannot express our feelings about this man. I hope that he will continue to be as strong and healthy and full of love and wisdom in the future as he is now. I am proud to know him and to have the honor of worshipping with him.

ON AFFIRMATIVE ACTION AND RACIAL QUOTAS

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, throughout this week, the New York City Commission on Human Rights is holding hearings on the successes and failures of the human rights struggle in the decade since the passage of the 1964 Civil Rights Act. I was invited to participate in the hearings and chose to address myself to the complex and emotional subject of reverse discrimination. I have asked for permission to introduce the text of my statement into the Record in the hope that it might add some clarity to this difficult question. The statement follows:

Statement by Congressman Edward I. Koch Before the New York City Commission on Human Rights, May 13, 1974

> I want to thank the Commission for its invitation to participate in these hearings on the past and future of the movement for racial equality.
>
> At no time since the passage of the Civil Rights Act of 1964 has there been a greater need to reflect upon the principles embodied in that legislation. I say this because the Supreme Court, in recently hearing the case of *DeFunis* vs. *Odegaard*, has focused public attention on a controversy that raises the question of the fundamental meaning of the civil rights struggle.
>
> I am speaking of the question of "reverse discrimination"—the granting of competitive preference to racial minorities in the pursuit of educational and employment opportunities. It is an issue that has already divided those traditionally allied in the civil rights coalition. If not confronted honestly by those dedicated to human rights, it threatens much of what we have achieved and hope to achieve. For this is not simply a question of strategy. It is not only a matter of determining what means will be most effective in achieving our common goal. It raises the basic question of the ultimate vision of the human rights movement—the nature of the society we are working to establish. I wish to present to the Commission my understanding of that more perfect society. It is an ideal which motivates my strong opposition to any kind of reverse discrimination on the basis of race, religion, sex or national origin. I offer it to you because it is precisely that ideal which has given moral force to the struggle for human rights. I am speaking of a society in which each man and woman is judged according to his or her talent and character. This simple and powerful vision of human equality has somehow become obscured and now stands severly threatened. To recover it is a formidable and necessary challenge to the hman rights movement.
>
> The policy of reverse discrimination arose out of several facts of minority life in this country. It became gradually clear during the 1960's that much of what the civil rights movement had achieved could be characterized as passive nondiscrimination. Although the legal barriers to racial integration were crumbling, progress toward real integration of minorities into American life was agonizingly slow in most fields and nonexistent in others. We learned that two centuries of oppression cannot be overcome simply by making discrimination illegal. This realization gave rise to the concept of "affirmative action" as a strategy for integration.
>
> Originally, the notion of affirmative action simply implied the requirement that institutions establish practices to ensure that every available action be taken to root out the vestiges of inequality. In the area of employment opportunity this meant taking positive action to end inadequate publicity about job openings, unrealistic job requirements, selection procedures which are not job related, and insufficient opportunity for upward mobility. It saw the need to go beyond the destruction of barriers to minority participation toward a policy of reaching out and actively encouraging that participation. In the Federal Government, this was implemented by various Executive Orders requiring of Federal contractors genuine, effective ef-

forts to locate, hire and promote qualified members of groups previously excluded from employment opportunities. We witnessed the initiation of active programs of minority recruitment and training by various business and labor organizations and by colleges and universities. The only measure of success of such programs has been, and should be, the numbers of Blacks and other minorities actually taking part in those previously closed occupations. By this standard, there is no question but that progress was made.

In 1960, 58 percent of all employed nonwhites held positions in unskilled, low-income occupations such as laborers, farmhands and service workers. In 1973, the percentage of employed Blacks was down to 37.8 percent. Upward mobility was particularly striking in white collar and skilled craftsman occupations where Black employment rose at an annual rate 2.5 times the rate of total employment-growth in these areas. But I submit that in a well-intentioned effort to accelerate this progress, a fundamental error was made. A subtle shift occurred in the concept of affirmative action and it assumed the meaning of a system of preferential treatment based upon racial factors. In some cases it implied a quota system—the inclusion of a specified number of Blacks regardless of their competitive status.

The *DeFunis* case arose from the implementation of this distortion of the original notion of affirmative action. In 1971, Marco DeFunis applied for admission to the law school at the University of Washington, where he had received a B.A. magna cum laude and had been elected to Phi Beta Kappa. The law school's admissions policy employed a clear double standard according to race, minority applicants being judged by an entirely different set of criteria than white applicants. As a result, DeFunis was denied admission and 36 Black, Chicano, American Indian and Filipino students with lower academic standings than DeFunis were admitted. Of these 36, 30 would have been rejected summarily if regular standards had been applied. These facts were not disputed in court. As the Commission knows, the Court failed to rule on the substantive Constitutional issues in the case and instead declared the case moot. I do not pretend to any Constitutional expertise and no not wish to argue the Court's decision. It is the morality of the practice of reverse discrimination under review in the *DeFunis* case that I address myself to.

The basis for the case against DeFunis is the contention, developed in the amicus curiae brief submitted by Archibald Cox for Harvard University, that discrimination against a minority is different in some important way from discrimination for a minority. Because the purpose of racial preference is different in the two cases, the one is judged "invidious", the other "benign". The law school conceded that some white students may be excluded from law school because of the system of racial preference, but argued its program is necessary to achieve an "overriding purpose"—an increase in the number of minority lawyers and a diversified student body to the benefit of white and Black. The fallacy here is the justification of discrimination according to its purpose. What is at question is the effect, not the purpose of discrimination, and it is certain that to Marco DeFunis and those like him, the effect is not benign.

It is my belief that the proponents of reverse discrimination are deeply confused about the purposes they wish to promote. Their stated purpose is the inclusion of approximately specified numbers of minorities now underrepresented. I submit that this is not the ultimte purpose of the human rights movement. It can be found nowhere in the Civil Rights Act of 1964; it can be found nowhere in the United States Constitution. The just society I spoke of at the outset does not demand proportional representation of all minorities in all professions. It does demand that competition in all professions be based upon consideration relevant to the performance of the job in question, and race does not qualify. It does not qualify regardless of what minority it benefits or majority it hurts. Though its purpose may be benign, reverse discrimination is a full-scale retreat from this principle.

I am not suggesting that we no longer formulate policy with reference to the percentage of minorities in the various professions. It is important to understand that a disproportionately small number of the nation's law students are Black. This statistic indicates a serious deficiency in our society that we do not provide adequate opportunities for minorities to become competitive with whites for law school places. It would be easy to give the impression that this is not the case by simply admitting a proportionate number of minorities to law school. But this obscures the real problem: that our educational system from top to bottom operates to provide second-rate preparation for minorities. To see this as the real consequence of racism is to recognize that our goal is not to satisfy the principle of proportionality regardless of ability, but to meet our obligation to establish a true merit system as the basis for competition.

Advocates of reverse discrimination like to compare the racial situation in America to two runners, one of whom has had his legs shackled for 200 years. Suddenly, the shackles are removed, but of course one runner is still much faster than the other. Removing the shackles doesn't make the two instantly equal in ability to compete. The previously shackled runner has to be given some advantage in order to compete effectively until he gets his legs into condition.

What the analogy loses sight of is that the purpose of the race is to determine the best runner. It is not to see how close we can make the competition by equalizing each contestant's ability to win. If one person is given an advantage, the best runner may not prevail. The only solution to the problem consistent with this purpose is to give each contestant an equal opportunity to develop his running ability. This should be the essence of affirmative action. Our society now does not function to meet this need. It can, and must be made to do so. There must be intensified efforts to open unions and union training programs, more vigorous enforcement of anti-discrimination laws, and the use of only those examinations that are free of cultural bias, and which are job-related and of predictive validity. And there must be vigorous recruitment of qualified members of minority groups. Again I emphasize this is not the easy way out. Progress will be slow because the problem attacked is the most pervasive in American society. But the human rights struggle has never been easy. What success it has achieved came about because there was no doubt of the moral rightness of the cause. If our policy is now reverse discrimination, we will never retain that moral clarity. We will subvert the very principle we are seeking to defend.

I want to conclude by discussing a particularly regrettable result of the reverse discrimination question and one that is close to me personally. Many have sought to draw this issue in terms of competition between Blacks and Jews. They have had success in dividing two traditionally strong allies for human rights. It is true that Jews react more adamantly against the concept of quotas than others. Our history is perhaps the most persuasive testimony against the policy of racial or religious preference. But Jews and Blacks who view this question as one cultural community against another are sad witness to the loss of vision I have spoken of. They do not realize that the principle that brought them together in the fight for equality can bring them together again: the principle that the dignity of each human being is compromised if some are judged by the irrationalities of racial or religious considerations. It remains as valid today as it was in 1964.

ISRAEL: APPREHENSION—AND ASSURANCE

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I am submitting for the RECORD a recent article from Near East Report which discusses items of concern regarding American policy in the Near East:

[From Near East Report, Washington Letter on American Policy in the Near East, volume XVIII, No. 19, May 8, 1974]

APPREHENSION—AND ASSURANCE

Ever since October, there has been a sharp debate over American policy in the Middle East. Pessimists have feared that Israel, despite her military victory, would face Munich-like pressures to offer sacrifices to the Arabs, either in our Government's pursuit of detente with the Soviet Union or in the prosecution of the Cold War.

Such fears have been held by many Israelis and by a considerable segment of the American Jewish community. But Secretary Kissinger has allayed much of this concern by his remarkable success in winning the confidence and respect of both Arabs and Israelis. Moreover, American public opinion continues to support Israel. Fears that the diplomatic devaluation of Israel might be facilitated and rationalized by an erosion of public support have proved unwarranted.

Last fortnight—although several unfortunate developments revived and deepened fears—there was a surge of reassurance from congressional leaders and Administration spokesmen who participated in the AIPAC policy conference.

These were the items of concern:

Defying the UN cease-fire resolution, the Syrians escalated their War of Attrition. The UN Security Council did nothing to curb Syria; it reserved its indignation for a censure resolution against Israel's antiterrorist sortie into Lebanon. The United States voted for that resolution, even though the Council rejected a U.S. amendment to include condemnation of the Kiryat Shemona massacre. This was a retreat to pre-1972 expediency.

While we are confident that Kissinger has not drawn a map of the boundaries still to be negotiated, Arab expectations, judging by Sadat's recent statements, have been raised to extravagant heights. (The Rogers plan of 1969 is still extant.) The Israel public anticipates heavy diplomatic pressure.

The Administration's aid programs for Arab states are substantial and may prove to be premature. While U.S. dollars may be necessary to cement disengagements, the experience of the Eisenhower and Kennedy administrations has shown that regimes which are bought—or hired—have excessive appetites, short memory gratitude and short life expectancy.

The Administration's 1975 aid program for Israel is disappointing when compared with our Government's substantial and generous response during the war last fall. The costs and casualties of war are heavy, and to those we must and the costs of reconstruction and rehabilitation. Yet, even while the shooting continues, the Arab states are being reinforced by Soviet and American weapons. This, too, seem a step backward.

BUT, ADMINISTRATION IS NOT ABANDONING ISRAEL

The Arab states know that it is very much in America's interest to maintain Israel's strength, for a vulnerable Israel would weaken U.S. influence and power.

But we would like to think that American policy is motivated not only by economic and military objectives in the national interest, but also by moral criteria. We are prone to forget past wrongs and to sue for the favor of those who are guilty of aggression. We abandon principle. Thus, we permit the hopes for economic, diplomatic and strategic gain to supersede and silence moral judgment.

It was Sadat who opened the war against Israel in October, but he is now to be rewarded, handsomely, by American favor. It was King Faisal who more than anyone else wielded the oil weapon against the American people, and he is now to be reinstated as a major ally and beneficiary of American technology and defense. Syria has been consistently anti-American; it rejected a U.S. Point Four mission as far back as 1951.

We do not oppose some economic aid to these countries, but we find it difficult to accept the idea of strengthening their military capability at this juncture. We can understand that the Administration may be seeking to coalesce Arab states to work for military disengagement from Israel, as well as for diplomatic disengagement from a pro-Soviet orientation. But we are a long way from peace and a genuine detente. Cease-fires are easily violated and disengagement agreements are not synonymous with nonbelligerence.

We could be more sympathetic to the Administration's proposals if the road signs to peace were visible and easily read, if there were no Soviet detours or PLO ambushes around the bend, and if Arabs and Israelis were traveling together in the same direction.

GREAT EVENTS IN THE HISTORY OF THE RUMANIAN PEOPLE

(Mr. PRICE of Illinois asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PRICE of Illinois. Mr. Speaker, Friday, May 10, celebrated three great events in the history of the people of Rumania.

On May 10, 1866, Rumania was proclaimed a principality in its own right, while 11 years later the country took advantage of the turmoil of the Russo-Turkish War to declare her independence from the Ottoman Empire. By 1881 Rumania had received Europe's official recognition and on May 10 of that year raised the nation's status to that of a kingdom.

In the post-World War I era Rumania reached the height of its power as the nation attained its historic boundaries and became a true factor for peace in Southeastern Europe.

Despite heroic efforts to retain independence for future generations, Rumania now faces foreign domination. May 10 is no longer celebrated in the nation, except in the hearts of her people, and May 9 is honored as the day of Soviet victory over this peace-loving land.

Mr. Speaker, later this month we commemmorate all those who died to keep our Nation free. I urge my colleagues to take time today to recall all those other nations, like Rumania, which were unable to keep their homeland free. Rumanians and their descendants can be justly proud of their heritage and I am sure that I am joined by all my fellow may soon rejoin the ranks of free nations throughout the world.

DISTINGUISHED PUBLISHER, C. E. TOWNSEND, RETIRES AFTER 47 YEARS WITH GRANITE CITY, ILL., PRESS-RECORD

(Mr. PRICE of Illinois asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PRICE of Illinois. Mr. Speaker, last week marked the end of the career of one of my district's most distinguished citizens, Mr. C. "Corky" E. Townsend, publisher of the Granite City, Ill., Press-Record, has retired after a 47-year association with that paper which saw him climb from cub reporter to editor and publisher.

During the period in which Mr. Townsend was active with the Press-Record, he watched his city and the surrounding area grow to its present prominent position in southern Illinois. He took an active part of this growth, through his membership in various community organizations and participation on the governing board of St. Elizabeth Hospital, the board of directors of the St. Louis Symphony Society, and the staff of officers of the Mississippi River Festival.

Mr. Townsend's presence in these organizations will be missed in the coming years, however, he may take a just pride in his past accomplishments and retire knowing that he has the thanks and gratitide of the community he served for nearly half a century.

Perhaps the following editorial from the Press-Record best exemplifies Mr. Townsend's contribution to his community:

C. E. "Corky" Townsend Retiring From Press-Record Today; His 47-Year Career Was Dedicated to the Concept of a Newspaper as a Public Trust

C. E. Townsend, who is retiring today as publisher and consultant, always took pride in the long service at the Press-Record by many of its staff members.

He exemplifies this ideal, having been connected with the newspaper continuously for his entire professional career of 47 years. His roles included tenures as news reporter, advertising salesman, editor, and publisher.

His thinking is illustrated by his comments at the time of a mechanical shop expansion in 1958: "The finest equipment in the world is of no value without conscientious and skilled men and women. The Press-Record is singularly fortunate in this respect in every department.

"Most Press-Record staffers are deeply rooted in the Quad-Cities; they share with the editor a concern for the well-being of the people here and of the community itself that transcends all else. One expression of this is the active participation by many in a wide range of community endeavors.

"As the only newspaper here, there is an added burden of responsibility to be accurate, thorough and fair.

"There is no mystery about how a newspaper gets its news or formulates editorial opinions. Trained personnel are in daily contact with literally hundreds of private citizens, organizations, institutions and public officials.

"Out of this never-ending reservoir—together with a liberal amount of general reading—ideas and opinions are generated.

"Only a newspaper puts forth the time, effort and money to assemble this myriad data and then interpret it and put it into type for the information, entertainment and thoughtful study of the reader.

"Like the community, the Press-Record has grown. It will continue to bring to its readers the best possible newspaper each Monday and Thursday."

Once active at the newspaper as many as 16 or 18 hours daily, "Corky" Townsend has had only limited contact with the Press-Record since beginning a period of semiretirement in 1970. But his imprint on its values and objectives continues and will be lasting.

His deepest beliefs about the art and science of publishing a successful and effective newspaper are embodied in a section of the Journalist's Creed written by the late Walter Williams, University of Missouri journalism dean:

"I believe in the profession of journalism; that all connected with it are, to the full measure of their responsibility, trustees for the public; that acceptance of a lesser service than the public service is betrayal of this trust.

". . . That the journalism which succeeds best—and best deserves success—fears God and honors man; is stoutly independent, unmoved by pride of opinion or greed of power; constructive, tolerant but never careless; self-controlled, patient; always respectful of its readers but always unafraid.

"Is quickly indignant at injustice; is unswayed by the appeal of privilege or the clamor of the mob; seeks to give every man a chance and, as far as law and honest wage and recognition of human brotherhood can make it so, an equal chance."

HOUSING RECOMMENDATIONS

(Mr. BLACKBURN asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BLACKBURN. Mr. Speaker, last Friday, the House Republican Task Force on Housing released its recommendations for legislation through which to better facilitate federally financed public housing.

These recommendations were the result of lengthy investigation, deliberation and study geared to the necessary goal of assuring that all Americans be properly housed.

It was my privilege to serve as chairman of this task force. My colleagues were: Messrs. Clair W. Burgener, Del Clawson, William Cohen, Andrew Hinshaw, Joe McDade, Carlos Moorhead, George O'Brien, Henry Smith, William Walsh, John Rousselot, and Mrs. Marjorie Holt.

The entire study is hereby submitted

for the Record in order that all Members of this body may have an opportunity to give it the study which, in all respect, I believe it deserves:

HOUSING TASK FORCE RECOMMENDATIONS

Congress has not passed an omnibus housing bill since 1970. The House Republican Task Force on Housing believes that passage of an omnibus housing bill is long overdue and should be among the highest legislative priorities of this Congress. Republicans have made strong commitments to Federal housing programs, especially those that stimulate and enable the private sector to provide decent, safe, sanitary and suitable housing to *all* Americans. The recommendations below are in keeping with this tradition. They are also in accordance with the Republican goals of achieving improved housing and more effective community development programs. The recommendations are as follows:

COMMUNITY DEVELOPMENT

The Task Force endorses the Better Communities Act as revised and formulated in the Housing Subcommittee of the House.

For a long time, community development activities throughout the country have been praiseworthy in purpose but narrow in scope, largely confined to metropolitan areas, and slow in realizing stated goals. The programs have called for skilled planners. These have been in short supply. Results have been more responsive to red tape and bureaucratic consultation than to economic progress.

The Task Force believes that, if adopted as legislation, the work now being done in concert in the Housing Subcommittee of the House will go a long way towards improving this situation.

The key word is "entitlement." Based on a formula that counts population, over-crowding density, and poverty twice, the Committee has evolved a means to enable community development programs to more fully meet the needs of the entire country, both metropolitan and non-metropolitan.

The formula and its accompanying application will allow HUD and its Secretary to apportion appropriated funds on the basis of need, and in a manner which will allow local self-determination. This is important. Too often, community development has been reduced to a matter of "gamesmanship" in which "who applied and when" seemed of greater importance than the need of the political entity concerned.

This resulted in grants largely to municipalities previously in operation and already endowed with federal funds and denial of funds to new applicants regardless of the *worth of their* petition. Urban counties, regardless of size, density and poverty, were denied representation and entitlement. Under the new formula, they will be entitled to their fair share of federal largesse (if capable of undertaking community development activities and developing a suitable program).

The Task Force believes firmly in local determination. It realizes that the local citizenry and their representatives are the best judges of what activity best suits their immediate needs. The Task Force believes them to be in the best position to establish priorities in this field.

If a sewage treatment plant is their primary need, they will be the first to recognize it. If these local citizens have an oversupply of rental units—decent, safe and sanitary and suitable—they will hardly prefer a public housing project; although they might want the right to institute some Section 23 housing. In both cases, the decision should be theirs.

For this reason, the Task Force recommends that it be spelled out in legislation, and/or that the Secretary be given the flexibility and power to assist the smaller communities (those with 25,000 to 50,000 in population) who, bonded to their legal limit, may be unable to afford what they need so badly: entitlement to embark on one-shot operations suited to their needs, and unencumbered by the requirements of other programs not serving their purpose.

This flexibility could be structured for cities, either outside a metropolitan area or inside it, but apart from the urbanized area with which the Secretary would be primarily concerned.

In all cases, community facility projects would have to fall within definitive standards recommended by the Congress and determined by the Secretary. These, however, should be of such general definition as to be suitable for the community concerned. They should not be what the big city thinks the small city should have, not what the small city thinks the big city should have. Hence, our stress on self-determination and very general bureaucratic guidelines.

There remains a question of transition funding. This would apply during the period between present operations and the institution of the new *entitlement* program. This is not just a question of keeping staffs alive and old programs operating. There is also a matter of commitments made, and the question of state and private aid dependent on the progress of the various community development programs.

The Task Force believes that much of this should lie within the Secretary's judgments. He has the expertise to make the decisions necessary to the ends pursued throughout the country. His judgment should be unfettered. The Office of Management and Budget should not cramp his operations from its ivory tower. The Task Force believes that if the proposed legislation now tentatively agreed to by the Housing Subcommittee is adopted, it will be legislation for a far greater number of communities, in greater amounts, and more equitably distributed than in the past.

SECTION 23 HOUSING

The Task Force recommends expansion of the Section 23 Housing Program. When this program was originated in 1964 by the Republican minority of the Housing Subcommittee, it was bitterly castigated by the HUD administration. In the past decade, however, this Congress-originated program has become the program that has best survived the criticism and problems of subsidized housing legislation of the sixties. It has proved to be the viable program of the sixties according to the *New York Times*. It is the program which HUD has now nominated as its sole housing program for implementation in the foreseeable future; the least expensive, most flexible and best hope for rehabilitation. HUD proposes to build 300,000 units of Section 23 housing, (225,000 new construction; 75,000 existing housing).

HUD also proposes to utilize the program, previously confined to public housing eligibles, among people with incomes above that range; the ratio would be 20% public housing eligibles to 80% above that range. This subsidy would be available on a sliding scale. If the units were suitable, any project of new construction could be 100% for the elderly and/or disabled. Rents, however, are still a matter of dispute. This is due, largely, to the Brooke amendments of 1968 and subsequent years. It is, however, generally agreed that minimum rents must be charged.

At the instance of the Senate, the Congress adopted the various Brooke amendments to the Public Housing Program. Also at the instance of the Senate, it authorized payment of operating subsidies. Housing authorities throughout the nation have been thereby rapidly reduced to bankruptcy, or close proximity thereto. This has occurred despite payment of an operating subsidy of approximately a half billion dollars annually (on top of the already guaranteed amortization of housing authority bonds). Some housing authorities have survived; but they have done so by a general disregard of the letter of the law. Reserves have been depleted; vital maintenance has been neglected. These survival measures are only temporary at best. Soon, the well-intentioned but ill-conceived legislation of 1968 will bring the entire $20 billion program (along with its thousands of projects and tens of thousands of employees) into Federal receivership. The Federal Government may end up paying for the program, or what is left of it at a cost in the billions of dollars over the next 20 to 30 years.

This situation cannot help but damage the Section 23 program.

Therefore, as a matter of first priority, the Task Force urges that the practice of permitting zero or negative rents be eliminated; that all tenants must pay a minimum rent. It recommends further, that this be in an amount at least sufficient to cover a substantial portion of the costs of utilities and operating expenses.

Previously, some tenants were not required to pay rent on the grounds that all of their income was derived solely from welfare. There have even been cases where the housing authorities were forced to pay a portion of the utilities, while not charging rent. The Task Force recommends that this practice be ended as impractical and inequitable; a policy calculated to persuade tenants owing rent to refuse to pay it. Some tenants have very low pensions or are existing on Social Security. It is unrealistic and unfair to expect them to pay rent while not collecting rent from tenants who are welfare recipients who may be receiving larger amounts of money. This has led to large delinquencies in the rent rolls, a major factor in the deterioration of the public housing program.

When public housing rent collections are down, as they have been under the legislation enacted in 1968, payments in lieu of taxes (which are 10% of the shelter rents collected) are also down. In many instances, these payments, which go to the municipal entity under which the local housing authority operates, have been cut by more than half. In the case of the larger authorities, this means a loss to the municipal budget losses of millions of dollars and often causes a disinclination by city or county to supply required municipal services.

The Task Force also recommends that much of the old Section 23 program be retained. It worked well in its original form. Attempts to amend its purpose and change its base have not been fruitful. The practice of expanding its subsidy—when the present program has been unable to host the demand for Section 23 units—is a sad commentary on the bureaucracy's lack of wisdom and sense of economy.

Section 23 units are those supplied by the private sector. It should not be necessary to pay taxes, maintenance and management fees for them if a fair market rental is allowed, and if the Federal government is paying most of that by subsidy.

With the bi-partisan backing that this Republican originated program has enjoyed since its inception, the Task Force is inclined to believe that expansion of its use into the conventional public housing market field is inevitable. It would remind the Congress and the Executive Branch that Section 23 was based on use of existing housing. This is what practically all witnesses coming before the Housing Subcommittee these past two years have recommended. This has led to a great deal of rehabilitation. It has made use of some of the great untapped resources of the country. At the same time, rehabilitation and use of existing housing have stopped, at least temporarily, the housing abandonment which has cursed many of our cities.

The Task Force recommends that if the Section 23 program is utilized and expanded, (other than in the case of the elderly and disabled) into the field of subsidized housing, and beyond the province of public housing, the amount of units to be occupied by public housing eligibles be restricted to 20%. Public housing experience has shown that, at this level, the program can hold lower income tenants and those above that level. If this level of income occupancy is not maintained, if management is not selective, properties become a probelm to rent, harder to maintain, and beset by a host of other management problems.

Many proposals to expand Section 23 emphasize new construction, not existing housing, the principle upon which the Section 23 program was founded and upon which it operated well until the commitment to pay operating expenses was made in 1968. Some years ago, the Joint Economic Committee commissioned from the Urban Institute a study which covered some 30 housing authorities and seven of the more active states in the public housing field. In summary, the conclusions of the study were that, through use of existing housing, the program was working well and would continue to do so on a short term basis. The Institute advised against longer term new construction as the more expensive and more uncertain. The Task Force believes this advice should be heeded.

The Task Force recommends that more county housing authorities be established and encouraged to enter the Section 23 field, particularly with regard to the elderly residents. The county operation is already well established in law as an entity. In the more sparsely populated areas, and in small towns of the West and Midwest, an immense resource of usable vacant housing exists in communities that are losing population. County housing authorities are able to give closer supervision of such housing than can be provided by either the city or the state. The city is limited in jurisdiction. The state is too far removed from the existing housing resource to provide adequate supervision.

As has been pointed out of late, the majority of the nation's dilapidated and deteriorating housing stock (according to available records and testimony from HUD), lies in the countryside. An immense resource is available here through rehabilitation. The costs would be much less than that now expended on the low income poor and the elderly of the cities.

The Task Force welcomes the proposal to establish state housing agencies in this field and to contract with them and with other entrepreneurs to include local housing authorities. The fact that half of the 50 states are, or are about to establish state housing authorities (22 have established them; five are moving to establish them) is sufficient to contract with them in this field. The National Governors Conference staff seeks 40 year bonds guarantees and subsidies for unoccupied units. At this time, the Task Force is *not* ready to endorse this principle. This is a potentially burdensome commitment for the Federal taxpayer, particularly in view of the present commitment to payment of *both* amortization and operating expenses to local housing authorities.

Turnover in public housing is sufficiently large so that the entire one million plus families living in the projects could be replaced in a five year period. Some families stay longer than five years, but many more leave in much less time. The 40 year guarantee of a lease, even to a state housing authority, amortization and operation expenses is more than the program warrants. Long before the 40 year term has ended, changing patterns of life and lifestyle could leave the Federal Government paying for vacant units; or, as in the case of the Pruitt-Igoe project in St. Louis, for non-existent properties that neither the Federal Government, nor its state counterpart, nor the private entrepreneur desires.

HOUSING ALLOWANCES

The Task Force supports continuation of the Administration's experimental housing allowance program. It recommends that the Secretary investigate the potential and possibilities for tying a national housing allowance program into a comprehensive welfare reform package. The Task Force feels that welfare reform, not subsidized housing programs, may prove the most effective means of attacking the poverty problem.

HOUSING FOR THE ELDERLY

The House Republican Task Force on Aging has done commendatory and pioneering work in the area of housing for the elderly. The Housing Task Force supports the main thrust of the Aging Task Force proposals. It reiterates the urgent need to expand Federally subsidized housing opportunities for the aged.

Many elderly persons do not have sufficient income to purchase adequate housing. Of the 12.4 million households with heads aged 65 and over, almost half have incomes under $3,000. Many of these persons have *incomplete plumbing,* live in dilapidated units, and are otherwise unable to purchase the housing they need to meet their minimal needs.

Many of the aged who have adequate housing must spend an excessive share of their total income on housing. A substantial portion of the elderly devote more than 35% of their income to shelter. There are even cases where more than 100% of an elderly person's income is spent on housing, necessitating the use of accumulated savings. The cost of housing places the aged in an especially onerous position when the cost of goods and services in other sectors (e.g. food and health) rises at a rapid pace.

A third problem is the lack of adequate housing for those who are unable to afford it. The demand for elderly housing generally exceeds the supply. A survey by the Senate Subcommittee on Housing for the Elderly revealed that, at minimum, one elderly person was on a waiting list for every unit occupied. Even this figure is low. Many elderly persons are discouraged from even applying, due to long lists and small chances of eventually receiving aid, not to mention the psychological stress of being held in limbo for a long period of time.

A housing program for the elderly must assure that the elderly have sufficient income to purchase decent housing and provide for a strong construction program to ensure adequate supply. In accordance with these goals, the Task Force on Housing makes the following recommendations to alleviate the housing problems of the elderly:

1. In an effort to attain the 1971 White House Conference on Aging goal of 120,000 units of elderly housing per year, a sizeable proportion of the Section 23 lease-back program units should be allocated specifically for housing for the elderly. Under Section 23, Local Housing Authorities are permitted to lease apartments from private owners, and, in turn, sub-let them to low-income persons at reduced rates. To meet the needs of the elderly, Local Housing Authorities should be authorized to lease up to 100% of the suitable units in an apartment building to those persons over the age of 65. These arrangements should be given a high priority.

2. The Task Force recommends that direct loans under section 202 of the Housing Act of 1959 be eligible for refinancing under Section 236 of the National Housing Act. This initiative has been proposed by Rep. Ben Blackburn, Chairman of the Housing Task Force. To prevent abuses and ensure that government funds go to the intended beneficiaries, such a project should be occupied exclusively by elderly or handicapped families during any period in which assistance payments are made.

In the event that the Congress should decide that the Section 2356 program is no longer viable, HUD should begin to investigate the possibilities for an ongoing direct loan program to assist in meeting the housing needs of the elderly. This program should have minimal budgetary impact. The "Housing for the Elderly Act of 1973" introduced by Rep. Margaret Heckler, provides a model upon which such a program could be patterned.

3. Elderly persons should be given relief from excessive tax burdens.

Prior to 1964, the Internal Revenue Code did not provide for an exemption from capital gains for the elderly person who wished to sell his home and move to a smaller, less costly accommodation, investing the gain from the sale to provide for retirement. In the 1964 Revenue Act (Section 121, Internal Revenue Code), Congress provided that any gain realized by an elderly taxpayer on a house sold for under $20,000 would not be taxed, and that only a portion of the gain on homes sold for more than $20,000 would be taxed. This exemption should be increased to $50,000.

The prime advantage of this provision would be an added incentive to an elderly taxpayer who is "over-housed" to move into smaller, less costly accommodations. The elderly taxpayer's home could then be utilized more fully, and more appropriately, by a larger family. The prime disadvantage of this provision is the tax loss to the Treasury, which, according to the Internal Revenue Service, would be about $15 million.

Many elderly persons pay property taxes that total a substantial portion of their income. The Housing Task Force supports the Administration's proposal for a refundable property tax credit for the elderly which would allow low- and middle-income homeowners and renters, age 65 and older, a credit against their Federal income taxes—where payments of residential real property taxes are excessive in relation to their incomes. Those eligible would be able to take a credit for the amount of real estate taxes in excess of 5% of household income—subject to the limitation that the total credit could not exceed $500. If the amount of the credit exceeded the taxes owed to the Federal Government, the household would be reimbursed for the difference. Elderly renters would likewise be eligible for the credit. The Treasury Department estimates that this proposal would cost $600 million.

4. Safety, security and fear of crime are major problems for the elderly, especially in Federally-assisted housing projects. Anthony Downs asserts that programs to increase personal security and reduce the fear of crime may be the most effective housing programs. HUD should initiate a program to provide increased security and safety in Federally assisted housing. It should act in concert with the Department of Justice in finding ways of reducing the fear of crime, especially in inner city neighborhoods.

5. The Housing Task Force endorses Sen. Robert Dole's proposal to provide demonstration models of living arrangements for severely handicapped adults as an alternative

to institutionalization and to coordinate supportive services necessitated by such arrangements. Hopefully, these models will provide future guidance for ways of reducing the numer of elderly forced to live in institutions.

6. By law, public housing authorities have been unable to provide housing designed to meet the special medical and other needs of the elderly. The Secretary of HUD should be given the authority to construct congregate housing in which residents share common kitchen facilities and are provided interim assistance for emergency medical care. The Secretary should investigate means of further encouraging congregate housing in private and non-subsidized housing projects.

7. The Task Force supports the Administration plan to continue formulating implementation of the housing allowance for those eligible for Supplemental Security Income payments. The final decision to proceed on this proposal must be based on more adequate data than are now available. In the absence of such data, HUD must rely mostly on a strong housing construction program involving Section 23 leased housing and Section 202 housing for the elderly.

AN INDEPENDENT FEDERAL HOUSING ADMINISTRATION (FHA)

For nearly a decade, the Task Force has watched with increasing alarm the slide, born of well-intentioned legislation, of the Federal Housing Administration into the subsidy housing field. The principle of mutual support which, to date has cost the government nothing, paid its own expenses, and created millions of homeowners throughout the country, *is* about to be submerged into a debt-ridden operation that will require billions of taxpayers' money.

The Task Force contends that the FHA does not belong in the subsidy operation and should be separated from it. It believes that FHA cannot remain in the HUD complex without being taken over by the subsidy operation. The Task Force believes, therefore, that FHA must set up on its own in order to survive. To do otherwise is to ensure murderous competition between subsidized and unsubsidized builders, with the unsubsidized housing certain to get the worst of it due to the resulting inflationary spiral.

Consequently, in keeping with the recommendations of Rep. Blackburn of Georgia, the Task Force strongly suggests the following:

First, create an independent Federal agency for the purpose of administering the sound, unsubsidized mortgate insurance functions of the Federal Housing Administration;

Second, charge this new agency with the responsibility of maintaining sound standards of property and credit underwriting and of maintaining a self-supporting operation;

Third, transfer to the new agency the appropriate insurance reserves and related liabilities of FHA's unsubsidized programs, including the Treasury backstop of the agency's debentures; and

Fourth, provide authority by which the new agency could handle the mortgate insurance requirements for housing for which subsidies may be granted, with the provision that such housing subsidies would be administered by different agency of the Federal Government.

This would separate the subsidy operation of HUD from its nonsubsidized operation to their mutual benefit and that of the taxpayer. The FHA homebuyer, who pays a premium for the government's services and support, would have the assurance that his payments were going only to his own and other mutually protective homebuyers. He would know that the government was not using his contributed funds for homes for subsidy purposes while other homebuyers, not using FHA, were not so charged or taxed.

The Task Force's chief purpose here is to preserve the solvency of the Mutual Mortgage Insurance Fund. The President's recent Budget Message indicates that the status of the reserves of FHA's four insurance funds is as follows:

[In millions of dollars]

	1973	1974	1975
Mutual mortgage insurance fund	1,755	1,836	1,912
Cooperative management housing insurance fund	23	22	21
General insurance fund	−137	−413	−715
Special risk insurance fund	−320	−485	−810
Total	1,321	960	408

It is clear that a merger of these four funds, as proposed by the Housing and Urban Development Act of 1973, H.R. 10036, which the Housing Subcommittee is now considering, will assure that appropriations will soon be needed, as losses of the general and special risks funds quickly deplete the assets of the Mutual Mortgage Insurance Fund. This latter fund has always paid its own way and requires no Treasury borrowing. It is the basis for the creation of the new independent insuring agency.

A separate Federal agency should not be anathema to the Congress, nor the Administration. Such independent agencies often have been created before, the Federal Home Loan Bank Board being a classic case in point. The Board was a part of HHFA before it was made an independent agency by the Housing Amendments of 1955.

Preserving and strengthening of HUD's basic insured programs would provide the basis on which we could halt the severe decline in housing starts. Total FHA insured loans have been decreasing at an alarming rate for the past year; FHA activity is now at its lowest point since 1951. 1973 figures show only 83,000 unsubsidized and subsidized new units insured, with only a small portion of this total being unsubsidized. This trend cannot be permitted to continue.

The purposes of the subsidized and unsubsidized markets are different. One is concerned solely with homeownership. The other deals largely with a rental market. It has yet to cope with maintenance problems of a large magnitude, let alone equity in the homeowner field.

These problems require different methods and differently oriented personnel. Their construction problems, their financing problems, their management problems—all require different approaches and solutions. To expect HUD to switch its employees from one to another with success is to expect the impossible.

MOBILE HOME AND RECREATIONAL VEHICLE SAFETY

Some idea of the increasing dependence of U.S. citizens on the mobile home industry for housing can be gained from the following facts:

The mobile home and recreational vehicle industries are among the fastest growing in the country. More than 7 million persons now live in mobile homes; 95% of all homes sold under $15,000 are mobile homes; 3.7 million recreational vehicles (motor homes, travel trailers, camper trailers and pickup campers) are now in use. In 1972, 600,000 mobile home units and 525,100 recreational vehicles were manufactured.

With this expansion have come certain hazards, such as wind and fire. At present, a mobile home is almost four times a liable to fire loss as the conventional home. The mortality rate is almost as high.

Some of the hazards are structural. Flammable materials and exit locations are particular hazards. The shape and mobile nature of the product may make it immediate prey of sudden winds.

The Task Force realizes that there is no absolute means, legislative or otherwise, to remove these hazards entirely. There are means, however, to reduce them and, by federal law, provide a greatly increased measure of safety. For this, the Task Force believes there is general widespread support among manufacturers, purchasers, operators and state public safety officials.

The Task Force realizes, however, that state laws and state and local enforcement agencies have been unable to cope with the problem. For one thing, the products are built in one state and used in others. Their mobile nature has them crossing state lines and jurisdictions with rapidity. The Task Force desires in no way to recommend that Federal law impede or encroach on state activity if it is adequate and operating within its jurisdiction. Therefore, the Task Force proposes a blending of Federal and state responsibility in this area.

This Task Force has been well embodied in the proposals which, with considerable bipartisan support, Rep. Frey of Florida placed before the House of Representatives.

These proposals recognize the necessity of establishing uniform safety standards and minimum state enforcement requirements. In the case where the latter are adequate and operating efficiently, there would be no need for Federal activity.

That there is a difference between mobile homes and recreational vehicles, both as to construction and usage, is recognized by the Task Force. Both products, however, stem from the same group of manufacturers and could be regulated together from an inspection standpoint.

There is a role here for both the Department of Housing and Urban Development and the Department of Transportation. The first is concerned primarily with construction; the second with operation. Universal standards need to be set for both. The National Highway Traffic Safety Administration could handle the tasks assigned to DOT. HUD should set up a National Institute for Mobile Homes and Recreational Vehicle Safety to handle its responsibility under the proposed legislation. A majority of each council would consist of representatives of the general public. Added representation would come from manufacturers, insurers, dealers, and allied interests of national standing.

Research, testing, development and training would be authorized to produce the necessary factual base and technology on which the development of Federal safety standards would be bases. Presently, there are no national statistics on which to base standards. There are, however, many resources, public and private, which can be tapped for adequate safety standards. The criteria to be employed in developing the standards could be as follows:

(1) Consider relevant, available mobile home and recreational vehicle safety data, including results of research, development testing and evaluation activities conducted pursuant to this Title, and those activities conducted by nationally recognized standards—producing organizations to determine how to best protect the public;

(2) Consult with such Federal, State or Interstate agencies (including legislative committees) as is deemed appropriate;

(3) Consider whether any such proposed standard is reasonable, practicable and appropriate for the particular type of mobile home or recreational vehicle for which it is prescribed;

(4) Consider whether any such standard

will result in a substantial increase in the retail price of mobile homes or recreational vehicles;

(5) Consider the extent to which any such standard will contribute to carry out the purpose of this Title.

Once standards have been promulgated, every manufacturer of a mobile home or recreational vehicle would be required to submit detailed plans and specifications of each model to the Secretary for approval. HUD preapproval would catch many of the safety hazards. If the manufacturer follows the plan as approved, he would not be held in violation of Federal standards.

The Federal standards would be enforced by the States if they submitted approved plans for enforcement. The State plan would be approved if it:

(1) Designates a State agency or agencies as the agency or agencies responsible for administering the plan throughout the State;

(2) Provides for a right of entry and inspection of all factories, warehouses or establishments in such State in which mobile homes or recreational vehicles are manufactured and which is at least as extensive as that provided by federal law;

(3) Contains satisfactory assurances that such agency has, or will have, the legal authority and qualified personnel necessary for effective enforcement of such standards;

(4) Give satisfactory assurances that such State will devote adequate funds to the administration and enforcement of standards;

(5) Requires manufactures, distributors and dealers in such State to make reports to the Secretary in the same manner, and to the same extent, as if the State plan were not in effect;

(6) Provides that the State agency will make such reports to the Secretary in such form, and containing such information, as the Secretary shall require from time to time.

Grants of up to 90% are recommended to States to assist them in developing State enforcement plans. Grants up to 50% could be made to assist States in administering and enforcing such plans.

Since a number of States do have effective enforcement programs, every effort should be made to utilize that experience and encourage other States to enforce the Federal standards.

If the States have no desire to enforce the Federal standards, enforcement will be by the National Highway Traffic Safety Administration.

URBAN HOMESTEADING

Urban Homesteading is one of the more promising and innovative ideas for arresting accelerating abandonment of housing in the inner cities. Presently, the Department of Housing and Urban Devlopment holds title to over 70,000 vacant single family dwellings nationwide. Many of these are in good structural condition. Under an Urban Homesteading program, individuals would be given title to abandoned homes for a nominal fee. In return, they would promise to repair and rehabilitate them, and live in them, for a set period of time (usually five or more years).

Urban Homesteading has several advantages. It would ease the shortage of low-income housing by salvaging homes which, otherwise, would remain abandoned for lack of rehabilitation. Middle and lower income persons would be able to purchase structurally sound homes at a cost they can afford. At the same time, Homesteading would help reduce HUD's inventory of houses and save the Department hundreds of thousands of dollars annually.

Rehabilitation is an expensive process. It requires a certain degree of expertise on the part of the owner. There might be neither enough homesteads available nor enough applicants to make a significant dent in the stock of the country's abandoned houses. In many instances, however, Homesteading could halt the process whereby a handful of abandoned houses eventually leads to deterioration of entire neighborhoods. The most important impact of Homesteading may not be in terms of raw numbers of homes rehabilitated, but in terms of the psychological effect on neighborhoods where abandonment is a problem. The sight of homesteaders moving into abandoned housing with a long term commitment to making a neighborhood viable could do much to restore confidence in declining areas.

Homesteading by itself is no panacea for inner city ills. However, when properly managed, it offers promise of an important contribution to stemming and reversing the abandonment process.

Homesteading programs are in the planning or initiation stages in several cities, notably Wilmington, Baltimore and Philadelphia. Initial indications are that Homesteading can be a viable option for improving the quality of existing housing stock. Reps. Marjorie Holt and Joe Pritchard have introduced Urban Homesteading legislation to expand and augment present efforts. The Task Force supports this Republican initiative and urges its immediate adoption.

ENERGY

The current energy shortage has focused national attention on the need to incorporate energy conservation measures and techniques into residential buildings. Residencies consume over 12% of the nation's annual energy supply or over 8 quadrillion BTU's per year. There are no precise estimates of energy waste, but the National Bureau of Standards estimates that past building practices have lead to an estimated annual waste of energy equivalent to about 456 million tons of coal, or 65 billion gallons of oil, or 9 trillion cubic feet of natural gas. Failure to reduce thermostats at night, improper insulation, excessive use of air conditioning, and inefficient appliances are all responsible for this huge energy waste. Estimates indicate that up to 20% of heating and air conditioning requirements can be saved with more adequate insulation alone. Better building materials and design may also make a significant contribution.

The Department of Housing and Urban Development can help promote development and widespread implementation of energy conservation techniques. Several proposals have been made to achieve this goal.

Several Democrats have advocated providing a tax credit for home repairs or improvements that save energy. However, even if the credit is only marginally successful in increasing expenditures significantly, the Treasury estimates that a 100% credit with a $1,000 limit might cost $2.5 billion or more. This, clearly would be an extravagant raid on the U.S. Treasury; a tax incentive probably would be only minimally effective. In response to higher prices, taxpayers can be expected to take the necessary steps in the areas of home insulation and replacement of inefficient appliances and heating or cooling systems. A tax incentive would probably produce little additional activity of this type that would not have taken place in its absence.

A much cheaper and better way of assuring that homeowners and landlords have adequate opportunity and funds to initiate energy saving home alterations would be to establish a Federally insured, direct low-interest (5%) loan program to assist homeowners and other owners of residential structures in purchasing and installing more effective insulation or heating equipment. Authored by Rep. Bill Cohen, this proposal has been introduced in the House.

In approving mortgages or loans, the Secretary should be authorized, but not required, to encourage the use of materials, devices and products which contribute to energy conservation.

We recommend that the Secretary of HUD should undertake a study to determine the most effective means of *implementing* the many energy saving techniques and devices that have been and will be developed.

Finally, the Secretary should initiate a program of disseminating full, complete and current information concerning the most up-to-date methods of energy conservation in the home.

Energy conservation is essential if the housing industry is to remain healthy and vigorous. The recent shortages indicate that without significant energy savings in existing residential dwellings, new housing construction may have to be drastically curtailed. The Department of Housing and Urban Development needs to take affirmative action to foster energy savings in order to avert a future downturn in the housing industry.

THE MATERIAL CRISIS

The United States faces a potential materials crisis involving severe shortages of key natural resources. Housing is one of the industries that may be most affected because it is dependent on such a wide variety of minerals and materials. An acute shortage of any mineral or other natural resource could cause a drastic recession in the housing industry, possible crippling it for a prolonged period. To avert potential disaster, the housing sector, public and private, must take joint action to assure a continued adequate supply of all vital materials, minerals and natural resources.

In cooperation with the Department of the Interior, the Department of Housing and Urban Development should undertake an intensive, far-reaching study, and launch a national program for discovering ways of guaranteeing adequate supplies of all materials used in the production of housing. This program should cover at least the following areas:

1. Establishment of a national resource information system to assess this country's natural resource position and aid the private sector in discovering resources that are or will be in short supply. This system should provide for collection, organization, standardization, coordination and disseminaton of information regarding supplies of raw materials essential to industry.

2. An investigation of methods for increasing domestic capacity for the production of minerals and resources in short supply. The United States is presently 50–100% dependent on foreign sources for minerals such as aluminum, asbestos, tin and nickel. Housing is not directly nor greatly dependent on many of these minerals, but shortages of these minerals could result in serious shortages of certain key parts for residential dwellings and disruption of key industries that supply essential housing products.

3. Development of means of substituting natural resources for other resources in the event of serious shortages. HUD could attempt to find substitutes for wood, aluminum, copper, gypsum and other housing products that might eventually be in short supply because of natural emergencies, foreign instability or transportation problems.

4. Encouragement of greater conservation and recycling of building materials. Shortages could be greatly alleviated by increased dependence on recycling, conservation and rehabilitation of existing housing. Recent price increases make recycling far more eco-

nomical. Government action may be needed to break wasteful practices and set up networks to handle the transport of recyclable material. By increasing the available supply of materials, conservation and recycling would also help keep down raw material prices.

The natural resource of greatest importance to the housing industry is timber. The Task Force feels special consideration should be given to increasing the timber supply to meet demand and reduce rising construction costs. During the past three years, timber harvests have fallen below expectations. This must be reversed if the housing sector is to remain healthy.

One of the major reasons for the disappointing harvests has been inadequate funding for and reduction of U.S. Forest Service personnel. This has resulted in poor forestry management and conservation practices. The Task Force endorses an increase in the Forest Service's budget for Fiscal Year 1975 to assure that appropriate forest management programs are initiated to relieve the immediate shortage. For the years after FY 75, additional funds should be made available to allow full and effective forestry management on an intensified basis. Good management could increase yield by as much as 50–100%. It could increase the amount of land that can be safely harvested without extensive environmental damage. At the same time, it could assure that the nation will not be forced to use valuable recreation land to guarantee an adequate timber supply.

The Forest Service should initiate accelerated programs of timber growing in national forests. The objective of accelerated programs is to increase growth of wood on national forests for harvest in future decades. Funds provided in this manner for forest development are an investment, not an outlay. They should return to the Treasury more than the initial cost.

To assure that there are sufficient Federal funds for the Forest Service and to encourage improved forest management and accelerated programs of timber growing, a Timber Trust should be created. This should parallel and resemble other Federal trust funds (e.g. airport, health insurance and highway). Money for the fund would come from receipts from sale of timber rights on Federal lands.

To curb short-term fluctuations in lumber supply and ward off possible shortages, the Secretary of HUD, and the Forest Service, with the help of private industry, should conduct periodic reviews and analyses of the prospective demand and supply situation for the various wood products.

The Task Force fully supports the recommendation of the President's Advisory Panel on Timber and the Environment that the Federal government maintain incentive programs to encourage private landowners to follow forest management programs which protect the environment and increase future timber supplies. These programs should maintain Federal income tax incentives, include advice and services to forest owners and their associations, and encourage cost-sharing for intensive forest management practices. This should include provisions for seedlings.

The present freight car shortage severely hampers the transport of timber to areas in which lumber is in greatest demand. The Interstate Commerce Commission should take immediate steps to seek ways of increasing freight car production and improving the flow of cars to and from timber producing areas.

HUD and the Forest Service should prepare a comprehensive, long-range nationwide program of forest development and timber supply. In accordance with the recommendations of the President's Advisory Panel, the program should include the following:

Expansion of recreation and wilderness areas where appropriate; protection of water supplies; protection of fragile soils and erodible steep slopes by their withdrawal from timber harvest; protection of wildlife including rare and endangered species of plants, animals and birds; improved utilization of wood fiber for all its varied uses; assistance to owners of private forest lands in the management of their forests for increased output; and harvesting of timber from the national forests on a schedule commensurate with their productive capacity and sufficient to make their proportionate contribution to national timber needs.

EXECUTIVE PRIVILEGE

(Mr. MOSS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MOSS. Mr. Speaker, attached to my remarks is a column by Clark R. Mollenhoff, a veteran of many years in the battle against the excesses of secrecy in Government and an opponent of the unsupportable doctrine of executive privilege.

Clark Mollenhoff appeared before the then Special Subcommittee on Government Information of the House Committee on Government Operations during the first hearings conducted by it in 1955 as part of a panel of knowledgeable spokesmen for the media asked to advise the committee on the nature of withholding practices in the executive departments and agencies of the Federal Government. As the chairman of that subcommittee from its inception until required by caucus rule change to yield it, it has been my privilege to closely associate myself with the efforts of Mr. Mollenhoff to knock down dangerous doctrines and challenge irrelevant precedents.

In 1955, Mr. Mollenhoff warned the committee of the danger inherent in a claim of executive privilege as a barrier to congressional or public access to information. Time has proven how wise those remarks of Mr. Mollenhoff in 1955 were.

I commend his column to my colleagues as another example of his incisive understanding of the true nature of the problems of executive privilege in obtaining information.

EVILS OF "EXECUTIVE PRIVILEGE" EVIDENT IN TRANSCRIPTS

(By Clark R. Mollenhoff)

WASHINGTON.—If President Nixon wished to demonstrate the evils inherent in the arbitrary secrecy of "executive privilege," the best documentation he could choose would be the 1,300-page transcript of conversations about the Watergate cover-up.

For the shallow, venal, conspiratorial conversations of Nixon with H. R. "Bob" Haldeman, John D. Ehrlichman and John W. Dean III, represent government decision-making at its worst.

It was what critics of the doctrine of executive privilege have warned for years could happen if any president pulled down a secrecy curtain on Congress and the courts, where no effective review of presidential decision making could have been made by an independent source.

President Nixon and his most intimate advisers believed that they could impose complete secrecy on discussions in the Oval Office, and by use of executive privliege could preserve secrecy of "confidential deliberation" in the face of any congressional investigation or any inquiry by the courts.

Raoul Berger, a senior fellow at Harvard and a leading authority on executive privilege, has warned for years that such total secrecy would make it possible, and even probable that the baser instincts of political partisanship and cronyism would dominate decisionmaking if there was a lack of accountability.

Now, Nixon has dramatized Berger's point in a way that the Harvard scholar could not have visualized when he was completing his definitive book on executive privilege a few months ago.

The book, "Executive Privilege—A Constitutional Myth" (published by Harvard University Press), is a sweeping indictment of William P. Rogers, who created "executive privilege" out of whole cloth in the Eisenhower administration, and gave it a phony constitutional parentage based upon bad history, bad law and incredibly poor logic.

Rogers, a deputy attorney general and as attorney general in the Eisenhower administration, devised and promoted executive privilege to give an aura of constitutional respectability to blatant coverups of crime and mismanagement, and later as secretary of state in the Nixon administration he used it effectively to refuse to be accountable to Congress.

Rogers' example made President Nixon and his closest White House advisers confident they could put down an impenetrable secrecy curtain at the White House, and the ordeal of Watergate is the result.

Berger's book documents the case studies on the evils of permitting any president the dictatorial power of being accountable to no one.

But nowhere in his massive historic work does Berger use a single case that makes the point on the corrupting impact of secrecy as vividly as it is made in the edited Nixon conversation transcripts.

In preparing us for the release of the transcripts, Nixon again emphasized the importance of the confidential advice he receives from his aides in making the necessary decisions for successful domestic programs and foreign policy making.

Throughout this administration, he has given the impression of thorough, systematic studies of facts and law, but when Nixon-edited transcripts were published we find no systematic effort to discover all facts of the Watergate burglary of June 17, 1972.

Instead, we find crafty, dishonest efforts to learn what the U.S. attorney's office and the FBI might develop from sources that could not be controlled or coerced into a preconceived "scenario."

Nixon made no systematic effort to consult the criminal law experts, or the constitutional law experts, to determine what the President should do in carrying out his responsibility that the laws be faithfully executed.

Instead, we find President Nixon fumbling with only a superficial understanding of the law of evidence, and incredible insensitivity to the problems of obstruction of justice.

And, despite White House counsel John Dean's admissions of federal crimes and comments implicating others in the White House, we see the lawyer-President seeking to excuse Dean, and to minimize the degree of involvement of Ehrlichman and Haldeman—the men he knew controlled political and governmental operations for him.

Only after it became apparent that Dean, Jeb S. Magruder, and Fred LaRue, were going to cooperate with the prosecutors did Nixon decide that perhaps it would be necessary to go along with Haldeman and Ehrlichman's scheme to throw former Atty Gen. John Mitchell overboard to save themselves and the President.

Through it all there was only occasional mention of "truth" or "justice" and no mention of the responsibilities they carried as the highest White House officials. One of the most revealing exchanges took place March 21, 1973, after Dean had told the President of Dean's possible involvement in the crime of obstruction of justice:

President: Talking about your obstruction of justice, though I don't see it.

Dean: Well, I have been a conduit for information on taking care of people out there who are guilty of crimes.

President: Oh, you mean like the blackmailers?

Dean: The blackmailers. Right.

President: Well, I wonder if that can be—I wonder if that doesn't—let me put it frankly: I wonder if that [blackmail] doesn't have to be continued? Let me put it this way: Let us suppose that you get the million bucks, and you get the proper way to handle it. You could hold that side?

Dean: Uh, huh.

President: It would seem to me that would be worthwhile.

Dean: Well, that's one problem.

President: I know you have a problem here. You have the problem with [convicted Watergate burglar E. Howard] Hunt and his clemency.

Dean: That's right. And you are going to have a clemency problem with the others. They all are going to expect to be out [of prison] and that may put you in a position that is just untenable at some point. You know, the Watergate hearings just over, Hunt now demanding clemency or he is going to blow. And politically impossible for you to go do it. You know, after everybody—

President: That's right.

Dean: I am not sure that you will ever be able to deliver on clemency. It may be just too hot.

President: You can't do it politically until after the '74 elections, that's for sure. Your point is that even then you couldn't do it.

Dean: That's right. It may further involve you in a way you should not be involved in this.

President: No—it is wrong, that's for sure.

Dean: Well—there have been some bad judgments made. There have been some necessary judgments made.

President: Before the election?

Dean: Before the election and in the wake the necessary ones, you know, before the election. You know, with me there was no way, but the burden of this second administration is something that is not going to go away.

President: No, it isn't.

Then after a discussion of how Haldeman and Ehrlichman might be involved as defendants, and the problem with Hunt testifying in a manner that might cause the issue to come apart before the Ervin committee or the federal grand jury there was this exchange:

President: Suppose the worst—that Bob is indicted and Ehrlichman is indicted. And, I must say, we just better then try to tough it through. You get the point.

Dean: That's right.

President: If they, for example, say 'let's cut our losses' and you say we are going to go down the road to see if we can cut our losses and no more blackmail and all the rest. And then the thing blows, cutting Bob and the rest to pieces. You would never recover from that, John.

Dean: That's right.

President: It is better to fight it out. Then, you see, that's the other thing. It's better to fight it out and not let people testify, and so forth. And now, on the other hand, we realize that we have these weaknesses—that we have these weaknesses—in terms of blackmail.

Dean: That is one general alternative. The other is to go down the road, just hunker down, fight it at every corner, every turn, don't let people testify—cover it up is what we really are talking about. Just keep it buried and just hope that we can do it, hope that we make good decisions at the right time, keep our heads cool, we make the right moves.

President: And just take the heat?

This "hunkering down" to "take the heat" is mirrored in all of the presidential transcripts, in the public statements by Nixon since then, and in the fluctuating positions taken on executive privilege up to including Gen. Alexander Haig's refusal to testify.

The evils of executive privilege could never have been pointed up as effectively by Prof. Berger as has been done by the Nixon-edited transcripts.

Berger commented:

"The transcripts strikingly illustrate the evils that are generated when the executive branch operates on the assumption that 'confidential communications' are shielded by a claim of 'executive privilege'."

The transcripts may not tell the whole story, but the picture is sordid example of what some executives did with the privilege of secrecy.

In his flat refusal to testify on his knowledge of the President's actions and directions relative to the controversial $100,000 cash political contribution to Nixon from Howard Hughes through Charles "Bebe" Rebozo, White House Chief of Staff Haig is getting into a danger area on suppression of material evidence.

There is the same danger of involvement in crime in the massive effort to destroy John Dean as a witness, and those who have any role in this assault on Dean should consult a lawyer—from ouside the White House staff.

FRANKABILITY OF SOLICITATIONS FOR FUNDS

(Mr. UDALL asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. UDALL. Mr. Speaker, by direction of the House Commission on Congressional Mailing Standards, I submit for printing into the Record at this point guidelines affecting the frankability, under the Congressional Franking Act, of Member's solicitation of funds for printing and preparation of newsletters.

EXPLANATION AND BACKGROUND

The Commission has concluded that the recently enacted franking statutes (Public Law 93–191) do not clearly establish the frankability or nonfrankability of mail matter which includes appeals for donations to help defray the costs of printing and preparing newsletters, questionnaires, and similar material. Therefore, earlier this year in response to several requests for an interpretation by the Commission, it made a preliminary determination that this question would have to be resolved by regulation.

At its meeting of February 21, 1974, the Commission tentatively approved a proposed regulation holding that such appeals are not "official business" within the meaning of these statutes and that, therefore, they could not be included in franked mailings. The Commission requested and received comment on this proposed regulation, and upon review thereon, at its meeting on March 20, 1974, decided that the proposed regulation might have been too narrowly constructed and thus could go beyond its authority under existing law. The Commission proposed a regulation permitting affirmative statements indicating that newsletters were not paid by government funds and expenses were met by voluntary contributions. The Commission intended to take final action on this matter at its meeting of April 3, 1974.

In the meantime, however, the Senate adopted an amendment to S. 3044, the Federal Election Campaign Act Amendment of 1974, which would prohibit the use of the frank for solicitation of, not only newsletter funds, but any funds whatsoever. Proposals going in the opposite direction; that is, affirmatively permitting such solicitations are to be presented to the Committee on House Administration in conjunction with various campaign reform bills currently before it.

In view of the fact that there is now pending legislation which may soon provide the needed clarification as regards the solicitation of funds under the frank, the House Commission on Congressional Mailing Standards has determined that a final solution in this matter should not be attempted at this time. The Commission prefers to defer regulatory action on this matter to see whether the Congress wishes to make a legislative determination during its consideration of S. 3044 and similar measures pending in the House.

However, the Commission wishes to call attention to the specific provision in the law prohibiting the use of the frank, under any circumstances, for the solicitation of funds for political purposes.

The Commission also wishes to advise our colleagues of its interim conclusion that, although the franking statutes need clarification regarding most situations concerning other types of solicitation, it seems clear that the law would not allow mail matter, the sole purpose of which is to solicit funds, to be sent under the frank.

In view of the foregoing, the Commission, at its meeting of May 1, 1974, unanimously adopted the following guidelines:

Guidelines on Solicitation of Funds Under the Frank

1. Mail Matter which solicits funds to support the printing or preparation of newsletters, questionnaires, or other similar printed material, should not be sent under the frank.

2. Mail matter, including newsletters, questionnaires, and other similar printed

material, which is otherwise frankable, should not contain messages which solicit funds, or have the purpose of direct or indirect solicitation of funds, for such newsletters, questionnaires, or other similar printed material.

3. Since many Members now have large mailings in various stages of preparation and mailing and in light of our tentative ruling of March 20, 1974, the Commission decided that these guidelines shall apply only to mail matter prepared on or after June 1, 1974.

Issued in Washington, D.C., on May 14, 1974.

Morris K. Udall, *Chairman*.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

Mr. Matsunaga (at the request of Mr. O'Neill), for this week, on account of official business.

Mr. Carter (at the request of Mr. Natcher), for Tuesday, May 14, and the balance of the week, on account of official business.

Mr. Helstoski (at the request of Mr. O'Neill), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Hanrahan) and to revise and extend their remarks and include extraneous matter:)

Mr. Robison of New York, for 15 minutes, today.

Mr. Broomfield, for 5 minutes, today.

Mrs. Heckler of Massachusetts, for 30 minutes, today.

Mr. Blackburn, for 20 minutes, today.

Mr. Symms, for 30 minutes, today.

(The following Members (at the request of Mr. Jones of Oklahoma) to revise and extend their remarks and include extraneous matter:)

Ms. Holtzman, for 15 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Ms. Abzug, for 15 minutes, today.

Mr. Reuss, for 20 minutes, today.

Mr. Vanik, for 5 minutes, today.

Mr. Podell, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Blackburn and to include extraneous matter notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $888.25.

Mr. Cederberg to include pertinent charts and tables with his remarks today on S. 1752 in the Committee of the Whole during general debate.

(The following Members (at the request of Mr. Hanrahan) and to include extraneous matter:)

Mr. Robinson of Virginia.

Mr. O'Brien in 10 instances.

Mr. Forsythe.

Mr. Young of South Carolina.

Mr. Hosmer in three instances.

Mr. Wyman in two instances.

Mr. Spence.

Mr. Gilman.

Mr. Broyhill of Virginia in two instances.

Mr. Dennis in four instances.

Mr. Kemp in three instances.

Mr. Blackburn.

Mrs. Heckler of Massachusetts.

Mr. Bell.

Mr. Price of Texas.

Mr. Steiger of Wisconsin.

Mr. Rousselot.

(The following Members (at the request of Mr. Jones of Oklahoma) and to include extraneous material:)

Mr. McFall.

Mr. Gonzalez in three instances.

Mr. Rarick in three instances.

Mr. Mazzoli.

Mr. Harrington in 10 instances.

Mr. Evans of Colorado.

Mr. Bingham in five instances.

Mr. Delaney.

Mr. Stark in 10 instances.

Mr. Bolling.

Mr. Gunter in three instances.

Mr. Dellums in 10 instances.

Mr. Thompson of New Jersey.

Mr. Burke of Massachusetts.

Mr. Leggett in two instances.

Mr. Ichord.

Mr. Brown of California in 10 instances.

Mr. Hungate in two instances.

Mr. Vanik in two instances.

Mr. Roush in two instances.

Mr. Burton.

Mr. Nedzi.

Mr. Steed.

Mr. Tiernan.

Ms. Abzug in 10 instances.

Mr. Badillo in five instances.

Mr. Anderson of California in two instances.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 634. An act to declare that certain federally owned lands shall be held by the United States in trust for the Kootenai Tribe of Idaho, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 1411. An act to authorize the Sisseton and Wahpeton Sioux Tribe of the Lake Traverse Reservation to consolidate its landholdings in North Dakota and South Dakota, and for other purposes; to the Committee on Interior and Insular Affairs.

ENROLLED BILL SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 6574. An act to amend title 38, United States Code, to increase the maximum amount of servicemen's group life insurance to $20,000, to provide full-time coverage thereunder for certain members of the Reserves and National Guard, to authorize the conversion of such insurance to veteran's group life insurance, to authorize allotments from the pay of members of the National Guard of the United States for group life insurance premiums, and for other purposes.

ADJOURNMENT

Mr. JONES of Oklahoma. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 12 minutes p.m.), the House adjourned until tomorrow, Wednesday, May 15, 1974, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2314. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Robert P. Paganelli, Ambassador designate to the State of Qatar, pursuant to section 6 of Public Law 93–126; to the Committee on Foreign Affairs.

2315. A letter from the Chairman, U.S. Commission on Civil Rights, transmitting a report on the adequacy of the efforts of the Bureau of the Census to enumerate the Spanish speaking background population in the United States in the 1970 census, pursuant to Public Law 85–315, as amended; to the Committee on the Judiciary.

2316. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend section 905(c) of the Merchant Marine Act, 1936; to the Committee on Merchant Marine and Fisheries.

2317. A letter from the Administrator of General Services, transmitting amendments to the approved prospectuses for public building projects at Lukeville, Ariz., and Laredo, Tex., pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works.

2318. A letter from the Acting Administrator of General Services, transmitting a report on the need and feasibility for construction of a Federal building at Sitka, Alaska; to the Committee on Public Works.

2319. A letter from the Chairman, Renegotiation Board, transmitting a draft of proposed legislation to extend and amend the Renegotiation Act of 1951; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SISK: Committee on Rules. House Resolution 1100. Resolution providing for the consideration of H.R. 12000. A bill to enable egg producers to establish, finance, and carry out a coordinated program of research, producer and consumer education, and promotion to improve, maintain, and develop markets for eggs, egg products, spent fowl, and products of spent fowl (Rept. No. 93–1040). Referred to the House Calendar.

Mr. McSPADDEN: Committee on Rules. House Resolution 1101. Resolution providing for the consideration of S. 3231. An act to provide compensation to poultry and egg producers, growers, and processors and their employees (Rept. 93–1041). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Ms. ABZUG:

H.R. 14752. A bill to prohibit discrimination on the basis of sex, marital status, and sexual orientation, and for other purposes; to the Committee on the Judiciary.

H.R. 14753. A bill to amend title XVI of the Social Security Act to provide for emergency assistance grants to recipients of supplemental security income benefits, to authorize cost-of-living increases in such benefits and in State supplementary payments, to prevent reductions in such benefits because of social security benefit increases, to provide reimbursement to States for home relief payments to disabled applicants prior to determination of their disability, to permit payment of such benefits directly to drug addicts and alcoholics (without a third-party payee) in certain cases, to continue on a permanent basis the provision making supplemental security income recipients eligible for food stamps, and for other purposes; to the Committee on Ways and Means.

By Mr. ADAMS (for himself, Mr. Diggs, Mr. Fraser, Mr. Breckinridge, Mr. Fauntroy, and Mr. Howard):

H.R. 14754. A bill to regulate certain political campaign finance practices in the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. DELLENBACK:

H.R. 14755. A bill to authorize the Secretary of the Interior to construct necessary interim anadromous fish passage facilities at Savage Rapids Dam, Grants Pass Division, Rogue River Basin project, Oreg., under Federal reclamation laws; to the Committee on Interior and Insular Affairs.

By Mr. BROTZMAN:

H.R. 14756. A bill to provide for the development of a long-range plan to advance the national attack on arthritis and related musculoskeletal diseases and for arthritis training and demonstration centers, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. BURTON:

H.R. 14757. A bill to amend title 5, United States Code, to provide that Japanese-Americans who were placed in internment camps during World War II shall be credited for civil service retirement purposes with the time they spent in such camps; to the Committee on Post Office and Civil Service.

By Mr. CARNEY of Ohio:

H.R. 14758. A bill to eliminate the provisions of law which presently prohibit recipients of supplemental security income benefits under title XVI of the Social Security Act from participating in the food stamp and surplus commodity programs; to the Committee on Ways and Means.

H.R. 14759. A bill to eliminate the provisions of law which presently prohibit recipients of supplemental security income benefits under title XVI of the Social Security Act from participating in the food stamp and surplus commodity programs; to the Committee on Ways and Means.

By Mr. CRANE (for himself, Mr. Frenzel, Mr. Huber, Mr. Hudnut, Mr. Lott, Mr. Mitchell of New York, and Mr. Waggonner):

H.R. 14760. A bill to limit the jurisdiction of the Supreme Court and of the district courts in certain cases; to the Committee on the Judiciary.

By Mr. CRANE (for himself, Mr. Baker, Mr. Collins of Texas, Mr. Devine, Mr. Dickinson, Mr. Gross, Mr. Huber, Mr. Hudnut, Mr. Lott, Mr. Mitchell of New York, Mr. Rousselot, and Mr. Waggonner):

H.R. 14761. A bill to limit the jurisdiction of the Supreme Court and of the district courts in certain cases; to the Committee on the Judiciary.

By Mr. CORMAN (for himself and Mr. Pettis):

H.R. 14762. A bill to amend the Tariff Schedules of the United States to provide duty-free treatment of any aircraft engine used as a temporary replacement for an aircraft engine being overhauled within the United States if duty was paid on such replacement engine during a previous importation; to the Committee on Ways and Means.

By Mr. DEVINE:

H.R. 14763. A bill to amend the Internal Revenue Code of 1954 and certain other provisions of law to provide for automatic cost-of-living adjustments in the income tax rates, the amount of the standard, personal exemption, and depreciation deductions, and the rate of interest payable on certain obligations of the United States; to the Committee on Ways and Means.

By Mr. ESCH:

H.R. 14764. A bill to amend the Internal Revenue Code of 1954 to provide that advertising of alcoholic beverages is not a deductible expense; to the Committee on Ways and Means.

By Mr. FOUNTAIN:

H.R. 14765. A bill to amend the Fair Labor Standards Act of 1938 to provide an exemption from minimum wage and overtime coverage for babysitters; to the Committee on Education and Labor.

By Mr. FRASER:

H.R. 14766. A bill to amend title XVI of the Social Security Act to provide for emergency assistance grants to recipients of supplemental security income benefits, to authorize cost-of-living increase in such benefits and in State supplementary payments, to prevent reductions in such benefits because of social security benefit increases, to provide reimbursement to States for home relief payments to disabled applicants prior to determination of their disability, to permit payment of such benefits directly to drug addicts and alcoholics (without a third-party payee) in certain cases, and to continue on a permanent basis the provision making supplemental security income recipients eligible for food stamps, and for other purposes; to the Committee on Ways and Means.

By Mr. HANLEY:

H.R. 14767. A bill to amend the Internal Revenue Code of 1954 to allow a divorced or separated taxpayer in certain cases to deduct certain expenses for the care of a child of the taxpayer who is in the taxpayer's custody and with respect to whom the taxpayer is not entitled to a dependency deduction; to the Committee on Ways and Means.

By Mr. HANNA:

H.R. 14768. A bill to amend title II of the Social Security Act so as to liberalize the conditions governing eligibility of blind persons to receive disability insurance thereunder; to the Committee on Ways and Means.

By Mr. HEINZ (for himself, Mr. Burgener, and Mr. Wright):

H.R. 14769. A bill to establish a National Center for the Prevention and Control of Rape and provide financial assistance for a research and demonstration program into the causes, consequences, prevention, treatment, and control of rape; to the Committee on Interstate and Foreign Commerce.

By Mr. HEINZ (for himself and Mr. Rogers):

H.R. 14770. A bill to establish a National Center for the Prevention and Control of Rape and provide financial assistance for a research and demonstration program into the causes, consequences, prevention, treatment, and control of rape; to the Committee on Interstate and Foreign Commerce.

By Mr. HOGAN:

H.R. 14771. A bill to amend the Controlled Substances Act to provide for a mandatory life sentence for the illegal distribution of certain narcotic drugs, to permit parole only after a certain number of years of the sentence, to provide for research into the effectiveness of this life sentence, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Ms. HOLTZMAN:

H.R. 14772. A bill to amend title XVI of the Social Security Act to provide for emergency replacement payments to recipients of supplemental security income benefits, to authorize cost-of-living increases in such benefits, to insure that all beneficiaries receive such increases, to prevent reductions in such benefits because of social security benefit increases, to provide reimbursement to States for home relief payments to disabled applicants prior to determination of their disability, to permit payment of such benefits in limited circumstances directly to drug addicts and alcoholics (without a third-party payee), to restore food stamp eligibility to all supplemental security income recipients, to provide for expeditious action on applications for benefits, to amend eligibility requirements for separated spouses, to allow judicial review of eligibility determinations and for other purposes; to the Committee on Ways and Means.

H.R. 14773. A bill to amend section 214 of the Internal Revenue Code of 1954 to provide a deduction for dependent care expenses for married taxpayers who are employed part time, or who are students, and for other purposes; to the Committee on Ways and Means.

By Mr. LENT:

H.R. 14774. A bill to amend the Occupational Safety and Health Act of 1970 to provide that the Administrator of the Small Business Administration may render onsite consultation and advice to certain small business employers to assist such employers in providing safe and healthful working conditions for their employees; to the Committee on Education and Labor.

H.R. 14775. A bill to prescribe uniform criteria for formulating judicial remedies for the elimination of dual school systems; to the Committee on Education and Labor.

H.R. 14776. A bill to clarify the jurisdiction of certain Federal courts with respect to public schools and to confer such jurisdiction upon certain other courts; to the Committee on the Judiciary.

H.R. 14777. A bill to amend the Civil Rights Act of 1964 to provide for freedom of choice in student assignments in public schools; to the Committee on the Judiciary.

H.R. 14778. A bill to limit the jurisdiction of Federal courts to issue busing orders based on race, and for other purposes; to the Committee on the Judiciary.

By Mr. MITCHELL of Maryland (for himself, Mr. Moakley, Mr. Stokes, Mr. Metcalfe, Mr. McSpadden, Mr. Helstoski, Mr. Conyers, Ms. Schroeder, Mr. Dellums, Mr. Young of Georgia, Mr. Stark, Ms. Burke of California, Mr. Clay, Mr. Pepper, Mr. Hawkins, Ms. Holtzman, Mr. Fauntroy, Ms. Collins of Illinois, Mr. Roybal, Mr. Harrington, Mr. Fraser, Ms. Abzug, Mr. Brown of California, Mr. Rangel, and Mr. Corman):

H.R. 14779. A bill amending the U.S. Housing Act of 1937; to the Committee on Banking and Currency.

By Mr. MORGAN (by request):

H.R. 14780. A bill to authorize appropriations for fiscal year 1975 for carrying out the provisions of the Board for International Broadcasting Act of 1973; to the Committee on Foreign Affairs.

By Mr. NEDZI:

H.R. 14781. A bill to authorize the Secretary of Agriculture to make grants to cities to encourage the increased planting of trees and shrubs and to encourage other urban forestry programs; to the Committee on Agriculture.

By Mr. PATMAN (for himself, Mrs. Boggs, Mr. Brasco, Mrs. Burke of California, Mrs. Collins of Illinois, Mr. Corman, Mr. Cronin, Mr. Dulski, Mr. Duncan, Mr. Eilberg, Mr. Froehlich, Mr. Gilman, Mrs. Grasso, Mr. Harrington, Mr. Hechler of West Virginia, Mr. Helstoski, Mr. Jones of North Carolina, Mr. McSpadden, Mr. Melcher, Mr. Mitchell of Maryland, Mr. Moakley, Mr. Mollohan, Mr. Murphy of Illinois, Mr. Murphy of New York, and Mr. Nichols):

H.R. 14782. A bill to amend title 38 of the United States Code so as to entitle veterans of the Mexican border period and of World War I and their widows and children to pension on the same basis as veterans of the Spanish-American war and their widows and children, respectively, and to increase pension rates; to the Committee on Veterans' Affairs.

By Mr. PATMAN (for himself, Mr. Pepper, Mr. Podell, Mr. Preyer, Mr. Rarick, Mr. Riegle, Mr. Roe, Mr. Roybal, Mr. Seiberling, Mr. Shoup, Mr. Sikes, Mr. Smith of Iowa, Mr. Staggers, Mrs. Sullivan, Mr. Symington, Mr. Thone, Mr. Ullman, Mr. Walsh, Mr. Wampler, Mr. Charles Wilson of Texas, Mr. Wolff, Mr. Yatron, and Mr. Young of Florida):

H.R. 14783. A bill to amend title 38 of the United States Code so as to entitle veterans of the Mexican border period and of World War I and their widows and children to pension on the same basis as veterans of the Spanish-American War and their widows and children, respectively, and to increase pension rates; to the Committee on Veterans' Affairs.

By Mr. PRICE of Texas:

H.R. 14784. A bill to adjust target prices established under the Agriculture and Consumer Protection Act of 1973, as amended for the 1974 through 1977 crops of wheat and feed grains and cotton to reflect changes in farm production costs; to the Committee on Agriculture.

Mr. ROYBAL:

H.R. 14785. A bill to provide a comprehensive, coordinated approach to the problems of juvenile delinquency, and for other purposes; to the Committee on Education and Labor.

By Mr. SANDMAN:

H.R. 14786. A bill to amend the Mineral Lands Leasing Act to provide for a more efficient and equitable method for the exploration for and development of oil shale resources on Federal lands, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SIKES:

H.R. 14787. A bill to require passport applicants to swear to an oath of allegiance to the United States as a condition precedent to being issued a passport; to the Committee on Foreign Affairs.

By Mr. STEPHENS (for himself, Mr. Landrum, Mr. Waggonner, Mr. Schneebeli, Mr. Duncan, Mr. Archer, Mr. Fulton, Mr. Conable, Mr. J. William Stanton, and Mr. Burleson of Texas):

H.R. 14788. A bill to amend the Internal Revenue Code of 1954 with respect to the income tax treatment of small business investment companies and shareholders in such companies; to the Committee on Ways and Means.

By Mr. STOKES:

H.R. 14789. A bill to require every retail dealer engaging in interstate commerce to assemble fully any bicycle sold by such dealer; to the Committee on Interstate and Foreign Commerce.

By Mr. TALCOTT:

H.R. 14790. A bill to amend the Internal Revenue Code of 1954 and certain other provisions of law to provide for automatic cost-of-living adjustments in the income tax rates, the amount of the standard, personal exemption, and depreciation deductions, and the rate of interest payable on certain obligations of the United States; to the Committee on Ways and Means.

By Mr. TAYLOR of North Carolina (for himself, Mr. Skubitz, Mr. Haley, Mr. Hosmer, Mr. Johnson of California, Mr. Ruppe, Mr. O'Hara, Mr. Kastenmeier, Mr. Roncalio of Wyoming, Mr. Don H. Clausen, Mr. Meeds, Mr. Sebelius, Mr. Stephens, Mr. Regula, Mr. Seiberling, Mr. Steelman, Mr. Blatnik, Mr. Quillen, Mr. Jones of Alabama, Mr. Johnson of Colorado, Mr. Bevill, Mr. Cederberg, Mr. Flowers, Mr. Buchanan, and Mr. Thomson of Wisconsin):

H.R. 14791. A bill to amend the Wild and Scenic Rivers Act (82 Stat. 906), and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. TAYLOR of North Carolina (for himself, Mr. Skubitz, Mr. Haley, Mr. Hosmer, Mr. Cronin, Mr. Won Pat, Mr. de Lugo, Mr. Bauman, Mrs. Mink and Mr. Owens):

H.R. 14792. A bill to amend the Wild and Scenic Rivers Act (82 Stat. 906), and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. TIERNAN (for himself and Mr. Reuss):

H.R. 14793. A bill to establish an independent commission to administer the internal revenue laws; to the Committee on Ways and Means.

By Mr. YOUNG of South Carolina:

H.R. 14794. A bill to amend section 37 of the Internal Revenue Code of 1954 to make the tax treatment of retirement income comparable to that of social security income; to the Committee on Ways and Means.

By Mr. BROOMFIELD (for himself, Mr. Buchanan, Mr. Frelinghuysen, Mr. Gilman, Mr. Rosenthal, Mr. Mathias of California, Mr. Taylor of North Carolina, Mr. Winn, and Mr. Zablocki):

H.J. Res. 1011. Joint resolution designating the premises occupied by the Chief of Naval Operations as the official residence of the Vice President, effective upon the termination of service of the incumbent Chief of Naval Operations; to the Committee on Armed Services.

By Mr. WINN:

H. Res. 1099. Resolution to amend the House Rules to require that the report of each House committee on each public bill or joint resolution reported by the committee shall contain a statement as to the inflationary impact on the national economy of the enactment of such legislation; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII,

479. The SPEAKER presented a memorial of the Legislature of the State of California, relative to the issuance of a postage stamp commemorating the centennial of the American Gynecological Society; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ROBERT W. DANIEL, JR.:

H.R. 14795. A bill for the relief of the employees of the Southeastern Tidewater Opportunity project; to the Committee on the Judiciary.

By Mr. WINN:

H.R. 14796. A bill for the relief of NEES Corporation; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

DON McBRIDE RECEIVES DISTINGUISHED SERVICE AWARD

HON. TOM STEED

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. STEED. Mr. Speaker, I am happy to note that one of the most outstanding Oklahomans in public service, Don McBride, has been honored by the Department of the Army with its Distinguished Service Award. The citation came, because of his work in support of our national water resources development program.

Don McBride has been a director of the Tennessee Valley Authority since 1966. Earlier, as a longtime expert adviser to Senator Robert S. Kerr, he did as much as any man for the development of the Arkansas valley navigation system and of the vital water resources of Oklahoma in general.

His counsel has been of invaluable help to our congressional delegation in the many problems that arise in connection with water development.

I have known few people who have performed such consistently devoted service in their chosen field, and I am proud to claim him as a former resident of Carnegie as my constituent.

Maj. Gen. John W. Morris, Director of Civil Works, Office of the Chief of the Army Corps of Engineers, presented the award at the convention of Oklahoma Water, Inc. A decade ago General Morris served with distinction as the district engineer at Tulsa.

Following is a brief excerpt from his remarks:

REMARKS BY MAJ. GEN. JOHN W. MORRIS

In recognition of his dedication to water resource development, his profound knowledge and his astute ability as an administrator, President Lyndon B. Johnson appointed him a director of the Tennessee Valley Authority, where he continues to give illustrious service to the Nation.

In recognition of this lifetime of dedication, the Secretary of the Army, has authorized the presentation of the distinguished civilian service award, and I will read the citation: "For Noteworthy Assistance to the Department of the Army during the period 1939 through 1973. During this period, while serving in such positions as Chief Engineer and Chairman of the Oklahoma Water Resources Board, as Secretary-Manager of the National Reclamation Association, as water resources adviser to the Senate select Committee on National Water Resources, and as a Director of the Tennessee Valley Authority, Mr. McBride enthusiastically and energetically supported water resources development programs. His invaluable assistance and support, which reflect his deep-seated sense of public responsibility, contributed significantly to the ability of the Department of the Army to accomplish its water resource development missions. Signed: Howard H. Calloway, Secretary of the Army.

It is with deep pride and honor that I make this presentation to Mr. Donald McBride.

The brief biographical sketch that follows gives only the highlights of Don McBride's contributions to the field of water resource development:

Don McBride, Director, Tennessee Valley Authority

Don McBride became a member of the TVA Board of Directors on May 20, 1966, following more than 30 years of public service with Federal and state organizations. His primary experience has been in the field of water resource development.

Mr. McBride was active in studies which led to the 1961 report prepared by the Select Committee on National Water Resources—a report considered to be one of the most complete works ever issued on water resource development in this country.

In 1949 he helped prepare the United States Senate report on the comprehensive development of the Arkansas, White, and Red River basins. He also assisted in preparation of the TVA self-financing legislation passed by Congress in 1959.

At the time of his appointment to the TVA Board by President Johnson, Mr. McBride was a special assistant on the staff of Senator A. S. (Mike) Monroney. He served from 1950–63 as principal advisor and consultant on water resources legislation to the late Senator Robert S. Kerr.

In the post-war years, 1946–49, he was Secretary-Manager of the National Reclamation Association.

Following positions with various private companies and state agencies concerned with the design and construction of power transmission lines and irrigation projects, in 1939 Mr. McBride was appointed chief engineer and later a director of the Oklahoma Planning and Resources Board, with responsibility for administration of the state's water rights.

He became chairman of the Planning and Resources Board in 1944. During his two-year term as chairman, he formulated a plan of revenue bond financing to develop the Oklahoma state park system—a plan which is still in use.

Mr. McBride was born June 1, 1903, in Cowles, Nebraska. He attended engineering school at the University of Nebraska and is a registered professional engineer in Oklahoma. He is the author of numerous publications on the subject of water resource development.

In 1964, Mr. McBride was honored by the Arkansas Basin Development Association for his efforts in the development of the Arkansas River. He has received similar awards from organizations in Oklahoma and, in 1962, was named to the Engineering Hall of Fame, Oklahoma State University, "for integrity, leadership, and meritorious service to the profession of engineering."

Mr. McBride is a member of the Baptist Church. He is married to the former Mary Lou Patterson of Tellico Plains, Tennessee. They have three children.

LIBERALS ASTRAY

HON. DAVID W. DENNIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. DENNIS. Mr. Speaker, that great liberal newspaper, the New York Times, has editorially taken to task our "liberal" colleagues in the House who have recently scuttled the proposed plan submitted by the Bolling Committee for congressional reorganization. The Times calls on these Members "to prove that they can come up with constructive alternatives rather than the self-interested negativism they have evinced thus far." It will be interesting to see how and whether the majority responds—particularly those liberal and reforming Members who, according to the Times, have been guilty of "an unseemly performance." The Times editorial follows:

Liberals Astray

By the time that the LaFollette-Monroney Legislative Reorganization Act passed Congress in 1946, it had been the subject of intense public controversy and of innumerable articles and editorials. For more than a year now, a committee of ten House members drawn equally from both parties has been at work on a reform proposal that—so far as the House of Representatives is concerned—would be as far reaching and as desirable as the LaFollette-Monroney Act. But in a Congress and a nation preoccupied with Watergate, this committee has done its work silently and unnoticed.

On Thursday, reform paid the price for that silence. By a narrow margin, the House Democratic caucus shelved the reorganization plan by sending it to another committee for study. The barons of the House led by Representative Wilbur Mills of Arkansas, chairman of the Ways and Means Committee, and the pressure group lobbyists know what was at stake even though the public did not.

It was not essential that the plan be submitted to the Democratic caucus. It could have gone directly to the floor as a privileged motion. But Speaker Albert and Representative Richard Bolling of Missouri, chairman of the committee that drafted the reorganization, believed that as a practical matter the reforms would not last unless they had the support of a majority in each party.

House Republicans meeting in their conference endorsed the reforms. The Democrats did not. Significantly, they did the deed in secret avoiding a rollcall vote. There is no justification for conducting public business in that devious fashion.

Labor unions and liberal Democrats who on most other days are in the vanguard of those calling for progressive change were instrumental in blocking the reforms. Since the AFL–CIO did not want the Labor and Education Committee split into two committees or the Post Office Committee abolished, it used its political muscle against the plan. Noted liberals such as Representatives Frank Thompson of New Jersey, John Brademas of Indiana, James O'Hara of Michigan, and Phillip Burton of California would have lost cherished subcommittee chairmanships and for that selfish reason opposed the plan. It was an unseemly performance.

In theory, reform is not dead. The study committee to which the plan has been referred could resubmit it with only minor changes at the Democratic caucus in July. In coming weeks, the liberals who joined with their party's old-timers in unorthodox alliance have an opportunity to prove that they can come up with constructive alternatives rather than the self-interested negativism they have evinced thus far.

ICHORD QUESTIONNAIRE RESULTS

HON. RICHARD H. ICHORD

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. ICHORD. Mr. Speaker, given the many important decisions facing this Nation and the Members of this legislative body, I would like to take this opportunity to bring to the attention of my colleagues the results of my recent questionnaire sent to the citizens of the Eighth Congressional District in Missouri. As many of the questions before us today are of national importance, I felt that the responses to this questionnaire would be of deep interest to my distinguished colleagues, and at this point I would request consent to insert same in the Congressional Record:

Statement by Congressman Richard H. Ichord To Accompany the Results of the 1974 Eighth Congressional District Poll

It has been my policy during the 14 years I have served in the U.S. Congress to send out an annual poll to the residents of the 8th Congressional District of Missouri. I have always made it very clear that whereas I earnestly solicit the views of the people I am elected to serve that I accept full responsibility for all of the votes I cast in the U.S. Congress. As I wrote in my letter introducing my 1974 questionnaire: "I believe that a representative shirks his responsibility if he always takes a public opinion poll before voting on an issue and I also feel that he is neglectful of his duties if he fails to ascertain the opinions of the people he represents on the important issues facing the nation. Certainly, the representative should always lay his judgment along side the judgment of his constituents."

Interestingly enough, there has been only one time in my memory which my vote has different from a majority of those answering my poll. I believe that my political views and philosophy are closer to the people I represent than are the views and philosophy of any Member of Congress to that of his or her constituency.

The poll results I am about to release seem to be of special interest this year because of the large number of responses—almost 44,000—and because of the general public interest in the impeachment question.

At this point in time I have no more information on the charges that might be brought against the President than do any other citizens who read the newspapers, watch T.V. and listen to the radio. Since there is a good chance that I will be called upon with the other Members of the U.S. House to vote on a resolution of impeachment, it would be improper if not irresponsible for me to take a position on the question at this time. If evidence is submitted to the House of Representatives by the Judiciary Committee. I can only pledge to make a very careful and thorough study of such evidence and make my decision to the best of my ability based on the facts in the case. Therefore, I can only offer this morning the results of the opinions of the constituents of the 8th District who responded to my poll. The bulk of the responses were received in my office during late March and early April and it may well be that some opinions have changed since that time. One of the difficulties with any public opinion poll is that public opinion changes from time to time—sometimes it changes very rapidly but most often any significant change in public opinion is a slow process. The effect, if any, of the controversy over the tapes and the recently released transcripts is not weighed in this poll.

With this background in mind I would like to offer you the results of the 1974 8th Congressional District poll:

Ichord polls shows narrow rejection of impeachment by Eighth district voters; strong sentiment for death penalty and speedy conclusion of impeachment issue; overwhelming opposition to MFU status and credit to the Soviet Union, wage and price controls and gasoline rationing; slight rejection of new diplomatic relations with Cuba and year-round daylight saving time

The 1974 8th Congressional District poll sent out by the office of Congressman Richard H. Ichord, D-Mo., drew a heavy response of 43,855 replies with 47.3 percent or 20,724 district residents rejecting the impeachment of President Nixon, 41.3 percent or 18,097 voters favoring impeachment, while 11.4 percent or 5,034 were undecided. The poll was answered by 22,602 women and 21,253 men. Women rejected impeachment by a 47.9 percent to 39.9 with 12.2 percent giving no opinion. Men turned down impeachment by a closer 46.5 percent to 42.7 percent and only 10.8 percent undecided. Four of the nineteen counties in the 8th district, Boone (57.3 percent yes), Franklin (47.2 percent yes), Oregon (45.8 percent yes), and Shannon (55.0 percent yes) favored the impeachment of President Nixon while the other 15 counties rejected the proceedings. The strongest opposition to impeachment was found in Cole (58.5 percent no), Moniteau (58.9 percent no), Gasconade (56.5 percent no), Osage (53.4 percent no) and St. Louis county (51.1 percent no) followed closely by Phelps, Howell and Dent—82.5 percent of those who responded to the poll were in favor of deciding "the issue of impeachment, one way or the other, as soon *as possible.*" Another 81.1 percent of the almost 44,000 district residents who responded to the poll favored "the restoration of the death penalty for certain crimes of violence" with over 90 percent of those responding from Gasconade, Oregon, and St. Louis county favoring the death penalty. Boone county with only 73.4 percent favoring the death penalty was the lowest percentage.

An overwhelming 78.1 percent of those responding rejected the extension of credit to the Soviet Union, 9.6 percent favored loans to the Soviets and 12.3 percent were undecided on the issue. The granting of credit to the Russians was strongly rejected in all 8th District counties with 18 of the 19 counties showing 80 percent and above opposed to such loans with only Boone county dropping to 67.7 percent objecting to Soviet credit—73.4 percent of those returning questionnaires believed that the Soviets should not receive Most-Favored-Nation trade status at this time.

By a 38.5 percent yes to 46.5 percent no and 15.0 percent undecided district voters disapproved a volunteer change over to the metric system of weights and measures. By small margins the conversion to the metric system was favored in five counties, Boone, Howell, Phelps, Pulaski and St. Louis, and rejected in the other 14 counties with heavy opposition in such counties as Shannon, Texas, Crawford and Oregon.

The question of establishing new diplomatic relations with Cuba was narrowly rejected by a 42.7 percent yes, 44.0 percent no and 13.3 percent undecided. Seven counties, Boone, Dent, Franklin, Gasconade, Phelps, Pulaski, and St. Louis, favored new diplomatic relations with Fidel Castro's government while the other 12 8th district counties rejected such a move.

By a vote of 52.0% no and 40.3% yes and 7.7% undecided 8th district residents stated their opposition to year-around daylight saving time. 16 counties opposed year-around daylight saving time with Phelps, Moniteau, and St. Louis counties showing a preference for it.

78.3% expressed their opinion that wage and price controls had not been effective in fighting inflation and 70.4% voiced opposition to gasoline rationing. In a 48.9% no to 41.5% yes and 9.6% undecided the district voters rejected the financing of presidential elections out of the public treasury and 58.0% believed that Congress should pass some type of national health insurance legislation.

1974 ANNUAL QUESTIONNAIRE

1. The House Judiciary Committee is still conducting an investigation to determine if grounds exist for the impeachment of President Nixon. The Constitution states that the President can only be "removed from Office on Impeachment for, and Conviction of, Treason, Bribery, and other high Crimes and Misdemeanors." A majority vote is required in the House for impeachment which is similar to the indictment of a grand jury. In an indictment, the grand jury must find that there are reasonable grounds to believe that the defendant is guilty of the commission of a crime. If the President is impeached, the matter then goes before the Senate where final determination is made whether or not the evidence against the President is sufficient to warrant his conviction. A two-thirds vote is required in the Senate for such a conviction.

(a) Given this background, do you feel that the House of Representatives should vote in favor of impeachment of the President?

	His		Hers		Total	
	Number	Percent	Number	Percent	Number	Percent
Yes	9,082	42.7	9,015	39.9	18,097	41.3
No	9,876	46.5	10,848	47.9	20,724	47.3
No opinion	2,295	10.8	2,739	12.2	5,034	11.4
Total	21,253		22,602		43,855	

(b) Do you feel that it is imperative that the House of Representatives decide the issue of impeachment, one way or the other, as soon as possible.

[In percent]

	His	Hers	Total
Yes	84.2	81.7	82.5
No	10.8	11.6	11.2
No opinion	4.0	6.7	6.3

2. Do you favor year-round daylight saving time recently passed by the Congress?

[In percent]

	His	Hers	Total
Yes	43.7	38.1	40.3
No	50.0	54.1	52.0
No opinion	7.3	7.8	7.7

3. Do you feel that wage and price controls have been effective as a means of fighting inflation?

[In percent]

	His	Hers	Total
Yes	13.2	13.7	13.4
No	80.0	76.8	78.3
No opinion	6.8	9.5	8.3

4. The Economic Stabilization Act, which authorizes wage and price controls expire April 30, 1974. Do you believe this act should be renewed?

[In percent]

	His	Hers	Total
Yes	29.8	27.3	28.4
No	59.1	54.0	56.5
No opinion	11.1	18.7	15.1

5. Would you favor Government rationing of gasoline as a means to reduce consumption of gasoline?

[In percent]

	His	Hers	Total
Yes	19.8	18.3	18.7
No	75.9	74.6	75.2
No opinion	4.3	7.1	6.1

6. Do you favor the restoration of the death penalty for certain crimes of violence?

[In percent]

	His	Hers	Total
Yes	82.8	79.4	81.1
No	12.1	13.7	12.9
No opinion	5.1	6.9	6.0

7. The Administration believes it is in the best interest of this country to greatly expand trade with the Soviet Union. On December 11, 1973, the House of Representatives passed the Mills-Vanik amendment to the Trade Reform Act of 1973 by a vote of 319–80, which would prohibit Most-Favored-Nation (MFN) treatment—that is to charge the lowest rate of tariff to the products the Russians would sell to the U.S.—and credit to the Soviet Union until the Soviet Union changed its repressive emigration policies. An identical amendment offered by Senator Jackson in the Senate has 76 cosponsors. Since the Mills-Vanik amendment passed the House the Export-Import Bank has granted an additional $128.8 million in loans to the Soviet Union at 6% and 7% interest. The Export-Import Bank is presently considering a $49.5 million loan to the Soviets for exploration of their gas fields in Eastern Siberia.

(a) Do you favor the granting of MFN status to the Soviet Union at this time?

[In percent]

	His	Hers	Total
Yes	14.2	9.8	11.2
No	72.8	74.0	73.4
No opinion	13.9	16.2	15.4

(b) Do you favor the extension of credit to the Soviet Union by the Export-Import Bank and other Government financial institutions at this time?

[In percent]

	His	Hers	Total
Yes	10.9	8.4	9.6
No	77.9	78.2	78.1
No opinion	11.2	13.4	12.3

8. Should Presidential election campaigns be financed out of the public treasury?

[In percent]

	His	Hers	Total
Yes	31.7	31.2	31.4
No	59.4	57.8	58.6
No opinion	8.9	11.0	10.0

9. Do you believe we should work to establish new diplomatic relations with Cuba?

[In percent]

	His	Hers	Total
Yes	45.5	40.8	42.7
No	43.9	44.1	44.0
No opinion	10.6	15.1	13.3

10. Do you feel we should adopt a long-range volunteer program to change over to the metric system of weights and measures?

[In percent]

	His	Hers	Total
Yes	42.2	35.0	38.5
No	44.2	48.8	46.5
No opinion	13.6	16.2	15.0

11. Do you believe that the Congress should pass some type of national health insurance legislation which would subsidize the premiums for the poor and offer all citizens protection against catastrophic medical expenses?

[In percent]

	His	Hers	Total
Yes	63.9	64.9	64.4
No	26.2	25.9	26.1
No opinion	9.9	9.2	9.5

NEWS RELEASE

HON. DAVID W. DENNIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. DENNIS. Mr. Speaker, I have released to the press a statement regarding the current push for the President's resignation which I should like to call to the attention of my colleagues, as well as to the general public. My statement follows:

MAY 13, 1974.

WASHINGTON, D.C.—Rep. David W. Dennis (R-Ind.) said today that he does not favor the resignation of President Nixon, but instead, feels that "the constitutional processes should take their course."

"The hearings of the Judiciary Committee have just begun, and of course I have not made up my mind about impeachment," Congressman Dennis said.

"I am, however," he continued, "opposed to the President's resignation. I think the constitutional processes should take their course."

"Resignation would inevitably be considered a confession of guilt, and, in my view, is not possible for a President who asserts his innocence," Rep. Dennis stated.

"Moreover, I doubt that it has become appropriate for party leaders to urge resignation. Currently there is much public clamor and discussion; but certainly anyone in public life who urges resignation should first seriously ask himself the question—to what extent am I moved by moral indignation, and to what extent by concern for my own political survival?" the Hoosier Congressman said.

AN ADDRESS BY CIA DIRECTOR, WILLIAM E. COLBY

HON. LUCIEN N. NEDZI

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. NEDZI. Mr. Speaker, few Americans would dispute that an effective central intelligence agency is vital to the security of the United States.

Nevertheless, we must acknowledge that there continues to be some unease in the land about the conduct of intelligence gathering, its underlying philosophy, and its possible abuses. A strong measure of reassurance is needed.

The top men in our intelligence services rarely "go public." When they do, their remarks deserve our close attention.

Accordingly, I am pleased to place in the RECORD the recent address of William E. Colby, Director of the CIA. Of particular interest is Mr. Colby's description of how technology has revolutionized the intelligence business in the years since the U–2.

Entitled "Foreign Intelligence for America," the address was delivered on May 3, 1974, at the well-known forum, the Los Angeles World Affairs Council.

The address follows:

FOREIGN INTELLIGENCE FOR AMERICA

(By William E. Colby)

Foreign intelligence has a long tradition in America. One of our earliest national heroes, Nathan Hale, was an intelligence agent. Our first President, General Washington, was an assiduous director and user of intelligence. Intelligence has changed in recent years, however, and today its reality is different from its traditional meaning. In the common understanding, intelligence is still linked with secrecy and spying. But what I would like to talk about tonight is the way we in America have changed the scope of the word "intelligence," so that it has come to mean something different from that old-fashioned perception. These changes have stemmed from characteristics peculiar to America and from the nature of our society.

The first and most dramatic change in today's meaning of the word "intelligence" stems from the technological genius of Americans. We have applied to intelligence the talents of our inventors, of our engineers, and of our scientists. In the short space of eighteen years since the U–2 began its missions, we have revolutionized intelligence. In 1960 this country engaged in a great debate as to whether there was a missile gap between the Soviet Union and ourselves. Today the facts are so well established that such a debate is impossible. Then we had to try to deduce from bits of circumstantial evidence how many missiles the Soviets had; today we see and count them. We wondered then what new missiles the Soviets might be developing; today we follow their tests and determine from them the range, the size and the effectiveness of such missiles.

This technical contribution to intelligence not only provides a better basis for decisions about the national security of the United States, it also enables us to negotiate agreements such as the Nuclear Test Ban Treaty and the Strategic Arms Limitation Treaty. Over the years such limitation treaties were always stopped by one essential feature: the United States needed some assurance that the other party would abide by a treaty's restraints. Thus we came up with the "open skies" proposal and tried to negotiate on-site inspection procedures. The Soviet leaders rejected these because they believed such measures would permit foreigners an undue degree of access to their sovereign territory.

It was only after American intelligence developed the ability to monitor such agreements from afar, through technical means, that we on our side became sufficiently confident to begin the process of mutual arms limitation. In the text of the first SALT agreement, intelligence in fact was even admitted to polite diplomatic society under the name of "national technical means of verification."

Technology has revolutionized the intelligence business in many other ways beyond those I just described. They provide a precision to our knowledge of the world around us, which was inconceivable fifteen years ago. I might add that I give full credit to the many talents here in California which have contributed immensely to this effort.

The second major contribution America has made to intelligence stemmed in part from a bad American habit. This was our habit of disbanding our intelligence machinery at the end of every war, requiring us to reassemble one hastily at the beginning of a new war. Thus we abandoned intelligence in the period after World War I, when Secretary of State Stimson is alleged to have commented that "gentlemen do not read each other's mail." We disbanded the Office of Strategic Services in October 1945, only to establish a new central intelligence apparatus to help meet the Cold War in 1947.

This habitual exercise provided something new in 1942. We were faced then with the urgent need to provide intelligence support to our governmental and military leadership about such disparate areas of the world as the North African littoral, the "hump" between China and India, and distant Pacific islands. General William Donovan, our first director of central intelligence, mobilized the talents of academia and industry to assemble every possible American source of information on these subjects.

This central pool of intellectual talent proved its worth and provided the base for the second major American contribution to the intelligence profession. While certainly the collection of information is vital to intelligence, an equally vital contribution comes from the analysis, assessment and estimating process. The analytic staff within the Central Intelligence Agency has access to all the raw information on foreign areas available to our Government, ranging from that which is completely public to the most secret products of our worldwide collection apparatus. It subjects this information to the intellectual talents and experience of its membership, which in scope and scholarship can rival those of our large universities. It then produces objective and reasoned assessments of developments around the world and projections of likely future trends.

Some of the work of this corps of experts has come to light through the revelation of the Pentagon Papers, in which the various national estimates on Vietnam were shown to have been independent, objective assessments of the likely future course of events there. This is not the time or place to debate American involvement in Vietnam and the many factors which influenced it; I mention these reports only to demonstrate what this assessment process can contribute: an independent and objective assessment of a foreign situation, unaffected by political commitments or departmental parochialism.

As has been reported in the press, I have made certain changes in the bureaucratic structure through which these assessments are produced, but the estimating process in its essential remains as it was. I hope I have even reinforced it by my own insistence that honest differences among the experts must be fully reflected in our final output rather than concealed under useless generalizations.

America's success in this assessment process perhaps influenced the formation by the Soviets a few years ago of the Institute for the Study of the U.S.A. The Soviets apparently have recognized, as we did long ago, that it is as important to study and try to understand American society as it would be to spy on it. While some other nations also consider assessment a part of their intelligence process, I know of none which can match the investment we in America have made in research and analysis as an integral element of our intelligence mechanism. The product delivered to our policy-makers has often demonstrated the value of this investment, and opened new perspectives for the concept of intelligence.

American intelligence presents another unique feature. It must operate within the tradition of an open society in America. But, as General Washington once noted, "upon secrecy, success depends in most enterprises" of intelligence. These principles are not easily reconcilable, and we are breaking new ground in intelligence doctrine as we try to resolve the dilemma between them.

Part of our solution to this problem appears in the National Security Act of 1947, providing that CIA have no police, subpoena, or law enforcement powers, or internal security functions, i.e., that it is restricted to foreign intelligence. This limitation is clearly recognized among our employees, although my predecessors and I have candidly admitted that CIA made mistakes with respect to the wig and other equipment and the psychological profile provided to the Watergate "plumbers." I am confident and have assured the Congress publicly that it will be respected in the future.

The 1947 Act recognized the other horn of our dilemma when it charged the Director of Central Intelligence with responsibility for the protection of intelligence sources and methods. It is this charge that led my predecessors and me to take such Constitutional steps as are possible to retain the essential secrets of intelligence. In this respect we have at least one common interest with the profession of journalism: we are both interested in the protection of our sources.

We are currently engaged in the courts in an effort to enforce the secrecy agreement that one of our ex-employees signed when he came to work with us. In it he acknowledged that he would be receiving sensitive information and agreed to hold it secret unless we released it. We are not objecting to most of a book he proposed to write, even including about half of the items that we initially identified as technically classified. We are struggling, however, to prevent the publication of the names of a number of foreigners, publicity which could do substantial injury to individuals who once put their confidence in us. Similarly, we hope to withhold the details of specific operations where exposure could prevent our receipt of further information of great value. In some cases, the publication of the fact of our knowledge of a situation can be of major assistance to another nation in deducing how we must have learned of it and shutting us off from it. I might add that we do not censor our ex-employees' opinions. We have cleared several such books full of criticism, in which the authors have been careful not to reveal our sources or operations. The most serious aspect of this struggle is that if we cannot protect our sources and methods, friendly foreign officials and individuals will be less forthcoming with us in the future, when it could be of critical importance to our country. No serious intelligence professional has ever believed that General Washington's maxim could be replaced by a variation of the Wilsonian approach to covenants, or "open intelligence openly arrived at."

Another unique aspect of American intelligence is our relationship to the Congress. Some of my foreign counterparts around the world display considerable shock when they learn that I appeared in an open hearing before the television cameras as a part of my Senate confirmation. Many of them would never be subjected to detailed scrutiny by their Parliament, and their identities are frequently totally unknown. Some months ago, for example, two journalists were prosecuted in Sweden—hardly a closed society—for revealing the startling fact that their country had an intelligence service. In our country our intelligence authority stems from an act of Congress, it is subject to oversight by the Congress, and it depends upon funds appropriated annually by the Congress.

The Congress has provided for itself a way of resolving the dilemma between the need for secrecy in intelligence and the demands of our open society. Those Senators and Congressmen designated to exercise oversight of CIA or review its budgets are fully informed of our activities, inspect us at will, and are given detailed and specific answers to any questions they raise. Other individual Senators and Congressmen and other committees frequently receive the same intelligence assessments of the world situation as are provided to the Executive Branch, on a classified basis, but they are not provided the operational details of our intelligence activities. This arrangement was established by the Congress and is of course subject to change. My own position is that the method by which Congress exercises its oversight of intelligence activity is a matter for the Congress to decide.

As a related aspect of American intelligence in this open society, I might say something about our relations with the public and the press. We do not conduct a public relations program; we are not in the public information business. But we do make as much information as possible available to the news media and to the public. Groups of our citizens, including high school students, have visited our facilities, where we try to respond to their questions about the nature of American intelligence.

Thus we in the intelligence profession are aware that ours must be an intelligence effort conducted on American principles and that it must be more open and responsive to our public than the intelligence activities of other nations. At the same time, we must respect the essential professional requirement embodied in the National Security Act to protect our intelligence sources and methods. We will consequently continue to arouse wonderment from some of our foreign associates as to our openness, and concern among some American citizens that we still must keep some information secret if we are to conduct an intelligence effort at all.

Technical intelligence, the intellectual process of assessment, and our exposure to our Constitutional authorities and the public are three major contributions America has made to the intelligence profession. I do not want to be accused, however, of concealing the fact that intelligence still requires clandestine activity. Our technical intelligence and our study and assessment of material openly available throughout the world have certainly revolutionized the intelligence profession in the past twenty years. But they have not removed the needs of our national policy-makers for information on the intentions of other powers. They have not removed the need to identify at an early stage research abroad into some new weapon which might threaten the safety of our nation, so that we do not become aware of a new and overpowering threat, especially from a nation not as open as ours, too late to negotiate about it or protect ourselves.

The need for clandestine collection can perhaps be illustrated by comparing the task facing me with that facing Mr. Andropov, the head of the KGB in the Soviet Union. Mr. Andropov faces a veritable cornucopia of easily acquired information about America from published and public sources. Out of this, he must pick those facts which are significant and assemble them into an accurate assessment of America. My task is to search for individual facts kept in the utmost secrecy in closed societies, and with these few facts try to construct whole assessments, in somewhat the way one extrapolates a reproduction of the skeleton of a *Brontosaurus* from a thigh bone. Without the contributions of clandestinely acquired information, our *Brontosaurus* could in some situations be very deformed indeed.

Simple prudence, of course, causes us to use clandestine collection only when the information is available in no other way and is of real value to our country. My point is that such situations do exist. Thus we will continue to need Americans and friendly foreigners willing to undertake clandestine intelligence missions. I might add only that we must do a better job of training future generations of American intelligence officers and agents than Nathan Hale received in a one-day briefing and the advice to place his reports in his shoes.

From this description we see that intelligence in today's complicated world is a complex affair. It must warn our Government of new generations of intercontinental missiles being developed, it must be attentive to foreign economic threats to America's strength and well being, and it must identify political problems around the world which can adversely affect our interests. The very complexity of the challenge has led to the active collaboration of all the different elements of the American Government which can contribute to the process of information collection and national assessment. President Nixon has charged my predecessors and me with the leadership of this Intelligence Community and has provided certain interdepartmental mechanisms through which to implement this charge. This charge of leadership for the entire American intelligence process applies to the substance of our intelligence needs and to the resources devoted to intelligence. It puts on me the responsibility of preventing separate bureaucratic interests from impinging on the effectiveness or raising the cost of our national intelligence effort.

This then is foreign intelligence in and for America today. It reflects the technical and intellectual talents of America, it reflects our open society, it reflects the courage and integrity of our professional intelligence officers. Most important of all, it provides American policy-makers with critical information and reasoned assessments about the complex foreign political, economic and military challenges to our national security and welfare. It is designed to help us to achieve and to live in peace, rather than to protect us only in time of war. It has become an important and permanent element of our national foreign policy structure. We Americans who are a part of it are proud of it, and of the improvements we Americans have brought to a profession which can be traced at least to Moses, who sent a man from each tribe to "spy out" the land of Canaan.

Thank you very much.

POULTRY INDEMNITY BILL IS A GIVEAWAY

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. CONTE. Mr. Speaker, this morning I sent the following letter to the chairman of the Rules Committee:

S. 3231, the Poultry Indemnity Payments bill, is special interest legislation that ought to be kept in a Mississippi chicken coop, far from the nest of the House floor where strange things have been known to hatch.

I had thought that with the beekeeper indemnity program and the Cotton, Incorporated, boondoggle, Congress had perfected the "give-away" type of farm subsidy. But with the Poultry Indemnity bill, the hen has finally laid the golden egg. The federal government is being asked to put up a lot of scratch to feed to a small flock of chicken farmers who let the fox into the coop.

The legislation deserves only your featherweight consideration. The other body has laid an egg. I only hope that the yoke doesn't spread to this House.

DR. KARL F. MEYER, PUBLIC HEALTH GIANT

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. LEGGETT. Mr. Speaker, it was with great sadness that I learned of the passing of Dr. Karl F. Meyer. His contributions in the field of public health are directly responsible for the saving of thousands of lives around the world, and it will be a long time before we are blessed with the presence of another who possesses the skills Dr. Meyer cultivated in the 89 years of his life. A veterinarian by training, Dr. Meyer chose this field so that he could, as he told his friends, "be a universal man and study all diseases in all species." True to his desire, his work has had such broad implications that it touched on virtually all fields of medicine.

I insert in the RECORD a New York Times article that chronicles the dramatic career of this remarkable man:

DR. KARL F. MEYER, VIRAL SCIENTIST

SAN FRANCISCO, April 28.—Dr. Karl F. Meyer, an internationally renowned veterinarian scientist, died late yesterday in a hospital in San Francisco. He was 89 years old.

PUBLIC HEALTH GIANT

(By Lawrence K. Altman)

Dr. Karl Friedrich Meyer was regarded as the most versatile microbe hunter since Louis Pasteur and a giant in public health.

As a youth in Basel, Switzerland, pictures of the Black Death, or plague, so fascinated him that he became an outdoor scientist instead of following in the aristocratic business world in which he grew up. He told friends that in choosing to become a veterinarian he could "be a universal man and study all diseases in all species."

Public health leaders yesterday called his contributions to medicine "monumental." His scientific work had such broad implications that it touched on virtually all fields of medicine.

Dr. Meyer was credited with rescuing the canning industry when epidemics of botulism, a deadly form of food poisoning, threatened to wipe out commercial canning in its infancy. The National Canners Association elected him to its Hall of Fame last January. It was the last of the scores of honors he received from scientific, industrial and civic groups.

He discovered two of the viruses that cause encephalitis in horses and man, and developed controls for parrot fever, or ornithosis, among other contributions.

DISEASE SPREAD TRACED

Dr. Meyer responded to public health emergencies as a one-man fire brigade. His example served as a model for the Federal Epidemic Intelligence Service in Atlanta from which epidemic detectives trace the spread of diseases around the globe.

His productivity was matched by few other scientists. He wrote 800 scientific papers, more in active retirement over the last 20 years than most scientists publish in an entire career. Some of his most significant contributions—on an experimental plague vaccine now being tested in Southeast Asia—are scheduled to be published in next month's issue of the Journal of Infectious Diseases. The issue is dedicated to Dr. Meyer's 90th birthday, May 19.

"KF," as his friends called him, was born in Basel in 1884 of a family that traced its printed genealogy to the 14th century. His father was an international tobacco merchant and his mother a teacher.

MOVED TO CALIFORNIA

The son trained as a veterinarian at the University of Zurich. By the age of 26, he had gained an international reputation from work in South Africa where he showed that cattle could be protected against East Coast fever, a deadly tick-borne infection.

Dr. Meyer moved in 1910 to the University of Pennsylvania, where he helped link Bang's disease of cattle and a human disease reported from Malta by Dr. David Bruce. The animal and human diseases are now called brucellosis. Paul de Kruif once wrote:

"While there he once bet his colleagues that, dressed in a tuxedo, he could do the complete autopsy of an elephant, unassisted, without getting a drop of blood on his shirt front. He collected. His dexterity astounded his fellows."

In Philadelphia in 1914, Dr. Meyer isolated the Eastern equine encephalitis virus just as he was preparing to move to California. There, he developed a vaccine against the viral disease. It was the first of his two discoveries of encephalitis causing viruses. The other came in 1932 when he identified the Western equine encephalitis virus.

In 1916, Dr. Meyer became director of the Hooper Foundation at the University of California in San Francisco. It was a position he held until 1954, when he reached mandatory retirement age. But he pursued his lifelong interest in plague and other diseases.

ISOLATED PARROT FEVER

Earlier, in the nineteen twenties, when botulism cases had been traced to California canned olives, Dr. Meyer was called on to save the industry. He developed the flash sterilization method of canning and made canned goods safe without spoiling the product simply by calculating the heat penetration in all types of cans and developing a "fakeproof" system to weed out unethical producers.

Dr. Meyer responded to typhoid epidemics. His work emphasized the importance of the human carrier as the most important source of the disease. It is a basic tenet of public health practice today.

In the thirties, when Philippine farm workers were struck by a mysterious disease, Dr. Meyer traced it to a fungus called coccidicdes in the soil. The disease, now known as coccidiomycosis, or valley fever, is commonly diagnosed in the San Joaquin Valley of California and elsewhere.

When California's aviaries were struck with parrot fever, it was Dr. Meyer who isolated the virus and went on to show that the infection affected all birds. Control measures he helped develop for the pet industry had a major impact on the turkey industry.

But Dr. Meyer's research experience almost cost him his life. He contracted parrot fever, or psittacosis, as it is also called. As his life hung in the balance he wrote his presidential address to the Society of American Bacteriologists in 1935.

Dr. Meyer also showed that leptospirosis was not an infection spread just by rodents but also by infected dogs, cattle and other animals. On another occasion, he recognized that illness among cattle in the Bay Area was due to lead poisoning. He traced the outbreak to a smelter's industrial wastes.

Dr. Meyer's major disappointment was his failure to develop a polio vaccine. But he, like so many others, could make no progress in an era when it was impossible to grow the virus.

He rejected a planned international convocation at Rockefeller University here for his 90th birthday, by saying:

"In times of tight fiscal policies for science, I don't want people to spend money on me."

He leaves his wife, the former Marion Lewis, a daughter, Mrs. Bartler P. Cardon of Phoenix, Ariz., and a grandson. His first wife, the former Mary Lindsay, died.

ONE HUNDRED AND EIGHTEEN STUDENTS RECOGNIZED AT QUINCY JUNIOR COLLEGE HONORS CONVIVIUM

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. BURKE of Massachusetts. Mr. Speaker, on Friday, April 26, 1974, I was very pleased to have the opportunity to participate in the annual honors convivium at Quincy Junior College in Quincy, Mass. On this occasion 118 students received recognition for their outstanding scholastic achievement during the past academic year. I am very proud of these students in view of the fact that their accomplishments exhibit qualities which will benefit our country as these fine young people grow to become our leaders.

I was honored to present scholarships to several deserving students and I was very happy to note that funding for scholarships at Quincy Junior College has increased sevenfold for 1974.

The following is a report of the proceedings at the annual honors convivium at Quincy Junior College:

ONE HUNDRED AND EIGHTEEN STUDENTS RECOGNIZED AT QUINCY JUNIOR COLLEGE HONORS CONVIVIUM

Nearly 200 students and guests attended the dinner and Honors Convivium of Quincy Junior College held on Friday evening, April 26, at the Red Coach Grille in Hingham. Seated at the head table and presenting the awards were Congressman James Burke, Former Governor Foster Furcolo, Mr. Charles Sweeny, Chairman of the Community College Association and Vice-Chairman of the Quincy School Committee, Dr. Edward F. Pierce, President of Quincy Junior College, Councillor James Sheets representing Mayor Hannon of Quincy, the Honorable Gertrude Halloran, member of the Community College Association and contributor of a permanent scholarship, Mrs. Maude Taylor Johnson, Treasurer of the Community College Association and Chairman of the Scholarship Committee, Mrs. Russell Beatty, Dean Richard Mula, and Dean Hugo Saluti. Presenting

Student Government scholarships was Thomas Keady, president.

Recognized for scholarships awarded for use in the Spring Semester of 1974 include Laura L. Piscatelli, Nancy E. Bowen, Diane P. Dalabon, Joyce R. DiBona, Geoffrey A. Ferracane, Mark F. Gillespie, Jean M. Johnson, Barbara T. Connolly, Barry S. Fineberg, Mary Laing, James M. Manning, Robert E. Moore, Mary J. O'Brien, Charlene Lewis, Frederick A. Joseph, Kathleen Mudge, Terry A. Mahar, Robert L. Owen, Debra A. Parziale, Merlin B. Smith, Iris Samoff, Debra J. Titus, Lee D. Thompson, and Arthur LaBrecque.

Receiving scholastic recognition for honors achievement during the Fall Semester of 1973 were Nancy A. Ahonen, Joan M. Amendola, Everett Anderson, Jr., Nina B. Appel, Marcia L. Bailey, Michelle M. Boudreau, Diane M. Brabazon, Karen A. Bray, Allan M. Brown, Jr., Constance M. Bryan, Ethel L. Burton, Frances M. Cahalan, Robert J. Cheney, Barbara T. Connolly, Mark A. Connors, Teresa A. Corea, John J. Crowley, Jr., Linda K. Curvin, Lorraine D'Amico, Louis P. Farina, Richard J. Fay, William J. Fein, Barry S. Fineberg, William A. Fitzpatrick, Jr., Robert A. Flaherty, Frank E. Glynn, Joseph L. Guarino, Gladys Heitin, Peter W. Howlett, Michael Iacovello, Deirdre A. Irvine, Lori A. Johnson, Margaret C. Kelly, Douglas W. Kemp, Janet M. Kressler, Arthur F. LaBrecque, Mary Laing, Lorraine A. Leonard, Deborah A. Lewis, Paula J. Logan, Anne M. Luca, John B. Mahar, James A. Mahonen, James M. Manning, Mary A. Marotta, Suzanne M. Martin, Mary J. Mayo, Jerome F. McAdams, James L. McCarthy, James M. McDonough, Kathleen E. McGill, David L. McKinnon, Bruce W. McLain, Paul W. Meallo, Marie T. Miller, Robert E. Moore, Peter E. Nason, Cynthia R. Nelson, Mildred A. Nestor, Jeanine C. Nogueira, Mary J. O'Brien, Laura L. Piscatelli, George E. Pitts, Jr. Joseph P. Renna, Elizabeth Sestuccia, Stephen E. Ruben, Russell Savela, Peter Schottmiller, Terrance L. Silvernail, Thomas J. Smith, Marcus Sorgman, Rebecca A. Stoffiet, Arthur J. Stratford, Jr., Egle E. Subatis, Carol A. Templeton, Lee D. Thompson, Gerard L. Travers, Barbara A. Tully, William P. VanRiper, Ronald A. Ward, Dolores Ware, Margaret T. Wassell, Elizabeth M. Wayburn, Maureen M. Wilson, William H. Wirta.

In addition to the presentation of scholarships given in memory of Capt. Edward Brudno by Congressman Burke, a gift of Mrs. H. Russell Beatty in memory of her late husband the former President of Wentworth College and Institute, and the Capt. William McIntyre scholarship donated by the Hon. James McIntyre, and the Walter Hannon scholarship, the Community College Association presented future scholarships to freshmen for the Fall Semester of 1974. Patricia Foley received the Community College Association award presented by Charles Sweeny, Mark Carnathan received the Dr. Charles Djerf award presented by Charles Sweeny, Brian Walsh received the Kenneth P. & Priscilla Holland White award presented by Maude Johnson, Michael Coffee received the Judge Gertrude Halloran award presented by Congressman James Burke, John Lynch received the Quincy Junior College award presented by Dr. Edward F. Pierce, Joanne P. Condon received the Maude Taylor Johnson award presented by Hon. Foster Furcolo, Rita M. Todd received the Maude Taylor Johnson award presented by Hon. Foster Furcolo and Thomas Collins received the Deans' award presented by Dean Hugo F. Saluti.

Dr. Edward F. Pierce announced that monies for scholarships had been increased seven fold for 1974 and a 50 percent increase over the present level is expected next year. New scholarship donors include Congressman Gerry Studds, 3 scholarships, the Antonelli Iron Works, 2 scholarships, a scholarship from Senator Allan McKinnon, among others.

PETROLEUM INDUSTRY CAPITAL REQUIREMENTS AND TAX POLICY

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. TEAGUE. Mr. Speaker, my attention was recently called to an article by Dr. William A. Johnson, Assistant Administrator for Policy Analysis and Evaluation of the Federal Energy Office. It appeared in a publication of the conference board, and consisted of excerpts from Dr. Johnson's remarks at a meeting sponsored by the International Management and Development Institute here in Washington.

In the article, Dr. Johnson makes the following assertions:

> It is alleged that the oil industry is earning "unconscionable" profits and that this is proof that the major oil companies are benefiting from the difficulties of our nation. It is true that 1973 witnessed record increases in rates of return for the industry. However, these increases were experienced by independent as well as major oil companies. Moreover, 1972 was the worst year in recent industry history, partly because prices of 70 percent of the industry's refinery output were effectively frozen from August 1971 to January 1973. In 1973, the industry simply caught up to where it should have been. It is now estimated that the 1973 composite rate of return on equity for the industry as a whole will be about 13.2 percent. This is slightly below the rate of return for all industry in the United States.

Now, the reason, presumably, why we are considering new taxes on "windfall" profits in the oil industry, and other tax changes that are estimated to cost the industry altogether about $13 billion over the next 6 years, is because the industry is earning more than it should—in someone's judgment.

Since there are other industries that are more profitable, I must inquire of that someone where the line falls between enough and too much. I would ask that someone whether he believes the oil industry has a less urgent need for attracting capital and, therefore, what is enough for industries that earn more is too much for the oil industry that earns less.

If that is the reasoning behind the enormous tax increase on oil companies that is proposed in H.R. 14462, then it is false reasoning. I know of no industry in America that has a greater need for funds for investment, nor any industry that Americans should more encourage to obtain those funds, than the oil industry. Because it is only by a massive flow of new investment that we can get out of our energy bind and put a stop to what some have called "oil blackmail" by the petroleum exporting countries.

I contend, Mr. Speaker, that in the next few days the House in acting on the Oil and Gas Energy Tax Act of 1974, H.R. 14462, will not only be asked to make a decision affecting the petroleum industry's tax burden but will be asked to make a decision on how many oil and gas wells we do not want drilled; how many miles of pipelines, how many tankers, how much new refinery capacity we do not want constructed. Let us understand that.

If my colleagues are smart enough to figure out how many wells and refineries and tankers we do not need, fine. But they are a lot smarter than I am; or they may merely be more expedient. If the long lines return to the filling stations and homes go cold, and factories close and farm tractors grind to a halt, I do not want the record to reveal that I decided that is the way it should be.

But let us be clear that the question soon to be before the House is not taxes on the oil industry, but what we are willing to risk in dependency on a limited number of outside sources for our essential energy supplies. Because that is what is ultimately at stake in the decision about the wells and refineries and tankers we do not need.

How many dollars of profits oil companies have to earn to generate and attract the capital to bring our dependency on foreign petroleum to a prudent level is something that no one really knows. But there is a way of finding out without engaging in a lot of hazardous guesswork.

That way is to allow full credits against increased tax payments on profits that are plowed back into energy development. That is where H.R. 14462 falls down in that it would allow only an inferior plowback credit.

If the oil industry is earning so much that it cannot reinvest it in energy development in the United States and in more diversified areas abroad, then we will know without guessing whether there are extra funds available for taxation. As it is, this bill is guessing.

I believe the proponents of H.R. 14462, in deciding to siphon billions of dollars of additional taxes out of the petroleum industry, have underestimated the size of the job the industry is facing. And I believe they have overestimated the industry's ability to absorb billions of dollars in additional taxes and still get the job done.

But let us be men enough to acknowledge that if we make the decision, we bear the responsibility. There should need be no search the next time for a scapegoat.

Now, I want to return to something I alluded to earlier. This legislative proposal defines for one industry, out of many, the level of profits that are to be regarded as "windfall" profits, and it singles out that one industry in a highly discriminatory fashion for special taxation based on this definition. Let us clearly recognize that and ponder its wisdom.

I am compelled to comment also on two other features of this bill. The first has to do with the proposed elimination of the percentage depletion provision as it applies to oil. In passing, I observe that the production of more than 100 minerals is covered by the percentage depletion provision and once again one particular mineral is singled out for discriminatory treatment. But more importantly, I understand that during its deliberations the Ways and Means Committee rejected a proposal to retain percentage depletion on oil that is subject to price controls. H.R. 14462, in its provisions dealing with percentage depletion, does not distinguish between oil that is under price control and oil that is free to find its competitive market price. This can be described as holding-and-hitting, and coupled with other discriminatory features of this bill it raises this question: Can H.R. 14462 be described as legislation thoughtfully designed to deal with the serious problem of the deteriorating energy posture of our Nation? Or is it more accurately described as a blind venting of spleen against the Nation's petroleum industry?

The identical questions may be asked, Mr. Speaker, with respect to the provision of H.R. 14462 dealing with foreign income. The United States will be heavily dependent upon foreign oil sources for a long time—5 to 10 years at least. Many U.S. oil companies have undertaken foreign exploration ventures which hold promise of diversifying the sources of supply. With no provision for a reasonable transition period, H.R. 14462 would change the rules of the game on projects that were studied and undertaken on the basis of present tax laws. Longer-range, H.R. 14462 diminishes the ability of U.S. companies to compete with foreign oil companies in finding, developing, and bringing new petroleum supplies into the very world market upon which we depend, and stacks the deck in favor of foreign oil companies and the owners of foreign oil companies as the recipients of the American dollars that go to pay for the oil American consumers need.

Mr. Speaker, the solution to our Nation's energy problems is not higher taxes on the petroleum industry but a higher level of spending by the petroleum industry for exploration and development for new petroleum reserves. It is axiomatic that capital spending becomes feasible and capable of being expanded if justified by profitability. At the present time, the petroleum industry's level of capital spending is inadequate to promote reasonable self-sufficiency by 1985 even though the industry has substantially increased capital spending since 1972. Higher prices and capital requirements are discussed in a memorandum that was submitted for the hearing record before the Committee on Ways and Means on energy tax legislation. Mr. Speaker, for the information of the Members of the House, I would include that discussion at this point in the RECORD as a part of my remarks:

CASH FLOW FROM HIGHER DOMESTIC CRUDE PRICES IN COMPARISON WITH CAPITAL REQUIREMENTS FOR SELF-SUFFICIENCY

The National Petroleum Council has estimated that the industry should spend $19 billion per year during 1971–1985 for oil and gas exploration, development, refining, transportation, and synthetics (plants and mines) in order to achieve 83 percent oil self-sufficiency by the end of the period. This figure is in 1970 constant dollars, but general prices in 1973 were already 14 percent above 1970 (measured by the price index used to deflate Gross National Product). Moreover, expenditures in 1971 and 1972 averaged only $7 billion per year. If we allow for this 1971–1972 under-expenditure and for inflation, the industry's capital requirements for 1973–1985 would be about $23.5 billion annually in 1973 prices. Preliminary data would indicate about $26 billion annually for 1974–1985 in 1974 prices. This will require more than tripling the 1972 expenditures of $8 billion for these items.

Preliminary data indicate the planned 1974 petroleum industry domestic capital expenditures in the above categories will be about $14 billion—up $6 billion from 1972. Thus, despite a major increase in the level of expenditures, the industry is still under-spending the NPC requirements by some $12 billion annually.

How does the increase in cash flow attributable to higher domestic crude prices compare with actual and needed capital expenditures?

If operating costs remain the same, every dollar of incremental crude price yields about 50 cents of after-tax profits to a corporate producer of existing oil:

	U.S. tax computation	Increase in profit
Extra revenue	$1.00	$1.00
Less—		
Royalty (at 15 percent)	.15	.15
State and local taxes (at 8 percent of 85 cents)	.07	.07
Percentage depletion (at 22 percent of 85 cents)	.19	
Total	.41	
Taxable income	.59	
Federal income tax (at 48 percent)	.28	.28
Total		.50
Net income		.50

This 50-cent figure is for a corporation on a gross production basis considering royalty as an expense. An independent producer in a 70 percent marginal tax bracket would receive about 37 cents on the dollar. Thus, on average, a dollar of incremental crude value means about 47 cents of incremental profits to crude producers. (That assumes an 80/20 split of production between corporations and individuals.) In round numbers, the producer keeps half; and governments and royalty owners get half. The minimum tax is disregarded in the computation.

The above computation overstates producers' cash flow somewhat because, as time passes, operating costs will increase. We have assumed that all of the increase in price on existing production represents profit (before tax), but some part of it is needed to cover rising operating costs.

Since 1972, the average price of domestic crude has increased by about $3 per barrel (from $3.39 to about $6.50). With 4 billion barrels of production, that would imply an increased cash flow of about $6 billion (= half of $3 x 4 billion barrels). That increase is about the amount required to cover planned 1974 expenditures: $8 billion spent in 1972 plus $6 billion extra cash flow = $14 billion. While $14 billion approximates the expected level of expenditures in 1974, it is far less than the *needed* expenditures.

Reflecting world prices, uncontrolled new domestic crude oil is selling for something over $10 per barrel—up about $7 per barrel since 1972. If all domestic oil were selling at $10, the implied increase in cash flow since 1972 would be about $14 billion (= half of $7 x 4 billion barrels). That is much more than the $6 billion increase in planned spending, but it is still not enough to cover *needed* expenditures: $8 billion spent in 1972, plus $14 billion extra cash flow equals $22 billion, which is well below the $26 billion needed.

Of course, some of the $26 billion could be borrowed; but far and away the majority of the funds must be generated internally. The First National City Bank of New York suggests about 80 percent (80 percent of $26 billion is $21 billion). And some of the added cash flow must go to dividends in a period of inflation if equity values are to be maintained.

It might be argued that a temporary windfall profit tax could be applied until expenditures actually reach the required level without damaging the national effort to re-achieve a reasonable level of self-sufficiency. However, to the extent that the industry is under-spending now, it must over-spend later. Thus, the money *will* be needed in the future if self sufficiency is to be attained. Taxing away any present surplus will leave a corresponding fture deficit.

CONCLUSION

While these cash flow and expenditure data are necessarily only approximations, it seems clear that the industry should be spending at levels even higher than implied by the increase in cash flow which would result if all domestic crude oil were selling at world prices:

Crude price (dollars per barrel)	$10.00
Incremental needed expenditures (billions of 1974 dollars)	18.0
Incremental cash flow (billions of 1974 dollars)	14.0
Deficit (billions of 1974 dollars)	4.0

The above computations are in 1974 dollars and make no allowance for future inflation.

O. L. WARR

HON. EDWARD YOUNG

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. YOUNG of South Carolina. Mr. Speaker, one of the deep satisfactions of public life is the opportunity to be associated with some very special people. Osta Lee Warr was such a man. The contributions he made to South Carolina, and the contributions he continued making up to his death, have enriched the lives of all who knew him, as well as those who did not enjoy that great and special privilege.

The Charleston News and Courier was one of many newspapers which expressed a sense of loss at the passing of this fine gentleman:

O. L. WARR

A brilliant student at the University of South Carolina, Osta Lee Warr was described by the late W. W. Ball, then dean of the school of journalism and later editor of The News and Courier, as the most promising young newspaperman of his acquaintance.

Mr. Warr decided against journalism as a career and returned to Darlington County to become a farmer in the section known as Quietude. Years later he wrote a series of provocative essays for The News and Courier which appeared under the caption "The Farmer From Quietude".

Mr. Warr wrote other articles for publication. He also was elected to a term in the S.C. House of Representatives and occupied other posts of public service. He was a keen observer of the times, loyal to his state and possessor of a sense of humor to enliven his conversation. His death at age 66 has removed a citizen we held in high esteem.

SCHOOL DESEGREGATION FEARS QUIETED IN MINNEAPOLIS

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. FRASER. Mr. Speaker, U.S. District Judge Earl Larson has ordered that no Minneapolis school have more than 35 percent minority students by the time the Minneapolis public school's desegregation plan is fully implemented within the next 2 years.

Last fall saw the first large-scale efforts to accomplish the order. Integration has worked successfully despite some initial tension. Some reasons for the relaxation of the tension are the years of preparation for the busing program, the hiring of "crisis resolution aides," a more relaxed climate surrounding racial matters in the city, and the positive attitudes of the kids involved.

The following articles were printed in the Minneapolis Star on April 29, 1974. They represent the point of view of the students who are involved in the program:

BUSING—AFTER A TRIAL, HOW IS IT WORKING?

There were fears last fall that as Minneapolis junior high school students started being bused for racial desegregation, there would be fights, parents putting their children in private schools and maybe even a riot or two.

But none of that happened. The students made sure it didn't.

"I never did believe all that stuff about the kids are going to be fighting," said Cornelius Tucker, assistant principal at Anthony Junior High.

"It never has been the kids. It's the adults. If they don't get that crap from the parents, they won't bring it here," he said.

To an outside observer, the schools last week looked calm. Masses of children of various colors moved through the halls of Bryant Junior High—a picture of chatting girls, boisterous boys, bossy teachers, laughter. At Anthony, the halls were not so crowded, and the atmosphere was pleasant and peaceful.

Things were not always this calm, and last fall there were many uptight children steeling themselves for confrontations. But the tension passed, and one of the reasons it did was children getting together with children.

One such meeting took place all year at Bryant in a "values clarification class," which consisted of about 20 students from various economic, racial and social backgrounds.

"The purpose of the class is for us to help get blacks and whites integrated and to help figure out the problems of doing that and of why we already aren't," explained James Holmes, a black 13-year-old, 8th grader.

The class, which meets an hour everyday at 10 a.m., is an informal session where kids share their thoughts on racial issues and through discussion learn to understand one another.

Then they share their insight with others of their race outside the class, hoping to create a snowball effect of understanding and harmony.

If you are a strong leader around school and you start to do something, then you will make others follow you," James said.

He believes that those in the special class are all protential leaders.

Although there is no values class at Anthony, the feeling among people in the area is that the year went well because white parents in that area at least let their children return to school and because the children learned to adjust to one another very quickly.

"When I first came here I was kind of scared because I was used to being around black kids," said Stacy Jackson, a 7th grader at Anthony.

"But after a while I got to know some of the kids and now I have some friends that are white and everything is OK," she said.

The problem that parents, school officials and children consider the toughest to deal with is the belief that parents both black and white are watching their children come together but themselves are sitting back in apathetic silence and doing nothing.

No one really knows if the parents' old prejudices can be overcome or if they even want to alter their attitudes. Some feel that integration will never really be achieved if the parents don't change.

Others like Tucker feel that the children will accomplish it themselves.

"Kids don't worry with that stuff they hear at home, 'cause kids are going to be kids and are going to do what they want to do,' he says, "And if they want to be friends they are going to do that, too."

WILLIE DECIDED TO STAY IN THERE . . .

(By David E. Early)

Willie Holmes' smooth black face changed into a slight frown when he recalled the disappointment of finding out that he could not go to Ramsey Junior High School as he had planned.

"Man, I had never even heard of Anthony Junior High," said 12-year-old Willie, who lives at 4427 Blaisdel Av. S.

It was the middle of summer, 1973, and he was happy because his grades were so high at Fuller Elementary School that he had been skipped from 5th grade to 7th.

But then he was informed about forced desegregation and an irritating anxiety set in.

"I thought I was going to have problems with my other two sons," his mother, Mrs. Earline Holmes, said. "But after one of them went to school in Arkansas and the other got to go to Bryant. I thought everything was going to be all right."

But everything was all wrong for Willie.

Shortly after school began he got into several fights with white children on the buses and in school, argued with teachers, refused to do school work, charged the Anthony personnel with being bigoted, was habitually late to school and constantly hounded his mother to help him get a transfer to Bryant.

"I just didn't like it," Willie says "The 9th grade whites would pick on us and it seemed like the other white kids didn't want us at their school."

Mrs. Holmes says that Willie, usually a peaceful kid, was miserable. "When one of my children is upset, I get upset," she said.

She called and visited Anthony on several occasions to find out why her son's grades were not up to par and why he felt that everyone there was on his back.

Finally, in March Mrs. Holmes and Willie went to the school board to ask for a transfer to Bryant.

But by the time Willie and some of the staff and students at Anthony had begun to understand one another. The mutual respect had taken a while longer to develop, but now the young man had come to a decision.

"I just decided that I was going to stick it out," he says. "I had made some friends, black and white, and I wanted to make good grades, so I would be respected at Anthony."

Mrs. Holmes says when Willie told her that he wanted to stay at Anthony, she urged him to study hard and that she would stand behind his new decision all the way.

Willie, an avid athlete, says that to get the respect he desires that he would strive to be an A student as well as a great athlete.

"That's when everybody really respects you," he says.

"I didn't like it at first and I can't say that I like it now, but if they are going to bus the kids, then it's a matter of the teachers, parents, counselors and the people over there getting used to it," Mrs. Holmes said.

"Maybe next year it will be better, that is, if the adults can change their messed-up attitudes," she added.

So now Willie, an intensely competitive kid, looks forward to next year at Anthony as a time when he will match wits with the system. Instead of fighting it, he will make it work for him and other incoming 7th graders.

"My advice to new students being bused in is, don't try to be tough, but don't be afraid either. Have confidence in yourself. Get your bookwork and if you're an athlete, be an intelligent athlete.

"Then they'll respect you," he said.

IT'S WORKING LIKE GREAT

(By Zeke Wigglesworth)

Susie Heidelberg is 13, upper-middle class, opinionated, outspoken and white.

"I think," she said, looking at her parents, "that when we grow up, the kids I'm in school with, it will be a better world."

Then she sighed.

"They (her parents) are just too old to change."

She lives in a nicely furnished, older house at 1242 W. Minnehaha Pkwy., a white neighborhood.

"The people around here, they just don't understand," she said. "Like I'm afraid to bring my friends here because they'll be prejudiced against my parents because of all this," and she pointed to the nice house.

"We're young, we're flexible and I think we can change our attitude," she said, "but I'm not sure my parents can."

Susie is one of several thousand Minneapolis youngsters—seventh graders—who last fall boarded school buses to begin the city's first large-scale efforts at forced desegregation.

She lives in the Burroughs Elementary School area and would have attended Ramsey this year. But because Ramsey became an all-9th grade school, and because a better racial balance in the city junior highs was ordered, she went instead to Bryant. She thinks it's the best thing that ever happened to her.

"When I first started going there, I was very afraid," she said. "I was afraid I was going to say something and they'd beat me up or I'd say something and they wouldn't like me. But that's all changed."

She likes being in a school with a large minority population, partly because she thinks it gives her insights to other lifestyles and party because she says the children she goes to school with are "honest."

"The people around here (Burroughs) just hide things. At Bryant, kids will say, in front of you, that they don't like you, and that hurts. But around here (the Ramsey area), they whisper to somebody else and they tell you, and that hurts even worse."

There seem to be many reasons why Susie is making it at Bryant. She's smart, first of all, and is described by her mother, Ruth, as a "real competitor." And she is the first child in the family (there are five chidren) who has gone to Bryant, and that means a lot to her.

"That means that kids don't come up and say, 'Oh, you're the other Heidelberg's sister.' It means that what's happening to me is mine, and I can come back and tell them (her family) and it's all new."

"It's basically a class situation, not a racial one," she said. "Sometimes I forget what color people are, but I know they have a different way of looking at things than I do. And I guess I feel sorry for people who haven't had this sort of experience. I really love that school."

Her father, Kenneth, is the vice-president of Hirshfield's Paints and Wallcoverings, and a man who takes his daughter's 13-year-old militancy in stride.

"I grew up in Minneapolis, went to school in Emerson and Central," he said, "and I was sort of worried when Susie started at Bryant because that's a tough neighborhood. I was also a little upset because I didn't really understand what it would accomplish. It seems a little silly, I guess, to move everybody around like that because I'm not sure what it really does and I'm not sure we know what we're doing."

Mrs. Heidelberg agreed.

"I guess I was upset because I knew about how badly the school needed money. I wondered if all that money they were spending for buses was worth it. I guess if she hadn't been forced we never would have sent her to Bryant, because she can walk to Ramsey from here and that's good exercise."

Susie's deliberations on the older generation are not confined to her parents.

"My friends at school, well, their parents have hangups, too. I think they're sort of afraid that their parents would be prejudiced against me, too."

She said the school was "very tense" at first last fall, because students on both sides of the color line were uneasy, afraid of reactions from the other side. But now, she said, things are different.

"I think I sort of put black people together, thought they were all alike. But they're just like everybody, else, and I think we all learned that at Bryant. The whole thing, well, it's working like great."

REPRESENTATIVE JACK KEMP SALUTES VFW PVT. LEONARD POST, JR., POST NO. 6251, OF CHEEKTOWAGA, N.Y.

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. KEMP. Mr. Speaker, we in western New York are particularly proud of VFW Pvt. Leonard Post, Jr., Post No. 6251, of Cheektowaga, N.Y. The post has been recognized as the No. 1 New York State VFW post in the category of community service, and last year finished ninth in national competition.

This year, under the able leadership of Comdr. John Slenicki, Pvt. Leonard Post, Post No. 6251, is actively on its way to becoming the No. 1 VFW post in community service in the Nation. The post over the years has contributed to many fine charitable causes, and its members unselfishly give of their time to participate in patriotic, civic, and community affairs. The post's "Care Program" entertains the retarded, the mentally ill, the homeless and the aged, and has helped residents at institutions such as the Buffalo State Hospital, West Seneca State School for the Retarded, the Erie County Home, and Infirmary, the Erie County Rehabilitation Center, St. Anthony's Home, and the United Church Homes for the Aged.

The post, which was organized in 1946 has grown from 32 members to more than 1,030 members, each of whom is deeply committed to public service and community participation. The continuing efforts of Pvt. Leonard Post VFW Post of Cheektowaga are appreciated by all western New Yorkers.

I wish to bring to the attention of my colleagues just some of the accomplishments and initiatives undertaken by the post. On behalf of all of western New York, I commend the post for their contributions to the community and thus the country, and wish them well in this year's competition.

SPORTS ILLUSTRATED ENDORSES MATHIAS HOUSE SPORTS BILL

HON. JOHN J. McFALL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. McFALL. Mr. Speaker, from the time that Gen. Douglas MacArthur and then-Attorney General Robert F. Kennedy began pressing for legislation to eliminate disputes between the major sports organizations, Sports Illustrated, one of the leading sports publications in this Nation, opposed any Federal effort to resolve the bitter feuds which have resulted in a serious lack of American preparation and success in international amateur athletic competition.

Now, 10 years later, their editorial policy has changed. They support both the creation of a commission to investigate the U.S. Olympic Committee and, therefore, the Olympic sports, and also a bill introduced by my colleague from California, Bob Mathias, which provides for binding arbitration in jurisdictional disputes, free of Government intervention, and also secures a bill of rights for the individual amateur athletes.

I have long been proudly associated with the annual California Relays in Modesto, Calif. which is an AAU sanctioned event held in conjunction with the California Junior College Track and Field Championships.

This meet is another reason Modesto has twice been selected as an All-American City. The Commission and legislation has the full support of the AAU and the USOC.

I commend to my colleagues this article in Sports Illustrated for their consideration:

Scorecards Amateurs' Hour

(By Andrew Critchton)

Any day now the U.S. Senate will take up the subject of amateur athletics and this country's participation in international competition, particularly the Olympics. Sometime later the House will respond with a bill of its own.

Without going into past AAU-NCAA-USOC hassles that unhappily have occupied this country's athletic bodies for over a decade, it is enough to know that the Senate will be considering two bills that will put the government foursquare in amateur sports. One, which the Senate is expected to approve quickly, would establish a commission to review U. S. participation in the Olympic Games and perhaps recommend a new organization to direct it. The other bill, setting up its own Olympic study board, would go much further by creating a five-member Amateur Sports Board that would charter national athletic governing bodies such as the AAU, adjudicate disputes between them and provide recourse to the U.S. courts. The board would also approve organizations to represent the U.S. abroad, designate teams and individuals for international events and conduct domestic competition. Finally, the bill would establish a 16-member Sports Foundation to develop and improve sports facilities. To that end the U.S. would match, to a limit of $50 million, funds raised privately. In both bills the principal members of the boards would be designated by the President.

The House bill, if you can hang with this for one more dose, was introduced by two-time Olympic champion Bob Mathias. It would amend the federal Olympic charter to provide for binding arbitration by the American Arbitration Association, an independent organization, in jurisdictional disputes and in securing a bill of rights for individual athletes.

Since 1964, when the then-Attorney General, Robert F. Kennedy, advocated in these pages a sports-development foundation that would require some federal involvement, we have stated our opposition to the instrusion by government into sport. We see no objection, however, to a study of our sometimes imperfect administrative performance in the Olympics. The United States Olympic Committee says it would welcome that, if for no other reason than to clear its name.

Leading athletes favor the foundation idea with its promise of $100 million for facilities, but in a country of this size $100 million would prove little more than a chimera, and the government would have a foothold. It would have almost a stranglehold on amateur sport if the Amateur Sports Board were enacted into law and the President were given the right to select amateur sports leaders. A more broadly representative USOC that, from time to time, is subject to outside investigation is preferable, in our view, to total governmental control, as practiced by an increasing number of nations.

The brightest idea, and one we would like to see enacted, is Mathias' for compulsory arbitration through the non-governmental AAA. It just could succeed at last in knocking some sense into AAU and NCAA heads.

DETROITER DONATES 10,000 UKRAINIAN BOOKS TO HARVARD

HON. LUCIEN N. NEDZI

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. NEDZI. Mr. Speaker, book collectors are generally an interesting breed.

The urge to collect and the self-discipline needed are relatively rare. If these two aspects of the collector are combined with a sense of purpose and specialization, then the benefit to history is often an important one.

I recall the story told of one of Detroit's greatest book collectors, Clarence Burton, the first president of the Detroit Historical Society and father of Detroit's magnificent Burton collection.

Before he died at the age of 79 in 1932, he meticulously filled out in longhand a form sent to him by the Detroit News to provide accurate biographical information for the files. Under the category "Recreation" he set down one of the most masterful understatements of all times:

"Work hard at old books," he wrote.

Last week I remembered the above story when I read a Ukrainian-born Detroit man is donating his entire personal library of 10,000 volumes on Ukrainian literature and history to Harvard's Ukrainian Research Institute.

The man, Michael Bazansky, 64, a retiree, is a resident of the 14th Congressional District, which I represent.

Under leave to extend my remarks, an article on Detroiter Michael Bazansky which appeared in the Detroit Free Press of May 8, 1974, follows:

DETROITER DONATES 10,000 UKRAINIAN BOOKS TO HARVARD

(By Dennis Von Hatten)

A Ukrainian-born Detroit man is donating his entire personal library, containing more than 10,000 volumes, to Harvard University's Ukrainian Research Institute.

Michael Bazansky, 64, has been gathering books and archives that deal with Ukrainian literature and history for 29 years and he estimates that he has spent more than $25,000 on the collection.

Edward Kasinec, in charge of the reference library of the Ukrainian Research Institute, called Bazansky's library one of the most significant personal collections of Ukrainian material in the United States.

Bazansky began his collection in 1945 after his release from a German concentration camp in Bavaria as a means of "serving the Ukrainian people."

He came to the United States and settled in Detroit in 1949 and became a U.S. citizen in 1954.

Bazansky, retired and living alone on Social Security, was a journalist in Europe and has worked at various jobs since coming to this country. He is prominent in the Ukrainian community.

Officials for the Ukrainian Research Institute in Boston contacted Bazansky about two months ago and he decided to donate the collection, which fills most of his nine-room house in northeast Detroit, because he was getting "too tired to keep it up."

Bazansky plans to move to the Boston area next year and a spokesman for the Ukrainian Research Institute said he would become connected with the institute in some honorary capacity so he would have access to his collection.

SOME GOVERNORS OPPOSE UDALL LAND USE BILL

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. ROUSSELOT. Mr. Speaker, tomorrow, May 14, the House Rules Committee is expected to reconsider H.R. 10294, the Udall Federal land use bill. This legislation provides for Federal regulation and funding of the implementation of State land use planning and calls for the development of a "national land use policy." It would permit the Federal Government to inject itself arbitrarily into land use decisions which affect the rights of property owners and the prospects for development of vital economic and energy resources. Several of my colleagues and I forcefully expressed our opposition to H.R. 10294 on February 26, 1974, when the bill was last considered by the Rules Committee, and the committee wisely deferred the granting of a rule at that time.

Opposition to the Udall bill has not subsided in the meantime. In fact, I have received a letter, dated April 25, 1974, from Governor Reagan, urging full consideration of California's position against it. In letters to Mr. UDALL and to Chairman MADDEN, of the Rules Committee, the Governor said:

We believe it is impossible to centralize land use decision making at the federal level without: (1) establishing an arbitrary bureaucratic machinery that would almost guarantee administrative chaos, or (2) seriously infringing on the constitutionality guaranteed concept of private ownership of property.

I am inserting copies of the Governor's letter and of his statement in opposition to the Udall bill in the RECORD for the attention of my colleagues:

STATE OF CALIFORNIA,
Sacramento, Calif., April 25, 1974.

Hon. JOHN H. ROUSSELOT,
Member of Congress
Longworth House Office Building,
Washington, D.C.

DEAR JOHN: I know you will be interested in the enclosed copies of my statement to Morris K. Udall, Chairman of the Subcommittee on Environment, and Ray Madden, Chairman of the House Rules Committee, regarding the federal land use bill HR 10294 (Udall).

Your full consideration of California's position will be greatly appreciated.

Sincerely,

RONALD REAGAN,
Governor.

STATE OF CALIFORNIA,
Sacramento, Calif., April 24, 1974.

Mr. MORRIS K. UDALL,
Chairman,
Subcommitee on the Environment,
Washington, D.C.

DEAR MR. UDALL: California recognizes the need for the nation and each state and locality to develop a land use policy so that land—our most valuable resource—is used wisely. State and local agencies must develop balanced environmental, economic and social objectives in order to meet this responsibility. This process can best be accomplished by allowing the states and localities to determine and solve their own land use and enviromental issues.

In attempting to accomplish environmental goals, federal agency administrators frequently issue guidelines and regulations which attempt to meet national as well as state objectives. Often the effects of this action is that a "functional feudalist", concerned with only one issue, dictates the land use objectives of states and localities. A federally mandated "guideline" on land use that might apply to a non-urban state may not apply to a complex state like California that has highly urbanized as well as non-urban, resource-oriented areas.

In California we are taking steps to develop a mechanism which will provide for the establishment of statewide environmental, social and economic objectives. This mechanism is attainable at the state level by coordination of functional planning, resolution of local jurisdictional conflicts while preserving local authority, and respect for private property rights.

The federal government should recognize California's leadership in this field and work to insure that state and local as well as national environmental goals are balanced with economic and social goals. In referring to the pending national land use legislation in his State of the Union speech in January of this year, President Nixon stated: "This legislation would reaffirm that the basic responsibility for land use decisions rests with state and localities, and would provide funds to encourage them to meet their responsibility."

HR 10294 does not meet this objective. We believe that the states and localities must develop a balanced approach to land use needs and must maintain a process in order to conserve limited resources. We believe it is impossible to centralize land use decision making at the federal level without: (1) establishing an arbitrary bureaucratic machinery that would almost guarantee administrative chaos, or (2) seriously infringing on the constitutionally guaranteed concept of private ownership of property. It appears to us that the legislative approach contained in these measures would inevitably raise such constitutional issues.

A year ago, in outlining principles to be used on guidelines for land use legislation in California, I stated that California would be pleased to implement sound legislation, but HR 10294 as written does not meet California's criteria. While we appreciate the interest in establishing a federal land use policy, such a policy should not require federal infringement in an area of responsibility reserved to the states and localities.

Sincerely,

RONALD REAGAN,
Governor.

LOOK TO THE EAGLE

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. SPENCE. Mr. Speaker, earlier this month your very able administrative assistant, Charles L. Ward, spoke to the weekly breakfast meeting of the Capitol Hill Staff Prayer Group. The subject of his talk was "Look to the Eagle."

I have been privileged to read the full text of Mr. Ward's remarks in which he gives a brief and interesting summary of the history and habits of the American Bald Eagle, our national symbol, and then illustrates how we can better serve both God and man by emulating many of the habits of this great bird. I found his remarks quite inspiring and I would like to share them with my colleagues and others by inserting them in the RECORD at this point. Following is the text of the speech given to the prayer group by Mr. Ward, administrative assistant to the Honorable CARL ALBERT, Speaker of the House:

LOOK TO THE EAGLE

Since the American Bald Eagle is our national symbol, I thought it might be appropriate this morning to look to the eagle for a message.

Incidentally, when one of our young people asked me what I was going to talk about today, I mentioned that I was going to discuss the American eagle. He looked up at my sun-burned scalp and asked "Isn't the American eagle called the Bald eagle?" And I readily said "yes."

"How appropriate that you should choose that subject," he said as he tried not to stare at my bald head.

The eagle is mentioned many times in the Bible. . . . One of the most familiar passages is that one from Isaiah which reads:

"They that wait upon the Lord shall renew their strength, they shall mount up with wings as eagles; they shall run, and not be weary; and they shall walk and not faint."

Elsewhere in the Bible we read of characteristics of the eagle—its swiftness, its powerful sight, its great powers of flight and its teaching its young to fly. In the 103d Psalm, we have a beautiful verse which goes something like this:

"Bless the Lord, O my soul, who satisfies you with good as long as you live, so that your youth is renewed like the eagle's."

The eagle is one of the most striking aspects of the Great Seal of the United States. As you may recall from history, the Founding Fathers considered designing a seal of such importance that the first committee to undertake this task was appointed on the same day—July 4, 1776—that our Declaration of Independence was adopted.

The first Great Seal committee was composed of three able and scholarly men—Thomas Jefferson, John Adams, and Benjamin Franklin. In the course of the six years that it took to design the Great Seal, three committees joined in the labor. Finally, on June 20, 1782, the Great Seal of the United States was adopted by the Continental Congress at Philadelphia. The design was new and truly American while managing to express our national awareness of the links that bound us to the great civilizations of the past.

I think it was particularly fitting that the American Bald Eagle should have been selected as the symbol of our land. This noble, courageous bird with his eternal vigilance was, indeed an excellent choice. Lord of the skies, the eagle has stirred the minds of men for ages. More than 3,000 years before Christ, the Sumerian city of Legash adopted the bird as its divinity. Later, imperial Rome's conquering legions bore standards emblazoned with eagles. And Napoleon's armies, in the 19th century, marched under the banner of the eagle.

Although for millenia, eagles had represented imperial power, the bald eagle now symbolizes freedom and democracy. Because it is native only to North America and because of its great strength, courage and grandeur in flight, the bald eagle was chosen to be the United States' national symbol.

Few Americans are ever very far from the image of the bald eagle. Besides being the central figure in the Great Seal of the United States, it appears on all dollar bills, and on many coins, stamps and official documents. It actually appeared on some coins even before the adoption of the Great Seal in 1782. As a matter of fact, the first documented use of the eagle as an American symbol was in 1776—the same year as our Declaration of Independence—when Massachusetts engraved it on a copper cent. In 1787, it appeared on a New York copper and on two new coppers of Massachusetts. In later years, the eagle became even more popular, appearing on silver dollars, half dollars and the quarter. Gold coins were actually christened eagle, half eagle, quarter eagle, and the double eagle.

Today, our national bird is found almost everywhere except in one place—aloft in its native skies. For almost two decades, the number of bald eagles has shown a steady decline as advancing civilization, illegal shooting and poisons poured into our waters take their toll. Should this tragic trend continue, the harsh, creaking cackle of the bald eagle may be heard no more and our country's symbol may be vanished from our land.

Fortunately, Congress took steps in 1940 to protect the bald eagle by passing the National Emblem Law which banned the molesting or killing of birds anywhere in the then 48 states. Even under ideal circumstances, adult bald eagles reproduce slowly, laying only two eggs on the average per year. Unlike many other birds, bald eagles mate for life, and they generally return to the same nest each year, gradually enlarging it as they mend damage incurred during their absence. In time, the nests become enormous, the largest of any North American bird. One nest, occupied for 35 consecutive years measured 8½ feet across, 12 feet deep and was estimated to weigh two tons. Nests, of course, need to be fairly large since the young eaglets remain there until they are three to four months old.

The eagle spends more care in the education of its young than any other bird in our skies.

At first, the chicks get food popped into their mouths, but when they should begin to feed themselves the parents tear up a fish before the youngsters' eyes to show them how to do it. Presently, they bring a whole fish and stand back while the little fellows learn to quarter it themselves.

In their nursery or nest, eaglets play with sticks just as children play with toys and learn to grasp objects with the talons. Before they can fly, they must first pluck out their gray down and develop and preen their strong white plumage. The young eagles are taught to exercise every day. Their parents show them how to jump up and down on the ample platform of their home nest, flapping their wings. They do this by the hour, squealing and stamping like children in a game. All this is preparatory to flying and to fly as an eagle flies is something that is learned, it seems, only by weeks of practice.

At last the young eagles make a first terrified flutter from the edge of the nest. Usually, they tumble back again as fast as they can. If they're too slow about trying again, the parents discipline them by withholding food. Tantalizing morsels are dangled just beyond their grasp. When at last an eaglet completes his first solo flight, he gets a reward of food.

As a result of this wonderful home training, young eagles leaving the nest are better equipped for survival than any other North American bird. In fact, the young bald eagle, during the first year after leaving the nest, is considerably larger than either of its parents, often having a wing spread as much as a foot longer. The later reduction in size is due to the contraction of the bones, and the loss of weight is due to strenuous exercise.

But what has all this to do with Christian living? Why are we discussing the eagle at our prayer breakfast this morning?

Let's think about some of the points that we have already made about the eagle to see if there is anything we can apply to our attempts to be better Christians.

First, let's note the emphasis the eagle places on home and family. Isn't there a lesson there for us? The eagle maintains his nest as his home, practically all of his life which averages about 30 years. He builds a firm foundation . . . as Jesus directed us to do in his Sermon on the Mount.

One eagle's nest found on a rock off the California coast, contained several wagonloads of sticks and leaves. Coarse branches sometimes six feet long formed the breastworks of this bird castle. Within, it was lined with soft grasses, moss and feathers. Just as the eagle's home is built on a firm foundation of materials, it also is built on a firm foundation of love. The eagle parents proudly demonstrate their love and loyalty to each other. They remain faithful to each other until death parts them. During the 35 days it takes to hatch their eggs, they take time about on the nest. Without stirring, one bird will sit as long as 72 patient hours. When weary it will signal the mate with a chittering sound. Then the change of guard will be made swiftly.

When the baby eaglets arrive in the nest, they, too, are treated with love and affection, but it is accompanied by strong discipline. The parents direct the training program, aimed at preparing them for when they depart from the nest. As James writes in his letter "Blessed is the man who endures trial, for when he has stood the test, he will receive the crown of life which God has promised to those who love him."

The eaglets learn early from the examples set by their parents . . . not just what their parents say to them in their chittering. I wonder what sort of example we are to young people who are looking at our lives?

Many years ago I heard a true story which made a terrific impact on my own life. A speaker at a Methodist Men's meeting told how he had once had a call from an anonymous mother who simply let him know that she was a widow trying to raise a son and that this son was patterning his life after this man's. "Don't ever let him down," the woman begged, and then hung up. This man said from that day on, every time he saw some boys, he wondered if one of them was the lad who was looking to him as his example . . . He wondered how he was measuring up. When temptations came along, he always remembered that that boy might be watching . . . and he would avoid it.

And so, we learn from the eagle the importance of Christian example.

Another lesson we can note from the early life of the eagle is that of exercise and discipline. The eaglet is born small. He has to develop into the magnificent bird which is our national emblem. It takes daily exercise and discipline. He gets good training from his parents.

We are reminded of the Biblical admonition to train up a child in the way he should go and when he is old, he will not depart from it. We are reminded, too, that Jesus grew in wisdom and stature and in favor with man and God. Are our children getting this kind of training? Are they getting spiritual exercise as well as physical exercise? Are we reading the Bible together, having family devotionals together, praying together, going to church together, and, above all, serving our God and our fellow man together?

Another virtue of the eagle which we may want to adopt as Christians is its ability to "sail above the storm . . ." Poets have used the eagle as an inspiration for this quality through the years.

You know of Christians who because of their deep faiths are able to "sail above the storm . . ." to soar above difficulties and pettiness . . . to refuse to be done in by whatever Fate has to offer.

I think one of the most inspirational television programs I have ever witnessed was David Frost's interview several years age with Rose Kennedy. Here was a woman who demonstrated the eagle's ability to sail above the storm and hold her head high. What a witness her interview was as she told of her deep faith . . . of her complete lack of bitterness or malice over the fact that two of her fine sons have been murdered . . . of her refusal to judge others but simply to concern herself with her own life and that of her children and grandchildren.

The eagle also demonstrates independence and certainly this is a characteristic of our American spirit. God wants each of us to be individuals and to develop the talents which he has given only to us . . . talents that no one else has at all. At the same time, he wants us always to know that we can depend on him even while being independent. As a matter of fact, our dependence on God is really what makes it possible for us to be independent. God guides us in the right paths. "This is the way—walk ye in it" he directs us.

I think God wants us to think for ourselves and not to be led meekly like a herd of sheep. It may not be particularly easy to stand up and make your own opinion heard, but in a democracy each individual must accept that responsibility. This type of courage—to do what you believe is right even if it means you will be very unpopular—is the most important quality that any one individual can possess.

Courage, of course, is only one side of the coin. We must also be willing to commit ourselves to our beliefs and to maintain that commitment even when the going gets tough. This type of perserverance, of course, rules out any easy "cop-out." Like, the eagle, we may not have had any choice in the circumstances into which we were born, but if life is not as fair or as just as we would like it to be, it is our responsibility to do something about it . . . not just to complain and let George do it.

Jesus tells us that each of us must let our lights so shine before men that they may see our good works and give glory to our Father which is in Heaven. We must be doers of the word and not hearers only.

Another lesson we can learn from the eagle is that we must be vigilant . . . as a nation and as individuals. On the Great Seal, the eagle is depicted as holding a branch of 13 green olive leaves and seeds in his right talon. The olive branch has long been a symbol of peace. In the left claw are 13 arrows which symbolize war. But the head of the American eagle is always turned towards the olive branch, indicating a desire for peace even during war. The arrows serve as a reminder to any and all that we will not hesitate to defend ourselves if the need arises.

In our own lives, we find that this philosophy can serve as an excellent guide. No one wants to create problems, but if they do arise, we must not shirk making the hard decisions that sometimes will be required.

Our country has faced many hard decisions in the course of our 198-year history. During that time, the eagle has symbolized the character of a nation which is determined to be free but which is also willing to accept the responsibility that our liberty entails.

In First Peter, we are urged to be sober and to be vigilant; because our adversary the devil, as a roaring lion, walketh about, seeking who he may devour. As Christians we must indeed be vigilant as the eagle . . .

Quickly, now, let me review some of the characteristics of the eagle which I have touched on this morning. He's persistent and patient, he's responsible, he's independent and industrious, he's courageous and he's energetic.

Let's put the first letters of each of these characteristics together and see what we get: P for persistence and patience, R for responsibility, I for independence and industriousness; C for courage and E for energetic. PRICE—Price—and these elements truly are the price of living in a free society and preserving that society for our children and our children's children . . . for passing along the Christian heritage which is ours.

Winston Churchill once said:

"To every man there comes in his life time that special moment when he is figuratively tapped on the shoulder and offered the chance to do a very special thing, unique to him and fitted to his talents.

"What a tragedy if that moment finds him unprepared or unqualified for the work which would be his finest hour."

Let's look to the eagle and to Christ for our inspiration to be prepared for our own finest hour.

May we pray:

Heavenly Father, teach us to be as courageous and noble in our Christian service as is the majestic bald eagle, symbol of our land. Amen.

BIG BUSINESS BOOMS AGAIN IN FIRST QUARTER 1974—BUT WHAT ABOUT THE CONSUMER?

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. BINGHAM. Mr. Speaker, the results are in for the first quarter of 1974, and once again big business has racked up impressive sales and profit gains. After-tax profits of the 890 companies surveyed by Business Week were up a solid 16 percent over the same period of 1973. Among the big winners: metals, up 94 percent; natural resources—fuel, up 82 percent; oil service and supply, up 62 percent; food retailing, up 59 percent; and real estate, up 47 percent.

From the consumers' standpoint the first 3 months of 1974 have been an economic disaster:

The rate of inflation on an annualized basis was up 14.5 percent.

Spendable earnings were down 4.7 percent.

The prime interest rate was the highest on record: 10¼ percent and rising.

Most disturbing for the American consumer are the food sector figures. Despite administration cries that food prices are beginning to drop, it is becoming all too obvious that food middlemen are not passing farm price reductions on to the consumer and instead are filling their pockets with extra profits.

The time has come for a reassessment of the President's forfeited economic game plan, and a time for the reimposition of a price control scheme, similar to one I proposed last month, that will allow Americans to continue to purchase the items they need without first having to go to the bank.

I include herewith a summary, by industry, of the May 11 Business Week survey, and a detailed breakdown of the food retail and processing industries for the benefit of my colleagues and other readers of the RECORD who may be in doubt of the need to restore order at the supermarket.

The items follow:

DETAILED BREAKDOWN OF FOOD RETAIL AND PROCESSING SECTORS IN BUSINESS WEEK SURVEY

	1st quarter percent increase, 1974/1973	
	Sales	Profits
Retailing (food):		
Albertson's[11]	16	9
Bayless (A.J.) Markets	14	15
Borman's[11]	9	−30
Colonial Stores	19	38
Dillion[8]	25	28
Fisher Foods	29	35
Food Fair Stores[5]	11	29
Great Atlantic & Pac. Tea[9]	6	NM
Jewel[11]	8	10
Kroger	15	163
Lucky Stores	16	−4
National Tea	26	NM
Penn Fruit[4]	2	NM
Pneumo Dynamics[1]	**22	269
Pueblo International	16	NM
Safeway Stores	18	35
Southland	**17	21
Star Supermarkets	23	156
Stop & Shop[11]	9	−2
Supermarkets General[11]	8	10
Weis Markets	17	28
Winn-Dixie Stores[6]	25	34
Industry composite	14	59
Food processing: Baked goods, canned and packaged food:		
Alexander & Baldwin	13	−37
American Maize-Products	31	−12
Amstar[5]	57	99
Arizona-Colorado Land & Cattle	**48	29
Beatrice Foods[10]	25	16
Borden	23	15
Brewer (C.)	27	−5
CPC International	36	12
Damon[4]	17	16
ICN Pharmaceuticals[1]	6	−89
Johnson & Johnson	20	19
Lilly (Eli)	13	16
Mallinckrodt Chemical Works	19	31
Merck	14	15
Miles Laboratories	7	1
Morton, Norwich Products[8]	28	7
Pfizer	26	33
Richardson-Merrell[6]	7	9
Robins (A. H.)	12	9
Rorer-Amchem	12	0
Schering-Plough	**14	16
Searle (G. D.)	13	16
SmithKline	14	12
Squibb	14	13
Sterling Drug	14	11
Upjohn	30	32
Warner-Lambert	9	10
Industry composite	16	16

[1] 1st quarter ending Feb.28.
[2] 1st quarter ending Jan. 31.
[3] 2d quarter ending Mar. 31.
[4] 2d quarter ending Feb. 28.
[5] 2d quarter ending Jan. 31.
[6] 3d quarter ending Mar. 31.
[7] 3d quarter ending Feb. 28.
[8] 3d quarter ending Jan. 31.
[9] 4th quarter ending Mar. 31.
[10] 4th quarter ending Feb. 28.
[11] 4th quarter ending Jan. 31.
**Sales include other income.
NM: not meaningful.
Data investors Management Sciences.

SURVEY OF CORPORATE PERFORMANCE, 1ST QUARTER 1974

	1st quarter percent increase, 1974/1973	
	Sales	Profits
All industry composite	24	16
Oil service and supply	35	62
Aerospace	20	19
Airlines	15	NM
Appliances	7	−34
Automotive	−11	−71
Banks and bank holding companies	53	12
Beverages	19	9
Building materials	16	12
Chemicals	23	41
Conglomerates	18	26
Containers	22	43
Dryers	16	16
Electrical, electronics	14	6
Food processing	24	17
Food and lodging	16	−12
General machinery	20	19
Instrument	18	4
Leisure time industries	12	−17
Metals and mining	33	94
Miscellaneous manufacturing	17	11
Natural resources	76	82
Nonbank financial	4	−3
Office equipment computers	19	23
Paper	20	37
Personal care products	22	9
Publishing	10	12
Radio and TV broadcasting	12	10
Railroads	16	39
Real estate housing	24	47
Retailing (food)	14	59
Retailing (nonfood)	9	3
Savings and loan	11	−9
Service Industries	28	30
Special machinery	13	−8
Steel	22	43
Textiles and apparel	12	17
Tire and rubber	12	7
Tobacco	16	1
Trucking	17	23
Utilities	15	4

METRIC CONVERSION MUST BE FAIR TO AMERICANS

HON. RICHARD F. VANDER VEEN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. VANDER VEEN. Mr. Speaker, on May 7, the House of Representatives voted not to suspend the rules and did not pass H.R. 11035, the proposed Metric Conversion Act. I voted against passage of the bill, even though I do favor the eventual conversion of the United States to the metric system.

The bill had been granted an open rule permitting debate and amendments. Thus, my vote against the bill was a vote against the procedure whereby this important legislation was called up—a procedure which did not permit full debate and the incorporation of needed progressive amendments.

The United States, if we are to remain competitive in world markets must convert to the measurement system used by every important industrial and trading power engaged in international commerce. Those nations which do not use the metric system, are not in the front rank of commercial exchange.

The question, Mr. Speaker, is not whether the United States should make this conversion; the question is whether we should make this conversion in an uncoordinated, unplanned, and piecemeal fashion, with the prolonged inconvenience, expense, and competitive disadvantage that entails. Conversion has already begun. Many U.S. industrial giants are already implementing this change—a change they realize is an economic imperative—a change to keep them competitive in world markets. A number of school systems are converting their textbooks to teach the metric system. Clearly, we need the timing, and coordinated planning that a national policy and administrative mechanism for metric conversion would bring.

Mr. Speaker, the open rule, with 1 hour of debate still stands with regard to H.R. 11035. The leadership can call up the bill for consideration under this rule. I urge that this be done and that the House be permitted to make changes in the bill which will lessen the inconvenience and expense to the American workingman and American industry.

Amendments have been proposed which would improve the bill considerably. They include conversion loans for small business—worker assistance programs for individual retooling—and extending from 10 to 15 years the period to complete national conversion. Mr. Speaker, these amendments are needed, if we are not to place an unfair financial burden on small businesses and the working man. Replacing tools used by carpenters, machinists, auto mechanics, draftsmen, and other workers and professionals, would cost from several hundred to several thousand dollars. To expect these Americans to pay out of their pocket for a national policy of metric conversion is manifestly unfair and counterproductive.

Conversion can and must be accomplished in a smooth and coordinated fashion all across the land. However, this conversion can be done and must be done in such a way that the Nation, as a whole, bears the burden. We will all benefit from this conversion; we should, therefore, all share in the expense entailed.

Mr. Speaker, I support metric conversion. But that conversion will be fair and equitable only if it is accomplished in the ways I have suggested. Again, I urge that the House be permitted to debate and amend this legislation under the rule already granted.

PETROLEUM INDUSTRY TAXES AND PROFITABILITY

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. TEAGUE. Mr. Speaker, it is expected that in the next few days the House will be considering the Oil and Gas Energy Tax Act of 1974, H.R. 14462, which would among other things, first, phase out percentage depletion; second, impose a windfall profits tax on sales of crude oil; and third, adopt adverse changes in the U.S. taxation of foreign-source income derived from petroleum operations. Prior to the floor consideration of this legislation, the Democratic Caucus will be asked to instruct the Rules Committee to report a rule covering H.R. 14462, which would authorize floor amendments to the legislation designed to make the bill substantially more onerous than as reported by the Committee on Ways and Means.

The timing of my remarks today is directed to the pendency of that Democratic Caucus. Ordinarily, I would wait until the legislation which concerns me, the Oil and Gas Energy Tax Act of 1974, has reached the floor prior to expressing my views regarding it. However, the fact that consideration will soon be given to the formulation of a rule making it an order to offer amendments that are even more detrimental to an important segment of the energy industry, I am prompted to express my views at this time. I would like to discuss briefly some views concerning petroleum industry taxation and profitability.

Mr. Speaker, I am sure many in Congress would love to sock it to the oil industry by greatly increasing the industry's taxes. One of the foremost targets these taxers would have would likely be the depletion allowance. After all, to many people the depletion allowance is synonymous with loophole. Now that the industry's profits are higher and the public is mad about shortages of gasoline and other fuels, it would be hard to find a more politically popular idea than raiding the corporate coffers of the oil companies.

But what would be the real effect of any move to greatly increase the oil industry's taxes? What would it mean to the American people? After all, we are here to represent the best interests of all the American people—and that means the working, consuming, taxpaying public.

I believe we can agree that the best interests of the American people require an adequate supply of energy. Not energy so cheap and plentiful that it can be carelessly wasted, but enough to meet the people's needs for energy in their jobs, their homes, and their cars—at the lowest possible prices that will result in this energy being produced.

How would increasing oil industry taxes help the American working, consuming, and taxpaying public?

Will it reduce their taxes? In the short run, it would surely bring more money to the Federal Government, but I doubt that this revenue would be offset by tax cuts for the public. The Government's appetite for money is just too large.

Will it bring lower prices for gasoline and other petroleum products? To the contrary, since higher taxes will increase the industry's costs of doing business, the likely result would be to push fuel prices even higher.

Finally, would higher taxes lead to increased supplies of energy? Once again, just the opposite is true. Any money that Congress taxes away from the oil industry will naturally reduce the amount of money the companies have to invest in efforts to increase energy supplies. A few months ago thousands of people were thrown out of work due to energy shortages. I do not believe the Congress should be taking steps to make these shortages return and thereby increase unemployment. So, as far as the public is concerned, increasing the oil industry's taxes will just mean less energy at higher prices and loss of more jobs, and if the people really understood this, I doubt if you would be getting much mail urging you to raise oil company taxes.

So why are we considering legislation to increase the taxes of the oil industry? Some argue that the industry does not pay its fair share of taxes. If I thought this was true, then I would be the first to say let us raise their taxes. But when you look at the total tax burden of the oil industry—the total taxes these companies pay to local, State, and Federal governments in this country—and compare these taxes to oil industry pretax income from U.S. operations, you find that the U.S. oil industry is paying its fair share of taxes, and then some. And when you compare the oil industry's worldwide pretax income to its worldwide taxes, you find the industry is very heavily taxed.

With respect to the petroleum industry tax burden, the Chase Manhattan Bank in a recent special economic report based on a financial survey of a group of petroleum companies had the following to say about the tax record of the 30 companies included in the survey:

> Clearly, governments are benefiting far more from the operations of the companies than the companies themselves. In the United States alone, total direct taxes rose by 33.1 percent in 1973 compared with the 19.1 percent gain in profits. Income taxes were up 72.9 percent. Over the past five years direct taxes in the United States increased by 1,343 million dollars or 65.2 percent compared with the profit gain of 441 million dollars or 11.3 percent. Income taxes alone increased by 804 million dollars or 97.2 percent during that period.
>
> In addition to the direct taxes they pay, the companies transfer to governments an enormous amount of money in the form of excise taxes. In 1973 the excise taxes amounted to 26.4 billion dollars—10.1 billion in the United States and 16.3 billion in the rest of the world. The total taxes taken in by governments as a result of the group's operations in 1973 amounted to 47.2 billion dollars—13.5 billion in the United States and 33.7 billion in the rest of the world. Of the total taxes paid, the major portion went to the governments of the petroleum importing nations. Indeed, the tax receipts of government in the United States alone exceeded those of all the major producing countries together. Compared with the year

before, the tax revenue of governments increased by 9.4 billion dollars. Over the past five years governments took in 172.7 billion dollars in taxes. The profits of the companies over the same period amounted to 39.2 billion dollars. By any test, governments have fared exceedingly well.

It should be readily apparent that the more money governments take from the companies in the form of taxes the less there is available for capital investment. When governments increase taxes they reduce profits and thereby create an immediate need for the companies to offset the loss by raising petroleum prices in an effort to restore their profits. But, if governments apply price controls or otherwise limit profits, the companies cannot offset the loss of capital funds caused by the tax increase and they are then forced to curtail their capital investment. Obviously, the companies cannot invest money they do not have.

Mr. Speaker, some people argue that the petroleum industry is now reaping so-called "windfall profits" and should not be allowed to keep the increased cash flow for its own use. According to this argument, the industry's profits are too high. But let me ask my colleagues this: Too high in relation to what? Back in the fifties the oil companies were earning a better return than most industries, and we had people looking for oil all over this country. But during the sixties and early seventies, the oil industry's return on investment has been usually lower than, and never much different from, the return of other manufacturing industries. Last year, the oil industry's profits improved, and this pushed their profitability a little above average. This year oil industry profits appear to be going even higher.

There are some basic economic laws that Congress cannot repeal. One of these laws is that the supply of any commodity is directly related to the amount of money spent to provide it. Another is that investment capital seeks its most profitable employment. So if we want more energy, we should not pursue punitive and discriminatory tax policy against the petroleum industry. Today, energy production seems to represent a competitively attractive investment. Left alone, this opportunity will attract new competitors and large amounts of risk capital. Energy production will increase and, eventually, market forces will bring prices and profits back down.

However, if we insist in interfering with the marketplace by adding new tax burdens to the oil industry that, in effect, put a ceiling on the industry's profitability, we will really just be locking ourselves into a condition of permanent shortages of domestic energy and continued dependence on high cost and unreliable imports. We will aggravate rather than ameliorate our energy problems.

Any industry's profits must be high enough to attract investment capital. Now the oil companies like to talk about their being in a high-risk business. When they do this, they usually bring out their charts and graphs showing all the dry holes they drill before they find a producer, and the high costs of exploring in frontier areas such as Alaska and offshore.

Whether or not you buy this high-risk argument, it seems to me that the Congress can be credited with adding greatly to the risks of investing in the oil business. By singling out this industry for punitive legislation just because it starts making a better return on its investment, the Congress is telling investors to put their money in soft drinks, real estate, cosmetics, electronics, or some other business where they can earn a better profit without attracting the scorn of the Nation's new commentators and politicians.

It has been said the industry's profits for the first quarter of this year will be "obscene." I have always heard the test of obscenity is whether a thing has redeeming social value. So what is likely to happen to the oil industry's profits? Can anyone doubt that petroleum industry profits will be used to improve our Nation's critical energy situation? Can anyone doubt that there is redeeming social value in such an imperative undertaking?

To put recent developments concerning oil industry profitability is some perspective, let us look at some revealing facts. At this point in the RECORD, I would like to include a table comparing earnings in the first quarter and fourth quarters of 1973 with first quarter 1974 earnings. This table also provides a succinct comment explaining significant factors in influencing the data:

1ST QUARTER EARNINGS DATA FOR SELECTED PETROLEUM COMPANIES

[Dollars in millions]

Company	4th quarter 1973	1st quarter			Comment
		1974	1973	Percent	
Ashland	$34	$19	$16	19	Increase attributable to causes other than petroleum operations.
Amerada-Hess	132	50	37	35	4th quarter 1973 included nonrecurring item.
ARCO	92	94	50	87	Most of increase derived from foreign operations and chemical operations. Capital budget for 1974 exceeds $1,000,000,000.
Citgo	42	69	37	87	Capital and exploration expenditures 1st quarter 1974—$100,000,000
Conoco	89	109	48	127	Most of increase from foreign operations and inventories. 1st quarter capital spending: $191,000,000 compared to $73,000,000 in 1st quarter 1973.
Exxon	787	705	508	39	Most of increase from foreign operations; U.S. increase 16 percent. Also, inventory adjustment. Capital spending up 52 percent to $782,000,000 for 1st quarter.
Getty	52	74	33	124	72 percent of increase from foreign operations. Capital spending is up.
Gulf	230	290	165	76	Increase attributable to foreign operations: domestic earnings from petroleum declined.
Marathon	68	31	20	55	Increase entirely foreign. Capital expenditures in 1st quarter—$75,000,000.
Mobil	272	259	156	66	Petroleum operations increase: U.S. 33 percent, foreign 63 percent. 1974 exploration and capital outlays will exceed $1,500,000,000: over ½ in the United States.
Murphy	19	27	8	238	Increase largely foreign operations.
Occidental	24	68	8	750	Principal part of increase came from nonpetroleum operations.
Phillips	87	81	43	88	Increase derived 31 percent from U.S. operations and 69 percent foreign. 1974 capital expenditures will be 3 times 1973 earnings.
Shell	79	122	80	53	Capital expenditures—$307,000,000, 2½ times 1st quarter earnings.
Skelly	17	20	10	100	1974 capital expenditures—$160-170,000,000.
Standard of California	284	293	153	92	Increase is from foreign operations and nonrecurring inventory effect. Capital expenditures in 1st quarter of 1974 was $370,000,000: up 77 percent.
Standard of Indiana	121	219	121	81	U.S. petroleum operations up 34 percent. Direct taxes up 131 percent. Higher foreign oil earnings and increased chemical operations. Annual capital spending, $1,400,000,000.
Sohio	12	23	18	28	Earnings increase attributable to all aspects of company operations except domestic petroleum.
Sun	75	91	49	86	Capital and expl. expenditures 1974 1st quarter—$120,000,000. Cf. 1st quarter 1973 of $20,000,000.
Texaco	415	589	264	123	Nearly ½ increase from nonrecurring inventory adjustment. Without inv. adj., U.S. operations declined 15 percent, capital expenditures—$475,000,000.
Union	51	73	38	92	1st quarter 1974 capital and expl. expenditures—$85,000,000 with an annual C. & E. exp. program of $350,000,000.
Total	2,982	3,306	1,862	78	

Mr. Speaker, for most of these firms listed in the foregoing table, the major source of profit growth was in foreign operations. Profit growth in the United States was relatively small or minimal for most of these companies and, in at least one instance, domestic earnings declined despite an increase in overall profits. The following résumé sets forth comments from the companies' earnings reports which explain significant factors in their first-quarter earnings records:

PRINCIPAL SOURCES OF OIL INDUSTRY PROFIT GROWTH: FIRST QUARTER 1974

In general, earnings improvement in the year-to-year comparison was ascribed to three main factors:

1. Inventory profits resulting from valuation of inventories by many companies by the method which assumes that the oldest acquisitions are sold first (first-in, first-out, or FIFO), as opposed to the method which assumes that the last acquired inventories are disposed of first (last-in, first-out, or LIFO). During a period of rising prices, the stated profits of a company using the FIFO method tend to be inflated because the products sold can be replaced only at much higher cost. Comment on this point by several companies:

"The division's earnings, which reflect continuing use of the first-in, first-out method of valuing inventories, were approximately $65 million higher than if inventories had been valued on the alternative last-in first-out method."—Continental Oil Company

"In many of our principal markets abroad, the first quarter results were affected by the sale of relatively low cost year-end 1973 inventories at prices reflecting, in part, the higher crude oil costs. The first quarter earnings include an estimated $80 million, or $0.36 a share, related to this item which is not expected to recur. A large portion of our inventories abroad are required to be maintained at specified levels by the various host governments. Sales in the first quarter required immediate replacement with much higher priced material. This is not unlike sale of a low-cost private home at a substantial profit only to find that the cost of replacement housing is as high or even higher than the sales prices of the old home."—Exxon Corporation

"Marathon's earnings improvement in the first three months of the year was entirely attributable to the company's foreign operations. A major portion of the earnings advance overseas was due to a non-recurring profit derived from sales of low-cost inventories which have subsequently been replaced at higher costs."—Marathon Oil Company

"Mobil utilizes the average cost inventory accounting method in its foreign operations. Under this method, income is charged with an average of current costs and historic costs. If Mobil had charged foreign income with current costs, its first-quarter earnings would have been lower by about $90 million."—Mobil Oil Corporation

"This was attributable to steeply rising prices realized for petroleum products refined from relatively low cost crude oil which entered our integrated system months ago."—Murphy Oil Corporation

"In assessing these increased profits," Haynes said, "it is important to understand that over 70% of our petroleum inventories are accounted for on a first-in, first-out method; thus the much higher cost of our new raw materials was capitalized as an inventory asset, rather than being charged against current profit.

"If all of our inventories had been accounted for on a last-in, first-out basis—that is, current cost related to current revenue—our company would have had essentially no increase in profits in the quarter as compared with the year earlier period."—Standard Oil of California

"Foreign petroleum operations benefited from improved margins on product sales in Western Europe, particularly the Scandinavian countries, and higher price levels on the crude oil the company produced for itself. Significant gains were shown from Gulf's operations in Canada and Latin America and from expanded sales of bunker fuel. Continued improvements from the company's tanker fleet also benefited earnings.

"Gulf's inventories of crude oil and petroleum products are valued at average cost applied on a last-in, first-out (LIFO) basis, except in Canada. This means that the company charges against its earnings today's high cost of crude oil rather than the lower cost of oil remaining in its inventories from earlier periods. Some other companies use the first-in, first-out (FIFO) method of inventory accounting, which inflates current profits while postponing the full impact of escalating world crude oil costs."—Gulf Oil Corporation

2. Relatively minor increases in U.S. profits from higher prices authorized for new, released and stripper-well oil. These profits were partially offset by the lag, due to federal regulations, in recovering the costs of high-priced imported crude oil and in some cases from reduced domestic operations because of insufficient raw material. As indicated in the following illustrative citations:

"The Western Hemisphere Petroleum Division's earnings increased primarily due to improved prices for crude oil, natural gas, and refined products. Increased exploration expenses and higher operating costs partially offset these benefits."—Continental Oil Company

"Mobil's U.S. earnings from petroleum operations increased from $49 million in the first quarter of 1973 to $66 million in the first quarter of this year. Under government price controls, the average selling price of U.S. crude oil produced by Mobil in the first quarter of 1974 increased by approximately $3 per barrel from the first quarter of 1973."—Mobil Oil Corporation

"The U.S. government policies designed to stimulate development of domestic oil and gas production resulted in higher prices beginning in the fall of 1973. The impact of this action more than offset the effect of sales volume decline in the first quarter."—Exxon Corporation

3. Higher returns from worldwide chemical operations:

"Chemical earnings totaled $94 million as compared with $33 million in the first quarter of 1973. The improvement reflected increased volumes and higher realizations as worldwide demand for chemical products strained the industry's production capability."—Exxon Corporation

"Mobil's earnings from worldwide chemical operations increased sharply over a year ago, totaling $18 million compared with $5 million in the first quarter of 1973. The major part of this increase resulted from increased prices for chemical products, chiefly petrochemicals, . . ."—Mobil Oil Corporation

"The principal factors in the increase were higher crude oil prices and improved performance of chemical operations."—Shell Oil Company

"Earnings from worldwide chemical operations amounted to $26 million, an increase of $16 million over the initial quarter of 1973."—Standard Oil Company (Indiana)

Additional causes of profit improvement included receipts from higher tanker rates, extraordinary credits and other non-recurrent items. Thus:

"The conversion of foreign currency profit-and-loss statements into U.S. dollars had the effect of increasing Mobil's first-quarter 1974 dollar earnings from foreign operations by about $20 million compared to the corresponding period of 1973. While the dollar was somewhat stronger during the first quarter than it had been during 1973, it was weaker on average than it had been in the first quarter of 1973."—Mobil Oil Corporation

Heightened investment activity, stimulated by increased earnings, was reported by a number of companies. Several of the firms reported current first-quarter capital investment substantially higher than current earnings and well above such expenditures in the comparable 1973 period.

"Conoco's first-quarter capital expenditures were $191.2 million compared with $72.8 million in the comparable quarter last year."—Continental Oil Company

"The profit increase generated additional funds for investments. Exxon's capital and exploration expenditures totaled $782 million for the first quarter of 1974, an increase of $267 million or 52 percent over the first quarter of 1973."—Exxon Corporation

"The improved level of profitability reaffirms Gulf's decisions to commit about $2 billion during 1974 on new capital projects. . . . During the first three months of 1974, Gulf's expenditures for exploration and other capital projects totaled nearly $400 million, an amount which far exceeded earnings during the period. By comparison, only $154 million was spent on such projects during the first quarter of 1973.

"Capital expenditures within the U.S. exceeded $300 million during the quarter."—Gulf Oil Corporation

"Swearingen cited as an example Standard's bonus commitments to the Federal Government during the first quarter of 1974 of $230 million for offshore leases in the Gulf of Mexico and for shale properties in Colorado. This amount alone exceeds first quarter earnings. And bear in mind these payments are only for the right to begin exploration and development activities. Huge additional expenditures will be needed to develop these properties, he said."—Standard Oil Company (Indiana)

Company comments on the profit outlook for the remainder of the year are generally favorable, although a reduction in the growth of profits is anticipated. This slowing in growth is already apparent in comparisons with the final quarter of 1973. The effect of higher costs of crude oil, rising costs of exploration and operations and increasing severance taxes are among the reasons that the rate of profit improvement is not expected to continue.

"The increased costs for replenishing stocks are being included in the company's inventories as of March 31 and will be charged against future earnings as actual sales are made. Thus, the inventory profits realized during this period will not recur in subsequent quarters."—Texaco Inc.

"The exceptionally favorable results in the first quarter of this year are not indicative of the earnings gain anticipated for the full year 1974. A major part of the first-quarter earnings gain came from the Eastern Hemisphere Petroleum Division, which benefitted from the sale of year-end 1973 inventories at prices which moved upward during the quarter largely in response to crude oil cost increases that became effective January 1. Essentially all the division's lower-cost inventories were sold during the first quarter so that gains from this source are not projected for the remainder of the year."—Continental Oil Company

Mr. Speaker, all of the companies included in this résumé announced sharply increased capital and exploration spending budgets for 1974. And since the energy shortage is the No. 1 domestic problem facing our country today, I think it would be hard to find a better use for these funds.

I believe our present energy problems are largely the result of Government interference in the marketplace, starting with the regulation of natural gas wellhead prices. Therefore, the answer to our problems is not more Government interference, but less.

Looking at the Oil and Gas Energy Tax Act from this perspective, I would close with these few comments. I oppose the windfall profits tax on both philosophical and practical grounds. Philosophically, I do not believe it is right to single out a particular industry for a windfall profits tax when many other industries are earning returns on their investments that are as high or higher. If any industry's profits get too high, this situation can be corrected much more effectively by the competitive forces of a free market than by Congress continually rewriting the tax laws. Practically, as I said earlier, this tax would mean less energy at higher prices.

I admit it is debatable whether or not the depletion allowance is a good thing for the Nation or even for the oil industry. Some people view percentage depletion a Government subsidy for consumers, because, historically, competition has forced the oil companies to pass this tax break along to consumers in the form of lower prices. Otherwise, the industry's return on investment would have been higher than it has been in relation to industries without a depletion allowance.

But the percentage depletion allowance is almost as old as the income tax law itself, and it is deeply ingrained into the economics of the oil industry. It is especially important to the independent oil and gas producers, who depend heavily on raising capital from outside investors to finance their risky drilling programs. So, for practical reasons, I do not believe now is a good time to be trying to restructure the economics of oil and gas exploration and production, without really knowing what the results of this action would be.

We hear a lot about the long-term energy problem, which is really awesome. But we have also got a short-term problem, and over the next several years increasing domestic oil and gas production is one of the few ways to ease this problem. So this just is not the time to change the tax laws in ways that will scare off investors who might otherwise put their money in the domestic oil and gas business.

I think it all boils down to this: Increasing the taxes of the oil industry at this time may make good short-term political sense. But taking this action will prolong our energy problems and mean less energy at higher prices for the American people. It will mean fewer jobs and less rewarding jobs. So it does not make any real sense at all.

Mr. Speaker, I am opposed to the enactment of the Oil and Gas Energy Tax Act of 1974, H.R. 14462. And I am particularly opposed to any action which would permit the House to vote on amendments to make the legislation even more severe on the petroleum industry and thereby increasingly adverse to the national interest.

MEMORIAL DAY—A REMEMBRANCE FOR CREATED IDEALS

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. FORSYTHE. Mr. Speaker, flower-strewn graves, parades of soldiers marching to high school bands, and remembrances of things past stills the Nation into solemn commemoration of its dead.

It is Memorial Day—a day when America takes time to honor those who have died bearing arms in service to our country. But we must also remember those millions, the Thomas Edisons, the Abraham Lincolns, and the Alexander Graham Bells who have joined the bricklayers, the teachers, and the insurance salesmen, to create, through hard work and a sense of consciousness, an America worth working for.

Yes—the United States is faced with inflation, unemployment, and scandal. We are torn by problems, but not irreparably. On May 30, let us rejoice in the labor of our forefathers. Their hard work has reached the moon, cured diseases, and discovered atomic energy. Their feelings of consciousness shape us to aid others by becoming firefighting volunteers and raising money for the Cancer Fund. Knowledge gained from our forefathers' efforts, will rebuild tornado ravaged Xenia, provide new sources of energy, and discover and learn from tragedies like Watergate. America's veterans, who have given their last measure of devotion to their country, sustain these ideals that create a strong America.

This Memorial Day we will reflect on those individuals whose knowledge prepares us to meet today's crises. As each flower is placed, each parade enjoyed, each ceremony observed let us acknowledge the world these individuals have created.

AN OVERDUE OVERHAUL

HON. ROBERT P. HANRAHAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. HANRAHAN. Mr. Speaker, the House of Representatives will soon take up the vitally important task of committee reorganization. I feel the following editorial from the May 1, 1974, edition of the Chicago Tribune will be of interest to my colleagues. I, therefore, enter it into the RECORD with the hope that the House acts in a positive manner on this long-needed reform:

AN OVERDUE OVERHAUL

House Democrats are scheduled to caucus today and tomorrow to debate a long overdue reform of the complex committee structure of the House of Representatives. The proposed reorganization plan, drafted and unanimously approved by a bipartisan select committee, faces considerable opposition both within and outside the House.

Basically, the sweeping overhaul would consolidate such broad policy areas as environment, energy, transportation, and health under the aegis of a single committee rather than scattered among several panels, who have acquired jurisdiction over the years on a piecemeal basis. Some committees would have their responsibilities broadened; others would be whittled down, and two committees would be eliminated, with their jurisdictions transferred elsewhere.

Central to the reform is the so-called "one-track system," which would limit members to one of 15 major committees. Altho some might sit on one of seven other "nonexclusive" committees, whose scope would be narrow, the goal is to balance the workload of members and eliminate overlapping schedules which spread a congressman's time too thin. The plan also would drop proxy voting in committees.

Opposition to the reorganization, the first since 1946 when the number of committees were cut from 48 to 19 (two were subsequently added), crosses ideological grounds and has made for some unusual bedfellows. Such special interest groups as the National Association of Manufacturers and the AFL-CIO are against the reform because they have built up a well established pattern of influence in the present committees. Liberal subcommittee chairmen and conservative committee chairmen fear the loss of power.

Perhaps the most striking example is the impact reform would have on Chairman Wilbur D. Mills and his Ways and Means Committee. While the committee would retain control over taxes and Social Security, it would lose its jurisdiction over foreign trade, health insurance, unemployment compensation, work incentive programs, and general revenue sharing.

There are some parts of the plan with which we disagree. The elimination of the Internal Security Committee, long a target of House liberals, should be dropped. With terrorism and political kidnapping on the rise everywhere, this committee has an important role. It should be retained.

On the whole, however, the reorganization is eminently sensible and long overdue. No reform worthy of the name is going to satisfy everyone. Some toes must be stepped on. The archaic structure of the House and its proliferation of subcommittees (132) must be streamlined if it is to perform effectively in our increasingly complex society. We would urge the House Democrats to bring the reform resolution to the floor where it can be discussed and most of its provisions approved.

TWENTIETH ANNIVERSARY DINNER DANCE

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. WOLFF. Mr. Speaker, on May 4, 1974, I had the honor of attending the 20th anniversary dinner dance for the Long Island Jewish-Hillside Medical Center. The guest of honor at this gala occasion was Saul L. Epstein, founding president of the medical center.

The story of the medical center has been a dramatic one. In 20 years, it has grown from a small hospital to a major medical center serving people from all over the Greater New York metropolitan area. Under the direction of the president of the center, a new addition was recently added. There are also plans in the works for a new, well-equipped children's hospital. The geriatrics center continues to provide exceptional care to the older people of the area.

The growth of this great medical facility would not have been possible without the continuing efforts of the board of trustees. The people of Long Island and the New York area now have a hospital that not only serves them well, but also has a record for medical research that the community can be proud of. All of the present, life, honorary, and past trustees deserve recognition for the work that they have done, and I would like to insert their names in the RECORD at this point for the attention of my colleagues:

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Mortimer I. Aronson, Harry Bunderoff, Louis Gertz, Harry Gilbert, Max Harris, Harold P. Kurzman.

Edward Levine, B. Davis Schwartz, David M. Titelman, David A. Travis, Philip G. Whitman.

RUMANIAN NATIONAL INDEPENDENCE HOLIDAY

HON. JAMES J. DELANEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. DELANEY. Mr. President, Americans of Rumanian origin commemorated May 10 as the triple anniversary of important events in the history of their native land. I join with my colleagues to pay them tribute on this joyous occasion.

On that date in 1866, Charles, Prince of Hohenzollern-Sigmaringen, was proclaimed Prince of Rumania. Under Charles, Rumania obtained its first constitution and introduced a parliamentary form of government. Exactly 12 years later, on May 10, 1878, the Rumanians proclaimed their independence after severing political ties with the Ottoman Empire.

On May 10, 1881, Charles I was crowned King of Rumania, and a kingdom was established by the will of the people. A prosperous era, which lasted over six decades, opened on that day for Rumania.

Today, the people of Rumania are unable to celebrate their national day of independence. Instead they must observe May 9, the anniversary of Soviet victory over their country.

No arbitrary resetting of an anniversary observance imposed from without on these proud people will ever alter their hope or dream for freedom.

Mr. President, let me express my hope and prayer that one day true freedom as well as independence will become a reality for Rumania and its people.

THE CASE FOR A FEDERAL OIL AND GAS CORPORATION—NO. 32

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. HARRINGTON. Mr. Speaker, the idea of a Federal Oil and Gas Corporation has been consistently gathering support from experts in many fields and from Members from many geographical regions.

Canadian officials, who have also been struggling for ways to assuage the energy crunch, have proposed a similar corporation to increase Canadian energy independence, to increase research and development, to develop tar sands on a wide scale, and to help regulate the petroleum industry and the pricing and marketing of fuels.

The Canadian Corporation could be operating as soon as 1975, and expansion into other fields of energy could begin shortly thereafter.

Mr. Speaker, Canada's decision to move on with a Federal Corporation is further evidence that an American Federal Oil and Gas Corporation is a responsible proposal which demands the consideration of the Congress.

I would like to bring to the Congress attention an article from the May 3 edition of the Oil Daily which details the Canadian Government's plans.

The article follows:

CANADIAN-OWNED OIL COMPANY BEING ESTABLISHED

(By Tom Kennedy)

CALGARY.—The Canadian federal government will soon legislate into existence the National Petroleum Corporation, with initial guarantees of up to $1 billion to back efforts to make Canada secure and independent in fuel supplies.

Legislation is expected to go through Parliament within weeks and the corporation, to be known as Petrocan, could be in business under a 15-member board of directors by next fall.

In general, private petroleum industry is resigned to the fact that because of political considerations Ottawa will enter the petroleum business through the state-owned company.

Oilmen said that it could pose conflicts of interest for the federal government to run its own petroleum corporation and at the same time regulate private sector activity in the federally held frontier regions, for instance.

It will be impossible not to give the federally-owned corporation some advantages over private industry—there is nothing that a state company can do to improve on private industry efforts to guarantee energy deliveries, according to typical industry comments.

Legislation will enable Petrocan to buy any part or all the capital stock of Panarctic Oils Ltd. now held 45% by Ottawa. The rest of its equity is shared by 19 Canadian petroleum and mining companies.

Panarctic explored the Arctic Islands for the past six years using mostly advance funds from American utility and transmission companies in return for first refusal on commercial oil or gas finds.

Now the future disposition and even ownership of any Arctic fuels is in doubt because of the decision to make Panarctic available to the new state corporation.

Although government officials said Petrocan would not buy existing petroleum operations, most industry men are skeptical and expect that it will try to become an integrated operation as soon as possible if only to exert the desired government influence on the petroleum industry and trade.

They point out that the quickest way to achieve that aim is through the purchase of a major integrated operation.

The idea of a state petroleum company has been around in government quarters in Ottawa for years but only since the oil supply crisis of last fall has the federal government seriously considered it as the ultimate vehicle to regulate the petroleum industry and the pricing and marketing of fuels.

The scope of the petroleum corporation is not known but most industry men expect it to have powers to act as a marketing board for oil and gas and products whether produced from domestic or foreign supply feedstocks.

METHANOL: FUEL WITH A FUTURE

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. MAZZOLI. Mr. Speaker, the shortage of energy in the United States has prompted us to seek new and imaginative sources of energy for the future.

The Congress has responded admirably to the need for new energy with creative legislation to promote solar energy, geothermal energy, and a more rational governmental structure for energy research and administration.

But we seem to have somewhat neglected one critical energy requirement: new fuels for our transportation system.

Mr. Speaker, following is a report from the Science Policy Division of the Congressional Research Service on one of the new transportation fuels which is stimulating renewed interest in fuel alternatives to petroleum. Many experts believe that this fuel, methanol, is an inexpensive, clean, and immediately usable automotive fuel.

METHANOL AS A FUEL

The energy crisis has generated a great deal of interest in possible substitutes for or additives to gasoline as an automotive fuel. One of the most promising of these potential gasoline alternatives is methanol. On December 28, 1973. T. B. Reed and R. M. Lerner of MIT published an article in *Science* magazine entitled "Methanol: a versatile fuel for immediate use". (*Science*, Dec. 28, 1973, pp. 1299–1304). This article, printed in a publication which has wide circulation in the scientific community, first drew attention to the potential which methanol has as a gasoline additive. Drs. Reed and Lerner envision using methanol in a blend with gasoline, with the amount of methanol in the mixture on the order of 10 to 15 per cent. The methanol could be produced from coal, which is a material in ample supply in the United States.

The chemical formula of methanol is CH_3OH. At normal temperatures methanol is a liquid, popularly known as "wood alcohol". It can be produced from natural gas, from coal, or from wood, sewage, or other organic materials. Methanol should not be confused with methane, which has received some attention recently as a fuel which can be generated from animal wastes. Methane, chemical formula CH_4, is a gas at normal temperatures. It cannot be mixed with gasoline, and cannot be used in an automobile engine unless the automobile is equipped with either high pressure gas storage tanks or a low temperature storage flask. Methanol, on the other hand, can be blended with gasoline and used in existing automobiles without the necessity for major modification to the automobile engines.

The methanol picture may be summarized as follows:

1. Methanol as an automotive fuel could be helpful in easing the present energy crisis.

2. The most promising source of methanol is coal, and there is more than enough coal on hand to provide the methanol required for this purpose.

3. Very little is being done now by the Federal Government to provide funding for research and development or to otherwise promote the use of methanol.

1. *Methanol as a fuel.*—Methanol is a widely-used chemical, with current annual United States production running roughly 1 billion gallons per year. Its properties, handling problems, etc., are therefore well known. The work done by Reed and Lerner and by others shows that methanol is compatible with gasoline, and can be added to gasoline in amounts up to 15 per cent and used in existing automobiles without the necessity of modifying the automobile engines. Blends containing more than 15% methanol are also satisfactory but require a carburetor adjustment.

2. *Sources of methanol.*—The potential sources of methanol can be grouped into three broad classifications: (a) Natural gas (methane), (b) Coal and related substances such as lignite, (c) Less-developed sources such as wood, sewage, animal wastes, and the like. These sources can be thought of as being available in a time sequence, with methanol available now from natural gas, in the near future from coal, and in the more distant future from wood and waste products. For the purposes of this analysis, we have concentrated on coal. Natural gas is a petroleum-based product, and thus the use of methanol from this source would not be helpful given the present situation of shortages, embargoes, etc. (However, Dr. Reed, one of the co-authors of the *Science* article, suggested that conversion of natural gas to methanol for shipping purposes might be a useful short-term method of obtaining useful fuel from the Alaskan oil fields before the pipeline is completed.) The advanced methods of obtaining methanol, from wood, from sewage, etc., were not considered useful enough in the near future to warrant analysis.

With regard to coal, the adequacy of the supply of methanol from this source is shown by the following rough calculation:

The United States consumes roughly 100 billion gallons of gasoline per year in private automobiles. Assume that 10% methanol were to be used, and that this consumption rate remained constant. Ten billion gallons of methanol would then be required. (Dr. Reed regards a 10% methanol mixture as more satisfactory than a 15% mixture.) Ten billion gallons is approximately equal to 60 billion pounds, or 30 million tons of methanol required. Dr. Reed believes that the efficiency of converting coal to methanol would be about 50%. Therefore, in order to obtain 30 million tons of methanol, 60 million tons of coal would be required. Since the Nation now produces 570 million tons of coal per year, only a little over 10% of our coal output would have to be converted to methanol in order to obtain enough methanol to provide a 10% mixture for all American automotive needs.

Dr. Reed estimates that it would cost 5.67 cents per gallon to convert coal to methanol, and that the methanol thus formed would be cheaper than gasoline. His data indicate that the gasoline-methanol mixture provides more power than does gasoline alone, although theoretically the addition of methanol should cause a reduction in available power. He believes that this discrepancy could be accounted for by the methanol causing the automobile engine to function more efficiently, although he cautions that there are other researchers who disagree with his conclusions on this point.

3. *Governmental activity.* Federal activity concerning the use of methanol as an automobile fuel would appear to be minimal. It would seem that the possibility of using methanol in this manner was not taken seriously until Drs. Reed and Lerner published their article in *Science* magazine. The National Science Foundation, which has a group looking into the possibilities of various advanced fuels, has now begun to take an interest in methanol, and is going to sponsor several conferences on the subject during the summer. It would seem that methanol is an idea whose time is just beginning to come.

GOOD RIDDANCE TO CONTROLS

HON. ROBERT P. HANRAHAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. HANRAHAN. Mr. Speaker, Americans have been quite pleased with the discontinuance of the Economic Stabilization Act. This expired on April 30 to the pleasure of most citizens. I wish to insert the following article which appeared in the Chicago Tribune for the benefit of my colleagues.

[From the Chicago Tribune, May 4, 1974]

GOOD RIDDANCE TO CONTROLS

Few Americans are mourning the passing of the nation's first—and perhaps last—experience with peacetime controls on wages and prices. Not many are celebrating, either, because they are busy coping with the "double-digit inflation," which means inflation at a rate of 10 per cent or more and which is, in part, a legacy of the controls.

Barely had the Economic Stabilization Act expired before Harry Bridges called his west coast longshoremen out on a brief strike to emphasize their demand for a 30 per cent an hour cost-of-living raise in wages. Major copper producers didn't even wait. They increased the price for copper cathode by 12 cent to 30 cents a pound, American Express Co. increased its annual credit card fee by $5 and said the new $20 fee will apply to renewal cards expiring in early summer.

No doubt other companies and labor unions will seek price increases and wage increases in the weeks ahead. They will rationalize their actions by arguing that the controls limited their ability to keep pace with rising costs and prices. As a result the nation will face an additional bulge in post-control prices and wages.

John T. Dunlop, director of the Cost of Living Council, has warned that contrary to the expectation of many adminstration economists, inflation in the second half of 1974 will not show much improvement from the first half. If he is right, the inflationary spiral for all of 1974 is likely to exceed the 8 per cent rate set last year.

Unless business and labor leaders act "responsibly" in a control-free economy, President Nixon told the Chamber of Commerce of the United States, "the demand for controls will again come up and be reflected in the Congress."

The gross national product in real terms dropped nearly 6 per cent in the first quarter, while inflation by the broadest measure climbed more than 10 per cent. Clearly a continuation of this pattern will lead to a recession that will throw thousands out of work and limit the volume of goods and services business can sell, regardless of price.

We have seen the distortions that stem from controls; we have had shortages where none existed before—shortages which couldn't be blamed on the energy crisis or the Arab oil embargo.

The answers to inflation and shortages are reduced government spending and increased production. Farm prices appear to be coming down as signs point to record production of food and feed grains. Increased output and productivity can have similar effects thruout the economy. But this will require restraint. Business must limit price increases deliberately, at least until shortages are overcome and competition restored. Labor, where there is no effective competition, must always exercise this restraint.

Now that we have put our economy back in the hands of the marketplace, we should do what is necessary to keep it there.

SALUTE TO GAYLE T. MARTIN

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. BELL. Mr. Speaker, on Thursday evening, May 23, at Lococo's Restaurant in Manhattan Beach, a testimonial dinner will be held for my friend, Gayle Martin, the city manager of Manhattan Beach.

Gayle Martin was born in Alva, Okla., and grew up in western Colorado where he attended grade school and high school. He attended the University of Colorado where he received a bachelor's degree in civil engineering in 1940. He later attended the University of Michigan under a Navy postgraduate program studying naval architecture. He received his M.S. degree in public administration from the University of Denver in 1952.

Mr. Martin started his professional career as an engineer with the Babcock & Wilcox Co., where he worked until entering the Navy in 1942. He received a direct commission as an ensign and reported for active duty in September 1942. He served on active duty in a number of assignments until September 1949, when he returned to inactive duty only to be recalled to active duty for the Korean war to serve until June 1952.

While on active duty Mr. Martin rose to the rank of lieutenant commander. After his release to inactive duty he remained active in the Naval Reserve and progressed rapidly in rank with his military career being climaxed by his selection as a rear admiral in February 1968. Admiral Martin maintained a very active status in the Naval Reserve until his retirement on June 30, 1973, culminated 31 years of duty with the Navy.

Mr. Martin's career in city management started in Phoenix, Ariz., where he took a 1-year internship in city management in the office of the city manager. His first appointment as a city manager came in November 1952, in Deerfield, Ill. In 1954 he became manager at Maywood, Ill., and in November 1956, he was appointed as city manager in Manhattan Beach, Calif., where he has served for the last 17½ years.

City Manager Martin's service in Manhattan Beach has been marked by vast improvements in the services afforded the citizens and by extensive physical improvements within the city. Virtually all of the city's public buildings have been planned and built under his direction. These include the police and fire buildings, Joslyn Community Center, Manhattan Heights Community Center, two libraries, the city yard, and the new city hall which is currently under construction.

All of the city's parks have been built during Gayle's tenure in office. About three-fourths of the city's streets have been improved with paving, curbs, gutters, and sidewalks and a vast amount of beautification of the street system has been accomplished. Almost the entire storm drain system of the city has been constructed in the same span of time and the city's water system has been improved to a high level of efficiency.

The Manhattan Beach pier and the strand have received much-needed improvements and the beach bicycle path was inaugurated under Mr. Martin's leadership. All of the city's offstreet parking projects have been established during his tenure. All of these improvements to facilities and services have been attained in the face of severe financial limitations. Yet most of the improvements were made on a "pay-as-you-go" basis with a tight string drawn on the city's tax rate.

For these reasons, Mr. Speaker, it is with special pleasure that I call attention to the dinner honoring Gayle Martin on May 23 and note that I will be joining his many friends on that evening to show something of our profound admiration, gratitude, and respect.

DEV O'NEILL RECEIVES ROLLCALL MERIT AWARD

HON. KENNETH J. GRAY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. GRAY. Mr. Speaker, when I arrived on the Washington scene almost 20 years ago one of the first persons to extend a hand of friendship and help was the outstanding, congenial Dev O'Neill, House photographer. During the many years that have come and gone I am happy to say that Dev has never changed his philosophy on life. The handshake, the smile, and the offer to be of all possible assistance to everyone is still there. I cannot recall any prominent event taking place in the Washington area dealing with government or politics that you did not find Dev O'Neill getting the picture history of the event.

Mr. Speaker, my opinion of Dev is shared by thousands of other Washingtonians and by Members of Congress and their staff as well as the news media. Our mutual good friend, Sid Yudain, editor of the popular Roll Call newspaper, who has served so ably on Capitol Hill, recently awarded Dev the Congressional Merit Award. In making the presentation at the annual congressional staff dinner dance at the Shoreham Hotel, Editor Yudain said—

> The Congressional Merit Award was instituted to honor outstanding Congressional personalities who not only perform a valuable service but personally enhance the Congress by their presence in making a more interesting, more human place for members and staff and those on the outside.

Mr. Speaker, we all want to congratulate both Roll Call and Editor Yudain for giving Dev this achievement award on reaching his 25th year of serving the House of Representatives. I feel Sid Yudain could not have made a better selection and we all wish for Dev many more healthy, happy years of public service.

The text of the Congressional Merit Award follows:

[Roll Call, the newspaper of Capitol Hill]

CONGRESSIONAL MERIT AWARD TO DEV O'NEILL

Who, for a quarter of a century has given generously of his unique ability, time, personality, and service to the Members and staff of the Congress, lightening the burdens of legislative life and enriching the personal lives of the myriad of diverse people privileged to know him.

SIDNEY YUDAIN,
Editor and Publisher.

Presented May 1, 1974, at the Annual Banquet of the Congressional Staff Club, Shoreham Hotel, Washington, D.C.

PRESIDENT CANCELS $1 BILLION DEBT OWED BY ISRAEL

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. RARICK. Mr. Speaker, one of the questions most frequently asked by concerned Americans these days is: What is the Kissinger-Nixon version of détente costing us? Today's Federal Register spotlighted some of the financial costs of détente to the U.S. taxpayer.

Citing as his authorities the Emergency Security Assistance Act of 1973 and the Foreign Assistance and Related Programs Appropriations Act of 1974, President Nixon "forgave" Israel $1 billion in debts owed to the U.S. Treasury. So Tel Aviv has been given $1 billion worth of war materiel and defense services free of charge by the President.

Naturally, the cost of the jets, tanks, bombs, and bullets transferred to Israel during and after the October Middle East war must be repaid by someone. Thanks to this new Presidential determination, that $1 billion indebtedness falls squarely on the pocketbooks of the American taxpayers.

The Treasury simply does not have the money to pay the debt, which brings up another historical first. Yesterday, President Nixon asked Congress to extend the temporary debt ceiling to an alltime high—$505 billion. As of March 30, 1974, the U.S. national debt was a mere $474,499,564,962.34, and had accrued an interest cost of $21,802,720,000.

It is easy to realize why the President must continue to come to Congress requesting that we escalate the national debt by recordbreaking amounts, when we see how freely the Secretary of State hands out billions of dollars as he purchases détente around the world.

For every dollar owed to the Treasury by foreign governments and canceled by a stroke of a Presidential pen, the U.S. taxpayers must assume new indebtedness.

The statistics may continue to show that we are the most affluent Nation in the world, but how many other countries are willing to place their grandchildren in debt to pay for their generosity?

I ask that the related Presidential document follow:

[From the Federal Register, vol. 39, No. 94, May 14, 1974]

THE PRESIDENT—MEMORANDUM OF APRIL 23, 1974

(Presidential Determination No. 74–17)

EMERGENCY SECURITY ASSISTANCE FOR ISRAEL

Memorandum for the Secretary of State and the Secretary of Defense

THE WHITE HOUSE,
Washington, D.C., April 23, 1974.

By virtue of the authority vested in me by Public Law 93–199, the Emergency Security Assistance Act of 1973 (hereinafter "the Act"), and by Public Law 93–240, the Foreign Assistance and Related Programs Appropriation Act, 1974 (hereinafter "the Appropriation Act"), I hereby:

A. Determine (1) that it is important to our national interest that Israel receive assistance under the Act exceeding $1,500,000,000 and (2) that obligations in excess of $1,700,000,000 of the funds appropriated by the first paragraph in Title IV of the Appropriations Act will be in the national interest;

B. Release Israel from its contractual liability to the extent of $1,000,000,000 to pay for defense articles and defense services purchased under the Foreign Military Sales Act (82 Stat. 1320, Public Law 90–629), as amended, during the period beginning October 6, 1973, and ending March 31, 1974; and

C. Determine that foreign military sales credits extended to Israel under the Act shall be in amounts not to exceed $1,200,000,000 (less amounts necessary for payment by the United States of its share of expenses of United Nations activities in the Middle East as authorized by law) repayable as to principal over a period of twenty years following a two year grace period after initial disbursement and at a rate of interest of three percent per annum, with all other terms and conditions to be in accordance with those applicable to credits extended for foreign countries under the above-cited Foreign Military Sales Act, as amended.

This memorandum shall be published in the Federal Register.

RICHARD NIXON.

ADJUST THE TARGET PRICES

HON. ROBERT PRICE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. PRICE of Texas. Mr. Speaker, today, I have introduced legislation to adjust the target prices established under the Agriculture and Consumer Protection Act of 1973 for the 1974 through 1977 crops of wheat, feed grains, and cotton to include the escalator clause to reflect changes in farm production costs. The present farm bill provides for production cost adjustments only for the 1976 and 1977 crop years while my amendment would make that provision applicable for the 1974 and 1975 crops as well.

Under the provisions of my bill, the Secretary of Agriculture would adjust the following target prices to reflect any changes in production costs: $2.05 a bushel for wheat, $1.38 a bushel for corn, $1.13 a bushel for barley, $1.31 a bushel for grain sorghum, and $0.38 per pound for cotton. These production costs would include such items as interest, taxes, wages, fertilizer, and fuel oil.

The target prices represent a "minimum level" of producer support by the Federal Government. The Government will not, and I emphasize will not, pay producers anything as long as the wheat, feed grains, and cotton prices remain above the levels established by the Secretary of Agriculture.

Yesterday on the Chicago Board of Trade wheat closed at $3.48 a bushel, corn sold at $2.66 per bushel, and on the New York cotton futures market, cotton closed at $0.58 per pound. As we can all see, these prices are quite higher than the target prices set forth in the 1973 legislation.

According to the law of supply and demand, if more of a product hits the marketplace than is necessary, prices fall downward. I am concerned that if more agricultural crops are produced than can be consumed by our domestic and foreign markets, prices would fall drastically.

The reason I am introducing this legislation is simply as a precautionary measure. If, let us say, the market falls below the target prices for wheat, feed grains, and cotton, the prices which farmers receive must reflect the increased costs he incurred while producing the crop. Perhaps target prices will never be used, but if they are, we must provide a measure which will not force the farmers to absorb all of the 1974 and 1975 increases in producing the Nation's food and fiber.

Recent years have seen dramatic increases in food production costs. These costs have more than doubled in the last 20 years and we all know that the prices of fertilizer and fuel have increased to all-time highs this past fiscal year. The cost of land, seed, machinery, wage rates, taxes, and even interest on borrowed money are all up significantly.

I have had the USDA estimate the target prices for corn, wheat, and cotton under the following conditions. First, assuming that target prices for 1974 would be adjusted to reflect changes in prices paid by farmers for production items from July 1973 to April 1974; and second, assuming that a normal increase in crop yields between 1973 and 1974 occurs. Under these conditions target prices for 1974 would be as follows: Corn—$1.50 per bushel, wheat—$2.26 per bushel, and cotton—$0.42 per pound. Obviously, if my legislation is enacted, the USDA estimates would change.

We cannot expect our agricultural producers, who are primarily responsible for our Nation's first favorable balance of trade in 3 years, to run the risk of taking all the loss on their operations should their products fall below an equitable target price.

Last month we passed an increased minimum wage bill and Congress continues to legislate an escalator—cost-of-living—clause for a large part of the population. Presently, more than 50 million Americans automatically receive some protection from the rising cost of living. As the consumer price index goes up, so do social security benefits, food stamp allotments, and wages for most workers under union contract. Surely our Nation's 1.5 million farmers and farm managers deserve the benefit of this escalator provision.

Again, I must emphasize that this legislation is merely a safeguard should overproduction around the world cause agricultural prices to plunge. I intend to make an all-out effort to have this bill enacted and I urge my colleagues to support it.

THE CONTINUED STRUGGLE FOR PRISON REFORMS

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. BADILLO. Mr. Speaker, one of the major shortcomings in our criminal justice system is the archaic, unproductive, and repressive manner in which the inmates of our Nation's prisons, jails, correctional facilities, and detention centers are treated. All too often scant attention is given to the person but simply to the debased and dehumanized number in a cell. Little consideration is devoted to the way in which the legal processes apply to individuals who are confined behind bars and a general attitude of "out of sight, out of mind" seems to prevail. At those times when bureaucrats and legislators do focus their attention on the corrections system it is frequently with a wholly punitive attitude with little regard for taking constructive efforts to properly prepare prisoners for their return to society or for defending those basic rights which prisoners possess.

Last weekend the New York Times carried a very timely and pertinent editorial on this important issue. It comments on two items which offer great potential for substantive corrections reform and progressive penology but which either face serious opposition or are only partially implemented. I have already discussed the tragic failure of the State of New York to carry out, to date, the innovative proposal to establish a 2-year degree-granting college for prisoners, because of ill-conceived opposition by a number of New York legislators.

Also, I am disappointed that the U.S. Bureau of Prisons has failed to establish an independent and unbiased "ombudsman" or similar official to manage the new inmate grievance procedure. Under the present setup the Bureau will be responsible for policing itself. Such a system contains a number of inherent defects and falls far short of the supposed objective of providing Federal prisoners with a system under which their grievances can be objectively and independently adjudicated. Any office or individual responsible for carrying out such a program must be free of the correctional establishment in order to guarantee the necessary independence of operations and the basic integrity of the system's decisions.

The issues raised in the New York Times editorial are to the point and warrant our careful consideration; I insert it herewith for inclusion in the RECORD and commend it to our colleagues' attention:

IMPROVING THE PRISONS

Two recent public decisions underline the timidity and shortsightedness which hamper the development of enlightened corrections policies in the United States. In Albany, the Legislature seems determined to kill a plan to establish a two-year degree-granting college for approximately 200 inmates of the state prison system. In Washington, the Federal Bureau of Prisons has adopted a half-hearted measure for adjudicating certain types of inmate grievances within the Federal prison system.

At a time when even corrections officials estimate that from 60 to 90 per cent of their prisoners should not be incarcerated, and when the central prison reform issue is how to establish effective non-institutional correctional programs which draw on community strengths, the Federal establishment is dealing with half loaves and the legislators in Albany are beating retreat.

The rationale for establishment of the proposed Bedford Hills program in Westchester was put simply by Peter Preiser, Correctional Services Commissioner, and Dr. Ernest Broyer, Chancellor of the State University when they said, "We believe the proposed programs will make it possible for more prisoners to move back into society and lead productive lives." That is a reasonable proposition in a society obsessed with the fear of crime, much of it committed by maladjusted ex-convicts. The plan was killed, at least temporarily, when the Legislature boiled down to an unwillingness to "coddle" prisoners.

The new Federal grievance procedure strikes—but feebly—at the real problem of how to develop a system under which incarcerated human beings can gain redress of simple injustices without unduly overburdening the courts. Unfortunately, the *sine qua non* for establishment of a fair grievance system is the interposition of a disinterested third party to decide the complaints. Bureau of Prisons officials could not bring themselves to implant this basic element of fairness in their system. They made the wardens and ultimately themselves the arbiters of the grievances of the prisoners they keep.

Each situation, in its own way, demonstrates an unwillingness of society to come sharply to grips with the hardest questions in penology—provision of basic justice for prisoners after incarceration and the development of programs that offer some real hope of returning useful citizens from prison to society.

At least it can be said that the Federal effort is a move in the right direction—on which improvements can be grafted in the future. The retrogressive action of the legislators in Albany should be reversed.

DEMOCRATS SANDBAG REFORM

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. STEIGER of Wisconsin. Mr. Speaker, yesterday's New York Times correctly portrayed the silent, secret sandbagging of the report of the Select Committee on Committees as victory for "self-interest negativism."

I am deeply disappointed by the caucus decision to defer the work of the Select Committee to the task force of the caucus headed by the gentlelady from Washington. I do not know if this effectively stops all further action but it is distressing to see the politicization of the bipartisan recommendations. I urge my colleagues to carefully consider their responsibility to themselves, this House and their constituents as July approaches.

The article follows:

[From the New York Times, May 13, 1974]

LIBERALS ASTRAY

By the time that the LaFollette-Monroney Legislative Reorganization Act passed Congress in 1946, it had been the subject of intense public controversy and of innumerable articles and editorials. For more than a year now, a committee of ten House members drawn equally from both parties has been at work on a reform proposal that—so far as the House of Representatives is concerned—would be as far reaching and as desirable as the LaFollette-Monroney Act. But in a Congress and a nation preoccupied with Watergate, this committee has done its work silently and unnoticed.

On Thursday, reform paid the price for that silence. By a narrow margin, the House Democratic caucus shelved the reorganization plan by sending it to another committee for study. The barons of the House led by Representative Wilbur Mills of Arkansas, chairman of the Ways and Means Committee, and the pressure group lobbyists know what was at stake even though the public did not.

It was not essential that the plan be submitted to the Democratic caucus. It could have gone directly to the floor as a privileged motion. But Speaker Albert and Representative Richard Bolling of Missouri, chairman of the committee that drafted the reorganization, believed that as a practical matter the reforms would not last unless they had the support of a majority in each party.

House Republicans meeting in their conference endorsed the reforms. The Democrats did not. Significantly, they did the deed in secret avoiding a rollcall vote. There is no justification for conducting public business in that devious fashion.

Labor unions and liberal Democrats who on most other days are in the vanguard of those calling for progressive change were instrumental in blocking the reforms. Since the AFL-CIO did not want the Labor and Education Committee split into two committees or the Post Office Committee abolished, it used its political muscle against the plan. Noted liberals such as Representatives Frank Thompson of New Jersey, John Brademas of Indiana, James O'Hara of Michigan, and Phillip Burton of California would have lost cherished subcommittee chairmanships and for that selfish reason opposed the plan. It was an unseemly performance.

In theory, reform is not dead. The study committee to which the plan has been referred could resubmit it with only minor changes at the Democratic caucus in July. In coming weeks, the liberals who joined with their party's old-timers in unorthodox alliance have an opportunity to prove that they can come up with constructive alternatives rather than the self-interested negativism they have evinced thus far.

A GROWING PRIVATE TELEVISION INDUSTRY

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. PEYSER. Mr. Speaker, the private television industry, a relatively recent addition to the telecommunications field, is growing far beyond original expectations. This $207 million industry is expected to triple in size by 1977.

Private programing is sold to clients with special interests and concerns. The industry serves each of their interests by professionally producing programs dealing with the specialized subjects in question.

A special study of this industry was conducted by D/J Brush Associates, a communications consulting firm located in my district. D/J Brush has been examining the private television field for some time, and I would like, for the information of my colleagues, to include in the RECORD some reports of their work:

THE VIDEOPLAY REPORT

BACKGROUND

The growth of non-broadcast, non-entertainment television has been fast, loose and unpredictable. For one thing—what do you call it? It always has been easier to say what it isn't than what it is, i.e., calling it "non-". A fall-out of the commercial development of television as a wireless broadcast medium radiating in all directions, this other type of television, which we dubbed "closed-circuit" (CCTV) was originally used to describe an actual wire path between TV camera and monitor/receiver. Broadcasting to the millions—the center of all attention—was something else.

With the invention of videotape for television storage and retrieval in the middle '50s, first for broadcast and then for closed-circuit in the late '50s, CCTV became an area of intensive technical and application development. Today we have a reported $48.5 million industry. Those in the industry are anxious to know its dimensions and character. Responding to this need, two corporate marketing and communications consultants, Douglas and Judith Brush (D/J Brush Associates, Riveredge—One David Lane, Yonkers, N.Y. 10701—914/375-0476) have just completed a six-month study called Private Television Communications: A Report To Management. Published by Knowledge Industry Publications (Tiffany Towers, P.O. Box 429, White Plains, N.Y. 10602), the study is priced at $245. We spoke with the Brushes and here is a report of some of their approaches, findings and conclusions.

STUDY APPROACH AND SCOPE

The key to the Brush study and an aspect on which a good amount of reaction is likely to turn is their concept of the field of non-broadcast, non-entertainment television. It could be more important than their findings, in that it may lay the basis for some conceptual agreement among diverse supplier and user elements of the industry. By "Private Television Communications" the Brushes mean the use of television to change or affect action or understanding. They cast communication in behavioral terms, and implicit in communication uses of television, as they conceive it, is the actual or potential return path or feedback. This concept excludes many other uses of the medium, e.g., security, surveillance, monitoring and recording applications. The Brushes lump these applications of video, which they also describe as archival and record-keeping, along with pure acts of wire distribution under the heading of "closed-ciruit". By "private", the Brushes mean the use of television by profit, non-profit and in certain ways by governmental organizations—but not by educational organizations—for relatively narrow non-entertainment purposes with specifically defined audiences.

According to Douglas the study was aimed at the business, industrial and government sectors, but not education, for two reasons. Suppliers are most interested in the commercial, industrial, or business markets because this is currently the largest sector of their business, generally around 35% with a 40% annual growth rate. Secondly, "Business and industry make entirely different uses of television," said Douglas. "They use it for communication while educational institutions generally use it as an adjunct to the basic educational process, which you can argue is not communications." However, he did not see fit to include educational programs carried on in business and government because, ". . . instead of the objective being education per se as it is in schools, the objective is functional, such as increasing productivity, maximizing profits, and reducing costs."

THE SURVEY

Judith said the initial decision was to survey all possible users. Wishing to include the top companies, the *Fortune* list of 1,000 was used as a base. (These are primarily industrial companies doing over $67.5-million in volume annually.) However, since the outnumbered non-industrials on the list focus on people skills and resources where, according to the Brushes, the need for communication and training is greatest, the list was restricted to those companies with 1,000 or more employees. Finally, the Brushes studied every source of available, published information to identify specific organizations using television and the individuals responsible for those uses.

Questionnaires were mailed to 2,345 selected business and non-profit organizations. The mail survey was augmented by "dozens of interviews with users and suppliers . . . plus on-site visits." The conclusions of the Brush Report are based on a return of 16.3% or 382 questionnaires which qualified the respondents as originating and/or distributing their own television productions on a regular basis.

ORIGINATING AND DISTRIBUTION

The 382 responding business and non-profit organizations produced a total of 8,000 originations in 1973. Government agencies added another 5,000, for a total of 13,000. On an hourly basis, the 382 organizations produced 2,100 hours and government added another 1,400 or more hours, for a total of 3,500 or more hours of programming. (On a gross average basis this is roughly sixteen minutes per origination—a statistic many trainers and educators have been wondering about—Editor.) These originations mainly come from in-house sources but included are custom productions by outside service firms which Douglas says is a rapidly growing factor.

The Brushes specifically asked about the regular operation of distribution networks by commercial organizations. On the basis that regular distribution to six or more geographic locations constitutes network distribution, the Brushes counted 76 among their 382 respondents (or 19.9%) as operating networks.

EXPENDITURES

As a result of their study, the Brushes calculate the total of private television communication equipment, program and related expenditures made *in calendar 1973 was $207 million for business and government*. This overall amount will reach $508-million by 1976, they predict, and top $1-billion by 1980. Of the 1973 total, the Brushes found that about half went for equipment and facilities with the other half divided among programming, distribution, service, and overhead.

One interesting finding was that almost $29-million in 1973 was billed by outside proprietary and custom program producers. Douglas points to this segment of the market as the fastest growing category and claims that it, in a sense, acts as a barometer of the growth of private television communications. When management begins to turn to television, they are first most likely to acquire or commission outside pilot production before investing in hardware, he says.

THE 1973 A BASE YEAR

The Brushes observe that 1973 was the first complete year during which users developed operating experience with the videocassette. Deliveries which started in early 1972 on a volume basis laid the necessary foundation. "Without the cassette," said Douglas, "we would still have to put up with the use of open-reel—a production system—for distribution. The fully operational availability of the cassette to the private user for the first time lets us regard production as one concept and distribution as another and establishes private television communications as a medium in its own right."

Douglas sees the present use of open-reel tape for distribution as contracting severely in the coming years. However, he predicts tape (in cassette or cartridge) will always play an important role in private television because of the opportunity it gives to network members to make their own originations for further outward distribution or as a return reply. He said that about 5% of present tape nets make in-the-field-recordings for further distribution to sub-offices or for return upstream and predicts an increase in such use.

While another medium might be cheaper in some respects, i.e., Super 8mm film, the Brushes found that management preferred to work with videotape in origination. "They feel more comfortable—they can tell right after a take if it is what they want—and retakes incur really little additional cost or effort. Television encourages a relaxed, nonpressure condition under which to work." Douglas did feel that when the videodisc finally arrives and becomes operational that many private television users would shift their distribution to it because of easier handling and significant cost reductions.

A CLASSIC USER

Douglas described Investors Diversified Services of Minneapolis, Minnesota, as an example embodying many of the circumstances found to be characteristic of well established user-producers. IDS as a multi-faceted financial corporation has been using television since 1969. The firm is geographically scattered with 200 offices about the country. Field office salesmen must be thoroughly familiar with four basic financial product lines. Television at IDS is part of a larger AV training activity located in corporate under the marketing/sales arm of top management which gives full support to the use of television. (Douglas said it appeared characteristic of non-industrials to have television under marketing/sales while industrial companies earmarked television as part of a personnel training function.) IDS has an annual sales force turnover of about 1,800 out of over 5,000 salesmen, so that the complete sales force is trained about every four years. IDS has found that the use of television has not only kept their turnover below the industry average, but by using television their field training force can operate with fifty fewer training directors.

The IDS television operation has a regularly assigned staff of four. When a production requires more help, they are obtained from neighboring departments. The company has a two-story studio with modest production equipment. Programs are mastered and distributed to over 200 locations in one-half inch tape. IDS regional offices also make tapes which are routed to field offices. In one aspect their operation is unusual—IDS leases its equipment. While the company is pleased with the performance of the open-reel equipment, it will probably go cartridge/cassette eventually. Productions are uninvolved and quite often consist of a straight-forward presentation by a lecturer using a flip-chart.

UPGRADING FOUND

The Brushes found that generally after two to three years of operation an upgrading process begins if the initial period was at all successful. Movement in mastering is generally from one-half to one-inch videotape formats and from black and white to color. Douglas said very few in private television are going beyond one-inch; that is, to two-inch quad, except such large companies as Standard Oil of Indiana, Arthur Anderson, etc. The press is for higher quality. Douglas quoted IBM's Lynn Yeazel as saying, "It is important for me professionally with my company to get the best possible picture . . . for the dollars I have to spend."

Douglas traced two factors leading to a switch to color in private television. Cartridge/cassette systems have proven a boom to the use of video with persons who are only casual users of the equipment. The cartridge/cassette systems come at a time when many private users had completed limited pilot distribution tests with open-reel. But in adopting cartridge/ cassette distribution they also get a color capability because all cartridge/cassette videoplayers are color capable, with perhaps only one present exception. This fact, plus the increasing availability of off-the-shelf color programming and the realization that color is now a de facto home viewing standard, builds pressure to go color in the organization facility. Judith pointed out that experienced video managers, such as Dick Van Deusen at the Prudential, have been preparing for full upgrading to color over the years as they have revised and added to their origination capability. Evidently quite a few are ready for the final step—acquiring and plugging-in color cameras.

MEASURABLE RESULTS

According to the Brushes, "The smart television manager is working very hard to find ways of demonstrating or measuring results in ways his boss will appreciate." A typical approach in television sales training programs is to identify an increase in sales or better sales performance. In a skill training program, managers look for proof that someone has learned to do something, or do it clearly better, as a result of television training. Terming these as an empirical measurement, Douglas gave as further examples measurements that prove that television performs a training job at a lower cost or does a more effective job at the same cost. For the latter, an example would be the communication of information by video among different points of the country which would have otherwise involved traveling by people from various locations.

Another, but more difficult, way of demonstrating the value of the use of television grows out of its use to affect attitudes which Judith said presents the problem of measuring intangibles. Typical applications here might involve the use of television in employee news and management information programs. Generally, authorization to use television in such ways follows approval by management, followed by attitude surveys of the intended audience to determine the worth of these intangible uses of television. She reports on the "lunchroom network" of Bob Kermgard at American Motors in Kenosha, Wisconsin, who with portable half-inch equipment provides extensive coverage of local interest events not provided by the TV broadcast stations in Chicago and Milwaukee. With three-quarters of the town's workforce employed at the plant, Kermgard can immediately determine the effectiveness of his employee information programs by where they eat their lunch—in the cafeteria, where the monitors are, or at some other place. The Brushes report that greater numbers of private television managers than they expected engage in some sort of feedback measurement.

ROLE OF OUTSIDE PROPRIETARY AND CUSTOM PRODUCERS

The Brushes see the growth of private television networks as an opportunity for outside producers to create custom or proprietary product for network distribution. The great majority of those responding to the Brush survey are classed as user-producers. Of those responding, 95% produce some or all of their programming in-house. Of the 95%, 54% do in-house exclusively or—turned around—almost half use outside services of some sort. A wide variety of outside services are cited running from complete custom production to editing, duplication or just distribution.

The Brushes see a growing acceptance of the role of the outside producer. They found that a company tended to be in-house production-oriented when their uses of television were generally involved in internal communications. But where marketing and sales applications take on a greater emphasis, the developing tendency is to go outside for production services. Then, the in-house television operation tends to be limited to in-house applications of employee communications, training, etc. According to Douglas, "Where the use of television approaches a more direct, point-to-point relationship with the companies' bottom-line, there is some general distrust of the use of in-house resources, but the truly professional television manager will be as aware of his limitations and not be threatened by this."

The Brushes predict that at least 300 new private television users will come into the field in two years. However, this will generally be a new breed, described by Douglas as a user-distributor. The new user-distributor will take advantage of a videoplay cassette/cartridge technology specifically meant for him. Starting with an analysis of the geographic location, complexion and needs of the audience, the new user-distributor television manager will work backwards into the best way of generating the required programming and will take a more balanced look at the "make or buy" decision. In short, the emphasis of the "new" television manager will focus first on the distribution element and then on the best way to support it with programming.

OPPORTUNITY FOR PROPRIETARY PRODUCERS

The Brushes found that everything being done in the established private television systems (about three years and longer) is now going into distribution development. "The more the television manager gets that network built up, the more programming he is going to need for it, and the more economical it will be for him to acquire many types of programming outside," the Brushes concluded.

The $207 Million Private Television Industry Revealed by New Communications Survey

NONBROADCAST TV PROGRAMING EXPANDING RAPIDLY INTO NEW AREAS

In 1973, a greater amount of television programming was produced by business, government and non-profit organizations for private communications uses than was carried in prime time by all three major television networks combined.

This unsuspected level of private television production has generated a $207 million industry which is expected to almost triple in size over the next three years, according to a special study, "Private Television Communications: A Report to Management," just completed by D/J Brush Associates, a communications consulting firm in Yonkers, N.Y. and released today by Knowledge Industry Publications Inc., White Plains, N.Y.

Last year, private organizations and the Federal government produced more than 13,000 television "shows" totalling over 3500 hours (broadcast network prime time comes to 3276 hours). While virtually none of these programs has ever appeared on a home television screen—nor are they likely to—they have generally received high "ratings" with their intended audiences.

Understandably, most of these programs were devoted to specialized subjects in which the viewer has more than a casual interest. These ranged from training on how to initiate a sales call to surprisingly sophisticated employee news programs that sometimes rivaled broadcast television in journalistic expertise.

The D/J Brush Associates study is based on a survey of some 2300 corporations, non-profit organizations and government agencies, plus in-depth interviews.

The results show that there are at least 300 companies and other private organizations who originate and distribute their own television programming on a regular basis. This number is expected to double over the next two years.

A large portion of the 8000 productions originated by these 300 "user-producers" were produced for distribution via company videotape or closed-circuit "networks", the study reports. There are now approximately 76 private videotape networks in existence which carry company-originated programming to six or more locations on a regular basis. The significance of this number of permanent networks is the market potential it represents for the sale of proprietary "off-the-shelf" video programming to supplement in-house produced material.

The study upsets the commonly held assumption that private television is merely an audio-visual device used primarily for job training. While training in one form or another is still a major application of the medium, the study's findings show that new applications in the communications, information and sales areas are rapidly outstripping instructional functions. In some cases, the audiences for these newer types of program even include local communities.

This trend in the expansion of the medium into non-broadcast, non-entertainment areas may mean that ultimately the individual will encounter specialized television programming directed to him virtually anywhere he goes, says Judith M. Brush, co-author of the study.

"Right now, for example, it is possible for a business executive in the course of one day to view in his office an overseas economic report taped the day before, an update of a company field operation, a management development program on the emerging role of women in business, and, in the company lunchroom, an employee news program. After lunch he may attend a live, nationwide televised sales meeting using large-screen projection and later assist his company president in making a videotaped report for security analysts.

"When he goes to his bank he may see a community news show while waiting to transact his business and if he stops at a local department store, he may watch a televised report on men's fashions. Before settling down at night at home he may spend a few minutes practicing speed reading via a videotaped self-improvement course or get pointers on his golf swing from a video cassette made by a famous professional. After that he may watch TV just to relax," she said.

An indication of the "coming of age" of the industry is the general industry-wide adoption of the term "private television" to describe the medium and to differentiate it from "closed-circuit TV" or "CCTV", the study authors report. Closed-circuit television involves a direct wire connection between a camera and a monitor, which is rarely the case in either private or broadcast TV. The term is now used solely in relation to security and surveillance systems and other forms of monitoring and recording where no communications objectives or program elements are involved, or as merely one form of distribution within a private television system.

The study also contains the first published information on the Federal government's use of private television which last year totalled approximateliy $22 million. It includes a critical analysis of an as yet unreleased Office of Management and Budget report on the government's overall use of the audio-visual media. In addition, it both praises and damns the controversial "Goldwater Report" released in 1972 by Rep. Barry Goldwater, (R-Cal.) which charged that civilian agencies and the Department of Defense engage in an unnecessarily high level of television and motion picture production.

Along with providing detailed data on the dollar volume of various aspects of the private television market, including projections through 1976, the Brush study reports on uses and applications of the medium, cost factors, production and distribution systems, and the many programming and production services that are available to video users.

"Private Television Communications: A Report to Management" is priced at $395.00 and is available from Knowledge Industry Publications, Inc., Tiffany Towers, White Plains, New York 10602.

HOUSE VOICE VOTE PASSES H.R. 13871

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. HOGAN. Mr. Speaker, I was pleased to see the House pass by a voice vote H.R. 13871, the Federal Employees' Compensation Act Amendments.

Since the 1966 amendments to the Federal Employees Compensation Act, a number of conditions have arisen that make it necessary to update and revise requirements regarding compensation benefits for injured Federal workers. I feel this new legislation meets those changing conditions and I would recommend its passage.

This bill would grant Federal employees who recover from disabling injuries within 1 year a guaranteed right to return to their former jobs or jobs of equal rank and pay. I have also introduced legislation in this session to accomplish this same objective. My bill, H.R. 12164, would provide for reemployment of former employees receiving civil service disability retirement annuities found to be recovered from their disabilities or substantially restored to their former earning capacities.

Under the present civil service disability retirement procedures, a person retired on a disability annuity may periodically be recalled for examination to determine his continued disability status. In the event this examination shows improvement, or, the examination should show the annuitant capable of returning to work, he is given a certificate of recovery and advised that his annuity will cease in 1 year. During this period, it is up to the annuitant to locate a position at any grade or GS rating available. In times of Government cutbacks, it is next to impossible to find a comparable or near comparable position for which he is qualified, especially if a person's standard of living and his qualification pertain to higher grades. It would seem just, that a person declared disabled from a position due to job pressures, and so forth and later found to be recovered sufficiently to return to work, should be offered the same opportunities he had prior to becoming disabled.

Additionally, this bill would allow disabled Federal employees to retain their Government sponsored insurance, and permit their time on the disability rolls to be credited as active service time for civil service retirement benefits. It would further permit continuation of maximum benefits to those workers who recover sufficiently to enter an approved program of vocational rehabilitation.

Finally, as the committee report states, "Progressive new developments like these are necessary to maintain the act as a model workman's compensation program."

MOTHERS DAY STORY

Hon. Yvonne Brathwaite Burke

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mrs. BURKE of California. Mr. Speaker, although the date of May 12 has passed, I would like in some way to pay a special tribute to motherhood and have you join me in the proposal I am about to make.

The editor of Mainliner magazine, which is available on all United Air Lines planes during the month of May, sought what was his idea of an "upbeat story" and pointed it at Mothers Day, which falls on May 12.

It is entitled "No Man's Too Big To Love His Mother," and it is by the reigning heavyweight champion of the world, George Foreman. This young man has distinguished himself in every way after what was a disastrous course-heading when he was an adolescent and then, as a teenager. And in this touching story, he tells what his mother, Mrs. Nancy Ree Foreman, of Houston, endured trying to get him somehow to make something of himself.

In George Foreman, there is something for everyone. He became a warning to our whole society showing what can happen if it does nothing about its social problems. He showed that at the highest level our Government can throw its spotlight on and give emphasis to kinds of sociological problem-solving. He proved that given an opportunity and motivation, any individual is capable of improving his lot. And he showed that American industry—in his case, Litton Industries—has both capabilities and compassion in the so-called "people business." Today, he is an inspiration to people all over the world.

His mother must be very proud to read sentiments such as he writes in this article, and as a mother I can think of nothing which would compensate her so greatly as this must.

The article follows:

No Man Is Too Big To Love His Mother

(By George Foreman)

That night I won the title from Joe Frazier in Jamaica—January 22, 1973—you know where my mother was? She was walkin' the streets there in our old neighborhood in Houston. She couldn't stand to watch it on TV, couldn't bear listenin' to a broadcast of it. She hates any kind of fightin', and she always did. When I was a kid and got in those street fights where she was pacin', she had to be thinkin' she stopped a lot of 'em just by showin' up. I would quit sometimes just on hearin' she was comin', or was out lookin' for me. She was desperate that night, because Houston, where she was, and Jamaica were far apart. Even if she had gone to Jamaica, she knew she couldn't stop this one. So she shut her eyes and her ears and went off by herself and she prayed—not for me to win, because she knew I usually did, but that I wouldn't get hurt.

My birthday is January 10th. It's now more than 25 years since I was born to her, one of the seven children she would have. All the other six, workin' full time, would never cause her as much worry as I have, or as many problems as I did, and I'm not proud of that. But bad as it might look at times, even hopeless, she never gave up on me.

She was the only strength, the only real clinch I could fall into and save myself for such a long time. When you're young—or old—and there's only one sure thing in your life, something you can rely on all the time day and night, it stands pretty tall there in your mind.

How she ever held us all together was a chore that would have made a giant pale, but she did it. She worked like a dog for people, and since she was a lady barber, she stood on her feet hours and hours which is hard enough all by itself. And with all of us, she had seven different, constant distractions. I don't know whether she ever nicked anybody while shavin' him, lettin' her thoughts wander as to what we might be up to, but it wouldn't surprise me.

One of the hardest chores she ever had to do, I think, was to find some ways to keep me busy at something, particularly after I couldn't make it with the books and quit school. She wanted to occupy me, and have me earn a little money. No matter what it was, she would try to make it somehow appear to be a right kind of a job. When I did work, and then spent my money foolishly on cigarettes and wine, she didn't want me to do that; but it hurt her to say yes to my workin' hard, and then have to say no to what seemed to me was what spending money was for.

I had some awful jobs. Dish washing was one of them. To this day, if I'm in a good restaurant, it pains me to see all those plates the waiters put out on tables. I remember when George Foreman was a teenager, he was back in the kitchens of places like that. Dishes might go out to a lot of tables and customers, but they all came back to George. It wasn't a happy kind of a job, and I outgrew it—the miserable pay, too. I tried trucking companies, helping load and unload. About 15 I was then, hoistin' the big stuff, boxes and crates, and these were night jobs mostly, $1.25 an hour. When they paid off, they remembered only the $1 and forgot the quarter. Sometimes I'd go 17 hours straight for $17.

When you've got big muscles, some think you're kind of a machine, never get tired, never run down. The one who knew the other side of all this, and it hurt her to see it all, was Mrs. Nancy Ree Foreman, my mother. She so wanted something, anything to turn my way.

We used to have some of our best talks in the kitchen there at home, just the two of us. Often it was after I had done something bad, really wrong, and the police had been to talk to her about me, maybe. I would be feeling so ashamed that I'd brought one more heartache to her door. She never rebuked me, though. That would jolt me even more, and I'd want so much to give her some hope to hang onto, and not be just a total loss. We would talk about what we could do if we just had some money, not big money, maybe $50, or up to $500. It was the sound of it, hearin' it out loud was better than admittin' that we had nothin', and probably would have the same nothin' the next day or next week. She always said, no matter what figure we were usin', that perhaps it would come if we found a way to make it. She could be worn out, in despair inside, but when she said that "perhaps," it always reassured me.

My sister had gone into something called the Job Corps. I'd heard football players like Johnny Unitas and Jim Brown talk it up, saying it would be a good thing for someone such as myself. But with my sister in it, I was up against its only-one-to-a-family rule. When she finished, my mother said it was time for me to try it. The big athletes, my idols, they were for it. She signed the papers, OKing my going in, and off I went.

For awhile I was in Oregon, then went on to the big Job Corps Center near Pleasanton, California. That was where life began to turn another way for me. In a way, it was a long shadow of my mother. She was always saying there would be a way, there had to be, that something would happen. At Pleasanton, people were always showing me how to do new things, nothing like I'd thought of or done before, findin' new ways to keep me interested, busy. One of these was boxing, after hours, in the recreation hall, and it got me on the 1968 Olympic team. My mother didn't like that part at all. She had been in position to referee most of my fights up to then, busting them up right there in the Houston streets. Now that I was far away, the last idea in her mind about Job Corps was that it might encourage me to do more fightin,' rather than less of it.

When in those Olympics' bouts, I called her after every fight, and when I won the Gold Medal. I was beatin' everybody, but her first question was always whether I'd been hurt, her little boy, all 218 pounds of him.

When I turned professional and began to work towards the championship, I set up a personal corporation. It had to have officers to be legal and proper. There was never any doubt in mind as to who one of those officers would be, and her name is right there on the papers—Mrs. Nancy Ree Foreman, a retired lady barber. She has had more to do with my being here, what I am today than any other human being. Nobody is self-made. I know that. And no man is ever too big to love his mother, to be grateful that he has one. Mothers are in your corner, when no one else is, and afterward, when everybody else says he is. I know this for a fact. Mine was way back when, and is now, and will always be.

TRENTON EDITOR WINS PULITZER

HON. FRANK THOMPSON, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. THOMPSON of New Jersey. Mr. Speaker, it is with pleasure and pride that I call to the attention of my colleagues the Pulitzer Prize awarded for distinguished editorial writing to Mr. F. Gilman Spencer, editor of the Trentonian, a daily newspaper published in my home city of Trenton. The award to Mr. Spencer was in recognition of his series of editorials calling attention to official wrongdoing at the highest levels of New Jersey's government. The test of excellence which determines award of the Pulitzer Prize for editorial writing requires "clearness of style, sound reasoning and power to influence public opinion in what the writer conceives to be the right direction." Those who read the Trentonian on a regular basis know that the editorials written by Mr. Spencer clearly and supremely met that test. The award to Mr. Spencer brings great honor to the Trentonian and to the city we both cherish.

The articles follow:

[From the Trentonian, May 7, 1974]

Trenton Editor Wins Pulitzer

(By Jodine Mayberry)

Trentonian Editor F. Gilman Spencer has been awarded the Pulitzer Prize—the nation's highest journalism award—for "distinguished editorial writing."

The award announced yesterday in New York, was given to Spencer for 10 editorials he wrote in 1973 focusing public attention on scandals in New Jersey state government.

Spencer, 48, of Princeton Township, originally was nominated for the Pulitzer by former U.S. Atty. Herbert J. Stern who felt he had to withdraw as nominator when he was elevated to a federal district judgeship earlier this year. His successor, U.S. Atty. Jonathan L. Goldstein, officially made the nomination.

The award marked the first time since Columbia University began to award Pulitzer Prizes in 1917 that a Trenton newspaper has won it and only the third time that a New Jersey newspaperman received the coveted award.

Spencer, talking to Judge Stern over a telephone in the newsroom when the announcement came over the United Press International wire, threw the telephone in the air and leapt into the air himself as staffers shouted, "You've got it, you've got it!"

Mrs. Isabel Spencer, a Trentonian staff writer, watched her husband's first initial come over the wire, calmly observed, "There it is," and became speechless.

Spencer's nomination had been such a well-kept secret from most of the staff that only a handful of people "in the know" gathered around the wire machines when the Pulitzer story started to come over.

One reporter, who inquired what the fuss was about, was told that the group was waiting for the Pulitzer announcements.

"Oh," he sniffed and walked away uninterested and apparently convinced the article couldn't have anything to do with The Trentonian.

But when the shouts went up, newsroom staffers ran over to the wire machine in disbelief then gathered around Spencer in a tumult of congratulations.

Judge Stern, who gained a national reputation for prosecuting political corruption in New Jersey, issued a statement saying, "The work of the United States Attorney's Office and its efforts towards the investigation and prosecution of highly placed public officials could not have gone forward without the support of the press of New Jersey.

"Gil Spencer stood in the forefront of those efforts and when, from time to time, the (U.S. attorney's) office fell under attack from highly placed public officials who objected to our efforts to clean up the political environment of New Jersey, it was men like Gil Spencer who by their editorial support made it possible to carry on."

Spencer said, "This prize belongs to the staff of this newspaper every bit as much as it belongs to me if not more. This staff, particularly Dave Neese (staff writer who covers state politics), provided me with the information upon which those editorials were based.

"Also, without a brave publisher (Edward L. Hoffman) few of those editorials would have seen print. I'm delighted for myself, for the paper and its editors and staff. I was encouraged by both Emil Slaboda (managing editor) and Donald Murdaugh (city editor)," he said.

Hoffman said the award "is really a tremendous personal achievement for Gil Spencer, and it is really a proud day for The Trentonian.

"Integrity in government at all levels is so essential today that a newspaper's role can best be fulfilled by exposing corruption wherever it exists.

"A newspaper can best serve the public by attempting, in all phases of its editorial operation, to be alert in reporting areas where officials misuse the trust placed in them."

Following a brief champagne party at the paper, Spencer received congratulations from public officials and colleagues in journalism, including Gov. Brendan T. Byrne who issued a statement saying, "My congratulations to Gil Spencer for winning one of journalism's highest honors. This recognition of his colorful and thought-provoking editorials is well deserved."

David E. West, executive editor of the Trenton Evening Times, telephones his personal congratulations to Spencer. He then said, "The award certainly speaks for itself. This is an honor of which few newsmen in New Jersey can boast."

Donald E. Lippincott, managing editor, and George E. Amick Jr., associate of The Evening Times also telephoned their congratulations.

Trenton Mayor Arthur J. Holland at first didn't believe the news. "Are you kidding?" he asked, "Are you serious?"

"(Spencer getting the Pulitzer) is as likely as a streaker wearing a fur coat. That's something he might say, isn't it," Holland joked referring to Spencer's unusual writing style.

The mayor, who enjoys occasional verbal sparring matches with Spencer, has been known to greet Trentonian reporters with, "How's your editor today? Still bouncing off the planets?"

Yesterday, he said, "It just proves that anything can happen. I'm very pleased for the newspaper and the city."

Goldstein, in a Jan. 25 letter to the Pulitzer Prize Committee, noted that although Stern had started the process of nominating Spencer, he felt that his elevation to a federal district judgeship made it necessary to withdraw.

"Although Judge Stern believes that there would be nothing improper for a member of the court to nominate Mr. Spencer for this award, Judge Stern has decided that he should, in order to avoid even the appearance of any impropriety, refrain from doing any act which might bring criticism to the federal court.

"In view of the outstanding editorials written by Mr. Spencer during the past year, I feel it incumbent upon me to continue my predecessor's effort and, therefore, I submit to you Mr. Spencer's name . . ."

Goldstein went on to say that, "All too often, we in government complain about the press. I believe that we in government also have an obligation to praise the press and give recognition to a member of the journalism profession who has not only distinguished himself by his courageous and well-written editorials, but who has also served the public interest well."

Among the 10 editorials submitted to the Pulitzer committee were ones commenting on the appointment of former Democratic Gov. Richard J. Hughes as chief justice of the N.J. Supreme Court, the investigation conducted by the State Investigations Commission of cover-up charges against former State Atty. Gen. George F. Kugler, Jr., the state's mismanagement of U.S. Government surplus property and the involvement of a former state senator in a Nixon campaign contribution scandal.

The Pulitzer Prize for editorial writing cites as its test of excellence "clearness of style, sound reasoning and power to influence public opinion in what the writer conceives to be the right direction."

The prize carries with it a $1,000 monetary award.

The only two other New Jersey newsmen to receive the Pulitzer Prize as far as could be determined, were Lute Pease of the now defunct Newark Evening News for cartooning in 1949 and William A. Caldwell of the Record, Hackensack, for commentary in 1971.

Spencer began his journalistic career as a copy boy at the Philadelphia Inquirer in 1947. He went to Chester Times, now The Delaware Daily Times, as an apprentice photographer, then to the Mt. Holly Herald, now the Burlington County Herald, a weekly, as sports editor and photographer.

Spencer returned to the Chester paper as a political and general assignment reporter in 1952. In 1959 he became editor of the Main Line Times and left that post to become an assistant city editor of The Philadelphia Bulletin.

In 1964, Spencer became editorial director of WCAU-TV where he presented editorials on the air. He came to The Trentonian as editor in 1967.

Spencer is the father of five children.

Excerpts From Pulitzer Prize Editorials

Ten Trentonian editorials, written by Editor F. Gilman Spencer, were considered by the Pulitzer Price committee in making its award. All of those submitted were concerned with governmental and political scandals in the State of New Jersey.

Included in the 10-editorial sample required by the committee were editorials on:

The State Investigations Commission's investigation of charges that the state attorney general had turned his back on information that later, in the hands of a federal prosecutor, led to the conviction of the state's secretary of state.

Former Gov. William T. Cahill's failure to get a "sabertoothed attorney general" to investigate corruption charges.

Former State Sen. Harry Sears' briefcase of cash for the Nixon re-election fund.

The state's mis-management of U.S. government surplus property.

The appointment of former Gov. Richard J. Hughes as chief justice of the N.J. Supreme Court.

Excerpts from nine of 10 editorials submitted for consideration by the Pulitzer Prize committees:

THE SIC REPORT: ANOTHER LOOK

"The State Investigations Commission prostituted itself, vilely and nauseously, by affixing its name to a one-sided, occasionally malicious, politically oriented, pseudo report that discounted the testimony of a former attorney general of New Jersey, who supplied the information that led to Mr. Sherwin's conviction. . .

"We can only hope that SIC will remain in the spotlight long enough for someone in authority to ask it some of the many questions its strange probe so conspicuously failed to answer.

"And then we can hope that it will be formally disbanded and relegated to a place of shame, a place far, far away from New Jersey."

THE ONLY SOLUTION

"This cover-up business involving Attorney General George Kugler, convicted Secretary of State Paul Sherwin, the State Investigations Commission et al has gotten completely out of hand. And if it is permitted to continue out of control, New Jersey will witness a monstrous political tragedy."

THE KUGLER CONTROVERSY

"Yesterday, we facetiously suggested that the thoroughly discredited State Investigations Commission be called in to probe the latest charges against Mr. Kugler. But there is no room for facetiousness today. The Attorney General of New Jersey, the top law enforcement official in state government, stands accused of conduct, which, if true, renders him totally incapable of doing the job he has sworn to do. There must be some agency somewhere capable of resolving what might be called the second Kugler controversy.

"Until it is resolved, no sane resident in this state can have an instant's worth of confidence in either Mr. Kugler or his mighty office."

THE SURPLUS SCANDAL

"Since no charges have been brought against anyone, it cannot be assumed that anyone is guilty of criminal conduct in this mess. What can be assumed, however, what can be taken as an absolute article of faith is that the U.S. surplus property program in New Jersey could have been more completely conducted by a wayward garter snake than it was by the State of New Jersey."

MR. BYRNE'S TURN

"The old political standards are far from dead in this state. But an astonishing number of federal indictments have bloodied them. Mr. Byrne knows all about those indictments. He ought to. They helped elect him. The question is did they teach him anything he and this state will profit from."

THE HUGHES NOMINATION

"For eight years, Governor Hughes presided over one of the most unspeakably corrupt states in the memory of man. The corruption was, by and large, a joint product of the mob and some extraordinarily innovative and cooperative politicians. God knows, what they were doing was nothing new to New Jersey or to Mr. Hughes' predecessors in office, nor was there any assurance that state prosecutors could catch them at all. But as the immensity of the cancer slowly became evident, so did Mr. Hughes' reluctance to apply the knife. Festering infections in Newark, Jersey City and elsewhere were lanced by federal, not state, authorities.

"In another time, Mr. Hughes' reluctance would have been attributed to adherence to the then-prevailing standard and written off. But it was that standard that damn near drowned this state, that lured the Cahill Administration into temptation and cover-up, and that plunged the country into the muck of Watergate."

MR. CAHILL'S COLLEAGUES

"This particular editorial isn't directed at Mr. Average or even at Mr. Slightly Above Average. This editorial is for one man and one man alone—a man who will intimately appreciate the significance of the names and the allegations. His name is Cahill. His current objective is to get himself reelected. His problem is that a bunch of his good friends and close political associates keep popping up in the damndest places . . . like on the front pages of newspapers and smack in the middle of criminal investigations."

UNANSWERED QUESTIONS

"Earlier this week, Mr. Hughes said it would be grossly improper for him to comment on the extortion convictions of his former Secretary of State Robert Burkhardt and his former State Treasurer Robert Kervick. He said it was improper because both cases are still pending in the courts. He termed a Trentonian reporter's request for such a comment 'outrageous' and he accused the newspaper of conducting a 'vendetta' against him.

"We believe that no request for a former governor's comment on the criminal behavior of convicted cabinet officers can be fairly termed outrageous.

"We also believe that Mr. Hughes' views on offical corruption, both as it specifically affected this state during his two terms and as it has generally affected this state and the nation, are indisputably germane to any comprehensive examination of his qualifications for Chief Justice."

THE SEARS TESTIMONY

"Because the Vesco-Sears-Nixon-Campaign-Contribution case is so disgustingly fascinating, so revoltingly obscene, so basically indicative of the fraud, hypocrisy and corruption around us that even the most pious, biased, know-nothing Republican vegetable this side of Saturn should find it worthy of his attention . . . sooner or later.

"The mere thought of someone of Mr. Sear's reputation involved in such a situation is alone enough to make men pray."

WHY ARE WORKING WOMEN MISSING FROM KIDS' BOOKS?

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. FRASER. Mr. Speaker, there has been increasing awareness of late that children's books—especially textbooks—do not portray the world as it really is. Take the picture of women, for example. Not only are fewer women shown than men, but they are shown in limited roles: girls are shown admiring what the boys do; women are shown cooking or cleaning up. This vision of society persists at a time when half or all women 18 to 64 are employed outside the home.

Among those concerned about this lopsided portrayal of women are working women themselves, as the following article from the Amalgamated Clothing Worker's January Advance shows so well:

[From the Advance, January 1974]

WHY ARE WORKING WOMEN MISSING FROM KIDS' BOOKS?

(By Anne S. Rivera)

There are almost 13 million mothers among the 33 million women in the nation's labor force.

And the books available to their children, whether toddlers or high school students, are usually books that undermine mother's importance as a wage earner, echoing the old saying, "Woman's place is in the home." The absence of strong, self-reliant women in children's books parallels the absence of sound labor history in school texts, a problem examined in a previous Advance article.

The fact that half of all women 18 to 64 years of age are employed is never reflected in children's books. Caroline Bird in her study, "Born Female," notes of books for pre-schoolers: "The books do not show girl scientists. They don't show sisters leading brothers. They don't show girls making discoveries, creating inventions, making important decisions that others of both sexes follow."

A brief look at the drawings in a typical primary reader illustrates the ongoing problem as children enter school. Four small pictures enliven the cover: two represent animals; one portrays a simpering woman arranging flowers on her hat; the fourth shows a young boy piloting a rocket.

Inside the reader, women fare no better than on the cover. The first section, entitled "After Dark," includes five stories where the main character is male. The one active female character is an unimaginative mother who won't allow her son to sleep outdoors with his friend Stan.

Twenty illustrations in the section depict male characters; female characters appear in only five. Besides the scolding mother, there is one other female, a girl playmate of Stan's who seconds his pronouncements about the stars as the two children study the darkening twilight sky.

Junior high and high school students also read inaccurate descriptions of reality. No school history texts inform the union member's children that some of the earliest pioneers of the labor movement were women and that women continue today to press for careers equal in salary, interest and responsibility to the careers of men.

Besides neglecting to mention female participation in historical events, texts use language that tends to be prejudicial towards women. For example: "Brave men won the West," "The average American is proud of his heritage." Women won the West too. Women are also average Americans.

Language that uses the masculine noun or pronoun for both male and female is beyond the understanding of most students to fully grasp. The definite suggestion that man is brave, proud, strong, while woman has no share in bravery, pride or strength, is inescapable.

"In the real world, there are 100 women for every 95 men. Yet in the books read by schoolchildren, there are over seven times as many men as women and over twice as many boys as girls." So states Alma Graham, who examined 1,000 school texts on all subjects, in her capacity as editor of the "American Heritage Dictionary" for children.

From the content of the books our society designs for its children, we might conclude that America does not expect—or perhaps even want—woman to be creative, enterprising individuals. And children, experts agree, tend to live up to society's expectations of them.

That children do indeed fulfill society's expectations was recently documented by a conference at Harvard University. The participants noted: "Boys everywhere are more interested in science and do better on tests (than girls)." The gap in performance widens as students grow older. Test differences, the scholars concluded, are attributable to a very simple cause: sexist bias.

No one can gauge to what extent sexist bias may deprive the world of important scientific discoveries by females. Emotional conflict in a woman forced by economic necessity to become a wage earner, but nurtured on the bias that she is "supposed" to stay home and care for her family, cannot be measured. The confusion of a child whose mother works, but whose biased books show other mothers taking children to the zoo and baking them chocolate cookies, can only be guessed.

Fortunately, sexist bias no longer rules the school curriculum unchallenged. It is now illegal in school texts and has been since June 1972, when Title IX of the Educational Amendments Act spelled it out:

"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance . . ."

Failure of a public or private school to comply with Title IX may result in the withdrawal of federal funds.

Many school administrators, as well as teachers and parents, are not aware of Title IX's existence, certainly not of its implications for textbook content. However, at least one suit has already been filed under Title IX, against a particular school system, the Kalamazoo Public Schools in Michigan.

Individual parents now possess enormous power to combat sexist bias in school texts. Once they are aware that sex discrimination is a threat to children's understanding of their own economic situation, to the children's self-image and to their scholastic achievement, parents can inform particular school administrations of their dissatisfaction with the curriculum. If no change in teaching materials is forthcoming, parents may file complaints with the Office for Civil Rights, H.E.W., Washington, D.C. 20201.

Further information on sexist bias in school texts and suggested parental action to combat it is available from each of the following sources:

Lucy Simpson, Chairwoman, Textbook Committee, National Organization for Women, 744 Carroll St., Brooklyn, N.Y.

Women on Words and Images, P.O. Box 2163, Princeton, N.J. 08540.

The Feminist Press, SUNY/College at Old Westbury, N.Y. 11568.

POLICE OFFICERS CALLED "THE CITY'S FINEST"

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. WOLFF. Mr. Speaker, on patriotic occasions, when we feel good about our country, our city, ourselves, our police officers are called "The City's Finest." But most of the time, those men and women who protect our families, our homes, our society, are sorely maligned. Some take them for granted. Some call them insulting names. Some debase their job. Until we need them and then it is a different story. When we are feeling patriotic and proud of those men and women who hold our trust, they have little time to enjoy flag waving. They are too busy keeping this country together. Keeping us alive. Keeping us safe. The New York Daily News ran an ad that describes the New York City police force. But you can insert the name of any city, any town. I commend JGE Appliance-Furniture-Carpet Stores for this eloquent commentary on our police officers. I would like my colleagues to read this tribute. It is something which we forget far too often.

I Am a Shield

A New York police officer's shield. Just an ordinary piece of metal. But I work with an extraordinary person.

People call him many things—cop, dick, flatfoot, bull, even pig. But mostly, they call him whenever there's trouble. A robbery. A heart attack. An accident. A traffic jam. A fire. A lost child. A mad dog. A would-be suicide on a roof or ledge. And he always answers the call. No matter what they call him.

He's underpaid. Works long, ever shifting hours. Days. Nights. Sundays. Holidays. Fair weather. And foul. Yet he wouldn't trade his job for anything.

He loves New York. No one knows better than he that our town has problems. Pushers. Chiselers. Crooks. Law-breakers. All kinds of crime. And lots of citizens who don't want to get involved. Who keep their eyes and ears closed. Who don't and won't help.

But he also knows that most New Yorkers are honest, decent, law-abiding people who love their city, too. Who, when the chips are down, will help their neighbors. Who will support the police officer who may be called to risk his life on their behalf.

He's no superman. He's only all too mortal. If someone shoots him he bleeds—sometimes dies in the service of his fellow citizens.

Support him. Call him when there's trouble. But don't call him names. Thank him for the thankless job he does for all of us. He's what we've got between us and the jungle.

I'm a shield. And proud to be stuck on some pretty wonderful guys and gals.

APPREHENSION—AND ASSURANCE

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. ROSENTHAL. Mr. Speaker, for some time I have been deeply concerned about the apparent shift in American policy in the Middle East. The Nixon administration seems to be trying to outbid the Soviet Union for Arab friendship and oil, and one of the chips on the table is Israel's security.

A cease-fire and disengagement of Syrian and Israeli forces can stop the shooting and killing for the time being, but such an agreement, even one negotiated by the American Secretary of State, cannot be a substitute for a lasting peace agreement. This can only come about as the result of direct negotiations between the parties themselves.

The Secretary of State should not overlook Israel's need for secure and recognized boundaries as an effective barrier against further Arab aggression. It would be a mistake for the United States to press Israel too hard for concessions that will leave her overly dependent on international agreements for her security.

The United States must not forget that while others may follow the lure of Arab oil, this country is the only friend Israel has in the world community of nations. To a very large extent, her security and her survival depend on that friendship.

The lead editorial in the current issue of Near East Report presents an articulate and probing look at the emerging U.S. policy in the Middle East. I am inserting it in the Record at this point:

Apprehension—And Assurance

Ever since October, there has been a sharp debate over American policy in the Middle East. Pessimists have feared that Israel, despite her military victory, would face Munich-like pressures to offer sacrifices to the Arabs, either in our Government's pursuit of detente with the Soviet Union or in the prosecution of the Cold War.

Such fears have been held by many Israelis and by a considerable segment of the American Jewish community. But Secretary Kissinger has allayed much of this concern by his remarkable success in winning the confidence and respect of both Arabs and Israelis. Moreover, American public opinion continues to support Israel. Fears that the diplomatic devaluation of Israel might be facilitated and rationalized by an erosion of public support have proved unwarranted.

Last fortnight—although several unfortunate developments revived and deepened fears—there was a surge of reassurance from congressional leaders and Administration spokesmen who participated in the AIPAC policy conference.

These were the items of concern:

Defying the UN cease-fire resolution, the Syrians escalated their War of Attrition. The UN Security Council did nothing to Curb Syria; it reserved its indignation for a censure resolution against Israel's anti-terrorist sortie into Lebanon. The United States voted for that resolution, even though the Council rejected a U.S. amendment to include condemnation of the Kiryat Shemona massacre. This was a retreat to pre-1972 expediency.

While we are confident that Kissinger has not drawn a map of the boundaries still to be negotiated, Arab expectations, judging by Sadat's recent statements, have been raised to extravagant heights. (The Rogers plan of 1969 is still extant.) The Israel public anticipates heavy diplomatic pressure.

The Administration's aid programs for Arab states are substantial and may prove to be premature. While U.S. dollars may be necessary to cement disengagements, the experience of the Eisenhower and Kennedy administrations has shown that regimes which are bought—or hired—have excessive appetites, short memory gratitude and short life expectancy.

The Administration's 1975 aid program for Israel is disappointing when compared with our Government's substantial and generous response during the war last fall. The costs and casualties of war are heavy, and to these we must add the costs of reconstruction and rehabilitation. Yet, even while the shooting continues, the Arab states are being reinforced by Soviet and American weapons. This too, seems as a step backward.

BUT, ADMINISTRATION NOT ABANDONING ISRAEL

The Arab states know that it is very much in America's interest to maintain Israel's strength, for a vulnerable Israel would weaken U.S. influence and power.

But we would like to think that American policy is motivated not only by economic and military objectives in the national interest, but also by moral criteria. We are prone to forget past wrongs and to sue for the favor of those who are guilty of aggression. We abandon principle. Thus, we permit the hopes for economic, diplomatic and strategic gain to supersede and silence moral judgment.

It was Sadat who opened the war against Israel in October, but he is now to be rewarded, handsomely, by American favor. It was King Faisal who more than anyone else wielded the oil weapon against the American people, and he is now to be reinstated as a major ally and beneficiary of American technology and defense. Syria has been consistently anti-American; it rejected a U.S. Point Four mission as far back as 1951.

We do not oppose some economic aid to these countries, but we find it difficult to accept the idea of strengthening their military capability at this juncture. We can understand that the Administration may be seeking to coalesce Arab states to work for military disengagement from Israel, as well as for diplomatic disengagement from a pro-Soviet orientation. But we are a long way from peace and a genuine detente. Cease-fires are easily violated and disengagement agreements are not synonymous with non-belligerence.

We could be more sympathetic to the Administration's proposals if the road signs to peace were visible and easily read, if there were no Soviet detours or PLO ambushes around the bend, and if Arabs and Israelis were traveling together in the same direction.

ANTIBUSING AMENDMENTS TRY TO TURN BACK THE CLOCK

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. RANGEL. Mr. Speaker, tomorrow the Senate will vote on a series of amendments to the Elementary and Secondary Education Act of 1974. The timing of these important votes has brought them to particular national attention, for they are being held during the week in which we are commemorating the 20th anniversary of the historic decision by the U.S. Supreme Court in Brown against the Board of Education.

As we face this crucial Senate debate tomorrow on amendments which I believe are unconstitutional and are at the minimum a negation of the Brown decision and the progress we have made in race relations in the last 20 years, I hope our colleagues in the Senate have the courage to vote for what is right and to turn away from responding to those who would end this progress and try to turn the clock back to 1954.

I place in the Congressional Record an editorial from the May 11, 1974, edition of the New York Amsterdam News entitled "1954 Decision in Jeopardy." I hope that my colleagues will carefully read and heed this message.

I also enclose a letter which I sent last week to Clarence Mitchell, director of the Washington Bureau of the NAACP, setting forth my position on the presently pending Senate antibussing amendments:

The 1954 Decision in Jeopardy

It is ironic that as we mark the 20th anniversary of the 1954 Supreme Court school desegregation decision, there is a determined move in Congress to set the clock back to the segregated status of 1953.

On March 26 of this year the House passed the Esch Amendment by a vote of 293 to 117. It proposes that Congress find as a fact that transportation of students creates serious risks to their health and safety.

2. It holds that assignment of children to public schools on a neighborhood basis is NOT a denial of equal educational opportunity.

3. It would forbid the implementation of any desegregation plans that would require the transportation of any student to a school other than the closest to his residence.

4. It proposes the modification of Title VI of the Civil Rights Act of 1964 which authorizes civil action in Federal Courts for denial of equal educational opportunity.

Another amendment offered by Rep. John M. Ashbrook (R. Ohio) would forbid the expenditure of Federal funds for busing to achieve desegregation.

Comparable amendments are being offered in the Senate. One of them, submitted by Sen. Edward J. Gurney (R. Fla.), would prohibit busing, reopen all court-ordered desegregation plans submitted by the Department of Health, Education and Welfare, and forbid new desegregation orders. The Gurney provision would be substituted for Title VIII of S. 1539—the Education Amendment Act of 1974.

DEMAGOGUERY AT WORST

This being an election year, when the Watergate cloud hanging over the landscape sends politicians scurrying for issues to divert the voters' attention from their own credibility problems, busing and school desegregation are sure-fire issues to seize upon and delude the electorate.

It is demagoguery at its worst. Not only is it immoral, it is further damaging to Black and brown children already handicapped by years of being disadvantaged.

It is an intolerable situation that calls for collective action. The member papers of the National Newspaper Publishers Association hereby go on record to say to the Congress of the United States, "Stop playing politics with our children's lives and their welfare."

Those who support such reactionary legislation as the Esch Amendment must be regarded as the enemies of Black and brown children and, indeed, of all children and America itself.

Their actions must be remembered at the polls in November, 1974. Respect for law is just as incumbent upon lawmakers as it is upon ordinary citizens.

May 7, 1974.

Mr. Clarence Mitchell,
Director, Washington Bureau, National Association for the Advancement of Colored People, Washington, D.C.

Dear Mr. Mitchell: Once again you are involved in leading a fight to preserve the right to quality, integrated education which many of us believed was won for minority children twenty years ago with the historic decision of the United States Supreme Court in *Brown v. Board of Education* which declared segregated education unconstitutional and called for desegregation "with all deliberate speed."

In the twenty years since the *Brown* decision we as black people have come to realize that our constitutional rights, although permanently secured by the landmark civil rights decisions of the Supreme Court and the equally historic civil rights legislation passed by the Congress and signed by Presidents Eisenhower, Kennedy and Johnson, must be continually protected from the attacks of those who seek to undermine the Constitutional guarantees of equality of opportunity for all citizens.

Among the most persistent of these attacks in recent years has been the effort to stop the progress toward integrated education through attempts to prohibit the busing of school children for the purpose of integration. "Busing" has become one of the most emotion-filled issues in our nation as a result of the relentless manipulation of the fears of parents and the cynical misrepresentation of the amount, nature, and purpose of the busing that has been ordered by local jurisdictions and, in very few instances, the Federal courts, to achieve the racial integration of *de jure* segregated schools in accordance with the Constitutional mandate.

The latest regressive legislative assault on busing—and on integration—is presently centered in the United States Senate where the proposed Gurney, Ervin, and Scott-Mansfield Amendments, to the Elementary and Secondary Act of 1974 threaten to eliminate or severely limit the use of busing as a tool for the achievement of integrated education. I and the other members of the Congressional Black Caucus oppose each and every one of these amendments and any other amendment that would prohibit the use of Federal funds for the transportation of students in connection with court ordered desegregation just as we have unanimously opposed such amendments, including the current Ashbrook amendment, in the House of Representatives.

I am disturbed that some of our friends in the House and Senate no longer find it possible to support our continued commitment to integrated education; I am distressed that this politically expedient position is being justified, in some instances, on the grounds that the Black community, and more specifically the Congressional Black Caucus, oppose busing as a means for the achievement of integrated education. I therefore, on the eve of the 20th anniversary of the *Brown* decision, take this opportunity to reaffirm our commitment to the providing of full and equal educational opportunity for all children and our unqualified opposition to legislate measures that would deny this equality of opportunity by preventing the desegregation required by *Brown*.

Sincerely,

Charles B. Rangel,
Member of Congress.

PROPOSED AMENDMENTS TO FEDERAL RULES OF CRIMINAL PROCEDURE

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. HUNGATE. Mr. Speaker, on May 2, 1974, I inserted in the Congressional Record the proposed amendments to the Rules of Criminal Procedure, which had been sent to the Congress by the Chief Justice of the United States on April 22, 1974. At that time I noted that the amendments would become effective on August 1, 1974, unless prior to that date the Congress acted to provide otherwise.

My purpose in publishing the proposed amendments was to advise the Members of the House of Representatives and the U.S. Senate of their existence and to encourage the Members of Congress to call them to the attention of those of their constituents who might be in a position to advise the Congress as to their desirability.

The House Committee on the Judiciary has circulated the proposed amendments to the State bar association of each of the 50 States and the District of Columbia, the Chief Judges of the U.S. District Courts and Courts of Appeals, the U.S. Department of Justice, the American Bar Association, the Federal Bar Association, and numerous other individuals and organizations in a position to be helpful to the Congress in performing its task of evaluating them.

Any other interested individuals or organizations wishing to examine the proposed amendments and possibly comment on them to the committee is requested to communicate that desire addressed as follows: Congressman William L. Hungate, chairman, Subcommittee on Criminal Justice, Committee of the Judiciary, room 2137 Rayburn House Office Building, Washington, D.C. 20515.

Since the proposed amendments become effective automatically on August 1 unless a statute is enacted providing otherwise with respect to all or any of them, it is essential that all comments be received as promptly as possible.

PANAMA CANAL: VITAL TO U.S. INTERESTS

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. ASHBROOK. Mr. Speaker, opposition to giving the Panama Canal to Panama continues to mount. Nonetheless, the administration seems determined to continue its ill-advised attempts to abandon American sovereignty over the Canal Zone.

Secretary of State Kissinger has initialed a "Joint Statement of Principles" with Panamanian officials. Dr. James P. Lucier has analyzed these principles and discussed the importance of the canal for the United States. His article appears in the spring 1974 issue of Strategic Review and deserves the attention of all concerned about American national security and interests.

At this point, I include in the Record excerpts of Dr. Lucier's article:

Panama Canal: Focus of Power Politics

(By Dr. James P. Lucier)

On February 7, 1974, U.S. Secretary of State Henry A. Kissinger arrived in Panama City with a company of newsmen, State Department officials, and Members of Congress. He was there to "initial" a Joint Statement of Principles for negotiations on a new Panama Canal Treaty.

The Secretary offered more than the usual gesture of diplomatic optimism. . . . He spoke of the new canal arrangements in the context of worldwide international developments, and of the exercise of power by the United States—on United States territory—as though it were something less than proper.

THE PAST AS PROLOG

The program which Secretary Kissinger promised in Panama is not new. It is similar to the program drafted for President Lyndon Johnson when world power relationships were dramatically different and some spoke of the Panama Canal as though it were expendable. The passage of a tumultuous decade has proved the wisdom of those who insisted that the Panama Canal is essential to our nationhood . . .

The basic concepts of the Joint Statement of Principles were laid down almost a decade ago by President Johnson, following the Communist-inspired Panama riots of January 1964. What was then offered as a panicky response to a manipulated crisis is now presented as a permanent solution . . .

In the summer of 1973, Ambassador-at-Large Ellsworth Bunker was appointed as head of the U.S. negotiating team, supplanting Ambassador Robert B. Anderson. The Principles were negotiated by Ambassador Bunker during trips to Panama in December

1973, and January 1974. These dates are significant because Ambassador Bunker was simultaneously negotiating in Jerusalem the Middle East peace agreement and the reopening of the Suez Canal. He accomplished both missions by commuting back and forth between Panama City and Jerusalem.

Ambassador Bunker was not unfamiliar with the Panama problem. As the U.S. representative to the Organization of American States in 1964, he played a major role in formulating and articulating U.S. policy *vis-a-vis* the Republic of Panama. It was in this forum that Panama brought charges of U.S. aggression during the 1964 riots. The charges were never substantiated, and Ambassador Bunker denied them forthrightly. But he also announced at the OAS meeting that the United States stood ready for reconsideration of all issues—may I repeat, *all* issues between the two countries—including those arising from the Canal and from the treaties relating to it. . . ."[1] This was an open reference to the chief demand of Panama, the abrogation of United States sovereignty in the Zone.

By September 1964, President Johnson announced that formal negotiations were indeed to be opened, and that they were to be premised upon abrogation of the 1903 treaty. These negotiations, conducted by Ambassador Anderson, continued until September 24, 1965, when President Johnson issued a progress report which defined broad areas of agreement that had been reached.

In 1967, the Johnson Administration completed the drafts of three treaties, one transferring the administration of the Canal to an "international entity" bilaterally operated by the United States and the Republic of Panama; a second concerning defense; and a third laying down principles for construction of a new canal of so-called sea level design at an undetermined date. The drafts of these treaties were never signed. Two of them were published by the *Chicago Tribune*, and the third was read into the *Congressional Record* by U.S. Senator Strom Thurmond. The reaction in Congress, led by Thurmond and by Congressman Dan Flood of Pennsylvania, made it inexpedient to submit the drafts of the treaties to the Senate.

Meanwhile, the treaties also became involved in the Panamanian election campaigns of President Marco Robles and Arnulfo Arias. Arias won, but eleven days after his election, he was swept out of office by a military *junta* led by the present chief of state, General Omar Torrijos. This *coup* gave Panama its fifty-ninth government in seventy years.

These failures of the sixties brought no new approach for the seventies. . . . State Department policy adheres to the premise that a surrender of U.S. sovereignty in the Canal Zone is necessary to the improvement of relations with the Republic of Panama and with Latin America.

THE JOINT STATEMENT OF PRINCIPLES

The philosophy of the Joint Statement of Principles is suggested by these words of Secretary Kissinger at Panama City:

"Seventy years ago, when the Panama Canal was begun, strength and influence remained the foundation of world order.

"Today we live in a profoundly transformed environment. . . . Power has grown so monstrous that it defies calculation; the quest for justice has become universal. A stable world order cannot be imposed by power; it must derive from consensus. Mankind can achieve community only on the basis of shared aspirations.

"That is why the meeting today between representatives of the most powerful nation of the Western Hemisphere and one of the smallest holds great significance. In the past, our negotiation would have been determined by relative strength. Today we have come together in an act of conciliation."

The unreality of this statement speaks for itself. The notion that power is unrelated to responsibility is contrary to the simple realities of life. The implication that an unequal relationship is incompatible with justice is difficult to understand. We have been more than fair to Panama, granting concessions not required by considerations of equity.

The ceremony in Panama City involved an official visit with the "initialing" of a "Joint Statement of Principles" for negotiations on a new Panama Canal Treaty. Such initiating ceremonies are usually reserved for the actual treaty draft. Here the Secretary gave the ritual trappings of a treaty to something which was not constitutionally a treaty, and which would not have to be sent to the Senate for advice and consent.

The formality with which the Principles were handled tends to pre-empt further negotiations on essential points. Once such points are conceded, the details of surrendering U.S. jurisdiction, to be worked out in the treaty, are unimportant. The design of this act is to commit the country to new relationships without congressional approval, then to offer a treaty for routine approval. The treaty, when and if it is achieved, will be a mere appendage to the Joint Statement of Principles.

The eight Principles of the Joint Statement are worth examining one by one:

1. The treaty of 1903 and its amendments will be abrogated by the conclusion of an entirely new interoceanic canal treaty.

Although the Statement of Principles does not mention sovereignty, it is indeed U.S. sovereignty over the Canal Zone which the proposed negotiations are designed to terminate. The Hay-Bunau-Varilla Treaty of 1903 is the instrument by which the Republic of Panama "grants to the United States all the rights, power and authority within the zone . . . which the United States would possess and exercise as if it were the sovereign of the territory within which said lands and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power, or authority." The language of this treaty is *sui generis*. It establishes the United States as the lawful sovereign in every respect, to the entire exclusion of any exercise of sovereignty by Panama. Without this clause the Panama Canal would never have been built; and without it, the United States could not successfully maintain control of the Canal. The 1903 treaty has been amended twice by the treaties of 1936 and 1955, yet the sovereignty and perpetuity clauses have never been touched.

Panama's only interest in the Canal Zone is that of "titular sovereignty", a phrase which leaves Panama with the right of a residuary legatee, i.e., if the United States chose to withdraw from the Canal Zone, the territory would revert to Panama and not to some other country.

2. The concept of perpetuity will be eliminated. The new treaty concerning the lock canal shall have a fixed termination date.

The concept of perpetuity is a necessary concomitant of sovereignty and of the nature of the project for which sovereignty was acquired. The Spooner Act of 1902, which authorized negotiations with Colombia for the Canal route, mandated the President to obtain "perpetual control" of the necessary territory. The Hay-Herran Treaty of 1903, never ratified by Colombia, specified a concession of one hundred years, renewable at the sole discretion of the United States. When the internal operations of Colombian politics threatened to deprive the residents of Panama of the prospective canal—the Spooner Act also mandated the President to negotiate with Nicaragua if the Colombian negotiations failed—the Panamanians revolted. The Hay-Bunau-Varilla treaty, with its perpetuity clause, was the inducement offered by the new Republic to prevent construction of the interoceanic canal in Nicaragua.

3. Termination of United States jurisdiction over Panamanian territory shall take place promptly in accordance with terms specified in the treaty.

At the present time, the United States has no jurisdiction over Panamanian territory and the Republic of Panama has no jurisdiction over U.S. territory. Responsibility is clearly delineated. The metes and bounds of the Canal Zone described by the Price-LeFevre Boundary Convention of 1914 define what is indisputably territory of the United States. Mistakenly referred to sometimes as a "lease", the territorial transfer was accomplished by "grant", a word which signifies the transfer of title in fee simple, a fact confirmed by the United States Supreme Court.[2] There is no more reason to give this territory to Panama than to give the Louisiana Purchase back to France, or Alaska back to the Soviet Union. The United States paid Panama $10 million as "the price or compensation", plus $250,000 annually, the latter representing the annual fee formerly paid to Colombia by the Panama Railroad (a privately owned venture, bought out by the United States).

In addition, private claims were extinguished by a U.S.-Panama Joint Commission which purchased the titles from the private owners at fair market value under eminent domain. In all, the United States has invested $163.7 million in acquiring the Canal Zone, excluding construction and protection, making it the most expensive territorial purchase in United States history.[3] Including defense, the Panama Canal represents an investment of about $6 billion.

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[1] Department of State Bulletin, February 24, 1964, p. 302.

[2] *Wilson v. Shaw*, 204 U.S. 24,907, at 132,33: "This new republic [Panama] has by treaty granted to the United States rights, territorial and otherwise . . . A treaty with it [Panama] ceding the Canal Zone, was duly ratified. . . . Congress has passed several acts based upon the title of the United States, among them one to provide a temporary government. . . . It is hypercritical to contend that the title of the United States is imperfect, and that the territory described does not belong to this nation, because of the omission of some of the technical terms used in ordinary conveyances of real estate."

[3] The major territorial acquisitions of the United States are as follows:

1803 Louisiana Purchase	$15,000,000
1821 Florida Purchase	6,674,000
1848 Mexican Cession, including California	15,000,000
1853 Gadsden Purchase	10,000,000
1867 Alaska Purchase	7,200,000
1904 Canal Zone	163,718,571

The Canal Zone purchase breaks down as follows:

Republic of Panama:	
Original Payment, 1904 (1903 Treaty)	10,000,000
Annuity, 1913–73 (1903, 1936, 1955 Treaties)	49,300,000
Property transfers:	
Property in Panama City and Colon (1943)	11,759,956
Water system in Panama City and Colon	669,226
1955 Treaty transfers	22,260,500
Subtotal Panama	93,989,682
Colombia (1922)	25,000,000
Compagnie Nouvelle du Canal de Panama (1904)	40,000,000
Private titles, stocks and claims	4,728,889
Total	163,718,571

4. The Panamanian territory in which the canal is situated shall be returned to the jurisdiction of the Republic of Panama. The Republic of Panama, in its capacity, as territorial sovereign, shall grant to the United States of America, for the duration of the new interoceanic canal treaty and in accordance with what that treaty states, the right to use the lands, waters, and airspace which may be necessary for the operation, maintenance, protection and defense of the canal and the transit of ships.

The Canal is not situated in Panamanian territory. It is situated in United States territory. If sovereignty were transferred to the Republic of Panama, the United States would become only a leaseholder, even though it had an agreement to operate, maintain, and defend the Canal. At best, the United States would be in a position analogous to that of a status-of-forces agreement, such as we have for military bases abroad. . . Such agreements are not very durable, no matter how strong our *friendship* with an ally seems to be.

As the recognized sovereign in the Canal Zone, the United States now has the unquestioned right to take any action it deems necessary to operate and defend the Canal. If the United States were merely the guest of a host country, the power of the sovereign to evict it from the Canal would invite international pressures to that end. . .

5. The Republic of Panama shall have a just and equitable share of the benefits derived from the operation of the canal and its territory. It is recognized that the geographic position of its territory constitutes the principal resource of the Republic of Panama.

The Republic of Panama already enjoys a just and equitable share of the benefits derived from the operation of the Canal, even though it is operated in United States territory. The $250,000 annual payment was raised to $430,000 when the dollar went off the gold standard in the thirties. This sum is paid from tolls. In 1955, an additional $1.5 million was added, paid from U.S. State Department contingency funds.

The United States, by contrast, does not take a penny from tolls . . .

But the benefits to Panama from tolls do not represent its chief benefits. Panama benefits also from the $65.5 million payroll paid to Panamanian citizens, from the skills and business organization taught the employees of the Canal Company, and from the research projects on tropical diseases and sanitation that still continue. Panama is the highest *per capita* recipient of U.S. AID programs, and is preeminent among Latin American economies. In recent years it has become the international banking center of Latin America, with a total of fifty-eight banks in Panama City today. This economic development would suffer without the stability and security of the U.S. presence in the Zone.

6. The Republic of Panama shall participate in the administration of the canal, in accordance with a procedure to be agreed upon in the treaty. The treaty shall also provide that Panama will assume total responsibility for the operation of the canal upon the termination of the treaty. The Republic of Panama shall grant to the United States of America the rights necessary to regulate the transit of ships through the canal, to operate, maintain, protect and defend the canal, and to undertake any other specific activity related to those ends, as may be agreed upon in the treaty.

Divided administration is not conducive to harmony nor efficiency. It can be argued that the Canal has been run efficiently because the United States has had sole responsibility for administration. Although an increasing number of Panamanians are serving in administrative and executive positions throughout the Canal organization, they do so as individuals, and not as representatives of the Panamanian government. To subject administrative decisions to the judgments of two powers could cause confusion or paralysis in Canal operations.

7. The Republic of Panama shall participate with the United States of America in the protection and defense of the canal in accordance with what is agreed upon in the new treaty.

The extent to which Panama can participate in the protection and defense of the Canal is unclear. If this participation is to be meaningful, the defense of the Canal would be subject to differences arising between the two countries. Previous proposals to share defense range from a cumbersome and inoperable mixed commission for emergency decisionmaking—proposed in the draft 1967 treaties—to Panama's more recent demands that no United States troops remain on the Isthmus for any purpose. Since the future course of Panamanian leadership or the influence of external powers cannot be foreseen, the United States could conceivably be put in the position of having to defend the Canal against a sovereign Panama or to withdraw.

8. The United States of America and the Republic of Panama, recognizing the important services rendered by the interoceanic Panama Canal to international maritime traffic, and bearing in mind the possibility that the present canal could become inadequate for said traffic, shall agree bilaterally on provisions for new projects which will enlarge canal capacity. Such provisions will be incorporated in the new treaty in accord with the concepts established in Principle 2.

The only viable proposal for expansion of canal capacity is the Terminal Lake-Third Locks Plan developed within the canal organization during World War II, estimated to cost $1 billion. The plan itself has been endorsed by experienced canal experts, shipping interests, engineers, navigators, and ecological groups, and now lies before Congress.

The only alternative to receive serious consideration is the proposal for a sea level canal conventionally excavated in an area a few miles west of the present channel. This sea level canal, proposed in 1970 by the Atlantic-Pacific Interoceanic Canal Study Commission, carried a $3 billion price tag and has never been seriously advanced because of the cost, the ecological hazards, and the uncertainty of the treaty negotiations. Moreover, it is doubtful that Congress would authorize construction and appropriate the necessary funds for a canal project with a fixed termination date.

STRATEGIC IMPLICATIONS

In the 1950s, debates raged over whether or not the Canal retained strategic importance. Naval strategy was then closely allied to giant carriers which were too large to pass through the locks. Defense planning was premised on a "two-ocean navy" which was not dependent on the canal as a vital link, but only as one of convenience. The lock canal was criticized by sea level canal advocates as vulnerable to nuclear attack; while advocates of lock canal modernization pointed out that a sea level canal was no less vulnerable because of its deeper cut through the mountains.

In 1964, the United States was unchallenged, at the height of its power. To some it may have seemed that the United States could thus make cheaply a magnanimous gesture. But for the more farsighted, the Canal retained a fundamental role in the destiny of the United States.

It is perhaps ironic that as U.S. diplomacy strives to open the Suez Canal to Soviet warships, in Panama it seeks to create the conditions which led to the closing at Suez. In consequence, the Soviet navy will be greatly increased in efficiency while the U.S. navy may well be faced with the barrier of an inoperative canal at Panama.

If the Panama Canal were to be closed, it would profoundly affect the economies of the Western nations, including Japan. The effects would be more severe than those of the Suez closing because of the diversity of Panama cargoes. Suez traffic was chiefly in oil. Petroleum and petroleum products constitute the largest single category of cargoes through the Panama Canal, but they only account for 18.2 per cent of total cargo movement. Grains and soybeans account for 15.8 per cent; Coal and coke for 11.1 per cent; iron and steel manufactures, 7.7 per cent; nitrates, phosphates, and potash, 6.3 per cent; lumber, 5.7 per cent, and so on. The trade of the world goes through the Panama Canal.

While the percentage of Japan's trade through the Panama Canal is only 10.7 per cent, its loss could nevertheless be extremely disruptive. Japan's coal and coke shipped from Hampton Roads through the Canal is used to make steel, which in turn is used to build automobiles and ships which are then sent back through the Canal to East Coast and European ports.

Similarly, only 16.8 per cent of United States trade goes through the Canal. But a different picture emerges when statistics reveal that a constant average, down through the years, of about seventy per cent of all cargo through the Canal is bound either from or to a U.S. port. About 40 per cent originates in the U.S. and 28 per cent is destined to the U.S. When these cargoes are viewed in terms of specific markets—the coal industry in West Virginia, the grain belt in the Midwest, crude and residual oil for the Northeast—it becomes clear that dislocations in the U.S. economy could take place if the Canal were closed by accident or design.

As far as the Latin American countries are concerned, their trade dependency upon shipments through the Panama Canal is of great significance. For Chile, 34.3 per cent of her trade goes through the Canal; for Colombia, 32.5 per cent; for Costa Rica, 27.2 per cent; for Ecuador, 51.4 per cent; for El Salvador, 66.4 per cent; for Guatemala, 30.9 per cent; for Nicaragua, 76.8 per cent; for Peru, 41.3 per cent; for Venezuela, 7.4 per cent. Panama itself has 29.4 per cent of its trade go through the Canal. In some of these cases the tonage involved is small when compared to overall tonnage through the Canal. But for the countries involved, any interference with that trade would seriously interfere with the standard of living of the people. All have a vital interest in the continued efficient and economical operation of the Canal.

Suddenly, an era of scarcity has dramatically altered patterns of international trade. When the Soviets unexpectedly purchased vast amounts of U.S. grain, the railroads could not find enough cars to move the grain to ports. When the Organization of Petroleum Exporting Countries (OPEC) applied the oil embargo to supporters of Israeli policy, and boosted prices worldwide, the economics of oil production and shipment changed. All at once it becomes desirable, even urgent, to have a modern, larger Isthmian canal that can take 80,000 ton LNG ships and medium-sized tankers to supply the East Coast from Valdez and Irkutsk. The Alaskan North Slope will have a far greater production than can be absorbed by refineries on the West Coast for several years; and if it cannot be shipped to refineries on the East Coast and Puerto Rico, that surplus will go to Japan and other foreign customers.

Thus, a new "strategic" significance develops when the new realities of the 1970s are considered. International trade becomes critical to the survival of a nation. A huge capacity for food production—and the capacity to ship it anywhere at will—becomes a major instrument of foreign policy and a powerful lever for asserting national interests.

"Strategic" in the narrower military

sense involves the rapid deployment of the fleets; and with pared-down military budgets, the effectiveness of warships is diminished when they are stretched out around Cape Horn. The modern Navy emphasizes smaller ships, greater speed, nuclear power, and independent missile capability. During the Vietnam war, use of the Canal by U.S. warships increased sharply. In 1965, 284 U.S. government vessels made the transit, a normal amount. But in 1966, it was 591; in 1967, 879; in 1968, 1,504; in 1969, 1,376; in 1970, 1,068; in 1971, back to 503. Setting aside the possibility of all-out nuclear war, in which the Canal may not be a decisive factor, the Panama Canal will continue to play a major role both tactically and strategically, as our Navy keeps the sea lanes open.

But all of this assumes that the United States has the Panama Canal under its control. Despite "guarantees" that are to be written into the proposed treaty, the United States is in Joint Statement agreed in principle to an arrangement whereby our control rests not on our sovereignty, but on treaty—a treaty that could be abrogated at any time by Panama in assertion of her sovereignty. While, logically, it would appear at the present time to be counter to Panama's interests to expel the United States, the pattern of revolutionary turmoil in Panama gives scant prospect that a Panamanian government, now or in the future, would be resistant to pressures to terminate the U.S. lease on the Canal.

CLAIMED BENEFITS

We are asked to believe that the transfer of U.S. sovereignty in the Canal Zone to the Republic of Panama would remove a cause of friction and open the door to improved relations with our sister republics.

These hopes seem ill-conceived. A surrender of U.S. sovereignty would spell a great victory for the Marxist-Leninist revolutionary *cadres* which have in the past incited mobs to violence. Far from being appeased, they would be encouraged to intensify revolutionary efforts to achieve their ultimate goal of forcing total U.S. withdrawal from the Canal operation. With the Government of Panama holding sovereign power to denounce the treaties and expel the United States, these elements would for the first time have the attainment of their goal within reach. It is not to be expected that their zeal would diminish in the face of such a prospect.

The United States has dallied too long over futile hopes of accommodating ideological hostility. We can have the respect of our neighbors only when we show a proper regard for our own rights and interests and a steadfastness in providing the service to world commerce which we have undertaken in Panama.

As our Latin neighbors are governed by reasonable men, it does not impose too heavy a burden on United States diplomacy to ask that it sustain the reasonable premise that U.S. sovereignty in the Canal Zone is essential to the continuing operation of the Canal. The interests of all our neighbors, including Panama, and of more distant countries are thereby best served.

Secretary of State Charles Evans Hughes had this in mind when on December 15, 1923 the Panamanian Ambassador raised the issue of sovereignty. The Secretary informed the Ambassador that, "Our country would never recede from the position which it had taken in the note of Secretary Hay in 1904. This Government could not, and would not, enter into any discussion affecting its full right to deal with the Canal Zone and to the exclusion of any sovereign rights or authority on the part of Panama. . . . It was an absolute futility for the Panamanian Government to expect any American administration, no matter what it was, any President or any Secretary of State, ever to surrender any part of these rights which the United States had acquired under the Treaty of 1903."[4]

Secretary of State Hughes recognized that the acquired U.S. sovereignty was essential to operation of the Canal and must endure as long as the Canal endures. His policy is the right policy today, as it was then.

The United States came to this strategic part of the world not for gold or conquest, as the *conquistadores* had come before them. The United States came only to do a job where others had failed. The French had tried to build another Suez with little understanding that the problem was entirely different. They left behind a record of bankruptcy and failure. The United States, with the vigor of a rising young nation that had just finished spanning its twin coasts with railroad track, had the vision and the genius to put together the diplomatic, engineering, financial, and organizational resources necessary to overcome all obstacles.

In short, the United States has made the Panama Canal, with its protective frame of the Canal Zone, a symbol of its achievement. It is part of the great heritage of our nation. It is representative of the "can-do" psychology that sustains our national consciousness and underpins the national morale. It is a lifeline of trade and of national security.

If we hand over this territory in response to unreasonable demands at Panama and the clamor of our Marxist enemies, we will pass a watershed in our history. One more turning point will mark the decline of a great nation.

H.R. 11013

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 7, 1974

Mr. BURTON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

HOUSE RESOLUTION NO. 101

Relative to changing the boundaries of the Point Reyes National Seashore to include certain lands on Inverness Ridge within the national seashore.

Whereas, Inverness Ridge in the County of Marin, California, adjacent to the Point Reyes National Seashore, forms a natural backdrop to the national seashore; and

Whereas, Certain lands on Inverness Ridge were inadvertently left in private hands when the national seashore was established, and such lands are now threatened by plans for private development; and

Whereas, Development of these lands would spoil the tranquil setting of the national seashore and gravely impair its scenic qualities; and

Whereas, It is vital that the obvious oversight in congressional intent in the inadvertent exclusion of such lands be corrected as soon as possible in order to protect the visual integrity of Inverness Ridge, and this can be accomplished by effecting a change in the boundaries of the national seashore so as to include these lands; and

Whereas, A majority of the property owners affected have indicated a willingness to sell to the federal government; and

Whereas, The proposed boundary change is supported by conservation groups, the Marin County Planning Commission, and the Marin County Board of Supervisors; and

Whereas, The proposed boundary change would be compatible with, and complement the efforts of, the State of California to acquire nearby land on Inverness Ridge for the protection of the same visual integrity; now, therefore, be it

Resolved by the Assembly of the State of California, That the Members memoralize the President to support, and the Congress of the United States to enact, such legislation as is needed to change the boundaries of the Point Reyes National Seashore to include within it the last remaining undeveloped parcel on Inverness Ridge overlooking the national seashore; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Interior, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

SENATOR HUMPHREY: CUTTING TAXES

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. FRASER. Mr. Speaker, Senator HUMPHREY presented a strong case for a selective tax cut in an article published in the Washington Post of May 14. He emphasizes that low- and middle-income taxpayers ought to be the primary beneficiaries of any tax cut and that the tax cut ought to be coupled with tax reform.

I recommend this article to my colleagues, not only for the excellent arguments in favor of a tax cut, but also for Senator HUMHREY's insight into our current economic woes.

The article follows:

CUTTING TAXES

(By HUBERT H. HUMPHREY)

In recent days there has been considerable criticism, including an editorial in The Washington Post, of the proposal that we cut income taxes for low and moderate income consumers. I have proposed this course of action, as have others, as a means of buttressing consumer purchasing power and in that way fighting the recession that is already upon us. I believe the arguments against a tax cut are based on a serious misreading of a current economic situation.

In the first place, the federal budget presently provides no real stimulus to the economy. As Mr. Nixon correctly said in his budget message, "the recommended budget totals continue (the) policy of fiscal restraint as part of a continuing anti-inflation program." To be more precise, the unified budget is becoming more restrictive, rising from a full employment surplus of $4 billion in fiscal 1974 to an $8 billion surplus in fiscal 1975. This means the $6 billion dollar tax cut now being discussed would lower the full employment budget surplus for fiscal 1975 to about the level of restraint in last year's budget. Even without any revenue gaining measures, a $6 billion tax cut would not push the budget into an expansionary position.

In addition to misreading the current fiscal position of the federal budget, several critics of a tax cut have not looked at the fine print of the proposals. The proposal I prefer, and intend to fight for, is a tax cut coupled with revenue-gaining tax reform along the lines recommended by the Joint Economic Committee earlier this year. This would mean a tax cut for low and moderate income consumers, largely offset by a package of tax reform focusing on percentage depletion, intangible drilling expenses, foreign tax preferences, and a strengthening of the minimum income tax. With major oil companies reporting first quarter profits increases as high at 123 per cent, while the real spendable earnings of consumers declined 3 per cent during the same quarter, tax reform is essential to restoring consumer confidence in the fundamental fairness of our economic system.

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[4] *Foreign Relations*, 1923, Vol. III, p. 684.

Second, those who oppose a tax cut usually misunderstand the nature of the present inflation. Rather than being the result of excessive federal stimulus, the pressure on prices has come from other sources. The inflation of 1973 was primarily the result of food and fuel supply problems that had their origin in specific policy errors and market disruption. A secondary source of inflation was the world-wide boom in commodity prices. These previous price increases are this year working their way through the production cycle as well as stimulating a sharp rise in labor costs. And inflation this year will get a *further jolt* as business and labor seek to get "ahead" of inflation after all formal controls have ended on April 30.

In other words, inflation in 1974 has a life of its own outside of the conventional macroeconomic framework. It is now nourished by a variety of cost factors that unfortunately were injected into the system last year, and which now lie beyond the impact and grasp of ordinary fiscal policy.

I would take this point even further, arguing that those who believe that the current inflation is the result of excessive fiscal stimulus, or that it can be dealt with by conventional policies of aggregate restraint, do real harm to the formulation of an effective anti-inflationary policy.

While I don't pretend to have a neat package of solutions to the problem of inflation, it is obvious to me that we need to develop new techniques in this battle to complement our present economic tools. It is my judgment that the federal government must establish a permanent institution to focus on the problem of inflation. In addition to developing an information system that identifies price problems before they become crises, such an institution should have the power to hold hearings, postpone public and private decisions that could seriously undermine price stability, make recommendations to the Executive and Congress to improve price stability, and have limited power to impose legal sanctions.

Just as they have misread the nature of the current inflation, many of those who oppose a tax cut also fail to read the unmistakable signs of the serious recession that is upon us. The huge drop in real GNP in the first quarter is, after all, the worst decline in economic output since 1958, and much worse than the administration's February forecast that the economy would probably only decline a little in the first quarter. More important, the recent statistics do not reveal any sectors of the economy with sufficient strength to bring about recovery.

Consumption spending has been weak for the last six months and cannot be expected to deal any recovery. In the first quarter, real per capita disposable income fell at a 7 per cent annual rate, only the sixth decline that has occurred in the last 20 years, and the sharpest fall since 1949.

Residential construction expenditures in the first quarter dropped 8 per cent and have fallen 16 per cent in the last six months. Housing starts in the first quarter were 34 per cent below year earlier levels. In view of the recent sharp rise in interest rates, and the incredible announcement by Federal Reserve Board Chairman, Arthur Burns, that money will stay tight no matter what it does to housing, there is presently no hope that homebuilding will experience the turn-around forecast by the administration earlier this year.

Business spending on plant and equipment, which has always been offered as the backbone of a recovery in the second half of 1974, only increased at a 7 per cent annual rate in the first quarter. This is considerably below the 11 per cent annual rate of increase in the previous quarter and below the expectations for capital expansion this year.

Finally, net exports declined $3.3 billion in the first quarter of this year, compared to an increase of $5.2 billion in the fourth quarter.

Because the current inflation is not significantly due to excessive budget stimulus, and because the recession is upon us with no signs of recovery, it seems to me that the case for a tax cut is made. This conclusion is not reached, as some commentators have inferred, because I regard unemployment as more serious than inflation. On the contrary, I regard both inflation and unemployment as harmful to the economic and social fabric. But it is my belief that a modest tax cut, coupled with tax reform, will not increase inflation but will express itself in higher output, jobs, and income.

PATRIOTISM—AN HONORED SOLDIER'S VIEW

HON. J. KENNETH ROBINSON

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. ROBINSON of Virginia. Mr. Speaker, I am privileged to have as a constituent, residing in Fluvanna, Va., Gen. Bruce C. Clarke, U.S. Army (retired), but I have to acknowledge that I share him with my distinguished Virginia colleague (Mr. BROYHILL), in that General Clarke also has maintained a residence in Arlington, Va., for a number of years.

Last year, in the New Age magazine—issue of March 1973—General Clarke's concise and effective statement on patriotism was published and, under leave to extend my remarks in the Appendix, I include it now as follows:

PATRIOTISM

(By Gen. Bruce C. Clarke)

Patriotism is devotion to one's country. These few simple words are easy to memorize but many do not fully understand all they entail. Let's consider the essentials:

A patriot is one who acquires an understanding knowledge of his country's history.

He understands his country's Constitution and the philosophy behind it.

He approaches the solution to his country's problems on a long-term basis.

He supports the official policies and laws of his country. When he considers that there should be changes, he helps bring them about through established methods and procedures.

He supports education, social justice, charities and benevolences, religion, youth and community activities.

He considers the payment of just and necessary taxes to be an investment in his country and its future.

He takes an interest in good and efficient government on all levels.

He scrutinizes candidates for all public offices and the issues involved, and votes what he believes will be the best for his country.

He projects an industrious, ethical and moral image in the handling of all situations.

He radiates an enthusiastic and positive approach toward his country.

If one follows these few requirements well, he will be an outstanding patriot. Many will honor him as a true statesman.

This statement won recognition, this year, from the Freedoms Foundation at Valley Forge, Pa., with the award to General Clarke of the George Washington Honor Medal, and I also include, herewith an excerpt from the Jefferson County Journal of Adams, N.Y.—issue of April 3, 1974—reporting this recognition of a native of Adams which, of course, requires me to share General Clarke, also, with my distinguished New York colleague (Mr. McEWEN):

GENERAL CLARKE TO BE CITED BY FREEDOMS FOUNDATION

General Bruce C. Clarke, a native of Adams, who has commanded more soldiers of different nations as their field commander than any other U.S. Army officer, will receive the George Washington Honor Medal awarded by Freedoms Foundation, Valley Forge, Pa., for an article entitled "Patriotism" published in 1973.

The foundation said of the article, "An outstanding accomplishment in helping to achieve a better understanding of America and Americans.

In the article Gen. Clarke wrote—"a patriot is one who acquires an understanding knowledge of his country's history.

"He understands his country's Constitution and the philosophy behind it. He approaches the solution to his country's problems on a long-term basis. He supports the official policies and laws of his country. When he considers that there should be changes, he helps bring them about through established methods and procedures.

"He supports education, social justice, charities and benevolences, religion, youth and community activities. He considers payment of just and necessary taxes to be an investment in his country and its future.

"He takes an interest in good and efficient government on all levels. He scrutinizes candidates for all public officials and the issues involved, and votes what he believes will be best for the country.

"He projects an industrious, ethical and moral image in the handling of all situations.

"He radiates an enthusiastic and positive approach toward his country.

"If one follows these few requirements well, he will be an outstanding patriot. Many will honor him as a true statesman."

MAKE IRS AN INDEPENDENT COMMISSION

HON. ROBERT O. TIERNAN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. TIERNAN. Mr. Speaker, today I am introducing a bill along with Mr. REUSS to make the IRS an independent Commission. This bill contains several changes from my previous proposal, designed to help improve administration of our tax laws.

Political interference in the administering of our tax laws has been common. In a survey of the people of Nixon's "enemy list," 28 percent of those responding reported tax audits. This is a far higher percentage than the national average for similar time periods and income brackets.

Another attempt by the party in power to use the tax laws to further political aims was before the courts yesterday. In 1972, at the request of White House officials for chief Nixon fund raiser, Maurice H. Stans, the IRS issued a very controversial ruling. It permitted big political donors to avoid paying gift taxes on campaign contributions by channeling the money through multiple fundraising committees. Donors got around the $3,000 general exemption for gifts and made it easier to raise funds for political campaigns. Yesterday, Judge June Green of the U.S. District Court in the District of Columbia overruled this controversial ruling. But the judge's decision is not retroactive. Thus, the political interference with the administering of our tax laws was again successful.

We must not let this occur any longer. We must act immediately to assure integrity in the administering of our tax laws by establishing an independent IRS commission.

DEMOCRATS MUST INVENT BETTER WAYS TO GOVERN

HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. BOLLING. Mr. Speaker, the article which follows appeared in the Washington Star-News of Sunday, May 12, 1974. John Stewart's analysis of the current political situation and its challenge to the Democratic Party are provocative and important. Those Democrats who believe that their party's success in 1974 and 1976 is already assured better take another look at reality:

DEMOCRATS MUST INVENT BETTER WAYS TO GOVERN

(By John G. Stewart)

("What the Democrats must devise is a governing ideology that puts into actual practice much of the Republican rhetoric about strengthening state and local governments, without abandoning the commitment of using federal resources to the fullest.")

After years of languishing in the political backwoods, Democratic governors and mayors once again have emerged as significant factors in the party's quest to recapture the White House in 1976. This development, moreover, offers a solid clue as to what generally will constitute winning Democratic politics for the balance of the 1970s.

This does not necessarily mean that a governor will win the next Democratic presidential nomination (although the odds on this have improved). But it does suggest that governors and mayors are the most reliable sources of the political insight and governing experience that the next Democratic candidate will need to win the nomination and general election.

For the past generation, it has been almost a truism that only politicians operating near the country's major centers of mass communication—New York, Washington, and California—had a realistic chance of acquiring the stature and influence that are prerequisites to national party leadership. This bit of conventional wisdom arose from the habit of equating national party leadership with a politician's standing in the presidential sweepstakes. If an elected public official was deemed not to be a presidential contender (a category reserved for politicians who could appear regularly on network news shows), his potential for influencing the national party was assumed to be nil. And this was generally the case.

It also was agreed that the political power that mattered most was to be found in Washington, home of the money, expertise, and muscle associated with the federal government. States, cities, and counties were governing units to be alternatively bludgeoned and patronized by the heavy rollers from the nation's capital.

These patterns have now changed in several important respects. Even though this shift has been overshadowed by the preoccupation of the national news media with the impeachment inquiry and the labors of the special prosecutor, the most sensible and far-sighted thinking about the future of the Democratic party is coming largely from the hinterlands instead of Capitol Hill. This development—an interesting although irrelevant fact unless linked in some manner to new sources of political leverage—must also be viewed from the perspective of the role that governors and mayors are likely to play in nominating the Democratic presidential candidate in 1976.

Voters today are looking for political leadership with the guts and common sense to restore some purpose and direction to our national life. This process is heavily dependent upon fashioning workable solutions to problems encountered in day-to-day living. Several curious paradoxes in the public attitude illustrate why this is so:

Despite considerable popular cynicism toward government and politics, there remains a solid base of support for the country's constitutional and political system, a popular faith in the ability of government to function effectively and a belief that first-rate people can still be brought into government. For example: a recent survey of public attitudes conducted by Louis Harris and Associates for the Senate Subcommittee on Intergovernmental Relations discovered that fully 90 percent of Americans believe that government can work "effectively and well."

Although most Americans remain staunchly conservative on such general ideological questions as "government spending" and the individual work ethic, they strongly support increased government spending when it is tied to specific operational problems of real consequence to everyday living, such as health care, aid to the elderly, education, and housing.

Most Americans also subscribe to the conservative ideology condemning "big government" in favor of "returning power to the people," but they simultaneously recognize that the federal government must take the lead in solving such problems as poverty, health care, polution, and consumer protection.

Even those Americans who were most opposed to the government's civil rights efforts of the 1960s largely support the proposition that the only way to solve the problems of blacks and other minorities is for the federal government to make an all-out effort by spending much more money on domestic problems affecting all Americans, such as health, education, housing, and improving things in our cities.

These are not the feelings of an electorate that has turned its back on the role that government, even the federal government, must play in dealing with the country's more critical social and economic problems. But these attitudes do reveal clearly the absolute importance of the federal government producing visible, understandable and effective results on the community level. This, in turn, requires far more flexible and imaginative use of federal power in equipping sub-national units of government to do the job. And it is here where the knowledge and experience of governors, mayors and other local officials are desperately needed if answers are to be found.

These circumstances bear directly on the Democratic party's future. The electorate's anger toward Republican candidates—as revealed in the recent special elections for the House of Representatives—arises from two sources: outrage over what is seen as Nixon's perversion of the presidential office, and the Nixon administration's failure to meet the people's legitimate expectations as to what constitutes competent and responsive government. There is little evidence that the voters are making an affirmative choice on behalf of the Democratic candidates, or the party itself.

The longer-run pitfalls for the Democratic party are obvious (at least to most governors and mayors); the electorate's antagonism toward the GOP can rebound as soon as Nixon vacates the presidency (by whatever route) or is exonerated by Congress unless Democrats are seen as coming to grips with sources of popular discontent unrelated to Watergate.

This popular reaction, moreover, is likely to be intensified by three other factors: (1) the hefty Democratic majorities in Congress that are forecast for the November elections, (2) guilt feelings millions of Republicans and conservative Independents may experience for voting or thinking Democratic in protest against Nixon's presidential conduct, and (3) the good feelings likely to abound for Gerald Ford if he assumes the presidency prior to 1976 or if he becomes the GOP's nominee. At this writing the Democrats have no one who can match Ford's appeal in terms of perceived integrity and low-key respectability.

In any event, the Democrats will be running a grave risk if they assume that the White House can be captured by outdrawing Ford on the basis of personal popularity. Their chance for victory in 1976 depends on making the most of an unexpected, perhaps even undeserved, opportunity to seize the political and governing initiative in ways that can survive the ultimate disposition of Richard Nixon's presidency. Since governors and mayors live with the political and governing pressures that preceded and that will survive the drama of Watergate, they have been articulating this position at every opportunity, such as the recent conference of Democratic governors in Chicago.

Figuring out better ways of applying the federal government's leverage in achieving everything from better health care to safer streets is at the core of the Democratic opportunity. Despite more real progress than critics are willing to recognize, the Great Society became muscle-bound and overextended by the late 1960s. The Nixon administration's ballyhooed shift to general and special revenue sharing, including the consolidation of certain categorical programs into bloc grants, turned out to be little more than a fiscal shell game, with the states and cities unable to find the pea, no matter how diligent their search.

That the Democrats must devise is a governing ideology that puts into actual practice much of the Republican rhetoric about strengthening state and local governments, without abandoning the commitment of using federal resources to the fullest. It must be an ideology grounded in neither the outworn precepts of the New Deal nor the counterculture of the New Politics. It will require designing a new generation of political institutions that can insure the responsive application of governmental power at all levels of American society. It will call for using the federal government's power in flexible and often indirect ways.

Some examples: The federal tax code can be used more effectively to foster social and economic objectives. Mixing monetary rewards and sanctions to encourage greater attention by state and local governments to the needs of individual citizens is another approach. Ways must be explored of preserving the uniqueness of neighborhoods, of strengthening family ties, and of bringing the worlds of work and home more closely together. Revenue sharing must be given a fair trial by a national administration not seeking to use it as a cover for eliminating the federal role in a host of domestic areas, such as housing and community development.

This evolution in the role and posture of the federal government cannot go forward without the direct involvement of governors and mayors in setting the priorities of Congress and in helping write the necessary legislation. Through the good offices of Democratic National Chairman Robert Strauss, Democratic governors and mayors have been invited to meet with Speaker Albert and Senate Majority Leader Mansfield. But sporadic consultation will not effectively tap the wealth of governing experience that is to be found outside of Washington.

One additional factor is likely to force *greater appreciation* by congressional Democrats, at least those with presidential ambitions, of the new importance acquired by their non-Washington brethren. The emerging organization of Democratic governors and mayors into tightly-knit caucuses—equipped with competent staffs at the Democratic National Committee headquarters—and the critical role governors and mayors are likely to assume in the scramble for presidential delegates on the basis of proportional representation, will open doors on Capitol Hill that have been closed for decades.

Those Democrats in Congress who go out of their way to listen and help Democratic governors and mayors with their governing problems can expect a more cordial reception in the search for delegates than those Democrats in Congress who don't. It is worth noting in this regard that fully 25 percent of each state's delegation can be appointed in 1976—a provision that was specifically added to increase the representation of elected officials at the next Democratic National Convention.

For lack of a better term, this broad-scale opportunity now open to the Democrats can be labeled the "Governing Issue." The party's post-1974 prospects will be determined largely by the degree to which this issue is recognized, developed, and brought forcefully to the people prior to the 1976 presidential campaign. And governors and mayors hold the key to unlocking this treasure chest of political riches.

(John G. Stewart was legislative aide to Senator and Vice President Hubert Humphrey, and later communications director for the Democratic National Committee. He also has been a university lecturer in political science.

(This article is derived by the author from his book, One Last Chance: The Democratic Party, 1974–76, published this month by Praeger.)

RAPS IMPEACHMENT VOTE PUSH

HON. ROBERT P. HANRAHAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 8, 1974

Mr. HANRAHAN. Mr. Speaker, with all the pro and con opinions on impeachment, I found this article which appeared in the Homewood-Flossmoor Star rather interesting. I would like to insert this for the interest of my colleagues:

Raps Impeachment Vote Push

(By Frank van der Linden)

Washington.—Attorney General William B. Saxbe still considers President Nixon innocent in the Watergate case, and objects to congressmen soliciting votes for Nixon's impeachment.

"It's not a very judicial pose, is it?" Saxbe commented upon reading a letter, signed by Minnesota Congressman Donald M. Fraser, as national chairman of Americans for Democratic Action, and appealing for money to continue "a massive education campaign" for impeachment.

"The impeachment of Richard Nixon is not yet certain," the Minneapolis Democrat wrote. "The impeachment vote in the House will be extraordinarily difficult for most House members. Write! Tell your congressperson how you feel and why.

"Send ADA money. As much as you can, and as quickly as you can." The money will be spent, Fraser said, to pay for mailing anti-Nixon leaflets—half a million of which have already been sent out by ADA—and running "a grass-roots phone bank" to stir up pro-impeachment feeling among the people.

Fraser and other House members should vote for or against impeachment on the evidence produced by the Judiciary committee, rather than lobbying for either side, Saxbe said in an exclusive interview.

"It's kind of discouraging to me to see nationally chartered organizations that are lobbying for impeachment. I think it would be inappropriate also for organizations to be lobbying against impeachment."

Last November, when the President named him attorney general, the maverick Ohio Republican senator said: "Hell! I couldn't take this position unless I was clear in my mind that Nixon was innocent in the Watergate case."

Saxbe concluded Nixon was "clean" after the President disavowed any connection with the Watergate break-in and the cover-up in two and a half hours of candid conversation.

Today, despite the criminal indictments of several former presidental aides, and White House delays in releasing several tape recordings to the Judiciary committee and to Special Prosecutor Leon Jaworski, the attorney general sees no reason to change his own mind about the President's innocence. If he had any such reason, he'd quit the cabinet.

Should the House vote for articles of impeachment, Saxbe won't be the President's lawyer for the ensuing Senate trial.

"I would have to resign, and I have no intention of doing that," he said.

The President's health is good, despite the pressure for his ouster, the attorney general said. "I'm sure it's a terrific strain on him, but he seems to be able to take it. He's a tough guy."

Nixon won't defy the subpoenas for the tapes and documents, Saxbe predicted, adding! "Every confrontation seems to fade away, and I hope it continues that way."

Saxbe disclosed that he has received about half a dozen assassination threats this year, mostly from "irrational" persons writing letters and post cards. The FBI, which has checked out all the threats, is guarding the attorney general and his wife.

Saxbe expressed alarm over the rise of gangs "planning the overthrow of the government today . . . everything from the Symbionese Army to various terrorist groups. The frightening part of it is that more and more people think that violence is the way to solve their problems," he said.

The attorney general also complained that some "social organizations" advocating easier treatment of criminals "refuse to acknowledge that there are a lot of mean bastards who are anti-social and you have to lock them up to protect society."

A hardened criminal can't be turned into an automobile mechanic, he said. "He likes the idea that when he's got a gun he's king of the hill, he can make people do what he wants them to do. He likes that power and he likes to prey on society."

SIDNEY KORETZ VISITED JERUSALEM

HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. BROYHILL of Virginia. Mr. Speaker, at the request of Mr. Sidney Koretz, and under leave to extend my remarks, I would like to insert the following articles read by Mr. Koretz while in Jerusalem, into the Congressional Record, as well as his personal comments:

[From the Detroit Jewish News, Mar. 29, 1974]

Syrian Claim to Palestine Defined

Editor, the Detroit Jewish News:

Secretary of State Henry Kissinger announces as if he only just discovered it that Syrians consider Jerusalem and even Tel Aviv as Arab land.

But more than that, when Syrian President Hafez Assad reminds Israel Premier Golda Meir "that Palestine is not only part of the Arab homeland, but also a basic part of South Syria," he is reminding King Hussein and the Palestinians of this also. The Syrian claim is superior to all other Arab claims.

After the last Jewish king Herod died, his son Archelaus, was considered incompetent, after a 10-year probationary period, to take his place by the Roman Emperor Augustus.

Judaea and Samaria were declared to be part of the Roman province of Syria, and a second-class Roman official called a procurator was appointed to be the ruler, of the land of David and Solomon. The Jews would not take this lying down and history records the ensuing events.

The Jewish Temple was destroyed in 70 AD and the names of Judaea and Jerusalem wiped off the world map in 135 AD by the emperor Hadrian. The Jewish connection was erased in favor of the Philistines and to effect this the country was called Syria Palestina (Latin for Philistine Syria).

As a separate political entity, the Syrian president wishes to remind the other Arabs "Palestine" was created by the League of Nations to provide a national home for the Jews. If the legitimacy of this action is not conceded, who but Syria can be considered the rightful sovereign? The testimony of the Roman Emperors Augustus and Hadrian is on the side of Syria in contrast to the claims of the other Arab states.

Sidney Koretz.

Jerusalem.

[From the Washington Jewish Week, Apr. 4–10, 1974]

A Reminder to King Hussein

(By Sidney Koretz)

Syrian President Hafez Assad said: "When the Israeli Premier decides that the Golan is a part of Israel, we consider it useful to remind her that Palestine is not only part of the Arab homeland, but is also a basic part of Southern Syria." This is also a reminder to King Hussein and the Palestinians.

Based on Roman Law, Syria's claim can indeed be considered superior, for the following reason: When Herod, the last Jewish King, died, the Roman emperor Augustus prevented Herod's son from succeeding to the throne by declaring Judaea and Samaria part of the Roman province of Syria. Later, after the Bar Kokhba revolt, the country was named 'Syria Palestine', i.e., Philistine Syria, not in order to upgrade the rights of the Palestinians, but to downgrade the Jewish connection. In 1922, the League of Nations created a separate Palestine for the purpose of restoring the Jewish connection. But if this is not conceded, then Palestine is indeed a part of Syria.

MAY 5, 1974.

Hon. JOEL T. BROYHILL,
U.S. Congress,
Washington, D.C.

DEAR REPRESENTATIVE BROYHILL: While in Israel, I saw a couple of articles in the Jerusalem Post ("Assad: State of War till Aims Achieved," 10 March and "Kissinger Explains Why Syria Cannot Draw the Line," 13 March) with information about Syria's intransigence which our newspapers have failed to report. I send you copies, and my comment written in Jerusalem, to throw light on the Syrian attitude of which few Americans are aware. Not many are aware of the full extent of the obstacles facing our Secretary of State's efforts to bring some disengagement on the Israel-Syria battlefront.

Last Sunday, on the "Issues and Answers" TV program, Egyptian President Anwar el-Sadat said that "the last word" was with Syrian President Hafez el-Assad but that he had great confidence in Secretary Kissinger's magical powers. My Jerusalem comment, shown here, may go too far in suggesting that our Secretary of State "only just discovered it that Syrians consider Jerusalem, and even Tel Aviv, as Arab land" and "a basic part of South Syria." But I cannot understand why he should want to keep it a secret from the American people. According to one of the articles, with a Washington date line, the Syrians can draw no line anywhere since they consider that in itself a recognition of Israel whose mere existence is anathema to them. The impression was given that the State Department wanted to retract this.

I suggest that you bring these articles and my comment, mostly historical, to the attention of your Congressional colleagues. They will then better understand Secretary Kissinger's tremendous achievement if he is able to pull off a disengagement in the fighting between Israel and Syria. If he fails to achieve very much, they will have a greater appreciation of the obstacles he faced.

Yours sincerely,

SIDNEY KORETZ.

[From the Jerusalem Post, Mar. 10, 1974]

ASSAD: STATE OF WAR TILL AIMS ACHIEVED

(By Anan Safadi)

Syrian President Hafez Assad has pledged to continue the state of war until Israel withdraws to the pre-1967 frontiers and the "full rights" of the Palestinians are restored.

Speaking in Damascus on Friday on the 11th anniversary of the Ba'th party takeover of the government in Syria, Assad said that the conflict had become a political struggle since the end of the October war, but that did not mean relating the country's military alertness.

"The war with Israel has not ended, and will not as far as Syria is concerned, unless all Arab territory is liberated and unless the Palestinian people regain their full rights."

At one stage the Syrian President put aside his prepared speech to refer to a reported statement by Premier Golda Meir that she considered the Golan Heights as part of Israel, Assad said: "When the Israel Premier decides that the Golan is part of Israel, we consider it useful to remind her that Palestine is not only part of the Arab homeland but also a basic part of south Syria.

"We consider it our right and our duty to insist that Palestine should remain a free part of our Arab homeland and of our Arab Syrian country."

Assad made no direct mention of his recent contacts with the U.S. and the Soviet Union over the issue of Syrian military disengagement with Israel. However, he told the cheering crowd at the sports stadium at the Damascus University that the Syrian Government would not have its decisions dictated to by anyone. This included the decision "to be absent where we should be present," Assad said, obviously referring to Syria's participation in the forthcoming phase of the Geneva Middle East talks.

"We cannot safeguard our rights by the force of conviction alone," Assad said, and "we must be powerful in a world which respects strength."

Assad's toughly-worded speech came a day after the departure from Damascus of Soviet Foreign Minister Andrei Gromyko.

The Beirut weekly "al-Diyar" reported yesterday that the Soviet Union has pledged continued arms supplies to Syria and promised to finance the Syrian economy, damaged during the October war.

The Lebanese weekly said that the Russian pledge was contained in a message which Gromyko carried from Soviet Communist Party leader Leonid Brezhnev to the Syrian President.

According to the weekly, Brezhnev said that the East bloc Comecon countries had agreed unanimously to share with the Soviet Union the cost of reconstructing Syria's economic installations. But at the same time, the weekly added, Brezhnev urged Assad to continue "the experiment of seeking a military disengagement with Israel and to attend the Geneva talks.

[From the Jerusalem Post, Mar. 13, 1974]

KISSINGER EXPLAINS WHY SYRIA CANNOT DRAW THE LINE

(By Ira Silverman)

WASHINGTON.—The Syrians, in their call for total Israel withdrawal from occupied Arab territory, still consider Jerusalem and even Tel Aviv, as Arab land. Secretary of State Henry Kissinger said on Monday.

Explaining the current Middle East situation to a group of Congressional wives, Dr. Kissinger said the Syrian problem is more complex than the Suez disengagement because, "for the Syrians, the occupied territories mean not only the Golan Heights, but Jerusalem, and even Tel Aviv."

Kissinger added that, "for the Syrians, it represents a tremendous problem to draw any line, because if they draw a line it means in some way the recognition of Israel."

The Secretary made his comments thinking they were private and off the record, but because of the presence of newsmen a record of his statements was then circulated and subsequently retracted by the State Department. Quotations from his comments, especially a stinging denunciation of America's European allies, were evidently embarrassing to the Secretary and provoked a clarification of his views on the Atlantic alliance, offered yesterday by spokesman George Vest (reported on page 5). There was no change or elaboration on his Middle East statements.

Further on the Middle East, he told the gathering of Congressional wives that, while the two sides in the dispute are conscious about their problem they are less conscious about the global implications of the conflict. He recalled that, during and after the October War, "all of Europe, Japan and the Soviet bloc were behind the Arabs and the U.S. alone was backing Israel. Since then our strategy has been to disentangle the problems and take one at a time."

Despite the difficulties outlined by Kissinger, the Secretary is hopeful that, at least modest progress can be made toward a Syrian-Israel disengagement through the indirect talks in Washington scheduled for later this month. Kissinger met with a group of 16 presidents of Jewish organizations late Monday, and gave the impression that, although the talks will be extremely difficult, he remains confident that they can proceed and prove productive.

The Jewish leaders saw Kissinger, Under-Secretary Joseph Sisco and White House counsel Leonard Garment for slightly over an hour, according to Rabbi Israel Miller, chairman of the Conference of Presidents of Major American Jewish Organizations. Those present at the meeting revealed that the status of negotiations on Syrian-Israel disengagement, as given in a long explanation by Kissinger, dominated the discussion.

Only a few minutes were spent on differences between the administration and the Jewish delegation over the Jackson amendment on Soviet Jewry.

Neither the Jewish delegation nor the Israel Embassy received any word from Kissinger about the possibility, widely reported, that President Nixon will visit the Middle East in May. Ambassador Simcha Dinitz has repeatedly stated his view that, if the President travels to the Middle East region, he will surely include Israel on his itinerary. White House spokesman Ronald Ziegler would not deny the reports of a May visit, saying only that the President has no current plans for such a trip.

It is expected here that the possibility of a presidential visit will be discussed by Foreign Minister Abba Eban and Kissinger when they meet Thursday. Eban was due in New York from London late last night.

JAIL TO THE CHIEF?

HON. DAVID W. DENNIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 14, 1974

Mr. DENNIS. Mr. Speaker, William Safire, in the New York Times of May 13, 1974, has written a sobering essay on the subject of Presidential impeachment, which I believe is worthy of the careful attention of my colleagues in the House. Mr. Safire's essay is as follows:

JAIL TO THE CHIEF?

(By William Safire)

WASHINGTON.—Most readers of Washington tea leaves say that the House of Representatives will vote to impeach the President about mid-July, around Bastille Day; the Senate will begin its trial a month later. Toward the end of September, in this scenario, conservative Republicans and Southern Democrats would make up that "one third plus one" necessary to acquit.

That prospect pleases many. The President would be most severely rebuked but not driven from office; Congressmen running in the fall could point to their votes to throw him out (or, to Nixon supporters, "to give him a fair trial") and the majority of the public, dissatisfied with the President but not wanting his head on a plate, would have enjoyed a ripsnorting show with a happily inconclusive ending.

The trouble with the conventional wisdom is that it is as chancy as drawing for a "gut card" to fill an inside straight. Contrary to the wishful thinking of most of the President's moderate adversaries, and antithetical to the Nixon strategy of sacrificing votes in the House to hold on to votes in the Senate, there is a good chance that impeachment will gather a momentum of its own—one that the President's foes and friends together will not be able to stop.

If Richard Nixon is impeached by the House, there is an increasing possibility that he will be convicted by the Senate, indicted by a grand jury, convicted by a petit jury and sentenced to a term in jail.

Whoa. Only one American in six, according to Time magazine's latest poll, wants to see the President impeached at all; the vast majority of Americans, including many who urgently wish he would resign, do not want to see the President in jail.

But consider the logical consequences. If the House were to impeach, there would be a blitz to switch four or five Senate votes now in the Nixon column that, with impeachment's momentum behind it, might well succeed.

Since impeachment could only succeed centered on an "indictable crime," such as obstruction of justice, it would then be impossible to sing hail to a new chief and go home; if Congress found President Nixon guilty of a specific crime, then the special prosecutor would be duty-bound to seek indictment of private citizen Nixon for that crime.

No citizen is above the law, the prosecutor would argue with great logic; ex-President or no, a crime requires that justice be done. Since Mr. Nixon is not the type to plea-bargain or assert anything but his innocence, *it can be* expected that a District of Columbia grand jury would indict and a D.C. petit jury would convict. And the ensuing public clamor for clemency would not necessarily restrain a judge from entering the history books by imposing a short jail sentence.

Far-fetched? Somewhere along the line, would there not be a deal, a resignation, a bill of abatement, a hung jury or an accident to stem the flow of consequences? Perhaps.

But perhaps not. I have taken the reader down this highly hypothetical road to show that it can happen here and to urge some consideration of the consequences of impeachment.

The impeachment lobby does not want the public to think about the consequences to the nation of an imprisoned ex-President, for good reason: fear of arriving at the ultimate destination might cause us to turn off at the first exit. One step at a time, say the impeachers; let justice take its course; it is not helpful for them to admit the possibility that the paths of impeachment lead but to the clink.

Then, of course, would come revision: What have we done? That question would quickly change to "What have they done?" In this "Ox-Bow Incident" reaction, the majority who only wanted a President rebuked or censured would blame the politicians for the incarceration of a political opponent.

The Representative who voted for impeachment would then be hard put to explain that all that flowed from his vote had nothing to do with him.

Before the grand inquest becomes the grand inquisition, let us stop to think. Are we ready to go all the way?

The nation is not in such present danger of tyranny for us to set a precedent for the legal overthrow of elected leaders, and to open the possibility for their absolute degradation. Does anyone seriously suggest that the Nixon experience of the last year is not enough to deter some future President from taking a similar course, that only legal punishment will make the point?

Liberals who have fought Mr. Nixon over the years have a special responsibility now to take the long view. To consider all the consequences—including those that seem as remote as impeachment itself did not so long ago—before running the risk of being gripped by the momentum of retribution.

The road we are on is a rumor-greased expressway with fewer exits, than we think, and—as Jefferson wrote to Madison—"Impeachment has been an engine more of passion than justice."

HOUSE OF REPRESENTATIVES—*Wednesday, May 15, 1974*

The House met at 12 o'clock noon.

The Reverend R. Joseph Dooley, president, International Conference of Police Chaplains, offered the following prayer:

O Lord, our God, this day, Peace Officers Memorial Day, set apart by Presidential proclamation, we pray for the blessing of peace on all our dedicated law enforcement officers, who have given *their lives* in the performance of their duties.

We pause this spring day to remember the record-setting toll of 134 local, county, State, and Federal law enforcement officers killed in 1973—as well as the 39 officers who have died already this year. They placed the preservation of law and order above personal safety.

Truly, this is a tragic count. Even more tragic, Lord, than the loss of these valiant officers' lives, is the fact that their deaths left nearly three times their number in immediate family survivors.

Bless, guide, and inspire, Lord, the many men and women who work in governing our country. Grant them the humility they need to represent the people they serve, the generosity to give their very best, and the determination to serve America with love and dedication—as these peace officers have done. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 3418. An act to amend section 505 of title 10, United States Code, to establish uniform original enlistment qualifications for male and female persons.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 14368. An act to provide for means of dealing with energy shortages by requiring reports with respect to energy resources, by providing for temporary suspension of certain air pollution requirements, by providing for coal conversion, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 14368) entitled "An act to provide for means of dealing with energy shortages by requiring reports with respect to energy resources, by providing for temporary suspension of certain air pollution requirements, by providing for coal conversion, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. RANDOLPH, Mr. MUSKIE, Mr. MONTOYA, Mr. BAKER, Mr. BUCKLEY, Mr. JACKSON, Mr. BIBLE, and Mr. FANNIN to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 85. Concurrent resolution to proclaim October 14, 1974, a Day of National Observance for the 200th Anniversary of the First Continental Congress, and for other purposes.

POSTAL SERVICE FAILS MOTHER'S DAY TEST

(Mr. FUQUA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FUQUA. Mr. Speaker, the U.S. Postal Corporation is up to its usual inefficient manner. On Thursday morning of last week I mailed a very nice Mother's Day card to my mother, a very dear, sweet, and loving mother. To my amazement, I found that the card was delivered Tuesday, 2 days after Mother's Day.

Mr. Speaker, I hope the Postal Service can improve its service just a little bit better than that displayed on this occasion.

ADMISSION OF WOMEN TO THE SERVICE ACADEMIES

(Mr. FISHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FISHER. Mr. Speaker, due to considerable interest expressed by Members of the House and the commitment made by the chairman of the House Armed Services Committee on this floor on March 18, 1974, I wish to announce that the Subcommittee on Military Personnel, of which I am chairman, will commence hearings on several measures calling for the admission of women to the service academies on May 29, 1974.

The ranking minority member of the subcommittee, Mr. DICKINSON of Alabama joins me in stating that we intend to pursue our legislative inquiry into these proposals in considerable detail and to offer complete, open, and objective hearings on all facets of the issues involved.

We will commence our hearings on May 29 with testimony from Members of the House.

WHO WRITES THE LAWS?

(Mr. RONCALIO of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RONCALIO of Wyoming. Mr. Speaker, upon returning from Wyoming last week, I called the Office of Federal Energy Administrator to find what date the price rollback of propane would take effect, pursuant to our note in the House on the Alexander amendment, and the conference report agreed to by the Senate last week. The price of propane was to be rolled back to the May 1973 level.

Mr. Speaker, despite the obvious legislative intent that the rollback ensue, I was told by the FEA that there may be no rollback of the price of propane. They hold that language is discretionary in the statute, and that despite the obvious legislative intent of the House and the Senate, no rollback is to be put into effect. Meanwhile, in Wyoming, propane has jumped up another 3 cents wholesale.

Mr. Speaker, I ask my colleagues, who writes the law of the land, the elected Representatives of the people or the administration downtown? This is the question.

FOOD FOR THOUGHT

(Mr. BURKE of Massachusetts asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BURKE of Massachusetts. Mr. Speaker, may I bring to the attention of the U.S. Congress an editorial that appeared in last Sundays' edition of the New York Sunday News, entitled "Food for Thought." Yes, it is food for thought, with vegetable prices soaring higher and higher each day and vegetables reaching heights out of reach for the average consumer.

My bill would cost the Federal Government $6 million a year and produce hundreds of millions of dollars in nutritious food and rekindle the spirit of self-sufficiency that has played such an important part in this Nation's development.

The editorial follows:

FOOD FOR THOUGHT

Rep. James Burke (D-Mass.) has suggested that the Agriculture Department supply Americans with free seed so they could grow some of their own food. Besides beating inflation. Burke said, home gardening would bring families together and teach urban youths that vegetables don't "come from the backroom of the supermarket."

It's an intriguing idea. But it would also help the battle against rising living costs if someone would devise a program to teach Congress that money doesnt grow on trees.

TERRORIST ABOMINATION

(Mr. BINGHAM asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, the Palestinian terrorists have achieved a new level of barbarity with their latest abomination.

The whole world should cry out in revulsion at the deliberate killing of children to achieve political ends.

What will the Arab States say now? Will they still seek to block action by the U.N. Security Council expressly condemning such atrocities?

There can be no excuse for silence now.

Meanwhile, we grieve for the families of those Israeli children who lost their lives before they had had a chance to live.

FEDERAL WASTE OF TAXPAYERS' MONEY

(Mr. ROBERT W. DANIEL, JR., asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROBERT W. DANIEL, JR. Mr. Speaker, it has come to my attention that in 1972 the Department of Health, Education, and Welfare spent $23,000 of the taxpayers' money to conduct a study of why children fall off their tricycles.

The study concluded that children fall off their tricycles because they lose their balance or they run into objects.

It cost the Federal Government $23,000 to learn what every American mother knows. Over a week ago, I asked HEW for an explanation, but I have not yet received a satisfactory response.

As we all know, inflation is rampant throughout the Nation. Most sound economists agree that excessive Government spending is one of the major causes of this terrible inflation. We should not allow foolish programs such as this to waste the taxpayers' dollars and feed the fires of inflation.

There is currently no way Congress can learn of these absurd expenditures before the fact. They can only be uncovered through the audit procedures from the GAO or through an investigative reporter from the news media.

Consequently, the only corrective measures are disciplinary actions by the bureaucracy against the individuals responsible for wasteful programs.

PUBLIC OPINION AND CONGRESSIONAL REFORM

(Mr. MARTIN of Nebraska asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARTIN of Nebraska. Mr. Speaker, the recent action of the Democratic Caucus in sidetracking House Resolution 988 shows a callous disregard for the concern which the American people are showing in the performance of this body.

More than 77 percent of the American people believe Congress is doing either a "poor" or "only fair" job, according to a recent public opinion survey conducted by the Sindlinger firm of Philadelphia. A mere .2 percent thought Congress was doing an "excellent" job.

The American people are clearly subjecting Congress to close scrutiny. They want their legislative institutions to work better than they have in the past, and they will expect us to work toward that end.

In this light, it is shocking that the Democratic Caucus, meeting in secret session on May 9, decided to delay and perhaps even kill the committee reform package reported by the Select Committee on Committees. Reform of our organization and procedure is becoming more necessary with every passing day, and the American people realize this. The action of the Democratic Caucus is not a worthy response to the concern expressed by the public.

Mr. Speaker, I think the American people expect us to act promptly, fairly, and publicly on the issue of congressional reform. Therefore I hope that House Resolution 988 will be speedily brought to the floor of the House for full public debate.

WHEAT AND BREAD PRICES

(Mr. SEBELIUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SEBELIUS. Mr. Speaker, I call for an end to silence within the baking industry. After the American Baker's Association leadership announced to the public that bread would soon be $1 a loaf and that this spring bread shortages would produce lines that would make the customers forget gas lines, we have heard nothing from this organization.

At the time, I stated that this was a shameful and factless scare tactic. Since that time, wheat prices have declined almost 50 percent. What has happened to bread prices? They have not declined one penny and in many instances have actually increased. Why?

If the earlier comments were not self-serving, I ask the ABA to state their case and make a full explanation to the American consumer. They should explain why a twofold increase should precipitate a threefold increase in bread prices when a similar decline in wheat prices does not produce even a marginal reduction in the price of bread.

Without such a followup, I can only question the motivation of these statements and the call for a wheat export embargo. I call upon consumers and producers to draw their own conclusions about the credibility and attitude of the ABA and their high officials toward the two segments of our national food chain which are vital to their survival.

Perhaps it is time that the American consumer purchase their own flour and make their own bread. There is no substitute for homebaked bread and pastry for taste and nutrition. Wheat and wheat food products have been referred to as the very staff of life. Bread is one of the four food groups that we need every day. I think it is time that consumers buy their own flour, which has declined about 20 cents on a 10-pound bag, and rediscover the taste of what our mothers and grandmothers baked.

There is nothing wrong, it seems to me, for some old-fashioned competition to serve the best interests of the American consumer.

VIETNAM VETERANS NEED HELP IN SECURING BENEFITS

(Mr. WOLFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLFF. Mr. Speaker, a serious problem confronts us today. It is the question of extending the time limitation during which Vietnam veterans must use their education benefits. Three months ago, the House passed and sent to the Senate a bill containing a 2-year extension from 8 to 10 years. This bill also contained the 13.6-percent increase in the subsistence allowance. For 3 months, the Senate has dragged its feet on this bill with the result that today the rights of 300,000 veterans whose education benefits are due to expire on May 31 have been placed in jeopardy. Now the Senate has sent back to us a bill containing only the 2-year extension.

There will be an attempt made on the floor here today to substitute the House passed bill for the Senate passed measure. I hope that the House will give grave consideration to this, inasmuch as the benefits of 300,000 Vietnam veterans will end on May 31, and we must remember that if a conference between the House and Senate does not resolve the problem by May 31, the education of 300,000 vets will come to a halt, cutting off hopes for careers and ending job opportunities for many. I might also point out that thousands of veterans are faced with the dilemma of having to register for school before May 31 without the guarantee that GI benefits will be forthcoming. Even a week's delay in enacting the 2-year extension will cause grave problems.

Mr. Speaker, I think the Members should be alerted to the fact that the rights of these veterans are in jeopardy today. Congress must enact the 2-year extension without further delay.

CALL OF THE HOUSE

Mr. ROUSSELOT. Mr. Speaker, I make the point of order that a quorum is not present.

The **SPEAKER.** Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 221]

Broomfield
Burke, Calif.
Carey, N.Y.
Carter
Chisholm
Clancy
Clark
Clausen, Don H.
Clay
Conte
Conyers
Davis, Ga.
Diggs
Dorn
Drinan
Dulski
Gray
Green, Oreg.
Gunter
Hawkins
Hébert
Helstoski
Huber
Hudnut
Johnson, Pa.
Leggett
Litton
McCloskey
McCormack
Martin, N.C.
Mills
Mollohan
Morgan
Mosher
Nelsen
Nix
Pettis
Pike
Quillen
Rangel
Reid
Rogers
Roncallo, N.Y.
Rooney, N.Y.
Shuster
Slack
Steiger, Ariz.
Stubblefield
Stuckey
Sullivan
Talcott
Thompson, N.J.
Tiernan
Williams
Wright
Wyatt
Young, S.C.

The **SPEAKER.** On this rollcall 376 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PRESENTATION OF FLAG OF UNITED STATES FOR DECEASED MEMBERS OF READY RESERVE

Mr. FISHER. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 5621) to amend title 10, United States Code, to provide for the presentation of a flag of the United States for deceased members of the Ready Reserve, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert: That section 1482 of title 10, United States Code, is amended by adding the following new subsection at the end thereof:

"(f) The Secretary concerned may pay the necessary expenses for the presentation of a flag to the person designated to direct the disposition of the remains of a member of the Reserve of an armed force under his jurisdiction who dies under honorable circumstances as determined by the Secretary and who is not covered by section 1481 of this title if, at the time of such member's death, he—

"(1) was a member of the Ready Reserve; or

"(2) had performed at least twenty years of service as computed under section 1332 of this title and was not entitled to retired pay under section 1331 of this title.".

Amend the title so as to read: "An Act to amend title 10, United States Code, to provide for the presentation of a flag of the United States for deceased members of the Ready Reserve and for deceased members of the Reserve who die after completing twenty years of service, but before becoming entitled to retired pay."

The **SPEAKER.** Is there objection to the request of the gentleman from Texas?

Mr. GROSS. Mr. Speaker, reserving the right to object, and I shall not object, I do so to ask the gentleman if the amendments are germane to the bill?

Mr. FISHER. Mr. Speaker, if the gentleman will yield, the gentleman is correct.

Mr. GROSS. Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER.** Is there objection to the request of the gentleman from Texas?

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

AUTHORIZING ADDITIONAL APPROPRIATIONS TO CARRY OUT PEACE CORPS ACT

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 12920) to authorize additional appropriations to carry out the Peace Corps Act, and for other purposes, with a Senate amendment thereto, and disagree to the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 3, after line 6, insert:

SEC. 3. (a) Section 5(c) of the Peace Corps Act (22 U.S.C. 2504(c)) is amended by striking out "$75" and "$125" and inserting in lieu thereof "$115" and "$190", respectively.

(b) Section 6(1) of such Act (22 U.S.C. 2505(1)) is amended by striking out "$125" and inserting in lieu thereof "$190"

(c) There are authorized to be appropriated such additional sums as may be necessary to carry out the amendments made by subsections (a) and (b) of this section. Such amendments are to be effective for any fiscal year only to such extent and in such amounts as are specifically provided for such purpose in appropriation Acts.

(d) (1) Section 105(a) (1) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4955(a) 1)) is amended by striking out "$50" and "$75" and inserting in lieu thereof "$75" and "$115", respectively.

(2) There are authorized to be appropriated in addition to the sums authorized to be appropriated pursuant to section 501 of such Act, such additional sums as may be necessary to carry out the amendments made by paragraph (1) of this subsection. Such amendments are to be effective for each fiscal year only to such extent and for such amounts as are specifically provided for such purpose in such appropriation Acts.

The **SPEAKER.** Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Senate amendment was disagreed to.

PROVIDING 10-YEAR DELIMITING PERIOD FOR PURSUIT OF EDUCATIONAL PROGAMS BY VETERANS, WIVES, AND WIDOWS

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3398) to amend title 38, United States Code, to provide a 10-year delimiting period for the pursuit of educational programs by veterans, wives, and widows, and ask for its immediate consideration.

The Clerk read the title of the bill.

The **SPEAKER.** Is there objection to the request of the gentleman from Texas?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object—and I shall not object. I do so to ask the distinguished gentleman from Texas the reason for his request and to give him time enough to explain it to the House.

Mr. TEAGUE. Mr. Speaker, in February of this year, after very careful consideration by the House Committee on Veterans' Affairs, that committee brought to this floor a bill pertaining to GI education, the main provisions being to provide a 2-year extension of time and then an increase of, for example, from $220 for a single veteran to $250. The cost was $1.1 billion. It meant approximately $50 million a month to our veterans.

That has been over in the other body since February. They have taken no action on the total bill, but they did send a bill back to this House doing nothing but extending the time for 2 years. What I propose to do here today is to take that bill and substitute the bill we sent over there unanimously, by a vote of 382 to 0, and which would also put in the $250 a month for veterans, and send it back to the other body for their action.

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, I support the gentleman's request. The effect of this action will be to return to the other body for their further consideration a bill that is identical to the bill that passed this House on February 19 by a record vote of 382 to 0.

On February 19th, Mr. Speaker, the House passed H.R. 12628, the Veterans Education and Rehabilitation Amendments of 1974. Among other things, the measure auhorized a 13.6 percent increase in monthly allowances payable to veterans and dependents attending school under the veterans benefit programs. The bill also contained a 2-year extension of the 8-year period during which educational benefits must be utilized.

The 2-year extension authorized by the House-passed bill, H.R. 12628, becomes critical, Mr. Speaker, because the 8-year period expires on May 31 of this year for a substantial number of veterans, many of whom are currently in school.

For some unexplained reason, the Committee on Veterans' Affairs in the other body, with more than 2 months in which to complete action on the House passed measure, has not done so. Now, ignoring the increase in monthly allowances, they have belatedly extracted from the House bill the provision relating exclusively to the 2-year extension and passed it.

I said belatedly because it is apparent that they have already waited too long to insure the timely receipt of monthly allowances by veterans attending school. The Veterans' Administration has informed the distinguished chairman of the Committee on Veterans' Affairs that processing time alone would prevent checks from being mailed prior to June 3. Unfortunately the need for an appropriation of $77 million to fund this authorization will delay even further the timely delivery of education allowances.

Mr. Speaker, this body has already demonstrated its strong support of the 2-year extension by a unanimous vote on February 19. In the same vote, the House of Representatives expressed its strong support for a 13.6-percent increase in monthly educational allowances.

Each day of delay or failure of the other body to take action on H.R. 12628 deprives eligible veterans of more than $1.5 million in additional benefits. Mr. Speaker, I cannot be a party to such costly delays.

I therefore must support the proposed amendment which, if approved, will reiterate to the other body our strong resolve to increase monthly allowances as well as extend entitlement for 2 years.

Mr. Speaker, I withdraw my reservation of objection.

Mr. WOLFF. Mr. Speaker, reserving the right to object, I take this time to ask the gentleman from Texas what happens to the 300,000 veterans whose rights run out on May 31, when the length of time, the 8-year period runs out, that is in the event that the Senate does not accept our bill?

Mr. TEAGUE. Mr. Speaker, if no action is taken, those some 300,000 veterans would lose their entitlement. It would certainly be the hope, and as the gentleman from New York well knows, we have consulted with the Speaker and some of the leadership, we would hope to see those rights of veterans are protected before May 31.

Mr. WOLFF. Mr. Speaker, further reserving the right to object, I certainly do not object to the additions of the House position, because as one of the original cosponsors of this legislation, I feel very strongly it must be enacted to take care of the problems of the veterans of our Nation; however, I want to be sure it will not cause a cessation of any benefits to those veterans who are now in school and who will be interrupted in their education because the 8-year program runs out. I am satisfied that the solution you and I worked out with the Speaker will insure the 2-year extension.

Mr. Speaker, I withdraw my reservation of objection.

Mr. BINGHAM. Mr. Speaker, reserving the right to object, I wonder if the gentleman from Texas would not agree it would make sense to have a short extension of the existing law, perhaps 2 months, to protect the veterans' benefits that my colleague, the gentleman from New York, speaks of, so as to allow time to work out the differences between the Senate and the House on the more comprehensive bill.

I understand, for example, that the Senate is considering a tuition assistance program which goes beyond what the House did and which appeals to me very much as a program that would put the veterans' benefits in line with the GI benefits following World War II.

Assuming that the Senate accepts the House bill, that would not be included. Would it not be desirable to have a short extension of 2 months to the existing program to allow time to work out the differences between the Senate and the House?

Mr. TEAGUE. Mr. Speaker, first of all, the gentleman from Texas does not agree with the gentleman from New York about the discrepancy between the veterans of Vietnam and World War II. That is the first difference.

Certainly this bill has merit and if passed, we would hope it would take care of that.

Mr. BINGHAM. Mr. Speaker, I further want to ask the gentleman, what is the position of the gentleman and the position of the committee with regard to the tuition assistance program being considered in the Senate?

Mr. TEAGUE. Our committee has voted three times on that proposition and we have voted it down. As far as the gentleman from Texas, speaking for myself and not for the committee, I am 1,000 percent opposed to it.

I might say to the gentleman that the Committee on Education is holding hearings on that matter now in our committee.

Mr. WOLFF. Mr. Speaker, will the gentleman yield?

Mr. BINGHAM. I yield to my colleague, the gentleman from New York.

Mr. WOLFF. For the gentleman's information, the subcommittee, as the gentleman indicated, is holding hearings on the direct tuition plan and anticipates it will offer that bill very shortly.

Mr. BINGHAM. I thank the gentleman.

Mrs. HECKLER of Massachusetts. Mr. Speaker, reserving the right to object, I yield to my distinguished colleague, the gentleman from Arkansas, the distinguished ranking minority member on the committee.

Mr. MAYNE. Mr. Speaker, will the gentlewoman yield?

Mrs. HECKLER of Massachusetts. I yield to the distinguished gentleman from Iowa (Mr. MAYNE).

Mr. MAYNE. Mr. Speaker, I want to commend the gentlewoman and the gentleman from Texas for the fight they are putting up to see that this period of eligibility is extended for another 2 years.

This is a matter of vital importance which I believe all Members of the House should get behind to the fullest extent possible.

I thank the gentlelady from Massachusetts (Mrs. HECKLER) for yielding. Mr. Speaker, earlier today I introduced legislation identical to S. 3398 as passed by the Senate yesterday, legislation which would simply extend the period of time during which veterans must complete training from the present 8 years following last discharge or release to 10 years. Without such an extension, many veterans now in the midst of their education or training would no longer be able to utilize the educational assistance for which their service otherwise entitled them, for their eligibility would expire on June 1, 1974. Time is of the essence in this connection. Failure of the Congress to enact and the President to sign into law legislation extending eligibility beyond June 1, 1974, certainly for a minimum of 2 years, would be a national tragedy, working great hardships on those veterans who were delayed, often through no fault of their own, in starting their education or training or in working toward the advanced degree to which their service entitled them.

However, I have been convinced by the distinguished Member from Texas, the chairman of the House Veterans' Affairs Committee's Subcommittee on Compensation and Pension (Mr. TEAGUE), in his statements on the floor today, of the wisdom of his move to substitute the language of the Veterans' Education and Rehabilitation Amendments of 1974, H.R. 12628 as passed by the House with my strong support on February 19, 1974, for that of S. 3398, the simple 2-year extension of veterans training eligibility passed by the Senate yesterday, and to then return it to the Senate for its approval. The improvements in the educational assistance programs provided in H.R. 12628 are indeed urgently needed, and they might well fall by the wayside, mired in the Senate Veterans' Affairs Committee's apparent inability to arrive at a solution to its impasse regarding the details of this legislation, if the House concurs in the simple 2-year extension of benefits. In view of the sadly deficient level of present veterans training assistance payments under the existing law, failure to insist upon enactment of at least the benefit increases and improvements contained in H.R. 12628 as passed by the House would work serious hardships upon veterans and their families, and upon the institutions in which they are enrolled. In fact, failure to increase benefit rates at the same time eligibility is extended may make the extension of eligibility somewhat an exercise in futility, for many veterans would find it an economic impossibility to seek to continue their training or education under the present program's benefit schedules.

I strongly urge the Members of this House to vote in support of the motion, thereby giving the Members of the other body opportunity to accept. S. 3398 as amended by the language of H.R. 12628. I urge the Members of the Senate to approve this package, though the benefits may appear lower in some instances than those some Senators might advocate, for certainly this is a case where a bird in hand is indeed worth two in the bush. I further urge the President to make every effort to sign this important and urgently needed legislation into law and to implement it fully and speedily. There has been far too much delay on this matter already. Let us show not only ourselves but all America just how efficiently and speedily our institutions of Government can move to meet this real crisis and to provide the benefits America's veterans and their dependents have been promised and which they fully deserve.

Mrs. HECKLER of Massachusetts. Mr. Speaker, I would like to propound a question to the distinguished gentleman from Texas. As the original author of the legislation which he is suggesting to substitute for the Senate bill today, I certainly support all of those objectives, and indeed every provision in the bill is meritorious, desirable, and overdue.

My greatest concern is that we enact the extension of the GI bill eligibility period for the Vietnam era veterans, because this is a crucial question for over 300,000 veterans whose benefits will expire May 31. It seems to me that should be our first priority and that the other provisions, as important as they are, can be considered after we consider this extension issue.

Mr. Speaker, my question goes to the issue of the need for an authorization. Is it not true that the Veterans' Administration yesterday advised the chairman of the committee that it does not have enough funds in its account to continue the monthly payments beyond May 31?

Mr. TEAGUE. That is correct. The Administrator of the Veterans' Administration advised the committee that they need $77 million.

Mrs. HECKLER of Massachusetts. Is it not true that an extension of this program would require an authorization before a supplemental appropriation would be in order before this House?

Mr. TEAGUE. That is correct.

Mrs. HECKLER of Massachusetts. Then, it seems to me that the need for an appropriation lends added urgency to the question of extending the entitlement period for 2 years. I simply cannot understand the lack of foresight on the part of the Veterans' Administration in not providing for the anticipated continuation of this program. Nevertheless the fact is that they need to have an authorization.

Should this issue go to conference—and I have tremendous respect for the gentleman's leadership in the conference—will it be possible to urge the Senate to act within this limited time span, within the May 31 deadline, so that these Vietnam veterans will receive equal treatment with their colleagues from other wars?

Mr. TEAGUE. It is my understanding that the other body is meeting today to take some action in this regard.

Mrs. HECKLER of Massachusetts. Mr. Speaker, I thank the gentleman for his comments. I feel it is absolutely crucial that we enact an authorization, so that we can get to work on passing an emergency supplemental appropriation to continue the payments beyond May 31. The extension of the eligibility for the 300,000 veterans in this program must be our highest priority, and I urge the conferees on this legislation to come to an agreement as soon as possible in order to meet this priority. We simply must not allow this program to lapse.

Mr. Speaker, I withdraw my reservation of objection.

Mr. BIAGGI. Mr. Speaker, reserving the right to object, let me say that I anticipated this development several weeks ago. Therefore, I introduced a bill that dealt with a simple 2-year extension, a bill devoid of any other complications.

After the other body passed a simple 2-year extension bill on Monday, I started a push for passage of my bill. I have over 50 cosponsors after only 24 hours. I anticipated arriving at this point today. The House acted unanimously in the early part of this year to provide additional benefits for veterans. The other body, unfortunately, is providing the problem. We find ourselves in somewhat of a crunch. The chairman is as concerned as I am with some $50 million a month that is being denied veterans each month we delay action. Yet if we fail to provide at least an extension before the end of this month, more than 300,000 veterans will be cut off completely.

Mr. Speaker, the question I ask is, assuming that the Senate does not respond to the action we take today, and assuming we then proceed under suspension on May 20 to deal with a simple extension as we have agreed upon, just what will be the result?

Mr. TEAGUE. First, the other body in the last 3 months has kept $150 million out of the pockets of the GI's going to school. I personally am very much interested in the extension, and also in that $50 million a month. Certainly, I will not expect us to do nothing just because the other body does nothing. I certainly want the House to do whatever is necessary to retain the extension rights of those 300,000 veterans.

Mr. BIAGGI. Mr. Speaker, I withdraw my right to object.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. HILLIS. Mr. Speaker, I rise in support of S. 3398 as amended. While I am fully aware of the impending deadline of June 1, 1974, when educational entitlement will be terminated for some of our veterans, because the 8-year period in which they must use their educational benefits will have tolled. I am also concerned about all of our veterans who have been awaiting a long overdue increase in their educational allowances. Many of them, too, will terminate their educational programs, but for a different reason. They will not be able to afford to remain in school.

In my estimation, both of these groups are equally in need of immediate legislative action. In February, the House sent to the Senate a bill, H.R. 12628. It contained provisions which with timely action by the other body would have avoided the concern and anxiety many of our veterans are now undergoing.

I favor completely the extension of the 8-year delimiting period to 10 years, but in good conscience I cannot support a bill that will only eliminate a hardship for some while others fully as deserving will lose out because of inadequate allowances. In view of this I can support S. 3398 only as amended to include the increase in the educational allowances.

Mr. DORN. Mr. Speaker, on February 19, the House of Representatives passed, by a vote of 382 to 0, a bill which would give Vietnam veterans a 2-year extension of training time, granting a cost-of-living increase of 13.6 percent and equalizing the vocational rehabilitation program with provisions of the World War II program.

This bill has languished in the Senate, with no action being taken until Monday of this week when the Senate, in an effort to extract themselves from the problem which has been created by their delay, passed a bill (S. 3398) which takes only one provision of the House-passed bill, H.R. 12628, relating to the 2-year extension, and sent it back to the House for action. No action has been taken on the more comprehensive House-passed bill. No action has been taken on the proposal to grant veterans a cost-of-living increase.

There is no argument that there is merit to extending Vietnam veterans training time from 8 to 10 years. If action is not taken promptly to extend the period, on May 31 several thousand veterans who are in training, or who would like to go to school, will have their plans temporarily disrupted, and we certainly do not wish to see this. On the other hand, failure to pass the cost-of-living increases would adversely affect more than a million veterans enrolled in training. Each month that the other body has delayed has cost the veterans of this country about $50 million. It is incomprehensible to me as to why the other body would delay further on the cost-of-living increase and I see no reason that benefit cannot be passed along with the 2-year extension and the other provisions of the House-passed bill.

Information is being disseminated that if the House does not act immediately, veterans whose eligibility would otherwise expire on May 31, 1974, will be interrupted and will not receive their next check on time. Unfortunately, the other body has delayed acting on this legislation so long now that it appears there is no way to prevent disruption in training eligibility for those whose time expires on May 31. We have been advised by the Veterans' Administration and OMB that the agency has no funds for the payment of education assistance benefits to veterans whose eligibility under current law expires May 31, 1974, and to continue in training beyond that date if Congress extends entitlement. The Veterans' Administration has estimated that it will need $77 million for this purpose by June 30, 1974, and that the agency does not have funds available in other appropriations to meet this expense.

In addition, the agency is pointing out that there will be complicated administration problems and it will need additional operating expenses to carry out the extension. OMB has indicated that if Congress extends the eligibility period from 8 to 10 years that a supplemental appropriation will be needed to fund this additional benefit.

The report which I have received from the Administration regarding its need for additional funds is as follows:

VETERANS' ADMINISTRATION,
Washington, D.C., May 14, 1974.

Hon. W. J. BRYAN DORN,
Chairman, Committee on Veterans' Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This has reference to your letter of this date concerning legislation (S. 3398) currently being considered by the Congress to extend the time period for utilization of GI bill benefits. As you know, this legislation would extend from 8 to 10 years the time period within which veterans of service after January 31, 1955 have to utilize their educational assistance benefits. With limited exceptions, approximately 4 million post-Korean veterans whose eligibility would otherwise expire May 31, 1974 would continue to be eligible for such benefits for an additional two years.

Implementation of this legislation will impose major administrative and funding difficulties during the balance of this fiscal year:

1. Cases to be reviewed for a possible extension of the current enrollment period must be identified. Each such case must be individually reviewed to verify that the current enrollment period extends beyond May 31, 1974. For each case so verified a separate award must be prepared by the regional office and referred to the Data Processing Center at Hines, Illinois for payment. Time constraints preclude making such payments by the June 1 delivery date. *The earliest possible date these checks could be mailed would be June 3.*

2. No funds have been provided for payment of educational assistance benefits to veterans whose eligibility under current law expires May 31, 1974, and who continue in training beyond that date under an extended entitlement. We currently estimate that a 1974 Readjustment Benefit supplemental appropriation of approximately $77 million will be required for this purpose by June 30, 1974. In this connection it is pointed out that higher-than-anticipated 1974 Compensation and Pensions obligation levels preclude any possibility of a transfer of funds from that appropriation account. Further, additional General Operating Expenses costs will be incurred in implementing the proposed legislation.

I will be pleased to provide any additional information you may desire in this connection.

Sincerely,

DONALD E. JOHNSON,
Administrator.

It is most regrettable that the other body did not take up this problem in a more expeditious fashion so that these additional funds could have been included in the supplemental appropriation which the Congress sent to the President a few days ago. I have no doubt that our Appropriations Committees will cooperate to furnish such additional funds for any benefits authorized by the Congress through extending training time, but this will take some time and spokesmen for OMB and VA indicate that it is not likely that this can all be accomplished and prevent a delay in benefits even though the extension provision which we are considering becomes effective June 1, 1974.

Mr. Speaker, it is most unfortunate that veterans, Members of Congress and veteran organizations are being led to believe that the simple solution to this problem is for the House to take up the piecemeal bill which the Senate has passed. Unfortunately, this is not true. We should make a decision now about what we are going to do not only on the 2-year extension, but on increased benefits resulting from the cost-of-living raise, so that the increased funding needs for this legislation can be handled in an orderly fashion by our Appropriations Committee.

It is for this reason that our committee is amending S. 3398 by adding all of the original provisions of the House-passed bill and sending it back to the Senate. We urge the other body to act immediately on this bill so that veterans can have their extension and their cost-of-living increase, and so that Congress can immediately set about to appropriate the funds necessary for these increased benefits.

I am well aware that there are all sorts of novel tuition schemes being considered in the other body, which is certainly their privilege. If the other body chooses to hold extended hearings on these subjects, certainly it is their right to do so. But I do not think that more than a million veterans in training at this time should be deprived of their cost-of-living increase while talks continue about this controversial subject.

The time to act is now and I can think of no legitimate reason for further delay on the part of the other body.

The Clerk read the Senate bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1662 of title 38, United States Code, is amended—

(1) by deleting "eight" in subsection (a) and inserting in lieu thereof "ten";

(2) by deleting "8-year" in subsection (b) and inserting in lieu thereof "10-year";

(3) by deleting "8-year" and "eight-year" in subsection (c) and inserting in lieu thereof "10-year" and "ten-year", respectively; and

(4) by deleting at the end thereof the following new subsection:

"(d) In the case of any veterans (1) who served on or after January 31, 1955, (2) who became eligible for educational assistance under the provisions of this chapter or chapter 36 of this title, and (3) who, subsequent to his last discharge or release from active duty, was captured and held as a prisoner of war by a foreign government or power, there shall be excluded, in computing his ten-year period of eligibility for educational assistance, any period during which he was so detained and any period immediately following his release from such detention during which he was hospitalized at a military, civilian, or Veterans' Administration medical facility.".

SEC. 2. Section 1712 of title 38, United States Code, is amended—

(1) by deleting "eight" in subsection (b) and inserting in lieu thereof "ten"; and

(2) by deleting "eight" in subsection (f) and inserting in lieu thereof "ten".

SEC. 3. Section 604(a) of Public Law 92-540 (82 Stat. 1333, October 24, 1972) is amended by deleting "eight" and inserting in lieu thereof "ten".

AMENDMENT OFFERED BY MR. TEAGUE

Mr. TEAGUE. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TEAGUE: Strike out all after the enacting clause of S. 3398 and insert in lieu thereof the provisions of H.R. 12628, as passed on February 19, 1974, as follows:

That this Act may be cited as the "Veterans' Education and Rehabilitation Amendments Act of 1974".

SEC. 2. Chapter 31 of title 38, United States Code, is amended as follows:

(1) by amending paragraphs (1) and (2) of subsection (a) of section 1502 to read as follows:

"(1) arose out of service during World War II, the Korean conflict, or the Vietnam era; or

"(2) arose out of service (A) after World War II and before the Korean conflict, (B) after the Korean conflict but before August 5, 1964, or (C) after the Vietnam era, and is rated for compensation purposes as 30 per centum or more, or if less than 30 per centum, is clearly shown to have caused a pronounced employment handicap."; and

(2) by amending the table contained in section 1504(b) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of training	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	$193	$240	$282	$20
Three-quarter-time	145	180	212	15
Half-time	97	120	141	10
Farm cooperative, apprentice, or other on-job training:				
Full-time	168	203	235	16."

SEC. 3. Chapter 34 of title 38, United States Code, is amended as follows:

(1) by deleting in the last sentence of section 1677 (b) "$220" and inserting in lieu thereof "$250";

(2) by amending the table contained in paragraph (1) of section 1682(a) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in colum IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	$250	$297	$339	$20
Three-quarter-time	188	223	254	15
Half-time	125	149	170	10
Cooperative	201	236	268	16";

(3) by deleting in section 1682(b) "$220" *and inserting* in lieu thereof "$250";

(4) by amending the table contained in paragraph (2) of section 1682(c) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Basis	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Full-time	$201	$236	$268	$16
Three-quarter-time	151	177	201	12
Half-time	101	118	134	8";

(5) by deleting in section 1696(b) "$220" and inserting in lieu thereof "$250";

(6) by inserting in clause (3) of section 1652(a), immediately after "1661(a)," the following: "except as provided therein,";

(7) by adding at the end of section 1661(a) the following:

"For purposes of this subsection, in determining the period to which any eligible veteran is entitled to educational assistance under this chapter, the initial period of active duty for training performed by him under section 511(b) of title 10 shall be deemed to be active duty if at any time subsequent to the completion of such period of active duty for training such veteran served on active duty for a consecutive period of one year or more.";

(8) by amending section 1662—

(a) by deleting "eight" in subsection (a) and inserting in lieu thereof "ten";

(b) by deleting "8-year" in subsection (b) and inserting in lieu thereof "10-year";

(c) by deleting "8-year" and "eight-year" in subsection (c) and inserting in lieu thereof "10-year" and "ten-year", respectively; and

(d) by adding at the end thereof the following new subsection:

"(d) In the case of any veteran (1) who served on or after January 31, 1955, (2) who became eligible for educational assistance under the provisions of this chapter or chapter 36 of this title, and (3) who, subsequent to his last discharge or release from active duty, was captured and held as a prisoner of war by a foreign government or power, there shall be excluded, in computing his ten-year period of eligibility for educational assistance, any period during which he was so detained and any period immediately following his release from such detention during which he was hospitalized at a military, civilian, or Veterans' Administration medical facility.";

(9) by deleting in section 1673(d) "chapter 31, 34, or 36" and inserting in lieu thereof "chapter 31, 35, or 36";

(10) by adding at the end of section 1682 a new subsection as follows:

"(d)(1) Notwithstanding the bar in section 1671 of this title prohibiting enrollment of an eligible veteran in a program of education in which he is 'already qualified', a veteran shall be allowed up to six months of educational assistance (or the equivalent thereof in part-time assistance) for the pursuit of refresher training to permit him to update his knowledge and skills and to be instructed in the technological advances which have occurred in his field of employment during the period of his active military service.

"(2) A program of education pursued under this subsection must be commenced within twelve months from the date of the veteran's discharge or release from active duty and must be pursued continuously (except for interruptions for reasons beyond the veteran's control).

"(3) A veteran pursuing refresher training under this subsection shall be paid an educational assistance allowance based upon the rate payable as set forth in the table in subsection (a)(1) or in subsection (b)(2) of this section, whichever is applicable.

"(4) The educational assistance allowance paid under the authority of this subsection shall be charged against the period of entitlement the veteran has earned pursuant to section 1661(a) of this title."; and

(11) by amending section 1685—

(a) by deleting "$250" wherever it appears in subsection (a) and substituting "500" in each case;

(b) by deleting "one hundred hours" wherever it appears in subsection (a) and substituting "two hundred hours" in each case; and

(c) by deleting "(not to exceed eight hundred man-years or their equivalent in man-hours during any fiscal year)" in subsection (c).

SEC. 4. Chapter 35 of title 38, United States Code, is amended as follows:

(1) by amending section 1732(a)(1) to read as follows:

"(a)(1) The educational assistance allowance on behalf of an eligible person who is pursuing a program of education consisting of institutional courses shall be computed at the rate of (A) $250 per month if pursued on a full-time basis, (B) $188 per month if pursued on a three-quarter-time basis, and (C) $125 per month if pursued on a half-time basis.";

(2) by deleting in section 1732(a)(2) "$220" and inserting in lieu thereof "$250";

(3) by deleting in section 1732(b) "$177" and inserting in lieu thereof "$201";

(4) by amending section 1742(a) to read as follows:

"(a) While the eligible person is enrolled in and pursuing a full-time course of special restorative training, the parent or guardian shall be entitled to receive on his behalf a special training allowance computed at the basic rate of $250 per month. If the charges for tuition and fees applicable to any such course are more than $78 per calendar month, the basic monthly allowance may be increased by the amount that such charges exceed $78 a month upon election by the parent or guardian of the eligible person to have such person's period of entitlement reduced by one day for each $8.35 that the special training allowance paid exceeds the basic monthly allowance.";

(5) by amending section 1723(c) by deleting "any course of institutional on-farm training,"; and

(6) by amending section 1732 by redesignating subsection (c) as subsection (d) and by inserting immediately after subsection (b) the following new subsection:

"(c)(1) An eligible person who is enrolled in an educational institution for a 'farm cooperative' program consisting of institutional agricultural courses prescheduled to fall within forty-four weeks of any period of twelve consecutive months and who pursues such program on—

"(A) a full-time basis (a minimum of ten clock hours per week or four hundred and forty clock hours in such year prescheduled to provide not less than eighty clock hours in any three-month period),

"(B) a three-quarter-time basis (a minimum of seven clock hours per week), or

"(C) a half-time basis (a minimum of five clock hours per week),

shall be eligible to receive an educational assistance allowance at the appropriate rate provided in paragraph (2) of this subsection, if such eligible person is concurrently engaged in agricultural employment which is relevant to such institutional agricultural courses as determined under standards prescribed by the Administrator. In computing the foregoing clock hour requirements there shall be included the time involved in field trips and individual and group instruction sponsored and conducted by the educational institution through a duly authorized instructor of such institution in which the person is enrolled.

"(2) The monthly educational assistance allowance to be paid on behalf of an eligible person pursuing a farm cooperative program under this chapter shall be computed at a rate of (A) $201 per month if pursued on a full-time basis, (B) $151 per month if pursued on a three-quarter-time basis, and (C) $101 per month if pursued on a half-time basis."

SEC. 5. Chapter 36 of title 38, United States Code, is amended as follows:

(1) by deleting in section 1786(a)(2) "$220" and inserting in lieu thereof "$250";

(2) by amending the table contained in paragraph (1) of section 1787(b) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Periods of training	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
First 6 months	$182	$203	$223	$9
Second 6 months	136	158	177	9
Third 6 months	91	112	132	9
Fourth and any succeeding 6-month periods	45	67	86	9";

(3) by amending section 1787(b)(2) to read as follows:

"(2) The monthly training assistance allowance of an eligible person pursuing a program described under subsection (a) shall be (A) $182 during the first six-month period, (B) $136 during the second six-month period, (C) $91 during the third six-month period, and (D) $45 during the fourth and any succeeding six-month period.";

(4) by amending section 1784(b) to read as follows:

"(b) The Administrator may pay to any educational institution, or to any joint apprenticeship training committee acting as a training establishment, furnishing education or training under either chapter 34, 35, or 36 of this title, a reporting fee which will be in lieu of any other compensation or reimbursement for reports or certifications which such educational institution or joint apprenticeship training committee is required to report to him by law or regulation. Such reporting fee shall be computed for each calendar year by multiplying $3 by the number of eligible veterans or eligible persons enrolled under chapter 34, 35, or 36 of this title or $4 in the case of those eligible veterans and eligible persons whose educational assistance checks are directed in care of each institution for temporary custody and delivery and are delivered at the time of registration as provided under section 1780(d)(5) of this title, on October 31 of that year; except that the Administrator may, where it is established by such educational institution or joint apprenticeship training committee that eligible veteran plus eligible person enrollment on such date varies more than 15 per centum from the peak eligible veteran plus eligible person enrollment in such educational institution or joint apprenticeship training committee during such calendar year, establish such other date as representative of the peak enrollment as may be justified for such educational institution or joint apprenticeship training committee. The reporting fee shall be paid to such educational institution or joint apprenticeship training committee as soon as feasible after the end of the calendar year for which it is applicable."; and

(5) by adding at the end of section 1788(a) the following:

"Notwithstanding the provisions of clause (1) or (2) of this subsection, an educational institution offering courses on a clock-hour basis below the college level may measure such courses of a quarter- or semester-hour basis (with full-time measured on the same basis as provided by clause (4) of this subsection), provided that (A) the academic portions of such courses require outside preparation and are measured on not less than one quarter or one semester hour for each fifty minutes net of instruction per week per quarter or semester; (B) the laboratory portions of such courses are measured on not less than one quarter or one semester hour for each two hours of attendance per week per quarter or semester; and (C) the shop portions of such courses are measured on not less than one quarter or one semester hour for each three hours of attendance per week per quarter or semester: *Provided*, That in no event shall such course be considered a full-time course when less than twenty-five hours per week of attendance is required.

SEC. 6. (a) Chapter 3 of title 38, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER V—VIETNAM ERA VETERANS COMMUNICATION CENTER

"§ 251. Establishment of the Center

"(a) There is established in the Veterans' Administration a Vietnam Era Veterans Communication Center (hereinafter referred to in this subchapter as the 'Center') which shall be headed by a core group composed of not less than five employees of the Veterans' Administration, each of whom is a veteran of the Vietnam era. There shall be at least one employee of the Veterans' Administration in each veterans' assistance office established pursuant to section 242 of this title who shall be a Vietnam era veteran and who shall be responsible to the core group.

"(b) The Center shall consist of such other employees as the Administrator deems necessary to carry out the purposes of this subchapter.

"§ 252. Functions of the Center

"The Center shall make an initial evaluation (and report the results of such evaluation to the Administrator and to the Congress within three months after the effective date of this subchapter) and thereafter make a periodic evaluation of—

"(1) the effectiveness of the veterans outreach services program established by subchapter IV of this chapter, particularly as it applies to Vietnam era veterans; and

"(2) make recommendations, based on its evaluations under subparagraph (A), to the Administrator and to the Congress for establishing new, and improving existing, methods and procedures to be implemented by the Veterans' Administration (whether through such subchapter IV or otherwise) to insure that all veterans are made aware of, and are assisted in applying for, all benefits and services under laws administered by the Veterans' Administration.

"§ 253. Reports to the Congress and the Administrator

"In addition to the initial report required under section 252 the Center shall make a report to the Congress and to the Administrator every six months on its activities under section 252.".

(b) The table of sections at the beginning of chapter 3 of title 38, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER V—VIETNAM ERA VETERANS COMMUNICATION CENTER

"251. Establishment of Center.
"252. Functions of Center.
"253. Reports to the Congress and the Administrator.

SEC. 7. Any veterans who becomes eligible for an additional period of educational assistance under chapter 34 of title 38, United States Code, by virtue of the enactment of item (7) of section 3 of this Act and who was discharged or released from active duty (qualifying him for such additional period) prior to the date of enactment of this Act shall have a period of twenty-four months from the date of such enactment to use such additional period of educational assistance.

SEC. 8. The rate increases provided by this Act shall become effective on the first day of the second calendar month which begins after the date of enactment.

Mr. TEAGUE (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The question is on the amendment offered by the gentleman from Texas.

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to amend title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowances paid to eligible veterans and other persons; to make improvements in the educational assistance programs; and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. SISK. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 1769, FEDERAL FIRE PREVENTION AND CONTROL ACT

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 1769) to reduce the burden on interstate commerce caused by avoidable fires and fire losses, and for other purposes, with House amendments thereto, insist on the House amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Texas? The Chair hears none and appoints the following conferees: Messrs. TEAGUE, DAVIS of Georgia, SYMINGTON, MOSHER and BELL.

APPOINTMENT OF CONFEREES ON H.R. 13998, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION ACT, 1975

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 13998) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following conferees: Messrs. TEAGUE, HECHLER of West Virginia, FUQUA, SYMINGTON, MOSHER, BELL, and WYDLER.

EGG RESEARCH AND CONSUMER INFORMATION ACT

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1100 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1100

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12000) to enable egg producers to establish, finance, and carry out a coordinated program of research, producer and consumer education, and production to improve, maintain, and develop markets for eggs, egg products, spent fowl, and products of spent fowl. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from California (Mr. Sisk) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. Del Clawson) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1100 provides for an open rule with 1 hour of general debate on H.R. 12000, the Egg Research and Consumer Information Act of 1974.

H.R. 12000 allows the egg industry of the United States, with the cooperation of the U.S. Department of Agriculture, to draft and put to referendum a national plan through which individual egg producers might assess themselves up to 5 cents for each case of commercial eggs. Funds received would be used for the purpose of consumer education and information programs, research, advertising, promotion to enhance the utility, desirability, and image of eggs, egg products, spent fowls, and spent fowl products.

H.R. 12000 provides that an egg board, if approved by the referendum, composed of 18 members recommended by certified egg industry organizations and appointed by the Secretary of Agriculture, will control all collected funds and contract with agencies, organizations, and universities, and so forth, for specific work to be done in promotion and research.

Mr. Speaker, I urge the adoption of House Resolution 1100 in order that we may discuss and debate H.R. 12000.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. SISK. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, can the gentleman give us any information with respect to the bill, S. 3231, the poultry indemnification bill? Has that "chicken" bill been scratched?

Mr. SISK. Mr. Speaker, so far as I know, it has been, temporarily. I might say to my good friend, the gentleman from Iowa, by the way, that this is a case of the egg coming before the chicken, inasmuch as we have the egg research and consumer information bill before us for consideration now. I hope the gentleman recognizes that fact.

The bill which the gentleman has just referred to, as I understand it, is off the calendar for this week. I cannot give the gentleman any further information.

Mr. GROSS. Does the bill have a rule?

Mr. SISK. Mr. Speaker, the committee on Rules has brought a resolution out. Of course, that resolution has not been adopted on the floor of the House as yet.

Mr. GROSS. Mr. Speaker, let me ask the gentleman this:

Would it be possible that points of order are waived as far as that bill is concerned, or does the gentleman know?

Mr. SISK. Which bill is the gentleman referring to?

Mr. GROSS. The chicken indemnification bill.

Mr. SISK. As I recall, there will be a waiver in connection with an amendment that will be offered. That is a committee amendment. There is no general waiver on the bill, no.

Mr. GROSS. There is a waiver in connection with some amendment to the bill. Would that be for the purpose of making an amendment germane to the bill?

Mr. SISK. Well, of course, any germane amendment would be in order because the rule, as proposed, will be a completely open rule.

Mr. GROSS. So what is proposed with respect to that bill, if I understand correctly from what the gentleman has said, is to do what we have long and often protested in the House, which is to agree to make an ungermane amendment germane to a Senate bill; is that correct?

Mr. SISK. Yes. We were requested to make in order an amendment by the committee which would require a waiver, or else it would be subject to a point of order, and the Committee on Rules is so recommending that procedure to the floor. Of course, it will be up to the Members, at the time the resolution is called up, as to the disposition of that matter.

Mr. GROSS. So when that matter arrives on the floor of the House we will be in the position of doing what we condemn on the part of the Senate.

Mr. SISK. Well, I suppose, if the gentleman desires to put it that way, we could be considered to be in that position.

Mr. GROSS. Mr. Speaker, I thank the gentleman.

Mr. SISK. Mr. Speaker, I urge the adoption of the resolution.

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as has been noted, House Resolution 1100 provides for an open rule with 1 hour of general debate on the Egg Research and Consumer Information Act, H.R. 12000.

H.R. 12000 is specific enabling legislation which would allow the egg industry, in cooperation with the Department of Agriculture, to draft and put to referendum a national plan through which individual egg producers may assess themselves up to 5 cents for each case—30 dozen—of commercial eggs. These funds would be used for consumer education and information programs, research, advertising, and promotion. This bill would cover participation only of commercial producers with laying flocks of 3,000 or more.

If approved in referendum, an Egg Board, composed of 18 members recommended by certified egg organizations and appointed by the Secretary of Agriculture, will control all collected funds. The Agriculture Department estimates that $7.5 million would be available annually to the Egg Board. All expenditures of the Egg Board must be approved by the Secretary of Agriculture.

Minority views were filed by Mr. Goodling arguing that "H.R. 12000 should be amended to require administrative expenses for operating the egg promotion program to be paid from egg research and promotion checkoff receipts."

Mr. Speaker, I support this rule.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. JONES of Tennessee. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12000) to enable egg producers to establish, finance, and carry out a coordinated program of research, producer and consumer education, and promotion to improve, maintain and develop markets for eggs, egg products, spent fowl, and products of spent fowl.

The motion was agreed to.

The SPEAKER. The Chair designates the gentleman from Indiana (Mr. Brademas) as Chairman of the Committee of the Whole and requests the gentleman from California (Mr. Holifield) to assume the Chair temporarily.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 12000 with Mr. Holifield (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN pro tempore. Under the rule, the gentleman from Tennessee (Mr. Jones) will be recognized for 30 minutes, and the gentleman from Minnesota (Mr. Zwach) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Tennessee.

Mr. JONES of Tennessee. Mr. Chairman, today we have before us a piece of legislation which, believe it or not, is a request from the commercial egg industry for permission to tax itself. This industry wants the Government only to help it design an egg research and promotion program and then hold a referendum on the program.

If this referendum is successful, commercial egg producers would assess themselves up to 5 cents per case of eggs. A case, incidentally, equals 30 dozen eggs. The U.S. Department of Agriculture estimates that should the program become operational, about $7.5 million annually would be raised. Let me point out that there are no Government matching funds or appropriations for the research and promotion programs.

Administrative costs of the Government would be only about $100,000 per year. The initial cost—to hold hearings, design the program, and conduct the referendum—would be about $150,000, a one-time cost. These amounts appear almost insignificant compared to what we spend on other programs.

In an effort to answer questions before they are raised on the floor, I want to bring up some subjects that have caused confusion in our consideration of the bill so far. First, let me say that this bill, the Egg Research and Consumer Information Act, has absolutely no relation to the poultry indemnity bill which has received a lot of publicity. That bill will be brought up at a later date, but today it is important that there is no confusion in your minds on this point. The two bills are not related and each should be judged on its own merit.

Another question which is often raised is why does the program include only producers with 3,000 or more layers. USDA figures show that producers with 3,200 layers or more account for about 87 percent of the U.S. egg supply. The Nation's egg producers range in size from those owning a few laying hens to those owning a million or more. However, even though small producers with fewer than 3,000 layers will not be eligible to vote in the referendum, they will not contribute to the fund either. At the same time, these smaller producers are likely to benefit from the program nevertheless. Benefits from the research programs and the promotion programs will accrue to all egg producers, regardless of the size of their operations. So, the small producers will be benefiting from programs financed by contributions from the larger commercial producers.

Why is such legislation necessary is a question which has been raised by some Members. In response, let me say that the Federal Government has cooperated with numerous other commodities in programs of this type. Currently, there are national programs for potatoes, wheat, cotton, and milk along with regional programs for numerous fruits and vegetables. Many of these self-help commodity programs are conducted under the authorization of the Agricultural Marketing Agreements Act of 1937. Some had to have specific enabling legislation such as H.R. 12000. However, eggs are specifically exempted from the 1937 act, so we have decided that specific enabling legislation would be in order.

Almost every industry and segment of our economy conducts research and promotion programs in order to compete in the marketplace. However, such programs on a national basis are generally beyond the capability and resources of individual egg producers. The great amount of time required in producing and selling eggs has prevented producers from developing and carrying out adequate and coordinated programs of research and promotion necessary for the maintenance of markets, and has prevented them from developing new products to meet consumer demands of variety, convenience, and quality.

Some members have expressed concern about producers who may not desire to participate in the program. First, let me say that at public hearings held in my subcommittee on this bill we found almost 100 percent producer support. However, the program is voluntary nevertheless. In the first place, the producers have to adopt the plan in a referendum. It must pass by either a favorable vote of two-thirds of those producers voting or by a majority of the producers if that majority is responsible for at least two-thirds of the eggs produced. Finally, if an individual producer does not desire to participate in the program, his assessment will be reimbursed upon application. This program is so voluntary that it would have been foolish to design it that way without being confident of producer support. We are confident of that support and believe there will be a high level of participation in it.

The effect of such a program on the retail price of eggs is a question which concerns all of us. This bill will not raise the retail price of eggs. Anyone who has ever sold a farm commodity can tell you that his price was dictated to him. Farmers market their goods in a competitive marketplace. This assessment would be deduced from the amount paid the producer at the point of the first sale. His take-home check will be the market price minus the assessment. This small assessment is not one which will be attached at the bottom and ultimately paid by the consumer. Egg producers will bear the entire cost.

In case you have not had a chance to read the committee report, let me remind you of this fact. The per capita consumption of eggs has decreased drastically since 1950. At that time, the average American was consuming 389 eggs per year. The figure in 1973 was 292 eggs per person. Along with this declining demand the egg industry has been characterized by widely varying prices and levels of production. One of the areas for research likely will be an effort to discover the reasons for fluctuating consumer demand for eggs.

Mr. Chairman, I have tried to clear up some of the points that have previously been raised concerning this bill. Let me say that I like people who try to help themselves. The industry has been working on this proposal for years. When it came to the subcommittee, we accepted the vast majority of the amendments offered by the administration. I believe the administration is satisfied with it. When the bill came to the full committee, it was discussed thoroughly and approved unanimously. I see every reason to support this bill and at this time want to welcome the comments or questions of my colleagues.

Mr. DENHOLM. Mr. Chairman, will the gentleman yield?

Mr. JONES of Tennessee. I yield to the gentleman from South Dakota.

Mr. DENHOLM. Mr. Chairman, I am a member of the House Agriculture Committee, and wish to say that I have been impressed with the unity and support H.R. 12000, the Egg Research and Consumer Information Act, apparently has generated throughout the United States. Egg producers appear to be united in the belief that they can help themselves through a coordinated program, such as H.R. 12000 will permit.

When the Subcommittee on Dairy and Poultry, chaired by my colleague from Tennessee (Ed Jones) scheduled 2 days of public hearings on this legislation, the egg industry came with a single statement endorsed by 41 organizations. Because of their unity, only 1 day of hearings was needed. Among the organizations supporting the egg industry's statement were the South Dakota Poultry Improvement Association, the Midwest Poultry Federation, and the Midwest Egg Producers Cooperative Association. All of these organizations ably represent poultry and egg producers in my State of South Dakota. The spokesman for the industry at the hearings made a statement I think deserves repeating because I think it represents the consensus among egg producers across the country concerning this legislation:

> It is the desire of all of us to have the opportunity to work toward the establishment of this assessment plan and to have the opportunity to vote "yes" or "no" on any plan proposed under this legislation.
>
> It is not our desire to force any egg producer to be a part of the program if he sincerely desires not to support the plan drafted and approved by the majority of his fellow egg producers.

The statement continued:

> We are competitors, and as such, each of us want to be sure that the other man is playing the game by the same rules we are. The proposed legislation sets up the mechanics whereby every commercial egg producer, whether he be in Maine or Florida, Washington or Texas will be on the same assessment basis.

The spokesman characterized this legislation as "an opportunity to cooperate."

I support this legislation because I believe that agricultural producers should be encouraged to work together to accomplish their common goals. In the past we have seen many people come to Congress asking us to solve their problems for them. The Egg Research and Consumer Information Act is a request of the egg producers across America for Congress to give them an opportunity to work collectively toward solving some of their problems themselves. The egg industry is asking for no Federal appropriations, no taxpayers' money to finance projects and programs they believe will aid their industry. They are willing to finance their own programs through an organized assessment system based proportionately equal to each egg producer's production of commercial eggs.

I must point out that this legislation does require an appropriation for the U.S. Department of Agriculture to carry out its responsibilities under this act. But such an appropriation is not unusual and all such funds will be for the expenses of USDA and not egg industry programs. USDA has reported that there are over 20 similar commodity programs under its jurisdiction at the present time.

I commend the egg industry for supporting such a self-help, self-financed program, and I call on my colleagues in the Congress to give them the necessary enabling legislation represented in H.R. 12000 that they need to create this national endeavor.

Mr. JONES of Tennessee. I thank my colleague, the gentleman from South Dakota, and a distinguished member of the Agriculture Committee, for his comments.

Mr. ZWACH. Mr. Chairman, I yield myself such times as I may consume.

Mr. Chairman, first may I pay my compliments to the chairman of the subcommittee who conducted the hearings that brought out this bill. It was a very thorough job. Everybody interested was heard.

This is legislation that is requested by the industry, so far as we know unanimously requested by the industry. They have some problems in that they are scattered all over the United States.

About the only way that they could proceed would be in this manner.

Mr. Chairman, other producers in the United States, the cotton producer, the peanut producer, and many of the vegetable producers, under the marketing agreement have proceeded in similar legislation to carry out coordinated efforts in advertising for the production and consumption of their products. The majority of the producers must approve this legislation and must also represent two-thirds of the egg producers of the country.

Over a 20-year period, the egg consumption in our country has gone from 387 per capita to 306 per capita. There is a real need for improved efficiency in production, in transportation, and in the marketing, and this is what these producers desire.

Mr. Chairman, I have no further requests for time.

Mr. JONES of Tennessee. Mr. Chairman, I yield 2 minutes to my distinguished colleague, the gentleman from Georgia (Mr. MATHIS).

Mr. MATHIS of Georgia. Mr. Chairman, on March 26 of this year, Mr. Robert Lathem, an egg producer in the State of Georgia, and president of the Georgia Egg Association, presented testimony before the House Agriculture Subcommittee on Dairy and Poultry in support of H.R. 12000, the Egg Research and Consumer Information Act. Mr. Lathem presented his statement in behalf of three leading poultry and egg associations in the State of Georgia—the Georgia Egg Association, the Georgia Egg Commission, and the Georgia Poultry Federation.

These three organizations represent the majority of egg producers in my home State, and Mr. Lathem was speaking for all of those producers through a single, unified statement in behalf of this legislation. Georgia is the second largest egg producing State in the United States, and is recognized as the No. 1 poultry producing State of the Nation. Georgia ranks second in egg production behind the great State of California, and is second in broiler production to the fine State of Arkansas, but combined Georgia leads both in total farm income from poultry production.

I think it is noteworthy, Mr. Chairman, that 41 State, regional and national poultry and egg organizations endorsed a single, joint statement in testimony before the Dairy and Poultry Subcommittee. Such unity typifies the broad support H.R. 12000 has received from egg producers across the United States. This legislation represents a request from the Nation's egg producers for this Congress to give them an opportunity to work out their own problems with their own money with the cooperation of the U.S. Department of Agriculture.

The State of Georgia was one of the first States to approve a statewide marketing order setting up a State self-help program for egg producers. The producers have established the Georgia Egg Commission and assess themselves 2 cents per case of eggs. In a recent referendum among Georgia egg producers, the vote to continue the work of the commission passed by an 83-percent majority. This was the fourth such referendum and it has always passed by an overwhelming margin.

In his statement of March 26, Mr. Lathem stated:

> The egg producers of Georgia support their Commission enthusiastically. They pride themselves on the fact that this is a producer-financed organization providing a needed service to the consumers of their state. We believe that a national program would equally benefit the entire nation, and for this reason we urge passage of H.R. 12000.

Mr. Lathem's statement went on to tell how the producer-financed program in the State of Georgia had benefited low-income families through educational programs, how recipe development had brought about greater awareness of nutrition, and how thousands of consumers annually request information from the commission. The commission has financed research into egg quality to constantly try to produce the highest quality egg possible. Mr. Lathem concluded his statement with the observation that—

> While serving as a promotion arm for our state's egg industry, the Commission has, in truth, served in a more vivid way as a consumer-oriented organization.

Georgia egg producers produce approximately 1 million dozen eggs every day, so obviously not all of those eggs are consumed in the State of Georgia. More than half of the eggs produced in my State move out to markets North and West where our producers must depend upon informed consumers to continue using eggs on a steady basis. From the experience gained through their own State promotion and research programs, the egg producers in Georgia definitely feel that the consumer information provided by organizations such as the Georgia Egg Commission should not be bound by State lines and that a national consumer information and education program is needed.

The Egg Research and Consumer Information Act will provide egg producers in the United States with an opportunity to establish a coordinated program of research, promotion, consumer education, and advertising similar to what the egg producers in the State of Georgia established many years ago. I commend the excellent work of the egg producers in my home State, and I commend the Nation's egg producers for seeking this legislation through which they can establish a meaningful program on a national basis.

I encourage my colleagues to join with me in expressing support for the egg industry's desire to develop and finance its own self-improvement programs by voting in favor of H.R. 12000 here today.

Mr. GILMAN. Mr. Chairman, I welcome the opportunity to lend my support to the passage of the Egg Research and Consumer Information Act, a measure that goes a long way toward restoring the egg industry to its rightful competitive place in the marketplace. I commend my good colleague, Chairman ED JONES, of the Dairy and Poultry Subcommittee, for his arduous work on this bill and for his success in rallying full support of the bill from our Nation's egg producers. Poultrymen from my own area of southeastern New York, representing the "Egg Farmers in Real Trouble Association" and the New York State Poultry Industry Coordinated Effort, Inc., have urged the adoption of this type of legislation in our meetings with Department of Agriculture officials.

In recent years, attacks upon the nutritional value of eggs have seriously depressed the egg industry in the United States. A generally depressed egg market, further hampered by incredible feed prices last year, resulted in the wholesale slaughter of chicks and the closing of many large farms. In a period of uncertain domestic food supplies, we cannot stand by and watch the further deterioration of an industry that provides the American consumer with one of its most reasonable, nutritious foods.

This legislation affords egg producers with a framework within which they can choose to assess themselves minimal sums that collectively will be used for purposes of consumer education, information, advertising, and promotion. This self-assessment and cooperation among producers of a commodity has functioned successfully on a national basis in the cotton, potato, lamb's wool, wheat, milk and milk products industries. Similar programs on behalf of 19 additional commodity groups have functioned successfully on State and regional levels.

It is hoped that the lessons learned in these past and ongoing efforts will benefit the American egg industry. Likewise, the advice and counsel of the Department of Agriculture has been and will continue to be of great value. If we are to reverse a trend that has resulted in a decline of consumption of 100 eggs per person per year since 1950, a coordinated effort such as this measure proposes is of the utmost importance.

Accordingly, I urge my colleagues to support this measure.

Mr. BAUMAN. Mr. Chairman, few Americans probably realize how large our egg industry is. It is a fact that those of us in the United States consume more than 60 billion eggs every year, and it is obvious that an industry so large has a major impact on the nutritional value of the diets of each and every one of us.

The bill before us today will provide valuable support for this important industry, contributing significantly to the research and marketing efforts of those in the business of producing eggs. Significantly, this is not another "let the government do it" piece of legislation. Rather, it establishes a cooperative effort between private industry and the Department of Agriculture, an effort to be financed almost entirely by the industry itself. Similar projects involving other commodities, such as peanuts and cotton, provide a precedent for such cooperation.

Similar efforts have already been tried at the State level, and at present 16 States have egg research and promotion programs operating at various levels of success. But it has become clear that a national effort is needed to deal with the problems of fluctuating productivity and price levels, in order to assure a continued supply of fresh eggs to America's consumers.

This will be important to my State of Maryland, as well as the many other States with major segments of the Nation's egg production within their borders. Egg production in Maryland will approach 350 million eggs this year, with a total value of more than $13 million. Much of this production comes from my district, and I am pleased to lend my support to this bill today. It will help insure a productive future for the egg industry in Maryland and throughout the Nation, and a continued supply of fresh eggs for all of us who enjoy them daily.

Mr. STEELE. Mr. Chairman, I would like to take this opportunity to express my support for H.R. 12000, the Egg Research and Consumer Information Act.

The State of Connecticut is not large in egg production, as compared to such major producing States as Georgia, California, Pennsylvania, North Carolina, and others, but in 1972, producers in my State sold 2,556,000 cases of commercial eggs and had a gross income from eggs of $38.7 million. Agriculture is very important in the State of Connecticut, and it is obvious that the egg industry is a major contributor to our State's agricultural economy.

I wish to point out that egg producers in small egg producing States also support H.R. 12000 because it will offer them an opportunity to work with other producers in solving mutual marketing problems. Producers in my State will exercise the same voting power in any referendum as producers in other States, and their voice will be heard in programs of the proposed Egg Board since the Secretary of Agriculture is required to appoint members of the Egg Board both geographically and proportionately equal to the egg producing areas of the country.

Through the past several years, we have witnessed the rapid decline in the numbers of small farms across the United States. In many cases, these small farmers have ceased farming because they could not compete with the larger, more technically informed farming operations. The egg industry in my area of the country is still family-type operations, with many cooperating in centralized, cooperative purchasing and marketing programs. As producers are able to work collectively on common marketing problems, I believe they will be insuring a greater future for all members of the egg industry in the entire United States.

Under the proposed legislation, small producers of 3,000 laying hens or less, will be exempted from paying assessments to the national program, but the benefits of national advertising, promotion, consumer education, and research will accrue to all producers, both small and large. Additionally, any egg producer who does not want to financially support the national program may seek and receive a total refund of any assessments made against his production.

Probably more important than the benefits which will accrue to egg producers are the benefits consumers are likely to receive under this legislation. We are told that market research will give producers answers to the varying consumer preferences and, therefore, aid producers in adopting marketing programs to meet these varying demands. Producers are interested in providing a variety of new ways consumers may use eggs and other products of the egg industry, but individually, they have been unable to develop new recipes, new products, or disseminate information available from outside sources.

I applaud the work of the egg industry in seeking this self-help, self-sustaining legislation. As enabling legislation, it can only be activated by the affected egg producers themselves, working through the U.S. Department of Agriculture, and no program can be voted into existence without the substantial approval of egg producers voting in referendum. I wish also to point out that two leading poultry and egg organizations in the Northeast—the Northeastern Poultry Producers Council and the Northeast Egg Marketing Association—are on record supporting this legislation.

Mr. Chairman, I encourage my colleagues to support this legislation.

Mr. CLEVELAND. Mr. Chairman, as an original cosponsor of H.R. 12000, the Egg Research and Consumer Information Act, I am pleased to vote for its passage and urge my colleagues to join in supporting this measure.

The voluntary program to enable producers to join in cooperative research, consumer education and information activities is widely supported by the industry, including producers in New Hampshire who have requested my support.

Restriction of its provisions to larger producers, the modest 5-cents-per-case levy, the requirement for approval in a referendum and management of the program by industry representatives in cooperation with the Department of Agriculture all strike me as eminently reasonable provisions. It is only fair that we extend to egg producers the same mechanism already available to producers of several other commodities.

I see particular merit in the phase of the program directed toward development of expanded markets for domestic sales and exports abroad. And research efforts leading to product improvement and reduction of losses throughout the distribution chain should benefit consumers as well as producers.

Finally, I consider legislation of this type wholly in keeping with a proper role of Government whereby the Federal agency's supervisory activities are limited under a genuinely self-help program by and for producers. Again, I urge colleagues to join in supporting this program and commend the gentleman from Tennessee (Mr. JONES) for his contribution in authoring this legislation.

Mr. VANIK, Mr. Chairman, I am strongly opposed to the legislation before the House today to create and subsidize egg advertising. As reported by the committee, the administrative costs for this program will cost the American taxpayers $150,000 per year.

It is argued that this Board should be created, since similar boards have been created for other product areas. Where will this process end? Soon we may have boards for every item of produce and manufacture in the Nation. Rather than create new boards, the old ones should be eliminated.

An effort will be made to eliminate the cost to the Treasury of administering this promotion program. Even if this step were taken, I would oppose this legislation. I fear that the creation of a product advertising board will result in the development of a cartel in the industry. It will be conducive to increased "cooperation," marketing coordination, and pricing coordination—in short, the development of a monopoly industry.

It is likely that such an Advertising Board will encourage minimum standards for their products. The result will be that a large amount of produce—such as smaller eggs, for example—will be prevented from entering the marketplace, even though many individuals would need and could use the lower-priced products banned by the cartel.

I urge the defeat of this anticonsumer legislation.

Mr. WAMPLER. Mr. Speaker, I rise in support of H.R. 12000, which deserves the support of the House as well.

The egg producers of this Nation need this bill to help reverse the very sharp drop in per capita egg consumption. In the last 20 years, consumption of eggs has dropped from 387 to 306 eggs per person annually.

H.R. 12000 would authorize the Secretary of Agriculture to issue orders providing for the establishment of an Egg Board. This board would develop, subject to the Secretary's approval, appropriate plans or projects for research, advertising, promotion, and consumer education with respect to eggs, egg products, spent fowl and products of spent fowl, and the disbursement of necessary funds for such purposes. The Secretary would appoint an 18-member Egg Board from qualified nominees representing producers from regions of the United States designated by the Secretary.

The bill requires approval by referendum of egg producers before an order can become effective or to be ended.

The rate of assessment paid by producers and collected by the handlers to support the program authorized by this bill could not exceed 5 cents per case of commercial eggs or the equivalent Certain small egg producers of hatching eggs would be exempt. Producers who do not favor the program would have the right to demand and receive a refund of the assessment.

The egg industry strongly supports this bill and agrees with both the Department and the committee that market promotion, including advertising, will strengthen their position in the marketplace and increase the demand for their commodity.

In brief, Mr. Speaker, the committee has produced a bill that has both bipartisan and administration support.

It will be nearly totally self-financing and should benefit both producers and consumers of eggs.

Mr. LITTON. Mr. Chairman, on behalf of the egg producers in the State of Missouri, it is a pleasure for me to speak in support of H.R. 12000, the Egg Research and Consumer Information Act. It is likewise a pleasure for me to personally endorse the efforts of the egg industry to get the story of their products told to consumers nationwide.

The Missouri Egg Merchandising Council, the Midwest Poultry Federation, Inc., and the Midwest Egg Producers Cooperative Association, all of which represent egg producers' interests in my State, were among the 41 State, regional, and national poultry and egg organizations endorsing a unified industry statement before the House Agriculture Subcommittee on Dairy and Poultry on March 26.

Egg producers in the State of Missouri established a few years ago the Missouri Egg Merchandising Council, and finance it with an assessment of 6 cents per case of eggs produced. This is a tremendous program, I understand, but producers recognize that selling eggs and telling consumers about their products is a job not confined to the borders of the State of Missouri. Therefore, these progressive farmers of Missouri endorsed H.R. 12000 and enthusiastically recommend that this Congress pass this legislation as soon as possible so they can get on with the job before them.

Many Members of Congress are familiar with the campaign I undertook more than a year ago, attempting to organize the Nation's farm organizations into a unified program to tell America's agricultural story to consumers. We have been somewhat successful with this endeavor, and I believe it has stirred several individual commodity groups, such as the egg industry, to seek means through which their own story might be told.

Consumers need to become better informed about their mutual problems with agriculture, but, more importantly, consumers need better nutritional information. The Agricultural Council of America is designed to do part of this job, but individual commodity groups must work toward promoting the nutritional qualities of their products. Telling a positive story is tough and will require cooperation.

Egg producers in Missouri, and other States, have demonstrated what can be done when commodity producers band together to finance promotion, research, consumer education, and advertising. Egg producers in most of the States having State self-help programs, like Missouri, Georgia, North Carolina, and others are in support of H.R. 12000, which would *permit them to* organize a national program with similar goals.

I think H.R. 12000 embraces the attributes of good, self-help legislation. It proposes to permit the egg industry, in cooperation with the Secretary of Agriculture, to draft and vote upon an order to establish a national program for promotion, research, consumer education, and advertising. Such a proposal must be approved by either two-thirds of the producers voting, or by a majority of the producers voting who represent at least two-thirds of the egg production. Even after such an overwhelming vote, producers who do not wish to financially support the national program may request and receive, a full refund of any assessments made against his production. The proposed 18-man Egg Board, appointed by the Secretary, must represent egg producers in all sections of the country and, with the approval of the Secretary, will direct programs and allocate expenditure of collected funds.

In the May issue of Agriculture, U.S.A., published by the Agricultural Council of America, J. Patrick Kaine, president of the Agricultural/Industrial Equipment Division of International Harvester, observed:

> Our behind-the-scenes efforts in producing reliable, economical products make news only in trade magazines we read. But ours is also the responsibility to "spread the good news" in terms, and by means that will catch the consumer's attention—to tell the positive story of agricultural achievement.

I believe the egg industry realizes the need to tell consumers the "positive story" of eggs, egg products, and the industry's many other products. I support this industry self-help proposal, and I encourage the Members of this House to likewise endorse the efforts of the egg industry by voting in favor of this legislation.

Mr. JONES of Tennessee. Mr. Chairman, I have no further requests for time.

Mr. ZWACH. Mr. Chairman, I have no further request for time.

The CHAIRMAN (Mr. BRADEMAS). The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That this Act shall be known as the "Egg Research and Consumer Information Act."

LEGISLATIVE FINDINGS AND DECLARATION OF POLICY

SEC. 2. Eggs constitute one of the basic, natural foods in the diet. They are produced by many individual egg producers throughout the United States. Egg products, spent fowl, and products of spent fowl are derivatives of egg production. These products move in interstate and foreign commerce and those which do not move in such channels of commerce directly burden or affect interstate commerce of these products. The maintenance and expansion of existing markets and the development of new or improved markets and uses are vital to the welfare of egg producers and those concerned with marketing, using, and processing eggs as well as the general economy of the Nation. The production and marketing of these products by numerous individual egg producers have prevented the development and carrying out of adequate and coordinated programs of research and promotion necessary for the maintenance of markets and the development of new products of, and markets for, eggs, egg products, spent fowl, and products of spent fowl. Without an effective and coordinated method for assuring cooperative and collective action in providing for and financing such programs, individual egg producers are unable to provide, obtain, or carry out the research, consumer and producer information, and promotion necessary to maintain and improve markets for any or all of these products.

It has long been recognized that it is in the public interest to provide an adequate, steady supply of fresh eggs readily available to the consumers of the Nation. Maintenance of markets and the development of new markets, both domestic and foreign, are essential to the egg industry if the consumers of eggs, egg products, spent fowl, or products of spent fowl are to be assured of an adequate, steady supply of such products.

It is therefore declared to be the policy of the Congress and the purpose of this Act that it is essential and in the public interest, through the exercise of the powers provided herein, to authorize and enable the establishment of an orderly procedure for the development and the financing through an adequate assessment, an effective and continuous coordinated program of research, consumer and producer education, and promotion designed to strengthen the egg industry's position in the marketplace, and maintain and expand domestic and foreign markets and uses for eggs, egg products, spent fowl, and products of spent fowl of the United States. Nothing in this Act shall be construed to mean, or provide for, control of production or otherwise limit the right of individual egg producers to produce commercial eggs.

DEFINITIONS

SEC. 3. As used in this Act—

(a) The term "Secretary" means the Secretary of Agriculture or any other officer or employee of the Department of Agriculture to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in his stead.

(b) The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

(c) The term "commercial eggs" means eggs from domesticated chickens which are sold for human consumption either in shell egg form or for further processing.

(d) The term "hen" or "laying hen" means a domesticated female chicken twenty weeks of age or over, raised primarily for the production of commercial eggs.

(e) The term "egg producer" means the person owning laying hens engaged in the production of commercial eggs.

(f) The term "case" means a standard shipping package containing thirty dozen eggs.

(g) The term "hatching eggs" means eggs intended for use by hatcheries for the production of baby chicks.

(h) The term "United States" means States of the United States of America.

(i) The term "promotion" means any action, including paid advertising, to advance the image or desirability of eggs, egg products, spent fowl, or products of spent fowl, in an organized campaign or program.

(j) The term "research" means any type of research to advance the image, desirability, marketability, production, or quality of eggs, egg products, spent fowl, or products of spent fowl, and the accumulation and dissemination of statistical and research data with respect thereto.

(k) The term "consumer education" means any action to advance the image or desirability of eggs, egg products, spent fowl, or products of spent fowl, through organized consumer oriented campaigns or programs.

(l) The term "marketing" includes the sale of commercial eggs, egg products, spent fowl, or products of spent fowl, in any channel of commerce.

(m) The term "commerce" means interstate, foreign, or intrastate commerce.

(n) The term "egg products" means commercial products produced, in whole or in part, from shell eggs.

(o) The term "spent fowl" means hens which have been in production of commercial eggs and have been removed from such production through slaughter.

(p) The term "products of spent fowl" means commercial products produced from spent fowl.

(q) The term "hatchery operator" means any person engaged in the production of egg-type baby chicks.

(r) The term "started pullet" means a hen less than twenty weeks of age.

(s) The term "started pullet dealer" means any person engaged in the raising and sale of started pullets.

(t) The term "processor" means any person engaged in the operation of assembling, receiving, grading, packing, or breaking of commercial eggs.

(u) The term "breaker" means a person engaged in the further processing of commercial eggs.

(v) The term "distributor" means a person engaged in the sale and/or distribution of commercial eggs.

EGG RESEARCH AND PROMOTION ORDERS

SEC. 4. To effectuate the declared policy of this Act, the Secretary shall, subject to the provisions of this Act, issue and from time to time amend, orders applicable to persons engaged in the hatching and/or sale of egg-type baby chicks and started pullets, persons engaged in the production and marketing of commercial eggs, processors, breakers, and distributors of commercial eggs, and persons engaged in the purchase, sale or processing of spent fowl. Such orders shall be applicable to all production or marketing areas, or both, in the United States.

NOTICE AND HEARING

SEC. 5. Whenever the Secretary has reason to believe that the issuance of an order will tend to effectuate the declared policy of this Act, he shall give due notice and opportunity for hearing upon a proposed order. Such hearing may be requested and proposal for an order submitted by an organization certified pursuant to section 16 of this Act, or by any interested person affected by the provisions of this Act, including the Secretary.

FINDING AND ISSUANCE OF AN ORDER

SEC. 6. After notice and opportunity for hearing as provided in section 5, the Secretary shall issue an order if he finds, and sets forth in such order, upon the evidence introduced at such hearing, that the issuance of such order and all the terms and conditions thereof will tend to effectuate the declared policy of this Act.

PERMISSIVE TERMS IN ORDERS

SEC. 7. Orders issued pursuant to this Act shall contain one or more of the following terms and conditions, and except as provided in section 8, no others.

(a) Providing for the establishment, issuance, effectuation, and administration of appropriate plans or projects for the advertising of, sales promotion of, and consumer education with respect to the use of eggs, egg products, spent fowl, and products of spent fowl, and for the disbursement of necessary funds for such purposes; *Provided, however,* That any such plan or project shall be directed toward increasing the general demand for eggs, egg products, spent fowl, or products of spent fowl. No reference to a private brand or trade name shall be made if the Secretary determines that such reference will result in undue discrimination against eggs, egg products, spent fowl, or products of spent fowl of other persons: *And provided further,* That no such advertising, consumer education, or sales promotion programs shall knowingly make use of false or unwarranted clauses in behalf of eggs, egg products, spent fowl, or products of spent fowl or false or unwarranted statements with respect to quality, value, or use of any competing product.

(b) Providing for, establishing, and carrying on research, marketing, and development projects, and studies with respect to sale, distribution, marketing, utilization, or production of eggs, egg products, spent fowl, and products of spent fowl, and the creation of new products thereof, to the end that the marketing and utilization of eggs, egg products, spent fowl, and products of spent fowl may be encouraged, expanded, improved or made more acceptable, and that producers of said products shall be informed of data collected by such activities and for the disbursement of necessary funds for such purposes.

(c) Providing that hatchery operators, persons engaged in the sale of egg-type baby chicks and started pullet dealers, egg producers, breakers, processors, persons marketing commercial eggs and persons engaged in the purchase, sale, or processing of spent fowl, maintain and make available for the inspection such books and records as may be required by any order issued pursuant to this Act and for the filing of reports by such persons at the time, in the manner, and having content prescribed by the order, to the end that information and data shall be made available to the Egg Board and to the Secretary which is appropriate or necessary to the effectuation, administration or enforcement of the Act, or of any order or regulation issued pursuant to this Act: *Provided, however,* That all information so obtained shall be kept confidential by all officers and employees of the Department of Agriculture, the Egg Board, and by all officers and employees of contracting agencies having access to such information, and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary, or to which he or any officer of the United States is a party, and involving the order with reference to which the information so to be disclosed was furnished or acquired. Nothing in this section shall be deemed to prohibit (1) the issuance of general statements based upon the reports of the number of persons subject to an order or statistical data collected therefrom, which statements do not identify the information furnished by any person, (2) the publication, by direction of the Secretary, of the name of any person or persons requesting and receiving refunds, together with a statement concerning amount of refund and general statements relating to total refunds made by the Egg Board during any specific period, or (3) the publication by direction of the Secretary of the name of any person violating any order, together with a statement of the particular provisions of the order violated by such person, or company. Any such officer or employee violating the provision of this subsection shall, upon conviction, be subjected to a fine of not more than $1,000 or to imprisonment for not more than one year, or to both, and shall be removed from office.

(d) Terms and conditions incidental to and not inconsistent with the terms and conditions specified in this Act and necessary to effectuate the other provisions of such order.

REQUIRED TERMS IN ORDERS

SEC. 8. Orders issued pursuant to this Act shall contain the following conditions: (a) Providing for the establishment and appointment, by the Secretary, of an Egg Board which shall consist of not more than eighteen members, and alternates therefor, and defining its powers and duties which shall include only the powers (1) to administer such order in accordance with its terms and provisions, (2) to make rules and regulations to effectuate the terms and provisions of such order, (3) to receive, investigate and report to the Secretary complaints of violations of such order, and (4) to recommend to the Secretary amendments to such order. The term of an appointment to the Egg Board shall be for two years with no member serving more than six consecutive years, except that initial appointment shall be proportionately for two, four, and six years.

(b) Providing that the Egg Board, and alternates therefor, shall be composed of egg producers or representatives of egg producers appointed by the Secretary from nominations submitted by eligible organizations, associations, or cooperatives, and certified pursuant to section 16, or, if the Secretary determines that a substantial number of producers are not members of or their interests are not represented by any such eligible organizations, associations or cooperatives, then from nominations made by such egg producers in the manner authorized by the Secretary, so that the representation of egg producers on the Board shall reflect, to the extent practicable, the proportion of eggs produced in each geographic area of the United States as defined by the Secretary: *Provided, however,* That each such egg producing geographic area shall be entitled to at least one representative on the Egg Board.

(c) Providing that the Egg Board shall, subject to the provisions of subsection (g) of this section, develop and submit to the Secretary for his approval any advertising, or sales promotion, research, and development plans or projects, and that any such plan or project must be approved by the Secretary before becoming effective.

(d) Providing that the Egg Board shall, subject to the provisions of subsection (g) of this section, submit to the Secretary for his approval budgets on a fiscal period basis of its anticipated expenses and disbursements in the administration of the order, including probable costs of advertising, and promotion, research, and development projects.

(e) Providing that each egg producer shall pay to the first processor of such producer's eggs, an assessment based upon the number of cases of commercial eggs processed for the account of such producer, in the manner as prescribed by the order, for such expenses and expenditures—including provision for a reasonable reserve—as the Secretary finds are reasonable and likely to be incurred by the Egg Board under the order during any period specified by him. Such processor shall collect such assessment from the producer and shall pay the same to the Egg Board in the manner as prescribed by the order. The rate of assessment prescribed by the order shall not exceed 5 cents per case of commercial eggs or the equivalent thereof. Such assessment may also be levied against foreign commercial eggs, entering the United States domestic markets, by the Secretary as he may deem advisable pursuant to provisions of the order.

(f) Providing that the Egg Board shall maintain such books and records and prepare and submit such reports from time to time, to the Secretary as he may prescribe, and for appropriate accounting by the Egg Board with respect to the receipt and disbursement of all funds entrusted to it.

(g) Providing that the Egg Board, with the approval of the Secretary, shall provide by contract or otherwise for the administration, development and carrying out of the activities authorized under the order pursuant to section 7 (a) and (b) and for the payment of the cost thereof with funds collected pursuant to the order. Any such contract shall become effective upon approval by the Secretary and shall provide that the contracting party shall keep accurate records of all of its transactions and make an annual report to the Egg Board of activities carried out and an accounting for funds received and expended, and such other reports as the Secretary may require.

(h) Providing that no funds collected by the Egg Board under the order shall in any manner be used for the purpose of influencing governmental policy or action, except as provided by subsection (a) (4) of this section.

REQUIREMENT OF REFERENDUM AND EGG PRODUCER APPROVAL

SEC. 9. The Secretary shall conduct a referendum among egg producers not exempt hereunder who, during a representative period determined by the Secretary, have been engaged in the production of commercial eggs, for the purpose of ascertaining whether the issuance of an order is approved or favored by such producers. No order issued pursuant to this Act shall be effective unless the Secretary determines that the issuance of such order is approved or favored by not less than two-thirds of the producers voting in such referendum, or by the producers of not less than two-thirds of the commercial eggs produced during the representative period by producers voting in such referendum.

SUSPENSION AND TERMINATION OF ORDERS

SEC. 10. (a) The Secretary shall, whenever he finds that any order issued under this Act, or any provisions thereof, obstructs or does not tend to effectuate the declared policy of this Act, terminate or suspend the operation of such order or such provisions thereof.

(b) The Secretary may conduct a referendum at any time, and shall hold a referendum on request of 10 per centum or more of the number of egg producers voting in the referendum approving the order, to determine whether such producers favor the termination or suspension of the order, and he shall suspend or terminate such order six months after he determines that suspension or termination of the order is approved or favored by a majority of the egg producers voting in such referendum who, during a representative period determined by the Secretary, have been engaged in the production of commercial eggs, and who produced more than 50 per centum of the volume of eggs produced by the egg producers voting in the referendum.

(c) The termination or suspension of any order, or any provision thereof, shall not be considered an order within the meaning of this Act.

PROVISIONS APPLICABLE TO AMENDMENTS

Sec. 11. The provisions of this Act applicable to orders shall be applicable to amendments to orders.

EXEMPTIONS

Sec. 12. The following shall be exempt from this Act:

(a) Any egg producer whose aggregate number of laying hens at any time prior to assessment has not exceeded three thousand laying hens.

(b) Any flock of breeding hens whose production of eggs is primarily utilized for the hatching of baby chicks.

(c) Commercial eggs of foreign origin not exceeding one hundred cases in any one entry into the United States.

PRODUCER REFUND

Sec. 13. Notwithstanding any other provisions of this Act, any egg producer against whose commercial eggs any assessment is made and collected from him under authority of this Act and who is not in favor of supporting the research and promotion program as provided for herein shall have the right to demand and receive from the Egg Board a refund of such assessment: *Provided,* That such demand shall be made personally by such producer in accordance with regulations and on a form and within a time period prescribed by the Board and approved by the Secretary but in no event more than thirty days and upon submission of proof satisfactory to the Board that the producer paid the assessment for which refund is sought, and any such refund shall be made within sixty days after demand is received therefor.

PETITION AND REVIEW

Sec. 14. (a) Any person subject to any order may file a written petition with the Secretary, stating that any such order or any provisions of such order or any obligations imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Secretary. After such hearing, the Secretary shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(b) The district courts of the United States in any district in which such person is an inhabitant, or has his principal place of business, are hereby vested with jurisdiction to review such ruling, providing a complaint for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering to him a copy of the complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to subsection (a) of this section shall not impede, hinder, or delay the United States or the Secretary from obtaining relief pursuant to section 15(a) of this Act.

ENFORCEMENT

Sec. 15. (a) The several district courts of the United States are vested within jurisdiction specifically to enforce, and to prevent and restrain any person from violating any order or regulation made or issued pursuant to this Act. Any civil action authorized to be brought under this Act shall be referred to the Attorney General for appropriate action.

(b) Any egg producer or other person who willfully violates any provision of any order issued by the Secretary under this Act, or who willfully fails or refuses to collect or remit any assessment or fee duly required of him thereunder, shall be liable to a penalty of not more than $1,000 for each such offense which shall accrue to the United States and may be recovered in a civil suit brought by the United States: *Provided,* That (a) and (b) of this section shall be in addition to, and not exclusive of, the remedies provided now or hereafter existing at law or in equity.

CERTIFICATION OF ORGANIZATIONS

Sec. 16. The eligibility of any organization to represent commercial egg producers of any egg producing area of the United States to request the issuance of an order under section 5, and to participate in the making of nominations under section 8(b) shall be certified by the Secretary. Certification shall be based, in addition to other available information, upon a factual report submitted by the organization which shall contain information deemed relevant and specified by the Secretary for the making of such determination, including, but not limited to, the following:

(a) Geographic territory covered by the organization's active membership,

(b) Nature and size of the organization's active membership, proportion of total of such active membership accounted for by producers of commercial eggs, a chart showing the egg production by State in which the organization has members, and the volume of commercial eggs produced by the organization's active membership in each such State,

(c) The extent to which the commercial egg producer membership of such organization is represented in setting the organization's policies,

(d) Evidence of stability and permanency of the organization,

(e) Sources from which the organization's operating funds are derived,

(f) Functions of the organization, and

(g) The organization's ability and willingness to further the aims and objectives of this Act: *Provided, however,* That the primary consideration in determining the eligibility of an organization shall be whether its commercial egg producer membership consists of a substantial number of egg producers who produce a substantial volume of commercial eggs. The Secretary shall certify any organization which he finds to be eligible under this section and his determination as to eligibility shall be final. Where more than one organization is certified in any geographic area, such organizations may caucus to determine the area's nominations under section 8(b).

REGULATIONS

Sec. 17. The Secretary is authorized to make regulations with force and effect of law, as may be necessary to carry out the provisions of this Act and the powers vested in him by this Act.

INVESTIGATIONS; POWER TO SUBPENA AND TAKE OATHS AND AFFIRMATIONS; AID OF COURTS

Sec. 18. The Secretary may make such investigations as he deems necessary for the effective carrying out of his responsibilities under this Act or to determine whether an egg producer, processor, or other seller of commercial eggs of any other person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provisions of this Act, or of any order, or rule or regulation issued under this Act. For the purpose of such investigation, the Secretary is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and document which are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obley a subpena to, any person, including an egg producer, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found.

SEPARABILITY

Sec. 19. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby

AUTHORIZATION

Sec. 20. There is hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated such funds as are necessary to carry out the provisions of this Act. The funds so appropriated shall not be available for payment of the expenses or expenditures of the Egg Board in administering any provisions of any order issued pursuant to the terms of this Act.

EFFECTIVE DATE

Sec. 21. This Act shall take effect upon enactment.

Mr. JONES of Tennessee [during the reading]. Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

Mr. JONES of Tennessee. Mr. Chairman, I ask unanimous consent that the committee amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The Clerk read the committee amendments as follows:

Committee amendments:

Page 4, line 6, following the words "commercial eggs", insert the words "or eggs".

Page 4, line 8, following the word "processing", strike the period and add the phrase "into egg products.".

Page 4, line 19, delete the word "fifty" and insert the words "the forty-eight contiguous"; and following the word "America" on line 20, delete the period, and insert the words, "and the District of Columbia."

Page 4, line 24, following the word "spent fowl", the second time it appears, insert a period and delete the remainder of the sentence.

Page 5, line 4, following the word "fowl", insert a period and delete the remainder of the sentence.

Page 5, line 8, following the words "spent fowl", the second time it appears, insert a period and delete the remainder of the sentence.

Page 5, line 10, delete the words "includes the sale" and insert in lieu thereof the words "means the sale or other disposition".

Page 5, line 15, delete the word "commercial".

Page 5, line 16, delete the word "shell".

Page 5, line 19, delete the word "through" and insert in lieu thereof the word "for".

Page 6, line 2, delete the words "raising and".

Page 6, lines 3 through 13, following the word "term" delete the remainder of the subsection, and subsections (u) and (v) in their entirety, and insert the words "'handler' means any person, specified in the order or the rules and regulations issued thereunder, who receives or otherwise acquires eggs from an egg producer, and processes, prepares for marketing, or markets such eggs, including eggs of his own production.".

Page 6, lines 19 and 20, delete the words "and marketing", and following the word "eggs" on line 20, delete the phrase "processors, breakers, and distributors of commercial eggs" and insert in lieu thereof the words "and persons who receive or otherwise acquire eggs from such persons and who process, prepare for market, or market such eggs, including eggs of their own production,".

Page 7, line 23, delete the words "for the advertising of, sales promotion of," and insert in lieu thereof the words "for advertising, sales promotion,".

Page 8, line 12, delete the word "knowingly".

Page 8, line 17, following the word "marketing", insert a comma.

Page 8, line 23, following the word "and" delete the words "that producers of said products shall be informed of data collected by such activities," and insert in lieu thereof, "the data collected by such activities may be disseminated".

Page 9, line 5, delete the words "egg producers, breakers, processors, persons marketing commercial eggs" and insert in lieu thereof the words "persons engaged in the production of commercial eggs and persons who receive or otherwise acquire eggs from such persons and who process, prepare for market such eggs, including eggs of their own production,".

Page 10, lines 11 through 13, delete the words "the name of any person or persons requesting and receiving funds, together with a statement concerning amount of refund and".

Page 10, line 14, delete the word "total".

Page 10, line 18, following the word "person" insert a period and delete the remainder of the sentence.

Page 10, line 22, following the word "and" insert the words "if an officer or employee of the Egg Board or Department of Agriculture".

Page 11, line 24, following the word "of" insert the word "egg".

Page 12, line 2, following the word "by" insert the words "such egg".

Page 12, line 12, after the word "advertising" delete the word "or" and insert a comma in lieu thereof.

Page 12, line 13, following the word "promotion" insert a comma, delete the word "or", the first time it appears in such line, and insert in lieu thereof the words "consumer education," and insert a comma following the word "research".

Page 12, line 20, insert a comma following the word "advertising".

Page 12, line 21, delete the words "and promotion and research" and insert in lieu thereof the words "promotion, consumer education, research,".

Page 12, line 24, delete the words "first processor of such producer's eggs," and insert in lieu thereof the words "handler of eggs designated by the order or the Egg Board pursuant to regulations issued under the order,".

Page 13, line 2, delete the word "processed" and insert in lieu thereof the word "handled".

Page 13, line 7, delete the word "processor" and insert in lieu thereof the word "handler".

Page 13, lines 12 through 15, delete the sentence beginning with the words "Such assessment" and insert in lieu thereof the following sentences:

"To facilitate the collection of such assessments, the order or the Egg Board may designate different handlers or classes of handlers to recognize differences in marketing practices or procedures utilized in the industry. The Secretary may maintain a suit against any person subject to the order for the collection of such assessment, and the several District Courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy."

Page 14, line 5, delete the words "shall provide by contract or otherwise for the administration, development," and insert in lieu thereof the words "may enter into contracts or agreements for development".

Page 14, line 10, following the period, delete the balance of line 10 and line 11 in its entirety, and insert in lieu thereof the following:

"Any such contract or agreement shall provide that such contractors shall develop and submit to the Egg Board a plan or project together with a budget or budgets which shall show estimated costs to be incurred for such plan or project, and that any such plan or project shall become effective upon the approval of the Secretary, and further,".

Page 14, line 19, delete the words "an annual report" and insert in lieu thereof the words "periodic reports".

Page 15, following line 3, insert the following new subsection:

"(i) Providing the board members, and alternates therefor, shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Board."

Page 15, line 18, delete, following the word "or" the balance of Section 9 and insert in lieu thereof the following: "by a majority of the producers voting in such referendum if such majority produced not less than two-thirds of the commercial eggs produced during a representative period defined by the Secretary."

Page 15, line 10, delete line 10 in its entirety, and insert in lieu thereof:

"SEC. 12. The following may be exempt from specific provisions of this Act under such conditions and procedures as may be prescribed in the order or rules and regulations issued thereunder."

Page 17, line 7, delete following the word "during" the balance of the subsection and insert in lieu thereof the following words: "a three consecutive month period immediately prior to the date assessments are due and payable has not exceeded 3,000 laying hens."

Page 17, lines 13 and 14, delete subsection (c) in its entirety.

Page 17, lines 19 and 20, delete the words "research and promotion program" and insert in lieu thereof the word "programs".

Page 18, line 1, following the word "days" insert the phrase: after the end of the month in which the assessments are due and collectable,

Page 19, line 15, following the word "action" delete the period and insert in lieu thereof the following: ": *Provided,* That nothing in this Act shall be construed as requiring the Secretary to refer to the Attorney General minor violations of this Act whenever he believes that the administration and enforcement of the program would be adequately served by suitable written notice or warning to any person committing such violation."

Mr. JONES of Tennessee (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The CHAIRMAN. The question is on the committee amendments.

The committee amendments were agreed to.

AMENDMENT OFFERED BY MR. GOODLING

Mr. GOODLING. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GOODLING: Page 13, line 5, after the words "reasonable reserve" insert the words "and those administrative costs incurred by the Department after an order has been promulgated under this Act".

Mr. GOODLING. Mr. Chairman, in a very short while this House in all probability will again be asked to raise the debt ceiling and I think we are talking in terms of $505 billion. This is necessary because the Congress of the United States, as I have said here on a great many occasions, has been completely irresponsible fiscally in the last few years. What I am proposing to do here is to save $100,000 a year to the taxpayers of the United States. I realize that is a very small amount but it is time we started saving both small amounts and large amounts.

Someone may say, and I can steal his thunder from him right now. We do have precedent for what we are doing here, asking the taxpayers to pick up the tab for a particular commodity group to advertise its product. I agree completely that there is a precedent for this, but for heaven's sake, let us quit multiplying bad precedents and let us start establishing some good precedents. Why should we not start a good precedent? Probably we could go back and correct some of the things which have been done in the past that were bad. I would like to see the House establish a good precedent today.

When this bill was reported out of the committee I had many calls from the people in my State of Pennsylvania complimenting me and thanking me for helping to get this bill out of the Agriculture Committee. I told everyone what I proposed to do with this amendment and every last one in Pennsylvania to whom I spoke over the telephone told me I was absolutely right and they all thought they should pay their own freight.

Mr. PEYSER. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from New York.

Mr. PEYSER. Mr. Chairman, I would

like to ask the gentleman if he has any idea how much money will be collected overall by the egg producers in this country?

Mr. GOODLING. It has been estimated that under this bill the egg producers will collect about $7.5 million annually.

Mr. PEYSER. Would it be reasonable to assume that the $100,000 cost will not really hurt their program at all if they were to pay for it out of their funds as we suggest? Would it be unreasonable to expect them to pay the $100,000?

Mr. GOODLING. As the gentleman knows, this $100,000 will not adversely affect the fund. My amendment proposes that it will come out of this $7.5 million fund that will be raised under this fund.

Mr. PEYSER. I would suggest that the gentleman has a very good answer to the problem and a very good method of saving $100,000.

Mr. GOODLING. I see absolutely no sound or logical reason why the taxpayers of the United States should pick up the tab for advertising and doing research on one particular farm commodity.

I trust the membership of this House will vote for this amendment.

Mr. JONES of Tennessee. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I shall not take 5 minutes. Let me say to the Members of this House and to my good friend, the gentleman from Pennsylvania (Mr. Goodling) that the committee did consider this proposal. It was believed, however, that the precedent should begin somewhere else, rather than the small amount of money that is involved in this particular piece of legislation we have here today.

My good friend, the gentleman from Pennsylvania, offered the amendment in the committee. It was discussed and was defeated. For that reason, Mr. Chairman, I feel we should stay with the bill and vote down this amendment.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. JONES of Tennessee. I will be glad to yield to the gentleman from Pennsylvania.

Mr. GOODLING. Will the gentleman admit we did establish a bad precedent when we set up these programs years ago?

Mr. JONES of Tennessee. I will not admit we did. I do not think we did, because when all our marketing programs began, we had surpluses of all kinds in this country. Some help had to be given to the agricultural sector of this country if we were to survive. If we want to do something about saving the U.S. Department of Agriculture, which is you and me and the rest of us, to save some money, we should begin somewhere else, rather than just a mere $100,000 when we offer a bill to help the egg producers today who are in dire straits.

Mr. GOODLING. When the gentleman says a mere $100,000, I insist if we are collecting $7.5 million, the egg producers in this country should be willing to pick up the tab for that "mere" $100,000.

I might further suggest that in our apple-growing profession we have programs in the various States and in each case growers are picking up the tab for them. We are not asking the taxpayers of the United States to help us advertise our apples. In my opinion, that is what the egg producers should do and the egg producers in my State are willing to do.

Mr. JONES of Tennessee. If the egg producers in the State of Pennsylvania particularly want to do that, we can work that out, too; but I think overall in this country of ours we need to go ahead with what we have.

I ask for the defeat of the amendment.

Mr. BAKER. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I am reluctant to disagree with my colleague, the gentleman from Tennessee, who has done an excellent job as chairman of the subcommittee and does an excellent job of representing the people of his district. I know him to be a fair man and an understanding man; however, this seems to be an excellent place to start in setting a precedent. I believe the farmers would be more willing than any group I know of to commence efforts of this sort. We are talking about $100,000 out of $7.5 million. That leaves $7,400,000 to commence this program and it certainly seems to me to be a proper means of funding the whole program to relieve the Department of Agriculture of any expense.

I would hope that down the road we could eliminate Department expenditures for other similar programs, because I believe elements of the industry involved want to bear their own expenses. They are getting basically good value out of it, as well as the consuming public.

I support the amendment of the gentleman from Pennsylvania.

Mr. GUNTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is a pleasure for me to speak in behalf of H.R. 12000, the Egg Research and Consumer Information Act. The commercial egg producers in the State of Florida have indicated solid support for this self-help legislation. The Florida Poultry Federation, Inc., the producer-oriented poultry organization representing all phases of the poultry and egg industry in the State of Florida, was among the 41 State, regional, and national organizations endorsing the unified statement of the egg industry supporting H.R. 12000 when hearings were held before the House Agriculture Subcommittee on Dairy and Poultry on March 26, 1974.

Even though the State of Florida is known for its sunshine and citrus fruit, I am happy to use this opportunity to point out that Florida is also one of America's leading egg producing States. According to statistics of the U.S. Department of Agriculture, in 1972 producers in my State realized a gross income of $58,930,000 from the production of eggs. More than 2.8 billion eggs were produced in Florida in 1972, and I am told that 1972 was a bad year.

As I understand the proposed legislation, the egg industry is asking for enabling legislation which will permit them to help themselves. They are saying to this Congress: "We want to continue marketing our product as individuals; we want to collectively tell consumers about our product and create new products from eggs to meet consumer demand; and we want to pay the tab ourselves."

What the commercial egg producers need is the Federal Government to set up the machinery through which this collective action can be legally conducted. As H.R. 12000 is written, the egg industry is inviting the Government to monitor all the programs they intend to carry out, they want the Secretary of Agriculture to oversee the recommendations of their Egg Board to be sure every egg producer's interest is served, and they want to assure the consumers of their products that the egg industry is interested in developing new products and services to meet the consumer's desires and wishes.

In the State of Florida, citrus fruit growers have witnessed what can be done when a commodity group bands together, with the cooperation of the United States and State Departments of Agriculture, to advertise, promote, and do research in the interest of itself and the consumers of their products. Other success stories can be related by other Members of Congress in whose districts agricultural producers have assessed themselves a portion of their sales in order to conduct coordinated programs to enhance the image of their product.

Many self-help commodity programs are carried out under the authorization of the Agricultural Marketing Agreements Act of 1937. The egg industry is specifically exempted from that act. I understand the egg industry decided to seek the specific legislation represented by H.R. 12000 rather than attempt to amend the Agricultural Marketing Agreements Act of 1937 because the egg industry did not desire any form of marketing controls as are authorized by that legislation. The egg industry, with the help of our colleague, Representative Ed Jones of Tennessee, drafted specific legislation to fit the needs of the commercial egg industry without risking marketing controls. Mr. Jones is to be commended for the excellent job he has done.

I think the provisions of this legislation clearly spells out the fact that the egg industry desires only to help itself with its own marketing problems. These problems must first be recognized and an order drafted through the cooperation of the Secretary of Agriculture. Such order must be approved in a referendum of affected producers where approval requires two-thirds of those voting, or a majority vote of producers who collectively own at least two-thirds of the commercial eggs produced. Even after such an overwhelming vote of approval there are provisions in this legislation giving any egg producer who does not wish to participate the right to apply for, and receive, a full refund. Certainly, these are safeguard provisions which can assure this Congress that the egg industry wishes only an opportunity to cooperate among its members to carry out, collectively, work the individual members themselves cannot handle alone.

There has been some comments made about the appropriation requested by the U.S. Department of Agriculture. The Department has indicated it will cost $150,000 the first year to set up the program, conduct hearings, and conduct a national referendum. Then, it is estimated by USDA that it will cost $100,000 each year thereafter for it to carry out its duties under this act. Such a request is not unusual and it has traditionally been accepted that it was the duty of the Department of Agriculture to administer such commodity legislation. There are at least 5 national and 19 regional or local commodity programs currently under the jurisdiction of the U.S. Department of Agriculture for which there are appropriations to the Department sufficient to meet its administrative needs. The egg industry is not seeking any special treatment and certainly it does not wish to become the first and only commodity group which must finance the administrative costs of the Department of Agriculture.

There will be benefits accruing to the Department as it administers this program. Monthly, the Department will have access to reliable statistics on the number of farms producing commercial eggs, the number of commercial egg laying chickens on farms of America, the number of eggs produced, the trends in egg production, and numerous other bits of statistical information which are now unavailable to the Department. Such statistical benefits must certainly be valued higher than the appropriation request for this program.

Mr. Chairman, I could continue at length expounding on the need for, and benefits of, this legislation, but I don't think it is necessary. I am proud to have been a sponsor of this legislation, and I am proud of any group that comes to this Congress saying: "Let us help ourselves." I encourage all the Members of Congress to answer this request with an affirmative reply.

Thank you, Mr. Chairman.

Mr. **GROSS**. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I want to join in supporting the gentleman from Pennsylvania (Mr. GOODLING) and commend him for the amendment which he has offered.

I know of no reason, no logical argument why the administrative costs should not be paid from the check-off imposed on egg producers. As a matter of fact, I wonder about the purpose of this bill. An egg is an egg. There is nothing else like it among all foods. It is unique. What is the competition, the substitute for an egg? What is the purpose by way of advertising to promote the use of eggs?

I eat eggs when I am hungry for them, I know they are nutritious and I know there is no substitute. So, I seriously question Federal legislation that would pave the way for taking $7,500,000 out of the pockets of egg producers and at the same time soak the taxpayers for $100,000 a year to pay the administrative expenses. If egg producers feel they need a promotion campaign let them get together in a voluntary check-off campaign and pay the bills in connection with it.

Mr. **MATHIS** of Georgia. Mr. Chairman, will the gentleman yield?

Mr. **GROSS**. Mr. Chairman, I yield to the gentleman from Georgia.

Mr. **MATHIS** of Georgia. Mr. Chairman, I would say to my good friend from Iowa that the origination of the idea of this legislation does not come from the members of this committee, but from the egg producers themselves. They are the people who want to increase the advertising and promotion for eggs and egg research. This is a bill offered by the egg producers and for the egg producers of America.

Mr. **GROSS**. But the Agriculture Committee does not mind telling other producers if it thinks they are wrong in their promotional efforts. Simply because certain egg producers want something does not necessarily mean that Congress must pass legislation to accommodate them.

Mr. **MATHIS** of Georgia. The gentleman is eminently correct; we do not have to do that. I think this committee decided that the egg producers were right. This is a self-help bill to increase the income from the commodity, as I am sure the gentleman knows, including wheat.

Mr. **GROSS**. Mr. Chairman, I can see television, radio, and the newspapers picking up a nice piece of change out of this for alleged promotional purposes, and I say again, for what reason I do not know.

Mr. **MATHIS** of Georgia. The gentleman says an egg is an egg is an egg. The same might be said about a Member of Congress. A Congressman is a Congressman is a Congressman, but that ain't necessarily so either.

Mr. **GROSS**. But there is a little difference. There is always a substitute for a Member of Congress.

Mr. **MATHIS** of Georgia. I think the gentleman might be safe in saying that some of them might be egg-headed.

Mr. **GROSS**. That could be true.

Mr. Chairman, I reiterate by support for the amendment and hope it will be approved but I have every expectation of voting against the bill on final passage for I can find no justification for it.

Mr. **FINDLEY**. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, this amendment, I think, will improve the bill, but I would hate to have anyone be under the impression that it would make a good bill out of the legislation. This bill, like several others that have been approved by the House, raises the fundamental question of whether we should use the sanction of the law to require unwilling producers to contribute to the cost of promoting their products.

The gentleman from Iowa alluded to the possibility that the egg producers want this legislation. Do they all want it? If they all want it, there is certainly no need for the legislation. They could voluntarily arrange for the checkoff and not have the force of law behind it. The fact is, they do not all want it.

There are some who choose not to chip into this commodity promotion scheme. It seems to me it is far wiser for us to leave this type of promotion to voluntary action. I recognize there is a precedent for this legislation, but I think it is a bad precedent and never too late to correct a previous mistake.

Mr. **MATHIS** of Georgia. Mr. Chairman, will the gentleman yield?

Mr. **FINDLEY**. I yield to the gentleman.

Mr. **MATHIS** of Georgia. Mr. Speaker, as the gentleman from Illinois well knows, there is a provision for a referendum in section nine of this bill.

Mr. **FINDLEY**. Yes, I am aware of that, but the referendum does not require 100 percent approval, and those who vote "no" but are nevertheless in the minority are compelled by the language to participate in the checkoff.

Mr. **MATHIS** of Georgia. If the gentleman will yield further, I would suggest that there is a section on page 17, and I will read it to the gentleman:

> Notwithstanding any other provisions of this act, any egg producer against whose commercial eggs any assessment is made and collected from him under authority of this act and who is not in favor of supporting the programs as provided for herein shall have the right to demand and receive from the Egg Board a refund of such assessment.

Mr. **FINDLEY**. Mr. Chairman, I know that such a procedure is provided in the law, and is provided in several other similar programs. The fact is that it is a rather cumbersome procedure that discourages producers from seeking the refund. I think it is far better to skip the assessment.

Mr. **RANDALL**. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time to inquire of the floor manager, if I may have the gentleman's attention, whether or not the amendment of the gentleman from Pennsylvania provides that all the expenses of administration would have to be borne entirely by the egg industry.

If I understand it correctly, this type of proposal would be unprecedented. I know for a fact, we have programs for potatoes, for milk, wool, and cotton.

As I understand it, in none of these similar programs has the industry borne all of the expenses of administration.

Mr. **MATHIS** of Georgia. Mr. Chairman, will the gentleman yield?

Mr. **RANDALL**. I will yield to the gentleman from Georgia, and ask if the gentleman can answer my question.

Mr. **MATHIS** of Georgia. Mr. Chairman, of course, this would be a precedent. The gentleman from Pennsylvania recognizes this. When he offered his amendment, he tried to explain it very eloquently. I think the gentleman from Pennsylvania did, in fact, offer legislation that would require all these commodities to pay their own cost.

Mr. **RANDALL**. If I have the attention now of the floor manager of this bill, I would like to ask him this question: Why do we seek out this one particular industry—the egg industry—when none of the others are treated this way?

Mr. **JONES** of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. **RANDALL**. I yield to the gentleman from Tennessee.

Mr. **JONES** of Tennessee. I thank the gentleman from Missouri for yielding.

I would like to know the answer to that myself because it is not the intent of anybody on the subcommittee to have this done. We think it is a mistake.

Mr. Chairman, let me point out to you some of the commodities that have similar programs today, yet are administered by the USDA. Take cotton. Cotton is one of the biggest programs that we have. It is all part of USDA programs. The potato program is. The lamb and wool program, as well as wheat, milk, and milk products.

Of course, there are many local and regional programs that are also in the same category.

Mr. Chairman, why would any of us

want to pick out a small program such as this one, as far as the egg program is concerned, and have it administered by people other than the people in the U.S. Department of Agriculture.

Mr. RANDALL. Mr. Chairman, I think this would conclusively be one of the very best arguments for the defeat of this amendment. I have not had the benefit of studying the report thoroughly, but it seems to me this amendment is trying to undo, in effect, what the bill itself seeks to do.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. RANDALL. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, I wish to point out to the gentleman that he was not on the floor of the House when I made my opening remarks.

Mr. RANDALL Mr. Chairman, I am sorry that I was not here. I know I have suffered a considerable loss by not being present to hear the eloquent gentleman from Pennsylvania. I will say to the gentleman I will be glad to have the benefit of his views now.

Mr. GOODLING. Mr. Chairman, I will repeat for the benefit of the gentleman that I asked in my opening remarks if there is any justification to continue a bad precedent.

We establish these precedents. The gentleman is absolutely right when he says we have few precedents for doing what this bill calls for. But can the gentleman say that we should continue to set bad precedents year after year?

Mr. RANDALL. Mr. Chairman, I understand the gentleman's point. It comes down to a question of the fact as to whether these other precedents have been good precedents or bad precedents. Many think these other programs have worked very well. They have been successful over the long pull. I think the gentleman would have great difficulty getting any of the Members to agree that these other programs such as wool, cotton, or milk have not worked as intended. It is not what the gentleman thinks or believes but rather it becomes a question of fact as to whether these other programs have in fact, set good or bad precedents, and the facts prove the programs have worked and therefore it must be a good precedent to let USD bear the administrative costs.

What we have done in the past has been beneficial; it has been good for each of the industries mentioned. This is no time to change because there is no reason to change.

Mr. Chairman, I urge that this amendment be defeated.

Mr. SYMMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think that the purpose of the amendment offered by the gentleman from Pennsylvania is good, and the reason it is good is that we are talking about a $7.5 million checkoff, and we are talking about a $100,000 figure for administrative costs that would come from the $7.5 million. I think this would be setting a good precedent, and would certainly be beneficial to the taxpayers.

Two wrongs do not make a right. Maybe we have been wrong in the past, so why should we not start in with a clean slate today and start letting these programs pay their own way?

Mr. MATHIS of Georgia. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Georgia.

Mr. MATHIS of Georgia. Mr. Chairman, I know that the distinguished gentleman from Idaho would not seek to single out one single program to be treated in this way and then allow these same kinds of administrative costs to be paid for in other programs. I would suggest that the gentleman should simply seek equality and seek equity.

I know the gentleman from Idaho to be a fair man, and I know he wants to do the right thing.

Why pick on the egg producers? Let us start on the Idaho potato producers, if we want to start somewhere. Why pick out this one program?

Mr. SYMMS. Mr. Chairman, I wish to point out to the gentleman that we must start somewhere.

I will say to the gentleman that the Idaho potato producers do pay their own administrative costs within our State as part of the administrative program, which is a program that is very similar to this, except it is run on the State level and not on the Federal level.

This is a chance for us to start with a new precedent. I think today is a good day to start.

Mr. Chairman, I hope that the Members will support the amendment offered by the gentleman from Pennsylvania.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. GOODLING).

The question was taken; and on a division—demanded by Mr. MATHIS of Georgia—there were—ayes 44; noes 24.

RECORDED VOTE

Mr. MATHIS of Georgia. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 238, noes 151, not voting 44, as follows:

[Roll No. 222]

AYES—238

Abzug
Addabbo
Anderson, Calif.
Anderson, Ill.
Archer
Arends
Armstrong
Ashbrook
Ashley
Badillo
Bafalis
Baker
Barrett
Bauman
Bell
Bennett
Biaggi
Biester
Bingham
Brasco
Bray
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Butler
Byron
Camp
Cederberg
Chamberlain
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cohen
Collier
Collins, Tex.
Conable
Conlan
Conte
Conyers
Cotter
Coughlin
Crane
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Davis, Wis.
Delaney
Dellenback
Denholm
Dennis
Derwinski
Devine
Dickinson
Donohue
Downing
Drinan
Duncan
du Pont
Edwards, Ala.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Findley
Fish
Forsythe
Frelinghuysen
Frenzel
Frey
Froehlich
Gaydos
Giaimo
Gilman
Goldwater
Goodling
Grasso
Green, Pa.
Griffiths
Gross
Grover
Gubser
Gude
Guyer
Haley
Hanna
Hanrahan
Hansen, Idaho
Harrington
Harsha
Hastings
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Hillis
Holtzman
Horton
Hosmer
Hinshaw
Hogan
Holt
Howard
Hunt
Hutchinson
Jarman
Johnson, Colo.
Jones, Okla.
Kemp
Ketchum
King
Kluczynski
Koch
Kuykendall
Lagomarsino
Landgrebe
Latta
Leggett
Lent
Long, Md.
Lujan
McClory
McCollister
McDade
McEwen
McKay
McKinney
Macdonald
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mayne
Michel
Milford
Miller
Minish
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moorhead, Calif.
Moorhead, Pa.
Mosher
Murphy, Ill.
Myers
Nelsen
O'Brien
Owens
Parris
Patten
Perkins
Peyser
Pike
Podell
Powell, Ohio
Price, Tex.
Pritchard
Railsback
Rangel
Regula
Reuss
Rhodes
Riegle
Rinaldo
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rooney, Pa.
Rosenthal
Rostenkowski
Rousselot
Roy
Ryan
Sandman
Sarasin
Satterfield
Scherle
Schneebeli
Sebelius
Seiberling
Shipley
Shoup
Shriver
Shuster
Skubitz
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stratton
Studds
Symms
Taylor, Mo.
Thomson, Wis.
Towell, Nev.
Treen
Vanik
Veysey
Walsh
Wampler
Ware
Whalen
White
Whitehurst
Widnall
Wiggins
Wilson, Bob
Winn
Wydler
Wylie
Wyman
Yatron
Young, Alaska
Young, Fla.
Young, Ill.
Zion

NOES—151

Abdnor
Adams
Alexander
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Aspin
Beard
Bergland
Bevill
Blackburn
Boggs
Bolling
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brooks
Brown, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Carney, Ohio
Casey, Tex.
Chappell
Cochran
Collins, Ill.
Corman
Danielson
Davis, S.C.
Dellums
Dent
Dingell
Eckhardt
Edwards, Calif.
Evins, Tenn.
Fascell
Fisher
Flood
Flowers
Flynt
Foley
Ford
Fountain
Fraser
Fulton
Fuqua
Gettys
Gibbons
Ginn
Gonzalez
Gunter
Hamilton
Hammerschmidt
Hanley
Hays
Henderson
Hicks
Holifield
Hungate
Ichord
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kyros
Landrum
Lehman
Long, La.
Lott
Luken
McCormack
McFall
McSpadden
Madden
Mahon
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mink
Mizell
Montgomery
Moss
Murphy, N.Y.
Murtha
Natcher
Nedzi
Nichols
Obey
O'Hara
O'Neill
Passman
Patman
Pepper
Pickle
Poage
Preyer
Price, Ill.
Quie
Quillen
Randall
Rarick
Rees
Roberts
Roncalio, Wyo.
Rose
Roush
Roybal
Runnels
Ruppe
Ruth
St Germain
Sarbanes
Schroeder
Sikes
Sisk
Stark
Steed
Stephens
Stokes
Symington
Taylor, N.C.
Thompson, N.J.
Thone
Thornton
Traxler
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vigorito
Waggonner
Waldie
Whitten
Wilson, Charles, Tex.
Wolff
Yates
Young, Ga.
Young, Tex.
Zablocki
Zwach

NOT VOTING—44

Blatnik
Boland
Carey, N.Y.
Carter
Clark
Davis, Ga.
de la Garza
Diggs
Dorn
Dulski
Gray
Green, Oreg.

Hansen, Wash.
Hawkins
Helstoski
Huber
Hudnut
Johnson, Pa.
Litton
McCloskey
Madigan
Mezvinsky
Mills
Mollohan
Morgan
Nix
Pettis
Reid
Rogers
Roncallo, N.Y.
Rooney, N.Y.
Slack
Stubblefield
Stuckey
Sullivan
Talcott
Teague
Tiernan
Udall
Williams
Wilson, Charles H., Calif.
Wright
Wyatt
Young, S.C.

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MOSS

Mr. MOSS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Moss: Page 8, lines 12 and 14, after or strike out "unwarranted" and insert misleading.

Mr. MOSS. Mr. Chairman, I have discussed this amendment with the gentleman from Tennessee, and my understanding is that he is prepared to accept this amendment.

Mr. ZWACH. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from Minnesota.

Mr. ZWACH. Mr. Chairman, I accept the amendment.

Mr. MONTGOMERY. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Will the gentleman explain his amendment, please?

Mr. MOSS. I should be very happy to explain the amendment. The bill before the Members, on page 8, lines 12 and 14 uses a standard of "false or unwarranted." The standard historically used by the Federal Trade Commission is "false or misleading." "False or misleading" has been construed by a considerable body of case law. Regarding "false or unwarranted," the word "unwarranted" certainly has not been given any meaning or interpretation by the courts, and I think we would be hard put to know precisely what is intended. By bringing it into conformity with a more traditional concept, I believe that it clarifies and removes an otherwise ambiguous word from the legislation.

Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Moss).

The amendment was agreed to.

The CHAIRMAN. If there are no further amendments, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. McFALL) having assumed the chair, Mr. BRADEMAS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 12000) to enable egg producers to establish, finance, and carry out a coordinated program of research, producer and consumer education, and promotion to improve, maintain, and develop markets for eggs, egg products, spent fowl, and products of spent fowl, pursuant to House Resolution 1100, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Mr. RANDALL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 302, nays 90, not voting 41, as follows:

[Roll No. 223]

YEAS—302

Abdnor
Adams
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Archer
Arends
Ashbrook
Aspin
Bafalis
Baker
Barrett
Bauman
Beard
Bell
Bergland
Bevill
Blackburn
Blatnik
Boggs
Bolling
Bowen
Brademas
Bray
Breaux
Breckinridge
Brinkley
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Butler
Byron
Carney, Ohio
Casey, Tex.
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Corman
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Danielson
Davis, S.C.
Davis, Wis.
Dellenback
Denholm
Dent
Derwinski
Devine
Dickinson
Dingell
Downing
Duncan
du Pont
Edwards, Ala.
Eilberg
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gettys
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Green, Pa.
Griffiths
Gubser
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harsha
Hastings
Hays
Hébert
Heinz
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holt
Horton
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Ketchum
Kluczynski
Kuykendall
Kyros
Lagomarsino
Landrum
Latta
Leggett
Lehman
Long, La.
Long, Md.
Lott
Luken
McClory
McCollister
McCormack
McDade
McEwen
McFall
McKay
McSpadden
Madden
Mahon
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Michel
Miller
Mink
Minshall, Ohio
Mitchell, N.Y.
Mizell
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Moss
Murphy, N.Y.
Murtha
Myers
Natcher
Nedzi
Nelsen
Nichols
Obey
O'Brien
O'Hara
O'Neill
Owens
Parris
Passman
Patman
Pepper
Perkins
Peyser
Pickle
Poage
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Quillen
Randall
Rarick
Rees
Regula
Rhodes
Roberts
Robinson, Va.
Robison, N.Y.
Roe
Roncalio, Wyo.
Rooney, Pa.
Rose
Roush
Rousselot
Roy
Ruppe
Ruth
St Germain
Sandman
Sarbanes
Satterfield
Scherle
Schneebeli
Schroeder
Sebelius
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steelman
Steiger, Wis.
Stephens
Stokes
Stratton
Symington
Symms
Taylor, Mo.
Taylor, N.C.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Traxler
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Veysey
Vigorito
Waggonner
Walsh
Wampler
Ware
White
Whitehurst
Whitten
Widnall
Wiggins
Wilson, Bob
Wilson, Charles, Tex.
Winn
Wylie
Wyman
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—90

Abzug
Addabbo
Anderson, Ill.
Annunzio
Armstrong
Ashley
Badillo
Bennett
Biester
Bingham
Brasco
Camp
Collier
Collins, Ill.
Conlan
Conte
Conyers
Cotter
Coughlin
Cronin
Culver
Daniels, Dominick V.
Delaney
Dellums
Dennis
Donohue
Drinan
Edwards, Calif.
Erlenborn
Biaggi
Findley
Gaydos
Giaimo
Grasso
Gross
Grover
Gude
Hanrahan
Harrington
Hechler, W. Va.
Heckler, Mass.
Holtzman
Hosmer
Howard
King
Koch
Landgrebe
Lent
Lujan
McKinney
Macdonald
Madigan
Metcalfe
Mezvinsky
Milford
Minish
Mitchell, Md.
Moakley
Mosher
Murphy, Ill.
Patten
Rangel
Pike
Podell
Railsback
Reuss
Riegle
Rinaldo
Rodino
Rosenthal
Rostenkowski
Roybal
Runnels
Ryan
Sarasin
Seiberling
Smith, Iowa
Smith, N.Y.
Snyder
Steed
Steele
Steiger, Ariz.
Studds
Towell, Nev.
Vanik
Waldie
Whalen
Wolff
Wydler
Yates

NOT VOTING—41

Boland
Brooks
Carey, N.Y.
Carter
Clark
Davis, Ga.
de la Garza
Diggs
Dorn
Dulski
Eckhardt
Gray
Green, Oreg.
Hawkins
Helstoski
Huber
Hudnut
Johnson, Pa.
Litton
McCloskey
Mills
Mollohan
Morgan
Nix
Pettis
Reid
Rogers
Roncallo, N.Y.
Rooney, N.Y.
Slack
Stubblefield
Stuckey
Sullivan
Talcott
Teague
Tiernan
Williams
Wilson, Charles H., Calif.
Wright
Wyatt
Young, S.C.

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Rogers for, with Mr. Rooney of New York against.

Mr. Carter for, with Mr. Diggs against.

Mr. Stubblefield for, with Mr. Helstoski against.

Mr. Teague for, with Mr. Roncallo of New York against.

Mr. Hawkins for, with Mr. Dulski against.

Mrs. Sullivan for, with Mr. Boland against.

Mr. Charles H. Wilson of California for, with Mr. Gray against.

Until further notice:

Mr. Morgan with Mr. Young of South Carolina.

Mr. Brooks with Mr. Mills.

Mr. Carey of New York with Mrs. Green of Oregon.

Mr. Litton with Mr. Pettis.

Mr. Mollohan with Mr. Hudnut.

Mr. Slack with Mr. McCloskey.

Mr. Stuckey with Mr. Huber.

Mr. Wright with Mr. Johnson of Pennsylvania.

Mr. Reid with Mr. Williams.

Mr. Davis of Georgia with Mr. Talcott.

Mr. de la Garza with Mr. Wyatt.

Mr. Dorn with Mr. Clark.

Mr. Nix with Mr. Tiernan.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of Tennessee. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

CONFERENCE REPORT ON S. 3062, DISASTER RELIEF ACT AMENDMENTS OF 1974

Mr. JONES of Alabama. Mr. Speaker, I ask unanimous consent for the immediate consideration of the conference report on the Senate bill (S. 3062), Disaster Relief Act Amendments of 1974.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

Mr. GROSS. Mr. Speaker, reserving the right to object, I would like to ask the gentleman this question: When was the conference report made available?

Mr. JONES of Alabama. On Monday of this week.

Mr. GROSS. Mr. Speaker, did I understand the gentleman to say, Monday of this week?

Mr. JONES of Alabama. The gentleman is correct.

Mr. GROSS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. JONES of Alabama. Mr. Speaker, I ask unanimous consent that the statement of the managers be read in lieu of the report.

The SPEAKER. Is here objection to the request of the gentleman from Alabama?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of May 13, 1974.)

Mr. JONES of Alabama (during the reading). Mr. Speaker, I ask unanimous consent that the further reading of the statement of the managers be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from Alabama (Mr. JONES).

Mr. JONES of Alabama. Mr. Speaker, I am pleased to submit to the House the report of the committee of conference on S. 3062, the Disaster Relief Act of 1974.

On April 10 of this year, the Senate passed S. 3062. The following day the Senate-passed bill was before the House for consideration. Ordinarily, we would have considered the Senate-passed bill in committee and reported it to the House with those amendments we considered necessary. However, with the tornado disasters which had recently occurred in many parts of the country, we considered it important that we move as quickly as possible to pass legislation to provide adequate relief for the victims of those disasters. For that reason, your Committee on Public Works recommended that a modified version of one section of the Senate bill which we had had a chance to consider be passed as an amendment to the Senate bill. This enabled us to go to conference with the Senate and give proper and needed consideration to the provisions of the Senate bill in the least possible amount of time.

Mr. Speaker, on April 25, after very careful consideration of the provisions of the Senate-passed bill and the House amendment, the conference committee agreed to the report which is now being submitted.

During the conference the House conferees had the time and the opportunity to study the Senate-passed bill in depth and to work the will of the House in securing what we believe to be an effective piece of legislation. During the floor debate on the House amendment to the Senate bill, much concern was expressed over the fact that the individual and family grant program contained in the Senate bill and the House amendment was not made retroactive to April 20, 1973, which was the date on which the forgiveness provisions under the Small Business Administration and Farmers Home Administration disaster loan programs expired. Without this retroactivity,, there would have been a gap of nearly a year during which disaster victims would have received inequitable treatment. At that time, the distinguished chairman of our Public Works Committee, the gentleman from Minnesota, and the distinguished ranking minority member, the gentleman from Ohio, expressed their intentions to make every effort to obtain agreement with the Senate conferees to make this individual and family grant program retroactive. I am pleased to report that the provision was made effective as of April 20, 1973. While this grant program is not a substitute for the earlier forgiveness provisions, it does meet similar needs. We feel that it would be most inequitable to have a forgiveness provision until April 20, 1973, and a grant provision as of April 1, 1974, with all those suffering damage as a result of a major disaster between those two dates receiving no comparable assistance.

The legislation agreed to by the committee of conference is quite similar to the Senate-passed bill, but with many important changes which we feel make it a much better bill. Among the provisions which were modified by the committee of conference are the following.

A provision, section 302(c), has been added authorizing payment under the emergency conservation program for the repair, restoration, reconstruction, or replacement of farm fencing damaged or destroyed by a major disaster. The Department of Agriculture has possessed authority to make 80 percent Federal cost-sharing payments to farmers for rehabilitation of farmlands damaged by natural disasters. This assistance, however, has been eliminated administratively by the Department of Agriculture. The provision in the conference substitute reinstates the assistance program.

The Senate-passed bill required that insurance adequate to protect against future loss must be obtained for any disaster-damaged property which has been replaced, restored, repaired, or constructed with Federal disaster funds if insurance is reasonably available. Unless such insurance is secured and thereafter maintained, no applicant for Federal assistance could receive aid for any damage to such property in a future major disaster. State governments could elect to provide self-insurance on their public facilities. They could not be eligible for disaster assistance for damage to property on which they previously received aid if they could have obtained insurance. The conference substitute limits the insurance requirement to facilities belonging to State and local governments, and to private nonprofit educational, utility, emergency, medical, and custodial care facilities. The insurance requirement is deleted insofar as it applies to property owned by private individuals.

Mr. Speaker, the House conferees accepted even this limited insurance requirement reluctantly. We have no reliable data on the relative total economic costs of protecting property through the acquisition of insurance from insurance companies and protecting property through self-insurance with Federal assistance in the case of a major disaster. We intend to watch this provision of the legislation very carefully to insure that it is a workable provision and does not constitute a windfall to the insurance industry.

The Senate bill provided that any local government suffering a substantial loss of tax and other revenues because of a major disaster and demonstrating need for financial assistance to perform its governmental functions would be eligible for a loan not exceeding 25 percent of its annual operating budget for the fiscal year in which the disaster occurred. Part or all of the loan could be canceled to the extent that local revenues during the following 3 full fiscal years are not sufficient to meet the operating budget of that government. The conference substitute is the same as the Senate bill, except that the cancellation provision is made mandatory. This will insure that local governments receive the aid contemplated by the bill.

Title V of the Senate bill provides assistance for redevelopment in both the private and public sectors in an area damaged by major disasters. This title contained a provision for a revolving fund. The revolving fund has been deleted from the legislation and, instead, the economic recovery provisions will be financed through a $250 million authorization for appropriation.

Those are the more significant changes which were agreed to by the committee of conference. Mr. Speaker, I have a more detailed description of the provisions in the Senate bill and the changes agreed to by the conferees, and I ask unanimous consent that this description be included at this point in the RECORD. I wish, Mr. Speaker, to express my appreciation to the distinguished House conferees, the gentleman from California (Mr. JOHNSON), the gentleman from Texas (Mr. ROBERTS), the gentleman from Ohio (Mr. HARSHA), and the gentleman from Kentucky (Mr. SNYDER) for the fine job they did. I also wish to express my appreciation for the cooperation on the part of the distinguished Senate conferees.

I also wish to commend the chairman of our Public Works Committee, the gentleman from Minnesota (Mr. BLATNIK), for the outstanding leadership he has shown with regard to this legislation, and the ranking minority member of the committee, the gentleman from Ohio (Mr. HARSHA), our fine Water Resources Subcommittee chairman, the gentleman from Texas (Mr. ROBERTS), the ranking minority member of that subcommittee, the gentleman from California (Mr. CLAUSEN) and all the members of the full committee and the subcommittee for their valuable efforts in formulating and bringing to a successful conclusion the legislation which we bring to the floor today, I would commend all the staff who worked so hard on this bill and in particular Errol Lee Tyler, and Gordon Wood.

Mr. Speaker, I believe that we have come up with a good piece of legislation and I urge the approval of this conference report.

I include the following:

S. 3062: COMPARISON OF SENATE-PASSED BILL AND CONFERENCE SUBSTITUTE

EMERGENCIES

The Senate bill distinguishes between major disasters and those of lesser magnitude, which are termed emergencies. Federal assistance available in the case of an emergency includes technical assistance, advisory personnel, equipment, food, other supplies, medical care, and the like. The conference substitute is the same as the Senate bill.

DISASTER PREPAREDNESS

Present law authorizes 50 percent matching grants not to exceed $250,000 per state to assist in developing disaster preparedness plans. S. 3062 authorizes a grant of up to $250,000 with no matching requirement. The purpose is to encourage states to prepare disaster preparedness plans. The conference substitute is the same as the Senate bill.

INSURANCE

The Senate bill requires that insurance adequate to protect against future loss must be obtained for any disaster-damaged property which has been replaced, restored, repaired, or constructed with Federal disaster funds if insurance is reasonably available. Unless such insurance is secured, no applicant for Federal assistance can receive aid for any damage to his property in future major disasters. State governments may elect to provide self-insurance on their public facilities. States which choose to act as self-insurers will not be eligible for disaster assistance because of damage to property on which they previously received aid.

The conference substitute limits the insurance requirement to facilities belonging to State and local governments, private nonprofit educational, utility, emergency, medical, and custodial care facilities.

The conference substitute also provides that the President shall have the authority to make determinations with respect to the availability, adequacy, and necessity of insurance. The President, in making such determinations, may not require greater types and extent of insurance than are certified to him as reasonable by the appropriate State insurance commissioner. It should be noted that it is the intention of the conferees that this legislation shall give the President authority to require lesser types and extent of insurance than are certified to him by such State insurance commissioners.

PENALTIES

The Senate-passed bill provides criminal penalties for those who knowingly misstate facts in connection with an application for disaster assistance and those who knowingly misapply the proceeds of a loan or other cash benefit. The conference substitute is essentially the same as the Senate bill.

AVAILABILITY AND DISTRIBUTION OF MATERIALS

The Senate bill authorizes the President to provide for a survey of the construction materials needed in the major disaster area for housing, farming operations and business enterprises and to take appropriate action to insure the availability and fair distribution of such materials for a period not to exceed 180 days.

The conference substitute is the same as the Senate bill, except that public facilities, repairs, and replacement are included .

REPAIR AND RESTORATION OF DAMAGED FACILITIES

The Senate bill provides that assistance for damaged or destroyed public facilities can be provided under one of two plans at the option of eligible state or local governments. Grants may be made not to exceed 100 percent of cost for repair or reconstruction on a project-by-project basis, as authorized by current law or a Federal contribution based on 90 percent of the total estimated cost of restoring all damaged public facilities within its jurisdiction could be used to repair or restore selected facilities or to construct new ones. In those jurisdictions incurring damages totaling no more than $25,000, a block grant based on 100 percent of the total cost for repairing or reconstructing those facilities would be made.

The conference substitute is the same as the Senate bill except that (1) with respect to the 90 percent contribution provision the cost estimate is made by the Federal Government, and (2) the $25,000 block grant provision is made a new subsection (g) and the $25,000 limit includes emergency assistance and debris removal in addition to public facilites.

HOUSING

The Senate bill specifically authorizes the so-called "mini-repair" program. Where a private dwelling is rendered inhabitable, it can be restored to a habitable condition in lieu of temporary housing being provided.

The Senate bill also authorizes the President to sell, or otherwise make available for disaster relief purposes, temporary housing units directly to states, other governmental entities and private industry organizations. At present such units may be disposed of only through the General Services Administration when declared to be in excess supply.

The President is also authorized to provide alternate housing sites and utility connections.

The conference substitute is the same as the Senate bill.

EXTRAORDINARY DISASTER EXPENSE GRANTS

The Senate bill authorizes the President to make grants to states of 75 percent of the actual cost of providing direct financial assistance to persons adversely affected by a major disaster. These grants are available to meet extraordinary disaster-related expenses or needs which are not provided for under this Act, under other programs, or by private means. Aid is limited to a maximum of $5,000 for each family.

The conference substitute is essentially the same (based on the House amendment) with the exception that the provision is made retroactive to April 20, 1974.

UNEMPLOYMENT ASSISTANCE

The bill authorizes the President to provide disaster unemployment compensation through agreements with states which, in his judgment, have adequate systems for administering the program, and provides authority to extend the assistance for up to a year after the disaster.

The conference substitute is essentially the same as the Senate bill, but is clarified to eliminate possible inequities which could have resulted from the original language.

FOOD COMMODITIES

The Senate bill retains provisions of the 1970 Disaster Relief Act authorizing the President to make both food commodities and coupons available to disaster victims. In addition, it directs the Secretary to assure that adequate stocks of food will be readily and conveniently available for emergency mass feeding in any area of the United States in the event of a major disaster.

The reason for this section is that the current lack of surplus commodities, and the decision to replace the USDA family food distribution program by July 1 with food stamps, has raised questions about our ability to provide sufficient supplies for mass feeding and for home use after major disasters.

The conference substitute is the same as the Senate bill.

CRISIS COUNSELING ASSISTANCE

The Senate bill authorizes the President to provide professional counseling services and training for disaster workers, either directly or by financial assistance to State or local agencies to help relieve mental health problems caused or aggravated by a disaster or its aftermath.

The conference substitute is the same as the Senate bill.

COMMUNITY DISASTER LOANS

The Senate bill provides that any local government suffering a substantial loss of tax and other revenues because of a major disaster, and demonstrating need for financial assistance to perform its governmental functions, would be eligible for a loan not exceeding 25 percent of its annual operating budget for the fiscal year in which the disaster occurred.

Part or all of the loan could be cancelled to the extent that local revenues during the following three full fiscal years are not sufficient to meet the operating budget of that government, including municipal disaster-related expenses.

The conference substitute is the same as the Senate bill, except that the cancelation provision is made mandatory.

LEGAL SERVICES

The Senate bill authorizes the Administrator to assure the availability in a disaster area, with the advice and assistance of Federal agencies and state and local bar associations, of legal services to low-income individuals not able to secure such services because of a major disaster.

The conference substitute replaces the provision in the Senate bill with the original provision in the 1970 Disaster Relief Act.

ECONOMIC RECOVERY FOR DISASTER AREAS

Title V of the Senate bill provides assistance for redevelopment in both the private and public sectors. The assistance is provided through Recovery Planning Councils.

Determination of the need for special economic assistance and appointment of a Recovery Planning Council rests with the Governor. A majority of the Council members must be elected local officials. The national and state governments would each have one representative.

The Recovery Planning Council may revise existing land use, development or other plans, develop new ones, and prepare a five-year Recovery Investment Plan for submission to the Governor and to responsible local governments. The Council also may recommend changes in the programming of available or anticipated federal funds.

Funds authorized for federal-aid projects or programs in a major disaster area may be placed in reserve according to such recommendations. If the Governor requests, and affected local governments concur, these funds may be transferred to the Recovery Planning Council to implement the Recovery Investment Plan.

Loans may be made by the Recovery Planning Council to any state or local government, and private or public non-profit organization in a major disaster area to carry out the Recovery Investment Plan. Loans can be made for the acquisition or development of land and improvements for public works, public service or public development facilities (including parks and open spaces), and for acquiring, constructing, rehabilitating, expanding or improving those facilities (including machinery and equipment).

The conference substitute is the same as the Senate bill except that (1) necessary clarifying amendments have been made, (2) existing EDA and Appalachian Regional Development organizations in disaster areas are to be used as Recovery Councils, and (3) the provision for a revolving fund is deleted.

Mr. GROSS. Will the gentleman yield?

Mr. JONES of Alabama. I yield to the gentleman.

Mr. GROSS. Are all of the amendments germane to this bill?

Mr. JONES of Alabama. I would say to the gentleman from Iowa that certain provisions have been added in the conference that were not in either the Senate or House bill. For example, the individual and grant program which was contained in both the Senate and House bills effective as of April 1, 1974, were made retroactive to April 20, 1973. A second item dealing with farm fencing was added although not originally in either bill.

Mr. FLOWERS. Will the gentleman yield?

Mr. JONES of Alabama. I yield to the gentleman.

Mr. FLOWERS. I thank my dean of the Alabama delegation for yielding to me.

I want to express my appreciation to the chairman of the committee, the distinguished gentleman from Minnesota (Mr. BLATNIK) and the ranking minority member, the gentleman from Ohio (Mr. HARSHA) and the dean of my delegation for making this legislation retroactive to 1973 through the conference. I think it shows a great deal of feeling and forebearance on the part of the committee for those who were damaged by the catastrophes of last year.

Mr. JONES of Alabama. I will say to the gentleman from Alabama that he was one of the great advocates of making the individual grant program retroactive when the disaster legislation was before the House before the Easter recess. It was in large part due to his efforts that the effective date of this grant program was made April 20, 1973, when the loan forgiveness provisions in prior law expired. By doing this, we avoid the inequities which would result in having a forgiveness provision until April 20, 1973, and a grant provision as of April 1, 1974, with people hit by a major disaster between those dates receiving no comparable assistance.

Mr. HARSHA. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, I support adoption of the conference report on S. 3062, the Disaster Relief Act of 1974.

As you remember on April 11, we came before the House with a disaster relief bill, S. 3062, as amended by the Committee on Public Works. At that time, we had an extensive colloquy on the provisions of our amendment addressing individual and family grants.

We made a commitment that we would thoroughly review all the provisions of S. 3062 as passed by the other body. We did not at that time wish to accept this bill in toto without the type of review and scrutiny that a bill of this importance requires and deserves. We promised to expedite our review and come before you with a conference report which would meet our disaster relief needs. This we did; we reached agreement on a comprehensive disaster relief bill. I commend it to you.

We also indicated on April 11 that we would try to incorporate a retroactive provision in the individual and family grants section. I am also pleased to report to you that we were successful in our conference with the other body. The provisions of section 408 take effect as of April 20, 1973, the time the "forgiveness" provisions of prior law were eliminated.

Mr. Speaker, the history of Federal disaster legislation is one of supplementing State and local government efforts and available resources. This concept is continued, and emphasized, in the Disaster Relief Act of 1974. It is fundamental to the system of Federal assistance which the bill establishes. Determination that an emergency or a major disaster exists rests, in substantial part, on a demonstration by the Governor that the situation is serious enough to warrant positive action by State forces.

There are, obviously, disasters of such magnitude and impact that the need for Federal assistance is immediately apparent. In these cases the Federal response should not be delayed by time-consuming exchanges of formal correspondence. It has been demonstrated time and again the speed with which Federal response can be brought to bear in these critical situations. But speed of Federal response should not stand as a substitute for the even speedier response required from local and State government, nor should the introduction of Federal aid be the signal for States and local governments to reduce their own commitments. It is through the combined efforts of local and State governments, and the Federal Government, that the ravages of disaster can be lessened and the impact of disaster eased.

The more effective response to disasters which this bill makes possible will require planning and preparedness actions at all levels of government. Title II of the bill recognizes this as well as the continuing need for improving disaster preparedness generally. We must also recognize that plans and programs for preparation against disaster and for assistance after a disaster cost money to develop. Accordingly, title II provides for grants to the States for these preparedness purposes.

A great deal of money has been spent in the name of disaster planning—some of it wisely and productively, and some perhaps without meaningful tangible result. The planning grant authorized in this bill is not intended to perpetuate any nonproductive planning that may have preceded it. It is intended to be used wisely and carefully and constructively with the primary view of developing State and local response mechanisms and capabilities which can mesh quickly and easily with the Federal effort when such effort is brought to bear.

In future emergencies and major disasters, we expect improved coordination of local, State, and Federal efforts to reduce hardship and suffering promptly by effective actions and ready commitment of resources.

Chief among the critical and urgent planning needs is preparation by the States to carry out those responsibilities upon which the entire assistance efforts will depend. In this regard, I call attention particularly to the individual and family grant program which is the responsibility of the State to administer.

One of the features of section 408, individual and family grant programs, is the authority for the Federal Government to make an advance to the State to help the State meet its 25-percent share of the grants. It is an important provision, particularly in the first months of the program before States have the opportunity to amend their laws or take other actions necessary to permit immediate participation in this vital grant assistance program. The authority to make such advances recognizes the possibility that some States may be unable to participate until new State legislation has been passed, or other action has been taken to remove legal or fiscal barriers to State participation. The advance will permit such States to implement the individual and family grant program in the event that disaster strikes before the necessary internal actions are completed. Advances made under these conditions are to be repaid when the State is able to do so.

The individual and family grant program permits the Federal Government and the State to join together in meeting necessary expenses and various needs which cannot be met otherwise under the law or through other means. Grants under this program will fill that void which may still exist when other assistance programs have been applied. That is the test for eligibility; not level of income, nor ability to obtain a loan which can be partially forgiven, nor loss or damage to real property. The test is simple and direct; that a disaster-related, necessary expense or serious need exists which the individual or family is unable to meet with other assistance authorized in the bill or through other means.

One example of the type of section 408

assistance the committee had in mind is assistance for students who were forced to leave damaged campuses before the end of their regular academic term and thereby incurred what to them are major expenses such as gathering and replacing lost belongings, transportation to home, and substitute living expenses.

Many students who believe the colleges are damaged beyond repair are seeking other locations to continue their education or are dropping out of the educational process temporarily. This consideration is of special importance because in the example of Wilberforce University, 80 percent of the students are from families with $7,500 annual income or less and the average student's home is 500 miles from the university.

In referring to Wilberforce University, I wish to bring to the attention of the House a significant provision of this bill. I refer to subsection 402(b) which authorizes the President to make grants to help repair, restore, reconstruct, or replace private nonprofit educational facilities which were damaged or destroyed by a major disaster. This subsection will provide the necessary assistance to reconstruct Wilberforce University where so much havoc was wrecked by a tornado last month. My good friend and colleague from Ohio (Clarence Brown) was most effective in communicating with the committee the necessity for the language of subsection 402(b).

Under the bill, Federal assistance can be provided at a Governor's request to cope with emergencies not of major disaster proportions but which are beyond State and local government's ability to deal with effectively. This is a progressive step forward which recognizes that some critical situations can be met without full implementation of all the authorities contained in the bill.

The Congress in this legislation has provided expanded Federal funding for the important tasks of repairing, rebuilding, restoring, or reconstructing the facilities for essential public services. A local or State government may now exercise discretion in selecting the projects to be undertaken and in committing available Federal funds.

Recent legislation has already provided a requirement for flood insurance for buildings in flood-prone communities. This new law has taken another step forward by requiring other types of insurance in numerous situations where Federal funding of recovery work is desired.

Mr. Speaker, we are justifiably pleased to bring to the House the conference report with its initiatives broadening the scope of Federal disaster assistance while placing increasing reliance on individuals, local and State governments to cope with future disasters.

Mr. BAKER. Mr. Speaker, will the gentleman yield?

Mr. HARSHA. Mr. Speaker, I yield such time as he may consume to the gentleman from Tennessee (Mr. Baker).

Mr. BAKER. Mr. Speaker, there are few times when it is as important for the Congress to act promptly to provide immediate help and assistance as it is now. There are many people especially in need of this assistance because of the recent series of tornadoes around the country. One has only to travel around districts which bore the brunt of those tornadoes to know how many people are in such need of assistance.

The good people of my district in Tennessee, for instance, know first-hand the desolate feeling of being literally wiped out in the short time it takes a tornado to cut its destructive swath. I will not take the time of this House to describe in great detail the extent of the damage I saw when I visited several of my counties in April—but it was absolutely enormous in its impact. It seemed to me then and it seems to me today that if any help is appropriate to any individuals from their Government, certainly natural disasters are the circumstances under which that aid is called for.

The Federal Government must help—not out of charity—but because we help ourselves when we help someone get back on his feet and return to a normal productive life for himself, his family, and his area of the country.

The first reaction of people I talked with in our tornado-stricken area was one of relief they were alive. They had great empathy and sympathy for others who had been affected, especially for those affected worse than they. There was camaraderie and great courage and a getting together in the face of crisis. After a few days, though, as happens with any of us who have gone through such a time, the spirits sink. When you need help in a time of disaster, you need it quickly. This is why it was so gratifying to me, as a member of the Committee on Public Works, to participate in the development of S. 3062 which will do much to provide that assistance not now available under the 1970 act.

I am particularly pleased with section 408 which will authorize grants of up to $5,000 to families and individuals adversely affected by a major disaster who are unable to meet disaster-related necessary expenses or serious needs with assistance under this act or by other means. This provision is a Federal-State partnership. The Federal share will be 75 percent and the State share 25 percent of the cost of providing such needs and services by the Governors as expeditiously as possible.

Further, it is good to know that Federal technical assistance and expertise will now be made available to plan and implement the disaster relief program. This will help foster Federal-State cooperation and coordination in providing prompt and effective disaster assistance. We should be able to provide this assistance in the future with minimum delay and difficulty.

Mr. Speaker, there are many other provisions in this conference report which will revise and broaden existing programs and greatly assist the rendering of help to all those affected by natural disasters. Others have or will describe different sections of this conference report. I will, therefore, simply say that I strongly support this conference report and commend it to you. Further, I wish to recognize and thank the chairman, the gentleman from Minnesota (Mr. Blatnik), the gentleman from Alabama (Mr. Jones), the gentleman from Ohio (Mr. Harsha) and the gentleman from California (Mr. Don Clausen) for their able assistance and leadership in bringing this legislation through Congress.

Mr. HARSHA. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky (Mr. Snyder).

Mr. SNYDER. Mr. Speaker, I had the privilege of being one of the conferees on the Disaster Relief Act of 1974. I wish to express my support for the conference report before the House today.

I believe that the Congress has come to realize that there is no such thing as a perfect disaster relief law for all time. Each disaster as it occurs presents in some way new problems that require legislation. Nevertheless, we have in effect developed over the years an effective basic law for disaster relief which requires from time to time changes to conform with unforeseen situations that arise.

The conference report before us retains the good features of past legislation and adds some new concepts that heretofore have not been included.

Among the newer ideas is that of emphasis on disaster preparedness. The conference report recognizes that there are certain emergency situations that do not qualify as major disasters, but which nevertheless require limited aid. This aid, such as technical assistance, equipment, food supplies, personal medical care, and other essentials, would now be available when a major disaster threatens. For example, the law refers to this situation as an "emergency." In addition, it is a catastrophe that is naturally caused by the resulting damage, some of which is not of sufficient severity to warrant major disaster assistance.

Disaster assistance preparedness grants to the States are made available and the disaster warning provisions of existing law are retained and updated. Emphasis is placed upon the need for a disaster preparedness program.

Title IV of the Federal Disaster Assistance Act authorizes repair, reconstruction, restoration or replacement of public facilities. The definition of "public facilities" is broadened and clarified. Of particular interest to me, for example, is language which makes it clear that if a park suffers damage and is eligible for disaster assistance that the trees, vegetation and other natural features shall be restored to the extent practicable. In some cases, this restoration could be fairly complete—in other cases the restoration might include reforestation and planting of young trees to replace the old in time.

Public facilities that receive disaster aid require insurance against future disaster losses. This is a somewhat controversial provision which the conferees agonized over and finally accepted in its present form for the purpose of protecting against repeated payments of the taxpayers' dollar for the repair of the same facility. If insurance is not reasonably available, adequate and necessary, the applicant would not be required to obtain it. Other features of this bill include debris removal; temporary housing assistance, with a provision by which the occupant may buy the temporary housing from the Government; establishment of minimum standards for structures; unemployment assistance that would allow payments of unemployment insurance to those who otherwise might not be eligible; those whose eligibility have expired as well as those who are eligible under unemployment compensation laws. In all cases, the period for eligibility payments is extended.

Section 408 is the portion of the bill dealing with individual and family grant programs that was originated and passed by this House. It authorizes the making of grants to a State for the purpose of the State making grants to meet disaster related necessary expenses or serious needs of individuals or families adversely affected by a major disaster when they are unable to meet such expenses or needs. This is a matching grant program of which the Federal share is equal to 75 percent and the State share is 25 percent. Recognizing that the State might require legislative action for a period of time to come for the portion of its share, the President is authorized to advance to such State an amount equivalent to its share. The grant is limited to $5,000 to an individual or family with respect to any one disaster.

A provision is made for food coupons and distribution, food commodities, relocation assistance, legal services and crisis counseling, and training to victims of major disasters in order to relieve mental health problems caused or aggravated by the major disaster or its aftermath.

Community disaster loans are included to provide for revenues that are lost because of the failure of utility systems to deem this a major disaster. Emergency communications, emergency public transportation, and fire suppression grants remain in the law.

A choice is given to an applicant for the repairing, reconstructing, restoring, or replacing of public facilities to permit a contribution by the Federal Government based on 100 percent of the total estimated cost wherever the total estimate is over $25,000 to either repair, reconstruct, restore, or replace all the facilities, some of the damaged facilities, or construct new public facilities. When the amount involved exceeds $25,000, there is another choice available to the community. It may receive a grant for 100 percent of the net cost for repair, reconstruction, restoration, or replacement of the facility on the basis of the design price to the disaster updated if necessary to meet current codes, specifications, and standards. In the alternative, it may choose to construct new facilities replacing the old, but would receive a contribution of 90 percent of the Federal estimate for repair, reconstruction, restoration, or replacement of all the damaged facilities.

Title V of the conference report amends the Economic Development Act of 1975 to add a new title VIII which establishes some new methods by which areas that have suffered disasters and that are eligible for economic development assistance to rearrange priorities and do recovery planning in such areas. Authorization provided for funding a Recovery Planning Council for the implementation of recovery of investment plans by public position, loan guarantees, and technical assistance are provided for as well.

In conclusion, Mr. Speaker, I feel that the legislation before us is very worthwhile and goes to the needs of those affected by the recent disasters. As such, it will be welcome law, and I urge acceptance by this body.

Mr. HARSHA. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. Don H. Clausen).

Mr. DON H. CLAUSEN. Mr. Speaker, I commend the conference report on S. 3062, the Disaster Relief Act of 1974 to my colleagues in the House.

This conference report continues the efforts of Congress which in the past has been magnanimous in recognizing that the Nation as a whole must share the risk of disasters and that the Congress, therefore, should and would provide disaster relief assistance. This help in the form of the various disaster relief acts and amendments has helped thousands of our citizens and has been most effective. The conference report we have before us today will continue and build upon the basic program and mechanism established in the Disaster Relief Act of 1970, Public Law 91-606 brought to the House in 1970 by our committee.

I urge you to support the conference report and provide immediate help to the thousands of persons who lost loved ones, were injured or lost homes and property. Schools and colleges, public and private; businesses; and individuals will be helped by the Disaster Relief Act of 1974.

Mr. Speaker, I would also like to call your attention to significant amendments which were incorporated in the bill by the conferees on the part of the House. I refer to the incorporation of the word "property" in sections 305(a) and 306(a)(4).

The inclusion of the word "property" in sections 305 and 306 is quite important. It recognizes that emergency and disaster assistance may be provided to protect property as well as lives, health, and welfare. Further, as noted so clearly in the discussion of section 305 in the statement of managers, the term property includes livestock.

Mr. Speaker, the clear reference to livestock in the statement of managers is very important to dairy farmers in my district and particularly to those farmers in the Eel River Delta Area. These farmers experienced ravaging floods of increasing severity in 1937, 1955, 1964, and yet twice again this year in 1974. In addition, there are varying degrees of flooding every year. There is a compelling need for a place to which their dairy herds might be removed at times of flood peril. We, for example, are advocating that buildings at the Humboldt County Fairgrounds be modified to receive the herds for the duration of flood emergencies.

My Eel Delta Task Force and the Corps of Engineers recommended this disaster planning and preparation alternative. It is for the above reason that I requested the House conferees add this necessary language with the intent of providing some needed emergency disaster assistance flexibility.

The statement of managers addressed this as follows:

> It is also the intention of the conferees that the President, in providing assistance under this section and other applicable sections of this legislation to save lives and protect property and public health and safety, may provide assistance to owners of livestock or the State or local governments for the provision of facilities to protect such livestock from disasters.
>
> An example of this type of assistance would include facilities to which livestock may be removed and kept protected from the ravages of a disaster in a safe and sanitary manner and provide for the well being of such livestock.

Mr. Speaker, we expect that sections 201, 305, and 306 will be implemented with this intent of Congress in mind. For example, section 201(c) authorizes grants to States of $250,000 for the development of plans, programs, and capabilities for disaster preparedness and prevention. It is intended that portions of these funds could be used to provide facilities for holding livestock or providing other capabilities.

The amount of protection which could be provided at low cost is surprising. For example, a total expenditure of $250,000 to $350,000 would be sufficient to modify existing barns at the Humboldt County Fair Grounds to provide a holding area for 3,000 to 5,000 dairy cattle. At times of emergencies it would be possible to set up a warning system and transport the dairy herds to the barns which would be equipped to protect the herds and which would have temporary milking and feeding capabilities. Thus, the herds would be protected and a reliable supply of our most important food, milk, would be assured, and the basic agricultural economy will be stabilized and more secure.

Mr. Speaker, I believe we can significantly reduce the potential for damage from emergencies and disasters. We can protect property, including livestock, as well as human lives and health. The way has been made clear. I urge adoption of the conference report.

Major flood control structures of the Eel River which would eliminate the threat of flood damages cannot be constructed in the immediate future because of environmental, economic, and State legislative limitations. Thus, the objective of this legislation is to do something now.

Mr. HARSHA. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. Clancy).

Mr. CLANCY. Mr. Speaker, I rise in support of the conference report which would provide more and faster assistance to victims of disasters.

I support the conference report because it is another example of Congress recognition of the help which must be provided to individuals and families if they are to restore the homes, businesses, and communities which are ravaged by unpreventable disasters.

To some extent, the Disaster Relief Act of 1974 was rushed to the floor because of the recent tornadoes which devastated many parts of our country, including Sayler Park and Green Township in the Second Congressional District of Ohio which I represent and other nearby areas in and around Cincinnati. However, this act is not just a remedy for our recent tragic occurrences. It recognizes that disasters, by their very nature, can strike any of our communities at any time.

Disaster relief legislation is most important, so that we take care of our own in their hour of greatest need and as rapidly as possible. This legislation can provide assistance in the future to your district as well as to mine.

I am particularly pleased by the provisions of section 408 which provide for grants to individuals and families. This section will allow grants to be made to meet those expenses and needs which cannot be met by other provisions of law. Grants of up to $5,000 will be available to individuals and families for their needs. This provision of section 408 is retroactive to April 20, 1973, while the rest of the act is retroactive to April 1, 1974, before the tornadoes which struck the Cincinnati area and surrounding States on April 3.

Mr. Speaker, it is most gratifying to see Congress meet the needs of disaster victims. I especially commend my good friends on the Committee on Public Works for their diligence and concern in this very important matter. They have again brought legislation to the House which meets a pressing national need.

Mr. BLATNIK. Mr. Speaker, will the gentleman yield?

Mr. HARSHA. Mr. Speaker, I am happy to yield to the distinguished chairman of the Committee on Public Works, the gentleman from Minnesota (Mr. Blatnik).

Mr. BLATNIK. Mr. Speaker, I rise in support of the conference report on S. 3062, the Disaster Relief Act of 1974. I want to commend the leadership on both sides of the Committee on Public Works, and the staff, for the work that they have done in considering the disaster relief program ever since the beginning of that program.

I want to cite particularly the ranking member, the gentleman from Alabama (Mr. Bob Jones) the ranking minority member, the gentleman from Ohio (Mr. Harsha) and all of the members of the committee. They have made many trips into disaster areas in various parts of the country to observe firsthand the tremendous damage caused by disasters and to determine the needs of the people in these areas.

Prior to the 1950 enactment of Public Law 875, there was no permanent program for Federal disaster assistance to State and local governments. Private agencies bore the primary responsibility for disaster relief. However, many special disaster relief acts were passed by the Congress for specific disasters; between 1803 and 1950, over 100 separate special assistance acts were passed by the Congress. Also, some Federal agencies had authority to render assistance in particular cases of disasters. The Corps of Engineers has had an emergency flood fighting authority since 1941, and since 1934, the Bureau of Public Roads has assisted the financing, repair, and reconstruction of disaster-damaged highways. The Reconstruction Finance Corporation also had authority to make disaster loans in the 1930's.

In 1947 Congress enacted the first general disaster relief act—Public Law 233 of the 80th Congress—directly authorizing the War Assets Administrator to transfer surplus Federal property to the Federal Works Administrator who, in turn, was to lend or transfer this property to State and local governments to alleviate disaster impact.

In 1950, Congress passed the first comprehensive Federal Disaster Act (P.L. 81-875) giving the President broad and continuing disaster assistance powers in those cases in which he declared the situation a major disaster. This law was directed principally at aiding the recovery and repair of public facilities of local governments.

In 1952, this law was amended to provide for the easing of credit restrictions under the National Housing Act, and to authorize the furnishing of emergency housing for victims of disasters. The law was further amended in 1953 to permit the loan and donation of Federal surplus property to State and local governments for repair of disaster damaged public facilities.

In 1962, Guam, American Samoa, and the Trust Territories were made eligible for Federal disaster assistance (P.L. 87-502). This 1962 law also authorized emergency repair and temporary replacement of disaster damaged facilities of State governments—The 1950 act had only applied to local government facilities.

In 1966, rural communities, unincorporated towns and villages were made eligible for Federal disaster aid. The 1966 act also added to the basic disaster law authority to plan and coordinate all Federal disaster assistance, disaster preparedness, and a study of ways to prevent or minimize loss of property, personal injury and death from forest and grass fires.

In the 1960's, the Congress enacted a limited number of laws that provided increased Federal aid in several major disasters: in Alaska, the Pacific Northwest, and the Southeast.

In 1969, the Congress passed the Disaster Relief Act of 1969 (Public Law 91-79). This act permitted disaster loans by SBA and FHA, with authority to cancel part of the loans; permitted the President to distribute food coupon allotments and surplus food commodities; authorized unemployment assistance to individuals unemployed as a result of a major disaster; authorized debris removal and provided financial assistance to States to develop disaster assistance programs.

The Disaster Relief Act of 1970 was a consolidation and modernization of all of the previous disaster relief laws. It provides the following assistance:

Temporary housing.

Home, business, personal property loans.

Food commodities or food stamps.

Disaster-related unemployment compensation and/or employment assistance.

Legal aid for disaster-related problems.

Debris removal from private property.

Repair and restoration of public facilities.

The Disaster Relief Act of 1974 is essentially the same as the 1970 act with a number of improvements which experience has demonstrated would be useful. The major changes made by the 1974 act would be as follows:

First, major disasters are distinguished from those of lesser magnitude, which are termed emergencies—and Federal assistance of differing degrees is made available in both cases.

Second, a grant of up to $250,000 with no matching requirement is authorized to assist States in developing disaster preparedness plans.

Third, where facilities of local and State governments and private nonprofit organizations are repaired or restored, with assistance made available under the act, the owners of these facilities must thereafter obtain insurance to the extent it is reasonably available. In the absence of insurance, no future disaster assistance would be made available for these facilities.

Fourth, penalties are imposed for misstatement of fact in an application for disaster assistance and for misapplication of cash benefits.

Fifth, in connection with the repair or restoration of damaged public facilities, a State or local government has the option of receiving grants on a project-by-project basis, or receiving a block grant based on the estimated cost of restoring all damaged facilities which could be used to repair or restore selected facilities or to construct new ones.

Sixth, the so-called minirepair program is specifically authorized.

Seventh, grants of up to $5,000 for each household are authorized to meet disaster-related expenses for which there is no other adequate relief.

Eighth, unemployment assistance is extended.

Ninth, community disaster loans are authorized to communities suffering substantial loss of tax and other revenues because of a major disaster. Part or all of the loan is canceled to the extent that local revenues during the 3 years after the disaster do not meet the operating budget.

Tenth, assistance is provided for redevelopment of areas damaged by a major disaster.

In conclusion, provisions of this legislation will fill needs which exist in the present disaster relief program and enable it to perform more effectively in assisting areas which are damaged by a major disaster. Mr. Speaker, I urge support of the conference report.

Mr. TREEN. Mr. Speaker, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from Louisiana.

Mr. TREEN. Mr. Speaker, I have a question. I refer to page 12 of the report, section 402(f). I think that the bill went through rather quickly, and I do not know whether the Members have had the opportunity to study all of the provisions in the bill. I would appreciate clarification of the provision which permits the Federal Government to pay 90 percent of the cost of a structure when the State or local government decides that it does not want to replace that structure.

In subsection (e) it provides that the Federal Government may pay 100 percent of the cost of repairing, restoring, reconstructing or replacing any publicly owned structure, which I have no quarrel with, but in the next section, in section (f), it provides that if the local government or the State government does not wish to replace the structure, that the Federal Government will pay 90 percent of the estimate of repairing or restoring that structure, based on the design of the facility as it existed immediately prior to the disaster.

It seems to me that if you have a structure—and I can think of some beautiful Greek revival structures such as courthouses, and so forth—that could be destroyed in a disaster, and the local government decides that it is not going to replace that particular structure, then the bill requires that the Federal Government pay 90 percent of the cost of reconstruction according to its previous design. An estimate for reconstruction based on existing design, even at 90 percent could run substantially higher than the cost of a substitute structure of comparable functional capacity.

It would seem to me that we may be providing excessive payments in this legislation.

Mr. JONES of Alabama. Mr. Speaker, will the gentleman yield?

Mr. HARSHA. I am happy to yield to the gentleman from Alabama.

Mr. JONES of Alabama. Mr. Speaker, perhaps I can answer the inquiry of the gentleman from Louisiana (Mr. TREEN). When the bill talks about the design of the structure, it does not mean an exact physical reproduction, but means a new structure which would have the same capacity as the old structure. This is explained on page 38 of the conference report.

Mr. HARSHA. Mr. Speaker, I might point out to the gentleman from Louisiana (Mr. TREEN) that this section is operational when the State or local government decides that it is not to their advantage to restore the building. The added flexibility available to communities justify the 90-percent provision. We did not provide for 100-percent payments if communities are not going to rebuild the existing structure. This might be unjustifiably liberal. However, if the community puts up the same type building, then they get 100 percent.

If the community decides that the best interests of the community would be served by not rebuilding that particular school but rather by building some other school that would necessarily serve the public better, then we have provided the flexibility to permit them to do just that.

Mr. TREEN. If the gentleman will yield further, I am not opposed to the concept of letting the local government decide that it does not want to replace that structure. I think 90 percent is fine, but the question I raise is this: the legislation requires that the estimate of restoring that building be based upon the "design" of that structure immediately prior to the disaster, and we could not possibly rebuild some of these structures as previously designed for anything near the cost of a new structure. I am trying to establish a little legislative history.

I am all in favor of this, I might say to the gentleman. It will help my area. But I am concerned about this opening the way, to costs far in excess of that which would be required to build a comparable structure because of the provision that the estimate be based upon the prior design of the structure.

Mr. HARSHA. We could not possibly let them design some particular new structure on the basis of some new architectural design and replacement codes on old archaic designs. New codes could have expanded capacity requirements. We have to have some kind of guidelines in which to base this estimate. I refer the gentleman to the statement of managers which discusses this problem.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I might suggest to the gentleman that there exists in the city of Xenia a particular situation to which this has application. As the Members know, Xenia was approximately half destroyed in the recent tornado. In that community the school administration has begun to make a study of its location of school facilities and the nature of those school facilities with reference to their replacement, because about half of the elementary facilities were destroyed, as were most of the junior high school facilities, and the only high school.

The point is that in rebuilding those facilities, it is now believed that they would be better off relocating these various schools from where they originally existed. They are designing schools that are of uniform size, rather than having some appropriate for 200 students and some that are appropriate for 1,000 students. The point is that there is a need for replacement funds by the Federal Government for those public facilities to be constructed on the basis of what existed before the disaster but that they not be unduly enriched by the provision for flexibility if the local system decided to build their schools in different sizes and segments and at different locations. I think that is the reference in this legislation.

Mr. HARSHA. I should further like to point out to my friend the language on page 38 of the Statement of the Managers:

> The intent of the conferees in this section is to provide for Federal payment for a new facility that would provide the same capacity as the old facility if it were to be built today according to up-to-date standards.

We require that the current applicable code specifications and standards be met, but we do not want communities designing some extravaganza that will not meet the capacity that the original building was constructed to serve.

Does that answer the gentleman's question?

Mr. TREEN. I appreciate the comments of the gentleman and having that legislative history. I am for the flexibility. There is no quarrel with what was said awhile ago. It is just that we do not want to be paying the excess cost for some archaic design.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding.

Mr. Speaker, I rise to express my appreciation as the Member of Congress who represents Xenia, Ohio, which was recently so terribly ravaged for the prompt consideration of this legislation by the Committee on Public Works. I thank the gentleman from Alabama, the floor manager of the conference report, the gentleman from Minnesota, the chairman of the full committee, and the gentleman from Ohio, (Mr. HARSHA) who is the ranking member of the full committee.

I would like to recite very briefly, if I may, the extent of the devastation which one community, Xenia, Ohio, has experienced in this recent tornado and the basis of the need for this legislation. Let me point out, if I may, that a total of 1,226 residential structures, over 14 percent of this community, was destroyed in these tornadoes. Approximately 40 percent of the houses in this community were damaged. Mr. Speaker, 118 of the business operations in this community, 47 percent were totally demolished. Another 159 were damaged to the point where they were required either to be relocated or to obtain temporary assistance and repair. More significantly, perhaps, the sources of employment of approximately 33 percent of the 4,100 jobs in this community were destroyed in a few minutes. More than that, $877,000 of the city's $1,668,000 budget was lost in terms of property taxes lost because of this tornado.

Mr. Speaker, I hope the conference report will be passed promptly.

Again I want to express my appreciation to the committee. I hope the funds will be provided promptly to cover the needs of this community.

Mr. HARSHA. Mr. Speaker, the gentleman from Ohio (Mr. BROWN) has spent considerable time with me and with the other members of the committee during our consideration, bringing to our attention the great need in his community and the destruction, and he was quite helpful throughout our deliberations in giving us the benefit of his judgment and observations as he saw them in the State of Ohio. We appreciate not only his interest in the legislation but also his help in enabling us to arrive at a conference report which we all support.

Mr. Speaker, I urge support of the conference report and reserve the balance of my time.

Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. JONES of Alabama. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Speaker, I am very much concerned that this legislation does not cover some situations that I believe it was the intent of the original legislation to cover, and I know it was intended to cover it. I know on the conference report no amendments can be offered, but I want to recite a factual case that happened recently in my district.

In one of the counties—Fayette County—several farmers experienced a severe flooding problem last summer which occurred after the 1973 deadline. Under the terms of the legislation the disaster would have had to be designated as between December 1972 and April of 1973. This heavy flooding occurred immediately after this period. Our farmers made application under the Farmers

Federal Home Administration for relief because they had suffered a "disaster." After a long period of delay, even though it had been recommended by the State that this be declared a disaster, still the FHA ruled both at the State and Washington level that it did not occur during the period of time and they therefore would not declare this as a disaster.

As I look at the conference report and the definition and the purpose, what it clearly states is there could be an emergency or major disaster and it outlines the terms under which that could occur and it also states specifically it could be a community disaster or type of disaster which would affect a particular locale, namely farmers.

The intent was to try to give help, and yet the Farmers Home Administration would not approve that designation simply because they felt it might set some kind of national indication that this could cover every county in the United States. I grant they might have a problem about funds, but I simply say it ought to be understood that a farmer can have a disaster by heavy flooding, which wipes out his whole crop, just as much as if a tornado swooped down and wiped out every bale of his cotton or corn crop. If the farmers are not given some kind of relief, even though it is recommended by the Governor's office, then what relief do they have and where can they look for possible relief?

FHA takes a closed attitude about it down the street and will not do any more than say, "You do not qualify under the existing law."

I think we must have some form of relief as we go forward, because that is not equity for the farmer. Does the gentleman agree?

Mr. JONES of Alabama. The gentleman's observations are well taken as they relate to the program administered by the Farmers Home Administration. The bill before us today concerns emergencies and disasters under a program to be administered by the President. If there is a need to address the gentleman's problem, it should be done in other legislation. That legislation is under the jurisdiction of another committee.

I would make one point to the gentleman, that under the terms of this bill rural areas can be included in "major disaster areas" and those areas in which an emergency is determined to exist by the President. However, as I have previously pointed out, the farmers home loan program is not a part of this legislation.

Mr. PICKLE. Mr. Speaker, in order to have a chronology of the events in Fayette County, I want to put into the RECORD some excerpts of letters and correspondence showing the problems the farmers of Fayette County faced in trying to get help. This story could happen in every county in America.

The fact is that either under legislation like the bill before us today from Public Works, or under legislation from another committee, Congress needs to address itself to the questions, "What is a disaster, and who can qualify?"

First, I want to include a letter from Mr. Joe Peschal of La Grange, Tex.:

LA GRANGE, TEX., *January 14, 1974.*

DEAR REPRESENTATIVE PICKLE: The reason for this letter to you is to ask for your help and concern in a rightful way. We truly declare our county a disaster area in 1973 due to the extensive rains and flooding of our land and crops. They inflicted losses of more than eighty percent of all our crops, small as the crops were. These crops were completely submerged for 24 hours by water from Buckners Creek on June 15, 1973. This flood also leveled all our freshly plowed land which was prepared for hay. As yet not one bale of hay has been harvested on this land since the flood.

With these losses and the increase in fuel, fertilizer, and seed costs, the picture for this coming spring poses a grim picture indeed for the farmer.

Yours truly,

JOE A. PEEHAL.

Now I want to show the letter that the farmers of Fayette County wrote to Mr. Earl Butz, Secretary of the Agriculture Department:

LA GRANGE, TEX., *March 23, 1974.*

Mr. EARL L. BUTZ,
Secretary of Agriculture,
Washington, D.C.

DEAR SECRETARY BUTZ: On October 19, 1973, the following news release appeared in the National Farmers Union Washington Newsletter:

"A restriction on FmHA Disaster Loans would be lifted under a bill passed by the Senate. The bill (S. 2482) would eliminate the requirement that farmers must first show that a loan is not available from other sources before they are eligible for FmHA loans. *The bill would also reinstate FmHA loans at 1% with the $5,000.00* forgiveness feature for farmers who suffered losses due to disasters between Dec. 27, 1972, and April 20, 1973."

At that time, the local farmers inquired at the local FmHA office, Mr. Clarence Matula, Supervisor, as to the availability of the program for Fayette County. They were advised that in order for Fayette County to become eligible for this disaster program, Fayette County Judge David M. Murray, La Grange, Texas, would need to request designation from Governor Dolph Briscoe of Texas. County Judge Murray, without any news media, received 100 and plus signed applications, exhibits 1 through 102. He then forwarded a letter of designation to Gov. Briscoe. Gov. Briscoe approved this designation for Fayette County and forwarded the information to the Texas State FmHA office in Temple, Texas.

After not hearing for several weeks, 27 local farmers visited the Temple FmHA office and they were advised that they were informed of this program, however Gov. Briscoe would have to submit this designation to you, Secretary Butz. We were advised that Gov. Briscoe had furnished this information to you.

On January 24, 1974, another news article on the subject again appeared in the National Farmers Union Washington Newsletter:

"A temporary reinstatement of the 1% FmHA Disaster Loan Program went into effect Jan. 2. The program, which provides emergency loans to farmers at 1% interest with a $5,000.00 forgiveness feature, will reopen for 90 days. Only those farmers who suffered losses between Dec. 27, 1972, and April 20, 1973, will be eligible for loans under the temporary program."

As the 90-day reinstatement period was near ending, the local FmHA office said that they had no information of this program or if Fayette County was eligible. Several farmers contacted Gov. Briscoe's office and Congressman J. J. "Jake" Pickle's office in Austin and Washington, D.C. They all seemed to indicate that this was a re-instatement of the program of 1972 of which Fayette County was designated. Applications for this program are being submitted to the local FmHA office here in La Grange. Exhibit 103 and 104 are examples of the answers we are getting to our applications.

The question is: Does Fayette County qualify for this designation from 1972, or the present designation pending in your office?

Secretary Butz, the farmers of Fayette County would greatly appreciate it if you would notify us as soon as possible if this program is available, either through the local newspapers or contacting Judge David M. Murray, County Judge, Fayette County, La Grange, Texas 78945. *If* this program is not available to us, we would also like an explanation of, since the Senate Bill 2482 was passed, why it is not being carried out.

We, the farmers of Fayette County, want to thank you for your assistance in this matter and also for the help you have been to us in the past. We appreciate the time you are taking in helping the farmers, not only here in Fayette County but all over the nation, to receive the benefits they rightly deserve.

Again, thanks for all your time and help.

Sincerely:

THE FARMERS OF FAYETTE COUNTY, TEX.

And here is the response from the Assistant Secretary of Agriculture, Mr. William Erwin, to the county judge of Fayette County, Judge David Murray:

DEPARTMENT OF AGRICULTURE,
Washington, D.C., April 11, 1974.

Hon. DAVID M. MURRAY,
Judge of Fayette County,
La Grange, Tex.

DEAR JUDGE MURRAY: This is in response to your letter of March 20, 1974, concerning a request made by Governor Dolph Briscoe for a designation of Fayette County, Texas, as a disaster area for the period December 26, 1972, to April 20, 1973, to offer retroactive benefits to farmers and ranchers who suffered losses during this period.

Public Law 93–237, enacted January 2, 1974, provides that Emergency loans can be made at 1 percent interest with up to $5,000 principal cancellation to applicants who sustained qualifying losses after December 26, 1972, and prior to April 20, 1973. This Public Law also removed the requirement that applicants show they are unable to obtain their needed credit elsewhere.

We asked the Farmers Home Administration to complete a survey of the need for such designation of Fayette County. After careful consideration of the information submitted, it does not appear that this county qualifies for a Secretarial designation.

We appreciate your interest.

Sincerely,

WILLIAM ERWIN,
Assistant Secretary.

This was the response even though the Governor of Texas, the Honorable Dolph Briscoe, recommended this area of disaster relief. The letter gives no explanation as to why the county was turned down. The people need a better answer from their Government. The people need to know how to qualify so that such disappointment will not occur again.

The local FmHA did not recommend disaster relief, at least this is my understanding. Maybe this is the basic problem. The fact is that the local FmHA is limited by the law and the time frame that the law sets out, not on the needs of the people suffering from disaster.

Mr. Speaker, recently I met with 150 farmers in Fayette County. I learned first hand their deep feelings over their loss, and the disappointment they felt over not getting any relief.

While they were overlooked, their attitude was still strong, and affirmative, and wholesome. They were not trying to rip the Government, nor have they ever tried to rip the Government. They did sense that their needs had not been met.

They made a good case to me for relief. We must give further consideration in the future to providing the kind of legislation to help people faced with similar problems.

Mr. KLUCZYNSKI. Mr. Speaker, I rise in support of S. 3062, the Disaster Relief Act of 1974. I wish to commend the chairman of the House conferees, the distinguished gentleman from Alabama (Mr. JONES) and the other House conferees for the outstanding job they did in working out the conference report on this bill. As has been pointed out here today, this conference substitute makes some very worthwhile and desirable improvements to the basic Federal disaster program authorized by the Disaster Relief Act of 1970. Disaster preparedness programs of the States are encouraged, and greater flexibility is added to the assistance which can be provided by the Federal Government.

The provisions regarding repair and restoration of public facilities are made more flexible and workable, and assistance is made available to local governments who suffer substantial loss of tax and other revenues because of major disasters.

In addition to this, an individual and family grant program is authorized to meet disaster-related expenses or needs which are not covered under the disaster program or other sources.

Mr. Speaker, I urge support of the conference report.

Mr. JOHNSON of California. Mr. Speaker, I rise in support of the report of the committee of conference on S. 3062, the Disaster Relief Act of 1974. I wish to commend the distinguished gentleman from Alabama (Mr. JONES) for the outstanding leadership he has shown as the chairman of the House conferees on this bill. The bill which he has brought back from conference is an improvement over the original Senate bill and represents the wishes of the House as expressed during the original House action on the Senate bill.

The conference substitute modifies and improves the comprehensive 1970 disaster relief legislation. These are changes which our experience has shown since 1970 to be desirable. I wish to particularly note that the conference substitute makes the individual and family grant program retroactive to April 20 of 1973, the date on which the forgiveness provisions of the Small Business Administration and Farmers Home Administration loan programs expired. This action, which was strongly urged by many Members of this body during the debate on the House amendment to the Senate bill, will prevent the existence of serious inequities which would have resulted if the 1-year gap in this sort of assistance had not been filled.

Mr. Speaker, I strongly urge support of the conference report.

Mr. ROBERTS. Mr. Speaker, I rise in support of the conference report on S. 3062, the Disaster Relief Act of 1974. The existing Federal disaster assistance program authorized by the Disaster Relief Act of 1970 is a good program and has worked well. However, our experience with it has demonstrated that certain modifications and improvements are desirable to make it even more effective.

The Disaster Relief Act of 1974 as agreed to by the committee of conference makes these improvements. Major disasters are distinguished from those of lesser magnitude which are termed emergencies. Federal assistance will now be available in differing amounts in both situations. Federal encouragement to the States to come up with disaster preparedness plans is strengthened. Penalties are imposed for those who knowingly misstate facts in connection with an application for disaster assistance, and those who knowingly misapply the proceeds of a loan or other cash benefit. The provisions regarding repair and restoration of damaged public facilities are expanded to give the States or local governments the option of receiving a bloc grant to repair or replace damaged facilities or rebuild new ones, as they choose, in lieu of receiving project-by-project grants for each facility.

The so-called minirepair program whereby a dwelling is restored to a habitable condition is specifically authorized. Individual and family disaster assistance grants are authorized and this provision is made retroactive to April 20, 1973. Unemployment assistance is extended. Community disaster loans are provided for with forgiveness of that part of the loan which represents the amount by which local revenues are not sufficient to meet the local operating budget for the 3 years after the major disaster, and economic development assistance is provided for areas hit by a major disaster.

Mr. Speaker, these are all desirable improvements in the 1970 disaster program. They represent the very careful consideration of the committee of conference of the provisions of the Senate bill and the House amendment. As a conferee I congratulate the gentleman from Alabama (Mr. JONES) for his leadership as chairman of the House conferees. The conference substitute is good legislation and deserving of the support of the Members of the House. I strongly urge its approval.

Mr. BEVILL. Mr. Speaker, I rise to express my strongest support for the conference report to S. 3062, Disaster Relief Act Amendments of 1974.

In my judgment, these amendments greatly improve the Federal disaster relief program and will be of tremendous benefit to the people of this Nation. It will also benefit thousands of people in the Fourth Congressional District of Alabama, which I represent.

Some of the counties in my district were the hardest hit by the tornado which struck Alabama on April 3. The devastating tornado left 81 persons dead and over 800 injured and also destroyed almost 900 homes. An estimated 70 percent of the downtown business district of Jasper, my hometown, was damaged or destroyed.

The city of Guin, Ala., was severely damaged and 22 people were killed.

Eleven of the 16 counties in Alabama which were declared a disaster are in my district.

As soon as I learned of the extensive damage done by the tornado, I contacted the White House and urged the President to declare the area a disaster. I then flew to Alabama to get a first-hand view of the areas hit and to do what I could to see that the victims received all the help they needed.

What I saw was suffering and destruction. I can report to you, first hand, the great need for these amendments.

I feel we have made much progress in delivering the services of various Federal agencies to those who suffered losses. But these amendments will definitely improve the program. They have been drafted after careful study and many hours of consideration.

As you know, this bill provides immediate relief for the five States struck by tornadoes in April. It will be money well spent. I know, for I have already seen some of the disaster programs in action.

I want to congratulate the members of the conference committee for their work on the legislation and for recommending these much needed amendments. And I urge my colleagues to give their strongest support to this legislation.

Mr. MALLARY. Mr. Speaker, I rise in support of the conference report on the Disaster Relief Act Amendments of 1974.

I would first of all like to extend my appreciation to the chairman of the Public Works Committee (Mr. BLATNIK) and the ranking minority member (Mr. HARSHA) for following up their commitment during the consideration of the bill on the floor of the House. At that time, I was told that efforts would be made in the conference committee to favorably consider the need for retroactive payments in justifiable cases. This bill meets the needs I outlined on the floor at that time.

Over the past 20 years or so, Congress has enacted a number of laws providing for disaster relief, culminating in the Disaster Relief Act of 1970. That act provides for a comprehensive approach to assist States and local governments in rendering emergency services. The bill provides substantial assistance to individuals and communities in their efforts to recover from damages caused by a major disaster. One major area of relief, however, is no longer available under the disaster relief program, and its restoration is extremely important in light of certain recent disasters. This is the provision for assistance in the case of disaster-caused expenses or needs which are not adequately covered under other forms of assistance such as Small Business Administration or Farmers Home Administration disaster loans.

The 1970 Disaster Relief Act provided assistance in the form of partial forgiveness of Small Business Administration and Farmers Home loans. Forgiveness provisions have since been deleted by Public Law 93-24. In many cases, following a major disaster, people suffer losses not covered by the SBA or FHA disaster programs or suffer losses only partially covered by these programs. These cases must be covered if there is to be a meaningful disaster relief program. This legislation meets this need.

The bill authorizes the President to make a grant to a State for the purpose of that State making grants to individuals or families to meet extraordinary disaster related expenses or needs of such individuals or families adversely affected by a major disaster in those cases where assistance under the Disaster Relief Act of 1970, or from other means, is not sufficient to allow them to meet these extraordinary expenses.

I am particularly pleased that the conferees have made this provision retroactive to April 20, 1973. As you know, Mr. Speaker, Vermont suffered devastating floods in June and July of last year. Under statutes in effect at the time, many Vermont people were not accorded the relief needed following the terrible damaging floods.

The bill we are considering today will help victims of last summer's floods when Vermont was declared a disaster area. It also provides a meaningful mechanism of relief for past disasters in other parts of the country and for victims of future natural disasters.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in support of the conference report on S. 3062, the Disaster Relief Act Amendments of 1974; these amendments are urgent and necessary in light of the recent tornadoes which plagued parts of the country earlier this spring. Specifically, I support title V of these amendments, which amends the Public Works and Economic Development Act of 1965, as amended, by adding to it a new title VIII, Economic Recovery for Disaster Areas. This title provides assistance for the economic recovery of any major disaster area which has suffered dislocation of its economy. The title stresses planning and development to replace that lost in disaster, continued coordination of assistance available under Federal-aid programs, and continued assistance toward the restoration of the employment base. The Governor of an affected State, following authorization by the President, designates a Recovery Planning Council, comprised of local officials and citizens, and a State and Federal representative, for the area affected. The Recovery Planning Council shall review existing plans for development, make recommendations for revisions, and recommend reprograming of Federal-aid projects, consistent with congressional appropriations. Additionally, Federal funds for Public Works and development facilities, grants and loans, loan guarantees, and technical assistance will be available through Planning Councils for areas affected by a major disaster. The Recovery Planning Council is a necessary and desirable organization for economic recovery in distressed areas. With proper coordination and planning the right decisions can be made to speed the recovery efforts.

I am particularly pleased that existing economic development districts established under title IV of the current EDA legislation will be used when a disaster recovery effort falls within, or partly within, a district's jurisdiction. Economic development districts are the mainstay of the current EDA program. This delivery tool has assisted in planning and implemenation of development efforts. This title, in my estimation, will complement the existing efforts of EDA and will provide valuable assistance to those affected by a major disaster. I urge the House adopt this conference report.

The SPEAKER. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SCHERLE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 392, nays 0, not voting 41, as follows:

[Roll No. 224]

YEAS—392

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Baker
Barrett
Bauman
Beard
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blatnik
Boggs
Bolling
Bowen
Brademas
Brasco
Bray
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Butler
Byron
Camp
Carney, Ohio
Casey, Tex.
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collier
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Conyers
Corman
Cotter
Coughlin
Crane
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, S.C.
Davis, Wis.
Delaney
Dellenback
Dellums
Denholm
Dennis
Dent
Derwinski
Devine
Dickinson
Dingell
Donohue
Dorn
Downing
Drinan
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford
Forsythe
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Grasso
Gray
Green, Pa.
Griffiths
Gross
Grover
Gubser
Gude
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Hastings
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holt
Holtzman
Horton
Hosmer
Howard
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Ketchum
King
Kluczynski
Koch
Kuykendall
Kyros
Lagomarsino
Landgrebe
Landrum
Latta
Leggett
Lehman
Lent
Long, La.
Long, Md.
Lott
Lujan
Luken
McClory
McCollister
McCormack
McDade
McEwen
McFall
McKay
McKinney
McSpadden
Macdonald
Madden
Madigan
Mahon
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Milford
Miller
Minish
Mink
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers
Natcher
Nedzi
Nelsen
Nichols
Obey
O'Brien
O'Hara
O'Neill
Owens
Parris
Passman
Patman
Patten
Pepper
Perkins
Peyser
Pickle
Pike
Poage
Podell
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rarick
Rees
Regula
Reuss
Rhodes
Riegle
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Roncalio, Wyo.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Roybal
Runnels
Ruppe
Ruth
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Scherle
Schneebeli
Schroeder
Sebelius
Seiberling
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stratton
Studds
Symington
Symms
Taylor, Mo.
Taylor, N.C.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Traxler
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Veysey
Vigorito
Waggonner
Waldie
Walsh
Wampler
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wydler
Wylie
Wyman
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—0

NOT VOTING—41

Blackburn
Boland
Buchanan
Carey, N.Y.
Carter
Clark
Davis, Ga.
de la Garza
Diggs
Dulski
Fountain
Green, Oreg.
Hanna
Hawkins
Hébert
Helstoski
Holifield
Huber
Hudnut
Johnson, Pa.
Litton
McCloskey
Mills
Mollohan
Morgan
Nix
Pettis
Reid
Rogers
Roncallo, N.Y.
Rooney, N.Y.
Slack
Stubblefield
Stuckey
Sullivan
Talcott
Teague
Williams
Wright
Wyatt
Young, S.C.

So the conference report was agreed to.

The Clerk announced the following pairs:

Mr. Rooney of New York with Mr. Holifield.

Mr. Teague with Mrs. Green of Oregon.

Mr. Stubblefield with Mr. Hanna.

Mr. Hawkins with Mr. Reid.

Mrs. Sullivan with Mr. Williams.

Mr. Diggs with Mr. Clark.

Mr. Helstoski with Mr. Mills.

Mr. Dulski with Mr. Johnson of Pennsylvania.

Mr. Morgan with Mr. Hudnut.

Mr. Mollohan with Mr. Blackburn.

Mr. Nix with Mr. Litton.

Mr. Fountain with Mr. Huber.

Mr. Wright with Mr. Buchanan.

Mr. Boland with Mr. McCloskey.

Mr. Carey of New York with Mr. Carter.

Mr. Hébert with Mr. Pettis.

Mr. Rogers with Mr. Roncallo of New York.

Mr. Slack with Mr. Young of South Carolina.

Mr. Davis of Georgia with Mr. Talcott.
Mr. de la Garza with Mr. Stuckey.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of Alabama. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

ESTABLISHING THAT COMMITTEE ON POST OFFICE AND CIVIL SERVICE SHALL BE COMPOSED OF 27 MEMBERS

Mr. O'NEILL. Mr. Speaker, I offer a privileged resolution (H. Res. 1102) and ask unanimous consent for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1102

Resolved, That during the remainder of the Ninety-third Congress the Committee on Post Office and Civil Service shall be composed of twenty-seven members.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. GROSS. Mr. Speaker, reserving the right to object, I am sure this is a beefing up of the committee, in other words, the addition of another member to the committee?

Mr. O'NEILL. The answer is "Yes." It has been cleared with the minority leader. I have a similar resolution for another committee which will do the same thing. All of these resolutions have been cleared by JOHN RHODES.

Mr. GROSS. These resolutions are not exactly in conformity with the reform movement, are they?

Mr. O'NEILL. I will have to say that the gentleman knows the answer to that before he even asks it.

Mr. GROSS. I thought perhaps the gentleman would like to reassure me they are not in conformity with the famous reorganization of the committees.

Mr. O'NEILL. If you have reference to the Bolling reorganization bill, no, they are not.

Mr. GROSS. I understand.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ESTABLISHING THAT COMMITTEE ON PUBLIC WORKS SHALL BE COMPOSED OF 40 MEMBERS

Mr. O'NEILL. Mr. Speaker, I offer a privileged resolution (H. Res. 1103) and ask unanimous consent for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1103

Resolved, That during the remainder of the Ninety-third Congress the Committee on Public Works shall be composed of forty members.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON EDUCATION AND LABOR TO FILE REPORT

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that the Committee on Education and Labor may have until midnight tonight to file its report on H.R. 14449, the Community Services Act of 1974.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

PERSONAL EXPLANATION

Mr. FOUNTAIN. Mr. Speaker, on rollcall No. 224 on the conference report on the Disaster Relief Act of 1974, I was detained in the Cannon Office Building and did not hear the bells. Had I been present on the floor I would have voted for the conference report.

WHILE THE WORLD LOOKS THE OTHER WAY

(Mr. LEHMAN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. LEHMAN. Mr. Speaker, in recent years the world has apparently accepted as a matter of course the repeated Arab terrorist attacks on innocent civilians. The Lod Airport massacre, the Munich massacre, the Athens massacre, the Rome massacre, the murder of U.S. diplomats in Khartoum, and the 18 civilians who were murdered at Kiryat Shmona only a few weeks ago, have all been forgotten. But the silence and the short memory of the world has served only to encourage new terrorist attacks.

After the murders at Kiryat Shmona last month when small children were thrown to their death from third-floor windows, the Israeli Government ordered reprisal raids into Lebanon. A number of Arab houses were blown up in villages which had supported the terrorists.

The U.S. Government responded by joining with a majority of the members of the U.N. Security Council in voting to condemn Israel for the raid into Lebanon but not to criticize the Arabs for the slaughter of Israeli women and children.

Unfortunately that action by our Government did not discourage the Arab terrorists and perhaps even signaled them that future attacks against Israeli civilians would be ignored by the United States—a policy which negates every moral principle upon which our Nation rests.

Once more we are being shown quite clearly what happens when the world closes its eyes to terror. An entire school full of children is the target of the latest Arab terrorist attack.

Seven months ago, Arab armies launched a surprise attack against Israel on Yom Kippur, the holiest of Jewish holidays. Foreign governments reacted either with indifference or by breaking diplomatic relations with Israel. Many called for an "evenhanded" response to the Arab attack.

There can be no "evenhanded" solution to Arab aggression against Israel. Across-the-border attacks, whether by terrorist raiders or by invading armies, are acts of war which would not be tolerated for one second by this country and would result in fierce retaliation.

If terrorists had crossed our borders and attacked the school where our children or grandchildren were present, we would not be sitting by to decide how to be more "evenhanded." Nor would we condemn any action by our Government to punish those responsible for these terrorist attacks, if neighboring governments had repeatedly refused to do so.

As long as the Arabs believe the world will look the other way, they will continue to cross Israel's borders to carry out acts of terrorism and war.

Because Israel has respected world opinion in the past, it has carefully restrained its responses to Arab attacks, time and time again.

Let us not rise up in righteous indignation if Israel begins to lose its patience at the U.N. and the world's indifference to Arab barbarities.

POLICE OFFICERS MEMORIAL DAY

(Mr. HOGAN asked and was given permission to address the House for 1 minute, and to revise and extend his remarks and include extraneous matter.)

Mr. HOGAN. Mr. Speaker, it was a privilege to have the opening prayer offered today by the Reverend R. Joseph Dooley, the president of the International Conference of Police Chaplains in recognition of Police Officers Memorial Day.

I wish to pay my respects to those law enforcement officers who have dedicated their lives for the safety and well-being of all Americans. I include the names of those police officers who were killed in the line of duty from May 15, 1973, to May 15, 1974, in the RECORD at this point.

INTERNATIONAL CONFERENCE OF POLICE CHAPLAINS ROLL OF HONOR

LAW ENFORCEMENT OFFICERS KILLED MAY 15, 1973–MAY 15, 1974

Deputy James C. Douglas, Brazoria County, Texas, 5–15–73.

Deputy Charles A. Rodgers, Greenwood County, South Carolina, 5–16–73.

Patrolman Adolfo A. Solis, Police of Puerto Rico, 5–18–73.

Patrolman Wilfredo R. Cintron, Police of Puerto Rico, 5–20–73.

Officer William V. Welch, Fort Worth, Texas, 5–20–73.

Patrolman Henry Wolf, Oak Park, Michigan, 5–21–73.

Patrolman David W. Clark, Memphis, Tennessee, 5–21–73.

Patrolman Robert W. Blan, Oakland, California, 5–23–73.

Sergeant David H. Anthony, Sr., Hattiesburg, Mississippi, 5–23–73.

Patrolman Robert B. Laurenson, New York City, N.Y., 6–2–73.

Officer Sidney Thompson, New York Transit Authority, 6–5–73.

Sergeant James H. Rutledge, Berkeley, California, 6–14–73.

Patrolman Ralph Stanchi, New York City, N.Y., 6–17–73.

Patrolman Larry Barkwell, Atlanta, Georgia, 6–19–73.

Patrolman Frederic D. Vacha, Cleveland, Ohio, 6–20–73.

Officer Charles C. Caraccilo, Los Angeles, California, 6–21–73.

Deputy Sheriff George E. McMurren, Yavapai County, Arizona, 6–24–73.

Chief of Police George L. Lashley, Gibsonville, North Carolina, 6–30–73.

Patrolman Russell Spannagel, San Antonio, Texas, 6–30–73.

Deputy Sheriff James E. Orr, Kershaw County, South Carolina, 7–2–73.

Patrolman Elwood Ridge, Camden, New Jersey, 7–2–73.

Patrolman Daniel H. Bruns, Dayton, Ohio, 7–3–73.

Deputy James A. Auterbury, St. Charles Parish, Louisiana, 7–4–73.

Officer Emilio Maestes, Clayton, New Mexico, 7–19–73.

Deputy Luis Garza, Atascosa County, Texas, 7–19–73.

Officer John Ruggerio, Fall River, Massachusetts, 7–23–73.

Patrolman Austin Hepburn, Jr., Hallandale, Florida, 7–27–73.

Officer Vernon L. Jarrell, Richmond, Virginia, 8–1–73.

Chief of Police Philip de Santis, Woodbine, New Jersey, 8–6–73.

Sergeant Freddie J. Karp, Mountain Brook, Alabama, 8–6–73.

U.S. Park Ranger Kenneth C. Patrick, Olema, California, 8–6–73.

Drug Enforcement Officer Emir Benitez, Fort Lauderdale, Florida, 8–9–73.

Officer Steven D. Hensley, Delta, Colorado, 8–11–73.

Officer Anthony Raymond, Hillside, California, 8–18–73.

Sergeant Salvadore G. Mosqueda, Fresno, California, 8–20–73.

Deputy Elbert Watkins, Falls County, Texas, 8–21–73.

Deputy Dean Humphus, Falls County, Texas, 8–21–73.

Lieutenant Thomas Jackson, Moultrie, Georgia, 8–25–73.

Officer Gary D. Mills, Boulder, Colorado, 8–25–73.

Sergeant John H. Howell, II, Lincoln County, North Carolina, 8–26–73.

Officer Roy Bradshaw, Nespelem, Washington, 8–27–73.

Patrolman James M. Vigil, Alamogordo, New Mexico, 8–29–73.

Officer George L. Pomraning, Arlington County, Virginia, 9–2–73.

Deputy Delbert L. Berry, Apache County, Arizona, 9–2–73.

Patrolman Casper Buonoacre, Jersey City, New Jersey, 9–12–73.

Patrolman David Huerta, Houston, Texas, 9–19–73.

Patrolman Calvin M. Rodwell, Baltimore, Maryland, 9–22–73.

Inspector Joseph T. Moretti, Revere, Massachusetts, 9–24–73.

Patrolman Edward L. Barron, Chicago, Illinois, 9–28–73.

Officer Wendell I. Troyer, Oakland, California, 10–2–73.

Officer David Guider, Oakland, California, 10–2–73.

Patrolman Felix Underwood, Birmingham, Alabama, 10–7–73.

Deputy Sheriff Dalton Burnam, Dodge County, Georgia, 10–7–73.

Patrolman George R. Mead, New York City, N.Y., 10–10–73.

Officer Donald B. Ziesmer, Minnesota Highway Patrol, 10–15–73.

Officer Clarence E. Harris, Atlanta, Georgia, 10–20–73.

Patrolman Daniel J. Swift, Hornell, New York, 10–24–73.

Patrolman Robert J. Ahrens, Mt. Clemens, Michigan, 11–1–73.

Patrolman Raymond L. Wheeler, Nashville, Tennessee, 11–5–73.

Patrolman Edgar D. Cooley, Honea Path, South Carolina, 11–6–73.

Detective Gerald W. Sawyer, Los Angeles, California, 11–6–73.

Patrolman Robert T. Moore, Detroit, Michigan, 11–8–73.

Special Agent Pedro P. Castro, Police of Puerto Rico, 11–10–73.

Sergeant Alvin P. Morris, Detroit, Michigan, 11–12–73.

Trooper Claude H. Baker, Jr., Florida Highway Patrol, 11–17–73.

Patrolman William Robinson, Newburgh, New York, 11–18–73.

Detective Jorge L. Sierra-Vasquez, Police of Puerto Rico, 11–19–73.

Patrolman Edward J. Hammond, Jr., Memphis, Tennessee, 11–23–73.

Deputy Sheriff Bristol Taylor, Knott County, Kentucky, 11–23–73.

Officer John B. Schroeder, Boston, Massachusetts, 11–30–73.

Deputy Sheriff Bruce R. Verhoeven, Sacramento County, California, 12–4–73.

Field Supervisor Steve Armenta, California State Bureau of Narcotics Enforcement 12–5–73.

Patrolman Henry L. Jones, Atlanta, Georgia, 12–2–73.

Officer Donald P. Tucker, Dallas, Texas, gia, 12–12–73.

Patrolman Ronald Reagan, Milwaukee, Wisconsin, 12–13–73.

Sergeant Wayne J. Truttman, Brown County, Wisconsin, 12–20–73.

Trooper Ronald G. Smith, Florida Highway Patrol, 12–23–73.

Patrolman Thomas Carpenter, Colorado Highway Patrol, 12–27–73.

Deputy Sheriff Larry Smith, Otero County, Colorado, 12–27–73.

Officer William P. Conboy, Jr., Montgomery County, Maryland, 12–29–73.

Corporal Thomas Hanson, Pueblo, Colorado, 12–29–73.

1974

Deputy Sheriff Joe Smith, Jr., Cumberland County, North Carolina, 1–5–74.

Patrolman William F. Brown, Lima, Ohio, 1–5–74.

City Marshal Don R. Williams, Thompson Falls, Montana, 1–7–74.

Game Warden Eugene Sara, Montana State Fish and Game Dept., 1–7–74.

Deputy Sheriff Edward Williams, Harris County, Texas, 1–12–74.

Sergeant Leonard Todd, Detroit, Michigan, 1–16–74.

Officer Edward Pakula, Detroit, Michigan, 1–16–74.

Deputy Sheriff Charles L. Wilkerson, Escambia County, Florida, 1–19–74.

Officer John D. Branhan, Oakland, California, 2–7–74.

Officer David E. Marks, Oakland, California, 2–7–74.

Patrolman Kenneth Browning, Clarksville, Tennessee, 2–13–74.

Officer Arthur G. Craft, Jr., Greensboro, North Carolina, 2–14–74.

Investigator Dennis F. Cronin, Alaska State Police, 2–18–74.

Trooper Bobby S. Gann, Alabama Highway Patrol, 2–21–74.

Officer Richey O. Finch, Forest Acres, South Carolina, 2–21–74.

Deputy Ernest C. Potter III, Kershaw County, South Carolina, 2–21–74.

Patrolman George N. Ramsburg, Baltimore-Washington International Airport, 2–22–74.

Officer Dennis J. McInerney, New Orleans, Louisiana, 2–26–74.

Patrolman William C. Marsek, Chicago, Illinois, 2–27–74.

Patrolman Bruce Garrison, Chicago, Illinois, 2–27–74.

Patrolman Leslie G. Lane, Dallas, Texas, 3–2–74.

Sergeant William K. Mortimer, Sr., Dayton, Ohio, 3–4–74.

Patrolman Timothy Hurley, New York City, New York, 3–9–74.

Deputy Sheriff Michael Maybourne, Winnebago County, Illinois, 3–15–74.

Officer Richard J. Barth, Downers Grove, Illinois, 3–18–74.

Deputy Jimmie H. McKay, Sr., Harris County, Texas, 3–22–74.

Officer Buster Adams, Crestview, Florida, 3–26–74.

Patrolman Earl R. Hoggard, Ketchikan, Alaska, 3–30–74.

Patrolman Meredith S. Runck, Riviera Beach, Florida, 4–5–74.

Sergeant Michael Lingham, Philadelphia, Pennsylvania, 4–14–74.

Sergeant John P. Tsolis, Highland Park, Michigan, 4–16–74.

Officer James D. Chamblin, Oklahoma City, Oklahoma, 4–16–74.

Officer Martin D. Chivas, Troy, Michigan, 4–22–74.

Deputy Sheriff Emery G. Mabry, Carroll County, Virginia, 4–22–74.

Patrolman William Shapiro, Cleveland, Ohio, 4–26–74.

Patrolman Morris Greenwald, Hazen, Arkansas, 4–29–74.

Wildlife Officer Danese B. Crowder, Mayo, Florida, 5–3–74.

Patrolman Frank W. Whitby, Jr., Baltimore, Maryland, 5–5–74.

Patrolman Michael L. Edwards, Los Angeles, California, 5–11–74.

FDA RECALL AUTHORITY

(Mr. KOCH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOCH. Mr. Speaker, even if food, drugs, or cosmetics are found dangerous to human health, the Food and Drug Administration currently has no power to force a manufacturer to recall a product.

This fact came to my attention when I corresponded with the Department of Health, Education, and Welfare concerning FDA's "voluntary recall of hair sprays using vinyl chloride. In the last several months, a possible link had been discovered between vinyl chloride and a rare form of liver cancer.

The Department of Health, Education, and Welfare said that it does currently have the power of seizure, but admitted in their letter to me that this procedure has "major limitations," the most significant of which is "the time required to implement a seizure action." Where numerous lots of a product are dispersed nationwide, numerous seizure actions would be necessary, while further dangerous product dispersal is still taking place.

According to HEW—

> The Federal Food, Drug, and Cosmetic Act contains no provisions which authorize this Agency to require or insist that a manufacturer or distributor recall any products.

This is a legal vacuum which could be disastrous to the health of Americans if a manufacturer at some time refused to comply with FDA's "voluntary" recall request.

For this reason, I am today introducing legislation which will authorize the Secretary of Health, Education, and Welfare to halt the sales and distribution of food, drugs, and cosmetics adulterated or misbranded in a manner which presents an imminent hazard to the public health and to require their recall or destruction, as may be appropriate.

Correspondence that I have had with the Food and Drug Administration and Environmental Protection Agency on the subject of vinyl chloride is appended.

The correspondence follows:

U.S. House of Representatives,
Washington, D.C., April 4, 1974.
Alexander M. Schmidt, M.D.,
Commissioner, Food and Drug Administration, Rockville, Md.

Dear Dr. Schmidt: I read with interest the Clairol Inc. announcement that it was recalling from the nation's store shelves about 100,000 cans of aerosol hair spray, some containing a chemical recently linked to a rare form of liver cancer. It was reported in the press that the cosmetic concern said that the request for a voluntary recall had come from the Food and Drug Administration following reports that at least 10 industrial workers exposed to the chemical, vinyl chloride, had developed angiosarcoma.

While I applaud the voluntary action taken by Clairol Inc. I am at a loss to understand why the FDA would, in a case where it believes the public safety is endangered, rely on a voluntary action and not insist on a mandatory procedure. I should like to be appraised of how that determination, a voluntary as opposed to a mandatory action, was reached and what the considerations were in making that decision in this particular matter. I should also like to know whether any measures have been taken with respect to any other uses of the vinyl chloride chemical now linked to liver cancer and if so, what those measures are.

Sincerely,
Edward I. Koch.

Food and Drug Administration,
Rockville, Md., April 18, 1974.
Hon. Edward I. Koch,
House of Representatives,
Washington, D.C.

Dear Mr. Koch: Commissioner Schmidt has asked me to thank you for your letter of April 4, 1974 concerniing the Food and Drug Administration's request for a "Voluntary" recall of certain aerosol hair sprays manufactured by Clairol Inc. due to the presence of vinyl chloride monomer (VCM).

We are sending letters to all other manufacturers and major distributors of aerosol cosmetics requesting that they also recall any of their cosmetic products which contain VCM as a propellant.

Reviews by our scientists of the available toxicological and epidemiological data indicated that VCM may be dangerous when exposure is by the inhalation route. Based on these findings we concluded that these areosol cosmetics which contained VCM as a propellant represented a potential health hazard and therefore should be removed from consumer channels as soon as possible.

The only statutory instrument available to the Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act to get such products out of commerce is seizure. Although seizure is a valuable tool, which does not require any voluntary action on the part of the manufacturer, it does have major limitations. The most significant of these limitations is the time required to implement a seizure action. This time-delay is compounded severalfold in situations, such as this, where numerous lots of products have been distributed nationwide. A separate seizure action against each lot of goods in each different locale would be necessary. Much of the defective products would be further dispersed before they could be located by the Food and Drug Administration and seizure implemented.

Recall is usually a much more efficient and practical means for reversing the chain of product distribution. The recalling firm usually has readily available all data with respect to quantity of products manufactured and/or distributed, names and addresses of customers and other pertinent identifying information. A notification to customers to return any defective merchandise can therefore be accomplished in a minimum of time. Recall is especially preferable to seizure in situations where potentially hazardous products are involved and speed in retrieval is all important.

We must point out however that the Federal Food, Drug, and Cosmetic Act contains no provisions which authorize this Agency to require or insist that a manufacturer or distributor recall any products.

Due to the nature of the hazard involved with these aerosol cosmetics, we felt that recall was the most appropriate means of assuring a rapid removal of these products from the market.

Clairol Inc. initiated this recall only after we advised them to do so. We were prepared to issue public warnings and institute seizure actions if the firm had not responded favorably to our request for recall.

We hope these comments are helpful to you in assessing the merits of our decision in this instance to request that these aerosol cosmetics be recalled.

Please let us know if we can be of any further assistance.

Sincerely yours,
Robert C. Wetherell,
Acting Director, Office of
Legislative Services.

Food and Drug Administration,
Rockville, Md., April 19, 1974.
Hon. Edward I. Koch,
House of Representatives,
Washington, D.C.

Dear Mr. Koch: This is in further response to your April 4 letter regarding the vinyl chloride issue.

Commissioner Schmidt signed on April 16, 1974, a *Federal Register* notice which when published in final form will effectively ban vinyl chloride as an ingredient in drug and cosmetic aerosol products.

In a companion *Federal Register* notice signed by Commissioner Schmidt on April 15, the Food and Drug Administration is requiring under the authority of the Drug Listing Act of 1972, a list of all human drugs which are being manufactured, prepared, propagated, compounded or processed for commercial distribution and which contain vinyl chloride whether or not the vinyl chloride is an active or inactive ingredient, and a list of all human drug products packaged in vinyl chloride containers with polyvinyl chloride liners.

We anticipate that these documents will be published in the *Federal Register* on April 22 or soon thereafter. Advance copies of these documents are enclosed for your information.

We will keep you apprised of any further actions we plan to take with respect to this issue.

Sincerely yours,
Robert C. Wetherell,
Acting Director, Office of
Legislative Services.

A similar letter was sent EPA:

U.S. Environmental
Protection Agency,
Washington, D.C., May 8, 1974.
Hon. Edward I. Koch,
House of Representatives,
Washington, D.C.

Dear Mr. Koch: Thank you for your letter of April 4, 1974, concerning EPA action against pesticide products containing vinyl chloride as an aerosol propellant.

As you may know, on April 24, I did suspend the registrations of pesticide products containing vinyl chloride as a propellant which were registered for indoor use. The suspension order, which went into effect immediately, prohibits the further distribution, sale, or use of the affected products. At the same time, I requested that all existing stocks of these products be recalled.

You ask why the issuance of such an order was delayed, and why the Agency, at least for a time, sought voluntary action to prevent further sale of the product. The issuance of a suspension order must be predicated upon a determination that such action is necessary to prevent an imminent hazard during the time required for cancellation (Section 6(c)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act). At the time of our first news release requesting voluntary recall of products by the manufacturers, data concerning the extent and duration of the exposure which could result from the use of such aerosol pesticide products was lacking. The other human and experimental data available to the Agency linked exposure to vinyl chloride gas and angiosarcoma of the liver only after substantial repeated and continued exposure. The finding of an imminent hazard, then, would have been tenuously based at best.

Since that first press announcement on April 17, however, preliminary EPA tests have indicated that during a typical spray of a vinyl chloride-containing aerosol, the user could be exposed to significant levels of the gas. The tests and subsequent calculations further indicated that residues of the gas could remain in an enclosed area for some period of time, albeit at lower levels. The results of these experiments, coupled with additional results from animal tests, made the case for suspension of these products considerably stronger. I should emphasize, though that we are still uncertain as to the health risks associated with the short term exposure to vinyl chloride gas such as is produced by the use of an aerosol pesticide product. As I stated in the suspension order, however, based on the newly acquired test results, "it is prudent to assume that any exposure at these levels will have increased the risk of cancer should the strongly suspected causal relationship between vinyl chloride and cancer be finally confirmed". I enclose a copy of the order itself, and copies of our two press releases on vinyl chloride actions.

As to general action taken by the Agency with respect to vinyl chloride, I established a Task Force on February 14, 1974, under the direction of the Director of the Office of Toxic Substances, to examine the broader issue, including air and effluent emission standards. I enclose a copy of the press release outlining the operation of the Task Force. We are now collecting and monitoring data and other information which will enable us to evaluate the need for further action under the other authorities of the Agency.

We appreciate your interest in the vinyl chloride issue, and assure you that we share your concern for the safety of the consumer. Please let me know if I may provide further information.

Sincerely yours,
John Quarles, *Deputy.*
(For Russell E. Train, Administrator).

BUDGETARY REFORM

The SPEAKER pro tempore (Mr. McFall). Under a previous order of the House, the gentleman from Florida (Mr. Bafalis), is recognized for 60 minutes.

Mr. BAFALIS. Mr. Speaker, the gentleman from Colorado (Mr. Armstrong), and I have asked for this time in order to afford an opportunity to the freshmen Members on the Republican side to discuss budgetary reform. In preparation for this, a number of the Members have signed a resolution which I think is appropriate along that line, and for that purpose I will now yield to the gentleman from Pennsylvania (Mr. Shuster).

GENERAL LEAVE

Mr. SHUSTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the special order taken today by the gentleman from Florida (Mr. Bafalis), and the gentleman from Colorado (Mr. Armstrong).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. BAFALIS. I thank the gentleman from Pennsylvania.

I yield to the gentleman from Texas (Mr. Steelman).

Mr. STEELMAN. Mr. Speaker, I think most Members of the House agree that unwise continued deficit spending on the part of the executive branch and the Congress will only lead to further inflation. Wage and price controls have been the major weapons used, both by the Congress and by the executive branch, during the last 3 years to combat this. The result has not been to abate inflation, but rather to continue inflation at extremely high and dangerous rates.

I think we have all learned the lesson about wage and price controls, and that we never go back to them.

Mr. Speaker, I want to say that Congress, for too long, has been on the course of not knowing what effect spending programs would have on the expected tax revenues, and vice versa. We have had no way of coming up with an allover plan to balance the two against each other.

Mr. Speaker, I want to compliment the gentleman in the well for his initiative in getting this special order together. I will say that I, for one—and I think most other Members of the freshman class—think that the most significant piece of congressional reform at this point in our history would be to reform our budget process. I hope we will all see in this session the conference report on this, so that we can adopt it and at least begin fiscal year 1975 with a saner approach toward our budget.

Mr. BAFALIS. I now yield to the gentleman from New York (Mr. Gilman).

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support not only of the efforts of the gentleman from Florida for bringing this highly important issue before our body at this time, but I also strongly support the joint resolution offered by the gentleman from Pennsylvania—a resolution which I was pleased to cosponsor.

I am joining my freshman colleagues in the 93d Congress in presenting this special order in order to focus attention on one of the overwhelming problems confronting our Nation—spiraling inflation.

Although I have been a Member of the House of Representatives for less than 2 years, the vexing reality of the fiscal responsibility of Congress has repeatedly plagued me.

While our wage earners at home are grappling and struggling with escalating food and gas prices, increasing utility rates and climbing taxes, the Congress has not been providing any remedies. Instead, measures are passed authorizing $5 million for the funding of a Commission on Productivity; $34,000 for a committee to study the House Restaurant, and $8.6 million for building a Visitors Reception Center in Washington. Obviously, something is amiss.

While those of us who are cosponsoring this resolution recognize the absorbing problems of fiscal responsibility, we also share the frustration of having such a limited voice in correcting these problems.

It is evident that the majority in the Congress still labors under the misconception that the bandaid of Federal dollars adequately heals the many problems facing our Nation, continuing to authorize and appropriate in an archaic, haphazard, patchwork type of funding—providing programs which appear to meet the problems, but which, in fact, are only a panacea, superficially treating the symptom but failing to provide a cure.

This disjointed funding process has placed many of us in an untenable position. While it is our intent to provide responsible spending and to try to get the best return on the taxpayer's dollar, we are prevented from achieving that goal by our majority colleagues who continue to extend and to refund without seriously considering the end result—rampant, uncontrollable inflation.

Any attempts by responsive Members of Congress for reforming outdated systems and methods are soon squelched by a few powerful Members who resent any weakening of their own positions.

Most recently, the bipartisan Committee on Committees came forth with a proposal for reforming the committee structure of the House, providing for more effective legislating and closer control over the budgetary process. Because this measure rattled some of the thrones of our committee and subcommittee chairmen, the proposal was quickly defeated in the Democratic caucus. As a result, we may not have the opportunity to vote on any of the proposed reforms during this session of the Congress.

While we are impeded by the present system of minimal planning and distorted priorities there have been some marginal gains. The House passed and is awaiting the conference report on the Congressional Budget Act of 1973, providing for the first time, an overall, unified process for appropriating funds. This long overdue proposal which I was pleased to support is eagerly anticipated by the Members so that we can begin to implement its provisions which for the first time will provide a long-range budgetary planning.

The manifold problems facing our economy are critical. Many of our leading economists are painting bleak pictures for the coming decades, viewing recession or continuing inflation as the predominant trends. While neither of these alternatives are acceptable to most of us, and while there does not appear to be an immediate workable solution to our economic woes, wasteful and abusive governmental spending is one area where we can readily look to ease our financial burdens.

At best this is a difficult task. It calls for a reversal of all of those bad habits which have crept into the Nation's budgetary process over the last two decades. It means developing a rational system of establishing priorities, of making long-range fiscal plans, of cutting corners to make ends meet. In essence, it means that the Congress must accept its constitutional responsibilities of effectively controlling the Federal purse strings.

Only with strong fiscal leadership in the Congress can we begin to stem the tide of spiraling inflation and begin to return to a reasonably stable cost of living. Accordingly, I am pleased to join my colleagues today in presenting this special order focusing attention on the haphazard congressional fiscal policies and I urge all of our colleagues in the House to seriously consider the effects of fiscal irresponsibility on the taxpayers of our Nation.

Mr. BAFALIS. I now yield to the gentleman from Massachusetts (Mr. Cronin).

Mr. CRONIN. Mr. Speaker, I should like to thank the gentleman in the well for his initiative in this area.

Mr. Speaker, I rise in support of the bill H.R. 7130 which establishes new budget reform procedures in Congress. It is desperately needed especially at this time to help manage the Nation's economy and to alter the country's outmoded system of priorities.

Congress was given the responsibility of representing the people. Passage of this legislation would strengthen and redefine this constitutional responsibility in a manner that will affect every American. It would give Congress the opportunity to put our economy in a more stable position and keep it there. We cannot solve such pressing national issues of unemployment housing and energy unless we allocate our funds in a responsible manner. The problem of inflation stems from long-term fiscal irresponsibility and deficit spending and indicates to me that we in Congress must take a leading role in changing the situation. My freshmen colleagues agree with me regarding the importance of the bill we discuss today.

The legislation creates a budget committee which will have the power and responsibility to seek answers to far-reaching questions that Congress has in the past ignored. It also streamlines the appropriations process by allowing for increases and decreases in revenues and adjustment of the public debt limit. Under the bill, Congress would control spending for the obligatory commitments of the government, which have in the past not required congressional approval, thus eliminating one of the biggest threats to the American economy—backdoor spending.

By enacting this bill, we would help restore the country's faith in our system of government. Rational spending of the taxpayers' money would be a giant step by Congress toward winning the confidence and respect of the country. Let us not waste any more time on this issue. It has been over 5 months since the bill originally passed the House and yet action has not been completed. I urge the conferees to act as rapidly as possible.

Mr. BAFALIS. Mr. Speaker, I yield to the gentleman from New York (Mr. KEMP).

Mr. KEMP. Mr. Speaker, I appreciate the efforts of the Republican freshman class for taking this time. There are indeed very few actions which are as important to the economic health of our country and the stemming of inflation as control of the runaway Government spending now underway.

For, Government spending is supported by the raising of revenue—taxes, excises, imposts, and duties—which come from the people in whose interests we are required to act.

Government spending—when it exceeds that level of revenue raised, however—results in increases in the national public debt borne by each of us—and by our children and our grandchildren.

And, perhaps worst of all, deficit Government spending—and the issuance of paper money to sustain it without a commensurate increase in national productivity—is the basic cause of inflation. Rest assured of this: The rampant inflation which we have witnessed during the several years—inflation which robs each of us of our purchasing power, thereby making each of us poorer—is a direct result of irresponsible Government spending and expansionist monetary policies of the Federal Reserve System.

One can see the crucial importance of the Congress coming to grips with this problem. A major responsibility rests upon our shoulders to stop this reckless spending which has characterized Congress of late. And, a major responsibility rests upon our shoulders to halt the erosive, inflationary character of our monetary policies. If we fail, the people will hold us accountable. And, they should. If Members put their big spending proposals and their own ideological, philosophical, and political—even artisan—motivations ahead of the general welfare of the people, then they should be turned from office. That turning from office of those who act in disregard of the welfare is what our form of Government is all about.

I have risen on the floor of this House on a number of occasions to vote against big spending proposals, to vote against reckless authorizations, to speak out against misdirected or ill-conceived fiscal and monetary policies. My position is one of record for all to examine who wish. I need not, therefore, repeat myself today.

I wish now, rather, to make some observations in support of those who argue here that the failure of the conference committee on the proposed budget reform act to report out a bill to the floor of both Houses at the earliest possible date is potentially destructive to our economic health and runs the risk of being a refutation of the will of both Houses to have meaningful, substantive budget reform this Congress.

The Constitution of the United States gives to the Congress clear authority with respect to the raising of revenue and the expenditure of funds. Only the Congress can impose taxes, excises, imposts, and duties. Only the Congress can authorize the appropriation of funds and their actual expenditure.

But, over the decades and accelerating at a dangerous rate as Government has grown, the Congress has quietly yielded much power to the executive. The departments and agencies submit their budget requests, not directly to the Congress, but through an arm of the executive—the Office of Management and Budget—which then determines priorities for the preparation of a total Federal budget submission to the Congress.

That submission is not a neutral document. Within its pages are such recommendations as changing the size of agencies and their personnel forces, cutting back or expanding existing programs, authorizing and funding new ones, restructuring program approaches, as well as inferences on such matters as tax increases and projected deficits.

The Congress receives this budget request at the beginning of each session in January. Without any comprehensive and unified approach, the many committees of the Congress set about their tasks in relation to that document, and the House and Senate Committees on Appropriations set about the formidable tasks of recommending specific dollar levels for appropriations. There is no determination by the Congress of priorities amongst the many programs proposed in the budget, much less the thousands of new or expanded programs recommended in bills and resolutions introduced in each session. And, there is no establishment by the Congress of a total Federal spending level beyond which all appropriations could not go for a fiscal year and within which Congress would have to establish priorities.

This system is simply unworkable. To those who contest that conclusion—and say that the present system ought to be preserved—I call their attention to a few relevant facts. The Federal budget recommended for the single forthcoming fiscal year alone stands at $304 billion and will probably be higher once everything is funded. The national public debt is an astounding $477 billion, with the administration now reported as being ready to ask the Congress for an increase in that debt of yet still another $29,800,000,000.

The statistics point toward the dangers inherent to relying any further on the present system. That is why we need reform in the processes by which the Congress works with the budget.

We need to bring to the Congress a capability of preparing the budget, establishing an annual dollar spending ceiling within which priorities can be determined, fleshing out a professional staff capability to have as much fiscal and monetary information at our fingertips in debate as those who argue on behalf of the agencies. The bill may not be all that we want, but it is a step in the right direction.

There are few times when a bill is before the Congress with a potential for great improvement in the processes in which we function as a government and a society. This is, truly, such a bill.

We have an opportunity to change the institutional processes by which the Congress makes determinations affecting the economy, spending, and how much of the peoples' money—taxes—we will need to sustain that spending.

This Nation cannot long survive the irresponsible tax-and-spend-and-tax, ever spiraling upwardly spending policies which have characterized the past several decades.

I urge the members of the committee on conference—House and Senate alike—to break the impasse on this measure. The will of each House is that there be substantive budget reform this session. That will should not be frustrated. Conference committees work out major differences on other bills within days, or at the most, weeks.

And, I commend the gentleman from Florida (Mr. BAFALIS) for taking this special order today to afford Members an opportunity to speak out on this issue.

Mr. BAFALIS. I thank the gentleman from New York.

Mr. Speaker, I yield at this time to the gentleman from Illinois (Mr. HANRAHAN).

Mr. HANRAHAN. Mr. Speaker, the greatest single problem faced by the people of America today is that of runaway inflation. One of the most significant causes of this Nation's recent double figured annual inflation rate is uncontrolled Federal spending.

I am proud to join with my colleagues in urging the conferees now reviewing the Congressional Budget Act of 1973, to report out a bill which will require Congress to set a firm spending limit. The Congress must act more wisely in making critical budget decisions. It is my sincere hope that the new Budget Act will enable the Congress to make more intelligent budget decisions that will reflect the national priority of controlling run away inflation.

Only by establishing thorough budget examination procedures and placing a definite limit on Federal spending, will we be able to deal effectively with the No. 1 concern of most Americans: runaway inflation.

I respectfully urge the conferees on this crucial bill to act as resolutely as possible.

Mr. BAFALIS. Mr. Speaker, I thank the gentleman for his comment.

Mr. Speaker, at this time I yield to the gentleman from Missouri (Mr. TAYLOR).

Mr. TAYLOR of Missouri. Mr. Speaker, I am pleased to add my voice to that of my freshman Republican colleagues who believe that fiscal responsibility should be a primary concern of this Congress and are dismayed at the inaction of the conference committee on H.R. 7130, the Congressional Budget and Impoundment Control Act.

I believe the issue foremost in the minds of the citizens of southwest Missouri and across the country is the rate of inflation which during the first quarter of this year galloped its way into the two-digit category when prices increased by 10.2 percent. The people want to see Congress take some action which demonstrates its recognition of this serious problem and show a desire to do something about it.

My constituents demand that Congress turn its attention to the expenditure side of the budget, and make a serious attempt to control Government spending. They want the Congress to put its own House in order and to adopt a responsible system for making spending decisions. The machinery for such a budget control system is contained in the budget reform legislation which has already passed each body and is now stalled in the conference committee.

I think the overburdened, overtaxed, overregulated American citizen wants Congress to move ahead with the legislative effort that seeks to set a congressional limitation on expenditures and to adopt a mechanism that makes possible a comprehensive review of congressional priorities.

My constituents want something done to reduce the approximately $25 billion that goes down the drain every year in interest on the Government debt and they want something done to reduce the 43 percent of every taxpayer's earnings which are confiscated by Government at all levels.

Setting a congressional limitation on expenditures and adopting a mechanism for the comprehensive review of the legislative budget, as recommended by H.R. 7130, would be evidence of our real concern for the plight of the overburdened, overtaxed, overregulated American citizen.

I urge the conference committee on H.R. 7130 to stop delaying and to work industriously to report out a compromise version of this legislation that could receive the final approval of both bodies of Congress at the earliest possible date.

Mr. BAFALIS. Mr. Speaker, I thank the gentleman from Missouri for his comments.

Mr. BAFALIS. Mr. Speaker, I thank the gentleman very much for his comments.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. BAFALIS. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Speaker, I wish to commend the gentleman in the well for his efforts not only here today but also ever since he has been a Member of Congress in working toward a lump sum budget or a piece-of-pie budget so we could establish our priorities and not continue to expand the national debt.

I think the problem facing the American people is that the politicians in Washington refuse to face the truth about inflation. We create inflation with the printing press down on 14th Street and with the expansion of the money supply through the central banking system.

If we had a lump sum budget, then we could start rewarding the people in Congress for being responsible, instead of the system we now operate under where we reward those who are irresponsible and vote for every spending proposition that comes up.

It reminds me of the situation in 1949 in this same Chamber. The late Speaker Sam Rayburn said, if I can paraphrase him:

> I say to my Democratic friends after listening to this debate that the people who get along the best here are those that go along the most.

I think this is as true today as it was in 1949. We can see what is happening. We continue to print "counterfeit" money, which is another form of taxation and continue to expand the money supply, which is much greater than the productivity of the country.

If we could vote on a lump sum budget at the beginning of each session of Congress or early in the session, then we would be in a situation where we could work with our friends on both sides of the aisle and argue about what the priorities should be, whether it should be spent on health services or military services or wherever people think best; but keep it within a certain amount of money.

In my own State of Idaho we have a policy in our constitution that forces the politicians not to spend more money than they take in in taxes. Every year we go through the same process. There is a big hassle between the health people, the educators, the farmers, and others; but at the end of the session somehow they come out with a budget that spends no more money than they take in in taxes. Sad as the case is, that is not the case in Washington. What we do, we continue to appropriate until the end of the session and then we go into supplemental appropriation season and that is where we get into the "counterfeit" money where everyone cannot live within their budgets for the remainder of the year. Then the people that oppose these requests in the sense of fiscal responsibility are punished by their colleagues because they do not go along.

It has been brought to my attention by members on the Committee on Appropriations when I have offered amendments to cut these appropriations by 5 percent. They say, "If he votes for these cuts or offers amendments for fiscal responsibility. We will take that appropriation out of his district."

If we had a lump sum budget, this would not be the case. Those that are fiscally responsible would be rewarded by the American people and they would not be voting against fiscal responsibility, but voting for it.

I would hope the U.S. Chamber of Commerce or the National Association of Manufacturers or some group that is interested in fiscal responsibility would create a rating system of how Members of Congress vote in regard to spending issues and rate them that way, giving a no vote if they vote for spending and a plus vote if they vote against it and see on a dollar-expenditure basis if they voted for a balanced budget or an unbalanced budget.

I might say to the gentleman from Florida that the National Taxpayers Union has made an attempt recently to do this. They have made a great deal of headway with their ratings, but it does not go far enough because it does not delineate between a $1 million and a $1 billion appropriation. It rates them all the same.

I think until Members of Congress face this problem of the money supply in Washington, D.C., we will never face the real difficulties that the American people face and we will never solve any of our problems. It must be done.

The rating of Congress in the eyes of the public is down to 21 percent. I think if the American public realized how irresponsible we really are with the people's money, their rating would be a minus 21 percent. It would be none too high if they take note where the inflation is coming from. It is right here in the House of Representatives.

I praise the gentleman from Florida because he has made an effort in his short time in Congress to be fiscally responsible and try to address this subject so we can get the stagecoach that is heading toward the cliff of financial disaster turned around before it is too late. In my opinion it is still not to late——

Mr. ABDNOR. Mr. Speaker, will the gentleman yield?

Mr. BAFALIS. Mr. Speaker, I yield to the gentleman from South Dakota.

Mr. ABDNOR. Mr. Speaker, I also want to add my remarks to this special order. I commend the gentleman from Florida for taking it out so as to once again give Members of the 93d class an opportunity to speak out on what we felt was one of our prime goals when we arrived here, that of obtaining some kind of fiscal responsibility in Congress.

Mr. Speaker, our oratory on the perils of skyrocketing inflation fills the air; our newsletters are filled with comments on what inflation is doing to our constituents; our questionnaires seek to confirm our concern. It is an almost certain bet that everyone running for Congress this fall will have at least one TV spot dealing with inflation.

We keep pointing fingers of blame at the President for his role in the budget. In fact we tend to blame everyone except ourselves for the situation. Yet, Congress is more to blame than any other single factor in creating and perpetuating inflation. By our actions we have permitted a situation to develop where 75 percent of the budget is beyond our control. We have passed program after program, but we have never found time to add up the total. We just complain when the President submits the next budget.

It is no wonder that the Congress is in so low repute with the people of this Nation. We talk and talk about what we should do, but we do not do it. Until we complete action on a strong bill mandating an overall spending limit together with the necessary structures to implement budget control, all of our great concern about stopping inflation is just so much political bombast and hot air.

The greatest single factor propelling inflation in the giant chasm between Federal income and Federal expenditures that has existed for nearly a half century. Still we continue to enact and expand more and more costly programs.

If we are to avoid financial disaster for our Nation, we must have expeditious action on the Congressional Budget Act and vigorous implementation of it once it is signed into law. The time has come to stop talking about inflation and start doing something about it. The place to start is at our own doorstep and accept congressional responsibility for enacting sound, sensible spending programs meeting the need of our people while at the same time costing what we can afford to pay.

It is a big order, but if we are really serious about our inflation oratory, the time has come to act.

Mr. COCHRAN. Mr. Speaker, will the gentleman yield?

Mr. BAFALIS. Mr. Speaker, I yield to the gentleman from Mississippi.

Mr. COCHRAN. Mr. Speaker, I want to commend the gentleman from Florida for taking this special order, and also for the leadership he has shown during his tenure in Congress in trying to establish concern on the part of the Members for fiscal integrity and responsibility for inflationary spending programs.

In the past 6 years, the Federal Government with the blessings of Congress has spent $162 billion more than it has taken in. To finance its expensive exploitation, the Government has bought up surplus capital at the expense of private investment; driven up interest rates and gluttted the money supply with credit created through the Federal banking system.

Such fiscal irresponsibility is one of the primary causes of inflationary pressures on the economy, and continued deficit spending serves only to aggravate this already critical problem. After years of ill-conceived control efforts aimed at eradicating the effects of inflation rather than correcting its causes, we can no longer avoid facing the real root of the problem: Congress has too long lacked an overall perspective of the budgetary process. Priorities have been set by accident as much as by deliberate and informed congressional decision. The result has been a piecemeal budget process characterized by unnecessary duplication and ineffective overspending.

The amount of Federal spending under the actual controls of the appropriation process is steadily dwindling. In fiscal year 1974, only 44 percent of the total budget passed through regular appropriations channels, with the balance classified as mandatory or relatively uncontrollable expenditures. By failing to impose an effective limit on total Government expenditures, we have avoided the politically uncomfortable reconciliation of taxes with spending, leaving for future generations the burden of our fiscal irresponsibility.

Only the implementation of comprehensive budgetary reforms, such as the budget control legislation presently in conference, can enable the Congress to begin attacking the twin problems of inflationary deficit spending and inadequate economic planning.

I hope the conference committee will report legislation which, first of all, creates a central oversight committee on the budget in both Houses, and second, requires careful consideration of spending priorities, and third, sets ceiling limits on total Government outlays.

Mr. Speaker, the bill should also force the Congress to take notice of the fiscal realities of economic planning by requiring that an automatic tax surcharge be imposed if the actual deficit should exceed an established budgetary limit. Congress' fiscal irresponsibility has brought our Nation's economy to the brink of disaster.

These budget reforms are a longwaited opportunity to acquire responsible congressional control over a well-planned and economically sound national budget.

Mr. Speaker, I thank the gentleman for yielding.

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. BAFALIS. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Speaker, the gentleman from Florida (Mr. BAFALIS) has graciously extended an invitation for me to join the members of the Republican freshman class in this special order today. I certainly appreciate the opportunity and want to express my agreement with the comments made during the first special order on this topic a year ago, under the leadership of the gentleman from Arizona (Mr. CONLAN).

Mr. Speaker, I read in the press last night where the national debt is expected to nudge past the $475 billion mark before the end of June. When you start talking about debts on the order of hundreds of billions of dollars, it is hard to place it in perspective. But put another way, we are soon going to be asked to raise our national debt ceiling above the one-half trillion dollar mark.

The national debt, of course, is the result of deficit spending. Deficit spending is sometimes unavoidable; we have all faced situations where we have had to borrow money. But not all deficit spending can be traced to emergencies, sometimes it is a simple result of reckless spending. Since it is very hard to give a ticket to Congress, maybe we should consider policing ourselves, and it is my understanding that is what the budget reform bill will do.

Mr. Speaker, while I was still a member of the California Legislature last year, we considered a proposal for a ceiling on State expenditures. The proposal was not very popularly received by State employees, and an unfortunate combination of tax rebates, clever campaign tactics by opponents, and difficulty of language combined to cause defeat of the measure. However, I still feel the concept is a good one, and there was much that I learned in the course of the debate. For example, the fact that 43 cents of every dollar earned in California now goes to Federal, State, and local government. We did succeed in clamping a lid on local government costs in our State, and despite the failure of the State expenditure ceiling, we have managed to operate in the black for the past several years.

What I am suggesting, Mr. Speaker, is that it is time to apply some of this same philosophy to the Federal Government. I realize that I am a new Member, one who perhaps does not have a full grasp of the intricacies of Federal Government. But sometimes a fresh eye can lend a needed prospective to things.

In this case, I feel there are three essential elements lacking in the present congressional budgeting system. First, the Congress lacks an independent source of information about the Federal budget. We should have an independent staff available to the entire Congress and to our fiscal committees to review the budget proposals of the executive. To tell us where spending can be cut and how our dollars can be better spent. Second, we need to enact a single budget bill, prior to the commencement of the fiscal year, rather than the series of appropriation bills we now use.

Third, we need to establish an overall spending ceiling at the start of each fiscal year, and stick with that ceiling. If we find as the year progresses that unavoidable expenses will be incurred, then we should face up to the problem and set about raising the necessary revenue to pay for our excesses. This is a painful procedure, but in the long run, by far the best. First, because it would force us to face up to the fact that every dollar of expenditure that we vote for on this floor, must ultimately be taken from the pockets of the American taxpayer; given that knowledge, perhaps we will be more careful about how we vote. Second, in the long run, we will benefit because every time we go into debt, every time we increase the Federal deficit, not only are we obligating future taxpayers to pay for our negligence, but we are contributing to the inexorable process of inflation, the evil which is eating away the real purchasing power of the American citizen. And inflation, of course, increases the costs the Government must pay for services.

It is my understanding the bill now in conference, and which is the subject of this special order, contains all three of these safeguards. Can we do anything less than that which our constituents have sent us here to do—act responsibly and pass this bill?

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. BAFALIS. I yield to my good friend, the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I am a cosponsor of the resolution introduced by my colleague from Florida, Congressman SKIP BAFALIS, and I commend him for taking this special order today to give us the opportunity to speak out on this important issue.

The resolution urges the conference committee on the Congressional Budget Act move quickly, and report out "a strong bill which will mandate an overall spending limit as well as provide the necessary committee structure, staff and resources by which Congress may review and control expenditures, and, thereby, control inflation."

Inflation is the No. 1 problem facing the citizens of this Nation, and we in Congress, as the elected representatives of the people, have a responsibility to control the inflationary spiral. Article I, section 8 of our Constitution gives Congress the authority to pay the debts of the United States, and article I, section 9 further mandates that—

> No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law.

I believe that under the current fragmented system of appropriating funds without a congressional budget limiting expenditures, and without regard to, or knowledge of, how the appropriation compares with the total appropriations for that fiscal year, we are abrogating our constitutional responsibility. The President has found it necessary to withhold appropriated funds in order to keep down Federal spending. The Congress must assume its proper role, and this can only be accomplished by completing action on the Congressional Budget Act, and including strong provisions in this legislation that will allow Congress to establish its own priorities and spending limitations.

Congressional approval of a budget reflecting anticipated revenues, and limiting expenditures before proceeding with the appropriations process is, I believe, one of the most important steps Congress can take to bring Federal spending under control, and ease the burden of inflation on our Nation's citizens.

At the beginning of the 93d Congress, I joined with my colleague from Florida in cosponsoring another piece of legislation, House Joint Resolution 332, proposing a constitutional amendment "to provide that appropriations made by the United States shall not exceed its revenues, except in time of war or national emergency; and to provide for the systematic paying back of the national debt." The President's proposed budget for fiscal year 1975 offers no relief. It calls for an estimated $29.7-billion increase in Federal spending over this fiscal year, and would operate at a deficit of $17.9 billion in Federal funds. We can no longer ask the taxpayers to bear the brunt of the whopping deficits incurred as a result of our congressional fiscal irresponsibility.

As we have seen in recent years, large sustained deficit spending puts pressure on the Federal Reserve to finance these deficits by increasing the supply of money in the economy which lessens spending power, and the result is continued inflation. One of the major problems that has contributed to increasing deficits is that Congress does not consider debt increase legislation until after it has already appropriated and committed funds.

An editorial which appeared in today's Wall Street Journal reminds us that the Ways and Means Committee is currently considering an administration proposal to increase the debt limit. The editorial also points out that this increase may be inevitable if Congress continues to approve large Federal spending bills, such as pending legislation which would authorize $24 billion to be spent on mass transit over the next 6 years. To quote from the Wall Street Journal:

> Congress has been talking about reforming itself by setting up a means to coordinate all its spending proposals so that when they are added up they bear some relationship to foreseeable revenues. The proposed mass transit bill would suggest that there is an urgent need for such an effort.

The full text of the editorial follows, and I urge all my colleagues to read it carefully:

> A PERVERSE THOUGHT
>
> While the House Ways and Means Committee stews over an administration proposal to raise the federal debt limit about the half-trillion-dollar mark, the House Public Works Committee is doing what it can to leave little choice in the matter.
>
> Public Works, according to reports, is putting the finishing touches on a bill that would authorize $24 billion in federal spending on mass transit over the next six years. The money would supposedly come from "new revenues" but it doesn't seem very clear yet what that means.
>
> Since there aren't many prospects for a federal tax increase, aside from some proposed swipes at oil industry profits, we assume that the money would come out of whatever "fiscal dividend" there might be over the next few years from the effects of inflation on federal revenues generated by the present tax structure. Given all the various other ideas Congress and the administration have for spending the fiscal dividend, it is going to have to carry a very big burden. The administration, by the way, has its own mass transit plan, which would cost only $16 billion, and it would be financed partly from the highway fund.
>
> The more likely outcome is that the mass transit bill, if it gets through Congress, would simply add to the federal deficit. And it may not be long at that rate before the Congressmen over at Ways and Means wonder why they worried over a half-trillion-dollar debt ceiling.
>
> Mass transit may well be deserving of federel attention. So, indeed, may be health care, the Penn Central railroad and all the other spending ideas the Congress and administration have in mind. But that little problem of money is getting to be a bigger and bigger problem.
>
> Congress has been talking about reforming itself by setting up a means to coordinate all its spending proposals so that when they are added up they bear some relationship to foreseeable revenues. The proposed mass transit bill would suggest that there is an urgent need for such an effort.
>
> It's enough to stir the perverse thought that maybe Ways and Means should just refuse to budge on the debt ceiling. Disrupting the whole government would be a dramatic blow, perhaps even gaining the attention of the other money-spending committees in Congress. In those perverse moments, the battle cry rises: Fight irresponsibility with irresponsibility.
>
> Probably it's a bad idea, since gimmicks seldom solve anything. But by this time we're not ready to write off any idea that might give pause to everyone who has some scheme for spending money and no scheme for raising it.

Mr. Speaker, I testified before the Joint Committee on Budget Control, and the Rules Committee urging that provisions be included in the budget control bill which will allow Congress to reduce Federal expenditures in order that they balance with anticipated revenues. I also urged that this action be combined with legislation reported from the Ways and Means Committee to provide for the systematic repayment of the existing public debt in order that repayment provisions can be included in the congressional budget.

The first step in accomplishing these goals is the final approval of the Congressional Budget Act, and the inclusion in this legislation of strong provisions that require spending limitations. This would establish the basic framework to provide for the restoring of economic stability, and relief from continued rising inflation for the citizens we represent.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. BAFALIS. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I would like to add my comments to those which were made by the gentleman from Florida (Mr. BAFALIS).

I have found continually as I travel around the First Congressional District of Maryland that the question is put to me: "What are you doing in Congress to fight this battle of inflation?"

The gentleman from Florida by his remarks exemplifies the many people who are concerned with Members of Congress doing something about inflation. The fact that we are here today is testimony to that.

I wish to commend the gentleman from Florida on this occasion for his continued fight. It is very pleasing for me to be able to join the gentleman here today in his efforts.

Mr. Speaker, the problem of inflation has been with us for a long time. But in the past year it has become so severe and so all-pervasive in our economy that it has become the major concern of all Americans, far outdistancing Watergate, the energy crisis, and even taxes in the minds of nearly everyone. A poll which I took in my district in Maryland during the months of February and March, when the energy crisis was at its worst, still showed inflation to be the principal worry of my constituents.

That much is obvious. The question, then, is what we will do about it, and here there is considerable disagreement. Naturally, what we do to solve the inflation problem depends on what we perceive to be the cause of inflation, and I believe there are several contributing factors.

The first of these is the size of the Federal budget, and the rate at which it has grown in recent years. As the budget grows in proportion to the country's total gross national product, it brings more and more influence to bear on the performance of the American economy. All too often, the money we spend here in Washington goes into areas which are nonproductive, and which contribute little or nothing to national productivity. In short, we are throwing around more and more dollars, which in turn do less and less work.

A more or less permanent feature of the Federal budget, it would seem, is red ink. Budget deficits, which have totaled more than $100 billion since the present administration took office, are particularly damaging. The interest on this debt runs in excess of $26 billion a year, which comes out of the pockets of all taxpayers. And as Uncle Sam spends more than he takes in in taxes, he pushes more and more money into the economy, and forces the rate of inflation inexorably skyward.

And finally, the Federal Reserve Board continues to make its contribution to the inflation problem by incessantly expanding the Nation's money supply at a rate considerably higher than that at which our real income and productivity are rising. Excessive monetary expansion is a prime cause of inflation, and the Fed knows it. We all know it. Politically, steep rates of monetary expansion are popular over the short run. People think they have got more income to spend, simply because there are more dollars in their hands. But this sort of thinking is akin to going on a good drunk—it feels pretty good for a while, but the hangover comes all too soon, and it is painful, indeed.

Classic inflation is defined as too many dollars chasing too few goods and services. Rapid growth of the Federal budget, large budget deficits, and excessive monetary growth all have the effect of putting too many dollars into circulation to chase too few goods and services, and to cure inflation, these three causes must be eliminated.

Once already in this decade, we have tried to do something about rapidly rising prices. In August of 1971, the President ordered mandatory economic controls, and about 2 weeks ago we let those controls die a natural death. By the end of April, it was obvious to all what had apparently been obvious to only a few of us who objected to controls when they were first imposed. It had become quite clear that controls do not work. The reason they do not work is that they are aimed at the symptom of inflation, and not the cause. Wage and price controls do nothing about the Federal budget; they do nothing about huge budget deficits; and they have no effect on wrongheaded monetary policies.

The hour is now late. Inflation has become so severe that prices are rising at an annual rate of from 10 to 15 percent. We have delayed too long in performing the difficult task of dealing with the real causes of inflation.

Excessive growth in the size of the Federal budget can be cut down only by a firm resolve among those of us in this Chamber and among our counterparts in the Senate to stop trying to be Santa Claus to every group and subgroup in our constituencies. The new budget reform measure which passed both Houses overwhelmingly earlier this year will help. But it is not the whole solution.

The red ink which has stained so many Federal budgets during recent decades can be eliminated by an excellent measure offered by the gentleman from Florida (Mr. BAFALIS). He proposes a constitutional amendment which I ardently support, one which would prohibit deficit spending, and require the eventual repayment of the entire national debt. This measure is simple commonsense, and excellent economic sense. It will eliminate forever a major cause of inflation, and contains the added benefit of placing a certain restraint on congressional spending habits. Many of those who occupy this chamber will find themselves far less inclined to spend huge amounts of money if to do so they must explain just where—besides the Treasury Department printing press—they are going to get that money in the first place.

Finally, restraints are necessary on Federal Reserve Board policies governing monetary growth. Whether these are to be statutory or whether they will come from the Fed with a little prodding instead, such a move is an absolutely essential element to any effort to cut inflation.

Much has been made recently of a proposal made by Prof. Milton Friedman, of the University of Chicago. This highly regarded economist has proposed a system of "indexing" to help soften the effects of inflation and attempts to deal with it. Briefly stated, his plan would hike interest rates according to the rate of increase in the Consumer Price Index, tie tax rates to the CPI increase, and a host of other measures designed to minimize the effects of inflation where potentially serious damage to the economy is possible. Many individuals, liberal and conservative, have endorsed the plan, since it so obviously would be beneficial. But it is vital to note that Mr. Friedman proposes the plan only as a means of softening the effects of taking steps to deal with the root causes of inflation. Indexing will allow us to cut the monetary growth rate, deficit spending, and excessive growth of the national budget without experiencing the unacceptable byproducts of high unemployment or recession. Indexing without the concurrent efforts to deal with these root causes will be largely useless.

In short, let us not fight inflation with our eyes shut. We have to open our eyes to the real causes of the problem, and deal with them accordingly. The American people cannot tolerate any more delay. Each trip to the supermarket, each price increase on countless goods and services, heightens public resentment over our failure to deal effectively with the problem. And while the situation is serious for all of us, it is now critical for those on fixed incomes. We in the Congress must act decisively, and we must act now.

Mr. BAFALIS. Mr. Speaker, I thank my good friend, the gentleman from Maryland.

Mr. Speaker, despite what the columnists write and the newspapers print in their headlines, despite what the political pundits and many of our colleagues say, the No. 1 issue, in the 10th District of Florida, and, I believe, throughout this Nation, the No. 1 issue facing this Congress and facing each and every one of us as we come up for reelection in November, is the issue of inflation.

This inflation constitutes what I consider to be probably the most insidious form of taxation we have ever seen in this Nation.

This year we are approaching a national debt of one-half a trillion dollars, that is in excess of $500 billion. The interest alone this year on that debt will be approximately $31 billion. We are going to have a budget for fiscal year 1975 in the neighborhood of $305 billion, some $11 billion over the anticipated income of $294 billion.

Mr. Speaker, prior to coming to the Congress, I had the opportunity to serve in the State legislature in Florida. In the State of Florida we have a constitutional prohibition against spending more money than we anticipate collecting during any given year. As a result, today Florida does not have a deficit; as a matter of fact, it has a surplus.

We have learned in the State of Florida that we must set priorities, and that we must live within our income. Obviously, we have not done that here in the Congress.

Upon arriving here, in the early part of 1973, I introduced a constitutional amendment that would prohibit us from spending more money than we take in during any given year, except in time of war or in time of national emergency.

I had the audacity, some might say, to include a provision that mandates us to pay off our national debt at the rate of 10 percent for each period of 10 years, so that during the next 100 years we would pay back this half a trillion dollars.

There are now some 40 cosponsors of this legislation. It has not been heard in a year and a half, and unfortunately it seems unlikely that it will receive a hearing.

Mr. Speaker, I do commend this freshman class of Congressmen, of which I am very proud to be a Member. We have voiced our concern over and over again regarding the reckless spending practices in this Congress. I do hope our effort will have an impact in making certain that the proposals which came out of the Joint Budgetary Committee and the resulting legislation which is now before the conference committee, will finally come to this floor so that we will for the first time in many years have an opportunity to put a spending ceiling on our expenditures and exercise budgetary control over those expenditures. This will at the very least begin to reduce our rapid rate of inflation.

Mr. Speaker, I am firmly convinced that the root cause of inflation rests right here on Capitol Hill within this Congress. I think the American people know that we have spent more than we should have spent and supported programs that have been costly and unworkable. They are telling us now and I think they will tell us again in November, "Do as we do; live within your income."

Mr. Speaker, I hope that the Congress in its infinite wisdom takes the necessary steps to do exactly that.

Mr. CONLAN. Mr. Speaker, dollars being spent by Americans today have less than one-third the purchasing value of dollars in 1940. To be exact, today's dollars are worth only 32 cents, which means that it takes more than $3 today to buy what $1 bought just 34 years ago.

Alongside this vexing erosion of the dollar's purchasing power, prices and taxes have skyrocketed, far outpacing wage increases American workers have earned during the past three decades. It is a vicious cycle of inflation, which many politicians and bureaucrats have wrongly blamed on private business and industry.

Inflation—the word we use to summarize this decline of the dollar's value and related economic woes—is not the fault of producers in our economy. It is the fault of government, which cannot provide anything to American citizens that has not first been taken from them in one way or another.

Specifically, inflation is the fault of Congress, which since 1940 has greatly enlarged and expanded Federal programs at a tremendous cost, without having the courage or forthrightness to pay for them through direct taxes. Instead, Congress has played the role of Uncle Sugar to just about all of us through one federal program or another, writing off most of the bill through deficit spending and by expansion of the money supply, which has thus eroded the value of all dollars.

Mr. Speaker, inflation weighs heaviest on individual working citizens and their families. Rising prices have distorted family economic planning, endangered savings and economic stability, and injured those on fixed incomes.

Since Government is responsible for this inflationary spiral that has severely dislocated the free market, Congress must take concrete steps to reform Federal taxing-spending practices and to put a firm ceiling on Federal spending each year. Freshman Members of the 93d Congress expressed their strong bipartisan support for such budget reform last year, and such reform is still a major item of unfinished business midway into the second session.

No government, not even the richest on Earth, can continue this hodge-podge system of raising and spending Federal revenue, overspending by multibillions of dollars nearly every year, and still not eventually plunge itself into financial disaster. If conferees on the budget reform legislation approved by both Houses of Congress waste no more time on this inflation control measure, we can move further along toward the sound fiscal policy we need in the appropriations process.

Mr. Speaker, Americans all over the country are writing to tell us that inflation will be a major issue in the next election. They realize that rising prices and rising taxes—the whole inflationary spiral—is largely the result of this body's helter-skelter spending habits. And unless Congress does something now, these Americans will understandably punish those Congressmen responsible with their votes next November.

To demonstrate the relationship between the deteriorating purchasing value of the dollar and annual Federal deficits, I asked economists at the Library of Congress to provide me with statistics going back to 1940, showing both the annual rate of inflation and the Federal deficit or surplus for each year to the present.

As I have already pointed out, this study shows that the 1940 dollar is now worth only 32 cents. Federal deficits since 1940 have totaled almost $446 billion.

I include this table in the RECORD for the benefit of all my colleagues:

INFLATION SINCE 1940

Year	Decreased purchasing power of dollar (percent)	Value of dollar	Federal deficit (billions)
1940	0	$1.00	−$3.9
1941	−4.9	.95	−6.1
1942	−9.7	.86	−21.4
1943	−5.8	.81	−57.4
1944	−1.6	.80	−51.4
1945	−2.2	.78	−53.9
1946	−7.8	.72	−20.6
1947	−12.6	.63	+.7
1948	−7.2	.58	+8.5
1949	+1.0	.59	−1.8
1950	−1.0	.58	−3.1
1951	−7.4	.54	+3.5
1952	−2.2	.53	−4.0
1953	−.8	.52	−9.4
1954	−.4	.52	−3.1
1955	+.3	.52	−4.1
1956	−1.5	.52	+1.6
1957	−3.4	.50	+1.5
1958	−2.7	.48	−2.8
1959	−.8	.48	−12.4
1960	−1.6	.47	+1.2
1961	−1.1	.47	−3.8
1962	−1.1	.46	−6.3
1963	−1.2	.46	−6.2
1964	−1.3	.45	−8.2
1965	−1.6	.44	−3.4
1966	−2.8	.43	−2.2
1967	−2.8	.42	−9.8
1968	−4.0	.40	−28.3
1969	−5.1	.38	−5.4
1970	−5.6	.36	−13.1
1971	−4.1	.35	−29.8
1972	−3.2	.33	−29.1
1973	−5.9	.32	−34.1
1974			[1] −27.8

[1] Estimate.

Source: Library of Congress.

Mr. ARMSTRONG. Mr. Speaker, the cost of living is at an all-time high; the Nation is reeling from the sharpest yearly price rises in over 20 years.

The American worker who received a 50-percent increase in pay since 1964 actually lost money because of a 45-percent inflation and higher actual taxes.

Over the years we have been warned repeatedly that runaway inflation will result from continued budget deficits, and indeed, year after year this prophecy has been realized as the Federal debt has increased by $170 billion in the last decade alone.

The House has at least realized the severity of the problem and passed the Budget Control and Impoundment Act of 1973.

The Senate has passed a similar bill; hopefully, the conferees will report an effective measure back in the near future. It is too late for further delay.

But we should remember this is only a first step. The Budget Control Act does not automatically balance the budget or stabilize prices. It only insures that Congress must make a clear decision, rather than decide by default. But there is absolutely no hope for controlling the price spiral until the Federal budget is balanced and a lid on new spending is kept there long enough to cool an economy overheated for all too long.

Such a decision will not be easy; it is likely not to be popular. However, each day it is delayed only adds fuel to the fires of inflation, only drags down the dollar's purchasing power further.

In conclusion, I would like to point out an overlooked fact about deficit spending. It is borrowing from the future to pay for something now. And to borrow, we pay interest.

In paying for yesterday's follies and lack of economy, we pay $30 billion a year in interest. That is more than the total expenditure of six Government agencies—Agriculture, Commerce, DOT, HUD, Justice, and the Interior.

The need to control the Federal budget before reckless spending ruins our country is the proper concern of all Americans, but particularly of those of us who serve in Congress and who have the constitutional duty to control spending and the moral obligation to do so wisely.

Let us get on with it.

Mr. LOTT. Mr. Speaker, I too, would like to add my comments regarding the importance and necessity of the conferees reporting a strong Budget and Impoundment Control Act that establishes an overall spending limit, thereby enabling the Congress to take the reins in curbing inflation in this country.

I think it particularly significant that for the first time Congress has a chance actually to legislate to itself a mechanism for analyzing and effectively controlling budget outlays. Our head-over-heels fiscal spending policy is catching up with us; and we have known, or should have known, that it would for several years. Congress has simply spent too much money—money that has influenced directly the upward spiral of inflation.

Let us face it, our dollar is not what it used to be, and it should come as no surprise that we are paying more and getting less. That is one big reason why it is imperative that Congress make a concerted effort to conduct its affairs in a business-like manner with some sense of monetary responsibility. We are all aware that if a businessman operated his business with as much irregularity and with as much disregard for his assets as

Congress, he would not be in business for long.

Thus, Congress has an excellent opportunity to redeem itself and, in doing so, not become further derelict in the duty to the taxpayers of this Nation. The Budget and Impoundment Control Act is probably the most important and could have the most far-reaching economic impact of any legislation passing the 93d Congress. We must in good faith carry through on the mandate which this act provides and learn to operate within a thoroughly reviewed and prescribed Federal budget, which outlines a spending pattern designed to stimulate our economy and at the same time curtail the rate of inflation.

Mr. MARTIN of North Carolina. Mr. Speaker, it is with great pleasure that I rise in support of this resolution. We have within our grasp, if we care to do *the grasping*, an opportunity to take one essential step toward a return to fiscal responsibility. We are not asking for much, really, just that the Congress sit down and do what any sensible individual or board would do at budget time: look at income and expenses as one picture and try to make the former at least balance the latter.

When I decided to participate in this discussion, my first inclination was to launch into a discussion of economic principles, but on reflection it seemed better that I leave that dismal science to those better trained in its discipline.

Instead, I would like to address my remarks to the American wage earner. In case we have forgotten, that is our boss.

By turning down—quite properly—our own salary increases this year, we have given ourselves a lot of good "P.R." and enough, I suspect, for many to say that by that gesture the demand for fiscal responsibility is satisfied. But, it is not.

In my district there is a long tradition of support for fiscal conservatism. I have recently conducted a survey—my second annual questionnaire. The returns are not yet tabulated, but I have studied them enough to be able to say something about them. I asked whether, in dealing with the problem of Federal budget deficits, constituents would prefer to cut into defense programs, cut into social programs, or, in extremis, raise taxes. Almost everyone responded affirmatively to at least one of those options. In fact, a very substantial minority indicated that they would go along with a tax increase if that were necessary to balance the budget.

I believe we are in error if we believe, politically, that we can go on into the distant sunset spending billions every year in excess of revenues. People are waking up to the effect this deficit spending is having on them. In addition, fewer people are buying the idea that there is a need for this spending in the absence of a war.

What are the effects on Mr. and Mrs. John Q. Citizen?

If Mr. and Mrs. Citizen want to move out of their apartment and buy a home of their own, and unless they just won a million-dollar lottery or inherited a small fortune, they will have to get a mortgage. They enter the money market in competition with their Government and find that their own Government is sopping up, this year, $9 billion of loanable funds—enough to finance a third of a million mortgages. Not only does that amount of money leave the market, what is left gets bid up in price. To a degree, deficit spending is responsible for scarce money and high interest rates.

If Mr. and Mrs. Citizen are living on a relatively stable income, they are probably eating more spaghetti than in the past, and are probably getting acquainted with the virtues of vegetable protein. Spaghetti is not to be derided, and vegetable protein certainly has its virtues, but I would doubt that inflation diets are a matter of completely free choice. Some of today's inflation is beyond the control of our Government. It is hard to see how we could regulate the price of King Faisal's oil. But, some of the present rate of inflation is subject to control. We are now contemplating dumping $9 billion more borrowed, high-interest dollars into the economy. Sure, it will create jobs, and protect a few more—mainly on the Federal payroll. But, it will inflate the economy by that amount.

So, when Mr. and Mrs. Citizen back off from buying a house this year and decide they have to spend the money they earned and saved for a downpayment, they will be spending 1971 and 1972 dollars from their savings on goods at 1974 prices which have been inflated in part by the effects of Federal deficit spending.

It seems every time we look up from the crisis of the instant, we meet one more special interest protesting that its project or its program is so essential that not only must its funding not be cut, the funding must be increased. In discussing budget control, maybe we ought to require that every bill calling for an increase in spending include a section providing for an income tax surcharge sufficient to pay the freight. We could do the same for bills granting preferential tax treatments. It would save the taxpayers the cost of printing about three quarters of the bills introduced annually.

Some day, hopefully soon, we are going to have to bite the bullet and get our fiscal house in order. The cycle of tax and tax, spend and spend, and elect and elect is doomed. The American people are waking up to what Federal deficit spending is doing to them. Today's discussion can serve as an alarm clock for others.

This country needs firm controls on the Federal budget. The people of the country are beginning to demand it. Sooner or later, our bosses are going to begin to review our stewardship in light of what we have done about it. People who now decide that they cannot afford a new suit this spring will then decide they cannot afford a new educational program or research grant. They may decide some Members of Congress are too expensive.

So, we should get a move on and get a sound, tough budget reform bill enacted. Whether we do it because it is right, or we do it to save our necks; in any case, let us do it, and do it soon.

Mrs. HOLT. Mr. Speaker, I would like to thank my colleague from Florida (Mr. BAFALIS) for giving me this opportunity to urge our colleagues on the Budget Reform Conference Committee to act quickly and responsibly in reporting out a strong budget reform measure.

Congress has too long evaded the question of assuming responsibility for its historical control of the budget. Unless meaningful reform is enacted without further delay, we will continue to witness the awful consequences of inflation, spiraling taxes and general economic unrest, by this unrestrained deficit spending of billions of Federal tax dollars. Budgetary chaos has resulted from our hodgepodge organization of budgetary responsibility. Within the goals set by the new budget committees, the appropriations process will now bear a more direct responsibility for the allocation of the tax dollar, and this is certainly a step forward.

I would like to add a word of caution, however. While the specific recommendations of the conference committee will enable us to implement a process more responsive to the economic realities of our time, we must restructure our own thinking. We are surely witness to the faulty philosophy that government spending is the panacea for inflation. We cannot continue to buy popularity as a nation or as individuals. Federal funds are limited both in quantity and in ability to cure our myriad social ills. Until we accept this as an economic fact of life, all the budget reform in the world will not save us from continuing economic instability.

It is my earnest hope that the conferees will present to us, as expeditiously as possible, the means by which we can finally achieve control over Federal spending and economic policies.

Mr. MOORHEAD of California. Mr. Speaker, I rise in support of the resolution. I can think of no other single item so essential to the future health of the American economy, as well as to Congress effort to reestablish itself as a vital and responsive institution of Government, than the budget reform legislation which is presently in conference.

The American people are not fully aware of how Congress lack of budget control prevents a sound economy. Many of them do not realize that year after year, Congress appropriates legislation with no regard for spending priorities. At the end of the year, Congress adds up the totals. If we have a balanced budget—which is rare—it is purely an accident. Is it any wonder why Congress has received a positive rating of only 21 percent of the American people?

If the people were aware that Congress for years has had absolutely no formal mechanism through which it could make the rational fiscal decisions which need to be made, they would have surely voted its Members out, and well they should. For Congress has flatly ignored its constitutional responsibility to manage the taxpayers' money.

The 93d Congress, Mr. Speaker, deserves much credit for recognizing the danger of this blindman's approach to fiscal matters and for doing something to correct it. The special joint committee developed a comprehensive plan for reform that will force Congress to make the necessary fiscal decisions which it has long ignored. Both Houses of Congress deserve the highest praise for passing this legislation.

Now, only one final hurdle is left before this historic reform can be put to work for the people of America. Further delay is inexcusable. Denial of final passage is unthinkable. We have gone a long way toward filling the tremendous void of fiscal irresponsibility in the Congress. Now that the battle is nearly won, we cannot lose the commitment which prompted this monumental study in the first place. We cannot afford to rest until the budget reform bill is successfully out of conference and is sent to the President for his signature.

Mr. Speaker, the American people are tired of inflated prices at the marketplace. They deserve better from their elected representatives in Congress. This day, let us resolve that Congress will restore the sense of fiscal responsibility that is desperately needed.

Mr. HUDNUT. Mr. Speaker, while a longstanding commitment makes it impossible for me to participate personally in the special order of the freshmen Republican Members, as vice president of the 93d Club I did want to associate myself with the remarks of my colleague, the distinguished gentleman from Florida (Mr. BAFALIS) and others regarding the need for fiscal responsibility and budget reform.

Certainly next to peace, this is our No. 1 issue as it affects every citizen. The American people are sick and tired of seeing their family budgets wrecked by inflation. I ask, is it not possible to construct some sensible dikes against that onrushing torrent? I believe it is. All of us and our fellow Americans have to make ends meet when it comes to management of our affairs. We have to balance our budgets and live within our incomes—paying off debts as they become due. I would ask, is it too far afield to suggest the situation with the Federal Government is analogous?

I have always opposed deficit spending, and will continue to do so. I feel that we should pay our way as a nation, just as we do in our homes and businesses. There is nothing wrong with borrowing—we all do it; but we also pay back at interest what we borrow. I do not think we should pass along to our children and our children's children an incredible and disastrous burden of public indebtedness that will break their backs, the back of our currency, and the back of our country—which seems to be just what we are in the process of doing. We simply must get a handle on Government expenditures, control them as best we can, and see to it that outgo matches income.

To this end, during the past session of the 93d Congress, I introduced H.R. 7154. This bill provides that Federal expenditures shall not exceed Federal revenues except in time of war or grave national emergency declared by Congress. It also provides for systematic reduction of the public debt. Right now, the budget includes a figure above $25 billion for interest on the public debt, and it is anticipated that in fiscal 1975, that figure will rise to $29 billion. That figures out something like a little more than $58,700 per minute that the American people are paying to service the national debt—much less retire it. My legislation—and other bills like it—is still pending before the Ways and Means Committee, and I wish that hearings could be held on this subject and the public be given the chance to express itself to the committee, because I feel quite certain that most Americans disapprove of the astronomical figure that the public debt has reached.

We did make some progress toward budget reform in the last session of the Congress by passing H.R. 7130 in December. I was glad to vote for this measure, which, when it becomes effective, will require Congress to set ceilings on outlays and revenues each year, prepare its own budget proposals, return to the Appropriations Committee control of forms of spending which are now not subject to such review, and extend the fiscal year to begin on October 1 rather than July 1 so that all spending can be compared at one time to the earlier Budget Committee targets. The ceiling set earlier in the year can be reviewed and revised all at one time in September, but every step of the process has to be related to every other step. The process is cumbersome and is not a panacea. However, it is intended to provide a discipline within which the congressional will to govern can be rediscovered. It is a step in the right direction and I urge the House-Senate conferees to report out a strong bill as soon as possible.

Budget management must be established if we are to have stability and a basis for a healthy growth in the economy as a whole. We must establish a good basis for determining spending goals and priorities and always remember that everything the Government gives us with one hand it must take back with the other in higher taxes, more inflation, or both. Therefore, all new spending proposals should be looked at in this way, by asking whether they are worth either of the costs.

The Congress of the United States plays a vital role in determining the economic policy of the United States, and we are now in a position to implement the budgetary controls necessary to return sound fiscal policy to the appropriation process and, thereby, the Nation's economy.

Mr. PARRIS. Mr. Speaker, I welcome this opportunity to address my colleagues and urge the prompt enactment of the Congressional Budget Reform Act.

As we all know from correspondence and face-to-face conversations with our constituents, the spiraling inflation rate is one of the prime concerns of the American public. In response to a question on my February opinion poll of the Eighth Congressional District of Virginia which read "What do you believe are the most important issues facing the U.S. today?" Inflation was the issue most frequently placed at the top of the list.

Mr. Speaker, I respectfully submit that the primary cause of inflation is irresponsible Federal spending, for which this body can be held accountable. I believe the enactment of H.R. 7130 is a real step in the right direction toward removing the inherent problems in our current appropriations process, and strongly urge my colleagues now serving on the conference committee reviewing the Congressional Budget Reform Act to proceed expeditiously in reporting out this legislation.

Mr. BURGENER. Mr. Speaker, the cause of reforming the procedures whereby the Congress acts on budgetary matters has come a long way since March 7 of last year when the freshmen in this Congress rose as a body to urge adoption of a new, workable procedure.

At that time, these reforms were simply a desire felt by many Members of varying seniority.

Today both Houses of the Congress have acted on a measure to accomplish these reforms and a conference committee has been formed to resolve the differences between the versions.

How far we have come, Mr. Speaker, in a single year.

But to have come this far is not in itself sufficient cause for rejoicing. If the conference committee does not complete its work and report out a strong bill that can achieve final acceptance by both Houses, we may lose the progress already made.

These reforms must become law.

In the year that has gone by since the special order last March 7 this Congress has authorized expenditures of hundreds of billions of dollars. It has done so without the benefit of the perspective full budgetary consideration could provide.

In that year the Federal debt has increased by billions of dollars. I, for one, believe that this is an unfortunate fact. But what is even more unfortunate is that the Congress has taken action under which this debt has mounted without the benefit of budgetary analysis which would allow each of us to fully evaluate the ramifications of our actions.

The time has come to bring this bill forward and make it law. I doubt that it would be an exaggeration to say that this can be one of the most important measures passed by this Congress.

Mr. COHEN. Mr. Speaker, I rise in support of the resolution offered by my distinguished colleague, Mr. BAFALIS, exhorting the conferees now reviewing the Congressional Budget Act to act expeditiously in reporting out constructive legislation which will return to the Congress the necessary fiscal tools to control inflation.

Clearly, one of the most glaring problems plaguing the Congress revolves around the diffuse, inefficient, and time-consuming appropriation process. As presently structured, the process impedes effective legislative oversight, discourages fiscal discipline on the part of Congress, and nurtures inefficient and duplicatory Federal programs.

Despite the pressing need for reform of the congressional budgetary process—as pointed out in the report of the Joint Study Committee on Budget Control—a full year has now elapsed without final congressional action on the committee's recommendations. During this period, the critical problem of inflation has worsened considerably.

While the Congressional Budget Act is not a panacea that will cure all the economic ills of this Nation, it does represent an important and essential element in the broader effort to restore vitality and stability to our economy. By enacting the Congressional Budget Act, we in the Congress can insure that the legislative branch will play an active role in this effort.

Accordingly, I urge my colleagues to support this resolution.

Mr. FROEHLICH. Mr. Speaker, there is no question that inflation is one of the most serious problems facing our country today. It affects everyone and hits those on marginal or fixed incomes in an especially hard way.

For too long, the Halls of Congress have been filled with empty rhetoric on this subject. Many have spoken out against inflation but little concrete action has been forthcoming. For too long, the people have been fed empty promises but have found, in fact, that their buying power continues to dwindle and that inflation continues to rise.

We now have a chance to make good the decades of promises we have heard. We now have the opportunity to help enact legislation which will mandate spending limits, a crucial first step in bringing us back to a level of fiscal sanity. I urge the conferees now reviewing the Congressional Budget Act to take the lead in bringing us to this goal.

I would also like to call your attention to legislation I have proposed which would assure that we do not, in the future, worsen the problem of inflation unintentionally by actions we take. My resolution, House Resolution 1076, would provide that each committee report on a bill or joint resolution of a public character in the House contain a detailed analytical statement as to whether the enactment of that bill or joint resolution would have an inflationary impact on prices and costs in the operation of the national economy.

We must have a strong budget control bill. We must set sensible limits on what we must spend. And we must also assure that, in the future, we do not unknowingly feed the fires of inflation by passing legislation which is well intended but fiscally careless.

The time to act is now. Let us show the American people we intend to carry it through to meaningful actions which will bring about the fiscal relief we so urgently need.

Mr. REGULA. Mr. Speaker, on February 4, the President submitted his fiscal year 1975 budget to the Congress and the American public. It is the largest in the history of our Nation, recommending total outlays of $304.4 billion; $29.8 billion more than in 1974, with anticipated receipts of $295 billion—an increase of $25 billion over 1974.

Again we are faced with deficit spending; this time the red ink figures amount to $9.4 billion. The deficit of 1974 was $4.7 billion. It is obvious that deficit spending is on the increase.

Not only is the budget large, it is confusing and uses confusing terminology. The budget for fiscal year 1975 has been compiled on what is called the unified budget concept first used in the submission of the fiscal year 1969 budget. It includes both Federal funds, those funds which go into the general fund of the Treasury and are not earmarked for specific uses such as old-age and survivors insurance and the highway trust fund, and it includes trust funds.

The unified budget deficit for fiscal year 1975 is estimated to be $9.4 billion. However, if trust funds are not counted, the deficit comes to $17.9 billion. The difference is accounted for by an expected $8.5 surplus in trust funds borrowed by the Treasury. The unified budget camouflages the facts and softens the impact of a budget in excess of $300 billion and a public debt that will accumulate to $495.2 billion requiring an interest payment of $29.1 billion, an amount equal to almost 10 percent of the proposed 1975 budget.

Part of this phenomenal increase is due to the fact that approximately 40 percent of the Federal budget is no longer considered by Congress in the appropriations process. This backdoor spending complicates attempts to hold back expenditures by the Congress which must appropriate funds to back up obligations or commitments, previously made.

Seventy-three percent of the proposed fiscal year 1975 budget is uncontrollable under existing law. This means that only 27 percent of the proposed budget can be acted on with discretionary authority, or 27 percent of the budget is controllable. In 1967, 59 percent of the Federal budget was uncontrollable compared to 73 percent today. It is evident that the uncontrollable aspect of the Federal budget is growing.

In saying that the rising expenditures are uncontrollable, I mean that they are uncontrollable due to existing legislation. The programs can be controlled if legislation is enacted to change their nature.

If the uncontrollable segment of the budget continues to increase, Congress will find its hands chained and will be unable to act effectively in solving economic problems facing the Nation. We cannot run our homes or businesses in this manner, nor should our country pass on to future generations the obligation to pay for our excesses. It is more important now than ever before that we live within our capabilities.

During this time of spiraling inflation, Congress cannot afford—the Nation cannot afford—to wait for action. Congress must do its share to hold the line against the onslaught of ever higher prices. To do this the House of Representatives needs to exercise fiscal restraint and responsibility.

H.R. 7130, the Budget Impoundment Control Act of 1973, passed by the House of Representatives on December 5, 1973, will give Congress a means of dealing in an orderly and comprehensive fashion with both budget policy and national priorities. A similar bill, S. 1541, was passed by the other body on March 22. Both bills are in conference. When compromise is reached, I hope that it will represent a viable legislative budget reform and confirm the role of Congress as a coequal branch of the Government.

Essentially, the legislation will allow Congress to set an overall spending ceiling with ceiling targets in the various program categories and will revise the appropriation process timetable. Presently, the Executive Office of the President has 18 months to prepare a budget which is submitted to a Congress which has a few short months to make its decisions relying mainly on the executive branch information and expertise. This new legislative timetable will allow Congress to debate our national priorities early in the process. The annual formulation of a congressional budget will better enable Congress to coordinate its individual budget actions with the overall economic needs of this country. The proposed legislative budget office, an approximation of the President's Office of Management and Budget will give Congress more adequate and sophisticated machinery and manpower to inform itself of budgetary and economic matters.

Final passage of this legislation will mark a significant step forward in congressional reform and provide the tools necessary for Congress to do its part in controlling inflation.

Mr. MITCHELL of New York. Mr. Speaker, a little over a year ago, on March 7, 1973, I joined with a number of my colleagues in the House to voice strong support for needed action on the part of the Congress in the area of budget reform and fiscal responsibility.

I did so as a newcomer to this distinguished body, but one familiar with governmental budget processes by virtue of 14 years of previous experience as a village mayor and a member of the New York State Legislature.

Quite frankly, while I was dismayed and somewhat puzzled by the failure of Congress to previously come to grips with the apparent need for such reform, I was encouraged by the reaction to the comments of those of us who took part in that March 7, 1973, special order.

As you will recall, Mr. Speaker, the participants in that Special Order were, for the most part, freshmen legislators. To the person, we shared a common interest, to make a contribution to the perfection of a system that is already the best.

Our call for budget and fiscal reform was warmly received by a number of our distinguished senior colleagues. The media gave prominent mention to our efforts and praised our determination. Constituents wrote to us to express support. All seemed to agree that we were on the right course and should pursue it.

And yet, here we are a year later talking about the same subject with very little progress to report.

Each day it becomes more apparent, to me at least, that we need to control expenditures and give greater attention to fiscal priorities. Evidence to support this contention abounds. But the sad fact of the matter is the Congress simply is not tackling this assignment with the vigor it demands. Is it any wonder that we are at an all-time low in terms of public opinion? I do not think so.

We have an opportunity to do something about it and it is high time we seized it. I reiterate my support, with all the force and sincerity at my command, for a Joint Congressional Committee on the Budget. The measure I endorse, H.R. 975, establishes such a committee and provides the necessary staff to analyze the budget and make recommendations.

The legislation also calls for a mandatory 5-year spending projection, limits spending authorizations by Congress to 3 years and requires that new Federal programs be initiated on a limited, trial study basis.

We can talk all day here on Capitol Hill about the need to restore the balance of power between the legislative and executive branches of our Government so that we, the elected representatives of the people, might be able to play a more meaningful role in the budget process. But talk will not get us very far. What we need now is action. Let us get on with the job.

Mr. CRANE. Mr. Speaker, under our system of government, the Congress is meant to be the single most important branch. The executive is meant to execute the laws passed by the elected representatives of the people in the Congress and the courts are meant only to make certain that such laws are not in violation of the Constitution. Neither the executive nor judicial branches of Government are meant to be lawmaking bodies. This role has been designated specifically for those elected to the Congress.

Along with congressional prerogatives, however, go serious congressional responsibilities. Writing in the Christian Science Monitor of September 29, 1973, Roscoe Drummond notes that—

> The best example of what Congress is failing to do in its rightful effort to reclaim power and prestige concerns the way it goes about putting together the massive federal budget. It is as though it were trying to lay out a picture puzzle without the picture and with many of the pieces missing. It is a mess.

In the Congressional Budget Act of 1973, the Congress has finally accepted some of its long-dormant responsibilities. It has developed a mechanism to coordinate the separate actions of taxation committees and, more important, the legislative committees that have devised "backdoor" techniques for creating new programs and mandating big outlays on those programs in future years. This plan will produce the most basic reform of congressional procedure in half a century.

At present, Congress judges each money bill separately, as though it bore no relation to other outlays or to whether the funds were available to pay for it. Under the reform, the Senate and House each would create a new budget committee. Its members would, as a group, possess an overall view on both revenues and spending. This committee will be in a position to determine likely revenues and the proper level of national debt for the next fiscal year. Based on that information, the committees could recommend a spending ceiling designed to balance the budget. The spending limit would cover both outlays and new obligational authority. The budget committees would, in addition, recommend how to divide the total spending among broad categories of Government spending and would, in the process, determine the spending priorities.

Discussing the need for this important reform, the Chicago Tribune of May 10, 1974, declared that—

> Rampant inflation and the apparent inability of the traditional economic machinery to control it without unacceptable social consequences may combine to bring about a long overdue reordering of the fiscal house of Congress. . . . The problem is that the nation cannot wait much longer for Congress to act. Inflation is cutting into the standard of living of most Americans by sharply reducing their purchasing power. A prompt resolution of the differences between the Senate and House versions of the reorganization bill is imperative.

Following is the text of this editorial from the Chicago Tribune:

SPEEDY HILL REFORM URGED

> "Rampant inflation and the apparent inability of the traditional economic machinery to control it without unacceptable social consequences may combine to bring about a long overdue reordering of the fiscal house of Congress.
>
> "Both the Senate and the House have passed separate legislation to change the method by which Congress deals with the federal budget. For the first time, Congress would consider the budget as a whole instead of piecemeal. The new legislation would create budget committees in both Houses. These committees would determine national priorities and set a spending ceiling. If, after all the appropriation bills are enacted, Congress has exceeded its ceiling, it would be required to raise taxes to produce the revenue necessary to cover the shortfall or to cut spending. Moreover, in one version, Congress would be prohibited from adjourning until the reconciliation process has been completed.
>
> "We have long believed that Congress was negligent and irresponsible in its handling of spending authorizations and appropriations. Each specialized committee has treated its programs and agencies as a private preserve and has spent public money without regard for the impact on the whole economy. This disorderly spending practice has resulted in an aggregate deficit of $109 billion in the last five years.
>
> "To a large extent, this fiscal irresponsibility has caused today's inflation. And while much of the blame can be placed on Capitol Hill, the Nixon administration must share in the responsibility. No longer can President Nixon shift the blame for inflation to the Johnson Administration and the Viet Nam War. He has been the Chief Executive for five years and it has been more than a year since our troops pulled out of Viet Nam. Instead of exerting leadership in economic policy, Mr. Nixon has yielded to political pressure for wage and price controls, and then failed to remove them once they proved their long-run ineffectiveness.
>
> "In a speech to the Society of American Business Writers, John T. Dunlop, director of the Cost of Living Council, said, "The simple fact is that monetary and fiscal tools are not enough [to deal with the present inflation], and we must get to the task of developing other measures even tho their contribution might be less immediate or powerful.'
>
> "He said a whole series of structural changes are needed in the economy in order to restrain inflation. The single most important, he said, is to coordinate the taxing and spending functions of Congress and enable it to cooperate with any administration toward a sound fiscal policy.
>
> "The problem is that the nation cannot wait much longer for Congress to act. Inflation is cutting into the standard of living of most Americans by sharply reducing their purchasing power. A prompt resolution of the differences between the Senate and House versions of the reorganization bill is imperative."

It is my hope that the conferees now reviewing the Congressional Budget Act of 1973 act expeditiously in reporting out a strong bill which will mandate an overall spending limit as well as provide the necessary committee structure, staff, and resources by which Congress may review and control expenditures. This is the only way in which inflation may be controlled and in which Congress can reassert its legitimate authority in this important area.

For years Congress has been enacting revenue and appropriation bills without any total knowledge of what revenue would be and what its appropriations would add up to. It receives a coherent budget from the President and then proceeds to examine it piecemeal.

Now is the time for Congress to reestablish its own authority and its credibility with the American people. The power of the purse is the most powerful tool in the possession of the Congress. Only by acting now with regard to the Congressional Budget Act of 1973 can Congress recover it fully.

Mr. SPENCE. Mr. Speaker, I want to commend my good friend and colleague from Florida, Mr. BAFALIS, for organizing this opportunity for Members of Congress to express our concern about the cruel "hidden tax" called inflation. Since coming to Washington, Congressman BAFALIS has been a leader in efforts to bring about fiscal responsibility on the part of Congress, and in addition, he has proposed a constitutional amendment which addresses the real root cause of inflation in this country—Government spending. I am proud to be a cosponsor of the budget-balancing and debt-eliminating amendment offered by Congressman BAFALIS.

Mr. Speaker, while few of us fully understand the technical meanings and causes related to inflation, it is nevertheless significant that an overwhelming majority of the American people instinctively know where to place the blame. In January of this year, 74 percent of those responding to a Harris survey reported that the greatest single cause of inflation was Federal spending.

Recently, both the House and the Senate overwhelmingly approved legislation which would at least serve as a tentative beginning step toward asserting congressional responsibility in the area of spending control. While by no means perfect, this legislation would at least represent a positive step which could hopefully be built on through future legislative action.

Sad to say, even this small step toward inflation control is being thwarted by inaction on the part of the conference committee which has been appointed to iron out the differences between House and Senate versions of this legislation. I urge my colleagues on that panel to meet as soon as possible so that deliberations aimed toward compromise can begin. Delay is unconscionable, for the inflation rate increases with every passing month.

It has been nearly 3 months since the conferees on budget reform have been appointed—the American people are waiting and watching.

One of the possible legislative approaches which can be built upon this beginning *step*, Mr. Speaker, is House Joint Resolution 720, the Curtis-Spence amendment, which was introduced both in the House and in the Senate in February of this year. This resolution calls for a self-implementing constitutional amendment which would automatically insure in any given year that the Federal budget be in balance. This proposal, which will be reintroduced in the near future with at least 30 additional cosponsors, has elicited substantial editorial comment throughout the country, and several State legislatures have memorialized Congress in support of the amendment.

Mr. Speaker, I ask that two of the editorials entitled "A Necessary Amendment" from the Orangeburg Times and Democrat of May 2, 1974, and "Balanced Budgets," from the Indianapolis News, April 5, 1974, be reprinted in the CONGRESSIONAL RECORD at this point:

[From the Orangeburg Times and Democrat, May 2, 1974]

A NECESSARY AMENDMENT

While a proposed constitutional amendment introduced in the United States Senate by Sen. Carl T. Curtis, R-Neb., and in the House by our own Congressman Floyd Spence, R-S.C., appears not to be making much headway in Congress, it is being supported elsewhere.

The Curtis-Spence amendment, in a nutshell, provides that whenever the federal budget shows a deficit at the end of a fiscal year, an automatic surtax must be imposed to cover the deficit.

The only condition under which an exception could be made would be if Congress by a three-fourths vote, declares a national emergency, or if there has been a formal declaration of war.

As reported in the May 4 issue of Human Events, already one state legislature has memorialized Congress to enact the Curtis-Spence amendment, and similar resoltuions have been introduced in the legislatures of two other states.

Already adopted is a resolution by the Oklahoma state legislature. One of its clauses reads: "Deficit spending by the federal government has been a plague to this nation for over a third of a century and both the legislative and executive branches have repeatedly demonstrated unwillingness to stand against political pressures to spend beyond their means." It was passed in Oklahoma in only a few days.

The other two states in which similar resolutions have been introduced are Nebraska and Florida.

According to Human Events, both Senator Curtis and Congressman Spence hope that the Oklahoma legislature is not a "lone voice crying in the wilderness" but that its action marks the beginning of a grassroots response to an urgently needed effort to control federal spending.

"Congress is not going to enact such a proposal unless the people demand it," Sen*ator Curtis* is quoted as saying.

His assessment is supported by Senate action rejecting amendments by Sen. Jesse Helms, R-N.C., and Sen. Harry F. Byrd Jr., Ind.-Va., which would have made a mandatory balanced budget provision part of the budget control bill recently passed by the Senate and now in conference.

Human Events reports that many Washington observers are encouraged, however, that if enough state legislatures enact supportive resolutions, Congress may be forced into action.

"There is good reason for many states to enthusiastically endorse the Curtis-Spence bill," an Oklahoma state senator said. "After all, we in Oklahoma have been living with that kind of provision in our state constitution for years and getting along fine. What's so special about the federal government that it ought to be free to run up bigger and bigger deficits each year while state governments must live within their income?"

Surely the members of the South Carolina General Assembly must realize the importance of the Curtis-Spence amendment to future generations of South Carolinians and Americans. We would like to see it adopted by Congress. In fact, we would go even further in suggesting that provisions be made now for a scheduled year-by-year reduction in this country's out-of-this-world national debt.

[From the Indianapolis News, Apr. 5, 1974]

BALANCED BUDGETS

Oklahoma recently became the first state to endorse an amendment to the U.S. Constitution outlawing Federal deficit spending. Similar resolutions are now advancing in the legislatures of Florida and Alaska.

The amendment in question addresses an urgent problem—the proclivity of Congress to spend money without relation to incoming revenues. Deficit Federal budgets are now the rule, rather than the exception. The result, as noted by Jerry P. James, president of Heritage Foundation, is that "approximately one-fourth of our total national debt has been incurred in the last four years."

Sponsored by Sen. Carl Curtis, R–Neb., and Rep. Floyd Spence, R–S.C., the proposed constitutional amendment provides for mandatory budget-balancing. If a president submits an unbalanced budget, the amendment directs Congress to reduce spending, levy a surtax to cover the deficit, or find other ways of financing it.

The amendment is currently languishing in the Senate Judiciary Committee, and only petitions from more state legislatures and expressions of public support will budge it. Such action should be forthcoming. No nation, not even one as wealthy as the United States, can pile up multi-billion-dollar deficits every year without courting financial disaster.

Mr. WALSH. Mr. Speaker, inflation is a complex problem and thus far all attempts to control it have failed. It is my feeling that the Congress now has a unique opportunity to attempt to control it by cleaning our own house.

The Congress controls the pursestrings and in the past that control has been far from coordinated. The Congressional Budget Act is the first time an attempt has been made to bring order out of the chaos. It will give Congress the tools with which to keep an eye on overall spending for the first time in many, many years.

Our approach of haphazard appropriations has, I feel, contributed to inflation. In the past 10 years our national debt has increased $162 billion. In fiscal year 1973, the Government paid $24.2 billion in interest on the Federal debt and even more in fiscal year 1974. This amounts to some $50 billion which the taxpayers must pay without receiving a penny's worth of service in return.

With the power of the purse, Congress must also take on the responsibility to recommend expenditures over the vast spectrum of needs but always keeping in mind the total picture.

There are desperate national needs for additional funds for the environment, energy, our cities, housing, medical care, and any number of crucial domestic needs.

Congress has the power and responsibility to set priorities in these areas. This responsibility has been shirked. At the same time the agencies in the executive branch have expanded and have filled the vacuum of power vacated by Congress with respect to the budget. We have simply not kept pace and do not now have the tools necessary to accomplish our task in this area.

The Congressional Budget Act, now in conference, will give us these tools. I sincerely join my colleagues in urging the House-Senate conferees to speedily act on this measure so we may begin to set up the necessary mechanism with which to deal with the present budgetary chaos.

CAPITAL GAINS TAXES ON RESIDENCES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ROBISON) is recognized for 15 minutes.

Mr. ROBISON of New York. Mr. Speaker, many years ago an elderly couple wrote me that they had just gotten a painful education in the capital gains tax. Like so many wage earning families, they had probably never had the opportunity to fill in the capital gains block on their tax form and, for them, the term "capital gains" may well have been an ill-defined business concept which had never affected their lives and never would.

Again, like so many other older persons whose residence was their one, major investment, they had owned their home for many years. Besides the sense of security gained from personal ownership, they also presumed that the proceeds from a sale of their home—which with their children gone was steadily becoming too large for them—might provide a retirement "cushion" after their wage-earning years had ended. And, that was precisely how they proceeded, *since* after retirement they sought to recapture their investment by selling the house.

Yet, when tax time rolled around, they were jolted by the capital gains tax, which—it seemed to them, at least—robbed them of some of the retirement security they had counted on. Since it was so understandable how this sort of thing could have happened, I began to consider legislation which might save other elderly citizens from such a costly education in tax law, thereby assisting them in making the fullest use of the funds available to them at a time in life when financial security is so very necessary.

I, therefore, introduced legislation which proposed that individuals over age 65 be excused from the capital gains tax on the first $20,000 of profits from the sale of a residence. In one of those very satisfactory moments for a legislator, the Ways and Means Committee saw fit in 1964 to include my proposal in a larger tax bill. Since enactment of that measure, tax law has permitted any taxpayer over age 65 to take a one-time tax exemption on profits from the sale of a house, if that individual has used the house as a personal residence for at least 5 of the 8 years prior to the sale.

Well, about 10 years later, which was just a few months ago, I received another letter from an elderly couple who again described how payment of the capital gains tax had added an unexpected note of austerity to their retirement plans. Although in this particular case, the couple did not meet the full requirements for the capital gains exclusion, the letter did get me to thinking about how things have changed since those halcyon days of 1964 when a $20,000 home in my part of New York State was a solid, roomy dwelling. Those who seek to buy a home these days in the southern tier of New York will quickly find that $20,000 will get them little more than a roof and four walls.

In other words, as we all know, inflation has hit the cost of housing just like everything else, and the tax savings for elderly people which grew out of my bill have severely diminished in real purchasing power, particularly when it comes to purchasing or renting a new dwelling. I asked the Library of Congress for an appropriate measure of the impact of inflation on housing prices since the capital gains exemption went into effect, and the response was that costs of residential construction are the best measure of the inflationary impact on housing prices. Since 1964, housing construction costs have increased by 69.7 percent, and if this percentage is applied to the $20,000 figure I first proposed, it would amount to almost $35,000.

Since I have been privileged to remain in the House for the decade following my first proposal and because we are now in the midst of a wide-ranging discussion of tax reform legislation, I will offer new legislation today which proposes an increase in this capital gains exemption for the elderly to $35,000. A large part of the incentive for enacting the exemption in 1964 was to allow elderly citizens to make full use of the money invested in their homes; and it seems entirely equitable that citizens who claim this exemption in 1974 receive the same level of financial benefit as those who took the exemption in 1964. Certainly, the principle behind the exemption has never changed; it is only that now an elderly couple is likely to pay almost 70 percent more in follow-on housing costs.

Mr. Speaker, I will take my case to the Ways and Means Committee as it considers a new tax bill, and I encourage my colleagues to join me in doing so.

LEGAL SERVICES CORPORATION CONFERENCE REPORT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. QUIE) is recognized for 50 minutes.

Mr. QUIE. Mr. Speaker, there has been widely circulated in the House a document, anonymously authored, purporting to be a "factsheet" on the Legal Services conference report. In the scope of its misinterpretations, omissions, and mistakes, it is incredible. The total purport of the argument is that the House conferees abandoned the position of the House, particularly as reflected in the 17 amendments to H.R. 7824 adopted by the House last June. As the author of 11 of those 17 amendments, and as a House conferee, I take absolute exception to that implication. The truth is—and I believe my fellow House conferees will support me in this statement—we maintained the substance of the House position in the great majority of vital issues, including most of the critical issues involved in those 17 amendments.

I can fully appreciate that some Members will vote against the conference report because either they oppose a legal services program or oppose carrying it on in the form proposed by both the House and Senate bills. But I think it would be a tremendous disservice to the public, and to the Members of the House, if any Members voted against the conference report on the basis of a wildly distorted and almost wholly inaccurate account of its provisions.

Accordingly, I shall in these remarks repeat the anonymous factsheet allegations in their entirety together with my comment—which will be labeled "comment"—in order that all Members and the general public will be able to judge the issue fairly:

FACTSHEET—LEGAL SERVICES CONFERENCE REPORT

INTRODUCTION

In a new attempt to mislead the trusting and prey upon the good faith of the public, the Senate-House legal services conference committee reported to the public on May 10, via pre-arranged stories in the New York Times and the Washington Post, that a legal services corporation plan had been adopted which assertedly represented a yielding by the Senate to the more stringent safeguards against legal services abuse which had been adopted by the House of Representatives last June 21, 1973.

One standard of measurement for gauging whether the safeguards demanded by the House have been honored is adducable by review of the twenty-four amendments which had been voted onto the bill in the House. Seventeen of the twenty-four have been either eliminated, or altered in such a manner as to destroy their original meaning and impact.

PARTIAL LIST OF ELIMINATED HOUSE AMENDMENTS

For example, the following amendments have been eliminated entirely:

The Green Amendment which would have liquidated the Corporation in 1978, requiring affirmative Congressional action if it were to be continued beyond June 30 of that year;

Comment: This is typical of the kind of compromise reached in conference. The conference bill limits the authorization of appropriations to 3 years, which means that the authorization expires on June 30, 1977, in short, "an affirmative congressional action" is required if the Corporation is to be continued.

The Green Amendment to prevent the funding of Back-Up Centers for nonresearch activities (amicus briefs, co-counsel work, assistance to activist organizations, issue advocacy publications and travel, law reform non-client-generated test cases, policy lobbying, etc.);

Comment: Many of these activities are specifically prohibited by other sections of the conference bill, and in the statement of managers on page 20 is the statement that the term "research" is understood to mean "the types of research activities currently being conducted under the authority of section 232 of the Economic Opportunity Act of 1964, including the provision of cocounsel, but not to extend to clearinghouse activities such as the Poverty Law Reporter Service." Section 232 is the authority under which so-called backup centers are funded as a research activity. Under section 3 of the conference bill the authority to conduct such research by grant or contract terminates on January 1, 1976, unless Congress by concurrent resolution takes some contrary action with respect to it before that date; if the Congress fails to act at all the authority extends to January 1, 1977, when it expires a full 6 months before all appropriations authority for the act expires. The Corporation is directed to make a study of the issue of how it should conduct its research activity and report back to the Congress with recommendations by June 30, 1975. This is a compromise of the Green amendment—which cannot fairly be described as having been "eliminated entirely."

The "Congressional Accountability" amendment which would have limited the power of the American Bar Association to assume primary responsibility for project employee behavior, performance, and obligations via modifications in the Code of Professional Responsibility and Canons of Ethics;

Comment: This is a very inartful reference to one of my amendments. In section 6(b) (3) of the House-passed bill we had a general prohibition against interfering "with any attorney in carrying out his professional responsibility to his client as established in the Canons of Ethics and Code of Professional Responsibility of the American Bar Association." What my amendment did was to strike another such reference because it was redundant. The Senate bill contained numerous such references, and we insisted that all but one be struck out to conform to the House bill. Thus the fact sheet is completely mistaken.

The two Green Amendments requiring annual appropriations and barring multi-year appropriations without Congressional review.

Comment: There was only one Green amendment of this nature which struck out a requirement of 3-year appropriations, leaving an annual appropriation authorization. In the conference bill we accepted the limitation proposed by Senator COTTON and adopted on the Senate floor prohibited appropriations in any year for more than a 2-year period and required that any amount appropriated for a second year not be made available until the beginning of that year. We retained this Senate language, and the thrust of the Green amendment is preserved.

PARTIAL LIST OF HOUSE AMENDMENTS WEAKENED

Of at least equal importance, other vital safeguards were completely vitiated by cleverly worded modifications which destroyed the original meanings of House-passed amendments:

The prohibition on aid to "any picketing, boycott, or strike" is wiped out with the phrase "except as permitted by law", since such activities are clearly legal, however undesirable it may be to subsidize them with public funds.

Comment: This is a misreading of the language. The phrase "except or permitted by law" does not modify the entire prohibition. The complete phrase is "except as permitted by law in connection with such employee's own employment situation," which completely changes the meaning alleged by the fact sheet.

The House prohibition against assigning personnel or resources in connection with campaigns to affect the outcome of state ballot issues has been rendered meaningless by the proviso that such ballot campaign activity is permitted when it takes the form of representation for "eligible clients with respect to such client's legal rights". The catch is that every group which alleges to concern itself with poverty issues can be an eligible client under the proposed Act—thus, whether the cause relates to the elderly (National Council of Senior Citizens), or women (National Organization for Women), or the "right" of the poor to abortions (Planned Parenthood), or Cesar Chavez (United Farmworkers), Indians (American Indian Movement), or whatever, the prohibition is without effect.

Comment: I would not interpret this as vitiating the prohibition, because I do not think we intended to prohibit genuine legal advice "by an attorney as an attorney" to an eligible client. Moreover, this must now be read in light of section 1007(a)(5) which bars lobbying activities except under prescribed circumstances and in the course of doing so bars the solicitation of clients or of "a group with respect to matters of general concern to a broad class of persons as distinguished from acting on behalf of any particular client" in order to make such activities possible. This is discussed more fully in a later comment.

The Green Amendment which stated that "(i)f an action is commenced by the corporation or by a recipient and a final judgement is rendered in favor of the defendant and against the corporation's or recipient's plaintiff, the court may, upon proper motion by the defendant award reasonable costs and legal fees . . ." has had its intent altered by a conference proviso that such relief to innocent private parties sued at the discretion of legal aid employees would be available *only* "upon a finding by the court that the action was commenced for the *sole* purpose of harassment . . . or a recipient's plaintiff maliciously abused legal process". Thus where a guiltless victim of a legal services suit couldn't prove "harassment" or "malicious" abuse, such victim, however poor or aggrieved, would have to sustain the full financial cost of legal services assault.

Comment: We were assured by legal counsel that the Green amendment would be invoked by a court only in those circumstances where the court would exercise its inherent equity power to punish an abuse of process. The conferees actually read Black's Law Dictionary on abuse of process and were satisfied that it had to be "malicious" before it fell into the category where at common law and in equity it is considered an offense. The addition of "sole" before "purpose of harassment" again was made to conform with our understanding of the circumstances under which a judge would be likely to act.

The requirement that "full-time" staff attorneys be subject to Corporation law and regulations at all times and devote full professional attention to their tax-subsidized responsibilities was rendered ineffective by addition of language that such "outside practice" activities could be fully permissible if not entered into for purposes of financial compensation (A standard legal services defense against evidence of impropriety has been the disclaimer that the incident to which objection had been made occurred on one's "own time", or in connection with "outside practice" or law).

Comment: Again, the fact sheet fails to cite the entire exception to the prohibition against outside practice which is:

> (B) any uncompensated outside practice of law *except as authorized in guidelines promulgated by the Corporation.*

Comment: The words omitted are critical. The conference discussion centered on the fact that none of us wanted to prohibit an attorney, for example, from drawing a will for a relative without charge, which the House language literally would have done. We expect that the Corporation will permit such common and reasonable exceptions to the prohibition, but in no event permit the sort of outside practice described in the factsheet.

The very important anti-lobbying ban imposed by the House on a 200–181 roll call vote (which had prohibited lobbying on state or Federal issues, except to permit statements or testimony) has been replaced with language authorizing legal services efforts "to influence the passage or defeat of any legislation by the Congress of the United States, or by a State or local legislative bodies" whenever one "member thereof . . . requests personnel of any recipient to make representations thereto;". Furthermore, continuation of the practice of having registered legal services lobbyists in state legislatures is fostered by permission of lobbying "representation by an attorney as an attorney for any eligible client". "Eligible clients" would include lobbying organizations concerned with issues as diverse as passage of the Equal Rights Amendment and gun control.

Comment: Again, this is a misreading of the effect of one of my amendments and of the conference action concerning it. The House bill always permitted a Legal Services attorney to testify before a legislative body when requested to do so, even by one member of such body. So did the Senate bill and that issue was not within the scope of the conference. What my amendment did was to include lobbying on Executive orders and similar promulgations at any level and to preclude representation of a client before a legislative body at the State or Federal levels. The conference bill includes executive orders and similar promulgations, a recession to the House position, and permits the representation of an eligible client before a State legislature or the Congress, but only with the added restrictions I have described against the solicitation of a client or of a group to make such representation possible. The whole purpose was to prohibit either an organized lobbying effort or the representation of groups described in the factsheet. I think the House position is effectively sustained.

The intention of the House amendment to bar aid to "public interest" law firms is wiped out by another tricky semantic change. Where the House would have denied Corporation aid to any such Nader-style firm which expended 50% or more of its resources and time "litigating issues either in the broad interests of a majority of the public or in the collective interests of the poor, or both," the deceptively-worded Conference bill, by deleting the phrase: "or in the collective interests of the poor, or both" in effect authorizes use of government funds to support any radical cause which claims to be acting for the poor as a class.

Comment: The change described in this provision is not "tricky" or "deceptive"; it is straightforward and it is a retreat from the House position which makes it easier to make a grant to a so-called public interest law firm by defining it only as one which expends 50 percent or more of its resources and time "litigating issues in the broad interests of the public." The effect, however, is totally misstated in that the only legal services which could be rendered would be those provided for under the act for an eligible client, and in no case "for the poor as a class."

The very important House amendment limiting the authority of project attorneys to represent persons under 18 without parental approval has been divested of meaning through a sleazy rewrite job permitting such representation (whether with respect to abortion, school discipline, or similar issues) "where necessary . . . for the purpose of securing, or preventing the loss of services under law, or in other cases not involving the child's parent or guardian as a defendant or respondent."

Comment: Unfortunately, the author of the factsheet apparently saw a copy of the corrected version of the conference bill in which the corrections did not copy. The quoted section actually reads "services under law in cases not involving the child's parent or guardian as a defendant or respondent," so that the exception to the prohibition is far less sweeping than if the language read ", or in other cases not involving" and so forth. Moreover, the quoted language omits our addition of "or preventing the loss or imposition of services under law not involving the child's parent" and so forth. The horrible example we had in mind was an actual case in which the parent was the plaintiff suing the child to force her to submit to an abortion. The language we adopted would permit representation of the child in such a case without parental request. One would hope the author of the factsheet would not want to argue with that result.

Also eliminated was the Mizell Amendment relating to institutions of higher education, which many had hoped would serve as a barrier to proquota briefs of the sort filed by legal services projects in the DeFunis case.

Comment: This is an astonishing comment because: First, it fails to state that the conference bill retains the other Mizell amendment which prohibits the use of these funds to provide legal assistance "with respect to any proceeding or litigation relating to the desegregation of any elementary or secondary school or school system"; and second, it completely misstates the nature of the DeFunis case, or of the Mizell amendment barring the use of these funds in cases relating to desegregation of an institution of higher education. Leaving aside the extremely dubious statement that Legal Services project funds were used to file briefs in the DeFunis case, the Mizell amendment did not reach the case because it did not involve the issue of "desegregation"—which is not a term of art applying to all cases involving alleged racial discrimination.

The "anti-commingling" amendment adopted by the House (to prevent involvement of corporation-subsidized programs in prohibited activities under cover argument that only "local share" funds or "state funds" were involved in the improper activity) is knocked out of the proposed act through a Conference-devised loophole asserting that "this provision shall not be construed . . . to prevent recipients from receiving other public funds . . . and expending them in accordance with the purposes for which they are provided". If tax-exempt Ford Foundation grants were defined to be "public funds" (as a careful reading of the relevant provision seems to imply) the entire section has been rendered meaningless.

Comment: This misstates the effect of the change made in the provision. Without the exemption of "other public funds" and Indian tribal funds, governmental units and many Indian tribes would find it impossible either to participate in or make contributions to legal services activities, a result we felt was both unwise and unintended by the House. The comment that Ford Foundation funds could be defined as "public funds" is almost too preposterous to respond to, except to say that it is totally wrong. Private funds could not be received by most legal services projects—private law firms, and certain other private legal activities are exempted in order that they may participate in the program, as they are in the House bill—and used for a purpose prohibited under the act.

SENATE PROVISIONS KEPT; HOUSE PLAN ALTERED

It is not just in its disregard for 17 House-passed amendments that the conference committee cast down the gauntlet to those who favor limits on the power of free-wheeling attorney activists to determine what is best for the poor and for the court. The conference bill also retains some other very unfortunate aspects of the very liberal Senate-passed bill, while erasing important original parts of the legislation adopted by the House on June 21.

Obnoxious aspects of the Senate version which have been grafted onto the almost totally ignored House plan include:

Making the Corporation part of the Economic Opportunity Act (An ill-disguised effort to promote exclusive control of confirmation of corporation board members by the liberal Senate Committee on Labor and Public Welfare).

Comment: This last reference to the form of the bill is a completely accurate statement in the fact sheet, and a compromise which I voted against.

Adopting a Preamble which affords the statutory presumption of continuation to current grantees and administrative policies of "the present vital legal services program" and which strongly implies that staff attorneys supported by the program should have "full freedom" from accountability to the American people who pay their bills;

Comment: I usually do not care for any statement of purpose in a bill since it cannot change any provision of an act, and thus has none of the results attributed to it by the author of the fact sheet. He might have also cited one of the purposes included, however, "that the program must be kept free from the influence of or use by it of political pressure."

(The Senate bill, to which House conferees receded, has an ominously sweeping provision allowing the corporation to make "such other grants and contracts as necessary to carry out the purposes of the title" (source—conference report). *Given the very broadly defined purposes* of the conference plan that means simply: *"anything goes"*,—all not specifically prohibited is consequently allowed. For example, as now written, corporation officials could fund almost any group of their choosing, so long as it was not involved in directly aiding candidates for office.);

Comment: This language in effect replaces House language permitting grants to or contracts with "other appropriate entities—for the purpose of providing legal assistance to eligible clients." In any event all grants and contracts must fall within the scope of carrying out "the purposes and provisions of this title." All of the provisions of the title are controlling and the statements that "anything not specifically prohibited is consequently allowed" and "Corporation officials could fund almost any group of their choosing" are simply not true.

Denying the President authority to designate the chairman of the Corporation's board of directors, except in the first instance;

Comment: A totally fair description would include the fact that in the House bill the appointment is only for 1 year, whereas in the conference bill it is an appointment by the President for 3 years, after which the Board may select its own Chairman.

While downplaying the importance of existing influence of ADA and NLG-oriented values in the present control and management of the legal services program, conferees would prevent future changes in a more moderate or conservative direction by the convenient requirement that hereafter "No political test or political qualification" be taken into account in personnel policies for the $100 million per year program.

Comment: I do not believe, and apparently the conferees did not believe, that the Corporation should impose any "political test or political qualifications" in choosing its employees; we hope instead that it will choose people on the basis of their competence and good judgement—a practice which should eliminate many complaints about the existing program.

The arrogant assertion that, though Federally-funded, "the Corporation shall not be considered a department, agency, or instrumentality of the Federal government"; (At the same time, however, while denying federal accountability, Corporation employees are given all the benefits of Federal employment, including the right to remain eligible for social security benefits, without paying additional social security or self-employment taxes while building up a Federal retirement nest egg);

Comment: This follows the same form as the Public Broadcasting Corporation, and there is no insidious purpose in placing this Corporation outside the Federal Government for most purposes. It is intended simply to free it from all sorts of laws—such as all the civil service laws and regulations—which might not be appropriate to the independence we sought to achieve here, while applying to it restrictions—such as the Hatch Act—which obviously are appropriate. With respect to accountability, the Corporation is subject under the conference bill to all sorts of accounting and reporting requirements and procedures, including independent audits and audits by GAO. It was felt with respect to employee benefits that it would be far cheaper and easier to tie them into the existing Federal systems rather than having to set up separate health benefits and retirement plans, et cetera.

Requiring "a special determination by the Board" before program control can be assigned to elected state and local officials, while at the same time permitting the lowliest legal services employee with control of grant money to fund private organizations of his choosing;

Comment: Both the House and Senate bills contained a requirement for "a special determination of the Board" with respect to grants to governmental agencies. While I personally oppose the requirement, it was not within the scope of the conference.

While purporting to prevent employees from acts which would "intentionally identify the Corporation" with party or candidate related political activity, Sec. 1006(e) of the conference plan would define project employees themselves as "deemed to be State or local employees for purposes of Chapter 15 of Title 5, United States Code". It is important to note that Title 5, "does not prohibit political activity in connection with . . . (2) a question which is not specifically identified with a National or State political party. For the purpose of this section, questions relating to constitutional amendments (etc.) . . . are deemed not specifically identified with a National or State political party." Thus, while personnel can't "identify" the corporation with partisan (and perhaps even nonpartisan) political activity, they can do virtually as they please in organizing for non-candidate or non-party-related issues like, for example, those concerning taxation or education or socialized medicine.

Comment: This objection is so garbled that I have difficulty in sorting out what the author is complaining about. What the conference bill does is to subject employees of the Corporation to the provisions of the Hatch Act, and to subject staff attorneys—those who receive more than one-half their annual professional income from a recipient organization organized for the provision of legal services under the title—of recipients of grants or contracts to the Hatch Act prohibitions which are applied—unlike in the Hatch Act—to nonpartisan as well as partisan activities. Activities of such individuals with respect to ballot measures and referendums are controlled by another provision of the bill.

Senate language in the conference bill encourages perpetual funding for presently funded projects by compelling the corporation to "insure that every grantee, contractor, or person or entity receiving financial assistance under this title or predecessor authority under this Act which files with the Corporation a timely application for refunding is provided interim funding necessary to maintain its current level of activities until (a) the application for refunding has been approved and funds pursuant thereto received, or (b) the application for refunding has been finally denied in accordance with Section 1011 of this Act." Section 1011 reads: "financial assistance under this title shall not be terminated, an application for refunding shall not be denied, and a suspension of financial assistance shall not be continued for longer than thirty days, unless the procedural requirements defined in the Act and by court precedent have been fully satisfied." In brief, there's almost no way to cut them off.

Comment: This is simply intended to provide for an orderly transition, and indeed, the way to cut off a recipient is fully spelled out in the bill and is quite uncomplicated—although, it is designed to meet the requirements of due process of law.

DANGERS DISGUISED

The Conference plan also defers to the Senate in its stipulation that the "President may direct that appropriate support functions of the Federal Government may be made available to the Corporation in carrying out its activities under this title to the extent not inconsistent with other applicable law." While less blatant than the original Senate language, this proviso would still make it possible for a President of the United States to give private organizations aided by the corporation the benefit of a full range of government services and equipment free of charge. This could include everything from xerox machines to motor vehicles to long distance phone service. Given the political nature of many groups previously aided and prospectively eligible for aid by legal services, this remains a very dangerous section, which was wisely absent from the more moderate House bill.

Comment: The support functions referred to could be made available only to the Corporation, and not to local recipients, so it does not have the effect attributed to it.

Another Senate victory lies in the conferees' implied agreement to transfer present OEO legal services career employees and to perpetuate the radical OEO union agreement, at the corporation.

Comment: The Senate language specifically providing for a transfer of OEO legal services employees was eliminated, so it is difficult to see how the implication that they automatically would be transferred could arise. Collective-bargaining agreements of any employees transferred would remain in effect only until their termination date.

Also highlighting the deviousness and unscrupulous deception practiced in drafting the final conference language is a special section which purports to deal with widespread concerns about political manipulation and control of back up centers in behalf of liberal causes.

In an effort to reduce opposition to the bill, the conferees suggest that the centers will not continue beyond 1977, unless there is affirmative action by the Congress for their continuation. The conscious misrepresentation of this section lies in the fact that it deals only with back up center "research" activities, omitting even that mild restraint on more obnoxious back up center activities entirely unrelated to research (e.g. "information clearinghouse", "issue explanation". These neutral phrases have long served to cover up and excuse many back up activities much more closely related to political causes than poverty representation).

Comment: I have discussed this issue at some length, and simply do not agree with the analysis.

Right to life groups are particularly outraged by continuation of the back up centers, since several of them (National Health Law Project, Bureau of Social Science Research, National Juvenile Law Center, etc.) have been in the forefront of successful drives for liberalized abortion laws and regulations on both a state and national level.

Even if the bill really did establish restrictions on the back up centers, the gradual conversion by national OEO officials of neighborhood law offices to local law reform units would negate much of its value.

Comment: Numerous provisions of this act already cited—as well as a completely new administration of this program by the Corporation—will control the type of activity alleged here. Both the action of the House and the action of the conference committee constitute a clear warning to the Corporation that activities such as those alleged are not to be continued with the assistance of funding under this act.

OTHER WEAKNESSES

There are still other weaknesses to be found in the conference plan, when it is compared with the House bill:

The House bill gives Governors a free hand in designating state advisory committee members; the Senate/Conference plan requires Governors to wait for recommendations from the organized bar before acting.

Comment: We saw nothing wrong with requiring that recommendations be sought from the State bar associations with respect to the appointment of members to an advisory council where a majority of its members must be attorneys admitted to practice in the State. The author of the factsheet rightly praises Chairman PERKINS for his amendment which would require such consultation at the local level before hiring staff attorneys.

A House provision intended to limit aid to militant prison groups by barring "assistance in civil actions to persons who have been convicted of a criminal charge where the civil action arises out of alleged acts or failures to act connected with the criminal conviction and is brought against an officer of the court or against a law enforcement official" has been materially changed to preclude such cases only where they "challenge the validity of the criminal conviction."

Comment: Perhaps the conferees misunderstood the intention of the House language, but we thought that the whole point—in addition to barring assistance in criminal proceedings—was to bar civil actions against law enforcement officers or officers of the court for the purpose of challenging the criminal conviction. For example, a civil action for false arrest obviously would be designed to challenge the criminal conviction.

RIGHT TO LIFE CONCERN

While the conference did make a few prearranged changes in the Senate bill, like dropping specific provisions for a National Advisory Council (still permitted, but not structured into the bill) and deleting some of the more frightening Senate language barring "Federal Control" of the new entity, those who take the time to study the final plan, in comparison with the House and Senate versions, will clearly observe an almost total Senate victory over the House. Futhermore, where the House did prevail, it was often because its language was as permissive or more permissive than that of the Senate.

In choosing the House ban on "legal assistance with respect to any proceeding or litigation which seeks to procure a nontherapeutic abortion", as opposed to the Senate version which barred such assistance on abortion "unless the same be necessary to save the life of the mother" conferees were playing into a trap well set by pro-abortion legal services activists.

The April publication of OEO's *National Clearinghouse for Legal Services*, in a cover story by Patricia Butler of the National Health Law Program (a backup center) says " . . . any abortion which a woman requests is medically necessary, since the very request for the procedure indicates the importance of terminating the pregnancy to the woman's health, whether physical, mental or emotional".

Thus, there is no such thing as a "nontherapeutic abortion" in the official view of the legal services backup center issue which is prominent in dealing with abortions. Accordingly, the conference prohibition would be without force.

Comment: Of course, the view of a legal services backup center as to the definition of "nontherapeutic abortion" would not be controlling. But the author obviously does not understand the conference procedure. The House conferees are charged with attempting to adhere to the House language and, in any event, had no power to prevent the Senate conferees from receding on the issue.

ON SOME ISSUES, COMMON LANGUAGE GAVE CONFEREES NO CHOICE

In some cases, as with regard to the ban on aid to Selective Service law violators, the conferees had no choice, since the prohibition was included by both House and Senate. To give credit where due, the one real victory scored by the House was the personal achievement of Kentucky Congressman Carl Perkins who had insisted that local attorneys be given preference in filling project staff vacancies.

Yet all of this explanation does not even begin to remind the reader that the House bill (vastly better than the conference result) was itself weaker in thirteen key respects than the Administration plan announced last May 15. And of course, that plan was also a "compromise".

Comment: I think that I have demonstrated that the "conference result" is very close to the House-passed bill. The important fact is that we have a bill which after 3 years of work will provide a framework for an effective legal services program for the poor, free from political involvement and hopefully free from most of the controversy that has previously surrounded the program.

STEELMAN URGES RULES COMMITTEE TO BRING HOUSE RESOLUTION 988 TO THE FLOOR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. STEELMAN) is recognized for 5 minutes.

Mr. STEELMAN. Mr. Speaker, today I am introducing a resolution to urge the Rules Committee to act on House Resolution 988, the Committee Reform Amendments of 1974.

For 14 months while public confidence in the Congress continued to erode, the Select Committee on Committees diligently prepared the Committee Reform Amendments of 1974 for this body, and now it is not even going to be debated on the floor of the House and brought to a vote. As almost everyone is aware, this is because the work of this bipartisan committee is being buried by a single party's political caucus. This is the very reason the confidence of the people in this body continues to decline.

Almost every media report has described this tactic for what it is—a delaying maneuver designed to kill these much-needed reforms. It seems ironic that, of all pieces of legislation, the bill that would give this House a legislative overhaul of its committee structure after

28 years is being stalled—by a secret vote in a closed caucus.

It is beyond belief that the same body that cries for freedom of information, open meetings, and full disclosure by others will not be on record as to its intent to change at least some of the practices that have led to the decline in confidence by the American people in this body.

Mr. Speaker, this goes well beyond the issue of committee reform. This is a question of reform in general and the openness of the House of Representatives to scrutiny by the public. I call on my colleagues to join me in urging the Rules Committee to bring this very important piece of legislation to the floor so the merits can be debated in public and the position of the Members of the House can be recorded.

THE FEDERAL RESPONSE TO DRUG USE AND CONTROL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. HOGAN) is recognized for 30 minutes.

Mr. HOGAN. Mr. Speaker, the Comprehensive Drug Abuse Prevention and Control Act of 1970 was a major advance in bringing some coherence into a highly diffused, patchwork quilt of criminal laws and regulations dealing with Federal response to drug use and control. It was designed to be sufficiently flexible to deal with the ever-changing drug scene as well as the ever-changing social conditions which require Federal intervention. However, as all laws, whatever their original intent, some of the Act's provisions fall short of the mark, either in terms of need or because of lack of sufficient implementation.

I introduced legislation yesterday to amend the Controlled Substances Act to provide for a mandatory life sentence for the illegal distribution of certain narcotic drugs.

Under present Federal law, trafficking in narcotic drugs carries a penalty of up to 15 years imprisonment for a first offense, and twice that for subsequent violations. Trafficking in other psychoactive drugs is subject to lesser penalties; but, except for unauthorized transfer of certain non-prescription controlled substances and casual transfer of small amounts of marihuana, all Federal sale offenses are felonies.

My bill is based on the premise that the more certain and severe the punishment, the more it will serve as a deterrent. Under my proposal, any individual convicted of distributing certain illegal narcotic drugs which involved the distribution of—

> (1) an ounce or more of any controlled substance in schedule I or II which is a narcotic drug shall be eligible for parole (or any other form of release) only after serving twenty years of such sentence;
>
> (2) at least one-eighth ounce but less than one ounce of any controlled substance in schedule I or II which is a narcotic drug shall be eligible for parole (or any other form of release) only after serving fifteen years of such sentence; and
>
> (3) less than one-eighth ounce of any controlled substance in schedule I or II which is a narcotic drug shall be eligible for parole (or any other form of release) only after serving five years of such sentence.

Drug abuse continues to be a serious problem in our society and I am convinced it can be suppressed most effectively by the application of vigorous criminal enforcement and tough penal sanctions.

There were mandatory sentences and no possibilities of parole for all pushers until the passage of the Controlled Substance Act in 1970. They were then omitted in order to prevent excessive penalties for the addict pusher. However, in my opinion, harsher penalties are still needed for the nonaddict pusher, an individual who profits from addicting young people and does not even have the excuse of addiction and the need to support his habit for selling heroin.

Professional drug enforcement officers have become increasingly concerned with a problem which may be defined as "postarrest drug trafficking." This involves a multiplicity of situations in which persons apprehended for trafficking in narcotic and dangerous drugs have obtained release pending trial and continue to engage in illicit trafficking activities. Although existence of the problem has been suspected for some years, it has become of more crucial interest because of the current drug crisis.

In a report issued by the Bureau of Narcotics and Dangerous Drugs, evidence of previous criminality of those arrested for drug offenses are evident: 64 percent have previous felony arrests; 40 percent have previous drug arrests; and 20 percent have prior drug convictions. This evidence tends to suggest that their arrest for narcotics trafficking is more often than not merely a further episode in a continuing career.

Mr. Speaker, everyone acknowledges that the drug problem in America is a serious one. While no one knows how many drug addicts there really are in this country, the Drug Enforcement Administration of the Department of Justice reported, as of June 30, 1973, there were some 95,897 active narcotic addicts. As of December 31, 1973, this figure had reached 98,988 recorded addicts. While this represents those addicts who are actually recorded, it is estimated that there are, in reality, over 600,000 addicts in this country.

There is a direct correlation between addiction and crime. An addict may need from $50 to $150 a day to buy heroin to support his habit. Consequently, 98 percent of the addicts in New York City resort to crime to support their habit. In the District of Columbia, 60 percent of funds obtained to support addiction are obtained through burglary, robbery and larceny; 15 percent through prostitution, and 10 percent from other illegal activities. In addition, at least 20 percent of all addicts obtain heroin by pushing drugs.

It is well established that drug addicts are crime-prone persons, but addiction itself is not a crime. It never has been under Federal law, and a State law making it one was struck down as unconstitutional by the 1962 decision of the Supreme Court in Robinson against California. It does not follow, however, that a state of addiction can be maintained without running afoul of the criminal law. On the contrary, the involvement of an addict with the police is almost inevitable. By definition, an addict has a constant need for drugs, which obviously must be purchased and possessed before they can be consumed. Purchase and possession, with certain exceptions not relevant in the case of an addict, are criminal offenses under both Federal and State law. So is sale, to which many addicts turn in order to provide financial support for their habits.

There are those who argue that the proper approach to dealing with drug offenders in our legal system is to give a large enough discretion to the courts and correctional authorities to enable them to deal flexibly with violators, taking account of the nature and seriousness of the offense, the prior record of the offender and other relevant circumstances. The view held by the Bureau of Narcotics and Dangerous Drugs in favor of long-term imprisonment of major drug violators is more in line with our actual needs in helping to prevent drug abuse. We must have strong and effective penalties to serve as deterrents.

In addition to the costs of crime incurred by drug dependent persons, the community must assume the cost of investigating, identifying, arresting, detaining, trying, sentencing, treating, and rehabilitating the drug dependent offender

A 1972 study of heroin use in Washington, D.C., showed the daily cost per user for incarceration was set at $14, compared with an approximate cost of $5.50 per patient for outpatient care. The Corrections Department listed the daily cost per offender on parole at $.97, a figure somewhat lower than that realized for New York City a few years before.

If the cost of arrest, trial, incarceration, treatment, and so forth, are multiplied by the alleged number of heroin dependent persons in this country today, society is faced with another potentially astronomical expense directly related to drugs. To this figure must be added additional amounts which reflect the rate of recidivism among drug offenders and the costs incurred from crimes committed to support their habits. Yet another adjustment must be made for those who, during the course of their drug dependence, will probably be arrested several times on a variety of charges and be processed through the criminal justice system many times over.

The issue of criminal sanctions for those dealing in hard narcotic drugs is an issue that has been explored by each administration since drugs were first realized as a serious threat to our society. The President's 1963 Advisory Commission recommended that the smuggling or sale of large quantities for sale should subject the offender to a mandatory minimum sentence. This is the precise intent of my bill. Those convicted of pushing hard narcotic drugs would be subject to a mandatory minimum sentence with the possibility of parole after serving their mandatory minimum sentence. Suspension of sentence would not be available under any circumstances.

Mr. Speaker, there can be no simple solution to the problem of drug abuse and I do not intend to imply that my bill will be such a solution. Obviously, if we could prevent the inflow of hard narcotic drugs at our ports, the problem would be virtually eliminated, yet, it is inconceivable to believe that drugs could ever be completely blocked. The measures necessary to achieve this goal, routine body searches being one example, would be so strict and would involve such a burden on the movement of innocent persons and goods that this would never be tolerated. Moreover, the demand and the profits being what they are in the drug traffic, there will always be people willing to take whatever risks are necessary to pass the customs barriers.

I believe that the enactment of my proposal is a necessary weapon for our drug enforcement personnel to pursue their fight to combat drug abuse in this country successfully. For as long as illicit demand remains substantial and controls of lawful production and distribution of these drugs remain strict, elimination seems an unreal strategy.

I include the text of my bill in the Record at this point:

H.R. 14771

A bill to amend the Controlled Substances Act to provide for a mandatory life sentence for the illegal distribution of certain narcotic drugs, to permit parole only after a certain number of years of the sentence, to provide for research into the effectiveness of this life sentence, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That part D of the Controlled Substances Act is amended—

(1) by inserting after section 405 (21 U.S.C. 845) the following new section:

"DISTRIBUTION OF NARCOTIC DRUGS

"Sec. 405A. (a) Any individual at least eighteen years of age who violates section 401(a)(1) by distributing to any other individual any controlled substance in schedule I or II which is a narcotic drug shall be sentenced to a term of life imprisonment. Any individual sentenced under this subsection shall not have the imposition or execution of his sentence suspended, and he shall not be eligible for probation.

"(b) Any individual sentenced under subsection (a) for a violation of section 401(a)(1) which involved the distribution of—

"(1) an ounce or more of any controlled substance in schedule I or II which is a narcotic drug shall be eligible for parole (or for any other form of release) only after serving twenty years of such sentence;

"(2) at least one-eighth ounce but less than one ounce of any controlled substance in schedule I or II which is a narcotic drug shall be eligible for parole (or for any other form of release) only after serving fifteen years of such sentence; and

"(3) less than one-eighth ounce of any controlled substance in schedule I or II which is a narcotic drug shall be eligible for parole (or for any other form of release) only after serving five years of such sentence.

"(c) The Attorney General, acting through the Institute of Criminal Justice of the Law Enforcement Assistance Administration, shall conduct research on a continuing basis relating to the effect of imposing life imprisonment under subsection (a) for unlawful distributions of narcotic drugs in schedule I or II upon the incidence of such distributions.";

(2) by striking out "section 405" in section 401(b) and inserting "sections 405 and 405A" in lieu thereof; and

(3) by striking out "Any person" at the beginning of subsections (a) and (b) of section 405 and inserting in lieu thereof in each such subsection the following: "Except as otherwise provided in section 405A of this Act, any person".

Sec. 2. Research and other information developed pursuant to section 405A(c) of the Controlled Substances Act shall be incorporated into the report of the Law Enforcement Assistance Administration authorized under section 519 of the Crime Control Act of 1973.

Sec. 3. The amendments made by this Act shall only apply with respect to any violation of section 401(a)(1) of the Controlled Substances Act which occurs on or after the day after the date of enactment of this Act.

ROUND TWO IN THE FIGHT FOR PERSONAL PRIVACY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Goldwater) is recognized for 10 minutes.

Mr. GOLDWATER. Mr. Speaker, Americans have won another battle in their fight to reestablish their right to personal privacy. The congressional commitment to personal privacy has had a welcome challenge placed before it by the Vice President of the United States, Gerald R. Ford, and his Committee on the Right of Privacy. His example is of two parts and both deserve the attention and praise of the Congress.

In the first instance, the Vice President's committee joined and led the effort to quash the "fed-net" proposal of the Government Services Administration. "Fed-net," a proposal somewhat obscured in a larger proposal to make more cost effective the computer operations of the USDA and the GSA, sought to link several of the major Federal agencies to a computer network that would have enabled GSA to have access to all of the personal information contained in the files of these agencies. In effect, it would have been the beginning of a national, Federal data bank. The project did not have the specific approval of the Congress and was formulated without any information safeguards and without the use of the social security number as a universal numeric identifier being prohibited. Further, the project involved the outright purchase of the hardware and the exclusion of private enterprise from participation in the communications system. Involved in protesting the proposal were Senator Moss, myself, the Office of Telecommunications Policy and the Office of Management and Budget.

It is sobering to realize that it took such substantial congressional and executive involvement to defeat such a potentially dangerous and ill-conceived proposal. The efforts of the Committee on the Right of Privacy were essential to a successful quashing of the proposal, and are clearly a boost to the congressional commitment to personal privacy. Until the Congress acts in a definitive manner these kinds of concurrent and compatible efforts are essential. They set a high example for the Congress and the Nation.

The Vice President carried his message to Chicago and the National Computer Conference. His speech was refreshingly direct. It delineates several policy considerations that are worthy of serious consideration by the Congress as it prepares legislation concerning Federal information practices and personal information safeguards. The time has come for the Congress to restore the right of personal privacy and to make its protection a matter of law. At an executive level, Mr. Ford's policy statement and recommendations will make some headway. However, they must be made concrete by definitive congressional action. For the benefit of all the Members of Congress and especially for those Members charged with the development of specific legislation, I include the remarks of the Vice President:

Remarks by Vice President Gerald R. Ford

I thank you for this opportunity to address the 1974 National Computer Conference and Exposition.

The invitation extended by the American Federation of Information Processing Societies was timely. I am learning about computer technology and data processing from the viewpoint of my new responsibilities as Chairman of the Domestic Council Committee on the Right of Privacy.

I am aware that the notion of leaving the protection of individual privacy to Government officials has been compared to asking the fox to protect the chicken coop. But five months ago—when the most intense investigation ever focused on a nominee for the Vice Presidency was directed at me—I awakened to the privacy issue in a very real and personal sense. I was one of the chickens.

On a previous visit to Chicago, I had occasion to refer to some foxes who passed themselves off as elephants in the 1972 election. I am speaking of some characters in the CREEP organization and CREEP's invasion of the privacy of political opponents. This made me more aware of what could happen to our sacred right to privacy. I deplore such violations of traditional standards of honesty and decency in our political life.

I told President Nixon of my concerns, and he appointed me chairman of the Committee on the Right of Privacy. I welcome the challenge.

I know that there have been previous commitments, previous studies, and previous recommendations to deal by legislation with privacy problems. It is too early to forecast the outcome. I realize that too many findings have been ignored and too little actually done. The time has come for action. I will do all in my power to get results.

My first act as chairman involved complaints about an Executive Order of the President that permitted the Department of Agriculture to review the income tax returns of farmers to obtain data for statistical purposes. The President asked me to look into the matter. I immediately discussed the Executive Order with Secretary Butz and recommended that it be withdrawn. The President accepted my recommendation.

Let me tell you about the development of the Committee that I head. I wanted to chair this Committee with a staff of our own selection. I ask my former law partner, Philip Buchen—a distinguished advocate of personal freedom—to come to Washington as the Committee's Executive Director.

Interagency task forces were formed to make recommendations. Contributions have come also from the Congress, State governments, industry, citizens' groups, private individuals, academic experts, and some Federal agencies not represented on the Committee. We wish to invite our hosts, the American Federation of Information Processing Societies, and all constituent groups to become involved.

Today I would like to cite an example of a development that concerns our committee. The Government's General Services Administration has distributed specifications for bids on centers throughout the country for a massive new computer network. It would have the potential to store comprehensive data on individuals and institutions.

The contemplated system, known as FEDNET, would link Federal agencies in a network that would allow GSA to obtain personal information from the files of many Federal departments. It is portrayed as the largest single governmental purchase of civilian data communication equipment in history.

I am concerned that Federal protection of individual privacy is not yet developed to the degree necessary to prevent FEDNET from being used to probe into the lives of individuals.

Before building a nuclear reactor, we design the safeguards for its use. We also require environmental impact statements specifying the anticipated effect of the reactor's operation on the environment. Prior to approving a vast computer network affecting personal lives, we need a comparable privacy impact statement. We must also consider the fall-out hazards of FEDNET to traditional freedoms.

I can today make known that the Privacy Committee staff is proceeding with a project to develop recommendations for assuring that personal privacy rights are given systematic and careful consideration in the planning, coordination, and procurement of Federal data processing and data communications systems.

Our objective is to formulate an action plan by June 30. An interagency task force has been given the assignment.

Assignments have also been made for other task forces to work on problems involving

Social security numbers;

Protection of personal privacy interests of consumers;

Preserving confidentiality of personal records used for statistical and research purposes;

Ways of notifying people of their rights with respect to various types of information they are asked to provide to Federal agencies;

Mailing list practices of the Federal government; and

Legislative proposals aimed at protecting the personal privacy interests of individuals on whom Federal records are maintained.

In addition, staff work and outside research are under way or planned on problems such as:

Development of basic legal concepts for articulating privacy rights;

Confidentiality of personal tax returns submitted to the I.R.S.;

Personal privacy rights of Federal employees;

Types of personal information that should not be collected;

Administrative procedures that would enable individuals to know about, and to correct errors in personal data files maintained by Federal agencies; and

Means for limiting the range and volume of personal data collected by the Federal Government.

In dealing with troublesome privacy problems, let us not, however, scapegoat the computer itself as a Frankenstein's monster. But let us be aware of the implications posed to freedom and privacy emerging from the ways we use computers to collect and disseminate personal information.

A concerned involvement by all who use computers is the only way to produce standards and policies that will do the job. It is up to us to assure that information is not fed into the computer unless it is relevant.

Even if it is relevant, there is still a need for discretion. A determination must be made if the social harm done from some data outweighs its usefulness. The decision-making process is activated by demands of people on the Government and business for instant credit and instant services. How can we offer service to people without doing disservice to their privacy?

Computer technology has made privacy an issue of urgent national significance. It is not the technology that concerns me but its abuse. I am also confident that technology capable of designing such intricate systems can also design measures to assure security.

There is no mention of the "right of personal privacy," as such, in the United States Constitution. But, as far back as 1928, Justice Brandeis expressed the idea that the right of individual privacy is broadly protected by the Constitution. For example, illegal searches and seizures are explicitly forbidden in the Constitution. Moreover, the general right to privacy certainly can be regarded as one of the unenumerated rights that the Tenth Amendment reserves to the people.

There will evolve a more comprehensive body of law on privacy from issues to come before the courts. But much can be done through executive and administrative actions—both in government and in business—to meet the growing public desire for protection of each individual's right of privacy.

Sensitivity was shown by planners of this conference to the right of privacy as affected by personal data collection and processing. I am pleased that five of your scheduled work sessions concentrated on privacy problems. I wish my time had permitted me to attend three sessions, including the meeting on Humanization of Information Systems.

The need to humanize information systems best expresses how we should approach the privacy issue.

People feel threatened by big information systems just as they are troubled by the growth of big government, big business, big unions, and by big institutions generally. Anxiety is experienced because big systems and big organizations seem inhuman in that they appear not to respect a person as an individual but treat him as just another unit in broad category of persons.

As one processor of mail for a large organization said: "The saddest thing of all is reading letters that begin, 'Dear Computer, I know there are no humans there.'"

For 25 years I served in the Congress and watched the social planners. One huge program after another was enacted. Rigid categorical standards were applied to people with a sweeping brush. We began the programming of people before computers were invented.

It is my conviction that the time has come to show greater respect for individual differences and to cease programing people as though they were objects.

We are approaching the celebration of this country's bicentennial. A major commitment we should all make for America's third century is to work together to humanize the operations of our computers, our institutions, and our government. As Theodore Rosevelt put it very simply 70 years ago: "The government is us; we are the government, you and I."

FIFTH DISTRICT KANSANS RESPOND TO SKUBITZ POLL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. SKUBITZ) is recognized for 5 minutes.

Mr. SKUBITZ. Mr. Speaker, returns from my 1974 opinion poll are now coming into my Washington office in great bundles. I have already received nearly 9,000 responses.

I thought perhaps my colleagues would be interested in the question I asked with respect to impeachment. The results are as follows:

	Actual count	Percent
The following statements are views held by constituents who have written me in the past 6 months about Watergate. Which best represents your position.		
A. President Nixon is quilty of illegal acts and should be removed from office	1,803	20.6
B. The President is innocent of all charges and should not be impeached	1,522	17.4
C. The President's actions do not warrant removal from office, but Congress should pass a resolution censuring the President for actions which it deems unbecoming the Presidency, whether such acts were committed by him or by his employees	2,174	24.8
D. The President may or may not be guilty of illegal acts, but should resign anyway to avoid weakening the country and the Presidency	751	8.6
E. I cannot form an opinion until the House Judiciary Committee has completed its investigation and the charges are subject to legal process	1,951	22.3
Undecided	557	6.3
Total	8,757	100.0

I realize this is an incomplete return. If the annual results hold true to par, I can expect another 15,000 to 20,000 returns.

Mr. Speaker, even with these partial returns, I believe I have a more accurate view of the opinions of Fifth District Kansas than might be gleaned from a Harris, Roper or Gallup poll. I cannot help but question the accuracy of these so-called nationwide polls which we are deluged with weekly. I understand that the Harris and Gallup poll takers telephone less than 2,000 persons to obtain their nationwide sample. That is only one-thousand of 1 percent. It would mean only 1 in every 100,000 persons were asked to respond.

According to the Gallup or Harris formula I might expect to ask only four persons in my district what their opinion might be of the impeachment issue. It is simply ridiculous to assume that any four persons, no matter how "scientifically selected," could accurately reflect the views of 430,000 people in my district.

According to these returns approximately 42 percent of those reporting do not favor impeachment and of those who favor resignation are added to those who favor impeachment and conviction, the total is 29 percent.

GEN. ROBERT E. LEE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia, Mr. BUTLER, is recognized for 10 minutes.

Mr. BUTLER. Mr. Speaker, I have today introduced legislation to restore full rights of citizenship to Gen. Robert E. Lee, a beloved Virginian and distinguished American.

On June 13, 1865, 2 months after General Lee surrendered to the forces of Gen. Ulysses S. Grant at Appomattox Courthouse, he applied to President Johnson for amnesty and restoration of his rights as a citizen, pursuant to the President's Amnesty Proclamation of May 29, 1865. The request was endorsed and forwarded to the President by General Grant.

Unknown to General Lee at the time that he submitted the request was the requirement that it be accompanied by an oath of allegiance to the Constitution and the Union. On October 2, 1865, the day he assumed the presidency of Washington University, in Lexington, Va.—later changed to Washington & Lee University—Lee learned of the requirement and appeared before a notary public for the County of Rockbridge, Va., to whom he gave the oath.

Mr. Speaker, it is known that this oath never reached the President of the United States, reportedly because it came into the possession of the Secretary of State, who passed it along to a friend as a souvenir, and that General Lee died without restoration of citizenship. In 1970, it was reported that the oath was discovered among the State Department's records in the National Archives.

With the discovery of the oath, with the dismissal on February 15, 1869, of treason indictments against Lee, his sons, and 14 general officers, the only remaining bar to citizenship is the third section of the 14th amendment to the Constitution. That holds that no person who has previously taken an oath as an officer of the United States and is subsequently engaged in a rebellion against the United States, can hold office. The amendment provides further, however, that Congress by a two-thirds vote of each House, can remove such a disability.

Mr. Speaker, I feel the Congress has a responsibility to act on the long overdue petition of General Lee. I am pleased that in the other body, Senators BYRD and SCOTT of Virginia, and Senator HUMPHREY of Minnesota, have sponsored similar legislation. I urge my colleagues, members from all sections of the country, to honor General Lee who through both word and deed served as an example to those interested in the binding of our country's wounds.

Mr. Speaker, I ask unanimous consent to include at the conclusion of my remarks, several pertinent pieces of correspondence between General Lee and General Grant and President Johnson.

RICHMOND, VA., *June 13, 1865.*

His Excellency ANDREW JOHNSON

DEAR SIR: Being excluded from the provisions of the amnesty and pardon in the proclamation of the 29th ult., I hereby apply for the benefits and full restoration of all rights and privileges extended to those enclosed in its terms. I graduated at the Military Academy at West Point in June 1829; resigned from the United States Army, April, 1861; was a general in the Confederate Army, and included in the surrender of the Army of Northern Virginia, April 9, 1865. I have the honor to be, very respectfully.

Your obedient servant,

R. E. LEE.

RICHMOND, VA., *June 13, 1865.*

Lieut. Gen. U. S. GRANT,

Commanding Armies of the United States:

GENERAL: Upon reading the President's proclamation of the 29th ultimo, I came to Richmond to ascertain what was proper or required of me to do, when I learned that with others I was to be indicted for treason by the grand jury at Norfolk. I had supposed that the officers and men of the Army of Northern Virginia were, by the terms of their surrender, protected by the United States Government from molestation so long as they conformed to its conditions. I am ready to meet any charges that may be preferred against me. I do not wish to avoid trial, but if I am correct as to the protection granted by my parole, and am not to be prosecuted, I desire to comply with the provisions of the President's proclamation, and therefore inclose the required application, which I request in that event may be acted on.

I am, with great respect, your obedient servant.

R. E. LEE.

[Indorsement]

HEADQUARTERS ARMIES
OF THE UNITED STATES,
June 16, 1865.

In my opinion the officers and men paroled at Appomatox Court House, and since, upon the same terms given to Lee, cannot be tried for treason so long as they observe the terms of their parole. This is my understanding. Good faith, as well as true policy, dictates that we should observe the conditions of that convention. Bad faith on the part of the Government, or a construction of that convention subjecting officers to trial for treason, would produce a feeling of insecurity in the minds of all the paroled officers and men. If so disposed they might even regard such an infraction of terms by the Government as an entire release from all obligations on their part. I will state further that the terms granted by me met with the hearty approval of the President at the time, and of the country generally. The action of Judge Underwood, in Norfolk, has already had an injurious effect, and I would ask that he be ordered to quash all indictments found against paroled prisoners of war, and to desist from further prosecution of them.

U. S. GRANT,
Lieutenant-General.

HEADQUARTERS ARMIES
OF THE UNITED STATES,
Washington, D.C., June 20, 1865.

General R. E. LEE,
Richmond, Va.:

Your communication of date of the 13th instant, stating the steps you had taken after reading the President's proclamation of the 29th ultimo, with a view to complying with its provisions when you learned that, with others, you were to be indicted for treason by the grand jury at Norfolk; that you had supposed the officers and men of the Army of Northern Virginia were by the terms of their surrender protected by the United States Government from molestation so long as they conformed to its conditions; that you were ready to meet any charges that might be preferred against you, and did not wish to avoid trial, but that if you were correct as to the protection granted by your parole, and were not to be prosecuted, you desired to avail yourself of the President's amnesty proclamation, and enclosing an application therefor, with the request that in that event it be acted on, has been received and forwarded to the Secretary of War, with the following opinion endorsed thereon by me:

"In my opinion that officers and men paroled at Appomatox Court-House, and since, upon the same terms given to Lee, cannot be tried for treason so long as they observe the terms of their parole. This is my understanding. Good faith, as well as true policy dictates that we should observe the conditions of that convention. Bad faith on the part of the Government, or a contraction of that convention subjecting the officers to trial for treason, would produce a feeling of insecurity in the minds of all the paroled officers and men. If so disposed they might even regard such an infraction of terms by the Government as an entire release from all obligations on their part. I will state further that the terms granted by me met with the hearty approval of the President at the time, and of the country generally. The action of Judge Underwood, in Norfolk, has already had an injurious effect, and I would ask that he be ordered to quash all indicts found against paroled prisoners of war, and to desist from the further prosecution of them."

This opinion, I am informed, is substantially the same as that entertained by the Government. I have forwarded your application for amnesty and pardon to the President, with the following endorsement thereto:

"Respectfully forwarded through the Secretary of War to the President, with the earnest recommendation that this application of General R. E. Lee for amnesty and pardon may be granted him. The oath of allegiance required by recent order of the President to accompany applications does not accompany this for the reason, as I am informed by General Ord, the order requiring it had not reached Richmond when this was forwarded.

U. S. GRANT,
Lieutenant-General.

OFFICE OF NOTARY PUBLIC,
Rockbridge County, Va., October 2, 1865.

AMNESTY OATH

I, Robert E. Lee, of Lexington, Virginia, do solemnly swear, in the presence of Almighty God, that I will henceforth faithfully support, protect and defend the Constitution of the United States, and the Union of the States thereunder, and that I will, in like manner, abide by and faithfully support all laws and proclamations which have been made during the existing rebellion with reference to the emancipation of slaves, so help me God.

R. E. LEE.

Sworn to and subscribed before me, this 2nd day of October 1865.

CHAS. A. DAVIDSON,
Notary Public.

LEGAL SERVICES AND WELFARE RIGHTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. BLACKBURN) is recognized for 60 minutes.

Mr. BLACKBURN. Mr. Speaker, many of us have expressed grave concern about the close, mutually supportive relationship played by the legal services programs in many locations on behalf of the National Welfare Rights Organization and its local subsidiaries. This relationship has accorded NWRO such benefits as: free use of office space and facilities, "house counsel" services, organizing assistance, drafting and preparation of model legislation, aid for demonstrations—help both in kind and personnel and resources. I pass over the hundreds of court cases undertaken by legal services seeking liberalized welfare benefits.

Our concern is accentuated by the very radical nature and character of NWRO. I am disturbed, but not too surprised, unfortunately, that so few members of the press seem to understand this problem for what it is. I have seen an excellent compilation of news clippings, NWRO newsletter clippings, and other documents relative to the NWRO, put together by a concerned citizen formerly employed by the Office of Economic Opportunity. Unfortunately, this compendium total 76 pages, beyond what could comfortably be included in the CONGRESSIONAL RECORD. There is, however, a summary of the book, which I am submitting for inclusion following my remarks. The whole report is referred to as "bound appendix," and if any of my colleagues care to examine it further, I will be happy to show it to them.

In conclusion, let me state that I regard with disapproval close relationships between legal services attorneys and the National Welfare Rights Organization, as I regard with disapproval any close relationships with any other self-proclaimed, militant lobby organization dedicated to radical, new concepts of society and government, in opposition to traditional American understanding.

The material follows:

Summary of Bound Appendix

1. The NWRO is *radically opposed* to the anti-poverty policies and objectives of the *Administration* and the *Congress,* and is *actively seeking to undercut* the programs based on these policies.

A major part of the Administration's anti-poverty policy is incorporated in P.L. 92–223 and H.R. 1. P.L. 92–223 contains among other items, legislation sponsored by Senator Talmadge to improve the work incentive (WIN) program for welfare recipients. The Talmadge proposal, in the form of an amendment to the act amending Title II of the Social Security Act, was passed by the Senate on December 4, 1971 with no dissenting votes. On December 14, both the Senate and the House agreed to the conference report. On December 28, the bill was signed into law by President Nixon, who commented: "These amendments parallel my workfare recommendations embodied in H.R. 1. In my judgment, they reflect the national interest."

The President seized the occasion to give his views on the principle of training and work requirements for welfare recipients, a principle widely accepted in Congress and perfectly compatible with the Economic Opportunity Act's repeated emphasis on the goal of self-sufficiency. Said the President: "To those who deride the 'work ethic,' Americans must respond that *any* job for an able bodied man is preferable to life on the public dole. No task, no labor, no work is without dignity or meaning that enable an individual to feed and clothe and shelter himself, and provide for his family. We are a nation that pays tribute to the workingman and rightly scorns the freeloader who voluntarily opts to be a ward of the state. . . . *With passage of these amendments, the principle of work requirements is in place.*" There can be no doubt, then that the work incentive legislation in P.L. 92–223 reflects Administration policy.

Both H.R. 1 and P.L. 92–223, and the principle of work requirements for welfare recipients, have been repeatedly, and, at time, demagogically attacked by NWRO.

Item: In the September 27, 1970 issue of *The New York Times Magazine*, the NWRO is quoted as calling the work incentives "slave labor" and The Administration's Family Assistance Plan (FAP) "brutal . . . an act of political repression" (Appendix, p. 71).

Item: In the July 31, 1971 issue of the Communist Party's *Daily World,* George Wiley, Executive Director of NWRO, was reported to have labeled the work rules of Nixon's FAP in H.R. 1 as "mid-twentieth century slavery" (Appendix, p. 14).

Item: On August 3, 1971 the same newspaper reported that a "campaign of political action and grass-roots organizing to defeat the Nixon-Mills Family Assistance Plan was launched by the NWRO" with George Wiley planning massive demonstrations "to protest the slave nature of the work FAP will have poor people doing, as underscored by Nixon's remarks in Williamsburg, Virginia last April, calling scrubbing floors and emptying bedpans work with 'as much dignity . . . as any other done in this country' " (Appendix, p. 54).

Item: On August 6, 1971, the same newspaper reported that Mrs. Annie Smart, Southern Regional Director for NWRO called FAP "Nixon's southern strategy to get re-elected and a tactic to keep us divided, South and North, black and white" (Appendix, p. 52).

Item: On August 27, 1971 the same paper reported George Wiley as stating: "We will increase demonstrations. Nixon's welfare program will be our national target . . ." (Appendix, p. 55).

Item: The December 1971 issue of the NWRO's newspaper *The Welfare Fighter* reported that the NWRO Executive Committee gave Wiley a mandate . . . to organize resistance to the repressive experimental programs being initiated in New York as part of a preview of Nixon's Family Assistance Plan." The same article described an NWRO attack on HEW Secretary Elliot Richardson during ceremonies honoring Richardson at the Albert Einstein College of Medicine. "We decided to show Richardson up as a fraud. About 100 welfare righters led by Mrs. Ware and Wiley rushed to the stage to present their 'degree' to Richardson. Mrs. Ware read the citation: '. . . We hereby confer on you the Doctor of Laws in Social Oppression . . . for your tireless efforts in working to secure passage of President Nixon's Family Destruction Plan' " (Appendix, p. 3).

Item: In the January 1972 issue of *The Welfare Fighter,* in a comment on the planned "Childrens March," is the statement that "children will be the benefactors (sic) of the hideous FAP and its guaranteed poverty" (Appendix, p. 2).

Item: In the January-February 1972 issue of *The Welfare Fighter,* Dr. George Wiley, NWRO's Executive Director, is quoted as follows: "We condemn the Administration's refusal to spend money on child feeding programs and the punitive restrictive changes in federal food programs made by the Congress and the Administration. We condemn the Administration's waivers on sections of the Social Security Act for large scale tests of forced work programs whose net impact is to depress wages for poor workers and reduce grants to welfare families . . . We condemn the Talmadge amendment, railroaded through the Congress in two days and enthusiastically signed by President Nixon. This amendment seeks to create a permanent class of poor people required to do menial work for welfare wages. Most of all we condemn and challenge H.R. 1 which embodies all these repressive principles in Nixon's Family Assistance Plan" (Appendix, p. 5).

Item: On March 26, 1972, a rally was staged in Washington, the so-called "Childrens March for Survival," to protest Nixon's welfare policies. According to the Washington Post, one of the principal sponsors of the "avowedly anti-Nixon rally" was the NWRO. *Post* correspondent Valentine wrote: "D. C. School Superintendent Hugh Scott was introduced at the rally by George Wiley, NWRO Executive Director . . . Rally organizers are specifically opposed to the version of President Nixon's proposed Family Assistance Plan . . . NWRO contends it is impossible to live on $2,400 . . ." (Appendix, p. 7). According to a N.Y. Times account of the rally, Wiley's group "helped organize the demonstration . . . Among those joining the demonstration were Beulah Sanders, Chairman of the NWRO" (Appendix, p. 9).

Item: In the same issue of *The Welfare Fighter,* there was another reference to the Talmadge amendment in P.L. 92–223 as "repressive legislation." The article went on: "WIN has been an absolute failure. Now, Talmadge is forcing more welfare recipients into this dead end program" (Appendix, p. 38). (See under 2 below for further evidence of opposition to laws enacted by Congress).

2. *In the judgment of the U.S. Congress, the National Self-Help Corporation (NaSHCo), a subsidiary of NWRO, performed unsatisfactorily while under contract to the Department of Labor. NaSHCo used Federal funds to sabotage a Federal program.*

In the latter part of the Johnson Administration (December 24, 1968 to be exact), the National Self-Help Corporation (NaSHCo), a subsidiary of the NWRO, was awarded a $435,000 contract by the Department of Labor. Under the contract, NaSHCo (whose board of directors included nine elected officers of NWRO and NWRO's Executive Director, George Wiley) was to train welfare clients to disseminate information about the Work Incentive (WIN) Program to welfare recipients.

The contract raised some eyebrows since NWRO had been known to be extremely hostile to the WIN program. As Secretary Schultz later explained in a letter to Senator Long, "NWRO had previously gone on record as being strongly opposed to the legislation which created the WIN program. Up to the time of the execution of this contract in December of last year, much of their effort in regard to WIN had taken the form of demonstration and protest. It was anticipated that this contract would provide alternative types of action on their part" (Appendix, p. 29). A staff assistant to the Senate Finance Committee put it more bluntly: "The contract was hush money."

In any event, the Department of Labor windfall caused no change of heart in Wiley. According to an article in the June 2, 1969 issue of the *Washington Post* (6 months after the contract had been let), Wiley, during a television appearance, "denounced the U.S. Labor Department's Work Incentive Program, which trains welfare clients for jobs, as a brutal project 'designed to force mothers to leave their children and accept work' without guarantees of adequate training or pay" (Appendix, p. 28).

At an NWRO conference held in Washington three months earlier, participants, according to the *Post,* "got a two-hour course on how they could avoid job training or work under the city's new Work Incentive Program if they wished to stay home with their children. Stephen Wexler, an NWRO lawyer, told them how they could exhaust appeal after appeal to stay out of the work program, designed to train and place welfare clients in jobs. 'You can stay out of the program until Hell freezes over, if you know how to do it,' he said" (Appendix, p. 28).

Several informational pieces developed by NWRO confirm that the welfare organization, under the guise of disseminating information about WIN, was in fact subverting the program. One brochure, for example, in answer to the question "Can I get out of WIN once I am enrolled?" states: "If you have a good reason, you can refuse to go for a job or to training. Even *after* you start in a WIN program, you can refuse to continue if you have a good reason. Among the good reasons listed, along with the time-honored ones of being sick, unable to work etc., is the following: "The job or training is not in keeping with your abilities and *interests*" (Appendix, p. 34). Another pamphlet advises: "You should learn your rights in order to protect yourself in case you are referred to WIN when you don't *want* to go" (Appendix, p. 35). According to another NWRO leaflet: "There should be *no* requirement making work or job training a requisite to receiving aid" (Appendix, p. 36).

It would appear, by the way, that anyone following NWRO advice of the sort just quoted would be rendered ineligible for any benefits under the Economic Opportunity Act. According to OEO Instruction 6004–2, under Section 611 of the EOA, "an individual should not be treated as meeting poverty criteria for project benefits if he is fully capable of supporting himself but deliberately chooses not to do so." Section 611 of the Act and the cited OEO Instruction on

"Limitation of Benefits to Those Voluntarily Poor" would seem to be clearly inconsistent with NWRO's position on the WIN program.

NWRO's use of DOL funds to undermine the WIN program finally came to the attention of the Senate Finance Committee. On February 5, 1970, at Committee hearings on unemployment compensation, Senator Long, taking advantage of the presence of Secretary Schultz, brought up the matter of the DOL-NaHSCo contract. Long declared that Wiley's organization was established "for the purpose of demanding ever and ever greater welfare payments and preventing anybody from ever going to work for any of that money." "I was just amazed" said Long, "to see that this Department made a grant of $435,000 to George Wiley and his group . . . to go out and destroy the very program that was supposed to put these very people to work" (See Appendix, p. 16–17). Long referred to a letter he had written to DOL some months previous in which he had made the *following* statement: "The (DOL) grant . . . reflects a failure by your Department to comprehend the forces seeking to discredit the efforts of Congress to help welfare recipients to help themselves out of the quagmire of dependency in which they are caught. It is an unconscionable and massive act of maladministration" (Appendix, p. 28).

Long returned again and again to NWRO's subversion of WIN. "Up there in New York where Mr. Wiley is operating," he said, "we had a program that said that in appropriate cases these welfare clients would be referred to the work program . . . And what Mr. Wiley and his group have succeeded in doing is arriving at the conclusion that there is no such thing as an appropriate case" (Appendix, p. 19).

At a later point in the hearings, Senator Williams referred to a $38,000 contract HEW had negotiated with NaHSCo in April, 1969, four months after the DOL contract. "I am wondering" commented the Senator "what kind of liaison we have between the departments, if you are carrying out what you think is an ill-advised contract with a group that is not functioning properly, and another agency is letting another contract with the same people . . . the National Self-Help Corporation, which as the chairman has pointed out, is trying to educate their membership how to avoid complying with the law (Appendix, p. 22) . . . I request you consult with HEW because I know I am not alone nor is the Chairman alone in the committee, and we are very much concerned at the manner in which these grants and contracts are being made with *this group, which obviously have but one intent, and that is ta thwart the intents of Congress and to get this welfare—determined to get it—without working. To be frank with you, I cannot understand this continuous—with taxpayer's money—underwriting of this group*" (Appendix, p. 32).

Senator Williams' point that his feelings of outrage over the DOLNWRO relationship were shared by many other Committee members was confirmed by a staff member of the Committee, Michael Stern. A few days ago, Stern commented: "Through its dealings with NWRO, DOL ruined what had been a very fine relation with Senator Long and the Finance Committee as a whole." The hearings reveal that some members of the Committee wanted a strip DOL of the WIN program and give it to HEW. That this feeling of outrage persisted for a long time is shown by the fact that almost two years later, in December 1971, Senator Talmadge, in the amendment he sponsored strengthening WIN requirements included the following passage:

"(9) Section 441 of such Act is amended . . . by adding immediately after the last sentence thereof the following sentence: 'Nothing in this section shall be construed as authorizing the Secretary (of Labor) *to enter into any contract with any organization after June 1, 1970*[1]*, for the dissemination by such organization of information about programs authorized to be carried on under this part*' "

The above provision was aimed directly at NWRO, according to Charles Hawkins of the House Ways and Means Committee staff, and Michael Stern of the Senate Finance Committee staff. Merwin Hans, a DOL official whom Senator Long wanted fired for his role in negotiations with NaSHCo, made the following observation a few days ago: "The Talmadge amendment was a direct order to DOL not to do any more business with NWRO. It's the only instance I know of where Congress legislated against the use of a contractor by a Government agency."

The Talmadge amendment, including the section aimed at NWRO, was passed, as noted above, by voice vote in the Senate, which is to say, without significant opposition. The newspaper reported it passed "unanimously." No voice was raised in defense of NRWO in the Senate or in the House).

How do Labor and HEW feel about NRWO? In an article in the *New York Times Magazine* in September, 1970, there is a reference to the DOL contract as follows: "NWRO did receive a $434,930 grant from the Labor Department at the end of the Johnson Administration to monitor the Department's work incentive (WIN) project from the point of view of involved recipients. Wiley called WIN a 'horror show.' A Labor Department spokesman says 'Baloney' and counters *that NWRO's contribution was not useful*" (Appendix, p. 73).

The same article describes a takeover of former Secretary Finch's office by NWRO's chairman Beulah Sanders who sat in Finch's "liberated" leather chair for seven hours. According to the *Times*, "Finch called the affair 'counterproductive.' Dr. Wiley, who was there, says Finch pretended to be NWRO's friend, but would then 'knife us in the back' " (Appendix, p. 73). The attack on Secretary Richardson has already been mentioned. Just a few weeks ago, the Administration's second highest welfare official, John Veneman, Undersecretary of HEW, said the Washington "Childrens March" was sponsored by a group of individuals who were "the Pied Pipers of poverty." He called the march "the special interest of a few men whose private ambitions seem to depend on the continuation of poverty in America" (Appendix, p. 9). Prominent among those who organized the march were George Wiley and Beulah Sanders of NWRO.

NaSHCo is no longer listed in the telephone directory, but an NWRO official advises that NaHSCo is "still one of our corporations, though inactive." NaSHCo's incorporated standing in D.C. was revoked September 14, 1970 for failing to file a report for two successive years.

Note: Past and current OEO dealings with NWRO. The following item appeared in the *N.Y. Times* of September 7, 1970: "For the time being the NWRO is pushing for higher benefits and more humane treatment and is moving aggressively into other areas such as improving the quality of education and health care for the poor. With the aid of an OEO grant of nearly $260,000 to the Childrens Foundation, it plans to extend its litigation (following earlier legal successes that won more equitable distribution of food stamps, surplus commodities and free and reduced-price school lunches)" (Appendix, p. 73).

According to Mark Israel of OEO's Office of Health Affairs, OEO made a grant to the Children's Foundation in 1970 for $245,000 and the same proposal was refunded under a current grant in the amount of $545,000. The grant is of the technical assistance type (No. CG–3813). No formal evaluation was ever made of the results of the first grant. "None of the Children's Foundation money went to NWRO" says Israel, "hence the implication of the *Times* article is inaccurate. The Children's Foundation serves as a conduit for the Food Research and Action Council (FRAC) in New York City, so OEO, in effect, funds FRAC through the Children's Foundation, since most of the work under the grant is done by FRAC. The *Times* is also inaccurate when it refers to litigation. Litigation is carried on by the Center for Social Policy and Law at Columbia University. No OEO money is used to support this litigation. The Center cooperates with FRAC, but FRAC does not get involved in litigation. They're very careful to keep their programs separate."

It does appear that FRAC, NWRO and the Center work closely together. A brochure prepared by FRAC entitled "The New Food Stamp Bill of Rights" carries on its back cover the NWRO emblem (a chain link) surrounded by the names and addresses of three organizations: NWRO, FRAC and the Center on Social Welfare Policy and Law. Readers of the FRAC brochure are urged to approach NWRO for "information and assistance."

The same brochure contains the following advice for welfare recipients: "Use pressure tactics on local officials (e.g. welfare officials and members of the county board of supervisors) and state officials (e.g. State Welfare Director, State legislators, the Governor) to make them remedy the failures of the Food Stamp Program . . . Demonstrations against State and local officials can also be helpful" (Appendix, p. 59).

It is questionable whether an organization recommending such tactics is eligible for OEO project funds.

Footnote: OEO does have a current funding relationship with NWRO, but it is an indirect one, according to Mark Israel. Food for all, an OEO grantee, received $15,000 for an emergency food program in Las Vegas, Nevada. Food for all shifted the money, by means of a contract, to the Missiduc Foundation, an educational research organization which is an affiliate of NWRO. (Missiduc's address and telephone number in Washington are the same as those of NWRO). Missiduc in turn granted the money to an NWRO group in Nevada.

3. *NWRO, from its inception to the present time, has habitually employed disruptive forms of direct action to achieve its goals.*

An article on NWRO which appeared in the *N.Y. Times Magazine* in 1970 (Appendix, pp. 68–78) traces the tactics employed by Wiley et. al. to a theory developed by one of Wiley's former colleagues at CORE, Richard Cloward. Cloward, regarded as the guru of the welfare rights movement, published a paper in May, 1966 entitled "The Weight of the Poor: A Strategy to End Poverty." 30,000 reprints were requested. "The strategy" says the *Times*, "was to get all the poor on the welfare roles, overloading the system, while at the same time carrying out a militant campaign for full entitlements . . . If the grants were denied, a costly logjam of departmental fair hearings was threatened . . . The consequence of all this would be threefold: disruption in the public welfare bureaucracy, fiscal disruption in local and state governments, and finally a political crisis leading to national welfare reform and a guaranteed adequate income for the poor." "Our strategy always was grab what you can and run like hell . . . a guerrilla strategy. Hit the centers, drive up the Rolls . . ." There is no question but that the Cloward strategy is totally incompatible with the strategy embodied in the Economic Opportunity Act, and in Administration politics. The NWRO record gives every indication the Cloward strategy is being carried out.

Item: In June 1968, NWRO conducted a vituperative campaign of harassment against Rep. Wilbur Mills and his "anti-welfare law." As an NWRO brochure describes it, "on the eve of Solidarity Day, NWRO led its fourth march on the home of Wilbur Mills . . . Over 500 welfare participated . . . Over 100 policemen barricaded the street and forced the marchers onto the sidewalk . . . The marchers proceeded along to Mills home some two miles away . . . and passed out 'Wanted' posters exposing Mills for his crimes against poor people . . . At Mills' residence, police formed a shoulder-to-shoulder wall across the wide entrance . . . Through a bullhorn George Wiley called Mills 'a ruthless fighter against Negroes . . . a man responsible for many ghetto fires.'" The "Wanted" poster, calling Mills "Public Enemy No. 1" carried the following message: "Wanted for Conspiracy to starve children, destroy families, force women into slavery and exploit poor people." Another NWRO bulletin shows a picture of a rat, presumably representing Mills who is described as "back in his rat hole busy at his dirty work" (Appendix, pp. 42–48).

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[1] May 31, 1970, was the date of expiration of NaSHCo's contract with DOL.

Item: At a rally at the Capitol in 1968, Beulah Sanders of NWRO told the crowd (according to the *Post*) that "its money had paid for the Capitol and the group should 'go in there and tear it down if they don't listen to you.'"

Wiley told the rally: "If this country does not listen to the poor after what happened in Detroit and Newark, you haven't seen nothing yet" (Appendix, p. 6).

Item: The August 17, 1968 issue of the *Christian Science Monitor* quoted Wiley as saying "Asking us not to be hostile and not to attack (welfare officials) is like asking the Jews in Germany not to be hostile to the people who run the concentration camps" (Appendix, p. 5).

Item: At an NWRO rally in Central Park in April 1969, at which screaming crowds were dispersed by scores of mounted policemen, Wiley, according to the *N.Y. Times,* shouted: "When the poor people want money, they are going to get it by people power, or there's going to be—to pay in New York City" (Appendix, p. 56).

Item: The Washington Post of June 1, 1969, described the disruption by NWRO of the National Conference on Social Welfare attended by 5000 Welfare leaders. The article began ". . . or get off the pot" and continued: "The full obscene demand was shouted over a seized microphone last Sunday. . . . In stunned silence those who had devoted decades to helping the poor heard themselves called 'racist pigs' and 'fat cats' and 'members of the white, imperialistic, oppressive society.'" Delaying the opening session for 3 hours, Wiley and a group of welfare mothers blocked the exits after he had vowed that no one would be permitted to leave until $35,000 had been collected to enable the poor to attend conventions. *The New York Daily News* called these tactics "the outrage of the year to date." At another meeting, Wiley seized control of the speaker's microphone from the conference president, Arthur Flemming (Appendix, p. 56).

Item: Beulah Sanders, NWRO Chairman, organized a demonstration against Sears, Roebuck and Company in New York City, in July 1969. *The New York Daily News* of July 4 described the demonstration: "The demonstrators . . . occupied the store for nearly two hours, strewing trash on the floors, defacing price tags, operating washing machines and dumping wet rags across the sales floor. . . . Leaving the store in a mess, Mrs. Sanders announced 'We'll be back next week.'" The NWRO's demands of Sears were: (1) At least $150 credit to any NWRO member, based on a letter of reference from NWRO, with no credit investigation, and (2) a formal written agreement to this effect between NWRO and Sears, binding on all local Sears stores (Appendix, p. 57).

Item: In Philadelphia, a petition signed by more than 500 caseworkers charged that the Philadelphia Welfare Rights Organization was "attempting to wreck the system which we are trying to administer according to law." Their petition to the Governor cited "abusive and intimidating practices of certain representatives of NWRO. . . ." (Appendix, p. 57).

Item: In August 1969, a NWRO officer was quoted as saying: "If (our demands) are turned down, we will demonstrate, sit-in, picket city halls and state legislatures until we have won."

Item: In the February 5, 1970 hearings of the Senate Finance Committee, Senator Long alluded to NWRO attempts to disrupt earlier hearings on WIN. "They pulled a sit-in strike on this committee and raised all the confusion that they could here in Washington, . . . George Wiley showed you (Sec. Shultz) his appreciation, I might say, for your continuing that contract and the President calling that meeting and talking about what can be done for the poor and the President went in there and made a nice speech. I was not there but I saw it on TV, the next thing I knew Wiley had his mob shouting and the whole thing was an outrage . . . About the same way they conducted themselves in this very hearing room when we were writing the WIN program" (Appendix, p. 18). The Washington *News* headlined the event: "50 Welfare Mothers Have Anger-in." According to the *News,* Mrs. Beulah Sanders "stormed at Senator Long that the government had no right to 'force' AFDC mothers to take job training . . . The mothers staged an impromptu sit-in in an effort to force all 17 members of the Senate Finance Committee to hear their complaints. After Senator Harris left, 50 Capitol policemen were rushed to the hearing room . . . An hour later, Senator Long returned, red-faced and grim, slammed down his gavel so hard it snapped in half and adjourned the hearing. Still the women refused to leave. Finally the Capitol police threatened the mothers with arrest and fines for unlawful entry" (Appendix, p. 33).

Item: NWRO delegates were reported as agreeing at a conference in August 1971 that "legislative lobbying and political action cannot replace *in-the-street demonstrations* to protest the Nixon-Mills Family Assistance Plan" (Appendix, p. 52).

Item: In the January-February 1972 issue of the *Welfare Fighter,* whose motto is "$6,500 or Fight!", there is an exhortation to poor people to develop their political muscle, "along with direct action" to advance their cause (Appendix, p. 2).

NWRO publications are replete with countless other examples of NWRO sit-ins, demonstrations and invasions of welfare offices and state legislatures. The aforementioned *N.Y. Times* article (Appendix, p. 72) sums it up: "There have been sit-ins in legislative chambers, including a United States Senate Committee hearing, mass demonstrations of several thousand welfare recipients, school boycotts, picket lines, mounted police, tear gas, arrests—and, on occasion, rock throwing, smashed glass doors, overturned desks, scattered papers and ripped-out phones."

The NWRO record, noted Congressman Ashbrook in 1969, is one "marked with bullying agitational tactics, irresponsible demands and charges, and the alienation of sincere, concerned welfare workers and officials who have had to labor under an impossible welfare system." The Congressman concludes: "This much is certain: *Congress will not look kindly on the Federal funds to finance irresponsible organizations or individuals, with the experience of some ill-advised OEO projects fresh in memory*" (Appendix, p. 57).

It is also certain that the NWRO has not altered its strategy or tactics, and by its own admission, will push even harder in this election year.

4. *NWRO's record, as reflected in activities of the sort described under* 1, 2 *and* 3 *above, indicates that NWRO places ideological and political considerations above the interests of the poor.*

The above judgment is shared by many observers of NWRO. John Veneman, HEW Undersecretary, has already been quoted as remarking, in reference to the Children's March, that the march was "the special interest of a few men whose private ambitions seem to depend on the continuation of poverty in America." An editorial on the march in the *Washington Star* called the whole affair "outrageous," "stupid" and "highly political," supporting "one side of a political debate as controversial as the national welfare reforms fight." The *Washington Post* echoed these views in its editorial as did the *N.Y. Times.* Mayor Washington said he was "concerned that children, specifically those too young to decide for themselves, not be subjected to indoctrination in partisan causes, or to *adult manipulation for political purposes.*" This is not the first time Wiley has manipulated children. He had some very young children brought to the Senate Finance Committee hearings to testify in person against the WIN program. Wiley promises more of the same. "This will be the year of the children" he is reported to have said at the march.

Wiley's group has declared a no-holds barred war against the whole Administration welfare program and against the reelection of Nixon, and he is employing all the resources of his formidable membership toward this political end. According to the January-February 1972 issue of the *Welfare Fighter,* the NWRO's National Coordinating Committee, "in the first meeting of 1972 set political action in the primaries, the party conventions and the November elections as high priorities" (Appendix, p. 2).

The NWRO has also begun to play a more active role in the anti-war movement. One of NWRO's most powerful figures, Beulah Sanders, was the NWRO delegate to the recent World Assembly for Peace and Independence of the peoples of Indochina held at Versailles, France (Appendix, p. 61). The Assembly plans massive demonstrations at the Republican convention in San Diego, in order to "shatter the illusion of domestic tranquillity." The same Assembly called for resistance to pay payments earmarked for the war, and acts of disobedience against Federal buildings and companies with defense contracts. An Expo 72 near the Convention site is also projected, featuring exhibits from China, Cuba and Vietnam, continuous showing of such anti-Nixon films as Milhous, a People's Panel of Inquiry on the Nixon Administration and live broadcasts from Vietnamese in Paris (Appendix, pp. 63–66). The NWRO hopes to take a leading part in these activities.

Mr. GOLDWATER. Mr. Speaker, who would think that patients in nursing homes are interested in organizing themselves into disciplined, politically active units? I, for one, would not imagine it, since it is my impression that people in nursing homes are generally there because of their age or general incapacity. And I would be correct: inmates of nursing homes are not organizing themselves into political units; they are being organized. It is an important distinction, because it represents the gap between voluntariness and being used.

Our old people are being used by Legal Services attorneys for political purposes. That is a strong charge, but I do not say it carelessly. The August–September 1972 issue of Clearinghouse Review, an OEO Legal Services-funded publication from Northwestern University School of Law, published a lengthy article on the organizing of nursing home occupants, explaining "why and how nursing home patients should be organized into self-governing groups." It explained how to approach the patients, "an organizer simply assumes the role of a friendly visitor." Problems may arise like administrators or proprietors will oppose organization. The article went on to tell organizers how to defend themselves against administrators seeking to save their clients from this latest invasion of their peace and quiet.

Somehow, Mr. Speaker, it seems unnatural and unkind to try to turn old people into political pawns. That our federally supported Legal Services attorneys and think-tankers engage in and encourage such activities indicates a rather low level of respect. A confidential memo of October 1972, from within OEO, discusses some other problems with nursing home organizing, from a frankly political point of view. I think my colleagues should read that:

October 3, 1972.

Organizing Nursing Home Occupants

The current issue of the Clearinghouse Review (published by our grantee at Northwestern University and disseminated to legal service programs across the nation) includes an article entitled *Legal Problems Inherent in Organizing Nursing Home Occupants*. Prepared by the Health Law Project at the University of Pennsylvania Law School, the article urges that legal service attorneys play a role in organizing nursing home patients into "self-governing groups." The article suggests that Patients' Rights Committees be established within nursing homes, reinforced by alliances with such groups as welfare rights organizations.

I have two principal concerns about the thrust of this article, one broadly philosophical and the other very practical. Both of these concerns relate to fundamental policy issues in the Legal Services Program concerning group representation, community education, and community organization.

My philosophical concern is the belief that it is unwise to politicize essentially nonpolitical institutions, be they nursing homes, schools, drug programs, or prisons. That kind of politicization which became widespread in Germany during the 1920's produces social conflict, loss of community, disruption, and instability. It tends to de-emphasize the individual and focus on the mass. It results in people being accorded a collective rather than an individual identity and makes it easier for demagogues to manipulate.

The practical concern to which I referred has to do with votes and elections. As a former campaign manager,. I can tell you that the best way to build up a strong lead for one's candidate is to visit every nursing home in the district, register the patients as voters, and see that absentee ballots are cast. In many Congressional Districts, this process can produce literally thousands of votes for a preferred candidate.

Although legal service attorneys are technically prescribed from registering voters during official duty hours, it is clear that an organizing thrust of the sort proposed would enable groups created by legal service attorneys to register and round up the votes of nursing home patients, just as has been done in the community at large by KWRO and similar organizations.

If you agree that this matter merits remedial action such as modification of grant conditions or changes in legal services regulations, my office would be pleased to work with the Office of General Counsel and the Office of Legal Services in developing the necessary changes.

Thank you for your consideration.

Legal Problems Inherent in Organizing Nursing Home Occupants

(By the Health Law Project, OEO, University of Pennsylvania Law School, Philadelphia)

I. INTRODUCTION

The growing sense of relief felt by a visitor upon leaving a nursing home is inversely proportional to the resident's increasing feeling of despair. The Health Law Project has been searching for ways to reverse both the despair and the desperate conditions of the nation's elderly in nursing homes. The following article is a proposal describing why and how nursing home patients should be organized into self-governing groups. Part of the organizing process raises difficult legal problems, a few of which are discussed below from the patients' perspective.

II. WHY ORGANIZE?

Without question, nursing home patients need a high degree of protectional service because the quality of health service they receive is deplorable. Physical conditions do not meet standards, and the trained staff is inadequate when measured against the criteria of state licensure, Medicaid, Medicare, and the Joint Commission on Accreditation of Hospitals, etc. Even assuming minimal care, there is nevertheless an inherent conflict between patients' interests and the home's proprietary interests. The home maximizes efficiency by sacrificing the basic personal privileges most people take for granted. The home decides when all patients will rise, take their meals and retire. Who visits a patient, what mail he receives, and even whether he shall stay or leave are decisions unilaterally made by the home. Paternalistic social attitudes toward sickness and old age reinforce the incentive toward institutional efficiency and result in an imbalanced relationship in which the home exercises plenary de facto power over the patients. The average patient is overprotected and underserviced.

If patients hope to offset the institutional dominance of the home, they must aggregate power in an environment where friendly strength and energy are at a premium. To be effective, that countervailing power must be available at all times. It is unlikely that the friendly visitor or concerned caseworker can fulfill the role. Ultimately, the patients must draw on their own resources with some outside support to meet their needs. Some collective form, group or committee of patients is the only reasonable response to the patients' needs.

III. HOW TO ORGANIZE A PATIENTS' RIGHTS COMMITTEE

Organizing nursing home patient starts at an almost atomistic level. An organizer simply assumes the role of the friendly visitor and walks into a home. Contacts and personal confidences must be established. Often, communication will not even exist between the patients themselves. The organizer's first goal must be to establish this communication. During the initial contact period, patients' opinions and problems should be gradually elicited and a pattern of common concerns identified.

At an appropriate time, a meeting of patients must take place. This may be accomplished under the ambiance of some social setting, such as a bingo party. The meetings must then be continued on a regular basis and a patients' advocacy mechanism established.

Throughout the early organizing effort within the home, a parallel effort should be conducted outside the home. Alliances must be formed with useful and needed resources. A welfare rights organization will often volunteer its services. Welfare Rights Organization groups have developed particular skills in explaining to vulnerable people the effects of bureaucracies on their lives. Senior citizens groups offer a source of manpower and understanding of problems of the aged. Contact should be made with legal resources since the relationships between the patients and the home will almost inevitably raise legal disputes.

A vigorous, proven patients' rights committee has not yet been developed to the point where all its problems have been examined and resolved. Those which exist are in their nascent stages dealing with threshold problems. Certain difficulties have been identified and can be anticipated. They are the problems concerning access to nursing homes, availability of information on their operations, and protection against retaliatory discharges. In responding to these problems with their particular skills, legal resource people can contribute a determinative service to the success of the organizing effort.

IV. ACCESS TO NURSING HOMES

Organizing patients' rights committees has serious potential for reforming the power structures of a nursing home. Administrators or proprietors will oppose organization, and their first defense will be their property rights. Most nursing homes consider themselves purely private institutions in relation to outside organizers. Thus when an organizer becomes a threat, a home may simply deny him access to the patients.

Faced with a denial of access to the patients, there are few affirmative steps which may be taken to open the doors of an uncooperative home. However, there is much to indicate that a nursing home is not a private institution, and denial of access based on that assumption may be ill-founded. Two arguments might be made which reject the home's assumption. The first looks at the character of the property rights of the proprietor and the first amendment rights of the patients, balances them, and characterizes the home as quasi-public. The second argument examines the inter-dependency between the state and the home, looks for state action, and, relying on the fourteenth amendment, prohibits state encroachment on first amendment rights.

Mr. HUNT. Mr. Speaker, I rise today to express the unhappiness of my colleagues with the legal services bill which is going to be offered to us for a vote this week. I am opposed to this bill; I am opposed to the manner in which it has been concocted and presented to us; I am opposed to the deceitfulness which has plagued it every step of the way, from its drafting through its lobbying.

This bill abuses and misuses a noble principle—that of enabling all citizens to participate equally in the judicial process—through subsidizing legal representation for the needy when absolutely necessary. Invoking altruistic sentiments under this cloak of legitimate assistance, the proponents of this legislation in fact advocate a different concept; namely, the concept as developed by Edgar and Jean Cahn and later expanded and enlarged by the OEO Legal Services Office. This concept does not view legal services as assistance to the poor in their everyday mundane needs, but instead regards legal services as the ideal means for bypassing legislatures and electors in an ambitious scheme to remake society by changing the meaning of its laws. Insofar as this conference report would allow these social engineers free rein on American society, I oppose H.R. 6748. I do not oppose legal aid to the needy poor, I only oppose allowing aid intended for the poor to be used for highfalutin social schemes, as this bill would allow.

Last June we passed a legal services

bill that was meritorious in certain key respects. But last December the Senate Committee on Labor and Public Welfare, aided and abetted by outside interested parties, drafted an entirely new bill, totally devoid of our safeguards and protective clauses. This bill, passed and sent to conference, has now proved a disproportionately influential in the drafting of the conference report. Once again I fear, we have a situation of staff doing the Members' work. Ideological staff personnel, in conjunction with active, organized outside interest groups, makes an effective combination when it comes to getting something accomplished.

What interest groups am I referring to? I am referring primarily to those who stand to lose if a liberal, unrestricted legal services bill does not get out of Congress—the leftwingers, the staff attorneys, the legal services project personnel. I am not saying this pressure is unique to this issue—every piece of legislation which has spawned a bureaucracy, be it educational, health, welfare, agricultural, or whatever, has spawned a corresponding pressure body whose sole purpose is to insure the continuation of that bureaucracy. What irritates me most is the hypocrisy which accompanies this rather clear-cut self-interestedness. These lobbyists do not say, "We want to preserve our jobs," which would be understandable and honest. Instead, they wear the mask of magnanimity and expound at great length about the unfortunate poor who will be harmed if we cut off these services. They will feel alienated, they will feel cut off from middle-class society, their attitudes will become negative, they will resort to violence, and so on. In fact, the Senate bill, S. 2686, even stated in its first section that one of the purposes of this bill was to prevent the further alienation of the poor from the processes of middle-class society, lest they become violent. That sounds suspiciously like a sophisticated blackmail to me.

That argument is entirely fallacious. A study just completed, which was funded by none other than OEO itself, has concluded that—

> There is little or no evidence that people's attitudes or behavior patterns have much to do with what happens to their well-being.

Also, that study found that there is considerable movement in and out of the category "poverty family"—of a sample of 5,000, which is a pretty large sample of families, only 9 percent stayed in the same income level during all 5 years of the study from the Washington Post of Wednesday, May 8. Just these two points alone serve as strong indictments of the "antipoverty" mentality of which legal services is being sold as a part and parcel. The time has come to strip off this false face from the legal services lobbies and eliminate the deceitfulness which has cloaked the issue for too long.

There are some specific issues I would like to call attention to in opposing this bill. These are all points that were amended last June to our satisfaction, more or less. The amendments were adopted through working with colleagues of similar persuasion, regardless of which side of the aisle we came from, and putting away petty divisiveness for the sake of this more important issue. We stood our ground last June; I trust we will do the same this May.

Involvement in nontherapeutic abortion cases and school desegregation cases, participation in legislative and policy advocacy, attorney participation in outside practice of law, juvenile representation without explicit parental request, representation of the voluntary poor, and backup centers are some of the crucial issues. There are others, too. I would be hard pressed to say which was most important, or which five or which six were most important. They are all equally significant, and we will not relent on any one of them. A legal services bill which does not concern itself with the real, down-to-earth needs of the real poor but instead creates a huge mechanism for furtherance of social reform and engineering policies does not deserve our support and will not receive it.

The Washington Post article of May 8, 1974, follows:

ATTITUDE, POVERTY UNRELATED

(By William Chapman)

For the short run at least, a person's mental attitude has virtually no effect on his chances of getting ahead or falling behind economically.

Whether he is alienated and discouraged or is confident and success-oriented makes very little difference in the person's eco- [redacted] and his family's well-being. His family may rise out [redacted]nk back in, but his own hopes and sense of competence are irrelevant to that change.

This conclusion, which contradicts some assumptions that produced the 1960s war on poverty, emerges from a major 5-year survey conducted for the government by the University of Michigan's Institute for Social Research.

More than 5,000 families were interviewed in each of the five years to determine the changes in their economic status and to define what caused those changes.

A second conclusion of the survey is that the poverty population changes considerably from year to year with a large number of families either falling below or rising above the line each year.

Both findings undermine some of the original tenets of the war on poverty that was launched by the Johnson administration in the mid-1960s.

An important assumption then was that a "culture of poverty" existed which inexorably trapped millions below a certain level of income and that the same families and their offspring would continue to be trapped unless the cycle was broken.

Part of the strategy for breaking it lay in the idea that the attitudes common to those in poverty—low personal aspirations and feelings of powerlessness—could be changed.

Thus, Job Corps enlistees were brought to remote camps so they would be removed from ghettos where feelings of hopelessness supposedly were pervasive. Community action programs were designed partly to give the poor a sense of connection with institutions with a feeling of participating in power.

Neither assumption finds support in the Michigan surveys, which were initially launched in 1968 under a contract from the anti-poverty agency, the Office of Economic Opportunity.

First, the surveys disclosed that there is considerable movement in and out of poverty. Only nine per cent of the 5000 families were in the bottom fifth of the income distribution in each of the five years.

On the other hand, 35 per cent of the families were in the bottom fifth during at least one of the five years. The findings indicate that although there is a small number of families consistently in poverty a much larger number will drop into poverty or rise out of it over a period of years.

The findings also indicate that poverty is a threat to a much larger share of the population than previously indicated. The Census Bureau most recently found 25 million Americans living below the official poverty threshhold (about $4300 a year for a family of four). But a statistical projection from the Michigan surveys shows that twice that number were in poverty during one of the five years of the survey. About 50 million Americans—one fourth of the population—are likely to fall below the poverty line at some time over a period of a few years, this analysis concludes.

Attitudinal and behavior tests were administered to all 5,000 families annually in the survey to determine what effect these attributes had in changing economic status. The tests were designed to measure such things as a person's aspirations, his motivation for achievement, his personal confidence, and his sense of "efficacy"—how strongly did he feel he could control the events of his life.

When compared with actual changes in the families' incomes, these mental attitudes were found to have no effect whatsoever.

". . . There is little or no evidence that people's attitudes or behavior patterns have much to do with what happens to their well-being," the authors report. Whether the breadwinner was strongly or weakly motivated toward success, his rating explained virtually nothing about the family's movement up or down on the economic ladder.

The family's economic movement also was not affected by certain patterns of behavior, such as the families' ability to plan ahead for the future, its willingness to economize, and its decisions on avoiding economic risks.

Only one of the several behavioral characteristics seemed to be associated significantly with a change in income. Those whose status improved over the years tended to be connected with certain institutions that could help or inform them—a labor union, church, even friends in a tavern. The authors concluded, "Perhaps it pays for the poor to have friends."

Even the level of education, supposedly one of the key factors determining success or failure, had little effect over the course of the five years. Those with higher education were generally more successful economically at the start of the experiment. But having more education did not play any part in the movement of incomes during the five years in which the survey was conducted.

James N. Morgan, who directed the surveys for the Institute for Social Research, said the results were surprising in that they showed that not even a small sub-group of the 5000 families seemed to be affected economically by their mental attitudes and behavior.

"Usually you can always find some small segment of a large population that is affected by such things as attitudes and behavior patterns," he said, "but in this one they simply all disappear."

The factors that did explain changes of economic status during the five years were the obvious ones—changes in the composition of the family and participation in the labor force. The decision of a wife to go to work naturally increased income; the abandonment of a family by the father naturally reduced its income.

Mr. LOTT. Mr. Speaker, I am pleased to join my colleagues in discussing the OEO/Legal Services question.

As we vote on the conference report on Legal Services, it should be made clear that I, for one, am not opposed to Legal Services assistance for the truly needy.

However, I believe there is a much better way to go about it than by supporting the conference report.

My preference, over all, is for an alternative to the staff attorney system which would be perpetuated by the Legal Services Corporation bill as drafted. Such an alternative is known as judicare. It would permit attorneys full freedom of action, while allowing clients freedom of choice of attorneys. With some effective guidelines regarding political activities, and outside activities, a system like this could conceivably satisfy most major criticism of Legal Services. It would do that by eliminating the poverty law offices, the Legal Services offices, whose only purpose is to seek out business to keep themselves justified in the eyes of their funding source. With a system of judicare, those unable to afford legal attention would receive it, and would be able to choose their attorneys from among the regular, practicing lawyers in the community.

There are other alternatives besides judicare, but since judicare has been around the longest, it has been tested already and seems the best bet at this point. John Satterfield, a former chairman of the American Bar Association, circulated a letter earlier this year expressing his preference for the judicare system. Some of his remarks are not appropriate at this time, since they urge support of S. 1990, a bill which failed to receive action in the Senate. In submitting Mr. Satterfield's remarks to the RECORD, I have deleted those parts:

SATTERFIELD, SHELL, WILLIAMS
AND BUFORD,
Attorneys at Law,
Jackson, Miss., January 22, 1974.

* * * * *

Few members of the bar question the value of assuring all Americans equal access to our system of justice. For this reason, attorneys throughout the nation have endorsed the concept of legal assistance to the poor.

Because each of us in the profession values his independence from interference, there has also been strong support for the idea that attorneys for the poor should have full freedom of action. Many have concluded that this freedom of action should be institutionalized through a national legal services corporation.

Some, having reached these conclusions, have assumed that no other issues with respect to legal services merit their further consideration. I ask your indulgence for this exception to that judgment. The issue is not so clearcut as it may at first appear.

A better way is to assign resources to open panel judicare programs wherein eligible clients could seek assistance. Established in each state with resources based on the number of eligible poor and in cooperation with bar associations, such programs would enhance equal access to justice for needy individuals. They would also limit any potential for lawyer-politicking with public support, on the one hand, or government interference with the client relationship, on the other.

* * * * *

Under the kind of "staff attorney" system which has almost exclusively predominated in the OEO legal services program, purchase power is vested not with the potential client for assistance, but with the provider of counsel. For this reason, the economic need for client-responsiveness, as well as the market constraints on one's time, which imposes a discipline on the activities of private attorneys, are absent when there is exclusive reliance on the staff system.

This not only means that the client lacks the power to choose whether and how he shall be represented. It also results in a situation according to which the staff lawyer is relatively free to look for a test case, devote time to an appeal, or organize a reputation-building class action. This brings to mind the old term "solicitation of business."

Furthermore, when the lawyer acts for a poor client, without cost restraint on his activities, the party against whom the poverty lawyer's skills may be arrayed, whether rich or poor, usually must pay for his own representation, often at unbearable cost. Is this equal justice? Is it even a system in which we can be sure the client's interest, personal and immediate, will transcend those of the lawyer, if the lawyer feels obliged to more "efficiently" allocate his energies to achieving generally applicable changes in public policy?

Let us also remember that there *is* some proper difference in ground rules for the tax-subsidized attorney as compared with the client-supported attorney.

On this basis, there is understandable concern when subsidized staff attorneys involve themselves in lobbying or organizing on behalf of controversial issues and groups. It seems to be politics beyond the reach of systemic safeguards, rather than a simple effort to represent needy individuals in court.

* * * * *

Sincerely,

JOHN SATTERFIELD.

Mr. ROUSSELOT. Mr. Speaker, in the overlong and drawn-out debate on legal services that Congress has b[redacted] in[redacted]ating in for the past several years, the charge of misuse of Federal funds for political purposes has been leveled many times. Defenders of the OEO Legal Services projects, and of OEO Legal Services in principle and in practice, have brushed aside such charges. I do not think they can be brushed aside.

Recently I came into possession of what I regard as pretty conclusive evidence of improper activity by a Legal Services grantee, in this case, the National Employment Law project, at Columbia University. This is a memo sent to a dozen Legal Services activists from various Legal Services projects, giving details on final arrangements for a Washington, D.C., conference on welfare reform. The conference was held March 7, 1972, a time when welfare reform was a high priority in Congress. The fact that this conference was held indicates something, but more indicting material is found within the memo.

Paragraph 2 of the memo mentions that the National Legal Aid and Defender Association Technical Assistance project has agreed to provide "the usual Government travel reimbursement." I wonder, did NLADA have permission to grant such reimbursement? If so, had they informed the authorizing source that their purpose was political, insofar as they were trying to find out about legislation in order to influence its adoption or failure?

Mr. Speaker, I submit this memorandum, dated February 29, 1972, for my colleagues' attention:

MEMORANDUM

Final arangements have now been made for the conference on WIN and compulsory work programs in Washington on March 7. In view of the great deal of work we have to do, I have changed the time of the conference to 9:00 a.m. WIN on the 7th. We will meet in Room 207 of Caldwell Hall, on the campus of Catholic University. I am enclosing a map of the campus to make your search for that room a little easier.

John Joyce and the NLADA Technical Assistance Project have generously agreed to provide the usual Government travel reimbursement (travel expenses plus $25 per diem) for the conference. Because we are short of time, you should each make your own travel reservations and secure advances from your local offices, which will be reimbursed later. John has asked that we try to keep expenses to a minimum. Since NLADA has gone out of its way to sponsor the conference, I am sure you will accommodate him in this.

Dick Carter has suggested four motels in the general area of the University where you may wish to stay:

Holiday Inn, 730 Monroe St., N.W., 529-8100. This is the closest to the campus.

The following are within a short taxi ride:

Tabbard Inn, 1739 N St., N.W., 785-1277. (Dick Carter says this is a comparatively less expensive place, a favorite haunt of legal services types).

Gramercy Inn, 347-9550, 1660 Rhode Island Ave., N.W.

Executive House, 232-7000, 1515 Rhode Island Ave., N.W.

Enclosed, in addition to the map of the campus, are the following materials for your examination before the conference:

1. Final Order, *Thorn v. Richardson.*
2. Plaintiffs' Memorandum of Law, *Dublino v. N.Y. State Dept. of Soc. Serv.*
3. Plaintiffs' Interrogatories, *Dublino.*
4. Stipulations of Fact, *Dublino.*
5. 1971 Amendments to WIN (Congressional Record).
6. 1971 N.Y. compulsory work amendments.
7. 1972 Ohio compulsory work amendments.

We are attempting, in addition, to secure copies of the Reggie materials on compulsory work programs.

I look forward to seeing you on the 7th.

GENERAL LEAVE

Mr. HANRAHAN. Mr. Speaker, I ask unanimous consent that all Members may revise and extend their remarks on the special order of the gentleman from Georgia (Mr. BLACKBURN) today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

LEGAL SERVICES INTERFERENCE WITH ELECTION PROCESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. DEVINE) is recognized for 5 minutes.

Mr. DEVINE. Mr. Speaker, every time a legal services bill comes before us for our decision as is the case now with the pending conference report, new information is uncovered which once again demonstrates to me the destructiveness of our democratic system that we have unleashed upon the country in the form of legal services.

The latest scandalous information I have personally come across concerns the involvement, or, more correctly, the interference, of legal services attorneys with the electoral process in this country. Yes, there may well be inequities in the electoral process as it is currently conducted some places in the land. I will say with certainty that whatever those inequities are, they are a good sight less than they were a few years ago. It is the job of the people, at the local, grassroots level, and their community leaders, to straighten out problems with registration, voting qualifications apportionment, and so on, as was reaffirmed by this House last week in the matter of post card registration. At a pace natural to the community, encouraged by the most sensitive and progressive of the citizens, reforms are progressing well. Practically every election that comes along, reapportionment has taken place in a number of areas, for example.

There are some customs related to voting that are traditional, for good reason. Things like the ability to read or speak English as a prerequisite to voting. Or the restriction against felons and convicts voting. How can somebody who does not even speak or read the common language be expected to make a properly informed decision? Why should those in prison because of criminal offenses against society be entitled to the same rights as any law-abiding citizen? To give convicts the right and ability to vote surely cheapens the value of the vote they cast—if anybody at all can vote, then a vote must not be worth much. It used to be that the right to vote was an honor for an American citizen, something to be proud of, to work to merit.

Now, apparently, the vote is like welfare: Something the Government is required to give because you will threaten violence if you do not get it. At least, that seems to be the legal services attorney's understanding of the franchise. I make that conclusion from reading through several articles selected from the pages of the Clearinghouse Review, dealing specifically with legal services activities in connection with voting.

I will attach these brief articles at the conclusion of my remarks, but let me summarize by mentioning the topics with which they are concerned: Aliens demanding they be allowed to vote, even though they do not speak or read English, defended in their suit by the Western Center on Law and Poverty, an OEO-funded office; voting rights in the 1972 elections obtained for inmates of prisons in Connecticut, a project of an attorney at Civil Legal Assistance to Prisoners, a legal services project; another case of prisoners demanding they vote, this time defended by Pine Tree Legal Assistance, an OEO grantee; California Rural Legal Assistance, again an OEO operation, filing suit for ex-felons to be registered to vote; Seattle Legal Services getting a court order for paroled convicts to be allowed to vote; the Atlanta Legal Aid filing a suit that the location of polling places is racially discriminatory; reapportionment challenges here and there, with OEO legal services offices in the forefront; and so on.

The State of Arizona not too long ago adopted a statute requiring preregistration of voters every 10 years, intended to cut down on possible voting by dead people. The Maricopa County Legal Aid Society was not interested in reducing vote fraud, apparently, for they filed suit challenging the constitutionality of that statute. When the district court upheld the State of Arizona, the legal aid office began procedures to take it to the U.S. Supreme Court. All this, mind you, instead of helping a poor person write a will or settle his dispute with the credit bureau—and all of this with Federal money. If the U.S. Government went into Arizona and challenged their State laws, you would hear complaints loud and clear. Sending in legal services attorneys is the same thing in effect.

To my mind, it is more of an outrage for these attorneys to engage in controversial actions with Federal support when they are acting irresponsibly and in fact in directly the opposite way from the Federal official position on an issue. That the Federal Government is uninvolved with some things is to its credit—there are many of us who think the Federal Government, as the Federal Government, is involved with too many things already. The legal services empire is trying to involve the Government with every little detail, and whether or not that is the intention of their supporters, that is the effect of their actions, and the Government is going to be held responsible for them.

The citizenry is waking up to the outrages being perpetrated in the name of Federal concern for the poor. Widespread disaffection is growing. Unless measures are taken to bring legal services attorneys under control of the law, and compel them to act responsibly and seriously with the interest of their clients foremost, this disaffection is going to become bitter.

I submit for the Record, selected articles from Clearinghouse Review, to demonstrate to my colleagues the unwarranted interference of legal services project attorneys in the electoral process at the local level in our States.

I urge my colleagues to vote against the conference report.

The articles follow:

Aliens Appeal Denial of Right To Work

4896. Padilla v. Allison, *formerly Martinez v. Sullivan*, No 2 Civ. 41657 (Cal. Ct. App., filed February 1973). Plaintiffs represented by Terry J. Hatter, Jr., Peter D. Roos, Philip L. Goar and Joel I. Edelman, Western Center on Law and Poverty, 1709 West Eighth St., Los Angeles, Cal. 90017, (213) 483–1491; Ronald L. Sievers, Legal Aid Foundation of Long Beach, 236 East Third St., Long Beach, Cal. 90812, (213) 437–0901. [Here reported: 4896F Appellants' Opening Brief (33 pp.). Previously reported: 4896A Complaint (7 pp.), 4 Clearinghouse Rev. 620 (April 1971).]

Appellants in this action are permanent resident aliens of the United States, victims of two conflicting provisions as to the right to vote. Appellants are eligible to become naturalized United States citizens but for their inability to meet the English literacy requirement. Applicants are eligible to vote in California (because they are literate in Spanish, see *Castro v. California*, Clearinghouse No. 563) but for their lack of United States citizenship.

Appellants point first to the historical fact that United States citizenship is a recent addition to the prerequisites for voting. Appellants next argue that where the right to vote and a classification based on alienage are involved the strict standard of review must be applied in determining whether the citizenship requirement, as applied to them, denies them the equal protection of the law. Finally, appellants argue that neither the state's interest in loyalty to the government; intelligent exercise of the franchise; promotion of naturalization; prevention of election frauds nor administrative convenience are sufficiently compelling or so narrowly prescribed as to satisfy the strict scrutiny test.

Prisoners Challenge Denial of Voting Rights

9046. *White* v. *Edgar* (D. Me., filed Oct. 3, 1972). Plaintiffs represented by Neville Woodruff and Donald F. Fontaine, Pine Tree Legal Assistance, Inc., 565 Congress St., Portland, Me. 04101, (207) 774–8211. [Here reported: 9046A Complaint (7 pp.).]

Five inmates of the Maine State Prison seek declaratory and injunctive relief challenging a denial of voting rights under a state statute which prohibits inmates from receiving absentee ballots. Plaintiffs seek to secure the inmates' right to vote in all elections—local, state,.and federal.

Plaintiffs allege that they fulfill the voting qualifications and have registered to vote in Maine, but that defendants, the Secretary of State and the Commissioner of Mental Health and Corrections, have conspired and acted in such a manner as to deprive them of their right to vote by refusing to provide absentee ballots, except for presidential and vice-presidential elections, and by refusing to establish a polling place at the Maine State Prison.

Plaintiffs assert that they have been deprived of their constitutional right to vote. They allege violations of the privileges and immunities clause of the fourteenth amendment, article I, Sections 2 and 4 of the Constitution, the equal protection and the process clauses of the fourteenth amendment and the eighth amendment. Finally plaintiffs allege the defendants have deprived them of their right to vote as secured by article II, Section 1 of the Maine Constitution.

Plaintiffs seek the convening of a three-judge court to hear and determine the controversy, and to declare unconstitutional and enjoin enforcement of Maine's absentee ballot statute. Pending such determination they ask that the defendants be ordered to establish a polling place at the Maine State Prison on November 7, 1972, or that defendants be ordered to release and transport plaintiffs to their polling places. The plaintiffs ask further that the defendants be ordered to provide absentee voting ballots for all federal offices.

Plaintiffs' counsel has advised us that the court denied the request for a temporary restraining order. Prisoners were allowed to vote on November 7, 1972, by absentee ballot for the offices of President and Vice-President only. Plaintiffs still seek a hearing before a three-judge court.

Court Orders Extensive Bilingual Procedures in New York City Elections

11,357. Torres v. Sachs, No. 73 Civ. 3921 (S.D.N.Y., Sept. 26, 1973). Plaintiffs represented by Cesar Perales, Herbert Teitelbaum and Jose Rivera, Puerto Rican Legal Defense & Education Fund, 815 Second Ave., Room 900, New York, N.Y. 10017, (212) 687–6644. [Here reported: 11,357A Class Action Complaint (10 pp.); 11,357B Preliminary Injunction (35 pp.); 11,357C Memo in Support of Motion for Preliminary Injunction (35 pp.); 11,357D Findings of Fact and Conclusions of Law (3 pp.).]

The court issued a preliminary injunction ordering the New York City Board of Elections (1) to print all city election materials in both Spanish and English; (2) to place inside the voting booth a translation of all amendments and propositions appearing on the ballot; (3) to provide bilingual translators at all polling places situated in election districts falling, in whole or in part, within any 1970 census tract containing five percent or more persons of Puerto Rican birth or parentage; and (4) to publicize the election in both Spanish and English.

Plaintiffs had made repeated requests of the city election officials to take the steps granted by the court in its injunction. The officials resolved to comply by providing bilingual ballots wherever required but resolved that with respect to the November 6, 1973 election, the physical nature of the ballot, containing ten amendments to the New York Constitution, rendered compliance with the Voting Rights Act of 1970 impossible.

Plaintiffs argued that this procedure would deny them the right to vote and would create a classification based on ethnic and national origin characteristics which discriminate against them by depriving them of an opportunity to cast an effective ballot, in violation of due process and equal protection.

Three-Judge Court To Hear Denial of Voting Rights to Paroled Felons

9318. Dillenburg v. Kramer, No. 71–2647 (9th Cir., Nov. 16, 1972). Plaintiff represented by Peter Greenfield, Legal Services Center, 3230 Rainer Ave. South, Seattle, Wash. 98144, (206) 725–2600; Robert T. Czeisler, American Civil Liberties Union of Washington, 2101 Smith Tower, Seattle, Wash. 98104, (206) 624–2180. [Here reported: 9318D Order (9 pp.). Also available: 9318A Complaint (5 pp.); 9318B Appellant's Brief (22 pp.); 9318C Appellant's Reply Brief (10 pp.).]

The Ninth Circuit has reversed a district court's refusal to convene a three-judge court in the plaintiff's challenge to a Washington law denying the right to vote to *paroled felons*, an alleged contravention of the equal protection clause of the fourteenth amendment. The Governor had denied the plaintiff, a paroled felon, a request for restoration of civil rights, and the plaintiff's attempt to vote was thwarted solely because he was disenfranchised under the challenged Washington laws.

In remanding to the district court, the court stated that since the right to vote is fundamental, the state classification could not survive the equal protection challenge simply through the finding that it bore some rational connection to a legitimate governmental end. To hold the classification valid, the court would have to find that the exclusions from voting rights were necessary to promote a compelling state interest.

Amicus Brief Filed in Felon Voting Rights Case

8241. Ramirez v. Brown, No. 22916 (Cal. Sup. Ct.). Amicus represented by Philip L. Goar, Loyola University School of Law, 1709 West Eighth St., Los Angeles, Cal. 90017, (213) 483–1937; Fred Okrand, 323 West Fifth St., Los Angeles, Cal. 90013, (213) 626–5156. [Here reported: 8241C Amicus Brief (16 pp.). Previously reported: 8241A Petition for Writ of Mandate *(24 pp.)*; 8241B Memo of Points and Authorities (60 pp.), 6 Clearinghouse Rev. 365 (October 1972).]

An amicus brief has been filed in this suit which seeks to compel the registrars of 58 California counties to register ex-felons. Amicus cites evidence that a significant percentage of adult Americans will commit serious crimes during their lives and points out that there is no evidence that allowing ex-felons to vote will affect the integrity of the ballot box. Amicus also argues that voting has the salutary effect of aiding ex-felons in their attempt to rejoin society.

Finally, amicus argues that Section 2 of the fourteenth amendment does not allow disenfranchisement of felons where such disenfranchisement conflicts with Section 1 of the amendment. Amicus points out that Section 2 was intended only for political purposes, *i.e.*, to maintain a Republican-dominated Congress.

Preliminary Injunction Requires Voting Assistance in Spanish for Non-English Speaking Citizens of Puerto Rican Descent

9183. Puerto Rican Organization for Political Action v. Kusper, No. 72C 2312 (N.D. Ill. Oct. 30, 1972) Plaintiffs represented by Wallace Winter and Roy Rodriquez, Northwest Legal Services, 2029 W. North Ave., Chicago, Ill. 60647, (312) 489–6800; Donald Bertucci, DePaul Law Clinic, 23 E. Jackson Blvd., Chicago, Ill. 60604, (312) 939–5370. Amicus Curiae, George Pontikes and Richard Kuhlman, 11 S. LaSalle St., Chicago, Ill. (312) 782–2610. [Here reported: 9183A Complaint (9 pp.); 9183B Plaintiff's Memo (43 pp.); 9183C Decision (13 pp.); 9183D Preliminary Injunction Order (6 pp.).]

Plaintiffs have filed this class action representing those United States citizens of Puerto Rican birth or descent who reside in Chicago and are eligible and registered to vote but unable to use the English language. Plaintiffs alleged that they were not proficient enough in English to exercise their right to vote effectively unless given assistance in Spanish. They sought to compel defendants, members of the Chicago Board of Election Commissioners, to provide voting assistance in the Spanish language.

The court recognized that persons born in Puerto Rico are citizens from birth and are not required to learn English. The court stated that the effect of the Voting Rights Amendments of 1970 when coupled with the Voting Rights Act of 1965 was to prohibit the denial of the right to vote to any person educated in Puerto Rico because of an inability to understand English. It stated that the right to vote meant the right to vote effectively. Prerequisites to the effective exercise of that right in this case are voting instructions and ballots or ballot labels on voting machines printed in Spanish. The court issued a preliminary injunction requiring defendants to prepare and distribute the requisite material to the polling places at which they are needed to to make all reasonable efforts to appoint bilingual election judges in those polling places.

Filing Fees for Candidates for Municipal Offices Invalidated

8507. Reed v. Sebesta, No. 71–365 Civ. T–K (M.D. Fla., Oct. 27, 1972). Plaintiffs represented by Malory B. Frier and Richard P. Condon, Law, Inc. of Hillsborough County, 1809 N. Howard Ave., Tampa, Fla. 33607, (813) 253–0087. [Here reported: 8507G Memorandum Opinion and Order (4 pp.).]

The court enjoined the enforcement, application and use of certain Florida election statutes governing filing fees in Tampa and held that their enforcement was an unconstitutional infringement of the equal protection rights guaranteed under the fourteenth amendment. Plaintiffs, candidates for Tampa municipal office, had brought a class action challenging the state act, applicable only in Tampa, which required the payment of a filing fee equal to five percent of the annual salary of the office sought.

The court held that the state act violated *Bullock v. Carter*, 405 U.S. 134 (1972), in which the Supreme Court held that any system for qualifying candidates for electoral office which charges a qualifying fee that tends to classify candidates and their supporters on a basis of wealth, must provide an alternative method of qualification which does not so classify prospective candidates. The court reasoned that the five percent filing fee system was not reasonably necessary to accomplish legitimate state objectives. Moreover, it found that the filing fee system was unreasonable in amount since the five percent figure was arbitrary and resulted in prohibitive filing fees of up to $1,450.

The court held that Tampa did not provide an alternative method of qualification for electoral office that was nondiscriminatory. It reasoned that had such an alternative method of qualification existed it would have been an adequate and reasonable means of satisfying legitimate state objectives, without sacrificing the quarantees of the equal protection clause.

Class Action Damages Sought for Willful Misrepresentation of Referendum Issues

9093. Lucha v. Alan Blanchard & Associates, No. 651–951 (Cal. Super. Ct., San Francisco County, filed Oct. 17, 1972). Plaintiffs represented by Armando M. Menocal III and Robert Gonzales, San Francisco Neighborhood Legal Assistance Foundation, 2701 Folsom St., San Francisco, Cal. 94110, (415) 648–7580; Paul Harris and Stan Zaks, 3698 18th St., San Francisco, Cal., (415) 863–1530. [Here reported: 9093A Complaint (13 pp.).]

Plaintiffs, the class of persons in San Francisco and Alameda counties who were allegedly deceived into signing the initiative measure Proposition 22 by the defendant public relations agency and its employees, have brought an action to recover compensatory and punitive damages for injury to their character and reputation, abuse of their franchise and initiative rights, and false advertising and unfair business practices. Defendants solicited signatures from plaintiffs by intentionally misrepresenting that the measure would benefit the farmworkers and that it had received full support from the United Farm Workers Union. In fact, the measure provided restrictions on the rights of farmworkers to negotiate, bargain through a union representative, receive minimum wage protection, and boycott or strike. The measure was strongly opposed by the union.

Plaintiffs allege first, that defendants' knowingly false representations violated provisions of the California elections code. Second, plaintiffs allege that the defendants have damaged plantiffs' initiative and franchise rights, as reserved to them by the California Constitution. Third, plaintiffs assert that defendants violated provisions of the California business and professions code by inducing plaintiff to go on record publicly and permanently as supporters of a measure they strongly oppose.

Location of Polling Places Held Racially Discriminatory

8647. Davis v. Graham, No. 16891 (N.D. Ga., Oct. 2, 1972). Plaintiffs represented by Alden C. Harrington, David A. Webster and Michael H. Terry, Atlanta Legal Aid Society, Inc., 153 Pryor St., SW, Atlanta, Ga. 30303, (404) 524–5811; N. Gerald Cohen and Prentiss Q. Yancey, First National Bank Tower, Atlanta, Ga.; G. Kimbrough Taylor, Jr., Hurt Bldg., Atlanta, Ga.; George Howell, Citizens Trust Bldg., Atlanta, Ga.; Bernard Parks, 40 Marietta St., NW., Atlanta, Ga. [Here reported: 8647A Complaint (10 pp.); 8647B Brief in Support of Restraining Order (7 pp.); 8647C Brief in Support of Injunctive Relief (15 pp.); 8647D Order (11 pp.).]

A Georgia federal district court has ordered county election officials to relocate existing polling places and establish additional ones in many black precincts of Atlanta. In this class action on behalf of all black registered voters of Fulton County, the court found the existing polls to be inaccessible due to their distant location and geographical separation, by railroad tracks and expressways, from population centers. A low proportion of cars and lack of convenient rapid transit in the affected precincts further complicated the situation. This inaccessibility was held to violate Section 2 of the Voting Rights Act of 1965, as a practice or procedure abridging the right to vote on account of race or color.

SUPPLEMENTAL SECURITY INCOME PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 15 minutes.

Ms. HOLTZMAN. Mr. Speaker, yesterday I introduced a bill to remedy a number of problems that have arisen under the new supplemental security income program, SSI.

SSI, like any new program, has a number of serious flaws, and these flaws have created severe hardship for some of the most helpless people in our society: The impoverished elderly, disabled, and blind.

The most serious problem with SSI is its failure to guarantee senior citizens an adequate living allowance in this time of crippling inflation. I am sure that many of my colleagues have received, as I have, desperate appeals from elderly or disabled constituents who simply do not have enough money to pay for food and shelter. Whereas in the past, such individuals could seek additional living allowances from local welfare agencies, under SSI these agencies no longer provide financial assistance. SSI has no flexibility to meet increasing costs—no matter how severe.

As the cost of living rises, the number of people in such straits will undoubtedly increase. I believe it is essential, therefore, that a cost-of-living escalator be built into SSI. The bill I have introduced today provides for cost-of-living increases in SSI benefits in the same percentage and manner as such increases are granted to social security recipients. This provision will assure that SSI recipients can meet their rising living costs without having to depend upon annual congressional action.

In recognition of the particular difficulty faced by the elderly because of skyrocketing food costs, the bill restores food stamps to all persons who have lost them because of SSI. It also guarantees that all SSI recipients will be eligible for food stamps and that States will not have to lower their benefit levels in order to provide the stamps. Finally, this provision prevents a bureaucratic nightmare that would occur on July 1 of the year, as States attempt to put into effect new eligibility standards under the current law.

The bill provides a third means of protection against inflation by insuring that persons receiving both SSI and social security do not lose the benefit of social security increases. Under the current system, persons whose social security benefits are relatively high received a 7-percent increase in their April checks and will receive another 4-percent increase in July. Persons whose benefits were so low that they were eligible for SSI, however, received no increase because their SSI checks were reduced by the exact amount of the increase in social security payments. My bill would prevent this cruel and senseless result.

The bill contains a number of administrative changes, including a provision for the emergency replacement of undelivered, lost or stolen SSI checks or cash. In January, some 7,000 New Yorkers did not receive their SSI checks, and because of this, many of them had no money for food or rent. Social Security and Treasury regulations would have prevented these persons from receiving replacement checks for at least 2 weeks.

As a result of the efforts of myself and my colleagues from New York, emergency procedures were established that allowed such checks to be issued and received within 24 hours. Inexplicably these procedures were canceled at the end of January. The provision in my bill requires that such procedures be available to SSI recipients everywhere, not only New York, so that no elderly, blind, or disabled person need go without food or face eviction because of someone else's error or crime.

Other sections of the bill will provide for speedy action on SSI applications, judicial review of eligibility determinations and greater Federal-State cooperation in providing aid to the disabled prior to a final determination of disability.

I would like to stress, Mr. Speaker, that the bill I have introduced today is built on earlier important efforts made by others in the New York congressional delegation. Many of the provisions included in the bill appeared first in bills introduced by Representatives BINGHAM, ABZUG, and WOLFF, and cosponsored by most of the Members from New York. We are all deeply concerned with the inexcusable hardship that SSI has caused to so many persons, and I know that many other Members of Congress share our concern. I am hopeful, therefore, that this very necessary corrective legislation will receive prompt and favorable consideration.

ON INTEGRITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, there has perhaps been no time in our history when the esteem and public confidence in our Government has been lower than it is today. The people sense that the Nation is adrift; they rightfully feel that they have been lied to and cheated. Our Government has made promises that it has not met. There is no evidence of a leader or group of leaders who can restore a sense of decision, integrity, and morality to the conduct of our national affairs.

In these last few years we have seen a Vice President revealed as a plain criminal. We have seen a President rebuked and chastised for what amounts to tax evasion. We have seen hosts of the President's aides and advisers accused of crimes of one sort or another, and there are many who feel that the President himself has been less than honest in his dealings in these affairs. The public has been misled time and again, and no one can say where all the sad revelations will end.

We have never before seen an impeachment proceeding started on the question of a President's honesty and integrity, but that is what has happened this year.

Our most urgent assignment is to restore some sense of public confidence in our Government. That cannot be done unless our Government has integrity. That means that Congress cannot afford the luxury of avoiding hard issues; it means that we cannot avoid carrying out our duty. Among other things, this means that we have to be willing to vote one way or another on impeachment, and not seek some easy way out by hoping for the President to resign. What he does is his business; we have the duty of carrying out the procedure specified by the Constitution if he seems unfit to continue in office.

Senator MANSFIELD understands this. There are not many in Washington who are as brave as Senator MANSFIELD. No one questions his honesty or integrity. And so it is especially comforting in these rudderless times to hear him counseling that the best way is the straightforward way: place your trust in the system provided in the Constitution. It was, we all know now, the President's distrust of the people and the constitutional system that led him to cavil and dissemble in the face of growing scandals. We dare not make that same mistake, as Senator MANSFIELD has so wisely and timely pointed out.

Mr. Speaker, I append to my remarks an article in today's Washington Star that is pertinent to these times, and which explains in clear terms the importance of the integrity shown by Senator MANSFIELD:

[From the Washington Star-News, May 15, 1974]

THE INFLUENCE OF INTEGRITY

(By James Reston)

Sen. Mike Mansfield of Montana is a reminder that there are still a lot of steady, decent folk around here watching the store. Everybody in Washington is not crazy; it just seems that way.

Room S–208 in the Capitol Building, Mike's hideaway, is as plain and calm as a country lawyer's office. The door is always open. Inside, no fancy elegant people or heroic portraits of the majority leader. Some old amiable cartoons, and a big picture of Jack Kennedy throwing out the first pitch on opening day, with Mike in the background, as usual. An atmosphere of cheerful and relaxed efficiency, coffee perking on the shelf and cookies on the table.

Mike is sad but not pessimistic about the present mess in Washington. He thinks it is wrong to press President Nixon to resign, but he understands why the Republican leader in the Senate, Hugh Scott of Pennsylvania, condemned Nixon's private Watergate conversations, and why the House Republican leader John Rhodes suggests that resignation has to be considered. Mike tries to understand everybody's problems.

But pressuring the President to resign, he insists, would be unfair, evading rather than resolving the moral and legal issues. Give the President not only the presumption of innocence, he says, but every opportunity to have his lawyers in the House and Senate to argue his case, to cross-examine witnesses, and to appear on the floor of the House and Senate, if he chooses, to defend himself personally.

Let the system work, says Mike. It is not only the President, but the Congress and the Constitution that are on trial. But—and here he is very tough—let it work all the way—not halfway.

Mansfield has a sense of pity about human folly and is very generous about the personal aspects of this tragedy—and he sees it not in partisan terms. He is beyond all personal ambition now, even beyond his own party's battles.

So there must be something right about a system that puts a decent man like Mansfield at the head of a party, and something consoling in the thought that people in the House and the Senate, worried about what to do in this crisis, come to Room S–208 to talk out their anxieties, and seek Mike's quiet counsel.

Mansfield, if I hear him right, is looking beyond the present turmoil here. He is afraid that the nation would be deeply divided for a long time if President Nixon were forced to resign by political or newspaper pressure.

He thinks the whole Watergate scandal could have been avoided if the President had been open and trusted the system, and had wondered about what was right or wrong and had said "yes" or "no" at the right time. But he is not worrying about the past now. The Constitution, the courts, the House and Senate must decide and nothing else.

Put it all to test, he says, and bring the people into it. He wants televised hearings in the House and Senate. He wants not merely the evidence the President wants to give, but the best evidence, including the tapes, and if necessary, he wants them played, when relevant, in the chambers of the Congress and on radio and television.

There are many arguments against this procedure, argued in this space before, but Mansfield thinks we've had enough secrecy, and enough deception.

This simple approach carries great weight here, for the importance of Mansfield is that his colleagues in both parties and in both houses believe in him. They watch him in S–208 and on the floor of the Senate, arguing for the thing he thinks is right, even if this means opposing his own party.

He may be right or wrong on this procedure, but he has the influence of integrity, and in the end, that may be what the controversy is all about.

MEETING THE NEEDS OF OLDER AMERICANS

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. HAMILTON) is recognized for 15 minutes.

Mr. **HAMILTON**. Mr. Speaker, the concerns of older Americans deserve the highest priority and our continuing attention.

More than 21 million elderly citizens form the most rapidly growing minority in the Nation. It is a minority of people with diverse backgrounds, wide-ranging problems, and a common bond of age.

There are seven times as many older citizens in America today as there were in 1900. Over half live in the 10 largest States; only 10 percent live in the smallest 21 States; and over half a million live in Indiana alone.

Older Americans will become an even larger and more important minority in our society in the future.

Four thousand Americans celebrate their 65th birthday each day, and those who do can expect to live longer than any preceding generation in our history.

Between 1960 and 1970 the number of citizens over 75 years of age grew an astounding 37 percent, and today, over 1½ million people have passed the three-quarter century mark.

By the year 2000, the number of older Americans is expected to be 29 million or 10.6 percent of the population, a 46-percent increase.

Despite their growing numbers as a group and their importance as individuals, too often the elderly and their problems have escaped our notice. The elderly have been shunted aside, and their concerns have been given insufficient attention.

Only in the last years has the Nation begun to recognize what older Americans have always known: that they are an important resource, that they are individuals who deserve the opportunity to live their lives as fully as possible.

Older Americans are skilled and experienced.

They are resourceful and adaptable; the elderly have lived through a period of greater and more rapid change than any previous generation.

They are remarkably independent. One in six maintains a household.

They are important consumers, with a combined income of over $60 billion a year which has a significant economic impact, especially on the food, housing, clothing, and service industries.

They are good citizens. Older Americans, constituting 15 percent of the voting age population, vote more often than other younger groups.

Individually, older Americans make tremendous contributions to their families, their communities, and their Nation.

Older Americans have special needs, to be sure, but basically, their needs and wants are the same as those of all of us. Elderly Americans seek a dignified, meaningful life.

There is evidence that they are making some progress toward that goal.

Private groups and the news media have given increased attention to older Americans and their concerns. Fortunately, government has become more responsive and aware, as well.

Today elderly citizens benefit from a number of Federal programs that were unheard of just a few decades ago, but most of the programs that are available need to be updated and improved regularly, and there is a clear need for new approaches and additional resources.

In attacking the problems, we should give top priority to what older Americans generally consider their overriding concerns: income, health, housing, and transportation.

They are the key to the well-being of older Americans in this society.

Without adequate income, effective health care, decent housing, and accessible and inexpensive transportation, older Americans will not enjoy the essentials for a meaningful and minimally comfortable life.

There are other concerns, of course, but the following problem areas are the important ones for most older Americans.

INCOME

Income is central to the concerns of the elderly.

Older Americans have on the average less than half the income of younger people.

One older person in four living alone or with nonrelatives has an income of under $1,500, and over 20 percent of all elderly Americans live in households with incomes below the poverty line.

There is no substitute for income if people are to be free to exercise choice in their style of living and if they are to lead decent lives.

The following sections describe what is being done and what needs to be done concerning the problems of income for older Americans:

INFLATION

Inflation is one of the older American's greatest foes, and the impact of inflation is felt with special severity by older Americans.

Prices are rising faster than the relatively fixed incomes which most elderly people live on.

In 1973, food prices rose a staggering 20 percent, and in the last 4 years, the elderly have suffered more than most from rents that rose 18 percent, food prices that jumped 40 percent, and health care costs that increased 22.5 percent.

As a result, too many older Americans are cutting back on necessities such as clothing, transportation, and food as the actual buying power of their incomes is eaten away by inflation.

As one elderly woman said:

> It's like I'm standing still and everything else is moving forward in such a hurry.

Inflation cannot be allowed to exact a toll of hardship, sacrifice, and despair from the elderly.

As prices go up, an elderly person's income should rise automatically with cost of living increases.

Because inflation is so difficult to control, it is important that we have firm leadership on the economic front to slow prices from their dizzy upward pace.

Economic policy must be given higher priority by the Government. The goal of a balanced economy with reasonable price stability, moderate economic growth, and full employment has been and can be achieved.

The major obstacle to such achievement is not a lack of knowledge, or a lack of tools, but a lack of political will and leadership to take the right action at the right time. The Government should encourage increased production and vigorous competition, educate and protect the consumer, and use an appropriate mix of fiscal and monetary policies to control demand and get its own spending under control.

To help achieve that goal, Congress should adopt immediately the improved budgetary procedures now under consideration, in order to strengthen its tools to hold down inflationary spending and to free inefficiently used funds for programs benefiting the elderly.

SOCIAL SECURITY

Social security is the basic source of income for most retired workers and their families.

Older Americans who are covered by social security will receive improved benefits as a result of a number of major recent changes:

First. Congress passed a two-step 11 percent increase in social security benefits that has already taken effect. Beginning in April 1974, benefits increased by 7 percent with an additional 4 percent increase to be paid as of July 1974.

Although individual increases may vary, all beneficiaries receive greater amounts. On the average, monthly benefits for single retirees increase from $162 to $173 in April and $181 in July 1974. The average benefits check for a couple increases from $277 a month to $296 in April and to $310 in July of 1974.

Second. Older individuals under age 72 can now earn $2,400 a year instead of $2,100 and still receive the full social security benefits to which they are entitled.

Third. Beginning in June 1975, social security benefits will increase automatically to reflect increases in the cost of living.

Social security has been improved significantly by these and other changes, yet more improvements are needed.

Social security benefits should reflect the country's rising standard of living, as well as the cost of living.

Social security recipients under age 72 should be able to earn at least $3,000 a year without forfeiting any of the benefits to which they are entitled.

The social security system should be equitable with the tax schedule made more progressive, and insured men and women workers treated equally.

SUPPLEMENTAL SECURITY INCOME

Aged, as well as blind and disabled individuals, who are in financial need, became eligible for cash payments under the new supplemental security income program at the beginning of 1974.

This new income security program replaces and improves upon previous Federal-State programs for the aged, the blind, and disabled, by establishing a uniform program nationwide financed with Federal treasury funds.

In order to qualify for supplemental security income benefits, an older American must be at least 65 years of age and hold assets of less than $1,500—$2,500 for a couple. The value of a home, household goods, certain personal effects, and some property, are excluded from the determination of assets.

Individuals with no other income who qualify can receive $140 per month—$146 after June 1974. Couples are eligible for $210 a month until June, when the maximum rises to $219.

The first $20 from additional sources of income, including social security benefits, and the first $65 a month of earned income will not reduce supplemental security income benefits.

This new program is a welcome step toward addressing the needs of millions of older Americans. More and more of the eligible individuals who need financial help are being located, and some are also finding out for the first time about other Federal programs from which they can benefit.

We must learn from the initial experience with the supplemental security income program and continue to make adjustments and improvements as they become necessary.

VETERANS' BENEFITS

Veterans' retirement and disability benefits provide an important source of income for older veterans and their families.

Over 2.4 million Americans receive veterans' compensation or pensions each year, and many receive assistance through a number of other VA programs.

Congress passed veterans' pension legislation near the end of 1973 that means a significant increase in income for veterans and their families. The law increases non-service-connected disability pensions by 10 percent of eligible veterans, their widows, and their children. Dependent parents of veterans whose deaths were service-connected will also receive the 10-percent increase in dependency and indemnity payments.

In addition, Congress should act to:

Grant increases in compensation rates and DIC rates for widows and children comparable to the recent increase received by those receiving pension benefits;

Raise the income limitations for VA benefits;

Prevent increases in social security or railroad retirement benefits from lowering veterans' pension benefits;

Prevent military retirees from losing length-of-service pay when they receive disability compensation; and

Insure that the Veterans' Administration is responsive to the needs of older veterans.

RAILROAD RETIREMENT

Beginning July 1, 1974, railroad employees with 30 years of service may retire at age 60 with full benefits.

The same law extends previous retirement benefit increases through the end of 1974. If social security benefits are increased further in 1974, railroad retirees will receive an automatic equivalent increase.

A joint labor-management committee appointed to recommend structural improvements in the railroad retirement system was scheduled to issue its report April 1, 1974. Congressional action on the recommendations contained in the report must occur no later than December 31, 1974.

We must insure that workers covered by railroad retirement are in no way disadvantaged in comparison with fellow retired workers who are covered by social security.

PRIVATE PENSIONS

Retired Americans are relying increasingly on private pensions to augment social security or other retirement benefits or, in some cases, to provide their sole source of income.

However, because of the great variation in private pension plan availability, coverage, flexibility, and reliability, there have been a number of problems, many of them with catastrophic consequences for retired Americans.

Companies going out of business, employees losing pension benefits by changing jobs, and ineligibility for benefits because of early retirement are examples of the problems employees have been facing with private pension plans.

After years of study, Congress is making steady progress on landmark legislation to improve private pension practices.

Once enacted, pension reform will protect the rights and retirement security of both working and retired Americans in the following ways:

By setting standards for employees' "vesting" rights to share in pension plan benefits under an equitable formula based on age and years of service;

By requiring that all pension plans be run on a sound financial basis;

By insuring pension plans against losses that participating employees would otherwise be forced to absorb;

And by allowing self-employed individuals without pension plan coverage to receive special tax deductions in order to set up their own retirement account.

Pension reform deserves top priority as one of the most important legislative initiatives for retired employees since the enactment of the Social Security Act.

G. EMPLOYMENT

Older Americans who want to work and are capable of working confront a number of employment barriers that result in an excessively high rate of unemployment among the elderly.

The basic difficulties elderly people have in seeking employment stem from myth rather than fact or necessity.

Too many prospective employers make the false assumption that younger employees are more desirable than older ones. The employers think older employees are less productive, unreliable, or a burden to them; the facts prove just the opposite. Elderly workers have wide experience and skills that can be of great benefit to their employers, their communities, and themselves.

Hundreds of capable, productive employees are forced from their jobs each day simply because they have reached a certain age and in spite of their desire to work.

Elderly individuals without jobs who are looking for employment have trouble finding work that is meaningful and pay that is adequate.

Congress has passed manpower and training legislation that authorizes training, development, and public service employment programs to elderly citizens and others needing employment assistance, in areas with 6.5 percent unemployment or more.

For older Americans holding jobs, the minimum hourly wage was recently raised to $2 as of May 1, 1974; $2.10 as of January 1, 1975, and $2.30 as of January 1, 1976—1978 for farmworkers—and minimum wage coverage was extended to 6.7 million additional individuals.

States in which the insured unemployment rate exceeds 4 percent are eligible for Federal matching of extended unemployment benefits for a 90-day period as a result of changes in the social security law.

A number of Federal programs provide older Americans with useful jobs on a wage or volunteer basis. Programs such as Operation Green Thumb, Operation Mainstream, Retired Senior Volunteer Program—RSVP—Service Corps of Retired Executives—SCORE—Volunteers in Service to America—VISTA—Foster Grandparents, and the Peace Corps have shown the beneficial potential of special work and activity programs for the elderly.

Programs such as these need to be continued and expanded.

All forms of age discrimination in employment must be stopped so that elderly workers are judged on their true abilities, not on the length of their lives.

Older Americans should have maximum freedom of choice in determining whether and where to work.

We must develop employment opportunities that are meaningful for older Americans and for the entire economy.

TAXATION

Taxes have a tremendous impact on the income of elderly Americans. Federal taxes, in particular, create unwarranted problems for elderly taxpayers.

Not only are taxes too high for many older Americans, but, in many cases, elderly taxpayers overpay because tax forms and tax laws are too complicated.

Some estimates indicate that one-half of all elderly individuals—especially those with low and moderate incomes—pay more taxes than they should. Many citizens 65 and over are simply overwhelmed by the tax statements and calculations they must complete in order to claim deductions that they are entitled to by law.

In order to maximize their income, elderly citizens should contact their local Internal Revenue Service Office for information or assistance with their tax returns.

Federal tax laws and forms should be simplified to enable older Americans to claim all deductions they should receive.

Special tax counseling assistance should be made available to taxpayers age 65 and older.

The retirement income credit limitation under Federal income tax regulations should be increased to the maximum social security benefit level.

Older Americans are also in need of relief from property taxes and other taxes, as I have proposed in H.R. 6027. The tax burden on the elderly, at all levels of government, should reflect the older American's ability to pay.

HEALTH

Health problems are a burden for senior citizens.

Although older Americans have less than half the income of younger Americans, they pay almost three and a half times as much for their greater health care needs.

Eighty-five percent of older people not in health-care institutions have one or more chronic health conditions.

Elderly people have a 1-in-4 chance of being hospitalized during a year, and their hospital stays are more expensive and twice as long as those of younger *people*.

The elderly visit a physician 50 percent less than the under-65, and although older Americans have special dental problems, half of them have not been to a dentist in 5 years.

Twice as many older Americans wear glasses than younger people, and 13 times as many wear hearing aids.

MEDICARE

The medicare system was established to help elderly Americans meet their particularly burdensome medical needs; however, despite the major assistance medicare provides, coverage is inadequate and too costly for all too many older Americans.

Supplementary medical insurance, the part B premium under medicare, has risen from $36 to $75, while the part A hospital deductible has jumped from $40 to $84 since medicare began in 1966.

There are also great gaps in medicare coverage, which does not include dental costs, out-of-hospital drugs, or adequate catastrophic coverage for long-term health care for the elderly.

While the medicare system continues to be the primary source of health care assistance for older Americans, it must be expanded and improved to meet the unfulfilled needs, the rapidly rising costs, and the growing complexity of adequate health care.

The monthly premium for supplementary medical insurance should be eliminated.

Costs for prescription drugs and related professional services should be included under medicare coverage.

Health care coverage under medicare should be comprehensive, including dental, hearing, and vision needs.

NUTRITION

Proper nutrition is basic to the health of all older Americans.

Unfortunately, many elderly Americans do not have the food they need.

As food costs skyrocket, it is important that supplemental sources of food be made available to older consumers whose incomes are overwhelmed by rising food prices.

Congress has recently extended the food stamp program and authorized semiannual cost-of-living adjustments to the $2.5 billion program that reaches 12 million Americans.

Nutrition programs for the elderly are being extended under the provisions of the Older Americans Act that provide low-cost meals to elderly citizens.

We must see to it that every elderly American enjoys a nutritious diet at an affordable cost.

COMPREHENSIVE HEALTH CARE

Although older Americans receive better health care than many younger Americans, it will be inadequate until health care is put on a comprehensive basis.

There is increasing debate in Congress concerning proposed plans to establish health insurance on a national basis, and the adequacy of health care older Americans may receive in the future could depend upon what approach to national health insurance Congress chooses.

Some bills under discussion would replace medicare entirely with a comprehensive plan for all Americans, some would hardly affect medicare coverage for the elderly at all, and others would expand it.

Until a new and improved system is adopted, it is important that health care for older Americans be improved at all levels.

Some progress is already being made: A $1.27 billion authorization was enacted by Congress for 12 health programs, including hospital construction, comprehensive health services, community mental health centers, regional medical centers, and other programs.

Congress created a 5-year $240 million program to encourage the development of Health Maintenance Organizations which deliver complete health care to participants for a fixed, prepaid fee.

Congress also authorized $185 million over 3 years to assist communities in developing emergency medical services, including ambulance services, emergency rooms, and trained personnel.

Another new law authorizes insured loans to nursing homes to provide better fire protection for their residents.

An improvement in veterans' legislation establishes a National Cemeteries System in the Veterans' Administration and authorizes a special $150 veterans' burial plot allowance, in addition to the previous $250 allowance, in cases where veterans are not buried in a Federal cemetery.

Other veterans' legislation widens the scope of treatment VA hospitals may provide and expands medical services to veterans' dependents.

And further legislation increased Government contributions to Federal employee health plans.

Such changes are helpful but are not enough.

The health concerns of elderly Americans deserve far greater attention, and those concerns do not end with the availability of regular medical treatment. Special emphasis should be given to research into the prevention and treatment of strokes, heart disease, cancer, and other diseases that hit the elderly particularly hard.

We also need a much greater understanding of the very process of aging.

But of course, money, commitment, and effort, not just scientific breakthroughs, are needed in order to deliver proper health care to older Americans.

One elderly gentleman remarked:

> We can send a man to the moon, a President to Peking, but we can't send an old man to the doctor.

His comment was uncomfortably accurate—our priorities on health care have clearly been in error.

We need to insure an adequate supply of well-trained doctors and health personnel in both urban and rural America.

Fragmented, piecemeal health care should be streamlined, made efficient and effective, through coordinated planning at all levels.

Existing health care facilities should be improved, where necessary, and new facilities, including Health Maintenance Organizations and other health care delivery innovations which prove their worth, should be developed.

Most importantly, we must recognize the basic right of all Americans to comprehensive health care regardless of their age or their ability to pay.

HOUSING

Housing is the third principal concern of older Americans.

Many elderly Americans do not have a

safe, decent place to live at a cost they can afford. Approximately 6 million Americans live in unsatisfactory housing, and efforts to overcome this housing deficit for the elderly continue to fall short.

One third of the Nation's elderly live in our deteriorating central cities and must face poor housing, blighted living environments, and crime. In rural America, as well, many of the elderly, especially those with low incomes, live in inadequate housing.

Little or no choice in housing is another problem for older Americans. Available housing is often limited, inconvenient, and unsuitable for the special transportation, recreation, and health needs of elderly Americans.

All too often, living environments discourage, rather than encourage, an open community atmosphere for elderly Americans, including educational, cultural, and recreational facilities they can enjoy and from which they can benefit.

Unfortunately, the recent record on housing is not encouraging.

High mortgage interest rates and building materials shortages have contributed to a general housing slump.

It is distressing that the Administration has undercut most progress on housing for the elderly both before and since its January 1973, declared "moratorium" on housing.

As a result, the goal of 120,000 new housing units to be built for elderly Americans each year has not been achieved. Multifamily housing unit construction for the elderly, already too low, has fallen precipitously.

The Congress is continuing to work for better housing for the elderly, although most of its efforts have been opposed by the administration.

The Older Americans Act was amended to provide for, among other things, housing demonstration programs for the elderly. In addition, other existing housing programs have been extended.

This is hardly enough.

It is highly important that we get housing moving at the Federal level and at all levels throughout the economy.

Legislation to improve housing for the elderly should be emerging soon from Congress that would include Federal block grants for community development, Federal loans and loan interest subsidy programs for the construction of multifamily rental housing for older Americans with low and moderate incomes, and home ownership programs.

Above all, a revitalized national commitment to meeting the housing needs of the elderly is necessary.

We must make available the resources needed to improve housing for the elderly:

We must enable older Americans to remain in their own homes, if they choose, by helping them with housing rehabilitation, by lowering property taxes, and by making energy and fuel for their homes available at reasonable cost.

We must make it easier for elderly Americans to buy homes, by removing age discrimination and making mortgage loans available on an equal basis.

We must provide multiunit housing for older Americans, designed not to isolate them but to enrich and improve their lives with food, health care, and recreational facilities in a social setting.

We must increase production of federally assisted housing for the elderly to at least 120,000 units per year.

We must see that older Americans are protected against fraudulent and exploitative housing practices.

We must secure housing and neighborhoods for the elderly against crime and accidental loss through fire and catastrophe.

We must adapt both rural and urban housing to the needs of older Americans.

In sum, we must make sure that every older American has a decent place to live.

TRANSPORTATION

Along with income, health, and housing, transportation is one of the most important concerns of older Americans.

Inadequate or inaccessible transportation deprives millions of elderly citizens of mobility, so crucial a factor to leading a full life in this society.

The ability to get from place to place for older Americans means the ability to acquire basic necessities such as food, clothing, employment, and medical care. It is also the ability to participate in the social, spiritual, and cultural life of one's community.

Transportation is access to opportunities.

All too often, transportation is restricted to those who can drive and afford the high cost of maintaining an automobile. In many areas, older Americans have no alternative; they go by car or they do not go at all.

For those who drive, operator's license difficulties, auto insurance problems, and the increasing cost of gasoline can present awesome barriers to their freedom.

When and where it is available, public transportation is often unsuited to the special needs of the elderly who may have trouble climbing stairs, opening doors, standing, seeing, or hearing.

Those elderly Americans without transportation are in effect restricted to their homes or immediate neighborhoods. Everything else, perhaps even a movie theater just a few blocks away, is out of bounds.

Immobile older Americans often suffer side effects such as: poor nutrition, because food outlets are inaccessible; poor health, because doctors and medical facilities are out of reach; and withdrawal, loneliness, and despair because friends, relatives, and group activities are in another world.

Some progress is being made on the transportation problems of the elderly.

As well as authorizing funds for better highways, the Federal Aid Highway Act stimulates mass transit and requires that buses and transit vehicles receiving Federal funds be designed for use by elderly and handicapped passengers.

The 1973 Older Americans Comprehensive Services Amendments authorize a wide-ranging study of the transportation problems of the elderly by the Commissioner on Aging.

With respect to rail travel, $154 million was authorized to operate and improve Amtrak rail passenger service.

In addition, we may be seeing transportation legislation emerge from the Congress to tighten air travel security and combat hijacking, to develop a coordinated national transportation system, to improve mass transit, and to reduce travel fares for the elderly.

New approaches to transportation for the elderly should be developed such as dial-a-ride alongside improvements in existing public transportation and new rapid transit systems.

Transportation for the elderly should be designed to take into account their special needs.

Auto insurance and driver's license discrimination on the basis of age should be eliminated.

It is imperative, above all, that the world's most mobile society provide elderly citizens with inexpensive, accessible, and safe transportation.

A NEW ATTITUDE

In order to make real progress toward a good life for older Americans, we must view elderly individuals from a fundamentally different perspective.

We must see them as people, important people, people with ability, people with needs and aspirations, and people with human dignity and great worth.

Above all else, we need to get away from the callous notion that older Americans are "nice," that they have done their part, and that they should now be put on a shelf, or sent to Florida, or stashed away and forgotten in an old age home.

We must reject the idea that retirement is a separate status category reserved for those who turn 62 or 65 overnight, and view retirement, instead, as a gradual process, prepared for over a period of time.

We must also acknowledge, appreciate, and make use of the important contributions the elderly can make.

We must learn to appreciate that older Americans face difficult problems in an increasingly complex society that caters to the working and to the young.

We need a new attitude, an approach that: places human needs at the top of our priorities; places both young and old in the decisionmaking process of this Nation and makes their opinions and their energy felt at all levels; avoids pain and poverty for all and allows dignity in dying as well as in living; and offers safe, enriching, and hospitable environments for young and old alike.

We must realize that older Americans, through the years of dedication and hard work, have earned a right to our respect and a continuing share of the great abundance of this Nation.

We must respond to the challenge posed by the many needs of older Americans, and we must get on with the job of meeting those needs with vigor, with dedication, and with the attitude that we do so because it is right.

NYC COMMISSION ON HUMAN RIGHTS HOLD WEEK OF HEARINGS OF PROGRESS UNDER 1964 CIVIL RIGHTS ACT AND PLANS FOR FUTURE

The **SPEAKER** pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. Abzug) is recognized for 20 minutes.

Ms. ABZUG. Mr. Speaker, all this week the New York City Commission on Human Rights under the conscientious and able leadership of its chairperson, Eleanor Holmes Norton, will be holding hearings on where we have come since the passage of the 1964 Civil Rights Act and where we will go in the future. Under the title "Dismantling Discrimination: Problems and Possibilities for Northern Urban Integration" the commission has heard from public officials, experts in the field, legal opinion, and activists in the field. It was also my privilege to testify on Monday, May 13.

I would like to take this opportunity to insert some of the opening remarks of Commissioner Norton and my own testimony.

Commissioner Norton said:

I am pleased to open what may be the most important hearings ever held by the Commission on Human Rights. They are certainly the most important to be held in the last 4 years. For they will subject to scrutiny and analysis perhaps the least analyzed of the major social problems in the North—the failure of integration mechanisms to work in the Northern environment. The result of this failure is the actual rigidifying of institutions along racial lines in the supposedly more progressive North at a time when Southern institutions are showing increasing adaptability to the needs of integration.

This is a problem of ominous proportions, made even more serious by the failure to come to grips with the inevitable implications of the trend. It is commonly believed that problems such as drug abuse, high crime levels, poor schools, and urban decay are the chief plagues of the Northern cities. We believe these hearings will show that in many cases, these are symptoms of deeper and more complicated phenomena. We believe these hearings will show that the urban condition today is deeply rooted in the failure to intervene into the process by which the cities and their institutions absorb people largely in monolithic racial clusters. Schools, neighborhoods, and finally cities themselves cannot survive the current rate of influx of minorities and outflux of whites because such segregated institutions will be fatally encumbered by disproportionate poverty and demand for services, while the tax base on which the necessary services depend—middle income people and businesses—have separated themselves out or fled to outlying territory.

Testimony of Representative Bella Abzug Before NYC Commission on Human Rights

I am pleased to be with you at these important hearings to assess the progress we have made as a nation in the 10 years since passage of the Civil Rights Act of 1964. Even more important than that assessment is our evaluation of the struggle that lies ahead in our continuing search for equality for all, regardless of sex, sexual orientation, race, religion or ethnic origin.

I would like to pay particular attention to discrimination in employment because it is this discrimination that has the most direct and in many ways the most devastating effect on minorities and women in this city *and in the* country. Only if Black and Puerto Rican men and women in New York can get jobs and earn decent wages, can they ever hope to take advantage of the opportunities opened by our other civil rights advances.

We have made the greatest progress in the fight against employment discrimination by clearly establishing the illegality of such discrimination. It is shocking to recall that only 10 years ago, before the enactment of the 1964 Civil Rights Act, no general federal law and very few state or local laws prohibited discrimination by private employers. To our credit, New York State and New York City were among the first of these few. While the 14th Amendment then, in principle, prohibited employment discrimination by state and local governments, there were no effective mechanisms for enforcing this prohibition. Similarly, no laws or orders ensured compliance with the due process clause requirement of nondiscrimination in Federal Employment.

Now the arsenal of laws prohibiting discrimination in employment because of race, color, religion, sex or national origin is nearly complete, with the exception of additional guarantees that are needed. Earlier today I announced that I was introducing a bill to extend Civil Rights Act protections to all, regardless of sex, sexual orientation or marital status.

The most important element of our arsenal is, of course, Title VII of the 1964 Act, which prohibited such discrimination by private employers, labor unions and employment agencies and which established the Equal Employment Opportunity Commission to receive and attempt to conciliate disputes.

Recently, Title VII has been greatly strengthened by the Equal Employment Opportunity Act of 1972—for the first time authorizing the EEOC to go to court to enforce its decisions and extending its jurisdiction to include state and local government employment. The other important elements of the arsenal include the Equal Pay Act of 1963, Executive Orders 11246 and 11375 which prohibit discrimination by federal contractors, Executive Order 11473 covering federal employment, and the Age Discrimination in Employment Act of 1967.

But while our legal protections have grown stronger, we have been greatly remiss in using them. Our failure is reflected in the continuing disproportionate economic status of minorities. For example, the median income of Black families has remained in the range of 55 to 60% of the white family median income since World War II. In fact, from 1970 to 1972 the Black median family income dropped from 61 to 59% of that of whites. (Data from Library of Congress.)

Recently, Andrew F. Brimmer of the Federal Reserve Board reported that 39,253 businesses with 15 or more employees—this represents 26.9% of all businesses of that size—had no Black employees whatsoever.

The consequences of our failure to eradicate employment discrimination are staggering. The economic cost is enormous. The President's Council of Economic Advisors has estimated that the elimination of all employment discrimination would increase the Gross National Product by $19 billion. Furthermore, it is estimated that more than one-third of the present income differential between Blacks and whites could be wiped out by ending job discrimination. This could be accomplished with absolutely no expenditure of public funds for adult education or manpower training or other such programs.

The human costs of our failure to end employment discrimination are incalculable. There is no statistical measure for the frustration and anger or loss of self-esteem suffered by those of our citizens who know they have been denied a fair and equal chance to support themselves and their families.

The burden of employment discrimination is heaviest on women, particularly minority women who bear the double weight of racism and sexism. Yet, in spite of this, sex discrimination in employment has often been slighted. In fact, the prohibition of discrimination based on sex was not added to Title VII until a few days before its passage in the House of Representatives. Even then, it was added at the instigation of opponents of the Civil Rights Act in an effort to delay and defeat it. (I would add that the prohibition of sex discrimination is still glaringly absent from other titles of the 1964 Act such as Title VI which prohibits discrimination in federally-assisted programs. I have introduced legislation to remedy this omission.)

From this inauspicious beginning, however, sex discrimination has become one of the foremost concerns of the EEOC and of commissions such as this in New York City. About 25% of the approximately 12,000 charges of discrimination that the EEOC receives each year concern sex discrimination.

This large number of sex discrimination cases is not surprising for women are increasingly playing a major role in the American work force. When this century began, there were only some five million women workers, who made up 18% of the total labor force. By 1970, 31.2 million women workers constituted 38% of the total U.S. labor force. And today, 35 million women are in the U.S. labor force, 45% of our female population of age 16 and over. Yet, four out of five of these women are confined to the bottom rungs of the job and pay ladders.

Although women have increasingly participated in the work force, they have received the least of its economic rewards. In 1970, women's median earnings were 59.4% of men's male median earnings. Of all women workers, 73.9% earned less than $7,000 per year, while only 30% of all male workers earned less than this amount. In 1970, only 1.1% of white women earned more than $15,000 a year, while 13.5% of men in the work force earned more than this amount. White males held 95% of all jobs paying more than $15,000 a year.

Women also remain highly concentrated in traditionally female jobs. From 1900 to 1970, the proportion of women working in occupations in which 70% or more of the workers are women has declined only slightly from 55% to 52%. One quarter of all employed women work in only five jobs: secretary-stenographer, household worker, bookkeeper, elementary school teacher, and waitress.

Minority women are at the bottom of the occupational ladder. Twenty-five percent of all non-white women are in the lowest paying occupation as private household workers. Non-white women make up half of all women in this occupation. On the other hand, in 1971, only 31% of non-white women held white collar jobs while 60.5% of all women workers held such jobs.

Minority women also earn considerably less and suffer higher unemployment than any other workers. In 1970, median annual incomes for fulltime workers were as follows: white males, $9,373; black males, $6,598; white women, $5,490, and black women, $4,674. (I have no figures for Spanish-speaking women, but limited data I have seen show that in New York their earnings are even below those of black women.) The unemployment rate for men in 1972 was 4.9% compared with 6.6% for all women and 8.7% for minority women. Black teenage women had an unemployment rate of 36%.

In 1970, the President's Task Force on Women's Rights and Responsibilities unequivocally declared: "Sex bias takes a greater economic toll than racial bias." The combined toll of both these discriminations on minority women is appalling.

I must take issue at this point with a recent article in the New York Times (May 6, 1974) by Dr. Alvin F. Poussaint, associate professor of psychiatry at the Harvard Medical School, in which he reports that some black leaders "feel their cause threatened by the women's liberation movement." He notes that "blacks see women taking jobs and opportunities that might otherwise belong to them."

Dr. Poussaint urges the women's movement and minority groups to put aside their conflicts and work together, a recommendation with which I agree, but not once does

Dr. Poussaint mention that at least half the black population consists of women or that black women are doubly oppressed. In fact, I believe the women's movement is greatly concerned with the status of black women. Although in its early stages the women's liberation movement was led by middle-class, well-educated women, it has now gone far beyond that. I would cite, for example, the recent formation of the black women's caucus, the organization of the Household Workers Union under the leadership of Carolyn Reed, and the organization of the Coalition of Labor Union Women, which includes black women in its leadership. I believe the data I have presented show that minority women have a stake in the developing strength of the women's movement, which is one of the main hopes we have that legal protections will be utilized and enforced.

Incidentally, Dr. Poussaint's blind spot with regard to black women is duplicated in many of the arguments I have seen attacking socalled "quota" hiring in the universities as a threat to Jewish employment. In none of these arguments is it considered that women are also Jewish and that Jewish women as well as black women, white women of other religious and ethnic groups, and Puerto Rican women have been victims of discrimination in education along with minority men.

As I have indicated, we have, at least for the time being, the legal arsenal to wipe out employment discrimination. But if we are to accomplish this goal, we must continue to move quickly and decisively as we have begun to in the last few years. Our progress stands in danger, however.

First, there is the continuing threat of inertia and inefficiency. The backlog of cases which the EEOC has yet to resolve continues to grow, and it has been exceedingly slow in effectively using its new authority to go to court. In this regard, the New York Commission on Human Rights can play a vital role by setting an example for the federal government through the efficiency of your operations and the completeness of your remedial orders.

There is an even greater danger, however, that we will lose our will and that we will not persevere. This danger is seen most clearly in the controversy over affirmative action, a controversy which in the *DeFunis* case threatened to take this crucial weapon away from the arsenal of federal, state, and local law.

Just as the opposition to busing has sprung up as the requirements for school desegregation have reached the North and its suburbs, so, too, the clamour over "quotas" has become respectable to some as affirmative action programs intended to remedy employment discrimination have touched the middle class and elite institutions.

We should not condone double standards. We must not have one legal principle governing admission to the lathers union, for example, and another governing admission to our law schools. The requirements of affirmative action to overcome the continuing effects of past discrimination in our universities must be the same as the requirements to overcome these effects in our factories.

Since the passage of the Civil Rights Act of 1964, the struggle to eliminate discrimination has come home to the North. We now know that our practices have been little different from those of any other region. We must take the same cure.

President Johnson stated just weeks before his death: "To be black in a white society is not to stand on level and equal ground. While the races may stand side by side, whites stand on history's mountain and blacks in history's hollow. Until we overcome unequal history, we cannot overcome unequal opportunity."

I would only add that women—both white and minority women—also stand in history's hollow and share equally the need for our affirmative efforts in the years ahead.

SULFUR CONTENT OF WESTERN COAL

(Mrs. MINK asked and was given permission to extend her remarks at this point in the RECORD and to include extraneous matter.)

Mrs. MINK. Mr. Speaker, coping with the sulfur contained in our coal reserves is one of the most vexing issues we face today, with regard to the maintenance of environmental quality in America. The Environmental Protection Agency has required States to establish stringent air quality standards governing the amount of sulfur oxides which a given power generating plant may legally discharge into the air. As a result, many utilities find themselves caught between the EPA and the Federal Energy Office, which has been insisting that conversion from residual fuel oil to coal is necessary in order to conserve our vulnerable oil supplies. In searching for sources of low-sulfur coal which would meet the requirements of both Federal agencies, many electric utilities are looking to the vast strippable reserves of subbituminous coal and lignite which are located in the northern Great Plains region.

The American Electric Power System, for example, is already pouring millions of dollars into a transportation network designed to bring Wyoming coal by train and barge to its powerplants on the Ohio River, including parts of West Virginia. If this trend continues, we are likely to see Appalachian coal driven from its traditional utility markets. Appalachian underground coal mines which normally serve the utility market are then likely to close in large numbers, and many more Appalachian miners will be out of work.

In light of this I feel it is highly significant that Dr. Thomas V. Falkie, Director of the Bureau of Mines and Chairman of the Interagency Coal Task Force, which is currently attempting to define an overall coal strategy for the Nation stated in a speech delivered to the American Association of Petroleum Geologists in Pittsburgh, Pa., on April 18, 1974:

> What is not known generally is the fact that the air quality control regulations are based on sulfur dioxide emissions per million Btu's of energy input and that, because of their relatively low Btu value, a large part of the Western low-sulfur reserve cannot meet established or proposed air-quality standards.

Mr. Speaker, we need to examine very carefully the rush to bring western coal into the Appalachian and Midwestern markets. We need to determine whether it is in the long-term national interest to bypass the underground mines of Appalachia, or whether we would do better to find ways of utilizing the large low-sulfur coal reserves in Appalachia and the know-how that has been developed over the years.

I wish to share with my colleagues the text of this speech by Dr. Falkie, for the illumination he casts upon the great energy potential of the Appalachian region and its implications for the rest of the Nation:

THE ENERGY RESERVES OF APPALACHIA

(By Dr. Thomas V. Falkie)

A lot of jokes are making the rounds these days with punch lines that begin "I have some good news and some bad news." That's how I feel today, talking about the energy reserves of Appalachia. The reserves themselves are no joking matter, although many people are totally unaware of their significance. For such people, and for the people of Appalachia, I have good news: Appalachia, so long a major source of energy for America's industrial growth, is still rich in fuels. Contrary to widespread belief, the energy reserves of this region are not depleted. The bad news is that the reserves are not just there for the taking, either. We're going to have to work at it, like never before.

Before we go any further, some definitions. I'm using the term "reserves" as newly defined in an agreement on resource terminology just reached between the Interior Department's Bureau of Mines and its Geological Survey. According to that agreement, reserves are: "That portion of the identified resource from which a usable mineral or energy commodity can be economically and legally extracted at the time of determination." This definition aims at making it clear that any reserve figure is a dependent variable—dependent on many things, including prices and legal restraints of all kinds. In fact, it is so hard to assign fixed values to these controlling variables that any given reserve figure is understood to include a 20 percent margin of uncertainty.

By the term "Appalachia," I mean most of southern New York; most of Pennsylvania; all of West Virginia; western Maryland and southeastern Ohio; eastern Tennessee and eastern Kentucky; the western Carolinas; plus northern Georgia and northern Alabama. Not everything I say applies to all of those areas, of course, but together they are Appalachia.

The Appalachian region is richly endowed with energy resources. Most of it is in the form of coal, but the region also has important deposits of other fuels, particularly natural gas.

Natural gas is among the region's most important mineral commodities, ranking second only to coal in production value. Appalachian gas was worth $162 million in 1973. Currently, however, Appalachia's output represents only two percent of the Nation's total production of natural gas. Appalachia's share has declined from five percent of the U.S. total in 1972, and nine percent in 1948, but the quantities of gas produced have remained relatively constant, with Appalachian output in 1972 at virtually the same level as in 1948.

Fields of natural gas occur in almost every part of Appalachia, but the largest and most productive fields are in Kentucky, Ohio, Pennsylvania, and West Virginia. These four States currently produce 98 percent of the natural gas from Appalachia, with West Virginia, alone, accounting for 50 percent of the volume.

Appalachian gas reserves currently total 6.3 trillion cubic feet, and over the past twenty years they have increased 34 percent, which is about the same increase recorded for total U.S. reserves. The numbers are misleading, however, because 28 percent of the Appalachian reserve in 1972 consisted of gas in underground storage. The industry moves gas from large supply areas to underground reservoirs—depleted gasfields—close to major market areas. This gas is stored until needed for load balancing and peak shaving operations. At the end of 1972, approximately 37 percent of the gas stored underground in the United States was stored in the Appalachian region.

The average gas well in Appalachia was drilled to a depth of about 3,100 feet, compared to the national average of 5,975 feet. Shallow exploration and production is characteristic of the Appalachian area and continuation of this type of exploration in the known oil and gas areas is expected to result in the discovery of new reserves. But enough is known of the region from density drilling to estimate that new large shallow fields will probably not be found. On the other hand, deep drilling, little of which has been done, offers brighter possibilities for the discovery of additional large reserves.

Another bright possibility for Appalachia is the extraction of methane in commercial quantities from coalbeds. Methane is a major hazard to underground coal miners, and conventional practice is to sweep it out of the mines with ventilating air. To enhance safety in underground mining, the Bureau of Mines began experiments in the degasification of virgin coalbeds, before mining, through special boreholes. Right now, as a direct result of those experiments, a West Virginia borehole is producing gas faster than most Appalachia gas wells, and the gas is being fed into a commercial pipeline near Morgantown at rates of about three-quarters of a million cubic feet per day.

Strictly speaking, there are no "reserves" of this gas on the books yet, except for the gas we are now producing, because of the uncertainties in determining how much of it can be made available. Such considerations as the proximity of a given coalbed to a natural gas pipeline, and the willingness of coal operators to adopt the technique, must be taken into account. It is obvious, however, that the potential is great, especially in Appalachia, with its rich reserves of "gassy" coal and its strategic location on the natural gas pipeline route between Southwestern producers and Eastern consumers. The Bureau will be doing its best to advance this process of borehole degasification in the coming years.

Although petroleum is an important mineral commodity in a few areas, production in Appalachia in 1973 amounted to only 7 million barrels, two-tenths of a percent of the total United States output. Of the Appalachian output, Pennsylvania produced about 50 percent and West Virginia produced most of the remainder.

Appalachian petroleum and natural gas liquid reserves are estimated at 556 million barrels, 1.2 percent of the U.S. total, but progress in secondary and tertiary recovery should raise this figure substantially. Of the current reserve, about half occurs in Ohio and West Virginia with the remainder about evenly distributed in Alabama, Kentucky, and Pennsylvania.

This brings us to coal. Appalachia's future in energy resource development lies with coal.

The Appalachian States have long been major suppliers of coal. Bureau of Mines records show that approximately 41 billion tons of coal was produced in the United States from 1890 through 1972 and, of this quantity, nearly 70 percent came from the Appalachian States. In recent years, production patterns have changed somewhat, but the Appalachian region still accounts for nearly two-thirds of the Nation's coal production.

Preliminary data show that the Appalachian States produced 425 million tons of coal in 1973 and accounted for an estimated 14 percent of the Nation's total energy output. Most of this coal went for electric-power generation, but the region also supplied 90 percent of the premium-quality bituminous coals required for the production of metallurgical coke, 9 percent of the coals shipped to other industrial plants, and virtually all of the coals exported. And, significantly, the Appalachian region supplied an estimated 80 percent of the low-sulfur coals produced in the United States in 1973.

Recent Bureau of Mines estimates show that the Appalachian region has a demonstrated recoverable coal reserve of 56 billion tons, roughly one-third of the United States total on a tonnage basis. West Virginia has nearly half of this reserve, while Pennsylvania has about one-fourth, Ohio has 12 percent, and East Kentucky has 8 percent. The remaining 5 percent occurs in Alabama, Maryland, Tennessee, and Virginia.

Appalachian deposits contain an estimated 28 percent of the United States demonstrated reserve of low-sulfur coal. Nearly one-fourth of this coal occurs in West Virginia, but East Kentucky and Pennsylvania also have sizable deposits. The Appalachian region also has the bulk of the coking coal reserve of the United States.

We have no reliable information on the portion of the demonstrated reserve in Appalachia that is recoverable by various mining methods. However, preliminary information developed in a study on underground reserves now being conducted by the Bureau of Mines indicates that in contrast with Western coal reserves, only a relatively small percent of the total Appalachian reserve is amenable to surface mining.

The United States currently has a 15 percent shortfall between energy supply and demand. Recent evaluations indicate that we will continue to have an energy deficiency until at least 1980. It is most probable, therefore, that the Nation will look to Appalachian coals for additional energy supplies, at least during this short-term period. The reserves are abundant, and they are located close to the major consumers.

I wish I could leave it at that. But there are formidable problems that must be resolved before we can expect an expansion of coal development, particularly in Appalachia. First, the Federal Government must provide a national energy policy that will give industry realistic planning criteria. That policy must address itself to the resolution of other problems, principally environmental restrictions, capital shortages, transportation deficiencies, and technologic constraints.

I am heading an Interagency Coal Task Force that has been charged with a responsibility for recommending some of the solutions to Problem Number One. Our job is to propose ways in which coal's contribution to our energy needs can be greatly increased. We will be dealing, of course, with the other problems I have named, and until our recommendations are published, it would be inappropriate for me to speculate on what they might be. I can, however, sketch the dimensions of those problems as we see them.

The environmental problems concerned with the production and use of coal are multiple, but two are of major importance. One is the air-quality standards imposed by the Clean Air Act Amendments of 1970; the other, pending Federal strip-mine legislation.

New air-quality standards are scheduled to be implemented by some States in about one year. Imposition of these standards on schedule will definitely disqualify for use large quantities of Appalachian coals that are now being produced because their sulfur content cannot be reduced sufficiently, and commercial processes for removing sulfur from stack gases have not yet been perfected. The Appalachian region has significant reserves of low-sulfur coals but their commercial development has not kept pace with that of the higher-sulfur coals because of higher production costs. Any significant expansion of facilities for producing Appalachian low-sulfur coals, even under ideal conditions, is not possible in less than 5 years.

On this point, incidentally, the news is not really as bad as many believe it to be.

It is generally accepted as fact that the Western States have the bulk of the Nation's low-sulfur coal reserves and that any stringent enforcement of the air-quality control regulations would rule out the use of most of the Eastern coals, with a subsequent movement to Western coal development. But what is not known generally is the fact that the regulations are based on sulfur dioxide emissions per million Btu's of energy input and that, because of their relatively low Btu value, a large part of the Western low-sulfur reserve cannot meet established or proposed air-quality standards.

Recent regulations applicable to all major new fuel-burning plants constructed or modified after August 1971, limit SO_2 emissions to 1.2 pounds of SO_2 per million Btu's of input. Converted to sulfur content, this means that a coal containing 1.0 percent sulfur must have a caloric value of 16,666 Btu's per pound to comply with the standards. Calorific values of Eastern coals average, roughly, 12,000 Btu's per pound and at this value, the maximum allowable sulfur content for such coal is about 0.72 percent. Coals that have a caloric value of 14,000 Btu's per pound may have a sulfur content as high as 0.84 percent. On the other hand, Western low-sulfur coals probably average about 9,000 Btu's per pound and, in order to comply with the mentioned standards, their sulfur content would be limited to an average of 0.54 percent.

The other environmental problem area, surface reclamation, is being approached by proposed Federal strip-mine legislation which, if enacted, could have an impact on Appalachian production. A significant feature of pending legislation, passed by the Senate and being considered by the House, is a provision that requires the restoration of surface-mined coal lands to their original contour. The proposed bills provide, essentially, for backfilling, compaction, and grading to restore the approximate original contour of the land. That would represent a challenge to the industry and to existing technology. But the most difficult challenge of all is posed by the uncertainty as to what will eventually happen.

Of greater concern than at any time in the past is the availability of capital for the development of new coal mines. When these environmental uncertainties are put together with rising costs for new mine development, and the competition for investment capital from other energy resource-developing industries, it becomes much more difficult to attract money to the coal industry.

Another problem is transportation. Coal is moved from mines to market principally by rail and, right now, there are shortages of railroad hopper cars, particularly east of the Mississippi River. This deficiency affects coal movement and daily mine production too, as there are little or no storage facilities at mines and they cannot operate without a regular and adequate supply of railroad cars. The major railroads in the East have had serious financial problems in recent years and it is doubtful that they will be able to meet the expected demand for transporting coal without government or other assistance.

This brings us, finally, to the technology question, one that embraces and pervades all the others. The problems of pollution, capital requirements, and transportation shortages all express themselves in technologic terms—that is, they are all contingent on the use of current technology. And it is just here that I see some real hope for Appalachian coals and the Nation in general, for it is the technology of coal production and use that is most likely to change for the better over the next twenty years.

Without anticipating any Task Force recommendations I can point out that the Bureau of Mines is already deeply committed to coal mining technology improvements that would radically enhance the position of Appalachian coals. In particular, we have programs to develop new mining methods appropriate to the deeper Appalachian deposits not being mined today, and to greatly advance surface mining technology from all aspects, including environmental. The potential impact of such improvements is obvious. Better underground mining methods could increase output, thus effectively lowering capital investment requirements, for instance; or better surface mining technology could restore the good name and high production potential of this method. Other Bureau research also has a bearing on these problems, especially our work on getting sulfur oxides out of coal stack gases. Our very promising citrate process is undergoing two successful small-scale field trials, and may soon go to a much larger field test. In another approach, we are preparing for an Appalachian field test of underground coal gasification, a technique we hope will produce a clean, low-energy gas for generating electricity. Other gasification and liquefaction work is also underway.

Many people will object that such developments will do nothing to improve the short-run prospects of Appalachian coal and that is so. But it is equally true that no long-term improvements will come without such developments. It is foolish, for instance, to insist that relaxation of environmental restrictions will restore Appalachian coals to their rightful primacy in meeting America's energy demands. Those demands will soon be so great, if they aren't already, that conventional coal production technology could not meet them under any circumstances. The technology must change. And so it will.

Let me finish up with a brief look at the short-term prospects. Most of the Appalachian coals for the next decade or so will be consumed in markets already established, that is, electric-power generation, coke production, and exports.

Although there must be some reevaluation because of the current energy situation, recent Department of the Interior studies have concluded that energy resource inputs into the electric-utility sector in 1985 will be more than double the 1972 input and that nearly 60 percent of the input will be supplied by coal. This equates to a coal demand of 613 million tons for power generation in 1985, nearly twice the quantity consumed in 1973.

It is not possible to estimate the Appalachian region's share of this market because the bulk of the Appalachian coals going to electric utilities right now have sulfur contents that exceed the limitations proposed in most of the air-quality standards. It has been indicated that there may be some relaxation of the standards. If there is, the Appalachian States probably would maintain their present levels of supply to utilities, plus additional quantities commensurate with the percentages of utility coal that they supplied in the past. It appears also that a number of eastern utility plants that formerly burned coal but are now fueled with low-sulfur fuel oil will reconvert to coal because of the fuel-oil shortage. A recent Federal Power Commission study has shown that 46 such plants are located in the East and that Appalachian coals would probably supply most of the coals required in such a conversion.

The Appalachian region will continue to be called upon to provide the bulk of the premium quality coals required for the production of coke that is needed to reduce iron ore before it is converted into steel. But the quantities of this coal required in the near-term period are not expected to be materially larger than those of the present because, although iron requirements will increase, coke requirements per ton of iron production will decrease with continuing improvements in iron extraction technology.

There will be continuing demand for United States coals, especially coking coals, in foreign markets and exports have been forecast to double by 1980 and reach 138 million tons by 1985. There has been some concern about the advisability of exporting domestic coals when the Nation has an energy shortage. The bulk of these coals are low in sulfur and, although many of them could be used as utility fuel in lieu of low-sulfur fuel oil, they command premium prices and usually their use by utilities would require some technological changes in power-generating equipment. Also, we must not lose sight of the fact that our coal exports earn credits to our international balance of payments of about $1 billion annually.

In summary, the great potential of Appalachian energy is contingent on several major developments that can be expected to emerge over the next few years. First will come new Federal policies on coal; then new coal technologies. As a native of Appalachia, I may be prejudiced, but I cannot help but believe that the outcome will be a bright future for this energy-rich region.

Thank you.

GRADUATE AND PROFESSIONAL EDUCATION OF WOMEN

(Mrs. MINK asked and was given permission to extend her remarks at this point in the RECORD and to include extraneous matter.)

Mrs. MINK. Mr. Speaker, on Friday last week, I attended an AAUW Conference on Graduate and Professional Education of Women. I would like to share with the Members an excellent review of the literature and bibliography on this subject prepared by Ruth M. Oltman, assistant, director of program, higher education AAUW:

A. BACKGROUND AND CURRENT DEVELOPMENTS

"While the desirability of women obtaining an undergraduate education is now universally accepted, . . . the value of graduate education for women is not—except in 'appropriate' fields" (Newman, 1973). There have been some changes over the past three years, but data shows that women still seek the traditional graduate programs, overlooking many areas which are only gradually opening up to them, partly because of requirements of the law. It will take time for high school and college counseling and guidance publications to "catch up" with the changes occurring and to open broader educational and vocational fields for choice to women. APGA's (1970) own policy statement on "career decisionmaking that protects freedom of choice while enhancing wisdom of choice" needs full implementation at all levels but particularly at the graduate level. CEEB's (1974) study of college-bound seniors showed many more males than females planning on graduate study and twice as many females intending to complete only a two-year program. The reasons must be examined and the causes remedied.

1. REPORT ON GRADUATE EDUCATION

To understand the problems of access of women to higher education and their retention in graduate programs, once they are admitted, it is necessary to look at the present status of graduate education itself and some of the recent studies which provide analysis of current general issues. Graduate schools have been criticized for failing to respond to the needs of society and of the new types of students seeking advanced training. The ETS report (1973) on the Panel on Alternate Approaches to Graduate Education examines these criticisms of "cultural lag" and makes recommendations for change. These include more discipline-related programs off campus; broader ways of evaluating out of classroom experience, faculty teaching, and curriculum; and increase in the admission of women and minority students who have been "hitherto discriminated against." "The politics of graduate education reflect the influence of a discriminating society," the report states. These recommendations would necessitate some major changes in procedures and attitudes, particularly toward part-time and more flexible programs of study, and new concepts of the role of the graduate faculty. They also would benefit women.

The decline in Federal financing of graduate education and research and of graduate students has been a matter of much concern because of the threat of erosion of quality graduate programs and reduction of research capabilities. In its report on Federal policy alternatives the National Board of Graduate Education (NBGE, 1974) outlines the importance of graduate education scholarship and research to both the university and society, and makes recommendations for a positive program of Federal support. These include assuring that "graduate education contributes to the National commitment to eliminate discrimination based on race, sex, age and socio-economic status."

In another NBGE study (1973) recommendations are made for long-term Federal commitment to doctorate manpower needs. Competitive fellowships to meet the needs of the most academically talented young people are suggested. The report also recommends that the numbers of minority group members and women employed in professional and faculty positions be increased.

The National Science Foundation did a survey (NSF, 1973) of manpower resources and support of graduate science education in the fall of 1971. This demonstrated a decline in enrollment of both U.S. and foreign students and a reduction in research and teaching assistantships, as well as in Federal support.

Derek Bok's presidential statement on graduate education at Harvard (Bok, 1973) illustrates the status of graduate programs on one campus, how it dealt with the drastic cuts in Federal funding, made changes in curriculum to fit social changes, and attempted to analyze and solve the problems of attrition.

Report No. 4 of the Newman Task Force II (Newman, 1973) examines the growth of American graduate education and reasons for Federal cutbacks, based on overall manpower evaluations. It recommends ways of focusing the Federal role sharply on excellence and reform through several kinds of incentives to students and institutions and redistribution of funding. "The Federal Government in the 1970's must become concerned with the kind and quality of graduates leaving the nation's universities . . . and seek to redirect graduate education to new social needs," it concludes. In awarding the "portable" fellowships in national competition suggested, "women would be awarded fellowships on equal terms with men. An individual dean or department chairman would not be in a position to play favorites. . . . To refuse admission to a woman fellowship holder would involve a clear cost . . .—the companion grant she would bring with her. If her family circumstances required her to change institutions, she would take both fellowship and companion grant to another university. It is hard to believe that her claims for help in obtaining housing or with her children would go unheard as frequently as present." The reply of the NBGE (Chronicle, 1973) is that "women are underrepresented in graduate schools primarily because fewer of them apply" and that "acceptance rates for men and women are about the same." Solmon (1973) makes a similar conclusion.

2. REPORTS ON WOMEN IN HIGHER EDUCATION

One of the most comprehensive studies of opportunities for women in higher education is found in the Carnegie report (1973), which contains seven specific recommendations regarding women in graduate study. These relate to non-discrimination in admissions, equal recruiting efforts, support of part-time study, flexibility in time limits for degree completion, equity in awarding fellowships or in appointing teaching and research assistants, provisions for the mature woman returning for graduate study, and positive attitudes on the part of faculty toward the serious pursuit of graduate study and research by women. Responsibility of the university for child care services is recommended in another chapter. A Women's Bureau survey (USDL, 1973) of programs for children on campus found that an estimated one out of four campuses had a day care center nursery or laboratory school program, 80% of which charge a fee.

At its annual meeting in 1972 the Council of Graduate Schools (Ryan, 1972), Scott and Rumbarger provided interesting new data on women in graduate education. "In the high prestige universities," says Scott, "the percentage of women faculty in any department tends to be much smaller (often zero) than the percentage of graduate students who are women." "The facts on women graduate students tend to belie the myths." "We should not talk of diluting standards," Rumberger states, "but rather look forward to the transfusion which these persons [women] can give to our intellectual life."

In "Beyond the Open Door," Cross (1971) examines the access of educational opportunity to various groups and some of the projects developed to increase that access. In considering women as "new students" she believes that "numerically women constitute by far the largest reservoir of youthful talent *not* presently continuing education beyond high school," particularly in the lower economic levels.

Feldman's comprehensive research reported in "Escape from the Doll House" (Feldman, 1973) examines four aspects of inequality in graduate education. First, women have been channeled into academic disciplines which are traditional and of low power and prestige. Then, women have lower academic goals and have a less positive self-image than men and are less likely to be in the prestigious universities. The dedication of women to academic achievement is traditionally seen as less than that of men and marriage is considered an impediment creating conflict but "given equal opportunity, any differences in dedication disappears," he finds.

A research survey on graduate school admissions is available from ERIC (Harvey, 1971).

B. SOCIAL FACTORS AND ATTITUDES

Social factors and attitudes of men towards women and women towards themselves create most of the problems which women experience in seeking an education and in using it fully. Higher education has yet to see its responsibility for the reeducation of learned social roles which operate to distort the image of women and restrict the contributions which women have to make to higher education and to society.

Considerable research has been done to dispel prevailing myths and to define the influencing factors. Astin's study (1969) clearly demonstrated that women with the doctorate *do* use their training and that "once a woman decides to invest herself, her time, and her energy in pursuit of specialized training, the likelihood of her maintaining a strong career interest and commitment is very high." Renshaw and Pennell (1969) found similar results in their survey of women with the M.D. degree, most of whom were practicing physicians.

Frankel (1974) found a close correlation between self-concept and attitudes toward femininity. If the latter as seen as requiring passive and dependent behavior, the self-concept is likely to be negative, with goals and behavior which is nonachievement oriented and "other"-directed. Findings for undergraduate and alumnae women used for the survey were similar. This adds another dimension to Horner's observations (1969) on woman's "will to fail."

Lavine (1973) sees the move by women to law schools as motivated by the desire to reconcile the conflict between fear of social disapproval and professional success in a field which will help to fulfill the social ideals of the female. Law provides a *fusion* between the aggressive trait and the helping role usually associated with women. But should this not, then, be equally true of medicine?

Attitudes of counselors reflect the stereotypes of social roles. Collins and Sedlacek (1974) found systematic differences in how counselors perceive their male and female clients. Men were seen as having more vocational-educational problems than women and women more often to have emotional-social problems. Whether these are real differences or the result of counselor's expectations and stereotypes, the attitudes do affect significantly how women are counseled.

Much has been said about "role models" and the value of these to women in higher education. Tidball's study (1973) confirmed this on a statistical basis. She found that the number of successful career graduates to be directly proportional to the number of women faculty in the achievers' undergraduate institutions at the time they were students. A disproportionately high number of women achievers came from women's colleges. Conversely, the higher the percent of men students enrolled, the smaller the number of women achievers. Campus career conferences, such as that described by Plotsky and Goad (1974) are planned, in fact, to "provide exposure to professional women who served as role models—temporary 'significant others' for the undergraduate women." They found that some graduate women in non-traditional departments felt particularly isolated and in need of supportive role models.

Another aspect of the graduate woman's problem is her relationship as a scholar to her male peers and professors. The Holstroms (1974) examined some of the factors which contribute to emotional strain and self-doubts among women doctoral students. Analysis of Creager's data (1971) demonstrated that faculty attitudes and behaviors contributed significantly. Interaction with faculty, though related to general satisfaction with graduate school for both men and women doctoral students, was significantly less for women students. Again, "role models" of women faculty may contribute to the solution, as well as a change in the "climate of expectation."

Kjerulff and Blood (1973) study confirms the Holstrom findings. "In terms of communication with professors, women graduate students do seem to be at a disadvantage in comparison with their male peers. They saw their research advisors less often, especially outside of the office context, and had fewer discussions with their research advisor." "Female graduate students thus miss out on a type of informal communication which could be helpful both in terms of acquiring research information and developing feelings of belonging in the field and acceptance as a colleague." Verbal communication thus is seen as related to research activity, stress tolerance, and attrition in graduate school.

Feldman's (1974) chapter on "External Constraints," analyzes the traditional relation between marital status and graduate education, as "life outside of graduate school may have a strong effect on life within it." While at one time pursuit of a career as a scholar was possible only for spinsters, it is interesting to note that 55% of the women receiving doctorates in 1972 were married (NRC, 1973). Feldman's data shows that "if graduate women do marry, they are much more likely than men to have a spouse with graduate education." Family circumstances or pressure from the husband often force primacy of family over a career or even may cause divorce.

(See also conference papers by Sheila Tobias, Martha Kent, and Linda Hartsock.)

C. INSTITUTIONAL BARRIERS

In March, 1974, a conference was held on the Douglass College campus on "Part-time Graduate Study: New Roads to a Degree" with particular reference to its value to women. While full-time graduate study has its advantages, generally the life-patterns of women do not adapt to it and a more flexible structure is needed. This restriction to full-time graduate study at many institutions and the practice of granting financial aid only to full-time students are two of the major barriers to women's pursuit of education beyond the baccalaureate degree. Douglass has prepared a useful resource book on part-time opportunities for graduate and professional study in the states of Delaware, New Jersey, New York and Pennsylvania.

Pitchell (1974) has reported that of all students enrolled in post-secondary educational programs, more than half are studying part-time, the majority of whom are women. He has proposed that we can no longer overlook the financial needs of these students and suggests seeking Federal support if we are truly committed to the concept of life-long learning.

Sells (1974) reports that women at the University of California who once had a drop-out rate twice that of men now complete their doctorates as often as men. Her project grew out of a concern for understanding the psychological and social factors contributing to the high drop-out rate of women. Among the problems women experienced were progressive demoralization by lack of acceptance by faculty as colleagues, negative faculty attitudes toward women, and ambivalence and conflict in women's own feelings about careers. Suggested were seminars of peers to discuss their problems, when preparing for exams and when writing dissertations.

Burstyn (1973) has reviewed the experiences of women at Carnegie-Mellon University as a result of administrative decisions which have had profound effect on their opportunities. Programs attracting women, such as social work and library science, were terminated and, in 1973, Margaret Morrison College for Women was abolished. In 1970-71 women received fewest degrees in the Graduate School of Industrial Administration, where there were only two faculty women. Only five other women taught in the graduate school. The percentage of women receiving master's degrees fell from 20% to 9% from 1946 to 1970, due principally to the structural changes in the university.

Davis (1973) describes some of her own experiences in graduate school which led to conclusions concerning informal structures of universities as they affect women, such as prejudging the attrition potential of women, counseling women to take the M.A. "just in case," greater interaction of male students with professors, criteria for awarding fellowships, placement differentials and, again, lack of female role models.

Clifford and Walster (1970) sent 240 college and university applications for admission which were identical at three ability levels, varying only by race and sex. Males were found to be markedly preferred at low levels, although the preference leveled off at higher levels.

The National Commission on Financing

Post Secondary Education, in a recent report (Mathews, 1974), found that an "equal chance to attend college is still denied prospective students from low income families, racial and ethnic minorities, large cities and rural areas, and *women*." Chalmers (1972) examined the complex reasons for the proportionately fewer women than men in higher education and raises the question as to "what *is* the obligation of graduate and professional schools sincerely committed to the elimination of discrimination." He suggests raising questions regarding bias wherever indicated and developing compensatory recruitment programs.

In reviewing the potential of non-traditional graduate admissions, Brown and Gregg (1973) look at the traditional methods which have merit but also at the increasing numbers of new students—minorities, women reentering education, mid-career persons who must be served, and at the factors which require non-traditional approaches—such as increased student mobility and competencies not learned in the classroom. They raise the basic question: "Can an elitest institution, graduate education, react to the broad social pressures to meet the needs of our modern society without finding it essential to redefine its mission and modes of operation?"

Finally, Harvey (1971) sums up the major issues in graduate school admissions and reasons for non-entry, reviewing the relevant literature. Procedures used for evaluation are surveyed and criteria for admission are examined. Sex and academic performance are noted to be significantly related to application. "Women, though better students, are not enrolling in proper proportions. . . . If graduate schools are interested in attracting the best students, women should not be discouraged" as they often are. "The impression exists that the admissions process on the graduate level is haphazard if not indeed capricious," he states. Suggestions are made for improving this process.

D. TRENDS IN SPECIFIC DISCIPLINES

The annual report on doctorate recipients prepared by the National Research Council (see NRC, 1973) for the first time in 1973 included a complete analysis of data on women. 16% of those receiving doctorates in 1972 were women, following a slow increase since 1954, when the percentage was a low 9.1, although it had been 16.8 in 1929! In 1972 the median age for women receiving the doctorate was only 2 years higher than for men and the time lapse since the baccalaureate also only 2 years more. Actual *enrollment* time, however, was about the same. 55% of the women were married. (See paper by Clarebeth Cunningham of NRC).

Enrollment of women in the professional schools has increased over the past few years, in some instances dramatically. Examples from several of the disciplines will demonstrate.

In medicine the increase in enrollment has been the result of both legal requirements (Health Manpower Act of 1971) and Federal incentives for the expansion of total medical school enrollments (Spingarn 1974). Women represented 16.8% of all first year medical students in 1972–3 as compared to 9.0% in 1968–9 (Dubé 1974) and estimates are as high as 19% for 1973–4. This increase has not been at the expense of male students, whose numbers also have increased, but at a slower rate. A number of schools are taking a larger percentage of women than men applicants because they already are a more selective group. Eastern Virginia Medical School recognizes that better counseling and encouragement is needed for women in considering medicine as a career. The Medical College of Pennsylvania has launched a part-time residency for currently inactive women M.D.'s to get them back into the main stream of medicine; New York University has a part-time residency in psychiatry. (See report prepared by Dr. Margery Wilson of AAMC.)

While more women than men drop out of medical school for non-academic reasons (for academic reasons they are similar), there appears to be no study of the reasons or whether some of these women might, with counseling or assistance, return. Spingarn (1974) reports that women rejected for admission "represent a much greater intellectual and financial loss to health and medical care, to society, and to themselves." While most rejectees do go into graduate school, (74% men, 42% women) women turn to fields such as laboratory technology or choose other careers with lower educational requirements. Like the men, they report little help from their college advisers at the time of rejection.

Pharmacy has always had a fairly high percentage of women. In September of 1973 women made up 27.3% of the 73 schools of pharmacy in the U.S. In addition 25.8% of those in master's program were women and 14.7% of those in doctorate programs (Bliven 1974).

Engineering has been seen less as a woman's field, and women with a liking for science and mathematics often are not guided to consider engineering as a vocation. From 1960 to 1971, however, the % of women receiving engineering degrees increased from 0.38% to 0.82% and the number of master's and doctor's degrees increased more than seven fold (Kotel 1973). Women tend to concentrate in chemical engineering more than in mechanical or electrical; they also work more in research, development and design than in production, construction or management. Recently engineering schools have been making direct appeals to interest women in engineering—Stanford, e.g., has a special pamphlet to recruit women (Stanford, 1973). Enrollment of women in engineering schools in the fall of 1972 was up to 2.3% of totals in undergraduate and graduate programs.

The National Science Foundation *Highlights* (NSF, 1973) provides data from the 1972 Professional, Technical and Scientific Manpower Survey (from 1970 Census) on sex, age and educational attainment of persons in 5 engineering and scientific occupational groups. While women represent less than 1% of the engineers, they make up 27% of the mathematicians, 18% of the life scientists, 9% of the physical scientists, 19% of social scientists.

Perhaps the field of law shows the greatest increase in enrollment of women students over the past few years, the number of first-year students showing a 35.2% gain in the fall of 1973 over 1972. 16% of all law students were women (ABA 1974). As in medicine, percentage of women applicants accepted was greater than of men, as the pool was more selective. Schools varied, however, from less than 10% women to as much as 30% in a recent study by Byciewicz (1973). Many have an affirmative action program to recruit women and/or sent recruiting materials to college placement offices to encourage female applicants. Women, however, generally received less financial aid than men but were granted more loans. Fewer women dropped out for academic reasons than men, with a slightly higher percentage of women withdrawing for reasons of financial or family responsibilities. Only one law school reported the existence of a day care center.

At a meeting of the American Economic Association in December, the women's committee commented on the grossly disproportionate percentage of women (less than 10%) who were economists. While recognizing that many social factors create this proportion, "this does not excuse the economics profession from setting in motion processes which will raise its proportion of women" and compensation for this "economic loss to society." (Chronicle of Higher Education, 1974).

A report on "The Status of Women in Sociology, 1968–1972" (Hughes 1973) states that only 1 of every 100 women with a bachelor's degree in sociology goes on to a doctorate as compared to 10 or 11 men. The final statement in this report can well apply to all the professions:

"Many of the discriminatory practices which have held them back are, as has been shown, not there by intention but as a byproduct of certain features of our social institutions, including a whole set of now inappropriate role expectations. But to remove the differentials in the opportunities and rewards open to men and women may not be enough. Changes in practice should be accompanied by re-socialization to modify attitudes and behavior—a process to which, perhaps more than anything else, the Committee's report was intended as a spur. The time to engage in these transformations is precisely now when increasing numbers of women are entering the academic profession. Although awareness of inequalities is at present sharp, the time is not yet when all sociologists will respond to each other qua sociologists, ignoring sex or ethnic identity in situations where occupation is the only relevant basis of social status. 'Liberated' sociologists, men or women, are those fully engaged in the profession in a social context that enables each to contribute to his or her fullest capacity. There are social and personal costs involved in the redefinition of roles but the gain to society at large and to the individual sociologist will be incalculable."

E. REQUIREMENTS OF THE LAW

These will be reviewed in a separate conference paper on graduate schools, prepared by Bernice Sandler. Her article in the Journal of Law and Education (1973) states the general issues and laws which affect women in higher education. Scott (1972) cites some of the problems which will be challenged by Education Amendments of 1972, such as rigid admissions and length-of-residence requirements, admissions quotas in departments and programs, state residence requirments, lack of housing for women, inequitable distribution of financial aid.

Hosken's testimony (1973) to the House Ways and Means Committee raises the serious question of tax-exemption for institutions which discriminate. The tax issue could become as important a control in compliance cases as government contracts. Accreditation also is an issue—whatever the academic merit of an institution, should it be accredited if it is not providing quality education for *all* of its students? Dscrimination on campus is now an educational, social and legal matter.

Fields (1973) article describes the action of the U.S. Office of Civil Rights last year in notifying "graduate and professional schools and some public undergraduate schools that they must begin applying non-discriminatory admissions policies by June 24," 1973, in accordance with the Education Amendments of 1972. Formal regulations for these amendments have yet to be published by HEW, nearly two years after their passage.

In analyzing the Education Amendments of 1972 and how they may affect women, Temko (1973) cites specific cases, "A prima facie case of discrimination may be established by showing a substantial disparity between the percentage of women (and men) in a given institution. A question arises as to whether the population to be used as a comparison is the percentage of the class in the general population or the percentage of the class that is eligible or qualified for the particular institution or activity. The cases show that both figures have been used. The Education Amendments of 1972 would specifically permit the introduction of statistical comparisons with the total number or percentage of persons of a particular sex in a geographical area." "Statistical evidence of underrepresentation establishes a rebuttable presumption of discrimination,' she states, but "mere protestations that discrimination was not practiced will not suffice to rebut this presumption." Equally, courts have held that policies neutral on the surface which perpetuate discrimination violate the equal protection claus. Temko's presentation provides strong legal precedents for enforcement of the amendment.

F. PROPOSED SOLUTIONS

Definitions of some solutions to the problems raised in this conference will, of course, be its major task. Some of these solutions are suggested in the two Carnegie reports and in many of the recommendations of the studies cited. They appear to include the following areas:

1. Enforcement of the law—contract compliance, tax exemptions, fines, assurances, accreditation.
2. Admissions—affirmative methods of recruitment, use of merit criteria, elimination of quotas.
3. Counseling—academic and personal.
4. Non-traditional programming and flexible scheduling.
5. Part-time study.
6. Part-time financial aid.
7. Provisions for child care.
8. Models of successful professional women.
9. Attitudes of faculty and peer students, acceptance of women as academic equals.

The development of our positive recommendations and models should make a significant contribution to new opportunities for women in graduate and professional education.

SOUND COMMENTS ABOUT THE VICE PRESIDENT

(Mr. SIKES asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, on Monday night, May 13, the Vice President of the United States, the Honorable Gerald R. Ford, was guest of honor of the Pensacola Chamber of Commerce. The occasion was the annual dinner meeting of that organization. A capacity crowd of 1,500 was in attendance. Presiding was the able president of the chamber, Mr. William H. Clark.

The warmth of the reception and the welcome given to the Vice President was pleasing to me as a colleague of many years who has enjoyed the friendship and admired the good work of Mr. Ford. He gave an excellent address with the kind of down-to-earth comments that an American audience appreciates.

On the same date, the Pensacola Journal editorialized on the Vice President's visit in an outstanding way. I feel that my colleagues in the Congress will want to see the comments which were made by the Journal. I am pleased to submit them for reprinting in the Record.

Vice President Ford Deserves Our Welcome

Not since Franklin D. Roosevelt whisked through people-lined streets of Pensacola and boarded his private railroad car on tracks on the site of the new Sheraton Inn in 1937 has an incumbent president or vice-president visited and delivered words to Pensacolians.

Not until today.

Roosevelt's successor, Harry Truman, visited Eglin Air Force Base; and President Kennedy was later a first-hand observer of the Air Force's largest reservation.

But today we are honored by Vice President Gerald Ford, here for annual Pensacola Area Chamber of Commerce festivities.

We welcome the distinguished Vice President to our corner of the world, so far removed from the turmoil that surrounds White House '74. Indeed, he comes here young in the No. 2 office but experienced and honored as a Michigan congressman; a former House minority leader who seemingly was acceptable to all when President Nixon made his selection from legislative ranks for the office vacated by Spiro Agnew.

We assume Pensacolians and West Floridians in general will receive Vice President Ford warmly, viewing his presence in the national executive posture as some form of hope and substance from the long-lingering stains of Watergate. Ford will be in friendly, conservative country, West Florida having voted overwhelmingly for Richard Nixon in 1972.

And while President Nixon's popularity may be waning, or at least his supporters here befuddled and confused in the light of Watergate and those terrible, skin-stripping transcripts of tapes, Mr. Ford seems to be generally perceived here as a man of honesty and integrity.

He appears unmarred by Watergate, and quite possible could be the next President of the United States—one way or the other. His appearance here, as others throughout the nation, could be viewed as testing presidential waters, or at least bringing with him a message of comfort for all—Republicans and Democrats alike—who are bone-tired of the long string of horrors sifting out of the Potomac.

Also, Mr. Ford is not quite a stranger here. Last year, during one of the largest and most impressive Chamber of Commerce testimonial dinners for Congressman Bob Sikes, Gerald Ford was here for words of tribute along with House Speaker Carl Albert, Navy and Army executives and other Washington headliners. He spoke fondly of Congressman Sikes of Crestview, dean of Florida's delegation, a view returned on occasion by West Florida's own fondly-christened old "he-coon." Sikes and Mr. Ford have worked closely in the House of Representatives, both sharing conservative philosophies on major issues regardless of opposing party label.

Mr. Ford continues those qualities of gentlemanliness, consideration and courtesy most West Floridians desire in their elected leaders; qualities, we might add, notably lacking in those blasted transcripts from behind closed White House doors.

So, Gerald Ford is a fresh breeze from Washington on this evening when hundreds of Chamber members preview the past year and launch anew programs desperately awaiting implementation in our community. We are certain his reception here will be befitting the man, his achievements and the giant office he holds. We are sure that many attending the Chamber dinner tonight will find a measure of reassurance from a popular former congressman who is only a heartbeat away from the Presidency.

He deserves our welcome; he deserves the traditional friendly West Florida reception and good wishes for the days ahead.

Mr. Ford deserves nothing less.

Welcome, Mr. Vice President.

STRIP MINING BILL TOO WEAK

(Mr. HECHLER of West Virginia asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. HECHLER of West Virginia. Mr. Speaker, the bleeding hills of Appalachia will be further ripped and torn, and the virgin plains of the West will be raped by the strippers under the terms of the bill just reported by the House Interior and Insular Affairs Committee.

Despite noble efforts by Representative Patsy Mink, Democrat of Hawaii, and Representative John Seiberling, Democrat of Ohio, the committee has produced a woefully weak compromise filled with the kind of loopholes the coal and utility lobbyists have written into State strip-mine regulation for the past 30 years. For over a year, the Nixon administration and its allies in the coal industry have joined hands with a majority of the Interior Committee and danced a deadly minuet to produce a watered-down bill.

FALSE HOPES AND EMPTY PROMISES

H.R. 11500 spells false hopes and empty promises for thousands of people in the mountains and on the Great Plains. Enforcement power is given primarily to the States, whose regulatory track record is dismal. The production-oriented Department of the Interior is given some nominal authority, freezing out the Environmental Protection Agency, which has a little more backbone and experience in water quality control. Instead of requiring that strip mining must maintain water quality, it is suggested in section 210(b)(14) that operations "minimize the disturbances to the hydrologic balance at the minesite and in associated offsite areas and to be the quality and quantity of water." In section 210, the committee also failed to provide adequate protection of the coal seam aquifers and alluvial valley floors in the West. According to section 210(b)(6), erosion is to be controlled "as effectively as possible"—whatever that means.

For the first 40 months after the bill is enacted, even weaker "interim standards" apply in section 201, thus inviting a virtually unregulated coal rush before somewhat stricter standards go into effect over 3 years hence. The only really good features of the bill are the strip ban in national forests and fairly strong citizen participation provisions which mandate public hearings and citizen suits. Yet the weak "reclamation" standards mean that Congress is placing all the responsibility on the poor citizen in the hollow to go out and fight his own battles against the well-heeled legal talent of the coal company and its newest parent-in-law, the oil corporation.

SEIBERLING AMENDMENT SCUTTLED

With eight times as much coal which can be deep-mined as stripped with present technology, you would think the Interior Committee would act to meet the energy needs by encouraging deep mining. The Seiberling amendment attempted to do precisely that, by equalizing the disparate costs of deep and strip mining through a $2.50 per ton tax on which rebates favored deep mining operations. The western stripping interests teamed up with the profiteering lobbyists everywhere to scuttle the Seiberling amendment in the closing days of the committee debate. The Jones amendment was adopted with a drastically lowered tax tied to Btu content which favored western strip-mining at the expense of eastern deep mining, thus spurring the pell-mell coal rush westward.

There are several villians in this

drama—including the administration lobbyists who threw their weight in on the side of the coal and utility interests attempting to weaken the bill. You would think the administration would have the guts to stand up for the public interest which the taxpayers assume that public servants should be protecting. Carl E. Bagge, president of the National Coal Association is paid handsomely to maximize already-fat profits for the coal industry. When Mr. Bagge contends, as he did in a May 1 statement that H.R. 11500 will "allow the surface coal mining industry to bleed to death in 2 or 3 years instead of sentencing it to immediate strangulation," he is telling what I bluntly label a lie. When Mr. Bagge contends, as he did in the same statement, that the House bill "would make surface mining impossible in much of Appalachia" and "would also wipe out most surface mining in the West," he is telling an absolute untruth and he knows it.

FADED ROSE OR SKUNK CABBAGE?

To make it worse, Mr. Bagge is acting very much like a hypocrite. Having succeeded in weakening H.R. 11500 up and down the line, Mr. Bagge is now playing the game of painting this faded rose as a skunk cabbage in hopes that he can get the bill weakened even further on the floor of the House. He secretly hopes that if he labels the bill as prohibitive, and I label the bill as too weak, then Representative MORRIS K. UDALL might be inspired to claim that the only reasonable middle course between extremes is to enact H.R. 11500.

For hundreds of thousands of Americans, it would be a disaster to enact H.R. 11500. The bill raises false hopes that it can provide the coal to meet the Nation's needs without destroying valuable topsoil, causing silt sediment and acid to pour into streams, disrupting aquifers and other sources of water, irreparably ripping up the land, and bringing more fear and despair to many thousands of people in strip mined areas. I will fight this bill. I will continue to fight against the exploitation of land and people. I will fight to strengthen the bill by restoring the Seiberling amendment. Then, I will fight it by attempting to phase out the strip mining of coal entirely within 6 months in mountainous areas and within 18 months in relatively flat areas.

WHEN DID THE PRESIDENT KNOW?

(Mr. WAGGONNER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WAGGONNER. Mr. Speaker, the national press and networks are engaged in reporting on the transcripts of the President's taped conversations, often with journalists' own views analyses. It would appear from most of the newspapers and television I have seen that these reports are critical.

Therefore, I was interested to read recently in the Wall Street Journal a very perspective story by Jude Wanniski making several important arguments in favor of the President. In order that my colleagues may have the benefit of Mr. Wanniski's thoughtful research and comment I ask unanimous consent to have his May 3 Wall Street Journal article printed in the RECORD at this point.

WHEN DID THE PRESIDENT KNOW?

(By Jude Wanniski)

As the Ervin Committee hearings rolled on and on last summer, time and again Senator Baker would refocus the audience's attention on the questions, "What did the President know and when did he know it?" Yet now, with voluminous evidence of the President's knowledge suddenly available, few people have yet paid much attention to Senator Baker's presumably crucial question.

The focus so far has been elsewhere, for quite understandable reasons. The President warned the transcripts would be embarrassing to him, and they are. Especially at first reading, as the reader flinches with embarrassment for the President—the cocky Nixon, way ahead in the polls on election eve, Watergate supposedly disposed of as an issue, talking of putting the screws to his enemies in his second term. And there is all that outragous brainstorming about how to handle Hunt's blackmail threat, Mr. Nixon's worst moments in these 1,308 pages.

But if the reader persists, and especially upon selected rereadings, the importance of Senator Baker's question reasserts itself. The reader is wrenched out of the present back into the Nixon mind of a year ago, beginning to realize that the President then did not know as much about Watergate as the average informed American knows today. Once the reader grasps that fact, he is far less embarrassed for the President, just as the reader who has been told the outcome of a mystery story at the outset cannot feel disdain for the detective who seems slow to put the pieces together.

A great part of the drama of the transcripts, indeed, is watching the President stumble on revelation after revalation about Watergate, seeing this lawyer gradually learn the meaning of the words "obstruction of justice," watching him reach for reassurance that he could rely on the aides he was trusting to investigate. The record may show executive weakness, misplaced loyalty, character faults and even a certain startling naivete. But in answer to Senator Baker's question, the transcripts show the President surprisingly uninvolved.

Some of the first revelations came in the meeting with John Dean on March 13. At this point, it's clear, the President thought his problem was with the Ervin Committee, the press, the defeated anti-Nixonites of 1972, and that he was fighting a political public-relations battle. The talk is of what new revelations may come out of the Ervin hearings:

D: They would want to find out who knew.

P: Is there a higher up? D: Is there a higher up? P. Let's face it, I think they are really after Haldeman.

D: Haldeman and Mitchell. . . .

P: In any event, Haldeman's problem is Chapin isn't it? . . . D. Chapin didn't know anything about the Watergate. P. Don't you think so? D. Absolutely not.

P: Strachan? D: Yes. P: He knew? D: Yes. P. About the Watergate? D. Yes. P. Well, then, he probably told Bob. He may not have. . . .

P. But he knew? He knew about Watergate? Strachan did?

D. Yes. P. I will be damned! Well that is the problem in Bob's case. Not Chapin then, but Strachan.

A few days later, in the March 17 telephone call from Mr. Dean, the President learns of the Ellsberg burglary:

D: The other potential problem is Ehrlichman's and this is—P: In connection with Hunt? D: In connection with Hunt and Liddy both. P: They worked for him?

D: They—these fellows had to be some idiots as we've learned after the fact. They went out and went into Dr. Ellsberg's doctor's office and they had, they were geared up with all this CIA equipment. . . .

P. What in the world—what in the name of God was Ehrlichman having something (unintelligible) in the Ellsberg (unintelligible)? D. They were trying to—this was part of an operation that—in connection with the Pentagon papers. They were—the whole thing—they wanted to get Ellsberg's psychiatric records for some reason. I don't know.

P. This is the first I ever heard of this. I (unintelligible) care about Ellsberg was not our problem. D: That's right. P: (expletive deleted).

By the March 21 meeting, of course, the Ellsberg burglary had become the centerpiece of the "blackmail threat" from Hunt, and this leads to all the agonized brainstorming. But even at this point, the President seems to view his problems as merely those of public relations. At one point he stumbles over the words "obstruction of justice." And he thinks if necessary the problems at the White House can be solved by simple disclosure.

P. So what you really come down to is what we do. Let's suppose that you and Haldeman and Ehrlichman and Mitchell say we can't hold this? What then are you going to say? What are you going to put out after it? Complete disclosure, isn't that the best way to do it? D: Well, one way to do it is—P: That would be my view.

By March 27, the President learned from Mr. Haldeman that Mr. Mitchell may in fact be guilty, but had trouble believing it.

H: The more he thinks about it, the more O'Brien comes down to Mitchell could cut this whole thing off, if he would just step forward and cut it off. He said the fact of the matter is as far as Gray could determine, Mitchell did sign off on it. And if that's what it is, the empire will crack.

E: You said, "Gray." P. What's that? I am sorry. H: O'Brien, not Gray. As far as O'Brien can determine Mitchell did sign off and Dean believes that to be the case also. . . . [a long explanation follows].

P. What I can't understand is how Mitchell would ever approve. H. That's the thing I can't understand here. . . . H. [according to Dean] Liddy told Kleindienst that Mitchell had ordered it. P. Oh. . . .

P. You know Mitchell could be telling the truth and Liddy could be too. Liddy just assumed he had abstract approval. Mitchell could say, "I know I never approved this damn plan."

In the same conversation with Mr. Haldeman and Mr. Erhlichman, the President worries about being told what is going on, and concludes Charles Colson is probably innocent.

P. Colson in that entire period, John didn't mention it. I think he would have said, "Look we've gotten some information," but he never said they were. Haldeman, in this whole period, Haldeman I am sure—Bob and you, he talked to both of you about the campaign. Never a word. I mean maybe all of you knew but didn't tell me, but I can't believe that Colson—well—

By April 14, the President is recalling his March 21 conversation with John Dean, and wondering about the legal status of money payments to defendants.

P. I said, John, "where does it all lead?" I said, what's it going to cost? You can't just continue this way. He said, "About a million dollars." (Unintelligible) I said, John, that's the point. (Unintelligible) Unless I could get them up and say look fellows, it's too bad and I give you executive clemency like tomorrow, what the hell do you think, Dean. . . . The word never came up, but I said, "I appreciate what you're doing." I knew it was for the purpose of helping the poor bastards through the trial, but you can't offer that John. You can't—or could you? I guess you could. Attorneys' fees? Could you go a support program for these people for four years?

E. I haven't any idea. I have no idea. P. Well, they have supported other people in jail for years. E. Sure, the Berrigan brothers. P. Huh? E. I say, I don't know how the Berrigan brothers and some of those— P. They all have funds. . . . E. So that they— P. But not to hush up. E. That's right. P. That's the point

And by the same date, the President has learned something about obstruction of justice:

P. We did not cover up, though, that's what decides, that's what decides . . if three of us talk here, I realize that frankly—Mitchell's case is a killer. Dean's case is the question. And I do not consider him guilty. Now that's all there is to that. Because if he—if that's the case, then half the staff is guilty.

E. That's it. He's guilty of really no more except in degree. P. That's right. Then others. E. Then a lot of

P. And frankly then I have been since a week ago, two weeks ago.

E. Well, you see, that isn't, that kind of knowledge that we had was not action knowledge, like the kind of knowledge that I put together last night. I hadn't known really what had been bothering me this week. P. Yeah. E. But what's been bothering me is

P. That with knowledge, we're still not doing anything. E. Right. P. That's exactly right. The law and order. That's the way I am. You know it's a pain for me to do it—the Mitchell thing is damn painful.

The next day, the President has the fateful visit from Attorney General Richard Kleindienst, who has been up late with prosecutors briefing him on their talks with John Dean and Jeb Stuart Magruder:

K. Magruder's conversations and John's conversations with attorneys, with every absolute certainty that Magruder's going to be put on before the Grand Jury. P: Are they going to call him back? K: Yeah. P: Oh, of course, because he's going to plead guilty. K: He's going to plead guilty and he's going to tell everything he knows.

P. Sure.

K. That kind of information is not going to remain confidential.

P. As you now, the—we have no—I have not and I would not try to get information from the Grand Jury, except from you. K. Right. P. And we have not. But the reason—the reason that I am aware about the Dean thing—I have taken Dean off the matter, of course. I had to. As far as what he was reporting here at the time. I put Ehrlichman on. . . .

P. Except that Magruder may—you can't tell, in his view, that you can believe everything Magruder says because Magruder's apparently got a—K. Got a self-interest involved. P. He's got his self-interest and you don't know whether he's going to drag this fellow or that fellow or whatever the hell is. You know that's the trouble when a guy starts lying and, you know—I mean—wondering whether Magruder is telling the whole truth on John Mitchell—you know, Mitchell—have you talked to Mitchell?

K. No and I'm not going to. I don't think that I can talk to him. P. I think you should know, Mitchell insists—I didn't talk to him. You know, I have never asked him. Have you ever asked him? K. No sir. We have never discussed the matter. P. I never have either. I asked Bill Rogers about that. I said, Bill, should I ask him? No, John Mitchell. And so I asked Ehrlichman. I said, now I want you to ask him. . . .

K. The basic problem that—it's possible that Dean might testify to, what Magruder will testify to, and then you've got Strachan or somebody like that. He was on Haldeman's staff. There is a possible suggestion that Haldeman and Ehrlichman ah, as yet—it looks that way—whether there is legal proof of it so far as that—that they.

P. Indicating what?

K. Well, knowledge in this respect, or knowledge or conduct either before or after the event. But that in any event, whether there's—

P. Both Haldeman and Ehrlichman? K. Yes. . . .

P. I have asked both Haldeman and Ehrlichman. K. I know you have. P. and they have given me absolute—you know what I mean. You can only—it's like, you'd believe John Mitchell, I suppose, wouldn't you? I don't believe Haldeman or Ehrlichman could ever—you know—(unintelligible) hurt to be so close to people and yet I think of—

Mr. Kleindienst recommended that the President put Assistant Attorney General Henry Petersen in charge of the investigation, and Mr. Nixon and Mr. Petersen met that afternoon. The White House has said their conversation was unrecorded. The new transcripts do show, however, that on the evening of April 15, the President and Mr. Petersen talked by phone from 8:14 to 8:18, from 8:25 to 8:26, from 9:39 to 9:41 and from 11:45 to 11:53. In the last conversation, the President said:

P. Let me say this. The main thing we must not have any question, now, on this, you know I am in charge of this thing. You are and I am. Above everything else and I am following it every inch of the way and I don't want any question, that's of the fact that I am away ahead of the game. You know. I want to stay one step ahead of the curve. You know what I mean?

Perhaps Senator Baker's question, which seemed so relevant back last summer, is not the relevant question today. But if impeachment proceedings go forward, it will become the relevant one again. The Congress is a body of lawyers. While as Congressmen, politicians or partisans they may want to be rid of this President, the lawyers under their skins will not let them do it without the clear legal basis Senator Baker's question suggests.

Especially in this light, the most damaging revelations in the transcript go to the question of whether or not Mr. Nixon authorized a blackmail payment or payments on March 21. A point that bears heavily in the President's favor should not be overlooked: The context of the conversation was that if further payments were to be made, someone would have to go out and raise the money. There was no question of whether money in hand should be turned over to Mr. Hunt. If the President intended the payment to go forward, surely the meeting would not have ended without resolving the important question of where the money was to come from.

The total weight of these transcripts, moreover, hangs in the President's balance. During the past year or more, a small minority of Americans have believed he was involved in the planning of the burglary. The transcripts quickly made it obvious he was not. A majority of Americans have believed that he must have known about the cover-up, if not having masterminded it. The transcripts indicate he did not begin sensing the full dimensions of the cover-up until mid-April 1973, and that he had only had bits and pieces of the story in March of that year, when John Dean began to spill the beans.

This is why the President will not be impeached. He may not be "innocent," but he is a thousand times "less guilty" than the people have imagined him to be.

Mr. Wanniski is a member of the Journal's editorial page staff.

THE RIGHT STEPS

(Mr. WAGGONNER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. WAGGONNER. Mr. Speaker, I saw an article in the San Francisco Chronicle for Saturday, May 11, quoting Rev. Billy Graham on one subject of Watergate, which I would like to share with my colleagues.

Reverend Graham's views are certainly worth heeding. Not only should we pray that the House Judiciary Committee and the President take the right steps, I would also pray that the Congress itself takes the right steps. I ask that the above mentioned article follow my remarks at this point:

Graham's View of Scandal

New York.—Evangelist Billy Graham said yesterday that the Watergate affair has put America in a grave situation.

He urged prayers that both the House Judiciary Committee and President Nixon will take the right steps.

Graham, a long-time friend of Mr. Nixon, said of the present circumstances facing the President:

"I think from knowing him, if he's the same man I used to know, I think he will put what's best for the country above everything else. I think he will look at it from the long view, the historical view, and do what he thinks best to protect the presidency and the country."

Graham paused, and added, "I hope that's going to be his position. The Nixon I know has a great love of country, a great dedication to it."

"We ought to pray for the country," he said. "We ought to pray for the Judiciary Committee, that God will give it wisdom. We ought to pray for the President, that he will be given the wisdom to do what God wants him to do."

With the committee launching its impeachment inquiry and Mr. Nixon under new political pressures to leave office, the evangelist said "the whole country is facing a very serious situation" in regard to its influence in the world.

Events and problems move ahead "and the situation in Germany, Britain, France and elsewhere demand strong American leadership," he said in a telephone interview from Phoenix, where he is holding a week's crusade.

The evangelist said that, because of the heavy schedule of his crusade, in which he is preparing a new sermon for each night, he has not read the transcripts of White House conversations released by Mr. Nixon and won't comment in detail until he does.

However, in regard to the numerous "expletives" deleted from the text, Graham said:

"It's not the language I've ever heard him use. However, around me, most presidents have been careful in their use of profanity. It's like when I go in a locker room, somebody says, 'Shhh, here comes Billy Graham.' Most people's talk around a clergyman is a little different."

However, he added, "The Lord is listening all the time. The Lord has got his tape recorder going from the time you're born until you die. He not only knows what you say, but your thoughts and intents. And all these are going to be brought to light in the judgment."

Associated Press.

RULING ON U.S. POSTAL REDEPLOYMENT PROGRAM

(Mr. BUCHANAN asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BUCHANAN. Mr. Speaker, I am pleased to inform the House that Judge James H. Hancock in the U.S. District Court for the Northern District of Alabama has, in two instances, granted our plea, the plea for injunctive relief, on behalf of postal users throughout the United States against the U.S. Postal Service sought by me and our colleagues John Duncan of Tennessee and Sam Steiger of Arizona.

Pending a final hearing, Judge Hancock's order prohibits the Postal Service from further implementation of the consolidation and elimination of postal districts throughout the United States and the further implementation of the facilities deployment or retail analysis program.

Judge Hancock clearly established in his ruling the principle that in this Government of the people, by the people, for the people, citizens have a right to the review and hearing process proscribed by law in section 3661 of the Postal Reorganization Act of 1970 before the Postal Service implements nationwide changes affecting services to them as postal users.

While this is but the first battle in our legal fight for the rights of the people, Judge Hancock has made a vital ruling in their defense in this landmark case. His ruling follows:

[In the U.S. District Court for the Northern District of Alabama, Southern Division, CA74–H–407–S]

John H. Buchanan, Jr., John J. Duncan and Sam Steiger, individually and on behalf of Postal Users throughout the United States, Plaintiffs, versus the U.S. Postal Service, an independent establishment of the executive branch of the U.S. Government; E. T. Klassen, Postmaster General of the United States; and Francis Sutton, Acting Supervisor of the Birmingham, Ala., Post Office, defendants.

Order

This cause came on to be heard at a hearing before the court on May 11, 1974, on the request of plaintiffs for a temporary restraining order and on the prayer for a preliminary injunction contained in the amended complaint. The issues were submitted on the verified complaint as amended, affidavits, exhibits, depositions, oral testimony elicited at the hearing on May 11, 1974, and oral argument of counsel. The court has considered the matter and, for the reasons expressed in the Memorandum of Decision dated May 14, 1974, attached hereto, is of the opinion that the following injunctive relief should be granted.

Accordingly, it is ordered, adjudged and decreed that defendant United States Postal Service, defendant E. T. Klassen, defendant Francis Sutton, and their officers, agents, servants, employees, attorneys, and all persons acting on their behalf, as well as all persons in active concert or participation with them who receive actual notice of this order, are hereby restrained and enjoined:

(1) from all further actual implementation of any plan, program, or policy of reorganization which seeks to consolidate the administrative or policymaking functions of any Postal District in the United States with those of any other Postal District, and from any further elimination, transfer or consolidation of any Postal District in the United States pursuant to any plan, program, or policy which has not been submitted to the Postal Rate Commission pursuant to 39 U.S.C. § 3661;

(2) from all further actual implementation of the postal facilities' deployment program, or any program or methodology based on a retail market analysis, as applied to any existing post office, branch office or station in any manner that could have the effect of relocating, downgrading or eliminating such post office, branch office or station or of reducing in any manner the postal services offered to postal users at these facilities or of changing the form in which or the hours during which these postal services are offered, provided that the development of any such program or methodology shall not be affected by the terms of this order, and provided further that the use of any data collected pursuant to such development of the program or methodolgy where such data is used in effecting changes which are occasioned by events not within the reasonable control of defendants, shall not be affected by the terms of this order.

It is further ordered that as to that part of the amended complaint directed toward the national bulk mail system program the prayer for a preliminary injunction and the request for a temporary restraining order are hereby denied.

It is futher ordered that, before the injunction herein contained shall be effective, plaintiffs shall give as security a good and sufficient bond in the amount of Five Hundred and no/100 Dollars ($500.00) for the payment of such costs and damages as may be incurred or suffered by any party who is found to have been wrongfully enjoined or restrained, such bond to be approved by the court or by the Clerk of the court.

It is further ordered that this order shall continue in full force and effect pending an order entered on final hearing of this cause or pending further order of this court.

DONE at 11:00 o'clock, A.M., this 14th day of May, 1974.

James H. Hancock,
U.S. District Judge.

[In the U.S. District Court for the Northern District of Alabama, Southern Division, CA74–H–407–S]

John H. Buchanan, Jr., John J. Duncan, and Sam Steiger, individually and on behalf of postal users throughout the United States, plaintiffs, versus the U.S. Postal Service, an independent establishment of the executive branch of the U.S. Government; E. T. Klassen, Postmaster General of the United States; and Francis Sutton, Acting Supervisor of the Birmingham, Ala., Post Office, defendants.

Memorandum of Decision

This action for injunctive relief was filed on April 30, 1974, and immediately thereafter counsel for plaintiffs presented to the court their request for the issuance of a temporary restraining order. Since the Department of Justice is required by 39 U.S.C. § 409(d) to furnish defendant United States Postal Service with legal representation, the United States District Attorney for the Northern District of Alabama, upon request of the court, attended the informal presentation. The court concluded that the request for a temporary restraining order, as well as the prayer for a preliminary injunction contained in the complaint, should be set down for hearing at the earliest possible date and scheduled such hearing for May 7, 1974. By order entered May 2, 1974, the hearing was continued until May 11, 1974. On May 7, 1974, plaintiffs filed their First Amendment to the Complaint which amendment in essence adds an additional factual basis upon which plaintiffs seek relief. All defendants were duly served with a copy of the original complaint and this court's order of April 30, 1974, on or before May 2, 1974.

This matter came on for hearing as scheduled in Birmingham, Alabama, on May 11, 1974. Present on behalf of plaintiffs were William G. Somerville, Jr., John E. Grenier and John Tally, all of Birmingham, Alabama. Present on behalf of all defendants were Henry I. Frohsin, Assistant United States Attorney, Birmingham, Alabama, and Jack T. DiLorenzo, Assistant General Counsel, Opinions Division, Law Department, United States Postal Service, Washington, D.C. At the commencement of the hearing, plaintiffs filed a Second Amendment to the Complaint which has the effect of adding as plaintiffs John J. Duncan and Sam Steiger, individually and on behalf of the putative class John H. Buchanan, Jr. seeks to represent.[1]

Following the hearing and argument of counsel associated therewith, the court left the record open until noon on May 13, 1974, to permit the parties to file additional affidavits, depositions, documents and briefs which the parties felt should be considered by the court. The record has now been closed and the request for interlocutory injunctive relief has now been submitted to the court on the verified complaint; the verified First and Second Amendments to the Complaint; the affidavit of Carl C. Ulsaker attached to defendants' Motion to Dismiss; the affidavit of Edgar S. Brower; the affidavit of H. J. Welch; the affidavit of Henry Frohsin; the certified copies of certain news releases filed on May 11, 1974; the deposition of Edward V. Dorsey and all exhibits thereto; the deposition of Carl C. Ulsaker; the exhibit detailing the Retail Network Analysis; documents delivered to the court which, at the request of defendants, have been sealed to the extent that they are to be available only to all counsel and the court; a letter to Postmaster General Klassen, dated April 2, 1973, which was among certain documents defendants submitted to the court for an *in camera* examination with a claim for a 5 U.S.C. § 552 (b) privilege which, as to this letter, the court is denying and directing that it be filed herein; and the evidence adduced in open court on May 11, 1974. After full consideration thereof, the court proceeds to issue this memorandum of decision which, pursuant to Federal Rules of Civil Procedure, Rule 52, will contain the court's findings of fact and conclusions of law.

This action by plaintiffs Buchanan, Duncan and Steiger, individually and as a Federal Rules of Civil Procedure, Rule 23(b) (2) class action on behalf of postal users throughout the United States challenges three proposed postal service programs of defendant United States Postal Service (hereinafter sometimes referred to as the "Postal Service"). The amended complaint alleges that the first of these programs (hereinafter referred to as the "Postal District consolidation and elimination program") will consolidate and eliminate all 86 Postal Districts throughout the United States. The amended complaint alleges that the second program (hereinafter referred to either as the "retail analysis program" or the "postal facilities' deployment program") involves major changes in the location, nature and number of post office facilities in 26 cities throughout the nation. The amended complaint alleges that the third program (hereinafter referred to as the "national bulk mail system program") involves the construction, as a cost of over one billion dollars, of 21 bulk mail centers and 12 auxiliary service facilities spaced throughout the nation.

Primarily the amended complaint seeks to enjoin the further implementation of these programs until (1) the Postal Service has submitted the programs to the Postal Rate Commission pursuant to 39 U.S.C. § 3661, (2) the hearing required by such Section 3661 has been completed, and (3) the Postal Rate Commission issues the opinion required by such Section 3661. The Postal Service does not claim that it submitted a proposal to the Postal Rate Commission embodying any of the alleged changes which are the subject of this action. Rather

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Footnotes at end of article.

it takes the position that it is not proposing any "change in the nature of postal services which will generally affect service on a nationwide or substantially nationwide basis" and hence is not required to make a submission to the Postal Rate Commission.

The principal issues thus arised by the amended complaint are:

(1) What changes, if any, are being proposed by the Postal Service?

(2) Are any such changes a "change in the nature of postal serivces which will generally affect service on a nationwide or substantially nationwide basis" and thus embraced by 36 U.S.C. § 3661?

(3) Do plaintiffs Buchanan, Duncan and Steiger, either individually or on behalf of the putative class, have standing to sue if such Section 3661 has not been satisfied?

The issues raised by the instant request for interlocutory injunctive relief are:

(1) Is there a substantial likelihood that plaintiffs will prevail on the merits?

(2) Is there a substantial threat that plaintiffs will suffer irreparable injury if interlocutory injunctive relief is not granted?

(3) Does the threatened injury to plaintiffs outweigh the threatened harm the injunction may do to defendants?

(4) Will the granting of a preliminary injunction disserve the public interest?

The Postal Reorganization Act of 1970[2] expressly authorized the Postal Service to be sued in its official name (39 U.S.C. § 401) and vests the United States district courts with jurisdiction to hear such a suit (39 U.S.C. § 409). Moreover, 28 U.S.C. § 1339 gives the district courts jurisdiction of any civil action arising under any Act of Congress relating to postal service. Thus, subject to the plaintiffs having the requisite standing to sue and hence presenting the necessary case or controversy for adjudications, this court has jurisdiction of the matters presented by the complaint.

Since members of the public who do not have sufficient nexus with the challenged agency action do not have standing to sue, a threshold inquiry in actions of the kind involved here is to determine the answer to the following two questions:

(1) Have the plaintiffs demonstrated by the amended complaint that the challenged agency action has caused them some injury in fact, economic or otherwise?

(2) Is the interest sought to be protected by the plaintiffs within the scope or zone of interest that the statute (39 U.S.C. § 3661) seeks to protect.

Only if the answer to both of these questions is in the affirmative do the plaintiffs have standing to sue.

Prior to the adoption of the Postal Reorganization Act of 1970, major changes in postal service and changes in postal rates resulted only by Congressional action. This necessarily subjected such changes to careful public scrutiny as the proposed changes traveled their way through both houses of Congress. The right of the public to express its views in a meaningful way prior to the implementation of such changes was not only by public committee hearings but also through the very nature of our representative form of government. Thus the Post Office Department, prior to 1970, was structured to be responsibe to the American public.

In adopting the Postal Reorganization Act of 1970[3] it is clear that Congress intended generally to give the Postal Service broad powers and wide discretion in its operations and to remove such operations in large measure from the public and political pressures inherent in the old Post Office Department being replaced.[4] It is equally as clear, however, that on major changes in postal service or changes in rates Congress intended to retain for the public a right to be heard so that the Postal Service would be responsive to the public and the public would have assurance that any major changes in postal service or changes in rates would conform to the basic policies established in the Postal Reorganization Act of 1970. Thus Congress provided as follows:

"§ 3361. Postal services

"(a) The Postal Service shall develop and promote adequate and efficient postal services.

"(b) When the Postal Service determines that there should be a change in the nature of postal services which will generally affect service on a nationwide or substantially nationwide basis, it shall submit a proposal, within a reasonable time prior to the effective date of such proposal, to the Postal Rate Commission requesting an advisory opinion on the change.

"(c) The Commission shall not issue its opinion on any proposal until an opportunity for hearing on the record under sections 556 and 557 of title 5 has been accorded to the Postal Service, users of the mail and an officer of the Commission who shall be required to represent the interests of the general public. The opinion shall be in writing and shall include a certification by each Commissioner agreeing with the opinion that in his judgment the opinion conforms to the policies established under this title."[5]

While a simple reading of such Section 3661 should be sufficient to demonstrate that, with regard to major changes in postal service and rate changes, Congress intended to assure that the Postal Service being created would be responsive to the public, a review of House Report (Post Office and Civil Service Committee) No. 91–1104, May 19, 1970, accompanying H.R. 17070 will dispel all doubt on this vital point. After discussing procedure substantially as subsequently enacted in Section 3661, the House Report concludes:

"The procedures just described represent significant innovations that should materially enhance the responsiveness of the Postal Service to the American public."[6]

It is impossible to conclude otherwise than that Congress intended by Section 3661 to give to each member of the public a right and opportunity to be heard before "changes in the nature of postal services which will generally affect service on a nationwide or substantially nationwide basis" would be implemented. Further proof of this intent is found in the general elimination (39 U.S.C. §410) of the applicability of the Administrative Procedure Act to the Postal Service but the express provision in Section 3661 that the public's opportunity for a hearing on the record in accordance with the Administrative Procedure Act would remain where changes of the magnitude embraced in Section 3661 were being considered.

In the light of this general background, it is now appropriate to consider the answers to the two questions earlier posed which must be answered in the affirmative if plaintiffs have standing to sue.

The agency action challenged by this suit is the admitted failure of the Postal Service to submit to the Postal Rate Commission, prior to implementation, alleged changes in the nature of postal services which will generally affect service on a nationwide or substantially nationwide basis. If changes of the magnitude contemplated by 39 U.S.C. § 3661 are being implemented, then plaintiffs Buchanan, Duncan and Steiger, individually and the putative class they seek to represent, namely, all postal users throughout the United States, are being denied a very fundamental right—the opportunity for a hearing on the proposed change.[7] The denial of this statutory right is alone a sufficient injury in fact to support the requisite standing to sue. This injury is compounded, however, by the denial to plaintiffs of the expertise of the bi-partisan, five member Postal Rate Commission which Section 3661 requires must render an advisory opinion[8] on the proposed changes. Moreover, Section 3661 requires *each* member of the Postal Rate Commission individually to certify that he agrees with the advisory opinion and that in his judgment the opinion conforms to the policies established under the Postal Reorganization Act of 1970, thus requiring the advisory opinion to be a *unanimous* opinion of the Postal Rate Commission. In light of the Congressional history surrounding Section 3661, it is clear that this public hearing provision was to make the Postal Service responsive to the people it served. The interest sought to be protected by plaintiffs, i.e., a public hearing before the Postal Rate Commission, is completely within the scope or zone of interest that Section 3661 seeks to protect. The court therefore concludes that plaintiffs Buchanan, Duncan and Steiger, individually, have the requisite standing to sue. Moreover, to the extent that the court later determines that this action may be maintained as a class action under Rule 23, the court is of the further opinion that the named plaintiffs, on behalf of the appropriate class, also have the requisite standing to sue.

The court now turns its attention to a determination from the record before it at this time, albeit an incomplete record, of just what changes, if any, are being proposed by the Postal Service. The parties should be aware that the factual findings herein contained are for the purpose of the instant matter under consideration and that the court will not hesitate to alter such findings if later determined to be incorrect after a development of a full record.

While the Postal Reorganization Act of 1970 was enacted August 12, 1970, the Postal Service created thereby did not come into existence until July 1, 1971. During the intervening months, the Post Office Department, under the leadership of Postmaster General Blount, proceeded to develop an organizational structure with which the Postal Service would commence business on July 1, 1971. Among other things, this structure eliminated the then existing 15 Postal Regions, established 5 new Postal Regions in lieu thereof, and established 86 separate Postal Districts throughout the country within the 5 Postal Regions. Thus, when the Postal Service came into existence it inherited, and began business with 5 Postal Regions and 86 Postal Districts.[9]

Postmaster General Blount became the first chief executive officer of the Postal Service and guided it during its early months. Shortly after Postmaster General Klassen became chief executive officer in January of 1972, he began a review of the existing programs of the Postal Service to determine whether these programs should be continued or discontinued. The review necessarily led to a consideration of new programs also. Either as a result of this comprehensive review or otherwise, decisions were made as hereinafter indicated.

In early 1972 Postmaster General Klassen reaffirmed the earlier decision of Postmaster General Blount[10] to construct and place into operation, at a cost of hundreds of millions of dollars, 21 bulk mail facilities throughout the country and to modify 12 existing post offices throughout the country to serve as auxiliary service facilities for a national bulk mail system. Only one of the 21 new bulk mail facilities has now been completed with the remaining 20 to be completed, and the entire system placed into operation on July 1, 1975. The system is primarily a mail handling system designed to consolidate bulk mail in geographical areas and to move it among the areas on a scheduled (nightly) basis with damage to parcels reduced to an acceptable level, all at a minimum of costs. It is intended to reduce substantially the handling and rehandling of bulk mail and to provide a more consistent or predictable time of delivery, i.e., instead of a delivery time from the West Coast to the East Coast of between

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Footnotes at end of article.

four to twenty days, the system is designed to establish this time at a consistent eight-day period.

During the summer of 1972, Postmaster General Klassen approved a program which authorized the five Regional Postmasters General to reorganize their regions by eliminating or consolidating the Postal Districts in their regions.[11] Apparently the object of this program is to eliminate down to approximately ten, if not entirely, the 86 Postal Districts with which the Postal Service began business on July 1, 1971. This program has thus far been implemented by the elimination of eight, or possibly ten, of these districts. It is apparent that this program has the strong backing of the Senior Assistant Postmaster General for Operations, and it is therefore logical to assume that its implementation throughout the nation will accelerate.[12] A Postal District is a geographical area over which the District Manager and his support personnel (quite limited in number) exercise the combined function of policy makers and decision makers with regard to the operations of the Postal Service in the particular Postal District. This includes deciding (or reviewing) questions regarding decisions relating to the implementation of the retail analysis program (postal facilities' deployment program) hereinafter discussed.

In January of 1973, Postmaster General Klassen authorized the implementation of a program which could have substantial effect upon postal users in every area of the country. This program is referred to by high-ranking Postal Service officers as the "postal facilities' deployment" program and as the "retail analysis" program. Indeed, there is some confusion over whether there are two programs or one and whether, if two, the retail analysis program support the facilities' deployment program or the facilities' deployment program is the end result of the retail analysis program. The program or programs are offered to the local Postmaster who, subject to review by his supervisors, decides whether to accept the program. As of March 11, 1974, the program has been accepted, and is currently underway in 25 major cities located in Alabama, California, Colorado, Florida, Georgia, Illinois, Iowa, Michigan, Missouri, North Carolina, Oklahoma, Tennessee, Texas, Washington and Wisconsin. Moreover, 40 more cities in 1974 are scheduled to commence implementation of the program, with an additional 40 cities scheduled in 1975.[13]

Essentially the program includes a retail market survey, both with regard to postal services used or not used by the retail consumer and with regard to customer demand for given services at a particular time or place. Thereafter, a decision is made with regard to all postal facilities in the particular area which decision includes such things as relocating some facilities, closing others and opening new ones; and terminating, limiting, increasing or adding specific services at a retail facility, such as meter postage sales, registered or certified mail services, lock box service, insured mail services, postage sales, package weighing and mailing, postal money orders, and similar services customarily provided by the Postal Service. Postmaster General Klassen states the object of the program to be to develop a coordinated system of facilities, collections and deliveries.

The record developed to date is sufficient for this court to conclude (a) that the Postal Service has determined to implement changes having a nationwide or substantially nationwide character and (b) that the implementation has commenced. While this finding by the court is primarily directed to the Postal District consolidation program and the postal facilities' deployment program (retail analysis program), it is conceivable, though unlikely, that after a full record is developed the national bulk mail system program could likewise be viewed as a change. The record to date, however, reveals that the Postal Service simply decided not to discontinue that program which decision could hardly be viewed as a change.[14]

It is obvious that the changes are viewed by the Postal Service not to involve matters "in the nature of postal services" for it sought no Section 3661 advisory opinion from the Postal Rate Commission. Indeed, since its beginning, according to the Postal Service, it has made no nationwide change in the nature of postal services, for it has never sought such an advisory opinion, an unequivocal statutory prerequisite to a change. This could either speak well for the services provided by the now defunct Post Office Department or it could be construed unfavorably to the Postal Service. More likely, however, it highlights the central issue involved in this action—just what constitutes a change in the nature of postal services?

The parties are at opposite poles on this issue, and quite likely, the intended meaning is somewhere between the two extreme views.[15] For the purpose of this court's determination of whether to grant interlocutory injunctive relief, it is not necessary to decide that the challenged changes are in fact embraced in Section 3661. It is necessary to conclude, as the court has, that most likely they are and therefore that there is substantial likelihood that plaintiffs will prevail on the merits as to the Postal District consolidation and elimination program and as to the postal facilities' deployment program (retail analysis program) but are not likely to prevail on the merits as to the national bulk mail system program.

Earlier in this Memorandum of Decision the court has concluded that plaintiffs have standing to sue because they are being denied the opportunity for a hearing under Section 3661 on changes being implemented by the Postal Service. The denial of such a hearing, should one be required, is sufficient irreparable injury to support interlocutory injunctive relief, for it is clear that no hearing will be conducted and that the changes will continue unless enjoined. Defendants have made no effort to present evidence as to the threatened harm a preliminary injunction may do to them should the court enjoin the further implementation of the Postal District consolidation and elimination program or the postal facilities' deployment program (retail analysis program).[16] This absence of evidence, together with the irreparable nature of the injury being done plaintiffs, compels this court to conclude that the threatened injury to plaintiffs greatly outweighs any threatened harm the injunction contemplated herein may do to defendants. Moreover, the granting of such a preliminary injunction will serve, rather than disserve, the public interest.

In accordance with the foregoing, the court is of the opinion that it should issue a preliminary injunction which prevents the further consolidation or elimination of Postal Districts and which prevents the further implementation of the so-called postal facilities' deployment program pending further proceedings in this action. The injunction to be issued should not be construed as requiring the Postal Service to reestablish those eight or ten Postal Districts which have already been eliminated, although such affirmative relief may result following a final hearing. Moreover, it is not the court's intention by the injunction to prevent in any way the data gathering aspect of the postal facilities' deployment program or the use of that data in making untreated, isolated changes which are necessitated by events over which the Postal Service does not exercise reasonable control, such as failure of equipment, fire or other casualty, loss of lease, etc. Such injunction likewise is not intended to prohibit the opening of new facilities or the addition of services not currently being offered at existing facilities. The injunction as to the postal facilities' deployment program should be construed as directed primarily at a general implementation, on a timetable under the control of defendants, of the deployment program in a particular city where such implementation includes closing or relocating a facility or altering the character, nature or hours of service at an existing facility. Should the parties have any question as to the scope or application of this aspect of the injunction, the matter can be clarified upon application to the court.

An appropriate order of injunction will issue.

Done this 14th day of May, 1974.

JAMES H. HANCOCK,
U.S. District Judge.

FOOTNOTES

[1] Plaintiff John H. Buchanan, Jr. is a Member of Congress representing the Sixth Congressional District of Alabama; plaintiff John J. Duncan is a Member of Congress representing the Second Congressional District of Tennessee; and plaintiff Sam Steiger is a Member of Congress representing the Third Congressional District of Arizona.

[2] Pub. L. 91–375, August 12, 1970, 84 Stat. 719, Codified in 39 U.S.C. §§ 101, et seq.

[3] For a fairly comprehensive legislative history of this Act, see 1970 U.S. Code Cong. and Adm. News, pp. 3649–3723.

[4] "If the American public is to have the postal service that it expects and deserves, the Post Office must be taken out of politics and politics out of the Post Office." *Id* at page 3654.

[5] 39 U.S.C. § 3661. It appears the provisions dealing with § 3661 subject matter in the House passed version of H.R. 17070 and the Senate passed version of H.R. 17070 differ in form only, both one from another and from the final version resulting from the Conference Committee which ultimately placed § 3661 in its present form.

[6] 1970, U.S. Code Cong. and Adm. News, p. 3668.

[7] The record demonstrates that Congressman Buchanan and his staff assistants have relentlessly sought to be heard on the proposed changes, if for no other reason than to determine just what changes were being proposed.

[8] It is not necessary to decide if the opinion is binding on the Postal Service. What is necessary is that the advisory opinion be sought and, after a hearing, obtained.

[9] It also inherited approximately 600 Section Centers which it has now reduced to less than 300, but this reduction is not involved in this action.

[10] It is not clear whether this decision was made prior to July 1, 1971, but in all likelihood it was in view of news releases issued by the Post Office Department in the spring of 1971.

[11] This decentralized authority, as well as the initial authority given to each local Postmaster in connection with the retail analysis program (postal facilities' deployment program), is argued by defendants as clear evidence that the changes here considered are not nationwide. Apparently prior to July 1, 1971, the local Postmaster had to go to Washington for authority to acquire even pencils and paper. As commendable as is the decentralization of authority from the Postmaster General to the four Senior Assistant Postmasters General to the various Assistant Postmasters General to the five Regional Postmasters General to the 78 (originally 86) Postal District Managers to the thousands of local Postmasters, such decentralization of decision making and authority cannot be a shield to insulate a program available to the entire Postal Service from being nationwide where it is being accepted by the regional or local decisionmakers throughout the Nation either because the program is good or because there is attendant pressure to accept the program.

[12] Documents revealing the identities of certain districts scheduled for early elimination have, at the request of defendants, been sealed and will not be a part of the public record of these proceedings at this time. They support, however, this conclusion of an anticipated acceleration on a nationwide basis.

[13] See footnote 11.

[14] It is interesting to note, however, that counsel for the defendants in argument to the court stated that had the Postal Service decided to abort this program which it inherited from the Post Office Department, such a determination would *not* have been within the ambit of § 3661.

[15] Defendants take the position that only the elimination of Saturday deliveries or the elimination of special delivery service or charging the *recipient* for home delivery service or comparable changes can even arguably be changes in the nature of postal services. Plaintiffs take the position that changes which could in any material way affect the collection, transportation or delivery of mail or which could affect services associated therewith are clearly changes in the nature of postal services.

[16] Evidence was presented by defendants to support a finding which the court hereby finds, that substantial injury would be done defendants by an injunction of the national bulk mail system program, that such injury outweighs the injury, albeit irreparable, to plaintiffs and that the issuance of such an interlocutory injunction would disserve the public interest.

TERRORISM AND BARBARISM

(Mr. PODELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PODELL. Mr. Speaker, I pray that peace will come to the Middle East and that relations will become normal between Israel and her neighbors. But that will never come to pass while presumably civilized nations harbor hordes of savages who cross international borders to murder innocent women and children.

Ninety children were held hostage in a Maalot school for the release of imprisoned Arab terrorists. The guerrillas had already murdered two adults and two children before taking the school. These killers attacked while Secretary of State Kissinger, representing the United States and the civilized world, is trying to negotiate a peace between Syria, the Arab world, and Israel. It looks shockingly like a planned insult to our peacemaking efforts.

Do the Syrians and the Arabs truly seek peace when they give free run of the nations to criminals; when they give aid, comfort, and weapons to marauders whose victims are women and children? Is it possible to fruitfully negotiate with nations which use international terror and murder as an instrument of foreign policy? Do these nations really value the peacemaking efforts of the United States?

Just a month ago 18 Israelis were slaughtered in a similar raid. When Israel retaliated the United Nations voted to condemn Israel, but made no mention of the murders by Arab guerrillas—and the United States voted for that censure. Would America permit Canadian or Mexican guerrillas to cross our borders and slaughter women and children without retaliation?

If Israel retaliates for the Maalot incident, will the United States again side with the bullies and the criminals? We did last time and it encouraged further terror. They are now convinced they can get away with murder, and our vote in the U.N. helped to convince them of it. We must not be used that way again.

ARAB TERRORISTS

(Mr. GUDE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, the outrageous action by Arab terrorists in holding hostage and then slaying innocent Israeli children not only endangers the current efforts to achieve a disengagement in the Golan Heights, but shows clearly the moral depths to which the Arab guerrillas have sunk.

Not content to press their case through accepted international channels, the guerrillas have bombed, hijacked, and murdered their way around the world in an effort to scare people into accepting their ideas. Not content even to attack those they consider their enemies, they have opened fire on innocent civilians of different nationalities, slaughtering many uninvolved people.

It is past time for these outrages to stop. It is time for clear action on the part of all nations which respect justice—action that will show regardless of how one stands on the Mid-East situation, terrorism and murder are never solutions.

I have today joined a number of my colleagues in the House in a resolution condemning terrorist activity, calling on all other nations to do the same, and urging those who harbor terrorists to take effective action to root them out. In addition I call upon the President to request a meeting of the United Nations Security Council for the specific purpose of developing plans to deal with international terrorism so decisively as to completely destroy it in order that justice and the rule of law can be restored.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HELSTOSKI (at the request of Mr. O'NEILL), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. PASSMAN, for 60 minutes, on May 22, 1974.

(The following Members (at the request of Mr. HANRAHAN) and to revise and extend their remarks and include extraneous matter:)

Mr. SYMMS, for 10 minutes, today.

Mr. ROBISON of New York, for 15 minutes, today.

Mr. QUIE, for 50 minutes, today.

Mr. STEELMAN, for 5 minutes, today.

Mr. MCKINNEY, for 5 minutes, today.

Mr. HOGAN, for 30 minutes, today.

Mr. GOLDWATER, for 10 minutes, today.

Mr. CHAMBERLAIN, for 30 minutes, tomorrow.

Mr. MARTIN of North Carolina, for 5 minutes, today.

Mr. SKUBITZ, for 5 minutes, today.

Mr. KEMP, for 10 minutes, today.

Mr. BUTLER, for 5 minutes, today.

Mr. BURGENER, for 5 minutes, today.

Mr. GILMAN, for 5 minutes, today.

Mr. BLACKBURN, for 60 minutes, today.

Mr. CLEVELAND (at the request of Mr. BAUMAN), for 5 minutes, today.

(The following Members (at the request of Mr. TRAXLER) to revise and extend their remarks and include extraneous material:)

Ms. HOLTZMAN, for 15 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. HAMILTON, for 15 minutes, today.

Ms. ABZUG, for 20 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MADDEN.

Mr. BUCHANAN and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $627.

(The following Members (at the request of Mr. HANRAHAN) and to include extraneous matter:)

Mr. STEELE.

Mr. CLEVELAND.

Mr. NELSEN.

Mr. MARTIN of Nebraska in two instances.

Mr. HOSMER in two instances.

Mr. BROYHILL of Virginia.

Mr. GUYER.

Mrs. HOLT in 10 instances.

Mr. LAGOMARSINO in two instances.

Mr. ANDERSON of Illinois in two instances.

Mr. RINALDO.

Mr. MICHEL in five instances.

Mr. LENT.

Mr. SMITH of New York.

Mr. FRENZEL.

Mr. WYMAN in two instances.

Mr. HANRAHAN in three instances.

Mr. MCCLORY in two instances.

Mr. MALLARY.

Mr. GILMAN.

Mr. MCKINNEY.

Mr. RONCALLO of New York.

Mr. ASHBROOK in three instances.

(The following Members (at the request of Mr. TRAXLER) and to include extraneous matter:)

Mr. ROONEY of New York.

Mr. MURTHA.

Mr. TEAGUE in six instances.

Mr. VANDER VEEN.

Mr. DE LUGO in 10 instances.

Mr. GONZALEZ in three instances.

Mr. RARICK in three instances.

Mr. STEED.

Mr. HICKS.

Mrs. SULLIVAN in two instances.

Mr. SISK.

Mr. GREEN of Pennsylvania in two instances.

Mr. MANN in 10 instances.

Mr. REES.

Mr. DIGGS.

Mr. BERGLAND in three instances.

Mr. COTTER in three instances.

Mr. ADAMS.

Mr. EVINS of Tennessee in two instances.

Mr. HUNGATE in three instances.

Mr. DAN DANIEL.

Mr. ROSENTHAL in five instances.

Mrs. BURKE of California in 10 instances.

ENROLLED BILL SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 3418. An act to amend section 505 of title 10, United States Code, to establish uniform original enlistment qualifications for male and female persons.

BILL PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on May 14, 1974, present to the President, for his approval, a bill of the House of the following title:

H.R. 6574. An act to amend title 38, United States Code, to increase the maximum amount of Servicemen's Group Life Insurance to $20,000, to provide full-time coverage thereunder for certain members of the Reserves and National Guard, to authorize the conversion of such insurance to Veterans' Group Life Insurance, to authorize allotments from the pay of members of the National Guard of the United States for group life insurance premiums, and for other purposes.

ADJOURNMENT

Mr. TRAXLER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 37 minutes p.m.), the House adjourned until tomorrow, Thursday, May 16, 1974, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2320. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of various construction projects proposed to be undertaken for the Army National Guard, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

2321. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of a facilities project proposed to be undertaken for the Army Reserve, pursuant to 10 U.S.C. 2233a (1), together with notice of the cancellation of various previously approved Army Reserve projects; to the Committee on Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mrs. SULLIVAN: Committee on Merchant Marine and Fisheries. H.R. 11951. A bill to authorize the construction and operation of high seas oil ports, to be located in the offshore coastal waters of the United States, in order to facilitate the importation of petroleum and petroleum products into the United States, and for other purposes; with amendment (Rept. No. 93-1042). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. H.R. 14449. A bill to provide for the mobilization of community development and assistance services and to establish a community action administration in the Department of Health, Education, and Welfare to administer such programs; with amendment (Rept. No. 93-1043). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLLING: Committee on Rules. House Resolution 1110. Resolution providing for the consideration of H.R. 10294. A bill to establish land use policy; to authorize the Secretary of the Interior, pursuant to guidelines issued by the Council on Environmental Quality to make grants to assist the States to develop and implement comprehensive land use planning processes; to coordinate Federal programs and policies which have a land use impact; to make grants to Indian tribes to assist them to develop and implement land use planning processes for reservation and other tribal lands; to provide land use planning directives for the public lands; and for other purposes (Rept. No. 93-1044). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. House Resolution 1111. Resolution providing for the consideration of H.R. 13973. A bill to amend the title of the Foreign Assistance Act of 1961 concerning the Overseas Private Investment Corporation to extend the authority for the Corporation, to authorize the Corporation to issue reinsurance, to suggest dates for terminating certain activities of the Corporation, and for other purposes (Rept. No. 93-1045). Referred to the House Calendar.

Mr. MADDEN: Committee on Rules. House Resolution 1112. Resolution for the consideration of H.R. 14592. A bill to authorize appropriations during the fiscal year 1975 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads and for other purposes (Rept. No. 93-1046). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BIAGGI:

H.R. 14797. A bill to amend the Civil Rights Act of 1964 to include as an unlawful employment practice discrimination against an individual by any employer, employment agency, or labor organization because of the individual's prior drug abuse, and for other purposes; to the Committee on Education and Labor.

By Mr. BLATNIK:

H.R. 14798. A bill to amend title 38 of the United States Code in order to recognize as service during a period of war, for purposes of veterans' benefits, service between July 1, 1958, and August 5, 1964, in the Vietnam era of operations for which the Armed Services Expeditionary Medal was awarded; to the Committee on Veterans' Affairs.

H.R. 14799. A bill to provide for a temporary program of special unemployment compensation in areas of high unemployment and to amend the Federal-State Unemployment Compensation Act of 1970; to the Committee on Ways and Means.

By Mr. BROYHILL of Virginia:

H.R. 14800. A bill to amend the Federal Election Campaign Act of 1971 and title 18, United States Code, to provide for the reform of the Federal election campaign process, and for other purposes; to the Committee on House Administration.

By Mr. DENHOLM:

H.R. 14801. A bill expanding the definition of the word "person" as used in the Constitution and the laws of the United States; to the Committee on the Judiciary.

By Mr. FREY (for himself and Mr. ST GERMAIN):

H.R. 14802. A bill to amend title 38 of the United States Code in order to provide service pension to certain veterans of World War I and pension to the widows of such veterans; to the Committee on Veterans' Affairs.

By Mr. HARRINGTON (for himself, and Mr. ASPIN):

H.R. 14803. A bill to insure that recipients of veterans' pension and compensation will not have the amount of such pensions or compensation reduced, or entitlement thereto discontinued, because of increases in monthly social security benefits; to the Committee on Veterans' Affairs.

By Mr. HASTINGS:

H.R. 14804. A bill to amend the Railroad Retirement Act of 1937 to increase the amount of earnings permitted before the limitation on earnings of a retirement annuitant takes effect and to provide for its further increase in certain circumstances when the Consumer Price Index rises; to the Committee on Interstate and Foreign Commerce.

By Mr. KOCH:

H.R. 14805. A bill to amend the Federal Food, Drug, and Cosmetic Act to authorize the Secretary of Health, Education, and Welfare to halt the sales and distribution of food, drug, and cosmetics adulterated or misbranded in a manner which presents an imminent hazard to the public health and to require their recall or destruction, as may be appropriate; to the Committee on Interstate and Foreign Commerce.

By Mr. KYROS:

H.R. 14806. A bill to amend title 10 of the United States Code in order to permit the establishment of Junior Reserve Officer Training Corps units at small secondary educational institutions; to the Committee on Armed Services.

By Mr. LAGOMARSINO:

H.R. 14807. A bill authorizing the Administrator of Veterans' Affairs to establish a national cemetery at Vandenberg Air Force Base, Calif.; to the Committee on Veterans' Affairs.

By Mr. MACDONALD:

H.R. 14808. A bill to provide assistance and full-time employment to persons who are unemployed or underemployed as a result of the energy crisis; to the Committee on Education and Labor.

By Mr. McKINNEY (for himself, Ms. ABZUG, Mr. BEVILL, Mr. BRASCO, Mr. BROWN of California, Mr. DELLUMS, Mr. DIGGS, Mr. EDWARDS of California, Mr. EILBERG, Mr. FORSYTHE, Mr. HARRINGTON, Mr. HEINZ, Ms. HOLTZMAN, Mr. HORTON, and Mr. JONES of North Carolina):

H.R. 14809. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for regular physical examinations; to the Committee on Ways and Means.

By Mr. McKINNEY (for himself, Mr. LEGGETT, Mr. PEPPER, Mr. PODELL, Mr. QUIE, Mr. REES, Mr. RIEGLE, Mr. ST GERMAIN, Mr. SARBANES, Mr. STARK, Mr. TIERNAN, Mr. WON PAT, Mr. YATRON, and Mr. YOUNG of Georgia):

H.R. 14810. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for regular physical examinations; to the Committee on Ways and Means.

By Mr. MAYNE:

H.R. 14811. A bill to amend title 38, United States Code, to provide a 10-year delimiting period for the pusuit of educational programs by veterans, wives, and widows; to the Committee on Veterans' Affairs.

By Mr. MOAKLEY:

H.R. 14812. A bill to amend the National Housing Act to improve conditions in the housing market by increasing maximum mortgage amounts under the various FHA residential housing programs, by providing a $1.7-billion increase in GNMA's authority to purchase mortgages under the tandem plan, and by limiting the interest rate on mortgages which may be purchased under such plan; to the Committee on Banking and Currency.

H.R. 14813. A bill to require the Secretary of Housing and Urban Development to terminate the suspension of assistance under FHA's section 235 program of homeownership for lower income famliies and to carry out such program to the full extent of the funds and contract authority made available to him by law; to the Committee on Banking and Currency.

By Mr. NELSEN:

H.R. 14814. A bill to amend the provisions of the Social Security Act to consolidate the reporting of wages by employers for income tax withholding and old-age, survivors, and disability insurance purposes, and for other purposes; to the Committee on Ways and Means.

By Mr. NICHOLS:

H.R. 14815. A bill to amend part B of title XI of the Social Security Act to provide a more effective administration of Professional Standards Review of health care services, to expand the Professional Standards Review Organization activity to include review of services performed by or in federally operated health care institutions, and to protect the confidentiality of medical records; to the Committee on Ways and Means.

By Mr. QUILLEN:

H.R. 14816. A bill to amend the Internal Revenue Code of 1954 to provide for the suspension of excise taxes on diesel fuel and special motor fuels, and to roll back the prices for such products; to the Committee on Ways and Means.

By Mr. REID (for himself, Mr. Brown of California, Mr. Clay, Mr. Dellums, Mr. Mitchell of Maryland, Mr. Fraser, and Mr. Eckhardt):

H.R. 14817. A bill to prohibit law enforcement authorities for entering into any understanding to grant any President or former President immunity from prosecution for criminal offenses committed prior to or during his term in office, and for other purposes; to the Committee on the Judiciary.

By Mr. REID (for himself, Ms. Abzug, Ms. Chisholm, and Mr. Green of Pennsylvania):

H.R. 14818. A bill to prohibit law enforcement authorities from entering into any understanding to grant any President or former President immunity from prosecution for criminal offenses committed prior to or during his term in office, and for other purposes; to the Committee on the Judiciary.

By Mr. ROBISON of New York:

H.R. 14819. A bill to amend the Internal Revenue Code of 1954 to increase the exclusion allowance for gain from the sale or exchange of a residence in the case of individuals 65 years and over; to the Committee on Ways and Means.

By Mr. ROUSH:

H.R. 14820. A bill to amend Section 203 of the Social Security Act to provide that an individual who devotes 45 hours or less a month to his or her trade or business shall not be considered to have rendered substantial services in self-employment for purposes of the retirement test; to the Committee on Ways and Means.

By Mr. STEELE (for himself, Mr. Young of Illinois, Mr. Roncallo of New York, Mr. Madigan, Mr. Coughlin, Mr. Esch, Mr. Symington, and Mr. Luken):

H.R. 14821. A bill making an additional appropriation for the fiscal year ending June 30, 1974, for the Department of Health, Education, and Welfare for research on the cause and treatment of diabetes; to the Committee on Appropriations.

By Mr. STEELE (for himself and Mr. Kyros):

H.R. 14822. A bill to provide financial assistance to the States for improved educational services for exceptional children; to establish a National Clearinghouse on Exceptional Children; and for other purposes; to the Committee on Education and Labor.

By Mr. STEELE (for himself, Mr. Breaux, Mr. Forsythe, Mr. Goodling, Mr. Kyros, Mr. Lott, and Mr. Pritchard):

H.R. 14823. A bill to provide additional financial assistance for educational biological, technological, and other research programs pertaining to U.S. fisheries; to the Committee on Merchant Marine and Fisheries.

H.R. 14824. A bill to provide additional financial assistance for educational, biological, technological, and other research programs pertaining to U.S. fisheries; to the Committee on Merchant Marine and Fisheries.

By Mr. STEELMAN (for himself, Mr. Fraser, Mr. Steele, Mr. Grover, and Mr. Sarasin):

H.R. 14825. A bill to amend the Public Health Service Act to provide for the making of grants to assist in the establishment and initial operation of agencies and expanding the services available in existing agencies which will provide home health services, and to provide grants to public and private agencies to train professional and paraprofessional personnel to provide home health services; to the Committee on Interstate and Foreign Commerce.

By Mr. STOKES (for himself, Ms. Abzug, Mr. Ashley, Mr. Aspin, Mr. Badillo, Mr. Bingham, Mr. Boland, Mr. Brown of California, Ms. Burke of California, Mr. Burton, Mr. Carney of Ohio, Ms. Chisholm, Mr. Clay, Ms. Collins of Illinois, Mr. Conte, Mr. Conyers, Mr. Corman, Mr. Dellums, Mr. Diggs, Mr. Drinan, Mr. Eckhardt, and Mr. Edwards of California):

H.R. 14826. A bill to require that discharge certificates issued to members of the Armed Forces not indicate the conditions or reasons for discharge, to limit the separation of enlisted members under conditions other than honorable, and to improve the procedures for the review of discharges and dismissals; to the Committee on Armed Services.

By Mr. STOKES (for himself, Mr. Fauntroy, Mr. Ford, Mr. Fraser, Mr. Green of Pennsylvania, Mr. Harrington, Mr. Hawkins, Mr. Helstoski, Ms. Holtzman, Ms. Jordan, Mr. Koch, Mr. Leggett, Mr. Luken, Mr. McKinney, Mr. Mazzoli, Mr. Metcalfe, Ms. Mink, Mr. Mitchell, of Maryland, Mr. Moakley, Mr. Nix, Mr. Obey, Mr. Pepper, Mr. Podell, and Mr. Preyer):

H.R. 14827. A bill to require that discharge certificates issued to members of the Armed Forces not indicate the conditions or reasons for discharge, to limit the separation of enlisted members under conditions other than honorable, and to improve the procedures for the review of discharges and dismissals; to the Committee on Armed Services.

By Mr. STOKES (for himself, Mr. Price of Illinois, Mr. Rangel, Mr. Rees, Mr. Reuss, Mr. Rosenthal, Mr. Roybal, Mr. Ryan, Ms. Schroeder, Mr. Seiberling, Mr. Sisk, Mr. James V. Stanton, Mr. Stark, Mr. Studds, Mr. Thompson of New Jersey, Mr. Tiernan, Mr. Waldie, Mr. Charles H. Wilson of California, Mr. Won Pat, Mr. Yatron, and Mr. Young of Georgia).

H.R. 14828. A bill to require that discharge certificates issued to members of the Armed Forces not indicate the conditions or reasons for discharge, to limit the separation of enlisted members under conditions other than honorable, and to improve the procedures for the review of discharges and dismissals; to the Committee on Armed Services.

By Mr. SYMMS:

H.R. 14829. A bill to declare Lake Coeur d'Alene, Lake Chatcolet, Hidden Lake, Round Lake, and the lower reaches of the St. Joe River, in the State of Idaho, to be nonnavigable waters; to the Committee on Interstate and Foreign Commerce.

By Mr. WHITE:

H.R. 14830. A bill to designate the Bureau of Economic Analysis as the agency officially responsible for informing the public, through publication of appropriate statistics, concerning energy supply and demand conditions in the United States and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. WINN (for himself Mr. Steele, and Mrs. Boggs):

H.R. 14831. A bill to authorize the Administrator of the National Aeronautics and Space Administration to conduct research and development programs to increase knowledge of tornadoes, hurricanes, large thunderstorms, and other types of short-term weather phenomena, and to develop methods for predicting, detecting, and monitoring such atmospheric behavior; to the Committee on Science and Astronautics.

By Mr. ANDERSON of California (for himself, Mr. Sarasin, Mr. Matsunaga, Mr. Bell, Mr. Brown of California, Mr. Carney of Ohio, Mr. McKinney, Mr. Stokes, Ms. Burke of California, Mr. Nedzi, Mr. Pepper, Mr. Eckhardt, Mr. Won Pat, Mr. Koch, Mr. Forsythe, Mr. Moorhead of Pennsylvania, Mr. Mitchell of Maryland, Mr. Hicks, Mrs. Mink, Mr. Abdnor, Mr. Diggs, Mr. Stark, and Mr. Metcalfe):

H.J. Res. 1012. Joint resolution to prohibit the Bureau of Labor Statistics from instituting any revision in the method of calculating the Consumer Price Index until such revision has been approved by resolution by either the Senate or the House of Representatives of the United States of America; to the Committee on Education and Labor.

By Mr. BUTLER (for himself, Mr. Broyhill of Virginia, Mr. Parris, Mr. Wampler, Mr. Satterfield, and Mr. Robert W. Daniel, Jr.):

H.J. Res. 1013. Joint resolution to restore posthumously full rights of citizenship to General R. E. Lee; to the Committee on the Judiciary.

By Mr. ICHORD (for himself, Mr. Derwinski, Mr. Byron, Mr. Moss, Mr. Shoup, Mr. Won Pat, Mr. Wyman, Mr. Roe, Mr. Runnels, Mr. Hansen of Idaho, Mr. Giaimo, Mr. Gunter, Mrs. Schroeder, Mr. Waggonner, Mr. Long of Maryland, Mr. Hogan, Mr. Mitchell of New York, Mrs. Burke of California, Mr. Kemp, Mrs. Heckler of Massachusetts, Mrs. Collins of Illinois, and Mr. Quie):

H.J. Res. 1014. Joint resolution requiring the President to submit to Congress a report concerning importations of minerals which are critical to the needs of U.S. industry; to the Committee on Ways and Means.

By Mr. SMITH of New York:

H.J. Res. 1015. Joint resolution to amend title 5 of the United States Code to provide for the designation of the 11th day of November of each year as Veterans' Day; to the Committee on the Judiciary.

By Mr. VANDER JAGT (for himself,

Mr. Brown of Ohio, Mr. Holifield, Mr. Erlenborn, Mr. Hinshaw, Mr. Rosenthal, Mr. Horton, Mr. Fascell, Mr. Pritchard, Mr. Hanrahan, and Mr. Mallary):

H.J. Res. 1016. Joint resolution designating the premises occupied by the Chief of Naval Operations as the official residence of the Vice President, effective upon the termination of service of the incumbent Chief of Naval Operations; to the Committee on Armed Services.

By Mr. WYMAN:

H.J. Res. 1017. Joint resolution designating the premises occupied by the Chief of Naval Operations as the official residence of the Vice President, effective upon the termination of service of the incumbent Chief of Naval Operations; to the Committee on Armed Services.

By Mr. BROTZMAN:

H. Con. Res. 493. Concurrent resolution to call on the American people to diligently continue their energy conservation measures in the postembargo period; to the Committee on Interstate and Foreign Commerce.

By Mr. BAFALIS (for himself, Mr. Cronin, Mr. Conlan, Mr. Cochran, Mr. Armstrong, Mr. Burgener, Mr. Walsh, Mr. Young of South Carolina, Mr. Martin of North Carolina, Mr. Huber, Mr. Mitchell of New York, Mr. Robert W. Daniel, Jr., Mr. Lagomarsino, Mr. Steelman, Mr. Johnson of Colorado, Mr. Shuster, Mr. Moorhead of California, Mr. Hinshaw, Mr. Hudnut, Mr. Froehlich, Mr. Bauman, Mr. Hanrahan, Mr. Lott, Mr. Young of Illinois, and Mr. Symms):

H. Res. 1104. Resolution to urge expeditious action on fiscal and budgetary reform measures; to the Committee on Rules.

By Mr. BAFALIS (for himself, Mrs. Holt, Mr. Taylor of Missouri, Mr. Cohen, Mr. Sarasin, Mr. Towell of Nevada, Mr. Butler, Mr. Rinaldo, Mr. O'Brien, Mr. Gilman, Mr. Guyer, Mr. Treen, Mr. Beard, Mr. Ketchum, Mr. Regula, Mr. Parris, Mr. Abdnor, Mr. Roncallo of New York, Mr. Kemp, Mr. Devine, Mr. Crane, Mr. Derwinski, Mr. Rousselot, Mr. Burke of Florida, and Mr. Spence):

H. Res. 1105. Resolution to urge expeditious action on fiscal and budgetary reform measures; to the Committee on Rules.

By Mr. BAFALIS (for himself, Mr. Young of Alaska, and Mr. Young of Florida):

H. Res. 1106. Resolution to urge expeditious action on congressional spending reform; to the Committee on Rules.

By Mr. OWENS (for himself, Mr. Badillo, Mr. Litton, Mr. Murphy of New York, Ms. Chisholm, Mr. Riegle, Ms. Burke of California, Mr. Danielson, Mr. Diggs, Mr. Dellums, and Mr. Harrington):

H. Res. 1107. Resolution to amend the Rules of the House of Representatives to provide for the broadcasting of meetings, in addition to hearings, of House committees which are open to the public; to the Committee on Rules.

By Mr. STEELMAN:

H. Res. 1108. Resolution providing for the consideration of House Resolution 988; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. WINN introduced a resolution (H. Res. 1109) to refer the bill H.R. 14796 for the relief of NEES Corporation to the Chief Commissioner of the Court of Claims; to the Committee on the Judiciary.

SENATE—*Wednesday, May 15, 1974*

The Senate met at 9 a.m. and was called to order by Hon. Harry F. Byrd, Jr., a Senator from the State of Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

We beseech Thee, O Lord, to fit us for this day remembering the words of the Psalmist:

Blessed is the man that walketh not in the counsel of the ungodly, nor standeth in the way of sinners, nor sitteth in the seat of the scornful. But his delight is in the law of the Lord; and in his law doth he meditate day and night.—Psalms 1: 1, 2.

Help us, O Lord, not only to meditate upon Thy law, but to live by it in the spirit of Jesus, in whose name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Eastland).

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., May 15, 1974.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. Harry F. Byrd, Jr., a Senator from the State of Virginia, to perform the duties of the Chair during my absence.

James O. Eastland,
President pro tempore.

Mr. HARRY F. BYRD, JR., thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, May 14, 1974, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of morning business this morning, the Gurney amendment, under the previous agreement, be laid before the Senate and made the pending business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN ITEMS ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 806 and 807.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DISASTER RELIEF TO PAKISTAN, NICARAGUA, AND SAHELIAN NATIONS OF AFRICA

The Senate proceeded to consider the bill (H.R. 12412), to amend the Foreign Assistance Act of 1961 to authorize an appropriation to provide disaster relief, rehabilitation, and reconstruction assistance to Pakistan, Nicaragua, and the Sahelian nations of Africa, which had been reported from the Committee on Foreign Relations with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Foreign Disaster Assistance Act of 1974".

Sec. 2. Chapter 5 of part I of the Foreign Assistance Act of 1961 is amended by inserting after section 451 the following new section:

"Sec. 452. Disaster Relief.—The Congress finds a need for (1) disaster relief, rehabilitation, and reconstruction assistance in connection with the damage caused by floods in Pakistan, (2) disaster relief, rehabilitation, and reconstruction assistance in connection with the earthquake in Nicaragua, and (3) famine and disaster relief and rehabilitation and reconstruction assistance in connection with the drought in the drought-stricken nations of Africa. Notwithstanding any prohibitions or restrictions contained in this or any other Act, there is authorized to be appropriated to the President, in addition to funds otherwise available for such purposes, $150,000,000 to remain available until expended notwithstanding the provisions of any other Act, for use by the President for such assistance, under such terms and conditions as he may determine. Of the amount appropriated pursuant to this section, not more than $50,000,000 shall be available solely for assistance to Pakistan; not more than $85,000,000 shall be available solely for drought-relief assistance in Africa, of which not less than $10,000,000 shall be available solely for Ethiopia; and not more than $15,000,000 shall be available solely for assistance to Nicaragua.".

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended, so as to read: "An Act to amend the Foreign Assistance Act of 1961 to authorize an appropriation to provide disaster relief, rehabilitation, and reconstruction assistance to Pakistan, Nicaragua, and the drought-stricken nations of Africa."

AMENDMENT OF ARMS CONTROL AND DISARMAMENT ACT

The Senate proceeded to consider the bill (H.R. 12799) to amend the Arms Control and Disarmament Act, as amended, in order to extend the authorization for appropriations, and for other purposes, which had been reported from the Committee on Foreign Relations with amendments, on page 1, line 3, after the word "That", strike out "(1)" and insert "(a)"; at the beginning of line 5, strike out "(a)" and insert "(1)"; in line 9, after the word "Code", strike out "and;"; after line 9, insert:

(2) deleting "section 5 of said Act, as amended (5 U.S.C. 73b–2)" and substituting therefor "section 5703 of such title"; and

On page 2, at the beginning of line 3, strike out "(b)" and insert "(3)"; in line 4, after the word "therefor", strike out "one hundred and thirty days" and insert "130 days"; at the beginning of line 6, strike out "(2)" and insert "(b)"; in line 8, after the word "following" strike out "and"; and, in line 9, after "$10,100,000", insert a comma and "and for the fiscal year 1976, the sum of $10,900,000".

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

TRANSCRIPTS OF TAPES SUBMITTED BY THE PRESIDENT: PUBLIC TRANSCRIPTS—VIII

Appendix 45. Telephone conversation: The President and Petersen, April 18, 1973. (2:50–2:56 p.m.)

Opr. Yes, please.

P. Would you get me Assistant Attorney General Petersen, please?

P. Hello.

HP. Hello, Mr. President.

P. Well what's—anything I need to know today?

HP. No sir. There is no significant developments.

P. Right. Uh, huh. Alright.

HP. Strachan is coming in. Fred Vinson, former Assistant Attorney General under Johnson, is representing him.

P. Representing who?

HP. Strachan, I think it is, who is going to come in.

P. Strachan? Oh, yeah, yeah. Gordon Strachan.

HP. But there have been no developments. We are still negotiating. We have a problem with the Grand Jury. The only copy of the Grand Jury transcript has been locked up in the prosecutor's office. We have the FBI checking out the reporter on the ground that they have leaked it. The Judge called us in about it this morning.

P. Uh, huh. Sirica did.

HP. Yeah.

P. About what? About part of it leaking?

HP. He was concerned about leaking and, of course, Anderson has been printing some of it. We have changed reporters. We haven't even been bringing it over here for security reasons.

P. Yeah. I would hope to keep the Grand Jury from leaking. But—

HP. Well, you know I don't want to go too far on it either, because I don't want to get into a diversionary battle with Anderson.

P. Hell, no. I wouldn't pay that much attention to it. I agree, I agree. What I meant is just do the best to control it.

HP. We are indeed.

P. Because we know that its just wrong. Now we are handling it over here, I trust, aren't we? I just told Ziegler he won't comment on anything because it might effect the rights of either the prosecution or the rights of innocent people or the rights of defendants.

HP. We are not taking any calls from them over here.

P. So that is all we are saying.

HP. You can't talk to them at all.

P. Fine.

HP. I was kind of pleased with the reaction your statement got.

P. I think it was probably the right thing to say.

HP. Yeah.

P. What have you got—you haven't made—you haven't finished the thing with Magruder yet, then, huh?

HP. No, we haven't finished the thing with Magruder. Ah,—

P. Dean the same, huh?

HP. Dean's, well, we have just backed off of him for a while. His lawyers want time to think.

P. I have deliberately, Henry—I left Dean in a position where I said look he was going to be treated like everybody else because it wasn't fair, I mean for him to be at all, you know—what I mean, like when we talked about resignation, etc., since he was making some charges. Well, it isn't that. Since he has at least had some private discussions, but they haven't yet been in the Grand Jury forum, so I have to respect those.

HP. I think that is right.

P. So that was your suggestion, at least, that we should not do anything on Dean at this point.

HP. I think that is right. I think you ought to just let him sit.

P. All I have is just information—

HP. That's right.

P. basically from you and from him, but it is information the gravity of which I just can't judge until I see whether it is corroborated.

HP. You have to treat that as private, in any event.

P. Private, don't I? Yeah. And for that reason if I were to move to do it—so I think we are in the right position and, then, fine. OK—Then I won't expect any more from you today. I won't bother you.

HP. No. I am a little concerned about Senator Ervin's Committee. They have just, under the agreement Kleindienst worked out with Senator Ervin, have called the Bureau and asked to see the interview statements of Magruder, Porter, Sloan and LaRue.

P. Oh, my (expletive removed).

HP. Ah, and I feel like I am sitting on a powder keg there, but I don't feel like I can dare go to Senator Ervin until I get a definite commitment from Magruder.

P. Yeah, yeah. On Magruder, what's waiting besides the Committee with him? Oh, the deal with the DC jail and—

HP. Well that is right and whether or not the Judge is going to clap him in right away, and whether or not the Committee is going to put pressure on him.

P. In otherwords, you think—you haven't yet tried to talk to Ervin?

HP. No, Sir, and I don't want to until I can tie him down.

P. Til you've got him tied? I get it.

HP. Well, I've got to be able to say that I am coming out with something public in terms of a charge.

P. I see. Right, right.

HP. You know, have a valid basis for asking him to slow it up.

P. OK. Well, in any event, I am glad you thought the statement went well. I worked on it to be sure that it didn't compromise anybody one way or the other and as you noticed too I put the immunity thing. It leaves the ball in your court, but—

HP. I noticed.

P. But on the other hand, I had to express the view because basically people are going to ask me, what about Mitchell, what about, you know, a lot of people and you know I just can't be in this position.

HP. I agree wholeheartedly.

P. Lower people are different. But you know, upper people, you know, they might think I am protecting (unintelligible)

HP. I agree.

P. OK.

HP. Alright, Mr. President.

P. Fine.

Appendix 46. Meeting. The President, Wilson and Strickler, EOB Office, April 19, 1973. (8:26–9:32 p.m.):

P. This is my EOB Office where I do a lot of—

W. Yes. We were—you know those initials that we were—

P. This is where I do most of my speech writing—

S. We saw your Oval room tonight.

P. What's that?

S. I said, "We saw your Oval Office tonight."

P. Oh, you were over there? You hadn't see it before?

S. No.

W. No. I've never been in it.

P. My gosh.

W. You know we are local boys here and—

P. You are going to get to see the things that tourists see—

W. Yes. One of our dear friends is a dear friend of yours and that is the Marriotts.

P. Oh, aren't they great people?

W. Aren't they? We have represented them for years—until young Bill got so he wanted large out-of-town law firms.

P. Foolish.

W. But Bill and Ollie and I have been—I have been friends with them forty years; they are the sweetest people in the world.

P. Well, they are really fine Americans, and you know.—And gee whiz, they don't drink themselves but they make a lot out of selling it. (Laughter)

S. There was a time when they didn't do that, as you well know.

P. Oh, I know and it's interesting they were telling me that they had a custom now in some of their houses where they—where they reserve a couple of floors for people who don't smoke.

W. Yes.

P. So people who come in—incidentally, do you guys smoke?

S. I gave it up.

W. I never started.

S. —five or six years ago. I feel that—

P. You didn't start? Cigarettes or—

S. I was a cigarette smoker—about three packs a day. When I gave them up, I missed them. I was a hopeless addict.

W. I never smoked in my life.

P. Like some coffee? Uh? Coffee or Sanka?

W. A little Sanka—would be nice.

S. Coffee.

P. Coffee or Sanka? I have Sanka, I guess, Manolo?

M. Yes Sir.

P. Get a little sleep tonight.

W. I don't guess you get very much. (Laughter)

P. Yet all of our other problems we've got—we've got the one you've got.

W. Yes. We admire you so much—that we both are dyed-in-the-wool Republicans. I was just telling Bob Haldeman that I joined the party years ago. I said, "No sign of beating Calvin Coolidge with a Liberal!" (Laughter)

P. Well, tell me where it stands and—

W. Yes.

P. And, if you will, both from the standpoint of the people you are representing and from the standpoint of the Presidency, which, of course, we got to (unintelligible) and I—

W. I can tell you (unintelligible)

P. Oh, sure, one of those things where people with the best of intentions—I mean everybody. John Mitchell I love.

W. Of course.

P. He did things here, you know, that were (unintelligible) on a less, here we have people who got involved—tangentially. Really an—

W. We have had three days—three different daily sessions with Bob and John.

P. Right.

W. And two today. And two were—

P. (unintelligible)

W. by our visit to the District Attorney's office.

P. Right.

W. This afternoon. Uh—We want to first, go over the Bob situation. He's written a memo of things which boils down the sensitive area—

P. You're talking about Haldeman now.

W. —boils down to Bob—boils down to the matter of $350,000.

P. Three fifty—right. I am aware of that.

W. And what knowledge he has—

P. And I have questioned him very thoroughly on all things myself.

W. —Uh—I'm sure you have and he said that Dean had come to him and told him of the need of this money.

P. For what purpose?

W. To help alleviate families and legal counsel of the Watergate people.

P. All right.

W. And that was one occasion. Later on, when the money was transferred over to the Committee, he just wanted to be rid of it. And he had no intention as to where it might go. And—uh—that's that. Now we said to him that we don't doubt that—about the truthfulness and what parties in these two effects (unintellible) We said, "Circumstantially, if it be wrong to have done this, a jury might think that he did it with (unintelligible).

P. If what? If what? That it would look—

W. It'd look like it to an impartial jury.

P. When you put it to a jury it looks like—it's just very questionable?

W. Yes. Yes.

S. Depending upon how the testimony comes out of the various people, it could become an issue.

P. Right.

W. Now that we—he said. "But wait a minute. What is this sin? What is wrong with this?" Well, by a far stretch, this might be something of accessory after the fact to a conspiracy at the Watergate. This Mr. President.—

P. Accessory? For what? For the purpose of?

W. Of sort of aiding the consequences. I gave an example of Dr. Mudd.—

P. Yeah.

W. —in the John Wilkes Boothe case.

P. Just got that pardon.

W. Yes. I pointed out that he didn't commit the crime but he did sort of aid in the thing afterwards.

P. Right.

W. Uh.

P. Now, I suppose—it was evident? I suppose there, too, the motive as to whether he gave it to Dean with the knowledge and with the intent of keeping the defendants quiet. That—

W. That would be the argument. Uh—

P. The argument of the prosecution?

W. Yes.

S. Exactly. Now, we don't know what Dean will say on this.

P. Well, I guess you don't because he is involved himself.

S. Yes, this is right.

W. But—

P. (Unintelligible) you've got to.

S. We assume the worst. In our thinking, we assume the worst.

P. Exactly. Absolutely.

W. Now, we are old prosecutors, Mr. President.

P. Good.

W. And we think that this is not a case, according to our standards. This is not an indictable case against Bob. On the other hand, bear in mind that we have got a group of zealots—uh, particularly in Seymour Glanzer who is a fire-eating prosecutor, and uh—these zealots always shoot for the top.

P. Sure.

W. And they are not always conscientious enough to, uh—

P. To see what's wrong about it.

W. Whether it's a convicting case of whether it's—

P. In other words, they may indict even though they don't think they can (unintelligible).

W. That's it exactly. I couldn't—we couldn't exclude the possibility that the prosecutors might take this up. On the other hand, we—we—we don't think it amounts to a criminal case in a practical sense.

P. In other words, if it goes to a court—you—whoever tries it—you think you might be able to defend him?

S. On the evidence that we now have, yes.

W. Yes. That's our feeling.

P. Now, that's (unintelligible).

W. I want you to know we are guessing at this, Mr. President.

P. The letter to LaRue—was it to LaRue?

S/W. Yes. Yes.

P. The letter to LaRue—was in one sense a—(unintelligible admitted that he was raising money for the defendants—have you got that?

S. Yes. We have that.

P. You must have it all, you see.

W. Yes. We have that. When I say that we don't think this is really a good case, this is just our best judgment.

P. Sure. I understand.

W. We could be as wrong as the devil about this thing and, yet, coming to certain conclusions—that's the reason we are presenting it to you in this way. Now this is Bob's situation—Bob and John brought us their problems three days ago. I want you to know that I never knew these guys.

S. But they are wonderful fellows.

P. They are. They're great, fine Americans. And they tell the truth, too.

W. Yes—

P. I can tell you one thing about your clients. They'll tell you the truth. They don't lie.

W. Yes. Yes. Now, now—we took up John's situation about the Deep Six.

P. Yes. This is Ehrlichman.

W. Yes.

P. Okay.

W. And—he tell's us that he (unintelligible) Hunt's safe and that there was a pistol there; there was some electronic—

P. Right.

W. Equipment. Bob didn't think it was bugging. But it was more recordings than bugging. But this is unimportant.

S. And a batch of papers.

P. Right.

W. Sensitive or semi-sensitive in nature.

P. Sensitive in what respect—political or other?

W. I don't think it was as much political as it was—didn't he have something to do with national security?

P. Yes.

S. I think it was a mixture of both.

W. Was it—guess it might have been.

P. Yeah.

W. Anyway. Uh—what I was going to say today.

P. Go ahead.

W. The same day, or almost—Yes, I do.

S. So the FBI was brought in and it seems that.

P. They got the pistol.

S. They got the pistol. They got the bugging equipment. And they got a large quantity of papers.

P. Which they gave to Dean—I mean to Gray.

W. Well, presumably not this particular sensitive area.

P. Oh.

W. Gray, as the head of the Department, may have seen it. But this is not the particular instance where we see Gray. Uh, Dean held back some papers.

P. Oh. They gave some of the papers to the FBI?

W. Most of them. Now Frank, correct me this if—

P. Thank goodness, they did that.

W. Oh yes. It was promptly done, wasn't it?

S. Yeah, it was.

P. They saw the papers and they secured the area and they gave them to the FBI.

W. Yes.

P. And other papers though they didn't give to the FBI?

W. Now, do you recall whether John said that Dean informed him he was holding these back.

S. Yes, not contemporaneously but later on.

W. Yes.

S. Dean had—

W. Not at the moment.

S. Not at the moment.

W. Now let me go on. Dean had a little envelope which was unopened as far as John was concerned. He was unaware of its contents. And Gray was sent for. I think Dean suggested that Gray be sent for. Or maybe that was John.

S. I'm not sure whether it was Dean or John—I think it was John, though.

W. We have taxed our system in the last seventy-two hours.

P. I know, I know.

S. (unintelligible) did not make (unintelligible)

W. At any rate, this next meeting which was almost the next day—it wasn't more than twenty-four hours after the FBI had entered and as John described—Gray sat over there and John sat—he sat here—and Dean handed Gray this package of papers which as I say for John's purposes was sealed. He never saw the contents. Gray took it—the meeting did not last over four minutes. And left. Now Gray approached John.

S. Ehrlichman

W. And said, I want you to not mention the fact that I received those papers.

P. Gray said that? To Erhlichman?

W. Yes. And John said, "Well, I can't do that." He said, "This was a—you were (unintelligible) in this somewhere. I didn't know where it was—I never asked you what was in it." And Gray said, "Well, I'm embarrassed because I destroyed it." Now this is Gray's fault.

P. Terrible damned thing to do.

W. Oh terrible.

S. Wasn't there a solicitation from Gray on the basis that he had testified to the contrary?

W. I think he had.

S. And the.—and then.

P. I don't think he—as I recall—he didn't testify. He told the U.S. Assistant—U.S.—Petersen.

S. He's got it wrong.

P. Yeah. It's in the record.

S. John left a rather equivocal response to the request. He called him back, upon reflecting, and said, "Look, I want you to know that I have got the question of papers."

P. John Ehrlichman?

S. John Ehrlichman, yes.

P. Then Gray got to Petersen and said, "Look, I did get it. And I destroyed it."

S. Yes, that's right.

P. That's the story.

S. Incidentally, you mentioned Petersen—

P. And I guess the only basis Gray could say that it was political stuff and I didn't want to appear—pretty bad.

W. Yes. Yes. With respect to Petersen, I must give you an aside. I don't trust him. Myself.

P. You don't?

W. We both have had one experience with him. He divulged things we thought was confidential in a very serious matter to a potentially co-defendant's lawyer who was an ex-Department of Justice lawyer when we played golf over the weekend, uh—and told him the whole of our business and I got it back from a lawyer in Philadelphia who heard it from the golf partner the next day. And I'm always aware that Petersen is dealing with ex-employees of the Department of Justice.

P. I'll remember that.

W. Well, I wish you would.

P. Well, I've got to talk to him now.

W. I know you do, but I don't go around maligning everyone.

P. I know—I understand. I need to know.

W. He's on my list of people I don't trust.

P. I understand.

W. Now, the second phase of John Ehrlichman was the idea of raising funds.

P. Which he was approached on.

W. Yes, and this was not to come out of the three-fifty. This was—

P. He didn't know about the three-fifty.

W. Oh, I think he knew about it—the—he must have according to the—

P. Well, what I meant is, it wasn't his field.

W. That's right. But he did get (unintelligible).

P. Raising money and Dean says, "Can I talk to Kalmbach?" And he said, "Yes." And—

W. And Kalmbach went out and did raise the money. Now these matters involving John alarm us even less, if I can make a comparison, than Bob's do. Because I don't quite—

P. Do you mean from a criminal side?

W. Yes, that's it. See—

P. He said they come to him and they say, "Look here. I'm going to raise some money. And Kalmbach here suggests okay." You mean that doesn't make him guilty of something?

W. Well, let's go go back to the accessory after the fact idea. This gets even removed further than the release of the money from the (unintelligible).

P. Yeah.

W. Of the White House fund to be used for that purpose. Now this compares—this contrast is not to be taken as making any great division between Haldeman and John. Well, frankly, our judgment is that neither one can be successfully prosecuted.

P. Because of what you see here?

W. Yes.

P. Well, now wait a minute. Let me ask you this, though. When you talked—give me a little rundown of your talk with the U. S. Attorney.

W. I certainly have.

P. Have you?

W. Yes, now we have—neither of us—I—

P. And also give me your judgment on this thing that Petersen told me about this—rather, I—I—

W. Non-indicted—they're better—

P. It seems to me the moment they come out of that, they killed themselves. They are dead.

W. Let me, yes.

P. I have never heard of that procedure before. But I may be naive about the law.

W. Let me answer that one, first, because that is more brief. In conspiracy indictments, very frequently they will name express defendants—conspirators—and they will name co-conspirators by name as well as other people to the Grand Jury unknown. But will not indict them. Now that's the (unintelligible) it's characterized as a non-indicting. It isn't—the word is not unindictable—non-indicting.

P. Which means that they were indicted in public—

W. Well, it's—they certainly are. And usually from that group they find witnesses who will testify against the defendants. Now that's what that phrase is. It's commonplace in the law of conspiracy. And, uh, I've seen it— I've been privy to it as a prosecutor myself.

P. Yes.

W. I'm sure Frank has too. Some of that (unintelligible) it's a black market. It might be compared to the treatment over (unintelligible) that people think that I'm guilty.

P. Well, for Bob and John—if they put them on that list—it kills them.

W. Oh.

P. I mean—it may not. It may not kill them legally, but it kills them from the standpoint of the public.

W. Now, as to our visit with these gentlemen this afternoon. We contacted—we sought to contact Glanzer first, whom we both know very well, and he was—uh—said to be unavailable and we asked Silbert, whom I had met on one occasion. Frank didn't know him at all.

P. Yeah. Yeah.

W. And so we were—we made an engagement for 4:30 and they said—this was with—do two things—and that they were going to go before the Grand Jury and that they were going to be very busy and they couldn't give us more than an hour. We came in—I'm telling you this so you'll be (unintelligible). We were taken into the room at (unintelligible). I began the presentation by saying that we were there representing Haldeman and Ehrlichman. And I had the strange feeling—and I think Frank will—now, you weren't there for the first few minutes—

S. I was not there the first ten minutes.

W. I think he indicated surprise to me—I think it was a mixture.

P. Glanzer?

W. Yes. He was alone with me until a subordinate named Campbell came in. And then eventually Silbert. But his surprise to me, I felt was that in a certain sense he was surprised that Haldeman and Ehrlichman had engaged me. This gave me a little encouragement as to whether he thought that they should engage (unintelligible). I will tell you why in a couple of minutes. Uh, secondly, I—he suspected that we were down there possibly representing John Mitchell. And I said, "Well, that isn't so." Anymore—and he said, "well, these people—these perspective people have been switching counsels," and he said, "I wasn't sure Mitchell was going to keep his counsel." And I said, "Who was his counsel?" and he said (unintelligible). Now, somebody said this. But anyway, uh—I said. "Now Seymour, you know I have heard you tell me before and I said I will (unintelligible) if my clients are being kicked around at the Courthouse." I asked him many questions. Get as many answers as you can. I don't come away with many answers. But I'll get mine. I said, "I asked you pertinent questions and I am not offended if you say you can't." Now, this is the way we talked. And we thought he was a little tight today because he was in the presence of his superior. We have found him more loose—and maybe on other occasions we'll be able to get him alone. And I said, "What have you got planned for these two? You going to have them before the Grand Judy?" He said, "We'll have an office interview which will not be recorded. We'll take no notes and you can be present while you take no notes. We want to know what they will say before we take them before the Grand Jury—if we go."

P. Petersen had told me they were going to be called before the Grand Jury.

W. Well, this is—this is quite possible. We've got some more to tell you.

P. I'm (unintelligible) about this thing.

W. Silbert arrived about this time and I repeated everything that had transpired. (unintelligible) And he qualified Glanzer by saying, "Well, I think we are going to have to talk to the Department of Justice about the interview." This wasn't the interview versus the Grand Jury, I don't think. This was no interview at all. Did you get that impression? So, we—then he said to me—said to us Silbert did—"We see from the papers that Ehrlichman has been conducting investigations." Can you admit this? (unintelligible) have been witnesses. I said, "We would like to have his notes on this." And I said "We had them." He says, "It's all in the paper."

P. This is true.

W. Ehrlichman says (unintelligible) I don't know and I'm not getting any answer from him (unintelligible) "Now I'm going to ask you what have you (unintelligible) from the other? He said, "Nobody's giving us any cooperation." And then Silbert said, "You know," he said, "this will (unintelligible) against the (unintelligible) problem. (unintelligible) And he said, "Well, if you come up with one of them (unintelligible) proceeding (unintelligible) and then Glanzer came to his rescue and said, "What could be—what is morally wrong with this whole thing—(unintelligible)" Then we got into—they volunteered this quite interesting problem. They volunteered that these leaks from the Grand Jury were irritating the hell out of them. And I said—

P. Do you think (unintelligible) put it out (unintelligible)?

W. Well, I do too—but they think a court reporter. I said—

P. Bull (Laughter) A court reporter?

W. He says Anderson's getting it right from the court reporter.

S. Fire him.

W. Well, I said, "Why do you bring the court reporter back the next day for?" I said, "This is a crime in itself."

P. And a very bad thing.

W. They—we didn't take him seriously. Now, general inquiries. "Oh," I said, "How are you proceeding? Are you proceeding with packages? Have you got a forerunner of some indictments? Have you got a package of other people? A second set of indictments?" He can't answer that. So I said, "Well, we understand—we'd be happy—we know you can't stay any longer. Can we leave here with the assurance that you will communicate with us?" (unintelligible)—an agreement with us that whatever you're going to do in the way of getting a Grand Jury—we got it pretty well committed there that (unintelligible) permitted. The interview would come first.

P. Yeah.

W. And he, and we left there with a commitment from them. I think that's—a commitment for what it's worth. (unintelligible) We didn't—we didn't trap people like this. This is a (unintelligible) thing. Anyway, we left there with sort of a commitment that this would happen. Now this wasn't much, but at least we have kind of (unintelligible) and then I added a question. I said, "Are you going to get around to this before Senator Ervin begins his proceedings?" He said, rather deliberately, rather hesitating, Silbert said, "yes, they would get around before then." Now, I had in mind the fifteenth of May, which is (unintelligible).

P. Yeah.

W. But that's the only point—any point there was. This was a relaxed meeting except that Silbert is not a (unintelligible) fellow. He is a serious man and a business-like man. But that's because, it seems to me, I met him one day (unintelligible) Chambers.

P. (unintelligible)

W. He didn't even remember me that day. He said, "(unintelligible) who you are." Glanzer, (unintelligible) with his boasting—and with some of his weaknesses. Isn't that right?

S. Oh yes, oh yes. Glanzer (unintelligible).

P. Yeah. He is obviously rough—

W. Oh, he is a rough, rough fellow. He exaggerates and at times he doesn't tell you the truth. And at other times he tells you half the truth. But we couldn't go about it any other way today. And with Silbert practically sitting in his lap. We couldn't handle it any other way, but when the chips are down—

S. He is obviously clear (unintelligible) point.

P. Do you think he'll go back and (unintelligible)?

W. Oh, I think he will (unintelligible) But Hunt was before the Grand Jury this afternoon.

P. Yeah.

W. And his lawyer was in two rooms from where we were meeting.

P. What happened? Of course, nobody knows what happened.

W. No—and then they—apparently nobody got the press in, to give them an opportunity to see him—he possibly went out a back door. I ran into a photographer down there and I said, "Did you get a picture of him?" And he said, "No—we—they shipped him out the back way."

P. Hmmmm.

W. So, that's where that stood. Now, Mr. President, Frank and I—uh—have these conclusions if I may get the conclusions.

P. Right.

W. Now, do you have any questions before this?

P. No. I'd like your conclusions and then I'll ask some questions. You've thought it over. You know what my questions are.

W. We think—we think that you and these two men—

P. Let me say my good friend Len Garment and some others think that—uh—that Dean out there is a loose cannon—.

S. Yes.

P. Threatening, and all that sort of thing. And I think obviously what is happening—and I think that Glanzer and Silbert are giving, trying to give, Dean an incentive to lie in order to get Haldeman and Ehrlichman. Dean is scared and Dean is capable of doing that. Do you agree with that?

S. I think so.

P. And Mitchell told him so. But, of course, that wouldn't get him out of it. There's no way he'd (unintelligible) criminal, (unintelligible). Now, that's one point.

W. Let me say this.

P. Yeah.

W. (unintelligible) see if this (unintelligible) I don't know whether Frank wants to talk to you about it. When I was at that meeting today, I had a feeling—and here again it's only my (unintelligible) have a feeling that these two men—Ehrlichman and Haldeman are really not (unintelligible).

P. But Petersen certainly indicated, when he came to see me here last Sunday—he said Haldeman and Ehrlichman should resign, and so forth (unintelligible) it is non-corroborated testimony, you know. General Eisenhower where Adams was thrown out for this sort of little thing—the poor guy—he sort of got—

W. And he served him well.

P. For seven years and that damned vicuna coat. Unfortunate thing.

S. Yes.

P. But my point is we have very great pressures, you know—quite candid about this—and say that Haldeman and Ehrlichman destroyed in the public mind and they'll say "breach of a public trust." (unintelligible) two questions that I really think—one, I don't want to do anything—the heat's going to be on anyway. I don't want to do anything that would jeopardize their case. I want these men to be (unintelligible). I know there is. I really.

W. Quite so. We (unintelligible).

P. The second point, however, I have (unintelligible) And they know that. And if—if—uh—you conclude that the best thing to do is for Haldeman to step forward and say, "you're not guilty of a doggone thing." They have released the Grand Jury notes. I've been attacked by the press; I've been (unintelligible) all this (unintelligible) outside of this office including (unintelligible). In it, one (unintelligible) regard to the (unintelligible) as to whether it affects their (unintelligible) too in regard to the President. You've thought of both of those points?

W. We have. Yes. We have.

P. All right. What is your present conclusion?

W. Well, these are related items and in the area of Presidential judgment, we are (unintelligible). You know you've had such an awful experience. Excuse me, if I state it frankly. I think that either a suspension which I understood has been proposed by Petersen on the basis that—

P. They've been attacked.

W. Yes.

P. They've been named.

W. But there would be a suspension or either their resignation is no assurance that they would not be indicted.

P. I asked Petersen that today. He said it would—

W. There's no assurance.

P. That's right.

W. Yes.

P. Frankly, I said, "Now look here. If they resign does that mean that—" I put it straight to him.

W. Well, then my guess is—

P. If I thought their resignation would avoid an indictment, I would have them resign.

W. Yes, Yes Sir.

P. All right.

W. Now, I trespass on your area of judgment when I say—I think that if they resign or are suspended that this is a reflection on the Presidency.

P. Well, if they don't resign or are suspended and then are indicted, that's all (unintelligible).

W. Well, yes. But if—you have already announced you would suspend them then.

P. That's true.

W. And—

P. Anybody who was indicted will be suspended—anybody who is indicted will resign.

W. Is there, except for their own (unintelligible) is there any difference between—if they stay? By the way, you know this. I don't have to tell you. They are willing to leave.

P. Oh, I know—they're—(unintelligible) my (unintelligible) Absolute (unintelligible)

W. And yet on the other hand they are willing to stand up to this thing.

P. Oh, yes. Yes.

W. If it doesn't hurt you.

P. Yes.

W. And that's the reason I look at these two things in a kind—of a best—

P. Right. Right. Right.

W. Because of—in an urgent way, I think if they resign or are suspended then—that it reflects on you. I think if they are indicted and you suspend them or they resign upon indictment, I imagine that they wouldn't even expect you to—

P. No—they know (unintelligible) Or if they are even included in this list of co-conspirators . . .

W. Yes. I just don't think—

P. Already said, of course.

W. That—there's any difference. I really don't.

P. What do you think, Frank?

S. This is my feeling. I feel that resignation now by these two gentlemen will be a tremendous reflection on the Presidency. They are—the effect to it—because the public statement says that this is only in Senator Ervin and other sources, because there is no evidence to tie them into a criminal situation. Now if they stepped out at this point there is going to be a public feeling that this is an admission of guilt and this is going to flow over from them right to the (unintelligible) and I have a very strong feeling that this is not one—and I don't want to say you shouldn't run from it. It's not running from it—but it's facing up to it. That's the way I feel about it.

P. Now, on the other hand—then just take—you would say that you would lean in the direction of taking the risk which there would be—that they may be named as so-called co-conspirators? And, if they are, then we just have to move in.

W. That's it. As I see this, Mr. President, and I hope this time schedule works out—it is possible that if these gentlemen submit to this informal interview—and we haven't decided that question yet—but I think we are leaning toward doing it and I think they are leaning toward having it, too. And maybe we will be present at the interview. And I told them, I said, "We don't sit silent in these interviews. We're not just spectators. We cover for our client. And if the question is unfair, I enter into the act."

P. Absolutely.

W. Oh, yes. This is not a thing where we are throwing the sheep to the wolves. And so, they, I think they—we didn't make a decision, but I think they—I think they are inclined to think that way. Did you get that?

P. I wonder if you could give that interview soon? Is there any way? If you could get that timing some way—or other.

W. I think that—

P. Or maybe you don't want it soon.

W. This was a little (unintelligible) that I had with him. Silbert turned to me and said, "(unintelligible)." He said, "the man who is being talked about seeks the interview, or seeks to go before the Grand Jury. This, I—this, I never would seek. You are in there alone with no counsel and the prosecutor has been in there for months and he controls the Grand Jury and this is the score—of the rule. And I said—now the other point is whether we would ask for the interview or that he would call us for it. I said, "Listen, Silbert, (unintelligible) not taking it in the order in which the thing is supposed to. You suggested, first, that you want them for the interview. Why don't you play your cards? Why don't you call upon us first? I would prefer it that way."

P. In other words, wait 'til they're ready?

W. Yes. Yes, I would. Uh, now I—

P. I told Petersen they'd come anytime he wanted them. That's the way I felt it.

W. Well, this is—we did not resist it. (unintelligible) any idea (unintelligible) to the interview for. It wasn't that at all. It wasn't that we said, "If they didn't come—nothing like that." But I have said—Frank, if you don't agree with this, please tell the President.

S. No—whenever I don't disagree with John—I agree.

W. He's—

S. But I am not hesitant to disagree.

P. I understand.

W. Oh yes—he is. He's just awful at times.

P. Good.

W. And he's always willing to be critical when he thinks I'm going astray.

P. Let me ask—in other words, your advice at the present time is stand with these men, because basically if you flush them now, it's going to probably hurt—let me put it this way—it will hurt their case. Wouldn't it?

W. Yes. That's right.

P. Unless we can look at their case first and then everybody. It will hurt their case, don't you think?

W. I—it will—in the public eye.

P. And you think that—but—and my point is—so take the risk of going down and letting them be indicted and then if they—

W. Well, so you take a risk, hopefully, of the interview.

P. Oh, the interview. Certainly.

W. Yes.

P. Then what?

W. Well, let's find out—let's find out—

S. Then you take another look at it—

W. What questions they ask and what they appear to have and what they are after—and then reappraise this situation. This—this thing, Mr. President, in my judgment has to be played in steps.

P. Don't go too fast?

W. Well, no.

P. You don't know how much they have and what they can prove?

W. That's it, exactly.

P. Then, you got to remember Dean, as I have said, is a loose cannon.

W. I know he is.

P. The damnedest charges you've ever heard. Some of them are unbelievable.

W. Yes.

P. This fellow that was sitting in here and who in the Office of the President—a very bright young guy and these guys would talk to him and so forth—but he now wants to drag them down with him.

W. Yes. Oh, he's bad.

P. They must have told him what I—they—I think—have told Dean that, "If he'll—if he can get Haldeman and Ehrlichman—he gets immunity." Now, on that point, do you want Petersen to give him immunity, or not?

W. Uh—

P. Dean.

W. Well.

P. Should he?

W. Uh. Let me—as I understood, they were hung up upon that right now.

P. They are.

W. Now.

P. See, that's why—I put out a statement that no major figure should be given immunity.

W. Let me tell you—

P. Basically, because I think it would look bad if—(unintelligible) from our standpoint. What do you think about it?

W. Let me tell you about the two kinds of immunity, may I get to this?

P. Sure—anything.

W. The prosecutor has the power, of course, to say I'm going to (unintelligible) that man, usually use him as a witness and he may have other reasons (unintelligible). So, he'd get *case immunity*. But it gets to the prosecutor now to use him as a witness and he'd involve in the cross-examination of (unintelligible). You admit he's named you, involving your total service. You are going scott free while you hope that this will contaminate him before the Jury.

P. I see.

W. So that's case immunity. Now, the immunity statute that has been on the Federal statutes for years—up to 1968—was a confusing statute. It was to be co-terminus with the Fifth Amendment. That is to say, that no testimony was to be used against you. But the (unintelligible) in the courts has variously confused. It was because of that fact and so nobody would ever believe that it was co-determinus with the Fifth Amendment. So in '68, perhaps it was, thereabouts, Congress passed a statute which we call "Use Amendment"—Use means use of the testimony. This does not exonerate him from indictment. This merely says that what you tell us cannot be used against you, except for perjury.

P. I see.

W. And that we can turn around and indict you the next day if we can indict you on independent evidence, having no source. So we call it case immunity in the instance where the prosecutor turns a fellow loose, and that's it. And *use immunity*. Now I don't know whether Dean is dickering for—by the way, this use immunity is a very elaborate procedure. This Attorney General must ask the District Judge for it and the District Judge gives it to him. As far as I know, I guess this is an open court proceeding. We considered one but it never seemed to work.

S. I mean, we got them sufficiently confused enough at one time on this very question, but—

W. But we got it resolved in the meantime. But this is a—this is a fairly new statute—but if this means—in the use immunity case—that the man can incriminate—get himself immunity. Now this is devastating where there is a witness on the stand too.

P. Yes.

W. This is a weak link in the prosecutor if he has to use a witness who got immunity by trading off his friends. And for that reason I don't know what he is trading with you—trading with trading loose on this whole mess.

P. Yeah.

W. Or whether he's trading him loose on himself.

P. I don't think Dean's lawyers—Schaffer is his name. Do you know him?

S. Who is he?

P. I think Dean's lawyers are just trying to get him off.

W. Yes. On this one case.

P. Off the whole damned thing.

S What we have found in other cases with Glanzer is that they don't want to go to the elaborate statutory procedure and just want to have an oral understanding, "If you cooperate with us, we'll give you our word we won't prosecute you."

P. That's what they told Dean.

S. That's generally their procedure when there are conspirators.

W. This is Petersen's style. He practically gave us this in another case but he double-crossed us gently and we just don't believe him You see, let me tell why we—why we are a little cocky. And maybe this—this is a bad basis for judgment. But a very prominent national industrialist was charged with—threatened with perjury before a Grand Jury. In order to get him to testify against a dubious lawyer and it was said that Mitchell wanted to get and uh—the man had been threatened by—on the perjury thing before the Grand Jury. If a man gets indicted he's not entitled to (unintelligible). We studied law for two years on that case until finally we got alarmed and we brought our client and we said, "Mr. So and So. We've got to take a chance. The time is running out on you, the time is running out on the District Attorney, but if you just want to stand the way you've stood it for two years and—you can't do that for two years—it's your risk. You can only judge us as you would be judged."

P. By the fact.

W. He says, "To hell with it. I will stand up to it. He hasn't got a perjury case. He didn't say anything."

S. What this was—they were applying the screws to get this industrialist to testify against the lawyer more than they wanted the one against the industrialist. They didn't have the evidence against the industrialist but they would just sit down in that office and swear they had enough to return an indictment. This—this, I think—this is what they are doing. I am confident that they are going to tell each one of these witnesses that are scattered around—potential witnesses against Mr. Ehrlichman and Mr. Halderman—they are putting the screws on them—they are scaring them. And they are using psychology. Now this overflows—it overflows on John, it may and the (unintelligible). You have to recognize this—have to recognize what we've got here. Go from that to the merits of the case—this is what I am trying to do, and when I look at it from the merits of the case, I don't think they have a criminal case against these gentlemen at this point.

P. Even on conspiracy? You see, the thing is, I understand that conspiracy is very broad—

S. One overt act and they can bring conspiracy.

P. But you have to have an overt action.

W. Not on the part of every defendant. Not on the part of every defendant. But the overt act could be in itself innocent if they are part of the pattern.

P. I think that is really what they are going to try to nail Haldeman and Ehrlichman on. Not on the—not the Watergate thing—they can't do that. (unintelligible) had approved the budget that (unintelligible). They can prove that whole thing. Never prove that that's what (unintelligible) never prove that.

S. Sure. Sure.

P. But on the other hand, they will say that on the three-fifty—"Haldeman and Ehrlichman were involved with Dean and Magruder in an effort to get the money to keep the defendants quiet" What's the answer to that? (unintelligible) McCord—you say—

W. Well, of course—Dean's—if I understand John and Bob correctly—Dean's presentation goes no further, as far we know, than money to take care of their families.

P. That's right.

W. And legal counsel.

P. That's right.

W. Well, you might say circumstantially that helping the defendants—

P. Yeah.

W. And (unintelligible) it, but it isn't quite as wrong as—having to pay the money to the defendants for the purpose of shutting their mouths.

P. Yeah. The other thing—there was perhaps one instance—very little—very little where it said there is the matter of (unintelligible). I am confident their motive in every instance was to help their families and with their legal counsel.

W. Yeah.

P. I can't see that that's wrong.

S. I cannot either. No, there's no crime in this. And we—we asked them because the innuendos and inferences of pay-off to keep the defendants quite—yes—surfaced quite a while ago.

P. Well, McCord has said it. Yes, and the defendants may so now testify.

S. Yes. That's right. But none of these actions have we been able to pin down occurred after these allegations arose. This to us—

P. I see your point.

S. Is significant. If they had—

P. If they knew that these allegations had been made and they still were (unintelligible)—

S. Yes. That's right. If they were chargeable with newspaper stories of allegations of payoffs and then they sent the money over, for the families—

P. I think there were newspaper stories that the defendants were getting money and so forth, but the allegations that they were paid off to keep quiet—I think it was the first time in Court—but you better check that. But I know—I don't think anything after that. It is a point worth checking.

W. You know, Mr. President, it may appear to you and I repeat only because I (unintelligible), if you had the interview (unintelligible) and given these two men together on the basis of what we call the vernacular of capital appeals.

P. Oh, I understand.

W. And, I really—

P. Well, there are no good choices in a case like this.

W. No.

P. Just take the least bad one.

W. That's right.

P. Your point is that, which has some merit to me, that probably it's just as bad—let's look at it—at its worst. It's just as bad to sink them now as it is to sink them if they are indicted.

W. Sure.

P. Isn't that the point?

W. Yeah.

P. If they are indicted, then I've given them every chance. And if they are indicted, we'll let them go.

W. That's right.

P. If on the other hand they are not indicted—

W. You may—

P. You have to remember, though, that they may even if they are not indicted—this is the argument that these prosecutors and Petersen will make—that if they are not indicted, they will be indicted in the public mind with all this stuff.

W. That's right.

P. Well, put your hat on now.

W. If they are named as not involved—

P. Not named at all. Not named at all. Because of the newspaper stories, and the leaks and the columns and in the attacks by the Weickers, et cetera—these men are going to be really merciless by—Dean's testimony. They are going to be indicted in the public mind. Do you think their usefulness will be destroyed by that?

S. Won't there come a time when they will testify before Senator Ervin's Committee and have a chance to make their public presentation?

P. Yes. Well, no. I think they will be testifying in court before that.

S. In court before then.

P. I don't see how—I personally don't see how the Ervin Committee can possibly be allowed to go forward at a time when these court suits develop.

S. Yeah. They will probably say that (unintelligible) too.

W. Going back to the Petersen—

P. Yeah.

W. And here again you must take my observations with the fact that I am prejudiced against him.

P. Yes. Tell me about—

W. Dean's getting off the hook, possibly.

P. For having revealed too much to Dean?

W. No. From indicting your top men.

P. He didn't want to indict them.

W. Well, yes. And I—in other words—

P. Well, he doesn't seem to be concerned about indicting Mitchell. He is concerned—he is petrified. And Mitchell will be indicted.

W. That's what I am told. I have never been in quite this far as they are with this situation, but I know—

P. You mean they are going to be reluctant to indict the two top men.

W. That's—that's what I would say except you know—I would put it this way—Petersen will handle—this problem. I guess—a holdover from the Democratic Administration.

P. That's right. He is.

W. Well, I doubt (unintelligible)

P. What's your judgment?

S. I was following Petersen. I don't know his (unintelligible)

W. I said. "His background—his background as a Democrat—"

S. Oh, Assistant Petersen?

W. I thought as the prosecutor he would love to—unless he was just crazy or ruthless to want to indict the top of the ladder.

S. Without the strongest case and I think—

P. He didn't want to indict unless he can convict.

S. Yes. But this is not one. I don't think he would throw in your two top assistants—into an indictment as defendants, without clear evidence against them.

P. How about this co-conspirators—not-indicting? Think they would do that?

S. Not without clear evidence. I equate either one as being one and the same.

P. I do, too. Because they know if they are named as that then I would have to suspend them. They have to fight that. It's a hell of a procedure—that co-conspiracy.

W. Yes. But it's been going on since time immemorial.

P. Unindicted co-conspirators?

W. Yes. And using that phrase the man who hands down unindicted guys would say—and others to the Grand Jury unknown—so they have a sweeping cover that way in getting them confused. I just think—

P. Well, at this point, I think the thing to do is to stand firm.

W. That's what I wanted to say.

P. Stand firm.

W. Let's play this almost—

P. Don't panic.

W. That's a very good phrase. And let's play this slowly and as things develop and take another—

P. These are good men. I just hope we can save them. It's a miserable thing to have them go through.

W. But you do know, I am sure, we have said to you that while we have their interests—well, I'll say, not primarily, but largely—in our heart, they are—because they are our friends.

P. Sure.

W. We are equally interested in this possibility.

P. I understand.

W. We think it spills over other people.

P. If anything's done now—let's just sit it out awhile—take the smears for awhile.

S. One thing I was wondering and I hesitate to bring it up because it is more of my problem. The statement from Huston—interviews in depth with your top assistant that you have gone into the facts with them—that you've put your confidence in them—believe what they say.

P. If I said that to them?

S. Yes.

P. Want me to say that?

S. Yes.

P. Want me to say that?

S. Well, I'm wondering, I'm curious—and you put this critic and foe that you have had this in-depth contact with him on this basis—that you believe them—you place your faith and credit in them—and from what they have told you—they have not done anything wrong.

W. If you come to the conclusion to do this, Mr. President, and while I like Frank's presentation of that—I'm concerned about the credit.

S. I haven't given it any thought.

W. But I think you could add—I'm not trying to get any bouquets for this and their counsels then (unintelligible). I don't know that you want to say that, but support for you because that—

P. Their counsels advise me that.

W. No, not advised (unintelligible)—

P. That they have not—

W. That they have not—I mean I don't—

P. I think the timing on that—let's have that in a reserve—I think that's a good point.

W. I wouldn't mix the (unintelligible)—

P. Let's let Easter go by—hope the weekend survives.

W. Now Magruder isn't coming back 'til Monday, have you been informed of that?

P. No.

W. They heard that this afternoon while—

P. Hunt was there today.

W. Yes.

S. But, somebody is coming in tomorrow—it was flashed by very rapidly in an exchange. I don't know who it was.

W. The thing is if they can work and we're going to be—obviously, we'll see these men tomorrow again.

P. We appreciate your work.

W. And, any time over the weekend that they—

P. You going to go back and talk to Glanzer again some time?

W. Yes, aren't we, Frank?

S. Oh yes, there's always been that we have a formal conference—then maybe another one. Then you can drop in the office and see them informally and see—you go down on another matter and Seymour is very cooperative.

W. You couldn't do that initially—this had to be a scheduled conference. He had a man there—he didn't know us and besides he was jumping in first (unintelligible).

S. The problem—that we should be trying to get information at Seymour Glanzer's level and you're in conversation with the Assistant Attorney General, but yet it seems worthwhile and productive.

P. I'm not sure that Glanzer is telling the truth.

W. Well, on occasion I've never been (unintelligible) to that—He did some good opinions.

S. You know why I remember that case. He was an Assistant Attorney General then but—

W. Yes, he was one of the (unintelligible)—

S. He was doing all the work. Well, we're at your disposal.

P. Well, as I say, you've got honest men; I know they're telling the truth.

W. I'm extremely impressed with them.

P. Well, they're touched by this because anybody who was in the campaign is touched by everything about it. And frankly, Mitchell's an honest man. He just wasn't tending the shop—he had problems with his wife—these jackass kids and other fools around did this thing and John should have stepped up to it—that's what happened in my opinion. And I think I—

W. Sure, I know.

S. Well, we're available to them and if you would like to see us again any time you want to and we can tell you always be delighted.

P. Well, I appreciate that.

W. It's nice to talk to you even under these circumstances.

P. Well, we hope that by Golly—that we'll talk under better—

S. Last time I saw you it was crowded—out at the Wardman Park—the Shoreham—I could have lifted my feet off the floor and watched you—you and your family on the podium.

P. What was that?

S. That was election night.

P. Election night—you were there? Oh boy, That was a great night! Well, That was what it was all about.

S. Yes, it sure was.

P. Well, we'll survive this. You know—people say this destroys the Administration and the rest—but what was this? What was Watergate? A little bugging! I mean a terrible thing—it shouldn't have been done—shouldn't have been covered up. And people shouldn't have and the rest, but we've got to beat it. Right.

W. Everybody does—the Democrats have been doing—going on for 20 years. (Laughter)

S. Mr. President, on behalf of my daughter Nancy—she asked me to do it.

P. How old is she?

S. She's sixteen.

P. Next time you come in—I'll give her a little something—

P. You've got—they have good men to (unintelligible).

Appendix 47. Meeting: The President and Petersen, Oval Office, April 27, 1973. (5:37–5:43 p.m.):

P. Come in.

HP. How are you today?

P. How was your hard day?

HP. I'm sure no harder than yours, sir.

P. Sit down, sit down. I was down in Mississippi today. We have gotten a report that, ah, that really we've got to head them off at the pass. Because it's so damned—so damn dangerous to the Presidency, in a sense. There's a reporter by the name of Hersh of the *New York Times* you probably know.

HP. He's the fellow that did the Vietnam stories.

P. Right. Who told Bittman, who told O'Brien, apparently that they have information—Hersh has information I don't know. You can't ever tell who is saying "this is from Hersh" or "this is from Bittman." Information indicating that Dean has made statements to the prosecuting team implicating the President. And whether—and whether—the *Post* has heard similar rumors. Now, Henry, this I've got to know. Now, understand—I have told you everything I know about this thing.

HP. I don't have any problem with that,

Mr. President, and I'll get in touch with them immediately, but—

P. Who?

HP. With Titus, Silbert and Glanzer and Campbell? Who are—

P. Do you mind calling them right now?

HP. No, sir.

P. OK. Say, "Now, look. All of your conversations with Dean and Bittman, do they implicate the President?" Because we can't—I've got—if the U.S. Attorney's office and, ah—

HP. Mr. President, (unintelligible) I had them over there—we had a kind of crisis of confidence night before last. I left to come over here and I left my two principal assistants to discourse with Silbert and the other three. And in effect it concerned me—whether or not they were at ease with my reporting to you, and I pointed out to them that I had very specific instructions, discussed that with them before on that subject, and—well

P. Yes.

HP. As a consequence—I kind of laid in to Titus yesterday and it cleared the air a little bit, but there is a very suspicious atmosphere. They are concerned and scared. Ah—and I will check on this but I have absolutely no information at this point that—

P. Never heard anything like that—

HP. No, sir. Absolutely not.

P. My gosh—As I said—

HP. Mr. President, I tell you, I do not consider it, you know, I've said to Titus, "We have to draw the line. We have no mandate to investigate the President. We investigate Watergate." And I don't know where that line draws, but we have to draw that all the time.

P. Good. Because if Dean is implicating the Presidency—we are going to damned well find out about it. That's—that's—because let me tell you the only conversations we ever had with him, was that famous March 21st conversation I told you about, where he told me about Bittman coming to him. No, the Bittman request for $120,000 for Hunt. And I then finally began to get at them. I explored with him thoroughly, "Now what the hell is this for?" He said "It's because he's blackmailing Ehrlichman." Remember I said that's what it's about. And Hunt is going to recall the seamy side of it. And I ask him, "Well how would you get it? How would you get it to them?" so forth. But my purpose was to find out what the hell had been going on before. And believe me, nothing was approved. I mean as far as I'm concerned—as far as I'm concerned turned it off totally.

HP. Yeah. My understanding of law is—my understanding of our responsibilities, is that if it came to that I would have to come to you and say, "We can't do that." The only people who have jurisdiction to do that is the House of Representatives, as far as I'm concerned.

P. That's right. But I want you to know, you tell me, because as far as I'm concerned—

HP. I'll call them. Do you want me to call from here or outside?

P. Use the Cabinet Room and you will be able to talk freely. And who will you call, who will you talk to there?

HP. I'll call Silbert. If he's not there, I'll get Titus.

P. You'll say that "This is the story some *New York Times* reporter has and Woodward of the *Post*, but Hersh is reporting that Dean *had made* a statement to the prosecutors." Now understand that this is not a Grand Jury thing. Now dammit, I want to know what it is.

HP. I'll call right away.

P. And I need to know.

HP. Yes, sir.

Appendix 48. Meeting: The President, Petersen and Ziegler, Oval Office, April 27, 1973. (6:04–6:48 p.m.).

P. Come in. As, like all things, some substance, some falsity.

H.P. Ah, last Monday Charlie Shaffer was in the office, and a continuation of the negotiations. Charlie Shaffer is the lawyer. Charlie is a very bright, able bombastic fellow. And he was carrying on as if we're making a summation in a case. And he said—that—ah he was threatening. "We will bring the President in—not this case but in other things." What "other things" are we don't know what in the hell they are talking about.

P. Don't worry.

H.P. "In other areas," more specifically is the word he used. That they regarded—and didn't consider of importance they regarded as the elaboration of his earlier threat. You know, "We'll try this Administration—Nixon—what have you, what have you." There's a new conversation by them with Dean since the Sunday we first met (unintelligible) Whatever is said through Shaffer the lawyer.

P. What else do you have besides that?

H.P. Well, let's see. They did that at a later date in the proceedings that Dean went to the President, and I assume that's the February or March or whatever that date was. But that's in the course of your trying to find out. Ah, today they were after the Cubans and the receipt of the money which they confirmed. Dorothy Hunt on being the intermediary that passed it through. They are going to have Butterfield in in a few minutes.

P. What I am getting at, Henry, about this threat that—

H.P. There's no more on that other than I've just told you.

P. Why in hell can't we stop though—the paper that Hersh—to think that to bring the President with a thing like that, (expletive removed), you know. Understand. Let me say this. If it were in with the Grand Jury I want to know that too.

H.P. All right. Well—

P. (expletive removed). You've got to believe me. I am after the truth, even if it hurts me. But believe me, it won't.

H.P. I understand that, you see. But, you know—

P. Just like it won't hurt you. We are doing our job. And somebody was in here the other day and they were saying, well, Dean is going to blackmail you because of something you're supposed to have told me. And I said, (expletive removed) I said, you have a right to tell me what was going on.

H.P. The only thing I think is that it's either Dean or Shaffer or this McCandless. Now, Shaffer says that it's McCandless that's leaking this stuff to the press.

P. Who is McCandless?

HP. McCandless is another lawyer that Dean has retained.

P. He's leaking to the press that they are going to try the President, huh? (unintelligible)

HP. Other areas, but what those areas are, we don't know. Now, Silbert said, "Stop." So, he didn't let them go on. He said, "Why get into that?" Ah—

P. It's not this case. Go ahead. (unintelligible)

HP. Well, I told those fellows, look. I told those fellows this. I know you can't believe these reporters all the time. He's had one or preferably two weeks—

P. I'm glad we have that then. When I heard that, I thought that Dean must be out of his damned mind or something. The man is not, ah—I don't know. Going to have Butterfield in? Good.

HP. Well, that's in connection with the $350,000. Now, we are going to have Jack Caulfield in to the Grand Jury.

P. That's on, because he worked on—

HP. He set up the intermediaries that were being used as couriers to transfer money either to or from LaRue.

P. Oh, he did? Caulfield, eh. What would be the liability of a man like that? Would he be a conspirator?

HP. If it's done with knowledge—if it's done with knowledge—

P. Yeah, with knowledge. But also, there is a certain—it has to be willful or—there are two statutes—

HP. When you talk about conspiracy, you are impugning knowledge, and you impugn the knowledge of the facts unless there's specific evidence of the—

P. (unintelligible) I just don't want to see guys get hurt that didn't know what the hell they were doing.

HP. And we don't want to either.

P. (unintelligible)

HP. But we are looking for witnesses, to be perfectly honest.

P. Sure.

HP. Strachan, they are still negotiating with him on having flunked the lie detector test.

P. Maybe the best thing to do is to plead guilty to the prosecutor—plead guilty?

HP. Well, you know, ah—

P. What?

HP. Basically, I mean, what we are telling Strachan is that he has got to make the choice whether he wants to be a witness or a defendant. "You can just hang tough, and you can be technically be a witness."

(Ziegler enters.)

P. That story, according to Henry Petersen—he just called the U.S. Attorney's office. It is a totally false story. Needs to be totally knocked down.

Z. Yes, sir.

P. Read me exactly what you can recall the U. S. Attorney—

HP. Called U.S. Attorney and said that in the past an attorney representing John Dean was in his office and indicated that if we insisted on Dean, that they would be tying in the President, not in the Watergate, but in other areas.

P. That's not Watergate, but in other areas.

HP. Whatever that means.

P. Well, that's fine. Just let them tie us in.

HP. Now, to put that in context, they had previously said that if we insisted on trying Dean and not Ehrlichman and Haldeman that that they would be "trying this Administration," the President and what have you.

P. So basically that's the game they are playing.

Z. I can understand how—you indicated that their attorney, the other day, said they would resist in tying in—did you say? In not the Watergate, but—

HP. They would be tying in the President. I mean it was an emotional statement.

P. Emotion at tying in the President, not in Watergate but in other things. Right.

HP. Not in the Watergate, but in other things. Whatever they would be—

P. When was this?

HP. Monday. Monday of this week.

P. Monday of this week.

HP. Monday of this week.

P. Well, I think this — — I think this thing we just hit back on.

HP. Well, that's the only thing. And I don't know that. And they had no idea.

P. But Dean gave them.

HP. What?

P. But Dean give them.

HP. Oh, yes, but, but—

P. That was one of the reasons that was so important to disclose that because they could have hung that over our heads, you see and—

P. You remember my call from Camp David. I said, "Don't go into the national security stuff." I didn't mean—

HP. Oh, I understand.

P. 'cause I remember I think we discussed that silly damned thing. I had heard about it, just heard about. You told me that. That's it, you told me.

P. What (expletive removed) did they break into a psychiatrist's office for? I couldn't believe it.

RZ. I think what all of this is—

P. What do you think it is?

RZ. I think it's the attorney.

P. I think he is bargaining for Dean.

RZ. I had occasion to talk to Dean a few minutes ago, but a call—

P. You did?

RZ. He is a very good friend of mine.

P. Well, tell us what you—now understand we have to watch how we handle him now, because we've got—

RZ. It was a very good conversation. He said, "Ron, I am issuing no statements." Incidentally, he said, "I got a telephone call."

P. A telephone call from the President. You know, that shows you what a person he is. I called—you know—some nice things we do—I called six people, members of my staff. I called Ron, Henry Kissinger, Ehrlichman, and Rose, my secretary and John Dean. I just go down a list of people, and just say "I want to wish you a Happy Easter" That's all I did. And it's all over the press!

HP. Well, you know, we got a report. Again, I got it through Charlie Shaffer that he was pleased and elated and reassured. And you know, as a human being—

P. I don't want to hurt John Dean. Believe me—I'd like to help him.

RZ. He went out of his way to make the point to me, just in this two-minute conversation, he said "I didn't make that telephone call, Ron" I don't know who may have done it cause he knows—

P. Oh, you did not discuss this crazy Hersh story.

RZ. No.

P. Now the problem about this Hersh story, is that if the *Times* comes out and runs this—

RZ. Oh, no. As a matter of fact I talked to Clifton Daniel this afternoon, and he didn't raise it.

P. The Woodward story. Woodward also has the same story. Woodward of the *Post*.

RZ. Woodward said that reliable sources said that someone had implicated the President in their testimony, or referred to him.

P. In the Dean story?

RZ. No, that was Hersh.

P. What did Woodward say?

RZ. Woodward said they had two stories; one was the fact that it was reaching a new plateau, and he was not ready to read the story because he was still working on it, and Woodward was taking the position that he was confused and needed to talk to someone to get a perception.

HP. They are trying people.

RZ. What they are trying to do is to get a fix on what's happened over here.

P. OK. Take a hard line. Gergen to Woodward. Anything on that they better watch their damned cotton picking faces. Because boy, if there's one thing in this case as Henry will tell you, since March 21st when I had that conversation with Dean, I have broken my ass to try to get the facts of this case. Right? Tried to get that damn Liddy to talk. We tried to get—finally got Gray to refresh his memory. (unintelligible) We finally got—incidentally, we put Ruck in that thing rather than—I didn't think based on what you had told me earlier, we should put Feld—because there's too much (unintelligible) over there and Ruckelshaus is a perfectly trustworthy man. He'll stay 30 days—

HP. I know him and I think well of him.

P. and for that matter, we'll have another man ready. Does that sound alright to you? I told Ruck, incidentally, that he was to cooperate with the investigation and I said, "Ruck you are to do anything that the prosecutor says to do, Henry Petersen, or the prosecutors, leave no stone unturned and I don't give a damn who it hurts." Now believe me, that's what he's been told. So you got a man there who will—

HP. I know him and I think well of him, Mr. President.

P. Well, he's Mr. Clean, you know so you understand.

HP. Yes, indeed. He's quite able, he is indeed.

P. So there you are. You've got to knock that— Crack down. If there's one thing you have got to do, you have got to maintain the Presidency out of this. I have got things to do for this country and I'm not going to have—now this is personal. I sometimes feel like I'd like to resign. Let Agnew be President for a while. He'd love it.

HP. I don't even know why you want the job.

P. You are talking about this story—that Agnew is getting ready to resign? That's the Post also?

RZ. Well, that's the Post and Times.

P. Post? Well, what did Agnew say?

RZ. "That's ridiculous." Marsh Thompson's going to turn it off. Well, look. Let me have Gergen call him back, and say, "He raised two points with me. Let me tell you what is going on here. What's going on here, Bob, is the President is going to get to the bottom of this."

P. That's right.

RZ. And then have Gergen say, I have checked this at a very high level and you'd better, absolutely not even go into any emotional concerns of running a story like this. You had better just wipe it out of your mind. Because there is nothing to it.

P. That's right.

RZ. If you say you want to be responsible and fair, well, you had better not go with a source that you have to speculate on.

P. Right. The same with the *Times*.

RZ. The *New York Times* man, I'm sure—

P. Well, Hersh is so damn unreliable.

RZ. (unintelligible)

P. I'd call Daniel. Hersh told Bittman who told O'Brien that Dean had testified that there was a new—that the President was involved, right?

RZ. Not testified, but told the prosecutor or something.

P. Told the prosecutor that the President was involved, right?

P. Let me ask Henry a question. You have Titus and those saying Dean, neither Dean or his lawyers, have said anything of that sort except this one thing.

HP. They said, "tying in the President" not in the Watergate but in other areas and the prosecutor said, "Stop! We don't want to get in this. We don't want to discuss this."

P. (unintelligible)

HP. What I think is its bombast, its negotiation—it's ah—

P. Again make it clear that Henry's made his check.

RZ. Just to put this into perspective. This is not, as I sense it, about to break in the papers. This is just rumor type.

P. Well, kill it. Kill it hard.

RZ. OK, sir. (Ziegler leaves)

P. Let me say this, let me ask you about (unintelligible). First, on Dean—I would not want to get into a position—You have told me now, "You can do what you want with Dean." You have given up. You mean, in other words, fire him, hire him, leave him, treat him like the others, wait until the Grand Jury acts, or something. You see, I have three courses: I can wait until the Grand Jury acts, I can take leaves of absence, or I can take resignations, I have three different courses on all three men. I can do different things with each one of them. Right?

HP. Yes, sir.

P. These are the options, but what I will do remains to be seen. Now in Dean's case, I do not want the impression left that—I have gone over with you before, that by saying "Don't grant immunity to a major person," that in so doing I am trying to block Dean giving evidence against Haldeman or Ehrlichman.

HP. I understand that.

P. I have applied that to others, and I don't want to—no. Do I make myself clear?

HP. Yes, let me make myself clear.

P. Yes.

HP. I regard immunity authority under the statutes of the United States, to be my responsibility, of which I cannot divest myself.

P. Right.

HP. And—ah—we take opinions, but I would have to treat this as advisory only.

P. Right. Well understand, I only expressed an opinion.

HP. I understand.

P. And understand you have got to determine who is the major culprit too.

HP. Yes, sir.

P. If you think Dean is an agent—Let me say. If Dean, I—I think Haldeman and Ehrlichman in the case of themselves with Dean. But my point is, you have got to—ah—I don't know what your prosecutors think, but if your prosecutors believe that they have got to give Dean immunity, in whole or in part, in order to get the damned case, do it. I'm not—I'm not telling you what to do, but—you understand? Your decision. Now have you talked to the prosecutor about this situation?

HP. They vacillated. In the first instance they, I think, felt quite strongly that Dean should be immunized, and I was resisting. And the last time we discussed it, why they had made other—

P. Why? Maybe because of what I said? See? I don't want—I don't want them—

HP. No. I don't think so, because, one, they are in a position to simply make the recommendation and let me shoulder the heavy burden.

P. Why do you think that they had turned around?

HP. Well, I think they see the question of credibility. They have come to the recognition that if they are going to put him on the stand and he's going to have any credibility at all, he'll have most credibility if he goes in and pleads and testifies as a co-defendant against Ehrlichman and Haldeman as opposed to someone who has been given immunity and is testifying against them.

P. Even an old man like Wilson will tear hell out of him.

HP. Well, John Wilson may be old, but he's one hell of a lawyer.

P. Oh, I can see——

HP. A top-notch man——

P. I met him last night, I said privately and I won't again, but I was impressed with him. He is a delightful man. And I could see, I can see—I would want to be on the stand with him interrogating.

HP. He's a fair——

P. He must be pretty good.

HP. Yes, sir he is. And did you meet Frank Strickler?

P. Yeah.

HP. They are both delightful people.

P. Yeah. Strickler, he just looks sort of a big country bumpkin, but there is a sharp mind in there.

HP. Very able fellow. And they are decent people to deal with—as adversaries. They are decent. They are honorable lawyers, they are pleasure to deal with.

P. All right. We have got the immunity problem resolved. Do it. Dean if you need to, but boy I am telling you—there ain't going to be any blackmail.

HP. Mr. President, I——

P. Don't let Dick Kleindienst say it. Dean ain't—"Hunt is going to blackmail you." Hunt's not going to blackmail any of us. "It is his word, basically, against yours." It's his word against mine. Now for—who is going to believe John Dean? We relied on the damned so—Dean, Dean was the one who told us throughout the summer that nobody in the White House was involved when he, himself apparently, was involved, particularly on the critical angle of subornation of perjury. That's the one that—I will never, never understand John.

HP. I, I can almost quote him. He said, "Henry, God damn it, I need this information. That man designated me to get all these facts." And he calls me in there and chews my ass off.

P. Do you know something?

HP. And this was before the trial——

P. Dick Kleindienst, incidentally, Dick Kleindienst told me this last night when I talked to him. He said, "You know, Mr. President—" And I said, "Do you know the first time I ever saw Dean alone was on February 27, 1972, except for 5 minutes when I signed my will on August the 14th." Dick probably repeated, because I think you were in the room. He said, "Are you kidding?" I said, "No, why? Did you hear otherwise?" He said, "Well, Dean was around here quoting the President all the time." Did he indicate that I was telling him to do this?

HP. He told me that he had been designated by you to accumulate all these facts and he was reporting to you *personally*. And that you'd be clearing his ass out if he didn't have it and I went back to him again, I said, "John, are you sure this information is not going laterally?" I said, "Not that I distrust you, but you, where is it going? Do you know?" He said, "Henry, it is only going upward," which I took to mean—Ehrlichman, Haldeman and you.

P. Ehrlichman. It went to Ehrlichman, I am sure. And then in to Haldman. And to Ziegler, because Ziegler used Dean. But that was because he had to (unintelligible).

HP. Well, I didn't have any problem with that. I got in—

P. Dean. You will get Dean in there. Suppose he starts trying to impeach the President, the word of the President of the United States and says, "Well, I have information to the effect that I once discussed with the President the question of how the possibility, of the problem," of this damn Bittman stuff I spoke to you about last time. Henry, it won't stand up for five minutes because nothing was done, and fortunately I had Haldeman at that conversation and he was there and I said, "Look, I tried to give you this, this, this, this, this, this, and this." And I said, "When you finally get it out, it won't work. Because, I said, "First, you can't get clemency to Hunt."

HP. I agree.

P. I mean, I was trying to get it out. To try to see what that—Dean had been doing! I said, "First you can't give him clemency." Somebody has thrown out something to the effect that Dean reported that Hunt had an idea that he was going to get clemency around Christmas. I said, "Are you kidding? You can't get clemency for Hunt. You couldn't even think about it until, you know, '75 or something like that." Which you could, then because of the fact, that you could get to the—ah—But nevertheless, I said you couldn't give clemency. I said, "The second point to remember is 'How are you going to get the money for them?' If you could do it, I mean you are talking about a million dollars." I asked him—well, I gave him several ways. I said, "You couldn't put it through a Cuban Committee could you?" I asked him, because to me he was sounding so damned ridiculous. I said, "Well under the circumstances," I said, "There isn't a damn thing we can do." I said, "It looks to me like the problem is sue John Mitchell." Mitchell came down the next day and we talked about executive privilege. Nothing else. Now, that's the total story. And—so Dean—I just want you to be sure that if Dean ever raises the thing, you've got the whole thing. You've got that whole thing. Now kick him straight—

HP. That's—I mean—that's what we had to do. I just don't see how we can minimize that man. That's all there is to it.

P. But I suppose he talks to his friends. Is he talking to Bittman? No, Dean was talking to O'Brien, wasn't he? Dean wasn't talking to Bittman.

HP. Not to my knowledge. Wasn't that story that Bittman—that Bittman talked to O'Brien—Bittman, Bittman to O'Brien—

P. No. Bittman to O'Brien said, "Look, we need the money."

HP. That's right.

P. Or was it Bittman to Dean? I don't know. What kind of a guy is O'Brien?

HP. I've only met O'Brien one time and then only recently at a recent Bar dinner. I don't know him. Bittman, I know well. I just thank God I broke off social relations with him from the time he represented Hunt. We had a golf date, and I just broke it and I haven't seen him since then.

P. What about Bittman?

HP. What he's concerned about is the allegation that he, in behalf of Hunt, was attempting to blackmail the White House for substantial sums of money in return for Hunt's silence. That's the allegation. And that's what McCord said—ah

P. McCord said that Bittman—

HP. McCord said that Dorothy Hunt told him all this sort of thing.

P. And so how do you get to them? Do you have to call Bittman? What do you do?

HP. Well, we may get into the fee. Fees are not privileged.

P. I see.

HP. Now—

P. You say, "Where did he get your fee?"

HP. That's right.

P. And how would you go about that one?

HP. We'll have to subpoena the fee records out of the law firm.

P. And then if he got the fee, you say, "Did blackmail the White House for this?"

HP. Well, ah.

P. How did he pay the fee?

HP. No, no. I think that—one, we try and find out whether or not the amount of fees reflected on the books of the law firm were consistent with the amount of money that was—oh—to have gone to the law firm. In other words, what we think happened is that a considerable amount within the law firm was paid out in fees and the balance went on to Dorothy Hunt for distribution to the Cubans and what have you.

P. For support.

HP. The strange thing about this one, Mr. President, is that they could have done it openly.

P. Why, of course!

HP. If they had just come out in the Washington Post could say, "Well these people were—"

P. They helped the Scotsboro people, they helped the Berrigans, you remember the Alger Hiss defense fund?

HP. And we're going to help these—They were doing this—Once you do it in a clandestine fashion, it takes on elements—

P. Elements of a cover-up.

HP. That's right, and obstruction of justice.

P. That's what it is, a question of the way it was done.

HP. Sir.

P. Curious thing. I get your point there, I see that in other words, the—so let's look at Bittman. Bittman says he is trying to blackmail the White House. Alright you called Bittman. Bittman says that—he says that O'Brien—Where did you get the money? And so forth—

HP. Now Bittman maintains that it's a lie.

P. He'd be better off to say it's a lie.

HP. Yeah. He simply says that this is a statement by McCord that is lacking in veracity.

HP. And is attributed to (unintelligible) and Dorothy Hunt.

P. Of course, you've got Dean now corroborating—

HP. Well, we have Dean alluding to it, but not in circumstances that we can use it. It depends upon whether or not—

P. But Dean must say—this is also hearsay on that point. I had forgotten this is hearsay. Because he says that he had heard that Bittman needed money, I mean, Bittman had said he had to have a hundred—

HP. The link here is O'Brien.

P. Huh?

HP. The link here is O'Brien.

P. I—oh, I see.

HP. The lawyer.

P. I see. That Dean had heard from O'Brien. Bittman or O'Brien?

HP. No. I say the link we can break into this is O'Brien. Cause O'Brien's a lawyer. He's very scared and—

P. Yeah. So. O'Brien, Let's see what he says. I am just trying to see where it sorts out. O'Brien—can you get him in? What's he done? Has he spoken up?

HP. Well, I don't know that I can really predict—ah—ah—but conceivably if he said—ah—

P. Bittman.

HP. "As part of the scheme to ensure silence of those that were convicted, we made an arrangement whereby money would flow through Bittman in the form of legal fees for distribution to those people."—Then you've got it.

P. In the form of legal fees, I see. And then you've got Bittman and then you've got O'Brien and then you got the people that did it. If they—ah—At least those that knew. Like Kalmbach, might not have known.

HP. That remains to be seen. And LaRue.

P. LaRue? LaRue did know. He had to. And Mitchell. You've got Mitchell there, you've got LaRue. Who else is missing? LaRue, is he the one that used the code name of Rivers?

HP. I don't know whether—

P. I have heard that name Rivers.

HP. I heard Baker. Now there's two, but these may be couriers that Caulfield recruited, I am not sure.

P. And in all that Caulfield is involved, probably only coincidentally. You can't—they say some of these down there. But O'Brien in other words. O'Brien is scared. And O'Brien says that Bittman—I am just trying to see how they ever got—The only way you could ever get—Let me say, there is no way they could get that to the President without going through Haldeman and Ehrlichman. But I am referring to this man here. There's no way they could get it to here except through the fact that on March 21st Dean, as I had reported to you, did report to me that Bittman had told O'Brien that they needed the money. They needed the money. It was discussed and we, I said, "It can't be done. We can't do it." He went on to see Ehrlichman, and Ehrlichman said, "No dice." Nothing could be done. Now that is the fact. As far as we're concerned. That isn't much of a thing for Dean to have.

HP. Yeah.

P. But you could have Bittman. I suppose Dean—he could have talked to him—but then you have hearsay. But Dean is not credible. He is not credible. He really can't. He can't go out and say, "Look I've talked to the President and he told me this and that and the other thing." First, it's not true.

HP. That's the reason I say, in order to make Dean a credible witness; one, it seems to me that he has to plead and two, he has to be corroborated in an essential degree, not everything he says. But in sense an essential number of factors by other witnesses. And he may be corroborated in one respect by LaRue and in other respect by O'Brien, and in still a third respect by someone else, and in a fourth respect by Magruder. You know, and that's the way it goes and the case is being built. So, maybe we can bring O'Brien out.

P. Well, there's only this one charge I give to you, among many others, and that is: If any of this—I mean, I can't allow it. Believe me that even prosecutors shouldn't even have informed you of this one. Or me—I—

HP. They have described it as bombast, and rhetoric, and—you know, posing—

P. You examine them tomorrow. And you tell them, they are my men. I'm for them too. I want them to do the job. I want this to come out solid and right here. And they will start right in to get the big fish. Let's come to the Dean thing again.

I can give you some more time if you want to negotiate with him. I mean, when I say I—more time—

HP. He needs more pressure. It's become counterproductive of the President.

P. What?

HP. It's become counterproductive. I think he was pressed up against the wall, he's seen the early-morning crisis pass and now he's had resurgence. You know, he sees Ehrlichman here. He sees Haldeman here. He sees John Dean still here. Nothing happens. His confidence is coming back rather than ebbing. And—

P. What do you think? Without your advice—Is the proper course of action to have Dean to either—There are two courses of action I can take. I can take a leave of absence until they clear. You know what I mean. Which of course is a very—Bill Rogers thinks is the fairest. And in the end—and then they resign, of course. Or I can ask—just resign. Now the problem with resignation, which hits at—There isn't any question about what I will do when you get through with your damned Grand Jury. I just don't—I don't want to—you know what I mean? I don't want him in effect—by something that I do—to totally prejudice even Dean. You understand what I mean?

HP. I understand that aspect of it.

P. As President I shouldn't give a damn about that, but as President—I'll speak to the country on this. And I will soon. But my point is with a leave of absence, with a leave of absence for all three.

HP. With a leave of absence, you have the best of both worlds. You have given them the benefit of the doubt and you haven't cut the Gordian knot. You haven't asked for their resignations.

P. I have asked for a leave of absence. And I say, "Now I will determine at the conclusion not just of the Grand Jury, but at the conclusion of this entire investigation, that means the Ervin Committee is in there too." If, for example, you don't happen to indict one of these three, or one or two or three. I am not going to take that as clear evidence—it is not enough to serve the President simply to get by—

HP. I understand—

P. And I have told them all of that. They have got to be—

HP. I don't see that we're in any disagreement there. The problem is one of timing, as I see it. I think, in my humble judgment, that the question of timing is working first to your detriment, with respect to your image, before the press and public.

P. Do you mean now would be a good time—

HP. And secondly, I think it is working toward the detriment of the investigation because it is giving all of these people an attitude of hope that I think is unwarranted and I think that if he—

P. Let me ask you this. How about moving Haldeman and Ehrlichman and see what that does to Dean. I am just thinking about that—Let me put it this way. I am not in communication with Dean at all. For obvious reasons. But Haldeman and Ehrlichman, I hold my damn brain sessions. I know that they are telling me the truth. Dean, I can't believe him. Because I don't know what he is up to, you see? And, this leave of absence talk, let me say—Please let us keep it within ourselves. I can't leak this out. It will kill them. It will kill the whole thing. I am particularly—can't let it out to Dean. I don't like to put the three of them in the same bag. Although they may all be there.

HP. Mr. President, why do you not like to put them in the same bag? You don't like to put them in the same bag because Haldeman and Ehrlichman are loyal to the last minute, and you—

P. No, no it isn't that. It isn't that.

HP. I am not questioning your motive.

P. I am referring primarily to the fact that I have a different relation with the others. At this point I can't get Dean in and say, "Look fella, you take a leave of absence and if you come through clean I will take you back." You know, something like that.

HP. Well, I, in all candor, I think a leave of absence—absence—is just a preliminary step to ultimate departure.

P. I see.

HP. I don't see how either way any of them could come back. But it certainly at least in terms of bias and prejudice it indicates to the public at large that you haven't completely abandoned them. You haven't completely and unalterably decided their fate. On the other hand, I am separating myself from them and saying now, by golly, you—What you say is you are guilty until you are proven innocent. That's what the leave of absence is. You see. The other way I am saying, "Resignation—you're guilty." That's the difference, isn't it? The leave of absence in effect is saying, "Look, fellas, I give you leave of absence. So I hold you, basically, not that you're guilty," but—I'm not holding you guilty, I'm not finding you guilty, but I'm saying is that you've got to prove that you are innocent before you can come back.

HP. No.

P. Now in recognition I am saying—

HP. No—you're saying that you have to prove you're worthy to work in the Office of the President.

P. Oh, I see. I understand.

HP. But I think that, I think that's a much more ritualistic way of saying—

P. Well, that's what I told them. That's what I told them. You know what I mean by guilt and innocence, I mean worthiness.

HP. That's right.

P. You have to prove you're worthy.

HP. But you see that's what I see has to get out to the public. But Mr. President, my wife is not a politically sophisticated woman.

P. That's right—

HP. She knows I'm upset about this and you know, I'm working hard and she sees it. But she asked me at breakfast—She, now I don't want you to hold this against her if you ever meet her, because she's a charming lady—

P. Of course.

HP. She said, "Doesn't all this upset you?" And I said, "Of course it does."

P. "Why the hell doesn't the President do something?"

HP. She said, "Do you think the President knows?" And I looked at her and said, "If I thought the President knew, I would have to resign." But, you know, now there is my own family, Mr. President—

P. Sure. Sure.

HP. Now whatever confidence she has in you, her confidence in me ought to be unquestioned. Well, when that type of question comes through in my home—

P. We've got to get it out.

HP. We've got a problem.

P. Well you know I have wrestled with it. I've been trying to—

HP. Mr. President, I pray for you, sir.

P. I have been trying to get the thing. Like even poor Gray—there was nothing we could do. Ah—wrestling with Dean's covers. But ah—

HP. I wouldn't try to distinguish between the three of them.

P. I understand. I understand. Well, I won't try to distinguish, but maybe they will be handled differently due to the fact that I am not communicating with Dean.

HP. Mr. President, it is always easier to advise than it is to assume the responsibility.

P. I will do it my way. And it will be done. I am working on it. I won't even tell you how—how—

HP. I understand—

P. But what are you going to do? What will happen now? The FBI will now interview Dean on that report in California?

HP. Yes, sir. They will interview Ehrlichman and they will, ah, attempt to identify the psychiatrist. They will interview the psychiatrist named as Ellsberg's psychiatrist to determine whether or not they were burglarized or know they were burglarized. They will attempt to determine if there's any police report of a burglary. We will check with the Defense Department since they have been involved in this thing. We will recheck the FBI. We've already checked them once.

P. What did they find?

HP. Well, nothing. We've checked our own people—

P. Now, the FBI did not do anything.

HP. I understand. But . . . we're talking about the evidence of information that may have been stemmed from that source.

P. Yeah. Well they got into the trial.

HP. Whether any of that has gotten into the file in any way. And when we do that and we do that, we have to file a report to the Court and we will and ah we'll see what develops.

P. Alright. Thank you.

Appendix 49. Statement: The President, April 30, 1973. (9:01–9:25 p.m.).

[9:01 p.m. e.d.t]

I want to talk to you tonight from my heart on a subject of deep concern to every American.

In recent months, members of my Administration and officials of the Committee for the Re-election of the President—including some of my closest friends and most trusted aides—have been charged with involvement in what has come to be known as the Watergate affair. These include charges of illegal activity during and preceding the 1972 Presidential election and charges that responsible officials participated in efforts to cover up that illegal activity.

The inevitable result of these charges has been to raise serious questions about the integrity of the White House itself. Tonight I wish to address these questions.

Last June 17, while I was in Florida trying to get a few days' rest after my visit to Moscow, I first learned from news reports of the Watergate break-in. I was appalled at this senseless, illegal action, and I was shocked to learn that employees of the Re-election Committee were apparently among those guilty. I immediately ordered an investigation by appropriate government authorities. On September 15, as you will recall, indictments were brought against seven defendants in the case.

As the investigations went forward, I repeatedly asked those conducting the investigation whether there was any reason to believe that members of my Administration were in any way involved. I received repeated assurances that there were not. Because of these continuing reassurances—because I believed the reports I was getting, because I had faith in the persons from whom I was getting them—I discounted the stories in the press that appeared to implicate members of my Administration or other officials of the campaign committee.

Until March of this year, I remained convinced that the denials were true and that the charges of involvement by members of the White House staff were false. The comments I made during this period, and the comments made by my Press Secreary on my behalf, were based on the information provided to us at the time we made those comments. However, new information then came to me which persuaded me that there was a real possibility that some of these charges were true, and suggesting further that there had been an effort to conceal the facts both from the public, from you, and from me.

As a result, on March 21, I personally assumed the responsibility for coordinating intensive new inquiries into the matter, and I personally ordered those conducting the investigations to get all the facts and to report them directly to me, right here in this office.

I again ordered that all persons in the Government or at the Re-election Committee should cooperate fully with the FBI, the prosecutors and the Grand Jury. I also ordered that anyone who refused to cooperate in telling the truth would be asked to resign from government service. And, with ground rules adopted that would preserve the basic constitutional separation of powers between the Congress and the Presidency, I directed that members of the White House staff should appear and testify voluntarily under oath before the Senate Committee investigating Watergate.

I was determined that we should get to the bottom of the matter, and that the truth should be fully brought out—no matter who was involved.

At the same time, I was determined not to take precipitate action, and to avoid, if at all possible, any action that would appear to reflect on innocent people. I wanted to be fair. But I knew that in the final analysis, the integrity of this office—public faith in the integrity of this office—would have to take priority over all personal considerations.

Today, in one of the most difficult decisions of my Presidency, I accepted the resignations of two of my closest associates in the White House—Bob Haldeman, John Ehrlichman—two of the finest public servants it has been my privilege to know.

I want to stress that in accepting these resignations, I mean to leave no implication whatever of personal wrongdoing on their part, and I leave no implication tonight of implication on the part of others who have been charged in this matter. But in matters as sensitive as guarding the integrity of our democratic process, it is essential not only that rigorous legal and ethical standards be observed, but also that the public, you, have the total confidence that they are both being observed and enforced by those in authority and particularly by the President of the United States. They agreed with me that this move was necessary in order to restore that confidence.

Because Attorney General Kleindienst—though a distinguished public servant, my personal friend for 20 years, with no personal involvement whatever in this matter—has been a close personal and professional associate of some of those who are involved in this case, he and I both felt that it was also necessary to name a new Attorney General.

The Counsel to the President, John Dean, has also resigned.

As the new Attorney General, I have today named Elliot Richardson, a man of unimpeachable integrity and rigorously high principle. I have directed him to do everything necessary to ensure that the Department of Justice has the confidence and trust of every law abiding person in this country.

I have given him absolute authority to make all decisions bearing upon the prosecution of the Watergate case and related matters. I have instructed him that if he should consider it appropriate, he has the authority to name a special supervising prosecutor for matters arising out of the case.

Whatever may appear to have been the case before—whatever improper activities may yet be discovered in connection with this *whole* sordid affair—I want the American people, I want you to know beyond the shadow of a doubt that during my term as Presirent, justice will be pursued fairly, fully, and impartially, no matter who is involved. This office is a sacred trust and I am determined to be worthy of that trust.

Looking back at the history of this case, two questions arise:

How could it have happened?

Who is to blame?

Political commentators have correctly observed that during my 27 years in politics, I have always previously insisted on running my own campaigns for office.

But 1972 presented a very different situation. In both domestic and foreign policy, 1972 was a year of crucially important decisions, of intense negotiations, of vital new directions, particularly in working toward the goal which has been my overriding concern throughout my political career—the goal of bringing peace to America and peace to the world.

That is why I decided, as the 1972 campaign approached, that the Presidency should come first and politics second. To the maximum extent possible, therefore, I sought to delegate campaign operations, and to remove the day-to-day campaign decisions from the President's office and from the White House. I also, as you recall, severely limited the number of my own campaign appearances.

Who, then, is to blame for what happened in this case?

For specific criminal actions by specific individuals, those who committed those actions must, of course, bear the liability and pay the penalty.

For the fact that alleged improper actions took place within the White House or within my campaign organization, the easiest course would be for me to blame those to whom I delegated the responsibility to run the campaign. But that would be a cowardly thing to do.

I will not place the blame on subordinates—on people whose zeal exceeded their judgment, and who may have done wrong in a cause they deeply believed to be right.

In any organization, the man at the top must bear the responsibility. That responsibility, therefore, belongs here, in this office. I accept that. And I pledge to you tonight, from this office, that I will do everything in my power to ensure that the guilty are brought to justice, and that such abuses are purged from our political processes in the years to come, long after I have left this office.

Some people, quite properly appalled at the abuses that occurred, will say that Watergate demonstrates the bankruptcy of the American political system. I believe precisely the opposite is true. Watergate represented a series of illegal acts and bad judgments by a number of individuals. It was the system that has brought the facts to light and that will bring those guilty to justice—a system that in this case has included a determined Grand Jury, honest prosecutors, a courageous Judge, John Sirica, and a vigorous free press.

It is essential now that we place our faith in that system—and especially in the judicial system. It is essential that we let the judicial process go forward, respecting those safeguards that are established to protect the innocent as well as to convict the guilty. It is essential that in reacting to the excesses of others, we not fall into excesses ourselves.

It is also essential that we not be so distracted by events such as this that we neglect the vital work before us, before this Nation, before America, at a time of critical importance to America and the world.

Since March, when I first learned that the Watergate affair might in fact be far more serious than I had been led to believe, it has claimed far too much of my own time and attention.

Whatever may now transpire in the case—whatever the actions of the Grand Jury, whatever the outcome of any eventual trials—I must now turn my full attention once again to the larger duties of this office. I owe it to this great office that I hold, and I owe it to you—to our country.

I know that as Attorney General, Elliot Richardson will be both fair and fearless in pursuing this case wherever it leads.

I am confident that with him in charge, justice will be done.

There is vital work to be done toward our goal of a lasting structure of peace in the world—work that cannot wait. Work that I must do.

Tomorrow for example, Chancellor Brandt of West Germany will visit the White House for talks that are vital element of "The Year of Europe" as 1973 has been called. We are already preparing for the next Soviet-American summit meeting, later this year.

This is also a year in which we are seeking to negotiate a mutual and balanced reduction of armed forces in Europe, which will reduce our defense budget and allow us to have funds for other purposes at home so desperately needed. It is the year when the United States and Soviet negotiators will seek to work out the second and even more important round of our talks on limiting nuclear arms, and of reducing the danger of a nuclear war that would destroy civilization as we know it. It is a year in which we confront the difficult tasks of maintaining peace in Southeast Asia and in the potentially explosive Middle East.

There is also vital work to be done right here in America—to ensure prosperity, and that means a good job for everyone who wants to work, to control inflation, that I know worries every housewife, everyone who tries to balance a family budget in America, to set in motion new and better ways of ensuring progress toward a better life for all Americans.

When I think of this office—of what it means—I think of all the things that I want to accomplish for this nation—of all the things I want to accomplish for you.

On Christmas Eve, during my terrible personal ordeal of the renewed bombing of North Vietnam, which after 12 years of war, finally helped to bring America peace with honor, I sat down just before midnight. I wrote out some of my goals for my second term as President.

Let me read them to you.

"To make it possible for our children, and for our children's children, to live in a world of peace.

"To make this country be more than ever a land of opportunity—of equal opportunity, full opportunity for every American.

"To provide jobs for all who can work, and generous help for all who cannot.

"To establish a climate of decency, and civility, in which each person respects the feelings and the dignity and the God-given rights of his neighbor.

"To make this a land in which each person can dare to dream, can live his dreams—not in fear, but in hope—proud of his community, proud of his country, proud of what America has meant to himself and to the world."

These are great goals. I believe we can, we must work for them. We can achieve them. But we cannot achieve these goals unless we dedicate ourselves to another goal.

We must maintain the integrity of the White House, and that integrity must be real, not transparent. There can be no whitewash at the White House.

We must reform our political process—ridding it not only of the violations of the law, but also of the ugly mob violence, and other inexcusable campaign tactics that have been too often practiced and too readily accepted in the past—including those that may have been a response by one side to the excesses or expected excesses of the other side. Two wrongs do not make a right.

I have been in public life for more than a quarter of a century. Like any other calling, politics has good people, and bad people. And let me tell you, the great majority in politics, in the Congress, in the Federal Government, in the State Government, are good people. I know that it can be very easy, under the intensive pressures of a campaign, for even well-intentioned people to fall into shady tactics—to rationalize this on the grounds that what is at stake is of such importance to the Nation that the end justifies the means. And both of our great parties have been guilty of such tactics in the past.

In recent years, however, the campaign excesses that have occurred on all sides have provided a sobering demonstration of how far this false doctrine can take us. The lesson is clear: America, in its political campaigns, must not again fall into the trap of letting the end, however great that end is, justify the means.

I urge the leaders of both political parties, I urge citizens, all of you, everywhere, to join in working toward a new set of standards, new rules and procedures—to ensure that future elections will be as nearly free of such abuses as they possibly can be made. This is my goal. I ask you to join in making it America's goal.

When I was inaugurated for a second term this past January 20, I gave each member of my Cabinet and each member of my senior White House staff a special four-year calendar with each day marked to show the number of days remaining to the Administration. In the inscription on each calendar, I wrote these words: "The Presidential term which begins today consists of 1,461 days—no more, no less. Each can be a day of strengthening and renewal for America; each can add depth and dimension to the American experience. If we strive together, if we make the most of the challenge and the opportunity that these days offer us, they can stand out as great days for America, and great moments in the history of the world."

I looked at my own calendar this morning up at Camp David as I was working on this speech. It showed exactly 1,361 days remaining in my term. I want these to be the best days in America's history, because I love America. I deeply believe that America is the hope of the world, and I know that in the quality and wisdom of the leadership America gives lies the only hope for millions of people all over the world, that they can live their lives in peace and freedom. We must be worthy of that hope, in every sense of the word. Tonight, I ask for your prayers to help me in everything that I do throughout the days of my Presidency to be worthy of their hopes and of yours.

God bless America and God bless each and every one of you

9:25 P.M. EDT.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Public Welfare, with an amendment:

S. 3344. A bill to authorize appropriations for activities of the National Science Foundation, and for other purposes (Rept. No. 93–848).

By Mr. BIBLE, from the Committee on Interior and Insular Affairs, with amendments:

S. 2465. A bill to authorize the Secretary of the Interior to guarantee loans for the financing of commercial ventures in geothermal energy; to coordinate Federal activities in geothermal energy exploration, research, and development; and for other purposes (Rept. No. 93–849).

By Mr. PEARSON, from the Committee on Commerce, without amendment:

S. 3500. An original bill to promote and coordinate amateur athletic activity in the United States and in international competition in which American citizens participate and to promote physical fitness, and for other purposes (Rept. No. 93–850).

By Mr. HART, from the Committee on Commerce, without amendment:

H.R. 10942. An act to amend the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 744), as amended, to extend and adapt its provisions to the Convention between the United States and the Government of Japan for the protection of migratory birds and birds in danger of extinction, and their environment, concluded at the city of Tokyo, March 4, 1972 (Rept. No. 93–851); and

H.R. 10972. An act to delay for 6 months the taking effect of certain measures to provide additional funds for certain wildlife restoration projects (Rept. No. 93–852).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Foy D. Kohler, of Florida, to be a member of the Board for International Broadcasting.

(The above nomination was reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Helen J. Terranova, of Florida, and sundry other persons for reappointment in the Foreign Service as Foreign Service officers.

Mr. SPARKMAN. Mr. President, as in executive session, I also report favorably sundry nominations in the Diplomatic and Foreign Service which have previously appeared in the Congressional Record and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. EASTLAND, from the Committee on the Judiciary:

D. Dortch Warriner, of Virginia, to be U.S. district judge for the eastern district of Virginia.

James L. Browning, Jr., of California, to be U.S. attorney for the northern district of California.

(The last above-mentioned nomination was reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bill was introduced, read the first time and, by unanimous consent, the second time, and placed on the calendar as indicated:

By Mr. PEARSON, from the Committee on Commerce:

S. 3500. An original bill to promote and coordinate amateur athletic activity in the United States and in international competition in which American citizens participate and to promote physical fitness, and for other purposes. Ordered placed on the Calendar.

ADDITIONAL COSPONSORS OF BILLS

S. 1811

At the request of Mr. Church, the Senator from Wisconsin (Mr. Nelson) was added as a cosponsor of S. 1811, a bill to amend the Internal Revenue Code of 1954 to increase the credit against tax for retirement income.

S. 3143

Mr. CHURCH. Mr. President, I ask unanimous consent that at the next printing the names of the Senators from Minnesota (Mr. Mondale), Wyoming (Mr. McGee), Utah (Mr. Moss), Hawaii (Mr. Inouye), Colorado (Mr. Haskell), California (Mr. Tunney), Missouri (Mr. Eagleton), Nevada (Mr. Bible), Indiana (Mr. Bayh), Tennessee (Mr. Brock), Massachusetts (Mr. Kennedy), New Mexico (Mr. Domenici), South Dakota (Mr. McGovern), Pennsylvania Mr. Schweiker), South Dakota (Mr. Abourezk), Indiana (Mr. Hartke), Delaware (Mr. Biden), Montana (Mr. Metcalf), New Mexico (Mr. Montoya), West Virginia (Mr. Randolph), New York (Mr. Javits), New Hampshire (Mr. McIntyre), and Rhode Island (Mr. Pastore) be added as cosponsors of S. 3143, a bill to amend titles II, VII, XI, XVI, XVIII, and XIX of the Social Security Act to provide for the administration of the old-age, survivors, and disability insurance program, the supplemental security income program, and the medicare program by a newly established independent Social Security Administration, to separate social security trust fund items from the general Federal budget, to prohibit the mailing of certain notices with social security and supplemental security income benefit checks, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, I also ask unanimous consent that a statement by Senator Bayh, another cosponsor of S. 3143, may be printed in the Record, at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement of Senator Bayh on Cosponsoring S. 3143

Mr. Bayh. Mr. President, I am privileged today to join as a cosponsor of S. 3143. The Social Security Administration has become a fundamental institution of our society. Today over 30 million persons receive social security benefits. One hundred million workers will make social security contributions in 1974. A large portion of our elderly population is almost exclusively dependent upon monthly social security payments.

Those who benefit from and contribute to social security have every right to expect that the Social Security Administration be nonpolitical and be administered in an efficient manner solely for the benefit of the citizenry. Yet they see Commissioners of the SSA removed for political reasons; they receive announcements from the Social Security Administration which carry political connotations; and they see social security trust funds included in the unified budget along with other items which are very controversial.

This bill represents an important step in removing social security from partisan politics. It would establish an autonomous social security agency outside of the Department of Health, Education and Welfare and would prohibit the mailing of announcements with Social Security and SSI checks which make reference to any officer of the government. Further, it would remove the transactions of the social security trust fund from the unified budget.

I believe enactment of S. 3143 would be a wise exercise of legislative power. I commend Senator Church for introducing this bill, and I urge my colleagues to favorably consider its provisions which would do much to insure the integrity of the social security system.

S. 3339

At the request of Mr. Humphrey, the Senator from Illinois (Mr. Percy) was added as a cosponsor of S. 3339, a bill to amend the program of supplemental security income for the aged, blind, and disabled—established by title XVI of the Social Security Act—to provide for cost-of-living increases in the benefits provided thereunder.

S. 3492

At the request of Mr. Brock, the Senator from Utah (Mr. Bennett), the Senator from Massachusetts (Mr. Brooke), the Senator from California (Mr. Cranston), the Senator from Oregon (Mr. Packwood), and the Senator from Texas (Mr. Tower) were added as cosponsors of S. 3492, to prohibit discrimination on the basis of sex or marital status in the granting of credit.

SENATE CONCURRENT RESOLUTION 86—SUBMISSION OF A CONCURRENT RESOLUTION AUTHORIZING THE PRINTING OF ADDITIONAL COPIES OF THE HEARINGS AND FINAL REPORT OF THE SENATE SELECT COMMITTEE ON PRESIDENTIAL CAMPAIGN ACTIVITIES

(Referred to the Committee on Rules and Administration.)

Mr. ERVIN submitted the following resolution:

Senate Concurrent Resolution 86

Resolved by the Senate (the House of Representatives concurring), That the authorization (pursuant to Senate Concurrent Resolution 29, 193d Congress, agreed to June 28, 1973) for the Senate Select Committee on Presidential Campaign Activities to have printed for its use 5,000 additional copies of its hearings on illegal, improper, or unethical activities during the Presidential election of 1972 be extended through the duration of its existence as a select committee.

Sec. 2. There shall be printed for the use of the Senate Select Committee on Presidential Campaign Activities 6,000 additional copies of its final report to the Senate.

ADDITIONAL COSPONSORS OF A RESOLUTION

SENATE RESOLUTION 324

At the request of Mr. Humphrey, the Senator from Ohio (Mr. Taft), the Senator from Vermont (Mr. Stafford), and the Senator from Massachusetts (Mr. Brooke) were added as cosponsors of Senate Resolution 324, relating to terrorist action threatening the lives of 90 Israeli schoolchildren.

EDUCATION AMENDMENTS OF 1974—AMENDMENTS

AMENDMENT NO. 1334

(Ordered to be printed and to lie on the table.)

Mr. BROCK submitted an amendment intended to be proposed by him to the bill (S. 1539) to amend and extend certain acts relating to elementary and secondary education programs, and for other purposes.

AMENDMENT NO. 1336

(Ordered to be printed, and to lie on the table.)

Mr. McGOVERN (for himself, Mr. Case, Mr. Abourezk, Mr. Biden, Mr. Brock, Mr. Cook, Mr. Gravel, Mr. Hansen, Mr. Haskell, Mr. Kennedy, Mr. Montoya, and Mr. Tunney) submitted amendments, intended to be proposed by them, jointly, to Senate bill 1539, supra.

AMENDMENT NO. 1337

(Ordered to be printed, and to lie on the table.)

Mr. DOLE submitted an amendment, intended to be proposed by him to Senate bill 1539, supra.

AMENDMENT NO. 1338

(Ordered to be printed, and to lie on the table.)

Mr. CRANSTON (for himself, Mr. Stafford, and Mr. Mathias) submitted amendments, intended to be proposed by them, jointly, to Senate bill 1539, supra.

AUTHORIZATION OF THE SECRETARY OF COMMERCE TO ENGAGE IN CERTAIN EXPORT EXPANSION ACTIVITY—AMENDMENT

AMENDMENT NO. 1335

(Ordered to be printed and referred to the Committee on Foreign Relations.)

Mr. BROCK submitted an amendment intended to be proposed by him to the bill (S. 1486), to authorize the Secretary of Commerce to engage in certain export expansion activities.

Mr. BROCK. Mr. President, the Commerce Committee as well as the Committee on Foreign Relations recently completed their hearings on the national problem of promoting the expansion of American exports. We are all concerned about our trade balance, which traditionally had been in surplus, and which in 1972 showed a staggering deficit of $6.9 billion. Our exports over the last 12 years have been rising at an average of 7¼ percent per annum, but imports have been rising at the rate of 10¾ percent. The year 1973, because of two devaluations of the dollar, showed some improvement over 1972, but the small export surplus of $1.7 billion can give only scant comfort and must not be interpreted as an indicator of continuing recovery. Unfortunately, a sharply higher bill for petroleum products will dominate the import picture for 1974, and the next years.

Another increase in imports of other industrial supplies can be expected because of our dependence on foreign sources for certain commodities has been growing and prices also have been increasing. The key problem lies, of course, in the fact that as a Nation we have not exported enough. Although the aggregate amount of U.S. exports has risen, our share of world exports has declined from 18.2 percent in 1960 to 12.6 percent in 1971 and to 12 percent in 1972. We are losing markets, that is, we are getting a smaller piece of the increase in total world exports.

It is clear that if we continue down the road of excessive international spending while not earning enough foreign exchange, then our ability and freedom to act in the political, economic, and military sphere will be limited. In other words, we must earn more foreign exchange as a nation.

Accordingly the effectiveness of our economic agencies and especially of the Department of Commerce encounters ever-increasing challenges. Often new legislation is needed to permit the Federal Government to act as effectively as the situation demands. S. 1486 is a case in point. Its various provisions, if enacted, should enable the Department of Commerce to strengthen the promotion of exports considerably. The bill, however, fails to deal with the crucial role of Commerce's 43 field offices, which 2 years ago were instructed to give priority to the promotion of export today.

Parallel with this development on the Federal level, there was an increasing emphasis on foreign trade promotion by State development agencies, by commercial banks, chambers of commerce, and so on. The trouble was that some of these efforts were not fully coordinated, because the lines of responsibility of the various organizations and institutions engaged in trade promotion overlapped. Following my suggestion, the Department of Commerce, as of January 1, 1974, reorganized the areas of responsibility of the field offices so that they now coincide with the borders of the States. In other words, the export promotion by Federal and State agencies and by the private sector is now fully coordinated.

A second problem occurs in the staffing of these field offices. As a rule, only two or three officers can be assigned to the export promotion of an entire State, and to advise hundreds of would-be exporters how to overcome the numerous obstacles. Obviously this is a backbreaking assignment, for which my amendment provides a remedy. It authorizes the Department of Commerce to obtain from private industry one hundred experienced export executives on loan. They would be assigned in small groups to appropriate domestic target areas and offer their experience and know-how to newcomers in the export trade.

Another small but important projected improvement pertains to the availability of up-to-date export data. As I mentioned on other occasions, the most recent official statistical data for exports from the individual States pertain to the year 1971, and even they are estimates.

In other words, the directors of the field offices, which are responsible for giving assistance to all the exporters in their areas, have to work with figures which are about 2 years old. I do not believe there is a sales manager of a private firm in this country who will turn to his bookkeeper only to learn that the latest available sales report is 2 years old. My amendment will authorize the Bureau of the Census at minimal expense to compile export data on a monthly basis and to supply them promptly to the 43 field offices as well as to their headquarters in Washington, D.C.

Mr. President, at this point, I ask unanimous consent that the text of my amendment be printed in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

AMENDMENT No. 1335

On page 23, line 23, strike out "section 8" and insert in lieu thereof "section 10".

On page 24, line 10, strike out "section 11" and insert in lieu thereof "section 13".

On page 33, between lines 14 and 15, insert the following:

INTERNATIONAL TRADE SPECIALISTS

SEC. 7. (a) (1) There is established within the Department of Commerce and in its field offices an International Trade Specialist Program. The Secretary shall recruit, train, and assign such personnel to the program as may be necessary to implement the purposes of the Act, except that the number of such personnel shall not exceed three in each field office, and shall not exceed one hundred for the entire program.

(2) Each international trade specialist appointed under this section shall have had at least five years of executive level experience in private industry directly related to exporting products from the United States. Any individual who is or who has been a career employee of the United States shall be ineligible for an appointment under this section for a period of five years following the date of his separation from employment by the United States.

(3) Appointments as international trade specialists shall be without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(4) An individual appointed as an international trade specialist may occupy such position for a period of (or periods aggregating) not more than five years, and shall be compensated at rates established by the Secretary, but not to exceed $25,000 per annum.

(b) The function of international trade specialists will be to augment existing field office staffs. International trade specialists will be engaged exclusively in the promotion of export expansion activities through the export expansion programs administered by the Secretary.

(c) The Secretary shall conduct an evaluation of the program carried out under this section and transmit a report to the Congress not later than three years after the date of enactment of this Act. Such report shall include information on the recruitment, training, and placement of personnel, the export expansion programs under which such personnel operated, data on increased exports in terms of dollar amounts and quantity of shipments, and recommendations with respect to the program's continuation.

EXPORT MEASUREMENT

SEC. 8. (a) To measure adequately the progress of the export expansion programs carried out by the Secretary, more accurate and definitive measures that those already in use must be established and implemented.

(b) The Secretary shall establish and implement a procedure within the Bureau of Census of the Department of Commerce to insure that each shipper's export declaration contains the address (including the State) of the exporter. Total exports for each State, by country of destination and by schedule B commodity groups, will be compiled in a monthly report for each of the field office areas of the Department of Commerce.

(c) The permanent implementation of the procedure described in subsection (b) and the availability of funds authorized under subsection (e) are contingent on the implementation and conduct of a pilot project encompassing the exports of not less than eight States for not less than six consecutive months. For the purpose of this subsection, there are authorized to be appropriated not to exceed $175,000 for each of the fiscal years ending June 30, 1975, and June 30, 1976.

(d) An evaluation of the measurement program established under this section shall be carried out by the Office of Field Operations, Department of Commerce, in cooperation with its field offices. Not later than eighteen months after the date of enactment of this Act, the Secretary shall transmit a report on such evaluation to the Congress including therein information on the implementation of such procedures, an analysis of results, and recommendations as to improvements, or discontinuation of the program.

On page 33, line 16, strike out "Sec. 7." and insert in lieu thereof "Sec. 9.".

On page 36, line 11, strike out "Sec. 8." and insert in lieu thereof "Sec. 10.".

On page 38, line 17, strike out "Sec. 9." and insert in lieu thereof "Sec. 11.".

On page 39, line 16, strike out "12 and 13" and insert in lieu thereof "14 and 15".

On page 41, line 6, strike out "13" and insert in lieu thereof "15".

On page 41, line 14, strike out "Sec. 10." and insert in lieu thereof "Sec. 12.".

On page 43, line 11, strike out "Sec. 11." and insert in lieu thereof "Sec. 13.".

On page 44, line 6, strike out "section 11" and insert in lieu thereof "section 13".

On page 45, line 5, strike out "section 11" and insert in lieu thereof "section 13".

On page 46, line 21, strike out "Sec. 12." and insert in lieu thereof "Sec. 14.".

On page 46, line 24, strike out "section 11" and insert in lieu thereof "section 13".

On page 47, line 21, strike out "section 11" and insert in lieu thereof "section 13".

On page 48, line 17, strike out "sections 12 and 13" and insert in lieu thereof "sections 14 and 15".

On page 49, line 22, strike out "Sec. 13." and insert in lieu thereof "Sec. 15.".

On page 50, line 20, strike out "section 12" and insert in lieu thereof "section 14".

On page 51, line 16, strike out "Sec. 14." and insert in lieu thereof "Sec. 16.".

On page 54, line 2, strike out "Sec. 15." and insert in lieu thereof "Sec. 17.".

On page 56, line 23, strike out "Sec. 16." and insert in lieu thereof "Sec. 18.".

On page 57, line 18, strike out "Sec. 17." and insert in lieu thereof "Sec. 19.".

On page 58, line 12, strike out "and".

On page 58, between lines 12 and 13, insert the following:

"(4) $3,500,000 for purposes of carrying out section 7; and".

On page 58, line 13, strike out "(4)" and insert "(5)".

On page 58, line 22, strike out "and".

On page 58, between lines 22 and 23, insert the following:

"(4) $3,500,000 for purposes of carrying out section 7;

"(5) $500,000 for purposes of carrying out section 8 (other than subsection (c)); and".

On page 58, line 23, strike out "(4)" and insert "(6)".

STANDBY ENERGY EMERGENCY AUTHORITIES ACT—AMENDMENT

AMENDMENT NO. 1339

(Ordered to be printed, and to lie on the table.)

Mr. COOK submitted an amendment, intended to be proposed by him, to the bill (S. 3267) to provide standby emergency authority to assure that the essential energy needs of the United States are met, and for other purposes.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 1239

At the request of Mr. HELMS, his name was added as a cosponsor of amendment No. 1239, to the bill (S. 1539) to amend and extend certain acts, relating to elementary and secondary education programs, and for other purposes.

At the request of Mr. MCCLELLAN, his name was added as a cosponsor of amendment No. 1239, to Senate bill 1539, supra.

AMENDMENT NO. 1249

At the request of Mr. HUMPHREY, the Senator from South Dakota (Mr. MCGOVERN) was added as a cosponsor of amendment No. 1249 to S. 1539, Education Amendments of 1974.

AMENDMENT NO. 1250

At the request of Mr. HUMPHREY, the Senator from South Dakota (Mr. MCGOVERN) was added as a cosponsor of amendment No. 1250 to S. 1539, Education Amendments of 1974.

ANNOUNCEMENT OF HEARINGS ON GOVERNMENT SECRECY

Mr. MUSKIE. Mr. President, the Subcommittee on Intergovernmental Relations has scheduled 6 days of hearings on Government secrecy—May 22, 23, 29, 30, and 31 and June 10—to consider legislation dealing with the classification of official information related to the national defense and to conduct oversight on the implementation of the President's Executive Order 11652 of March 8, 1972, regulating information classification practices.

The subcommittee has been fortunate in obtaining for these hearings the testimony of witnesses of great stature and distinguished service in previous administrations as well as officials of the present administration responsible for supervising classification policies and practices. Sponsors of five pending secrecy control measures—S. 1520, S. 1726, S. 2451, S. 3393, and S. 3399—as well as of S. 2738, dealing with Government surveillance of individuals—are also to testify at the hearings.

The fact that so much legislation has been offered in this field is proof of the concern in this Congress with the established practice of deferring to executive regulation of Government secrecy. We have seen how such unmonitored regulation has led to abuse of classification standards in order to deceive the Congress and mislead the public.

It is our intention, at these hearings, to seek ways to put a clear legislative foundation under secrecy standards and a binding statutory limitation over officials who implement those standards. Our aim is to find and guarantee the balance between the confidentiality needed to conduct the national defense and the free flow of information needed to maintain our democratic heritage.

Any person wishing additional information should contact Mrs. Lucinda T. Dennis, chief clerk of the subcommittee at 225-4718.

ADDITIONAL STATEMENTS

SENATOR LAWTON CHILES AND LATIN AMERICA

Mr. MANSFIELD. Mr. President, Senator LAWTON CHILES, of Florida, is making a serious and commendable effort to understand our relations with Latin America. He is already one of the most knowledgeable Senators with respect to this region. I note that he has had firsthand exposure on several trips to that part of the world. That is essential to a full understanding not only of the Florida connection with Latin America, important as that is, but of our overall relations with the rest of the hemisphere to the end that we can maintain and deepen our community of interest and do so on a steady and sustained basis. All too often, our relations with Latin America have been an up-and-down affair and that day, I hope, is past.

Senator CHILES has made a factfinding trip to Latin America each year since he has been in the Senate. He went to Peru and Brazil in 1971, to Chile and Argentina in 1972, to Venezuela, Colombia, Costa Rica, and Guatemala last year and as chief of the U.S. mission at the inauguration of the President of Costa Rica this year. He joined me in going to Mexico to participate in the 11th Mexico-United States Interparliamentary Conference in 1971 and went to Nicaragua in 1972 to examine earthquake damages, on behalf of the Appropriations Committee. On each of his trips he has had an opportunity to talk with a wide variety of people in public and private life and to gain from them a broad understanding of these countries and our relations with them.

The Senator from Florida (Mr. CHILES) rightly perceived the Inter-American Conference of Tlatelolco in Mexico City last February as an important moment in inter-American relations. He took the time to draw together his thinking on issues affecting this hemisphere and put them in the form of an "Aide Memoire on U.S. Policy Toward Latin America." He then sent this aide memoire to Secretary Kissinger 10 days before the meeting of foreign ministers in Mexico so the Secretary could have the benefit of the Senator's thinking as he went into this important meeting. Secretary Kissinger has told me how much he appreciated Senator CHILES recommendation, on how helpful they were to him in his discussions with his counterparts at Tlatelolco.

Senator CHILES was kind enough to send me a copy of his paper which I have read with great interest. His suggestions are worthy of the most careful consideration. Other Senators, I am sure, would also be interested in reading Senator CHILES' paper. I commend the Senator from Florida (Mr. CHILES) for his outstanding efforts. The Senate has, in him, a Member whose understanding of the inter-American situation will continue to be very helpful in the furtherance of inter-American ties.

I ask unanimous consent that Senator CHILES' "Aide Memoire on U.S. Policy Toward Latin America" be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

[Prepared for the Honorable Henry A. Kissinger, Secretary of State]

AIDE MEMOIRE ON U.S. POLICY TOWARD LATIN AMERICA

(By Senator LAWTON CHILES)

"What is in the interest of Mexico—in a wider sense—is in the interest of the United States. And what is in the interest of the United States is in the interest of Mexico. We shall apply this principle to all of Latin America."

Mr. Secretary, these words, spoken hours after your designation as Secretary of State, are of great importance because they go to the heart of how our relationship with Latin America should be cast. Our policy should be based on interests. Many might advocate that we try to shape our policy according to what interests Latin America or in order to correct the mistakes of the past. I would say that we should begin with our shopping list of what our interests are and approach the Latin Americans in a spirit of reciprocity to see what they can do for us and what makes sense to do for them in return. Then a real relationship will exist in which we both have something at stake. If we have no pressing interests with Latin America and are only responsive to their concerns our relationship will be hollow and paternalistic. So it is both to our benefit and to Latin America's benefit that real interests undergird U.S.-Latin American relations. We will both have to realize that neither bullying by us of the Latin Americans nor rhetorical accusations against us by them will serve our mutual interests.

Your words also go to what has been the fundamental irritant in hemispheric relations. This is the sense in Latin America that we are more important to them than they are to us. We are seen as the "Colossus of the North" and accused of "benign neglect" in part because of the disparity of power between the United States and Latin America and in part because of the low priority status the hemisphere has had in U.S. foreign policy in recent years. These disparities in economic power and foreign policy priority are central political elements of our relations with Latin America today.

Your explicit sensitivity to these elements and your recognition of the political need to address the question of Latin America's importance to the United States and address it in terms of U.S. national interests are, I think, most promising. Your words indicate that interdependence and mutual interests do exist and that a spirit of reciprocity, where what is important to Latin America is as important to us as it is to them, can be a refreshing new departure in our relations with the countries in Latin America.

Mr. Secretary, as you prepare for the Inter-American meeting of Foreign Ministers in Mexico on February 20th, I thought it would be helpful in an atmosphere of comity between the Congress and the Executive to share some of the observations I have had as a result of my attention and travel to Latin America since I have been in the United States Senate.

For there to be a United States foreign policy toward Latin America that is based on real interests and that also addresses the sense of disparity in the relationship, the President must be involved in this reason of foreign policy in the way that he has been in other areas. The President is the ultimate vehicle for the expression of the U.S. national interest in foreign policy. The degree of his involvement is the measure of the foreign policy priority inter-American relations has for the United States. Without the President's involvement, without his expression of interest, there can be no policy toward Latin America that can be effective.

This is fundamental. Without Presidential participation in visible policy decisions and pronouncements, without Presidential presence in discussions with Latin American leaders, and without the Presidential mantel clearly placed on the more continuous and hopefully more frequently activity of the Secretary of State in the area, a significant foreign policy toward Latin America cannot be formulated. Without these, neither those sizable segments of our own public who perceive a vacuum in our hemispheric relationships nor the world at large will be convinced that a policy for the United States really exists at all.

Whereas our relations with Latin America are wide ranging, the most determining issues are economic. The basic drive in Latin America today is economic development and the main political issues internally hinge around development policies. Nationalism is on the rise and is pervasive throughout Latin America regardless of the type of government. Control over the economic destiny of the country, the generation of a higher standard of living with a better distribution of income are the key issues facing Latin America's political leadership.

For the United States our economic relationship with Latin America is changing rapidly. Always an important market for our products and traditionally a preserve for U.S. foreign investment, rising nationalism and increasing scarcity in natural resources are now changing the political dimensions of our economic relations in this hemisphere. Our need for their resources—whether it be oil, copper, coffee or fishmeal—is growing while constraints are increasingly felt on the supply of these commodities. U.S. ownership and control of enterprises in Latin America are increasingly seen as liabilities both by our government and our corporations. Having been on the short end of the bargaining stick for so many years, Latin American governments are now taking advantage of their new bargaining leverage derived from world resource scarcities and the vulnerability of foreign ownership.

All this, it seems to me, calls for a new approach of reciprocity to hemispheric economic issues based on real economic interests. This new approach must be a two way relationship in which both sides have to give in order to get. There is no way that this can be a one way street. We are no longer living in a world in which we give and everybody else gets. We are now as pressed by our own needs as other nations are by theirs. Inflation, unemployment, economic slowdown and energy shortages are of major concern to us. The energy crisis in particular has made us aware of how foreign policy actions by other nations affect internal economic conditions in the United States. This is a new development. In the past foreign policies of others have affected our foreign policies and interests. Now internal conditions in the United States are affected by the actions and decisions of other nations. This creates a mood in the American people to use our economic weight to bring about results abroad which alleviate internal economic difficulties at precisely the moment when our people are also realizing how interdependent our interests in the world have become. All this means that casting U.S. relations with Latin America in cold terms of U.S. interests will be both more real and more reflective of the feelings of our people.

A necessary step in achieving this new approach would be to give increasing importance to trade and remove private foreign investment and aid from the center of our policy concerns with Latin America. For too long we have allowed private investment interests to overshadow our broader national interests with Latin America and aid to be the main thread of our government-to-government relations with Latin America. U.S. foreign policy concern for expropriation and for a favorable climate for our private investors have gotten in the way of longer term public interests.

Business is important in our relations with Latin America but the promotion of the trade interests of American business is more appropriate for U.S. policy at this point than the promotion of investment. U.S. companies have come to realize that business can be done in Latin America without total U.S. ownership or control. Our government surely has an interest in encouraging the diversification of ownership and innovative licensing and contract arrangements which can keep the investment relationship ensnarled by political conflicts.

These considerations should shift our public focus to trade. Trade, being a commercial exchange, is by its nature reciprocal. Over the years the Latin Americans have pleaded with us for access to the U.S. market especially in manufactures while we have taken them for granted. Now access to sources of supply of basic raw materials and natural resources—especially but not exclusively oil—can no longer be taken for granted. Now it is increasingly to our advantage to seek agreements which extend access to the U.S. market in exchange for access to Latin American sources of supply for the U.S.

The time has also come, I think, for us to re-examine our traditional resistance to international commodity agreements and see if it would not be in our mutual interests to enter into arrangements with Latin governments which would tend to stabilize both price and volume in crucial commodities. As we enter into international trade negotiations in the GATT we should at least try to see that neither U.S. nor Latin American trade interests are discriminated against through special preferential arrangements between Europe and North Africa and through stiff protectionist agricultural policies in the European Economic Community. If these practices cannot be changed, we should turn to Latin America for some of the goods we now get from Europe in exchange for U.S. agricultural exports to Latin America. We have some urgent domestic requirements which trade with Latin America can help meet. Our more strengthened economic position internationally in recent months should be used to obtain adjustments in the pattern of world trade and finance which can meet our domestic economic requirements for energy and lower priced goods.

The American people and their representatives seem generally fed up with foreign aid. The recent vote in the House of Representatives on the appropriations for the fourth replenishment of the International Development Association (IDA) signals, I think, a widespread disenchantment with foreign assistance in the country, especially as the old embargo and price rise have pinched our pocketbooks and transformed whatever aid we now give into payment to the oil producing countries for the added cost of oil. This argues for less emphasis on aid in our relations with Latin America and for a further revamping of aid concepts to stress energizing the efforts of others rather than funding accomplishments ourselves. Technical assistance, humanitarian relief and trigger money is more effective and more reflective of what the country will support than capital transfers.

What financial assistance we do provide is best channeled through multilateral development institutions. Especially expressive of our concern for human betterment and the life conditions of the common man in this hemisphere is our contribution to the Fund for Special Operations of the Inter-American Development Bank (IDB). The Congress has the responsibility to determine the funding of the IDB. My colleagues should be aware of how symbolic this appropriation for the IDB's Fund for Special Operations is of our interest in Latin America.

As a matter of U.S. policy we should also emphasize that priority be given in multilateral development lending to social progress for people in the lowest registers on the income scale. The Inter-American Development Bank and the World Bank are development institutions not commercial banks, and they should do more than just facilitate commercial activity. It must be said, though, that a commitment to social progress in our relations with Latin America through the multilateral development agencies is less convincing if we don't allow this concern to govern aid decisions by these institutions and if we don't assure that bilateral and private pressures do not override development considerations. Recognizing the internal pressures in this country and in the Congress for economic sanctions and other punitive measures when there are expropriations, it would be more in our best interests and in the long run interest of the recipient countries if we could persuade our multilateral lending partners to require a satisfactory arbitration mechanism as a condition to and applying to any new loan commitments.

While I support the notion that we should treat governments in Latin America evenhandedly and take them as they are without playing favorites, a successful foreign policy, as you have said, is one which gives full expression to the values of our people. The people of the United States have a deep concern for human rights, freedom and democratic values in the broadest sense which has over the years been a strong underlying current in U.S. relations with Latin America. In fact, one of the reasons for the special relationship of Latin America to the United States I think has been the degree to which our foreign policy toward Latin America has given fuller expression to these human and democratic values than has our foreign policy toward other areas. These values continue to provide a significant basis among our citizens for foreign policy especially as they see militarism grow in Latin America and democracy increasingly challenged by the intense and urgent demands for accelerated development. Violence, repression, torture and denial of fundamental freedoms in Latin America are of growing, not diminishing, concern among our people.

U.S. foreign policy is one important channel for the expression of these traditionally American concerns. While diplomatically it may be easier not to emphasize human rights, it wouldn't be a fair representation of our feelings to not reflect the strong concern for human rights in the United States. Any major policy statement, such as you will give in Mexico, that left out the concerns for human rights would not ring true and would not meet the test of frankness and truth which hopefully will be the cornerstone of the new relationship. Such an expression of our national concern in a major policy address seems to me preferable to imposing economic sanctions. Nevertheless, I would be less than candid not to say that human rights issues will affect Congressional attitudes toward programs and policies dealing with Latin America.

Even with an espoused policy of taking governments as they are, we have nevertheless indicated preferences in the way that we conduct our policy. I would strongly suggest as we turn now to give more policy priority to Latin America that these country-to-country ties be broadened to include a wider spectrum of countries.

Democracy is very much on trial in Latin America in the several countries where it still survives. There is a tremendous challenge to democracies which operate largely by consensus politics to reach out and absorb the social unrest that arises due to the economic depravity that many people live in in Latin America. In these highly politicized societies it is extremely difficult for leaders to generate a clear mandate and then to govern without taking decisions in power which inevitably create opposition and undercut their political base. This makes it hard for democratic leaders to get enough done in one direction to satisfy anybody, even their own supporters. This is one reason why we see leaders like Eduardo Frei in Chile and Carlos Lleras Restrepo in Colombia begin their terms with a strong sense of direction and end with seriously diminished public support and highly volatile political opposition.

Given this background of the recent past, the elections in Venezuela, Colombia and Costa Rica are of great interest to the United States not so much in terms of who is elected but in how successful the newly elected leaders are in carrying out the mandates from their people. I am greatly encouraged by the decisiveness of the election of Carlos Andres Perez in Venezuela and feel, as I have said publicly, that he has a tremendous opportunity and responsibility to prove to his people that democracy can really function for them and produce the results they want. This combined with the fact that Venezuela is our single most important source of oil argues for priority attention to our relationship and policies with that country.

If we are serious about our own democratic traditions, we in the United States cannot help but feel an identity with the values that underlie the political process as it is being lived out in Venezuela. I have the same feeling about the election of Daniel Oduber in Costa Rica and feel that we have a stake in watching events unfold in Colombia and Guatemala also. While Guatemala faces some real difficulties, there is a great aspiration of their people for fuller democracy. Hopefully, coming elections will be a step toward this goal.

With these kinds of concerns, and with much of the world watching events in Chile, future U.S.-Chilean relations cannot help but become a visible signal and even a symbol of the thrust of our overall policy toward Latin America. There can be no doubt that the policies of Allende were heading Chile for disaster and that a coup was inevitable. But there also can be no doubt that the coup by the military and subsequent events and actions in Chile are cause for real concern for fundamental freedoms and human rights. American concern comes from many sectors of U.S. opinion. Given this, our policy toward Chile should give adequate expression to these concerns.

While we want to do things to encourage and benefit the people of Chile, we also want to express concern about fundamental human rights. We need to be mindful of the long democratic tradition of the Chilean people and that theirs is a heritage of a free press and a strong Congress. Taking the long view and focusing on the people of Chile rather than their government will best preserve the strong ties and sense of shared values that have been the underlying basis of U.S.-Chilean relations. We should realize that the junta will not be there forever and that we need to determine what our posture will be with the Chilean people at the time power is transferred. This approach I am sure will make the most sense as history judges our actions in the future.

Where I see the possibility for a decisive breakthrough is in U.S. relations with Peru. Here is a situation where economic difficulties exist but economic management capacity has manifested itself. Peru is making considerable effort at social reform and is addressing the problems of more marginal people. This is not without some real tensions between social mobilization on the one hand and authoritarian rule on the other. The military is reform minded and has some progressive outlook, but there is also oversensitivity to criticism and no political opposition.

An unresolved investment dispute which has gone on for years has restricted the flow of credit, both bilateral and multilateral, to Peru since the present government took power in 1968. With the exception of the nationalization of the International Petroleum Company (IPC), Peru is doing many of the kinds of things we deem important. I think that a negotiated settlement to this dispute and the normalization of relations with Peru could be a significant means of dramatically demonstrating a renewed interest of the United States in Latin America as a whole. I strongly urge your attention to the resolution to this outstanding question.

U.S. relations with Argentina, Brazil and Mexico are of importance to us if for no other reason than the sheer size and economic weight they have. Our relationship with these countries should be mostly focused on trade rather than aid as they become increasingly able to competitively produce goods of commercial interest to us. Given the economic boom in Brazil, it is unclear to me why so much multilateral aid is going there. Despite rapid economic growth in both Mexico and Brazil and despite the election of Juan Peron in Argentina, disssent and social unrest are serious problems in all three countries. More emphasis on trade and social reform in our overall policy toward Latin America would be appropriate as these countries seek to better balance social and economic policies, and income distribution and growth, in an attempt to address these undercurrents of disenchantment.

It seems to me we could well reap some good results by looking for ways to relate more to Argentina. The people in Argentina are well disposed toward the United States even though recent governments have been sharply critical of the U.S. This anti-Americanism is a feeling I in no way find among the people of Argentina. I interpret the anti-Americanism more as a call for attention and a feeling among them that they are our equals without a sense of inferiority. A little attention on our part to Argentina and to Peron I think could be very beneficial to the United States.

So, I think that diversified but deep bilateral relations with a variety of Latin American countries with different orientations is an essential dimension of an active U.S. policy toward Latin America. My travels to each of these countries lead me to believe that there are sufficient bases for such strong bilateral ties with them.

But as I indicated at the outset we must have an overall policy toward Latin America as a whole. As we work to pursue this policy we need to work in concert with the other nations of the hemisphere through the Organization of American States. It has been suggested by some that we withdraw from the O.A.S. I disagree. By our lack of attention to Latin America we have already put ourselves in an observer status in the OAS. To withdraw would be to confirm Latin America's suspicion that we really don't care. I feel we need a political forum to work on problems within the Western Hemisphere family without the distractions and posturings which usually take place when other nations outside the region are involved. Nevertheless, there is a need to restructure the OAS and the inter-American system comprising various institutions to more clearly relate organizations to clear and specific purposes. We should work with other governments in this task. Adjusting institutions to new policies should be part of the process of breathing new life into U.S.-Latin American relations.

Mr. Secretary, you have said that "no foreign policy has any chance of success if it is born in the minds of a few and carried in the hearts of none", and that "our foreign policy cannot be effective if it reflects only the sporadic and esoteric initiatives of a small group of specialists. It must rest on a broad national base and reflect a shared community of values . . . It expresses our ideals, our purposes and our hopes for the world. It must fulfill the best in America."

In these remarks you have well emphasized what might be called the public dimension of foreign policy which reaches and reflects the people and the Congress. This is a vital dimension. The broader the participation in foreign policy, the more the people are involved and the stronger the role of the Congress, the better our foreign policy will be. I feel that the Congress of the United States must not just be informed and consulted on important matters of foreign policy but that key Executive decisions which requires the concurrence of the Congress, such as the IDA replenishment and certain trade decisions, actually await action by the Congress. I strongly support this openness in the conduct of foreign policy and the spirit of comity between the Executive and the Congress which you have brought to it.

Mr. Secretary, in summary form, my conclusions are the following:

1. That the President's participation in and projection of U.S. foreign policy toward Latin America is essential to the very existence of such a policy.

2. That we recognize the changes in economic conditions both at home and internationally manifest greater interdependence among nations and the greater needs and interests that we have at stake with the countries of this hemisphere.

3. That our policies be based on interests and that our approach to Latin America be in a spirit of reciprocity in which there is equal give and take providing a realistic rather than rhetorical basis to inter-American relations; and that a new style of frankness and truth characterize the relationship.

4. That we give increasing importance to trade in U.S.-Latin American relations and remove private investment and aid from the center of our policies.

5. That our trade policies seek assured access for us to Latin American sources of vital raw materials and natural resources like oil in exchange for access for them to our market in product lines of interest to them especially manufactures; that we reexamine the usefulness of international commodity arrangements as a means of stabilizing supply and price in crucial goods; and that we shift our trading pattern increasingly toward Latin America if we don't get the kind of trade concessions we want from the Europeans and Japanese.

6. That we fit our policies toward Latin America according to our needs at home as we fight inflation, spur growth, and deal with energy shortages by recognizing that dramatic changes in the world economy brought on by the energy crisis leaves us in a stronger leadership position relative to other industrial countries than three years ago giving us more leverage.

7. That in the Congress and the Executive we recognize the disenchantment the American people feel toward foreign aid and seek to further revamp foreign aid concepts.

8. That as we emphasize multilateral finance that social progress for lower income people be given priority in our policies toward the international financial institutions and that while recognizing pressures in this country and in the Congress when American property is expropriated we also recognize that allowing development considerations to be overridden by bilateral or private pressures in the allocation of international credit makes our emphasis and policies less convincing.

9. That our foreign policy toward Latin America give adequate expression to values of the people of the United States and reflect their concern for violations of human rights and fundamental freedoms and that this be done through public pronouncements rather than exercising economic sanctions.

10. That we broaden the emphasis we give in our country-to-country ties to include a wider set of relationships with other Latin American countries.

11. That we convey the identity the American people feel toward democratic countries and recognize the degree to which democracy is on trial in Latin American countries by strengthening our ties with Venezuela, Colombia, Costa Rica and Guatemala as they each go through elections and changes in governments.

12. That we realize that with much of the world watching events in Chile, future U.S.-Chilean relations cannot help but become a visible signal and even a symbol of the thrust of our overall policy toward Latin America and that we take a long run view focusing on our relations with the Chilean people emphasizing our common traditions rather than identifying too closely with the present government.

13. That the Secretary of State seek to resolve differences between the United States and Peru over the expropriation of the International Petroleum Company and normalize relations with the government of Peru as a means of demonstrating renewed interest in better relations with Latin America.

14. That more emphasis on social reform and trade in our overall policy toward Latin America set the tone of our relations with the three largest countries in the hemisphere, Argentina, Brazil and Mexico, as they seek to better balance their economic and social policies and that some imaginative attention be given to Argentina.

15. That the United States breathe new life into its role in the Organization of American States and move with other nations in restructure of the inter-American system along more functional lines.

16. I support the open style you have brought to foreign policy and, finally, I feel that the Congress of the United States must not just be informed and consulted on important matters of foreign policy but that key Executive decisions which require the concurrence of the Congress, such as the IDA replenishment and certain trade decisions, actually await action by the Congress.

TWENTY-SIXTH ANNIVERSARY OF THE STATE OF ISRAEL

Mr. MATHIAS. Mr. President, yesterday, the Greater Washington Council of Pioneer Women held a donor luncheon meeting in honor of the 26th anniversary of the State of Israel. Mrs. Mathias was among those privileged to be present on that occasion, and she was so much impressed by the address of the chairman of the Committee for the Donor that she brought a copy home for me to see. I am equally impressed by the pertinence and the importance of Mrs. Laden's message and feel that it should command wide attention.

Mr. President, I ask unanimous consent to have a copy of Mrs. Laden's speech printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

Address by Mrs. Laden

Members, friends, honored guests, welcome. It is my pleasure to welcome you to our annual donor luncheon held in honor of the 26th anniversary of the State of Israel and as the culmination of a year of fund raising efforts on behalf of our sister organization, Moltzet Hapoalot in Israel.

We meet here today with feelings of mixed emotions due to the recent course of events in Israel. We are happy because the donor signifies to us another year of work accomplished. Yet we cannot help but be saddened by the Yom Kippur war and its resulting consequences upon the State of Israel. Together with Israel we mourn the loss of the 2,600 men who lost their lives in that war. Almost every family in Israel was touched in some way by these losses. The Israeli economy has suffered a tremendous setback. The government seems to be in a state of upheaval. But at the same time life in Israel has continued quite normally. During and after the war there were art exhibits, newspapers, and the Israeli philharmonic continued to play to packed houses. Schools remained open and cultural life of all sorts continued.

It is true that economic life in Israel is not easy. In fact it is said if you want to make a small fortune, bring a large one to Israel. However, economists indicate that Israel's economy is resilient enough to recover after a recession to pre-war volume and beyond. That recovery process was already noticeable in some instances by November. Industrial exports, for example, rose from $74 million in October 1973 to $86 million in November 1973. Tourism is up substantially. In addition the people of Israel hold a deep personal commitment to the future of their country. Almost 3 million Israeli citizens contributed some $1 billion from their own pockets, while American philanthropy from a community twice as large and with considerably more wealth donated approximately the same amount.

The post war politics in Israel gave rise to sharp political re-evaluation protests and outspoken criticsm of the government and must be understood as a strength and not a weakness of the only democracy which exists in the Middle East. The war has accelerated the process of a change in leadership and new reforms in their government.

This year more than ever before it became apparent that Israel needs something far more important than only the financial resources of world jewry. Both Ephriam Katzir and Golda Meir pointed out that if Israel had numbered 6 million or more instead of 3 million, the Arabs would have been far more reluctant to begin a new war. A campaign was launched to encourage western aliya to Israel and emissaries were sent out from Israel to speak on this vital issue all over the U.S. it was pointed out that if only 1% of the nearly 6 million jews estimated to be in the U.S. and Canada would go on Aliya annually, there would hardly be a change in the size of the American Jewish community and Israel's aliya needs and goals would easily be fulfilled.

It is in connection with Aliya that I would like to mention to our young guests who are with us today. We have representatives from the Baltimore Washington Union of Jewish Students, the Jewish Activist front at George Washington University, the Jewish Youth Assembly, B'nai Akiva, and last, but not least, our own habonium, labor Zionist youth. We hope that a portion of these young people and the groups that they represent will make aliya and build their lives in Israel. For those who remain in the United States, we look forward to their committed leadership in the American Jewish Community.

And now let us look at pioneer women's role in the U.S. and Israel this past year. A new project entitled LIFE (Link to Independence for the Elderly) was undertaken in the United States. This program provides aid to the Jewish elderly in a 5 point social service program. In Israel our membership was activated to provide all types of assistance to stricken families and men in uniform. Moetzet Hapoalot sponsored legal advice bureaus for bereaved families in all the major cities of Israel. Chaverot with suitable training were mobilized to help rehabilitation workers in making home calls and psychologists were mobilized to help the medical service. Day care center facilities were expanded to include children whose fathers were wounded or whose mothers were needed to fill in essential services.

A volunteer work force made up of the organization of working mothers and students from our vocational schools were organized to help in each of the children's institutions.

In shops, stores, hospitals and businesses Chaverot worked in all types of jobs to replace mobilized personnel.

Our Arab women clubs set up snack bars for the soldiers and knitted woolens for the soldiers at the front.

Families of the New Olim were visited in their homes and absorption centers and provided with clothes and household goods. As usual, wherever the need arose, Mortzet Hapoalot was there to meet it.

In Abraham Hechel's book, "Israel, an Echo of Eternity" he states that we Jews had begun to take the State of Israel for granted. We had ceased to wonder at the marvel of its sheer being. We had forgotten the labor, courage and the daring of the pioneers. People came to visit Israel as only a place of tourism and pleasure. We saw the Tel Aviv Hilton, but forgot Tel Hai. Many people assumed the condition of the state was absolutely assured, as if the effort of building had ended and the task completed. We must realize that the economic political and spiritual development is still in a stage of beginning. The achievements are impressive, but the tasks are still immense.

A supreme test in Jewish history has been imposed upon us. The eyes of all our martyrs of the past, the eyes of all Jewish generations of the future are upon us.

We face a decisive hour in Jewish history as well as a trial of our character and integrity as Jews today let us rededicate ourselves to the challenge that lies ahead.

A MATTER OF INDIFFERENCE

Mr. PELL. Mr. President, I believe a recently produced film, "A Matter of Indifference," merits our attention. This film portrays the paradoxical situation which confronts elderly Americans, many of whom wish to remain as active and contributing members of our society, but all of whom suffer from the discrimination against the elderly which is so much a way of American life.

Through the use of a series of interviews with persons active in the emerging senior action and senior advocacy movements, and through the use of cinema-verite techniques, "A Matter of Indifference" dramatically brings home the waste of human energy and talent which we, as a nation, suffer by excluding our older members from a full role in our culture.

A member of my staff, Ms. Meridith Herrick, attended the New York premiere of the film. Her report to me on the film concluded that it strongly depicts the "reality of fear and oppression among the aging." Ms. Herrick's sister, Ms. Lydia Bragger, is a con-convenor of the New York Network of the Gray Panthers, a "coalition of old and young activists committed to social change" which figures prominently in the film.

I am pleased to note that this fine film was supported in part by a youth grant from the National Endowment for the Humanities.

Mr. President, because I believe that the content of this film deserves our attention, I request unanimous consent that the "Film Notes" prepared by Leonardo Dacchille, the film's director and producer, be printed in the RECORD.

There being no objection, the film notes were ordered to be printed in the RECORD, as follows:

FILM NOTES ON "A MATTER OF INDIFFERENCE"

(By Leonardo Dacchille)

The following is a synopsis of the film, "A Matter of Indifference." It is directed toward an interested public and more specifically, to all those concerned with, or working in the field of aging.

"A Matter of Indifference" requires a commitment from those who view it. It is a critique of our society's ambivalence toward its aged.

We are, at the present time, living in a state of paradox as concerns the social reality and societal values which inform American life. The socio-political process is engulfed by bureaucracy and a rhetorical rationale that is more dysfunctional than efficient as concerns the everyday welfare of the people it proposes to serve. This is true, particularly in the case of older people, who are—more than ever before—those most dependent upon its services in matters of income, housing, medical care, nutrition, transportation, etc. They are the ones most made to suffer the system's bungling inconsistency. At the human level, the system has managed to create a definite climate—not the sense of well-being one would hope for. On the contrary, the mood is one of fear, anxiety, shame and frustration felt by many older Americans—even if it is not readily admitted.

It is in this context that the film serves as a critique. With this motive, an attempt was made to document the testimony of older people with diverse life styles and personal orientations.

The result was a series of high-key interviews, verite analysis, and montage sequences that hold in sharp focus a microcosm of social thought and human feeling. For fifty minutes of film time, we have access to the psycho-social, physical and emotional realities of aged people, who face a society in transition and a complex of personal problems brought about as a result of living in a technological society. Identity, loss of social status, the nuclear family, sexuality, death, and social action are some of the topics discussed.

In the course of production, locations in Boston, New York, Philadelphia, and Washington, D.C. were visited. During a research period that lasted six months, a number of organizations, social action groups, neighborhood-based centers, public agencies and private individuals were approached. Most gave their cooperation. The following is a list of those who were particularly helpful: Patricia Scott, Director of Information, the Office for the Aging, New York City; the Bronx Office for the Aging, Bronx, New York; The National Archives, Washington, D.C.; Max Manes, Chairman, Seniors for Adequate Social Security, New York City; The Shelter Care Center for Men, New York City; The New York Daily News, New York City; Fucci-Stone Production, Inc., New York City; Hope S. Bagger, Lydia Bragger, and Maggie Kuhn, the Founder of the Gray Panther movement, whose interview is so integral to the structure of the film. Also, there were many other persons and groups too numerous to list, whose contributions were invaluable.

The project was initially conceived by Jack M. Hanick, in his senior year at Harvard. His proposal to do a film on the aged was submitted to the Youth-grants Program of the National Endowment for the Humanities, Washington, D.C. After some review, the proposal was awarded a small grant. My involvement in the project began early in the fall of 1972, when I was asked to collaborate as technical director for the film.

"A Matter of Indifference" is a 16 mm, black and white film. The popular and commercial advantages of working in colour did not apply. The integrity of good black and white cinematography served very well to evoke the variant moods, images and drama of life as it unfolded.

It is a worthwhile and provoking film, and we feel that the public deserves to see it.

THE GREATER WILMINGTON AIRPORT

Mr. ROTH. Mr. President, since 1965, the citizens of Delaware and users of the Greater Wilmington Airport have come before the Civil Aeronautics Board four times to prevent the discontinuation of air service.

The Greater Wilmington Airport has been conducting an active campaign to attract more users and retain an already inadequate air service. This aggressive campaign which includes terminal renovations, new runways, and advertising—costing more than $1 million—has not deterred the airlines who insist on discontinuing service.

On June 3, representatives from Delaware will once again approach the Civil Aeronautics Board to appeal a March 27, 1974, CAB decision that would permit every certificated carrier to discontinue serving Greater Wilmington Airport. And because Greater Wilmington is the only airport in the State of Delaware that had received certificated air service, it would become the only State in the entire Nation without certificated air service.

I recently received a letter from Ross E. Anderson, Jr., the executive vice president of the Delaware State Chamber of Commerce, which opposes the decision of the CAB and offers several constructive comments on why the airport should continue to have certificated air service. I also received a letter and statement from Robert Land, the administrative director of the Greater Wilmington Development Council, which reaffirms the need for better service and not less service.

Mr. Chairman, I ask unanimous consent to have the letters from the Delaware Chamber of Commerce and the Greater Wilmington Development Council printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DELAWARE STATE CHAMBER OF
COMMERCE, INC.,
Wilmington, Del., April 26, 1974.

Hon. WILLIAM V. ROTH, Jr.,
U.S. Senator, New Senate Office Building, Washington, D.C.

DEAR BILL: On behalf of the Delaware State Chamber of Commerce, I would like to solicit your support and direct action in emphasizing to the Civil Aeronautics Board concern for maintaining responsible and adequate air service at the Greater Wilmington Airport.

The recent ruling by Administrative Law Judge, John E. Faulk, in the C.A.B. case docket 25009 (Wilmington Service Investigation) if allowed to take effect would place the State of Delaware in a class by itself, that is, the only state in the Union not served by scheduled airline service. Senator, the citizens of Delaware do not deserve this distinction and it is our hope that the "weight" and knowledge of your office intervening could and should have some effect in preventing this occurrence.

Currently, the Civil Aeronautics Board's Bureau of Operating Rights position is to allow Eastern to leave, (as well as TWA and American) requiring Allegheny to stay, providing Washington, Wilmington, and Boston service. It is our feeling that this would be a mistake as there is minimal demand for that service and it cannot be supported.

Our position without regard to current certificate holdings, historical facts or legal qualifications is:

1. Greater Wilmington Airport needs a morning, non-stop flight to Atlanta with a return in the evening.
2. Greater Wilmington Airport needs a morning, non-stop flight to Chicago with a return in the evening.
3. Develop during the day a viable commuter airline schedule.

With the rapid movement by local service carriers to drop medium and low density routes in favor of higher density routes that will justify their use of jet equipment, we must create an environment that will fulfill those guidelines. By following objective #1 and #2 above we could create a market that in this case, both Allegheny and Eastern do not presently enjoy. It would not divert passengers from their present patterns at Philadelphia, and would, in fact, give each a 100% capture rate of an available market with a combined population of Five Million (5,000,000) people. This would include all of Delaware, as well as Cecil, Kent, Queen Anne and Carolina Counties in Maryland; Salem and Cumberland Counties in New Jersey; and one half of Chester County in Pennsylvania.

The contention by Judge Faulk that Philadelphia Airport is "easily accessible" is not valid for your constituents. In fact the Deputy Director of Commerce for Aviation at Philadelphia Airport, Mr. W. Burns, in a talk earlier this year to the Greater Philadelphia Chamber of Commerce, stated that his airport (Philadelphia) was already "too big for the highway." That fact, of course, would be obvious to anyone who has driven to the airport and had to park his car.

We must also consider the National Aviation System Plan of the Department of Transportation (FAA) of March 1973, which develops a program of improving the efficiency of our present system by relieving congestion at large airports as well as the need for reliever airports to spread peak hour operations as well as improve ground access.

There is considerably less opposition to airport development and expansion by the smaller cities and towns than as found in larger metropolitan areas as borne out by the experience of the first 2½ years of the Airport Development Aid Program (ADAP). So it would be in the best interest of the system to utilize, whenever possible, an airport such as Greater Wilmington.

Now take into this the current automotive gasoline situation and it became more apparent the need is definitely for service at Greater Wilmington. In Dover, Delaware for example; approximately 2,500 people a month use air transportation. All must drive to Philadelphia (65%) or Washington/Baltimore. Passengers from Wilmington alone used in excess of 51,000 trips in 1973 by the limousine shuttle to Philadelphia. The DuPont Company alone estimated surface transportation costs to Philadelphia last year were in excess of $500,000, and that does not cost out the 50,000 hours of extra travel time involved in getting to Philadelphia's as opposed to Wilmington's airport.

While we can become (as a state) emotional with regard to my opening statement, in fact, conditions of our environment actually dictate the necessity of having adequate airline service at the Greater Wilmington Airport.

We fully intend to pursue this course of action with the assistance of various civic groups as well as our major corporations, but feel if we are to be truly successful your cooperation is not only desired but is required.

Very truly yours,
ROSS E. ANDERSON, Jr.,
Executive Vice President.

GREATER WILMINGTON DEVELOPMENT COUNCIL, INC.,
Wilmington, Del., May 3, 1974.

Hon. WILLIAM V. ROTH, Jr.,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR ROTH: We at GWDC wish to inform you of our support of current efforts to retain and improve commercial airline service at Greater Wilmington Airport. The attached statement was adopted by GWDC last September and it is still our official position.

We want to reiterate our support of your efforts to resolve this matter in a way that will give Delawareans a chance to prove that commercial airline service can be a successful venture for this community and the airlines alike.

Sincerely,
ROBERT W. LANG,
Administrative Director.

STATEMENT OF THE GREATER WILMINGTON DEVELOPMENT COUNCIL BEFORE THE CIVIL AERONAUTICS BOARD HEARING SEPTEMBER 25, 1973, CONCERNING THE PETITION OF EASTERN AIRLINES AND ALLEGHENY AIRLINES TO SUSPEND SERVICE AT GREATER WILMINGTON AIRPORT

The Greater Wilmington Development Council, a bipartisan, not-for-profit, public interest organization whose primary aim is to develop solutions to community problems for the long-range good of its citizens, opposes the petition by Eastern Airlines and Allegheny Airlines to suspend passenger service at the Greater Wilmington Airport. GWDC membership and support comes from hundreds of influential citizens and the leading businesses and industries in the Greater Wilmington Area.

We regard the proposal by the two airlines to have serious negative impact on the interests of the people of the Greater Wilmington region. Based on information in hand, it is difficult to justify such an action when one considers that: (1) the airport is strategically situated in one of the fastest growing regions of the Northeast Corridor, a future major market for air transportation; (2) in excess of 300,000 air trips are made by New Castle County citizens annually, (3) Delaware would be the only State without regularly scheduled trunk airline service; (4) the suspension of these flights will add to the seriously overcrowded conditions at Philadelphia International, both on the ground and in the air; (5) value in use will be diminished of a $6.5 million investment made in the facilities at this airport, about half of which was financed by Federal matching funds; and (6) the CAB denied a similiar request in 1966.

We believe that CAB approval of this petition would be an act contrary to the interests and expectations of the many residents of the Greater Wilmington region, Lower Delaware, and the neighboring states of New Jersey and Maryland. There is some evidence of a need to increase flights at Greater Wilmington to better serve the increasing population and support industrial development in the immediate vicinity. We recognize the difficult situation the airline companies face trying to provide each and every community with adequate air service. Therefore, we offer our assistance and cooperation to both airlines in an effort to build a more economically viable passenger flight schedule at Greater Wilmington.

A balanced transportation system is the lifeline of the commerce, industry and tourism of any locality and the loss of passenger air service at the Greater Wilmington Airport would be a serious blow to the future economic well-being of the Greater Wilmington region and the State of Delaware.

INCOME TAX CUTS SINCE 1960 HAVE MORE THAN OFFSET INFLATION BITE, BUT SOCIAL SECURITY TAX INCREASE IS MUCH HEAVIER

Mr. PROXMIRE. Mr. President, one of the most persistent arguments for a tax cut, which all of us would happily welcome, has been that inflation has swept families into a higher income-tax bracket. The argument has been that this effect was not intended by law and that, therefore, at whatever cost to the Federal Government, and, however inflationary the consequence might be, we should enact a tax reduction to restore that income.

Mr. President, a recent calculation by the Treasury Department reported in the Wall Street Journal refutes that argument. It points out that a family that enjoyed a 1960 income of $12,000 would have to make more than $18,000 in 1973 to continue to be able to buy what $12,000 would buy in 1960.

While it is true that the $18,000 would fall into a higher income-tax bracket than the $12,000, tax reductions the Congress has passed since 1960 have more than offset that higher bracket impact.

The result: A 1960 income of $12,000 for a family of three filing a joint return on an adjusted gross income basis would have paid 16.1 percent on that $12,000 income.

The same family would pay taxes of 15 percent on an $18,007—the 1973 equivalent of $12,000 in 1960—income in 1973. So for income taxes the bite is not getting worse.

It is true however that this better break on income taxes is more than made up in the colossal increase in social security taxes.

The employee's share has soared from $144 in 1960 to $632 in 1973. And here is where the real bite is.

Mr. President, I ask unanimous consent that the article and table from the Wall Street Journal be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TAX REPORT: A SPECIAL SUMMARY AND FORECAST OF FEDERAL AND STATE TAX DEVELOPMENTS

Taxes getting worse? Not true for federal income taxes, the Treasury says.

The Treasury worked up some figures to show that the federal income tax bite has dropped a good bit over the last decade or so. Its figures cover a family of three filing a joint return on an adjusted gross income of $12,000:

	1960	1970	1973
AGI	$12,000	$12,000	$12,000
Standard deductions	1,000	1,100	1,800
Exemptions	1,800	1,925	2,250
Taxable	9,200	8,975	7,950
Tax	1,928	1,594	1,370
Percent of AGI	16.1	13.3	11.4

The apparent flaw, of course, is that the figures don't allow for inflation, which sweeps families steadily into higher tax brackets. Here's what happened to the same family if it maintained exactly the same real income over those years (adjusted by the consumer price index). Surprisingly, the tax bite in 1973 is still lower than in 1960:

	1960	1970	1973
AGI	$12,000	$15,734	$18,007
Standard deductions	1,000	1,100	2,000
Exemptions	1,800	1,925	2,250
Taxable	9,200	12,709	13,757
Tax	1,928	2,437	2,699
Percent of AGI	16.1	15.5	15.0

Social security taxes are where Uncle Sam's tax bite is so much sharper. The employe's share has soared from $144 in 1960 to $374 in 1970 and to $632 last year. Employers pay an equal sum.

FINANCIAL STATEMENT BY SENATOR MATHIAS

Mr. MATHIAS. Mr. President, for a number of years I have advocated disclosure by Members of Congress of the nature of their property and business interests which might be in conflict with their public trust.

In an effort to practice what I have preached, I have submitted a summary of all the pertinent information in a report to the Committee on Standards and Ethics, and I now offer a copy of that information for the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

MAY 8, 1974.

Hon. JOHN STENNIS,
Chairman, Select Committee on Standards and Conduct, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Senate Rules 42 and 44, I have submitted the information required.

In addition to that disclosure, Mrs. Mathias and I wish to follow the practice that we established when I was a member of the House of Representatives of informing the public of what we own and what we owe. We have listed our assets, our liabilities, taxes paid and our income over and above Congressional pay. A copy of this voluntary report is enclosed for your information and an additional copy will be submitted for publication in the CONGRESSIONAL RECORD.

Sincerely yours,
CHARLES McC. MATHIAS, Jr.,
U.S. Senator.

DISCLOSURE OF FINANCIAL INTERESTS

Assets:

Equity in Federal Retirement System.

Life Insurance.

Livestock and Farm Machinery.

Real Estate:

House: RFD#2, New Design Road, Frederick, Maryland, Liber 623, Folio 80 Frederick County, Purchased 1958.

House: 3808 Leland Street, Chevy Chase, Maryland, Liber 3328, Folio 060 Montgomery County, Purchased 1965.

Half interest in Farm: 41.66 acres, Frederick Election District, Liber 587, Folio 339 Frederick County, Purchased 1957.

Half interest in House: 306 Redwood Avenue, Frederick, Maryland, Liber 577, Folio 489, Frederick County, Purchased 1956.

Lease and option in Farm: 370 acres, Kabletown District, Jefferson County, West Virginia, Liber 196, Folio 337, Jefferson County, Leased 1963.

Stocks:

Farmers and Mechanics National Bank, 1034 shares.

Capitol Hill Associates, 4 shares.

Citizens Bank of Maryland, 18 shares.

Frederick Medical Arts, 15 shares.

G. D. Searles & Co., 90 shares.

First Pennsylvania Corporation—common, 137 shares.

First Pennsylvania Corporation—preferred, 2 shares.

Massachusetts Investors Growth, 136.271 shares.

The Detour Bank, 7 shares.

The Great Atlantic & Pacific Tea Company, 6 shares.

Warner Lambert Pharmaceutical Company, 152 shares.

Maryland National Corporation, 258 shares.

Farmers Cooperative Association, 3 shares.

Liabilities:

Debts due on mortgage, collateral and personal notes to:

Farmers & Mechanics National Bank, Frederick, Maryland: $40,880.96.

First National Bank of Maryland, Baltimore, Maryland: $38,000.00.

Frederick County National Bank, Frederick, Maryland: $3,200.00.

Walker & Dunlop, mortgage 12/31/73: $26,329.31, 3808 Leland Street, Chevy Chase, Maryland.

Walker & Dunlop, mortgage 12/31/73: $1,462.74, 306 Redwood Avenue, Frederick, Maryland.

Total interest paid: $7,608.06.

Interests in Trusts or Remainders:

Trust established under the Will of Grace Winebrener Trail, Circuit Court for Frederick County, Maryland, Equity No. 7707.

Trust established under the Will of Charles McC. Mathias, Sr., Orphans Court, Frederick County, Maryland, Estate No. 8983.

Trust established under the Will of Fanny Gore Cutler, Suffolk County Court, Boston, Massachusetts, No. 046024572.

Year, 1973; Investment Income, $2,168.80; Interest, $209.16; Honorariums, $18,080.00; Net Rents, $242.91; Federal Income Tax Paid, $15,394.81; State & Local Taxes Paid, $8,573.37.

THE BEVERAGE MADE TO ORDER: WHEY SOY

Mr. HUMPHREY. Mr. President, the March issue of "Farm Index" describes an important innovation in our Public Law 480 program.

Last year, our stockpile of nonfat dry milk had diminished to the point where it was necessary that it be stricken from the list of donated commodities under the Public Law 480 program. This action proved devastating to the poor countries whose pregnant and nursing mothers, as well as their young children, have been dependent upon the nonfat dry milk they received under the food for peace program.

The administrators of the program have recently arrived at a solution to the problem: whey-soy drink mix. This beverage was produced at the request of the Agency for International Development by the U.S. Department of Agriculture and private industry, thereby providing a striking example of the potential for cooperation between the public and private sectors in responding to world food problems.

Whey-soy can effectively feed the millions of undernourished infants formerly dependent upon our nonfat dry milk. The new product has the same nutritional value as milk, being an outstanding source of protein, vitamins and minerals. Yet the product is less expensive to produce and export overseas than nonfat dry milk.

In addition to the product's meeting the special nutritional needs of those recipients of food for peace commodities, the use of a whey-soy beverage on a large scale is attractive to the U.S. dairy industry. The industry is eager to obtain a market for whey, the hitherto discarded by product of cheese production, and the use of it in this beverage offers a market for a formerly useless product.

Mr. President, I ask unanimous consent that this informative article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE FARM INDEX

Mountains of farm surpluses can quickly melt into molehills, and so it went with our stockpile of nonfat dry milk.

The burdensome surplus of the fifties and sixties has literally dried up with the steady falloff in milk production.

It came as a blow to dozens of poor countries who through the years had counted on our surplus of nonfat dry milk to feed millions of malnourished infants.

NO CHOICE

But the options were few for the administrators of the Food for Peace programs. Due to the shortage situation and the fact that nonfat dry milk was priced out of reach for overseas distribution, they had no alternative but to strike nonfat dry from the list of donated commodities.

That was in the spring of 1973. Now, less than a year later, a new beverage has come to the rescue. Dubbed "whey-soy drink mix," it will soon arrive on foreign shores, eventually to reach over 10 million preschoolers, pregnant women, and nursing mothers in some 50 countries.

Whey-soy drink mix was made to order in a matter of months.

In early 1973, the Agency for International Development (A.I.D.) asked USDA and private industry to come up with a product that offered the same nutritional qualities as whole milk but which would cost less than nonfat dry to produce and to send overseas.

ORDER FILLED

Whey-soy, a version of which USDA dairy scientists had developed years before, more than filled the bill when it was presented to A.I.D. officials in July of 1973.

ERS researchers who were involved in this project report whey-soy costs less than 15 cents a quart in reconstituted form, including the charges to ship it overseas. From a nutritional standpoint, whey-soy is judged to be an excellent source of protein, vitamins, and minerals. Water added, whey-soy looks like rich milk with lots of cream. It has a slight soybean flavor.

The beverage also got the nod from the U.S. dairy industry. The industry is searching for outlets for whey, the chief byproduct of cheese production.

Sweet whey makes up 41 percent of the whey-soy formula, the other main ingredients being full fat soy flour (37 percent), soybean oil (12 percent), corn syrup solids (9 percent), and added vitamins and minerals (1 percent).

A growing proportion of fluid whey output is finding a market in livestock feeds and human food. Demand from bakeries in particular has been surging due to the nonfat dry milk shortage.

Yet according to the Whey Products Institute, less than 45 percent of fluid whey—totaling over 30 billion pounds in 1970—actually gets used. The rest presumably ends up in the sewer or in lakes, rivers, and streams, or on the land. Whey is so nutritious that in water bodies it leads to eutrophication—the growth of unwanted plants that rob the water of oxygen and eventually choke other plants and fish life.

PLENTIFUL PROTEIN

As for the soybean, the other main ingredient in whey-soy, its virtues have been widely acclaimed. Soybeans provide the most plentiful and least expensive source of high quality vegetable protein to be had.

Whey-soy performed well in the laboratory. After a number of private firms had refined the original USDA formula, the beverage got the green light from technicians and nutritionists.

Among other tests on nutritional value, Johns Hopkins gave whey-soy beverage to convalescent malnourished children in Peru, and found that it exceeded the specifications. Whey-soy was also fed to animals to determine its Protein Efficiency ratio and Net Protein Utilization ratio, two measures of protein quality. Whey-soy passed with flying colors.

There were experiments to assure whey-soy could withstand typical storage conditions overseas. The product had to be kept for at least a year without significant deterioration or loss of nutritional value.

But would kids like whey-soy beverage?

TESTED ON THE SCENE

In what was perhaps the most extensive series of tests ever run for a product introduced in the Food for Peace programs, Natick Laboratories of the U.S. Army and two consultants of USDA were commissioned to try whey-soy on location. The object was to serve the beverage in a variety of geographic areas with a variety of cultures. Selected for the projects were Chile, the Dominican Republic, South Vietnam, India, Pakistan, and Sierra Leone.

After conducting over 4,000 tests with children and 2,000 with parents and staffs of feeding centers, the test team concluded there was a "high probability" that preschool feeding programs would take to whey-soy.

The criterion of acceptability was that, at the minimum, a certain percentage of the children would voluntarily drink at least 8 ounces of the beverage each day during the test periods lasting from 1 day to more than 2 months. The minimum percentages, determined by representatives of voluntary agencies serving in the various countries, ranged from 49 percent to 72 percent.

THE EXCEPTION

Only in Sierra Leone in Africa did whey-soy get an unfavorable reception. The test team reported this was probably because most children had been accustomed to eating nonfat dry milk in dry form in porridge, and the novelty of a beverage product may have turned them off.

Companies in the U.S. are now gearing up to make whey-soy in quantities that Food for Peace officials believe will be needed by poorer countries in years to come.

Beginning in April the plan is to ship 1 million pounds a month, then to work up to 120 million pounds a year over the next 2 or 3 years.

At the height of nonfat dry milk shipments, the volume ran some 300 million pounds annually. Whey-soy may not fill this void entirely. Yet in its own right, as a food designed for infants and mothers who are the most suspceptible victims of poor diet, it promises to stunt the growth of nutritional problems that have nagged the developing countries since we can remember.

WESTERN GOVERNORS' CONFERENCE ON AGRICULTURE

Mr. BUCKLEY. Mr. President, it is a fact that the management and improvement policies applied to the public lands of the West under Bureau of Land Management and Forest Service jurisdiction affect us all. Much of this land is used for the grazing of livestock—sheep and cattle—which provide the consumer with food and fiber. Last year, of the total cash receipts nationwide for the sale of livestock products, 18 percent, or $8.2 million, came from livestock grazed on the public lands of the West.

On April 17, Senator CLIFF HANSEN spoke on the subject of public lands utilization and management at the Western Governors Conference on Agriculture in Salt Lake City, Utah.

Senator HANSEN noted in his remarks that sound multiple-use management of public grazing lands benefits all of us because a significant amount of the Nation's food and fiber is generated in this manner.

I believe my colleagues would be interested in Senator HANSEN's remarks, and I ask that his speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR CLIFFORD P. HANSEN

Rangelands in the Western States have the potential, if effectively managed, to produce increasing amounts of forage for consumption by livestock which is so necessary to meet the growing demand for red meat and fiber. The Western States traditionally have produced a substantial share of the livestock feeds and livestock to meet the Nation's food needs and will have an even more significant role in the future.

As long ago as 1936 the Forest Service, in a report to Congress, concluded that the forage depletion for the entire range was more than half. Little more than 5 percent of the range lands were in a thoroughly satisfactory condition.

Marion Clawson of Resources for the Future, a longtime Student of the Nation's land resources, writing in 1972 concludes that the authors of the 1936 Forest Service report on rangelands were unduly influenced by the severe drought conditions at the time. It is his judgment that the low point in range condition was probably reached about the same time as the low point in cropland condition, during the 1920's.

Clawson describes the new era in grazing land use as beginning in the 1930's with the passage of the Taylor Grazing Act, and the adoption of grazing management practices by the Forest Service. He concludes that since then, there has been substantial improvement in the management of both publicly and privately owned grazing land.

In considering the problems and opportunities for improving the range resources it is important to keep in mind that they include an area substantially greater than the area devoted to crop production. Currently, grazing by livestock involves more acres of land in the United States than any other single use. Of the total land grazed, there is 12 times as much rangeland as there is improved pastures. About half of the rangeland is found on private farms and half on Federal lands managed by the Forest Service or the Bureau of Land Management.

Cash receipts in 1973 from the sale of livestock products in the 11 western States of $8,223 million accounted for 18 percent of the national total, and exceeded the cash receipts from crop sales of $7,967 million. While it is true that range forage was only a part of the feed supply that made these livestock product sales possible, it was an important part.

Forest-range comprises 1,202 million acres in the contiguous 48 States. The 14 Western States dominate in rangeland area with 685 million acres or 57 percent of the Nation's total forest-range. Returning to the broader view, 213 million animal unit months' of grazing are produced from forest-rangeland in the United States.

The range resource situation on national resource lands administered by the Bureau of Land Management demonstrates the importance of these lands for grazing. The BLM manages 172,448,000 acres of public domain. 150,000,000 acres of this total are grazed. This figure represents the present acreage grazed by livestock. Acreage not grazed includes unsuitable range, forest lands and withdrawals for wildlife, recreation, and other purposes. It is estimated that there are an additional 133,000,000 acres that are suitable for improvement through management.

To date the accomplishments on improving range resources are impressive. 3,206,000 acres are involved in competitive plant control. Water developments, which include springs, wells, and resources total 24,156. There are 28,000 miles of fencing for management of livestock alone. This does not include fencing for any other purpose.

The estimated capital investment in our range resources on public domain is $142,894,000. While the federal government funds represents the largest part of the investment, stockmen have contributed $16,788,000 and the states $500,000. It should be noted that the breakdown for state funds was not available for all states and are included in the stockman contribution.

The total estimated cost for needed range improvements is $397,532,000. This figure represents actual construction costs only. It does not include personnel costs which are estimated at 197.5 million dollars based on accomplishing the Allotment Management Plan by the year 2000. While these estimates may seem high, compared with other investments in our economy, they represent a sound investment.

Grazing not only predates environmental impact statements, but it predates environmental problems. It has to be one of the most environmentally sound practices because the resource is renewable. While it is certainly possible through overgrazing to bring about deterioration in the quality of forage as the more palatable plants are consumed and thereby given less opportunity to compete with those less palatable, the fact is economic forces usually remove this type of operator long before significant damage to the range results.

In addition, grazing can exist simultaneously with so many uses of the public lands, including recreation. The multiple use concept simply makes sense in order to achieve the greatest good for the greatest number from our natural resources.

The Bureau of Land Management has recently released a draft environmental impact statement on livestock grazing management on National Resources Lands. The statement analyzes ". . . the environmental impact of the program and the management of livestock grazing through the application of grazing systems to improve rangeland conditions for watersheds and wildlife habitat, and provide a sustained yield of livestock forage consistent with environmental protection and enhancement."

Those of you that have ever had the occasion to study environmental impact statements know how comprehensive these statements must be. Regardless of what your position is, you can find at least some justification to support your viewpoint. For example, livestock operators will be inconvenienced by the livestock grazing management program and may have to increase their investments for supportive facilities. However, on the other hand, better forage production will result which will provide better economic benefits. Environmentalists have the promise of aesthetically more pleasing landscapes but also face unavoidable impacts. After everything is considered, I am confident that a plan will be adopted which will accelerate development of the range resources while increasing environmental protection.

Both the Forest Service and the Bureau of Land Management have improved their management practices in recent years. I am particularly impressed with estimates of possible improvement of the grazing potential on Federal lands. The University of Idaho and Pacific Consultants, inc., in a study contracted by the Public Land Law Review Commission, estimated that with improvement the carrying capacity of the range lands managed by the Forest Service could be increased 83 percent. With improvement the even larger acreages of rangelands managed by the Bureau of Land Management could be improved 73 percent. I am confident that the improvement potential on the privately owned range lands is comparable to that projected for the Federal lands.

Ranchers have an increased awareness and knowledge of the payoff from improved ranch land management practices. Many of them are college trained. Often they are as well trained as the professional range personnel in the Bureau of Land Management and in the Forest Service. In fact, as any rancher will tell you, particularly when he is involved in a dispute with our federal authorities, their training and background is superior. Seriously, the ranchers and the professional range personnel constitute a great team in effectively managing our range resources.

As indicated by the study for the Public Land Law Review, the possibilities of further improvement in the range lands are substantial. The need for more forage for increased production assures the continuation of economic incentives for range improvement. Many possibilities still remain for increased forage production by improvements such as reseeding, brush clearing and managed grazing.

The careful application of Management and facilities, collectively designed to meet the specific conditions and requirements of individual ecosystems will make it possible to increase the quantity of outputs without deterioration of environmental quality. The intensity of management must vary with the productive capability of individual sites. The efficient application of prescribed management to achieve increased grazing must recognize the limited availability of investment capital from both the private and public sector and therefore select the most effective opportunities for additional development. The simultaneous development of federal, State and private holdings is of extreme importance.

Federal land, administered primarily by the Bureau of Land Management and the Forest Service, is not only half of the grazing area but is also a fundamental element in the resource mix. Individual ranch units frequently and often a ranch community are dependent on the use of the Federal lands. Thus, if any one sector (State, private or Federal) fails to effectively develop its rangeland the overall development of agricultural production and the regions growth is hindered.

On the local economies of the western states, the policy ranges in economic importance from substantial to total sustenance. Even land not under federal ownership is influenced by the neighboring acreage. The contribution to the local economy per AUM would be $22.50 for cattle and $15.75 for sheep. For small communities the contribution from grazing lands is essential. Each year we must meet increased consumer demand with a decrease of 1.4 million acres of rangeland. The effect of the range policy on the economic ($390 million) and cultural development of the nation as a whole is substantial. However, when you notice that on the stockmarket McDonald Hamburgers has more equity than U.S. Steel, you know that somebody's buying meat. While the prices of meat and wool are still dependent on supply and demand, we hear much more about demand than supply. Sometimes it is as difficult to persuade a housewife that grazing on federal lands regulates her food budget or that public lands keep Ronald McDonald in business as it is to keep Watergate out of the 74 campaign.

Dr. A. F. Vass, late long time head of the Department of Agricultural Economics at the University of Wyoming, who is considered by many to be the foremost authority on western range management, concluded from detailed examination and years of study that the value of western land increased from three to five times when it passed from public to private ownership. His conclusions are easily understood. The fact is that with private ownership—the assurances that whatever land yields will redound to the exclusive benefit of its owner—great attention will be given the management of that land. All sorts of things happen. If the area is dry and water is available, the Mormons demonstrated more than 100 years ago the value of irrigation. Leveling, brush clearing, farming, replacing native vegetation with higher yielding, more productive crops are examples of effective management.

The relevance of Dr. Vass' findings to western range management is this: commensurate with the length of the term of use and the probability of renewal, management interest and investment in management practices and improvements will increase. Given assurances of continuity of use, the Forest Service and the BLM have found permittees on its lands willing to invest in fences, water hole development, sage brush spraying, reseeding, and a strict observance to the terms of the permit. As America's needs for food and fiber escalate, subject to a growing population demanding a higher standard of living insofar as food goes, more protein—red meat—will be needed in our diets. The western ranges can respond affirmatively. The way to stimulate the kind of cooperation which will assure the achievement of this goal was spelled out by Dr. A. F. Vass more than 40 years ago.

NEW YORK TIMES' LEWIS WRITES OF WHAT'S RIGHT WITH U.S. CIVIL RIGHTS

Mr. PROXMIRE. Mr. President, I have given a series of speeches on the floor of the Senate about what's right with our Federal Government. One of the subjects I discussed is the remarkable progress we have made in recent years with respect to civil rights.

That assertion is greatly buttressed by a recent column in the New York Times by Anthony Lewis, entitled "A Time To Celebrate" in which Lewis documents further the great strides this country has made toward a harmonious integrated, multiracial society. This is one of the great moral achievements of any country in recent history. We are not home yet by any means—we have a way to go and a long way, but we have made great progress and we should recognize that.

I ask unanimous consent that the Lewis article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

A Time To Celebrate

(By Anthony Lewis)

Looking back now on *Brown v. Board of Education*, we know that in just twenty years we have become a different country. Chief Justice Warren's opinion is the voice of a simpler age, when we had faith in the uplifting power of education and social reform. We have been bruised by experience since then, and we understand that the issues of race and poverty are much more complicated, more intractable, than we imagined.

But we must not let our present skepticism distort the meaning of what was done on May 17, 1954. That decision remains one of the great moments in American history, a symbol of the capacity for change and moral regeneration that makes this country like no other on earth.

It is important to remember the issue that faced the Supreme Court then. The Court was not deciding all the profound problems of inequality that arise among individual human beings because of their own abilities, prejudices, advantages, deprivations. It was passing on segregation imposed by law: a society's command that one group be treated differently on account of race, whatever individuals wanted or deserved.

In seventeen states and the District of Columbia, in 1954, black children were forbidden to go to public schools with white. Throughout the Deep South blacks could not vote, or use public facilities without the stigma of segregation. That was the reality that confronted the Supreme Court: not private prejudice, not a separate-but-equal life for blacks, but a pervasive inequality imposed by the force of law.

When the Supreme Court held that such a system denied what the Constitution guaranteed, "the equal protection of the laws," it expressed what evidently was an emerging moral consensus among Americans generally. For the decision inspired a succession of civil rights laws and administrative actions that transformed the law of race in America.

The results are more dramatic than we may realize. Blacks now vote in large numbers in every Southern state, and hold office. At lunch counters and filling stations they are spared the thousand daily humiliations of petty apartheid. Even the laws against sexual mixing of the races, which Gunnar Myrdal thought were the ultimate bastion of white Southern resistance, fell with hardly a murmur.

After the Supreme Court, American Presidents—Kennedy and Johnson—spoke out for the first time and told us that racial injustice was morally wrong. And of course the decision changed blacks' view of themselves, starting to free them from feelings of inferiority.

The *Brown* decision has had a wide impact beyond the issues of race. For its meaning lay not only in the result reached but in the process used—the process of law.

It was not government that pushed the issue to decision. It was private citizens and a handful of lawyers in one struggling organization, the N.A.A.C.P. Legal defense and Education Fund, Inc. The work of those lawyers over many years—especially the dedication of successive chief counsels Charles Houston, Thurgood Marshall and Jack Greenberg—led to May 17, 1954. In the grinding, often discouraging effort of litigation they made the constitutional realities inescapable.

What the Fund did, using lawsuits as a process for the redress of grievances, opened up a new way to deal with the frustrations of a huge country that cannot be effectively governed from the center. Even more than in the past, lawsuits have become an American safety-valve. In environmental matters especially, but in a dozen others, too, local groups have found that they can focus more persuasively on urgent problems by bringing them to the courts.

That trend has inevitably had large implications for the Supreme Court, and for judges generally. The Court's willingness to face the momentous issue of segregation made it natural to take on other great questions. For one, if the *Brown* case had not come first, I do not believe the Supreme Court would ever have agreed to deal with legislative apportionment. The strength acquired on such issues has helped judges to face the current problem of Presidential power.

None of this remotely justifies anyone in being a Pollyanna about the prospect for race and law in this country. The issues have become so hard that there are good arguments on all sides. Affirmative action, quotas, busing: They are code words for problems we seem unlikely to solve soon, to the general satisfaction, in terms of either law or politics.

The trouble is that we have come now to the discontents of inequality going beyond race. And distributive justice—evening out incomes, or living conditions, or even opportunity—is something we cannot expect courts alone to provide. But awareness of that looming difficulty cannot cancel out what we all gained, and learned, on May 17, 1954.

THE NEED FOR A MORAL EDUCATION

Mr. BAKER. Mr. President, on May 12, 1974, our distinguished colleague from New Mexico (Mr. Domenici) delivered a commencement address at the College of Santa Fe in Santa Fe, N. Mex. I believe that Senator Domenici's remarks, entitled "The Need for a Moral Education," are particularly appropriate in an era in which we see the moral fiber of our governmental processes under the most serious scrutiny. Consequently, I commend this speech to my colleagues and ask unanimous consent that it be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

Address by Senator Domenici

Almost 70 years ago, in a time we now have deemed in our arrogance to have been simpler, less demanding, Woodrow Wilson said, "Patriotism, properly considered, is not a mere sentiment; it is a principle of action or rather in a fine energy of character and of conscience operating beyond the narrow circle of self-interest. Every man should be careful to have an available surplus of energy over and above what he spends upon himself and his own interests, to spend for the advancement of his neighbors, of his people, of his nation."

That belief has marched millions of American men to battle; has moved this nation to spend billions of dollars in foreign aid to needy countries; and has prompted private and public acts of charity unmatched by any nation. Historically, Americans have believed that every one has a social responsibility, a duty, if you will. We have believed that one ought "to love one's brother as oneself."

I suspect that not everyone in this seventh decade of the 20th Century would agree anymore that we each have a duty to society and to our neighbors. And among those who might agree that some sort of duty to others was appropriate. I feel certain that we would not reach a consensus on what that duty entailed. Whatever our formal system of education offers, it seems not to offer anymore the kind of spiritual training, the moral atmosphere, upon which our educational system, and political system, was found. We see, therefore, a situation in which the brightest persons in our nation, to whom we have entrusted the guidance of our young, no longer feel confident to provide spiritual leadership. We have seen the underpinning of this nation's philosophy weaken. We in society produce a crop of educated, but spiritually drifting, citizens.

Undoubtedly our educational system bears some of the blame for this decline in, for want of a more precise term, "community sense." But, society, we, bear the bigger burden. It has become socially graceless to talk about "duty," "love," or the two great Rules or the Ten Commandments. The loss we suffer as a nation, and as a society, from this spiritual drift is not confined to a rhetorical loss, or a personal loss. Into the vacuum created by the "new relativism" has come this nation's almost demonic obsession with quantifying. "Science" has become mythical, if not positively the new religion.

You are all products of this new (in the sense a historian would use the word "new") force. The scientific method—observation, data collection, thesis—has changed the face of American education. We have reached the point where we believe we can, and should, quantify everything. We have demanded of even philosophy that it be based on "scientific" principles and facts verifiable in an empirical sense. And because it is easy to measure, analyze, and gather statistics, we have succumbed too much to the lure of "quantification." In the process, what cannot be quantified—morals, beliefs, the marrow of human spiritual life—has been ignored.

Let's face it: it has been easier for us to set and meet some scientific goal, like putting a man on the moon, than it has for us to raise the spiritual quality of our lives. And the reason for this irony should be clear to us. While we have been willing, inside the educational system, to encourage experimentation in physics and chemistry, we have been unwilling to try a greater experiment. We have been unwilling to see if those immutable moral laws will work. We have said, "We know about the unchangeable laws of physics, so let's try this new approach to a problem." We have failed to say, "Let's try the moral laws we are taught to see if they will work in the real world, too." In our educational system, as in our society, we have given only lip-service to the second experiment.

I was impressed by the book, "Future Shock." And of all the concepts Alvin Toffler offered, I was taken most by his idea of a "safe landing." You will recall, perhaps, his analogy. He reminded us that in the multi-billion dollar project that finally landed a man on the moon, most of the money was directed towards powerful rockets, life-support systems, and inflight techniques. Very little attention, in terms of resources actually went to the problem of landing the men on the moon when they reached the lunar surface. And yet, if one looks back with that perfect 20–20 vision hindsight gives us, one would say, "Well, the most important thing was a safe landing. After all, all that money will be wasted, and the astronauts' lives lost, if we get the ship to the lunar surface, but cannot land the craft safely." I look upon this society's journey into the future in much the same way. We have devoted too much of our resources toward developing the big motor, the technical survival systems. We have neglected the basic question, "When we get wherever we are going, are we going to be smart enough to make a safe landing?"

I have no answer to that question, but I have some intuitions about the answer. Recent events in this nation's political history, if we need reminding, teach us one thing if they teach us anything: the end does not justify the means. You probably haven't heard that in four years of attending classes. Not because the College of Santa Fe has been derelict, but because the concept itself is under fire. A lot of people have implied that, indeed, the end does justify the means: you can be cruel and disruptive now, if in the future it will make you more generous and harmonious. The fallacy of that thinking would have been painfully obvious to those men who founded this nation, or our earliest educators, and even to our early social critics. They would have replied, "Ah, yes, but one cannot separate means and ends. Very often the means become ends in themselves and one is left with very shabby means evolving into very shabby ends." We seldom reply so forcefully today.

You are going to be part of whatever landing this nation has. I don't say that in the sense that the "future is yours." It is yours, but only because the mortality of your elders prevents the future from being theirs. You will hold the future because no one else will be alive to do so for you. Whatever landing we have will be your responsibility, whether you will it or not. That landing is your landing. To make it as safe as possible, let me ask you to think about some things. We now have the means to destroy every living thing on this earth. Period. That's a fact. Whether we indeed do destroy this earth will depend not upon our scientific expertise, but upon our moral priorities. Science is neither bad nor good. The ends to which science is put are bad and good. And those ends are within our control. We have the means to rape the landscape, harness the waters and oceans, eliminate the ozone from the atmosphere. But to what end? If we have a firm belief that the end of our energies should be to make a better community for our neighbors, and for those who follow, then we will not rape the landscape, we will not destroy our air, we will not annihilate the populations of this globe. But if we do not believe that the ends of our energies are to make the world better, and if we question the whole notion of "better," then we are quite likely to logically, following a perfect syllogism, remove life from our planet in our moral imbecility.

What you have learned in the past 16 years of formal education is very little measured against what you will learn in the next 16 years of your lives. Even as you read your textbooks, the knowledge there is becoming, or is already, obsolete. Even the best school in the world can only give you the basic facts you need for a career. But even the tiniest school can train you to prepare for a safe landing. Each school can train you to think, to make judgments based on fact and philosophy, and can help you apprehend the immutable laws of nature and man that will ultimately determine what kind of landing our spaceship faces.

Not only will you soon find your textbooks inadequate, but you all too soon will find that our society (the system) has failed to offer you any real guidance on what path you should follow. You will find that you have been told to question assumptions, but you have not been told against what benchmark you should frame your questions. The failure is that we have not provided you with a moral anchor. The result has been a deep cynicism that threatens to destroy the institutions that harbor the hopes of our future. And the institution that has suffered most in these uncertain times has been education. As you listen to the complaints of parents, you will find a common theme: why aren't the schools teaching our children "right" any more? The irony is that we have asked our educational system to do what we as parents and leaders haven't had the courage to do—provide moral guidance.

Like Polonius, let me give you some advice that you may not particularly want. Remember to save some energy for others. Let's call that extra energy "Love." It is more important than all the facts in the world. Remember, too, to save some energy for your community. Let's call that extra energy "Patriotism." It is the energy that we use to make the institutions of our society stronger, more responsible, more able to help us have our safe landing.

And remember, too, that in charity you should be slow to pass judgment on others. But, in justice, you should pass harsh judgment on yourself, hold yourself up to the highest standards.

One would hope that the healthy skepticism our educational system has given you will not turn into a bitter cynicism. One would hope that you will recognize that the failings of institutions reflect the failings of society, and each individual inside that society. One would hope, at the end, that viewing those blemishes you would see, too, the great opportunity in our society—the opportunity to do something to make institutions better, to make the failings less frequent. If we have taught you that men can be evil, I hope we have taught you that men can be good; if we have told you that politics is corrupt, I hope that we also told you that politics is moral; if we have shown you, unfortunately, that we all have feet of clay, I hope we have shown you, fortunately, that men can have spirits of purest flame. It's a tough world out here. You don't have any lock on the future. But, then, neither does anyone else. We are in this thing together, equally powerless and powerful. If we remember our essential oneness, for each failing, we will have success; for each fear, courage; for each neglect, attention. So my advice would be to remember the greater community of which we are inextricably, in light and in darkness, partners.

Let me conclude with a question for you to take home and play around with. Throughout history very rich and powerful men, who had little to gain in society's eyes, have foresaken their personal businesses and gone into politics. The most conspicuous examples were our Founding Fathers. The question I pose to you is, "Why?" Why did Thomas Jefferson give up his idyllic life for one of abuse and scorn? Why did George Washington allow himself to be badgered into accepting the Presidency, against his best judgment, when he was already the most honored of men? I will tell you only, when you devise your answer, to recall Woodrow Wilson's remarks. When the history of this nation is written, it will be written on the deeds of those men who were "careful to have an available surplus of energy over and above what he spends upon himself and his own interest, to spend for the advancement of his neighbors, of his people, of his nation." And you will be part of that history.

Thank you.

WORLD POPULATION AND FOOD SUPPLIES

Mr. HARTKE. Mr. President, there are no more important subjects before us than the two issues of world population and world food supply. Too many people are hungry and malnutritioned; too many are without decent housing and proper clothing; too many people are simply without hope.

Recently, the distinguished Ambassador of Iran to the United States, His Excellency Ardeshir Zahedi, addressed the United Nations on these vital matters.

Mr. President, I ask unanimous consent that his brief but eloquent remarks be printed in the RECORD.

There being no objection, the comments were ordered to be printed in the RECORD, as follows:

COMMENTS BY HIS EXCELLENCY ARDESHIR ZAHEDI, THE AMBASSADOR OF IRAN TO THE UNITED STATES, AT THE UNITED NATIONS

Mr. Secretary-General, Excellencies, Distinguished Guests, It is a great pleasure to be with you this morning on this important occasion.

My country is pleased to join in the efforts to find solutions to two of the most important problems of our day.

As an indication of our concern, I have the high honor to read to you the following message which has been sent by my august sovereign, His Imperial Majesty, the Shahanshah Aryamehr:

"I have learned with pleasure of the Declaration on Food and Population signed by a group of distinguished people which will be submitted to the Secretary General of the United Nations Organization on the 25th of April, 1974.

It is my sincere hope that this declaration will create a sense of urgency and contribute to a greater awareness among nations of the grave problems facing mankind in view of the rapid population growth on the one hand and the precarious state of the world food production on the other.

Priority must be given by governments to implementing sound population control and environmental protection policies, to devising methods of increasing food production especially that of grains, to encouraging increased cooperation between developing and developed countries in order to provide aid for population control and food production programs and to making provisions for sufficent food reserves to guard against famine.

I earnestly hope that the world population conference and the world food conference organized by the United Nations and to be held in August and November respectively will help to promote a concerted effort on behalf of all the nations of the globe to seek wise solutions to these crucial issues which will have a vital bearing on the future of mankind."

JOE SPORTS, FORMER ASSISTANT TO SENATOR DAVID GAMBRELL, HAS FORMED NEW PUBLIC RELATIONS FIRM IN ATLANTA

Mr. NUNN. Mr. President, I am always pleased to read of the success of former Capitol Hill staffers who have gone on to achieve prominence in their chosen fields.

Joe Sports, formerly administrative assistant to Senator David Gambrell, has formed a new public relations firm in Atlanta, and has already established a statewide reputation.

An excellent article describing Joe's career and his new venture appeared in the April 1974 issue of Southern Advertising magazine and I ask unanimous consent to print this article in the RECORD.

There being no objection, the article was ordered to be printed in the Record, as follows:

Sports Is the Name but PR Is the Game

A new firm opened in sports-crazy Atlanta recently named Sports Associates . . . and one problem is to convince people that in public relations . . . not sports.

Adding to this problem is that the firm's "biggest" account is 375-pound strongman Paul Anderson, head of Paul Anderson Youth Homes in Vidalia and Dallas. Anderson as most sports buffs know was acclaimed as the "world's strongest human" after setting new weight-lifting records in international and olympic competitions.

Joe Sports heads Sports Association so the firm name is a natural. Before starting his firm, Joe had over 20 years of p.r. related experience ranging from working as a news reporter through being executive director of the Democratic Party of Georgia.

A jack-of-all-trades, Sports started in 1952 as a newspaper reporter on the Douglas Enterprise. Not only was he a reporter, sports editor and later associate editor . . . he also served as a photographer and was named as Photographer of the Year by the Georgia Press Association.

In 1959 he began an involvement in politics as special assistant to U.S. Representative Iris Blitch and served in this capacity until 1963 when he joined WALB TV in Albany as a newsman and promotion director. Projects initiated by Sports won three Prestige awards from the Georgia Association of Broadcasters for WALB TV.

In 1966, Sports left the news field to serve as staff coordinator of Bill Stuckey Jr.'s successful campaign to win a Congressional seat. Later Joe was named as executive director of the Democratic Party of Georgia. Under his leadership the party was bailed out of financial difficulty and became solvent. Named originally to the post by Lester Maddox, Joe was asked to stay on by Jimmy Carter . . . thus becoming the first man to hold the office under two governors.

After resigning as the party's executive director, Joe returned to Washington where he served as U.S. Senator David Gambrell's administrative assistant. In 1973, Joe joined the public relations firm of R. E. Sibley & Co., Atlanta, before deciding to launch his own agency with offices at 57 14th St.

Joe still maintains a connection with politics and continues to handle press work for U.S. Congressman Dawson Mathis, a long-time associate, and like Joe an alumnus of WALB TV.

An active person, Sports in addition to heading his own firm also participates in the Sibley Speaker's Bureau, making frequent civic club appearances, is a director of the Albany (Ga.) Advertising Agency, and of Georgia Business News, Atlanta.

Accounts handled by Sports Associates are varied. There are two from his hometown of Douglas . . . Southeastern Computer Service and Douglas Foods . . . Aromatics International, a flavor and fragrance manufacturer; and Classic Car Investments, which sponsored Atlanta's First International Antique and Classic Car Auction in early April.

With a varied background that has often seen him thrust in the middle of opposing sides . . . like at the 1968 Democratic Convention, where he gained national note as the state's sergeant-at-arms . . . Joe Sports is now looking forward to a less hectic life as a p.r. counselor.

JAMES RESTON TRIBUTE TO MANSFIELD

Mr. PROXMIRE. Mr. President, at a time when public officials—especially Federal officials—are under attack as never before, and when the public has expressed a very low opinion both of the President and the Congress it is a great thing for the country as well as the Congress to have Mike Mansfield as the majority leader of the Senate.

The distinguished New York Times columnist pays a remarkable tribute to the majority leader this morning to the patience, the concern, the dedication to constitutional processes, and especially to the rocklike integrity of Senator Mansfield.

I ask unanimous consent that this column by James Reston be printed in the Record.

There being no objection, the column was ordered to be printed in the Record, as follows:

The Gentleman in S-208

(By James Reston)

Washington, May 14—Senator Mike Mansfield of Montana is a reminder that there are still a lot of steady decent folk around here watching the store. Everybody in Washington is not crazy; it just seems that way.

Room S-208 in the Capitol Building, Mike's hideaway, is as plain and calm as a country lawyer's office. The door is always open. Inside, no fancy elegant people or heroic portraits of the majority leader. Some old amiable cartoons, and a big picture of Jack Kennedy throwing out the first pitch on opening day, with Mike in the background as usual. An atmosphere of cheerful and relaxed efficiency, coffee perking on the shelf and cookies on the table.

Mike is sad but not pessimistic about the present mess in Washington. He thinks it is wrong to press the President to resign, but he understands why the Republican leader in the Senate, Hugh Scott of Pennsylvania, condemned the President's private Watergate conversations, and why the Republican leader in the House, John Rhodes, suggests that resignation has to be considered. That's Mike's way: He tries to understand everybody's problems.

But pressuring the President to resign, he insists, would be unfair, evading rather than resolving the moral and legal issues. Give the President not only the presumption of innocence, he says, but every opportunity to have his lawyers in the House and Senate to argue his case, cross-examine witnesses, and appear on the floor of the House and Senate, if he chooses, to defend himself personally.

Let the system work, says Mike. It is not only the President but the Congress and the Constitution that are on trial. But—and here he is very tough—let it work all the way, not half way. Take the President at his word. Give him every conceivable opportunity to state his case, all the lawyers he wants to challenge the evidence, and all the time he needs to do so. But, he insists, "let's have the evidence."

Mansfield has a sense of pity about human folly and tragedy—and he sees it not in partisan terms. He is beyond all personal ambition now, even beyond his own party's battles. For example, he not only sees Watergate and Vietnam in moral terms, but also Chappaquiddick and Senator Kennedy, and admires Kennedy as a good Senator but is against him as the Presidential nominee of his party in 1976.

Mansfield, if I hear him right, is looking beyond the present turmoil in Washington. He fears the nation would be deeply divided for a long time if President Nixon were forced to resign by political or newspaper pressure.

He thinks the whole Watergate scandal could have been avoided if the President had been open and trusted the system, and had wondered about what was right or wrong and had said yes or no at the right time. But he is not worrying about the past now. He agrees with the President that resignation is a bad idea and that the impeachment process should go to the end but not in the way the President means it. The Constitution, the courts, the House and Senate must decide, and nothing else.

By which Mansfield means: no fiddling, no holding back, not just the transcripts but the tapes. Open all the way. Full and complete disclosure, as the President claimed. Defense lawyers for the President in the Judiciary Committee and on the floor of the House to cross-examine witnesses, and in the well of the Senate, if the House votes to impeach.

Put it all to the test, he says, and bring the people into it all the way. He wants televised hearings in the House and Senate. He wants not merely the evidence the President wants to give but the best evidence, including the tapes; and if necessary, he wants them played, when relevant, in the chambers of the Congress and on radio and television.

There are many arguments against this procedure, set out in this space before, but Mansfield thinks we've had enough secrecy and enough deception. The President has asked for a fair trial under the Constitution, so let it begin with all the relevant facts out plain and clear.

This simple approach carries great weight here, for the importance of Mansfield is that his colleagues in both parties and in both houses believe in him. They watch him in S-208 and on the floor of the Senate, struggling to be fair, opposing the President on troops in Europe, opposing his own party on many issues, arguing for the thing he thinks is right.

So he has the power, even though he doesn't want it, maybe because he doesn't want it. Others here are jumping to conclusions, calling for resignation, shifting around. But Mansfield waits. He is in no hurry. He goes on with the business of the Senate. He won't even talk about whether he has made any preparations for a trial of the President. "That's not before us yet," he says.

He may be right or wrong in this procedure, but he has the influence of integrity, and in the end, that may be what the controversy is all about.

DEVELOPMENTS IN AGING: A NEW ANNUAL REPORT

Mr CHURCH. Mr. President, the U.S. Senate Special Committee on Aging each year issues a report summing up major developments affecting older Americans during the prior year or so.

This year, the annual report pays due notice to the heavy toll that inflation is taking among older Americans, despite the best efforts of the Congress to keep social security benefits reasonably in line with the rising cost of living.

Attention is also given to such matters as gaps in medicare coverage, the effects of the energy crisis upon aging Americans, problems in providing good nursing home care, and persistent inadequacies in housing for the elderly.

Not all of its pages tell of problems. Many significant steps forward have been taken within recent months, and they, too, are recorded.

Mr. President, the report is too lengthy for inclusion in this Record, but I ask unanimous consent to have my preface and a summary printed for study and comment in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

PREFACE

Inflation—always a threat to older Americans—has become even more of a daily problem since the last report of this committee was issued.

As described in this report, the elderly have been hard-hit by the irregular upward surges in prices.

It's more than the traditional impact of inflation upon persons with fixed income. It also means that prices are rising markedly in several budget areas of special importance to older Americans: food, shelter, and health care. A gasoline shortage, while alleviated greatly within recent weeks, has nevertheless left a legacy of concern to the elderly in particular: high gasoline prices, with the prospect of still higher prices to come.

Congress, which had approved a 20 percent Social Security increase in 1972 and an automatic cost-of-living adjustment mechanism to take effect next January, found it necessary in 1973 to enact a two-part, 11 percent raise for 1974. Increases in Supplemental Security Income levels were also voted.

Despite the congressional initiatives in response to inflationary pressures, much more remains to be done if we are to develop an overall income strategy worthy of a great Nation.

Part of our shortfall can be expressed in terms of average monthly Social Security benefits. Even with the new 11 percent increase, these levels will be:

$181 for the typical retired worker;

$310 for a retired couple; and

$177 for an aged widow.

Another measure of inadequacy is the extraordinarily high incidence of poverty among the elderly: about 3.5 million have incomes below the official poverty indexes. If the hidden poor were also counted, this number would swell to more than 5 million.

To deal with that problem and with the overall challenge of retirement income, I have my own set of goals:

First, I believe that we should end poverty once and for all among older Americans. It is intolerable that the elderly must pay so personal a price for vast economic changes not of their making. Many who have been poor most of their lives deserve help now. Those who were not poor until they became old must be rescued from economic despair. And so, our first priority should be to improve the Supplemental Security Income Program, which went into effect at the start of this year. It should be broadened and upgraded until it brings all older Americans who need it above bare poverty standards.

Second, the Nation should adopt a goal of "adequacy" for retirement income drawing upon Social Security, private pensions, and other sources for a reasonable "mix." At our hearings on "Future Directions in Social Security," we are paying special heed to the potential role of each of the components in this "mix."

Third, the Social Security system should be re-examined with a greater eye to social justice. The payroll tax now bears heavily upon low-income groups, and many minority members in that group don't live long enough to collect benefits. Proposals for greater equity are being considered at the "Future Directions" hearings, along with suggestions for more sensible treatment of women.

HEALTH ISSUES

A second great challenge to the elderly of this Nation—and to the people who care about the elderly—is the need for comprehensive health care.

That, of course, is what many people thought Medicare was all about, when it was enacted in 1965. I supported Medicare then and I support it now. But I think that the Medicare of 1974 falls far short of what is needed. Coverage has dwindled, and the cost to the participant has gone up.

Look at what has happened. The monthly premium for doctor fees under Medicare was $3 in 1966 and it now stands at $6.30. The deductible—a kind of down payment on the hospital bill the patient must pay—was $40 in 1966 and now it is $84. Coinsurance, the part of the hospital bill the patient pays after 60 days, has gone from a daily rate of $10 to $21 for persons hospitalized from 61 to 90 days.

These charges make a deep dent in retirement budgets, but they reflect only a portion of the high costs of health care for older Americans. Uncovered by Medicare are such necessities as out-of-hospital prescription drugs, dental services, eyeglasses, and hearing aids. Today just about 40 percent of the cost of medical care for the elderly is covered by the Medicare program.

Another problems is the damaging effects caused by the drastic curtailment of in-home services. I'm speaking about carefully managed home health programs which can enable many ill or incapacitated persons to remain at home. There is reason to believe that in-home services, when appropriate, can save dollars. More important, in-home services can prevent family disruption and needless placement in an institution.

And yet, because of restrictive HEW policies since 1969, the number of home health agencies has declined and the percentage of Medicare funds for their services is now less than 1 percent.

It is unfortunate that the President's proposal for a Comprehensive Health Insurance Plan fails to counteract this trend. In fact, his proposal would actually reduce the number of allowable home health visits.

OTHER ISSUES

Every year, new issues arise in the annual report of the United States Senate Special Committee on Aging.

The emergence of new issues can be healthy, a sign of growth in interest and support.

But often issues arise because of failures of policy or even contradictions in policy and actions.

The pages of this report provide facts on many such issues. They tell, for example, of the beginning phases of a new approach for service delivery under the Older Americans Act, as well as the start of the Nutrition for the Elderly program. Important questions are already emerging for these programs and others.

Such developments are described, and rightly so, as an uneven mix of progress and problems arising in Federal actions and policies affecting older Americans.

It will be the job of the Senate Committee on Aging—as well as other congressional units—to keep watch over these developments, to fight inflation in the face of administration drift, and to work toward the day when the positive aspects of aging in this Nation achieve at least as much attention as the negative aspects.

Many times in my travels around the Nation, I look over local newspapers and am surprised by the constant repetition of a headline which usually says: "Plight of Elderly Described."

It is almost a reflex action. An editor picks up a story related to aging and he immediately assumes that it must be a sad story. Quite often, he's right. But occasionally, he fails to spot the good news that is occurring more and more among older Americans.

My hometown newspaper in Idaho is a happy exception to the rule. It is constantly publishing stories about very affirmative actions taken by Idaho people who happen to be old. In Boise, a group called "Extra Years of Zest" has a very far-reaching program which allows older persons to help other elderly individuals in a wide number of inventive, and often cheerful ways.

In this report, there are other encouraging accounts of progress and good works by and for older Americans. This committee—while recognizing the formidable challenges of aging—should also pay heed to the fortunate developments as well.

They are part of the story, too. And they help us to see there are many paths toward the goal we all seek: a Nation in which older persons enjoy their fair share of life's economic returns and life's satisfactions, as well.

FRANK CHURCH,
Chairman, Special Committee on Aging.

DEVELOPMENTS IN AGING: 1973 AND JANUARY MARCH 1974

INTRODUCTION

Once again in 1973, an uneven mix of progress and problems marked Federal actions and policies affecting older Americans.

The most significant fact of everyday life for many elderly persons was that inflation continued its dramatic rise, sharply reducing the effectiveness of a 20 percent Social Security rise voted by the Congress in 1972.

Steady cost-of-living increases impelled the Congress last year to vote a 2-part increase for 1974 instead of waiting for a later automatic cost-of-living mechanism (scheduled to become effective in January 1975) to reflect higher prices, as provided for under the 1972 legislation.

At the same time that inflation forced action on Social Security benefits, legislators in both Houses of Congress resisted an administration proposal which would have considerably increased costs of Medicare for the older persons who rely on that program for protection against disasterous medical bills. Early in 1974, a similar proposal—this time tied to the administration's Comprehensive Health Insurance Plan (CHIP)—was advanced by the President. It, too, was greeted skeptically by those concerned about its impact upon Medicare.

Instead of reducing Medicare effectiveness, said members of the Senate Committee on Aging, efforts should be made to improve it. Chairman Frank Church and Subcommittee on Health Chairman Edmund Muskie introduced legislation, for example, which would improve home health care services under Medicare.

On another front in the health care scene, administration regulations related to nursing home care came under sharp scrutiny and criticism throughout the year, raising far-reaching questions about administration intentions and strategies related to long-term care.

Perhaps the most dramatic—and the most negative—development of the year was the moratorium on housing and related programs put into effect early in 1973. The effect was disruption and uncertainty about housing programs which had been serving, even to a limited degree, the elderly. The uncertainty was not resolved by an administration plan, issued in September 1973, which may provide large scale housing allowances in conjunction with a leased housing program. Faced by what appeared to be an inadequate administration plan, members of Congress were advancing their own legislation to provide housing for the elderly.

Problems also arose in 1973 in the gearing-up and early implementation of a broadened and considerably revamped Older Americans Act, together with a Nutrition for the Elderly program. Early in 1974, it was difficult to assess whether these problems were the normal difficulties to be expected in the early months of major new programs, or whether fundamental questions were still unresolved. In addition, an energy crisis introduced new perplexities to the scene. At the same time, a sharply defined dispute between the administration and the Congress arose on another crucial issue: training for careers in aging. The controversy—centering around administration intention to substitute short-term for long-term training and to stretch out over a 2-year period funds already provided by the Congress for 1 year—was not resolved as this report neared publication.

THE POSITIVE DEVELOPMENT

Complications and problems aside, 1973 was also a year in which important, positive developments took place.

A major step forward in the evolution of a national policy to assure retirement security for all began in January 1974 when the Supplemental Security Income program went into effect, replacing the old, inequitable old-age assistance program. Benefits were still too low, and serious administrative problems arose as the program took hold; but the principle of a nationwide floor under retirement income was established.

Congress also took major steps toward reforming private pension coverage, a vital requirement for improving the retirement income situation of this Nation.

Despite inflationary pressures, the work done by the Congress in improving Social Security within recent years now makes it possible to plan long-range actions to make the system even more useful than it now is. This possibility has led the Committee on Aging to examine "Future Directions in Social Security." That study will continue in 1974 and possibly beyond. Another significant development is the introduction of legislation intended to establish an independent Social Security Administration.

Troublesome as the implementation of the 1973 Older American Amendments and the nutrition program may be, the nation may finally be on the road toward development of a genuine social service delivery network of direct usefulness to the elderly and possibly other Americans as well. The way will not be easy, because program directors and strategists are working in largely uncharted territory. The United States has never had a "retirement revolution" before; something new is needed, in ideas and in actions.

Despite cutbacks in other areas, the administration has asked—two years in a row—for substantial sums for the Older American Amendments and the nutrition program. Thus, continuing support for the overall Older Americans Act seems assured at a crucial point in its development. (The nutrition program, Title VII, of the Older Americans Act, is up for renewal by June 30 of this year; the other components of the Older Americans Act will be up for renewal a year later.)

Another development was the appointment and confirmation of Dr. Arthur Flemming—former Secretary of Health, Education, and Welfare—as U.S. Commissioner of Aging in 1973. Dr. Flemming has taken several steps intended to encourage interdepartmental action and other high-level attention to aging.

Finally, the Congress remains firm in its support of the nutrition program and the Older Americans Act. Appropriations have been larger than requested by the administration; a 3-year extension of the nutrition program was passed by the House in March 1974 even though the Administration recommended only one year.

One of the most encouraging developments was the evident growth of interest in aging, *not only* in the United States but elsewhere in the world. One sign of concern was a United Nations survey calling for greater international attention to what it described as an "aging population" in developing nations, as well as the more industrialized nations.

SUMMARY OF MAJOR CONCERNS

This report discusses the developments briefly described in this introduction and also calls for:

A more comprehensive and more equitable retirement income system in the United States, with early action to end poverty among the 3.5 million elderly still below official poverty levels.

Actions to improve Medicare, not weaken it, in order to assure that the elderly will be well-served by whatever national health plan for all age groups may be adopted in the years ahead. Special attention must be paid to long-term care, now the subject of sharp debate about recent policy shifts expressed in proposed regulations.

Prompt action should be taken on congressional proposals to end the damage done by last year's housing moratorium by enacting broad legislation including programs designed to meet the real housing needs of older Americans.

—Congress must maintain close watch over implementation of the Older Americans Act programs to assure flexibility and clear progress toward specific goals.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, early this year the Subcommittee on International Organizations and Movements of the House Foreign Affairs Committee conducted an inquiry into international protection of human rights. One aspect of their inquiry was the failure of the Senate to ratify the Genocide Convention.

It was their conclusion that genocide was not simply a phenomenon of the past. Indeed, there have been several genocidal conflicts since this treaty was drafted in 1948.

Our inaction "jeopardizes U.S. leadership and influence in the field of international human rights," according to the subcommittee.

Mr. President, I urge my colleagues to give this report close attention. It is a guidepost for concrete action that the Congress can and must take.

I ask unanimous consent that the portion of "Human Rights in the World Community" which deals with the Genocide Convention be printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

THE GENOCIDE CONVENTION

The Genocide Convention which was adopted in 1948 has been ratified by 78 states. The Senate Foreign Relations Committee has recommended that the Senate give its advice and consent to ratification.

The convention defines genocide to mean certain acts committed with the intent to destroy, in whole or in part, a national, ethnic, racial, or religious group, as such. The acts include killing, causing serious bodily or mental harm, inflicting conditions of life calculated to bring about physical destruction, imposing birth prevention measures, and forcible transfer of children. The parties undertake to punish guilty persons and to enact the necessary implementing legislation. There is a provision for trial by a court of the state where the act is committed or by such international penal tribunal as may have jurisdiction. (There is no such international tribunal in existence or presently contemplated, and Senate advice and consent would in any event be necessary to accept jurisdiction.) Extradition is provided for in accordance with laws and treaties, with genocide not to be considered a political crime.

Regrettably the practice of genocide is not simply a phenomenon of the past. Several genocidal conflicts have occurred since World War II.

U.S. ratification of the convention would help to enforce the terms of the convention and discourage those governments who might be tempted to commit genocide. The United States cannot be persuasive in urging other governments to respect the terms of a convention which we have failed to ratify.

The Senate's failure to ratify the Genocide Convention means that we have yet to accept international legal responsibility for the most heinous of human rights violations. It jeopardizes U.S. leadership and influence in the field of international human rights.

SUPPORT FOR A NATIONAL CENTER FOR THE PREVENTION AND CONTROL OF RAPE

Mr. TUNNEY. Mr. President, I would like to bring to the attention of the Senate a series of articles written by Margaret McKean of the Star Free Press on the crime of rape.

As a cosponsor of S. 2422, a bill to create a national center for the prevention and control of rape, I believe Ms. McKean should be commended on her very incisive reporting on a subject which is extremely important and yet ill-understood by the American public.

I request unanimous consent to have the series of articles printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

TRAUMA: THE ULTIMATE DEGRADATION, SEXUAL ASSAULT, PRESENTS A DILEMMA FOR BOTH VICTIM AND LAW—I

(By Margaret McKean)

She sensed someone was in the room with her.

She looked up from her bed and standing next to her was a man, his face covered by a ski mask. He had a gun in his hand.

He said to her, "You scream and I shoot. Do what you're told and you'll live." He ordered her then to strip off all her clothing, and he fell on top of her.

He raped her twice before he left.

She submitted.

She told police later, "I knew he'd kill me if I didn't."

Rape is defined in the California Penal Code as "an act of sexual intercourse, accomplished with a female, not the wife of the perpetrator." Section two of the code further defines rape as "where she resists, but her resistance is overcome by force or violence."

Debbie (not her real name) was fortunate among rape victims. Her account of the crime was believed, her attacker was later arrested after terrorizing another woman and raping a teen-ager. He was tried and convicted.

His was one of only nine convictions in 106 rape reports filed in Ventura County in 1972.

The arrest record also is lopsided. Fewer than half of the allegations of rape made in 1972 were followed by arrest, said Mal King, executive director of the Criminal Justice Planning Board, Ventura region.

"If a rapist is sick he must be removed from the community for treatment," said King. "If he is one of those who simply must have what he wants when he wants it, then he must be disciplined, which means his removal from the community. One of the thrusts of this office will be to help train local law enforcement on apprehending the dark figure of this crime."

Rape, called the ultimate degradation for a woman, increased in incidence by 1,300 per cent in this county in the past 13 years.

A state legislature committee study reports that in California a rape is committed every 12 minutes.

Nationally, more than 50,000 sexual assaults will be reported to police this year, the FBI states.

Reporting a rape sometimes means further degradation.

In the words of one police officer, "We assume everybody is lying."

His statements are a part of a Ventura County Criminal Justice Planning Board (VCCJPB) study commissioned by King. Principal analyst of the study which took more than four months is Ivan Jankovic, a doctoral student of criminology at the University of California at Santa Barbara.

The study and interviews with local law enforcement and criminal court officers indicate, however, that a new light is dawning on rape's demeaning aftermath—the report, interrogation, medical examination, nude photographs, court processes, publicity, stigmatization, possibility of venereal disease or pregnancy, the trauma of the remembrance, the sometimes overwhelming guilt the victim feels.

One woman said, "I felt like I had been unfaithful to my husband." Her attacker held a knife and threatened to kill her. Still her imagined guilt tore at her married relationship and nearly destroyed it.

Her anxiety might be less today when the heretofore whispered tragedy of rape has become persistent public concern. Rape is now a subject "nice" people talk about.

The old attitude was generally that nice people don't get raped, or even discuss it.

"We must talk about it and create awareness," said King.

The needs of the victim no longer can be hushed up.

The rights of the accused cannot be endangered.

"Rape is the easiest crime to allege, the hardest crime to prove," a judge stated in the Carol Bohmer report, an analysis of judicial attitudes which has received widespread approval nationwide and is included in this county's criminal justice report.

Judges themselves have been known to refer to rape as "assault with failure to please."

That attitude has never been manifested by judges sitting on Ventura County court benches, said King.

But the public's increasing awareness of the rape victims' problems arises perhaps out of indignation.

Public outcry is loud and persistent following news stories such as the outcome of a trial of three men in Boston. They were accused of blindfolding and raping three women but were acquitted because the blinded women could not prove who had done what to whom.

Despite what one judge called "farces" like this the number of women who are prepared to face the ordeal of rape's aftermath is growing.

Th femininst movement, the women's liberation quest, the increased value placed on human dignity, all are helping women to find the strength to report the crime and face interrogation, said King.

There are helping agencies when the law is not enough. Rape hotlines and counseling units exist in Isla Vista, Los Angeles, San Francisco, Berkeley and Boston for raped women to use in what used to be considered a shameful hour of need.

Physical degradation is only a part of it. The emotional suffering of the raped woman is deep and long-lasting. In-depth follow-up counseling should be available but usually isn't.

Instead the rape victim's story is met sometimes with smirks, disbelief and ordinarily the question, "Couldn't you have fought him off?"

Could Debbie?

She was the girl, alone in her beach apartment and surprised by the ski-masked intruder.

"Even before he took the mask off—he wanted me to see his face while he had intercourse with me—I knew he was sick and besides the gun was always right there," she told police.

She is sure she saved her life by allowing him to do what he wanted to do.

"He left after he raped me the second time only because I played it cool and made him think I'd never tell the police," she said.

She did go to the police and was interviewed by Detective Ida Spellman, a veteran of the rape investigation detail. Spellman said, "The girl is alive because she did what she was told to do."

Debbie has her master's degree in English from the University of Minnesota. She came to California hoping to get a teaching job. When she found none, she went to work as a cocktail waitress at the Holiday Inn. Pretty, with a great figure and personality to match, she soon was a popular member of her beach set. But the man who raped her apparently had never seen her before. Police theorize that he may have learned a woman lived alone at the beach address through casual conversation with Debbie's neighbor.

She came home early from work that night because she had the flu. She was lying on her bed watching television when the man appeared.

Her account of the rape was intelligent cohesive, especially cohesive. It hung together so well that Detective Spellman said she had no doubt it was a bona fide rape.

It is not always that easy, said the detective, to believe every woman who cries rape.

"A woman has a fight with her boy friend and then out of vindictiveness sometimes files a rape report," she said.

Another policeman reported in the county study "So this married woman is out drinking it up someplace and she gets scored. So it's six o'clock in the morning and she can't go home 'cause her husband's going to be mad. So she says she's been raped."

Law officers skepticism may be understandable, especially if the woman is known to drink too much, to be promiscuous, or has a prior arrest record, the VCCJBB study reports.

Debbie was believable and helped police in the investigation which followed. Her assailant later that same week terrorized a Ventura woman who answered a knock at her posh apartment door and found him standing there, a gun in his hand.

She fell to the floor screaming bloodcurdling screams which alerted everybody within hearing. He fled but was arrested running nude through the streets of Santa Paula a few nights later. He had raped a teen-ager in her home. He ran from the house when her parents returned just as he completed the act. He was identified in a lineup by both women and the child. Dale Werdin, 21, was convicted in April 1973 on two counts of forcible rape, was deemed to be a mentally disordered sex offender, and sent to Atascadero State Hospital for treatment and incarceration.

Convicted, too, was the rapist of two little girls, aged 10 and 11, raped in a park near their home. Robert Cruz McLain held a gun in one hand and a knife in the other when he accosted the youngsters. Deputy District Attorney Peter Kossoris said they are alive only because they submitted.

A 67-year-old woman was pistol-whipped and raped in the house she shares with her grown children. Police still seek her attacker. The case is similar to the still open file on an 91-year-old Ventura woman, raped and murdered.

There is no typical rape victim. Many of them are young, under 25, many of them are waitresses, barmaids or nurses whose working hours are not the ordinary 9 to 5 daytime stint. More than 77 per cent of them are "clean"—have had no police record. About 22 per cent had an arrest record, 7 per cent of them for drug charges. Only 30 per cent were attacked by a man they had never seen before.

Sometimes a rape victim learns that she will be treated like the guilty party, that she will have to prove her innocence beyond a reasonable doubt. Her sex life from the time of her first kiss will become an open book if the case goes to court. Her attacker's past, including prior arrests and/or convictions, is protected, however, by law.

"Every woman is potential rape victim," said Detective Spellman. "It makes no difference if she's only 11, if she's 91, if she dresses provocatively, if she's got a good figure, if she has no figure. Even the most pristine, pure-looking girl can be the kind that sets a guy off. One convicted rapist said he got his kicks from the look of astonishment on a child's face when he undressed her and touched her."

The Rapist: Sick or Sinner, He's Undiscernable in a Crowd—II

(By Margaret McKean)

(Rape is the fastest-growing crime in Ventura County and in the nation. Its incidence has increased 1,300 per cent in this county in the past 13 years. Public awareness has grown more slowly but as it has grown, so has the public's indignation about the crime and its aftermath—Editors.)

What does a rapist look like?

See one in court and he looks a lot like the guy waiting to pay a traffic ticket.

"He's not at all the dirty-old-man looking type," said Detective Ida Spellman, Ventura Police Department.

The public's image of a rapist—strong, forceful, hostile, aggressive—is so often wrong that it is easy to understand how women can be fooled tragically by appearance.

A mild, easy going, unassuming man of average build is as likely to be a rapist as the man who looks menacing.

"It's the good-looking Joe College-type sometimes," said Spellman. "The kind who looks like he could easily find a cooperative sex partner and wouldn't need to resort to rape."

He's the kind who said during interrogation that "Sex is no fun unless I have to fight for it."

Despite the court-proved fact that appearances are deceiving, appearance still figures heavily in some litigation.

"If the victim is young and attractive, then it's more helpful to the prosecution if there are young, attractive women on the jury, or that it be an all-male jury," said Peter Kossoris, Ventura County deputy district attorney who often presents the people's case against an accused rapist.

A composite description of 106 men accused of rape in Ventura County in 1972 is that "he is white, but black men are considered most likely to become suspect, he is just over 23 years old, is single and has a prior arrest record." The word picture comes from the prodigious 120-page study authorized by Mal King, executive director Ventura County of the Criminal Justice Planning Board (VCCJPB). In many cases, the accused had an active, marital sex life.

Calvin Reed is white, 5 feet 5 inches tall, weighs 144 pounds, has an ascetic looking face and evidenced a curiously intellectual expression when he was arrested.

He was convicted in 1964, when he was 22, of twice raping and murdering Joyce Carranza, a 12-year-old Santa Paula girl.

He said he choked her three times, pounded her head with a log, raped her the second time when he was not even sure she was alive, and made sure her face was submerged in water when he left her body in a Santa Paula irrigation ditch.

He was arrested eight days later after a Santa Paula woman told authorities she had seen him visiting the girl's grave, and an investigation ensued.

He was sentenced to life imprisonment at Ohio state prison in October 1964. He had a 16-year-old wife, mother of two children and pregnant when her husband was arrested. Both Reed and his wife told police that sex was an important part of their lives and that intercourse was an every night affair.

Earnest Aikens is a 6 foot 2 inch tall Negro who was 20 years old when he was convicted in 1965 of raping and murdering two Ventura women, Kathleen Dood and Mary Eaton. The crimes, his trial and death sentence are among the county's most widely remembered shockers. Aikens has occupied a cell on San Quentin's death row for seven years, his life spared by the Supreme Court's ruling disallowing the death penalty.

It was brought out in court testimony that Aikens knew Mrs. Eaton as a neighbor and mother of two children just a few years younger than himself. He had been a visitor to the Eaton home and yard and apparently knew the family well enough so that when he stopped to borrow some tools when Mrs. Eaton was home alone, she was not frightened. The tragically-fated 60-year-old homemaker apparently never imagined Aiken would be her rapist and murderer.

In 45 per cent of the rapes committed in Ventura County, the rapist was known to the victim. The criminal justice study reports that in nearly half the cases the rapist was an acquaintance, a neighbor, a boyfriend or a relative of the victim.

He was somebody accepted by and well-known to the victim.

Authorities agree that many rape cases involving a relative—stepfather grandfather, uncle, father, or brother—are never reported to the police. Families, frightened of the consequences to both parties, figure they will handle it themselves. In some cases of repeated rape of a child, mothers fear their boyfriends will leave them unless they provide their daughters for sexual variety, said detective Spellman. Some men are spared arrest and possible conviction because small girls are warned they must not even let a school nurse examine them, a schoolteacher stated.

Violence is a part of every rape, said Kossoris and King.

But here again the appearance of the victim figures heavily in the accusation, trial and possible conviction of a suspected rapist.

As one attorney in a television movie stated, "I'll never prosecute a guy again unless his victim is a 90-year-old nun with four stab wounds."

He might be persuaded to prosecute the rapist-murderer of a 91-year-old Ventura woman dead in her home on Feb. 17, 1972. That rapist-murderer is still at large.

Four months after those crimes were committed a 60-year-old woman was raped and pistol-whipped in the basement apartment of a Ventura home she shares with her married children. She survived. Police still search for her attacker.

It would seem these women's cases dispel the attitude that "rape doesn't happen to nice people" or that "rape is only an attitude," or as one eastern judge put it, "rape is felonious gallantry."

Jay Eddy Greenberg, 26, once accused of being the man nicknamed by the police as the "Pierpont rapist" and committed two years ago to Atascadero State Hospital for treatment as a mentally disordered sex offender, looks like the kind of a man a woman would notice in any gathering.

The description "tall, dark and handsome" could have been coined for him, said one woman, who described him further as personable, articulate and the type who would never seem to have any trouble finding a cooperative date.

Although he was indicted by a grand jury on six counts of rape and two of forbide sex perversion, the only charge of which he was convicted was one to which he plead guilty—that of attempting an act of sexual perversion with a 19-year-old woman.

Rape is most common during weekends, and during the hours from 8 p.m. to 2 a.m. Fifty per cent of the time, it is accomplished behind closed doors (usually the victim's home), and 22 per cent of the time in fields, groves, beaches or streets, and perhaps 13 per cent of the time in vehicles.

Statistics on the number of rape committed in vehicles are small indication of its incidence, the CJPB study reports.

Some hitch-hikers and runaway girls may have been forced into unlawful intercourse but the accusation is seldom leveled at the driver of that van who stopped to pick up the hitch-hiker or runaway, the CJPB study reports.

The mobility of people today figures heavily in the clearance or arrest record of suspected rapists. Unless law enforcement has strong evidence of a bona fide rape, the effort to track down a man who reportedly committed a rape six months ago in another state is not going to be as vigorous as the rape reportedly committed last night locally.

It is not in the interest of police to "work" cases which are unlikely to result in prosecution and/or conviction, the CJPB study states.

"With runaways, the immediate, stronger concerns have to be returning her to her home, the possibility of venereal disease or pregnancy, and her adjustment to some authority," said detective Spellman.

What constitutes a good or bad case as far as police are concerned?

"It's certainly not the case where the woman comes in during May to say she got raped and pregnant in January," she added.

MYTHS COMPOUND INJURY DONE TO RAPE VICTIMS—III

(By Margaret McKean)

The myths surrounding rape are ancient, some of them ludicrous, but many still accepted.

Among them are:

Rape is impossible.

All women have a secret desire to be raped.

Men's sex drive is so hard to control that women ought not to provoke it with their dress or demeanor.

Rape is merely "boys being boys" to excess.

Women who scream "Rape!" actually enjoyed it while it was happening.

One woman, who volunteered an interview, said she was confronted with all these myths when she told police, her friends, and people in the medical and legal professions about what she considered the "most traumatic experience of my life."

She said she was raped in her home by a man she had met at a business conference. He came to her door on some pretext at a time he knew she would be alone. While he did not force his way in, she said he was not invited in, either.

He did not carry a gun or a knife but his strength was all the force he needed, she said. She was bruised but not beaten or bleeding.

"It would have been better if I had been. You have to look near dead to be believed, and my age, 29, was against me," she said.

She heard a doctor telling the investigating officer, "Well, there's no doubt there was a sexual encounter, but whether it was rape or not is her word against his."

Her lawyer suggested that since a court trial would publicize an affair she'd had a few years earlier it would be better to drop the case.

Her friends said "Why go through that humiliation?" And several asked smirkingly, "What was it really like?"

As soon as she dropped the case, her rapist telephoned her to offer to buy her a drink in congratulations for handling the "episode" with "some maturity." She refused.

So her case is not among those counted in the 1,300 per cent increase in the crime of rape in Ventura County during the past 13 years.

The question is asked, of course, if the statistics represent increased activity of criminals or of the police.

"Crime rates tell us about societal reactions and a lot about the professionalism of law enforcement," states the rape report authorized by Mal King, executive director (CJPB), Ventura region. The 120-page study of the Criminal Justice Planning Board gives this county a head start over many other areas in trying to deal with the problems of the raped while protecting the rights of the accused, said King.

The more professional police departments record the highest number of rapes, the study shows. The Ventura County Sheriff's Department—labeled "highly professional" by the analysts—recorded 214 rapes in five years. The least professional departments—named as the Ojai and Fillmore departments by the analysts—recorded only two and one rape cases respectively in eight years.

Sometimes it's the way the rape is reported which decides whether or not the law will pursue the alleged rapist.

One police officer said, "If a girl comes in, hand on hip, and says 'Hey, fella, I was just raped,' she may not be taken too seriously."

In what law enforcement considers a true case of rape, the victim must show injury, signs of struggle. Other implicit criteria are the woman's sexual reputation, her drinking habits or as one detective said, "We have to try to determine if she's been trying to give it away or sell it."

One woman withdrew the complaint when a detective asked "What about the night you were so drunk that the bartender kicked you out? She was amazed that I knew these things and wasn't surprised when I said 'You really want to go on with your rape story?' "

It becomes a negotiation process, with unequal distribution of power, and a questioning known in police vernacular as "working the victim over," the CJPB analysis states.

If the case goes to court, the complainant can expect that her life will become an open book for judge or jury, but that the prior arrest or conviction record of the accused will be a closed book. She must prove her innocence beyond a reasonable doubt.

That famous inequity may be equalized in California if Senate Bill 1678 is approved by the legislature. It would make evidence of specific instances of the victim's sexual contacts with persons, other than the defendant, inadmissible in rape or unlawful intercourse cases.

It would be one revision of the rules governing rape cases. Those rules are 300 years old, said David Minier, Santa Barbara County District Attorney, when he asked Friday that Assemblyman W. Don MacGillivray introduce bills "to correct the degrading and unjust treatment of rape victims at trial."

"Public opinion has finally caught up with the deplorable status of today's rape victim. This bill should have easy passage," said Minier.

The 300-year-old rules are based on a commentary by Sir Matthew Hale who said in 1678 in his "pleas to the crown" that judges must instruct jurors to view the victim's testimony with caution. The American Civil

Liberties Union has just completed a long study on rape laws and is urging revision, said attorney Jack Childress.

It is a puzzlement as to why, when imprisoned men are forced into sex acts by other men they are considered tragic victims, but women forced into an act are not always considered tragic, said Ida Spellman, Ventura police detective.

Yet some supposed rape victims tell the police unbelievable stories.

"This woman insisted that she was grabbed off a street corner and pulled into a car by a man who never got out from behind the wheel," one detective stated for the CJPB report. "I had to take her outside, get in my car, and prove to her it couldn't have happened that way."

Police are not anxious to work on cases which will be "laughed out of court," Detective Spellman said.

Neither are doctors anxious to work on rape cases, the CJPB report states. "It's unpleasant, it may mean court appearances for the doctor. One physician in Ventura does rape examinations as a personal favor to policemen he knows, but when that doctor's out of town, I can't even get the doctor covering for him to talk to me," a policeman stated.

The mother of a raped 11-year-old and the child had to wait three hours in the emergency room of County General Hospital, Ventura, before her family doctor would come to examine the youngster, she said. He told her during her repeated phone calls that it was a matter for "the doctor on duty."

If King has his way, there will be better correlation of all jurisdictions which handle rape, its victims, its accused.

The responsibility rests though on government, King said, to eliminate some of the trauma from rape's aftermath without sacrificing our system of justice.

The statement of one bewildered rape victim might sum up the dilemma:

"Did they (the police, the court personnel) actually think I would consent to lying flat on my back in a dark alley on a rainy January night?"

Epilog: Women Can Protect Themselves

(By Margaret McKean)

Every woman is a potential rape victim, says policemen. But there are ways every woman can protect herself.

Ida Spellman, Ventura police detective, lists some of the ways women can guard against the possibility.

At home:

Don't advertise that you live alone by using your given name in the telephone book, on the mailbox or door. "M. L. Larson" does not indicate that the telephone, mailbox and door belong to Mary Lou. Use initials.

Draw the shades after dark.

Don't undress in front of a window.

Change the locks when renting an apartment or home which has been formerly occupied.

Install a peephole in the door, and use it.

Never open the door unless you know who's there. Demand identification.

Don't fall for the "Can I use your phone?" line.

Report anonymous, annoying or obscene telephone calls to the police.

If you should receive an obscene phone call, hang up immediately. Deny the caller the reaction he wants. Hang up and call the police.

If you suspect, upon returning home, that someone has been in your home or is in your home, don't go in. "Women have a sixth sense which warns them sometimes, but too often they ignore it," said Detective Spellman.

While walking:

Women's clothes, dangling purse, and inviting looks can be a come-on. Dress somewhat conservatively, hold your purse close to you and look like you're going somewhere.

Stay away from curbs, driveways, alleys, bushes—any potential hiding place.

Stay near people, if possible.

Don't accept rides from strangers.

If followed by someone in a car, change direction. Turn completely around, begin walking the other way, and be obvious about jotting down the license number.

If followed by a pedestrian, walk toward a lighted area, even if you must change direction.

While driving:

Keep car doors locked.

Keep your purse out of sight.

If you believe that you are being menaced at an intersection where you must stop for a red light, keep the car in gear, blow the horn, attract attention, and drive to a lighted area.

Never stop or slow down for a hitchhiker.

Never stop to help anyone who appears to be having car trouble. Report it as soon as you can to some authority.

If you have car trouble, raise the hood, get back in your car, lock it, and if strangers stop to ask if they can help, tell them they can by reporting your problem to the California Highway Patrol or local police.

If you are followed by another car, don't go home and drive into a dark driveway. Drive to a fire station, the police department or an all-night restaurant.

While parking your car:

If you must carry valuable items with you, like cameras and luggage, lock them in the trunk of your car before you leave home. Do not wait until you get to a parking lot and then very obviously place the valuables in the car trunk. You may be watched, said Detective Spellman.

If you must leave your car at a service station or garage for repair, leave only the key to the ignition, and not your house or apartment keys.

Never leave keys in the ignition, even if you're going to be in the grocery store or at a friend's house for only a minute.

If you are physically attacked:

Scream, scream, scream, make a scene, swing your purse, carry on loudly, said Detective Spellman, even if it seems like you and your attacker are miles from anyone's hearing.

Never, never fight back if your attacker is armed. While sexual attack is degrading and traumatic, it is not as final as murder, the detective said.

Sometimes an attacker can be dissuaded if the woman tells him she is pregnant, has syphilis or cancer. This ploy has been effective, and so have other stalling tactics women may devise, said Detective Spellman.

Don't try to be a judo expert, unless you hold the black belt and are not immobilized by terror.

And, finally, if you are attacked, either verbally or physically, call the police immediately.

"Women tell their neighbor, their boss, their boy friend, their brother-in-law, and 72 hours later, somebody gets around to telling the police. We want to know immediately," said the woman detective.

Because she is a woman, Detective Spellman handles many rape investigations for Ventura Police Department and is considered expert and highly professional among police officers.

"She is eminently qualified," said Police Chief Richard Baugh, "not only because she is a woman, but because of her training and what she learned at the FBI Academy from where she just returned."

The public, the police, and the judicial system must take a "new, fresh look at such crimes as child abuse, child molest and rape," the chief stated.

Detective Spellman is available to discuss these crimes at meetings of both men's and women's groups, he said, and arrangements for her appearance as a speaker may be made by telephoning the department, 643-5411.

FREEDOMS FOUNDATION AWARD TO IOWAN

Mr. CLARK. Mr. President, every year the Freedoms Foundation of Valley Forge, Pa., presents awards to Americans who have distinguished themselves in patriotic or citizenship-developing activities.

I will present one of the Foundation's 1973 awards to George T. Nickolas of Davenport, Iowa, next month. This is the third time Mr. Nickolas has been so honored by the Freedoms Foundation. He won previous citations in 1967 and 1969.

Mr. Nickolas' latest award is for a letter to the editor of the Rock Island, Ill., Argus. Written in observance of Constitution Day, September 17, the article explains what George Nickolas thinks is right about America. He writes, for example, about our right to vote freely, to do the type of work we choose, to have a prompt trial by jury if accused of a crime, to educate ourselves and our children in free schools, and to worship in the church of our choice. "What is needed is more people thinking and talking about what is right about America," he wrote.

Mr. Nickolas, a Navy veteran who served in Korea, is active in the Disabled American Veterans, and he is a member of the Iowa Governor's Commission for Employment of the Handicapped. Mr. President, I ask unanimous consent that Mr. Nickolas' letter be printed in full in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

An Exercise of a Right

(By George T. Nickolas)

People keep trying to find what is wrong with the United States of America. It is easy to find fault with anything, if you look hard enough. There are few things in this world which are perfect in all respects. What is needed is more people thinking and talking about what is RIGHT with America.

September 17th is the day on which we, as Americans, celebrate Constitution Day. This day commemorates the Constitution which extends to us, as citizens, many rights and privileges. It is a day for American citizens to consider that no other country in the world allows their citizens the rights, privileges, and, yes, the freedoms that exist in the United States of America.

Just think for a moment—you have the right to think as your conscience permits. You can speak or even write as you want as long as you do not interfere with the rights of another individual. You have the right to vote in free public elections and thereby, select public officials who will represent you and your interests in city, county, state and national affairs. You have the right to select the type of work or profession to which your education, talents, experience and physical ability will permit you to successfully pursue. You have the right to improve your station-in-life by education, type of work and social activities. If you should be accused of a crime, you have the right to legal counsel and a prompt trial by jury. You have the right to seek justice in a court of law, where you have equal rights with other citizens, to recover your property or seek equity when you have been wronged. You have the privilege of sharing in the benefits of the many natural resources of your country. You have the right to educate yourself and your children in free schools. You have the right to worship in any church of your choice or not to worship at all. And, to sum it all up, you have the right to "Life, Liberty, and the Pursuit of your Happiness".

These are a few of the things which are RIGHT with America. I challenge anyone to find another country which permits every citizen equal rights. For the right and privilege of being an American citizen *it is the duty of every citizen to love the United States of America;* to support and adhere to its Constitution and laws; to respect and honor its flag; and if necessary, to defend it against all of its enemies from without and within in order to preserve the benefits of our United States of America for future generations.

NATIONAL SUMMER YOUTH SPORTS PROGRAM

Mr. TUNNEY. Mr. President, on Thursday, May 9, I introduced the National Summer Youth Sports Program (S. 3480). Inadvertently, the entire bill was not printed in the Record, I request unanimous consent that the bill appear in its entirety in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3480

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Summer Youth Sports Program Act of 1974".

STATEMENT OF PURPOSE

Sec. 2. The Congress finds that disadvantaged youth benefit from participation in a program concentrated in the summer months, with an opportunity for continued activities throughout the year, which provides sports instruction and competition in a context of high quality facilities and supervision and includes instruction concerning employment and study and career opportunities, regular association with college instructors and athletes and exposure to college and university campuses. Such a program creates an opportunity to help equip these youth with new skills, enhanced appreciation of their abilities and a broader perspective on the educational and employment opportunities available to them. The Congress further finds that such a program has been successfully conducted in recent years by the National Collegiate Athletic Association and various participating colleges and universities in cooperation with the President's Council on Physical Fitness and Sports, that the combination of Federal funds and college resources offers leaders in education and athletics an opportunity and a challenge to perform a needed service which they are uniquely qualified to provide, and that this program should be authorized on a permanent basis.

PROGRAM AUTHORIZED

Sec. 3. (a)(1) The Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") shall make grants or enter into contracts for the conduct of an annual national summer youth sports program concentrated in the summer months, with opportunity for continued activities throughout the year, designed to offer disadvantaged youth living in areas of concentrated poverty an opportunity to receive educational instruction, sports instruction, and health and nutritional services, and to participate in educational programs and sports competitions.

(2) No assistance may be provided under this section unless satisfactory assurances are received that (A) not less than 90 per centum of the youths participating in each program to be assisted under this section are from families with incomes below the poverty level, as determined by the Secretary, and that such participating youths and other neighborhood residents, through the involvement of the appropriate community action agency or otherwise, will have maximum participation in program planning and operation, and (B) all significant segments of the low-income population of the community to be served will be served on an equitable basis in terms of participating youths and instructional and other support personnel.

(b) Programs under this Act shall be administered by the Secretary, through grants or contracts with the National Collegiate Athletic Association or any other qualified national organization of colleges and universities. Each such grant or contract shall contain provisions to assure that the program to be assisted will—

(1) expand educational opportunities for disadvantaged youths, designed to provide an opportunity to engage in competitive sports and benefit from sports skills instruction;

(2) help young people learn good health practices and become better citizens by utilizing the personnel and facilities of higher education;

(3) enable the contractor and institutions of higher education located conveniently to areas of concentrated poverty and their personnel to participate more fully in community life and in the solution of community problems;

(4) provide a combination of employment and on-the-job training in sports instruction and administration; and

(5) serve major metropolitan centers of the United States as well as other areas, within the limits of program resources.

Local projects under any such program will be conducted under approved contracts between the principal contractor or grantee and selected institutions of higher education qualified to carry out a program under this Act.

PAYMENTS

Sec. 4. (a) Except where the Secretary determines that unusual circumstances make a larger percentage necessary to effectuate the purposes of this Act, a contract or grant under this Act with respect to any program may not provide for payment of more than 80 per centum of the direct costs incurred in carrying out the total program. The non-Federal share may be cash or in-kind contributions.

(b) Payments under this Act may be made in advance or by way of reimbursement, and in such installments and on such conditions as the Secretary deems necessary to carry out the purposes of this Act.

LIMITATION ON ADMINISTRATIVE EXPENSES

Sec. 5. (a) No principal grantee or contractor under this Act may charge any fee for general and administrative expenses of supervising a program assisted under this Act. Each such grantee or contractor shall be responsible for financing all of its own expenses from sources other than this Act.

(b) No institution of higher education with which the principal grantee or contractor enters into a contract under this Act may charge any fee for general and administrative expenses incurred in operating a program assisted under this Act.

AUTHORIZATION OF APPROPRIATIONS

Sec. 6. There is authorized to be appropriated $5,000,000 for each of the fiscal years ending June 30, 1975, June 30, 1976, and June 30, 1977.

REPEALER

Sec. 7. Effective at the close of June 30, 1974, or the date of enactment of this Act, whichever occurs later, section 227 of the Economic Opportunity Act of 1964 (42 U.S.C. 2814) is repealed.

FAMINE AND MALNUTRITION FOR WORLD'S CHILDREN

Mr. HUMPHREY. Mr. President, the New York Times yesterday included an article. "Peril to 400 Million Is Seen by UNICEF," which gave further evidence of the world food shortage.

Mr. Henry Labouisse, Executive Director of UNICEF, warned that 400 million to 500 million children faced malnutrition or even starvation. For children in the poorest and most populated countries, "living conditions may well slip from the barely tolerable to the desperate."

Mr. President, this is one more word of warning on the food peril we face. I ask unanimous consent that this informative article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Peril to 400 Million Is Seen by UNICEF

The threat of severe malnutrition—or even starvation—faces 400 million to 500 million children in poorer countries, Henry R. Labouisse, the executive director of the United Nations Children's Fund, warned today.

Mr. Labouisse, speaking at the opening of a UNICEF board meeting here, said that the situation was sufficiently grave for the 30 board members to consider declaring an emergency—which would be something new for the 27-year-old agency.

Mr. Labouisse said that any given time there are some 10 million children in the world who are suffering from severe malnutrition and in danger of dying, and added that this number was bound to rise in times of greater shortages. This, he said, has come to be accepted as a fact of life.

But even this "shameful stability," he said, is now threatened by the acute economic difficulties that many countries are now experiencing.

TOLERABLE TO DESPERATE

"Now," he said, "with the costs of food and notably of fertilizer rising sharply, there is the serious threat of an increasing number of recognized famines and, more generally, of a widespread deterioration of nutrition among young children of lower-income families."

For children in the poorest and most populated countries, he said, in an apparent reference to Southern Asia and Africa, "living conditions may well slip from the barely tolerable to the desperate."

The UNICEF board is certain to approve a $137.9-million assistance program for which $57-million is still being sought from contributors. Mr. Labouisse also said he would be seeking $40-million to $50-million a year more for the next few years to help the Asian and African countries that are facing new economic stress. The somber tone of his report and speech to the board were echoed by a number of representatives.

Michael N. Scelsi, the United States member, emphasized that the critical food situation required a realistic family-planning program throughout the world, as "a major, overwhelming concern, priority and activity of UNICEF and us all."

Mr. Scelsi also approved Mr. Labouisse's recommendation that future aid programs in oil-producing countries and some others with new affluence should require the governments of those countries to shoulder the costs, thereby freeing money for other activities.

FOLLOW-UPS SUGGESTED

The board did not act immediately on Mr. Labouisse's suggestion that it declare that an emergency exists, but it was not expected to be opposed.

The executive director suggested three follow-up moves to the declaration: an intensified reporting effort on the condition of children in the most affected countries, with the help of private relief organizations; stepped-up contributions for aid to children, which donors could give through the United Nations or directly; a conference in the fall at which governments would be asked to make two contributions, one for long-range UNICEF planning, one for emergency assistance over the next few years.

WHEN BABIES GO HUNGRY

Mr. McGOVERN. Mr. President, as chairman of the Senate Select Committee on Nutrition and Human Needs, I have had occasion during the last several months to hear extensive testimony covering the WIC—women, infants, and children—program.

This program is designed as a humane and economical approach to health care. We know that too many low-income mothers and infants receive poor nutrition, and that the result is a disproportionate number of them suffer from high infant mortality rates, high maternal mortality rates, plus increased chances for mental retardation and learning difficulties.

We also know that diet supplementation can help prevent these kinds of social and personal tragedies.

As the WIC program has grown, I have watched an outpouring of support for it, from across the Nation. Both professionals and nonprofessionals have high hopes for its success and expansion.

But WIC's early months have not been without hardship.

The following article, entitled "When Babies Go Hungry," by Joseph Bell, appears in the June issue of Good Housekeeping.

It, I believe, accurately describes both the hopes and the frustrations of this very valuable program.

I ask for unanimous consent that the attached article be printed in its entirety in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHEN BABIES GO HUNGARY

"Although this report relates primarily to the malnourishment of impoverished mothers and the babies they bear, it is important to remember that the problem is equally grave for any women who fails to feed herself sensibly during pregnancy and to provide good nutrition for her infant child. A great number of studies have shown that many Americans—even those at middle and upper income levels—have dangerously inadequate diets. Sound nourishment is essential to the growth and health and happiness of every member of our society. Let's make sure it is available to all."

Hubert H. Humphrey, Senator from Minnesota:

If $60 could save a baby from mental retardation, would you pay it?

Of course you would. And in 1972, you did—or at least committed yourself to paying it by way of your elected representatives in Washington. At that time Congress appropriated $40 million in an attempt to salvage some half a million high-risk newborn babies and rescue many of them from the tragedy of lifetime dependency, if not actual hospitalization.

The program, which went by the acronym of WIC (Women, Infants and Children) hinged on a vastly important scientific discovery: that there is a direct cause-and-effect link between diet and mental retardation, that malnutrition can actually stunt the human brain. Science has also learned that the damage is done way early in life, during the last months in the womb and the crucial first year of life when brain cells are grown. If a baby hasn't developed a full complement of cells by the time he's 18 months old, it is known now that he never will. Ill-nourished children have been found to have 40 percent fewer cells than those who've been well fed.

What all this means is that, although mental retardation is not curable, it *is* preventable—at least in a substantial number of cases. And what's needed to prevent it is not any wonder drug or magic bullet, but simply getting the right food at the right time to mothers and infants who might not otherwise get it.

Congress had all this in mind when it launched its war against mental retardation. Although its decision created scarcely a ripple among the public at large ($40 million is, after all, not even a drop in the Federal budget and produced no headlines), it was greeted with cheers from the experts in a dozen fields. Now, at last, something was being done to break the vicious cycle of poverty and social problems, and to check, at very little cost, what scientists saw as a serious threat to the brainpower of future Americans.

Today those same experts are not cheering. For 18 months the WIC program was bogged down in the bureaucratic snarls and confusion of post-Watergate Washington. Now, although some funds are finally being disbursed, no one agrees on how much is left. And, at this writing, nothing has been done about renewing the appropriation. As of now, unless all of us—you and your husband and your friends—bring pressure on Washington, what WIC promised may turn out to be no more than a promise.

Here, then, are the facts.

Some 26 million Americans now live below the poverty line as defined by the Social Security Administration. One out of every four children under six years of age presently lives in a home where, according to Dr. Charles Lowe of the National Institute of Child Care and Human Development, "there is not enough income to meet the costs of many of the essentials of life." Including the most essential of all: proper food.

In 1971, a subcommittee of the U.S. Senate began looking into the relationship between poverty and mental retardation. The hearings were triggered by a remarkable four-year investigation by a team of doctors and researchers at St. Jude's Children's Research Hospital in Memphis, Tenn. Through a carefully chronicled supplemental feeding program in a low-income black neighborhood of Memphis, the St. Jude's team proved that the height, weight and intelligence distribution of these terribly poor children could be raised significantly through the proper practice of maternal and infant nutrition. A number of other medical experts corroborated the St. Jude findings.

What this adds up to for you and me is that the billions of dollars we now spend to care for people who cannot care for themselves might be materially reduced if the problem were attacked at its source. What it would cost, according to the experts, would be about $20 for the right kind of supplementary food for each prospective mother during her pregnancy and about twice that amount for an infant during his first 18 months of life. As Senator Hubert Humphrey pointed out: "The *total* cost of this kind of supplemental feeding program would be less to a community than the expense of caring for only a few retarded infants over their lifetimes."

So positive action—for once—seemed clearly defined: The job was to see to it that every prospective mother in the United States unable to provide nutrition for herself and her unborn baby be given proper food. There were no grinding social or political issues involved. The need had been demonstrated. The means were at hand. The cost was relatively small. And the benefits—to mothers, infants, and every American taxpayer—were extraordinary.

Faced with such simple imperatives, even Congress can move quickly. In mid-1972, a Special Supplemental Food Program (later to be known as WIC) was passed. It provided $40 million over the next two years to feed an estimated half million pregnant women and infants in low-income areas. Results were to be tabulated and carefully studied to determine how effectively the program was working.

Nutritionists and pediatricians in thousands of community public health centers were elated. Up to that point, all they had been able to offer had been advice—which the poor people they were counseling often couldn't afford to follow. Now they could give food, too. So they waited eagerly for the U.S. Department of Agriculture—which had been charged with administering the WIC program—to gear up and get started.

And nothing happened. Absolutely nothing—no application forms, no advisories, no food. After a year of that, interested citizens brought a class-action lawsuit against the Agriculture Department to force it to put the appropriated funds to work. The judge didn't mince words in his decision; he gave the USDA one month to draw up the regulations for WIC and request applications for funds.

At the same time, the outraged Senate subcommittee reconvened its hearings and blistered the USDA representatives summoned before it. When the USDA people insisted they understood WIC's job was one of medical evaluation, the Senators stressed again their intent that the $40 million should be used immediately to feed hungry babies and expectant mothers.

The applications for supplementary feeding funds that poured in from all over the nation after the court decision were tangled for months in bureaucratic red tape. First approvals were granted late in 1973, and a month later, a few of the programs finally got under way—almost two years after the money had been appropriated.

The first statewide WIC operation was in Arizona, where the need was urgent and the machinery had long been readied by a dynamic young state nutrition director with snapping eyes and a no-nonsense approach named Anita Yanochik.

One of Anita's assistants—a tall, attractive graduate of the University of California named Carol Eichelberger, took me in hand when GH sent me to Arizona to see how the WIC program worked. For her demonstration, Carol chose the desert town of Florence, a place of adobe and brick and sand and dust where men wear boots and drive pickup trucks, where water makes acrid soil productive, and billboards advertise rodent control. The population is a broad mix of native-born whites, blacks and Mexican-Americans.

On that morning there was a birth control clinic at the health center. Later the WIC mothers began arriving—a stream of pregnant women and new mothers applying for food vouchers for the first time or picking up new ones.

I listened as field nutrition worker Sally Lewis—effervescent and friendly—interviewed two WIC applicants. The first was Maria, 23, Mexican-American, with huge, luminous brown eyes, who was married to an unemployed agricultural worker. She had two small children with her and was expecting her third in five months. The second, Billie Sue, was American-born, heavy-set, 24. She had recently married a widower ranch hand with 12 children. She had three small children in tow and was visibly pregnant.

Sally checked their blood for anemia and took detailed personal information. She learned that Maria and her husband had recently moved from her parents' home into their own apartment, but that then her husband had been unexpectedly laid off. Although he hoped to be working soon, there was no income meanwhile and Maria had to use what cash they had to buy food for the family rather than the special foods she had been told she needed. Billie Sue was scarcely better off. Her husband was earning less than $500 per month, from which she had to feed the ten children still at home. he, too, had to think of stretching food for the family rather than of special foods for herself and her unborn child.

Both women were obviously within the scope of the WIC program, and Sally Lewis provided them with food vouchers on the spot. The voucher looks like a blank check, but on the bottom of the form is a list of vital foods—iron-fortified formula, fruit juices, whole, skimmed or low-fat fluid milk, nonfat dry milk ("Some of these people," explained Sally, "don't have refrigerators"), and so on. The nutritionist prescribes an individual diet for each mother and infant, then indicates it on the form. The recipient can exchange the voucher in any food store for the precise nutrition she needs—and for nothing else.

Several dozen expectant mothers had been provided with food vouchers by late afternoon. When the lines of patients began to dwindle, the staff—two public health nurses and three nutritionists—had a few minutes to breathe and talk to me. From them I learned about some of the people WIC had come along too late to help. Fifteen-year-old Brenda, for example, who had been abandoned by her father and beaten by her stepfather and made pregnant by a schoolmate from a wealthy family that refused help when they found they were not legally obligated. Brenda had shown up on Sally Lewis' doorstep one night, huddled against the cold, and eight months pregnant. Sally had taken her in and done what she could for her—and later for her baby. The child, who is now two and being raised by Brenda's grandmother, already showns signs of subnormal intelligence. WIC might have saved her.

There were dozens of similar stories, told with a kind of compassionate detachment. Cases of mental retardation are tragically familiar to the people who work with the poor. (A recent seminar of the American Medical Association reported that "three-fourths of all retarded children come from impoverished families; and seven percent of all children from poverty appear mentally retarded. Thus countless children become handicapped simply because they were born to poor families.")

The distance between WIC field workers in Florence, Ariz., and the Washington bureaucrats who delayed WIC for so long is more than geographic. Community nutritionists take violent exception, for example, to the Department of Agriculture's contention that WIC wastefully duplicates the two supplementary feeding programs already in existence: food stamps and commodity distribution. Sally Lewis told me: "Buying food stamps requires accumulating money once or twice a month. It may seem like a pittance to you and me, but for a lot of these people it is simply impossible. They literally live from day-to-day and from hand-to-mouth."

Another shortcoming of the food-stamp program is that millions of Americans in desperate need do not apply for stamps at all because of ignorance, fear, language barriers, lack of transportations, helplessness—or pride. (One young mother in Florence told me sadly how her husband had hidden in humiliation outside when she had been forced to cash food stamps at their local grocery.)

But, according to WIC staff members, the most serious shortcoming of both the food-stamp and commodity programs as far as expectant mothers and babies are concerned is the dubious nutritional value of the food the poor will obtain. Under the commodity program, a person can be given only what food is in surplus and therefore available. Under the food-stamp system, a woman may select whatever food she wants, but her own requirements must be weighed against a lot of competing family needs. By contrast, WIC specifies foods required for each mother and infant and provides redeemable vouchers free for those foods alone. The mental and physical lifeline it offers is not available except to mothers and new babies.

Each WIC center must be approved by the Department of Agriculture before it can begin to serve the poor. Such approval has not been easy to come by. I visited a clinic in East Los Angeles—an area where there had been bloody riots a few years ago—that had been turned down for WIC funds. The nutritionists there—headed by a dark-haired, green-eyed, intensely dedicated young woman name Kathleen Kerrigan—are confused and angry over their rejection, and they plan to reapply. Meanwhile, they continue to do the best they can by providing nutrition advice. But they are full of frustration because they know there is WIC money to buy the food their mothers and babies need—but that it's out of their reach, mired down in Washington.

A social worker named Miryam Vierra took me to the home of an East Los Angeles mother we'll call Josephine. Josephine is 38 years old and lives in a four-room house, of sorts, with nine children and a husband who earns $400 a month and drinks a lot of beer. There is no heat in the house, which rents for $85 a month. Huge cracks around the front door and window casements let in constant drafts. Josephine has two children under two years of age, the last one born under clinic care. The East Los Angeles nutritionists know that neither Josephine nor her children are eating properly, and they try—a little helplessly—to urge her to set aside at least a portion of her tiny food budget (she feeds 11 people on $40 a week) for fresh milk, fresh vegetables, citrus fruits, lean meats and whole-grain cereals. Josephine listens and says she will. The children—who have constant colds—watch, empty-eyed and apathetic.

I found the waiting room at the East Los Angeles clinic crowded with several dozen younger Josephines, sharing a common need for prenatal and postnatal nutrition help. There was a 12-year-old child named Rosa—frightened, obese, terribly withdrawn—raped, apparently, by a man visiting her mother, and delivered to the clinic five months pregnant. And a 15-year-old named Maria, sitting patiently in line with her eight-month-old baby who is spectacularly fat, the result of eating heavy foods—flour tortillas, beans, greasy pasta—off the family table. Ms. Kerrigan shook her head in disapproval. "Overweight," she said, "can be just as indicative of poor nutrition as underweight."

All the nutritionists with whom I talked repeatedly made this distinction between hunger and malnutrition, referring to the Institute of Human Nutrition bulletin that says: "Malnutrition comes from not eating enough of the *right kind of foods*. You can eat just about anything and hunger will go away. But you have to eat the right kind of foods for malnutrition to go away."

We all know that malnutrition is not confined to the poor. The potato-chip-and-cola diet of many middle-class teen-agers can also add up to malnutrition that can be passed along to their progeny. So can the emphasis—for the sake of appearances as well as for mistaken health reasons—long put on holding down weight during pregnancy.

But even though affluent mothers are vulnerable, current research shows that malnutrition is 15 times higher among poverty mothers. As Senator Charles Percy pointed out: "Many of the well-to-do have poor dietary care in spite of their affluence. . . . So malnutrition isn't entirely a matter of dollars available. But the low-income woman has to be a very, very good shopper, while higher income people tend to get better nutritional balance simply because they have more money to spend."

And of course the problem of nutritional balance is compounded many times over for the low-income mother and her baby because they are frequently hungry as well as malnourished.

All that might have been changed by WIC, but, as we've seen, the WIC program, barely launched, is seriously threatened. The Agriculture Department has little enthusiasm for it. One USDA official told me: "The program is in the wrong place. It should have gone to Health, Education and Welfare. It deals primarily with medical evaluation, and we don't have a single medical doctor. It also involves state agencies with which we have no rapport."

Whether by design or bureaucratic reflex then, the USDA is entangling the program in skeins of red tape. And even though most of the WIC field operations didn't get under way until the spring of 1974, all of them will have to reapply for funds before the first of July. The nutritionists are furious about this time-consuming paper-pushing. But they are even more fearful that after they reapply, there won't be enough money to continue the program so painfully started.

One angry state nutritionist told me: "The need is urgent, and it would be criminal to let this program die now that we've finally got it under way."

The danger is imminent. There is a good deal of confusion between the USDA and the Senate Nutrition Committee as to how much money is still available to run WIC. About the only thing certain is that funds are committed for two dozen special medical evaluation programs of WIC, but that unless Congress acts, some—or possibly many—of the other programs, like the one I watched in Florence, may have to be suspended next year for insufficient funds. Given their lack of enthusiasm thus far, there is little hope that either the USDA or the Nixon Administration will request such funds. So it seems up to Congress to make sure WIC continues.

The potential benefits are great and the price is low—an unusual combination these days. Says Dr. Paulus Zee, director of nutrition at St. Jude's in Memphis: "It is ironic to be spending up to $150 a day on hospital care for a baby that has been damaged by a disease—malnutrition—that can be prevented for a $1.50-a-week."

That $1.50-a-week will buy a fighting chance for the baby of Jean, a $250-per-month waitress with a sixth-grade education, two small children, and a husband who abandoned her when she got pregnant again. Or the child of a woman widowed by an agricultural accident while she was pregnant for the ninth time. Or the child of 14-year-old Celeste, who was raped by a man who offered her a ride after school, then was dragged—shamed, humiliated and pregnant—to the public health clinic by her parents when it was too late even to consider an abortion.

To most of us in our middle-class homes, these people are invisible. But they are out there, hundreds of thousands of them. They need and deserve compassion and help. And we can only speculate how many future problems might thus be prevented.

The knowledge and facilities to accomplish this are close at hand. Only a push from a determined public and a relatively small investment of Federal funds are required to extricate the program from official indifference and red tape, and get it firmly established in the business for which it was designed: feeding mothers and infants who desperately need decent nutrition to save them, and all of us, from the horrors that flow from their neglect.

DEMOCRATS AND RESPONSIBLE GOVERNMENT

Mr. HUMPHREY. Mr. President, as a former mayor and as the liaison between the executive branch and the Nation's Governors and mayors during the Johnson-Humphrey administration, I was interested to read the analysis by John G. Stewart of the important new role being assumed by Governors and mayors in recasting the governing ideology of the Democratic Party. Mr. Stewart's article appeared in the Washington-Star News of Sunday, May 12.

Mr. Stewart suggests that the public has not turned its back on the role that Government, even the Federal Government, must play in dealing with the country's most critical social and economic problems. But it is equally certain that the Federal Government must produce visible, understandable, and effective results on the community level. This will require a variety of new approaches on a host of governing issues. And it will also require the knowledge and experience of Governors, mayors, and other local officials if Congress is to find workable answers.

This persuasive analysis was drawn from Mr. Stewart's recent book, "One Last Chance: The Democratic Party," 1974–76. I commend both the article and the book to my colleagues on both sides of the aisle.

Mr. President, I ask unanimous consent that the article, "Democrats Must Invent Better Ways to Govern," from the Washington-Star News of May 12, 1974, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Star-News,
May 12, 1974]

Democrats Must Invent Better Ways To Govern

(By John G. Stewart)

After years of languishing in the political backwoods, Democratic governors and mayors once again have emerged as significant factors in the party's quest to recapture the White House in 1976. This development, moreover, offers a solid clue as to what generally will constitute winning Democratic politics for the balance of the 1970s.

This does not necessarily mean that a governor will win the next Democratic presidential nomination (although the odds on this have improved). But it does suggest that governors and mayors are the most reliable sources of the political insight and governing experience that the next Democratic candidate will need to win the nomination and general election.

For the past generation, it has been almost a truism that only politicians operating near the country's major centers of mass communication—New York, Washington, and California—had a realistic chance of acquiring the stature and influence that are prerequisites to national party leadership. This bit of conventional wisdom arose from the habit of equating national party leadership with a politician's standing in the presidential sweepstakes. If an elected public official was deemed not to be a presidential contender (a category reserved for politicians who could appear regularly on network shows), his potential for influencing the national party was assumed to be nil. And this was generally the case.

It also was agreed that the political power that mattered most was to be found in Washington, home of the money, expertise, and muscle associated with the federal government. States, cities, and counties were governing units to be alternatively bludgeoned and patronized by the heavy rollers from the nation's capital.

These patterns have now changed in several important respects. Even though this shift has been overshadowed by the preoccupation of the national news media with the impeachment inquiry and the labors of the special prosecutor, the most sensible and far-sighted thinking about the future of the Democratic party is coming largely from the hinterlands instead of Capitol Hill. This development—an interesting although irrelevant fact unless linked in some manner to new sources of political leverage—must also be viewed from the perspective of the role that governors and mayors are likely to play in nominating the Democratic presidential candidate in 1976.

Voters today are looking for political leadership with the guts and common sense to restore some purpose and direction to our national life. This process is heavily dependent upon fashioning workable solutions to problems encountered in day-to-day living. Several curious paradoxes in the public attitude illustrate why this is so:

Despite considerable popular cynicism toward government and politics, there remains a solid base of support for the country's constitutional and political system, a popular faith in the ability of government to function effectively and a belief that first-rate people can still be brought into government. For example: a recent survey of public attitudes conducted by Louis Harris and Associates for the Senate Subcommittee on Intergovernmental Relations discovered that fully 90 percent of Americans believe that government can work "effectively and well."

Although most Americans remain staunchly conservative on such general ideological questions as "government spending" and the individual work ethic, they strongly support increased government spending when it is tied to specific operational problems of real consequence to everyday living, such as health care, aid to the elderly, education, and housing.

Most Americans also subscribe to the conservative ideology condemning "big government" in favor of "returning power to the people," but they simultaneously recognize that the federal government must take the lead in solving such problems as poverty, health care, pollution, and consumer protection.

Even those Americans who were most opposed to the government's civil rights efforts of the 1960s largely support the proposition that the only way to solve the problems of blacks and other minorities is for the federal government to make an all-out effort by spending much more money on domestic problems affecting all Americans, such as health, education, housing, and improving things in our cities.

These are not the feelings of an electorate that has turned its back on the role that government, even the federal government, must play in dealing with the country's more critical social and economic problems. But these attitudes do reveal clearly the obsolute importance of the federal government producing visible, understandable and effective results on the community level. This, in turn, requires far more flexible and imaginative use of federal power in equipping subnational units of government to do the job. And it is here where the knowledge and experience of governors, mayors and other local officials are desperately needed if answers are to be found.

These circumstances bear directly on the Democratic party's future. The electorate's anger toward Republican candidates—as revealed in the recent special elections for the House of Representatives—arises from two sources: outrage over what is seen as Nixon's perversion of the presidential office, and the Nixon administration's failure to meet the people's legitimate expectations as to what constitutes competent and responsive government. There is little evidence that the voters are making an affirmative choice on behalf of the Democratic candidates, or the party itself.

The longer-run pitfalls for the Democratic party are obvious (at least to most governors and mayors); the electorate's antagonism toward the GOP can rebound as soon as Nixon vacates the presidency (by whatever route) or is exonerated by Congress unless Democrats are seen as coming to grips with sources of popular discontent unrelated to Watergate.

This popular reaction, moreover, is likely to be intensified by three other factors: (1) the hefty Democratic majorities in Congress that are forecast for the November elections, (2) guilt feelings millions of Republicans and conservative Independents may experience for voting or thinking Democratic in protest against Nixon's presidential conduct, and (3) the good feelings likely to abound for Gerald Ford if he assumes the presidency prior to 1976 or if he becomes the GOP's nominee. At this writing the Democrats have no one who can match Ford's appeal in terms of perceived integrity and low-key respectability.

In any event, the Democrats will be running a grave risk if they assume that the White House can be captured by outdrawing Ford on the basis of personal popularity. Their chance for victory in 1976 depends on making the most of an unexpected, perhaps even undeserved, opportunity to seize the political and governing initiative in ways that can survive the ultimate disposition of Richard Nixon's presidency. Since governors and mayors live with the political and governing pressures that preceded and that will survive the drama of Watergate, they have been articulating this position at every opportunity, such as the recent conference of Democratic governors in Chicago.

Figuring out better ways of applying the federal government's leverage in achieving everything from better health care to safer streets is at the core of the Democratic opportunity. Despite more real progress than critics are willing to recognize, the Great Society became muscle-bound and overextended by the late 1960s. The Nixon administration's ballyhooed shift to general and special revenue sharing, including the consolidation of certain categorical programs into bloc grants, turned out to be little more than a fiscal shell game, with the states and cities unable to find the pea, no matter how diligent their search.

What the Democrats must devise is a governing ideology that puts into actual practice much of the Republican rhetoric about strengthening state and local governments, without abandoning the commitment of using federal resources to the fullest. It must be an ideology grounded in neither the outworn precepts of the New Deal nor the counterculture of the New Politics. It will require designing a new generation of political institutions that can insure the responsive application of governmental power at all levels of American society. It will call for using the federal government's power in flexible and often indirect ways.

Some examples: The federal tax code can be used more effectively to foster social and economic objectives. Mixing monetary rewards and sanctions to encourage greater attention by state and local governments to the needs of individual citizens is another approach. Ways must be explored of preserving the uniqueness of neighborhoods, of strengthening family ties, and of bringing the words of work and home more closely together. Revenue sharing must be given a fair trial by a national administration not seeking to use it as a cover for eliminating the federal role in a host of domestic areas, such as housing and community development.

This evolution in the role and posture of the federal government cannot go forward without the direct involvement of governors and mayors in setting the priorities of Congress and in helping write the necessary legislation. Through the good offices of Democratic National Chairman Robert Strauss, Democratic governors and mayors have been invited to meet with Speaker Albert and Senate Majority Leader Mansfield. But sporadic consultation will not effectively tap the wealth of governing experience that is to be found outside of Washington.

One additional factor is likely to force greater appreciation by congressional Democrats, at least those with presidential ambitions, of the new importance acquired by their non-Washington brethren. The emerging organization of Democratic governors and mayors into tightly-knit caucuses—equipped with competent staffs at the Democratic National Committee headquarters—and the critical role governors and mayors are likely to assume in the scramble for presidential delegates on the basis of proportional representation, will open doors on Capitol Hill that have been closed for decades.

Those Democrats in Congress who go out of their way to listen and help Democratic governors and mayors with their governing problems can expect a more cordial reception in the search for delegates than those Democrats in Congress who don't. It is worth noting in this regard that fully 25 percent of each state's delegation can be appointed in 1976—a provision that was specifically added to increase the representation of elected officials at the next Democratic National Convention.

For lack of a better term, this broad-scale opportunity now open to the Democrats can be labeled the "Governing Issue." The party's post-1974 prospects will be determined largely by the degree to which this issue is recognized, developed, and brought forcefully to the people prior to the 1976 presidential campaign. And governors and mayors hold the key to unlocking this treasure chest of political riches.

SENATOR CRANSTON'S FINANCIAL DISCLOSURE

Mr. CRANSTON. Mr. President, yesterday, in compliance with rule 41, I filed with the Secretary of the Senate for public view a statement of my outside income from honoraria. Unfortunately, this is the only disclosure required by law of Members of Congress.

I have long been a supporter of full disclosure of financial information for elected officials, so that the public can know what they are up to financially while holding positions of public trust. I have acted in accordance with this belief and, way back in 1965 when I was State controller of California, I became the first elected state official ever to make public his tax returns and balance sheet.

Now during the Watergate years, full disclosure is even more essential if we are to restore the seriously eroded public confidence in people who hold public office.

Therefore, I am making a full disclosure of my statement of financial conditions as of this date, as well as of my Federal and California State income tax returns for 1973.

I ask unanimous consent that they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Financial statement—Alan Cranston

Bank accounts:	
Commercial:	
Wells Fargo, San Francisco, Calif	$267
First Western, Los Angeles, Calif	2,387
Savings:	
Wells Fargo, San Francisco, Calif	10,240
Westdale Savings & Loan, Los Angeles, Calif	3,796
Westdale Savings & Loan, Los Angeles, Calif	20,064
Total	36,754
Receivable—Loans and accounts:	
Lee Fairbrother (sister-in-law)	7,500
Bernard and Patricia Snyder (niece)	4,550
Cecil Weintraub (sale of ranch)	34,545
Jeffrey Edmonds (trust, sale of lot and building)	17,526
Total	64,121
Beneficial interest in a blind trust	10,500
Personal property	7,500
Art objects	2,500
Retirement funds:	
State of California	10,500
U.S. Government	15,000
Total	25,500
Cash value of insurance policies	7,500
Total	154,375
Payable—Personal loan:	
Eleanor C. Fowle (sister)	13,200
Total	141,175
Net value of real estate	419,624
Total net value	560,799

REAL ESTATE OWNED, ALAN CRANSTON

Description and address	Title	Market value	Mortgage due to	Mortgage amount	Net value
Lot and building, 501 San Mateo, San Bruno, Calif	Self, wife	$67,500	Wells Fargo, San Francisco	$30,000	$37,500
Lot and building, 215 Main St., Los Altos, Calif	Self	65,000	do	31,750	33,250
Lot and building, 163 Main St., Los Altos, Calif	⅜ self, wife	37,500			37,500
Lot and building, 206 Redwood Ave., Fort Bragg, Calif	⅓ self, wife	20,000			20,000
Lot and building, 318 University Ave., Palo Alto, Calif	½ self	62,500			62,500
Lot and building, 482 San Mateo Ave., San Bruno, Calif	do	50,000			50,000
Ranch, Star Route, Smartsville, Calif	½ self, wife	25,000			25,000
Subdivision No. 2, Thornwood Dr., Sacramento, Calif	Self, wife	34,500			34,500
Co-op apartment No. 112, 2700 Virginia Ave. NW, Washington, D.C	do	114,000	Watergate, Inc., care of Cafritz, Washington, D.C.	44,000	70,000
Land, Vineyard Properties, Sherman Oaks, Calif	1/60 self, wife	9,456			9,456
Land, Simi-Moorpark Properties, Sherman Oaks, Calif	1/100 self, wife	22,518			22,518
Land and building, Wilshire Properties, Los Angeles, Calif	1/40 self	4,400			4,400
Land, 5-Area Properties, Los Angeles, Calif	1/100 self	5,000			5,000
Condominium, 1147 La Verne Way, Palm Springs, Calif	Self, wife	35,000	Keystone Savings & Loan, Westminster, Calif.	27,000	8,000
Total		552,374		132,750	419,624

U.S. INDIVIDUAL INCOME TAX RETURN—TAXABLE YEAR 1973

(Alan and Geneva Cranston)

Occupation: yours—U.S. Senator; wife's—housewife.

FILING STATUS

2. Married filing joint return (even if only one had income).

EXEMPTIONS

6a. Yourself, regular.

6b. Spouse, regular.

7. Total exemptions claimed: 2.

INCOME

9. Wages, salaries, tips, and other employee compensation: $42,500.00.

11. Interest income: $4,536.37.

12. Income other than wages, dividends, and interest: $11,525.83.

13. Total (add lines 9, 10c, 11 and 12): $58,562.20.

14. Adjustments to income: $6,329.49.

15. Subtract line 14 from line 13 (adjusted gross income): $52,232.71.

TAX, PAYMENTS AND CREDITS

16. Tax, check if from: Tax Rate Schedule X, Y or Z: $9,213.10.

18. Income tax: $9,213.10.

19. Other taxes: $864.00.

20. Total (add lines 18 and 19): $10,077.10.

21(a). Total Federal income tax withheld: $11,059.20.

22. Total (add lines 21a, b, c, and d): $11,059.20.

BALANCE DUE OR REFUND

24. If line 22 is larger than line 20, enter amount OVERPAID: $982.10.

25. Amount of line 24 to be refunded to you: $982.10.

INCOME OTHER THAN WAGES, DIVIDENDS AND INTEREST

28. Business income or (loss): $11,069.27.

29. Net gain or (loss) from sale or exchange of capital assets: $842.67.

30. Net gain or (loss) from Supplemental Schedule of Gains and Losses: ($7,188.61).

31. Pensions, annuities, rents, royalties, partnerships, estates or trusts, etc: $6,215.77.

37. Other (Magazine articles and miscellaneous): $586.73.

38. Total (add lines 28–37): $11,525.83.

ADJUSTMENTS TO INCOME

41. Employee business expense: $6,329.49.

43. Total adjustments (add lines 39–42): $6,329.49.

TAX COMPUTATION

44. Adjusted gross income: $52,232.71.

45. (a) If you itemize deductions enter total from Schedule A, line 41 and attach Schedule A: $17,415.80.

46. Subtract line 45 from line 44: $34,816.91.

47. Multiply total number of exemptions claimed on line 7, by $750: $1,500.00.

48. Taxable income: $33,316.91.

OTHER TAXES

55. Self-employment tax: $864.00.

61. Total: $864.00.

FOREIGN ACCOUNTS

Did you, at any time during the taxable year, have any interest in or signature or other authority over a bank, securities, or other financial account in a foreign country (except in a U.S. military banking facility, operated by a U.S. financial institution)? No.

Schedule A: Itemized deductions

MEDICAL AND DENTAL EXPENSES

1. One half (but not more than $150) of insurance premiums for medical care: $100.38.

2. Medicine and drugs: $128.55.

5. Enter balance of insurance premiums for medical care not entered on line 1: $100.38.

6. Enter other medical and dental expenses: a. Doctors, dentists, etc.: $189.61. c. Other (Contempo Hip Cycle): $12.98.

10. Total: $100.38.

TAXES

11 State and local income: $3,651.00.

12. Real Estate: $2,256.52.

13. State and local gasoline: $74.00.

14. General sales: $347.19.

17. Total (add lines 11–16): $6,328.71.

INTEREST EXPENSE

18. Home mortgage: $2,805.38.

19. Other (See Schedule): $2,108.00.

20. Total (add lines 18 and 19): $4,913.38.

CONTRIBUTIONS

21. a Cash contributions for which you have receipts, cancelled checks, etc.: $152.50.

24. Total contributions (add lines 21a–23): $152.50.

MISCELLANEOUS DEDUCTIONS

33. Other (See Schedule): $5,920.83.

34. Total (add lines 30–33): $5,920.83.

SUMMARY OF ITEMIZED DEDUCTIONS

35. Total medical and dental: $100.38.

36. Total taxes: $6,328.71.

37. Total interest: $4,913.38.

38. Total contributions: $152.50.

40. Total miscellaneous: $5,920.83.

41. Total deductions: $17,415.80.

Schedule C: Profit or (loss) from business or profession

A. Principal business activity: Honoraria

E. Method of accounting: (1) Cash

F. Were you required to file Form W-3 or Form 1096 for 1973? No.

G. Was an Employer's Quarterly Federal Tax Return, Form 941, filed for this business for any quarter in 1973? No.

H. Method of inventory valuation: N/A.

INCOME

1. Balance: $11,069.27.

3. Gross profit: $11,069.27.

5. Total income: $11,069.27.

21. Net profit of (loss) (subtract line 20 from line 5): $11,069.27.

Schedule D: Capital gains and losses

Part II: Long-term Capital Gains and Losses

Assets held more than 6 months

6. Land—Thornwood Estates

Installment Sale—Black Ranch

Principal Received: $2,381.22 × 55.28% gross profit=$1,358.34.

8. Gain, if applicable, from line 4(a)(1), Form 4797: $135.00.

9. Your share of net long-term gain or (loss) from partnerships' and fiduciaries: $192.00.

11. Net gain or (loss), combine line 6–10: $1,685.34.

13. Net long-term gain or (loss), combine lines 11, 12(a) and 12(b): $1,685.34.

Part III: Summary of Parts I and II

14. Combine the amounts shown on lines 5 and 13, and enter the net gain or loss: $1,685.34.

15. If line 14 shows a gain—

(a) Enter 50% of line 13 or 50% of line 14, whichever is smaller: $842.67.

(b) Subtract line 15(a) from line 14: $842.67.

Form 4797: Supplemental schedule of gains and losses

Part I: Sales or Exchanges of Property Used in Trade or Business and/or Involuntary Conversions

Section B:

3. Freeway Vineyard Properties Partnership: $135.00.

4. Combine the amounts on line 3, enter here and also the appropriate line as follows: $135.00.

Part II: Ordinary Gains and Losses

8. Subdivided land

(b) Date acquired: 1959

(c) Date sold: 1973

(d) Gross sales price: $23,706.36

(f) Cost or other basis, cost of subsequent improvements and expenses of sale: $23,169.97

(g) Gain or (loss): $536.39

Rental house demolished, 3819 Thornwood, adjusted basis plus demolition costs Section 165(a)

(g) Gain or (loss): ($7,725.00)

9. Combine lines 5 through 8, enter here and also on the appropriate line as follows: ($7,188.61)

(b)(2) Redetermine the gain or (loss) on line 9, excluding the loss (if any) entered on line 9(b)(1): ($7,188.61)

Schedules E & R: Supplemental income schedule and retirement income credit computation

RENT AND ROYALTY INCOME

(a) Kind and Location of property; if residential, also write "R": From 4831.

(b) Total amount of rents: $35,323.26.

(d) Depreciation or depletion: $4,787.02.

(e) Other expenses: $25,610.79.

1. Totals:

(b) Total amount of rents: $35,323.26.

(d) Depreciation or depletion: $4,787.02.

(e) Other expenses: $25,610.79.

2. Net income or (loss) from rents and royalties: $4,925.45.

Part III: Income or losses from partnerships, estates or trusts, small business corporations

1. Totals: $1,290.32

2. Income or (loss). Total of column (d) less total of column (e): $1,290.32.

Total of Parts I, II and III: $6,215.77.

Form 4831: Rental income—Page 1.

RENT INCOME

1. Kind and Location of Property:

Property A.: 3819 Thornwood, Sacramento, California. (residential)

Property B.: 215 Main Street, Los Altos, California.

Property C.: 501 San Mateo Avenue, San Bruno, California.

Property D.: 206 Redwood Avenue, Ft. Bragg, California.

Property E.: From 4831, Page 2.

2. Rents received:

Property A.: $345.00.
Property B.: $8,410.05.
Property C.: $5,635.90.
Property D.: $1,386.00.
Page 2 Total: $19,546.31.

3. Total: $35,323.26.

EXPENSES

9. Insurance:
Property B.: $938.00.
Property C.: $478.00.
Property D.: $316.90.

10. Interest:
Property A.: $120.40.
Property B.: $2,579.50.
Property C.: $2,247.32.

13. Management fees:
Property B.: $595.93.
Property C.: $285.06.
Property D.: $282.15.

15. Repairs:
Termites.
Property B.: $90.00.
Property D.: $38.86.
Roofing, etc.
Property C.: $1,958.62.
Property D.: $411.26.

18. Taxes and licenses:
Property A.: $513.23.
Property B.: $3,726.51.
Property C.: $1,581.27.
Property D.: $349.67.

21. Other:
Bond for Sewer, Street:
Property A.: $167.21.
Property D.: $10.73.
City Association Dues.
Attorney.
Miscellaneous.

22. Total expenses:
Property A.: $800.84.
Property B.: $7,929.94.
Property C.: $6,550.27.
Property D.: $1,409.57.
Page 2 Total: $8,920.17.

23. Total expenses: $25,610.79.

Schedule for depreciation claimed on schedule E, part II, column (d)

27. Other depreciation:
A. 3819 Thornwood
B. 215 Main Street
C. 501 San Mateo Avenue
D. 163 Main Street
E. 318 University Avenue

Form 4831: Rental income—Page 2

RENT INCOME

1. Kind and Location of Property:

Property A: 163–65 Main Street, Los Altos, California.

Property B: 318–24 University Avenue, Palo Alto, California.

Property C: 482, 484, 486, 490 San Mateo Avenue, San Bruno, California.

Ownership:

Property A: ⅛.

Property B: ½.

Property C: ½.

2. Rents received:

Property A: $1,341.51.

Property B: $11,580.52.

Property C: $6,624.28.

3. Total: $19,546.31.

EXPENSES

9. Insurance:

Property A: $70.29.

Property B: $797.17.

Property C: $585.34.

13. Management fees:

Property A: $64.71.

Property B: $583.96.

Property C: $331.22.

15. Repairs:

Property B: $105.74.

Property C: $1,499.67.

18. Taxes and licenses:

Property A: $492.29.

Property B: $2,626.44.

Property C: $1,497.84.

21. Other

Dues

Property B: $144.38.

Attorney

Property B: $39.26.

Miscellaneous

Property B: $81.86.

22. Total expenses:

Property A: $627.29.

Property B: $4,378.81.

Property C: $3,914.07.

23. Total expenses: $8,920.17.

Form 1914: Computation of allowable depreciation deduction on items changed

(A) Description of Property: 3819 Thornwood.

Date acquired: 1958.

Cost or other basis: $17,500.

Depreciation allowed or allowable in prior years: $10,500.

Method: SL.

Rate (%) or life (years): 20.

Depreciation allowable, tax year ending 1973: $437.50.

Date acquired: 1963.

Cost or other basis: $199.

Depreciation allowed or allowable in prior years: $190.

Method: SL.

Rate (%) or life (years): 10.

Depreciation allowable, tax year ending 1973: $10.00.

Date acquired: 1963.

Cost or other basis: $1,293.

Depreciation allowed or allowable in prior years: $769.

Method: SL.

Rate (%) or life (years): 16.

Depreciation allowable, tax year ending 1973: $40.50.

Demolished 7/1/73.

(B) 115 Main Street:

Date acquired: Various.

Cost or other basis: $12,846.

Depreciation allowed or allowable in prior years: $7,492.

Method: SL.

Rate (%) or life (years): 30.

Depreciation allowable, tax year ending 1973: $428.00.

Improvements on property.

Date acquired: Various.

Cost or other basis: $4,533.

Depreciation allowed or allowable in prior years: $4,533.

Method: SL.

Improvements on property.

Date acquired: 1970.

Cost or other basis: $2,506.

Depreciation allowed or allowable in prior years: $1,503.60.

Method: SL.

Rate (%) or life (years): 5.

Depreciation allowable, tax year ending 1973: $501.20.

(C) 501 San Mateo:

Date acquired: Various.

Cost or other basis: $31.500.

Depreciation allowed or allowable in prior years: $21,945.

Method: SL.

Rate (%) or life (years): 25.

Depreciation allowable, tax year ending 1973: $1,260.

Date acquired: Various.

Cost or other basis: $13,290.

Depreciation allowed or allowable in prior years: $10,723.

Method: 200 DB.

Rate (%) or life (years): 15.

Depreciation allowable, tax year ending 1973: $342.

Date acquired: Various.

Cost or other basis: $3,000.

Depreciation allowed or allowable in prior years: $1,729.70.

Method: 200 DB.

Rate (%) or life (years): 15.

Depreciation allowable, tax year ending 1973: $169.

(D) 206 Redwood Avenue, Ft. Bragg:

Fully Depreciated.

(E) From Page 2, Form 1914: Depreciation allowable, tax year ending 1973: $1,598.82.

163–65 Main Street, Los Altos, California (From Trust—⅛ interest; ⅛ sold to sister):

Date acquired: 3–26–69.

Cost or other basis: $6,075.

Depreciation allowed or allowable prior to 6–30–71: $455.75.

Remaining cost or other basis to be recovered after year ending 6–30–71: $5,619.25.

Method: SL.

Rate (%) or life (year): 28.

Depreciation allowable, tax year ending—7–1–71 to 12–31–71: $100.34. 1972: $200.69. 1973: $200.69.

318–24 University Avenue, Palo Alto, California:

Date acquired: 10–57, 3–26–67.

Cost or other basis: $23,205.50.

Depreciation allowed or allowable prior to 6–30–71: $2,990.14.

Remaining cost or other basis to be recovered after year ending 6–30–71: $17,215.36.

Method: SL.

Rate (%) or life (years): 28.

Depreciation allowable, tax years ending—7–1–71 to 12–31–71: $307.42; 1972: $614.83; 1973: $614.83.

Improvements:

Date acquired: 1960.

Cost or other basis: $333.25.

Depreciation allowed or allowable prior to 6–30–71: $314.42.

Remaining cost or other basis to be recovered after year ending 6–30–71: $18.83.

Method: SL.

Rate (%) or life (years): 10.

Depreciation allowable, tax years ending—7–1–71 to 12–31–71: $16.67. 1972: $2.16. 1973:—

Improvements:

Date acquired: 1965.

Cost or other basis: $167.

Depreciation allowed or allowable prior to 6–30–71: $127.72.

Remaining cost or other basis to be recovered after year ending 6–30–71: $34.28.

Method: SL.

Rate (%) or life (years): 5.

Depreciation allowable, tax years ending—7–1–71 to 12–31–71: $16.22. 1972: $32.40. 1973: $32.40.

Improvements:

Date acquired: 1966

Cost or other basis: $187.50.

Depreciation allowed or allowable prior to 6–30–71: $110.32.

Remaining cost or other basis to be recovered after year ending 6–30–71: $77.18.

Method: SL.

Rate (%) or life (years): 5.

Depreciation allowable, tax years ending—7–1–71 to 12–31–71: $18.75. 1972: $37.50. 1973: $37.50.

482, 484, 486, 490 San Mateo Avenue, San Bruno:

Date acquired: 10–57, 3–26–69.

Cost or other basis: $20,113.25.

Depreciation allowed or allowable prior to 6–30–71: $3,163.36.

Remaining cost or other basis to be recovered after year ending 6–30–71: $16, 949.89.

Method: SL.

Rate (%) or life (years): 28.

Depreciation allowable, tax years ending—7–1–71 to 12–31–71: $302.00.

1972: $605.35.

1973: $605.35.

Improvements:

Date acquired: 1967.

Cost or other basis: $250.

Depreciation allowed or allowable prior to 6–30–71: $50.

Remaining cost or other basis to be recovered after year ending 6–30–71: $200.

Method: SL

Rate (%) or life (years): 10.

Depreciation allowable, tax years ending—7–1–71 to 12–31–71: $12.50.

1972: $25.

1973: $25.

Improvements:

Date acquired: 2–1–68.

Cost or other basis: $125.

Depreciation allowed or allowable prior to 6–30–71: $18.75.

Remaining cost or other basis to be recovered after year ending 6–30–71: $106.25.

Method: SL.

Rate (%) or life (years): 5.

Depreciation allowable, tax years ending—7–1–71 to 12–31–71: $12.50.

1972: $25.

1973: $25.

Air Conditioning:

Date acquired: 10–1–68.

Cost or other basis: $205.50.

Depreciation allowed or allowable prior to 6–30–71: $15.42.

Remaining cost or other basis to be recovered after year ending 6–30–71: $190.08.

Method: SL.

Rate (%) or life (years): 10.

Depreciation allowable, tax years ending—7–1–71 to 12–31–71: $10.28. 1972: $20.55. 1973: $20.55.

Air Conditioning, Los Altos, California:

Date acquired: 7–70.

Cost or other basis: $375.

Depreciation allowed or allowable prior to 6–30–71: $50.

Remaining cost or other basis to be recovered after year ending 6–30–71: $325.

Method: SL.

Rate (%) or life (years): 10.

Depreciation allowable, tax years ending: 7–1–71 to 12–31–71: $18.75. 1972: $37.50. 1973: $37.50.

Depreciation from 1–1–71 to 6–30–71 from page —: $632.24.

Total depreciation deduction allowable on items changed—7–1–71 to 12–31–71: $1,447.67. 1972: $1,600.98. 1973: $1,593.82.

Schedule SE: Computation of Social Security Self-Employment Tax

COMPUTATION OF NET EARNINGS FROM NONFARM SELF-EMPLOYMENT

5. Regular method:

(a) Schedule C, line 21: $11,069.27.

(e) Other (magazine articles and miscellaneous): $586.73.

8. Adjusted net earnings or (loss) from nonfarm self-employment: $11,656.00.

9. Nonfarm optional method: (a) Maximum amount reportable under both optional methods combined: $1,600.00.

COMPUTATION OF SOCIAL SECURITY SELF-EMPLOYMENT TAX

12. Net earnings or (loss): (b) From nonfarm: $11,656.00.

13. Total net earnings or (loss) from self-employment reported on line 12: $11,656.00.

14. The largest amount of combined wages and self-employment earnings subject to social security tax for 1973: $10,800.00.

15. Total "FICA" wages and unreported tips: 0.

16. Balance: $10,800.00.

17. Self-employment income (line 13 or 16, whichever is smaller): $10,800.00.

18. If line 17 is $10,800, enter $864.00; if less, multiply the amount on line 17 by .08: $864.00.

20. Self-employment tax: $864.00.

SCHEDULE OF CONGRESSIONAL REIMBURSEMENTS AND EXPENSES

Reimbursements:

Travel: $3,313.57.

Official Expenses: $9,551.79.

Total: $12,865.36.

Expenses:

Travel: $8,593.06.

Official Expenses (deductible under Section 62 (2) (A): $7,601.79.

*Cost of Living, Washington, D.C.: $3,000.00.

Total: $19,194.85.

Excess expenses: $6,329.49.

I hereby certify that I was in a travel status in the Washington area, away from home, in the performance of my official duties as a Member of Congress, for 181 days during the taxable year, and my deductible living expenses while in such travel status amounted to $3,000.00. Alan Cranston.

MISCELLANEOUS DEDUCTIONS

Safe deposit box: $35.00.

Washington, D.C. office expense, non-reimbursed: $1,506.24.

Home office expense, non-reimbursed: $4,375.84.

Management fee (Sunnyvale): $3.75.

Total: $5,920.83.

OTHER INTEREST

Eleanor Fowle: $750.75.

John LunBeau: $168.00.

Westdale Savings: $197.82.

Subdivision Bonds: $298.14.

IRS (Sunnyvale): $693.29.

Total: $2,108.00.

SCHEDULE E, PART III

(A) Partnership: Cranston & Cranston EI #: 95–6152318; Income (loss): ($301.74).

(B) Partnership: Simi-Moorpark Prop. LTD. EI#: [redacted] Income (loss): ($3,067.00).

(C) Partnership: Freeway Vineyard Prop. EI#: [redacted] Income (loss): ($1,274.00).

(D) Partnership: Wilshire Blvd. Gr. Prop. EI#: [redacted] Income (loss): ($282.00).

(E) Partnership: Five Area Prop., LTD. EI#: [redacted] Income: $900.00.

Trusts: Estate of Carol D. Cranston EI#: [redacted] Income: $5,315.06.

Total: $1,290.32.

INDIVIDUAL CALIFORNIA INCOME TAX—TAXABLE YEAR 1973

(Alan and Geneva Cranston)

Occupation: yours: U.S. Senator; spouse's: housewife.

FILING STATUS

2. Married filing joint return.

EXEMPTION CREDITS

6. Personal exemption: $50.00.

9. Total exemption credits: $50.00.

INCOME

10. Wages, salaries, tips and other employee compensation: $42,500.00.

12. Interest: $4,536.37.

13. Income other than wages, dividends and interest: $11,778.62.

14. Total: $58,814.99.

15. Adjustments to income: $6,329.49.

16. Adjusted gross income: $52,485.50.

17. Deductions: Itemized: $13,817.80.

18. Taxable income: $38,667.70.

TAX AND CREDITS

19. Tax: $2,503.45.

20. Total exemption credits: $50.

21. Tax liability: $2,453.45.

23. Net tax: $2,453.45.

24. Special tax credit: $444.59.

25. Net tax liability: $2,008.86.

27. Total tax liability: $2,008.86.

RENTER'S CREDIT

37. Did you, on March 1, 1973, live in rented property which was your principal residence? No.

38. Was the property you rented exempt from property tax? No.

39. Did you live with any other person who claimed you as a dependent for income tax purposes: No.

40. Did you or your spouse claim the homeowners' property tax exemption or receive public assistance? No.

OTHER INCOME

41. Business income (or loss): $11,069.27.

42. Net gain (or loss) from sale or exchange of capital assets: $1,095.47.

43. Net gain (or loss) from supplemental schedule of gains and losses: ($7,188.61).

45. Rents and royalties: $4,925.45.

46. Partnerships: $1,290.32.

49. Miscellaneous income (magazine articles): $586.73.

50. Total (lines 41–49): $11,778.62.

ADJUSTMENTS TO INCOME

53. Employee business expenses: $6,329.49.

56. Total adjustment (lines 51–55): $6,329.49.

ITEMIZED DEDUCTIONS

57. Total deductible medical and dental expenses: $100.38.

59. Total taxes: $2,730.71.

60. Total interest expense: $4,913.38.

61. Total contributions: $152.50.

62. Total miscellaneous deductions: $5,920.83.

63. Total itemized deductions (lines 57–62): $13,817.80.

SPECIAL TAX CREDIT

67. Taxable income from line 18: $38,667.70.

68. Amount of gain or loss (if any) entered on Schedule D(540), line 14: $1,095.47.

70. Combine lines 68 and 69 and enter total here: $1,095.47.

71. Adjusted taxable income: $36,572.23.

72. Adjusted tax: $2,272.95.

73. Add lines 20 and 22, and enter total here: $50.

74. Adjusted net tax: $2,222.95.

75. Special tax credit: $444.59.

SENATOR RANDOLPH STRESSES IMPORTANCE OF JOINT INDUSTRY EFFORT IN BOLD PROGRAM FOR COAL GASIFICATION—WEST VIRGINIA AND ILLINOIS WILL BE PROVING GROUND FOR COLUMBIA GAS—EXXON PROJECT—VITAL STEP TOWARD ENERGY SELF-SUFFICIENCY

Mr. RANDOLPH. Mr. President, it is timely to call attention to the agreements signed today in Wilmington, Del., between the Columbia Coal Gasification Corporation and the Carter Oil Co. These agreements provide for the early development of certain low sulfur coal reserves in West Virginia by Monterey Coal Co., a Carter subsidiary, and a future gasification opportunity for certain Carter coal reserves in Illinois. Recently it was my privilege to receive a briefing from Columbia Gas System Chairman John Partridge, formerly of West Virginia, on this significant and innovative undertaking.

Columbia Coal Gasification Corporation is a subsidiary of the Columbia Gas System, Inc. and the Carter Oil Co. is a subsidiary of Exxon.

The agreements, which are subject to approval of governmental agencies, are:

First, an agreement under which Columbia will exchange a 50-percent undivided interest in 43,400 acres in Wayne and Lincoln Counties out of its some 300,000 acres of West Virginia coal lands, in return for a 50-percent undivided interest in 35,000 acres of Carter's Illinois coal lands located in Clinton, Bond, and Madison Counties.

Second, a West Virginia operating agreement under which Monterey Coal Co. will develop and operate two underground mines capable of a combined total annual production of 4.4 million tons for a 30-year period.

Third, an agreement under which the Illinois coal reserves included in the exchange will be held in their entirety for gasification for Columbia, pending the development of an economically desirable and technically sound gasification process for this coal. At that time, each company can elect whether or not it desires to participate in the ownership of the gasification plant or the supporting coal mines.

Each company will provide one-half of the initial capital investment for the West Virginia mines, which is estimated at $20 per ton of annual production based on 1974 costs, and will separately market one-half of the coal produced.

The first West Virginia mine is now expected to begin production in 1976 and to achieve design capacity by 1978. Development of the second mine will closely follow the first. While definitive plans have not been finalized, the reserves are capable of supporting a third mine of equal size.

Columbia Coal Gasification President, R. F. Duemler, said:

> The Illinois reserves are adequate to supply a gasification plant producing 300 million cubic feet of pipeline quality gas daily for 25 years, or the equivalent of 2.5 trillion cubic feet of natural gas reserves. We estimate that such a plant would require an investment of roughly $635 million and employ 700 people. It would use approximately eight million tons of coal per year which, in accordance with Monterey's estimates, would call for the development of three Illinois mines at a total capital cost of over $75 million and employing about 1500 people. It must be emphasized that the ultimate conversion of the Illinois reserves to pipeline quality gas is dependent upon the development of an economically feasible gasification process.

Duemler further stated:

> These agreements provide for the highest and best use of Columbia's present coal reserves without diminution of its gasification feedstock reserves. Pipeline quality gas can be delivered to Columbia's customers at a substantially lower cost than from the West Virginia reserves included in the exchange.

Carter Oil President, Harry Pistole, said:

> The transaction consumated today will make a positive contribution to the nation's

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* See attached affidavit

critical need for supplies of low-sulfur, high quality coal.

He explained that coal from the West Virginia mines will be suitable for use by power companies or by the metals industry in the near term.

Monterey Coal Co. has stated that when the two West Virginia mines reach full capacity they are expected to provide about 1,600 jobs with an annual payroll of $27 million. Robert H. Quenon, Monterey President, said:

> We are confident those mines can be developed in harmony with the goals of the local communities, and we are committed to utilizing the best technology and practices to insure safety and protection of the environment.

Monterey operates an underground mine at Carlinville, Ill., employs about 450 people and produces 3 million tons *of steam coal* per year. Illinois Governor Dan Walker, has said:

> The Monterey mine has proven that with modern technology a coal mine can be a good neighbor and operate in harmony with the environment.

I emphasize that the Monterey Coal Co. officials have stated that when the two West Virginia mines reach full capacity they are expected to provide approximately 1,600 jobs with an annual payroll of $27 million. I call attention also to the significant additions to the Illinois economy.

The total of agreements between Columbia Gas and Carter Oil—and their subsidiaries—will eventually mean vastly more energy supplies for the country, as well as more jobs for the labor force. Yes, there will be additional coal mining in both West Virginia and Illinois, and there will eventually be conversion of the Illinois coal reserves to pipeline quality gas by Columbia's Coal Gasification Corp.

These are important developments in the right direction toward improving America's energy self-sufficiency status.

Energy self-sufficiency is a goal I have been actively advocating for our country for more than a dozen years. The recent Arabic petroleum embargo was proof that we should go forward—as Columbia Gas and its subsidiaries and Exxon and its subsidiaries have agreed—in taking practical and positive steps toward the achievement of fuels and energy self-sufficiency.

ADDRESS BY SENATOR HUBERT HUMPHREY TO THE NATIONAL FOREST PRODUCTS ASSOCIATION

Mr. HUMPHREY. Mr. President, I recently had the pleasure of addressing the National Forest Products Association.

This group gave me a very warm reception. I spoke to them concerning the need to do a much better job in the future in terms of planning for and meeting our long-range timber and renewable resource requirements. Above all, I tried to point out that our aversion to planning in any form has exacted a high price.

Mr. President, I ask unanimous consent that the text of my address be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Statement by Senator Hubert H. Humphrey—"Resource Conservation and Development"

During the 200 years of our national history, we have utilized our resources and land recklessly. Now at a time of scarcity, we must make up for our past negligence. We need also to develop a plan for the future.

The Chinese long ago almost destroyed themselves before learning that man must work with rather than fight against nature.

Our history—in terms of utilizing our resources—has been an ongoing attempt to fly in the face of this rule. While there were warning voices, we used up our resources at an alarming rate.

Since the birth of our nation, we have had bountiful supplies of land, timber, minerals and capable people.

Our early settlers could use the soil and then move on after it was exhausted. Our loggers cut the timber and got out. They certainly had no idea of what the future resource needs would be. The term "inventory" was almost totally unknown.

In the past few years, the danger of this profligacy has become increasingly evident. A society is governed by the laws of nature as much as by the laws of man. We have begun to realize this at a serious cost.

It would accomplish little to point out what we should have done.

The uncomfortable fact is that we are a highly consumption-oriented nation of 212 million people. We are wasting resources at an alarming rate.

We have also had a great aversion to planning in any form. The motto, "Don't tread on me," of our early history has been a strongly held attitude for many rugged individuals. We did not want to be told what to do. The future would somehow take care of itself.

Planning has also had strongly ideological overtones in more recent years. Other countries had five year plans for national economic growth, but not our country.

In 1940, we established the National Resources Planning Board to carry out long term planning. However, after the war, we returned to our old haphazard ways. The future would have to take care of itself. We thought there was no limit to growth—no end to consumptive levels.

But we have recently advanced in our thinking. The energy crises and the pressure on all our resources have been growing. In fact, in the 1950's and 60's we invented the "Throw Away" concept.

We must now take a major forward step. The Senate-passed bill, S. 2296, which 27 Senators joined with me in introducing, attempts to chart new directions in the valuable resources of our forests and range. Hopefully, it will serve as model legislation for other resource areas.

In designing the bill, we had to keep in mind that a forest is a resource with multiple values and uses.

We thus had to think in terms of fish and wildlife, water, air and soil. We decided to look at the totality of the forests and range.

It seemed to me that what we needed was an integrated assessment of these lands and their resources. With such an assessment we would be in a position to develop a rational national program.

I also felt that time was of the essence in getting a first crack at an assessment and program. Refinement in the program could come later.

Further, we needed to retain some flexibility to deal with the inevitable changes.

Finally, we believe, the Federal role should be to provide leadership as a land manager without usurping the private initiative. In fact, it could assist the private effort.

From the assessment, we can develop a program, which outlines our goals and priorities. The Program will need to balance the multiple uses of our forests. It must also include a schedule which phases the Program's implementation.

We know that by thinning and improved management, forest output can be increased substantially. Our estimated timber requirements will increase by at least fifty percent in the next three decades. If we can find reasonable ways to increase supplies on a sustained yield basis, forest products will meet demand.

Washington State has already incorporated practices and funding techniques to increase the yield of State Forests. State and Federal Forests can, if properly managed, yield more uses on a sustained basis.

The President's Advisory Council on Timber and the Environment recently concluded that intensive management would greatly increase timber yields. A study by the General Accounting Office noted that much more solid reforestation and stand improvement work would pay dollar and conservation dividends.

There is a new awareness that these positive steps are needed now. We also have time to deal with this problem and lay out a strategy that can succeed.

Developing this legislation involved a lot of work over eight months. It brought groups together of sharply differing and competing views. Many of you made useful contributions to this effort.

The legislation makes provision for continuing citizen participation.

I am hoping that developing the Program will enable and encourage groups with differing views to continue this useful interchange. This approach should go far toward developing the best possible Program.

It could well be argued that if this bill had already been enacted into law, recent court cases over forest issues might have been avoided. The process of developing a Program would air conflicting views which hopefully could be resolved without litigation.

While I am optimistic about the bill and what it will accomplish, we should not expect instant miracles. It will take time to make the Assessment and develop the Program.

In the meantime, we can make improvements in the present Forest System operations.

I would suggest five steps which would serve this end:

1. Increase fiscal year 1975 Funding for the Forest Service.

I have pointed out to the Committee on Appropriations that the FY 1975 funding proposed by the Administration is just not adequate. In my view, an additional $193 million is needed.

The National Forest System now contains more than half of the nation's total softwood timber inventory. The rate at which this sustained yield wood supply can be utilized depends largely on the intensity and effectiveness of forest management.

The National Forest Service needs beefing up if it is to increase the intensity of its timber management.

There is also a backlog of 3 million acres requiring reforestation, and another 13 million acres needing timber stand improvement.

Additional funds would help catch up on this work and lead to an increased timber off-take.

2. Provide incentives for small private holding.

Small private timber holdings account for 60 per cent of total commercial timberlands. However, they carry only 20 per cent of the softwood timber inventory. Timber management levels on most of these lands, other than for fire protection, are low. Improvement of stocking and cultural practices would be essential steps toward increasing the nation's timber supply.

We need to enlist more small owners in a good forest practices program.

3. Assure Good Land Use.

Good land use is the business of every land owner, public and private. It is a paramount importance that private forests owners practice good forest management. There is a sound reason for this: private enterprise is the keystone of our system and most of the productive commercial forest land is in private ownership.

On industrial lands, great strides have been made in these last two decades. The cut is still above growth. We need, nationwide, to get all lands voluntarily on a high level of management and, wherever feasible on a sustained yield management.

On public forests, there is serious disagreement over how this land is used. Congress has enacted a multiple-use, sustained-yield policy. Some groups would like to see more land allocated to one use. Some would opt for more wilderness. Some would give a priority to timber production. Others say wildlife values are dominant. Still others see water values as most important. Finally, the great rank and file of people think of the forest as a public park.

There is no easy answer to how we resolve this dilemma. In my view the great bulk of the commercial forest lands in our National Forests are and ought to be in multiple-use management.

4. Increase National Forest output.

National Forest timber management should be directed toward making its proper contribution to the nation's forest product requirements. This means prompt reforestation and securing the fullest and best output of all resources.

And it also means adequate funding on a continuing basis.

Intensive management requires a long-term commitment to maintain the effort. If you are going to plant genetically superior tree stock, there must be the commitment to secure the full benefit of its superior growth—decade after decade.

5. Increase the use of cut trees and Mill Waste.

I have been increasingly concerned over the wood waste which is presently not used. There is much dead and diseased wood which can be carefully removed from the forest.

The Forest Service normally does not secure the removal of all wood waste left by primary loggers. I have urged that funds be appropriated so that this wood can be utilized.

In this era of wood shortages, I see no reason why we should be so slow in utilizing this supply.

We would also clean out trees that spread disease to healthy forests.

Beyond outlining a long range planning mechanism and recommending more immediate improvements, we need to give greater attention to immediate economic problems confronting the forest products industry. Some of these are a part of the broader problems facing our whole economy. Others are more aggravated in the case of your industry.

The Administration has not let you twist slowly in the wind. It has given you a spin whenever it looked like you were merely hanging. The way in which it has handled housing has compounded the problems of supplying forest products.

The Administration has done little to dampen the fires of inflation. It has pursued policies of reaction rather than action. The budget policies over the past 5 years on timber sales, reforestation and roads can only be characterized as shortsighted.

The Administration has impounded funds, and frozen programs. It has sought to maximize income from timber resources now rather than invest in the development of a full level of multiple uses on a sustained yield basis.

In spite of inflation, high interest rates and price controls, the forest industry can be proud of its performance.

The recently completed study by the Rinfret-Boston Associates describes the keen competition in the softwood and plywood industry. The study provides a useful comprehensive overview of a most complex industry. This report should acquaint citizens with the problems of the timber industry and its important contribution.

As a legislator long associated with resource issues, I applaud the contributions and statesmanship of your organization. The grass roots change in your councils augurs well for the future.

I congratulate you and I encourage you.

We all know that the days ahead will test us all. Each generation of Americans has had its own challenges. Some are inherited from the past, some created in the present.

A major challenge and responsibility—in a world growing ever closer together—will be to develop and manage our resources more effectively. We are starting late, but with the help of people such as you, it can be done.

UNIVERSITY CENTERS FOR RATIONAL ALTERNATIVES

Mr. BUCKLEY. Mr. President, during the late sixties, when many of our campuses were in turmoil, responsible faculty members began to organize to preserve the universities as viable educational institutions, encourage rational discourse rather than rhetorical hooliganism, and encourage administrators to resist the demands of those who would deny freedom of speech to those with whom they disagree.

Prof. Sydney Hook was a leader in organizing one of the most prestigious of these organizations—the University Centers for Rational Alternatives or UCRA. Although Professor Hook has since left New York for Stanford, he still plays an active role in UCRA activities and I am happy to report that the group continues to provide a means of communication to those faculty members interested in preserving freedom of expression on our campuses.

The continued success of UCRA strikes me as especially important at a time when many off campus observers seem to think that the radical assault on our educational institutions ended with the violence of the sixties.

It did not end there and as UCRA's newsletter, Measure, reported recently, we should continue on our guard.

Mr. President, I ask unanimous consent to have the UCRA report on the status of free expression on our campuses printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

WHAT HAVE WE LEARNED?

The last few years have brought a period of calm and order to American campuses racked by outright physical violence in the late sixties. However, there are signs that the peace may be cracking at the edges. In particular, there are indications that certain organized radical groups are making an effort to stage a comeback by using violent and disruptive tactics against a few chosen targets. Though these efforts have not yet succeeded in mobilizing much widespread support, the initial reaction of administrators does not indicate that they have, as a group, learned much from the trials of the previous decade.

The theme chosen by the radical groups is that of "racism." The remnant of SDS, the Young Socialists, Lyn Marcus' NCLC and a "Committee Against Racism," have all undertaken to visit their persecutions upon a select list of professors who can with more or less plausibility be attacked as racists. Presently most visible is the Committee Against Racism which claims to be an outgrowth of a conference on "racism and the university" held at NYU last November. It claims to oppose "scholarly justifications for racism" and mentions by name Professors Shockley, Herrnstein, Jensen, Eysenck, and Banfield. In order to attack membership from universities, the media, and professional organizations, C.A.R. strives to formulate a respectable program of resolutions for presentation at the conventions of academic associations, promises to lobby in Washington and elsewhere, and often tries to coopt legitimate issues first raised by bonafide professional and interest groups. In many places and to many people, C.A.R. tries to project a general image of a legitimate, peaceful pressure group. However, recent events show that there is another, uglier side to C.A.R.'s activities which involves violent disruption.

At the end of February, a panel of the 140th meeting of the American Association for the Advancement of Science in San Francisco, organized by President John Bunzel of San Jose State University, was to be held on the subject of "Case Studies in Forbidden and Discouraged Knowledge." Various kinds of subjects were covered. For instance, two prominent Yugoslav dissidents, Milovan Djilas and Mihajlo Mihajlov, were ironically prevented by the Yugoslav government from contributing their experience in forbidden and discouraged knowledge to the conference. Questions concerning privacy and research on human subjects were also discussed. Another topic was the difficult one of studies in the genetic basis of intelligence. Speakers on both sides of the question were to be present. Professor Richard Herrnstein, who has been the object of much vilification, declined to give his paper and attend. The Committee Against Racism asked to be included in the proceedings in order to offer a presentation of its own at the panel. This was allowed. However, when the session was to begin, a number of shouting demonstrators had managed to obtain tickets and threatened to disrupt the meeting if their ticketless confreres were not seated. They chanted slogans like "Hook and Page should be put in a cage." Professor Ellis Page refused to give his presentation in the face of such intimidation. Subsequently, the C.A.R. speaker asked the demonstrators to abide by the rules of order and the meeting was able to proceed in a generally peaceful way.

The next set of incidents occurred at Toronto and are described in the accompanying article. Professor Banfield then went to Chicago for another public appearance at the University. There his public lecture was again disrupted, though a small seminar given under strict police protection proceeded peacefully. Though the administration sought to protect the public lecture by changing the meeting hall to a more secure place and having tickets printed for the event, some disruptors managed to get into the hall, as at San Francisco, and break up the lecture. Just as at Toronto, a campaign of pamphleteering and other propaganda had preceded the disruptions. It is not expected that disciplinary action will be taken by the University since most of the disruptors were outsiders. It is of interest that this time C.A.R. did not appeal for peace, but asked recipients of their handbills to "join us in protesting at Banfield's lecture, March 20 . . ." SDS is reported to have "targeted Banfield for exposure and harassment," at a recent national meeting. It contributed flyers decorated with pictures of Hitler reading Banfield's book and entitled "Wanted—Dead or Alive: Edward Banfield."

Activities of the militants are not limited only to the disruption of the classes of teachers with whom they disagree. The "battle" has been extended to the field of book-banning and active intrusions into the teaching process. According to headlines in the newly published *SDS New Left Notes,* "SDS Stops the Presses on De Cecco," and the paper boasts that the group has "succeeded in banning *Introduction to Sociology* by John and Mavis Blezanz," for containing a "culture of poverty" theory. After shouting down Professor Lachman at Wayne State for maintaining that not all men are equally intelligent, a C.A.R. activist delivered substitute lecture. The SDS paper states that it was a serious mistake there to waste "too much time in private discussion with the professor while not being active in the class from the start."

In Philadelphia a new organization has emerged which specializes in disrupting the question period of public lectures. A somewhat eccentric though multi-racial group, it is called MOVE. The name is not an acronym but stands for "activity as opposed to stagnation." It follows the 400 page "guidelines" of its founder, John Africa, which, according to a spokesman, are "based not on philosophy, not on theory, not on concepts, but doing away with those." It appears to advocate "total revolution" and the liberation of humanity from enslavement to civilization. Its membership, its spokesman claims, is made up of ex-dope addicts, bank robbers, ex-gang members, teachers, professors, three students and a married couple of former American Nazis. On Monday, February 25, they broke up the question period of Dr. Daniel Ellsberg's lecture at the University of Pennsylvania. The next night they drove Ms. Margaret Sloan, chairwoman of the National Black Feminist Organization, off the University of Pennsylvania stage. They gave as their reason that "all life is one." The previous week they had disrupted a symposium on gang warfare in North Philadelphia. On March 20, they moved to Temple University to disrupt the question period of a lecture in Political Theory given by a visitor from the University of Toronto.

The University of Pennsylvania responded cautiously to these incidents. Dean of Students, Alice Emerson, said the University Committee on Open Expression planned to "observe the situation." The Committee Chairman, Dr. Edward Herman, felt his Committee was not dealing strictly in its jurisdiction, and that it did not have enough facts to make a decision. The Provost, Eliot Stelar, said the University wants to keep an eye on the situation and argued that "should these disruptions amount to anything, they would represent a threat to our academic freedom and purpose, and we must then find a manner to defend ourselves." President Meyerson thought that "at the moment we can just go on the assumption that this is so alien to our community that it will and should disappear."

The picture formed by these fragments is becoming clearer. Radical groups from the remains of the New Left are making a serious and concerted effort to regain their former position on American campuses. They hope that the grave charge of racism will do it for them. By focusing on some of the more extreme extrapolations of a Shockley, they hope to associate with them others whose teachings may have nothing to do with race at all. They then can hope to tar all those who defend academic freedom as racists too. These efforts have led to disgraceful acts of political terrorism against individual professors, but have not yet succeeded in enlisting the kind of broad support these movements enjoyed in the sixties. However, many university administrators have been as passive in the face of present-day violence, as neglectful of the true values of a university, as the worst of their predecessors in the earlier times. Only where, as in Toronto, a strong and united faculty has drawn the line and pressured the administration to adhere to it, has there been a positive result. Even where the radical group is isolated, and clearly zany, all that comes from the administration are pious wishes that the threat will go away by itself.

It would be obviously wrong to assume that the American academy has lost its appreciation of, and belief in, academic freedom and the general freedom of expression. Whenever there comes news of abrogation of these freedoms somewhere abroad, there is a prompt and loud response. Professors from Greece or South Africa, Spain or Chile, are invited to come and take refuge at our colleges and universities. The *New York Review of Books* carries detailed descriptions of the plight of dissident Marxist professors at the Faculty of Philosophy in Belgrade, while the *Wall Street Journal* comments on the suppression of politically inspired satire in Yugoslavia. There is no lack of support for Andrei Sakharov and the AFL–CIO is ready to underwrite a coast-to-coast lecture series for the most famous of all the fighters for intellectual and personal freedom, Aleksander Solzhenitsyn.

And yet when it comes to problems within our own shores, most of our teachers and scholars, journalists and judges, and other members of our intellectual community, who are so properly incensed at injustices abroad, remain strangely inactive and silent. We do not know of any committee in defense of Dr. Banfield. Solzhenitsyn's fellow laureate, Shockley—with whom many may disagree but whose rights of free expression all should support, as a mattter of principle—is waging a singularly lonely battle. It almost appears as if we exhaust all our strength on principled verbal barrages against injustices in distant lands and save insufficient resolve for principled action n our backyard.

There are, of course, theoretical reasons given for following the more comfortable cause of protest abroad, neglect at home. One is told that there is a great deal of difference between the outrages committed by governments in power (these should presumably be arrested and condemned) and those advocated and carried out by fanatical sects who are out of power (these should apparently be endured and disregarded). There is also the forlorn hope of those who, like President Meyerson, trust that the evil is "so alien" that it will and should disappear.

Such rationalizations seem strangely off the mark. As reported at the latest meeting in New York of the Freedom House-sponsored International Council on the Future of the University, militant European radicals, though quite alien to the scholarly communities they invaded, have succeeded in dislocating the educational process to the point where the survival of their host universities is in grave doubt. They have done this by a systematic program of violence, intimidation, disruption and threat. Of course, such groups do not disappear by themselves, either in contemporary Europe or the United States or ever. In Europe they have little by little gained a power which has no relation to the size of their following. The situation on American campuses may be far remote from the horrors narrated by visitors from overseas, but the events reported above indicate that our relative well-being may be more a matter of passive good fortune than active virtue and, in the presence of a by now endemic disease, may therefore not be counted on as enduring.

There is another, educational reason against neglecting to oppose these outbreaks. Tyranny, like other practices, is learned by habit. It becomes emboldened by submission and appears normal to itself after sufficient repetition. One must not forget that many of the leaders of present and past dictatorships, with their notorious contempt for academic as well as all other liberties, started as members of militant student groups, learning their unfortunate trade by experiments on their teachers and fellow students. Many a member of the Nazi hierarchy started as a student rowdy breaking up the classes of left wing or pacifist professors; many a functionary of the KGB started as an obscure member of some anarchist or red university cell. We must not forget that universities teach political and social science as much by their actions as their course content.

Therefore, while the effectiveness and power of the domestic opponents of academic and other freedoms is presently fairly limited, their future will depend as much on the response (or lack of it) of the intellectual community to their flagrant misdeeds, as on their own efforts. For that reason the American professoriat, while working continually to improve teaching and scholarship, should also keep sight of the potential for destruction of those devoted to violence.

SECOND SUPPLEMENTAL JAVITS SUMMER YOUTH JOB OPPORTUNITIES

Mr. JAVITS. Mr. President, as Members know, the Senate passed on May 7 by a vote of 85 to 1, H.R. 14013, the second supplemental appropriations bill.

Under the Senate bill, following the recommendations of the Committee on Appropriations, an aggregate of $381.5 million in new appropriations would be provided for the summer youth job program and related recreation and transportation activities for this summer; this amount is $155.9 million above the House measure which contains only $208.6 million for the summer job program and no funds at all for recreation and transportation.

This Senate action resulted from the very fine action of the chairman and members of the Senate Committee on Appropriations and the Subcommittee on HEW-Labor Appropriations in particular.

On May 13, 1974, with certain of the colleagues who joined in the original requests which were joined in by 25 Senators I wrote the conferees of the House-Senate conference on H.R. 14013, which conference has not yet been scheduled, urging retention of the Senate approved amounts in order to ensure that no area in the Nation will have a program with less job opportunities this summer than last, as would be the case in most areas under the House bill.

Our letter includes, as an attachment, a series of charts prepared at my request by the Department of Labor, which show in respect to each State and major area within the State, the number of job opportunities and funds that would be available under the Senate as compared with the House provision, and last year's levels.

I ask unanimous consent that our letter to the conferees dated May 13, 1974, together with the charts and related materials, be printed in the RECORD.

There being no objection, the materials were order to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., May 13, 1974.

DEAR CONFEREE: We are writing to urge your support for the $381.5 million provided for the summer youth job program and related activities for this summer by the Senate amendment to H.R. 14013, the Second Supplemental Appropriations bill, as follows:

$364.5 million under the Comprehensive Employment and Training Act of 1973 which will provide meaningful work opportunities for poor youth ages 14 to 21, along the lines of the Neighborhood Youth Corps. When combined with the $91.4 million in carried over funds which the Administration has already committed to that purpose, the appropriation would provide an aggregate funding level this summer of $455.9 million for 878,616 nine-week opportunities.

$15.0 million for recreation for younger youth and $2.0 million for transportation, approximately the levels of funding available last summer.

Under the House measure, $208.6 million (or $155.9 million less than provided by the Senate) would be added to the $91.4 million for an aggregate funding level of $300.0 million for summer youth job programs, as requested by the Administration; no funds were included for recreation or transportation.

The aggregate of $300.0 million was originally intended by the Administration to fund 709,200 nine-week opportunities, actually under the level of opportunities available last year.

However, since the Administration submitted its request, the Congress has passed and the President has signed into law the Fair Labor Standards Amendments of 1974, P.L. 92–259, which raises the hourly wage applicable to summer youth job positions, as well as to other employment generally, from $1.60 to $2.00 an hour.

Under the new minimum wage, the $300.0 million that would be available under the House bill can provide only 578,032 opportunities, or 131,167 less even than those intended by the Administration, thus forcing cut-backs throughout the Nation compared with last year.

The Senate amendments would insure that no area receives less funds or opportunities in the summer youth job program (as well as related recreation and transportation activities) than last summer, and make it possible for a moderate increase in summer youth job opportunities to contribute to meeting the special employment needs of poor youth, who suffer particularly from the general unemployment situation, aggravated by the energy crisis, with unemployment rates in some areas ranging from 30 to 40 percent.

We note in that regard that the Department of Labor has estimated that 3.4 million poor youth will be looking for jobs this summer—approximately four times the number that can be covered even under the Senate bill; and, that even the Senate provisions fall 233,483 short of the 1,111,483 job opportunities which we sought in the Senate on the basis of a detailed study by the National League of Cities-U.S. Conference of Mayors as the number that could be used effectively.

Enclosed is a chart, prepared at our request by the Department of Labor, showing for each area the levels of funding and opportunities which would be available under the Senate bill as compared with the House, and last year's levels.

For these reasons, we urge adoption of the Senate provisions.

Sincerely,

Jacob K. Javits, Mike Gravel, Robert T. Stafford, James S. Abourezk, Frank E. Moss, William D. Hathaway, Hubert H. Humphrey, J. Glenn Beall, Jr., Philip A. Hart, Robert Taft, Jr., Quentin N. Burdick.

Dick Clark, John V. Tunney, Edward M. Kennedy, Alan Cranston, Walter F. Mondale, Gaylord Nelson, Harrison A. Williams, Abraham Ribicoff, George McGovern.

U.S. DEPARTMENT OF LABOR, MANPOWER ADMINISTRATION—SUMMER ALLOCATION COMPARISONS

	Fiscal year 1973 actual		Annualization of 1973 slots with formula increases		Distribution of $300,000,000		Distribution of $456,000,000	
	Slots	Dollars	Slots	Dollars	Slots	Dollars	Slots	Dollars
REGION I								
Connecticut	10,399	4,398.9	11,628	6,034.7	7,978	4,141.1	12,268	6,367.1
Bridgeport Consrt	2,190	926.4	2,190	1,136.4	1,606	833.6	2,201	1,142.3
Hartford Consrt	2,208	934.0	2,269	1,177.7	1,740	903.1	2,651	1,375.9
New Haven Consrt	2,272	961.1	2,272	1,179.3	1,666	865.1	2,272	1,179.2
Stamford Consrt	725	306.7	731	379.2	560	290.8	854	443.2
Waterbury City	699	295.7	699	362.9	512	266.2	709	368.0
Balance	2,305	975.0	3,467	1,799.2	1,892	982.3	3,581	1,858.5
Maine, balance	3,740	1,582.0	3,981	2,066.3	3,053	1,584.6	4,652	2,414.4
Massachusetts	18,142	7,674.0	22,314	11,581.2	14,436	7,492.4	24,354	12,639.7
Boston	5,145	2,176.3	5,145	2,670.1	3,773	1,958.6	5,145	2,670.2
Cambridge Consrt	1,212	512.7	1,366	708.8	994	516.4	1,596	828.3
New Bedford Consrt	741	313.4	783	406.2	600	311.5	914	474.4
Springfield Consrt	1,437	607.9	1,696	880.2	1,179	612.2	1,981	1,028.1
Worcester Consrt	562	237.7	837	434.6	461	239.5	873	453.1
Lowell Consrt	775	327.8	854	443.5	636	330.1	998	518.0
Balance	8,270	3,498.2	11,633	6037.8	6,790	3,524.1	12,847	6,667.6
New Hampshire	1,858	785.9	2,005	1,040.6	1,518	788.0	2,342	1,215.5
Rockingham Consrt	474	200.5	529	274.7	388	201.8	618	320.7
Hillsborough County	514	217.4	554	287.3	422	219.2	647	335.8
Balance	870	368.0	922	478.6	707	367.0	1,077	559.0
Rhode Island	3,625	1,533.4	4,214	2,186.7	2,826	1,467.0	4,636	2,406.1
Providence	1,704	720.8	1,704	884.1	1,249	648.5	1,704	884.4
Balance	1,921	812.6	2,510	1,302.6	1,577	818.5	2,932	1,521.7
Vermont, balance	1,492	631.1	1,642	852.1	1,224	635.7	1,918	995.4
REGION II								
New Jersey	22,078	9,339.1	27,573	14,311.4	17,298	8,978.1	27,533	14,289.5
Atlantic County	826	349.4	866	449.5	664	344.7	1,012	525.2
Hudson County	1,322	569.2	1,624	843.0	1,085	563.2	1,898	985.1
Jersey City	2,222	939.9	2,222	1,153.3	1,630	846.0	2,222	1,153.2
Monmouth County	813	343.9	1,218	632.3	667	346.6	1,263	655.5
Essex County	757	320.2	1,220	633.1	621	322.7	1,176	610.3
Newark City	7,139	3,019.8	7,139	3,705.4	5,236	2,718.0	7,139	3,705.1
Morris County	381	161.2	635	329.6	312	162.2	591	306.7
Union County	473	200.1	828	429.8	388	201.5	735	381.5
Elizabeth City	324	137.1	391	203.1	265	138.0	457	237.2
Middlesex County	1,090	461.1	1,645	853.8	894	464.4	1,693	878.7
Bergen County	527	222.9	1,468	762.0	563	292.2	858	445.3
Passaic County	669	283.0	865	448.7	549	285.1	1,010	524.2
Paterson City	1,128	477.1	1,128	585.3	827	429.3	1,128	585.4
Mercer County	323	136.6	440	228.6	265	137.6	502	260.5
Trenton City	692	292.7	692	359.3	507	263.5	711	369.0
Cumberland County	258	109.1	450	233.6	211	109.8	400	207.6
Burlington County	478	202.2	821	426.1	392	203.5	742	385.1
Camden County	733	310.1	1,015	526.7	601	312.3	1,139	591.1
Camden City	472	199.7	575	298.3	387	201.1	672	348.8
Gloucester County	262	110.8	490	254.2	215	111.8	408	211.8
Ocean County	350	148.1	619	321.3	287	149.1	544	282.3
Somerset County	113	47.8	333	172.8	127	66.2	194	100.7
Balance	726	307.1	889	461.6	595	309.3	1,039	539.2

U.S. DEPARTMENT OF LABOR, MANPOWER ADMINISTRATION—SUMMER ALLOCATION COMPARISONS—Continued

	Fiscal year 1973 actual		Annualization of 1973 slots with formula increases		Distribution of $300,000,000		Distribution of $456,000,000	
	Slots	Dollars	Slots	Dollars	Slots	Dollars	Slots	Dollars
REGION II—Continued								
New York	69, 372	29, 344. 3	76, 923	39, 923. 1	52, 526	27, 261. 4	76, 920	39, 921. 2
Albany Csrt	787	332. 9	787	408. 3	591	307. 2	902	468. 1
Rensselaer County	230	97. 3	340	176. 6	189	98. 2	358	185. 8
Saratoga County	305	129. 0	333	172. 7	250	130. 0	389	201. 9
Schenectady County	180	76. 1	317	164. 6	148	76. 9	280	145. 3
Erie Csrt	366	154. 8	1, 251	649. 3	479	248. 9	731	379. 4
Buffalo City	2, 558	1, 082. 0	2, 558	1, 327. 6	1, 941	1, 007. 7	2, 958	1, 535. 2
Niagara County	454	192. 0	780	404. 9	372	193. 4	705	365. 9
Broome County	603	255. 1	609	316. 1	467	242. 4	712	369. 5
Chemung County	409	173. 0	409	212. 3	304	158. 2	464	240. 8
New York City	50, 752	21, 468. 1	50, 752	26, 340. 2	37, 227	19, 321. 2	50, 752	26, 340. 2
Rockland County	151	63. 9	384	199. 5	147	76. 5	235	122. 0
Westchester Consrt	1, 157	489. 4	1, 738	902. 2	949	492. 9	1, 797	932. 6
Yonkers City	333	140. 9	485	251. 8	273	142. 1	518	268. 8
Nassau County Csrt	1, 144	483. 9	2, 236	1, 160. 3	939	487. 6	1, 778	922. 8
Suffolk Connty Csrt	1, 305	552. 0	2, 138	1, 109. 5	1, 071	556. 0	2, 027	1, 052. 0
Dutchess County	302	127. 7	364	188. 8	248	128. 9	425	220. 6
Monroe/Rochester	1, 298	549. 1	1, 393	722. 9	1, 065	553. 1	1, 627	844. 4
Oswego County	203	85. 9	318	164. 9	166	86. 6	316	164. 0
Onondaga County	0	0. 0	312	161. 8	119	62. 0	364	188. 9
Syracuse City	1, 270	537. 2	1, 270	659. 0	931	483. 4	1, 270	659. 1
Oneida County	818	346. 0	897	465. 5	671	348. 6	1, 048	543. 9
Chautauqua Csrt	801	338. 8	926	480. 6	657	341. 5	1, 082	561. 6
Orange County	125	52. 9	419	217. 6	160	83. 4	245	127. 2
St. Lawrence County	210	88. 8	345	179. 2	172	89. 7	327	169. 7
Ulster County	137	58. 0	324	168. 2	124	64. 5	213	110. 5
Balance	3, 474	1, 469. 5	5, 238	2, 718. 7	2, 852	1, 480. 5	5, 397	2, 801. 0
Puerto Rico	19, 782	8, 367. 9	20, 859	10, 826. 2	14, 868	7, 716. 6	23, 263	12, 073. 5
Ponce Municipio	861	364. 2	1, 262	655. 0	706	366. 7	1, 337	693. 9
Bayamon Municipio	1, 125	475. 9	1, 125	584. 0	825	428. 4	1, 225	635. 8
Carolina Municipio	1, 033	437. 0	1, 033	536. 2	757	393. 3	1, 033	536. 1
San Juan Csrt	2, 255	953. 9	2, 931	1, 521. 2	1, 851	961. 1	3, 424	1, 777. 1
Mayaguez City	837	354. 1	837	434. 3	613	318. 6	837	434. 4
Balance	13, 671	5, 782. 8	13, 671	7, 095. 5	10, 112	5, 248. 5	15, 407	7, 996. 2
Virgin Islands	421	178. 0	421	218. 5	323	167. 5	421	218. 5
REGION III								
Delaware, balance	1, 733	733. 1	1, 788	928. 1	1, 371	711. 7	2, 089	1, 084. 2
Maryland	10, 703	4, 527. 3	12, 222	6, 342. 9	8, 201	4, 256. 7	11, 972	6, 213. 5
Baltimore Consrt	8, 045	3, 555. 3	8, 405	4, 362. 3	6, 165	3, 199. 9	8, 405	4, 362. 2
Montgomery County	127	53. 7	664	344. 4	254	132. 0	388	201. 4
Prince Georges County	827	349. 8	1, 321	685. 7	678	352. 3	1, 284	666. 4
Washington County Consrt	397	167. 9	737	382. 4	325	169. 1	616	319. 7
Balance	947	400. 6	1, 095	568. 1	777	403. 4	1, 279	663. 8
Pennsylvania	34, 058	14, 406. 6	39, 532	20, 517. 3	26, 263	13, 630. 5	41, 010	21, 284. 1
Lehigh Valley Cons	351	148. 5	702	364. 2	288	149. 5	545	282. 9
S. Allegheny Consrt	1, 156	488. 6	1, 553	805. 9	948	492. 1	1, 794	931. 1
Erie Consrt	952	402. 7	952	494. 2	698	362. 5	1, 024	531. 5
Susquehanna Consrt	743	314. 3	817	424. 0	609	316. 4	954	495. 1
Lancaster Consrt	316	133. 7	625	324. 3	259	134. 6	491	254. 8
Bucks County	397	167. 9	878	455. 8	336	174. 8	617	320. 2
Chester County	404	170. 9	535	277. 7	331	172. 0	625	324. 4
Delaware County	568	240. 3	1, 216	631. 2	466	242. 0	882	457. 8
Montgomery County	351	148. 5	1, 018	528. 4	390	202. 6	595	308. 8
Philadelphia	8, 950	3, 785. 9	8, 950	4, 645. 0	6, 564	3, 407. 2	9, 971	5, 174. 9
Alleghany County	2, 744	1, 160. 7	2, 952	1, 532. 2	2, 253	1, 169. 6	3, 449	1, 790. 0
Pittsburgh	5, 327	2, 253. 3	5, 327	2, 764. 6	3, 907	2, 027. 9	5, 327	2, 764. 7
Beaver County	391	165. 4	520	269. 9	321	166. 8	607	315. 0
Washington County	351	148. 5	553	287. 1	288	149. 5	545	282. 9
Westmoreland County	395	167. 1	986	511. 6	378	196. 2	613	318. 1
Berks County	484	204. 7	558	289. 8	397	206. 1	652	338. 4
Lackawanna County	252	106. 6	382	198. 1	206	107. 2	391	202. 9
Scranton	374	158. 2	388	201. 4	297	154. 4	453	235. 1
Luzerne County	1, 129	477. 6	1, 225	635. 9	927	481. 2	1, 432	743. 2
York County	109	46. 1	367	190. 7	140	73. 1	215	111. 6
Lycoming Consrt	315	133. 2	447	231. 9	258	134. 3	490	254. 3
Butler Consrt	585	247. 5	773	401. 3	480	249. 2	903	468. 7
Fayette County	902	381. 5	902	468. 2	661	343. 4	940	487. 9
Franklin County	144	60. 9	223	115. 5	118	61. 6	224	116. 3
Lawrence County	235	99. 4	329	170. 9	192	100. 1	365	189. 4
Mercer County Consrt	1, 076	455. 1	1, 076	558. 4	789	409. 6	1, 076	558. 4
Schuykill Consrt	461	195. 0	681	353. 4	378	196. 6	717	372. 1
Balance	4, 597	1, 944. 5	4, 597	2, 385. 8	3, 371	1, 750. 0	5, 113	2, 653. 6
Virginia	13, 711	5, 799. 7	14, 789	7, 676. 0	10, 727	5, 567. 5	16, 239	8, 428. 0
Peninsula Consrt	1, 115	471. 6	1, 115	578. 8	817	424. 5	1, 215	630. 6
Stamps	2, 941	1, 244. 0	2, 941	1, 526. 3	2, 157	1, 119. 6	3, 042	1, 578. 8
Ramps	1, 875	793. 1	1, 875	973. 2	1, 375	713. 9	1, 875	973. 1
Henrico County Consrt	0	0	229	118. 7	87	45. 5	267	138. 6
Roanoke Consrt	390	165. 0	528	274. 3	320	166. 2	606	314. 5
Arlington County	406	171. 7	465	241. 5	333	173. 0	544	282. 3
Fairfax County	344	145. 5	656	340. 5	282	146. 7	535	277. 7
Prince William County	211	89. 3	226	117. 5	173	90. 1	264	137. 0
Alexandria City	299	126. 5	303	157. 3	232	120. 6	354	183. 7
Balance	6, 130	2, 593. 0	6, 451	3, 347. 9	4, 946	2, 567. 4	7, 537	3, 911. 7
West Virginia	10, 084	4, 265. 6	10, 084	5, 233. 8	7, 424	3, 853. 5	10, 336	5, 364. 4
Kanawha City Consrt	1, 094	462. 8	1, 094	567. 8	830	430. 8	1, 265	656. 5
Cabell City Consrt	755	314. 7	744	386. 2	545	283. 3	825	428. 2
Balance	8, 246	3, 488. 1	8, 246	4, 279. 8	6, 048	3, 139. 4	8, 246	4, 279. 7

	Fiscal year 1973 actual		Annualization of 1973 slots with formula increases		Distribution of $300,000,000		Distribution of $456,000,000	
	Slots	Dollars	Slots	Dollars	Slots	Dollars	Slots	Dollars
REGION IV								
Alabama	15,033	6,359.0	15,185	7,881.2	11,169	5,797.1	15,874	8,238.5
Birmingham Consrt	2,292	969.5	2,292	1,189.8	1,689	876.7	2,574	1,335.9
Huntsville Consrt	518	219.1	540	280.1	413	214.8	632	327.5
Mobile Consrt	1,151	486.9	1,281	664.9	945	490.5	1,497	776.9
Montgomery Consrt	1,350	571.1	1,350	700.8	990	514.1	1,350	700.6
Tuscaloosa County	479	202.6	479	248.6	351	182.3	479	248.6
Balance	9,243	3,909.8	9,243	4,797.0	6,779	3,518.7	9,343	4,849.0
Florida	22,069	9,335.4	24,073	12,494.9	17,230	8,942.6	26,855	13,937.7
Volusia County	460	194.6	522	271.2	377	195.9	610	316.6
Lee County	47	19.9	199	103.5	76	39.7	116	60.2
Alachua County	313	132.4	313	162.7	229	119.3	315	163.5
Brevard County	646	273.3	753	391.0	530	275.1	880	456.7
Orange County	525	222.1	757	393.0	431	223.9	816	423.5
Escambia County	474	200.5	529	274.7	389	202.2	618	320.7
Sarasota County	71	30.0	201	104.3	77	40.0	117	60.7
Pasco County	0	.0	232	120.3	88	46.1	271	140.6
Palm Beach County	660	279.2	1,075	557.7	541	281.1	1,025	532.0
Hrtlnd Mnpnr Cnsrt	1,164	492.4	1,291	669.8	955	495.9	1,508	782.7
Miami/Dade Cnsrt	4,694	1,985.6	4,741	2,460.7	3,636	1,887.1	5,540	2,875.3
NE Florida Manpower Cnsrt	1,697	717.8	1,697	881.0	1,299	674.2	1,979	1,027.1
Broward Consrt	1,556	658.2	1,709	886.8	1,277	662.9	1,996	1,035.9
Leon/Gadsden Cnsrt	638	269.9	638	331.3	468	243.0	652	338.4
St. Petersburg Cnsrt	982	415.4	1,274	661.0	806	418.6	1,488	772.3
Tampa Consrt	2,438	1,031.3	2,438	1,265.4	1,788	928.2	2,438	1,265.3
Balance	5,704	2,412.8	5,704	2,960.5	4,257	2,209.4	6,486	3,366.2
Georgia	16,715	7,070.4	17,174	8,913.1	12,786	6,636.0	19,226	9,978.2
Atlanta	3,090	1,307.1	3,090	1,603.6	2,266	1,176.3	3,090	1,603.7
Fulton County	253	107.0	339	175.9	207	107.9	393	204.0
Dekalb County	563	238.1	686	356.0	462	239.8	802	416.2
Cobb County	372	157.4	483	250.7	305	158.6	564	292.7
Csra Consrt	866	366.3	959	497.5	711	369.2	1,120	581.3
Savannah/Chatham Consrt	602	254.6	602	312.5	441	229.2	668	346.7
Mid. Georgia Consrt	763	322.7	799	414.7	612	318.0	934	484.7
Columbus Area Cons	1,673	707.7	1,673	868.2	1,226	636.8	1,673	868.3
Balance	8,533	3,609.5	8,543	4,434.0	6,551	3,400.2	9,982	5,180.6
Kentucky	14,351	6,070.4	14,461	7,505.5	10,546	5,473.4	15,404	7,994.7
Kenton County	215	90.9	325	168.9	176	91.8	335	173.9
Louisville consrt	2,888	1,221.6	2,888	1,498.8	2,118	1,099.4	2,888	1,498.9
Lexington Consrt	1,485	628.2	1,485	770.6	1,089	565.3	1,485	770.7
Balance	9,763	4,129.7	9,763	5,067.2	7,161	3,716.9	10,696	5,551.2
Mississippi	13,150	5,562.4	13,150	6,825.2	9,646	5,006.4	13,150	6,824.8
Jackson Consrt	1,097	464.0	1,097	569.6	805	417.8	1,097	569.3
Balance	12,053	5,098.4	12,053	6,255.6	8,841	4,588.6	12,053	6,255.5
North Carolina	22,520	9,526.0	22,937	11,904.2	16,624	8,628.2	23,328	12,107.2
Buncombe County	679	287.2	679	352.3	497	258.4	679	352.4
Cumberland County	1,517	641.7	1,517	787.1	1,112	577.3	1,517	787.3
Gaston County	181	76.6	290	150.6	148	77.0	281	145.8
Onslow County	124	52.5	178	92.6	101	52.9	193	100.2
Charlotte	775	327.8	775	402.1	568	294.9	843	437.5
Winston-Salem-Cons	301	127.3	508	263.5	247	128.5	468	242.9
Raleigh Consrt	1,375	581.6	1,375	713.7	1,008	523.5	1,407	730.2
Greensboro-Guilford	600	253.8	647	335.7	493	255.9	756	392.4
Durham Consrt	931	393.8	931	483.3	683	354.5	931	483.2
Balance	16,037	6,783.7	16,037	8,323.3	11,763	6,105.3	16,253	8,435.3
South Carolina, balance	11,267	4,765.9	11,267	5,847.6	8,264	4,289.4	11,666	6,054.6
Tennessee	16,248	6,872.9	16,368	8,495.4	11,934	6,194.2	17,278	8,967.3
Chattanooga	1,138	481.4	1,138	590.8	834	433.3	1,138	590.6
Hamilton County	100	42.3	220	114.3	84	43.8	156	81.0
Nashville/Davidson	1,531	647.6	1,531	794.7	1,123	582.9	1,591	825.7
Sullivan County	373	157.8	373	193.5	278	144.7	425	220.6
Knoxville Consrt	1,477	624.8	1,477	766.7	1,083	562.4	1,477	766.6
Memphis Consrt	2,997	1,267.7	2,997	1,555.3	2,198	1,140.8	2,997	1,555.4
Balance	8,632	3,651.3	8,632	4,480.1	6,331	3,286.3	9,494	4,927.4
REGION V								
Illinois	48,406	20,475.7	55,393	28,749.6	36,583	18,986.8	53,011	27,512.5
Chicago	39,836	16,850.6	39,836	20,674.7	29,220	15,165.4	39,836	20,674.8
Cook County	1,970	833.3	3,673	1,906.1	1,617	839.4	3,060	1,588.1
Du Page County	0	0.0	495	257.1	189	98.6	579	300.5
Kane County	106	44.8	411	213.5	157	81.9	240	124.6
Lake County	252	106.6	643	333.8	246	128.0	391	202.9
Macon County	193	81.6	260	135.1	158	82.1	299	155.2
McHenry County	7	3.0	171	88.7	65	34.0	100	51.9
Rock Island County	127	53.7	287	149.2	110	57.2	197	102.2
Tazewell County	50	21.2	166	86.2	63	33.1	97	50.3
La Salle County	8	3.4	168	87.2	64	33.4	98	50.9
Rockford Csrt	174	73.6	419	217.4	160	83.4	271	140.6
Champaign Csrt	173	73.2	361	187.5	141	73.6	268	139.1
Will County Csrt	272	115.1	553	286.9	223	115.9	422	219.0
Sangamon County Csrt	365	141.7	570	295.9	275	143.0	521	270.4
Madison County Csrt	509	215.3	819	424.9	418	217.0	791	410.5
St. Clair Csrt	247	104.5	539	279.7	206	107.2	383	198.8
Peoria Csrt	504	213.2	521	270.5	399	207.4	609	316.1
East St. Louis	940	397.6	940	488.1	689	358.0	940	487.9
Shawnee Csrt	523	221.2	523	271.6	384	199.3	523	271.4
Balance	2,180	922.1	4,038	2,095.5	1,789	928.9	3,386	1,757.3

U.S. DEPARTMENT OF LABOR, MANPOWER ADMINISTRATION—SUMMER ALLOCATION COMPARISONS—Continued

	Fiscal year 1973 actual		Annualization of 1973 slots with formula increases		Distribution of $300,000,000		Distribution of $456,000,000	
	Slots	Dollars	Slots	Dollars	Slots	Dollars	Slots	Dollars
REGION V—Continued								
Indiana	17,746	7,506.4	20,795	10,793.0	13,566	7,040.8	20,735	10,761.4
Gary	5,627	2,380.2	5,627	2,920.3	4,172	2,142.1	5,627	2,920.4
Hammond	427	180.6	427	221.8	313	162.7	427	221.6
Lake County	1,59	490.3	1,159	601.5	850	441.2	1,159	601.5
Elkhart County	187	79.1	246	127.8	153	79.7	288	149.5
South Bend	1,084	458.5	1,084	562.8	795	412.8	1,084	562.6
St. Joseph County	116	49.1	189	98.3	95	49.5	180	93.4
Tippecanoe County	171	72.3	194	100.9	140	72.8	227	117.8
Madison County	230	97.3	257	133.2	189	98.2	300	155.7
Vigo County	483	204.3	483	250.4	353	183.7	483	250.7
Indianapolis	1,976	835.8	2,314	1,200.9	1,622	842.0	2,704	1,403.4
La Porte County	154	65.1	195	101.4	126	65.8	228	118.3
Ft. Wayne Csrt	1,200	507.6	1,200	622.6	879	456.7	1,201	623.3
Delaware Csrt	236	99.8	323	167.5	194	100.7	367	190.5
Evansville Csrt	1,510	638.7	1,510	783.9	1,107	575.0	1,510	783.7
Balance	3,186	1,347.7	5,587	2,899.7	2,616	1,357.9	4,950	2,569.0
Michigan	24,899	10,532.2	30,562	15,861.4	19,587	10,166.1	32,075	16,647.1
Wayne County	1,554	657.3	2,235	1,160.1	1,275	662.2	2,414	1,252.9
Detroit	10,567	4,469.8	10,567	5,484.5	7,751	4,023.0	10,567	5,484.3
Dearborn	0	0	145	75.3	55	28.9	170	88.2
Livonia	41	17.3	123	63.9	47	24.5	72	37.4
Monroe County	208	88.0	279	144.7	170	88.5	322	167.1
Bay County	257	108.7	361	187.2	210	109.3	398	206.6
Saginaw County	396	167.5	549	284.9	325	169.0	616	319.7
Oakland County	1,331	563.0	2,239	1,162.3	1,092	567.1	2,067	1,072.8
St. Clair County	303	128.2	432	224.3	249	129.3	471	244.4
Calhoun County	299	126.5	433	224.6	245	127.5	465	241.3
Kalamazoo County	351	148.5	502	260.4	288	149.7	546	283.4
Berrien County	391	165.4	556	288.4	321	166.6	607	315.0
Ottawa County	187	79.1	327	169.6	153	79.5	290	150.5
Washtenaw Csrt	466	197.1	611	317.0	382	198.5	714	370.6
Kent County Csrt	1,073	453.9	1,724	894.8	880	457.1	1,666	864.7
Muskegon Csrt	661	279.6	761	395.2	543	281.9	890	461.9
Genesee/Flint Csrt	1,000	423.0	1,464	759.7	820	426.0	1,553	806.0
Ingham Csrt	666	281.7	902	468.4	547	283.9	1,035	537.2
Jackson Csrt	565	239.0	737	382.3	463	240.6	861	446.9
Macomb	744	314.7	1,079	559.8	611	317.2	1,156	600.0
Warren City	190	80.4	342	177.4	155	80.8	295	153.1
Balance	3,649	1,543.5	4,194	2,176.6	2,996	1,555.0	4,900	2,543.1
Minnesota	7,895	3,339.6	10,389	5,392.4	6,581	3,415.8	11,206	5,815.9
Duluth	268	113.4	333	172.7	219	114.0	389	201.9
Dakota County	66	27.9	210	109.2	80	41.9	123	63.8
Urban Minnesota Coenst	1,745	738.1	2,904	1,507.4	1,432	743.5	2,710	1,406.5
St. Paul City	807	341.4	973	504.9	662	343.9	1,137	590.1
Ramsey County	13	5.5	218	113.3	83	43.4	128	66.4
Region III Csrt	816	345.2	922	478.5	669	347.6	1,077	559.0
Balance	4,180	1,768.1	4,829	2,506.4	3,432	1,781.5	5,642	2,928.2
Ohio	30,201	12,775.0	34,025	17,658.6	23,547	12,221.0	36,947	19,175.5
Cincinnati	3,180	1,345.1	3,180	1,650.5	2,332	1,210.7	3,180	1,650.4
Butler County	365	154.4	524	272.0	299	155.7	567	294.3
Clark County	277	117.2	350	181.5	227	118.0	408	211.8
Hamilton County	203	85.9	669	347.1	256	133.1	391	202.9
Licking/Del Csrt	442	187.0	442	229.2	330	171.5	503	261.1
Lorrain County	457	193.3	557	289.2	375	194.7	651	337.9
Akron Csrt	1,428	604.0	1,639	850.8	1,172	608.6	1,915	993.9
Canton Csrt	593	250.8	893	463.3	486	252.7	921	478.0
Cleveland Csrt	9,966	4,215.6	9,966	5,172.2	7,310	3,793.9	9,966	5,172.3
Columbus Csrt	1,796	759.7	1,884	978.0	1,445	750.0	2,202	1,142.8
Dayton Csrt	1,339	566.4	1,568	813.8	1,099	570.5	1,832	950.8
Toledo Csrt	1,216	514.4	1,411	732.1	998	518.0	1,648	855.3
Youngstown Csrt	2,081	880.3	2,081	1,080.0	1,581	821.0	2,410	1,250.8
Balance	6,858	2,900.9	8,861	4,598.9	5,631	2,922.6	10,353	5,373.2
Wisconsin	9,709	4,106.9	11,725	6,085.3	7,932	4,116.9	13,491	7,001.7
Outagamie County	143	60.5	208	108.2	117	61.1	223	115.7
Rock County	241	101.9	326	169.0	198	102.8	375	194.6
Milwaukee Csrt	2,395	1,013.1	2,763	1,433.8	1,966	1,020.8	3,228	1,675.3
Madison-Dane Csrt	525	222.1	659	341.9	431	223.9	770	399.6
Wow Csrt	473	200.1	473	245.4	346	180.0	529	274.6
Winne-Fond Csrt	207	87.6	411	213.5	170	88.4	322	167.1
Trico Cetac	619	261.8	771	400.3	508	263.8	901	467.6
Balance	5,106	2,159.8	6,114	3,173.2	4,192	2,176.1	7,143	3,707.2
REGION VI								
Arkansas	9,677	4,093.4	9,706	5,037.7	7,113	3,692.1	9,998	5,189.0
Little Rock Csrt	1,548	654.8	1,548	803.5	1,135	589.4	1,548	803.4
Texarkana Consrt	172	72.8	201	104.3	141	73.3	235	122.0
Balance	7,957	3,365.8	7,957	4,129.9	5,836	3,029.4	8,215	4,263.6
Louisiana	18,126	7,667.4	18,283	9,488.3	13,472	6,992.2	19,562	10,152.8
Rapides Parish	581	245.8	581	301.3	425	221.0	632	328.0
Baton Rouge	1,270	537.2	1,270	658.9	945	490.6	1,440	747.4
Lafayette Parish	400	169.2	400	207.7	305	158.8	466	241.9
Calcasieu/Jefferson	698	295.3	788	408.8	573	297.4	920	477.5
Ouachita Parish	417	176.4	461	239.5	342	177.6	539	279.7
New Orleans County	3,364	1,410.3	3,334	1,730.1	2,445	1,269.1	3,647	1,892.8
Jefferson Parish	1,087	459.8	1,087	564.4	813	422.3	1,240	643.6
Shreveport	601	254.2	624	323.8	478	248.3	729	378.4
Balance	9,738	4,119.2	9,738	5,053.8	7,142	3,707.1	9,949	5,163.5

	Fiscal year 1973 actual		Annualization of 1973 slots with formula increases		Distribution of $300,000,000		Distribution of $456,000,000	
	Slots	Dollars	Slots	Dollars	Slots	Dollars	Slots	Dollars
New Mexico	3, 806	1, 610. 0	4, 028	2, 909. 1	2, 863	1, 486. 3	4, 500	2, 335. 5
Albuquerque	821	347. 3	1, 043	541. 1	674	350. 0	1, 218	632. 1
Balance	2, 985	1, 262. 7	2, 985	1, 549. 0	2, 189	1, 136. 3	3, 282	1, 703. 4
Oklahoma	9, 678	4, 093. 9	10, 313	5, 352. 1	7, 286	3, 781. 5	10, 774	5, 591. 7
Comanche County	298	126. 1	298	154. 6	220	114. 4	336	174. 4
Oklahoma County	698	295. 3	698	362. 3	512	265. 8	706	366. 4
Oklahoma City Csrt	1, 065	450. 5	1, 463	759. 2	874	453. 8,	1, 654	858. 4
Tulsa Csrt	1, 050	444. 2	1, 287	667. 8	862	447. 5	1, 503	780. 1
Balance	6, 567	2, 777. 8	6, 567	3, 408. 2	4, 816	2, 500. 0	6, 575	3, 412. 4
Texas	39, 779	16, 826. 7	42, 278	21, 941. 4	30, 150	15, 648. 0	44, 246	22, 963. 7
Amarillo Csrt	846	357. 9	854	443. 2	654	339. 9	998	518. 0
Austin Csrt	1, 088	460. 2	1, 161	602. 4	889	461. 9	1, 356	703. 8
Beaumont Csrt	778	329. 1	981	508. 9	638	331. 5	1, 146	594. 8
Cameron County	834	352. 8	834	432. 7	621	322. 3	946	491. 0
Corpus Christi Csr	1, 808	764. 8	1, 808	938. 2	1, 326	688. 2	1, 964	1, 019. 3
Dallas City	1, 903	805. 0	2, 041	1, 059. 4	1, 562	810. 8	2, 385	1, 237. 8
Dallas County	348	147. 2	663	344. 2	285	148. 3	541	280. 8
El Paso City/County	1, 025	433. 6	1, 228	637. 3	841	436. 7	1, 435	744. 8
Ft. Worth Csrt	846	357. 9	1, 212	629. 3	694	360. 6	1, 314	682. 0
Tarrant County	100	42. 3	397	206. 0	152	79. 0	232	120. 4
Galveston Cnty	871	368. 4	871	452. 3	639	331. 7	871	452. 0
Houston	4, 294	1, 816. 4	4, 294	2, 228. 8	3, 237	1, 680. 1	4, 932	2, 559. 7
Harris County	293	123. 9	1, 061	550. 7	406	211. 1	620	321. 8
Bell Cnty Csrt	352	148. 9	423	219. 4	289	150. 1	494	256. 4
Hidalgo Cnty	1, 367	565. 6	1, 337	694. 1	980	509. 1	1, 464	759. 8
San Antonio Cst	5, 906	2, 498. 2	5, 906	3, 065. 0	4, 331	2, 248. 3	5, 906	3, 065. 2
McClannan Cnty Csrt	852	360. 4	852	441. 9	624	324. 2	947	491. 5
Wichita Cnty Csrt	865	365. 9	865	448. 7	634	329. 1	865	448. 9
Webb County	1, 307	552. 9	1, 307	678. 1	958	497. 4	1, 307	678. 3
Texarkana	218	92. 2	275	142. 8	179	93. 1	322	167. 1
Balance	13, 908	5, 883. 1	13, 908	7, 218. 0	10, 201	5, 294. 6	14, 210	7, 370. 3
REGION VII								
Iowa	5, 858	2, 478. 0	6, 598	3, 424. 4	4, 805	2, 494. 1	7, 552	3, 919. 5
Des Moines Consrt	945	399. 7	1, 071	555. 9	776	402. 8	1, 251	649. 3
Cedar Rapids Consr	137	58. 0	232	120. 4	112	58. 3	213	110. 5
Blackhawk County	162	68. 5	300	155. 5	132	69. 0	252	130. 8
Woodbury County	338	143. 0	356	184. 8	273	141. 7	416	215. 9
Scott County	246	104. 1	279	144. 8	202	104. 9	326	169. 2
Balance	4, 030	1, 704. 7	4, 360	2, 263. 0	3, 309	1, 717. 4	5, 094	2, 643. 8
Kansas	5, 408	2, 287. 6	5, 963	3, 094. 3	4, 273	2, 218. 1	6, 828	3, 543. 6
Kansas City Consrt	913	386. 2	948	491. 9	726	377. 2	1, 107	574. 5
Topeka Consrt	534	225. 9	534	276. 9	391	203. 1	534	277. 1
Wichita Consrt	1, 191	503. 8	1, 191	618. 0	881	457. 5	1, 343	697. 0
Balance	2, 770	1, 171. 7	3, 290	1, 707. 5	2, 274	1, 180. 3	3, 844	1, 905. 0
Missouri	18, 378	7, 773. 8	19, 232	9, 981. 2	13, 647	7, 082. 8	20, 027	10, 393. 9
Kansas City Consrt	3, 757	1, 589. 2	3, 757	1, 949. 6	2, 755	1, 430. 1	3, 757	1, 949. 9
Jefferson Consrt	318	134. 5	487	252. 6	261	135. 6	494	256. 4
Springfield	214	90. 5	298	154. 8	175	91. 3	333	172. 8
St. Louis City	5, 828	2, 465. 2	5, 828	3, 024. 8	4, 275	2, 218. 8	5, 828	3, 024. 7
St. Louis County	1, 359	574. 9	1, 960	1, 017. 1	1, 116	579. 3	2, 112	1, 096. 1
Balance	6, 902	2, 919. 5	6, 902	3, 582. 3	5, 063	2, 627. 7	7, 503	3, 894. 0
Nebraska	4, 915	2, 079. 0	5, 095	2, 644. 2	3, 831	1, 988. 5	5, 582	2, 897. 0
Omaha Consrt	2, 202	931. 4	2, 202	1, 142. 7	1, 615	838. 2	2, 202	1, 142. 8
Lincoln City	384	162. 4	397	205. 8	304	157. 8	463	240. 3
Balance	2, 329	985. 2	2, 496	1, 295. 7	1, 912	992. 5	2, 917	1, 513. 9
REGION VIII								
Colorado	6, 138	2, 596. 4	6, 592	3, 421. 0	4, 725	2, 452. 5	7, 028	3, 647. 5
Arapaho County	47	19. 9	191	99. 0	73	38. 0	111	57. 6
Jefferson County	56	23. 7	276	143. 3	105	54. 9	161	83. 6
Colorado Springs Consrt	444	187. 8	515	267. 1	364	189. 4	601	311. 9
Denver Consrt	3, 207	1, 356. 6	3, 207	1, 664. 4	2, 352	1, 220. 8	3, 368	1, 748. 0
Pueblo Consrt	475	200. 9	475	246. 4	350	181. 9	534	277. 1
Balance	1, 909	807. 5	1, 928	1, 000. 8	1, 478	767. 5	2, 253	1, 169 . 3
Montana, balance	1, 693	716. 1	2, 425	1, 258. 8	1, 389	721. 4	2, 630	1, 365. 0
North Dakota, balance	1, 575	666. 2	1, 986	1, 031. 0	1, 293	671. 4	2, 321	1, 204. 6
South Dakota, balance	1, 394	589. 7	1, 737	901. 6	1, 144	594. 2	2, 030	1, 053. 6
Wyoming, balance	824	348. 6	893	463. 6	676	351. 3	1, 044	541. 8
Utah, statewide consrt	3, 299	1, 395. 5	3, 727	1, 934. 4	2, 708	1, 405. 8	4, 355	2, 260. 2
REGION IX								
Arizona	8, 366	3, 538. 9	8, 366	4, 341. 7	6, 136	3, 184. 7	8, 536	4, 430. 2
Phoenix/Maricopa	4, 316	1, 825. 7	4, 316	2, 239. 9	3, 165	1, 643. 0	4, 393	2, 280. 0
Tucson-Pima County	1, 207	510. 6	1, 207	626. 5	885	459. 5	1, 300	674. 7
Balance	2, 843	1, 202. 6	2, 843	1, 475. 3	2, 085	1, 082. 2	2, 843	1, 475. 5
California	67, 451	28, 531. 7	80, 429	41, 742. 8	53, 560	27, 797. 7	88, 020	45, 681. 8
Berkeley	617	261. 0	735	381. 5	507	263. 2	859	445. 8
Glendale	97	41. 0	283	146. 6	108	56. 2	165	85. 6
Long Beach	1, 491	630. 7	1, 518	787. 8	1, 164	604. 2	1, 774	920. 7
Los Angeles	13, 560	5, 735. 9	13, 702	7, 111. 2	10, 507	5, 453. 3	16, 008	8, 308. 1
Oakland	3, 536	1, 495. 7	3, 536	1, 835. 3	2, 593	1, 346. 2	3, 536	1, 835. 2
Pasadena	851	360. 0	851	441. 5	623	323. 8	851	441. 7
San Francisco	4, 432	1, 874. 7	4, 432	2, 300. 3	3, 299	1, 712. 6	5, 027	2, 609. 0
Torrance	101	42. 7	273	141. 7	104	54. 3	160	83. 0
Butte County	150	63. 5	388	201. 4	148	77. 2	234	121. 4

U.S. DEPARTMENT OF LABOR, MANPOWER ADMINISTRATION—SUMMER ALLOCATION COMPARISONS—Continued

	Fiscal year 1973 actual		Annualization of 1973 slots with formula increases		Distribution of $300,000,000		Distribution of $456,000,000	
	Slots	Dollars	Slots	Dollars	Slots	Dollars	Slots	Dollars
REGION IX—Continued								
California—Continued								
Contra Costa County	785	332.1	1,344	697.6	644	334.7	1,220	633.2
Kern County	1,227	519.0	1,348	699.6	1,007	522.8	1,575	817.4
Los Angeles County	9,034	3,821.4	11,196	5,810.8	7,418	3,850.0	13,081	6,789.0
Marin County	309	130.7	527	273.7	253	131.5	479	248.6
Merced County	691	292.3	691	358.6	506	263.1	757	392.9
Monterey County	923	390.4	954	494.9	731	379.5	1,114	578.2
San Louis Obispo County	445	188 2	445	231.0	326	169.5	482	250.2
San Mateo County	767	324.4	1,358	704.8	629	326.9	1,192	618.6
Santa Barbara County	757	320.2	849	440.8	621	322.6	992	514.8
Santa Cruz County	352	148.9	541	280.9	288	149.9	546	283.4
Solano County	503	212.8	559	290.2	412	214.3	653	338.9
Sonoma County	587	248.3	846	439.0	482	250.3	912	473.3
Stanislaus County	612	258.9	1,123	582.7	502	260.7	950	493.0
Ventura County	720	304.6	1,117	579.6	591	306.8	1,118	580.2
San Diego Retc	3,771	1,595.1	5,202	2,699.9	3,096	1,607.2	5,859	3,040.8
Orange Cty Manp	1,777	751.7	3,501	1,817.0	1,458	757.1	2,760	1,432.4
Inland Manp Assoc	2,659	1,124.8	3,798	1,971.2	2,183	1,133.1	4,131	2,144.0
Fresno City/Cty	2,110	892.5	2,259	1,172.4	1,732	899.1	2,639	1,369.6
Tulare/Kings County	1,645	695.8	1,645	853.7	1,206	626.2	1,762	914.5
Sacramento/Yolo	2,442	1,033.0	3,007	1,560.7	2,005	1,040.8	3,513	1,823.2
San Joaquin County	1,710	723.3	1,710	887.3	1,286	667.6	1,960	1,017.2
Santa Clara Valley	1,936	818.9	3,161	1,640.7	1,589	825.2	3,008	1,561.1
County of Alameda	2,255	953.9	2,340	1,214.5	1,794	931.4	2,734	1,418.9
Richmond	479	202.6	479	248.7	358	186.0	546	283.4
Imperial County	454	192.0	472	245.1	362	188.0	552	286.5
Humbolt County Consr	356	150.6	543	282.0	292	151.8	553	287.0
Balance	3,310	1,400.1	3,696	1,918.1	2,717	1,410.6	4,318	2,241.0
Hawaii	2,378	1,005.9	2,902	1,506.4	1,952	1,013.1	3,391	1,759.9
Honolulu Cty/Cnty	1,808	764.8	2,214	1,149.2	1,484	770.3	2,587	1,342.6
Balance	570	241.1	688	357.2	467	242.8	804	417.3
Nevada	1,786	755.5	2,061	1,070.2	1,466	761.1	2,396	1,243.5
Las Vegas Csrt	1,126	476.3	1,227	637.0	924	479.7	1,434	744.2
Washoe County	407	172.2	487	253.0	334	173.6	569	295.3
Balance	253	107.0	347	180.2	207	107.8	393	204.0
American Samoa	60	25.7	60	31.1	47	24.2	60	31.1
Guam	700	314.8	700	363.3	570	296.2	700	363.3
W. Trust Territory	140	46.6	140	72.7	84	43.8	140	72.7
REGION X								
Alaska	2,696	1,140.5	2,945	1,528.3	2,003	1,039.7	2,860	1,484.4
Anchorage Borough	298	126.1	547	283.8	244	126.8	462	239.8
Balance	2,398	1,014.4	2,398	1,244.5	1,758	912.9	2,398	1,244.6
Idaho, statewide Consrt	2,523	1,067.2	2,818	1,462.6	2,071	1,075.3	3,293	1,709.1
Oregon	6,648	2,812.2	7,814	4,055.6	5,272	2,736.5	8,589	4,457.7
Portland City	2,124	898.5	2,124	1,102.5	1,558	808.7	2,138	1,109.6
Clackamas County	405	171.3	483	250.5	332	172.5	564	292.7
Multnomah/Wash Crt	520	220.0	794	412.0	426	221.5	808	419.4
Lane County	577	244.1	752	390.4	473	245.7	879	456.2
M-WILM Val Mpr Cst	548	231.8	796	413.0	450	233.6	852	442.2
Balance	2,474	1,046.5	2,865	1,487.2	2,031	1,054.5	3,348	1,737.6
Washington	14,708	6,221.6	16,792	8,714.7	11,229	5,828.1	17,617	9,143.1
King Sno. Consrt	8,370	3,540.5	8,370	4,343.8	6,139	3,186.3	8,743	4,537.6
Tacoma City	1,329	562.2	1,329	689.9	975	506.1	1,329	689.7
Pierce Cty	800	338.4	876	454.6	657	341.0	1,023	530.9
Spokane Consrt	578	244.5	949	492.5	474	246.2	898	466.1
Clark County	172	72.8	312	161.8	141	73.4	268	139.1
Kitsap County	137	58.0	300	155.7	115	59.7	213	110.5
Yakima County	571	241.5	745	386.4	468	243.2	870	451.5
Balance	2,751	1,163.7	3,911	2,030.0	2,258	1,172.2	4,273	2,217.7
District of Columbia	13,610	5,757.0	13,610	7,063.7	9,983	5,181.4	13,610	7,063.6
Indians	10,728	4,537.8	10,728	5,568.0	8,228	4,270.1	10,728	5,568.0
National total	753,749	318,842.6	835,700	433,731.5	578,032	299,999.1	878,616	456,000.0

EXPLANATION OF COMPUTATIONS

1. Columns 1 and 2: Actual 1973 Dollars. Slots are computed by dividing dollar amounts by $423, the average cost per slot.

2. Columns 3 and 4: Distribution of Total 1973 Slots by CETA Title I formula with 100% Hold Harmless. Dollars are computed by multiplying slots by $519/Slot.

3. Columns 5 and 6: Distribution of $300,000,000 by CETA Title I formula with 90% Hold Harmless. Reduction of all Prime Sponsors greater than 90% Hold Harmless. Reduction of all Prime Sponsors greater than 90% to make up those below 90%. No Prime Sponsor receives less than 50% of its formula amount. Slots are computed by dividing dollars by $519.

4. Columns 7 and 8: Distribution of 878,616 slots by CETA Title I formula with 100% Hold Harmless. Reduction of all Prime Sponsors greater than 100% to make up those below 100%. No Prime Sponsor receives less than 50% of its formula amount. Dollars computed by multiplying slots by $519.

EDUCATION AMENDMENTS OF 1974

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume the consideration of the unfinished business, S. 1539, which the clerk will state.

The assistant legislative clerk read as follows:

S. 1539, to amend and extend certain acts, relating to elementary and secondary education programs and for other purposes.

The Senate resumed the consideration of the bill.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum with the time to be taken out of both sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GURNEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GURNEY. Mr. President, I ask unanimous consent that the amendment I previously offered as an intended amendment to this bill be withdrawn, and I would like to send another amendment to the desk in its stead.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

How much time does the Senator yield himself?

Mr. GURNEY. As much time as I may require.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. GURNEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

At the end of the bill, add the following new title:

"TITLE IX—EQUAL EDUCATIONAL OPPORTUNITIES

"SHORT TITLE

"SEC. 801. This title may be cited as the 'Equal Educational Opportunities Act of 1974'.

"PART A—POLICY AND PURPOSE

"DECLARATION OF POLICY

"SEC. 802. (a) The Congress declares it to be the policy of the United States that—

"(1) all children enrolled in public schools are entitled to equal educational opportunity without regard to race, color, sex, or national origin; and

"(2) the neighborhood is the appropriate basis for determining public school assignments.

"(b) In order to carry out this policy, it is the purpose of this Act to specify appropriate remedies for the orderly removal of the vestiges of the dual school system.

"FINDINGS

"SEC. 803. (a) The Congress finds that—

"(1) the maintenance of dual school systems in which students are assigned to schools solely on the basis of race, color, sex, or national origin denies to those students the equal protection of the laws guaranteed by the fourteenth amendment;

"(2) for the purpose of abolishing dual schools solely on the basis of race, color, sex, thereof, many local educational agencies have been required to reorganize their school systems, to reassign students, and to engage in the extensive transportation of students;

"(3) the implementation of desegregation plans that require extensive student transportation has, in many cases, required local educational agencies to expend large amounts of funds, thereby depleting their financial resources available for the maintenance or improvement of the quality of educational facilities and instruction provided;

"(4) transportation of students which creates serious risks to their health and safety, disrupts the educational process carried out with respect to such students, and impinges significantly on their educational opportunity, is excessive;

"(5) the risks and harms created by excessive transportation are particularly great for children enrolled in the first six grades; and

"(6) the guidelines provided by the courts for fashioning remedies to dismantle dual school systems have been, as the Supreme Court of the United States has said, 'incomplete and imperfect', and have not established a clear, rational, and uniform standard for determining the extent to which a local educational agency is required to reassign and transport its students in order to eliminate the vestiges of a dual school system.

(b) For the foregoing reasons, it is necessary and proper that the Congress, pursuant to the powers granted to it by the Constitution of the United States, specify appropriate remedies for the elimination of the vestiges of dual school systems.

"PART B—UNLAWFUL PRACTICES

"DENIAL OF EQUAL EDUCATIONAL OPPORTUNITY

"SEC. 804. No State shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin, by—

"(a) the deliberate segregation by an educational agency of students on the basis of race, color, or national origin among or within schools;

"(b) the failure of an educational agency which has formerly practiced such deliberate segregation to take affirmative steps, consistent with part D of this title, to remove the vestiges of a dual school system;

"(c) the assignment by an educational agency of a student to a school, other than the one closest to his or her place of residence within the school district in which he or she resides, if the assignment results in a greater degree of segregation of students on the basis of race, color, sex, or national origin among the schools of such agency than would result if such student were assigned to the school closest to his or her place of residence within the school district of such agency of providing the appropriate grade level and type of education for such student;

"(d) discrimination by an educational agency on the basis of race, color, or national origin in the employment, employment conditions, or assignment to schools of its faculty or staff, except to fulfill the purposes of subsection (f) below;

"(e) the transfer by an educational agency, whether voluntary or otherwise, of a student from one school to another if the purpose and effect of such transfer is to increase segregation of students on the basis of race, color, or national origin among the schools of such agency; or

"(f) the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instruction programs.

"BALANCE NOT REQUIRED

"SEC. 805. The failure of an educational agency to attain a balance, on the basis of race, color, sex, or national origin, of students among its schools shall not constitute a denial of equal educational opportunity, or equal protection by the laws.

"ASSIGNMENT ON NEIGHBORHOOD BASIS NOT A DENIAL OF EQUAL EDUCATIONAL OPPORTUNITY

"SEC. 806. Subject to the other provisions of this title, the assignment by an educational agency of a student to the school nearest his place of residence which provides the appropriate grade level and type of education for such student is not a denial of equal educational opportunity or of equal protection of the laws unless such assignment is for the purpose of segregating students on the basis of race, color, sex, or national origin, or the school to which such student is assigned was located on its site for the purpose of segregating students on such basis.

"PART C—ENFORCEMENT

"CIVIL ACTIONS

"SEC. 807. An individual denied an equal educational opportunity, as defined by this title, may constitute a civil action in an appropriate district court of the United States against such parties, and for such relief, as may be appropriate. The Attorney General of the United States (hereinafter in this title referred to as the 'Attorney General'), for or in the name of the United States, may also institute such a civil action on behalf of such an individual.

"EFFECT OF CERTAIN POPULATION CHANGES ON CIVIL ACTIONS

"SEC. 808. When a court of competent jurisdiction determines that a school system is desegregated, or that it meets the constitutional requirements, or that it is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population occur which result in school population changes in any school within such a desegregated school system, such school population changes so occurring shall not, per se, constitute a cause for civil action for a new plan of desegregation or for modification of the court approved plan.

"JURISDICTION BY THE ATTORNEY GENERAL

"SEC. 809. The appropriate district court of the United States shall have and exercise jurisdiction of proceedings instituted under section 807.

"INTERVENTION BY ATTORNEY GENERAL

"SEC. 810. Whenever a civil action is instituted under section 807 by an individual, the Attorney General may intervene in such action upon timely application.

"SUITS BY THE ATTONEY GENERAL

"SEC. 811. The Attorney General shall not institute a civil action under section 807 before he—

"(a) gives to the appropriate educational agency notice of the condition or conditions which, in his judgment, constitute a violation of part B of this title; and

"(b) certifies to the appropriate district court of the United States that he is satisfied that such educational agency has not, within a reasonable time after such notice, undertaken appropriate action.

"ATTORNEYS' FEES

"SEC. 812. In any civil action instituted under this Act, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorneys' fee as part of the costs, and the United States shall be liable for costs to the same extent as a private person.

"PART D—REMEDIES

"FORMULATING REMEDIES; APPLICABILITY

"SEC. 813. In formulating a remedy for a denial of educational opportunity or a denial of the equal protection of the laws, a court, department, or agency of the United States shall seek or impose only such remedies as are essential to correct particular denials of equal educational opportunity or equal protection of the laws.

"PRIORITY OF REMEDIES

"SEC. 814. In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, which may involve directly or indirectly the transportation of students, a court, department, or agency of the United States shall consider and make specific findings on the efficacy in correcting such denial of the following remedies and shall require implementation of the first of the remedies set out below, or of the first combination thereof which would remedy such denial:

"(a) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account school capacities and natural physical barriers;

"(b) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account only school capacities;

"(c) permitting students to transfer from a school in which a majority of the students are of their race, color, or national origin to a school in which a minority of the students are of their race, color, or national origin;

"(d) the creation or revision of attendance zones or grade structures without requiring transportation beyond that described in section 815;

"(e) the construction of new schools or the closing of inferior schools;

"(f) the construction or establishment of magnet schools; or

"(g) the development and implementation of any other plan which is educationally sound and administratively feasible, subject to the provisions of sections 815 and 816 of this title.

"TRANSPORTATION OF STUDENTS

"SEC. 315. (a) No court, department, or agency of the United States shall, pursuant to section 814, order the implementation of a plan that would require the transportation of any student to a school other than the school closest or next closest to his place of residence which provides the appropriate grade level and type of education for such student.

"(b) No court, department, or agency of the United States shall require directly or indirectly the transportation of any student if such transportation poses a risk to the health of such student or constitutes a significant impingement on the educational process with respect to such student.

"(c) When a court of competent jurisdiction determines that a school system is desegregated, or that it meets the constitutional requirements, or that it is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population occur which result in school population changes in any school within such a desegregated school system, no educational agency because of such shifts shall be required by any court, department, or agency of the United States to formulate, or implement any new desegregation plan, or modify or implement any modification of the court approved desegregation plan, which would require transportation of students to compensate wholly or in part of such shifts in school population so occurring.

"DISTRICT LINES

"SEC. 816. In the formulation of remedies under section 813 or 814 of this title the lines drawn by a State, subdividing its territory into separate school districts, shall not be ignored or altered except where it is established that the lines were drawn for the purpose, and had the effect, of segregating children among public schools on the basis of race, color, sex, or national origin.

"VOLUNTARY ADOPTION OF REMEDIES

"SEC. 817. Nothing in this title prohibits an educational agency from proposing, adopting, requiring, or implementing any plan of desegregation, otherwise lawful, that is at variance with the standards set out in this title, nor shall any court, department, or agency of the United States be prohibited from approving implementation of a plan which goes beyond what can be required under this title, if such plan is voluntarily proposed by the appropriate educational agency.

"REOPENING PROCEEDINGS

"SEC. 818. On the application of an educational agency, court orders, or desegregation plans under title VI of the Civil Rights Act of 1964 in effect on the date of enactment of this title and intended to end segregation of students on the basis of race, color, or national origin, shall be reopened and modified to comply with the provisions of this title. The Attorney General shall assist such educational agency in such reopening proceedings and modifications.

"LIMITATION ON ORDERS

"SEC. 819. Any court order requiring, directing or indirectly, the transportation of students for the purpose of remedying a denial of the equal protection of the laws shall, to the extent of such transportation, be terminated if the court finds the defendant educational agency is not effectively excluding any person from any school because of race, color, or national origin, and this shall be so, whether or not the schools of such agency were in the past segregated de jure or de facto. No additional order requiring such educational agency to transport students for such purpose shall be entered unless such agency is found to be effectively excluding any person from any school because of race, color, or national origin, and this shall be so, whether or not the schools of such agency were in the past segregated de jure or de facto.

"TERMINATION OF COURT ORDER

"SEC. 820. Any court order requiring the desegregation of a school system shall be terminated, if the court finds the schools of the defendant educational agency are a unitary school system, one within which no person is to be effectively excluded from any school because of race, color, or national origin, and this shall be so, whether or not such school system was in the past segregated de jure or de facto. No additional order shall be entered against such agency for such purposes unless the schools of such agency are no longer a unitary school system.

"PART E—DEFINITIONS

"DEFINITIONS

"SEC. 821. For the purposes of this title—

"(a) the term 'educational agency' means a local educational agency or a 'State educational agency' as defined by section 801(k) of the Elementary and Secondary Education Act of 1965;

"(b) the term 'local educational agency' means a local educational agency as defined by section 801(f) of the Elementary and Secondary Education Act of 1965;

"(c) the term 'segregation' means the operation of a school system in which students are wholly or substantially separated among the schools of an educational agency on the basis of race, color, sex, or national origin or within a school on the basis of race, color, or national origin;

"(d) the term 'desegregation' means desegregation as defined by section 401(b) of the Civil Rights Act of 1964; and

"(e) an educational agency shall be deemed to transport a student if any part of the cost of such student's transportation is paid by such agency.

"PART F—MISCELLANEOUS PROVISIONS

"REPEALER

"SEC. 822. Section 709(a)(3) of the Emergency School Aid Act is hereby repealed.

"SEPARABILITY OF POWERS

"SEC. 823. If any provision of this title or of any amendment made by this title, or the application of any such provision to any person or circumstance, is held invalid, the remainder of the provisions of this title and of the amendments made by this title and the application of such provision to other persons or circumstances shall not be affected."

Amend the table of contents by adding at the end thereof the following:

"TITLE IX—EQUAL EDUCATIONAL OPPORTUNITIES

"Sec. 801. Short title.

"PART A—POLICY AND PURPOSE

"Sec. 802. Declaration of policy.
"Sec. 803. Findings.

"PART B—UNLAWFUL PRACTICES

"Sec. 804. Denial of equal educational opportunity.
"Sec. 805. Balance not required.
"Sec. 806. Assignment on neighborhood basis not a denial of equal educational opportunity.

"PART C—ENFORCEMENT

"Sec. 807. Civil actions.
"Sec. 808. Effect of certain population changes on civil actions.
"Sec. 809. Jurisdiction by the Attorney General.
"Sec. 810. Intervention by Attorney General.
"Sec. 811. Suits by the Attorney General.
"Sec. 812. Attorneys' fees.

"PART D—REMEDIES

"Sec. 813. Formulating remedies; applicability.
"Sec. 814. Priority of remedies.
"Sec. 815. Transportation of students.
"Sec. 816. District lines.
"Sec. 817. Voluntary adoption of remedies.
"Sec. 818. Reopening proceedings.
"Sec. 819. Limitations on orders.
"Sec. 820. Termination of court orders.

"PART E—DEFINITIONS

"Sec. 821. Definitions.

"PART F—MISCELLANEOUS PROVISIONS

"Sec. 822. Repealer.
"Sec. 823. Separability of provisions.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. GURNEY. I yield.

Mr. GRIFFIN. In light of the fact that there was a unanimous-consent agreement, would the Senator explain briefly what general changes or modifications have been made?

Mr. GURNEY. The amendment actually is the same amendment I offered as a proposed amendment to the bill. My proposed amendment was offered even before the bill was reported by the committee. Originally, I intended to substitute my amendment for a full title of the bill. The amendment I have sent to the desk is not a substitution of a title of the pending bill but is a new title, and that is the change.

Mr. GRIFFIN. In other words, the language and the thrust and the purpose of the Senator's amendment have not changed; but instead of offering it as a substitute for an existing provision of the bill, the Senator is offering it as an additional title to the bill. Is that correct?

Mr. GURNEY. I say to the distinguished assistant Republican leader that that is precisely the state of the matter.

Mr. GRIFFIN. As I understand the unanimous-consent agreement, it referred to an amendment by Senator GURNEY, and certainly this would appear to me to be a technical modification, not changing the substance of the amendment in any way, and I assume that it would not be objectionable to anyone.

Mr. GURNEY. That is precisely so. The parliamentary procedure here by the Senator from Florida is not intended to introduce anything new at all, but is simply to offer the amendment as a new section, rather than a substitution.

Incidentally, the reason why the Senator from Florida wanted to do that is that in the title for which my amendment originally was intended to substitute there is good language, there are good provisions, and I understand that other Members of the Senate will want to offer amendments to that title. Therefore, it seemed to me better to offer my amendment as a separate title.

Mr. President, I ask unanimous consent that two members of my staff, Pamela Turner and James Heinish, have the privilege of the floor during the debate on this amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GURNEY. Mr. President, the purpose of this amendment, Mr. President, is to prevent a denial of equal educational opportunity on the basis of race, creed or color; to provide remedies in the case of such denial; and to prohibit the forced transportation of students beyond the school next closest to the student's home.

This language, which is similar to the so-called Esch amendment, will be added as a new title IX to the bill. I would like to point out that the House has passed similar language not once, but twice—once by a margin of well over 2 to 1. I am hopeful that my colleagues in the Senate will take similar action.

I am not so optimistic as to expect a 2-to-1 vote, but I hope we can muster enough votes in this year, 1974, to adopt this amendment, which is so deeply needed to aid our school systems—at least, in the opinion of this Senator and in the opinion of many others.

I would like to mention that several of my colleagues have joined in cosponsoring this amendment.

The distinguished Senator from Kansas (Mr. Dole), who joins me in offering this substitute language, had previously offered a similar amendment, and I greatly appreciate the Senator's cooperation and his joining me in this amendment.

Also cosponsoring this amendment are the Senators from Tennessee (Mr. Baker and Mr. Brock), the Senator from Kentucky (Mr. Cook), the Senator from Colorado (Mr. Dominick), the Senator from Mississippi (Mr. Eastland), the Senator from North Carolina (Mr. Helms), and the Senator from Texas (Mr. Tower).

For a solid decade now, the question of forced busing has been debated in Congress. Scores of bills and amendments have been offered, and, on a cumulative basis, literally months of floor debate has centered on this controversy.

In the beginning, the busing issue was considered regional in nature. Everyone thought it was a southern problem, peculiar to the States below the Mason-Dixon line—and the southern States bore the brunt of the courts' arbitrary directives.

Since busing began in the South, times have changed, and now we find that busing is spreading like a cancer through every part of our country. In addition, to States like Florida, North Carolina, Tennessee, Alabama, Georgia, Virginia, and South Carolina, and others where busing was first instituted, busing has reached into many other areas, including Colorado, Michigan, California, Indiana, Illinois, Nevada, and Oklahoma.

It is interesting to note that the farther busing spreads, the closer the vote here in Congress on antibusing measures. I should not say Congress but the Senate, because the House has been voting in opposition to busing on many occasions. In 1972, for example, an antibusing amendment failed to pass the Senate by a slim one-vote margin.

The reason, of course, is obvious: The overwhelming majority of Americans are opposed to forced busing, and they are becoming increasingly adamant in expressing this opposition to those of us who represent them here in Congress.

This amendment represents a rational and acceptable alternative to an irrational and unacceptable situation.

First of all, there is an express prohibition against the denial of equal educational opportunity to any student on the basis of race, creed, or color. That is no change from the basic principle of law laid down in the case of Brown against Board of Education which ended segregation of the races in schools. This amendment does not change that in any respect. As a matter of fact, it reaffirms that law.

Included among the prohibited practices are deliberate segregation or failure to eliminate a dual school system, discrimination in faculty assignment and transfer of students to increase segregation.

All of this is in the amendment and all of this is, of course, basic fundamental law decided again and again in the last decade since the Brown case, not only by the Supreme Court but also by courts of appeals and district courts. This amendment reaffirms all of that basic law.

Furthermore, specific remedies are listed in the following priorities:

Assigning students to schools closest to their homes, taking into account school capacities and natural physical barriers.

Assigning students to schools closest to their homes, considering only school capacity.

Permitting students to transfer from a majority to a minority student concentration of their race, creed, or color.

Creation or revision of attendance zones or grade structures if it does not require transportation beyond the school next closest to the student's home.

Construction of new schools.

Closing of inferior schools.

And any other plan which is educationally sound and administratively feasible as long as it does not require transportation beyond the next closest school or across district lines, unless such lines were drawn for the purpose of segregation.

The amendment specifies that no forced busing shall be implemented unless these alternatives have been tried and proven ineffective in achieving the desired goal. In no case may a student be bused farther than the school next closest to his home.

For those school districts already under court order to bus, there is a reopener provision. In this way, we will be sure of more equitable treatment for all school districts.

The goal of this amendment, then, is to provide the best possible education for every child; and to do this through the neighborhood school system.

During all the years I have served in Congress, both the House and the Senate, there has been no issue of more concern and frustration to my constituents than that of forced busing. And my State of Florida has had its share of this problem, there is no doubt about that.

Take, for example, Jacksonville, Fla., which is one of the largest school districts in the country.

Jacksonville has been under court order since 1971. Previous to the first busing order, student enrollment was 122,000, of which 33,500—roughly 27 percent—rode a bus to school. It took 200 buses to do the job.

Now let us take a good look at the results of the busing order.

First of all, public school enrollment has dropped to roughly 110,000. But the number of students being bused has shot up to 52,000—nearly half the total enrollment. The number of buses has more than doubled—from 200 to 428.

If this sounds like crazy math, that is exactly what it is. And what it all adds up to is a whopping bill of $3 million a year. This is triple the pre-court order cost.

In March of 1972, Florida became the first State to hold a referendum on the issue of busing. An overwhelming 74 percent of Florida voters indicated their opposition to forced busing. And that just begins to tell the story of nationwide attitudes toward busing.

If there were ever an issue on which the vast majority of Americans have voiced a unanimous opinion, busing is it. Every poll I have seen—every referendum or other expression of public sentiment—has consistently reflected strong opposition to forced busing.

In 1971, a Gallup poll registered national opposition to busing at 77 percent.

This was at a time when busing was concentrated in only a few of the Southern States. It had not reached the North, West, or Far West. It is rather interesting that in 1971 the figure was 77 percent. Again last fall, another Gallup poll showed 95 percent against the use of forced busing to achieve integration.

The voting of California, by a 5 to 3 margin, adopted proposition 21, to prohibit forced busing. In Tennessee, 80 percent of the voters object to busing. The distinguished Senator from Oklahoma (Mr. Bartlett) recently inserted in the Record a resolution passed by his State denouncing busing as "unworkable and harmful to the educational system and to the schoolchildren of the State of Oklahoma."

Even the Civil Rights Commission admitted the results of their poll which showed 70 percent opposed to busing.

What is more, 12 States have passed resolutions calling for a constitutional convention to solve the busing problem once and for all. This is over one-third of the 34 States needed to call a convention.

As a matter of fact, I think if Congress would pass one of the many amendments which are now pending before the Judiciary Committees of both the House and the Senate and send that amendment out to the States for ratification, and the amendment I am talking about is to stop the busing, there is no question in my mind that the amendment would be adopted overwhelmingly to the Constitution.

Can there be any doubt about the will of the people? Certainly not.

And is it any wonder? Some of these

busing orders look like Rube Goldberg handiwork. The only difference is that despite their complexity, the Goldberg drawings made some sense in the end. The same cannot be said for these outlandish busing plans.

Those who support busing rely heavily on the arguments of social egalitarians that busing will improve the education level of minorities.

These days I think that is the chief argument for busing: That there must be busing of schoolchildren so they will all have equal opportunity so far as education is concerned, and that it will expedite integration as required by the Brown case.

Well, busing has been with us for a decade now. Let us take a look at the record. What has busing accomplished? And what has it failed to accomplish?

First, let us consider the education picture. Proponents of artificial ratios and balances would have us believe that such arrangements will increase the learning ability and the educational achievement of the minority student. Factual evidence now indicates the contrary.

As explained in a recent Washington Post article by William Chapman:

> The old attitudes have been bent by the weight of evidence emerging from many professional studies of the classroom effects of integration. The old education went something like this: 'Blacks get unequal education because their schools are unequal. Given equal access to the tools of education with whites, they will perform like whites. They will learn to read and write more quickly. They will shed old feelings of inferiority and low aspirations.' Each element of the equation is seriously undermined by the studies of the late 1960s.

There are rougly a dozen studies of busing and its net effect on several communities throughout the Nation. The consensus is that busing has not improved educational skills. In fact, there are a number of instances where it has only served to make things worse.

One of the major studies was done in 1972 by that eminent sociologist, David Armor of Harvard. Armor found no consistent evidence of educational improvement as a result of busing. As a matter of fact, he found considerable proof of adverse effects upon the students who were bused.

Armor's findings were updated in 1973 by Prof. Jeffrey Leech of the Indiana University Law School. Leech confirmed every major point in the original Armor report. Furthermore, Leech states:

> Thus the most recent sociological evidence fails to confirm a basic premise underlying the rationale of court-ordered busing; i.e., that it will positively affect the academic performance of minority children.

Another major report, prepared in 1966 by James S. Coleman, found that school integration, in itself, had very little effect on the academic achievements of blacks or whites.

These and other studies show that, contrary to the claims of busing proponents, academic progress is not achieved by busing.

And what about the other aspects of education? What about extracurricular activities? And for many youngsters, these activities are particularly valuable in their social and psychological development. There is no way a child who attends school miles away from home can stay after school to participate in group activities or valuable tutoring sessions.

These are very important aspects of education, and they are completely ignored by the great social organizers in the busing dispute before us.

Furthermore—and this is a very important point—busing prevents family and community participation in the student's education process.

What I mean by that is that I have had all manner of parents who complain that they are unable to participate, at least the way they used to do, by belonging to parent-teachers organizations and the communication that goes on between parents and teachers in the educational process. This has been changed, and in some cases totally wiped out in the case of some parents, who cannot drive across town to attend these meetings.

As a result, all three suffer—the student, his family, and the community.

Studies made in the Headstart preschool program found no visible improvement in the child if the parents were left out. The parents must be involved; the communities must be involved. Students should not look upon the classroom part of his education as something strange—something which takes him far away from home—something which does not relate to his neighborhood and family environment.

In conclusion, then, as far as educational benefits are concerned, busing has been a failure, and in some cases a miserable failure.

Now let us take a look at another mainstay in the pro-busing defense: busing will speed integration and smooth racial tension.

There have been many major studies on this factor, and the studies show just the opposite from this argument.

Both Armor and Leech found that bused pupils had a higher degree of racial antagonism than those not bused. Ironically, opposition to busing is what unites black and white; while busing itself merely increases tension and racial polarization.

Flareups in tension-filled schools have caused physical harm and material damage. Buses have been burned in Pontiac. There has been student violence in Charlotte, N.C.

Those are just a couple of examples. There are many all over the United States. There are some in my State of Florida. It certainly is not the way to smooth race relations. I have had teachers tell me that sometimes it is all they can do in these days of busing simply to maintain order in the classroom. They have a hard time doing that, and teaching and education have gone out the window.

I would venture to say that on this count, as with educational achievement, busing is not the answer.

Now I would like to speak to the issue of busing costs, which I think is important.

Proponents of widespread busing do not like to talk about the price tag for these social game plans, and with good reason. As if the taxpayers did not have enough demands on their dollar, the courts have given them yet another punch in the purse.

In Charlotte-Mecklenburg, about $1 million annually has been added to the schools' operating budget. In addition, taxpayers had to sell out $1½ million in capital investment for additional buses. Finally, there is an annual tab of $250,000 for contracts with the local city bus company in addition to the schoolbuses that have been purchased. In Prince Georges County, estimated costs for forced busing amount to an annual cost of $1,325,000.

School officials in Kalamazoo spent $4 million implementing their busing order—and lost 20 percent of their student enrollment, even when they spent that additional money.

Taxpayers in California were saddled with astounding financial obligations as a result of widespread desegregation orders in connection with schoolbusing.

For openers, there was an initial outlay of $42 million. Subsequent annual outlays drop to a mere $20 million.

The list goes on, but the point is clear: We are financially strapping our taxpayers and our school districts to pay for what I call the folly of the social planners, backed up by court orders. And what about education? Channeled into productive areas, this kind of money would mean a big boost in the educational standards of any school district.

No wonder the taxpayers around the country, again and again, have been defeating bond issues for school districts.

This money should be going where it will really help improve educational benefits for all children. It should go to teachers' salaries, modern classrooms and equipment, and special remedial programs.

I know, too, that the added tax burdens bear heavily on the retired and the elderly. I hear this time and again from many of my Florida constituents, and I think it's high time we did something about this.

Now another aspect of busing costs which should concern all Americans is the energy factor. With the fuel situation being what it is, it is inconceivable to me that we can even consider all this busing up and down a school district or throughout a county.

In North Carolina, the excess busing burden means an annual waste of at least 1.1 million gallons of gasoline.

Oklahoma City's busing plan consumed 350,460 gallons above normal this year alone.

In this area, neighboring Prince Georges County uses about 750,000 gallons annually to comply with busing orders.

And Richmond used some 530,000 extra gallons of gas this year.

This loss of precious fuel is even more tragic when we consider what was happening to the rest of the Nation as the buses rolled along. Americans were asked to turn down their thermostats, to cut back on energy-using devices, and conserve in other ways. Fuel for cars, when it was available, required hours of waiting in long lines around gas stations. Some stations were forced out of business althogether. Airline employees and people in the petrochemical industry were laid off in very considerable numbers.

But the schoolbuses, of course, kept rolling along, using the millions of additional gallons of gasoline.

The Senator from North Carolina (Mr. HELMS) offered an amendment to curb this waste—and I supported his effort, as did other Senators. Unfortunately, however, the senseless notion of "busing will out" prevailed.

Finally, busing does immeasurable damage to our Government itself. This is true of the courts, our education system, and even Congress.

The judicial branch is supposed to be the guardian of the people's rights—a bastion of reason and commonsense. Forced busing—and particularly some of the outlandish cross-district busing plans—defy both reason and commonsense.

I have never heard so much criticism of our judicial system, including the downgrading of the opinions of our higher courts, as I have heard in connection with the busing controversy. People just cannot understand how any man of reason can defend busing as it has been practiced in the last few years.

No wonder the people are frustrated. No wonder there is such criticism and lack of confidence in our judicial system.

The courts approve busing on the grounds that it protects individual rights and prevents segregation. In the now-famous Brown case, the court insisted that no child should be forced to attend a certain school because of his color.

These court-ordered school plans specifically deny every parent the right to control the education of his child. Furthermore, such compulsory assignments are based solely on race or color.

By pronouncement, then, the courts have set forth principles which have been reversed by their very own actions.

Nor has Congress done anything to clear up the ambiguities or set clear, reasonable guidelines for the courts. Instead, we have enacted confusing language, full of loopholes, which does nothing more than restate the courts' own decisions.

Massive forced busing has proved to be a miserable and disruptive failure, I think, on all counts. Despite this, and despite the overwhelming popular opposition to busing, there are still those who support what I would almost call an insane practice.

I think it is very interesting to consider the source of busing support. It seems to me that what we are dealing with here is a very small group of social planners and engineers who think these artificial game plans will make up for the lack of success with their other egalitarian schemes.

Earlier this year, we had hearings on several antibusing bills before the Subcommittee on Constitutional Rights. The witness list tells an interesting story. Over 20 Members of Congress spoke in opposition to massive forced busing. Other opponents were school board members and local citizens' groups, which have to work with the problem day by day and know more about it than probably any Member of Congress knows about it.

Speaking for busing were representatives from the Civil Rights Commission, NAACP, and the American Civil Liberties Union, people like that—special interest groups, lobbyist groups, not the people affected day by day by the busing of their children long distances to and from school.

Now here is my point—for years, parents and community leaders from all over the country have been coming into my office, literally begging me to stop, or help to stop, massive schoolbusing. These people are not a part of any vast, heavily funded organization. They pay their own way up here.

These people do not employ well-heeled legal counsel to speak for them. They do not have to. They speak from experience; they live with forced busing.

They come to Congress and talk with me—and I am sure this occurs with many other Senators. Believe me, in some cases, the money they spend in order to come to Washington they are hard pressed to get. They really cannot afford it. But they feel so deeply about it that they come here on their own to make their pleas. They are not financed by contributions; they do not come financed by the American Civil Liberties Union or other lobbies which try to maintain busing, which is so prevalent in our country.

On the other hand, we have the probusing groups—those organizations dedicated to massive social structuring at the expense of society itself. How many of them live with forced busing each day? I do not think any of them do.

It is interesting to note that the great social planners never seem to talk about "people." They ignore the fact that we are dealing with individuals—children and parents. No; they would rather talk about "populations," about norms and statistics, about great social patterns, and other arguments like that.

Well, I think Americans are sick and tired of being used as social guinea pigs.

I have talked a lot about the special interests problem. I could talk much more about it if I had the time.

Now I should like to take a few minutes to go into the constitutional aspects of the busing issue—particularly as it relates to my own amendment.

First of all, the purpose of my amendment is to specify appropriate remedies for the orderly removal of the vestiges of the dual school system. It does not modify or restrict in any way the guarantees of the 14th amendment. It goes only to the remedial measures which courts may require of school districts that have denied equal protection by segregation in the public schools.

The amendment tells the courts, as well as the departments and agencies of the Federal Government, that they may "impose only such remedies as are essential to correct particular denials of equal educational opportunity or equal protection of the laws." The amendment sets forth a priority of remedies which the Federal courts, agencies, and departments must follow. It places specific preference on the neighborhood school system and restricts busing beyond the school closest or next to the student's home. It prohibits busing which will endanger the health or hinder the educational process of the students affected. It prohibits busing beyond established school district lines.

To the extent that the amendment prescribes such limitations on the busing of students, it inhibits the power of Federal judges to order desegregation remedies. This raises a constitutional question that merits consideration because it goes to the delicate balance between the legislative and judicial branches of our Government. That question is: Does Congress have the power to limit the use of busing remedies ordered by the Federal courts, and, if so, to what degree?

I think the answer clearly is that Congress has specific power to regulate busing under section 5 of the 14th Amendment. This is the opinion of such constitutional law experts as Prof. Charles Alan Wright of the University of Texas, former U.S. Solicitor General Robert Bork of Yale Law School, Harvard law professors Henry M. Hart, Jr., and Archibald Cox.

We are certainly familiar with that name; he acquired his fame recently in another area, but he also is a constitutional law expert. Some other scholars suggest that Congress has an even broader authority over the jurisdiction of Federal courts by virtue of article III, section 2 of the Constitution. I shall discuss this latter argument first.

The primary source of congressional authority over Federal court proceedings derives from article III. Section I of the article vests the judicial power of the United States in "one Supreme Court, and in such inferior courts as Congress may from time to time ordain and establish." The power to refuse to establish lower Federal courts comprehends the power to limit or refuse their jurisdiction. Section 2 grants the Supreme Court appellate jurisdiction over certain classes of cases "with such exceptions, and under such regulations as the Congress shall make."

To support the view that Congress has the power under article III to withdraw particular remedies for the Federal courts when sitting as courts of equity, I point to such precedents as the anti-inspection act of 1793 (U.S.C. 2283).

I call attention to that case because that was at the very beginning of our country. Then I call particular attention to the Norris-LaGuardia Act, a famous labor Act which every lawmaker knows about, 29 U.S.C. section 101 et seq.; the Johnson Act of 1934, 28 U.S.C. section 1342; and the Tax Injunction Act of 1937, 28 U.S.C. section 1341. The Emergency Price Control Act of 1942—that, of course, was the Price Control Act of World War II, which the older Members of this body, at least, know a lot about, and its present day counterpart, the Economic Stabilization Act of 1971, which was the recent Price Control Act. These are additional precedents.

For example, let us take the Norris-La Guardia Act. In section 1, it provided that no Federal court could issue any restraining order or preliminary or permanent injunction in any case involving a labor dispute. The Supreme Court upheld the act in *Lauf* v. *E. G. Skinner Co.*, 303 U.S. 323 (1938), saying at one point that there can be "no question of the power of Congress thus to define and limit the jurisdiction of the inferior courts of the United States.", 303 U.S. at 330.

Even as applied to the Supreme Court, there are numerous decisions containing very broad statements to the effect that the Supreme Court's appellate power is subject to congressional exceptions and regulations. One of the best known cases ie ex parte McCardle, 74 U.S. (7 Wall.) 506 (1868), in which the Supreme Court upheld a reconstruction statute repealing a specific statutory right of appeal from circuit court decisions denying habeas corpus as an exception to its appellate jurisdiction. Mr. McCardle, the plaintiff, had invoked the Court's jurisdiction under an 1867 law which Congress repealed while his case was pending. The Court accepted the power of Congress to remove jurisdiction and dismissed McCardle's appeal. Then there was the 1871 decision of *United States* v. *Klein*, 76 U.S. (13 Wall.) 128, in which the Court ignored McCardle and refused to give effect to a congressional exception to its jurisdiction. So McCardle may no longer be a valid precedent, as I feel I should point out in fairness here. Article III arguments do have some analogical impact, at least with regard to the effect of the law upon lower Federal courts, but they are less persuasive in arguing the power to remove jurisdiction. It is doubtful, perhaps, that Congress could simply deny the Court entirely its jurisdiction over an important class of constitutional cases and I am not making that point.

But, while congressional power over the Court is not absolute, as we shall see, the decisions indicate that Congress may exercise some limited power, at least to the extent of defining remedies for violations of constitutional provisions.

I turn now to the more widely held view of congressional power under the 14th amendment, which is so important to the matter we are discussing here today.

Desegregation cases are decided under the equal protection clause of section 1 of the 14th amendment. Section 5 of that amendment provides:

> The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

That is, to put it another way, Congress has power to deal with remedies issued by the courts in 14th amendment cases.

The reason Congress has general power over remedies is clear. Remedies, unlike basic rights, often require compromises between conflicting considerations. The nature of that compromise, being political, is better suited for an elected body representing the diverse interests of the Nation than for the courts.

I think there is another reason, too: That as far as the remedy is concerned, to put it another way, the Court, in interpreting the 14th amendment, has laid down general principles of law. In the matter we are discussing here, the Brown case, the Court says there cannot be segregation of the races, as far as schools are concerned, on the basis of color. That was the general principle laid down in the Brown case. But as far as the specific, practical matters are concerned that have to be enacted and carried out, promulgated under a case like the Brown case involving desegregation, that matter is for the Congress, and not only for the Congress but later, of course, for the administrative branches of the Government, in this case, fortunately, the Department of HEW, under the laws that Congress enacts.

The courts are competent to decide—and have wisely decided, in my opinion—that racial segregation in the schools is a denial of equal protection guaranteed under the Constitution. But they are confined to particular fact situations, the litigants, and the records before them. They are less free to work out detailed legislative rules of the sort required generally. It occurs to me that they lack the "special competence" to determine where a bus should run and how much racial balance is sufficient. Such questions, I think, are better resolved by legislation in Congress.

Congress, in my opinion, and in the opinions of Professor Bork, Archibald Cox and others, is better equipped to make the sophisticated and detailed judgments necessary to frame a general rule which compromises local remedies and can be applied uniformly across the Nation. Congress is a more competent institution for making certain kinds of decisions about equal protection. And the authors of the 14th amendment intended Congress to play a major role in enforcing it. For these reasons, I believe that the courts ought to defer consistently to the wisdom of Congress in desegregation matters—obviously, as long as Congress is not violating the 14th amendment provisions.

Some constitutional scholars say that Congress' power under section 5 is so broad that it cannot only adjust remedies but can even define, to a substantial degree, the meaning of fundamental constitutional rights. The key decision is *Katzenbach* v. *Morgan*, 384 U.S. 641 (1966), where the Court applying the Voting Rights Act of 1965—with which so many of us are familiar—struck down the parts of the New York elections laws requiring English literacy tests as unconstitutional. I quote the Court in Morgan:

> Correctly viewed, section 5 is a positive grant of legislative power authorizing Congress to exercise its discretion in determining whether and what legislation is needed to secure the guarantees of the fourteenth amendment. 384 U.S. at 651.

The Court turned the issue of the equal protection violation over to Congress because it said that Congress had assessed and weighed various conflicting considerations and decided that—

> It is not for us to review the Congressional resolution of these factors. It is enough that we be able to perceive a basis upon which Congress might resolve the conflict as it did. 384 U.S. at 653.

In other words, it said exactly what I have been saying here, that the court lays down the general proposition under the 14th amendment and under that general proposition then the Congress is the one to express its will to resolve the factors involved and the basic principles laid down by the Court.

So the Court held that the State statute must yield even though it might otherwise have upheld it and might have rendered a decision quite different from that of Congress.

Some critics of Morgan argue that this case goes too far in the direction of legislative power and overturns the relationship between Congress and the Court by converting section 5 from a power to deal with remedies into a general police power for the Nation. Nevertheless, it is clear from Morgan that the Court believes Congress is assigned power because of its superior ability "to assess and weigh the various conflicting considerations." The Court recognized and deferred to Congress' special competence.

That is what I say in this schoolbusing thing and in the pending amendment, that Congress should have the power to legislate on schoolbusing matters. To use the language again, "To assess and weigh the various conflicting considerations."

Heaven knows, I do not think there has been an issue in our time—certainly maybe never an issue in the whole time of the history of the United States of America—where there were more conflicting considerations than there has been in this forced schoolbusing business.

The enforcement clause argument appears to have been employed to justify the enactment by Congress of title II of the Omnibus Crime Control and Safe Streets Act of 1968—Public Law 90-351; 18 U.S.C. 3501—with which we are all so familiar in this body. One purpose behind the act was to limit the Supreme Court decision in *Miranda* v. *Arizona*, 384 U.S. 436 (1966) relating to the admissibility of confessions at trials, a landmark case, as we all know. It was argued that since the Supreme Court in Katzenbach against Morgan had affirmed the view that Congress is possessed of a "positive grant" of power to enforce the 14th amendment by virtue of its fifth section, Congress can accordingly make its own independent assessment of relevant factors and perceive alternatives not relied upon by the Miranda court, and alternatives that might not accord with the Miranda ruling. See Senate report No. 1097, 90th Congress, 2d session, 59–63—1968.

So, too, the decisions which we make under this amendment, as to whether or not to order busing, and to what degree, involves the kind of assessment and weighing of conflicting considerations referred to in Morgan as the reason for judicial deference to congressional judgment.

At a minimum, section 5 of the 14th amendment confirms and reenforces the historic power of Congress to deal with remedies employed by Federal courts. There is little doubt that Congress has power to limit or deny one remedy among many.

Let me quote Professor Hart:

> The denial of any remedy is one thing. . . . But the denial of one remedy while another is left open, or the substitution of one for another, is very different. It must be plain that Congress necessarily has a wide choice in the selection of remedies and that a complaint about action of this kind can rarely be of constitutional dimension . . . (T)he basic reason, I suppose, is the great variety of possible remedies and the even greater variety of reasons why in different situations a legislature can fairly prefer one to another.

Speaking specifically of the remedies in desegregation cases, Professor Cox has stated:

> The scope and character of the relief to be afforded, however, seems well within the sphere open to congressional action under section 5 . . . It seems irrelevant whether the relief is greater or lesser than the courts would order. In either event, the relief is not part of the Constitution.

What he is saying there is that the relief is part of Congress, that that is its job, after the court has laid down the basic decision and the basic proposition under the 14th amendment and then the interpretation carrying out that basic proposition, so far as remedies are concerned, is for the Congress.

The Supreme Court has long acknowledged the power that Congress has over remedies. In a case dealing with a State law giving corporations summary process over debtors, *Bank of Columbia* v. *Okeley*, 4 Wheat. 235 (1819), the Court said, and I quote:

> It is the remedy, and not the right, and as such we have no doubt of its being subject to the will of Congress. The forms of administering justice and the duties and powers of courts as incident to the exercise of a branch of sovereign power, must ever be subject to legislative will, and the power over them is unalienable, so as to bind subsequent legislatures. 4 Wheat. at 245.

Similarly, the power of Congress over remedies for violations of constitutional rights is widely accepted. For instance, in the recent case of *Bivens* v. *Six Unknown Agents*, 403 U.S. 388 (1971) the court held that violation of plaintiffs 4th amendment rights by Federal agents gives rise to a cause of action for damages, and stated:

> We have here no explicit congressional declaration that persons injured by a Federal officer's violation of the fourth amendment may not recover money damages from the agents, but must instead be remitted to another remedy, equally effective in view of Congress. 403 U.S. at 421.

I contend that Congress does have power over the remedies employed by Federal courts, even in constitutional cases and that power derives from section 5 of the 14th amendment. Section 5 is the source of congressional power over Court remedies in desegregation cases, and more especially in the schoolbusing issue we have before us now.

At this point let me review briefly the leading decisions in the desegregation area. The fundamental right was set forth in the landmark case of *Brown* v. *Board of Education*, 347 U.S. 483 (1954). There the Court held that State-imposed segregation of the races in the public schools is inherently unequal and a denial of equal protection of the law. Since then the courts have dealt largely with the remedies for violation of the right enounced in Brown. In the second *Brown* v. *Board* decision, 349 U.S. 294 (1955), the court held that a State which had violated the 14th amendment has an affirmative duty to take whatever steps are necessary to convert to a unitary school system from which racial discrimination is eliminated.

The full realization of the right mandated in Brown I was subordinated in Brown II to the requirement of "all deliberate speed" so as to grant sufficient time for adjusting to the particular needs of each school district. As Professor Bork has observed:

> Brown I states an inflexible constitutional objection to *de jure* separation. Brown II stresses the need for flexibility in fashioning remedies.

Brown II makes clear the necessity to adjust and reconcile conflicting interests whereas Brown I sets forth an uncompromising statement of fundamental principles. To emphasize the distinction, it is significant that the Court discussed the constitutional right and the remedy in separate Brown decisions.

Later on in *Griffin* v. *Board of Supervisors*, 377 U.S. 218 (1964), the Supreme Court dropped the Brown II Standard for compliance by stating that there had been "entirely too much deliberation and not enough speed," 377 U.S. at 229, and ordered immediate relief for the Prince Edward County schoolchildren whose right to an equal education had been violated.

Then in *Green* v. *County School Board*, 391 U.S. 430 (1968), the Court ruled that new Kent County's "freedom of choice" plan was not sufficient affirmative action to remedy the past violation. It told local officials:

> To fashion steps which promise realistically to amount promptly to a system without a "white" school and a "Negro" school, but just school. 391 U.S. at 442.

In both Griffin and Green, the Court stressed the affirmative obligation of segregation, regardless of the need for adjustment and reconciliation of conflicting interests.

Following the High Court's direction, lower Federal courts increasingly relied on desegregation schemes requiring remedial student assignments. The method most widely resorted to was busing.

In 1971, the Supreme Court expressly endorsed busing as a reasonable method of desegregation the Nation's public schools. In *Swann* v. *Charlotte-Mecklenberg Board of Education*, 402 U.S. 1 (1971), Chief Justice Warren Berger stated in a unanimous opinion, that desegregation plans must achieve the "greatest possible degree of actual desegregation." 402 U.S. at 26. To achieve that end, a district court may, and in certain situations may have no real alternative but to, order students transported to schools away from their homes, although not so far "as to either risk the health of the children or significantly infringe on the educational process." 402 U.S. at 30–31.

I want to emphasize here that Swann I holds that busing is a permissible but not mandatory tool available to courts for breaking down the barriers of dual school systems. The Court in Swann I recognized that "the scope of permissible transportation of students as an implement of a remedial decree cannot be defined with precision." 402 U.S. at 29. It said that "no rigid guidelines" can be given and that "the reconciliation of competing values" is required. 402 U.S. 29, 31.

The court clearly distinguished between the substantive right under the Constitution and the question of remedy left to the broad equity power of the courts. The Chief Justice noted that, since Brown I, Federal courts have struggled to find appropriate remedies for desegregation and have been forced to "improvise and experiment without detailed or specific guidelines." 402 U.S. at 2. Later, in the opinion, he stated:

> A school desegregation case does not differ fundamentaly from other cases involving the framing of equitable remedies to repair the denial of a constitutional right. The task is to correct, by a balancing of the individual and collective interests, the condition that offends the Constitution." 402 U.S. at 11.

The opinion recognizes that busing is a remedy—that is why I have quoted this language—that must be chosen and limited with regard to other competing values upon which it infringes.

The clear distinction between right and remedy was maintained by the Court in *North Carolina State Board of Education* v. *Swann*, 402 U.S. 43, 45 (1971). In Swann II, the Supreme Court struck down a State statute which banned assignment of any student on account of race for the purpose of creating a racial balance or ratio in the schools. The Court said this statutory bar on any use of busing must inevitably conflict with the duty to dismantle a dual school system.

The language in Swann I recognizes that busing and other desegregation remedies are not absolute rights, but remedies, which must take into account competing considerations. By contrast, Swann II suggests that the courts would likely find that Congress lacks the power to bar busing altogether as a desegregation remedy. Still, Congress can limit or deny one remedy among many, as Professor Hart suggested and the cases make clear.

The amendment which I have introduced will not do away altogether with busing of schoolchildren for desegregation purposes. In light of Swann II, it is doubtful that any legislative remedy, short of a constitutional amendment, could prevent busing under any circumstances or could stop the courts, in their equitable capacity, from devising remedies to remove de jure segregation which entail some degree of transportation.

Unlike the North Carolina statute struck down in Swann II, this amendment specifically provides for busing as an appropriate remedy for insuring equal protection and equal educational opportunities—but only as a remedy of last resort. Where children are bused to retain segregation in the school, this amendment can prove helpful in achieving an end to dual school systems. This use of busing is consistent with the principles of Brown I and II and the requirements of Swann I and II.

However, this amendment is specifically designed to limit the extent and frequency of busing. Its constitutionality hinges upon the reasonableness of those provisions restricting court ordered busing. The question is whether the inhibitions set out in this amendment are so strong that the courts cannot properly carry out their constitutional mandate. It is a question of degree.

While reasonable men may differ about this matter, it seems to me that the sections covering the busing of schoolchildren are not so restrictive that the Federal courts will not be able to devise appropriate remedies to remove de jure segregation and end inherently unequal school systems.

Let us look at what the amendment does in light of what the courts have said. The constitutional per se rule of Brown I is preserved. So also is the affirmative duty of a de jure segregated school system to "desegregate now."

The statement of purpose in section 902 is in line with the court's expressions in Brown II, in *Green* v. *County School Board*, 391 U.S. 430, 437–8 (1968) and *Keyes* v. *School District No. 1*, 413 U.S. 189 (1973), that school districts, North and South, with a past record of statutorially compelled racial separation, have an affirmative duty to take whatever steps are necessary to convert to a unitary system "in which racial discrimination would be eliminated root and branch." The findings set out in section 903 of the amendment reflect the essential holdings of Brown I and Swann I.

Brown I enunciated the principle that no child should be involuntarily assigned by State authorities to a certain school because of his race. It is an inversion of this decision—and a perversion, I think—to contend that school districts must assign students to a particular school solely on the basis of race. That is what is going on now. Neither Swann nor any other Supreme Court case has held that there is a fundamental right to attend a racially balanced school or to be bused to school for that purpose. Swann I rejected the notion that the Constitution requires racial balance, 420 U.S. at 24. So, too, does section 905 of my amendment.

Arguments can be made for or against the various propositions set forth in the amendment, especially with regard to the hierarchy of preferred remedies established in part D. But reasonable men can conclude that these propositions are correct.

The different remedies I propose in section 914 are designed "to correct particular denials of equal educational opportunity or equal protection of the laws." It is not unreasonable and unduly restrictive to provide that, in framing remedial relief that may entail busing, the courts or administrative bodies consider, or make specific findings with respect to, the efficacy of alternative desegregation schemes.

By adopting this amendment, Congress will indicate a disapproval of unnecessary busing and require the courts to go through a checklist of remedies to be absolutely certain that busing away from home is necessary before it is decreed. This, again, reflects a legislative balancing of competing considerations. It is difficult to believe that Congress does not have the power under the Constitution to design such remedies or to prefer one remedy among many in an effort to tackle the dual school systems problem.

All students should be able to attend a local school close to home, within the neighborhood, if possible. This amendment in section 915 reaffirms that right. I think we would agree that the neighborhood is the most appropriate and convenient basis for determining public school assignments. This amendment embodies that concept.

Of course, where local officials have committed acts constituting de jure segregation affecting a meaningful portion of the schools in a district, the fact that neighborhood schools are involved will not relieve the authorities of proving that similar unlawful actions involving other local schools were not similarly motivated. Still, this presumption does not vitiate the principle of neighborhood school systems; nor does it invalidate the policy of protecting neighborhood school assignments and preventing busing beyond nearby educational facilities.

In addition, the preservation in section 916 of the amendment of district lines in fashioning busing decrees is not an unreasonable requirement. If school officials have engaged in de jure segregation, they have done so within the school district. Dual school systems can be dismantled within district boundaries. To order busing across district lines where the adjoining district has engaged in racial segregation would be a futile exercise. Even if the next district has not engaged in discriminatory practices, to treat students as pools of racial resources to cure racial imbalance is repugnant and is certainly not required under the 14th amendment.

The Congress must assess and weigh conflicting values, including the educational benefits and harm to the schoolchildren involved and families affected. But it seems reasonable to conclude that so long as local school officials do not engage in the unlawful practices proscribed in section 904, the limitations on busing beyond the closest or next closest schools and within district bounds are not duly restrictive.

The other restrictions on student busing are in accord with established judicial precedent. For instance, the ban in section 915 on busing which poses health hazards or infringes on the educational process is identical to the limitations set by the Court in Swann I. The limitation in section 919 on new or additional busing following a finding of compliance with constitutional standards jibes with Swann.

The Court stated that year-by-year adjustments of racial composition in student bodies are not required once the duty to desegregate has been carried out and racial discrimination through official action is eliminated 402 U.S. at 32. It is unwise to treat a violation of the 14th amendment as an opportunity for indefinite Federal judicial supervision of local schools, yet that is what is going on. Once there has been good faith compliance and segregation is ended, despite population shifts, unless the system later engages in de jure discrimination, further intervention by a district court should be unnecessary, and not only unnecessary, but also it should be unlawful and that is what this amendment seeks to do.

The standards in sections 919 and 920 for limiting and terminating Federal court desegregation orders incorporate the concept of unitary school systems defined in Green, supra, and other cases.

In addition, the unlawful practices proscribed in section 904 are largely a restatement of existing constitutional principles.

That section prohibits, among other things, deliberate segregation of students and faculty; the failure to take affirmative steps to eliminate the vestiges of a dual school system; and student transfers made for the purpose and effect of increasing segregation—all of these were condemned by the Supreme Court in Brown I and its progeny.

Accordingly, I do not doubt that this amendment will survive a court challenge. That is why I spend so much time talking about the constitutional aspects and how this amendment fits into the scope of those leading cases.

Congress has the power to enact reasonable restrictions upon the array of desegregation remedies devised by the courts, including the busing of schoolchildren. That is essentially what this amendment will accomplish, if enacted.

No one would reasonably deny that it should be the policy of the United States to insure that all public schoolchildren are entitled to equal educational opportunity without regard to race, color, sex or national origin. That is what this amendment provides.

I believe that just as wholeheartedly as the people who will oppose this amendment, but I declare that this amendment provides precisely that.

I support that policy and oppose the maintenance of dual school systems in which students are assigned by school officials to public educational facilities on the basis of their race, color, sex, or national origin. This amendment would help to eliminate those systems.

I also oppose unnecessary, indiscriminate, and widespread transportation of students far away from their places of residence, and this amendment would prevent that occurrence.

As I have stated, this amendment will not end all busing for all time—it is not intended to do that; if it did that it would never survive constitutionality, the question if it went to the Supreme Court, but at least it will inform the Federal judges it is the will of the people and the determination of Congress that extensive busing is not preferred, and that to the extent that busing is essential to achieve constitutional ends, it should be limited at least to the neighborhood and district schools.

This amendment is no legal legislative cure-all. It is not intended to create an additional statutory remedy for de facto segregation, and the language should not be interpreted to support a contrary conclusion. Of course, it may be that in Swann, Keyes, and other decisions, the courts, by attempting to apply de jure remedies to essentially de facto situations, have blurred the distinctions.

It is unfortunate that the courts have been left to their own devices in dealing with the difficult problem of eliminating segregation and dual school systems. Absent congressional action, the courts have had to improvise and experiment without detailed rules or specific guidelines, often to the detriment of the schoolchildren affected. The adoption of this amendment will provide some guidance. It is in the national interest that we take action before busing gets out of control.

This is the tragic thing about school busing. The courts certainly have the duty to decide these landmark cases that they have decided, such as Brown, Swann, and the others. They had that duty. They would have been derelict in their duty if they had not. But we in Congress have been derelict in our duty, too, because after these decisions and from pretty clear language laid down in these decisions, we have not done anything in Congress except to put mealymouthed language in bills we have passed and we have not given the courts any guidelines or anything they can tie their hands to to make their interpretations. So we have, indeed, abdicated to the arbitrary decisions of Federal district judges all over the country and particularly in the South, where I reside.

We have let one person tell a school board, tell an entire school district, tell the parents, tell the children, and tell thousands and thousands of people, just one man, what must be done about the desegregation problems and, in particular, about schoolbusing, because Congress, and more particularly the Senate of the United States has not had the guts and the courage to enact legislation which should have been enacted a long time ago.

I must say the House has; they have done it on two occasions and by an overwhelming majority. But we have refused to do it in the Senate and we have refused to do it in spite of the expression of overwhelming opinion by people all across the Nation.

As I have pointed out earlier in these remarks, 95 percent of the people of the United States oppose forced schoolbusing. We talk about ourselves being representatives of the people. How unrepresentative can we get if we ignore the will of 95 percent of the people around the United States and substitute our own arbitrary decisions, totally opposed to what they believe. That is precisely what the Senate has been doing year after year when we argue these schoolbusing propositions.

It is high time we came to our senses and if we are, indeed, representative of our people, whether we live in the South, the North, the East, or the West, we should be responsive to their will.

I would like to call to the further attention of my colleagues an interesting quote I read recently in the Washington Post. These are the words of a young black woman with two school-age children. She was asked her opinion about busing and this young woman replied in this fashion:

> To me this is a reversion to what we were getting into before Brown. It might just be me, but I had to walk all this distance to catch a school bus and be bused across town. If this is what it comes to here in Topeka, I will conform to it, but . . . if there is another solution that would give us our neighborhood schools and still give us an integrated school system, I would rather see that.

The words are those of Linda Brown, whose name is borne by that landmark decision which will be 20 years old this Friday.

I think this pretty well sums up the general attitude on busing. And I earnestly hope my colleagues will support this amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. HOLLINGS). Who yields time?

Mr. GURNEY. Mr. President, I suggest the absence of a quorum.

Mr. JAVITS. Mr. President, I ask unanimous consent that the time be charged to neither side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, it is clear that we will soon be faced with an up or down vote on the so-called Esch amendment as offered by Mr. GURNEY, in lieu of the language contained in title VIII of the committee bill commonly known as the Scott-Mansfield amendment, which was passed in the 1972 higher education bill.

I think that it would be useful to the Senate if we thought back to June of 1972 when the conference report was being considered on the floor. At that time many thought that the Scott-Mansfield language went much too far in restricting the use of transportation as a desegregation tool. Indeed, I can well remember that during the all-night final conference on the bill this very question hung up the conference until 5 a.m., and ultimately three Senate members of the conference did not sign the report because of the Scott-Mansfield amendment.

Now we are faced with the so-called Esch or Gurney amendment. I do not pretend to be an expert on the law nor a strong proponent of schoolbusing. Nevertheless, this amendment seems to be a totally mischievous one which can only exacerbate the already emotional subject of busing.

As I read the amendment I am perplexed, for it seems to offer no answers to questions raised but implies promise of relief; for instance, I find reference to "dual schools" and "unitary schools" with no definition found anywhere in the bill as to what those terms mean.

You then further read that the Congress is making findings which to my mind are totally overstated, and I question whether they are based on fact, other than fact found in literature designed to make a particular slanted point. For example, there is a finding stating that—

> (1) all children enrolled in public schools are entitled to equal educational opportunity without regard to race, color, sex, or national origin, and (2) the neighborhood is the appropriate basis for determining public school assignments.

I know of no publications, studies, or hearings which would substantiate such a parallel statement of findings. Indeed, in many instances the education of a child in his neighborhood school may well deny him equality of educational opportunity. We then read about something called the next nearest school, which again is not defined. It may sound fine in a grammar school situation, but what do you do above the sixth grade? I do not know of any literature, study, or finding that shows the neighborhood as an appropriate basis for determining public school assignments—convenient, yes, but appropriate? I question it.

Finally, I turn to what is to me the most unacceptable portion of this legislation—that section which would allow the reopening of any court-ordered desegregation plan going back to the 1954 Brown against Board of Education decision. Can this reopener do anything but create further divisiveness in our Nation? Would not the adoption of this type of amendment merely add to the uncertainty that prevails? This amendment could reopen cases settled years ago—decades ago—and lay bare wounds which have only recently closed. This could cause another decade of chaos.

I urge the Senate to support the committee recommendation in title VIII which was thrashed out 2 years ago, and for which, as I said earlier, was criticized a great deal by civil rights groups as going as far as they would like to go; but it then seemed to be a fair statement of what was right for the children and what would achieve a desegregated school system, North and South, and so it seems now.

In this regard, we ought to remember that the language we have in the bill says very specifically that when transportation is harmful to the education or health of a child, it cannot be ordered. It would not come into effect until all the court remedies had been exhausted. That is the law now. It has worked for the last year or two. Tempers are far cooler now then they were a year ago. What we would do if we adopted the amendment is exacerbate the situation and raise emotions to a high heat.

Mr. PELL. Mr. President, I yield 5 minutes to the distinguished Senator from New York.

Mr. JAVITS. Mr. President, there will be a very adequate number of speakers to deal with this amendment, but during the morning period I should like to make a few observations with respect to it. First, and very important, let me say that I am one of those Members who, after having negotiated the higher education conference report, and labored over it diligently, felt in conscience that I could not compromise on this issue of desegregation of schools, though I believed and said that the Supreme Court would not carry it out because its civil rights provisions would be unconstitutional and invidious. Nonetheless, and notwithstanding that, I know that I felt I could not in good conscience send that kind of message out to the people who would be adversely affected. So I voted against the conference report. Subsequent history has justified me.

The fact is that it was not the courts, which would enforce that kind of restraint, which influenced me when I was proved to be right. The courts did not. The fact is that we were sending the wrong signal.

The issue would be tremendously compounded if we did what we are asked to do by this amendment, and at a time—and this is the point I should like to emphasize—at a time when there is enough instability in the country already, when there is enough fear of the future, and the Earth is wavering under our feet in terms of the constitutional base on which the United States stands, and when there is not much widespread complaint any more about this issue. Surely, there are some cities in which desegregation orders involving busing are pending and undetermined before the courts. But there are no Little Rocks or other outbreaks in this country, placing the whole social system in jeopardy in this country, placing the whole country in conflict between blacks and whites.

This has been a triumph of the Constitution in the sense that in the allocation of balance between the courts, the Executive, and Congress, the country has somehow essentially readjusted itself to this situation.

Seeking to gather up a whole network of what are relatively, in terms of tension, minor areas of disaffection, an effort is going to be made to overturn the whole system, the whole social balance by this amendment, if it prevails. So obviously it is the same as the one in the other body in terms of law, and that is going to be it. In my judgment, it will have a most adverse effect in terms of social instability in this country, and in the confidence of the people, in whom confidence is slowly being built in Government in the United States.

Mr. President, I think this is so damaging, especially at this time, that we should not tamper with it. But we should allow the situation under existing law, which deals with the entire matter of racial segregation. Indeed, one of the sections of this amendment is a complete restatement of existing law, as are some of the recitals that have already been provided in the Scott-Mansfield compromise respecting any risk to the health of a student or any impingement on the educational process.

With all respect, I was the author of those amendments myself and the fashioning of that compromise. That is all recited in this amendment. It is simply a repetition of what already exists in section 815(d), which is similar in its recital of the purpose, and the recital of the same ideas that are set forth.

But the devastating part of this amendment is twofold. First, in the complete instability which will result, based on what has happened in the past. The proceedings under section 818 and the new prohibitions and limitations that will take place upon the actions of the court, in seeking an order to remedy under that situation which, in my judgment, they will reject.

All that we are doing is to incite a lot of appetite for confrontation between sections of the public in different parts of the country and the U.S. Supreme Court. That will create all kinds of tension, which will be extremely harmful to our country, especially at this time, and there is no need for it.

This problem has to be worked out in the pragmatic area of the same court system, consistently, and without its becoming a national problem or crisis. We have one now, and we are inviting another by this proposal, if we adopt this amendment.

We have fought this battle up and down the hill. The interesting thing about battles like this is that they never stop; they constantly recur, hoping for a moment when our guard is down, when we are demoralized or disorganized or weakened.

We have gone through this situation when it was worse than it is now. We worked out a compromise, and that compromise has worked. It has given us relative stability. Now, at a moment when the country is in a state of some disorder and disarray, because of the impeachment situation, here it comes again, adding more fires to the same flame. It can only harm our Nation, which so urgently and dearly needs to be encouraged in the form of stability, this time between blacks and whites.

There is some claim, as the Senator from Florida (Mr. GURNEY) showed when he quoted from Linda Brown, that black people themselves do not want busing. The Constitution was made for white and black people. The necessity, where it is argued, for busing is in terms of law and the tranquillity of the country. It is the responsiblity of all, not only the white or the black people of the country.

Second, it is almost inconceivable that the way in which these remedies have been utilized should represent any restraint or restriction upon the blacks any more than the whites. It has not. As a matter of fact, in the figures cited here, it is by no means conclusive or decisive, nor should they determine the course which we take in legislation that, as I say, is designed to enforce the Constitution, the law, and the tranquillity of our country. We had that experience when there were riots in the streets. Nobody said, "There are many blacks rioting; therefore, rioting must be right as a means of protest." Of course, that would be wrong.

So I join with my colleagues and others who are devoted to civil rights in America to punish such infractions of the law or whatever may have been fancied justifications of those who engage in it.

It is our common heritage to enforce the law. That is the best augury for this country, and we must do it in this situation as well.

Again I repeat, Mr. President, we have tried to avoid these awful social confrontations between a group of people and the Supreme Court of the United States. We had the problem behind us; and now, in a moment of national disarray, we should not introduce the problem again. Yet that is precisely what we would be doing by this amendment.

For all of those reasons, Mr. President, I hope very much that the Senate will stand by the policy it adopted in the most considered way, after the most extensive debate and consideration, a policy now justified by time and experience, and allow this matter to stand where it is.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, I ask unanimous consent that we may request a short quorum call without the time being charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed the bill (S. 1752) prescribing the objectives and functions of the National Commission on Productivity and Work Quality with amendments in which it requests the concurrence of the Senate.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (H.R. 3418) to amend section 505 of title 10, United States Code, to establish uniform original enlistment qualifications for male and female persons.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. HARRY F. BYRD, JR.).

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries, and he announced that on May 4, 1974, the President had approved and signed the following bills:

S. 1115. An act to amend the Controlled Substances Act to provide for the registration of practitioners conducting narcotic treatment programs; and

S. 1125. An act to extend through fiscal year 1974 certain expiring appropriations authorizations in the Public Health Service Act, the Community Mental Health Centers Act, and the Development Disabilities Services and Facilities Construction Act, and for other purposes.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

Mr. JAVITS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EDUCATION AMENDMENTS OF 1974

The Senate continued with the consideration of the bill (S. 1539) to amend and extend certain acts, relating to elementary and secondary education programs and for other purposes.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MANSFIELD. When does the first vote occur today?

The PRESIDING OFFICER. At 12:15 p.m.

Mr. MANSFIELD. Is it to be followed immediately by a second vote?

The PRESIDING OFFICER. That is the order of the day.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of the first vote I be recognized for not to exceed 1 minute for the purpose of introducing the members of the Mexican Delegation to the 14th United States-Mexican Interparliamentary Conference.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. It is my intention at that time, the Senate concurring, to ask that there be a recess of not to exceed 5 minutes for the purpose of allowing the Senate to pay its respects to our associates from the United Mexican States, and also to greet them personally. I make that unanimous-consent request now.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. I am sure that will meet with the approval of all Senators.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. MANSFIELD. Both.

Mr. PELL. Mr. President, I would ask unanimous consent that it not be charged to either side.

Mr. GURNEY. What was the request?

Mr. PELL. That it not be charged.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. METZENBAUM). Without objection, it is so ordered.

Mr. PELL. Mr. President, I yield 15 minutes to the distinguished Senator from Maine (Mr. HATHAWAY).

The PRESIDING OFFICER. The Senator from Maine is recognized for 15 minutes.

Mr. HATHAWAY. Mr. President, I thank the Senator from Rhode Island very much for yielding me this time.

Mr. President, every schoolday morning in the State of Maine, 150,000 children, 66 percent of our total school population, board buses and are driven to school. Every afternoon they are bused home. Busing for these children is an unquestioned aspect of their education. We have been busing children in Maine for many years and it is such an accustomed practice we do not think about it very much. I suppose if the parents of the bused children reflected on the matter some might express a preference to have their children attend schools within walking distance of their homes. But they recognize that busing is one of the prices they and their children must pay—and a small price it is—for good education. We bus because we have found that the neighborhood school—the "little red schoolhouse" of fond memory—is inefficient and inadequate for children in the 20th century. By consolidating our schools and transporting children to them, we can assure them the kind of comprehensive curriculum they must have for training adequate to live and work in a modern society. We bus solely for the purpose of good education. And there, shorn of rhetoric and emotion, is why Federal courts in this country have ordered the busing of schoolchildren. They have found that in school districts both North and South, millions of children are being denied decent educations. Millions of children, indeed, were once bused specifically to deny them the education that is their constitutional right. That is one of the key elements in the Supreme Court's decision of 1954. The Court has affirmed in a number of decisions since then the usefulness of busing as one means of guaranteeing children a good education. As recently as 1971 in Swann against Charlotte-Mecklenburg, it noted that busing of students is "a normal and accepted tool of educational policy" and concluded that in certain circumstances school authorities may be "required to employ bus transportation as one tool of school desegregation."

In short, busing of schoolchildren is commonplace; not something that is part of a unique way of life in the State of Maine. In 1972, 19 million students, 43.5 percent of the total enrollment in our public schools, were transported to their schools by bus. That meant using 256,000 buses traveling 212 billion miles at a cost of $1.7 billion a year. Since 1919, 48 States have legally authorized busing.

Busing only becomes an issue, it seems, when it is used not to segregate, but to desegregate our public schools. And even then consider what a relatively tiny portion of schoolbusing is used for that purpose. Only 3 percent of all students traveling on schoolbuses are there because of an order to desegregate. More public funds are still being spent to transport students to racially segregated schools than to desegregated ones.

A white mother in Richmond, Va., put the issue crudely, but clearly. She said:

> It's not the busing, it's the blacks.

Shocking as that sounds, it is really the nub of the issue we confront in the Senate today. If we were busing children in order to give them the educational advantages inherent in consolidated or special purpose schools, there would be no more public outcry than you find in Maine. It is busing to accomplish the results required by the 1954 school decision of the U.S. Supreme Court in the Brown case that has stirred such bitter animosity. And is it not sad and ironic that this Friday, May 17, is the 20th anniversary of the Brown decision and here we are debating an amendment whose purpose is to nullify or undercut that decision.

The Gurney amendment does nothing to alleviate the problems of busing. It can only complicate the issue. It has at least two provisions of dubious constitutionality:

First, it would prevent courts from ordering a student bused to any but the "closest or next closest" school to the student's place of residence, even if the only way to guarantee a student's constitutional rights were to bus a student a greater distance than that. Second, it would permit reopening of long-settled school desegregation cases, presenting school districts and communities throughout the country with the terrible prospect of refighting battles long considered settled.

Since the Gurney amendment and others similar to it attempt to bar enforcement of judicially defined rights, the position of its proponents has to be that the congressional power of enforcement under section 5 of the 14th amendment, includes the power to define a lesser duty to desegregate than that contemplated by the courts. The Supreme Court has spoken quite clearly on that issue. In Katzenbach against Morgan—1966, Justice Brennan in a decision from which only two Justices dissented, declared:

> Section 5 does not grant Congress power . . . to enact "statutes so as in effect to dilute equal protection and due process decisions of this Court." We emphasize that Congress power under Section 5 grants Congress no power to restrict, abrogate or dilute these guarantees. Thus, for example, an enactment authorizing the States to establish racially segregated systems of education would not be . . . as required by Section 5 . . . a measure "to enforce" the Equal Protection Clause since that clause of its own force prohibits such state laws.

Seven of the Justices presently sitting on the Court—a clear majority—have already expressed their view that the enforcement clause of the 14th amendment gives Congress no power to dilute judicially declared rights.

The Court has spoken even more directly to the constitutionality of such an amendment as the one here proposed.

Again the Swann decision, Chief Justice Burger specifically noted that a plan assigning pupils to schools nearest their homes "may fail to counteract the continuing effects of past school segregation" and hence be constitutionally unacceptable.

In Davis versus Board of School Commissioners—1971, the Court held:

> A district court may and should consider the use of all available techniques including restructuring of attendance zones and both contiguous and non-contiguous attendance zones. . . . The measure of any desegregation plan is its effectiveness. . . .

The Court then ruled the desegregation plan at issue to be constitutionally unacceptable because "inadequate consideration was given to the possible use of bus transportation and split zoning."

In view of these decisions alone—and there are others—can any Member of this body believe that the Gurney amendment can survive a court attack on its constitutionality? And if the amendment is held to be unconstitutional where will we be then? Those Senators who feel, for whatever reasons, that they must vote for an antibusing amendment will find they have been handed a legal fraud. Let them explain to the voters, then, how an antibusing provision they supported turned out to be nothing of the sort.

It should be noted that the choice today is not between a bill with no busing restrictions and this amendment. It is, rather, between this amendment and the realistic and probably constitutional language we have adopted before on this subject—the so-called Scott-Mansfield language—which is already in the bill.

So no Senator need feel that he is voting for busing by opposing this amendment. Instead, he can quite honestly take the position that he was taking the course most likely, in the long run, to minimize the use of busing while also minimizing the disruption of situations long settled.

But I do not want to let the matter rest with practical political considerations. There is at stake here a broad and fundamental issue. Shall we in this body, 20 years after the Brown decision, a ruling that has sparked a revolution in America's racial attitudes, now be party to an attempt to overturn that decision? Lately the media has been full of reconsiderations of Brown and its impact on our society. While we all recognize its partial success and realize that much still remains to be done to obtain full compliance with it, still all of us must recognize its germinal effect. Brown and subsequent Supreme Court decisions and the series of civil rights laws Congress enacted during the 1960's have, together, gone a long way toward breaching the walls of segregation and discrimination. This amendment is an attempt to rebuild those walls, to deny those hard-won rights. When the rhetoric is stripped away and emotions are laid aside, what we are being asked to do here today is just not right. And it is by that standard that we shall surely be judged.

Mr. President, in this morning's Washington Post is an excellent editorial entitled "Race, Schools and the Senate." I ask unanimous consent that the editorial be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HATHAWAY. I should like to read the concluding paragraph of that editorial, which quotes Mr. William McCulloch, who was ranking Republican Member of the House Judiciary Committee when this bill, which President Nixon first submitted 2 years ago, came up accompanied by a proposal for a temporary freeze on busing orders:

> It is with the deepest regret that I sit here today to listen to a spokesman for the administration asking the Congress to prostitute the courts by obligating them to suspend the equal protection clause so that Congress may debate the merits of further slowing down and perhaps even rolling back desegregation in public schools—What message are we sending to our black people? Is this any way to govern a country?

EXHIBIT 1

RACE, SCHOOLS AND THE SENATE

In March of 1972, when Watergate was still a gleam in Gordon Liddy's eye and the Board of Directors (as we now know) had yet to give final approval to his plans, Mr. Ehrlichman, now busy with other matters, did the best a lawyer could do to justify and explain its patent illegalities to the press. And Richard Kleindienst, then Acting Attorney General and nothing if not blunt, happily explained to a committee of Congress that the proposed legislation would authorize the reopening of every school case—North and South—that had been settled since the Supreme Court's original school desegregation decision in 1954.

Since that time we have acquired, for our sins, a much richer context of administration law-breaking and contempt for the commands of the constitution into which to fit this particular exercise in defiance and contempt—from the court-blocked adventures in impoundment of congressionally appropriated funds to the Watergate crimes and improprieties to the sloven procedures for obtaining wiretaps, which has just compelled the Burger Court unanimously to render a decision that will free some 600 persons accused and/or convicted of violating federal criminal statutes. So it is hardly surprising that the administration's proposed monument in the field of desegregation law turned out itself to be a monumental challenge to due process, to the Constitution and to the rule of law. What is surprising and—to put it mildly—distressing, is that two years later the U.S. Senate is considering commemorating the 20th anniversary of the Supreme Court's 1954 decision by passing this proposal. Today the Senate is scheduled to vote on a House-passed variation of the Nixon administration bill which has been introduced by Senator Edward J. Gurney of Florida as an amendment to an extension of the federal school aid act. And the vote, according to most accounts, is likely to be close.

Everybody, as it seems, is against skullduggery and for the rule of law—except when it is either inconvenient or inexpedient to explain. Thus, legislators who in a nonpolitical year would acknowledge themselves horrified by the reckless sweep of this proposal and acutely aware of the cynicism from which it springs, are counted among those who, for "political" reasons are likely to go over the side and vote with Mr. Gurney. We refer to the cynicism underlying the effort because for all the chaos and disruption it could bring to settled school systems North and South, the proposal itself would almost undoubtedly be overturned in many of its key parts by the Court, meanwhile creating new and burdensome problems for numerous of those communities whose burdens it purports to relieve.

Consider the bill's provisions. Its list of mandatory remedies that must be invoked before busing can be ordered could cost tax-ridden communities a fortune in the demolition and construction of schools. It is a rich man's bill, in effect providing that any busing which occurs will spare the affluent suburbs and be contained within geographical limits that are likely to result only in sending poor blacks from their own inferior schools to the inferior schools of neighboring poor white children—to communities in which racial hostilities and insecurities are keenest. And, above all, it says to black children—to black people generally in this country—that even where a finding has been made of unconstitutional discrimination against them by the state, there will be no remedy in many cases. It is a tribute of sorts to the monstrosity of this concept, in a nation of laws, that back in 1972 even Mr. Ehrlichman had trouble explaining it when pressed.

In the 20 years that have passed since the Supreme Court rendered its original decision in Brown, and in the 10 years that have passed since the Civil Rights Act of 1964 gave that decision heightened impact and authority, there have been some lower court decisions and administrative interpretations that, to our mind, have skewed and distorted the meaning of the law and imposed senseless burdens on communities around the country, so that both blacks and whites have suffered. There have been, in other words, some bad busing decisions and some unreasonable and unsound bureaucratic regulations rendered. It could hardly be otherwise, given both the complexity of the cases and the familiar resistance to reasonable and desirable change that preceded and, in effect, brought on the compulsory programs to which so many now object. But it has been clear for some time now that the Supreme Court was moving carefully and deliberately to refine its position in consonance with the constitutional command that is the bedrock of *Brown* so as to take account of changed circumstances that underlie so many school cases 20 years later. This is as it should be. The question is whether the Senate will wait. The alternative before it today was admirably summed up by William McCulloch, who was ranking Republican member of the House Judiciary Committee, when the Nixon bill first came up two years ago, accompanied by a proposal for a temporary freeze on busing orders.

"It is with the deepest regret that I sit here today to listen to a spokesman for the administration asking the Congress to prostitute the courts by obliging them to suspend the equal protection clause so that Congress may debate the merits of further slowing down and perhaps even rolling back desegregation in public schools—What message are we sending to our black people? Is this any way to govern a country?"

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GURNEY. Mr. President, I ask

unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GURNEY. Mr. President, I yield such time as he may require to the distinguished Senator from Alabama.

Mr. ALLEN. I thank the distinguished Senator from Florida.

Mr. President, I commend the Senator from Florida for the leadership he is displaying and asserting on behalf of this amendment. I feel that it will do much to resolve some of our school problems throughout the country.

Mr. President, I ask unanimous consent that Mr. William E. Pursley, of the Judiciary Committee staff, and Mr. James C. Kelly, a member of the staff of the distinguished Senator from North Carolina (Mr. ERVIN), be permitted the privilege of the floor during the consideration of S. 1539 and during any votes taken on the bill or any of the amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, the distinguished Senator from Maine (Mr. HATHAWAY) referred a moment ago to the 20th anniversary of the decision of the Supreme Court in the case of Brown against the Board of Education, and he stated that the Gurney amendment, the amendment under consideration, would undercut that decision.

Well, as the Senator from Alabama sees it that is not correct because all that Brown against Board of Education decided was that State educational agencies could not make assignments on the basis of race. Well, no one objects to Brown against the Board of Education. That is good law; that is accepted throughout the entire South. What we object to is the fact that the Supreme Court has changed course 180 degrees and now holds that the State and the local educational agencies must make assignments on the basis of race, and that the ordering of busing by U.S. District Court judges is a proper implement in the forced assignment by race.

Mr. President, as the Senator from Alabama sees it the effect of the Gurney amendment would be more to get us back under Brown against The Board of Education rather than to depart from it because we already have departed from it and that is the basis of our objection, because these busing decrees are made for the purpose of requiring the local school boards to make these assignments of students to schools on the basis of race and to carry out that assignment by putting children in buses and sending them from one end of the county to the other or one side of the city to the other.

So let us get back to the principle enunciated by the Supreme Court in Brown against the Board of Education. We would not have any problem whatsoever on this question if the Supreme Court had not changed the rules and started requiring assignments on the basis of race, which is exactly what they decided could not be done under Brown against the Board of Education.

So the Gurney amendment does not do violence to Brown versus the Board of Education. What it seeks to do is to get us back under Brown versus the Board of Education and to provide remedies under which desegregation orders may be carried out.

Mr. President, there is no objection in Alabama and the South to the desegregation of public schools. That is the law of the land. We abide by it. We have implemented that requirement. Where segregation exists today it is in areas outside of the South, and these busing decrees are going to come to the big cities one of these days where they still have segregation. We do not have segregation in Alabama, in the South, but we surely have it in the big cities of the North, East, and West.

Mr. President, long after this matter has been decided and accepted in the Southern States it is going to be a problem to plague other sections of the country.

A little later on the distinguished Senator from North Carolina (Mr. ERVIN) is going to offer an amendment or a substitute to the Gurney amendment which would provide for freedom of choice. In the final analysis that is going to be the solution to this problem, where any child can go to any school of his choice. There could not be a fairer method of handling this problem.

Mr. President, throughout Alabama and the South it is the black schools that are being closed. It is the black students that are being transported from one side of the county to the other side. So the Gurney amendment has no racial connotation, as the Senator from Alabama sees it. It would seek to emphasize the need and the value of educating our children where they desire to go to school and not to spend the money transporting the children to and fro. This is a hardship, far more on the black children of the South than it is on the white children.

So, Mr. President, I shall support the Gurney amendment. I find it difficult to justify opposition to the measure which will be mounted by the same pro-busing Senators who killed the same proposal by a filibuster in the closing days of the 92d Congress. At that time the proposal was denounced as an effort to reverse the U.S. Supreme Court Brown decisions—assailed as an antibusing bill—and condemned as an effort to perpetuate segregated schools in the South. Such charges were then and are now unfounded and most liberal opponents of the bill know or should know that the charges are groundless.

Mr. President, the real reason for liberal opposition to the Equal Educational Opportunities Act, and that is a part of the Gurney amendment, is that it creates a statutory cause of action for denial of equal educational opportunity and because the cause of action arises from racial isolation in public schools, without regard to the cause of such isolation. This is a new approach to the problem heretofore referred to as de facto segregation. Let me demonstrate. When President Nixon first presented to Congress the Equal Educational Opportunities proposal, he said:

> For the first time in our history, the cherished American ideal of equal educational opportunity would be affirmed in the law of the land by the elected representatives of the people in Congress.

In the same message to Congress, the President made it clear that racial isolation in public schools, attributable to denial of equal protection of the law, would continue to be remedied in the South by judicial decrees. So, it is the statutory cause of action—the cause of action designed to eliminate racial isolation attributable to de facto segregation which offends the liberal opponents of this bill.

The PRESIDING OFFICER. Under the previous order, the hour of 11:30 having arrived, the Senator from Massachusetts (Mr. BROOKE) is recognized to call up his amendment to the amendment of the Senator from Arkansas (Mr. MCCLELLAN).

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. BROOKE. Mr. President, I do not intend to press my amendment at this particular time, and I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. BROOKE. On my time.

Mr. JAVITS. Mr. President, I ask unanimous consent that the time not be charged to either side.

Mr. PELL. Mr. President, the time is to be equally divided and charged to both sides.

The PRESIDING OFFICER. On the bill?

Mr. McCLELLAN. Mr. President, reserving the right to object, I am just now being apprised of this. Will the amendment be called up or withdrawn? What is the situation? I do not mind a quorum call charged to nobody's time, but we have only 45 minutes. I do not understand. We have the amendment. It is pending. It is the pending business.

The PRESIDING OFFICER. The time was allocated to the Senator from Massachusetts, but if the Senator from Massachusetts does not call up his amendment——

Mr. McCLELLAN. It is up.

The PRESIDING OFFICER. Then the question is on the amendment of the Senator from Arkansas.

Mr. McCLELLAN. Well, we are to vote on that amendment at 12:15. What are we going to do with the rest of the time?

The PRESIDING OFFICER. If the amendment of the Senator from Massachusetts is not called up, then it cannot be voted on at 12:15. Then the question before the Senate will be on the amendment of the Senator from Arkansas, and time on that amendment has expired.

Mr. McCLELLAN. We have 45 minutes. I do not know what the Senators want to do until that time.

Mr. BROOKE. Mr. President, if the Senator will yield, as I understand it, the Senator from Arkansas asked yesterday, in the unanimous-consent request, that those 45 minutes could be used on the Brooke amendment or on the McClellan amendment, if he so desired. Is that correct?

Mr. McCLELLAN. I did not ask for it.

The leadership asked for it. I do not know what the record shows.

The PRESIDING OFFICER. That would be the case if the Brooke amendment were called up, but since it has not been called up, the question is on the McClellan amendment, and there is no time remaining.

Mr. McCLELLAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLELLAN. Is not the Brooke amendment an amendment to the McClellan amendment?

The PRESIDING OFFICER. It would be if it were called up.

Mr. McCLELLAN. All right. Then, if it is not called up, there is no amendment pending to the McClellan amendment. Is that correct?

The PRESIDING OFFICER. The Senator from Arkansas is correct.

Mr. McCLELLAN. And, as I understand, it is agreed that we will vote on the McClellan amendment at 12:15?

The PRESIDING OFFICER. The agreement was that the Brooke amendment would be voted on at 12:15, to be followed immediately by a vote on the McClellan amendment.

Mr. McCLELLAN. That is right.

The PRESIDING OFFICER. If the Brooke amendment is not called up, then the question is on the McClellan amendment at this point.

Mr. McCLELLAN. I ask unanimous consent that the time for the vote on the McClellan amendment, if that is necessary, be at 12:15.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, I object.

Mr. McCLELLAN. Well—

Mr. JAVITS. If the Senator will yield and give me 1 minute on the bill, which I will take with the Senator's permission, let me explain that we have a situation now that is new, and we wanted a quorum call in order to unravel it and to make sure that all understood it. However, to change the order on voting is not fair to Senators—I am sure the Senator would not have made that request if he knew what I am going to say—who have left the Chamber and will be returning at 12:20 or 12:21, expecting a certain pattern on the votes.

So I respectfully suggest to the Senator from Arkansas that he allow us to have a brief quorum call so we can unscramble these eggs.

Mr. McCLELLAN. Will the Senator agree to having a vote on my amendment at 12:30, if this amendment is not going to be called up?

Mr. JAVITS. I cannot consent to any other agreement on voting than what the leadership has already agreed to.

Mr. McCLELLAN. I do not know why I was not apprised of this situation. I came in here expecting to debate the proposed amendment. Now I do not understand what is happening.

Mr. JAVITS. Mr. President, I yield myself another 1 minute on the bill.

Whether or not the Senator from Massachusetts (Mr. BROOKE) calls up his amendment is a matter for the judgment or discretion of the Senator from Massachusetts (Mr. BROOKE). He does not have to. This is the first time I have heard of it.

So I would suggest—and I am not making the unanimous consent request yet, but I suggest—that we have a brief quorum call so we may unravel this matter, and if necessary, we will pay for it in terms of time, but it is necessary in order to do this.

Mr. President, I ask unanimous consent that there may be a call for a quorum without the time being charged to either side, and without disturbing any other unanimous consent agreement.

Mr. McCLELLAN. Mr. President, reserving the right to object, I would like to have an understanding about the Brooke amendment. Is it to be called up or not to be called up before 12:15 today?

Mr. BROOKE. It will not be.

Mr. JAVITS. The Senator from Massachusetts (Mr. BROOKE) is the best evidence of that.

Mr. BROOKE. I do not intend to call up the amendment prior to 12:15 today.

Mr. McCLELLAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLELLAN. If it is not called up at 12:15 today, would the unanimous consent agreement with respect to the vote on my amendment immediately following it be in order at 12:15?

The PRESIDING OFFICER. It would take another unanimous consent agreement to set a specific time for a vote on the amendment of the Senator from Arkansas.

Mr. McCLELLAN. Mr. President, another parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLELLAN. What is the fate of my amendment during the next 45 minutes?

The PRESIDING OFFICER. Since the amendment of the Senator from Massachusetts was not called up, the agreement is vitiated.

Mr. McCLELLAN. That cannot be so——

The PRESIDING OFFICER. Therefore, the question before the Senate is on the amendment of the Senator from Arkansas now.

Mr. McCLELLAN. I ask unanimous consent, then, if that is the ruling of the Chair, that the amendment be scheduled for a vote at either 12:15 or 12:30, which would have been the very latest time on which it would have been voted under the unanimous consent agreement.

The PRESIDING OFFICER. Will the Senator state whether it is 12:15 or 12:30?

Mr. McCLELLAN. 12:30. That is the latest time when it would have been voted on. I make it 12:30. I make that unanimous consent request.

Mr. JAVITS. Mr. President, if unanimous consent is granted, what is the disposition of time from now until 12:30?

The PRESIDING OFFICER. The Senate could continue debating the Gurney amendment.

Mr. McCLELLAN. Mr. President, one other parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. McCLELLAN. Can the Brooke amendment be offered after the McClellan amendment is voted on, if it is adopted?

The PRESIDING OFFICER. It could be offered to another part of the bill. It cannot then be offered as an amendment to the McClellan amendment without unanimous consent.

Mr. McCLELLAN. Mr. President, I renew my unanimous-consent request that we vote on the McClellan amendment at 12:30.

The PRESIDING OFFICER. Is there objection? Without objection, the McClellan amendment will be voted on at 12:30.

Who yields time?

Mr. PELL. Mr. President, I suggest the absence of a quorum, the time for the quorum call to be charged equally to both sides.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GURNEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GURNEY. Mr. President, how much time would the distinguished Senator from Alabama like to use?

Mr. ALLEN. Ten minutes, I should say.

Mr. GURNEY. I yield 10 minutes to the distinguished Senator from Alabama.

Mr. ALLEN. Mr. President, further discussing the Gurney amendment and its equal educational opportunities feature, the probusing Senators see in this act—and correctly so—a right created in individuals and power granted to the U.S. Attorney General to bring suits for a denial of equal educational opportunities, and they see jurisdiction vested in the U.S. district courts to hear such suits and the right of U.S. district judges to formulate remedial orders which include the power to order busing to vindicate the right to equal educational opportunities.

Now it is contended that the statutory enactment of Congress with regard to the use of busing cannot be used to overcome racial imbalance, which they contend is another way of saying that it is used to overcome de facto segregation. But the equal educational opportunities feature of the Gurney amendment would set up a cause of action which might require the use of busing to overcome de facto segregation, which, up to now, has been protected by the decisions of the Supreme Court.

In fact, the probusing advocates see, and correctly so, that their long-practiced defense against Federal intervention in the assignment and transportation of students, resulting from de facto segregation, is threatening racial isolation in the South and is said to be attributable to "vestiges of dual school systems."

Racial isolation in areas outside the South is said to be the result of de facto segregation. A cause of action for the denial of equal educational opportunities is created by the Gurney amendment, without regard to cost.

So this might crowd in a little bit on the protection that is offered to the segregated school systems of the North and East, which up to now have been protected because it is contended that segregation comes about as a result of neighborhood residence patterns rather than by the operation of law.

Of course, if segregation is bad, it ought to be eliminated, no matter what the cause of the segregation. That is what is difficult for the Senator from Alabama to understand. Why should segregation be protected, continued, and fostered in areas outside the South, but be rooted up in the South? We have no objection to that, but we do object to the use of busing to accomplish the desegregation process.

The amendment of the distinguished Senator from North Carolina (Mr. ERVIN) is going to put it under a freedom-of-choice approach, which I believe will solve the problem.

Probusing advocates see, and correctly so, that the proposed statutory remedies which may be applied in cases involving a denial of educational opportunity include not only busing, but also pairing schools and classes, closing schools, and construction of new schools, all of which are tried and effective methods employed by Federal court judges in the South to eliminate racial isolation attributable to vestiges of school systems.

They see, and correctly so, that Federal courts can say, by reason of the statutory power granted, that they are not assigning students to schools or ordering busing of students to eliminate de facto segregation, but to eliminate racial isolation and vindicate public policies and laws established by Congress which guarantee every person an equal educational opportunity regardless of race, creed, color, or national origin.

So this might offer a little threat to de facto segregation. I am sure that the probusing Senators want to protect de facto segregation, Mr. President. I do not believe you can find a Senator who supports busing who does not also support de facto segregation.

Let us just analyze that a little bit, and see if that is a correct statement. There is not a probusing Senator who does not also support de facto segregation, leaving that alone. If I am wrong on that, I hope my statement will be challenged. If you find a Senator who supports busing, you will find that Senator also supports the continuing of de facto segregation. But I think if segregation is wrong in the South, why is it not also wrong in the big cities of the East and the North?

Mr. HATHAWAY. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. HATHAWAY. I think that I am a Senator who supports busing and does not also support de facto segregation.

Mr. ALLEN. What has the Senator done to eliminate de facto segregation? Has he voted a single time to do so?

Mr. HATHAWAY. Yes; any time any matter concerning de facto or de jure segregation has come up, I have voted against both de facto and de jure segregation.

Mr. ALLEN. I think the Senator will be tested a little farther in a little while, then, when we vote on the Gurney amendment, because as the Senator from Alabama sees it, a vote against the Gurney amendment would be a vote for de facto segregation, because of its equal educational opportunities provisions.

Mr. HATHAWAY. One might foster something by voting against the Gurney amendment, but on balance, it is better to vote against the Gurney amendment and then to correct the inequities that may, if the Senator from Alabama is correct, result therefrom. But to me the Senator from Alabama has not made a convincing argument for voting for the Gurney amendment.

Mr. ALLEN. I see. Well, the Gurney amendment is directed against de facto segregation under its equal educational opportunities provisions, so if the Senator is going to vote against the Gurney amendment, it only proves what the Senator from Alabama has said, that the Senator is seeking to continue to foster de facto segregation.

Mr. HATHAWAY. That does not necessarily follow. The Gurney amendment may, in one way, partially temper the effects of de facto segregation. But certainly, on the whole, the Gurney amendment is a very bad amendment, and even though, as the Senator from Alabama points out, there may be some good aspects to it, I will vote against it. Then, if there are other amendments the Senator from Alabama would like to introduce to eliminate de facto segregation, I would be glad to support him on them.

Mr. ALLEN. I appreciate that. The Senator has had a number of opportunities. I wonder how he voted on the Scott-Mansfield amendment here in the last Congress.

Mr. HATHAWAY. I was not in the Senate at that time. I presume there were similar amendments in the House; I do not recall whether there was a separate vote on that amendment or not.

Mr. ALLEN. The Senator has not been too successful, then, in his efforts to do away with de facto segregation, has he?

Mr. HATHAWAY. I do not think the Senator from Alabama can point to any votes in my record that will indicate I supported de facto segregation.

Mr. GURNEY. Mr. President, I yield myself such time as I may require.

To continue this very interesting argument, I ask the Senator from Alabama—may I have the attention of the Senator from Alabama and the Senator from Maine? I was listening to the interesting colloquy between the two, and I would ask the Senator from Alabama, is it not his understanding, as it is mine, that the basic decision on school desegregation, which, of course, was the Brown case, Brown against The Board of Education, essentially struck down busing, that is, busing of black children past white schools; but now are we not in total violation today, in the Senator's home State of Alabama and my home State of Florida, by busing both black and white children past schools they could easily attend?

Mr. ALLEN. Yes. In answer to the question of the distinguished Senator from Florida, the Senator from Alabama stated at the outset of his remarks at the next preceding time that he spoke, that far from the Gurney amendment seeking to shut down the Brown decision, actually it tries to get us back into the Brown decision, because all Brown did was say that the States should not make assignments of students on the basis of race. That is exactly what we are doing now. So if you follow Brown, it would cut the ground out, not from under the Brown decision, but from under these busing decrees, if we actually followed Brown.

Mr. GURNEY. Does not the Senator from Alabama agree with the Senator from Florida that if the Senator from Maine votes against the Gurney amendment here, he is really voting against the Brown decision, the very basic decision that ended segregation and was supposed to stop school busing?

Mr. ALLEN. That is the way the Senator from Alabama would judge it; and as he stated a moment ago, voting against the Gurney amendment would further seek to foster and protect, not remove, de facto segregation, as the Senator from Alabama understood it.

Mr. GURNEY. That is my understanding, too. I reserve the remainder of my time.

Mr. DOMINICK. Mr. President, will the Senator from Florida yield me 3 minutes?

Mr. JAVITS. Mr. President, I think the Senator from Maine wants to complete this argument.

Mr. HATHAWAY. I thank the Senator from New York.

Mr. DOMINICK. I am asking the Senator from Florida to yield me 3 minutes.

Mr. JAVITS. On this same point?

Mr. DOMINICK. Yes, on the same general subject.

Mr. JAVITS. He would like to complete his address, if you will allow us to yield him 3 minutes, just to complete his argument. I yield 3 minutes to the Senator from Maine.

Mr. HATHAWAY. I thank the Senator. Just to make clear my position on de facto and de jure segregation; I am opposed to both. My public statements have indicated that, and I believe my voting record has also indicated that, and I would like the Senator from Alabama or anyone else to point out where I have said or done anything that did not indicate that. To say that we ought not to vote against the Gurney amendment because it has some provision in it which might—quite questionably in my mind—help to eradicate de facto segregation, is a specious argument.

Taking the amendment as a whole, it is a bad amendment. As I mentioned to the Senator from Alabama, if he would like to come up with some kind of amendment that would prohibit any de facto segregation, I would be happy to support him—provided I believed it would really accomplish that.

Two or three years ago, when I was a Member of the House of Representatives, I recall that you had in this body the so-called Stennis amendment that was directed against de facto segregation. It was agreed to by the Senate, taken to conference, and in some way compromised out. I think it was because the bad aspects of the Stennis amendment negated the good aspects of the amendment that the amendment did not prevail. That is often the case; you can point to a couple of lines in a 200-line amendment and say, "These are nice," but the other 198 are so bad you cannot afford to take the two good ones.

When the Senator from Alabama and the Senator from Florida say that this amendment restores us to what the Brown against Board of Education decision did, I differ with them. Brown against Board of Education simply concludes, as I read it:

> We conclude that in the field of public education the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal.

There have been many decisions since Brown against Board of Education which amplified this decision. This decision did not say, no busing. It says nothing about busing whatsoever. Subsequent decisions have stated, as the Senator from Alabama well knows, that in various areas there shall be busing to accomplish the purpose of the decision in Brown against Board of Education.

In my opinion, the Gurney amendment would retreat from what the Supreme Court has said the 14th amendment means. I do not think we can do that legislatively. If we want to amend the Constitution, in order to deny the right the Supreme Court has expanded over the years, then, of course, the Senator is perfectly at liberty to do that. That is the only way we can cut back and restrict the rights of individuals as they have been interpreted by the various court decisions since Brown against Board of Education. We cannot dilute that decision. We can expand it. If the Senator wants to expand it, fine.

Mr. ALLEN. Mr. President, will the Senator get some more time in order that I might ask him a couple of questions?

Mr. PELL. I yield 3 more minutes to the Senator from Maine.

Mr. ALLEN. I should like to ask the distinguished Senator from Maine (Mr. HATHAWAY) if the effect of the holding in the Brown case is not that the States or the boards of education, the local educational agencies, cannot make assignments of schoolchildren to schools on the basis of race? Is that not exactly what the case holds?

Mr. HATHAWAY. That is right. Separate but equal. Previous decisions are no longer in effect.

Mr. ALLEN. That is right.

Are not busing decrees ordering children to special schools to overcome racial imbalance, is that not making assignments on the basis of race, which is forbidden by the Brown decision?

Mr. HATHAWAY. The Brown decision says that we cannot make discrimination on the basis of race—separate but equal, it says—which does not give equal educational opportunity to the blacks. The purpose of busing is to get the blacks, who are not getting a good education, into the white schools in order to get a good education.

Mr. ALLEN. Did they not forbid the transporting of black children to black schools? Did it not forbid that?

Mr. HATHAWAY. In Brown against Board of Education?

Mr. ALLEN. Yes.

Mr. HATHAWAY. I do not know whether it specifically states anything about that.

Mr. ALLEN. That assignments cannot be made on the basis of race, it says that, does it not?

Mr. HATHAWAY. The Senator will have to show me where it says that in the opinion. It says, ". . . the doctrine of separate but equal has no place." That is, it is no longer the law.

Mr. ALLEN. That is right, and assignments of black students to inferior schools could not be made. That is an assignment on the basis of race, is it not?

Mr. HATHAWAY. That is right.

Mr. ALLEN. Now, assignments are being made on the basis of race and are being upheld by the Supreme Court. That is what the Senator from Alabama says, which has resulted in a 180-degree change in course by the Supreme Court.

Mr. HATHAWAY. The Senator is misreading the decision. The assignments are being made on the basis of assigning black students to schools where they can get an education that is equal to that of whites. That is the gist of the decision in Brown against Board of Education.

Mr. ALLEN. I will have to beg to differ with the Senator there, because as a matter of fact the Supreme Court does say that they can depart from the constitutional requirements to overcome some imagined wrong and that they have a right to do what they said in Brown against Board of Education they could not do.

The PRESIDING OFFICER. (Mr. MUSKIE). The time of the Senator from Maine has expired.

The Senator from Colorado (Mr. DOMINICK) is recognized.

Mr. DOMINICK. Mr. President, will the Senator from Florida yield me 3 minutes?

Mr. GURNEY. I yield 3 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 3 minutes.

Mr. DOMINICK. Mr. President, I have been listening to this debate with a great deal of interest. The Senator from Alabama, I know, has had court orders on racial integration in his State. I do not believe that the Senator from Maine has had any yet, but I am not sure that they have many minorities up there, to speak of, in terms of Spanish speaking or blacks. But we have a court order in effect right now in the metropolitan area of Denver. One of the provisions in that court order requires that children, including some from families I know very well, be bused from the south edge of town where they lived—and where they want to go to school—into the interior of town to one of the more rundown schools in the city. In the process of being bused there, they go by at least five schools which could adequately handle the children.

My guess is that there will eventually be a general strike in protest to busing by parents who will refuse to let their children go to the public schools at all. It has already happened among the Chinese in San Francisco and I would not be at all surprised to see it happen in the metropolitan area of Denver.

For the life of me, I cannot see why, under any circumstances, either white or black children should be required to go beyond their school to some other school that they never heard of. In the Denver area, they will not only do this, but they will have some children going to two schools at once. They go to one school in the morning and another school in the afternoon.

For heaven's sake, that means that the children are not really a member of any school. That, to me, is just total nonsense. Whether black or white or brown, they cannot possibly get any kind of feeling for a school spirit or anything else under that procedure.

Mr. President, I hold in my hand a resolution from the State legislature of Colorado asking that a constitutional amendment be proposed by the Congress saying that—

> No public school student, because of his race, creed, or color, be assigned to or required to attend a particular school. Congress shall have the power to enforce this article by appropriate legislation.

Mr. President, I ask unanimous consent to have the entire resolution printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DOMINICK. Mr. President, how in the world have we increased privacy, the right to personal freedom, or anything else, including educational and racial equality, by saying to the children that because they are of a particular color, they cannot go to their own neighborhood school but have got to go to another one? How can we say that they cannot go to the school which is next to them, or even two schools away, and tell them they have got to go all the way across town?

How, and in what way, does that increase either educational quality or better relations between the races?

Until recently, in our own school districts, I do not think a Republican had ever won a school district seat for a number of years. Then the busing issue came up and Republicans swept the school districts. As I recall, in electing Republicans to those school district seats, Spanish-Americans, in effect, voted 4 to 1 against busing. Blacks voted even. Whites were 2 to 1 against it.

Mr. President, in our Senate Education Subcommittee, we had all the evidence to show that forced busing for racial purposes did not improve educational quality, but did increase racial tensions.

All I can say, Mr. President, is that unless we adopt something like the Gurney amendment, which I have cosponsored, we are heading for trouble in our schools.

EXHIBIT 1

HOUSE JOINT RESOLUTION NO. 1012

Whereas, The children of this nation and their parents have experienced uncertainty, inconvenience, and in some cases severe disruption of their lives as a result of court decisions requiring the placement of students in schools to achieve racial balance; and

Whereas, It has not been demonstrated that student busing and other forms of mandatory assignment of students to particular schools are effective in advancing any valid educational goal; now, therefore,

Be it Resolved by the House of Representatives of the Forty-ninth General Assembly of the State of Colorado, the Senate concurring herein:

That the General Assembly hereby petitions the Congress of the United States to propose an amendment to the Constitution of the United States, and to submit such amendment to the state legislatures for ratification, in a form substantially as follows:

"ARTICLE

Section 1. No Public school student shall, because of his race, creed, or color, be assigned to or required to attend a particular school.

Section 2. Congress shall have the power to enforce this article by appropriate legislation."

Be It Further Resolved, That copies of this Resolution be transmitted to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each member of Congress from the State of Colorado.

Mr. GURNEY. Mr. President, I yield 1 minute to the Senator from North Carolina (Mr. HELMS).

Mr. HELMS. Mr. President, I offer only the observation that I wish that the Senators and the press who favor forced busing would take a look at some of the absurdities that occur as a result of this practice.

As my distinguished colleague from North Carolina (Mr. ERVIN) well knows, we have an instance in Mecklenburg County in which one student is bused 22 miles from his home to school in the morning and is bused 22 miles back home in the evening, and he is the sole occupant of the bus. In other words, he has his own private bus and his own driver, just to carry out the ruling of Judge McMillan, which, in my judgment, was an absurd ruling. Yet, the Charlotte-Mecklenburg case has been heralded across this land as a wise and prudent course to follow.

I wish the Senators who favor forced busing would take a look at the practice of it.

Mr. McCLELLAN. Mr. President, will the Senator yield me a half minute?

Mr. GURNEY. I yield 1 minute to the distinguished Senator from Arkansas.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the name of the Senator from Delaware (Mr. ROTH) be added as a cosponsor of my amendment No. 1304.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. PELL. Mr. President, I yield time until 25 minutes after 12 to the Senator from Iowa (Mr. HUGHES).

Mr. HUGHES. Mr. President, the circumstances under which we are discussing legislation to prevent the effective use of busing as a tool to further desegregation in our schools has an aura of routine business that is deeply disquieting to me.

The Gurney amendment before us has the strong support of the White House. It was passed by the House of Representatives by a vote of 293 ayes to 117 noes. Although the amendment is essentially the language of the measure the Senate debated at length in October of 1972 but did not pass, its supporters here today appear to be well-organized and confident. The moral urgency that animated the Congress and the Nation in the cause of racial equality in other times seems strangely absent. This legislation which goes to the heart of one of the most profound moral imperatives of our history has become just another amendment.

It is my hope, Mr. President, that whatever action we take on the school busing issue can be set in its proper moral and historical perspective. Whatever we do, let us do it with our eyes open. Let us admit that when the emotional political pressure got too hot, we retreated and turned the clock back in the long, difficult struggle to achieve racial equality in our schools.

I condemn no one in this matter. We all live in glass houses. We all share the collective responsibility. Obviously it is no longer a regional issue. As of 1972, 25 percent of southern black children were still enrolled in virtually all-black schools. In the North, 49 percent were in such schools, and in the border States, 53 percent.

It is a challenge of conscience for all Americans, a terribly difficult and complex one, admittedly. But when has the struggle for racial equality in this land ever been easy?

It seems only yesterday that our hopes were high that we had crossed the Continental Divide in the long struggle. The *Brown* decision, 20 years ago, opened a decade of hope for black people. Ten years later, the Civil Rights Act opened a decade of fulfillment. What kind of a decade will our action on school busing this week lead into? If we enact this legislation, I believe the answer is apparent. We will be taking the first, fatal step into a decade of retreat and disillusionment in the struggle for racial equality.

John A. Buggs, staff director of the U.S. Civil Rights Commission, put it in a nutshell.

He said:

> Schools are socializing institutions. They are the only institutions where all the children are required to attend. If we cannot desegregate education, I don't think we can desegregate anything.

We have come a long way in the fight against Jim Crow in this country. The dual public school systems are gone. Public accommodations have been opened up; gone are the separate lunch counters and rest rooms. The theaters and playing fields have been opened to black performers and athletes.

But there is still a long way to go, and now we seem to have encountered a stone wall. The busing issue may well be the mortar of that wall.

We will be arguing many important but nonetheless peripheral questions in the course of this debate, questions on which there is persuasive evidence on either side.

Does busing for purposes of racial balance impose an unacceptable trauma on children?

How does racial balance affect the quality of education?

Has integration of schools really worked?

It will be pointed out that there are blacks who oppose busing and reject school integration.

It will be argued, and with merit, that quality education for all children is the goal, not integration per se.

But when the smoke has cleared, the one basic question remains:

Are we or are we not committed as a nation to the goal of an integrated society wherein citizens of all races share equally in opportunity and the rights of citizenship?

I do not blame parents for being upset about busing for racial balance when it thwarts their own plans for their children. Yet, throughout most of the nation, the myth of "massive busing" has been blown far out of proportion.

In the meantime, no workable alternative has been proposed for the limited use of busing, as we have today, to meet constitutional requirements of racial balance.

Buses have carried almost half of U.S. public schoolchildren to class for years. So far as the success or failure of school desegregation is concerned, there is evidence on both sides. But the record nationwide is generally favorable.

As Prof. Robert L. Cain, of Johns Hopkins, designer of the "Southern Schools" study has put it:

> When you try to make integration work it does. That's the story—we have not tried.

Despite the widespread, understandable, and deeply emotional objection of white parents to court-ordered busing, the fact remains that the majority of Americans do not want the country to take the degrading road back to Jim Crow in our schools.

Where then do we turn?

We cannot have desegregated schools and proscribe by law one of the reasonable tools necessary to achieve desegregation.

We cannot in good conscience affirm a goal of racial equality and enact laws that block its fulfillment.

School busing for purposes of racial balance is deeply objectionable to many people; nothing we can say here will change that.

But is it so objectionable that it is worth the appalling price that we must pay in stopping the momentum of progress that has been gained in the past two decades in the grim and bloody struggle for racial equality?

At a time when we desperately need moral leadership in our country, this is a historic test.

It is not just another amendment.

Mr. President, it cannot be questioned that there is heavy pressure on the Senate to acquiesce in the judgment of the House and of the executive branch. I daresay that the mail received by all of us on this subject is running heavily in favor of passage. Large numbers of people are frightened by the specter of the yellow school bus arriving at their door to transport their children to far-away schools and then, once out of the reach of their parents, to be subjected to some kind of "social engineering" repugnant and contrary to parental wishes.

Why do so many Americans have this fear, Mr. President? I recognize that desegregation of our public school system has been a painful process in many parts of the country. It has meant, for many, a completely new way of life, to which adjustment has been difficult—often far more difficult for the adults than for the children. But because desegregation is a constitutional necessity, and because it is right, the agonizing process has been going forward, however slowly. A reading of the history of the implementation of *title VI* of the Civil Rights Act indicates clearly that no blunderbuss approach has been used. No guidelines at all were forthcoming for many months, because of a sensitivity to the magnitude of the problem and when the guidelines did appear, they indicated a "go-slow" approach. The highly sensitive and important problem of faculty integration, for instance, was not even considered for over a year. Moreover, there seemed to be an inclination to let our courts determine, through case law, the steps that must be followed.

And this, of course, the courts have done. I do not question the fact that some of the decisions have been unpopular, but I do question whether the decisions, by themselves, have created the climate of fear and uncertainty that has brought Congress to the brink of taking legislative action that could be disastrous.

I suggest, Mr. President, that one of the major reasons for our difficulty today is that the President of the United States, ever since he has been in office, has described the desegregation issue in inaccurate and extreme terms.

For example, in 1971 the President said:

> I have consistently opposed the busing of our Nation's schoolchildren to achieve racial balance, and I am opposed to the busing of children simply for the sake of busing.

And in 1972, at the time the Senate was considering the education bill, he said of the school bus:

> It has become a symbol of helplessness, frustration and outrage—of a wrenching of children away from their families, and from the schools their families may have moved to be near, and sending them arbitrarily to others far distant. It has become a symbol of social engineering on the basis of abstractions, with too little regard for the desires and the feelings of those most directly concerned: the children, and their families.

And again in 1972:

> Many lower court decisions have gone far beyond what most people would consider reasonable, and beyond what the Supreme Court has said is necessary . . . some (court orders) have required that pupils be bused long distances, at great inconvenience . . . excessive transportation of students creates serious risks to their health and safety . . . the risks and harms created by excessive transportation are particularly great for children enrolled in the first six grades . . .

And, in his education message this year, the President used the words "forced busing" three times in two short paragraphs.

I suggest that this kind of rhetoric plays on the fears and prejudices of people rather than appealing to their sense of justice and fair play. I suggest that this Presidential rhetoric is one of the major reasons we are debating the proposal before us.

Mr. President, 20 years ago, in 1954, the U.S. Supreme Court in its landmark decision in Brown against Board of Education stated, very simply:

> Separate educational facilities are inherently unequal.

The 20 years since then have been difficult, often traumatic, years for many communities as they have tried to adjust to the realities of desegragation. As I have said, for thousands of families, both black and white, new patterns of living became necessary, the comfort of the familiar way of life had to be exchanged for the disquietude of the unknown. But because the American people do have a deep sense of justice and because the American people do respect and revere our Constitution and Supreme Court as the final arbiter of the meaning of that document, they have, for the most part, accepted the changes that have come and have, in ever-increasing majorities, come to agree that segregation in our schools is wrong, both morally and educationally.

How hard it must have been for some parents to explain to their children why they would now be going to school with children of another race; and how hard it must have been for other parents to ask that their children take the risk involved in being among the first to break down the barriers of race. But those first steps were taken, the course was set, and I firmly believe that we can become a Nation wherein educational inequality no longer exists, because of separate school systems.

Our courts wisely understood that histoy cannot be changed overnight, and this was evidenced by the requirement of "all deliberate speed" for over 10 years. It was not until 1965, in Bradley against School Board of City of Richmond, that the Supreme Court announced that "delays in desegregating school systems are no longer tolerable." The series of decisions since then are well known to us all, and the issue before us today stems directly from the Swann decision holding that school boards could be required to use bus transportation as one tool of school desegregation.

Mr. President, as I stated in our last debate on this issue, I have great sympathy for the children who are riding the buses and for the families who feel the strain of busing, but I know that, for the most part, the courts have resorted to busing only where they have found an illegal pattern of officially imposed segregation requiring an immediate, but hopefully temporary, remedy.

To indicate how emotional an issue busing has become, I would like to quote from the June 1973 report of the Civil Rights Commission entitled "School Desegregation in 10 Communities." One of the conclusions reached after studying these communities is the following:

> There is a sharp contrast between the reaction of commnuities to their own experience in desegregation and their expressed feelings concerning desegregation as a general proposition, particularly when the issue of busing intrudes. Most parents interviewed by Commission staff are satisfied with desegregation as it affects their own children. The bus ride that their children take causes them no concern and they approve of the educational program offered since desegregation. Yet many of these same people, on local and State referenda concerning busing for school desegregation, vote overwhelmingly in the negative. So powerful is the rhetoric concerning busing that it has blinded them to the reality of their own experience.

Mr. President, I hope all of my colleagues have read this enlightening report by the Civil Rights Commission. It is true that only 10 communities are covered by this report, but these communities are, I believe, representative of the desegregation effort, its successes, shortcomings, and failures. The picture that emerges from this report indicates that with careful planning by the school boards, the local officials, and concerned citizens, school desegregation can succeed and the educational attainment of the black students can be improved without the loss in achievement by whites. Where parents have been involved in every stage of planning, where both parents and children have had explained to them why the changes being made are reasonable and necessary, desegregation has had its greatest success. Where community preparation did not take place, controversy replaced cooperation, and fear often replaced reason. Yet even in those communities which experienced the most violence and ill-will, often centered on busing, once desegregation was an accomplished fact, the passage of time saw the community settling down to the important business at hand—improving the quality of education for all children, without regard to race, color, or creed.

Listen to what has been said in these desegregated school districts.

From a superintendent:

> There is no finer tribute to the staff, teachers and other personnel than the progress, unity and dedication to quality education emerging in 1972. From turmoil has come direction, from doubt a bold effort and from controversy has come reassessment and innovation . . . by the same token, the community has supported the schools. Volunteer workers in the schools, the Parents-Teachers Association and the Citizens' Advisory Councils have demonstrated that thousands of citizens are sincere friends of the schools.

From a principal:

> Young people are slowly learning that they can have a decent relationship without living on a battleground.

From a transportation director:

> We have taken a positive approach and have been repaid because the children have taken to riding buses like "ducks to water."

From a black teacher:

> There are no people who are vocal against integration. The schools have pretty good standing in the community—there is basic trust. If there is dissatisfaction, it may be

> with some of the teachers because under our system, they now have so much more responsibility.

And the rules of the students of "The Group" in Pontiac, Mich.:

> I will look at my fellow students as individuals and not judge them by their skin color.
>
> I will think before fighting and try to use a kind word of humor.
>
> I will be proud of myself.
>
> I will ask questions instead of making wild guesses about people and things that they do.
>
> I refuse to exaggerate incidents. If I cannot tell it like it is, I will not tell it at all.
>
> I sincerely pledge that I want to and can make it work.

Perhaps, Mr. President, our young people are wiser than we.

We can be proud of this record of achievement, incomplete though it is. But we must go forward. The amendment before us, however, calls for a turning back in time, for a halt and ultimate reversal of all that has been done in the last 20 years to advance the cause of equality before the law. It would reopen healed wounds and would prevent further treatment of the festering sores of racial injustice. The ultimate effect of this amendment would be the resegregation of those schools which have already desegregated and would prevent effective desegregation of those that are still undergoing the process. Is the Senate of the United States really willing, in this year of 1974—2 years before the 200th anniversary of that historic occasion when our forefathers declared that "all men are created equal"—to state for all the world to hear that the guarantees of our Constitution are not to be extended to all?

Equally as important, is the Senate willing to add its consent to legislation that is probably unconstitutional?

Let us examine some of the features of this amendment.

Among other limitations are the key words in section 815(a):

> No court, department, or agency of the United States shall, pursuant to section 814, order the implementation of a plan that would require the transportation of any student to a school other than the school closest or next closest to his place of residence which provides the appropriate grade level and type of education for such student.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HUGHES. Mr. President, does the Senator from Rhode Island wish me to go on or yield the floor?

Mr. PELL. Mr. President, I am delighted to yield another 5 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HUGHES. Mr. President, Members of the Senate are realists, Mr. President, and I think each of us knows what the effect of this provision would be if it were constitutional. It would effectively end the desegregation of our school systems until that day, probably far in the future, when there is no longer any discrimination in housing.

I hesitate to believe that Members of this body really wish to see this result, but even so, is the provision constitutional?

The Supreme Court has already struck down as unconstitutional a State law on busing limitations. Is it likely then that the court would uphold a similar limitation enacted by the Congress? Proponents argue that the Congress has this power through its enforcement powers under section 5 of the 14th amendment, that Congress is appropriately enforcing that amendment by delineating suitable remedies to violations of constitutional rights as proposed in the amendment. Does it then follow that Congress may limit such remedies? I think not, Mr. President. As the court stated in Katzenbach against Morgan:

> SEC. 5 does not grant Congress power to exercise discretion in the other direction and to enact "statutes so as in effect to dilute equal protection and due process decisions of this court." We emphasize that Congress power under sec. 5 is limited to adopting measures to enforce the guarantees of the amendment; Sec. 5 grants Congress no power to restrict, abrogate, or dilute these guarantees. Thus, for example, an enactment authorizing the States to establish racially segregated systems of education would not be—as required by Sec. 5—A measure "to enforce" the equal protection clause since that clause of its own force prohibits such State laws.

Since the severe limitation on busing contained in this proposal would have the effect, in many cases, of maintaining an unconstitutionally segregated school system, it seems self-evident that the court would consider this an effort on the part of Congress to "restrict, abrogate, or dilute" the guarantees of the 14th amendment and that such limitations would therefore not be upheld. In other words, if busing is a necessary remedy to right a constitutional wrong, I for one do not believe the Congress has the power to enact legislation severely limiting or prohibiting it.

As I have indicated, I consider the prohibition on busing the heart of the Gurney amendment, and I also believe it is not within the power of Congress to enact such a prohibition. There are, however, other sections of this amendment which must give us concern:

There is the "re-opening clause" which would permit already desegregated school districts to reopen their cases before the courts so as to obtain modified court orders which conform with the remedy limitations of the amendment. The mischief here is apparent: What good has been done can be undone, and, to add insult to injury, the Justice Department must intervene on behalf of school districts to see that this occurs.

Another section provides that the transportation provisions of any court order shall be terminated upon a finding that the school system is not excluding any person from school because of race, color, or national origin. In other words, a court could order transportation as a cure to an illegal situation, but as soon as the court agreed that the transportation had effected the cure, the order would be terminated, thus permitting a return to the situation prior to the court order. This could produce a "merry-go-round" situation which would be intolerable for sound educational policies.

And what of the section which provides that "in formulating a remedy for a denial of educational opportunity or a denial of the equal protection of the laws—only such remedies as are essential to correct particular denials" shall be imposed? What do the words "particular denials" mean? Do they refer to denials to individuals, meaning then that each case must be litigated on an individual basis with the remedy applying only to such individual? Or do they mean that each type of denial must be litigated separately with the remedy determined separately? This is ambiguous lawyer-talk, Mr. President, and I can envision endless hours of discussion being consumed over the meaning.

These are but a few of the additional difficulties I find with this amendment. Clearly, however, the antibusing provisions are the heart and soul of the amendment, and are, in my judgment, clearly unconstitutional. If the Senate concurs in this amendment, there will be no dispute in conference committee and the President will, in all likelihood sign the legislation. What then, Mr. President? The fears in the suburbs will be allayed—temporarily; the dreams of the opponents to desegregation will be fulfilled—temporarily. Inevitably a court case will emerge wherein desegregation has been prevented because of this legislation or resegregation has occurred because of this legislation. The court decisions since Brown I in 1954 have built up a body of case law which, I believe, would not justify a belief that this proposal will be held constitutional.

In the meantime, of course, by our actions we will have disrupted the orderly processes now taking place. We will have exacerbated racial tensions. We will have put extraordinary burdens on our courts. And we will have undermined the 14th amendment to our Constitution.

I cannot believe the Senate wishes to take this road to the future. Nor do I believe that when they know all the facts the American people will want to take this road to the future.

What, then, can we do?

First, let us get the facts to the American people. Let us remind them that segregated public schools are a violation of the guarantees of our Constitution and that all vestiges of the dual school system which is being perpetuated because of official acts of segregation in whatever form must be eliminated.

Let us acknowledge that we understand the difficulties and strains desegregation may bring, but let us be honest by admitting with the Supreme Court that "desegregation plans cannot be limited to the walk-in school."

And when we talk about the court, let us remember that most of its desegregation decisions have been unanimous and that the court has not been insensitive to the concerns of parents. In the Swann case, the court said:

> All things being equal, with no history of discrimination, it might well be desirable to assign pupils to schools nearest their homes. But all things are not equal in a system that has been deliberately constructed and maintained to enforce racial segregation. The remedy for such segregation may be

> administratively awkward, inconvenient, and even bizarre in some situations and may impose burdens on some; but all awkwardness and inconvenience cannot be avoided in the interim period when remedial adjustments are being made to eliminate the dual school system. . .

Next, let us be honest about busing. Forty percent of all schoolchildren in America today are bused, but only three percent of these are bused for desegregation purposes. This comes out to about 1 child in 50 and yet, in a nationwide poll conducted by the Civil Rights Commission, only 44 percent understood that this was the case.

"Busing" in the United States really goes back to 1869 when Massachusetts became the first State to provide pupil transportation at public expense. Needless to say, these early trips were not by bus—they were by horse-drawn wagons or sleds. And as compulsory education took hold in our States, so, too, did pupil transportation. By 1972 the number of children bused had increased to some 20 million, the number of buses was at 256,000, and the number of school bus miles logged in a year was 2,200 million. And the use of the school bus is no longer limited to transporting children back and forth from school. Through the use of the school bus, handicapped children are brought to specially designed schools to help them; other children are given the opportunity to participate in extra-curricular activities by virtue of the "late" or "activity" bus; trips to museums and other cultural centers are now possible; sports activities flourish.

Unfortunately, the benefits of busing have not always been available to all students on an equal basis. As a prominent black Virginian has recalled, his earliest memory of school segregation was when he "walked 5 miles each way to a one-room school with one teacher and seven grades, while white children rode past me on the schoolbus to a modern, well-staffed school."

While it is true that busing for desegregation purposes has in many instances increased the number of students bused and has increased transportation costs, there is no overwhelming evidence that the average distance and time of ride for most students has changed. It is clear that most desegregation plans are very carefully drawn so as to alter these aspects of busing as little as possible. For instance, in Clark County, Nev., the longest ride before desegregation was 1½ hours over a distance of 50 miles, with the average of distance and time being 11 miles and 30 minutes, respectively. This situation is unchanged as a result of desegregation. In Riverside, Calif., where 29 percent of the students are bused for desegregation purposes in 1971–72, the bus run for such purposes was 5 miles as opposed to a regular bus run of 10 miles when unassociated with desegregation. In each case, the time involved was approximately 30 minutes. In Glynn County, Ga., the average bus ride is 5 miles, taking 20 minutes, with the longest bus ride being 20 miles and taking 1½ hours. This situation also prevailed before desegregation. And in Pontiac, Mich., prior to desegregation, round trip mileage was about 12 miles and average round trip time was 60 minutes. After desegregation mileage decreased to 8 miles and round trip time was reduced to 40 minutes.

It is probable that other cases can be cited giving a different picture of the busing picture insofar as desegregation is concerned. However, what I think should be borne in mind is that "massive busing" is only considered evil when it is associated with desegregation; Americans have bused children to school on a massive scale for decades for a variety of reasons.

When it comes to safety, the report of the National Safety Council in 1968 revealed that the schoolbus is by far the safest mode of transportation, with an occupant death rate per 100 million passenger miles of 0.06, compared to 0.24 for regular buses and 2.40 for automobiles. In the poll referred to above, 49 percent understood this fact, although this percentage was admittedly boosted by the 5-to-1 margin registered in rural areas.

And what of the cost of busing? Here, the American public appears to be badly misinformed. By a 6 to 1 margin the belief was expressed that busing for desegregation adds 25 percent or more to local school costs. The actual figure, of course, is far less—no more than 1 to 2 percent, with the overall costs of all forms of student transportation amounting to about 3.5 percent of the operating costs of school budgets.

In this regard, Mr. President, I find the "findings" of the Gurney amendment somewhat disturbing since they appear to perpetuate the mistaken bias about busing that is held by so many.

Let us also talk to the American people about the neighborhood school. I agree with Professor Bickel when he testified about the widespread parental desire "for a sense of community in the schools." But only since the busing controversy has arisen has this sense of community been particularly associated with the "neighborhood" school. Parents on many occasions have demanded the right to send their children to the school of their choice, but this has not always meant the "neighborhood" school. The right of parents to send their children to a private or parochial school is, of course, well-established. But in the case law that exists with regard to public schools, the courts have ruled that the school board, and not the parents, has the right to determine which school a child will attend. In a Michigan case which involved overcrowding, for example, the court ruled that the board had the right to send the students to a school other than the "neighborhood" school.

And, of course, in all the years of the dual school system, the "neighborhood" school was nonexistent, since both black and white students were sent to schools designated by race, very often not the nearest school.

And let us tell the American people we share their concern about possible crime, racial discord among students and poor educational facilities. But let us ask them to study the school districts that have successfully undergone desegregation, to learn from their experiences and solutions to these problems. Crime, of course, knows no boundaries, and the experience of our suburbs in recent years can testify to this fact. It can be kept at a minimum in all schools by various means, including the use of hall monitors.

Experience has shown that racial discord among students usually occurs at the beginning of a school year under newly desegregated circumstances, whether on the bus or in school. Again, monitoring has been an effective tool in keeping such discord at a minimum. And in case after case, once a previously all-black school has been desegregated, its physical plant and school supply situation has improved dramatically because of the insistence and cooperation of the white parents whose children now attend that school.

With reference to learning, the studies that are now available appear to indicate that the achievement of the black student increases under a desegregated condition and that the achievement of the white student does not suffer. However, since schools have not been desegregated on any large scale for but a few years, it is obvious that no definitive judgment in this area can be made nor do I believe it can be made until at least one generation of students has undergone the desegregation experience from kindergarten through senior high school.

Mr. President, in addition to getting the full story to the American people, we can take further action. We can, through the legislative process, make certain that those Federal programs which are designed to help the process of desegregation are fully funded. We can make certain that all technical assistance necessary is available to those desegregating schools requesting it. We can fund and encourage desegregation plans which appear to be innovative and least disruptive to the community. We can, in short, encourage educational equality and educational opportunity and at the same time fulfill the rights guaranteed to all under our Constitution.

The pending amendment, however, cannot accomplish this, and I therefore cannot give it my support.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. HUGHES. I have no more time.

Mr. MANSFIELD. Mr. President, I yield 2 minutes to the Senator from Minnesota.

Mr. HUMPHREY. I need only 1 minute. I merely wanted at this time to join fully and associate myself with what the Senator from Iowa has had to say. It is a brilliant statement. It is a call to exercise a positive force rather than a retreat. I thank the Senator for his statement.

Mr. HUDDLESTON. Mr. President, the issue before us is one of the most emotional and difficult issues facing our Nation. The sociologist Gunnar Myrdal long ago termed it part of "the American dilemma" and that is, if anything, an understatement. The issue involves the hopes, the dreams—and the fears—of citizens throughout the land. It involves an area where the rights of one group often appear to conflict with the rights of another and where requirements imposed in an effort to benefit some present what others consider an intolerable burden.

It has now been 20 years since the Supreme Court, in the landmark case of Brown against Board of Education declared that separate but equal school systems were inherently unequal and that their existence violated the equal protection clause of the U.S. Constitution.

In those years, we have seen many moves to eliminate dual school systems and the vestiges of laws and procedures which classified men by race. I believe in the 1954 decision and in actions to eliminate those practices and procedures which discriminate against men and women because of the color of their skin, their sex, their wealth or lack of it or their station in life.

I believe in equal opportunities in the education system. There is, in fact, probably no single institution of our society in which discrimination or denial of equal access is more insidious. Education is undoubtedly the single greatest means of enabling a person to develop to his full potential, whatever that may be, and to compete successfully for the benefits and rewards which a society has to offer its citizens.

I am also all too aware of the past failures of education—of a time and system which forces a significant portion of our people into inferior buildings, with fewer supplies, offering few services and often with fewer specialized personnel.

I am aware of the concerns among our minorities that many of the gains which they have made in recent years will be lost and that their aspirations for themselves and for their children will be thwarted. That must not be allowed to happen.

In those years since 1954, however, questions reaching far beyond the elimination of officially sanctioned discrimination have been raised. A review of recent court decisions suggests quite clearly that the momentum is toward racial balancing plans and the forced busing of large numbers of public school children. The discriminatory technique of the past is now being used in a reverse manner. It is being used in an effort to force our schools and school children to resolve a problem which we as a society have failed to resolve.

And the result is all too often the disruption of the educational process, the misdirection of needed but limited educational funds, and constant confusion over legal requirements or satisfaction of court orders. The result is all too often the weakening of the educational institution at a time when its strengthening is needed.

As we all know, there is a large body of literature on the advantages and disadvantages of massive busing. Much of it is conflicting and contradictory. Much of it raises questions about the basic educational value to the student resulting from the shuffling of large numbers of children to schools outside their normal areas. Certainly there are enough questions regarding it to preclude its use as a base for a national policy.

As we all also know, there are cogent health and safety arguments against sending children—black or white—far from their homes, lengthening the schoolday with travel time, removing children from ready access to their homes and parents in case of emergencies, and eliminating the likelihood of close parental involvement in school-related activities.

I have always opposed the forced busing of public school students, because I believe such busing is educationally counterproductive, unnecessarily disruptive of family life and not the best use of limited educational resources. I will continue to do so.

I remain a firm believer in integration, equal opportunity, and equal protection of the laws, but I simply do not believe forced busing will either achieve or advance those objectives. Instead, I think it will erect additional barriers to real integration.

Unwise public policy in the pursuit of worthy objectives is still unwise policy. And I believe forced busing is unwise public policy.

Mr. BAKER. Mr. President, this week marks the 20th anniversary of the landmark ruling by the Supreme Court that the assignment of children to particular schools because of their race is unconstitutional.

In the two decades since the Brown decision, dual school systems have been effectively dismantled throughout the country. Yet today, in an ironic, judicially contrived reversal of that historic decision, children are again being uprooted from their neighborhoods and forced to attend certain schools solely on the basis of their race.

The House of Representatives has already passed by a substantial margin legislation to relieve the hardships imposed by massive crosstown busing of schoolchildren. The Senate now has the opportunity and, I believe, the responsibility to reaffirm our national commitment to quality and equality in education by bringing about a reasonable remedy to the problems of busing.

In the language of the House-passed bill and of amendments proposed in the Senate, busing would clearly be designated as a tool of last resort. It could be used only after the effectiveness of a number of other measures to implement desegregation plans had they been proven inadequate. In any event, court-ordered busing to any but the next closest school to a student's home would be prohibited—and busing would not be permitted at all if it endangered students' health or educational progress.

This attempt to deal with the problems of busing would not diminish the drive for equal educational opportunities. Indeed, the very proposals which would prohibit forced busing contain companion provisions which would also prohibit deliberate segregation, discrimination in hiring and assigning faculty members, and failure to take action to overcome language barriers.

There have been some attempts in the past to dismiss busing as a racial or regional issue, perennially put forth for its election-year appeal. Black and white parents and children from throughout the country who have personally experienced the continuing family disruption brought about by massive busing rightly dispute that claim.

A September 1973, Gallup poll reported that although a majority of our citizens favor desegregated public school systems, only 5 percent support the use of busing.

This survey, taken at the beginning of the current school year, indicates that "much of the opposition to busing stems from reasons other than racial animosity. These include the belief that busing is an infringement of personal liberties, worry about busing children to schools in different neighborhoods, and concern that busing will increase local school taxes."

The National Congress of Parents and Teachers has expressed strong opposition to busing, and PTA organizations across the country have registered their support for proposed legislative solutions to the problem.

Delegates to the last PTA national convention adopted a resolution pledging that the organization would "reaffirm its strong commitment to integrated quality education for all children and oppose the reassignment of students solely to achieve racial balance."

By now, it should be abundantly clear that to be against busing is not to be against providing a quality education for every child, black and white. To be against busing is to place a commonsense concern for orderly education above the caprice of transportation orders.

Legislation prohibiting the assignment of a child to a certain school because of his race is in keeping with the spirit of our historic advances in the progress of the civil rights struggle.

We must not turn our backs on our national commitment to a plural society and to desegregated public school systems. Rather, we must open our eyes to evaluate the effects of busing on children, their families, and their communities.

For thousands of Tennessee families, the problem of busing is not a hypothetical one. It is not something to be viewed on the news broadcasts or read about in the newspapers and then forgotten. It is, regrettably, a fact of life.

I can testify first-hand that many citizens of Nashville and Memphis who are dedicated to the purposes of civil rights strongly oppose massive busing. Some of the members of the community who spoke out most eloquently and forcefully against the evils of forced segregation are equally outspoken against the evils of forced busing.

In cities which have experienced court-ordered busing, there is now a general agreement that enormous hardships have been worked on the children involved, on their parents, and on the financial resources of the community—in that order of importance.

The dislocations of crosstown busing

are especially grave because the burden falls hardest on the children themselves. They are the ones who are uprooted from their neighborhoods, forced to get up before daylight, and wait on street corners for buses to carry them past their neighborhood schools to unfamiliar destinations.

For local communities, busing orders have often meant that funds which could be used to make needed improvements in educational facilities or to provide better pay for teachers are instead spent to buy, fuel, and maintain buses. I believe that the recent gasoline shortage and the increase in fuel prices makes unnecessary busing even more indefensible.

The theoretical benefits of busing are being increasingly questioned now that busing plans have been translated into reality. The hardships, frustrations, and dislocations are undeniable.

Because of the actual experience of Tennesseans and other citizens in localities which have had to deal with the problem of busing, I believe it is imperative and the proposed solutions receive the priority which they deserve.

Earlier this week, the Washington Post published an extensive study of the progress of school desegregation under the heading, "The Brown Decision: 20 Years Later." Ms. Linda Brown, whose name is associated with that decision, was asked her views on busing. This was her reply:

> I am not for it at all. To me this is a reversion to what we were getting into before Brown. It might just be me, but I had to walk all this distance to catch a school bus and be bused across town. If this is what it comes to here in Topeka, I will conform to it, but . . . if there is another solution that would give us our neighborhood schools and still give us an integrated school system, I would rather see that.

I believe that the vast majority of parents, both black and white, would associate themselves with Ms. Brown's statement. Racial school assignments were declared wrong by the courts two decades ago. They are wrongly required and perpetuated by some courts today. It is time for the Senate to act immediately and to act conclusively.

I remain convinced that our national goals of providing a good education for every child and assuring equal educational opportunities for all are not furthered by the judicial mischief of busing.

M'CLELLAN TITLE I AMENDMENT TO S. 1539

Mr. DOLE. Mr. President, I wish to express my support for the amendment proposed by the distinguished Senator from Arkansas. The Kansas Department of Education favors the substitute proposal, and I concur in their opinion for several reasons.

The most obvious of these is that the substitute formula will provide an increase of nearly $1 million in the Kansas title I entitlement. But there are other reasons for supporting the House-adopted language, too. The House formula reduces the emphasis placed on welfare and AFDC figures, whereas under past formulas, States with more liberal welfare programs have been rewarded with a higher level of title I funding. Rural States, such as Kansas, which do not have a comprehensive welfare program, are penalized under these formulas. I feel there are factors other than welfare statistics which can serve as proper indices for the need for compensatory education, and believe that the House formula more properly reflects those needs in the State of Kansas.

Second, the substitute formula allows greater latitude in the administration of the title I program within the State. By stipulating an 85 percent hold-harmless funding level from the previous year for each local education agency, the bill assures the stability necessary for maintenance of an effective program, while providing the flexibility needed to focus the program in areas of extreme need. The substitute formula now under consideration does not provide for funding of the part C special incentive grant program, but by providing more part A funds to the State of Kansas with State discretion in their use, the areas of special need can be met.

The pending amendment, when read in conjunction with the provision of S. 1539, authorizing advance funding of the ESEA programs, will provide substantial improvements in the title I program. In the past, one of the biggest problems plaguing the Kansas title I program has been the delay in settling the title II funding levels. School budgets are planned and prepared in March for the next school year, but title I funding level were often settled in the middle of the schools year. If the funding level were set below the amount budgeted, the fiscal restraints required that teachers be laid off and the program be disrupted.

In Kansas, the impact has been especially significant because 85 percent of the title I funds go for the salaries of professional and nonprofessional personnel who work directly with disadvantaged students. Last year, more than 2,500 persons were employed with title I funds and approximately 75 percent of these were certified teachers. However, a reduction in title I funds in midyear interrupted contracts for teachers and interrupted programs for students who can least afford disruptions in their training.

The pending amendment will mean additional funds for the Kansas title I program, and the advanced funding provision of S. 1539 will eliminate the disruptions which have previously plagued the program. I, therefore, wish to indicate my support for the pending amendment, and the advance funding provision of the bill. These measures will go a long way toward meeting the needs of disadvantaged students in Kansas and eliminating the many headaches of the State's title I teachers.

I ask unanimous consent that a statistical statement be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATISTICS

Title I use in Kansas last year—85% salary: 2,500 professional and paraprofessional

Full time:
33 preschool teachers
432 elementary teachers
59 secondary teachers
19 teachers for handicapped
200 teacher aids
22 counselors

Part time:
156 elementary teachers
130 teacher aids
56 secondary teachers

Summer:
800 certified teachers employed full time

ESEA AMENDMENTS

Mr. MONDALE. Mr. President, I arise to speak in support of the committee bill in general, and in support of the title I formula in the committee bill in particular.

As a member of the Education Subcommittee, I want to begin by expressing my appreciation for the tireless and thoughtful leadership which the junior Senator from Rhode Island (Mr. PELL), chairman of the subcommittee, has provided throughout the consideration of this piece of legislation. He chaired 18 days of hearings on this bill and numerous and lengthy executive sessions. It has not been an easy job. This is a major and very important piece of legislation and because of that there are many areas within the bill in which different Members of the Senate will have different opinions. I believe the consensus that was reached in the subcommittee and the full committee, in view of the complexities and differences involved in this bill, is a credit to Senater PELL, and I believe all of us are indebted for his guidance and leadership.

Mr. President, this bill is commonly referred to as the elementary and secondary education bill. It does indeed strengthen the Federal program of aid to elementary and secondary education. But the bill covers far more than that. It extends and amends Public Laws 815 and 874 commonly known as the impact aid program. It extends and revises the adult education program. It proposes three forms of consolidation of existing educational programs. It establishes a national center for education and statistics. It extends the programs for the education of the handicapped. It establishes a new national reading program and it reaffirms the language concerning student assignment and transportation adopted by the Congress in the Education Amendments of 1972. As a member of the Education Subcommittee, I am proud to have been involved in the preparation of this legislation and I am particularly proud that it includes one promising new program and several important amendments, which I authored.

The new program to which I refer is the Women's Educational Equity Act which was introduced and sponsored in the House by a distinguished Congresswoman from Hawaii (Mrs. MINK). This bill authorizes the Commissioner of Education to make grants and enter into contracts aimed at achieving education equity through development of new educational materials; preservice and inservice training; research and development; guidance and counseling; programs for underemployed and unemployed women; and improvement of educational administration, and vocational, career, and physical education programs.

The bill would also create, within the Office of Education, an Advisory Council on Women's Programs. The council would help to oversee the program and make recommendations for improvement of educational equity by HEW. Another important provision of the bill is the requirement that the Commissioner conduct a "national, comprehensive review of sex discrimination in education, to be submitted to the Council not later than a year after the date of enactment" of the legislation. The Congress has already established its position on the question of sex discrimination in education—and this type of discrimination is against the law. The Women's Educational Equity Act can help to make that policy—which is now only a statement of purpose—a reality.

The amendments to which I refer include an amendment to impact aid concerning Indians living on Federal lands, and an amendment concerning target schools under title I. The first assures that Indian students whose parents live on Federal property are counted as "A" students under the Federal act whether or not their parents are employed. Currently, the children of Indians living on Federal property are counted as "B" students and reimbursed at a lower rate if their parents were unemployed. Because these students place at least a high if not higher financial burden on school districts than children of Indian parents who live on Federal lands and who are employed by the Federal Government, I believe this a long overdue improvement. This amendment would help an estimated 10 to 15 thousand Indian students across the country by providing an estimated $2 million additional Federal aid to the schools they attend.

The second amendment to which I refer would give local educational agencies discretion to designate as a target school a school not located in a school attendance area in which a high concentration of low income families reside, which, except for such requirement, would otherwise have qualified as a target school. Existing law links eligibility as a title I school with the location of the school in an attendance area with a high concentration of children from low-income families. However, in some school districts, because of attendance of children in nonpublic schools, the economic composition of the attendance area served by a public school is not reflective of the economic level of the children actually enrolled. Existing law would bar the designation of such a school, even though its actual enrollment would qualify it to be a title I target school under the poverty criteria utilized by the school district. My amendment, contained in the committee bill, would correct this situation, if the local educational agency exercised the discretion given it.

TITLE I

Mr. President, the issue before us today involves the formula to Title I of the Elementary and Secondary Education Act. Title I is the largest single program of Federal aid to our schools.

The availability of new 1970 census data has required the committee to update and improve the formula for distributing the funds under this title.

The proposed new title I formula consists of two parts. The first part involves the base year concept. The committee bill provides for a base year of 1974 for each local educational agency. Under this base year concept, no school district would receive less in future years than it did under the 1974 Appropriations Act. This base year will provide some continuity for local school officials. With passage of S. 1539, they will have a basic amount they can expect to receive, and will, therefore, be able to plan programs and hire teachers without substantial fluctuations in title I funds from year to year.

Funds appropriated above the base year would be distributed on a new formula in fiscal year 1975, based on the President's budget request, such new money would amount to more than $158 million.

The census data used in the new formula would be the 1970 poverty level, often called the "Orshansky" level. This definition takes into account the size of the family, the sex of the family head, and farm/nonfarm residence. Thus, an urban family of seven could be counted under title I even though the father earned more than $6,000 in 1969. This flexibility is more reflective of actual poverty than the arbitrary $2,000 cutoff contained in existing law.

In addition, the formula would count on the amounts available from appropriations for local educational agency grants, 60 percent would be paid on the basis of a district's relative number of census children and 40 percent on the basis of its children on AFDC. This would assure a constant ratio between the two formula factors, and would guarantee that in the future AFDC will not overwhelm the formula, as occurred under existing law when the shift to the 1970 census took place.

The Federal payment level remains at 50 percent of the State or national average per pupil expenditure, whichever is higher. This factor recognizes the higher costs of education in States like Alaska and New York, and provides higher Federal payments to reflect those costs. At the same time, it raises low-expenditure States to the national average expenditure, thereby providing a measure of equalization.

Mr. President, we are now considering an amendment offered by the distinguished Member from Arkansas (Mr. McCLELLAN) to change this formula. I believe it would be a mistake to adopt that amendment. I want to underscore briefly why I think the committee formula should be retained.

First, the base year concept and formula was designed to provide a long overdue assurance of stability to title I—stability to State and local educators who are responsible for planning and administering title I programs in the communities across the country. All of us concerned about education want to make sure that funds available can be used in the most effective manner possible, yet recent combinations of vetoes, impoundments, and late funding has made it difficult if not impossible for local educators to plan and use Federal funds as effectively as we all would hope. The committee bill with its base year concept will assure that every school district currently receiving title I funds will get at least as much as it is receiving during the current school year. If the school officers, superintendents, principals, and teachers can count on that amount, they can plan in advance, for once, to use it to its greatest effectiveness.

That stability to permitting our local educators to plan ahead with certainty is absolutely essential. The committee bill spells out in more detail the arguments I am offering and I include parts from pages 20 and 22 of Senate Report No. 93–763 at this point in my remarks:

> The base year concept is intended by the Committee to provide a measure of stability for local educators in planning Title 1 programs. Under State law, most teachers, and other educational personnel must be hired for the succeeding school year in March or April of the preceding year. Yet rarely if ever are Federal appropriations for education programs enacted into law by this time. The resulting uncertainty requires school officials to gamble that sufficient funds will be forthcoming under title 1 to support the compensatory education program for which they have planned and for which they have contracted for personnel.
>
> With a base year, this uncertainty would be removed. School boards could rely on a basic amount of title 1 money annually, and could engage in meaningful advance planning for the expenditure of such funds. Compensatory education programs could be developed in an analytical manner, rather than on a "catch-as-catch-can" basis as funds become available too late in the school year for rational planning.
>
> It is in large measure because of the lateness and uncertainty as to the level of title 1 funding that the program has been the subject of criticism that it merely "throws money at the problem" of educational disadvantage. The Committee bill's base year would blunt such criticism by allowing for on-going planning for title 1 programs for the first time in the program's history.
>
> Given the base year, all States would share in any additional money appropriated for local educational agency entitlements under title I. The Committee bill adopts a totally new title I formula for the distribution of such new money.

A second reason for retaining the committee formula concerns the way it distributes new money. Sixty percent of any new funds will be distributed according to the sophisticated Orshansky property level which takes into account the number of children, the family, the sex of the family head, and the farm/non-farm residence. Forty percent of the new money would be distributed according to the numbers of children whose families receive AFDC, regardless of the level of the payment received by such a family.

In short, this formula for the new money, has several advantages over the existing formula: First, it uses the up-to-date flexible and highly sophisticated Orshansky poverty measure; second, it counts all families receiving AFDC rather than simply those receiving AFDC payments of $2,000 or above, so that AFDC families in all States will be counted; and third, it retains a consistent ratio of 60 to 40 percent between the Orshansky children and the AFDC children. This will assure that we will not experience in future the same major shifts in title I allocations that we did in the past—as AFDC grew from less than 10 percent of the children counted for title I purposes in 1965, to 38 percent of the total number of children counted for title I purposes in 1973.

Mr. President, there are some other reasons for staying with the committee formula. It is important, I believe, to note that the funding distributions under this base year concept are based on very solid ground. The distributions that this bill would guarantee for the future are not just pulled out of the air. The distributions under this base year concept are precisely the distributions agreed to by the representatives of the House and Senate Appropriations Committee meeting in conference on last year's appropriations bill. They were the ones who agreed to the distribution formula and funding levels that local educational schools are receiving during the current school year. Our committee simply accepted their judgment and took it as the base year.

In addition, Mr. President, I would close by noting that the title I formula in the committee bill was adopted unanimously by the committee on a rollcall vote. That point should not be overlooked. It is rare for this kind of consensus to form on an issue that effects every State as directly as this one.

Mr. President, let me conclude by urging my colleagues to support the committee position on this bill.

TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION ACT

Mr. SCHWEIKER. Mr. President, the funds provided by title I have had a dramatic impact on the major urban centers of our country. These funds have provided the incremental difference between success and failure for hundreds of thousands of children.

It must be clearly understood that with shrinking tax bases and the inability of many urban districts to mount any type of new undertaking, the funds provided by title I are the difference between success and failure for many disadvantaged children.

Although still in their infancy, title I projects have reversed the trends toward drastic underachievement and have enabled school administrators and teachers to create favorable learning environments which maximize the probability of future success for our target-area children. Furthermore, evaluations indicate that community attitudes and parental participation have dramatically increased in a most positive way.

I would like to call to the attention of the Senate examples of some of the changes produced by title I projects in Philadelphia.

Over the past 5 years, comprehensive evaluations of the progress of ESEA title I children in Philadelphia have been undertaken on both programwide and project-by-project bases. A programwide assessment indicated that the negative rates of performance in reading for target-population children have been halted, and in their place exist consistently positive rates of change. Gains in reading achievement have increased by 75 percent since the inception of title I.

The contributions of ESEA title I can be seen even more dramatically in some of the individual projects.

Evaluations of a reading skills centers project have shown that pupils with the most serious reading problems have made substantial gains in reading achievement whereas nonparticipating students have not. The goal of improving reading comprehension at an average rate of two-book levels per year was reached by 47 percent of the pupils with severe reading problems. In addition, the goal to raise 80 percent of the pupils' oral reading skills to mastery level was achieved over a 3-year period.

English as a second language is an ESEA title I project which has successfully improved the English-speaking capacity of native Spanish-speaking pupils. Participating students made significantly greater gains than nonparticipants in all areas.

A paired schools science project is a science learning experience of 4,200 sixth-grade children. The funds provided for the project permit these children to attend morning sessions at the Franklin Institute on 7-week cycles. Evaluations for the past 5 years have found the paired schoolchildren scored significantly higher than matched nonparticipating students with respect to science achievement. More than 120 teachers in 40 schools have been involved in the use of the facilities as an extension of their classroom as well as learning new instructional procedures.

The findings of a 2-year longitudinal study of the attitudes and perceptions of 5,000 parents of Philadelphia schoolchildren indicate that parents of title I children are accurately informed about school affairs—including a knowledge about the ESEA title I projects in their school, and are active participants in school activities, and have positive opinions about their schools. It is important to note that these levels of participation and attitudes did not exist in 1965.

Evaluations required under title I have given administrators an opportunity to discover and choose among alternatives in order to improve instruction. The variety of projects developed and administered through compensatory education and the use of evaluation data have led to an era in which decisionmakers can apply new instructional strategies and practices in the deployment of available resources.

ESEA title I projects are helping us to determine what kinds of instructional programs and operational factors represent optimal learning conditions for the children in the target area. For example, target area children with severe emotional problems are most productive in a totally individualized instructional setting. For target children whose standardized test scores are more than 1 year below the national norm in reading, small group instructional settings are most effective. The rate at which target children—taught in these kinds of instructional settings—acquire reading skills is proportional to the amount of time spent in the setting.

Teachers in ESEA title I schools are learning how to refine these promising techniques into more effective strategies, how to allocate their instructional material in a more individualistic manner. Furthermore, teachers are becoming more proficient in accurately diagnosing pupil needs and in exposing each child to a sequence of experiences that will maintain his motivation to learn.

There can be little doubt that title I has improved both the quality and quantity of services that the schools deliver. Pupils are also beginning to demonstrate proficiency in terms of what they are able to do with the services that are provided by the school.

This bill addresses itself to urban needs. It recognizes the impact that large concentrations of disadvantaged children have on a community. Although I have focused my earlier remarks on the Philadelphia public schools, I would like to insert at this point in the RECORD statements of several urban school district superintendents regarding the impact of title I on their cities.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

DETROIT, MICH.

(By Dr. Charles Wolfe, General Superintendent)

Detroit schools are divided into Priority A (large amount of Title I funding), Priority B (moderate amount of Title I funding, and non-Title I. The school system tested all its fourth graders in 1968, 1970, and 1972. The results showed a substantial and continuous reduction in the percent of pupils more than one year below grade placement in reading in Title I schools. In four years, the number of Priority A students more than one year behind in reading fell from 66% to 43%. In Priority B schools, the corresponding reduction from 66% to 48%. By comparison, the reduction in non-Title I schools was from 44% to 38%.

The number of Title I schools reading at or above the city-wide mean increased from 15 to 30 in four years. The number of Title I schools whose percentage of low-achievers was lower than the national average increased from 0 to 18 in four years. Detroit also found a strong positive relationship between the amount of Title I services received and the reduction in reading retardation.

ESEA, Title I stopped the downward trend in reading and academic achievement and the gains must be converted to larger and permanent ones.

CLEVELAND, OHIO

(By Dr. Paul W. Briggs, Superintendent of Schools)

Title I students in Cleveland were compared on reading tests to students not in the Title I program. All comparisons were made between students starting at the same level. First graders in Title I reading projects advanced eight months; first graders not in Title I advanced six months. Second graders in Title I reading projects advanced 10 months; second graders not in Title I advanced seven months. Third graders in Title I reading projects advanced 10 months; third graders not in Title I advanced six months. To summarize, at the end of a year of reading instruction, Title I youngsters surpassed non-Title I youngsters by an average of three months.

Similar comparisons were made of the mathematics achievement levels of third, fourth, and fifth graders. Third grade Title I students advanced nine months; those not in Title I advanced six months. Fourth grade Title I students advanced 12 months; those not in Title I advanced 10 months. Fifth grade Title I students advanced 11 months; those not in Title I advanced seven months. In mathematics as well as in English, after a year of instruction, Title I students were an average of three months ahead of non-Title I students.

As Dr. Briggs pointed out, "Title I children are achieving at a higher and better rate than non-Title I children from the same neighborhoods in the same schools—exposed to the same environment, but we have picked in Title I, of course, the children with the greatest problems and the most severe economic background . . ."

Washington, D.C.

(By Hugh Scott, Former Superintendent of Schools)

The George Washington University Research group investigated reading and mathematics gains over one school year. Title I students in the second, third, and seventh grades in Washington, D.C. schools averaged more than a one year gain during the year of instruction. In other words, Title I students surpassed the national average. In addition, students in the bottom quarter of the population gained an average of one year, three months in reading, and one year, four months in mathematics.

Portland, Oreg.

(By Dr. Robert Blanchard, Superintendent of Schools)

Students in disadvantaged schools in Portland were compared to students in non-disadvantaged schools. Disadvantaged pupils' reading and arithmetic scores were graphed relative to non-disadvantaged pupils' scores. For grade three, the graph shows a steady upturn beginning in the 1966–67 school year. In other words, beginning in 1966–67 Portland's first full year of compensatory education, disadvantaged third graders began catching up to the citywide average. The graph for seventh graders began a similar upturn in 1967–68. Fifth graders have stabilized their previous dropping scores.

Mr. SCHWEIKER. These data dramatically portray the enormous impact title I has had on our urban schools. The program must be continued with the formula in S. 1596 so that gains achieved with this funding can be sustained and expanded.

Mr. STEVENSON. Mr. President, the amendment offered by the Senator from Arkansas does not distribute funds equitably among all States. It takes substantial sums from some States and increases others by sizable amounts. This may make political sense, but it does not make educational sense.

School administrators have already hired teachers for the fall semester. Programs are already planned and materials already ordered. The amendment would create chaos in school districts across the country, if as a result of its adoption expected funds were suddenly not forthcoming. What are local educators to do, when teacher contracts can no longer be supported with Federal title I funds? Will local property taxes have to be raised to make up the gap?

The formula in the bill would give each school district in the country the same amount of money it received this fiscal year. Each school district in the country would share in any increase in appropriations.

The largest areas in my State would be severely hurt by the adoption of the amendment of the Senator from Arkansas. Chicago, for example, would receive less funds under the amendment than it is currently receiving—$50.7 million as compared to $51.9 million. This is a loss in real dollars, in jobs of real teachers, counselors, and paraprofessionals and above all for the disadvantaged children. I see no justification for such a devastating cut. No one can argue that Chicago, Rockford, Peoria, East St. Louis do not need funds for the compensatory education of disadvantaged children. The children need the help if they are to become productive citizens.

This is not an urban-rural issue. Title I recognizes the national character of educational deprivation and a resulting Federal responsibility for assisting in meeting the costs of compensatory education. In order to survive and grow, title I must retain this national character, with all sharing in appropriations increases. This is only possible if my colleagues join in defeating the amendment and adopting the formula for distribution of funds contained in the committee bill.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time for the vote on the McClellan amendment be transferred from 12:30 to 12:37.

The PRESIDING OFFICER (Mr. Chiles). Without objection, it is so ordered.

VISIT TO THE SENATE BY MEXICAN MEMBERS OF 14TH MEXICO-UNITED STATES INTERPARLIAMENTARY CONFERENCE

Mr. MANSFIELD. Mr. President, it is a great honor and a personal privilege to have the opportunity to present to the Senate of the United States our parliamentary colleagues from the United Mexican States. They are here under the chairmanship of Senator Enrique Olivares Santana, Chairman of the Senate Delegation, and Congressman Luis Danton Rodriguez, Chairman of the Delegation of the Chamber of Deputies.

We have just completed the business of the 14th Mexico-United States Interparliamentary Conference and the proceedings have, as always, been conducted with dignity, mutual understanding, and a mutual awareness of the problems which confront our two great Republics. As always, we have learned much from our Mexican colleagues and benefited greatly from their advice and counsel.

This interparliamentary conference is one of only two—the other being Canada—which is based on formal approval of the legislative bodies of the two countries. It is a heartwarming experience to be associated with such able and dedicated men and women who have represented their country with distinction, with integrity, and with honesty. To be associated with them is, indeed, an honor.

Mr. President, I would like at this time to ask our colleagues from Mexico to stand, and I ask unanimous consent that there be a recess for a period not to exceed 5 minutes so that Senators, individually, as well as the Senate as a whole, can extend their respects to our neighbors and friends.

The PRESIDING OFFICER. Without objection, it is so ordered.

[Applause, Senators rising.]

RECESS

By unanimous consent, at 12:32 p.m. the Senate took a recess until 12:37 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Chiles).

EDUCATION AMENDMENTS OF 1974

The Senate continued with the consideration of the bill (S. 1539) to amend and extend certain acts, relating to elementary and secondary education programs and for other purposes.

The PRESIDING OFFICER. Under the previous order, the question before the Senate is on the adoption of the amendment of the Senator from Arkansas (Mr. McClellan), as amended. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Arkansas, as amended. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. METZENBAUM. On this vote I have a pair with the Senator from Arkansas (Mr. Fulbright). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I, therefore, withhold my vote.

Mr. MANSFIELD. On this vote I have a pair with the Senator from Alaska (Mr. Gravel). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Fulbright), the Senator from Alaska (Mr. Gravel), the Senator from Hawaii (Mr. Inouye), and the Senator from Michigan (Mr. Hart) are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. Hart) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Illinois (Mr. Percy) is necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent on official business.

I further announce that, if present

and voting, the Senator from Arizona (Mr. GOLDWATER) would vote "yea."

The result was announced—yeas 56, nays 36, as follows:

[No. 196 Leg.]

YEAS—56

Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bennett
Bentsen
Bible
Biden
Brock
Byrd, Harry F., Jr.
Cannon
Chiles
Church
Cook
Cotton
Curtis
Dole
Domenici
Dominick
Eagleton
Eastland
Ervin
Fannin
Fong
Gurney
Hansen
Hartke
Haskell
Hatfield
Helms
Hollings
Hruska
Huddleston
Johnston
Long
Mathias
McClellan
McClure
Montoya
Nelson
Nunn
Packwood
Pastore
Pearson
Proxmire
Roth
Scott, William L.
Sparkman
Stennis
Symington
Talmadge
Thurmond
Tower
Young

NAYS—36

Abourezk
Aiken
Brooke
Buckley
Burdick
Byrd, Robert C.
Case
Clark
Cranston
Griffin
Hathaway
Hughes
Humphrey
Jackson
Javits
Kennedy
Magnuson
McGee
McGovern
McIntyre
Metcalf
Mondale
Moss
Muskie
Pell
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Taft
Tunney
Weicker
Williams

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Mansfield, for
Metzenbaum, against

NOT VOTING—6

Fulbright
Goldwater
Gravel
Hart
Inouye
Percy

So Mr. MCCLELLAN's amendment (No. 1304) was agreed to.

Mr. McCLELLAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment of the Senator from Florida (Mr. GURNEY). Who yields time?

Mr. PELL. Mr. President, I yield to the Senator from Florida.

Mr. GURNEY. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, I yield 1 minute to the Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I ask unanimous consent that Tom Cantrell of my staff be accorded the privilege of the floor during the consideration and vote on the FEO bill and also the Emergency Energy Authorities Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. I yield to the Senator from Hawaii.

SPECIAL COMMITTEE ON AGING MINORITY REPORT

Mr. FONG. Mr. President, printed copies of the 1974 Special Committee on Aging annual report, "Development in Aging: 1973 and January–March, 1974" filed with the Senate Monday, will be released to Congress and the public tomorrow.

The entire report, including minority views and appendices which include reports by Federal agencies on activities during 1973, deserves attention by all Members of the Congress.

I especially urge careful review of the minority views by Senators HANSEN, GURNEY, BROOKE, PERCY, STAFFORD, BEALL, DOMENICI, BROCK, and myself. Because of their importance, I ask unanimous consent that they be printed in their entirety as part of the CONGRESSIONAL RECORD immediately following these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. FONG. While reiterating our strong support of prompt action to meet immediate needs of older Americans, including problems generated by inflation—which we have pointed to as the No. 1 public enemy of the elderly for almost 10 years—we decided to use our statement to raise questions to which all of America should give prompt answers in developing both near- and long-term solutions to the problems of aging.

Through a series of more than 200 questions, we advance the position that our Nation must take a new look at aging to develp a social and economic policy which will offer all older Americans maximum opportunity for independent living with dignity, comfort, honor, and freedom of choice.

We emphasize our conviction that America has failed to recognize the individuality of its 21 million citizens past 65. Responsibility for this failure must be accepted by leaders in the nongovernmental sector of national life and by Government agencies at all levels.

If our Nation is to pursue an enlightened policy on aging, consistent with realities of the 20th century and lifelong needs of young and old, it is essential that we stop thinking of the elderly simply as problems and begin seriously examining their individual needs and capacities as persons. We must stop arbitrary discrimination against older Americans on the basis of age. Even as we develop programs to help the elderly, we must be sure that such programs are not so devised as to erect barriers to self-fulfillment.

In this process, it is not enough for policies aimed at first-class citizenship for America's 21 million persons past 65 to be examined by Government agencies alone. Leaders in the private sector must engage in a soul-searching look at individual rights of older persons. This is especially important with reference to policies on pensions, retirement, and employment.

Positive attitudes toward aging in the long run are no less important to the young and middle aged than to those who are now old. In view of possible further increases in life expectancy and the need for lifelong preparation for later years, the challenges of aging clearly become challenges for all Americans.

The latter is partially emphasized by estimates which show that within the next 75 years over 220 million Americans now living or yet to be born will celebrate their 60th birthday. By the end of that period more than 15 percent of the population are expected to be over 65. At least 75 percent of persons now aged 30 will reach age 65. The young and middle aged have a stake in the Nation's policies on aging which goes far beyond their responsibilities for giving financial support to programs in support of the elderly. The quality of life which the young shall enjoy in the future when they become aged is also at issue.

The questions raised in our minority report—which range from such broad items as the future of social security, private pensions, retirement policies, transportation problems among the elderly, housing, medical care, and Federal tax treatment of persons throughout life to such specifics as the range of services within a senior citizens center—call for an informed populace. We believe the questions we raise have too long been the special province of older persons themselves, or professionals in aging and other narrow disciplines.

Solutions of America's "problem of aging" demand a new social consciousness based on facts, on the best available professional opinions and on understanding of older Americans' own goals in life.

In the very important section of the minority report concerned with expanding individual opportunity for satisfying life roles for older Americans, we emphasize the plurality of this need. Too often national policies, as laid down in public laws and as set forth in social and economic custom with sometimes even more devastating effect, have been developed as if there should be a single role for older persons. Short of total neglect, nothing in aging is more injurious to the interests and needs of either the Nation or its elders than this oversimplification.

It is true that there are special problems which face many older Americans for which valid group responses must be developed, but such group responses should take into account the individual variations among those past 65—variations which may be greater than those within any other age group.

EXHIBIT 1

SPECIAL COMMITTEE ON AGING 1974 ANNUAL REPORT—MINORITY VIEWS OF MESSRS. FONG, HANSEN, GURNEY, BROOKE, PERCY, STAFFORD, BEALL, DOMENICI, AND BROCK

It has been our custom in the annual Special Committee on Aging Minority Reports since 1961 to review progress and make specific recommendations for improvement in national efforts to meet needs of older Americans. This year, instead, we raise some questions to which neither society, nor government, has given proper attention.

We reiterate our support of the positive philosophy of aging inherent in our previous recommendations. We endorse continued effort to enact our proposals which have not yet been accepted and further action on those which have been fulfilled only partially.

Even as we press for prompt action on immediate needs of older persons, we believe that truly acceptable policies in aging are unlikely of fulfillment until Americans of all ages understand how questions such as we shall raise here affect them collectively and individually throughout life.

Our decision to emphasize now a plea for public attention to *questions* comes in part from our belief that the issues too long have been the special province only of older persons themselves or of professionals in aging and other narrow disciplines. In no way is it to be construed as minimizing our concern for immediate and serious problems now facing the elderly.

On the contrary, we believe that America's debt to its aged is overdue and should be paid as rapidly as practical. But all of the specific problems in aging—income adequacy, health care, housing, transportation, social involvement, work opportunities, social services and a host of others—must be examined in the broad context of life-quality goals for all citizens and recognition that the issue in aging is the right of older Americans to fully-equal status in our national community. We believe this issue has not been faced squarely by society.

MOST IMPORTANTLY THE NATION HAS FAILED TO RECOGNIZE THE INDIVIDUALITY OF ITS 21 MILLION CITIZENS PAST 65. Responsibility for this failure must be accepted by leaders in the non-governmental sector of national life and by government agencies at all levels. Both private and public forces that influence individual destinies have too long ignored positive elements in aging brought by the 20th century.

Full review of the questions we raise is imperative to a proper response to problems faced by older Americans today. Intelligent answers to them are equally essential if today's young and middle-aged Americans are to avoid for themselves the type of second class citizenship which too often faces their seniors today.

America should address the questions with recognition that all of life is a continuum—A CONTINUUM CHARACTERIZED BY CHANGE, BUT ONE WHICH SHOULD NOT INVOLVE SHARP DIVISION AND SEGREGATION OF PERSONS BY REASON OF AGE.

It is not enough that many older Americans do have satisfying lives in society. There are millions to whom opportunity for this basic right is denied. This denial probably will continue as long as we pursue segregation based on age, push the elderly outside of America's mainstream and fail to respond adequately to their needs as individual citizens.

RECENT PROGRESS

Re-direction of attention to broad questions in aging is particularly appropriate now in view of major positive specific actions on behalf of older Americans in recent years.

Substantial forward steps during the past year have included:

(1) Social Security benefit increases of 11 percent, continuing a process which has brought an increase of 67.5 percent in the past 4 years and 100.7 percent during the past 10.

(2) A new Supplemental Security Income (SSI) program has been inaugurated, which offers a federally guaranteed monthly income of $140 per individual and $210 per couple past 65. For THE MORE THAN TWO-THIRDS OF THE ELDERLY WHO RECEIVE REGULAR SOCIAL SECURITY BENEFITS, RESPECTIVE MONTHLY INCOME GUARANTEES FOR INDIVIDUALS AND COUPLES ARE $160 AND $230. Because $65 of monthly earned income is disregarded (and half of earnings above $65), the Federal supplement can raise income levels subject to SSI to over $225, individual and $295, couple. All of these monthly income levels will rise $9 effective June 1, 1974.

(3) The federally financed hot meal service—in congregate settings and with delivery to home-bound individuals—has been expanded so as to provide five meals a week to approximately 200,000 older persons.

(4) H.R. 3153, in conference between the Senate and the House of Representatives to resolve differences, offers further Social Security Act amendments, including improvements in Medicare.

(5) Private pension reform legislation in H.R. 2, likewise in conference, promises significant improvement in non-governmental efforts to provide retirement income with safety and equity.

Action in aging during the past 10 or 20 years, particularly since the Eisenhower White House Conference on Aging in 1961, shows a growing public awareness of the "problem of aging." This is far from surprising with 15 percent of the adult population now over 65 and 36 percent over 50.

"The problem of aging" receives increasing attention from individuals, discussions by communications media, and action programs by various organizations. Often the ideas emerging from public concern with the "problem of aging" unfortunately have been at cross purposes, have ignored root causes of the "problem" and valid concepts of what older persons are or want.

THREE BASIC QUESTIONS

What is needed now is a new look at aging to develop a new national social and economic policy which will offer all older Americans maximum opportunity for independent living with dignity, comfort, honor, and freedom of choice.

Equality of status for older persons must be the key ingredient. This should carry with it all the rights and life-style alternatives inherent in first class American citizenship. Intensified public attention should be given to three basic questions:

I. How can expression of their singular personality by the 20 to 30 million older Americans be strengthened through wide individual opportunities for satisfying life roles?

II. How can America's private sector and government at various levels meet their several responsibilities for expanding freedom of choice by older Americans in society's economic and social life?

III. How can the people as a whole, young and old, come to awareness of new 20th century implications of aging in relationship to social policies and their own individual needs throughout life?

Our attitude is reflected in two key words which appear in each of our three initial questions: individual and life. We abhor the too prevalent practice of looking at older Americans as statistics or objects of obsolescence. As long as there is life, there is individuality. Social rejection of persons because of age is indefensible even in a "throwaway" society.

Solutions of America's "problem of aging" demand a new social consciousness based on facts, on the best available professional opinions and on understanding of older Americans' own goals in life.

OPPORTUNITY FOR SATISFYING LIFE-ROLES

I. How can expression of their singular personality by the 20 to 30 million older Americans be strengthened through wide individual opportunity for satisfying life roles?

As the Nation addresses itself to this question it is important to emphasize its plurality. Too often national policies, as laid down in public laws and as set forth in social and economic custom with sometimes even more devastating effect, have been developed as if there should be a single role for older persons. Short of total neglect, nothing in aging is more injurious to the interests and needs of either the nation or its elders than this over-simplification.

It is true that there are special problems which face many older Americans for which valid group responses must be developed, but such group responses should take into account the individual variations among those past 65—variations which may be greater than those within any other age group.

In this connection quotation from the Report by the Retirement Roles and Activities Section to delegates of the 1971 White House Conference on Aging appears appropriate. The introduction and recommendations of this section report said:

As we grow older, we continue to need to occupy roles that are meaningful to society and satisfying to us as individuals. However, we emphasize the primacy of such basic necessities as income, health and housing and these needs must be adequately met.

Twenty million older people with talents, skills, experience and time are an inexhaustible resource in our society. We represent all segments of the population; our abilities, our education, our occupational skills, and our cultural backgrounds are as diverse as America itself.

Given proper resources, opportunities and motivation, older persons can make a valuable contribution. We are also capable of being effective advocates of our own cause and should be included in planning, in decision making and in the implementation of programs. Choice of roles must be available to each older person despite differences in language and ethnicity, and limitation because of disability or level of income. The lives of Americans of all ages will be enriched as the Nation provides opportunities for developing and utilizing the untapped resources of the elderly.

RECOMMENDATIONS

1. Society—through government, private industry, labor, voluntary organizations, religious institutions, families and older individuals, must exercise its responsibility to create a public awareness of changing life styles and commitments in a continuous life cycle. Together they should discover and implement social innovations as vehicles for older persons to continue in, return to, or assume roles of their choice. These innovations should provide meaningful participation and leadership in government, cultural activities, industry, labor, welfare, education, religious organizations, recreation and all aspects of volunteer service.

2. Program efforts to meet role problems and to create new role opportunities should be designed to serve all segments of the older population. Priorities should be determined according to local and individual needs; special effort must be made to include persons who might otherwise be excluded—the impoverished, the socially isolated, the ethnic minorities, the disabled and the disadvantaged.

3. Society should adopt a policy of preparation for retirement, leisure, and education for the life off the job. The private and public sections should adopt and expand programs to prepare persons to understand and benefit from the changes produced by retirement. Programs should be developed with government at all levels, educational systems, religious institutions, recreation departments, businesses and labor to provide opportunities for the acquisition of the necessary attitudes, skills and knowledge to assure successful living. Retirement and leisure time planning begins with the early years and continues through life.

No one would quarrel with the essential need for income adequate to purchase the necessities of life nor with the need for access to goods and services necessary to quality in life—food, housing, medical care, social opportunities. The real question is "How can we meet these obvious common needs without creating new barriers to individual fulfillment, without so segregating older Americans that they become second class citizens or virtual wards of the State?"

THE GOAL: FULFILLMENT OF INDIVIDUAL PURPOSE

ANY DISCUSSION OF ECONOMIC AND SOCIAL ROLES OF OLDER AMERICANS MUST BEGIN WITH SENSITIVITY TO THEIR LIFE-LONG HOPES AND OBJECTIVES. IT MAY BE THAT THE MORE MODEST THEY ARE, THE GREATER ATTENTION THEY SHOULD RECEIVE. THERE SHOULD BE A DELIBERATE CONSCIOUSNESS OF THE ELDERLY AS PERSONS WHO HAVE DIFFERING PURPOSES IN LIFE. OUR NATIONAL PURPOSE SHOULD AIM AT FULFILLMENT OF INDIVIDUAL PURPOSE

It is appropriate, therefore, to look at some of the kinds of dreams which older Americans have had. What clues may they offer, even in their variations, to sound national policies in aging? To what extent have dreams of the past been achieved? To what extent have aging policies created barriers to their fulfillment? Are there common factors to which, nonetheless, different kinds of responses should be made?

For many, but not all, the dream has included ownership of a home, free and clear. What is our responsibility to the many who succeeded? How can we meet the problem of rising property taxes which now threatens hundreds of thousands who have attained this goal? With whom does responsibility for appropriate answers rest?

How do Federal tax laws impede free use of assets in homeownership by the old? How serious a problem is such inflexibility? When an older married couple, who have placed all their life savings in purchase of a home adequate for a growing family, finds it appropriate to sell that home and purchase a smaller one or use the savings it represents in other beneficial ways, how much of their assets are expropriated through capital gains taxes on paper increments related to inflation? How do such losses in real wealth interfere with life styles they have earned? This, discussed more fully later, and the comparable paper increment problem which may be faced by an older farmer or other small business operator, illustrates how tax policy can impede freedom of choice by those who have succeeded in preparing for retirement.

Many older Americans, but not all, have dreamed of the day when they could leave the pressures of a job at which they had to work to pay family bills whether they like it or not, and could relax doing the things they always wanted to do but could not—education, travel, recreation.

For some in business, professions or other skilled vocations, the dream may have included a hope for a life-style change permitting them to share their practical knowledge with the young. For some, who worked at a sedentary occupation, it may have been a desire to use their hands, with or without pay. For some in manual work, such as the autoworker facing the assembly line's monotony, it may have been a chance for mental activities or opportunities offering a wide variety of experiences.

How well are we meeting the needs associated with desires for such life-style changes? How does government policy at all levels encourage or impede fulfillment of such dreams? How fully is the private sector, business, labor, et cetera, opening or closing doors to personal fulfillment in later years?

Still other older Americans have given clear expression to their dream that they be permitted to continue their chosen vocations as long as and to the extent that their personal abilities permit. Hundreds of thousands successfully pursue this choice in later life. How many more are there who would like to do so, but are denied the right by corporate decisions, especially in the private sector of society?

How can policies and individual actions related to age best permit full expression of such varied dreams?

ESSENTIAL TO ADEQUATE NATIONAL RESPONSE TO THIS KEY QUESTION IS A NEW LOOK AT RETIREMENT AS SUCH AND WHAT IT MAY OR SHOULD MEAN TO SATISFYING LIFE-ROLES FOR OLDER AMERICANS

TIMING AND CHARACTER OF RETIREMENT

A most obvious question for both society and the individual is: "When should a person retire?"

Neither public nor private leadership has given adequate attention to this question or current research findings on it. Instead society has denied the individual a choice through blind adherence to 19th century concepts of aging.

It is well known that Germany's Bismark selected age 65 as the retirement age for his social programs a century ago because in his day so few people reached that age. What does our scientific community, as represented by both physical and social scientists, think of its validity today?

Is 65 too high or too low an age for division between "young" and "old"? In view of diversity among individuals, can any age properly be designated as a dividing line?

Does it make sense to force the professor into full retirement at 65 or 70, when he may then be at the height of his teaching powers? Is it reasonable to expect the steelworker who has been facing a blast furnace since he was 18 to wait until he is 60 or 70 before leaving its heat? Are different retirement provisions desirable for American Indians who have a life expectancy of little more than 40 years, or for members of the Mexican-American community for whom the age 60 may, as indicated in Committee on Aging hearings, be far advanced? How shall we approach special problems of other minorities, including the important 10 percent of our population who are black and have faced deprivation throughout their lives?

Related to these questions as they may affect individuals or special groups are the broadgaged social and economic implications of current trends toward earlier and earlier retirement.

Are practices which tend to place persons "totally in" or "totally out of" the work force, by reason of age, in the best interest of older persons? Of employers? Of the Nation as a whole? Or should there be a conscious effort to provide opportunities for flexibility in retirement and employment practices aimed at gradualism in work-force withdrawal and greater individual choice?

Some gerontologists suggest that lengthening life and expanding living capacities during later years call for delay in age of retirement. Some suggest policies by employers which will permit and encourage a gradual phasing out in employment through such devices as periodic reductions in days or hours of work, use of longer vacation periods and sabbatical leaves in middle and later years.

How do these ideas relate to recent experience which has seen average retirement age falling steadily?

Since probable income required to satisfy normal desires may be higher when an individual retires early, how does the trend toward earlier retirement affect ability of older persons to pay their bills? How far can the Nation go in expecting the producers in society to carry the load for nonproducers? To the extent that producers may be caught in the squeeze created by simultaneous later and later entrance into the work force by the young on one side and earlier and earlier departure from it by the old on the other, what may be the workers' reactions as new demands are placed on them?

Will their own hopes and expectations of early retirement make the young and middle-aged worker willing to pay the bill? Or is there risk that continuation of retirement trends may so overburden retirement funds as to threaten decent living standards for the old as a whole? What may be the effect on those who need help most? Is the claim sound that the Nation can easily support a policy of earlier retirement because of increasing production, or will the old still be denied their fair share because of heightened personal demands by their juniors?

It goes without saying that rising levels of education and health stimulate interests and appetites among older Americans which will not be satisfied with yesteryears' simple standards of food, clothing, and shelter. This is evident among today's elders. Progress in living standards has both increased their numbers and strengthened their capacities in comparison with their grandfathers. It has brought them a zest for living rarely satisfied by three meals a day and a comfortable rocking chair. How do the implications of this continuing revolution in aging relate to retirement patterns in America?

IMPLICATIONS OF INCREASED LEISURE TIME

The question of increased leisure time resulting from greater use of labor-saving devices and techniques and prospects for further automation has long been a serious concern to social scientists. How can both young and old be made aware of life-long implications of this issue to them as individuals and to society?

How shall increased leisure time be apportioned? Shall it be concentrated mainly during the later years through earlier and earlier retirement? Should leisure time, instead, be spread more evenly throughout a life-time by emphasizing shorter hours and shorter work weeks?

What are the social responsibilities of business and labor in strengthening individual choices in use of leisure time? Are their decisions, which dominate national practices, being made with full understanding of long-range changing patterns of aging as seen by economists, sociologists, gerontologists, and other experts?

Whatever decisions are made on use of leisure, it will continue as a major factor in lives of older Americans. Their needs will require increasingly effective responses by society.

Leisure without income sufficient for its joyful use is a hollow sham. Leisure without ready availability of services can be negative even when income appears adequate. How can society meet its responsibilities toward assuring retirees opportunity for the golden years?

When will we give proper priorities to development of service programs to strengthen retirement activities for all older persons?

How should such responses acknowledge unique problems faced by minority groups? How can they be modified to accommodate differences in community settings—urban, suburban, rural?

The recently expanded hot meals program is one example of the kinds of programs to which such questions might appropriately be applied. This program has clearly demonstrated its value for many older persons both nutritionally and socially. Another example is offered by senior citizen centers sprinkled throughout the land. In the inevitable competition for limited tax dollars, how far can government, Federal, State and local, go in providing for such activities? Is there an untapped capacity for meeting such needs within the private sector? If so, how can it be activated?

Adequacy of response to needs in housing, medical care, social services and other essentials to acceptable living standards—discussed elsewhere in the Special Committee on Aging report and in previous minority reports of the committee—are obviously of consequence to the status of older Americans. Equally obvious is the fact that so far the record in these areas has been spotty.

How can the young and middle-aged, business, labor and government, be made fully aware of the transportation problems faced by the old, and their relationships to life quality? How can America solve them?

This "sleeper" problem, brought out by the 1971 White House Conference on Aging, because of its almost universal impact deserves special re-emphasis at this time.

As the Nation grapples with transportation needs for all, can we hope that unaccustomed problems faced by the young because of energy shortages will give them a new understanding of the kinds of privations long suffered by hundreds of thousands, perhaps millions, of older Americans?

Isolation and loneliness, the terrifying twins that can threaten the elderly are perhaps the most negative element in aging. They are realities far too often for far too many older persons, and are commonly a direct product of inadequacies in transportation. To them must be added difficulties faced by the elderly even in such simple chores as getting to the grocery, drug store, or to the doctor.

How can Americans meet the critical need for dependable, economical transportation? What are the full dimensions of the problem? How does the problem vary in different types of communities—inner city, rural, suburban? To what extent can the issue of transportation for the elderly be divorced from unmet transportation needs of the total population? Can special transportation services for the elderly be effective without more adequate public transportation facilities for all?

Our brevity in raising these questions on transportation does not minimize their importance. On the contrary, the complexity of the problem almost staggers the imagination. But few issues are more important in helping the aged attain even the simplest satisfactions in life.

VARIABLES WITHIN THE OLDER POPULATION

How important are differences in age, sex, social circumstances and geographic location within the over 65 population?

How much do such needs among the retired population differ by reason of age? Is or is not a more vigorous type of activity needed by those below age 75 or 80 than among the most elderly? How does the ability to meet their own needs differ among older persons of various ages? How do such age differentials apply among minority groups? What are implications of such questions for the design of services?

More than 60 percent of those past 65 are under 75; 20 percent are over 80; 8 percent are over 85. Disregarding individual variations are there any general patterns which distinguish such age groups? Are there differences in aspirations, appetites, needs, abilities or sense of responsibility? Do census and other reported data give us accurate clues relating to who, what and where they are, or is statistical grouping too imprecise?

Are there differences between older men and older women in achievement of satisfying social and economic roles for each? How are these influenced by their respective patterns of life prior to 65? If so, are changing work patterns by women narrowing or broadening such differences?

How do differences in family status affect the aspirations, needs, and social or economic roles of older Americans? To what extent, if any, do we discriminate in aging policies for or against married couples, single persons, widows and widowers?

In their concern for satisfying roles in society and individual sense of worth, persons past 65 appear little different from their younger fellow-citizens. As has been observed earlier, for those who retire it may be that the emphasis is shifted from work-a-day job to voluntary service or service within their own families. It may be that retirement is used as a base for second careers, or appropriate modifications of lifelong pressures. It may be that retirement is used for personally satisfying leisure and learning activities denied in youth or for personal growth unrelated to a job.

To what extent, in the various possible groupings of the 21 million persons past 65—does a sense of worth and happiness depend on service to others?

How can individuals who strongly feel this need be helped through opportunities for non-paid volunteer services such as those which have had increased Federal emphasis in recent years? To what extent is it practical for willing older persons with limited economic resources to participate? Is it necessary to expand earnings opportunities as part of volunteer programs?

To what extent does opportunity for continued productive activities, with or without pay, influence the health of older persons? How can this balance against costs of such programs? Again, are there differences in this regard related to age, sex or ethnic factors among persons past 65? How do they interrelate to such other influences as personal income and education levels?

How important to older Americans are opportunities for jobs, full time or part time?

At best the answers to this question are not clear. It is apparent, however, that the vast majority of persons past 65 strongly resent business customs and government actions which limit their rights to jobs. This resentment of second class citizenship is voiced by persons over 65 who are fully retired, persons who are out of work only because of compulsory retirement and persons who are actually working full time or part time.

Our purpose here is to re-raise broad questions to which national leadership, private and public, should give priority in decisions related to older persons in a changing world.

To the extent that efforts have been made—by Congress, by White House Conferences, by labor leaders, by business, by organizations of older persons—to develop answers, there has always been a risk of oversimplification. In the days ahead we believe it imperative that policymakers give new emphasis to the complex pattern of life among today's 21 million persons over 65 and those who will take their places in the future.

When we talk about policies in aging, we give concern to hundreds of millions of Americans including those now in their infancy. If society continues to ignore the wide variations in hopes, aspirations and unmet needs among those who are now old, it denies them their valid rights as Americans to life, liberty and the pursuit of happiness. If society ignores the individuality of those who will become old tomorrow, it no less denies their rights to personal versions of the American dream.

Inherent in our questions on roles in aging is our long-time insistence as members of the Senate Special Committee on Aging that older Americans are entitled to first class citizenship with maximal individual choice. We raise these questions, some of which will be re-emphasized below because of our growing concern about our Nation's persistence in outmoded concepts of age and older persons.

PRIVATE SECTOR AND GOVERNMENT RESPONSIBILITIES

II. How can America's private sector and government at various levels fulfill their several responsibilities for expanding freedom of choice by older Americans in society's economic and social life?

The wording of this question rejects the idea, voiced too often, that there are specific areas of responsibility in aging which should be assigned exclusively to any of America's social institutions—be they Federal, State, or local government agencies or labor unions, professional societies, business corporations, or other private agencies. Few if any of the thousands of impediments to free choice by older Americans can be successfully attacked through simplistic approaches or allocations. The people and their needs are pluralistic; so too must be responses to them.

America's approach to needs of older persons calls for effective partnership of all its great social forces using the strengths of each even as we avoid their weaknesses.

TRANSPORTATION

Transportation needs of older Americans, to which emphasis was given in the previous section of these views affords a good example.

Is the transportation problem one which can be met only through massive Federal expenditures? Or should Federal emphasis be given to creation of a climate in which the resources of private enterprise can be stimulated to meet the problem? Or should there be a combination? How does experience with the postal service, which sees profit-oriented companies successfully competing for its business, relate to these questions?

How do alternative solutions to the unique transportation problems of the cities and the rural areas, where public transportation is sometimes nonexistent, relate to basic financial problems local communities face? Is Federal or State subsidy needed? If so, to what extent and in what form? Can such subsidies be devised so as to give equitable treatment to all citizens regardless of residential circumstances? If not, whose needs should receive greatest or first attention?

To what extent have Federal, State, or local regulatory agencies stimulated or stifled development of public transportation?

The transportation problem, as observed previously, deserves special emphasis now because of the possibility that recent developments may bring to the young and middle-aged a new understanding of long-time problems faced by the elderly. Some of the special characteristics of this problem in aging are discussed at length elsewhere in this Special Committee on Aging report. We concur in the importance of seeing that new responses to the problem give full consideration to these needs.

Elsewhere in this committee report there appear detailed discussions of many other problems faced by older Americans. We agree emphatically that there should be prompt action to meet them. Action which fails to respond to the kinds of broad questions we are now raising, however, invites continued short-fall or misdirection in problem responses.

INFLATION

Before pursuing the complicated questions about interrelated private and public responsibilities for adequate incomes among older Americans, it is appropriate that we reaffirm our serious concern about rising costs of living.

The most serious problems of today's older Americans are those generated by the continuing inflation spiral. As repeatedly observed in previous Special Committee on Aging minority reports over the years, inflation is the No. 1 Public Enemy of older America. No one needs to be told that for many the problem is reaching crisis levels.

That inflation rates have been lower in this country than elsewhere is small comfort. That much of the recent inflation acceleration has sprung from factors beyond our own control, such as the petroleum shortage, in no way reduces need for positive action by America. Control of rising living costs demands highest national priority.

We have noted in the past that unnecessary Federal expenditures and costly involvement in foreign wars contribute seriously to erosion of the dollar's purchasing power. We shudder at the thought of inflation problems which would now prevail if we were still involved in the Viet Nam War.

Essential as reduction in ill-considered, unjustified and wasteful Federal expenditures is, however, it is apparent that sound fiscal policies alone are not enough. In the face of sharply increased worldwide demand for goods and services, meeting the challenge of inflation also calls for increased productivity by America. Perhaps one source of increased productivity may be wider use of older Americans who want to continue work, full time or part time. Unquestionably, full cooperative effort by all elements of society, public and private, is needed to control the complex factors which fan the fires of inflation.

SSI: SUPPLEMENTAL SECURITY INCOME

Even without the universal reductions in older Americans' purchasing power to which they have been seriously subjected since 1965, there are many elderly whose incomes have always been inadequate for even the barest necessities of life. There are others for whom minimum subsistence may be available, but who lack simple comforts and amenities of life to which they should be entitled.

The recently inaugurated Supplemental Seecurity Income (SSI) program establishing a new Federal income floor for persons past 65 is a giant stride to help those with lowest incomes. Although improvements are needed to meet the goals as originally envisioned by the administration and Congress, SSI reflects new national recognition of one major responsibility of the Federal Government.

New as SSI is, several questions about its performance and future deserve early answers. Is the SSI income floor adequate? How many people are benefiting? How many are receiving supplements which give them only the minimum SSI income standard? What is the numeric distribution at various levels for those who qualify for more than the minimum because of "disregarded income," such as $20 of Social Security benefits and part of earned income? How clear is the understanding of such "disregards" among potential SSI beneficiaries? How many of the people expected to benefit have failed to qualify? Are all who are entitled to SSI aware of its availability to them?

Without answers Congress and the administration will be unable to make modifications required if SSI's response to income needs is to be fully effective.

Government acceptance of responsibility for basic minimum incomes through SSI, and individual State supplements to it, is only part of the picture. Society has an income responsibility to older Americans which goes far beyond acceptable subsistence standards.

Effective combination of private initiatives and Government programs are necessary if we are to attain our goal of incomes that offer older Americans fullness of opportunity in vigorous pursuit of personal objectives.

How shall an appropriate mix of public and private income programs and other income sources, including earnings and individual savings, be developed to achieve this purpose with fairness to all? This question deserves thoughtful re-examination by all segments of society with recognition of the special genius each may offer in meeting the need.

OASDI UNDER SOCIAL SECURITY

Any appraisal of income adequacy must include questions about the old-age, survivors and disability insurance (OASDI) provisions of the Social Security Act. Since roughly two-thirds of the current elderly now receive benefits and 90 percent of the younger population is covered under OASDI, it is a national imperative that there be constant reassessment of its performance and ways to improve it.

Questions about OASDI which follow—including those about its interrelationships to other economic factors in American life—are among those which we felt should be given continuing full-time review by an independent bipartisan Social Security Commission when we recommended its creation in our minority report 2 years ago.

We believe that Social Security, as the Nation's biggest and most pervasive income program, deserves no less than constant scrutiny and overview by a competent agency independent of its administration.

As we said 2 years ago, nothing in our recommendation implied criticism of the program's mechanical operation under the Social Security Administration. To the contrary, we believed that the Social Security Administration, under both Republican and Democratic Presidents, had been a model of efficient and fair performance. We did raise a major question, however, as to the propriety of leaving in the hands of the administering agency the evaluation of its economic effectiveness or of relying so heavily on it for policy recommendations. We believe this question is still valid, perhaps more than ever.

Our recommendation for an independent bipartisan Social Security Commission, which was given legislative form through Senator Fong's introduction of S.J. Res. 48, included clear intent that the commission be responsive to and of assistance to the Senate and House of Representatives and that a part of its membership be named by congressional leadership.

The first question regarding OASDI, as distinct from Medicare and SSI, is suggested by recent observations of some professionals in the economics of aging. They raise the question because of major benefit increases, including automatic living cost adjustments, during the past 4 years simultaneous with development of the new SSI program.

Has OASDI reached or approached its zenith as an instrument in providing retirement income to older Americans? If so, to what alternative mechanisms should the nation turn to assure adequate incomes in old age? If not, what reasonable ceiling should apply in its expansion and what emphasis should be given in further growth?

All other questions impinge on how the Nation answers this fundamental question about OASDI's ultimate magnitude. The answer will reflect public opinion regarding retirement income responsibilities of government, private financing systems and individual savings. It will have serious impact on America's entire economic system.

If there is to be further OASDI expansion, to what purposes should the necessary additional taxes be directed? Should they be used for across-the-board increases? For correction of inequities in the tax-benefits relationship—such as those experienced by working couples, persons who continue work after 65, and unmarried individuals? For increases in the number of retirees through lowering the eligibility ages for benefits? For higher benefits to those whose earned incomes have risen steadily throughout life by calculating benefits on the highest 3 or 5 years of covered earnings? For increased minimum benefits to persons with long attachment to the work force at lowest wages?

How far can the Federal Government go in raising taxes necessary to an expanded OASDI? In a very real sense this might be described as the "$64 billion" question. Are complaints received by Members of Congress about Social Security tax increases simply a concern by a small percentage of taxpayers, or do they reflect widespread discontent? How does this relate to evaluations of future changes in OASDI?

For the most part young and middle-aged citizens apparently have gladly accepted tax burdens necessary to provision of current OASDI retirement benefits. For this they deserve commendation. But economists agree that, no matter how well motivated toward their elders the young are, their willingness to accept responsibility for retirement income to others largely depends on confidence that they in turn will receive comparable benefits when they themselves become old. This emphasizes the importance to today's older Americans of assurance to their juniors that current and future financing of OASDL or any other pension system, be economically sound. The many persons who have inquired about OASDI's financial status should, therefore, not be ignored.

How sound is the Social Security system? While we have confidence in it, the American people deserve—and Congress needs—valid answers to all questions related to financial integrity of OASDI.

Much has been made of the trust fund generated by Social Security taxes. Some have felt the OASDI trust fund constantly should hold an accumulation of assets adequate to pay all future claims in the same way as private plans must do. This view is not shared by the experts. The political economist regards OASDI as a "transfer" arrangement which requires only that there be assurance that (1) current tax receipts are sufficient to pay current benefits and meet limited unexpected contingencies, and (2) future tax receipts will be able to pay for future benefits. The integrity of OASDI therefore depends on the validity of actuarial assumptions regarding income and outgo.

Are current OASDI actuarial assumptions and financing appropriate to its long-term requirements? This question is appropriate because of changes in actuarial assumptions and financing which were accepted by Congress in 1972 when it enacted a 20 percent benefit increase without comparable tax increases. Sharp criticisms of this change by some economists and actuaries have generated debate which we believe has received too little attention. We acknowledge our own need for further information about conflicting expert opinion on this question before we can feel free to support major changes in a system which now serves the people so well.

A distinguished expert on Social Security, former Secretary of Health, Education, and Welfare Wilbur J. Cohen, in testimony before the Special Committee on Aging, minimized importance of these changes in actuarial assumptions and financing with these words:[1]

"That is not to say that there are not bona fide criticisms of the present program, but on the whole these do not go to the fundamental aspects of the program by any substantial sector of the Nation. Although some economists have made a number of criticisms of the financing of the program, these views are not so widely shared by the beneficiaries or taxpayers."

With all due respect to this opinion, we question such easy dismissal of questions which could have serious implications for a program as essential to future retirees as it is to current beneficiaries.

Absence of concern by beneficiaries or taxpayers may only reflect understandable ignorance of the questions—ignorance resulting from lack of publicity about them. Nor should it be overlooked that employer taxes become an added cost to them for doing business and are reflected in their prices.

We believe it is legitimate to ask how well Congress itself understands this issue. We believe at a minimum there should be full examination of the basis for the differing expert opinions. Such exploration by this committee and others in Congress sharing our belief in the importance of a sound OASDI appears an appropriate ingredient in legislation of the future. Even if such review should show the debate to be a tempest in a teapot we believe an informed judgment by the public and Congress is desirable.

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[1] Testimony by the Honorable Wilbur J. Cohen on "Future Directions in Social Security", hearing before the Special Committee on Aging, U.S. Senate, Washington, D.C., July 25, 1973.

Are major changes in OASDI financing desirable? Most particularly, should the Social Security tax on wages be replaced totally or in part by financing through general revenues? Proposals for such a change have been advanced on numerous occasions during recent years usually on the grounds that the wage-tax is more regressive than income and other Federal taxes and thus penalizes workers with lower incomes. Social Security Administration officials, on the other hand, have pointed to the advantages given low wage earners in the OASDI benefit structure as an alternative method for giving preference to them. Is this existing advantage for the low-paid participant when he becomes a beneficiary more important than reduction of his taxes while he is working? Or is the latter more important? Is there some way that both purposes can be achieved? Is there risk in use of general revenue financing that benefits will lose status as an earned right? Would this be acceptable to either young or old?

The American Association of Retired Persons, the National Council of Senior Citizens, the National Retired Teachers Association, have expressed the view that it is important to retain the relationship of benefits to earnings and the contributory principle which use of the Social Security tax on wages emphasizes. On the other hand they share our concern for workers whose Social Security taxes often exceed their Federal income tax liability. Some believe that only through the wage tax can the taxpayer understand how much of his income is going to support of OASDI beneficiaries. How much weight should be given to each of these and other views about financing methods?

OTHER FEDERAL INCOME PROGRAMS

Important as OASDI is, it does not stand alone as the source of retirement income. In our quest for adequate living standards for older Americans, attention must also be directed to income potentials in other government programs, private pension plans, individual savings and other resources.

Currently OASDI has over 19 million beneficiaries aged 65 and over and almost 3 million aged 62 through 64. Other Federal programs providing income are numerically distributed as follows:

Railroad retirement: 448,000 retirees; 210,000 wives; 290,000 widows.

Civil Service retirement: 921,600 retirees; 359,600 survivors.

Veterans pensions, 1,028,000 veterans, 690,000 widows.

Military retirees, 1,000,000.

Supplemental Security Income (SSI): 3,200,000 aged, blind and disabled.

A precise determination of how much income these programs provide to older Americans is extremely difficult because age-related data is unavailable for many of their recipients.

In understanding the multiple effect of the Federal programs it is necessary to answer several questions about their interrelationships. What are benefit levels resulting from payments to individuals by more than one of these programs? How do changes in benefits under one program affect payments under another (i.e., reductions in veterans pensions because of OASDI increases)? Is restructuring of any of these programs desirable in the interest of integration or equity? In view of differing purposes for the several programs, is such restructuring feasible (i.e., military retirement may be regarded as an alternative to higher pay during active service; the service also retains a right to recall "retirees" to active duty)?

The largest governmental retirement system outside of Social Security is the Civil Service program. Questions about its possible coordination with OASDI indicate problems in integration of the various Federal programs, or even understanding of how they relate to each other in providing individual incomes.

How many persons now in retirement receive payments from both Civil Service and OASDI? Is the percentage of such duplication likely to increase or decrease in the future? How many persons currently working have coverage under both systems? How much movement is there between Government and non-Government jobs by current employees? Between State or local government and Federal employment? To what extent do persons making changes gain or lose benefits? How important are such questions in a mobile employment society in terms of both geographic and nongeographic moves?

Should Federal employees be required to participate in OASDI? Should Federal employees, instead, have opportunity to interchange credits under OASDI and Civil Service? In this connection is the Civil Service retirement system, which antedated Social Security by many years, more comparable in purpose to private pension plans or State government retirement plans than it is to OASDI?

How do questions of this kind apply to the railroad retirement program in future efforts to make it better serve its beneficiaries? To the retirement benefits offered by the Armed Services?

PRIVATE PENSIONS AND INDIVIDUAL SAVINGS

To what extent do private pension plans help the aging in their quest for economic and social independence? How important will and should such plans be as sources of income in the future? Are they sufficiently flexible?

Private pension plans for large employee groups as of January 1973, covered 33,235,000 active workers according to the Life Insurance Institute, and were making benefit payments to 5,660,000 retirees. Payments made during 1972 amounted to $43.8 billion. Plan growth during the most recent 10 years is shown by comparison of this figure with payments in 1962 of only $14.7 billion. In this connection it is noteworthy that major growth in private plans came largely after conclusion of World War II.

Prior to 1963, private retirement programs were limited largely to employees of good-sized business firms. Adoption that year of the Keogh Act, and subsequent improvements in it, has extended the private pension system to farmers, professionals, small business operators, and other self-employed persons. Requirements for coverage of employees of such principals has been important.

Because of the multitude of financial institutions offering plans which qualify under the Keogh Act—insurance companies, banks, mutual funds, and others—there apparently are no clear data as to the number of persons now participating in such plans, either as current contributors or beneficiaries. The number of persons and dollars involved is presumably substantial. Until more facts are known, however, estimates of private sector responses to retirement income needs will be incomplete.

The overall performance of private pension plans offers an outstanding example of America's imaginative free enterprise system in action despite occasional instances of nonpayment due to failures of sponsoring business firms (reportedly affecting less than 1/10 of 1 percent) and inadequate safeguards of benefits for workers who leave a job prior to retirement.

Imminent final approval of vesting provisions and financial safeguards in H.R. 2, the Employee Benefit Security Act, should reinforce growth of the private pension system as a mechanism for individual economic security. Even as the bill is being enacted, however, it is being challenged on grounds that it offers inadequate protection to the individual whose union membership or work period with a particular employer is of relatively short duration. If these charges are valid, do not plan sponsors have a self-interest in voluntary moves toward correction?

Pioneered in this country on a base of vigorous leadership by labor unions, business enterprises, the life insurance industry and other financial institutions, the private pension approach has been given increasing recognition elsewhere in the world as an important ingredient in efficient provision of retirement income. France, Japan and other countries have followed America's lead in developing private systems to supplement government programs.

Will America's private sector continue its leadership? Will future developments in private pensions emphasize broad long-range social responsibilities; or will they be geared to narrow short-range interests of plan sponsors? Will private pension plan design reinforce social and economic pressures that restrict personal freedom of action solely because of chronological age? Or will it give recognition to the individuality of Americans and their right to choices? Is there any element in the private sector, including financial institutions which sell plans, whose self-interest permits it to ignore such questions?

If the past has taught any lesson, it may be that attainment of any fully satisfactory response to individual retirement income needs is unlikely if reliance is placed on any single system. Even with 100 percent coverage, it is almost inevitable that many persons will face inequities against which they must protect themselves. This raises a serious question of importance to millions of our Nation's citizens.

How can personal initiative opportunities for retirement income be increased, so that persons missed by private pension plans—or inadequately served by the government-private complex—can achieve decent living incomes for their senior years? This question deserves most serious consideration by Congress in its efforts to strengthen legislative responses to needs of older Americans.

The major Federal contribution to the development of private pension plans, both large and small, has been the preferential tax treatment it has given to them. Desirable and essential as these tax concessions are, is it not legitimate now to ask why comparable consideration should not be given under tax laws to individuals in their strictly personal efforts to prepare for retirement?

Without changes in tax treatment of individual savings for retirement vis-a-vis savings through "qualified" programs, the Nation discriminates against the individual who is either omitted from the latter or inadequately served by them.

Tax incentives for such individual efforts by persons not covered by group plans is offered under H.R. 2, with annual contribution limits of $1,500. Is it unreasonable to make similar incentives available to persons who are covered inadequately?

Earlier in this statement we referred to losses in real wealth by older Americans—through capital gains taxes on sales of homes or small business—and consequent reduction of earned capacities for meeting their own financial needs. Cannot this Government afford to remove this kind of tax impediment to economic independence in later life?

As we raise this question, we are fully aware of the special, but limited, capital gains tax treatment which has been given since 1964 to persons over 65 who sell their homes. When the late Senator Everett McKinley Dirksen first introduced that proposal, his original version called for complete exemption of such gains after 60. Would it not be appropriate now to consider full acceptance of the original Dirksen proposal?

Would not similar tax treatment of other capital accumulations, at least to the extent that they simply reflect inflation-created paper profits, also be worthy of consideration? We raise the question with full consciousness of the complex elements involved in the tax law. Possible impact of changes could be substantial. It would be imprudent therefore for us now to urge comprehensive specific changes. We believe, however, that there should be a careful review of all tax pro*visions with special* concern for possible ways in which they prevent or impair personal initiatives at any age to achieve independence in retirement.

COMPULSORY RETIREMENT AND EMPLOYMENT

In the section of this statement devoted to satisfying life-roles for the aging, we have raised questions about the importance to many older persons of employment, part time or full time. We now raise additional equally serious questions about broad national retirement policies and trends which deserve comprehensive review, with full use of current studies, by government and by the private *sector.*

Expert analyses of the "aging problem" have repeatedly advanced the argument that the best interests of older persons and the Nation call for greater flexibility in retirement practices. Apart from possible health, social, and economic advantages for older Americans which it might bring, would flexibility have a favorable or unfavorable impact for the Nation through its effect on production of wealth or on tax burdens? How much would it help or hurt younger workers and business enterprises?

The evidence received by this committee strongly reinforces the view that flexible retirement policies will benefit all Americans. If this view is not correct, is it not time for *effective presentation* of contrary evidence?

If it is socially and economically desirable that older Americans have more choices in their right to be productive, the largest responsibility for developing such freedom rests with the private sector because it dominates the employment market.

Corporate interest in advantages to be derived from flexibility in retirement rules should not be ignored. There is no evidence that employer self-interest conflicts with socioeconomic values and morality associated with first class citizenship for older Americans.

Unless and until society collectively is willing to assume the cost of providing the elderly with all the income they feel they need as individuals, is it right to deny the aging the opportunity to meet those needs through *self effort?*

Since the alternative to earned income may be public largesse, can private employers afford to deny jobs to older persons? Does not self-interest as well as social conscience require instead that the private sector offer leadership in expanding job opportunities?

If it is accepted that job opportunities can be important to many persons past 65, how can the Nation best eliminate present barriers to such choice? How far should it go in such efforts? How fully do potential employers, large and small, understand the positive benefits they may gain from giving jobs to able, willing older persons?

What are the impediments to employment of older workers, even as early as age 40, that employers confront because of law or general customs? How free are employers to modify current practices in the face of competition with other employers in the labor market?

One of the most frequently cited obstacles to unilateral job opportunity expansion by employers is related to their pension plans and "excessive costs to them" when they hire older workers. How valid is this claim? To the extent that it is valid, how can changes be made which will resolve the problem as it affects both employer and would-be employee? In resolution of the problem what is the responsibility of vendors of pension plans, such as life insurance companies?

Another problem faced by employers in hiring older workers, at least in some lines of business, is alleged to be insurance costs, including liability. To what extent does this problem exist? To the extent that it does, how valid are insurance cost differentials in the light of work and safety experience among older employees?

Employers most legitimately have to consider costs when an employee is hired. Is there now adequate information on such costs in different occupations? Are there ways such costs can be met or minimized? If knowledge is inadequate, how can it be developed? If sufficient facts exist, how can they be brought to the attention of decisionmakers within the labor market?

Dominant as attitudes within the private sector of society may be in determining national retirement policies, it is obvious that Federal programs are important. How enlightened are they? To what extent do Federal programs work at cross purposes?

Federal law prohibits job discrimination against persons between the ages of 40 and 65. Does the exclusion of persons over 65 from this protection give sanction of law to the view that discrimination after 65 solely by reason of age is acceptable? Does this violate basic rights of citizenship among the aging?

Substantial authorizations of Federal funds have been made by Congress to create job opportunities for older Americans. How consistent with this purpose are impediments and disincentives to work which are found in other programs such as OASDI under Social Security?

Many older Americans, as noted previously, eagerly accept retirement from the work force as an opportunity for life-style changes which they fully expect to enjoy. Many others, on the other hand retire only because they are forced to do so and are unable to find suitable new jobs, either part time or full time. Some persons forced into retirement are understandably reluctant to seek out jobs, especially full time, when the "special tax" imposed through work penalties under Social Security is added to regular income taxes and other job costs so as to leave them little of what they might earn. There are still other persons past 65 who have elected to continue full time work, despite the penalties they suffer.

How many more would there be if the penalties were removed? How many more would work beyond age 65 if retirement rules were modified by employers? There are also many who work part time after 65. How many of these limit their hours solely because of Social Security benefit deductions?

In consideration of future amendments to the Social Security Act, how much attention should Congress give to the effect of OASDI provisions on employment of older persons able and willing to work? To what extent should needs of the latter be balanced against increased benefits for the fully retired?

If current employment disincentives in the Social Security system are wrong, how can their modification best be achieved? Should earnings limitations be completely removed in the face of admitted high cost to the Social Security system? Should amendments to the work test be approached on a gradualistic basis such as through provision of increments in benefits to those who defer retirement past 65, or through gradual raising of the earnings limit, or a combination?

A bill, S. 3386, to provide a 6⅔ per cent annual increase in OASDI benefits for persons who defer retirement to ages beyond 65 has been introduced by Senator Fong on behalf of all Republican Members of the Special Committee on Aging (Senators Fong, Hansen, Gurney, Brooke, Percy, Stafford, Beall, Domenici, Brock), Committee Chairman Frank Church, Subcommittee on Employment and Retirement Incomes Chairman Jennings Randolph and others including: Senators Wallace F. Bennett, Marlow W. Cook, Alan Cranston, Robert Dole, James O. Eastland, Paul J. Fannin, Philip A. Hart, Floyd K. Haskell, Daniel K. Inouye, James A. McClure, Gale W. McGee, Frank Moss, Abraham Ribicoff, William V. Roth, Jr., Strom Thurmond, and John Tower. This bill is a slight modification of a similar proposal introduced last year as S. 2815 by Senator Fong with cosponsorship by Senator John Tower.

At the time of the bill's introduction, it was pointed out that the annual increment it provides is identical with percentage reduction in benefits which applies under the present law when persons take early retirement. As such it would implement at least partially the recommendation for greater flexibility in OASDI advocated repeatedly by minority members of the committee in previous reports.

If earnings test liberalization is a proper route to follow, as we also believe, should such process be left to individual actions by succeeding Congresses, or should a planned phaseout extending over a period of years be considered at one time? A precedent for the latter approach is provided by congressional action on Social Security taxes which defer their impact on workers until years ahead. If appropriate in one case, is it less appropriate in the other?

The whole question of the earnings test under OASDI raises other questions. There is conflicting evidence, which needs to be resolved, on such matters as (a) ultimate actual cost of such a proposal to the Federal Government and taxpayer, (b) the extent to which it would encourage continuation within the work force of persons past 65, (c) the extent to which it would help older workers between 40 and 65, (d) the effect it would have on jobs for younger workers, (e) its ultimate cost or gain for employers, (f) its comparative impact on older persons who are economically deprived and those who are affluent, and (g) its relationship to benefit increases for nonworking older persons.

It is apparent that any cost to the Federal Government of elimination of the earnings test, for example, depends on factors other than the immediate direct cost to the Social Security system alone. If the test elimination increases employment among older Americans, how much additional Federal revenue would come from income taxes and Social Security taxes such workers would pay? How much would tax burdens on Federal, State, and local programs for indigent and medically indigent older persons, including SSI and State supplements to it, be reduced? How much would the Nation benefit economically through additional wealth produced by older workers? What would be the effect of increased production of goods and services on inflation?

WHAT STRATEGY?—SERVICES OR INCOME?

There has been a prolonged debate related to the Government "strategy" in meeting needs of older Americans. Which strategy should Government pursue: "income" or "services"?

Those who argue for a services strategy have acknowledged, of course, that income is essential. They have maintained, however, that there has been inadequate attention by Government to development of services for the elderly.

Those who advocate an income strategy have acknowledged the importance of services to the elderly, but maintain that, given the necessary dollars to pay for services, such services can be bought in the way selected by the individual.

Even as they defend their special positions, advocates of either strategy would probably acknowledge that this division oversimplifies the problem. Older Americans do need income; they do need services.

The debate is concerned with emphasis in the face of competition for limited funds. How much of the tax dollar should be devoted to services? Since varied needs among the elderly call for a host of differing kinds of services, what kinds should be given highest priorities?

Who are the aged in need of services? They include members of minorities whose senior years often involve extensions of discrimination and deprivation they faced throughout backgrounds who are not only poor, but live in communities where life qualities are limited regardless of income. They include the isolated in rural areas for whom transportation necessary to social intercourse and acquisition of services is sharply limited. They include the lonely, whose families and neighbors have departed from them. They include the poorly housed, the sick, the feeble, the fragile and the fearful. Important as income would be to these programs, is it enough?

They also include vigorous, active persons who are denied opportunity for self-expression and social communion with their peers because facilities and services related to them are unavailable in the community. What is Government's responsibility to them apart from income?

How much of the Federal services dollar should go for instance to social support vis-a-vis medical care and housing? How far can different types of services be separated from each other? How necessary is their coordination? Are there risks in either segregation or coordination? How does fragmentation bring inefficiencies?

How extensively, for example, should tax dollars be used for senior citizen centers whose primary purpose is to offer opportunity to the elderly for social communion and recreation regardless of income? What kinds of special services can be made a part of such centers so as to strengthen their ability to meet their original purpose? Does a center gain or lose through addition of the federally supported hot meal program? A medical clinic? An employment service? Is this a matter which can be properly determined by persons outside the community in which the center is located?

Among social support services and outreach programs which have been developed on a limited scale across the country are the following: Information and referral services, offering assistance in obtaining special help from a variety of agencies and acting in an ombudsman capacity to bridge the gap between the elderly and agency bureaucracy; Meals-on-Wheels services, for the homebound; home aide services, to help the aged remain in their homes through performance for them of light household tasks; protection and legal services; escort services, to transport isolated or handicapped elderly to centers, clinics and other service centers; friendly visitor and telephone reassurance services, to strengthen and reinforce contacts with others in the community; continuing education services, and counseling services, to help with adjustments to changes in status, employment, deprivation, or with emotional problems which might reduce ability to cope with daily exigencies.

Is it financially possible for the Federal Government to broaden application of these services so as to include all who need them wherever they live? If so, how much Federal control should be imposed? If not, how can Federal dollars be coordinated with local money to increase their availability?

Assuming further growth in Government sponsorship of supportive services to the elderly, should first attention be given to those with lowest incomes, special ethnic needs, or community problems?

If tax dollars are addressed first to supportive services for the low-income elderly, what responsibilities if any does the private sector, including its profit-oriented agencies, have toward making needed services available to those able to pay? How, if at all, can the efficiencies which private forces claim for themselves be applied to meeting such social needs?

Is it not necessary for Congress and the administration to have at hand a clearer statement of the problems' dimensions as they develop answers to the income-services strategy question? If such pertinent data has been gathered, how can it be fed into the decisionmaking process? If it is not available, how can it be developed?

Better understanding of the "income strategy versus services strategy" in aging is important within the Congress, the executive branch and the public at large. It is not enough that it receive attention from gerontologists, social scientists and other professionals in aging. Limitations as well as values in the question are emphasized through review of its implications in medical care.

MEDICAL SERVICES

Good health for older Americans, in its broad sense, is our ultimate objective in aging. Achievement of a state of well-being, physically, mentally and socially, for the largest possible number of individuals is the goal for which society should strive. Freedom of choice, sense of purpose, fullness of opportunity, adequacy of income, decent living standards and all of the other concerns to which we direct attention are but ingredients in good health.

High quality medical care—the art and science of preventing, limiting and removal of impediments within the body and mind to good health of individuals—is of universal concern, therefore, to older Americans. They are less concerned, and rightly so, about remote philosophic debate than they are about actual delivery of service by the physician, dentist, nurse, pharmacist, physiotherapist and other health care professioanls and the corollary availability of good hospitals, nursing homes, home health agencies and other facilities or organizations in their own communties.

Few, if any, would deny that substantial progress has been made in delivery of medical care to the aging. Noteworthy have been the Medicare and Medicaid programs which began in 1966. How can the successes and failures, the shortfalls and the advances, made under these programs offer better understanding of merits and deficiencies, respectively, within a service strategy or an income strategy?

More importantly, how can America, including its Government, best assure quality medical care for older Americans through most effective use of its public and private resources in being, or capable of development?

This broad question has long been of vital concern to the elderly. It becomes more timely as Congress turns attention to a variety of proposals for new Federal systems to finance medical care for all citizens. Both involve decisions about priorities and careful assessment of national potentials in health care.

How do Federal responsibilities for medical care to the elderly balance out against its responsibilities for others in determinations of priorities? Will the aging be better served as part of whole new approaches, or through prior expansion and improvements in Medicare and/or Medicaid? Apart from financing arrangements, should first priority be given to development of special new capacities in medical care for older persons? Or can the Nation meet these clear needs concurrent with efforts in this direction for all people!

Illustrative of implications in the latter, is a subsidiary question: Is it more important to strengthen home health care services for the elderly and improve institutional care services for those suffering from most serious chronic illnesses and disabilities, or to devote new energies to broader elements in medical care? Should Federal dollars to pay for care of the chronically ill or disabled aged, in or out of institutions, now largely ignored by Medicare and provided on a hit or miss basis by Medicaid, be first? Or will these unmet needs among older Americans be met more promptly and effectively through a new total health care package which also includes the young?

Regardless of how answers to such questions are developed, it is clear that there are many unmet health care needs among the aging. Within this more narrow context, what are the priorities for congressional action? What are the priorities for action by the private sector of society?

Among the medical needs of older Americans which are excluded from or inadequately covered by Medicare and which compete with each other for Federal dollars, and with other demands of both young and old, are the following: prescription drugs outside of institutions, non-emergency dental care and dentures, hearing aids, eyeglasses, and refractions, institutional care for nonacute illness or disability requiring no prior hospitalization and nonprofessional medically indicated support services in the home for nonacute illness or disability. What priorities should Congress give to each?

Covered under Medicare, but used only sparingly are home health care services designed in part to avoid high costs of institutional care, but more importantly to reinforce satisfying life situations and emotional health needs of older persons. What priority should be given to improvements and extensions of this crucial service vis-a-vis other forward steps? Are current inadequacies due to Federal reluctance to paying for such services, or due to other factors? Does the medical community understand the importance and availability of such services? Do serious personnel shortages—nurses, medical social workers, physiotherapists, and others—contribute to deficiencies in use of home health care services? Does geographic distribution of essential personnel, including physicians, deny these services to older persons legally qualified for them under Medicare? If so, how extensive is this problem? What can be done about it?

In the face of unmet needs such as described in the foregoing paragraphs, what consideration should be given to elimination or reductions in premium charges, deductibles and coinsurance payments which currently are required of Medicare participants?

The limited extent of Federal response to medical needs of older Americans is shown by the fact that this program currently pays slightly more than 40 percent of the health care expenses of its beneficiaries. How clear a picture of the problem does the data give? What are the dimensions of unmet medical needs of older Americans through society's *total response* to them as reflected in such financial data? How much of the roughly 60 percent of health care costs not met by Medicare is picked up through Medicaid? How much is met through supplemental coverage offered by voluntary health insurance plans? How much of it is capable of budgeting by the individual who makes out-of-pocket payments?

Are there differences in medical need response based on geographic factors and the kinds of communities in which older persons live? How does effective response differ, particularly in terms of service delivery, in rural areas, inner cities and other types of communities? How does it differ for different racial or ethnic groups?

In short, what are the actual dimensions of the problem? How can Government or private forces meet the needs most effectively without comprehensive evaluation of all the facts, even while we take proper immediate steps to meet the most obvious problems?

HOUSING

Apart from medical care, one of the most easily identified factors in well-being is that related to housing. Consequently the elderly housing question has often been a focal point in the debate on a Federal income strategy as opposed to a strategy giving priority to services and facilities.

Problems in Federal housing programs are discussed in some detail in chapter V of this report, with special reference to S. 3066, the Housing and Community Development Act of 1974, which has passed the Senate and hopefully will be approved by the House of Representatives and the President.

While S. 3066 reflects the Senate's view on one major aspect of Federal priorities in housing, need for action on behalf of the elderly with lowest incomes or with least adequate home and community situations, none would dispute that it leaves many unanswered questions.

"Income strategists" suggest that if older persons are provided adequate incomes or housing allowances the housing market will respond to their demand based on individual choices more suited to their happiness than decisions made by governmental bureaucracy. They also raise questions as to how fairly older persons with comparable needs will be treated. To what extent are people with great need denied federally supported housing because of the accident of where they live? Are the poor elderly in rural areas, for example, discriminated against in favor of those in cities?

"Services and facilities strategists," on the other hand, make a strong case that elderly housing will not be built, especially for members of minority groups, the poor, the infirm, without categorical grants for construction and operating subsidies. They raise questions about use of allowances in the light of housing shortages which exist. Is there a sufficiently large present stock of housing to make use of allowances effective? Will rents be increased in anticipation of rent subsidies?

Our own attitude is demonstrated by our unanimous support of S. 3066. Even with full implementation of its provisions, however, we urge national recognition that more is needed, including wider use of the ingenuity of private financial institutions and commitments by them to better housing for the elderly.

Best solutions to housing problems among older Americans, as with responses to their other needs, should include recognition of their individuality. Housing efforts should be designed to offer alternatives which strengthen rather than restrict personal liberties. The views of older persons themselves therefore become more important.

To what extent are older Americans now satisfied or dissatisfied with housing they have? What kinds of priorities do they place on their own housing needs? What fears do they have related to their housing in their futures? How well are they meeting their *needs* through their own efforts?

Does the fact that roughly 70 percent of the couples and substantial numbers of single and widowed persons past 65 own their own homes, for example, indicate that their housing needs have been met? Are some of these older homeowners frozen into undesirable housing situations because alternatives are not available? Even as they remain in their homes, or try to, are they faced with special housing problems to which tax supported programs should be addressed? If so, what should be the character of such efforts?

Going to the other end of the housing spectrum, what Federal emphasis should be given to support of institutional or congregate types or housing? How well is America responding to the fear common among older persons about what happens to them when they become too infirm or disabled to live alone? Has the emphasis in what is loosely described as institutional housing been directed too much at medically oriented facilities such as nursing homes and intermediate care facilities as defined under Medicaid programs? Has there been resistance by older persons to use of institutional facilities because too many are patient-oriented instead of person-oriented?

For many years religious groups and others have offered leadership in development of homes for the aged designed to offer all types of life satisfactions to their residents. How much use would older persons make of such facilities if they were more widely available? To what extent and in what form can Federal subsidies be of help in promoting these homes? Should subsidy be limited to construction costs or should it also include operating funds? If there are no operating subsidies, outside of medically based programs such as Medicaid, how can acceptable congregate housing services be made available to older persons who are not affluent?

Widely differing opinions have been found among housing administrators as to whether individual housing units for the elderly should be placed within the larger community or segregated from the young. How do answers to this question relate to the ways in which future programs will develop? Do answers to it differ by reason of age within the older population, or family status, or state of health?

The question of personal safety in public housing has been a factor in arguments about segregated housing for the elderly. Can the admittedly aggravated security problem among the old be met successfully without an equally successful effort on behalf of all persons living in neighborhoods where the problem is most serious? If the total safety problem is met, what effect may that have on the attitudes of older persons toward segregated projects?

Many older persons, particularly single or widowed individuals, live with their adult children or other younger relatives. How does this bear on housing policies? Do we even know the extent to which such arrangements may be made through choice?

Is it not important, in development of answers to these housing questions and a myriad of others, to determine more accurately what older Americans in varying situations want? Should not efforts to determine such attitudes be made on the basis of probable choices they would make if offered a full range of alternatives?

RESEARCH

As we have raised questions, up to this point we have not used one word which is paramount in development of realistic national policies in aging. THE WORD IS RESEARCH:

Can either individuals or society respond effectively to great and changing challenges in America's new era of aging without research? We think not.

Can the Nation continue to use a hit or miss approach on behalf of older Americans? Are not the issues so important to all citizens that comprehensive research is essential?

Research is the key to satisfactory solutions for both society and individuals. Application of research in this context should recognize all of the word's accepted definitions as found in the dictionary: [2]

Research: 1; careful or diligent search; a close searching (*researches after hidden treasure*) 2a; studious inquiry or examination; esp; critical and exhaustive investigation or experimentation having for its aim the discovery of new facts and their correct interpretation, the revision of accepted conclusions, theories, or laws in the light of newly discovered facts, or the practical applications of such new or revised conclusions, theories, or laws (*gave his time to research*) b(1); a particular investigation of such a character; a piece of research (2); a presentation (*as an article or book*) incorporating the findings of a particular research 3; capacity for or inclination to research (*a scholar of great research*).

As members of the Special Committee on Aging we have followed some of the distinguished work done in aging by research scholars in many disciplines. Their findings which have come to our attention have emphasized that issues in aging are neither simple nor static; they are complex and constantly undergoing dynamic change.

While we are aware of major contributions through research to better understanding of aging, we are most sensitive to inadequacies in information which have come to our attention. We are even more concerned that persons less favorably situated for acquisition of knowledge about progress and problems in aging are being denied the data and insights of research.

Is it not important that we strengthen current research efforts related to age? Is it not even more vital to America that there be a national effort to make use of research?

Even as we, in our responsibilities as members of the Senate, make decisions which must be made in response to immediate needs of older Americans, we believe that ultimate answers to the challenges in aging must be based on practical application of research findings and that there be a vigorous effort to continue and expand research now under way.

LONG RANGE POLICIES AND PUBLIC ATTITUDES

III. How can the people as a whole, young and old, come to awareness of new 20th century implications of aging and their relationship to social policies and their own individual needs throughout life?

It is estimated that within the next 75 years approximately 220 million Americans now living or yet to be born will have celebrated their 60th birthday. Within that 75 year period, it is foreseeable that the percentage of the total U.S. population aged 65 or over may rise to 15 percent or more.

It is estimated that 72 percent of the babies born during 1974 and 76 percent of persons now aged 30 will reach the age of 65. More than 69 percent of those now 65, 52 percent of those now 30, and 50 percent of the babies born this year are expected to attain ages beyond 75.

As one looks at these estimates, it should be noted that they are based on life expectancy calculations which cannot take into account future progress in disease control or other factors which may extend life. They are therefore, more apt to understate than to overstate the probabilities.

It is clear from the foregoing estimates, that the problems of aging, or more properly the challenges of aging, are of personal significance to every man, woman and child in America. Decisions which will be made by them as individuals and as members of society will determine how they and this Nation use opportunities in aging today and tomorrow.

The question, "How can all Americans be made aware of how aging policies affect them?" therefore becomes most important.

Older Americans have recognized full well that the questions relating to aging are not their sole province. Policy statements by such important organizations representing older persons as the American Association of Retired Persons, the National Association of Retired Federal Employers, the National Council of Senior Citizens, and the National Retired Teachers Association have consistently maintained a posture reflecting their concern for those now young.

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[2] Webster's Third New International Dictionary of the English Language Unabridged, third edition, 1961.

How can the middle-aged and the young come to an understanding of aging's implications for them so that they may avoid some of the problems experienced by those now old? Do not the lessons learned by today's older Americans demonstrate that 19th century concepts of age are no longer valid?

The late Dr. Ethel Percy Andrus, founder and first president of the American Association of Retired Persons and the National Retired Teachers Association, was one of the first to voice the thesis that society faces a new era in aging. This distinguished educator put the issue in these words:

"Our generation of older folks is a pilot one. How it will be reported is a matter both of conjecture and interest. Shall we, pioneers in retirement living as a group, be portrayed as needing special assistance because we are needy, dependent or otherwise at a disadvantage? Or, can we live such rewarding and interesting lives that the report on our generation will stress the importance—to ourselves and to society—of our value to society in personal growth and community participation? . . .

"It is not enough to see man as an individual in the same way, as is an individual man in an army or a crowd. The difference is so great that there is a special word for an individual man, a word of power and importance; the word is 'person.' . . .

"It carries the thought that every man has individual duties to himself and to others. Also there is added, too, the idea that every man has individual rights that exceed those of the group of which he is a part. A man, because he is a person, may not be disregarded or cast out, like any other kind of individual, vegetable or mineral, in order to improve the group of which it is a part. In other words, here again we face the precept that the state exists for the man, not man for the state."

ORIENTATION TO YOUTH OR ALL OF LIFE?

Much has been made of the view that this nation is geared to youth. No group has given higher priority to the young than those who are now described as older Americans. The best interests of their children, grandchildren, and great grandchildren have been their preeminent concern. Habits of a long lifetime have not nor will not change. Older Americans will continue to urge that first attention of society should go to the young because of the long vistas of life before them. The question rises, however: What are those vistas?

Is the prior right of youth in the social scheme only aimed at life up to age 30? Age 40? Age 50? Or is it to help them attain the best that is available *throughout* life? Is society preparing the young for a life that loses meaning at 65 or 70? Are not these the kinds of questions that all of America should answer?

Is it not important for the young and middle-aged to face the prospect of age with confidence in its positive potentials instead of with fear?

Is it not apparent that positive responses by society to needs of older Americans today depend on new recognition by the young and middle-aged as to what senior years should be? Do not the decisions made now with full support by the young determine the character of their own lives? How can this message be brought home?

NEED FOR A WELL-INFORMED POPULACE

Leadership in this direction has been offered by major organizations now representing older Americans. Positive efforts have been forthcoming also from groups representing persons with special interests in aging, such as the American Geriatric Society, the Gerontological Society, and the National Council on Aging, each of which has made important contributions to the knowledge in aging.

Extensive research has been carried out, in addition, by the Aging Studies program, College of Social and Behavioural Sciences, University of South Florida; All-University Gerontology Center, Syracuse University; Center for the Study of Aging and Human Development, Duke University; Committee on Human Development, University of Chicago; Ethel Percy Andrus Gerontology Center, University of Southern California; Florence Heller Graduate School for Advanced Studies in Social Welfare, Brandeis University; Gerontology Center, Boston School of Medicine; Gerontology Research Center, National Institute of Child Health and Development; Institute on Applied Gerontology, St. Louis University; Institute of Gerontology, University of Michigan; Langle-Porter Neuropsychiatric Institute, University of California; Mid-West Social Research Council on Aging (a consortium of 14 universities in seven States); Rocky Mountain Gerontology Center, University of Utah; W. E. Upjohn Institute for Employment Research and other nonprofit institutes throughout the country.

Disciplines participating in such research embrace the whole range of human endeavor. How can we make fuller use of their work?

Within the governmental sphere, what responsibilities for helping all Americans to better understand the needs and challenges of aging should be assumed by the Administration on Aging, the newly formed Federal Council on Aging, the Administration's Interdepartmental Task Force on Research on Aging, the White House Domestic Council on Aging, or indeed this Senate committee?

It is reasonable to expect that all of the foregoing and similar private and public groups or agencies which have assumed advocacy roles on behalf of older Americans will continue to do so. But is this enough? Is there not need for new attention to these questions on aging which should be faced by more broadly based elements in society?

Can we expect the ultimate desirable goals for older Americans to be achieved without positive action by educators, clergymen, labor leaders, business leaders, journalists, and all others who participate in the opinion making process?

At the beginning of this statement we emphasized the view that life, to be fully enjoyed, must be regarded as a continuum. Our own decisions in support of legislation and other actions on behalf of older Americans will reflect the importance of this conviction.

IMPORTANT AS PROMPT GOVERNMENTAL ACTIONS TO MEET NEEDS OF OLDER AMERICANS ARE NOW, DEVELOPMENT OF A NATIONAL POLICY ON AGING CAPABLE OF MEETING CHALLENGES OF THE NEXT 50 OR 100 YEARS DEPENDS ON AN INFORMED PUBLIC.

We all, young and old, need to understand better the positive elements in aging. Therein lies the promise of the future as well as the present. We all need to make a firm commitment to promote the rights of older people as individuals, to give national recognition to them as persons.

Hiram L. Fong,
Clifford P. Hansen,
Edward J. Gurney,
Edward W. Brooke,
Charles H. Percy,
Robert T. Stafford,
J. Glenn Beall, Jr.,
Pete V. Domenici,
Bill Brock.

Mr. PELL. Mr. President, I yield to the Senator from Alaska.

SENATE RESOLUTION 324—CONDEMNATION OF TERRORIST ACTS

Mr. HUMPHREY. Mr. President, I ask unanimous consent that, out of order, we may take up for immediate consideration a resolution which I shall send to the desk on behalf of the majority leader, the minority leader, the majority whip, the minority whip, myself, and the following Senators: Mr. Pastore, Mr. Allen, Mr. Ribicoff, Mr. Roth, Mr. Eagleton, Mr. Bayh, Mr. Javits, Mr. Church, Mr. Domenici, Mr. McGee, Mr. Williams, Mr. Metzenbaum, Mr. Mondale, Mr. Bentsen, Mr. Cranston, Mr. Kennedy, Mr. Brock, Mr. Nelson, Mr. Schweiker, Mr. Tunney, Mr. McGovern, Mr. Buckley, Mr. Baker, Mr. Packwood, Mr. Aiken, Mr. Pell, Mr. Hartke, Mr. Bible, Mr. Jackson, Mr. Stevenson, Mr. Hart, Mr. Gurney, Mr. Dominick, Mr. Case, Mr. McIntyre, Mr. Biden, Mr. Huddleston, Mr. Muskie, Mr. Young, Mr. Montoya, Mr. Moss, Mr. Weicker, Mr. Pearson, Mr. Taft, Mr. Stafford, Mr. Chiles, and Mr. Brooke.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read the resolution with its preamble, as follows:

Whereas terrorists have threatened the lives of 90 Israeli school children; and

Whereas these cruel and heartless acts only exacerbate tensions in the Middle East at a time when very serious efforts are being made to negotiate a lasting peace; and

Whereas such acts of violence are an affront to human decency and standards of civilized conduct between nations; Now, therefore, be it Resolved, That it is hereby declared to be the sense of the Senate that—

(1) it most strongly condemns this and all acts of terrorism;

(2) the President and the Secretary of State should and are hereby urged and requested to (a) call upon all governments to condemn this inhuman act of violence against innocent victims; and (b) strongly urge the countries where these groups and individuals are found to take appropriate action to rid their countries of those who subvert the peace through terrorism and senseless violence.

The PRESIDING OFFICER (Mr. Clark). Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. HUMPHREY. Mr. President, this resolution speaks for itself. Its language states the message clear and unequivocally. It should be the moral purpose of our country and should be acted on favorably by the Senate.

Mr. JAVITS. Mr. President, the real point of this resolution is that the United Nations should speak out for peace for all the world. This should be done in spite of the very misguided point of view by some small nations or developing nations which are adopting almost a bias in favor of Arab terrorism and constantly condemning actions by Israel which is seeking to contend with that terrorism.

However, there may be one small grain of comfort in this terrible tragedy. At least the U.S. Senate lays siege to the situation in a realistic light by adopting a resolution like this which endeavors to restore a sense of justice to the feelings of outrage which the world must feel against acts of terrorism, whether Arab or any other source.

In addition, it is witness to a signal bankruptcy on the part of some countries in the United Nations and outside the United Nations in not dealing with the issue of terrorism which is a threat to all the world. A number of nations who are United Nations members, act on the theory that to fail to condemn terrorism will help in the anticolonial struggle. That is standing morality on its head.

I, therefore, congratulate the distinguished Senator from Minnesota (Mr. Humphrey) for the foresight and the world vision for which he is so famous, which has induced him to enable us to vote on this resolution today.

Mr. HUMPHREY. Mr. President, I thank the Senator from New York very much for his comments. I was inspired to submit this resolution as I listened to the Secretary of State, who spoke out sharply against this inhumane act of attempting to hold children hostage. I felt it was appropriate that this body, which has a particular responsibility in the field of foreign policy and national security, undertake this action.

Mr. BROCK. Mr. President, I join the Senator from New York in thanking the Senator from Minnesota for this resolution, which I am privileged to cosponsor. I think he has shown, again, remarkably good initiative.

It has been distressing to me, quite honestly, that this Nation has not assumed sufficient leadership in the United Nations on this particular matter. On occasion, where we have abstained rather than participated in a resolution or a veto, it has demonstrated a lack of leadership on our part which I find unfortunate. I very much hope that the pending resolution will not only demonstrate the will of the Senate but also the will of the American people in condemning an act of terrorism wherever it exists in the world, and that the United States will not tolerate that sort of thing. It is a debasement of all that is right and decent.

I am sure the Senator from Minnesota would be interested to know that there is a story on the UPI ticker saying that Israeli forces this morning—really today—did storm the school building and have killed the three Arab commandos. I do not have any information on the children but I believe that they are all right.

I thank the Senator from Minnesota very much for his inspiring leadership.

Mr. HUMPHREY. I thank the Senator from Tennessee very much. My hope is that the resolution will be looked on by the appropriate authorities in the U.S. Government as being in support of whatever action the Government may see fit to take in any body—the United Nations, or in any other international group, or in bilateral relations with other countries.

I did not try to spell it out because that would make it a much more complex resolution. But I thank the Senator from Tennessee once more, as he was one of the early sponsors, and I appreciate his support.

Mr. ALLEN. Mr. President, I support this resolution very strongly, but I feel that the need for the passage of this resolution in the Senate, and I assume in the House, illustrates the moral bankruptcy of the United Nations and its inability or its unwillingness to cope with some of the international problems we face, its lack of effectiveness in maintaining peace throughout the world and to put an end to terrorism.

I feel that the United States should give serious consideration to taking steps that will limit, if not end, our participation in the United Nations.

Mr. BAYH. Mr. President, I join my distinguished colleague (Mr. Humphrey) in condemning in the strongest words possible the dastardly attack by Arab terrorists who took Israeli children as hostages in the latest outbreak of violence in the Middle East. This act brings to a new low the nature of terrorism in the Middle East and deserves the most severe possible statement of outrage by persons of decency in every part of the world.

I trust that our Government will lead the expressions of moral outrage which I know will come from every government which has even a minimum measure of respect for human life. I hope the resolution offered by the Senator from Minnesota will pass speedily and that our Government will stand tall among the nations of the world in bringing the sentiment of the world against this unspeakable act.

Mr. GURNEY. Mr. President, in cosponsoring the resolution by the Senator from Minnesota (Mr. Humphrey), with respect to the unjustifiable actions by Arab terrorists against innocent Israeli schoolchildren, I wish to inform this body that the Senate Internal Security Subcommittee is actively pursuing the question of terrorism. This committee, of which I am a member, intends shortly to consider hearings on this subject.

As we in this Chamber today are considering the primary welfare of our own schoolchildren, I think it is only fitting and proper at this time that we express our outrage as a body at the animalistic actions that these terrorists have taken against these helpless Israelis.

Mr. PELL. Mr. President, once again terrorism has struck in the Middle East. This time lower than ever before, against innocent schoolchildren.

In the face of the growing record of horrors perpetrated by Arab terrorists, there is a danger that the world will become numbed and fail to react.

That must never happen. Never should our silence or seeming indifference be allowed to encourage the practitioners of violence in their ruthless ways.

That is why the Senate should speak out swiftly and vigorously in condemning this latest outrage of the Arab terrorists. For that reason I strongly support the resolution (S. Res. 324) introduced by the Senator fomr Minnesota (Mr. Humphrey). Approval of that resolution affirms our faith in human decency prevailing over human cruelty.

Mr. ROTH. Mr. President, I am shocked and outraged by the inhumane, brutal and senseless actions of Arab terrorists who have threatened the lives of about 85 Israeli schoolchildren.

The governments which give sanction and support to terrorists groups should denounce and curb their activities and join in bringing them to justice. No country or people should give them sanctuary or protection.

If the Arab governments are sincere in seeking peace, there would be no better way to demonstrate that sincerity than by taking effective action to stop such terrorist activities.

Our Secretary of State has spent many days away from his Washington office seeking to bring about a settlement on the Syrian-Israeli frontier and achieve a lasting and genuine peace. The world should not let a handful of terrorists thwart these efforts.

I join Senator Humphrey in cosponsoring a resolution condemning this and like terrorist activities and urging that the nations of the world join us in this condemnation. I do so with a heavy heart because I regret that in the year 1974 there are still people and groups with no understanding of civilized behavior, no regard for the lives of the innocent, and no compassion for children.

The PRESIDING OFFICER (Mr. Clark). The question is on agreeing to the resolution.

The resolution, with its preamble, was unanimously agreed to.

Mr. HUMPHREY. Mr. President, I want the Record to note that this resolution was agreed to without dissent in the U.S. Senate. The executive branch and all others should be appropriately notified.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House insisted upon its amendments to the bill (S. 1769) to reduce the burden on interstate commerce caused by avoidable fires and fire losses, and for other purposes, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. Teague, Mr. Davis of Georgia, Mr. Symington, Mr. Mosher, and Mr. Bell were appointed managers on the part of the House at the conference.

The message also announced that the House had agreed to the amendments of the Senate to the bill (H.R. 5621) to amend title 10, United States Code, to provide for the presentation of a flag of the United States for deceased members of the Ready Reserve.

The message further announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 12920) to authorize additional appropriations to carry out the Peace Corps Act, and for other purposes.

The message also announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 13998) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. TEAGUE, Mr. HECHLER of West Virginia, Mr. FUQUA, Mr. SYMINGTON, Mr. MOSHER, Mr. BELL, and Mr. WYDLER were appointed managers on the part of the House at the conference.

EDUCATION AMENDMENTS OF 1974

The Senate continued with the consideration of the bill (S. 1539) to amend and extend certain acts, relating to elementary and secondary education programs, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—and this has been discussed with the distinguished assistant Republican leader—and I would like to have the attention of the Senator from Florida (Mr. GURNEY)—that at 3 p.m. today, the Senator from Indiana (Mr. BAYH) be recognized to call up his amendment to the Gurney amendment, and that a vote occur thereon at 3:45 p.m. today. The order has already been entered to allow Senator BAYH to call up his amendment, but no particular time was set.

Mr. JAVITS. Mr. President, reserving the right to object, we have quite a lineup here. I do not know whether this will fit in or not. I was not one of those consulted about this unanimous-consent request, so I am not popping this out of the blue, so to speak, but we have 6 hours of debate on the Gurney amendment and, as I understand it, that 6 hours will not have expired at 3 o'clock. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. JAVITS. Now we bring in this amendment. I was also informed of a unanimous-consent request to be proposed by the Senator from North Carolina (Mr. ERVIN) at 4 o'clock for consideration of an amendment to be voted on after the Gurney amendment. We have a fixed time for a vote at 5 o'clock. It simply aborts the time that everyone is depending on. Under those circumstances, I would greatly appreciate it if the distinguished Senator from West Virginia would explain to us how it will all be fitted in together, before we bring this new item in.

Mr. ROBERT C. BYRD. Under the agreement, Senator BAYH was to be recognized to call up an amendment. If he gets recognition, he is entitled to 30 minutes on his amendment. All I am asking for is 45 minutes on his amendment and a set time to call it up. If the Senator wishes to object to his having 45 minutes, all right——

Mr. JAVITS. No, no.

Mr. ROBERT C. BYRD. I would be glad to change the request and make it 3:15 that Senator BAYH would be recognized to call up his amendment.

Mr. JAVITS. I do not think the Senator from West Virginia gets my point. As I understand it, we begin to vote at 5 o'clock and now we are asked to vote on the Bayh amendment sooner than 5 o'clock. I do not know that Senators are informed of that. That is point No. 1. Point No. 2 is the issue of time which is involved. I would like also to propound a parliamentary inquiry: Is the Bayh amendment amendable?

The PRESIDING OFFICER. It is not amendable because that would be an amendment in the second degree.

Mr. JAVITS. So that the Bayh amendment is final as it is now. I have no desire to interfere with any operations of my colleagues, but how do we figure this out? The vote was supposed to begin at 5 o'clock and now we have a vote on the Bayh amendment at 3:45.

Mr. ROBERT C. BYRD. The Senator from New York is not correct, and I say that most respectfully—when he says that votes were to start at 5 o'clock.

Mr. JAVITS. I am willing to be corrected.

Mr. ROBERT C. BYRD. I say it most respectfully.

The agreement was that Mr. Bayh would be permitted to call up an amendment to the Gurney amendment during the day. Mr. ERVIN was to call up an amendment not later than 3 o'clock. It was stated very clearly in the RECORD yesterday that if Mr. BAYH were to get recognition today, before 11:30, or Mr. ERVIN were to get recognition before 11:30 today, they could call up their amendments and have them voted on.

Mr. JAVITS. As a matter of fact, how do we cope with the fact that, with a fixed time to vote, we are cutting the 6 hours, and whose time is it going to come from? Is it catch as catch can?

Mr. ROBERT C. BYRD. The more the Senator and I talk, it is going to come from Senator GURNEY's time. Under the order we agreed to last week, Mr. BAYH has a right today to call up an amendment, and he has a right to 30 minutes on his amendment. I am trying to set a specific time.

Mr. JAVITS. May we deal with the other problem? Whose time is going to be shortened by the fact that we are going through all this time?

Mr. ROBERT C. BYRD. Obviously, if there is not 6 hours in the overall for Senator GURNEY and the opponents of his amendment, it is going to come out of their time. That was understood to start with.

Mr. JAVITS. I am agreeable to that, if it is evenly divided. Let us have an understanding that it is not the alacrity with which someone will jump up and use his time.

Mr. ROBERT C. BYRD. Frankly, I do not see any problem in the matter, Mr. President.

The PRESIDING OFFICER. Is there objection?

Mr. GURNEY. Mr. President, reserving the right to object, what are we talking about now, if I may ask the distinguished assistant majority leader?

Mr. ROBERT C. BYRD. I will restate my request.

Mr. JAVITS. Make it 3:15.

Mr. ROBERT C. BYRD. I think the Senator from Florida has a right to object, if he wishes. It is his amendment. The Senator from New York, of course, has a right to object, too.

Mr. GURNEY. May we now have the presentation of the request?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at 3 p.m. today, the distinguished Senator from Indiana (Mr. BAYH) be recognized to call up his amendment.

Mr. JAVITS. Mr. President, I reserve the right to object, and I suggest that it be 3:15, as we have a speaker who will speak from 1:15 to 3, whom we have committed. We should have a few minutes thereafter to make some comment on what he says. This is all on perfectly proper time. I have a reason for suggesting it. I have stated my reason. Senator BROOKE is committed to speak at 1:15, and we have agreed to give him until 3.

Mr. PELL. I must add that we also have 10 minutes for the Senator from Minnesota.

Mr. ROBERT C. BYRD. It is much ado about nothing, really. I knew about Mr. BROOKE's desire to speak.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. BAYH. I have no objection to amending the unanimous-consent request to make it 3:15.

Mr. JAVITS. Make it 3 o'clock.

Mr. BAYH. The Senator from Indiana has been on the RECORD since we started discussing this matter, and I do not see why it should come as a surprise to anybody.

Mr. GRIFFIN. Mr. President, reserving the right to object, do I correctly understand that the Bayh amendment will be called up at 3:15 and voted on at 3:45? Is that correct?

Mr. BAYH. That is what has been said in the unanimous-consent request.

Mr. GRIFFIN. I am sorry to keep asking all over again.

I have just learned that a number of Senators on both sides of the aisle who are members of the IPU group, with the Mexican Parliamentarians, will be at the White House at 3 p.m.

Mr. AIKEN. I understand that it will be at 3 p.m.

Mr. GRIFFIN. And they probably will not be back until 4. I do not know how many are involved and what it would mean in terms of the outcome of the vote on the Senator's amendment, but I thought I should mention that.

Mr. BAYH. I want to be amenable. I just want to have 30 minutes to present this amendment and whatever time it takes to vote on it.

Mr. GRIFFIN. I assume that the group includes the majority leader.

Mr. ROBERT C. BYRD. It does; but I was asked by the leader not to delay the vote on that account.

Mr. GURNEY. Mr. President, reserving the right to object, if that is the case, why do we not put off all voting until about 5 o'clock, when we will have three votes—on Senator BAYH's amendment, on my amendment, and on Senator ERVIN's amendment—and everybody will be here?

Mr. ROBERT C. BYRD. Just catch as catch can.

Mr. BAYH. May I make a unanimous-consent request?

The PRESIDING OFFICER. Does the

Senator from West Virginia withdraw his request?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at 3 p.m. today, the distinguished Senator from Indiana (Mr. BAYH) be recognized to call up his amendment and that the vote occur on that amendment at 5 p.m. today, just prior to the vote on the Gurney amendment.

The PRESIDING OFFICER. Is there objection. The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Now, Mr. President, there is the matter of the Ervin amendment.

I understand that Mr. ERVIN, about 4 p.m. today, would like to discuss his amendment, which is not an amendment to the amendment by Mr. GURNEY. Mr. ERVIN was hoping that an hour could be utilized for the discussion of that amendment. I do not know what the amendment provides. He is also hoping that immediately following the vote on the amendment by Mr. GURNEY, a vote would occur on the amendment by Mr. ERVIN.

Mr. JAVITS. As I understand it, Senator ERVIN wants a vote on his amendment as if it were an original thing and not an amendment.

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. GRIFFIN. Mr. President, reserving the right to object, it does seem a little odd, I must observe, that we would be spending the last hour of the debate on the Gurney amendment discussing a different amendment which was not an amendment to the Gurney amendment. Obviously, when there was the understanding or the expectation that Senator ERVIN was going to amend the Gurney amendment, the discussion on the Ervin amendment would make sense. But I do not understand it now.

I wonder whether there could be a half hour on the Ervin amendment—it may be that he wants to make some points in the discussion prior to the vote on the Gurney amendment—and then there could be another half hour after the vote—if he wants an hour—after the vote on the Gurney amendment, if he wants another half-hour on his amendment.

Mr. ROBERT C. BYRD. The Senator from Florida may be aware of what Senator ERVIN's amendment contains, and he may be perfectly agreeable to this arrangement. I do not know.

Mr. GURNEY. We did discuss it. I must say to the distinguished acting majority leader that when we discussed it very early in the day, we did not know we were going to run out of time on my amendment, and obviously we now are.

As a matter of fact, as I see these time arrangements, I do not think there is going to be any way for either the managers of the bill or me to sum up the arguments, and I think it is rather important. If we could reserve, say, 20 minutes prior to the vote on the amendment, I think that would be a better way to arrange it.

Mr. ROBERT C. BYRD. Mr. ERVIN is not in the Chamber, Mr. President, but I feel that that would be perfectly agreeable with the Senator.

Mr. BROCK. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. BROCK. The unanimous-consent request was based upon the premise that the Ervin amendment was to the Gurney amendment.

Mr. ROBERT C. BYRD. The agreement was; yes; but the pending request is not.

Mr. BROCK. Let me understand the pending request. Is the Senator asking for debate on the Ervin amendment to transpire immediately after the vote on the Gurney amendment?

Mr. ROBERT C. BYRD. No.

Mr. BROCK. I think that is what should be done.

Mr. ROBERT C. BYRD. It probably should be done. I am merely stating what the Senator from North Carolina wanted or hoped would be done.

Mr. BROCK. I suggest to the Senator that I cannot support a unanimous-consent request that would lead to that result. I would support a request to have the Senator from North Carolina recognized, immediately following the vote on the Gurney amendment, for such time that the Senator thinks is necessary for the amendment, and then to vote immediately at the conclusion of that time.

Mr. ROBERT C. BYRD. Mr. President, I withdraw the request.

Under the agreement previously entered, the Senator from North Carolina presently is to be recognized at some point before 3 o'clock.

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. I withdraw the request. Hopefully, something may be worked out which will be agreeable to all sides in that connection.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD subsequently said: Mr. President, I have cleared the following request with Mr. ERVIN, and I have discussed it—may I say to Senators—with the distinguished Senator from Florida (Mr. GURNEY) and the distinguished Senator from Tennessee (Mr. BROCK).

I ask unanimous consent that the amendment by Mr. ERVIN be called up today at 4 o'clock p.m., that it be under a 30-minute time limitation, and that it then be set aside, but that immediately following the vote on the amendment by Mr. GURNEY, a vote occur on the amendment by Mr. ERVIN.

The PRESIDING OFFICER (Mr. CLARK). Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. HASKELL. Mr. President, sometime today we will vote on the Gurney amendment, No. 1144, to the Education Amendments of 1974, S. 1539. The controversy surrounding this amendment—and its counterpart, the Esch amendment—has been churning for weeks. As to the constitutionality or lack thereof, see 40 University of Cincinnati Law Review 199 at page 259 by Archibald Cox.

I suppose anyone who knows the 93d Congress is still in session also knows the Esch-Gurney amendments would forbid the court-ordered busing of schoolchildren beyond the school next closest to their homes.

I think it is vital to remember that this is the real issue of the amendment before us.

Actually, when busing was first proposed several years ago, it sounded like an excellent idea. But it does not work and has not worked. Busing arouses the passions of both parents and students. It generates hostility and resentment in the community and defiance among school officials. Thus, it stands in the way of education—it does not improve it. I oppose busing because I am convinced, based on our experiences to date, that it actually impedes progress toward equal educational opportunity for everyone. In practice, busing has never fulfilled its promise—it is a remedy which has not worked, and to perpetuate the remedy I am afraid will tear apart the public school system in this country.

For those reasons, and those reasons alone, I will vote for the Gurney amendment.

The most deplorable aspect of the debate on this matter is that it is and will be used as a political issue.

Unfortunately there are those who will use the busing issue to suit themselves. And we can be pretty sure that throughout they will point to their concern for the children in justification of such opportunism.

We must remember that the objective is quality education for all. Furthermore, it is no longer even arguable that the poor and the blacks and the Chicanos suffer most from substandard education—and that very lack serves to perpetuate their status in our Nation.

I believe we must now put every means at our disposal to the task we should have been at all along: Providing enough school plants, enough good and dedicated teachers, and responsive curriculums to serve all our children.

For that reason, Mr. President, I am drafting separate legislation which will embody those three elements.

I will propose, first, that we make available funds enough to replace or upgrade every inferior school in this Nation's poverty areas to a level equal to or superior to the very best we now have in our affluent suburbs. This is an extension of the excellent amendment added to the bill by the distinguished Senator from Minnesota (Mr. HUMPHREY). How much will it cost? I frankly do not know yet and I will urgently welcome the support and assistance of my colleagues—especially those on the Education Committee—in finding out.

Second, I will propose special programs to attract and keep superior teachers in our inner city schools. This is an absolute necessity. As we know, qualified, experienced teachers with seniority—generally speaking, can select their assignments within our school systems. Too often they opt for the new schools away from the core city. That leaves the young or inexperienced teacher to confront the real educational challenge of teaching disadvantaged students in substandard schools.

I think special salary incentives will serve to attract our best teachers to the schools in which they are most badly needed.

The third element of my proposal will

be to provide funding and technical assistance for local schools in developing programs and curriculums which reflect the needs and goals of the students they serve. This is an urgent need. There is no refuting the evidence we have seen that in too many of our schools the subjects and teaching methods are so foreign to the students that they are meaningless.

How do we force heretofore unresponsive school districts to take advantage of such affirmative action programs for their substandard schools? I will propose, Mr. President, that any school district which has a substantial disparity in educational quality between its schools but fails to apply for Federal aid to upgrade the inferior ones will be denied all Federal education funds until such application is made.

I submit, Mr. President, that such a program is a remedy, far superior to busing, to accomplish the purpose of quality education for all.

The PRESIDING OFFICER. Who yields time?

Mr. BAYH. Mr. President, I ask unanimous consent that Mr. William Heckman, of my staff, be permitted the privilege of the floor during the discussion of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I yield 10 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. MONDALE. I thank the Senator from Rhode Island.

Mr. DOLE. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. MONDALE. I yield.

Mr. DOLE. Mr. President, I ask unanimous consent that Ken Benjamin, of my staff, be accorded the privilege of the floor during the debate on my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. MONDALE. I yield.

Mr. CRANSTON. Mr. President, I make this request on behalf of the Senator from Florida (Mr. GURNEY) and myself. We have an amendment to offer, Amendment No. 1328. This request has been cleared with the majority, through the staff of the Senator from Rhode Island (Mr. PELL), through the minority via Roy Millenson, who is with the Senator from New York (Mr. JAVITS); and John O'Dair, who is with the Senator from Colorado (Mr. DOMINICK), and I believe it is going to be accepted without having any extended time on it.

Mr. President, I ask unanimous consent that Amendment No. 1328 be called up following the vote that occurs at 1 o'clock tomorrow.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. I object. That was not cleared with the leadership, as far as I know.

The PRESIDING OFFICER. Objection is heard.

Mr. MONDALE. Mr. President, I thank the distinguished floor manager for yielding to me this time to talk about this critical issue. I commend him again for his excellent leadership on this crucial education measure.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Senators will please be seated.

The Senator may proceed.

Mr. MONDALE. Mr. President, the debate today is not a new one. Almost every year since adoption of the Civil Rights Act in 1964, we have faced amendments designed to interfere with independent judicial and administrative enforcement of the equal protection clause of our Constitution as it affects public education.

Time and again the Senate has been asked to join in vain efforts to overturn judicial decisions, through legislation which we know to be unconstitutional. And time and again the Senate has refused to do so.

No fact of American life is more unpleasant than the fact of discrimination against schoolchildren based on race and ethnic origin. And no process has been more difficult and painful than our national effort to end this discrimination, over the past 20 years. We have found the road harder than we perhaps expected, the national leadership weaker, the practical barriers greater.

These problems are real. But the solutions proposed by the pending amendments are not. They are both ill-considered and beyond the legislative power of the Congress.

The power of the Congress to enforce the equal protection clause of the 14th amendment through appropriate legislation plainly does not, as some have argued, include the power to erode its guarantees. As the Supreme Court said in Katzenbach against Morgan:

> Section 5 does not grant Congress power to exercise discretion in the other direction and to enact statutes so as in effect to dilute equal protection and due process decisions of this Court. We emphasize that Congress' power under Section 5 is limited to adopting measures to enforce the guarantees of the amendment: Section 5 grants Congress no power to restrict, abrogate, or dilute these guarantees.

The principle of judicial custody over interpretation of constitutional requirements is a cornerstone of the doctrine of separation of powers, which lies at the heart of our system of government. This principle, crystal clear since Chief Justice Marshall's historic opinion in Marbury against Madison 150 years ago, continues to deserve the respect of the Senate.

And so the key provisions of the pending amendment, which attempt to substitute a rigid congressional rule for the case-by-case inquiries of the courts, are null and void. The only purpose they can serve is to create confusion in over 1,500 school districts now desegregating under constitutional requirements.

THE PENDING AMENDMENTS

The amendment proposed by the Senator from Florida (Mr. GURNEY) is a complex one. But its major impact is summed up in two key provisions.

First, the amendment would prohibit requiring the assignment of students beyond either the school nearest their homes, or the next nearest school. This provision is clearly void, since it flies in the face of Supreme Court decisions that are based upon the Constitution, and it seeks, in effect, to amend the Constitution by statute, something that cannot be done and something we know cannot be done. One wonders why it is being attempted.

In addition, the amendment could work great hardship if enforced. In some instances it would permit the transportation of children over long distances. In others, it would bar even a short walk to an integrated school. It would confine desegregation to those families living on the fringe of segregated housing areas, fostering "white flight" and encouraging the spread of residential segregation.

And in many cases this rigid rule would actually increase the hardship to children and their families. As Chief Justice Burger remarked for the Court in Swann:

> Maps do not tell the whole story since noncontiguous school zones may be closer to each other in terms of the critical travel time, because of traffic patterns and good highways, than schools geographically closer together. Conditions in different localities will vary so widely that no rigid rules can be laid down to govern all situations.

Second, the amendment would permit the opening of every court order and administrative plan entered into since 1954—over 1,500 in all. Even where no transportation is involved under a long-settled desegregation plan, cases could be reopened by a single parent where courts in the past did not follow, in order, a hierarchy of remedies imposed in the pending bill. And the Attorney General is instructed to assist school system in making full use of the "reopener" provision.

This is an invitation to massive relitigation, an unpardonable effort to reopen old wounds which have begun to heal.

While the amendment proposed by the Senator from Florida is complex, the amendment of the Senator from North Carolina is simple.

It attempts to impose on Federal courts and on the administrative process under title VI of the Civil Rights Act of 1964 the "free choice" system of student assignment—a system rejected by the Supreme Court as long ago as 1968, in Green against New Kent County. And it was rejected because it proved a device to continue, rather than remedy, discrimination.

THE STATE OF CURRENT LAW

The Federal courts have not acted to require racial balance in public education. They act only on case-by-case proof of active discrimination against schoolchildren, based on race, color or national origin, by public authorities.

In a number of States, discrimination has taken the form of State laws requiring the segregation of schoolchildren by race. But the courts have increasingly found forms of active discrimination throughout the Nation. In South Holland, Ill., for example, Federal Judge Julius Hoffman found:

Schools were located in the center rather than at the boundaries of segregated residential areas in order to achieve school segregation.

School assignment policies were adopted under which black children living nearer to white schools attended black schools, and white children living nearer to black schools attended white schools.

School buses were used to transport students out of their "neighborhoods" in order to achieve segregation.

Teachers were assigned on a racial basis.

In Pasadena, Calif., a Federal district court found:

School zone boundaries were "gerrymandered" to concentrate black students in particular schools and whites in others—and transportation was provided to permit white students to avoid integration.

The size of schools was regulated to assure that integration would not take place—and portable classrooms were located at black elementary schools to prevent assignment of students to adjoining white schools.

Transfers out of "neighborhood schools" were permitted where the purpose was clearly to foster segregation.

The great majority of black teachers and administrators were assigned to black schools—and even substitute teachers were assigned on a racial basis.

Less well-educated, less experienced and lower-paid teachers were concentrated in black schools.

Qualified black teachers were denied advancement to administrative positions on the basis of race.

And even on proof of active discrimination, the law has not required any mathematical balance in the schools. Instead, the Supreme Court has sought to replace officially sponsored segregation with the greatest degree of actual desegregation which can practicably be achieved in each case.

Any doubts about the Supreme Court's intention to apply a rule of practical, case-by-case judgment should be laid to rest by the Court's recent decision in Northcross against Memphis, upholding a desegregation plan under which 30 percent of minority group students will continue to attend wholly segregated schools.

The fact is, then, that the courts are engaged in a case-by-case process, first requiring proof of official discrimination, then searching for individual remedies based on a rule of reasonableness.

Undoubtedly mistakes have been made along the way. Yet I cannot bring myself to believe that the Supreme Court—Chief Justice Burger and Justices Blackmun, Brennan, Powell, Rehnquist, White, Stewart, Marshall, and Douglas—are incapable of developing this area of the law in a fair and impartial way.

The Supreme Court is only now beginning to deal with the most complex issues of school desegregation. Last year in Bradley against Richmond the Court in a 4-to-4 tie vote refused to require metropolitan areawide desegregation. A more definitive ruling on this question is expected any day in Bradley against Milliken, involving schools in the Detroit, Mich., area. And in Northcross against Memphis, decided only 2 weeks ago, the Court gave notice that, depending on local circumstances, acceptable desegregation may be considerably less than total.

Even if Congress had the power to do so, we should think long and hard before replacing this careful, case-by-case approach with the kind of rigid rules put forth in the pending amendment.

CONGRESSIONAL ACTION

For over 2 years, the Senate Select Committee on Equal Educational Opportunity, on which I served as chairman, struggled to come to grips with a broad range of questions revolving around discrimination in public education. And I have become thoroughly convinced that no single domestic issue which confronts this country is more painful and complex than the question of school desegregation.

Minority group parents and teachers often fear that desegregation may lead to further discrimination as damaging as that involved in segregation itself. And frequently parents from all backgrounds are concerned that desegregation may result in transfer of their children to schools where teacher motivation and academic opportunities may be decidedly inferior.

These concerns are legitimate ones. They are based on hard experience. They deserve our serious attention. And over past years we have tried to respond. Two years ago, Congress adopted and the President signed into law the so-called Scott-Mansfield amendment, which also appears as part of the pending bill.

Mr. President, I ask unanimous consent that the text of the Scott-Mansfield amendment may appear at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

PROHIBITION AGAINST USE OF APPROPRIATED FUNDS FOR BUSING

SEC. 802. (a) No funds appropriated for the purpose of carrying out any applicable program may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan for racial desegregation of any school or school system, except on the express written voluntary request of appropriate local school officials. No such funds shall be made available for transportation when the time or distance is so great as to risk the health of the children or significantly impinge on the educational process of such children, or where the educational opportunities available at the school to which it is proposed that any such student be transported will be substantially inferior to those opportunities offered at the school to which such student would otherwise be assigned under a nondiscriminatory system of school assignments based on geographic zones established without discrimination on account of race, religion, color, or national origin.

(b) No officer, agent, or employee of the Department of Health, Education, and Welfare (including the Office of Education), the Department of Justice, or any other Federal agency shall, by rule, regulation, order, guideline, or otherwise, (1) urge, persuade, induce, or require any local education agency, or any private nonprofit agency, institution, or organization to use any funds derived from any State or local sources for any purpose, unless constitutionally required, for which Federal funds appropriated to carry out any applicable program may not be used, as provided in this section, or (2) condition the receipt of Federal funds under any Federal program upon any action by any State or local public officer or employee which would be prohibited by clause (1) on the part of a Federal officer or employee. No officer, agent, or employee of the Department of Health, Education, and Welfare (including the Office of Education) or any other Federal agency shall urge, persuade, induce, or require any local education agency to undertake transportation of any student where the time or distance of travel is so great as to risk the health of the child or significantly impinge on his or her educational process; or where the educational opportunities available at the school to which it is proposed that such student be transported will be substantially inferior to those offered at the school to which such student would otherwise be assigned under a nondiscriminatory system of school assignments based on geographic zone established without discrimination on account of race, religion, color, or national origin.

(c) An applicable program means a program to which the General Education Provisions Act applies.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. MONDALE. May I have 4 more minutes?

Mr. PELL. Mr. President, I yield 4 more minutes to the Senator from Minnesota.

Mr. MONDALE. Mr. President, unlike the amendment which we are debating today, this provision is constitutional. It states Federal policy that school desegregation is required only upon proof of discrimination, and that racial balance is not required. It relies on the courts to conduct a case-by-case inquiry into each case of alleged discrimination, to determine in each instance whether discrimination exists and what the appropriate remedy may be. It stresses that the remedies applied must be reasonable, and that the welfare of children must be placed first.

This amendment mandates on the Department of Justice and the Department of Health, Education, and Welfare the Supreme Court's own mandate to the Federal court system—that transportation must not be allowed to risk the health or safety of children, or to harm the educational process itself.

And in addition we have enacted the Emergency School Aid Act, signed into law in June of 1972. The act was designed to provide $2 billion over 2 years to help school districts with the problems of desegregation. It was designed to provide extra teachers and counselors, to help school districts adopt team teaching, individualized instruction and other innovative education techniques, to provide desperately needed bilingual education and other special help.

The Emergency School Aid Act—which received bipartisan support and the President's commitment of funding at the level of $1.5 billion over 2 years—promised real help to hard-pressed school systems. Sadly, the administration changed its position, delaying implementation, impounding funds provided for the first year, and sharply reducing funding thereafter. Less than $300 million of the promised $1.5 billion has been made available to school systems to date. And, largely as a result of this reduced commitment, the act has proved far less useful than we had hoped.

Once again, the pending bill attempts to provide constructive leadership within the scope of constitutional requirements. It repeats and extends the Scott-Mansfield amendment, and it extends the Emergency School Aid Act for an additional 3 years, with the hope that more adequate funding can be achieved.

Mr. President, I wish to make my own position clear. I have consistently voted against the use of Federal authority to coerce racial balance. I have strongly supported legislation—like the Scott-Mansfield amendment—which stresses our concern for the health and safety of children, and for placing their educational interest first. I have supported financial assistance to reduce student-teacher ratios and in other ways to ease the transition.

But I am convinced that we will do irreparable damage if we retreat from the twin principles of nondiscrimination in public education, and judicial independence to interpret the mandates of our Constitution. The Congress cannot by statute reverse a constitutional ruling laid down by the Supreme Court. I believe the Congress should not attempt to do so. And so I have opposed amendments which fly in the face of constitutional decisions.

The pending amendments amount to an official endorsement of continued discrimination in our public schools. They amount to an undeserved vote of "no confidence" in the Supreme Court. Almost certainly unenforceable and without effect, they amount to negative leadership of the least defensible kind.

Anybody who has visited a community which is undergoing a desegregation order is aware of the pain, difficulty, and often the unpopularity of such orders. I think we all wish it were not necessary, and sometimes we might even object to an order on the grounds of practicality and the rest. But what is at stake in these amendments, what is at stake in this debate today, and what has always been at stake in these debates over the years, is not differences over how it should be done, but a difference over whether it should be done, whether we are going to endorse a principle of discrimination in this land.

I do not think that this great Senate, which time and time again has provided leadership to move forward in the field of human rights, should stand here this afternoon and accept an amendment which, stripped to its essentials, says one thing—"We endorse discrimination in this land." I will have no part of it.

Mr. PELL. Mr. President, I yield 60 minutes on the amendment and 30 minutes on the bill to the Senator from Massachusetts (Mr. BROOKE).

Mr. BROOKE. I thank the distinguished floor leader.

Mr. President, prior to my remarks, I want to commend the distinguished senior Senator from Minnesota for standing up and speaking out on this important moral issue, as well as constitutional issue, which the U.S. Senate faces on this 15th day of May 1974.

The distinguished Senator has always been a champion of civil rights and civil liberties, and I think he has focused upon the real essence of the question that faces the Senate today: Does the U.S. Senate, in 1974, want to go on record as voting for discrimination in this Nation?

I certainly commend my distinguished friend from Minnesota for raising his voice once again, and I hope that our colleagues in the U.S. Senate will hear that voice and heed his wise counsel.

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. BROOKE. I yield.

Mr. MONDALE. I thank the Senator for his kind remarks. May I say that I have had an opportunity to review the remarks he is about to make, and I commend him for a most scholarly statement.

Mr. BROOKE. Mr. President, I hope that we can have a calm, careful, and constitutional debate on S. 1539, the Education Amendments of 1974.

I would prefer that time and the times permitted me to discuss at length the meritorious provisions of S. 1539. But, unfortunately, both time and the times preclude such a discussion and compel me to once again defend the law of the land from unconstitutional and unconscionable assaults. Why this should be necessary, I do not know. I cannot understand the hearts and minds of legislators, who seek to: invite chaos and confusion across our troubled Nation; further racial divisions and strife; and precipitate a constitutional confrontation at a time when other abiding concerns trouble Americans and at a time when the country is moving slowly, sometimes painfully, but I believe inexorably toward "one nation indivisible."

When the Equal Educational Opportunities Act of 1972, was pending before the Senate the question was raised as to whether many Members of the House may have supported the Equal Educational Opportunities Act of 1972 without full knowledge of the bill's content and portent. Certainly that question cannot be raised today relative to the authors and supporters of the so-called Esch amendment who must know well the consequences of their action in the House on March 26.

They cannot claim ignorance either of law or their attempts to subvert it. Amid the platitudes of desire for equal educational opportunity for all young Americans, I discern a cynical contempt for the law of the land that now strives to achieve such a goal. The legislation which they drafted underscores this contempt for the Constitution and our Federal judiciary—the Esch amendment and amendment No. 1144 pending before the Senate are identical in their provisions to the deceptively named Equal Educational Opportunities Act of 1972, which I discussed at length on October 10, 1972.

Mr. President, I would like to review my remarks of that day. I began:

> Early on the morning of August 18, the House of Representatives sounded the first call for a retreat from the promise of the 14th amendment. And now the Senate is asked to hastily echo this call without proper consideration of its portent.
>
> In the harried closing days of this Congress, proponents of H.R. 13915 urge the Senate to rush to undo the slow but inexorable progress of two decades and to invite the most serious constitutional confrontation in over a century.
>
> They would have us say to millions of Americans that segregation is preferable to possible inconvenience, that fears are more persuasive than facts and that political opportunity is more compelling than our constitutional responsibility.

Mr. President, how can we teach our children respect for the law, if we in the U.S. Senate treat the law with contempt?

The law of the land for two decades has been clear: Segregation of public schools by official act is a violation of the equal protection clause of the 14th amendment. Time and time again, the Supreme Court has unanimously affirmed Brown against Topeka Board of Education and the process of desegregation has continued. Though at times it was slowed by resistance, reason has prevailed and responsible citizens have accepted necessary remedies to constitutional violations. And this has brought hope to millions of Americans that we can, and shall, be one nation. The separate but equal doctrine of Plessy against Ferguson that divided America for 60 years must never return. Yet the measures before us contain the prescription for abandoning equal educational opportunities and for returning to separate but equal facilities.

Mr. President, I have lived in this country for many years and served in many offices. I have never seen anything both separate and equal in this Nation.

I have no doubt that these invidious prescriptions are unconstitutional, and I shall discuss the constitutional aspects of these measures later. But I ask now, How can the Congress even consider a policy that would encourage the development of two nations within our country—one white and the other black?

The fact that we are, angers and, even more, saddens me. For I see by our very consideration of such measures the encouragement of a small minority of Americans—black and white—who champion the cause of separatism.

Mr. President, I have denounced separatism and separatists, both black and white. I believe in one Nation. I believe in integration. And I am confident that most Americans, black and white, share these beliefs.

The hope for an end to racial division lies in our educational system. The opportunities we afford our young people determine the shape of our Nation's future. If we deny children the right to an equal chance in life, we deny our Nation a chance for greatness. If we perpetuate separate societies, divided by ignorance and suspicion, we risk an unsteady and uncertain future. For each generation of segregation in our schools, we risk another generation of division in our Nation.

We must not deny our young people the chance to bridge mutual misunderstandings with shared experiences and opportunities.

These cleverly crafted measures strike at the fundamental source of hope for our Nation—our children.

Though I am confident their most pernicious provisions would be struck down by the Supreme Court of the United States, their enactment would seriously divide and confuse our Nation. For two decades, the course has been sure but slow. And now we are asked to hastily and drastically alter it. Why? Because many Americans have become confused by the rhetoric on busing. In some cases this confusion is deliberately contrived by those who speak of "busing to achieve racial balance" when such busing is not at issue. The issue is simple: Shall we or shall we not permit necessary remedies to a constitutional violation? Segregation of public schools by official act is unlawful.

This is a fact. Busing is an integral and pervasive component of our educational system. And that, too, is a fact. The fact is that in many cases, busing is necessary to uphold the law.

These measures are not as some call them antibusing amendments. Their provisions, limiting options in school assignments, permitting resegregation without remedy, and stimulating relitigation of all desegregation cases, compel a more accurate description. H.R. 13915 was an antidesegregation bill. The Esch amendment and amendment No. 1140 are antidesegregation amendments.

On October 10, 1972, I discussed, I believe thoroughly, H.R. 13915 then pending. I said then that among the provisions of this House-passed bill that demand scrutiny is one which would permit the reopening of long since closed and completed southern school cases, cases which preceded and had nothing to do with the current furor over court-ordered comprehensive busing in big cities North and South. I said it could put in train an endless flow of disruptive and harmful relitigation and possibly result in a rollback of court decisions whose fairness and necessity have by now been granted by practically everyone—including many of those who once opposed them.

Another provision which had not been thoroughly studied by either the Senate or the House was that which would permit court-ordered busing, but limit it to the "next nearest" school from that which was being desegregated. What this strange feature could do—and in innumerable cases would—is guarantee that the effects of busing orders be felt only in those poor white "ethnic" areas whose schools have least to offer ghetto children and where racial tensions run the highest. By voting for such a provision, the members of Congress are saying, in effect, that busing is fine so long as it tends to leave the affluent middle-class alone.

Finally, there was a provision authorizing the Federal judiciary and the executive branch to compel, as a remedy preferable to busing, the closing down of old schools and the construction of new. Interestingly, when this provision came before the House in 1972, an amendment was voted down which would have at least provided some Federal funds for districts compelled by the Federal Government to engage in what could be extremely costly construction. That vote, in my view, offered a fair measure of the degree of sensitivity that prevailed then and prevails now in Congress concerning the potential long-term effects of such legislation on the districts in question—as distinct from sensitivity toward the political value of an antibusing vote, which Members feel only too keenly.

Today, 19 months after I spoke these words, Members of both Houses of Congress know full well the content and portent of the Esch amendment and amendment No. 1144. Nineteen months ago, I observed that the Senate was being rushed to judgment. I said:

> And here in the Senate we are asked to follow in kind. Senate supporters of this bill refused to allow the measure to be referred to the committee with proper jurisdiction over it, the Committee on Labor and Public Welfare.

By refusing to allow proper consideration of this bill in 1972, its supporters denied Americans the right to closely examine this legislation and to be heard for or against it. No one could argue that the Labor and Public Welfare Committee was a graveyard for legislation. The committee has faced up to the issue of busing time and time again. The Senate had expressed its will on busing on two occasions in 1972 alone. Knowing that the committee would act responsibly, I could only assume in 1972 that the supporters of H.R. 13915 feared the revelations that would ensue from its careful scrutiny.

The title of that measure and the pending amendment belie their content as any objective analysis will prove.

POLICY AND PURPOSE

H.R. 13915's basic policy and purpose as set forth in section 2 flawed the measure from the beginning. Section 2(a)(2) would have established a national policy requiring assignment of students to schools in their neighborhoods. Other provisions in the bill contradicted this policy. But let us examine the basic premise of the policy again contained in the pending amendment. It assumes that our Nation's educational system is based on neighborhood lines. The history of American education does not uphold this assumption. For a number of reasons—space, staff, and other resources—school assignments are not generally based on the closest school criterion. The fact that 40 percent of our public schoolchildren ride schoolbuses and 25 percent of our public schoolchildren use public transportation to get to school supports this conclusion. Neighborhoods are not considered stable entities with a constant ratio of schoolage children to their population.

Mr. President, neighborhoods change. School assignments change. Nowhere did H.R. 13915, nor does the pending amendment, define the term "neighborhood." Without definition, this policy could be effectively used as an excuse for segregation, as in the past, through gerrymandered assignment areas.

What meaning does the term "neighborhood" have to large high school and junior high school attendance districts, which cover many neighborhoods? The answer is: None.

This expression of policy in support of an educational system that does not now or could not exist is irresponsible. How can the Congress of the United States enact a mythical policy? We should be more responsible than to write undefined catchwords into law.

FINDINGS

Mr. President, these measures move from the declaration of policy which cannot be realized to the findings of facts that cannot be supported.

The pending amendment would have Congress find that "many school systems have been required to engage in extensive transportation of students" in order to eliminate dual school systems.

Since only 3 percent of the children now riding school buses are doing so for desegregation purposes, the term "extensive" has no nationwide application. The experience statewide would also contradict this finding.

The facts are that there is less busing, not more busing, as the dual educational system is eliminated. This is because children are no longer bused past one segregated school to get to another. In Alabama, desegregation orders resulted in a decrease of 1 million passenger-miles. In Mississippi, 318,095 children were bused to maintain segregated schools; only 292,472 were bused when segregation was ended.

The same experience—a decline in the number of students bused and the number of miles transported—resulted after desegregation orders were entered in Charlotte, in Richmond, in Leon County, Fla., and elsewhere.

The finding that school systems have been required "to expend large amounts of funds" is likewise not supported by fact. In 1933, the expenditure for pupil transportation was 3.5 percent of the cost of operating public schools. In 1969–70, it was 3.6 percent. And it should be noted that in the intervening years, there was a nationwide move toward consolidation of schools away from the outmoded one-room schoolhouse.

Are not those who now argue that busing is expensive the same people who sought to bar the use of Federal funds for busing? Perhaps in some cases desegregation plans do require increased expenditures. If local education agencies are required by a Federal court or agency to increase transportation, I think it is only proper that Federal funds be made available to meet part or all of these increased expenses. I cannot understand the logic of proponents of this amendment who charge that busing is expensive, yet who have consistently argued that Federal funds should not pay for student transportation.

But more importantly, viewed as a percentage of public school expenditures, transportation is but a small budget item. There is no basis for Congress to find that school systems have spent large sums for busing.

Nor can Congress conceivably find that transportation of students "creates serious risks to their health and safety and disrupts the educational process."

Such a finding ignores the evidence that the schoolbus is the safest way for children to get to school—safer even than walking. A 6-year study by the Pennsylvania Department of Education found riding 3 times safer than walking. The National Safety Council statistics show that while there are 2.4 fatalities per 100 million miles of travel in private automobiles and 0.29 in airplanes, the figure for schoolbuses is 0.06.

Mr. President, each day 20 million

young Americans ride schoolbuses. This amendment suggests they are all in danger. Yet it does nothing to remove the alleged risks for 97 percent of these children. Rather, it responds only to the 3 percent who ride the bus for desegregation purpose. The question is: Are those who ride schoolbuses in danger? The answer is no. Therefore we should not make a finding that they are.

Furthermore, section 802 (a) of Public Law 92-318 makes clear the intent of Congress in respect to "excessive" busing by stating:

> No such funds shall be made available for transportation when the time or distance of travel is so great as to risk the health of the children or significantly impinge on the educational process of such children.

This portion of current law parallels Chief Justice Warren Burger's opinion written for the Court in Swann against Charlotte-Mecklenburg Board of Education.

An objection to transportation of students may have validity when the time or distance of travel is so great as to risk either the health of the children or significantly impinge on the educational process.

The Supreme Court has set proper limits to busing. Congress has passed and the President has signed into law similar limits. There is, therefore, no reason for Congress now to raise the specter of undue danger on the schoolbus. I can only conclude that this finding about busing risks is included in the measure before us to stir up emotions. It serves no useful purpose and it has no basis in fact.

Neither does the finding which follows stating that the Supreme Court's guidelines for remedies to dismantle dual systems have been "incomplete and imperfect." This section, in effect, issues a challenge to the very nature of the judicial process. Particularly with respect to transportation, the Supreme Court has made it clear in Swann that—

No rigid guidelines as to student transportation can be given for application to the infinite variety of problems in thousands of situations.

But as previously mentioned, the Court and Congress, in Swann and Public Law 92-318, respectively, have provided a "clear, rational and uniform" standard generally for student transportation contrary to the finding of section 903(a)(6). But the Court in Swann rejected rigid guidelines as being impossible to devise.

In 1955, in Brown II, the Court determined it was proper for the district courts to exercise their equity jurisdiction with its traditional flexibility to fashion specific remedies for each unique factual situation in school desegregation cases. In 1971 the Court affirmed this position in Swann. It stated that—

> Conditions in different localities will vary so widely that no rigid rules can be laid down to govern all situations.

Yet that is what the pending amendment seeks to do in definance of the Court.

Local educational agencies do not act in a vacuum when it comes to remedying a dual school system. Over a period of 20 years, the Supreme Court has established clear guidelines for remedying a dual school system.

Swann makes clear the limits on transportation and the absence of a requirement of racial balance or racial quotas to desegregate school systems.

In Green against County School Board of New Kent County, Va., the Court ruled out freedom of choice or "open enrollment" plans. And Swann spelled out clear alternatives: redrawing attendance zones and "pairing", "clustering" or "grouping" of schools. There has been no doubt as to the district court's responsibilities in the desegregation process. In Brown II, the Court said that school officials and the courts are responsible for achieving the constitutional requirements for desegregated schools The schools were given the responsibility for developing plans, but the Court stated that:

> The courts will have to consider whether the action of school authorities constitutes a good faith implementation of the governing constitutional principles.

In Green and Swann, the Court reiterated this opinion. The Court has also been clear as to the speed with which desegregation responsibilities should be discharged. In Brown I, the Court said that district courts should implement desegregation rulings "with all deliberate speed." The Court also said that limited delays in achieving complete desegregation would be acceptable if a school board could "establish that such time is necessary in the public interest." Ten years later, in Griffin against County School Board for Prince Edward County, Va., the Court served notice that such delays were no longer accepted.

In 1968, in Green, the Court ordered desegregation to take place immediately:

> The burden on a school board today is to come forward with a plan that promises realistically to work and promises realistically to work now.

The following year, in Alexander against Holmes County, Miss., Board of Education, it held:

> The obligation of every school district is to terminate dual school systems at once and to operate now and hereafter only unitary schools.

Contrary to the finding of section 903 (a)(6), guidelines do exist as to remedies, responsibilities and speed in eliminating dual school systems. Due to the varied nature of our school systems, the Supreme Court has ruled out rigid formulas for compliance, but has provided general guidelines which are adequate for the task.

The suggestion that the courts have failed is an unnecessary one, except for the purpose of the authors of this legislation, which is to limit the jurisdiction of the courts in school desegregation cases.

We see in amendment No. 1144 an effort to use incorrect findings of fact to prove that the courts have failed. In subsequent sections, the bill provides that the Congress shall remedy these alleged failings.

UNLAWFUL PRACTICES

Amendment No. 1144 seeks to weaken the 14th amendment, raises again the straw man of racial balance, and reiterates a national educational policy premised on the neighborhood school.

By narrowly defining the scope of what constitutes a denial of equal protection of the laws, section 904 of amendment No. 1144 is contrary to the holdings of the Supreme Court. Subsections (a), (b) and (e) require that the action which results in discrimination be deliberate or for the specific purpose of segregation. The Court, however, has held in a variety of cases that it is not necessary to prove discriminatory motive, purpose, or intent as a prerequisite to establishing an equal protection violation when discriminatory effect is evident. On June 22, 1972, in Wright against Council of the City of Emporia, Justice Stewart, writing for a majority of the Court, explicitly stated that no showing of a discriminatory purpose was required:

> The mandate of Brown II was to desegregate schools and we have said that the "measure of any desegregation plan is its effectiveness." Thus, we have focused on the effect—not the purpose or motivation—of a school board's action in determining whether a permissible purpose cannot sustain an action that has an impermissible effect.

In 1972, the Fifth Circuit Court of Appeals in the cases of Austin and Corpus Christi have reiterated that there is no requirement of proof of discriminatory purpose.

In the Corpus Christi case, Cisneros against Corpus Christi Independent School District, the Fifth Circuit said:

> We affirm the finding of the district court that action by the school district here has, in terms of cause and effect, resulted in a severely segregated school system in Corpus Christi. We need find nothing more. Discriminatory motive and purpose, while they may reinforce a finding of effective segregation, are not necessary ingredients of constitutional violations in the field of public education.

The courts have consistently made it clear that plaintiffs need not demonstrate an improper motive or discriminatory purposes behind the actions of school authorities in order to vindicate their rights under the 14th amendment.

And Congress cannot impose such a requirement of proof of discriminatory purpose and thereby restrict and impede the rights of children to equal educational opportunity. This attempt, through section 904, to legislate a new burden of proof on those seeking equal protection of the law is among the most disturbing features of this bill. And the further one delves into this measure, the more obvious becomes the authors' intent to create as many obstacles as possible to school desegregation.

Yet section 904 has an allied purpose. It seeks to create public opposition to busing by continuing to confuse the busing issue through its assertion that the failure to achieve racial balance is not a denial of rights under the 14th amendment. In Swann, the Supreme Court was clear on racial balance:

> The Constitutional command to desegregate schools does not mean that every school in every community must always reflect the racial composition of the school system as a whole . . . awareness of the racial composition of the whole school system is likely to

> be a useful starting point in shaping a remedy to correct constitutional violations.

The issue is not now, nor has it ever been "busing to achieve racial balance." This phrase has consistently and deliberately been used to instill unfounded fears in millions of Americans who envision massive busing across school district, municipal, county and even State lines. No such busing is now required by Federal courts and agencies. It is unlikely any such busing shall ever be federally mandated.

Those who raise once again the specter of "busing to achieve racial balance" have had full opportunity to deal with this nonproblem. Congress passed and the President signed into law a moratorium on any such busing ordered by a U.S. district court.

The provisions of section 803, Public Law 92-318, are clear:

> Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transfer or transportation of any student or students from any school attendance area prescribed by competent state or local authority for the purpose of achieving a balance among students with respect to race, sex, religion, or socio-economic status, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeals has expired. This section shall expire at midnight on January 1, 1974.

But busing to achieve racial balance is but a bogus issue raised to divert attention from the real intent of proponents of this legislation. Justice Powell's ruling in the Augusta case in 1972 underscored the distinction between the goal of racial balance and the imperative of desegregation. As to section 803 of Public Law 92-318, Justice Powell ruled:

> It does not purport to block all desegregation orders which require the transportation of students.

Powell also wrote:

> If Congress had desired to stay all such orders, it could have used clear and explicit language appropriate to that result.

It is obvious that the so-called antibusing forces are caught in a semantic trap they themselves have set. To excite the public, they spoke of "forced busing to achieve racial balance." And so Congress postponed such orders for 18 months. However, since busing for racial balance was not the problem, those who oppose busing for its present constitutional purposes were obviously displeased with the solution. Caught in their own trap, they fought more relentlessly than I, or most people, expected; and H.R. 13915 was the product of their zeal. So, too, are the Esch and pending amendments.

Section 906 of amendment No. 1144, which provides that the assignment of students to "neighborhood" schools fulfills a school system's constitutional obligation, seeks to establish the previously stated but mythical national policy of the neighborhood school as the basis of our educational system. Again the proof of intent or purpose is required if such neighborhood school assignments result in segregation. In effect, this section would say to segregated youngsters that they are now attending de facto rather than de jure segregated schools. Such a change in labels is of little comfort to those denied an equal education.

This section ignores the fact that the racial character of neighborhoods has not been accidential. All levels of government have been involved, partly by design, mostly by default, in residential segregation. School assignments based solely on a student's residence is often discriminatory and is not a neutral device for complying with the 14th amendment. Neighborhoods may be a convenient basis for pupil assignment, but they are not of such supremacy as to override constitutional rights. As Chief Justice Burger noted in Swann:

> Desegregation plans cannot be limited to the walk-in school.

Section 906 would mandate such inadequate remedies and prevent the courts from developing alternate desegregation plans sufficient to remedy a constitutional violation. Section 806 is but one of many provisions of the pending amendment which seeks to block adequate remedies to violations of the Constitution.

ENFORCEMENT

Part C of this amendment would allow the gradual restoration of segregation in our Nation's schools and provide impunity to the resegregation process. How frightening to contemplate the undoing of all that we have strived for in the past 2 decades. But the authors of this legislation seem indifferent to the consequences and constitutionality of part C. Under part C, once a court has approved an implemented desegregation plan, an individual is prohibited from seeking his constitutional rights to equal protection, should the schools within the system become segregated again because of shifts in population. Such resegregation could well stem from official act or neglect and clearly violate the equal protection clause of the 14th amendment which, since Brown I, has prohibited the maintenance of racially segregated schools.

Such segregation is as much a constitutional violation if it results from a process of resegregation after a court-approved desegregation plan is implemented, as it is prior to the implementation of the plan.

This provision is a patent infringement on the rights of citizens for equal protection. Congress does not have the power to pass a law limiting or narrowing the guarantees held to be embodied in the equal protection clause. In 1966, the Supreme Court addressed itself specifically to this point in Katzenbach against Morgan, when it stated:

> Section 5 (of the 14th Amendment) does not grant Congress power to exercise discretion in the other direction and to enact statutes so as in effect to dilute equal protection and due process decisions of this court. We emphasize that Congress' power under Section 5 is limited to adopting measures to enforce the guarantees of the Amendment: Section 5 grants Congress no power to restrict, abrogate, or dilute these guarantees.

Section 5, moreover, cannot be used as a basis for regulating the jurisdiction of the Federal courts. It concerns only questions of checks and balances between Congress and the Judiciary.

Part C of amendment No. 1144 is clearly unconstitutional, but constitutionality was obviously not a criterion for those who drafted this measure.

Section 911 would delay civil action against an educational agency until such time as the Attorney General served notice to the agency of the conditions which constitute a violation of the act and he is satisfied that the agency has not taken adequate remedies within a reasonable time. The effect of this section is to slow the desegregation process. It is but another obstacle to integration this bill seeks to erect.

The next section, 912, follows this defiant pattern. It would provide that the prevailing party in any action under the act may, at the court's discretion, recover a reasonable attorneys' fee as part of the cost.

There is no doubt of the consequences of such a provision. It strikes at the very foundation of American justice by intimidating and deterring the poor from asserting the constitutional rights of their children.

In 1972, in its critique of H.R. 13915, the Association of the Bar of the City of New York's Committees on Federal Legislation and Civil Rights stated the case against such a provision as follows:

> To permit the recovery of attorneys' fees against civil rights plaintiffs is to reject the rationale of Title II of the 1964 Civil Rights Act as interpreted by *Newman* v. *Piggie Park Enterprises, Inc.* where the court stated that a plaintiff under Title II of that act obtains an injunction not for himself alone but also as a "private attorney general." In fact the 1964 Civil Rights Act and the 1968 Fair Housing Act provides that attorneys' fees are recoverable by plaintiffs under certain circumstances in accord with the public interest nature of such litigation.
>
> The prospect that a plaintiff may lose a civil rights action and therefore be required to pay substantial attorneys' fees would have an "in terrorem" effect on attempts to vindicate civil rights. The problem is highlighted by other provisions of EEOA which make it likely that decrees heretofore obtained by civil rights plaintiffs will be reopened.
>
> Moreover, to allow a court to charge attorneys' fees to an unsuccessful plaintiff is quite contrary to the spirit of American justice which has not allowed the taxation of costs so high as to discourage plaintiffs from commencing litigation to obtain what they deem to be their rights.

Section 912 is clearly "contrary to the spirits of American justice." This amendment is, too, as we have seen in the policy findings, definitions of unlawful practices and enforcement provisions.

REMEDIES

However, it is in the amendment's proscription on remedies that this measure is most threatening to the rights of Americans.

Section 913 mandates that in formulating a remedy:

> A court, department, or agency of the United States shall seek or impose only such remedies as are essential to correct particular denials of equal educational opportunity or equal protection of the laws.

It is unclear what is intended by section 913. The House Education and Labor Committee's report on a similar section in H.R. 13915 stated only that—

> This provision means that courts are not to use law suits against school districts as occasions for imposing free-wheeling requirements on these school districts. Rather, they must restrict themselves to the particular facts and circumstances of the cases.

So we are confronted with a section of vast implication with only the slightest hint of legislative intent. We can only speculate as to its full intent.

The limitation of remedies to particular denials of rights could be intended to restrict the courts from ordering school district-wide desegregation plans. The Justice Department has contended that district courts must limit their orders to remedies applying only to "pockets" or "incidentals" of discrimination within a school system. Judge Wisdom of the Fifth Circuit Court of Appeals in United States against Texas Education Agency responded to this argument:

> What the Department now refers to as proof only of piecemeal or pocket discrimination has always been its tried and true method of proving school segregation. The discriminatory acts of the school authorities infect the entire school system; they are particularly obvious in the so-called "pockets" . . . The concept of "incidents" of discrmination is an inscrutable new concept totally at odds with the teaching of Brown and its progeny—and with all previous cases in which the Department of Justice has appeared.

The effect of section 913 would be to allow the judicial treatment of symptoms without responding to the disease itself.

It could also be that this section is intended to preclude the use of class action suits in school desegregation cases. But the intent is not now clear.

In the 1972 House debate on H.R. 13915, Representative WIGGINS asked Representative QUIE whether or not the use of the word "particular" was intended to foreclose class actions.

Representative QUIE answered:

> I could not tell the gentleman, but I doubt that would be the case. The question never came up, so I have not checked it with counsel at all, but I doubt that it would.

If Representative QUIE's doubts are not affirmed, section 913 of the pending amendment could limit courts to providing remedies only to individual plaintiffs, thus making it impossible to desegregate entire school systems without costly multiple suits.

This section could also be intended to eliminate the use of statistics to prove a pattern of discrimination in a school desegregation case. Such evidence is in many instances the most objective and compelling way to prove discrimination.

However this limitation is interpreted now, it is obvious that its lack of clarity would lead to extensive litigation in the future.

In light of the other provisions of this measure, I must interpret section 913 as intending to narrow the application of remedy, the use of class actions and the submission of statistical evidence.

Section 914 of the pending amendment sets forth a priority of remedies whereby the Federal courts would be required first to attempt to assign students to the nearest school, taking into consideration building capacities and natural physical barriers. Yet, if this does not work, the bill would allow the courts to ignore physical barriers such as railroad tracks, a river or busy highway. The great concern for safety in respect to busing earlier expressed in part A is obviously not paralleled in section 914's consideration of alternate remedies. The third priority remedy set forth in subsection (c) is contrary to a series of Supreme Court decisions since 1968 that have ruled that "freedom of choice" or "open enrollment" plans are rarely an effective remedy. Section 914(c) would undermine any impact a desegregation plan might have by permitting white students to transfer from integrated schools. Any white student who could show that students of his "national origin" were not in a majority in the school he wished to attend could presumably effect a transfer.

I cannot imagine a more potentially divisive scheme than to suggest that all schools keep track of the national origin of all its students. It would only call attention to differences and create group tensions where none had previously existed. While white students would find transfers easy, a black student would be required to assume the full burden of change as an outsider coming into a school that must have a minority of his race.

Each year since 1966 the Senate has rejected proposals that would seek to make freedom of choice fulfill constitutional desegregation requirements. We are now confronted with a measure which places such plans third in line of priority, and seeks to limit true freedom of choice to white students only. We were so threatened on October 10, 1972. We are again so threatened today, May 15, 1974.

Section 914 sets forth remedies that are inequitable and inadequate to fulfill constitutional responsibilities.

Section 915 denies a remedy that is in many instances the only one available—transportation. Simply stated, section 915 insures that should all the other provisions of this measure fail to impede desegregation attempts, this provision will succeed.

By forbidding Federal courts and agencies from ordering any school system to implement a desegregation plan requiring transportation of students beyond the school next closest to their place of residence, this provision would preclude desegregation even in the inner city; impose the entire burden of desegregation on those white families who live adjacent to the inner cities; and lead to chaos. It would free the more affluent from the desegregation process while lower-middle income families, black and white, found their children bused to inner-city schools. This is the most blatant example of class legislation I have seen. Consider the consequences of the knowledge that a family must live only a certain distance in relation to two schools to insure its children were not part of the desegregation process. This provision would lead to neighborhood instability, real estate panics, and the flight of the middle class from the fringes of the inner city. Our cities would become more and more bastions of the very rich and the very poor. This is an expression of the worst social policy imaginable. It also seeks to deny the judiciary the flexibility which the Supreme Court has continually recognized they must have to devise remedies likely to succeed in local situations.

Clearly an inflexible national standard with such far-reaching implications deserves the most careful scrutiny. I doubt anyone in Congress or the executive branch really knows how this would affect our various cities, and its different effects on large, medium, and small cities. I doubt if anyone really knows the effect that this would have upon the people who live in these areas. And I wonder if many of them even care.

How can we conceivably consider acting in such a vacuum of information?

Subsection (b) of section 915 is merely an unnecessary affirmation of Swann and current law—section 802(a), Public Law 92-318. Again the authors of this amendment have sought to suggest problems that do not exist in order to advance their measure.

Section 915(c), in permitting resegregation without remedy once a court determines a school system has eliminated its previous dual system, is similar to a provision added on the floor of the House to H.R. 13915 in 1972.

In conjunction with section 915(a), limiting transportation to the next closest school, section 915(c) would assure and promote further segregation of neighborhoods and the resulting resegregation of neighborhood schools. Since students could be bused only to the next closest school and since subsequent court orders requiring transportation to adjust for shifts in residential populations would be prohibited, families living in school attendance zones next closest to black neighborhoods would need move only one attendance zone further to avoid desegregation completely.

Thus, section 915(c) would fortify the next closest school concept by foreclosing future options to the courts to remedy the residential shifts caused by application of the next closest school concept.

In proposing this provision, which became section 403(c) of H.R. 13915, Representative FASCELL contended that—

> This makes the language of the Mecklenburg case apply to an act of a department or agency as well as that of a court.

I disagree with Mr. FASCELL's interpretation of Swann against Charlotte-Mecklenburg, as already imposing limitations contained in section 915(c) on the courts.

In the closing paragraphs of the Swann decision, Chief Justice Burger stated:

> At some point, these school authorities and others like them should have achieved full compliance with this Court's decision in Brown I. The systems will then be unitary in the sense required by our decisions in Green and Alexander.

It does not follow that the communities served by such systems will remain demographically stable, for in a growing, mobile society, few will do so. Neither school authorities nor district courts are constitutionally required to make year-by-year adjustments of the racial composition of student bodies once the affirmative duty to desegregate has been accomplished and racial discrimination through official action is eliminated from the system. This does not mean that Federal courts are without power to deal with future problems; but in the absence of a showing that either the school authorities or some other agency of the State has deliberately attempted to fix or alter demographic patterns to affect the racial composition of the schools, further intervention by a district court should not be necessary.

This dictum assumes that neither the Federal Government nor the State have contributed in any way to the shifts in demographic patterns that may resegregate schools. It must also be read in the context of the Swann decision as a caution to courts to exercise commonsense in the administration of desegregation plans. Section 915(c) is more than a caution; it is an invitation for covert actions to subvert desegregation orders by official acts, which would result in resegregation. A statutory prohibition of subsequent action against the effect of such an act could well encourage the act. In my remarks of October 10, 1972, I was pleased to yield on a similar point to the distinguished Senator from Michigan (Mr. HART), who stated:

> Mr. President, I am grateful that the Senator has developed the points he has. The Senator was commenting a moment ago on section 403. I am not sure we understand fully the affront, really, that appears to be contained in the kinds of orders that this bill would issue to the federal courts.
>
> Am I correct in understanding the Senator from Massachusetts to make the point that no matter how gross a denial of equal protection of the laws a court may find a school district to have engaged in violation of the 14th Amendment, we are saying in section 403 (of H.R. 13915) that the court cannot exercise either its commonsense nor give any relief to a constitutional violation?

I replied:

> Precisely. That is exactly the point I am stressing.

Mr. President, without losing my rights to the floor, I yield to the Senator from Florida (Mr. GURNEY) for the purpose of a unanimous-consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GURNEY. I thank the Senator.

Mr. President, I ask unanimous consent that a staff member on the Judiciary Committee, at the request of the Senator from Nebraska (Mr. HRUSKA), Mr. J. C. Argetsinger, be permitted floor privileges during the debate on this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, that is exactly what section 915 of amendment No. 1144 would do. And it is inconceivable to me that the proponents of this measure really want to do this.

Another prohibition contained in section 916, would not allow for the ignoring or alteration of school district lines unless there is proof of discriminatory purpose. This section represents an unnecessary intrusion into the judicial process. It is inappropriate for Congress to attempt to legislatively dictate a result in pending litigation or attempt to impose its view of constitutional requirements on the courts.

Yet, this is the basic intent of this measure—to intrude into the judicial processes and dictate constitutional requirements that would thwart constitutional rights, and thus deter the constitutionally mandated desegregation of our Nation's public schools.

If this effort to impede school desegregation was not sufficiently sinister itself, consider section 918 of the amendment before us. This section would seek to undo every existing court-ordered or title VI desegregation effort now underway. It would allow thousands of desegregated or desegregating school systems, with the assistance of the Attorney General, to return to the courts and Federal agencies to have their plans modified in accordance with this amendment. And the provisions of this deviously drafted measure would allow the return to segregation, and that is what the authors of this amendment want.

This would be in cases where district courts have already approved plans—sometimes modified them, to be sure—by which the process of desegregating school systems is proceeding in accordance with law. What section 918 would say to the courts and schools is, "Let us open this all up now. You can stop desegregating, go back to the courts, modify your plans, and, in fact, return to the segregated point you were at before you either voluntarily proceeded to desegregate or you were ordered to do so under law."

This would put us back decades; and this would totally disrupt areas where many, many times the people have found that the desegregation of the public schools is not the traumatic experience many have attempted to make it in proposing this amendment.

Millions of Americans have found that their fears have been allayed; and they are working very well together—blacks and whites—to bring about the desegregation of their public school systems.

But this measure, particularly this section, would encourage them to return to the segregation which they had before. To me this is an unconscionable proposition for anyone to have set before Congress.

This "reopener" clause is frightening in its potential. The wording is so broad that it would allow the reopening of all past desegregation cases going all the way back—over 20 years of progress to the Brown case.

In 1972 in testifying before the House Committee of the Judiciary, Attorney General Richard Kleindienst was asked whether the right to reopen cases under section 406 of H.R. 13915 would apply only to cases involving busing or to all desegregation cases. He answered:

> All desegregation cases, even where busing might not even be an issue involved in it. You are going to have an opportunity for a school agency to come into a federal district judge and say, this order was entered into 12 years ago, Congress has laid down a new national standard and we want to re-examine this and apply the remedies and priorities set forth in the national standards, and obtain a new order in this particular case.

Such measures invite chaos across the country. Because the remedies and priorities of these measures thwart desegregation plans and violate the constitutional rights of our citizens, separatists, black, and white, will return to the forefront as the chance is offered to undo the hard work and good will of reasonable men and women. Those who have worked hard to make integrated schools a workable reality would be shunted aside by separatists, with the aid of Congress.

In arguing that a reopener provision is unconstitutional, the Association of the Bar of the city of New York in 1972 stated:

> It is cynical in the extreme, therefore, to permit new rounds of litigation where successful adjustment to constitutional order exists.

That is not an understatement, nor is the association's assertion that a reopener provision is unconstitutional.

If this section intends to create a right to reopen proceedings which is greater than the traditional equity doctrine to review in the light of changed circumstances, and I assume it is or the section would be unnecessary, then it singles out on the basis of race a class of Federal court decrees for special treatment since it applies only to desegregation cases.

Therefore, I contend that placing such a burden on minority group litigants violates the doctrine of Hunter against Erickson. In that 1969 decision, the Supreme Court held unconstiutional a provision added to the charter of the city of Akron, Ohio, which required any ordinance regulating the sale or lease of property on the basis of race to win the approval of a majority of voters in a general election before it could take effect. The Court held that the charter could not place "special burdens on racial minorities within the governmental process."

Section 918 could place special burdens on racial minorities. This section makes it more difficult for minority children to enjoy their right to equal educational opportunity since it forces them to relitigate cases they had presumably already won. Thus, I contend this section is most probably unconstitutional under the principle of Hunter against Erickson.

Yet, I take little comfort in the presumed unconstitutionality of this reopener. That the House of Representatives could pass and the Senate could even consider such a provision frightens me. How can Congress proceed so callously with respect to the rights of millions of Americans? I would like to believe that it has done so unknowingly.

On October 10, 1972, I could give the benefit of the doubt to the authors and supporters of such a provision. Today, I cannot. Section 918 only stands out amid the cynical provisions of this measure because, as the Association of the Bar of New York said, such a reopener provision is "cynical in the extreme." Under ordinary circumstances almost every provision of this measure would similarly be labeled.

Section 919 of amendment No. 1144 would allow the transportation portions of court orders to be terminated upon a finding that the school system is not excluding any person from any school on account of race. In other words, busing would remedy the illegal situation, but the moment this had occurred it would be possible for the school system to return to the situation prior to the busing order. Then only if it could be shown that the system is "effectively excluding any person from any school because of race, color, or national origin could the court reissue a busing order. Here again, the burden is on the plaintiffs, who could conceivably be going back and forth to court. Section 919 would be a revolving door which would result in periodic utilization and determination of busing orders. And the educational process would suffer in the confusion.

Section 920 would terminate entirely court desegregation orders once a school system has been found to have a unitary system. It contains no time limits and would permit the lifting of an order the moment a school system can claim to be unitary. This provision is contrary to the practice in other areas where illegal conduct sought to be remedied has ceased. In such areas as antitrust, trade regulation, and voting rights, courts exercise jurisdiction after the illegal conduct that prompted the litigation has been remedied.

Section 920 also would apply whether the schools involved were in the past segregated de jure or de facto. Together, sections 919 and 920 would nullify section 904, which defines as a denial of equal educational opportunity the failure of an educational agency which formerly practiced deliberate segregation—de jure—to take affirmative steps to remove the vestiges of a dual school system. Sections 919 and 920 would require nothing more of a de jure school system than a de facto system. This is inconsistent with section 904.

CONSTITUTIONALITY

Consistency and constitutionality were obviously not criteria in drafting the Esch amendment and amendment No. 1144. Reviewing these measures carefully, I find, as many legal scholars have done, that these amendments are clearly unconstitutional and invite a severe constitutional confrontation. I have discussed, provision by provision, the constitutional questions involved. They are varied and many. In 1972 in the House debate on H.R. 13915, there was a brief but interesting comment that reinforces my contention that these identical measures seek to subvert the Constitution.

Representative Mikva offered an amendment to the bill, which stated:

> The limitations on student transportation contained in this section shall not include any court, department, or agency of the United States from ordering an adequate remedy for denial of equal protection of the laws.

Representative Pucinski argued:

> This amendment totally negates everything we have been doing here all evening.

Mr. President, is that what the House of Representatives really intended to do? Is that what they want for this country? This amendment, to be sure, was voted upon. And what do you think happened? It was defeated 223 to 154, yet the admission it prompted from Representative Pucinski will endure: The intent of that measure and the pending amendment is clear; to deny remedies to violations of the 14th amendment. And this is unconstitutional.

Twenty years ago, Brown I established that State-imposed segregation by race in public schools denies equal protection of the laws under the 14th amendment. To correct such violations, the 14th amendment commands that the discriminating authority take whatever steps are necessary to convert to a racially nondiscriminatory school system. And in Swann, the Supreme Court held that if school authorities fail in fulfilling their affirmative constitutional obligations, "judicial authority may be invoked" and that the Court's power in fashioning effective remedies is broad, for "breadth and flexibility are inherent in equitable remedies."

Busing is but one of many remedies available to school authorities and the courts. But in some instances busing is the only effective remedy for the speedy desegregation plans mandated by the Supreme Court in the Green case.

With 20 million American children riding yellow schoolbuses each day, it is impossible to contradict the Supreme Court's recognition in Swann of busing as an "integral part of the public education system for years" and as a "normal and accepted tool of educational policy." In Swann, the Supreme Court found "no basis for holding that the local school authorities may not be required to employ bus transportation as one tool of desegregation." It added:

> Desegregation plans cannot be limited to the walk-in school.

The Esch amendment and amendment No. 1144 would overrule the principles of Swann, North Carolina State Board of Education against Swann and Brown II, by prohibiting the use of busing in any meaningful manner as a remedial tool for overcoming a constitutional violation.

In North Carolina State Board of Education against Swann, the Supreme Court declared that no State may frustrate the constitutional mandate of the 14th amendment. In declaring North Carolina's antibusing law to be unconstitutional, the Court held:

> If a state-imposed limitation on a school authority's discretion operates to inhibit or obstruct the operation of a unitary school system and impede the disestablishing of a dual school system, it must fall; state policy must give when it operates to hinder vindication of Federal constitutional guarantees.

I contend that Congress has a no less stringent constitutional duty in this regard than any State agency. Yet the Esch amendment and amendment No. 1144 contain the same segregatory mechanism prohibited for school authorities, State legislatures and Governors. These amendments are clearly designed to "impede disestablishment of a dual school system."

For the Senate to adopt such an amendment would be to deny equal protection where a constitutional violation has been found and where busing has been decreed a necessary part of the effective remedy. By stating the implementation of an effective remedy, Congress would be aiding racial discrimination and therefore in violation of the due process clause of the 5th amendment.

Viewed in terms of article III of the Constitution, it is clear that Congress lacks the authority to prevent Federal courts from effectuating a constitutional mandate. While article III authorizes the Congress to regulate the jurisdiction of Federal courts, the Supreme Court has held in Marbury against Madison, away back in 1803, and Martin against Hunter's Lessee, in 1816, that the principle of separation of powers precludes Congress from limiting the authority of the courts in interpreting the Constitution and effecting constitutional rights. In the guise of a jurisdictional statute, Congress cannot deprive a party either of a right created by the Constitution or of any remedy the courts deem essential to enforce that right.

Nor can Congress enact legislation which prescribes a particular result in a case. In United States against Klein, in 1872, the Supreme Court held that the statutory limitation on the Federal courts' jurisdiction, enacted by a Congress anxious to correct what it considered an erroneous line of cases, was unconstitutional:

> "We are directed," said the Court, "to dismiss the appeal, if we find that the judgment must be affirmed. . . . Can we do so without allowing one party to the controversy (the Congress) to decide it in its own favor? Can we do so without allowing that the legislature may prescribe rules of decision to the Judicial Department of government in cases pending before it? We think not . . . we must think that Congress has inadvertently passed the limit which separates the legislative from the judicial power."

The Klein case was decided 4 years after Ex parte McCardle, which upheld an act of Congress depriving the Supreme Court of appellate jurisdiction over lower Federal court decision in habeas corpus cases. But the Court in this case was not sanctioning unrestricted congressional power to deprive it of jurisdiction. Despite the act, which it sustained, the Court still has original habeas corpus jurisdiction as well as power to review lower court habeas corpus decisions by writ of certiorari.

Prof. Alexander Bickel has described the McCardle case as "aberrational" and reads it "as a fairly narrow holding." I agree with his interpretation.

Section 5 of the 14th amendment authorizes Congress to enforce that amendment by "appropriate legislation," yet it provides no basis for sustaining this measure.

Section 5 does not authorize Congress to limit the scope of protection guaranteed by the 14th amendment. Congress may not thwart the purpose of this amendment, which was designed to expand and extend constitutional protection to those who had previously been denied such rights.

In Katzenbach against Morgan, the Supreme Court addressed this point clearly:

> Section five does not grant Congress power to exercise discretion in the other direction and to enact "statutes so as in effect to dilute equal protection and due process decisions of this Court." We emphasize that

> Congress' power under Section five is limited to adopting measures to enforce the guarantees of the amendment; Section five guarantees Congress no power to restrict, abrogate, or dilute these guarantees.

And that is the purpose of this amendment, Mr. President. It would restrict, abrogate, and dilute rights under the 14th amendment—the guarantees of the Constitution.

I referred to this citation earlier in my specific analysis of part C of amendment No. 1144.

But it should be continually cited in our consideration of this amendment. Section 5 cannot be used, as the authors of this measure would seek to use it, either as a means of limiting the scope of equal protection or as a basis for regulating the jurisdiction of the Federal courts. Section 5 concerns only questions of federalism, as I have stated before. The history of section 5 demonstrates this. Senator Howard, who reported the 14th amendment to the Senate from the Joint Committee on Reconstruction, said section 5's purpose was simply—

> To enable Congress, in case the states shall enact laws in conflict with the principles of the amendment, to correct the legislation by formal congressional enactment.

Section 5 was not intended to give Congress greater power than the Federal courts to define constitutional rights.

In its severe restrictions on remedies to a denial of equal protection of the law, this amendment would diminish the scope of the 14th amendment. Therefore, it fails the test of section 5.

Another unsuccessful amendment to H.R. 13915 during the 1972 House consideration of the measure underscored the severe constitutional questions that bill would have raised. Representative STOKES offered a proposed title VII to the measure, which stated:

> Nothing in this Act is intended to be inconsistent with or violative of any provision of the Constitution.

The amendment was defeated by a vote of 197 to 178. Like Representative Pucinski's admission, the rejection of this amendment makes it clear that the obvious unconstitutionality of the bill was of little concern to its proponents in the House, as well as a majority of the House of Representatives.

Since the provisions of the pending amendment are identical to the provisions of H.R. 13915, Mr. President, I must conclude that it is politically inspired. I do not like to use harsh language, but I must when I see men appealing to the wrong instincts in millions of Americans, without any regard for the constitutionality of what they were doing.

In 1972 they were playing for votes on November 7, and nothing more, and it was clearly politics in its worst form. If it were not, certainly the House of Representatives could not conceivably have denied an amendment which stated:

> Nothing in this Act is intended to be inconsistent with or violative of any provision of the Constitution.

How, in good conscience, could they have voted against such a measure if they were not playing sheer politics, without regard to the Constitution and without regard to the safety of this Nation?

Today, we in the Senate must uphold our obligation to the Constitution. And we cannot do so by passing any measure which would remove the only effective remedy for violation of an individual student's constitutional rights; and violate the principle of separation of powers; and of the 5th as well as the 14th amendment.

I call upon my colleagues, many of whom are up for reelection in this election year to stand firm behind our Constitution. In my own Commonwealth of Massachusetts, emotions run high on the question of busing, as they do across the country. But there are some things that are far more important in this land than being elected and reelected, such as upholding the Constitution of the United States and doing what is right under God.

If I am so certain the Supreme Court would eventually strike down this legislation as unconstitutional, why then do I not suggest we enact this measure and allow the courts to proceed? Representative James Scheuer, in his individual views contained in the House Education and Labor Committee's report on H.R. 13915, provided a most compelling and enduring answer to this question:

> As a member of Congress, I took an oath to uphold the Constitution. This oath prevents me from taking any action that I know will jeopardize the delicate balance the Founding Fathers struck between the three branches of government. The Supreme Court is the last bastion against legislative tyranny—a tyranny we experienced during the days of Senator Joseph McCarthy. I cannot take any action which will unnecessarily weaken the Court by politicizing its deliberations and subject it to further emotional and demogogic charges and counter charges for merely exercising its clear responsibilities under the Constitution.

Each of us has taken the same oath and our obligations are clear to uphold, not tear down the Constitution when our citizens find its provisions temporarily uncomfortable.

It is our most compelling obligation to proceed orderly. Yet this amendment would inevitably lead to a devastating constitutional confrontation between the Supreme Court and Congress, which would weaken both branches and undermine the confidence of Americans in our ability to govern. This measure does not confront decisions of the Court which have been narrowly decided. Rather, it seeks to undo a long line of unanimous decisions. The outcome of the confrontation would be clear as to law. The Court and the Constitution would prevail over Congress. But it would be a hollow victory as the Nation proceeded chaotically and found, for however brief a moment, that it was directed once again on a course of separatism.

Who knows how devastating the brief existence of such an act would be on the American people? How can you contemplate the effect of a measure that would have Congress state that because it is not convenient for us to obey the law of the land, we shall change it, though we have no authority to do so?

Do we lack the courage to make clear our constitutional obligation? Are we afraid to tell the people that what some may desire from us, we cannot lawfully deliver? I think they would understand.

I believe that the proponents of this amendment underestimate the reasonableness of those they represent. I have always believed that it is the right and responsibility of a legislator or any leader to educate his constituency, not just to look at the polls. Do we really want government by polls? We have always known that crowds could be whipped up into emotion by orators and that polls could be mere measures of momentary passion. Is it a responsible legislator who only reacts to that poll and finds that some particular subject is unpopular at a particular time in the history of our Nation or of the world?

Changes are constantly taking place in this country and across the world—great, sweeping changes. Right now we are doing things we never would have thought of doing just a year ago today. What was unpopular then may be popular today. What was popular then may be unpopular today. Yet, we have yielded to this emotionalism of busing. We have created a Frankenstein. We have misled the people as to what the real issue is. We have talked about busing for racial balance, when most of those who do the talking know that that is not the real issue before Congress. We have not lived up to our constitutional responsibility.

I would rather be defeated at the polls than to compromise my principles and to undermine the Constitution of the United States. I believe in our Constitution that strongly. I also believe the proponents of this amendment underestimate the reasonableness of those they represent. I think their constituents, fully aware of the provisions of this measure, would oppose it.

The American people, black and white, are weary of division. They long for a respite from turmoil and tension. And I believe they truly desire one Nation indivisible, not two nations apart.

It was my privilege to serve in the Kerner Commission after the riots of 1967. We went to many of the strife-torn cities across the Nation, and we listened to the people. We came back and wrote a report, and we pointed up what was happening in this country: that we were creating a nation divided, a nation with one side black and one side white, separate and unequal; that if we did not change it, we would be confronted sometime down the road with the same situations, if not worse, that tormented our Nation in 1967. It was not the intention of that Commission to throw fear into the American people. It was an objective committee that called the facts as it saw them, reported its findings, and made its recommendations.

Once again, Mr. President, Members of the Congress of the United States seek to drive a wedge between Americans, a wedge which could do more harm and is more dangerous than any wedge we have ever had before.

Mr. President, because I believe in the good will of our people, I shall do all that I can—and I ask my colleagues to do likewise—to educate our people as to the frightening provisions of these amendments, which would turn us away from our earnest quest for one nation united toward an unconstitutional and unconscionable retreat toward two nations "separate but equal." The choice is clear. My faith in our people is strong and my faith in the Senate of the United States is strong. When I made a similar assertion in my remarks of October 10, 1972, I was privileged to yield to Senator Hart, who said:

> Mr. President, the Senator from Massachusetts reminded us of the caution voiced by the Kerner Commission, a Commission which the Senator from Massachusetts graced with great distinction.
>
> Does not the Senator from Massachusetts agree that the caution voiced several years later by the Commission on the Causes and Prevention of Violence also has relevance here. The Commission on Violence described ours as a country which was developing into two nations, the armed and often affluent suburbs and the decaying savage cities.
>
> That is a harsh description and enormously ominous. Is not the Senator from Massachusetts suggesting that it is precisely this division and separation which this bill, whatever the motives of those who seek its enactment, would dig still deeper into and more fatally broaden.
>
> Is this not also a caution and a reminder that should be in the minds of each of us as we are asked in the closing moments, really, of this Senate to act upon a bill which has not even had hearings?

I replied then that I thought the distinguished Senator from Michigan, who has been such a great leader in protecting the Constitution of the United States stated the point well.

I went on to say that I would like to believe that many of those who had voted on this, particularly in the House, had done so, as I had stated earlier, without full knowledge of the assault upon the Constitution of the United States that is contained in this particular measure. I suggested that they had reacted to the high emotionalism in the country, much of which had been created by the proponents of this particular type of legislation—many, I thought out of fear, because of the potential political ramifications or results which could come from an adverse vote on that measure. But as Senator Hart then pointed out, after the Kerner Commission report on the riots of 1967, and then the Commission on Violence report, all agreed we did not have any disagreement. In many of the commissions that have ever met and made reports, the findings have been relatively the same, the causes have been relatively the same. Many of the recommendations have been relatively the same. The fact is that we have not acted upon them, we have not implemented those recommendations, in the main.

Indeed, our sins of omission equal or exceed our sins of commission. And the greatest sin of commission is tempting too many Senators today.

Nineteen months ago I concluded my remarks by saying:

> Therefore, I hope and pray that calm minds will prevail, courageous leadership will prevail, and that those who are concerned about the election results will put this country above their own personal political fortunes.

Mr. President, since my remarks of October 10, 1972, nothing has changed. The Federal courts have consistently upheld the Swann decision. The language of the Esch amendment and its Senate counterpart are unchanged versions of the so-called "Equal Educational Opportunity Act of 1972." Like 1972, this is an even year and the entire House and one-third of the Senate face either retirement or a bid for reelection.

But there are differences. The "Equal Education Opportunity Act of 1972" stood by itself and did not, like earlier and present antidesegregation efforts, threaten a major legislative measure. Today almost every school pupil in the United States is being held hostage to the political anxieties of some of their leaders. The "Education Amendments of 1974" are vital to the well-being of all Americans as they represent an admirable review and revision of our Federal aid to education programs.

In the 19 months that have passed since October 10, 1972, millions of young Americans, black and white, have, under court-ordered, title VI, or voluntary desegregation plans, been learning about, from, and with each other. We must not now divert their education with anxieties, chaos and confusion. We can never return to Plessey against Ferguson. I have lived in this country all of my life and served in many public offices. And I have never seen anything both separate and equal in this Nation.

And if our Nation remains separated by fear, ignorance or malice, America shall never be equal to its great challenges, dreams, and goals.

Mr. President, I shall conclude my remarks today not with remorse, but with determination, hope, and prayer.

To be sure I am critical of those who each election year seek to divide a nation to conquer a few votes. I am critical of those who follow expediency rather than conscience.

I am sorry that they fail to realize people admire conscience and courage above all else.

I am saddened because I know that while the President and Members of Congress pander to the anxieties of some Americans, black and white, they play into the hands of those who seek separatism, thrive on strife, and flourish on divisive rhetoric.

But my determination, hope, and prayers are bolstered by my abiding faith in the American people, who know what is right, to do what is right though it may be painful for some to do so.

We in the Senate know the law. We know it is right. We know it should remain unaltered though it may be painful for some of us to say so.

But let us say and do what is right.

I know we should.

I hope we can.

I pray we shall.

Mr. CASE. Mr. President, the issues we are facing in the Senate in the next few days in connection with various antibusing amendments are not new to the Senate.

Most of the amendments are variations of the so-called Esch amendment that has been approved by the House as part of legislation extending the Elementary and Secondary Education Act.

We faced essentially the same situation in 1972.

In the spring of 1972, the House approved antibusing amendments to the higher education bill. The Senate adopted a modification of these amendments that was offered by the distinguished majority leader, Senator Mansfield, and the distinguished minority leader, Senator Scott. The Scott-Mansfield amendment eventually was accepted by the House and has been the applicable law since that time.

In the fall of 1972, the House approved a separate antibusing bill that was identical to the Esch amendments adopted by the House this year. After three unsuccessful attempts to obtain cloture, the Senate set aside the 1972 House-approved bill and no further action was taken on it.

The heart of the Esch amendment is a provision that would restrict court ordered school busing to provide transportation to the school closest or next closest to the student's place of residence. This limitation would apply even if it prevented application of the only effective remedy for a clear constitutional violation. It would apply even if the distance involved would be less than that involved in other busing for gifted or handicapped children or to consolidate grades. It would apply even if the busing posed no danger to the health or safety of the students and did not interfere with their education.

This provision is being offered as a substitute for the section of S. 1539 that restates the Scott-Mansfield amendment. The Scott-Mansfield provision writes into statutory law the limitations on busing laid down by the Supreme Court in its decision in Swann against Charlotte-Macklenburg Board of Education. These limitations prohibit busing that would endanger the health or safety of a child or that would impinge on the educational process.

I believe the Scott-Mansfield amendment places the emphasis where it should be—on the protection of the child. It permits the use of busing in situations where that is the best tool to accomplish desegregation—but only if it does not endanger the child or his education.

I believe that all desegregation plans and programs, whether or not busing is involved, must not place any children, white or black, in situations in which they would be in danger of personal harm or harassment, or in which they would get an inferior education.

I oppose busing in situations where it hurts children, or where it hurts their education. It is a high quality education for all children that we are all seeking. I believe the Scott-Mansfield amendment accomplishes that objective better than the Esch amendment or modifications of the Esch amendment.

The "next closest school" limitation of the Esch amendment alone provides adequate reason for opposing it. However, the Esch amendment also contains a so-called reopener provision. This would permit reopening of existing desegregation plans to determine whether they comply with the priorities and limits imposed by the other provisions of the Esch amendment.

Any desegregation plan developed under the orders of a Federal court or a Federal administrative agency since the Brown decision of 1954 could be reopened under the Esch amendment, even if the plan involved no busing.

From the beginning, I have been a strong supporter of the decision of the Supreme Court in the Brown case and of the school desegregation progress that has been made as a result of that decision. Clearly, the reopener provision of the Esch amendment would encourage reopening of long healed wounds and would plunge many communities into revived racial bitterness and confusion.

For each of the reasons I have mentioned I plan to vote against the Esch amendment and modifications to it and I hope that the Scott-Mansfield provisions will be retained.

The PRESIDING OFFICER (Mr. Stafford). Pursuant to the previous order, the Senator from Indiana (Mr. Bayh) is now recognized for the purpose of calling up an amendment.

The Senator from Indiana is recognized to call up his amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair would state that the Senator has no time until the amendment has been called up. Does he wish to call up his amendment at this time?

Mr. BAYH. Mr. President, I call up my amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

In lieu of the language proposed to be inserted by the amendment of the Senator from Florida (Mr. Gurney), insert the following:

Sec. 901. (a) Notwithstanding any other provision of law, no court of the United States shall order the implementation of any plan to remedy finding of de jure segregation which involves the transportation of students, unless the court first finds that all alternative remedies are inadequate.

(b) Before implementing any plan proposed by a local education agency to remedy a judicial determination of de jure segregation, the court shall find that such plan minimizes the transportation of students.

Sec. 902. In the formulation of remedies under this Title the lines drawn by a State subdividing its territory into separate school districts, shall not be ignored or altered except where it is established that the lines were drawn, or maintained or crossed for the purpose, and had the effect of segregating children among public schools on the basis of race, color, sex, or national origin, or where it is established that, as a result of discriminatory actions within the school districts, the lines have had the effect of segregating children among public schools on the basis of race, color, sex, or national origin.

Several Senators addressed the Chair.

Mr. JAVITS. Mr. President, I want to tell the Senator from Massachusetts that I consider it a tremendously powerful and historic address. The whole Nation should be deeply grateful to him for having delivered it on this day and in the prevailing atmosphere in our country.

Mr. BROOKE. I appreciate the comments of the Senator from New York.

Mr. HART. Mr. President, I would express to the distinguished Senator from Massachusetts my appreciation for a scholarly and yet very hard-hitting and honest analysis of this amendment. I agree with Senator Brooke on the matter of its unconstitutionality and the factors which are operating in support of it.

Mr. BROOKE. Mr. President, I deeply appreciate the remarks of the Senator from Michigan (Mr. Hart).

Mr. GURNEY. Mr. President, a parliamentary inquiry. As I understand it, time on this amendment is one-half hour to be equally divided. Is the time for the opposition assigned to the Senator from Florida of 15 minutes?

The PRESIDING OFFICER. The time is one-half hour, 15 minutes to a side, but the time is assigned to the manager of the bill and the proponent of the amendment unless he is in favor of the amendment.

Mr. PELL. Mr. President, I yield 10 minutes to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. BAYH. Mr. President, I send to the desk another amendment and ask that it be printed, and would advise the Senate at this time that if the amendment now before the Senate does not succeed in its present form today, and if the Gurney amendment should fail, the Senator from Indiana intends to offer as an amendment to title VIII, section 807 and section 805, which will be identical to the amendment which is presently before the Senate in the form of a substitute.

The PRESIDING OFFICER. The amendment will be received and will be printed.

Mr. BAYH. Mr. President, today's debate is not new to this Chamber. The statements being made here today on the floor of the Senate could well be the echoes of similar debates several times during my more than 11 years as a Member of this body. We have been here before, we have held this debate before, and yet the question never seems to be resolved.

Throughout the busing debates of recent years, I have held to certain constant principles which have provided the basis for my votes on specific amendments and individual issues. Those principles go beyond a single vote, but they are the basis for considering virtually any vote in this area.

First and foremost, we must adhere vigorously to the rule of law. Our Constitution, including court decisions which interpret it, must not be compromised, lest we open the door to lasting and potentially disastrous erosion of our basic freedoms. The very strength of our democracy proceeds from the protections of individual rights, including the right of due process, as embodied in the Constitution and we must resist forcefully any attempt to thwart the Constitution or to destroy the fundamental role of our courts in guaranteeing adherence to the Constitution and the body of statutes which comprise our law.

Second, on the specific matter of providing the children of this country with the best possible education, I have long held a firm commitment to quality education for all Americans. The courts have held that quality education requires integrated education, and as one who has opposed racism and segregation as strongly and vehemently as possible, I respect the Courts' ruling in this regard.

Third, on the crucial issue of busing, I have felt and expressed time and again my feeling that busing of students should be held to an absolute minimum in a manner consistent with the two principles set out above. Busing of schoolchildren does pose a very real hardship on large numbers of students and their families. There are legitimate issues in opposition to busing: Issues regarding the length and safety of massive pupil transportation, issues regarding the increased cost of education, and issues regarding the disruption of local school districts and traditional education programs—including after-school activities.

So I have felt that when it is possible to protect the rule of law, to adhere to the Constitution, to provide quality education, and, at the same time, to hold busing of schoolchildren to an abolute minimum, this must be our objective.

Unfortunately, the amendment offered by the Senator from Florida (Mr. Gurney) not only does violence to the rule of law, it also threatens to disrupt the education of millions of schoolchildren. I oppose this amendment which seeks to return this Nation to separate and unequal societies, divided by race, and permanently subjecting millions of Americans to second-class citizenship. Indeed, I am satisfied that many Americans who, like me, object to unnecessary busing of schoolchildren would oppose this amendment for its cynical and expedient dismissal of the vast progress achieved in the past two decades by providing millions of schoolchildren with quality education without regard to their race.

Specifically, by reopening every case of school desegregation that has been decided since the historic Brown against Board of Education case, which was decided exactly 20 years ago this week, this amendment would force the reconsideration of successful integration in scores of school districts throughout the country. The disruption this would create within our system of education would be enormous, creating great hardship for students, their parents, their teachers, and local school officials.

In addition, by setting an artificial and arbitrary determination that students may not be transported past the second nearest school, this amendment is a carefully calculated attempt to overturn the decisions of our Supreme Court regarding the need to integrate our schools in order that all students, white and black, have quality education. Mr. President, I hope fervently that the Senate will not make itself party to this blatant and unfortunate effort to do violence to the rule of law and adherence to the Constitution. I am convinced the American people will not give their support to such an obvious political retreat from decency and from the principles on which this country is founded.

It is because of my conclusion that the amendment offered by Senator Gurney is clearly unconstitutional that I am offering this substitute. My amendment would retain, as does the modified Gurney amendment, the Scott-Mansfield language contained in the committee bill. When this language was drafted and made part of the Education Act in

1972, there was general agreement that it went about as far in limiting busing as was constitutionally permissible. Scott-Mansfield places the following restrictions on the transportation of students:

First. No provision of the act shall be interpreted to require the assignment or transportation of either students or teachers in order to overcome racial imbalance.

Second. No Federal funds shall be used to transport students or teachers unless local school officials voluntarily set aside money for such purposes.

Third. No Federal funds shall be made available for the purpose of transporting students if the distance involved is so great as to risk the health of students or when it would "significantly impinge" on the education process.

Fourth. No funds shall be used for the transportation of a student to a "substantially inferior" school when that student would otherwise be assigned to another school based on geographic zones established without discrimination, and finally.

Fifth. No Federal funds may be conditioned by any Federal officials on a requirement that any local school board transport students unless such transportation is constitutionally required.

I think it is important for us to recognize, Mr. President, that not only has the Congress placed strict limits on busing, but the courts have also recognized that busing should be as limited as possible. In the leading case of Swann against Charlotte-Mecklenburg Board of Education, the court held that while pupil transportation was one of the many remedies which a lower court could use to overcome the effects of de jure segregation, it should not be used where the time or distance of travel is so great as to risk the health of the children or to impinge on the education process. The court noted that there are other means of remedying the situation including the redrawing of attendance zones, use of cluster techniques, and educational parks which should be tried before moving to busing as a remedy.

The substitute amendment I am offering today would add to the existing Scott-Mansfield restrictions two additional provisions. First, it would require that any court which is considering a plan to remedy a finding of de jure segregation must first specifically find that all alternative techniques have been attempted which do not involve the busing of schoolchildren before any such transportation may be ordered. As a related matter, it would require any local school board which has been directed by a court to propose a plan to remedy a finding of de jure segregation to likewise give first priority to all methods of achieving desegregation which stop short of busing. We should make every effort to avoid busing unless it is absolutely necessary. This part of my amendment would require that both the district courts and the local boards involved in planning remedies to cure prior acts of government which imposed segregation make every effort to minimize or eliminate the transportation of students.

The second part of my amendment deals with what is perhaps the most sensitive aspect of the busing problem—the transportation of students across lines separating individual school districts. I have categorically opposed attempts to ban all busing, since there are situations in which it is the only remedy to injustice. I have also long felt that if you have a finding of de jure segregation on the part of a city school system, it is inequitable to impose on the school districts surrounding that school system the burden of remedying the problems that officials of the city school system have created for themselves, unless it is also found that the districts surrounding the city schools were either established in order to create or preserve segregation or that they have themselves participated in discriminatory activities. Hence, my amendment provides that school district lines may not be crossed for busing unless there is finding that those lines were "drawn, or maintained, or crossed" for the purpose of segregation or there is a finding that "as a result of discriminatory actions within the school districts, the lines have had the effect of segregating children."

Clearly, where students are bussed across school district lines to preserve segregation, no claim as to the inviolability of district divisions should be allowed. Similarly if, in reorganizing, consolidating or changing the boundaries of school districts, a clear racial separation across one or more district lines was intentionally maintained when other logical reorganizations would have desegregated the overall area involved, then, under my amendment, school district lines could be crossed. Finally, if the courts should find that both the city and adjacent school systems have individually practiced segregation, then the ignoring of school district lines would be appropriate. But if none of these acts on the part of school districts lying outside a school district found guilty of segregation can be shown, then my amendment would not permit the school district which had been shown to have practiced segregation to attempt to solve its failings by busing to districts which are innocent of practicing segregation. As important as it is to stop segregation, it does not follow that school districts which have acted responsibly and avoided segregation should be thrust into the position of rectifying the failings of adjacent districts which have practiced segregation.

Mr. President, I am satisfied that my substitute amendment to provide quality education to all schoolchildren with a minimum of busing, as well as protecting the legitimate concerns of school districts which have not been found guilty of practicing segregation, is a positive and responsible response to the issues before us.

This amendment is consistent with the three goals I outlined at the outset of my statement:

Protection of the Constitution, adherence to the rule of law and respect for the proper role of our courts in our democracy.

Provision of quality education to all students, without regard to race.

Avoidance of busing of school children in every instance where it can be avoided without compromising the first two principles.

It seems evident, Mr. President, that this substitute amendment will not meet the blatantly racist goals of the forces that have been mustered in support of the amendment of the Senator from Florida (Mr. GURNEY). It is probably also true that this amendment will not satisfy those who do not share my general dislike of busing.

But I must say to my colleagues, it makes little sense to engage in massive school busing when we have valid and substantial means to achieve quality, integrated education. As I said those means are available; they include educational parks, school pairing, new construction, redrawing of internal boundary lines within school districts and other such remedies.

Mr. President, let me reiterate, the effect of the Gurney amendment goes far beyond limiting school busing. This amendment prevents the use of pupil transportation where it is the only possible alternative which can successfully provide quality education to the children of a community. But it goes further. It would permit reopening the emotional, demagogic, and racially volatile issue of school busing in those communities that have previously dealt successfully with the issue of school integration. This would subject every school board in America that has previously provided quality integrated education to its children to assault from those holding the most base racial attitudes. We must not be put in the position of giving license and support to the worst elements in our society. Those elements are not concerned with quality education for our boys and girls. They seek to play on the latent prejudices and fears of mothers and fathers to promote their own selfish interests. They seek to rekindle these emotions which almost destroyed our country in a long and bloody war between the States. Thousands of Americans have given their lives to wipe out second-class citizenship. Millions of Americans stand ready to reject retreat from our fundamental commitment to equality of opportunity. We in the Senate should be leading the way.

Finally, Mr. President, it is not necessary for this issue to become polarized, leaving the Senate with the choice of condoning unnecessary busing, on the one hand, or, on the other hand, giving its assent to the renewal of separate and unequal school systems, divided along racial lines.

To let ourselves confront such a choice is to ignore the very real alternatives offered by my substitute amendment. I urge its adoption. In accepting this substitute amendment the Senate can speak clearly for those fundamental principles embodied in our Constitution, for quality education and for an avoidance of unnecessary busing when possible. This is where the Senate should be. This is where the country should be.

Mr. GURNEY. Mr. President, I think the most that can be said about the amendment of the Senator from Indiana—which, of course, is in the nature of a substitute for the amendment of the Senator from Florida—is that it is a probusing amendment. This is a fine busing amendment, and this will secure the fact that there will be no antibusing action this year.

Everybody in the Senate knows that the amendment proposed by the Senator from Florida is an exact duplication of the language offered in the House education bill, the so-called Esch amendment, a very carefully drawn antibusing amendment—or, to put it another way, an amendment designed to preserve the neighborhood school system in the United States and to prevent the massive busing which is now going on.

The pending amendment has been carefully drawn to encompass the basic legal decisions that have been made in the field of segregation and antisegregation since the Brown case. All the landmark cases of law on desegregation and antisegregation are carefully preserved in my amendment.

Also, the amendment is carefully drawn in order to permit the students to go to schools that are closest to their neighborhoods, or next closest, and it very carefully sets out remedies for the court to follow in determining whether or not the children shall go to the school closest to them or the school next closest to them.

The amendment offered by the Senator from Indiana, I suppose, could be best termed a very simple amendment, in all the sense of that word. It is a simple amendment. It does not do anything.

It speaks in section 901 (a), the first section, about alternative methods, whether the court finds all alternative remedies to be inadequate. Any careful lawyer who has studied the court decisions on segregation and desegregation and busing in the last 2 years will realize that that means absolutely nothing. The courts have nothing to follow there. The language is meaningless.

In the next section, subsection (b) of section 901, it provides that the court shall find that a plan minimizes the transportation of students. Of course, that does not mean anything, either. It does not mean anything because it does not provide any guidelines; it does not provide any kind of standards for a court to follow. A court can do exactly what it wants to do and follow the same practices, and of course it will follow the same practices it has followed through the years in the busing decrees that are now throughout our land—that is, throughout the Southern part of our country and a few of the Northern States as well.

So it is quite obvious what the plan of action of the opposition is. As a matter of fact, the Senator from Florida has been wondering all day what the opposition is going to do, and now he knows: that is, to offer a very simple pro-busing amendment, a pro-busing amendment by the Senator from Indiana which, of course, would insure that we are going to have all the busing we have had heretofore, which would knock out the very carefully drawn amendment that is in the House bill and that was passed by an overwhelming margin.

Of course, this amendment would prevent the Senate—or may prevent the Senate, depending upon what it wishes to do—from voting on the merits, as to whether they ought to have a neighborhood school bill or continue busing.

Mr. GRIFFIN. Mr. President, will the Senator yield for an observation?

Mr. GURNEY. Yes, I yield to the Senator from Michigan.

Mr. GRIFFIN. It is very interesting that this proposal is offered in the nature of a substitute. May the junior Senator from Michigan direct a question to the Senator from Indiana. Is it the purpose of the Senator to completely knock out the Gurney amendment?

Mr. BAYH. That is the effort.

Mr. GRIFFIN. That is the purpose of the Bayh amendment?

Mr. BAYH. Yes, it is a substitute.

Mr. GRIFFIN. It would absolutely eliminate the Gurney amendment?

Mr. BAYH. I do not agree with the interpretation of the Senator.

Mr. GRIFFIN. I want to be sure we know what the Senator from Indiana is seeking to do with his amendment, which is a substitute for the Gurney amendment.

Mr. BAYH. That is accurate.

Mr. GRIFFIN. It is not additional language; it would completely knock out the Gurney amendment. Is that correct?

Mr. BAYH. The Senator from Indiana said that he is opposed to the Gurney amendment, and that he does not want any part of it, with all respect to the distinguished Senator from Florida.

Mr. GRIFFIN. I just want to establish what is at stake. I wonder if the Senator from Florida would permit me to make a further observation?

Mr. GURNEY. Indeed so.

Mr. GRIFFIN. Of course, if the Senate really wants to do something about the problem of busing, the only way we can really be sure that something will be done is to adopt the so-called Esch amendment, which has already passed the House, and which is now before the Senate—precisely the same language—in the form of an amendment by the Senator from Florida.

Regardless of whether the Bayh amendment sounds like an anti-busing amendment or not, and regardless of whether it would have any effect, the fact is, if we fail to put the Esch language into the Senate bill by adopting the Gurney amendment, the conferees will be free to eliminate in conference not only the Esch amendment but the Bayh amendment as well. Does the Senator from Florida agree?

Mr. GURNEY. Yes, the Senator from Florida certainly thanks the Senator from Michigan for his observation because that is precisely what will be done.

Mr. GRIFFIN. So, those Senators who really seek to do something about busing would be moving in the wrong direction by voting to put a substitute in place of the Gurney amendment. Would the Senator agree?

Mr. GURNEY. Yes, I agree.

Mr. GRIFFIN. If there is merit to the language proposed by the Senator from Indiana it seems to me that he should seek to add it to the Gurney amendment or seek to insert it at another point. But it should not be offered as a substitute.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. GURNEY. I will yield on the time of the Senator from Indiana.

Mr. BAYH. In essence, that has about as much effect as my amendment has because I do not have any time left.

Mr. GURNEY. I see other Senators who wish to discuss the matter. I yield to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. BROCK. Mr. President, I think it should be pointed out that we have been up and down this hill a number of times. Every time we have seen language of this sort submitted to the Senate and it has been passed, we see the fruits of our labors go to conference, and the Senate and the House refuse to do anything about a problem that exists.

The Senator from Indiana has not tried to hide his intention. He has supported an amendment to deal with the problem of busing. This amendment does absolutely nothing to change the situation as it exists, the abuse of our children. This amendment does violence to our efforts to achieve any remedy for the schoolchildren of America.

The courts have asked us time and time again: What is your answer or suggestion if you do not like busing? The Senator from Florida and I, and Members in the House who have voted for this bill, have presented a program. If Senators do not like it come up with something else, but not a device to keep practicing this kind of coercion on the children of this country. That is the effect of the Bayh amendment.

Mr. President, I hope the amendment is rejected.

Mr. GURNEY. I thank the Senator from Tennessee for his observations.

Also I would like to press a point made by the distinguished Senator from Tennessee, the Senator from Michigan, and this Senator that this is a ploy to prevent the Senate from voting up and down on the issue of busing, one of the most stirring issues in the United States today, and, of course, an issue that has been present with us for a number of years.

Those of us who have lived with busing all these years understand the situation.

The PRESIDING OFFICER. The time of the Senator has expired. All time for the proponents has expired. There are 5 minutes remaining to the manager of the bill.

Mr. PELL. I yield the Senator 3 minutes.

Mr. JAVITS. Mr. President, I do not want time myself, but I yield myself one half-minute on the bill to state the following.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. If the arguments are not completed I hope we might yield an equal amount of time from the time on the bill to the Senator from Florida and the Senator from Indiana, and I would suggest 10 minutes each, if that is satisfactory.

The PRESIDING OFFICER. The Senator from Florida is recognized for 3 additional minutes on the time of the Senator from Rhode Island.

Mr. JAVITS. And we yield him 7 minutes on the bill.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. GURNEY. I thank the Senator from New York.

Mr. President, I think the point we must understand here, as I was saying a moment ago, is that this amendment of the Senator from Indiana, in the nature of a substitute, is simply a ploy in order to prevent the Senate of the United States from voting on this all-burning, all-compelling, all-pervasive issue of school busing throughout the United States. I would think this is not a very happy state of affairs. We have been arguing this amendment since 9 o'clock this morning.

The amendment certainly is a worthy one; it is worthy of argument, and it has brought forth good argument by the opponents of the amendment as well as the proponents of the amendment.

But we should be able to vote up and down on a concrete measure that will do something about busing. We should be able to express ourselves on this point so that we can go back and face our constituents in Indiana and in Florida, where there is or is not busing, and say that we are for it or against it. Of course, we have no opportunity to do it at all in this ploy which has been offered by the Senator from Indiana to prevent the Senate from having an up-and-down vote on a very important amendment, carefully fashioned to go into all the facets of busing.

I think it is a shame and not worthy of the Senate that we are now in this sort of a position. We have a good amendment here by those of us who believe busing is not the way to further education or race relations. We think we have an amendment that complies with the leading cases of Brown against Board of Education, and the Swann cases that were the landmark cases that came out of North Carolina, and all the other cases that touched on the question of segregation and desegregation.

What this amendment does is to give the U.S. district courts some guidelines and rules and regulations by which they can make these decisions in cases that come before them on whether school districts will continue to have all kinds of busing. As it is now, they have no rules and regulations. All they have are broad decisions from the Supreme Court. The U.S. Congress has never acted upon the question of busing as a means of desegregation, the question of busing as a means of maintaining or not maintaining the racial balance or imbalance, because we have never set forth any rules and regulations.

But now we have an opportunity. A bill that was offered in the House was passed overwhelmingly and now we have before the Senate the very same measure and the Senate should be able to vote up or down. However, if the Senate votes on this substitute and votes in favor of it, we will have ducked our responsibility once again.

I would hope that the Senate, when it votes upon this at the appropriate time, would realize that the better way to face up to this proposition would be to vote down the Bayh amendment and then vote for or against the Gurney amendment, and express themselves so their constituents back home would understand how they feel about the question of busing.

I yield now to the Senator from Tennessee.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 6 minutes remaining.

Mr. GURNEY. I reserve my time and will let the Senator from Indiana take the floor.

The PRESIDING OFFICER. The Senator from Indiana has 10 minutes. Does he seek recognition?

Mr. BAYH. Mr. President, I listened with great interest to the distinguished Senator from Florida discuss the amendment of the Senator from Indiana and refer to it as a ploy. One of the things I have enjoyed most in my 12 years in the Senate is that individual Members of this body, like individuals throughout our Nation, have the free opportunity to express themselves and have the free opportunity of assessing the relative merits of an issue as they see it. To suggest that this amendment is a ploy is an inaccurate assessment. It is, indeed, an expression of my very strong opposition to the amendment of the Senator from Florida. I have made no bones about that. I am against the proposal of the Senator from Florida for two basic reasons.

First, his amendment says that, even under the most tragic circumstances, even under the most flagrant inequities of de jure segregation, where local officials have contrived to provide second-class educational opportunities for the children of their school districts, they will only go so far in being required to remedy de jure segregation, even if the courts have said they must go further, to provide quality education. Where there is de jure segregation, the court has to make an assessment of how far to go in remedying it. We cannot, sitting here, make that determination.

The second shortcoming of the Gurney amendment is that the amendment would reopen all the cases that have been laid to rest—20 years of past experience, communities that have resolved the problem, provided quality education for poor and rich, black, white and Chicano. All that would be reopened, with all that means, and I think that would be tragic.

I would like to point out to the Senate that my amendment does deal very specifically with a change——

Mr. GURNEY. Mr. President, will the Senator yield?

Mr. BAYH. Some Federal district courts have required cross-district busing.

Mr. GURNEY. Mr. President, will the Senator yield?

Mr. BAYH. If the Senator will permit me, I will be glad to yield to him on the same basis that he was willing to yield to me a moment ago. I shall be glad to discuss the amendment with him. I wish we had an hour instead of a few minutes each, because I know he feels very strongly about it. But as the law is now, if a court finds a school district that is guilty of de jure segregation, it has in some ordered a plan which would bus children back and forth into and among those school districts that may not be guilty of de jure segregation.

Mr. President, I do not have very much patience with a school board that sets about segregating and providing second-class educational opportunities for schoolchildren, but I do not see why those school districts that are not guilty of such acts should have to help pay the price of providing quality education in the offending school districts. My amendment would prohibit that very thing. It says, "If you are guilty, you have to adopt all necessary remedies." But if you are not guilty, then under my amendment you cannot be forced to bear the burden of those who are.

Contrary to what the Senator from Florida (Mr. GURNEY) has said, it seems to me equitable to conclude, "If you are guilty of providing second-class education, then the school district which has so offended has to get right, has to obey the law, has to obey the Constitution." It does not seem equitable to me to say to all the surrounding school districts, "Even if you have not segregated, even if you have not provided second-class education, we are going to make you help the other districts get right." I say to the Senator from Florida that is a significant difference.

I reserve the remainder of my time.

Mr. BROCK. Mr. President, will the Senator yield me 3 minutes?

Mr. GURNEY. I yield 3 minutes to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. BROCK. Mr. President, perhaps the Senator from Indiana does not like the use of the word "ploy." I will use a different word. I think this amendment is a "copout," because, if it passes, it completely eliminates the opportunity for the Senate of the United States to face up to the question the American people have been asking for 3 years, since the Swann case. Time and again we have tried to bring this question before the Senate. The Senator is aware of it. He is chairman of the subcommittee of the Committee on the Judiciary which handles this matter. We cannot get the measure to the floor. We cannot debate the issue. The last time we had an opportunity, as the House voted 2 weeks ago, to do something about the problem of busing, in what the Senator and I may or may not agree was in a responsible fashion, those who opposed any action whatsoever on the question of busing engaged in what is charitably called extended debate, and they talked the bill to death, and we had no occasion or opportunity to vote it up or down.

The Senator from Indiana's amendment would do exactly the same thing, with a different parliamentary device. He would prevent the Senate from addressing the question of how we deal with a problem that does exist—and there is no question that it does exist.

The Senator's own State has suffered from Court-ordered plans. Certainly my State has. I cannot speak for his, but I surely can for mine. The record is replete with examples of absolute tragedy in the lives of the children of my State. I do not see how I can stand before this body or the people of Tennessee and say I am simply not going to take care of something that is so damaging to the lives of the people of my State.

Yet what the Senator from Indiana would ask us to do by voting for his amendment is to refuse to exercise our constitutional responsibility by voting on what we do mean by equality of opportunity.

If the Senator does not like the Gurney amendment, let him offer something that will address the problem, but not offer an amendment which would, if adopted, deny Senators the privilege of voting on the Gurney amendment up or down. That is where I find fault with the amendment. We have been on this route too many times. It is about time that the Senate faced up to its responsibility by voting on the merits of the case.

Mr. GURNEY. Mr. President, I yield 1 minute to the Senator from Rhode Island (Mr. PELL).

Mr. PELL. Mr. President, I have studied the amendment of the Senator from Indiana. What disturbs me is the emphasis on the words "de jure." I remember the discussion on the Stennis amendment and all the wounds that were opened up then, which I had hoped had been laid to rest, and which would be opened up again by the words "de jure." If it were "de jure" and "de facto," it would be different.

For that reason I feel compelled to vote against the amendment.

Mr. BAYH. Mr. President, I would be glad to change it to include all segregation, but the reason the words "de jure" were emphasized is that only de jure segregation has been dealt with by the courts, or by Congress, as far as that is concerned.

Mr. PELL. I think reference to it does open up many wounds that we had hoped were almost healed over.

Mr. GURNEY. Mr. President, I would like to point out that in Indianapolis, one of the principal cities of the State of the author of this amendment, the Court plan would take 20,000 students out of Indianapolis and send them into the suburbs, many miles outside the city, at a cost of many millions of dollars.

In addition, this Court plan proposes to close down a total of 29 elementary and high schools, all under the Supreme Court plan. This amendment, this substitute proposed by the Senator from Indiana, will not do anything to stop that business at all. My amendment will stop that business because what it is designed to do is to preserve neighborhood schools and stop massive busing all around Indianapolis.

I say that this is a probusing amendment. It refuses to allow the Senate to face up to its duty and vote up or down on the question of whether we will have neighborhood schools or will have busing.

I get the message extremely clearly that the Senator from Indiana does not agree with my amendment. However, he has a simple way of expressing himself on that, because he can vote nay on that amendment when it comes up, and allow other Senators to vote as they desire on the amendment yes or no, instead of resorting to this ploy.

I think the Senator from Tennessee used a little better expression when he used the term "copout."

However, this kind of amendment, which has no meaning at all, and is entirely meaningless, is designed to prevent the Senate from voting for a good, broad antibusing, neighborhood school amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Indiana has 5 minutes remaining.

Mr. BAYH. Mr. President, I have great respect for the Senator from Florida. He has great wisdom. However, I suggest to him that he should confine himself to what has happened in the State of Florida, not to what has happened in the State of Indiana.

As a matter of fact, I have spent a good deal of time and studied the problems of Indiana a little more closely than did my friend the Senator from Florida.

I suppose that if I were going to "cop out," as the distinguished Senator from Tennessee calls it, I would vote for the Gurney amendment. That would make many people in Indianapolis happy. That would make the school board happy. They were not opposed to busing when they were busing black children past white schools and white children past black schools. I think that situation is bad whether it is in Florida, Tennessee, or Indiana.

My amendment would apply in the instance of Indianapolis, in the inner city of Indianapolis, the Indianapolis public school system.

All my amendment would do would be to instruct the Indianapolis school board to come up with a plan to provide for integrated schools, a plan that uses as small an amount of busing as possible, and to explore and study the situation with respect to providing a plan that would result in adequate, integrated education.

Mr. MATHIAS. Mr. President, I ask unanimous consent that Colby King, Terry Barnett, and Quincy Rogers, a member of the staff of the Judiciary Committee, be granted the privilege of the floor during the debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I think it is rather obvious what the Senator from Tennessee is after, because I have studied that constitutional amendment that has been advertised around my State and all over the country as being an antibusing amendment.

It does not even contain the word "busing." It does not contain the word "transportation." It goes back to the old segregation system that we fought a civil war to prohibit. Maybe the Senator from Tennessee can support that as an antibusing constitutional amendment.

However, I cannot accept it. Under his plan, nobody would get equal opportunity. The amendment may gain votes for some Senators. Talk about a copout, I am not the one who is copping out.

Mr. BROCK. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Indiana has 2 minutes remaining. There is no other time available.

Does the Senator from Indiana yield back his time?

Mr. BAYH. No; if I have 2 minutes remaining, I will use it. I will use it to suggest that if my voice got a little loud when directed at the Senator from Tennessee or the Senator from Florida, I hope that they will not interpret that as an assault on their integrity or on their desire to do what they think they are accomplishing.

I happen to think that their amendment is designed not to stop busing, but to give the school boards the tools to take us back 100 years.

I do not want separate-but-equal anything.

Mr. GURNEY. Mr. President, will the Senator yield?

Mr. BAYH. Mr. President, I yield to the Senator from Florida.

Mr. GURNEY. Mr. President, I certainly did not think that the Senator from Indiana was assaulting my integrity. I did think that he was assaulting my amendment.

Mr. BAYH. The Senator from Florida is exactly right.

The PRESIDING OFFICER. The question now recurs on the amendment.

Mr. BAYH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? (Putting the question.) There is not a sufficient second.

The yeas and nays were not ordered.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Indiana (Mr. BAYH).

Mr. BAYH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAYH. Mr. President, in the unanimous consent request, was this amendment not located, as far as a vote is concerned, just prior to the vote on the Gurney amendment, to take place at 5 o'clock?

The PRESIDING OFFICER. The Senator is correct.

Mr. GURNEY. Mr. President, as I recall, we attempted to work out a unanimous-consent request. However, I do not think that we ever did. Is that correct?

The PRESIDING OFFICER. The Chair is advised that there is a unanimous-consent agreement.

The question now recurs on the amendment of the Senator from Florida. Who yields time?

Mr. ERVIN. Mr. President, I was under the impression that I was going to be permitted to have some time on my amendment at this time.

The PRESIDING OFFICER. The Chair will advise the Senator from North Carolina that he understands that by previous order the amendment of the Senator from North Carolina will be called up at 4 o'clock.

Mr. GURNEY. Mr. President, I yield 2 minutes to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 2 minutes.

Mr. BROCK. Mr. President, I may ask the Senator from Florida for some additional time.

Mr. GURNEY. Mr. President, I will yield the Senator from Tennessee 5 minutes.

Mr. BROCK. Mr. President, I thank the Senator from Florida.

Mr. President, I am not going to spend any time debating the constitutional amendment. However, I find it interesting to note how the Senator from Indiana reads the English language when he says that we are trying to reverse the history of the country and go back 100 years.

I think it is an amendment that says very simply that no child shall be denied an opportunity to attend his neighborhood school, in effect, on the basis of race, creed, or color. I thought that was what the Supreme Court did in 1954. I thought that was what we were trying to do ever since.

Mr. President, the problem of busing as presently implemented has an explicit racial character. We cannot put a child on a bus without determining his color. And the direction of the bus is determined by whether or not a child is black or white. That is discrimination. That is racial discrimination. That is a violation of the law by any definition of what I think the Constitution clearly states, unless color blindness is involved.

I think the reason I am so distressed by the amendment of the Senator from Indiana is that we have been trying so long and so diligently, Republican and Democrat, to bring to the floor of the Senate a debate on the subject of equality of opportunity for all the children of this land. I know some have been reluctant to engage this issue because of the emotionalism involved in such words as "court-ordered busing". Yet, throughout my part of the country and in other sections as well, pupil attendance in major metropolitan areas continues to decline as does parental support of public education.

We have had a fall-off of membership in the PTA's of Nashville from 50,000 to 30,000 since 1970. When you have that kind of a situation, and when you have a rapid decline in pupil attendance, the issue cannot be avoided. It must be faced and faced now in a constructive way. I know there are those who feel that busing is the sole cause of declining attendance and parental support. Certainly this is a major factor, but it is not the only one. Others have felt that any effort to limit forced busing would be a step backward in the fight for civil rights. I wonder if either side is truly addressing the issue. To me, the basic question is whether or not we are prepared to commit ourselves to the quality and equality of education for all children, black and white, rich and poor, North and South.

Nearly 2 years ago, out of a sense of sheer frustration, I introduced Senate Joint Resolution 14, a constitutional amendment to forbid the assignment of children to a particular school on the basis of race, color, or creed. It has become painfully obvious that my amendment faces obstacles, and the two-thirds vote necessary for passage probably is not yet there. During these 2 years parents have pleaded for relief, children have been abused, the courts have asked Congress to establish priorities for arriving at equality of opportunity, and yet nothing has been done.

Now, I say to my distinguished colleagues that I hope that we finally have the guts to face up to this issue.

For much too long the Congress has been sitting back and allowing the busing of children across town, out of their neighborhoods, in the name of achieving a racial balance. The House took a positive step. Now we must do the same.

One would have to live through it to understand the problems and difficulties that this type of busing that we have today has caused to entire families, and entire communities. I fear that many of my colleagues simply have not seen this first hand. It is disappointing that congressional hearings could not have been held in all of the cities affected by court ordered busing. The view is much different there than here in Washington.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BROCK. Will the Senator from Florida yield me 3 additional minutes?

Mr. GURNEY. I yield the Senator 3 more minutes.

Mr. BROCK. Two years ago, the Senate refused to face up to this issue. Similar legislation to that which we are considering was killed by a filibuster, and the merits of court ordered busing were not even discussed even though the Supreme Court had almost begged the Congress for guidelines.

Since that time, the climate has changed, and the people in my State of Tennessee are sick to death with busing and they want, they demand action.

The greatest part of this legislation which we are considering is that it will provide alternatives. It states that racial segregation of school children must not be remedied by busing unless certain alternatives have proved ineffective. This is the key. This is the step we have been looking for. This is what thousands of parents and children have wanted—an alternative.

We have stood by for much too long while our citizens have cried out for help. They have not asked the impossible. They have not asked to go back to the old days, where busing was used for segregation, because what was wrong then is wrong now, for the same reasons. All they have wanted is something that can give them an alternative.

This measure will go a long way toward doing just that. This measure will help restore our neighborhood school concept which is one of the main areas of deterioration with forced busing.

There are many guidelines connected with this legislation, but I think for once we have something that stands a chance of passage, and added to that, something that can benefit the families and children of Tennessee who have suffered the inconveniences and difficulties of forced busing.

It has been too long since we seriously considered what forced busing has done to our schools and our way of life. Now is the time to take action, and I hope the Senate will act favorably on this measure and let us find some reasonable alternatives now, once and for all, to the busing of our school children to achieve a racial balance. Let us for once remember our families, and our total educational standards.

Every American deserves a right to a good education. We must now formulate that good education with programs which will offer every person, every child, black or white, rich or poor, the quality and equality of education that he richly deserves.

I thank the Senator from Florida for yielding, and I am delighted to have the privilege of cosponsoring this amendment, because I think it is a responsible step toward restoring equity and equality to all of our children.

Mr. JOHNSTON. Mr. President, will the Senator from Florida yield?

Mr. GURNEY. I yield to the Senator from Louisiana.

Mr. JOHNSTON. I thank the Senator for yielding. I have a rather important point, I think, that I would like to clear up in my mind, relative to the conditions necessary to reopen proceedings under section 818 of the amendment. Section 818, of course, authorizes the reopening of cases in order to comply with the provisions of this title.

As I read the amendment, it is in four parts: part A, policy and purpose, part B, unlawful practices, part C, enforcement, and part D, remedies.

As I read not only the language of the amendment but the intent of the amendment, it is actually a measure to correct unlawful practices, that is to say, a denial of equal educational opportunity, and the necessary trigger for reopening of cases would be a denial of educational opportunity.

Does the Senator understand the question, and if so, is that correct?

Mr. GURNEY. Yes, I would think that that would be a good way to describe it.

Mr. JOHNSTON. So that, for example, if a segregated school system were sued 10 years ago, and a court ordered remedy was fixed, fashioned, and implemented so as to extirpate any unlawful discrimination, so as to do away with any denial of equal educational opportunities as those are defined in part B of the amendment, and if there was no denial of such equal educational opportunities, then it would not be possible, under section 818 of the bill, to modify that court order, even though it might involve busing, is that correct?

Mr. GURNEY. I am not sure I exactly understand the question posed by the Senator. Could he clarify it a little more for me?

Mr. JOHNSTON. Yes. To go into a little more detail, part B of the amendment defines unlawful practices.

Mr. GURNEY. Yes.

Mr. JOHNSTON. Nowhere in that list of unlawful practices is cross-town busing included. Unlawful practices are, generally, the denial of equal educational opportunity. Are we together so far?

Mr. GURNEY. Yes.

Mr. JOHNSTON. All right. Part B deals with enforcement, and talks about civil actions and other kinds of actions, and the trigger for any kind of enforcement in sections 807 through 811, inclusive, is a denial of equal educational opportunity. Are we together so far?

Mr. GURNEY. Yes, I think I follow the Senator.

Mr. JOHNSTON. All right. Now, the important part here is part D, dealing with remedies, and the key provision there is section 814, which states that in formulating "a remedy for a denial of equal educational opportunity" the courts must do a certain list of things, seven in number, in a certain order, again dealing with the denial of equal educational opportunity.

Mr. GURNEY. Yes.

Mr. JOHNSTON. Are we still together?

Mr. GURNEY. Yes.

Mr. JOHNSTON. All right. Then we come to section 818, which states that on application of an educational agency, et cetera, the case shall be reopened and modified to comply with the provisions in this title.

Mr. GURNEY. Yes.

Mr. JOHNSTON. The point is that the provisions of this title dealing with denial of equal educational opportunity and the title does not prohibit busing but simply prohibits busing as a remedy for denial of equal educational opportunity, the point being that a denial of equal educational opportunity, as those terms are defined in part B of the bill, is a necessary trigger for any modification undertaken pursuant to section 818——

The PRESIDING OFFICER (Mr. Helms). The hour of 4 o'clock having arrived, under the previous order, the distinguished Senator from North Carolina (Mr. Ervin) is recognized to call up his amendment to the Gurney amendment.

Mr. JOHNSTON. Mr. President, will the Senator from North Carolina yield me just 1 minute?

Mr. ERVIN. I hate not to yield 1 minute, but——

Mr. JOHNSTON. I asked a question of the Senator and he is ready to say yes or no.

Mr. ERVIN. I yield long enough for the Senator to say yes or no.

Mr. GURNEY. As I understand it, yes. This is one of the things which is designed and will serve as a basis for reopening the proceeding.

AMENDMENT NO. 1239

Mr. ERVIN. Mr. President, with the cosponsorship of Senators Allen, Talmadge, and McClellan, and my colleague Mr. Helms, I offer an amendment No. 1239 and ask unanimous consent that it be voted on immediately after the vote on the Gurney amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ERVIN. Mr. President, the constitutional provisions which relate to this matter are found in the 14th amendment, section 1, which provides, among other things, that:

> No State shall . . . deny to any person within its jurisdiction the equal protection of the laws.

Section 5 of the 14th amendment states that:

> The Congress shall have power to enforce, by appropriate legislation, the provisions of this Article.

Mr. President, the amendment which my cosponsors and I now offer is in perfect harmony with the Constitution. The equal protection clause is the simplest clause in the Constitution. It merely says to a State,

> You must treat all persons in like circumstances in a like manner.

This amendment is fundamentally an amendment which provides that where there is a school board that establishes a freedom of choice plan, the Federal Government will have no power to interfere in that school district. It recognizes that a freedom of choice plan is the most perfect example of a plan which treats all children, of all races, equally.

Mr. President, I ask unanimous consent that a copy of the amendment be printed in the Record.

There being no objection, the text of amendment No. 1239 was ordered to be printed in the Record, as follows:

TITLE IX—PUBLIC SCHOOL—FREEDOM OF CHOICE

SHORT TITLE

Sec. 901. That this title may be cited as the "Student Freedom of Choice Act".

FREEDOM OF CHOICE AMENDMENT TO THE CIVIL RIGHTS ACT OF 1964

Sec. 902. The Civil Rights Act of 1964 (42 U.S.C. 1971–1975a–1975d, 2000a–2000h–6) is amended by adding at the end thereof the following new title:

"TITLE XII—PUBLIC SCHOOL—FREEDOM OF CHOICE

"Sec. 1201. As used in this title—

"(a) 'State' means any State, district, Commonwealth, territory, or possession of the United States.

"(b) 'Public school' means any elementary or secondary educational institution, which is operated by a State, subdivision of a State, or governmental agency within a State, or any elementary or secondary educational institution which is operated, in whole or in part, from or through the use of governmental funds or property, or funds or property derived from a governmental source.

"(c) 'School board' means any agency which administers a system of one or more public schools and any other agency which is responsible for the assignment of students to or within such system.

"(d) 'Student' means any person required or permitted by State law to attend a public school for the purpose of receiving instruction.

"(e) 'Parent' means any parent, adoptive parent, guardian, or legal or actual custodian of a student.

"(f) 'Faculty' means the administrative and teaching force of a public school system or a public school.

"(g) 'Freedom of choice system' means a system for the assignment of students to public schools and within public schools maintained by a school board operating a system of public schools in which the public schools and the classes it operates are open to students of all races and in which the students are granted the freedom to attend public schools and classes chosen by their respective parents from among the public schools and classes available for the instruction of students of their ages and educational standings.

"Sec. 1202. No department, agency, officer, or employee of the United States empowered to extend Federal financial assistance to any program or activity at any public school by way of grant, loan, or otherwise shall withhold, or threaten to withhold, such financial assistance from any such program or activity on account of the racial composition of the student body at any public school or in any class at any public school in any case whatever where the school board operating such public school or class maintains, with respect to such school and class, a freedom of choice system.

"Sec. 1203. No department, agency, officer, or employee of the United States empowered to extend Federal financial assistance to any program or activity at any public school by way of grant, loan, or otherwise shall withhold, or threaten to withhold, any such Federal financial assistance from any such program or activity at such public school to coerce or induce the school board operating such public school to transport students from such public school to any other public school for the purpose of altering in any way the racial composition of the student body at such public school or any other public school where the school board operating such public schools maintains with respect to such schools a freedom of choice system.

"Sec. 1204. No department, agency, officer, or employee of the United States empowered to extend Federal financial assistance to any program or activity at any public school in any public school system by way of grant, loan, or otherwise shall withhold or threaten to withhold any such Federal financial assistance from any such program or activity at such public school to coerce or induce any school board operating such public school system to close any public school, and transfer the students from it to another public school for the purpose of altering in any way the racial composition of the student body at any public school where the school board operating such public schools maintains with respect to such schools a freedom of choice system.

"Sec. 1205. No department, agency, officer, or employee of the United States empowered to extend Federal financial assistance to any program or activity at any public school in any public school system by way of grant, loan, or otherwise shall withhold or threaten to withhold any such Federal financial assistance from any such program or activity at such public school to coerce or induce the school board operating such public school system to transfer any member of any public school faculty from the public school in which the member of the faculty contracts to serve to some other public school for the purpose of altering the racial composition of the faculty at any public school where the school board operating such public schools maintains with respect to such schools a freedom of choice system.

"Sec. 1206. Whenever any department, agency, officer, or employee of the United States violates or threatens to violate section 1202, section 1203, section 1204, or section 1205 of this Act, the school board aggrieved by the violation or threatened violation, or the parent of any student affected or to be affected by the violation or threatened violation, or any student affected or to be affected by the violation or threatened violation, or any member of any faculty affected or to be affected by the violation or threatened violation may bring a civil action against the United States in a district court of the United States complaining of the violation or threatened violation. The district courts of the United States shall have jurisdiction to try and determine a civil action brought under this section irrespective of the amount in controversy and enter such judgment or issue such order as may be necessary or appropriate to redress the violation or prevent the threatened violation. Any civil action against the United States under this section may be brought in the judicial district in which the school board aggrieved by the violation or threatened violation has its principal office, or the judicial district in which any school affected or to be affected by the violation or threatened violation is located, or in the judicial district in which a parent of a student affected or to be affected by the violation or threatened violation resides, or in the judicial district in which a student affected or to be affected by the violation or threatened violation resides, or in the judicial district in which a member of a faculty affected or to be affected by the violation or threatened violation resides, or in the judicial district encompassing the District of Columbia. The United States hereby expressly consents to be sued in any civil action authorized by this section, and expressly agrees that any judgment entered or order issued in any such civil action shall be binding on the United States and its offending department, agency, officer, or employee, subject to the right of the United States to secure an appellate review of the judgment or order by appeal or certiorari as is provided by law with respect to judgments or orders entered against the United States in other civil actions in which the United States is a defendant.

SEC. 1207. No court of the United States shall have jurisdiction to make any decision, enter any judgment, or issue any order requiring any school board to make any change in the racial composition of the student body at any public school or in any class at any public school to which students are assigned in conformity with a freedom of choice system, or requiring any school board to transport any students from one public school to another public school or from one place to another place or from one school district to another school district in order to effect a change in the racial composition of the student body at any school or place or in any school district, or denying to any student the right or privilege of attending any public school or class at any public school chosen by the parent of such student in conformity with a freedom of choice system, or requiring any school board to close any school and transfer the students from the closed school to any other school for the purpose of altering the racial composition of the student body at any public school, or precluding any school board from carrying into effect any provision of any contract between it and any member of the faculty of any public school it operates specifying the public school where the member of the faculty is to perform his or her duties under the contract."

Mr. ERVIN. Mr. President, I also ask unanimous consent that a statement prepared by me explaining the amendment be printed in the RECORD.

There being no objection, the explanation was ordered to be printed in the RECORD, as follows:

EXPLANATION OF SENATOR ERVIN'S "ANTI-BUSING" AMENDMENT

Senator Ervin's amendment is exactly the same as S. 1737, introduced in this Congress by Senator Ervin and others and on which Subcommittee hearings were held in February, 1974.

Section 1201(g) provides that "freedom of choice" means "a system for the assignment of students to public schools and within public schools maintained by a school board operating a system of public schools in which the public schools and the classes it operates are open to students of all races and in which the students are granted the freedom to attend public schools and classes chosen by their respective parents from among the public schools and classes available for the instruction of students of their ages and educational standings."

Sections 1202, 1203, 1204, and 1205 of the bill forbid the Department of Health, Education, and Welfare to do any of these things:

1. To withhold, or threaten to withhold, federal financial assistance from any public school operating under a freedom of choice plan "on account of the racial composition of its student body."
2. To withhold, or threaten to withhold, federal financial assistance from any public school operating under a freedom of choice plan to coerce or induce the school board operating such public school to transport students from such public school to any other public school for the purpose of altering in any way the racial composition of the student body at such public school or any other public school.
3. To withhold, or threaten to withhold, federal financial assistance from any school board operating a freedom of choice system to coerce or induce the school board to close any public school and transfer the students from such public school to any other public school or schools for the purpose of altering the racial composition of the student body at any public school.
4. To withhold, or threaten to withhold, federal financial assistance from any school board operating a freedom of choice system to coerce or induce the school board to transfer any member of any faculty from the public school in which the member of the faculty contracts to serve to some other public school for the purpose of altering the racial composition of the faculty at any public school.

Section 1206 of the bill empowers any school board or any parent of any student affected or to be affected by any violation or threatened violation of any of the provisions of sections 1202, 1203, 1204, and 1205 to sue the United States in the District Court of the United States, and obtain such relief "as may be necessary or appropriate to redress the violation or prevent the threatened violation."

Section 1207 specifies that "No court of the United States shall have jurisdiction to make any decision, enter any judgment, or issue any order requiring any school board to make any change in the racial composition of the student body at any public school or in any class at any public school to which students are assigned in conformity with a freedom of choice system as defined in Section 1201(g) of this Act, or requiring any school board to transport any students from one public school to another public school or from one place to another place or from one school district to another school district in order to effect a change in the racial composition of the student body at any school or place or in any school district, or denying to any student the right or privilege of attending any public school or class at any public school chosen by the parent of such student in conformity with a freedom of choice system as defined in section 1201(g) of this Act, or requiring any school board to close any school and transfer any students from the closed school to any other school for the purpose of altering the racial composition of the student body at any public school, or precluding any school board from carrying into effect any provision of any contract between it and any member of the faculty of any public school it operates specifying the public school where the member of the faculty is to perform his or her duties under the contract."

Section 7 is sanctioned by Article III of the Constitution which empowers Congress to regulate the appellate jurisdiction of the Supreme Court and both the original and appellate jurisdiction of all federal courts inferior to the Supreme Court.

The bill is in perfect accord with the Constitution. Moreover, it makes a substantial contribution to the constitutional ideals that all Americans of all races shall be members of a free society and that none of them shall be the hapless and helpless subjects of judicial or bureaucratic oligarchies.

The bill is designed to accomplish these things by restoring freedom of choice to its rightful place in the law of the land, and by placing certain prohibitions upon federal judges and executive officials with respect to the busing of children, the closing of schools, and the assignment of members of the faculties of public schools to schools other than those in which they contract to teach.

Mr. ERVIN. Mr. President, when the case of Swann versus Charlotte-Mecklenburg Board of Education was before the Supreme Court, I prepared a brief at the instance of the Classroom Teachers' Association of Charlotte and Mecklenburg County. I filed this brief as a friend of the court in conjunction with the distinguished Senator from South Carolina (Mr. HOLLINGS) and with the distinguished former Representative from my State, Mr. Charles R. Jonas.

This brief sets forth all the relevant decisions relating to this question of the busing of schoolchildren. The Federal courts have taken charge of the public schools and are acting as school boards, and the HEW bureaucrats have done the same. For these reasons I ask unanimous consent that the brief be printed in the RECORD.

There being no objection, the brief was ordered to be printed in the RECORD, as follows:

[In the Supreme Court of the United States,
October Term, 1970]

AMICUS CURIAE BRIEF FOR THE CLASSROOM TEACHERS' ASSOCIATION OF THE CHARLOTTE-MECKLENBURG SCHOOL SYSTEM, INCORPORATED

(No. 281, James E. Swann, et al., *Petitioners*, Charlotte-Mecklenburg Board of Education, et al.; No. 349, Charlotte-Mecklenburg Board of Education, et al., *Petitioners*, v. James E. Swann, et al., on writ of certiorari to the U.S. Court of Appeals for the Fourth Circuit)

INTEREST OF THE AMICUS CURIAE

The Classroom Teachers' Association of the Charlotte Mecklenburg School System, Incorporated, is a non-profit membership organization in corporate form, which includes in its membership a substantial part of the 3,553 classroom teachers in the Charlotte-Mecklenburg School System and which devotes itself to the advancement of public education. The specific objectives of the organization and its members are to promote the interests of classroom teachers in the Charlotte-Mecklenburg School System, and to secure to the students attending the schools of the System opportunities to achieve by quality education their highest potentialities.

The Classroom Teachers' Association of the Charlotte-Mecklenburg School System and its members believe that the execution of the order of the United States District Court for the Western District of North Carolina and the judgment of the United States Circuit Court for the Fourth Circuit affirming such order in part seriously impair the educational opportunities offered by the Charlotte-Mecklenburg School System to the students in its schools, and for this reason the organization files this amicus curiae brief in support of the position of the Charlotte-Mecklenburg Board of Education, which harmonizes with this view.

The parties to the proceedings in Nos. 281

and 349 have consented in writing to the filing of this brief, and the writings evidencing such consent have been filed with the Clerk.

The members of the Supreme Court bar who submit this brief in behalf of the organization do so without compensation in the hope that they may aid the Supreme Court to reach a decision which will restore tranquility to much troubled areas of our land and enable the public schools operating in them to function economically and efficiently as educational institutions.

OPINIONS BELOW

The opinion of the Court below consists of the opinion and judgment of the United States Court of Appeals filed May 26, 1970, which are not yet reported and which appear in the Appendix (Volume 3, pages 1262a to 1304a).

In its opinion and judgment, the Court of Appeals reviewed and approved in part and remanded in part for further consideration the rulings and findings made by the United States District Court in the following orders and documents:

1. Order dated February 5, 1970 (819a–839 a), as amended, corrected, and clarified on March 3, 1970 (921a).
2. Supplementary Findings of Fact dated March 21, 1970 (1198a–1220a).
3. Supplemental Memorandum dated March 21, 1970 (1221a–1238a).

JURISDICTION

The Supreme Court has jurisdiction to review this case by writ of certiorari under 28 U.S.C. 1254(1), and has accepted it for such purpose by granting writs to the petitioners in No. 281 and the petitioners in No. 349.

QUESTIONS PRESENTED FOR REVIEW

This case presents the following questions for review:

1. Does a public school board comply with the Equal Protection Clause of the Fourteenth Amendment when it creates non-discriminatory attendance districts or zones and assigns all children, black and white, to neighborhood schools in the district or zone in which they reside without regard to their race?

2. Does the Equal Protection Clause of the Fourteenth Amendment empower a federal court to order a public school board to assign children to the schools it operates to balance the student bodies in such schools racially or to bus children outside of non-discriminatory attendance districts or zones to effect such purpose?

3. Does Title IV of the Civil Rights Act of 1964, which prohibits the assignment of students to public schools to balance the student bodies in such schools racially and to bus them from some schools to other schools or from some school districts to other school districts to effect such purpose, constitute appropriate legislation to enforce the Equal Protection Clause within the purview of the Fifth Section of the Fourteenth Amendment?

4. Does the order entered by the District Court and affirmed in part by the Circuit Court usurp and exercise the authority of the Charlotte-Mecklenburg Board of Education to devise and implement a non-discriminatory assignment plan conforming to the Equal Protection Clause, and require the Charlotte-Mecklenburg Board of Education to violate the Equal Protection Clause by treating in a different manner students similarly situated and by denying students admission to their neighborhood schools because of their race?

The amicus curiae insists that the first, third, and fourth questions must be answered in the affirmative and that the second question must be answered in the negative.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The case involves the first and second sections of the Fourteenth Amendment; the first and second sections of Article III of the Constitution; and Title IV of the Civil Rights Act of 1964. These constitutional and statutory provisions are printed in the Appendix.

STATEMENT OF THE CASE

A. The Charlotte-Mecklenburg Public School System

The writ in No. 281 and the writ in No. 349 present to the Supreme Court for review the judgment entered by the United States Court of Appeals for the Fourth Circuit on May 26, 1970, in the civil action entitled James E. Swann and others, Plaintiffs, v. Charlotte-Mecklenburg Board of Education and others, Defendants. For ease of narration and understanding, James E. Swann and his associates in this litigation are hereafter called the plaintiffs, and the Charlotte-Mecklenburg Board of Education is hereafter designated as the School Board.

The School Board operates the Charlotte-Mecklenburg Public School System in Charlotte and Mecklenburg County, North Carolina, political subdivisions of North Carolina. Charlotte, which is the county seat of Mecklenburg County, is inhabited by 239,056 persons who are concentrated within the 64 square miles embraced by its city limits, an area larger than the District of Columbia. Mecklenburg County embraces 550 square miles, has an east-west span of 26 miles, a north-south span of 36 miles, and has a population of 352,006, exclusive of those residing within the area embraced by Charlotte.

In the discharge of its state-assigned duties, the School Board operates 10 high schools, 21 junior high schools, and 72 elementary schools to house and instruct the 84,500 school children residing in Charlotte and Mecklenburg County. Of these school children, 24,000, or 29 percent, are black, and 60,500, or 71 percent, are white. Approximately 95 percent of all the black children who reside within the limits of the City of Charlotte live in predominantly black residential sections in northwest Charlotte, and a substantial portion of the other black children in Mecklenburg County reside in predominently black residential areas adjacent to it. (293a–298a).

Prior to *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954), the School Board operated the public schools of Charlotte and Mecklenburg County as racially segregated schools in conformity with the interpretation then placed upon the Equal Protection Clause of the Fourteenth Amendment. Subsequent to the *Brown Case* and prior to 1965, the School Board established an effective system of determining admission to its public schools on a non-racial basis. It did this, and thus converted its formerly dual system into a unitary system by establishing non-discriminatory attendance districts or zones, and assigning the school children subject to its jurisdiction to their neighborhood schools irrespective of race.

Inasmuch as some of the attendance districts or zones in rural Mecklenburg County and some of its suburban residential districts or zones in or adjacent to Charlotte are extremely large, the School Board voluntarily established a transportation system for the sole purpose of carrying children residing in these geographically large districts or zones to the nearest available schools. As a consequence, it now uses 280 buses to bus some 23,000 school children to rural and suburban schools. (864a)

In 1965 the plaintiffs brought the instant action against the School Board in the United States Court for the Western District of North Carolina seeking to obtain a compulsory desegregation decree. After hearing the evidence in the case, the District Court found that the School Board had complied with the requirement of the Equal Protection Clause and denied the decree sought by them. *Swann* v. *Charlotte-Mecklenburg Board of Education*, 243 F.Supp. 687 (1965). This ruling was affirmed by the Circuit Court. *Swann* v. *Charlotte-Mecklenburg Board of Education*, 369 F.2d 29 (1966).

B. The plan submitted by the Charlotte-Mecklenburg Board of Education

Subsequent to the decision of *Green* v. *County School Board of New Kent County*, 391 U.S. 430 (1968), the plaintiffs filed a motion in the cause seeking further desegregation. (2a)

Although it found as a fact that the "location of schools in Charlotte has followed the local pattern of residential development, including its de facto patterns of segregation" (305a), and that the School Board members "have achieved a degree and volume of desegregation of schools apparently unsurpassed in these parts and have exceeded the performance of any school boards whose actions have been reviewed in the appellate court decisions" (311a–312a), the District Court resumed hearings in the case on the ground that the *Green Case* had changed "the rules of the game." (312a)

It is to be noted that subsequently the District Court on its own motion reversed its previous findings that any racial imbalance in the Charlotte-Mecklenburg public schools was the result of de facto segregation by asserting that "there is so much State action imbedded in and shaping these events that the resulting segregation is not innocent or 'de facto' and the resulting schools are not 'unitary' or 'desegregated'." (662a) The amicus curiae submits with all due deference that there is no testimony in the record to sustain this particular finding.

Pursuant to the orders entered by the District Court on April 23, 1969 (285a), June 20, 1969 (448a), August 15, 1969 (579a), and December 1, 1969 (698a), the School Board filed desegregation plans (330a, 480a, 670a) which were rejected by the District Court.

Meanwhile on December 2, 1969, the Court appointed Dr. John Finger, a resident of Rhode Island, as a special consultant to devise a desegregation plan for the guidance of the Court, (819a) Dr. Finger had originally entered the case as a partisan witness for the plaintiffs, and for this reason a good case can be made for the proposition that he lacked the impartiality which is desirable in one selected for the task of assisting a judge in keeping the scales of justice evenly balanced between adverse litigants. (1279a)

While the District Court orders and the School Board plans mentioned above shed light on the School Board's devotion to the neighborhood school concept, and its reluctance as an elected public body to engage in excessive and expensive busing of school children, the subsequent School Board plan of February 5, 1970, and the subsequent District Court order of February 5, 1970, relating to it really illuminate the issues which now confront the Supreme Court. (726a–748a, 819a–839a).

By this plan, the School Board proposed that attendance districts or zones should be drastically gerrymandered in such a manner as to include as many blacks as possible in each district or zone, and that, all school children subject to its jurisdiction should be required to attend the school appropriate to their educational standings in the district or zone of their residence. The plan would have accomplished a racial mixture of school children in all of the 102 schools in the system, except three elementary white schools located in neighborhoods inhabited exclusively by members of the white race. (726a–748a).

The School Board plan contemplated that from 17 percent to 36 percent of the student body in nine of the ten senior high schools in the system would be black; that not more than 38 percent of the student body in 20 of the 21 junior high schools in the system would be black; and that not more than 40 percent of the student body in 60 of the 72 elementary schools in the system would be black.

Under the School Board plan, the remaining high school, Independence High, would be 2 percent black and 98 percent white; the remaining junior high school, Piedmont Junior High, would be 90 percent black and 10 percent white; and all of the 12 remaining elementary schools, except the three white elementary schools, would be 83 percent to 1 percent black. (726a–748a).

The School Board judged it to be impossible to desegregate the three white elementary schools, and to further desegregate the nine predominantly black elementary schools by geographic districting or zoning because of the de facto segregation prevailing in the residential areas in which the children assigned to these 12 elementary schools lived. (730a–732a) The District Court made a specific finding in its Supplemental Findings of Fact of March 21, 1970, which establishes the validity of the School Board's conclusion concerning Independence High, Piedmont Junior High, and the 9 predominantly black elementary schools, all of which are located in northwest Charlotte or its environs.

The District Court expressly found that "both Dr. Finger and the School Board staff appear to have agreed, and the Court finds as a fact that for the present at least there is no way to desegregate the all-black schools in northwest Charlotte without providing (or continuing to provide) bus or other transportation for thousands of children. All plans and all variation of plans considered for this purpose lead in one fashion or another to that conclusion." (1208a)

The amicus curiae submits that it beggars imagination to conjecture how any plan could have obtained a greater degree of racial integration by gerrymandering attendance districts or zones in a political subdivision where white children outnumber black children 71 to 29, and where most of the black children are concentrated residentially in an area inhabited exclusively by members of their race.

The School Board plan did not stop with proposing such a high degree of racial integration among the student bodies in the schools subject to its jurisdiction. It made these three additional proposals:

1. That the faculty of each school should be assigned in such a manner that the ratio of black teachers to white teachers in each school would be approximately 1 to 3 in accordance with the ratios in the entire faculty of the system (737a);

2. That the School Board should furnish 4,935 additional students in-district or in-zone transportation to the schools in the proposed gerrymandered attendance districts or zones in accordance with the North Carolina law which forbids such transportation within one and one-half mile distances (736a); and

3. That any black child in any school having more than 30 percent of his race in its student body should be allowed to transfer to any school having less than 30 percent of his race; whereas a white child should be permitted to transfer to another school only if the school he is attending has more than 70 percent of his race and the school to which he seeks transfer is less than 70 percent white. (734a–735a)

At the same time, Dr. Finger submitted to the District Court his plan of desegregation which contemplated that the School Board should be required by the Court to deny approximately 23,000 additional children admission to the neighborhood schools in the districts or zones of their residence, and to transport them by bus or otherwise substantial distances in order to produce a greater racial mixture in student bodies. (819a, 825a–827a, 829a–839a, 1198a, 1208a–1214a, 1231a–1234a, 1268a–1269a)

C. The order of the District Court

On February 5, 1970, the District Court entered an order approving the School Board plan, subject to certain drastic conditions and revisions recommended by Dr. Finger. (819a–839a) By adopting these conditions and revisions, the District Court commanded the School Board to do these things:

1. To deny hundreds of black high school students admission to a nearby high school which would have had a racial composition of 36 percent black and 64 percent white under the School Board plan, and to bus them from their residences in northwest Charlotte through inter-city traffic a distance of some 12 or 13 miles to Independence High School which is located in a white suburban residential area;

2. To deny several thousands of black junior high school students admission to their neighborhood junior high schools in the inner city, and to bus them substantial distances to nine predominantly white suburban schools located in other attendance districts or zones; and

3. To deny thousands of black and thousands of white elementary school children admission to 31 elementary schools located within their respective attendance districts or zones, and to bus them distances approximating 15 miles to elementary schools situated in other attendance districts or zones.

The sole purpose of the District Court in ordering the School Board to dislocate and bus the hundreds of black high school students to Independence High School was to make Independence High less white, and the sole purpose of the District Court in ordering the School Board to dislocate and bus several thousands of junior high school students was to reduce the percentage of blacks in Piedmont Junior High from 90 percent to 32 percent. (825a–826a)

The sole purpose of the order of the Court commanding the School Board to dislocate and bus thousands of elementary school children was to alter the racial composition of the student body in 9 predominantly black inner-city schools and in 24 predominantly white suburban schools. To accomplish this purpose, the District Court commanded the School Board to dislocate and bus thousands of black first, second, third, and fourth grade students from 9 predominantly black inner-city schools to 24 predominantly white suburban schools, and to dislocate and bus thousands of white fifth and sixth grade students from the 24 predominantly white suburban schools to the 9 predominantly black inner-city schools. (826a)

The order of the District Court did not stop with these things. It further ordered the School Board to establish and implement a continuing program of assigning students throughout the school year "for the conscious purpose of maintaining each school * * * in a condition of desegregation." (824a)

The record clearly discloses the reasoning which prompted the District Court to seek to achieve the purposes of its order.

Prior to its order of February 5, 1970, namely, on April 24, 1969, the District Court manifested its disapproval of the School Board's adherence to the neighborhood school concept by this statement: "Today people drive as much as 40 or 50 miles to work; 5 to 10 miles to church, several hours to football games; all over the country for civic affairs of various types. The automobile has exploded the old-fashioned neighborhood * * * If this Court were writing the philosophy of education, he would suggest that educators should concentrate on planning schools as educational institutions rather than as neighborhood proprietorships." (306a)

When it entered its order of February 5, 1970, the District Court justified adding the conditions and revisions recommened by Dr. Finger on the ground that the School Board plan "relies almost entirely on geographical attendance zones," while "the Finger plan goes further and produces desegregation of all the schools in the system." (819a)

What has been said makes it manifest that the District Court entertained the opinion that the Equal Protection Clause of the Fourteenth Amendment makes it obligatory for a school board to mix student bodies racially in every school subject to its jurisdiction if children are available for mixing, and that a school board must deny a sufficient number of school children admission to their neighborhood schools and bus them to schools elsewhere either to overcome racial imbalances in their neighborhood schools or in the schools elsewhere, regardless of whether such racial imbalances are produced by arbitrary or invidious discrimination on the part of the school board or simply result from adventitious de facto residential segregation or other cause.

The amicus curiae has not undertaken to state with exactitude the number of additional school children which the District Court ordered the School Board to deny admission to their neighborhood schools and to bus from one school to another or from one school district to another, or the additional cost which the carrying out of the District Court's order in this respect will impose upon the School Board.

This action of the amicus curiae has been deliberate because these matters are in serious dispute between the School Board and the District Court.

When the District Court entered its order of February 5, 1970, and thereby adopted the Finger plan in virtually its entirety, the School Board estimated that the order required it to bus 23,384 additional students an average round trip of 30 miles each school day, and that to do this the School Board would have to acquire 526 additional buses and additional parking spaces at an original capital outlay of $3,284,448.94; and thereafter expend each year an additional $1,065,391.98 in employing additional personnel and defraying other operating costs. (853a, 866a)

On March 3, 1970, the District Court modified its order of February 5, 1970. (921a) The School Board then calculated that the order as modified will require it to transport 19,285 additional students and to purchase for such purpose 422 additional buses and additional parking spaces at an original capital outlay of $2,369,100.00; and thereafter to expend each year for additional personnel and operating expenses of such buses $284,000.00. (1269a–1270a)

The Court estimated that the execution of its order as modified would require the School Board to bus 13,300 additional students and to purchase for use 138 additional buses at an original capital outlay of $745,200.00; and to expend thereafter annually $266,000.00 for operating costs of such additional buses, exclusive of what it will have to expend to compensate any additional personnel necessary for their operaton. (1259a–1261a, 1269a)

The Court arrived at its figures by suggesting that the School Board could reduce its estimate of the expenses incident to busing the thousands of children affected by its order by drastically staggering school openings and closings. The School Board replied to this suggestion by asserting that the suggested staggering of school openings and closings would require some children to leave home as early at 6:30 a.m. and prevent some of them from returning home before 5:00 p.m. (864a–865a)

D. The judgment of the United States Court of Appeals for the Fourth Circuit

At the instance of the School Board, the United States Court of Appeals for the Fourth Circuit reviewed the orders of the District Court. On May 26, 1970, the Circuit Court rendered its judgment affirming the orders of the District Court insofar as they related to the assignment and busing of senior high school and junior high school students, and remanding to the District Court for further consideration the provisions of the District Court relating to the assignment and busing of elementary school students. (1262a–1304a).

In making this remand, the Circuit Court adjudged that "not every school in a unitary system need be integrated," and adopted a "test of reasonableness—instead of one that calls for absolutes." (1267a)

The writ of certiorari granted to the School Board presents for review the validity of the Circuit Court ruling approving the orders of the District Court relating to the assignment and busing of senior high school and junior high school students and the writ of certiorari granted to the original plaintiffs presents for review the question of the validity of the ruling of the Circuit Court vacating the order of the District Court relating to the assignment and busing of elementary school students.

Subsequent to these events, namely, on August 3, 1970, the District Court reinstated and reaffirmed its order of February 5, 1970, in respect to the assignment and busing of the elementary school students. (1320a) While the validity of this particular order may not be before the Supreme Court the question which it raises is involved in the matter to be reviewed under the writ granted to James E. Swann and those associated with him in this litigation.

The amicus curiae understands that the School Board has filed an as yet unprinted motion with the Supreme Court for a stay of the order entered by the District Court on August 3, 1970, after the hearing of the case in the Circuit Court.

SUMMARY OF AGREEMENT

In the final analysis, the questions presented for review in this case do not arise out of any real controversy in respect to the testimony. They arise out of a fundamental disagreement between the School Board, on the one hand, and the District Court and some of the Circuit Court Judges, on the other, with respect to how the Equal Protection Clause applies to the assignment of students to public schools.

The view of the School Board may be epitomized in this fashion:

The Equal Protection Clause applies only to State action which is arbitrary or invidious, and, hence, it leaves a public school board, acting as a State agency, entirely free to assign students to its schools by any method satisfactory to itself if such method is not arbitrary or invidious. A public school board acts arbitrarily or invidiously if it assigns students to its schools for racial reasons, but a public school board does not act arbitrarily or invidiously if it assigns students to its schools for non-racial reasons, such as the promotion of the efficiency of school administration, the economy of school administration, or the convenience of the students or their parents. This being true, the Equal Protection Clause does not impair in any way the power of a public school board to create fairly drawn geographic attendance districts or zones, and to assign all students without regard to their race to neighborhood schools in the respective districts or zones in which they reside even though such action may result in some racial imbalances in the schools serving areas predominantly inhabited by members of one race.

The view of the District Court and some of the Circuit Court Judges may be summarized in this way:

It is highly desirable from an educational viewpoint to mix students in public schools racially in the highest possible degree. Hence, the Equal Protection Clause imposes upon a public school board the positive duty to balance racially all the schools it operates if black and white children are available for this purpose; and to deny school children admission to their neighborhood schools and bus them to other schools in other areas, no matter how distant, in sufficient numbers to effect such racial balancing.

The School Board refutes this proposition by saying that the Equal Protection Clause does not require action which may be desirable; it merely prohibits action which is arbitrary or invidious.

When it is stripped of irrelevancies and surmises, the record discloses a surprisingly simple state of facts which are relatively free of conflict insofar as they relate to the crucial issues.

After the first *Brown Case,* 347 U.S. 483 (1954), the School Board converted its previously dual system of schools into a unitary system of schools within which no child was excluded because of the child's race. The School Board did this by a geographic assignment plan applicable in like manner to all children without regard to their race. Its action in this regard was adjudged to be in compliance with the Equal Protection Clause by both the District Court and the Court of Appeals.

Subsequent to the *Green Case,* 391 U.S. 430 (1968), the District Court ordered the school Board to submit another plan for the desegregation of its schools. Pursuant to this order, the School Board proposed a plan which was reasonably designed to secure the maximum amount of racial mixture obtainable in the student bodies in its schools without abandonment of the neighborhood school concept by restructuring its geographic attendance districts or zones, and assigning all of the children subject to its jurisdiction without regard to their race to their respective neighborhood schools in the districts or zones in which they reside.

The Court rejected the School Board plan simply because it did not racially balance one senior high school out of the system's ten senior high schools, one junior high out of the system's 21 junior high schools, and nine predominantly black and three predominantly white elementary schools out of the system's 72 elementary schools.

Instead of approving the reasonable plan submitted by the School Board, the District Court, in essence, adopted the Finger Plan which requires the School Board to deny thousands of children admission to their neighborhood schools, and to bus them to other schools in other areas merely to eliminate the racial imbalances in these particular schools. The School Board insists that the action of the District Court was not only inconsistent with the Equal Protection Clause, but violates Title IV of the Civil Rights Act of 1964, and that the Circuit Court erred insofar as it approved the action of the District Court.

ARGUMENT

I

"The Charlotte-Mecklenburg Board of Education has complied with the Equal Protection Clause of the Fourteenth Amendment and the Supreme Court decisions interpreting it by establishing and operating a unitary public school system, which receives and teaches students without discrimination on the basis of their race or color. Any racial imbalance remaining in any of the schools under the jurisdiction of the Board represents de facto segregation, which results from the purely adventitious circumstances that the inhabitants of particular areas in and adjacent to the city of Charlotte are predominantly of one race."

The Equal Protection Clause of the Fourteenth Amendment, which was certified to be a part of the Constitution on July 28, 1868, forbids a state to "deny to any person within its jurisdiction the equal protection of the laws."

By these words, the Equal Protection Clause requires a state to treat in like manner all persons similarly situated. *State Board of Tax Commissioners of Indiana v. Jackson,* 283 U.S. 527 (1931); *Maxwell v. Bugbee,* 250 U.S. 525 (1919). The clause does not require identity of treatment. *Walters v. St. Louis,* 347 U.S. 231 (1934). It permits a state to make distinctions between persons subject to its jurisdiction if the distinctions are based on some reasonable classification, and all persons embraced within the classification are treated alike. It merely outlaws arbitrary or invidious discrimination. *Avery v. Midland County,* 390 U.S. 474 (1968); *Missouri Pacific Railway Co. v. Mackey,* 127 U.S. 205 (1888).

From July 28, 1868, until May 17, 1954, the Equal Protection Clause of the Fourteenth Amendment was interpreted to sanction the "separate but equal doctrine," which permitted a state to segregate school children in its public schools on the basis of race when it furnished equal facilities for the education of the children of each race. *Gong Lum v. Rice,* 275 U.S. 78 (1927); *Cumming v. Richmond County Board of Education,* 175 U.S. 528 (1899); *Plessy v. Ferguson,* 163 U.S. 537 (1896).

On May 17, 1954, the Supreme Court handed down its historic decision in *Brown v. Board of Education of Topeka,* 347 U.S. 483 (1954), adjudging "that in the field of public education the doctrine of 'separate but equal' has no place" and holding that a state violates the Equal Protection Clause if it denies any child admission to any of its public schools on account of the child's race.

On the same day the Supreme Court handed down *Bolling v. Sharpe,* 347 U.S. 497 (1954), ruling that the Due Process Clause of the Fifth Amendment imposes the same inhibition on the public schools of the District of Columbia that the Equal Protection Clause does on the public schools of a state, and one year later the Supreme Court announced its implementing decision in second *Brown,* which is reported as *Brown v. Board of Education of Topeka,* 348 U.S. 294 (1955).

Since these decisions the Supreme Court has applied the Equal Protection Clause to varying factual situations arising in various Southern public school districts in the following cases: *Cooper v. Aaron,* 358 U.S. 1, 20 (1958); *Shuttlesworth v. Birmingham Board of Education,* 358 U.S. 101 (1958); *Bush v. Orleans Parish School Board,* 364 U.S. 500 (1960); *Watson v. City of Memphis,* 373 U.S. 526 (1963); *Goss v. Board of Education of Knoxville,* 373 U.S. 683 (1963); *Griffin v. County School Board of Prince Edward County,* 377 U.S. 218 (1964); *Bradley v. School Board of City of Richmond,* 382 U.S. 103 (1965); *Rogers v. Paul,* 382 U.S. 198 (1965); *Green v. County School Board of New Kent County,* 391 U.S. 430 (1968); *Raney v. Board of Education of the Gould School District,* 391 U.S. 443 (1968); *Monroe v. Board of Commissioners of the City of Jackson,* 391 U.S. 450 (1968); *United States v. Montgomery County Board of Education,* 395 U.S. 225 (1969); *Alexander v. Holmes County Board of Education,* 396 U.S. 19 (1969); *Dowell v. Board of Education of the Oklahoma City Public Schools,* 396 U.S. 269 (1969); *Carter v. West Feliciana Parish School Board,* 396 U.S. 226 (1969); *Carter v. West Feliciana Parish School Board,* 396 U.S. 290 (1970); and *Northcross v. Board of Education of the Memphis City Schools,* 397 U.S. 232 (1970).

Besides, individual Supreme Court Justices, acting as Circuit Justices, have expressed opinions on the subject in these cases: *Board of School Commissioners of Mobile County v. Davis,* 11 L. ed. 2d 26 (1963); *Keyes v. School District No. 1, Denver,* 396 U.S. 1215 (1970); and *Alexander v. Holmes County Board of Education,* 396 U.S. 1218 (1969).

The record in the instant case embraces hundreds of pages of evidence, orders, and judgments, and for that reason, the case lends itself to much writing. But the issues arising in the case are simple, and it would complicate that simplicity to analyze the cited decisions in detail. In their ultimate analysis, they interpert the Equal Protection Clause as follows:

1. The Equal Protection Clause makes it unconstitutional for a state to deny any child admission to any public school it operates on account of the child's race.

2. In consequence, the Equal Protection Clause imposes upon a State, acting through its appropriate agencies, the responsibility to establish a system of determining admission to its public schools on a non-racial basis.

3. A state, which operated a racially segregated system of public schools on May 17, 1954, fulfills this responsibility by converting its dual public school system into a unitary public school system.

4. A unitary public school system is one "within which no person is to be effectively excluded from any school because of race or color."

When the Equal Protection Clause as thus interpreted is applied to the facts in this case, it is obvious that the School Board has fully converted its *Pre-Brown* dual school system into a unitary school system within which no child is actually excluded from any school because of race or color. The School Board has done this by creating non-discriminatory attendance districts or zones and assigning all children, black and white, to neighborhood schools in the district or zone in which they reside without regard to their race.

These conclusions are explicit in the rulings made by the District Court and the Circuit Court in 1965 and 1966. *Swann v. Charlotte-Mecklenburg Board of Education,* 243 F.Supp. 667 (1965), *Swann* v. *Charlotte-Mecklenburg Board of Education,* 369 F.2d (1966). They are implicit in the findings made by the District Court in its order of April 23, 1969, that the School Board had "achieved a degree of desegregation of schools apparently unsurpassed in these parts" and had "exceeded the performance of any school board whose actions have been reviewed in the appellate court decisions," (311a–312a) and that the Schools of Charlotte, in essence, conform to de facto patterns of residential segregation. (305a)

To be sure, the District Court, acting *sua sponte,* undertook to recall these findings in its Memorandum Opinion of November 7, 1969, and to assert that racial imbalances in the Schools of Charlotte are not innocent or *de facto.* (662a)

The amicus curiae submits in all earnestness that there is no evidence in the record to sustain the District Court's assertion in tihs respect. Be this as it may, the Supreme Court is empowered in cases of an equitable nature and cases involving constitutional questions to review the evidence and make its own findings. If it follows this course in this case, the Supreme Court will be impelled to the conclusion that there is not a vestige of state-imposed segregation in the Charlotte-Mecklenburg School System.

Besides, the District Court's assertion that racial imbalances in the schools of Charlotte are "not innocent or *de facto*" is totally repudiated by its subsequent finding that there is no way to desegregate the black schools in northwest Charlotte without transporting thousands of children by bus or other means. (1208a)

When all is said, the School Board went far beyond the call of any duty imposed upon it by the Equal Protection Clause when it proposed in its plan of February 2, 1970, to gerrymander attendance districts or zones in order to achieve the highest degree of desegregation obtainable without virtual abandonment of the neighborhood school concept. The amicus curiae expresses no opinion as to whether this proposal is repugnant to the constitutional or legal rights of any child.

II

"The Equal Protection Clause of the Fourteenth Amendment does not require or empower a Federal Court to order a public school board to assign children to the schools it operates merely to balance the student bodies in such schools racially, or to bus children outside reasonable geographic attendance districts or zones to effect such purpose. The District Court ordered the Charlotte-Mecklenburg School Board to do both of these things, and the Circuit Court erred insofar as it affirmed the District Court order."

The facts make it clear that the order entered by the District Court on February 5, 1970, requires racial balancing in the Charlotte-Mecklenburg School System and the busing of thousands of children outside their geographic attendance districts or zones to effect such balancing.

Indeed, the District Court virtually admits this to be true by setting forth in its Supplemental Findings of Fact of March 21, 1970, a specific finding that there is no other way to desegregate the black schools in northwest Charlotte. (1208a)

Upon the entire record, the conclusion is inescapable that the District Court fell into error because it honestly believed that the Equal Protection Clause and certain decisions interpreting it impose upon a public school board an absolute duty to do these things:

1. To balance racially to the highest degree possible all the schools subject to its control if black and white children are available for that purpose anywhere within the territory subject to its jurisdiction, no matter how vast such territory may be; and

2. To effect such racial balancing by denying both black and white children admission to their neighborhood schools and busing them to other schools in other areas in sufficient numbers to overcome racial imbalances either in their neighborhood schools or in the other schools, regardless of whether the racial imbalances result from de facto residential segregation or other cause, and regardless of these other factors: the distances the children are to be bused, the time required for their busing, the impact of their exclusion from their neighborhood schools and their busing upon their minds and hearts, the effect of these things upon the management of the homes which must nurture them, the traffic hazards involved, and the additional expense foisted upon heavily burdened taxpayers.

There is no other rational explanation for the court order which disrupts the lives of thousands of school children and the management of the thousands of homes from which they come, and diverts tremendous sums of tax-raised moneys from the enlightenment of their minds to the busing of their bodies.

The Equal Protection Clause does not require any court to enter any such order. It does not empower any court to enter any such order. Indeed, it forbids any court to do so.

As interpreted in the first *Brown Case,* 347 U.S. 483 (1954), and all subsequent Supreme Court decisions relevant to the subject, the Equal Protection Clause forbids a public school board, which acts as a state agency, to deny any child admission to any school it operates on account of the child's race. A public school board obeys the Clause by maintaining a unitary school system, i.e. a school system "within which no person is to be effectively excluded from any school because of race or color." *Northcross* v. *Board of Education of the Memphis City Schools,* 397 U.S. 232 (1970); *Alexander* v. *Holmes County Board of Education,* 396 U.S. 19 (1969). See also the opinion of Mr. Justice Black, acting as Circuit Justice, in *Alexander* v. *Holmes County Board of Education,* 396 U.S. 1218 (1969).

The power to assign children to state supported schools belongs to the public school board which operates them. The Equal Protection Clause does not undertake to transfer this power to the Federal Courts. It merely subjects the exercise of the power by the public school board to this limitation: The board must not exclude any child from any school it operates because of the child's race.

If it faithfully observes this limitation upon its power, a public school board has the right to assign children to the schools it operates in any non-discriminatory fashion satisfactory to itself.

The School Board exercised this right when it created nondiscriminatory attendance districts or zones and assigned all children, whether black or white, to neighborhood schools in the districts or zones of their residence without regard to race.

Since the children are similarly situated and the School Board treats them exactly alike, its action is in complete harmony with the Equal Protection Clause. It accords, moreover, with the implementing decision in the second *Brown Case,* 349 U.S. 294 (1955), which expressly recognizes that a school board may employ non-discriminatory geographic zoning of school districts "to achieve a system of determining admission to the public schools on a nonracial basis."

As is true in respect to virtually every city of any size in our land, the different races are concentrated to a substantial degree in separate residential areas in Charlotte, and for this reason the School Board's non-discriminatory geographic zoning and assignment program necessarily results in some racial imbalances in some schools.

Notwithstanding this, the order of the District Court commanding the School Board to exclude thousands of children from their neighborhood schools and to bus them long distances to other schools to overcome these racial imbalances is without support in the Equal Protection Clause.

This is true for an exceedingly plain reason, The Equal Protection Clause does not prohibit any discrimination except that which is arbitrary or invidious.

It inevitably follows that where school attendance areas are not arbitrarily or invidiously fixed so as to include or exclude children of a particular race, the Equal Protection Clause does not prohibit a state or local school board from requiring that the children living in each attendance area attend the school in that area, even though the effect of such a requirement, in a locality where the different races are concentrated in separate residential areas, is racial imbalance or de facto segregation in the schools.

The conclusion that the Equal Protection Clause does not impose upon a public school board any mandate to remove any racial imbalance in its schools occasioned by de facto residential segregation or non-discriminatory geographic assignments is expressly supported in *Bell* v. *School City of Gary, Ind.* (7 CA–1963), 324 F.2d 209, and *Downs* v. *Board of Education of Kansas City, Kansas* (10 CA–1964), 336 F.2d 998. Moreover, it is compelled by first *Brown,* 347 U.S. 483

(1954), and all the subsequent Supreme Court cases applying its holding, as well as by the language of the Equal Protection Clause itself.[1]

Despite the fact that the Charlotte-Mecklenburg School System is in the South, racial imbalances produced in its schools by de facto residential segregation are just as innocent as racial imbalances produced in the *public schools* of the North by the same cause, and are equally exempt from federal interference, whether legislative, executive, or judicial, under the Equal Protection Clause, which, as already pointed out, condemns no discrimination except that which is arbitrary or invidious.

The amicus curiae is confident that the Supreme Court will so adjudge. Indeed, it must do so if the United States is truly one nation under one flag and one Constitution.

It no longer comports with intellectual integrity to call all racial imbalances in the public schools of the South de jure, and all racial imbalances in the public schools of the North de facto.

There is now no de jure school segregation anywhere in our land. Racial imbalances in public schools are either arbitrary or invidious and, hence constitutionally impermissible, both North and South, or innocent and, hence, constitutionally permissible, both North and South. Racial imbalances resulting from de facto residential segregation or non-discriminatory districting or zoning, whether in the North or in the South, are clearly innocent and constitutionally permissible.

Moreover, it no longer comports with reality, common sense, or justice to apply one rule to the North and another to the South because the South did not precede the Supreme Court in discovering that the "separate, but equal doctrine" had ceased to be the law of the land.

III

"The Fifth Section of the Fourteenth Amendment Empowers Congress to Enforce the Equal Protection Claus by Appropriate Legislation, the First Section of Article III of the Constitution Empowers Congress to Regulate the Jurisdiction of United States District Courts and United States Circuit Courts of Appeals, and the Second Section of Article III of the Constitution Empowers Congress to Regulate the Appellate Jurisdiction of the Supreme Court. Congress Exercised all of These Powers in an Appropriate Fashion When it Enacted Title IV of the Civil Rights Act of 1964, Which Prohibits the Assignment of Students to Public Schools to Balance the Student Bodies in Such Schools Racially, and to bus Them From Some Schools to Other Schools, or From Some School Districts to Other School Districts to Effect Such Purpose. The Act's Prohibition on Busing is Absolute and Deprives Federal Courts of Jurisdiction to Compel School Boards to Bus Students to Overcome Racial Imbalances in Schools. Even if Such Imbalances Result From Discriminatory School Board Action. The District Court Order Violated This Act by Commanding the Charlotte-Mecklenburg School Board to do the Things Prohibited by it, and the Circuit Court Joined in Such Violation Insofar as it Affirmed the District Court Order."

The Equal Protection Clause is limited in objective and operation. It imposes this duty and this duty only on a state, i.e., to treat in like manner all persons similarly situated.

In consequence, it forbids a public school board, acting as a state agency, to exclude any child from any school because of the child's race.

Further than that it does not go. It does not rob any public school board of its inherent authority to assign children of any race to their neighborhood school if the school board acts for reasons other racial reasons, such as a purpose to promote ease of school administration, convenience of the children and the homes from which they come, or economy of operation.

Hence, it does not empower federal courts to deny children of any race admission to their neighborhood schools and to bus them to other schools in other areas to remedy racial imbalances in their neighborhood schools or the other schools arising out of the residential patterns of their neighborhoods or of the other areas.

And, above all things, the Equal Protection Clause does not intend that little children, black or white, shall be treated as pawns on a bureaucratic or judicial chess board.

When it enacted Title IV of the Civil Rights Act of 1964 to enforce the Equal Protection Clause, Congress recognized the validity of these observations concerning the meaning of the Equal Protection Clause. Moreover, it was not oblivious to the inescapable reality that the different races are concentrated to substantial degrees in separate residential areas throughout the nation, and that it would be virtually impossible to keep the public schools of the country racially balanced, even if the Equal Protection Clause did not prohibit such action.

For these reasons, Congress vested in the Commissioner of Education, the Attorney General, and the Federal Courts certain responsibilities regarding what it called the desegregation of public education, but limited the powers of the Commissioner of Education and the Attorney General, and the jurisdiction of the Federal Courts to keep them within constitutional bounds.

Congress was authorized to do these things by the Fifth Section of the Fourteenth Amendment, which expressly empowers Congress to "enforce, by appropriate legislation" the Equal Protection Clause; the First Section of Article III of the Constitution, which authorizes Congress to prescribe the jurisdiction of the inferior courts created by it, *Chisholm v. Georgia,* 2 Dall. (U.S.) 419, 432 (1793); *Turney v. Bank of North America,* 4 Dall. (U.S.) 8 (1799); *Ex Parte Bollman,* 4 Cranch (U.S.) 75, 93 (1807); *Cary v. Curtis,* 3 How. (U.S.) 236, 245 (1845); *Sheldon v. Still* 8 How. (U.S.) 441 (1850); *Kline v. Burke Construction Co.,* 260 U.S. 226, 234 (1922); *Lauf v. E. G. Skinner & Co.,* 303 U.S. 323, 330 (1938); *Lockerty v. Phillips,* 319 U.S. 182 (1943); and *Yankus v. United States,* 321 U.S. 414 (1944); and the Second Section of Article III of the Constitution, which vests Congress with legal power to regulate the appellate jurisdiction of the Supreme Court, *Wiscart v. D'Auchy,* 3 Dall. (U.S. 321, (1796); *Durousseau v. United States,* 6 Cranch 309 (1810); *Barry v. Mercein,* 5 How. (U.S.) 103, 119 (1847); *Daniels v. Railroad Co.,* 3 Wall. (U.S. 250, 254 (1866); *Ex Parte McCardle,* 6 Wall. (U.S.) 318 (1868); *The Francis Wright,* 105 (U.S. 381, 386 (1882); *Kuntz v. Moffitt,* 115 U.S. 487, 497 (1885); *Cross v. Burke,* 146 U.S. 82, 86 (1892); *Missouri v. Pacific Railway Co.,* 292 U.S. 13, 15 (1934); and *Stephan v. United States,* 319 U.S. 423, 426 (1943).

The conclusion that Title I of the Civil Rights Act of 1964 is designed to enforce the Supreme Court rulings that the Equal Protection Clause forbids a school board, acting as a state agency, to deny any child admission to any school it operates because of the child's race is vindicated by the legislative history of the Act, as well as by its language.

During the course of the debate on the bill which became the Civil Rights Act of 1964, Senator Byrd of West Virginia addressed this question to Senator Humphrey, the floor manager of the bill, and received this reply from Senator Humphrey:

"Mr. Byrd, of West Virginia. Can the Senator from Minnesota assure the Senator from West Virginia that under Title VI school children may not be bused from one end of the community to another end of the community at the taxpayers' expense to relieve so-called recial imbalance in the schools?"[2]

"Mr. Humphrey. I do."[3]

Senator Humphrey made these further statements relating to the purposes of the bill:

"Mr. Humphrey. Mr. President, the Constitution declares segregation by law to be unconstitutional, but it does not require integration in all situations. I believe this point has been made very well in the courts, and I understand that other Senators will cite the particular cases.

"I shall quote from the case of Bell against School City of Gary, Ind., in which the Federal court of appeals cited the following language from a special three judge district court in Kansas: 'Desegregation does not mean that there must be intermingling of the races in all school districts. It means only that they may not be prevented from intermingling or going to school together because of race or color.' *Brown v. Board of Education,* D.C. 130 F. Supp. 468, 470.

"In *Briggs* v. *Elliott* (EDSC), 132, Supp. 776, 777, the Court said: 'The Constitution, in other words, does not require integration. It merely forbids discrimination.' In other words, an overt act by law which demands segregation is unconstitutional. That was the ruling of the historic *Brown* case of 1954."[4]

The language of the Act discloses this twofold Congressional intent:

1. To enforce the Supreme Court rulings that the Equal Protection Clause prohibits the State from denying to any child admission to any school it operates because of the child's race; and
2. To keep overzealous bureaucrats and federal judges from straying beyond constitutional limits in cases involving the desegregation of public schools.

Since no action of his is involved in this case, the amicus curiae pretermits discussion of the provisions of the Civil Rights Act of 1964 relating to the Commissioner of Education.

In phrasing the Act, Congress uses the terms "desegregation" and "discrimination" interchangeably to express the concept made familiar by the prevalent use of the word "discrimination" to mean state action denying persons admission to public colleges or public schools because of their race.

This observation is made indisputable by Section 401(b) which expressly declares that "desegregation" merely means "the assignment of students to public schools and within such schools without regard to their race. color, religion, or national origin"; Section 407(a)(1) and (2) which refer to children who "are being deprived by a school board of the equal protection of the laws" and individuals who have "been denied admission" to a public college or premission "to continue at a public college by reasons of race, color, religion, or national origin"; Section 409 which directs its attention to "discrimination in public education"; and Section 410 which stipulates that "nothing in this title shall prohibit clasisfication and assignment for reasons other than race, color, religion, or national origin.

There is not a single syllable in Title IV of the Civil Rights Act of 1964 giving any support to a different interpretation.

Section 401(b) merits further consideration because it specifies not only what Congress means by the term "desegregation," but also what Congress does not mean by that term.

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[1] While such action may not be customary in briefs, the amicus curiae wishes to note that this conclusion is supported by the text writer in 15 Am. Jur. 2d, Civil Rights, Section 39, Page 433, and by one of the most recent commentaries on the Constitution of the United States, i.e., Bernard Schwartz's "Rights of the Person," Voume II, Section 501, Page 593–596.

[2] Senator Byrd was evidently referring to Title IV, instead of Title VI.

[3] Congressional Record, Volume 110, Part 10, Page 12,714, June 4, 1964.

[4] Congressional Record, Volume 110, Part 10, Page 13,821, June 15, 1964.

Section 401(b) consists of two clauses. The first clause provides that "desegregation" as used in Title IV "means the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin," and the second clause provides that "desegregation" as used in Title IV "shall not mean the assignment of students to public schools in order to overcome racial imbalance."

As a law made by Congress, Title IV is binding on federal judges, and defines their jurisdiction in respect to public schools operated by public school boards acting as state agencies.

The first clause of Section 401(b) commands school boards to ignore race, color, religion, and national origin as factors in assigning students to public schools. Since federal judges have no power to add anything to the laws they enforce, this clause merely confers upon federal judges the limited jurisdiction to enforce its command by decrees which prevent recalcitrant school boards from denying otherwise eligible children admission to schools on account of their race, color, religion, or national origin.

Since federal judges do not have power to subtract anything from laws they enforce, the second clause of Section 401(b) denies to federal judges jurisdiction to compel school boards to assign "students to public schools in order to overcome racial imbalance." By this clause, Congress forbids federal judges to make decrees compelling school boards to take affirmative steps to commingle black and white children in public schools in proportions satisfactory to themselves to remedy racial imbalances occasioned by de facto residential segregation or non-discriminatory action on the part of school boards.

This interpretation of Section 401(b) is completely confirmed by Section 407, 409, and 410 of Title IV.

Before the enactment of Title IV of the Civil Rights Act of 1964, only the individuals aggrieved thereby had legal standing to make complaint in federal courts concerning state-imposed segregation in public education. They were restricted to seeking relief for themselves and their children and other persons similarly situated. They did not have the right to demand that federal courts should substitute federally coerced integration for state-imposed segregation.

When it drafted Title IV, Congress decided to extend to the Attorney General standing to sue for "such relief as may be appropriate" in behalf of two groups of people if he believes their complaints to be "meritorious" and concludes that they are "unable * * * to initiate and maintain appropriate legal proceedings for" their own "relief." These groups of people are described in essence, as children who "are being deprived by a school board of the equal protection of the laws" and individuals who have been "denied admission" to a public college or "permission to continue in attendance at a public college by reason of race, color, religion or national origin." To this end, Congress inserted Section 407(a) in Title IV.

At the same time, however, Congress decided to preserve intact the existing rights of individuals to sue in their own behalf for relief against state-imposed segregation. To accomplish this purpose, Congress stipulated in Section 409 that nothing in Title IV "shall affect adversely the right of any person to sue for or obtain relief in any court against discrimination in public education."

Congress was determined, however, not to increase the powers of federal judges when it gave the Attorney General standing to seek relief against discrimination in public education in behalf of the aggrieved persons designated in Section 409(a). Moreover, Congress was equally as determined that federal judges should not have jurisdiction to compel school boards to deny children admission to their neighborhood schools and transport them hither and yon to achieve racial balances in public schools, regardless of whether the racial imbalances sought to be removed to accomplish such purpose arise out of innocent causes or discriminatory action on the part of school boards.

Congress made these purposes manifest by inserting in Section 409(a) language expressly providing "that nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards."

By so doing, Congress deprived all federal courts of the jurisdiction to order public school boards to bus children from one school to another or from one school district to another to remedy racial imbalances in public schools regardless of whether such imbalances arise out of innocent causes or discriminatory school board action. As appears from the cases which the amicus curiae has previously cited, Congress has undoubted power to do this under the First Section of Article III of the Constitution, which empowers it to define the jurisdiction of inferior federal courts, and under the Second Section of Article III of the Constitution, which expressly provides that "the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make."

It necessarily follows that the District Court violated the provisions of the Civil Rights Act of 1964 when it ordered the Charlotte-Mecklenburg School Board to bus thousands of children from some schools to other schools and from some school districts to other school districts to overcome racial imbalances in any of its schools regardless of the origin of such racial imbalances; and that the Circuit Court erred in affirming the provisions of the District Court order relating to the transportation of senior high school and junior high school students.

While such statutes apply to the Executive Department of the Federal Government only, and for that reason are not controlling in this case, it seems not amiss to direct the attention of the Supreme Court to congressional hostility to the busing of children to achieve racial balancing in public schools. Congress manifested its hostility to such action by the Elementary and Secondary Education Act of 1965, as amended in 1966, which forbids "any department, agency, officer, or employee of the United States * * * to require the assignment or transportation of students or teachers in order to overcome racial imbalance," (P.L. 89–10, Title VIII, Section 804; 20 U.S.C. Section 884); the Department of Labor, and Health, Education, and Welfare Appropriation Act of 1969, which provides that "no part of the funds contained in this Act shall be used to force busing of students * * * in order to overcome racial imbalance as a condition precedent to obtaining Federal funds otherwise available to any State, school district, or school", (P.L. 90–557, Title IV, Section 410); and the Office of Education Appropriation Act of 1971, which provides that "no part of the funds contained in this Act shall be used to force any school or school district which is desegregated as that term is defined in Title IV of the Civil Rights Act of 1964, Public Law 88–352, to take any action to force the busing of students" (P.L. 91–380, Title II, Section 210).

IV

"A School Board has the Power to Devise and Implement any Non-discriminatory Plan for the Assignment of Children to the Public Schools it Operates. The District Court not Only Rejected a Non-discriminatory Assignment Plan Submitted by the Charlotte-Mecklenburg School Board, but it Usurped and Exercised the Authority of the School Board in this Respect by Devising a Plan of its Own Which Commands the School Board to Deny Thousands of Children Admission to Their Neighborhood Schools, and to bus Them to Other Schools to Mix the Races in the Various Schools in Numbers or Proportions Satisfactory to the District Court. By so Doing, the District Court Ordered the School Board to Deny to the Thousands of Children Affected by its Order Admission to Their Neighborhood Schools in Violation of the Equal Protection Clause, and to Bus Them to Other Schools or Other School Districts in Violation of Section 407(a)(2) of the Civil Rights Act of 1964. The Circuit Court Concurred in These Violations, and Erred Insofar as it Affirmed the Order of the District Court."

A school board, acting as a state agency, has the power to assign children to the public schools it operates free from interference by the Federal Judiciary as long as it obeys the Equal Protection Clause and does not exclude any child from any school because of the child's race.

When a school board violates the Equal Protection Clause, a Federal Court has jurisdiction to order the school board to devise and implement a plan sufficient to remedy its discriminatory assignment of children to its schools, and to punish the members of the school board for contempt of court if they fail to obey the order. Nevertheless, the power to devise and implement a plan to remedy the discriminatory assignment continues to reside in the school board, and the Federal Court is without power to reject a non-discriminatory plan submitted by the school board because such non-discriminatory plan will not mix the races in the schools in numbers or proportions satisfactory to the Federal Court.

Besides the Federal Court cannot usurp and exercise the power of the School Board to devise a non-discriminatory assignment plan because the Federal Court wishes to mix the races in the schools in greater numbers or proportions than the non-discriminatory plan of the School Board envisages.

The District Court violated all of these principles when it made its order of February 5, 1970 (819a–839a), its supplemental findings of fact of March 21, 1970 (1198a–1220a), and its supplemental memorandum of March 21, 1970 (1221a–1238a).

Pursuant to the order which the District Court had entered on December 1, 1969, the Charlotte-Mecklenburg School Board submitted to the District Court on February 2, 1970 its plan for desegregation of schools (726a–742a). By this plan the School Board undertook to restructure its geographical attendance districts or zones in such a manner as to promote the highest degree of racial integration obtainable by geographical districting or zoning, and to assign all school children, black or white, to the neighborhood schools in the district or zone of their residence, regardless of race. The plan undertook to further augment desegregation by a transfer system heavily weighted in favor of permitting black children to transfer from predominantly black schools to predominantly white schools.

Inasmuch as it treated all children similarly situated exactly alike and did not exclude any child from any school on account of the child's race, the plan submitted by the School Board on February 2, 1970, was in complete harmony with the Equal Protection Clause and it was obligatory for this reason for the District Court to approve it and permit the School Board to implement it.

Instead of doing so, the District Court rejected the nondiscriminatory plan submitted by the School Board, and usurped and exercised the power vested in the School Board by adopting a plan of its own. The District Court accomplished this purpose by engrafting upon the plans of the School Board drastic alterations and revisions recommended by Dr. Finger, which commanded the School Board to deny thousands of children admission to their neighborhood schools, and to bus them long distances from some schools to other schools, and from some school districts or zones to other school districts or zones.

When all is said, the District Court commanded the School Board to take this action to remedy racial imbalances in black schools in northwest Charlotte arising out of de facto residential segregation in that area, and to produce racial commingling in these schools of northwest Charlotte and other schools in other areas in numbers or proportions greater than those envisaged by the plan of the School Board.

The District Court virtually confesses that its order was designed to effect these purposes by this recital which appears in its supplemental findings of fact of March 21, 1970.

"Both Dr. Finger and the school board staff appear to have agreed, and the court finds as a fact, that for the present at least, there is no way to desegregate the all-black schools in Northwest Charlotte without providing (or continuing to provide) bus or other transportation for thousands of children. All plans and all variations of plans considered for this purpose lead in one fashion or another to that conclusion." (1208a)

In addition to usurping and exercising power vested by law in the School Board, the District Court order commands the School Board to violate rights vested in thousands of school children by the Equal Protection Clause and the Civil Rights Act of 1964.

Since the power to assign children to public schools belongs to the school board administering such schools, no child has the constitutional or legal right in the first instance to attend any particular school, but when a school board adopts a non-discriminatory system for assigning children to neighborhood schools in the attendance district or zone of their residence, children acquire, as against every governmental agency except the school board, the legal right to attend the schools to which they have been so assigned. This right is additional to their right not to be excluded from such schools because of their race.

By its previous practices and its plan of February 2, 1970, the School Board had assigned thousands of senior high school, junior high school, and elementary school children to their neighborhood schools in a wholly non-discriminatory fashion.

By its order of February 5, 1970, the District Court commanded the School Board to do two things which clearly offend the Equal Protection Clause. In the first place, the District Court commanded the School Board to treat differently children similarly situated by allowing thousands of children to attend their neighborhood schools, and by excluding thousands of other children from admission to their neighborhood schools; and in the second place, the District Court commanded the School Board to bus the thousands of children excluded from their neighborhood schools to some other schools in other districts or zones to desegregate both their neighborhood schools and the other schools in numbers or proportions satisfactory to the District Court.

No amount of sophistry can erase the plain truth that the second group of children were denied admission to their neighborhood schools on account of their race.

Manifestly, the Equal Protection Clause does not confer upon any Federal Court jurisdiction to enter a wondrous order to compel a school board to obey the Equal Protection Clause by violating it. Congress apparently realized this bizarre result of busing children from one school to another, or from one school district or zone to another district or zone, when it prohibited any officer or Court of the United States to require such action to achieve the racial balancing of schools.

The Circuit Court erred in affirming the order of the District Court rejecting the plan submitted by the School Board, and in affirming, in part the order of the District Court excluding children from their neighborhood schools and requiring them to be bused to other schools and other school districts in other areas.

CONCLUSION

For the reasons stated, the Court should reverse the provisions of the judgment of the Circuit Court insofar as they relate to the assignment and busing of senior high school and junior high school students; approve the provisions of the judgment of the Circuit Court insofar as they vacate the order of the District Court relating to the assignment and busing of elementary school children; and grant the motion of the School Board to stay the order of the District Court reinstating its previous orders relating to the assignment and busing of elementary school students.

Respectfully submitted,

SAM J. ERVIN, JR.
ERNEST F. HOLLINGS.
CHARLES R. JONAS.

APPENDIX

Constitutional provisions involved

1. The First Section of the Fourteenth Amendment, which reads, in pertinent part, as follows: "nor (shall any State) deny to any person within its jurisdiction the equal protection of the laws."

2. The Fifth Section of the Fourteenth Amendment, which specifies that "The Congress shall have power to enforce, by appropriate legislation, the provisions of this Article."

3. The First Section of Article III, which states, in pertinent part, that "The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish."

4. The Second Section of Article III of the Constitution, which reads, in pertinent part, as follows:

"The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of Admiralty and Maritime Jurisdictions;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State;—between Citizens of different States;—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

"In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make."

Statutory provisions involved

1. Title IV of the Civil Rights Act of 1964 which originally appeared in Title IV of Public Law 88-352 of the 88th Congress and is now codified as 42 USC 2000c–2000c-9. This statute reads as follows:

"Title VI—Desegregation of Public Education Definitions

"Sec. 401. As used in this title—

"(a) 'Commissioner' means the Commissioner of Education.

"(b) 'Desegregation' means the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin, but 'desegregation' shall not mean the assignment of students to public schools in order to overcome racial imbalance.

"(c) 'Public school' means any elementary or secondary educational institution, and 'public college' means any institution of higher education or any technical or vocational school above the secondary school level, provided that such public school or public college is operated by a State, subdivision of a State, or governmental agency within a State, or operated wholly or predominantly from or through the use of governmental funds or property, or funds or property derived from a governmental source.

"(d) 'School board' means any agency or agencies which administer a system of one or more public schools and any other agency which is responsible for the assignment of students to or within such system.

Survey and Report of Educational Opportunities

"Sec. 402. The Commissioner shall conduct a survey and make a report to the President and the Congress, within two years of the enactment of this title, concerning the lack of availability of equal educational opportunities for individuals by reason of race, color, religion, or national origin in public educational institutions at all levels in the United States, its territories and possessions, and the District of Columbia.

Technical Assistance

"Sec. 403. The Commissioner is authorized, upon the application of any school board, State, municipality, school district, or other governmental unit legally responsible for operating a public school or schools, to render technical assistance to such applicant in the preparation, adoption, and implementation of plans for the desegregation of public schools. Such technical assistance may, among other activities, include making available to such agencies information regarding effective methods of coping with special educational problems occasioned by desegregation, and making available to such agencies personnel of the Office of Education or other persons specially equipped to advise and assist them in coping with such problems.

Training Institutes

"Sec. 404. The Commissioner is authorized to arrange, through grants or contracts, with institutions of higher education for the operation of short-term or regular session institutes for special training designed to improve the ability of teachers, supervisors, counselors, and other elementary or secondary school personnel to deal effectively with special educational problems occasioned by desegregation. Individuals who attend such an institute on a full-time basis may be paid stipends for the period of their attendance at such institute in amounts specified by the Commissioner in regulations, including allowances for travel to attend such institute.

Grants

"Sec. 405. (a) The Commissioner is authorized, upon application of a school board, to make grants to such board to pay, in whole or in part, the cost of—

"(1) giving to teachers and other school personnel in-service training in dealing with problems incident to desegregation, and

"(2) employing specialists to advise in problems incident to desegregation.

"(b) In determining whether to make a grant, and in fixing the amount thereof and the terms and conditions on which it will be made, the Commissioner shall take into consideration the amount available for grants under this section and the other applications which are pending before him, the financial condition of the applicant and the other resources available to it; the nature, extent, and gravity of its problems incident to desegregation; and such other factors as he finds relevant.

Payments

"Sec. 406. Payments pursuant to a grant or contract under this title may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments, as the Commissioner may determine.

Suits by the Attorney General

"Sec. 407. (a) Whenever the Attorney General receives a complaint in writing—

"(1) signed by a parent or group of parents to the effect that his or their minor children, as members of a class of persons similarly situated, are being deprived by a school board of the equal protection of the laws, or

"(2) signed by an individual, or his parent, to the effect that he has been denied admission to or not permitted to continue in attendance at a public college by reason of race, color, religion, or national origin, and the Attorney General believes the complaint is meritorious and certifies that the signer or signers of such complaint are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief and that the institution of an action will materially further the orderly achievement of desegregation in public education, the Attorney General is authorized, after giving notice of such complaint to the appropriate school board or college authority and after certifying that he is satisfied that such board or authority has had a reasonable time to adjust the conditions alleged in such complaint, to institute for or in the name of the United States a civil action in any appropriate district court of the United States against such parties and for such relief as may be appropriate, and such court shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section, provided that nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards. The Attorney General may implead as defendants such additional parties as are or become necessary to the grant of effective relief hereunder.

"(b) The Attorney General may deem a person or persons unable to initiate and maintain appropriate legal proceedings within the meaning of subsection (a) of this section when such person or persons are unable, either directly or through other interested persons or organizations, to bear the expense of the litigation or to obtain effective legal representation; or whenever he is satisfied that the institution of such litigation would jeopardize the personal safety, employment, or economic standing of such person or persons, their families, or their property.

"(c) The term 'parent', as used in this section includes any person standing in loco parentis. A 'complaint' as used in this section is a writing or document within the meaning of section 1001, title 18, United States Code.

"Sec. 408. In any action or proceeding under this title the United States shall be liable for costs the same as a private person.

"Sec. 409. Nothing in this title shall affect adversely the right of any person to sue for or obtain relief in any court against discrimination in public education.

"Sec. 410. Nothing in this title shall prohibit classification and assignment for reasons other than race, color, religion, or national origin.

Mr. ERVIN. Mr. President, I offer my amendment on behalf of myself and my cosponsors to accomplish what all freedom-loving Americans should desire—an end to the tyranny over little schoolchildren resulting from the senseless, forced busing imposed by certain Federal courts to achieve "racial balance."

My proposal is in perfect harmony with the Constitution. Indeed, it is designed to enforce the true meaning of the "equal protection" clause by eliminating race altogether as a basis for the assignment of children to public schools. It accomplishes this by limiting the authority of Federal bureaucrats and restricting the jurisdiction of Federal courts with respect to our public schools where a "freedom of choice" system has been established by a local school district.

Under this proposal, a "freedom of choice system" is defined as, "a system for the assignment of students to public schools and within public schools maintained by a school board operating a system of public schools in which the public schools and the classes it operates are open to students of all races and in which the students are granted the freedom to attend public schools and classes chosen by their respective parents from among the public schools and classes available for the instruction of students of their ages and educational standings."

Where such a system has been established, the amendmeent would forbid the Department of Health, Education, and Welfare to do any of the following things:

First, to withhold, or threaten to withhold financial assistance from any public school on account of the racial composition of its student body;

Second, to withhold, or threaten to withhold, financial assistance from any public school to coerce or induce the school board to transport students from such school to another for the purpose of altering the racial composition of the student body at such public schools;

Third, to withhold, or threaten to withhold, financial assistance from any school board to coerce or induce such school board to close any public school and transfer the students from such school to any other school for the purpose of altering the racial composition of the student body at any public school; and

Fourth, to withhold, or threaten to withhold, financial assistance from any school board to coerce or induce the school board to transfer any member of any faculty from one school to another for the purpose of altering the racial composition of the faculty at any public school.

This amendment empowers any school board or any parent of any student affected or to be affected by any violation or threatened violation of any of the provisions of the amendment to sue the United States in the District Court of the United States and obtain such relief "as may be necessary or appropriate to redress the violation or prevent the threatened violation."

In addition the amendment specifies that—

> No court of the United States shall have jurisdiction to make any decision, enter any judgment, or issue any order requiring any school board to make any change in the racial composition of the student body at any public school or in any class at any public school to which students are assigned in conformity with a freedom of choice system as defined in Section 1201(g) of this Act, or requiring any school board to transport any students from one public school to another public school or from one place to another place or from one school district to another school district in order to effect a change in the racial composition of the student body at any school or place or in any school district, or denying to any student the right or privilege of attending any public school or class at any public school chosen by the parent of such student in conformity with a freedom of choice system as defined in section 1201(g) of this Act, or requiring any school board to close any school and transfer any students from the closed school to any other school for the purpose of altering the racial composition of the student body at any public school, or precluding any school board from carrying into effect any provision of any contract between it and any member of the faculty of any public school it operates specifying the public school where the member of the faculty is to perform his or her duties under the contract.

This provision is sanctioned by article III of the Constitution which empowers Congress to regulate the appellate jurisdiction of the Supreme Court and both the original and appellate jurisdiction of the Supreme Court and both the original and appellate jurisdiction of all Federal courts inferior to the Supreme Court.

Mr. President, the Subcommittee on Constitutional Rights held hearings on this proposal in February of this year. The records of those hearings are now on every Senator's desk. Witnesses before the subcommittee demonstrated again the widespread frustration felt by millions of parents and schoolchildren and school administrators about the state of our public schools. The senseless, forced busing of schoolchildren to achieve so-called "racial balance" is causing such turmoil and bitterness across the country that the very future of our public school system is at stake. Congress has the constitutional authority to put an end to this horrible tyranny and, Mr. President, I believe Congress has a moral obligation to the schoolchildren of America to exercise this authority. I strongly urge Members of the Senate to support this amendment and, thereby, raise the flag of liberty and justice again over the schoolyards of America.

Mr. President, one of the most illuminating witnesses to appear before the subcommittee which held hearings on these matters this year was William E. Poe, the chairman of the Charlotte-Mecklenburg Board of Education. I read from his testimony, on page 98:

> The most difficult task of all has been to find white neighborhoods willing to have their children bused into black neighborhoods to attend school. In several instances, after school assignments have been approved and the racial mix seemed to be in line, sudden and massive movements have taken place causing large subdivisions to change from white to black almost overnight. One devel-

opment consisting of some 1,700 homes has changed from white to black in the last 2 years, and the change has all but wrecked the delicately balanced racial assignments in the affected schools. Some thought that the area would remain integrated from the housing standpoint, but like other areas in our community, blacks and whites have separated and show little disposition to remain as close neighbors on a permanent basis.

West Charlotte Senior High School, a fine physical plant built in 1962, can house about 1,700 students. As of today 2,600 high school students live closer to this school than any other high school; 2,100 of them are black and 500 are white. To comply with the present court order, we must ship or bus out some 1,500 black students and bring in some 600 white students selected on the basis of nongeographical criteria, and not only that, we must assure the court that the assignment plan which achieves this result is a stable plan—that is, one that cannot be circumvented, by white students in particular. We are presently operating under an order which forbids any change in assignment of a lottery-chosen white student assigned to West Charlotte High even if his family moves *away from the* area from which he was chosen. This has resulted in some bizarre transportation problems. In one case, we had to assign a driver and bus to pick up one pupil whose family built a new home and moved to the far northerly end of the county, more than 25 miles from West Charlotte Senior High School.

In our system we have more than 500 pupils on the average who change their place of residence each month. We also have a large in-migration which affects school population. It would seem to me that when people move even within the school district that their children should be able to transfer to the school that serves their new home and not have to remain in their former school to be counted in the all-important ratio as a white or a black, and really for no other reason.

Now a few words about loss of student population, sometimes called white flight.

Although Charlotte-Mecklenburg had made considerable progress in desegregating many of its schools on a geographical basis by 1969 without a significant loss of white students, the possibility of losing a great many white students arose immediately when the full impact of the cross-busing, racial balance court order hit our community. On a number of occasions our lawyers attempted to put into the record statistics and exhibits dealing with cities like Washington, D.C.; Detroit, Mich.; Atlanta, Ga.; Newark, N.J.; and other places. The judge rejected all such evidence as being irrelevant to the issues before him.

In 1969 there were more than 84,000 students enrolled in Charlotte-Mecklenburg public schools. Today, even with a new kindergarten program, there are only 77,000—despite continuing growth in our total population. By actual count there are 8,200 fewer white students enrolled today than there were in 1969. Up to 1969 we were growing in school population at the rate of about 2,000 pupils per year—more than half of them white. Conservatively estimating the loss that otherwise would have been a gain from growth alone, we can add 5,000 white pupils to the 8,200 already mentioned, and our total loss in white pupils since the spring of 1969 reaches 13,200 pupils—or to put it another way, we have lost about 20 percent of our white pupils from the public schools.

Senator Ervin. What percentage do you say you have lost?

Mr. Poe. About 20.

Senator Ervin. Isn't that one of the tragic impacts of decrees of this kind? You lose support when those children are withdrawn from public schools. You lose the intellectual and moral support which the public school system needs to have to fulfill its function.

Mr. Poe. Unfortunately, most of those you lose are the ones whose parents have been the best supporters up to that point.

Senator Ervin. They think an effort merely to integrate the bodies of children is wrong and unwise.

Mr. Poe. Yes. Over the same period of time there has been a gain in the number of black pupils.

Where have the white pupils gone? A good many have enrolled in local private schools which are still growing in number, particularly for the southeast half of the county. These are not temporary facilities, there are some fine facilities being constructed in Mecklenburg today. Others have fled to private schools out of State. As one of our administrators has remarked, "freedom of choice" is still available to those students whose parents can afford it.

Although no statistics are available, there is little doubt that our cross-busing situation has had a substantial effect on decisions that are made by out-of-State industries considering the possibility of locating a plant or an office in our city or county.

The trend toward higher black ratio in our schools each year begins to raise the same unanswerable questions for us that cities like Washington, Detroit, Cleveland, Newark, and Atlanta are already facing.

Now a few words about transportation—busing—problems and expense. The total operating cost of transportation has risen from $542,444—1968-69—to over $2 million in the 1973-74 school year. The number of pupils transported per day has risen from 23,000 to 47,000—and while all the dollar and passenger increase, however, is not attributable to cross-busing per se, another court order requiring transportation of all pupils who live a mile and a half from school and the effects of inflation have accounted for some of the increase—it is fair to say that about $1 million annually has been added to our operating budget for transportation to accommodate the court orders relating to integration of schools.

Our bus fleet has been expanded from 267 operating units in 1969 to 516 units in 1974, or an increase of 249 buses which cost Mecklenburg County taxpayers $1½ million. In addition, we are contracting with the local city bus company to provide a substantial portion of the in-city school transportation at an annual cost of about $250,000.

Mr. Poe made a point which the Senator from Tennessee made a moment ago with respect to the decrease in the number of parents of schoolchildren attending meetings of the PTA.

Mr. Poe made another very significant statement. He said that these figures show that rich children already have freedom of choice. They move out of the public schools and move into private schools. So the only people who are denied freedom of choice are poor people. I want to give freedom of choice to the poor, black and white, and let them attend schools that their parents select.

Mr. Poe also stated that in order to carry out the decree requiring busing, it costs them $1 million additional every year—just for busing for integration purposes.

I had a conversation with a school principal from Long Island some time ago. He said he was required to spend $1 million just to bus children—not to enlighten their minds, but to mingle and commingle and mix their bodies in public schools. Just think what we could do if we had all these millions of dollars, which are being spent on senseless, forced busing, to spend on improving educational opportunities of the children of the United States.

As I have said, the equal protection clause requires every State to treat people in like circumstances in like manner; and the value of this amendment is that it carries out the equal protection clause. It treats every child exactly alike, regardless of the child's race. It puts an end to this perversion of our Constitution. It not only gives liberty back to the little children of this land, but it also gives the control of the schools back to the people of the locality, provided they have a freedom of choice system of assignment.

I urge everyone who is tired of having Federal judges and bureaucrats in HEW act as chairmen of school boards throughout this land to vote for this amendment. The value of this amendment is that it is very simple: If there is a freedom of choice system, the only matter which can be litigated is whether there is a freedom of choice. That is all you can litigate. If there is a freedom of choice, then the Federal Government must keep its hands off the local school boards, let the little children have liberty, and allow the school boards to run their schools.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. PELL. I yield 10 minutes to the Senator from Massachusetts.

Mr. ERVIN. I have a question, Mr. President. I thought we had a half hour on each side.

The PRESIDING OFFICER. There is a limitation of 30 minutes, equally divided.

Mr. ERVIN. I would like to ask unanimous consent that the Senator from Georgia be given 5 minutes.

Mr. PELL. We have time on the bill. We can divide it between us.

Mr. KENNEDY. Mr. President, I think it is a rather tragic indictment of this body that in the consideration of this legislation, which is directed toward trying to improve the quality of the education of the young people in this country, that the attention of the country, and certainly the attention of this Senate, are focused on the emotional issue of busing. It is tragic, because many people fear that steps will be taken in this body on this issue to thwart the constitutional guarantees of equal educational opportunity. And it is tragic that the Nation's attention is diverted from the real issue—the issue on how best to insure quality education to all children—black and white.

I serve on the Education Committee. I have been deeply impressed by the work that has been done on that committee by the chairman of the Education Committee as well as by the members of that committee, in attempting to improve the quality of education for young people.

We have seen in this country over the period of recent years, and particularly during the presidential campaign of 1972, how the emotions of the people in this country have been played with, toyed with. We have seen how their fears and anxieties have been supercharged by appealing to fears and frustrations on the issue of busing. All we have to do is look back over the history of public education in this country, and we find that there was no real concern for busing when white children were being bused to white schools and black children were being bused to black schools.

It is also interesting that in some States where this issue is the most emotional, where the feelings run the highest, there is actually less busing going on today to promote desegregation than there was at the time of the Brown decision or even after later decisions to promote segregation. I think that all of us in this body recognize that, or should recognize it, in spite of the speeches that many of us make.

So the matter that concerns me most deeply is that, rather than focusing the attention of the Senate on a debate as to how we can really improve the quality of education in inner cities, we are trying, in the few minutes before we start voting on this issue, to rehash old arguments and we are still appealing to emotions. Coming from Massachusetts and coming from Boston, where this issue is a highly charged and emotional controversy even today, I think it would be much more useful to attend to the vital question of quality education.

At this point, I want to commend my colleague, Senator BROOKE, for the splendid statement he made to this body earlier today. I think it was a courageous comment and one which I think deserves the full attention of all the Members of this body.

Mr. President, Massachusetts is the State in which the public school system was founded in this Nation. In South Boston we have South Boston High School. That is perhaps one of the areas where there are the highest tensions on the question of busing. Because of the various traditions of the community, due to the struggle for jobs and housing opportunities, that part of the city is virtually without any blacks. Yet there have been full classes of graduates from that high school where not one graduate has gone on to a 4-year college; not one.

We recognize that many of the children that go to that high school are the children of working people, people who work in the fire department, the police department, hard working people who work on the docks, some of the canneries or other industries that still exist in that part of the city and in other parts of the city. So many of the young people that go to that particular high school come from working families that do not enjoy the economic situation in which they can continue to send their children to 4-year colleges, although the tuition at the University of Massachusetts is virtually free for resident students from Massachusetts, and there are a number of 4-year State colleges where the tuition is negligible.

Yet the emotions of the people in that part of the city are the highest. I think this points out how tragic this debate is. We are not talking about how to try to improve the quality of education of those children in South Boston High School. The amendment we are building on here this afternoon is understood by the people of Boston. They are waiting to see how Members of the Senate will be voting. I told them how I would vote on the Gurney amendment and the other amendments that I think are, first of all, unconstitutional, and second, I think if they are passed, would throw the entire educational system in the North as well as in the South into a terrible unfortunate state of confusion. They think that this amendment would prevent busing, yet the next nearest school provision might well affect them and, in any event, it would only be a short-run remedy since it would soon be declared unconstitutional.

The additional tragedy is in terms of our national leadership. I think many of us listened to the President of the United States in a speech a few days prior to the primary in 1972. Whether it was a few days before the primaries of 1972 or not, the handwriting was on the wall in terms of the backlash on the busing issue as it existed in many places in the north. I recognize this might be more of a problem in the North than it is in the South. We saw the President asking for an excess of $2 billion to aid the inner schools and we were impressed. Then only a few days later we learned that money already had been approved in title I and in the Emergency School Aid Act. It was not new money at all.

In every possible way, the President has sought to use the issue of busing for political purposes. And the effect on his actions, which serve as the genesis for the amendment before us today, has been to appeal to the fears and emotions of the Nation.

So we are talking about a highly emotional issue. The Supreme Court, in spite of all the statements made by individuals here who should know better and do know better, does not require that we are going to bus students to achieve racial balance. It does not talk about the kind of lengthy busing that will provide any threat to the health, well-being, or the welfare of young people in this country, and yet we hear that statement made time and time again.

It has been found in terms of the education of the child, if the child goes to school in the morning and has not had breakfast, if he receives an inadequate lunch, because the school district does not participate in a lunch program, that student will not be educated, or if he has a poor teacher he would not be properly educated, or if there is a duplication of textbooks he will not receive an education, or if the school is cold in the morning he will not be able to learn.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KENNEDY. Mr. President, will the Senator yield to me for 2 additional minutes.

Mr. PELL. I yield 2 additional minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the Constitution and the 14th amendment, and the Supreme Court of the United States have indicated quite clearly to the American people that black children are entitled to all of the opportunities of quality education and should be able to go to schools where quality education is achieved. Certainly it is incumbent on those of us in Congress and in the Senate not to abide by the fears and frustrations to attempt to deny those rights and to deny those opportunities guaranteed in the Constitution. We should not abridge the rights available to young people. We should not deny those rights simply and purely because the student's skin is black.

We hear the argument made, if a school is bad, does it make any sense to bus kids from a good school to a poor school. And we should be against that, because that is only exposing a child to an inferior education. How silent those same voices are in trying to express outrage too with respect to black as well as white student attending indaquate schools today.

Mr. President, on May 17, we shall witness the 20 anniversary of the 1954 Supreme Court decision calling for an end to "separate but equal" schools. That decision not only directed an assault upon the inequitable practices in our Nation's public school systems, it also set off one of the most profound social revolutions any modern society had experienced. As seen by Robert Maynard in the Washington Post—5 days before the 20th anniversary of the historic Brown decision.

Brown against Board of Education transformed life in the United States for all Americans. And indeed, the campaign by black Americans for equality in education has evoked a striving among all minorities to seek justice in every part of our society—in housing, in employment, in the government and in the very rudimentary processes of how our institutions function.

I have joined the debate on the antidesegregation measures presented to this Senate—because I am deeply concerned that too many people have lamented over the problems caused by busing and too little has been done to conscientiously determine how equal access to a decent education can be granted for all who seek it.

Since 1954, public officials, academicians, and researchers have invested millions of dollars and uncounted manhours developing barriers to the constitutional guarantee upheld by the Supreme Court. Some groups have spent enormous energies in trying to find ways that would stifle the Court's ruling, instead of seeking productive methods for producing the benefits of quality education to deprived public school children.

As a Nation we have carried the cry for freedom and liberty around the world, but we have continued to deny access to those rights to nearly 20 percent of our own citizens.

The reason I oppose those who would include antibusing provisions in this legislation, is not because I am a proponent of busing for its own sake, but because I took an oath to support the Constitution and I believe this amendment boldly, directly, and consciously strikes at constitutional guarantees of equal protection.

I am dismayed that some Senators are proposing to repeal the decision of the Supreme Court and in fact to challenge the Court's traditional independence.

I am opposed to these attempts to write laws that challenge the right of the Supreme Court to guarantee decent education opportunities for all children. Our children do not need laws that would halt schoolbusing. Our children need guidance and assistance in their search to become productive citizens. Public education was established in this country as a nurturing force of our most valuable resource. If that system is to endure then we must be prepared to attend to the interests of all our children.

And so, I would call for this Senate to reject every proposal that might eliminate busing as one tool for delivering educational opportunities to those who would not otherwise receive such benefits. But, I would also call upon the Senate to continue in its traditional manner to structure legislation that offers adequate assistance to those who are seeking support for meaningful educational programs. I am pleased with the provisions of S. 1539—the educational amendments of 1974—that continue to include Federal support of our schools as a top priority measure. Members of this Senate have an admirable record in responding to the public demand for Government aid to education and I am pleased to be associated with the sustained thrust made by those Senators who are committed to the delivery of quality education for our children. Because of the critical concern expressed by those Senators who firmly believe in educational equality. I am encouraged in my efforts to work for legislation that seriously deals with the matter of schooling and sets aside the incendiary charges of busing.

Members of all minority groups—not just blacks, but Chicanos, Indians, Puerto Ricans, and many others, are well aware that laws which restrict or limit the resources available to provide for adequate education of their children are direct attacks on their ability to achieve the same benefits and standard of living already enjoyed by those who are not disadvantaged. Any action that we take in this Senate which shuts off resources for delivering the benefits of a decent education to any American child is unfair. To enact legislation that prohibits use of any tool to provide equal education is clearly a slap in the face of deprived citizens. Such legislation effectively removes any initiative by the Federal Government or the courts to seek an end to the inequalities based on bigotry and discrimination in public schools. But this amendment now before us does more than deny use of busing. It seeks to reverse the course of history over the past two decades. It tries to reverse desegregation in the South and to prevent it in the North. It seeks to reopen the wounds that have healed in many communities and to stir those emotions which caused violence and disruption during the past decade.

Let me begin to enumerate further why I find this measure unacceptable, by quoting from the 14th amendment to the Constitution, which states:

> All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States, and of the State wherein they reside . . . no State shall . . . deny to any person within its jurisdiction the equal protection of the laws.

Since 1954, the courts have sought to bring to black Americans the protections guaranteed in this provision of the Constitution but denied to them for 60 years.

Reasonable men can surely agree that in a society that values education as highly as we do all citizens must be able to pursue the benefits of equal protection of the laws, unencumbered by the restrictions of segregation. Unconstitutional school segregation, according to the precepts of the 14th amendment, requires effective relief. And indeed, since we know that the phrase "all deliberate speed" points to interminable delay—effective relief means immediate relief, as the Supreme Court declared in 1968.

I would like to list the fundamental reasons why the antidesegregation provisions before the Senate at this time must be defeated:

First. The next closest school provision is fraudulent. There is one feature of this legislation that commends it as the most extraordinarily deceptive and cruelly fraudulent piece of legislation that has come before the Senate. The "next closest school" provision of this amendment is deceptive because it stirs up the belief among working-class white Americans that antibusing bills will protect them from the supposed evil of desegregation. Yet, the bill actually limits busing to schools closest or next closest to home. In other words, those whites who live in areas closest to the central cities where most minority groups are confined, are the ones whose schools can be reached by the busing provided for in this amendment.

Historically, black Americans have been forced to live in segregated areas. Urban ghettoes do not reflect freedom of choice on the part of black America.

Rather they are a living example of where white Americans, who fear integration, have designated that blacks must live.

The ghetto is the result of "keep out" signs. If one adheres to the principle that the neighborhood is the appropriate basis for determining public school assignments, how can anyone rationally maintain that school assignments based on racially segregated neighborhoods do not constitute educational segregation and thus a denial of equal educational opportunity?

And Federal authorities have acted, perhaps, with more destructive effect than any other agent, to solidify the barriers of residential segregation.

Federal Housing Administration mortgages were at one time assured only when a racially restrictive covenant was obtained.

Through restrictive zoning, and other policies that discouraged low-income housing. We have established and perpetuated racial and cultural enclaves. Any demand to return to the neighborhood school is a call for a return to segregated schools.

So the amendment will limit the "burden" of desegregation. It will place it on those white neighborhoods geographically nearest to black neighborhoods, meaning desegregation for low-income, ethnic, working-class white neighborhoods, and no change at all for those whites affluent enough to live farther out in the suburbs. So once again, even when we view the issue from the proponents' point of view, we see that this legislation will favor the well off at the expense of the working class.

This provision also flies in the face of the most recent studies which show the most gains for disadvantaged children occurring when there is a mix of children from economically divergent backgrounds.

Second. The reopener provision undermines our courts—and it clearly is also unconstitutional.

This provision would reopen hundreds of desegregation cases long since settled, reopening old wounds long since healed, giving new opportunities for troublemakers in hundreds of cities and towns where desegregation is now a peaceful fact of life—much to the detriment of the entire community.

By enabling the reopening of these countless hundreds of cases, many of which do not even involve transportation, the bill is a betrayal of the thousands of courageous school administrators and hard-working community leaders who dared to face down the racists and the demagogs, who calmly and responsibly went about obeying the law.

What does the bill's reopener clause say to those who stood for "law and order"? "It says you were wrong." It says the demagogs will have their day, regardless of the Constitution.

> The basic guarantees of our constitution are warrants for the here and now and unless there is an overwhelming compelling reason, they are to be promptly fulfilled.

Those words affirmed the equal protection right to nonsegregated public parks in Watson against City of Memphis. Clearly, therefore, the right to nonsegregated public schools enjoys the same status as the right to public park facilities.

I share the conviction of the Honorable Justice Arthur Goldberg that "segregation injury is so intolerable that the right to nonsegregated schools is the right to them now."

"Thus, the remedy merges into the right. Any suspension of the remedy is a suspension of the right itself."

The provisions of the legislation before us are not only fraudulent but they blatantly contradict every precept that white America has consistently demanded that blacks pursue.

Throughout our history, black citizens have been urged to look to the courts for remedies to the injustice they suffer.

But this measure would seek to close the courthouse door for black children who have been denied equality in our public schools and it would undo all the court decisions that were issued in good faith and compliance with the Constitution over the past 20 years.

Third. The amendment also says that failure to achieve racial balance is not a denial of equal educational opportunity.

This is irrelevant, since the courts themselves have specifically stated that racial balance is not required, and no court rulings have ever sought it.

The courts have ordered desegregation only where they have found dual school systems illegally operating on a segregated basis. It would seem, then, that the only purpose of citing racial balance in the amendment is to perpetuate the false myth, energetically advertised by antibusing force, that the courts have been requiring racial balance.

Time after time the courts have reaffirmed standards and guidelines for desegregating formerly de jure segregated schools. In the 1971 Swann case a unanimous Court held that desegregation plans cannot be limited to the walk-in school. The court found that in previously segregated districts, devices such as clustering, free transfer, and the creation of noncontiguous zones must be utilized.

The procedures and guidelines of the Supreme Court are clear. They require desegregation and they do not require racial balance.

Fourth. This amendment places seriously restrictive limits on the courts.

This amendment could not be better calculated to undermine the authority of our courts. It tells the courts they cannot carry out their constitutional duty to remedy violations of the Constitution.

By placing limits on the remedies the courts may invoke, this bill is not only a major threat to the delicate balance of powers prescribed by the Constitution among our three branches of Government. It is also a clearcut example of congressional opposition to law-and-order, for it tells the American people that if they really want to break the law, if they really want to ignore the 14th amendment badly enough, well, go ahead and do it. And Congress will even help you.

Two years ago, when another antibusing bill was under consideration by the House, Congressman McCulloch told the Judiciary Committee that while Congress has in the past enacted legislation limiting the remedies the Federal courts might give in particular cases, in all prior instances of limiting legislation, Congress has made certain that other effective remedies were available. This amendment, of course, does no such thing. It limits, or totally eliminates, what is in many places the one and only remedy to a finding that a school system is operating in violation of the law.

Of course, it is clear that Congress has the authority to regulate the jurisdictional growth of the Federal courts, but the Congress cannot use the courts to accomplish unconstitutional ends.

I fear that enactment of the antibusing provisions under consideration by this Senate would precipitate a constitutional crisis in this country.

It would overthrow the 14th amendment guarantee of equal protection for all citizens. It would seek to place limits on the remedies courts may provide; it would distort the balance of powers among the three coequal branches of government; it is in direct conflict with the constitutional requirements determined by the past 20 years of rulings by the Supreme Court, including the 1971 finding by the so-called Nixon court that "desegregation plans cannot be limited to the walk-in school"; it would leave citizens without adequate remedy at law to secure their right to an equal education; it would overthrow the principle that the Federal Government, like the States, cannot frustrate the constitutional mandate of the 14th amendment; and it flies in the face of the Supreme Court rulings that Congress, under section 5 of the 14th amendment, has no power to restrict or dilute that amendment's guarantee of equal protection.

Fifth. Why desegregate our schools?

If we accept the notion that the purpose of education is to acquire the ability to live in and contribute to our diverse national community, then it follows that any educational system purposely designed to segregate black from white, Jew from Catholic, Irish from Italian is doomed to fail.

Probably no other facet of the busing issue receives as much attention as the question of what good comes from desegregating our public schools?

There has never been a definitive study on just how much better or worse students perform under varied conditions. Part of this is due to the fact that there is no universally agreed upon standard for measuring just what "learning" is.

In too many instances, when it is claimed that black students do no better after moving to integrated schools, all that is really being proved is that youngsters from ghetto backgrounds do not fare too well when they take standardized educational measurement tests designed for children from white, middle-class backgrounds.

But overall, the weight of most attempts to measure the rate of learning indicates that black students do slightly better when moved to an integrated school, while whites do about the same.

This is not to contend—as is charged by some antibusing sponsors—that anyone is claiming that blacks learn better just by the magical act of sitting in the same classroom with whites. What it does say is that where white children are present, those schools will receive their full share of money, equipment, and facilities. Where white children are not present, some of that money due the black school just does not find its way there.

But the quality of an education cannot be measured by test scores alone. We have this on no less authority than the President of the United States.

President Nixon has said that the school "is a place not only of learning but also of living."

And when he was Commissioner of Education, Sidney P. Marland, said:

> The most important objective of the schools is to help people learn and grow and become developed human beings.

It stands to reason that on the basis of the criteria offered by President Nixon and his former Commissioner of Education, we must support the idea of multiracial schools as being beneficial to our multiracial society.

And it would further stand to reason, then, that President Nixon's own criteria for schools would quickly eliminate any proposal which would serve to segregate those schools on the basis of race.

Mr. President, it may be well for the Senate to remember that people do not learn to function very well in a multiracial society when they do all their learning in uniracial schools.

We have heard from many quarters on this business of the value of desegregating our schools. A book by a team of Harvard researchers, headed by Prof. Christopher Jencks, has been cited as indicating that moving children from ghetto schools to better schools does not guarantee that they will earn more money in later life.

That may or may not be so; yet since when do we measure the quality of our citizens by their bank accounts? What about the nonmonetary benefits that accrue to those who have a chance for exposure to a better education? Do we downgrade teachers, ministers, social workers, carpenters, plumbers, or electricians, because they have less money than bankers? At least one of the recognized results of an adequate education is that educated people are more openminded, less authoritarian, more sensitive to esthetic experiences, better informed, more likely to become leaders, more independent, more confident, more internationally aware, and more likely to have jobs which bring them a fuller measure of satisfaction.

Are not those very characteristics also the criteria by which we judge good citizenship? Do not those characteristics describe what we hold forth as the type of persons most valuable to a democratic society?

Then why are we considering legislation that will have exactly the opposite effect? Why are we considering legislation that will condemn generations of Americans to a flagrantly distorted system of public education?

William Chapman writing in the Washington Post on May 12 put the case for desegregation as clearly as it can be made:

> Integration helps the young black catch onto the first rungs of the upward mobility ladder which leads up to college and better jobs.

As he continues, Chapman reports that—

> In one major survey, Robert Crain of Johns Hopkins University questioned 1,600 35-year-old black men, some of whom had gone to largely integrated schools. He found two results:
>
> Those who had gone to integrated schools were more apt to finish high school and more apt to go on to college than those who had attended segregated schools.
>
> They also were apt to find better jobs that paid higher salaries.
>
> The explanation by Crain is that the schools gave the blacks the connections and know how to find their way into college and good jobs, regardless of test scores and falling self-esteem. "They had white friends who put them on to jobs, which is how you get jobs anyway," says Crain.
>
> The greatest achievement of school integration, then, may be just that. Integration may not raise test scores much and it doesn't seem to help the young black think better of himself. But in the end it may do something more valuable.
>
> It seems to give that little boost toward life's more coveted things. It puts him in what Pettigrew of Harvard calls the "influence network," that indefinable and untest-

> able system that whites have had going for them for years.

Mr. President, I submit that is what education is all about—getting a job, raising a family, and becoming a productive member of our society.

Let us not return this Nation to the *unjust practices* of the 19th century. Let us help all Americans seek the benefits of life in this great Nation. The Senate should have no part of any legislative provisions that seek to resegregate our schools and cripple our courts.

Sixth. Busing and safety.

Interestingly, the critics of busing find it useful to cite the risks to health and safety that are imposed upon youngsters who are "forced" to ride buses to school. There are approximately 46 million youngsters in the Nation's public schools. About 20 million or 43 percent of these students use buses to get to school. Of those 20 million, less than 1 million ride them for purposes of desegregation.

Thus, if all busing for desegregation were stopped today, 97 percent of all students who ride buses would still be riding them tomorrow. Are the busing critics making an outcry about those youngsters? Or are the critics basically concerned with the safety of the 1 million children who are bused for desegregation?

The National Safety Council reports that school busing is the safest form of transportation in America, and that includes walking to school.

In fact, the accident rate for boys who walk to school is three times higher than for boys who ride buses to school. And more than twice as high for girls who walk. One reason buses came to be used, indeed, was safety. As urban areas became more congested and traffic more reckless, it became safer for children to ride buses than to try to cross dangerous streets.

If the safety issue were anything more than another part of the smokescreen, those who are so concerned about safety might better be spending their time passing antifootball legislation rather than antibusing bills. For, while the accident rate for boys riding a bus to school is .03 per 100,000 student days, the football fatality rate—not just the accident rate, but the fatality rate—from football accidents has averaged 19.1 deaths per year, or 1.41 per 100,000 who play the game. That is roughly 47 times as high as the injury rate on school buses.

But, of course, no one is going to try to ban football. And no one who wants to ban busing really means it when he says it is a safety risk.

This bill also says "the risk and harms created by excessive transportation are particularly great for children enrolled in the first six grades." The bill fails, of course, to define "excessive." Perhaps this is because of findings like the survey of 10 segregated private schools which found that 62 percent of the pupils got there by bus, with an average one-way ride of 17.7 miles. By contrast, public schools in the same eight States where these schools are located, bused less than half their students, and at an average ride of only 10.1 miles.

In other words, the segregated schools bused more pupils, and they bused them an average of 7 miles longer, one way. Perhaps that is why the bill ducks away from defining "excessive."

The bill also fails to support its assertion that busing is harmful for youngsters. There is simply no such evidence. Besides the fact that an accident rate for children walking to school is two to three times higher than for those who ride buses, there is no evidence that busing harms children's psyches or learning ability.

In fact, there is only one scientific study that has ever been made of this subject. Dr. Robert Coles, the world renowned child psychiatrist, actually rode buses back and forth every day for considerably more than 1 year, to study the affect on the children.

This is Dr. Coles' conclusion:

> I never saw children get sick because they were being bused; I never saw children become emotionally disturbed because they were bused; I never saw children's school work suffer because they were bused. Physically, psychologically, educationally, the experience of busing was, in fact, neutral.

Antibusers say their children are being transferred to unsafe schools. No responsible school board should allow any school to be unsafe. If school boards cannot take measures to insure the safety of all students, whether from the neighborhood or from 10 miles away, the school in question should be closed and the students transferred elsewhere.

Antibusers ignore the fact that almost without exception, desegregation plans are working smoothly and peacefully. In the rare cases where some rides are unnecessarily long, that is an administrative matter to be corrected, lawfully, by local officials. But national legislation to correct a weakness in one community will only create problems in another where the situation is different.

As for any "turmoil" created by court-ordered busing, that activity is almost exclusively the result of actions by adults Experience shows that time after time, as soon as adults stop throwing up picket lines, shouting at children, or burning houses, the commotion dies down.

Perhaps, parents, should step back and learn something from their children. In Pontiac, Mich., for example, after a parent group had made a lawless spectacle of themselves, their youngsters formed a group of students called "we can make it work."

John Kindig, 13 and white, a seventh grader, made this observation about his elders to Time magazine:

> All these adults keep telling us we're supposed to be against busing. They tell each other "burn the buses, tear down the schools, beat up the blacks." Who do they think they are? We're the ones who are going to school. We're the ones who have to live together. We can do it fine if they will let us alone.

Brenda Briscoe, a black student, made a telling observation:

> People in my neighborhood think busing is good. Since the white people have come over here, they're putting new stuff in the school. Before, it would take three weeks to get a broken window fixed and now they do it the next day.

Another student in Pontiac, April Barr, put it in a nutshell:

> The parents are the trouble, and we wish they'd stay out of it.

John Kindig added the finishing touch:

> The adults say seventh-graders can't grasp the situation, that we're too young. Well, how can they tell? They're not trying to make it work. We are. We have to live together and grow up together so we can keep this earth going.

But those are not just northern sentiments. A white student in Leon County, Fla., says:

> The problem with integration is more of the parents' fault than the students. If they would let the students alone, everything would work out very well.

An elementary school teacher in Alachua County, Fla., says:

> Children adjust better than adults. If the grown-ups would leave them alone, they'd adjust.

Proponents of anti-busing measures know, then, that such legislation is a fraud. It is not needed, except for cynical political purposes by an unprincipled few. One is either against segregation, or one is not. That is the issue here.

Seventh. Schoolbusing is not the real issue.

To begin with, the amendment before us at this time has nothing to do with improving the quality of education for anyone. Instead, it will only lower the quality of education for some.

Many of those who loudly denounce "busing" know very well that busing has nothing to do with what they pretend to be talking about.

The test of this is simple: If busing is so terrible, then why is busing used to carry children to consolidated schools?

Why is it used to carry children to special schools? Why is it used to relieve overcrowded schools? Or to prevent double sessions? Or to enable citywide use of special schools? Or to transport handicapped children?

Or to take children to zoos, museums, parks, sports events, and on field trips?

Clearly, busing is not the issue.

Buses have been used to carry children to schools for nearly 60 years, and Massachusetts was the first State to require State supported transportation programs.

The Department of Justice has identified only 20 school desegregation plans which involve racial balance. The Supreme Court has never required racial balance or racial quotas to desegregate school systems.

The little red schoolhouse has long since been replaced by the big yellow schoolbus as the symbol of American education.

Indeed, many Members of this Senate attended school because buses carried them there.

Busing is not the issue. The real issue is what parents believe is waiting for their children at the end of the bus ride.

If they think there is quality of education waiting at the end of that ride, they will go to almost any lengths to get their children on that bus.

Even parents who pulled their kids out of desegregated schools to enroll them in all white segregation academies, get their children to the segregated school by putting them on the same old devil, the school bus.

Those segregated schools may not be very good—in fact by most indications they are so bad that the children in them will come out with a distinctly second-class education—but their parents apparently feel that keeping their children segregated is more important than giving them a quality education. And they use a schoolbus to realize their choice.

We see this choice made at the other end of the spectrum, too. How do the children of the very richest parents get to the most expensive private schools?

They, too, still stick with that tried and true old method—the school bus.

Eighth. Black Americans demand an end to turmoil over busing.

America has been through enough agony on the issue of race. We have been torn apart, our progress stymied, and the promise of our democracy distorted, by the issue of race. The last 20 years have seen progress—slow but painful—away from those ugly myths that have brought us nothing but pain. This is not the time, with the possibility of brighter days ahead, to start enacting legislation which will reopen bitter wounds, will tell our minority citizens "we lied to you. We do not want to give you a fair chance after all."

Black Americans are fully aware of the hard reality that whites are not going to pay for things that do not bring direct benefit to themselves or to their children. They never have and they never will.

That fact was demonstrated vividly by a black parent from North Carolina. She found it marvelous how quickly funds could be found for schools that were all-black, once those schools began to include white children:

> Within 1 month, the parents of the white children who were being bused managed to get the black school painted, repairs made, new electric typewriters and sewing machines, and the shelves filled with books. Busing for 1 year will upgrade all our schools quicker than anything the President or the Congress can do.

Some blacks may, indeed, oppose busing, but their number is surely small in comparison with those blacks who have been willing to make such tremendous sacrifices to get their children into desegregated schools. And it has of course been black families who have had to make the overwhelming number of the sacrifices in this endeavor. Often made to feel like outsiders, cut off from extracurricular activities, insulted, and unable to afford clothes and other extras so important among peer groups, these youngsters have hung on—knowing that a better school meant at least a chance—if not a guarantee—for a better life than their parents know.

Some black people have grown cynical over the idea that whites will ever truly open the doors to the constitutionality guaranteed promise of equal opportunity for all. And they have decided they would rather try to go it alone.

This may sound like a desirable idea, and it is desirable—as an idea. What has always happened, whenever whites manage to segregate minorities, or minorities managed to segregate themselves—in reality what has always happened is that control over separate but equal schools turns out to mean control over communities with no money. Thus, black parents know well that it makes more sense to remain "plugged in" to the flow of the majority population, than to seek isolation from the source of funds that can assure the delivery of educational adequacy.

CONCLUSION

We have seen that the antidesegregation provisions pending before the Senate this year were resurrected from past attempts to negate constitutional guarantees for deprived American citizens. These measures will place the legislative and judicial branches in direct conflict; will impair the Supreme Court's role of final arbiter of constitutional matters; they will remove a constitutionally required remedy for the vindication of minority rights, and they will reopen two decades of judicial decisions, many having nothing to do with busing whatsoever, this leading to divisiveness and confusion in the hundreds of communities that were naive enough to think that all Americans should obey that law.

The framers of these proposals know the courts have never ordered racial balance, and they further know that recent rulings have specifically barred long-distance busing. They know very well that more specific limitations already seem to be on the way through upcoming litigation. Thus the proposed legislation is undesirable by any standard.

This incredible list of distortions, all employed on behalf of a measure which comprises a radical attack on our Constitution and our courts.

The antibusing forces know this. That is why they must resort to hysteria, distortion, and demogoguery to press their cause. And their cause, of course, is deceptive. They hope to stir up enough passion to cause their constituents to overlook the real issue in America today, and to deceive them through a false belief that measures like this are accomplishing something.

They ignore many things. They ignore the fact that in many places, bus rides after desegregation are shorter than they were before.

They ignore the fact that there was no such outcry during all the decades when busing was one-way, when it affected only black children, when its only function was to cheat them out of what was rightfully theirs.

They ignore the fact that even today, by far, the greater burden of busing is on black children.

They ignore the fact that 15 States today pay the cost of busing children to private and other nonpublic schools.

If busing is so evil, why are not all the elected officials in those 15 States being thrown out of office by the voters?

And why is it that this legislation contains no prohibitions against the use of public money to transport pupils to private and parochial schools—including segregated academies?

Or why—if this bill is so vital—did a massive study commissioned by HEW officials conclude that there can be almost complete desegregation of public schools, even in some large cities, within practical limits of travel time and cost?

There are other important facts that the anti-busing advocates choose to ignore. They have tried to paint court-ordered busing as a form of discrimination against the South, for example. Yet the fact is that, for all its State-enforced segregation, which had to be undone to comply with our Constitution—the proportion of children riding buses to school in the deep South is less than 3 percent above the national average.

Anti-busing forces also claim that excessive new sums of money are being spent on school busing. The fact is that the percentage of education money being spent today on school buses is slightly less than it was 30 years ago. Furthermore, it cost more to maintain two school systems under segregation than it does to operate one under integration.

This statement fully explains why I oppose the amendment before the Senate at this time. I request unanimous consent to place several news articles on this critical issue in the Record.

Mr. President, I ask unanimous consent to have printed in the Record certain material relating to this matter.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the New York Times, May 12, 1974]

School Integration Order of 1954 Did Much, but Much Is Undone

(By Robert Reinhold)

It was cloudy and warm that spring Monday in Washington, May 17, 1954. On Capitol Hill, the Army-McCarthy hearings stalled over President Eisenhower's refusal to disclose his private conversations. In London, Churchill was calling for a negotiated peace in Indo-China.

But a story of truly momentous proportions was unfolding at the United States Supreme Court, where a hardy band of civil rights lawyers emerged jubilantly from the marbled corridors of justice clutching a document, to be known forever to lawyers as Oliver Brown et al v. Board of Education of Topeka et al, declaring that black children in America shall no longer be forced to attend school separately from white children.

That historic document was to alter profoundly the American political and moral landscape. In those innocent, less-complicated days—the days of "Uncle Miltie," "Dragnet" and "See It Now"—many of those lawyers believed that school desegregation could be undone in two years.

FLOODGATES OPENED

This Friday, two long, tumultuous decades will have elapsed since that electrifying moment. Despite enormous strides by blacks and other aggrieved minorities, the battle for equality is far from over.

The Brown decision opened the floodgates against Jim Crow and set the country on the road to resolving what Gunnar Myrdal, the Swedish chronicler of American racial troubles, once described as "perhaps the most glaring conflict in the American conscience and the greatest unsolved task for American democracy."

Gone are the dual public school systems, the separate rest rooms and lunch counters, all the other manifestations of racism under which blacks chafed for so long. Black aspirations and pride have soared. But having achieved this and much more, a splintered civil rights movement seems to have reached an impasse, a political and social bedrock against which its legal weapons have been blunted.

Indeed, in one sense the Brown decision has been effectively overruled in 20 years—not by judges, not by recalcitrant Southern school boards or deputies with snarling dogs, but by the hard facts of demography, ethnicity, and the inexorable flux of human migration.

It has been overruled by the buses carrying black families seeking a better life to the great cities of the North and West and the moving vans carrying whites, seeking a better life and escape from the incoming blacks, to the suburbs.

These forces are imprinting on the American social fabric a new kind of school segregation—one based not so much on race as on socio-economic class. They are forces that judges—no matter how supreme—are no more likely to blunt than they are to stay the waxing of the tides.

REMOTE AS EVER

And if social science is right in stating that school achievement is closely related to the socio-economic level of one's classmates, then the goal of equal educational opportunity *for black* citizens, if measured in terms of performance on achievement tests, is almost as remote as ever.

Social scientists, with their computers and statistics, have begun to assess the consequences of desegregation, insofar as it has been achieved. Their studies are tentative and sometimes contradictory, but, in general, integration has not yet been found to have a pronounced effect on the learning of black children. Neither, however, is there much evidence to support fears that it would damage white youngsters.

Over the last few weeks, veterans of past and present civil rights wars have been meeting to commemorate the 20th anniversary of the Supreme Court ruling.

They have many sweet victories to savor, but their deliberations have been tinged with controversy. Most of them probably still consider integration a top social priority, but not a few feel further efforts are not worth the trouble. There is a widespread feeling that the moral urgency that crystallized into the Brown decision has been dissipated.

"The whole morality of the school desegregation issue disappeared when it moved North," said Dr. Kenneth B. Clark, the black psychologist and educator whose studies of black children's insecurity were cited by the Court in 1954. "It was the end of the age of innocence."

Probably the most striking and ironic result of Brown is that the Deep South, particularly the rural South, is more thoroughly integrated than the North.

Ten years ago, scarcely one per cent of the black children in the 11 Confederacy states were in school with whites. As of 1972, the latest year for which comprehensive figures are available from the Department of Health, Education and Welfare, 46 per cent were in predominantly white schools; by contrast, only 28 per cent of the blacks in Northern and Western states attend white schools.

Put it another way, 25 per cent of Southern black children are still enrolled in virtually all-black schools—schools where blacks total at least 90 per cent—while 49 per cent are in such schools in the North and 53 per cent in the Border states.

Nationally, more than 90 per cent of the 2.5 million black pupils have at least some white classmates. For those who prefer to call the glass half-empty almost two-thirds of them are still in schools in which they form a majority and nearly 40 per cent go to classes that are virtually all black.

The figures improve somewhat each year, but the gains in the South are largely offset by growing de facto segregation in the North.

Thus Muscogee County, Ga. (the Columbus area), in the heart of Dixie, is far better integrated than Boston, seat of the Abolitionist movement. Three of every four black youngsters in Columbus are in majority-white schools, while in Boston 82 per cent are in majority-black schools. Both systems are about one-third black.

And in Boston, a modest state-ordered busing plan that would only partly redress the imbalance has provoked a frightening political storm.

The situation is even more difficult in other major cities, such as Chicago, Atlanta, Philadelphia, Detroit, Cleveland and Washington, where there are not enough white pupils left within the city limits to provide balance.

Washington, one of the five districts named in the Brown decision, is almost totally segregated largely because there are fewer than 5,000 white children in a school system of 140,000. The Supreme Court has yet to rule on whether busing between the inner cities and the suburbs is required under the Constitution.

But the statistics tell only a part of the story. They say nothing, about the court orders needed to integrate such diverse cities as San Francisco; Charlotte-Mecklenburg, N.C.; Pasadena, Calif., and Pontiac, Mich., or about the bus burnings, the fist fights, the bitter rallies.

The statistics also say nothing about how countless communities, such as Tampa, Fla., have quietly come to accept integration, or about the way black children were greeted with flowers and ice cream last fall when they arrived at newly desegregated schools in Prince George's County, Md., which achieved extraordinarily smooth desegregation.

And they do not tell about the small successes and disappointments that loom so large in individual lives.

There is the white couple in Greensboro, N.C., who backed up their liberal convictions by dutifully busing their youngster to a school in the black part of town, only to have him announce one day that he did not like his black classmates. And there is the black cab driver in Washington, a product of segregated public schools, who now lives in Laurel, Md., where his 15-year-old daughter attends a mostly white school.

Like many blacks, he feels that in white America the green goes where the white goes and in black schools "all they learn to do is shoot dope and ——— girls—that won't get you into college." He keeps his daughter's report card, studded with A's, in the front seat of his cab to display to passengers.

RACE TO THE SUBURBS

And there is the former Navy officer and his wife who recently moved to the outer fringe of San Diego to escape their sons' heavily black primary school.

However complex the picture, it is leagues away from the America of 1954. The lawyers, black and white, who argued the five Brown cases before the high court, had to walk six blocks to the railroad station in Washington to find a place to eat together. Today that would be unthinkable, even in Jackson, Miss.

"Brown was the beginning of a lot of things that changed the United States from something like South Africa," said Jack Greenberg, one of those lawyers and now head of the N.A.A.C.P. Legal Defense and Educational Fund, Inc.

"While it is important to count how many blacks and whites sit together in school and whether reading scores are up or down, that is not sufficient."

It is probably fair to say that most blacks, like the Washington cab driver, still prefer their children to go to predominantly white schools.

"This is a high priority," said John A. Buggs, staff director of the United States Civil Rights Commission. "Schools are socializing institutions. They are the only institutions where all children are required to do so. If we cannot desegregate education, I don't think we can desegregate anything."

But an increasingly vocal group of black leaders is singing a different tune, saying it is more important to concentrate on improving the education of the black youngsters where they are—in the inner cities—than to worry about transporting them to hostile white neighborhoods.

Ruby Martin, a black woman who is a former director of H.E.W.'s Office for Civil Rights, astounds friends by saying that school integration has become a low priority with her.

"It is easy to put black kids in white school systems," she said. "But just to integrate will simply compound the problems we have and polarize the community more. I would not close a black school without going into the community to find out what will be the impact."

Ronard R. Edmonds, director of the Center for Urban Studies at the Harvard School of Education, contends that black children should be transferred to distant white schools "only if such transfers can be justified by greater certainty that all affected black children will educationally profit from court-ordered desegregation."

Federal Judge Constance Baker Motley, who represented James H. Meredith in his bid to desegregate the University of Mississippi, said: "It seems today Brown has little practical relevance to central city blacks. Its psychological and legal relevance has already had its effect. Central city blacks seem more concerned now with the political and economic power accruing from the new black concentrations than they do with busing to effect school desegregation."

Whatever the disagreement over where to go now, few would turn the clock back.

Their psychic investment in the struggle has been too large for that.

It was a full 10 years after Brown before any substantial desegregation took place. The passage of the Civil Rights Act of 1964 finally gave the Federal Government the financial club—in the form of Title VI, authorizing the withholding of funds from segregated districts—to enforce the law.

Lawyers and experts from the Justice Department and H.E.W. criss-crossed the country, helping to drawn up compliance plans and rattling sabres at the recalcitrant.

Court decisions, meanwhile, closed off most of the loopholes, North and South. Green v. New Kent County, Alexander v. Holmes County, Swann v. Charlotte-Mecklenburg and Keyes v. School District 1 (Denver) are the judicial landmarks that swept away the delaying tactics, ordered all reasonable measures to eliminate segregation "root and branch" and began the assault on de facto neighborhood-based segregation in the North.

But for all these victories, the civil rights movement finds itself grappling with a host of "second generation" problems in some ways more intractable than the massive resistance of the sixties. Once in white schools, black children have often found themselves excluded from extracurricular activities, "tracked" into classes with no whites, and expelled from school for disciplinary reasons more often than whites.

THE "ACADEMIES"

In addition, it is estimated that as many as half a million white pupils have been enrolled in all-white private "academies" in the South. Desegregation has also meant that thousands of black teachers and educators have lost their jobs, been demoted or kept from promotion.

Also coming to the surface is the long-submerged complaint of other minorities—Puerto Ricans, Mexican-Americans, Indians, Chinese—that their children, too, suffer educationally from linguistic and ethnic barriers.

All this occurs against a political backdrop that many black citizens find hostile to their aspirations. The Nixon Administration is viewed widely as an enemy of blacks, and not a few white liberal politicians have run from the busing controversy.

J. Stanley Pottinger, Assistant Attorney General for Civil Rights, denies that the Administration has turned its back on integration, but he maintains that there is little political pressure for it.

"The steam is gone," he said. "The pressure on Nixon is almost zero now."

With national controversy raging over busing, what can be said about the educational and social impact of integration?

The Brown decision was based not only on law but also on the testimony of psychologists and educators that separate schooling for blacks, in the Court's words, "affected their hearts and minds in a way unlikely ever to be undone."

The implication was that desegregation would lift the low self-esteem and academic performance of blacks.

A MORAL IMPERATIVE

It can be argued that integration is a moral and political imperative that is right regardless of whether it "works" in terms of raising test scores. But in view of the social cost of bringing about mixed schools, it is perhaps fair to ask what has been gained in terms of achievement, aspirations and racial attitudes.

There are no definitive answers yet. Substantial desegregation has existed for only a few years, during which the schools have been buffeted by unsettling change. Because of this, along with the rancorous turmoil often surrounding busing orders, it is perhaps too soon to expect major returns. And it may be years before the ultimate payoff, in college attendance and success in later life, will be apparent.

Still, some preliminary studies have been done. Although social scientists, applying different yardsticks, have quarreled over what they mean, these tentative patterns emerge:

Desegregation appears to have a positive, albeit slight, effect on black achievement scores, but the gap between whites and blacks remains large.

Contrary to white parents' fears, desegregation does not seem to damage white pupil performance.

Integration generally seems to work better, for both races, if accomplished early in a child's school career.

"THE COLEMAN REPORT"

More dramatic effects perhaps should not have been expected on the basis of school integration alone, given the results of the massive Equality of Educational Opportunity study, the so-called "Coleman Report" of 1966. That landmark document suggested that the wide variations in pupil performance were more closely related to differences of pupils and the socio-economic status of one's classmates than anything the schools did.

The implication was that blacks had to be integrated with middle class whites. Given the massive flight of more affluent whites to the suburbs and private academies in recent years, it is perhaps too soon to judge this theory.

A major study of Southern desegregation was undertaken recently to evaluate the Emergency School Assistance Program, which provides Federal funds to lubricate the process. The study "Southern Schools," was carried out by the National Opinion Research Center under contract to the United Office of Education.

On the basis of tests and questionnaires administered to 32,000 fifth and tenth graders in a random sample of about 600 Southern schools, the statistical study concluded that school racial make-up did not seem to make much difference for achievement, although both races did somewhat less well in schools more than 70 per cent white or more than 59 per cent black.

Racial tension was found to have damaged white high school achievement, and tolerant racial attitudes among white pupils were correlated with improved black performance. Blacks and whites, except for high school blacks, were found to have better racial attitudes if integrated early in life.

Probably the best data come from several longitudinal, or "before and after," studies.

Evanston, Ill., a 16 per cent black Chicago suburb of 80,000, was integrated smoothly in 1967. Before pupil reassignments, researchers for the Educational Testing Service tested pupils and teachers and then followed up their study for four more years.

Except for some marked improvements in mathematics for both races, the study found no significant gains or losses in achievement for blacks and whites, after desegration.

Still, the director of the study, Mrs. Jayjia Hsia, said "Integration is working well in Evanston" on other grounds.

The black and Chicano minorities in Riverside, Calif., were integrated in 1965 and achievements tests taken every year until 1970.

Dr. Mabel C. Purl of the school system and Dr. Jane Mercer of the University of California at Riverside found encouragement in that minority students desegregated before the second grade advanced just as quickly as whites.

Although the gap between whites was not closed, this was taken as an improvement over the usually observed widening of the gap as students got older. Other researchers have found less promise in the Riverside study but the majority whites do not seem to have suffered.

And in Berkeley, Calif., which coupled voluntary desegregation in 1968 with sweeping curricular innovations, Dr. Arthur D. Dambacher reported that the normally growing gap between whites and blacks was being slowly reduced, particularly in the lower grades.

A NEGATIVE VIEW

Probably the most negative and scholarly view of desegregation came from Dr. David J. Armor, whose hotly disputed article in the magazine "The Public Interest" in the summer of 1972 said that the results of "induced" integration in five Northern cities—Ann Arbor, Mich.; Riverside, Boston, Hartford and White Plains—were not promising.

He interpreted the results as showing that integration had done little to reduce the black-white performance gap and had accentuated racial identity. On this basis, he maintained that "massive busing for purposes of improving student achievement and interracial harmony is not effective and should not be adopted at this time."

Other scholars have accused Dr. Armor of reaching sweeping conclusions on the basis of inconclusive data and questionable research methods.

Prof. Thomas F. Pettigrew of Harvard contended that it made no sense to measure the effects of desegregation without regard to the quality of the interracial interaction in the schools.

Indeed, a number of experts say the real task is to find out under what conditions desegregation works and when it does not. To that end, the Office of Education has commissioned the Educational Testing Service to do a $1-million study of 183 schools judged to have achieved successful integration to find out how they did it.

"When you try to make integration work it does," said Prof. Robert L. Crain of Johns Hopkins, designer of the "Southern Schools" study.

"That's the story—we have not tried."

TWENTY-FIVE YEARS IN BATTLE FOR RIGHTS, FUND'S LAWYER SEES VICTORY

(By Tom Buckley)

Jack Greenberg ticked them off: Ocala, Fla.; Oklahoma City; Topeka, Kan.; Little Rock, Ark.; Greensboro, and Raleigh, N.C.; Albany, Ga.; Meridian, Miss.; New Orleans; Montgomery, Selma and Birmingham, Ala.; Detroit; Chicago; San Francisco; New York.

In all of them, and in scores of others, he has tested the scales of justice during his 25 years as a lawyer with the N.A.A.C.P. Legal Defense and Educational Fund, Inc., the last 14 as its head.

During this quarter-century of struggle, the fund has been, by general agreement, the most potent private force in securing the rights of blacks in the legal arena and Jack Greenberg has been its most durable warrior.

It has been a journey of hundreds of thousands of miles, a long road with many turns, but the goal has never changed. It is nothing less than full citizenship for blacks and other minorities.

"We've come a long way," Mr. Greenberg said the other day in his office at 10 Columbus Circle, "but we've still got a long way to go. It may take decades, but I'm as certain as I was the day I started that we'll get there."

STRATEGY JUSTIFIED

He is just as certain that events have proved the correctness of the strategy the fund has followed since its founding in 1939; that is, to fight for equality only by legal, nonviolent means.

The brief blaze of black firebrands urging militant solutions—guerrilla warfare, separatism, Communism—has caused distractions.

Mr. Greenberg's decision not to undertake the defense of Angela Davis when she was accused of abetting a courtroom break, for example, caused a deep, though temporary, split among the fund's lawyers.

"I just didn't think it was a civil rights matter," Mr. Greenberg said.

There were angry words and then resignations, but Mr. Greenberg notes that the angriest militant of all then went to work for a Wall Street law firm.

It was a temptation, Mr. Greenberg said, that he faced when he graduated from Columbia University Law School in 1949, and for several years thereafter.

THE DIFFERENCE

"The last time it occured," he said, "was when a very dear friend of mine, who by then was a partner in a big corporate law firm, said to me, 'The difference between us is that when I have a case I wish I cared how it came out.' "

He is still somewhat puzzled about the events that led to his career in the civil rights movement.

Growing up in the Bensonhurst section of Brooklyn and in the pleasant area near Bronx Park, he knew no Negroes. He saw no examples of racial injustice until he served as an officer aboard a landing ship in the Pacific.

"I was unhappy because the only blacks on board were three or four stewards' mates," he said. They were our servants. It made me uncomfortable. I remember I tried to get one of them another job."

More decisive in shaping his thinking, he said, was a course at law school taught by Prof. Walter Gellhorn.

"It was called legal survey," he said. "Professor Gellhorn, who was and is a great teacher, set it up to provide a chance to work on cases for people and organizations in the civil rights area.

"I volunteered and worked with the fund, the American Civil Liberties Union and the American-Jewish Congress.

HE TAKES THE JOB

"About six months after I was graduated, Thurgood Marshall, the head of the fund, asked Professor Gellhorn to recommend someone for an opening that had come up. He suggested me and I decided to take the job. It was absolutely clear to me that racial justice was the burning issue of the time, and that it was susceptible to a legal approach."

The fund in those days had only four lawyers—it now has 25—and was housed in cramped quarters at 20 West 40th Street.

In addition to the broad issues of education, the ballot, employment and housing, the fund has fought for the legal rights of individual blacks, which were almost invariably infringed upon in one way or another in the South and elsewhere.

"Shortly after I went to work, a woman came into the office," Mr. Greenberg said. "She hold me that her son had been to jail in Richmond, a long sentence, for stealing a bag of peanuts. I was outraged. I told Thurgood about it, but he sort of raised his eyebrows and didn't say anything.

"I got busy on the case, and it turned out that the bag was one of those enormous burlap sacks that are used down there to haul peanuts to the market. He had also stolen the truck it was in."

A KEY ASSIGNMENT

Soon after he went to work for the fund, Mr. Greenberg was assigned to an education suit that, by its successful conclusion, inevitably led the way to the great decisions of the United States Supreme Court in 1954 and 1955.

"It involved the integration of the University of Oklahoma Graduate School," he said. "That was quite a novel subject in those days. The first thing that Thurgood insisted I do was to research the question of whether it should be heard by a one-judge or three-judge Federal court. I must have spent two or three weeks on the problem.

"I found out that it was typical of Thurgood Marshall's approach. It was scholarly, detailed, technical, dry, perhaps, but very solid. It's the same kind of approach to a case that we use today."

Mr. Marshall, who has been a member of the Supreme Court since 1967, was utterly different on a personal level, Mr. Greenberg said.

"He was jovial, informal, with enormous warmth and a sense of fun," Mr. Greenberg recalled. "It was a ritual in the office for years that, at 5 o'clock on Friday afternoon, he would break out a couple of bottles of whisky and there would be a poker game for a couple of hours."

When Mr. Marshall decided to accept an appointment to the Circuit Court of Appeals in 1961, he urged that Mr. Greenberg be chosen to succeed him. The decision was made unanimously by the fund's board of directors, and Mr. Greenberg has enjoyed its backing ever since, even in the face of the opinion that is heard more frequently these days that a black man should have the post.

For Mr. Greenberg, the cause of racial justice long ago became a life's work, and he said he had no plans to leave it.

EMPLOYMENT RIGHTS

As the worst instances of educational and political injustice have been obliterated, the fund has turned its attention to equal employment opportunities.

It has also had to divert its attention to what Mr. Greenberg called the blatantly cynical appeals to residual racism of the Nixon Administration that threaten the gains made during the Kennedy and Johnson years.

"We see now what we always suspected," he said. "Nixon manipulated racial problems to keep political power without regard to principle. And as to blacks who have gone to work for him. . . ."

Typical of the Nixon approach, Mr. Greenberg said, was the recently announced settlement of a case alleging discrimination against black workers in the steel industry.

"The unions and the companies got a sweetheart agreement," he said. "For a vague agreement and undefined rights in the future, black workers have been asked to sign away their right to object to anything that happens, no matter what it is."

Mr. Greenberg and the fund are committed to "affirmative action" in securing employment for blacks. It is, Mr. Greenberg acknowledges, a thorny and complex issue on which it is possible for men of good will to disagree.

He avoids speaking of "quotas," which has become a dirty word in some White circles, but emphasizes that the requirements for employment and promotion in government and industry are often heavily weighted, for one reason or another, against blacks and other minorities.

It is an issue without the dramatic impact of freedom marches, boycotts and midnight ambushes, but to find an equitable solution, Mr. Greenberg believes, is just as important to the quest for racial justice to any that have gone before.

"Public attitudes ebb and flow," he said. "Progress never comes in a straight line. I have to tell myself sometimes that progress isn't inevitable. Nevertheless, I think we're moving down the road."

[From the New York Times magazine, May 12, 1974]

Twenty Years After Brown: Negro Progress and Black Rage—The Sound of One Hand Clapping

(By Roger Wilkins)

The first time I ever walked through the Atlanta airport was in 1962. I was a Northern black working for the State Department. It was my first trip to the deep South and the sounds of white Southern voices were strange and threatening. The mores of the region were foreign and I liked little of what I had read about it. It was late in the evening when I got to Atlanta and I had a several-hour wait for my connection to Birmingham. The airport was fairly empty except for a few family groups scattered here and there and a group of young white men who were in and around the bar. The young men wore rough clothes and talked—according to my Northern ear—the language of the deep South. I was alone and uneasy, if not afraid. I was struck then by the irony of being an employe of the American people and yet feeling like a lost and threatened alien in my own country.

This spring, I walked through that airport again and I was not alone. This time, I was with an old friend named Andrew Young. He is black and represents the Fifth District of Georgia in the House of Representatives. We were laughing about something and I felt completely at ease. Before leaving the airport, we stopped at a newsstand to read a headline announcing that the Mayor of Atlanta had proposed to raise some of the money needed to increase the salaries of municipal employes by asking the genteel citizens of Atlanta to carry their garbage cans out to the curb.

"Poor Maynard," we said, "garbage is a damn tough issue for mayors." We called the Mayor of Atlanta by his first name because he is a friend of ours. He is a black man.

There was no question in this spring of 1974—20 years after the historic decision by the Supreme Court in *Brown v. Topeka Board of Education*—that things had changed. And for the better. The real question had to be: How much change had occurred, and what were the implications of that change for the quest for racial justice in this country?

Attempting to answer that question is much like participating in the Indian parable about the blind men trying to describe an elephant by touching its various parts. That is a particularly difficult task in this spring of Nixon's discontent, which overwhelms the intellect and sours the mood across the country. Even so, the task must be attempted because perceptions about the nature and extent of black progress to date, and the reactions to those perceptions, are apt to be the basic determinants of the nature of relations between the races for all of the next decade.

It is clear that the progress looks very different to different people, depending in large measure on the color of the viewer's skin and on the place from which he views it. The view from the corner of 120th Street and Lenox Avenue up in Harlem differs greatly from the view that one might have from a corporate board room down on Wall Street. And, the question is not simply whether the glass is half empty or half full, but rather, whether the glass will ever be filled to the brim, and if so, what it will take to accomplish that task. To put it another way, the question is whether the momentum generated by the activities of the last 20 years has set in motion an irreversible process which will almost automatically lead to racial justice in this country, as some whites seem to think, or whether, as most blacks hold, the largest and hardest job is yet to be done, and whites have quit the game before the first quarter has even ended.

The gut issue to be affected by the answers to those questions is: What will be the fate of that one-third of America's black population still mired in poverty? There are other and related questions, of course, having to do with whether, and how soon, blacks will acquire the power and the capital to participate fully in the decisions which affect the course of this country—decisions which, to such a large extent, shape their own destinies. But for most thoughtful blacks to whom I have talked over the course of the last several years, and in interviewing for this article, the misery and the degradation of the poorest blacks in this society is the number one item on the agenda.

Black and white perceptions differ sharply. The task of improving the quality of life in Harlem—where Maynard Jackson's election to the Mayor's chair in Atlanta City Hall, or Andy Young's journey from the Movement to the halls of Congress is deemed virtually irrelevant—is a case in point. Dr. Robert S. Browne, a black economist and head of the Black Economic Research Center, sat in his 120th Street office recently and gestured toward Lenox Avenue. "Look at that," he said. "What do you think it's going to take to fix that? Where's the political will to do it?"

Browne, who advocates a massive transfer of capital from whites to blacks working in black-controlled institutions devoted to black development, expressed his deepest concern this way: "I know there has been an absolute real improvement in the income of blacks, but I think it's been distributed unequally. The real danger is that an enormous gap will develop between the blacks who have, and those who don't. Then we're on our way to having a permanent black underclass. That would be intolerable." Then he turned away and looked out the window again. He sighed and said, "Look at the housing around here. Look at some of the people who live in it. Think of the kids. Is it any wonder that I get depressed?"

Nelson Rockefeller, on the other hand, looks at the results of the last 20 years from a different perspective. Gliding in from LaGuardia airport in his Cadillac limousine the other day, the former Governor talked with some pride about the number of blacks who had moved into new positions of responsibility in state government during his terms in Albany. While recognizing that it had been a lonely role for many of them, he said, "What they've done will make it easier in the next cycle. It's like Jackie Robinson. The ice is broken. It'll be broader and easier for everyone."

Yes—but what about Harlem? Rockefeller was optimistic about that, too, despite frustrations experienced as Governor. "I started working on that problem 15 years ago," he said, "and I was really excited." He went on to talk about some of the hopes he had, and then he detailed the factors that had frustrated his best hopes. Was he still optimistic about solving the problem? "Yes. What you need is the appropriate mix of governmental incentives and penalties to induce a massive infusion of private capital in the area. Pension funds can be used. I think it can be done and I think it can be done within the next 20 years."

Whether Rockefeller's optimism is more justified than Browne's pessimism, both men agree that the task of breaking the back of the problems of the Harlems and the Houghs, and the poverty areas of the rural South, is a monumental one, and that whites will have to make massive contributions if solutions are to be achieved.

White responses to that imperative will depend in large measure on how whites perceive today's racial situation in the country, and how much they think the country has achieved in the last 20 years. Ben J. Wattenberg and Richard M. Scammon, in a highly optimistic report on black economic progress in the April, 1973, issue of Commentary, took black leaders and other liberals to task for virtually ignoring the real progress blacks have made. Wattenberg and Scammon judge that to be a very bad tactical error on the part of blacks and their liberal white allies.

Nevertheless, it is blacks who think about the problem constantly, and who dominate as professionals in the struggle for racial justice. It is their perception of how far we have come, and how much farther we have yet to go, and it is their ability to communicate those perceptions to an erratically attentive and not always sensitive white population, that will form the major dynamic in the next round of the struggle for racial justice.

Roy Wilkins leaned back in his chair in his office at N.A.A.C.P. headquarters high over Broadway in mid-Manhattan and admitted that he had been overly optimistic in 1954. "Everybody in the civil-rights movement, including me, expected the Northern states to follow the lead of the Supreme Court, although the decision was specifically applied only to the Southern states. Everybody thought that it would be accepted that segregation was evil, whether it was fostered by law or by administrative action. We were quickly disillusioned. We soon got Louise Day Hicks in Boston, and resistance all over the North." Then, taking some obvious delight in the fact that his interviewer had grown up in Michigan, he added, "Pontiac, Kalamazoo, Jackson and Detroit haven't done so well either."

M. Carl Holman, President of the National Urban Coalition, sat in his Southwest Washington home and put the grounds for disillusionment even more succinctly: "A lot of blacks had it figured wrong. They thought that poor whites acted viciously and badly, but that 'quality' whites did not. That was wrong. Racism comes much more naturally, and to a much broader spectrum of whites, than we could have imagined."

Though the grounds for disillusionment were firmly laid in these overly optimistic hopes, few blacks would deny that great strides had been made. Wilkins said, "The sixties produced a change in the standard of behavior for whites. It is no longer right or appropriate to segregate or to discriminate. That is not to say that it's no longer done. It is to say that the whole thing has been flipped over. It used to be the right thing to do. Now it's wrong. That's no mean accomplishment."

The Urban League's Vernon Jordan sees enormous changes too. "The Voting Rights Act of '65 was probably the most significant accomplishment, although we couldn't have gotten it without the Civil Rights Act of '64. But, voting is power—the whites in the South knew that, and that's why they killed people who were trying to get black people registered. Employment is basic too. Title VII of the Civil Rights Act is vital. It's the ghost that haunts all those employers. They know they've done wrong, and they know that at some point they're going to have to deal with that."

Dr. Browne thinks that the psychological changes that have occurred were the most significant. "The Brown decision gave blacks a vision of themselves as citizens, and the reassessment of the late sixties completed the process. The most important development in the last 20 years has been the development of the spirit of black consciousness. There is much more racial pride, and enormously greater self-confidence among individuals."

While all of the blacks to whom I talked would agree that the country had made large strides in knocking off the outer scales of American racism, they agreed that the hardest part of the job was yet to be done.

John Lewis, once head of the Student Nonviolent Coordinating Committee, and now Executive Director of the Voter Education Project in Atlanta, looked out over Fairlie Street and said, "There may be a change in the atmosphere, but solid changes haven't occurred. It's frightening to look at the poverty in rural Alabama. When it got to the hard things, and when the problem started to touch the North, the whites turned around and seemed to go the other way."

"The biggest disappointment to me," Vernon Jordan said, "is that the vast majority of white Americans never really understood what we were talking about. They thought we were just talking about defining elementary rights and responsibilities for black Americans. That was just a wedge in the big door. It's the big door we really need, and it's the big door they've turned their backs on—the full range of economic and political rights that they enjoy."

But one white who did hear was President Lyndon Johnson, who listened and tried to act before he let Vietnam steal his time and sap his energies. He promised that he would complete the job Lincoln had begun, and even before he got the Voting Rights Act of 1965, he had cajoled the Congress into passing President Kennedy's antipoverty program. In 1965, he realized that the seamless web of poverty, degradation, bad housing and all of the rest of the legacies of slavery and discrimination, had to be attacked head on with Federal money if anything were to be achieved. President Johnson stood that fall in the East Room of the White House and exhorted every person who could conceivably be called a civil-rights leader to "work all day and stay up at night and work some more" to help him devise a program that would break the cycle.

And the President followed through with Model Cities, rent supplements, experimental efforts at new ways to deliver health care, increased aid to education, new experiments in manpower training, a plan to extend home ownership to the poor and a host of other efforts which came under the rubric of the Great Society.

The Vietnam war closed down on Lyndon Johnson and the days of his Presidency were shortened because of it. As a result, blacks and the rest of the poor people in this country never saw these social experiments perfected and expanded as they had expected them to be. At this writing, too little is known about the extent to which those foreshortened experiments might have achieved their intended aims. There can be no doubt, however, that the beneficial side effects in the black community were enormous.

The greatest immediate effect on communities which were starved economically, and every other way, was that new jobs were created. There were options for people who had been underemployed, and there were new employment and training opportunities for people who had been out of the labor market. The whole notion of employing paraprofessional assistants in a variety of fields—who could first gain employment, and then receive training that could enable them to climb up career ladders—exploded in poor neighborhoods all over the country. Moreover, management of the new programs required sophistication about Government operations on all levels, knowledge that blacks and other minorities had lacked, but quickly acquired, as they fought for their share of the dollars these programs offered. Such programs provided opportunities for thousands to move out of poverty into the lower-middle class, and to glimpse life opportunities they had never before imagined.

Other things were happening in black communities around the country. Blacks were casting off the psychological shackles that had been forced upon them from the day they had been introduced as alien slaves on this continent. They began examining lies America had told about them, and which, to a certain extent, they had come to believe. As a result, they began believing in their own worth as full human beings, and in the worth and the value of their forebears and their history. At the same time, although Great Society legislation was beginning to be implemented, the results were not instantaneous—as they could not possibly have been—nor were even the early effects clearly visible. What had become much more visible, however, was the pervasiveness of racism in America.

The result of the commingling of all of these factors was an explosion of black rage. Until the late sixties, rage had been a luxury that blacks could ill afford. White America's power had been too great and retribution for any true expression of black anger was expected to be sure and swift. But, in the late sixties, the expression of rage—especially by young adults—became not only possible, but also fashionable. Those expressions took many forms.

The most obvious were in rehetoric, hair styles, modes of dress and in flaming cities around the country. It also took the form of attempts at withdrawal—again, mainly by young blacks—from a society that had duped them and their forebears into actually believing that they were inferior. "This society does not suit us," they were saying. "Its values and its assumptions have destroyed and diminished us through history, and we will have no more of it. We will withdraw and develop a more humane and pertinent set of values which nurture black strength and black humanity."

As a part of that generalized movement, a group of young blacks in Oakland—the Black Panthers for Self Defense, they called themselves initially—formed a new organization which they hoped would ultimately give strength, pride and power to the poorest of America's black poor. Their earliest program was to try to defend the black community from the Oakland police, whom they deemed to be racist and brutal. Their organizing symbol was the gun. No matter what their initial intentions, the mix of black rage, white racism, guns, police insularity and black rhetoric was too flammable to be contained. People got shot—Panthers and police alike—and some were killed.

It was too much for white America. Incessant civil-rights demands by the "responsible" Negro leaders; the specter of white school children being bused into ghetto schools; fiery rebellions in the cities; black rhetoricians screaming at "whitey" all over the country, and blacks withdrawing from whites on college campuses, and from old alliances, was too much for white Americans to ingest. It was especially too much when piled on top of the Vietnam war, almost a decade of assassinations and the development of a culture among white youths that jarred and frightened their own parents. A battered and weary populace was ready for a return to "normalcy," and they got it under a banner of "law and order" and limited busing, all undergirded by a "Southern strategy." The "one brief shining moment" when America seemed about to come seriously to grips with problems of race and poverty was over.

By clear design, the new Administration began to unravel the Great Society. The elimination of the categorical grants—which had formed the core of the Great Society programs—and the movement to block grants did not seem to blacks to be the return of "power to the people" which President Nixon proclaimed it to be, but rather, a wrenching from their hands of the first slim elements of control they had ever had over their own destinies. Control of "their programs" was to be returned to the same state and local governments that had failed throughout history to alter the wretched conditions of their lives.

For example, Model Cities, they learned, was to be phased out. It was to be replaced by a program called "Better Communities" and the more they learned about it, the more aptly it seemed to be named. The money seemed intended for those better communities where fortunate whites and the luckiest blacks lived in splendid isolation from the poor, protected from them by the policies of the Federal Government. The Community Action program was to be destroyed and the Office of Economic Opportunity dismantled.

Documents leaked from the White House suggested that these policies rested on intellectual foundations that blacks found to be insidious and dangerous. One memorandum suggested that the ship of civil rights was going down, and since it wasn't the Administration's ship, the captain could, with a clear conscience, leave the bridge. Then, in a memorandum that lent itself to a variety of interpretations. Daniel P. Moynihan, then a member of the President's White House staff, analyzed the racial climate in the country for Mr. Nixon at the end of the first year of his Administration. He urged that less attention be paid to "hysterics, paranoids and boodlers on all sides"; that the Administration pay close attention to black progress and that it court the "silent black majority." Dr. Moynihan also asserted that "the Negro is making extraordinary progress," citing census income figures to make his case. Later, in his paper, he suggested that "the time may have come when the issue of race could benefit from a period of 'benign neglect.'"

Whatever Dr. Moynihan may have meant, blacks read this as a suggestion that the momentum of the sixties had generated such a powerful force that the American Government could safely lay its black burden down. Those facts, coupled with the Southern strategy, and not-so-subtle appeals to America's white silent majority, screamed racism to watchful blacks.

Meanwhile, the urgency of the concern for the cities, and for finding solutions for urban (read black) problems, seemed to be waning. A good white friend who is in a position to observe such things suggested to me the other day that, although the drive to hire more members of minority groups in the large corporations, and to recruit ever-increasing numbers of black students in principally white instiutions, would not subside, the feeling of urgency about other problems had clearly waned in the upper reaches of American power. Roy Wilkins observed that "the social structure . . . the power points in white society, are getting pretty tired of the constant cry of discrimination. They seem to be saying to themselves, 'We stand ready to do as much as we can to get Negroes business opportunities—employment opportunities—but that's about enough.' Housing and the other things are another matter. This attitude is reflected in the current lack of enthusiasm which they bring to the cause of integration. Our white membership in the N.A.A.C.P. used to be about 10 per cent. Now it's down to 6 per cent."

Blacks who lived in poverty, worked with people who were mired in it, or, in other ways, rubbed their hands across its grainy surface, knew that the problem could not be cracked without the massive intervention of the Federal Government. Yet, as they watched their good white friends drift away, they wondered where America had gone. And, remembering the sophistry undergirding the White House retreat from the cause, they became wary of white men trumpeting the miracles of black progress.

No blacks deny the progress of the last two decades. There is no question that the easiest parts of the problem have been licked. Blacks can stay at the best hotels if they can afford them, or eat at the lunch counters of their choice.

There is also no question that, in some distant future, the Voting Rights Act will have a profound impact on this country. As Vernon Jordan noted, "It had the effect of empowering blacks in the South and waking them up to political possibilities in the North."

The possibilities can already be discerned. John Lewis gives impressive statistics from Mississippi. "In 1964, of a black voting-age-group population of 460,000, only 22,000 were registered. Now, out of a black voting-age population of 450,000 almost 300,000 are registered."

Mayor Jackson of Atlanta, himself more than 250 pounds of dapper living proof of the possibilities of that piece of legislation, says, "We've only seen the beginning of what it's going to take to change how the system operates on the masses of people. We're going to need a great deal more power, both in actual numbers and in possibilities for leveraging power. . . . In the end, my guess is that politics will precede economics for the masses of the people."

There can also be little argument with the figures showing that the ratio of black family income to that of white family income did increase from 53 to 63 per cent in the decade ending in 1971, or with the figures showing that, nationally, black males aged 25 to 34 had not only advanced in terms of the quality of jobs they held, but also that their income level had climbed to 80 per cent of the income level of their white counterparts.

But the day when the trends indicated by either of those sets of figures—assuming that the trends continue—can be translated into sufficient power to attack so massive an American problem as black poverty is a long way off. Certainly, black progress in politics can be measured by the fact that the number of black elected officials in the United States has increased from 1,185 in 1969 to 2,991 in 1974. The flip side of that coin is that the 1974 figure represents only one-half of 1 per cent of the total number of elected officials in the country—a long way down the road from the leveraging position Mayor Jackson talked about.

The income figures have little to do with real power. As Carl Holman points out, "black income is principally consumer income. Most of that money goes right back into white hands for consumer goods and services. And that middle-class status is often earned at a fearful cost. First, it is often achieved by a wife who is working one job and a husband holding down another, or maybe two. The second cost is that one of the goals of achieving middle-class status is to move to some other neighborhood. It may be good for the particular family, but it drains their old community of whatever leadership they had provided."

In a society in which it has been graphically demonstrated over and over again that wealth is power, blacks possess very little wealth. For example, economist Henry S. Terrell has found that blacks own 1.2 per cent of business equity in this country, the same percentage of farm equity and 0.1 per cent of the value of all stock holdings.

Moreover, control of all of the institutions in the society remains in white hands, and only in highly unusual cases is there marginal internal black input on decisions—even those vitally affecting the welfare of blacks. This is true in industry, publishing, broadcasting, education, philanthropy and government. Those blacks who do penetrate to some place near the upper reaches of such institutions lead a lonely existence, surrounded, and sometimes almost suffocated by, white attitudes, values and fantasies.

Thus, selected raw figures on the advances blacks have made in the last decade have little bearing on current black problems as blacks perceive them. While most thoughtful blacks would agree that political empowerment and economic empowerment are the keys to the "big door" Vernon Jordan talked about, those keys are not yet nearly in hand, while the problem of black poverty still looms large. Governmental help on a massive scale is the *sine qua non* for cracking that problem, and white commitment to solving the problem is essential to obtaining that help.

Blacks are thus left with the task that has burdened them throughout their history on this continent: attempting to determine where white heads and hearts are on questions of racial justice. But blacks have an advantage now that earlier generations only had in limited measure. For the first time, numbers of blacks are working on relatively equal terms with whites—a new, useful, but disillusioning vantage point from which to make their crucial assessments.

Lisle Carter, the new Chancellor of the Atlanta University system, recognizes a general cooling of white interest in the cause of social justice. "Our values have shifted," he says. "Blind reliance on the strategies, timing and good faith offered by whites has been replaced by a determination to set our own agendas based on our own perceptions of the needs of the black community."

Dr. Kenneth Clark, a past President of the American Psychological Association (and the principal architect of the social-psychological arguments that went into the briefs of the N.A.A.C.P. Legal Defense Fund in behalf of the plaintiffs in the Brown case) for decades has been observing the cast of mind that pervades Northern institutions. "Unlike Southern white supremacists, who make no bones about their feelings, the strongest supporters of institutional racism have an exactly contrary personal image. These proponents of invidious racism—as I call it—think they're free of it, or if they acknowledge it at all, they claim the distinctions they make are empirically based. They really think they're not like other whites.

"Therefore, given that self-image—a powerful defense mechanism—any attempt at discussing the subject evokes an emotional polemic, and probably an attack on the questioner for being a racist himself. That, of course, postpones coming to grips with reality or with facing the real issue, for you first have to deal with the question of who is a racist. Such people will then trot out their liberal credentials. Basically, this is all diversionary, and by the time you've dealt with the diversion, you're emotionally exhausted before you get at the real issue.

"The intensity of the delusion you're dealing with is really a deep unwillingness to change. The psychological devices that are used merely indicate the depth of the racism. For these people have invested so much of themselves in the emotional part of all this, that any significant change would make them admit much more than they can possibly admit about themselves."

Dr. Clark's thesis is hammered home in story after story told by middle-class blacks who are attempting to alleviate black poverty while working in white institutions. Here are only a few of them:

A noted white social-welfare executive in the Johnson Administration invited an outside group of blacks to brief him on current civil-rights trends. His top black civil-rights aide had to call one of the outsiders to request that his own boss be prompted to invite him. The boss had just forgotten.

A white public servant, then noted only for his labors in behalf of civil-rights, described one of his employes to me. "He's black," the man said, "but he's soft-spoken and he takes orders well." The man never blinked an eye, and never knew how much he had just revealed about himself.

Representatives of two "good" white institutions—one a foundation and the other a private organization formed to deal with a wide range of social problems dealing with blacks—met to discuss the private organization's financial future. Neither the black vice president of the private organization nor the foundation's black program director, from whose budget the money was to be taken, were invited to the meeting. After the meeting was over, the black vice president was apprised of the decisions taken, and the black program director was advised of the amount by which his budget had been diminished.

"If the blacks involved had told their good white colleagues about the racist assumptions and values involved in those actions," Dr. Clark said, "they would have been afflicted with an enormous emotional overload. All of their circuits would have been busy. And remember," he said, "these were good white people. And that's the tragedy."

Aside from such occasional piercing glimpses blacks get into the psyches of their white associates and colleagues, it is difficult to learn directly how whites feel about racial issues these days. Eleanor Holmes Norton, New York City's Commissioner for Human Rights, puts it this way: "I am pessimistic about the climate whites have created in the seventies as opposed to the sixties. They are much more defensive—much less open to blacks."

One white person who does appear to be open is Judy Herman, a young staff member of the American Jewish Committee. Mrs. Herman did acknowledge that there had been some diminution of interest in the civil-rights cause among some Jews, but suggested that the fall-off had not been so great as many blacks had come to believe. It seemed to me that she might well have been talking about a large segment of the white population, not just about Jews, when she said, "The equilibrium in the country is upset today. There is tremendous anxiety. People want things as they imagine they used to be. I have a feeling that people can't understand why these problems aren't solved by now. And, of course, a lot of people blame the victims."

Interracial communications are profoundly cluttered and filled with static in this spring of 1974, 20 years after the Brown decision. On the white side, racism remains in many unexpected quarters; there is also anxiety, insecurity and fear. On the black side, there is a continuing sense of injustice, there is rage and deep frustration at the selective perceptions of whites on the race issue. And, there is also fear and insecurity, although perhaps not quite so much as there used to be.

And all of this at a time when even the most inattentive citizens are gaining a sense that the old cornucopia "ain't what she used to be." Many blacks suspect that the arguments made by entrenched white academics against attempts to aggressively recruit blacks are prompted by the academics' awareness of the increasing marginality of life, and their fear of fair black competition for a limited number of jobs.

Impending scarcities affect the black side of the dialogue too. Carl Holman scoffs at notions that projected increases in the gross national product, or other structural factors in the economy, will automatically take care of black poverty. "Look at what happens when there's a shortage," he says. "Middle-class Americans didn't change their habits very much when there wasn't enough gas. They just let the price drift on up and you know who couldn't afford to drive.

"And," he continued, "even the best of the white people predicate an attack on hard-core poverty in this country on the assumption of an expanding economy. Now, what if the economy doesn't expand? Seems like economic justice for blacks is a luxury that Americans are willing to pay for if there's a little money left over. Otherwise, nobody's willing to make the sacrifice."

So, this already incredibly difficult dialogue is bordered by inflation, recession, dwindling resources, a growing awareness of world hunger and by profound political uncertainty in Washington. In the early days of this Administration it seemed mainly the blacks who hunkered down to consolidate their gains, and to wait out the Presidency of Richard M. Nixon. Now, the whole country seems suspended—waiting for the final shoe to drop off one side of the bed or the other.

Meanwhile, blacks continue to try to communicate—to elicit white responses to crushing *American* needs, which will not be met without their help. Roy Wilkins says, "No society gets very far, or gets very solid, if it prohibits one-third of any minority from achieving. To deny them the tools of achievement—to deny them the opportunities of making something of themselves—is a very unsafe thing for any society to do. There can be an upheaval of the poor that will endanger the seemingly strong, but very illusory, solidity of that society."

Vernon Jordan adds, "If we don't find a way out for that hard core one-third, I believe that we have the seedbed for the most rebellious revolution we can imagine."

So, black Americans keep trying to talk to America. Right now, it is almost like the Zen question—what is the sound of one hand clapping?

But blacks are not prepared to give up. John Lewis put it best. "Of course, I'm optimistic. In this effort you have to be, or you become immobilized. I think it goes in cycles. We're not where I thought we'd be by now, but there has been some change. I think that's the way life is. You struggle and you go on to the next obstacle. Always working toward an ideal. Eventually, something has to give."

[From Ebony magazine, May 1974]

WHATEVER HAPPENED TO SCHOOL DESEGREGATION?

(By Alex Poinsett)

In May 1954, the grade schools of Topeka, Kan., were segregated. Today, 20 long and tumultuous years after the Supreme Court outlawed one-race schools there and elsewhere, Topeka's schools are still largely segregated. The U.S. Department of Health, Education and Welfare (HEW) recently gave that city's school board another 30 days—not to desegregate—but merely to plan how. If Topeka was only a minor blemish in an otherwise flawless picture of school desegregation around the nation, there would be little cause for concern. Unfortunately, however, Topeka very nearly typifies the state of the nation's school desegregation, as if the often violent educational spasms of the last 20 years had been, after all, like so many Chinese firecrackers, mere exploding puffs of insignificance. While almost 2.5 million black pupils attend majority-white schools (an increase of nearly one million since 1968), that 2.5 million is only one third of all black students. In other words, 20 years after the U.S. Supreme Court declared racially separate schools unconstitutional, HEW reports that nearly two-thirds of the nation's black pupils are still attending schools that are overwhelmingly black.

The segregation pattern varies, of course, from region to region but it has been dramatically shifting its focus in recent years from the South to the cities of the North. The pattern has remained virtually unchanged in the North and West since 1968 with only 29.1 percent of black pupils in desegregated schools and 43 percent still attending predominantly black schools. Surprisingly, if any substantial statistical progress has occurred anywhere, it has been in the South where, HEW reports, desegregation has been substantial in every state and nearly complete in some. Court decrees have sharply increased the number of desegregated black students from 18 percent in 1968 to 46 percent, a spectacular contrast to the less than one percent of blacks who attended predominantly white schools in the South 20 years ago.

But quantitative shifts in decimal points on HEW's computers have not necessarily produced qualitative changes in the schools. And so, black pupils have been restricted to segregated classrooms within allegedly desegregated schools and have been victimized by such other "second generation" problems as separate bell systems for calling black and white children to classes, segregated school buses and segregated extra-curricular activities. All too often, faculty and staff members have been so assigned as to leave schools unmistakably identifiable as black or white. In short, allegedly desegregated schools still operate on terms set by whites, governed by white rules and committed to perpetrating white values, attitudes and traditions.

Yesterday, Southern parents stood in public places shouting that their children were not going to attend school with "them niggers." Today they simply remove their children from the public, desegregated schools and place them in all-white, private academies. The Southern Regional Council estimates that as many as 500,000 white pupils are attending—often at public expense—these segregated academies which, ironically, are sometimes identified in their nomenclature as "Christian" or "Church."

That school desegregation has fallen far short of the goal set in 1954 is quickly apparent after only a cursory survey of the last 20 years. Yesterday the national mood was summed up by protesting whites screaming: "Two, four, six, eight, we don't wanna integrate!" Today white sentiment is still as grudging as ever, saying in effect to blacks: "If you get in, you'll pay dearly." And so, the desegregation price for too many black children has been increased anxiety, problems of racial identity and internalization of whites' assertions of blacks' inferiority. If school desegregation has been a major educational issue during the last two decades, it also has been a plaything unscrupulously manipulated by politicians. If the federal courts have consistently spelled out the ground rules for eliminating dual schools, the U.S. Congress and Presidents Dwight D. Eisenhower, John F. Kennedy, Lyndon B. Johnson and Richard M. Nixon have been unaggressive about implementing the courts' decrees. If school desegregation has summoned the blazing courage of black children, physically and psychically abused in racially mixed schools, it also has exposed the cowardice of their white assailants.

There were only four grade schools for blacks in Topeka 20 years ago and these were administered by a black man, Herman Caldwell, whom many parents accused of trying to "resegregate" the city's "integrated" high school. For instance, Caldwell inaugurated a system of two bells for assemblies. The first called white students to the auditorium. The second, known as "the nigger bell," called black students to an upstairs classroom where they had to listen to a talk by Caldwell, or perhaps watch some photo slides. Caldwell also isolated the black athletes and set up a Jim Crow schedule for them with all-black teams from out of town. Black girl students were not included in the regular domestic science classes, but were farmed out as unpaid mother's helpers in the homes of black housewives. And once, at Caldwell's order, black students were turned away from the door at the senior prom and directed to another address where there was to be a "special party" for them alone.

"He woke some of us up to what a horrible thing segregation was," one black parent later admitted. "We'd been living with it so long it had become almost a way of life. But when Mr. Caldwell began tearing down any little gains we'd made over the years, that started us to thinking. When we wanted to get rid of him, we found we had to get rid of segregation itself. Because that was what he was put in office for—to keep other blacks in their places!"

Topeka's school segregation was challenged by the Rev. Oliver Brown (and 12 other parents), because his seven-year-old daughter, Linda, was barred from a white school only three blocks from her home and was forced to travel 21 blocks to a black school. *Brown* v. *Topeka*—or more formally, *Oliver Brown et al* v. *Board of Education of Topeka, Kan., et al*—came to be one of five cases consolidated by the Supreme Court for its landmark 1954 decision. These cases from Kansas, South Carolina, Virginia, and Delaware attacked state laws requiring school segregation, while a similar District of Columbia case (*Bolling* v. *Sharpe*) attacked federal statutes which segregated the schools in that reputed citadel of democracy, the nation's capital.

The unanimous Supreme Court decision addressed to these injustices was read slowly by Chief Justice Earl Warren. All of his colleagues were present that momentous Monday morning in May 1954 to make their agreement plain—even Justice Robert Jackson, who was seriously ill and had to leave a hospital bed to be there. In language that he had been careful to make "short, understandable by the lay public, and unemotional," Warren answered the constitutional question that had been raised: "Separate educational facilities are inherently unequal . . . such segregation is a denial of the equal protection of the laws (guaranteed by the 14th Amendment)."

In more detail, Warren set forth the reasons for the Court's opinion:

"Education is perhaps the most important function of state and local governments . . . (It) is required in the performance of our most basic public responsibilities . . . It is the very foundation of good citzenship . . . In these days it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education Such an opportunity . . . is a right which must be made available to all on equal terms.

The decision rejected the "separate but equal" doctrine set forth 5 years earlier in *Plessy v. Ferguson.* Thus was sounded the death knell of segregated education—at least on paper. The former Dean of the Yale Law School, Louis H. Pollak, speculated that "except for waging and winning the Civil War and World Wars I and II, the Court's decision was probably the most important American governmental act of any kind since the Emancipation Proclamation." Black psychologist Kenneth Clark, whose scholarly researches on the devastating impact of segregation on black children had helped buttress the decision, predicted in a burst of optimism that significant desegregation would take no more than 10 years. At the very least, the decision seemed to vindicate those who still tenaciousy held to the faith that the ultimate soluion to the black man's agonies lay within the Constitution. Less than an hour after Warren's historic pronouncement, the Voice of America and the U.S. Information Service shortwaved the news around the world proclaiming *Brown* a victory for democratic principles and practices and graphic proof that blacks were not universally mistreated in white America.

And the boast was true—at east on paper. For *Brown* had declared that segregating the races by law stigmatized the excluded school and its children, no matter how excellent its educational quality. In other words, if separate schools were "equal" in all respects except only the fact of separation, or even if a black school had better facilities and instruction than its neighboring white school, segregation still denied equality to the excluded children. Furthermore, segregated schooling taught black and white children that qualitative differences existed between them, that each white was superior to all blacks and each black child inferior to all whites. True enough, black children were repeatedly told they were equal to everyone else, but their segregated schools—indeed their entire segregated existence—never allowed them to practice that equality.

Beyond that, *Brown* decided that blacks had a human right to enjoy freely and equally services provided at public expense, including, of course, public-financed education. On the question of just how and when the corpse of Jim Crow was to be buried, however, the Court postponed its final decision pending answers to questions about details and timing. After all, thousands of communities with different conditions and problems were involved. How far should the Court go in making rules to apply to all? And how fast should it proceed? "Forthwith," or with enough time to permit a "gradual adjustment" to the new order of things? The answers came a year later in *Brown II*. On the basic question of desegregation, the Court held to its 1954 position. But on the question of how fast it should be achieved, the Court compromised. It instructed federal courts to issue such directives as were needed to desegregate public schools "with all deliberate speed."

Predictably, *Brown I* and *Brown II* generated mixed reactions around the nation. Southern newspapers and journals lashed out against the decisions, crying "Never!" and calling for Chief Justice Warren's impeachment. Extremists threatened secession while moderates promised they would not comply with the decisions. Outraged Southern politicians accurately predicted "a generation of litigation" and 69 congressmen from Southern and border states produced a manifesto attacking *Brown,* accusing the Supreme Court of abusing its judicial power and arguing that the Constitution had not even mentioned education.

Accordingly, no major desegregation occurred in any of the 11 Deep South states in 1955 and there was little prospect for any under President Eisenhower, the darling of Southern voters who, in the 1952 election, helped him become the first Republican president in 20 years. By January 1956, Eisenhower had sent to Congress a plan of federal aid to school construction. When Congressman Adam Clayton Powell suggested a rider to this bill, withholding funds from states that had not desegregated their school systems, the President waspishly dismissed the amendment as "extraneous" to the legislation.

Indeed, the White House seemed serenely indifferent to Southern non-compliance until the fall of 1956 when National Guard troops went to Clinton, Tenn., and Sturgis, Ky., to quell violence while desegregation proceeded. Significantly, the governors of the two states—not the federal government—had acted. Even when Texas Gov. Allan Shivers defied the federal government by sending Texas Rangers to remove black students from newly-desegregated schools in Mansfield, Texas, the President did absolutely nothing. Indeed, whatever desegregation occurred in 1956 came without his help. As late as July 1957, he said: "I can't imagine any set of circumstances that would ever induce me to send federal troops into an area to enforce orders of a federal court."

Three months earlier, however, the U.S. Court of Appeals had approved a plan submitted by the Little Rock, Ark., school board to desegregate, among others, its Central High School. An injunction to halt the action was voided by a federal judge and the school was scheduled to desegregate on opening day. Immediately, Gov. Orval Faubus called out the Arkansas National Guard to bar blacks from Central High. The painful results were later recalled by Elizabeth Eckford, one of the new students who had mistakenly walked to the school alone.

At the corner I tried to pass through the long line of guards around the school so as to enter the grounds behind them. One of the guards pointed across the street. So I pointed in the same direction and asked whether he meant for me to cross the street and walk down. He nodded "yes." So I walked across the street conscious of the crowd that stood there, but they moved away from me.

For a moment all I could hear was the shuffling of their feet. Then someone shouted "Here she comes, get ready!" I moved away from the crowd on the sidewalk and into the the street. If the mob came at me I could then cross back over so the guards could protect me.

The crowd moved in closer and then began to follow me, calling me names. I still wasn't afraid. Just a little bit nervous. Then my knees started to shake all of a sudden and I wondered whether I would make it to the center entrance a block away. It was the longest block I ever walked in my life. Even so, I still wasn't too scared because all the time I kept thinking that the guards would protect me.

When I got right in front of the school, I went up to a guard again. But this time he just looked straight ahead and didn't move to let me pass him. I didn't know what to do. Then I looked and saw that the path leading to the front entrance was a little further ahead. So I walked until I was right in front of the path to the front door. I stood looking at the school—it looked so big! I guess they were waiting to see what was going to happen. When I was able to steady my knees, I walked up to the guard who had let the white students in. He, too, didn't move. When I tried to squeeze past him he raised his bayonet and then the other guards closed in and they raised their bayonets. They glared at me with a mean look and I was very frightened and didn't know what to do. I turned around and the crowd came toward me. They moved closer. Somebody started yelling, "Lynch her! Lynch her!"

I tried to see a friendly face somewhere in the mob—someone who maybe would help. I looked into the face of an old women and it seemed a kind face, but when I looked at her again, she spat on me. They came closer, shouting, "No nigger bitch is going to get in our school. Get out of here!"

I turned back to the guards, but their *faces told me I wouldn't get help from them. Then I looked down the block and saw a bench at the bus stop. I thought, "If I can only get there I will be safe." I don't know why the bench seemed a safe place to me, but I started walking toward it. I tried to close my mind to what they were shouting, and kept saying to myself, "If I can only make it to the bench I will be safe."*

When I finally got there, I don't think I could have gone another step. I sat down and the mob crowded up and began shouting all over again. Someone hollered, "Drag her over to this tree! Let's take care of this nigger." Just then a white man sat down beside me, put his arm around me and patted my shoulder. He raised my chin and said, "Don't let them see you cry."

But the terror-filled experience reduced Elizabeth to hysteria. A federal judge again ordered the school desegregated and again Faubus refused. Although he and Eisenhower met hurriedly to avert any further trouble, violence erupted at Central High within eight days and bystanders were injured. Finally, the reluctant President acted. Nationalizing the Arkansas National Guard, he also ordered elements of the 101st Airborne Division into Little Rock—not because he personally favored integration however—but in order to insure the integrity of the U.S. government.

Even so, numerous desegregation-related bombings, burnings and murders occurred in the years that followed. The schools of Prince Edward County, Va., one of the original Supreme Court defendants in 1954, were closed for four long years. In almost all cases it was blacks who suffered most but not even Supreme Court justices were immune. Justice Hugo Black was denounced so bitterly by his fellow Southerners that it was 13 years before he made an official visit home. The determined resistance to *Brown* produced more White House inaction, eroded black faith in the legal-political process and detonated the 1960s—that passionate decade which spawned the sit-inners, freedom riders and eventually the blast-furnace angry urban guerrillas, grown up survivors of the violent days of Elizabeth Eckford and others.

To undermine *Brown*, school districts first declared policies of desegregation, then permitted only handfuls of black children to attend mixed classes. Atlanta, for example, desegregated only nine blacks in 1962 after much fanfare. Under a Nashville plan, tediously stretching desegregation over a 12-year period at the rate of one grade a year, 19 blacks entered mixed classes in 1957. Five years later the city had a token 270 blacks in the first five grades of formerly white schools. Eight years passed after *Brown* before either Alabama, Mississippi or South Carolina desegregated even one school. After nine years, only about one in every 100 black children attended a desegregated school.

The South's massive resistance to *Brown* was counterpointed in the North where protecting the neighborhood school was the Northern equivalent of preserving the Southern way of life. Many Northern school boards were as guilty of perpetrating segregation as those in the South. In an important, 1961 decision, anticipating Northern litigation still to come, U.S. District Judge Irving B. Kaufman declared segregation illegal in New Rochelle, N.Y., thus making New York the first Northern State to have a school within its borders desegregated by Federal court order.

Judge Kaufman's decision triggered more than a dozen suits in Northern communities, including Chicago, Philadelphia, Newark, N.J., and Kansas City, Kan., and spurred voluntary school desegregation in numerous other communities. By 1963, however, only a thimbleful of black pupils were desegregated in the 17 Southern and border states and within a year Northern boycotts of the schools by protesting blacks erupted in New York, Chicago, Cleveland and Boston. Faced with only three percent desegregation in ten years, Congress enacted the Civil Rights Act of 1964. Titles IV and VI of the new law removed school desegregation enforcement from the courts, where it had been at a near-stand-still since 1954. Accordingly, the U.S. Commissioner of Education had the primary administrative responsibility with assistance from the U.S. Attorney General, newly empowered to sue local school systems refusing to desegregate. Since the Commissioner was empowered to cut off federal funds to law-breaking school systems, he was armed with a bludgeon.

Apparenly, political considerations stayed his hand, however, after Southern politicians campaigned vigorously in Congress and elsewhere to convince the nation that the Commissioner's Office of Education had "gone beyond the law" in enforcing Title VI. While Southerners assaulted OE Commissioner Harold Howe II, he reportedly was summoned to the White House and told to cease talking so much about desegregating the schools. Then when President Johnson was queried later about how hard the government should push for school desegregation, he, like Eisenhower, was ambiguous. He wanted the law "fully enforced at all times," he said, then added: "I realize that in some instances there has been some harassment, some mistakes have been made, some people have been enthusiastic and differences have developed."

Many Southerners quickly concluded that the President had apologized for OE's alleged misbehavior. At the very least, they had successfully shifted the spotlight away from the illegal dual school systems in their states and from the nation's paper-commitment to dismantle them. By February 1967, OE had cut off funds to only 39 school districts in the South and delayed funds to only 152 others. OE's enforcement lagged despite its own massive study—the Coleman Report—which presented data to prove that desegregation helped blacks to make significant gains in their educational achievement while whites maintained their previous achievement levels as long as they remained in the majority.

Hitch-hiking on much of the Coleman Report's data, the U.S. Civil Rights Commission's study of *Racial Isolation in the Public Schools* also argued strongly for an end to school segregation after finding it was not only intense in more than 75 U.S. cities, but also growing worse despite the Supreme Court's 1954 decision.

Thoroughly disheartened by the snail's pace of school desegregation around the nation, many blacks in the mid-1960s rejected the idea of entrusting their children to schools dominated by whites and began demanding "community control" of black schools. Many were appalled by the "resegregation" that often occurred in newly-desegregated schools which turned all-black as soon as white parents were able to move their children. Many blacks also felt that attending schools with whites would not alone solve the peculiar problems of black children. Therefore, went the argument, black control of black schools was a necessary first step toward salvaging the millions of black students systematically mis-educated in the nation's schools. Henceforth, school officials would have to answer, at last, to the very people they were mis-serving. Through local school boards and advisory panels, black parents would help insure better education for their children and thus exercise the same kind of power traditionally wielded by white suburban parents.

Public debate over community control and the hundreds of questions it raised was caught up in the whirling dynamics of desegregation during the 1960s. Southern educators devised plans and schemes that they hoped would satisfy federal judges that the systems under litigation were acting in good faith and were making reasonable efforts to desegregate their schools. A favorite ploy was the so-called "freedom of choice" plan which put the burden of desegregation on the children seeking it. In hundreds of school districts either no change or only token changes occurred in the rigidly segregated pattern. Hundreds of complaints flooded into the Office of Education about widespread efforts to discourage black parents from choosing white schools for their children. In some of the worst areas no overt threats were necessary, since many blacks received little cards showing a picture of eyes peeking through a tiny square in the middle. "The eyes of the Klan are on you," was the printed warning. It was signed: "United Klans of America, Inc."

Finally, a series of federal court cases (*Green v. New Kent County*—1968 in Virginia), (*Alexander v. Holmes County*—1969 in Mississippi), (*Swann v. Charlotte-Mecklenburg*—1971 in North Carolina), not only struck down the "freedom of choice" plans but also instructed school authorities to take all necessary steps to eliminate segregation "root and branch." The courts defined a desegregation plan as inadequate if it did not actually bring about a unitary system, that is, schools that were neither black nor white, but "just schools." And the Supreme Court refused to tolerate further delays in implementing school desegregation, declaring unanimously that its 1955 all-deliberate-speed rule was "no longer constitutionally permissible."

In the wake of *Swann*, federal courts throughout the South ordered extensive busing programs (some of them drawn up by HEW), which in many cases were designed to achieve a racial distribution in each school roughly equivalent to that of the entire school district. As schools prepared to open for the 1971 fall term, however, statements by President Nixon and Chief Justice Warren E. Burger short-circuited these busing plans. First, the president declared that he was "against busing as that term is commonly used in school desegregation cases." Announcing that he had ordered the federal government to disavow a HEW-devised busing plan for Austin, Texas, he also proposed a $1.5 billion Emergency School Assistance Act and ordered HEW Secretary Elliot L. Richardson to draft an amendment to prohibit use of federal funds to finance busing. Later, the U.S. Justice Dept. joined the Corpus Christi, Texas, school district in asking the Supreme Court to delay implementation of a HEW busing plan for that city. Then Chief Justice Burger, who had written the *Swann* decision, warned federal judges that they were misreading *Swann* and, in essence, going too far by attempting to achieve fixed racial quotas in school districts.

Amidst this Washington backlash, national attention focused momentarily on Pontiac, Mich., a small industrial town 20 miles north of Detroit and the first large northern city to be ordered by a federal court to bus children to achieve school desegregation. Judge Damon J. Keith, a black jurist, had noted in his decision involving the busing of approximately 9,000 of the city's 24,000 students: "The harm to another generation of black children while awaiting implementation of 'long-range plans' to integrate cannot be tolerated and no degree of expense is unbearable when placed alongside of the unbearable situation which exists for these black children . . ."

Nevertheless, white parents in Pontiac thumbed their noses at Judge Keith's decision by staging a massive, anti-busing rally. Then, one late August night, vandals ripped a hole in the chainlink fence surrounding the school bus yard, dynamiting and burning ten buses worth about $50,000. On the opening day of school, five women chained themselves to a gate at the bus yard to prevent buses from leaving. Drivers who managed to move their buses were jeered by mobs who blocked passage with their bodies, hurled stones through the windows and punctured the radiators with sharpened broomsticks. Cars attempted to run off the road buses loaded with children and one bus barely missed plunging into a river. Pickets ringed a number of schools, yelling "Nigger! Nigger!" at black children and black teachers. At one school, sheriff's deputies and state police had to escort black pupils to *their classes.*

Warned by the FBI of a Ku Klux Klan plot to "execute" him, Judge Keith not only ignored the threats, he sternly warned protesting white parents that his busing order would be carried out even if U. S. marshals or FBI agents had to ride the buses. Eventually, the former Grand Dragon of the Michigan Ku Klux Klan and four of his associates were indicted for the bus bombings. Judge Keith's decision was upheld by the U. S. Court of Appeals and, in effect, confirmed by the U. S. Supreme Court which refused to review it.

Even so, busing became a month-by-month, carefully manipulated exercise in political gamesmanship as well as an education issue during the 1972 presidential campaign. In his January state of the Union message, President Nixon announced he would oppose busing to achieve what he called "arbitrary" racial balance. In February, he called for a federal study of alternatives to busing. In March, two days after the Florida presidential primary in which 74 percent of the state's voters said they favored a constitutional amendment against busing, Nixon asked Congress to approve a moratorium on all court-ordered busing and new educational bills to stop all new busing. But he said absolutely nothing about prohibiting the use of public funds to transport pupils to parochial schools and to racially segregated, private academies. In April Ziegler announced that Nixon would support a constitutional amendment against busing if Congress did not pass antibusing legislation. In May, seven lawyers from the Justice Department's Civil Rights Division resigned in protest over Nixon's school desegregation policies. And in June, the President signed a Higher Education Bill which provided all further court-ordered busing would be stayed until all current appeals were exhausted or until January 1974.

Following President Nixon's lead, several states—North and South—have passed laws, resolutions, and even constitutional amendments opposing busing as a means of achieving desegregation. The NAACP Legal Defense Fund anticipates that continued gasoline shortages may adversely affect school desegregation programs requiring busing. But in Memphis, where the busing issue has been litigated, federal courts have ruled that gasoline may not be withheld to thwart desegregation.

Meanwhile, local, state and national election candidates have vied with each other in declaring their unalterable opposition to busing, instead of rationally debating the issues involved. With opposition to busing as their subterfuge, school districts presently under court orders have filed new appeals to postpone school desegregation. And the federal executive branch has diminished its role as enforcer of desegregation requirements to such an extent that a law suit against HEW has led to a court order directing the department to resume its responsibility for requiring compliance with the law.

As might be expected, Nixon's obvious manipulating of the busing issue to win votes has obscured a number of important facts compiled by the Metropolitan Applied Research Center (MARC) and others. From 1929 to 1954 there were no outcries against busing when it made possible the transition from the one-room schoolhouse to the consolidated school. MARC notes that there also were no emotional outcries or demands for restrictive legislation from Congress or the President when white and black children were (and are) being transported long distances at greater cost to maintain racially segregated schools. Indeed, during the year before the *Brown* decision, the courts repeatedly ruled against black parents who had sued numerous school boards for assigning their children to segregated schools. In short, the outcries against busing only began when it was used to desegregate.

Nixon claims busing is "massive" and expensive. But the facts are that only three percent of public school busing has been for desegregation purposes and the total per-pupil cost has ranged only between $30 and $60 annually for each student or only about 1.5 to 3.0 percent of the total school budget. Nixon claims busing is "inconvenient" to students. But in six of 11 school districts studied by the NAACP Legal Defense Fund there was no increase in the average time spent by students on the bus. The average increase for the other districts was only 15 minutes. Nixon claims busing is unsafe. But the facts are that school busing is the safest means of transportation in the nation—both in terms of accident and fatality rates.

Whether busing is the only realistic way that urban school systems can be desegregated is still very much an unsettled question, but most of the techniques that have not involved busing have failed because of heavily segregated residential patterns in the cities (In Chicago, 98 percent of the black pupils attend predominantly black schools; in Los Angeles, 92 percent; in New York, 84 percent). Accordingly, the U.S. Court of Appeals in March 1972 ordered the Norfolk, Va., school board to provide free transportation as part of its desegregation plan on the grounds that without transportation to the assigned school, the whole desegregation plan would be a "futile gesture" and a "cruel hoax." If, then, busing is the most practical means by which most cities can desegregate their schools, HEW estimates that it will involve about 33 percent of the grade school students in a typical urban area. Accordingly, the federal courts have been erasing the geo-political boundaries between urban and suburban and between *de facto* and *de jure* segregation.

The Latin distinctions figured prominently in a Denver case (*Keyes v. School District No. 1*), the first school desegregation suit to reach the Supreme Court from a major city outside the South. One-race Northern schools had generally been considered the result of "de facto" segregation in housing rather than the result of state or local government action. Northern schools had been distinguished from the *de jure* (state established) segregated schools of the South and had not been subject to the remedial orders issued by Southern federal courts.

But in *Keyes* the Supreme Court found that *de jure* action in Denver (as also in Pontiac, Mich., and elsewhere) had produced a segregated attendance zone which contained 40 percent of the city's black students. The Supreme Court said the burden of proof was on the school to show that its action in segregating one district was unrelated to the entire system. If the Denver board cannot prove segregation in one sector is isolated from the rest of the system, then the entire system will be considered tainted and will have to be, in the Court's view, desegregated "root and branch" just as any Southern system would be.

The more elusive urban-suburban issue grows out of the so-called "white flight" to the suburbs. In two dramatic examples, Richmond, Va., and Detroit, Mich., no amount of redrawing of attendance zones, pairing schools, or even busing within each city can produce a unitary system, since not enough white pupils remain in the school systems to produce substantially mixed student bodies. Though mindful of this, federal district courts in Michigan and Virginia nevertheless have ruled that state and local government officials as well as school officials followed practices which segregated and discriminated against blacks and thus violated the 14th Amendment. Since the Detroit and Richmond school systems are, in fact, segregated, declared the courts, they ought to be merged with their surrounding suburbs.

In the Detroit case (*Bradley* v. *Miliken*), Federal District Judge Stephen Roth's 1971 ruling was upheld by the U.S. Court of Appeals, but a later rehearing of the case has left further decision still pending. In the Richmond case (*Bradley* v. *Richmond*) the 1972 ruling of Federal District Judge Robert R. Merhige Jr. was voided when the Supreme Court, in a dramatic 4–4 vote (Justice Lewis F. Powell abstained because he had once been a Richmond school board member) upheld a lower court ruling that the merger of the predominantly black Richmond school district with the largely-white, adjacent school districts of Henrico and Chesterfield counties was unconstitutional.

Since the population shifts which created the Richmond and Detroit cases have created other metropolitan bullseyes—black centers ringed by white—the national issue of merging city and county school districts to bus students has been joined.

Clearly, the work of dismantling the nation's dual school systems has only begun with the first generation of students since the 1954 Supreme Court decision. The advent of the so-called unitary school systems in the South, where schools were declared neither black nor white but "just schools," has ushered in a "second generation" of desegregation problems involving more obstacles than the massive resistance of the 1960s. The price of desegregation has included either a wholesale shut-down of black schools or their merger with others which, in either case, shifted to blacks the burden of adjusting to a new white authority structure in the hands of policy makers who had staunchly resisted desegregation.

Moved into white-dominated schools, black pupils too easily have become special targets of policies which favor whites while rejecting black traditions and culture. They have been excluded from extracurricular activities, tracked into segregated classes "pushed out" or confronted with condescension and hostility. In one desegregated school where black and white students sat on opposite sides of a classroom, a teacher regularly turned her back to the black students and addressed the whites. School confrontations have been provoked through discriminatory disciplining of black students, through malicious display of Confederacy symbols and through the massive displacement of black principals, teachers and coaches. Since 1954, at least 31,584 black educators have been dismissed, demoted or displaced, thus creating an estimated $240.5 million loss in the southern black community.

These "second generation" problems have received little public attention by comparison with the evils of de jure segregation itself and, even more unfortunate, neither the U.S. Office of Education nor HEW has made a serious, ongoing monitoring effort to gauge the breadth and intensity of these problems. Yet, the problems threaten efforts to create unitary systems.

Even so, the evidence is by no means conclusive that desegregation alone is educationally beneficial. On the one hand, the U.S. Civil Rights Commission's 1973 study of 10 communities has found that school desegregation contributed to some educational improvements largely because the "shock of desegregation" had forced local officials to take a "new and hard look" at school programs and, in many cases, revise them. Officials have also given teachers specific training in preparation for desegregation and special federal grants have helped to broaden course offerings and to add staff specialists.

On the other hand, some educators have come to believe that desegregation is a necessary but not sufficient condition for positive results. For equal education implies more than just equal physical space in the same classroom, the same teacher or the same principal. It also implies equal say-so over curricula, equal access to all available resources and equal access to school policy makers and managers. So far, desegregation has not guaranteed these additional rights to black parents and, to that extent, it has not guaranteed quality education. The Supreme Court declared school desegregation a national policy 20 years ago. Since only one-third of the nation's black pupils are desegregated, and since the would-be hero of the Watergate hearings, Sen. Sam Ervin (D., N.C.), is waging a new offensive against busing, and, since blacks have little reason to believe that white school officials will treat black students any more fairly today than they treated Central High School graduate Elizabeth Eckford and others yesterday, since all of these and more are serious considerations, the question is: Will, say, 40 more years be required to finally construct a unitary school system? And, if so, will this be in the best interests of black people? If not, what will be? On the resolution of these sorts of questions rests the future of public school education for both black and white America.

1954 Revisited

(By Jack Slater)

Everything has changed, and so little has changed. Since May 17, 1954, when the U.S. Supreme Court outlawed racial segregation in public schools, it has been as if we have spun through the center of a contradiction, past the first brave hopes engendered by the Court decision itself, past the mobilization of the first White Citizens Councils, past the sit-ins and the freedom rides and the massed swaying crowds at the 1963 March on Washington—past all of it, across a trail of burning cities, lynchings and assassinations, into—finally—the terrible knowledge that, for all of the changed landscape around us, America remains much the same.

A Civil Rights Act of 1964 was passed, an era of segregation in transportation and other facilities was ended, a black political base in scores of cities was established. Yet it is still a country in which too many social institutions and particularly the public schools abort and butcher their meaning for black children—and this despite a Supreme Court ruling issued 20 years ago. The ruling, won only after extraordinary labor was achieved by a handful of lawyers, social scientists and others who refused to accept less than full legal equality for black people. It was their refusal which started America on its long journey through the contradiction of the past 20 years. They changed everything by bringing the country forward even to this place in which so little has changed.

Most of them are middle-aged or elderly now. Some have retired or have, like Dr. Kenneth B. Clark, threatened retirement; and some are still very much at the helm. Like Thurgood Marshall, nearly all of them were carried upward by the 1954 victory into the highest levels of their careers, while a few such as the Rev. Oliver Brown and his daughter, Linda, remained stationary, or became heroes only for the moment before vanishing once more into obscurity.

A fiercely determined yet gentle black man who had lived all of his life in Topeka, Kans., Oliver Brown, along with his daughter, served the 1954 decision in the same manner that Rosa Parks would later serve the Montgomery bus boycott. He challenged a way of life, as Mrs. Parks did, and thereby gave birth to a series of events which changed the direction and expression of American racism.

In 1950, he sued the Topeka Board of Education after he attempted unsuccessfully to enroll his seven-year-old daughter in a white school only three blocks from their home. A three-judge federal court ruled against him in 1951 by holding that it was bound by the 1896 "separate-but-equal" doctrine of *Plessy v. Ferguson*. Brown promptly appealed to the Supreme Court which agreed to review his case, just as it later agreed to review the school segregation cases then in litigation in South Carolina, Virginia, Delaware and the District of Columbia. The Brown case, however, won top billing, and when the Court eventually consolidated all of the school cases under a single heading, they became known forever as *Brown v. Board of Education*.

Oliver Brown lived long enough to witness only a part of the extraordinary history he helped to create. In 1961, he died of a heart attack on the eve of the decade's battle for civil rights. His daughter, Linda, however, did witness the 1960s. Yet to her regret, she remained in Topeka, on the outskirts of the protest movement, and grew to become a woman influenced now not so much by the sweep of history as by the claustrophobia of small-town Americana.

"I'd like to leave Topeka," she says, sitting down in the living room of her townhouse. "There are so few opportunities here. Topeka is a good place to raise children, but . . . ," and then she smiles a little and completes her sentence with a slight shrug of her shoulders.

Divorced, the mother of two grade-school children and a keypunch operator working nights at Goodyear, Linda Brown Smith is a soft-spoken, heavy-set, somewhat diffident woman who sees her life clearly defined by that single transcendent moment when she and her father entered the all-white Sumner Elementary School to seek her admittance. It is that moment and the subsequent 1954 decision concerning it which gives not only meaning but victory to her life. Later, years later, after she experienced disappointment in marriage, disappointment in Topeka's vistas and disappointment at not being able to finish college ("I went to Washburn University of Topeka for two years," she says, "but my family just didn't have enough money to allow me to finish"), the year 1954 and her relationship to it would remain the single, happy constant in her life. And her pride in that relationship emerges now as she takes a visitor on a late afternoon tour of her Topeka, driving past the formerly white Sumner Elementary School, past the once all-black Monroe Elementary School to which she traveled 21 blocks, and under the recently constructed freeway trestle where the Brown family home once stood only three blocks from Sumner. It is a short tour of familiar mid-western streets which have become the map to Linda Smith's consciousness.

"My father was a strong, courageous man," she suddenly says. By now, the tour has ended, and she is heading homeward to get ready for work on the nightshift at Goodyear. "If my father had lived, he might have become another Martin Luther King. I often wish he could have seen it all, the '60s, the civil rights movement, all of it," she says, her voice rising for the first time with an edge of emotion. Then the car comes to a stop in front of her home, and she leaves the past behind her to get ready for the present.

"It is difficult now to understand the climate in which we were developing the cases during those years," says James Madison Nabrit Jr. "It's been a long time, after all. And it's almost impossible to make somebody else understand, to make you understand the animosity we encountered in those days as we went from courtroom to courtroom throughout Mississippi, Alabama, Georgia, Florida, South Carolina, Texas, Kentucky. It's difficult to transmit the feeling of those times, the atmosphere."

A year younger than the century, he sits in his Washington, D.C., home smiling the gentle, worldly smile of a wise old man and speaking in the thrilling measured cadences of a country preacher. Yet James Nabrit, former president of Howard University, is no preacher, although he is—in the broadest sense of the term—an evangelist, an evangelist who chose the law rather than the Gospel and became a civil rights attorney at a time when such a species hardly existed. Much of his distinction today rests on his participation in the *Brown* case as one of the principal attorneys for the plaintiffs. But he had been toiling in the vineyards toward *Brown* many years before 1954.

"Your travel was restricted," he continues, "your accommodations were restricted and your life, once you arrived in those towns, was threatened. Nor was there any pay, except for those who were employed by the NAACP. Now in that kind of situation, lawyers had to have something else, some commitment, otherwise they wouldn't have been fools enough to subject themselves to that sort of thing. The rewards were just not apparent at that time. People would say, 'Why are you wasting your time? You can't win. This is a white man's paradise. You've got white judges, white lawyers, white prosecutors, white juries.' And as though that weren't enough, we had difficulty getting clients, because in those days there was a great fear among black people about exposing themselves as opponents to the system. We had difficulty finding people to represent. Ethically, of course, we weren't supposed to go out and look for them. But if we had sat in our offices waiting for clients to come to us, we'd be sitting there now."

The lawyers were directed by special NAACP counsel Thurgood Marshall. How did he react to the hostility and the threats?

"Thurgood developed a way of shedding the animosity we encountered," Dr. Nabrit replies. "I think he played a make-believe game that the hate directed toward him didn't exist. He tried to pay no attention to it. Also, he could be a cold-blooded type—and that quality was obviously a protective device. He could go for the jugular vein and not be too concerned about the reaction of whites or blacks. At the same time, Thurgood was a charming man. He had the ability to encase himself in a kind of aura which attracted people to him. Then once he had encased himself completely in this aura, he would leap out of it at the opposing lawyers, at the jury. And when the thing was over, even though he had clawed these people to their very guts, the facade of charm, humor and coolness still captivated them."

Dr. Nabrit became actively involved in the long series of legal battles preceding the *Brown* case in 1936 when he joined the law school faculty at Howard University. During that year, the law school initiated the now-famous "dry-runs" in which faculty members, NAACP lawyers, students and community members turned themselves briefly into skeptical, disbelieving Supreme Court justices. Going through their dry-runs shortly before a Court appearance, Dr. Nabrit and others, including Thurgood Marshall, would argue before the Howard "court" in preparation for the real Court. "Through the years the cases involved transportation, education, and voting rights," Dr. Nabrit recalls. "They were always difficult and often complex, but I don't remember being asked one question in the Supreme Court which had not already been asked and answered during those dry-runs, which, incidentally, went on regularly for 19 years—till 1955."

The first of several successful NAACP suits seeking admission of black students to graduate and professional schools also began in in the late 1930s. Always losing those suits in the lower courts, the NAACP Legal Defense Fund appealed to the sympathetic high Court. And more than other single factor, the cumulative effect of the decisions rendered by the Court, decisions which opened graduate schools to blacks in Missouri (1938), Oklahoma (1950) and Texas (1950), served as precedents to influence the landmark decision rendered in 1954.

In fact, the big push toward what was to become the Court's school desegregation order began in the years immediately before the Legal Defense Fund won the 1950 graduate school cases in Oklahoma and Texas.

Constance Baker Motley was there at that time, employed as a Legal Defense Fund staff member writing briefs for the Oklahoma and Texas cases, and participating in all of the dry-run arguments at Howard. "It was a great time for all of us," she recalls, referring to the important desegregation efforts of those early years.

Mrs. Motley, who conveys an impression of cool reserve and strength, had joined the NAACP legal staff shortly before her graduation from Columbia University School of Law in 1946. Later, in the 1960s, she was to become the first black women elected to serve in the New York State Senate. And later still, she would serve as the first woman borough president of Manhattan before her 1966 appointment and present position as a judge of the U. S. District Court in New York. In the mid-1940s, however, Mrs. Motley was simply one of several tenderfoot attorneys committed to civil rights.

"I think we were all conscious of the fact that it was a great time," she adds, sitting in the subdued light of her chambers in Manhattan's U. S. Courthouse. "Of course, we didn't realize when we started that events would move as rapidly as they did. We thought it would be many years later, perhaps in the 1960s or 1970s, when the Supreme Court would agree to review a school desegregation case."

As Mrs. Motley sees it, the rapidly moving events came ironically in the form of three defeats which the Legal Defense Fund suffered throughout 1951 and 1952 when it pressed its school desegregation suits in the lower courts. The defeats, immediately appealed to the high Court, took place in Clarendon County, S. C.; Topeka, Kans.; and Prince Edward County, Va. NAACP attorneys, however, won their desegregation suit in Wilmington, Del., but because the Delaware court deferred to the Supreme Court on the matter of overturning *Plessy* v. *Ferguson*, that case was also added to the list before the Court, as was the District of Columbia case argued by James Nabrit.

After the first oral arguments were scheduled for December, 1952, events moved even more rapidly.

"We researched the *Brown* brief, wrote it, debated it—rewrote and debated and rewrote again and again," Mrs. Motley recalls. "At the same time, there were weekly conferences to attend—and weekly commuting between Washington and New York. The conferences would often involve as many as 50 people at one time and never less than 20. Sociologists, psychologists, historians, lawyers—all were involved. The writing of the brief, then, was a long, arduous task. It took many months, and many more hours were spent just trying to agree on the approach the brief should take."

With the completion of the brief, however, the end was hardly in sight. After the oral arguments closed on December 11, 1952, the Supreme Court decided the following June that it could not yet decide. The Court still needed additional time, needed additional answers to additional qustions. And so the NAACP lawyers researched once more during the summer of '53—and rewrote and researched into the late fall.

With a kind of masochistic pride, an old press release, dated November 16, 1953, describes the feverish activity of those months when it suddenly seemed possible that the NAACP might win:

"The staff of the Legal Defense and Educational Fund, consisting of six lawyers, six secretaries and two clerks, swung into action on June 9. . . .

"By midsummer, some staff workers were going two and three days without sleep, taking time out only to eat. By the end of October, no one was getting more than three or four hours sleep at a time. Enough coffee was consumed by the workers in the Legal Defense office to supply a regiment for a full week. Several of the lawyers have not had a meal with their families in four months. The same is true of the clerical staff.

"Thurgood Marshall . . . has slept in his own bed at home eight times in the past four months and has only had dinner with his wife twice in the past three months. Six of the lawyers who came to New York to work on the brief have not seen their wives in three months. The secretaries and volunteers put in shifts of 15 to 20 hours a day, seven days a week, without requesting extra pay. All members of the NAACP legal staff gave up their vacation time.

"The staff has used 1,000,600 sheets of copy paper, 6,000,225 sheets of manifold, 2,700 stencils, more than 12 million sheets of mimeographing paper and 115,000 sheets of carbon paper."

Others, however, were also working. Scores of black men and women in South Carolina, Delaware, Virginia and the District of Columbia volunteered hundreds of working hours as typists, secretaries and clerks. Black newspapers such as the Pittsburgh Courier, the Baltimore and Richmond Afro-American and the Birmingham World conducted fund-raising campaigns on behalf of the Legal Defense Fund. The Elks, Masons and the Brotherhood of Sleeping Car Porters also made sizeable financial contributions. And a prominent politician who was then a member of President Eisenhower's cabinet privately donated, at the risk of public censure, more than $7,000 to aid the NAACP lawyers.

In the meantime, social scientists such as Dr. Kenneth B. Clark conducted their own work for the Legal Defense Fund and thereby provided one of the few instances in which the disciplines of sociology and particularly psychology met and meshed with the mechanics of American jurisprudence.

In the early 1950s, Dr. Clark, a friendly yet combative man, was at the beginning of his long and often controversial career as a psychologist. Today, with few of the hopes of 1954 fulfilled and little of the national promise kept, Dr. Clark is often labeled a "conservative" or a "moderate," because of his uncompromising, unyielding commitment to integration and to the goals of 1954. Such labels, however, were never applied to him in the 1950s when integration seemed to be an ideal beyond question.

Shortly after the NAACP launched its attack on school segregation, Dr. Clark completed a report delineating the effects of prejudice and segregation on the personalities of American children. Although written for the Mid-Century White House Conference on Children and Youth, the report seemed exactly suited for the purposes of Thurgood Marshall who wanted to demonstrate in the Supreme Court that segregation not only stunts the personality development of black children but leads to irreversible psychological impairment.

"It was a rather risky undertaking," the 59-year-old Dr. Clark recalls, as he sits in his New York office at the Metropolitan Applied Research Center. "It was risky because psychological damage, unlike physical damage or medical damage, had rarely been dealt with by the courts." Moreover, the risk became compounded by the fact that the high Court could only take into account the legalities or illegalities of segregation and render an opinion based solely on constitutional considerations.

Still, Thurgood Marshall felt that the risk of introducing psychological data had to be undertaken. "So one of the first responsibilities the lawyers gave me," Dr. Clark remembers, "was to contact the social scientists whose work I had summarized in that report. I was to inform them of our goals and invite them to participate as expert witnesses at the trial level. And that I did."

Then, amid more conferences with lawyers, more meetings with social scientists and more weekly commuting between New York and Washington, Dr. Clark began to prepare the social science brief which was to be signed by leading authorities and submitted as an appendix to the legal brief. In *Prejudice and Your Child*, a book published in 1955 and based on both the social science brief and the Mid-Century White House report, Dr. Clark observes:

"[Segregated] schools are in themselves concrete monuments to the prevailing racial prejudices in a community. A child who is required to attend a segregated school is being taught that race is an important factor in his education. It is perfectly impossible for him to avoid including in his appraisal of himself . . . the fact of his racial identity. In the case of the Negro child, his attendance at a segregated school establishes the fact of his 'inferiority,' since he is aware that his school is generally inferior to the one provided for whites, and that he is being rejected and prevented from associating with the other children in the community. In the case of the white child, his attendance at a segregated school demonstrates to him his 'superiority' in terms of whiteness alone and teaches him in a concrete way that the rejected Negro attending the Negro school is inherently 'inferior.'

"This situation clearly plays a major role in the total pattern of racial attitudes that these children develop . . . [Segregated] schools, therefore, stimulate, perpetuate and reinforce negative racial attitudes in children and are powerful obstacles to the attainment of genuine democratic education."

In scholarly, subdued, yet unmistakable, terms, the social science brief described a diseased, divided nation inhabited by psychological and social cripples of both races. The brief was—and still remains—a stunning indictment of the American way of life. What effect the document exercised on the nine justices, however, is difficult to determine. For although the Court's opinion, written by Chief Justice Earl Warren, clearly recognized the "finding" of social science authorities, the Supreme Court unanimously outlawed segregated public schools because they denied "the plaintiffs and other similarly situated . . . of the equal protection of the laws guaranteed by the Fourteenth Amendment."

But even with the Constitution so clearly invoked, the Warren Court didn't escape criticism for having made, as the New York Times sarcastically put it, "a sociological decision." "The Court's opinion," said the Times in an article by James Reston, "read more like an expert paper on sociology than a Supreme Court opinion."

Yet the man who wrote the opinion could hardly agree.

"The sociological and psychological criticisms were made by people who were opposed to the decision," Earl Warren declares. "The *Brown* case was decided purely on constitutional grounds, although I did mention psychological factors in the opinion as an answer to *Plessy v. Ferguson*. No! Equal protection of the laws alone was the basis for the decision in the *Brown* case."

A large-framed, white-haired, resplendent man of 83 years, Warren sits near a window in the drawing room of his penthouse suite in San Francisco's Fairmont Hotel. He seems to have changed remarkably little since his retirement as Chief Justice in 1969. The great gentleness, the old-fashioned courtliness and the utter lack of pretension—characteristics which had always defined him—are still his trademarks. Only his voice, with its present unsteadiness, seems to have altered with age. The voice is less commanding, less sonorous, although it is still authoritative enough to evoke the character of the man who became for 16 years one of the most powerful figures in American life.

Now, in answer to a question, the retired Chief Justice explains how he would rank *Brown* among the many important decisions made during his tenure on the Court.

"I would put it second in the hierarchy of cases," he says. "I believe *Baker v. Carr* was the most important in my time. [The decision led to the 'one person, one vote' ruling on reapportionment of state legislatures.] It seems to me that if we had already had universal voting, then we wouldn't have had many of the problems *Brown* attempted to correct." Then suggesting that *Baker* complemented and reinforced *Brown*, Warren adds, "*Baker v. Carr* made blacks a part of our political system."

His words have apparently reminded him of something, for he now describes an incident which took place shortly before the Court issued its ruling about school segregation.

"I had wanted to see some of the Civil War monuments in the South," Warren recalls, "so I made plans to spend a few days touring."

It was to be a tour by automobile, and Warren began the journey with his black chauffeur. They traveled southward together throughout the first day until evening when, somewhere in Virginia, Warren requested the chauffeur to stop at a nearby hotel. After making arrangements with his driver to be picked up at a certain hour the next morning, the Chief Justice alighted from the car, walked into the hotel and registered. He had assumed, without really thinking about it, that the chauffeur would go elsewhere, perhaps to less expensive accommodations. Yet when he met the chauffeur the following morning, it soon became obvious to the Chief Justice that his driver had spent the night in the car.

"But what happened?" Warren asked him. "Didn't you go to a hotel? Have you slept here all night?"

"Well, Mr. Chief Justice," the chauffeur began. "I just couldn't find a place—couldn't find a place to . . ."

Then it hit Warren. He had come to a town, to a state where a man in his own employ could not find a place to sleep. And his own thoughtlessness in having brought the man here overwhelmed him.

"I was embarrassed, I was ashamed," Warren now recalls. "We turned back immediately. We returned home."

Warren has obviously never forgotten that incident. "But that is over now," he resumes, after a pause. "That sort of thing is all over. Black people can find accommodations anywhere in the country. And *Brown* triggered it." Then: "So many people, it seems to me, are inclined to judge the significance of *Brown* in terms of the number of whites and blacks together in public schools today. But the effects of *Brown* have reached beyond the public schools. Its by-products have been great." Then Warren cites the "hundreds of elected black men today," and specifically points to such black mayors as Atlanta's Maynard Jackson and Los Angeles' Tom Bradley, whom he, Warren, swore in as mayor last year. Furthermore: "Law schools throughout the South have opened up. Transportation, restaurants, all public facilities are desegregated. Without *Brown* none of that would ever have happened. We couldn't have done that before *Brown*," the Chief Justice said.

The 1954 decision, then, in Warren's view, has become the cornerstone on which the entire weight of contemporary black civil rights rests. Yet in the America of 1954, unawakened even to the suggestion of full minority rights, how was it possible for Warren to influence eight justices, some of whom were Southerners, to agree unanimously on a question which had been one of the most controversial of the century? What powers of persuasion had he used?

"There have been many theories expounded on that subject," Warren replies. "Most of them were expounded even before the Court reached its decision. I remember one Washington newspaper columnist writing at one point that the Court was divided 4 to 4 on outlawing school segregation and that I was the man determined to cast the swinging vote of nay. Well, I'll tell you the story. I've never claimed any credit for bringing those people [the associate justices] together. When the case came to us, we invited the U.S. attorney-general and any interests of the states to appear and file briefs. Eventually there were so many briefs that we decided to depart from the usual procedure and consider the case as it developed. And so, week by week, we discussed it, from the middle of November to the latter part of March, when we took a vote. There was no divisiveness and no arguing. I came out of the whole thing with the feeling that the men who should have the most credit for a unanimous decision were those men [Justices Hugo Black, Stanley Reed and Tom Clark] who came out of the South."

Warren's refusal to claim credit for the Court's unanimity, however, is open to question. In a new book, *Lawyer's Lawyer*, historian William H. Harbaugh suggests that Warren's influence in the decision was enormous. "Chief Justice Warren decided," Harbaugh states, ". . . that he [would] write the opinion himself and do everything possible to mass the Court behind it. Repeatedly that winter and spring, he discussed the case over lunch with some of his colleagues (Frankfurter and Jackson never joined them, and Black rarely did so). He concluded that the best way to win unanimity was by composing a short, nonrhetorical, unemotional and nonaccusatory opinion. This he did, and on May 12, five days before the decision was rendered, Frankfurther, the last holdout, indicated that he would probably sign it. The Chief Justice, wrote [Justice Harold H.] Burton in his diary, had done a 'magnificent job'; the impending unanimous opinion was a 'major accomplishment for his leadership.'"

There was a victory celebration among the NAACP lawyers in Washington, D.C., on the night of May 17, 1954. Thurgood Marshall, James Nabrit and Constance Baker Motley came. Others were also present: Jack Greenberg, who had handled the Delaware case and who would one day become director-counsel of the Legal Defense Fund, and Herbert O. Reid, now dean of the law school at Howard, who was then a young attorney working for Legal Defense. There was laughter that night, and good talk, and good food, and champagne for toasts to the brave new world. In the distance, beyond anyone's ability to see or hear, lay the sit-ins and the marches, the armored police tanks and the burning cities. But no one who was celebrating that night could have imagined a civil rights movement—or could have visualized, even if such a movement had been imagined, that black people afterwards would still be strangers in their own land, with their economic status still largely below poverty, with their political representation only slightly advanced and with the quality of their education (in segregated and desegregated schools alike) more inferior and more of a mockery than in 1954.

"We thought then that there would be, by now, a fuller realization of first-class citizenship," says Herbert Reid. "But in the past 15, 20 years, America has all but abandoned its public school system and utterly neglected its children, black and white, as basic human resources. We've turned into a highly selfish, highly self-destructive society."

On the night of May 17, 1954, however, a sense of optimism was in the air. The segregation era had ended! And a handful of lawyers, who had dreamed their dream and realized it that day, raised their glasses once more to toast the new America which had just been born. Everything would change now, would change, would change. . . .

THE BROWN DECISION: 20 YEARS LATER

(By Robert C. Maynard)

(NOTE.—Maynard is a member of The Washington Post's editorial page staff and a former Post ombudsman.)

All they knew for sure then was that it was wrong. The black parents of the children in Topeka, Kan., and Summerton, S.C., meeting in secret with out-of-town lawyers, signed those legal complaints against their segregated school districts because they were looking for a better break for their youngsters. All they really wanted was a better education for their children than they had received.

They had no way of knowing that one day it could be said that they had set off one of the most profound social revolutions any modern society had experienced. Their complaints went all the way to the U.S. Supreme Court, and when the justices decided unanimously in their favor, it is unclear now just how much even those nine men realized what would happen in the next generation. Only one thing is certain as we approach the 20th anniversary of *Brown v. Board of Education*: The decision delivered on May 17, 1954, had to do with far more than the desegregation of the public schools of this country.

Today, when the experts assess the impact of the *Brown* decision, they are prone to count black noses and white noses in school districts of the North and South and conclude that the desegregation of the American public school is a long way from completion. Many of the experts—and many parents—now question how important "integration" is for education. But if they look at the schools alone, they will have missed the point of what *Brown* did to the American political landscape.

Look, for example, at the state of Mississippi. Don't just count the desegregated school districts, but count also the number of blacks elected to state and local office: 152. That's 13 less than Michigan has. And 152 more than Mississippi had in 1954.

Look at the number of suits brought in the fields of housing, employment and recreation, all relying on the same interpretation of the equal protection clause of the 14th Amendment that the court reached in *Brown*.

Chalk it all up to *Brown*. That and much more. From the simple aspirations that moved those black parents in the late 1940s to sue for the right to send their children to a better school in the Summertons and the Topekas flowed a series of events that would overturn more than a half century of black quietude and lead to a movement that would shake the very foundations of American society. Its methods would be duplicated by the foes of an unpopular war, by advocates of equal rights for women and by activists in the causes of homosexuals and the elderly.

For *Brown* is a symbol of the start of the era of liberation movements in the United States. Its concept of the 14th Amendment was destined to affect virtually every aspect of the relationship of Americans with each other.

And it was to give to blacks the first sense of the possibilities of equal citizenship that they had dared to have in nearly 60 years. Black Americans had been living in a twilight of deprivation called "separate but equal" for all the 20th Century until the court acted in *Brown*. The joke among blacks had been that if the United States were nearly as "equal" as it was separate, "we would be in pretty good shape."

Brown has not changed all that. Far from it. The United States is still a deeply divided society. Race enmity still poisons the well of its social relations and mars its image as a democratic society. What *Brown* has done is two things: It threw the weight of the law to the other side, to the side of equality. And it made blacks aware that they could struggle and dare to win a social revolution whose goal is absolute equality before the law and in the eyes of their fellow man. What began as a simple plea for the right to attend the same schools with whites has become a complex of goals that includes the demand to share in the decisions that affect the very manner in which the society is governed and how its institutions function.

In the years since the decision, much blood and energy has gone into that social revolution and more will undoubtedly follow before the day comes when blacks can believe they have achieved their goals. Indeed, not all blacks agree on what those goals are. Since *Brown*, many have disdained the very notion of "integration" with white society. Yet, even in that expression of disdain, we see again the impact of *Brown*. To arrive at that conclusion suggests a sense of choice, of options. No such choice seemed real to most blacks just 20 years ago. A whole generation has been born, grown up and gone to college without ever having seen a restroom door marked "white" and "colored."

A black sophomore today might only learn through a black history course of a time in the 1940s when a black youth won admission through court order to the University of Oklahoma Law School, only to discover that his classrooms had a rope across two seats marked "reserved for colored."

It was not until the Supreme Court took up the cases we now know as *Brown* that all those changes and many more began to occur. *Brown* simply enunciated forcefully a principle that blacks had known must come one day. It was not in itself a great surprise. Blacks had lined the curbs outside the Supreme Court in the winter of 1953 in the hope of getting a seat to hear an NAACP lawyer named Thurgood Marshall argue the law and the principle they knew the court would adopt.

The social climate in which *Brown* occurred was one of increasing determination to break down the barriers that had existed for the 50 years since the Supreme Court had ruled in the case of *Plessy* v. *Ferguson*. To understand the importance of what *Brown* did, and thus to understand the events that followed *Brown*, it is necessary to go back a moment in history to the *Plessy* case.

When the Civil War ended, the era known as Black Reconstruction began in the South under the aegis of a Republican administration and a Republican Congress. Federal troops were used to support the Reconstruction governments of the states of the Old Confederacy. Blacks, most of them former slaves, began a process of self-government that would put more than a dozen in Congress and result in a handful holding governorships and other high offices throughout the South.

That arrangement lasted from the end of the Civil War until the presidential election of 1876. It was then that the dreams of blacks were brutally dashed.

Republican Rutherford B. Hayes and Democratic candidate Samuel B. Tilden ended the election campaign of 1876 with neither a clear electoral vote winner, although Tilden had won a popular majority. The Democrats of the South struck a deal with Hayes. If he would agree to remove the federal troops from the South, they would support him over the candidate of their own party. Blacks were left at the mercy of planters and workers who considered them inferior, fit only for manual labor.

Alan Barth, in his new book, "Prophets with Honor," describes the legal situation in which blacks in the South found themselves over the next two decades:

"North Carolina and Virginia . . . found it wise to pass laws that forbade all fraternal organizations that permitted members of different races to address each other as 'brother.' Alabama saw fit to adopt a law prohibiting white female nurses from attending black male patients. A New Orleans ordinance segregated white and colored prostitutes in separate districts. A Birmingham ordinance made it unlawful for a black person and a white person to play together . . . at dominoes or checkers. Oklahoma banned any companionship between the races while boating or fishing. Thus did the dominant race demonstrate its 'superiority.'"

Homer Adolph Plessy was an octoroon. An octoroon is a person with one-eighth black blood, the rest white. By the standards of Louisiana law of the last century—and indeed until this day—an octoroon is considered black. The streetcars of Louisiana in 1895 were separated so that blacks were forced to ride in the rear. Homer Plessy bought a ticket, tried to sit up front, was arrested and found guilty by a local judge, John Ferguson. Thus began the case of *Plessy v Ferguson*.

All but one justice of the Supreme Court upheld Judge Ferguson. The majority concluded that the rear of the streetcar was as good as the front, that the courts could not force people to sit beside each other, and furthermore, said Justice Henry Billings Brown for the majority:

"If the civil and political rights of both races be equal, one cannot be inferior to the other civilly or politically. If one race be inferior to the other socially, the Constitution of the United States cannot put them upon the same plane."

The lone dissenter, Justice John Marshall Harlan, argued to no avail with his brethren that "Our Constitution is color blind, and neither knows nor tolerates classes among citizens . . . The humblest is the peer of the most powerful." Then, in language that would not be equaled in the Supreme Court for a half century, he declared:

"We boast of the freedom enjoyed by our people above all other peoples. But it is difficult to reconcile that boast with a state of the law which, practically, puts the brand of servitude and degradation upon a large class of our fellow citizens, our equals before the law. The thin disguise of 'equal' accommodations for passengers in the railroad coaches will not mislead anyone, or atone for the wrong this day done."

As a New England orator had occasion to put it at another time, "rivers of blood and years of darkness" separated the days of *Plessy* from the time of *Brown*.

The reign of terror that swept across the black communities of the South was like nothing that occurred in American history before or since. Lynchings reached as high as the hundreds in some of the years between the turn of the century and the end of the 1920s. Blacks streamed out of the farmlands of the Deep South, often fleeing for their lives with no more than the clothing on their backs. They jammed into the cities in search of refuge, jobs, education and health care. They found the cities indifferent to their plight and they knew few if any of the urban skills.

Only the great migrations of the middle 19th Century from the cities of Europe to the cities of America matched the mass movement of black Americans from the rural South in the aftermath of *Plessy*.

Depression, New Deal and World War II all were instrumental in bringing alive the hopes of black Americans that the Constitution might one day apply to them. By the end of the war, the black men who fought oppression and fascism in Europe were in no mood for oppression at home. It was the children of this generation of black veterans who would become the plantiffs in the cases known collectively as *Brown*.

By the time of *Brown*, the black communities were simmering with discontent and determination. The contradictions of racism had become too poignant. The Cold War was in high gear and this nation was denouncing oppression in Eastern Europe while black children and white children were being kept apart in school districts across the land. Moreover, the African and Asian nations were emerging from a century of European colonialism and were looking to the West with a questioning eye and scrutinizing the moral leadership of the most powerful of Western post-war nations.

Brown and its implications were on every black person's mind in August of 1955 when a grisly event occurred that might well have rivaled *Brown* in its impact on the political awakening of black America. In the little hamlet of Money, Miss., hard by the Tallahatchie River, Emmett Louis Till was lynched one night. The child, retarded and slightly built, lived with his mother in Chicago. She sent him back "home" to Money for the summer vacation of his 14th year.

It is unclear whether Emmett Till ever realized his "crime." He allegedly had whistled at a white woman on the streets of Money. She went home and told her husband she had been "assaulted" by a black youth. The husband and his half-brother were later to admit that they took the child from his uncle's home at 2 o'clock on the morning of Aug. 28 and carried him to the banks of the Tallahatchie. There they brutalized and mutilated him, shot him through the head, tied a heavy weight to his body with barbed wire and dumped it into the Tallahatchie.

Late that September, with the eyes of the world—and especially those of black America—fixed on the shabby little courthouse at Sumner, Miss., the two men were tried for murder. The all-white jury deliberated for a little less than two hours before acquitting them.

The reaction of many Northern whites was outrage. The reaction of blacks, North and South, was a grim realization that much remained to be done to make the doctrine of *Brown* apply to every aspect of life in the United States.

Rosa Parks had never heard of Homer Plessy. That early evening of Dec. 1, 1955, she boarded the Cleveland Avenue bus in Montgomery, Ala., with social protest the furthest thought from her mind. She took a seat and the bus made its way to Court Square. It was then that the driver ordered Rosa Parks to move to the rear of the bus to make room up front for a white passenger. Rosa Parks, 43, said, "No." She was a weary seamstress who simply didn't have the energy to move and saw no reason she should have to. She was arrested and the next phase of the social revolution was under way.

The Rev. Dr. Martin Luther King Jr. was new to Montgomery. The son of a prominent Atlanta pastor, young King had come to Montgomery's Dexter Avenue Baptist Church, not far from the state capitol. When

Rosa Parks was arrested, the blacks of Montgomery were ready for protest and the city's black clergy asked King to lead the way. A boycott was organized and not a black was to ride the municipal buses of Montgomery for 381 days. The Supreme Court struck down the city ordinance that had mandated the segregation of the seating of buses in Montgomery and across the South. It was a victory for Rosa Parks and the end of the boycott, but it was only the beginning of Martin Luther King's journey into history.

The methods that King enunciated for the Montgomery protest were borrowed from his understanding of the teachings of two towering figures, Gandhi and Thoreau. He called it "creative nonviolence," and ordained that no matter how much he was abused by his enemies, he would respond in a spirit of love.

There had never been a protest style like that in black America, but it caught on and in the next several years it swept across the Southland. Blacks challenged every form of discrimination that they could figure a way of testing with their bodies and with King's new philosophy.

It had no ready application to the desegregation of the public schools, so it took the decision of President Eisenhower in 1957 to federalize the Arkansas National Guard before nine black children could get into the Central High School in Little Rock. That decision, however, added buoyancy and determination to the new nonviolent protest struggle. Blacks believed for the first time that they might actually break the back of segregation.

When the black students of Greensboro, N.C., sat in at a dime store lunch counter in 1960, they employed the tactics taught by Dr. King and allowed themselves to be abused without fighting back. When that news was spread across the country by television, thousands of students, black and white, began to challenge the segregated lunch counters and another barrier to equality, symbolic as it was, fell before the onslaught of nonviolent protest.

What the Supreme Court had lacked the power to accomplish in the schools was being accomplished by King's shock troops in the restaurants and hotels, the public beaches and bus stations.

It was 1961 before it became apparent that the movement for black equality was splitting into two strains, and that the disdain for integration—not taken seriously before—would one day prove to be a powerful force in black America.

The Freedom Riders swept down on the South, with blacks and whites riding buses from town to town, getting off here and there to test the segregated waiting rooms and rest rooms with their "white" and "colored" signs. At Anniston, Ala., one afternoon in the spring of 1961, a white mob attacked the bus, set it afire and slashed its tires. The photograph of the mob's handiwork went around the world. In New York City, that photograph showed up as a pamphlet with a caption asking:

"Do we *really* want to integrate this burning bus?"

A different version of social revolution was starting to capture the imagination of Northern urban youth who had neither the patience nor background for King's form of love for his enemies.

There was Robert F. Williams, a North Carolina NAACP leader who led a group of armed blacks to chase some Klansmen out of town. Within months, Williams was run out of the country, to Cuba and China, but the notion of stiff resistance was to have another leader in Minister Malcolm X of the Nation of Islam, or Black Muslims.

A former convict who had found the teachings of Islam while in prison, Malcolm X preached a hard line against integration on the street corners of Harlem and soon had a massive following among young Northerners, slum dwellers and collegians alike, who questioned King's posture of nonviolence in the face of attack.

The crucial test came in Birmingham in the spring and summer of 1963. King led the civil rights movement into full battle against the resistance of Public Safety Director "Bull" Connor.

Connor turned fire hoses and police dogs on King's unresisting marchers one day in the full view of television cameras. With the powerful impact of that scene on world opinion and with the support of such patriarchal figures of the civil rights movement as A. Philip Randolph and Roy Wilkins, King organized a march on Washington to demonstrate the sentiment of "all decent Americans" in favor of a civil rights law that would carry out the sentiments expressed by the Supreme Court nine years before in *Brown*.

Nearly a quarter of a million Americans came to march. They heard one of the most eloquent speeches of its kind: "I have a dream," said King, and the Mall went wild with cheers. It was perhaps the high point of King's career as a spiritual and moral leader, and the high point, too, of the nonviolent movement.

Less than a monthr later, at the 16th Street Baptist Church in Birmingham, a bomb went off during Sunday school and four little girls were killed. In an era in which brutality against blacks had been commonplace, and in which many black churches had been destroyed by bombs, that sickening Sunday stood out in many minds as a psychological turning point against the non-violent movement.

By the time the first decade of *Brown* had ended, there was deep disillusionment in black America. The noble language of the court had not translated into tangible change. What had seemed so simple had turned out to be profoundly complicated.

Brown had exposed the deep hypocrisy of racism and demonstrated that attitudes and behavior were far more difficult to change than most blacks had ever imagined.

Rather than share their schools with the blacks who had been denied access, many whites fled the cities for the suburbs, leaving those cities in a state of decline. The harder blacks tried to strive forward, the stiffer the resistance seemed to become. The major civil rights legislation of 1964 and the Voting Rights Act of 1965 showed some early promise, but the enduring legacy of racism was not to be so easily overturned by court rulings and laws.

Only a few days after passage of the Voting Rights Act, the Los Angeles community of Watts exploded with a new form of urban racial violence.

From the ashes of Watts, a new awareness emerged in black America. Malcolm X, who had been assassinated that February, became larger in death than he had been in life. His warning that blacks and whites could never become one nation seemed to have sunk in. Nothing was changing for the black man in the job market, in education or in housing. So Watts set the stage for the urban rebellion—an expression of anger that swept across the cities, an uncontrollable wild fire, for the next five years. At each turn, it became clearer that blacks were determined to choose a different course, a course of their own. Black nationalism among the young became more popular than at any time since the movement of Marcus Garvey in the 1920s.

By 1967, the goal of integration that had so strongly attracted so many blacks was all but forgotten. "Black Power" was the new slogan, replacing "We Shall Overcome."

Instead of integrated schools, the intention of those who brought the suits in *Brown*, community schools became the goal. And it was not just schools, but the whole social structure. Many blacks no longer wanted what the white man had. They wanted a world of their own.

And young angry voices arose declaring they were ready to fight for it, to die for it. They were called Panthers and Liberators, cultural nationalists and political nationalists. They called on their brothers and sisters to look toward Africa, to think of themselves as part of the Third World, merely trapped in the belly of the American whale. Even those older blacks who considered themselves middle class could not resist the emotional tug of the new ideology so far away from the language of *Brown*.

Even as the country's attention was focused on those dramatic changes, less dramatic changes were occurring elsewhere. Throughout the South and the North, blacks were trying to get their hands on some of the power that resided within the system. From a half dozen blacks in the Congress at the time of *Brown*, the number inched up to 12, then 16, enough to have a caucus of their own and be taken seriously. In Mississippi and Alabama, Georgia and Tennessee, blacks in increasing numbers were getting elected to state office. At the time of *Brown*, you could count all the black elected officials on your fingers. Now there are nearly 3,000, many of them in the Old Confederacy.

It is not progress with a capital P, but neither have blacks been standing still. What *Brown* has done is to expose a series of contradictions in American society:

Thurgood Marshall, the man who argued *Brown*, is now an associate justice of the Supreme Court. Harry Briggs, one of the fathers for whom he argued, was forced to leave Clarendon County, S.C., for the Bronx, N.Y.

More blacks than ever are earning over $15,000 a year, but more blacks than ever are living at the poverty line.

The black faces flash across the television screens, giving the news or acting in a commercial, but less than 3 per cent of television news professionals are black.

The antagonists of racial equality rail against the "liberal" press for its advocacy of equal rights. Yet, only seven-tenths of one per cent of all the newsroom professionals in the United States today are *not* white.

And so it goes, a little progress here, stubborn resistance there; a bright spot, a dark spot, hope, despair.

It is impossible now to predict what will be reasonable to say on the 25th or the 40th anniversary of Brown. Only this is certain: Hardly anyone guessed how much America would change, for good or ill, in the 20 years since that muggy May Monday when the Supreme Court pronounced that separate but equal was not good enough.

Key Assumptions of Desegregation Under Challenge

(By William Chapman)

Ever since the day when it became the law of the land, school desegregation has suffered from bad predictions by the experts.

The Southern politician said it would never happen, but if it did the heavens would fall. No child born that day in May, 1954, would live long enough to see blacks and whites going to school together in Mississippi, said Gov. J. P. Coleman.

On the other side, blacks saw the millennium at hand that day when *Brown v Board of Education* was decided and the old doctrine of separate but equal was discarded. The walls of centuries were falling and the rest was just mopping up. In only a matter of years, segregation would disappear from American life, said Thurgood Marshall, who, as an attorney for the NAACP, had won the big day in court.

The bad guesses continued. There would

be no resistance in his state, said Virginia's superintendent of schools a few months before Sen. Harry F. Byrd Sr. announced his policy of "massive resistance." The country was now ready for a great package of civil rights legislation, Sen. Hubert H. Humphrey declared that day, 10 years before the Civil Rights Act of 1964.

Now, on the 20th anniversary of that historic decision, the most fundamental practical question of all is under challenge. Now there is doubt about the key assumption that the achievements and the well-being of black children would improve with integration.

Legal segregation retarded the educational and mental development of Negro children, the Supreme Court had said, and from that flowed the assumption that desegregation would change the pattern. Now that is questioned—not merely by the resisters but by many blacks and white liberals.

CHANGED ATTITUDES

David K. Cohen of the Harvard School of Education summed up the revisionist trend in a paper last year for the Urban League: "Until late in the 1960s, there was little confusion among liberals about school segregation. Despite much controversy and some reluctance to press ahead, there was never any doubt that racial desegregation in schools and housing was a structural prerequisite for the full social integration of black Americans. Now all that is changing. The debate is no longer over the pace of desegregation but whether it would occur at all."

The biggest irony is that attitudes have changed during the precise period when the "pace of desegregation" quickened dramatically. Until the late 1960s, when the effects of the 1964 act began to be felt, the pace had been slow in the South. In 1968, some 68 percent of the black pupils in 11 Southern states attended all-black schools. But by 1972, that had dropped to only 9 per cent. The greatest wave of desegregation occurred in a period of mounting doubt about its worth.

The statistics, however, didn't affect the change in attitudes. It was underscored recently by Ruby Martin, former director of the Equal Educational Opportunity Office in the Department of Health, Education, and Welfare and long an ardent proponent of integration. Integrating schools, she told a conference at Notre Dame, is no longer a top priority.

"I, for one, am going to leave the process of desegregation to others," she said. "Just to integrate will simply compound the problems we have and polarize the community more. I am still for *Brown*, but in terms of priorities it is now No. 10, not No. 1."

The old attitudes have been bent by the weight of evidence emerging from many professional studies of the classroom effects of integration. The old equation went something like this: "Blacks get unequal education because their schools are unequal. Given equal access to the tools of education with whites they will perform like whites. They will learn to read and write more quickly. They will shed old feelings of inferiority and low aspirations." Each element of the equation is seriously undermined by the studies of the late 1960s.

THE COLEMAN REPORT

It was the Coleman Report on Equality of Educational Opportunity in 1966 that started the landslide shift in academic attitudes toward integration and did so much to undermine the conventional assumptions (James S. Coleman, then professor of social relations at Johns Hopkins University, was chairman of the group which prepared the report under auspices of HEW).

First of all, it showed that for all of the charges of discriminatory treatment, the schools blacks went to in 1965 were about as good as the ones whites attended. There wasn't much difference when it came to counting science labs and library books or in measuring pupil-teacher ratios. So a decade after *Brown*, it seemed, the schools may have been largely separate but they were also approximately equal.

"Despite popular impressions to the contrary," wrote Christopher Jencks of Harvard, after reviewing Coleman's evidence, "the physical facilities, the formal curriculum, and most of the measurable characteristics of teachers in black and white schools were quite similar."

Equally damaging, it seemed that it didn't make much difference in strictly educational terms whether the facilities and teachers were equal or not. Good or bad, they seemed to have only a modest effect on the achievement of pupils. The pupil-teacher ratio—long considered a key determinant of "good" or "bad" education—was found to have no relation whatsoever to student achievement. Nor did the amount of money spent on each student by local school boards. Per-pupil expenditures were found to account for not even 1 per cent of the variance in student performance on standardized tests.

And, finally, Coleman and other researchers down to the present day have found that school integration, in itself, had very little effect on the academic achievements of either blacks or whites. The racial composition of the classroom seemed virtually a neutral factor. Achievement scores went up very slightly for blacks who moved into white schools, but it was a modest change. The scores of whites didn't decline (as some Southerners had warned), but the notion that desegregation per se would immediately advance the black child was demolished.

THEORY UNDERMINED

Still another group of studies undermined an assumption that was closest to the heart of the 1954 decision. The Court had said: "To separate them (black children) from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone." It was based on the sociologists' theory that seeing himself segregated, the black child also saw himself as inadequate. From that flowed the conviction that his self-esteem and aspiration about life would improve when seated beside whites in the classroom.

Insofar as that is measurable—and many scholars contend it is not—the reverse seems to be true. Almost every experiment has shown that the self-esteem of the black child in an integrated school is lower than that of the one in a segregated one.

Confronted with attitudinal tests, a black child in a segregated school is more apt to agree with this statement: "On the whole, I'm satisfied with myself." Or he is more likely than the integrated-school child to agree that, "On the whole, I am a person of worth." Morris Rosenberg of the National Institute of Mental Health, who has administered many such tests, believes that the whole racial concept of self-esteem has been misrepresented. "Basically, black kids don't have low self-esteem—this surprises a lot of people, it destroys a lot of perceptions," Rosenberg says.

But placed in an integrated school where he experiences prejudice and ridicule, the black child is likely to experience a loss of self-esteem. Rosenberg considers it a normal reaction, very similar to what happens when Jewish children reared in a Jewish neighborhood go to a public school where the majority is gentile.

Nonetheless, the findings, when added to those depicting no gains in achievement scores, have discouraged many about the effects of integration. Most social scientists would agree that there isn't enough information on which to judge the long-term effects; but what is known now doesn't support the optimism born 20 years ago.

A QUESTION OF PHRASING

Swimming against this tide are a number of researchers who see it differently. There are conditions, they observe, when desegregation "works" in the pragmatic sense of increasing learning abilities. They deplore the tendency of many colleagues to throw up their hands and say integration isn't worth the effort.

"The problem is that the question is always phrased wrong—'Does integration work?' " says Thomas Pettigrew, the Harvard sociologist who has testified to the value of integration in many court cases. "That's a political question.

"The important question is what are the conditions that maximize the good points and minimize the bad ones. You don't ask if the United States government works. You ask under what conditions do certain government programs work."

One condition is integration that places lower-class black children in schools with middle- and upper-middle-class whites (and middle-class blacks). Integration up in status is one of the most powerful tools in raising the learning abilities of Negro children. Jencks found this in the Coleman data: "The one school characteristic that showed a consistent relationship to test performance was the one school characteristic to which most poor black children had been denied access: classmates from affluent homes."

The explanation seems to be that children learn more from their classmates than from their teachers. They learn, by emulation, about study habits and competitiveness from white children who have been in a stronger academic atmosphere since kindergarten. It rubs off and the verbal and arithmetic scores start to rise.

It also becomes an argument for the most controversial and difficult form of integration, which requires busing across metropolitan district lines. Integration with lower-class whites in the central city, the experts argue, doesn't do much good for achievement scores; it's busing into the middle-class suburbs that counts. (The effect cuts across racial lines and is so strong that a few school districts have considered a kind of economic integration—busing poor white students into the affluent white suburbs.)

SCHOOL COMPARED

For the first time, there is also some solid evidence that integration can be made to work—in the most pragmatic sense—by changing the techniques and atmosphere of the desegregated school. It has long been claimed that the academic achievements of blacks were retarded by the hostile, uninviting atmosphere in the newly desegregated school. It seems obvious—but no one had proved it.

A recent study financed by the Department of Health, Education and Welfare of 5th and 10th graders in 600 Southern schools is the first largescale attempt to show what happens when school officials make a deliberate effort to improve the environment for blacks. It compared schools which received federal emergency aid with those that didn't. The emergency aid amounted to very little money per school, but it did cause the introduction of race-relations courses and encouraged teachers to change their attitudes toward black children.

For much of the sample, it didn't make much difference. But for one group—10th-grade black boys—it made a lot. Overall, that group normally scores very low on achievement tests in white schools—much lower than black girls, for example. And those 10th graders in schools which had not received emergency aid stayed low while the experiment was under way. But those in the emergency-aided schools showed gains equivalent to approximately a half a school year—an unusually large achievement for blacks in a white school.

And finally, there is a smattering of surveys starting to show that integration helps the young black catch onto the first rungs of the upward-mobility ladder which leads up to college and better jobs.

In one major survey, Robert Crain of Johns Hopkins University questioned 1,600 35-year-old black men, some of whom had gone to largely integrated schools. He found two results:

Those who had gone to integrated schools were more apt to finish high school and more apt to go on to college than those who had attended segregated schools.

They also were apt to find better jobs that paid higher salaries.

The explanation by Crain is that the schools gave the blacks the connections and know-how to find their way into college and good jobs, regardless of test scores and falling self-esteem. "They had white friends who put them on to jobs, which is how you get jobs anyway," says Crain.

The greatest achievement of school integration, then, may be just that. Integration may not raise test scores much and it doesn't seem to help the young black think better of himself. But in the end it may do something more valuable.

It seems to give that little boost toward life's more coveted things. It puts him in what Pettigrew of Harvard calls the "influence network," that indefinable and untestable system that whites have had going for them for years.

[From the Washington Post, May 12, 1974]

A Court That Dared the Unknown

(By John P. MacKenzie)

(Note.—MacKenzie is The Washington Post's Supreme Court reporter and author of the forthcoming book, "The Appearance of Justice.")

"Somewhere, sometime to every principle comes a moment of response when it has been so often announced, so confidently relied upon, so long continued, that it passes the limits of judicial discretion and disturbance."

So said John W. Davis, lawyer for a South Carolina school district and courtroom spokesman for the status quo in Southern race relations. He was telling the Supreme Court that whatever it might think the 14th Amendment meant in 1952 and 1954, the justices should be guided by the pronouncements of 1896 and subsequent years approving "separate but equal" as a constitutional doctrine.

When the Supreme Court handed down its famous and unanimous desegregation decision on May 17, 1944, there were more causes won and lost than Davis' or that of his opponent, Thurgood Marshall. Seen across two decades, the decision appears to have been the breakthrough for an entirely new judicial approach, a major restructuring of American government. The judicial branch has not been in "repose" since then.

In the longer view, the rule of *Brown* v. *Board of Education*, coming on the heels of decision opening up state-financed college and professional education to black, was an evolutionary, logical next step and nothing radical. The major new elements was that the court had lost its fear of the unknown.

Fear of breaking the 1896 precedent of *Plessy* v. *Ferguson* was partly rooted in respect for the past and partly in fear for the future. What social upheavals would desegregation cause, what violent reactions, what administrative nightmares would the judiciary be calling down upon itself?

OTHER BATTLES

Once engaged in the battles over social justice, the Warren Court looked upon other battlefields with less awe. The "political thicket" appeared more manageable and the justices saw legislative apportionment not as a "political question" but as a denial by politicians of the political rights of Americans. Looking under the rocks of the criminal justice system, the court found violations of the constitutional rights of individuals and hastened to outlaw them.

To the John Davises and others the court had slipped its moorings and was so "activist" that a judicial dictatorship seemed imminent. But to a host of other Americans, the court was opening a new avenue of redress for disadvantaged and forgotten citizens.

Richard M. Nixon, who as vice preeident had hailed *Brown* as the work of "our great Republican Chief Justice," was anxious as President to call a halt to the activism and restore what he called "strict construction" of the Constitution. But three of his four appointees ended up voting to uphold federal court judgments against state anti-abortion laws. And Chief Justice Warren E. Burger led a charge into the religious arena, proclaiming that the only "entanglement" to be feared was government aid entangling the state and religion.

WARNING SIGNALS

To be sure, Burger's principal aim has been in the opposite direction, to disengage the judiciary from some of the old conflicts and try to avoid new ones. He stated his perspective clearly shortly before his elevation to the highest court. Complaining about the inexorable development of Fifth Amendment law in case after case, he argued that it was "all too much of a good thing, this criminal law trend." The higher courts, in their concern for the individual, started down a road in which each step is a logical extension of the step immediately preceding it, "but when you get to the end of that road and look back, often you find you have arrived at a place you hadn't intended to go at all."

The court under Chief Justice Earl Warrent did indeed seem to start things without being sure where they would end, confident that if one case led to another, it would still be sitting and capable of handling the next case justly. It approached the *Brown* case that way over Davis' warnings of a future with overtones of racial "quotas" and white flight.

If Clarendon, S.C., School District No. 1 desegregated perfectly and uniformly, he told the court, "if it is done on a mathematical basis, with 30 children as a maximum . . . you would have 27 negro children and 3 whites in one school room. Would that make the children any happier? Would they learn any more quickly? . . . Would the terrible psychological disaster being wrought, according to some of those witnesses, to the colored child be removed if he had three white children sitting somewhere in the same school room? . . . You say that is racism. Well, it is not racism . . ."

Justice Felix Frankfurter raised similar warning signals, questioning whether the racial isolation of the urban ghetto would not frustrate effective remedies. But he, like the other eight justices, came down hard on the threshold question—was there a violation of constitutional rights?—and answered that question first. Implementation plans could be tackled in another round of argument. In 1955, the announced "all deliberate speed" enforcement formula amounted to another postponement for much of the Deep South.

Justice Hugo L. Black disclosed shortly before his death that he favored instant system-wide enforcement in every district where segregation was under legal attack. Retired Justice Tom C. Clark said recently that he regretted the courts' collective lack of foresight in failing to decree grade-a-year compliance starting with kindergarten. The justices must have explored these routes and many others before settling on postponement. But if they had taken on the whole problem at once, would they have made the initial constitutional judgment about segregation?

HOW MUCH EQUALITY

Similarly, the court began its reapportionment adventure by declaring that the courts were open to challenges by citizens under-represented in their legislatures. The precise standards could come later. When they came and they amounted to "one man, one vote," critics complained that the courts should not apply rigid mathematical formula but instead should permit deviations based on how judges measured political factors such as geography, population distribution and even competing "interest groups." The irony was that such a measurement would carry judges even deeper into the political thicket.

Criminal law, as Burger observed, developed in similar fashion. In 1964 the court threw out a confession obtained from Danny Escobedo when police cut him off from his lawyer. This opened up yet another question. What about equal justice for the arrested suspect too poor to hire his own counsel, a question settled in favor of the defendant in the even more controversial 1966 *Miranda v. Arizona* decision.

Equality, the most sought-after constitutional principle of the Warren Court from *Brown* forward, was a hard idea to contain. Paul A. Freund told his Harvard law students it was like a boy who said he knew how to spell "banana" but didn't know where to stop. In racial matters it met with massive resistance but the idea marched on so relentlessly that miscegenation laws, long a symbol of deep-seated racism, died a quiet and almost natural death in 1967 again with no justice dissenting.

The 9-to-0 voting pattern that held firm through Little Rock in 1958 and even the intransigence of school officials in Prince Edward County, Va., in 1964, remained intact through 1968 when the court, tired of a case-by-case desegregation process that was not working, gave full force to the principle that only effective remedies would be approved. Segregation was to be eliminated "root and branch," in Justice Black's phrase, and the South must produce not white or black schools but "just schools."

Only after President Nixon had appointed four justices was there a full-throated dissent on school desegregation and even then, in 1973, the vote to extend key principles of equal protection to Northern school systems was 8 to 1. Also by then, the nature of the problem was changing and new civil rights claims, such as that of "reverse discrimination" through racial quotas, were becoming more insistent.

A PARTIAL HALT

Now a new majority has moved to cut down the growth of new ideas of equality. The court has refused to extend constitutional protections against discrimination in housing beyond race into the field of bias against the poor. It has declared itself helpless and disinclined to intervene where states parcel out school money unequally among districts. Blacks and urban whites trying to recapture whites who have fled to suburban Detroit schools will be lucky to survive the current round in the high court.

But the effort to wind down the judiciary's "activism" does not appear likely to succeed completely. One reason is that the newly constituted court has maintained much of its commitment to racial equality and displayed a willingness to enforce that commitment. Another reason is that legisla-

> tures, some of them energized by reapportionment, are creating and safeguarding new rights and remedies which the courts must enforce.
>
> Furthermore, there are increasing signs of public acceptance of a full partnership in government for the judiciary. Last fall many Americans were saying it was the high court's "duty" to decide the question of subpoenas for White House tape recordings. Suggestions of a role long undreamed of for the courts—judicial review of a congressional impeachment verdict—have been raised by a lawyer for "strict constructionists" John Ehrlichman and H. R. Haldeman. The very fact that the Supreme Court has never flatly ruled on the question is an invitation to more judicial business and only the Supreme Court can say the review power doesn't exist.

Mr. NUNN. Mr. President, I am proud to offer my support and cosponsorship to an amendment being offered today to the education bill—S. 1539—which would remove the jurisdiction of the Federal courts to interfere with a freedom of choice school system. In my view, this legislation is essential and desperately needed to restore some order to the chaos that has resulted in schools operating under the onus of forced busing.

I congratulate my colleagues, Mr. ERVIN, Mr. ALLEN, and Mr. TALMADGE, the principal sponsors of this long-awaited legislation, for their diligent work and perseverance in purpose.

They have brought to the floor an amendment which takes a giant step toward returning control of public schools to the local level, where it belongs. For too long, our schools have been run by Federal edict and not by boards of education. Our children have literally been treated like pawns, transferred from school to school by judicial juggling, considered more as statistics than human beings.

Twenty years after the Brown decision, our counties are required to use race as a basis for assigning pupils to public schools. The imposition of forced busing to achieve some arbitrary racial balance, to meet some magic quota determined by our famous faceless bureaucrats, has threatened the very existence of our neighborhood schools. The totally illogical concept of busing children miles away from their neighborhood schools to achieve racial balance has resulted in the decimation of hundreds of education systems across the country, and has forced parents and children into situations they never envisioned.

Anyone who claims that forcing a child to spend 2 hours a day on a bus will improve his education must have received his education on a bus. He obviously missed the course in logic. Such forced busing plans are almost universally condemned by both black and white parents.

We have come to a critical point on the issue of forced busing. A firm answer must be provided and this amendment, the Student Freedom of Choice Act, is that answer.

It would permit, for the first time, the establishment of viable freedom of choice school systems. This bill prohibits the withholding of Federal funds from schools operating under a freedom of choice plan which do not agree to transfer students to achieve racial balance. This proposal also removes the jurisdiction of the Federal courts to interfere in any way with a freedom of choice school system. A U.S. court would not be permitted to order a change in racial composition, require the transfer of students or faculty, or deny any student the right to attend any public school chosen by the student's parents.

Since arriving in the U.S. Senate, I have been an ardent supporter of legislation to correct the "education by judicial edict" condition which has only served to undermine our best efforts to provide a quality education for all American youth. In the past, I have supported efforts by Senators ERVIN, ALLEN, and TALMADGE to prohibit forced busing, and today I am proud to join them again in an effort to provide relief for our local schools from Federal domination and to end finally the senseless forced busing of our students.

I received a letter from one of my constituents last year who placed the entire issue in perspective when he wrote:

> We must face problems people to people, not class to class, group to group, or race to race—we must concentrate and push for the betterment of education within the schools—we must decide to work together, not against each other.

Not one of us would disagree with that statement. This is the objective toward which we are working today.

Mr. McCLELLAN. Mr. President, I wish to express my support for the amendment proposed by the senior Senator from North Carolina (Mr. ERVIN).

All Members of the Senate are well acquainted with the reputation of the senior Senator from North Carolina as an authority on the Constitution of the United States. He believes that his amendment is, without a doubt, constitutional, and I share his belief. The main reason I support the amendment of the Senator from North Carolina is that it is the only amendment being proposed to S. 1539 which would give complete relief from the onerous busing requirements imposed on the children of my State by the Federal courts.

Mr. President, other amendments proposed today do provide some relief from busing. However, they do still allow, in some instances, busing of a child beyond the school nearest his home. I may also support some of these other amendments, but only on the basis that some relief is better than none.

The amendment proposed by the senior Senator from North Carolina does not allow the Federal Government to require involuntary busing of any child to any particular school for any reason whatsoever. I would think that the people of each state would have had their fill of courts shuffling little children like pawns on a chessboard to fulfill a bureaucrat's desire that each classroom in the Nation be racially balanced.

If we need anything in this country, we need stability and freedom. The amendment offered by the Senator from North Carolina would give each parent and each child the freedom to select the school in the community the child would attend. That would, of course, include the freedom to spend one's hard-earned money for a home near a school for the purpose of insuring that the child would have a shorter and a less hazardous means of reaching his chosen educational facility.

Mr. President, the amendment of the Senator from North Carolina restores to each person in this country the right to select a place to live and to choose the school his child will attend with some assurance that a Federal court will not dictate a choice for him and compel obedience to an edict that is contrary to the conscience, choice and will of both the parent and the child. This Ervin amendment should be adopted.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of House to the bill (S. 3062) entitled the "Disaster Relief Act Amendments of 1974."

EDUCATION AMENDMENTS OF 1974

The Senate continued with the consideration of the bill (S. 1539) to amend and extend certain acts, relating to elementary and secondary education programs and for other purposes.

Mr. PELL. Mr. President, how much time remains?

The PRESIDING OFFICER. Approximately 2 minutes, until 4:30.

Mr. PELL. Then, I have 15 minutes on the bill. Is that correct?

The PRESIDING OFFICER. The time remaining on the bill runs until 5 p.m. at which time there will be a vote.

Mr. GURNEY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GURNEY. Is it my understanding that at 4:30 the time was to expire on the Ervin amendment and then from 4:30 until 5 we were going to debate the Gurney amendment with the time split evenly on that amendment? Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. Mr. President, I yield 5 minutes to the Senator from Georgia.

Mr. TALMADGE. I thank my distinguished colleague from New York.

The PRESIDING OFFICER. The Senator from Georgia may proceed.

Mr. TALMADGE. Mr. President, 20 years ago the U.S. Supreme Court, in the case of Brown versus Board of Education, held that children could not be assigned to public schools on the basis of their race. Thus ended the so-called segregated school system. It was applicable only to the South, and a few States of the Union outside the South. The South and those other States of the Union have made good faith efforts to comply with the Supreme Court's decision in the Brown case.

The Federal bureaucracy saw that in many instances black students had no desire to leave the neighborhood schools and go to distant schools and that white students had no desire to leave their neighborhood schools to go to faraway schools. The bureaucrats got extremely upset about the situation. They thought there must be something fundamentally wrong when free people in a freed society saw fit to attend schools of their choice. So what did they do?

They started meddling and devising exotic formulas to get certain students to go to certain schools against their will. The Federal judiciary in particular got involved in the act and have completely departed from the Supreme Court's 1954 decision. In the course of their social experiments the courts have gone full circle.

What the Supreme Court said in 1954 was that it is unconstitutional to use a child's race as a factor in public school assignment.

That means that black children should not be assigned to a certain school because they are black, or white children so assigned because they are white.

That principle ought to be well-established constitutional law. I have no quarrel with it.

Public schools ought to be open to everyone, regardless of race, creed, or national origin. I do not see how any reasonable person could object to a child attending the school of his or her choice, or the choice of the parents.

And, I might add, I think that choice is of the utmost importance to parents. But, nowadays parents do not have that important voice in their children's education.

What is happening now, Mr. President? I know of one mother who is a nurse in La Grange, Ga. She has five children, all elementary school age. And what have these Federal officials and judges done? They have assigned each of those five children to a different school.

In Savannah, Ga., in August, Ga., in other areas of my State, and in other areas throughout the land, the Federal judiciary and the Department of Health, Education, and Welfare have been assigning students to various public schools purely because of their color, dividing children in the same families, sending some North and some South to attend schools remote from their neighborhoods contrary to the desires of their parents and contrary to the desires of the local school boards. Judges and bureaucrats are making these assignments purely on the basis of color.

I know of some instances, Mr. President, where these children have to get up before daybreak, in the sleet, in the rain, and in the snow, to take buses and travel long distances from home. They are forced to go to schools they do not want to attend, because some Federal judge has suddenly decided that he is better qualified to run the school system than the local board of education.

I fear that irreparable damage will be done to education in America—damage to the education of all children, black and white—before enough elected officials in this country wake up to the stupidity of having some Federal judge order that children be herded about like cattle.

I am amazed at this absurdity. What, in the name of reason does "balance" have to do with quality education? It contributes nothing to the improvement of education. In fact, it detracts from the quality of education.

Mr. President, if ever there was tyranny, it is tyranny for the Federal judiciary to intervene in small children's affairs. It is tyranny for the Federal judiciary to presume to pick out schools for children to attend against their will and the will of their parents. The people of this country do not like it. They have good reason not to like it. Every poll I have ever seen, whether taken in the North, South, East, or the West, has shown that the overwhelming majority of the people are against this idiocy.

Some of us in the Congress have tried to put a stop to this foolishness through legislative means for many years. The Civil Rights Act of 1964 provided that students could not be bused to schools to achieve a balance. It also provided that faculty members could not be assigned to schools to achieve a balance. The Senator from Minnesota (Mr. Humphrey), then the manager of the bill on the floor of the Senate, made that abundantly clear in the legislative history.

What did the courts do? They have absolutely and totally ignored the literal language of that act of Congress.

I think the thrust of the Ervin amendment, withdrawing power from the Federal judiciary to make these decisions, is the only remedy. Withdrawing the Federal courts' jurisdiction in specific instances is absolutely constitutional, and it has been so held by the Supreme Court on a number of occasions. The landmark case in that area is the McCardle case, where the Supreme Court upheld the power of the Congress to withdraw a pending case from the Courts' jurisdiction.

There is another important reason for adopting this amendment and ending forced busing. We are having an energy shortage in the country at the present time. Everyone—Federal officials, State Governors, the general public—is pleading that we conserve energy in general and that we conserve gasoline in particular. Yet throughout this land of ours, boards of education have to spend millions and millions of taxpayers' dollars to buy schoolbuses to transport children of those taxpayers to schools long distances away from their homes at the very time that we are being asked to conserve energy. The easiest and best way to conserve energy that I know of is to stop this needless and foolish program of busing children far beyond their neighborhoods to go to some school to achieve some half-baked theory of balance.

The parents and the local school boards alone should decide where the children are to be sent to school. I think that to do what the Federal judiciary has done under the guise of complying with the 14th amendment is the most tyrannical procedure our Government has practiced. It is the most foolhardy thing I have seen in my time. If I have to choose between Government bureaucrats and Federal judges on the one hand and mothers and fathers on the other, I will stand with the parents and their children every time and all the time.

I want to thank the Senator from New York for yielding me this time.

The PRESIDING OFFICER. Who yields time?

Mr. GURNEY. Mr. President, I yield 5 minutes to the Senator from Kansas (Mr. Dole).

Mr. DOLE. Mr. President, it was exactly 20 years ago this week that the Supreme Court handed down its landmark decision in the case of Linda Brown against the Topeka, Kansas, Board of Education. As numerous recent editorials and other newspaper articles have been concluding in their examinations of the subsequent implementation of that doctrine outlawing "separate but equal" school facilities, many changes have taken place in the status of racial integration in the United States since that May 1954 event.

The question to be considered, however, is just how many of these changes actually represent "progress" in the area of meeting the school racial balance problem head-on. And perhaps the most controversial of all the methods employed to date attempting to solve the great "percentage puzzle" in our schools is that of busing. It is indeed appropriate, then, that we are addressing ourselves to this vital issue at such an historic time.

At the outset—and especially because we are agreed on a time limit for discussion of the topic—I believe it is extremely vital that we place the issue before us in its proper perspective. By that I mean that we are not here to argue for or against the merits of integration or segregation. The courts have already expressed their will in those areas, and we as a nation are committed to a course of pursuing the goals of the former in our schools.

The question, rather, in this amendment, is precisely by what means are we to arrive at that designated objective? Or perhaps more specifically, is the concept of busing a desirable, or even an acceptable method of achieving the common aim of integration, at the cost of abandoning the traditional values of the neighborhood school? I could be no more firm in my belief that it is not, and as a principal advocate of the "antibusing" language we are considering, wish to point out the importance of our adopting this stand.

A MATTER OF CONFUSION

Certainly, the controversy which surrounds the very volatile issue of busing is complicated by the confusion in which the whole Nation is embroiled. Such a factor is evident in the difficulty the public has in making a distinction between integration—the goal, and busing—a means to that end. For far too many persons considering the problem confuse ends with means, and although busing is widely disapproved, this disapproval does not carry over to integration itself.

That is, while busing is one way to bring about integration, public opinion polls have consistently shown an overwhelming majority of Americans opposed to achieving integration in this manner. Simply stated, their attitudes toward integration are far less antagonistic than those toward busing.

PUBLIC ATTITUDES

But just what have these public viewpoints been—in the way of actual statistics—on the subject of busing during recent years? A review of Gallup surveys shows that in 1968—before the busing of schoolchildren for desegregation purposes really "got off the ground," it was listed as only the fifth greatest problem facing the schools. Since that time, however, busing has consistently been in the No. 2 position—except for one third place response in 1972—second only to either discipline or finance in the public's eyes as the major concern of the schools in their communities.

The most glaring example of current attitudes toward busing came out of a Gallup poll published in the papers late last summer. Appearing in the Washington Post on September 9, 1973, this survey demonstrated overwhelmingly that while a majority of Americans favor the integration of public schools, only a very small proportion—that is, 5 percent—approve of busing as a means of reaching that goal.

I feel that this is very significant and revealing data, as regards our discussion here today, and represents nationwide figures which cannot be overlooked. I therefore ask that it be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 9, 1973]

THE GALLUP POLL: INTEGRATION FAVORED, BUT NOT BUSING

(By George Gallup)

PRINCETON, N.J.—A majority of Americans favor the integration of public schools, but only a very small proportion approves of busing as a means to reach this goal.

Only one person in 20 (5 per cent) in a recent nationwide Gallup Poll selects busing from a list of plans that have been suggested as ways to achieve integration in public schools in terms of different economic and racial groups.

Following are the questions asked in the survey and the key findings:

"Which, if any, of these ways do you think would be best to achieve integration in public schools, in terms of different economic and racial groups?"

[In percent]

	National	Whites	Blacks
A. Create more housing for lower-income people in middle-income neighborhoods	22	21	32
B. Change school boundaries to allow more persons from different economic and racial groups to attend the same schools	27	27	27
C. Bus school children from one school district to another	5	4	9
D. Do something other than A, B, or C to integrate the schools	22	23	15
E. I oppose the integration of schools	18	19	9
No opinion	17	16	26

Note: Tables add to more than 100 percent since some persons gave more than 1 response.

This question was then asked whites in the survey:

"Would you, yourself, have any objections to sending your children to a school where a few of the children are Negroes? Where half are Negroes? Where more than half are Negroes?

The following tables compare the latest results with those recorded in the previous survey, in 1970, and in the first survey in 1963, conducted just prior to President John Kennedy's nationwide appeal, in June of that year, to end racial discrimination:

Northern white parents

(Percent Objecting)

Where a few are Negroes:	
1963	10
1970	6
1973	6
Where half are Negroes:	
1963	33
1970	24
1973	27
Where more than half are Negroes:	
1963	53
1970	51
1973	63

Southern white parents

(Percent Objecting)

Where a few are Negroes:	
1963	61
1970	16
1973	16
Where half are Negroes:	
1963	78
1970	43
1973	36
Where more than half are Negroes:	
1963	86
1970	69
1973	69

The latest nationwide Gallup survey is based on interviews with 1,513 adults, interviewed in person in more than 300 scientifically selected localities Aug. 3–6.

CONGRESSIONAL ACTION

Mr. DOLE. Mr. President, we as representatives of our constituents have an obligation to express our sentiment and take a stand in response to their public attitudes. This we have not done with any degree of sufficiency. Although the emergency school assistance program—in 1970—and the more permanent Emergency School Aid Act—1972—title VIII of which has been restated and extended in the present bill—have been implemented to address the problem somewhat, Congress has not acted responsibly to grant relief to school districts ordered to institute unwanted busing programs.

We can, however, fashion a clear legislative posture against this disagreeable solution for providing education equality by adopting the pending amendment. Its objectives have already been set out quite adequately and I do not need to reiterate them. The important thing is that we are presented with the opportunity of establishing once and for all that the concept of forced busing has no sanction of the Federal lawmaking bodies. And it is imperative that we do exactly that now, before the situation with respect to busing becomes further aggravated.

WIDESPREAD PROBLEM

Mr. President, the busing dilemma today is by no means localized in one region. It is a widespread national problem causing increasing discontent. In Kansas there are three major cities affected, and one of these—Wichita—was one of the sites of original concentration by the Department of Health, Education, and Welfare in its efforts to promote busing as an alternative to solving the desegregation impasse.

Today in Wichita, after 6 years of talk and struggle, 6,700 students are being bused solely for desegregation purposes—at a cost to the city of $600,000. Busing involves about 90 percent of the black students leaving the relatively small area in which they live, and an additional 1,250 white students—up to 500 by lottery assignment—going into that same area. In response to the question as to the motivation for this arrangement, the superintendent there replied:

> I don't think the cross-town busing would have been a part of it (desegregation) without the Federal Government's push.

The reaction to the cross-busing order in Wichita has subsided somewhat, but it surely would seem that if the dollars spent to attract voluntary reassignments of students, and the money that is spent to administer the mandatory lottery program—which brings so much uncertainty to the students—could be spent to hire more teachers, pay better salaries, or provide better school facilities, the educational opportunities for all students could be vastly improved.

In another major urban area, Kansas City, Kans., there is speculation and concern that busing across county lines even will be required to satisfy the integration demands.

For the last 5 years efforts have been underway to establish a better racial balance in these schools through programs which would not be disruptive of the community school concept. New schools have been built and adjustments made in the school district boundaries to affect a better racial balance. The entire district has adopted a policy which permits attendance by students at schools of their choice, with any change in attendance within the district being automatically approved so long as it involves a transfer from a school in which the student represents the majority ethnic race to one in which the student would be in an ethnic minority. This voluntary transfer program has not resulted in a substantial change in the ethnic composition of the schools, however, because the majority of the students do not wish to be transferred.

Thus, for that county there is a threat of imposed busing, along with a corresponding threat of impeding community development, of causing higher expenditures for noneducational school programs, and of disrupting the community school concept—with no assurance of any improvements in the quality of education to be offered in any of the schools. Instead of pursuing the mythical goal of racial balance in this area, therefore, we should be working for the establishment of black and white communities which can and will support integrated neighborhood schools which provide education at school and a learning atmosphere in the community and in the home.

In Topeka, Kans., finally—"where it

all started," so to speak, with Brown—there are plans to actually close seven schools on a permanent basis, despite public resentment of the move, in order to avoid busing as a last resort in meeting the latest Federal demands.

A LAST RESORT

I place great emphasis on that last phrase, for that is exactly the idea embodied in the amendment before us—to condone busing for integration purposes only as a last resort, thereby preserving to every extent possible the concept of the neighborhood school.

It is interesting and certainly ironical to note that the black parents who started Brown against Board of Education more than 20 years ago were fighting for the neighborhood school system and against the busing of their children to distant schools. But it was hardly the emotional issue then that it is today.

UNDERCURRENT OF BROWN

It is more important than ever to point out now, in looking back to the early 1950's, that the celebrated Brown case was initiated in part to curtail the very practice which we are still trying to overcome today—that of requiring schoolchildren to be unwillingly transported away from the familiar social and economic surroundings of home to distant locations beyond their own neighborhoods.

In the case of Linda Brown, who has been the subject of many recent interviews, she was compelled to take the bus or walk more than 20 blocks away from her home to the nearest all-black elementary school, traveling by several all-white schools along the way. She was opposed to busing then as a child, and still is today at the age of 30. She was quoted as saying:

> I don't want my kids bused. I know what that's like.

TWENTY YEARS LATER

So here we are—20 years later—with still the same issue, still precipitating anger, disruption, and disillusion, and still unresolved. And no one knows what might result from a possible adverse decision in a pending Detroit case, in which the Supreme Court is wrestling with the question of whether urban-suburban boundaries can be breached to achieve or restore integration.

It is more timely than ever, therefore, that we let the courts know where the Congress places itself on the problem of busing. And again, with an overwhelming majority of those who elected us to represent their views solidly alined against this whole notion of taking long rides to and from remote facilities just for the sake of performing "balancing" techniques, I fail to see how we can possibly, responsibly justify the continuation of a position in the Senate which has heretofore permitted the practice to go on relatively unchecked.

INTEGRATION WITH ALTERNATIVES

To be sure, few of us here, if any at all, and only a very small minority of Americans, are opposed to integration itself. I have consistently supported measures designed to promote that ideal and will continue to do so. But I have steadfastly opposed efforts to promote busing as a viable means to accomplish desegregation, and will continue just as strongly to maintain that position.

But again, this amendment must not be construed by any reasonable and fair-minded observer as an attempt to repeal the true progress and advancement we have made in reaching our present-day status. Rather, it is a rational and responsible gesture to demonstrate that the American people, and more so their U.S. Senators, are ready to face the issue of busing squarely and go on record as favoring all other alternatives available before reverting to this "last resort."

I cannot stress enough the fact that our vote here today—with all its long-range ramifications—is not for or against integration. We all want and see the values of that—but not at the cost of busing. And to quote again from the woman whose name was attached to the decision of May 17, 1954:

> What about busing? I am not for it at all. To me this is a reversion to what we were getting into before Brown. It might just be me, but I had to walk all this distance to catch a school bus and be bused across town. If this is what it comes to here in Topeka, I will conform to it, but . . . if there is another solution that would give us our neighborhood schools and still give us an integrated school system, I would rather see that.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOLE. Mr. President, I ask the Senator from Florida whether I might have 1 additional minute.

Mr. GURNEY. Mr. President, I yield 1 additional minute to the Senator from Kansas.

Mr. DOLE. Mr. President, I thank the Senator from Florida.

I just want to stress again the thoughts of Linda Brown Smith on busing, and ask unanimous consent that a number of articles on this question be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 12, 1974]

TOPEKA TREADMILL: LINDA BROWN'S CITY FACES A NEW BATTLE

(By Austin Scott)

The Red Queen in Lewis Carroll's "Through the Looking Glass." "Now here, you see, it takes all the running you can do to keep in the same place. If you want to get somewhere else, you must run at least twice as fast!"

TOPEKA, KANS.—In the wonderland of Topeka, home of both Brown and the board of education members who ran all the way up to the Supreme Court in 1954, there is indeed a sense of having huffed and puffed and ended up close to where you started out 20 years before.

The High Court's landmark desegregation order certainly didn't move the young plaintiff, Linda Brown, very far. A 1st grader when her father first filed the suit in 1951, Linda had gone through one all-black elementary school and on to a second all-black school by the time of the decision. And though Topeka repealed its segregation law a year before the Supreme Court order, the city didn't move very swiftly to rectify matters once the decision was handed down: Nine black children were placed in previously all-white schools the first year, and a few more the second year.

In fact, public controversy over school segregation had just about died out over the past 20 years—until last September, when a new suit was filed charging that Topeka schools are still "systematically" segregated. Topeka is thus facing the possibility of another painful integration fight 20 years later, but this time with the battle lines drawn quite differently and with enough ironies to bewilder even Lewis Carroll's Red Queen.

In 1951, when *Brown v Board of Education* was first filed in Kansas courts, for example, one underlying issue was that legal segregation prohibited some black children from attending their neighborhood schools. But the new suit charges that Topeka schools are still segregated in part because children attend neighborhood schools, that school segregation is an extension of the city's de facto segregated housing patterns.

Similarly, Charles Scott, the black attorney who filed the original Brown case, signed his name several years ago to another suit which tried, in his words, to "establish a school system in several cities which would give black boards of education in black neighborhoods control over all-black schools, and comparable set-ups for whites." integration is no longer a priority issue in black Topeka, Scott says. "It's peculiar what 20 years of disillusionment can do to you."

And Topeka's black citizens, whatever their private feelings, have not publicly supported the latest suit, filed in U.S. District Court last Sept. 10 on behalf of a 10-year-old black girl by the Rev. Fred W. Phelps, a white Baptist minister who has 13 children and a congregation totaling 63.

Linda Brown, who gave her name to the historic 1954 decision, is among the many blacks who have been quiet about the new suit. Now 31, she has been married and divorced.

Her two children started their education in the same black school that her father sued to get her out of. And she seems to be taking the latest legal battle with a calm fatalism. She has not paid much attention to it, she says. But then she believes the real problem is housing, not schools.

"I think if they don't find an answer to that, we are still going to have segregation," she remarks. "Topeka today is more segregated in housing than 20 years ago . . . It seems more crowded now, more concentrated than it was."

If Topeka is more segregated than it used to be—and the dividing line between black and white neighborhoods is as easy to spot as in the rigidly segregated housing market of Chicago—then Linda Brown is one of the exceptions.

Her son Charles, now in 5th grade, and her daughter Kimberly, a 4th grader, both started their kindergarten educations in Monroe, the school their mother was attending in 1951. It was all black when she went there, and she says it was 98 per cent black when they started.

Then she moved, and the children spent three years in a public elementary school that was only 20 per cent black. She moved again, and the children spent less than a year in a suburban public school that was 98 per cent white. She moved a third time, and for the past five months the children have been attending Hudson, which is about 35 per cent black and only a block from the middle-income integrated apartment complex where they live.

As a child, Linda Brown had to travel 30 blocks to school, passing several all-white schools along the way. Sometimes the weather was so cold it was unbearable for a small child," she recalls. "I'd start crying in the middle of the walk, turn around and come back.

"Am I happier with Chuckie in the school he's in now? Yes, I am, because it's more like the world that he's going to grow up in, relating with people of all races. This helps him adjust to the world around him."

The notion of an integrated "real world" threads constantly through Ms. Brown's talk about her own past and her children's future. She works from 4 p.m. to midnight as a key punch operator at the Goodyear plant. Her sister, Terry Ickard, who she lives with, takes care of Charles, Kimberly, and her own Michelle, in the evenings.

"I think the education my children are getting today makes for a better adjusted person," she remarks. "I feel today it would have really benefited me if I had gone through an integrated neighborhood school throughout my education, starting with elementary level, because to me in an integrated school it seems your rate of progress is faster. I notice this in my children. The times and the integrated setting both have a lot to do with it. You have more of a drive to meet competition.

GRUMBLING ABOUT PHELPS

Even though Ms. Brown has paid little attention to Phelps' suit, her notion of why an integrated education is a good thing does not seem to conflict with his.

Mentioning Phelps' name in some areas of black Topeka, brings grumbling sounds, however, sounds that indicate some very vocal blacks don't like what he's doing. They use words like "opportunist" and speculate about why a white like Phelps "is taking on the responsibility for a black problem."

At 43, Phelps is an intense, free-swinging legal activist who became a lawyer to help support his growing family, and is well aware that many Topekans—black and white—are put off by his style.

Those familiar with the months of careful preparation that went into the original *Brown* case, the long and difficult task of mobilizing black community support first, of persuading 20 parents to let their children be named as plaintiffs, say Phelps is an unlikely attorney for the second time around. Phelps, for example, is proud of winning a large damage award for a black woman whose television set was wrongly repossessed. Blacks have critized the argument he says he used—that she had developed an unnatural psychological dependence on the set and that its withdrawal caused her severe emotional and physical problems.

Born and raised in Mississippi, Phelps describes himself as an independent, Calvinistic Baptist, believing in predestination, a literal interpretation of the Bible, eternal retribution, and thunderous, hellfire preaching . . . There isn't any doubt in our minds about Judgment Day . . . The Lord God is my contact."

He says he had never considered a desegregation suit until last summer when he was sitting in a Harvard Law School seminar. He hurried home to file it.

"How are we gonna get these black kids integrated with these white children so they can gain the advantages—that's the problem now," he says.

"A LITTLE BIT OF EDGE"

One of the major charges in Phelps' suit, in fact, is that the Parkdale Grade School, which is 90 per cent black and attended by plaintiff Evelyn Rene Johnson, denies "the intangible qualities of advantageous social intercourse and opportunity to study with, engage in discussions with, and exchange ideas with white children who are providentially favored economically and socially . . ."

"They don't have the ability to be making friends with the future white judges," says Phelps. "You can talk all you want to, if you went to school with that white judge, you get a litle bit of edge."

That kind of talk tends to send advocates of black pride and black excellence into fits of rage.

The suit also charges Topeka with providing better facilities at mostly white schools. That, it contends, generates ". . . in plaintiff and her class feelings of inferiority as to their status in the community, thus affecting their motivation to learn and generally affecting their hearts and minds in a way unlikely ever to be undone. . . ."

Although Phelps borrowed the "hearts and minds" language from a Supreme Court decision, blacks who disagree with it argue that social changes have made such thinking obsolete. Federal Judge Constance Baker Motley, once one of the NAACP attorneys active in the *Brown* case, for example, remarked in a recent speech at Notre Dame University that "it appears that it may be meaningless to talk about feelings of inferiority to a black youth in the central city where blacks no longer consider themselves inferior to whites and no longer believe that any institution which is all white is necessarily good and ought to be integrated."

Back in 1950 and 1951, those laying the legal groundwork for *Brown* were trying to avoid a decision that might have ordered separate schools to be made equal.

"We made the legal presumption that the white schools and the black schools were in fact equal, that the teachers, the books, the classrooms equal," recalls attorney Scott. "We wanted the case to rest purely on the argument that despite all the apparently equal physical facilities, segregated schools inherently provided black children and maybe even white children with an incomplete education."

The Coordinating Council of the Black Community, a black umbrella group formed after the violence of 1968, has taken "no position" on the Phelps suit, according to CCBC direction Eva Lou Martin. It has joined the NAACP in telling the board of education that all parts of the community should be involved in seeking a solution to the schools problem.

THE HEW INQUIRY

Not until after Phelps filed his suit did the Department of Health, Education and Welfare investigate the state of desegregation in Topeka schools. It then notified the city in January that a "substantial" number of schools were not as desegregated as they should be; that student transfers were increasing segregation; that "most minority junior high school students . . . attend schools which are generally inferior in facilities . . .;" and that elementary schools with a high minority enrollment tend to have inadequate kindergartens and smaller libraries.

"You are, of course, aware that as a formerly officially segregated school district, your district has been under obligation to fully desegregate its schools," HEW said. "In order to achieve full compliance with the law, it will be necessary for you to develop and implement a plan which eliminates the violations set forth above."

Phelps' suit and the resulting HEW order generated a flurry of back and forth activity by Tokepa's all-white school board. The board first voted, 5 to 2, to draw up a desegregation plan and implement it by the 1974–75 school year "if possible."

According to a local newspaper account of that meeting, "Dr. Gordon Sumners, one of the two board members voting against the resolution, said an act comparable to the Boston Tea Party might be an appropriate response to federal intervention."

But just last week the board reversed its stand and voted to tell HEW it is impossible to meet federal integration guidelines of no more than 40 percent blacks in any school. Instead, board members said, they will conduct a study to see if major upgrading is needed at the black-dominated schools.

The desegregation plan they voted down—involving seven school closings and 22 boundary changes, would cause undue hardship and jeopardize quality education, the board said.

The 20 years since the Supreme Court's integration decision have produced a Topeka school system where, according to figures from the system itself, the two oldest black elementary schools contain more than 95 per cent minority students while the three newest junior high schools have only 2 to 3 per cent minority students.

A student at Topeka's Washburn Law School, using the system's figures, recently calculated that in 1972–'73, 14.1 per cent of the city's 12,614 elementary students were black, but 90 per cent of the black elementary students attended 44 per cent of the schools. Two schools were listed as all white, five were more than half black, and eight were more than 35 per cent black.

"SO MANY BROKEN HOMES"

There's a circular component to the whole problem that worries Linda Brown. To some extent, she says, she thinks neighborhood segregation results from school segregation.

"You get this almost ghetto situation and the black child does not have a chance to mingle with the people he will be with when he grows up. This is not the world that kids are going to enter . . . I think you'll find the older black adult is still afraid to venture out. This will change with younger generations. The younger kids here, they go apply for these job places that the older ones wouldn't.

But for all the importance she attaches to integration, she has some fears: "Before our black children are ready to go into a more integrated setting, our black parents are going to have to get these children in hand as far as discipline is concerned. My younger sister teaches at Monroe, 6th grade. She says their discipline problem is getting out of hand. I have seen that over where my kids go. The teacher tells the kids something to do and he just talks right back . . . we have so many broken homes now, so many mothers working. It's happening in white homes too."

Would it make any difference in Topeka if she were to get involved in the latest suit, speak out strongly, perhaps? "I don't think so. There is going to have to be a solution to people living where they are living before the problem can be alleviated."

What about busing? "I am not for it at all. To me this is a reversion to what we were getting into before Brown. It might just be me, but I had to walk all this distance to catch a school bus and be bused across town. If this is what it comes to here in Topeka, I will conform to it, but . . . if there is another solution that would give us our neighborhood schools and still give us an integrated school system, I would rather see that."

[From the Wall Street Journal, May 2, 1974]

Was It Worth It?: Blacks Disillusioned on 20th Anniversary of Integration Ruling; in Topeka, Where the Case Began, School Board Is Again Battling a Suit; "Things Should Be Better"

(By Pamela G. Hollie)

Topeka.—Evelyn Rene Johnson is black. Her city is more than 80% white. Yet her grade school is more than 80% black.

That situation angers Marlene Miller, the aunt and guardian of 11-year-old Rene. So she filed a $200 million suit charging the local school board with failure to fully integrate the school system. The class-action suit also charges the board with favoritism in providing better facilities and better-qualified staff members for the white schools. The board contends that the school system is integrated but that some schools are predominantly black because the neighborhoods that feed them are mainly black. It denies any favoritism toward the white schools.

Several cities besides Topeka are facing similar suits involving de facto segregation—that is, separation of the races because of housing or social patterns. But the Topeka suit has special significance. For it was here that the landmark case of Brown vs. Board of Education of Topeka began. And it was

20 years ago this month that the U.S. Supreme Court handed down its decision in what is often called the most important case in civil-rights history.

Shortly after noon on that Monday, May 17, 1954, the U.S. Supreme Court pronounced that "segregation of white and colored children in public schools has a detrimental effect" and added that "the impact is greater when it has the sanction of law." The court said: "We concluded that in the field of public education the doctrine of 'separate but equal' has no place."

NO SOLUTION YET

Today, Charles Scott, the original attorney for the Brown case says: "We had great hopes that the Brown decision would solve all the warts and evils in the society, particularly education. It hasn't." Says a black longtime resident of this city: "We can't be more than two feet in front of where we started."

Indeed, 20 years later, most black students here still attend predominantly black schools, the lack of progress has disillusioned many blacks, and the Topeka board of education is back in the courts. As a matter of fact, some blacks don't believe any more that integration is the answer.

The disillusionment of many advocates of racial equality isn't confined to Topeka, for racial separation in schools remains in much of the U.S. The latest federal government figures show that in 1972 in the 32 Northern and Western states, 72% of the nonwhite pupils attended elementary and secondary schools having a majority of nonwhites. In many big cities, the white flight to the suburbs has resulted in resegregation of once-integrated schools. And the Supreme Court is still wrestling with the question of whether urban-suburban boundaries can be breached to achieve or restore integration. (Brown vs. Board of Education dealt only with de jure segregation—that imposed by law.) The South, statistically at least, appears to be doing better than the rest of the nation. In the 11 states of the Old Confederacy, the comparable figure for nonwhites in schools where they were the majority in 1972 was 54%.

For the nation as a whole, government figures do show some advances in desegregation. In 1972, Washington reports that 36% of the nonwhite pupils were attending what might be called integrated elementary and secondary schools—that is, those whose enrollment was at least half white. That 36% figure was up from 33% two years earlier. Meantime, the percentage of heavily segregated schools—those with 80% or more of their students drawn from minority groups—has continued to fall. The figure was down to 45% in 1972 from 49% in 1970 and 68% in 1968. But such improvement doesn't satisfy many blacks.

"THINGS SHOULD BE BETTER"

Here in Topeka, a city of 130,000 population, Lucinda Todd is one of those who believe that "things should be better by now." Mrs. Todd is the mother of one of the 13 plaintiffs in the Brown case. Like the other parents involved, on enrollment day in September 1950, she was turned away from a white school with her child, thus laying the groundwork for Brown vs. Board of Education.

As the inevitability of the Supreme Court decision became clear, Topeka voluntarily began to integrate its schools. In the 1953–54 school year, 10 blacks were admitted to formerly all-white schools; the next year, 113 more blacks joined them; and eventually hundreds more followed, including this reporter as a fourth-grader.

Mr. Scott, the attorney in the case, says that "the group that should have benefitted most" from integration—meaning the blacks—"has paid a high price for practically nothing." Adds James Woodson, an attorney and the only black ever to serve on the local school board: "Blacks didn't know what integration really meant, although they paid dearly for it."

For, as educational integration spread some black schools were closed so that their pupils could attend formerly all-white schools. As a result, black teachers lost their jobs. And as blacks were admitted to white hotels, restaurants and other white-run facilities, many black-owned businesses failed.

At one time, for instance, Fourth Street was called the main drag by blacks. There they met, entertained, gambled and got their hair cut. But then black customers began going elsewhere, black enterprises went out of business, and the area was devastated by urban renewal. And as the middle-class blacks moved out of black residential neighborhoods, many of those areas were left to deteriorate.

Rene Johnson lives in one such neighborhood east of the railroad tracks and just a breath away from a renewal project. She lives in a white, frame house with plastic for storm windows. The yard is cluttered with a broken air conditioner, a rusting portable barbecue grill with three mongrel puppies tied to its legs, and a plastic wading pool heaped with debris from a summer ago.

Most yards are barren in Rene's neighborhood except for a hedge or two left from former and more affluent residents. Now most residents rent homes for $100 or so a month—less than their car payments. Many families of four have a total income of about $7,000 a year.

"It's like a bad dream—what's happened here in the last 10 years," says a longtime Topeka resident and a neighbor of Rene's. "The neighborhood gets worse, the kids act and look worse every year, and the bad words are coming out of younger mouths every fall."

Rene's school, Parkdale Elementary, is within earshot of the occasionally passing trains. It sits alone on a barren block off a busy main street. The square, dark-stone building is 50 years old, with high ceilings that make it hard to heat. Rene's fourth-grade classroom is on the second floor; its decor is subdued, and Rene thinks it's a bit ugly. The school is 87% minority in a system where 19% of the total school population is black, American Indian, Oriental or Spanish-surnamed.

In the entire Topeka system, more than 50% of the 1,669 black children in grade school attend six of the 34 elementary schools. Four of the schools are more than 60% black.

The federal Department of Health, Education and Welfare investigated the Topeka system last fall and found "substantial disproportionate" minority composition in several schools. It also found "possible violations in the area of student assignment and in the area of equality of distribution of federal resources."

SATISFYING HEW

The board has submitted proposals to try to satisfy HEW, but the federal agency has not yet decided whether to accept them. Satisfying HEW is important, for failure to correct alleged inequities could constitute noncompliance with a section of the Civil Rights Act of 1964 and could cost the system $1.7 million in federal funds.

Many people here don't agree with HEW's findings:. "It isn't the school's responsibility to change the children's backgrounds or improve the neighborhood," says Winfred Tidwell, the black principal of Parkdale Elementary. "Schools can only do so much. We have fine teachers and good programs. We can't do everything."

Topeka officials contend that they have one of the finest school programs in the country. "We can offer the students any number of alternatives to traditional work and development programs that appeal to all backgrounds and talents," says Merle Bolton, the superintendent of schools. Board documents show that because of federal funds, more money is spent per student in the schools with high proportions of minority-group students. The documents also show fewer pupils per teacher in these schools.

Mr. Bolton, the school superintendent, says that because the city believes in the neighborhood-school policy, "that necessarily means that some schools have more minorities than others."

Indeed, across the tracks from Rene Johnson's home and six miles to the west, things are much different from Rene's Parkdale Elementary. At Sheldon Elementary School, which sits in a middle-class district, only seven of the 235 students are members of minority groups. The four blacks among those seven live on an isolated piece of land bought long before the current shopping area, bowling center and medical-arts building were dreamed of.

Sheldon is a sleek, light-stone building with the name "Charles M. Sheldon" in bold, silver letters on the front. The glass foyer and many of the classroom windows look out over neatly clipped lawns and quiet streets. Sheldon is a split-level school with the decor coordinated in light colors and woods.

NEW GOALS AND VALUES

When Sheldon opened 17 years ago, it admitted its first black children, a brother and sister (this reporter), who found the school being built behind their home. For the children at the time, integration was an exciting introduction to new goals and values. But it was also a painful ordeal. Insulted and ignored by white pupils, they questioned integration and were told by their parents that it was necessary: It was the way to learn how to talk, act, think and compete like whites.

Some blacks still agree. But not all are sure any more. Mr. Scott, the lawyer who helped press the case for integration in Brown vs. Board of Education, more recently has appeared as a friend of the court in a case seeking separate black school systems in several cities. "That's what 20 years of disillusionment can do for you," he says.

Other blacks feel the same way. Many young blacks, who in the 1950s found integration an unpleasant initiation into the white world, were among the first to embrace the idea of black power. And like any other community, this basically white-collar, Republican city has its share of militants.

But more than militancy now is involved. If Topeka is to effectively disperse its 3,726 minority-group students among the 13,500 white in grade and junior high schools, the city might have to scrap the neighborhood-school system and turn to busing. Ironically, the black parents who started Brown vs. Board of Education were fighting for the neighborhood-school system and against the busing of black children to distant schools. Today busing is an even more emotional issue.

Most white residents oppose it. The school board says busing will be a "last resort." Mrs. Miller, Rene Johnson's aunt, who is suing the school board, is willing to accept busing if that's the only way to integrate the schools. But other blacks who still favor integration don't want it at the cost of busing.

Talk to Linda Brown. She doesn't remember much about the historic Brown vs. Board of Education case that bears her name. But she does remember being bused in the years before the decision.

"I left home about 7:30 each morning and walked six blocks to the bus stop. I got to school about 8:30, some 30 minutes before the school doors opened," she says.

Sometimes she waited in the snow and freezing weather. Sometimes the bus didn't come, and she walked to Monroe Elementary School, more than 20 blocks away from her home. Sumner Elementary was only seven blocks away—but it was white.

Now a 30-year-old mother of two, Linda Brown Smith lives in an integrated section of town in sight of Hudson Elementary School. She is skeptical about the new integration suit because the easiest solution seems to be busing. "I don't want my kids bused," she says. "I know what that's like."

[From the Topeka Sunday Capital-Journal Mar. 17, 1974]

WICHITA BUS PLAN TOOK 6 YEARS OF TALK

(By Donald Brazeal)

Wichita Public Schools were charged in 1966 with violating the 1964 Civil Rights Act. Similar charges were brought against Topeka Public Schools this year.

As is now happening in Topeka schools, the U.S. Dept of Health, Education and Welfare Office for Civil Rights stepped in to insure compliance with the law in Wichita.

After more than six years of negotiations, Wichita schools received full approval from HEW last year. Wichita ended a school system which had included some schools containing 99 per cent black students and many schools with no black students. Cross-town busing of more than 6,500 students was the primary means used to even the racial balance.

Wichita Supt. Alvin Morris was asked recently why busing was considered necessary.

The school board decided early in the planning process that every school in the community should be involved, Morris said.

Changing boundaries around the predominately black areas to achieve an acceptable racial balance would in general be only a short-range solution. Morris said.

Many people in these affected areas would start fleeing to other parts of the city not affected by the boundary changes. As a result, the boundaries would have to be changed and extended every year, Morris said.

He said the basic question is "Do you want to have an impact on all the strata of the community?" Do you want to involve all races, cultures and income levels?

"If so, it demands that you look at a plan that affects more than a fraction of your school district," he said.

Wichita officials could have concentrated black students in a few schools with the maximum allowable percentage of blacks. But, the school board decided to equally affect all schools by trying to get as close as possible to the system-wide percentage in each school, he said.

The problems in Wichita were not exactly comparable to Topeka's current situation. Wichita officials are quick to say. For example, the Office for Civil Rights has reorganized since 1967.

However, Topeka officials have sought advice from Wichita officials because of what may be some similarities. School officials from Omaha recently visited Wichita for assistance. And, Kansas City school officials were reportedly interested in getting information about Wichita desegregation efforts.

Supt. Morrison was asked what kind of experience did you have in dealing with HEW officials?

Wichita officials had numerous contacts with HEW officials, and some contacts "Were not too pleasant," Morris said.

"For us, there wasn't any question about what they wanted," he said. "The question was 'could we do everything they wanted us to do?' Our capability for meeting their demands just wasn't there."

The long period of time required to negotiate with HEW got on everyone's nerves, he said. Vagueness and slowness are inherent in government, he said.

Six years ago, Wichita schools were one of the first large school systems HEW dealt with. Now, HEW officials should be able to operate more efficiently.

"They (HEW) now know what their authority is in enforcing the civil rights law," Morris said. "But, the Office for Civil Rights will never act so swiftly that they impose things on the community."

How has desegregation and cross-town busing affected Wichita schools?

Morris said, "It has been extremely beneficial in bringing about some social changes in this community that have been needed here and throughout the world."

The desegregation effort helped in areas outside education as well, he said.

"After we integrated, we were more aware of residential black families in every area in the city. And, it has grown.

"I am convinced, by our placing black people in every school in this community, it gained acceptance of blacks in every part of the community," Morris said.

Previously, the schools could not place black office and business education students anywhere but in black operated businesses, he said.

"We can't document achievement advances for black students because of integration efforts. But, we can document the greater holding power of the schools with black students. Therefore, they are probably achieving more on an individual basis.

Did desegregation have detrimental effects?

In general, the district feels the benefits far outweigh any problems, Morris said.

Morris said there are no indications of lowered achievement levels by white students.

The schools did have increased costs in transportation. But, the district was already busing large numbers of students because the district is so spread out. Also, food service in schools had to be expanded for students who were bused and could not go home for lunch, school officials said.

Teachers who had taught only white, middle to upper income students had some traumatic experiences" when black students came into their classes, Morris said.

"It wasn't easy for them to adjust to other cultures," he said. "The impact on the professional staff required a terrific amount of inservice work."

Other school officials said black students suffered some of the worst challenges in the desegregation effort. In a sense, they left the comfort of a school where they were the majority to attend schools where they were definitely the unwelcome minority, one school official said.

When a person is part of a minority, he starts following the "herding instinct" which may alienate him from the rest of the school, the official said.

What was public reaction to busing and desegregation?

The public had a lot of "fear of the unknown" and "safety anxiety," Wichita educators said.

"Parents aren't as concerned about busing as most people believe," Deputy Supt. Dean Stucky said: "The issue is what are they busing you for."

Other school officials talked about persons who moved out of Wichita claiming they opposed busing. But, they moved to rural areas which had always bused students.

"Once the plan was implemented, much of the anxiety was dissipated."

During the planning stages, Wichita schools operated a rumor control center to handle and squelch the spread of misinformation. Also, numerous public meetings were held to involve the community.

Would Wichita schools have desegregated without the push from HEW?

Morris said, "I think we would have been where we are now in most ways. I don't think the cross-town busing would have been a part of it without the federal government's push."

[From the Topeka Daily Capital, Apr. 17, 1974]

MINORITY LIMIT AT 40 PERCENT IN SCHOOL PLAN

(By Mike Hall)

A Topeka school board plan to comply with a directive of the U.S. Dept. of Health, Education and Welfare to eliminate racial imbalance in Topeka Schools likely will set minority enrollment at each school at a maximum 40 percent.

That statement was made Tuesday night by Dr. Mark Morris, board president, after the board's meeting at Holliday Junior High.

The board entered into its official minutes the latest letter from the HEW, but did not schedule another meeting this month for taking action on any plan to balance the schools racially.

The latest letter gave the district until May 1 to submit a plan that would be in compliance with the 1964 Civil Rights Act. The letter threatened "formal proceedings" if such a plan was not in the Kansas City office by then.

Tuesday night Morris said he is confident that deadlines would continue to be extended by HEW as long as its officials were convinced the district is making progress toward adopting such a plan.

Morris said HEW officials most often use 20 percent as a guideline for how much the racial minority enrollment of each school may vary from the district average percentage.

In the Topeka district more than 19 per cent of the students belong to a racial minority which under the 20 per cent guideline would allow individual schools to vary from no minorities to 40 per cent minority.

Presently Parkdale Elementary is 87 percent minority, four other elementary schools (out of 34) are above 40 percent: Monroe, 80.8; Belvoir, 68.1; Lafayette, 63.3; and Lowman Hill, 46.8.

Two of the 12 junior high schools are above 40 percent: East Topeka, 63.3; and Crane, 50.8.

All three high schools are below 40 percent: Topeka High, 29.2; Highland Park, 20.6; and Topeka West, 1.3.

Morris continued to downplay the possibility of busing as part of the plan to bring the schools into balance. He sticks by the original list of five alternatives adopted in a board resolution on Feb. 8. That list includes remodeling of old schools and construction of new schools, but made no mention of busing.

In other action, the board Tuesday night heard a plea from Sam Hurd, chairman of the Citizens Advisory Committee to the board, for consideration of a cost of living increase for teachers salaries. Hurd noted that the National Education Assn.-Topeka has made such pleas at each of the last two board meetings and that the board continued to make no commitment.

"A cost of living increase would tell our teachers, 'we care,'" Hurd said.

Dr. Gordon Summers, a board member, responded, "We have this under study at the present time."

[From the Topeka Daily Capital, May 1, 1974]

LONG TRIPS FOR PUPILS WEIGHED IN NEW PLAN

(By Mike Hall)

A tentative plan to close seven of Topeka's public schools would have some elementary children traveling 1¾ miles to school in one attendance area, according to Jim Spence, director of public relations for the district.

Spence said that was an approximation. However, the plan announced by the Board Tuesday morning is so preliminary that no detailed plan has been designed for how the children will get to the schools.

Harry Craig Jr., acting president of the board, said Tuesday afternoon that some intra-attendance area busing is a possibility but the board still believes crosstown busing won't be necessary.

In a special board meeting Tuesday morning, the board voted to request another 30-day extension from the Kansas City regional office of the U.S. Dept. of Health, Education and Welfare for submitting the final plan for improving racial balance in the schools.

The plan unveiled by the board would close Rice, Belvoir, Clay, Monroe and Parkdale Elementary Schools and Crane and Highland Park Junior High Schools. Students in those attendance areas would be transferred to an adjacent attendance area.

Topeka school officials say HEW officials from the Kansas City office never have given strict numerical limits to how high or low the racial percentage of each school may go. However, the Topeka administrators say the federal district court for the District of Columbia has ruled in the case of Adams vs. Richardson that no school in a district should vary more than 20 per cent from the average racial makeup of the entire district.

In the Topeka district 19.3 per cent of the students are racial minority members. That would allow any school to have between no minority students and 39.3 per cent minority students.

Two schools would be above 40 per cent in the proposed plan, but the board said Tuesday it feels the plan will be acceptable to HEW. The plan would have the schools ranging from a low of .19 per cent at McEachron to a high of 49.69 at Lafayette.

The present range is from no minority students at McClure to a high of 87 per cent at Parkdale.

The 1¾ miles Spence based his estimate on is for a child in the Rice district who would be transferred to the Lafayette attendance area. Maps and complete information on the proposed boundary lines are available at each school in the district and at the administration building, 415 W. 8th.

Administrators and board members point out there are many aspects of the plan that need to be studied before final approval or alteration can be made.

"We're not sure that this is the number that will be eventually closed," Craig said.

Other uncertainties include what to do with the school buildings when they are no longer used as schools. Craig said there has been no discussion of razing any of the buildings and that the suggestions for their use include centers for Head Start, Follow Through, schools for gifted students, special education, career education, alternative education, expanded programs of art and music and community activities.

Spence noted at least one of the suggestions had come in a letter from a member of the community and that this is one area where the community is especially urged to make suggestions.

Craig said he is markedly concerned about the distances to school for youngsters in kindergarten through third grade. He said the buildings might be used for K–3 classes as a way to reduce the distance the children would have to go to school.

Another uncertainty is the amount of expansion that will be needed for the facilities that will grow in enrollment. The Lafayette attendance area would nearly double in size. This year there are 361 students in the attendance area. The proposed attendance area would have 646 students. The school was designed to hold 603 students.

Craig said one possibility this fall would be placing mobile classroom units at those schools for immediate needs, with further expansion of the buildings to follow in later years. Neither he nor Spence foresees any need for a tax increase to impove school buildings to meet the HEW requirements.

Spence and Craig emphasized the intention of the board is to maintain the present size teaching staff under the new plan. Craig said the board wants to keep the low pupil-teacher ratio and the small class size the minority students now have. He said to do that, the district will need the same number of teachers, assuming that enrollments district-wide do not drop.

Jim Nelson, Executive director of the National Education Assn.-Topeka, said after Tuesday's meeting he hopes the teachers organization also can be involved in the planning, because the teachers will be directly affected by whatever changes are made in the system.

How soon the plan would be in effect also is uncertain. The board asked for the 30-day extension from HEW so it could study details of these uncertain areas and to get reaction from the community to such a plan. Assuming that this plan or a modification was adopted by the board before June 1, and assuming it received the blessing of HEW, Craig said the new boundaries could be in effect for next fall.

The community involvement in the plan will be in part a series of meetings at individual schools to explain the plan to parents in that attendance area. The first one will be at 8:30 p.m. Wednesday at Hudson Elementary School.

At the request of the Parents Concerned for Justice in Education, the board Tuesday morning agreed to set up a committee of one parent from each school in the district and representatives of other segments of the community. That committee would be directly involved in shaping the final plan, Craig said during the meeting.

No board action was taken to establish the committee, but Bill Simons, head of the parents group, was instructed to contact Supt. Merle Bolton about setting up meeting.

[From the Kansas City Times, May 2, 1974]

Topeka Plans Integration Without Bussing Pupils

The school board has revealed a plan to meet a federal mandate issued in January to end de facto segregation in Topeka public schools. The plan would involve closing two junior high schools and five elementary schools and rearranging school boundaries to absorb students in other existing schools. There would be no plan to build any new schools.

The board's plan, unveiled at a special school board meeting, was described as tentative by Harry Craig, board vice-president. He said the plan is "not engraved in stone," and may be changed.

It calls for closing Highland Park and Crane Junior High Schools and Monroe, Parkdale, Rice, Belvoir and Clay Elementary Schools.

The U.S. Health, Education and Welfare Department ordered the board last January to develop a plan for bringing about better minority balance among public schools, which now range from zero to 87 percent minority enrollments.

The board is seeking a second extension until June 1 for finalizing a plan acceptable to HEW. Asked what other alternative to closing some schools and rearranging student enrollments was available to the board, Craig replied:

"About the only alternative that is open . . . would be that of busing of students."

Craig said bussing remains unacceptable to the Topeka board. Craig said a 1-way bussing system is totally unacceptable to the board, and if busing is the only way acceptable to HEW, then 2-way busing might be considered as a last resort.

Representatives of a new organization, called Concerned Parents for Justice in Education, appeared at the board meeting, demanding that local school officials "immediately stop any steps that you are now involved in to finalize a plan for U.S.D. 501, and that you take immediate steps to involve parent representatives . . . in the step-by-step development of a plan."

[From the Wichita Eagle and Beacon]

Lottery To Pick Pupils for Possible Busing

Next fall's lottery for elementary school integration has been released by the Wichita Board of Education.

Murray Harris, director of communications for the school district, said actual number to be assigned for busing will be determined by the number of children volunteered for busing by their parents.

Students must be cross-bused to continue the board's integration plan.

"The school system prefers voluntary participation, since voluntary participation creates the most beneficial school circumstance for both children and their families," Harris said. Each elementary school has sent letters to its patrons, providing information about the integration plan and encouraging volunteers. Parents were asked to indicate their preferences to their schools by April 30.

Harris said it appears there are slightly fewer volunteers for 1974–75 than there were for 1973–74, which means some pupils will have to be randomly selected for reassignment according to the birthdate list.

The lottery plan ranks all pupils in the system from 1 to 306, according to birth dates. In the selection process, the numbers 1 through 306 were matched in sequential order with the calendar dates Jan. 1 through Dec. 31. These numbers were then run through a computer and randomly assigned to priority numbers.

Depending upon how many students of each race are needed to complete the pupil population at each of the three elementary schools in the Assigned Attendance Area—Ingalis, L'Ouverture and Mueller—pupils whose birth dates appear at the top of the list will be reassigned to these three schools.

It probably will be necessary for about 500 students to be taken from the lottery list for reassignment, Harris said.

The school system's data processing and pupil accounting division is working on the random selection process, and Harris said after specific asignment dates are known this information will be communicated to all elementary schools.

After the schools receive the information, Harris said, parents may contact their respective schools for information about operation of the plan in that school.

All volunteered pupils and selected pupils will receive an assignment card for 1974–75 before the end of the current school year, Harris said.

Parents should not consider reassignment definite until they have received a letter from the school system, Harris stressed.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, I yield myself 5 minutes in opposition to the Gurney amendment.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. JAVITS. Mr. President, first, I will say a word about the Ervin amendment which we had before and which the Senate rejected before. It concerns the freedom of choice of a school system. There are two critical cases that I would like to have on record in that matter.

There is the classic case, the New Kent County case, decided in 1968, in which the court said as bluntly as anyone could say that the New Kent School Board freedom of choice plan could not be accepted as a sufficient step to effectuate integration, and the court then proceeded to strike it down.

Then we have the other case, the old case of *United States* v. *Klein*, 80 U.S. 128 (1872), which held that it is unconstitutional for Congress to require a rule of decision in the guise of withholding jurisdiction to order particular remedies.

Mr. President, I point out that that is precisely what the freedom of choice plan does, and I hope it will be rejected.

Now as to the Gurney amendment: It is anomalous to me that on the 20th anniversary of Brown, and after the hard work at compromise, which seems to be working in respect to public school desegregation, and busing as an incident to it, that we should now upset the applecart and endanger in a very serious way, at a very bad time, race relations and social relations in our country; and beyond that, which is serious indeed, portentous in terms of *our whole* land, there is a proposal that most of the people who are concerned about busing have cases that are in midcareer at this time, and the tailoring of individual cases, in my judgment, has worked out to be the best way, and certainly, to me, has appeared to be in the highest interest of the country and the best plan for the future of the country as well. That is the way we are trying to stratify ourselves in this amendment.

In addition, we put ourselves in danger of a confrontation with the court and the many sections of the country, which could be very harmful on a procedural point.

There will be, whenever the Senate wishes it—and that will be next Monday or Tuesday—an opportunity to take the entire House bill which contains that part. It is a total package and involves this amendment. It does seem to me to be somewhat improvident to take out this part of the package and try to legislate it.

Also it is very, very serious in respect of the matter we are discussing here. A tremendous structure has been built up in the country.

Let us remember that as one of the devices in this amendment, there is a tremendous tranquillity that has been built up in many areas of the country where this system has worked out satisfactorily. Now, in pursuit of a single bill, we are expected to throw that into the discard.

I could not think of anything more improvident in the interest of America, and a more highly volatile subject, than to throw into the discard everything that people have worked hard for, and geared themselves up for in terms of equality. That is strictly upon the application of one plaintiff. It seems to *me to* be the height of improvidence. I hope very much that the Senator does not do it.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. Mr. President, I yield myself 30 additional seconds in opposition to the amendment.

I think, in view of the things that I have said, I shall, at the appropriate time, move to table the Gurney amendment.

Mr. BARTLETT. Mr. President, will the Senator from Florida yield me 3 minutes?

Mr. GURNEY. Mr. President, I yield 3 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 3 minutes.

Mr. BARTLETT. Mr. President, in 1969 while I was Governor of Oklahoma, forced crosstown busing first came to my attention as a serious problem facing our educational institutions.

Like many others, I deliberated some time over the arguments concerning forced busing before making my own mind up and before publicly stating my position.

The stated goal of those favoring forced busing for racial balance was a good goal; namely, to provide quality education for black children.

However, I came to the conclusion that, in effect, busing was an exercise—an unproductive and awkward one at that—to require this generation of children to purge society by sacrificing for the wrongs and inequities generated by parents, grandparents, and great grandparents.

I publicly said then that—

> Discrimination to end discrimination is indefensible and is a cure as sick as the disease itself.

Five years have passed and forced crosstown busing continues. My opinion has not changed but has been buttressed by what we have learned in the interim.

Busing has been promoted on the basis that the end justifies the means; but even ignoring the philosophical problems with that argument, the results which have been achieved have not been worthy.

Forced crosstown busing does not accomplish the goals of either quality education or social integration of the races. To the contrary, forced busing has further polarized the races and has often resulted in the general deterioration of educational opportunities of both the black and white children being bused.

Contrary to many social changes, such as that accomplished by Brown against Board of Education in 1954 which ushered in the era of civil rights, there has been no public acceptance after the rather prolonged trial period of forced busing. Public opinion polls still reflect that the vast majority of Americans, black and white, continue to oppose forced busing. After 6 years busing remains a rather unimaginative, expensive, and counterproductive means of achieving the goal most Americans desire—quality education for all our young people.

There are alternative, realistic methods of doing what forced busing was supposed to achieve.

For instance, in my hometown of Tulsa, we are having excellent success with a voluntary busing program. A previous voluntary program had failed because it did not produce an enhancement of the educational opportunity and its only inducement was the challenge of an integrated school. Many of the students and faculty who were attracted proved to be nonconformist in a necessarily structured educational environment. Their nonconformity soon led to the demise of the program.

However, Tulsa did not give up. They were willing to try other innovative alternatives, and they were successful. Tulsa has turned what were previously all-black schools into learning centers with the highest educational opportunities. The schools were purposely staffed with excellent personnel. The principals and teachers were some of the best available. As a result, the goal which forced busing was supposed to achieve yet failed to achieve, is being accomplished voluntarily. Whites are joining their black brothers and sisters for the best of reasons—they all want a good education, and they are getting it.

Mr. President, I am pleased to be a cosponsor of Senator GURNEY's amendment to S. 1539. This amendment, overwhelmingly passed by the House, will hopefully bring an end to a dismal era in the educational process in our country. Hopefully the amendment will be the death knell of the forced busing system, whose goals were good but whose means were unfair, discriminatory, and contrary to the entire concept of social justice—and whose lofty goals were never achieved.

The amendment will hopefully mean the return of the neighborhood school system, a system which was successful because parents and children took pride in their local schools—a sense of pride and accomplishment and belonging which has been lost in the maze of crosstown busing plans.

As I interpret this amendment, voluntary programs such as that in Tulsa will be a primary means available to achieve the goals of quality education for all. I am confident, as proved in Tulsa, that voluntary programs, as worked out by local school systems, will not only be more just but in the end will be more likely to achieve that elusive goal of quality education for every young American.

Mr. President, we are supposed to be a representative democracy. And the people have spoken and are continuing to speak in favor of the substance of this amendment. The people do not want forced busing of their schoolchildren. The decision of this body should be quite easy and, as in the House, overwhelming.

Mr. GURNEY. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Chair is advised that 12 minutes remain. However, both sides may have more than 12 minutes if they desire to use the time on the bill.

Mr. PELL. Mr. President, I yield to the Senator from Indiana for a unanimous-consent request.

Mr. BAYH. Mr. President, I ask for the yeas and nays on my amendment, which I understand will be voted on at 5 o'clock.

The yeas and nays were ordered.

Mr. ERVIN. Mr. President, will the Senator from Rhode Island yield to me so that I may get the yeas and nays on my amendment?

Mr. PELL. I yield.

The PRESIDING OFFICER. The Senator from North Carolina will have to have unanimous consent in order to do that.

Mr. ERVIN. Mr. President, I ask

unanimous consent at this time that I may have the yeas and nays on my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Mr. President, I now ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, will the Senator yield to me for the same purpose?

Mr. PELL. Mr. President, I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I ask unanimous consent that it may be in order to ask for the yeas and nays at this time on the motion to table the Gurney amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I now ask for the yeas and nays on a motion which I propose to make to table the Gurney amendment.

The yeas and nays were ordered.

Mr. PELL. Mr. President, I have had the opportunity to listen to the debate all day on this subject, and have been studying it and thinking about it over the last few evenings. I think what the effect of the Gurney amendment would be: it would be like to try to unscramble an omelet which some may wish had not been scrambled; but it has been scrambled; and schools are moving ahead in the right direction.

What this amendment would do, if passed, to my mind, would be to move backward and undermine a great deal of the benefit that has accrued over these years.

Desegregated schools have come to be accepted to a great extent across the length and breadth of our land, and we would be going 180 degrees in the wrong direction, in my opinion, if we passed the Gurney amendment. For that reason I would urge my colleagues to vote against this amendment.

Mr. GURNEY. Mr. President, I yield 2 minutes to the Senator from Colorado.

Mr. DOMINICK. Mr. President, I take this time to try to outline for my colleagues what has happened in the Denver case.

I have voted, as I think the Senator from New York and the Senator from Michigan know, for every single civil rights bill since I have been a Member of Congress.

We passed a fair housing bill in Colorado, as a consequence of which the blacks moved to a new area. The school in that area became about 80 percent black. At that point, the school district said this was a segregated area, even though it was de facto segregation. The matter was appealed to the Supreme Court, and the Supreme Court said they wanted the trial judge to determine whether this was segregation.

He found that it was segregation, and instead of doing something about that one particular school, he then said the whole city of Denver had to be bused.

What has this busing order done? Already, before it goes into effect, which it does in September, one of our high schools, under previous orders, has been closed three times, once for 2 weeks, on account of the violence that went on with the kids who were bused in.

Second, I know of parents right now, in fact, one of them called me at midnight last night, wanting to know whom he could telephone or telegraph to urge support of the Gurney amendment, and I tried to tell him.

They are not only busing students across town to keep them away from the neighborhood schools, schoolchildren are going to attend two schools at once, one school in the morning and another in the afternoon, which means they are neither fish nor fowl; they are not in either school.

This busing is going to tear the whole public education system apart in our city, and if the Supreme Court, which God forbid, should go ahead and assert the Detroit decision across district lines, we are liable to have a revolution in our own State against the school boards and the court system.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. DOMINICK. I yield.

Mr. GRIFFIN. I wonder if there is any reason to assume that if the Supreme Court buses across county lines and city lines, they would not also order busing across State lines.

Mr. DOMINICK. The Senator is totally correct. There is no variance in the logic at all. They could easily do that. I could see half the people in Colorado, on this basis, being bused to Wyoming all of a sudden.

I urge the support of the Gurney amendment.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. GURNEY. I yield 3 minutes to the Senator from Alabama.

Mr. ALLEN. Mr. President, having joined in cosponsoring the Student Freedom of Choice Act with the distinguished Senator from North Carolina (Mr. ERVIN) and other Senators, I strongly support the Ervin amendment. I am convinced that the Student Freedom of Choice Act is a proposal before the Senate which offers realistic relief from abuses of judicial powers stemming from the exercise of unlimited discretionary powers in formulating remedies in desegregation cases.

From the standpoint of relief I will take it in any shape, form, or fashion, in any amount—and wherever it can be found. This accounts for my support of different approaches to the problem. In short, I am willing to buy the fleas with the dog if there is no preferable alternative. However, I am convinced that the Student Freedom of Choice Act which amends the Civil Rights Act of 1964 offers an excellent alternative to other approaches to the problem and that it is preferable for many compelling reasons.

For example, most antibusing proposals imply an acceptance by Congress of the premise that U.S. district court judges have the power to classify students by race for the purpose of assigning and transporting them to schools. Proposals of this type seek only to limit the exercise of that implied power. The Student Freedom of Choice Act, which will be the Ervin amendment, tc be voted on following the Gurney amendment, rejects the premise that classifications by race for the purpose of student assignments is or can ever be a valid part of a judicial remedy in desegregation cases. The Ervin amendment insists that the Constitution is color blind—that a citizen—is a citizen, and it supports the proposition established by the Brown I decision that the Constitution denies to States and to Congress the power to classify students by race for the purpose of school assignments.

Mr. President, I maintain that any system of school assignments which is free of State-imposed racial classifications must necessarily be based on assignments from within geographically compact, reasonably drawn school attendance boundaries, coupled with a freedom of choice plan described in the definitions provided by act.

Mr. President, let me read the definition:

> (g) "Freedom of choice system" means a system for the assignment of students to public schools and within public schools maintained by a school board operating a system of public schools in which the public schools and the classes it operates are open to students of all races and in which the students are granted the freedom to attend public schools and classes chosen by their respective parents from among the public schools and classes available for the instruction of students of their ages and educational standings.

Mr. President, it is unreasonable to contend that a school system operating under a plan as thus defined is unconstitutional. It is worthy of note that the definition accurately describes what the U.S. Supreme Court refers to as a unitary school system. There is certainly no possibility under such a system for racial discrimination within schools or classes within such schools. Yet, all sorts of objections will be raised to the proposal based primarily on social theories rather than on law.

Mr. President, it will be said that a unitary school system operated under the freedom of choice plan would not require racial balance in schools. That is certainly true but it is also true that the U.S. Supreme Court has never said that racial balance in enrollments of public schools is constitutionally required.

It will be said that the freedom of choice plan does not permit the Federal judges to impose the magic "viable racial mix" formula governing school enrollments by race as so many sociologists insist upon and, as do some U.S. Federal judges. True, but neither does the U.S. Supreme Court contend that the Constitution requires a "viable racial mix" or any other degree of racial mix in public schools.

It will be contended that the freedom of choice proposals would deny U.S. district courts jurisdiction to hear desegregation cases. Such a contention is totally without merit. In fact, the freedom of choice proposal simply amends the Civil Rights Act of 1964, which vests jurisdiction in U.S. district courts in desegregation cases. U.S. district courts retain that jurisdiction. The Freedom of Choice Act merely clarifies the present intention of Congress concerning the formulation of judicial remedies in de facto or de jure segregation cases, but only to the extent necessary to curb the discretionary power in U.S. district court judges to classify students by race for the purpose of making school assignments or for the purpose of allocating school funds or for the purpose of conditioning the grant of Federal school funds on such unconstitutional racial classifications.

Neither does a freedom of choice school plan preclude busing. It merely denies the U.S. district court judges the jurisdiction and, therefore, the power to enter orders which require either the assignment or transportation of students and teachers, based on unconstitutional racial classifications.

Mr. President, it will be contended that Congress does not have the power to limit U.S. district court judges in the exercise of discretionary powers in vindication of a right protected by the equal protection clause of the 14th amendment. In answer, I can only point out that the Civil Rights Act of 1964, which the Student Freedom of Choice Act amends, does precisely that. It denies U.S. district court judges jurisdiction and power to enter orders requiring busing to eliminate racial isolation in schools attributable to de facto segregation, thereby entirely excluding from protection of the equal protection clause a comprehensive system of segregation in areas outside of the South. The Student Freedom of Choice Act is not nearly so drastic; it merely precludes U.S. district court judges from making unconstitutional racial classifications and entering orders based on such classifications.

I must add in this connection that anything which the U.S. Supreme Court may have said in regard to State laws on this subject is entirely irrelevant since States do not have the power which was vested in Congress by the 14th amendment to enact legislation to delineate and vindicate rights protected by the amendment.

What the Court has said, which is relevant to this proposal, is that, "Absent from a constitutional violation there would be no basis for judicially ordering assignments of students on a racial basis." This observation was made in the context of the discretionary equity power of U.S. district court judges to classify and assign students to school on a racial basis. What the Court did not say and seems to have forgotten is that the constitutional violation condemned by Brown I was the power to make racial classification of students in the area of public school education.

Mr. President, once the Supreme Court chose to overlook the constitutional prohibition against racial classifications, it has been racing up and down blind alleys. It is now in an embarrassing and untenable position.

For example, we find the Court saying on the one hand that racial classifications for the purpose of making student assignments is unconstitutional and on the other hand that unconstitutional racial classifications may be used as a means of guaranteeing the right of students not to be classified by race for the purpose of school assignments.

As a consequence of this muddled judicial reasoning the U.S. Supreme Court has acknowledged that freedom of choice plans are not unconstitutional, while maintaining that such plans are not constitutionally permissible unless accompanied by coerced school assignments based on unconstitutional racial classifications

Mr. President, the crowning contradiction in present rulings by the Supreme Court is found in the admission that the Constitution does not require any particular degree of racial mix in schools but that the Constitution imposes an "affirmative duty" on local school officials to adopt the unconstitutional means of classifying students by race and assigning such students by race and transporting them by race to achieve the maximum feasible degree of racial mix in the schools. Thus, by the process of this Alice in Wonderland reasoning we are asked to believe that the Constitution requires the maximum feasible degree of racial mix in schools but it does not require a lesser degree of racial mix.

Mr. President, in each of these instances, the Court is in the untenable position of affirming rather than denying the validity of a proposition of constitutional law which contradicts its original proposition. It stands to reason that the foundation of a government of limited powers is destroyed if acts prohibited by the Constitution can be legitimized by acts allowed by the Constitution. That is the situation today and it is reasonable to ask how these contradictions came about.

Under the U.S. Supreme Court Plessy decision, racial classifications were permitted. Such classifications were justified by invoking the largely fictional separate but equal doctrine. In the Brown decision, some 84 years later, the Supreme Court reversed and denied the power to States and to Congress to make racial classifications in the area of public school education. The decision was justified on psychological and sociological grounds which later proved to be as fictional as was the separate but equal rationale.

The present Supreme Court has, for all practical purposes, reversed the Brown decision. It now justifies racial classifications on an equally fictitional and dangerous theory that the Constitution imposes an "affirmative duty" on local school boards to make racial classifications and to assign students to schools on the basis of race. Thus, acts prohibited by the Constitution are made to impose an equal obligation with acts permitted by the Constitution. The effect is that the Constitution is made to read so as to require one generation of schoolchildren to pay the penalty of correcting undesirable consequences of previous U.S. Supreme Court decisions.

Mr. President, the danger in this "affirmative duty" doctrine becomes apparent when we consider the vague and indefinite meanings of the term "equal protection of the laws" and when we consider the potential scope of its application, including all phases and aspects of our daily laws. It is not difficult to see how this "affirmative duty" doctrine conflicts with constitutional limitations on the powers of government. The notion that the U.S. Constitution imposes an affirmative duty on public officials, including a duty to use constitutionally prohibited powers, to reach a particular end prescribed by judges is a meaningful measurement of the influence of the positivist theory of law on the present members of the U.S. Supreme Court.

Under the positivist theory of law, a Constitution may be recognized as the law which governs government, but a select body of men, a central committee, a political party, or a nonelected judicial body has the power to say what the Constitution means. Therefore, any command that these men may give and have the power to enforce may become the law of the land. The power of the U.S. Supreme Court judges and inferior court judges to enforce their decrees lies in the power to punish private citizens and public officials for contempt of court and to impose confiscatory fines and imprisonment without benefit of trial by jury. We all know that the positivist theory of law is the handmaiden of totalitarianism governments and that the primary goal of such governments is to subject its citizens to complete domination and control by the state. So, not only does the "affirmative duty" doctrine leave our Constitution in a shambles but it also leads to human bondage to the state.

The late Supreme Court Justice, Robert H. Jackson, in commenting on the positivist influence in shaping racial and ethnic laws in Nazi Germany, said:

> The so-called positivist took over, and any command that some authority had physical power to enforce became law. Since the Nuremberg postmortem—few will believe that these positivist doctrines are weapons in the struggle to preserve liberty.

Mr. President, the "affirmative duty" doctrine is straight from positivist teachings. We recall that the Central Committee of the Communist Party of the Soviet Union once imposed an affirmative duty on scientists and school officials in the Soviet Union to adopt and teach the Lysenko theory of genetics—only to be embarrassed by subsequent proof that the theory was based not on facts but on sheer fabrications. This example of the "affirmative duty" concept of state power has meaning for us in the context of school cases. The U.S. Supreme Court has not yet subscribed to the Lysenko genetic theory or to any one of the several sociological theories advanced by Pettigrew, Jensen, Armore, Moynihan, or a host of other sociologists and political scientists who are actively competing for recognition of their theories by the Supreme Court. Neither has the U.S. Supreme Court yet prescribed the magic "viable racial mix" formula to govern public school enrollments. But the important point to remember is that the Court has established the doctrinal basis for asserting the power to do so.

For the moment the Court seems content to use its "affirmative duty" doctrine to compel a maximum feasible degree of racial mix in public schools in order to leave room for experimentation with lesser degrees of racial mix pending the outcome of experimentation with this generation of children.

Mr. President, the positivist theory of law is utterly repugnant to the U.S. Constitution. The idea that elected representatives of the people of our Nation are helpless to prevent the U.S. Supreme

Court from writing positivist doctrines into our Constitution is unthinkable. I am as much distressed by the attitude of some that Congress can do nothing to combat judicial tyranny as I am by the shocking experimentation with our children which the U.S. Supreme Court has authorized.

In conclusion, let me repeat—the constitutional issue addressed by the Brown I decision was the question of the power in States to classify schoolchildren by race for the purpose of providing public school education. This decision was that such classifications were prohibited by the Constitution. The duty imposed on U.S. district courts was to see that States stopped classifying students by race in providing public school education. For more than a decade, freedom of choice plans were recognized as constitutional, good faith compliance with that decision.

Aberrations in current Supreme Court decisions result from the exercise of the discretionary powers of courts to formulate decrees in cases properly before them. The discretionary equity power of judges is indeed broad but there are traditional limits on that power. Equity cannot compel an action which the Constitution prohibits.

Mr. President, unless and until the present Supreme Court specifically overrules the Brown I decision which prohibits racial classification in the administration of public schools, it is not within the discretionary equity power of judges to make such classifications. Limitations on the power of States and Congress cannot be set aside in the discretion of judges. The point is, the Supreme Court has not overruled Brown I. Instead, in its preoccupation with discretionary remedies the Court has authorized racial classifications as a part of an equitable remedy. Yet, equity follows the law and the law remains that "racial classifications" are unconstitutional. Since the aberrations concern remedies for denial of constitutionally protected rights, Congress has the power and the duty to take corrective actions.

The Constitution vests in Congress the specific power to delineate rights to be protected by the 14th amendment and also the power to prescribe both remedies and penalties for denial of those protected rights. Congress exercised that power in enacting the Civil Rights Act of 1974. It has the power to take such action as it may deem proper at this time to further protect students from unconstitutional racial classifications by way of amending the Civil Rights Act of 1964.

Mr. President, the Student Freedom of Choice Act now before us is completely free of the taint of racial classifications. It protects all citizens from racial discrimination which is inherent in "racial classifications." That was the objective of the Brown I decision—that is the objective of this amendment. I urge that every Senator search his heart and conscience before voting. I ask that he consider whether or not he can conscientiously vote to repudiate the Brown I decision and for classification of students by race for the purpose of school assignments and subsequent busing.

A vote for the amendment will put you solidly against forced busing to implement a nationwide social experiment.

A vote against the amendment will put you on record as favoring "racial classifications" and in favor of school assignments and busing of students on the sole basis of their race.

Mr. President, I want to call attention to the fact that the two speakers just before I was allotted time are from areas from without the South. This same problem, Mr. President, is going to come to other areas from without the South, if some provision such as the Gurney amendment is not adopted by Congress.

I do hope, in the order that the proposals will come up, that the Bayh amendment, which is meaningless and offers no relief from forced busing as the Senator from Alabama sees it, will be defeated; then the motion of the Senator from New York (Mr. JAVITS) to lay on the table the Gurney amendment should be voted down; the Gurney amendment should be adopted; and then the Ervin amendment, which is not inconsistent with the Gurney amendment, should be adopted also.

I hope the Senate will follow that course.

By unanimous consent Senator THURMOND was added as a cosponsor of the Ervin amendment No. 1239; also, Senators THURMOND and BARTLETT were added as cosponsors to Gurney amendment No. 1144.

Mr. GURNEY. Mr. President, to wrap up the debate here in the next 2 minutes available to me, we have been arguing, of course, this busing business since 9 o'clock this morning. All the arguments pro and con have been made. The most and the least I can say about it is that we have tried busing for years in many States in this country.

In my own State of Florida it has not worked. It has been a miserable failure. It has done nothing to improve education; as a matter of fact it has hurt education. It has done nothing to improve race relations; as a matter of fact it has hurt race relations. It has cost all kinds of money for school buses and the cost of maintaining them which could have been put into the school system, either to pay teachers' salaries, to buy books or for capital improvements.

Poll after poll has been taken, and people have rejected this system of busing overwhelmingly—in the last poll by a margin of 95 percent.

Let me also summarize what we have before us.

The first vote will be on a substitute for my amendment, the Bayh substitute. What it does is wipe out my amendment completely, and also has some mealy-mouthed language in it which will not do anything to stop busing.

If we are going to do anything about busing in this session of Congress, we must vote for the Gurney amendment, which is the identical language which appears in the House education bill. If we vote for this, when the bills go to conference, we will have done something about busing. If we do not do it, we are not going to do anything about busing.

The next vote, of course, after the Bayh vote, which I hope the Senate votes down, will be the tabling motion to be offered by the Senator from New York (Mr. JAVITS). We should vote against that. Next comes the vote on my amendment, and I hope the Senate will approve that. Then comes, of course, the vote on the Ervin amendment which I support as strongly as I do my own.

I should like this amendment to have been a little stronger but I know that we will not get any busing legislation through this Congress unless we use the language in the House bill. So I would hope that the Senate would face up to its responsibilities remembering that it is representative of the people of the United States and the people of the United States want busing stopped. They have said so again and again and again. It has nothing whatsoever to do with racial segregation at all. The safeguards are in the amendment. The Brown case and others are preserved.

I hope that the Senate will support my amendment.

Mr. FANNIN. Mr. President, I have listened very carefully to the arguments for and against the amendment of the distinguished Senator from Florida. I am quite aware of the fact that what we do here in respect to busing will have profound consequences for the constitutional and legal issues which affect the whole policy of desegregation. Having listened, I am convinced that the amendment offered by the Senator from Florida will redress a serious grievance and focus attention once again on quality education for all Americans.

We have been told by the opponents of the Gurney amendment that the amendment would upset the progress we are making in regard to school desegregation—progress which has been characterized as calm, reasonable, and rational. Yet, if over 250 letters in the past 2 weeks from the residents of Tucson in my State is any indication, the situation is far from being calm, reasonable, and certainly not rational. Tucson District No. 1 has been negotiating with the Department of Health, Education, and Welfare over the racial composition of its schools, and hanging like a pall over these negotiations has been the possibility of busing. These many parents have expressed deep and sincere concern for the welfare of their children and their educational progress. What these letter really represent is a concern that educational programs, in Tucson, will be determined, not by the community, not by the elected members of the school board, but by Federal dictates. These many letters have asked my support of legislative measures which will prevent even the possibility of busing.

The Gurney amendment would eliminate busing as a possibility in Tucson.

Without the threat of busing calm and reasonableness will emerge and a community solution will, I am sure, develop to meet the Tucson challenges. For this reason, and my own conviction that busing remedies are unwarranted in the pursuit of achieving school desegregation, I support the Gurney amendment.

Mr. TAFT. Mr. President, I oppose the transportation of students abnormal distances to create immediate integration and racial balance. Consistent with this position, however, I feel that the courts have an obligation constitutionally to assure that transportation patterns are not used to perpetuate or promote de facto or de jure segregation.

In cases where segregation has occurred, greater emphasis must be placed on the repeal of restrictive zoning laws, the creation of equal opportunity housing programs, and the construction of educational institutions geographically situated to insure equal educational opportunities. Where unequal and discriminatory conditions have developed or develop in the future as a result of failure of a locality to correct and improve such socioeconomic living patterns and standdards, judicial intervention may in limited cases also be necessary and desirable.

Since the decision of the Supreme Court in *Brown* v. *Board of Education*, 347 U.S. 483 (1954) holding racially segregated educational facilities were inherently unequal and the subsequent review of *Brown* v. *Board of Education* again in 1955 at 349 U.S. 249 stating that district courts should implement desegregation rulings "with all deliberate speed," extensive national debate has ensued as to the positive and negative aspects of using transportation patterns to alleviate discrimination. Unfortunately, quite often the national debate has turned into emotional responses from either side, sometimes, with confrontation and violence occurring. Indeed, the sensitivity of this issue to the electorate explains in large part the reoccurring nature of this problem before the Senate, particularly in election years.

I am sympathetic with my colleagues who feel that the scope of court-ordered abnormal transportation is wrong and not in the best interests of the student or society in general. Undoubtedly, there have been incorrect decisions by administrative and judicial officials in implementing busing transportation plans. Each one of us in this body, however, cannot be blind to the requirements of equal protection under law contained in the Constitution—neither can elected and appointed officials in the executive branches. Each branch of Government has a duty and responsibility to uphold the Constitution and not permit emotionalism in any given issue to supersede the established constitutional principles of our democratic form of government. This body cannot ignore the fact that non-Caucasians have been and are denied equal educational opportunities on a wide basis. This body cannot close its eyes to the fact that deliberate actions have resulted in providing second-class educational facilities and opportunities to economically disadvantaged citizens, especially black Americans. As much as I personally disdain court-imposed abnormal transportation as an answer to these problems, it may sometimes be the only method in certain cases by which practices of racial discrimination can be corrected. Economic facts of life and long-standing socioeconomic practices will in certain communities require transportation of students to correct such abuses. It should not and cannot be the sole remedy, however. Nor can it be applied without bounds and limitations. As the Supreme Court held in Swann against Charlotte-Mecklenberg Board of Education, 402 U.S. 1 (1971), limits are applicable to such transportation procedures so as to not pose a health or educational risk to students, and the Congress has set such a limitation.

The Elementary and Secondary Education Act adopted by the House, H.R. 69, would in essence resolve this question by stressing the neighborhood school concept and prohibit abnormal transportation for desegregation to any but the next closest school to a student's home, and permit this approach only in the most limited of situations. Further, the House bill would establish among other procedures a reopener provision, section 218 of H.R. 69, permitting a review of existing court orders back to the Brown decision with application of the neighborhood school concept contained in the legislation. Amendment No. 1144 offered by Senator GURNEY and amendment No. 1097 introduced by Senator DOLE would substitute such an approach for title VIII of S. 1539.

I am sympathetic with the problem addressed by the authors of these amendments to limit the use of orders for abnormal transportation. Cases such as *Bradley* v. *The School Board of the City of Richmond, Virginia et al.*, 338 F. Supp. 67 (E.D. Va., 1972), reversed, 472 F. 2d 318 (4th Cir. 1972) would be of concern if upheld. Only in the most pressing situations should municipal and county boundary lines be crossed or ignored on a large scale with regard to such judicially imposed busing.

I question, however, the macro policy that would be established by the Gurney-Dole approach as I do not believe it to be sound practically or constitutionally. At the outset, I am troubled as to what precisely is the definition of a neighborhood. Section 802(a)(2) of the amendments states:

> The neighborhood is the appropriate basis for determining public school assignments.

Nowhere in the amendment is the term "neighborhood" defined. Practically this term could have a great number of meanings depending on the particular locality involved. Further, I am not convinced that a neighborhood school is always the best educational institution for a child to attend as special individual needs or abilities of a student may merit attendance at an institution in another geographic area.

Subsections 805(a) (4) and (5) refer to transportation of students disrupting the educational process and creating risks and harms to children in the first six grades. I am not convinced the facts support such findings and would submit that use of a bus may be in many cases safer than other means of transport to school. Further as I previously stated, excessive busing that would pose a health or educational risk is already prohibited by the Swann decision and in section 802(a) of S. 1539.

Section 812 of the amendment presents potential problems in that it would permit a prevailing party other than the United States to recover reasonable attorney fees with the Federal Government liable to the same extent as a private person. The practical effect of this provision would be to restrict litigation of close cases and would deter and intimidate many poor minority parents from asserting the constitutional rights of their children. It would threaten the very existence of private organizations that seek to protect the rights of minority citizens. No standards are included whatsoever to apply such a restriction to cases brought for harassment or abuse of service of process. The intent of such an amendment can be interpreted no other way than to preclude access of citizens to remedies available in the judicial branch. If such a provision is found necessary by the Senate, I would suggest consideration of the provision recently included by the conference committee in the legal services corporation bill.

Sections 814 and 815 of the amendment stating the restrictions that busing could only be used as a last resort, and then only to the next closest school, pose very difficult constitutional problems. The 14th amendment requires that equal educational opportunities be available to all individuals. In many cases, particularly de facto cases, transportation is the only effective means to achieve this goal. By limiting, if not prohibiting transportation, the Gurney amendment will prevent Federal courts and school authorities from implementing the constitutional regulations established by Brown against the Board of Education and subsequent decisions. Those who support this amendment state that this approach merely is directed at the remedy, that is, transportation and not the right—equal educational opportunity. This right would be nullified if there is no effective remedy to vindicate it, which certainly would be the situation in certain cases.

Section 815(c) of the amendment would prohibit subsequent review by any court or agency if a prior determination has been made that a school system is a unitary system. While this provision is couched in terms of population shifts, the practical effect may be much broader and realistically prohibit elimination of certain de jure discrimination.

Notwithstanding these practical and constitutional difficulties, the amendment would permit the reopening of every administrative and court ordered desegregation plan since the Brown decision. While this may be possible constitutionally, it would cause chaos in the courts and in the 1,500 school districts which have desegregated under court order or HEW plan since 1954. Bitterness and confrontation would be rekindled in communities throughout the Nation. This provision potentially could be one of the most regressive steps that could be taken in the area on providing basic equal educational opportunity to all Americans.

S. 1539 does contain restrictions on abnormal transportation patterns in sections 801, 802, and 803. These sections restrict the assignment or transportation of students or teachers in order to overcome racial imbalance. Further, these sections prohibit Federal funds from being spent in any way on pupil transportation for desegregation purposes, unless requested in writing by local school officials. A provision is also contained for the stay of any transportation order until appeals are exhausted through June 30, 1978.

These restrictions combined with the recent fifth circuit decision in *Northcross* v. *Memphis* (Sup. Ct. Docket No. 73–1338—cert. denied, April 22, 1974) in which the most radical busing plan for Memphis was rejected, certainly provide restraints in this area. Further statutory restrictions might be necessary in the future. The issues raised in the DeFunis case, related indirectly to the equal opportunity questions before the Senate today, must be addressed and considered. Undoubtedly, they will remain of utmost concern to many Americans.

Another factor points out the undesirability of the Gurney-Esch amendment at this time. There has already been presented and argued in the U.S. Supreme Court, the Detroit case. A ruling may come down any day which would resolve many of the real or anticipated problems with court orders dealing with school transportation. The sound course would surely be to wait for further elucidation by the Court.

In summary, I cannot in good conscience support an approach to this difficult problem that seems to me to be patently unconstitutional and destined to create much confusion and no solution. Let the record reflect, then, that the U.S. Senate acted in a rational and intelligent manner and not in derogation of the basic constitutional principles upon which this country is founded. I shall vote against amendment No. 1144 and any similar amendments.

I yield the floor.

Mr. STENNIS. Mr. President, I rise in support of the so-called Ervin amendment to S. 1539.

Mr. President, the title of S. 1539 dealing with the busing of public school students contains artfully drawn language which gives the appearance of prohibiting such activity but which, in reality, gives the courts and the Department of Health, Education, and Welfare an "out." If we are ever going to lay to rest this asinine activity we must pass strong and meaningful legislation that will prevent the abuse of discretion so often found in the decisions made by the Department of Health, Education, and Welfare and the Federal courts.

The people of America are "crying out" to us here in the Congress to do something about busing. The evidence is overwhelming that busing is not desirable. Only some 5 percent of the American people favor busing. People from coast to coast are against it—not just the people of the South. It has finally come home to the other areas of our country—and they do not like it.

The U.S. Supreme Court presently has a case before it which, if affirmed, would allow the busing of children from the city of Detroit to the suburbs—from one school district to another. This plan, unbelievable as it seems, "invades" the borders of three counties and 52 school districts. Local control is, therefore, totally lost. The importance of local control was recognized by the U.S. Supreme Court in *Wright* v. *Council of the City of Emporia*, 407 U.S. 451. It has always been important.

For years and years, people with children have moved to an area of a city which contained quality schools. Often these schools were near enough for the children to walk to schools. Parents belonged to the school PTA. They took pride in their schools and worked to improve them. Then suddenly, their children were forced to get up earlier and ride buses many miles to strange schools. They arrived home late in the afternoon. Interest in the schools waned and often their grades suffered. Parents are taking their children out of the public schools at a fast pace, not because they oppose integration, but because they do not want their children exposed to the dangers and uncertainties of busing. Busing, without a doubt, is ruining the public schools of America. It is not improving education.

Mr. President, in addition we are spending entirely too many tax dollars budgeted for education on transportation costs. Not only are buses expensive, but the maintenance costs including fuel are astronomical. Here we are in the midst of an energy crisis and spending hundreds of thousands of dollars for fuel—fuel we could use for many important things. It just does not make sense, Mr. President.

This busing activity can only be effectively curtailed if we return to the concept of neighborhood schools. Parents are tired of their children being subjected to someone else's theory of what is right for them. Every concerned parent in America wants what is best for his or her child. The Government is not charged with the duty of rearing the children of America—their parents are. The parents of America are saying, "Give us back our neighborhood schools and the control thereof."

Mr. President, the best way to accomplish this is to adopt the Ervin amendment. Allow students to attend whatever school their parents wish them to attend. We have abolished the dual school system—at least we have in the South. This is the way to guarantee equal protection of the laws. This, after all, ends discrimination in public schools and does what the Brown case decided 20 years ago to do.

The Congress has the constitutional power to limit the authority of the Federal Courts to order busing for the purpose of creating a certain racial balance in individual schools. Of course, the Congress cannot, under the Constitution, enact legislation which would prohibit a child, solely because of his race, from attending a particular school chosen by his parents. This amendment recognizes that right when a school board has in operation a freedom of choice plan covering the schools under its jurisdiction.

As a matter of fact, racial balance in the public schools has nothing in common with the 14th amendment to the Constitution unless that balance has been created due to racial discrimination. Only when a student is denied access to a school of his parents' choice, solely by reason of his race, does he have the protection of the 14th amendment.

In fact, in all too many cases now, a child is denied his constitutional rights when he is required to be bused to a school not selected by his parents beyond his own neighborhood, solely for the purpose of changing the racial composition of the two schools involved. While the Constitution gives a student the constitutional right to attend a public school without regard to his race, the action of the Department of Health, Education, and Welfare and the courts, in all too many instances, have just the opposite result. Instead of the race of the student not being a factor, it is made the key factor. Until we curtail the power of the courts to order busing solely for the purpose of creating a racial balance or altering the racial composition of a student body, public education will suffer immensely.

If we can stop this senseless busing, we will have available millions of dollars to spend for books, buildings, laboratories, teachers' salaries, and scores of other items and programs to better educate the children of America. Once again, school boards and superintendents can concentrate on planning budgets, buildings, and curriculums and not have to worry about where the money is coming from to purchase new buses and about the Department of Health, Education, and Welfare's latest plan for desegregation.

This amendment does not affect public schools which do not have freedom of choice plans. The courts are free to take whatever steps are necessary or desirable in cases coming before them against schools where no freedom of choice plan is in effect. All this amendment does is open the schools to all races in accordance with Brown and the Constitution and puts an end to an unworkable experiment; namely, busing.

Mr. President, we have the power and duty to pass this legislation. We will do a great service to every child in this Nation if we do.

Mr. President, I urge adoption of this very important amendment.

Mr. MUSKIE. Mr. President, it has been 20 years since the historic decision in Brown against Board of Education—20 years since the Supreme Court gave the promise of equal educational opportunity for all Americans.

And in 20 years, that promise has still not been fulfilled. Our courts have struggled to give it life. The struggle has brought slow progress, and deep pain, to America. But it is a struggle mandated by our commitment to the ideals of liberty and equality rooted in the Constitution.

The measure before the Senate today—the so-called antibusing amendment—represents a denial of that commitment, a denial of the 20-year-old promise of equal educational opportunity.

In 1972, Mr. President, the Senate debated, and rejected, a similar proposal. At that time, I argued that to interfere with the enforcement of equal educational opportunity through our judicial system would be a "dangerous violation of the constitutional separation of powers and an attempt to reverse the process of our Government and ourselves."

That assessment continues to be valid. Once again, we are faced with the challenge of resisting political pressures which seem to call on us to dilute constitutional rights and the ability of our court system to guarantee them to American citizens. We must not abdicate our responsibility to safeguard those rights, and our commitment to fulfilling the promise of equal educational opportunity.

I believe the conclusion I reached in

the debate 2 years ago on this issue bears repeating today:

> We have made progress since 1954. This bill would repeal it.
>
> We have offered hope. This bill would strangle it.
>
> We have moved toward an open and equal society. This bill would call us to retreat.
>
> I say instead, we must advance, advance in the hope that we can find better answers, advance in the fields of housing, jobs, urban transportation and all the other areas that can make our society whole and just. But if we refuse equal access to quality education for all children—as this legislation would—then we assure the failure of all our efforts. . . .
>
> I ask the Senate today not to fall short of its principles. I ask for the defeat of this measure and for a renewal of the movement of responsible Americans going forward together. There is no other way.

Mr. President, I ask unanimous consent that a series of articles on the issues raised today, evaluating our progress toward fulfilling our commitment to equal educational opportunity in the years since the Brown decision, be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 15, 1974]

RACE, SCHOOLS AND THE SENATE

In March of 1972, when Watergate was still a gleam in Gordon Liddy's eye and the Board of Directors (as we now know) had yet to give final approval to his plans, Mr. Nixon unveiled his preposterous "anti-busing" plan. Mr. Ehrlichman, now busy with other matters, did the best a lawyer could do to justify and explain its patent illegalities to the press. And Richard Kleindienst, then Acting Attorney General and nothing if not blunt, happily explained to a committee of Congress that the proposed legislation would authorize the reopening of every school case—North and South—that had been settled since the Supreme Court's original school desegregation decision in 1954.

Since that time we have acquired, for our sins, a much richer context of administration law-breaking and contempt for the commands of the constitution into which to fit this particular exercise in defiance and contempt—from the court-blocked adventures in impoundment of congressionally appropriated funds to the Watergate crimes and improprieties to the sloven procedures for obtaining wiretaps, which has just compelled the Burger Court unanimously to render a decision that will free some 600 persons accused and/or convicted of violating federal criminal statutes. So it is hardly surprising that the administration's proposed monument in the field of desegregation law turned out itself to be a monumental challenge to due process, to the Constitution and to the rule of law. What is surprising and—to put it mildly—distressing, is that two years later the U.S. Senate is considering commemorating the 20th anniversary of the Supreme Court's 1954 decision by passing this proposal. Today the Senate is scheduled to vote on a House-passed variation of the Nixon administration bill which has been introduced by Senator Edward J. Gurney of Florida as an amendment to an extension of the federal school aid act. And the vote, according to most accounts, is likely to be close.

Everybody, as it seems, is against skullduggery and for the rule of law—except when it is either inconvenient or inexpedient to explain. Thus, legislators who in a non-political year would acknowledge themselves horrified by the reckless sweep of this proposal and acutely aware of the cynicism from which it springs, are counted among those who, for "political" reasons are likely to go over the side and vote with Mr. Gurney. We refer to the cynicism underlying the effort because for all the chaos and disruption it could bring to settled school systems North and South, the proposal itself would almost undoubtedly be overturned in many of its key parts by the Court, meanwhile creating new and burdensome problems for numerous of those communities whose burdens it purports to relieve.

Consider the bill's provisions. Its list of mandatory remedies that must be invoked before busing can be ordered could cost tax-ridden communities a fortune in the demolition and construction of schools. It is a rich man's bill, in effect providing that any busing which occurs will spare the affluent suburbs and be contained within geographical limits that are likely to result only in sending poor blacks from their own inferior schools to the inferior schools of neighboring poor white children—to communities where racial hostilities and insecurities are keenest. And, above all, it says to black children—to black people generally in this country—that even where a finding has been made of unconstitutional discrimination against them by the state, there will be no remedy in many cases. It is a tribute of sorts to the monstrosity of this concept, in a nation of laws, that back in 1972 even Mr. Ehrlichman had trouble explaining it when pressed.

In the 20 years that have passed since the Supreme Court rendered its original decision in Brown, and in the 10 years that have passed since the Civil Rights Act of 1964 gave that decision heightened impact and authority, there have been some lower court decisions and administrative interpretations that, to our mind, have skewed and distorted the meaning of the law and imposed senseless burdens on communities around the country, so that both blacks and whites have suffered. There have been, in other words, some bad busing decisions and some unreasonable and unsound bureaucratic regulations rendered. It could hardly be otherwise, given both the complexity of the cases and the familiar resistance to reasonable and desirable change that preceded and, in effect, brought on the compulsory programs to which so many now object. But it has been clear for some time now that the Supreme Court was moving carefully and deliberately to refine its position in consonance with the constitutional command that is the bedrock of *Brown* so as to take account of changed circumstances that underlie so many school cases 20 years later. This is as it should be. The question is whether the Senate will wait. The alternative before it today was admirably summed up by William McCulloch, who was ranking Republican member of the House Judiciary Committee, when the Nixon bill first came up two years ago, accompanied by a proposal for a temporary freeze on busing orders:

"It is with the deepest regret that I sit here today to listen to a spokesman for the administration asking the Congress to prostitute the courts by obligating them to suspend the equal protection clause so that Congress may debate the merits of further slowing down and perhaps even rolling back desegregation in public schools—What message are we sending to our black people? Is this any way to govern a country?"

[From the Washington Post, May 12, 1974]

THE BROWN DECISION: 20 YEARS LATER

(By Robert C. Maynard)

All they knew for sure then was that it was wrong. The black parents of the children in Topeka, Kan., and Summerton, S.C., meeting in secret with out-of-town lawyers, signed those legal complaints against their segregated school districts because they were looking for a better break for their youngsters. All they really wanted was a better education for their children than they had received.

They had no way of knowing that one day it could be said that they had set off one of the most profound social revolutions any modern society had experienced. Their complaints went all the way to the U.S. Supreme Court, and when the justices decided unanimously in their favor, it is unclear now just how much even those nine men realized what would happen in the next generation. Only one thing is certain as we approach the 20th anniversary of *Brown v. Board of Education:* The decision delivered on May 17, 1954, had to do with far more than the desegregation of the public schools of this country.

Today, when the experts assess the impact of the *Brown* decision, they are prone to count black noses and white noses in school districts of the North and South and conclude that the desegregation of the American public school is a long way from completion. Many of the experts—and many parents—now question how important "integration" is for education. But if they look at the schools alone, they will have missed the point of what *Brown* did to the American political landscape.

Look, for example, at the state of Mississippi. Don't just count the desegregated school districts, but count also the number of blacks elected to state and local office: 152. That's 13 less than Michigan has. And 152 more than Mississippi had in 1954.

Look at the number of suits brought in the fields of housing, employment and recreation, all relying on the same interpretation of the equal protection clause of the 14th Amendment that the court reached in *Brown*.

Chalk it all up to *Brown*. That and much more. From the simple aspirations that moved those black parents in the last 1940s to sue for the right to send their children to a better school in the Summertons and the Topekas flowed a series of events that would overturn more than a half century of black quietude and lead to a movement that would shake the very foundations of American society. Its methods would be duplicated by the foes of an unpopular war, by advocates of equal rights for women and by activists in the causes of homosexuals and the elderly.

For *Brown* is a symbol of the start of the era of liberation movements in the United States. Its concept of the 14th Amendment was destined to affect virtually every aspect of the relationship of Americans with each other.

And it was to give to blacks the first sense of the possibilities of equal citizenship that they had dared to have in nearly 60 years. Black Americans had been living in a twilight of deprivation called "separate but equal" for all the 20th century until the court acted in *Brown*. The joke among blacks had been that if the United States were nearly as "equal" as it was separate, "we would be in pretty good shape."

Brown has not changed all that. Far from it. The United States is still a deeply divided society. Race enmity still poisons the well of its social relations and mars its image as a democratic society. What *Brown* has done is two things: It threw the weight of the law to the other side, to the side of equality. And it made blacks aware that they could struggle and dare to win a social revolution whose goal is absolute equality before the law and in the eyes of their fellow man. What began as a simple plea for the right to attend the same schools with whites has become a complex of goals that includes the demand to share in the decisions that affect the very manner in which the society is governed and how its institutions function.

In the years since the decision, much blood and energy has gone into that social revolution and more will undoubtedly follow before the day comes when blacks can believe they have achieved their goals. Indeed, not all blacks agree on what those goals are. Since

Brown, many have disdained the very notion of "integration" with white society. Yet, even in that expression of disdain, we see again the impact of *Brown*. To arrive at that conclusion suggests a sense of choice, of options. No such choice seemed real to most blacks just 20 years ago. A whole generation has been born, grown up and gone to college without ever having seen a restroom door marked "white" and "colored."

A black sophomore today might only learn through a black history course of a time in the 1940s when a black youth won admission through court order to the University of Oklahoma Law School, only to discover that his classrooms had a rope across two seats marked, "reserved for colored."

It was not until the Supreme Court took up the cases we now know as *Brown* that all those changes and many more began to occur. *Brown* simply enunciated forcefully a principle that blacks had known must come one day. It was not in itself a great surprise. Blacks had lined the curbs outside the Supreme Court in the winter of 1953 in the hope of getting a seat to hear an NAACP lawyer named Thurgood Marshall argue the law and the principle they knew the court would adopt.

The social climate in which *Brown* occurred was one of increasing determination to break down the barriers that had existed for the 50 years since the Supreme Court had ruled in the case of *Plessy v. Ferguson*. To understand the importance of what *Brown* did, and thus to understand the events that followed *Brown*, it is necessary to go back a moment in history to the *Plessy* case.

When the Civil War ended, the era known as Black Reconstruction began in the South under the aegis of a Republican administration and a Republican Congress. Federal troops were used to support the Reconstruction governments of the states of the Old Confederacy. Blacks, most of them former slaves, began a process of self-government that would put more than a dozen in Congress and result in a handful holding governorships and other high offices throughout the South.

That arrangement lasted from the end of the Civil War until the presidential election of 1876. It was then that the dreams of blacks were brutally dashed.

Republican Rutherford B. Hayes and Democratic candidate Samuel B. Tilden ended the election campaign of 1876 with neither a clear electoral vote winner, although Tilden had won a popular majority. The Democrats of the South struck a deal with Hayes. If he would agree to remove the federal troops from the South, they would support him over the candidate of their own party. Blacks were left at the mercy of planters and workers who considered them inferior, fit only for manual labor.

Alan Barth, in his new book, "Prophets with Honor," describes the legal situation in which blacks in the South found themselves over the next two decades:

"North Carolina and Virginia . . . found it wise to pass laws that forbade all fraternal organizations that permitted members of different races to address each other as 'brother.' Alabama saw fit to adopt a law prohibiting white female nurses from attending black male patients. A New Orleans ordinance segregated white and colored prostitutes in separate districts. A Birmingham ordinance made it unlawful for a black person and a white person to play together . . . at dominoes or checkers. Oklahoma banned any companionship between the races while boating or fishing. Thus did the dominant race demonstrate its 'superiority'."

Homer Adolph Plessy was an octoroon. An octoroon is a person with one-eighth black blood, the rest white. By the standards of Louisiana law of the last century—and indeed until this day an octoroon is considered black. The streetcars of Louisiana in 1895 were separated so that blacks were forced to ride in the rear. Homer Plessy bought a ticket, tried to sit up front, was arrested and found guilty by a local judge, John Ferguson. Thus began the case of *Plessy* v. *Ferguson*.

All but one justice of the Supreme Court upheld Judge Ferguson. The majority concluded that the rear of the streetcar was as good as the front, that the courts could not force people to sit beside each other, and furthermore, said Justice Henry Billings Brown for the majority:

"If the civil and political rights of both races be equal, one cannot be inferior to the other civilly or politically. If one race be inferior to the other socially, the Constitution of the United States cannot put them upon the same plane."

The lone dissenter, Justice John Marshall Harlan, argued to no avail with his brethren that "Our Constitution is color blind, and neither knows nor tolerates classes among citizens . . . The humblest is the peer of the most powerful." Then, in language that would not be equaled in the Supreme Court for a half century, he declared:

"We boast of the freedom enjoyed by our people above all other peoples. But it is difficult to reconcile that boast with a state of the law which, practically, puts the brand of servitude and degradation upon a large class of our fellow citizen, our equals before the law. The thin disguise of 'equal' accommodations for passengers in the railroad coaches will not mislead anyone, or atone for the wrong this day done."

As a New England orator had occasion to put it at another time, "rivers of blood and years of darkness" separated the days of *Plessy* from the time of *Brown*.

The reign of terror that swept across the black communities of the South was like nothing that occurred in American history before or since. Lynchings reached as high as the hundreds in some of the years between the turn of the century and the end of the 1920s. Blacks streamed out of the farmlands of the Deep South, often fleeing for their lives with no more than the clothing on their backs. They jammed into the cities in search of refuge, jobs, education and health care. They found the cities indifferent to their plight and they knew few if any of the urban skills.

Only the great migrations of the middle 19th Century from the cities of Europe to the cities of America matched the mass movement of black Americans from the rural South in the aftermath of *Plessy*.

Depression, New Deal and World War II all were instrumental in bringing alive the hopes of black Americans that the Constitution might one day apply to them. By the end of the war, the black men who fought oppression and fascism in Europe were in no mood for oppression at home. It was the children of this generation of black veterans who would become the plaintiffs in the cases known collectively as *Brown*.

By the time of *Brown*, the black communities were simmering with discontent and determination. The contradictions of racism had become too poignant. The Cold War was in high gear and this nation was denouncing oppression in Eastern Europe while black children and white children were being kept apart in school districts across the land. Moreover, the African and Asian nations were emerging from a century of European colonialism and were looking to the West with a questioning eye and scrutinizing the moral leadership of the most powerful of Western post-war nations.

Brown and its implications were on every black person's mind in August of 1955 when a grisly event occurred that might well have rivaled *Brown* in its impact on the political awakening of black America. In the little hamlet of Money, Miss., hard by the Tallahatchie River, Emmett Louis Till was lynched one night. The child, retarded and slightly built, lived with his mother in Chicago. She sent him back "home" to Money for the summer vacation of his 14th year.

It is unclear whether Emmett Till ever realized his "crime." He allegedly had whistled at a white woman on the streets of Money. She went home and told her husband she had been "assaulted" by a black youth. The husband and his half-brother were later to admit that they took the child from his uncle's home at 2 o'clock on the morning of Aug. 28 and carried him to the banks of the Tallahatche. There they brutalized and multilated him, shot him through the head, tied a heavy weight to his body with barbed wire and dumped it into the Tallahatchie.

Late that September, with the eyes of the world—and especially those of black America—fixed on the shabby little courthouse at Sumner, Miss., the two men were tried for murder. The all-white jury deliberated for a little less than two hours before acquitting them.

The reaction of many Northern whites was outrage. The reaction of blacks, North and South, was a grim realization that much remained to be done to make the doctrine of *Brown* apply to every aspect of life in the United States.

Rosa Parks had never heard of Homer Plessy. That early evening of Dec. 1, 1955, she boarded the Cleveland Avenue bus in Montgomery, Ala., with social protest the furthest thought from her mind. She took a seat and the bus made its way to Court Square. It was then that the driver ordered Rosa Parks to move to the rear of the bus to make room up front for a white passenger. Rosa Parks, 43, said, "No." She was a weary seamstress who simply didn't have the energy to move and saw no reason she should have to. She was arrested and the next phase of the social revolution was under way.

The Rev. Dr. Martin Luther King Jr. was new to Montgomery. The son of a prominent Atlanta pastor, young King had come to Montgomery's Dexter Avenue Baptist Church, not far from the state capitol. When Rosa Parks was arrested, the blacks of Montgomery were ready for protest and the city's black clergy asked King to lead the way. A boycott was organized and not a black was to ride the municipal buses of Montgomery for 381 days. The Supreme Court struck down the city ordinance that had mandated the segregation of the seating of buses in Montgomery and across the South. It was a victory for Rosa Parks and the end of the boycott, but it was only the beginning of Martin Luther King's journey into history.

The methods that King enunciated for the Montgomery protest were borrowed from his understanding of the teachings of two towering figures, Gandhi and Thoreau. He called it "creative nonviolence," and ordained that no matter how much he was abused by his enemies, he would respond in a spirit of love.

There had never been a protest style like that in black America, but it caught on and in the next several years it swept across the Southland. Blacks challenged every form of discrimination that they could figure a way of testing with their bodies and with King's new philosophy.

It had no ready application to the desegregation of the public schools, so it took the decision of President Eisenhower in 1957 to federalize the Arkansas National Guard before nine black children could get into the Central High School in Little Rock. That decision, however, added buoyancy and determination to the new nonviolent protest struggle. Blacks believed for the first time that they might actually break the back of segregation.

When the black students of Greensboro, N.C., sat in at a dime store lunch counter in 1960, they employed the tactics taught by Dr. King and allowed themselves to be abused without fighting back. When that news was spread across the country by television, thousands of students, black and white, began to challenge the segregated lunch counters and another barrier to equality, symbolic as it was, fell before the onslaught of nonviolent protest.

What the Supreme Court had lacked the power to accomplish in the schools was being accomplished by King's shock troops in the restaurants and hotels, the public beaches and the bus stations.

It was 1961 before it became apparent that the movement for black equality was splitting into two-strains, and that the disdain for integration—not taken seriously before—would one day prove to be a powerful force in black America.

The Freedom Riders swept down on the South, with blacks and whites riding buses from town to town, getting off here and there to test the segregated waiting rooms and rest rooms with their "white" and "colored" signs. At Anniston, Ala., one afternoon in the spring of 1961, a white mob attacked the bus, set it afire and slashed its tires. The photograph of the mob's handiwork went around the world. In New York City, that photograph showed up as a pamphlet with a caption asking:

"Do you *really* want to integrate this burning bus?"

A different version of social revolution was starting to capture the imagination of Northern urban youth who had neither the patience nor background for King's form of love for his enemies.

There was Robert F. Williams, a North Carolina NAACP leader who led a group of armed blacks to chase some Klansmen out of town. Within months, Williams was run out of the country, to Cuba and China, but the notion of stiff resistance was to have another leader in Minister Malcolm X of the Nation of Islam, or Black Muslims.

A former convict who had found the teachings of Islam while in prison, Malcolm X preached a hard line against integration on the street corners of Harlem and soon had a massive following among young Northerners, slum dwellers and collegians alike, who questioned King's posture of nonviolence in the face of attack.

The crucial test came in Birmingham in the spring and summer of 1963. King led the civil rights movement into full battle against the resistance of Public Safety Director "Bull" Connor.

Connor turned fire hoses and police dogs on King's unresisting marches one day in the full view of television cameras. With the powerful impact of that scene on world opinion and with the support of such patriarchal figures of the civil rights movement as A. Philip Randolph and Roy Wilkins, King organized a march on Washington to demonstrate the sentiment of "all decent Americans" in favor of a civil rights law that would carry out the sentiments expressed by the Supreme Court nine years before in *Brown*.

Nearly a quarter of a million Americans came to march. They heard one of the most eloquent speeches of its kind: "I have a dream," said King, and the Mall went wild with cheers. It was perhaps the high point of King's career as a spiritual and moral leader, and the high point, too, of the nonviolent movement.

Less than a month later, at the 16th Street Baptist Church in Birmingham, a bomb went off during Sunday school and four little girls were killed. In an era in which brutality against blacks had been commonplace, and in which many black churches had been destroyed by bombs, that sickening Sunday stood out in many minds as a psychological turning point against the nonviolent movement.

By the time the first decade of *Brown* had ended, there was deep disillusionment in black America. The noble language of the court had not translated into tangible change. What had seemed so simple had turned out to be profoundly complicated.

Brown had exposed the deep hypocrisy of racism and demonstrated that attitudes and behavior were far more difficult to change than most blacks had ever imagined.

Rather than share their schools with the blacks who had been denied access, many whites fled the cities for the suburbs, leaving those cities in a state of decline. The harder blacks tried to strive forward, the stiffer the resistance seemed to become. The major civil rights legislation of 1964 and the Voting Rights Act of 1965 showed some early promise, but the enduring legacy of racism was not to be so easily overturned by court rulings and laws.

Only a few days after passage of the Voting Rights Act, the Los Angeles community of Watts exploded with a new form of urban racial violence.

From the ashes of Watts, a new awareness emerged in black America. Malcolm X, who had been assassinated that February, became larger in death than he had been in life. His warning that blacks and whites could never become one nation seemed to have sunk in. Nothing was changing for the black man in the job market, in education or in housing. So Watts set the stage for the urban rebellion—an expression of anger that swept across the cities, an uncontrollable wild fire, for the next five years. At each turn, it became clearer that blacks were determined to choose a different course, a course of their own. Black nationalism among the young became more popular than at any time since the movement of Marcus Garvey in the 1920s.

By 1967, the goal of integration that had so strongly attracted so many blacks was all but forgotten. "Black Power" was the new slogan, replacing "We Shall Overcome."

Instead of integrated schools, the intention of those who brought the suits in *Brown*, community schools became the goal. And it was not just schools, but the whole social structure. Many blacks no longer wanted what the white man had. They wanted a world of their own.

And young angry voices arose declaring they were ready to fight for it, to die for it. They were called Panthers and Liberators, cultural nationalists and political nationalists. They called on their brothers and sisters to look toward Africa, to think of themselves as part of the Third World, merely trapped in the belly of the American whale. Even those older blacks who considered themselves middle class could not resist the emotional tug of the new ideology so far away from the language of *Brown*.

Even as the country's attention was focused on those dramatic changes, less dramatic changes were occurring elsewhere. Throughout the South and the North, blacks were trying to get their hands on some of the power that resided within the system. From a half dozen blacks in the Congress at the time of *Brown*, the number inched up to 12, then 16, enough to have a caucus of their own and be taken seriously. In Mississippi and Alamaba, Georgia and Tennessee, blacks in increasing numbers were getting elected to state office. At the time of *Brown*, you could count all the black elected officials on your fingers. Now there are nearly 3,000, many of them in the Old Confederacy.

It is not progress with a capital P, but neither have blacks been standing still. What *Brown* has done is to expose a series of contradictions in American society!

Thurgood Marshall, the man who argued *Brown*, is now an associate justice of the Supreme Court. Harry Briggs, one of the fathers for whom he argued, was forced to leave Clarendon County, S.C., for the Bronx, N.Y.

More blacks than ever are earning over $15,000 a year, but more blacks than ever are living at the poverty line.

The black faces flash across the television screens, giving the news or acting in a commercial, but less than 3 per cent of television news professionals are black.

The antagonists of racial equality rail against the "liberal" press for its advocacy of equal rights. Yet, only seven-tenths of one per cent of all the newsroom professionals in the United States today are *not* white.

And so it goes, a little progress here, stubborn resistance there; a bright spot, a dark spot, hope, despair.

It is impossible now to predict what will be reasonable to say on the 25th or the 40th anniversary of Brown. Only this is certain: Hardly anyone guessed how much America would change, for good or ill, in the 20 years since that muggy May Monday when the Supreme Court pronounced that separate but equal was not good enough.

A Court That Dared the Unknown

[From the Washington Post, May 12, 1974]

(By John P. MacKenzie)

"Somewhere, sometime to every principle comes a moment of repose when it has been so often announced, so confidently relied upon, so long continued, that it passes the limits of judicial discretion and disturbance."

So said John W. Davis, lawyer for a South Carolina school district and courtroom spokesman for the status quo in Southern race relations. He was telling the Supreme Court that whatever it might think the 14th Amendment meant in 1953 and 1954, the justices should be guided by the pronouncements of 1896 and subsequent years approving "separate but equal" as a constitutional doctrine.

When the Supreme Court handed down its famous and unanimous desegregation decision of May 17, 1954, there were more causes won and lost than Davis' or that of his opponent, Thurgood Marshall. Seen across two decades, the decision appears to have been the breakthrough for an entirely new judicial approach, a major restructuring of American government. The judicial branch has not been in "repose" since then.

In the longer view, the rule of *Brown v. Board of Education*, coming on the heels of decisions opening up state-financed college and professional education to blacks, was an evolutionary, logical next step and nothing radical. The major new element was that the court had lost its fear of the unknown.

Fear of breaking the 1896 precedent of *Plessy v. Ferguson* was partly rooted in respect for the past and partly in fear for the future. What social upheavals would desegregation cause, what violent reactions, what administrative nightmares would the judiciary be calling down upon itself?

OTHER BATTLES

Once engaged in the battles over racial justice, the Warren Court looked upon other battlefields with less awe. The "political thicket" appeared more manageable and the justice saw legislative apportionment not as a "political question" but as a denial by politicians of the political rights of Americans. Looking under the rocks of the criminal justice system, the court found violations of the constitutional rights of individuals and hastened to outlaw them.

To the John Davises and others the court had slipped its moorings and was so "activist" that a judicial dictatorship seemed imminent. But to a host of other Americans, the court was opening a new avenue of redress for disadadvantaged and forgotten citizens.

Richard M. Nixon, who as vice president had hailed *Brown* as the work of "our great Republican Chief Justice," was anxious as President to call a halt to the activism and restore what he called "strict construction" of the Constitution. But three of his four appointees ended up voting to uphold federal court judgments against state antiabortion laws. And Chief Justice Warren E. Burger led a charge into the religious arena, proclaiming that the only "entanglement" to be feared was government aid entangling the state and religion.

WARNING SIGNALS

To be sure, Burger's principal aim has been in the opposite direction, to disengage the judiciary from some of the old conflicts and try to avoid new ones. He stated his perspective clearly shortly before his elevation to the highest court. Complaining about the inexorable development of Fifth Amendment law in case after case, he argued that it was "all too much of a good thing, this criminal law trend." The higher courts, in their concern for the individual, started down a road in which each step is a logical extension of the step immediately preceding it, "but when you get to the end of that road and look back, often you find you have arrived at a place you hadn't intended to go at all."

The court under Chief Justice Earl Warren did indeed seem to start things without being sure where they would end, confident that if one case led to another, it would still be sitting and capable of handling the next case justly. It approached the *Brown* case that way over Davis' warnings of a future with overtones of racial "quotas" and white flight.

If Clarendon, S.C., School District No. 1 desegregated perfectly and uniformly, he told the court, "if it is done on a mathematical basis, with 30 children as a maximum . . . you would have 27 negro children and 3 whites in one school room. Would that make the children any happier? Would they learn any more quickly? . . . Would the terrible psychological disaster being wrought, according to some of those witnesses, to the colored child be removed if he had three white children sitting somewhere in the same school room? . . . You say that is racism. Well, it is not racism . . ."

Justice Felix Frankfurter raised similar warning signals, questioning whether the racial isolation of the urban ghetto would not frustrate effective remedies. But he, like the other eight justices, came down hard on the threshold question—was there a violation of constitutional rights?—and answered that question first. Implementation plans could be tackled in another round of argument. In 1955, the announced "all deliberate speed" enforcement formula amounted to another postponement for much of the Deep South.

Justice Hugo L. Black disclosed shortly before his death that he favored instant system-wide enforcement in every district where segregation was under legal attack. Retired Justice Tom C. Clark said recently that he regretted the courts' collective lack of foresight in failing to decree grade-a-year compliance starting with kindergarten. The justices must have explored these routes and many others before settling on postponement. But if they had taken on the whole problem at once, would they have made the initial constitutional judgment about segregation?

HOW MUCH EQUALITY

Similarly, the court began its reapportionment adventure by declaring that the courts were open to challenges by citizens underrepresented in their legislatures. The precise standards could come later. When they came and they amounted to "one man, one vote," critics complained that the courts should not apply rigid mathematical formula but instead should permit deviations based on how judges measured political factors such as geography, population distribution and even competing "interest groups." The irony was that such a measurement would carry judges even deeper into the political thicket.

Criminal law, as Burger observed, developed in similar fashion. In 1964 the court threw out a confession obtained from Danny Escobedo when police cut him off from his lawyer. This opened up yet another question: What about equal justice for the arrested suspect to poor to hire his own counsel, a question settled in favor of the defendant in the even more controversial 1966 *Miranda v Arizona* decision.

Equality, the most sought-after constitutional principle of the Warren Court from *Brown* forward, was a hard idea to contain. Paul A. Freund told his Harvard law students it was like a boy who said he knew how to spell "banana" but didn't know where to stop. In racial matters it met with massive resistance but the idea marched on so relentlessly that miscegenation laws, long a symbol of deep-seated racism, died a quiet and almost natural death in 1967 again with no justice dissenting.

The 9-to-0 voting pattern that held firm through Little Rock in 1958 and even the intransigence of school officials in Prince Edward County, Va., in 1964, remained intact through 1968 when the court, tired of a case-by-case desegregation process that was not working, gave full force to the principle that only effective remedies would be approved. Segregation was to be eliminated "root and branch," in Justice Black's phrase, and the South must produce not white or black schools but "just schools."

Only after President Nixon had appointed four justices was there a full-throated dissent on school desegregation and even then, in 1973, the vote to extend key principles of equal protection to Northern school systems was 8 to 1. Also by then, the nature of the broblem was changing and new civil rights claims, such as that of "reverse discrimination" through racial quotas, were becoming more insistent.

A PARTIAL HALT

Now a new majority has moved to cut down the growth of new ideas of equality. The court has refused to extend constitutional protections against discrimination in housing beyond race into the field of bias against the poor. It has declared itself helpless and disinclined to intervene where states parcel out school money unequally among districts. Blacks and urban whites trying to recapture whites who have fled to suburban Detroit schools will be lucky to survive the current round in the high court.

But the effort to wind down the judiciary's "activism" does not appear likely to succeed completely. One reason is that the newly constituted court has maintained much of its commitment to racial equality and displayed a willingness to enforce that commitment. Another reason is that legislatures, some of them energized by reapportionment, are creating and safeguarding new rights and remedies which the courts must enforce.

Furthermore, there are increasing signs of public acceptance of a full partnership in government for the judiciary. Last fall many Americans were saying it was the high court's "duty" to decide the question of subpoenas for White House tape recordings. Suggestions of a role long undreamed of for the courts—judicial review of a congressional impeachment verdict—have been raised by a lawyer for "strict constructionists" John Ehrlichman and H. R. Haldeman. The very fact that the Supreme Court has never flatly ruled on the question is an invitation to more judicial business and only the Supreme Court can say the review power doesn't exist.

[From the Washington Post, May 12, 1974]

Topeka Treadmill: Linda Brown's City Faces a New Battle

(By Austin Scott)

TOPEKA, KANS.—In the wonderland of Topeka, home of both Brown and the board of education members who ran all the way up to the Supreme Court in 1954, there is indeed a sense of having huffed and puffed and ended up close to where you started out 20 years before.

The High Court's landmark desegregation order certainly didn't move the young plaintiff, Linda Brown, very far. A 1st grader when her father first filed the suit in 1951, Linda had gone through one all-black elementary school and on to a second all-black school by the time of the decision. And though Topeka repealed its segregation law a year before the Supreme Court order, the city didn't move very swiftly to rectify matters once the decision was handed down: Nine black children were placed in previously all-white schools the first year, and a few more the second year.

In fact, public controversy over school segregation had just about died out over the past 20 years—until last September, when a new suit was filed charging that Topeka schools are still "systematically" segregated. Topeka is thus facing the possibility of another painful integration fight 20 years later, but this time with the battle lines drawn quite differently and with enough ironies to bewilder even Lewis Carroll's Red Queen.

In 1951, when *Brown v Board of Education* was first filed in Kansas courts, for example, one underlying issue was that legal segregation prohibited some black children from attending their neighborhood schools. But the new suit charges that Topeka schools are still segregated in part *because* children attend neighborhood schools, that school segregation is an extension of the city's de facto segregated housing patterns.

Similarly, Charles Scott, the black attorney who filed the original Brown case, signed his name several years ago to another suit which tried, in his words, to "establish a school system in several cities which would give black boards of education in black neighborhoods control over all-black schools, and comparable set-ups for whites." Integration is no longer a priority issue in black Topeka, Scott says. "It's peculiar what 20 years of disillusionment can do to you."

And Topeka's black citizens, whatever their private feelings, have not publicly supported the latest suit, filed in U.S. District Court last Sept. 10 on behalf of a 10-year-old black girl by the Rev. Fred W. Phelps, a white Baptist minister who has 13 children and a congregation totaling 63.

Linda Brown, who gave her name to the historic 1954 decision, is among the many blacks who have been quiet about the new suit. Now 31, she has been married and divorced.

Her two children started their education in the same black school that her father sued to get her out of. And she seems to be taking the latest legal battle with a calm fatalism. She has not paid much attention to it, she says. But then she believes the real problem is housing, not schools.

"I think if they don't find an answer to that, we are still going to have segregation," she remarks. "Topeka today is more segregated in housing than 20 years ago . . . It seems more crowded now, more concentrated than it was."

If Topeka is more segregated than it used to be—and the dividing line between black and white neighborhoods is as easy to spot as in the rigidly segregated housing market of Chicago—then Linda Brown is one of the exceptions.

Her son Charles, now in 5th grade, and her daughter Kimberly, a 4th grader, both started their kindergarten education in Monroe, the school their mother was attending in 1951. It was all black when she went there, and she says it was 98 percent black when they started.

Then she moved, and the children spent three years in a public elementary school that was only 20 percent black. She moved again, and the children spent less than a year in a surburban public school that was 98 percent white. She moved a third time, and for the past five months the children have been attending Hudson, which is about 35 percent black and only a block from the middle-income integrated apartment complex where they live.

As a child, Linda Brown had to travel 30 blocks to school, passing several all-white schools along the way. "Sometimes the weather was so cold it was unbearable for a small child," she recalls. "I'd start crying in the middle of the walk, turn around, and come back.

"Am I happier with Chuckie in the school he's in now? Yes, I am, because it's more like the world that he's going to grow up in, relating with people of all races. This helps him adjust to the world around him."

The notion of an integrated "real world" threads constantly through Ms. Brown's talk about her own past and her children's future. She works from 4 p.m. to midnight as a key punch operator at the Goodyear plant. Her sister, Terry Ickard, whom she lives with, takes care of Charles, Kimberly, and her own Michelle, in the evenings.

"I think the education my children are getting today makes for a better adjusted person," she remarks. "I feel today it would have really benefited me if I had gone through an integrated neighborhood school throughout my education, starting with elementary level, because to me in an integrated school it seems your rate of progress is faster. I notice this in my children. The times and the integrated setting both have a lot to do with it. You have more of a drive to meet competition.

GRUMBLING ABOUT PHELPS

Even though Ms. Brown has paid little attention to Phelps" suit, her notion of why an integrated education is a good thing does not seem to conflict with his.

Mentioning Phelps' name in some areas of black Topeka, brings grumbling sounds, however, sounds that indicate some very vocal blacks don't like what he's doing. They use words like "opportunist" and speculate about why a white like Phelps "is taking on the responsibility for a black problem."

At 43, Phelps is an intense, freeswinging legal activist who became a lawyer to help support his growing family, and is well aware that many Topekans—black and white—are put off by his style.

Those familiar with the months of careful preparation that went into the original *Brown* case, the long and difficult task of mobilizing black community support first, of persuading 20 parents to let their children be named as plaintiffs, say Phelps is an unlikely attorney for the second time around. Phelps, for example, is proud of winning a large damage award for a black woman whose television set was wrongly repossessed. Blacks have criticized the argument he says he used—that she had developed an unnatural psychological dependence on the set and that its withdrawal caused her serious emotional and physical problems.

Born and raised in Mississippi, Phelps, describes himself as an independent, Calvinistic Baptist, believing in predestination, a literal interpretation of the Bible, eternal retribution. and "thunderous, hellfire preaching . . . There isn't any doubt in our minds about Judgment Day . . . The Lord God is my contact."

He says he had never considered a desegregation suit until last summer when he was sitting in a Harvard Law School seminar. He hurried home to file it.

"How are we gonna get these black kids integrated with these white children so they can gain the advantages—that's the problem now," he says.

"A LITTLE BIT OF EDGE"

One of the major charges in Phelps' suit, in fact, is that the Parkdale Grade School, which is 90 per cent black and attended by plaintiff Evelyn Rene Johnson, denies "the intangible qualities of advantageous social intercourse and opportunity to study with, engage in discussions with, and exchange ideas with white children who are providentially favored economically and socially . . ."

"They don't have the ability to be making friends with the future white judges," says Phelps. "You can talk all you want to, if you went to school with that white judge, you get a little bit of edge."

That kind of talk tends to send advocates of black pride and black excellence into fits of rage.

The suit also charges Topeka with providing better facilities at mostly white schools. That, it contends, generates ". . . in plaintiff and her class feelings of inferiority as to their status in the community, thus affecting their motivation to learn and generally affecting their hearts and minds in a way unlikely ever to be undone . . ."

Although Phelps borrowed the "hearts and minds" language from a Supreme Court decision, blacks who disagree with it argue that social changes have made such thinking obsolete. Federal Judge Constance Baker Motley, once one of the NAACP attorneys active in the *Brown* case, for example, remarked in a recent speech at Notre Dame University that "it appears that it may be meaningless to talk about feelings of inferiority to a black youth in the central city where blacks no longer consider themselves inferior to whites and no longer believe that any institution which is all white is necessarily good and ought to be integrated."

Back in 1950 and 1951, those laying the legal groundwork for *Brown* were trying to avoid a decision that might have ordered separate schools to be made equal.

"We made the legal presumption that the white schools and the black schools were in fact equal, that the teachers, the books, the classrooms equal," recalls attorney Scott. "We wanted the case to rest purely on the argument that despite all the apparently equal physical facilities, segregated schools inherently provided black children and maybe even white children with an incomplete education."

The Coordinating Council of the Black Community, a black umbrella group formed after the violence of 1968, has taken "no position" on the Phelps suit, according to CCBC director, Eva Lou Martin. It has joined the NAACP in telling the board of education that all parts of the community should be involved in seeking a solution to the schools problem.

THE HEW INQUIRY

Not until after Phelps filed his suit did the Department of Health, Education and Welfare investigate the state of desegregation in Topeka schools. It then notified the city in January that a "substantial" number of schools were not as desegregated as they should be; that student transfers were increasing segregation; that "most minority junior high school students . . . attend schools which are generally inferior in facilities . . . ;" and that elementary schools with a high minority enrollment tend to have inadequate kindergartens and smaller libraries.

". . . You are, of course, aware that as a formerly officially segregated school district, your district has been under obligation to fully desegregate its schools," HEW said. "In order to achieve full compliance with the law, it will be necessary for you to develop and implement a plan which eliminates the violations set forth above."

Phelps' suit and the resulting HEW orders generated a flurry of back and forth activity by Topeka's all-white school board. The board first voted, 5 to 2, to draw up a desegregation plan and implement it by the 1974–'75 school year "if possible."

According to a local newspaper account of that meeting, "Dr. Gordon Sumners, one of the two board members, voting against the resolution, said an act comparable to the Boston Tea Party might be an appropriate response to federal intervention."

But just last week the board reversed its stand and voted to tell HEW it is impossible to meet federal integration guidelines of no more than 40 per cent blacks in any school. Instead, board members said, they will conduct a study to see if major upgrading is needed at the black-dominated schools.

The desegregation plan they voted down—involving seven school closings and 22 boundary changes, would cause undue hardship and jeopardize quality education, the board said.

The 20 years since the Supreme Court's integration decision have produced a Topeka school system where, according to figures from the system itself, the two oldest black elementary schools contain more than 95 per cent minority students while the three newest junior high schools have only 2 to 3 per cent minority students.

A student at Topeka's Washburn Law School, using the system's figures, recently calculated that in 1972-'73, 14.1 per cent of the city's 12,614 elementary students were black, but 90 per cent of the black elementary students attended 44 per cent of the schools. Two schools were listed as all white, five were more than half black, and eight were more than 35 per cent black.

"SO MANY BROKEN HOMES"

There's a circular component to the whole problem that worries Linda Brown. To some extent, she says, she thinks neighborhood segregation results from school segregation.

"You get this almost ghetto situation and the black child does not have a chance to mingle with the people he will be with when he grows up. This is not the world that kids are going to enter . . . I think you'll find the older black adult is still afraid to venture out. This will change with younger generations. The younger kids here, they go apply for these job places that the older ones wouldn't.

But for all the importance she attaches to integration, she has some fears: "Before our black children are ready to go into a more integrated setting, our black parents are going to have to get these children in hand as far as discipline is concerned. My younger sister teaches at Monroe, 6th grade. She says their discipline problem is getting out of hand. I have seen that over where my kids go. The teacher tells the kids something to do and he just talks right back . . . we have so many broken homes now, so many mothers working. It's happeing in white homes too."

Would it make any difference in Topeka if she were to get involved in the latest suit, speak out strongly, perhaps? "I don't think so. There is going to have to be a solution to people living where they are living before the problem can be alleviated."

What about busing? "I am not for it at all. To me this is a reversion to what we were getting before *Brown*. It might just be me, but I had to walk all this distance to catch a school bus and be bused across town. If this is what it comes to here in Topeka, I will conform to it, but . . . if there is another solution that would give us our neighborhood schools and still give us an integrated school system, I would rather see that."

[From the New York Law Journal,
May 1, 1974]

WHERE HAS "BROWN" LED US IN 20 YEARS?

(By Constance Baker Motley)

In this article, Judge Constance Baker Motley of the U.S. District Court for the Southern District of New York sets forth her personal recollections of the Supreme Court's landmark ruling on school desegregation, Brown v. Board of Education, twenty years after it was handed down, and comments on its impact and implementation. Judge Motley, as a counsel on the staff of the N.A.A.C.P. Legal Education and Defense Fund, participated in the major school desegregation cases in the 1950's and 1960's. Between 1961 and 1964 she argued ten civil rights cases before the U.S. Supreme Court and won nine of them. This article constitutes the text of her recent lecture at the Center for Civil Rights at the University of Notre Dame.

When the Supreme Court announced its

decision in 1954 barring state-enforced racial segregation in education that was only one part of its historic decision. The more difficult second part was yet to come. In that May 17, 1954, decision the Court directed counsel for both sides to submit new briefs in answer to Questions 4 and 5. These questions dealt with the type of relief to which petitioners would be entitled.

The five cases were also set down for further arguments as to these questions.[1] As far as counsel for petitioners were concerned that directive fell on a stunned, physically and mentally exhausted crew of so-called civil rights lawyers.

HISTORY OF "BROWN"

The five cases, which have been collectively referred to herein as *Brown*, were first argued before the Supreme Court in December, 1952. On June 8, 1953, after initial arguments, the Court had set the cases down for reargument. In an order issued at that time the Court propounded to counsel five multipart questions. Three of the questions dealt with substantive constitutional issues and two dealt with the type of relief to be afforded should the petitioners prevail.[2] We all had the feeling then that we were about to embark upon momentous times.

Following the June 8, 1953, order, NAACP Legal Defense Fund (LDF) lawyers had been on a seven-day work-week schedule. Months of research, conferences, and debate involving historians, sociologists, legal scholars and lawyers culminated in the memorable 235-page brief and appendix filed in September, 1953. We, therefore, found the 1954 order for further briefs and arguments after two prior briefs and arguments incredible.

NO JOY IN SELMA

I left the victory party in our New York City offices on the evening of May 17, 1954, to fill a speaking engagement a day or so later in Selma, Ala. Walter White, then executive secretary of the NAACP, had become ill and was unable to keep the scheduled speaking engagement in Selma. He asked me to go in his place. Upon arrival in Selma, I was shocked to find no rejoicing there, not even discussion. The center of Negro intellectual life in that black-belt county was a small Negro college struggling for existence in the midst of what I had come to know as rural southern poverty. I have no present recollection of what I said to the overflow crowd in that little church that Sunday afternoon. I do have the feeling, however, that whatever I said must have fallen on deaf ears. The march from Selma to Montgomery to enforce the long recognized right of blacks to vote came a decade later.

When I returned to New York, work had already begun on the new mandate. Up to this historical juncture we never really had to confront the harsh realities of a post-*Brown* era. We could no longer be ambivalent about the crucial question whether we wanted the court to simply order the immediate admission of the named petitioners or whether we wanted broader class relief. We had, of course, discussed these questions at great length, but the post-*Brown* era was now here.

EARLY SUCCESSES

We had previously succeeded in gaining the admission in 1950 of a few black students to the University of Texas and Oklahoma on the graduate and professional school level after four years of effort.[3] This took place without disruption or violence, despite predictions to the contrary. As a result, we and the nation had had no real experience with large scale desegregation efforts in the field of education.

In the 235-page brief on the first reargument of *Brown* in December, 1953, in answer to Questions 4 and 5, we had argued that the Fourteenth Amendment requires that a decree be entered directing that petitioners be admitted *forthwith* to public schools as the court had ruled in the Texas and Oklahoma cases. The court's rationale there was that constitutional rights are personal and present and therefore could not be postponed in the interest of permitting the state time to make necessary adjustments.

Manifestly, those cases were distinguishable in an equity context. At the graduate and professional school level southern states had not set up a dual network of graduate and professional facilities for blacks. The number of blacks seeking advanced degrees was minimal. The out-of-state scholarship program, held unconstitutional the *Gaines* case in 1938, had been devised to circumvent the state's obligation in this respect.[4] Citation of these graduate and professional school cases, therefore, did not help the court in its perplexing task.

COURT'S REACTION

Moreover, the court must have found our "forthwith" argument ambiguous in view of the caption which preceded it. There, we said: "After careful consideration of all of the factors involved in transition from segregated school *systems* to unsegregated school *systems*, appellants know of no reasons or considerations which would warrant postponement of the enforcement of appellants' rights by this court in the exercise of its equity powers."[5]

In other words, on the one hand, we talked of the "transition" from "segregated school systems" to "unsegregated school systems" in the caption and, on the other hand, we argued thereunder that the relief sought was the immediate admission of appellants. The immediate admission of appellants alone would not have resulted in the suggested transition. The dual school system would have remained intact.

Question No. 4 which the court wanted answered again read as follows:

"Assuming it is decided that segregation in public schools violates the Fourteenth Amendment—

"(a) Would a decree necessarily follow providing that, within the limits set by normal geographic school districting, Negro children should forthwith be admitted to schools of their choice? or

"(b) May this court, in the exercise of its equity powers, permit effective gradual adjustment to be brought about from existing segregated systems to a system not eased on color distinctions?"

REPLY TO QUESTION NO. 4

This time, in answer to Question No. 4, we said in essence, that the school authorities must still admit petitioners forthwith but could be given until September, 1955, to complete "prerequisite administrative and mechanical procedures" necessary to admit "the complaining children and others similarly situated."[6] We did not emphasize normal geographic districting because even then we were haunted by the specter of housing segregation in the cities. We were essentially idealists. We had visions most of the time of a few black children scattered among many white pupils in each classroom, the way those of us who were reared in New England remembered it.

Question No. 5, which the court wanted us to answer anew, read:

"On the assumption on which questions 4(a) and (b) are based, and assuming further that this Court will exercise its equity powers to the end described in Question 4(b).

"(a) Should this Court formulate detailed decrees in these cases?

"(b) If so, what specific issues should the decrees reach?

"(c) Should this court appoint a special master to hear evidence with a view to recommending specific terms for such decrees?

"(d) Should this court remand to the courts of first instance with directions to frame decrees in these cases, and if so, what general directions should the decrees of this Court include and what procedures should the courts of first instance follow in arriving at the specific terms of more detailed decrees?"

SEPT. 1 LIMIT URGED

In answer to Question No. 5, we argued that if the Court should allow an "effective gradual adjustment" from segregated school systems to systems not based on color distinctions, it should not formulate detailed decrees but should remand the cases to the courts of first instance with specific directions to complete desegregation by a day certain.[7]

We also suggested an outside limit of Sept. 1, 1965, in answer to Question 5.[8] This would have set an outside limit of more than two years after the May 17, 1964 decision. We further urged that a decision granting the school authorities before the Court time "should be so framed that no other state maintaining such a system is lulled into a period of inaction and induced to merely await suit on the assumption that it will then be granted the same period of time after such suit is instituted."[9]

Here we appeared to be reaching, in effect, for relief in suits not yet instituted, but the constitutional limitations of due process were readily apparent. What we really wanted was some statement from the Court to the effect that it hoped the rest of the South would accept its decision as the law of the land and avoid a multiplicity of similar suits.

BRIEF OF CLASS-ACTION

Much to our surprise, on the second reargument in the fall of 1954 the court requested us to file still another brief solely on the class-action aspect of these cases, i.e., the extent of the class and the effect of a decree on members of the class not before the Court. We, of course, argued that members of the class not before the Court were entitled to the same relief as the named petitioners.

This additional brief was required because the respondent school authorities had argued that in so-called spurious federal class actions of the type brought in the *Brown* cases relief could be afforded only to those petitioners actually before the Court. In so-called true class actions in the federal courts all members of the class were bound by the judgment and therefore entitled to relief whether present or not. This was a transparent attempt to limit the impact of *Brown* to the few remaining named petitioners. The cases had been pending so long that some of the petitioners had already finished school. We defined the class in that particular brief as all those attending and qualified to attend schools in the particular school system before the Court.[10] The Court agreed.

On the surface this class relief argument again appeared inconsistent with our original forthwith stance as to the named petitioners, but this was not necessarily so. The Court could have ordered the named petitioners admitted forthwith and ordered unnamed members of the class admitted within the outer time limit of September, 1956, which we had suggested. This would be Circuit Judge Potter Stewart's solution in 1956 in a similar case in Hillsboro, Ohio.[11] However, I cannot recall whether this was argued in the *Brown* case.

1953 TOPEKA DECISION

Although we vigorously denounced the policy of gradualism in the briefs we submitted, we privately feared that that path was inevitable as far as implementation of *Brown* was concerned. In September, 1953, before the Court's 1954 decision, the Topeka, Kan., school board had adopted a resolution to the effect that its schools would be desegregated as rapidly as practicable. At the

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Footnotes at end of article.

time of the second reargument, only 15 per cent of the 700 Negro elementary school children out of a total elementary school population of 8,500 had been admitted to white schools in Topeka. There segregation had not even been compelled by the state; it was simply permitted in the elementary schools and, in addition, only in city school districts.

Topeka was at the opposite end of the spectrum with relation to communities like Clarendon County, South Carolina, and Prince Edward County, Virginia, where segregation was compulsory and black pupils greatly outnumbered white pupils in the public school population.

NEW NAME FOR GRADUALISM

The phrase—"with all deliberate speed"—was indeed unfamiliar but, at the same time, its *déjá vu* quality was inescapable. It required no crystal ball to discern that gradualism had a new name and the South had a license for delay.

That then unfamiliar phrase ushered in the era of tokenism. Pupil assignment and grade-a-year plans suggested by the federal government in its amicus curiae brief on the first reargument were devices by which tokenism was effected. Gradually, and with agonizing frustration, a few more black students were admitted to all-white schools. It soon became apparent that we would have to force a broader implementation of *Brown*.

We then became "disestablishmentarians."[13] We commenced framing complaints in school desegregation cases in which we requested in our prayers for relief the "disestablishment" of the dual school systems and the merging of these separate entities into a unitary system. We argued that *Brown* imposed on school officials operating dual school systems an affirmative duty to take action to merge the two systems; And that *Brown* was not simply a prohibition against denying a black student who might apply for admission to a white school. This argument fell on some other deaf ears.

Most southerners had undoubtedly come to believe in 1959, when we first advocated "disestablishmentarianism," that the worst result one could expect from the Supreme Court's decision was some blacks in school with whites. And the majority of the white population in the rest of the country probably hoped we would accept this new compromise of constitutional rights, especially after federal troops had to be sent into Little Rock to enforce the right of a few black children to enter the high school there.

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This narrow view of the impact of *Brown* had also settled upon a large part of the black community which found the price of desegregation too high. For example, schools in Little Rock had been closed for a time; the University of Georgia had also been temporarily closed in a back-breaking effort to secure the admission of two students; all schools in Prince Edward County had been closed and remained closed for a decade; the best black teachers were being assigned to white schools; the best black students were being admitted to white colleges; and the best black pupils were being assigned under pupil assignment to white schools. This more restricted view of *Brown* thus became a major roadblock to wider implementation.

Our best-laid plans for speeding desegregation were derailed, however, not only by the unfamiliar phrase with which we had to deal but by the confluence of many other foreseen and unforeseen events. As blacks began marching to the beat of a different drummer, the South could not believe its ears. It retaliated with massive resistance to school desegregation as promised. We had been forewarned of massive resistance in the Deep South, but we did not know when or where it would strike or what form it would take.

We did not realize, for example, that by pushing for desegregation on the college level in Alabama and by supporting the Montgomery bus boycott in 1956 we would bring on retaliatory action from state authorities which would have the effect of barring the NAACP from operating in Alabama for years. Alabama invoked its foreign corporations law and demanded the membership list. Other states instituted legislative investigations of NAACP and LDF.

Antiquated legal concepts such as barratry, champerty and maintenance were resurrected and reenacted into law in Virginia in an attempt to castrate the legal effort which culminated in the *Brown* decision and to prevent its implementation and expansion into other areas of the public life. These terms, aimed at controlling the conduct of lawyers as well as laymen, embodied prohibitions against stirring up litigation, financing of law suits, and "ambulance chasing."

Plaintiffs and prospective plaintiffs in school desegregation cases were visited with economic reprisals. Others were frightened off by the mere prospect of such reprisals. Negro teachers and principals, ar important segment of the economic life line of the black communities, were threatened with retrenchment.

We had not anticipated that the black community in Montgomery, Ala., would spontaneously strike out on its own desegregation program in 1956 and spark the anti-segregation revolution in the black community for which *Brown* had provided the momentum. We had anticipated bringing suits in the Deep South after *Brown* to desegregate other public facilities but our sainted Rosa Parks "jumped the gun." The suit for admission of two Negro women to the University of Alabama filed in 1955 had been proceeding peacefully until then. Suddenly, massive resistance emerged with some more unfamiliar phrases—"nullification and interposition"—as well as threats of violence and official outbursts of defiance of the courts.

GOVERNMENT INACTION

The lack of strong support for the *Brown* decision in 1954 and the years immediately thereafter on the part of the Executive Branch of the national government not only fed ambivalence about the correctness of the decision, but it emboldened Southern governors and state legislators. An avalanche of anti-*Brown* statutes had to be declared unconstitutional. Our caseload was mounting. Big money was hard to come by.

The Internal Revenue Service was persuaded in 1956 that the NAACP should divest itself of the formidable tax-exempt Legal Defense Fund lest that tax exemption be taken away. This was a highly sophisticated body blow to the organization and its legal arm, inflicted by the national government. It frightened the leadership, led to internal organizational strife which greatly weakened both organizations, wrecked all plans for building black and white community support and for an orderly, coordinated progression of school desegregation lawsuits and lawsuits in other areas.

ROLE OF LAWYERS

One of the things we had learned by 1965, when these Northern school cases got under way, was that we lawyers could not control the course of history. Our role was simply to represent those who demanded action by the state. Moreover there were many school situations in the North resulting from school board action, and the action of other public officials, which were clearly within the contemplation of *Brown*.

The "freedom riders" ignited the flames of massive resistance in Mississippi. That official resistance collided head on with our efforts to gain the admission of a single Negro to the University of Mississippi. Although we had been preparing the suit for months, when I walked into friendly Judge Mize's courtroom in the federal District Court in Jackson a few days after the freedom riders had arrived, he remarked to me that we had picked the wrong time to file any such suit. He had remembered me from 1949 when Judge Robert L. Carter and I filed suit to equalize Negro teachers' salaries in Jackson, the first black lawyers Mississippi had seen in court since, perhaps, Reconstruction.

The admission of James Meredith to the University of Mississippi cost the federal government millions of dollars. When I received an invitation a year or so ago from the black law students at the university to speak at the law school, although I could not go to see for myself how the university had changed, I had long since concluded that the price of Meredith's admission was right.

A NEW FIGHT

When the freedom riders and sit-inners moved to center stage in 1960, all school desegregation suits in the South were virtually abandoned by our small, overworked LDF staff to take on a new and equally difficult legal battle. *Plessy v. Ferguson*,[14] the case which upheld separate but equal railroad cars, had to be overruled, The *Civil Rights Cases* of 1883,[15] which held the Civil Right Act of 1875 unconstitutional, had to be reargued. The 1875 act had been designed to secure the rights of blacks in privately-owned places of public accommodation. Injunctions against Martin Luther King from Albany, Ga., in 1962 to Selma, Ala., in 1965 had to be vacated. The hundreds of jailed freedom riders and sit-inners also had to be defended against local prosecutions.

DEATH OF MEDGAR EVERS

When Medgar Evers was killed in Jackson that summer, I gave Mississippi up "for dead." I had been there twenty-two times on the University of Mississippi case alone and so I figured my nine lives had run out. I shall never forget that trip from Jackson to the federal courthouse in Meridian during the Meredith case.

We were on our way to the courthouse to file a contempt of court action against the Governor of Mississippi who had called for massive resistance on the part of every Mississippi official. Medgar was driving, as he had done so often. I sat beside him in the front seat. My secretary and James Meredith sat on the back. When he came to a familiar stretch of road running through a deserted wooded area Medgar said, "Don't turn around now, but we are being followed by a state trooper." James Meredith's admission to the University of Mississippi cost the black community Medgar Evers' life.

By the time we got back to more than 100 pending school desegregation cases in 1965, the *Brown* decision was well on its way to being effectively overruled by the in-migration of blacks to the decaying central cities and the out-migration of whites to new suburban communities. When we filed suit to desegregate the public schools in Atlanta, Ga., in 1958, for example, the school population was about 40 per cent black and 60 per cent white. Today, the school population in Atlanta is about 80 per cent black. Atlanta now has a black superintendent of schools and a black mayor. Thus, while everything else in the public life of Atlanta is desegregated twenty years after *Brown*, the schools are not. In New York City, whites are now considered a minority in the school system.

NO SEGREGATION PLAN

In the Deep South no school board came forward with a plan of its own to desegregate its schools. A law suit had to be brought in virtually every instance if any movement toward desegregation was to be expected.

Footnotes at end of article.

Most black parents remained fearful for the safety and emotional well being of their children and black teachers continued to see only job losses for their ranks. Relief from the impossible task of trying to carry a nationwide load of school desegregation suits came for the hard pressed LDF lawyers in the form of Congressional authorization for school desegregation suits by the Civil Rights Act of 1964. Of course, executive action with respect to the bringing of lawsuits is wholly dependent on the domestic policy of the then current administration but this monumental piece of legislation meant that the national congress had once again assumed its responsibility to enact legislation to enforce the Fourteenth Amendment.

The years have indeed gone by. It is now twenty years after the Supreme Court said segregation of Negro children in the public schools generates "a feeling of inferiority" in them "as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone." In the massive *de facto* segregated school systems in urban America today, children of the "black-is-beautiful" era view pictures in their black studies classes of black members sitting on the Supreme Court, in the halls of Congress, in the President's cabinet, and at posts in all levels of federal, state, and local governments. The status of blacks in the national community since *Brown* has changed visibly.

IMPACT OF "BROWN"

To the extent that opportunities for blacks to move into the mainstream increase, *Brown* is implemented. Moreover, television which seems to have as much impact as elementary schools on the minds of young children, now portrays blacks as people who use the same toothpaste as their white counterparts, eat the same cereals, and buy the same patent medicines.

It seems that today *Brown* has little practical relevance to central city blacks. Its psychological and legal relevance have already had their effect. Central city blacks seem more concerned now with the political and economic power accruing from the new black concentration than they do with busing to effect school desegregation. The Dilemma for these blacks is real. It is diversified, but there is now a new national black community with pride in itself and its accomplishments.

In addition, it appears that it may be meaningless to talk about feelings of inferiority to a black youth in the central city where blacks no longer consider themselves inferior to whites and no longer believe that any institution which is all white is necessarily good and ought to be integrated.

Brown has been a second "Emancipation Proclamation" in that it has freed blacks from their own feelings of inferiority and absolved the white leadership class of its feelings of guilt. Thus, the rationale for *Brown* may have slipped away. It may need a new rationale that goes something like this: Segregation is bad because the only way blacks can get an equal education is to go where the money is.

A CONCESSION

We conceded in the *Brown* cases that the facilities provided black children were equal to those provided white children. We did this because we sought to eliminate any possibility for another decision based upon separate but equal. We wanted the Court to rule squarely on the issue of segregation itself. There had been enough cases like the Texas and Oklahoma cases based upon a finding that equal facilities had not been provided for blacks. We also had the feeling (as a result of this series of cases which began in 1936 with the admission of Donald Murray to the law school of the University of Maryland pursuant to an order of the highest court of that state)[16] that the time had come for black Americans to claim Charles Sumner's legacy.[17] Our concession has been construed, it seems, as a prohibition against looking anew at the physical equity issue in all black central city schools.

Consequently, as for the future, it appears there are two very difficult legal problems ahead stemming from *Brown*. One is that posed by the quality of education afforded the black poor in segregated inner city schools. The other is that presented by the presence of a new black middle class seeking "reparations" when it comes to admissions to higher educational facilities and when it comes to job opportunities in the school system's upper echelons.

In retrospect, it is difficult now to say whether desegregation of the public schools would have progressed more rapidly if the Supreme Court had adopted petitioner's view of the type of relief to which they were entitled and had never invoked the phrase "with all deliberate speed." What can be said with some certainty is that without *Brown* there would not have been a civil rights revolution.

FOOTNOTES

[1] Brown v. Board of Education of Topeka, 347 U.S. 483 (1954). The court said:

"Because these are class actions, because of the wide applicability of this decision, and because of the great variety of local conditions, the formulation of decrees in these cases presents problems of considerable complexity. On reargument, the consideration of appropriate relief was necessarily subordinated to the primary question—the constitutionality of segregation in public education. We have now announced that such segregation is a denial of the protection of the laws. In order that we may have the full assistance of the parties in formulating decrees, the cases will be restored to the docket, and the parties are requested to present further argument on Questions 4 and 5 previously propounded by the Court for the reargument this Term. The Attorney General of the United States is again invited to participate. The Attorneys General of the states requiring or permitting segregation in public education will also be permitted to appear as amici curiae upon request to do so by September 15, 1954, and submission of briefs by October 1, 1954."

[2] Brown v. Board of Education of Topeka, 347 U.S. 972 (1953). The five questions read as follows:

"Each of these cases is ordered restored to the docket and is assigned for reargument on Monday, October 12, next. In their briefs and on oral argument counsel are requested to discuss particularly the following questions insofar as they are relevant to the respective cases:

1. What evidence is there that the Congress which submitted and the State legislatures and conventions which ratified the Fourteenth Amendment contemplated or did not contemplate, understand or did not understand, that it would abolish segregation in public schools?

[2] If neither the Congress in submitting nor the States in ratifying the Fourteenth Amendment understood that compliance with it would require the immediate abolition of segregation in public schools, was it nevertheless—the understanding of the framers of the Amendment:

(a) that future Congresses might in the exercise of their power under section 5 of the Amendment, abolish such segregation, or

(b) that it would be within the political power, in light of future conditions, to construe the Amendment as abolishing such segregation of its own force?

[3] On the assumption that the answers to questions 2 (a) and (b) do not dispose of the issue, is it within the judicial power, in construing the Amendment, to abolish segregation in public schools?

[4] Assuming it is decided that segregation in public schools violates the Fourteenth Amendment:

(a) would a decree necessarily follow providing that within the limits set by normal geographic school districting, Negro children should forthwith be admitted to schools of their choice, or

(b) may this Court in the exercise of the equity powers, permit an effective gradual adjustment to be brought about from existing segregated systems to a system not based on color distinctions?

[5] On the assumption on which questeions 4 (a) and (b) are based, and assuming further that this Court will exercise its equity powers to the end described in question 4(b).

(a) should this Court formulate detailed decrees in these cases;

(b) if so what specific issues should the decrees reach;

(c) should this Court appoint a special master to hear evidence with a view to recommending specific terms for such decrees;

(d) should this Court remand to the courts of first instance with directions to frame decrees in these cases, and if so, what general directions should the decrees of this Court include and what procedures should the courts of first instance follow in arriving at the specific terms of more detailed decrees?

The Attorney General of the United States is invited to take part in the oral argument and to file an additional brief if he so desires."

(3) Sweat v. University of Texas, 339 U.S. 629 (1950); McLaurin v. University of Oklahoma, 339 U.S. 637 (1950); Sipuel v. University of Oklahoma, 332 U.S. 631 (1968).

(4) Missouri ex rel. Gaines v. Canada, 305 U.S. 337 (1938).

[5] At page 190.

[6] At page 10.

[7] At page 24.

[8] At page 29.

[9] At page 2.

[10] At page 4.

[11] Clemons v. Board of Education of Hillsboro, 288 F. 2d 853 (6th Cir.) cert. den. 350 U.S. 1006 (1956).

[12] Dove v. Parham, 282 F. 2d 256, 259 (8th Cir., 1966).

[13] It appears that the first time a court used the word "disestablish" with reference to the requirements of Brown was in Parham v. Dove. 271 F. 2d 132, 138 (8th Cir., 1959). There the court said:

"The lack of any affirmative plan or action to disestablish the segregation status which had unconstitutionally been set up in the District, other than as the Board might be called upon to deal under the provisions of the 1956 or the 1959 Act with some individual application for assignment to another school, would perhaps not measure up to the legal and moral responsibility resting on a Board under the expression and holding of the Brown cases."

[14] U.S. 537 (1896).

[15] U.S. 3 (1883).

[16] Pearson et al. v. Murray, 182 A. 590 (Court of Appeals, Md., 1936).

[17] Charles Sumner argued the case of Roberts v. City of Boston, 5 Cush. (Mass) 198 (1849), in which he sought to secure the admission of black pupils in Boston's public school system to white schools long before the adoption of the Fourteenth Amendment. He was later a Massachusetts Senator and the leader in the Congress with respect to post-Civil War Amendments and civil rights legislation designed to enforce those amendments.

THE RIGHT TO EQUAL EDUCATIONAL OPPORTUNITY

Mr. **HUMPHREY**. Mr. President, today we are considering an amendment to S. 1539, Education Amendments of 1974, which is called an equal educational opportunities amendment, but which violates constitutional due process and equal protection of the laws, undermines the progress our country has made toward equality of opportunity during the last 20 years.

Amendment No. 1144 is presented to us as an amendment to end busing, to prevent harm to the health and welfare of American children through the enforced traveling of long distances to and from their schools, or through enforced attendance at inferior schools. In fact, this amendment does something quite different. Only 3 percent of the children who ride buses to school do so for purposes of ending school segregation. Most children ride buses to school because it is the only way possible to get them to schools where they can be provided with a quality education. Beyond that, there has already been a decision of the Supreme Court that busing cannot be so extensive as to pose a threat to the health or welfare of the children—specifically, that the time or distance of travel shall not be so great as to risk the health of the student or significantly impinge on his or her educational process—and this restriction is reiterated *in S. 1539.*

Busing is not the subject of this amendment. This amendment is an attempt to reverse the movement toward desegregation in our schools. Not only does it effectively prohibit further action to desegregate school systems which are found by the courts to be not in compliance with statutory law requirements for equality of educational opportunity, but it encourages efforts by local educational agencies to take legal action to resegregate areas where desegregation has already occurred. It provides a mechanism for creating strife in localities where millions of law-abiding citizens have participated in the peaceful desegregation of their communities.

While the amendment is put forward by its sponsors as an effort to end busing for purposes of redressing racial imbalance, this is not the only mechanism by which it subverts efforts to achieve racial equality. It establishes a system of priorities requiring that even the simple device of altering school district lines be forbidden until a number of other alternatives have been attempted, and that even this minimal action cannot be taken unless it can be proved that the lines were drawn with the specific intent of creating a segregated school system. Further, if there is a shift of housing patterns, so that a once-integrated school becomes segregated, no action may be taken to redress this situation if—on the basis of the previous situation—a court had once ruled that racial balance had been achieved.

These preposterous restrictions make a mockery of the title of the amendment. Beyond that, they make a mockery of the basic constitutional provisions intended to protect equality of opportunity in this country. Section 5 of the 14th amendment gives Congress no power to reduce the 14th amendment's protections of equal opportunity. In fact, the 14th amendment was specifically designed to provide protection to those who had historically been denied equality of rights—it was an effort to expand and extend those rights in a way which would not be subject to capricious curtailment by simple legislative action in the future.

Many of the supporters of this amendment are represented as strict constructionists of the Constitution. I challenge them to prove their enthusiasm for the Constitution by rejecting this amendment, since its requirements are a clear violation of the 14th amendment.

What we have here is a challenge—a clear threat—to the integrity and independence of our judicial system, and to the balance of power between the judicial and legislative branches of Government. We have seen enough harm done to the political fabric of our country in the last few years by efforts of the executive branch to impinge on the powers of Congress. We need not create further turmoil and distortion by extending this conflict to include a struggle by the Congress to usurp judiciary powers.

Mr. President, this country has made immense strides toward the achievement of equal opportunity for all its citizens. Much of what has been done has occurred in the very short space of 20 years since the original Supreme Court decision on school desegregation. When I consider the monumental changes which have occurred during this period—not just in legally defined rights, but in the attitudes of the people, and especially the young, of this country—what most impresses me is the active support, the peacefulness, and the widespread extent of the cooperation which have made possible such a revolution of justice. I have been proud to be one of the leaders in the congressional actions which have aided in this movement. One of the most important steps was the Civil Rights Act of 1964, of which I had the privilege of being the floor manager. I find it difficult to understand why, 10 years after the Civil Rights Act and 20 years after the initial Supreme Court decision, some people should now wish to undo all we have accomplished, to roll back the clock to a time when our country made only minimal efforts to make real for all of its citizens the guarantees and hopes embodied in the Constitution.

I am aware that the Constitution is a document subject to changing interpretations. And I understand that there are times when it is necessary to compromise in order to achieve at least a part of what we feel needs to be done. But this amendment is in clear violation of the Constitution. And it is in clear conflict not only with what we look forward to achieving in the future, but with the spirit of what we have accomplished in the past. There is no room for compromise on this measure. This is an effort to rob our minorities of hopes which had gained substance, to push them once again away from full participation in our society.

Just as busing is not the problem actually addressed by this amendment, busing is not the problem which is at the center of quality education in America today. Where it is used to achieve school desegregation, it can provide only a partial and temporary answer to the critical needs of educating all of America's children. Wherever possible, we should make full use of other methods to overcome the educational disabilities of children isolated in the urban and rural ghettos of poverty in America. These can include carefully planned school district rezoning and new school construction to benefit all children in the local area, as well as selective assignment of children from poor schools to classes in surrounding schools offering a better learning environment.

Busing is no substitute for open neighborhoods, or for enabling families to earn a better income or know a better quality of life in a neighborhood. At best it is a temporary measure until better educational resources are provided for all children. We need the best schools in areas where people have the least, and the most competent teachers where children have educational problems. We must no longer permit the quality of a child's education to be determined by the wealth or poverty of his community.

The issues we should be addressing are the urgent problems of educational disabilities of children. These are the problems on which we can have a constructive impact in the consideration of this education bill. But the amendment presently before us would forbid us to focus on the possibilities before us, and rivets our attention instead on the errors of the past. This amendment represents an unfortunate aberration from the remarkable social progress of our country during the last 20 years, and should be defeated.

An excellent editorial bearing on the issue of school desegregation and busing appeared in the Washington Post of today. I ask unanimous consent that the editorial entitled "Race, Schools, and the Senate" be printed at this point in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

RACE, SCHOOLS, AND THE SENATE

In March of 1972, when Watergate was still a gleam in Gordon Liddy's eye and the Board of Directors (as we now know) had yet to give final approval to his plans, Mr. Nixon unveiled his preposterous "anti-busing" plan. Mr. Erhlichman, now busy with other matters, did the best a lawyer could do to justify and explain its patent illegalities to the press. And Richard Kleindienst, then Acting Attorney General and nothing if not blunt, happily explained to a committee of Congress that the proposed legislation would authorize the reopening of every school case—North and South—that had been settled since the Supreme Court's original school desegregation decision in 1954.

Since that time we have acquired, for our sins, a much richer context of administration law-breaking and contempt for the commands of the constitution into which to fit this particular exercise in defiance and contempt—from the court-blocked adventures in impoundment of congressionally appropriated funds to the Watergate crimes and improprieties to the sloven procedures for obtaining wiretaps, which has just compelled the Burger Court unanimously to render a decision that will free some 600 persons accused and/or convicted of violating federal criminal statutes. So it is hardly surprising that the administration's proposed monument in the field of desegregation law turned out itself to be a monumental challenge to due process, to the Constitution and to the rule of law. What is surprising and—to put it mildly—distressing, is that two years later the U.S. Senate is considering commemorating the 20th anniversary of the Supreme Court's 1954 decision by passing this proposal. Today the Senate is scheduled to vote on a House-passed variation of the Nixon administration bill which has been introduced by Senator Edward J. Gurney of Florida as an amendment to an extension of the federal school aid act. And the vote, according to most accounts, is likely to be close.

Everybody, as it seems, is against skulduggery and for the rule of law—except when it is either inconvenient or inexpedient to explain. Thus, legislators who in a nonpolitical year would acknowledge themselves horrified by the reckless sweep of this proposal and acutely aware of the cynicism from which it springs, are counted among those who, for "political" reasons are likely to go over the side and vote with Mr. Gurney. We refer to the cynicism underlying the effort because for all the chaos and disruption it could bring to settled school systems North and South, the proposal itself would almost undoubtedly be overturned in many of its key parts by the Court, meanwhile creating new and burdensome problems for numerous of those communities whose burdens it purports to relieve.

Consider the bill's provisions. Its list of mandatory remedies that must be invoked before busing can be ordered could cost tax-ridden communities a fortune in the demolition and construction of schools. It is a rich man's bill, in effect providing that any busing which occurs will spare the affluent suburbs and be contained within geographical limits that are likely to result only in sending poor blacks from their own inferior schools to the inferior schools of neighboring poor white children—to communities where racial hostilities and insecurities are keenest. And, above all, it says to black children—to black people generally in this country—that even where a finding has been made of unconstitutional discrimination against them by the state, there will be no remedy in many cases. It is a tribute of sorts to the monstrosity of this concept, in a nation of laws, that back in 1972 even Mr. Ehrlichman had trouble explaining it when pressed.

In the 20 years that have passed since the Supreme Court rendered its original decision in Brown, and in the 10 years that have passed since the Civil Rights Act of 1964 gave that decision heightened impact and authority, there have been some lower court decisions and administrative interpretations that, to our mind, have skewed and distorted the meaning of the law and imposed senseless burdens on communities around the country, so that both blacks and whites have suffered. There have been, in other words, some bad busing decisions and some unreasonable and unsound bureaucratic regulations rendered. It could hardly be otherwise, given both the complexity of the cases and the familiar resistance to reasonable and desirable change that preceded and, in effect, brought on the compulsory programs to which so many now object. But it has been clear for some time now that the Supreme Court was moving carefully and deliberately to refine its position in consonance with the constitutional command that is the bedrock of Brown so as to take account of changed circumstances that underlie so many school cases 20 years later. This is as it should be. The question is whether the Senate will wait. The alternative before it today was admirably summed up by William McCulloch, who was ranking Republican member of the House Judiciary Committee, when the Nixon bill first came up two years ago, accompanied by a proposal for a temporary freeze on busing orders:

"It is with the deepest regret that I sit here today to listen to a spokesman for the administration asking the Congress to prostitute the courts by obligating them to suspend the equal protection clause so that Congress may debate the merits of further slowing down and perhaps even rolling back desegregation in public schools—What message are we sending to our black people? Is this any way to govern a country?"

Mr. TOWER. Mr. President, as cosponsor of the amendment being offered by my good friend, the Senator from Florida, I would like to take this opportunity once again to add my voice to the call for reason on the issue of forced busing of schoolchildren.

For too long the Senate of the United States has stood in direct conflict not only with the voice of the people, but also with the voice of constitutional wisdom, sound educational policy, and the objective findings of every study made of the effect of forced busing to achieve educational objectives. The time has come for us to listen to the voices all around us which are saying "Busing is ineffective in achieving social goals for which it was promoted; busing is endangering the lives of young children; and busing is wrong."

Mr. President, in every poll taken on the question of forced busing, the American people have rejected this tool of the social planners as a means of guaranteeing equal educational opportunity. Less than 2 months ago, the Members of the House of Representatives adopted the language we are considering here by an overwhelming majority of almost 3 to 1. Our responsibility to the people we represent should be clear.

The amendment of the distinguished Senator from Florida does not represent an effort to deny equal educational opportunity to anyone, as some of our colleagues would have us believe. On the contrary, the amendment specifically states that "all children enrolled in public schools are entitled to equal educational opportunity without regard to race, color, sex, or national origin." What this amendment proposes to do is "to specify appropriate remedies for the orderly removal of the vestiges of the dual school system."

Earlier congressional efforts to provide statutory limitations on the discretionary equity jurisdiction of U.S. district court judges have foundered on questions of constitutionality. Today, however, we have before us an amendment which seeks only to limit the remedies available to U.S. district court judges in exercising their equity power jurisdiction. The Supreme Court, itself has urged the Congress to provide direction in this critical area.

Mr. President, this amendment would simply limit busing for the purpose of achieving racial balance to the appropriate school closest to a student's residence. Furthermore, the amendment remedy may be effected only after seven other remedies, or combinations of remedies, have been tried and proven ineffective, and only if it would not endanger the health of the student or impinge on the educational process.

Another important provision of this amendment states that "failure of an educational agency to attain a balance, on the basis of race, color, sex, or national origin, of students among its schools shall not", in it itself, "constitute a denial of equal educational opportunity or equal protection of the laws". This important provision should help clear up the controversy which has ensued since the Swann decision over the use of numerical goals and quotas in determining whether or not a school is providing equal educational opportunity.

Section 804 specifically prohibits practices which deny equal educational opportunity, such as deliberate segregation, discrimination in the employment and assignment of faculty, and failure to take action to overcome language barriers.

On the other hand, section 806 adds the important clarification that assignment of a student to the appropriate school nearest his home is not a denial of equal educational opportunity or of equal protection of the laws, unless such an assignment is made for the purpose of segregating students, or the school to which he is assigned was located for the purpose of segregation. This provision would enable students to attend their neighborhood schools, unless there is some showing of segregatory intent.

The court is instructed to respect school district lines in formulating its remedies unless it is established that they have been drawn for the purpose, and had the effect of segregating children.

Once a school system is desegregated, the amendment provides that no subsequent population shift shall constitute a cause for civil action for a new desegregation plan, and provides for reopening of existing court order cases, so that they may be modified to comply with this measure.

Finally, court orders shall be terminated if a court finds that a unitary school system exists.

Mr. President, this amendment is an eminently fair and reasonable solution to the critical problems in education today which result from the transportation of students. My support for this amendment is based on the conviction that the laws of this Nation must not confer either favor or penalty upon any individual simply because of the color of his skin. Indeed, our laws must be enforced without regard to race, sex, or national origin. There is simply no acceptable justification for denying this colorblind protection, even to achieve goals which we feel are themselves consistent with constitutional principles.

Mr. President, I commend the Senator from Florida for his sponsorship of this amendment, and urge its adoption.

IN SUPPORT OF THE GURNEY AMENDMENT TO S. 1539

Mr. ROTH. Mr. President, I have supported the neighborhood school concept ever since I have been in Congress. For that reason, I am supporting the amendment offered by Senator Gurney which clearly states a congressional policy requiring that no child be transported to any school other than the one which is "closest or next closest" to his home.

By attending his "neighborhood school" a child benefits in several ways. He can participate in after-school activities and thus develop a greater rapport with his peers, as well as developing friendships at home which can be strengthened while at school. His parents will be able to participate and take a greater personal interest in the child's day-to-day activities through meetings with teachers, other parents, the school board, and the children themselves. Moreover, because the neighborhood school often becomes a center for community education, adults, as well as children, can make use of the schools' facilities during evenings or on weekends.

Passage of the Gurney amendment will insure that a child is not assigned to a school far distant from his home. It explicitly prohibits any Federal court, department, or agency from ordering that students be transported to any school other than the one closest or next closest to his place of residence.

The Gurney amendment effectively restricts the power of the Federal Government to implement plans of forced busing. I am unalterably opposed to busing as a means of bringing about racial balance in our school system just as I have been opposed in the past to busing to maintain segregated schools.

Although a number of scholars have studied the effects of busing, there has never been any real evidence compiled to indicate that busing has improved educational quality. To the contrary, in some cases, busing has created bitterness and polarization throughout communities.

As an alternative to busing, I favor the development of first-rate, high-quality neighborhood schools for all students, regardless of race. Massive busing has cost taxpayers thousands of dollars and schoolchildren hours of time. I am convinced that this money could be spent more wisely if it were used to hire more and better teachers and additional learning materials for the classrooms of disadvantaged pupils.

Mr. President, the Senate is presented today with a significant opportunity. This body can go on record as clearly supporting an end to forced busing. Concurrently, it can reaffirm its support for the neighborhood concept of schools. Although this policy is implicit in the provisions of S. 1539, the present bill merely restates language contained in the Educational Act Amendments of 1972. The 1972 act failed to curb the use of forced busing as one means to desegregate our public schools. Only through acceptance of the Gurney amendment, can the harmful effects of massive busing be curtailed.

By passing this amendment, the Senate can join the House of Representatives in adopting a clear congressional policy in support of the neighborhood school concept. I urge my colleagues to join me in supporting its adoption.

Mr. CRANSTON. Mr. President, I wish to comment briefly on the busing amendment now before the Senate.

The current issue was first brought before the Senate and the country back in 1972 when John Ehrlichman and Richard Kleindienst decided to stir things up in the country by proposing an antibusing amendment. Those gentlemen have since left the executive branch because of Watergate. But once again we see this issue stirring. Two years ago, the Senate adopted an amendment offered by Senator Mike Mansfield, the Democratic leader, and Senator Hugh Scott, the Republican leader in the Senate, which outlawed busing that went too far—that involved busing large numbers of children large distances and took too much time out of the day, interfering with the children's education.

The present amendment that stems from the Ehrlichman-Kliendienst days—offered this time by Senator Gurney of Florida—would authorize the reopening of every school case—North, South, East, and West—that has already been settled over the 20 years since the Supreme Court's original school desegregation decision in 1954.

I find this situation especially saddening because so many communities across America—including California—have tried so hard to make these desegregation plans, including busing, work in the best interests of their children and in the interest of community cooperation and peace. It is appalling to me to think of disrupting the progress these good-spirited citizens have fought for and won.

This amendment poses a monumental challenge to due process of law. I know of no busing issues anywhere in California that aggravate or concern the people greatly at the present time. I see no reason to support an amendment that would prostitute the courts by obliging them to suspend the equal protection clause of the Constitution. So I am going to vote against the Gurney amendment.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that time on all rollcall votes today, back to back, that will follow the initial rollcall, be limited to 10 minutes, with the warning bell to be sounded after the first two and a half minutes.

The VICE PRESIDENT. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Indiana (Mr. Bayh).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the affirmative). On this vote, I have a pair with the distinguished Senator from Arkansas (Mr. Fulbright). If he were present and voting, he would vote "nay"; if I were at liberty to vote, I would vote "yea." I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Fulbright), the Senator from Alaska (Mr. Gravel), the Senator from Hawaii (Mr. Inouye), and the Senator from New Mexico (Mr. Montoya) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Illinois (Mr. Percy) is necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent on official business.

I further announce that, if present and voting, the Senator from Illinois (Mr. Percy) would vote "nay."

The result was announced—yeas 9, nays 84, as follows:

[No. 197 Leg.]

YEAS—9

Bayh
Biden
Eagleton
Hartke
Mathias
Nelson
Pastore
Symington
Taft

NAYS—84

Abourezk
Aiken
Allen
Baker
Bartlett
Beall
Bellmon
Bennett
Bentsen
Bible
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cotton
Cranston
Curtis
Dole
Domenici
Dominick
Eastland
Ervin
Fannin
Fong
Griffin
Gurney
Hansen
Hart
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Hughes
Humphrey
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Metzenbaum
Mondale
Moss
Muskie
Nunn
Packwood
Pearson
Pell
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, for

NOT VOTING—6

Fulbright
Goldwater
Gravel
Inouye
Montoya
Percy

So Mr. Bayh's amendment was rejected.

Mr. JAVITS. Mr. President, I wish to move to table the Gurney amendment, but Senator Gurney has a parliamentary inquiry. I yield to him.

Mr. GURNEY. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. GURNEY. Mr. President, it is my understanding that a "yea" vote——

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate, so we can hear the Senators?

The VICE PRESIDENT. The Senator will proceed, but the Senate must be in order.

Mr. GURNEY. Mr. President, do I correctly understand that a "yea" vote on this motion will be a vote against the Gurney amendment, and a "nay" vote on this motion will be a vote for the Gurney amendment?

The VICE PRESIDENT. A vote to table is a vote against the Gurney amendment.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. JAVITS. Will the Gurney amendment be open to further amendment if the motion to table is rejected?

The VICE PRESIDENT. The Gurney amendment would be open to amendment, but there is no further time for debate.

Mr. JAVITS. Mr. President, I move to table the Gurney amendment.

The VICE PRESIDENT. The question is on the motion to table.

Mr. JAVITS. Mr. President, I believe the yeas and nays have been ordered.

The VICE PRESIDENT. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD (when his name was called). On this vote I have a pair with the Senator from Arkansas (Mr. FULBRIGHT). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr. INOUYE), and the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Illinois (Mr. PERCY) is necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

I further announce that, if present and voting, the Senator from Illinois (Mr. PERCY) would vote "yea."

The result was announced—yeas 47, nays 46, as follows:

[No. 198 Leg.]

YEAS—47

Abourezk
Aiken
Bayh
Bellmon
Biden
Brooke
Burdick
Case
Church
Clark
Cranston
Eagleton
Hart
Hartke
Hatfield
Hathaway
Hughes
Humphrey
Jackson
Javits
Kennedy
Magnuson
Mathias
McGee
McGovern
McIntyre
Metcalf
Metzenbaum
Mondale
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Randolph
Ribicoff
Scott, Hugh
Stafford
Stevens
Stevenson
Symington
Taft
Tunney
Weicker
Williams

NAYS—46

Allen
Baker
Bartlett
Beall
Bennett
Bentsen
Bible
Brock
Buckley
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cook
Cotton
Curtis
Dole
Domenici
Dominick
Eastland
Ervin
Fannin
Fong
Griffin
Gurney
Hansen
Haskell
Helms
Hollings
Hruska
Huddleston
Johnston
Long
McClellan
McClure
Nunn
Proxmire
Roth
Schweiker
Scott, William L.
Sparkman
Stennis
Talmadge
Thurmond
Tower
Young

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, for

NOT VOTING—6

Fulbright
Goldwater
Gravel
Inouye
Montoya
Percy

So Mr. JAVITS' motion to lay on the table Mr. GURNEY'S amendment was agreed to.

The VICE PRESIDENT. The question recurs on the amendment of the Senator from North Carolina. The yeas and nays have been ordered.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate and in the galleries.

The VICE PRESIDENT. The Senate will be in order. The clerk will not call the roll until the Senate is in order.

The clerk may proceed.

The legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the negative). Mr. President, on this vote I have a pair with the Senator from Arkansas (Mr. FULBRIGHT). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore I withdraw my vote.

Mr. ROBERT BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr. INOUYE), and the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Illinois (Mr. PERCY) is necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

I further announce that, if present and voting, the Senator from Illinois (Mr. PERCY) would vote "nay."

The result was announced—yeas 38, nays 55, as follows:

[No. 199 Leg.]

YEAS—38

Allen
Baker
Bartlett
Bennett
Bentsen
Bible
Brock
Buckley
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cook
Cotton
Curtis
Dole
Eastland
Ervin
Fannin
Griffin
Gurney
Hansen
Helms
Hollings
Hruska
Huddleston
Johnston
Long
McClellan
McClure
Nunn
Scott, William L.
Sparkman
Stennis
Talmadge
Thurmond
Tower
Young

NAYS—55

Abourezk
Aiken
Bayh
Beall
Bellmon
Biden
Brooke
Burdick
Case
Church
Clark
Cranston
Domenici
Dominick
Eagleton
Fong
Hart
Hartke
Haskell
Hatfield
Hathaway
Hughes
Humphrey
Jackson
Javits
Kennedy
Magnuson
Mathias
McGee
McGovern
McIntyre
Metcalf
Metzenbaum
Mondale
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Symington
Taft
Tunney
Weicker
Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, against

NOT VOTING—6

Fulbright
Goldwater
Gravel
Inouye
Montoya
Percy

So Mr. ERVIN'S amendment was rejected.

Mr. JAVITS. Mr. President, I move that the Senate reconsider the vote by which the amendment was rejected.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The VICE PRESIDENT. The bill is open to further amendment.

Mr. MANSFIELD. Mr. President, if I may have the attention of the Senate—

The VICE PRESIDENT. The Senate will be in order.

Mr. MANSFIELD. Are there any other busing amendments that are intended to be called up tonight? If not, that is it, then.

Mr. GRIFFIN. Mr. President, it should be made clear that amendments on that subject can be brought up tomorrow until the hour of 1 o'clock.

Mr. MANSFIELD. That is correct. The Senate will convene at 9 o'clock tomorrow morning. Are there any further amendments on busing tonight? All right; we have one.

Mr. BAYH. Mr. President, I ask that my amendment be stated.

The VICE PRESIDENT. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. BAYH. Mr. President, I ask unanimous consent that the amendment be considered as having been read.

The VICE PRESIDENT. Without objection, it is so ordered.

The amendment is as follows:

On page 388, line 9, insert the following:

SECTION 807. (a) Notwithstanding any other provision of law, after June 30, 1974, no court of the United States shall order the implementation of any plan to remedy finding of de jure segregation which involves the transportation of students, unless the court first finds that all alternative remedies are inadequate.

(b) Before implementing any plan proposed by a local education agency to remedy a judicial determination of de jure segregation, the court shall find that such plan minimizes the transportation of students.

SEC. 808. In the formulation of remedies under this Title the lines drawn by a State subdividing its territory into separate school districts, shall not be ignored or altered except where it is established that the lines were drawn, or maintained or crossed for the purpose, and had the effect of segregating children among public schools on the basis of race, color, sex, or national origin, or where it is established that, as a result of discriminatory actions within the school districts, the lines have had the effect of segregating children among public schools on the basis of race, color, sex, or national origin.

Mr. BAYH. Mr. President, I should like to inform Senators that normally I would not call up an amendment at this hour. However, inasmuch as an amendment very similar to the amendment that was considered and voted down a moment ago, it seems to me that at that time a number of Senators wanted an up and down vote on the Gurney amendment. Now that the Gurney amendment has been tabled, for the sake of minimizing the amount of time, I rise for the purpose of bringing this measure back as an amendment in the first degree in order to save the time of the Senate.

Basically, it does two things. It does limit cross-district busing. If a community has been found guilty of segregation and has been ordered by the court to remedy it, my amendment would prohibit a court order from bringing in an adjoining jurisdiction that had not been guilty of segregation.

It seems to me that while we should make one live up to the law, we should not say to the people in a neighboring jurisdiction: "You have to pay the price for desegregation."

The second thing it would do is to bring in the language of the Swann case as far as it requires that the judge and the school authorities look to see if any other alternatives are available before ordering busing.

We have in this bill the provisions contained in the Scott-Mansfield amendment. If Senators want me to remind them of what they are, I shall read them, since a large number of Senators are present. They read as follows:

> No provision of this Act shall be construed to require the assignment or transportation of students or teachers in order to overcome racial imbalance.
>
> No funds appropriated for the purpose of carrying out any applicable program may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system, except on the express written voluntary request of appropriate local school officials. No such funds shall be made available for transportation when the time or distance is so great as to risk the health of the children or significantly impinge on the educational process of such children, or where the educational opportunities available at the school to which it is proposed that any such student be transported will be substantially inferior to those opportunities offered at the school to which such student would otherwise be assigned under a nondiscriminatory system of school assignments based on geographic zones established without discrimination on account of race, religion, color, or national origin.

Mr. NELSON. Mr. President, will the Senator yield for a question?

Mr. BAYH. Mr. President, I yield to the Senator from Wisconsin for a question.

Mr. NELSON. Mr. President, do I correctly understand that the Senator's proposal is, in fact, the language of the amendment which we voted on prior to the Gurney amendment plus the Scott-Mansfield amendment?

Mr. BAYH. That is accurate.

Mr. NELSON. We have adopted that amendment on previous occasions.

Mr. BAYH. That is accurate.

Several Senators. Vote. Vote.

Mr. JAVITS. Mr. President, I yield myself 3 minutes in opposition to the amendment.

The PRESIDING OFFICER. The Senator from New York is recognized for 3 minutes.

Mr. JAVITS. Mr. President, there are a considerable number of other busing amendments which are major moves in the busing field.

For myself, I would take it that the Senate has pretty well decided that question for tonight; that it wants to let this situation develop as it has developed now and see how it is being resolved, and whether that is satisfactory. There are so many pending cases in the body of law already made and so many cases that have laid down by the Senate itself and the country itself in regard to this matter which the Senator from Indiana properly referred to.

What he does add is a prohibition on the courts from making busing orders which cross educational district lines. That is, that we are going to try to dictate to the courts upon the general principles of the Scott-Mansfield compromise on busing orders it would make. I believe the Senate has generally determined, in respect of the major danger in the Gurney amendment, that this is not the way for us to go.

For that reason, this amendment at this time should be rejected.

Mr. ERVIN. Mr. President, will the Senator yield me 1 minute?

Mr. BAYH. Mr. President, I yield 1 minute to the Senator from North Carolina.

Mr. ERVIN. Mr. President, there are some very good features in this amendment that could alleviate some of the hardships in busing. For that reason, I urge every Senator who believes that something constructive should be done to bring some help to this field to vote for the Bayh amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BAYH. Mr. President, I have nothing further to say. As Senators may know, I have made a rather lengthy statement explaining my position in opposition to the Gurney amendment. I feel that this is an crucially important area in which equity should prevail. We can do that without injuring the quality of equal education by adopting my amendment.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. Does the Senator yield back his time?

Mr. BAYH. Mr. President, I yield back the remainder of my time.

Mr. PELL. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Indiana. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MUSKIE (after having voted in the negative). Mr. President, on this vote I have a pair with the distinguished Senator from Arkansas (Mr. Fulbright). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Fulbright), the Senator from Alaska (Mr. Gravel), the Senator from Hawaii (Mr. Inouye), the Senator from Massachusetts (Mr. Kennedy), and the Senator from New Mexico (Mr. Montoya) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Illinois (Mr. Percy) is necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent on official business.

On this vote, the Senator from Arizona (Mr. Goldwater) is paired with the Senator from Illinois (Mr. Percy).

If present and voting, the Senator from Arizona would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 56, nays 36, as follows:

[No. 200 Leg.]

YEAS—56

Baker
Bartlett
Bayh
Beall
Bentsen
Bible
Biden
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Cook
Curtis
Dole
Dominick
Eagleton
Eastland
Ervin
Fannin
Griffin
Gurney
Hansen
Hartke
Haskell
Helms
Hruska
Huddleston
Johnston
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
Nelson
Nunn
Pastore
Pearson
Proxmire
Randolph
Roth
Schweiker
Scott, William L.
Sparkman
Stennis
Symington
Taft
Talmadge
Thurmond
Tower
Young

NAYS—36

Abourezk
Aiken
Allen
Bellmon
Bennett
Brock
Brooke
Case
Clark
Cotton
Cranston
Domenici
Fong
Hart
Hatfield
Hathaway
Hollings
Hughes
Humphrey
Jackson
Javits
McIntyre
Metcalf
Metzenbaum
Mondale
Moss
Packwood
Pell
Ribicoff
Scott, Hugh
Stafford
Stevens
Stevenson
Tunney
Weicker
Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Muskie, against

NOT VOTING—7

Fulbright
Goldwater
Gravel
Inouye
Kennedy
Montoya
Percy

So Mr. Bayh's amendment was agreed to.

Mr. BAYH. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

Mr. EAGLETON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1026

Mr. McGOVERN. Mr. President, I call up my amendment No. 1026 and ask that it be stated.

The PRESIDING OFFICER (Mr. HATHAWAY). The amendment will be stated.

The assistant legislative clerk read as follows:

On page 10, between lines 4 and 5, insert the following new section:

"ENTITLEMENT TO PAYMENTS WITH RESPECT TO HIGH CONCENTRATIONS OF CHILDREN WHO RESIDE ON OR WHOSE PARENTS ARE EMPLOYED ON FEDERAL PROPERTY

"SEC. 203. (a) Section 3 of the Act of September 30, 1950, (Public Law 874, Eighty-first Congress) is amended by adding at the end thereof the following new subsection:

"'(f) Notwithstanding any other provision of this Act (including the provisions of section 5(c), a local educational agency with respect to which the number of children determined for any fiscal year under subsection (a) amounts to at least 25 per centum of the total number of children who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education, shall be entitled to 100 per centum of the amounts to which such agency would be otherwise entitled under this Act. The provisions of section 5(c) shall not apply to any local educational agency to which this subsection applies.'.

"(b) The amendment made by this section shall be effective on and after July 1, 1974.".

On page 10, line 8, strike out "SEC. 203" and insert in lieu thereof "SEC. 204".

Mr. McGOVERN. Mr. President, this amendment is cosponsored by Senators ABOUREZK, BURDICK, CURTIS, DOMENICI, GRAVEL, HRUSKA, HUMPHREY, MAGNUSON, MANSFIELD, METCALF, MONTOYA, RIBICOFF, TUNNEY, and YOUNG.

It is an amendment that has been cleared on both sides of the aisle. I have discussed it with the distinguished manager of the bill, the Senator from Rhode Island (Mr. PELL), and with the distinguished Senator from New York (Mr. JAVITS). It merely provides that in those school agencies——

Mr. President, I ask unanimous consent that certain tables prepared by the Office of Education reflecting the effect of my amendment on 229 school districts in 34 States be printed at the conclusion of my remarks.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

NUMBER OF SCHOOL DISTRICTS AT VARYING LEVELS OF CATEGORY A IMPACTION FISCAL YEAR 1973

State	Percent of impaction								
	25 to 29	30 to 39	40 to 49	50 to 59	60 to 69	70 to 79	80 to 89	90 to 100	Total number
Alaska	2	2	1			1			6
Arizona	4	2	2	6	1	3	3	17	38
Arkansas					1				1
California	3	5	1	2	2	4	1	3	21
Colorado		1	1	1					3
Connecticut		1							1
Idaho			1						1
Illinois	1	2		3					6
Indiana		1							1
Kansas			2					1	3
Maine			1			1			2
Massachusetts		1		1					2
Michigan			1		1	1			3
Minnesota								3	3
Missouri	1			1	1				3
Montana	1	6	6	2	4	7	2	3	31
Nebraska		1				2		1	4
Nevada			1						1
New Hampshire	1								1
New Jersey	1	1	2			1			5
New Mexico	2	1	3	2			2		10
New York	1		1						2
North Dakota	3	3	2	1	2	2		2	15
Ohio	2								2
Oklahoma	5	2	5	2	3	1			18
Oregon		4						1	5
Rhode Island	1	1							2
South Dakota	1	2			2	1		2	8
Texas	4							4	8
Utah		1	1						2
Virginia	1								1
Washington	2	6	1	1	2	1	3		16
Wisconsin			1						1
Wyoming						2	1		3
Total number	36	43	33	22	19	27	12	37	229

DATA ON DISTRICTS WITH 25 PERCENT OR MORE CATEGORY 3A IMPACTION, FISCAL YEAR 1973

State and school district	Total average daily attendance	Category 3A children	Category 3A children as percentage of total	Total entitlement
ALASKA				
Alaska Dept. of Ed	21,119	16,617	78.68	$24,727,591
Hoonah Public Schools [1]	270	97	35.93	70,435
King Cove City School Dist	81	22	27.16	15,975
Bristol Bay Boro School Dist.[1]	264	69	26.14	50,103
Dillingham City School Dist.[1]	316	101	31.96	73,340
Nome-Beltz Reg. High School	315	135	42.86	98,028
State total	22,365	17,041		25,035,474
ARIZONA				
Maricopa Co. Accommodation S. D	515	515	100.00	221,527
Indian Oasis S. D. No. 4 [1]	934	934	100.00	401,760
Fort Huachuca Accommodation Schools [1]	1,847	1,847	100.00	794,487
Mt. Lemmon Accommodation S. D	103	46	44.66	19,786
Yuma Co. S. D. No. 27 [1]	1,143	622	54.42	267,553
Litchfield S. D. No. 79	1,124	309	27.49	132,916
Northern Yuma H. S. D.[1]	556	184	33.09	79,147
Grand Canyon S. D. No. 4 and 3	178	127	71.35	54,629
Tuba City E. S. D. No. 15 [1]	1,134	1,107	97.62	476,176
Grand Canyon H. S. D.[1]	76	65	85.53	27,959
Tuba City H. S. D.[1]	371	361	97.30	155,284
Union E. S. D. No. 62 [1]	116	58	50.00	24,948
Peach Springs S. D. No. 8 [1]	115	105	91.30	45,165
Valentine S. D. No. 22	35	18	51.43	7,742
Moccasin S.D. No. 1	20	10	50.00	4,301
Dysart S.D. No. 89 [1]	2,734	702	25.68	301,965
Chevelon Butte S.D. No. 5	20	20	100.00	8,603
Page High Sch. Dist. No. 8	563	281	49.91	120,872
Page Elem. Sch. Dist. No. 8	1,446	835	57.75	359,175
Window Rock S.D. No. 8 [1]	2,156	2,084	96.66	896,432
E.S.D. No. 2 [1]	988	987	99.90	424,558
Keams Canyon E.S.D. No. 25 [1]	361	361	100.00	155,284
McNary Elem. S.D. No. 23	101	87	86.14	37,423
Alchesay H.S.D. No. 2 [1]	242	240	99.17	103,236
Ganado S.D. No. 19 [1]	1,294	1,209	93.43	520,051
Kayenta E.S.D. No. 27 [1]	814	814	100.00	350,142
Chinle C.S.D. No. 24 [1]	2,803	2,803	100.00	1,205,710
Puerco E. S. D. No. 18 [1]	582	300	51.55	129,045
Young Sch. Dist. No. 5 [1]	289	223	77.16	95,923
Rice S. D. No. 2 [1]	1,015	903	88.97	388,425
Sacaton E. S. D. No. 18 [1]	802	762	95.01	327,774
Apache Co. H. S. D. No. 9 [1]	767	200	26.08	86,030
Fort Thomas Elem. S. D. No. 7 [1]	347	254	73.20	109,258
Fort Thomas H. S. D. No. 7 [1]	117	79	67.52	33,981
Alpine S. D. No. 7	39	11	28.21	4,731
Monument Valley H. S. D. No. 5 [1]	365	365	100.00	157,004
Navajo Compressor Stat. S. D. No. 5 [1]	29	29	100.00	12,474
Horse Mesa Accom. Sch. & Unor. Terr.[1]	20	7	35.00	3,011
State total	26,161	19,864		8,544,499
ARKANSAS				
Gosnell S. D. No. 6	1,864	1,205	64.65	518,150
CALIFORNIA				
Two Rock U.S.D.[1]	151	88	58.28	37,853
Reservation S.D.[1]	14	10	71.43	4,301
Herlong S.D	296	117	39.53	50,327
Coffee Creek S.D	26	10	38.46	4,301
Alpine Co. Unif. S.D	109	32	29.36	15,789
Center Jt. S.D	1,160	673	58.02	289,490
Wheatland S.D	2,542	2,151	84.62	925,252
Wheatland U.H.S.D	862	591	68.56	423,912
Travis Unif. S.D	3,420	3,326	97.25	1,641,081
Monterey Peninsula Unif. S.D	17,799	5,166	29.02	2,548.956
Atwater S.D	3,400	1,077	31.68	463,271
Chawanakee E.S.D	40	40	100.00	17,206
Big Creek Elementary S.D	185	126	68.11	54,198
Ocean View S.D	2,142	660	30.81	283,899
Adelanto S.D	1,864	1,452	77.90	624,577
China Lake Jt. S.D	2,500	2,387	95.48	1,026,768
Muroc Unif. S.D	3,894	2,763	70.96	1,363,291
Central U.S.D.	2,181	1,625	94.51	698,993
Seeley U.S.D	483	205	42.44	88,180
San Pasqual Valley Unif. S.D.[1]	672	245	36.46	120,885

State and school district	Total average daily attendance	Category 3A children	Category 3A children as percentage of total	Total entitlement
Lompoc Unif. S.D.	12,167	3,113	25.59	$1,535,985
State total	55,907	25,857	---------	12,218,525
COLORADO				
El Paso Co. S. D. No. 8	3,196	1,876	58.70	806,961
Ignacio United S.D. No. 11 Jt.[1]	918	443	48.26	190,556
Air Academy S.D. No. 2	4,466	1,700	38.07	789,123
State total	8,580	4,019	---------	1,786,640
CONNECTICUT				
Town of Groton Bd. of Ed	8,722	2,769	31.75	1,710,632
IDAHO				
S. D. No. 193	3,925	1,725	43.95	742,008
ILLINOIS				
Highwood Highland Park S. D. No. 111	1,416	428	30.23	311,160
North Chicago S. D. No. 64	3,451	1,965	56.94	975,249
Community H. S. D. No. 123	1,304	392	30.06	419,612
Rantoul City S. D. No. 137	3,481	1,770	50.85	926,595
Rantoul Twp. H. S. D. No. 193	1,537	421	27.39	368,484
Mascoutah Comm. Unit. S. D. No. 19	3,511	1,905	54.26	945,470
State total	14,700	6,881	---------	3,946,571
INDIANA				
Maconaquah Sch. Corp	3,788	1,375	36.30	658,460
KANSAS				
Unif. S.D. No. 475	6,412	2,719	42.40	1,270,316
Unif. S.D. No. 437	3,127	1,397	44.68	652,678
Unif. S.D. No. 27	2,368	2,366	99.92	1,105,395
State Total	11,907	6,482	---------	3,028,390
MAINE				
Limestone School Dept	2,400	1,699	70.79	730,824
Town of Winter Harbor Sch. Comm	193	93	48.19	40,003
State Total	2,593	1,792	---------	770,828
MASSACHUSETTS				
Town of Ayer Sch. Committee	3,413	2,030	59.48	1,540,973
Bourne Sch. Committee	3,230	1,169	36.19	1,046,839
State Total	6,643	3,199	---------	2,587,812
MICHIGAN				
Oscoda Area Schools	4,121	1,717	41.66	834,530
Rudyard Twp. S.D. No. 11	2,221	1,593	71.72	774,261
Forsyth S.D. No. 7	3,314	2,130	64.27	1,035,265
State Total	9,656	5,440	---------	2,644,057
MINNESOTA				
Redlake I.S.D. No. 38[1]	909	893	98.24	449,143
I.S.D. No. 77[1]	135	135	100.00	67,899
Unorg Territory S.D.[1]	92	92	100.00	46,272
State total	1,136	1,120	---------	563,315
MISSOURI				
Knob Noster Redrg. S. D. R. 8	2,043	1,206	59.03	555,278
Belton S. D. No. 124	4,300	1,101	25.60	506,933
Waynesville Reorg. S. D. R. 6	4,902	3,030	61.81	1,395,102
State total	11,245	5,337	---------	2,457,314
MONTANA				
Jt. S. D. No. 8[1]	358	109	30.45	46,886
Browning E. S. D. No. 9[1]	1,267	952	75.14	620,028
H. S. D. No. 9[1]	378	236	62.43	198,320
Elmo E. S. D. No. 22[1]	33	24	72.73	13,814
Babb S. D. No. 8[1]	71	55	77.46	31,295
Heart Butte S. D. No. 1[1]	160	160	100.00	105,044
Lakeside S. D. No. 3	109	32	29.36	13,764
Jt. H. S. D. No. 8[1]	121	40	33.06	26,640
Dixon S. D. No. 9[1]	68	22	32.35	13,730
Gardiner S. D. No. 4[1]	102	46	45.10	42,923
S. D. No. 21	116	84	72.41	49,649
Lame Deer S. D. No. 6[1]	304	258	84.87	125,496
Glasgow E. S. D. No. 1	1,415	443	31.31	196,948
Harlem E. S. D. No. 12[1]	392	170	43.37	81,108
Harlem H. S. D. No. 12[1]	183	76	41.53	59,461
Brockton S. D. No. 55[1]	139	103	74.10	79,821
Box Elder E. S. D. No. 13[1]	141	93	65.96	48,653
S. D. No. 2[1]	50	49	98.00	29,918
E. S. D. No. 27[1]	306	170	55.56	83,303
E. S. D. 17 H.[1]	1,091	333	30.52	$149,510
Blaine Co. S. D. No. 5[1]	203	171	84.24	130,079
S. D. No. 2[1]	136	62	45.59	29,750
Frazer H. S. D. No. 2[1]	46	20	43.48	19,174
Poplar Pub. Grade S. D. No. 9[1]	593	304	51.26	151,601
Poplar H. S. D. No. 9[1]	241	82	34.02	58,675
S. D. No. 57	44	35	79.55	25,469
Box Elder H. S. D. No. G[1]	86	66	76.74	71,677
H. S. D. No. 2[1]	140	92	65.71	73,481
Brockton H. S. D. No. 55[1]	31	21	67.74	20,852
Edgar S. D. No. 4[1]	55	25	45.45	25,100
Elem. S. D. No. 87	257	247	96.11	170,247
State total	8,636	4,580	---------	2,792,432
NEBRASKA				
Winnebago S. D. No. 17[1]	307	231	75.24	149,119
Macy S. D. No. 16[1]	364	285	78.30	183,978
Santee S. D. C. 5[1]	48	46	95.83	29,694
S. D. of the City of Bellevue	10,170	3,932	38.66	2,538,263
State total	10,889	4,494	---------	2,901,056
NEVADA				
Mineral Co. S. D	1,674	697	41.64	299,814
NEW HAMPSHIRE				
City of Portsmouth Bd. of Ed	5,332	1,496	28.06	891,765
NEW JERSEY				
Boro. of Lakehurst Bd. of Ed	791	259	32.74	206,047
Boro. of Eatontown Bd. of Ed	2,346	1,119	47.70	739,558
Bd. of Ed. N. Hanover Twp	2,037	1,606	78.84	911,629
No. Burlington Co. Reg. S. D	2,239	1,097	49.00	953,490
Pemberton Twp. Bd. Ed	7,277	2,041	28.05	1,623,717
State total	14,690	6,122	---------	4,434,443
NEW MEXICO				
Dulce I. S. D. No. 21[1]	595	527	88.57	226,689
Jemez Springs Mun. S. D. No. 31[1]	612	265	43.30	113,989
Bernalillo Mun. S. D. No. 1[1]	2,772	1,179	42.53	507,146
Cuba I. S. D. No. 2[1]	1,080	519	48.06	223,247
Alamogordo Mun. S. D. No. 1	8,875	2,334	26.30	1,003,970
Tularosa Municipal S. D. No. 4[1]	1,484	464	31.27	199,589
I. S. D. No. 22[1]	4,479	3,610	80.60	1,552,841
Gallup McKinley Co. Bd. of Ed.[1]	12,177	6,791	55.77	2,921,148
Bloomfield Mun. S. D. No. 6[1]	1,909	567	29.70	243,895
Magdalena Mun. S. D. No. 12[1]	609	312	51.23	134,206
State Total	34,592	16,568	---------	7,126,725
NEW YORK				
U. F. S. D. No. 14, Town of Fire Island	78	23	29.49	50,487
Central S. D. No. 1, Town of Peru	3,996	1,613	40.37	1,199,539
State Total	4,074	1,636	---------	1,250,027
NORTH DAKOTA				
Riverdale Pub. S. D. No. 89	268	160	59.70	84,465
New Town Pub. S. D. No. 1	746	216	28.95	92,912
Lincoln S. D. No. 38	152	61	40.13	26,239
Grand Forks Pub. S. D. No. 1	10,552	2,667	25.27	1,440,446
Minot Pub. S. D. No. 1	9,023	2,543	28.18	1,373,474
Solen Pub. S. D. No. 3[1]	346	213	61.56	119,757
Ft. Totten S. D. No. 3[1]	31	31	100.00	13,334
Ft. Yates Pub. S. D. No. 4[1]	369	286	77.51	123,022
Twin Buttes S. D. No. 37[1]	79	62	78.48	26,669
Couture S. D. No. 27[1]	835	269	32.22	155,710
Ingebretson S. D. No. 28[1]	115	74	64.35	31,831
Mandaree Pub. S. D. No. 36[1]	213	207	97.18	89,041
White Shield Pub. S. D. No. 85[1]	197	77	39.09	33,121
Nekoma School District No. 36	120	52	43.33	22,367
Oberon SD No. 16	107	34	31.78	14,625
State total	23,153	6,952	---------	3,607,019
OHIO				
Mad River Twp. Local S. D	7,604	1,932	25.41	831,049
Hamilton Local Bd. of Ed	3,324	902	27.14	387,995
State total	10,928	2,834	---------	1,219,045
OKLAHOMA				
Dahlonegah D. S. D. No. 29[1]	101	64	63.37	27,529
Bell D.S. D. No. 33[1]	223	125	56.05	53,768
Lost City D. S. D. No. 17[1]	197	97	49.25	41,724
Ryal D. S. D. No. 3[1]	66	45	68.18	19,356
Skelly D. S. D. No. 1[1]	110	45	40.91	19,356
Rocky Mountain Dep. S. D. No. 24[1]	100	30	30.00	12,904
Maryetta D. S. D. No. 22[1]	199	56	28.14	24,088
Wickliffe D. S. D. No. 35[1]	43	18	41.86	7,742

Footnote at end of table.

DATA ON DISTRICTS WITH 25 PERCENT OR MORE CATEGORY 3A IMPACTION, FISCAL YEAR 1973—Continued

State and school district	Total average daily attendance	Category 3A children	Category 3A children as percentage of total	Total entitlement
OKLAHOMA—Continued				
Wolf D. S. D. No. 13	46	23	50.00	$9,893
Justice D. S. D. No. 54[1]	72	48	66.67	20,647
Vamoosa D. S. D. No. 8[1]	115	46	40.00	19,786
Broxton I. S. D. No. 68[1]	159	65	40.88	27,959
Carnegie I. S. D. No. 33[1]	827	207	25.03	89,041
Boone D. S. D. No. 56[1]	67	48	71.64	20,647
Little Axe D. S. D. No. 7[1]	198	59	29.80	25,378
Stony Point D. S. D. No. 124	62	16	25.81	7,232
Canton I. S. D. No. 15	438	130	29.68	55,919
Burns Flat I. S. D. No. 7	435	168	38.62	72,265
State total	3,458	1,290		555,243
OREGON				
Hebo S. D. No. 13 J	100	36	36.00	23,234
Petersburg S. D. No. 14 C	106	36	33.96	29,490
Jefferson Co. S. D. 5 9 J	2,082	632	30.36	451,658
Three Lynx S. D. No. 123	66	66	100.00	42,595
Bonneville S. D. No. 46	72	24	33.33	19,660
State total	2,426	794		566,639
RHODE ISLAND				
Town of Middletown Sch. Comm	4,255	1,402	32.95	861,332
Town of N. Kingstown Sch. Dept	6,555	1,832	27.95	1,098,851
State total	10,810	3,234		1,960,184
SOUTH DAKOTA				
Todd Co. I. S. D.[1]	1,784	1,213	67.99	$638,790
Douglas I. S. D. No. 3	3,158	2,421	76.66	1,274,947
Shannon Co. I. S. D. No. 1[1]	1,448	1,325	91.51	697,771
Eagle Butte I. S. D. No. 3[1]	858	594	69.23	312,812
White River I. S. D. No. 29[1]	424	148	34.91	77,939
McLaughlin I. S. D. No. 21	619	169	27.30	88,998
Smee I. S. D. No. 4[1]	189	171	90.48	90,052
C. S. D. No. 3[1]	98	37	37.76	19,484
State Total	8,578	6,078		3,200,796
TEXAS				
Del Valle I. S. D. No. 91	3,916	1,001	25.56	430,580
Killeen I. S. D	13,215	3,703	28.02	1,592,845
Flour Bluff I. S. D	2,972	744	25.03	320,031
San Vincente C. S. D. No. 2	14	14	100.00	16,166
Randolph Field I. S. D	1,344	1,288	95.83	$1,097,221
Lackland I. S. D	867	865	99.77	736,876
United Cons. I. S. D	2,171	596	27.45	256,369
Ft. Sam Houston I.S.D	1,521	1,421	93.43	1,210,521
State total	26,020	9,632		5,660,612
UTAH				
San Juan Co. S. D.[1]	2,494	1,176	47.15	505,856
Daggett S. D	188	75	39.89	32,261
State total	2,682	1,251		538,117
VIRGINIA				
Co. Sch. Bd. of Prince George Co	4,629	1,326	28.65	570,378
WASHINGTON				
Oak Harbor S.D. No. 2 1	5,128	1,646	32.10	735,729
Diablo S.D. No. 1 5[1]	40	12	30.00	5,363
Dupont Fort Lewis S.D. No. 7	1,150	998	86.78	446,086
Cape Flattery S.D. No. 4 1	622	218	35.05	97,441
Anderson Island S.D. No. 24	43	36	83.72	16,091
Taholah S.D. No. 77[1]	145	105	72.41	46,932
Queets Clearwater S.D. No. 2[1]	79	30	37.97	19,643
Mill A. S. D. No. 31	90	30	33.33	13,409
Mt. Adams S. D. No. 2 9[1]	878	427	48.63	190,860
Medical Lake S. D. No. 326	2,334	1,416	60.67	632,923
Inchelium S. D. No. 7[1]	179	64	35.75	28,606
Nespelem S. D. No. 14[1]	165	93	56.36	41,569
Wellpinit S. D. No. 49[1]	177	154	87.01	68,834
Keller S. D. No. 3[1]	30	19	63.33	8,492
Columbia S. D. No. 2 6	214	57	26.64	25,477
Clover Park S. D. No. 4	13,153	3,364	25.58	1,503,640
State total	24,427	8,669		3,881,103
WISCONSIN				
Flambeau S. D. No. 1[1]	369	181	49.05	108,203
WYOMING				
S.D. No. 14[1]	344	270	78.49	$297,972
Ft. Washakie C.S.D. No. 21[1]	229	203	88.65	224,030
S.D. No. 38[1]	311	238	76.53	251,466
State total	884	711		773,468
National totals	387,443	182,651		109,549,761
Districts on this listing		229		

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[1] American Indian school districts.

Mr. DOMINICK. Mr. President, would the distinguished Senator from South Dakota be nice enough to add my name as a cosponsor of his amendment?

Mr. McGOVERN. I would be delighted to do so. Mr. President, I ask unanimous consent that the name of the Senator from Colorado (Mr. DOMINICK) be added as a cosponsor of the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. YOUNG. Mr. President, I would also like to be added as a cosponsor of the amendment. It is similar to the provision we on the Appropriations Committee have been including in the Labor-HEW appropriation bill, for the past four years, to take care of the same problem.

Mr. McGOVERN. The Senator is correct.

Mr. MANSFIELD. That is what it is based on, is it not?

Mr. McGOVERN. Yes. The Senator is correct. I would advise the Senator from South Dakota that his name is already on the list of cosponsors.

Mr. YOUNG. I thank the Senator from South Dakota.

Mr. JAVITS. If the Senator from South Dakota will yield, nonetheless, I would hope that the Senator will give us an explanation, for the record.

Mr. McGOVERN. Yes, I was planning to do that.

What the amendment does, in effect, is to provide in the case of those school agencies where 25 percent of the children in average daily attendance live on a Federal installation, that that agency would be entitled to 100 percent of the amount authorized under Public Law 874. It relates to the so-called class A section under Public Law 874 and is designed to take care of school districts in a high impact area where a high percentage of parents reside on Federal property or on a Federal installation.

Without this kind of measure, there are a number of schools, including an important one in my State which has 3,300 students in residence, which would have to close. This is a measure that the Senate adopted on a 1-year basis last year and I am very hopeful that the Senate will accept it this year as a provision in the pending bill.

I know of no real objection to the amendment. It does not add to the overall cost of the program in any way. It merely provides for a fair and more feasible allocation of funds.

Mr. YOUNG. Mr. President, by way of further explanation, we have two large military bases in North Dakota, at Minot and Grand Forks. The school districts operate the schools on the bases, each of them about 18 miles from the cities. These schools cannot operate at less than cost which is what they would be doing if they received less than 100 percent of entitlement. They have served notice on the base that unless they receive 100 percent of entitlement, they could no longer operate the school. This applies to both the Minot and Grand Forks military bases.

Mr. CHURCH. Mr. President, if the Senator from South Dakota will yield, after listening to an explanation of the amendment, I should like to be a cosponsor of the Senator's amendment.

Mr. McGOVERN. I would be very glad to do so. Mr. President, I ask unanimous consent that the name of the Senator from Idaho (Mr. CHURCH) be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COTTON. Mr. President, will the Senator from South Dakota add my name as a cosponsor as well?

Mr. McGOVERN. I shall be happy to do so. Mr. President, I ask unanimous consent that the name of the Senator from New Hampshire (Mr. COTTON) be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. McGOVERN. I yield.

Mr. DOLE. I think this amendment covers the problem that some of our States, including Kansas, North Dakota, and South Dakota, I believe, experienced last year. It was taken care of then, but only for this year.

Mr. McGOVERN. That is correct.

Mr. DOLE. This bill extends that authority, I think, and this amendment will further preclude the possibility of substantial reductions in aid to the heavily impacted areas. I support the amendment, therefore, and would be pleased to join as a cosponsor.

Mr. McGOVERN. Mr. President, I ask unanimous consent that the name of the Senator from Kansas be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. The same reasoning areas program was established in 1950. It would be a terrible burden on the school districts. I think it is a good amendment.

Mr. DOLE. I, too, have in mind at least two particular areas in Kansas—those of Fort Leavenworth and Junction City, both of which are greater than 25 percent impacted.

EXPLANATION OF THE REVISION OF THE IMPACTED AREAS PROGRAM IN S. 1539

Mr. PELL. Mr. President, title II of the bill contains amendments to Public Law 874, 81st Congress. These amendments reflect the view of the Committee on Labor and Public Welfare that some reform of the impacted areas program was desirable.

The basic concept of the impacted areas program was established in 1950. It was recognized that Federal activity in any school district can have an adverse effect on that area by first, removing valuable property from the tax rolls and, second, bringing people into the area who would not be there but for the Federal activity, thus putting a burden on the local schools, a burden that no taxes were being contributed to meet.

The youngsters who attended the school were broken down into categories, depending upon the type of Federal connection they had. Children who live with parents who both reside and work on Federal property are classified as "A" children under section 3(a) of the act.

Children whose parents live on Federal property but do not work there and those who work on Federal property but live somewhere else are classified as "B" children under section 3(b). (Thus the usage of "A" and "B" children).

With respect to "A" children, the Federal Government authorized payment of 100 percent of the local district's cost of that child's education. By that I mean the portion of the cost of a youngster's education which is contributed by the local entity, as opposed to contribution at the State level. Schools have received payments for "B" children at 50 percent of the local contribution rate. This rather simplistic theory has worked quite well during the last 24 years and has not been altered substantially during the life of Public Law 874. However, during the last 6 years there has been less congressional support for the impact aid program, which has resulted in a smaller percentage of the entitlements being funded. For example, this year, payments with respect to "B" children are down to 63 percent of entitlement.

The last two administrations have approached the Congress urging the reform of the impact aid program. Legislation was introduced by this administration which was designed to reform the impact aid program; analysis of that legislation indicated that the administration was proposing to kill the impacted areas program rather than to reform it.

The committee also studied many of the reports made on impact aid over the past decade and came to the conclusion that the simplistic approach of having categories "A" and "B" children classified in the authorizing legislation and having an appropriation situation that varied from the terms of the authorizing legislation resulted in a situation which made funding levels completely unpredictable and caused local educational agencies to have continuous budgetary problems.

The committee recognized that children of military employees have a greater adverse impact on local school districts and their ability to finance themselves than do children of civilian Federal employees. Further, it was clear that if the Federal property on which parents are employed is outside the school district, the children's adverse financial impact on that school district is little different from the situation which would arise if the parents were employed on private property.

For these reasons the committee adopted amendments which made more precise distinctions about the Federal connection and designed a schedule of payments which is intended to establish a set of priorities for funding when appropriations are insufficient to fund fully all of the entitlements.

The amendments adopted by the committee would divide "A" children into two categories:

The first category would be military "A" children; that is, children living on military bases with a parent who is in the armed services. Under the bill the school districts providing a free public education to military "A" children would be entitled to a payment of 100 percent of the local contribution rate; in addition, all children residing on Indian lands would be treated the same as military "A's;"

"A" children who are not the children of military personnel (that is, they live on Federal property with a parent who is employed on Federal property, but neither parent is a member of the armed services) would be in a different category. Schools providing free public education to nonmilitary "A" children would be entitled to payments equaling 90 percent of the local contribution rate.

The committee distinguished between military and civilian "A" children because civilian Federal employees do contribute something to the economy of an area in the way of sales and transfer taxes, as well as licenses, and therefore have some financial benefit to the community in which they reside. Military personnel usually have access to military exchanges and pay almost no sales tax. It is almost impossible to discern any tax benefit to a community which would contribute to the education of military children.

The committee, looking at the "B" child, found four types of distinguishable Federal connection:

Military "B" children;

Civilian "B" children who live in the county in which the school district is located;

Civilian "B" children who live in the same State but in a different county from that in which the school district is located; and

Civilian "B" children who live in another State than the one in which the school district is located.

In examining the four distinguishable types of Federal connection, our rationale with respect to the financial contribution under the "A" category was made applicable to the "B" category. As a result, military "B" children entitle a school district to 50 percent of the local contribution rate, and civilian "B" children entitle a school district to 45 percent of the local contribution rate. These figures are precisely one-half of the equivalent "A" category entitlement rate.

The following chart graphically illustrates the entitlement rates:

ENTITLEMENTS UNDER PUBLIC LAW 874, 81ST CONG., AS PROPOSED TO BE AMENDED IN S. 1539, COMPARED WITH EXISTING LAW

Category of federally connected children	Percentage of local contribution rate	Local contribution rate under existing law
Districts with more than 25 percent "A" children	100	100
Military "A" children and children living on Indian lands	100	[1] 100
Civilian "A" children	90	[1] 100
Military "B" children	50	[2] 50
Civilian "B" children with parent working on property in county	45	[2] 50
Civilian "B" children with parent working on property out of the county, but in State	30	[2] 50
Civilian "B" children with parent working on property in another State	0	[2] 50

[1] Under appropriations acts the "A" category is limited to 90 percent of the local contribution rate.

[2] Under appropriations acts the "B" category is limited in such a manner as to result in 31.5 percent of the local contribution rate.

The committee also found that children who go to school in a school district of one county but who are the children of parents who work in another county have less adverse financial impact on that school district than those who live and reside in the same county as the school district. Therefore, we recommend that the payment rate for children of persons who work on Federal property in a county other than that in which the school district is located be set at two-thirds the rate of civilian "B" children, with the result that the Federal Government entitles a school district to 30 percent of the local contribution rate for "B" children whose parents work outside the county in which they attend school.

With respect to children whose parents work on Federal property in a State other than the State where their youngsters attend school, the committee found that whether or not there was a Federal connection made no difference as to the ability of a school district to provide education for that child.

Therefore, we recommend that Federal property in another State not be the basis for determining Federal connection with respect to any school district. This approach, the committee realizes, will mean a loss of revenue to such counties as Montgomery County and Fairfax County. For many years we have been hearing the impacted areas program criticized because it makes substantial payments to Fairfax and Montgomery Counties. By requiring that the Federal property must be in the same State as the school district, we are able to reduce payments to wealthy suburban school districts which have been a vulnerable spot for the impacted areas program.

These changes, according to the best estimates available, reduce the total of the entitlements for the impacted areas program by about $90 million. At the same time, these reductions are not unduly harsh on any one school district. We realize that the revision is not a perfect instrument but believe it is one which can serve for improved thinking about the impacted areas program in future years.

Another aspect of the impacted areas program never adequately dealt with in authorizing legislation is the schedule of payments which controls the allocation of impacted areas money when entitlements are insufficient to fully fund the program. Under existing law, if appropriations are insufficient to fund all entitlements, each local educational agency is to receive its pro rata share of the appropriation. In recent years this provision has been ignored in the appropriations process, and an unauthorized new schedule for allocating funds has been used in the appropriations bill.

Therefore, the committee decided to adopt a payment schedule which would be more realistic in the current situation than the old "pro rata reduction" approach in the authorizing legislation. The philosophy in the new payments section is as follows:

First. All school districts should receive at least some of the appropriations for each fiscal year;

Second. The payment rate should be greater with respect to "A" children than for "B" children;

Third. No school district should receive 100 percent of its entitlement unless all school districts receive 100 of their entitlements.

In order to carry out these policies, section 5(c) of Public Law 874 sets out a schedule of payments with three priority schedules. All of the sums appropriated for any fiscal year would be divided into three parts. Part I would be allocated in such a manner that each school district would receive 25 percent of its entitlement under Public Law 874. Part 2 would allocate 60 percent of each entitlement rate among school districts, depending upon the types of "A" children and "B" children in attendance at the schools of the local educational agency. These allocations would be in addition to the basic 25 percent allocated under part 1.

The third part of the allocation controls funds remaining after the second allocation; that is, after the allocations under part 1 and part 2 are finished, funds remaining are allocated by the third part in proportion to the unsatisfied entitlements of all eligible school districts—in other words, there is a pro rata allocation.

The following table shows this schedule of payments:

SCHEDULE OF PAYMENTS UNDER SEC. 5(c) OF PUBLIC LAW 874, 81ST CONG.. AS PROPOSED TO BE AMENDED IN S. 1539, AS AMENDED BY THE BEALL AMENDMENT

Category of federally connected children	Percentage of entitlement distributed under allocation—		
	1st	2d	3d
Districts with more than 25-percent A children	25	60	(1)
Military A children and children living on Indian lands	25	60	(1)
Civilian A children	25	54	(1)
Military B children	25	32	(1)
Civilian B children with parent working on property in county	25	30	(1)
Civilian B children with parent working on property out of the county, but in State	25	28	(1)

[1] Percentage for which provision is made in the appropriations act.

I realize that the schedule of payments is much more complex than the existing authorizing legislation. However, if you consider legislation in recent appropriations acts which allocates impact aid payments, the proposed authorizing legislation is no more complex than existing law. As in cases with all reasonable compromises, the compromise is probably more complicated than the principles guiding the two opposing sides. On one hand we have those who would like to continue existing law without the limitations on the appropriations acts; on the other hand, we have the administration which has proposed to eliminate "B" children from the impact aid program. The arguments made by the administration in favor of the elimination of "B" children were valid in some instances, and, therefore, we are proposing, to the extent that the administration's arguments are valid, that they should be taken into consideration in the reform of the impact aid program. The way to reform lies in the schedule of payments.

Hopefully, the enactment of the revision of the impacted areas program will settle the question of the future of "B" children in that program. It is the intention of the committee that "B" children shall not be phased out of the program, and, by revising the program as proposed by the committee, we hope to state that message clearly so that the administration and the school districts around the country understand precisely the position that the Congress has decided upon with respect to "B" children under the impacted areas program.

Mr. President, we have discussed this amendment. It has merit, but I think the Senate should know exactly what we are doing. We are taking the total impact funds and segregating one-sixth of those funds and giving priority to the areas where the greatest concentrations of section A's are located. This means that one-sixth of the money will be withdrawn and not be available to the States for the rest of the section A's and the section B's. Personally, I have some doubts about this approach, but it is obviously the will of the majority in the Senate, and for that reason I would be willing to accept the amendment.

Mr. BEALL. Mr. President, will the Senator yield?

Mr. PELL. I yield.

Mr. BEALL. Mr. President, do I correctly understand that the Senator is saying that if this amendment is adopted, of the total impact in aid pot, what percentage will be pulled out and given to——

Mr. PELL. Approximately one-sixth of the total money of impact aid will be used to satisfy this amendment.

Mr. BEALL. It will come first, before any other consideration?

Mr. PELL. It will come first, before any other consideration, and the other five-sixths will have to cover what is being covered now by six-sixths, including these areas.

Mr. BEALL. Mr. President, if I understand correctly what we are doing, I would like the opportunity to study this matter in a little more depth, because it seems to me, if I understand this amendment correctly, that we are saying to those areas that have a particularly high concentration of A type impacted aid students that they will get precedence over those which may have a lesser concentration of A type. Is that correct? And certainly they will get precedence over those which have B military students.

Mr. McGOVERN. I think that what the Senator has said is correct. It seems to me that that only makes the point that what we are trying to do is to provide some reasonable compensation to those areas that do have the sharpest Federal impact and where there is the least tax base; because if you have a school district or a school agency where 25 percent or more of the students are on that installation or on that Federal property, it is obvious that you have a diminished tax base from which to draw. To say that the students in that area are going to get only one-sixth of the total money available under Public Law 874 seems to me to make the case. I think they deserve it.

Mr. BEALL. If I correctly understand the Senator's amendment, he is establishing a priority for the distribution of the A money.

Mr. McGOVERN. Absolutely.

Mr. BEALL. So the Senator is making a previously unmade distinction among A students.

Mr. McGOVERN. We are making a distinction that is broad enough by necessity. These schools in such areas are not going to be able to survive without the full entitlement provided under this act.

Mr. BEALL. The Senator, in effect, is adding another category. We have A, B, and C, and he is adding A, A-plus, B, and C.

Mr. YOUNG. This amendment is exactly the same as the one we have had for 4 years in the appropriation bill. It was written by the Department of Health, Education, and Welfare.

Mr. McGOVERN. I should like to add one point, in response to the Senator from Maryland. What we are doing is to reaffirm the existing practice; we are reaffirming existing law. It is the committee bill that is changing the formula. We are providing for 100 percent entitlement, as provided by Public Law 874. This amendment, in other words, reaffirms the law.

Mr. BEALL. But the Senator is only providing 100 percent for this, which formerly——

Mr. McGOVERN. That has been the practice in recent years.

Mr. BURDICK. Mr. President, will the Senator yield?

Mr. McGOVERN. I yield.

Mr. BURDICK. Mr. President, I commend the Senator from South Dakota for proposing this amendment, and I ask for its adoption.

Mr. COTTON. Mr. President, will the Senator yield?

Mr. McGOVERN. I yield.

Mr. COTTON. I merely want to say to the Senator from Maryland, in all fairness, that in the appropriation bill, in the past several years, when we have fought this out each year on the division, with respect to impacted aid funds, we have created and enacted the same class. I think it is completely just that this class should receive it.

What the distinguished Senator from South Dakota is doing is anticipating, ahead of time, and seeing to it that this particular part of the funds is tied up. It leaves the rest open, as they have been *in other* years. In view of the fact that this is taken care of now, it might possibly strengthen the position of the administration forces that would like to eradicate all the rest. To that extent, it might militate against those in Virginia and Maryland who put up the fight for their share of the impacted area funds, but only to that extent. It simply ties up this particular portion which has been agreed upon by everybody for several years.

Mr. BEALL. Mr. President, will the Senator yield?

Mr. COTTON. I do not have the floor.

Mr. BEALL. Will the Senator from South Dakota yield to me, so that I might ask the Senator from New Hampshire a question?

Mr. McGOVERN. I yield.

Mr. BEALL. As I understand what the Senator from New Hampshire is saying, it is that in previous years the Appropriations Committee, in appropriating the money, has made this allocation for this type of student.

Mr. COTTON. That is correct.

Mr. BEALL. And his analysis of this situation is that the Senator from South Dakota's amendment is authorizing the Appropriations Committee to do under this bill what it has done under previous bills in the appropriations process.

My question is this: Although that may be true, this bill changes the formula for distribution of impacted aid money. Are we now authorizing a further refinement of the moneys within the total authorization? In other words, the Senator is saying he is doing the same thing, but I am asking him whether he is really doing the same thing, or is he assuring, out of a smaller pot, that this fund is maintained at 100 percent?

Mr. COTTON. The Senator from New Hampshire apologizes for not expressing himself as clearly as he intended.

Unless we make the authorization for distribution of impacted area funds to the B students and to the C students, which has been attempted on the housing situation each year, we may find ourselves, when we come to the appropiration bill, with this authorized and the rest unauthorized. That should be borne in mind.

There is nothing wrong with this, but it leaves the other classes open, unless there is a general authorization that permits their distribution. I think the Appropriations Committee probably has the authority, under the general authorization of impacted area funds, to deal with the others, but I am not sure they have, unless somewhere in this bill the authorization is made so that B students and C students can be considered.

Mr. MATHIAS. Mr. President, will the Senator from New Hampshire yield for a question?

Mr. COTTON. I yield.

Mr. MATHIAS. Is the Senator saying to us that, dollar for dollar that is authorized and appropriated, the distribution will be the same after the passage of this amendment, as it has been in the last several years?

Mr. COTTON. No, I am saying exactly the opposite. I have not examined the bill sentence by sentence to see what the general authorization is, but Senators had better make sure if they want to get what they have been getting in the past for their B students. They better make sure that the authorization either is in this bill or is still in existence continuing and that the appropriations could be made without legislation on an appropriation bill. So Senators do have something to guard against, although this particular allocation is completely sound and just and probably would be adhered to when the general appropriation bill came in, or the general authorization.

Mr. MATHIAS. Mr. President, I wish to address an inquiry to the Senator from South Dakota. Does the Senator from South Dakota have a table which would indicate the impact of his amendment in dollars and cents terms on the distribution within the State?

Mr. McGOVERN. I can only give the Senator this assurance. It follows the same allocation that the Committee on Appropriations has been writing into law for the last 4 years. In other words, you are going to get the same percentage allocation you had in the last 4 years. The change would be made if we adopted the committee position without this amendment. In other words, the Education Committee is making the change in the allocation we had in recent years. This amendment is consistent with what the Committee on Appropriations has done in recent years.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. McGOVERN. I yield.

Mr. STEVENS. Mr. President, the Senator is correct. We have not been funding A's at 100 percent. This would affect those that have 100 percent at 25 percent.

We have made changes in this bill, and the Senator from Maryland makes a good point.

Mr. COTTON. We have been funding the A's with 25 percent.

Mr. STEVENS. At 100 percent.

Mr. COTTON. At 100 percent in the past. Now, we find that the Senator from Maryland saw to it early in the bill to get his B's authorized so this does not jeopardize his money.

Mr. BEALL. Mr. President, if the Senator will yield, I am concerned with the A's. If you have a military base in a relatively unpopulated county, then the A students are funded at 100 percent under the amendment, but if there is a large military base in a large county with the same number of children, but less than 25 percent of the total school population, the A's are not funded at 100 percent.

Several Senators addressed the Chair.

Mr. HRUSKA. Then they are not funded at 100 percent.

Mr. BEALL. If a State is unlucky enough to have a military base in a large county, the situation is treated differently than if it were in a small county.

Mr. YOUNG. Mr. President, in most of these cases the school districts operate the schools on the base. If they refuse to operate these schools for less than 100 percent of entitlement, the Federal Government has to operate the schools. If the Federal Government operates these schools you have poorer education and at a greater cost. In fact, it has been reliably estimated that such a procedure would cost twice as much.

Mr. STEVENS. Mr. President, I do not think the Senator from North Dakota understands our problem, and that is that those people that have less than 25 percent might have a situation where they are equally deserving. I think the Senator from Maryland and I are arguing for 100 percent funding of all A students. The Senator is talking about 100 percent of those with 25 percent. We are worrying about the others. I have that situation in my State of Alaska. We have some that have been added and my State will lose. You take all of the A money first and then figure the distribution of the balance. I think we have not funded all the A students at 100 percent.

I am not criticizing the position of the Senator from South Dakota. It is what we have done in the past. But I hope we make progress and commit ourselves to

100 percent funding of A students. That I can support wholeheartedly.

Mr. METCALF. Mr. President, will the Senator yield?

Mr. McGOVERN. I yield to the Senator from Montana.

Mr. METCALF. Originally, of course, this bill was designed to do what the proposal of the Senator from South Dakota provides: to take care of these sudden impacts due to Army bases. Now we are saying that in sparsely populated areas, where you have the impact of a base that takes away the tax allowance, when it is 25 percent we will fund it completely.

I want to make it explicit that this applies also to Indians on Indian reservations where we have taken the trust land away and have taken it out of the tax base, and where we have that impact there is not any way to finance the schools unless we have 100 percent funding.

If areas are fortunate enough to have a military base in a heavily populated area, they do have a real property tax base so that they can take care of it if the Committee on Appropriations does not completely fund it. But originally we said when we go in and create this sudden and extraordinary impact of a military base or an Indian reservation, or some of these things, we will fund it under Public Law 874.

Later several other things have taken place but this is to take care of that extraordinary situation that removes such a tremendous amount of property from the taxing for school purposes. This does apply to Indian reservations. Is that correct?

Mr. McGOVERN. The Senator is correct.

Mr. METCALF. And the boys and girls who live on Indian reservations, up to 25 percent, would be category A students.

Mr. McGOVERN. The Senator is correct.

Mr. METCALF. I thank the Senator.

Mr. McGOVERN. Mr. President, I send to the desk a technical amendment to my amendment in order to conform it to the bill. It does not change the substance but simply brings the numbering into line.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

Mr. McGOVERN. I ask unanimous consent that change be made.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator will send his modification to the desk.

The amendment, as modified, is as follows:

On page 215, between lines 10 and 11, insert the following new section:

"ENTITLEMENT TO PAYMENTS WITH RESPECT TO HIGH CONCENTRATIONS OF CHILDREN WHO RESIDE ON OR WHOSE PARENTS ARE EMPLOYED ON FEDERAL PROPERTY

"SEC. 205. (a) Section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by adding at the end thereof the following new subsection:

"'(f) Notwithstanding any other provision of this Act (including the provisions of section 5(c)) a local educational agency with respect to which the number of children determined for any fiscal year under subsection (a) amounts to at least 25 per centum of the total number of children who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education, shall be entitled to receive an amount equal to 100 per centum of the amounts to which such agency would be otherwise entitled under this Act. The provisions of section 5(c) shall not apply to any local educational agency to which this subsection applies.'.

"(b) The amendment made by this section shall be effective on and after July 1, 1974.".

Mr. HRUSKA. Mr. President, I rise in support of the amendment numbered 1026.

Thirty-four States contain one or more school districts with severe category A or "on base" impaction from federally connected activities. Severe category A impaction is a rate of 25 percent or greater. Most districts with severe category A impaction serve Armed Forces dependents and American Indians. The 34 States contain a total of 229 school districts in the severe A category. Nebraska has four such severely impacted school districts.

You may recall that for several years it has been necessary to assert a funding priority for severe category A impaction through the appropriation process. S. 1539, the Education Amendments of 1974, does recognize a high category A priority. But, it also contains proration features which threaten category A entitlements.

Under section 203 of S. 1539 school districts with severe category A impaction would be subject to proration of their entitlements if all impact aid categories are not fully funded. Proration could result in a drop in entitlement from 100 percent to 85 percent or less for the severe category A districts.

To forestall this possibility, Senator McGovern introduced on March 13, 1974, an amendment which I cosponsored and which would make these districts immune to proration. In essence the amendment reaffirms the provisions included in appropriations bills during the past several years. This amendment merits approval.

Mr. JAVITS. Mr. President, I yield myself 2 minutes from the time in my possession.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, I want to be sure we are talking in parallel about the global figure for impact aid not being affected.

Mr. McGOVERN. That is correct.

Mr. JAVITS. It is simply a shift within that figure.

Mr. McGOVERN. That is correct. I might say a shift. The Committee on Appropriations has been making the law for years.

Mr. JAVITS. Mr. President, I feel that we should allow our colleagues from Maryland (Mr. Beall and Mr. Mathias), if they have questions about it, some necessary time.

How much time do we have in opposition?

The PRESIDING OFFICER. Thirty minutes.

Mr. JAVITS. I hope the manager of the bill would yield 10 minutes in order that the matter may be discussed.

Mr. PELL. I am glad to yield. I wish to point out that if this amendment is agreed to we will then be going to conference with the House and the House does not have this provision. I imagine some compromise would be arrived at, splitting the difference between 25 percent and 100 percent. That would seem the normal course of events in conference and this would mean rather than one-sixth of the money distributed you would have less, or maybe 15 percent or something of that sort covering the areas of very heavy concentration, and other areas less affected.

Mr. JAVITS. Mr. President, to have an opportunity for this matter to proceed, I ask unanimous consent that we may have a quorum call, without the time being charged to either side.

The PRESIDING OFFICER (Mr. Johnston). Is there objection? Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McGOVERN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McGOVERN. Mr. President, I ask that the amendment be put to a vote.

The PRESIDING OFFICER. Do Senators yield back the remainder of their time?

Mr. McGOVERN. I yield back the remainder of my time.

Mr. PELL. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from South Dakota.

The amendment was agreed to.

Mr. HRUSKA. Mr. President, I move that the Senate reconsider the vote by which the amendment was agreed to.

Mr. McGOVERN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SECTION 406: ELEMENTARY AND SECONDARY EDUCATION ACT

Mr. CHURCH. Mr. President, the country's enormous tax investment in public school buildings has not been paying the dividends it could. We have allocated between $150 and $200 billion to the largest physical plant in the country, our schools, and yet, the facilities are only used for 6 to 7 hours a day and are generally serving only one segment of the population. The doors are usually locked early in the afternoon leaving one of the best equipped facilities vacant and wasted. But there is a remedy.

Community education through the use of neighborhood schools and facilities can expand the concept of the traditional school, usually regarded as a formal learning center primarily for grades 1 through 12 and operating, at most, only 8 hours a day, 5 days a week. It can transform the traditional local school into a community development center which provides opportunities and services to all segments of the population. Through community education, schools can work in conjunction with the recreational, cultural, social, and teaching services provided throughout the community and keep open the doors of the schools for the entire community.

Since 1930—when community education began in Flint, Mich., with the support of the C. S. Mott Foundation—some 3,600 community schools have been developed in approximately 600 school districts across the country. But many of these programs have had to struggle for funding and have had to use multiple channels such as school levies, local funds, private foundations, and some Federal funding to stay afloat. I think these programs have more than justified their existence; and the creation of a nationwide, federally supported program is now appropriate.

Why use our public schools for this purpose? Public schools are the best equipped to be community centers because they are:

Centrally located in the neighborhoods;

Have facilities adaptable to broad community use;

Have the personnel and volunteers necessary to work with and attempt to solve many community problems;

Owned and supported by the public; and

Are nonpolitical.

For these reasons, I introduced S. 335, the Community School Center Development Act, which has been incorporated into section 406 of the Elementary and Secondary Education Act. I think it is important and encouraging that S. 335 was so incorporated and recognized as a program deserving support.

In the many localities where community schools have been developed and are thriving, there is an excitement and pride expressed by the community about "our school." Schools are becoming more than the halls of education. The young—as well as parents, friends, elderly and neighbors—flock together to work on community problems together, develop new skills in the arts, learn a new language, and much more.

Recently in my home State of Idaho, the community schools in Boise offered tax assistance to many of the community's elderly and isolated who were brought to the schools to receive needed tax counseling and added personal assistance from local Internal Revenue Service personnel. The program was praised by all participants and has been promised to the community for next year.

Transforming the traditional schools into community schools and centers will offer the citizens a more substantial dividend for the huge tax investment they have put out for the schools over many years. The entire community benefits from their investment and is able to meet and work with teachers, students, friends, and neighbors and simultaneously increase their own talents and abilities.

Mr. President, I earnestly ask that our Members support the concept of community education in this country. From the knowledge gained from such a program, we cannot afford to ignore the benefits we have available to us at such low, modest costs.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with statements therein limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered. Is there any morning business?

EDUCATION AMENDMENTS OF 1974—BUSING

Mr. BROCK. Mr. President, I wish to express my very deep regret over the failure of the Senate to act once more on the problem faced by the children of the country, under compulsion of the courts, as it rejected the Gurney amendment by one vote.

I should say, first of all, that that vote indicated, I think, growing dismay and disenchantment, not only in the country, but also in the U.S. Senate, with conditions that many of us, at least, have considered to be intolerable.

I might say for the benefit of my colleagues that if they have not suffered under this kind of compulsion, perhaps it is understandable that they do not realize the extent of the burden imposed on our schools, our parents, and our children. But for those who do have the problem, as we do in my State, there is no alternative but to continue this fight, and we shall do so until we are successful.

I have some newspaper articles from Tennessee that I ask unanimous consent to have printed in the RECORD, one showing the drastic drop in junior high academic achievement levels, another showing the request by faculty members for the right to use a Lance spray to break up fights, another on the busing debate itself, another on a student behavioral center, another on the increased budget required under this program, another on the incredible millions of dollars that are being required for additional funds for school transit, another relating to an incident where weapons were fired and chains hurled in a fight, others on the drop in our parent-teachers association membership in Nashville from 50,000 parents to 30,000, another on a statement where the school board felt they were fortunate to miss a Federal survey on racism, another on metro school enrollment dropping further, another on metro school attendance, a further one on national PTA votes against busing, and a final one on discipline as a major problem in the schools and communities. I ask unanimous consent that these articles be printed in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

SCORES SHOW DRASTIC DROP IN JUNIOR HIGH'S ACADEMIC ACHIEVEMENT

Metropolitan achievement test scores for the past three school years—1960–70 through 1971–72—at Moore Junior High School show a drastic fall in academic achievement and a dramatic rise in the number of "below average" students, a letter to Dr. Elbert Brooks, Metro school director, from Mrs. Charles F. Frazier, 1971–72 PTA president, discloses.

Achievement scores for the three school years in reading, language, social studies, math comprehension and science were set out in the letter to Dr. Brooks.

The letter was mailed June 1, Mrs. Frazier said, but no reply has been received. Moore has been in operation for three years, so the scores reflect its entire history as a junior high school.

"As parents of some of the students at Moore Junior High School, we appeal to you in their behalf," Mrs. Frazier wrote.

The test scores for the three academic years showed that the number of "superior" reading students dropped more than two-thirds, and the number of "below average" readers increased by threefold.

In 1969–70, Moore Junior High had 18 per cent of its students ranked as "superior" by the achievement tests in reading. The percentage dropped to 11 per cent in 1970–71. Only 5 per cent of the students were discovered to be "superior" readers by the achievement tests in 1971–72.

During the same period of time the "below average" students in reading, as determined by the achievement test scores, increased from 11 per cent in 1969–70, to 13 per cent in 1970–71. In 1971–72, the student body had 32 per cent "below average" readers.

Only 2 per cent of the student body were "poor" readers in 1969–70, and just 1 per cent in 1970–71—but 9 per cent were "poor" readers in 1971–72.

"Above average" readers jumped from 25 per cent in 1969–70 to 28 per cent in 1970–71, then fell to 17 per cent of the students in 1971–72. "Average" readers went from 44 per cent to 47 per cent, then to 37 per cent during the three-academic-year period.

"We are fully aware that this past year has been a trying one for every person involved in public education and especially to those in positions of authority," Mrs. Frazier wrote.

"Realizing the situation, we did not make an appeal last fall when our racial ratio was heavily balanced beyond the court-ordered figure. However, now, at the end of the year, was ask that you re-examine our status before fall opening and grant us relief within the court-suggested guidelines."

On Oct. 12, 1971, Moore had 45 per cent black students—422 black and 522 white, for a total of 944 students. On March 2, 1972, the school had 43.2 per cent black students, according to the division of pupil accounting of Metro schools. The "ideal" ratio is considered to be 15 to 35 per cent black.

In order to support the request of the parents for whom she was making the appeal, Mrs. Frazier stated that "we are submitting Metropolitan achievement test scores for the past three years."

"These scores indicate an obvious academic decline," she pointed out to Dr. Brooks.

"To further support our request, we are citing other concerns. Our children have not received as much scholastic work this year as in the past," Mrs. Frazier told the school director.

GRADING TOO LIBERAL

"It is also evident to parents that through the necessity of grade curves, some children are receiving higher grades than we feel they have earned.

"One factor involved is the continual need for classroom discipline, thus detracting from the teaching hour. Another factor has been the effort to raise the underachievers to a higher level of accomplishment.

"So much time has had to be devoted to basic skills, to learning to read and write, that the average and the above average student had become bored and apathetic," the letter to Dr. Brooks points out.

"Some of those students capable of working on their own have done satisfactory work but not to the level they could have reached with more time and encouragement from the teacher in charge. The teacher has, of necessity, spent more time with the children in need of the most help. We feel that the achieving student is deserving of consideration as truly as the others."

Mrs. Frazier wrote Dr. Brooks that "we want to assure you that this letter is not meant to reflect in any way on the ability or interest of our faculty and teaching staff.

"On the contrary," she stressed, "we would like to commend them on the work they have done this past year while under stress and tension.

"However, there is a limit to time and human energy. We feel the cause of education could be better served with a reduced ratio of underachievers to the average student which would permit the teacher's skills to be more efficiently employed and classroom discipline improved. Those of us who have worked more closely with the school are fully aware of this.

"We do earnestly appeal to you for a more equitable distribution of the racial ratio at Moore Junior High School by the opening of school in September of 1972," Mrs. Frazier concluded.

Copies of her letter were sent to members of the school board and Hale Harris, director of community information and public relations.

[From the Banner, Apr. 30, 1974]

Meigs Faculty Asks Spray Use To Stop Student Fights

(By Robert Churchwell)

Fighting students face the likelihood of having their altercations cooled off by a blast of Lance, a chemical riot control spray, if Meigs Junior High School faculty members have their way.

Rather than chance personal injury, the Meigs faculty proposes breaking up fights among youths by using the spray, described on the label's container as being a "riot control agent . . . strong irritant affecting the eyes, respiratory area, and skin."

"We, the Meigs faculty, are deeply concerned about teacher involvement in breaking up fights and other student disturbances," Robert L. Ring, faculty representative, said in a letter to John Younger, Metro schools director of group employes relations.

". . . One suggestion for a method of handling these types of situations," Ring said, "is the product Lance."

STUDY REQUESTED

"We as a faculty are requesting that a study be made of the problem and alternatives and stipulations to us as to our proper conduct so that we may morally, legally, and ethically (be) in bounds if we are expected to control student conduct and disturbances," Ring said.

The Meigs faculty's action follows the suspension without pay of a teacher at W. A. Bass Junior High School for reportedly refusing to stop a fight between two girl students in his mathematics classroom last week.

One of the eighth-grade girls was pushed to the floor kicked in the head and knocked unconscious, school officials said.

Dr. Elbert D. Brooks, director of Metro schools, declined direct comment on the suggested use of Lance to stop student fights. He said a teacher's duty is to "refer disruptive students to the principal. We expect teachers to be alert to situations that might cause disruption in the classroom."

Brooks said the letter should have been sent to Hugh G. Waters, superintendent of school District I, rather than to Younger since Meigs is in that district.

Waters said "we haven't resorted to this method (using Lance) previously to maintain law and order. I believe the best way to do this is to work with the youngsters and their problems."

C. R. Dorrier, Metro Board of Education chairman, said his reaction to spraying fighting students with Lance is "negative," except perhaps as a last resort. "There must be a better way than that to handle this thing," he said.

Dr. Robert Bogen, executive director of the Metropolitan Nashville Education Association (MNEA), said he believes the idea to use Lance comes out of the "desperation of teachers trying to deal with problems we have in our schools . . . the incident at Bass just brought it out in the open."

[From the Banner, Apr. 6, 1974]

Are Racial Busing's Days Numbered?

(By Frank Van Linden)

WASHINGTON.—The Old Pol in the White House is making the most of his stand on the popular side of an issue which is splitting the Democrats right down the middle.

Twice recently Richard M. Nixon has gone out of his way to emphasize his undying opposition to busing school children far from their homes for the sake of promoting racial balance in the classrooms.

First, in a radio speech to the nation, urging passage of a multibillion-dollar education bill, he called for an antibusing provision like the one he pushed through the House in 1972, only to see it killed by a Senate filibuster.

Second, in a frankly political campaign pep talk at the Republicans' thousand-dollar plate dinner, the President advised his party that it had a winning issue by opposing forced busing. He said the children should be allowed to attend "neighborhood schools" closest to their homes, not bused hither and yon at the behest of some bureaucrat or federal judge.

Only the day before his speech, the House had written into the education bill the provision Nixon wanted. It would allow busing only as a last resort to achieve desegregation. It would permit no student to be bused, under court orders, any farther than the school next-closest to his home.

The amendment sailed through by a 293 to 117 majority, as liberal Democrats from Northern industrial cities joined with conservatives in both parties in the stampede to go on record against crosstown busing.

Democrats from New York, Pennsylvania, Massachusetts, Ohio, and Michigan were among the liberals from labor union districts who had to break away from their long-time alliance with the civil rights groups that are bitterly opposed to the antibusing measure.

Jim O'Hara, Lucien Nedzi and William Ford Democrats from Michigan industrial areas, explained that they had to vote for the Congress' Republican-sponsored provision because the people of Michigan are almost unanimous in opposing the federal-court order which would enforce busing across the boundary lines of 53 school districts in the Metropolitan Detroit area.

New York's Congressmen Mario Biaggi, Joseph Addabbo, Frank Brasco, John Murphy and Otis Pike were among the liberal Democrats with near-perfect records of favoring civil-rights legislation, who nevertheless switched over to the antibusing side.

"Originally, I was in favor of school busing," Biaggi said. But he frankly admitted, "It has not worked and the cure has been worse than the disease." Nixon himself could not have detailed the failures of busing more accurately than Biaggi did in these words:

"The education of our children has been disrupted. Countless thousands have been subject to significant risk of accident on the long roads which lead to schools far from home and their neighborhood school.

"Countless thousands have failed to receive educational services they desperately need for effective programs because great amounts of money have been spent on buses and drivers. . . . The cost of busing is clearly too high. It is unreasonable and it is senseless. Even prominent black educators, such as Dr. Kenneth Clark, have concluded that it is the wrong route."

Foes of the antibusing provision will rally their forces in an attempt to kill it in the Senate with another filibuster.

As a political issue, however, it has already been turned into a plus for the embattled President and his party, and it will remain to split the Democrats—perhaps all the way into the 1976 election.

School Barriers?

(By George S. Thompson)

While listening to the public FM radio station I heard a very moving short program which told the story of a black father, the Rev. Oliver Brown, who through diligent work helped break down the barriers which forced his young daughter to be transported several miles to an all-black school rather than walk four blocks to the nearby school which was all-white.

The little girl could not understand why she could play with the other children in the neighborhood but could not go to school with them. Rev. Brown's efforts helped bring about the Supreme Court decision of 1954 which removed these barriers and enabled children like his to attend their neighborhood school.

Now if I could only find a way to do the same for my daughter.

Metro Schools, Brooks Says

(By Frank Sutherland)

The director of Metro schools said yesterday that 6,600 students fled from the school system this year, more white flight is expected next year and that he favors asking federal court to modify the present busing plan.

Dr. Elbert D. Brooks said in an interview he believes the school board can appeal its desegration plan to the U.S. Supreme Court while making requests for changes to U.S. Dist. Judge L. Clure Morton.

The U.S. Sixth Circuit Court of Appeals upheld Morton's desegregation plan last week and commented it was "puzzled" why the attorney for the school board had never asked Morton for relief from the hardships the board claims the busing plan has caused in Nashville.

Brooks said his staff will present alternatives to the school board June 13 for the board to consider in making requests to Morton.

C. R. Dorrier, chairman of the board, has said the board "will most likely" appeal the case to the Supreme Court, saying once the decision to appeal was made, the board should "go all the way."

The circuit court judges were critical of the board for arguing about hardships of the busing plan before them when the school board had not asked Morton for any changes.

Dick L. Lansden, attorney for the school board, said in oral arguments before the appellate court that he had not asked Morton for relief because Morton, he said, had told him privately he would not hear such a motion.

The court said it did not and said "the door is open (as it always has been)" to Morton's court to petition for changes. In fact, the circuit court said, Morton had said himself in his order that he anticipated some changes might have to be considered.

Brooks said his staff will present two basic alternatives to the board: (1) Improve the safety of the program by reducing the extremely early and late bus schedules, and-or (2) Make zone changes to alleviate or modify the black-white ratio within the capabilities of the present transportation fleet.

"The first alternative would result in less integration than is currently carried out," Brooks said. "The second proposal might retain the present degree of integration but make no changes in the safety or inconvenience.

"The underlying fact is that there can be no substantial relief without additional transportation."

Brooks said the current busing plan "has resulted in white flight changing the black-white ratio" from those predicted under Morton's plan.

"Contributing to white flight is the matter of inconvenience. On the one hand, we have a crying need to do something about inconvenience of transportation, and then we also have to alleviate other conditions that lead to white flight, such as racial imbalances."

Under Morton's plan, no school would have had more than a 44% black student body. However, with the flight of 6,600 white students, there are about 10 schools with a majority of black students or hovering at the 50% mark. In some cases, this has meant a majority black school in an all-white neighborhood such as Brookmeade.

The school board voted two weeks ago to change attendance zone lines for 11 schools for next fall, but these changes, while improving the racial balances at these schools, affected only one of the 10 schools with a majority black student body.

Brooks said the clusters will have to be alerted, with the approval of federal court, to change the other nine majority black schools. The reason for this, he said, is that white flight has been so great within the cluster, there are not enough white students left in these zones to give each school a majority white student body.

In reviewing the school year, Brooks said the biggest disappointment was the failure to get the long-range building program off the ground. He said the new Whites Creek comprehensive high school, to serve the Cumberland-Joelton area, is now being considered by the Metro Council.

He said the school board's task force on discipline is "gathering data" on the problem and "if any quick answers can be found, they will be put into effect."

He said there were 4,500 suspensions handed down this year, an unusually high number, showing that the school system has made attempts to control the problem.

[From the Tennessean, Aug. 28, 1973]

Student Behavioral Center Opens Sept. 4

The Central Learning Center for students with behavioral problems will open Sept. 4 for its first full year of operation in the old Waverly-Belmont School, school officials said yesterday.

In a status report to be made to the Metro Board of Education today, school officials said the major plans and arrangements have been made for the transfer of the center to Waverly-Belmont from Washington Junior High School.

The controversial center, designed to take up to about 150 junior high school students found to have behavioral problems or to be disruptive to the classroom environment, opened on a temporary basis last winter at Washington.

School officials said the first two weeks of the center's operation will be devoted to identification, screening and placement of students. The center's staff, including principal, assistant principal and 10 teacher-counselor positions, already have been filled for the coming school year, officials said.

In the report to the board about last spring's operation, the center's enrollment varied from 48 to 50 students. About 50% of those students previously had been involved with the Metro Juvenile Court. In the original plans for the center, that percentage had been estimated at only about 33%.

The center staff participated in a two-week workshop earlier this month, preparing the teachers to cope with the special kinds of problems in this kind of school.

The center was developed in response to parent, community and teacher concerns about discipline in the schools. Six junior highs were selected as sources of students for the project.

Schools Director Dr. Elbert D. Brooks, said the center will be regarded as a "top priority, carefully controlled and evaluated developmental project."

At the end of this school year, the school board is expected to evaluate the center program and decide whether it should be continued and/or expanded.

Despite Student Lag, Increased Budget Sought

(By Robert Churchwell)

In the face of a declining school enrollment, Metro school officials have asked for an increase of $13.21 million to operate schools next year.

A record budget of $97,854,750 has been compiled for the proposed operation of Metro schools during 1974–75.

Delbert S. Nowell, assistant superintendent for business services, said the new general operations budget, figured on expected receipt of local and state tax money, comes to $89,354,750.

He said a hoped-for $8.5 million in federal funds, peaked the budget beyond this year's figures of $76,141,515 in general operation funds, plus $7 million already received in federal money.

The Metro Board of Education will hold a public hearing on the proposed budget at 7:30 p.m. today at McGavock High School. Dr. Elbert D. Brooks, director of schools, members of his staff, members of the board and members of the Citizens Budget Advisory Committee will present the budget and answer questions from the audience.

The board will give final approval to the budget at its April 23 meeting, after which it must be submitted to Mayor Beverly Briley and Metro Council for approval.

2,000 Decline

The sharply increased budget is being proposed at a time when school officials are predicting a drop by 2,000 in total school enrollment by next fall.

E. T. Carothers, schools information director, said Metro's 140 schools opened this year with 84,000 students. He said the projected enrollment for 1974–75 is 32,115.

Carothers said the peak enrollment was 95,000 in 1971 prior to a decline which set in following desegregation orders of federal district court here which called for extensive busing.

Mr. Roderick G. Snow, Chairman of the citizens committee, called for increased spending on schools in the committee report to the board, saying, "The psychology is not what we can get by with, but what we need."

Nowell said the proposed cost of instruction at $59,822,377 is the highest priced single item in the budget, an increase of $7,519,500 over this year's $52,302,875.

Nowell said increases in teachers' salaries are figured in this item although negotiations have not been completed between the school administration and representatives of the Metropolitan Nashville Education Association (MNEA).

He said Gov. Winfield Dunn's trimming of $100 from what was proposed to be a $700 salary hike for teachers will mean Metro "will get only $300,000 when we were expecting $700,000."

RISE IN COSTS

All top items in the operation of the school system, as listed by Nowell, show a rise in costs in the proposed budget document.

Operation of plant will cost $7,852,797 next year, an increase of $699,624. The hike includes $150,000 to pay the school system's electric light bill; $400,000 to pay the school system's electric light bill $400,000 to pay the telephone bill; and $50,000 for gas to heat school buildings.

The budget contains $4,240,454 for transportation, a $920,427 increase over this year's $3,320,027.

Other items proposed include $5,720,776 for fixed charges, an increase of $901,384. This item includes the school system's contributions to teacher retirement, social security and hospitalization insurance; $4,971,707 for capital outlay, a $2,360,326 increase over this year's $2,611,381; and $3,015,810 for maintenance costs, an increase of $258,572 over last year's $2,757,238.

[From the Banner, Jan. 1, 1974]

Metro Schools 'Lucky' To Miss Survey on Racism

(By Robert Churchwell)

The Metro school system is "lucky" not to be participating in a national survey of racial attitudes of students in desegregated schools, which is "a good thing and necessary but creates difficulty and misunderstanding," Dr. Charles B. Watts, assistant superintendent for program and staff development, said.

The survey is being conducted by the U.S. Office of Education in school systems in 25 states, including Tennessee, "to measure the effectiveness of the hundreds of millions of dollars being spent under the 1972 Emergency School Aid Act (ESAA)."

Funds allocated local school systems under ESAA are designated for programs to help relieve desegregation problems within schools and at the community level.

The Metro school system has field a $7.6 million request for ESAA funds for the 1974–75 school year with the regional U.S. Office of Education in Atlanta, Watts said. He said an answer to the request is expected by the middle of February.

Michael J. Wargo, evaluation project officer for ESAA, said the random survey will continue until 29,000 students have been questioned "despite charges that the questions are highly inflammatory and racist."

Watts said his office was contacted two or three months ago to let "us know we were lucky enough not to be included in the survey."

"It's just a lot of work which we don't get any feedback on. It has to be done for evaluation. It's a good thing and necessary but it creates a lot of difficulty and misunderstanding," Watts said.

Students are asked in the survey to state their perception of their own, their parents', teachers' and principals' feelings about desegregation.

Among questions asked them are:

"How do your parents feel about black and white students going to the same school?"

"Do you think black students cause more trouble than other kinds of students?"

"Do you think white teachers in the school are unfair to students who are not white?"

"Do you think black people are smarter than other people?"

Wargo said Congress requires evaluation of the desegregation aid law's effectiveness in improving race relations, reducing minority isolation and improving academic achievement.

He said the survey will be repeated during the 1975–76 school year, but the first results won't be available for a year.

WEAPON FIRED, CHAIRS HURLED IN FIGHT AT PEARL

(By Robert Glass)

Terror swept through the Pearl High School cafeteria during the lunch hour when three young men attacked two students, hurled chairs and fired a pistol at one of them, authorities said today.

Youth Guidance Director George Currey said the fight and shooting occurred at noon Tuesday while the lunchroom was filled with students. However, no injuries were reported.

Two brothers and another youth, all 17 years old, were arrested Wednesday.

Currey identified those charged as Jeffrey Fenton and Joseph Fenton, both of 1714 Heiman St.; and Orlando Westbrooks, who gave his address as the 2600 block of Heiman Street.

Principal Leslie Carnes said the attack was directed at students Lorenzo Short and Kevin Howse, both 17.

Carnes said the fight "lasted about 20 seconds" and happened "suddenly."

"The students were frightened but did not run out (of the cafeteria) in any special great numbers," he said.

The episode began in the restroom on the first floor of the senior high school located at 601 17th Ave. N., police reported.

Carnes said Short and Jeffrey Fenton "got into an argument" in the restroom. He said he escorted Fenton from the school by way of "the nearest exit."

Fenton re-entered the school "by another door," Carnes said, and was joined by his brother and Westbrooks.

"They found Short and Howse in the lunchroom and a fight ensued," the principal said.

Currey reported Jeffrey Fenton fired a .22-caliber derringer pistol at Short, the bullet missing him.

The three alleged assailants fled from the school after the shooting, Currey said.

Carnes said the incident resulted from a fight the five youths reportedly had Sunday in which "guns were involved on both sides."

The exact nature of the disagreement among the five youths, who Carnes described as "friends," was not known.

Currey said officers found the derringer pistol under Joseph Fenton's bed mattress when they went to his house to make the arrest.

METRO PTA MEMBERSHIP DROP CITED

Memberships in the Metro PTA council have declined 20,000 from a high of 50,000 in 1970, a report to the executive committee said.

The drop over a shorter period of one year was 3,000 members—from 33,000 last year to the present 30,000 members on roll, the report said.

Mrs. Joseph Kott, council president, said "general apathy" and an increase in the number of women working are reasons why PTA membership is down. Other factors include the development of one-year schools, some of which discourage PTAs as part of their programs, and the fact that families who have as many as five children in school and are unable to pay membership dues ranging from 50 cents to $5, she said.

Mrs. Kott urged local PTAs to try to attract parents whose children attend schools in communities other than where they live. She said "one final membership thrust" in a school year, usually during open house, will not reach these parents.

In other action the committee received a report that state PTA membership was down by 30,000 as of Dec. 1; approved plans to charter a bus for delegates to attend the state PTA convention April 23–25 in Memphis; and approved plans for the annual presidents and principals banquet at 6:30 p.m. March 18 at the Airport Hilton Inn.

[From the Nashville Banner, Mar. 27, 1974]

METRO SCHOOL ENROLLMENT DROPS

(By Robert Churchwell)

Metro school enrollment will drop another 2,000 students by next fall but there are still reasons why the Metro Board of Education should shape the 1974–75 budget to reflect increased spending over this year, Dr. Roderick G. Snow, chairman of the Citizens Budget Advisory Committee to the board, said Tuesday.

"The question is," Snow said in reporting the committee's budget priorities, "why spend more money for fewer students? We will lose 2,000 more students next year.

"Status school budgets are not what we want. We want more," said Snow, a pathologist at St. Thomas Hospital.

"The psychology is not what we can get by with, but what we need," he said.

Snow said in an interview that his figure on an enrollment drop was reported by a school official at a citizens budget hearing in school District III.

E. T. Carothers, schools director of information, said schools opened this year with 84,000 students and the projected enrollment for 1974–75 is 82,115.

He said the peak enrollment was 95,000 in 1971 prior to a decline which set in following desegregation orders of federal district court here which called for extensive busing.

The board has not settled on a total figure for next year's budget. Eleven uncut departmental requests reported by officials come to $98 million, about $14 million above this year's total budget.

"We do have a lot of cutting to do," said Dr. Elbert D. Brooks, director of schools.

Snow said inflation of current costs in operating the school system and "expanded horizons of people" are reasons to put more money in the new budget. He listed state laws that require public education of children "with varying handicaps" and similar laws expanding the teaching of vocational education among other spending factors.

The committee's priority items recommended for inclusion in the board's adopted budget totals $9.5 million. Snow said the priorities mean "better teaching, expanded programs of many types and also improved buildings."

The reports call for $3 million to buy more buses to reduce staggered school openings to no later than 8:30 a.m. by next fall.

Other items include raising the per pupil expenditure for materials from the present $6 on a scale ranging to $10 per pupil at a $328,000 costs; reducing the elementary and junior high teacher-pupil ratio from 27 and 28 students per teacher to 25 per teacher at a cost of $1.6 million; and programs to improve reading and mathematics in junior high schools at a cost of $600,000.

The report asks that $1.6 million be spent to hire 150 more high school teachers and that $250,000 be spent for more materials at the high school level.

The citizens committee dealt with the controversial subject of salary raises for teachers with a generalized statement.

"Again, as they did last year, the citizens expressed great concern about salaries paid to school personnel. It was strongly recommended that salaries raised for all personnel to keep pace with inflation as a minimum increase," the report said.

The board took no action on the report. The board will present its proposed budget at 7:30 p.m. April 9 at a public hearing at McGavock High School.

MEIGS SCHOOL ATTENDANCE POOR, BROOKS SAYS

The director of Metro Schools has advised the Metro Board of Education that student attendance at Meigs Junior High School "is very poor," and that schools throughout the East Nashville section generally have worse attendance records than schools in other sections of the city.

Dr. Elbert D. Brooks said that Meigs students remain absent for "an appreciable time." He said Meigs drew the attention of school officials last week when four students were found to have been absent from school for four months.

Brooks said additional staff members and a team of home visitors will be assigned to Meigs to help its principal, Owen Warford, and faculty deal with the problem.

He said a plan drawn by Dr. Dolphus Spence, director of secondary education, Area I, will distribute the responsibility for absenteeism among school personnel and parents.

Spence said the plan has been completed and will be implemented this week at Meigs. He said he couldn't discuss details until a full report is made to the board.

On a related issue, Dr. Virginia Dobbs, director of pupil personnel services, said she doesn't feel from a philosophical standpoint that "we could ever defend" student suspension to solve discipline problems.

She said suspension keeps a student from learning, if he is a good student and reinforces what he wants (to stay way from school) if he is a poor student.

Dr. Dobbs said suspensions have more than doubled in Metro schools in the last seven years. She said suspensions occur mainly at the secondary level and only a few at the elementary level. She said principals use the alternative of suspension rather than corporal punishment at the secondary level.

Brooks said "we ought to be smart enough to find a better way than suspension to deal with behavior problems."

The board approved new facilities for vocational programs at Cohn, East, Hillsboro and Hillwood High Schools. Dr. Bill M. Wise, assistant superintendent for facility development and services, said the move will "make some impact in vocational-technical programs" at the schools.

NATIONAL PTA VOTES TO OPPOSE BUSING

ST. LOUIS, MO.—The National Congress of Parents and Teachers (PTA) voted two-to-one Tuesday against court ordered busing to achieve racial balance.

In an emotion charged session, 650 delegates opposed busing and 353 were in favor. The measure, however, must be approved by 31 state assemblies in the PTA before it becomes a permanent item for action.

More than one-third of the 1,156 delegates are from Texas, Oklahoma and Virginia. Harold Rhea, an elementary school principal from Birdville, Tex., said his group began recruiting members last year to assure a full delegation at the convention.

Rhea said he opposes busing because "we are already integrated. Of 16,000 students in our community, 27 are colored. We would love for you to visit."

[From the Nashville Banner, June 14, 1972]

DISCIPLINE MAJOR WOE AT SCHOOLS

(By Grady Gallant)

The problem of enforcement of discipline is growing at a rapid rate and discipline is now "a major problem" in the Metro public schools, a Task Force on Discipline reported to the school board Tuesday afternoon.

The Task Force, which in its Phase I report merely gave the status of discipline in the schools, found that:

1. Suspensions of students have increased 321 per cent in the past four years.

2. Indefinite suspensions have risen over 100 per cent in the last year.

3. A survey of teaching personnel shows that 66 per cent of the teachers feel they spend an unreasonable and disproportionate amount of time with disciplinary matters.

4. Of the principals surveyed, 78 per cent felt discipline problems required an unreasonable amount of their time.

TWENTY-NINE MEMBERS

The Task Force, composed of 29 persons, 14 of whom work for Metro schools, was careful not to place the blame for skyrocketing disorder in the schools on busing of students inside the system.

"A survey of 77 urban schools systems conducted by the Pupil Personnel Office indicates that virtually every urban school system has the same kinds of problems as Nashville.

"Very few of these systems have busing or integration as an available scapegoat. While certain problems may be directly attributable to adjustments to the Nashville court order, it is clear that discipline problems were increasing and were a major problem before this school year," the report stated.

"Suspensions did increase 50 per cent this school year over last year; however, previous yearly increases were 27 per cent, 36 per cent and 18 per cent indicating that increases in suspensions is a trend."

The report recalled that Metropolitan Nashville Education Association reported "as far back as 1967," (that) 94 per cent of the teachers in the system" sought support in dealing with discipline.

SOLUTIONS EXIST

Dr. Jim A. Burns, chairman of the Task Force on Discipline and administrative assistant to Dr. Elbert Brooks, Metro school director, said he believes there are solutions to the discipline problems the school system faces.

"I don't think the incidents reflect something which has become impossible to deal with," he said in denying that school discipline had reached a state of crisis.

"The fact that we have had incidents and problems does not mean that things are out of control," he told a press conference prior to presentation of the report to the school board.

"You can go into any school in the system and find, indeed, that we are in control—and I think the system this year has made stronger and stronger efforts to insure that control is a factor in these schools."

Dr. Burns said the task force had found that serious disruptions" tend to occur outside the classroom. Asked why students were frequently seen roaming the halls and were not in classrooms, he replied:

OFTEN LEGITIMATE

"I think the answer to that is that many times disruptions may occur when students are legitimately not in class—changing of class, before or after school, in the lunchroom, going to and from the lunchroom, going to other classes. The fact that a major area is outside the classroom doesn't necessarily reflect that students aren't where they are supposed to be. They may be where they are supposed to be and still some incidents can occur."

Dr. Burns said that he "would assume" that students can now go to the restrooms in safety. "We have found nothing which indicates that they couldn't," he said in response to a question.

"I would hope that there would be a substantial decrease in the incidents of behavior and hopefully our task force report and the response of the system to this report will contribute," he said.

"We did not go directly to parents in gathering information," Dr. Burns pointed out. "We do have six lay citizens on the task force and we have received significant in-put through them and through the people on the task force who work with parents.

"We were not able, really, to isolate parents and find a way to get to the large numbers of parents that we have. We did not have access to parents or getting information from parents as easily as we could from principals, teachers, students.

"We were burdened with the time factor," Dr. Burns said. "We had approximately two months to study the problem. We did feel we were getting significant parent input from the parents who were on the task force, through students, through principals who work with parents daily.

"I think we are pretty much aware of the feelings and concerns of the parents in the community, and we tried to have representation on the task force. It's just that in terms of gathering information we didn't go directly to large numbers of parents—we got it indirectly," Dr. Burns noted.

The task force discovered that principals felt they were the "man-on-the-spot" and that they are caught in a crossfire between student, parent, teacher and administrator expectations.

ROOTS LOCAL

The task force "feels that the roots of many of the discipline problems are in the community from whence students come."

The report observed that crime and disorder "in the larger social community are increasing problems.

"Many of the students behave in their homes and in the community in a way that cannot be accepted in the schools," the report asserts.

"While critics of education often suggest that student control for control (sic) sake has become the foremost goal of education, the schools still have to grapple with problems that come directly from the larger community.

"The problem has recently been increased as many citizens who oppose implementation of the court order have increased their criticism or opposition to the school system," the report states.

The task force found that "discipline seems to be one of those concerns where everyone wants to place responsibility or blame on someone else."

"Eighty-five per cent of professional personnel surveyed indicated lack of parental backing was a frequent barrier to resolving discipline problems"—and "85 per cent of the personnel also believed parents are a probable cause of chronic discipline problems."

Students who cause discipline problems "are usually students who cannot or who do not succeed in school."

"This is generally true of students who are unable to behave with acceptable standards in Nashville," the report stated.

The task force also reported that the school program does not meet the needs of all students and that there is a lack of understanding of the purposes, reasons for, and policies of the school system in relation to discipline.

The task force is now preparing its recommendations of steps to be taken next fall to improve school discipline. Dr. Burns said that this report may be ready in time for the next board meeting on June 27.

Mr. BROCK. Mr. President, if I may continue on just one or two other points: When the Senator from Indiana offered his amendment as a substitute for the Gurney amendment, I vigorously opposed it, because I thought that it was an effort to prevent a vote of the Senate on the basic question. We lost the vote on the basic question, after defeating the Bayh amendment.

The Senator from Indiana then further offered his amendment as an original amendment. I felt at first that I should support it, because at least it was an effort to establish the concern of the Senate on this question. I do not think anyone seriously suggested that it would do any good, but it did seem to indicate the concern of the Senate, and I was tempted to support it.

But I could not, and I opposed it, for one reason: Too many times since I have been in this body and when I was a Member of the other body. I have seen Congress pass bills which purported to achieve a certain result and did not, and I simply cannot support further charades, further efforts to delude or mislead or confuse the parents, the teachers, and the pupils of this country of ours.

That, to me, was the effect of the amendment of the Senator from Indiana. It had no positive effect whatsoever. As the Senator from Louisiana described it, it was a probusing amendment as originally offered, and I think it is tragic that there will be some who will interpret that vote as a step toward relieving this condition of abuse. It will not. It is a charade.

I fully understand those who supported it. Many of my colleagues who were supporting our amendment, the Gurney amendment, voted for the Bayh amendment because they felt as though we had a desperate need to do something. I understand that. I cannot criticize them for their votes. But for myself, I cannot participate in what I seriously, honestly, and in all candor consider to be a charade and an effort to lead people into thinking something might be done to relieve this problem when in fact it will not.

Perhaps it is well that the amendment carried, because it will not be long, if this amendment is incorporated into the United States Code, before people realize it has no effect whatsoever.

But I urge my colleagues, if they are going to oppose our efforts to achieve some relief——

The **PRESIDING OFFICER**. The Senator's 5 minutes have expired.

Mr. BROCK. I ask unanimous consent to proceed for 2 additional minutes.

The **PRESIDING OFFICER**. Is there objection? Without objection, it is so ordered.

Mr. BROCK. I do ask that if my colleagues, apparently a majority—a majority of one, at least—are going to oppose those remedies which we have proposed to stop compulsion in our schools, I deeply and honestly urge that the committee and its leadership propose their solution.

Today we have none. Today there is no relief, no remedy, no safeguard, no surety for the parent, the child, or the teacher. Our school population is declining. Our school performances are declining. Our parental support is declining, and no one seems to want to provide an answer.

If you are going to oppose the remedy which we suggest, then please offer an alternative that will work, because we simply cannot longer continue this condition of coercion, of abuse, and of discrimination.

The PRESIDING OFFICER. Is there further morning business?

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. JOHNSTON). Without objection, it is so ordered.

Is there further morning business?

ORDER FOR CONSIDERATION OF SENATE JOINT RESOLUTION 202 TOMORROW, AND UPON ITS DISPOSITION RESUMPTION OF THE UNFINISHED BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, immediately after recognition of the distinguished Senator from Wisconsin (Mr. PROXMIRE), and the consummation of his order to speak, the Senate proceed to the consideration of Calendar No. 817, Senate Joint Resolution 202, that there be a time limitation thereon of 15 minutes to be equally divided and controlled by the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) and the distinguished Senator from Wisconsin (Mr. PROXMIRE); and that upon disposition of Senate Joint Resolution 202, the Senate resume the consideration of the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow at 9 a.m. After the two leaders or their designees have been recognized under the standing order, the distinguished Senator from Wisconsin (Mr. PROXMIRE) will be recognized for not to exceed 15 minutes; after which the Senate will proceed to the consideration of Calendar No. 817, Senate Joint Resolution 202, designating the premises occupied by the Chief of Naval Operations as the official residence of the Vice President. There is a time limitation of 15 minutes on that joint resolution, the time to be equally divided and controlled by the Senator from Virginia (Mr. HARRY F. BYRD, JR.) and the Senator from Wisconsin (Mr. PROXMIRE).

Upon disposition of that joint resolution, the Senate will resume consideration of the unfinished business, S. 1539, a bill to amend and extend certain acts relating to elementary and secondary education programs.

So-called busing amendments will be in order; and under the agreement, all such so-called busing amendments are to be disposed of no later than 1 p.m. tomorrow.

Upon the disposition of busing amendments tomorrow, the substitute by Mr. CURTIS, Mr. MCCLURE, and Mr. BUCKLEY will be called up, and there is a 6-hour limitation thereon. Amendments to the substitute would be in order. Yea-and-nay votes could occur. It is anticipated that the substitute will be disposed of one way or the other on tomorrow before the Senate adjourns. So this could indicate a somewhat lengthy day.

ADJOURNMENT TO 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9 a.m. tomorrow.

The motion was agreed to; and at 7:11 p.m. the Senate adjourned until tomorrow, Thursday, May 16, 1974, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate on May 15, 1974:

DEPARTMENT OF DEFENSE

J. William Middendorf II, of Connecticut, to be Secretary of the Navy, vice John W. Warner, resigned.

Gen. George S. Brown, U.S. Air Force, for appointment as Chairman of the Joint Chiefs of Staff for a term of 2 years, pursuant to title 10, United States Code, section 142.

Gen. David C. Jones, U.S. Air Force, to be appointed as Chief of Staff, U.S. Air Force, for a period of 4 years, pursuant to title 10, United States Code, section 8034.

EXTENSIONS OF REMARKS

CARNEY DEAN: A TRUE PUBLIC SERVANT

HON. TOM STEED

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. STEED. Mr. Speaker, during the recent Easter recess I attended the funeral services for a man who had an almost limitless capacity for selfless work in behalf of the cause of conservation—Carney O. Dean of Chandler, Okla.

He was already at the retirement age when a group of us interested in soil conservation and water development formed the Deep Fork Watershed Association in a meeting at Wellston, Okla., High School in 1957.

Soon he became the secretary of the association and continued devoted to this task until his death at 81 last month. While he received some compensation for his work, it could not begin to repay the many hours he put into it. Carney Dean did all this because he believed in conservation, in upstream flood control, and its multiple use of water.

He was born in Lincoln County, Okla., and spent most of his life there. I once heard a soil authority describe it as the most eroded county in the State. This is no longer true due to the work of Carney Dean and many others like him in the Deep Fork Association in the development of such projects as Bear, Fall, and Coon Creeks, Quapaw Creek and Little Deep Fork.

Carney Dean possessed a refreshing, almost naive, enthusiasm in the cause in which he believed, a quality we too often miss in these days.

I will always remember his last visit to Washington some 4 years ago. He had been here at the end of World War I, passing through on his way home from France. Then he returned more than 50 years later. He came to testify at the Agriculture Appropriations Subcommittee, headed by our colleague Congressman JAMIE WHITTEN, not to ask it for money but to thank it for what it has already done for soil conservation, particularly that of his native State. We do not have many witnesses of that kind.

Long years ago he was looking ahead to the day when $100 million a year would be appropriated for soil conservation. That was then regarded as visionary, but it has since been passed.

In my files I have a 2-foot-thick sheaf of the Deep Fork Newsletter, which he always issued so brightly and informatively.

He was possessed by the vision not only of soil conservation systematically applied through tributaries of main streams, but also of the project to provide water transportation for central Oklahoma by extending the Kerr-McClellan Waterway up the Deep Fork to the vicinity of Oklahoma City.

In his Christmas letter in 1972, Carney Dean wrote:

> I do not know how to stop work, and life is so good to me.

This remark was characteristic of a man whom I am proud to have had as a friend.

Milt Phillips, publisher of the Seminole, Okla., Producer, caught much of the spirit of the man in his editorial, which follows:

NAME IT CARNEY DEAN WATERWAY

(By Milt Phillips)

Last week over at Chandler Carney O. Dean passed away. Our own problems here at home prevented our attending his services. Few of you who read this will know Carney Dean. Some of the active leaders of First Christian Church will know him and remember the years of service he provided the Christian Men's Fellowship of The Disciples of Christ. A few of the area here, such as John Marshall and a few others will remember Carney because they were associated with him in Deep Fork Watershed Association. Ruby and Ye Scribe knew Carney from his college days at OU when the three of us worked together in Norman's First Christian Church and the church Christian Endeavor Society. Being in school with Carney over those years, we came to know him fairly well. In later years our paths would cross occasionally, especially when we visited in areas where Carney was in charge of highway appraisals, or where Carney was doing some chore in church effort. But for the past 15 or 20 years we've worked with Carney often in developing water and soil conservation. When the late Tom Phillips, the late John Ed Davis, the late Chester Gates, Chester Ellis and Ye Scribe were working on the Wewoka Creek flood control project, Carney and some of his associates from around Chandler visited this area often. Because Tom Steed and the Wewoka Creek Water Conservancy District boosters of Wetumka, Holdenville, Wewoka and Seminole developed the state's "Pilot Project" for the upstream flood control project which has become so popular over the years, water conservationists came to visit us from all sections of the state. The newspaper pictorial section of the Holdenville Daily News and the Seminole Daily Producer published to promote the Wewoka Creek (Big and Little Wewoka Creeks) flood control project received nation-wide distribution. In later years Carney Dean and his fellow residents along Deep Fork River from Edmond to Lake Eufaula used much of the same kind of study and information we on Wewoka Creek had used. Carney Dean was a strong leader in that effort.

In later years the Deep Fork was declared by the U.S. Army Engineers to be the only feasible route which could be developed for barge traffic by waterway to Oklahoma City from the Kerr-McClellan Mississippi-to-Tulsa barge canal. Carney Dean was elected Secretary of the Deep Fork Association. He was still serving when he died in Chandler last week. Carney Dean was one of, and at the time seemingly the only one, who was willing to keep working to develop the Deep Fork Barge route. Hundreds of people from Okmulgee on the east to Edmond and Oklahoma City on the west, and from Seminole and Shawnee on the south to Drumright and Cushing on the north, joined the Deep Fork Association and learned to love and respect Carney Dean for his dedication to restoring the thousands of acres of flood-devastated land along the Deep Fork, and for his dedication to developing the waterway through Lake Eufaula to Oklahoma City. They named the Mississippi-Little Rock-Muskogee-Tulsa waterway "The Kerr-McClellan" waterway because of the devotion of those two United States Senators to developing that water transportation route.

This newspaper proposes that if and when the Deep Fork is ever developed into a water transportation route, it be named The Carney Dean Waterway. No one man along all that vast Deep Fork wasteland devoted more time, was more effective or was more dedicated to reclaiming that vast thousands of acres, and to developing an economic-boosting waterway, than our longtime friend Carney O. Dean. Every community along the Deep Fork River owes Carney Dean a vote of thanks and appreciation.

COMMUNITY OWES MUCH TO DR. CROSBY

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. LAGOMARSINO. Mr. Speaker, citizens in the Oxnard Union High School district are fortunate to have Dr. Joseph Crosby as their superintendent of education. Dr. Crosby has announced his retirement after 25 years of dedicated service. The following Oxnard Press-Courier editorial expresses in a meaningful way the feelings of Oxnard residents toward their beloved superintendent:

Community Owes Much to Dr. Crosby

It is difficult to imagine an Oxnard Union High School District without Dr. Joseph Crosby at its helm as superintendent, but that is the reality to be faced by district administrators, teachers, parents and students in less than two months.

Crosby has announced his retirement after 25 years' service to the district, 17 of them as an outstanding superintendent. His mixed feelings about leaving are shared by thousands who work and live and study in the district: Sadness at his departure and yet happiness over the challenging new turn he has taken in his career.

Next year, Crosby will be teaching educational administration in Europe under the graduate program of the University of Southern California. We can think of no one better qualified for the job, and his excitement at the prospect of this new challenge is contagious—almost to the point of making those around him forget that USC's gain is OUHSD's loss.

That could never happen, of course, because Crosby has had such an influence, personal and professional, on the district during his years as superintendent.

Crosby's career spans a period in which the district mushroomed from one school to seven, from 2,200 students to 17,000. Yet, he never lost touch with the changing educational society—serving it most effectively, in fact, as he faced its issues squarely and honestly, with an insistence that none lose sight of fundamental educational values.

Within a month after Crosby became superintendent in 1957, an earthquake damaged Oxnard's high school so badly it had to be closed. He improvised classrooms in buses, the school garage and gym to keep the system in operation. With similar innovation he used the same set of plans for construction of several high schools in the district, eliminating architect's costs.

It was part of the pattern for an administration that practiced economies in building and personnel, but not at the expense of the students.

Crosby can be tough, blunt and devastatingly honest. Those attributes, combined with his Irish charm and genuine concern for people, have earned him the respect and devotion of nearly all who know him. His largely unsung services to his community, above and beyond his professional duties, earned him selection in 1964 as Oxnard's Distinguished Citizen.

He remains a distinguished citizen, serving his community in full personal and professional measure despite the pain from a pinched nerve in his neck that hastened his decision to retire at 57. His community owes him much, but—knowing Joe Crosby—we are sure he will humbly relish a simple: "Well done . . . and Godspeed in all future endeavors."

CONGRESSIONAL BUDGET ACT OF 1973

HON. TENNYSON GUYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. GUYER. Mr. Speaker, at this very time, legislation which would give Congress the necessary tools to return our Nation to a sound fiscal policy is being considered by a conference committee. One of the first bills I introduced over a year and a half ago as a freshman Congressman was one very similar to the legislation now in conference.

My constituents are eagerly awaiting this new program of wise and orderly spending which is set forth in the Congressional Budget Act of 1973. The hour is becoming late—the House and Senate have already passed this legislation. Immediate action by the conferees considering the bill is a prime priority, so that this important measure can be signed by the President and enacted into law.

Unless we stamp out the fires of inflation, there is little help or comfort for folks on small pensions and low incomes. Since Congress is the biggest spender in the country, it should set the example by setting its own budget house in order.

Our Federal Government spends cash at a rate of well over one half a million dollars per minute. At that rate, the Government spent more money in the first 10 months of our last fiscal year than they did between 1789 and 1942. In 1900, the Government employed 1 million people; today, there are almost 13 million Government employees.

At this time, Congress lacks a mechanism for systematic budgeting procedures. At no point, do the Appropriation Committees of either House coordinate actions with the taxwriting committees who are responsible for raising the revenue to pay the bills. Astonishingly, enough, the Congress appropriates money in a piecemeal fashion in more than a dozen separate bills without ever first deciding on a budget. It is no wonder that huge Federal deficits of over $100 billion have resulted in the last 6 fiscal years. By some estimates, an average family's share of the Federal budget has risen from $2,000 10 years ago to $4,500 today. Today, our national debt is reaching almost one-half trillion dollars and over 10 percent of the average American family's taxes are used to pay interest on our national debt.

I join with several of my freshmen colleagues in respectfully urging the conferees now reviewing the Congressional Budget Act of 1973 to act expeditiously and give us a bill which will provide the legislative branch of our Government with the necessary tools to establish national priorities, control Federal expenditures, and return our country to fiscal sanity.

ASTOUNDED AT CONTEMPLATED CUTS IN FEDERAL AID TO MEDICAL STUDENTS

HON. FLOYD V. HICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. HICKS. Mr. Speaker, it has recently come to my attention that the administration is contemplating a cut in Federal aid to medical students. An article in the Washington Post on Friday, May 10, quotes Deputy Assistant Secretary of Health, Education and Welfare, Dr. Henry Simmons, as suggesting that a cut in aid to medical students is needed to avoid a future "oversupply of health professionals."

I am frankly astounded that at a time when a program of national health insurance is in the works, at a time when medical service to retired military personnel and their dependents is being cut back because of a shortage of doctors, at a time when, according to the Bureau of the Census, 140 counties around the country are without an active physician in patient care, that the administration can actually focus its policy in this regard on cutting back the supply of health professionals.

Dr. Simmons may be correct that a cutback in Federal aid to medical students would result in a savings to our Treasury. But at what social cost? Almost everyone, it seems, except Dr. Simmons, agrees that we are critically short of doctors when we look at our Nation as a whole.

As an alternative, I suggest that we insist on adequate social payback for this Federal financial assistance in medical education. And this repayment should come in the form of medical service to the medically needy sections of our country.

Now that the draft is no longer in effect, the armed services are crying for qualified medical doctors. The same is true for public health and Indian health facilities. And certainly it is true of those counties that have no doctor at all.

Certainly a young doctor should be willing to serve a period of time in one of these programs in return for Federal aid in meeting the high costs of today's medical schools. It is a much better alternative than not being able to attend school at all—as the administration now suggests.

I am concerned—as we all are—about our national health care system. With this in mind, I would suggest that the administration should reconsider its proposal to cut back on aid to medical students at a time when doctors are so badly needed and will continue to be needed in our society.

CONGRESSMAN ROBERT N. GIAIMO PRESENTS KEYNOTE ADDRESS AT THE FIFTH ANNUAL CONFERENCE OF THE IARF

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. BRADEMAS. Mr. Speaker, our distinguished colleague from Connecticut, the Honorable ROBERT N. GIAIMO, recently made an excellent keynote presentation before the fifth annual meeting of the International Association of Rehabilitation Facilities held in San Antonia, Tex., May 12–15.

I am sure that Mr. GIAIMO's comments with respect to the "New Federalism" and the vocational rehabilitation program for handicapped persons will be of interest to all my colleagues, and I include his address at this point in the RECORD:

THE NEW FEDERALISM VERSUS OUR RENEWED PARTNERSHIP

(Keynote presentation by Congressman ROBERT N. GIAIMO)

It is with very great pleasure that I present the keynote of your Fifth Annual Conference. I was delighted to accept your invitation to speak to you this morning . . . particularly pleased, for several reasons . . . pleased to lay aside for a while those "expletive deleted" transcripts to get a breath of fresh Texas air . . . and to be able to see again and to renew acquaintances with some old and very fine friends, E. B. Whitten . . . Al Calli . . . Chuck Roberts . . . Nathan Nolan . . . Dale Eazell . . . and Jim Geletka.

Secondly, I would like, however belatedly, to convey my personal thanks and appreciation to you for honoring me with the IARF's 1972 Distinguished Service Award. I, unfortunately, was not able to attend your third annual conference in Chicago but I am greatly honored by your selection. The Award also serves as a daily reminder of the excellence of *your* contributions to Vocational Rehabilitation.

I am delighted to be here this morning because I somehow seem to have adopted you and Vocational Rehabilitation and handicapped men and women who are working so hard and being served so well; I've adopted both your successes and your present difficulties.

It has been my observation that many Members of Congress, particularly those who've been in office for five or six terms, lose touch with the reality of social assistance programs as they enlarge—or diminish—people's lives. Congressional realities are the paper world of legislation and committee reports, and the intellectual exercise and compromise of conferences, and debate on the floor of the House or Senate. Concern exists on an abstract level, but abstract ideas and authorization figures don't live in wheel chairs or wear prosthetic devices or need vocational counseling and training.

I frequently rushed along in that same world of appropriations, deficits, budget justifications, and markup sessions until a close friend, Al Calli, invited me to visit a rehabilitation facility in New Haven.

That first visit to that very real world of struggle and achievement made a profound impression on me—an impression that translated Labor-HEW appropriations figures into responsive and hardworking men and women of all ages, eagerly engaged in rehabilitation training to enable them to function responsibly, independently, and with dignity in a society that, all too often, is designed for the survival and success of only the strongest and heartiest of us.

The Vocational Rehabilitation program is, without question, the most successful and cost-effective assistance program in the federal government, and has been since its inception 54 years ago. It has been a model for all other welfare and assistance programs.

But because of the trend of events of the last 5 years, I have become concerned, as you are, about the future effectiveness of Vocational Rehabilitation programs.

As the New Federalism—the sharing of decisionmaking as well as revenue—filters down through the bureaucracy, the lack of responsiveness and accountability of officials, the danger of emasculation of program become frighteningly real possibilities.

ADMINISTRATION POLICY SINCE 1969

Let me summarize the effects of this administration's policy on Vocational Rehabilitation. The New Federalism began inauspiciously in 1969 when Presidential directives mandating decentralization of program management were sent down to departments and agencies engaged in the administration of social programs.

Bureaucratic progress toward implementation of these directives was typical of the speed of most institutional change, but the seeds of reorganization were sown.

In March of 1973, a memorandum from the Secretary of HEW, Caspar Weinberger, went out to all assistant secretaries and agency heads urging them to delegate all decisionmaking to regional offices. The memo included the frank warning that the rate of progress toward decentralization would mirror their effectiveness as managers. A caution was included in the memorandum. I quote, "We should not impose on those who seek to decentralize the burden of proving its efficacy."

Three weeks later, another memo written by Frank Carlucci, an HEW Under Secretary, was circulated outlining a model for decentralization and containing a number of interesting admonitions: "If a legislative obstacle exists, a complete legal opinion should be provided. Where obstacles can be effectively changed, a plan for such action should be included"—or, in other words, if there are any legal roadblocks, see if the lawyers can find a way around them. Doesn't that have a familiar ring?

The memo went on to describe some exceptions to decentralization—a category of "non-acceptable exceptions" called external considerations. One such external consideration was any resistance to change coming *from special groups or the Congress*—you and me. And in another part of the memo, "We cannot afford to permit decentralization to become a subject of debate or inaction"—or, they're not going to stop us.

At about this time, career employees began to get wind of the reorganization and asked their union to request a written report on reorganization plans. On August 1, (1973), the union received a flat denial that any reorganization was under way, a denial written by the man who was responsible for an approved reorganization plan for a 40 percent cut in the four basic program operating divisions of the Social and Rehabilitation Services—James Dwight, its Administrator.

The Dwight plan also called for staffing changes—changes that would result in a purge of the SRS career staff—to eliminate the need for a direct one-to-one shift of central office personnel to regional offices. "The job is not one of moving people and materials, but one of identifying positions that can be declared excess."

During the last 10 months of 1973, there was a great flurry of systems planning and scientific management underway in SRS. During that time, the Senate killed a request for 725 new positions for SRS. The new positions were described in the HEW budget request as critical to the Department's capacity to *manage* programs more effectively, and to ensure an active role in review and approval of state program *management* so that eligibility procedures and regulations could be improved. 565 of the 725 new positions were to go to regional offices.

Another incident will help to illustrate this zealous desire to overmanage and disrupt. Long after OMB had removed the freeze on promotions, it was continued at SRS and a freeze on hiring was implemented as well. When the freeze was lifted, priorities for a few promotions were given to positions in the regional offices, and the remainder to job categories in planning, research and evaluation; and information systems and management. In November of last year, it came to light that under Dwight, management consultants were being contracted to help with reorganization, and that they began to develop and write-in jobs for themselves and their friends; in effect, began to pre-select people to fill new management positions.

These staffing policies began to take their effects. Morale began to deteriorate and, in ten months, SRS lost 20 percent of its career staff.

By last September, *some* of the reorganization plans were complete; those that, in effect, inserted a layer of about 200 employees—management analysts, information scientists, systems planners and designers—between the program operating offices and the agency administrator.

The potential for disruption of program became even more obvious as a result of another memo from Carlucci which said that reorganization plans would not necessarily be accepted in full for any one program, or, that reorganization would be piecemeal.

In spite of prohibitions in the 1973 Vocational Rehabilitation Act which forbade HEW to decentralize programs of the RSA without first submitting such plans to Congress, the process of decentralization is still underway.

LEGISLATIVE HISTORY

The "New" Federalism has also been reflected in Presidential actions to impede and delay Congressional initiatives to extend, improve, and expand vocational rehabilitation services.

The level of the Presidential budget request for Fiscal Year 1972 clearly illustrated the Administration's desire to cut back on funding of essential programs in rehabilitation services. Budget requests for basic state grants were reduced from the previous year's appropriations, as well as requests for research and demonstration project funds.

After a series of talks with Mr. Whitten, Al Calli, and others concerning the damage these reductions would do to programs, I thought it was imperative to act. I offered an amendment to the Labor-HEW Appropriations bill for Fiscal Year 72 to increase appropriations by a total of $82.4 million. The increases were for basic state grants, grants under the developmental disabilities programs, and funds for improvement of rehabilitation facilities. My amendment also restored funds for research and development and raised the allotment base for state grants. The amendment was adopted by the House, and the Administration was foiled in its attempts to cripple the program that year. But it was more successful in 1973.

As you know, the President, last year, twice vetoed legislation which would have extended and expanded the scope of vocational rehabilitation programs—legislation which had overwhelming, almost unanimous, bipartisan support in both the House and Senate. The first veto occurred in October 1972 during the final days of the campaign, and generally went unnoticed. The second veto of a similar bill came on March 27, 1973—interestingly enough, just 3 weeks after the issuance of the memorandum from the Secretary of HEW urging redelegation of decision-making authority to regional offices.

Congress' third legislative attempt in 1973 was successful. The compromise Rehabilitation Act of 1973 extended programs for 2 years instead of 3 but did initiate significant *new provisions* for training of the severely handicapped. And again, this year, the administration attempted through "benign neglect" of the Supplemental Appropriations bill in April, to reduce basic rehabilitation services.

In the absence of a Presidential request, the House Appropriations Committee added $20 million to the bill to bring the total appropriations for 1974 to the full authorization. (There had been a prior understanding that if additional amounts were needed, a supplemental appropriation could be requested to bring the appropriation to the full authorization of $650 mililon. The states also had sufficient funds on hand to match the full Federal allotment.)

In its report, the Committee stated that it "fails to understand the delay in submitting a budget request to carry out the clear intent of the law." And, although no request was made, the Committee approved the additional amount so that the states could proceed with their plans. On April 11, (1974), the day the House passed the bill, the Congress received a message from the President requesting the additional $20 million.

STATUS OF POLICY AND LEGISLATION IN 1974

This picture of the Administration's punching and counter-punching at Congressional initiatives is not a pleasant or inspiring one, I admit. Nor are its in-agency policies that are subverting career staff morale and fragmenting program structure.

Staffing of Central Office operations for the four program areas has been cut in half in the last year under the decentralization movement; staffing in regional offices has doubled. Professional career employees have either been scattered to the 10 regions or have been disposed of altogether.

Computer and management experts have been placed in key positions throughout the program. Staff morale has deteriorated and added fuel to bitter labor-management disputes. The Civil Service merit system is being undermined.

The President's budget for Fiscal Year 1975 again refuses to meet program and handicapped population needs, particularly in the areas of training of professionals, research funding for rehabilitation of the severely disabled, and in funding of basic state grants, although states have unquestionably proven their ability to provide matching funds as stipulated in the 1973 authorization legislation.

In short, the Administration's budget request falls $73 million short of what is required to meet the *minimum* statutory requirements of the 1973 Rehabilitation Act.

The end game of any attempt to decentralize a program is to eliminate the middle man—in this case the state agency—altogether, and to provide funds directly to the handicapped individual. What we may perceive to be the next Administration goal, a logical extension of its decentralization philosophy, is described in the new well-known memorandum, written by William Morrill, Assistant SRS Secretary for Planning and Evaluation—a policy statement that came to light last year in the continuum of the Nixon Administration's apparent opposition to vocational rehabilitation programs.

The Morrill memorandum puts forth the notion that state agency programs should be eliminated and a cash assistance policy be instituted in its place—that federal funds should be provided *directly* to the handicapped through individual grants. This philosophy presupposes that the individual in need of services will know what his needs are, know where to buy them, and will be able to find his way through the maze of welfare and assistance programs, offered by both the government and the private sector, to get them. This is a corruption of the philosophy that the government is best which governs least—in this case, an incredibly simplistic approach to a very complex system of people and program needs and services. And, I can just imagine the mushrooming of profit-making rehabilitation centers, trade schools and correspondence courses that that would very quickly turn such funding into "get rich quick and run" schemes.

The Rehabilitation Services Administration itself is a shambles. It's been submerged beneath a layer of management and efficiency experts who know little of rehabilitation programs.

Regional RSA officials will not report to their counterparts in the Department of HEW but to the Administrator of SRS.

Operating regulations have not *yet* been finalized, and there is no indication as to when they will be completed.

And finally, 2 weeks ago, after a vacancy of a year and a half, the Admnistration appointed a permanent Commissioner of Rehabilitation, Dr. Andrew Adams, formerly of the Veterans' Administration, who admits that he knows very little about rehabilitation programs.

Congress is concerned about the RSA and the life of vocational rehabilitation. Legislation has been introduced by House leaders to extend the Rehabilitation Act for another year and to move the RSA out of the SRS into HEW's Office of Human Development, on the grounds that it is a human resources program designed to develop the capacities of the handicapped, and, therefore, does not belong in SRS which is a collection of welfare programs. The second reason is to protect the agency from complete decimation at the hands of the SRS.

There are risks involved in this proposal; namely, that relocation would contribute to the frustrations of reorganization and that the resituation itself would tend to help accomplish the Administration's apparent goal to decentralize and reorganize the rehabilitation program out of existence.

Evidence of Congressional interest is apparent in the tone of the Labor-HEW Subcommittee's oversight hearings on the program activities of the SRS. These hearings can make an impact, can be an effective beginning to reestablish Congressional authority to insure, in a very real way, that the intent of legislation is met by agencies, and to contain our imperial President. We must begin somewhere.

NEW GOALS, NEW DIRECTIONS

Congress cannot do the job of restoring the vitality of vocational rehabilitation alone. We do not and cannot work in a vacuum. Congress is an institution composed of individual people who develop legislation that will eventually affect individual people who have let their collective, but individual needs be known to us.

The only way to begin to resurrect vocational rehabilitation from the swamp of the New Federalism is to renew our partnership of concern and action, a partnership of you, as individual professional career staff; you, as a professional association; and me . . . the Congress—a tripartite lobby if you will.

Obviously a silent partnership will not work. Communication between us is essential to our success. IARF, as a professional association, and you, as knowledgable professionals in the field, know better than I the rehabilitation program needs; the funds required to implement those programs.

What are your goals? What new directions do you envision taking to reach and rehabilitate greater numbers of the handicapped?

What additional facilities do you want and need? What improvements need to be made in existing facilities?

Where do you want to go with program? Do you want to expand services for the severely handicapped—those with multiple disabilities, the spinal cord injured, the renal diseased? And in what ways?

What needs to be done in the area of

homemaker services—services that will release members of families of the handicapped from the exhaustion of constant care and allow them to work?

Do you want to push for research and development in prosthetic device design? To explore new materials and production techniques to get the costs of devices down to levels that are affordable by the average disabled man or woman?

What about initiatives in the area of enforcement of existing federal architectural barrier laws? How do we begin to solve the transportation problems that play havoc with the integration of disabled but rehabilitated men and women into society?

Where do we go from here, ladies and gentlemen? You must let us, Congress, know your thinking, your priorities. And the time to start is now.

How do you get your ideas to us? Let me make a few suggestions and briefly explain the communications process.

Members of Congress are people with incredible demands on their time and their abilities to influence. Please don't make the assumption that every Member of Congress knows all there is to know about all programs—they don't. Most Members vote an issue on the basis of the recommendations of the authorizing committee, on a report written by 10 to 30 Members who, over years of involvement with a subject, have become specialists.

Members of Congress have to be shown, as I was, the results and effectiveness of legislation in human terms. How many of you have invited Members of Congress to your facilities to see, first hand, what you're doing? Invite them. Set up some news coverage. See what happens.

How do you communicate with Members of Congress? Call them on the telephone. Go to Washington to visit with them personally. If you can't see the Member, talk with staff. Congressional staff will convey your thoughts and concerns to the Member. Write letters only as a last resort.

If you can't get an opportunity to talk to a Member, talk to someone who knows one of us. Talk to your board members. They're influential, and they know a great many people who can be of help in getting the word to us in Washington. Use your Association representatives in Washington, they, too, need to hear from you . . .

The challenge that faces our renewed partnership is to override the Nixon Administration's program-crippling policies, its vetoes, its refusals to request funds, its attempts to reorganize and decentralize Vocational Rehabilitation away from excellence . . . away from accountability . . . and out of existence.

It is time to exercise our Congressional authority, your individual expertise, and the Association's professional obligation to insure that Vocational Rehabilitation services in the future reflect the program excellence of the past.

Thank you very much. It is an honor to be here . . . to have this opportunity to express my appreciation, my interest in you and my concern for Vocational Rehabilitation.

SURVEY: REPUBLICANS AGITATED BY TRANSCRIPTS

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. HUNGATE. Mr. Speaker, not infrequently the earliest way to discover what Congress is doing or going to do is through the daily papers.

A recent Christian Science Monitor article has an interesting view on the Presidential transcripts and their effect on our Nation's citizens and our Government. The article follows:

SURVEY: REPUBLICANS AGITATED BY TRANSCRIPTS

(By Godfrey Sperling Jr.)

WASHINGTON.—The presidential transcripts have stirred up moral indignation from coast to coast, a Monitor survey of Republican leaders discloses.

State chairmen and national committeemen in 23 states—representing every geographical region—say that they and the voters in their states are terribly upset over the tone of the Watergate-related transcripts. They say that hard-core Nixon loyalists are, for the first time, shaken in their confidence in the President.

However, only a few of these leaders were recommending that the President step down. Instead, almost all were urging that the impeachment processes be pushed along as quickly as possible.

Of the transcripts, a Deep South leader says: "It was bad to see that the President considered payment of hush money. And it was terrible that he expressed no moral outrage at what he was hearing. We must proceed with the impeachment process as soon as possible."

Said a Western state chairman: "I thought they [the transcripts] were devastating. I think it is a pretty sorry thing that it was so totally shabby. I agree with the words of Senator [Hugh] Scott [Senate Minority Leader] about how shabby it all was. Around here it is raising the moral indignation of everyone."

GOLDWATER'S VIEW

From the Midwest: "I'm disgusted at the tone of the transcripts. It has raised a lot of doubts here. And it hasn't cleared up anything. This is what Republicans are saying in my state. And they are disgusted over the moral tone—the conniving and the smoke-filled-room atmosphere."

This growing storm, as evidenced in this survey, is a further extension of the unhappiness over the transcripts expressed by leaders of Congress, including Senator Scott, and House Republican leader John J. Rhodes.

Mr. Rhodes has even suggested that the President "consider" resignation.

But Sen. Barry Goldwater is not ready to urge the President to step down. Instead, he says Mr. Nixon will "know" when to quit. He says he thinks Mr. Nixon will resign if he is impeached.

The President continues to say he will stick it out. And his daughter, Julie, along with son-in-law David Eisenhower, say that Mr. Nixon will stay with this fight to the end, even if he only has a senator or two behind him in a final showdown.

RESTLESS FOR FORD

The reluctance of Republican leaders to urge resignation was put in words like these by most of those polled: "There is a constitutional way of dealing with this crisis, and we should follow it."

But most of them were indicating, in one way or another, that they would be relieved if Vice-President Gerald R. Ford could take over the reigns of government.

Said a Midwesterner: "There is no question but what [the transcripts] hurt [Nixon]. I think he's done. And there's no question that it would make my job easier if Nixon weren't in there."

From the Southwest: "My reaction was one of general disappointment and disenchantment. You would expect much better from a man in that position—a better tone. I am against resignation. It is better for history if we can see this thing through the constitutional processes."

SOUTHERNERS SLIP AWAY

In a number of previous post-Watergate surveys of Republican leaders, some of the strongest voices of criticism of the President came from the North and the more highly populated states.

This time the erosion of Republican and conservative support for Mr. Nixon clearly had moved into the more-rural regions of the United States, particularly the South.

AN UNSEEMLY PERFORMANCE

HON. DAVE MARTIN

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. MARTIN of Nebraska. Mr. Speaker, last week's action of the Democratic Caucus in sidetracking committee reform legislation was an irresponsible act which showed contempt for the American public. It is not enough that the caucus action threatens to shelve the unanimous report of a bipartisan committee of the House, but the deed was done by a secret vote in a secret meeting.

Fortunately, this irresponsible act has not escaped public attention. A New York Times editorial of May 13 placed the blame exactly where it belongs: on a small minority who are placing personal convenience above the public interest. The Times concludes, correctly, that "It was an unseemly performance."

Mr. Speaker, I ask unanimous consent that the editorial, "Liberals Astray," be reprinted in full. The editorial follows:

LIBERALS ASTRAY

By the time that the LaFollette-Monroney Legislative Reorganization Act passed Congress in 1946, it had been the subject of intense public controversy and of innumerable articles and editorials. For more than a year now, a committee of ten House members drawn equally from both parties has been at work on a reform proposal that—so far as the House of Representatives is concerned—would be as far reaching and as desirable as the LaFollette-Monroney Act. But in a Congress and a nation preoccupied with Watergate, this committee has done its work silently and unnoticed.

On Thursday, reform paid the price for that silence. By a narrow margin, the House Democratic caucus shelved the reorganization plan by sending it to another committee for study. The barons of the House led by Representative Wilbur Mills of Arkansas, chairman of the Ways and Means Committee and the pressure group lobbyists know what was at stake even though the public did not.

It was not essential that the plan be submitted to the Democratic caucus. It could have gone directly to the floor as a privileged motion. But Speaker Albert and Representative Richard Bolling of Missouri, chairman of the committee that drafted the reorganization, believed that as a practical matter the reforms would not last unless they had the support of a majority in each party.

House Republicans meeting in their conference endorsed the reforms. The Democrats did not. Significantly, they did the deed in secret avoiding a rollcall vote. There is no justification for conducting public business in that devious fashion.

Labor unions and liberal Democrats who on most other days are in the vanguard of those calling for progressive change were instrumental in blocking the reforms. Since the AFL-CIO did not want the Labor and Education Committee split into two committees or the Post Office Committee abolished, it used its political muscle against the plan. Noted liberals such as Representatives Frank Thompson of New Jersey, John Brademas of Indiana, James O'Hara of Michigan, and Phillip Burton of California would have lost cherished subcommittee chairmanships and for that selfish reason opposed the plan. It was an unseemly performance.

In theory, reform is not dead. The study committee to which the plan has been referred could resubmit it with only minor changes at the Democratic caucus in July. In coming weeks, the liberals who joined with their party's old-timers in unorthodox alliance have an opportunity to prove that they can come up with constructive alternatives rather than the self-interested negativism they have evinced thus far.

SBA COMMENDED FOR EFFICIENT PROCESSING OF LOAN APPLICATIONS

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. EVINS of Tennessee. Mr. Speaker, in the February 1974 issue of the Bank Loan Officers Report, a publication prepared by the editorial staff of the Bankers Magazine, the Small Business Administration is commended for its efficient processing of participation loans to American small businesses.

Because of the interest of my colleagues and the American people in SBA, I place these comments in the RECORD herewith.

The comments follow:

TAKE ANOTHER LOOK AT SBA LENDING

Almost all banks have, at one time or another, looked into participating in Small Business Administration Loans. And many have become disillusioned with the excessive red tape which was involved . . . and the excessive amount of time needed to process the loan. As a result, many banks simply advise their customers that they had, after careful evaluation, decided that SBA lending was not worth the effort involved.

In the past, those banks might have often been right. However, two out of three banks in the nation are now finding that they can do business with SBA. Reason: SBA has been *improving* its performance, cutting red tape and reducing the time it needs to reach a decision. Thomas S. Kleppe, national SBA administrator now is telling bankers: "We are not in competition with banks. SBA tries to fill that niche which is not bankable without a guarantee. We take risks that banks won't touch, and that's our job."

BLOR has talked with a number of bankers who now do business with SBA. They say that what Mr. Kleppe has stated to bankers, i.e., "We have eliminated about two-thirds of the paper work formerly involved" in processing SBA loans, is correct.

RECOMMENDATIONS

If your bank is one in three that does not make SBA loans based on past track records, we suggest that you and your bank take another reading. You may find SBA loans are now bankable.

POST EMBARGO ENERGY CONSERVATION RESOLUTION

HON. DONALD G. BROTZMAN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. BROTZMAN. Mr. Speaker, this Nation has recently been through one of the most trying periods in its history. When the oil embargo was imposed, we were made suddenly aware of the importance of sufficient energy supplies to the well being of the U.S. economy. We also became aware that we have been rapidly depleting our nonrenewable petroleum fuels while failing to develop any adequate alternative sources of energy.

We had been operating under the assumption that cheap, abundant energy would always be available, and this contributed to wasteful patterns of consumption and insufficient incentives to develop adequate domestic sources. This left us very vulnerable to any interruption in the flow of imports upon which we had come to rely so heavily.

No one was more delighted than I when the OPEC countries released a statement announcing the end of the embargo. However, my enthusiasm is qualified.

For until we regain energy independence, we will continue to face the threat of another embargo, production cuts, and the caprices of oil diplomacy.

The choice to the American people is quite clear. Either we take the necessary actions to develop our abundant natural resources, or we subject ourselves to the continued threat of economic and political blackmail.

We have seen through Project Independence a national effort begun to achieve energy independence in the 1980's. It presents a two-fold approach to the problem: first, to develop the resources that are in abundant supply in this country, and second, to use what we already have wisely.

Each one of us in the Congress is aware of a number of pieces of legislation in both the House and Senate designed to promote and effectuate the efficient development of energy resources. We will hear a lot about these bills in the future, and I sincerely hope that we act on as many of them as possible before the end of this Congress.

But in order to realize the full impact of this legislation, we must first reshape our energy concerns into new patterns of action that will increase energy efficiency, and eliminate needless energy waste. Until we learn to curtail waste, we will never fully realize energy self-sufficiency.

Our energy conservation goal should be to cut back the growth of American energy consumption from the 4- to 5-percent annual rate of increase over the past 20 years, to approximately 3 percent.

Accordingly, today I am introducing a resolution which calls upon the American people and American industry to diligently continue their conservation efforts.

This resolution congratulates the American people for their energy conservation success during the embargo period. That experience showed what we are capable of doing. Jobs were stressed first, and comfort second. The result was that there was no massive unemployment, schools and hospitals stayed open, there were no huge power failures, and the industrial community kept operating efficiently.

Mr. Speaker, it is the responsibility of Congress to take a major role in developing a permanent conservation ethic in this country. I am convinced that we can do this only with the confidence of the American people that this goal is worth attaining.

We must stress that goal to the public and private sectors alike. We should encourage the theme of conserving energy until people want to do it and believe in doing it—not just that they have to do it. Such measures as reductions in speed limits, lower levels of heating in public buildings and homes, reduced lighting, improved insulation of buildings, and carpooling were the backbone of our conservation effort this past winter.

I strongly believe that this measure warrants immediate consideration of the Congress, and I urge my colleagues to join with me in pushing for early consideration and enactment.

THE DEATH OF ROY DAVID PINKERTON

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. LAGOMARSINO. Mr. Speaker, I am saddened to advise the Members of the death of Mr. Roy David Pinkerton, of Ojai, Calif., on May 5, 1974. Mr. Pinkerton was the founder and editor emeritus of the Ventura County Star-Free Press, and a man whose entire life was dedicated to the field of journalism.

Starting as a $3.50 a week cub reporter with the Tacoma Times, Mr. Pinkerton went on to graduate from the University of Washington school of journalism, worked on papers in Los Angeles and Seattle, then returned as editor of the Tacoma Times at the age of 29, serving in that position from 1915 to 1921. In subsequent years, Mr. Pinkerton became editor of the Scripps-Canfield Seattle Daily, associate editor of the Cleveland Press, and editor of the San Diego Sun.

In 1925 Mr. Pinkerton founded the Star-Free Press along with his wife, Airdrie and Mr. W. H. Porterfield. The venture grew, and in 1928, Mr. Pinkerton was joined by John P. Scripps, the two of them assembling the seven newspapers in California and Washington States that make up the John P. Scripps chain. Mr. Pinkerton continued to serve as editor of the Star-Free Press until his retirement in 1961, in addition to serving for many years as editorial director of the John P. Scripps newspapers.

A world traveler, Mr. Pinkerton was also an active civic leader. He had served as past president of the Ojai Festivals and was one of the founders of the Ventura Concert Series Association. He was also active in the Ventura Chamber of Commerce and Rotary Club. His professional affiliations included the American Society of Newspaper Editors, Sigma Delta Chi journalism fraternity, Overseas Press Club of America and the Los Angeles Press Club. He was also a member of the Sigma Alpha Epsilon social fraternity.

He leaves two sons, Robert, of British Honduras, and Roy, of Tiburon; a daughter, Airdrie Pinkerton Martin, of Ojai; a brother, Ralph, of Ferndale, Wash.; eight grandchildren and four great-grandchildren. His wife preceded him in death in 1966.

I know the Members join me, Mr. Speaker, in extending our condolences to Mrs. Martin and the other members of the family.

STATEMENT OF REPRESENTATIVE JOEL T. BROYHILL OF VIRGINIA ON A BILL TO AMEND THE FEDERAL ELECTION CAMPAIGN ACT OF 1971 AND TITLE 18, UNITED STATES CODE

HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. BROYHILL of Virginia. Mr. Speaker, I am today introducing legislation which would amend the Federal Election Campaign Act of 1971 to provide for the reform of the Federal election campaign process. The legislation I propose today establishes a seven-member Federal Election Commission to oversee Federal elections, requires each individual who is a candidate for Federal office—other than the office of Vice President of the United States—to designate to the Commission a political committee to serve as the election committee of such individual, limitations on who can contribute to any candidate for Federal office to include a maximum contribution to each candidate along with a total aggregate of contributions to all candidates, allows an income tax deduction for political contributions up to $100—$200 in the case of a joint return—limitations on expenditures of candidates, identifies the form of contributions, sets forth penalties for violations up to 10 years and/or $100,000 fine and prescribes that the income tax return of the President, Vice President, and each Member of the House and Senate be fully audited by the Internal Revenue Service.

Mr. Speaker, the Federal Election Commission I have proposed would be established as an independent establishment of the executive branch of the Government, composed of seven members appointed by the President by and with the advice and consent of the Senate, and the Comptroller General who shall serve without the right to vote. Commission members, with the exception of the Comptroller General would serve for terms of 7 years with the exception of the original members who would each be appointed to staggered terms of service. Of the seven members, two members shall be chosen from among individuals recommended by the President pro tempore of the Senate, upon the recommendation of the majority leader of the Senate and the minority leader of the Senate, and two shall be chosen from individuals recommended by the Speaker of the House of Representatives upon the recommendation of the majority leader of the House and the minority leader of the House.

Briefly, the commission has the power to require, by special or general orders, any person to submit such reports and answer to questions as the commission may prescribe and such submission shall be made within such reasonable period and under oath or otherwise as the commission may determine, to administer oaths, to require by subpena the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties. In any proceeding or investigation the commission may order testimony to be taken by deposition before any person who is designated by the commission and has the power to administer oaths and, in such instances, to compel testimony and the production of evidence. The commission may request that the U.S. Justice Department initiate, prosecute, defend, or appeal any civil action on behalf of the commission for the purpose of enforcing the provisions of this title. Should the U.S. Justice Department fail to take such legal action as the commission requests within 30 days of the time the U.S. Justice Department receives such request, the commission may demand that the U.S. Justice Department make a report giving information as to what action is expected, and if none, the reason therefor. Such report shall be a complete response to the demand of the commission and shall be delivered to the commission and made public information within 90 days of the date on which the original request for legal action was received by the U.S. Justice Department. Further, the commission may request that the U.S. Justice Department present to a grand jury, and prosecute any violation of this act or chapter 29 of title 18, United States Code. Should the U.S. Justice Department fail to take such legal action as the commission requests within 30 days of the time the U.S. Justice Department receives such request, the commission may demand that the U.S. Justice Department make a report giving information as to what action is expected, and if none, the reason therefor. Such report shall be a complete response to the demand of the commission and shall be delivered to the commission and made public information within 90 days of the date on which the original request for legal action was received by the U.S. Justice Department. The commission may delegate any of its functions or powers, other than the power to issue subpenas to any officer or employee of the commission. Any U.S. district court within the jurisdiction of which any inquiry is carried on, may, upon petition by the commission, in case of refusal to obey a subpena or order of the commission, issue an order requiring compliance therewith; and any failure to obey the order of the court may be punished by the court as a contempt thereof. No person shall be subject to civil liability to any person—other than the commission or the United States—for disclosing information at the request of the commission. Whenever the commission submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of the estimate or request to the Congress. Whenever the commission submits any legislative recommendations, or testimony, or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have authority to require the commission to submit its legislative recommendations, or testimony, or comments on legislation, to any officer or agency of the United States for approval, comments, or review prior to the submission of such recommendations, testimony, or comments to the Congress.

Addressing political committees, this legislation requires each individual who is a candidate for Federal office—other than the office of Vice President of the United States—to designate to the commission a political committee to serve as the election committee of such individual. No political committee other than the election committee of a candidate may receive contributions to such candidate or make expenditures on behalf of such candidate. Any expenditure in excess of $100 by any such election committee shall be approved in writing by the candidate who designated such committee or by the chairman or treasurer of such committee. Each political party shall designate to the commission not more than one national committee, one Senate campaign committee, one House of Representatives campaign committee, one State committee for each State, and one congressional committee for each congressional district. Political party, as identified by this legislation means any association, committee, or organization which nominates a candidate for election to any Federal office whose name appears on the election ballot as the candidate of such association, committee, or organization. State committee means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level, as determined by the commission. Congressional committee means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the congressional district level, as determined by the commission. National committee means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level, as determined by the commission.

This legislation further prescribes that it shall be unlawful for any person, other than an individual or any committee designated under section 314(c) of the Federal Election Campaign Act of 1971, to make any contribution to any one candidate or to any one political committee, with respect to any election which, in the aggregate, exceeds $6,000. No individual may make contributions to any one candidate for Federal office or to any one political committee designated under section 314(c) of the Federal Election Campaign Act of 1971, with respect to any election which, in the aggregate, exceed $1,000. No individual may make contributions to all candidates for Federal office or to all political committees designated under section 314(c) of the Federal Election Campaign Act of 1971, with respect to any election which, in the aggregate, exceed $25,000. No candidate or political committee may accept any contribution from any nonresident alien. Contributions made to or for the benefit of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered of such party for election to the office of President of the United States.

This legislation further sets forth that no candidate shall make expenditures in excess of 12 cents multiplied by the voting age population of the United States, in the case of a candidate for nomination for election to the office of President of the United States. Twenty-five cents multiplied by the voting age population of the United States, in the case of a candidate in a general election for the office of the President of the United States; 8 cents multiplied by the voting age population of the geographical area in which the election is held, in the case of a candidate for nomination for election to the office of Senator. Sixteen cents multiplied by the voting age population of the geographical area in which the election is held, in the case of a candidate in a general election for the office of Senator. Thirty cents multiplied by the voting age population of the geographical area in which the election is held, in the case of a candidate for nomination for election to the office of Representative, Resident Commissioner, or Delegate, or 50 cents multiplied by the voting age population of the geographical area in which the election is held, in the case of a candidate in a general election or special election for the office of Representative, Resident Commissioner, or Delegate. Expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be expenditures made by or on behalf of the candidate of such party for election to the office of President of the United States. The term "voting age population" means the voting age population estimated by the Secretary of Commerce under section 104(a)(5) of the Federal Election Campaign Act of 1971. At the beginning of each calendar year—commencing in 1975—as there becomes available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Federal Election Commission established by section 312(a) of the Federal Election Campaign Act of 1971, and publish in the Federal Register, the per centum difference between the price index for the 12 months preceding the beginning of such calendar year and the price index for the base period. Each amount determined under subsection (a) shall be increased by such per centum difference. Each amount so increased shall be the amount in effect for such calendar year. The term "price index" means the average over a calendar year of the Consumer Price Index (all items—U.S. city average) published monthly by the Bureau of Labor Statistics. The term "base period" means the calendar year 1973.

In addressing the form of contributions, this legislation proposes that no person may make contributions to or for the benefit of any candidate or political committee which, in the aggregate, exceed $100 in any calendar year, unless any such contribution is made by a written instrument identifying the person making the contribution. Violation of this particular provision is punishable by a fine of not more than $1,000, imprisonment for not more than 1 year, or both.

Deduction for political contributions as contained in section 218(B)(1) of the Internal Revenue Code of 1954—relating to amount of deduction for contributions to candidates for public office—is amended by striking out "$50" and inserting in lieu thereof "$100" and by striking out "$100" and inserting in lieu thereof "$200."

Income tax audits, addressed in this legislation, requires that the Secretary of the Treasury or his delegate shall conduct a complete audit and examination of the income tax returns of any individual who—at the time he files such return—holds the office of President of the United States, Vice President of the United States, Senator, Representative, Resident Commissioner, or Delegate. The audit and examination shall be completed no later than July 15 of the year following the taxable year for which the return involved is filed. The Secretary of the Treasury or his delegate shall report apparent violations of law discovered by any audit and examination conducted under this section to the appropriate law enforcement authorities. Such Secretary or his delegate shall prepare a report with respect to any income discovered by any such audit and examination which is not income from the Federal Government. Such report shall be transmitted to, if the return involved is that of the President or the Vice President, both the Senate and House of Representatives; if the return involved is that of a Member of the Senate, to the Select Committee on Standards and Conduct of the Senate; or if the return involved is that of a Member of the House of Representatives, to the Committee on Standards of Official Conduct of the House of Representatives. The Secretary of the Treasury or his delegate shall prescribe such regulations as may be necessary to carry out this section.

Violation of any provision of title III of the Federal Election Campaign Act of 1971 is a misdemeanor punishable by a fine of not more than $10,000, imprisonment of not more than 1 year, or both. Violation of any provision of this title with knowledge or reason to know that the action committed or omitted is a violation of this title is punishable by a fine of not more than $100,000, imprisonment for not more than 5 years, or both.

Violation of amendments to title 18, United States Code, new sections 614, pertaining to limitations on contributions and 615, addressing limitations on expenditures contained in this legislation is a misdemeanor punishable by a fine of not more than $10,000, imprisonment of not more than 1 year, or both. Violation of any provision of these sections with knowledge or reason to know that the action committed or omitted is a violation of this title is punishable by a fine of not more than $100,000, imprisonment for not more than 5 years, or both.

Mr. Speaker, the legislation I propose today focuses upon limiting contributions, limiting expenditures, limiting political committees and their activities, limiting who can contribute to candidates, a strong Federal Elections Commission, tough penalties for violations and complete income tax audits with full disclosure of outside income for the President, Vice President, all Senators, Representatives, Resident Commissioners, or Delegates. I strongly urge every consideration by my colleagues of this legislative proposal which stands with the many other bills before Congress concerning reform of the Federal election campaign process.

DIFFERENT RATING SYSTEMS FOR NATIONAL FIGURES

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. HUNGATE. Mr. Speaker, since the rating system which many special interest groups have used to "grade" national figures seems to be misunderstood by many, I was pleased to read recently a clarification of this by a noted student of Congress, Time magazine's congressional correspondent, Neil MacNeil. He notes that since the 1950's many public interest and lobbying groups have studied the voting records of Congressmen and rated them according to the individual group's own private and special interests. The aim of the rating is to guide followers of the groups as they make their decision at the polls.

Included in the list of such influential organizations are the AFL–CIO's Committee on Political Education, COPE; the Americans for Democratic Action, ADA; the National Farmers Union, NFU; the American Farm Bureau Federation, and the Americans for Constitutional Action, ACA. The first three are liberal organizations and the last two conservative organizations. Not surprisingly, their ratings tend to be opposites of each other. For example, one distinguished colleague from New York received an ADA rating of 100 percent and an ACA rating of zero, while another able colleague from California received an ADA rating of zero percent, while another able colleague from California received an ADA rating of zero percent and an ACA rating of 100 percent.

I am sure that many of my colleagues carefully examined the special interest groups' ratings recently published in Congressional Quarterly.

My favorite ratings are those of the Americans for Good Habits—AGH—issued by our distinguished colleague TOM REES of California. AGH tends to prove that beauty is in the eye of the beholder, as all Members from ABDNOR to ZWACH score 100 percent on their chart. This occurs because AGH selects only those bills passing the House unanimously.

ETHICAL STANDARDS OF BRIGHT YOUNG MEN IN THE WHITE HOUSE

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. EVINS of Tennessee. Mr. Speaker, a recent editorial published in the Nashville Banner points out that one of the more distressing aspects of Watergate is the revelation of the conduct of many well-educated and supposedly bright young men in the White House.

The editorial, entitled "What Happened to the Elite?" raises questions regarding some social, moral, and educational standards of today and their impact on the behavior of young people employed in the White House surrounding the President.

Because of the interest of my colleagues and the American people in this matter of ethics, morals, and high standards, I place in the RECORD herewith a copy of this editorial:

WHAT HAPPENED TO THE ELITE?

One cannot help but look on with wonder and amazement at one of the most baffling and distressing aspects of Watergate—the clean-cut, well-educated, successful young men not knowing the difference between right and wrong, between lying and telling the truth, between political infighting and lawbreaking.

As one peruses the 1,200 pages of presidential tape transcripts and recalls these men coming one by one before the Senate Watergate Committee, it can't seem possible that these same men would be involved in perjury and burglary.

Each looks like the man of which any family would be proud, every mother boastful, welcomed into any corporation for the climb up the ladder.

Some are graduates in law, some in political science, some in business administration. But the crimes they have confessed or been convicted of range through perjury, burglary, violation of campaign contribution laws and impeding justice deliberately.

Though our society expects every teenager to know that smoking marijuana is illegal and the offender subject to arrest, these college graduates of early middle age—at the highest level of the federal government—broke some of the best known laws of our free society.

What happened? Where did their education fail them then?

Didn't anyone in all their years of education and upbringing give them the simple rules of right and wrong? As these cases may indicate, it's too late in graduate school. The start should have been in kindergarten.

Many parents, however honorable in their own behavior, today bring up their children with no exposure to Sunday School. The exposure instead is to children's literature, now heavily dredged in violence and social realities of divorce, broken homes, drug addiction. And television and movies aren't far behind, if at all.

At this century's beginning, most college students studied moral philosophy, logic—and yes, ethics. Today, many colleges and universities have dropped these courses in favor of "more practical" ones. But the subjects dealing with honesty in life should be part of every person's education and taught in the public schools. They should be required for graduation. But first there would have to be the training of teachers, the selection of textbooks—and probably their writing, too—and the subjects introduced into the curriculum.

The start should be made now.

MEDICARE AS PREVENTIVE MEDICINE

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. McKINNEY. Mr. Speaker, today I introduce legislation, with cosponsors, to amend the Social Security Act to expand medicare coverage for regular physical examinations.

The more I study our present health delivery systems and the proposals pending before Congress, the more I am convinced we are taking the wrong approach to the health needs of our older citizens. The emphasis is on providing care after the person becomes seriously ill.

We must move from crisis medicine to preventive medicine. I am sick and tired of hearing of our older Americans suppressing symptoms, tolerating unbearable pain, watching as the sores spread slowly over their body, because they cannot pay the high cost of medical care. I am sick and tired of hearing of our older Americans who needlessly lose many years of their lives, who endure incredible pain during their last years, who have lost depth and value to their life because of lingering or even fatal illnesses that could have been avoided had they been able to get medical care when they first realized the need.

I view this bill we introduce today as a step in the realization of the goal of preventive medicine. Our medical profession has the knowledge of what can be done on the basis of early findings to prevent the development of overt disease. Let us use that expertise. According to statistics, about 80 percent of our elderly population are fairly healthy. I say, let us keep them that way. And the way to keep them that way is to insure they receive regular physical examinations which may very well mean early diagnosis and treatment.

There is no argument over providing medical care for our aged sick. But let us not be so busy thinking of our sick older citizens and delivering health care to them that we fail to adequately concern ourselves with those in basically good health to insure they remain in that state of health. Our attention will be much more appreciated if we help our elderly avoid illness rather than showering them with attention after they have suffered.

Presently, if an elderly person receives a physical examination, should something be found wrong with him, medicare covers part of the cost of that physical examination. Today, due to soaring medical costs, far too often our older citizens ignore or suppress symptoms of serious illness. They do not see their doctor until they are convinced that indeed something is wrong—and seriously wrong. Hence, I believe medicare already covers a good portion of physical examinations because something is usually wrong by the time our average older American visits his doctor.

I am convinced that in the long run costs would be cheaper both to the patient and to the Government if the medicare covered regular physical examinations. Aside from improving the health of the well individual, a periodic health appraisal could mean early diagnosis and early treatment, entailing far less expense than the hospitalization and long-term nursing home care that may be necessary because the illness was not treated in the early stages.

Our elderly need to be encouraged to immediately seek medical help when symptoms of illness first appear. A reasonable charge for a physical examination is essential so that our older population will know medical care is available and within their means.

The Public Health Service has provided me with an outline of the yearly physical examination that most physicians agree is essential for an elderly person 60 years of age or older and the estimated cost. The total price is indeed staggering—roughly $200. When a person is on a limited income, it is no wonder he *does not partake* in the preventive measure of a yearly physical examination. The cost is prohibitive.

A breakdown of this $200 medical examination shows that a little over $100 covers the medical history and a complete general physical examination which in addition to the usual procedures includes examination of the retina and testing for glaucoma, testing of hearing, testing for cancer and arteriosclerosis, blood pressure determination, palpatation of the abdomen, examination of the circulation of the legs, and examination of the genitalia and rectum. Additional pertinent tests for our elderly such as electrocardiogram, chest X-ray, hemologic and white blood cell count, cervical examination, urinalysis, proctoscopy, and tests for serum glucose, cholesterol, urea and uric acid, increase the cost another $100.

Not many of our elderly can afford such a sum, particularly in these inflationary times. When our elderly determine their monthly budget, a possible medical examination goes by the wayside in order to keep that roof over their head and food in their stomach. It is no wonder that symptoms are suppressed.

This legislation we propose does not mandate a free yearly physical examination. At this point in time, unfortunately, such a proposal is totally unrealistic. Part B of medicare would apply for physical examinations for the present and the Secretary of Health, Education, and Welfare would issue regulations with respect to the scope and cost of the examinations. But this legislation should put a regular physical examination within the means of our elderly population.

DEMOCRATIC CAUCUS PUTS REFORM IN DEEP FREEZE

HON. DAVE MARTIN

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. MARTIN of Nebraska. Mr. Speaker, one of the most outrageous aspects of the Democratic caucus' derailment of congressional reform is the deep, dark secrecy in which the deed was done. The Democratic caucus meets in private. The public and the press are barred from attending. The records, if they are kept at all, are not available to the public.

The caucus vote to sidetrack the Committee Reform Amendments of 1974 was taken by secret ballot. What is more, the vote on whether to cast a secret ballot was itself an unrecorded vote. The result is nothing short of ludicrous: This landmark piece of legislation, badly needed to bring the Congress up to date, is killed in a secret caucus by a secret vote on whether to have a secret vote.

Mr. Speaker, it is hardly surprising that the Democrats who instigated this action are ashamed of themselves. But the public's business is at stake here, and we are entitled, at the very least, to know exactly what the caucus has done, and why, and who favored or opposed it. As a beginning, the complete transcripts and voting records of the caucus should be made available so that the Nation can judge the Democrats' stewardship in handling the public's business.

The Select Committee on Committees' reform proposals, embodied in House Resolution 988, are the result of a year and a half of effort on the part of a representative, bipartisan group of Representatives. The report was unanimous. It should be debated in public, not defeated in secret.

SIDNEY R. REDMOND

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. HUNGATE. Mr. Speaker, a distinguished and respected member of the St. Louis community, Sidney R. Redmond, passed away on Thursday, May 2, 1974.

As the following article will indicate, he served in many positions of leadership and community service, and many of us will miss his contributions to public service and his personal friendship:

S. R. REDMOND FUNERAL; LAWYER, SCHOOL OFFICIAL

Services for Sidney R. Redmond, prominent St. Louis lawyer and member of the state Board of Education, who died Thursday, will be at 1 p.m. Monday at Union Memorial Methodist Church, 1141 Belt Avenue.

Mr. Redmond, who was 71 years old, died in St. Luke's Hospital. He resided at 16 Windemere Place.

In 1965 he was named by Gov. Warren E. Hearnes as a member of the state Board of Education and was elected its president in September 1971. In March 1972 Hearnes reappointed him to an eight-year term.

He was active in Republican politics and civil rights for more than 30 years.

In 1940, he was president of the Negro National Bar Association and in the same year he was appointed to direct the western section of the Republican Party's Negro Division.

A year later, Mr. Redmond was appointed special assistant city counselor, a position he held for the following five years.

He resigned to run for the Board of Aldermen from the Eighteenth Ward. He was elected and served two terms until 1955, when he was defeated for re-election.

In 1945, he unsuccessfully ran for election to the Board of Education.

Mr. Redmond was nominated in 1950 as the Republican candidate for Congress from the old Eleventh District, but was defeated in the general election. Six years later, he again sought election from the Third District, but was defeated.

Mr. Redmond, who graduated from the Harvard University Law School, was a former president of the St. Louis Branch of the National Association for the Advancement of Colored People.

He was also a member of the American Judicature Society, the Board of Methodist Foundation of Missouri, the Harvard Club of St. Louis, the Arts and Education Council and was a trustee of the City Art Museum.

He was editor of the National Bar Journal and was a member of the NAACP National Legal Committee.

Surviving are his wife, Gladys, and two sisters, Mrs. Esther R. Austin of Memphis and Mrs. Ruth W. Hall of Washington.

THE ASSOCIATION OF LOCAL TRANSPORT AIRLINES

HON. BROCK ADAMS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. ADAMS. Mr. Speaker, the Association of Local Transport Airlines held its spring quarterly regional meeting in Toronto, Ontario, Canada, hosted by Allegheny Airlines which serves Toronto, on May 8–10, 1974.

One of the highlights of the meeting was the occasion of the signing of a new Canadian-American Bilateral Route Agreement which opened up 20 new routes for U.S. carriers in border crossings.

Another highlight of the impressive ALTA business meeting was an address by the distinguished chairman of the House Subcommittee on Transportation and Aeronautics and our colleague, the Honorable JOHN JARMAN.

Significantly, he addressed his remarks in part to the need for the Federal Energy Administration to provide 100 percent of fuel required to meet current needs and to new routes and new services by the ALTA carrier members serving the United States and, further, urged the Civil Aeronautics Board to press forward in an area of ever-increasing consumer interest, additional air service between medium-hub sized U.S. cities.

Knowing of your great interest in such improved services, I offer for the record a copy of Chairman JARMAN's address in its entirety:

ADDRESS BY HON. JOHN JARMAN

Two years ago in Atlanta I appeared before the Spring Quarterly Meeting of ALTA to discuss with you certain aspects of the regional carrier operations. I specifically discussed the quality of service being provided by the local service carriers and the price the government was paying in subsidy for your services. Based on the record between 1967 and 1971, it appeared to me that the carriers had done well in keeping their part of the bargain, providing a very substantial amount of service to 461 cities, of which 290 receive certificated service only from local service carriers. Over 27 million passengers were carried in 1971 with passenger miles increasing to almost 8 billion.

At the same time I was disturbed that subsidy need had been growing but that the government had failed to meet the need of the industry by rather substantial amounts. As I figured it, the shortfall during the five years, 1967 through 1971, was a staggering $130 million. With a shortfall of this magnitude it was no wonder that there were significant pressures on the members of this association to curtail severe loss operations, impacting services at our smaller cities rather significantly in some cases.

I also commented in my remarks two years ago that the commuter air carriers and smaller aircraft would have a greater role to play in the future of providing small city service. I asked that you consider affirmative action to fit the commuter carriers into our air transportation system so as to maximize their potential.

I am pleased to say that the government has very significantly improved its side of the bargain to the point where the bargain appears now to be somewhat in balance. I am also pleased that the carriers continue to provide a significant service to the smaller and intermediate size cities of this country. 49% of the airports served by locals serve cities with a population of less than 100,000. 44% of the airports that local service carriers serve enplaned less than 50 passengers per day. At the same time the CAB has moved to make some rather significant improvements in the rates being paid for subsidy-eligible service.

A major improvement in the subsidy situation occurred with the development of a new class rate effective June 1, 1973. This rate order provided some basic improvements, including a new profit sharing provision which improves the incentive for both the carriers and the government. The new rate is intended to bring subsidy paid in line with subsidy need. I commend the CAB for its responsiveness to a situation which could have led to a very serious deterioration of service to smaller cities, had the Board failed to act promptly in improving the subsidy payment situation. I hope that that Board and the carriers will continue along the new path which has been established.

I would like to comment on some of the problems which I believe your industry, the CAB and the Congress must focus on in the future.

First, is fuel. The allocation system which was administered starting last fall has left much to be desired. The Congress intended that public transportation services receive adequate fuel to perform their public service obligations. This intent of Congress was reflected in the Emergency Petroleum Allocation Act of 1973. Public transportation includes all public transportation, not just buses and trains. The FEO has not treated scheduled air carriers the same as ground transport services for reasons which I find difficult to understand. The air transport system of this country has as much right to fuel as the other modes of transport. The attempt to cut back the air transport operration to 1972 levels created severe problems for many of the air carriers and even more important—severe imbalance in service being provided at many of our cities.

I do not subscribe to the proposition that our air transport system has been wasteful and therefore does not require adequate fuels to meet its current needs. I do subscribe to the proposition that the air transport industry and particularly the regional airlines have provided meaningful service. The inefficiency which may exist for most part is that which cannot be avoided due to the peculiar nature of your route structures. I recognize that a city receiving two or three schedules a day is at the minimum level of service for air service no matter what its load factor generation may be. Many of the cities you serve cannot possibly generate load factors approximating 60 or 70% of available seats. I believe therefore that the FEO and the CAB should move at an early date to assure that the scheduled airlines of this country receive a more equitable share of the fuel which is available. The intent of Congress is to provide 100% of fuel required to meet current needs—not 80%, 85% or 95%. It means what you need, not something less.

Having said this I do not mean to suggest that the CAB should be oblivious to our fuel situation in dealing with route matters. We must be judicious in our use of fuel which means that the CAB's current in-depth review of the long-range route structure is most timely. We in the Congress who are close to aviation matters look forward to the release of this study for use in our deliberation.

One area which I hope will be covered by the Board study is the adequacy of service for our larger intermediate cities. I am aware that many medium-hub cities ranging from 200,000–500,000 population have become increasingly active in seeking improved air service. At the same time the CAB has continued its policy of almost total restraint in processing applications for new route authority. As I read the Board's current policy, in the absence of an interchange agreement or a route transfer or route exchange, a city is left to negotiate with its existing air carriers for such services as they may be authorized to provide. In some instances such negotiations can be sufficient. In others they may not be, and sometimes we know they cannot be. I am particularly concerned about services in the short- to medium-haul markets under 750 miles.

It seems to me that Section 401 of the Federal Aviation Act says that the Board will consider applications for new authority and will grant such applications if the public convenience and necessity so require. Section 102 at the same time gives the Board some rather flexible standards in deciding what is in the public interest, including competition to the extent necessary. What does Section 401 mean in today's fuel short environment? What is the bargain between the cities of this country and the Civil Aeronautics Board? In the old days we use to think that if a carrier had a fair chance of making a reasonable profit on a service for which there was a demand, it should be encouraged to seek authorization, invest the capital and provide the service.

If this is to remain a healthy, viable air transport industry it cannot resign itself to a no-growth situation. This would be a severe blow to our country, which continues to grow. It will require more air service, not less. Rail service is no substitute in most areas and while it may be helpful in certain high density corridors, it certainly will not take care of the large majority of our communities. Many major cities do not even have passenger rail service.

In this connection I would like to also urge that the carriers monitor very carefully the results of the ever increasing cost of air service. We must keep air transportation priced within the means of our population. It is a mass transport system today and I worry that we may forget this. In a few weeks family and youth fares will disappear entirely. If we are to keep air travel as an attractive alternative to the private automobile, its price must be a factor in your thinking.

I believe the CAB is to be commended for many important steps to secure the future of this industry, particularly the improvement in subsidy policy for the local service airlines. I commend the Board for its willingness to consider increased use of commuter services for many communities, where this type of service can be implemented. The Allegheny Commuter program continues to set a standard for service with small aircraft which is outstanding. The Board's new flow-through subsidy experiment with Air Midwest is also interesting. At the same time the Board has shown that it is willing to tackle the more difficult problems of suspension or deletion, where such action is warranted.

I urge however that the Board begin to look at the needs of the many cities whose time for service improvement may well be far overdue. I think the regional airlines have an obligation to continue to seek to provide those services which they believe are in the public interest and the cities who would benefit from these services are equally entitled to be heard. Let us not withhold these services because of our fuel situation. Until such time as the Congress changes the legislation, you are entitled to have sufficient fuel to meet the public needs. It's time again to step up and announce your programs to keep our vital air services functioning.

RECHANNELING FISHING FINES AND IMPORT DUTIES

HON. ROBERT H. STEELE

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. STEELE. Mr. Speaker, today I am reintroducing legislation to channel all fines on foreign fishing vessels and all import duties on fishery products into a special fund for research and development of domestic fisheries. This legislation, which is cosponsored by several members of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, is important to the American fishing industry and to the American consumer, for it would insure a strong and expanded Federal effort to broaden our knowledge of fishery resources management and development.

I do not need to remind the House of the rapidly declining state of our American fisheries. The Members of this body are all too painfully aware of the depletion of our fishery stocks which has resulted, for the most part, from callous plundering of our fishery resources by Russian, Japanese, and other foreign fishing fleets. It has become clear that our coastal fisheries—and particularly those of the Georges Bank in the North Atlantic, which have been the traditional fishing ground for over 200 years for boats from my State of Connecticut—are in danger of being raked entirely clean unless something is done to cut down overfishing and rebuild our fishery resources.

Moreover, to make this problem doubly frustrating, we are not only losing a large portion of the catch off U.S. shores to other nations, but as a result we are being forced to import increasingly huge amounts of the fish needed to keep up with the Nation's growing demand for fish protein. Since World War II, the level of U.S. fish imports has jumped from 13.4 percent of consumption to almost 60 percent. And quite often the fish products we import actually come from foreign nets operating within sight of American soil.

One effective response we can take to this foreign challenge—and to the critical international problem of guaranteeing adequate food supplies to feed the Earth's expanding population—is to maximize our understanding of domestic fisheries and our effort to replenish depleted stocks. I believe it is appropriate that the fines foreign vessels pay when they are apprehended in our waters, and the duties they pay on the fish products they send into the United States, be directed toward this end.

Presently, the proceeds from fines or confiscations of foreign ships caught fishing in U.S. territorial waters go into the General U.S. Treasury. In the first 4 months of this year, the income from these fines has multiplied dramatically. Between 1967 and 1973, the United States collected about $1.25 million from foreign vessels violating fishing prohibitions in American waters. During January and February alone of this year, nearly $400,000 in fines were levied on a Bulgarian trawler seized off New Jersey and a Russian ship caught in Alaskan waters. In addition, Japanese and Rumanian vessels seized in late March may draw similarly large penalties. It is likely that as much as $1 million will be added to the Treasury this year from fines on foreign boats operating illegally within U.S. waters.

Furthermore, customs duties on imported fish and fish products currently exceed $24 million annually. In 1954, Congress earmarked 30 percent of these duties for creation of a fund to promote and develop fishery products and research pertaining to American fisheries. This fund, usually called the Saltonstall-Kennedy or S-K fund, is now operating within the National Oceanic and Atmospheric Administration, with outlays averaging above $7 million each year. However, the remaining 70 percent of import duties are uncommitted and go into the General Treasury.

In my view, this money, which will total over $25 million in 1974, should be used for one purpose only: to aid the American fisherman and consumer by recycling these fines and duties to where they belong—in fisheries research, development, and management. By routing these receipts into the S-K fund, we can insure these domestic fishery programs not only increased Federal support, but also a stable source of research dollars. This is particularly important, since NOAA programs have often fallen victim to the budgetary ax.

Mr. Speaker, domestic fisheries are already badly damaged, and even were an effective international system of catch quotas or an agreement on a new regime for control of the sea's resources reached today, a difficult job of nourishing and rebuilding our fish stocks would still confront us. This legislation can mark an important start on this task. I urge my colleagues to join me in securing quick action on it from the House.

CONSERVATION AWARD WINNER

HON. B. F. SISK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. SISK. Mr. Speaker, I will have the privilege of being in attendance tonight at the 20th annual American Motors Conservation Awards dinner. One of 10 nonprofessional conservationists receiving the honor this year is Mr. J. Martin Winton, a stalwart in the development of Ducks, Unlimited, and a vigorous defender of the waterbank program which the Congress saw fit to restore after the President canceled the program last year.

Mr. Winton, a recently retired pharmacist, is being cited for his work in helping preserve waterfowl. For that he is richly deserving. The award he will receive tonight has long been regarded by many conservationist leaders as the most prestigious of all such recognition plans, and focuses public attention on citizen and professional conservationists whose achievements are helping this Nation preserve, yet utilize, its renewable natural resources.

Although the award signifies past excellence, I can assure you all that this excellence will not diminish his role in conservation efforts in either waterfowl preservation or natural resource utilization. He remains active as president of the Grassland Water District in central California where his interests range far and wide.

I now join in saluting Mr. J. Martin Winton, one of three Californians to be cited tonight his work in conservation.

RURAL DEVELOPMENT ACT IS EFFECTIVE

HON. J. EDWARD ROUSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. ROUSH. Mr. Speaker, I was gratified and honored last week at the invitation to be present at a very special and unique loan closing ceremony in Topeka, Ind., May 10, in the Fourth Congressional District which I represent. The loan to enlarge Rockwood, Inc. at Topeka was made through the rural development program, with a guarantee provided by the Farmers Home Administration.

The occasion was special and unique because this is the first Farmers Home Administration loan of this kind in Indiana. I hope this is the first of many because it will be so important to the community. This loan will enable the Rockwood firm to add farm trailers and other light farm equipment to its trailer manufacturing line, which until now has been concentrated in recreation trailers. The addition of this farm equipment to the company's line will make it possible for Rockwood to add more than 60 people to its work force after a slow winter when the firm had to lay off about 60 employees due to the energy crisis.

I am proud to have been one of those supporting the Rural Development Act of 1972 through which the U.S. Department of Agriculture can provide loan guarantee authority to help arrange private bank financing of rural business. This is an important assistance to rural communities.

The Agriculture Subcommittee of the House Appropriations Committee has just completed hearings on appropriations for 1975 for the Rural Development Act programs, including loan authority and grants for water and sewer facilities, other community facilities, and for rural industrial assistance. The loan in Topeka to Rockwood is an example of this rural industrial assistance and I think the Congress is aware of the manifold benefits to be derived from the rural development program. There are many other communities and industries that stand in need of just the kind of assistance provided last week in Topeka. I cannot think of a better and more fruitful return on the taxpayer's dollar than investments such as these.

SUPPLEMENTAL SECURITY INCOME PROGRAM MUST BE REVISED

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. BINGHAM. Mr. Speaker, this is Senior Citizens Month, yet millions of senior citizens who participate in the supplemental security income program have every reason to believe that the Nation is not honoring them but cheating them instead. These elderly poor have seen the Government take away with one hand what it gives with the other, as social security increases are deducted from supplemental security income checks.

More than 20 members of the New York State congressional delegation have introduced legislation to revise and improve supplemental security income, and I hope many more of our colleagues will soon join us in seeking a comprehensive overhaul of this program.

There is growing awareness and resentment of the cruel way in which this program works, as evidenced by the following editorial from WOR-TV in New York:

SENIOR CITIZENS

(By John Murray)

The Federal Supplemental Security Income Program for aged, blind and disabled persons is better known as S.S.I. It began last January, and was intended to be a real improvement over the old public welfare system. However, the Supplemental Security Income Program has severe deficiencies and shortcomings. They are having a detrimental effect on the unfortunate persons it purports to serve.

Public officials at the City, State and federal levels are not addressing themselves to the inequities in the S.S.I. Program.

What is needed is a provision for emergency funds to cover non-receipt of checks, or lost or stolen checks, financial emergencies such as loss of clothing, food or shelter, and provision for advance monies at the time of application.

Food stamps and rent increase exemption eligibility should be guaranteed to all S.S.I. beneficiaries.

S.S.I. beneficiaries, who receive a seven percent cost of living increase, should be entitled to keep their full portion of S.S.I. benefits from New York State. It's a disaster that the millions of beneficiaries across the country had their S.S.I. benefits reduced by seven percent. Their total monthly income therefore, remains the same.

The month of May is Senior Citizens Month throughout our country. Yet, the catastrophe dealt to our older citizens through the Supplemental Security Income Program is a poor tribute to those older people who helped build our nation. City, State and federal officials should act now to make the S.S.I. Program live up to its promise.

TRIBUTE TO REPRESENTATIVE JULIA BUTLER HANSEN

HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. ROONEY of New York. Mr. Speaker, the announcement by my good and longtime friend from Washington State, Mrs. JULIA BUTLER HANSEN, that she will retire at the end of this session of Congress saddens me.

I have had the pleasure of knowing JULIA for all of her 14 years of congressional service and consider it my privilege and honor to have served with her on the House Committee on Appropriations. Her accomplishments and devotion to public service mark her as a singularly effective legislator both in this body and in the Washington State Legislature.

Her devotion to public service and accomplishments were deeply ingrained in JULIA's character long before she came here to the House of Representatives in 1960. Behind her were 23 years of service to both city and State government and all of that service was precedent shattering.

JULIA's accomplishments in the Washington State Legislature, Mr. Speaker, were near legendary. As a member of that body she helped create a governing structure free from political pressures to oversee the Washington State highway system. The result has been one of the finest State systems of roads in the country.

As a Member of Congress, JULIA's interests were many and varied and as the first woman chairman of either a House or Senate Subcommittee on Appropriations she was in a position to follow those interests closely.

As chairman of the Interior Appropriations Subcommittee she became well known for her interests in the environment, hydroelectric power, reclamation of the land, both fishery and forestry resources and particularly the plight of the American Indian. Her concern for the plight of the Indian earned her, along with Senator ERVIN, of North Carolina, the first presentation of the Henry M. Teller Award for outstanding efforts in behalf of legislation affecting the Indian peoples.

Mr. Speaker, we shall all miss JULIA when she leaves. She has been a great credit to this body, to her State, her country, and herself. Mrs. Rooney joins with me in wishing JULIA a long, leisurely and well-deserved retirement.

MEDICREDIT

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. JONES of Tennessee. Mr. Speaker, the concept of national health insurance is far from new, but it now appears that such a program will soon be a reality.

There are many proposals before the Congress which fall under the general heading of national health insurance but which vary greatly in their scope and of course in their costs. Some proposals would provide national health insurance for almost everyone while others would provide considerably less.

I personally feel that our Government should provide help where it is truly needed, but I feel just as strongly that it should not go beyond that point. In my opinion each individual should provide for his own health care if he can afford it.

The medicredit plan, of which I am a cosponsor, would preserve the right of free choice in the health care field for both the patient and physician.

Medicredit guarantees the right of every American to choose the health care environment which he believes best for his family. This environment includes the patient's choice of medical institution, regardless of whether it is a publicly or privately supported facility. Furthermore, the traditional doctor-patient relationship will be preserved for both the patient and the doctor.

If a national health care plan is to succeed in our system it must allow the physician to choose whether or not he wants to participate in a federally subsidized health care program. In all the leading health care proposals now before Congress, with the exception of the medicredit plan, participation is compulsory on the part of both the patient and the physician.

Many Americans fear the establishment of another giant Federal bureaucracy with it is accompanying regulations and redtape. Under the medicredit plan the Federal Government would not take over the health insurance business but would merely assume responsibility for the health care of persons who are either too poor to meet their medical expenses or for those citizens whose present health insurance is inadequate to meet the costs of catastrophic illness.

The medicredit plan allows individuals to assume responsibility for their own health care if they are financially able but insulates them from the colossal results of unforeseen major medical needs. It is every American's right to have adequate and proper health care and I believe this bill provides the best protection for the American people. The medicredit plan does not contain all the answers to our Nation's health care needs but I believe it is a reasonable and responsible step in that direction.

RENT SUPPLEMENTS IN NONMETROPOLITAN AREAS

HON. BOB BERGLAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. BERGLAND. Mr. Speaker, I would like to comment briefly on one aspect of pending housing legislation. The Housing Subcommittee has recommended approval of what is popularly called a "bobtailed" housing and urban development bill, and while I appreciate their desire to find legislation on which there can be wide agreement, I am very much disappointed in the rural housing provisions in H.R. 14490. It seems to me that it falls short not only of the measure which the other body sent over to us in this respect, but fails to include some substantive provisions which the House Banking Committee itself found noncontroversial 2 years ago.

Among these is a provision to give Farmers Home Administration a rent supplement program. Such a program has been available to urban areas for nearly a decade but—as is so often the case—it has been denied people in rural areas and small towns where the Federal Housing Administration programs are little utilized. The census figures show us that there are nearly 5 million one- and two-person households with very low incomes—less than $4,000—living outside our metropolitan areas. More than half of those households are elderly and at least one out of every five lives in substandard housing.

Given their low incomes only public housing or rent supplements can adequately serve these people. Yet, we know that less than a quarter of our public housing is located in nonmetropolitan areas. The Rural Housing Alliance has recently done a study of the rent supplement program and found that it too is failing to reach people in rural areas and small towns. I shall insert the text of their study, "Rent Supplements in Nonmetropolitan Areas," at the end of my remarks.

They estimate that less than 30 percent of all rent supplement units are located in nonmetropolitan areas and that most of those are in the larger towns. Their conclusion is that as long as Farmers Home Administration lacks its own rent supplement program, nonmetropolitan areas of less than 10,000 population, "which account for at least 35 percent of the Nation's poverty-level families and 40 percent or more of its occupied substandard housing will continue to receive less than 15 percent of all rent supplement assistance."

I urge my colleagues on the full Banking and Currency Committee to give Farmers Home Administration a rent supplement authority and end this pattern of discrimination against rural people.

The material follows:

RENT SUPPLEMENTS IN NONMETROPOLITAN AREAS; ANOTHER HOUSING PROGRAM DENIES EQUITY TO THE PEOPLE OF SMALL TOWNS AND RURAL AREAS

(By George Rucker)

Summary: As of October 1973 there were an estimated 125,400 rent supplement units in housing projects insured by the Federal Housing Administration under Sections 221 (d)(3) and 236 of the National Housing Act. Of these, less than 15 percent appear to be in nonmetropolitan towns and places of less than 10,000 population, although such areas contain at least 35 percent of the nation's poverty-level families and 40 percent or more of its occupied substandard housing.

Nearly a decade ago, in the Housing and Urban Development Act of 1965, Congress expanded the available program resources for low-income housing assistance by authorizing a rent supplement program for the Federal Housing Administration. Under this authority, FHA can contract to make rent supplement payments covering units financed under certain FHA-insured mortgages. The eligible occupants of such units, whose income must generally be in the public housing tenant range, pay 25% of income (which must equal at least 30% of the normal rent on the unit) and FHA makes up any difference between that and the full rent.

At the end of Fiscal 1973, the Department of Housing and Urban Development reported that rent supplement funds had been reserved for a cumulative total of 192,500 units, that 167,500 of those units were under contract, and that 118,200 of them were in occupancy. None of these published statistics, however, provide a breakdown between metropoliitan and nonmetropolitan areas. In fact, as far as I can determine, HUD does not publish and evidently does not even tabulate that sort of a breakdown. It does publish a quarterly "Rent Supplement Status Report" which lists by state and by program all *projects* for which any rent supplements have been approved and this report does make it possible to determine the metropolitan/nonmetropolitan distribution of those projects.

The most recent such report is that for September 30, 1973. It showed that insurance in force at that time under Sec. 221(d)(3) and carrying market interest rates covered projects with a total of 86,631 units.[1] It also showed that insurance in force under the Below-Market-Interest-Rate Sec. 221(d)(3) and the Sec. 236 interest subsidy programs covered another 155,036 units in projects with at least some rent supplements approved. But the "Status Report" doesn't show the number of units actually receiving supplements—only the number of units in the project. While *market rate* projects can (and usually do) carry supplements on *all* units, those under 221(d)(3) *BMIR* or Sec. 236 are limited in the share of units which can be covered by rent supplements—generally no more than 20%, although sometimes increased to a maximum of 40% of the units in the project.

Based on conversations with HUD staff and my analysis of such national statistics as are available, I concluded that an average of 25–30% of the units in these BMIR and Sec. 236 projects probably received rent supplements.[2] HUD staff also advised that they saw no reason to think that the average would vary significantly between metropolitan and nonmetropolitan areas. Using the lower percentage figure, a total of 125,400 rent supplement units would appear to have been covered by insurance in force as of last September. Of these, 36,900 units or just over 29% are projected as being in nonmetropolitan areas.[3]

The accompanying table breaks these figures down by individual state and totals them by census division and region. Although they are estimates subject to some margin of error, particularly in the case of individual states with small programs, they presumably reflect the pattern of rent supplement coverage.

Over all, the nonmetropolitan share is slightly less than population would dictate and a great deal less than poverty and housing conditions would mandate. (Nonmetro areas account for nearly 46% of the nation's poverty level families and for 54% of its occupied substandard housing.[4]) The disparity is even more striking among the states which were the biggest users of the rent supplement program. Eight states—Texas, Ohio, Florida, California, Tennessee, Washington, New York and Michigan—account for more than half of all rent supplement units. In only one of those states (California) does the nonmetro share of rent supplement units appear to equal the nonmetro share of population (and even there it is less than the nonmetro share of the *poverty* population).

Reflecting smaller program levels but far greater metro-nonmetro disparity were Illinois, New Jersey, Missouri and Utah. In each of these states and in Michigan the share of population residing in nonmetropolitan areas was several times the share of rent supplement units going into such areas. At the other end of the spectrum only in Delaware is the nonmetro share of rent supplement units more than one-and-a-half times as large as its share of population.

Finally, analysis of similar statistics for an earlier date (the end of calendar 1971), shows that nonmetro areas are getting a *declining* share of rent supplement units. At that time the "Status Report" on insurance in force indicated that almost 38% of the units in *market-rate* projects and almost 32% of *all* rent supplement units were in nonmetropolitan areas.[5]

When it is considered that almost 60% of the nonmetro rent supplement units are in towns of 10,000 or more population,[6] though such places account for only a third of the nonmetropolitan population, a further dimension of the imbalance comes into view. The remaining areas depend primarily on Farmers Home Administration for housing assistance to low- and moderate-income people—and Farmers Home Administration has no rent supplement program, though legislation approved by the Senate earlier this year would provide it with one. Until this equalization of program resources becomes a reality, however, the areas of the country which account for at least 35% of the nation's poverty-level families and 40% or more of its occupied substandard housing will continue to receive less than 15% of all rent supplement assistance.

FOOTNOTES

[1] These figures exclude Puerto Rico and the Virgin Islands.

[2] Note that these percentages are not for all units in those programs, but only units in projects receiving at least some rent supplements.

[3] These figures are based on projects under only three programs, but they will account for more than 95% of the rent supplement units under all programs.

[4] Nonmetro areas account for an even larger share (57%) of the substandard housing stock (i.e., all year-round units).

[5] The total number of rent supplement units involved at that point was less than 100,000—about 78% of the number covered by the more recent analysis. The figures indicate, in other words, that only about one-fifth of the rent supplement units put under insurance in the 21 months following December 1971 were located in nonmetro areas.

[6] This is based on an analysis of the projects under the market rate program.

TABLE.—ESTIMATED NUMBER OF RENT SUPPLEMENT UNITS IN HOUSING PROJECTS COVERED BY FHA INSURANCE UNDER SECTIONS 221(d)(3) AND 236, SEPT. 30, 1973, AND SHARE OF SUCH UNITS IN NONMETROPOLITAN AREAS

States, divisions, and regions	Total number of units under rent supplement [1]	Number of rent supplement units in nonmetropolitan areas	Nonmetropolitan share of rent supplement units (percent)	Nonmetropolitan share of population (percent)
Maine	460	240	52	71
New Hampshire	530	330	62	70
Vermont				100
Massachusetts	1,180			3
Rhode Island	1,140	160	14	10
Connecticut	1,300	120	9	11
New England	4,610	850	18	19
New York	4,600	390	8	14
New Jersey	1,450	30	2	12
Pennsylvania	2,060	400	19	21
Mid-Atlantic	8,110	820	10	16
Northeast region	12,720	1,670	13	16
Delaware	190	100	53	30
Maryland	2,310	160	7	16
Virginia	2,730	1,080	40	39
West Virginia	1,120	480	43	69
North Carolina	3,100	1,850	60	63
South Carolina	3,740	2,060	55	61
Georgia	2,880	1,490	52	50
Florida	8,990	1,530	17	31
South Atlantic [2]	26,260	8,750	33	42
Kentucky	2,620	1,630	62	60
Tennessee	6,270	2,100	33	51
Alabama	1,430	350	24	48
Mississippi	3,550	2,720	77	82
East South Central	13,860	6,800	49	58
Arkansas	3,310	1,800	54	69
Louisiana	2,930	1,380	47	45
Oklahoma	1,780	920	52	50
Texas	14,480	2,650	18	26
West South Central	32,500	6,750	30	37
Southern region [3]	62,620	22,300	36	44

Footnote at end of table.

TABLE.—ESTIMATED NUMBER OF RENT SUPPLEMENT UNITS IN HOUSING PROJECTS COVERED BY FHA INSURANCE UNDER SECTIONS 221(d)(3) AND 236, SEPT. 30, 1973, AND SHARE OF SUCH UNITS IN NONMETROPOLITAN AREAS—**Continued**

States, divisions, and regions	Total number of units under rent supplement[1]	Number of rent supplement units in nonmetropolitan areas	Nonmetropolitan share of rent supplement units (percent)	Nonmetropolitan share of population (percent)
Ohio	13, 690	1, 980	14	22
Indiana	1, 900	390	21	38
Illinois	1, 610	40	2	20
Michigan	4, 070	300	7	23
Wisconsin	2, 730	950	35	42
East North Central	24, 000	3, 660	15	26
Minnesota	1, 850	1, 060	57	43
Iowa	1, 070	460	43	64
Missouri	960	80	8	36
North Dakota	310	310	100	88
South Dakota	2, 010	1, 530	76	86
Nebraska	370	140	38	57
Kansas	750	450	60	58
West North Central	7, 320	4, 030	55	52
North-central region	31, 320	7, 690	25	33
Montana	830	490	59	76
Idaho	440	380	86	84
Wyoming	340	340	100	100
Colorado	1, 360	410	30	28
New Mexico	1, 570	1, 120	71	69
Arizona	340			26
Utah	140	10	7	22
Nevada	200			19
Mountain	5, 220	2, 750	53	43
Washington	4, 820	1, 180	24	34
Oregon	1, 760	570	32	39
California	6, 450	610	9	7
Alaska	130	130	100	100
Hawaii	350	30	9	18
Pacific	13, 510	2, 520	19	15
West region	18, 730	5, 270	28	21
United States total	125, 390	36, 930	29	31

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[1] Estimated on basis of insurance in force Sept. 30, 1973, as reported in "Rent Supplement Status Reports." Assumption is that 25 percent of the units in sec. 236 and sec. 221(d)(3) BMIR projects with rent supplements actually were covered by the supplements.

[2] Includes 1,200 units in District of Columbia.

NATIONAL TRANSPORTATION WEEK

HON. LEONOR K. SULLIVAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mrs. SULLIVAN. Mr. Speaker, this is National Transportation Week, and as a Representative in the Congress of the United States of Metropolitan St. Louis, one of the most important transportation centers in the world, I want to salute the men and women of the transportation industries of the St. Louis area and of the State of Missouri for the vital contributions they are making to the economic strength of our Nation.

Since the days of the Louisiana Purchase, St. Louis has been known as the Gateway to the West, a role symbolized by the magnificent stainless steel arch which rises majestically and dramatically on the St. Louis waterfront on the grounds of the Jefferson National Expansion Memorial.

Through St. Louis flows a steady movement of goods of all kinds, East and West, North and South. Here are joined the eastern and western railway systems, the Missouri and Mississippi water traffic, a vast system of pipelines, the cargoes of one of the greatest accumulations of motor carriers in the world, and the commerce to and from one of the busiest airports.

The Traffic Club of St. Louis, Inc., of which Mr. Robert Mahfood of the Bee Line Trucking Co. is president, is conducting a week-long series of observances of National Transportation Week under the chairmanship of Mr. Ralph Percival of Fry-Wagner Moving & Storage. They are to be commended for their efforts in spotlighting the importance of the transportation industries in the life of our city, our State, and the Nation.

ARAB TERRORISM MUST BE STOPPED

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. LENT. Mr Speaker, as I did less than 2 years ago, after the murder of 11 Israeli Olympians at Munich, I rise to condemn an act of terrorism perpetrated by a band of Arab guerrillas.

Last night, a group of Arab terrorists seized a school at a farm settlement in northern Israel, kidnaping more than 80 schoolchildren, and demanding the release of a group of guerrillas now held in Israeli jails. This despicable act has shocked and offended the sensibilities of the entire civilized world.

For several months, our Secretary of State has been working closely with all of the parties involved in the recent Mideast war to try and arrange a peace settlement which will ease tensions in that troubled area of the world. This senseless act of terrorism, which came at a time when the peace negotiations were perhaps at their most delicate stage, seriously jeopardizes the chances for a lasting peace in the Middle East.

Shortly after the Munich tragedy, this body passed a resolution expressing an unbending resolve to cut off from the civilized world all nations which provide refuge or comfort to these sorts of criminals rather than punish them as they should. I believe that sentiment should be reiterated today. There should be no hiding place for these international outlaws. There should be no place to which they can flee after executing such hideous plots. I know of no other way in which such acts of terrorism can be stopped.

Tomorrow, I will be introducing a resolution condemning the activities of the Lebanese terrorists. I hope that many of my colleagues will join me in expressing indignation over their immoral, senseless act.

GEORGE S. BENNETT

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mrs. GRASSO. Mr. Speaker, I would like to bring to the attention of my colleagues a most remarkable gentleman from Southbury, Conn., one of my Sixth District towns.

Mr. George S. Bennett, a retired rural mail carrier, has been an active conservationist for over four decades. At the age of 80, Mr. Bennett has just been awarded an American Motors Conservation Award for his contributions to resource conservation in the State.

While performing his daily rounds on the region's rustic country roads, this devoted civil servant observed how beautiful land and water could be. Dismayed by how often these resources were ignored and abused, he decided to do his part to preserve the environment.

As chairman of the Southbury Rod and Gun Club Conservation Committee for over 30 years and head of the Southbury Conservation Commission, Mr. Bennett has promoted tree planting to retard soil erosion, developed wildlife habitats, and pressed for the purchase of permanent open spaces.

As one committed to improving and preserving the environment for ourselves and our posterity, Mr. Bennett truly deserves the honor awarded him.

Mr. Speaker, it is my hope that this noble person will be an inspiration to all our citizens who must share in the effort to preserve our environment if we are to succeed.

ANTIBUSING AMENDMENTS DEFY CONSTITUTION

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. RANGEL. Mr. Speaker, this afternoon the Senate is considering several amendments to the Elementary and Secondary Education Act of 1974. These amendments threaten achievement of the goal set by the Supreme Court 20 years ago in Brown against Board of Education: integration of the public schools. An attack on busing is an attack on this constitutionally mandated goal.

The supporters of these amendments have opted for political expedience over concern for racial justice. It is ironic that a bill designed to further educational opportunity should be riddled by amendments which serve to counteract this Nation's slow but inexorable progress toward equal educational opportunity for all schoolchildren.

I place in the CONGRESSIONAL RECORD an editorial from the May 15, 1974, edition of the Washington Post entitled "Race, Schools and the Senate." I urge my colleagues to read the Post's evaluation of the antibusing amendments:

RACE, SCHOOLS AND THE SENATE

In March of 1972, when Watergate was still a gleam in Gordon Liddy's eye and the Board of Directors (as we now know) had yet to give final approval to his plans, Mr. Nixon unveiled his preposterous "anti-busing" plan. Mr. Ehrlichman, now busy with other matters, did the best a lawyer could do to justify and explain its patent illegalities to the press. And Richard Kleindienst, then Acting Attorney General and nothing if not blunt, happily explained to a committee of Congress that the proposed legislation would authorize the reopening of every school case—North and South—that had been settled since the Supreme Court's original school desegregation decision in 1954.

Since that time we have acquired, for our sins, a much richer context of administration law-breaking and contempt for the commands of the constitution into which to fit this particular exercise in defiance and contempt—from the court-blocked adventures in impoundment of congressionally appropriated funds to the Watergate crimes and improprieties to the sloven procedures for obtaining wiretaps, which has just compelled the Burger Court unanimously to render a decision that will free some 600 persons accused and/or convicted of violating federal criminal statutes. So it is hardly surprising that the administration's proposed monument in the field of desegregation law turned out itself to be a monumental challenge to due process, to the Constitution and to the rule of law. What is surprising and—to put it mildly—distressing, is that two years later the U.S. Senate is considering commemorating the 20th anniversary of the Supreme Court's 1954 decision by passing this proposal. Today the Senate is scheduled to vote on a House-passed variation of the Nixon administration bill which has been introduced by Senator Edward J. Gurney of Florida as an amendment to an extension of the federal school aid act. And the vote, according to most accounts, is likely to be close.

Everybody, as it seems, is against skullduggery and for the rule of law—except when it is either inconvenient or inexpedient to explain. Thus, legislators who in a nonpolitical year would acknowledge themselves horrified by the reckless sweep of this proposal and acutely aware of the cynicism from which it springs, are counted among those who, for "political" reasons are likely to go over the side and vote with Mr. Gurney. We refer to the cynicism underlying the effort because for all the chaos and disruption it could bring to settled school systems North and South, the proposal itself would almost undoubtedly be overturned in many of its key parts by the Court, meanwhile creating new and burdensome problems for numerous of those communities whose burdens it purports to relieve.

Consider the bill's provisions. Its list of mandatory remedies that must be invoked before busing can be ordered could cost tax-ridden communities a fortune in the demolition and construction of schools. It is a rich man's bill, in effect providing that any busing which occurs will spare the affluent suburbs and be contained within geographical limits that are likely to result only in sending poor blacks from their own inferior schools to the inferior schools of neighboring poor white children—to communities where racial hostilities and insecurities are keenest. And, above all, it says to black children—to black people generally in this country—that even where a finding has been made of unconstitutional discrimination against them by the state, there will be no remedy in many cases. It is a tribute of sorts to the monstrosity of this concept, in a nation of laws, that back in 1972 even Mr. Ehrlichman had trouble explaining it when pressed.

In the 20 years that have passed since the Supreme Court rendered its original decision in Brown, and in the 10 years that have passed since the Civil Rights Act of 1964 gave that decision heightened impact and authority, there have been some lower court decisions and administrative interpretations that, to our mind, have skewed and distorted the meaning of the law and imposed senseless burdens on communities around the country, so that both blacks and whites have suffered. There have been, in other words, some bad busing decisions and some unreasonable and unsound bureaucratic regulations rendered. It could hardly be otherwise, given both the complexity of the cases and the familiar resistance to reasonable and desirable change that preceded and, in effect, brought on the compulsory programs to which so many now object. But it has been clear for some time now that the Supreme Court was moving carefully and deliberately to refine its position in consonance with the constitutional command that is the bedrock of *Brown* so as to take account of changed circumstances that underlie so many school cases 20 years later. This is as it should be. The question is whether the Senate will wait. The alternative before it today was admirably summed up by William McCulloch, who was ranking Republican member of the House Judiciary Committee, when the Nixon bill first came up two years ago, accompanied by a proposal for a temporary freeze on busing orders:

It is with the deepest regret that I sit here today to listen to a spokesman for the administration asking the Congress to prostitute the courts by obligating them to suspend the equal protection clause so that Congress may debate the merits of further slowing down and perhaps even rolling back desegregation in public schools—What message are we sending to our black people? Is this any way to govern a country?

THE LATE KARL KING

HON. O. C. FISHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. FISHER. Mr. Speaker, news of the passing of Karl C. King of the State of Pennsylvania was received with much sadness. He served three terms in this body before voluntarily retiring. As a legislator he was faithful and devoted to the cause of good government. Above all, he had a way of putting the welfare of the country above petty partisanship, and he became known as a sound thinker whose judgment was dependable and respected.

To the survivors I extend my profound sympathy in their bereavement.

THE DISTRICT OF COLUMBIA AND CONGRESSIONAL STAFFING REFORM

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. FAUNTROY. Mr. Speaker, the insertion into the RECORD on April 24, 1974, by Congressman HAROLD V. FROEHLICH, of Wisconsin, calls attention to the very real problem created by gross disparities in District populations.

The study he ordered from the Congressional Research Service, entitled "Congressional Delegates to the 93d Congress Ranked in Order of Size of the Average Population of the Congressional District in Each State," however, is incomplete as a result of a major oversight of the District of Columbia's 763,000 residents.

The study shows that North Dakota's at-large Representative MARK ANDREWS represents the entire State population of roughly 617,000; which is the largest of all districts included within the 50 States.

By comparison, in the scantily populated sprawling States of Alaska and Wyoming, at-large Representatives DON YOUNG and TENO RONCALIO represent about 302,000 and 332,000 people, respectively. There are the districts with the smallest populations among those in the 50 States.

The District of Columbia's constituency is over 763,000—as much as 450,000 persons greater than some congressional districts. My office employs the full contingent of 16 paid staffers, as do 135 of the House Members. The remainder hire from 13–14 staffers out of the maximum 16 allowed. All Members have the same allotment for staff salaries, and I sincerely believe that this equal staffing can be very unequal and highly unfair to those citizens of the United States who happen to reside in districts which are relatively ill equipped to represent them faithfully.

This overlooked aspect of congressional reform is especially crucial in the case of the District of Columbia. The District is not represented, as are all States, by two Senators. This increases both the responsibility and the actual workload in my office.

Furthermore, my constituents live, for the most part, within simple commuting distance of my office, or can make a local telephone call to register their views and complaints. My staff, office space, and monetary allowances are not sufficient to operate my office as efficiently as one in which the sheer number of constituents was less or their geographical location more remote.

We ought to be thinking about ways to equalize the representation of people who are mathematically under-represented. It is neither logical nor fair for a Member who represents 763,000 people to be limited to the same staff and staff salary allotment as a Member who represents 302,000.

I would prefer a system similar to that which is used in the Senate where the Members are funded depending on the State's population. In this way a House Member with a larger than normal constituency would be provided with additional funds with which to hire adequate staff and provide for the larger than normal office load.

I hope that other Members will join in this dialog with Congressman Froehlich and me.

UNITED NATIONS, UNITED STATES MUST SHARE PORTION OF BLAME FOR MAALOT ATTACK

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. ROSENTHAL. Mr. Speaker, the United Nations Security Council, including the United States, must share a portion of the responsibility for the latest terrorist attack by Arab guerrillas, who held nearly 90 Israeli schoolchildren hostage today at the village of Maalot.

By the end of the day, possibly a dozen or more children were dead and many more were wounded following efforts to free the young hostages.

The terrorist attack may very well have happened anyway, but the guerrillas certainly must have felt encouraged when the Security Council late last month censured Israel for its raid on terrorist bases in Lebanon but purposely ignored the bloody Palestinian massacre of innocent Israeli civilians at Kiryat Shemona, which prompted the Israeli action.

The United Nations, which has done little to hide its strong anti-Israel bias, once again gave aid and comfort to Israel's enemies. But, for the first time, that action last month had the support of the U.S. Government.

The United States failed to get a reference to the Kiryat Shemona attack inserted in the U.N. resolution, but instead of abstaining on final passage or voting "no," the United States gave its approval.

At that time I pointed out:

> This must be viewed as the best news the Arab guerrillas have had since they began their campaign of terror and murder.

Well, it is about time to start sending those terrorists and the governments which house, protect, encourage, and arm them some bad news. The United States—and, indeed, all civilized nations—should not tolerate such behavior, nor should it even consider, as the Nixon administration is, giving economic and even military assistance to those countries giving aid and comfort to the murderers of innocent Israeli women and children.

I have joined over 250 of my colleagues, led by the majority leader Mr. O'Neill and the minority leader Mr. Rhodes, in introducing the following bipartisan resolution:

BIPARTISAN RESOLUTION

Whereas Arab terrorists have threatened the lives of 90 Israeli school children; and

Whereas these cruel and heartless acts only exacerbate tensions in the Middle East at a time when very serious efforts are being made to negotiate a lasting peace; and

Whereas such acts of violence are an affront to human decency and standards of civilized conduct between nations; Now, therefore, be it Resolved, That it is hereby declared to be the sense of the House that—

(1) it most strongly condemns this and all acts of terrorism;

(2) the President and the Secretary of State should and are hereby urged and requested to (a) call upon all governments to condemn this inhuman act of violence against innocent victims; and (b) strongly urge the governments who harbor these groups and individuals to take appropriate action to rid their countries of those who subvert the peace through terrorism and senseless violence.

(3) the President should request the American Ambassador to the United Nations to take appropriate action before that body in order to have introduced a Security Council resolution condemning this brutal act of violence.

LEGAL LOTTERIES SHOULD HAVE USE OF MAILS

HON. ANGELO D. RONCALLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. RONCALLO of New York. Mr. Speaker, under leave to extend my remarks in the Record, I include for the benefit of my colleagues a statement which I made to the Claims and Governmental Relations Subcommittee of the House Judiciary Committee in support of H.R. 12443. In introduced this legislation because it is hypocritical to permit legal private and State-run lotteries to exist and then hinder them from carrying out their programs by denying them the use of the mails and broadcast media. State lotteries help keep taxes down; private ones raise funds for charitable purposes. Both of these are lofty objectives which do not deserve the treatment they have received at the Federal level.

I hope that H.R. 12443 will soon be reported to the floor so that every Member can go on record in favor of lower taxes in the several States and lower administrative costs for charitable nonprofit organizations. My statement follows:

STATEMENT OF HON. ANGELO D. RONCALLO

Mr. Chairman, I appreciate this opportunity to make a brief statement in support of H.R. 12443, a bill to amend Title 18 of the United States Code by exempting lotteries from its gambling provisions. Specifically, the bill would permit the mailing of lottery information and related matter, broadcasting or televising of lottery information, and it would allow the transportation and advertising of lottery tickets in interstate commerce, but only when the lottery is legal in the state in which it is conducted.

I have made a slight change in language from versions of this legislation introduced earlier by other members. In both proposed sections 1307(b) and 3005(d)(2), I use the term "tickets or any other materials." The insertion of the word "any" should be taken to indicate that promotional matter is to be included in the exemption as well as lottery paraphernalia.

Legal lotteries run by States appear to have survived a shaky start and to be headed now for adoption in many more parts of the United States. Because they are a painless and voluntary method of generating badly needed funds, lotteries are gaining favor with many hard-pressed taxpayers and legislators.

Current Federal restrictions on lotteries prohibit the interstate transportation of tickets or promotional material and bar the use of radio or television for advertising or promotion. So far, despite the record of integrity and honesty established by the states operating lotteries, efforts initiated by Congressional Delegations to seek relief from these Federal roadblocks have remained stalled.

In order for legal state-sponsored or private lotteries to advertise in newspapers or other publications, the advertisement must be removed from editions which are delivered through the mail. Promotional material, such as posters and descriptive literature, cannot be conveyed through the post office. It is unlawful even for states or organizations to notify winners by letter or to pay them prizes directly by mail.

The eight operating states, as a result of this blockade, must go to great lengths to transport material by truck or bus, at heavy cost in time, money and manpower. They must turn to alternate means of advertising in addition to newspapers and outside of the broadcast media—in subways and buses, etc.

I am inclined to feel that Congress is well-advised to eliminate these prohibitions. Simple justice woud seem to dictate that legal lotteries should be able to enjoy the same entree to the public marketplace as any other legitimate business. It seems inevitable that this must happen. The achievements of the lotteries in spite of the Federal problems make these restrictions even more regrettable.

Ten years ago New Hampshire started the first State-run lottery of modern times, running into a variety of complications and disappointments, but it has managed to survive. Last year the lottery in New Hampshire, the only State with neither a sales tax nor a broad-based personal income tax, returned almost $2 million to the State for education. From December of 1964 to December of 1973, the State has received around $17.6 million.

In 1967, New York launched its version of the lottery, offering bigger and more frequent prizes. New York now averages about $4 million a month from the lottery and its effort, as of the end of 1973, had yielded some $243 million for schools.

In January 1971, New Jersey began its lottery and immediately surpassed both of its predecessors in sales, prizes and popularity. Since it began, until December 1973, the State has received close to $200 million for education.

Pennsylvania, Massachusetts and Connecticut began their lotteries at about the same time in early 1972. All three States got off to a good start, being able to capitalize on the New Jersey method which had been instantly successful. After a year and a half of operation, Pennsylvania had collected over $80 million for property tax assistance for the elderly; Massachusetts had collected over

$36 million for cities and towns; and Connecticut had collected over $25 million for the general fund.

The Michigan lottery started in November 1972, and after six months contributed over $14 million for the general fund. Maryland's lottery which began in May 1973 had $3.5 million in the general fund after only 2 months.

Illinois will be beginning a lotttery in July of this year and according to the Commission on the Review of the National Policy Toward Gambling some 30 States will have legal lotteries within 2 years. Some foresee the day when almost every State will operate a lottery to raise revenues without raising burdensome taxes.

For several years charitable organizations have depended on raffles and bingo as major sources of funds to carry on worthwhile work from which all society benefits. These are both lotteries, and although legal, are subject to the same restrictions as their state-run cousins.

Many churches and hospitals began their building programs with revenues raised from lotteries and bingos. Numerous fraternal organizations all over the country depend upon this source of revenue to sponsor recreational, rehabilitative, and supportive services for the elderly, disadvantaged and the handicapped.

Various groups working toward these goals reflect the best qualities of American life—unselfish people volunteering their time and effort to help others.

Bingos and lotteries are only vehicles and tools by which the self-sacrificing persons, churches, hospitals and community organizations can help others. I do not feel that it should be the policy of the Federal Government to maintain laws which will make it more difficult for them to carry out their charitable works.

Newspapers and the broadcasting industry are placed in an absurd position. Most papers are trying to serve the public by offering information on all subjects of general interest, but if they attempt to do so for lotteries, they are breaking the law. The answer to this dilemma must come at the Federal level.

Mr. Chairman, I urge that H.R. 12443 be promptly reported so that the House will be able to take badly needed action to remedy this obvious anomaly in our laws and allow the States and private charitable organizations to carry out their programs without undue Federal interference. Thank you.

THE LATE HONORABLE CARL DURHAM

HON. O. C. FISHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. FISHER. Mr. Speaker, I share with many of my colleagues the sadness occasioned by the death of Carl Durham of the State of North Carolina. He served with much distinction in this body for 20 years and was universally respected by all who knew him. Always faithful and trustworthy, he never faltered in discharging his duties. His influence and leadership were widely recognized and helped to direct the course of many important legislative decisions.

It was my privilege to serve with Carl Durham on the House Armed Services Committee. There he was a faithful attendant and a knowledgeable force in promoting the cause of an adequate national defense. He provided leadership and prudence in the solution of many vexing problems.

To me Carl was a valued friend. Affable and friendly, he was forever attentive and helpful when his advice and judgment were needed. His record was indeed outstanding.

I extend to his survivors my deepest sympathy in their bereavement.

A PECULIAR CONGRESSIONAL DISEASE: PILE-ITUS

HON. ANCHER NELSEN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. NELSEN. Mr. Speaker, a peculiar, incurable disease seems to have grabbed control of the Congress. It is hard to find a proper name for it, but I would suggest that it be called pile-itus. Pile-itus is indicated by the continual feverish effort to pile one layer of Government regulators on top of another, presumably to do the work that existing laws should already permit to be done.

Symptomatic of this malady is the ongoing effort to enact a questionable version of a Consumer Protection Agency, a version I have warned could well result in the creation of another OSHA. As Anthony Harrigan noted in an editorial appearing in the Austin, Minn., Daily Herald the other day:

> Many citizens are convinced that a $10 million-a-year Consumer Protection Agency would impose its subjective outlook on every administrative procedure and create endless legal action. In short, the agency would be an advocacy force harassing already overregulated private business.

In my judgment, private enterprise already has its hands full trying to deal with all the rules and regulations being imposed by existing governmental agencies and departments. Piling on another layer of Federal regulators to regulate the regulators might just prove the last straw for thousands of small businesses struggling mightily to keep afloat under the crushing bureaucratic weight.

I include the complete text of the Harrigan editorial at this point in my remarks:

NADER'S PET BILL

Ralph Nader may get his New Year's wish—the enactment of the so-called Consumer Protection Agency bill. Last January he said that this was his No. 1 wish for the New Year. And many officeholders are determined to oblige him. Indeed Sen. Ernest F. Hollings (D-S.C.) writes in a letter to constituents opposing the bill: "I believe it would be a healthy thing to institutionalize Ralph Nader."

Not everyone will agree with Hollings. Many citizens are convinced that a $10 million-a-year Consumer Protection Agency would impose its subjective outlook on every administrative procedure and create endless legal action. In short, the agency would be an advocacy force harassing already overregulated private business.

Recently, I received a letter from a small manufacturer on the West Coast which reveals the justifiable concerns of business. This businessman, writing to his congressman, said the following:

"Our apprehensions are not at all based on the fact that an agency is being set up to protect the consumer. As a matter of fact, considering the amount of money this company spends on perfecting and insuring the quality of our products, I would be delighted to have more and more people look closely at our products. My apprehension is that the bill includes a provision that would allow this new agency to intervene in, and possibly reverse, the rulings of existing agencies which currently have jurisdiction over business activities.

"As you are no doubt aware, there is already a great deal of correspondence and telephone contact necessary with the various existing government agencies, to establish just how the federal government wishes to conduct our affairs. It is often only after much probing on our part, that we can determine precisely what we are expected to do.

"It is not at all unusual to have contradictory opinions stated by the same agency on successive days, and it is occasionally virtually impossible to get them to commit themselves in writing, so that we can conduct our business in an agreed upon manner. However, this is the existing state of affairs, and we do our best to find out what is required and to comply.

"Now, however, it is proposed that a new agency, acting independently, can challenge agreed upon procedures (agreed upon by our company and a government agency) upon which we may have been acting for a considerable period of time. This is similar to summarily imposing the rules of hockey on a baseball game halfway through the game, and expecting everyone to adapt to the new rules instantaneously, to continue playing, and hopefully to win the game.

"We are extremely anxious to be in compliance with government regulations, but government regulations which can be obviated at any time by a separate agency which had no part in making up the initial rules, sends cold chills up our spines."

This small manufacturer expresses the concern of countless other businessmen who create the products from which the wealth of this nation is derived. It is tragic that Congress worships at Ralph Nader's shrine and pays so little heed to the people who manufacture needed goods and create wealth for America. The Consumer Protection Agency bill (HR 13163) can only hinder the U.S. as a manufacturing nation. (Anthony Harrigan).

INDIANA JAYCEES SPONSOR OLYMPICS FOR EXCEPTIONAL CHILDREN

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. MURTHA. Mr. Speaker, I had the honor and privilege of participating in the Olympics program held at the Indiana University of Pennsylvania on May 11, 1974, for exceptional children in and around the 12th Congressional District.

The program was sponsored by the Joseph P. Kennedy, Jr. Foundation, IUP Chapter of the Council for Exceptional Children, and the Indiana, Pa., Jaycees.

I would like to commend the Indiana Jaycees for all of the efforts put into the organizing of this worthwhile program. Every detail of the athletic program was professionally administered, and the dedication of the men in the Indiana

Jaycees as well as the students from the Indiana University of Pennsylvania was readily apparent.

The enthusiasm of the participants and the dedication of those sponsoring this great event formed a catalyst for one of the most inspiring sports events which I have ever attended.

HANDY DAN'S "OPERATION CONSERVATION"

HON. THOMAS M. REES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. REES. Mr. Speaker, the energy crisis has had a marked effect on every citizen of our State.

One business enterprise headquartered in my State has moved into the forefront of the effort to inform the public of the crisis and help them to overcome it. That company is Handy Dan Home Improvement Centers, Inc. which operates Angel's Do-It-Yourself Centers in northern and southern California, as well as in other parts of the country.

Under the direction of its president, Bernard Marcus, Handy Dan has launched "Operation Conservation" designed to help the consumer fight the battle of reduced energy. This program consists of an all-out educational program through use of the company's advertising media, in-store training sessions, and brochures.

Handy Dan and Angels advertising departments are engaging in a variety of activities to support the company's operation conservation program. Special energy advertising supplements have been spearheaded by Handy Dan people in newspapers circulated in the areas of its stores. In addition to taking energy-oriented ads in these sections, Handy Dan has supplied articles and pictures for the news sections discussing the crisis and giving tips on how to help the country and each other at this time of emergency.

Utilizing the theme, "Conserving Energy Is Everybody's Business," special signing was created for the stores with further tips on conserving energy.

Tips include: "One 100-watt bulb uses 20 percent less energy than two 50-watt bulbs, the average family wastes 15 percent of their electricity by leaving unnecessary lights and appliances on, and fluorescent lighting is 7 times as effective as incandescent."

Every newspaper ad carries a conservation tip. These ads appear in major newspapers in every large city that has a Handy Dan or Angels store.

In addition, printed materials, called "energy savers", are handed out in each store describing ways to conserve with plumbing, lumber and building materials, paints, electrical, automobiles, and so forth.

The company has ordered special measures in each of its stores and offices to conserve energy, such as removing every fourth ceiling light and turning off outdoor advertising pylon lights at 9:30 p.m. instead of leaving them on all night.

An appeal has been made to others in the industry and to other businesses associated with Handy Dan and Angels, as well as neighboring merchants, to follow the lead of this company.

Handy Dan officials have offered to show other businesses how they can cooperate and overcome the energy crisis.

Mr. Marcus has stressed his belief in our ability to solve the energy crisis through such statements to his employees as:

> The American people have been put to the test time and time again and in each instance the strength and stability of our form of government and way of life has proven equal to the task.

I know Congress joins me in paying special tribute to this fine company. Its outstanding public-spirited officers are to be commended for their action which benefits all of us.

DICKEY-LINCOLN: THREE CHANNEL 5 EDITORIALS CONTRIBUTE TO THE DIALOG

HON. JAMES C. CLEVELAND

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. CLEVELAND. Mr. Speaker, recently, there has been a renewed interest in construction of the Dickey-Lincoln School hydroelectric project, which would consist of two dams on the St. John River near the Maine-Canada border about 460 miles from Boston.

Authorization of $277 million for planning and construction of this project was contained in the Flood Control Act of 1965. An initial study of the Dickey-Lincoln Dam showed, however, that the cost-benefit ratio was only marginally in its favor. Subsequently, therefore, a number of votes took place on the House floor to block the appropriation of funds for further planning and construction of the dam. Because of environmental considerations as well as the economic feasibility factor, I voted in the past to oppose these appropriations for Dickey-Lincoln.

Dickey-Lincoln has of late been the focus of much attention by the media, with proponents of the project stressing that the need for alternatives to use of imported oil, such as hydroelectric power, precludes further opposition.

I do agree that in view of the current energy situation, a fresh and thorough look at Dickey-Lincoln is in order. I do not mean to suggest, however, that we should proceed hastily with funds for construction without first considering the current economic figures, environmental impact, and the important factor of whether the kind of power generated by Dickey-Lincoln will in fact adequately serve the needs of New England in the future. To embark on such an expensive—at least $500 million—and controversial project without first considering such facts would indeed be a misguided approach.

Just recently in the Record my friend and colleague, Congressman Silvio Conte, inserted a background paper which raises some questions about this project prepared by the Friends of the St. John—May 9, 1974, pages E2915–6. Congressman Conte has stated he was doing this to help set the record straight. I agree that all factors involved should be thoroughly discussed. Therefore, in an effort to contribute to the dialog, I submit the following three editorials from WCVB–TV in Boston, which represent one point of view:

The Dickey-Lincoln Hydroelectric Project: Should We Build It?—Part 1

The wild beauty of this river is deceptive, for it is near this spot—in far northern Maine—a place never seen by the vast majority of New Englanders—that some people wish to build the region's first hydroelectric power project.

Its name is Dickey-Lincoln, and it's been embroiled in controversy since Congress first approved the project in 1965. But money to build Dickey-Lincoln was *not* approved. And the issue has boiled up in Washington again this spring.

Thanks to the energy crisis and the high cost of oil, Dickey-Lincoln has a new lease on life. Its supporters argue that the power in this magnificent, free-flowing river, the Saint John, is desperately necessary to New England.

We do not agree. If you'll excuse the pun, Dickey-Lincoln can't "hold water" on economic or environmental grounds. And we hope to prove that to you in our editorials this week.

When completed, Dickey-Lincoln would have cost at least $800 million but will supply only 1 percent or less of New England's electricity—electricity, moreover, that will be sold only to the 8 percent of consumers served by publicly owned electric systems. Ninety-two percent of New Englanders would get nothing out of Dickey-Lincoln.

Further, this project will destroy a superb and irreplaceable wilderness area whose recreational and scenic value far exceeds its worth as an energy source.

Dickey-Lincoln, if built, would be a tragic mistake and one more example of this nation's bungled energy policies. Congress should reject Dickey-Lincoln this year and forever.

We'll be back tomorrow with more on the economic aspects of this project.

The Dickey-Lincoln Hydroelectric Project: Should It Be Built?—Part 2

We're back today near the site in far northern Maine of the proposed Dickey-Lincoln hydroelectric power project. In yesterdays editorial, we said construction of Dickey-Lincoln would be a tragic economic and environmental mistake.

Let's look at the economics of this project, which the Army Corps of Engineers now says will cost close to $800 million, or possibly more.

If Dickey-Lincoln is completed by 1980 it'll produce 1.2 billion kilowatts of electricity per year, an amount equal to only 1 percent of New England's total supply. By 1990, Dickey-Lincoln power will be only ½ percent of total supply.

According to the original Army Corps of Engineers' report, Dickey-Lincoln would produce annual power benefits equal to $44 million. Yet, many of this project's key supporters don't realize that this is not a true figure. New information released by the Corps shows that power benefits will actually be only $4½ million, or only about two-tenths of 1 percent of New England's total electricity bill.

These facts explode the principal argument of Dickey-Lincoln supporters, which is that the project will serve as a yardstick for the cost of electricity in New England and force private utilities to lower their rates. Nonsense. Dickey-Lincoln is too small to be a yard-stick for anything.

Moreover, and here's another misunderstood aspect, Dickey's power will be sold by the government only to publicly owned electric systems. Since private utilities serve 92 percent of New England's electricity consumers, we'd be spending nearly one billion dollars to provide minimal benefits to a fraction of New England residents.

Tomorrow, we'll have more to say about the environmental effects of Dickey-Lincoln.

THE DICKEY-LINCOLN HYDROELECTRIC PROJECT: SHOULD WE BUILD IT?—PART 3

Most of those who support the Dickey-Lincoln hydroelectric power project have never seen the beauty its construction would forever eliminate. We came to the Saint John River in far northern Maine, so that we could better understand what this controversy is all about.

Dickey-Lincoln's six dams and two reservoirs would eliminate 75 miles of this pure and free-flowing river and flood 150 square miles of Maine's deepest woods. The project would also submerge part of the spectacular Allagash River and obliterate 90 miles of the Big Black and Little Black Rivers, as well as 80 miles of other rivers and streams.

Dickey-Lincoln would ruin some of the best hunting, canoeing, camping and trout fishing in the Eastern United States. The acreage needed for the reservoir at Dickey Hamlet alone exceeds the total land required for all new power plants and high-voltage lines in New England between now and 1990.

Nine new nuclear power plants will be completed in New England by the early 1980s, with 14 times as much total power as Dickey-Lincoln can produce. Solar power is also rapidly developing. And the ethic of conservation, if pursued, will completely eliminate any marginal need New England may have for Dickey-Lincoln power.

We don't need this billion dollar white elephant. It would be nothing short of insanity to destroy this priceless natural resource for such a minuscule energy gain.

We say no to Dickey-Lincoln. Please join us in getting that message where it counts—to your Congressman in Washington. And please, do it today.

THE POLITICS OF IMPEACHMENT

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. WALDIE. Mr. Speaker, this month's issue of the American Bar Association Journal contains an excellent article by Albert Broderick entitled "The Politics of Impeachment." In the belief that it will contribute to our understanding of the process of impeachment, I insert it be reprinted in the RECORD.

The article follows:

THE POLITICS OF IMPEACHMENT

(By Albert Broderick)

In a marvelous way the impeachment process may be seen as a microcosm of our entire system of constitutional representative government, and in no way can it be studied as simply a "question of law." The parameters, of course, are set by law. But the working out of decisions—impeach or not, convict or not—are strikingly interdisciplinary, and the input is as much from history, political science, ethics and morals, and perhaps even psychology and statistics as from law. We must free ourselves from the tyranny of legal mystique when we consider impeachment, particularly impeachment of a president.

Until recently it was undisputed that the action of the House of Representatives and the Senate in the impeachment process—the House as accuser and prosecutor and the Senate as trier and judgment pronouncer—is final and unreviewable. However, Raoul Berger in his 1972 book, *Impeachment: The Constitutional Problems,* argues for the existence of judicial review. I agree with the accepted view that there is no official revision of congressional action in the impeachment process in the courts or elsewhere.

On this assumption, one may understand Vice President Ford's statement in 1970, when he was House minority leader, that an "impeachable offense is whatever a majority of the House of Representatives considers it to be at a given moment in history; conviction results from whatever offense or offenses two thirds of the [Senate] considers to be sufficiently serious to require removal of the accused from office." That statement answer the question as to power, but it needs amplification to tell us what the Congress may "rightly" do, or what would be a wise or appropriate exercise of its impeachment power.

That statement also partly answers the question of who decides what is an impeachable offense. It seems to concede the relevance of precedents but finds impeachment precedents unhelpful as guides. It stresses the contemporaneous situation—"at a given moment in history." But there is a vacuum when the further question is asked: What factors are relevant to this "consideration" by the House or Senate? Assuming that the "legal" standards of "impeachable offenses" are met, what political factors, considering "political" in its broad rather than partisan sense, bear on the decisions of individual members, the appropriate committees, or the houses of Congress whether to impeach and to convict when the official in question is the president of the United States? To determine the "political" essence of the question of whether there are reasons for impeachment requires citizen reaction in a unique way.

I believe that the design of the constitutional impeachment process with respect to the president implies citizens input to get in motion, particularly when the offense or offenses charged are to come under the heading of "other high crimes and misdemeanors." Certainly in a day like this, when the relevant data become public property so swiftly through modern communications media, the House of Representatives would be justified in holding back from initiating the impeachment process until there was ample indication of citizen concern. Indeed, this appears to have happened in the current movement regarding the impeachment of President Nixon. The 1973–74 investigation by the House Judiciary Committee, on reference by the Speaker of the House, was triggered by the unprecedented public response to the events of the weekend of October 20–21, 1973, when the president caused the discharge of the Watergate special prosecutor.

The dynamics of the process, as it has developed historically, include the following steps: (1) introduction of a resolution for impeachment and reference to the House Judiciary Committee for recommendation to the whole House; (2) vote by the House to impeach or not; (3) trial by the Senate in the event of impeachment by the House. Not until very late in the Constitutional Convention of 1787 was it finally determined that the Senate should be the court of impeachment. This conclusion was reached in the face of continuing argument by Madison and others that this would subject the president to the possibility of removal by a hostile and partisan legislature, a prediction realized in the impeachment of President Johnson in 1868. Madison pressed for a trial before the Supreme Court.

FOUNDERS OPTED FOR A "POLITICAL TRIAL"

While there was recognition by the founders, both in the convention and later, that the Senate forum subjected a president to the possibility of political reprisal, the choice was deliberately made that the forum be political. The two-thirds vote was adopted to limit the likelihood of a partisan decision. This is not to suggest that the founders intended that a president or any other official should be impeached or convicted for less than "high crimes and misdemeanors." The president should have fair treatment, but no protections are enshrined in the constitutional provisions other than to put senators under special oath. The implementation of fairness was left to the legislative bodies, and in practice they have had good days and bad.

The founders, in short, opted for a "political trial," not for a judicial one. It is clearer that they did so from the misgivings that were stressed en route to their final determination. In this "political" climate elected repersentatives of localities would be acting on the fate of an elected representative of the people. But they are representatives, and as such must be understood as supposedly responsive.

There is no constitutional function assigned to the House Judiciary Committee. It acts solely as an appointed committee of the House to whom has been delegated the constitutional decision of impeachment. But in fact the work of the committee has been critical in impeachments. Rarely has the House rejected its recommendation of whether to impeach or not to impeach. Two political factors of the constitutional impeachment design compete to influence the conduct of its work. On the one hand, fairness to one accused would justify an *in camera* element in some of its preliminary investigation. On the other hand, the fact that public reaction has a place in the determination of whether to impeach means that some opportunity should be given the citizenry to react to the factual data the committee accumulates.

Of course, the feature of citizen input could be achieved by the Judiciary Committee's making public its report before the House votes the impeachment resolution up or down. Since the Archbald impeachment in 1912, the House practice has been for the articles of impeachment, the specific charges against the "respondent," to accompany the committee's resolution to impeach. Before that case the House practice was to adopt the impeachment resolution and then to authorize either the Judiciary Committee or a special committee to prepare the articles of impeachment.

It has been suggested that the role of the House is comparable to that of the grand jury in the criminal process—that it should impeach a charged official if there is "probable cause" to believe that the official has committed an impeachable offense. Although this proposition has been accepted implicitly in some past impeachments, it is a faulty interpretation of the constitutional design. By separating impeachment from the criminal process, the founders specifically removed it from the force of the English criminal precedents. It is true that the vote of impeachment by the House is only the preliminary step and that it will lead to removal only if the Senate so votes after "trial." It is also true that the House proceedings, like those of a grand jury, sometimes have considered evidence on only one side of the case. There is no requirement, and perhaps sometimes no opportunity, for the accused official to present his side in the House proceedings.

In fact, however, there generally have been members of the House friendly to the official under investigation, and they have brought favorable evidence to the attention of the House.

HOUSE DOESN'T ACT AS GRAND JURY

The context in which the impeachment provisions were adopted by the convention suggests that, while the House may certainly impeach if the evidence before it indicates to its satisfaction that treason, bribery, or other high crimes and misdemeanors have been committed, it is treating too lightly its independent legal and political responsibility to say that it may vote impeachment using a one-sided criminal law model of grand jury practice.

The House vote of impeachment connotes the responsible view of that body that evidence before it constitutes the offenses of treason, bribery, or other high crimes and misdemeanors, and if this evidence is not answered to the satisfaction of the Senate, that body may invoke the constitutional consequence of removal from office. This independent responsibility of the House fairly implies both a legal and a political judgment. The legal judgment is that the evidence before it shows an impeachable offense in the constitutional sense. The political judgment is that some "high crime" or "high misdemeanor" is sufficiently serious to justify impeachment.

POLITICAL FACTORS CAN JUSTIFY A VOTE AGAINST

There are legitimate political factors that might justify a vote against impeachment in some cases, even when there is adequate evidence to meet the constitutional standard of impeachable offenses. The overarching design of the founders in fashioning a constitutional provision for impeachment of a president was the national need for removal of a chief executive whose continued presence in office was disadvantageous to the nation. This consideration was sufficient in the convention to withstand arguments that impeachment was not necessary as long as the president did not serve for life (Farrand, II:68). The mere protection of voting him out of office was not enough.

So strongly held was this view of the need for impeachment that the founders were willing to assign the impeachment role to political bodies, despite Madison's continued urging that the Supreme Court should be the court for trial of an impeached president (Farrand, I:232; II:42 551). While a concern for fair treatment and protection of a president against partisan legislative removal was expressed, the only constitutional limitations on the process implementing these concerns were the special oath to be given the Senate members prior to trial and the requirement of a two-thirds vote in the Senate for conviction.

The following are among the political factors that might justify the House to decline to impeach:

1. The availability of a less drastic means to achieve removal. The stage of the presidential term in which the impeachment process matures makes consideration of the shortness of the remaining presidential term important. The consequences of continuing an incumbent in office for a brief time may be balanced against the disruption caused by an impeachment trial. The likelihood of resignation in the absence of impeachment has been considered a possibly relevant factor. There is some danger, however, that giving credit and force to the resignation possibility would set an unhealthy precedent for partisan pressures against the presidency in the future.

2. The consequences of the removal of the president at a particular time. The concept of national need entails consideration of the consequences of the removal of an incumbent president in terms of the quality and public receptivity of his successor and of the effect of removal on the conduct of national affairs, foreign relations, and the implementation of the national will expressed in his election. These factors would be balanced against the incumbent's continued ability to govern in light of present citizen and foreign reaction.

3. Consideration of the constitutional "high crimes" or "high misdemeanors" in light of the positive qualities the incumbent may still effectively exert in the public interest. This factor is somewhat duplicative of aspects of the previous one but perhaps merits independent evaluation, particularly if the constitutional offenses are borderline.

4. Even in the absence of other means to achieve removal, the fact that impeachment of a president was conceived as an emergency measure gives political counsel that it should not be employed in borderline situations. The vigorous debate on the need for an impeachment provision as a "bridle" on the chief executive (to use Professor Berger's word) ended with the adoption of one. But it was not without cautions as to the partisan use to which it might be put. The lessons of the impeachment of Andrew Johnson should not be forgotten, and the use of impeachment in a borderline stuation could do much to destroy the effectiveness of the presidency as a creative agency of popular government.

Without passing on the merits of any of these considerations in the present political context, I submit that all of them are fairly subject to consideration as legitimate political factors. There may be other political considerations tilting toward impeachment that might legitimately bear on a decision—loss of ability to give governmental leadership, loss of credibility among the electorate, loss of capacity to deal with foreign relations from a position of strength.

"INDIGNATION MAY SECURE A CONVICTION"

But other factors might arise from the ethical or moral implications of declining to impeach on the basis of certain evidence: What effects would nonimpeachment have on the future conduct of the presidential office, or derivatively, other offices of government? What impact would nonimpeachment have on professed national ideals? To what extent does nonimpeachment imply approval of the conduct shown by the evidence at hand? What effect on private morals? What likelihood of inciting cynicism among present and future generations? These, too, may be political factors. If they are not, perhaps the evidence in a given case may not be so deviant from current standards in the nation as to warrant invocation of the emergency measure of impeachment of the elected chief executive.

Astute observers of our constitutional processes have stressed the relation of citizen input to decision making in the impeachment process. Bryce in *The American Commonwealth* characterized impeachment: "It is like a hundred-ton gun which needs complex machinery to bring it into position, an enormous charge of powder to fire it, and a large mark to aim at." And Woodrow Wilson in *Congressional Government* noted that the impeachment processes "required something like passion to set them agoing; and nothing short of the grossest offense against the plain law of the land will suffice to give them speed and effectiveness. Indignation so great as to overcome party interest may secure a conviction; nothing else can."

Bryce and Wilson were writing of the actual operation rather than the conscious design of impeachment. But at least some founders—for instance, Luther Martin (Farrand, IV:219)—predicted that impeachment would function sluggishly. It seems reasonable that legislators called to make impeachment decisions should react, at least in borderline cases, only when citizen reaction to impeachment evidence, adequate in a constitutional sense, clearly calls for impeachment of a president. Reluctance by a member of the House to vote for a marginal impeachment on grounds of citizen apathy is not, I believe, "petty politics" but a legitimate fulfillment of his representative role in the impeachment process. Gross violations apart, this is how the process is supposed to work.

The House member called upon to vote impeachment up or down may properly make his judgment based on factors I have suggested, and he legitimately (apart from special knowledge) may take his cue largely from citizen reaction, particularly today when he may assume that the news media have produced a well-informed citizen. There are, however, political factors that all identify as illegitimate: the manipulation of an impeachment proceeding to make an opposing party vulnerable at election time; the refusal to impeach because the opposing party may be weaker with the incumbent in office rather than out; the refusal to impeach in the face of strong evidence because of damage to the political party; the citing of the absence of legal (constitutional) grounds for impeachment, when they are obviously there, to screen a partisan political decision; the manufacture of conscience reasons to screen raw partisan ones.

CITIZENS HAVE THE CENTRAL POLITICAL ROLE . . .

All this underscores the central political role that citizens have in the impeachment of a president and the consequences of their declining to participate. There is a role for education, particularly in avoiding the continuing confusion of the "legal" and the "political," all the time keeping full respect for the legitimate "political" functioning of our governmental system.

If there is no impeachment of a president by the House, there is, of course, no Senate trial. But the confusion of the largely "political" trial in the Senate with a criminal proceeding—an aspect the founders specifically expunged—and the rampant partisan unfairness of the Johnson impeachment have obscured the legitimate political considerations that may be invoked by the Senate, particularly in a borderline case.

The chief justice presides at the proceedings, there are rules for the conduct of the trial adopted at its outset, and each senator takes a special oath of fairness. But after weighing the evidence fairly and determining the facts, the Senate as a court is limited only by the constitutional requirement that the ground of its action be treason, bribery or other high crimes and misdemeanors. The range of these grounds is broad, but no less than the House, the Senate is entitled to consider the same legitimate political factors. These include the degree of citizen urgency that has a bearing on the ability to govern, views with respect to the impact on national moral values, and, I believe, even an estimated citizen reaction at the polls to their performance at the trial. These political factors, of course, cannot justify a conviction if offenses of constitutional proportion have not been committed, but they may make "serious" some offenses that a milder citizen reaction might justify overlooking. For the impeachment mechanism was contrived to satisfy a national need, and when the people do not bespeak that need, their representatives ordinarily are under no obligation to convict.

The citizen's role in voicing his views within the political framework of impeachment of a president is as significant as in exercising his right to vote. Once the constitutional parameters have been met by a body of evidence before either the House in impeachment or the Senate in trial, these political factors reach right into the decision to impeach or not to impeach, to convict or not to convict.

The citizen's role entitles him to as much information about the pending proceedings as reasonable fairness to the beleaguered president will allow. The citizen's responsibility requires him to make his views known to the proper source at the proper time. He may withhold rendering his verdict until subsequent elections. Perhaps members of Congress are entitled to interpret this lack of response as freeing their hand. And they may fairly assess, perhaps at their peril, that their failure to accord with their constituents' political views on the impeachment will bring no election sanction because the citizen is (or then will be) more interested in other issues: jobs, peace, or energy comfort.

It is consistent with the constitutional design that, within the broad constitutional limits, public response or the lack of it ordinarily should be persuasive, if not conclusive, on the House in an impeachment decision. There is a general unawareness of this key role of the public. Members of Congress recognize as a fact of life that in general they must listen to constituents. But in impeachment matters the connotation sometimes comes through that this listening is somehow "dirty politics." It is politics, but not on the seamy side, unless it lapses into raw partisan advantage without regard for the facts.

. . . AND THEY MUST KNOW THIS FACT

Given the existence of a crucial citizen role in the impeachment decision, certain consequences follow irresistibly:

1. There is, first of all, a need that citizens be educated to this very fact—that they have this vital function to perform and that they are responsible for whatever decision is made either as a result of their action or inaction.

2. As much information as fairness permits as to the specific situation at hand should be made available to citizens so that they may exercise their important function knowledgeably. This means information should be made known by the House Judiciary Committee engaged in the investigation and later by the full House when it considers the report. This means information and evidence as to the charges made and the credible evidence in support of and against the charges. The president's response should be expected at this stage and should be fully available. Just as he would not ignore damaging charges in an election campaign, so he should not stand back and withhold his response until a Senate trial.

3. There is need for full opportunity for public debate. Here the responsibility of the communications media extends to offering a generous forum for diverse views, arguments, and the weighing of relevant factors beyond sheer advocacy for one position or the other.

4. The public should give substantial response to their representatives in Congress at each stage of consideration of the impeachment decision. There is no accepted dogma as to what form this response must take. The ordinary means of between-election communication are appropriate—mail, telegrams, visits, responsible group action. It is no coincidence that the reference of the Nixon impeachment resolutions to the House Judiciary Committee followed almost immediately on the response to the orchestrated events of the "Saturday night massacre." The responsible polling organizations have a contribution to make, although careful thought must be given to the formulation and methods used in translating their input into a decision.

5. One question remains: What quantum of public support for impeachment of a president should be taken as adequate? The question should be considered from the national and the congressional district aspect. The Constitution provides that the simple majority of one vote in the electoral college is sufficient to elect a president. But votes are in practice compiled with each state voting as a unit for the candidate who wins the popular vote, regardless of the plurality. A measure of a national consensus adequate for impeachment could more reasonably be keyed to the actual national consensus average in presidential elections. In the last seven presidential elections the successful candidate received the following percentages of the vote: 1972, 61.7; 1968, 43.6; 1964, 61; 1960, 50; 1956, 57.8; 1952, 55.4; 1948, 49.8. The elected president received an average of 54.2 per cent of the vote in these seven elections. If the average is computed on the basis of the last six elections (omitting the close Truman election of 1948), it is 54.9. This same range persists when elections are examined back to 1900 (1900–1972 average: 55.2 per cent).

EXORCISING THE MYTHS ABOUT IMPEACHMENT

Let us lay to rest several enervating myths about impeachment: that an indictable crime is required to constitute an impeachable offense; that citizens cannot read pertinent constitutional language and clear passages from the convention and make their own judgments; that grounds for impeachment are exclusively a legal and not a political question; that the citizen's role in impeachment is to sit back and let "experts" and the members of Congress make the impeachment decision without their intervention; that impeachment is a criminal proceeding in which the House's function is to act as a grand jury and consider impeachment as in the nature of an indictment.

Of all myths, the last is the most difficult, but the most necessary, to smother. So long as it persists against all the constitutional language and history we have seen, emphasis will be put on the secrecy of House proceedings. This flies squarely in the face of the political aspect of impeachment and the need to share data with the citizens so that they may play their proper role. Simple fairness may argue in favor of the Judiciary Committee's proceedings being conducted with circumspection until evidence develops that meets the constitutional minimum. When that point is reached, the legal inquiry is complete. Any screen then should be withdrawn.

No more specific definition of impeachable offenses is needed than history has furnished, but there may still be doubt whether impeachment is politically appropriate. To answer this political question the citizen must be informed, so that he will have a basis for the political judgment he is entitled to make.

SOCIAL ADVISERS IN PLACE OF ECONOMIC ADVISERS

HON. RAY J. MADDEN

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. MADDEN. Mr. Speaker, today's Chicago Tribune quotes Mayor Gordon Hatcher, of Gary, Ind., as advocating that President Nixon create a Council of Social Advisers to study and recommend programs and legislation to aid the poor and unemployed in urban areas.

The present Council of Economic Advisers has failed to curb or conquer the fabulous inflation and high cost of living. The mayor's recommendation should be followed:

HATCHER PROPOSAL: U.S. COUNCIL URGED FOR URBAN POOR

"The most important new scarcity for the residents of central cities today is not gasoline, and it's not nuclear power, and it's not basic brick, and it's not trashy plastic products," said Mayor Richard Hatcher of Gary yesterday.

"The most important scarcity is a shortage of concern for the lives led by millions of poor and near-poor people in modern, megalopolitan America," the mayor told the American Society of Planning Officials in a conference in the Palmer House.

Social injustice, economic and social discrimination, and lack of concern for the poor still impose a burden on society and can undermine attempts to improve urban America, he said.

Mayor Hatcher asked the Nixon administration to establish a council of social advisers similar to the President's Council of Economic Advisers. It would be, he said, "a cabinet of ombudsmen for poor people, for black families, for Latin families, and for other minority Americans."

The social cabinet would consist of people of independent spirit, said Hatcher. "They would have to be in a position where what they said to the President was not necessarily what the President wanted to hear."

He named Floyd Hyde, former undersecretary of the Department of Housing and Urban Development, as a candidate for the new post.

Using his own city of Gary as an example, Hatcher said it is "a handy case study of original urban sin" in which "sins of omission and commission were committed that have hobbled the development of the city ever since."

Early housing in Gary, he said, was built for the wealthy. He described housing eventually built by United States Steel Corp. for workers as "double dry goods boxes" which became slums.

MINNARD H. JONES (1923-1974)

HON. RON DE LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. DE LUGO. Mr. Speaker, I wish to memorialize a highly respected Crucian and personal friend who recently passed away. Minnard H. Jones, who moved to the Virgin Islands in 1953, committed his professional and social lives for the benefit of the St. Croix community.

Mr. Jones began his career in 1953 as a teacher of vocational education at St. Croix High School. He eventually advanced to the post of assistant director of vocational education for the Virgin Islands. Many young men can thank Minnard Jones for the guidance and patience he provided during their decisive and turbulent teenage years. The Department of Education can also be thankful for his constructive contributions to the structure of vocational education programs in the Virgin Islands.

But Minnard will be most affectionately remembered as "Jonesey," organizer of the "Gentlemen of Jones." This social group sponsored activities to raise funds for local charities.

Mr. Jones constantly exuded an inspirational, aggressive love for life. For him, everything had to be done to its fullest, whether it was teaching a young student or cavorting with the "Gents." This personal strength was evident to the end of his 4-year illness. He was, as always, quick with a smile, firm with a handshake, and warm from his heart.

I respectfully submit the following comments on Mr. Minnard H. Jones:

[From the St. Croix Avis, Mar. 2, 1974]

FOUNDER "GENTLEMEN OF JONES" PASSES

(By Fred Clarke)

"Man, when I see a fish walking down Fifth Avenue, then I'll learn how to swim. God decides and he gave me legs and not flippers." On Thursday, at the Charles Harwood Memorial Hospital in Christiansted, God decided and Minnard H. Jones, known to two generations of Virgin Islanders as "Jonesey," died.

Well-known as a teacher, a bon-vivant, a businessman, a leader in charitable causes, a helping hand, "Jonesey" succumbed following an illness of almost four years. Until the last two months, he was still the fast man with the grip, the first guy with the smile, the last person to sell the rest of the world short. To "Jonesey" there was nothing but good to be found and "there's so much work to do before I ever buy the farm."

Minnard H. Jones was born on Dec. 11, 1923, in Atlanta, Ga. In high school he became enamored of music and he continued this sideline during his days at Hampton Institute. Later he was to play with some of the outstanding bands of the "big band" era. An accident ended his musical career and "Jonesey" returned to a teaching career.

He came to Christiansted in September 1953 as a teacher at the St. Croix High School. He was in charge of the vocational education department until illness forced his retirement.

In 1953 "Jonesey" also opened a bar on Strand Street in Christiansted and from that bar evolved the "Gentlemen of Jones." Included in its membership were men who were to become leaders of Virgin Islands society. One of the original members was a young attorney who today is Chief Judge Almeric Christian of the V.I. District Court.

The "Gentlemen of Jones" had fun—but all of their fun was aimed at raising funds for charity. There were baseball games, fishing trips, fish frys, get-togethers. And at the head of the table, the person with the brightest smile, the fastest retort, the warmest heart. He once said he founded the "Gentlemen of Jones" out of desperation. "All these guys were coming into the bar and putting everything on the tab. Money wasn't too easy come by in those days. So, one day, I decided to start a club and everybody who had a tab became a member. At least, that way, we could collect a membership fee."

OBITUARY

Minnard H. Jones, former Director of Vocational Education passed away Friday, February 28, 1974, at the Charles Harwood Hospital. His life was beautiful and exemplary. During his long productive years in the Virgin Islands in business and education, he was able to establish one of the best vocational systems in the Caribbean.

He was a member of the American Legion, American Vocational Education Association, and the Virgin Islands Vocational Education Association, and the founder of the Gentlemen of Jones.

He was a lover of beautiful things and was a spark of light in every group that he was a part of.

His early childhood education was received in Atlanta, Georgia. He was a graduate of Atlanta University Laboratory High School and Hampton Institute.

Mr. Jones is survived by his wife, Mrs. Julia Hansen Jones; two daughters, Mrs. Jennifer Jones Stone of Detroit, and Miss Judith Jones, a student at Spelman College; a son, Minnard Jr.; two brothers, Eddie Frank and Robert Henry Jones of Detroit and a host of nieces, a nephew, friends and other relatives.

EDITORIAL ON NIXON

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. MICHEL. Mr. Speaker, there has been a good deal of comment in the Washington media as well as the national media with respect to editorials appearing in some of the larger newspapers around the country calling for the President to resign.

An editorial appearing in the May 10, 1974, edition of the Peoria Journal Star has some specific comment regarding the Chicago Tribune editorial and I insert it in the RECORD at this point:

TRIB THROWS NIXON TO WOLVES

(By C. L. Dancey)

It is not at all surprising that the Chicago Tribune has seized upon the cynicism of the taped conversation of Richard Nixon and company to turn abruptly on the administration and call for his resignation—or whatever.

It is totally understandable coming from an institution that functions as a major power in the Republican party with policies long based on the welfare of that party.

The Trib has operated as a prime influence making policy in the party and working for the party.

If we were a Republican newspaper dedicated to manipulating the party, representing the party, exerting controls on the party and tied to the welfare of the party, we, too, might think the most important thing in the world is to have Richard Nixon simply disappear from the public scene, once and for all.

But we are NOT a Republican newspaper, and our prime concern is NOT the welfare of the Republican party in these elections or any others.

For 20 years, we have pursued a policy sometimes effectively and sometimes mistakenly but always on the premise of taking each issue and each candidate, one by one, on its merits without regard to party.

A review of that record, after the fact, shows a remarkably balanced result—and it shows something else.

We have been extremely fortunate in the "enemies" we have made over those years. Having the right enemies is very important. We have not always been that lucky in our "friends." It is there that a few times we've been too trusting.

That seems to demonstrate which way we lean—that we have preferred to give people the benefit of the doubt; that we have taken after them only with reluctance; and that as a result when we have erred it has been on the side of forbearance and not on the side that suggests a cynical eagerness to cut people down.

Since error is inevitable, we would rather it be that way than the "hatchet man" opposite.

So, we aren't really inclined to change now.

The Trib is right that Richard Nixon is "devious"—and we described him as such a year ago. That such is an impeachable offense, however, is another matter and one we aren't sure this democracy can live with well in future.

That's the problem.

And we don't give a hoot what these circumstances do to the Republican party in Illinois in 1974. We care what such a process does to America in all the years to come.

It makes us cautious.

On the other hand, if we were a Democratic newspaper we would probably agree with the National Chairman of the Democratic party, that shrewd veteran political strategist, Robert Straus, who has warned his party that if Nixon is steamrollered into a resignation he may end up looking like a "martyr" to a sizeable segment of the population, to the ultimate disadvantage of the Democratic party.

But we are not a Democratic newspaper, either.

We don't care what events do to the chances of that party at a given time, either.

The interesting thing is how the Republican powerhouse Chicago Tribune and the Democratic party chieftain both, obviously, see the situation so much alike—that it would be better for the GOP if Nixon resigns. The Trib wants it. Robert Straus fears it.

But for most of us, what happens in this matter is a temporary affair of the immediate period—a sort of skin rash. How we conduct this affair, however, is precedent with long term fundamental effects on the system itself. That is a heart condition.

We must do things right.

Meanwhile, in its eagerness to be out from under, we suspect that the Chicago Tribune is doing what the President and his aides considered doing in one of their recorded "unfeeling", ruthless, and "immoral" discussions.

They talked about throwing John Mitchell or somebody to the wolves in order to save their own skins.

They just talked about it.

The Trib appears to have done it.

THE PRESIDENTIAL CONVERSATIONS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. HAMILTON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include my Washington Report entitled "The Presidential Conversations."

THE PRESIDENTIAL CONVERSATIONS

On May 1, a White House messenger brought to my office a 1,308 page, 5 pound, 8 ounce blue book entitled, "Submission of Recorded Presidential Conversations to the Committee on the Judiciary of the House of Representatives by President Richard Nixon." It is the most extraordinary document ever to come from an American president. These edited transcripts of 33 hours of key presidential conversations on Watergate are massive in content, fascinating in language and comments on public figures, candid beyond any papers ever made public by any president, and explosive in content.

A few of the highlights of the transcripts, as I read them, are these:

There is no evidence that President Nixon knew about the plans of the Watergate burglary before it took place.

The President ruled out clemency for E. Howard Hunt, one of the Watergate conspirators, but discussed on at least a half dozen occasions the payment of hush money to Mr. Hunt without once suggesting that paying him for silence would be wrong.

The President and his chief assistants, H. R. Haldeman and John Ehrlichman, were concerned to keep the facts from the public and the prosecutors.

The President assured his assistants that he would use the FBI and other federal agencies against his political enemies.

At no time did the President suggest that his aides testify fully before the Watergate federal grand jury, or order a complete investigation, but he did discuss at length how to handle criminal charges of perjury or obstruction of justice, and he approved an improvised national security defense.

Many of the conversations refute the explanations the President has offered the nation in his public statements on Watergate. He has stated that he knew nothing about the Watergate cover-up prior to March 21, 1973. But on September 15, 1972, he congratulated John Dean for his "very skillful putting your fingers on the leaks." He raised the question of clemency on February 28, 1973, and on March 13, 1973, his aides advised him of the cover-up, and he turned down a recommendation to make all the information public. The President has often used the need to protect national security as a bar to investigation, but in the March 21 conversation the President and his aides manufactured the national security defense against investigation. The President has insisted repeatedly on his determination to "get to the bottom of the scandal," but the transcript demonstrates efforts to limit the information given to investigators, to create plausible, not truthful, explanation, and to reduce the number of persons who could be accused of criminality. The President talks of "heading (the investigators) off at the pass." His assertion that he began "intensive new inquiries" after March 21 and personally ordered all of his aides to get all the facts about Watergate, simply is not supported by the transcripts (and has been denied under oath by his top law enforcement officials).

The view of the President in the transcripts is unflattering. He appears profane, isolated, cynical, inarticulate, indecisive, suspicious of his friends as well as of his political enemies, and more concerned with imagery than substance. He says his nominee for the FBI Director, L. Patrick Gray, "isn't very smart." He decrees the use of the FBI to hound his political enemies, advises his senior aides that "perjury is a hard rap to prove," and that they can safely forget facts before a grand jury. He calmly listens to reports that various aides had lied to him, advises his aides that he can get a million dollars for hush money, schemes to set up Attorney-General John Mitchell to take the fall for everybody, and he openly rejects telling the whole truth, saying, "We have passed that point."

A dominant theme in the conversations is how to prevent the truth from getting out. The questions of right or wrong, or what is best for the country, just never seem to get discussed.

The transcripts will not satisfy the demand of the Congress for disclosure. The President simply failed to comply with the subpoena which required the tape recordings, not selective transcripts. Eleven of the subpoenaed tapes were missing and the President has said that he will give no more evidence on the ten remaining counts of impeachment (the transcripts touch on only 1 of 13 counts). No independent party vouched for the transcripts, and it would be a hopelessly burdensome task for the chairman and the ranking minority member of the Judiciary Committee to verify these transcripts, unaided by staff, as the President proposes. Inaudible and unintelligible portions of the tapes are numerous, and most of these omissions are statements by the President at crucial points.

The all-important question is whether the release of the transcripts will help or hurt the President. It is too early to answer that question, although the initial polls show that the people support the Judiciary Committee's demand for the tapes and strongly disapprove of the President's conduct. A number of prominent legal experts said the transcripts support an impeachment charge of obstruction of justice. The critical reaction will be in the Congress which must weigh the question of impeachment. By releasing the transcripts the President has forfeited his personal reputation in a gamble for survival, and my guess is that he has not assured, but jeopardized, his chances of remaining in office.

PLUTONIUM LEAK COULD HAVE BEEN LETHAL

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Ms. ABZUG. Mr. Speaker, in our desperate scramble for new sources of power, we have recently authorized some $3.6 billion for the Atomic Energy Commission. On April 23 I objected to funds for atomic weapons testing and for nuclear fission powerplants, pointing out that the proposed reactors would produce hundreds of thousands of pounds of plutonium.

Scientists estimate that 1 ounce of plutonium, dispersed and inhaled, could kill everyone in the United States. "Plutonium 238 is one of the most toxic materials known, and can cause almost instant death if it is breathed," says today's Washington Post article, which I am inserting in the Record.

For today we learn that radioactive plutonium has leaked out of the AEC's weapons factory near Dayton, Ohio. The only thing that saved the residents of Dayton—and probably many thousands more—was that the plutonium leaked into a canal, not into the air.

An AEC spokesman said:

> This comes as a complete surprise. We have no idea how the plutonium leaked out of the factory into the mud.

It is just this kind of trifling with all our lives that compels me to speak and vote at every opportunity against funding for nuclear plants and weapons.

The article follows:

AEC Admits Ohio Leak of Plutonium

(By Thomas O'Toole)

Radioactive plutonium has leaked out of the Atomic Energy Commission's weapons factory in Miamisburg, Ohio, into a canal near the factory gates.

The AEC confirmed the leakage yesterday, but said it did not know how much plutonium had spilled out of the factory or how far the leakage had spread.

The AEC identified the plutonium as an isotope of the man-made metal called plutonium-238, one of the most poisonous materials known.

"Based on preliminary samples, the plutonium presents no health problems because it has been found in the sediments under water," an AEC statement said. "There have been no abnormal levels of radioactivity detected in the air, water or vegetation about the laboratory site."

The AEC said that periodic tests had turned up plutonium in two ponds adjacent to the north end of the Erie Canal and in a part of the Erie Canal itself, a local Ohio waterway not connected with the Erie Canal in New York State. The plutonium was found under the waters of the ponds and the canal when pipes were driven into the mud to take sediment samples.

"We have no idea how the plutonium leaked out of the factory into the mud," an AEC spokesman said yesterday. "This comes as a complete surprise."

The Miamisburg factory of the AEC, known as its Mound Laboratory, is located inside the city limits of Miamisburg (pop. 14,800), which itself is a suburb of Dayton. The metropolitan area of Dayton has a population of 882,000

Plutonium-238 is one of the most toxic materials known, and can cause almost instant death if it is breathed. One scientist estimated that plutonium-238 in the lungs is about 100,000 times more toxic than cobra venom or potassium cyanide and about 10,000 times more poisonous than nerve gases.

Plutonium must be breathed into the lungs to be toxic, however. The reason is that it emits what radiologists call alpha particles, which have little power to penetrate the skin.

In the lungs, pinhead-sized plutonium dust particles can cause fibrosis of the lungs in weeks. A larger dose can destroy the lungs in a matter of minutes, making it impossible to breathe.

The AEC emphasized that the plutonium discovered outside the Miamisburg factory was found deep in the muds of the Erie Canal, not in the air or soil nearby. This meant, presumably, that the plutonium had leaked out in a liquid effluent and not through a smokestack.

The Miamisburg factory is not now making plutonium for bombs, but is producing it for the nuclear power supplies carried aloft by satellites and spacecraft. The Pioneer 10 spacecraft that flew by Jupiter and many Air Force spy satellites use these types of nuclear power supplies.

The Miamisburg leak is the second time plutonium has been found outside an AEC installation. The first was four years ago, when it was found in the soil as far as seven miles from the AEC's Rocky Flats, Colo., weapons factory.

OUR BLUNDERING OIL DIPLOMACY

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. VANIK. Mr. Speaker, in recent weeks, Senator Frank Church, through his diligent work as chairman of the Subcommittee on Multinational Corporations, has developed the fascinating and intricate story of how the multinational oil companies manipulated U.S. oil policy to conform to their interests. In the April 27, 1974 issue of the Nation, Stephen Nordlinger provides a good synopsis of the major findings of this hearing record. The inescapable conclusion of this sorry story is that the United States can no longer afford to conduct a laissez faire energy policy. What is best for the oil companies is not necessarily best for the Nation.

The amendment I plan to offer to the Oil and Gas Energy Tax Act next week will provide for the elimination of the foreign tax credit for taxes paid on foreign oil and gas production income. One provision of my amendment, however, will allow for these credits, if we negotiate to include them in an international tax agreement with the producing countries. The Nordlinger article underlines the importance of government-to-government negotiations in solving our energy crisis. We cannot afford to place our trust in the oil companies for these delicate negotiations.

Mr. Nordlinger's article follows:

THE "NATIONAL SECURITY" CARTEL: OUR BLUNDERING OIL DIPLOMACY

(By Stephen Nordlinger)

WASHINGTON.—As the Shah of Iran, nattily dressed in a brown plaid suit and camel's hair coat, flew off in early 1971 for his annual vacation at St. Moritz, he spoke triumphantly at the airport of new opportunities being opened by the power of the Arab nations to extract huge concessions from the international oil companies. By threats and an ample amount of wheeling and dealing, he had managed to best the wily old oil negotiators of the West in what now appears to have been a major step toward the first energy crisis in the peacetime history of the United States.

The shortages and the accompanying soaring prices for fuel that plague the American motorist and home owner can be traced in large part to those pivotal negotiations in Teheran more than three years ago. The Arab nations won an additional $10 billion for their oil, but much more important than that, they flexed their muscles and effectively cowed the companies.

Once the Arabs had proved their skill and strength at the bargaining table, they went on to achieve further and further concessions, most notably a share in the equity ownership of the companies. Then, after less than three years, the Arabs this past winter breached a five-year agreement made at Teheran by unilaterally quadrupling prices.

For this debacle, the oil companies must bear a large measure of responsibility. They had failed, in the face of mushrooming world demand, to build a production capacity sufficient to relieve the pressure on them at the negotiations. The defeat must also be attributed to the often ruthless behavior of the companies toward the Arab nations in years past. The Arabs, for the first time really sensing the full value of oil and the power of united action, were prepared to strike back.

But the heaviest blame for what transpired at Teheran must fall on the U.S. Government, which for more than twenty years had encouraged the companies to enter the waiting trap and then out of ignorance and fear undermined their bargaining position at the fateful negotiations. Teheran was the climax of a strategy in which the cause of national security, as defined by the State Department, dictated what masqueraded as a national energy policy.

In the name of national security, the government had espoused a policy that completely coincided with the short-term interests of the oil companies, but cost the American public multibillions in lost tax revenues and higher prices. The government fostered the growth of an international oil cartel that set prices and production levels and apportioned markets. Consequently, the oil companies were ill-prepared when the government failed to support them at the moment when they sought to present a united front to the Arabs—the decision again being made in the cause of national security, rather than according to a serious national energy policy, which in any case did not exist.

The maneuverings of the government and the industry have now been brought to light in days of testimony before the Senate Foreign Relations Subcommittee on Multinational Corporations, headed by Sen. Frank Church. Since early this year, scores of once-classified documents have been made public to buttress the record. The committee's staff, Jerome Levinson, Jack Blum, John Henry and William Lane, spent more than a year compiling the information.

The government's case against the international oil cartel that began developing in 1949, the granting to the companies in 1950 of tax credits that have transferred billions from the U.S. Treasury to the coffers of the Arab nations and, finally, the withdrawal of support at Teheran in 1971 were all decisions taken in the name of national security. Ironically, the nation today appears something less than totally secure in meeting its fuel requirements. Along the way since 1949, the State Department and the Justice Department divided sharply on just where the nation's security interests lay. Even within State there was dissension over policies that eventually left a lasting mark on the world's oil production.

The international oil crisis did not develop suddenly from the imposition of the oil embargo; it stems from actions by the oil companies that were subsequently condoned and even abetted by the government. These companies became a virtual supranational government and exercised powerful control, insofar as oil was concerned over the foreign and domestic policies of the United States and the world. A close relationship developed between government officials, many enlisted straight from the oil business, and the industry itself.

A red boundary line, drawn with a pencil on July 31, 1928, has come to symbolize the power of the Seven Sisters, the seven international oil companies that over the decades have woven a tight fabric of joint, coordinated ventures. This line, which encircles Iraq as well as Saudi Arabia and other nations of the old Ottoman Empire, demarks the area in which four of these companies held sway by agreeing to curtail world crude output and limit competition in refining, marketing, and the securing of concessions.

In the early 1920s, the State Department proclaimed a so-called "open door policy" for oil exploration in the Middle East, so that American companies could secure equal rights with their British rivals in the mammoth reserves of Iraq. The companies insisted on this policy as an indispensable condition for their participation in the Middle East. However, the companies, sensing the advantages of cartel strength and fearing a possible oil glut, soon lost their enthusiasm for "open door" competition. The State Department, bowing to their new desires, abandoned a policy it had so strenuously pursued, and the Red Line Agreement came into being.

Also, in 1928, representatives of the three oil giants, Standard of New Jersey (now Exxon), Royal Dutch Shell and the Anglo-Iranian Oil Co. (now British Petroleum), gathered at an English castle, ostensibly to shoot grouse. From that meeting came a further agreement to restrict competition in the significant oil markets of the world. This agreement, precipitated by a price war in India, completed the chain of major company control from crude supply source through market distribution outlets for at least a decade and even during the dislocation of World War II. After the war, the seven companies continued their arrangements as rich new crude reserves developed in the Persian Gulf area, especially in Saudi Arabia and Kuwait.

According to testimony by David I. Haberman, an attorney in the Justice Department's antitrust division from 1953 to 1972, the companies expanded the number of interlocking, jointly owned production companies to unify control of concessions and crude output, and established a system of long-term mutual supply contracts that allowed exchanges among themselves without risk of competition from new companies.

The Federal Trade Commission in 1952 filed a 378-page report, "The International Petroleum Cartel," and the Justice Department announced a grand jury investigation that won banner headlines. But then the State Department, muttering "national security," moved in to protect the industry, and in effect took over the nation's antitrust policy. The Justice Department, by contrast, felt strongly that the country would be more secure if the cartel were broken up.

In a June 1952 memorandum, now made public by the Church subcommittee, H. G. Morison, an Assistant Attorney General, advised Attorney General McGranery that, in the absence of competition, the Navy had bought oil during World War II at prices which bore no "relationship whatever to the low cost of producing oil" in the Middle East. While the United States was being charged $1.05 a barrel, the Arabian-American Oil Co. (Aramco) was making sales in Saudi Arabia to affiliated American companies and the Japanese at 70c and 84c a barrel. The memorandum said that the $70 million which Standard Oil of California and the Texas Company (now Texaco) charged the Navy for petroleum products was $38.5 million more than they charged other purchasers for equivalent products.

Despite manifold evidence of a cartel, President Truman was persuaded to pull the teeth of the Justice Department's case by reducing it from a criminal to a time-consuming civil action. The suit against Gulf, Exxon and Texaco was settled years later by consent decree; the cases against Mobil and Standard of California were dropped. According to a now declassified message sent by Dean Acheson to Morison at the Justice Department, the State Department feared that the criminal action would arouse a movement in the Middle East to nationalize the companies accused of conspiring, lead to a "decrease of political stability in the region," and discourage American companies from investing there.

Leonard J. Emmerglick, who left the Justice Department in 1954, apparently discouraged after working closely on the oil cartel case, testified that the decision to reduce the case to a civil action was taken by the National Security Council one Friday in the closing days of the Truman administration. That Sunday evening President Truman summoned Mr. Emmerglick to the living quarters of the White House and told him he had taken the potentially momentous action not on the advice of the Cabinet officers who attended the Security Council meeting but solely on the assurance of Gen. Omar Bradley that the national security called for the decision. However, documents now issued by the subcommittee indicate that the State Department determined the action. The consent decrees reached years later apparently had little effect on the activities of the companies.

Soon after scuttling the cartel case, the State Department, under John Foster Dulles, moved quickly to assure the domination by the major companies over the potentially lucrative Iranian crude supply by keeping the competition of independents out of the area. Again national security was cited, this time the threat of Soviet expansion. It was believed that the most reliable way to restore Iranian oil production after the collapse of the Anglo-Iranian Oil Co. following nationalization by Dr. Mohammed Mossadegh was to move in the major foreign and American companies.

A now declassified memorandum by Adrian S. Fisher, then legal adviser at State, said these companies lack "any particular desire" to produce this oil because of adequate supplies elsewhere, but the government's persuasion prevailed. The Justice Department finally went along with the Iranian decision, though its antitrust division strongly maintained that the agreement was totally inconsistent with the civil cartel case it was still pursuing in court. In the end, the State Department's decision killed any chance of making the cartel case stick, according to Senator Church. His subcommittee is seeking further documents which, investigators said, would link the entrance of the major companies into Iran to the termination of the criminal action. It is worth noting that, according to an internal Justice Department memorandum, the independent oil companies had wanted a 36 percent share of the consortium, but the share was reduced to 5 percent by the State Department. Despite the majors' professed reluctance to enter Iran, it turned out to be a "good investment," a former top official, Howard W. Page, testified.

There was some significant disagreement within the State Department itself over the handling of these crucial matters. The subcommittee has made public a memorandum written at the time by a key oil adviser, Richard Funkhouser, now serving with the Agency for International Development, which stated "that the ability to accommodate to changing situations in the Middle East is best developed under an environment of free competition rather than from efforts to 'hold the line,' which seldom succeed." Every encouragement, he said, should be given to independents to move Iranian oil.

Funkhouser quoted some oil executives and economists as believing that the Anglo-Iranian Oil Co. might never have been nationalized if there had been competitors in Iran. "There is a certain safety in numbers," he wrote, adding that a monopoly is "ideally easy to nationalize." Despite this advice, the government avoided any actions that would cause giant consortiums like Aramco or the one in Iran to relinquish parts of their concessions to competitors, and thus minimize the growing possibility of substantial takeovers by the Arab nations.

Out of this period that brought the collapse of the criminal action against the cartel and the granting of a concession in Iran to the major companies came the secret decision in 1950 to treat the royalties of the Arab nations as taxes, to be credited dollar for dollar against what the companies owed the U.S. Treasury. Once more, the justificatino was national security.

The corrupt regime of the late King Ibn Saud of Saudi Arabia, into whose purse went an enormous share of the oil revenues from Aramco, began demanding much more money in 1949 and 1950. Sharp increases in royalties, if treated merely as business expenses, would have been a severe blow to Aramco's profits. On the advice of the company and with the approval of Dean Acheson, the Saudis in 1950 changed the royalties to a so-called "income tax." The amount paid could then be deducted from U.S. taxes.

As a result of this Treasury Department tax ruling, the four companies that control Aramco—Exxon, Texaco, Standard of California and Mobil—which had paid $50 million in U.S. taxes in 1950, paid $6 million in 1951; and Saudi Arabia, which had received $66 million as royalties in 1950, got $110 million as taxes in 1951. Aramco lost nothing by this even swap and the Treasury Department lost a good deal. From then on, the American Government began losing close to $200 million a year in tax revenues from oil companies operating in the Middle East.

Testifying before the Church subcommittee, George C. McGee, a multimillionaire oilman and at the time of the tax-credit decision the top man on Middle East affairs at the State Department, justified this new policy by what he described as the critical contest in the Middle East "between ourselves and the Soviets." The very corruption and ineptitude of such regimes as that of Ibn Saud made them especially vulnerable to a nationalization movement that would upset the stability of the area, the McGee argument went, and could be prevented only by a constant transfusion of American money.

The National Security Council made the decision in secret; there was no consultation with Congress. On this decision as well, McGee's adviser on petroleum matters, Funkhouser, said in a memorandum that the preferable route to political stability in the Middle East was not through tax favors but by reducing the size of the concessions held by individual companies, a move that would also promote competition. "Since many new American companies are interested in the area and financially strong enough to enter the field, continuation of oil properties in U.S. hands would be almost assured," Funkhouser said. "Middle East states prefer American companies to those of other nationalities."

In recalling the simultaneous decision by the company and the State Department to adopt the principle of the tax credit, McGee said that the solution was reached separately, although "our reasoning based on political grounds coincided with theirs." At that time Aramco was selling its entire production to Europe, but McGee said it was vital to the United States to have Saudi Arabian reserves owned by American companies "for a time of crisis."

The final chapter in the story of the symbiotic relationship of the major oil companies and the American Government began in the late 1950s and early 1960s. An excess production capacity prompted the companies unilaterally to cut the posted price of crude in the Middle East by 20¢ a barrel. This action precipitated the formation of the Arab cartel, the Organization of Petroleum Exporting Countries.

Alarmed by this development, John J. McCloy, former High Commissioner for Germany and then employed by the major oil companies, has disclosed to the Church subcommittee that he met secretly with President Kennedy to alert him to the danger posed by the Arab cartel. Subsequently he spoke to each and every Attorney General to apprise them, he said, of the unfolding situation. The companies sought nothing at the time from the government, because the ample spare production capacity available and the requests of the Arab nations for ever greater production put them in a strong position.

By the 1970s, however, the rapid rise in world demand for energy made the companies vulnerable. George T. Piercy, senior vice president of Exxon, admitted to the subcommittee that the industry had failed to anticipate this surge in demand, thus exposing it to pressure from the Arabs. In Libya, the new revolutionary regime of Col. Muammar el-Quaddafi won major concessions in 1970 from Occidental Petroleum, an independent that relied on Libyan crude.

The potential showdown feared by McCloy ten years earlier, became a reality for the major companies as they approached the negotiations in Teheran in early 1971. McCloy stepped up his calls and visits to Washington. John N. Mitchell, the former Attorney General, said in a deposition for the subcommittee that McCloy, then representing twenty-three oil companies, met or talked to him four times in January 1971, as special agreements were prepared by the government and industry before the Teheran bargaining began.

At that time, two key State and Justice Department officials, James Akins and Dudley Chapman, went to New York and waited outside the door of McCloy's law office while the agreements were drawn up, thus indicating the continuing intimacy between government and industry. According to testimony, the Justice Department secretly consented to the industry-sponsored agreements: one was to allow the major and independent companies to join in a united front to bargain with the Arabs for a new global contract without fear of antitrust prosecution; the other would permit a sharing of oil in the event any company was shut down by Libya.

Although the Justice Department granted the companies the right to bargain as a bloc, the State Department withdrew its support from the companies' desire to bargain with all the oil-producing countries at one time, including those in the Persian Gulf and Libya, so that there would be no leap-frogging price effect, with companies being picked off one by one.

At the request of the companies, John N. Irwin II, then Under Secretary of State, was sent on one day's notice to the Middle East to speak to some of the conservative nations. He had no time to prepare and, as he conceded to the subcommittee, he totally lacked any "real background" in the oil business. Quickly he submitted to threats and astute maneuvering of the Shah of Iran and Arab leaders who convinced Irwin, now Ambassador to France, that the negotiations with the Persian Gulf states and Libya must be separate. Without consulting the industry negotiators in Teheran, Irwin cabled back, according to his testimony, that the separate bargaining was necessary. His recommendation was routinely accepted by the State Department, and the industry, its position undercut, agreed to separate sessions in Teheran and later in Tripoli.

Justifying his recommendation, Irwin, true to the government's explanation for its past oil policy, told the subcommittee that his mission to the Middle East was to protect the national security, in this case against a threatened halt of production. There was no point, he suggested, in antagonizing the Arab nations. The message he brought to the Middle East—that the United States hoped that oil supplies would not be disrupted, that the companies must be cooperative and that the U.S. Government definitely would not become involved in the negotiations—strengthened the hand of the Arab negotiators. The entire Irwin mission, in fact, puzzled the Arabs, who probably expected the United States to take a tough stand. "I don't know what Mr. Irwin's visit was for," said Jamshid Amuzegar, the Iranian Foreign Minister, in an interview during the preliminary negotiations.

With the demand for oil exceeding production capacity, the Arabs were in a strong position at Teheran, yet the companies still held some cards. The Arabs needed oil revenues, on which they depended for 50 to 95 per cent of their incomes, and they relied heavily on the technical skills and other resources of the international companies. But in the wake of the Irwin mission, the companies struck the best deal they could get; it was supposed to last for five years. The agreement was hailed by the State Department as bringing "stability" to the Middle East, but within less than three years, it was torn up by the Arabs. Representatives of the industry, which had played its last trump, were summoned to "negotiation" in Vienna and the emboldened Arab nations unilaterally imposed new demands that sent the posted price of crude oil from $3.01 a barrel last October 1 to $11.65 in January, the present level.

The American consumer is paying handsomely for the vacuum in energy leadership in Washington over the last forty years or more. For almost all of this period, the oil companies filled the gap, virtually dictating policy in their own self-interest. This policy, when it involved international concerns, was rationalized on national security grounds The Irwin mission that culminated the decades of neglect was doomed to fail, since it was impossible to generate an energy policy overnight.

The big oil companies cannot be left any longer to their own devices. Despite the risk of becoming embroiled in international disputes, the government, as the presumed protector of the public interest, must play a forceful role in dealing with the oil producers and the oil-producing countries.

THE LANGUAGE BARRIER

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. RANGEL. Mr. Speaker, I would like to share with my colleagues a column which appeared in the New York Post on May 4, 1974. It concerns a problem of which we are all aware. However, it reveals the proportions of this problem to be beyond most people's expectations.

There is a vast population of exclusively Spanish-speaking citizens in our Nation. Throughout American history, newly arrived ethnic groups have been cast into the "melting pot." But now, in New York City alone, this population has grown to 2 million people. We can sympathize with their disorientation. It is beyond our comprehension though, to understand the entire maelstrom of living in a strange and sometimes hostile culture.

The article below offers a rare glance at our system from the perspective of the Spanish-speaking person. It lays bare our need to adjust the criminal justice system. As the structure stands, the slightest problem becomes, for these people, an unbridgeable impasse; a simple call for help can end in tragedy and frustration. One method, suggested below to deal with the situation is to increase the number of Spanish-speaking law enforcement officers and criminal justice officers. I endorse and praise this and all other measures which would ease the injustices inherent in the lives of these newest immigrants.

The article follows:

THE LANGUAGE BARRIER

(By Jose Torres)

Luis Neco is a Puerto Rican who serves as this city's Deputy Police Commissioner in charge of the legal department. Intelligent and dedicated to improving the lot of his countrymen, he works for the benefit of those who suffer for the "crime" of not speaking English.

Neco is bilingual. He knows the handicap which shackles those in this city who are not. We discussed together a few of the many problems created by the lack of communication between Spanish-speaking people and police officers.

And it is shameful and sad. I gathered from Neco's own experiences that there are many young Puerto Ricans in jail right now because they didn't have the right—English—words to explain their predicament.

We both agreed that Puerto Ricans in this country have many problems with the law not only because of language confusion but because of a conflict of cultures.

Here are some examples:

A middle-aged Puerto Rican takes his family for a drive. Inadvertently he makes a wrong turn. A police officer approaches, asks for his license and registration.

"What have I done wrong?" the surprised Puerto Rican asks. The cop assumes the man knows what he did wrong. "Don't be a wise guy," he replies. "Didn't you see that damned 'no left turn' sign right in front of your nose?"

Now if the man were alone, he might ask the police officer to forgive the error and skip the ticket. But he is with his family. Pride and dignity require that the "master of the home" play out that role.

True, deep in our culture there is a profound respect for authority. But nothing surpasses our defense of our honor as "boss of the home," especially if the family is around.

And so, in this instance, the officer has intruded into a sensitive area of this man's culture. His "machismo" has been challenged.

So the Puerto Rican man gets into a heated argument and finally gets out of the car to deal with the cop. What began as a simple traffic violation turns into serious accusations—assault, resisting arrest, etc.

Another example: A cop walks his beat on Av. J in Brooklyn. A woman rushes hysterically toward him. "My child is dying," she yells. "My child is dying." The reaction of the cop is swift and natural. He immediately goes to help.

The same circumstances, but this time in South Bronx, and with a Puerto Rican mother who can't speak English. She yells, "Mi hijo se muere, me hijo se muere." One can assume that the reaction this time will not be the same, but I asked a non-Puerto Rican officer friend of mine.

"First of all," my friend said, "I would, automatically go for my gun because I would suspect that the lady had been attacked or that she's being chased, or that she is crazy." Meanwhile, her child is dying.

And what happens with a Puerto Rican suspect who can't speak a word of English and a police officer who can't speak a word of Spanish?

"A police officer may see a Hispanic who looks suspicious," Neco explained. "The police officer who comes in contact with him might have this suspicion resolved if the Hispanic could speak English and communicate to the officer what he was doing.

"The man is then taken to a police station to determine what recommendation is going to be made in terms of bail or if he will be released on his own recognizance, or whether a desk-appearance ticket may be issued to him. Because there is no communication, one can conjecture that he's not a likely candidate for the desk-appearance ticket." Such a ticket allows the arrested person to leave and appear at a later, stated date.

Whether a person is going to be released on his own recognizance or bailed is determined in large measure by interviewers from the Probation Dept. Lack of communication here makes the arrested Hispanic a less likely candidate for a recommendation of bail or release on his own recognizance.

The problem is that there are not enough Hispanics working in the law enforcement field. A recently launched recruitment campaign for more minority-group members for the police force might help. For only 2.2 per cent of the entire Police Dept. (784 out of 30,808) are of Spanish descent. The total Spanish population here is about 2 million.

Or, as Commissioner Neco put it: "We are at the stage now where all areas of the criminal justice system as well as the bar, the legal profession itself, have to look at the unique problems of the Spanish-speaking citizens of this city and come to grips with seeking to alleviate, if not to solve these problems."

THE COLORADO WINNER OF THE "ABILITY COUNTS" COMPETITION

HON. FRANK E. EVANS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. EVANS of Colorado. Mr. Speaker, I recently had the opportunity to meet with Miss Mardona Moreland of Las Animas, Colo., while she was in Washington attending the annual meeting of the President's Committee on Employment of the Handicapped.

For the past 2 years this 17-year-old young woman has spent much of her free time as a volunteer at the Fort Lyons Veterans Administration Hospital near her home working with handicapped veterans. She also has done much volunteer work with other handicapped people in her community.

Miss Moreland is the 1974 winner of the essay competition sponsored by the Colorado Governor's Committee to Promote Opportunities for the Handicapped.

Her winning essay describes a unique experiment she performed to gain a better insight into the many barriers faced by handicapped persons in our society. I insert the text of her essay here and commend it to my colleagues:

BARRIERS TO THE HANDICAPPED: "LET ME WALK WITH MY BROTHERS"

The above topic title is a phrase from my favorite song, *Let There be Peace on Earth,* and I felt that it would be appropriate for my essay because I put myself into the same situations a wheelchair victim might experience during one day.

For the past two years during vacation and spare time, I have served as "Volunteen" at the Fort Lyon VA Hospital spending most of my time in the EEG, EKG, and X-Ray laboratories. Here, I have observed and tried to help patients with varied handicaps. I am also Commander of our local DAVA Junior Girls and part of our volunteer work is with handicapped children. This year as a senior in high school, I am enrolled in CAVOC (Central Arkansas Valley Occupational Center), taking prenursing training and also working part-time at the Bent County Nursing Home. Through CAVOC, I have visited and observed the handicapped youngsters at the ARKVA School for retarded children. In my nursing home duties, I am in close contact with those who are handicapped by strokes, hardening of arteries, arthritis, heart conditions, and impaired movement of limbs. I am learning much from these people and I have shared the victorious feeling they have when they make even a small come-back.

There are many barriers to the handicapped—social, mental, physical, and even architectural. To gain a better insight into such problems, I decided to put myself in a wheelchair for a day. First of all, there is much more to getting around in a wheelchair than just sitting in it and wheeling it. It takes practice and skill, and after a very short time, my arm and shoulder muscles began complaining about the strain put upon them. The attitude of people I met was unexpected. Some of them looked at me with sympathy and understanding, but the majority tried to ignore me and my problems by avoiding eye-contact, thus rejecting me as a person.

I had never before thought of architectural barriers. First I visited our local High School which is built on ground level. There were few problems here. Doors are wide enough to allow entrance and the halls are spacious so there is a minimum of problems during class changes. Rooms are structurally adjustable so it was not hard to maneuver my wheelchair into class groupings. I did find there were no adjustable table surfaces so I had to write in my notebook on my lap; black boards are too high for my use in writing long equations; and the locker shelves could not be reached. After this first experience, I decided that I could function at about 70% efficiency in classrooms. However, Band, Phys. Ed., some aspects of Home Ec., and extra-curricular activiites were limited by my disability. Confidently, I went on to visit the much older Junior High School. Here I really found myself at a loss. To follow one student's schedule, I had to go from ground floor to second floor for the first class; then down a long, narrow hallway and then downstairs again for the next class. This was the general pattern. Assembly is held in the gym with spectators seated in the balcony—reached only by stairs.

As I traveled through my day, I found other barriers. Suppose I were downtown and suddenly felt ill? There was a public telephone nearby—but I could not use it!! I could not get my wheelchair through the narrow door into the booth, nor could I reach either the coin-box or dial.

Buying groceries isn't difficult for most people. How about a wheelchair bound person? At one store, there were self-opening doors which helped me feel competent. What if there had been revolving doors or even the usual 32" doors separated by an upright divider? I might have gotten through, but I would have had another set of skinned knuckles to show for my effort. Another obstacle I found in stores which I visited was the placement of many articles. I could not reach high enough to "buy" many items; and I could not lean down far enough to pick up others without tumbling headfirst out of the chair. Light switches in many buildings were out of reach; drinking fountains and bathroom fixtures were definitely not designed for a wheelchair inhabitant. I found that automatic elevator doors (usually set to close in 7 seconds) trapped me when I tried to enter in my wheelchair. Our post-office can be reached only through the climbing of stairs; many libraries are designed with impressive stairway entrances; aisles in stores and many other public places are so narrow or so crowded that it is difficult to move through them. What if I wanted to watch a football game? Bleacher or grandstand seats are definitely out.

After a long and tiresome day, I decided to head for home. Here I had more problems. In the parking lot, my car was parked well within the defined parking lines and so was the car next to mine. But, there wasn't enough room allowed between cars for me to wheel myself into position to swing myself into my car. The occupant of the other car noticed my predicament and carefully backed out so that I had extra room. Even then, it took all my strength and effort to get into the car. Then I learned that even though I had a folding wheelchair, many cars are not designed for wheelchairs or victims. Many cars are—or can be—modified to eliminate the use of foot power for clutch, brake, and gas feed, but since this has just been "one day on the job" for me, my car was standard.

After a day like this, I have a much better understanding of the obstacles and frustrations faced by a wheelchair confinee; and I hope that in my chosen work, I will be more thoughtful of disabled persons.

Today, I have "walked with my brother'„ and it's terribly hard to "walk" in a wheelchair.

ANOTHER "GUERRILLA ACTION" AGAINST ISRAEL

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. WOLFF. Mr. Speaker, another black mark of shame and outrage was written into the history books this morning in the Middle East. Another "guerrilla action," another challenge to all decent human instinct. What words can react strongly enough to the mass slaughter of the schoolchildren of Maalot, Israel? What steps can civilized humanity take to eliminate the terror that these beasts have again wrought?

These events are beyond comprehension. Even to accept the label of "guerrillas" for the perpetrators is to dignify them. They are butchers—the basest form of humanity.

In view of recent history and the condemnation of Israel acceded to by our country in the United Nations, what other course is now open to the United States but for once to take a firm position of moral leadership and outraged indignation?

The children of Maalot were in no sense participants in any declared or undeclared war. They were victims of a depraved band who do a disservice to the Palestinian people. So now those nations who harbor such cutthroats must be put on notice that such acquiescence will no longer be tolerated by the community of nations—they will be brought to account. And to those who would seek to repeat such actions—they must know that retribution from the civilized world will swiftly follow.

LAKE BLUFF HONORS SCOUTMASTER CHARLES MORAN

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. McCLORY. Mr. Speaker, having served some years ago as scoutmaster of Boy Scout Troop 42 in my home town of Lake Bluff, Ill., I have been particularly pleased to learn that Saturday, May 18, 1974, has been officially declared "Charles Moran Day" in honor of Scoutmaster Charles Moran.

Mr. Speaker, for 20 years Charles Moran has been a central figure of troop 42, of the North Shore Area Council, Boy Scouts of America. During these 20 years, the troop has flourished and membership has grown from 50 scouts to approximately 70 scouts today.

Mr. Speaker, Scoutmaster Moran is a lifelong lover of the wilderness. After serving as an Oregon lumberjack, he became a dealer in—and repairman of major electrical appliances. Today Charles Moran is the proprietor of Moran Appliances in Lake Bluff.

Mr. Speaker, in addition to training hundreds of other boys in scouting, Charlie Moran has reared his own two sons, Mike and Terry, in the scouting traditions. During this time, he has exhibited uncommon imagination, fortitude, unique skills and qualities of wholesomeness in his leadership of scouting. He has shared his experiences with the Boy Scouts, age 11 to 14 years, accompanying them on various wilderness trips across the country. With 30 or more boys and 4 or 5 adult assistants, they have visited such places as the Everglades, Fla.; the Appalachian Mountains; Isle Royale, Lake Superior; Padre Island, Tex., and parts of Wyoming. The final wilderness trip planned by Scoutmaster Moran is scheduled to get underway on July 5, 1974, in central Wyoming. When they return, Charles Moran will look at his Trailblazer Award, his Golden Arrow Award, and his other memorabilia—with few regrets.

Mr. Speaker, although he is stepping aside as scoutmaster and will be succeeded by Dr. Joseph D. Schleicher of Lake Bluff, he will remain on the troop committee as executive director of the parents committee. Also, he will continue to operate his electrical business.

Mr. Speaker, Charles Moran has gained the respect and genuine affection of campers and noncampers of all ages and generations, and is known by all to be a thoughtful, kind, generous, and compassionate human being, as well as devoted husband of the charming and totally supportive June Moran. I am proud to salute Charles Moran for his unselfish and invaluable contribution to the development of over 1,400 scouts, who are a source of strength and pride to our Nation, and I wish him much happiness and good health in the years ahead.

RESOLUTION TO END DEPLETION ALLOWANCE

HON. WILLIAM J. GREEN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. GREEN of Pennsylvania. Mr. Speaker, the Democratic Caucus today passed a resolution requiring Democrats on the House Rules Committee to make in order my amendment to the Oil and Gas Energy Tax Act of 1974. I want to thank my colleagues for supporting this resolution and my amendment which will end the oil and gas depletion allowance as of January 1, 1974. The Congress is now one step closer to meaningful tax reform.

In 1974 oil company profits are expected to be approximately $9 billion, more than double 1973's record levels. The Ways and Means Committee bill phases out the percent depletion allowance over 3 years, with no phaseout in 1974, and provides various exemptions and exclusions that would continue for many oil producers until 1979. The bill would impose only a $670 million windfall profits tax in 1974. My amendment will raise an additional $2.6 billion.

Following is the text of the resolution adopted by the Democratic Caucus and my amendment to end the depletion allowance.

RESOLUTION OFFERED BY MR. GREEN OF PENNSLYVANIA

Be it resolved, That the Chairman of the Ways and Means Committee, and the Democratic Members of the House Committee on Rules are hereby instructed by the Democratic Caucus to seek and vote for, respectively, a Modified Closed Rule for consideration of H.R. 14462, the Oil and Gas Energy

Tax Act of 1974, making in order the attached amendment, to be offered by Mr. Green of Pennsylvania, to repeal the percentage depletion allowance for oil and gas as of January 1, 1974.

AMENDMENT BY MR. GREEN OF PENNSYLVANIA

(Intended to be proposed with respect to H.R. 14462.)

SECTION 1. Section 102 is amended by striking its title and substituting therefor the following: "REPEAL OF PERCENTAGE DEPLETION FOR OIL AND GAS PRODUCTION."

SEC. 2. Subparagraph (B) of Section 102 (d)(3) is redesignated as Section 102(d)(3).

SEC. 3. Section 102 is amended by striking out those portions of subsections (a), (b), and (d) not redesignated by Section 2 hereof and by substituting in lieu thereof the following:

"(a) REPEAL OF OIL AND GAS DEPLETION. (1) Section 613(b)(1)(A) of the Internal Revenue Code is amended by striking out the words "oil and gas wells," and by substituting therefor the words "certain gas wells as defined in subsection (e)."

"(2) Section 613(b)(7) is amended by adding the following new subparagraph after subparagraph (B): "(C) oil and gas wells."

"(b) CERTAIN GAS WELLS. The following new subsection is added to Section 613 of the Internal Revenue Code:

"(e) SPECIAL RULE FOR CERTAIN GAS WELLS.—

"(1) The gas wells referred to in Section 613(b)(1)(A) are—

"(A) wells producing regulated natural gas,

"(B) wells producing natural gas sold under a fixed contract, and

"(C) any geothermal deposit which is determined to be a gas well within the meaning of section 613(b)(1)(A).

"(2)(A) The term 'natural gas sold under a fixed contract' means domestic natural gas sold by the producer under a contract, in effect on April 10, 1974, and all times thereafter before such sale, under which the price for such gas cannot be adjusted to reflect to any extent the increase in liabilities of the seller for tax under this section by reason of the repeal of percentage depletion. Price increases subsequent to April 10, 1974 shall be presumed to take increases in tax liabilities into account unless the taxpayer demonstrates the contrary by clear and convincing evidence.

"(B) The term 'natural gas' means any product (other than crude oil) of an oil or gas well if a deduction for depletion is allowable under Section 611 with respect to such product.

"(C) The term 'domestic' refers to petroleum from an oil or gas well located in the United States or in a possession of the United States.

"(D) The term 'crude oil' includes a natural gas liquid recovered from a gas well in lease separators or field facilities.

"(E) The term 'regulated natural gas' means domestic natural gas produced and sold by the producer, prior to January 1, 1976, subject to the jurisdiction of the Federal Power Commission, the price for which has not been adjusted to reflect to any extent the increase in liability of the seller for tax by reason of the repeal of percentage depletion. Price increase subsequent to April 10, 1974 shall be presumed to take increases in tax liabilities into account unless the taxpayer demonstrates the contrary by clear and convincing evidence."

"(d) EFFECTIVE DATES. (1) The amendment made by subsections (a) and (b) shall apply to oil and gas produced on or after January 1, 1974.

(2) The amendment made by subsection (c) shall apply to any taxable year beginning after December 31, 1976."

SEC. 4. Section 201 is amended by changing the title to "FOREIGN OIL AND GAS WELLS," by striking subsection (a), and by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

BRIEF SUMMARY OF THE GREEN AMENDMENT TO H.R. 14462

Sec. 1—Changes the title of Sec. 102 of the bill to reflect the Green Amendment's outright repeal of percentage depletion for oil and gas.

Sec. 2. Preserves existing Committee language referring to a new election to expense intangible drilling costs.

Sec. 3. Replaces the Committee-approved 3 to 5 year phase-out of the oil and gas percentage depletion allowance with language repealing it effective January 1, 1974. Also, this section provides a transitional rule, identical to one provided in the Committee bill, preserving percentage depletion for domestic natural gas sold under a long-term contract, and it provides a very generous transitional rule for natural gas subject to regulation by the Federal Power Commission.

Sec. 4. Deletes as unnecessary the Committee's language dealing separately with percentage depletion for foreign oil and gas.

Following are the supplemental views that I filed to the Ways and Means Committee Report on H.R. 14462 (Report No. 93-1028):

SUPPLEMENTAL VIEWS OF HON. WILLIAM J. GREEN

I. INTRODUTION

The Ways and Means Committee is to be commended for its efforts to draft legislation to tax oil and gas producers' windfall profits resulting from recent shortages and skyrocketing prices. I have supported the Committee's effort in this regard, because the high prices have created, and will continue to create, exorbitant after tax oil company profits more than double last year's record $4.0 billion. In 1974, the estimated after-tax profit will be $9 billion. It is essential to note, at this point, that this $9 billion profit is on the production of oil alone. It does not represent additional, enormous profits in refining, retailing, shipping and more. However, while the Committee took a laudable step in phasing out the percentage depletion allowance for oil and gas, it failed to go far enough. In 1974, the Committee bill would increase the taxes on the $5 billion windfall by only $670 million.

During the Committee deliberations, I offered an amendment to eliminate the percentage depletion allowance for oil and gas, as well as other petroleum oil industry tax subsidies. This amendment would have increased oil industry taxes by $3½ billion. I believe this to be the proper means by which to eliminate windfall profits. It simply does not make sense to subsidize profits through tax advantages and then create new, only marginally effective, taxes to limit those same profits. Rather, the sensible approach would be to simply eliminate the tax subsidy in the first place. Thus, I cannot fully support the Committee bill as presently written, and I intend to offer an amendment to eliminate, effective January 1, 1974, the percent depletion allowance for oil and gas, the most blatant of oil industry tax subsidies. I urge all my colleagues to support my effort to remove this costly, inequitable, and inefficient tax subsidy and thereby effectively tax some of the oil companies' huge windfall profits.

II. ANALYSIS

A. The committee bill raises very little revenue from the enormous profits being earned by oil producers

In 1973, major oil producers were producing and selling oil for $3.50 per barrel. As a result of shortages and market pressures, the present price of oil, subject to price controls, is $5.25 per barrel. Thus, a minimum unexpected windfall of $1.75 per barrel has been realized. These same producers are getting $10.00 per barrel for oil not subject to price controls, for which they received $4.00 per barrel a year ago. That's a windfall of $6.00 per barrel. Thus, the average price has increased from $3.90 per barrel in 1973 to $6.50 per barrel today.

These sudden price increases will result in domestic oil profits more than double last year's record levels. According to the Joint Committee on Internal Revenue Taxation, the increase in after tax profits from 1973 to 1974 will be $5 billion, from $4 billion in 1973 to $9 billion in 1974. It is this profit that the Committee bill purports to tax. Unfortunately, the Committee bill, by failing to immediately eliminate percent depletion and providing many exceptions to its excise tax on profits, taxes this $5 billion profit by only $670 million. In addition to failing to adequately tax 1974 windfalls, the Committee bill taxes future industry profits of some $80 billion by only $13 billion over a six year period. The following chart illustrates projected domestic profits and the relatively small impact of the Committee bill:

CHART I.—ESTIMATED DOMESTIC OIL PRODUCTION REVENUES AND PROFITS UNDER H.R. 14462 (ASSUMPTION IS LONG-RUN PRICE OF OIL IS $9)

[In billions of dollars]

	1973	1974	1975	1976	1977	1978	1979
Before tax profit from oil production	4.7	10.6	11.3	12.0	12.7	13.5	14.8
Tax under present law	.7	1.6	1.7	1.8	1.9	2.0	2.2
Additional windfall tax under bill		.67	.79	.29	.17	.04	0

	1973	1974	1975	1976	1977	1978	1979
Additional tax from depletion phaseout with exemptions under bill		0	0.64	1.27	1.91	2.19	3.3
After-tax profit under bill	4.0	8.33	8.17	8.64	8.72	9.27	9.3

By contrast to the Committee proposal, elimination of the costly and inefficient percent depletion allowance would result in a near normal 48 percent tax rate on U.S. oil production. The Committee recognizes the benefits of eliminating this tax subsidy by providing for a phaseout, with certain exceptions, over three years by 1977. However, the Committee phaseout moves too slowly, and provides too many exceptions, to permit any sort of effective taxation on current windfalls. For this reason, I will seek to substitute for those provisions the immediate elimination of the percentage depletion allowance for oil and gas. The following chart illustrates the effect of my amendment on domestic oil profits:

CHART II.—ESTIMATED DOMESTIC OIL PRODUCTION REVENUES AND PROFITS UNDER GREEN PROPOSAL TO REPEAL DEPLETION (ASSUMPTION IS LONG RUN PRICE OF OIL IS $9)

[In billions of dollars]

	1973	1974	1975	1976	1977	1978	1979
Before tax profit from oil production	4.7	10.6	11.3	12.0	12.7	13.5	14.8
Tax under present law	.7	1.6	1.7	1.8	1.9	2.0	2.2
Additional windfall tax under bill		.67	.79	.29	.17	.04	0
Additional tax under Green proposal to repeal depletion as of January 1974		2.6	2.8	3.2	3.5	3.7	3.8
After-tax profit under Green proposal	4.0	5.73	6.01	6.71	7.13	7.76	8.8

B. Percentage depletion is costly, inefficient and unneeded and should be repealed as a way of limiting windfall profits

Our overly generous treatment of the oil industry has proved to be a highly inefficient method of encouraging increased domestic production. Recently, a Library of Congress study concluded that, rather than stimulating exploration and development, oil tax incentives such as the depletion allowance encourage producers to overdrill in already discovered oil fields. Indeed, since only 10 percent of exploratory wells strike oil, depletion benefits only one-tenth of the exploratory drilling. Thus, oil companies prefer to spend money drilling in existing oil fields and thereby be certain to receive the depletion tax subsidy.

Former energy chief Simon recognized this in a letter to the Senate Interior Committee stating that: "in the short run, changes in percentage depletion should have little effect on the rate of expenditure of discovery efforts . . . in the long run, a change in depletion should have no effect, per se, on the rate of production."

Moreover, many of the benefits from percentage depletion go to non-productive interests. A landowner receiving royalty income receives the benefits of percentage depletion even though he takes no financial risks to expand production of domestic reserves. In fact, 42 percent of depletion benefits are paid either to non-operating interests in domestic production or for foreign production.

The depletion allowance also discourages the production of cheaper and more abundant sources of energy. First of all, depletion benefits for minerals are based on the value of those minerals in the ground and not in their final processed form. Therefore, a $7.00 barrel of crude oil gets the full benefits of the depletion allowance while a $7.00 barrel of oil made from coal will only receive depletion benefits on the value of the original coal. Since coal costs less than oil, the bulk of the $7.00 cost of liquified coal lies in the processing expenses. These do not qualify for depletion.

At present, a company that produces a $7.00 barrel of crude oil gets a tax bonus of about $1.30. A company producing the same $7.00 barrel from coal liquification would receive a bonus from the taxpayers of only ten cents. Of course, someone who develops solar energy at an equivalent price or designs a more efficient gas engine would receive no tax incentive at all!

Considering the foregoing, the committee is correct in concluding that the depletion allowance should be ended, but I would urge that we end it immediately.

C. The committee bill's slow phase-out of the preferred depletion allowance and its exceptions are unjustified

The current price incentives enjoyed by the oil industry more than offset any alleged losses resulting from the elimination of depletion. For example, for a $4.00 barrel of oil, the net benefit of the depletion allowance is less than $1.00. Thus, if the price of that barrel were to increase to $5.00, there would be no net loss due to the repeal of the depletion allowance. Since 1974 prices will average approximately $6.50 a barrel, it is clear that no net loss will result from elimination of depletion. Indeed, repeal, notwithstanding, there will be a $1.50 per barrel price incentive. This is far more incentive than that provided by this costly tax subsidy.

With respect to the Committee bill's exemption of stripper wells from the phase-out (it permits a 15 percent deduction until 1979), it is important to note that even the Department of Treasury, through Assistant Secretary Hickman, has taken the view that, if depletion is to be ended, it should be ended cleanly with no exceptions. As Mr. Hickman pointed out, most stripper wells now in operation profited last year receiving a price of $4.00 per barrel, and are presently "wildly successful," receiving an uncontrolled price of $10.00 per barrel.

Applying the 15 percent depletion exemption to the first 3,000 barrels per day for all producers, as provided by the Committee bill, maintains the depletion allowance for all but 69 of the Nation's 10,000 oil producers, and the 69 largest companies will receive it for their first one million barrels per year. Moreover, there is a danger, as we have been warned by Treasury, that producers will rearrange oil ownership in such a way as to make all production subject to this exemption. Certainly, to do so would be a profitable undertaking for the companies. Thus, the Committee's 3,000 barrel exemption could result in *absolutely no* effective elimination of the percent depletion allowance; rather, it would result in a mere reduction from 22 percent to 15 percent.

D. Windfall profits are not necessary in order to finance investment in the search for more energy

In short, the present profit picture is so good, and present prices so high, that, even with the immediate elimination of the depletion allowance, the industry and outside investors can't afford not to invest in searching for new oil. America's mature capital markets, after evaluating the economic prospects of oil production, effectively respond to the capital requirements of the energy industry. Even before the current fantastic improvement in the domestic oil profits picture, energy companies had little difficulty meeting their financial requirements.

In March 1973, the Senate Interior Committee elicited responses from the F.P.C., the Department of Interior and the Treasury concerning the energy industry's capital needs. All agreed that, historically, the industry had little difficulty due to its heavy reliance on internal financing. Indeed, 71 percent of the required working capital is provided through cash earnings. Of course, current rapid price increases will greatly increase this cash flow and thereby provide new capital.

In addition, rapid increase in return on shareholders' equity will provide additional funds from outside investors. In 1973, return on equity rose 50 percent. Given historic dividend patterns, the 100 percent increase in profits for 1974 should produce a return on equity 75 percent greater than last year's record levels.

The tremendous advantage of expensing intangible drilling costs, a tax subsidy to be left untouched by my amendment, will also bolster cash flow and thereby attract capital. This is true because of the significant role the deduction for intangibles plays in increasing after tax profits. For example, the Committee staff estimated that, at present prices, 1974 after-tax profits will increase 100 percent, to $8 billion, if there is no reinvestment of that increase and, hence, no intangible drilling cost deduction. On the other hand, 1974 after-tax profits will rise by 150 percent, to $10 billion, if all the increased earnings are re-invested.

Based on the foregoing, then, it is clear that present price and profit projections, the resultant increase in cash flow, and the extremely generous write-off for new investment assure an adequate capital picture for the energy industry. This being the case, it is hard to imagine that the elimination of the depletion allowance, and the modest effect that will have on the profit picture, will have a negative effect on the capital investment picture.

E. Eliminating depletion will not increase the price of gasoline

Under previous price conditions, there may have been some danger that gasoline prices would increase as a result of eliminating the depletion allowance. To some extent, the depletion allowance may have subsidized lower gasoline prices in the past. However, under present circumstances, gasoline prices are being set by the price of oil. As long as we are paying $10.00 per barrel for imported oil, uncontrolled domestic oil will sell for a similar price. Removing the percentage depletion allowance won't increase that price, it will merely lower the inordinate profits that result from it.

III. SUMMARY

This bill does not sufficiently tax 1974 windfall profits. I urge all of my colleagues to support my effort to repeal percentage depletion as of January 1, 1974, and thereby correct this weakness in the bill. Such a move would meet the public's demand, voiced in innumerable ways, for a just windfall tax. And it will come as no shock to the oil industry as these companies have been on notice for quite some time, through both Congressional and Presidential statements, that a stiff tax was inevitable.

Moreover, passage of my amendment will force the industry to rely on the market place, instead of the tax code, for its profits. Profits will be made if the Companies do what they are supposed to do—produce and sell more energy. And the additional revenues from my proposal could help fund tax relief programs for consumers hard pressed by high energy prices, programs for energy research and development, programs for mass transit, or programs to meet other urgent public needs.

THE BIGGEST AND BEST: VIRGIN ISLAND CARNIVAL 1974

HON. RON DE LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. DE LUGO. Mr. Speaker, I would like to share with my colleagues an editorial description of the biggest and best spring-time celebration in the Caribbean, the annual carnival of St. Thomas, U.S. Virgin Islands.

This carnival combines parades, gaily decorated floats, beautiful costumes, and uninhibited behavior, with traditional modes of celebration to produce a uniquely Virgin Islands affair. It is a week of general merriment, when all personal and social barriers dissolve with the joining of hands and hearts in joyful exuberance and brotherhood. It was also a week without a single unpleasant incident.

Carnival, 1974, was exceptional because of its size and intensity, the high level of community spirit expressed by participants, and the professional work of the organizers. Carnival Committee Chairman Alfred Lockhart deserves special congratulations for his efforts.

But the most vital part of the carnival is the union of human beings in their mutual expressions of joy. It is wonderful to see visitors from all over the Caribbean, the United States, and the world, joining Virgin Islanders to dance, sing, and laugh together. Where else but in the Virgin Islands could so many different individuals spend a week together and produce such a beautiful, incident-free, joyous occasion?

All in all, an extraordinarily enjoyable week that has provided enough memories to last the whole year. I personally invite my colleagues to join us for next year's carnival, so that they can experience the truly free and beautiful hospitality of the Virgin Islands.

The article follows:

[From the Virgin Islands Daily News, Apr. 30, 1974]

CARNIVAL 1974: ONE OF THE BEST EVER

This year's Carnival, it seemed to us, was one of the best in several years, and we particularly noted that it seemed marked by a healthier community spirit, and that all the diverse elements of our society of the period than has been the case in recent years. Both at the Village and at Friday morning's jouvert we noted more visitors and residents of mainland origin partaking of the gaiety and excitement, and the result seemed to enchance the enthusiasm of the true Carnival spirit of joy and merriment.

One of the highlights of the week had to be jouvert, which brought thousands of people and five bands out into the streets at 5 a.m. in an enthusiastic display of spirit. In only its second year here, this institution borrowed from Trinidad seems to have become a fixture and a highly welcome addition to Carnival. For both residents and visitors alike it was a truly memorable experience.

Both the adult and children's parades this year seemed to be possibly the best ever, with costumes and floats reaching new heights of originality and colorfulness, and the numbers involved in the adult parade's floupes and troupes must certainly have made it the largest ever. Only the lateness of that parade's start, a chronic problem, detracted from its enjoyment, and we trust that next year, for the sake of both participants and spectators, a wholehearted and determined effort will be made to get the adults to show that they can start a parade on time, just as the children usually do.

Among those members of the community who specifically merit praise for their contribution to Carnival are the police. They seemed more in presence than we have noticed before, and that was in itself welcome. Equally important, though, their tactical deployment and personal conduct were noticeably of an improved level professionally. Considering the added responsibilities that events such as Carnival put on the police, we were heartened so to see them rise to the occasion in such a commendable manner.

Carnival Committee Chairman Alfred Lockhart specifically deserves personal commendation for his dedicated efforts to make this year's Carnival what it was. In addition to him, the committee members and other officials, there were many who toiled behind the scences, as well as those whom we saw in the parades and other events, who worked very hard to make Carnival 1974 the success that it was. They and the thousands of spectators, whose role is also essential to the creation of that intagible thing that makes the real Carnival atmosphere, deserve the thanks to the entire community.

"THE SPIRIT OF CUMBERLAND"

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. BYRON. Mr. Speaker, as many of my colleagues now know, William C. Holbrook of Cumberland has been declared the winner of the longest glider race in the world. Because this personal achievement is so noteworthy I have submitted for the RECORD an article from the Cumberland Times which describes the adventures of Mr. Holbrook and *The Spirit of Cumberland.*

I know you join me in extending congratulations to Mr. Holbrook and his local sponsor, the Kelly-Springfield Company.

The article follows:

HOLBROOK FIRST IN NATIONAL GLIDER RACE

It's official!

William C. Holbrook of Cumberland is the winner of the longest glider race in the world, the third annual Smirnoff sailplane derby.

The route covered 2,900 miles from Los Angeles to Washington's Dulles International Airport where a ceremony was held today by the sponsors of the race for the press and television.

Six of seven gliders in the race made it from Akron to Frederick yesterday and this morning were towed in the air the 30 remaining miles to Dulles International for the program at noon. They flew in the order they finished.

It was announced by race officials that Mr. Holbrook came in first by 45 points over his nearest rival.

To him goes a gold medal, but no cash award as it is an amateur sport. Sponsors will contribute $6,000 to the Soaring Society of America.

At Dulles for the conclusion of the race were officials of Holbrook's local sponsor, the Kelly-Springfield Tire Company, local flying enthusiasts and his crew—his wife, Sophie, and their 19-year-old daughter, Lisa.

The officials included Robert E. Mercer, president; Richard Lowery, executive vice president; and Jerry Hess, public relations. They also met him yesterday at Frederick along with local friends.

Yesterday Holbrook came in second on the 245-mile flight from Akron to Frederick. He made the flight in three hours and 42 minutes, which was ten minutes under the three tying for first—Karl Striedieck, Pittsburgh; Ken Briegleb, El Mirage, Calif., and Hannes Linke, Los Angeles.

One pilot, Dan Pierson of Compton, Calif., was forced to bring his glider down near Pittsburgh due to a rudder failure, but was reported to have made a safe landing.

Holbrook, when interviewed by phone this morning, said he was very excited at having won the race, but he believed his crew, his wife and daughter, were even more excited than he.

Asked what kept him going, he answered. "Well I guess it was the name of my glider, The Spirit of Cumberland."

He pointed out that he flew more miles than any other pilot in the three years the derby has been held.

Poor weather caused Holbrook and the six other pilots to land short in Missouri and also on the St. Louis to Indianapolis when again the weather forced them down.

Subtracting this distance, Holbrook flew a total of 2,714 miles out of a possible 2,900 miles.

He remarked that yesterday's route from Akron to Frederick took him over Bedford Springs Hotel, and he then talked by radio to his friends at the Cumberland Municipal Airport.

This is the second May in a row that Holbrook has set a mark in gliding. Last May he broke the world's record for distance flown in one flight when he made the trip from Lock Haven, Pa., to Hansonville, Va., and return, a distance of 83 miles.

ENDING OIL TAX PRIVILEGES

HON. FRANK J. BRASCO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. BRASCO. Mr. Speaker, among the major highlights of every congressional session are the anguished, angry cries for tax reform voiced by most progressive Members of the House and Senate. As one such Member, I have engaged in what has proven to be an exercise in futility for the entire length of my stay in Congress. Each year the cumulative outcry has been louder and each year it has been futile.

Simultaneously, the people of the Nation have gotten more frustrated, until this year the entire business has been capped by the worst revelations yet: the oil industry's tax evasions, their extraordinary profits, and the energy crunch imposed on the consuming public by their activities.

At last enough Americans have been hurt enough in a personal sense for Congress to feel the pinch. So at last we have some action at the top, mainly in the House tax-writing committee, Ways and Means. It is to the credit of that body that they have acted promptly since the energy crunch, and have produced a true oil tax reform bill.

The legislation taking form in that committee, we are informed, would raise the taxes of American oil companies by more than $16 billion over a 6-year period, which is a good beginning. Under its provisions, the oil depletion allowance would become a thing of the past, perhaps one of the most overdue reforms in tax history. With oil prices going through everybody's roof, there is no reason whatsoever for a further tax incentive of this type. Many oil wells in this country have been written off more times than the Lost Battalion.

In addition, the proposed measure is supposed to tax excess oil profits and raise taxes on U.S. companies drilling overseas. Here is perhaps the most vital reform element in the entire bill, because previous tax allowances have made it lucrative for oil companies to concentrate their exploration efforts abroad, insuring that their domestic exploration endeavors would be cut accordingly.

Regrettably, natural gas producers, who in most cases are the major oil companies, would retain their present 22-percent depletion allowance.

According to what is known now, the new proposal would extract $13.3 billion in extra taxes from 1974 to 1979 from the major oil corporations. This would come from their domestic operations, while an additional $2.8 billion in Federal taxes would come from their overseas activities.

For years, whenever any effective tax reform measure affecting big oil made its way through the Congress, the oil industry mounted a massive lobbying effort against it, and usually with enormous success. We can expect a repetition of that endeavor this time, and must prepare for that eventuality.

One element in the equation, however, has changed. The people of this country have finally become aware of what big oil has been perpetrating upon them all this time. They now know that the average citizen pays more tax proportionately than the average oil company does. They know now that the accumulated tax preferences constitute the worst single tax scandal in American history. They now know that the only reason this situation has been allowed to continue and worsen is because Congress has not seen fit to close the gaping loopholes in the tax laws. And the recent energy crunch has brought these lessons home to them in a direct, personal manner.

All the self-serving, tax-deductible advertisements in the major media would not undo the realization in the public mind that this is in fact the true state of affairs. Most of all, the average person now knows that for every penny the oil companies evade in tax, the Internal Revenue Service must collect from the mass body of American taxpayers.

That leaves the initiative squarely up to the Congress. When that bill comes to the floor, there will be an up-or-down vote on whether or not every Member of this body will stand by the oil industry, which can be described as a parasite on the body politic of this country, or for the average taxpayer. To put it in any other terms is to deliberately obfuscate the issue.

When the oil lobbying establishment talks about incentives and foreign taxes, we can respond that their massive, tax-sheltered profits are the best incentive in the world for further exploration. We can also respond that every penny in foreign tax that they pay is written off, dollar for dollar, against their domestic Federal taxes. The facts are at last largely on the public record, and the people of this country have a right to know where the Congress stands on this. If the President then chooses to veto any such congressionally-approved bill, as he did the measure we passed rolling back oil prices, then the people of the Nation will know exactly who has done what to whom.

We have a spectacular opportunity here to act in the public interest. Such a vote would set a precedent for closing still other tax loopholes, which are equally scandalous. This includes the millionaires of the Nation who pay no taxes at all. If true tax reform were enacted by Congress, and there is no reason why this should not be the case, we could effectively and swiftly lower the tax burdens now carried by the vast majority of Americans.

If Congress chooses to refuse such an opportunity, the American people have a right to know who is responsible.

OIL SHALE LEASE FAILURE PRESENTS OPPORTUNITY FOR A FEDERAL OIL CORPORATION

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. VANIK. Mr. Speaker, the Department of the Interior yesterday held a lease sale for the fifth tract of land offered in the Federal prototype oil shale leasing program. This tract, the first to be offered in the State of Wyoming, holds recoverable reserves of at least 168 million barrels of oil according to figures in Interior's final environmental impact statement on the prototype program.

Not a single bid was received for the tract.

No bids were received on this tract despite intense industry interest in the previous four tracts. The first two, in Colorado, brought bids that far exceeded the Department of the Interior's expectations—but still amounted to a return to the public of less than 6 cents per barrel in the first lease, and less than 17 cents per barrel—of estimated, inplace resources—in the second lease.

The third lease, the first in Utah, unexplainably brought almost 31 cents per barrel despite presenting more difficult mining problems than the previous leases. Equally unexplainable, the fourth lease returned to the 17-cent-per-barrel level.

The fact that not one company bid on Tuesday's tract indicates several things.

Since the second Wyoming oil shale tract is of even poorer quality than today's, it probably means that that tract will go unsold as well.

Perhaps most importantly, the lack of a lessee in this fifth prototype lease invalidates what Interior has continually assured us is a "prototype" operation—a program that will test all the most efficient means of commercial oil shale extraction while guaranteeing a "fair" return to the public and environmental rehabilitation of the affected lands.

None of the leaseholders have announced intentions to recover shale oil with any other method than aboveground retorting of the ore. What does this do to the Department of the Interior's claim that the prototype program is a carefully planned program to develop all reasonable recovery methods. Will we ever see large-scale application of the in situ recovery techniques?

Mr. Speaker, the lack of bids on the Wyoming tract makes available an opportunity that we might not have had otherwise; it gives the Federal Government a perfect chance to establish its own oil shale corporation. Such a corporation, perhaps confined specifically to development of these "W–a" tract lands, could put to the test the concept of a Government oil entity, created to foster competition in the industry and provide a "yardstick" for comparisons with private industry prices and costs.

Beginning in 1859 with the first commercial recovery of oil in our country, the oil industry has sought to prevent any direct Government activity in their industry. Government control or regulation or competition would not serve the consumer's best interests, they said. "We must leave the oil business in the hands of 'free enterprise'," they have contended. Yet the industry has accepted hundreds of billions of dollars in tax and quota subsidies from the Federal Government.

We have seen that leaving the oil business to the oil industry has resulted in unprecedented problems: Soaring prices, monopoly control, neglect of the public's interest, and abuse of the consumer are all symptoms of the illness that plagues this most important area of our domestic energy supplies. It is hard to imagine how a poorer job could be done.

This opportunity to create a Government oil corporation should not be passed by. It is an opportunity long awaited by many Members of Congress.

HARVEST OF DEATH

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. WOLFF. Mr. Speaker, the Daily Journal of Elizabeth, N.J., recently printed an editorial entitled "The Harvest of Death—Congress Should Cut Off Aid to Turkey If Poppy Growing Is Resumed." I would like to take this opportunity to applaud the Daily Journal's editorial page director, Theodore Jacqueney, for supporting our most recent congressional efforts that urge the President to immediately begin serious, high-level negotiations with the Turkish Government so that the ban on opium cultivation will not be removed. If these negotiations prove fruitless, the concurrent resolution offered by Representative RANGEL and myself, would direct the President to exercise his power under the Foreign Assistance Act to cut off all aid to Turkey. The Daily Journal's editorial is inserted below:

HARVEST OF DEATH: CONGRESS SHOULD CUT OFF AID TO TURKEY IF POPPY GROWING IS RESUMED

Instead of getting exercised by penny-ante problems like the contents of the junior high school library shelves, people concerned seriously about the plague of drug addiction in these United States should direct their outrage to the impending decision of the Turkish government to renew widespread opium poppy cultivation next fall.

Until the Turks ended poppy growing two years ago—after heavy U.S. pressure and $35 million in "compensation"—80 per cent of the heroin ravaging the streets of America originated in Turkey. Law enforcement agencies have observed that heroin traffic slowed appreciably this year, with the Turkish ban receiving much of the credit. Within Turkey, however, many politicians increasingly urge the ban be overturned. The Turkish foreign minister was quoted recently as saying that farmers for whom opium growing was "a way of life" have "undergone severe poverty" because they can no longer grow as a cash crop the pretty flowers that can be fabricated into deadly drugs.

Well, slavery was another "way of life" that kept white southern farmers fat and contented before the Civil War. Slavery was no less abominable an economic system of exploitation and degradation of human beings than the system opportunistic Turkish politicians seek to impose upon the inhabitants of American urban areas. We must raise our voices against them loud and clear.

Some members of Congress propose cutting off U.S. military and economic aid to Turkey if they lift the poppy ban. The leaders of this move are New York Democrats Charles Rangel and Lester Wolff.

New Jersey's congressmen should join in this effort.

SOCIAL SECURITY TAX

HON. DAN DANIEL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. DAN DANIEL. Mr. Speaker, last month we met our tax obligations to the United States, and in the Commonwealth of Virginia we have just completed a like duty. According to the Tax Foundation, just a little over a week ago, we stopped working to meet our myriad tax obligations, and started to earn the sums required for our food, shelter, and clothing. Given the rapid escalation of inflation, only the very fortunate among us will find any days this year left over which can be credited to life's comforts or—more importantly—savings for either the proverbial "rainy day" or for our later years.

One of my constituents, Mr. Ray Mabe of Danville, Va., has written me about taxes generally and specifically about the effect the escalation of social security tax is having on young couples in low- and medium-income brackets. I am inserting his letter in the RECORD in order that it may be read by the Members:

DANVILLE, VA.,
March 1974.

Hon. DAN DANIEL,
Congress of the United States,
Washington, D.C.

DEAR MR. DANIEL: I am writing in hope that you will read this letter to the Congress and also in the hope of avoiding another crisis in this country. The crisis to which I refer is that facing the taxpayers.

We all go to work and work hard to make a living, and these days it's tough because of rising inflation and taxes and paying more for everything we get from food to gasoline. And now the House has approved an 11 percent increase to Social Security people, which they will get next month.

How are we going to keep paying these outrageous increases in Social Security?

I believe Social Security is one of the cruelest aspects of our society today. Why? If you place money in the bank, you do so in confidence that it may be withdrawn with interest, but I cannot be guaranteed that I will receive the money that I have contributed to Social Security. I feel that the program should be changed. What is the purpose of both wife and husband paying Social Security if they only get the benefit of one?

My wife and I both work, and we both pay Social Security taxes. Yet when we retire she can only receive what she paid in or what she would get as my dependent. We could both die before retirement, and our children, depending on how old they are, would get nothing. Many of us taxpayers feel this is not fair.

Since Congress is so intent on Social Security legislation, I think it is the only honest way of doing things to see that families that pay double taxes can leave it to their children. We are forced to pay money into something which neither we, nor our children, may receive the benefit from.

If something is not done, there is going to be a rebellion by the taxpayers. Although I may be just one taxpayer, unless I get some relief from Congress in order to pay these ever-increasing payments to Social Security (which may be all for nothing), I shall request my employer to stop deducting Social Security taxes from my pay. I believe that I should have this right, as I must authorize any deductions from my pay.

Maybe the government will put me in jail; but it will have to support my family, and this will be just another headache for the government. It may also make the taxpayers aware of the fact that something must be done.

I work in the grocery business and I have had one 12-cents-an-hour raise in over a year. The people on Social Security have had five increases in the last two years, and I have had to pay the increases due to the freezing of wages in the grocery business.

My employer signed a contract with our union to pay wages as follows: January 16, 1972—$3.455; January 14, 1973—$4.005; and on July 15, 1973—$4.275. They have not had to pay the increases due to the freezing of wages in the grocery business. We are supposed to be making $4.275 per hour now, but I am making only $3.50. Quite a difference, isn't it? Congress allows the business to appeal our wage increases, but we cannot appeal an increase in Social Security. We just have to take another cut in pay and try to make it.

I don't know what the increases are actually, but I have heard a person on Social Security can get $355 a month, and this is tax-free money. Now I make $560 a month, and that is taxable. After taxes and Social Security are taken out I draw $385.32. That's a difference of only $30 net, and I have children to raise.

Gentlemen, I know all of you have heard the old saying, "Go to the well too often, and it will dry up." Well, you and I both have seen this in our lifetimes. With the environmental people stopping our nuclear plants because they are dangerous, stopping coal-burning generators because they are bad for the environment, this has led to using other fuels such as gas and oil, and now we are about out of both.

Well, Members of Congress, this Social Security "well" is just about dry now. I cannot afford to pay any more increases because before too long I won't have any money for myself.

I know these people are having a hard time, but what about me? I am the one footing their bill. It is taking away from me to give to them and you keep my wages frozen. That's killing me, and all the other taxpayers in the nation. Gentlemen, I beg you please, no more increases in Social Security and Welfare. Leave our wages free of controls; otherwise, we won't be able to pay the increases you keep proposing. As I said before, your well has run dry, and a taxpayer revolt could only cause another crisis which surely would hurt our country more than anything else could.

If you legislate to give a cost of living increase in Social Security, why not make the same law apply to our wages by the same amount. I think this is a good idea don't you?

Thanks again, Dan and Congressmen; I wish I could meet all of you someday, but I guess that is just about impossible.

Sincerely yours,

RAY MABE.

CONGRESSMAN ROGER ZION RECEIVES UNIQUE DISTINCTION

HON. WILLIAM G. BRAY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. BRAY. Mr. Speaker, I believe the following editorial from a recent edition of the Lawrence County, Ind., Daily Times-Mail, speaks for itself. It is a fitting tribute to our colleague, ROGER ZION; he speaks for his people, and, as the editorial makes clear, the people agree:

UNIQUE DISTINCTION

Eighth District Congressman Roger Zion has received a unique distinction which should endear him to the masses of people who feel that it's high time we get ecologists and environmentalists under control before they throw the country into utter chaos.

Zion was chosen for membership in the Environmental Action's "Dirty Dozen" for his record on voting on national issues the organization considered important. Environmental Action, a political lobby in Washington, said Zion voted wrong on 15 of 16 legislative issues. The organization urges his defeat at the polls this year.

Indiana congressmen scored very well. They captured three positions in the Dirty Dozen list. That's 25 per cent. Indiana has more congressmen on the list than any other state. Other Hoosiers on the list are William Hudnut and Earl Landgrebe, both Republicans. It might be interesting to note that 10 of the 12 men on the list are Republicans and the other two are Southern Democrats.

In our way of thinking, being opposed by Enviromental Action is something akin to being opposed by communists or socialists. It's something of a kiss of death in reverse. The men who had the best records of voting "wrong" are those who demonstrated that they are pro-industry, pro-labor, pro-energy, and who are opposed to shackling business, industry and agriculture with unrealistic regulations which cause great loss of jobs, profits, food and energy in a time of crisis.

Environmental Action said that Zion and Landgrebe have won membership on the Dirty Dozen list three times.

Here are some of the issues on which Environmental Action says Zion voted wrong:

1. He voted against extracting $700 mil-

lion from the highway trust fund for spending on mass transit. The trust fund consists of money paid in federal gasoline and diesel fuel taxes.

2. He voted for an amendment which would have cut a U.S. pledge of money for international environmental research from $40 million to $5 million.

3. He voted against use of public funds to help pay for legal aid for women seeking *abortions.*

4. He voted against shifting authority over nuclear power plants from the Atomic Energy Commission to the states.

5. He voted in favor of use of nuclear power to release natural gas from tight rock formations in the Rocky Mountains.

6. He voted against spending $4.7 million in federal funds for research to find sources of energy as alternatives to atomic energy.

7. He voted against transferring standard-setting authority in handling of farm pesticides from the Department of Agriculture to the Occupational Safety and Health Administration (OSHA).

8. He voted to tone down somewhat the Environmental Protection Agency's authority over so-called hazardous chemicals.

9. He voted against a proposal to forbid construction of the Alaskan oil pipeline across national forests, national refuges or national wilderness land. He also voted against an anti-Alaskan-pipeline amendment, and another amendment which would have compromised the pipeline project. In other words, Zion voted against any further delays in the pipeline project.

10. He voted against using federal funds to subsidize mass transit operating expenses.

11. He voted to reduce from $45 million to $5 million for an ecology-related educational program.

12. He voted in favor of extending from 1975 to 1977 deadline for compliance with the 1970 clean air act as contained in the emergency energy act.

13. He voted in favor of a measure which would have required building designers to promote efficient energy use in homes, commercial and industrial buildings. (Zion was recorded by Environmental Action as voting correctly on this issue.)

14. He voted against an amendment which would have shifted emphasis away from nuclear fuel for electric energy production.

By winning listing on the Dirty Dozen, Rep. Zion demonstrated that in his opinion the nation went much too far, too fast and often without facts in the fields of ecology and environment. We heartily agree.

PREVENTING THE ABANDONMENT OF RAILROAD LINES

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. ASHBROOK. Mr. Speaker, I have introduced a bill—House Joint Resolution 1008—to prevent the abandonment of railroad lines. The bill will prohibit the abandonment of railroad lines until June 30, 1976, thus allowing a national transportation policy to be put into effect.

In the absence of a finalized railroad service plan and at a time that the Federal Government is heavily subsidizing railroad transportation, I oppose abandonment of railroad lines serving many millions of Americans. Railroad freight lines are vitally important to hundreds of medium-sized and small-sized communities in our country. In our own 17th Congressional District, existing railroad service plays an important role in agriculture and industry. My bill will put a moratorium on railroad line abandonments until June 30, 1976.

Recently the Secretary of Transportation released a report which called for the elimination of numerous railroad lines in Ohio. I am opposed to this wholesale elimination. The "Evaluation of the Secretary of Transportation's Rail Services Report" which was prepared by the Rail Services Planning Office points out a number of weaknesses in the report of the Secretary of Transportation including a lack of complete data. There are a number of other shortcomings and problems with the Secretary of Transportation's Rail Services Report. I urge the Secretary to revise his findings to make sure that necessary rail service is continued.

My bill preventing the abandonment of railroad lines will allow further public involvement in this matter. Also it will give the Congress a chance to pass on the Department of Transportation's final rail plan without being faced with accomplished rail line abandonments that would be difficult and expensive to reopen. The text of the resolution follows:

H.J. RES. 1008

Whereas the national transportation policy of the United States has as an objective the development and preservation of a national transportation system by rail; and

Whereas the transportation requirements of the United States will double within the next ten or twenty years; and

Whereas the development and preservation of a national transportation system by rail is therefore a matter of the highest priority; and

Whereas the continued development and preservation of a national transportation system by rail is essential to the continued economic viability of communities throughout our Nation; and

Whereas such a system is essential to the continued existence of industries located throughout our Nation; and

Whereas the United States is threatened with wholesale abandonments of railroad lines serving such communities and industries throughout the United States; and

Whereas railroad lines once abandoned cannot be reactivated except at enormous cost; and

Whereas our Nation's future transportation demands may require the reactivation of abandoned rail lines at public expense; and

Whereas there presently exists no considered, uniform natitonal or regional means of dealing adequately with present and future rail transportation needs of the United States and certain railroad carriers which seek to abandon vast portions of their systems because of present financial considerations; and

Whereas such abandonments may well be contrary to our Nation's national transportation policy of development and preservation of a national transportation system by rail: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Interstate Commerce Commision shall not authorize the abandonment of any line of railroad pursuant to the provisions of section 1 (18)–(20) of the Interstate Commerce Act, as amended, prior to June 30, 1976.

FORGIVE THEM

HON. HENRY P. SMITH III

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. SMITH of New York. Mr. Speaker, in a year of energy shortages, inflation, unemployment, Watergate, and many other important issues, little attention has been given to the rising controversy surrounding patent reform. However, more and more interest is being generated in the question and philosophy of patent reform.

For the benefit of my colleagues who wish to start to become knowledgeable about the issue of patent reform, I submit an article by Mr. Arthur R. Whale, president-elect of the American Patent Law Association, entitled "Forgive Them—."

The article follows:

FORGIVE THEM—

(By Arthur R. Whale)

Increasingly in recent years, technology has become an instrument of national policy. The exploration of space, concern for the environment, the energy crisis, the GNP, the balance of trade, the foreign use of U.S. technology by multinational corporations—all involve technology and its utilization, and all have profound political and economic overtones. The patent system, which implements a constitutional provision for promoting the development and utilization of technology, should therefore assume new importance in the world of today. But, incredibly, just when it's needed most, the system is in mortal jeopardy.

The patent philosophy is simply the idea of the "head start." Give a man the chance for the right to prevent others from using his invention for a limited period, and he will more likely devote his time, talents and money to developing new inventions for market; in this way he can reasonably hope to recover costs and earn a profit before others take a ride free on his efforts. Indeed, the protection afforded by patents may be indispensable to the individual inventor and small company in competition with large companies for the marketing of new and better products. And given the incentive of the prospects for patenting, large companies are more inclined to invest in expensive research facilities and programs where the chances for success are relatively low but where the potential profit from a successful venture is relatively high.

But a strange thing is happening. Although only about ½% of all patents are litigated, and the federal district courts invalidate less than half of those, some courts lash out at patent owners, the Patent Office, patent lawyer and the patent system in general with unseemly vengeance. One court recently summed up the prevailing antipatent attitude in these words: ". . . monopolies—even those conferred by patents—are not viewed with favor." Strangest of all, however, is the fact that distrust of patents has been fed from a wellspring of antipatent sentiment in one branch of the same Government that grants the patents.

The matter of greatest present concern is that the Congress will succumb to the active antipatent lobby within the Government. There is legislation pending in both the Senate and the House which in important respects would seriously hamper the patent system in its proper functioning to meet the constitutional objective. The danger is the greater because the bill on which the

Senate is concentrating is a so-called "Administration" bill.

Patent legislation is, of course, highly technical. Our busy congressmen can't be expected, in any great numbers, to study the various bills and evaluate their potential for ill or good. Moreover, from the political standpoint, this "Administration" bill has what could be an unbeatable triad of support. It was written in the Antitrust Division of the Department of Justice, it has the support of Senator Hart (a prominent Democrat ostensibly knowledgeable in patent matters as a member of the Patent, Trademark and Copyright Committee of the Senate), and it has the comforting appeal to Republicans of bearing the official stamp of the Administration. There is a clear and apparent danger that such a bill will pass the Congress.

The Administration bill is S.2504 (H.R. 10975). It embodies the *antitrust philosophy of patents* expressed in the judge's words referred to above. Instead of being fashioned to promote the development and utilization of technology through making patents reasonably available at reasonable costs to inventors, it is designed to assure the subservience of patents to antitrust. It does this by making patents extremely difficult to get, narrow in scope, difficult to enforce, and unmercifully expensive.

This approach precipitates a paradox. It is nowhere written that the patent system must serve the ends of antitrust. Quite the contrary, the Constitution ascribes no special purpose to the "monopoly" of the patent. Indeed, our patent laws were with us a hundred years before the first antitrust laws.

It is no less a paradox that the Administration chose the antitrust approach of the Department of Justice to patent legislation over that favored by the Department of Commerce, in which the Patent Office resides. The Administration did this following the embarrassing confrontations of the Department of Justice and the Department of Commerce at Senate Subcommittee hearings on patent legislation in 1971, decreeing thereafter that a single voice would speak for the Administration on patent matters. However, choosing the Department of Justice as its voice on patent legislation was like putting a vegetarian in charge of the meat market!

The Antitrust Division of the Department of Justice has occupied itself unduly with patent matters in recent years. Through luncheon speeches and published statements it has repeatedly displayed its distrust for patents and expressed its parochial, antitrust-oriented views as to what the laws of patent utilization should be. And recently the Department of Justice launched a major effort on behalf of legislation that would require the compulsory licensing of privately owned patents of Government contractors in the energy field. The Administration, speaking this time through the Department of Commerce, has firmly opposed such legislation as seriously diminishing the incentives needed to attract competent contractors and to stimulate private investment in technological development. It is this same Department of Justice that now would rewrite the substantive law of patents. And it is this same Administration that has made the Justice bill its own.

While professing that S. 2504 would counter the "emerging pattern of influence by large and established corporations," the Department of Justice has written a patent bill that would price patents out of the reach of many deserving applicants. The cost *increase* in the operation of the Patent Office under the Administration bill was estimated by the Department of Commerce to be possibly as high as $31 million annually. This would mean an increase of 43% over the current Patent Office budget. Such increases would almost surely be passed along to applicants for patents. And these increases do not include the enormous increase in attorneys' fees that would follow the added services required by S. 2504.

One might say that S. 2504 is a "lawyer's bill" in the sense that it would generate more fees for more lawyers than any patent legislation ever proposed. But the overwhelming majority of patent lawyers and organizations within the Patent Bar are opposed to S. 2504 in the Senate and H.R. 10975 in the House simply because technically and practically they are bad bills.

There is also pending in the Senate S. 2930, introduced recently by Senator Buckley of New York. Its counterpart in the House is H.R. 11868, introduced last fall by Representative Smith of New York. This proposed legislation is known as the "Patent Law Modernization Bill." It was presented for introduction by the American Patent Law Association and is the result of long and intensive efforts by committees of that Association and of the Patent, Trademark and Copyright Section of the American Bar Association. Their approach was to create a practical and workable continuum from the present law that would bring important changes without losing the direction of the decisional law as to basic premises. Its implementation would logically evolve from today's Patent Office, thereby minimizing the added cost that in the Administration bill would reach debilitating proportions.

In viewing the Bar sponsorship of S. 2930 and H.R. 11868, it is well to remember that the patent profession brings a broad representation of points of view on how to structure an effective patent system. The active Patent Bar includes the "prosecutors" of patents and the defenders of patents, as well as counsel for individual inventors, small companies and large companies. The important point is that *there are no vested interests guiding the Patent Bar in designing its proposals for patent law reform.* The efforts of the Bar are simply the efforts of lawyers knowledgeable in the problems of the patent system and in the practicalities that are essential for their solution.

In the brief period since the introduction of the Patent Law Modernization Bill (S. 2930 and H.R. 11868), support has been expressed by many professional associations, industry groups, companies and individuals concerned with improving the patent system. This bill is seen as progressive without overkill, reasonable in cost and complexity and attentive to the role of the patent incentives in the development and utilization of technology for the problems of today.

Senator Hart predicted last fall, when he introduced a patent bill drafted in the Senate Monopoly Subcommittee, that the subject of patents would not attract the interest of many Congressman. He said: "[i]f we were measuring the 'potential boredom rate' of various topics for conversation on a scale of 1 to 100, patents would probably get a 99." If, indeed, the subject of patents has such a narcotizing effect, we might get a bad patent bill like S. 2504 by default. On the other hand, the importance of the patent system to many of our national issues may create more interest in patents than Senator Hart supposes. And there lies the hope for a closer look at the problems inherent in S. 2504 and H.R. 10975—and at the redeeming features of S. 2930 and H.R. 11868.

THE BIG BROTHER SYNDROME

HON. FRANK J. BRASCO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. BRASCO. Mr. Speaker, many years ago, George Orwell wrote his now classic "1984," in which every phone is tapped, every person watched, and every action scrutinized. Computers and television screens as well as hordes of police joined helicopters and a swarm of other technological sophisticated devices in controlling the lives of all members of that futuristic society.

While we admired the book as a classic and made it required reading in umpteen schools and universities, most Americans laughed a bit nervously and told themselves that such a reality was, of course, impossible. Regrettably, that has turned out to be mass delusion. "1984" is on schedule, in Orwell's as well as calendar terms, and we shall fall prey to it uness the Nation rises to the challenge laid before us.

Consider some of the evidence we have had laid before us in recent months and years. Credit bureaus are collecting masses of evidence on millions of Americans, usually without their knowledge. Such information is passed on for a price, often emerging as erroneous, marking people for life.

States and other jurisdictions which acquire massive lists of names and addresses sell the lists to professional list houses, which in turn sell the lists to direct-mail operations. Unsolicited mail and telephone sales pitches are so common as to be virtually commonplace in every area of the land.

The Federal Government has been shown to be invading the private lives of millions of Americans, as groups and individuals. We have all been appalled at exposes of the activities of the Federal Bureau of Investigation during the Watergate scandals. Raw files are compiled on millions of people and leaked to those with power. The FBI, as a recent ABC News special showed, maintains a private national computer network, complete with files on "security risks" who conceivably would be forcibly detained in some national crisis.

The intelligence activities of the U.S. Army have become widely known, and we are beginning to understand just what the CIA and NSA have been doing with the secret multibillion-dollar budgets voted them over the years.

Computer networks are springing up around the country, usually in the name of efficiency and good business practice, and they all exchange information of one sort or another. Time sharing on computers can easily become data sharing, for security between computers is even more primitive an art than the ABM.

Mail covers are used by the Federal Government. Dossiers are compiled on enemies, whoever they might be at a given time.

What it all boils down to is that for political, strategic, economic, or just plain contrary reasons, the personal lives of millions of citizens are being invaded without their knowledge. Often such facts are used against them, and they are given no chance to know who is doing what to them and for what reason. Government is actually leading the way, setting a standard that is being widely emulated by industry. The most sophisticated technology available is being brought to bear on this situation, compounding the problem and accelerating the pace of the syndrome. Its cumulative effect inhibits individuality, creates fear, stifles dissent, and stultifies society.

Of late there has been a significant amount of concern expressed here in the Congress over this state of affairs. Legislation has been introduced by a number of my distinguished colleagues, and I have joined in sponsorship of much of this legislation. Much of it is still pending. Much of it should be passed and brought to the floor of the House for a vote, which many of us who support these measures would appreciate.

Before the end of this Congress we can and should make sure that the following bills and proposals have become law:

Individuals to be apprised of records held by Federal agencies and have certain rights of access.

A Federal privacy board should be created to regulate personnel information practices.

A code providing standards of fair information practices should be created.

Bills governing illegal financial disclosure by financial institutions should be passed.

Practices of distributing, selling, or otherwise making available lists of names and addresses of individuals should be prohibited.

Bills to protect political rights and privacy of individuals and organizations and to define authority of the Armed Forces to collect, distribute, and store information about civilian political activity should be passed.

We must legislate to protect Federal employees against unwarranted Government privacy invasions.

Use and dissemination of criminal arrest and other law enforcement records, especially related to the National Criminal Identification Center programs, should be controlled.

A Select Committee on the Right to Privacy should be created.

We must restrict wiretapping, prevent transfer of personal income tax records, limit mandatory decennial census questions, and prohibit unsolicited phone calls for commercial purposes.

Congress has the will and the votes to pass these. We know the problems and we have but to act.

THE CASE FOR A FEDERAL OIL AND GAS CORPORATION—NO. 33

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. HARRINGTON. Mr. Speaker, when the Arab nations imposed their oil product boycott on the United States as an economic weapon in their October war with Israel, Americans began to realize their outside dependence in energy matters.

There is no longer any question that the United States cannot continue to depend so heavily on the Arab states for its energy needs.

We all realize that increased private research and investment must be encouraged to trigger development of domestic fuel resources and alternative sources of energy.

I believe, however, that we should not allow ourselves to stop there. In those same months when American dependence on outside fuel sources was dramatized, the American people also learned of the influence—indeed the dominance—of the major oil companies in the energy business. Besides realizing that the oil companies accrued outrageously high prices at the expense of American consumers struggling to conserve fuel and minimize the increase in their fuel costs, we have learned of the oil companies' far-reaching influence extending into many aspects of our economic and political system.

There is, however, an alternative to continued major company domination, an alternative which would insure adequate fuel supplies without high prices and the inherent dangers of either public or private monopoly.

The Federal Oil and Gas Corporation, a proposal that has steadily gained supporters and respectability within academic, government and industry circles, would be such a step.

A Federal Oil and Gas Corporation would help decrease American dependence on the Arab nations for fuel, and would provide a needed competitive spur in an already uncompetitive industry.

We cannot allow the opportunity to deal with the energy crisis in general and with American dependency in specific to pass. Energy is a critical resource in an industrial society with a high standard of living.

I would like to bring to the attention of the Congress an article by the Washington Post's Jim Hoagland detailing Kuwait's plans to take over more than half of the part-American owned Kuwait Oil Company. The article underscores our energy dependency and emphasizes the need for American energy independence.

Mr. Hoagland's article follows:

Kuwait Takeover Of Oil Firm Is Set

(By Jim Hoagland)

Beirut, Lebanon—In a display of Arab oil militancy, Kuwait's Parliament voted today to take over 60 per cent of the American and British owned Kuwait Oil Co., the second-largest producing firm in the Arab world.

The move is certain to increase pressure on other Arab oil producers to go after larger shares of ownership in Western firms and will probably cause yet another rise in wholesale petroleum prices, oil industry experts here said.

The Kuwait action comes as Saudi Arabia, the world's largest exporter of petroleum, has expressed new interest in negotiations for majority control of the Arabian American Oil Co., Aramco which is producing 8.5 million barrels of oil a day.

The Kuwaiti government, which had staked its prestige on the outcome of today's vote, barely won approval for the proposed 60 per cent takeover. The motion passed with the minimum 32 votes in favor, two against and 19 abstentions.

A majority in the 50-man Parliament and 12-man Cabinet was required for approval.

Radical Kuwaiti parliamentarians had pressed for an immediate 100 per cent nationalization and earlier had succeeded in blocking the government's bill. Dissenting deputies issued a statement saying their "battle for control of the oil has not finished but just begun."

The agreement sets Kuwaiti government ownership of the oil company, formerly owned jointly by Gulf Oil Corp. and British Petroleum, at 60 per cent until 1979, when new negotiations presumably will begin.

Petroleum and Finance Minister Abdel Rahman Atiqi emphasized during the debate on the bill that Kuwait had the right to take complete ownership whenever it desired, by terminating the company's concession.

Atiqi also stressed that Kuwait and other oil producers would continue to set their own prices unilaterally and that Kuwait could continue to control the company's production level. Kuwait is currently producing about 2.6 million barrels a day.

In arguing against complete takeover now, Atiqi said Kuwait needed more time to develop local expertise in all phases of the industry. He also pointed out that Kuwait is increasingly making its own direct investment abroad and should not set precedents that other countries might imitate by nationalizing Kuwait interests.

Gulf and British Petroleum agreed to accept $112 million as compensation for the partial takeover.

The accord replaces a 25 percent participation agreement that was signed by Atiqi last year. Under the old agreement, which the government withdrew rather than submit to a restive Parliament for required ratification, Kuwait would not have obtained majority control until 1982. The Kuwait government announced in January its intention to seek 60 per cent ownership.

The participation concept, which Saudi Arabia, Qatar and Abu Dhabi had also accepted was overtaken by Iraq's complete nationalization of most Western oil interests, Iran's negotiated 100 per cent takeover of its Western firms, and Libya's 51 per cent seizure of most American firms.

The extent of the Kuwait price rise that the new agreement will bring remains unclear because of Saudi Arabia's pledge to bring down the prices that oil producers charge to Western companies. The prices have quadrupled since the October war.

Kuwait will have the right to sell 60 per cent of the total production on the open market to the highest bidders, or to return all or part of it to the companies at "buy-back" prices, which are expected to be about 30 per cent higher than the current "posted" prices that the government charges the companies.

The companies will get the remaining 40 per cent at the posted price, which is currently $11.53 per barrel, meaning an actual tax-paid cost of about $7. The companies presumably will set the price they charge purchasers by averaging the two prices, bringing a rise of at least one dollar on a barrel of Kuwaiti crude.

Oil industry sources said a key test of Saudi Arabia's intentions on the price issue, which has stirred sharp conflict in the Organization of Petroleum Exporting Countries, could come later this month if the Saudis go ahead with plans to stage a sale of about half a million barrels a day on the open market.

Last year, the Saudis set their own price on their part of Aramco's output and offered it on a take-it-or-leave-it basis. There is speculation here that the Saudis might bring their direct sale price down to $9 a barrel.

ST. MARY'S CHURCH, NEWINGTON, CONN., 50 YEARS OF COMMUNITY SERVICE

HON. WILLIAM R. COTTER

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. COTTER. Mr. Speaker, just recently I received a history of St. Mary's Parish in Newington, Conn.

I read this 125-page history with interest and I would like to take this opportunity to summarize it for my colleagues since it shows the history of a church that has played a significant part in the history of the town of Newington.

Over 50 years ago, on June 6, 1920, the first Catholic Church in Newington was blessed and dedicated. This small church was called St. Mary's Mission. Before this church was established, Catholic residents of Newington had to travel great distances to attend Mass. This new church was placed on land provided by Thomas Garvan and had room for 200 parishioners.

By September 1924, St. Mary's Mission had grown to such a size that it was officially recognized as a Parish and St. Mary's received her first priest, the Reverend Edward H. Shaughnessy.

By the late 1920's it was apparent that the little church at St. Mary's Mission could not handle the increased number of parishioners. It was apparent that there was a need for a more permanent structure. By November 22, 1931, the new church of St. Mary's was dedicated by the Bishop of Hartford. The new church was a Georgian structure which had a seating capacity of 450.

Perhaps one of the most touching stories about St. Mary's Parish was the Daniel Shea Memorial Bell. Daniel Shea was a World War I veteran who was not only blind, but confined to bed in the VA hospital at Newington. Dan Shea used his meager savings in order to buy a bell for the church so that he could hear it ring from his hospital bed. On January 12, 1936, the bell was dedicated and Dan Shea's aged father, Maurice, rang the bell for the first time.

Dan Shea lived for only 8 months to enjoy hearing the sound of his bell, but the ringing of the bell continued each Sunday for many years.

In 1939, Father George Clark was named pastor of St. Mary's and he continued in that capacity untl 1956.

During these years the parish continued to grow. Parish organizations such as the choir, guild, men's club, credit union, Knights of Columbus, Catholic Ladies of Columbus, St. Mary's Home and School Association, the Legion of Mary, the parish advisory council, the adult education program, and other groups were formed to meet the needs of the parishioners of St. Mary's Parish. In 1956, Father Joseph Buckley took over the reins of the parish and by September 1958, the new St. Mary's Junior High School was opened and on November 2, 1958, the school was officially dedicated and the first class graduated in June of 1960.

Today, St. Mary's Junior High School has the distinction of being the first Catholic junior high school to have an all lay faculty.

Throughout the years, the parishioners of St. Mary's have given of themselves to keep St. Mary's a viable parish. During the 1950's and 1960's the new school, new convent, new rectory, and the new church were built.

It is perhaps the new church, however, which symbolizes the vitality of this parish. I have gone to this church on a number of occasions and I am always impressed with its physical beauty and the spirituality of its parishioners.

The year 1974 is the golden anniversary of St. Mary's Parish. As I read the parish history, I could not help but be inspired by the dedication and love of the clergy and the parishioners who have made this parish such an inspiration.

I hope that this brief sketch of the history of St. Mary's will give my colleagues an understanding of the accomplishments of this parish. At a time of transition and turmoil, events such as the golden jubilee of St. Mary's takes on special significance.

For the benefit of my colleagues I am enclosing an article which appeared in the Hartford Times last Sunday. I know you will join with me in hoping that the next 50 years are as full of accomplishment as the first 50 years of St. Mary's Parish.

The article follows:

BELL'S RING WILL STIR OLD MEMORIES

(By Jim Coulter)

NEWINGTON.—When the bell at St. Mary's church rings this afternoon to call the parishioners to the High Mass climaxing the year-long Golden Jubilee Celebration, a special parish legacy, intermittently interrupted for a period of time, will be reinstituted.

The ceremonies this afternoon at 4:30 p.m. will include the rededication of the parish bell—originally donated to the church by a blind amputee war veteran who could tell when the Sunday masses would begin by the tolling sounds of the bell.

The bell, which has been in storage, will be officially rededicated in a new tower built on the same spot where the original St. Mary's Church was first dedicated in 1920.

The donor was a World War II disabled veteran named Dan Shea, who was confined to the Administration Hospital.

He became acquainted with the parish in 1933 through the Rev. James P. Timmins, hospital chaplain and St. Mary's administrator who used to give him Holy Communion.

Since intense physical pain and severe transportation problems prevented Shea from attending mass except at special holidays such as Christmas and Easter, he decided to save his meager government checks to purchase a bell for St. Mary's to let him know when the masses would begin on Sundays.

"Dan conceived the idea of giving a bell to St. Mary's church, which he knew to be his neighbor, though he had never seen it. A bell would ring out the summons to mass, and if he knew when Mass was going on, he could 'attend' in his own way from his bed," wrote Mrs. Marjorie Albert who recently authored a Jubilee book of the history of the parish.

"On Sunday evening, January 12, 1936, more than two thousand people attempted to enter St. Mary's Church for the blessing of the bell. Hundreds had to be turned away nearly half an hour before the ceremonies began at 7:30 p.m.," Mrs. Albert wrote. "Two monsignori and several priests were present in the sanctuary while the lay audience included officers of the Newington Veterans Administration Hospital, town and city officials, representatives of veterans organizations, and visitors from Mr. Shea's home town of Holyoke, Mass. Occupying the front seat and accompanied by Major Bannigan was Maurice Shea, 72-year-old father of the disabled veteran," she wrote.

Silently waiting across the road in the Hospital for the bell to toll was Dan Shea, whose gift made the occasion possible.

"Every Sunday after that, Dan's bell was rung five minutes before each Mass, to summon parishioners to church, and to let Dan know mass was about to begin," Mrs. Albert wrote.

"Although this tradition was carried on for years, Dan lived only eight months to enjoy it," she continued. He died Sept. 15, 1936, and was buried in his hometown of Holyoke.

The bell was later housed in a tower built onto the newly-constructed church during the World War II years, but was deactivated when the present church was constructed in 1967. It has been stored away since that time, but will be rededicated at the 50th Anniversary celebration of the parish this afternoon.

Other stories of the founding and growth of St. Mary's are also told in the Golden Jubilee book authored by Mrs. Albert.

St. Mary's which was the first Catholic church ever built in Newington, was originally dedicated in 1921. Since no priests were assigned, the town was regarded as a mission and was administered by St. Bridgid's parish in Elmwood.

The church was built on property owned by a local paper mill owner, Thomas P. Garvan, who also financed the construction. Prior to that, local Catholics had to spend Sunday morning traveling to and from the church in Elmwood, and "without breakfast if you wanted to receive Holy Communion," Mrs. Albert wrote.

As the congregation grew over the years, the original church was replaced by a bigger structure, and a rectory and school were eventually added. As other Catholic churches were built in town, parish lines were formed. The latest St. Mary's church was completed in 1967, and stands to the rear of the original structure, built to the side of what is now Willard Avenue.

At present, some 1,800 families are listed as parishioners of the church.

A year-long series of events have taken place to commemorate the 50th anniversary Golden Jubilee of Newington's oldest Catholic church.

In conjunction with the anniversary, a History Committee headed by Mrs. Albert compiled the book. "The most difficult part of the task was the research," she commented.

Longtime parishioners were looked up and interviewed at first, but conflicting stories were often told to the committee. Numerous old photographs lent by parishioners often settled the differences of opinion, but the best source of information turned out to be the research department of the Catholic Transcript, a weekly newspaper.

The committee began its task last June. "A chapter which was already written frequently had to be redone as new information was received while the printing deadline fast approached," she said.

Mrs. Albert said the book was written because no parish history was recorded before, and because she wanted "to pay adequate tribute to the past and present priests and administrators."

FATHER MIKE MARKS 25TH ANNIVERSARY

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 15, 1974

Mr. GAYDOS. Mr. Speaker, the parishioners of the Ascension of Our Lord Church and the residents of the city of Clairton, Pa., recently honored a man who has achieved an outstanding reputation as a spiritual and community leader in western Pennsylvania.

I was privileged to attend the event and witnessed the esteem and respect accorded the Reverend Monsignor Michael Hrebin by the members of his church, the citizens of his community, and his family and friends. The occasion was the observance of Monsignor Hrebin's 25th anniversary of his ordination into the priesthood.

Father Mike, as he is affectionately known to many, is truly a unique individual. His interests are many, his energy boundless, and his endeavors too numerous to list. He is a man of genuine warmth and friendliness, who can easily instill faith and trust in those filled with doubt and suspicion. He is, to those who know him, an inspiration.

A native Pennsylvanian, Monsignor Hrebin was raised in Forest City, Pa., where his father was a cantor at St. John's Church. Father Mike was a member of the church choir and an altar boy. With this background, in addition to the influence of seven other cantors in his family, it is not surprising that he became well accomplished in the principles of ecclesiastical chants at an early age. At the age of 16, he became a cantor himself at St. John's Church in Lyndora, where he also organized a choir. Two years later he entered St. Procopius Seminary in Illinois, where he directed the Byzantine Choir and served as assistant organist in the Latin Rite liturgical services.

He was ordained on May 8, 1949, at St. Mary's Church in Whiting, Ind., and his first appointment was as assistant pastor at the Holy Ghost Church in Cleveland, Ohio. A year later, he was assigned to St. Michael's Church in Gary, Ind., and in 1952 returned to western Pennsylvania as pastor of the Holy Spirit Church in Pittsburgh. On November 1, 1959, Father Mike came to Clairton, where in May 1970, he was elevated to monsignor by Pope Paul VI.

As the pastor of Ascension Church, Monsignor Hrebin launched a major renovation and building program that has made the church's social hall the center for parish, diocesan, and community activities. He has cultivated and strengthened many spiritual programs within the parish and in areas of ecumenical affairs, Monsignor Hrebin was a founder of the annual Clairton Mayor's Prayer Breakfast and a member of the city's human relations commission.

His interest in music has never waned. As a priest, Father Hrebin organized and directed the 200-voice Midwest Byzantine Catholic Chorus and also has directed the 500-voice Western Pennsylvania Byzantine Catholic Chorus. He also arranged the music for the first English Mass celebrated by the Most Reverend Bishop Fulton Sheen in 1955 at Mount St. Macrina.

Mr. Speaker, on behalf of my colleagues in the Congress of the United States, I take this opportunity to extend our formal congratulations to Monsignor Hrebin on the 25th anniversary of his ordination. As a personal friend of this remarkable man, I join the members of Ascension Church, the citizens of Clairton, and his family in wishing that God grant Father Mike many more years in His service.

HOUSE OF REPRESENTATIVES—*Thursday, May 16, 1974*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Therefore, my beloved brethren, be ye steadfast, unmoveable, always abounding in the work of the Lord; forasmuch as ye know that your labor is not in vain in the Lord.—I Corinthians 15: 58.

Almighty God who has made and preserved us as a nation and whose creative spirit ever summons us to new frontiers of thought and action we pause in Thy presence as we turn another page in the chapter of our lives together as Members of Congress. Under the guidance of Thy Spirit we would greet the sunrise of another day.

May these hours be rich in the revelation of Thy presence and resplendent with the realization of Thy power to sustain us as we face the demanding duties of these disturbing days. Make our hearts centers of good will and move in our minds with wisdom as we seek to solve the problems that confront our Nation.

Give to us an increasing desire to minister to the needs of our people and to keep our Nation safe for democracy and secure with liberty and justice for all.

In the spirit of Christ we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Marks, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On May 7, 1974:

H.R. 11793. An act to reorganize and consolidate certain functions of the Federal Government in a new Federal Energy Administration in order to promote more efficient management of such functions.

On May 10, 1974:

H.R. 8101. An act to authorize certain Federal agencies to detail personnel and to loan equipment to the Bureau of Sport Fisheries and Wildlife, Department of the Interior; and

H.R. 9492. An act to amend the Wild and Scenic Rivers Act by designating the Chattooga River, N.C., S.C., and Ga., as a component of the National Wild and Scenic Rivers System, and for other purposes.

On May 14, 1974:

H.R. 9293. An act to amend certain laws affecting the Coast Guard.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 12412. An act to amend the Foreign Assistance Act of 1961 to authorize an appropriation to provide disaster relief, rehabilitation, and reconstruction assistance to Pakistan, Nicaragua, and the Sahelian nations of Africa; and

H.R. 12799. An act to amend the Arms Control and Disarmament Act, as amended, in order to extend the authorization for appropriations, and for other purposes.

PERMISSION FOR SPEAKER TO DECLARE A RECESS ON TUESDAY, MAY 21, 1974

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that it be in order for the Speaker to declare a recess on Tuesday, May 21, 1974, subject to the call of the Chair, for the purpose of receiving in this Chamber former Members of the House of Representatives.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

SCHEDULE FOR CONSIDERATION OF APPROPRIATION BILLS

(Mr. MAHON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAHON. Mr. Speaker, on recent occasions the majority leader has made reference to the heavy floor schedule the House will have in June in considering the appropriation bills. For the benefit of Members and others, I wish to state the tentative schedule for considering the appropriation bills.

Thus far this session the House has cleared the following appropriation measures:

Urgent supplemental for veterans;

Second supplemental for fiscal year 1974;

Legislative appropriation bill for 1975; and

Special energy research and development appropriation bill for 1975.

It is presently contemplated that the following appropriation bills will be before the House during the month of June:

Public works-AEC, Thursday, June 6.

State, Justice, Commerce, Judiciary, Tuesday, June 18.

Transportation, Wednesday, June 19.

Agriculture-Environmental and Consumer Protection, Friday, June 21.

Treasury-Postal Service-general Government, Tuesday, June 25.

HUD-Space, Science-Veterans, Wednesday, June 26.

Labor-HEW, Thursday, June 27.

District of Columbia, Friday, June 28.

Some of these bills are contingent on the completion of hearings and actions on authorizing legislation but this is the best picture available at this time.

Under the above schedule, four bills would remain after June—Defense, military construction, foreign aid, and Interior. It may be that the Interior bill can be considered in late June or at the latest, early July. The committee will complete hearings on the other three bills in June and will bring them before the House as authorizing legislation becomes available.

PERMISSION FOR MANAGERS TO HAVE UNTIL MIDNIGHT, FRIDAY, MAY 17, TO FILE CONFERENCE REPORT ON H.R. 14013

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the managers may have until midnight, Friday, May 17, to file a conference report on the bill (H.R. 14013) making further supplemental appropriations for the fiscal year ending June 30, 1974, and for other purposes.

I would say, Mr. Speaker, that a conference has been arranged for this afternoon in regard to this bill, and it is hoped that the conference report can be filed on Friday.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 14368, TO PROVIDE MEANS OF DEALING WITH ENERGY SHORTAGES, AIR POLLUTION REQUIREMENTS, COAL CONVERSION

Mr STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 14368) to provide for means of dealing with energy shortages by requiring reports with respect to energy resources, by providing for temporary suspension of certain air pollution requirements, by providing for coal conversion, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia? The Chair hears none, and appoints the following conferees: Messrs. Staggers, Macdonald, Moss, Dingell, Devine, Broyhill of North Carolina, and Hastings.

PERMISSION FOR COMMITTEE ON EDUCATION AND LABOR TO HAVE UNTIL MIDNIGHT FRIDAY TO FILE REPORT ON SENATE JOINT RESOLUTION 40, WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that the Committee on Education and Labor have until midnight Friday, May 17, 1974, to file the committee report on Senate Joint Resolution 40, as amended, to authorize and request the President to call a White House Conference on Library and Information Services.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

Mr. WYDLER. Mr. Speaker, reserving the right to object, I just want to ask the chairman: Has this matter been cleared with the minority side?

Mr. PERKINS. Yes; it has been cleared with the minority side.

Mr. WYDLER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

PERMISSION FOR COMMITTEE ON EDUCATION AND LABOR TO HAVE UNTIL MIDNIGHT FRIDAY, MAY 17, 1974, TO FILE REPORT ON H.R. 14225, REHABILITATION ACT OF 1973

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that the Committee on Education and Labor have until midnight, Friday, May 17, 1974, to file the committee report on H.R. 14225, as amended, to amend and extend the Rehabilitation Act of 1973 for 1 additional year.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO HAVE UNTIL MIDNIGHT, MAY 17 TO FILE REPORT ON H.R. 14747, EXTENDING THE SUGAR ACT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the House Committee on Agriculture have until midnight Friday, May 17, to file a report on the bill H.R. 14747, extending the Sugar Act.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

ARROGANCE AND POWER IN THE DEMOCRATIC CAUCUS

(Mr. MARTIN of Nebraska asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARTIN of Nebraska. Mr. Speaker, when a duly constituted committee of the House spends 15 months developing a piece of legislation, it expects that it will be afforded at least the decency of a public hearing on the floor of the House. That was certainly what the 10 Members of the Select Committee on Committees expected when they accepted the difficult assignment of recommending changes in the House committee structure.

That hope was dashed last week when the Democratic caucus voted to sidetrack the committee reform package by sending it to a caucus subcommittee for "study and review." As the liberal-oriented Americans for Democratic Action pointed out, the action will probably have the effect of killing committee reform—because a majority of the Members of this caucus group have already announced their opposition to the reorganization plan.

Mr. Speaker, the Democratic caucus is an appropriate forum for conducting party affairs, but it is not a legislative body. It is not the place to write a complicated reorganization act—one that may affect the operations of this body for many years to come.

Is the Democratic caucus going to become a new house of Congress, arrogating to itself the powers which the House rules have placed in its legislative committees? Will the caucus begin to rewrite appropriations bills, or tax bills, or energy legislation? It seems to me that the House Members who voted to sidetrack the Committee Reform Amendments of 1974 should remember that the principle may not stop there. Other committees may be affected, other legislative jurisdictions invaded.

Mr. Speaker, the proper forum for considering House Resolution 988 the Committee Reform Amendments of 1974, is the House itself. The Members of the House created the select committee in January 1973, and the Members of the House should debate—and amend if they wish—the committee's product.

DEMOCRATIC CAUCUS PLAYING POLITICAL SHELL GAME

(Mr. YOUNG of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YOUNG of Florida Mr. Speaker, the Democratic caucus, playing the political shell game to the hilt, has referred the resolution of the Select Committee on Committees on committee reorganization to what is described as the Hansen committee.

This deplorable political action puts the blame for scuttling this reform package, House Resolution 988, which was unanimously reported by a bipartisan committee, squarely on the shoulders of the Democratic Party.

The caucus meeting was held in secret so it is not possible to document precisely what political reasons there were for this action. However, it is generally reported that one reason is the proposed ban on proxy voting. If that is accurate, it would be all the more reason for deep concern about sidetracking the resolution.

The select committee had sound reasons to propose a ban on proxy voting. It is recommended as an integral part of the proposal to assure that each Member is assigned to one major, balanced committee. The proxy voting ban is to help improve attendance at committee meetings and help insure Member involvement in the deliberations and decisions of the committee and subcommittees.

It would be somewhat understandable, it seems to me, if the minority party in the House sought to promote proxy voting to extend its influence, though I would oppose proxy voting even in that case. But what is truly hypocritical is for the majority party to insist on being able to use proxies. Are they not satisfied with having the majority of the votes? Do they need proxies to magnify that majority even larger than it is?

This view that House procedures ought to be stacked in favor of the majority party speaks very eloquently as to how politically motivated the Democratic caucus was in its action on the select committee proposal.

THE MASSACRE AT MAALOT

(Mr. FRELINGHUYSEN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. FRELINGHUYSEN. Mr. Speaker, I should like to supplement the remarks made just now by the majority leader, Mr. O'NEILL, regarding the recent horrifying massacre of Israeli schoolchildren by Arab terrorists. As one of the many cosponsors of the resolution which Mr. O'NEILL and our minority leader, Mr. RHODES, have introduced, I hope it receives swift approval.

Action by Congress, however, can do little to erase the stain of this disgusting episode. Terrorism in recent years has unfortunately become almost accepted as a way in which certain elements in world society express their approval, or their disapproval of the activities of others. When terrorism is practiced on innocent children, however, it becomes totally intolerable. I can only hope that this vicious and unconscionable episode will prick the conscience of the world, and that the United Nations will move promptly and unequivocally to condemn such practices. Certainly our country must be in the forefront of efforts to express the world's abhorrence of such brutality.

SELECT COMMITTEE ON COMMITTEES FACES ENERGY CRISIS

(Mr. DEL CLAWSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEL CLAWSON. Mr. Speaker, if this Nation faces an energy crisis, so, it appears, does the Select Committee on Committees. Without attempting to gage the amount of energy expended by each individual member, it is well to observe at this point in history that the select committee held 37 days of hearings and panels. It has worked long hours, even weekends and evenings, discussing and debating the workings of the House. It put together a trial package in December 1973 which represented its findings and was timed to provide the Members opportunity to react to specific recommendations. The deliberations of the committee were conducted in full public view and while not all were acceptable to all Members of the House, a sincere effort was made to increase the efficiency of this body. Now it appears the members of the committee face the realization that their energies were wasted. A secret Democrat caucus vote has sidetracked the reform package for reasons not clearly defined. This is the type of performance which illustrates graphically the need for the very reforms we apparently will be denied the opportunity of considering. My sympathies are extended to my esteemed colleagues, the members of the Select Committee on Committees.

THE MAALOT MASSACRE

(Mr. GILMAN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. GILMAN. Mr. Speaker, I rise today to urge support for a joint resolution introduced by the distinguished majority leader from Massachusetts (Mr. O'NEILL) and the distinguished minority leader from Arizona (Mr. RHODES) and supported by more than 350 of my colleagues in the Congress urging appropriate action by the President and the United Nations as a result of the heinous carnage at Maalot, resulting in the murder of 16 Israeli children and the wounding of 70 others.

Yesterday's brutal attack on the schoolchildren by the Popular Front for the Liberation of Palestine is the most cruel and offensive of all the barbaric acts carried on by the self-acclaimed liberators. Mrs. Meir's comment that "you do not conduct wars on the backs of children," understates the bitterness and contempt that the rest of the world should and must feel in reflecting upon this debacle.

With the fanatic, inhuman atrocity at Maalot, we are once again haunted by the specter of terrorism, and frustrated by the lack of control over these irrational barbarities. Today's newspapers report that of the 150 Arab terrorists arrested in Europe over the past 5 years, only 9 are still being held; the remainder having been set free to pursue other hapless victims.

These actions cannot be tolerated. It is incumbent upon all nations to express their outrage and indignation and to deal harshly with any terrorism. There is no room in our world for the abominable crimes committed at Maalot.

While the shocking effects of yesterday's massacre have momentarily overshadowed our peace negotiations in the Middle East, it is vitally important that we pursue our direct course for a peaceful negotiation. Steps toward a real settlement will underscore the futility of these abhorrent terrorist subversions.

REPORT ON DEFENSE APPROPRIATION AUTHORIZATION ACT, 1974—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and referred to the Committee on Armed Services:

To the Congress of the United States:

In accordance with Section 812(d) of the Department of Defense Appropriation Authorization Act, 1974 (Public Law 93–155), I am pleased to submit the following report to the Congress on the progress made since my last report on February 20, 1974 in implementing the provisions of Section 812 of the Act cited above.

On April 25, representatives of the United States and the Federal Republic of Germany signed a new offset agreement covering fiscal years 1974 and 1975. The offset to be provided during this two year period is larger in dollar terms and provides more substantial economic benefits to us than any previous offset agreement. At an exchange rate of $1=DM 2.699, the dollar value of the agreement is approximately $2.22 billion over the two year period.

The composition of the agreement is generally similar to that of previous offset agreements, but there are a number of features that significantly increase its value to the United States, including substantial budgetary relief. As before, German military procurement in the United States represents the largest single element. In the present agreement it amounts to $1.03 billion (at $1.00=DM 2.669). Other attractive features include German willingness to continue funding the rehabilitation of facilities used by American troops in the Federal Republic; to take over the payment of certain real estate taxes and airport charges in connection with US military activities in Germany; to purchase from the US Atomic Energy Commission enriched uranium, including enrichment services; and—for the first time in the framework of an offset agreement—to finance US-German cooperation in science and technology.

As in the case of previous offset agreements, the new agreement makes provision for German purchases of special U.S. Government securities on concessionary terms. The significant interest savings resulting from an $843 million loan over seven years at 2½ percent, together with the above-mentioned German contributions to our troop stationing costs such as troop facilities rehabilitation and absorption of taxes and airport fees, substantially cover the additional costs we bear by deploying our forces in the Federal Republic rather than in the United States.

Benefits contained in the agreement constitute the major element in the effort to meet the requirements of Section 812. The agreement is the product of many months of difficult negotiations, involving not only the negotiators appointed by our two governments, but also personal exchanges at the highest levels of the two governments.

In my last report to the Congress, I stated that U.S. expenditures entering the balance of payments as a result of the deployment of forces in NATO Europe in fulfillment of treaty commitments and obligations in FY 1974 are estimated to be approximately $2.1 billion. That estimate still holds.

I anticipate that the bilateral offset agreement with the Federal Republic of Germany, together with arrangements involving other Allies, will meet the requirements of Section 812. This will permit us to maintain our forces in NATO Europe at present levels. In this connection, I would like to point out that the NATO study on allied procurement plans, which I referred to in my last report to the Congress, indicates that allied military procurement from the U.S. in FY 1974 will be significant despite the fact that many of our Allies have suffered a worsening in their trade balance and face the possibility of even greater deterioration. I will provide the Congress with further information on satisfying the requirements of Section 812 in my August report.

RICHARD NIXON.

THE WHITE HOUSE, *May 16, 1974.*

RESIGNATION AS MEMBER OF MEXICO-UNITED STATES INTERPARLIAMENTARY CONFERENCE

The SPEAKER laid before the House the following communication, which was read:

HOUSE OF REPRESENTATIVES,
Washington, D.C., May 10, 1974.

Hon. CARL ALBERT,
Speaker of the House, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Would it be possible for you to appoint someone to take my place on the Mexico-United States Interparliamentary Conference next month?

There are some very important meetings in my District during that time which I must be present for and, therefore, the Mexico trip would be inconvenient.

Best wishes, and thank you for your assistance in this matter.

Sincerely,

WILLIAM S. BROOMFIELD,
Member of Congress.

APPOINTMENT AS MEMBER OF MEXICO-UNITED STATES INTERPARLIAMENTARY GROUP

The SPEAKER. Pursuant to the provisions of section 1, Public Law 86–420, the Chair appoints as a member of the U.S. delegation of the Mexico-United States Interparliamentary Group the gentleman from Illinois, Mr. DERWINSKI, to fill the existing vacancy thereon.

PROVIDING FOR CONSIDERATION OF H.R. 13973, OVERSEAS PRIVATE INVESTMENT CORPORATION AMENDMENTS OF 1974

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution No. 1111 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1111

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13973) to amend the title of the Foreign Assistance Act of 1961 concerning the Overseas Private Investment Corporation to extend the authority for the Corporation, to authorize the Corporation to issue reinsurance, to suggest dates for terminating certain activities of the Corporation, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

CALL OF THE HOUSE

Mr. ROUSSELOT. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. PEPPER. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 225]

Boland
Broomfield
Carey, N.Y.
Carter
Chisholm
Clark
Clay
Collier
Conyers
Corman
Davis, Ga.
de la Garza
Diggs
Dorn
Dulski
Esch
Findley
Fountain
Gray
Griffiths
Gubser
Hansen, Idaho
Hansen, Wash.
Hawkins
Hébert
Helstoski
Holifield
Huber
Johnson, Pa.
Jones, Okla.
Jones, Tenn.
King
Kuykendall
Litton
Long, Md.
McCloskey
Maraziti
Matsunaga
Mills
Minshall, Ohio
Morgan
Murphy, N.Y.
Nichols
Nix
O'Hara
Pettis
Peyser
Rees
Reid
Rogers
Roncallo, N.Y.
Rooney, N.Y.
Rosenthal
Runnels
Satterfield
Skubitz
Slack
Steele
Stephens
Stubblefield
Sullivan
Talcott
Teague
Udall
Waggonner
Ware
Wilson, Charles H., Calif.
Wyatt

The SPEAKER. On this rollcall 365 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO HAVE UNTIL MIDNIGHT SATURDAY, MAY 18, 1974, TO FILE A REPORT ON H.R. 14832

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means may have until midnight Saturday, May 18, 1974, to file a report on H.R. 14832, to provide for a temporary increase in the public debt ceiling, along with any separate and/or minority views.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

THE QUALITY OF JUSTICE

(Mr. BROWN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BROWN of California. Mr. Speaker, in ancient Egypt the highest civil officer was the vizier, appointed by the Pharaoh, who was considered both King and God. In those days when the highest officers of our land seem to have somewhat flexible standards in the carrying out of their duties, it may be well to recall the words of the Pharoah Thut-mose III, in appointing his vizier, Rekh-mi-Re, about 3,400 years ago.

> Therefore, see to it for thyself that all things are done according to that which conforms to law and that all things are done in conformance to the precedent thereof in giving every man his just deserts. Behold, as for the official who is in public view, the very wind and waters report all he does; so, behold, his deeds cannot be unknown . . . to act in conformance with the regulation . . . The abomination of God is partiality. This is the instruction, and thus shall thou act; thou shalt look upon him who thou act; thou shalt look upon him who thou knowest like him whom thou knowest not, upon him who has access to thee like him who is far away . . . Behold, thou shouldst attach to thy carrying out of this office thy carrying out of justice.

These words obviously reflect a very deep concern throughout man's history. It would be well that they be particularly remembered today.

OVERSEAS PRIVATE INVESTMENT CORPORATION AMENDMENTS OF 1974

The SPEAKER. The gentleman from Florida (Mr. PEPPER) is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. DEL CLAWSON), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1111 provides for an open rule with 1 hour of general debate on H.R. 13973, the Overseas Private Investment Corporation Amendments of 1974.

H.R. 13973 extends the authority of the Overseas Private Investment Corporation until December 31, 1977. It provides authority for OPIC to enter into joint arrangements with private insurance companies and multilateral organizations and to issue reinsurance for such arrangements.

H.R. 13973 also expresses the intent of the Congress that OPIC act to transfer its functions of writing and managing insurance contracts to private insurance companies for other entities.

OPIC's insurance program offers protection against inconvertibility, war, revolution, and insurrection and expropriation.

Mr. Speaker, if I may say without immodesty, I have a particular interest and pleasure in commending to my colleagues the adoption of this rule so that this OPIC extension may be considered by the House. I had the privilege of being the original author of that legislation in the other body and in having a hearing before the Senate Committee on Banking and Currency in 1946. The matter went on for a number of years. I wrote an article for the Business Review magazine of the Baruch School of Business Administration of City College in New York on the subject which was considered by the student body and the faculty during those intervening years.

In 1961, the Congress first adopted this legislation, and the Baruch School of Business Administration in 1962 graciously gave me an award and a good dinner for being the Man of the Year in foreign trade for having been the original author of this legislation in 1946.

Mr. Speaker, I am pleased therefore, to commend to my colleagues this legislation and hope this rule will be adopted so that this meritorious measure may be approved by the House.

Mr. Speaker, I urge the adoption of House Resolution 1111 in order that we may discuss and debate H.R. 13973.

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as has been noted, House Resolution 1111 provides for the consideration of H.R. 13973, the Overseas Private Investment Corporation Amendments of 1974, under an open rule with 1 hour of general debate.

The purpose of the Overseas Private Investment Corporation—OPIC—is to encourage U.S. private enterprise to invest in mutually beneficial projects in the developing countries. In order to achieve this goal, OPIC presently administers three major types of programs, one, investment insurance; two, financing; and three, investment information.

The primary purpose of this bill is to extend OPIC's authority through December 31, 1977. The bill provides authority for OPIC to enter into joint arrangements with private insurance companies or other entities and to issue reinsurance for such arrangements. The bill also includes an expression of the intent of Congress that OPIC act to transfer its functions of writing and managing insurance contracts to private insurance companies.

The Committee on Foreign Affairs estimates that passage of this bill will require no appropriation of funds.

Mr. Speaker, I support this rule.

Mr. Speaker, I have no further requests for time and reserve the balance of my time.

Mr. PEPPER. Mr. Speaker, I have no requests for time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. CULVER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13973) to amend the title of the Foreign Assistance Act of 1961 concerning the Overseas Private Investment Corporation to extend the authority for the Corporation, to authorize the Corporation to issue reinsurance, to suggest dates for terminating certain activities of the Corporation, and for other purposes.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 13973, with Mr. PIKE in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Iowa (Mr. CULVER) will be recognized for 30 minutes, and the gentleman from New Jersey (Mr. FRELINGHUYSEN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Iowa.

Mr. CULVER. Mr. Chairman, the House has before it today H.R. 13973, a bill to amend the Foreign Assistance Act of 1961 with respect to the Overseas Private Investment Corporation which was created by the Foreign Assistance Act of 1969 to take over the private investment incentive programs being operated by AID. The purpose of these programs is to mobilize and facilitate the participation of U.S. private capital and skills in the economic and social progress of less-developed countries.

During 1973 the Subcommittee on Foreign Economic Policy undertook an exhaustive investigation of OPIC. The study was prompted by the fact that OPIC's legislative authority was to expire on June 30, 1974. An extension through the end of 1974 was authorized by Congress in order that the subcommittee have sufficient time to conduct a full and complete study. Though OPIC's primary purpose is developmental, the lengthy investigatory hearings were held so as to take full account as well of the rising concern and debate over the role of the multinational corporation.

On October 21, 1973, the subcommittee issued a report which set forth 26 recommendations. They included an extension of OPIC's operating authority, a transferal of OPIC's role in issuing insurance contracts to private insurance companies, and various policy guidelines aimed primarily at enhancing the developmental impact of OPIC's programs. On April 30 the Committee on Foreign Affairs reported out H.R. 13973, which provides the legislative authority to implement those recommendations.

The primary initiative of this legislation is to set a course toward private insurance companies and/or multilateral institutions taking over OPIC's function of issuing insurance contracts, with OPIC assuming the role of reinsurer. The bill authorizes OPIC to issue reinsurance and to enter into joint arrangements with private insurance companies and other entities for the purpose of sharing its risks. In addition, it expresses the intent of Congress that OPIC should place an increasing portion of the function of writing insurance contracts with private insurance companies, with the aim of completely terminating its role as insurer by 1979–80. If OPIC is unable to meet any of the deadlines for the phased conversion to privatization, it must report the reasons to the Congress.

The phaseout dates were made nonmandatory in order to reconcile two seemingly conflicting objectives—while it was thought important to give a clear expression of the intent of Congress, it was inappropriate to write mandatory dates into law. Given the lack of experience with joint arrangements between OPIC and private insurance companies, there is no certainty that total privatization can be achieved. OPIC is still negotiating with the American insurance companies, and placing OPIC's role in too ridged a cast might jeopardize those rather delicate talks. As the House will continue to assess the ability of foreign investment and of OPIC to promote the development of less-developed nations, it will continue closely to scrutinize the program and the conversion to privatization.

The bill includes various policy guidelines for OPIC. It is directed to give preferential consideration to its programs in the least developed of the LDC's, the cutoff mark for which is set at a per capita income of $450—in 1973 dollars. OPIC should also give preferential consideration to projects by small businesses, which are defined as having net worth of not more than $2.5 million or total assets of not more than $7.5 million. The bill directs OPIC to serve as a broker between the development plans of developing countries and U.S. investors by bringing investment opportunities to the attention of potential investors.

To take account of the legitimate concern regarding the impact of U.S. investment abroad on the U.S. domestic economy, the subcommittee wrote into the bill a stiff provision on runaway plants. OPIC must reject any application for a project that would significantly reduce the number of the investor's U.S. employees as a result of the replacement of U.S. production with production involving substantially the same product for the same market. OPIC must monitor the projects to insure that this provision is not violated after the investment is made. The bill also directs OPIC to consider the environmental impact of projects.

The bill authorizes a 3-year extension of OPIC's operating authority. The primary reason for a 3-year rather than a 2-year authorization is that it will give OPIC a better chance to negotiate a 3-year contract with the private insurance companies, rather than a 1- or 2-year contract. The extra year will not weaken congressional oversight, as the bill requires OPIC to report to Congress by January 1, 1976, on the possibilities of transferring its activities to private insurance companies or multilateral organizations.

Another provision of the legislation

prohibits OPIC from issuing insurance for more than 90 percent of the value of an eligible project, thereby assuring that the investor retain at least 10 percent of the risk. The purpose is to discourage investor behavior which might induce the host government to expropriate or otherwise jeopardize an investment. However, small businesses and institutional lenders would be exempt from this requirement.

Under current statute, OPIC can request a congressional appropriation without first obtaining a specific authorization. The bill would end this practice and also not allow any appropriation unless the insurance reserve dropped below $25 million. However, in order to meet its obligations, under emergency conditions, OPIC would be allowed to borrow for a limited period of 1 year up to $100 million from the U.S. Treasury.

The bill extends the agricultural credit and self-help community program, which is designed to bring assistance to the "grassroots" level by making available credit ranging in amounts from several hundred dollars up to $10,000 for local self-help projects. It amends the existing statute to permit OPIC to guarantee up to 50 percent of the loans under that program, rather than 25 percent. It is hoped this change will help attract additional local capital to the program. The bill also moves the program beyond the pilot stage and lifts the limitation of the program to five Latin American countries. It is intended that the program be extended to as many countries as is appropriate within the guidelines of the program and considering the interests of developing nations.

It is hoped that this legislation will provide the Overseas Private Investment Corporation with the needed legislative authority and guidance to conduct its operations in the public interest as well as the necessary flexibility to negotiate a beneficial and workable arrangement with private insurance companies.

Mr. Chairman, I would like to point out one particularly important provision in this legislation.

A most important concern of the subcommittee in its deliberations was the impact of OPIC's programs on U.S. employment. In this regard, the subcommittee heard testimony from the AFL–CIO, and subsequently wrote into the bill a stiff provision on runaway plants. This clause prohibits OPIC from issuing any contract of insurance, reinsurance, or guaranty or providing financial assistance for a proposed investment that is likely to cause a significant reduction in the number of the investor's U.S. employees. Furthermore, the provision directs OPIC to monitor the representations made by investors in regard to this matter.

In fact, in March 1972, OPIC established a rigorous set of guidelines for analyzing the effects of a proposed project on the U.S. balance of payments and employment. Under those guidelines, OPIC would not issue a contract for a project which involved the closing down of a U.S. plant and reestablishing it overseas. Nor would OPIC extend coverage to a manufacturing project that was likely to export more than 20 percent of its output to the United States; in particularly sensitive fields, such as textiles, shoes, and consumer electronics, this level was raised to any significant amount of exports to the United States. Since establishing these guidelines, OPIC has rejected a number of applications for the very reason that they failed to meet the criterion.

The purpose of the runaway plant clause in H.R. 13973 is to insure that OPIC continues to abide by these rules and to apply them strictly. Under such conditions, the effect of OPIC's programs actually will be to increase domestic employment. Several studies of U.S. foreign investment have demonstrated that the overall effect of that investment is to increase employment in the United States through the export of capital goods to foreign plants and through the supplying of unprocessed items to feed U.S. manufacturing industries. So, the effect of this provision will be to assure that OPIC-assisted projects are actually more beneficial to the U.S. economy and employment than the average U.S. foreign investment.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. CULVER. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I rise to commend the gentleman in the well, the distinguished gentleman from Iowa, and his subcommittee for having undertaken a very exhaustive review of the operations of OPIC. The committee's oversight extended to both the complex matters of U.S. objectives and foreign policy impact, as well as domestic considerations with regard to the impact on labor and industry. I commend the gentleman also because of the leadership which is reflected in this bill on the transition and new direction for OPIC to take and to include the guidelines for future operations, both of which seem to be to be a wise course of action.

The gentleman from Iowa has given long and devoted interest to this matter and he has made a very important contribution to the foreign policy of the United States.

Mr. FRELINGHUYSEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me say, first of all, that tribute should be paid to the leadership of the gentleman from Iowa, who serves as chairman of the Foreign Economic Policy Subcommittee.

I want to express my strong support for H.R. 13973, which extends the operating authority of the Overseas Private Investment Corporation (OPIC) through 1977.

The gentleman from Iowa (Mr. CULVER) has provided us with the background of OPIC and the specific provision of this bill so I shall be brief. OPIC was created by the Congress in 1969, and given responsibility for operating the private investment incentive programs that previously had been conducted by the Agency for International Development. Guarantee programs for private investment were first begun under the Marshall Plan, and later were redirected to assist development in less developed countries by providing insurance coverage against expropriation and other risks.

The Committee on Foreign Affairs through its oversight activities has taken a keen interest in investment incentive programs. Last year our Foreign Economic Policy Subcommittee held extensive hearings on OPIC's operations which clearly revealed that the new corporation is successfully carrying out its mandate from Congress.

Mr. Chairman, OPIC's success and expertise will make it possible for that corporation to undertake an experiment proposed in this bill. I refer to the committee's proposal that OPIC be given authority to enter into joint arrangements with private insurance companies, and be directed to move as rapidly as possible toward transferring the writing and management of its political risk insurance contracts to private insurance companies. That is a worthy objective and I trust it can be achieved.

I should point out that there is general agreement within our committee that OPIC should continue to fulfill its original purpose of effectively and selectively encouraging U.S. private investment in developing countries, a process mutually beneficial to such countries and to the United States. This purpose should not be sacrificed as private insurance company participation in the insurance program is achieved.

In extending OPIC's authority for 3 years, our committee recognizes that private investment reduces the need for government-to-government foreign aid. Private investment creates jobs, provides foreign exchange, develops management skills, and increases a nation's capacity to develop economically. This bill adds new mandates to strengthen and intensify OPIC's role in channeling U.S. private investment into countries and fields where it is most needed.

I strongly support our committee's decision to modify the position taken in 1971, restricting OPIC's assistance of projects in Indochina countries. As peace is restored in South Vietnam, private investment can accelerate that country's achievement of self-support. It is interesting to note that the Japanese have already resumed private investment in Vietnam with the support of their Government's insurance program. South Vietnam has great potential for economic progress, and the United States should assist in that development by encouraging proper types of private investment which will reduce the need for direct U.S. Government support.

The Committee on Foreign Affairs, therefore, has recommended the prudent exercise of OPIC's authority in Indochina. The committee has directed OPIC to consult with the relevant committees of Congress to the maximum extent possible concerning its plans and operations in South Vietnam, Laos, and Cambodia. OPIC is required to provide the committee with formal documentation of its operations in Indochina, including plans for its overall program and specifics on individual investment projects. This permits us to have continuing congressional oversight over OPIC's operations in this areas.

In conclusion, Mr. Chairman, I believe this legislation charts a sensible new course for the Overseas Private Investment Corporation.

I urge my colleagues to support this bill.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. FRELINGHUYSEN. Mr. Chairman, I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Chairman, I would like to voice my support of H.R. 13973, a bill which extends the life of the Overseas Private Investment Corporation and authorizes it to bring increased private risk-taking into its insurance program.

It was argued by some when OPIC was created in 1969 that removing these *programs from* the AID agency would increase the cost to the taxpayers and put the programs into the hands of a new breed of bureaucrats.

I am happy to say, too, that the first prediction has been proven erroneous. When OPIC began business in 1971, it inherited from the AID agency $400 million in claims and $85 million in insurance reserves. Now, some three years later, pending claims are only $4 million and its reserves are $186 million. In addition, the Corporation is earning over $30 million per year, which after payment of the agency's expenses of $4 million, goes into its reserves.

This record shows that the second prediction—that the programs are now operated by a new breed of bureaucrats—has fortunately proven correct. I only wish for the taxpayers' sake that this new breed was more prevalent.

As is clear from the terms of this bill, the Congress has come to expect a lot of OPIC. Substantial goals were set for the Corporation in 1969.

Detailed studies by the Foreign Economic Policy Subcommittee, the GAO, and the Library of Congress have shown that these goals have been met. Now, we set new ones in this bill, including the goal of turning much of this 25-year-old *Government* program over to the private sector.

These goals, by the way, are not just congressional objectives. Almost from its beginning, OPIC has worked toward their fulfillment. Therefore, I am confident, and this is also true of an overwhelming majority of the Foreign Affairs Committee, that OPIC will, with our support, accomplish these goals.

I also want to point out, however, that we should not lose sight of the critical public interests served by OPIC. Certainly, no one now contends that government-to-government aid can accomplish the enormous task of building the economies of the poorer countries. Therefore, private enterprise must continue to play the role it has long played in bringing new jobs, technology, and skills to the poor around the world. I am particularly pleased that the Foreign Affairs Committee has lifted its ban on OPIC operations in Indochina. With OPIC's businesslike approach, I am confident that the benefits of its programs can help these countries achieve self support, without undue risk to the U.S. taxpayer.

In conclusion, I hope that the broad bipartisan support that OPIC has received in the subcommittee and committee will be reflected in the vote on H.R. 13973.

Mr. FRELINGHUYSEN. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Chairman, I thank the gentleman from New Jersey for yielding to me.

Mr. Chairman, I am pleased to join the gentleman from Iowa and the gentleman from New Jersey in support of H.R. 13973, legislation I am cosponsoring, which extends authority for the Overseas Private Investment Corporation until 1977 and which establishes a timetable for the phased transfer of the direct insurance functions of OPIC to private companies and multinational lending institutions.

As a member of the Subcommittee on Foreign Economic Policy of the House Foreign Affairs Committee, I have participated in extensive hearings chaired by the distinguished gentleman from Iowa (Mr. CULVER) and have taken part in a thorough Latin American oversight investigation of the effects of OPIC on our South American neighbors.

As a result of these hearings and investigations, it is evident that OPIC serves a useful purpose in furthering our Nation's objectives in the developing world.

It is encouraging to note the positive evolution of OPIC. While operating as part of our AID program, U.S. assistance with foreign investments suffered from financial difficulties necessitating Federal subsidy. Today, however, as a result of sound and selective investment decisions, OPIC operates more effectively, without imposing any drain on taxpayers funds, which at the same time improving our trade recreation with other nations.

Accordingly, I urge my colleagues to vote in support of extending OPIC's authority as a vehicle for assisting our development goals in other parts of the world by encouraging U.S. investment overseas.

Mr. CULVER. Mr. Charman, I yield 1 minute to the gentleman from Florida, (Mr. FASCELL).

Mr. FASCELL. Mr. Chairman, I rise in support of the pending legislation. This is another of a series of steps undertaken by the Foreign Affairs Committee to provide new initiatives with respect to foreign policy objectives and development considerations of the United States.

Members are aware of the fact that last year we provided a new thrust with respect to the foreign aid programs. We are here today with a bill which provides a new direction, a very important one, tending towards transition to privatization of OPIC. This is reflective of the energy and intention of the Foreign Affairs Committee to continue to make improvements and to take initiatives in foreign policy matters of our Government.

Mr. Chairman, as chairman of the Subcommittee on Inter-American Affairs, I have long been interested in the Overseas Private Investment Corporation and its predecessor office in AID, both of which have operated extensively in the countries of Latin America and the Caribbean.

I supported the establishment of OPIC back in 1969, and I think the legislation we have before us today, H.R. 13973, the OPIC Amendments Act of 1974, represents a reasonable next step in the evolutionary process of this agency. The formal organization of OPIC in 1971 as a Government corporation has permitted the program to operate with the best features of two worlds: first, OPIC has brought from the private sector a businesslike approach to the program, particularly with respect to the application of principles of risk management to the selection of new projects; and secondly, the corporation has continued to carry out the public policy objectives of the program mandated by Congress. OPIC's Board of Directors symbolizes the blending of public and private expertise. Included on the Board are the Administrator of AID and senior representatives of the Departments of State, Treasury, and Commerce.

The Board also includes six members from the private sector. Thus, each project is subjected to broad scrutiny by the Board, both in terms of the Government's interest and in terms of a variety of private interests. Private membership on the Board includes, by law, representatives of organized labor, small business and cooperatives. OPIC has shown continued profitability in its operations while maintaining the programs commitment to assist only projects which are truly helpful to the economic development of poor countries.

The success of the Overseas Private Investment Corporation has encouraged the Foreign Affairs Committee to recommend to the House of Representatives the legislation we are considering today. This bill represents a significant new step in the historical development of this important program of providing incentives selectively to private investors interested in going into developing countries. The bill extends OPIC's authority for 3 years, through December 31, 1977. Further, it encourages OPIC to continue experiments already begun to determine the feasibility of turning over to the private sector all of its direct underwriting responsibilities. Private insurance companies have shown considerable interest in engaging in an experimental arrangement with OPIC to determine how much of the program can be undertaken by the private sector. The long-range goal of this legislation is for OPIC to phase out as a direct underwriter of investment insurance and for private insurance companies to take this over, with OPIC acting as a reinsurer against exceptionally large, catastrophic losses.

I think this approach makes sense, but only if the public policy objectives of the program continue to be of primary importance in the selection of projects to assist by way of political risk insurance. It is essential that in the agreement OPIC negotiates with private insurance companies provision is made for guidelines in the writing of insurance which require that projects assisted contribute to the economic development of the host country. In my mind, this is fundamental to continued Government involvement in this program.

Private investment must play an essential role in the economic development process. OPIC contributes a careful appraisal and selectivity to each project it assists to make sure that those projects insured are beneficial, not detrimental, to the development process.

Mr. Speaker, this is a unique experiment. This legislation reverses the trend toward "big government" and represents an attempt to transfer to the private sector a program that has traditionally been a Government function.

I support this effort, and urge my colleagues to do the same.

Mr. FRELINGHUYSEN. Mr. Chairman, I yield 5 minutes to the gentleman from Florida (Mr. BURKE).

Mr. BURKE of Florida. Mr. Chairman, as the ranking minority member of the Subcommittee on Foreign Economic Policy, I want to indicate my support for H.R. 13973, the OPIC Amendments Act of 1974. I would like to compliment the chairman of the subcommittee, Congressman JOHN C. CULVER of Iowa, for his hard work and his fairness.

The Subcommittee on Foreign Economic Policy undertook an extensive amount of study and research on the Overseas Private Investment Corporation before it approved this legislation. Extensive hearings were held early last summer, several members of the subcommittee undertook a study mission to Latin America, and lengthy reports on OPIC were prepared by the Congressional Research Service and the General Accounting Office.

The basic purpose of this bill is to provide OPIC with a 3-year extension of its authority through December 31, 1977, and to give OPIC the legal authority to enter into joint underwriting agreements with private insurance companies, and to reinsure such arrangements. The bill sets goals for OPIC to achieve during the 3-year period of its extension with regard to the amount of private insurance company participation which should be achieved. If these goals are not met, OPIC must come back to Congress, and explain why they were not met and when they expect to meet them.

The process of involving private insurance companies in what has traditionally been a Government program began back in 1971 when OPIC was formally organized. Shortly after its organization, after failing to interest U.S. private insurance companies in the program, OPIC went to Lloyd's of London and negotiated the first of a series of reinsurance agreements. The success of OPIC's relationship with Lloyd's has now encouraged private U.S. insurance companies to become interested in the program, and OPIC advises me they are hopeful of concluding negotiations soon with private companies to set up a consortium with those companies. Under this arrangement, private companies would assume a significant portion of OPIC's potential insurance liabilities in return for a share of OPIC's premium income. The profitability of the OPIC program since the agency was organized has encouraged private companies to take this step.

It is rare that a Government agency voluntarily attempts to transfer a major portion of its program to the private sector. This effort by OPIC represents an encouraging contrast to the normal inclination of most Government agencies whose natural instincts are to grow and expand.

This legislation before us today represents the Committee's judgment that OPIC can acomplish this "privatization" without sacrificing the important public policy objectives of the program to assist in the economic development of poor countries. Private investment has an important role to play in this area, and clearly can help to reduce the demand for foreign aid funds.

For these reasons, I support this legislation, and I hope my colleagues will also support it.

Mr. FRELINGHUYSEN. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. WHALEN).

Mr. WHALEN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of H.R. 13973. I am particularly pleased with the new direction which this measure provides.

The rationale for the Overseas Private Investment Corporation and its predecessor agencies rests on the assumption that American investment abroad contributes to economic development in the host country. It is this thesis which this body must examine today.

In so doing, there are three subordinate questions which demand answers.

First, does foreign investment contribute to development in the host country? My fellow economists concur that the contribution to domestic growth, in part, depends upon the nature of the foreign investment. True, investment funds emanating from abroad do create jobs. Too, they contribute to the host nation's foreign exchange holdings. Any exportation of goods and services, produced as a result of the investment, further enhance the host country's ability to buy needed equipment abroad. Foreign investment also expands the host state's tax base.

But foreign investment also may impose certain costs upon the economy in which it is made. The human resources activated by the investment might better be used for other productive purposes. Any exports generated by the investment, while accruing foreign exchange earnings, deplete the host country's natural and physical resources. These foreign exchange holdings, however, are dissipated as the investor converts his earnings into his own currency. Further, as repatriated earnings exceed the total amount of the investment, disinvestment in the host country results.

In the light of the foregoing, economists agree that foreign private investment contributes only minimally to economic development in the host country. Instead, there are other, more effective, alternatives by which economic growth can be achieved.

Second, does insurance against loss due to expropriation, inconvertibility, and war stimulate foreign investment? The answer, of course, is "no." An investment opportunity is not attractive because it offers war, convertibility, and expropriation protection. Rather, the principal—indeed, only—reason for any investment—be it domestic or foreign—is the prospect of a profit. Thus, any economic development to which OPIC-insured investments might have contributed stems not from OPIC's role but from the anticipation of profits.

Third, was OPIC an important factor in those instances where American firms decided to invest abroad? In answering this query, it must be remembered that OPIC's portfolio covers only $3 billion of our total $80 billion in private foreign investment. From my own inquiries, I have found that when U.S. companies did obtain OPIC coverage, the fact that such insurance was available was only a marginal consideration. In fact, most of my contacts responded that, motivated by profit prospects, they would have approved the investment decision even if OPIC insurance had been unobtainable.

In summary: First, private foreign investment contributes minimally to economic growth in the host country; second, profit, rather than OPIC insurance, stimulates investment abroad; and third, the availability of OPIC coverage has been marginal in investment decisions.

For these reasons, Mr. Chairman, I have concluded that OPIC's direct insurance role should be phased out. Indeed, this is the thrust of H.R. 13973. This bill provides that, effective December 31, 1979, OPIC should cease writing expropriation and inconvertibility insurance. By December 31, 1980, OPIC should discontinue its war risk insurance program. In addition, H.R. 13973 expresses the intention that by 1980 two special programs authorized by section 234(b) through (e) and section 240 be turned over to other governmental agencies and their activities limited to those countries with a per capita income of $450 or less—in 1973 U.S. dollars. This means, Mr. Chairman, that by January 1, 1981, OPIC's role should be limited to that of a reinsurer. If this objective is achieved, OPIC will escape the "development" myth under which it has labored and can pursue its true mission, that of enhancing the competitive position of American firms in foreign markets.

Because it does represent a significant and needed change in direction, Mr. Chairman, I shall vote affirmatively for H.R. 13973. I urge my colleagues to do likewise.

Mr. FRELINGHUYSEN. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan (Mr. VANDER JAGT).

Mr. VANDER JAGT. Mr. Chairman, I rise in strong support of this legislation which extends for 3 years the Overseas Private Investment Corporation.

When OPIC was set up by the Congress in 1969, it was given a mandate to facilitate and mobilize participation by

U.S. private capital and skills in the economic development of less-developed countries. OPIC has had phenomenal success in carrying out that mandate through a program of insurance against expropriation, inconvertibility, and war; through limited financing; and through promotion programs. OPIC has made it *possible for* a less-developed country to compete on a far more equal footing with a more-developed country for that precious American investment dollar, and it has done this without cost to the taxpayer. OPIC does not cost money; it makes money, and I know of no other agency that we have set up that can make that same claim.

Mr. Chairman, I know that the less developed countries desperately desire this kind of program.

A little over a year ago I was in the Sudan and was intrigued that in that largest country in all of Africa there is *only about one* paved road. It leads out of the heart of the capital city, Khartoum, about 80 miles into the interior. The Sudanese call that road "the American way," not because it was built with U.S. foreign aid dollars but because clustered along both sides of that road are about the only private businesses and commercial enterprises in that entire country.

The Sudanese put their hope for economic development in those free enterprise businesses.

Mr. Chairman, on the day I was there, it was a national holiday, when families are supposed to be together. In spite of that, 70 Sudanese turned up at the town hall to meet with me and to plead with me to do whatever I could to encourage U.S. private investment in their country in order to help in their economic development.

The doors are open wide in Sudan and all around the world in the less-developed countries for U.S. private business investment. It is the task of OPIC to lead our U.S. industries through those open doors, where opportunities await them and also await the host country, and in the process there are opportunities for the objectives of U.S. foreign policy.

This is a very unique bill, because those who favor foreign aid should vote for it, inasmuch as it delivers the kind of foreign aid that is most desperately desired. Those who oppose foreign aid should support the bill, because it provides aid without any cost to the taxpayer and reduces the need for appropriated foreign aid.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. VANDER JAGT. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Chairman, I will ask the gentleman this:

It does impose a $600-million obligation upon the people of this country; does it not?

Mr. VANDER JAGT. Mr. Chairman, any insurance program, whether it be life insurance or health insurance, imposes some obligation. OPIC charges higher premiums for this type of insurance than any other Government program anywhere in the world.

That is why it has been judged to be actuarially sound, and the proof of that is found in the willingness of private insurance companies to come in and participate in the risk program.

Mr. GROSS. Mr. Chairman, if the gentleman will yield further, I will ask this:

That is the opinion of the gentleman, that it will be actuarially sound, and that it will not come back to haunt the people and the taxpayers of this country to the tune of $600 million; is that correct?

Mr. VANDER JAGT. Mr. Chairman, that is certainly our hope, and I join with the gentleman from Iowa in expressing that hope. I might also say that I believe conservatives should support this bill, because with this bill we export our most priceless commodity, and that is the magic of our free enterprise system.

I believe the liberals should also support the bill, because it is the only vehicle of which I am aware whereby the U.S. Government can shape the nature of investments being made, thereby maximizing the investments acceptability to the host country and minimizing the possibility of confrontation or expropriation.

Mr. Chairman, in closing, I would like to pay tribute to the chairman of the Subcommittee on Foreign Economic Policy, the ranking member of that that subcommittee, but particularly to the chairman for the intelligence, the skill, and the diligence with which, for over a year, he has developed this very fine piece of legislation. I believe we all owe him our heartfelt thanks for the quality of this legislation which is before us.

I would also be remiss if I did not pay tribute to the leadership of Mr. Marshall Mays, the president of OPIC, and his staff. In 1969 we gave OPIC two directives. On one hand we said, "Operate this on a businesslike basis and make money," which they did, and at the same time we said, "Make your investments in the least developed countries where the risk is the greatest, because there the need is also the greatest."

Somehow they have been successful in meeting those two somewhat conflicting mandates. All of us can take justifiable pride in the job OPIC has done. I believe all of us can support this bill with great pride and enthusiasm.

Mr. CONTE. Mr. Chairman, I rise today to express my strong support for the Overseas Private Investment Corporation and for the OPIC Amendments Act of 1974, H.R. 13973.

As a member of the Subcommittee on Foreign Operations of the Appropriations Committee, I have been following OPIC carefully since the passage of the original authorizing legislation in 1969, and its formal organization in January 1971. When OPIC took over this program from AID, OPIC was at once confronted with a very serious financial situation. Its investment insurance program faced over $400 million in claims, primarily resulting from expropriations in Chile. And, as a consequence the program had only about $85 million in reserves. Many people thought OPIC was bankrupt and that the program would result in failure.

Today I am pleased to note, however, that OPIC's financial situation has improved considerably in 3 short years. OPIC's reserves are now about $186 million, and pending claims are only $4 million.

OPIC's net income is now over $30 million a year. The Corporation pays all of its own administrative expenses, currently running at about $4 million a year, which is less than the annual interest earned on the investment of premium income.

In summary, OPIC's financial position has improved considerably, and the prospects for the future are good.

Since OPIC took over this program in 1971, it has undertaken a number of efforts to incorporate risk management practices designed to reduce potential claims. Beginning in 1971, OPIC negotiated a series of reinsurance arrangements with Lloyd's of London under which Lloyd's shares in the payment of claims. A new, 3-year agreement which became effective on January 1, 1974, provides that Lloyd's will pay about 45 percent of any expropriation claim in any country, with annual limits of about $18 million per country and $55 million worldwide.

Further, OPIC now has designed an experimental plan for a joint underwriting association with private insurance companies. The bill today before the House contains the necessary statutory authority to establish the proposed association, as well as a mandate to determine by actual experience how much of OPIC's insurance program ought to be turned over to the private sector.

Specifically, this experimental plan will determine the feasibility of turning over all investment insurance underwriting to private insurance companies, with OPIC gradually reducing its total reinsurance of private insurers against exceptionally large losses.

At the same time, OPIC has provided assurances of fulfilling the necessary public objectives of the program. This means that projects approved by the joint OPIC-private, or eventually wholly private insurance association, will have to qualify as helpful to the economic development of their host countries, and be projects which are not harmful to our U.S. balance of payments or domestic employment.

The legislation that we are considering today has a lengthy history behind it. Beginning last summer, the foreign economic policy subcommittee of the foreign affairs committee held 9 days of oversight hearings on OPIC. In connection with that, the Congressional Research Service did a lengthy study on OPIC.

Later last summer, the Subcommittee on Multinational Corporations of the Foreign Relations Committee held 6 days of hearings. In connection with the Senate hearings, the General Accounting Office conducted a study of OPIC over a period of about 8 months. The subcommittee completed their reports last fall, and the Senate passed its version of the legislation on February 26, 1974.

The Foreign Economic Policy Subcommittee again held hearings. This spring on March 20 H.R. 13973 was reported by the Foreign Affairs Committee on May 2.

As a result of these hearings and reports, a substantial amount of congressional time and thought has gone into the development of this legislation. To my knowledge, this is an unprecedented attempt to develop this type of public sector-private sector relationship.

The Congress is trying to "privatize" this important program, while at the same time retaining sufficient policy control to maintain its public policy objectives. Today's legislation envisages a long-term role for OPIC as a reinsurer and assurer of the program's public policies. I believe this role is appropriate for OPIC.

OPIC's fundamental purpose is to encourage U.S. private investment in developing countries that will prove helpful to their economic development. Private investment is an integral part of the economic development process. Government-to-government assistance is important, too; but, if these countries are going to become self-sufficient, they must have viable economies. They need the capital, technology, and entrepreneurial drive we know that U.S. private investment can provide.

I am delighted to note that the distinguished chairman of the Foreign Economic Policy Subcommittee, the gentleman from Iowa (Mr. CULVER), added an amendment during the subcommittee markup of this legislation which helps our strong, personal interest in full domestic U.S. employment. This important amendment prohibits OPIC from assisting any foreign investment which would result in a reduction of a company's employment in the United States by transferring its production overseas to serve the same market now served by a U.S. plant. OPIC now has a clear statutory obligation to assure the investor's conformance with his representations to OPIC in this regard. OPIC will monitor this required investor conformance and will report to the Congress each year.

This amendment is consistent with the policy OPIC has been following since 1972, but the policy will now be expressed as a matter of law. This is sensible and should meet the legitimate concerns of labor about the "exporting of jobs" and "runaway industries."

The legislation before the House today also directs OPIC to attempt to operate the insurance program on a self-supporting basis. Further, it prohibits OPIC from seeking appropriations unless its reserves are reduced to $25 million. As a member of the Appropriations Committee, I support these provisions. OPIC earlier this year testified that it did not expect to call on the Congress for further augmentation of its reserves except for an unforeseen extreme catastrophe. That is as it should be for the Overseas Private Investment Corporation.

In conclusion, Mr. Chariman, I wish to express my strong support for this legislation and to urge its prompt passage. Thank you.

Mr. WOLFF. Mr. Chairman, I rise to support H.R. 13973, the OPIC Amendments Act of 1974. Back in 1969, I authored the original House legislation which provided for the establishment of the Overseas Private Investment Corporation. Since then, as a member of the Subcommittee on Foreign Economic Policy, I have regularly reviewed the progress OPIC has made during the 3½ years of its existence, and the development of the legislation we are today considering.

I have supported OPIC and its legislation through the years because I firmly believe that private investment is an essential ingredient in the mix needed for poor countries of the world to develop their economies. Our foreign assistance programs, are desirable, but private investment is also needed if developing countries are to make progress toward becoming economically self-sustaining. Such investment helps to provide the jobs, foreign exchange, technology, and skills which are so urgently needed.

OPIC performs a useful role by carefully reviewing each project which comes to it for investment insurance or financing to make sure that such projects are truly helpful to the economic development of the poor country, while at the same time are beneficial to the U.S. balance of payments and are not harmful to domestic employment. Without OPIC, there is no U.S. Government agency which would review private investment projects to determine either their impact on the host countries, or on States.

Since 1971, OPIC has been working with private insurance companies in an effort to determine how much of its program can be turned over to the private sector. After several years of successful relationships with Lloyd's of London, OPIC has now been able to interest U.S. private insurance companies in participating in the OPIC program in a substantial way. Negotiations should be concluded soon which will lead to the establishment of a joint private-OPIC underwriting association in which private insurance companies will assume a significant portion of the potential claims liability on insurance issue, in return for a portion of the premium income collected by OPIC.

H.R. 13973 gives OPIC a 3-year extension of its authority through 1977, and provides the agency with the statutory authority needed to determine the feasibility of eventually turning over all of its insurance operations to the private sector.

The bill establishes interim goals which OPIC must achieve during the 3-year extension of its authority. If these goals are not achieved, OPIC must report to Congress on the reasons for its inability to achieve the goals, and the date by which such goals can be achieved.

The Foreign Affairs Committee also approved an amendment I offered during markup of H.R. 13973 which extends the authority for OPIC's Advisory Council through December 31, 1977. Under the Federal Advisory Committee Act of 1972, such advisory councils automatically terminate unless they are extended by law. OPIC's Advisory Council has assisted the agency, particularly the Insurance Advisory Committee which has dealt specifically with the problems and policy questions involved with regard to private insurance company participation in the program. Since the OPIC Advisory Council has made significant contributions to the program at a very small cost, I believe its authority should be extended consistent with the extension of OPIC's overall authority.

In conclusion, Mr. Chairman, I believe this is a good program which should be continued. The legislation provides OPIC with the authority needed to allow the agency to engage in a virtually unprecedented experiment to transfer a going Government program to the private sector. I believe this can be achieved while still fulfilling the public policy objectives of the program.

Mr. Chairman, I urge the passage of this legislation.

OVERSEAS PRIVATE INVESTMENT CORP.

Mr. HANNA. Mr. Chairman, I rise to support the extension of OPIC because I think it has shown the capacity of doing a great deal of good while at the same time avoiding the use of taxpayer money, and I have no doubt that this will continue in the future.

The idea of helping the poor countries of the world through foreign investment is not a new concept. However, a few critics now contend that some foreign investment is not good for the host country, or, for that matter, for the capital exporting country. However, OPIC does not support all investments. The reason the Congress created OPIC in 1969 was to make these programs more selective, and the record shows that OPIC has carried out this mandate. Projects it supports must show net benefits not only to the host country but also to the United States. There is nothing inconsistent in this. Overseas projects can create jobs in both the host country and the United States. They can help the balance of payments of both countries. And they can produce tax revenues for both.

Insurance against political risks makes it possible for a potential investor to view the poorer countries on a par with the more developed countries by removing, for a fee, those nonbusiness risks which are more likely to occur in the poorer countries. In addition, a company that has insurance against these political risks can view its project as a long-term venture, without the pressure to make a fast buck and pull out quick.

OPIC's insurance has also been proven as a mechanism for resolving investment disputes rather than causing them. Companies without insurance who have disputes with the host country have no established procedure to follow. They run to the State Department; they run to the Congress.

Companies with OPIC insurance have a procedure which they must follow to get paid. OPIC does not pay a claim as soon as a dispute arises. The claimant must negotiate for a year with the host government, and these negotiations must be in good faith. OPIC monitors the negotiations, it advises the claimant, and has access to the claimants books and records. Hence, the possibilities for settlement of the dispute are greatly enhanced. And, if the host government and claimant reach a settlement *satisfactory to OPIC*, OPIC can guarantee that the settlement will be carried out. Thus, OPIC takes the dispute from the political arena and turns it into a business proposition, thereby defusing a potential government-to-government conflict.

I am confident that the good OPIC does will not be diminished by the proposed effort to share its liabilities with private insurance companies. I understand that OPIC will control the underwriting policies of the insurance association, and will continue its efforts to ameliorate investment disputes. However, if in moving to a purely reinsurance role, as envisioned by this bill, OPIC finds that the financial and other costs to the government of this change in its role are too great, we will have an opportunity to reassess the thrust of the OPIC legislation when it comes up for renewal in 1977.

In short, I believe that this bill is worthy of the strong support of this body.

Mr. GUDE. Mr. Chairman, it is my privilege today to express my support for the Overseas Private Investment Corporation, to compliment the organization on its accomplishments, and to add my hopes for its future successes.

Impending food shortages in parts of the lesser developed world, primitive economies expressed in chronically low per capita incomes and the almost total absence of adequate financial or industrial structures—in other words, the increasing gap between the rich nations and the poor nations show clearly the inability of government aid programs by themselves to meet the challenge of development.

OPIC, however, represents another approach to the development problem—an approach which can make available to lesser developed countries resources far beyond those offered by governments, and an approach which promises rewards to both investor and host country in terms of profits as well as good will.

OPIC is specifically designed to encourage private investment in developing countries. It provides preinvestment information and counseling and some financial support for feasibility studies. It makes available insurance against risks of expropriation, inconvertibility and war, and financial assistance through loans and loan guarantees. It has begun a concerted effort to move its insurance function into private hands, an effort that will be more clearly defined and directed in the pending authorization. Of particular interest to me has been OPIC's concern with encouraging investment by small businesses. Some of the projects OPIC has supported include: five flour mills in underdeveloped nations of Africa and Latin America which have brought new skills and technology to the people, provided them with better nutrition and created new markets for American wheat exports.

A modern livestock operation in Kenya has revolutionized the cattle industry there, and upgraded the stock to the point where Kenyan beef is popular in the export as well as the domestic markets.

A $350 million bauxite mining operation in Guinea supplies needed quantities of an increasingly scarce mineral resource.

An ice company in Ghana provides needed refrigeration facilities which help insure an adequate food distribution, particularly fish, throughout the year, thus controlling inflationary food prices.

These are only a few of the projects OPIC has participated in and encouraged since its founding. With this new authorization and the careful guidelines laid down by the Committee on Foreign Affairs, I am confident the Overseas Private Investment Corporation will continue to be a valuable tool in our effort to encourage worldwide economic development.

Mr. BINGHAM. Mr. Chairman, I rise in support of H.R. 13973, the Overseas Private Investment Corporation Amendments Act of 1974. I first want to congratulate the gentleman from Iowa (Mr. CULVER), and the Foreign Economic Policy Subcommittee which he chairs, for their leadership on this legislation. Although not a member of the subcommittee, I attended some of the sessions and was favorably impressed by the thorough analysis that was made of OPIC's operations. As a result, this bill is a sound measure for governing the future of the corporation.

I agree that private insurance companies should be encouraged as much as feasible to participate in OPIC's insurance program. However, I hope that OPIC will not lose sight of the important public purpose which it is to serve. I note, for example, that this bill and the one passed by the Senate require OPIC to give preferential consideration in the operation of its programs to the least developed countries and to small business. Both bills also continue OPIC's basic directive to mobilize and facilitate the participation of U.S. private capital and skills in the economic and social development of friendly less developed countries. These are large orders for a small agency, particuarly when it is also asked to further the employment and balance of payment objectives of the United States and to move as much as feasible to a reinsurers role. Whether all of these mandates can be accomplished remains to be seen. However, I don't think that we can or should remove any of these guidelines for the Corporation's future performance. Each represents a valid interest of the Congress and I am hopeful that OPIC will be able to handle this difficult assignment.

Mr. VANDER JAGT. Mr. Chairman, labor should support this bill because by creating new markets OPIC creates new jobs for U.S. workers. Those who attack OPIC for creating a loss of jobs in the United States—and you will hear their cries—misunderstand the nature of the OPIC program. The purpose of OPIC is not subsidies to U.S. business. Its purpose is to enable a less developed country to compete on a more equal footing with a more developed country for the U.S. investment dollar through its insurance, financing and promotion programs. The programs attempt to make more acceptable U.S. private investment in those countries where the risk is greatest because that is where the need is greatest.

No one can accuse this legislation of leading to a loss of jobs in the United States who has studied the provision in the bill prohibiting OPIC assistance in cases of runaway industries, and the explanation of that provision given on the floor by the subcommittee chairman. Obviously the creation of new markets create opportunities for new jobs. For example, Mr. Reynolds testified that nonavailability of Jamaican bauxite and aluminum (an area where OPIC has been particularly active) would cost almost 20,000 jobs at Reynolds in the United States—jobs where work is done here on the bauxite, alumina, or aluminum that comes from Jamaica.

The U.S. Tariff Commission report to the Senate Finance Committee estimated that U.S. overseas investment produced a $3.85 billion favorable balance of payments and was responsible for 500,000 jobs here in the United States.

A Harvard Business School study in January 1974 estimated that manufacturing investment alone in the less developed countries made a net gain of 120,000 U.S. jobs.

The Congressional Research Service concluded:

> OPIC already has substantial beneficial effects in both the balance of payments and the employment situation. (in the United States)

Thus, those most concerned with jobs for U.S. workers should enthusiastically support OPIC because OPIC's efforts create jobs for U.S. workers.

Mr. OBEY. Mr. Chairman, since this legislation would extend the life of the OPIC Advisory Council through December 31, 1977, I think it is pertinent to point out that the Advisory Council held an unannounced, closed-door briefing session last October, in apparent violation of the Federal Advisory Committee Act.

I should like to quote from a report of last November 16 from the Foreign Affairs Division of the Congressional Research Service, to the chairman of the Senate Committee on Foreign Relations, in response to his request for a review of the activities of advisory committees in the field of foreign policy:

> In addition, the Overseas Private Investment Corporation (OPIC) announced in the Federal Register that its Advisory Council would meet on October 29 from 11:30 a.m. to 12:30 p.m. and from 2:00 p.m. to 4 p.m. The notice stated that "because of limited space . . . persons who desire to observe the discussion will be admitted in the order of receipt of written application . . ." The Foreign Affairs Division analyst who attended this meeting discovered that it was preceded by a closed "briefing," not announced publicly.

To require "written application" to attend seems to me unique among the more than 1,400 advisory committees, although some—for example, the Advisory Council on Social Security—insist that persons planning to attend should send written notice of intent. Whatever the OPIC Advisory Council's purpose, requiring written application could make it easy to exclude unwanted observers.

Mr. Chairman, in extending the life of the OPIC Advisory Council, we should underscore our expection that it will operate in complete compliance with the Federal Advisory Committee Act.

Mr. CULVER. Mr. Chairman, I have no further requests for time.

Mr. FRELINGHUYSEN. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Overseas Private Investment Corporation Amendments Act of 1974".

Sec. 2. Title IV of chapter 2 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2191–2200a) is amended—

(1) by striking out "progress" in the first sentence of section 231 and inserting "development" in lieu thereof;

(2) by inserting ", insurance, and reinsurance" after "financing" the first time it occurs in clause (a) of section 231;

(3) by inserting "in its financing operations" after "taking into account" in clause (a) of section 231;

(4) by striking out ", when appropriate," in clause (d) of section 231;

(5) by inserting "and reinsurance" after "efforts to share its insurance" in clause (d) of section 231;

(6) by striking out clause (e) of section 231 and inserting in lieu thereof the following:

"(e) to give preferential consideration in its investment insurance, financing, and reinsurance activities (to the maximum extent practicable consistent with the Corporation's purposes) to investment projects involving businesses of not more than $2,500,000 net worth or with not more than $7,500,000 in total assets;";

(7) by inserting "and employment" after "balance-of-payments" in clause (i) of section 231;

(8) by striking out "and" after the semicolon in clause (j) of section 231;

(9) by striking out the period at the end of clause (k) of section 231 and inserting a semicolon in lieu thereof;

(10) by inserting at the end of section 231 the following:

"(l) to the maximum extent practicable, to give preferential consideration in the Corporation's investment insurance, financing, and reinsurance activities to investment projects in the less developed friendly countries which have per capita incomes of $450 or less in 1973 United States dollars;

"(m) to identify foreign investment opportunities in less developed friendly countries and areas, and to bring information concerning such opportunities to the attention of potential eligible investors in such countries or areas; and

"(n) (1) to decline to issue any contract of insurance or reinsurance, or any guaranty, or to enter into any agreement to provide financing for an eligible investor's proposed investment if the Corporation determines that such investment is likely to cause such investor (or the sponsor of an investment project in which such investor is involved) significantly to reduce the number of his employees in the United States because he is replacing his United States production with production from such investment which involves substantially the same product for substantially the same market as his United States production; and (2) to monitor conformance with the representations of the investor on which the Corporation relied in making the determination required by clause (1).";

(11) by amending the section heading of section 234 to read as follows: "Investment Insurance and Other Programs.";

(12) by inserting at the end of subsection (a) of section 234 the following new paragraphs:

"(4) (A) It is the intention of Congress that the Corporation should achieve participation by private insurance companies, multilateral organizations, or others in at least 25 per centum of liabilities incurred in respect of the risks referred to in subparagraphs (1) (A) and (B) of this subsection under contracts issued on and after January 1, 1975, and in at least 50 per centum of liabilities incurred in respect of such risks under contracts issued on and after January 1, 1978. If it is not possible for the Corporation to achieve either such percentage of participation, the Corporation shall report in detail to the Senate Foreign Relations Committee and the Foreign Affairs Committee of the House of Representatives the reasons for its inability to achieve either such percentage of participation, and the date by which such percentage can be achieved.

"(B) It is the intention of Congress that the Corporation should not participate as insurer under contracts of insurance issued after December 31, 1979, in respect of the risks referred to in subparagraphs (1) (A) and (B) of this subsection.

"(5) (A) It is the intention of Congress that the Corporation should achieve participation by private insurance companies, multilateral organizations, or others in at least 12 per centum of liabilities incurred in respect of the risks referred to in subparagraph (1) (C) of this subsection under contracts issued on and after January 1, 1976, and in at least 40 per centum of liabilities incurred in respect of such risks under contracts issued on and after January 1, 1979. If it is not possible for the Corporation to achieve either such percentage of participation, the Corporation shall report in detail to the Senate Foreign Relations Committee and the Foreign Affairs Committee of the House of Representatives the reasons for its inability to achieve either such percentage of participation, and the date by which such percentage can be achieved.

"(B) It is the intention of Congress that the Corporation should not participate as insurer under insurance policies issued after December 31, 1980, in respect of the risks referred to in subparagraph (1) (C) of this subsection.

"(6) Notwithstanding any of the percentages of participation under subparagraphs (4) (A) and (5) (A) of this subsection, the Corporation may agree to assume liability as insurer for any insurance contract, or share thereof, that a private insurance company, multilateral organization, or any other person has issued in respect of the risks referred to in paragraph (1) of this subsection, and neither the execution of such an agreement to assume liability nor its performance by the Corporation shall be considered as participation by the Corporation in any such insurance contract for purposes of such percentages of participation. However, it is the intention of Congress that on and after January 1, 1981, the Corporation should not enter into any such agreement to assume liability.

"(7) It is the intention of Congress—

"(A) that the Corporation should not manage direct insurance issued on and after December 31, 1979, by any other person in respect of risks referred to in subparagraph (1) (A) or (B) of this subsection;

"(B) that the Corporation should not manage direct insurance issued on and after December 31, 1980, by any other person in respect of risks referred to in subparagraph (1) (C) of this subsection; and

"(C) that on and after December 31, 1980, the Corporation should act only as a reinsurer except to the extent necessary to manage its outstanding insurance or reinsurance contracts and any policies the Corporation assumes pursuant to paragraph (6).";

(13) by inserting at the end of section 234 the following new subsection:

"(f) Other Insurance Functions.—

"(1) to make and carry out contracts of insurance or reinsurance, or agreements to associate or share risks, with insurance companies, financial institutions, any other persons, or groups thereof, and employing the same, where appropriate, as its agent, or acting as their agent, in the issuance and servicing of insurance, the adjustment of claims, the exercise of subrogation rights, the ceding and accepting of reinsurance, and in any other matter incident to an insurance business;

"(2) to enter into pooling or other risk-sharing arrangements with other national or multinational insurance or financing agencies or groups of such agencies;

"(3) to hold an ownership interest in any association or other entity established for the purposes of sharing risks under investment insurance; and

"(4) to issue, upon such terms and conditions as it may determine, reinsurance of liabilities assumed by other insurers or groups thereof in respect of risks referred to in subsection (a) (1).

The amount of reinsurance of liabilities under this title which the Corporation may issue shall not exceed $600,000,000 in any one year, and the amount of such reinsurance shall not in the aggregate exceed at any one time an amount equal to the amount authorized for the maximum contingent liability outstanding at any one time under section 235(a) (1). All reinsurance issued by the Corporation under this subsection shall require that the reinsured party retain for his own account specified portions of liability, whether first loss or otherwise, and the Corporation shall endeavor to increase such specified portions to the maximum extent possible.";

(14) by striking out "1974" in section 235 (a) (4) and inserting "1977" in lieu thereof;

(15) by striking out "insurance issued under section 234(a)" in subsection (d) of section 235 and inserting in lieu thereof the following: "insurance or reinsurance issued under section 234";

(16) by striking out subsection (f) of section 235 and inserting in lieu thereof the following:

"(f) There are authorized to be appropriated to the Corporation, to remain available until expended, such amounts as may be necessary from time to time to replenish or increase the insurance and guaranty fund, to discharge the liabilities under insurance, reinsurance, or guaranties issued by the Corporation or issued under predecessor guaranty authority, or to discharge obligations of the Corporation purchased by the Secretary of the Treasury pursuant to this subsection. However, no appropriations, after appropriations for fiscal year 1975, shall be made to augment the Insurance Reserve until the amount of funds in the Insurance Reserve is less that $25,000,000. Any appropriations to augment the Insurance Reserve shall then only be made either pursuant to specific authorization enacted after the date of enactment of the Overseas Private Investment Corporation Amendments Act of 1974, or to satisfy the full faith and credit provision of section 237(c). In order to discharge liabilities under investment insurance or reinsurance, the Corporation is authorized to issue from time to time for purchase by the Secretary of the Treasury its notes, debentures, bonds, or other obligations; but the aggregate amount of such obligations outstanding at any one time shall not exceed $100,000,000. Any such obligation shall be repaid to the Treasury within one year after the date of issue of such obligation. Any such obligation shall bear interest at a rate determined by the Secretary of the

Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of any obligation authorized by this subsection. The Secretary of the Treasury shall purchase any obligation of the Corporation issued under this subsection, and for such purchase he may use as a public debt transaction the proceeds of the sale of any securities issued under the Second Liberty Bond Act after the date of enactment of the Overseas Private Investment Corporation Amendments Act of 1974. The purposes for which securities may be issued under such Bond Act shall include any such purchase.";

(17) by striking out "and guaranties" in subsection (a) of section 237 and inserting in lieu thereof the following: ", guaranties, and reinsurance";

(18) by striking out "or guaranties" in subsection (a) of section 237 and inserting in lieu thereof the following: ", guaranties, or reinsurance";

(19) by striking out "or guaranty" both times it occurs in subsection (b) of section 237 and inserting in lieu thereof both times the following: ", guaranty, or reinsurance";

(20) by inserting ", reinsurance," after "insurance" both times it occurs in subsection (c) of section 237;

(21) by inserting ", reinsurance," after "insurance" the first two times it occurs in subsection (d) of section 237;

(22) by striking out "or insurance" in subsection (d) of section 237 and inserting in lieu thereof the following: ", insurance, or reinsurance";

(23) by striking out "or guaranty" in subsection (e) of section 237 and inserting ", guaranty, or reinsurance" in lieu thereof;

(24) by inserting ", reinsurance," after "insurance" both times it occurs in subsection (f) of section 237;

(25) by adding at the end of subsection (f) of section 237 the following: "Notwithstanding the preceding sentence, the Corporation shall limit the amount of direct insurance and reinsurance issued by it under section 234 so that risk of loss as to at least 10 percent of the total investment of the insured and its affiliates in the project is borne by any person other than the Corporation on the date the insurance is issued. The preceding sentence shall not apply to any loan by an insurance company, pension fund, or other institutional lender, or to any investment by a small business.";

(26) by inserting ", insurance, or reinsurance" and "guaranty" in subsection (g) of section 237;

(27) by striking out "or guaranties" in subsection (h) of section 237 and inserting ", guaranties, or reinsurance" in lieu thereof;

(28) by inserting ", reinsurance," after "insurance" in subsection (i) of section 237;

(29) by inserting ", reinsurance," after "insurance" both times it occurs in subsection (k) of section 237; and

(30) by adding at the end of section 239 the following:

"(h) Within six months after the date of enactment of the Overseas Private Investment Corporation Amendments Act of 1974 the Corporation shall develop and implement specific criteria intended to minimize the potential environmental implications of projects undertaken by investors abroad in accordance with any of the programs authorized by this title.

"(i) It is the intention of Congress that on or after December 31, 1979, the President shall transfer all programs under section 234 (b) through (e) or section 240, and all obligations, assets, and related rights and responsibilities arising out of, or related to, such programs to any other agency of the United States.

"(j) On and after December 31, 1979, all programs authorized under section 234 (b) through (e) or section 240 shall be limited to countries with a per capita income of $450 or less in 1973 United States dollars.";

(31) by striking out "25 per centum" in subsection (b) of section 240 and inserting "50 per centum" in lieu thereof;

(32) by striking out "1974" in section 240 (h) and inserting "1977" in lieu thereof; and

(33) by striking out subsection (b) of section 240A and inserting in lieu thereof the following: "(b) Not later than January 1, 1976, the Corporation shall submit to the Congress an analysis of the possibilities of transferring all of its activities to private insurance companies, multilateral organizations or institutions, or othr entities."

Mr. CULVER (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee Amendment: On page 8, line 3, immediately before "The amount" insert the following:

The authority granted by paragraph (3) may be exercised notwithstanding the prohibition under section 234(c) against the Corporation purchasing or investing in any stock in any other corporation.

Mr. GROSS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, my remarks in opposition to this bill will be brief. It provides for another enormous obligation upon the people of this country. We have already spent billions of dollars, $260 billion by the end of this fiscal year, on foreign aid of one kind and another. Many billions of the $260 billion were spent in the stated hope that the expenditure of that money would provide a "climate" favorable for American investments and business opportunities overseas. There should now be an explanation of the reason why, with the expenditure of such a staggering amount of money, that such a climate has not been developed, and without the necessity for an insurance company known as the Overseas Private Investment Corporation.

I say to the Members of the House if you approve this bill you will be obligating the taxpayers of this country to the tune of $600 million or more, and it is an obligation that ought not to be imposed upon them at this time, if ever.

Mr. Chairman, there is absolutely no justification for loading on the backs of our citizens an obligation of $600 million to protect American investors who take their money abroad. This program even protects such investors against risks in foreign countries to which businessmen in the United States are subject but for which they would not be indemnified by federally backed insurance.

This is special privilege legislation with a vengeance, and by every application of reason it ought to be defeated.

Mr. Chairman, I yield back the balance of my time.

Mr. DENT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, for many years in this hall I have tried to discuss with the Members of the Congress, the kind of problems that I believe are responsible for the conditions we find ourselves in.

I note, and I congratulate the sponsors of this legislation upon one thing, and that is that finally on page 7 of the committee report, in referring to section (10) (n) they admit something that every Member of the Congress who is supposed to be on this floor has denied over the years: they admit that we do have such a thing as runaway industries that are covered by this legislation.

OPIC operates a multibillion lending and insurance program that has served to accelerate, at the taxpayers' expense, the expansion of U.S.-based multinational industries abroad, and the exportation of U.S. job opportunities.

OPIC guarantees—that is, the Overseas Private Investment Corporation—guarantees with American dollars the insurance of investments against losses from political upheavals and wars.

I note—and I will put into the record at this time with my thoughts—the complete list of the 1973 OPIC insurance programs.

I note, just as a matter of passing attention to the interest of the Members, that one of them is, not being much, but it is the Champion Spark Plug Co.—not exactly a small, needy American enterprise, to build and manufacture ceramic spark plug insulators in Venezuela with a $2,656,000 investment, guaranteed, of course, by this insurance to $2,674,000. Actually, the insurance is greater than the investment.

But this is the part that I want to bring out to the Members. Recently on a trip on a freighter we loaded at Philadelphia practically 90 percent of the export load or cargo, mostly automobile parts and other items of manufacture that were delivered at the port and to the wharf on the Canadian National Railway cars because they came from Canada. When we got down to Venezuela we unloaded these particular parts that had been made in Canada, and carried on a subsidized American-flag ship, as they called it, and there we loaded truck frames made in two plants down there that are owned by two American companies, and brought them back up to the United States.

This OPIC has been praised by everybody as the kind of spending, if it is spending—which is not exactly Government spending—that is done to increase our exports and to guarantee Americans a competitive position in foreign countries. Every one of these companies that is on here that has had the guarantee of OPIC is in one manner or another exporting back to the United States.

If I want to build a plant somewhere in Westmoreland County, my home, there is no program to guarantee me against inflationary costs, that makes it possible for me to pay the interest, or that makes it possible for me to be sure that that plant will be protected in any kind of a riot, except that I have to pay an awfully high premium for it.

The expansion of a commercial bank in Panama. Does anybody think that Panama is a developing nation?

The Republic of China. Have any of the Members been there lately? Have they seen the hundreds of thousands of workers who are producing goods for the United States of America's marketplace that has driven 35 percent of the shoemakers out of their jobs in the State of Pennsylvania alone?

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(By unanimous consent, Mr. DENT was allowed to proceed for 5 additional minutes.)

Mr. DENT. Del Monte International Corp. This tells a tale that the Members ought to hear, and they ought to ponder about it. Del Monte International Corp., $23,250,000 in Kenya growing and producing pineapple and other agricultural products. If all of the people in Kenya ate nothing but pineapple 24 hours a day, they could not eat the pineapples that are produced. But what has happened? The largest agricultural product in Hawaii is pineapple, and there is no pineapple industry left because OPIC guaranteed the expansion not only in Kenya, but in Korea and in the Philippine Islands. We are not growing an immense tonnage of pineapple in Hawaii. Why? Because of this and other endeavors of this Nation of ours under the guise of being helpful to American industry, under the guise of creating an atmosphere for the exportation of American products.

Do you know what we have exported? I will tell the Members what we have exported. We have exported jobs. All over the world we have exported jobs, and the day of reckoning is coming. We have shifted from a $67 billion surplus in foreign countries to a deficit of $107 million, and we cannot do that very easily. We could never make that many mistakes, or such an enormous mistake as we have made in this country in the last 12 years without a blueprint.

We cannot make that many mistakes accidentally.

I am talking to the Members of Congress as one who has traveled and seen in every port of the world almost the lifeblood and strength of my Nation, the hopes of my people for jobs in the future, and at the present, being poured out to the tune of one item alone. Let me give the Members a fact, and I want them to take it and analyze it, and if I am wrong, I will get on the floor and apologize to everyone in here.

The $250 billion-odd of foreign aid plus the interest paid on the borrowed moneys of the United States total an amount within $10 billion, one way or the other, of the national debt of the United States of America. Do the Members know that with all our mistakes and spending and foolishness we have been able to generate in this great Nation of ours the cost of all the foolish things we have ever done, including the wars, but we have never been able to generate enough for nonreturnable items such as foreign aid and the interest we have paid over the years.

We are now going to be asked for something over $20 billion more increase in the national debt.

If this has been a successful venture, why do we have to borrow money? Why? I will tell the Members why.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. DENT. I would like to be able to finish my statement but I will yield to the gentleman briefly.

Mr. GROSS. I commend the gentleman for his statement. Why do not these overseas venture businesses provide their own insurance?

Mr. DENT. I cannot quite answer that, but I do not see why we should protect $4,640,000 for the Chemical Bank for expansion of mining facilities. Think of it now, that is for mining facilities.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield briefly to the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Mr. Chairman, I compliment the gentleman for his comments and I associate myself with his remarks.

Mr. DENT. I thank the gentleman from Pennsylvania (Mr. SHUSTER).

It is not a popular thing nor the thing I like to do to get up and tell the Members these things because I know it will not change the mind of anyone and it has not in the last 20 years, and I do not expect to have any better experience now, but let me tell the Members as I have over the last 20 years, time and time again, that the string runs out and the string is going to run out sometime between now and what is supposed to be the 200th year of independence for this free Nation. When we celebrate that event in 1976, we will have been strong enough and smart enough to have drifted from complete independence of any nation on the face of the Earth to complete dependence in many of the items of everyday life.

Mr. Chairman, the OPIC operates a multibillion-dollar lending and insurance program that has served to accelerate, at the taxpayer's expense, the expansion of U.S. based multinationals abroad, and the exportation of U.S. jobs. The OPIC guarantees that profits on overseas investments can be changed into dollars, and insures investments against losses from political upheavals and war. OPIC has become an anachronism and, despite its original goals, it has become an insurance agency for U.S. based multinationals. I have included at the end of my remarks a list of OPIC-insured projects, and if you will glance at it, you will find that the majority of the projects insured are those sponsored by multinationals. OPIC continues to operate under the guise of helping manufacturers maintain a competitive position in the United States and world market.

It is a fact that OPIC lacks not only necessary information to determine whether a move overseas is actually necessary to protect the U.S. industry from foreign competition, but OPIC also lacks even a precise description of the product manufactured overseas or the extent of foreign competition, if any. This is an unacceptable situation, particularly when in many instances a multinational bases its move abroad on the availability of cheap labor and tax shelters. OPIC, by virtue of its existence, tacitly encourages import flooding, a practice of multinationals, who make goods abroad and import them for assembly here, thereby avoiding duties and tariffs on finished products. These imports compete directly with smaller, domestic industries that do not have the capital or desire to invest abroad. The existence of multinationals serves to drive these smaller companies out of business and has a serious effect on the entire economy of this country.

A Senate subcommittee report disclosed that 79 percent of all OPIC-issued insurance was provided to corporations on the Fortune list of the largest 500 corporations and the 50 largest banks. These are multinationals, who are leading the movement to export U.S. jobs and U.S. production. I include the following:

PROJECTS OPIC INSURED DURING FISCAL 1973

Company, country, and project	Size of investment	Largest single current coverage
American President Lines, Ltd., Philippines: Stevedoring facility	$450,000	$450,000
Ampex Corp., Republic of China: Recording and computer components	5,315,000	3,050,000
Arbor Acres Farms Inc., Thailand: Poultry farm	100,000	100,000
Armco Steel Corp., Philippines: Manufacture of steel grinding balls	1,200,000	845,000
B-G Shrimp Sales Co., Guyana: Expansion of trawler servicing company	30,000	30,000
Bank of America NT & SA, Panama: Expansion of bank	750,000	750,000
Bank of America, Tunisia: Expansion of commercial bank	64,000	80,000
Barden Corp., Singapore: Manufacture of precision parts	1,050,000	550,000
Bayorient Holding Corp., Korea: Regional lending institution	300,000	300,000
Boundsgreen Co. Ltd., Indonesia: Manufacture of textiles	6,000,000	3,600,000
Bristol-Myers Overseas Corp., Indonesia: Manufacture of pharmaceuticals, cleaning aids, other consumer products	1,254,000	500,000
C-W International Inc., Republic of China: Manufacture of electronic components	350,000	350,000
Champion Spark Plug Co., Venezuela: Manufacture of ceramic spark plug insulators	2,656,000	2,674,000
Chase International Investment Corp., Iran: Production and marketing of agricultural products and livestock	$1,200,000	$600,000
Chemical Bank, Indonesia: Expansion of mining facility	4,640,000	4,640,000
Chemical International Finance Ltd., Indonesia: Cement plant	749,000	995,370
Coca-Cola Export Corp., Indonesia: Soft drink base	2,500,000	250,000
Continental Illinois Bank & Trust Co. of Chicago, Indonesia: Construction and operation of hotel	8,000,000	3,446,000
Continental International Finance Corp., Thailand: Intermediary lending institution	410,000	410,000
Continental Ore Corp., Kenya: Mining and processing of fluorspar	206,000	205,800
Cophag, A. G., Indonesia: Manufacture of pharmaceuticals	500,000	530,000
Del Monte International Inc., Kenya: Growing and processing of pineapples and other agricultural products	23,250,000	14,790,000
Dow Chemical N.V., Brazil: Expansion of chemicals, plastics and agricultural products	2,119,000	1,741,951
E. I. duPont de Nemours & Co., Brazil: Expansion of plant, caustic soda	10,000,000	4,700,000

Company, country, and project	Size of investment	Largest single current coverage
Ferro Corp., Venezuela: Manufacturing and marketing of porcelain and ceramic products	$255,000	$255,000
Fidelity International Bank, India: Expansion of private development bank	11,500	11,349
First Israel Development Corp. and Baldwin Securities Corp., Israel: Investment company	17,702,000	7,895,000
First National City Bank, El Salvador: Expansion of bank	1,000,000	1,000,000
First National City Overseas Investment Corp. and Nessus Investment Corp., Republic of China: Trust and investment operation	2,000,000	2,000,000
Fishbach & Oman International, Afghanistan: Construction of intake, powerhouse and switchyard	6,800,000	2,000,000
Fonville Enterprises Inc., Kenya: Cattle ranch	248,000	137,141
General Electric (USA) Contractor Equipment Ltd., Singapore: Manufacture of metal engineering products	1,627,000	1,153,000
General Electric Co., Turkey: Manufacture of cooling units for refrigerators	196,000	195,758
Gillette Co., Indonesia: Razor blade plant	906,500	606,545
Gillette Co., Iran: Razor blade plant	2,264,000	2,264,000
Gillette International Capital Corp., Jamaica: Expansion of razor blade plant	212,000	151,000
Gillette Co. and Compania Interamericana Gillette, S.A., Philippines: Razor blade plant	373,000	460,000
Great Northern Nekoosa Corp., Panama: Manufacture of corrugated kraft paper (expansion)	600,000	500,000
GTE International Inc., Israel: Manufacture of electronics equipment (expansion)	1,310,000	1,310,000
Hawaiian Agronomics Co. Inc. and Diamond A Cattle Co., Iran: Production and marketing of agricultural products	3,400,000	700,000
John D. Hollingsworth on Wheels, Inc., Brazil: Manufacture of textile machinery	810,000	810,000
Hormel International Corp., Philippines: Expansion of food processing plant	2,018,000	631,966
Inmont Corp., Indonesia: Expansion of printing ink, industrial finishes, and textile color plant	132,000	138,500
Intercontinental Hotels Corp., Brazil: Construction and operation of hotel	3,800,000	439,726
Intercontinental Hotels Ltd., Ivory Coast: Expansion of hotel	1,000,000	921,000
International Dairy Engineering Co., Iran: Processing of fresh and frozen dairy products and other foods	1,500,000	1,500,000
International Paper Co., Philippines: Expansion of pulp and papermill	$961,000	$960,536
Kaiser Cement & Gypsum Corp., Thailand: Mining and processing of fluorspar	2,517,500	1,281,986
Kaiser Cement & Gypsum Corp., Thailand: Expansion of cement plant and sales facility	1,368,000	1,955,633
Kellogg Co., Guatemala: Manufacture of cereal and related products	1,050,000	805,000
Kimberly-Clark Corp., Korea: Manufacture of disposable tissue paper products	408,000	408,000
John E. Lawrence, India: Manufacture of electronic components	12,000	12,064
Levi Strauss International, Philippines: Manufacture of wearing apparel	100,000	100,000
Linson Investments Ltd., Indonesia: Manufacture of pharmaceuticals	2,250,000	1,525,000
Liquid Carbonic Corp., Korea: Manufacture of carbon dioxide and related products	120,000	144,000
Liquid Nitrogen Processing Co., Brazil: Fortified thermoplastic manufacturing plant	40,000	10,000
Magcobar Venezuela C.A. & Dresser A.G. (Vaduz), Indonesia: Establishment of drilling-mud production and servicing company	12,600,000	4,473,333
Maren-San Hair Fashions Ltd .(U.S.A.), Korea: Manufacture of human and synthetic hair products	50,000	50,000
Mobil Petroleum Co., Inc., Philippines: Expansion of refinery	14,248,000	16,726,673
Morgan Guaranty International Finance Corp., Cameroon: Expansion of commercial bank	38,500	41,000
Morgan Guaranty International Finance Corp., Republic of China: Branch bank	339,000	373,000
Rosemary Mortellaro, Panama: Cattle ranch	80,000	80,000
Pacific International Foods Co., Korea: Grain elevator	1,000,000	500,000
Philadelphia International Investment Corp., Thailand: Investment bank	230,500	230,492
Ro-Search Inc., Dominican Republic: Expansion of footwear plant	470,000	25,000
Seaboard Overseas Ltd., Liberia: Flour mill	1,750,000	1,099,000
Semreh Enterprises Ltd., Singapore: Manufacture of hermetic motors	2,300,000	2,300,000
E. R. Squibb & Sons, Inc., Iran: Expansion of pharmaceuticals facility	602,000	1,204,000
Standard Fruit Co., Nicaragua: Banana plantation	3,000,000	3,000,000
Tandy Corp., Korea: Manufacture of electronic and acoustic equipment	500,000	500,000
TAW International Leasing Corp., Africa regional: Equipment leasing	44,600,000	7,000,000
TRW Inc., Korea: Manufacture of automobile engine valves	150,000	150,000
UNOCO Ltd., Korea: Expansion of refinery	25,700,000	20,811,000

Note: Current coverage in excess of investment indicates insurance of accrued interest and profits, when and if earned.

PROJECTS OPIC FINANCED DURING FISCAL 1973

Company, country and project	Size of investment	Amount of financing
Cargill Agricola S.A., Brazil: Soybean processing	$5,400,000	$2,500,000
COPA-Companhia de Papeis, Brazil: Hygienic paper products	6,200,000	3,500,000
P.T. Daralon Textile Manufacturing Corp., Indonesia: Textile manufacturing	16,700,000	525,000
Development Co. Ltd., Ghana: Tuna fishing	1,000,000	615,000
Indian Motorcycle Co., Republic of China: Motorcycle assembly plant	$1,600,000	$250,000
P.T. Kayan River Timber Co., Indonesia: Logging and sawmill facility	7,900,000	1,600,000
Olinkraft Cellulose Paper Ltdr., Brazil: Paper manufacturing	6,500,000	2,500,000
Seaboard Overseas Ltd., Nigeria: Flour mill	4,000,000	2,000,000
P.T. United Coconut (TINA), Indonesia: Coconut processing plant	1,300,000	500,000

PARLIAMENTARY INQUIRY

Mr. DERWINSKI. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN The gentleman will state it.

Mr. DERWINSKI. Mr. Chairman, if a point of order would be made against the absence of a quorum, would the Chairman proceed to use the new rules now available to him?

The CHAIRMAN. I am not sure that the gentleman has stated a parliamentary inquiry. He has rather stated a condition of the Chair's mind, but the condition of the Chair's mind is such that the answer is "yes."

Mr. DERWINSKI. Then, Mr. Chairman, a further parliamentary inquiry. The gentleman from Pennsylvania who just entertained us has used his 5 minutes. Is that correct?

The CHAIRMAN (Mr. PIKE). The gentleman from Pennsylvania has used his 5 minutes plus 5 additional minutes, which he requested and received unanimous consent for, and the gentleman's time has now expired. The gentleman from Illinois is correct.

Mr. DERWINSKI. I think in that case, Mr. Chairman, it is safe for me to make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Sixty-five Members are present, not a quorum.

The Chair announces that he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

PERSONAL STATEMENT

Mr. ROUSSELOT. Mr. Chairman, I ask that the RECORD show I was present at this time.

The CHAIRMAN. The gentleman's statement will appear in the RECORD.

COMMITTEE AMENDMENTS

The CHAIRMAN. The question is on the first committee amendment.

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: On page 12, after line 5, insert the following new paragraph:

(30) by adding at the end of subsection (f) of section 239 the following: "The Council shall terminate on December 31, 1977.";

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: On page 12, line 6, strike out "(30)" and insert in lieu thereof "(31)".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: On page 12, after line 24, insert the following new paragraphs:

(32) by striking out "in Latin America, the authority conferred by this section should be used to establish pilot programs in not more than five Latin American countries" in subsection (a) of section 240 and inserting in lieu thereof the following: ", the authority conferred by this section should be used to establish programs in such countries";

(33) by striking out "not more than five Latin American countries" in subsection (b) of section 240 and inserting "less developed countries" in lieu thereof;

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: On page 13, line 1, strike out "(31)" and insert in lieu thereof "(34)".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: On page 13, after line 3, insert the following new paragraphs:

(35) by striking out "'1972" in subsection (g) of section 240 and inserting "1976" in lieu thereof;

(36) by striking out "pilot" in subsection (g) of section 240;

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: On page 13, line 4, strike out "(32)" and insert in lieu thereof "(37)".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the last committee amendment.

The Clerk read as follows:

Committee amendment: On page 13, line 6, strike out "(33)" and insert in lieu thereof "(38)".

The committee amendment was agreed to.

AMENDMENT OFFERED BY MR. VANIK

Mr. VANIK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VANIK:

On page 3, line 15, strike "and" and on page 4, line 5, strike ".";" and substitute "; and" and add the following:

"(o) to decline to issue any contract of insurance or reinsurance, or any guaranty, or to enter into any agreement to provide financing for an eligible investor's proposed investment whenever any nation fails within a reasonable period of time to extradite an American citizen to the United States upon the request of the United States, and to decline to issue any contract of insurance or reinsurance, or any guaranty, or to enter into any agreement to provide financing for an eligible investor's proposed investment in such country until such time as such country extradites such person to the United States."

Mr. VANIK. Mr. Chairman, the amendment I am offering is a very short, very simple one. It bans OPIC operations and support in a country which refuses to cooperate with the United States in the extradition of an American citizen. As of the end of March 1973, OPIC had 28 different guarantees and insurance policies outstanding in Costa Rica.

If a foreign nation wants our investment and capital, I think there ought to be a little bit of cooperation, a little bit of suppport in the simple day-to-day international questions of law enforcement and extradition.

The amendment provides that once an extradition request is complied with, OPIC support may be resumed and new policies issued.

Mr. Chairman, I hope the committee will be willing to accept this amendment.

Mr. CULVER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I believe the adoption by the committee of this amendment would be very unwise to American foreign policy interests, and specifically unwise to potential United States investment activities in developing countries.

Mr. Chairman, I think the proponent of this amendment is making a mistake by confusing the subject of this legislation with normal diplomatic relations involving questions of extradition. These questions are properly issues reserved in bilateral treaty agreements between the United States and foreign governments. They are matters which should stand on their respective merits and be negotiated within the appropriate forum. To complicate unnecessarily the administration of a foreign investment program of this type with irrelevant diplomatic questions, I think, would be unwise.

Mr. Chairman, I urge opposition to the amendment.

Mr. FRELINGHUYSEN. Mr. Chairman, will the gentleman yield?

Mr. CULVER. Mr. Chairman, I yield to the gentleman from New Jersey.

Mr. FRELINGHUYSEN. Mr. Chairman, I regret that we did not have an opportunity to digest the significance of the amendment, but I agree with the gentleman from Iowa. I would guess that it would not be germane and that a point of order might have been made against this amendment had we been aware of its submission ahead of time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. VANIK).

The question was taken; and on a division (demanded by Mr. CULVER) there were—ayes 18; noes 33.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. VANIK

Mr. VANIK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VANIK: On page 3, line 15, strike "and" and on page 4, line 5, strike ".";" and substitute "; and" and add the following:

"(o) to decline to issue any contract of insurance or reinsurance, or any guaranty, or to enter into any agreement to provide financing for investment in any petroleum refinery or facility to produce petrochemical products."

Mr. VANIK. Mr. Chairman, in the OPIC annual report for fiscal year 1973, there is a description of an investment by Union Oil Co. of California in a 60,000 barrel-per-day refinery in Korea. As the annual report states:

> More than 60 percent of the materials and services used during the expansion of the topping plant was procured in the U.S. As a future market for petroleum products, Korea has a high potential.

I do not understand OPIC's pride in encouraging the export of scarce petroleum plant equipment—or in creating a new market demand overseas for petroleum products.

This is not the way to obtain energy independence.

Granted, Korea is an ally. No doubt it needs more refinery capacity. So do we. The oil companies complain that there is not enough refinery capacity in the United States and they blame the environmental laws—but the real reason is that offshore costs are less, and we are subsidizing and encouraging those offshore investments.

When it comes to refinery investments, I do not believe that we should continue to encourage offshore investment.

I hope the Committee will accept my amendment to prohibit OPIC guarantees, insurances, and operations for refinery projects.

Mr. CULVER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is a problem to which the subcommittee has addressed itself very carefully over a period of a year in its inquiry on the operation of the Overseas Private Investment Corporation. That is the particular question of United States investment in extractive industries in the underdeveloped world.

Mr. Chairman, the subcommittee has made a specific recommendation in its most recent report, which says that it "recognizes the conflicts between the growing needs, on the one hand, of the United States for imported raw materials and the sensitivity of foreign investment in resource extractive activities in less developed countries. Therefore the subcommittee directs OPIC to follow its administrative guidelines for large and sensitive projects."

More specifically, in the language of our report, "OPIC should concentrate on encouraging nonequity investments, such as management, development, production sharing, and purchase contracts which allow the host country to own all or most of the equity on the project. In addition, because of the geographic concentration of natural resources, OPIC should take particular care to follow its own rules of risk management with regard to country concentration of U.S. investments in extractive industries."

Mr. Chairman, the adoption of this particular amendment, I think, would be most harmful for many oil-producing countries. The greatest benefit to their development can be derived from refinery capacity so as to develop their crude petroleum.

In addition, the language of this amendment would also very likely encompass refinery activity in the area of fertilizer, which is in such critical demand today in this country and the world.

Mr. Chairman, I think that the current guidelines that the committee has imposed on OPIC will guard against the type of concentration in this particular type of investment which creates political sensitivity and works to the economic disadvantage of our own country. I would suggest that the committee, in its wisdom, vote in opposition to this amendment.

Mr. Chairman, I appreciate the thrust and the concern expressed by its author. However, I think it would be most unwise and inappropriate as far as this legislation is concerned.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. VANIK).

The amendment was rejected.

The CHAIRMAN. Are there any further amendments?

If not, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. PIKE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 13973) to amend the title of the *Foreign Assistance Act of 1961* concerning the Overseas Private Investment Corporation to extend the authority for the Corporation, to authorize the Corporation to issue reinsurance, to suggest dates for terminating certain activities of the Corporation, and for other purposes, pursuant to House Resolution 1111, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The **SPEAKER**. Under the rule, the *previous question* is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The **SPEAKER**. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The **SPEAKER**. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. **GROSS**. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 225, nays 152, not voting 56, as follows:

[Roll No. 226]

YEAS—225

Abdnor
Abzug
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Arends
Ashley
Badillo
Barrett
Bell
Bennett
Bergland
Biester
Bingham
Blackburn
Blatnik
Boggs
Bolling
Bowen
Brademas
Breaux
Breckinridge
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burton
Butler
Casey, Tex.
Cederberg
Chamberlain
Chisholm
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Conable
Conte
Cotter
Coughlin
Cronin
Culver
Danielson
Davis, Wis.
Dellenback
Dellums
Dennis
Derwinski
Dickinson
Downing
Drinan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Erlenborn
Evans, Colo.
Fascell
Fish
Fisher
Flowers
Flynt
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Fulton
Gettys
Fuqua
Giaimo
Gilman
Goldwater
Gonzalez
Grasso
Green, Pa.
Grover
Gubser
Gude
Guyer
Hamilton
Hanley
Hanna
Hansen, Wash.
Heckler, Mass.
Heinz
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holtzman
Horton
Hosmer
Howard
Hudnut
Hutchinson
Jarman
Johnson, Calif.
Jones, N.C.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Kluczynski
Koch
Kuykendall
Kyros
Lagomarsino
Landrum
Latta
Leggett
Lehman
Long, La.
Lott
McClory
McDade
McEwen
McFall
McKay
McKinney
McSpadden
Madden
Madigan
Mahon
Mallary
Mann
Martin, Nebr.
Mathias, Calif.
Mayne
Meeds
Mezvinsky
Michel
Milford
Mitchell, N.Y.
Moorhead, Calif.
Moorhead, Pa.
Mosher
Nelsen
O'Brien
O'Neill
Owens
Passman
Patten
Pepper
Pickle
Pike
Poage
Podell
Preyer
Price, Ill.
Pritchard
Quie
Railsback
Regula
Rhodes
Riegle
Rinaldo
Robison, N.Y.
Rodino
Rooney, Pa.
Rose
Rosenthal
Roush
Ruppe
Sandman
Sarasin
Sarbanes
Schneebeli
Shriver
Sikes
Sisk
Smith, Iowa
Smith, N.Y.
Spence
Stanton, J. William
Steed
Steelman
Steiger, Wis.
Stephens
Stratton
Stuckey
Taylor, N.C.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Veysey
Waldie
Walsh
Whalen
White
Whitehurst
Widnall
Wiggins
Wilson, Bob
Winn
Wolff
Wright
Yates
Yatron
Young, Ill.
Young, S.C.
Young, Tex.
Zion
Zwach

NAYS—152

Adams
Alexander
Annunzio
Armstrong
Ashbrook
Aspin
Bafalis
Baker
Bauman
Beard
Bevill
Biaggi
Brasco
Bray
Brinkley
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Byron
Camp
Carney, Ohio
Chappell
Clancy
Collins, Ill.
Collins, Tex.
Conlan
Conyers
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Davis, S.C.
Delaney
Denholm
Dent
Devine
Donohue
Duncan
Eilberg
Eshleman
Evins, Tenn.
Flood
Foley
Ford
Froehlich
Gaydos
Gibbons
Ginn
Goodling
Green, Oreg.
Griffiths
Gross
Gunter
Haley
Hammerschmidt
Hanrahan
Harrington
Harsha
Hays
Hechler, W. Va.
Holt
Hungate
Hunt
Ichord
Johnson, Colo.
Jones, Ala.
Jones, Okla.
Ketchum
Landgrebe
Lent
Long, Md.
Lujan
Luken
McCollister
McCormack
Maraziti
Martin, N.C.
Mathis, Ga.
Mazzoli
Melcher
Metcalfe
Miller
Minish
Mink
Minshall, Ohio
Mitchell, Md.
Mizell
Moakley
Mollohan
Montgomery
Moss
Murphy, Ill.
Murtha
Myers
Natcher
Nedzi
Nichols
Obey
O'Hara
Parris
Patman
Perkins
Powell, Ohio
Price, Tex.
Quillen
Randall
Rangel
Rarick
Reuss
Roberts
Robinson, Va.
Roe
Roncalio, Wyo.
Rostenkowski
Rousselot
Roy
Roybal
Ruth
Ryan
St Germain
Satterfield
Scherle
Schroeder
Sebelius
Seiberling
Shipley
Shoup
Shuster
Snyder
Staggers
Stanton, James V.
Stark
Steiger, Ariz.
Stokes
Studds
Symms
Taylor, Mo.
Towell, Nev.
Traxler
Vander Veen
Vanik
Vigorito
Wampler
Whitten
Wilson, Charles, Tex.
Wydler
Wylie
Wyman
Young, Alaska
Young, Fla.
Zablocki

NOT VOTING—56

Addabbo
Boland
Carey, N.Y.
Carter
Clark
Clay
Collier
Corman
Davis, Ga.
de la Garza
Diggs
Dingell
Dorn
Dulski
Esch
Findley
Gray
Hansen, Idaho
Hastings
Hawkins
Hébert
Helstoski
Huber
Johnson, Pa.
Jones, Tenn.
King
Litton
McCloskey
Macdonald
Matsunaga
Mills
Morgan
Murphy, N.Y.
Nix
Pettis
Peyser
Rees
Reid
Rogers
Roncallo, N.Y.
Rooney, N.Y.
Runnels
Skubitz
Slack
Steele
Stubblefield
Sullivan
Symington
Talcott
Teague
Waggonner
Ware
Williams
Wilson, Charles H., Calif.
Wyatt
Young, Ga.

So the bill passed.

The Clerk announced the following pairs:

On this vote:

Mr. Matsunaga for, with Mr. Stubblefield against.

Mr. Diggs for, with Mr. Rooney of New York against.

Mr. Boland for, with Mr. Slack against.

Mr. Rees for, with Mr. Gray against.

Mr. Charles H. Wilson of California for, with Mr. Clay against.

Mr. Nix for, with Mr. Rogers against.

Until further notice:

Mr. Carey of New York with Mr. Runnels.

Mr. Litton with Mr. Hawkins.

Mr. Macdonald with Mr. Roncallo of New York.

Mr. Morgan with Mr. Peyser.

Mr. Murphy of New York with Mr. Pettis.

Mr. Reid of New York with Mr. McCloskey.

Mr. Dulski with Mr. Carter.

Mr. Waggonner with Mr. Huber.

Mr. Hébert with Mr. Hastings.

Mr. Teague with Mr. Collier.

Mrs. Sullivan with Mr. Hansen of Idaho.

Mr. Symington with Mr. Esch.

Mr. Young of Georgia with Mr. Findley.

Mr. Helstoski with Mr. King.

Mr. Jones of Tennessee with Mr. Johnson of Pennsylvania.

Mr. Clark with Mr. Talcott.

Mr. Corman with Mr. Wage

Mr. Davis of Georgia with Mr. Williams.

Mr. de la Garza with Mr. Wyatt.

Mr. Dingell with Mr. Dorn.

Mr. Addabbo with Mr. Steele.

Mr. Mills with Mr. Skubitz.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. **CULVER**. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of the Senate bill (S. 2957) relating to the activities of the Overseas Private Investment Corporation, a bill similar to H.R. 13973 just passed by the House, and I ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The **SPEAKER**. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2957

An act relating to the activities of the Overseas Private Investment Corporation

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Overseas Private Investment Corporation Amendments Act".

SEC. 2. Title IV of chapter 2 of part I of the Foreign Assistance Act of 1961 is amended as follows:

(1) In section 231—

(A) in the first sentence, strike the word "progress" and insert in lieu thereof the word "development";

(B) strike out clause (a) and insert in lieu thereof the following:

"(a) to conduct financing, insurance, and reinsurance operations on a self-sustaining basis, taking into account in its financing operations the economic and financial soundness of the project;";

(C) strike out clause (b);

(D) in clause (d), strike out ", when appropriate,", and insert after "efforts to share its insurance" the following: "and reinsurance";

(E) strike out clause (e) and insert in lieu thereof the following:

"(e) to give preferential consideration in its investment insurance and reinsurance activities, to the maximum practicable extent consistent with the accomplishment of its purposes, to investment projects involving the skills and resources of small business;";

(F) in clause (i), after "balance-of-payments" insert "and employment"; and

(G) strike out the word "and" at the end of clause (j), and insert the word "and" at the end of clause (k); and add at the end of the section the following new clause:

"(l) to the maximum extent practicable, to give preferential consideration in its investment insurance and reinsurance activities to investment projects in the least developed among the developing countries.".

(2) Section 234 is amended—

(A) by striking out the section caption and inserting in lieu thereof the following: "Investment Insurance and Other Programs"; and

(B) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) Investment Insurance.—(1) The Corporation is authorized to issue insurance, upon such terms and conditions as the Corporation may determine, to eligible investors assuring protection in whole or in part against any or all of the following risks with respect to projects which the Corporation has approved:

"(A) inability to convert into United States dollars other currencies, or credits in such currencies, received as earnings or profits from the approved project, as repayment or return of the investment therein, in whole or in part, or as compensation for the sale or disposition of all or any part thereof;

"(B) loss of investment, in whole or in part, in the approved project due to expropriation or confiscation by action of a foreign government; and

"(C) loss due to war, revolution, or insurrection.

"(2) Recognizing that major private investments in less developed friendly countries or areas are often made by enterprises in which there is multinational participation, including significant United States private participation, the Corporation may make arrangements with foreign governments (including agencies, instrumentalities, or political subdivisions thereof) or with multilateral organizations and institutions for sharing liabilities assumed under investment insurance for such investments and may in connection therewith issue insurance to investors not otherwise eligible hereunder, except that liabilities assumed by the Corporation under the authority of this subsection shall be consistent with the purposes of this title and that the maximum share of liabilities so assumed shall not exceed the Corporation's proportional share as specified in paragraphs (4) and (5) of this subsection.

"(3) Not more than 10 per centum of the total face amount of investment insurance which the Corporation is authorized to issue under this subsection shall be issued to a single investor.

"(4) (A) It is the intention of Congress that the Corporation achieve participation by private insurance companies, multilateral organizations or others in liabilities incurred in respect of the risks referred to in paragraphs (1) (A) and (B) of this subsection under contracts issued commencing January 1, 1975, of at least 25 per centum, and, under contracts issued commencing January 1, 1978, of at least 50 per centum. If for good reason it is not possible for the Corporation to achieve these objectives, the Corporation shall report to the Senate Foreign Relations Committee and the House Foreign Affairs Committee in detail, the reasons for its inability to achieve these objectives and the date by which they are to be achieved.

"(B) The Corporation shall no longer participate as insurer under insurance policies issued after December 31, 1979, in respect to the risks referred to in paragraph (1) (A) and (B) of this subsection unless Congress by law modifies this paragraph.

"(5) (A) It is the intention of Congress that the Corporation achieve participation by private insurance companies, multilateral organizations or others in liabilities incurred in respect of the risks referred to in paragraph (1) (C) of this subsection under contracts issued commencing January 1, 1976, of at least 12½ per centum, and, under contracts issued commencing January 1, 1979, of at least 40 per centum. If for good reason it is not possible for the Corporation to achieve these objectives, the Corporation shall report to the Senate Foreign Relations Committee and the House Foreign Affairs Committee in detail the reasons for its inability to achieve these objectives, and the date by which they are to be achieved.

"(B) The Corporation shall no longer participate as insurer under insurance policies issued after December 31, 1980, in respect to the risks referred to in paragraph (1) (C) of this subsection unless Congress by law modifies this paragraph.

"(6) Notwithstanding the percentage objectives of paragraphs (4) (A) and (5) (A) of this subsection, the Corporation may agree to assume liability as insurer for any policy, or share thereof, that a private company or multilateral organization or institution has issued in respect of the risks referred to in paragraph (1) of this subsection, and neither the execution of such agreement nor its performance by the Corporation shall be considered as participation by the Corporation in any such policy for purposes of such objectives. Commencing January 1, 1981, the Corporation shall not further enter into any agreement to assume liability as a direct insurer for any policy issued after that date by any company, organization, or institution.

"(7) The Corporation is authorized to issue, upon such terms and conditions as it may determine, reinsurance of liabilities assumed by other insurers or groups thereof in respect of risks referred to in paragraph (1) of this subsection. The amount of reinsurance liabilities which the Corporation may incur under this paragraph shall not exceed $600,000,000 times the number of years from the date of enactment of this paragraph, and shall never exceed $12,000,000,000 in the aggregate. All such reinsurance shall require that the reinsured party retain for his own account specified portions of liability so that, before the Corporation is required to make any reinsurance payment, the reinsured party will absorb in any one year a loss equal to at least 50 per centum of the face value of all the insurance it has outstanding in the country in which it has issued the most insurance subject to reinsurance by the Corporation. All reinsurance issued by the Corporation shall be issued in a businesslike manner.

"(8) On December 31, 1979, the Corporation shall cease to write or manage direct insurance issued after such date in respect to risks referred to in paragraph (1) (A) or (B) of this subsection unless Congress by law modifies this sentence. On December 31, 1980, the Corporation shall cease to write or manage direct insurance issued after such date in respect to risks referred to in paragraph (1) (C) of this subsection unless Congress by law modifies this sentence. It shall thereafter act solely as a reinsurer except to the extent necessary to manage its outstanding insurance and reinsurance contracts and, subject to the restrictions of paragraph (6) of this subsection, any policies the Corporation assumes when private insurance companies and multinational organizations and institutions fail to renew their short-term policies.

"(9) For purposes of this subsection, new policies include renewals and extensions of policies.

"(10) The Corporation is authorized, subject to the provisions of paragraph (8) of this subsection, to make and carry out contracts of insurance and reinsurance, and agreements to associate and share risks, with insurance companies, financial institutions, or others, or groups thereof, employing the same, where appropriate, as its agent, or acting as their agent, in the issuance and servicing of insurance, the adjustment of claims, the exercise of subrogation rights, the ceding and accepting of reinsurance, and in other matters incident to doing an insurance business, and pooling and other risk-sharing arrangements with other national or multinational insurance or financing agencies or groups thereof, and to hold an ownership interest in any association or other entity established for the purposes of sharing risks under investment insurance."

(3) In section 235—

(A) in subsection (a) (4), strike out "section 234 (a) and (b)" and insert in lieu thereof "section 234(a)", and strike out "December 31, 1974," and insert in lieu thereof the following: "December 31, 1976.";

(B) in subsection (d), after the words "investment insurance" add the words "and reinsurance"; and

(C) strike subsection (f) and insert in lieu thereof the following:

"(f) There are authorized to be appropriated to the Corporation, to remain available until expended, such amounts as may be necessary from time to time to replenish or increase the insurance and guaranty fund, to discharge the liabilities under insurance, reinsurance, and guaranties issued by the Corporation or issued under predecessor guaranty authority, or to discharge obligations of the Corporation purchased by the Secretary of the Treasury pursuant to this subsection. However, no appropriations to augment the Insurance Reserve shall be made until the amount of funds in the Insurance Reserve is less than $25,000,000. Any appropriations to augment the Insurance Reserve shall then only be made either pursuant to specific authorization enacted after the date of enactment of the Overseas Private Investment Corporation Amendments Act, or to satisfy the full faith and credit provision of section 237(c). In order to discharge liabilities under investment insurance or reinsurance, the Corporation is authorized to issue from time to time for purchase by the Secretary of the Treasury its notes, debentures, bonds, or other obligations; but the aggregate amount of such obligations outstanding at any one time shall not exceed $100,000,000, which shall be repaid within one year of the date of issue. Such obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such obligations. The Secretary of the Treasury is hereby authorized and directed to purchase any obligation of the Corporation issued hereunder.".

(4) In section 237—

(A) in subsection (a), strike out "and guaranties" and insert in lieu thereof a comma and "guaranties, and reinsurance"; and strike out "or guaranties" and insert in lieu thereof a comma and "guaranties, or reinsurance";

(B) strike out subsection (b) and insert in lieu thereof the following:

"(b) The Corporation shall determine that suitable arrangements exist for protecting the interest of the Corporation in connection with any insurance, guaranty, or reinsurance issued under this title, including arrangements concerning ownership, use, and disposition of the currency, credits, assets, or investments on account of which payment under such insurance, guaranty, or reinsurance is to be made and any right, title, claim, or cause of action existing in connection therewith.";

(C) strike out subsection (c) and insert in lieu thereof the following:

"(c) All guaranties issued prior to July 1, 1956, all guaranties issued under sections 202(b) and 413(b) of the Mutual Security Act of 1954, as amended, all guaranties heretofore issued pursuant to prior guaranty authorities repealed by the Foreign Assistance Act of 1969, and all insurance, reinsurance, and guaranties issued pursuant to this title shall constitute obligations, in accordance with the terms of such insurance, reinsurance, or guaranties, of the United States of America and the full faith and credit of the United States of America is hereby pledged for the full payment and performance of such obligations.";

(D) strike out subsection (d) and insert in lieu thereof the following:

"(d) Fees shall be charged for insurance, guaranty, and reinsurance coverage in amounts to be determined by the Corporation. In the event fees charged for investment insurance, guaranties, or reinsurance are reduced, fees to be paid under existing policies for the same type of insurance, guaranties, or reinsurance and for similar guaranties issued under predecessor guaranty authority may be reduced.";

(E) in subsection (e), after the word "insurance" strike out "or guaranty" and insert in lieu thereof a comma and "guaranty, or reinsurance";

(F) add the following sentence at the end of subsection (f): "Notwithstanding the foregoing, the Corporation shall limit the amount of direct insurance and reinsurance issued by it under section 234(a) so that risk of loss as to at least 10 per centum of the total investment of the insured or its affiliates in the project is borne by the insured or such affiliates on the date the insurance is issued.";

(G) in subsection (g), after the word "guaranty", insert a comma and "insurance, or reinsurance";

(H) in subsection (h), after the word "Insurance", strike out "or guaranties" and insert in lieu thereof a comma and "guaranties, or reinsurance";

(I) in subsection (i), after the word "insurance", insert ", reinsurance,"; and

(J) strike out subsection (k) and insert in lieu thereof the following:

"(k) In making a determination to issue insurance, guaranties, or reinsurance under this title, the Corporation shall consider the possible adverse effect of the dollar investment under such insurance, guaranty, or reinsurance upon the balance of payments of the United States.".

(5) In section 239—

(A) in subsection (b), add the following new sentences at the end thereof: "On December 31, 1979, the Corporation shall cease operating the programs authorized by section 234 (b) through (e) and section 240. Thereafter, the President is authorized to transfer such programs, and all obligations, assets, and related rights and responsibilities arising out of, or related to, such programs to other agencies of the United States. Upon any such transfer, these programs shall be limited to countries with her capita income of $450 or less in 1973 dollars."; and

(B) add at the end thereof the following:

"(h) Within six months of the date of enactment of this subsection, the Corporation shall develop and implement specific criteria intended to minimize the potential environmental implications of projects undertaken by investors abroad in accordance with any of the programs authorized by this title.".

(6) In section 240, relating to agricultural credit and self-help community development projects, strike out subsection (h).

(7) In section 240A, strike out subsection (b) and insert in lieu thereof the following:

"(b) Not later than January 1, 1976, the Corporation shall submit to the Congress an analysis of the possibilities of transferring all of its activities to private insurance companies, multilateral organizations and institutions, or other entities.".

MOTION OFFERED BY MR. CULVER

Mr. CULVER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. CULVER moves to strike out all after the enacting clause of the bill S. 2957 and insert in lieu thereof the provisions contained in H.R. 13973 as passed by the House, as follows:

That this Act may be cited as the "Overseas Private Investment Corporation Amendments Act of 1974".

SEC. 2. Title IV of chapter 2 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2191–2200a) is amended—

(1) by striking out "progress" in the first sentence of section 231 and inserting "development" in lieu thereof;

(2) by inserting ", insurance, and reinsurance" after "financing" the first time it occurs in clause (a) of section 231;

(3) by inserting "in its financing operations" after "taking into account" in clause (a) of section 231;

(4) by striking out ", when appropriate," in clause (d) of section 231;

(5) by inserting "and reinsurance" after "efforts to share its insurance" in clause (d) of section 231;

(6) by striking out clause (e) of section 231 and inserting in lieu thereof the following:

"(e) to give preferential consideration in its investment insurance, financing, and reinsurance activities (to the maximum extent practicable consistent with the Corporation's purposes) to investment projects involving businesses of not more than $2,500,000 net worth or with not more than $7,500,000 in total assets;";

(7) by inserting "and employment" after "balance-of-payments" in clause (i) of section 231;

(8) by striking out "and" after the semicolon in clause (j) of section 231;

(9) by striking out the period at the end of clause (k) of section 231 and inserting a semicolon in lieu thereof;

(10) by inserting at the end of section 231 the following:

"(l) to the maximum extent practicable, to give preferential consideration in the Corporation's investment insurance, financing, and reinsurance activities to investment projects in the less developed friendly countries which have per capita incomes of $450 or less in 1973 United States dollars;

"(m) to identify foreign investment opportunities in less developed friendly countries and areas, and to bring information concerning such opportunities to the attenton of potential eligible investors in such countries or areas; and

"(n)(1) to decline to issue any contract of insurance or reinsurance, or any guaranty, or to enter into any agreement to provide financing for an eligible investor's proposed investment if the Corporation determines that such investment is likely to cause such investor (or the sponsor of an investment project in which such investor is involved) significantly to reduce the number of his employees in the United States because he is replacing his United States production with production from such investment which involves substantially the same product for substantially the same market as his United States production; and (2) to monitor conformance with the representations of the investor on which the Corporation relied in making the determination required by clause (1).";

(11) by amending the section heading of section 234 to read as follows: "INVESTMENT INSURANCE AND OTHER PROGRAMS."

(12) by inserting at the end of subsection (a) of section 234 the following new paragraphs:

"(4)(A) It is the intention of Congress that the Corporation should achieve participation by private insurance companies, multilateral organizations, or others in at least 25 per centum of liabilties incurred in respect of the risks referred to in subparagraphs (1) (A) and (B) of this subsection under contracts issued on and after January 1, 1975, and in at least 50 per centum of liabilities incurred in respect of such risks under contracts issued on and after January 1, 1978. If it is not possible for the Corporation to achieve either such percentage of participation, the Corporation shall report in detail to the Senate Foreign Relations Commitee and the Foreign Affairs Committee of the House of Representatives the reasons for its inability to achieve either such percentage of participation, and the date by which such percentage can be achieved.

"(B) It is the intention of Congress that the Corporation should not participate as insurer under contracts of insurance issued after December 31, 1979, in respect of the risks referred to in subparagraphs (1)(A) and (B) of this subsection.

"(5)(A) It is the intention of Congress that the Corporation should achieve participation by private insurance companies, multilateral organizations, or others in at least 12 per centum of liabilities incurred in respect of the risks referred to in subparagraph (1)(C) of this subsection under contracts issued on and after January 1, 1976, and in at least 40 per centum of liabilities incurred in respect of such risks under contracts issued on and after January 1, 1979. If it is not possible for the Corporation to achieve either such percentage of participation, the Corporation shall report in detail to the Senate Foreign Relations Committee and the Foreign Affairs Committee of the House of Representatives the reasons for its inability to achieve either such percentage of participation, and the date by which such percentage can be achieved.

"(B) It is the intention of Congress that the Corporation should not participate as insurer under insurance policies issued after December 31, 1980, in respect of the risks referred to in subparagraph (1)(C) of this subsection.

"(6) Notwithstanding any of the percentages of participation under subparagraphs (4)(A) and (5)(A) of this subsection, the Corporation may agree to assume liability as insurer for any insurance contract, or share thereof, that a private insurance company, multilateral organization, or any other person has issued in respect of the risks referred to in paragraph (1) of this subsection, and neither the execution of such an agreement to assume liability nor its performance by the Corporation shall be considered as participation by the Corporation in any such insurance contract for purposes of such percentages of participation. However, it is the intention of Congress that on and after January 1, 1981, the Corporation should not enter into any such agreement to assume liability.

"(7) It is the intention of Congress—

"(A) that the Corporation should not manage direct insurance issued on and after December 31, 1979, by any other person in respect of risks referred to in subparagraph (1) (A) or (B) of this subsection;

"(B) that the Corporation should not manage direct insurance issued on and after December 31, 1980, by any other person in respect of risks referred to in subparagraph (1)(C) of this subsection; and

"(C) that on and after December 31, 1980, the Corporation should act only as a reinsurer except to the extent necessary to manage its outstanding insurance or reinsurance contracts and any policies the Corporation assumes pursuant to paragraph (6).";

(13) by inserting at the end of section 234 the following new subsection:

"(f) OTHER INSURANCE FUNCTIONS.—

"(1) to make and carry out contracts of insurance or reinsurance, or agreements to associate or share risks, with insurance companies, financial institutions, any other persons, or groups thereof, and employing the same, where appropriate, as its agent, or acting as their agent, in the issuance and servicing of insurance, the adjustment of claims, the exercise of subrogation rights, the ceding and accepting of reinsurance, and in any other matter incident to an insurance business;

"(2) to enter into pooling or other risk-sharing arrangements with other national or multinational insurance or financing agencies or groups of such agencies;

"(3) to hold an ownership interest in any association or other entity established for the purposes of sharing risks under investment insurance; and

"(4) to issue, upon such terms and conditions as it may determine, reinsurance of liabilities assumed by other insurers or groups thereof in respect of risks referred to in subsection (a)(1).

The authority granted by paragraph (3) may be exercised notwithstanding the prohibition under section 234(c) against the Corporation purchasing or investing in any stock in any other corporation. The amount of reinsurance of liabilities under this title which the Corporation may issue shall not exceed $600,000,000 in any one year, and the amount of such reinsurance shall not in the aggregate exceed at any one time an amount equal to the amount authorized for the maximum contingent liability outstanding at any one time under section 235(a)(1). All reinsurance issued by the Corporation under this subsection shall require that the reinsured party retain for his own account specified portions of liability, whether first loss or otherwise, and the Corporation shall endeavor to increase such specified portions to the maximum extent possible.";

(14) by striking out "1974" in section 235 (a)(4) and inserting "1977" in lieu thereof;

(15) by striking out "insurance issued under section 234(a)" in subsection (d) of section 235 and inserting in lieu thereof the following: "insurance or reinsurance issued under section 234";

(16) by striking out subsection (f) of section 235 and inserting in lieu thereof the following:

"(f) There are authorized to be appropriated to the Corporation, to remain available until expended, such amounts as may be necessary from time to time to replenish or increase the insurance and guaranty fund, to discharge the liabilities under insurance, reinsurance, or guaranties issued by the Corporation or issued under predecessor guaranty authority, or to discharge obligations of the Corporation purchased by the Secretary of the Treasury pursuant to this subsection. However, no appropriations, after appropriations for fiscal year 1975, shall be made to augment the Insurance Reserve until the amount of funds in the Insurance Reserve is less than $25,000,000. Any appropriations to augment the Insurance Reserve shall then only be made either pursuant to specific authorization enacted after the date of enactment of the Overseas Private Investment Corporation Amendments Act of 1974, or to satisfy the full faith and credit provision of section 237(c). In order to discharge liabilities under investment insurance or reinsurance, the Corporation is authorized to issue from time to time for purchase by the Secretary of the Treasury its notes, debentures, bonds, or other obligations; but the aggregate amount of such obligations outstanding at any one time shall not exceed $100,000,000. Any such obligation shall be repaid to the Treasury within one year after the date of issue of such obligation. Any such obligation shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of any obligation authorized by this subsection. The Secretary of the Treasury shall purchase any obligation of the Corporation issued under this subsection, and for such purchase he may use as a public debt transaction the proceeds of the sale of any securities issued under the Second Liberty Bond Act after the date of enactment of the Overseas Private Investment Corporation Amendments Act of 1974. The purposes for which securities may be issued under such Bond Act shall include any such purchase.";

(17) by striking out "and guaranties" in subsection (a) of section 237 and inserting in lieu thereof the following: ", guaranties, and reinsurance";

(18) by striking out "or guaranties" in subsection (a) of section 237 and inserting in lieu thereof the following: ", guaranties, or reinsurance";

(19) by striking out "or guaranty" both times it occurs in subsection (b) of section 237 and inserting in lieu thereof both times the following: ", guaranty, or reinsurance";

(20) by inserting ", reinsurance," after "insurance" both times it occurs in subsection (c) of section 237;

(21) by inserting ", reinsurance," after "insurance" the first two times it occurs in subsection (d) of section 237;

(22) by striking out "or insurance" in subsection (d) of section 237 and inserting in lieu thereof the following: ", insurance, or reinsurance";

(23) by striking out "or guaranty" in subsection (e) of section 237 and inserting ", guaranty, or reinsurance" in lieu thereof;

(24) by inserting ", reinsurance," after "insurance" both times it occurs in subsection (f) of section 237;

(25) by adding at the end of subsection (f) of section 237 the following: "Notwithstanding the preceding sentence, the Corporation shall limit the amount of direct insurance and reinsurance issued by it under section 234 so that risk of loss as to at least 10 percent of the total investment of the insured and its affiliates in the project is borne by any person other than the Corporation on the date the insurance is issued. The preceding sentence shall not apply to any loan by any insurance company, pension fund, or other institutional lender, or to any investment by a small business.";

(26) by inserting ", insurance, or reinsurance" after "guaranty" in subsection (g) of section 237;

(27) by striking out "or guaranties" in subsection (h) of section 237 and inserting ", guaranties, or reinsurance" in lieu thereof;

(28) by inserting ", reinsurance," after "insurance" in subsection (i) of section 237;

(29) by inserting ", reinsurance," after "insurance" both times it occurs in subsection (k) of section 237; and

(30) by adding at the end of subsection (f) of section 239 the following: "The Council shall terminate on December 31, 1977.";

(31) by adding at the end of section 239 the following:

"(h) Within six months after the date of enactment of the Overseas Private Investment Corporation Amendments Act of 1974, the Corporation shall develop and implement specific criteria intended to minimize the potential environmental implications of projects undertaken by investors abroad in accordance with any of the programs authorized by this title.

"(i) It is the intention of Congress that on or after December 31, 1979, the President should transfer all programs under section 234 (b) through (e) or section 240, and all obligations, assets, and related rights and responsibilities arising out of, or related to, such programs to any other agency of the United States.

"(j) On and after December 31, 1979, all programs authorized under section 234 (b) through (e) or section 240 shall be limited to countries with a per capita income of $450 or less in 1973 United States dollars.";

(32) by striking out "in Latin America, the authority conferred by this section should be used to establish pilot programs in not more than five Latin American countries" in subsection (a) of section 240 and inserting in lieu thereof the following: ", the authority conferred by this section should be used to establish programs in such countries";

(33) by striking out "not more than five Latin American countries" in subsection (b) of section 240 and inserting "less developed countries" in lieu thereof;

(34) by striking out "25 per centum" in subsection (b) of section 240 and inserting "50 per centum" in lieu thereof;

(35) by striking out "1972" in subsection (g) of section 240 and inserting "1976" in lieu thereof;

(36) by striking out "pilot" in subsection (g) of section 240;

(37) by striking out "1974" in section 240 (h) and inserting "1977" in lieu thereof; and

(38) by striking out subsection (b) of section 240A and inserting in lieu thereof the following:

"(b) Not later than January 1, 1976, the Corporation shall submit to the Congress an analysis of the possibilities of transferring all of its activities to private insurance companies, multilateral organizations or institutions, or other entities."

The motion was agreed to.

The Senate will was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To amend the title of the Foreign Assistant Act of 1961 concerning the Overseas Private Investment Corporation to extend the authority for the Corporation, to authorize the corporation to issue reinsurance, to suggest dates for terminating certain activities of the Corporation, and for other purposes."

A similar House bill (H.R. 13973) was laid on the table.

GENERAL LEAVE

Mr. CULVER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill (H.R. 13973) just passed.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

CONFERENCE REPORT ON H.R. 7824, LEGAL SERVICES CORPORATION ACT OF 1974

Mr. PERKINS. Mr. Speaker, I call up the conference report on the bill (H.R.

7824) to establish a Legal Services Corporation, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of May 13, 1974).

Mr. PERKINS (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement of the managers be dispensed with and that it be printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. PERKINS. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, we have before us today for the third time in as many years legislation that would create an independent corporation to administer the legal services program.

Before discussing the substance of this conference report, let me take this opportunity to express my appreciation for the work performed by the House conferees. Had it not been for the untiring efforts of Congressman Hawkins, the chairman of the Equal Opportunities Subcommittee, the gentlelady from Hawaii (Mrs. Mink), and the gentleman from Washington (Mr. Meeds), together with the cooperation and concurrence of the ranking minority members, Mr. Quie, Mr. Ashbrook, and Mr. Steiger, this most difficult conference would still not be concluded. These conferees have produced an agreement which retains the protections that the House adopted, and at the same time creates an independent structure to operate the program in the coming years.

The Board of Directors of the Legal Services Corporation, all of whom are appointed by the President with the advice and consent of the Senate, is faced with a challenge to operate this program *so that the* poor will receive the highest quality legal assistance while avoiding the obstacle that the program has experienced in the past.

Mr. Speaker, the governing body of the local recipients must be composed of local lawyers who are admitted to practice before the highest court of their State. The recipients are also required to solicit the recommendations of the local bar association in filling staff attorney positions in the communities. The combination of these two provisions will, to my way of thinking, guarantee the legal services program a substantial base of local support that will enable it to work more effectively than ever before.

It is my firm belief, Mr. Speaker, that enactment of this legislation will take us past a milestone in the legal services program.

The conference bill that we will vote on today assures that first-rate quality counsel will be provided to the Nation's poor. At the same time, the conferees have expended major efforts to make sure that potential abuses of the program will be curbed so that we can continue and improve upon the fine political and public support that has followed the legal services program since its inception. Since we have painstakingly worked out the provisions that will prevent abuses of the program by the Corporation and its recipients and employees, it is our expectation that the provisions of this bill will be properly enforced. Similarly, it is our expectation that no additional restrictions on the activities of recipients and their employees will be established by the Corporation—other than the ones set forth in this bill—since this would upset the fine balance that we tried to achieve with this legislation.

An example of the potential abuses that we tried to curb under this legislation was the use of lawsuits solely to harass defendants—rather than to bring justifiable claims. As a result, we have permitted courts, solely where an express finding has been made that "the action was commenced or pursued for the sole purpose of harassing a defendant" or that the "recipient's plaintiff maliciously abused legal process," to award reasonable costs and legal fees incurred by the defendant. Of course, such an award of costs and fees cannot be made final until all appeals have been exhausted, and no award of costs and fees will be permitted if such an award contravenes any State law, any rule of court, or any statute of general applicability.

Thus, under the bill we are considering today, costs and fees can be collected directly from the Corporation, without taxing the recipient or employee involved, where a lawsuit was filed or pursued solely to harass a defendant.

Under this bill, the conferees have decided to continue the important backup center system that was established under OEO's legal services program. These groups—which have provided valuable research, advice, legal counsel, and co-counsel assistance—are invaluable to a program that requires expert handling of poor people's legal problems and, thus, the bill envisions their continued activities. Insofar as there has been some debate concerning the best possible method of providing backup assistance in the legal services program, the bill requires the Corporation to conduct a study of the most efficient methods of providing the much-needed backup work. This study shall be submitted by the Corporation to the Congress by June 30, 1975.

Although a study is required of the most efficient method of providing backup support.

Under our bill, Congress may, by concurrent resolution, act with respect to the continued authority to provide grants and contracts for backup work. If, however, the Congress does not so act during the period from June 30, 1975, to January 1, 1976, then the authority to award grants and contracts for the backup work that I have described will automatically be extended to January 1, 1977.

The conferees expect that the Corporation, when it prepares its report for the Congress on the backup centers, will include the numerous evaluations that have been made about these centers over the past year. Further, the Corporation expects that the backup centers will be fully protected by all of the due process safeguards that attach to recipients and employees under this bill. Moreover, the 30-day notice to Governors and State bar associations prior to the approval of any grant application, as set forth in section 1007(f) of the bill, shall be applicable for backup centers, but only in the State where that center has its office.

Since the effort to provide legal services for the poor is contingent upon the hiring of intelligent, trusted, and resourceful personnel, it is contemplated that the Corporation will continue to hire well-qualified new lawyers, particularly those with minority backgrounds—similar to the clients they often will serve.

Under the conference bill we have presently before us, the Corporation is required to establish eligibility standards—after it has consulted with the Director of the Office of Management and Budget and with the Governors of the several States—for determining which individuals are eligible for legal assistance. Attorneys hired by recipients will serve these individuals as well as groups composed primarily of eligible individuals—such as cooperatives, day-care centers, and the like. Although recipients and their employees may not organize any groups, coalitions, associations, and other entities, it is expected that recipients and employees will provide complete legal representation to such organizations if they predominantly draw their membership from eligible individuals and families.

The bill that we have before us curbs recipients and their attorneys from advocating their own causes rather than those of their clients. The bill prevents recipients and their employees from participating in legislative and administrative advocacy except under two circumstances. First, such recipients and employees thereof may advocate before all legislative, executive, and administrative bodies if such advocacy is in behalf of an eligible client or group. In short, our prohibition against legislative and administrative representation is designed to make sure that program lawyers espouse the legal needs of their clients, not their own ideological beliefs.

In short, our prohibition against legislative and administrative representation is designed to make sure that program lawyers espouse the legal needs of their clients, not their own iedological beliefs.

Our second exception to the prohibition against legislative and administrative advocacy results when "a governmental agency, a legislative body, a committee, or a member thereof requests personnel of any recipient to make representations thereto." Consequently, if a member of a legislature or a legislative committee requests that representations be made to such legislature or committee, then the personnel of a recipient shall be allowed to appear before those respective bodies. Similarly, if a member of an agency or an executive body requests that representations be made to such agency or executive body, such as commenting on proposed regulations in the Federal Register prior to final promulgation, then personnel of a recipient should be permitted to do so. By carving out this exception to the prohibition against legislative and administrative advocacy, the program will remain responsive to the desires of elected and duly appointed personnel of our Federal, State, and local governments, thus maintaining the program's political responsiveness to our chosen leaders.

With regard to the prohibition on representing juveniles the conference report provides in section 1007(b)(4)(D) that legal services attorneys may not initiate litigation on behalf of a juvenile directly against the juvenile's parent or guardian. It is important to point out, however, that in imposing this restriction the conferees did not intend to otherwise limit the provision of full range of legal services and advice to juveniles. For example, the words "benefit—and—services under law" means all the rights to which a juvenile is entitled under Federal and State laws as well as all constitutionally protected rights. Furthermore, the prohibition on suing parents or guardians is not intended to exclude a suit brought against a nonparent or a nonguardian where the nonparent joins the parent as a third party defendant or respondent. It should be further noted that it is my understanding that this prohibition refers only to a guardian as an individual and not a public agency or entity which has been appointed to be such juvenile's guardian. If, for example, the State has been appointed guardian the legal services attorneys may in appropriate circumstances initiate litigation on behalf of the juvenile against the State as a guardian.

In pointing out how the bill that we now have before us represents a considerable compromise, it should be noted that the conference has bowed to the President's wishes that he appoint the Corporation board. It is our hope that, in fulfilling his requested responsibility in this regard, that the President begins the board selection process very soon. Since we have waited several years for the passage of a bill like the one presently before us, it is important that the Corporation be set up as soon as possible. Therefore, it is our hope and expectation that Corporation board members will be selected soon after the passage of this bill.

In selecting board members, we hope that the President will designate a prestigious group of people. This would help the public to provide the necessary support for this crucial legal undertaking in behalf of the poor.

The conference report contains a provision which requires the Corporation and all recipients to account for and report as receipts and disbursements separate and distinct from Federal funds all non-Federal funds which they receive. This requirement is qualified in two ways.

First, any public funds—including foundation funds benefiting Indians or Indian tribes—received by the Corporation or by a recipient are not within the scope of the prohibition.

Second, certain types of entities such as private law firms, State, and local entities of attorneys, or private attorneys, or legal aid societies having separate public defender programs are not included in the prohibition.

To my way of thinking, Mr. Speaker, this provision would not prohibit the Legal Aid Society in New York from continuing to operate in the manner which it has in the past nor would this provision have any effect on the operation of the legal aid program in the State of Hawaii.

I urge the Members of this House to provide strong support for this bill so that we clearly and emphatically further the principle of equal justice for all.

Mr. QUIE. Mr. Speaker, I yield myself 7 minutes.

Mr. Speaker, I rise in support of the conference report on H.R. 7824. After 3 years of work, we have a bill establishing a Legal Services Corporation for the provision of legal services to the poor in civil cases which almost everyone should be able to support. I am confident that this bill will be enacted.

When the legislation came to the House floor in June of last year many of us were dissatisfied with a number of its provisions which, in our view, failed to sufficiently circumscribe the conduct of legal service attorneys in such areas as political activities, both administrative and legislative lobbying, representation of minors without parental consent, and the use of the program to promote their particular social or economic causes as opposed to simply providing legal advice and representation for the poor. We also wanted the program more closely tied to the local organized bar. Many Members of the House were also concerned about the handling of certain types of cases, such as those involving abortion, school desegregation, and selective service offenses or desertion from the armed services. So there were numerous amendments adopted to the reported bill before it went to the other body for consideration.

Typically, while accepting the substance of a few of the House provisions, such as those dealing with abortion and selective service or desertion from the Armed Forces, the other body either failed to include or so watered down most of the other amendments adopted on the House floor that their substance was lost. Of course, vast portions of the two bills were identical or substantially so and need not concern us here.

What I am happy to be able to report to the House today is that in the critical areas the substance of the House bill was adhered to in conference and is reflected in this conference report. In a few areas we had to compromise, but that is the nature of the process. Let me report our action in those areas I feel are of greatest significance.

1. POLITICAL ACTIVITIES

The two bills were similar in preventing legal services attorneys while engaged in activities funded by the act from taking part in such things as voter registration drives and transporting voters to the polls; they were different in that the House bill, but not the Senate amendment, prohibited attorneys receiving more than one-half their professional income from the legal services program from taking part in those activities at any time, or in taking an active part in partisan or nonpartisan political management or campaigns. The House version prevailed. Not only did the House version prevail, but we included two Senate provisions which bring employees of the Legal Services Corporation under the Hatch Act and prohibits employees of the Corporation or employees of recipients of aid from the Corporation to intentionally identify the legal services program with any political campaign. So we took the strongest language of both bills on political activity.

2. LOBBYING

The House bill absolutely prohibited lobbying in State legislatures or in the Congress by legal services attorneys, except for making statements upon formal invitation. The Senate version permitted such statements upon invitation and also in the course of representing an eligible client. The House bill also barred lobbying on Executive orders and similar promulgations at local, State, and National levels, except upon invitation or in the course of providing legal assistance to an eligible client which was not covered at all by the Senate bill. The conference agreement covers so-called administrative lobbying. However, it takes the Senate language permitting attorneys, acting as attorneys, to represent eligible clients in legislative and administrative proceedings at the local, State, and National levels, but with strengthening language which prohibits the solicitation of a client or of a group in order to make such representation possible. In short, the conference agreement bars representations on legislative or administrative matters except upon formal invitations or in the representation of an eligible client. Thus it effectively prohibits an organized lobbying effort funded by this program. I think this retains the intention of the House provisions.

3. PARTICIPATION OF ORGANIZED BAR

The House bill had two very strong provisions on this—one an amendment offered by me which requires that two-thirds of the governing board of legal service programs—as opposed to a simple majority—be composed of attorneys who are members of the bar in the State in which the legal services are to be rendered. In addition, we adopted an amendment of Chairman PERKINS which requires not only that the recommendations of the local bar so solicited before filling staff attorney positions in these programs, but that preference in filling such positions be given to local attorneys. The conference agreement cuts the two-thirds local attorney requirement to 60 percent, but it retains Chairman PERKINS' requirement on hiring intact.

4. AWARD OF ATTORNEY'S FEES TO PREVAILING DEFENDANTS

The gentlewoman from Oregon (Mrs. GREEN) amended the bill reported by our committee to permit a court in its own discretion to award a defendant, in a suit initiated under this act, reasonable court costs and attorney's fees when the defendant is on the prevailing side. This is my understanding of the traditional equity power of a court when it finds that somebody has flagrantly abused legal process. We retained the provision, but inserted language requiring a finding that the plaintiff had brought the action solely for harassment or had *maliciously* abused legal process, and suspending such authority when it contravenes a rule of court or State law—which, of course, we did not intend to contravene by this statute.

5. REPRESENTATION OF MINORS WITHOUT PARENTAL CONSENT

The House bill prohibited the use of funds under this act for the representation of persons under 18 years of age without the written request of a parent or guardian, or of a court, except in child abuse cases, custody proceeding, or PINS—persons in need of supervision—proceedings. The Senate amendment applied the prohibition to "unemancipated persons under 18 years of age" and added other exempted categories of actions, such as those involving the institutionalization of minors. It also added two sweeping categories—"where such assistance is necessary for the protection of such person for securing or preventing the loss of benefits or services to which the person is legally entitled" and "in other cases pursuant to criteria the Board shall prescribe." These, of course, would have completely vitiated the requirement of parental request or consent. The conference agreement drops the "other cases" loophole completely and amends the other one to insert "or preventing the loss or imposition of services" and to limit it to "cases not involving the child's parent or guardian as a defendant or respondent." Thus again the House position substantially prevailed.

6. TREATMENT OF "BACKUP CENTERS"

The House bill as amended on the floor prohibited the Corporation from conducting research and training and clearinghouse information activities by grants or contracts, but required that such activities be conducted directly in an "in-house" operation. The focus of the amendment was the research activity conducted under the Economic Opportunity Act under contract with various universities, and generally referred to as "backup centers."

The 13 Legal Services Backup Centers are currently in their fourth year of operation. They were established to serve as legal information and research centers supporting the needs and demands of the various legal service programs in operation throughout the country. Generally, these centers are funded by grants from the Office of Economic Opportunity, Office of Legal Services. The OEO serves as grantor of the funds allocated for the centers and a university or independent board of directors serves as grantee and administers the operations of the backup center. Each of the 13 centers serves as both a regional and national authority in the particular area of law for which it was established. Each center is comprised of approximately six staff attorneys in addition to a clerical staff and one or two directors. The key priorities of each of the backup centers seem to be threefold. First, to keep all topical material updated and to respond with as current material as possible to the requests of the various legal services program attorneys; second, to train legal service program attorneys as extensively as possible in the topical area in which the backup center specializes; third, to work on the preparation of pamphlets and handbooks used for the dissemination of current information concerning legislation concerning the backup center's area of topical concern.

Location of backup centers:

National Juvenile Law Center, St. Louis, Missouri.

NLSP Center on Social Welfare Policy and Law, Inc., New York, New York.

Indian Legal Service Back-up Center, Boulder, Colorado.

National Housing and Economic Development Project, Berkeley, California.

National Employment Law Project, New York, New York.

National Health and Environmental Law Project, Los Angeles, California.

Legal Action Support Project of the Bureau of Social Science Research, Washington, D.C.

Migrant Legal Action Program, Inc., Washington, D.C.

National Resource Center on Correctional Law and Legal Services, Washington, D.C.

Western States Project, San Francisco, California.

National Senior Citizens Law Center, Los Angeles, California.

Harvard Center for Law and Education, Boston, Massachusetts.

The Senate bill contained the language of the House bill as reported from committee, with the addition of "recruitment" as a permissible activity. This difference took a great deal of time to resolve. We finally did resolve it by striking out the Senate reference to "recruitment" and permitting the Corporation to continue to conduct research by grant or contract until January 1, 1976, when such authority shall terminate unless in the intervening period the Congress by concurrent resolution has acted with respect to it; if the Congress has taken no such action, the authority automatically extends for 1 year until January 1, 1977, when it again terminates, 6 months prior to the termination of the authorization of appropriations under the act. The conference bill directs the Corporation to conduct a thorough study of the research activities and the relative merits of conducting them directly as opposed to contracting them out, and to report its findings and recommendations to the Congress and the President not later than June 30, 1975, so that we shall all have information sufficient to act on this matter. The provision of course returns the whole issue to the Congress for further action. But beyond that, I think that it raises a red flag to the Corporation with respect to the types of activities, and their effectiveness, which have been carried out by legal services "backup centers." Incidentally, in the statement of managers we specifically note that "research" includes furnishing co-counsel in cases, a practice which in certain instances has been criticized.

7. ANTIBARRATRY PROVISION

The conference bill retains the House prohibition against the use of this program for "the persistent incitement of litigation" or any other practice prohibited by the Canons of Ethics. The Senate amendment had no such provision.

8. USE OF NON-FEDERAL FUNDS FOR PROHIBITED PURPOSES

The House bill, but not the Senate amendment, prohibited the expenditure by recipients of non-Federal funds for a purpose prohibited by this act but also provided that the provision not be construed to make it impossible to contract or make other arrangements with private attorneys or private law firms, or with legal aid societies which have separate public defender programs—such as the Legal Aid Society of New York. In the course of the conference deliberations it was felt necessary to make two exceptions to this prohibition. The first relates to the source of funds and exempts public funds or tribal funds—including tribal funds from a private source—because otherwise State and local governments and most Indian tribes could not be recipients and might also be effectively barred from making contributions to programs supported in part under this act. The second exception merely expands the types of recipients already exempted from the provision to include "other State or local entities of attorneys." However, we retained the most significant requirement of the House bill: That an entity set up to act as a recipient under this act—which includes most of the legal services programs as now operated—cannot obtain foundation or other private funds and use them for purposes prohibited under this act.

9. PROHIBITION AGAINST USE OF FUNDS FOR DESEGREGATION CASES

The House bill in two separate provisions prohibited the use of funds to bring cases designed to desegregate any school or school system or any institution of higher education. The conference bill retains the prohibition against the use of funds for cases involving the desegregation of any school or school system, with the clarifying phrase "elementary or secondary" added before "school or school system."

10. TRANSFER OF PERSONNEL

The Senate amendment, but not the House bill, would have transferred OEO legal services personnel intact to the Corporation. The conference bill deletes this transfer in the transition provisions, thus leaving the Corporation free to make a fresh start and to pick and choose among OEO personnel on the basis of its own standards and needs.

There are literally dozens of instances where the language of the final product was improved by using either the House or Senate versions, and there are other instances where Senate language which had the tendency of "softening" restrictions was deleted. For example, in the language restricting the support or conduct of training programs for certain kinds of activities—political activities, labor, or antilabor activities, or boycotts, picketing, strikes, or demonstration—the Senate amendment had the modifier "illegal" inserted before "boycotts, picketing, strikes, or demonstration," which was deleted in conference.

There are a number of examples one can cite of "stronger" Senate language being included in the conference bill. For example, the House bill had no provision with respect to the control of class action suits, whereas the Senate did and we accepted it. The House bill had no provision with respect to the "identification" of the legal services program with political activities, and accepting the Senate provision made those restrictions more extensive. And then there were points which we yielded, as this after all was a free conference and some compromises are necessary.

For example, the House had adopted a floor amendment which absolutely terminated the Corporation as of June 30, 1978. We yield on that point, but we did accept the Senate provisions which provide for a 3-year authorization of appropriations. The Congress through its authorizing committee must act by June 30, 1977, instead of June 30, 1978, or we had it in the House bill. We also agreed to a Senate provision which was inserted in their bill by Senator COTTON in an amendment, and which limits any appropriation to a period of 2 years; with the amount for the second year to be made available at the beginning of such year. The House bill had open ended authorizations, whereas the Senate bill had stated sums. We compromised by taking the stated sums for fiscal years 1975 and 1976—$90 and $100 million, respectively—and "such sums as may be necessary" for fiscal year 1977. Finally, we adopted the Senate form of the bill which is an amendment to the Economic Opportunity Act of 1964, adding a new title X. I voted against this recession by the House, but it has little substantive effect except on the issue of which committee of the Senate will consider the nominations of the President to the Board of Directors of the Corporation. No other provision of the Economic Opportunity Act relates to the provisions of title X.

In short, Mr. Speaker, this was a conference in which the managers on the part of the House were in very large measure successful in sustaining the position of the House. I cannot too highly praise Chairman PERKINS. for his leadership in achieving this result. Of course, I am personally grateful for the many contributions of all of the House conferees, but as the ranking minority member on our side I especially want to thank the gentleman from Ohio, JOHN ASHBROOK, and the gentleman from Wisconsin, BILL STEIGER, for their diligent work on this very difficult and demanding legislation.

The result, I believe, is a bill which will and most certainly should, be signed into law. I think it is a bill which the overwhelming majority of the Members of this House can in good conscience support, whatever their reservations about some details of particular provisions. It is designed at long last to provide the framework for a continuing program of legal services for the poor, untainted by politics and free, we certainly hope, from an atmosphere of rancor and controversy. Of course there will continue to be disagreements as to the merits of some of the litigation pursued—that is inherent in the very nature of our legal system, based as it is largely upon adversary proceedings. But I believe that we have put together an act which, faithfully administered, will provide increasing acceptability for this program.

Our objective is to come much closer to achieving the ideal of "equal justice under law" which is the bedrock of our democracy. I think this legislation is a well-balanced effort directed toward that end, and I urge its approval.

Mr. FROEHLICH. Mr. Speaker, will the gentleman yield?

Mr. QUIE. Mr. Speaker, I yield to the gentleman from Wisconsin.

Mr. FROEHLICH. Mr. Speaker, on June 21, 1973, during the debate on the Legal Services bill, I offered a substitute to an amendment proposed by the distinguished gentleman from Maryland (Mr. HOGAN), limiting the Legal Services Corporation's authority to engage in litigation on abortion. My substitute amendment was adopted by the House and subsequently incorporated into the bill. It has now become a part of this conference report.

I am very disturbed by the efforts to portray this amendment as ineffectual and meaningless. The amendment clearly has meaning; it clearly has force; and it cannot be nullified by word games in the OEO bureaucracy.

Permit me to set the record straight on the history and meaning of section 1007 (b)(8) of the conference report on H.R. 7824, which provides:

> (b) No funds made available by the Corporation under this title, either by grant or contract, may be used—
>
> * * * * *
>
> (8) to provide legal assistance with respect to any proceeding or litigation which seeks to procure a nontherapeutic abortion or to compel any individual or institution to perform an abortion, or assist in the performance of an abortion, or provide facilities for the performance of an abortion, contrary to the religious beliefs or moral convictions of such individual or institution; . . .

The language in this subsection was a substitute for Mr. HOGAN's amendment, which prohibited the use of corporation funds—

> (7) To provide legal assistance with respect to any proceeding or litigation relating to abortion.

During the debate on Mr. HOGAN's amendment, the following colloquy took place:

> Mr. DU PONT. I have a question for the sponsor of the amendment. Does the gentleman's amendment mean that if a woman received an abortion in a hospital and was injured as the result of medical malpractice, that the attorneys in the corporation would not be able to handle her suit?
>
> Mr. HOGAN. No; I do not intend that at all. What I do intend is that no suit can be brought against a doctor or a nurse or a hospital that will not perform an abortion to force them to do so.
>
> Mr. DU PONT. I understand what the gentleman intends, but what does his amendment say?

At that point in the debate, I offered my substitute amendment, stating in part:

> Mr. Chairman, I think this wording will correct the defect pointed out in the Hogan amendment.

The defect in the Hogan amendment as originally submitted was that it was worded so broadly that it covered situations not intended. My amendment was designed to correct this overbreadth. It was not designed to radically alter the amendment's objective.

There is now some question concerning the meaning of the term "therapeutic abortion."

According to my good colleague from Georgia (Mr. BLACKBURN), a writer in the April publication of OEO's National Clearinghouse for Legal Services states that—

> Any abortion which a woman requests is medically necessary, since the very request for the procedure indicates the importance of terminating the pregnancy to the woman's health, whether physical, mental, or emotional.

I disagree completely with this view of a "medically necessary" abortion. This is certainly not the view embodied in my amendment when it was approved overwhelmingly in the House. The type of abortion described in the passage above is an "elective abortion" that proceeds from complete freedom of choice and has nothing to do with medical necessity. Litigation by corporation attorneys to procure this kind of abortion is not authorized by the bill.

As it now stands, this legislation prohibits litigation by corporation attorneys to secure "nontherapeutic" abortions. It does not prohibit litigation to secure "therapeutic" abortions.

To my mind, a therapeutic abortion is an abortion that is a necessary part of the treatment of a serious existing illness or injury. A nontherapeutic abortion is an elective abortion that is not a necessary part of the treatment of a serious existing illness or injury. A nontherapeutic abortion is an abortion that is convenient to or desired by the mother but is not medically related in a necessary and integral way to the preservation of her life or physical health.

The term "nontherapeutic sterilization" was defined by the Public Health Service and the Social and Rehabilitation Service in regulations published in the Federal Register on April 18, 1974, at page 13873. Section 50.202(b) of the regulations defines nontherapeutic sterilization as—

> Any procedure or operation, the purpose of which is to render an individual permanently incapable of reproducing and which is not either (1) a necessary part of the treatment of an existing illness or injury, or (2) medically indicated as an accompaniment of an operation on the female genitourinary tract. For purposes of this paragraph mental incapacity is not considered an illness or injury.

This definition of "nontherapeutic" is very much in line with my intent at the time I offered my substitute amendment.

In interpreting the term "nontherapeutic abortion," there is necessarily a gray area between a clearcut "elective abortion" that is undertaken for the convenience of the mother and a clearcut therapeutic abortion that is imperative to save the life of the mother. The conference report does not embody the Senate language which specifically barred legal assistance on abortion "unless the same is necessary to save the life of the mother."

Nonetheless, the purpose of the amendment is to severely limit the situations in which publicly financed attorneys are authorized to embark on publicly financed litigation to procure abortions; and the intent of the amendment is not to be nullified by an illimitably expansive interpretation of the term "therapeutic" so that the term "nontherapeutic" is rendered meaningless. No such leeway is permitted by the language in this amendment, and restrictive regulations should be drafted accordingly.

Mr. PERKINS. Mr. Speaker, will the gentleman yield?

Mr QUIE. Mr. Speaker, I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Speaker, I compliment the distinguished gentleman from Minnesota (Mr. Quie) for an outstanding speech and for his persevering attitude in obtaining this conference report.

Mr. Speaker, my question is, Did the House action eliminate the backup centers? I first thought that the action of the House took eliminated backup centers, but upon further study I found that the backup centers were not eliminated but that they were authorized to be operated directly by the Corporation. They were brought into headquarters here in Washington, and the work of the backup centers was all within the Corporation here in Washington. Am I correct in that statement?

Mr. QUIE. Mr. Speaker, the gentleman is correct. Any backup center activities would have to be conducted by the Corporation in the House bill.

Mr. PERKINS. But the House bill still has the authority and the right to do all the work within the Corporation here in Washington?

Mr. QUIE. That is correct. All the work could be done only within the Corporation. In the compromise we also continue the right to make grants and contracts, and this makes available funds for the present backup centers if approved by the Corporation, which will look at the present backup centers and make judgment as to which ones are capably performing their duty, and which will eliminate the abuses. By June 30, 1975, the Corporation will come back with a study pointing out to us, in effect, which backup centers are providing what services for the local attorneys and the preferred methods and structures of these services.

Mr. MEEDS. Mr. Speaker, I wish to state to the Members of the House that this is about the fifth or sixth time, I believe, that I have been in the well of this House discussing the purposes of a Legal Services Corporation. This is the third bill we have had considered before the House, and this is the second conference report on that subject. So this is the fifth time I have discussed this with the Members.

Over that period of time, Mr. Speaker, in terms of Legal Services, I feel somewhat like the "Virginia Slims" man who says, "You've come a long way, baby." I cannot say that this is exactly to my liking, in view of that long distance that has been traveled. Ninety-six of my colleagues and I, representing both bodies, introduced in 1971 a Legal Services proposal, and I cannot say that what we are here today considering is exactly that different.

However, at the same time the administration proposed Legal Services legislation, and the legislation we are considering today is not identical to that either. Indeed, a close analysis will show that the proposal we have before us today is, in at least 21 particulars, more restrictive even than the legislation proposed by the administration in 1971.

But I think I have been here long enough, and I am practical enough to know that "politics is the art of the possible."

Let me tell my friends, particularly on this side of the aisle, this: Given the present circumstances and conditions, I cannot say that we are going to be able to pass the original Legal Services bill which so many of us introduced and fought so hard for. Indeed, I think it is necessary to make some compromises if we are to retain this very, very fine program. This is a program which has made justice a reality to many people who never would have enjoyed that reality otherwise.

Mr. Speaker, the important thing about this legislation and about this conference report is that it creates a relatively independent Legal Services Corporation. It is insulated mostly from political pressure without being isolated from the needs of the people and from the Congress. It assures us that Legal Services will continue to be available to those who are less fortunate. They are less fortunate, yet they also should have the right of access to the courts of this country.

This legislation makes justice a reality to those who, before the era of Legal Services, did not have the means of exercising and having the benefit of that reality.

Mr. Speaker, there have been a number of "Dear Colleague" letters written, and we have heard a number of statements made, and perhaps many of them have been authored by certain people who are not well known. But in any event, the main thrust of these arguments is that the House conferees, in effect, compromised away the House position in the long and somewhat difficult conference held with the Members of the other body.

Let me say as emphatically as I know how that this is incorrect. I deny that this has happened. Indeed, I think I can demonstrate how incorrect it is.

We have done an analysis of the 24 amendments which were adopted on the floor of this House. Of those 24 amendments, our analysis shows that the House position was sustained almost totally intact, certainly as far as the major thrust of the House position is concerned, in 13 of those 24 amendments. The Senate position was sustained almost totally intact in 5 out of those 24 amendments. The position leaning toward the House version was sustained in 3 of those 24 amendments, and the position leaning toward the Senate was sustained in 3 of those instances.

So that the overwhelming majority of these 24 amendments which were adopted on the floor of this House were sustained in the conference, and we bring them back to the Members today either totally intact or relatively intact, the overwhelming majority of them, as I say.

I was interested in the "Dear Colleague" letter of my colleague and valued friend, the gentleman from Ohio (Mr. Ashbrook), who was a member of the conference committee. I just want to quote from his letter where he says:

> I have served on a number of conferences and have watched the House position repeatedly bargained away. In this conference I would have to say the House conferees did a very good job of upholding our position, and held the final version much closer to our original bill than the more radical Senate version. At that, the bill certainly was not improved, and anyone opposing the concept of legal services or the bill as passed by the House last year should find no comfort in the conference report.

I have to say that I agree with my colleague, the gentleman from Ohio (Mr. Ashbrook). I think the gentleman is absolutely right. If you oppose the concept of a legal services corporation or, indeed, legal services——

The SPEAKER. The time of the gentleman has expired.

Mr. PERKINS. Mr. Speaker, I yield 2 additional minutes to the gentleman from Washington (Mr. Meeds).

Mr. MEEDS. Mr. Speaker, I repeat, if one is opposed to the concept of legal services, or if one opposes the concept of a legal services corporation or, indeed, if one opposes what was passed on the floor of this House some time ago, then I suggest that the gentleman from Ohio (Mr. Ashbrook) is correct, and that they will probably be voting against it.

On the other hand, if you have been told that you should vote against it because it bargained away the position of the House, that is not a valid ground to vote against this bill because this bill does sustain the position of the House far more than it does the position of the Senate.

So, let us be honest with ourselves. If you do not like legal services, if you do not like the concept, then vote against it, but do not vote against it because it is said that the House was overwhelmed by the Senate.

This, in the final analysis, my colleagues, is a compromise, but a compromise which is shaded toward the version of the House, a compromise which provides for the continuation of Legal Services to those who but for its provisions will look upon the courts of this land as an instrument of the judges and not justice, and who will have denied to them access to the courts, a denial which is tantamount, it seems to me, to full access to our system.

Mr. Speaker I would further like to point out that the bill that we now have before us is a bill that I believe all of us can support. Although the bill does not precisely incorporate my views, nor possibly the precise views of anyone else, its strength is that it represents a very well-conceived compromise that can and should obtain the support of us all. In the finest traditions of the legal profession, this bill takes an important step so that equal justice for the American population can be converted from a lofty goal to a practical reality.

In describing the legislation that we

now have before us, it seems most appropriate to use the term "balance." What we have done is to achieve a balance between the need for quality representation and the need to prevent any potential program abuses. In so doing, we tried to make sure that poor people will remain confident that they are properly and adequately represented in the legal arena, and we tried to make sure that the people throughout our land will retain confidence in this program so that it remains popular in the vital political arena.

The provisions that we now have in this bill achieves the balance that we sought. Since this bill, therefore, is the subject of numerous compromises and delicate balances, it is our hope that the Corporation will painstakingly adhere to the bill's provisions. For us who have labored on this bill for so long, this requires two things, first, that the Corporation enforce the program restrictions that we have established in this legislation and, second, that the Corporation makes sure that no further program restrictions are established unless they are approved through the normal legislative process and signed by the President.

The balances that were drawn by this bill can best be exemplified by our provision on legislative and administrative advocacy. Under the conference bill, we have prohibited legislative and administrative advocacy except when such action is performed in behalf of an individual or group client, or when such representation is made pursuant to a request by a legislative official, agency staff person, executive officer or employee, and the like. A further explanation of these exceptions is helpful.

The bill we are now considering requires that recipients, when filling staff attorney positions, solicit the recommendations of the organized bar in the community served. Although recipients should solicit such recommendations, it is obvious that all decisions concerning the hiring of staff positions rest exclusively with recipients' staff directors and boards of directors. In making these decisions, staff directors should "give preference to filling such positions to qualified persons who reside in the community to be served." In this regard, it must be noted that preferences to local residents for staff attorney slots occur only if such persons are "qualified," and the staff directors and boards of recipients retain complete authority in establishing the criteria to determine necessary competence. Such factors as intelligence, experience, commitment, similar ethnic background to the clients that will be served, and other factors may be considered in determining competence.

The conference bill also provides that fees and costs can be collected against the Corporation by defendants sued by a recipient if a final order is entered in favor of the defendant and an express finding has been made that the sole purpose of the suit was to harass the defendant or a recipient's plaintiff maliciously abused legal process.

Nothing in the fees and costs provision of this bill is intended to abrogate other laws or judicial rulings. Therefore, fees and costs may not be taxed against the Corporation if such an award contravenes any laws, any rule of court, or any statute of general applicability. Similarly, by specifically limiting the instances when defendants can collect fees and costs against the Corporation, it is not intended in any way to limit the instances when recipients can collect fees and costs from defendants who have lost their cases to recipients' clients. Quite the opposite. Nothing in this bill is intended to restrict courts' discretionary powers to award fees and costs to winning recipients, particularly where such costs and fees are collectable pursuant to "private attorneys general" and other legal theories. Finally, in this regard, no collection of fees and costs by a defendant against the Corporation may be collected until all appeals have been exhausted.

The conference bill continues the operation of the present research groups known as the backup centers. These groups provide advice and research aid to recipients throughout the country and they serve important counsel and cocounsel functions in cases of difficulty and importance to the poor. Their expertise is greatly needed in order to provide high-quality representation to the poor and, consequently, it is our expectation that they will remain in existence. Since there has been some controversy about their operations, and since the Corporation is not permitted to provide any legal assistance, we have asked the Corporation to study the efficiency of these centers and we have supported their continued existence.

By July 1, 1975, we expect to receive a report from the Corporation about the "efficiency and economy" of continuing the backup centers through grants or contracts as opposed to starting a new backup system run directly by the Corporation. If no legislative action is taken through a concurrent resolution during the period of July 1, 1975, to January 1, 1976, the authority to provide grants and contracts to these centers will automatically continue to January 1, 1977. In order to make an award of a grant or contract after January 1, 1977, new authorizing legislation will be required, but the granting of such contracts and grants will be permitted through to that date so that backup centers may remain in existence throughout the authorization period of the Corporation.

Other provisions of considerable importance to the program also should be called to the attention of the House. Under the bill, staff directors of recipients will be responsible for approving class actions, class action appeals, and amicus curiae class proceedings. The purpose of this provision is to assure that each recipient operates as efficiently and economically as possible. If, as I presume, class action proceedings are more economical and effective, it is expected that the filing and handling of such proceedings will be approved by staff directors.

A parallel provision governs the filing of appeals by recipients. Under our bill, guidelines will be established by recipients for the taking of appeals in order to avoid the filing of frivolous appeals. These guidelines shall not in any way interfere with attorneys' responsibilities to the attorney-client relationship. Similarly, no attorney will be inhibited from filing claims for a client insofar as the only prohibition in this respect is designed to stop persistent incitement of litigation that is clearly violative of the Canons of Ethics and the Code of Professional Responsibility.

The clients that will be served under this bill are persons who fulfill the eligibility criteria established by the Corporation, after proper consultation with the Director of the Office of Management and Budget and the Governors of the several States. It is expected that everyone under the poverty level, at a very minimum, will have access to legal representation under this bill, and it is necessary that adjustments on the standards be made to reflect varying economic conditions. In order to build confidence in the attorney-client relationship, it is expected that eligibility will be determined through a simplified self-declaratory form pursuant to which the potential client's word will be accepted. In addition, any refusal to accept a client should be subject to a hearing, such as if a client was rejected due to his alleged refusal to accept a job, thereby guaranteeing a client his due process rights.

No recipient or personnel thereof will be permitted to use Corporation resources to organize and establish coalitions, confederations, alliances, or any other such groups. However, a group made up primarily of eligible individuals—such as buying clubs, day-care groups and cooperatives—may be fully represented by recipients and their personnel.

The bill that we are now considering prohibits the provision of legal services to unemancipated minors, less than 18 years of age, except if—

First, written request is made by the minor's parents or guardians; or Second, a court of competent jurisdiction has made a request that such assistance be provided; or Third, in child abuse cases, custody proceedings, PINS proceedings, or cases involving the initiation, continuation, or condition of institutionalization; or Fourth, "where necessary for the protection of such person for the purpose of securing, or preventing the loss of, benefits, or securing, or preventing the loss or imposition of, services under law in cases not involving the child's parent or guardian as a defendant or respondent."

With regard to the fourth exception enumerated in our bill, the "benefits" and "services" that are to be protected include all rights that minors may have through statutory, regulatory, constitutional and decisional authority. First, the "parents and guardians" set forth in that exception refers exclusively to individuals, not to institutional or State entities serving in some substitute guardianship capacity. Second, the prohibition against suits versus "parents or guardians" relates exclusively to ones which, ab initio, are brought against parents or guardians; this, obviously, merely follows common sense since attorneys are expected to continue legal advocacy roles once they have properly begun to represent a client. Third, and finally, the prohibition against litigation against parents and guardians only prevents legal representation where the parents and guardians are actually defendants, not where they are possibly against the litigation but are not formally named as defendants.

This bill, as I have just explained, then, clearly strikes an important balance. It will serve the poor and it will not abuse the public. I, therefore, highly recommend that we pass this bill.

Ms. ABZUG. Mr. Speaker, will the gentleman yield?

Mr. MEEDS. I yield to the gentlewoman from New York.

Ms. ABZUG. I thank the gentleman from Washington for yielding.

I stand by the fundamental principle that all laws should be administered equally to all the people, and that the courts of our land should be open on an equal basis to all of our citizens.

The SPEAKER. The time of the gentleman has again expired.

Mr. PERKINS. I yield 1 additional minute to the gentleman from Washington.

Ms. ABZUG. Historically, justice in America has been visualized as a set of balanced scales. Unfortunately, more often than not, those Americans with money have been able to tip the scales in their favor, and traditionally it has been the poorest Americans who have been shortweighted.

Acknowledging the realities of poverty and the inaccessibility of the poor to justice or law, the legal services program was created in 1965 under the Office of Economic Opportunity. Since the establishment of the Legal Services program, it has been possible for a large segment of our population to participate actively and constructively in the judicial system.

The bill before us would continue this program for another 3 years, but with significant changes. By severely limiting the types of proceedings covered by the bill, we are depriving the poor of legal representation in those very cases which are most important to them.

One example of this—and one which I find most disturbing is that section which prohibits Legal Service attorneys from assisting women in securing their legal rights regarding abortion. No matter what your individual feeling may be on the subject of abortion it is unconscionable to deny women this constitutional right.

The significance of these limitations is the discriminatory effect they will have in depriving the poor of legal services in certain specified areas. This is a bill to provide legal services for the poor. As I mentioned above, the program was originally initiated to overcome the discrimination which previously existed in our legal system between the rich and the poor. By setting restrictions in this bill which do not apply to the availability of legal services for others, we are simply continuing the discrimination we originally attempted to overcome.

Though as you can see there are many parts of the conference committee report that I disagree with there are a number of sections I believe to be an improvement over the original House language.

I believe that the conference committee language on research, training, technical assistance, and clearinghouse activity is preferable to the House language. The work of the so-called back up centers has, in my view, proved extremely valuable and I hope that both the Corporation and the Congress will so find when this matter comes back to us.

I am also pleased that the House agreed with the Senate on the need to specify that in areas where the predominant language is other than English that the "Corporation shall, to the extent feasible, provide that their principal language be used in the provision of legal assistance."

Another provision of the conference report that I think is an improvement over the House version of the bill was the inclusion of the Senate provision on interim funding. There have been many instances in the past where a Legal Services group would not know from day to day whether they would have to close up shop because of delays in funding. This provision will be invaluable in improving the administration of the Legal Services program.

I also note that the section on eligibility clearly defines those criteria which must be considered. Family size and local cost of living, assets and income, fixed debts, and medical expenses all must combine to produce a financial inability to afford legal assistance. It seems that we are very careful about client eligibility for Government legal assistance until it comes to the head of the Government. Mr. Nixon is certainly getting some of the finest legal talent that money can buy. And it is the taxpayers money that is buying it. We prohibit any Legal Service attorney from assisting those who can afford their own counsel but we are currently making a glaring exception.

It is only the overriding importance of continuing the fine work of the dedicated Legal Service attorneys that I support this bill.

As you can see, I do have serious concerns with many of the provisions of the conference report. It is my firm hope that we will have an opportunity very soon to amend and improve this bill, because, Mr. Speaker, it certainly needs improvement. But my overriding concern is with seeing that this most worthwhile program of providing legal services for the poor is continued. For this reason, I will support the bill.

The SPEAKER. The time of the gentleman has again expired.

Mr. PERKINS. Mr. Speaker, I yield 2 additional minutes to the gentleman from Washington (Mr. Meeds).

Ms. ABZUG. Mr. Speaker, will the gentleman yield?

Mr. MEEDS. I yield to the gentlewoman from New York.

Ms. ABZUG. I should like to ask this question. Is it not somewhat contradictory to say that we are providing legal services to the poor, except that the poor are not entitled to have legal services in those very areas which are most vital to them, so that the poor are being discriminated against? Is that really not unconstitutional in that we are denying equal protection of the laws? I want to make clear what I am saying.

Mr. MEEDS. I understand what the gentlewoman is saying.

Ms. ABZUG. There is a law which says women have rights to abortions. A person deprived of his right to equal educational opportunity also has the right to challenge such deprivation in the courts. The poor as well as the rich have rights to go to court—and be represented by counsel—in cases involving military service. The gentleman has taken out many of the problems that poor people have, and he is saying, "Yes, you can have certain legal services, but not to secure rights in controversial areas," even though it is the law of the land.

Mr. MEEDS. The gentlewoman knows full well it is not a deprivation of constitutional rights for the Federal Government to put conditions on the expenditure of its funds. I told the gentlewoman of a number of instances where there are prohibitions on the expenditure of these funds. But the important thing is that we are preserving an instrument of good which, if allowed to continue, will do so much more good than all of those things; and that the good far outweighs the bad. I understand the gentlewoman's problem. I do not particularly agree with it, but I think this is the best arrangement we can make.

Ms. ABZUG. I appreciate the gentleman's comments. He would not suggest that, through our appropriation power, we can deprive citizens in this country of their constitutional rights?

Mr. MEEDS. Of course, as I pointed out, we can put conditions on the expenditure of Federal funds. It is not a deprivation of constitutional rights.

Ms. ABZUG. I disagree with the gentleman there.

The SPEAKER. The time of the gentleman has expired.

Mr. QUIE. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. Ashbrook).

Mr. MATHIAS of California. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from California.

Mr. MATHIAS of California. Mr. Speaker, I ask unanimous consent to insert at this point in the Record a telegram sent to the President by the Governor of California, the Honorable Ronald Reagan.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The telegram is as follows:

[Telegram]

My Dear Mr. President: I know you are pledged to veto any legal services bill that goes beyond the original House proposal. I strongly believe the bill now out of conference and about to be voted on should be vetoed. This bill would perpetuate and extend drastic changes in the manner by which legal services have traditionally been provided in this country, providing Federal aid to selected special interest groups which favor such things as unrestricted abortion, forced busing and increased welfare demands.

America is not well served by authorizing Government-paid lawyers to insert themselves between parents and children, school administrators and students, and prison officials and inmates. Providing hard-earned and scarce tax dollars to lawyers so that, despite safeguards, they can lobby the Congress and State legislatures basically without limitation and with the prestigious indicia of your formal approval is impossible to understand; that goes against all current attempts at political reform. Signing this bill will mean that States will be subject to virtually unlimited harassment by tax-subsidized groups allied with or controlled by groups such as the ACLU, the National Lawyers Guild and the National Welfare Rights Organization.

This corporation, despite being subject to review of authorizations and appropriations, would nonetheless be established as a permanent object for subsidy by the American people, yet essentially unaccountable to them. I would hope that the House would refuse passage of H.R. 7824; if the bill gets to your desk, I would hope that you will veto it. I and many others are prepared to pledge our support for a realistic plan which has the necessary safeguards written into it. The current legal services authority does not expire until June 30, 1975, which leaves plenty of time for the development of an acceptable alternative.

Sincerely,

RONALD REAGAN.

Mr. ASHBROOK. Mr. Speaker, I certainly concur with what my colleague, the gentleman from Washington, has just said. This is the third bill we have had regarding Legal Services. It is true we have moved in the direction of placing what I think are commonsense restrictions upon a Legal Services Corporation, restrictions which have been made necessary because of actions, some overly enthusiastic and some political, on the part of Legal Services attorneys.

As the gentleman from Washington (Mr. MEEDS) and the previous speakers have stated, there was a difference of opinion on this particular conference. There were those like Mr. MEEDS, who in honesty and good faith wanted a much stronger corporation. Even at that, he was, I think, a very fair conferee. He did speak for the House position. There were those who wanted less. I happen to have been one philosophically opposed to the bill. I had a minority report on the original bill. I was vitally opposed to the concept of a Legal Services Corporation. I think I was a good-faith conferee working to uphold the House position.

There is one thing we should remind ourselves of. Many of my friends who wanted more than they got made compromises, but we do end up with the Legal Services Corporation. Many who are against the concept made compromises, but they, in effect, lost, because we do end up with the Legal Services Corporation.

I would agree with what Mr. QUIE said. I believe the House position was generally upheld. In my experience as a conferee, this is one of the few times that we can come back and say the House position has been generally upheld in a conference with the Senate.

And yet I think what the gentleman from Minnesota (Mr. QUIE) said bears from [illegible]ation. In the area of some further elucidation [illegible] our backup centers we probably made our major concessions. If I were to assess percentages I would say the House position was probably 80 to 90 percent upheld in most instances and I think this is a good record on most conferences. Yet on the backup centers I think our position at best was 20 to 25 percent upheld. In dealing with the Senate that has a far more expansive bill we could say this was a good compromise and yet in the vital area of backup centers where the House did express its position very strongly on two amendments the House position was not upheld.

I intend at the proper time to offer a motion to recommit to give the Members who believe the backup centers should be removed from the bill an opportunity to vote. I will not take further time on this matter now because I understand under the rules we will get 5 minutes at that particular time.

I would say what the gentleman from Washington (Mr. MEEDS) said was proper. We did go to conference with a bill that was less than what many of us on this side wanted. No one has stood on the floor and said that the bill was improved. If one opposed the House position at that time, and there were 95 Members who did, there would be no particular reason for one to support what was done because in many areas the bill was changed from what went from the House into the conference.

While I commend the conference, my personal philosophy has not changed as far as this type of corporation goes and I will offer the amendment because I believe the Members should have and do want to have an opportunity to vote on the backup centers provision.

In closing I would compliment the Members, but I would remind those who are opposed to this bill, who are opposed to the concept, that we have not improved the bill. At best we have done a good job in upholding the House position.

Mr. PERKINS. Mr. Speaker, I yield 5 minutes to the distinguished gentlewoman from Hawaii (Mrs. MINK).

Mrs. MINK. Mr. Speaker, as a member of the conference committee on H.R. 7824 I take this time to assure the House that this bill has certainly received adequate consideration not only by this body but also by the conferees who worked very long and very hard to bring this bill to this House at this time. I also take this time to commend the leaders of our conference, the chairman of the full committee as well as the Republican ranking member, the gentleman from Minnesota (Mr. QUIE) for their persistence and their determination to report this measure.

I happen to be one of the Members of this House who really was not initially for a Corporation bill because it seemed to be we would be exactly in this kind of position, having to come before this body to ask for certain kinds of prohibitions and limitations on what I consider to be a program which should be determined largely by the demands of attorney and client, but given all the difficulties which the Legal Services program has witnessed and given the difficulties of a straight extension of this program which I would have preferred, it seems to me the only logical approach was to support [illegible] and to try to give a corporation concept and [illegible] and this program the kind of stability and support which I believe it deserves.

If anything has been learned by this whole episode which we are now struck by which we call Watergate, it is the notion that the people in this country are very deeply concerned that even our legal system and our concepts of justice are not equal and that there are really two kinds of legal systems which are available in this country, one for the rich and one for the poor. This is an intolerable kind of attitude to persist in our country and unless this Congress acts today on this legal corporation bill and puts into Federal law the notion that we are prepared to guarantee to the poor of our country the equality of protection under the judicial system, then the whole meaning of democracy, the whole meaning of liberty and freedom has not reality for the poor people because they find it consistently impossible to get representation before the courts.

This is really what the Legal Services Corporation is asking.

Mr. ROUSSELOT. Mr. Speaker, will the gentlewoman yield?

Mrs. MINK. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentlewoman for yielding. It seems to me that the gentlewoman's statement is somewhat in conflict with that of the gentlewoman from New York. This bill really does not help the poor in any important area. As a matter of fact, it diverts away from the poor the ability to help the poor. How does the gentlewoman justify that point?

Mrs. MINK. Yes; I would grant we had to bar Legal Service attorneys from litigating abortion cases even though a poor person feels they ought to have the right to be represented; the denial of protection in regard to litigation in amnesty and selective service cases; the denial of the right of a teenager to bring his claim before the Legal Services Corporation without his parents' consent; barring the right of a Legal Services lawyer to go before a legislative body in a case that has been brought to his attention is a severe limitation. But when we take an overview of this legislation, it seems to me the areas we have prohibited and banned are minor by comparison when we look at the poor and the needs of the poor. What this bill says to the poor is that we are giving them an opportunity to be represented in civil matters, regarding their rent, regarding the services that they are receiving from their Government, regarding programs under social security and medicaid and all these other kinds of activities; collection cases where they are being dunned completely illegally by collection agencies that have no right to bring a claim against these poor individuals; these are the kind of bread-and-butter issues, bread-and-butter problems that the poor have in their day-to-day life in which they deserve to be represented adequately in court. This bill is going to give them that opportunity.

It seems to me the kinds of things that we have stricken because they happen to be controversial to us today, abortion and so forth, are of minor consequence compared to the basic fundamental legal rights that the poor are going to finally find fruition and find permanence through the establishment of this Legal Corporation.

So although I am distressed by the prohibitions, and I join the gentlewoman from New York in expressing them, as a conferee I felt I had to rise above my personal objections and look at the broad responsibility that the Congress has to finally make legal services to the poor a matter of Federal law.

I hope the Members of the House will support this legislation.

Mr. QUIE. Mr. Speaker, I yield 1 minute to the gentleman from California for a special announcement.

ANNOUNCEMENT OF MARRIAGE OF CONGRESSMAN BOB WILSON AND SHIRLEY SARRETT

Mr. GUBSER. Mr. Speaker, it is my pleasure to announce that shortly after noon today the Chaplain of the House, Dr. Latch, united in marriage Shirley Sarrett and our colleague, the gentleman from California (Mr. BOB WILSON). I am sure that the best wishes of every Member of this House go with them.

Mr. QUIE. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I do not know that I can really follow that act every well, and I would not try.

Mr. Speaker, I rise in opposition to the conference report on the Legal Services Corporation Act of 1974 for the following reasons:

First. The bill would create a Corporation which will spend in the neighborhood of $100 million of Federal funds annually, but which will be free of any accountability whatsoever to either the Congress or the taxpayers.

Second. The bill would create a presumptive right, in perpetuity, on the part of any recipient of financial assistance under the program, to continue to receive funds in the absence of notice and of a "timely, full, and fair hearing."

Third. The bill would continue in effect the historic union contract signed by OEO Director Arnett, which delivered into the hands of the union effective control over virtually all management functions affecting these employees, who are, and will continue to be, paid from public funds.

Mr. Speaker, a common thread runs throughout the conference report on the Legal Services Corporation Act of 1974, which substantially embodies the Senate version of the bill beneath the cloak of H.R. 7824—the creation of a so-called independent Legal Services Corporation which will be financed by nearly $100 million in Federal funds per year but which will be unaccountable for its activities to anyone but itself.

The unaccountability of the new Corporation is loudly and defiantly proclaimed both at the beginning and near the end of the conference bill. The veritable "antiaccountability manifesto" which Corporation advocates would have Congress adopt as a "statement of findings and declaration of purpose" asserts that—

> *(5) to preserve its strength, the legal services program must be kept free from the influence of or use by it of political pressures.*

This language indicates that the bill means to keep the Corporation free of any oversight, accountability, or responsibility to either elected officials or taxpayers. However, the Corporation itself will be virtually subservient to the scores of very political Federal bureaucrats who have lobbied for its creation as a means to promote their own political agenda. Meanwhile, the poor, for whose benefit the program was supposedly established, will be literally exploited as a result of this legislation because it provides for the perpetuation of the "staff attorney" system, which imposes a legal services monopoly upon the poor. The result is that control over the nature and quality of legal services rests with the providers of the services—the staff attorneys and the Corporation—rather than with the poor client or with the taxpayer.

The anticlient, antitaxpayer effect of the Corporation bill is reinforced by the final finding and purpose:

> (6) attorneys providing legal assistance must have full freedom to protect the best interests of their clients in keeping with the Code of Professional Responsibility, the Canons of Ethics, and the high standards of the legal profession.

Make no mistake about it, this is an antiaccountability provision designed to enable Corporation attorneys and bureaucrats to use the code, canons, and standards of the legal profession as both a sword and a shield against clients and taxpayer alike.

The sword effect occurs when legal services attorneys engage in such illegal and extralegal activities as strikes, picketing, boycotts, lobbying, and political action in the name of zealous representation of the poor. The shield of "professional responsibility" is then interposed to prevent any meaningful inquiry into the conduct of staff attorneys from being made by public officials, clients, or taxpayers.

It should be noted that the existence of the abuses referred to above is not a matter of speculation or conjecture, but a matter of fact established by nearly a decade of experience under the OEO legal services program. The existence and persistence of outrageous practices are not denied by proponents of the Corporation. It was, in fact, the publication of scores of horror stories which defied bureaucratic coverup efforts and the demands for reform by responsible public officials which led to the present bill.

Instead of devoting themselves to an effective effort to reform the program, legal services supporters boldly decided to create an "independent Corporation" so that their actions could be insulated from public scrutiny. Major abuses and excesses for which the program has become notorious have not been ignored by the authors of the Corporation bill. Rather, the bill deals explicitly with outrageous practices by "prohibiting" them through provisions so thoroughly laden with exceptions that they offer open invitations to mischief.

For example, section 1007(a)(5), of the proposed Legal Services Corporation Act would require the Corporation, with respect to its grants and contracts, to:

> insure that no funds made available to recipients by the Corporation shall be used at any time, directly or indirectly, to influence the issuance, amendment, or revocation of any executive order or similar promulgation by any Federal, State, or local agency, or to undertake to influence the passage or defeat of any legislation by the Congress of the United States, or by any State or local legislative bodies, *except where*—(italics mine)

The exception would essentially permit lobbying activities to be conducted where—

> (A) representation by an attorney as an attorney for any eligible client is necessary to the provision of legal advice and representation with respect to such client's legal rights and responsibilities . . . or
>
> (B) a governmental agency, a legislative body, a committee, or a member thereof requests personnel of any recipient to make representations thereto;

These exceptions are so broad that I cannot imagine how any Legal Services attorney would be effectively restrained from lobbying in any situation where he really wants to do it. Any attempt to question his actions on the basis that they were not "necessary" to client representation would probably be rejected as an unwarranted interference either with the attorney-client privilege or with the discharge of professional responsibilities. Requests by governmental agencies and legislative bodies are so freely obtainable that legal services attorney will be able to continue to lobby almost at will.

Similar loopholes apply to section 1007 (a)(6), a provision which appears at first glance to restrict political and voter assistance activities. However, the prohibition against using grant or contract funds for these purposes would apply only where attorneys are actually "engaged" in providing Corporation-funded legal assistance, and there would be no restriction at all on provision of voter assistance, including transportation to the polls and voter registration activity as long as these activities are denominated "legal advice and representation."

As a matter of fact, this conference report has practically demolished the safeguards which the House attempted to build into the bill to prevent a wide assortment of abuses for which the legal services program has become notorious. These include participation in blatantly political activities and organization and support of pressure groups promoting "welfare rights," abortion, busing, and numerous other causes which are inimical to the interests of taxpaying citizens.

Additional insulation against accountability has been provided by the inclusion of requirements for elaborate notice and hearing procedures before recipients, or employees of recipients, can be disconnected from the Federal pipeline. Section 1011 of the new act would even require such procedures before an application for refunding could be denied. In other words, once a project has been funded, the recipient has a perpetual claim on Federal funds unless the Corporation takes the initiative, and endures the prescribed administrative ordeal, necess[illegible] to stop the hemorrhage of funds.

It is my firm belief that the purpose and effect of this bill is to establish an independent, unaccountable political operation to promote the public policy agenda of the bureaucrats, lawyers, and militant pressure groups which have lobbied for its enactment, at the expense of every citizen who pays taxes or who does not support the political objectives of the movement lawyers who control the program.

Members of Congress have expended a great deal of energy in recent months calling for a reassertion of congressional authority in order to restore accountability and confidence in Government. Yet, in the midst of all of this clamor, the Congress itself is on the verge of establishing a special unit, funded by the Federal Government but allowed to operate outside regular Government channels, to conduct political activities in the name of the poor.

This would be a terribly ironic development, if it should occur, and I believe we must consider the effect it would have on our credibility with the American people before we turn another squad of parapolitical operatives loose to prey on the American people.

I strongly urge every Member who is truly concerned about the welfare of clients and taxpayers who will continue to be victimized by the Legal Services program to vote against this bill. If you have any remaining doubts that this bill is inconsistent with nearly all recognized principles of responsible government, I suggest that you read carefully the full text of the national agreement between OEO and its union, the American Federation of Government Employees—AFL-CIO—representing the National Council of OEO Locals.

This labor contract, in my judgment, makes it nearly impossible for the Administrators of OEO, or of the new Corporation, to manage the Legal Services program and to correct its excesses and abuses, even if management has the will to do so. Under section 4(c) of the conference bill, this agreement will be carried over from OEO to the Corporation and will remain in effect until it either expires or is "mutually modified by the parties." In effect, therefore, this labor contract is part of the Corporation bill, and I caution my colleagues that they should not vote for this legislation until they have read the contract, as well as the bill. Frankly, I do not see how anyone who has read this contract could possibly support this legislation.

Mr. QUIE. Mr. Speaker, I yield 1 minute to the gentleman from Indiana (Mr. LANDGREBE).

Mr. LANDGREBE. Mr. Speaker, I thank the gentleman from Minnesota for yielding to me.

Mr. Speaker, I did file minority views on this bill when it was passed by the House Committee. My mind has not changed a bit on the views. I am going to cast my vote today in favor of the legitimate members of the Bar Associations across the country by voting no on this conference report. I firmly believe that the citizens of our country, no matter how poor they are—and certainly I have been as poor as anybody has ever been in this country—I think anyone having a just cause for legal action, can obtain the assistance from a local legal action society or from the proper attorneys in the local or State channels.

Mr. Speaker, I am sure that legitimate attorneys will take all cases that have a real basis for cause from people, regardless of how poor they are.

Mr. QUIE. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. YOUNG).

Mr. YOUNG of Illinois. Mr. Speaker, as a member of the bar of Illinois and also as a former member of the board of governors of the Illinois State Bar Association, I have been concerned about the problems of trying to provide adequate legal services to the unfortunate people of the State of Illinois who lack funds to hire lawyers. I know that there are many bar programs throughout the United States which seek to provide legal service to the poor, but I do not think that the need is adequately being met.

Ordinarily, I am skeptical of the formation of any new Federal bureaucracy, but I do think that this proposed legal services corporation meets the criteria that I think are necessary for me to vote for this bill.

One, I think it meets a need. Two, I think it is an area in which the Federal Government can be of appropriate assistance, and I think this bill properly shows a commitment of the Congress on behalf of the people of the United States to help the poor obtain legal services.

Mr. Speaker, I would like to conclude by saying that I also share some of the concerns that were expressed by this House in trying to put limitations on the activities of this corporation and its agents. I would like to have seen the House restrictions kept intact, and I recognize that any type of program of this type can be abused; I do not think this bill is as bad as its critics say nor do I think it is as good as its proponents say, but I think it is a bill worthy of our support.

Mr. QUIE. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. BLACKBURN).

Mr. BLACKBURN. Mr. Speaker, I am going to address myself to just two points on this bill.

One, we are being told that there are very strict limitations on the activities of this corporation and its agents or paid employees. It is true that there are restrictions in this bill on the corporation itself and its paid employees and its paid attorneys, but there is absolutely no restriction on the activities of those who comprise the backup centers.

Mr. Speaker, that is the one big loophole in this bill that the House conferees managed to allow to escape in their confrontation with the Senate.

The backup centers are selected by the corporation. No local governing bodies, no bar association, no one responsive to the body politic has any voice in selecting the directors or the employees of the backup centers. It is the backup centers that will be free to accept funds from this corporation to use for just about any purpose they want, and we are not restricting the activities of any of the employees of the backup centers themselves.

Mr. Speaker, to me, this is a rather fatal flaw in this conference report, and that alone justifies a vote against the conference report.

Let me make one other observation: One of the things that the people of this country, in my opinion, are trying to tell the Congress today is that they have a lot more government than they want. The budget shows us that we have a lot more government than we can afford. It is this kind of activity that is constantly fomenting strife and contention throughout our society. This organization is typical of the sources of agitation that are attacking every existing American institution, whether it be economic, financial, or political.

Mr. Speaker, I think the country wants to be let alone for a while. I think it wants to just slow down for a while. We should not institutionalize one of the Government's operations that is creating disgust with government among our citizens with the Federal Government's intrusions into our private and our business lives. I would suggest that the Members vote against this conference report.

Mr. Speaker, there is nothing comparable to the House provision which would have prevented the corporation from continuing in perpetuity, beyond 1978, without new legislation. This would have been in addition to authorization and appropriation, just as extension of the Economic Opportunity Act is in addition to authorizations and appropriations for OEO.

BACKUP CENTERS

The two Green amendments wiping out backup center activities were less concerned with research than with such activities as organizing welfare rights chapters, serving as a civil liberties union for May Day demonstrators, publishing radical propaganda, drafting "model" legislation, developing strategy for test cases on key issues—like abortion—sponsoring travel for conferences, and so forth. Under the conference report, all these activities, except research, would continue in perpetuity. Research activities would be up for periodic "review."

CONGRESSIONAL ACCOUNTABILITY VERSUS ABA CONTROL

It is a fact that if by law, Congress renders staff attorneys accountable to the ABA with respect to expectations of attorney behavior and activity, as elimination of the House amendment would do, then with respect to all such areas where the statute is silent, the ABA, rather than the corporation board of directors would call the tune for attorneys. Given the liberalization of the ABA and increasing staff influence within it, this is a dangerous retreat from the principle that federally-funded personnel should be accountable to the public, rather than to a private organization like the ABA.

MULTIYEAR APPROPRIATIONS

It is a fact that multiyear appropriations are provided for the corporation. This further reduces accountability to the public.

PICKETING, BOYCOTT, STRIKE

"Except as permitted by law in connection with such employee's own employment situation." The employee cannot do it except when it is illegal. It is not illegal. But it is wrong to require the taxpayer to foot the bill.

STATE BALLOT ISSUE CAMPAIGNING

As long as groups are eligible clients, the conference report exception permitting activity on behalf of eligible clients negates the prohibition.

REIMBURSEMENT OF COSTS TO PRIVATE PARTIES WHICH PREVAIL IN LITIGATION INSTIGATED AGAINST THEM BY LEGAL SERVICES ATTORNEYS

Negated by the conference report requirement that malicious abuse as harassment be proven, before costs can be recovered. Why should government pay costs of those who sue, while requiring those proven innocent or faultless to bear the burden of their legal costs?

OUTSIDE PRACTICE OF LAW

If an attorney can say: "I did it on my own time, without compensation" and be excused for violations which would be punishable while "on duty," then other prohibitions are effectively negated.

LOBBYING

It remains true that "representation by an attorney as an attorney for any eligible client" permits legal services attorneys to represent so-called poverty rights groups with legislative axes to grind on every issue from gun control to abortion. Legal services groups have registered lobbyists in state capitols throughout the country. This could continue under the bill as reported out of conference.

PUBLIC INTEREST LAW FIRMS

The Quie commentary admits that the conference report makes it easier to fund public interest law firms. Is it right to give public funds to private groups which seek to legislate by litigation?

JUVENILE REPRESENTATION

As worded, the conference report would permit the representation of children without parental request when it can be alleged that such representation is necessary to prevent the loss of services. Would such services include abortions to which parents might object, but which go forward on the sayso of the attorney and the teenage girl?

QUOTA SUITS

Twenty-two legal services attorneys joined in aiding the Alameda County Legal Services project's pro quota brief in the DeFunis case. Other legal services funded projects involved in the suit were the Harvard Center for Law and Education and the Council on Legal Educational Opportunity. The Mizell amendment on higher education "desegregation" was deleted, even though his amendment on elementary and secondary schools was kept in. Most of the quota controversy in education now centers on colleges and universities. Thus the House provision was important; if it was not important, why did the conference committee delete it?

ANTICOMMINGLING

Legal services programs get money from a variety of sources, many of them "public." These other funds are not subject to restrictions in many cases. As worded, the conference report permits grantees to sidestep regulations by receiving and expending funds from noncorporation sources, or assigning funds to persons not employed by them. If it was not important, why did legal service liberals insist on its modification by the conference?

PRESUMPTION OF CONTINUATION

The fact remains that the statement of purpose, as worded, is intended to afford a legal presumption of continuation to present rules, regulations, procedures, and recipients of the existing program. Such "preamble" language has been used in the past for precisely such purposes. The courts use it to interpret the intent of Congress.

ANYTHING GOES CLAUSE

The purposes of the Corporation are so broadly stated and the restrictions so narrow in scope that virtually any private organization purporting to offer a service or activity of benefit to the poor could be funded under this section, whether for polling of the poor for their views on abortion, Bureau of Social Science Research, or "educating the poor to their oppression, Reginald Heber Smith Fellowship program, or organizing rent strikes, National Tenants Organization, or seceding from the Union, Republic of New Africa.

Mr. QUIE. Mr. Speaker, I yield 7 minutes to the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER of Wisconsin. Mr. Speaker, the key question that this House will have to answer this afternoon and for the American people is whether or not we will maintain the commitment to "equal justice under the law" in the same framework as the legal services program has been conducted under the Office of Economic Opportunity since its beginning in 1965.

Mr. Speaker, this bill, as the gentleman from Washington so clearly pointed out, has had a long and tortured history. There can be no question that few subjects have been more hotly debated or more interestingly debated than the question of whether to adopt a Legal Services Corporation.

As one who was a conferee, I think the conference report is a good conference report. I, too, am unhappy with some of the restrictions that were placed in there, but which I think are legitimate issues which do concern both proponents and opponents of the Legal Services Corporation.

Mr. Speaker, on balance, if you look at the Senate bill and the House bill and the conference report, I think it is very clear that the House conferees were diligent, and I pay particular respect to the gentleman from Ohio (Mr. ASHBROOK) and the gentleman from Minnesota (Mr. QUIE) for the effort they expended on the conference report.

Mr. Speaker, I do not like all of the things we placed in here. I think we did, in fact, go further, in my judgment, than the Legal Services Corporation ought to be restricted. But I do not think this House can sit by idly and not understand the importance of, the value of, and our commitment to the concept of legal services for those who cannot afford them.

The gentleman from California said in his remarks that they will sue local governments; the gentleman stated also that they will sue State governments and that they will sue the Federal Government. But are we to sit by here and say that somehow we have here a different class of people, a class of people who, if they are working for a corporation, can sue, or if a corporation is maligned by some agency of Government, they are allowed to sue, but a poor person whose rights and liberties are at stake cannot sue?

Mr. Speaker, I reject that concept. I do not think that is appropriate. That is what this conference report is all about: Complete with restrictions, complete with prohibitions, and complete with inhibitions placed upon those who serve in this program.

Mr. Speaker, there is one other comment that I would just wish to make, and that is that the motion to recommit which is to be offered by the gentleman from Ohio is one that I think we ought to clearly understand.

When the House bill was passed and the gentlewoman from Oregon (Mrs. GREEN), who is here listening patiently and quietly this afternoon, offered her amendment, I think we all knew that what that amendment did was to say this: The House bill as passed authorized research, training, and technical assistance to be carried on by the corporation, but it could not be contracted out.

Now, the issue before the House at that time was whether or not we should allow the corporation to contract for backup center type activity. The issue was not whether there ought to be research, whether there ought to be training, or whether there ought to be technical assistance. All those things were authorized in the House bill.

The motion to recommit does not settle the issue of whether or not that kind of activity is going to be carried on. Clearly, it will be. The question is whether or not we ought to be able to use the resources, the talent, and the personnel of existing law schools in that regard in other areas of the country.

Mr. Speaker, I hope the motion to recommit which will be offered will be rejected.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding. Mr. Speaker, I will say, on the issue of suing local governments, which was commented on by the gentleman, that in most cases public defenders, local legal aid societies and others provide more than adequate funding for this purpose. Therefore, putting the Federal Government in this kind of financing, is my great concern.

I believe the poor people who have potential litigation against a city or against a local government unit have more than adequate local legal facilities already available. As a matter of fact, the Justice Department will many times join them in a suit.

Mr. Speaker, to say that we desperately need this $100 million per year in order to do to help the poor, I think, is a distortion of the truth. That is the point I wish to make. The gentlewoman from New York made the point that this legislation will not always help the poor.

Mr. STEIGER of Wisconsin. Mr. Speaker, I respect the gentleman's viewpoint. I obviously do not agree with it.

I believe what this House ought to deal with and what all of our people and we, as representatives of the people, ought to deal with as the key issue is whether or not we are going to make readily available the kind of access to the law in order to help settle problems. That access, in my judgment, is absolutely essential to make our system work, regardless of whether an individual is rich or poor. That access is not now available in many instances to people except through a legal services program. That is why I think we ought to continue this program.

Mrs. GREEN of Oregon Mr Speaker, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. Mr. Speaker, the gentleman has made an eloquent plea for equal justice under the law and for legal aid for the person who cannot afford it. I support both; but then the question is: Does legal aid as financed by the Federal Government since 1964 actually provide for equal justice under the law? I contend it fails in both respects. Previously, I cited the case of a person of middle income who was sued by legal aid; he the defendant won—but at what cost? $4,300 in legal fees which he could not afford. The Federal Government reimbursed him not 1 cent. But the Federal Government did pay all the legal fees of the unsuccessful plaintiff. Does that represent equal—equal justice under the law? And which one could really afford the suit and which one could not?

Under the House bill the court could award all court costs and attorney fees to the defendant if he won the case. The conference report says:

> Attorney fees could only be awarded if it were a malicious suit or if harassment was involved?

Whose responsibility does it now become to prove a malicious suit or harassment on the part of legal aid?

Mr. Speaker, it does not seem to me that there is equal justice under the law when the might and the power and the money of the Federal Government are on one side. If a person is in a certain income bracket the Government provides free legal advice—free legal aid in the courts—but if another person is earning his salary and has a couple thousand dollars above the poverty line, he is on his own and has money taken out of his pocket in defending himself in a suit actually financed by the Federal Government—even though he should win—be found not guilty.

I say that is no equal justice at all.

The second point that the gentleman is making is that we are bound to provide legal aid to those who cannot afford it. I suggest that a person who has a $10,000 a year income may have just as difficult a time paying his bills, supporting his family, being forced to hire his own attorney as a person who has a $4,000 a year income, but we are ending up with all of the might, money, and power of the Federal Government on one side. It does not seem to me that it is either equal justice or right in providing free legal aid to some whom, under the law we decide can not afford it, but place other millions of middle-income persons in a position of defending themselves with money they do not have or which they can ill-afford.

Mr. STEIGER of Wisconsin. The point the gentlewoman from Oregon makes is one that obviously we can make in any one of a host of other Government programs that have this kind of an income limit, with a cutoff point.

I recognize full well the point the gentlewoman from Oregon is making, and if I had my druthers there is no question, but that if we could equalize totally the system that I might be for it.

The SPEAKER. The time of the gentleman has again expired.

Mr. QUIE. I yield 1 additional minute to the gentleman from Wisconsin.

Mrs. GREEN of Oregon. Mr. Speaker, if the gentleman will yield further, I could not really be in greater agreement than the statement that the gentleman from Wisconsin has just made, that we cannot provide justice that is equal when we have an arbitrary cutoff; those below can sue and take no financial risk; those above pay through the nose; that is exactly what is happening today—the middle-income guy has the right to pay the taxes, but he does not have the right to receive any of the benefits of about 1,000 programs that this Congress has passed; there is no equity in this, and there is no justice. At a minimum, if he is the defendant, the Federal Government ought to pay his attorney fees if he wins the case. That would at least provide some justice under the law.

Mr. STEIGER of Wisconsin. I say to the gentlewoman from Oregon that what the gentlewoman says does not justify that we should step backward and deprive equal justice of the law to those who cannot afford it at all, because that, too, is an inequality. The gentlewoman from Oregon having served here for over 20 years knows full well that this same thing has happened in those years under many of the programs we have provided but let us not use that as an excuse that, because we have done it that way, therefore, we ought to go back and take it away from those who can least afford it. I reject that appeal.

Mr. Speaker, this report is the culmination of 3 full years of effort on the part of both political parties in both Houses of Congress.

Moving the legal services program out of OEO and into a nonprofit corporation was one of those rare initiatives that had its beginning in the Congress. It was proposed for the first time by five House Republicans—JOHN N. ERLENBORN, BARBER B. CONABLE, EDWARD G. BIESTER, TOM RAILSBACK, and myself—and by five House Democrats—LLOYD MEEDS, JOHN BRADEMAS, WILLIAM CLAY, WILLIAM D. FORD, and RICHARDSON PREYER—and by Senators WALTER MONDALE and ROBERT TAFT in the Senate, on March 9, 1971.

The legal services program has been one of the shining lights of this administration. Rarely in our history has the term "equal justice under law" been rendered as meaningful to millions of Americans. Literally hundreds of thousands of individuals who before would have gone without legal assistance and would have lost valuable legal rights have been served and now have reason to believe in our adversary system of justice. Many others have had their legal rights protected through relief obtained as the result of meritorious class actions or other law reform efforts on behalf of other clients.

After 3 years of negotiation, we now have legislation before us which should help establish legal services to the poor as a permanent institution.

The conference committee put in many weeks of hard work on this bill in order to reconcile the numerous differences between the House and Senate versions, and to work out a solution that would best serve the interests of low-income people needing legal assistance. While no one can be satisfied with every aspect of a compromise, I strongly believe this bill is an effective resolution of two of the main concerns all on the conference committee shared.

We were determined to provide eligible clients with first-class legal services. This means that the lawyer for the poor client should be able to call upon the full array of skills and remedies appropriately used by any lawyer on behalf of a client. For this reason, the bill stresses that the corporation shall not interfere with any attorney in carrying out his professional responsibilities to his client as established in the Canons of Ethics and Code of Professional Responsibility, and provides for continuation of the many support programs which provide technical asssitance, litigate complex cases brought by eligible clients, and otherwise enable the program to make the most effective use of its limited resources.

Many Members of Congress have been concerned about possible abuses that might arise when attorneys—generally young attorneys in light of the salaries paid—are being financed by Government funds to be advocates for those in need. The bill reported out by the managers contains a host of provisions designed to prevent any such abuse. Frankly, these restrictions go further than I would have wished and unfortunately extend into restrictions on the types of cases that might be brought for eligible clients. These restrictions in the bill are not intended to be expanded by the corporation, for they are designed to prevent any possible abuse.

It is unfortunate that so much of the discussion about legal services has concerned restrictions and fear of abuses. It must be somewhat distressing to those who have devoted their professional career to legal services to see so much attention given to a few problems rather than the many successes. This is inevitable, however, in a novel program that affects substantial private and governmental interests in each community. It is a sign of success for such a program that it has made such a mark on the American scene in so few years.

During the years I have been working on this legislation, I have come into contact with many fine lawyers who have dedicated themselves to this program. I hope that they will continue to serve the poor, and that this bill will create a structure that will have the strength and independence to enable them to do their job properly.

Mr. Speaker, a great many compromises were made in conference, but the end result is a bill that will provide the full range of legal services, except in certain limited areas of great controversy, while preventing abuses of the program by overzealous attorneys.

For example, legitimate safeguards have been developed with respect to advocacy before legislative bodies and administrative agencies. Full and ongoing representation will be provided to all eligible individuals and groups having legal problems which may be resolved by such advocacy. In addition, it is made clear that attorneys are expected to assist agency officials and legislators seeking their aid in analyzing the effect on the poor of regulations and statutes, preparing draft model statutes, preparing draft regulations and rules, and otherwise providing expert assistance on matters related to their work. Attorneys are not however, to press for the specific purpose of pressing the attorney's private views before a legislative or administrative body.

Compromise was also achieved with respect to the national support centers. They will continue to function, but the corporation will undertake a study of their research activities, including basic social and legal research and participation as counsel and co-counsel in various cases, in order to report to Congress by June 30, 1975, on the advisability of continuing these functions in their present form. The authority of the corporation to make grants or enter into contracts for research will be terminated on January 1, 1976, but—if the Congress does not pass a concurrent resolution during the period between July 1, 1975, and January 1, 1976—the authority to continue the backup centers will automatically be extended to January 1, 1977. Grants and contracts can, of course, still be awarded prior to January 1, 1977, in order to permit backup centers to continue their work throughout the statutory authorization preiod of the corporation. The study by the corporation will build upon the evaluations of the backup centers prepared under contract for OEO last year and therefore, should be comprehensive in scope.

There are now three kinds of backup centers. The first type provides national support in various areas of poverty law. These are 12 in number and may be grouped rather naturally into centers responsible for expertise in specific legal subject—welfare, housing, education, and so forth—and those responsible for problems relating to specific categories of the poor—the elderly, migrant workers, juvenile, and so forth.

The second type of center is the State backup center. There are three of these. This category of centers was established to offer general legal support to local projects, coordinating work on issues of concern to several local projects, providing reserve manpower for appellate litigation, or extended research efforts, assisting with work before State legislatures, and representing client groups with statewide interests.

The seven remaining centers are the technical support centers, which provide the nonlegal support services; for example, the national clearinghouse, national training project—which local projects, other backup centers, and the national office have all found necessary if they are to perform their work with efficiency, economy, and dispatch.

In 1973, during the administration of Howard Phillips, OEO's regular evaluation schedule was altered so that all backup centers would be evaluated by the end of June. These evaluations were commissioned by the acting director of evaluation Marshall Boarman—who was actively engaged in preparing a rationale for their phaseout—and conducted by teams of practicing attorneys, judges, and others through OEO's contractor, the American Technical Assistance Corporation.

Each of the evaluations is replete with descriptions of the backup centers' work products and performance that range from "professional excellence" to a simple "superior." Indeed, one evaluator quoted from a U.S. Federal district court opinion in which the judge found that—

> Attorneys for the Center . . . produced the type of work that one normally associates with the largest and most respected firms in the private sector.

Other evaluators commented on the background and motivation of the attorneys employed, speaking of their "great competence," "noticeable professional courtesy," and conduct of the "highest demeanor."

It was said of the Center on Social Welfare Policy and Law:

> They stand ready to litigate but are willing to and often initiate negotiations with the admirable purpose of avoiding litigaton if it is possible to do so while, at the same time serving the best interests of the clients.

Thus, the centers were found to be setting examples of responsible, professional behavior.

Another member of the judiciary, Judge Patrick D. Sullivan, of the Indian Court of Appeals, evaluating the work of the Western States project and the San Francisco Youth Law Center, went beyond the scope of the evaluation per se to support the concept of and need for such centers of specialization, citing their research resources and expertise as a necessary supplement to the neighborhood offices' operations under enormous time constraints and caseload pressures. Judge Sullivan referred to the center's "extremely worthwhile contribution" to the law and describes the center's overall performance as "the bargain of a lifetime."

These recent evaluations clearly indicate that these centers perform a critical function in providing legal services for the poor.

Compromise was achieved in some instances by acceptance of provisions in one bill with minor modification. Thus, the Senate agreed to the House provision directing the corporation to pay costs and attorneys fees to prevailing defendants under certain circumstances, such circumstances being limited to when an action was brought solely to harass a defendant or if a recipient's plaintiff maliciously abused legal process. In such extraordinary instances, the payments of costs and fees will be paid by the corporation and will not be taxed against a recipient. Moreover, this provision—while limiting the instances when fees and costs can be obtained from the corporation by defendants—does not in any way limit recipients' rights to obtain costs and fees whenever they win cases for their clients.

Other provisions were accepted in toto by the House or Senate. The House provision requiring programs, in filling staff attorney positions, to seek recommendations from local bar associations, and to give preference to residents of the local community who are as qualified as applicants from out of town, was retained. This provision, however, requires preference to be given solely to "qualified" local attorneys—the determination of whether any attorney is qualified being left exclusively to the recipients' director. Thus, when two applicants of equal quality apply for a staff attorney position, then a preference is to be granted to the local attorney.

Similarly, the Senate's class action provision, accepted by the House conferees, requiring the project directors approval, in accordance with policies established by his governing board, before a staff attorney may become involved in a class action suit, is signed to assure accountability and sound management in the program. At the same time, the bill makes it clear that the corporation is not to interfere, in any way, with recipients' decisions concerning the taking of appeals, the filing of class actions, and the instigation of class action amicus curiae proceedings. The conferees were mindful, in fact that the GAO released a study of legal services programs in March 1973, which noted the economy of bringing class actions and concluded legal services attorneys should utilize this remedy.

The Corporation will establish criteria—after consulting with the Director of the Office of Management and Budget and the Governors of the several States—for determining which individuals are eligible for legal services. These individuals, plus groups composed of at least a majority of such eligible individuals, will thus be the beneficiaries of this fine program.

It should be clear, then, that this bill received careful consideration, and that full regard was given to all views. The bill should keep the program moving forward without any disruption or restriction on the types of representation being afforded, although there are limits on certain matters with respect to which new suits can be filed. It is a relief that we have reached this point after so much work. It is now time for speedy action on the bill by Congress and the President.

Mr. PERKINS. Mr. Speaker, I yield 4 minutes to the gentleman from Michigan (Mr. FORD).

Mr. FORD. Mr. Speaker and Members of the House, as a member of the Committee on Education and Labor I have been a supporter of the concept of legal services for the poor ever since I came here. I have worked as many hours and as many days, weeks and months, in support of the basic purpose of the legislation we now have before us ever since its beginning several years ago.

I have the highest regard for Chairman PERKINS and my colleagues in both the majority and the minority parties who served on this conference committee, and who handled this bill on the floor of the House, but I am now, in retrospect, relieved that I was not named as a conferee, because I think that what we have before us here when compared to the legislation that 100 of us cosponsored back in 1971 is a poor pallid and pitiful excuse for a program whose purpose is supposed to be to help the poor people in this country.

Mr. Speaker, if there has ever been one single program designed to help the poor people that has demonstrated a real return on our dollars, it has been the legal services program. Legal service lawyers have brought about correct and statutory reforms beneficial to every working man or woman, and their families.

I have held hearings all over this country. I have participated year in and year out in the oversight of this program, and we have heard from all segments of the organized Bar and the political structure, as well as people directly involved in the program, and the record compiled from the hearings underscores and documents the effectiveness of this program.

But ever since 1971, when we first tangled with Mr. Ehrlichman up here on this bill, we have anticipated having to accept the kind of program which will result with the passage of the legislation before us today.

Ever since 1971 we have had the insistent demands from the White House that the President appoint the board to run this corporation, and by using the force and the threat of his veto power the President has had his way on every single one of the controversial items that have been discussed in the 4 years since.

Suggestions by the American Bar Association and other legal groups across this country have been aimed at getting the legal services program out of politics, and yet in the form that we now have the program before us this bill puts it right back into politics, because the conference report would in some cases authorize State and local governments to run legal services programs.

And if this policy is actually implemented, I suggest that some lawyers in some States could be in trouble with their bar associations if they accept employment where locally elected officials have the right to dictate to them what their relationship with and their duties to their clients will be. This conference report and the bill that went out of the House is riddled with examples of situations where a lawyer will actually be violating the code of ethics of his profession if he accepts employment, and as a condition of the employment, the kind of conditions that are imposed on the lawyers in this program.

For instance the conference report requires that "guidelines" be established **for the consideration of appeals—this is clearly an intrusion on the discretion which should be retained and exercised only by the lawyer actually handling** the case.

Mr. Speaker, we are kidding the American people if we say that in fact the money to be spent under this program is intended to give poor people or near-poor people the same fair, even shake in our system of justice that people with money have.

We are kidding ourselves when we establish a program which involves hiring lawyers but which also says to the lawyer that he or she may not, even during their ""off time" participate in any type of political activity whatsoever—regardless of whether it is partisan or nonpartisan in nature.

The gentlewoman from Oregon asks; What if somebody with $10,000 is in trouble? The gentlewoman has apparently not paid too much attention to this program, because the fact is, that if we have an automobile worker who was making $10,000 last year, who has a family, and who is now facing bankruptcy, he or she can walk into a legal services program and get assistance. There are a lot of men and women in my district who would like to be working now who are not working, through no fault of their own, and are now faced with garnishments and attachments for debt. They do not have the money to turn any place else. Where are they going to get legal service?

Shall we tell them that the Federal Government, in all of its generosity, has finally said that they can have, but only with qualifications, some of the legal rights that we afford to people who are accused of criminal conduct in this country. How more hypocritical can this House be than to continue to support 100 percent constitutional rights for those who can pay for them and qualified rights for ordinary citizens with limited or no cash resources.

Mr. Speaker, the harm has been done. Thanks to this administration's callous attitude toward the poor and near poor people of this country we have before us only a crippled and watered-down version of what we first introduced—and yet we are forced to accept this or have nothing at all.

I intend to support this legislation, but I wish to put the administartion on notice as of now that we shall be watching very closely as the President nominates the members of his board, and you may be sure that we will also conduct oversight hearings as frequently as we deem necessary.

One other thing I would like to point out to my colleagues before we vote on this issue—we are considering a bill to provide legal services for the poor which has been opposed from the very beginning by a President who is enjoying the benefit of what appears to be a White House Legal Services for the President."

We are here debating over this legislation while at this very same time our Chief Executive provides himself with hundreds of thousands, if not millions, of dollars worth of legal assistance—at taxpayers' expense—to defend himself for damages of wrongdoing in public office.

The CHAIRMAN. The time of the gentleman has expired.

Mr. PERKINS. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. MEEDS).

Mr. MEEDS. Mr. Speaker, there will be a motion to recommit offered to stike the backup centers, and I think we ought to direct our attention to that for just a moment.

First, let us understand it is not a question of whether or not research training, technical assistance, and clearing house functions are going to be carried on by one of the corporations created, for instance, in the Senate bill, or one created by the House bill. Both bills allow all of those functions. The question is whether or not they can be done by grant or contract.

Under the House bill they could not be done by grant or contract as they are being done today. Under the Senate bill, they could. Compromise is a 1-year study and a termination 6 months following that if the House does not do something about it, a real compromise between those two positions. But let us look at the concept of what would have happened had the House position prevailed. It seems to me that that program would have created almost instantly in this new corporation that we are setting up a fantastic bureaucracy.

Under the Senate provisions and under the conference provisions now, they can contract those studies, research, technical assistance, and such things out, but if they had to establish the bureaucracy which would be necessary to carry out that kind of research, to carry out that kind of technical assistance, bringing that bureaucracy back here to Washington, D.C., and planning it, I submit to the Members that the Corporation would be overburdened from the outset.

What is wrong with doing this by private contract? What is wrong with contracting with UCLA, for instance, to study the questions of law regarding health, or St. Louis University to study the legal problems of juveniles, or with USC or with Northwestern, or with Catholic University, or with Howard, or, indeed, with the ABA itself? It is not a question of yes or no on backup centers—it is a question of a massive bureaucracy or contracting with law schools to provide services.

The SPEAKER pro tempore (Mr. O'NEILL). The time of the gentleman has expired.

Mr. MEEDS. Mr. Speaker, I suggest that we should vote down the motion to recommit.

Mr. QUIE. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I will submit a motion to recommit, to which the gentleman from Washington has just referred. The motion to recommit will read as follows:

That they insist upon the House provision which would authorize that the Corporation provide directly, but not by grant or contract, for (A) research, (B) training and technical assistance, and (C) information clearinghouse activities, relating to the provision of legal assistance under the Act (all of which activities currently fall within the scope of the activity commonly referred to as "backup centers").

The amendment will uphold the original House position. As the gentleman from Washington (Mr. MEEDS) has correctly indicated, in both the House bill and the Senate bill it was possible to have back-up research centers by the corporation or in each State but this will prevent the corporation by grant or contract having additional back-up centers outside the limits of that State or outside the corporation as it is now constituted under the act.

I think this is necessary. I think it is a reasonable position. I think while in general the conference report can be said to have reflected our position I think the House can easily vote for this on the basis of telling the conferees in this one area that we think the House position should have been sustained and I would urge the House to vote on that basis.

Mr. PERKINS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Alabama (Mr. BEVILL).

Mr. BEVILL. Mr. Speaker, I am strongly opposed to the conference report on the Legal Services Corporation Act (H.R. 7824) and I rise to urge Members of the House to vote against this proposal.

The simple fact that the conferees changed, considerably, the House version of the bill, is ample justification to vote against this conference report. As you know, when the House considered the bill, it added 24 safeguards against the various abuses which characterized the program in the past. In conference, 17 of these were eliminated or altered in such a manner as to destroy their original meaning and impact.

It is my understanding that the purpose of this legislation was to create an independent corporation in order to remove the previous legal services program from its deep involvement in various radical social projects and political activities. Obviously this bill does not provide adequate safeguards against such involvements in the future by Government-paid attorneys.

I think most of us, at one time or another, have had concerns about the legal services program. Such activities as backup center representation of May Day demonstrators, registered lobbyists in State capitols, representing radical groups, and involvement in political campaigns, have given us good reasons to be concerned.

And with regard to this current proposal, even where safeguards have been included in the bill, loopholes nullify their impact.

Originally, the legal services program, which operates under the Office of Economic Opportunity, was designed to provide the Nation's poor with competent legal counsel. But unfortunately, this program has been used time and again to initiate frivolous lawsuits, take part in strikes, protect draft dodgers, and aid in abortion and desegregation suits.

When it was established, the legal services concept was one of merit. But in recent years the program has turned into one massive legal attack on our Government.

I, for one, am opposed to using tax dollars to support these activities. I opposed the bill in 1973 to set up a legal services corporation and I plan to vote against it today.

In my judgment, this proposal is not an improvement of our present legal services program, but merely an extension and continuation of those questionable polices of the past.

I think it is bad legislation and I urge my colleagues to vote against the legal services conference report.

Mr. KEMP. Mr. Speaker, I support the motion to recommit this measure to the conference committee.

In order that this support for the motion to recommit not be misconstrued, I wish to restate my longfelt support for a good, sound legal services programs.

I think a legal services program for the poor warrants the support of this House, but I do not think the bill before us warrants that support. A judicare approach—which I will discuss in detail hereafter—would be preferable, and I could support it. A revenue-sharing or bloc-grant approach would be preferable, and I could support it too. Almost any measure which was free of the centralized, bureaucraticized approach embodied in the conference-reported bill is preferable.

A tightly drawn bill, dealing with the substantive issues associated with this program and arighting the abuses which have too often characterized it, is what we passed last June when this measure was before us. That should have been better preserved in the conference committee.

In these times when we hear so much about the abuses of centralized power in Washington, it seems to me to be most propitious to convert this legal services program from one dominated by the executive here and decentralize it among those units of government closest to the people—State and local government. I think the record of government in this Nation is clear: Government closest to the people delivers best in their interest, and this is particularly true with respect to the interests of minorities and economically disadvantaged groups. There could be fewer times in our history when decentralizing power is more appropriate than it is today. One of the problems with the current legal services program is that it does not have sufficient flexibility at the local level to respond to the widely varying client situations. Federal regulatory schemes are, by definition of regulation, debilitating to maximizing local decisionmaking. The answer is not more regulation, more centralization, more federalization, but rather less.

I believe the conferees acted in good faith to obtain a compromise measure. But, that good faith notwithstanding, I do not think the compromise which they attained is a good one. To the contrary, the majority of the amendments which were offered on the floor and accepted by the House last June—often over the strong objections of the bill managers—were stricken in the conference committee. Instead of the House giving a little here and the Senate giving a little there—along the classic lines of resolving disagreements—each House gave up those particular provisions, coming from either House's text, which would have helped reform the present program. The status quo is what they preserved, and it is not a good status quo.

We invite the further frustration of the will of the majority of Members—on this and many other issues—if we permit circomvention of the intent of this House to occur. Recommital is the procedural device through which we can tell the conferees that we are dissatisfied with the results of their deliberations and to go back and try it again.

This is an important point to me, for I support a sound, conceptually well conceived and efficiently administered legal services program for the poor. My record is a clear one on this issue. I have introduced, together with the distinguished Senator from Tennessee (Mr. BROCK) a measure to continue the program through a revenue-sharing approach. I have supported proposals which would "put the client in the driver's seat" through a judicare device using vouchers given to the poor for payment and letting them select their own attorneys by free choice.

The concept of a neighborhood legal aid bureau, assisted by neutral Federal tax dollars, is worthy, in my opinion, of the support of Members. This was the notion which underlay the initial creation of this Federal program. Unfortunately, that intent has been frustrated by the self-imposed agenda of staff directors and staff attorneys who see the attainment of certain ideological, philosophical, even political goals—often at the expense of servicing adequately the poor clients in genuine need—as their primary motivations.

The point which strikes me on this issue is the way in which the House—in the passage of many constructive amendments last June—came to grips with the substantive issues associated with this program, in marked contrast to the way in which the conference committee subsequently refused to address itself to substantive reform in the program by removal of most of those amendments which would have required that reform.

I think the House was on the right track when it accepted the majority of the amendments offered last June. After nearly 10 years of operational activities associated with this legal services program, the House addressed itself to meaningful reform. In the interest of providing the most effective legal services to the poor—getting the greatest impact for each Federal dollar spent—the House set about to make some important changes in the program. Others here today have spoken on the exact nature of these reforms and how the conference committee actions thwarted them; I shall not, therefore, be repetitious.

If this bill is recommitted—and I hope that it will be—the conferees should, in my opinion, consider these foundation stones in their deliberations on what exactly ought to be done. The next conference-reported bill should—

First, insist that the principal thrust of legal services activities provide the most effective delivery of individual lawyer services to clients with particular grievances—something which can happen only when the attorneys in the program stop spending their time with nonclient generated "test" cases, policy lobbying, unaccountable advocacy with public funds, et cetera, and start spending their time on their clients.

Second, the conferees should consider a transfer from the present staff attorney system to a judicare approach.

It is crucial in all legal matters that the client be in the proverbial driver's seat. The attorney works for the client, not the other way around. Yet, under the present program, if a neighborhood legal services attorney does not like a case—or it does not conform to his own agenda—or if he does not think he has the time—the poor person has no place else to go. There is a way to correct this abuse; it is called judicare.

Under judicare you give the poor person who needs legal help a voucher worth so many dollars. Then that poor person, as the client, can go out into the open market of available attorneys and select whomever he or she thinks can best represent their interest in the legal controversy for that amount of funds. The individual is, thus, given the freedom of choice requisite to the historical attorney-client relationship.

I call the attention of my colleagues to an outstanding article in the American Bar Association Journal of December 1973 by Samuel J. Brakel, the director of the American Bar Foundation's study of judicare; the article is entitled, "The Case for Judicare." Mr. Barkel observes:

> The empirical data from the Foundation study reinforce the theoretical arguments that the judicare system is more responsive to the problems of delivering legal services to the poor than the staffed office.
>
> ### REACHING THE POOR
>
> Judicare, through its use of existing lawyers distributed throughout counties and local communities and its use of social service agencies as eligibility certifiers, is well designed to reach the poor. Under a judicare system, poor people are likely to become aware of the services available earlier, easier, and at less expense of attorney time than under the staffed office model. The disadvantages of involving social service agencies in eligibility determination are minimal and are offset by concrete and psychological advantages of judicare card distribution.
>
> ### THE LAWYERS
>
> The choice of lawyer that clients have under judicare is a very significant advantage over the choiceless staffed office. Judicare clients in many instances exercise that choice intelligently and effectively. Private lawyers—even in the comparatively small and homogeneous areas of rural northern Wisconsin or western Montana—are a diverse group in terms of legal and philosophic habits and attitudes. These characteristics and the reputations of private lawyers—especially in rural areas—are well known among the target population and enable clients to make meaningful choices.
>
> Private lawyers in the judicare areas studied were well distributed on the whole, although a few counties had problems in this regard. Few lawyers in a given county meant limited choice and access for clients. More significantly, it increased the likelihood that no lawyer with adequate commitment to serving the poor could be found. The attitudinal commitment of the bar to the judicare program is one of the crucial elements in the performance of the judicare system. That commitment translates directly into the volume (and the type and probably the quality) of service provided and influences the total shape of—including client demand for—legal services. In a few counties, even some with a good number of lawyers, adequate commitment is lacking and the judicare performance suffers.
>
> The staff office, however, is hardly preferable in this respect. Since there is no other recourse for clients under the staffed office model, any flaw in staff attorney attitude or practice—even if only subjectively valid—is essentially fatal from the individual client's standpoint. That being the case, staff attorney inexperience and the pressures of caseload, time, and money caused by the typically massive geographical and substantive problem areas to be covered by one or two staff attorneys assume a special seriousness. Staffed office statistics showing very large volumes of cases handled and balanced geographical distribution of clients bringing cases are largely illusory. These statistics do little more than reflect insufficiency of analysis or differences in recording practices between staffed office and judicare programs, rather than disparities in substantive accomplishment.
>
> ### THE CASES
>
> Often criticized for failing to provide an adequate range of legal services, judicare in fact—from examining the performance of both the private lawyers and the central office—compares favorably to the staffed office. A high proportion of domestic relations cases appears to characterize all legal services programs for the poor, regardless of model or location. Beyond that, the private attorneys under judicare as a group are involved in as diverse a range of services, whether measured by impact or by the standard type of case categories, as the group of regular staffed office attorneys we studied. High turnover of and the consequent lack of experience among staffed office attorneys negate any advantages of *"expertise"* and "commitment" sought in staffed offices.
>
> Under both models, much of the obvious impact work, by definition perhaps, is left to the central office. Centralization has an undesirable aspect because it means remoteness from local perceptions of local problems and resolutions. The staffed office model is more susceptible of the criticism of central remoteness than the judicare model, which has the local private attorneys distributed throughout the communities as a buffer against overcentralization.
>
> Neither model comes close in practice to living up to the more excessive rhetorical demands for impact work. The concrete experience of attempting to meet the legal needs of real, individual clients does much to undermine the validity of the substantive, strategic, or evaluative emphasis on "law reform."
>
> ### QUALITY OF SERVICE
>
> Poor clients themselves exhibit a pronounced preference for judicare over the staffed office. They are more satisfied as a group with judicare experiences than with staffed office service, and in addition they show a strong nonempirical preference for judicare when asked which of the two they favor. The individual's choice of lawyer plays a large part in the judicare preference, but the clients' favorable atttiudes toward and experiences with local private lawyers are also crucial. The clients' views on these issues are important not only because clients are the central participants, the beneficiaries, in legal services programs, but also because their views are often objectively persuasive and cogent. The quality of judicare services and the emphasis on individual, local problem perception and responses are also supported by the high rate of favorable outcomes of individual clients' cases.
>
> ### COST OF SERVICE
>
> There is no credible evidence that judicare is more costly than the staffed office. Wisconsin Judicare operates on a budget that is considerably lower in dollars per eligible family than the budgets of comparable rural staffed office programs. An item-by-item examination of the Wisconsin Judicare and the Upper Michigan staffed office budgets shows that while judicare professional services are somewhat more costly than staffed office professional services, this is more than offset by judicare savings in nonprofessional service and management (space and equipment rental, travel, and various miscellaneous items), the costs of which are typically absorbed in a large part by private lawyers under judicare but fully charged against the staffed office program.

Third, a new bill should require annual appropriations, with a bar against multiyear appropriations without congressional review. In the interest of best protecting the taxpayers' dollars going into this program, such a review is essential.

Fourth, the new bill should require that no public funds be used for the advocacy of ideological, philosophical, political, or partisan points of view, except to the degree that they relate to a specific matter within the judicial, litigative process affecting a client and only then as part of a legal strategy. To the degree that public dollars subsidize points of view, the rights of free expression of all others not similarly subsidized are jeopardized. Our first amendment rights are affected detrimentally when Government subsidizes the viewpoints of others.

Mr. Speaker, I reiterate my support for the concept of Federal assistance for legal services for the poor. I think, however, there is a better way to do it than reflected in the bill before us.

If this measure should be approved by the two Houses, the President ought to consider its veto. The bill ought to be sent back to the drawing board, where we can start anew in addressing ourselves to this issue. We must maintain support for a legal services program, but not the one which would result from the implementation of this bill.

Mr. HOGAN. Mr. Speaker, I rise in opposition to the conference report on the legal services legislation. My particular concern is not in the tactics used to further this legislation, though that is questionable, so much as it is with what the legal services programs actually do.

It is safe to say that, through the vehicle of legal services projects and legal services backup centers, the American taxpayer has helped finance the legalization and legitimization of abortion in the United States, and is continuing to finance the furtherance of abortion as a "service" to the public. The legal services business has been the most effective lobby for abortion in the country. Legal services activists helped write and lobby for "model" abortion statutes; they planned and carried out "test" cases; they participated on a nationwide basis in amicus curiae briefs, wherever they could find them, on behalf of such groups as the National Organization for Women; they have contributed to the ever-increasing flow of propaganda on belief of abortion by publishing newsletters and writing articles, especially articles from a legalistic point of view.

This is a tragic miscarriage of the law. The legal services office was first established within OEO to help the poor with their everyday legal needs, credit problems, landlord problems, divorces, wills, matters such as this. Yet, it has been transformed from that into a powerful, ideological lobby, at times quite heedless of the wishes of the poor.

Many of our minority leaders are opposed to abortion on grounds of principle. Yet, these poverty law activists assume that abortion is good for the poor, and proceed to charge ahead in pursuit of that end. It is not enough that the poor—or anybody, for that matter—have the legal right to slaughter an unborn person, but legal services activists want the Federal Government, the State governments too, to pay for the deed. H.R. 1 mandates family-planning services; there is separate family-planning legislation; all of this legislation contains specific disclaimers of abortion as a means of family planning. Yet legal services lawyers who apparently get bored with the everyday legal problems which poor people have, have tried unceasingly to find ways around that disclaimer. I refer to an article in the April, 1974, Clearinghouse Review. The Clearinghouse Review is a monthly publication by and for poverty lawyers, published with OEO money and is a forum of announcements, advertising, employment and the theorizing of new interpretations of the law and how to fight them in court. The lead article in the April issue is entitled, "The Right to Abortion Under Medicaid," by Patricia Butler of the national health law program, another backup center financed with public moneys under legal services authorizations. This article goes on for 8 pages to prove that abortion is indeed just another health service, that any abortion "desired is an abortion needed" for health reasons—mental or emotional health as well as physical health—and the Federal funds are being wrongfully withheld from abortions for the poor. This article is intended to derail Senator **James Buckley**'s medicaid amendment, which has not gone into effect yet, which is designed to prevent such use of public moneys.

It is wrong that American citizens are paying taxes to support public interest lawyers, who in turn set about compelling the Government to spend more money, in this case for the performance of services that many citizens consider abhorrent and grossly immoral. To commit the U.S. Government, and the law, to encouraging abortion, as legal services activists have succeeded in doing, is to violate the public trust, and especially the legislative intent in creating legal services to begin with.

While I was the author of an antiabortion amendment to the legal services bill when it was on the House floor which was approved, I am not satisfied that any antiabortion amendment would effectively deter the staff of legal services in their proabortion activities. As long as the backup centers continue, the think tanks will continue to crank out their new ideas and novel approaches to the abortion issue. This laxity should be corrected, Mr. Chairman, when the Nation is beginning to reorganize itself around the whole question of abortion, and a movement to reverse the Supreme Court decision is gaining strength throughout the country.

For legal services activists to be hard at work, setting up organizations, advocating abortion at a policy level, publishing articles in defense of it, and intimidating the public, all with Federal funds, is an abuse of the public trust unequalled. If this continues, it will mean the Federal Government has decided to promote abortion, to encourage it, and to make it more accessible and more desirable, all in total conflict with the often expressed intent of Congress. That would be an intolerable situation to men of good conscience. Yet that is the status quo, and failure to rectify this situation would indicate that our lawmakers are indeed of that mind. Silence gives consent, runs the old adage, and unless this public lobby for abortion is closed down, it will indicate governmental assent to its activities and its purposes.

Mr. Speaker, I urge our colleagues to vote against the conference report on legal services.

Mr. DRINAN. Mr. Speaker, the Legal Services program has been embroiled in controversy since its inception. That is inevitable. Whenever attempts are made to disturb the status quo, as this program does, those who benefit at the expense of the poor and the downtrodden will surely protest.

If there were no objection to the legal aid program, I would suspect that it was probably ineffective. Advancing the rights of the disadvantaged, by its nature, is calculated to upset the social order. When the rights of a traditionally excluded group are suddenly championed, the status of others who have held sway in the past invariably must give way.

These circumstances, peculiar to programs of this sort, have called forth the use of political power, both at the State and Federal level, to attempt to cripple the program. Nixon appointees and State officials have taken every opportunity to render the program ineffective.

Out of this milieu arose the concept of an independent agency to manage legal services for the poor. That is the central idea embodied in the Legal Services Corporation Act of 1974, the bill we consider today. Because it is designed to reduce or eliminate political influence in the provision of legal assistance for persons who cannot afford a private attorney, I intend to vote in favor of it.

To be sure, it is not the perfect bill. There are several provisions in it to which I strenuously object. There is, for example, no basis for prohibiting the program for instituting suits to desegregate primary or secondary schools. Singling out that type of litigation for special treatment raises serious questions under the equal protection clause of the 14th amendment. It would not surprise me if that provision is eventually declared unconstitutional.

The clause which directs local programs to give hiring preference to residents of the "community to be served" also raises substantial constitutional issues. The Supreme Court and lower Federal courts have regularly invalidated governmental action which seeks to extend benefits based on residence requirements. Any time a statutory provision is geared to residency the constitutional right to move freely among the States is drawn into question.

Third, I have great reservations about the provision which bars the Corporation from funding legal assistance through any law firm which "expends 50 percent or more of its resources and time litigating issues in the broad interests of a majority of the public." Thus the statute authorizes the use of Federal money to pay for legal aid from law firms which have traditionally defended the interests opposed to the poor, while withholding aid to law firms seeking to secure their rights. That is a most incongruous provision.

But with all this said, it is still a good bill, perhaps because it is the only one we have. It is better that we establish now an independent agency to direct the provision of legal services for low-income people than that the present program be subject, for an indefinite future, to the buffeting political winds.

Mr. DENNIS. Mr. Speaker, I am not insensitive to the need for legal services to the poor. Like most lawyers in our small towns and medium-size cities I have spent a good part of my life giving legal services to the poor, from time to time, in the course of my practice of the law. This sort of informal legal aid is an honorable and longtime part of the tradition of the legal profession.

These informal services—although very widespread—may be insufficient to meet the problem. Perhaps more formalized, but privately financed, legal aid is not sufficient. Even so, serious questions remain whether the Federal Government rather than private, local, and State agencies should meet this need; and whether, if the Federal Government is to take action, there may not be better methods than the Legal Services Corporation approach which is embodied in this bill.

Indeed, one of the best provisions in the pending measure is that providing for the study of other methods—such as judicare, a voucher system, revenue sharing, contracting with law firms, and so on.

Logic and prudence would seem to suggest, however, that such a study might well precede the establishment of a new, expensive, and far-reaching system, rather than following as an apparent afterthought when that system is being established.

The fundamental problem in this matter is one of philosophy and approach.

The rich—so long as there are any rich—will always be able to afford legal services. If this bill becomes law the poor will have such services furnished to them at the public expense. What happens to the man of the middle class, the taxpaying and tax-providing millions who are neither rich nor poor?

What of the small private employer, or the local governmental unit, against whom some action is brought under this bill by self-described "lawyers for the poor," backed by the full resources of the Treasury of the United States—a Treasury made up for the most part, in many cases, of funds collected from the very defendant involved, and from those sharing his general interests and outlook in life?

This question—which is not rhetorical but, on the contrary, quite real—goes, I submit, to the fundamental problem posed by the pending legislation.

Assistance with the personal and individual legal problems of the poor, is one thing. It is easy to sympathize with the idea of legal aid in such fields as landlord and tenant, vendor and purchaser, master and servant—to use the old legal phraseology—and domestic relations, for example. Likewise with respect to the criminal law which, however, is a field not covered by this legislation.

It is much less easy to sympathize with using the taxpayers' money to finance far-reaching class actions brought by liberal or radical young lawyers, and sometimes designed far less to aid any individual client than to bring about alleged social reforms of their own preference, measures which the duly elected representatives of the people have never seen fit to initiate.

One valid test of the philosophy and intentions of the advocates of this bill is to take note of the actions so far actually taken.

In the House the committee greatly modified the bill as originally presented, and modified it in the direction of ideological alleged reform; the House as a whole went a good way in a long day's work to return the bill to its original and more moderate dimensions. The Senate has now returned to us again a definitely more ideological type of bill.

No real consideration has ever—in House or Senate—been given to alternative methods which might well replace the Legal Services Corporation and its staff attorneys.

Under these circumstances it is not unfair to wonder how much the sponsors of this measure are dedicated to the protection of the legal rights of the poor; and how much they are interested in using the measure as a vehicle to push for their own favored social reforms—reforms many of which lack sufficient public support to be enacted into law on their own merits.

And under these circumstances it is not too much for those of us who are sympathetic to legal aid, but skeptical of this social approach, to withhold any vote of approval on our part for a better bill, upon another day.

Mr. PERKINS. Mr. Speaker, I move the previous question on the conference report.

Mr. SPEAKER pro tempore (Mr. O'NEILL). Without objection, the previous question is ordered on the conference report.

The previous question was ordered.

MOTION TO RECOMMIT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. ASHBROOK. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. ASHBROOK moves to recommit the Conference Report on the bill, H.R. 7824, to the Committee of Conference with the following instructions to the Managers on the Part of the House:
>
> That they insist upon the House provision which would authorize that the Corporation provide directly, but not by grant or contract, for (A) research, (B) training and technical assistance, and (C) information clearinghouse activities, relating to the provision of legal assistance under the Act (all of which activities currently fall within the scope of the activity commonly referred to as "backup centers").

Mr. ASHBROOK. Mr. Speaker, I move the previous question on the motion to recommit.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 183, nays 190, not voting 60, as follows:

[Roll No. 227]

YEAS—183

Abdnor
Alexander
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Ashbrook
Bafalis
Baker
Bauman
Beard
Bennett
Bevill
Biaggi
Blackburn
Bowen
Bray
Breaux
Brinkley
Broomfield
Brotzman
Brown, Mich.
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Byron
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Collins, Tex.
Conlan
Crane
Cronin
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Wis.
Denholm
Dennis
Derwinski
Devine
Dickinson
Downing
Duncan
Edwards, Ala.
Eshleman
Evins, Tenn.
Fisher
Flowers
Fountain
Frelinghuysen
Froehlich
Fuqua
Gettys
Ginn
Goldwater
Goodling
Green, Oreg.
Gross
Grover
Gubser
Gunter
Guyer
Haley
Hammerschmidt
Hanrahan
Harsha
Henderson
Hillis
Hinshaw
Hogan
Holt
Hosmer
Hudnut
Hungate
Hunt
Hutchinson
Jarman
Johnson, Colo.
Jones, N.C.
Kemp
Ketchum
Lagomarsino
Landgrebe
Landrum
Latta
Lent
Lott
Lujan
McClory
McCollister
McEwen
Mahon
Mallary
Mann
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Mayne
Michel
Milford
Miller
Minshall, Ohio
Mitchell, N.Y.
Mizell
Montgomery
Moorhead, Calif.
Myers
Nelsen
Nichols
O'Brien
Parris
Passman
Poage
Powell, Ohio
Price, Tex.
Quillen
Randall
Rarick
Regula
Rhodes
Rinaldo
Roberts
Robinson, Va.
Rousselot
Ruth
Sarasin
Satterfield
Scherle
Schneebeli
Sebelius
Shipley
Shoup
Shriver
Shuster
Sikes
Smith, N.Y.
Snyder
Spence
Stanton, J. William
Steed
Steiger, Ariz.
Stephens
Symms
Taylor, Mo.
Taylor, N.C.
Thomson, Wis.
Thone
Thornton
Treen
Ullman
Vander Jagt
Veysey
Walsh
Wampler
White
Whitehurst
Whitten
Widnall
Wiggins
Wilson, Bob
Winn
Wydler
Wylie
Wyman
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Zion
Zwach

NAYS—190

Abzug
Adams
Addabbo
Anderson, Calif.
Anderson, Ill.
Ashley
Aspin
Badillo
Barrett
Bell
Bergland
Biester
Bingham
Blatnik
Boggs
Bolling
Brademas
Brasco
Breckinridge
Brooks
Brown, Calif.
Brown, Ohio
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton
Carney, Ohio
Chisholm
Cohen
Collins, Ill.
Conable
Conte
Conyers
Cotter
Coughlin
Culver
Daniels, Dominick V.
Danielson
Davis, S.C.
Delaney
Dellenback
Dellums
Dent
Dingell
Donohue
Drinan
du Pont
Eckhardt
Edwards, Calif.
Eilberg
Erlenborn
Evans, Colo.
Fascell
Fish
Flood
Foley
Ford
Forsythe
Fraser
Frenzel
Fulton
Gaydos
Giaimo
Gibbons
Gilman
Gonzalez
Grasso
Gray
Green, Pa.
Gude
Hamilton
Hanley
Hanna
Hansen, Wash.
Harrington
Hastings
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Hicks
Holifield
Holtzman
Horton
Howard
Johnson, Calif.
Jordan
Karth
Kastenmeier
Kazen
Kluczynski
Koch
Kyros
Leggett
Lehman
Long, La.
Long, Md.
Luken
McCormack
McDade
McFall
McKay
McKinney
McSpadden
Macdonald
Madden
Madigan
Maraziti
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Minish
Mink
Mitchell, Md.
Moakley
Mollohan
Moorhead, Pa.
Mosher
Moss
Murphy, Ill.
Murtha
Natcher
Nedzi
Obey
O'Hara
O'Neill
Owens
Patman
Patten
Pepper
Perkins
Pickle
Pike
Podell
Preyer
Price, Ill.
Pritchard
Quie
Railsback
Rangel
Reuss
Riegle
Robison, N.Y.
Rodino
Roe
Roncalio, Wyo.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ruppe
Ryan
St Germain
Sandman
Sarbanes
Schroeder
Seiberling
Sisk
Smith, Iowa
Staggers
Stark
Steelman
Steiger, Wis.
Stokes
Stratton
Stuckey
Studds
Symington
Thompson, N.J.
Tiernan
Towell, Nev.
Traxler
Udall
Van Deerlin
Vander Veen
Vanik
Vigorito
Waldie
Whalen
Wilson, Charles, Tex.
Wolff
Yatron
Young, Ga.
Young, Tex.
Zablocki

NOT VOTING—60

Boland
Camp
Carey, N.Y.
Carter
Clark
Clay
Collier
Corman
Davis, Ga.
de la Garza
Diggs
Dorn
Dulski
Esch
Findley
Flynt
Frey
Griffiths
Hansen, Idaho
Hawkins
Hébert
Helstoski
Huber
Ichord
Johnson, Pa.
Jones, Ala.
Jones, Okla.
Jones, Tenn.
King
Kuykendall
Litton
McCloskey
Matsunaga
Mills
Morgan
Murphy, N.Y.
Nix
Pettis
Peyser
Rees
Reid
Rogers
Roncallo, N.Y.
Rooney, N.Y.
Runnels
Skubitz
Slack
Stanton, James V.
Steele
Stubblefield
Sullivan
Talcott
Teague

Waggonner
Ware
Williams
Wilson, Charles H., Calif.
Wright
Wyatt
Yates

So the motion to recommit was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Waggonner for, with Mr. Corman against.

Mr. Hébert for, with Mr. Murphy of New York against.

Mr. Rogers for, with Mr. Boland against.

Mr. Frey for, with Mr. Esch against.

Mr. Huber for, with Mr. McCloskey against.

Mr. Tadcott for, with Mr. Carey of New York against.

Mr. Camp for, with Mr. Matsunaga against.

Mr. Johnson of Pennsylvania for, with Mr. Stubblefield against.

Mr. Ware for, with Mr. Reid against.

Mr. King for, with Mr. Clark against.

Mr. Collier for, with Mr. Dulski against.

Mr. Skubitz for, with Mrs. Sullivan against.

Mr. Jones of Alabama for, with Mr. Clay against.

Mr. Teague of Texas for, with Mr. Diggs against.

Mr. Roncallo of New York for, with Mr. Nix against.

Until further notice:

Mr. Davis of Georgia with Mr. Dorn.

Mr. de la Garza with Mr. Jones of Oklahoma.

Mr. Ichord with Mrs. Griffiths.

Mr. Flynt with Mr. Hansen of Idaho.

Mr. Jones of Tennessee wtih Mr. Morgan.

Mr. Hawkins with Mr. Mills.

Mr. Pettis with Mr. Peyser.

Mr. Rees with Mr. Rooney of New York.

Mr. Runnels with Mr. Slack.

Mr. James V. Stanton with Mr. Steele.

Mr. Williams with Mr. Findley.

Mr. Charles H. Wilson of California with Mr. Wyatt.

Mr. Wright with Mr. Yates.

Mr. Carter with Mr. Helstoski.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. QUIE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 227, nays 143, not voting 63, as follows:

[Roll No. 228]

YEAS—227

Abzug
Adams
Addabbo
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Ashley
Aspin
Badillo
Barrett
Bell
Bergland
Biaggi
Biester
Bingham
Blatnik
Boggs
Bolling
Brademas
Brasco
Bray
Breckinridge
Brooks
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton
Carney, Ohio
Chisholm
Cleveland
Cohen
Collins, Ill.
Conable
Conte
Conyers
Cotter
Coughlin
Culver
Daniels, Dominick V.
Danielson
Davis, S.C.
Delaney
Dellenback
Dellums
Dent
Dingell
Donohue
Drinan
du Pont
Eckhardt
Edwards, Calif.
Eilberg
Erlenborn
Evans, Colo.
Evins, Tenn.
Fascell
Fish
Flood
Flowers
Foley
Ford
Forsythe
Fraser
Frelinghuysen
Frenzel
Fulton
Gaydos
Giaimo
Gibbons
Gilman
Gonzalez
Grasso
Gray
Green, Pa.
Gude
Gunter
Guyer
Hamilton
Hanley
Hanna
Hansen, Wash.
Harrington
Hastings
Hechler, W. Va.
Heckler, Mass.
Heinz
Hicks
Hillis
Holifield
Holtzman
Horton
Howard
Hungate
Johnson, Calif.
Jordan
Karth
Kastenmeier
Kazen
Kluczynski
Koch
Kuykendall
Kyros
Leggett
Lehman
Long, La.
Long, Md.
Luken
McClory
McCormack
McDade
McFall
McKay
McKinney
Macdonald
Madden
Madigan
Mallary
Mann
Maraziti
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Milford
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Moorhead, Pa.
Mosher
Moss
Murphy, Ill.
Murtha
Natcher
Nedzi
Obey
O'Brien
O'Hara
O'Neill
Owens
Patten
Pepper
Perkins
Pickle
Pike
Podell
Preyer
Price, Ill.
Pritchard
Quie
Railsback
Rangel
Regula
Reuss
Rhodes
Riegle
Rinaldo
Robison, N.Y.
Rodino
Roe
Roncallo, Wyo.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ruppe
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Schroeder
Seiberling
Shriver
Sisk
Smith, Iowa
Smith, N.Y.
Staggers
Stark
Steelman
Steiger, Wis.
Stokes
Stratton
Stuckey
Studds
Symington
Thompson, N.J.
Thone
Tiernan
Towell, Nev.
Traxler
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waldie
Walsh
Wampler
Whalen
White
Widnall
Wiggins
Wilson, Charles, Tex.
Winn
Wolff
Wylie
Wyman
Yatron
Young, Ga.
Young, Ill.
Young, Tex.
Zablocki

NAYS—143

Abdnor
Alexander
Annunzio
Archer
Arends
Armstrong
Ashbrook
Bafalis
Baker
Bauman
Beard
Bennett
Blackburn
Bowen
Breaux
Brinkley
Broomfield
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Byron
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cochran
Collins, Tex.
Conlan
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Wis.
Denholm
Dennis
Derwinski
Devine
Dickinson
Downing
Duncan
Edwards, Ala.
Eshleman
Fisher
Fountain
Froehlich
Fuqua
Gettys
Ginn
Goldwater
Goodling
Green, Oreg.
Gross
Grover
Gubser
Haley
Hammerschmidt
Hanrahan
Harsha
Hays
Henderson
Hinshaw
Hogan
Holt
Hosmer
Hudnut
Hunt
Hutchinson
Jarman
Johnson, Colo.
Jones, N.C.
Kemp
Ketchum
Lagomarsino
Landgrebe
Landrum
Latta
Lent
Lott
Lujan
McCollister
McEwen
Mahon
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Mayne
Michel
Miller
Minshall, Ohio
Montgomery
Moorhead, Calif.
Myers
Nelsen
Nichols
Parris
Passman
Patman
Poage
Powell, Ohio
Price, Tex.
Randall
Rarick
Roberts
Robinson, Va.
Rousselot
Ruth
Satterfield
Scherle
Schneebeli
Sebelius
Shipley
Shoup
Shuster
Sikes
Snyder
Spence
Stanton, J. William
Steed
Steiger, Ariz.
Stephens
Symms
Taylor, Mo.
Taylor, N.C.
Thomson, Wis.
Thornton
Treen
Veysey
Whitehurst
Whitten
Wilson, Bob
Wydler
Young, Alaska
Young, Fla.
Young, S.C.
Zion
Zwach

NOT VOTING—63

Bevill
Boland
Camp
Carey, N.Y.
Carter
Clark
Clay
Collier
Corman
Cronin
Davis, Ga.
de la Garza
Diggs
Dorn
Dulski
Esch
Findley
Flynt
Frey
Griffiths
Hansen, Idaho
Hawkins
Hébert
Helstoski
Huber
Ichord
Johnson, Pa.
Jones, Ala.
Jones, Okla.
Jones, Tenn.
King
Litton
McCloskey
McSpadden
Matsunaga
Mills
Morgan
Murphy, N.Y.
Nix
Pettis
Peyser
Quillen
Rees
Reid
Rogers
Roncallo, N.Y.
Rooney, N.Y.
Runnels
Skubitz
Slack
Stanton, James V.
Steele
Stubblefield
Sullivan
Talcott
Teague
Waggonner
Ware
Williams
Wilson, Charles H., Calif.
Wright
Wyatt
Yates

So the conference report was agreed to:

The Clerk announced the following pairs:

On this vote:

Mr. Corman for, with Mr. Hébert against.

Mr. Boland for, with Mr. Waggonner against.

Mr. Hawkins for, with Mr. Rogers against.

Mr. Yates for, with Mr. Teague against.

Mr. Murphy of New York for, with Mr. Bevill against.

Mr. Esch for, with Mr. Camp against.

Mr. McCloskey for, with Mr. King against.

Mr. Peyser for, with Mr. Huber against.

Mr. Rees for, with Mr. Johnson of Pennsylvania against.

Mr. Matsunaga for, with Mr. Quillen against.

Mr. Nix for, with Mr. Cronin against.

Mr. Carey of New York for, with Mr. Collier against.

Mr. James V. Stanton for, with Mr. Roncallo of New York against.

Mr. Rooney of New York for, with Mr. Jones of Alabama against.

Until further notice:

Mr. Clark with Mrs. Griffiths.

Mr. Clay with Mr. Helstoski.

Mr. Morgan with Mr. Flynt.

Mr. Dulski with Mr. Carter.

Mr. Davis of Georgia with Mr. Dorn.

Mr. Ichord with Mr. Findley.

Mr. Jones of Oklahoma with Mr. Hansen of Idaho.

Mr. Litton with Mr. Frey.

Mr. Stubblefield with Mr. Jones of Tennessee.

Mr. de la Garza with Mr. Slack.

Mr. Diggs with Mr. Reid.

Mr. Wright with Mr. Mills.

Mr. Charles H. Wilson of California with Mr. Runnels.

Mrs. Sullivan with Mr. McSpadden.

Mr. Steele with Mr. Pettis.

Mr. Ware with Mr. Skubitz.

Mr. Williams with Mr. Talcott.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MEEDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the bill (H.R. 7824) just considered.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

DAY OF NATIONAL OBSERVANCE FOR 200TH ANNIVERSARY OF FIRST CONTINENTAL CONGRESS

Mr. DENT. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate concurrent resolution (S. Con. Res. 85) to proclaim October 14, 1974, a Day of National Observance for the 200th Anniversary of the First Continental Congress, and for other purposes.

The clerk read the Senate concurrent resolution as follows:

S. CON. RES. 85

Whereas the meeting at Carpenters' Hall in the City of Philadelphia in the Colony of Pennsylvania from September 5 to October 26, 1774, which has become known as the First Continental Congress, will have observed during 1974 its two hundredth anniversary; and

Whereas the actions of that Congress in uniting, for the first time, the thirteen disparate American Colonies to seek redress of their many grievances against the Parliament and King of England, set in motion a series of events leading to the meeting of the Second Continental Congress which produced the Declaration of Independence and guided the new Nation through the American War for Independence; and

Whereas the precedents set by the meeting of the first Congress in 1774 form the foundation upon which rest the principles and practices of the existing Congress of the United States of America; and

Whereas October 14, 1774, was the date on which the delegates to the first Congress adopted the Declaration and Resolves, expressing to the King of England their rights as Englishmen and their determination to achieve those rights, and is therefore, in itself, an historic date; and

Whereas on October 14, 1974, special ceremonies, sponsored by the City of Philadelphia, the National Park Service of the Department of the Interior and the American Revolution Bicentennial Administration, will be held at Carpenters' Hall in Philadelphia, Pennsylvania, to properly and appropriately observe for the Nation the two hundredth anniversary of the First Continental Congress; and

Whereas the two hundredth anniversary of the First Continental Congress marks one of the first historic commemorative events of the American Revolution Bicentennial celebration; Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that October 14, 1974, be proclaimed a Day of National Observance for the Two Hundredth Anniversary of the First Continental Congress and calls upon the people of our Nation to fittingly observe and honor this important date in our country's history.

SEC. 2. That the President pro tempore of the Senate and the Speaker of the House be authorized to select, upon the recommendation of the respective majority and minority leaders, four Members of each House to represent the Congress of the United States of America at ceremonies in Carpenters' Hall, Philadelphia, on October 14, 1974, and to present at said ceremonies to a representative of the City of Philadelphia a copy of this resolution.

SEC. 3. That the expenses of the Members are authorized to be paid from the contingency funds of the Senate and House of Representatives as approved, respectively, by the Committee on Rules and Administration and the Committee on House Administration.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. DENT. Mr. Speaker, I want the RECORD to show this resolution is sponsored by the entire Pennsylvania delegation.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. FORD. Mr. Speaker, on May 1, 1974, on rollcall No. 198, I am reported as not voting. I was present, and was properly recorded as voting on all the other rollcalls. I voted "yea" on rollcall No. 198 and the machine apparently failed to record my vote. I would like the RECORD to so note.

PERSONAL EXPLANATION

Mr. GROSS. Mr. Speaker, on the bobtailed quorum call earlier this afternoon I was present and recorded my presence. I ask that the RECORD so show.

The SPEAKER. The gentleman's statement will appear in the RECORD.

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute.)

Mr. RHODES. Mr. Speaker, I take this time to ask the distinguished acting majority leader if he is in a position to inform the House as to the program for the remainder of this week if any and the program for next week.

Mr. McFALL. Mr. Speaker, if the distinguished minority leader will yield, there is no further legislative business today, and upon announcement of the program for next week I will ask unanimous consent to go over until Monday.

The program for next week is as follows:

On Monday we will have the Consent Calendar, and there are no bills under suspensions.

We will have H.R. 14592, military procurement authorization, under an open rule with 4 hours of debate. On that we will take general debate only on Monday.

On Tuesday the House will receive former Members at 11 a.m., and then we will have the Private Calendar and the following suspensions:

H.R. 12526, Rural Electrification Guaranteed Loan Program Amendments;

H.R. 13834, Standby Energy Emergency Authorization Act; and

H.R. 14225, Rehabilitation Act Amendments.

Then the House will continue consideration of H.R. 14592, the Military Procurement Authorization that we began on Monday. We hope to vote on amendments and the bill.

On Wednesday and the balance of the week we will consider H.R. 14449, the Community Services Act, subject to a rule being granted.

Following that will be H.R. 14832, Temporary Increase in the Public Debt Limitation, subject to a rule being granted.

Then we will consider H.R. 14462, Oil and Gas Energy Tax Act, subject to a rule being granted.

Conference reports may be brought up at any time and any further program will be announced later.

I also wish to call to the attention of the House that the House will recess for Memorial Day from the close of business on Thursday, May 23, until noon Tuesday, May 28.

Mr. RHODES. Mr. Speaker, if the gentleman will allow me to propound a question, on Tuesday there will be three suspensions. Is it the intention of the majority to proceed with those suspensions to passage, and if not, postpone final vote until the end of the day?

Mr. McFALL. They will be voted on as they are considered.

ADJOURNMENT TO MONDAY, MAY 20, 1974

Mr. McFALL. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourns to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. McFALL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday of next week.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

CIVILIZED WORLD HORRIFIED BY ACTIONS OF TERRORISTS IN ISRAEL

(Mr. O'NEILL asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous material.)

Mr. O'NEILL. Mr. Speaker, on behalf of the minority leader, the gentleman from Illinois (Mr. YATES), and over 307 of my colleagues, I am today introducing a resolution condemning the most recent Arab terrorist raid into Israel—a raid in which innocent children suffered injury and death.

There is little that one can say to convey the horror of this raid. It shocked the entire civilized world.

The United States is currently trying to help bring peace to the Middle East. But peace will be impossible if the countries in the region are not able to restrain those fanatics who see fit to express their grievances by slaying children. Peace will be impossible if Israel is not assured of her territorial integrity, assured that she is secure from terrorist attack.

It is time that the U.N. rededicated itself to the ideal of promoting peace that was the reason for its creation. The U.N. would do well to start along this course by taking action against terrorist attacks such as this one. And the U.N. cannot pursue peace by applying a double standard to Arab raids against Israel.

In the interest of peace, we must condemn the latest Arab terrorist intrusion against Israel. We owe at least this much to those children who lost their lives.

The resolution follows:

RESOLUTION

Whereas Arab terrorists have threatened the lives of 90 Israeli school childen; and

Whereas these cruel and heartless acts only exacerbate tensions in the Middle East at a time when very serious efforts are being made to negotiate a lasting peace; and

Whereas such acts of violence are an affront to human decency and standards of civilized conduct between nations; Now, therefore, be it Resolved, That it is hereby declared to be the sense of the House that—

(1) it most strongly condemns this and all acts of terrorism;

(2) the President and the Secretary of State should and are hereby urged and requested to (a) call upon all governments to condemn this inhuman act of violence against innocent victims; and (b) strongly urge the governments who harbor these groups and individuals to take appropriate action to rid their countries of those who subvert the peace through terrorism and senseless violence.

(3) the President should request the American Ambassador to the United Nations to take appropriate action before that body in order to have introduced a Security Council resolution condemning this brutal act of violence.

U.S. EXPORTS OF COAL AND COKE

(Mr. HECHLER of West Virginia asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. HECHLER of West Virginia. Mr. Speaker, at a time when coal is critically in demand to meet the Nation's energy needs, and the hills of Appalachia are bleeding from the ripping and raping by the strip miners, the United States is rapidly increasing its exports of coal.

Did you ever hear of anything so crazy as stepping up the exports of coal, at a time when we are suffering more and more damage from strip mining?

Listen to this statement by the National Coal Association:

> Total U.S. exports of bituminous coal in the first quarter of 1974 increased 18 percent from shipments in the same period of 1973. . . . Japan, the largest consumer of American coal, took 5.7 million tons of U.S. bituminous coal in January-March, 1974; up 31.1 percent from the like period of 1973.

The House Interior Committee has just reported out a woefully weak strip mine regulation bill. The strip miners say they have to keep on ripping up our own land *because* we need the coal. Then why in (expletive deleted) are we shipping coal to Japan and Europe, so they can save their own land while we destroy ours? The exporters say this is metallurgical coal used in steel production. But the president of the American Iron and Steel Institute, Stewart S. Cort, testified on April 25, 1974, before the House Committee on Banking and Currency that the steel industry is hurting because of a severe shortage of metallurgical coal for the manufacture of steel. Mr. Cort stated that "the supply situation has become critical."

I urge my colleagues to support my bill, H.R. 11695 which prohibits the export of American coal, except to Canada, from whom we import oil. I am shocked to discover that we continue to export coal while continuing to destroy our own land by strip mining.

The statement follows:

U.S. EXPORTS OF COAL AND COKE

Total U.S. exports of bituminous coal in the first quarter of 1974 increased 18 percent from shipments in the same period of 1973, although for the month of March, shipments fell 5.9 percent from the same month a year ago. In January–March 1974, exports of U.S. bituminous coal totaled 10.6 million net tons, of which 391,362 tons were shipped to Canada and 10.2 million tons went to overseas destinations.

Japan, the largest consumer of American coal, took 5.7 million tons of U.S. bituminous coal in January–March 1974, up 31.1 percent from the like period of 1973. Exports to Europe were 3.8 million tons in the first quarter of 1974, compared with 3.4 million tons in January–March 1973. All of the European Community nations, except Belgium-Luxembourg, took more American coal in January–March 1974 than in the corresponding period of the previous year. A total of 542,569 tons of U.S. bituminous coal were also exported to South America in the first quarter of 1974, up slightly from shipments in January–March 1973.

The value of U.S. bituminous coal exports in January–March, including transportation charges to ports of exit, totaled $261.8 million. Anthracite exports were valued at $1.9 million; coke shipments at $8.7 million; and exports of lignite and lignite briquets were valued at $1.5 million.

U.S. EXPORTS OF BITUMINOUS COAL [1]

[Net tons]

Destination	January to March 1974	January to March 1973	Percent change
Canada	391, 362	551, 126	—29. 0
South America	542, 569	541, 553	+0. 2
European Economic Community:			
Belgium-Luxembourg [2]	210, 889	269, 944	—21. 9
France	464, 007	352, 495	+31. 6
Germany (West) [2]	534, 258	465, 096	+14. 9
Italy	957, 223	705, 086	+35. 8
Netherlands [2]	688, 008	465, 684	+47. 7
United Kingdom	243, 257	237, 077	+2. 6
Total EEC	3, 097, 642	2, 495, 382	+24. 1
Greece	40, 767		
Norway	35, 652	28, 539	+24. 9
Portugal	76, 628	117, 800	—35. 0
Romania	37, 092	23, 862	+55. 4
Spain	373, 836	645, 784	—42. 1
Sweden	92, 657	81, 058	+14. 3
Yugoslavia		36, 732	
Total Europe	3, 754, 274	3, 429, 157	+9. 5
Japan	5, 747, 092	4, 385, 552	+31. 1
All Others	183, 860	92, 471	+98. 8
Grand total	10, 619, 157	8, 999, 859	+18. 0
Excluding Canada	10, 227, 795	8, 448, 733	+21. 1

[1] Excludes shipments to U.S. military forces.

[2] Shipments as indicated in vessel manifests upon departure U.S. ports, and include tonnage for transshipment to undesignated destinations.

Source: Division of Fossil Fuels, U.S. Bureau of Mines.

FEDERAL EMPLOYEE ADMINISTRATIVE HEARING RIGHTS GUARANTEE ACT

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute, to revise and extend her remarks and include extraneous matter.)

Mrs. SCHROEDER. Mr. Speaker, on April 16, 1974, the U.S. Supreme Court handed down its decision in Arnett against Kennedy. It is but the latest in a line of cases dealing with the problem of termination or suspension of Federal employees in the competitive service. These cases are noted primarily for their failure to answer the important and ultimate question whether Federal employees have a protected right to their jobs after completing the probationary period, that is, whether they can be terminated or suspended without a prior hearing on the merits. The opinion in Arnett against Kennedy is similarly ambiguous on the question and offers little hope for a person looking for a clear statement of his rights.

The courts are not entirely to blame. The law is unclear because Congress has not acted unequivocally regarding pretermination hearings. There is no statute which clearly mandates executive agencies to promulgate uniform regulations in the area. The law as it now stands leaves the whole matter of pretermination hearings for Federal employees up in the air and opens the door to agency abuse of employees who in good conscience criticize agency procedures or disclose agency wrongs and coverups.

There are well known cases: for instance, those of Ernest Fitzgerald and Gordon Rule, employees of the Federal Government who have spoken out, been fired, and eventually won their rights to back pay and reinstatement.

These cases, however, have involved employees in difficult fights and drawn out period without pay. Some agencies grant pretermination hearings; but many others do not. In those an employee must suffer without pay while he is waiting to be heard. For sure, our veterans now have a preference right to a hearing before termination, and some Federal employees, through contract, have a similar right. Many others, though, are without this fundamental protection.

Mr. Speaker, for these reasons, I am today introducing a bill called the Federal Employee Administrative Hearing Rights Guarantee Act. The purpose of this legislation is to guarantee all employees in the competitive service a prompt evidentiary hearing by an impartial individual prior to the time that removal or suspension without pay is effective. The bill declares that certain minimum protections are due such an employee before termination or suspension, among them, the right to see the evidence supporting the action and to have a transcript of the proceedings.

I share the opinion of the many unions representing Federal employees who have contacted me—among them the National Treasury Employees Union and the Overseas Education Association—that it is time for congressional action on this problem. As long as Congress continues

to allow the agencies to promulgate their own regulations on the subject, Federal employees will not be protected against arbitrary and capricious dismissal for speaking out. The public interest is badly served by stifling creative criticism from employees of our Government.

JENNY'S MESSAGE

(Mr. HARSHA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HARSHA. Mr. Speaker, earlier this month I had the great pleasure of meeting one of my most charming constituents, 3½-year-old Jenny Barlage of Chillicothe, Ohio. It is not often that a constituent of such a young age has met with me on matters of important business, but Jenny's business and Jenny's message are ones which involve millions of Americans.

Jenny is this year's poster child for the National Association of Hearing and Speech Agencies. She and her family came to Washington recently to bring to the country's attention the fact that May is National Better Hearing and Speech Month. Jenny and her story symbolize the importance and the inestimable value of early detection of and professional help for hearing and other communication disorders.

Jenny's story is one which follows this pattern. Her parents, Mr. and Mrs. Henry Barlage, became concerned over Jenny's seemingly slow speech development, behavior problems, and lack of response to voices or sounds behind her back. This prompted them to seek professional help. They found that help for Jenny at the South Central Ohio Speech and Hearing Center in Chillicothe where her hearing problem was diagnosed and treatment begun. So far, a year's worth of speech and language therapy from this outstanding center has been so successful for Jenny that perhaps the only way one would suspect she had any impairment whatsoever would be by the small hearing aid she must wear. By helping Jenny's hearing problems in this way at an early age, the side effects of delayed emotional and language development have been minimized.

Jenny's message is that the month of May is one for listening. Listen to the facts that defective hearing is America's No. 1 handicapping impairment. There are 22 million Americans with hearing disorders; over 3 million of whom are school-age children who can be helped. In fact, it has been estimated that nearly 90 percent of all disabling hearing losses can be improved significantly by medicine, surgery or amplification. The problem is compounded, Jenny says, by the fact that many of these people do not know or believe their hearing disabilities can be helped. Jenny Barlage is there to show them they can.

Jenny is also asking Americans to listen to another message: If you have no hearing difficulties, abide by good listening rules of avoiding as much noise pollution as possible to protect this valuable sense. If you have children like Jenny, watch for early detection signs of hearing and speech impairments. The sooner any problems are detected and treated the better their chances for normal and happy development. Just ask Jenny Barlage, she will tell you.

PUERTO RICO'S MATURING STATUS

(Mr. BURTON asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BURTON. Mr. Speaker, I should like to bring to the attention of the Members of this House an important May 10, 1974, article in the Christian Science Monitor about Gov. Rafael Hernández Colon's April 27, 1974, testimony before the Joint Ad Hoc Advisory Group appointed by the President of the United States and the Governor of Puerto Rico to consider the future developments of Commonwealth.

As chairman of the Territories Subcommittee, I want personally to assure the people of Puerto Rico that the recommendations of the Ad Hoc Advisory Group will be promptly and carefully considered by the subcommittee.

Governor Hernández Colon has obviously given a great deal of thought to improving the concept and implementation of Commonwealth. For this reason, the Christian Science Monitor was quite prescient in taking favorable editorial note of the Governor's testimony.

Puerto Rico's Maturing Status

> All United States federal legislation, under current procedure, automatically applies to Puerto Rico unless the Caribbean island is specifically exempted. Puerto Rico's Gov. Rafael Hernandez Colon wants to change this excluding the island unless it is purposely written into legislation before Congress.
>
> This is only one of a number of steps that Governor Hernandez Colon mentions as "needed revisions" in the commonwealth arrangement under which Puerto Rico is linked to the U.S. These revisions add up to a plea for "local control over matters fundamentally local in nature."
>
> They amount to a call for greater self-government, more autonomy for the sun-drenched island in the Caribbean. But Governor Hernandez Colon is quick to say he wants no loosening of ties with the U.S. Those ties, he said recently, are "a unique experience in interdependence . . . many decades ahead of its time."
>
> The overwhelming majority of Puerto Ricans, at least 95 percent, favor retention of the ties. But this majority also supports revisions in the arrangement and Governor Hernandez Colon is obviously on solid ground when he makes his new plea. If implemented, the changes he seeks would recognize the vastly different requirements of Puerto Rico and the U.S. Economic differences, for example, between the crowded, resource-poor island with 875 people per square mile and a huge, wealthy continental nation with only 57 people per square mile result in dissimiliar problems and solutions.
>
> Without representation in Congress, Puerto Rico has long found that many decisions produce policies which, while beneficial to the mainland, are inadvertently detrimental to the best interests of the people of Puerto Rico. For this reason, there is much logic in what Governor Hernandez Colon seeks. The ad hoc U.S.-Puerto Rico committee now looking into the commonwealth arrangement ought to weigh his words carefully and come up with recommendations aimed at meeting the problems he mentions.

TERRORIST ACTIVITIES IN THE MIDEAST

(Mr. KOCH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOCH. Mr. Speaker, the killing of 25 Israeli children and injury of 70 more is an act of inhumanity so monstrous that it places into question the very meaning of the word human. As Prime Minister Golda Meir so eloquently said: "War cannot be fought on the backs of our children." The massacre yesterday at Maalot is the worst in a series of Arab terrorist assaults, encouraged by the countries and effectively sanctioned by the so-called civilized nations of the world. How much longer will the world let these wanton terrorists, who have no regard for the basic decencies of humanity, murder the children of Israel? With every incident, the killings become more abominable, and yet the world sits by and does nothing except intone hollow words of shock. These utterances raise a cacophony that rings throughout the world but fails miserably to respond to the barbarism of the Arab terrorists. The chiefs of state will send their pious condolences, but the Security Council will do nothing to condemn the terrorist actions or constrain the Arab terrorists. Indeed, it is the civilized world, including the United States, that must share in the responsibility of the loss of young lives at Maalot yesterday. When the Security Council by its action on April 25 condemned Israel for its reprisal action but refused to denounce the killings of 18 Israelis in Kiryat Shemona by terrorists based in Lebanon precipitating the reprisal, it gave license to future Arab terrorist killings. Furthermore, of the 150 Arab terrorists who have been arrested in Europe during the past 5 years, all but 9 have been released.

Is the world really so helpless that it cannot respond to the brutal inhumanity of so relatively few people? I say we can respond, and we must respond if we are to rid the world of this vermin and open the way to peace in the Middle East. During the past week Secretary Kissinger has been shuttling between Damascus and Tel Aviv trying to force a peace for the Middle East. But, his efforts will be futile if the Arab countries do not stop the Arab terrorists who find refuge and support in their countries. Time and again Israel has appealed to her Arab neighbors to take measures within their own countries to eliminate the destructive activities of the Arab terrorists. These governments have repeatedly ignored these requests, and have given the terrorists financial, political, military and moral support—indeed, have extolled them as heroes.

The Washington Post in an editorial today, commented on what Israel will and must do:

> For Israel to retaliate will not, unfortunately, repair its grievous loss. Nor can there

> be a certainty that retaliation will hurt those actually responsible. The Israelis have long hoped that reprisals in Lebanon would induce the Lebanese to put tighter controls on resident guerrillas. But there is little evidence that this approach has worked. At the same time, the evidence is that without retaliation, terrorists would be emboldened to launch even greater operations from Lebanon.

I concur.

WHY OUR BROADCASTERS NEED PROTECTION

(Mr. VAN DEERLIN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. VAN DEERLIN. Mr. Speaker, it is ever more glaringly apparent that our broadcasters are in need of protection—not from the people, but from the White *House*.

During debate in this hall 2 weeks ago on the radio/TV license renewal legislation, much of the discussion centered on relations between broadcasters and the communities they purport to serve. The question is often asked, what rights or obligations should the public have in challenging renewal of broadcast licenses ostensibly held in the public trust?

Many broadcasters have testified that community groups pose a potential threat to their livelihood, and could undermine the stability of their industry.

But the real threat, it now becomes clear, lies elsewhere.

This morning's Washington Post contains a graphic account of how the President and two key advisers, H. R. Haldeman and John W. Dean III, talked of "paying back" the Post for its early revelations in the Watergate affair. The story charges:

> Specifically, the discussion involved the desirability of using against the newspaper the Federal Communications Commission's power to license broadcast stations.

The conversation was said to have taken place September 15, 1972. It was edited out of the Watergate transcripts released last month by Mr. Nixon but reportedly included among the tape recordings subsequently turned over the Judiciary Committee.

Two months after the President and his key aides talked of retaliation against the Post, at least four challenges were filed against renewal of licenses held by two Post-Newsweek stations, WPLG–TV in Miami and WJXT–TV in Jacksonville. Prominent friends and supporters of the administration figured in some of the challenges.

One would have to be naive, I think, to accept this chain of events as mere circumstance.

For this particular scenario is unfortunately typical of the way the White House sets out to get its enemies in the news media and elsewhere. Incidentially, the challenges against the two Post-owned stations in Florida are still pending, so this issue is by no means resolved.

What is deeply disturbing here is the seeming willingness of the White House to subvert an independent regulatory agency like the FCC.

This is the agency that deals with the—perhaps the most sensitive area of all—communications. Here we are not talking about some tangible product, but about ideas and attitudes—far more volatile and fraught with peril politically.

They muscled in, in an apparent effort to tip or at least threaten to tip the regulatory balance against offending broadcasters. Or, as in the case of the Post, to get at newspapers it dislikes by striking at their broadcast properties.

For some time now, the White House has had it in for network news operations.

Many of us recall the Indianapolis speech of December 1972, by Clay T. Whitehead, then Director of the President's Office of Telecommunications Policy. Mr. Whitehead was brutally frank. He let it be known, in no uncertain terms, that network affiliates might risk loss of their licenses if they did not exercise more control over network news operations.

Then there was the singular action of Dean Burch on November 4, 1969, when, as the brandnew FCC Chairman, he pointedly asked the three TV networks for transcripts of the analyses with which they had closed a Presidential speech on Vietnam policies. According to court affidavits, Mr. Burch explained at the time he was complying with a request from the White House, in zeroing in in this fashion.

More recently, CBS has gone to court to report explicit threats directed at Dr. Frank Stanton, a network executive, and correspondent Dan Rather by past and present White House staffers Charles Colson, John Ehrlichman, and Ronald Ziegler.

And who can forget the antimedia histrionics of our former Vice President?

Broadcasters better wake up, before it is too late, in identifying their real "enemy." It is not the citizen groups.

THE LATE CARL THOMAS DURHAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina, (Mr. FOUNTAIN) is recognized for 60 minutes.

Mr. FOUNTAIN. Mr. Speaker, I rise to pay tribute to the memory of the late Carl Thomas Durham, who so ably represented the Sixth Congressional District of the State of North Carolina in this House.

In thinking of the fruitful life and productive work of this man, I am reminded of a thought-provoking statement written by Joseph Addison in the Spectator:

> If I can any way contribute to the diversion or improvement of the country in which I live, I shall leave it, when I am summoned out of it, with the secret satisfaction of thinking that I have not lived in vain.

Mr. Speaker, I am confident that Carl Thomas Durham, who contributed so richly to the well-being of his State and Nation during a lifetime of dedicated public service, shared that satisfaction. His life was, indeed, full and worthy, and he has left a lasting and distinguished legacy to the American people.

Carl Durham served in the Congress for 22 years, encompassing two of the most momentous decades in American and world history, marked by the Second World War and its aftermath, and by the coming of age of atomic power as a crucial factor in the life of the globe.

He served twice—in the 82d and 85th Congresses—as chairman of the Joint Atomic Energy Committee and three times—in the 81st, 84th, and 86th Congresses—as vice chairman. At the time of his retirement he was the third Democrat in seniority on the House Armed Services Committee.

His life-long concern was for the security of America in a world troubled by war and rumors of war. At the same time he recognized and championed the cause of civilian control and direction for the immense potential in the Nation's atomic energy resources. Time and history have indicated his leadership and his immeasurable service to the Nation.

Carl Durham was elected to the 76th Congress in 1938, representing the old Sixth District of North Carolina. In that election the Democratic nominee died 12 days before the general election. Carl Durham was selected by the District Democratic Congressional Committee to take the place of the deceased nominee. He served with such great distinction that he was elected to no less than 10 succeeding Congresses until his voluntary retirement from public service in 1961.

He became a member of the Joint Committee on Atomic Energy when it was established in 1946. He and the late Senator O'Brien McMahon are widely credited with influencing President Truman's historic decision to develop the hydrogen bomb. He was a leader in the victorious congressional battle to establish the Atomic Energy Commission as a civilian agency in keeping with American traditions of ultimate civilian responsibility and authority.

Born in Orange County in 1892, he graduated in 1917 from the University of North Carolina, where he had majored in pharmacy. During the great war he served as a pharmacist's mate in the U.S. Navy. After the war, he settled in his beloved Chapel Hill and engaged in the practice of pharmacy. His political interest developed in this period, and he served on the Chapel Hill City Council and the district school board. He was also elected a city commissioner.

Much loved by the people of his community, Durham was an ideal choice for the situation created by the passing of the regular Democratic nominee in 1938. When he retired in 1960, filled with years and with the wisdom that comes from experience, he returned to the people of the State he loved and which he had served so well, and to the town of Chapel Hill in the district I have the honor to represent, where his notable career had begun. It was a serene and dignified close to a life of service, a life which no man can fully or adequately measure.

On the Armed Services Committee he was ever a vigorous advocate of American strength, believing that the best defense for lasting peace is the maintenance of a powerful military deterrent.

At the same time he was a tireless supporter of the cause of peace, and sought international cooperation in the development of peaceful uses for nuclear energy in behalf of all mankind. He was a key figure in the passage of the Euratom Act in 1958, which made possible joint measures by this country and the European nations looking toward the peaceful development of nuclear energy in ways which would serve the well-being of humanity. In our day the importance of this act, in terms of nuclear power and the petroleum crisis, can hardly be exaggerated.

With all of these and other achievements, Carl Durham retained the modesty and humility which had always been characteristic of his life. He preferred to work quietly in this House through the established channels of committee and cloakroom. Of him it could be said:

> There is one that keepeth silence, and is found wise (Ecclesiasticus 20:5).

His advice and counsel were widely sought and respected even after he had retired from Congress, and he could say with Job:

> Men . . . kept silence at my counsel (Job 29:21).

Indeed, he continued to follow public affairs with keen and unflagging interest.

His passing is truly a great loss to me personally, to the constituents he loved and served, to the people of Chapel Hill and the many students and faculty of the university, to his State, and to the Nation. Integrity and statesmanship are two qualities not always found together. In him they were happily blended.

To his wife and children I convey my own deep sympathy in their and our loss, knowing that they are comforted and strengthened in a troubled time by the memory of his life and work. His memorial is written in the Book of Proverbs:

> The memory of the just is blessed (Proverbs 10:7).

Mr. Speaker, at this point I would like to include two articles published by the Chapel Hill newspaper concerning our departed colleague, Carl Thomas Durham:

CARL DURHAM STOOD AMONG THOSE GIANTS

When you look at today's Washington with its poisoned political air and the issue of impeachment hanging incredibly over the nation's capital, you can appreciate all the more the kind of Congressman Carl Durham made us.

In twenty-two years in the House of Representatives, no hint of scandal ever touched him. Some might have faulted him for his plain and rambling oratorical style and his political charisma, which compared with that of a comfortable old shoe. But no one ever questioned that plain and simple honesty and flinty integrity. Some mistook his quiet and thoughtful approach to congressional positions for plodding and indecision, and his reluctance to yield, once a position had been taken, for muleheadedness. But that was simply his way. To him, it was the substance not the style that mattered. He was incapable of glibness and political doubletalk, and as a result there was never any doubt as to where he stood. Once he knew which way he was going to go, then you knew, and that was that. Lobbyists, political leverage, and other pressures were totally lost on him as he arrived at his own solemn judgment. And that judgment invariably was rooted in what he thought was right—for his own constituency, for North Carolina, and for the country, never for his own political comfort.

Carl Durham would have been an anachronism in today's political scene for several reasons. Take his campaigns for re-election, if you could call them that. His attitude was worse than casual; it seemed to be downright indifferent. Here his challenger would be hustling all over the district (the old Sixth, embracing Durham, Orange, Alamance, and Guilford) speechifying, shaking hands, stoking barbecue, and generally doing those things expected of a supercharged campaigner. The Congressman usually responded with a front-porch effort. He would come down from Washington when congressional work permitted, amble about the District saying howdy if he felt the urge, and let it go at that.

His campaign style was often unsettling to his supporters. In one re-election bid, when many figured he was faced with a serious challenge, a group of the faithful in Durham raised $20,000, a substantial sum in those days, for a campaign war chest. The Congressman didn't touch the money, and won going away.

In another season, organized labor, which never counted Carl Durham as a dear friend, talked Uncle Ralph Scott, the plain-spoken State Senator from Alamance, into challenging the Congressman. Uncle Ralph's brother Kerr was a United States Senator at the time and he offered a helping hand. He sent down one of his staff members to organize Uncle Ralph's campaign and otherwise lent his considerable influence and Senate resources to beef up the challenge. On the face of it, this figured to be Carl Durham's most serious reelection test. When he finally got around to it, the Congressman mounted his usual non-campaign and literally stomped poor Uncle Ralph.

The Congressman never broke a sweat seeking re-election, taking the position that people knew who he was and what he stood for. If they wanted him to continue, fine; if they didn't, well that would be all right too. The secret to his unbroken string of successes was that people trusted him. They knew him to be a man of great character. They knew they could count on him to do the right thing as he saw it, which happened usually to be the way they saw it too. He never once betrayed their trust, and that's why the people kept on sending him back to Washington term after term until he finally decided to call it a day.

There were giants in Congress in those days—Sam Rayburn, Muley Bob Doughton, Bob Clark—and Carl Durham was one of them. We look at the congregation up there now and wonder where they all went.

Once out of it, Carl Durham turned his attention to the place he had always loved best, Chapel Hill. He had all those rich memories and he worried like the rest of us about where the country was headed, but he never looked back with longing. He had done what he set out to do and he had done it uncommonly well. In his winter years he was, as much as anyone we have never known, a man completely fulfilled.

CARL DURHAM POSSESSED AFFECTION, RESPECT

Carl Durham was a native of the White Cross community six miles west of Chapel Hill, the oldest of nine children born to Claude and Delia Ann Lloyd Durham. He was born Aug. 28, 1892, in the house his great-great-great-grandfather, Matthew Durham, built in 1734 when he moved from New England to settle on the plantation near the Haw River.

Mr. Durham was reared in a farm family amidst four-cent cotton and in his boyhood days split crossties and harvested wheat with a cradle. He attended White Cross School and then Manndale Academy at Saxapahaw where he played on the first high school football team in the state. He also pitched and played first base on the baseball team.

In the summer of 1913 he moved to Chapel Hill to work at Eubanks Drugstore. Preparing to enter the University in 1915, he borrowed $50, thinking "it was an awful lot of money. . . ." To pay his way through the University he kept up with his $20 a month job in the drugstore and supplemented that salary waiting on tables at the University Inn. As a student at Carolina he was vice-president of his pharmacy class and a member of Kappa Psi pharmacy fraternity.

IN NAVY

On New Year's Day, 1918 he enlisted in the Navy, serving as a pharmacist's mate in the Navy Hospital Corps for the final period of World War I. He was released on Christmas Eve that same year. Less than a week later—on Dec. 30, 1918, he married Margaret Joe Whitsett of Guilford County, and began his professional career as a pharmacist for Eubanks Drugstore in Chapel Hill.

The Durhams had five children: Celia (Mrs. Gregg Murray) who died in 1971; Mary Sue (Mrs. Willard Sessler of Asheville), Carl Durham Jr. of Wilmington, Peggy (Mrs. Joe Thomas Wall of Chapel Hill) and Ann Durham Wyatt of Durham. Mrs. Durham died on Jan. 10, 1953. On June 8, 1961, he married Mrs. Louise Ashworth Jefferson of Chapel Hill. They have between them eight children and 26 grandchildren.

Mr. Durham quickly became a leader in community affairs of Chapel Hill. He had helped organize the Men's Bible Class at University Baptist Church in 1914 and been its president, as well as a deacon in the Church. He was a member of the Chapel Hill Board of Aldermen 1921–30 and on the Chapel Hill School Board 1924–38, and served eight years on the Orange County Board of Commissioners. He was also a charter member of the White Cross Junior Order of United American Mechanics, a member of University Lodge No. 408 of Masons in Chapel Hill, and a charter member and Commander of Chapel Hill Post No. Six of the American Legion.

Chapel Hill Weekly Editor Louis Graves wrote of him in 1937: "When two citizens of Chapel Hill get into a discussion about some community enterprise or affair—like the school for example, or street improvement, or the public health or unemployment—before they get through, one of them is more than apt to say 'What does Carl Durham think about it?' Carl Durham possesses the affection and respect of Chapel Hill to a remarkable degree. Absolute integrity, an ever lively public spirit, sound judgment, kindliness to all comers, no matter what their station, an utter simplicity in speech and manner—these qualities have endeared him to everybody in the village. . . . He just wants to give all the help he can. No man was ever more faithful to the ideal expressed in the words: Public office is a public trust."

He was elected to the UNC Board of Trustees in 1937 and served many years. His alma mater honored him in 1958 with an honorary doctorate of laws.

Politics was an avenue to public service for Carl Durham. He had served on the State Democratic Executive Committee and managed the Congressional campaigns in Orange County of Frank Hancock of Oxford and William Umstead of Durham.

Umstead's retirement at the end of his term in 1938 was the beginning of Mr. Durham's Congressional career.

He was familiar with the "New Deal" even before going to Washington. Mr. Durham was Chairman of the Orange County Board of Commissioners three years before the Rural Electrification Act was passed in 1935. He proposed and won $22,000 federal aid in the depths of the depression for a rural electrification line in the Calvander-Orange Grove area of Orange County—the first rural electrification project in the country.

An extraordinary chain of events led him to Congress. Judge Lewis Teague of High Point, the Democratic nominee for Congress, died 12 days before the general election of Nov. 8, 1938. There was no Republican candidate. Teague had defeated Oscar Barker of Durham by a slim margin in a second primary election that spring.

DEADLOCKED

The party's executive committee—one member each from the four counties of the old Sixth District—Durham, Orange, Alamance, and Guilford Counties—met in Greensboro all day on Halloween, Oct. 31. They were completely deadlocked, first on personalities, then as to what section of the district they should consider for their choice.

On the morning of the second day of their secret deliberations in the Guilford County Courthouse a movement started in Chapel Hill in behalf of Carl Durham. Mr. Durham himself later related in this way:

"I was swatting flies in the drug store window and looked up and saw Umstead (Orange County Rep. John W. Umstead Jr.) coming in the door. He asked 'Do you want to go to Congress?' 'What kind of liquor have you been drinking?' I said."

In the meantime Mr. Umstead and another local political wheel-horse, Frederick O. Bowman, had contacted an Alamance County friend and also wired their suggestion to the Orange County member of the nominating committee in Greensboro, UNC Journalism Prof. Oscar J. (Skipper) Coffin, who shortly presented Durham's name for the first time as "the best citizen in the Sixth District." At 4 p.m. the committee unanimously nominated Mr. Durham.

Mr. Durham learned of his appointment, to his surprise, when called by a Greensboro Daily News reporter late that afternoon. Editor Graves called his selection "the most dramatic incident in the field of politics in the history of Chapel Hill. Mr. Durham was not just a dark horse—he was super-dark. His name was not even mentioned until the second day of the troubled deliberations." An hour after learning of his nomination, though, Mr. Durham was still at work in Eubanks Drugstore, filling prescriptions and mixing sodas.

TO CONGRESS

John Umstead came into the store with a typed acceptance statement for him to sign. Mr. Durham agreed to serve for one term. As Umstead left the Congressman-nominate told him "Wait a minute—the least I can do is give you three cents for postage on that acceptance letter." Mr. Umstead laughed and accepted the pennies as he headed for the post office.

Thus Mr. Durham went to Congress for the first of his 22 years and 11 terms without a campaign. He had never been defeated in a political contest to that time and he never was later. Though he had serious opposition for re-election several times, he also ran twice with no opposition at all. In the few days after his selection in 1938 and before the general election some people started a write-in campaign for Oscar Barker, the runner-up to the deceased Teague, but it didn't develop significantly. So Carl Durham went to Washington on New Years Day, 1939, to accept the oath of office as a member of the 76th Congress. He noted later that he returned to the capital city 20 years after going there as a naval volunteer in World War I—when President Franklin D. Roosevelt, then Assistant Secretary of the Navy, was also his "boss."

Shortly after becoming a Congressman, when he returned home for the weekend, he was asked how he liked his new $10,000 a year job. "I like it fine," he replied, "but of course I'm used to drudgery."

In Washington Mr. Durham quickly made friends with another freshman Congressman, Lyndon Johnson of Texas, and both became charter members of the Joint Atomic Energy Committee in 1945.

Although generally considered a conservative, Rep. Durham through the years voted for more liberal measures than most of his fellow Tar Heel Congressmen. His four-county Piedmont North Carolina district was the most urban and largest in population in the state. The Congressman noted frequently that it was "the best educated," too, in that it had 10 colleges within its borders, a fact he also held to be a record.

As his first term drew to a close, Carl Durham was making a good record as a neophyte Congressman. House Speaker William Bankhead of Alabama said of him, "He has by his modesty and efficiency endeared himself to all of those who have worked with him in Washington." In Chapel Hill three of his friends, banker W. E. Thompson, druggist Clyde Eubanks, and UNC Medical School Dean Dr. Wm. B. Mac Nider got together to become his first campaign committee. They published a modest pamphlet urging his reelection "as a man of conscience, charity, capacity and courage . . . the type of man we want to represent us in Washington now and for a long time to come."

Rep. Durham gained a reputation as a "champion non-campaigner." John Umstead said of him, "Carl didn't make many speeches and I doubt if he kissed one baby in the 22 years he was in Congress, but he was never too busy to listen to somebody from his district." The Congressman himself said he campaigned in his own way: "I go to a lot of homecomings and family reunions." A friend suggested "this noiseless type of campaign seemed to suit him best."

From his earliest days in Congress. Mr. Durham generally supported President Franklin Roosevelt's "New Deal" programs. In the popularly pacifistic era of the late '30s he supported revision of the Neutrality Act and was a partisan of military preparedness as a member of the House Military Affairs Committee.

When World War II came he sponsored a bill creating the U.S. Army Pharmacy Corps. As a member of the House Armed Services Committee he started an investigation that resulted in the reform of the Army court-martial system.

Once during the war he had a narrow escape, traveling by plane on a Congressional Committee tour of South American military bases. The pilot discovered the plane had been sabotaged and the cotter pins taken out of the wings, eliminating the craft's speed control. He landed the plane at full speed, losing the wings, but avoiding injury to all aboard.

At the end of World War II Congressman Durham was appointed to the new Joint Atomic Energy Committee. He took great interest in this powerful body's work through the years, later becoming its acting chairman as senior member. "The human race cannot afford an atomic war," he said. He believed that the U.S. should share nonmilitary atomic materials and know-how with other nations of the world, and sponsored the original atomic energy act that kept control of atomic energy out of the military realm. In later years he came to regard his work on that program as his outstanding accomplishment in Congress.

He worked for government development of atomic power for peace-time industrial use, but also urged development of the hydrogen bomb. In 1951 he sponsored a House resolution calling for a six-fold expansion of American atomic programs.

Through his years in Washington Rep. Durham generally supported the Democratic administration's programs, opposed limiting foreign relief, supported economic assistance to other countries, favored extension of Selective Service, and in 1950 sponsored civil defense legislation. In 1951, noting the rising tide of narcotic addiction in the country, he coauthored a bill tightening drug laws. He won unanimous approval in the House of a 1949 bill calling for a $161 million radar network around the U.S. and Canada. "It seems to give more protection for less money than anything else I have seen," he said. Later in the year he held hearings on a bill to commit $300 million over a five-year period for development of a supersonic aircraft.

He attended the first meeting of the International Atomic Energy Agency in Vienna in the summer of 1957 and was a delegate to the Atoms for Peace Conference in Geneva in the summer of 1955.

In 1957 he opposed federal aid for school construction, along with all North Carolina Congressmen, but he later changed his mind on this issue.

Rep. Durham was a good friend of both Presidents Roosevelt and Truman. Of FDR during World War II, he recalled, "He would tell us stories about the war . . . and he could drink everyone else under the table. He was confined to a wheel chair, so it didn't matter how much he drank, and he took advantage of it. His wartime colleague in Congress, Sen. Harry Truman, reminded him that he'd trained in World War I as an artilleryman at Camp Butner. Truman was also a Civil War buff and amateur historian, as was Mr. Durham.

In 1964, Mr. Durham was elected honorary President of the American Pharmaceutical Association, and later accepted appointment as a special consultant to the body.

In his retirement years he continued to enjoy his hobbies—particularly his lifetime avocation of tramping through the woods around White Cross, cultivating wild turkey areas and hunting turkey, coons, and birds. He also enjoyed his growing collections of works of fine art, antiques, pipes, guns, and canes.

Mr. SIKES. Mr. Speaker, it is with a deep sense of loss that I join this tribute today to the late Carl Thomas Durham, of North Carolina, with whom I served on the Armed Services Committee and with whom I was privileged to work closely during his distinguished service in this Congress.

When I came to Congress in 1941, one of the first men I met was Carl Durham. I quickly grew to respect him. He had come to Congress 2 years before and already he was in the forefront of those who were helping in the great effort to strengthen America's defenses in the hectic period just prior to World War II. During the entire period of World War II, and indeed throughout his service in Congress, Carl Durham gave freely of himself to help insure a strong, free, and independent America. He worked for the weapons we needed during time of war. In the tense peace which followed, he was equally concerned that we should remain strong in the face of the Soviet threat.

He had a long and distinguished career of public service, first serving as a member of the Chapel Hill City Council, then on the Board of County Commissioners of Orange County, and finally on the school board of Chapel Hill before coming to Congress.

Carl Durham's services in the Congress were sound and noteworthy. He was conscientious in his efforts to do the things that were best for America and right for those he served. None here could do more than Carl Durham to bring credit to the Congress and to himself.

Mr. PERKINS. Mr. Speaker, it was my privilege to serve in the House for 12 years with Carl T. Durham before he retired in 1961.

The description of Carl Durham that occurs most readily to me is that he was a man of principle. The House was never under any misunderstanding about where he stood, or why he stood there.

He was conservative in the sense that the Founding Fathers were conservative. But he was never one to confuse the meaning of conservatism with blind opposition.

Carl Durham was a constructive force in this House, and the service he rendered as a member and as chairman of the Joint Committee on Atomic Energy greatly aided in the development of American strength.

He was a great gentleman whose presence added character to the House, and whose life reflects credit upon the people of North Carolina he loved and represented so well.

Mr. HOSMER. Mr. Speaker, the late Carl T. Durham was one of the finest gentlemen I ever knew. He was a true Southern gentleman, kindly, courtly, and wise. During service with him on the Joint Committee on Atomic Energy, I came to know him well and admire him deeply. Now that he is gone, like thousands of others whose lives he touched for better, I shall miss him sorely.

An insight from the perspective of the early days of the Joint Committee on Atomic Energy and, even before that, his life in North Carolina, was given recently by Richard Arlen Smith, editor and publisher of Water Desalination Report. Smith, as a boy and young man, knew Carl Durham in the South and later, in Washington as a member of the JCAE staff, worked under his guidance.

Mr. Smith in the May 9 issue of Water Desalination Report wrote of Carl Thomas Durham as follows:

> Carl Thomas Durham, original member of the Senate-House Committee on Atomic Energy, its chairman twice, died at age 81 last week in Duke University Hospital at Durham, N.C. Durham's effort and political clout initiated much of the legislation in the late 40's and throughout the 50's which paved the way for the military atom to go peaceful, including civilian nuclear power, desalting ocean water and their dual applications. Few would doubt the AEC and the powerful Joint Committee's interest and magic of the words "nuclear power," in those days provided much of the impetus for the Federal desalting program set-up in Interior Dept. finally.
>
> Tall, handsome, gentle and slightly taciturn, Durham's genius as a member of the House of Representatives from 1938 until retiring in 1961, from Chapel Hill, N.C. representing the sixth N.C. Congressional District, was for getting things done, effectively, quietly and without the usual hullabaloo and fanfare associated with political outings. For example, he would've known what to do and had the muscle, i.e. votes, to prevent present disintegration of the desalting program.
>
> The greats. He moved in political and social circles of the greats of the day, including Sam Rayburn, Jimmy Byrnes, Carl Vinson, newcomer Sam Ervin, Harry Truman and young Lyndon Johnson. Wayne N. Aspinall and Craig Hosmer, who served with him on the Joint Committee, liked his style, sought his support and took many cues from Durham. Of them all, Durham once confessed, "My best political friend is Chet Holifield," who he groomed as his successor on JCAE.
>
> Durham was the prototype conservative Southern Democrat, the kind passed-by and scorned these latter days, but it didn't keep this editor from learning from him, admiring and loving him all his life, from the time he used to sit on his knee. Once he came and lectured at High Point, N.C. High School in the mid-40's, on the scene in Washington. He said when he came to Congress in 1938 the Federal budget was $8 billion, that Roosevelt's works program had just completed the Interior Dept. bldg. for $13 million. He said at the time, "All this tendency to growth, greater spending and bigger and bigger, remember it doesn't necessarily mean progress or a better life." This yr., the Federal budget at $304.4 billion, it seems Durham may have made a lasting, true statement back there in High Point.
>
> Something from and for the people, the miserable taxpayer like you and me, a giant as it were, has passed from the scene.

[From the Chapel Hill Newspaper, Apr. 30, 1974]

DURHAM FUNERAL SERVICES WILL BE HELD WEDNESDAY

Funeral services for former Congressman Carl T. Durham will be held at 2 p.m. Wednesday in University Baptist Church by the Rev. Henry Turlington. Burial will be in Antioch Baptist Church cemetery.

Mr. Durham, 81, who went to Congress from Chapel Hill in 1938 and served 11 consecutive terms, died yesterday morning after being critically ill for seven weeks.

"Carl Durham was a distinguished citizen of North Carolina and the nation," UNC President William Friday said this morning. "He rendered notable service in the Congress and to the people of this district. He was a deep and valuable friend and he will be greatly missed by all of us."

Second District Congressman L. H. Fountain is the only current member of the North Carolina House delegation who served there during Mr. Durham's 22-year tenure. A good friend and visitor to the former Congressman in Chapel Hill, Congressman Fountain announced Mr. Durham's death on the floor of the House yesterday and said he would prepare a eulogy for insertion into the Congressional Record.

"I have known few men who wielded the influence that Carl Durham did as a Congressman, who were also so compassionate," Congressman Fountain said. "He was usually the spokesman in the House for issues coming from the Atomic Energy Committee, and there was seldom any debate on his recommendations, nor any questions of him because the House respected his views on this legislation so completely."

Congressman Fountain also cited Mr. Durham's effective stewardship of bills that affected his four-county Sixth District and the state of North Carolina.

Collier Cobb Jr. of Chapel Hill managed one of Mr. Durham's campaigns for re-election and was a close personal friend.

"Carl Durham was one of my most devoted friends and he was a gerat fellow," Cobb said. "He deserved an awful lot of credit. His was truly a success story in the finest American tradition.

"He was absolutely determined to be a success in the Congress, and he did it in a grand way. The remarkable record he made in Washington was outstanding by any measure."

In addition to his widow, Mrs. Louise Durham, Mr. Durham is survived by three daughters, Mrs. Williard Sessler of Asheville, Mrs. Joe Wall of Chapel Hill and Mrs. Robert Wyatt of Durham; one son, Carl T. Durham Jr. of Wilmington; one stepdaughter, Mrs. Frank Gossett of Charlotte; two stepsons, Bill Jefferson of Boston, Mass., and Clyde Jefferson of Chapel Hill; four sisters, Mrs. Tom Andrews, Mrs. Maude Durham and Mrs. Aubrey McLennon, all of Chapel Hill, and Mrs. William Lloyd of Raleigh, and two brothers, Alton Durham of Chapel Hill.

The family will receive friends from 7 to 9 tonight in Walker's Funeral Home.

Pallbearers at Mr. Durham's funeral will be Dr. Ed Hedgpeth, Tony Gobbel, Ben Courts, Roy Lloyd, Roland Giduz, Paul Cheek, Walter Rabb and Dr. Tyndall Harris.

[From the Washington Post, May 1, 1974]

EX-REPRESENTATIVE CARL T. DURHAM DIES; HEADED ATOMIC ENERGY PANEL

(By Jean R. Hailey)

Former Rep. Carl T. Durham (D-N.C.), who was twice chairman of the Joint Congressional Committee on Atomic Energy, died Monday in Durham, N.C. He was 81.

In declining health for several years, Durham, who lived in Chapel Hill, had been hospitalized at the Duke University Medical Center for the past seven weeks.

He had served in Congress from 1938 until retiring in 1961 at the end of his 11th consecutive term. During that period, he had represented North Carolina's Sixth District.

A tall, quiet man, who operated mostly behind the scenes, Mr. Durham had served on the Powerful Joint Atomic Energy Committee from the time it was established in 1946.

Earlier, he had been a member of the old House Military Affairs Committee and in that capacity had fought a proposal to leave the Atomic Energy Commission largely in military hands.

The battle was lost in committee and on the House floor but was finally settled by Senate-House conferees, of which Mr. Durham was a member. The AEC became a civilian establishment.

As a member of the Joint Committee, Mr. Durham was credited with strongly influencing President Truman in deciding to develop the hydrogen bomb.

Mr. Durham, who was also a top-ranking member of the House Armed Services Committee, was a strong proponent of the development of atomic energy for peaceful uses.

A pharmacist by profession, he was born on a farm in Orange County, N.C., and graduated from the University of North Carolina.

He had worked in a drugstore while attending the university in Chapel Hill and opened his own pharmacy there after serving as a pharmacist's mate in the U.S. Navy in World War I.

Mr. Durham became interested in politics after the war. He served as a member of the city council of Chapel Hill from 1924 to 1932, as a member of the Orange County Board of Commissioners from 1932 to 1938, and as a member of the Chapel Hill school board from 1924 to 1938.

He also had been a trustee of the University of North Carolina.

[From the Washington Star-News, Apr. 30, 1974]

EX-REPRESENTATIVE CARL DURHAM DIES; FOUGHT FOR CREATION OF AEC

Former Rep. Carl T. Durham, D-N.C., 81, one of the leaders in congressional battles for civilian control of the nation's atomic energy, died yesterday in a Durham, N.C., hospital.

Mr. Durham, twice chairman of the Joint Committee on Atomic Energy, served in the House for 22 years before retiring in 1961. In announcing his retirement he told newsmen. "The time comes when you have to step down. I've seen too many hang around until they were decrepit." He then was the third Democrat in seniority on the House Armed Services Committee.

Mr. Durham became a member of the Joint Committee on Atomic Energy when it was established in 1946. Working mostly behind the scenes, in committees and cloakrooms, he seldom spoke from the House floor.

He and the late Sen. Brien McMahon, D-Conn., were credited with influencing President Truman's decision to develop the hydrogen bomb and also fought for the establishment of the Atomic Energy Commission as the civilian agency that it eventually became.

A native of Orange County, N.C., Mr. Durham was a pharmacist in Chapel Hill before entering politics. He served on the Chapel Hill City Council, the district school board and as Chapel Hill city commissioner before his election to Congress, in 1938.

In that election the Democratic nominee died 12 days before the general election and Mr. Durham was selected by the district Democratic congressional committee to take *the place* of the deceased nominee. There was no Republican opposition.

North Carolina's old 6th District he represented was formed from Orange, Durham, Alamance and Guilford counties.

Mr. Durham held a pharmacy degree from the University of North Carolina. During World War I he served in the Navy as a pharmacist's mate and after the war he became interested in politics.

[From the News and Observer, Apr. 30, 1974]

Former Congressman Carl Durham, 81, Dies

Durham.—Former U.S. Rep. Carl T. Durham, a Democrat who represented North Carolina's old 6th District for 22 years and then retired at the height of his career in 1961, died Monday at Duke University Medical Center.

A hospital spokesman said Durham, 81, had been in the hospital since March 10 and had been in declining health. Death came at 9:15 a.m., the spokesman said. Some members of his family were at his bedside.

Durham was first elected to the House in 1938 under unusual circumstances. The Democratic Party's nominee died 12 days before the general election, and a four-man nominating committee chose Durham to take the dead man's place on the ballot. There was no Republican opposition.

Durham then was elected to 10 more terms. His district included Orange, Durham, Alamance and Guilford counties.

During Durham's years in Congress, the United States went through a world war, entered *the* nuclear age and gradually began feeling its way into the space age.

He was twice chairman of the Joint Atomic Energy Committee and headed an early space committee. He was vice chairman of the House Armed Services Committee.

In January 1961, Durham did what many politicians only talk about. He retired to "spend more time with my grandchildren."

In 1959, announcing his plans to retire at the end of the term he was then serving, *Durham, then 66,* told newsmen: "I have seen too many members hang on until they become decrepit. When my term expires, I plan to go back to Chapel Hill and enjoy myself."

Durham was active in retirement. His days were mostly filled with hobbies—golf, hunting, woodwork. In 1963, he told The Associated Press, "I'm enjoying myself, taking my time about doing things I've always wanted to do, some of them going back to when I was a child."

Durham, an Orange County native, served in the Navy during World War I.

He was a graduate of the University of North Carolina School of Pharmacy, and before his election in 1938, Durham worked as a pharmacist at Eubanks Drug Store in Chapel Hill. Although he had held numerous city and county offices since 1922, he was relatively unknown outside Orange County in 1938.

A funeral service will be held at 2 p.m. Wednesday at University Baptist Church in Chapel Hill. Burial will be in Antioch Church cemetery.

Surviving are his widow, Mrs. Louise Jefferson Durham; son, Carl T. Durham Jr. of Wilmington; daughters, Mrs. Williard Sessler of Ashville, Mrs. Joe Wall of Chapel Hill and Mrs. Robert Wyatt of Durham; stepsons, Bill of Boston, Mass., and Clyde Jefferson of Chapel Hill; stepdaughter, Mrs. Frank Gossett of Charlotte; sisters, Mrs. Tom Andrews, Mrs. Maude Durham and Mrs. Aubrey McLennon of Chapel Hill and Mrs. William Lloyd of Raleigh; brothers, Alton and Bernard Durham of Chapel Hill; 22 grandchildren.

Carl Durham Possesses "Absolute Integrity, Sound Judgment, and Sincere Kindliness to All Comers"

Carl Durham was a native of the White Cross community six miles west of Chapel Hill, the oldest of nine children born to Claude and Delia Ann Lloyd Durham. He was born Aug. 28, 1892, in the house his great-great-greatgrandfather, Matthew Durham, built in 1734 when he moved from New England to settle on the plantation near the Haw River.

Mr. Durham was reared in a farm family amidst four-cent cotton and in his boyhood days split crossties and harvested wheat with a cradle. He attended White Cross School and then Manndale Academy at Saxapahaw where he played on the first high school football team in the state. He also pitched and played first base on the baseball team.

In the summer of 1913 he moved to Chapel Hill to work at Eubanks Drugstore. Preparing to enter the University in 1915, he borrowed $50, thinking "it was an awful lot of money. . . ." To pay his way through the University he kept up with his $20 a month job in the drugstore and supplemented that salary waiting on tables at the University Inn. As a student at Carolina he was vice-president of his pharmacy class and a member of Kappa Psi pharmacy fraternity.

IN NAVY

On New Year's Day, 1918 he enlisted in the Navy, serving as a pharmacist's mate in the Navy Hospital Corps for the final period of World War I. He was released on Christmas Eve that same year. Less than a week later—on Dec. 30, 1918, he married Margaret Joe Whitsett of Guilford County, and began his professional career as a pharmacist for Eubanks Drugstore in Chapel Hill.

The Durhams had five children: Celia (Mrs. Gregg Murray), who died in 1971; Mary Sue (Mrs. Willard Sessler of Asheville), Carl Durham Jr. of Wilmington; Peggy (Mrs. Joe Thomas Wall of Chapel Hill) and Ann Durham Wyatt of Durham. Mrs. Durham died on Jan. 10, 1953. On June 8, 1961, he married Mrs. Louise Ashworth Jefferson of Chapel Hill. They have between them eight children and 26 grandchildren.

Mr. Durham quickly became a leader in community affairs of Chapel Hill. He had helped organize the Men's Bible Class at University Baptist Church in 1914 and been its president, as well as a deacon in the Church. He was a member of the Chapel Hill Board of Aldermen 1921–30 and on the Chapel Hill School Board 1924–38, and served eight years on the Orange County Board of Commissioners. He was also a charter member of the White Cross Junior Order of United American Mechanics, a member of University Lodge No. 408 of Masons in Chapel Hill, and a charter member and Commander of Chapel Hill Post No. Six of the American Legion.

Chapel Hill Weekly Editor Louis Graves wrote of him in 1937: "When two citizens of Chapel Hill get into a discussion about some community enterprise or affair—like the school for example, or street improvement, or the public health or unemployment—before they get through, one of them is more than apt to say 'What does Carl Durham think about it?' Carl Durham possesses the affection and respect of Chapel Hill to a remarkable degree. Absolute integrity, an ever lively public spirit, sound judgment, kindliness to all comers, no matter what their stations, an utter simplicity in speech and manner—these qualities have endeared him to everybody in the village. . . . He just wants to give all the help he can. No man was ever more faithful to the ideal expressed in the words: Public office is a public trust."

He was elected to the UNC Board of Trustees in 1937 and served many years. His alma mater honored him in 1958 with an honorary doctorate of laws.

Politics was an avenue to public service for Carl Durham. He had served on the State Democratic Executive Committee and managed the Congressional campaigns in Orange County of Frank Hancock of Oxford and William Umstead of Durham.

Umstead's retirement at the end of his term in 1938 was the beginning of Mr. Durham's Congressional career.

He was familiar with the "New Deal" even before going to Washington. Mr. Durham was Chairman of the Orange County Board of Commissioners three years before the Rural Electrification Act was passed in 1935. He proposed and won $22,000 federal aid in the depth of the depression for a rural electrification line in the Calvander-Orange Grove area of Orange County—the first rural electrification project in the country.

An extraordinary chain of events led him to Congress. Judge Lewis Teague of High Point, the Democratic nominee for Congress, died 12 days before the general election of Nov. 8, 1938. There was no Republican candidate. Teague had defeated Oscar Barker of Durham by a slim margin in a second primary election that spring.

DEADLOCKED

The party's executive committee—one member each from the four counties of the old Sixth District—Durham, Orange, Alamance, and Guilford Counties—met in Greensboro all day on Halloween, Oct. 31. They were completely deadlocked, first on personalities, then as to what section of the district they should consider for their choice.

On the morning of the second day of their secret deliberations in the Guilford County Courthouse a movement started in Chapel Hill in Behalf of Carl Durham. Mr. Durham himself later related it this way:

"I was swatting flies in the drug store window and looked up and saw Umstead (Orange County Rep. John W. Umstead Jr.) coming in the door. He asked 'Do you want to go to Congress?' 'What kind of liquor have you been drinking?' I said."

In the meantime Mr. Umstead and another local political wheel-horse, Frederick O. Bowman, had contacted an Alamance County friend and also wired their suggestion to the Orange County member of the nominating committee in Greensboro, UNC Journalism Prof. Oscar J. (Skipper) Coffin, who shortly presented Durham's name for the first time as "the best citizen in the Sixth District." At 4 p.m. the committee unanimously nominated Mr. Durham.

Mr. Durham learned of his appointment, to his surprise, when called by a Greensboro Daily News reporter late that afternoon. Editor Graves called his selection "the most dramatic incident in the field of politics in the history of Chapel Hill. Mr. Durham was not just a dark horse—he was super-dark. His name was not even mentioned until the second day of the troubled deliberations." An hour after learning of his nomination, though, Mr. Durham was still at work in

Eubanks Drugstore, filling prescriptions and mixing sodas.

TO CONGRESS

John Umstead came into the store with a typed acceptance statement for him to sign. Mr. Durham agreed to serve for one term. As Umstead left the Congressman-nominate told him "Wait a minute—the least I can do is give you three cents for postage on that acceptance letter." Mr. Umstead laughed and accepted the pennies as he headed for the post office.

Thus Mr. Durham went to Congress for the first of his 22 years and 11 terms without a campaign. He had never been defeated in a political contest to that time, and he never was later. Though he had serious opposition for re-election several times, he also ran twice with no opposition at all. In the few days after his selection in 1938 and before the general election some people started a write-in campaign for Oscar Barker, the runner-up to the deceased Teague, but it didn't develop significantly. So Carl Durham went to Washington on New Year's Day, 1939, to accept the oath of office as a member of the 76th Congress. He noted later that he returned to the capital city 20 years after going there as a naval volunteer in World War I—when President Franklin D. Roosevelt, then Assistant Secretary of the Navy, was also his "boss."

Shortly after becoming a Congressman, when he returned home for the weekend, he was asked how he liked his new $10,000 a year job. "I like it fine," he replied, "but of course I'm used to drudgery."

In Washington Mr. Durham quickly made friends with another freshman Congressman, Lyndon Johnson of Texas, and both became charter members of the Joint Atomic Energy Committee in 1945.

Although generally considered a conservative, Rep. Durham through the years voted for more liberal measures than most of his fellow Tar Heel Congressmen. His four-county Piedmont North Carolina district was the most urban and largest in population in the state. The Congressman noted frequently that it was "the best educated," too, in that it had 10 colleges within its borders, a fact he also held to be a record.

As his first term drew to a close Carl Durham was making a good record as a neophyte Congressman. House Speaker William Bankhead of Alabama said of him, "He has by his modesty and efficiency endeared himself to all of those who have worked with him in Washington." In Chapel Hill three of his friends, banker W. E. Thompson, druggist Clyde Eubanks, and UNC Medical School Dean Dr. Wm. B. Mac Nider got together to become his first campaign committee. They published a modest pamphlet urging his re-election "as a man of conscience, charity, capacity and courage . . . the type of man we want to represent us in Washington now and for a long time to come."

Rep. Durham gained a reputation as a "champion non-campaigner." John Umstead said of him, "Carl didn't make many speeches and I doubt if he kissed one baby in the 22 years he was in Congress, but he was never too busy to listen to somebody from his district." The Congressman himself said he campaigned in his own way: "I go to a lot of homecomings and family reunions." A friend suggested "this noiseless type of campaign seemed to suit him best."

From his earliest days in Congress, Mr. Durham generally supported President Franklin Roosevelt's "New Deal" programs. In the popularly pacifistic era of the late '30s he supported revision of the Neutrality Act and was a partisan of military preparedness as a member of the House Military Affairs Committee.

When World War II came he sponsored a bill creating the U.S. Army Pharmacy Corps. As a member of the House Armed Services Committee he started an investigation that resulted in the reform of the Army court-martial system.

Once during the war he had a narrow escape, traveling by plane on a Congressional Committee tour of South American military bases. The pilot discovered the plane had been sabotaged and the cotter pins taken out of the wings, eliminating the craft's speed control. He landed the plane at full speed, losing the wings, but avoiding injury to all aboard.

At the end of World War II Congressman Durham was appointed to the new Joint Atomic Energy Committee. He took great interest in this powerful body's work through the years, later becoming its acting chairman as senior member. "The human race cannot afford an atomic war," he said. He believed that the U.S. should share non-military atomic materials and know-how with other nations of the world, and sponsored the original atomic energy act that kept control of atomic energy out of the military realm. In later years he came to regard his work on that program as his outstanding accomplishment in Congress.

He worked for government development of atomic power for peace-time industrial use, but also urged development of the hydrogen bomb. In 1951 he sponsored a House resolution calling for a six-fold expansion of American atomic programs.

Through his years in Washington Rep. Durham generally supported the Democratic administration's programs, opposed limiting foreign relief, supported economic assistance to other countries, favored extension of Selective Service, and in 1950 sponsored civil defense legislation. In 1951, noting the rising tide of narcotic addiction in the country, he coauthored a bill tightening drug laws. He won unanimous approval in the House of a 1949 bill calling for a $161 million radar network around the U.S. and Canada. "It seems to give more protection for less money than anything else I have seen," he said. Later in the year he held hearings on a bill to commit $300 million over a five-year period for development of a supersonic aircraft.

He attended the first meeting of the International Atomic Energy Agency in Vienna in the summer of 1957 and was a delegate to the Atoms for Peace Conference in Geneva in the summer of 1955.

In 1957 he opposed federal aid for school construction, along with all North Carolina Congressmen, but he later changed his mind on this issue.

Rep. Durham was a good friend of both Presidents Roosevelt and Truman. Of FDR during World War II, he recalled, "He would tell us stories about the war . . . and he could drink everyone else under the table. He was confined to a wheel chair, so it didn't matter how much he drank, and he took advantage of it. His wartime colleague in Congress, Sen. Harry Truman, reminded him that he'd trained in World War I as an artilleryman at Camp Butner. Truman was also a Civil War buff and amateur historian, as was Mr. Durham.

In 1964 Mr. Durham was elected honorary President of the American Pharmaceutical Association, and later accepted appointment as a special consultant to the body.

In his retirement years he continued to enjoy his hobbies—particularly his lifetime avocation of tramping through the woods around White Cross, cultivating wild turkey areas and hunting turkey, coons, and birds. He also enjoyed his growing collections of works of fine art, antiques, pipes, guns, and canes.

[From the Chapel Hill Newspaper, May 1, 1974]

CARL DURHAM STOOD AMONG THOSE GIANTS

When you look at today's Washington with its poisoned political air and the issue of impeachment hanging incredibly over the nation's capital, you can appreciate all the more the kind of Congressman Carl Durham made us.

In twenty-two years in the House of Representatives, no hint of scandal ever touched him. Some might have faulted him for his plain and rambling oratorical style and his political charisma, which compared with that of a comfortable old shoe. But no one ever questioned that plain and simple honesty and flinty integrity. Some mistook his quiet and thoughtful approach to congressional positions for plodding and indecision, and his reluctance to yield, once a position had been taken, for muleheadedness. But that was simply his way. To him, it was the substance not the style that mattered. He was incapable of glibness and political doubletalk, and as a result there was never any doubt as to where he stood. Once he knew which way he was going to go, then you knew, and that was that. Lobbyists, political leverage, and other pressures were totally lost on him as he arrived at his own solemn judgment. And that judgment invariably was rooted in what he thought was right—for his own constituency, for North Carolina, and for the country, never for his own political comfort.

Carl Durham would have been an anachronism in today's political scene for several reasons. Take his campaigns for re-election, if you could call them that. His attitude was worse than casual; it seemed to be downright indifferent. Here his challenger would be hustling all over the district (the old Sixth, embracing Durham, Orange, Alamance, and Guilford) speechifying, shaking hands, stoking barbecue, and generally doing those things expected of a supercharged campaigner. The Congressman usually responded with a front-porch effort. He would come down from Washington when congressional work permitted, amble about the District saying howdy if he felt the urge, and let it go at that.

His campaign style was often unsettling to his supporters. In one re-election bid, when many figured he was faced with a serious challenge, a group of the faithful in Durham raised $20,000, a substantial sum in those days, for a campaign war chest. The Congressman didn't touch the money, and won going away.

In another season, organized labor, which never counted Carl Durham as a dear friend, talked Uncle Ralph Scott, the plain-spoken State Senator from Alamance, into challenging the Congressman. Uncle Ralph's brother Kerr was a United States Senator at the time and he offered a helping hand. He sent down one of his staff members to organize Uncle Ralph's campaign and otherwise lent his considerable influence and Senate resources to beef up the challenge. On the face of it, this figured to be Carl Durham's most serious reelection test. When he finally got around to it, the Congressman mounted his usual non-campaign and literally stomped poor Uncle Ralph.

The Congressman never broke a sweat seeking re-election, taking the position that people knew who he was and what he stood for. If they wanted him to continue, fine; if they didn't, well that would be all right too. The secret to his unbroken string of successes was that people trusted him. They knew him to be a man of great character. They knew they could count on him to do the right thing as he saw it, which happened usually to be the way they saw it too. He never once betrayed their trust, and that's why the people kept on sending him back to Washington term after term until he finally decided to call it a day.

There were giants in Congress in those days—Sam Rayburn, Muley Bob Doughton, Bob Clark—and Carl Durham was one of them. We look at the congregation up there now and wonder where they all went.

Once out of it, Carl Durham turned his attention to the place he had always loved best, Chapel Hill. He had all those rich memories and he worried like the rest of us about where the country was headed, but he never looked back with longing. He had done what he set out to do and he had done it uncommonly well. In his winter years he was, as much as anyone we have ever known, a man completely fulfilled.

[From the Chapel Hill Newspaper, Apr. 29, 1974]

AFTER EXTENDED ILLNESS—CARL DURHAM DIES AT THE AGE OF 81

Carl T. Durham, whose Congressional career *spanned* 22 years, died this morning at 9:15 in Duke Hospital. He had been critically ill for several weeks.

Mr. Durham, a Democrat, first went to Congress from Chapel Hill in 1938 and served 11 consecutive terms.

Although he was generally considered a conservative during his years in the U.S. Congress, Mr. Durham voted for more liberal causes than his fellow North Carolina congressmen. He was a strong supporter of President Franklin Roosevelt's "New Deal" programs.

During World War II he served on the Armed Services Committee, where he introduced legislation creating the U.S. Army Pharmacy Corps and initiated reform for the Army court martial process.

He was a supporter of military preparedness as a member of the House Military Affairs Committee.

After the war he served on the Joint Atomic Energy Committee and became its acting chairman as senior member. He was a strong supporter of atomic energy for peacetime use.

Mr. Durham attended the first meeting of the International Atomic Energy Agency in the summer of 1957. He believed strongly that the U.S. should share non-military atomic energy information and later came to regard his contributions in this field as his most important.

He actively supported programs introduced by Democratic administrations, and was a close personal friend of both Franklin Roosevelt and Harry Truman.

Mr. Durham attended the University here, where he was vice president of his pharmacy class, and then served in the U.S. Navy as a pharmacist's mate during World War I.

He returned to Chapel Hill following the war to work as a pharmacist in Eubank's Drug Store and begin his political career.

He was a member of the Chapel Hill Board of Aldermen from 1921 to 1930 and a member of the School Board from 1924 to 1938. He served for eight years on the Orange County Board of Commissioners.

He was elected to the UNC Board of Trustees in 1937 and in 1958 was awarded an honorary doctor of laws degree by the University.

He was a member of University Baptist Church, where he helped form the men's Bible class and served as a deacon.

He was a Mason and a member of University Lodge No. 408. He was a past commander of Chapel Hill American Legion Post No. 6.

He was named honorary president of the American Pharmaceutical Association and later served as a consultant to that organization.

He is survived by his widow, Mrs. Louise Durham of Chapel Hill; one son, Carl Durham Jr. of Wilmington; three daughters, Mrs. Williard Sesslar of Asheville, Mrs. Joe Thomas Wall of Chapel Hill, and Ann Durham Wyatt of Durham; eight grandchildren and 26 great-grandchildren.

Funeral arrangements were incomplete this morning.

Mr. HENDERSON. Mr. Speaker, my first experience on Capitol Hill was as assistant general counsel to the House Committee on Education and Labor in 1951, 23 years ago.

At that time, my own Congressman, Graham Barden, was chairman of the Committee on Education and Labor. North Carolina also boasted three other outstanding committee chairmen in its delegation at that time. They were Harold Cooley, Agriculture; Herbert Bonner, Merchant Marine and Fisheries; and Carl Durham, the Joint Committee on Atomic Energy.

Carl Durham, whose memory we honor today, served in this House for 22 years. He was a gentle and compassionate man and one who felt deeply the responsibility to serve his constituents to the best of his ability.

Like my own predecessor, Graham Barden, he announced in 1960, that he would not be a candidate to succeed himself, and like Graham Barden, he returned to his home in North Carolina which he had never really left spiritually.

I am gratified by the fact that this man had the opportunity of enjoying more than 13 years of well-deserved rest and serenity following his service here.

He was not a spectacular person; not a shouter nor a publicity seeker, but he served his constituents in the Nation's greatest legislative body in a manner and with a dedication which is an example to all of us who knew him.

The House of Representatives is a better place for his service in it.

Mr. FLYNT. Mr. Speaker, I was saddened by the announcement of the death of our beloved and respected former colleague, the Honorable Carl Thomas Durham, late a Representative of North Carolina. I am grateful for the opportunity to join the distinguished gentleman from North Carolina and other colleagues in paying tribute to the life, character, and public service of this outstanding former Member of the House.

By any criteria and standards, Mr. Durham would be classified as a leader of the House of Representatives during his 22 years of service in this body. He was close to and representative of the people of his district and his State. He was a man of ability, character, and integrity. On many important and controversial issues he never hesitated to take a strong position. He was articulate as an advocate of legislation which he supported and was always able to capably defend that position.

At the time of his retirement from the House, he was vice chairman of the Joint Committee on Atomic Energy and a senior member of the House Committee on Armed Services. On these two committees, Mr. Durham served with distinction and dedication during a most critical period in our history both in the defense area and in the development of atomic energy.

Carl Durham made many contributions to the House of Representatives, the United States, to his native State of North Carolina, and the Sixth District which he represented with distinction and honor for 22 years. He was admired and respected by his friends and neighbors in his district and throughout the State of North Carolina. He was equally admired and respected by those colleagues who were privileged to serve with him in the Congress.

Mrs. Flynt joins me in extending to his family and loved ones our condolences and heartfelt sympathy.

Mr. ARENDS. Mr. Speaker, the loss of our friend and colleague, Carl Durham, is an event of special sadness to those of us who worked with him for the entire 22 years he served as a Member of this House, because we came to appreciate in full measure his many attributes as a legislator and as a man. His strength of character, his breadth of vision, his scope of knowledge, all gave substance to the fact that Carl was one of the truly great Members in the history of this body. He was a man of principle who shunned expediency; his word was his bond. Carl brought great credit upon himself, his district, his State, and his Nation for having served here.

Mr. Speaker, in recalling his many sterling qualities we do not overlook the charm and the wit which were so characteristic of Carl—and of which we were fortunate to have been among the beneficiaries. A true Carolina gentleman, Carl never wavered in his loyalty to his Carolina heritage. His positive view of life and the conduct of public affairs was a hallmark of his approach.

Mr. Speaker, you may recall that Carl and I were among the original members of the Armed Services Committee when it was established in 1947. Prior to that, we served together on the Military Affairs Committee for several years. Carl was assiduous in pursuing his committee duties, and he soon emerged as a leading figure in the formulation of our national defense policy—before, during, and after World War II. Not only did he favor a strong national defense, but he knew precisely what such a policy entailed in terms of men and weapons, as well as funds.

Mr. Speaker, our country, all of us, are the poorer today, because Carl Durham has departed, but we are the richer for his having been among us for a time.

GENERAL LEAVE

Mr. FOUNTAIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore (Mr. BRECKINRIDGE). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

LIMITING TENURE OF FUTURE PRESIDENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CHAMBERLAIN) is recognized for 30 minutes.

Mr. CHAMBERLAIN. Mr. Speaker,

several years ago, because of my deep concern about the division within the Nation over Vietnam, and after giving the matter much thought and study, I introduced an amendment to the Constitution to limit the tenure of future presidents of the United States to one term of 6 years. On the opening day of this 93d Congress, January 3, 1973, I reintroduced the same amendment which is House Joint Resolution 127.

Much has happened since that time to strengthen immeasurably the case for such a change.

Today, I would ask my colleagues, on both sides of the aisle, to reflect again on the merit of this proposal. And in doing so, I would ask that you take both a long view and a short view of American history.

Certainly, Mr. Speaker, the idea is not at all new. In fact, it is a very old suggestion. But being an old proposition does not necessarily make it a bad one. Indeed, the fact that it keeps coming back for reconsideration from time to time and is debated at intervals of a few decades shows that it attracts the attention of succeeding generations. It refuses to die.

As you may well know, the single 6-year term was debated at the constitutional convention of 1787. Considerable discussion of its merits took place at that time, and I think it is quite significant that well over 100 amendments to put it into effect have been offered since the Constitution became operative.

The suggestion has been supported by notable names in our history. President Jackson, President Polk, President William Henry Harrison, President Andrew Johnson, President Cleveland and President Taft all endorsed it at one time or another.

In 1912, the House Judiciary Committee recommended a single 6-year term. In its report it stated:

> The President should be ineligible to a second term, because being ineligible there will be no temptation improperly to use the powers and patronage of that exalted office.

The report also said:

> It will make the President the chief executive of the whole people and not the leader of a mere faction or the chief of a political party.

And in conclusion the committee commented:

> This amendment, if submitted and ratified, will increase the efficiency of the administration of the President; will remove the temptation to build up a political machine by the abuse of patronage and power; and save the President from the humiliating necessity of going to the stump to repel assaults made upon him.

A year later, in 1913, the Senate actually approved an amendment for a 6-year term, but President Woodrow Wilson objected to it, and it died on this side of the Capitol.

With the passage of time, the powers and responsibilities of the presidency have, of course, increased dramatically. If there were reason and justification for considering such a course of action 60 years ago, how much more justified we are in proposing a 6-year term today when the burdens of that high office have multiplied to previously unimagined complexity.

Several years ago, the majority leader of the Senate, Senator MANSFIELD, joined the Republican dean of that body, Senator AIKEN, to make an eloquent plea for such an amendment. In 1971, Senator MANSFIELD told a Senate subcommittee:

> It is just intolerable that a President of the United States—any President, whatever his party—is compelled to devote his time, energy and talents to what can be termed only as purely political tasks.

He added at a later point:

> Surely this amendment does not represent a panacea for these ills which have grown up with our system of democracy. But it would go far, I think, in unsaddling the presidency from many of these unnecessary political burdens that an incumbent bears.

One of the arguments frequently advanced against this proposition is a statement that it would make the President a "lameduck"—a person on his way out and with no political future, and supposedly, therefore, without incentive to do a good job.

At the outset let me reject such misuse of the label of "lameduck." By definition and generally accepted usage, a "lameduck" is an officeholder who has sought reelection and failed to win it. So the term is a misnomer when used in this particular context.

However, to answer the argument, let us use the term loosely. To those who have doubts about a single 6-year term for that reason, I would suggest that second-term Presidents are already "lameducks." This we did when we adopted the 22d amendment limiting the President to two terms. Therefore, it seems to me that the benefits of such an amendment would outweigh whatever we might lose by having so-called 6-year "lameducks" instead of 4-year "lameducks" as they may be called in their second terms.

Such a change would give our President more time to attend to his immeasurable and ever-growing duties—Chief of State, administrative head of the executive branch, Commander in Chief of the Armed Forces, architect of our foreign policy, as well as of the domestic programs to assure the well-being of the state of the Union, and the political head of his party. These are tremendous responsibilities in a world made more dangerous by intercontinental nuclear missiles and radically shrunken by jet aircraft, fantastic communications, and our recent space exploits. I believe that today, more than ever before, it is absolutely essential to minimize political demands on the President, so that he can devote his full attention to the affairs of state.

The amendment would minimize or remove a lot of uncertainty—for the President, for the Nation, and for the nations that deal with us.

Let us briefly examine another argument raised against such an amendment, some object to the proposal as removing the President from public accountability, making him unresponsive to a public which he will not have to face in another election. This is a valid concern, but not, I think, a real danger.

Any President wants to succeed in the office, and to succeed he must not only win, but he must have wide popular support for his recommendations and programs. Every President needs support in Congress which he cannot get if he alienates himself from the people. Every President desires the continued success of his political party and the philosophy it represents. This, too, requires popular support. Most Presidents will want to have some influence on the choice of their successors, and this, too, requires popular support. Finally, any President—being human—desires to be well thought of by his countrymen. He wants to be liked. All of these considerations will insure that a President, even under a single-term limitation, will be sensitive to the needs and wishes of the American people.

Then there is the notion that one 6-year term would "freeze in" poor Presidents by lengthening their term by 2 years.

It is my view that such an amendment would shorten, not lengthen, the tenure of Presidents since in actual practice the term of the Presidency has become a usual 8 years.

For more than 40 years, every American President, save one, has served more than 4 years in office. The one exception was President Kennedy, who was assassinated in this third year in office, and I am sure that most observers would readily concede that he would have been reelected for a second term.

What is known as "the power of the incumbency" is well exemplified in our presidency. Most Presidents want two terms and most Presidents get two terms. Their names become household words. They are followed by a press corps from throughout the Nation and the world. On short notice, their faces and their statements go into tens of millions of homes via television.

They become almost unbeatable. Their challengers have no such platforms until just weeks before the election date.

At this point in our history, it might be well to speculate on how different things might have been for the late President Lyndon B. Johnson and our incumbent President who succeeded him, Richard M. Nixon, had they been elected to single 6-year terms.

President Johnson, after winning election in his own right in 1964, promoted the "great society" as his major domestic program while the U.S. involvement in Vietnam steadily increased. The resulting combination of Federal spending set up tremendous economic pressures. Yet he refused, because of political considerations, to call for a tax increase to provide the revenue to meet those expenditures. Today we are still suffering from inflationary pressures that have ensued.

Indeed, one can go beyond domestic policy and build a strong case that the conduct of the war itself might well have gone differently and might have been concluded earlier. The intransigence of Hanoi would not have been buoyed by many of the uncertainties, including the possibility of a change of leadership.

Mr. Johnson, after he was out of office, indicated he had given a lot of thought to a single term and that he leaned that way. Here is what he said in a television interview of 1972 with Walter Cronkite of CBS News:

> I believe that if a man knew that he just had one term and he had to get everything

through in six years, that he didn't have to play to any political group and he didn't have to satisfy any segment of our society and this was the only chance he was going to have and he couldn't put it off, I think it would probably—and I say probably—be in the best interest of the Nation.

Mr. Speaker, let us now turn to a President of my own party, President Nixon, whose possible impeachment is under study by the Judiciary Committee of this House.

Had he been elected to a single 6-year term, I feel sure there would have been no Watergate. Certainly there would have been no "creep." There would have been no one raising campaign funds—legal or otherwise—for his reelection. There would have been no "political adolescents," in the phraseology of Vice President Gerald Ford, running the campaign and carrying out illegal and unethical acts.

Mr. Nixon would have been in a much better position to follow up on the brilliant initiatives he made with China and the Soviet Union. In addition, he would have had much more time to devote to his domestic programs and to work with the Congress in solving the multitude of problems we have right here at home.

We improved the Constitution, in my opinion, when we adopted the 22d amendment and limited our President to two 4-year terms.

We made a further improvement when we adopted the 25th amendment which was exercised for the first time last December in filling the Vice-Presidency. And in that amendment we also provided for the Vice President to become Acting President should the need arise—as it did arise with President Wilson and President Eisenhower, among others.

That is progress. That is giving substance to the oft-heard statement that our Constitution is a living document that can be changed to accommodate the needs of the times.

But it is not as much progress as the Congress is capable of providing, or as much as I believe the American people want and are ready to accept.

The Senate has enacted rather sweeping proposals to strengthen the laws govening campaign financing. That is all very well, and in due course I am sure this House will consider them and work its will. But as to the Presidential contest, it is my contention that these proposals treat the symptoms while ignoring the illness.

The Nation's needs and our recent traumas clearly indicate that we should abolish second-term Presidential elections. When we do that, and only then, will we be on the clear path toward the urgently needed and fundamental improvement in the highest political office in the land.

We need to get reelection activity out of the White House—and we need to get the White House out of reelection activity. And I mean really get it out, root and branch, just as much and just as soon as we possibly can, rather than camouflage it by sending it a few doors up Pennsylvania Avenue or over to the offices of the national political committees.

The time to move is now—while so much that is wrong under the present system is apparent to all and while the country not only is eager—but is, in fact, demanding, genuine election reform.

Now I am not advocating that there is any magic in the concept of one term of 6 years. As I view it, 6 years is simply a ccmpromise between 4 years and 8 years. If the Congress, in its wisdom, concluded that a single term of 4 years, or 5, would be better, that would be acceptable to me. My point is only this—that it is time for action—time to get some movement rolling.

But the principle that should not be compromised is the ending of all reelection activity by the President of the United States. In brief, and I would hope that there would be broad agreement on this, what I would like to do is to get the President down off the stump and give him more time to work on his job and in the interest of the country and of all our citizens.

The need is great. The time is right. It is my hope that we can get some action started yet this year.

Mr. Speaker, we owe it to the Presidency, but more importantly, I feel it is our obligation to the country.

BOB SIKES SPEAKS TO THE ADJUTANT GENERALS ASSOCIATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. Randall) is recognized for 30 minutes.

Mr. RANDALL. Mr. Speaker, I asked for this time at the conclusion of legislative business today to read into the Record the remarks of our distinguished colleague from Florida, Bob Sikes, delivered at the Adjutant Generals Association meeting on Tuesday evening, May 14 at Bolling Field Air Force Base.

Present were most of the adjutant generals of our 50 States as well as many of their staff from their respective States. It was a colorful evening.

But while it was a pleasant evening, it was also a productive evening for those out of uniform who happened to be guests and have the privilege to listen to the commonsense comments of a man who is so well qualified to speak on our defense posture.

The gentleman from Florida first proceeded to assail the proposal by some misguided individuals that we cut $11 billion from this year's military expenditures which he said would mean the elimination of new weapons systems in their entirety and leave the field of modernization completely to the Russians.

Next week we will debate on the House floor the Armed Services procurement bill and I commend to my colleagues to read and study the comments of the gentleman from Florida before we engage in that debate next week.

The speech of the gentleman from Florida, Bob Sikes is not only accurate as to its facts, it is at the same time, both informative and hard hitting. I came away from listening to him, inspired.

When crippling amendments are being offered on the military authorization bill next week, it behooves us all to work just a little bit harder to defeat these amendments. In a few words, the message of the gentleman from Florida is that we cannot let ourselves become inferior to any other power in the world—we must remain militarily secure.

The speech follows:

Speech of Congressman Bob Sikes to the Adjutant Generals Association, May 14, 1974

I assure you I am proud to meet with you and I am proud that you have honored me in such a distinctive way. I realize this is no ordinary award. I accept it in recognition of the motives which inspire you and others who believe in patriotism, who believe in our country, believe in its flag, believe in its God, and who are proud to serve in our country's uniform.

There is a serious need to acquaint the people of our country with the true facts on the nation's military posture. I have never seen a time when I believed the average American wanted a militarily weak nation or when he would not be willing to support adequate expenditures for an effective defense. I believe that America has always been defense minded.

Yet we find one instance after another where demands are being made, in and out of Congress, for cuts in defense funding. Some of these demands are from highly placed individuals. These are fully publicized. In contrast, the news media tells very little about the status of defense funding, or about the growing strength and improved modernization of Communist world forces. One of two things is happening. Either there are not enough people who are telling the true facts about defense, or there are not enough publications which are printing the facts.

There are many who stress the need for adequate funding for defense and who tell of the growing disparity between our forces and the Russian Forces. Included are ranking members of the Appropriations Committees and the Armed Services Committees of the Congress. These talks generally are ignored by the news media. But criticism of the military, even by first-term experts, always appear to be prominently noted.

The Washington Post of today carried a three-column item with bold headlines stating "defense ex-aides urge $11 billion budget cut." This recommendation, which was fully and carefully reported by the Post, comes from a 21-man group headed by a former assistant secretary of defense. He also was a defense and foreign policy advisor to Senator Muskie and to Senator McGovern. I think that tells us all we need to know about this particular group. But the fact remains they get headlines.

They want to cut $11 billion from this year's military expenditures. They want to eliminate the new weapons systems almost in their entirety. Leaving the field of modernization almost completely to the Russians. They want to cut back on conventional forces. This would complete the job of leaving us at the mercy of the Russians.

They want to cut the request for funds for Indochina by 75%. This should insure a speedy takeover of the entire area by the Communists, something they have not been able to accomplish despite an effort which has been going on for a quarter of a century. They don't even want to leave money in the budget to take care of increased pay or cost escalations due to inflation. In other words, they recommend cutting back America's defense even more than the Russians have urged at the SALT talks.

Yet groups like this can get nationwide publicity, while people who believe in defense can't get the time of day from the news media.

Now I want to congratulate the adjutant

generals association, the National Guard Association, and the members of the National Guard for the dramatic way in which you are refuting the statements that it no longer is possible to obtain sufficient personnel in time of peace, without a draft, for effective reserve components. The example the National Guard has set in recent weeks shows, despite the obstacles to recruiting—and there are serious obstacles—that the job can and is being done insofar as the National Guard is concerned. Possibly there are reasons why task is a little less difficult for the Guard, but you have set an excellent example for other reserve components to seek to follow. I think you have breathed new life into the program.

To support that effort, there should be more positive action by the Congress on the six-pack plan or incentives for reserve service. New legislation is vital to the retention of experienced manpower and the recruitment of new manpower—and womanpower. I am concerned that the Department of Defense is giving less than wholehearted support to this program, but that is not a reason for Congress to delay.

The servicemen's group life insurance bill is a good beginning, but it isn't enough. We need a realistic widow's equity program and we should provide an equity in the retirement system for those men and women who have contributed their services faithfully but have not reached the magic age of 60 and become full participants in the retirement system. There also is the matter of enlistment and reenlistment bonuses. I don't think the delays in Congress are an indication of "lip-service" only. They have principally been the result of competition with other pressing national legislation.

There is a reason for apprehension about the attitude of the Department of Defense toward the Guard and Reserve components in general.

Most of you will recall the McNamara proposal of the 1960's which would largely have decimated the Guard Reserve components. He was a very able but a computer-oriented Secretary of Defense whose computers told him the Guard and Reserves offered little return for the costs involved. He never accepted their potential for effective service. Their essentiality for quick mobilization and their contributions in previous wars in the nation's defense were lost on him.

The House Committee on Appropriations spearheaded the fight to keep the Guard and Reserve components strong numerically. The effort was joined by the House Armed Services Committee, which produced legislation spelling out Reserve programs. With the help of Guard units and reservists nationwide we weathered the storm. Unfortunately, some of the real thrust of the effort was lost when Mr. McNamara refused to use the Guard and Reserves in any appreciable way in Southeast Asia. Only the Air Force took realistic advantage of its Reserve forces in that conflict, and their services were invaluable.

When Mel Laird became Secretary of Defense a more practical view on the Guard and Reserve components was adopted. He committed the administration to use the Guard and Reserves in future national emergencies. It was also his policy to improve and modernize the Reserve components. But as often as not, the anticipated equipment has wound up in Southeast Asia or other areas of emergency requirement, even including Israel.

Through all of this, the Nation's Reservists maintained their patriotic devotion to the service of their choice and their support of the Nation's defense needs.

We began this year with strong hopes for new recognition of the place of the National Guard and Reserves in the total force concept. Now, to the surprise and dismay of friends of the Reserve components, there is a new threat. This is the battle of the "48–K." The proposed reduction of Reserve spaces would affect in particular the Army and the Air National Guard. I am glad to tell you that Congress is alert to the problem and has had extensive hearings on the subject, and the House Committee on Armed Services is sending to the floor legislation which specifically establishes strong levels in the Reserves which are consistent with their needs, and this includes retention of Air National Guard units. However, this battle has just been joined. The outcome will not be known for months.

Many of us in Congress believe in the total force concept, and we believe it must be followed as a powerful policy. We believe in the citizen-soldier philosophy. And, if given the support, the equipment and the training which are required, the National Guard and Reserves, with the active forces, can and will effectively provide the deterrent to aggression which will keep our Nation safe and secure and at peace. But I must warn you again there are some in Congress who do not share your concern and mine for a strong national defense. You can help to educate those who need educating.

Yes, it is important to maintain strong Guard and Reserve forces. A salient fact is being overlooked by the budget-makers. America's regular forces are slowly being priced out of existence. In the makeup of the nation's defense forces, we cannot ignore the increased cost of defense and the shrinking defense budget. These work at cross-purposes with each other. We are spending a lower percentage of the national budget for defense than we have since the early 1960's. The danger is that so little of the smaller defense dollar now goes to buy weapons and equipment. 60% of our defense dollar is pay for people in and out of uniform. In Russia, pay is less than 35%. $340—$3.85. Very simple arithmetic tells us the Russian forces are getting twice as much equipment for a defense dollar as we do. Long ago, we learned to dispense with the dream that ours is better simply because it's American. Some of our equipment is better. Some of it isn't as good. The Russians have more equipment that is new and fully modern, and that is a serious matter.

This tells you why the Guard and Reserves offer today's best bargain in defense. The nation gets more manpower per dollar from its Reserve components. This is not to say we can dispense with the regular forces. But to get the equipment we need, the nation may have to cut back on the strength of the regulars and increase that of the Reserves. Whatever happens, this is not a time for excessive cuts in the Reserve components. They should be strengthened, not weakened.

As part of this program, there must be new understanding and acceptance by the Guard and Reserves that they are again a vital part of the nation's defense. Given this goal and this responsibility, they must train as they have never trained before. They must take every step, think and work in every required moment, to be prepared for war. The Guard and Reserve forces must not let themselves be thought of as a sanctuary of any sort or to any degree. There will be no place for the "summer soldier" and the "sunshine patriot."

The suddenness with which the outbreak of war occurred in the Middle East has emphasized again the essentiality of an adequate defense and firm policies for America. The way that the Russians tried to take over in the Middle East during the October war when they felt that we were too engrossed with our own problems to stand up to them should be ample evidence of what lies ahead at any time the Russians, or even the Chinese, feel they are strong enough to stand us down. There are still predator nations in the world—nations bent on world domination—nations which will use every tool, from diplomacy to stark force, to accomplish their purposes. We can't depend on the good will of the rest of the world to insure our survival.

The war in the Middle East started with very little warning. The Israelis had to mobilize after the fighting began, and this cost them heavily—nearly every home had a casuality. We would have even less time before a first strike by our enemies. The savagery of the fighting and the heavy losses in men and equipment suffered by both sides should give us a foretaste of what war would be like if the Russians move in Europe after a first strike with ICBM's against our own land.

The Russians have among their naval shipyards one submarine base with more construction capacity than all of ours combined. They are building full-scale aircraft carriers for the first time. They have a new long-range bomber, more fighter aircraft than we, and three to four times as many tanks and armored personnel carriers. They aren't playing games.

The United States now is beginning to feel the pinch of the SALT I talks. The harsh facts are that the Soviets are embarking on a new multi-billion dollar ICBM technology development and deployment program. The SALT talks permit the Soviets to gain a decided strategic advantage over the U.S., if they choose, and they undoubtedly now choose to do so. We were out-maneuvered in SALT I by the classic communistic chess campaign of trading a pawn for a knight. We gave up a superior missile defense technology and we conceded the Soviets a quantitative ICBM superiority which they are now converting to a qualitative ICBM superiority.

I seek to state the facts which America needs to know and which most of you already know. Let's be certain that we are helping to insure that America does realize that our military might is being overtaken and can soon become inferior. I want this country to be militarily secure. I think it is necessary for our survival.

Now listen to this. As of June 1974 the number of personnel, military and civilian, in the Department of Defense will be 3,203,000. The latest available figures from HEW on welfare recipients for the end of calendar 1973 were nearly 15 million people. These 15 million people represent needy individuals, most of whom have no other means of livelihood, but none of them are required to contribute their work or to do anything else to help make America better. And the cost is $22 billion a year. We afford these. So let's not talk about not being able to afford the cost of national security.

It is easy to assume that we are secure, to think only of the things around us to concern ourselves primarily with domestic problems, some of which have been very serious indeed. How important it will be when we can resolve some of these problems, when we can get impeachment and Watergate behind us. People are tired of both, and for good reason. All of this should be concluded one way or another. It is so essential that we achieve a better understanding between the Administration and Congress. It is time to get on with America's work. There is much to do at all levels.

There are vital issues to be faced—the state of the economy, clean government, crime control and an end to terrorist activities, drugs in the schools, inflation, energy problems, national defense, all the rest. We should be about it. There is new concern about the crime because of the inability of the law enforcement agencies to cope in a fully effective way with increasing terrorist activities and with incidents such as the Hearst case. 125 FBI agents should have been able to do more than they have in the Hearst case in the more than three months since this situation developed.

Yet, President Garfield said, in another period of national crisis, "God reigns, and the Government at Washington still lives!

The American Government still stands and so does our confidence in our basic system of government. When problems occur, we will find ways to solve them and, hopefully, to prevent their recurrence.

Now let's take a look at the fact that there have been major improvements.

The great majority of the people are better educated and better paid and are living better than ever before in history.

Also, we are paying higher taxes. We don't like a lot of things we see and hear. But where else in the world do you find so many 2-car families—or more, depending on the number of teenagers—2-house families, color TVs upstairs and down, power mowers, minibikes, and swimming pools. We don't have child labor, sweat shops, kerosene-lit houses, mud roads, soup lines, and old soldiers selling apples. The point is our country has survived experiences much worse than Watergate or the current inflation or the energy crisis. But if you still think America is in trouble, look around you at other countries. Ask the people who have been to those countries. *Them* make your choice.

So let's forget the scare stories, the dire predictions of wreck and ruin, the veiled insinuations that all government is dishonest. Just look around at what has been accomplished and what can be ahead. Think of what is right with America and think on the fact that you are an American.

Yes, we live in a wonderful and great Nation where opportunities are brighter, but so are responsibilities greater. Our America is not a perfect Nation, but it stands head and shoulders above all the rest.

There are many who complain about America while they partake of its bounty. In this age, it is popular to decry the old virtues, to tell what is wrong about the system. These are the troublemakers—the ones who complain. Don't listen. Be one who builds—who offers something better. Be one of those who sees the greatness of America and is proud to work to overcome our shortcomings so that it will be a better America on tomorrow. We don't want to junk the best system man ever devised. We just want to make it better.

In this fragile existence we share, it is faith in something that can provide the human ship with a strong and true keel adequate for life's voyage. Despite her troubles and her shortcomings. I believe in America—in America's future—in America's God.

Now, as in every age, a commitment to the American people to historic ideals is needed. You and I can help to preserve those ideals. This is a part of the fight for the America we love.

All of us in this great land are Americans. We are the descendants of brave men and women who founded a Nation and forged its beliefs in blood and steel. America's character hasn't changed. American ideals are still bright. America's opportunities are unbounded. Let's be proud to be Americans. Let's fight to keep America alive and strong and right.

THE LATE HONORABLE KARL C. KING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. BIESTER) is recognized for 30 minutes.

Mr. BIESTER. Mr. Speaker, I have asked for this time today so that Members of the House may have the opportunity to pay tribute to a former colleague, the Honorable Karl C. King of Pennsylvania, who died April 16 at age 77.

Mr. King served his Nation for over 5 years as a Member of Congress, and he did so with honor and a deep sense of dedication. He served unassumingly but with a special kind of commitment to the responsibilities of the high office to which he had been entrusted.

From a boyhood farm in Kansas to the classrooms of Columbia University and the Wharton School of Business, Karl King molded a career which combined elements of farming, journalism, and business—experiences which held him in good stead in his years of public service from 1951 to 1957 as a Member of Congress from the Eighth District of Pennsylvania.

Mr. King did not heed the saying to "go west, young man." Instead, he took his knowledge of farming east with him to Bucks County, Pa., where the Kansas farm boy showed local residents a few things about farming and established a prosperous produce business which, over the years, helped feed a goodly portion of the population of the eastern seaboard. He was a somewhat reluctant politician, drafted to serve in the House upon the death of Congressman Albert Vaughn in 1951.

Although he withdrew from the more political aspects of his job, he relished the legislative challenge. Mr. King served on the Agriculture Committee during most of his years in the House, and through this assignment he was able to practically apply the knowledge he had gained as a farmworker and farm operator. While on the committee he was a vocal opponent of farm subsidies and a strong advocate of the free interplay of supply and demand.

He was not a candidate for reelection in 1956 so he could devote full-time to the farming business he had been unable to give the close attention it deserved.

In his own words, Mr. King was a skeptic of "impractical idealism" which commits the Nation to "promises no government can fulfill." A self-proclaimed conservative, he felt deeply about the future of a country in which the size of its government and the magnitude of its spending practices threaten to overwhelm the individual citizen.

Karl King did something many of us would like to do—set down in writing some reflections of his life and thoughts. He did this in a limited, privately printed autobiography published a few months before his death, and he did so that his grandchildren would "know what the old man thought", perceptively observing that the problem he wrestled with would likely still be around when his granchildren become older.

His autobiography, "Prairie Dogs and Postulates," is a very open, real, and touching reminiscence. Filled with amusing anecdotes and warm remembrances, it relates experiences which set the reader's memory to wander back to his own childhood and family, ambitions, accomplishments and frustrations.

Karl King lived a rich and full life channeling his many talents through numerous constructive outlets. The dedication and devotion so evident in his career as a businessman and public servant were surpassed only by the very special love and warmth he saved for his family.

In closing his autobiography, Mr. King quotes a poem, "Thanatopsis," which he had committed to memory from his youth. Prefacing the poem he states:

> A hundred times in my life I have gone over this poem in my mind as an expression of my feelings about the visible forms of nature and the final termination of an individual life. I have often said that over my dead body someone should read this poem. Other words will be superfluous.

His wish was fulfilled and "Thanatopsis" was read at his funeral. I think it only appropriate that those words be included at this point:

THANATOPSIS

(By William Cullen Bryant)

To him who in the love of nature holds
Communion with her visible form, she speaks
A various language; for his gayer hours
She has a voice of gladness, and a smile
And eloquence of beauty; and she glides
Into his darker musings, with a mild
And healing sympathy that steals away
Their sharpness ere he is aware. When thoughts
Of the last bitter hour come like a blight
Over thy spirit, and sad images
Of the stern agony, and shroud, and pall,
And breathless darkness, and the narrow house,
Make thee to shudder, and grow sick at heart;—
Go forth, under the open sky, and list
To Nature's teachings, while from all around—
Earth and her waters, and the depths of air—
Comes a still voice. Yet a few days, and thee
The all-beholding sun shall see no more
In all his course; nor yet in the cold ground,
Where thy pale form was laid, with many tears,
Nor in the embrace of ocean, shall exist
Thy image. Earth, that nourished thee, shall claim
Thy growth, to be resolved to earth again,
And, lost each human trace, surrendering up
Thine individual being, shalt thou go
To mix forever with the elements,
To be a brother to the insensible rock
And to the sluggish clod, which the rude swain
Turns with his share, and treads upon. The oak
Shall send his roots abroad, and pierce thy mold.
Yet not to thine eternal resting-place
Shalt thou retire alone, nor couldst thou wish
Couch more magnificent. Thou shalt lie down
With patriarchs of the infant world—with kings,
The powerful of the earth—the wise, the good,
Fair forms, and hoary seers of ages past,
All in one mighty sepulchre. The hills
Rock-ribbed and ancient as the sun,—the vales
Stretching in pensive quietness between;
The venerable woods—rivers that move
In majesty, and the complaining brooks
That make the meadows green; and, poured round all,
Old Ocean's gray and melancholy waste—
Are but the solemn decorations all
Of the great tomb of man. The golden sun,
The planets, all the infinite host of heaven,
Are shining on the sad abodes of death
Through the still lapse of ages. All that tread
The globe are but a handful to the tribes
That slumber in its bosom.—Take the wings
Of morning, pierce the Barcan wilderness,
Or lose thyself in the continuous woods
Where rolls the Oregon, and hears no sound,
Save his own dashings—yet the dead are there:
And millions in those solitudes, since first

The flight of years began, have laid them down
In their last sleep—the dead reign there alone.
So shalt thou rest—and what if thou withdraw
In silence from the living, and no friend
Take note of thy departure? All that breathe
Will share thy destiny. The gay will laugh
When thou art gone, the solemn brood of care
Plod on, and each one as before will chase
His favorite phantom; yet all these shall leave
Their mirth and their employments, and shall come
And make their bed with thee. As the long train
Of ages glides away, the sons of men—
The youth in life's fresh spring, and he who goes
In the full strength of years, matron and maid,
The speechless babe, and the gray-headed man—
Shall one by one be gathered to thy side,
By those, who in their turn shall follow them.
So live, that when they summons comes to join
The innumerable caravan, which moves
To that mysterious realm, where each shall take
His chamber in the silent halls of death,
Thôu go not, like the quarry-slave at night,
Scouraged to his dungeon, but, sustained and soothed
By an unfaltering trust, approach thy grave
Like one who wraps the drapery of his couch
About him, and lies down to pleasant dreams.

[From the Bucks County Courier Times, Apr. 18, 1974]

KARL C. KING

Many of us who live in Lower Bucks County today are relative newcomers. We barely know who Karl C. King was and why his death, late Tuesday night, should cause such a stir among the long-time residents.

But cause a stir it has, and it should. Much of the history of Bucks between the years 1940 to 1970 will be written about this man, what he was and what he came to be.

In the first place, he represented Bucks County (and Lehigh County, too, since the two areas were then in one congressional district) in the U.S. House of Representatives for three terms, from 1951 through 1957.

And even more than that. For quite a time he operated the largest farm in the county, one of the largest in the East, on 6,000 acres. The produce he grew there spread up and down the East Coast and his success as a farmer led directly to his success in government and in politics.

Farming was, in fact, Mr. King's main interest. In Washington he was a conservative Republican, mostly interested in the affairs of the Agriculture Committee. He rippled the waters very little if at all yet he was a good congressman from the Bucks County standpoint.

At home, though, on the vast King Farms, he had quite an impact. Mr. King brought some of the first itinerant laborers to this part of the state, housing and paying them in a way that was considered model then although it hardly conforms to today's standards.

He signed the first union contract for farm labor; he automated farm work to a surprising degree. He helped to establish two restaurants; he helped to keep the Republican party in the dominant position it held locally for so long.

Van Sciver Lake and the Penn Manor Club now cover many of the acres of the King Farms; so do many of the homes in the northeastern part of Levittown. His legal fight with U.S. Steel over air pollution could well be a precedent for environmentalists.

There is much that could be said about him, and he said quite a bit of it himself in his interesting autobiography. This book, "Prairie Dogs and Postulates," privately published in March of this year, is well worth reading for anyone who can get a copy.

To Mr. King's wife, Lora, and the entire family, Mrs. Biester and I extend our most sincere sympathies.

Mr. RHODES. Mr. Speaker, I am pleased to have this opportunity to join my colleagues in memorializing the late Karl Clarence King. I came to the House while Mr. King was serving his three terms in Congress.

His unique background—newspaper reporter and farmer—gave him a realistic view of the Nation's farm economy. He served on the House Agriculture Committee during a time when many of the long-term programs were being considered. After leaving Congress, he returned to farm life, since that was his first love, reflecting his boyhood on a farm in the State of Kansas. The Congress and the Republican Party were well served by Karl King during his too-brief public career.

Mr. WAMPLER. Mr. Speaker, I was deeply saddened to learn of the death of our former coleague, the Honorable Karl C. King of Pennsylvania, with whom I had the opportunity to serve during the 83d Congress.

Having served with him on the Committee on Agriculture, I was fully aware of his dedication to his constituents and their interests. His work in Congress resulted in inumerable benefits to agriculture and the farming industry, and he continued this interest and dedication in his private life after leaving the Congress.

His contributions to the betterment of American agriculture will long be remembered, as well as his love for this Nation and the people he was elected to serve.

I extend my deepest sympathy to his family.

Mr. MORGAN. Mr. Speaker, I was saddened to learn of the death of the Honorable Karl C. King last month. Although Congressman King, a Member of the 82d, 83d, and 84th Congresses served a district at the opposite end of Pennsylvania from mine, I had many opportunities to discuss critical legislation and Pennsylvania problems with him. He was a valuable member of the Pennsylvania congressional delegation.

Karl's first love was farming, and his dedicated service on the House Committee on Agriculture reflected his intense interest in the welfare of both farmers and consumers. He fully recognized that a prosperous farm economy was necessary to insure an adequate food supply for this Nation's citizens, and he became known as the man who put fresh produce on thousands of tables along the east coast.

Karl's record of public service was exemplary. He served in the Navy during World War I, was chairman of a draft board in Bucks County during World War II, and was a charter member of the Morrisville Rotary Club.

Mr. Speaker, I would like to extend my sympathies to his widow and family; his life was an inspiration to us all.

Mr. ARENDS. Mr. Speaker, the loss of a friend is always a sad occasion, and the passing of a former colleague who also was a friend is a source of special sorrow. Karl King was not the type of man who sought the spotlight; rather, he chose to work diligently and without fanfare in all of his endeavors.

From his early years in Kansas to his last days in Pennsylvania, Karl demonstrated that dedication and hard work really do produce results. We recall during the 6 years that Karl was a Member of this House that he labored effectively and well as a member of the Agriculture Committee—an ideal assignment because of his lifelong involvement in various agricultural pursuits.

Karl never forgot those who made it possible for him to serve in Congress. His attention to the day-to-day needs and desires of his constituents brought him wide and well-deserved recognition for the thorough manner in which he served their interests.

Mr. Speaker, I extend to Mrs. King and the family my sincere condolences upon their great loss. Karl was a good man who will be sorely missed by all who knew him.

Mr. FLYNT. Mr. Speaker, it is with a feeling of sadness that I join the distinguished gentleman from Pennsylvania and other colleagues in paying tribute today to the memory of our former colleague from Pennsylvania, Karl C. King.

Karl King came to the House of Representatives in November 1951 having been elected to fill the vacancy caused by the death of Albert Vaughn, and he served in the 83d and 84th Congresses. He brought to the House experience as a journalist, farmer and businessman, and with this experience, his ability and knowledge benefited all of us who were privileged to serve with him.

In his concern and devotion to the American people, Karl King exemplified the model of the sincere and conscientious public servant. During his almost three terms in the House of Representatives, Karl gave untiringly to his constituents, the Commonwealth of Pennsylvania and our Nation dedicated and distinguished service. While serving in the House of Representatives, he earned the esteem and respect of all who were privileged to serve with him, and he always reflected credit on the highest traditions of his State, the Congress and the United States. He was a great American and a great Representative during his terms of service in this body, and he will be missed.

Mrs. Flynt joins me in extending to his family and loved ones our condolences and heartfelt sympathy.

GENERAL LEAVE

Mr. HANRAHAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of Mr. BIESTER's special order of today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

THE MAALOT MASSACRE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. YOUNG) is recognized for 10 minutes.

Mr. YOUNG of Illinois. Mr. Speaker, I was deeply shocked and horrified to learn of the massacre of Israeli schoolchildren by Arab terrorists yesterday in the town of Maalot. Twenty-five innocent Israelis, mainly teenagers, were killed and nearly 90 others were injured in a senseless act of violence that serves only to fan the flames of hatred and discord in the Middle East.

With the massacre at Maalot, the list of Arab terrorist attacks grows longer. Just over a month ago, a guerrilla attack in Kiryat Shemona left 18 civilians dead. Last year, in May, a shocked world witnessed the slaughter of 25 people at Tel Aviv Airport. Innocent Israelis have been victimized relentlessly during the last 6 years.

I condemn this wanton killing as barbaric and outrageous. I extend my sympathy to the victims' families and my support to the brave Israeli people.

ABC'S REASONER'S CALL FOR WORLD GOVERNMENTS TO CONDEMN PALESTINIAN TERRORISM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. BLACKBURN) is recognized for 5 minutes.

Mr. BLACKBURN. Mr. Speaker, last evening, in adding his comment to the ABC Evening News, Mr. Harry Reasoner, in his direct and incisive manner, laid down a position which many concerned Americans must share. Certainly, I do.

With your permission, and with compliments to Mr. Reasoner, I hereby enter his commentary into the RECORD for my colleagues to consider well:

> There is no point in underlining the revulsion any civilized person feels at the latest enterprise of the deranged section of the Palestinian guerrillas. It is proper, but not startling for Dr. Kissinger to express the shock this country feels. I am sure we will have similar natural statements from other leaders here and abroad. But, at this writing, we have not heard from the people that I would vey much like to hear from—and more than we have heard from them before following milder but allied sub-human behavior.
>
> I would like to hear from the Russians. I think it would be good for their souls to disassociate themselves from something like this with perhaps a statement approximating the *fervor with* which they say it would be inhuman to let dotty old Rudolf Hess out of jail.
>
> I would like to hear from the Egyptian and Syrian governments. Nobody expects the poor, beleagured Lebanese to do anything but dodge, but both the Egyptians and the Syrians now claim to have achieved a maturity and dignity justifying a new relationship with other countries.
>
> I would like to hear from the passionately-concerned new governments of Africa, so quick on other causes, and from the French, and *maybe, if* there is anyone of substance there healthy enough to think about it, from the Chinese, in whose philosophical banner so many of these lunatics are cloaked. I would like to hear from the Saudis, and the Moroccans, and from the Libyans. I would like to see them show what one old American has called "a decent respect to the opinions of mankind." The depressing thing is I don't suppose we will hear from them.
>
> There is a case for the Palestinian Arab, a strong case. But the behavior they and their friends swallow from their lunatic fringe makes it almost impossible to remember.

NEW ENGLAND BEARS BRUNT OF ENERGY CRISIS—FEO ACTION NEEDED NOW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Hampshire (Mr. CLEVELAND) is recognized for 5 minutes.

Mr. CLEVELAND. Mr. Speaker, despite the lifting of the Arab oil embargo and shorter lines at gasoline stations, the energy crisis is still very much with us; and its economic impact upon the New England region is particularly severe.

Because of New England's unusually heavy dependence upon residual oil for electric power—approximately 73 percent as compared with 37 percent for the Middle Atlantic region which is the next highest user—utility companies have directly passed on to the consumer the increased cost of imported residual oil by means of a sharply increased "fuel adjustment charge."

BLEAK OUTLOOK FOR CONSUMER

As a number of letters from constituents have pointed out, this fuel surcharge, which is applied at the discretion of the electric company, has risen from approximately $.07 per 100 KWH to $.83 per 100 KWH in less than a year. Unfortunately, this increase is so dramatic that were the utility companies to attempt to absorb all of the oil price rise, they would face bankruptcy. However, the average consumer is hard pressed in these inflationary times and in many cases faces a severe hardship. The following comments taken from constituents' letters reflect the problems they are confronted with:

> We live in an electrically heated house. It is well insulated and we do not have any children. We never heated more than 2 rooms during last winter and used the water and appliances sparingly. The heated rooms were kept at 60–65° F., and we were forced to wear heavy clothing during the coldest months. In spite of these conservation methods, our electric bills were substantial. Based on the current rates charged by the electric company, next winter will produce bills over $100 per month . . .
>
> * * * * *
>
> I am screaming, screaming, screaming over the electric bill, which is now at fifty cents per KWH at the shop and eighty-three cents for the parsonage. Further, I have just talked to the rate man who assures me there is no limit to which this can go . . .
>
> * * * * *
>
> It has been the misfortune of most New Hampshire citizens to have been subjected to this blow on top of increased fuel rates. The utility companies have not been allowed to raise their rates, but instead have been making up for losses by their possibly discriminatory fuel adjustment charges . . .
>
> * * * * *
>
> How much higher can this fuel charge be increased? It is unreal, an increase of 80¢ per 100 KWH in only 17 months . . . The whole system seems to be out of control, and no indication anywhere that it is going to improve. How does one try to keep on, for what?
>
> * * * * *
>
> This letter is in regards to the outrageous fuel adjustment charges added on to our electric bill each month. Depending on whether you heat by electricity or just light, our bills run anywhere between $5 to $30 per month extra for this charge. We feel that this charge is unfair and unjust. We realize there is a so-called energy crisis and inflation but why should we as the consumer continue to bear the brunt of rising costs, etc., while the family paycheck remains stable . . .

FIGURES SUPPORT INEQUITY

A number of equally disturbing comments could be added to this list, but I am sure my colleagues, and particularly those from New England, are only too familiar with such letters. In addition to the impassioned consumer reaction, a number of facts compiled by the New England Economic Research Office add to the realities of the situation.

First. Residual oil prices are up 180 percent over May 1973. Natural gas and coal are up only 12 and 18 percent, respectively. The South, Midwest, and Southwest, which use primarily natural gas and to a lesser extent coal, therefore, have suffered much smaller energy price increases.

Second. Residual oil will cost New England utilities about $720 million more than last year if current prices hold at $12.50 per barrel. This will mean fuel adjustment clause increases to 30 percent or more of 1973 electric charges. The total profits of all New England utility companies $241 million, in 1972 were about one-third of the increase in oil costs alone.

Third. New England industry which uses residual oil directly faces fuel bill increases of $220 million in 1974. In the long run, the deterioration of New England's competitive position because of oil price increases will cost jobs. Roughly 25 percent of New England's industrial jobs are in industries where energy costs seem to be a major factor.

Furthermore, a Senate Commerce Committee study showed that New England uses only 1.3 percent of the Nation's natural gas, which has experienced a price increase in the past year of only 14.5 percent as compared to the 191-percent increase in the cost of residual oil during that same time period. This differential accounts for the fact that Southern and Midwest industries, utilities and consumers pay only an average of 30 to 40 cents per million Btu's for energy from gas, and to a lesser extent from coal while New Englanders pay $2 to $2.30 per million Btu's for energy generated from oil.

FEO ACTION NEEDED NOW

New England's pressing need for alternative sources of energy for electric power is certainly evident therefore, and Congress and the Federal Energy Office would be wise to address themselves to the problem before the people of New England face an economic disaster.

The Federal Energy Office could provide immediate relief in at least one area by vigorously implementing their legislative authority to equalize the price of residual oil nationally. This would provide some help to New England because of our unusually heavy dependence—almost total—on imported oil which is not subject to domestic price controls.

In fairness to the Federal Energy Office, they are not alone. Congress could help by allowing utility companies in New England to convert existing facilities under reasonable conditions from oil to coal to save the consumers of New England as much as $10 million per month and the country over 100,000 barrels of oil per day. I will return to this subject in greater detail, however, at another time.

FORCED BUSING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. Mizell) is recognized for 5 minutes.

Mr. MIZELL. Mr. Speaker, as a Member of the House of Representatives I have always attempted to refrain from criticism of the work in the U.S. Senate. However, I cannot restrain myself from letting it be known how disappointed I am that the other body of this Congress did not take decisive legislative action yesterday to end the madness of forced busing of schoolchildren.

Our people throughout America cry out for a solution to this grave and growing problem. The House-passed legislation which would have offered a reasonable and sound solution to busing and 47 Senators saw fit to oppose ending this madness.

I commend those who voted for the amendment in the Senate and urge those who did not to return to their home States and face the parents of those children who are now being bused or who will be forced to have their children bused in the future.

Further, I urge that the House instruct the conferees when they are appointed to confer with the Senate on this bill not to return with anything less than the House-passed language on busing.

THE HOLY CROWN OF ST. STEPHEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. Hogan) is recognized for 15 minutes.

Mr. HOGAN. Mr. Speaker, in 1945, the Holy Crown of St. Stephen was entrusted to the U.S. Government for safekeeping until such time as Hungary became free once again to function as a constitutional government established through free choice. The Holy Crown is a national treasure of immense historical and symbolic significance to Hungarians, and American-Hungarians, who believe that governmental power is inherent in the Holy Crown itself.

These proud people will never give up their dream of liberty and the U.S. Government must not do anything to discourage those who continue to resist oppression. It is disturbing to see articles, such as the one appearing in the Washington Post on May 14, which urge the returning of the Holy Crown back to Hungary. We must not break our sacred trust and thereby indicate our lack of hope in Hungary's future. The Holy Crown of St. Stephen must be kept in trust in America, and we must uphold the belief of Hungarians everywhere that someday freedom and independence will return to Hungary, as well as to other captive nations.

The Hungarian people have suffered greatly in their struggle for independence. The primary force contesting this independence has come from the great plains to the east of their lands. Hungary threw off the Mongol invaders, but the danger to the east now manifests itself in the Soviet presence. The Hungarian people have the historical claim to the area they inhabit as they were the first tribes to inhabit this region, known as the Carpathian Basin. The present Soviet occupation is a blatant example of the economic deprivation that either imperils or afflicts all nations within the Soviet sphere of influence.

The Hungarian freedom fighters aroused the sympathy of the free world in 1956. We have been reminded of their struggle recently by a dramatic event: the emergence of Josezf Cardinal Mindszenty after 25 years of imprisonment. Hungarian Catholics still respect him as their spiritual leader in spite of his absence from the public view. The valiant cardinal preferred to live imprisoned in his land rather than free, in exile. His patriotic courage serves as a symbol to Hungarians and all who cherish liberty.

In response to rumors that in the course of diplomatic negotiations, a possibility existed that the Crown may be turned over to the Communist Government in Budapest in an effort to promote American-Hungarian relations, I introduced in the 92d Congress and again in this Congress a concurrent resolution which expresses the sense of Congress that this not be done. The hopes of the oppressed people of Hungary for the future of freedom and liberty and the hopes of their brothers and sisters, the American-Hungarians in this country, will be dashed if the United States breaks its sacred trust and relinquishes the Holy Crown of St. Stephen to the present government of Hungary.

I include the following article at this point:

[From the Washington Post, May 14, 1974]

A Cold War Relic

At the close of World War II, American troops acquired from Hungarian fascists the 1000-year-old crown of St. Stephen, the most precious historical relic of Hungary and its foremost symbol of national legitimacy. Incredibly, we still have it, though the ostensible basis of our holding it all these years—cold-war hostility to the Communist regime in Budapest—has long since been blurred by time, politics and good sense. It is shameful that the United States did not return the crown years ago.

The official American position is that the crown's return can only be considered in circumstances of the substantial improvement of Hungarian-American relations. Officials carefully—and inexcusably—avoid spelling out what this means. In fact, those relations have substantially improved in recent years. After the freeze that followed the Hungarian Revolution of 1956, ambassadors were again exchanged. Visits by leading figures are now routine. The departure of Cardinal Mindszenty from the American legation in Budapest, where he had taken sanctuary in 1956, removed a particularly troublesome obstacle. Agreement on American property claims was reached last year. Trade possibilities are being actively explored; the special hindrance there lies on the American side—in the Congress' failure to end tariff discrimination against Hungarian goods.

True, the United States did scold the Hungarians last fall for allowing transit to Soviet war supplies bound for Egypt. Yet no honest observer expected Hungary, which sits on the Soviet border and which is still occupied by Soviet troops, to buck Moscow on an issue of that magnitude. Indeed, if the United States does wish to encourage Hungarian nationalism in responsible ways, it defeats its own purpose by holding onto the crown. Keeping troops in Hungary is Moscow's way of trampling on Hungary's nationhood. In an important sense, alienating the country's most meaningful national symbol puts Washington in the same boat.

The real reason why the United States keeps the crown, we suspect, is a certain bureaucratic reluctance to avoid antagonizing a small number of Hungarian emigres who periodically get their congressmen to throw militant anti-Communist resolutions into the hopper. We cannot believe, however, that most of these emigres are not ready to support the magnanimous gesture of returning the crown of St. Stephen to its rightful home. A great power ought to be capable of conducting relations and resolving differences with small countries on the merits of matters, without the necessity of holding a relic as ransom for the performance of some unspecified political act.

THE MASSACRE OF SCHOOL CHILDREN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Massachusetts (Mrs. Heckler) is recognized for 5 minutes.

Mrs. HECKLER of Massachusetts. Mr. Speaker, the savage massacre of defenseless Israeli children sickens and outrages decent people throughout the world. The insanity of making war on children defies human comprehension. This senseless slaughter serves as a tragic reminder of Israel's history of suffering—a history which is not forgotten—a history which must never be forgotten. These guerrilla crimes cannot be tolerated by any responsible government.

My heart goes out to the families of the slain children. It goes out to the Israeli people. It goes out to all who struggle and suffer and die so that others may live free.

RETURN VETERANS DAY TO NOVEMBER 11

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. Ruppe) is recognized for 5 minutes.

Mr. RUPPE. Mr. Speaker, while I cannot speak for the rest of my colleagues, I do know that one of the most articulate groups in my district is the veterans. Now this, in no way, is meant as a complaint—just the opposite is true. I enjoy hearing from them because I know from many past experiences that when they call or write, it is to voice a legitimate complaint or offer constructive ideas. During the past year or so, I have heard a considerable amount of comment concerning two areas, and today I am pleased to introduce legislation that deals with these subjects. One should prove to be a substantial economic benefit to many veterans, and the other will reestablish a permanent day on which we can commemorate and honor these fine men and women who have served their country so well.

We all know how severely the spiraling rate of inflation has affected those with fixed incomes. This is especially true of those veterans who are dependent on their pensions for all, if not a large part, of their incomes. Many, finding themselves in tough financial straits as a result of constantly rising prices, no doubt would like to earn extra dollars to cover their living expenses. But because of the pension system, and specifically the income limitation written into it, this would be pointless. At present, these limits are $2,600 for a veteran or widow living alone, and $3,800 for a veteran or widow with one or more dependents.

I am proposing today that these ceilings be increased by $500 to $3,100 and $4,300 respectively. This would ease a severe financial hardship for many veterans. It is not a handout—it is not a dole—it is merely a realization that it costs more to live these days. If this minimal effort on the part of the Congress could provide the substantial benefit to over 2 million veterans, their widows, and surviving children, we owe it to these people in recognition of what they gave through their service to our Nation.

At first glance, the second piece of legislation may seem trivial to some, but the veterans whom I have spoken to are very serious about it, and I feel rightly so. A few years ago the Congress changed the date of Veterans Day from November 11 of each year to the fourth Monday in October. Many veterans were, and continue to be, very upset with this move. The holiday, originally known as Armistice Day, was established to celebrate the end of World War I, but in 1954 it was changed to Veterans Day to honor all of those who sacrificed so much for their *country* in all wars. November 11 took on an importance to the veterans. It was their day to be honored. It was a special day. Now, it is no certain day—it just happens to fall on the fourth Monday in October. It was changed so that *we could* have those convenient and enjoyable 3-day-long weekends. But, it was not convenient and it was not enjoyable for those people to give up those years of their lives which they dedicated to their national service. I sincerely hope that we return to these people the honor that is due them by returning Veterans Day to November 11.

OIL PROFITS AND TAXES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. Fraser) is recognized for 5 minutes.

Mr. FRASER. Mr. Speaker, there is a good chance that the action taken by the Democratic caucus this week will channel the windfall profits of the oil industry back through the U.S. Treasury to the consumer.

The administration has tried to solve the energy crisis by sleight of mouth. We have been told that the crisis is over, and the word "problem," has been substituted for the word "crisis."

In the same way Mr. Stein of the President's Council of Economic Advisers has tried to do away with the current recession by redefining it.

Now the oil companies are trying to explain away their embarrassing, record profits through semantics. Chase Manhattan, the central oil bank, in its April special petroleum report, tells us that we do not understand the real meaning of the word "profits" and chides us for "widespread misunderstanding of the role profit plays in the free enterprise system." According to this report, the criterion for adequacy of after-tax profits is the amount of capital needed for an extended period into the future. And only the industry concerned can be a competent judge of this need.

In other words, only the oil industry itself can judge the prices it must set, and the profit it must make, after taxes, in order to supply us with the oil, which Chase Manhattan in truth says we cannot do without, at least for the foreseeable future.

This kind of explanation does not sit well at a time when the Nation as a whole is suffering from rising food and fuel prices and dwindling real income.

Last year, profits from oil production were $6 billion. These profits are expected to double this year. Under present tax laws, after-tax profits, according to Treasury estimates, are expected to rise from $4 to $9 billion—a windfall of $5 billion. The Oil and Gas Energy Tax Act, which the House Ways and Means Committee approved earlier this month, would increase the taxes the oil companies must pay this year by only $1 billion—leaving a windfall of $4 billion.

The amendments, which the Democratic caucus approved for House consideration, and which will be offered by my colleagues from Pennsylvania (Mr. Green) and from Ohio (Mr. Vanik), would do away with this windfall. The Green amendment, which calls for immediate repeal of the percentage depletion allowance for the oil industry, would bring increased revenues in 1974 of $2.6 billion. The Vanik amendment, which would eliminate tax advantages of U.S. oil companies overseas, principally by changing the foreign tax credit to a business deduction, could increase tax revenues by $2 billion yearly.

The Ways and Means Committee bill sounds good, but what it says it will do and what it actually does are two different things. The stated objectives of the bill are to tax the windfall profits of the oil companies, to encourage new investment in domestic energy resources, and to remove tax advantages for Americans producing oil abroad.

But the committee bill does not accomplish these objectives. It clearly does not go far enough in closing huge tax loopholes available to the oil industry. What the bill takes with the one hand it gives back with the other. It is a kind of shell game. Now you see the tax; now you do not.

Under one shell is the windfall profits tax, an administration formula for a graduated tax on oil sold above a certain price. Under another shell is the plowback credit, a rebate of the windfall profits tax, which companies would get for reinvesting profits in development of oil and gas or synthetic fuels.

Under one shell is a 5-year phaseout of the oil industry's 22-percent depletion allowance, for which cost depletion is substituted. Under another shell is postponement for a year of the phaseout, plus provision for three major exemptions. These exemptions could mean in effect a continuation of a 15-percent depletion allowance for a large part of the industry for the 5-year life of the act.

Under one shell, we find total repeal of the percentage depletion allowance for oil production overseas. Under another shell is a 52.8 percent limit on the foreign tax credit, the amount by which the oil companies can reduce their 48 percent U.S. tax on income earned abroad. The continued availability of these generous foreign tax credits would virtually cancel out the effect of eliminating the percentage depletion allowance on foreign oil and gas production. And the temptation for American oil companies to expand abroad instead of at home would remain.

Although there are problems in eliminating completely the present foreign tax credit as the Vanik amendment proposes, the 52.8 percent limitation in the committee bill is inadequate. There is merit in the argument that payment of foreign taxes in this instance does not constitute double taxation, but is a legitimate cost of doing business abroad. In any case, it is important that the House be permitted to vote on the issue. For this reason I strongly supported the caucus resolution on the Vanik amendment.

The plowback credit provision of the committee bill, besides being an unnecessary incentive for investment, would reinforce the monopolistic position of the big oil companies. It would discourage new entries in the energy field by consolidating in the hands of a few firms control not only over our oil resources, but over new energy sources like oil shale and liquefied coal.

The oil industry, more loudly than ever as its profits soar, is praising the virtues of the free enterprise system. I say, let the marketplace work. Eliminate the protected position the oil industry now enjoys. Remove the special tax privileges of the oil companies and let free market forces prevail. If we do so, there will be no windfall profits—only the fair profits needed to make the free enterprise system work.

ARAB TERROR

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. Holtzman) is recognized for 15 minutes.

Ms. HOLTZMAN. Mr. Speaker, yesterday we witnessed yet another unspeakable act of Arab terror in the Middle East. According to the latest reports 20 children and several townspeople have been wantonly and brutally machine-gunned to death and at least 70 more wounded.

Even against the background of long-standing bitterness, conflicting territorial ambitions, and bloodshed in the Middle East, the massacre of innocent children is incomprehensible. Golda Meir said yesterday that Israel does not wage war on the bodies of children. No civilized nation does, for such an act, even in wartime, is beyond any bound of human decency.

As we stand trembling with horror and anger at this latest outrage, we must remember that it is only one in a series of violent acts committed by Arab guerrillas; massacres at the Lod, Athens, and Rome airports, at Munich and Kiryat Shemona. How can we be shocked, then, that they would hold 85 children hostage in a mined schoolhouse, and then try to slaughter then?

Today's killings, however, expose the hypocrisy of the United Nations resolution which condemned Israel for its actions against Arab terrorists. It is heartbreaking to remember, as we contemplate today the deaths of more children, that the United States joined in that disgraceful resolution.

I believe that we in the House of Representatives, together with all Americans of conscience, must express our revulsion at the barbarous acts of Arab terrorists.

We must also express our determination that the United States never again join in condemning Israel for actions taken to protect itself against such terrorism. We cannot lend the moral support of this Nation to the insane murderers of innocents or to those nations which give them sanctuary.

Lebanon has, for years, harbored the terrorists—and in doing so, it is an accomplice in their crimes. It stands, in its pious protests against Israel actions, with the blood of children mocking its words.

There is one more lesson which we must grimly draw from yesterday's bloodshed: Israel must have defensible borders and adequate supplies of military equipment in order to protect itself. We have seen once again how vulnerable Israel is. I hope this will convince the President and Secretary of State Kissinger that Israel cannot and must not be pressured into negotiating away its security in the name of "disengagement."

HOUSING

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Illinois (Mr. METCALFE) is recognized for 10 minutes.

Mr. METCALFE. Mr. Speaker, about 6 months ago, the Council on Municipal Performance, a New York-based research group, released a study which revealed that Chicago's housing market is the fourth worst among the Nation's 30 largest cities. The study revealed that—

Chicagoans pay a greater percentage of their incomes for housing than the residents of 20 of the 30 cities studied;

Chicago has proportionately more units with inadequate plumbing than 18 of the cities studied;

There is more overcrowding in Chicago than in 20 of the cities studied;

Low income areas in Chicago pay more than twice as much in property taxes as do the high income areas; and

Finally there is a greater difference between rents paid by blacks and those paid by whites relative to their respective incomes in Chicago than in 25 of the cities studied.

What do these statistics mean in human terms? My district, the First Congressional District of Illinois, provides a very graphic example. My constituency is largely poor and black: 105,536 persons in my district, or 23.1 percent of the total population, have incomes below the poverty level. Of these, 94.5 percent are black. According to the study, blacks pay an unusually high amount of their incomes for housing, and since large numbers of blacks in my district are poor, the hardships these families face in finding and paying for adequate housing are readily apparent. The housing picture in my district is dominated by the overcrowding of the large housing projects, homes with little or no heat, homes in advanced stages of disrepair, and large numbers of abandoned buildings and vacant lots. The deteriorating housing situation has forced industry and many middle-class families to flee to the suburbs, leaving behind them a housing market which is too expensive for the average worker and which has too little to offer low- and moderate-income families.

In order to correct such a poor housing situation, a massive effort is required at both the local and Federal levels. At the local level, my constituents are responding in a positive and creative manner to this problem. Church groups such as the Coppin A.M.E. Church and Corpus Christi Church are raising funds for renovation projects and have instituted neighborhood pride programs in their communities. Community organizations, such as the Woodlawn Organization, are also expending considerable effort to provide housing and supportive services for the community. Local legislators, such as Illinois State Representative Harold Washington, are doing their part legislatively to improve local housing. I have organized a citizens' task force on housing which consists of some of Chicago's most prominent housing experts. They have been working to develop a plan for improving and stimulating the housing market in my district. Also, last week I introduced H.R. 14475, which would establish a direct, low-interest loan program to assist low- and moderate-income homeowners for an annual General Accounting Office review of the housing programs of the Department of Housing and Urban Development. This bill would provide some of the funds needed to arrest the deterioration of our communities, especially in inner-city areas and also would provide an additional tool to the Congress for evaluating the effectiveness of the Federal Government's housing programs.

Although there is significant action on the local level to correct the poor housing situation which exists in Chicago, long-lasting improvements cannot be brought about without a massive effort at the Federal level. How has the Federal Government responded to this challenge? Statistics show that its response has been grossly inadequate. The urban renewal program provides an excellent example of the Federal Government's inadequate response to the housing crisis. According to the National Urban Coalition, in a recent publication entitled "The Urban Agenda: An Action Plan for the 70's"—

> In the 25 year history of our federal urban renewal programs, for example, a total of $7.5 billion has been spent in the cities. While this figure may seem to be substantial, when compared with the more than $23 billion spent on farm price supports during the five fiscal years ending with 1973, we have a better concept of the weight given to such programs by our federal government.

Not only has the funding for urban renewal been insufficient, but also under this administration the housing situation for low income families has actually deteriorated. According to figures compiled by the Center for Community Change of the National Urban League, 47,000 substandard housing units have been demolished in Chicago's inner-city areas for public housing and urban renewal site clearance purposes over the past 20 years. However, over the same period, only 11,000 standard units were built on the land cleared by urban renewal. This means a gross housing loss for low income families of approximately 36,000 units. Thus we see a pattern very familiar to other large urban areas, and that is the displacement of large numbers of low-income families followed by the Government's destruction of large numbers of low-income housing units. The Government then fails to provide adequate replacement housing.

The Nixon administration's housing moratorium has placed a further burden on Chicago's housing market. In Chicago, Federal officials have estimated that the moratorium on Federal funds would cut off about $130 million in new construction every year it is in effect. In 1973, for example, the moratorium was directly responsible for a decrease in subsidized housing of 2,340 new homes and 3,750 new apartment units, a loss which we simply cannot afford.

Population and income statistics clearly indicate that at least one-fourth of my district's population must have some form of subsidy in order to obtain and maintain adequate housing. However, since the Federal housing effort has been inadequate in meeting the housing crisis, it is imperative that Congress enact housing legislation which will begin to adequately meet the housing needs of this country's families, especially low-income families. It is for this reason that I have cosponsored and strongly support H.R. 13985, which was recently introduced by my distinguished colleague, Congressman PARREN MITCHELL. This bill would strengthen and expand the low-income housing provisions of the housing legislation presently pendiing before the Committee on Banking and Currency.

Congressman MITCHELL of Maryland's bill would provide for the continuation and expansion of the public housing program; increase operating subsidies in order to permit public housing to serve very poor people by providing adequate shelter; remove the present income limits for continued occupancy in public housing units; and establish local nonprofit housing corporations to receive public housing subsidies and permit these same corporations to provide housing for low-income families in the event that there is no public housing agency or an existing public housing agency is unwilling or unable to function. The enactment of all of these measures, in addition to the other provisions of the bill, is vital if we are to provide adequate housing for low-income families.

If we as a body are to seriously address ourselves to the growing housing crisis and the impact of that crisis on low-income families, legislation such as Congressman MITCHELL of Maryland's bill must be seriously considered and quickly enacted. Therefore, I strongly urge my colleagues on the Banking and Currency Committee to act swiftly and favorably on this bill.

THE HOUSING PROBLEM

The SPEAKER pro tempore under a previous order of the House, the gentleman from New York (Mr. WOLFF) is recognized for 5 minutes.

Mr. WOLFF. Mr. Speaker, the administration has recently come forth with a "temporary solution" to our current housing problem. It has proposed a $10.3 billion mortgage subsidy program, designed to stimulate housing construction and provide some $3 billion of mortgage money to consumers at rates below the existing market. While this proposal may provide some temporary relief, it does not address itself to the essential problem of curbing the inflation which is at the root of the buyers', builders', and bankers' problems. In the past year, a good many Americans have felt compelled to withdraw their savings accounts, either to seek higher returns elsewhere or because they could no longer afford the luxury of savings. This has left the savings banks with precious little capital to lend on mortgages; the scarcity of mortgage money has, in turn, discouraged builders from new housing construction.

The savings institutions claim that the President's proposal will not bring depositors back to their doors. I think this is a very real concern, and I am thus introducing legislation which is designed both to stimulate deposits and to provide relief for the small depositor who is generally hardest hit when interest on savings accounts falls.

My bill would allow an income tax exemption on the interest on deposits in certain savings institutions. The bill is geared toward the small depositor and would not apply to interest that exceeds $400 in the taxable year—$800 in the case of a husband and wife filing a joint return. It would cover the interest—not to exceed $400—on any deposit or withdrawable account in a mutual savings bank, cooperative bank, domestic building and loan association, savings and loan institutions, or credit unions.

This legislation would not only stimulate deposits and create more lending money, but it would also provide a needed tax break to the average American, the "little guy," who has been hardest hit by inflation. It would also be of considerable help to the elderly on fixed incomes, and those who may wish to set aside funds for a specific purpose, like retirement.

At this point in the RECORD, Mr. Speaker, I would like to include a text of this measure, as well as an article that appeared recently in the New York Times which substantiates my reasons as to why a bill like this is necessary:

H.R. 14859

A bill to amend the Internal Revenue Code of 1954 to exclude from gross income the interest on deposits in certain savings institutions

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 103(a) of the Internal Revenue Code of 1954 (relating to exclusion from gross income of interest on certain governmental obligations) is amended by striking out "or" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; or", and by adding at the end thereof the following new paragraph:

"(4) any deposit or withdrawable account in—

"(A) a mutual savings bank, cooperative bank, domestic building and loan association, or any other savings institution chartered and supervised as a savings and loan or similar institution under Federal or State law, or

"(B) a credit union described in section 501(c)(14)(A)."

(b) Section 103 of such Code (relating to interest on certain governmental obligations) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) LIMITATION ON EXCLUSION OF INTEREST ON CERTAIN SAVINGS DEPOSITS.—Subsection (a)(4) shall not apply to interest paid or accrued to the taxpayer during the taxable year on deposits and withdrawable accounts described in such subsection to the extent that such interest for the taxable year exceeds $400 ($800 if the taxpayer and his spouse file a joint return for the taxable year)."

(c) The heading of section 103 of such Code is amended by striking out "GOVERNMENTAL OBLIGATIONS" and inserting in lieu thereof "GOVERNMENTAL OBLIGATIONS OR SAVINGS DEPOSITS".

(d) The item relating to section 103 in the table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking out "governmental obligations" and inserting in lieu thereof "governmental obligations or savings deposits".

SEC. 2. (a) Section 1232(a)(2)(C)(i) of such Code is amended by striking out "(relating to certain governmental obligations)" and inserting in lieu thereof "(relating to interest on certain governmental obligations or savings deposits)".

(b) Section 4940(c)(5) of such Code is amended by striking out "certain governmental obligations" and inserting in lieu thereof "certain governmental obligations or savings deposits".

(c) Section 4942(f)(2)(A) of such Code is amended by striking out "certain governmental obligations" and inserting in lieu thereof "certain governmental obligations or savings deposits".

SEC. 3. The amendments made by the first two sections of this Act shall apply to taxable years beginning after December 31, 1973.

[From the New York Times]

SAVINGS BANKERS SNUB NIXON PLAN—ASSERT MORTGAGE SUBSIDIES WON'T RESTRAIN INFLATION

PORTLAND, OREG., May 13.—Savings bankers were cool today toward President Nixon's $10.3-billion mortgage subsidy program because they said it would not curb the inflation that has driven depositors from their doors.

"It seems to me that this proposal causes inflation," said Vincent J. Quinn, chairman of the Mortgage Investments Committee of the National Association of Mutual Savings Banks, which is holding its annual convention here.

Mr. Quinn said the inflationary aspects of the Administration program, which centers on subsidies for both Government-insured and conventional mortgages to stimulate the housing market, would cause more depositors to seek higher returns on investments than they can get at savings banks.

"There is no substitute for a stronger anti-inflationary policy," he added.

Mr. Quinn's comments came during a panel discussion of housing and mortgage finance before more than 1,200 savings bank executives at the opening of the three-day meeting.

ULLMAN COMMENTS

Representative Al Ullman, Democrat of Oregon, who addressed the bankers, commented afterward that the program "subsidizes the inflation rates rather than working to reduce them." Mr. Ullman, a member of the House Ways and Means Committee, added, "I think Congress will have something to say about that."

James T. Lynn, Secretary of the Department of Housing and Urban Development, who participated in the panel discussion, said the President has been "very much worried" about the recent tendency of depositors to withdraw their funds, seek higher returns elsewhere and leave the savings banks with less capital to lend on mortgages.

"This man means business in this area," he added. "He is not going to let inflation continue to run away."

Near the end of the panel discussion, Saul B. Klaman, the association's chief economic officer, told Mr. Lynn: "We don't want you to leave here thinking that you have been sitting in front of a group of old friends. We have seen no indication that the Administration has a vigorous anti-inflation policy. What's the solution?"

BUDGET MOVE CITED

Mr. Lynn responded that the President and his economic advisers had tried to trim the Federal budget as a step toward reducing inflation. "If you compare the budget with the claims for funds, you'll see that some care was taken to cut it as much as possible," he said.

The savings bankers urged that they be allowed to vary mortgage interest rates periodically depending on the interest rate at which they must borrow to supply the home building money. In effect, they asked to be able to raise and lower existing mortgage payment bills depending on market conditions.

"We must come up with some variable type of mortgage instrument," said George P. Preston, a panelist and president of the United States League of Savings Associations.

Mr. Lynn agreed that the Federal Housing Administration ought to be given some power to experiment with the variable mortgage rate scheme. "We ought to try it. We may like it," he said. "I can see where this could be useful."

HORROR AT MAALOT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. COTTER) is recognized for 5 minutes.

Mr. COTTER. Mr. Speaker, I share the horror and repulsion of all civilized people over the murder of 16 children and the wounding of 70 others at Maalot.

This feeling of disgust and heartbreak is shared by all Members of the House of Representatives and, I believe, by all Americans.

While all of us are well aware of the highly emotional and volatile situation in the Middle East, there can be no justification for these bestial acts of terrorism. The deep and complex political problems cannot be resolved as Prime Minister Meir said, "over the bodies of children." This terrorism must be stopped and there must be no repeat of these atrocities.

It is painfully apparent, Mr. Speaker, that these terrorist raids are designed to subvert any chance of peace in the Middle East. But as we mourn the death of these 16 young people, and pray for the recovery of the 70 that were wounded, I hope that we will not lose sight of the desire of many people in the Middle East for a lasting and honorable peace.

Yesterday, I joined with over 250 of my colleagues in a House resolution abhorring this latest terrorist attack. The resolution goes beyond this and urges the President and the Secretary of State to officially condemn these acts and strongly urges those governments who harbor such terrorists to take appropriate action to rid their countries of these immoral people.

Further, I have written to Secretary General Kurt Waldheim at the United Nations to use his office to try to end what appears to be a systematic and ongoing plan for terrorism.

In conclusion, Mr. Speaker, I wish to offer my heartfelt sympathy to those parents and friends who lost children at Maalot. I sincerely hope and pray that this incident will provide the impetus for all combatants to recognize the horrors of continued conflict and hasten the establishment of a lasting peace.

THE MAALOT MASSACRE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 10 mintues.

Mr. DRINAN. Mr. Speaker, I rise in horror and disgust in response to the shocking events yesterday at the Israel village of Maalot. Words cannot adequately express the horror felt by all decent human beings around the world upon hearing of this senseless slaughter.

The tragic events at Maalot have followed a long series of earlier acts of major Arab terrorist activities. I would like to share with my colleagues at this time a list of these senseless acts, from the May 16, 1974, New York Times:

> A list follows of major Arab terrorist activities since Feb. 10, 1970, when an attack on an El Al Israel Airlines plane at Munich killed one passenger and wounded eight. An Egyptian and two Jordanians were arrested but they were later set free.
>
> July 22, 1970—Six Palestinians hijacked an Olympic Airways plane. None was brought to justice.
>
> Sept. 6, 1970—Pan American, Trans World Airlines and Swissair planes were hijacked by Arabs. All were eventually blown up. None of the terrorists was arrested.
>
> Sept. 6, 1970—A woman terrorist was wounded and her male companion killed in an attempt to hijack an El Al plane. The women was later released.
>
> July 28, 1971—An attempt to blow up an El Al plane with booby-trapped luggage given to a woman by a male Arab friend did not succeed.
>
> Sept. 20, 1970—A similar attempt to blow up another El Al plane failed.
>
> Nov. 29, 1971—Wasfi Tal, Premier of Jordan, was assassinated by four Palestinian guerrillas while entering his hotel in Cairo. Suspects were taken into custody but no prosecutions have been reported.
>
> Feb. 22, 1972—A Lufthansa airliner was hijacked to Aden where the hijackers were paid $5-million for its release. The hijackers went free.
>
> May 8, 1972—Terrorists hijacked a Belgian Sabena airline to Lydda, where two men were killed by Israeli security guards. Two women were subsequently sentenced to life imprisonment.
>
> May 30, 1972—Three Japanese gunmen belonging to the Popular Front for the Liberation of Palestine killed 26 persons at Lydda Airport.
>
> August 16, 1972—A booby-trapped tape-recorder exploded in the luggage compartment of an El Al plane, causing slight damage. Two Arabs were released by Italian authorities after a short detention.
>
> Sept. 5, 1972—Members of an Arab guerrilla organization attacked the quarters of Israeli athletes in the Olympic Village in Munich. Eleven members of the Israeli Olympic Team were slain. Five of the terrorists were killed. Three others were later freed.
>
> Oct. 29, 1972—A Lufthansa plane was hijacked to Zagreb, Yugoslavia, where it was released after Arab terrorists responsible for the attack on the Israeli athletes at Munich had been set free. The hijackers were never brought to justice.
>
> March 2, 1973—Eight guerrillas invaded the Saudi Arabian Embassy in Khartoum, the Sudan, and killed three diplomats. The terrorists were taken into custody and are reportedly awaiting trial.
>
> April 4, 1973—Two Arabs made an unsuccessful attempt to attack passengers of an El Al plane in Rome. They were arrested but later released and sent to Lebanon.
>
> April 9, 1973—Arab terrorists attempted to attack an Israeli plane at Nicosia, Cyprus. Eight were arrested and sentenced to seven years' imprisonment. They were quietly released later.
>
> April 27, 1973—An Italian was killed in the Rome office of El Al by a Palestinian Arab who was later placed under psychiatric observation.
>
> July 24, 1973—A Japan Air Lines jumbo jet was hijacked and blown up in Tripoli, Libya. None of the five terrorists was brought to trial.
>
> Aug. 4, 1973—Two Arab terrorists killed five persons and wounded 45 in a machine-gun attack on passengers in the Athens airport lounge. Last week the terrorists were freed by the Greek government and given safe passage to Libya.
>
> Sept. 28, 1973—Three Jewish immigrants from the Soviet Union were taken hostage aboard a train for Vienna. Austrian authorities arrested two Palestinians who were then freed and flown to an Arab country.
>
> Nov. 25, 1973—Three Arabs hijacked a KLM jumbo jet and flew it to Abu Dhabi. There is no record of an arrest by Abu Dhabi authorities.
>
> April 11, 1974—Three Arab guerrillas killed a total of men, women and children in the northern Israeli border town of Qiryat Shemona before dying themselves in the explosion of their dynamite charges while under siege by Israeli security forces.

There is no question now but that there must be a cooperative and concerted effort by all world governments and peoples to stop these acts of terrorism. There can be no complete peace in the Middle East until all governments in the area cooperate in an effort to halt the terrorist movement, and, instead, direct their energies toward improving conditions for their people and refugees.

Some will say that yesterday's slaughter of children was partly caused by Israel intransigence. But this is not so. The Israel Government as well as several Arab governments have been recently cooperating in the most promising peace effort that area has seen in over 25 years. With respect to this particular incident, the Israel Cabinet was willing to reverse their longstanding policy of noncompliance with terrorist demands. I quote directly from Mrs. Meir's televised speech following the incident:

> The Cabinet decided that we do not wage war on the backs of children. We decided to meet the terrorists' terms and to release 20 terrorists as they demanded.

Mrs. Meir went on to describe Israel efforts to cooperate with the aid of the French and Rumanian Ambassadors. But the terrorists would not even grant the opportunity for the Israel Government to meet their demands. As Mrs. Meir said:

> We realized we could not manage in time. Because at 5, the Rumanian Ambassador reached us with this plan. And even if we accepted it and even if we had agreed to fly the children to an Arab country, there was no possibility to do this, not even to fly the people to Nicosia, get the code word from them and afterwards fly the terrorists and our children to some place, and all this by 6. And we had no doubt whatsoever, as the terrorists insisted stubbornly and firmly that they would not budget a single minute after 6 P.M. And then it became 5:15, 5:20, and they were not prepared to extend the time, and there was no other possibility. And we knew that all the children were in danger.

Mr. Speaker, the unhappy result is history. We all mourn in sympathy with the parents and friends of these children. We pray for the wounded. And we will not forget the courageous words of Mrs. Meir:

> And for all of us there is only one thing left: to guard in the most careful manner our strength and our spirit.

Our hopes lie in the continuing effort toward peace in the Middle East. We must go on with renewed determination to reach a lasting peace agreement; we must not bow to the political motives of the terrorists aimed at disrupting and undermining the peace efforts. It is more urgent now than ever that we achieve the long sought end to all hostilities in the Middle East.

MAALOT MASSACRE

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, yesterday, May 15, as a result of another act of brutal savagery on the part of Arab terrorist criminals, many innocent Israeli teenagers were killed and many more were injured at a school in Maalot, in northern Israel.

I am cosponsoring a resolution, introduced today by a bipartisan majority of the Members of Congress, expressing the outrage of the U.S. House of Representatives toward this evil and repugnant disregard for human decency and humanity's moral standards.

The resolution condemns this barbarity and all acts of terrorism and requests the President and the Secretary of State to call for international condemnation of this despicable act. It also requests the American Ambassador to the United Nations to introduce a resolution of condemnation in the Security Council.

The Congress also urges—

> The governments who harbor these groups and individuals to take appropriate action to rid their countries of those who subvert the peace through terrorism and senseless violence.

Mr. Speaker, this slaughter of innocents is all the more tragic because at the moment it took place, intensive negotiations were going on to bring an end to all violence in the Middle East. Because these negotiations were delayed, the tragedy at Maalot threatens all prospects for peace, and that sad fact alone affects each and every one of us directly, and indeed, all of mankind.

During this time of unspeakable grief and sadness, I join all Americans in extending my deepest sympathy to the families of the dead and wounded, and to all of the people of Israel who must endure these terrible losses. Even as we enter this period of mourning, we must renew our hopes and our longing for the day when all of the Middle East can live in peace and security.

REGULATION OF THE INDUSTRY BY THE INDUSTRY AND FOR THE INDUSTRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. PODELL) is recognized for 10 minutes.

Mr. PODELL. Mr. Speaker the principle of free enterprise is still alive and strong in the United States. We have come to a point in the development of our economy, however, where the practice of free enterprise and open competition is being severely endangered by the multibillion-dollar megacorporations that have proposed and grown into economic monsters capable of destroying anything that threatens their hold.

One of the most frightening of these monsters is the monopolistic complex that controls the most important means of modern communications—the telephone; the A.T. & T., ITT, Western Electric, Bell corporate conglomerate not only controls our lines of communication, but is now seeking to destroy its young competition which deals in the private sale of telephones.

This new industry is called interconnect coming from the principle that private telephone equipment is "interconnected" with the Bell lines for use. Interconnect received its start in 1967 with the Federal Communications Commission's Carter Phone decision which allowed distributors other than A.T. & T. and its confederate companies to sell telephone equipment.

Since that decision, the interconnect field has grown and small companies have sprung up all over the country. These companies sell equipment ranging from the simple telephone, that is familiar in most homes, to complex switching equipment used in large businesses and hotels.

Though most of the equipment sold by these private phone companies is far more modern and efficient than Bell can offer, the chief advantage to the buyer is financial. The interconnect customer buys his equipment rather than renting it from Bell. Depending on the method he uses for financing, the customer will eventually own his equipment and cease paying equipment charged entirely. He will also avoid the constantly increasing costs of renting from Bell and stabilize his costs when the equipment is free and clear. With prices constantly rising, interconnect was a welcome alternative in communication equipment.

What does this mean to the average consumer? It means that the private phone user can buy and pay just once for an extension to his home phone without harrassment by the phone company or expensive monthly rental charges. It means that where there are elderly or sick confined to an upstairs bedroom a telephone extension can be provided at a one-time cost to ease a difficult situation now made all the worse by spiralling rate increases now being sought by telephone companies.

A.T. & T., therefore, had to act quickly, and did so by instituting an "interfacing tariff" on all lines connecting to privately owned equipment. An interface is a small three pronged device which Bell installs between the wiring of the private equipment and the Bell lines "in order to protect the public utility lines from damage by direct electrical connection to foreign equipment". An interface, which has a value of about $30, is installed by Bell at a cost to the customer of between $15 and $25 a line per month. Thus, Bell and friends are not only hiking the overall cost of interconnect equipment up to a level more consistant with their own charges, but are making a nice profit on "self-protection".

A.T. & T. and A.T. & T. alone, has been the judge of whether or not equipment must be interfaced. It has enforced the interfacing requirement across the board, with no exception, whether or not the particular piece of equipment is or is not electrically harmful to their lines.

A.T. & T. thereby, regulates its competition. Though the courts have turned over several cases against the interface tariff to the FCC this Commission has failed to establish overall guidelines on the validity of the A.T. & T. claims, despite the fact that on those cases that have come up for hearings A.T. & T. interfacing requirements have been found to be illegal.

Congress must step in. We cannot allow one corporation to regulate another if free enterprise is still the basis of our economy. We must put the regulation of standards for private phone systems in the proper hands where they can be determined without bias to the consumer. Further, we must end the reaping of exorbitant profits under the pretense of "self-protection" by A.T. & T.

The FCC must not only determine when interface is necessary, but must approve devices based on their performance, not on who manufactures them. We cannot allow this gross misuse of power to go unchecked. We must act now to insure small businesses the right to grow or succumb on their own merits not according to the interests of multibillion-dollar companies.

At this very moment A.T. & T. is collecting thousands of dollars in unearned profits from consumers who decided to go with the competition. This practice must be stopped now. It is not only repugnant to the rights of competition, but to the freedom of choice of the individual who is being penalized for exercising that choice. We have to draw the line here and now. It is already too late when we look closely at this situation and find that the corporation is not only regulating its competition, but citizens and Government agencies alike.

The FCC must replace A.T. & T. as the controlling force in the new field of interconnect. We cannot permit this most dangerous phenomenon to go unchecked if we want the system of free enterprise to survive.

Therefore, I am introducing legislation today to remedy this appalling situation. This legislation would first, require the Federal Communications Commission to prescribe standards for all equipment attached to the public utility telephone lines, not only the individual pieces of interconnect equipment, but the interface devices as well.

Second, it would prohibit any telephone company from inhibiting the connection of FCC approved equipment to public utility lines. This legislation would require that the FCC prescribe its standards within 180 days after the enactment of this act and grants them the authority to assess violators up to $1,000 per violation, each day being considered a separate violation.

This legislation is both necessary and urgent. It is imperative that we act and act swiftly to stop big business from running roughshod over the American people.

LEGISLATION TO EXTEND POSTAL RATE ADJUSTMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. FORD) is recognized for 10 minutes.

Mr. FORD. Mr. Speaker, on Monday, May 13, the Subcommittee on Postal Service on which I serve, unanimously reported out S. 411 which last week passed the Senate by an overwhelming margin of 71 to 11.

This legislation will extend the time permitted certain mail users to adjust to full postage rates. It is intended to deal with the current crisis affecting access by the American people to magazines, books, small newspapers and other educational and cultural materials. The effect of this legislation would be to extend for a few additional years the time in which the Congress would appropriate funds to make up the revenue lost to the Postal Service, thus permitting these users to adjust more gradually to full rates.

Under the provisions of this bill, the number of years for the annual phasing of second-class regular (magazines and newspapers), special or book-rate fourth class (books and other educational materials), and controlled circulation publications would be increased to 8 years from the 5 years provided by the current law.

The number of years for the annual phasing of preferred second class, nonprofit third-class, and the special fourth-class library rates would be increased to 16 years from the 10 years provided by the present law.

While I supported this bill in committee, I do not believe it goes far enough in assuring the free flow of ideas through the mails. In 1972 and again last year I introduced the Education and Cultural Postal Amendments, which would have doubled the phasing of these rates from 5 to 10 years instead of the 3-year addition under S. 411. My bill would have also written into the statute a new requirement that the Postal Rate Commission take into account in recommending rates the following criterion: "The educational, cultural, scientific and informational value to the recipient of mail materials."

The Education and Cultural Postal Amendments which I introduced were approved last year by the full Post Office and Civil Service Committee; but unfortunately, due to the strong opposition of the Nixon administration, my bill could not even get a rule, and this body was denied the opportunity to debate the merits of my proposal.

Mr. Speaker, my chief concern since enactment of the Postal Reorganization Act has been the adverse effect spiraling postal costs have on our Nation's schools and libraries. These are the institutions most severely affected by the increases in special rate fourth-class (the book rate) since they pay the cost of postage on the books they receive. The rate increases which went into effect on March 2 represent an additional 43 percent increment for special rate fourth class. This is six to eight times greater than the average yearly increase voted by the Congress over the period of 1940 to 1970.

Repeated testimony by the American Library Association has estimated that some 50 percent of books received by libraries and college stores travel through the mail. In the case of smaller libraries, the volume of materials received via the mails is closer to 90 percent. Clearly, for schools and libraries each dollar increase in postal charges results in equivalent decreases in the amount of funds available for acquiring up-to-date materials for their collections.

While I would have preferred enactment of my expanded version of this legislation, I believe S. 411 is the best available means of assuring the continued dissemination of ideas through the mails. Failure to act on this legislation will have an adverse impact on the accessibility of informational services on which a large percentage of the citizens of this Nation depend.

Mr. Speaker, the principle of freedom of speech, cherished as a foundation of our democracy, can only be enhanced by positive efforts to assure reasonable postage rates for the transmission through the mails of boooks, magazines, and other scientific, cultural and educational matter. Once again, I would like to emphasize that S. 411 is not intended to set rates, but merely to reaffirm a long-standing congressional policy to insure the free flow of ideas through the mails.

I am hopeful that my colleagues on both sides of the aisle will support this legislation when it comes to the floor for consideration.

THE UNITED STATES SHOULD SUSPEND DIPLOMATIC RELATIONS WITH LEBANON; INSTITUTE ECONOMIC SANCTIONS; CALL FOR IMMEDIATE SECURITY COUNCIL SESSION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. ABZUG), is recognized for 5 minutes.

Ms. ABZUG. Mr. Speaker, the news reports from Israel of yesterday and this morning bring anguish and grief to all people. The murder of children is the most heinous of all crimes. Yesterday's actions by the Arab terrorists is beyond the pale of human behavior.

Yesterday morning I cosponsored a House resolution condemning the action of the Arab terrorists and calling on the President to direct the U.S. Ambassador to the United Nations to secure a Security Council resolution condemning this act of terrorism. But the events of yesterday afternoon make the resolution seem somehow inadequate.

Last night I sent the following telegram to President Nixon and Secretary of State Kissinger asking the United States to suspend diplomatic relations and institute economic sanctions against Lebanon:

> The murder of the Israeli children is ghastly and horrifying, but it requires more than conventional expressions of regret. I call upon our government to immediately suspend diplomatic relations with Lebanon and institute an economic boycott of that nation until it acts decisively against these heartless terrorists. Our government should also call for an immediate and extraordinary session of the U.N. Security Council to express its unanimous condemnation of this terrible crime.

Clearly, this desperate and violent action was intended to disrupt efforts to find a peaceful solution to the Middle East crisis. That effort must go on, and the survival of the Israel nation and the right of its people to live in peace and security must be guaranteed.

GSA SEEKS TO PLAY BIG BROTHER

(Mr. MOSS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MOSS. Mr. Speaker, periodically a Federal agency oversteps its legally formalized bounds, challenges the Congress and endangers the people by its initiatives. Such a situation has just been brought to light at the General Services Administration, and I believe the anatomy of this situation should be aired on the floor of the House.

From time to time proposals have been advanced that government create a national data center of some kind. Civil libertarians from all shades of the political spectrum have risen in vigorous opposition to such initiatives, mindful of the potential for governmental invasion of individual privacy. Ten years ago such a proposal was exposed and destroyed by an alert Congress. Today, another attempt is being made to bring such a system into being.

In meetings with GSA personnel, staff members of the Subcommittee on Foreign Operations and Government Information of the House Government Operations Committee have unearthed admissions of such a plan. Staff members of Senator ERVIN'S Subcommittee on Constitutional Rights joined in these efforts. At issue is a GSA plan to create a national telecommunications computer network, ostensibly for GSA and the Agriculture Department. These plans have been formulated since mid-1972.

The 8-year effort envisions a five-site network, with an optional four more sites. Minimal cost for this creation, largest nonmilitary computer acquisition in American history, is $90 million, with a possible figure of $200 million, without cost escalation due to inflation. The project is known as FEDNET, although GSA people refer to it by its more innocuous title of "new equipment project."

In the past year, both subcommittees have held hearings on this and related subjects. GSA has appeared before both bodies. Each time, the agency replied in the negative when asked if new computer networks were contemplated. When queried in writing by both subcommittees about new computer networks in this timeframe, the agency replied in the negative.

Meanwhile, using the automatic data processing fund voted in good faith under the Brooks bill—public law 89-396—GSA began to quietly notify potential contractors that procurement was envisioned.

This system is modular by nature, thus making it capable of infinite expansion. Talks were held between GSA and several agencies, including Social Security, Veterans' Administration, Agriculture, and Customs. The National Bureau of Standards, required by law to do so, supplied technical advice.

Because the system was deliberately designed to be massive, only huge contractors could support procurement, guaranteeing the largest system possible.

Should such a system be created, virtually every Federal agency would beat a path to GSA's door, knowing that only in this manner could it guarantee access to the most modern third generation of computers. The telecommunications aspect of the system is its most pernicious aspect, allowing computers to exchange information. In effect, our privacy is today protected by fragmentation. FEDNET would end this protective fragmentation, allowing any individual's privacy to be invaded who had interacted in any way with the Federal Government. We would be dependent for our privacy on the good will of the operators of the system. And in light of the ongoing revelations in this city, the obvious conclusions can be fairly drawn.

Using the ADP fund, GSA sought to present Congress and the Nation with a "fait accompli", simultaneously approaching Congress with a measure allowing it to use multiyear leasing. In such a manner, not only would they be able to use the ADP fund to procure equipment, but with multiyear leasing they would not have to come to the Congress for years at a time for authorization, appropriations, or oversight. It *was* a total perversion of the Brooks bill, the ADP fund, the intent of Congress and the housekeeping function of GSA.

When I discovered this and queried Mr. Sampson of the GSA, a number of other Members of both bodies expressed their strong feelings in communications to the head of that agency. Senators Ervin, Goldwater, and Hruska wrote him in protest. Our distinguished colleague, Mr. Moorhead, chairman of Foreign Operations and Government Information, protested. Vice President Ford spoke out against FEDNET specifically last Thursday in Chicago before the National Computer Conference.

The White House Office of Telecommunications Policy has stated its reservations, as had the Office of Management and Budget. OMB has specifically asked GSA to drastically curb its procurement.

This Tuesday, in Appropriations Committee hearings, when our distinguished colleague, Ed Roybal of California, asked that Mr. Sampson submit FEDNET plans in writing to Congress, Mr. Sampson vehemently demurred, leaving us to draw the obvious conclusions. Mr. Sampson piously mouthing his desire to protect everyone's privacy, has evinced his intention to continue with procurement of the system for GSA and Agriculture, openly inviting Congress to fly a kite.

It is central to the thrust of this statement that Members know that today no system is known by the computer industry whereby time sharing can be prevented from becoming data sharing. IBM is presently engaged in a $50 million crash program aimed at finding some crude method of preventing this, to protect its worried commercial clients. Yet Mr. Sampson speaks of protecting the privacy of Americans. In the name of heaven, how? It is impossible. Yet he proposes to continue building his totally unauthorized system.

This system is so large, and possesses such potential for invading the privacy of every citizen, that it cannot be commenced without specific congressional approval. Intensive hearings are required and written submissions must be made by the agency. GSA seems to believe it is a law unto itself Therefore, the Congress must remind this agency that it is subject to congressional oversight and approval. Further, I believe these hearings should also serve an oversight function, for the circumstances surrounding GSA's activities vis-a-vis FEDNET are so unusual as to require such probing.

At this point I include appropriate correspondence on FEDNET in my remarks for the enlightenment of this House:

U.S. Senate,
May 6, 1974.

Ted Trimmer, Esq.
General Counsel, General Services Administration, Washington, D.C.

Dear Mr. Trimmer: On Friday, May 3, at your suggestion, you and other members of the GSA met with members of the Constitutional Rights Subcommittee staff and those of Congressmen Moss and Moorehead. The subject of the meeting was the proposed FEDNET project which just recently came to our attention.

The FEDNET proposal raises serious issues of privacy and the role of Congress in policy decisions in this area. As now contemplated, the proposal is to combine procurement and systems design to be compatible with those of other government agencies, with a view to cooperative computer usage in the future. At present the plan envisages compatible systems for GSA and the Department of Agriculture, but with the capability of adding other departments in the future. Such a massive system poses the possibility of nationwide computer sharing, with obvious and immense implications for privacy. Indeed a similar proposal in the 1960's for a National Data Center was rejected by Congress after much public outcry. Congress received an explicit commitment then that no such project would be undertaken without full public debate and express statutory authority. It is our understanding that GSA has proceeded with its project on the good faith belief that it has full statutory authority already and that the privacy implications were minor or nonexistent.

We understand that in the meeting you and your associates acknowledged that our privacy concerns are valid and agreed that GSA should review the project in this light. It is our strong belief that we must subject the FEDNET concept and similar major data systems proposals to full legislative scrutiny and to require explicit legislative authorization before any of them are undertaken. You expressed your personal view that these would be appropriate for FEDNET, and said you would urge that GSA take the position that the FEDNET concept should be the subject of express statutory authorization. You also agreed that a letter would be forthcoming from GSA to us and other interested legislators by May 10 containing GSA's decision on this point.

We cannot stress too much our insistence that this is the only way to proceed. Public and congressional concern with privacy makes it necessary that all such proposals receive public scrutiny of this kind. In this regard, you may be familiar with proposals we have introduced (S. 2963-Ervin, S. 2964-Hruska and S. 2810-Goldwater), and which have already been the subject of hearings before the Constitutional Rights Subcommittee. The President's Privacy Commission, headed by Vice-President Ford, was established for this purpose.

We appreciate the speed with which you acknowledged the validity of this concern, and the promise of full cooperation that you made. We look forward to Mr. Sampson's letter and we are confident that with this joint cooperation, both the legitimate needs of citizen privacy and government efficiency can be accommodated.

With kindest wishes,
Sincerely,

Sam J. Ervin, Jr.,
Roman L. Hruska,
Barry Goldwater.

House of Representatives,
Washington, D.C., May 8, 1974.

Hon. Arthur F. Sampson,
Administrator, General Services Administration, Washington, D.C.

Dear Mr. Administrator: As you know, staff members of the House Committee on Government Operations and Senate Committee on the Judiciary met with key officials of your agency regarding plans for a national computer and communications network called FEDNET.

During the course of this meeting questions arose as to some of the potential dangers of such a system to the right of privacy. The fears were expressed because of 1.) the modular nature of the system which permits many Government agencies to become a part of it; and 2.) the simplicity in converting such a system from strictly timesharing to a data-sharing operation.

If both of these possibilities became a reality, the result would be a national data center. Assurances were given to this committee several years ago that no national data center ever would be established without the specific authorization of the Congress.

From the comments of your officials, it is apparent that little or no consideration was given to the invasion of privacy possibilities of the system or that it could easily become subject to legislation currently pending in Congress in regard to citizen access to records, transfer control and proposed rights to correct and supplement data.

In our opinion, the FEDNET plan is fraught with major policy implications which require detailed review by Congress before steps are taken to advance it beyond current applicability.

With kind regards,
Sincerely,

William S. Moorhead,
Chairman.

REMARKS BY VICE PRESIDENT GERALD R. FORD

I thank you for this opportunity to address the 1974 National Computer Conference and Exposition.

The invitation extended by the American Federation of Information Processing Societies was timely. I am learning about computer technology and data processing from the viewpoint of my new responsibilities as Chairman of the Domestic Council Committee on the Right of Privacy.

I am aware that the notion of leaving the protection of individual privacy to Government officials has been compared to asking the fox to protect the chicken coop. But five months ago—when the most intense investigation ever focused on a nominee for the Vice Presidency was directed at me—I awakened to the privacy issue in a very real and personal sense. I was one of the chickens.

On a previous visit to Chicago, I had occasion to refer to some foxes who passed themselves off as elephants in the 1972 election. I am speaking of some characters in the CREEP organization and CREEP's invasion of the privacy of political opponents. This made me more aware of what could happen to our sacred right to privacy. I deplore such violations of traditional standards of honesty and decency in our political life.

I told President Nixon of my concerns, and he appointed me chairman of the Committee on the Right of Privacy. I welcome the challenge.

I know that there have been previous commitments, previous studies, and previous recommendations to deal by legislation with privacy problems. It is too early to forecast the outcome. I realize that too many findings have been ignored and too little actually done. The time has come for action. I will do all in my power to get results.

My first act as chairman involved complaints about an Executive Order of the President that permitted the Department of

Agriculture to review the income tax returns of farmers to obtain data for statistical purposes. The President asked me to look into the matter. I immediately discussed the Executive Order with Secretary Butz and recommended that it be withdrawn. The President accepted my recommendation.

Let me tell you about the development of the Committee that I head. I wanted to chair this Committee with a staff of our own selection. I asked my former law partner, Philip Buchen—a distinguished advocate of personal freedom—to come to Washington as the Committee's Executive Director.

Interagency task forces were formed to make recommendations. Contributions have come also from the Congress, State governments, industry, citizens' groups, private individuals, academic experts, and some Federal agencies not represented on the Committee. We wish to invite our hosts, the American Federation of Information Processing Societies, and all constituent groups to become involved.

Today I would like to cite an example of a development that concerns our committee. The Government's General Services Administration has distributed specifications for bids on centers throughout the country for a massive new computer network. It would have the potential to store comprehensive data on individuals and institutions.

The contemplated system, known as FEDNET, would link Federal agencies in a network that would allow GSA to obtain personal information from the files of many Federal departments. It is portrayed as the largest single governmental purchase of civilian data communication equipment in history.

I am concerned that Federal protection of individual privacy is not yet developed to the degree necessary to prevent FEDNET from being used to probe into the lives of individuals.

Before building a nuclear reactor, we design the safeguards for its use. We also require environmental impact statements specifying the anticipated effect of the reactor's operation on the environment. Prior to approving a vast computer network affecting personal lives, we need a comparable privacy impact statement. We must also consider the fall-out hazards of FEDNET to traditional freedoms.

I can today make known that the Privacy Committee staff is proceeding with a project to develop recommendations for assuring that personal privacy rights are given systematic and careful consideration in the planning, coordination, and procurement of Federal data processing and data communications systems.

Our objective is to formulate an action plan by June 30. An interagency task force has been given the assignment.

Assignments have also been made for other task forces to work on problems involving:

Social security numbers;

Protection of personal privacy interests of Consumers.

MAY 9, 1974.

Hon. ARTHUR F. SAMPSON,
Administrator, General Services Administration, Washington, D.C.

DEAR ART: This is in regard to your April 2, 1974, letter concerning GSA's proposed acquisition of ADP and telecommunications equipment. We have carefully reviewed the extensive volume of material supplied by GSA and have discussed the matter with representatives of the Department of Agriculture and the Office of Telecommunications Policy.

We have concluded that your pending Request for Proposal (RFP CDPA 74–14) to acquire nine computer sites and a data communications network should be withdrawn. The proposed data communications network is not responsive to the Department of Agriculture requirements. Moreover, the pending procurement is inconsistent with guidance of the Office of Telecommunications Policy which has called for termination of the proposal.

There is no economic advantage to the proposed acquisition of the initial GSA site. More importantly, there are a number of viable alternatives which would satisfy CSA's internal processing requirements. These include: Reutilization of Agriculture's IBM 370–168 computer which will be replaced by the new equipment now being procured, use of excess USDA capacity which will be available at the new sites, purchase of a smaller computer for GSA for use along with commercial ADP services.

With regard to the three optional GSA sites, there is no identifiable workload associated with there machines nor is there an assurance that this particular configuration will satisfy future needs. In addition, considering the "single prime contractor" approach of the RFP, the relative inflexibility of the data communications requirements, and the potentially limited competition, the solicitation for these three options is not without inherent cost to the Government. Finally, the proposed acquisition of ADP and telecommunications capability for unspecified uses poses a serious potential threat to the right of privacy at a time when this issue is under intense review by the Executive Branch and the Congress.

In view of the above consideration, GSA should take the following actions:

1. Immediately withdraw the Request for Proposal (RFP).

2. Reissue a new RFP limited to four firm and two optional sites (one for USDA and one for GSA). The GSA option should only be exercised after a thorough review of available alternatives and the necessary budget approval has been obtained.

3. The communication requirements should be acquired separately in accordance with OTP guidance and should be restated in a manner acceptable to the users.

Any procurement of ADP and telecommunications equipment or services with funds available to GSA may be obligated only in accordance with guidance contained in this letter.

Sincerely,

ROY L. ASH,
Director.

HOUSE OF REPRESENTATIVES,
Washington, D.C., May 15, 1974.

ARTHUR SAMPSON,
Administrator, General Services Administration, Washington, D.C.

DEAR MR. ADMINISTRATOR: I am afraid that your May 10th, 1974 letter leaves several questions unanswered, only partially answers others and offers responses to some queries that are prone to misinterpretation.

To begin with, according to my best information there is no existing system or contemplated system known to the computer industry guaranteeing that time-sharing on computers will not be turned into date sharing. If I am in error I will be pleased to review your proof of my error.

IBM is engaged presently in a crash $50 million undertaking to find even a few primitive barriers to such invasions of privacy among computer users. If they cannot offer such a defense to their massive list of commercial users, how does FEDNET propose to do so? Therefore, your disclaimers and assurances of seeking to avoid any invasion of privacy under such a system are, although sincere, meaningless in an effective sense.

I have been joined in voicing vigorous protests against this endeavor by a bipartisan group of people in public life. You have received such communications from Vice President Ford, Senators Ervin, Goldwater and Hruska, Congressman Moorhead of Pennsylvania, the Office of Management and Budget and the White House Office of Telecommunications Policy. OMB has formally asked you to drastically curb the limits of your ongoing procurement effort. Nevertheless, in spite of these efforts, you inform me that GSA is going ahead with its plans to bring into being telecommunications computer network, on a modular basis, between GSA and the Department of Agriculture.

Both the Subcommittee on Foreign Operations and Government Information of the House Government Operations Committee and the Senate Constitutional Rights Subcommittee have held hearings on this subject in the past year. GSA appeared before both of them. In each case, GSA was asked whether or not new computer systems were being contemplated. In each case, GSA told these two committees that no such effort was underway. Yet your own personnel have informed Congressional staff people on these two subcommittees in recent meetings that FEDNET was begun in summer of 1972. Both these subcommittees repeated their queries in writing to GSA and received the same negative responses. Obvious conclusions can be drawn from these findings.

It is obvious to me and a growing number of Congressional observers that both the intent and will of Congress in creating the Automatic Data Processing Fund are being willfully violated by BSA in forging ahead with FEDNET. Such action is a perversion of the ADP fund and Congressional intent. Intensive hearings are required because of the unprecedented size of this procurement and the system it envisions. Its potential impact on our society and privacy of every American is so vast and pervasive that explicit Congressional approval must be given.

Ten years ago, when another such national data center was proposed, the Congress expressed its fears for the privacy of Americans.

On May 9th, 1974, Vice President Ford stated his concerns to the National Computer Conference:

"I am concerned that Federal protection of individual privacy is not yet developed to the degree necessary to prevent FEDNET from being used to probe into the lives of individuals . . . We must also consider the fallout hazards of FEDNET to traditional freedoms."

In light of this overwhelming evidence, I find your vehemently expressed reluctance in House Appropriations Committee testimony on May 14th, 1974 when asked to submit FEDNET plans in writing to Congress, difficult to understand, and can only draw obvious conclusions.

I am therefore proceeding to request that formal oversight hearings be held in both houses of Congress into this state of affairs, and that appropriations for this undertaking be withheld from your agency.

JOHN E. MOSS,
Member of Congress.

THE LARGEST CIVILIAN GOVERNMENT COMMUNICATIONS PROCUREMENT IN HISTORY

IMPACT

Bids on "the largest civilian government data communications procurement in history" were about to be requested by the General Services Administration (GSA) as we went to press. Worth "over $100 million," according to one knowledgeable source, the RFP encompasses a nationwide packet-switched network, and represents the first phase in development of a consolidated government-wide information utility called FEDNET, which is likely to have far-reaching impact not only on data communications technology, but also on government dp systems procurements.

M. Shy Meeker, commissioner of GSA's Automated Data and Telecommunications

Service (ADTS), the agency that will manage the new supersystem, indicated its effect on procurement policy during a recent speech in Dallas:

"We ... see FEDNET becoming an indispensable tool to GSA and other agencies for responding to and managing future change." While this "does not mean we will operate all, or even a majority, of the government's teleprocessing activities, it does mean that (the upcoming procurement) will allow us to start to link the vast majority of federal computers into a truly integrated teleprocessing resource."

Meeker estimated that the new data communications network (DCN), as it evolves into FEDNET, "will allow GSA to satisfy 50% of the growth (in federal teleprocessing needs) over the next 8–10 years." Remaining needs will be met by continuing to let user agencies acquire their own systems, contracting with private service bureaus, and negotiating bulk hardware/software buys via "mandatory requirements contracts," on behalf of agencies with similar requirements. "But we will do all of this with an eye toward government-wide needs instead of individual agency needs," Meeker added, "and we will link major systems with (FEDNET) to insure easy communication and maximum utilization."

The new network, ultimately, will "make virtually every modern computer in the government accessible anywhere in the nation," explained Meeker. "So, when agency X has a requirement for information processing, it will have a number of alternatives. If the requirement is small or of short duration, we'll find time for that requirement on a government-owned machine or on a commercial machine, under government contract. If the requirement is a large one or of a continuing nature, we or the agency *might go out* into the marketplace to procure, on a competitive basis, a machine to do the job, and tie it into the data network. If, because of unforseen circumstances, the agency does not fill the machine, its link to the data network would assure that its excess time could be sold to another agency. Or, on the other hand, if the agency outgrew a machine, but could not justify acquisition of another, then we would find time on a brand-name specialized system designed to meet spillover demand."

FEDNET is one of four big steps being planned by GSA to improve dp system utilization within the federal establishment, Meeker explained.

Multi-year leasing

Legislation is now pending in the Senate, and is expected to be introduced shortly in the House, enabling the agency to expand its use of multi-year leasing. The main aim is to cut costs—not only by exploiting the lower charges inherent in multi-year leases compared to one-year contracts, but also by creating a pool of used equipment that can eliminate some agency acquisitions of new equipment.

If GSA obtains expanded multi-year leasing authority, the next step, although it's some time away, according to Meeker, will be full capitalization of the adp revolving fund set up by the Brooks bill. Basically, GSA would take title to all the general purpose computers in the federal government. As Meeker explained it recently in Dallas: "Full capitalization includes the concept that GSA would have all of the government's adp dollars in its pocket in order to deal with the government's adp suppliers for discounts . . . In addition, (full capitalization) would permit GSA to employ government-wide needs as a basis for lease versus purchase determinations, taking into consideration secondary usage or residual value, and would permit GSA eventually to establish government-wide prices for the use of adp which would encourage realistic sharing of existing resources." Full capitalization also would enable GSA to "directly compare government cost to commercial cost, and permit the President and Congress to be aware of the actual adp cost of the various agencies' programs as they review them in the annual budget process."

Service Bureau discounts

Within the next month, GSA is expected to announce a new scheme for contracting with outside service bureaus. The basic goal is to reduce the costs of outside computational services, which currently amount to roughly $50 million a year, Computer Sciences Corp. (CSC) has the biggest single slice of this business—about $12 million/year. It won a GSA contract several months ago to service federal agencies across the nation, by offering machine time at discounted rates.

The discount, which varies depending upon volume, currently averages close to 40%. The other federal contracts for computational services are negotiated by the using agencies and generally don't include discounts. GSA hopes to change all that. One way was suggested by Meeker in Dallas when he said the agency was considering the establishment of "mandatory multiple award schedule contracts for the entire service bureau industry"—i.e. vendors would be listed on a procurement schedule, like those now used for hardware and software, and federal users would be able to procure time only from them. To get listed on the schedule, however, the service bureaus would have to offer discounts.

Although Meeker and other GSA officials don't emphasize it, one major effect of these changes will be to give the agency greater control over federal dp expenditures, and the users less. Asked whether this shift might cause problems, Meekers indicated that it shouldn't because, under the Brooks bill, GSA can't interfere with a user agency's decisions regarding system requirements, specifications, or applications.

THE SYSTEM

GSA's upcoming rip encompasses computer systems for a maximum of nine dp centers, as well as the hardware and software needed for the network. Four of these centers will be operated by the Department of Agriculture; they will be used entirely for that agency's in-house dp requirements. The remaining centers are to be operated by GSA, and will offer service bureau services to the entire federal government. Capability to handle both interactive and remote batch jobs is requested in the rip (although the latter applications won't be supported initially).

GSA plans to start with one new service bureau center, and hopes to add the others at two year intervals. This first center will interface with the 10 service bureaus GSA is now operating, and will supplement the applications they are supporting on second-generation systems. These latter systems will be replaced, over the next 3–4 years, through a separate procurement.

The result of all these buys, said Meeker, will be an in-house service bureau network with "many times the computing capacity" of the present one.

He and other GSA officials refused to discuss the rip (because it hadn't yet been issued), but from outside sources we learned that the design calls for a packet-switched network based on a maximum overall message block length of 1024 characters, of which about 1000 represent data. Ultimately, there will be eight computerized switching centers (SCs), connected to each other and to the adp centers by 9600 bps, or higher-speed channels. Users will be linked to these centers through a total of 16 mini-computerized regional concentrators (RCs); 4800 bps, channels will connect the RCs to the SCs, and channels between the terminals and the RCs will have a maximum capacity of 2400 bps. The ultimate system is designed to support "several thousand" terminals.

Each RC reportedly will have approximately 48 input ports and dual output channels. SCs will have four output and 12 input channels. The network is configured so that each adp center is tied to two SCs, and each SC is tied to two RCs; this arrangement is designed to minimize delays in case of transmission link failure.

The network will utilize a synchronous, continuous bit stream to transmit messages, and thus will be completely code transparent. Both synchronous and asynchronous terminals will be attachable to the extremities of the net. In many cases, according to our sources, a special interface will be needed to 'connect an already-installed remote terminal, particularly if it's a computer. Essentially, this is because of differences between terminal and network communication protocols (although the latter haven't been worked out yet—GSA apparently is relying on the bidders to develop workable schemes).

It hasn't yet been decided whether the interface, analogous to the "terminal interface processor" (TIP) used by the ARPA network, will be supplied by GSA as part of the network package. If not, the user would have to acquire it on his own.

The goal is to transmit a typical message through the network in two seconds or less. The system will be monitored continuously from a central location, but whether GSA provides dynamic load balancing reportedly depends on what bidders offer. A decision on the scheme for rerouting traffic around a failed link is also being deferred until after the bids come in.

Soft spots

A data communications engineer who is familiar with the rfp says the network design "seems to be adequate" but he pointed to a number of "soft spots."

The ACK/NAK procedure GSA plans to use will add significantly to transmission overhead. Essentially, each network node must acknowledge receipt of each message from the preceding node, even in the case of interactive communications. In other systems, we were told, no ACK/NAK, as such, is used for interactive traffic. If the sender doesn't receive a reply within a specified time, he simply sends the message again. Also, in the GSA network, each node will keep a copy of the message in secondary memory until it receives an ACK from the following node. An alternative scheme, which reportedly reduces the need for memory, involves keeping a record at the network entry point until an acknowledgement is received from the exit point.

The network will have no polling capability, even though there is said to be a "substantial need" for it. Adding polling software to the RCs reportedly would be "quite possible." RJE applications also will be excluded, although this is apparently justfied, on the grounds that RJE messages—because of their length—don't make efficient use of packet technology.

Whether users will have a voice in the operation of the network, particularly regarding such matters as charges, terminal interfaces, and communications protocols, is "an open question," according to our source. ADTS Commissioner Mecker, when we interviewed him, said GSA plans to establish a user group.

Although bids will be accepted from specialized carriers, software firms, data communications front end manufacturers, and mainframers, it will be far easier for the latter group to compete, since benchmarks will be required. Reportedly, some manufacturers of data communications equipment have already complained to GSA about this aspect of the buy. But our source pointed out that, with the probable exception of IBM, all the mainframers who bid probably will form joint ventures with specialized firms. Univac is already rumored to be negotiating a joint venture with GTE and CSC.

The procurement plan reportedly will allow vendors four months to prepare their bids. The first installation, we were told, is scheduled for mid-1975.

THE ANNIVERSARY OF BROWN AGAINST BOARD OF EDUCATION: A LANDMARK DECISION

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, it will be 20 years ago tomorrow that the Supreme Court of the United States concluded that the doctrine of "separate but equal" has no place in the field of public education. The ruling in Brown against Board of Education that "separate education facilities are inherently unequal" will remain a landmark in the history of the U.S. Constitution. No other judicial decision in our history has so galvanized the moral conscience of the Nation and altered its social landscape. I speak today in commemoration and praise of this decision and those who argued the case for the plaintiffs.

Particularly, I want to recognize two lawyers who represented the NAACP in the Brown case. Robert L. Carter is currently a U.S. district judge. Jack Greenberg, director of the NAACP Legal Defense and Education Fund since 1961, has written extensively on race relations and the American legal system. I salute both men for their effective advocacy in the Brown case and their considerable achievements in the years hence.

No one would deny that the implementation of Brown has caused tensions which have put our unity as a people to the severest test. Its implications have raised perplexing issues which are not close to resolution. But no one should have expected Brown to be anything but the beginning of the struggle for racial equality. And that struggle will always be difficult, for the problem it addresses has pervaded American society for 200 years. The problems that have plagued us since Brown should not be permitted to obscure the wisdom of that decision. The moral force of its insistence that racial segregation is a violation of the guarantee of equal protection of the law remains as strong today as it was 20 years ago.

EQUAL CREDIT LEGISLATION WITHOUT REGARD TO SEX, MARITAL STATUS, ET CETERA

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, today Chairman Leonor Sullivan of the House Consumer Affairs Subcommittee is introducing on behalf of 13 of the 15-member subcommittee, a bill to provide equal credit opportunities for all without regard to sex, marital status, race, color, religion, national origin, or age. This legislation is more fully described in the statement which Chairman Sullivan is making today. The purpose of this legislation is to remove from a controversial bill covering a broad spectrum of consumer inequities, protective measures to eliminate the discrimination that exists today in the issuance of credit. The committee worked long and hard in drafting the bill. All legislation can be improved. The bill will be the subject of public hearings and the committee welcomes any constructive proposal to make the bill better.

It is my hope that the subcommittee will hold its hearings in June and report the bill to the full committee for its consideration before the end of the month. It is imperative that this legislation be passed by the House and sent to conference with its Senate counterpart introduced by Senator Brock of Tennessee so that the strongest, most effective legislation on this subject can be enacted into law this year. I very much appreciate the kind comments that Chairman Sullivan included in her statement and her acknowledgment of my efforts in formulating a coalition behind this bill.

SOVIET PRESENCE IN CUBA

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, I have called to the attention of this House on numerous occasions the continuing Soviet military presence in Cuba. As I have noted, we have the good fortune to have in my area Dr. Manolo Reyes, an eminently qualified expert on military matters involving Cuba.

Dr. Reyes has given me an update on the Cuban military situation which should be a subject of grave concern to us all and I would like to share it with our colleagues and with all who read this Record. I include in the Record the following summary of Dr. Reyes' statement for the House Internal Security Committee, of which I am a member:

MILITARY SITUATION IN CUBA

The undersigned, Dr. Manolo Reyes, temporarily residing at 243 S.W. 26th Road, Miami, Florida 33129, speaking before the United States Internal Security Committee of the House of Representatives in Washington, D.C., stated the following:

On October 17th, 1973 I appeared before the above-named Committee in Washington, Congressman Claude Pepper presided.

On that occasion, I declared before the Committee the actual threat Russian naval squadrons going to Cuba represent to the peace and security of the United States and the Continent. Those visits include war ships and nuclear submarines.

At the same time I was delivering this statement in Washington, D.C., a new Russian naval task force appeared in Cuban waters. It was the eleventh of its kind to appear in Cuba since July 1969. When they left Cuba they were sighted 9 miles off the coast of Fort Lauderdale.

Now a new development has occurred.

The 12th naval fleet of the Soviet Union is anchored in Cuban waters.

It is composed of two destroyers, one tanker and one ballistic missile submarine. **Even though this submarine is a diesel sub** and not nuclear . . . it carries three nuclear missiles called "SERB" with a range of 750 miles.

This occurrence in itself breaks any pact . . . **if there is one . . . between Washington and Moscow not to have Intercontinental Ballistic Missiles in Cuba** . . . as these missiles are intercontinental due to their range.

This G–2 Class submarine is one of the largest Soviet subs and was built between 1958 and 1962.

It has 86 men, 22 officers and 74 crewmembers. Its speed is 17.6 miles on the surface and 17 miles submerged. It carries 10 torpedoes on the bow. It is 320 feet long and 25 feet wide. On the surface it displaces 2,350 tons and under water, 2,800 tons.

This is the second time that a powerful and dangerous submarine of this type from Soviet Union has gone to Cuba. The first one arrived in Nipe Bay in May, 1972. Now this submarine **visited Havana** from April 30th to May 6th and is visiting different ports and bays of Cuba including, of course, the Soviet Naval facility of Cienfuegos in the southern part of the Island.

This Soviet Submarine is accompanied by two of the largest war destroyers in the Russian arsenal. They are called Krivak Class guided-missile destroyers.

These destroyers are 405 feet long, displace 5,200 tons fully loaded and can make a speed of 38 knots. The use of eight sets of gas turbine engines gives the Krivak a rapid acceleration that cannot be matched by steam driven ships.

The Krivak also may be the most heavily-armed ship of her size in the world. It has four surface-to-surface missiles with a range of 40 miles, two twin-armed surface-to-air missile launchers, two rocket launchers for antisubmarine rockets, eight torpedoe tubes and four 30 mm. machine guns.

The sole presence of these war ships in the Caribbean is a threat to the peace and security of the nations of this Hemisphere and a direct threat to the United States because of Cuba's proximity to these shores.

Dr. Manolo Reyes.

Miami, *May 9, 1974.*

KILL THE LITTLE CHILDREN

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, to those of us reared on the thought of "let the little children come unto me," it is horrifying to realize that brutal terrorists exist who are capable of condoning a policy of "kill the little children" in the furtherance of their geopolitical ambitions in the Middle East.

I am appalled that the 26th anniversary of the establishment of the State of Israel, in which I played a significant part in the 1940's, should be marked this week by the savage assault of Arab terrorists on a school filled with children on a carefree holiday.

The horror of this effort of ruthless Arab terrorists to hold these children hostage, which resulted in the loss of so many young lives, emphasizes the long history of suffering by the Jewish people which led to the overwhelming support of the peoples of the world for the creation of an independent homeland for the Jews.

Twenty-six years ago, the homeland of the Jewish people was officially restored to them. Out of the holocaust of World War II, the untold sufferings of innocent victims, arose the promise of a bright tomorrow. The Jewish people had come home.

Let us pause to remember that historical day, May 14, 1948. As David Ben-Gurion read the Proclamation of Statehood for the State of Israel, the words of the prophets were fulfilled. A dream crystallized into reality. Yet, the very existence of this newly created state was immediately threatened by hostile neighbors. Nevertheless, the spirited determination of its people, both at home and abroad, resisted all attacks upon Israel's sovereignty. The very essence of the Jewish people was at stake. Time and time again, the challenge was met. The democratic state of Israel continues to grow and flourish.

The accomplishments of this remarkable state are many. Despite recurring demands upon its manpower and resources, for the first two decades of statehood, Israel's economy has rapidly expanded with sizable increases in the annual GNP of between 10 and 14 percent. In foreign trade, the United States continues to be Israel's primary trading partner, followed by the United Kingdom and the Federal Republic of Germany.

The United States has shown its solid support of Israel by extending substantial economic and military aid. Following the Yom Kippur war, $2.2 billion was provided for emergency military assistance in addition to regular aid programs. The United States has also endeavored to assist Israel in the resettlement of Soviet Jewish refugees through the provision of $36.5 million.

At the same time, Israel itself has provided technical assistance to the less developed countries. All in all, Israel has assumed an active role in international economic affairs.

The achievements on the domestic front are also noteworthy. Israel has been able to deal successfully with the social and environmental problems resulting from the rapid shift to an industrialized economy from an agricultural one.

The Government of Israel is committed to accept all Jews who wish to settle in the homeland. As a result, housing and urban development programs have been drawn up to assure accommodations for the continual flow of immigrants, most notably the recent wave of oppressed Soviet Jews. Owning 92 percent of the land, the state has established several different types of villages, which are organized to help the inhabitants adjust to their newly chosen way of life in the land of Moses and Abraham.

On this 26th anniversary of the return to the Promised Land, let me reaffirm my belief in Israel as a state and yet much more, as a testament to the strength of the heroic Jewish people. Having withstood the test of time, Israel seeks to live in peace, a goal not outside the realm of the possible.

I can assure you that I will continue to voice strong support for Israel. It is in our national interest to help Israel maintain itself as an independent, forward-looking country against the forces of oppression. Israel shall endure.

THE GENIUS OF MORRIS LAPIDUS

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, I wish to take this occasion to commend an individual whose resourcefulness and genius have contributed enormously toward making Miami Beach the world's foremost resort community. That individual is architect Morris Lapidus. More than any other person, he has been responsible for creating the soaring, glittering, majestically sweeping skyline of Miami Beach that has become one of our Nation's best recognized symbols throughout the world.

Morris Lapidus has created a uniquely American architecture. Until he designed the Fontainebleau, which opened 20 years ago, American designers were copying European hotels. The Fontainebleau opened to a mixed reception among critics of art and architecture, but it was instantly popular with the customers. It remains our Nation's best known hotel. The management still has difficulty controlling the huge numbers of visitors who come to its lobby simply to see it. Morris Lapidus has stated repeatedly that he is designing for the people, and not for the critics.

In recent years, however, even the critics have come to appreciate his work. He has created an architecture that appeals to people, they are saying, and there is art in that. Ours is one of the few cultures in history where people generally do not become excited about their architecture and when someone can stimulate their interest in it, he is remarkable, indeed.

Though he once was criticized, Morris Lapidus now is being written about; there are exhibitions on his work; and he is electrifying architectural students one-third his age in lectures at campuses all over the Nation. Dr. A. L. Freundlich, dean of the School of Art at Syracuse University, has stated:

> Morris Lapidus, more than any other man, reflects the aesthetic taste of mid-20th Century America.

A creative person cannot aspire to any higher aim.

TOWARD A NEW INTER-AMERICAN RELATIONSHIP

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, it is my privilege to call to the attention of our colleagues an outstanding address by Deputy Assistant Secretary of State William G. Bowdler, which he delivered to the Miami International Center on April 1 of this year. His address, entitled "Toward a New Inter-American Relationship," makes a significant contribution, I believe, to the problem of understanding the need for a closer, more mature relationship between the United States and the other peoples of the hemisphere. I am pleased to include his address in the Record at this point:

TOWARD A NEW INTER-AMERICAN RELATIONSHIP

(Address by Deputy Assistant Secretary William G. Bowdler)

I am most grateful, Mr. Lumpkin, for your invitation to address this distinguished group on the occasion of the installation of the Center's new slate of officers. We in Washington, and particularly those of us who work closely in the field of inter-American relations, are well acquainted with the excellent work done over the years by the International Center. Through its programs in the fields of international business, commerce, and cultural interchange, the Center continues to make valuable contributions to improved communication and understanding in this Hemisphere.

Communication and understanding is of course the foundation upon which a successful foreign policy must rest. As you know, we are now embarked as a government upon a major effort to place our relationship with the nations of Latin America and the Caribbean on a firm, new basis. Central to that effort is improved communication and understanding. Secretary Kissinger recognized this when in October of last year, shortly after being sworn in as Secretary of State, he called for a new dialogue. In response to the Secretary's invitation, the Latin American and Caribbean Foreign Ministers met in Bogota, Colombia, in November to formulate an agenda of issues of concern to their governments which they wished to discuss with Secretary Kissinger. The eight-point agenda adopted at Bogota, with two additional items suggested by the Secretary, formed the basis for the meeting of Foreign Ministers which took place February 20–23 in Mexico City.

This evening, I would like to report to you on:

What took place at the Mexico City Meeting;

What factors led up to this unusual meeting outside the framework of the OAS; and

What significance it holds for the future of inter-American relations.

I think we should begin by examining the events preceding the meeting in the Mexican capital.

FACTORS WHICH PRODUCED THE MEXICO CITY MEETING

Looking back over recent years on the different aspects of our relations with the Latin American and Caribbean countries we can detect certain trends which are important to an understanding of the conference of Tlatelolco.

On the bilateral side our relations have ranged, with a few exceptions, from "excellent" to "good". Our subregional relations—and here I refer to our relations with the Andean Group, the Central American Common Market, and the Caribbean Free Trade Association—have on the whole been quite satisfactory. It is largely at the regional level where things have not gone well:

Where the criticism has been sharpest;

Where the confrontation has been most acute; and

Where alienation threatened to become a dominant theme.

The result has been that frustration, resentment, and criticism on the part of countries of Latin America and the Caribbean has increasingly manifested itself in confrontational tactics in regional meetings over the past five years.

"Why has this been so?", you will ask, and "What basis is there for the disenchantment and complaint?" Among the reasons are:

1. Our neighbors have *not fully understood the "mature partnership" concept* that formed the basis of President Nixon's major

Latin American policy statement of October 31, 1969. Over time they came to look on the concept as indifference, benign neglect, or as a turning away to what they thought the United States regarded as more important areas of concern. They did not perceive this policy shift as the expression of our desire to exchange an outdated policy of Latin American dependence for recognition of a growing interdependence and the need for consultation and coordination on matters of common interest.

2. During this period *major developments in other parts of the world*—the Vietnam war and peace negotiations, movement toward normalization of relations with the Peoples Republic of China, and our efforts toward detente with the Soviet Union—have claimed the attention of the U.S. Government and the American people.

3. Our *economic difficulties*—particularly the deficits in our balance of payments and of trade, together with the devaluation of the dollar and now the energy crisis—*have reduced Congressional support for economic assistance.* These problems have also caused a delay in introducing promised trade legislation of benefit to Latin America and other developing areas.

4. *Preoccupation with negotiations elsewhere*—in Paris, Peking and Moscow—*tended to hamper high level dialogue* between U.S. and Latin American leaders.

5. I think it is fair to say that *our neighbors to the south have not always understood the enormous problems that we have had to face in recent years.* There has been a tendency to think in terms of old ways and old assumptions about their relationships with us.

This, in broad perspective, was the scene when a new Secretary of State was appointed in September of last year. The issue was not so much whether our policies toward the region, as defined by President Nixon in his October 1969 speech, were sound—and I for one believe that they were—but rather the Latin American perception of what that policy meant and our success in conveying its true meaning.

When Secretary Kissinger assumed office, he sensed the malaise in our inter-American relations, and he quickly went to the root of the problem: the breakdown of communications between the United States and Latin America which had permitted doubt and suspicion to embitter the relationship and to threaten serious alienation of our traditional friends. In an effort to reverse this trend, he proposed a new dialogue as the most effective means to reestablish confidence and to create an atmosphere within which we could address problems openly and constructively.

This is how he put it to Latin American and Caribbean representatives when he made his proposal in October, within days of being sworn in as Secretary of State:

"We in the United States will approach this dialogue with an open mind. We do not believe that any institution or any treaty arrangement is beyond examination. We want to see whether free peoples emphasizing and respecting their diversity but united by similar aspirations and values can achieve great goals on the basis of equality.

"So we are starting an urgent examination of our Western Hemisphere policy within our Government. But such a policy makes no sense if it is a United States prescription handed over to Latin Americans for your acceptance or rejecton. It shouldn't be a policy designed in Washington for Latin America. It should be a policy designed by all of Latin America for the Americas."

As I noted earlier, in response to Secretary Kissinger's offer, the Latin American and Caribbean Foreign Ministers met in Bogota, Colombia, last November to formulate an agenda of issues of concern to their governments which they wished to discuss with Secretary Kissinger. We were not surprised to find that the issues they defined were the same ones which had been the source of contention in the past. The new element was the spirit—the tone—in which they were drafted, which reciprocated the desire to enter into the "new dialogue".

WHAT TOOK PLACE AT MEXICO CITY

The eight-point agenda adopted at Bogota, with two additional points suggested by the Secretary, became the basis for the Conference that took place February 20–23 in Mexico City. Although on the surface most of the agenda issues were economic—e.g., cooperation for development, coercive measures of an economic nature, structure of international trade and the monetary system, transnational enterprises, and transfer of technology—they were broadly enough defined, and the format of the discussion itself was sufficiently informal, to enable the Secretary to engage in a wide-ranging exchange of views on hemispheric relationships.

The result of these exchanges was to affect precisely those aspects of our relations I earlier identified as weakest at the time the Secretary came into office: Latin American perceptions of our policy and our own capacity to convey our true intentions.

The obvious seriousness with which Secretary Kissinger approached the meeting, combined with the directness of his language and his personal commitment to this endeavor, led to a perceptible shift in attitude. The Secretary's specific proposals, many of which centered on increased consultations, strengthened this mood by suggesting that it was possible, indeed necessary, to move from confrontation to cooperation. What the Secretary proposed, in effect, was a new approach, a *new methodology* for carrying out the policy goals announced five years earlier by the President. This *methodology,* while based in part on a more forthcoming attitude on the part of the United States, evokes a mutual commitment to explore—through continuing consultations and through new mechanisms where necessary—the means of overcoming differences and strengthening inter-American solidarity.

The Secretary carried with him to Mexico City the conviction that a new framework for our relations with Latin America was in the U.S. national interest and that the basis for this new framework is a revitalized special relationship between the United States and Latin America. Some special relationship, of course, is inevitable with a region in which our presence is so pervasive. But the kind of special relationship which the Secretary had in mind was one which would be built upon a greater sense of mutual confidence and reciprocity, of shared purposes and responsibilities—a special relationship which would enable our hemisphere to play a larger role in world affairs.

While the assembled Foreign Ministers did not wish to establish some new kind of Western Hemisphere bloc—which, in any case, was never proposed by the United States—they did clearly accept a commitment to work toward new inter-American solidarity, based on the conviction that, with patience and understanding—and above all with a political will to succeed—a new relationship in the Hemisphere based upon cooperation rather than confrontation is indeed both desirable and possible. This was what the Secretary had in mind when he said, "Let us create a new spirit in our relations—the spirit of Tlatelolco."

In short, what has occurred as a result of Mexico City is that a deep and growing skepticism on the part of Latin American and Caribbean leaders has been converted into a developing spirit of optimism. Before us now is the larger task of converting that sense of expectation into a growing sense of confidence that the United States does indeed mean what it says when it calls for a rededication to a new era of Western Hemisphere relationships.

SIGNIFICANCE FOR FUTURE OF INTER-AMERICAN RELATIONSHIPS

Let me turn finally to the significance of the Mexico City meeting for the future of inter-American relations. At the outset of the meeting Secretary Kissinger stated that the fundamental task at Mexico City—more important by far than the specifics of the agenda—was to set a common direction in our hemispheric relations and to infuse our efforts with new purpose.

This course has been set. The challenge is to see that we adhere to it. The first steps buttress our optimism for the future. Let me give you a few concrete examples. Some of the most intractable problems in our bilateral relations have yielded to the new approach:

With Mexico we have negotiated a solution to the increasingly difficult problem of the salinity of the Colorado River.

With Peru we have worked out a fair settlement of investment disputes which had been a major source of friction and an obstacle to cooperation.

With Panama we have negotiated basic principles which will serve as a road map in negotiating a new, modern relationship governing the operation of the Panama Canal.

We likewise see the new spirit reflected in the regional meetings held since Mexico City.

The Special Committee on Restructuring the Inter-American System, meeting in Washington March 6–28, made significant advances in its review of the OAS Charter and the Rio Treaty.

The Inter-American Economic and Social Council, meeting in Quito March 18–23, which last year had been the scene of one of the sharpest confrontations between the United States and Latin America, pledged its full support in advancing the cooperative relationships worked out at Tlatelolco.

The Board of Governors Meeting of the Inter-American Development Bank, which opens today in Santiago, Chile, I am confident will likewise approach the issue of financial cooperation and assistance for development in the same constructive spirit.

The "Spirit of Tlatelolco" *has* been at work. But if that spirit is to be sustained, much more *must* be done. The challenge before us then is to broaden and to institutionalize the dialogue and to translate it into concrete accomplishment. Secretary Kissinger at Mexico defined the task in these terms:

"First, let us make clear to our peoples that we do have a common destiny and a modern framework for effective cooperation.

"Second, let us agree on an agenda for the Americas, a course of actions that will give substance to our consensus and inspiration to our peoples.

"Third, let us define a program to bring that agenda to life."

This will be the focus when the Foreign Ministers meet again in Washington on April 17–18 to continue the dialogue.

The challenge they face, however, is not theirs alone. It is a challenge to all of those interested in inter-American relations. It can only be met through improved communication and understanding, combined with the requisite political will at the highest leadership levels throughout the Hemisphere.

We in the United States have special interests and responsibilities in the forging of the new relationship. Our commitment must have the understanding and support not only of the executive and legislative branches of our government, but of the U.S. public at large. Organizations such as yours have a key role to play in developing such a constituency.

The challenge to us in Washington is also the challenge to the International Center in South Florida. I commend it to your newly installed Governing Board and to each one of you present here tonight.

I understand that the ultimate goal of your organization is to convey the feeling of "Con Nosotros" to our neighbors in this hemisphere.

"Con Nosotros" is precisely the spirit of the new relationship which we seek to establish.

MISSING IN ACTION IN SOUTHEAST ASIA

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HANLEY. Mr. Speaker, the letter which follows my brief remarks speaks more eloquently than I to the continuing sorrow of the families of the 1,200 servicemen, whose fate in Southeast Asia *is still* undetermined.

Lt. Cmdr. Philip Craig was born and raised in the city of Oneida, which I am privileged to represent. He was reported missing in action in 1967. His fate is unknown, and he remains officially unaccounted for. One of the provisions of the Paris Agreement called for a full accounting of the Americans who were listed as missing in action.

I believe that the Government of the United States has a solemn obligation to press with full vigor for the promised accounting. The Communist governments of Southeast Asia ought not to be allowed to go back on their pledge. The letter follows:

Missing in Action

San Antonio, Tex.

Editor Dispatch:

In the fall of 1967 your paper published an article regarding the disappearance of our son, Philip C. Craig, LCDR, USN, who failed to return from a mission over N Vietnam. At the time, based upon direction from our Government and US Navy, we requested that no further publicity be given this incident since it could jeopardize Philip's welfare if held prisoner.

Our Government later revised this policy. It is now desirable that all publicity possible be given the plight of the missing men and their families.

Many Americans are unaware that more than 1200 American prisoners of war and missing in action are still unaccounted for in the aftermath of the Vietnam war and that the fate of these men has gone unexplained.

It is distressing that the news media has devoted so little attention to these men. Surely this subject is one that merits your editorial comment and continued news coverage.

Because a few hundred of our former prisoners of war were returned to us, the American public mistakenly thinks that a POW–MIA problem no longer exists. Nothing could be farther from the truth. Here are some of the hard facts.

Few of our missing were included among those returned.

Sixty of our men that NVN claimed, "He died in captivity", are still buried in alien soil. Not one body has been sent home to the man's family.

Our Search and Inspection teams which were supposed to be allowed entry into all areas of Southeast Asia, where our men were last seen alive, have so far been permitted to examine only a few sites—all in South Vietnam.

As parents of Philip Craig, LCDR, USN, who has been missing in action since July 4, 1967, we are deeply concerned that the MIA Issue has not been resolved in accordance with the Paris Peace Agreement of January 1973.

Philip was born and grew up in New York State. He attended St. Patrick's Parochial School, Oneida Jr. and Senior High, and was graduated from the Manlius School. He received his degree in Education from the University of Michigan in 1963, and at that time was commissioned in the Navy.

As a jet pilot, he was assigned to the Carrier USS *Intrepid*. While the carrier was in its second tour in S.E. Asia, in 1967, we were informed Philip was missing in action. No information has been received concerning him since that time.

We believe that many of our fellow citizens would continue to be concerned about his fate and that of the other 1200-plus missing Americans if they knew the facts. The National League of Families of POW-MIA in Washington, D.C., of which we are members, has prepared a fact sheet detailing some of the information about our missing men. We are enclosing a copy in the hope you will find it of enough interest to write an editorial on the subject.

Sincerely yours,

Charles P. Craig.
Annabel Craig.

HOW LONG?

(Mr. PODELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PODELL. Mr. Speaker, every time there is an act of terrorism, here or abroad, we shake our heads and cluck our tongues and piously say, "Oh, dear, we must do something."

But of course we never do anything, and so the next time the terrorists are even bolder and more brazen, and the conscience of the world grows another layer of callous.

Yesterday, Palestinian terrorists took over a schoolbuilding in the Israeli town of Maalot. There were 90 children in that building, children just like the ones we have at home. The depraved minds who comprised the terrorist group wanted to use these young innocents to do their dirty work for them. They were to be held as hostages to get more murdering terrorists out of Israeli prisons and then to get the whole filthy lot safe passage to an Arab haven, no doubt Libya, where such creatures are welcomed with open arms.

The Israeli Government, for the first time, gave in to these demands. The lives of 90 boys and girls are far more important than a matter of principle about giving in to terrorism. Those 90 children were a precious resource for the small State of Israel.

But the terrorists, not satisfied with bringing a brave government to its knees, had wired the building with explosive devices after having put a time limit on their demands that was impossible to meet. There was no question but that they were going to blow up the building, even though the Israeli Government was making the best efforts it could to meet their demands.

When this became apparent, the Israel Government gave orders to storm the Maalot school building. The army's hope was to take out the terrorists, then defuse the bombs, and then get to the children. When the terrorists knew that they were going to be attacked, they did what only lunatics and savages would do—they turned on their hostages with machineguns and grenades.

As of this morning, 20 children are dead, scores of others are wounded, many seriously. The death toll will rise as the day passes. The Kaddish—the traditional prayer for the dead—will be mixed with cries of anguish and clamoring for revenge.

The people of Maalot and, indeed, all the people in Israel and the world, have good cause to ask this morning, "How long, dear God, how long are we going to stand here and be the helpless sheep for the terrorists butcher knives? How long are we going to sit idly by while they prey upon us and kill our children?"

It is only natural that the Israel Government will launch retaliatory raids against the terrorist camps in Lebanon. When a death blow has been struck at you, your first reaction is to strike back, hard, and hope that you can take your assailant with you. But I fervently hope and pray that Israel will exercise self-restraint.

Not because retaliatory raids would be wrong. No, in this instance they are certainly warranted. But, because the rest of the world sees Israel as corrupt and depraved, as aggressive and imperialistic, and because the rest of the world will condemn Israel for acting as anyone would in the same circumstances, and because the Palestinian terrorists will be lauded as the new generation of folk heroes for their valiant blows for the freedom of their bastard state.

I am sick unto death with this. I cannot understand why such things have been allowed to go on for so long. I cannot understand why the two greatest powers in the world, who both profess their deep desire to see peace in the Middle East, can continue to ignore such depravity. I cannot understand why nobody speaks out in defense of Israel, who for a quarter of a century has been victimized by the depredations of terrorists.

The United States is as much to blame here as the Soviet Union. We have had countless chances at the United Nations and elsewhere to take a positive stand against terrorism. Instead, we either fudge, or we vote against Israel and assess her the blame for the actions of murderers.

It is the old anti-Semites' excuse: if the Jews did not insist on existing, then there would be no anti-Semitism. Well, Israel does insist on existing, just like every other nation, with secure borders, peace for her people and freedom from terrorist attacks. Is this really so much to ask?

A resolution has been introduced, offering the condolences of the House of Representatives to the families of those who were killed and wounded. I know that words are insufficient to ease the pain of the loss these people have suffered. The only thing that can make any difference in the long run is for the United States to act as a moral nation and take a strong stand against terrorist activities.

We can begin by offering a resolution in the Security Council to condemn Lebanon for harboring the terrorists. After that, we can do whatever is necessary to assist Israel is controlling terrorist activity against her people.

I do not want to hear anyone say, ever again, "How long?" The answer is only as long as it takes for this country to act with courage in standing up for decency and against terrorist murders. We cannot afford to be cowardly any longer. The next time they strike, I hate to think of how many more might be killed. I want to make sure that there is no more "next time."

As an individual, I want to offer my deepest sympathy and condolences to the families of the children who were killed. It is hard to put into words my feelings of sorrow for these people. I can only imagine how great and painful their loss is. But I want them to know, just as I want the families of those whose children were wounded to know, that I grieve with them, and that I will do everything I can to make sure that no one else will lose their children to terrorist attacks.

JACKSON, WYO., LAND EXCHANGE

(Mr. RONCALIO of Wyoming asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RONCALIO of Wyoming. Mr. Speaker, I am today introducing legislation which would authorize an exchange of lands adjacent to the Teton National Forest in Wyoming with the forest for the purposes of allowing expansion of the town of Jackson, Wyo.'s cemetery.

There is only very limited space left in the cemetery at Jackson and the town council has been investigating where additional lands might be acquired. Negotiations have been conducted with the Forest Service by the town council in regard to a possible exchange of approximately 25 acres of privately owned lands for certain lands within the national forest. As 97 percent of the land in Teton County is federally owned, there are few other options available.

The land which is presently owned by the town is outside of the present boundary of the national forest, but is bordered on the south and the west by the national forest.

By statute, national forest lands may be exchanged for other lands if they are within national forest boundaries. To facilitate this exchange, authorization must be granted by Congress to extend the forest boundary.

An identical bill has been introduced in the Senate by my colleague from Wyoming, Senator HANSEN, and I hope that each body will see fit to take action on the legislation.

THE MASSACRE AT MAALOT

(Mr. DOMINICK V. DANIELS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DOMINICK V. DANIELS. Mr. Speaker, I rise in this House to express my shock and horror at the terrible massacre at Maalot in Israel, five miles from the Lebanese border. This latest atrocity following close on the April 11 massacre at Kiryat Shemona is yet another example of the mindless killing of the innocent by terrorists.

I cannot condemn too strongly this terrible killing, an act so horrible and so monstrous that it cannot help but beget further killing and the spilling of more blood.

Mr. Speaker, at this time, my heart goes out to the parents of the dead and injured children in this little Galilee town. May Almighty God in His wisdom take them to His bosom.

Today I am joining a bipartisan group of Members of this House united not by party or ideology but rather by a common sense of horror in condemning what happened yesterday at Maalot. Those who stand for civilization must be prepared to defend it. I assure you, Mr. Speaker, that I am.

SOCIAL SECURITY DISABILITY PROGRAM

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, in recent months there has been a disturbing increase in the number of complaints I receive from constituents concerning the social security disability insurance program. These complaints deal with the inordinately long time people must wait for decisions on claims for disability benefits, and the delays they experience in the resolution of interruptions in benefit payments. The intent of Congress when they established the disability insurance program was very clear: to provide financial security to people who become disabled and unable to work. But in reality, the program is a cruel hoax for hundreds—perhaps thousands—who get caught in its bureaucratic redtape. And it appears to be getting worse.

Initial disability claim determinations, reconsiderations, and hearing decisions, after a claimant has provided the Social Security Administration with all evidence and information requested, take at the minimum 2 or 3 months and very often take around 6 months. Moreover, in my experience, it is not uncommon for a decision on a claim to take a year or more. I recently heard from a constituent who waited over 2 years for a reconsideration decision on her claim—which was eventually approved—because her file was misplaced by the Bureau of Disability Insurance.

Even when a person has been advised that his or her claim has been approved, it generally takes the Bureau of Disability Insurance from 2 to 4 months or more to compute the benefits and send the necessary authorization to the Department of the Treasury to issue benefit checks. In March, a man in my district contacted me regarding his brother who is in the hospital, dying of cancer. His brother filed a claim for disability benefits on December 5, 1973. According to social security officials, the State agency officially determined that he was disabled and forwarded this information to the Bureau of Disability Insurance on January 4, 1974. The Bureau approved his claim on February 27, 1974, but this man has not yet received any of the benefits to which he is entitled.

Interruptions in payments to people who are regularly receiving disability benefits can occur for a variety of reasons from computer errors at the Bureau of Disability Insurance to mishandling by the Postal Service. One of my constituents who was receiving disability benefits for himself, his wife and children submitted a change of address form to the Social Security Administration in November 1973, and as a result did not receive benefits for the next 2 months. Although they received payment for the amount of the missing checks in March 1974, my constituent's checks are still being mailed to his previous address. Another resident of my district, a woman with two children, did not receive her disability benefits in December 1973 nor in January 1974 and was forced to turn to welfare for assistance. She finally received payment in April 1974.

It certainly was not the intention of Congress when they created the disability insurance program to force people who are unable to work and who have little or no other sources of income to fall back on their savings and go into debt or on welfare because the Bureau of Disability Insurance cannot act promptly on their claims or payment problems.

I have taken two steps which hope will prove instrumental in improving this deplorable situation. First, I have introduced legislation to provide people who receive disability benefits with the same rights all other social security recipients now enjoy; namely, to be able to request prompt reinstatement of their monthly benefits when these benefit payments are stopped for no apparent reason. Second, I have asked the General Accounting Office to investigate the serious delays in the disability claim determination and appeal process.

In the Social Security Amendments of 1967, Congress included a provision to permit people to file a special "expedited payment" request for benefits which are due but have not been paid. This applies to situations where a person has made application for benefits and it appears that he or she is eligible but no final action has been taken on the application within 90 days, and in cases where a person's monthly benefit check stops for no apparent reason. However, this provision (section 205q of the Social Security Act) excludes people who receive disability benefits because the disability determination process is extensive and it is not generally possible to make these medical determinations on a prima facie basis. It was felt that such decisions would result in too many erroneous payments.

Unfortunately, Congress did not take into consideration the payment problems of individuals and their dependents or survivors who are already receiving disability benefits which are interrupted for no apparent reason. According to the Bureau of the Census, 25 percent of families with incomes below the poverty level are social security recipients. In view of the slowness of the Bureau of Disability Insurance in acting on payment problems, extension of the "expedited payment" provision of the Social Security Act to include the more than 3.6 million recipients of disability benefits is essential to prevent financial hardship.

My bill would not change the law with respect to people who are awaiting action on initial disability claims, but would permit recipients of disability benefits to request "expedited payment" on the 15th of the month following the month in which the missing benefits were due, and entitle them to receive within the next 15 days either payment of the amount of the missing check or checks, or an explanation from the Social Security Administration as to why no payment is due.

Because of my concern about the delays in the determination and appeal process for disability claims and the financial hardship this is causing for claimants, I wrote to the Social Security Commissioner on January 24, 1974, bringing this matter to his attention and asking for an explanation of these delays. I regret to say that as of this date I have not received a reply. Therefore, I have today requested the General Accounting Office to investigate this situation, to advise me as to why these delays are occurring and to recommend measures to resolve these problems.

A copy of my letter to the General Accounting Office and the text of the bill follow these remarks:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., May 13, 1974.

Hon. ELMER B. STAATS,
Comptroller General of the United States, General Accounting Office, Washington, D.C.

DEAR MR. STAATS: In recent months my caseload from constituents concerning problems with the disability insurance program under the Social Security Act has increased markedly. Most of these problems involve the determination and appeal process. Initial determinations, reconsiderations, and hearing decisions, after a claimant has provided the Social Security Administration with all evidence and information requested, each take from three to six months. In my experience it is not uncommon for a decision on a claim to take a year or more. I recently heard from a constituent who waited over two years for a reconsideration decision on her claim because her file was misplaced by the Bureau of Disability Insurance. Even when a person has been advised that his or her claim has been approved, it generally takes the Bureau of Disability Insurance from two to four months or more to compute their benefits and send the necessary authorization to the Department of the Treasury to issue benefit checks.

My concern in this matter is for the claimants who are unable to work, who have little or no other sources of income, and who suffer financial hardships because the Bureau of Disability Insurance cannot act promptly on their claims.

I would appreciate it if you would investigate this situation and advise me as to why it takes so long to reach decisions on disability claims once the claimants have provided all information required, and if you would recommend measures to resolve this problem.

Thank you for your assistance.

Sincerely,

JOHN F. SEIBERLING,
Member of Congress.

H.R. 14878

A bill to amend title II of the Social Security Act to provide that the special procedure for expediting benefit payments (where such payments are not regularly made when due) shall apply to benefits based on disability in the same way it applies to other benefits under such title if entitlement has already been established and the benefits involved have been paid for one or more months

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second sentence of section 205(q)(5) of the Social Security Act is amended by striking out "or with respect to any benefit" and inserting in lieu thereof "or, in any case to which paragraph (2)(B)(ii) applies, with respect to any benefit".

SEC. 2. The amendment made by the first section of this Act shall apply with respect to benefits payable (or alleged to be payable) for months after the month in which this Act is enacted.

EAT MORE EGGS

(Mr. RANDALL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RANDALL. Mr. Speaker, I enthusiastically rise to support H.R. 1200, the Egg Research and Consumer Information Act. This measure simply allows American egg producers to develop a national plan subject to referendum approval by egg producers for egg promotion and research in cooperation with the Department of Agriculture. If approved the plan would be carried out by an egg board appointed and supervised by the Secretary of Agriculture and financed mainly by egg producers.

Eggs are good for people. We should eat more eggs. Unfortunately consumer demand for eggs and egg products has declined steadily since 1950. In that year Americans consumed an annual average of 390 eggs per person but by 1973 the per capita consumption of eggs and egg products dropped to 292, almost 100 eggs per year.

Why is it that egg consumption has decreased? Well, there has been a change in eating habits toward breakfast cereals and such things as instant breakfast products. Then there is the constant warning against high cholesterol intake. All of this has raised some doubts that the American egg producing industry can continue to provide an adequate steady supply of fresh eggs to consumers. Sixteen States have established voluntary production assessment programs similar to the national one which this bill would authorize for market producers and research. The assessment needs for these State programs varies from 6 cent per case—there are 30 dozen in a case—in California to two-thirds of 1 cent per case in Alabama.

It is noteworthy that this measure was reported for the House Agriculture Committee by a vote of 26 to 0. This bill is nothing more than enabling legislation. It would allow the egg industry to draft and to put to referendum a national plan through which individual egg producers might assess themselves up to 5 cents for each case, 30 dozen of commercial eggs. These funds would be used for consumer education, research, advertising, promotion to enhance the desirability and image of eggs and egg products.

It is estimated the assessment would yield an estimated $7.5 million a year. The program would be designed for commercial producers with laying flocks of 3,000 or more which it is estimated produce 87 percent of the Nation's egg supply.

There has been some talk about the cost of this program. The truth is it would cost only about $100,000 in administrative costs each year, and the referendum itself would cost not much over $100,000. Why, oh, why, can there be any opposition to a plan of this kind? Similar plans for the record will involve peanuts, wool, milk, cotton, and other commodities have worked well. Why should eggs be excluded?

There is no doubt that a program such as this would greatly assist producers and consumers alike. In my State of Missouri, several years ago the egg producers established a State self help program similar to this one. It was called the Missouri Egg Merchandising Council. But I am sure our egg producers realize that a nationwide program in addition to the State program would be most beneficial.

About 1.5 million eggs are produced each year in my State of Missouri which ranks 17th nationally in egg production. In the State of Missouri egg production produces an income of about $30 million.

It is a pleasure to support an effort of this kind to help producers assist themselves. As this bill goes on to the Senate we should all do whatever we can to assure its passage in the other body.

It is refreshing to see people trying to help themselves with their own money and asking for a very limited amount of government assistance and supervision. It is a rare occasion when we have before us a piece of legislation that is not a request for a handout. All our egg producers are asking by this legislation is a chance to help themselves. In fact, all they are asking is a chance to tax themselves. H.R. 1200 merits and deserves the unanimous support of the House.

A BILL TO ASSURE EQUAL ACCESS TO URBAN MASS TRANSPORTATION FOR OUR SENIOR CITIZENS

(Mr. REGULA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. REGULA. Mr. Speaker, during the first 2 weeks of this month, I and 10 colleagues from both sides of the aisle participated in sponsoring a 2-week internship for senior citizens in our congressional offices here in Washington.

I was privileged to have Mr. and Mrs.

Harry Rankin from Canton, Ohio, who were chosen for the internship by the Area Wide Agency on Aging assist me in studying legislation of interest to senior citizens and in learning about programs and policies affecting the elderly.

As an immediate result of the new insights I have gained from this experience, I am today introducing legislation amending the Urban Mass Transportation Administration Act of 1964 to authorize the payment of subsidies to public and private urban mass transportation systems to enable them to provide services for the elderly.

The Urban Mass Transportation Administration cannot now fund reduced fare programs for the elderly. In spite of this limitation, Transportation Department studies show that where local communities have lowered fares for senior citizens, ridership by the elderly has increased anywhere from 20 to 50 percent.

A major restraint to greater use of mass transit facilities by older people is cost. The number of elderly below the poverty level is about double that of the general population. About 5.2 million elderly people are in this category.

The spiraling cost of inflation is forever eating into the fixed incomes of our senior citizens. We can, however, assure equal access to transportation for elderly people and help offset the pressures of inflation by passing this bill so that public and private urban mass transportation systems can be reimbursed for their losses on fares reduced by up to two-thirds of the normal rate for the elderly.

DOT studies indicate that 75 percent of our elderly think buses are a good way to travel. But 50 percent of those sampled believe that the cost of bus transportation is too high.

Although cost is not the only problem older people face when attempting to use mass transportation facilities, it is a problem that can be solved without new equipment.

The text of my bill is as follows:

H.R. —

A bill to amend the Urban Mass Transportation Act of 1964 to authorize the payment of subsidies to public and private urban mass transportation systems to enable them to provide services to the elderly at reduced rates

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new section:

"PAYMENT OF SUBSIDIES TO ENCOURAGE PROVISION OF TRANSPORTATION SERVICES TO THE ELDERLY AT REDUCED RATES

"Sec. 17. (a) The Secretary is authorized, in accordance with the provisions of this section and on such terms and conditions as he may prescribe, to make grants pursuant to contracts entered into as provided in subsection (b) to States and local public bodies and agencies thereof, and private mass transportation companies, which are providing mass transportation service in urban areas to elderly persons at reduced rates, in order to reimburse such States and local public bodies and agencies and such private companies for economic losses which they sustain as a consequence of providing such service at such rates.

"(b) Any contract for grants under subsection (a) shall—

"(1) be made directly with the State or local public body or agency, or the private mass transportation company, which is providing the service to be subsidized;

"(2) provide for full reimbursement of the losses referred to in subsection (a), up to an amount equal to the amount of the losses which would have been sustained during the period covered by the contract if the reduced rates giving rise to such losses were equal to one-third of the rates otherwise in effect;

"(3) provide for the computation of such losses in accordance with rules, regulations, procedures, and accounting requirements which shall be prescribed by the Secretary; and

"(4) contain such other terms, conditions, requirements, standards, and provisions (including, in appropriate cases, provision for periodic reimbursement of proven losses on an installment basis during the period covered by the contract) as the Secretary considers necessary or appropriate to carry out the purpose of this section.

"(c) There are authorized to be appropriated for grants under this section such sums as may be necessary."

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to the following Members:

Mr. Helstoski (at the request of Mr. O'Neill), for today, on account of official business.

Mr. Clay (at the request of Mr. O'Neill), for today, on account of illness in family.

Mr. Murphy of New York (at the request of Mr. O'Neill), for today, on account of official business.

Mr. Del Clawson (at the request of Mr. Rhodes), for the week of May 20, on account of official business.

Mr. Pettis (at the request of Mr. Rhodes), for today, on account of official business.

Mr. Peyser (at the request of Mr. Rhodes), for today, on account of official business.

Mr. Corman, for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Randall, for 30 minutes, today; and to revise and extend his remarks and include extraneous matter.

Mr. Dent, for 60 minutes, on May 21; and to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. Hanrahan), to revise and extend their remarks and include extraneous matter:)

Mr. Biester, for 30 minutes, today.
Mr. Kemp, for 15 minutes, today.
Mr. Young of Illinois, for 10 minutes, today.
Mr. Blackburn, for 5 minutes, today.
Mr. Cleveland, for 5 minutes, today.
Mr. Mizell, for 5 minutes, today.
Mr. Hogan, for 15 minutes, today.
Mrs. Heckler of Massachusetts, for 5 minutes, today.
Mr. Duncan, for 10 minutes, today.
Mr. Ruppe, for 5 minutes, today.

(The following Members (at the request of Mrs. Schroeder), to revise and extend their remarks and include extraneous matter:)

Mr. Fraser, for 5 minutes, today.
Ms. Holtzman, for 15 minutes, today.
Mr. Gonzalez, for 5 minutes, today.
Mr. Metcalfe, for 10 minutes, today.
Mr. Wolff, for 5 minutes, today.
Mr. Cotter, for 5 minutes, today.
Mr. Drinan, for 10 minutes, today.
Mr. Barrett, for 15 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. Podell, for 10 minutes, today.
Mr. Ford, for 10 minutes, today.
Mr. Mezvinsky, for 5 minutes, today.
Mr. Benitez, for 10 minutes, today.
Ms. Abzug, for 5 minutes, today.
Mr. Denholm, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Moss, and to include extraneous material, notwithstanding the fact that it exceeds two pages of the Record, and is estimated by the Public Printer to cost $679.25.

(The following Members (at the request of Mr. Hanrahan) and to include additional matter:)

Mr. Andrews of North Dakota.
Mr. Zion.
Mr. Roncallo of New York.
Mr. Erlenborn.
Mr. Hosmer in two instances.
Mr. Bray in three instances.
Mr. Young of Illinois in four instances.
Mr. Anderson of Illinois.
Mr. Froehlich in two instances.
Mr. Symms in two instances.
Mr. Sarasin.
Mr. Broyhill of Virginia in two instances.
Mr. Frenzel in two instances.
Mr. Landgrebe.
Mr. Wyman in two instances.
Mr. Hogan.
Mrs. Heckler of Massachusetts.
Mr. Kemp in two instances.

(The following Members (at the request of Mrs. Schroeder) and to include extraneous matter:)

Mr. Symington.
Mr. Fisher in four instances.
Mr. Rooney of New York.
Mr. Charles Wilson of Texas in three instances.
Mr. Gonzalez in three instances.
Mr. Rarick in three instances.
Mr. Waldie in two instances.
Mr. Won Pat.
Mr. James V. Stanton.
Mr. Brademas in six instances.
Mr. Patten.
Mr. McFall.
Mr. Kazen.
Mr. Gunter.
Mr. Fulton.
Mrs. Sullivan.
Mr. Koch in five instances.
Mrs. Chisholm.
Mr. Rees.
Mr. Dorn in three instances.
Mr. Edwards of California.
Mr. Mezvinsky.

Mr. Carney of Ohio.

Mr. Lehman in 10 instances.

Mr. Eckhardt in two instances.

Mr. Diggs.

Mr. Podell.

Mr. Jones of Tennessee in six instances.

Mr. Denholm.

Mr. Rooney of Pennsylvania.

ENROLLED BILL SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 5621. An act to amend title 10, United States Code, to provide for the presentation of a flag of the United States for deceased members of the Ready Reserve and for deceased members of the Reserve who die after completing 20 years of service, but before becoming entitled to retired pay.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 3062. An act entitled the "Disaster Relief Act Amendments of 1974."

BILLS PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on May 15, 1974 present to the President, for his approval, bills of the House of the following title:

H.R. 3418. An act to amend section 505 of title 10, United States Code, to establish uniform original enlistment qualifications for male and female persons.

And on May 16, 1974:

H.R. 5621. An act to amend title 10, United States Code, to provide for the presentation of a flag of the United States for deceased members of the Ready Reserve and for deceased members of the Reserve who die after completing 20 years of service, but before becoming entitled to retired pay.

ADJOURNMENT

Mrs. SCHROEDER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 12 minutes p.m.), under its previous order, the House adjourned until Monday, May 20, 1974, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2322. A letter from the President of the United States, transmitting notice of his intention to use his authority under section 614(a) of the Foreign Assistance Act of 1961, as amended, to use up to $730,000 and the equivalent of $3 million in U.S.-owned Egyptian pounds to provide assistance to Egypt in fiscal year 1974, pursuant to section 652 of the act [22 U.S.C. 2411]; to the Committee on Foreign Affairs.

2323. A letter from the Deputy Secretary of Defense, transmitting a report on disbursements from the appropriation for "Contingencies, Defense" contained in the Department of Defense Appropriation Act, fiscal year 1974, through March 31, 1974, pursuant to Public Law 93–238; to the Committee on Appropriations.

2324. A letter from the Assistant Secretary of Defense (Comptroller), transmitting a report for the quarter ended March 31, 1974, on the value of property, supplies, and commodities provided by the Berlin Magistrate, and under German Offset Agreement, pursuant to section 720 of Public Law 93–238; to the Committee on Appropriations.

2325. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a draft of proposed legislation to authorize the Secretary of State to prescribe the fee for execution of an application for a passport and to continue to transfer to the U.S. Postal Service the execution fee for each application accepted by that Service; to the Committee on Foreign Affairs.

2326. A letter from the Deputy Assistant Secretary of the Interior, transmitting a copy of a proposed contract with Cities Service Oil Co., Tulsa, Okla., for a research project entitled "Improved Oil Recovery by Micellar-Polymer Flooding," pursuant to 42 U.S.C. 1900(d); to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 13221. A bill to authorize appropriations for the saline water program for fiscal year 1975, and for other purposes; with an amendment (Rept. No. 93–1047). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ULLMAN (for himself and Mr. Schneebeli):

H.R. 14832. A bill to provide for a temporary increase in the public debt limit; to the Committee on Ways and Means.

H.R. 14833. A bill to extend the Renegotiation Act of 1951 for 18 months; to the Committee on Ways and Means.

By Mr. BIAGGI (for himself, Mr. Brasco, Mr. Davis of South Carolina, Mr. Eilberg, Mr. Hogan, Mr. Moakley, Mr. Murtha, Mr. Podell, and Mr. Won Pat):

H.R. 14834. A bill to amend the Internal Revenue Code of 1954 to provide that pensions paid to retired law enforcement officers shall not be subject to the income tax; to the Committee on Ways and Means.

By Mr. BROYHILL of Virginia (for himself, Mr. Rees, Mr. Gude, Mr. Hogan, Mr. Parris, and Mr. Fauntroy):

H.R. 14835. A bill to grant the consent of Congress for the State of Maryland, the Commonwealth of Virginia, and the District of Columbia, to amend the Washington Metropolitan Area transit regulation compact to permit the Washington Metropolitan Area Transit Authority to eliminate any requirement of additional authentication of manual signature of bonds guaranteed by the United States, and for other purposes; to the Committee on the District of Columbia.

By Mr. BROYHILL of Virginia (for himself, Mr. Rees, Mr. Gude, Mr. Hogan, and Mr. Parris):

H.R. 14836. A bill to grant the consent of Congress for the State of Maryland, the Commonwealth of Virginia, and the District of Columbia to amend the Washington Metropolitan Area transit regulation compact to authorize the Washington Metropolitan Area Transit Authority to establish and maintain a Metro Transit Police force, to authorize the Washington Metropolitan Area Transit Authority to enter into mutual aid agreements with the various jurisdictions within the transit zone, and for other purposes; to the Committee on the District of Columbia.

By Mr. CHAMBERLAIN (for himself, Mr. Archer, Mr. Broyhill of Virginia, Mr. Burleson of Texas, Mr. Burke of Massachusetts, Mr. Clancy, Mr. Corman, Mr. Duncan, and Mr. Landrum):

H.R. 14837. A bill to amend the Internal Revenue Code of 1954 to provide income tax relief for small businesses; to the Committee on Ways and Means.

By Mr. COHEN:

H.R. 14838. A bill to allow a credit against Federal income taxes or a payment from the U.S. Treasury for State and local real property taxes or an equivalent portion of rent paid on their residences by individuals who have attained age 65; to the Committee on Ways and Means.

By Mr. CRONIN:

H.R. 14839. A bill to amend title 38 of the United States Code so as to entitle veterans of World War I and their widows and children to pension on the same basis as veterans of the Spanish-American War and their widows and children, respectively, and to increase pension rates; to the Committee on Veterans' Affairs.

By Mr. DOWNING (for himself and Mr. White):

H.R. 14840. A bill to amend title 10, United States Code, to provide severance pay for Regular enlisted members of the U.S. Armed Forces; to the Committee on Armed Services.

By Mr. ERLENBORN (for himself and Mr. Conable):

H.R. 14841. A bill to amend the Federal Election Campaign Act of 1971, and title 18, United States Code, to reform Federal election campaign activities; to the Committee on House Administration.

By Mr. FORSYTHE:

H.R. 14842. A bill to amend the Social Security Act to make certain that recipients of aid or assistance under the various Federal-State public assistance and medicaid programs (and recipients of assistance under the veterans' pension and compensation programs or any other Federal or federally assisted program) will not have the amount of such aid or assistance reduced because of increases in monthly social security benefits; to the Committee on Ways and Means.

By Mr. JONES of North Carolina (for himself, Mr. Taylor of North Carolina, and Mr. Henderson):

H.R. 14843. A bill to amend the act of March 10, 1966 providing for the establishment of Cape Lookout National Seashore in the State of North Carolina, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. PARRIS:

H.R. 14844. A bill to amend the Internal Revenue Code of 1954 and certain other provisions of law to provide for automatic cost-of-living adjustments in the income tax rates, the amount of the standard, personal exemption, and depreciation deductions, and the rate of interest payable on certain obligations of the United States; to the Committee on Ways and Means.

By Mr. PATTEN:

H.R. 14845. A bill to authorize the disposal of lead from the national stockpile and the supplemental stockpile; to the Committee on Armed Services.

H.R. 14846. A bill to amend the Public Health Service Act to revise and extend programs of Federal assistance for comprehensive health resources planning and to assist the States in regulating the costs of health care; to the Committee on Interstate and Foreign Commerce.

By Mr. PERKINS:

H.R. 14847. A bill to prohibit for a temporary period the exportation of ferrous scrap, and for other purposes; to the Committee on Banking and Currency.

By Mr. PODELL:

H.R. 14848. A bill to amend the Communications Act of 1934 to require the Federal Communications Commission to prescribe rules respecting interconnections with telephone company facilities of equipment not furnished by such companies; to the Committee on Interstate and Foreign Commerce.

By Mr. PRICE of Illinois (for himself and Mr. Hosmer):

H.R. 14849. A bill to amend the Atomic Energy Act of 1954, as amended, and for other purposes; to the Joint Committee on Atomic Energy.

By Mr. ROE (for himself, Mr. Breaux, Mrs. Burke of California, Mr. Froehlich, Ms. Holtzman, Mr. Huber, Mr. Ichord, Mr. Leggett, Mr. Litton, Mr. Runnels, Mr. Shoup, Mr. Studds, Mr. White, and Mr. Won Pat):

H.R. 14850. A bill to establish a National Foreign Investment Control Commission to prohibit or restrict foreign ownership control or management control, through direct purchase, in whole or part; from acquiring securities of certain domestic issuers of securities; from acquiring certain domestic issuers of securities, by merger, tender offer, or any other means; control of certain domestic corporations or industries, real estate, or other natural resources deemed to be vital to the economic security and national defense of the United States; to the Committee on Interstate and Foreign Commerce.

H.R. 14851. A bill to create a Joint Congressional Committee on Foreign Investment Control in the United States; to the Committee on Rules.

By Mr. SARASIN:

H.R. 14852. A bill to amend title 39, United States Code, with respect to certain rates of postage, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. SARASIN (for himself, Mrs. Heckler of Massachusetts, and Mr. O'Brien):

H.R. 14853. A bill to amend the Emergency Petroleum Allocation Act of 1973 to authorize and require the President of the United States to allocate plastic feedstocks produced from petrochemical feedstocks, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mrs. SCHROEDER:

H.R. 14854. A bill to amend title 5, United States Code, to guarantee to each employee in the competitive service who has completed the probationary or trial period, the right to a hearing, a hearing transcript, and all relevant evidence prior to a final decision of an agency to take certain action against such an employee, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. STEELMAN (for himself and Mr. Cleveland):

H.R. 14855. A bill to amend section 552 of title 5, United States Code (known as the Freedom of Information Act), to require Federal agencies to respond to requests for certain information no later than 15 days after the receipt of each such request; to the Committee on Government Operations.

By Mrs. SULLIVAN (for herself, Mr. Fauntroy, Mr. Mitchell of Maryland, Mr. Barrett, Mr. Gonzalez, Mr. Young of Georgia, Mr. Stark, Mr. Moakley, Mr. Koch, Mrs. Heckler of Massachusetts, Mr. McKinney, Mr. Rinaldo, and Mr. Roncallo of New York):

H.R. 14856. A bill to prohibit discrimination on the basis of race, color, religion, national origin, age, sex, or marital status in the granting of credit; to the Committee on Banking and Currency.

By Mr. WAGGONNER:

H.R. 14857. A bill to amend the Fair Labor Standards Act of 1938 to repeal the coverage of domestic service workers provided by the Fair Labor Standards Amendments of 1974; to the Committee on Education and Labor.

By Mr. CHARLES WILSON of Texas:

H.R. 14858. A bill to provide for the induction of individuals, during the period beginning July 1, 1975, and ending June 30, 1977, for training and service in the Armed Forces; to the Committee on Armed Services.

By Mr. WOLFF:

H.R. 14859. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income the interest on deposits in certain savings institutions; to the Committee on Ways and Means.

By Mr. WOLFF (for himself, Ms. Abzug, Mr. Addabbo, Mr. Eilberg, Mr. Helstoski, Mr. Luken, Mr. Mollohan, Mr. Podell, Mrs. Schroeder, and Mr. Walsh):

H.R. 14860. A bill to amend the Export Administration Act of 1969 to provide for the regulation of the export of agricultural commodities; to the Committee on Banking and Currency.

By Mr. WOLFF (for himself and Mr. Rangel):

H.R. 14861. A bill to repeal section 411 of the Social Security Amendments of 1972 and certain related provisions of law in order to restore to aged, blind, and disabled individuals receiving supplemental security income benefits (under title XVI of the Social Security Act) their right to participate in the food stamp and surplus commodities programs; to the Committee on Ways and Means.

By Mr. YATRON (for himself, Mrs. Grasso, Mr. Esch, and Mr. Murphy of New York):

H.R. 14862. A bill to improve the coordination of Federal reporting services; to the Committee on Government Operations.

By Mr. YATRON (for himself and Mrs. Grasso):

H.R. 14863. A bill to establish an office within the Congress with a toll-free telephone number, to be known as the congressional advisory legislative line (CALL), to provide the American people with free and open access to information, on an immediate basis, relating to the status of legislative proposals pending before the Congress; to the Committee on House Administration.

By Mr. YATRON (for himself, Mrs. Grasso, and Mr. Esch):

H.R. 14864, A bill to require that new forms and reports, and revisions of existing forms, resulting from legislation be contained in reports of committees reporting the legislation; to the Committee on Rules.

By Mr. BIAGGI (for himself, Mr. Addabbo, Mr. Badillo, Mr. Bevill, Mr. Bingham, Mr. Brown of Michigan, Mr. Brown of California, Mr. Chappell, Mrs. Chisholm, Mr. Coughlin, Mr. Drinan, Mr. Eilberg, Mr. Fascell, Mr. Findley, Mr. Fish, Mr. Ford, Mr. Gilman, Mr. Grover, Mrs. Holt, Miss Holtzman, Miss Jordan, Mr. King, Mr. Lent, Mr. Lehman, and Mr. Luken):

H.R. 14865. A bill to amend title 38, United States Code, to provide a 10-year delimiting period for the pursuit of educational programs by veterans, wives, and widows; to the Committee on Veterans' Affairs.

By Mr. BIAGGI (for himself, Mr. Mallary, Mr. Matsunaga, Mr. Mollohan, Mr. Murphy of New York, Mr. Murtha, Mr. Obey, Mr. Parris, Mr. Pike, Mr. Podell, Mr. Rangel, Mr. Roncallo of New York, Mr. Rosenthal, Mr. Roy, Mr. Sarasin, Mrs. Schroeder, Mr. Stark, Mr. Sikes, Mr. Traxler, Mr. Tiernan, Mr. White, Mr. Bob Wilson, Mr. Won Pat, Mr. Wyman, and Mr. Young of Alaska):

H.R. 14866. A bill to amend title 38, United States Code, to provide a 10-year delimiting period for the pursuit of educational programs by veterans, wives, and widows; to the Committee on Veterans' Affairs.

By Mr. BIAGGI (for himself, Mrs. Burke of California, and Mr. Gude):

H.R. 14867. A bill to amend title 38, United States Code, to provide a 10-year delimiting period for the pursuit of educational programs by veterans, wives, and widows; to the Committee on Veterans' Affairs.

By Mr. CARNEY of Ohio:

H.R. 14868. A bill to amend the Food Stamp Act of 1964 to permit recipients of certain Federal benefits to participate in the food stamp program, and for other purposes; to the Committee on Ways and Means.

By Mr. DUNCAN:

H.R. 14869. A bill to amend section 103(c) of the Internal Revenue Code of 1954 to increase the exemption from the industrial development bond provisions for certain small issues; to the Committee on Ways and Means.

By Mr. HAYS:

H.R. 14870. A bill to authorize appropriations for the U.S. Information Agency, and for other purposes; to the Committee on Foreign Affairs.

By Mr. LENT:

H.R. 14871. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973, and to provide for daylight saving time for 8 months during each calendar year; to the Committee on Interstate and Foreign Commerce.

By Mr. PATMAN:

H.R. 14872. A bill to amend the Interstate Land Sales Full Disclosure Act to clarify the definition of transactions to which the act applies, to exempt certain sales, to expedite and simplify compliance with its requirements, and for other purposes; to the Committee on Banking and Currency.

By Mr. PICKLE:

H.R. 14873. A bill to commemorate the American Revolutionary Bicentennial by establishing a meetinghouse program, by making grants available to each of the several States for the purpose of acquiring and restoring certain historic sites with a view to designating and preserving such sites for use as meetinghouses in connection with such bicentennial, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. RANDALL:

H.R. 14874. A bill to amend the act of October 1, 1965 (79 Stat. 897); to the Committee on Interior and Insular Affairs.

By Mr. RONCALIO of Wyoming:

H.R. 14875. A bill to authorize exchange of land adjacent to the Teton National Forest in Wyoming, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. RUPPE:

H.R. 14876. A bill to change Veterans' Day to November 11; to the Committee on the Judiciary.

H.R. 14877. A bill to amend title 38 of the United States Code in order to increase the maximum annual income limitations applicable to veterans' and widows' pensions; to the Committee on Veterans' Affairs.

By Mr. SEIBERLING:

H.R. 14878. A bill to amend title II of the Social Security Act to provide that the special procedure for expediting benefit payments (where such payments are not regularly made when due) shall apply to benefits based on disability in the same way it applies to other benefits under such title if entitlement has already been established and the benefits involved have been paid for 1 or more month; to the Committee on Ways and Means.

By Mr. McKINNEY (for himself, Mrs. Chisholm, Mrs. Grasso, Mr. Sarasin, and Mr. Studds):

H.R. 14879. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for regular physical examinations; to the Committee on Ways and Means.

By Mr. CEDERBERG (for himself, Mr. Addabbo, Mr. Chappell, Mr. Conte, Mr. Edwards of Alabama, Mr. Flood, Mr. McEwen, Mr. Miller, Mr. Minshall of Ohio, Mr. Myers, Mr. Robinson of Virginia, Mr. Robison of New York, Mr. Roush, Mr. Shriver, Mr. Slack, Mr. Smith of Iowa, Mr. Talcott, Mr. Tiernan, Mr. Wyatt, and Mr. Young of Florida):

H.J. Res. 1018. Joint resolution designating the premises occupied by the Chief of Naval Operations as the official residence of the Vice President, effective upon the termination of service of the incumbent Chief of Naval Operations; to the 'Committee on Armed Services.

By Mr. NEDZI (for himself, Mr. Fisher, Mr. Price of Illinois, Mr. Bray, Mr. Bob Wilson, Mr. Randall, Mr. Pike, Mr. Leggett, Mr. Charles H. Wilson, of California, Mr. Dickinson, Mr. Hicks, Mr. White, Mr. Hunt, and Mr. Montgomery):

H.J. Res. 1019. Joint resolution designating the premises occupied by the Chief of Naval Operations as the official residence of the Vice President, effective upon the termination of service of the incumbent Chief of Naval Operations; to the Committee on Armed Services.

By Mr. NEDZI (for himself, Mr. Mollohan, Mr. Whitehurst, Mr. Aspin, Mr. Butler, Mr. Davis of South Carolina, Mr. Powell of Ohio, Mr. Spence, Mr. Beard, Mr. Dan Daniel, Ms. Holt, Mr. Jones of Oklahoma, Mr. O'Brien, Ms. Schroeder, and Mr. Treen):

H.J. Res. 1020. Joint resolution designating the premises occupied by the Chief of Naval Operations as the official residence of the Vice President, effective upon the termination of service of the incumbent Chief of Naval Operations; to the Committee on Armed Services.

By Mr. FRASER:

H. Con. Res. 494. Concurrent resolution relating to arms control in the Indian Ocean; to the Committee on Foreign Affairs.

By Mr. LONG of Maryland:

H. Con. Res. 495. Concurrent resolution to condemn the terrorist murder of children at Maalot, Israel; to the Committee on Foreign Affairs.

By Mr. RANGEL (for himself, Mr. Rodino, Mr. Wolff, Ms. Abzug, Mr. Albert, Mr. Addabbo, Mr. Biaggi, Mr. Bingham, Mr. Brasco, Mr. Carey of New York, Ms. Chisholm, Mr. Clay, Ms. Collins of Illinois, Mr. Conyers, Mr. Corman, Mr. Danielson, Mr. Delaney, Mr. Dellums, Mr. de Lugo, Mr. Derwinski, Mr. Diggs, Mr. Drinan, Mr. Duncan, Mr. Eilberg, and Mr. Fascell):

H. Con. Res. 496. Concurrent resolution for negotiations on the Turkish opium ban; to the Committee on Foreign Affairs.

By Mr. RANGEL (for himself, Mr. Rodino, Mr. Wolff, Mr. Ford, Mr. Gilman, Mr. Hanley, Mr. Hawkins, Ms. Holtzman, Ms. Jordan, Mr. Kastenmeier, Mr. Kemp, Mr. Koch, Mr. Kyros, Mr. Long of Maryland, Mr. Long of Louisiana, Mr. McFall, Mr. Madden, Mr. Matsunaga, Mr. Metcalfe, Mr. Mezvinsky, Ms. Mink, Mr. Mitchell of New York, Mr. Mitchell of Maryland, Mr. Moorhead of Pennsylvania, and Mr. Murphy of New York):

H. Con. Res. 497. Concurrent resolution for negotiations on the Turkish opium ban; to the Committee on Foreign Affairs.

By Mr. RANGEL (for himself, Mr. Rodino, Mr. Wolff, Mr. Murphy of Illinois, Mr. O'Hara, Mr. O'Neill, Mr. Pepper, Mr. Peyser, Mr. Podell, Mr. Price of Illinois, Mr. Rosenthal, Mr. Ryan, Mr. Sarbanes, Ms. Schroeder, Mr. Seiberling, Mr. Sikes, Mr. James V. Stanton, Mr. Stark, Mr. Steele, Mr. Studds, Mr. Walsh, Mr. Charles H. Wilson of California, and Mr. Young of Georgia):

H. Con. Res. 498. Concurrent resolution for negotiations on the Turkish opium ban; to the Committee on Foreign Affairs.

By Mr. WALDIE:

H. Con. Res. 499. Concurrent resolution expressing the condemnation of the Congress with respect to the killings of Israeli children by Palestinian guerrillas on May 15 in Maalot, Israel; to the Committee on Foreign Affairs.

By Mr. DELLUMS (for himself, Mr. Wolff, Mr. Stark, and Mr. Moakley):

H. Res. 1113. Resolution to condemn terrorism in the Middle East; to the Committee on Foreign Affairs.

By Mr. FLOOD (for himself, Mr. Bennett, Mr. Dorn, Mr. Duncan, Mr. Evins of Tennessee, Mr. Fulton, Mr. Ketchum, Mr. Runnels, and Mrs. Sullivan):

H. Res. 1114. Resolution in support of continued undiluted U.S. sovereignty and jurisdiction over the U.S.-owned Canal Zone on the Isthmus of Panama; to the Committee on Foreign Affairs.

By Mr. LENT (for himself, Mr. Sebelius, Mr. Peyser, Mr. Badillo, Mr. Yatron, Mr. Robinson of Virginia, Mr. Dominick V. Daniels, Mr. Minish, Mr. Gunter, Mr. Coughlin, Mrs. Grasso, Mr. Stratton, Mr. Young of Florida, Mr. Huber, Mr. Forsythe, Mr. Widnall, Mr. Podell, Mr. Rosenthal, Mr. Won Pat, Mr. Rinaldo, and Mr. Rangel):

H. Res. 1115. Resolution to condemn acts of Arab terrorism; to the Committee on Foreign Affairs.

My Mr. McCOLLISTER:

H. Res. 1116. Resolution to amend the Rules of the House of Representatives with respect to the acceptance of any honorarium by any Member, officer, or employee of such House; to the Committee on Standards of Official Conduct.

By Mr. MINISH:

H. Res. 1117. Resolution to condemn terrorist killings of schoolchildren in Israel; to the Committee on Foreign Affairs.

By Mr. O'NEILL (for himself, Mr. Rhodes, Mr. Abdnor, Ms. Abzug, Mr. Adams, Mr. Addabbo, Mr. Alexander, Mr. Anderson of California, Mr. Anderson of Illinois, Mr. Annunzio, Mr. Arends, Mr. Ashley, Mr. Aspin, Mr. Badillo, Mr. Bafalis, Mr. Baker, Mr. Barrett, Mr. Benitez, Mr. Bennett, Mr. Bergland, Mr. Bevill, Mr. Biaggi, Mr. Biester, and Mr. Bingham):

H. Res. 1118. Resolution to condemn terrorist killings of schoolchildren in Israel; to the Committee on Foreign Affairs.

By Mr. O'NEILL (for himself, Mr. Rhodes, Mrs. Boggs, Mr. Boland, Mr. Bolling, Mr. Brademas, Mr. Brasco, Mr. Bray, Mr. Breckinridge, Mr. Brinkley, Mr. Brooks, Mr. Brown of Ohio, Mr. Brown of Michigan, Mr. Brown of California, Mr. Broyhill or North Carolina, Mr. Burke of Florida, Mr. Burke of Massachusetts, Mrs. Burke of California, Mr. Burlison of Missouri, Mr. Burton, Mr. Camp, Mr. Carney of Ohio, Mr. Chamberlain, Mr. Chappell, and Mr. Don H. Clausen):

H. Res. 1119. Resolution to condemn terrorist killings of schoolchildren in Israel; to the Committee on Foreign Affairs.

By Mr. O'NEILL (for himself, Mr. Rhodes, Mr. Del Clawson, Mr. Clay, Mr. Cochran, Mr. Collier, Mr. Conable, Mr. Conte, Mr. Corman, Mr. Cotter, Mr. Culver, Mr. Dan Daniel, Mr. Dominick V. Daniels, Mr. Danielson, Mr. Davis of South Carolina, Mr. Delaney, Mr. de Lugo, Mr. Denholm, Mr. Dennis, Mr. Dent, Mr. Dingell, Mr. Donohue, Mr. Downing, Mr. Duncan, and Mr. Edwards of Alabama):

H. Res. 1120. Resolution to condemn terrorist killings of schoolchildren in Israel; to the Committee on Foreign Affairs.

By Mr. O'NEILL (for himself, Mr. Rhodes, Mr. Eilberg, Mr. Evans of Colorado, Mr. Fish, Mr. Flood, Mr. Flowers, Mr. Flynt, Mr. Foley, Mr. Ford, Mr. Forsythe, Mr. Fraser, Mr. Frelinghuysen, Mr. Frenzel, Mr. Frey, Mr. Froehlich, Mr. Fulton, Mr. Fuqua, Mr. Gaydos, Mr. Gettys, Mr. Giaimo, Mr. Gibbons, Mr. Gilman, Mr. Ginn, and Mr. Goldwater):

H. Res. 1121. Resolution to condemn terrorist killings of schoolchildren in Israel; to the Committee on Foreign Affairs.

By Mr. O'NEILL (for himself, Mr. Rhodes, Mr. Gonzalez, Mr. Goodling, Ms. Grasso, Mr. Gray, Mr. Green of Pennsylvania, Mrs. Griffiths, Mr. Gude, Mr. Gunter, Mr. Guyer, Mr. Haley, Mr Hanley, Mr. Hanna, Mr. Hanrahan, Mr. Harrington, Mr. Hastings, Mr. Hays, Mr. Hechler of West Virginia, Mrs. Heckelr of Massachusetts, Mr. Heinz, Mr. Hicks, Mr. Hillis, and Mr. Holifield):

H. Res. 1122. Resolution to condemn terrorist killings of schoolchildren in Israel; to the Committee on Foreign Affairs.

By Mr. O'NEILL (for himself, Mr. Rhodes, Mrs. Holt, Ms. Holtzman, Mr. Hungate, Mr. Hunt, Mr. Johnson of California, Mr. Jones of Tennessee, Mr. Jones of Oklahoma, Mr. Jones of Alabama, Miss Jordan, Mr. Karth, Mr. Kemp, Mr. Ketchum, Mr. King, Mr. Kluczynski, Mr. Koch, Mr. Kuykendall, Mr. Kyros, Mr. Lehman, Mr. Long of Maryland, Mr. Lujan, Mr. McCollister, and Mr. McCormack):

H. Res. 1123. Resolution to condemn terrorist killings of schoolchildren in Israel; to the Committee on Foreign Affairs.

By Mr. O'NEILL (for himself, Mr. Rhodes, Mr. McDade, Mr. McFall, Mr. McKay, Mr. Macdonald, Mr. Madden, Mr. Martin of Nebraska, Mr. Mathis of Georgia, Mr. Matsunaga, Mr. Mazzoli, Mr. Meeds, Mr. Metcalfe, Mr. Mezvinsky, Mr. Michel, Ms. Mink, Mr. Mitchell of New York, Mr. Moakley, Mr. Montgomery, Mr. Moorhead of Pennsylvania, Mr. Moss, Mr. Murtha, Mr. Murphy of New York, and Mr. Murphy of Illinois):

H. Res. 1124. Resolution to condemn terrorist killings of schoolchildren in Israel; to the Committee on Foreign Affairs.

By Mr. O'NEILL (for himself, Mr. Rhodes, Mr. Nedzi, Mr. O'Brien, Mr. O'Hara, Mr. Passman, Mr. Patten, Mr. Pepper, Mr. Perkins, Mr. Peyser, Mr. Pickle, Mr. Pike, Mr. Podell, Mr. Preyer, Mr. Price of Illinois, Mr.

Mr. Pritchard, Mr. Quie, Mr. Reid, Mr. Reuss, Mr. Rinaldo, Mr. Roberts, Mr. Rodino, Mr. Roe, Mr Roncalio of Wyoming, and Mr Rooney of Pennsylvania):

H. Res. 1125 Resolution to condemn terrorist killings of schoolchildren in Israel; to the Committee on Foreign Affairs.

By Mr. O'NEILL (for himself, Mr. Rhodes, Mr. Rose, Mr. Rosenthal, Mr. Rostenkowski, Mr. Roush, Mr. Rousselot, Mr. Roybal, Mr. Ryan, Mr. Sarasin, Mr. Satterfield, Mr. Scherle, Mrs. Schroeder, Mr. Seiberling, Mr. Shipley, Mr. Shriver, Mr. Shuster, Mr. Sisk, Mr. Skubitz, Mr. Smith of New York, Mr. Snyder, Mr. Spence, Mr. J. William Stanton, Mr. James V. Stanton, and Mr. Steed):

H. Res. 1126. Resolution to condemn terrorist killings of schoolchildren in Israel; to the Committee on Foreign Affairs.

By Mr. O'NEILL (for himself, Mr. Rhodes, Mr. Steele, Mr. Steelman, Mr. Steiger of Wisconsin, Mr. Stephens, Mr. Studds, Mr. Symington, Mr. Taylor of North Carolina, Mr. Thomson of Wisconsin, Mr. Thone, Mr. Thornton, Mr. Tiernan, Mr. Traxler, Mr. Treen, Mr. Udall, Mr. Vander Veen, Mr. Vanik, Mr. Veysey, Mr. Walsh, Mr. Whalen, Mr. Whitehurst, Mr. Widnall, Mr. Bob Wilson, and Mr. Charles Wilson of Texas):

H. Res. 1127. Resolution to condemn terrorist killings of schoolchildren in Israel; to the Committee on Foreign Affairs.

By Mr. O'NEILL (for himself, Mr. Rhodes, Mr. Wolff, Mr. Wright, Mr. Wydler, Mr. Yates, Mr. Yatron, Mr. Young of Georgia, Mr. Young of Alaska, Mr. Young of Texas, Mr. Young of Texas, Mr. Young of Illinois, Mr. Zablocki, Mr. Zion, Mr. Zwach, Mr. Edwards of California, Mr. Cohen, Mr. Derwinski, Mr. Fascell, Mr. McKinney, Mr. Bell, Mr. Rees, Mr. Eckhardt, Mr. Smith of Iowa, and Mr. Mollohan):

H. Res. 1128. Resolution to condemn terrorist killings of schoolchildren in Israel; to the Committee on Foreign Affairs.

By Mr. O'NEILL (for himself, Mr. Rhodes, Mr. Clancy, Mr. Clark, Mr. Drinan, Mr. Broomfield, Mr. Dickinson, Mr. Cederberg, Mr. Gubser, Mr. Helstoski, Mr. Coughlin, Mr. Carey of New York, Mr. Archer, Mr. Blatnik, Mr. Buchanan, Mr. Carter, Ms. Collins of Illinois, Mr. Davis of Georgia, Mr. Devine, Mr. Dorn, Mr. Dulski, Mr. Eshleman, Mr. Fisher, Mr. Henderson, and Mr. Hosmer):

H. Res. 1129. Resolution to condemn terrorist killings of schoolchildren in Israel; to the Committee on Foreign Affairs.

By Mr. O'NEILL (for himself, Mr. Rhodes, Mr. Howard, Mr. Huber, Mr. McCloskey, Mr. Mayne, Mr. Minish, Mr. Morgan, Mr. Nelsen, Mr. Owens, Mr. Parris, Mr. Robinson of Virginia, Mr. Roncallo of New York, Mr. St Germain, Mr. Schneebeli, Mr. Sebelius, Mr. Shoup, Mr. Sikes, Mr. Stark, Mr. Stratton, Mrs. Sullivan, Mr. Ullman, and Mr. Vigorito):

H. Res. 1130. Resolution to condemn terrorist killings of schoolchildren in Israel; to the Committee on Foreign Affairs.

By Mr. O'NEILL (for himself, Mr. Rhodes, Mr. Whitten, Mr. Won Pat, Mr. Cronin, Mr. Stokes, Mr. Towell of Nevada, Mr. McClory, Mr. McEwen, Mr. Sarbanes, Mr. Dellenback, Mr. Jarman, Mr. Dellums, Mrs. Hansen of Washington, Mr. Hudnut, Mr. Luken, Mr. Rangel, Mr. Regula, Mr. Rogers, Mr. Winn, and Mr. Wyman):

H. Res. 1131. Resolution to condemn terrorist killings of schoolchildren in Israel; to the Committee on Foreign Affairs.

By Mr. STARK:

H. Res. 1132. Resolution relating to the publication of population, economic, and social statistics for Philippine Americans; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause of rule XXII,

480. The SPEAKER presented a memorial of the Legislature of the State of Michigan, relative to Phase IV regulations, which was referred to the Committee on Banking and Currency.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DRINAN:

H.R. 14880. A bill for the relief of Tapan K. Mukherjee; to the Committee on the Judiciary.

By Mr. ECKHARDT:

H.R. 14881. A bill for the relief of Yuk On Lee; to the Committee on the Judiciary.

By Mr. JAMES V. STANTON:

H.R. 14882. A bill for the relief of Francesco Giuttari; to the Committee on the Judiciary.

SENATE—*Thursday, May 16, 1974*

The Senate met at 9 a.m. and was called to order by the President pro tempore (Mr. Eastland).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

God our Father, infinite and eternal, the source of all strength and wisdom, we thank Thee for another day of life and service. Impart to our waiting spirits the gifts of self-mastery and self-control. Make us sensitive to the needs of all the people, careful to hear and evaluate the judgments of our colleagues, obedient to the directions of conscience, and always heedful of the promptings of Thy Spirit. In all our ways may we acknowledge Thy rulership and persevere for the enhancement of Thy kingdom.

We pray in the name of the Great Redeemer. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, May 15, 1974, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDENT pro tempore. The nominations on the Executive Calendar will be stated.

BOARD FOR INTERNATIONAL BROADCASTING

The second assistant legislative clerk read the nomination of Foy D. Kohler, of Florida, to be a member of the Board for International Broadcasting for a term of 3 years.

The PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

THE JUDICIARY

The second assistant legislative clerk read the nomination of D. Dortch Warriner, of Virginia, to be U.S. district judge for the eastern district of Virginia.

The PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF JUSTICE

The second assistant legislative clerk read the nomination of James L. Browning, Jr., of California, to be U.S. attorney for the northern district of California for the term of 4 years.

The PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

NOMINATIONS ON THE SECRETARY'S DESK

The second assistant legislative clerk proceeded to read sundry nominations in the Diplomatic and Foreign Service, which had been placed on the Secretary's desk.

The PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr President, I ask unanimous consent that the President be notified of the confirmation of these nominations.

The PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

ESTABLISHMENT OF A NATIONAL INSTITUTE ON AGING

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 775.

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 775) to amend the Public Health Service Act to provide for the establishment of a National Institute on Aging which was to strike out all after the enacting clause, and insert:

SECTION 1. This Act may be cited as the "Research on Aging Act of 1974".

SEC. 2. The Congress finds and declares that—

(1) the study of the aging process, the one biological condition common to all, has not received research support commensurate with its effects on the lives of every individual;

(2) in addition to the physical infirmities resulting from advanced age, the economic, social, and psychological factors associated with aging operate to exclude millions of older Americans from the full life and the place in our society to which their years of service and experience entitle them;

(3) recent research efforts point the way toward alleviation of the problems of old age by extending the healthy middle years of life;

(4) there is no American institution that has undertaken comprehensive systematic and intensive studies of the biomedical and behavioral aspects of aging and the related training of necessary personnel;

(5) the establishment of a National Institute on Aging within the National Institutes of Health will meet the need for such an institution.

SEC. 3. Title IV of the Public Health Service Act is amended by adding at the end thereof the following new part:

"PART H—NATIONAL INSTITUTE ON AGING

"ESTABLISHING OF NATIONAL INSTITUTE ON AGING

"SEC. 461. The Secretary shall establish in the Service an institute to be known as the National Institute on Aging (hereinafter in this part referred to as the 'Institute') for the conduct and support of biomedical, social, and behavioral research and training related to the aging process and the diseases and other special problems and needs of the aged.

"NATIONAL ADVISORY COUNCIL ON AGING

"SEC. 462. (a) The Secretary shall establish a National Advisory Council on Aging to advise, consult with, and make recommendations to him on programs relating to the aged which are administered by him and on those matters which relate to the Institute.

"(b) The provisions relating to the composition, terms of office of members, and reappointment of members of advisory councils under section 432(a) shall be applicable to the Advisory Council established under this section, except that (1) the Secretary may include on such Advisory Council such additional ex officio members as he deems necessary, and (2) the Secretary shall appoint to the Council leading medical or scientific authorities skilled in aspects of the biological and the behavioral sciences related to aging.

"(c) Upon appointment of such Advisory Council, it shall assume all, or such part as the Secretary may specify, of the duties, functions, and powers of the National Advisory Health Council relating to programs for the aged with which the Advisory Council established under this part is concerned and such portion as the Secretary may specify of the duties, functions, and powers of any other advisory council established under this Act relating to programs for the aged.

"FUNCTIONS

"SEC. 463. (a) The Secretary (1) shall, through the Institute, carry out the purposes of section 301 with respect to research investigations, experiments, demonstrations, and studies related to the aging process and the diseases and other special problems and needs of the aged, except that the Secretary shall determine the area in which and the extent to which he will carry out such activities in furtherance of the purposes of section 301 through the Institute or another institute established by or under other provisions of this Act, or both of them, when both such institutes have functions with respect to the same subject matter, and (2) shall be responsible for coordinating such activities so as to avoid unproductive and unnecessary overlap and duplication of such functions. The Secretary may also provide training and instruction and establish traineeships and fellowships, in the Institute and elsewhere, in matters relating to study and investigation of the aging process and the diseases and other special problems and needs of the aged. The Secretary may provide trainees and fellows participating in such training and instruction or in such traineeships and fellowships with such stipends and allowances (including travel and subsistence expenses and dependency allowances) as he deems necessary, and, in addition, provide for such training, instruction, traineeships, fellowships through grants to public or other nonprofit institutions. In carrying out his health manpower training responsibilities under this Act or any other Act, the Secretary shall take appropriate steps to insure the education and training of adequate numbers of allied health, nursing, and paramedical personnel in the field of health care for the aged.

"(b) The Secretary shall, through the Institute, conduct scientific studies to measure the impact on the biological, medical, and psychological aspects of aging of all programs and activities assisted or conducted by the Department of Health, Education, and Welfare.

"(c) The Secretary, through the Institute, shall carry out public information and education programs designed to disseminate as widely as possible the findings of Institute-sponsored and other relevant aging research and studies and other information about the process of aging which may assist elderly and near-elderly persons in dealing with, and all Americans in understanding, the problems and processes associated with growing older.

"RESEARCH PROGRAM

"SEC. 464. (a) The Secretary, in consultation with the Institute and the National Advisory Council on Aging and such other appropriate advisory bodies as he may establish, shall within one year after the effective date of this section develop a plan for a research program on aging designed to coordinate and promote research into the biological, medical, psychological, social, educational, and economic aspects of aging. Such program shall be carried out, as to research involving the functions of the Institute, primarily through the Institute, and as to other research shall be carried out through any other institute established by or under other provisions of this Act or through any appropriate agency or other organizational unit within the Department of Health, Education, and Welfare.

"(b) Upon its completion, the plan for a research program on aging, required by subsection (a) of this section, shall be transmitted to the Congress and to the President and shall set forth the staffing and funding requirements to carry out such program."

Mr. BEALL. Mr. President, early in the 93d Congress I joined the distinguished chairman of the Subcommittee on Aging (Mr. EAGLETON) in introducing S. 775, the Research on Aging Act. This legislation is designed to create a National Institute on Aging within the National Institutes of Health. It is our desire, in creating an Institute on Aging, to produce a coherent and coordinated research program that is capable of systematically unlocking the secrets of the aging process. It is important to note, Mr. President, that the subcommittee did not envision a National Institute on Aging as an agency that would overlap or compete with existing institutes within NIH. We expect the new Institute to primarily concern itself with the biomedical and behavioral aspects of the aging process, rather than undertaking in-depth research into the chronic diseases which tend to afflict the aged.

The biomedical aspects of aging have become a more severe problem in recent decades because of the improved nutrition and improved medical services which have dramatically extended the life expectancy of Americans. It is interesting to note that there are, today, over 20 million Americans age 65 and over. This constitutes an almost sevenfold increase since the turn of the century. In addition, the over-65 segment of our population is growing almost twice as fast as is the rest of our society.

In 1962, the Congress responded to the situation by creating the National Institute of Child Health and Human Development and placing within it the Center for Gerontological Research. This Institute conducts research into the developmental process as it affects *all* age groups within our society. Unfortunately, only approximately 11 percent of the budget at NICHD has been devoted to studing the aging process in the upper age ranges. On the other hand, approximately 59 percent of the Institute's budget has been devoted to its activities in the field of child health while an additional 31 percent has gone into various aspects of population research.

This unfortunate distribution of resources served to motivate the Subcommittee on Aging's deliberation with regard to the establishment of a separate National Institute on Aging. In addition to granting a greater degree of visibility and independence to research in the field of the aging process the establishment of a separate institute should serve to bring together the presently diffused and fragmented research efforts which are scattered among a variety of Federal departments and agencies.

The need for a separate institute was further demonstrated earlier this year when the fiscal year 1975 budget was submitted to the Congress. $13,855,000 was requested for aging research and training at the National Institute of Child

Health and Human Development. This budget request constitutes a significant reduction in appropriations for aging research at NIH. The fiscal year 1974 budget contained $15,985,000 for NICHD's aging research. I am deeply disappointed by the decision to reduce the funding for aging research and I believe that this budget cut demonstrates once again the need to increase the visibility and effectiveness of aging research at NIH. The director of a separate institute on aging would have the institutional position to fight his or her own budget battles within NIH, HEW, or OMB.

I might add, Mr. President, that I wrote to Senators MAGNUSON and COTTON, the chairman and ranking minority member of the Appropriations Committee's Subcommittee on Labor, Health, Education, and Welfare urging restoration of this $2.1 million reduction.

In closing, Mr. President, I would like to say that throughout my career in public service, I have been deeply concerned about the way our Government—on all levels—delivers services. A Nation that can put men on the Moon and explore the far reaches of outer space often finds itself unable to deliver coherent and comprehensive services to people in need of them. I believe that S. 775 can begin to coordinate the Federal activities in the field of aging research. If this can be achieved, I believe that the health and welfare of millions of older Americans will, over a period of time, be substantially improved as a result of the research conducted by the National Institute on Aging.

As an enthusiastic supporter of the provisions of S. 775, I would urge my colleagues to give prompt and favorable consideration to this important legislation. In addition, Mr. President, I ask unanimous consent that the text of a letter I intend to send to the President of the United States relative to this legislation be printed in the RECORD at the conclusion of my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., May 16, 1974.

Hon. RICHARD M. NIXON,
President of the United States
The White House, Washington, D.C.

DEAR MR. PRESIDENT: Earlier today the Senate completed the legislative process with regard to S. 775, the Research on Aging Act. Within the not too distant future this legislation will be forwarded to the White House for your consideration.

There are currently 20 million senior citizens in this Nation. The low birth rate, coupled with greater life expectancy, will gradually increase the percentage of older Americans as we move further into the 20th century. The creation of a separate National Institute on Aging would give the proponents of aging research greater visibility and greater institutional strength within the overall framework of N.I.H., H.E.W., and O.M.B I believe that the health and welfare of millions of older Americans will be, over a period of time, substantially improved as a result of the research conducted by the National Institute on Aging

I would therefore urge you to act favorably on this measure when it comes before you for consideration. Thanking you once again for your cooperation and with best wishes, I am

Sincerely yours,
J. GLENN BEALL, JR.

Mr. EAGLETON. Mr. President, I am pleased that the Senate has seen fit today to accept the amendments of the House to my bill, S. 775, to create a National Institute on Aging and to send the bill to the President.

This bill passed the Senate on a voice vote on July 9 last year and was passed by the House with minor amendments on May 2, 1974, by a vote of 379 to 1.

The support that has been shown for this legislation is of great importance, Mr. President, in view of the fact that S. 775 is nearly identical to H.R. 14424 which passed the 92d Congress only to be pocket vetoed by President Nixon. The only major difference between the bill we passed today and the bill vetoed by the President is that the latter added a new part to the Community Mental Health Centers Act, relating to the mental health of the aged, which has been deleted from the present bill. Insofar as its primary elements are concerned—the creation of a National Institute on Aging and related activities—this bill is the same as the one vetoed by the President.

At the time I reintroduced this bill on February 6, 1973, I stated my belief that the President's veto was ill advised and not in the best interests of all Americans—those who are aged now as well as those who are aging. I am hopeful that the support demonstrated in repassing this legislation will convince the President that it is a worthy endeavor deserving of his support.

Basic research into the process of aging has now reached a point where major breakthroughs are possible. There remain, however critical questions yet to be answered.

That aging is a major biological process is undisputed. Moreover, aging underlies our increased susceptibility with advancing years to cancer, heart attacks, and degenerative diseases.

These facts have particular significance when viewed in relationship to the extraordinary growth of our Nation's elderly population and the corresponding increase in health costs associated with care and treatment for the elderly. Today there are more than 20 million Americans aged 65 or older—nearly seven times as many as at the beginning of this century—and the older population is increasing at a much faster rate than the under-35 population. Between 1960 and 1970, the over-65 population showed a rise of 21.1 percent while the under-65 population grew 12.5 percent. Within the next 30 years we can expect nearly 45 million persons to reach their 65th birthday. In this population group, health problems tend to be the rule, not the exception. Eighty percent of those aged 65 or older have a chronic health problem and 40 percent are impaired in their activities because of a health condition. They are twice as likely to be hospitalized as younger persons and, once hospitalized, their average stay is twice as long. As much as two-thirds of our total expenditures for health care can be attributed to treating older persons, according to some estimates.

Despite these facts, the level of federally supported research into phenomena associated with aging has been extremely low. As a nation, we recognize the importance of research—but unfortunately not in the field of aging. The amount expressly devoted to aging research in the National Institutes of Health represents only about one-tenth of 1 percent of Federal expenditures in health programs for the elderly. In sharp contrast, many businesses or governmental units may earmark as much as 5 to 10 percent of their available funds for research.

The focal point for aging research in the National Institutes of Health—NIH—is the National Institute of Child Health and Human Development—NICHD. This Institute was authorized by legislation enacted in 1962 and, as its programs have evolved, major emphasis has been given to research in child health, human reproduction, and fertility control. Aging research constitutes only about 10 percent of its budget and such increases in funding for aging research as have occurred in recent years have been achieved largely through the insistence of the Appropriations Committees of the Senate and the House of Representatives. In 1968, NICHD established the Gerontology Research Center for intramural research in aging. This center, located in Baltimore, was designed to be the largest center for aging research in the world, yet it has consistently operated at 50 percent, or less, of its intended capacity. The failure to staff this center on an adequate basis and to conduct the vigorous intramural program of gerontological research for which it was designed is reflective of the relatively low priority accorded this kind of research within the present organizational structure at the National Institutes of Health.

The creation of a National Institute of Aging, as provided in this bill, is an effort to reverse this trend. Expansion of the aging research and training program within NICHD cannot reasonably be expected to take place at the expense of the other programs which have dominated the activities of the Institute since its inception. Nor can it be anticipated that such expansion will occur as a result of overall NICHD budget increases, for the funding history shows the aging program remaining relatively static in comparison to the large increases received by other NICHD programs.

These are the considerations that led the delegates to the 1971 White House Conference on Aging to recommend the establishment of a separate institute to conduct research and training in aging.

Significantly, a similar recommendation made by the 1961 White House Conference on Aging was sought to be answered by including aging research and training within the responsibilities assigned to NICHD when it was created in 1962. The reiteration of this recommendation by the most recent White House conference points up the inadequacies of the aging program as conducted by NICHD.

In his memorandum of disapproval on

H.R. 14424, the President cited as a reason for his veto—in addition to the mental health centers provisions previously mentioned—the concern that a new Institute on Aging would duplicate the activities of the Technical Advisory Committee for Aging Research appointed in 1972 by the Secretary of Health, Education, and Welfare. This committee was established—perhaps coincidentally—at a time when it seemed clear that the Research in Aging Act was moving through Congress toward final passage. It was intended to develop a comprehensive and coordinated program of aging research including, in addition to biomedical research, such matters as economics, behavior and transportation problems. I cannot say with any certainty whether or not the establishment of the Technical Advisory Committee was merely an effort to head off this legislation, to which the administration previously announced its opposition. What is clear is that the operations of the Technical Advisory Committee on Aging Research over the last 2 years have had no significant impact on the problems that I have described. Indeed, the administration budget proposed a fiscal year 1975 figure that will represent a reduction in the amounts actually obligated in fiscal year 1974.

In any case, S. 775 makes clear that there will be a role in developing an aging research plan for any group such as the Technical Advisory Committee which the Secretary might care to designate. But the establishment of a committee and even the development of a comprehensive research plan in no way obviates the need for expanded research in aging of the kind that would be conducted by a National Institute on Aging. Such a committee can play a major role in developing a research plan as directed by this legislation. The research itself, however, can only be conducted under the auspices of an appropriate body and, for this, I am convinced that the new Institute on Aging is vitally needed.

RESEARCH ON AGING

Mr. CRANSTON. Mr. President, as ranking majority member of the Subcommittee on Aging of the Senate Labor and Public Welfare Committee, and as an original cosponsor during the last Congress of S. 887—the Senate version of H.R. 14424, the vetoed Research on Aging Act of last year—I am delighted to be urging the Senate today to accept the House amendment to S. 775, this year's Research on Aging Act, on which I again join with the Aging Subcommittee chairman (Mr. EAGLETON) as an original cosponsor. Acceptance by the Senate of this amendment will mean that once again the Congress has expressed its commitment to establish a strong Federal effort in the area of research into the process of aging.

I would like to take this opportunity to express my appreciation to Senator EAGLETON, the very dedicated chairman of the Aging Subcommittee, for the fine job he has done this Congress in so effectively responding to the President's pocket veto of two aging bills—not only of the legislation we have considered today, but of S. 50 the Comprehensive Older Americans Services Amendments Act of 1973, signed by the President last May, as Public Law 93-29. I am hopeful that the same spirit of cooperation which resulted in the enactment of the Older Americans Act will prevail when S. 775 reaches the President's desk.

I am particularly pleased that three amendments which I offered in subcommittee last year were retained in both the House and Senate version of this year's Research on Aging Act. These three provisions were designed to broaden the scope and forces of activities to be carried out by the new Institute on Aging by:

First, charging the Secretary with the responsibility of insuring the education and training of an adequate number of allied health, nursing, and paramedical personnel in the field of health care for the aged;

Second, mandating that the new institute conduct scientific studies to determine and measure the impact on the psychological, physiological, and sociological aspects of the process of aging of all programs and activities assisted or conducted by HEW and designed to meet the needs of the aging; and

Third, charging the institute with the responsibility of carrying out public information and education programs and disseminating the findings of relevant aging research and studies and other information about the process of aging which may assist all Americans in dealing with and understanding the problems and processes associated with growing older.

Mr. President, the White House Conference on Aging recommendations on research and demonstration called for the "immediate" establishment of a national institute "to support and conduct research and training in the biomedical and social-behavioral aspects of aging." This recommendation was made in December of 1971. It is now May of 1974.

Senior citizens are the fastest growing segment of our population—the total population of the United States has tripled in size since 1900, while the older population has increased more than twice as fast, multiplying sevenfold. We must do much more to enable older Americans, to enable all ages in our population, to make the most of their later years. We know through testimony we have heard on S. 775 that there is marvelous potential for enriching and lengthening the human lifespan in order to make it possible for each of us to live more creative, productive, and healthful lives. And it is long past time for us to begin to realize that potential.

The Congress has done its utmost to respond to these needs, as well as the specific recommendation of the White House Conference on Aging. I am hopeful that the White House now too will recognize the significance of this important legislation and sign S. 775 into public law.

Mr. MANSFIELD. Mr. President, I move that the Senate concur in the House amendment.

The motion was agreed to.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Does the Senator from Pennsylvania desire recognition?

Mr. HUGH SCOTT. Mr. President, I yield back my time in the interest of the Republic.

[Laughter.]

The PRESIDENT pro tempore. Under the previous order, the distinguished Senator from Wisconsin (Mr. PROXMIRE) is recognized for not to exceed 15 minutes.

WHAT'S RIGHT WITH THE FEDERAL GOVERNMENT: THE FARM PICTURE

Mr. PROXMIRE. Mr. President, in my series of speeches on "What's Right with the Federal Government," it would be wrong to ignore the great progress made in the farm area.

Over the past 15 years our Federal farm policies have been responsible for creating a revolution in farm productivity that has enabled us to produce food and fiber literally 10 times more efficiently than the Soviet Union.

According to Central Intelligence Agency testimony before the Joint Economic Committee, which I will release in a few weeks, although the U.S.S.R. employs 31 percent of its population in agriculture, it produces 20 percent less food than the United States which employs less than 5 percent of its smaller population in farming.

This in one of the reasons I want to focus today, in the twelfth of my "What's Right with the Federal Government" talks on the tremendous strides that have been made by the American farmer in the 15 years I have been in the Senate.

Of course the focus of late has been on the skyrocketing increase in the cost of food. And the fall guy—the patsy—is all too often the American farmer. If the price of food is going up it must mean the farmer is making a killing. Right? Wrong.

For years the farmer through increasing productivity has offset the increased cost of processing, transporting and marketing food. Until the last 2 years the price of food rose very slowly from year to year. The food bill as a percentage of the average worker's take home pay was going down.

INFLATIONARY PRESSURE

But recently the farmer has been plagued by the same inflationary pressures that have hit the consumer. Shortages have driven up the price of fuel used on the farm—especially propane which is used to dry feed grains. Fertilizer, a mainstay of farm productivity, is hard to come by at any price in the Midwest this year. Even bailing twine costs are going through the roof.

Add to this increase in the cost of producing food a sharper than usual boost in transportation, processing, and selling costs and a record worldwide demand for American farm products and you have the prescription for raging food inflation. But the fact of the matter is that, thanks to a strong Federal farm policy over the past 15 years, the situation has not exploded and will not get out of hand.

Let us look at the American farm productivity record. In 1960 our farm population was 15.6 million or 8.7 percent of the total U.S. population. By 1973 the farm population had declined to less than 5 percent—9.5 million.

How could we continue to feed an ever increasing population as farms and farmers declined? The answer was an amazing increase in productivity in the decade of the 1960's. Here are a few examples.

Although the farm labor output dropped from 9.8 billion man-hours in 1960 to 6.5 billion man-hours in 1973, production per man-hour almost doubled. American farmers harvested almost the same crop acreage as in 1960, but production per acre had increased almost 30 percent.

In 1960 American farmers raised 96 million head of cattle. Livestock holdings had risen 26 percent—to 121.5 million head—by 1973. The number of hens and broilers rose from 2.1 billion in 1960 to 3.6 billion in 1973.

In their 1960 farm operations American farmers applied 24.9 million tons of fertilizer. By 1973 that was up by 68 percent—to 42 million tons. Between 1960 and 1973 the number of farm tractors increased by 25 percent and, more significant perhaps, their horsepower increased by 38 percent.

WHY PRODUCTION INCREASE?

What caused this amazing productivity increase? A great deal of it represents the cumulative payoff of years and years of Federal investment in programs that came to the fore in the 1930's, but which have continued through the 1940's, 1950's, and 1960's. I refer to such activities as the county agent system, soil conservation projects, agricultural extension programs and, of course, the Federal investment in agricultural research. These are the month after month, year after year programs that just cannot be ignored. If we are to continue to lead the world in food production.

But the story is not simply one of increasing productivity. It is also a tale of improving conditions in our rural areas. The burgeoning of our national highway system has made towns and cities with all their conveniences more accessible to the average farmer. As a result the number of cars as a proportion of the farm population increased by 20 percent between 1960 and 1970.

The average farmer has had the opportunity to better educate himself and his family than ever before. There was a 20-percent increase in the average number of school years completed in rural areas between 1960 and 1970 while the increase in urban education was only half that.

Perhaps most important, farm income on a per family basis more than doubled between 1960 and 1973, going from $3,387 per farm in 1960 to $6,862 per farm last year in constant 1967 dollars.

Running a farm continues to be just about the most time consuming, backbreaking, lowest paying job in America today. It requires a huge capital investment and the return on that investment is normally much less than you or I could earn by putting an equivalent amount of money into Federal bonds. Furthermore at least some of the dramatic income increase over the last 13 years is attributable to off-the-farm earnings.

But the fact remains that farmers are being more adequately rewarded for their tremendous efforts and their great ingenuity. Perhaps the best indication of this better payout is the parity ratio which reflects the relationship between cost of production and the price the average farmer gets for his produce. This ratio went from 80 in 1960 to 88 in 1973. One substantial reason for this sharp rise is a lack of surplus crops purchased and stored at Government expense which traditionally have depressed farm prices.

Farm products that were once surplus now are sold in great quantities in international markets. American agriculture has become more than competitive with world agriculture. As a result exports absorbed 70 percent of the 1973 wheat crop. And the total value of all agricultural exports reached a record $17.5 billion in 1973—keeping our balance of payments in the black for many months.

Throughout the 1960's Congress recognized the impact increasing productivity can have in a market plagued with surpluses by designing farm programs to limit agricultural production and support farm prices. A voluntary feed grains and wheat adjustment program in the early 1960's, plus a mandatory quota program for wheat, substantially reduced U.S. grain stocks which had accumulated during the 1950's.

1965 ACT

One of the more significant farm income support acts was passed in 1965. It recognized excess capacity as a continuing problem and gave the Secretary of Agriculture authority to deal with it on a flexible basis for a 4-year period. Government loans were set at or near world levels, not at higher levels as in earlier years, sharply limiting the need for export subsidies to keep the prices of American farm products competitive in world markets.

The Secretary of Agriculture was directed to reduce stocks, where excessive, to desirable reserve levels. Government expenditures were to be used primarily for payments to farmers to divert base acreages, maintain income, or for the purchase and distribution of products outside commercial markets.

1970 ACT

The provisions of this act prevailed until the Agricultural Act of 1970, the immediate predecessor of the 1973 act, was passed. The Agricultural Act of 1970 continued the wheat, feedgrains, cotton, wool, and dairy programs of the 1965 act. The 1970 wheat program included a set-aside provision which required producers to divert a portion of their crop acreage from the production of wheat or other crops in order to qualify for loans and payments. The voluntary feedgrain program also contained similar set-aside features.

As the expiration date of the 1970 agricultural price stabilization act approached in 1973, American farmers faced quite different circumstances than those which had shaped earlier agricultural legislation. The extension of the 1970 act which became the Agriculture and Consumer Protection Act of 1973 was designed to encourage all-out production, for the first time since World War II. Farmers were eager to comply, since their products are bringing attractive prices in the marketplace.

1973 ACT

Basically, the 1973 act extends for the next 4 years the major commodity price-support programs, plus food for peace and food stamp programs. Many features of earlier price-support and adjustment programs are continued. In several major respects, however, this act differs from those that preceded it.

Under the 1973 act, no minimum payments are guaranteed. Instead, farmers will receive payments only if the market prices during the first 5 months of the 1974 and 1975 marketing years fall below the target prices set in the law. The target prices are $2.05 per bushel for wheat, $1.38 per bushel for corn, and $0.38 per pound for cotton. Farmers will be required to set aside croplands or restrict production only if market prices fall below target levels. Present prices of these commodities are far above the target prices, as are the future's prices for next year's crops. The act calls for the adjustment of target prices in 1976 and 1977 to reflect changes in production costs and farm yields.

The 1973 act requires all exporters of grains, oilseeds and cotton and their products to report the kind, class, and quantity of the commodity sold and the regional geographical destination of the shipment. Reports of sales must be made weekly to the Secretary of Agriculture. He in turn must publish information compiled from these reports, usually on a weekly basis. The publishing of this export-sales information should help us avoid the chaotic market situation which occurred at the time of the Soviet wheat sales and again last summer in the soybean market.

The 1973 act incorporates 40 years of experience in farm legislation, yet it is designed to meet the new conditions of the 1970's. It protects farmers' income while guaranteeing an abundant supply of food and fiber at fair prices to domestic consumers and exporters.

OTHER ADVANCES

The Congress has taken a number of steps over the past 15 years to improve the quality of rural life while making sure that Americans receive adequate nourishment. The food stamp program is a major accomplishment. It provides high quality food at low prices to millions of Americans who otherwise could not afford to eat well. The school lunch program has been expanded to provide more food to more children than at any time in our history.

Another substantial initiative was the Rural Development Act of 1972. This act authorized the Farmers Home Administration to expand loans to farm operators unable to get credit on reasonable terms from banks, make nonfarm loans to rural residents for business enterprises, and guarantee rural housing loans, including those for doctors, dentists, and other professional people as an incentive to settle in rural areas.

But the Rural Development Act is more than an expansion of credit in rural communities. It authorizes Federal grants for pollutant-abatement activities, creation of community fire-protection services and rural development planning. It works on the principal that if we want to stop the suffocating growth of megalopolis we must make it more attractive and more profitable for people to remain in the rural United States.

A few years ago Congress enacted the Farm Credit Act of 1971—another major improvement in farm policy. This legislation remodified and updated our cooperative farm credit program, which dates back to 1916. It provided for a better integration of Federal land banks, production credit associations, intermediate credit banks, and banks for cooperatives, with more control being placed in the hands of the local and regional directors of these institutions. Rural credit is vital to the functioning of the farm economy. This legislation helped to make that credit readily available.

We are now entering a phase of full utilization of cropland coupled with a substantial world demand for our food production. As I mentioned earlier we have also witnessed a food price spiral that has deeply distressed the American consumer. Thus it is more important than ever that we continue enlightened Federal policies that will permit the farmer to continue to increase his productivity.

Several policy issues are currently under discussion. We are reexamining governmental policies concerning the expansion of badly needed fertilizer production and the availability of fuel for farm operations. We are studying the adequacy of Government policy toward storage and transportation systems that are being strained by increased farm production. We are concerned about world cooperation in making needed supplies of scarce foods available to drought stricken countries lacking foreign exchange to purchase needed imports.

RESEARCH NEED

We must give particular attention to putting enough Federal dollars into agricultural research—research that will form the basis for future productivity increases. We must not force farmers to compete with heavily subsidized foreign imports—a type of competition we presently allow under the dairy import program. We must above all recognize that the farmer deserves to share in our national prosperity, even if this means that food prices at the supermarket rise, sometimes too sharply.

Representing as I do the largest dairy State in the country, I am particularly concerned about our dairy policy. At this time it leaves quite a bit to be desired. In the first quarter of 1974 dairy output dropped about 3 percent from a year earlier. Milk cow numbers were down about 3 percent. For the first time in 30 years milk yield per cow fell—from 10,271 pounds in 1972 to 10,125 pounds in 1973.

What has caused this drop in production in the dairy sector of the farm economy when most other crops are being produced in ever greater quantities? Just as we can credit Federal policies for improvements in other areas we must blame Federal policies, to a large extent, for the recent decline in dairy farming.

The Federal Government seems to have made a decision to trade our dairy market to other countries in return for their willingness to permit our feed grains to be sold overseas. This policy was outlined in the so-called Flanigan Report, which has never received official sanction but which was prepared at the request of Peter J. Flanigan, Assistant to the President for International Economic Affairs.

The report's recommendations are being carried out in violation of Federal law. Here is how it is being done. First the President declares an emergency requiring the immediate importation of vast quantities of cheese or nonfat dry milk. He has to proclaim this phony emergency to get around a legal requirement that the Tariff Commission hold hearings before import quotas are increased.

Then Tariff Commission hearings are held after the quota has been increased. One Commissioner has called these hearings "totally pointless and a waste of the taxpayer's money" because they are held after the fact. Another Commissioner says he has "serious doubts about the legality of the President's action."

These very same imports are subsidized in many cases by Common Market countries which pay their producers as much as 40 percent of their value. Of course this permits these countries to undersell the U.S. farmer and cheesemaker. Few businesses could survive if they had to compete with foreign goods that received subsidies of from 20 percent to 40 percent of their value. And dairy farmers in many instances are not surviving. Squeezed between low cost imports dumped on our shores and the high cost of the feed grain they have to feed their cows an estimated 10 percent of the dairy farmers in Wisconsin and Minnesota—the two biggest dairy States—sold out last year.

There is a law on the books that requires the Federal Government to apply a countervailing duty to subsidized imports to offset foreign sudsidies. Our Government violates this law every few days by refusing to apply the duty to dairy imports. A letter from Secretary of the Treasury Simon to Members of the Senate gave this tortured rationale for the administration's failure. His argument was that Common Market countries apply a tariff to cattle feed imported from the United States. Thus they should be allowed to pay a subsidy to their farmers on the export of dairy products made from that feed. In other words the Common Market has us coming and going. They can restrict the importation of our farm goods into their countries and subsidize exportation of their farm goods into our country.

The Government also continues to oppose the appropriation of funds for forage research—particularly a forage research laboratory—which could substantially reduce the costs of producing milk in this country. In fact, the Department's own experts have stated that the construction of a forage research lab could return $100 in benefits for each $1 expended.

These are the problems. But the record of the past 15 years has generally been one of impressive productivity increases as farmers strive to meet increasing food demands both within this Nation and around the world. We have every right to be proud of the way our farm economy has met the challenge and every reason to be optimistic for the future.

QUORUM CALL

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. McGovern). Without objection, it is so ordered.

OFFICIAL RESIDENCE FOR THE VICE PRESIDENT

Mr. MANSFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of Senate Joint Resolution 202, which will be stated by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 202) designating the premises occupied by the Chief of Naval Operations as the official residence of the Vice President, effective upon the termination of service of the incumbent Chief of Naval Operations.

The Senate proceeded to consider the joint resolution, which had been reported from the Committee on Armed Services with amendments on page 1, line 6, after the word "grounds", insert "(consisting of 12 acres, more or less),"; on page 2, line 3, after the word "and", strike out "shall be" and insert "are hereby"; in line 6, after the figure "2.", strike out "As in the case of the White House, the", and insert "The"; after line 13, strike out:

Sec. 3. The Administrator of General Services is authorized to provide for the care, maintenance, repair, improvement, alteration, and furnishing of the official residence and grounds, including heating, lighting, and air conditioning, which service shall be provided at the expense of the United States.

And, in lieu thereof, insert:

Sec. 3. The Secretary of the Navy shall, subject to the supervision and control of the Vice President, provide for the staffing, care, maintenance, repair, improvement, alteration, and furnishing of the official residence and grounds of the Vice President.

On page 3, after line 1, insert "to the Department of Defense each fiscal year"; in line 2, after the word "such", strike out "sums" and insert "sum"; in line 3, after the word "necessary", strike out "from time to time"; in line 4, after the word "going", strike out "purposes" and insert "provisions of this Act."; after line 5, strike out "Department" and insert "Secretary"; in line 8, after the word "Vice", strike out "President, subject to reimbursement therefor out of any contive" and insert "President."; after line tingency funds available for the Execu-10, insert a new section, as follows:

SEC. 5. No funds may be expended for the maintenance, care, repair, furnishing, or security of any residence for the Vice President other than the official residence provided for in this Act unless the expenditure of such funds is specifically authorized by law enacted after the date of enactment of this Act.

At the beginning of line 17, change the section number from "5" to "6"; at the beginning of line 22, change the section number from "6" to "7"; and on page 4, after line 2, insert a new section, as follows:

SEC. 8. Section 202 of title 3, United States Code, is amended by striking out "and (5)" in the first sentence and inserting in lieu thereof the following: "(5) the official residence of the Vice President and grounds in the District of Columbia; and (6)".

So as to make the joint resolution read:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, effective upon termination of service by the incumbent in the office of Chief of Naval Operations, Department of the Navy, the Government-owned house together with furnishings, associated grounds (constituting of 12 acres, more or less), and related facilities which are and have been used as the residence of the Chief of Naval Operations, shall thenceforth be available for and are hereby designated as, the official residence of the Vice President of the United States.

SEC. 2. The official residence of the Vice President shall be adequately staffed and provided with such appropriate equipment, furnishings, dining facilities services and other provisions as may be required, under the supervision and direction of the Vice President, to enable him to perform and discharge appropriately the duties, functions, and obligations associated with his high office.

SEC. 3. The Secretary of the Navy shall, subject to the supervision and control of the Vice President, provide for the staffing, care, maintenance, repair, improvement, alteration, and furnishing of the official residence and grounds of the Vice President.

SEC. 4. There is hereby authorized to be appropriated to the Department of Defense each fiscal year such sum as may be necessary to carry out the foregoing provisions of this Act. During any interim period until and before such funds are so appropriated, the Secretary of the Navy shall make provision for staffiing and other appropriate services in connection with the official residence of the Vice *President.*

SEC. 5. No funds may be expended for the maintenance, care, repair, furnishing, or security of any residenec for the Vice President other than the official residence provided for in this Act unless the expenditure of such funds is specifically authorized by law enacted after the date of enactment of this Act.

SEC. 6. It is the sense of Congress that living accommodations, generally equivalent to those available to the highest ranking officer on active duty in each of the other military services, should be provided for the Chief of Naval Operations.

SEC. 7. The Act entitled "An Act authorizing the planning, design, construction, furnishing, and maintenance of an official residence for the Vice President of the United States", approved April 9, 1966 (80 Stat. 106), is repealed.

SEC. 8. Section 202 of title 3, United States Code, is amended by striking out "and (5)" in the first sentence and inserting in lieu thereof the following: "(5) the official residence of the Vice President and grounds in the District of Columbia; and (6)."

The PRESIDING OFFICER. The time for debate on the joint resolution is limited to 15 minutes, to be equally divided between and controlled by the Senator from Virginia (Mr. HARRY F. BYRD, JR.) and the Senator from Wisconsin (Mr. PROXMIRE).

Mr. HARRY F. BYRD, JR. I yield myself 3 minutes.

Mr. President, Senate Joint Resolution 202 provides for a permanent residence for the Vice President of the United States. This resolution was introduced by the distinguished Republican leader of the Senate. It was cosponsored by the distinguished Democratic leader of the Senate. The resolution has approximately 30 cosponsors.

I have a letter from the Office of Management and Budget approving this proposal. It is my understanding from a telephone conversation with the Office of Management and Budget that this proposal has the approval of the President of the United States. So it has good credentials. I am more concerned about the merits of the case than I am about the credentials of those who support it.

Mr. President, in recent years there has been quite a change in the security problems connected with the Presidency and the Vice-Presidency. It goes back to the tragic assassination of President Kennedy. Since then, it has been necessary for not only the President but also the Vice President to have heavy security.

In the last 6 years the United States has had three Vice Presidents. Two and a half years from now there will be another. In each of these cases a very large amount of tax funds was spent on the homes of the individuals involved. This was done to protect the security of the Vice President of the United States. Already there has been spent around $80,000 on the home of Vice President Ford in Alexandria, Virginia; $175,000 was spent on the home of former Vice President Agnew in Maryland; and I do not have the precise figure in my mind, but something well over $100,000 was spent on the property of former Vice President Humphrey.

Mr. President, I think that there are two aspects of this resolution that need to be considered.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. HARRY F. BYRD, JR. Mr. President, I yield myself an additional 2 minutes.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. HARRY F. BYRD, JR. First, should there be a permanent home for the Vice President? Testimony before the Subcommittee on General Legislation of the Committee on Armed Services brought out the fact that almost every group and every individual who testified feels that there should be a permanent home for the Vice President. I think from the point of view of the subcommittee that it is desirable at this time because of, as I have mentioned, the heavy cost in the past of security arrangements for private residences owned by those who have served as Vice President, and we will be faced with the same thing 2½ years from now, where at least $150,000 will have to be spent to secure the home of whoever may be the new Vice President.

So I think the time has come when there should be a permanent residence for the Vice President. If that point is conceded, what home should be designated as the home of the Vice President? There are many ideas as to what should be done in this regard. There are almost as many ideas as there are individuals.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that I may proceed for an additional 10 minutes.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. HARRY F. BYRD, JR. Mr. President, there are almost as many ideas as there are individuals as to just what should be done about a home for the Vice President. This resolution, under very eminent sponsorship, suggests one way, and to the subcommittee of the Committee on Armed Services it is a desirable solution. It is not an ideal solution to the problem but it is, we believe, a desirable solution; namely, to use the already existing home and surrounding grounds on Observatory Hill currently occupied by the Chief of Naval Operations. That property would be designated the permanent home for the Vice President. The title, of course, will remain in the name of the Government.

It is particularly timely at this point because at the end of this month there will be a change in the occupancy of the office of Chief of Naval Operations. The term of Admiral Zumwalt expires and a new person has been selected as the Chief of Naval Operations, Adm. James Holloway. Admiral Zumwalt will be moving out of that home when his term expires at the end of June, and the home will be vacant. No one would be dispossed so if that home were to be taken over, now would be the desirable time to do so.

I think certainly the location on Observatory Circle is an ideal location for a governmental residence. The Secret Service testified before the subcommittee that of the 72 acres comprising Observatory Circle, there are only two sites, one being the site of the present residence, that they would approve from a security standpoint. The residence is a nice one. It is not another White House. Those who feel that the Vice President should have a residence similar to what the President has in the White House will not get that under this resolution, but from the point of view of quickly making arrangements for the Vice President to move into an official residence and from the point of view of economy, I think that Senate Joint Resolution 202 is desirable.

The cost estimates vary as to how much will need to be spent for security services, but the Secret Service has testified that at least temporary arrangements can be made for the sum of $33,000. The Office of Budget and Management uses a higher figure—I forget the exact figure, but it is something over $100,000. The Secret Service uses $127,000 in equipment for permanent security at the home.

I might say in regard to the Vice President that I think it would be a very undesirable situation to be followed all day long by a group of persons whose job it is to protect one. It would be equally undesirable to have a group of individuals in one's home all night long for the purpose of protecting one.

The present Vice President lives in an extremely nice but modest home in the city of Alexandria, Va. I think if we could turn over this home on Observatory Circle to the Vice President it would be helpful to the present occupant and future occupants also.

Mr. President, I want to say again that this is not an ideal solution to the problem, particularly from the point of view of those who feel that there should be a more palatial residence provided for the Vice President. But I submit this is a good solution, in my judgment.

This will immediately provide a home, a permanent residence for the Vice President. It can be done at a minimum of cost; the Government already owns the home.

It is a question of whether the Chief of Naval Operations will live there or whether the Vice President of the United States will live there. With respect to what will happen to the Chief of Naval Operations, the Navy has 30 different homes for flag officers in the Washington, D.C. area.

The Vice Chief of Naval Operations, who will take over the duties of the Chief of Naval Operations, I am informed, lives in an extremely nice house now. There are many other homes owned by the Government, under the jurisdiction of the Department of Defense, one of which can be made available to the Chief of Naval Operations.

The Navy opposes this proposal, I want to say frankly to my colleagues. The Navy opposes Senate joint resolution 202 because the Navy would like to keep the home on Observatory Hill as the residence of the Chief of Naval Operations; but, all matters considered, it seems to me appropriate, and the committee so concluded, that providing a permanent residence for the Vice President of the Naval Obsrevatory through the use of the residence currently occupied by the Chief of Naval Operations would be the desirable solution at the present time.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. I yield.

Mr. GRIFFIN. Mr. President, as one of the 34 cosponsors of this joint resolution, as one who has always believed that the Vice President should have an official residence, and as one who has been particularly aware of the importance of this since a fellow Member of Congress from my own State has been elevated to that high office, I want to commend the Senator from Virginia, chairman of the subcommitee, for his careful, deliberate, and very thorough consideration of this matter. I think he has performed a great service to the Senate and, more important, to the country.

After nearly 200 years, perhaps we will finally have an official residence for the Vice President of the United States.

I also want to commend the Senator from Mississippi (Mr. STENNIS), the chairman of the full committee, and the Senator from South Carolina (Mr. THURMOND), who is the ranking Republican member of the full committee.

I would also like to say, and I think the Senator from Virginia will agree, that a former Vice President, now a Member of this body, Senator HUMPHREY, was very active in his support of this resolution. He testified during the hearings, made a very fine statement, and, from first-hand experience, gave the committee a great deal of insight and background as to why this was a good move.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GRIFFIN. Mr. President, I ask unanimous consent to have 2 additional minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. GRIFFIN. I would also like to mention the active leadership provided by the Senator from Arizona (Mr. GOLDWATER), in bringing about some such action as is provided in this resolution.

I hope the Senate will approve the resolution and that the House will, too.

I thank the Senator for yielding to me.

Mr. HARRY F. BYRD, JR. Mr. President, I appreciate the generous words of the Senator from Michigan. It was he who first mentioned this matter to me. I know of the keen interest he has had in it from the beginning.

I may say, frankly, that when he first mentioned it, I was skeptical of the idea. I was fearful that it might not be an adequate residence for the Vice President, and I went to take a look at the property personally to try to reach a conclusion in that regard.

Having done so, it occurred to me, along with the testimony by the Secret Service, that it was a desirable solution to the problem facing the country today.

Mr. President, I ask unanimous consent to add as a cosponsor of Senate Joint Resolution 202 the distinguished senior Senator from South Dakota (Mr. McGOVERN).

The PRESIDING OFFICER (Mr. McGOVERN). Without objection, it is so ordered.

Mr. STENNIS. Mr. President, will the Senator yield me 2 minutes?

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that I may be granted an additional 5 minutes, and I yield 2 minutes to the distinguished Senator from Mississippi.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is ordered.

Mr. STENNIS. Mr. President, I referred this bill to the subcommittee of which the Senator from Virginia is chairman. I tell you, Mr. President, when a bill emerges from his scrutiny, why, it has merit in it. He is very careful, thorough, and inexhaustible in the way he goes into matters, and I very strongly support his recommendation and that of the subcommittee.

I believe this matter was approved by our committee unanimously. Is that correct?

Mr. HARRY F. BYRD, Jr. The Senator is correct.

Mr. STENNIS. The idea being that we ought to provide a place for the Vice President of the United States; and in location and proximities and security possibilities, this is almost an ideal place.

If there is any criticism of the size of some of the rooms, and all, the only other alternative is to go out and buy a suitable place or to build a very expensive building. We are getting this at a bargain—the Government already owns it, of course—with some modification and some furnishings that will be acquired from time to time. I am very happy with the thought that we are going to have such a place, and it will avoid repetitive, repeated, almost, year-by-year expensive installations for security, and so forth.

I thank the Senator for yielding to me. I hope the joint resolution passes by a large vote.

Mr. PROXMIRE. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, in opposing a measure of this kind, with the tremendous support by the majority leader, minority leader, the unanimous position taken by the Armed Services Committee, the distinguished Senator from South Dakota (Mr. McGOVERN), the distinguished Senator from Arizona (Mr. GOLDWATER), the distinguished Senator from Minnesota (Mr. HUMPHREY), and, of course, managed by my good friend from Virginia (Mr. HARRY F. BYRD, JR.), I am not exactly optimistic about my chances for success in being able to stop it, but I would like to point out some problems in connection with it.

Mr. President, while I agree with the concept of providing a home to the Vice President, there are many outstanding financial questions as yet unresolved.

To pass this legislation with an open-ended approach to financing and without a full cost accounting of the expenses likely to be incurred is not in the best interests of the taxpayers.

I have carefully read the hearings held on this subject by my distinguished colleague the Senator from Virginia (Mr. BYRD), but I admit to some uneasiness when it comes to a full awareness of the costs involved.

For example, it appears that the General Services Administration estimates that it will cost $276,000 to upgrade the house to Vice-Presidential standards and $359,000 to provide the protective improvements required by the Secret Service.

This totals $635,000. To this would be added another amount ranging from $33,000 to $125,000 for special Secret Service equipment, bringing a new total of as much as $760,000. I presume these figures are in current dollars and reflect the inflation we are all experiencing; otherwise the total cost would be even higher.

Now, the costs do not stop here. We are moving quickly to pass this legislation before the new Chief of Naval Operations moves into the house. If the Vice President is given this house, then, according to Senate Joint Resolution 202—regardless of any pleasant notion we may have—it is the sense of Congress that living accommodations generally equivalent to those available to the highest ranking officer on active duty should be provided for the new Chief of Naval Operations.

I should point out that that could mean that the Chief of Naval Operations will move into one of the 30 old houses there, but I have been around here long enough to see how the Army and the Navy operate, and I would certainly not hold my breath until the Chief of Naval Operations made his permanent home one of the old houses. He will want a bright, new house, which will cost, I am sure, a great deal more than the present house, according to my experience.

That means that we would have to restore a new residence for the new Chief of Naval Operations, occupied by a high-ranking military officer. One estimate, I have found, involves another house for the Chief of Naval Operations to the tune of approximately $250,000. That would come out of the military budget somewhere and means that at least $1 million will be paid for by the taxpayers, perhaps more. At that point we will be considering whether or not this is really cheaper than constructing a new house on Government property.

Back in 1966 Congress passed authorizing legislation to provide $750,000 for a new Vice-Presidential home. However, this money was never appropriated. With inflation, the $750,000 would now be around $1 million or more. So it turns out that the two figures—one for a new home and one for modifications of the old house—are relatively close, close enough in my opinion to warrant a thorough investigation of the actual costs of both alternatives. In short, Mr. President, there are hidden costs in the proposed legislation. Actually, we do not know what the final costs will be.

This is a perfect example of a situation that would be redressed by my bill, S. 3006, which would require cost estimates for 5 years ahead on all Senate bills. Again, I should like to make it clear that I do approve of a new home for the Vice President, but the financial implications of this bill are not entirely clear. I do not think that we should spend the taxpayers' dollars until we provide a thorough explanation of where the money is going and whether it is the best economic policy.

I know that some people will argue why bother about $1 million, when we are passing $100 million and $1 billion bills constantly with little debate.

But, Mr. President, this expenditure has been and will be in the public eye. The country will know about the expenditure for a new house for the Vice President.

So for those reasons, I hope that we might get a more comprehensive explanation of how the matter of the estimates of the costs which we get from the GSA would compare to the actual cost of building a new house for the Chief of Naval Operations. I think we should postpone action on the legislation until we get it.

Mr. HARRY F. BYRD, JR. Mr. President, I think it is important that we discuss an item of $1 million. That is not too small a sum to be discussed in the Senate. I am glad that the Senator from Wisconsin has raised the question.

One million dollars is a lot of money when we are dealing with business. When we deal in business, $1 million is a lot of money. We normally deal in billions, but $1 million is a lot of money, and I am glad that the Senator from Wisconsin has raised the point. However, $1 million is not involved in this matter, in the first place.

Mr. President, I have been talking with the Vice President of the United States. It is not his intention that a large sum of money will be spent on this new home.

The GSA and other bureaucracies would like to become involved in this massive proposal involving a lot of elaborate plans about what they would like to do.

However, if this legislation is passed, the decision will not be made by them. It will be made by the Vice President, who will handle this matter, I am convinced, in a frugal way.

The testimony has shown that the cost of the improvements to the house can be held to as little as $15,000, and that even the permanent security will not exceed $127,000. As I say, that is less than what would probably be needed to be spent on a home to provide security for the new Vice Persident who will come into office 2½ years from now.

The Senator from Wisconsin presents a good point with regard to a new home for the Chief of Naval Operations. So I will point out that under the law, if the Navy desires to spend more than $15,000 to renovate the house, then that request for approval must come through the Appropriations Subcommittee headed by the Senator from Wisconsin. I am sure that the Senator from Wisconsin—in fact, I know that he will—and other members of the subcommtitee will not permit any lavish expenditures on a home for the Chief of Naval Operations.

If, as I pointed out earlier, there are 30 different homes owned by the Navy and probably an equal number owned by the Army, there are many homes that can be made available at a reasonable cost.

The PRESIDING OFFICER. All time has expired.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that I might proceed for 5 additional minutes.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object—and I shall not object—I believe that we ought not to continue to extend the time on this measure for a great deal longer because yesterday it was ordered that only 15 minutes would be allowed for morning business.

Mr. President, I do not object.

Mr. GRIFFIN. Mr. President, if I might add to that statement, we also have some very important legislation on which there is a limitation of 1 o'clock. We are cutting into that time, and there will be a problem.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time on this measure be extended for 10 minutes, with 5 minutes allowed to the Senator from Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I do not wish to take the time of the Senate. However, I want the RECORD to be clear that the facts are that if we are to approve the concept of a permanent home for the Vice President, this is the most economical way to handle it. Even if the cost somewhat exceeds that now anticipated it will still be more economical than providing a new structure.

I want the RECORD to be clear also that if lavish expenditures are proposed as the Senator from Wisconsin has suggested, to provide a home for the Chief of Naval Operations, any expenditures for this purpose in excess of $15,000, must be authorized by the Armed Services Committee and approved by the Appropriations Committee.

I have one additional word.

There is one aspect of this matter that I do not like. The present Vice President, Mr. GERALD FORD, now resides in the city of Alexandria, in the State which I have the honor and responsibility to represent.

Vice President FORD is a popular resident of that community. He is a fine neighbor. The people there like him. He is a man of high integrity and great ability. He is the type of man that the people of Alexandria would like to have live in their community.

The passage of this joint resolution would take him out of Alexandria and bring him over to the city of Washington, D.C. That is an aspect that I do not like. I would like to have JERRY FORD remain in Alexandria. However, under the conditions facing him and facing the country, there is a need to have a Vice-Presidential residence where security arrangements can be made so as to provide a home that will exist year after year without additional cost to the taxpayers.

Mr. President, I believe that the joint resolution provides a better solution.

Mr. PROXMIRE. Mr. President, I shall take only 2 minutes.

The PRESIDING OFFICER. The Senator from Wisconsin has 5 minutes remaining.

Mr. PROXMIRE. I shall only take a part of that time. The other side has taken far more time than I will take.

I should like to ask my good friend from Virginia whether he said that to renovate the house of the Chief of Naval Operations would, from the Vice-

Presidential standpoint, bring the cost up to $150,000.

Mr. HARRY F. BYRD, JR. No. I do not recall saying that.

Mr. PROXMIRE. Did the Senator say with frugality it could be held to that?

Mr. HARRY F. BYRD, JR. I said the testimony showed that it could be made, as they expressed it, "a habitable area" for $15,000. That figure, then, can be accelerated to almost any amount, depending upon what is done.

Mr. PROXMIRE. Mr. President, this is my problem on this: All the estimates are so vague. I do not see why we cannot get an estimate of what it will cost; then, of course, we can make an allowance for inflation or a reasonable upward adjustment if the Vice President wants some kind of change. But to go ahead and approve something without solid figures could mean an expenditure of, I say, a million dollars. The Senator from Virginia says that is impossible. He says it could be upgraded any amount from the $15,000 they have there.

The GSA said $276,000 to upgrade it. The Secret Service said $359,000 for security protection. Then another $250,000, another estimate indicates, for a new Chief of Naval Operations house.

Those figures may not be accurate. But they show the importance of getting a fairly precise estimate, so that then we will have some kind of control, some kind of measuring basis.

If in the future we have a great expansion of spending on such matters, as we have seen recently at Key Biscayne, San Clemente, and Camp David—everywhere the GSA spends money on a residence for a top official this has happened, so I think we ought to get a clear, hard basis for an estimate of what this cost should be, and then try to hold them to that estimate. That is what I am fighting for this morning.

Mr. HARRY F. BYRD, JR. I think the Senator is on sound ground, except that if he is talking about a sound, permanent home, he will not get it for these estimates.

I did not say it is impossible to spend a million dollars. The way this Government operates, it is possible to spend a million dollars buying cups of coffee here in the Senate. So it is not impossible. But I would say I have talked with the Vice President, and he has no intention of recommending any large increases in costs for renovating this home.

It is a good home. It has been testified I really believe that if we want a Vice-President for $15,000 plus security costs, and the security costs will be permanent, for all future Vice Presidents. So I really believe that if we want a Vice Presidential home, this is the quickest way to get it and the most economical way to get it. I also wish to point out that the costs of operating and maintaining this property will be provided for through an annual appropriation to the Department of Defense, which, of course, must be authorized and approved by the appropirate committees of the Congress.

Mr. President, I ask unanimous consent that the committee report on this resolution be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

EXPLANATION OF THE AMENDMENTS

The resolution, as drafted, would place the responsibility for the custody, control and maintenance of the residence and grounds to be occupied by the Vice President under the jurisdiction of the Administrator of the General Services Administration. The responsibility for the staffing, maintenance and operation of these premises is now, has been for many years, under the jurisdiction of the Secretary of the Navy. These functions have been carried out in a satisfactory manner during the many years the premises have been used as the residence of the Chief of Naval Operations. The committee will expect the same performance in the future and sees no reason to now transfer the property or the responsibility therefore to another government agency.

The Committee wants to make it clear, however, that the responsibilities of the Secretary of the Navy to be carried out under this joint resolution are subject to the supervision and control of the Vice President.

The specific boundaries of the associated grounds shall consist of twelve acres more or less, and shall be jointly determined by the Secretary of the Navy and the Secretary of the Treasury, the legal description of which shall be determined by a survey of such grounds.

Two new sections have been added. Section 5 is designed to preclude the expenditure of public funds on any other residence for the Vice President, unless such is specifically authorized by the Congress.

Section 8 will amend title 3 of the United States Code to permit the use of the Executive Protective Service to provide security for the premises.

The other amendments are technical in nature.

BACKGROUND

The residence in question is located on the grounds of the Naval Observatory in the District of Columbia. It was built in 1893 to serve as a home for the Observatory Superintendent, but has been used as the official residence of the Chief of Naval Operations for over forty years. It is ideally located for a permanent residence for the Vice President.

The committee believes it is fitting and proper that an official residence be provided for the Vice President.

Under current circumstances, the Vice President must provide his own residence at such location he deems desirable and is within his means. Such a residence must be properly secured by the Secret Service to assure the proper protection of the Vice President and his family. This is often difficult to do, and at a considerable expense to the taxpayers. During the past six years there have been three Vice Presidents. There will be another in two and a half years. These costly security expenditures will continue to be necessary in the future unless a permanent residence is provided.

There have been several approaches to the problem. In 1966, Public Law 89–386 was approved. It authorized the Administrator of the General Services Administration to plan, design and construct a residence for the Vice President on 10 acres of ground comprising a part of the Naval Observatory reservation. The sum of $750,000 was authorized for this purpose, including the initial furnishings. Due to world conditions at the time, the appropriation of funds was never requested. There is now a bill pending in the House of Representatives to fund Public Law 89–386, and yet another which would authorize $1.5 million to purchase a residence for the Vice President. Expert testimony has indicated that due to cost escalations over the past eight years it would now cost in the neighborhood of $1.8 million to build and properly secure such a structure today, exclusive of furnishings. It would probably take two years or more for the design and construction of such a residence.

S.J. Res. 202, which is now before us, seems to provide a desirable solution to the problem. This resolution was introduced by the distinguished Minority Leader of the Senate, and is co-sponsored by 29 other distinguished members of the Senate from both sides of the aisle. The proposal is favored by the President of the United States and the Office of Management and Budget.

It offers several distinct advantages over earlier proposals. Foremost, it will provide an immediate residence for the Vice President at a minimum cost. Only minor renovations and redecorations will be required, at an estimated cost of perhaps $10,000 to $15,000, before occupancy. The residence is located on one of the two sites on the Observatory grounds which the Secret Service considers satisfactory in terms of convenience and proximity for them to carry out protective functions. Testimony indicated that the residence and grounds can be properly secured on an interim basis for an expenditure of around $33,000 for equipment.

The residence is an integral part of the 72 acre Observatory reservation. The mansion and grounds are presently maintained in an excellent fashion by the Public Works Office of the Naval Observatory. The operation and maintenance cost over the past four years have averaged approximately $26,800 per year, which includes the cost of some furnishings totaling around $28,000. The committee sees no purpose in disrupting this relationship by placing the residence and the grounds under another government agency. Accordingly, this legislative proposal has been modified to leave the responsibility for the staffing, care and maintenance of the property as it is now, under the Secretary of the Navy.

The necessary funds would be provided to the Department of Defense through an annual appropriation. The committee does not envision either a large initial expenditure, or an annual appropriation much in excess of the current costs for staffing, maintaining and operating the establishment.

FISCAL DATA

The enactment of this legislation will provide an immediate residence for the Vice President with a minimum expenditure of funds, as indicated earlier in this report.

DEPARTMENTAL DATA

As earlier indicated, this proposal has the support of the President, and the Office of Management and Budget. The views of the interested governmental departments are set forth below:

UNITED STATES OF AMERICA,
GENERAL SERVICES ADMINISTRATION,
Washington, D.C., April 29, 1974.

Hon. JOHN C. STENNIS,
Chairman, Committee on Armed Services, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Your letter of April 4, 1974, requested the views of the General Services Administration on Senate Joint Resolution 202, a joint resolution "Designating the premises occupied by the Chief of Naval Operations as the Official residence of the Vice President, effective upon the termination of service of the incumbent Chief of Naval Operations."

While endorsing the purpose of the joint resolution, we have a number of suggestions aimed toward better effectuation of that purpose. Those are incorporated in the attached draft bill which we propose in lieu of Senate Joint Resolution 202 as presently drafted.

Section 1 of the attached draft states that the area involved is approximately ten acres, and provides for joint establishment of boundaries by the Department of the Navy, GSA, and the Secret Service. This provision is recommended to permit the different entities to take into account their programs in determining the boundaries. For example, the Secret Service will have to determine the boundaries necessary to provide adequate protection of the Vice President.

Section 2 provides that custody and control of the grounds and buildings be in GSA.

Section 3 of the attached draft would amend 3 U.S.C. 202 to provide that the Executive Protective Service shall have police jurisdiction over the area. The EPS now has jurisdiction over the White House and foreign embassies. Senate Joint Resolution 202 contains no provision for protection of the property.

Section 4, regarding a steward or housekeeper responsible for certain public property in the residence, is similar to a provision in 3 U.S.C. 109 applicable to the White House. Senate Joint Resolution 202 makes no such provision.

Section 5 provides an authority, missing in Senate Joint Resolution 202, to accept donations and loans of furniture and furnishings for use in the residence. A similar provision for the White House is contained in 3 U.S.C. 110.

Section 6 is adapted from section 2 of the joint resolution, providing that the Government shall furnish the house with the necessary facilities, furnishings, etc., to enable the Vice President to discharge his official duties.

Section 7 provides for the care and maintenance of the residence and grounds by GSA as in section 3 of Senate Joint Resolution 202, except that the word "furnishing" is omitted because it is covered in section 6 of our draft. It also makes clear that the cost to GSA will not be met from GSA's Federal Buildings Fund.

Section 8 authorizes appropriations, and provides that in the interim period the building will be operated by the Secretary of the Navy using funds appropriated to operate and maintain the building prior to the passage of the joint resolution. Senate Joint Resolution 202 provides that during the interim period the Navy will provide all services subject to reimbursement from the contingency fund of the "Executive" (meaning the "President").

Section 9 is identical with section 5 of the joint resolution regarding other accommodations for the Chief of Naval Operations.

Section 10 contains the provision of section 6 of the joint resolution providing for repeal of the 1966 Act authorizing GSA to construct on the site a residence for the Vice President.

In submitting this alternative proposal we take no firm position regarding custody, control, and maintenance of the residence by GSA. We would have no objection to the substitution of another agency, such as the National Park Service, which now maintains the President's residence at the White House (GSA maintaining only the offices).

The Office of Management and Budget has advised that, from the standpoint of the Administration's program, there is no objection to the submission of this report to your Committee.

Sincerely,

Allen G. Kaupinen.

Department of the Navy,
Office of Legislative Affairs,
Washington, D.C., April 29, 1974.
Hon. John C. Stennis,
Chairman, Committee on Armed Services,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Your request for comment on Senate Joint Resolution 202, a joint resolution "Designating the premises occupied by the Chief of Naval Operations as the official residence of the Vice President, effective upon the termination of service of the incumbent Chief of Naval Operations," has been assigned to this Department by the Secretary of Defense for the preparation of a report expressing the views of the Department of Defense.

The move to provide a proper residence for the use of the Vice President is strongly supported. However, it is recommended that the 1966 authorization to provide a new facility for this purpose (Public Law 89-386, April 9, 1966) be reconsidered in lieu of utilizing the present quarters of the Chief of Naval Operations (Navy House) on Massachusetts Avenue.

Due to its basic architecture, Navy House, while adequate for functions conducted by the Chief of Naval Operations, appears to be inadequate for State functions expected to be conducted by the Vice President. To attempt to reconfigure and modernize the existing building (built in 1893), the cost would seem to be excessive to the benefits gained, particularly as compared to new construction. It is most assuredly of high importance that designated quarters for the Vice President give adequate consideration to this need.

Although a secondary consideration, but nevertheless not to be overlooked, is the fact that these quarters have been home for the Chiefs of Naval Operations for over forty years. It is considered altogether fitting that the effect of this resolution on traditions of the Naval Service be weighed in your deliberations.

The intent of the Congress to provide for a home for the Vice President is fully endorsed. In view of the concerns expressed above, however, it is recommended that the resolution provide for a more suitable solution by containment of a provision for building a proper building at an appropriate site which meets the full needs of the incumbent of the second highest office in the land.

The costs of the operation and maintenance of Navy House, including minor construction and improvements are:

	Fiscal year—			
	1971	1972	1973	1974 (6 mo)
Operations	$26, 249	$6, 112	$7, 121	$2, 747
Maintenance	26, 880	11, 359	19, 327	7, 420
Total	53, 129	17, 471	26, 448	10, 167

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report on Senate Joint Resolution 202 for the consideration of the Committee.

Sincerely yours,

E. K. Snyder,
Rear Admiral, USN, Chief of Legislative Affairs.

The General Counsel
of the Treasury,
Washington, D.C., Apr. 30, 1974.
Hon. John C. Stennis,
Chairman, Committee on Armed Services,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Reference is made to your request for the views of this Department on Senate Joint Resolution 202, "Designating the premises occupied by the Chief of Naval Operations as the official residence of the Vice President, effective upon the termination of service of the incumbent Chief of Naval Operations."

From the standpoint of its statutory duty to protect the Vice President, the Department fully endorses the objective of providing a permanent residence for the second-highest office holder in the United States, and we feel that the Naval Observatory grounds are ideal in terms of convenience and proximity for the Secret Service protective function.

The United States Naval Observatory grounds consist of 72 acres. The residence of the Chief of Naval Operations is located on 12 acres which is completely encircled by a five-foot high fence. The main house with garage and greenhouses is located on four of those 12 acres. The main residence apparently was constructed in 1893; it is a frame and masonry three story building, facing Massachusetts Avenue in a northeasterly direction; and the residence is approximately 270 feet from the street. Access to the house is by a driveway from the Observatory public driveway, Goldsborough Drive.

The Secret Service Protection and Technical Security experts have conducted a preliminary inspection of the residence of the Chief of Naval Operations as well as four other sites suggested to us as locations for new construction of a Vice Presidential residence. From this inspection, the Secret Service concludes there is no doubt that the Chief of Naval Operations residence can be secured at its location. It sits within an already controlled environment. It is in close proximity to areas already patrolled by the Executive Protective Service in providing security for foreign embassies. In this regard, we would recommend that the legislation be amended to include a provision transferring the 12 acres on which the building is located to the National Park Service. This would provide a greater measure of control over the property by the Secret Service and would facilitate its protective function. Also, we would recommend that Title 3, United States Code, section 3 be amended to authorize the Executive Protective Service to provide security for any areas designated as a permanent Vice Presidential residence.

There are, admittedly certain disadvantages due to the age and construction of the building. Its age alone presents a possible fire hazard. The present heating and electrical system may also present a hazard.

The Secret Service has made a tentative estimate of the basic cost of technical security equipment, exclusive of installation costs, needed to immediately secure the residence of the Chief of Naval Operations on a temporary type basis. That cost is $33,000. On a more long range basis to permanently secure the area and residence the Secret Service has estimated that $127,000 would be required.

Four other areas within the Naval Observatory grounds were surveyed by the Secret Service as possible locations for new construction for a permanent Vice Presidential residence, inasmuch as Public Law 89-386, approved April 9, 1966, provided for the construction of a Vice Presidential residence on 10 acres of those grounds. That survey has revealed that there is only one other location acceptable to the Secret Service from a security standpoint. This site, located in the northwest quadrant adjacent to Goldsborough Road, the main entrance to the Observatory grounds, may be preferable to the location of the Chief of Naval Operations residence. However, this location has on it two other buildings which would have to be relinquished if it were selected as a site for new construction. These buildings are a residence presently occupied by The Director of the Defense Intelligence Agency and a house utilized by the public works officer.

Regardless of the structure and area that the Secret Service secures, certain basic safety and other security installations will in the long run be necessary such as alarm systems, camera systems, bullet proof windows, locks, security related hardware, plumbing for adequate fire fighting equipment; a Secret Service Command post and guard booths; communications systems; high intensity emergency lighting, and low level regular lighting, and an adequate garage to house and store official vehicles.

The Department has been advised by the Office of Management and Budget that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

Sincerely yours,

Edward C. Schmults,
General Counsel.

Changes in Existing Law

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, existing law proposed to be changed is printed below as follows: language in which no change is proposed is printed in roman; language to be deleted in brackets; and new language in italic.

The Act of April 9, 1966 (80 Stat. 106)

[AN ACT authorizing the planning, design, construction, furnishing, and maintenance of an official residence for the Vice President of the United States

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Administrator of General Services is hereby authorized to plan, design, and construct an official residence for the Vice President of the United States in the District of Columbia.

[Sec. 2. The Administrator is further authorized to use as a site for such residence Federal land and property comprising approximately ten acres at the United States Naval Observatory, the specific area and boundaries thereof to be determined jointly by the General Services Administration and the Department of the Navy: *Provided,* That any roads and improvements thereon for which there is a continued need may be relocated and reconstructed.

[Sec. 3. The Administrator is further authorized to provide for the care, maintenance, repair, improvement, alteration, and furnishing of the official residence and grounds, including heating, lighting, and air conditioning, which services shall be provided at the expense of the United States.

[Sec. 4. The Administrator of General Services is further authorized to accept cash gifts, furniture, and furnishings and other types of gifts on behalf of the United States for use in constructing and furnishing the official residence but without further conditions on use, all such articles thus given to become the property of the United States.

[Sec. 5. There is authorized to be appropriated to the General Services Administration, the sum of $750,000 for planning, design, construction, and costs incidental thereto, including the cost of initial furnishings.

[Sec. 6. There is further authorized to be appropriated to the General Services Administration, annually, such amounts as may be necessary to carry out the purposes of section 3.]

TITLE 3, UNITED STATES CODE—
THE PRESIDENT

* * * * *

Chapter 3.—PROTECTION OF THE PRESIDENT; THE EXECUTIVE PROTECTION SERVICE

* * * * *

§ 202. Executive Protective Service; establishment, control, and supervision; privileges, powers, and duties

There is hereby created and established a permanent police force, to be known as the "Executive Protective Service". Subject to the supervision of the Secretary of the Treasury, the Executive Protective Service shall perform such duties as the Director, United States Secret Service, may prescribe in connection with the protection of the following: (1) the Executive Mansion and grounds in the District of Columbia; (2) any building in which Presidential offices are located; (3) the President and members of his immediate family; (4) foreign diplomatic missions located in the metropolitan area of the District of Columbia; (5) *the official residence of the Vice President and grounds in the District of Columbia;* and [(5)] (*6*) foreign diplomatic missions located in such other areas in the United States, its territories and possessions, as the President, on a case-by-case basis, may direct. The members of such force shall possess privileges and powers similar to those of the members of the Metropolitan Police of the District of Columbia.

* * * * *

Mr. PROXMIRE. Mr. President, let me simply say in conclusion that I am not going to oppose this bill further. I hope we will be able to measure how much is spent on the Vice President's home based on the $15,000 estimate which the Senator from Virginia has given us this morning. I am sure it will be far more than he estimates, but if it is much more than that, I think we will have a basis for a protest.

Furthermore, I thank the Senator from Virginia for referring to the Appropriations Committee as my committee. I am on the committee, but it is not my committee by a long shot. When these requests come from the armed services for big increases in spending, such as will come for a new lavish mansion for the Chief of Naval Operations, disguised as a hundred billion of other defense spending, I will try to find it. But if they can sneak by with $750 million in this budget for the CIA without anyone knowing about it, think how easy it will be to toss in a million here and a million there for the Navy's top admiral. This bill opens us up for just that.

The PRESIDING OFFICER. The question is on agreeing to the first committee amendment.

Mr. HARRY F. BYRD, JR. I yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, as cosponsor of Senate Joint Resolution 202, I urge the Senate give this matter speedy and favorable action. The Senate Armed Services Committee, on the recommendation of its General Legislation Subcommittee, has unanimously approved this resolution.

The able chairman of the subcommittee, Mr. Byrd of Virginia, and the ranking minority member of the subcommittee, Mr. Taft of Ohio, held hearings April 29 on Senate Joint Resolution 202. These hearings revealed that transfer of the current residence of the Chief of Naval Operations on the grounds of the Naval Observatory in the District of Columbia was a cost effective way of providing a residence for our Vice President.

Among those testifying in support of this resolution was the distinguished Senator from Minnesota (Mr. Humphrey) a former Vice President.

Senator Humphrey explained the advantages both to the Vice President and to the Federal Government which would be offered through an official residence for our No. 2 elected Government official. He stressed that the current practice of providing protection and communications to the private residences of the Various Vice Presidents was expensive and in many cases the funds could not be recovered.

Mr. President, as the Senate knows this Nation has had four Vice Presidents in the last 10 years and in each case the Secret Service has had to make expensive renovations of their respective private residences.

In the case of the CNO's quarters at the Naval Observatory, we have a building already owned by the Government which could be occupied almost immediately by the current Vice President. This would take place when the term of Adm. Elmo Zumwalt ends on June 30.

Mr. President, it is my hope the Senate will act promptly in approving this resolution.

As far as spending large amounts is concerned, Vice President Ford does not want an elaborate home. It has been suggested that this home of the Chief of Naval Operations be reworked or rebuilt, but he does not want that. He is a very frugal man, and I admire him for it and commend him for it.

I think in the end this is going to be the most economical, the most appropriate, and the most practical manner in which to handle this particular important matter for the Government.

The PRESIDING OFFICER. All time on the joint resolution has expired. The question is on agreeing to the first committee amendment.

Mr. GRIFFIN. Mr. President, unless there is objection, I ask unanimous consent that the several committee amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, the committee amendments are considered and agreed to en bloc. The question is on the engrossment and third reading of the joint resolution.

The joint resolution (S.J. Res. 202) was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EDUCATION AMENDMENTS OF 1974

The PRESIDING OFFICER (Mr. McGovern). Under the previous order, the Senate will now resume the consideration of the unfinished business, S. 1539, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 1539) to amend and extend certain acts, relating to elementary and secondary education programs and for other purposes.

The Senate resumed the consideration of the bill.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KENNEDY). Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the text of the amendment will be printed in the RECORD.

The text of the amendment is as follows:

At the end of the bill add a new title:

"TITLE IX—EQUAL EDUCATIONAL OPPORTUNITIES

"SHORT TITLE

"Sec. 901. This title may be cited as the 'Equal Educational Opportunities Act of 1974'.

"PART A—POLICY AND PURPOSE

"DECLARATION OF POLICY

"Sec. 902. (a) The Congress declares it to be the policy of the United States that—

"(1) all children enrolled in public schools are entitled to equal educational opportunity without regard to race, color, sex, or national origin; and

"(2) the neighborhood is the appropriate basis for determining public school assignments.

"(b) In order to carry out this policy, it is the purpose of this Act to specify appropriate remedies for the orderly removal of the vestiges of the dual school system.

"FINDINGS

"Sec. 903. (a) The Congress finds that—

"(1) the maintenance of dual school systems in which students are assigned to schools solely on the basis of race, color, sex, or national origin denies to those students the equal protection of the laws guaranteed by the fourteenth amendment;

"(2) for the purpose of abolishing dual schools solely on the basis of race, color, sex, thereof, many local educational agencies have been required to reorganize their school systems, to reassign students, and to engage in the extensive transportation of students;

"(3) the implementation of desegregation plans that require extensive student transportation has, in many cases, required local educational agencies to expend large amounts of funds, thereby depleting their financial resources available for the maintenance or improvement of the quality of educational facilities and instruction provided;

"(4) transportation of students which creates serious risks to their health and safety, disrupts the educational process carried out with respect to such students, and impinges significantly on their educational opportunity, is excessive;

"(5) the risks and harms created by excessive transportation are particularly great for children enrolled in the first six grades; and

"(6) the guidelines provided by the courts for fashioning remedies to dismantle dual school systems have been, as the Supreme Court of the United States has said, "incomplete and imperfect', and have not established a clear, rational, and uniform standard for determining the extent to which a local educational agency is required to reassign and transport its students in order to eliminate the vestiges of a dual school system.

(b) For the foregoing reasons, it is necessary and proper that the Congress, pursuant to the powers granted to it by the Constitution of the United States, specify appropriate remedies for the elimination of the vestiges of dual school systems.

"PART B—UNLAWFUL PRACTICES

"DENIAL OF EQUAL EDUCATIONAL OPPORTUNITY

"Sec. 904. No State shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin, by—

"(a) the deliberate segregation by an educational agency of students on the basis of race, color, or national origin among or within schools.

"(b) the failure of an educational agency which has formerly practiced such deliberate segregation to take affirmative steps, consistent with part D of this title, to remove the vestiges of a dual school system;

"(c) the assignment by an educational agency of a student to a school, other than the one closest to his or her place of residence within the school district in which he or she resides, if the assignment results in a greater degree of segregation of students on the basis of race, color, sex, or national origin among the schools of such agency than would result if such student were assigned to the school closest to his or her place of residence within the school district of such agency of providing the appropriate grade level and type of education for such student;

"(d) discrimination by an educational agency on the basis of race, color, or national origin in the employment, employment conditions, or assignment to schools of its faculty or staff, except to fulfill the purposes of subsection (f) below;

"(e) the transfer by an educational agency, whether voluntary or otherwise, of a student from one school to another if the purpose and effect of such transfer is to increase segregation of students on the basis of race, color, or national origin among the schools of such agency; or

"(f) the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instruction programs.

"BALANCE NOT REQUIRED

"Sec. 905. The failure of an educational agency to attain a balance, on the basis of race, color, sex, or national origin, of students among its schools shall not constitute a denial of equal educational opportunity, or equal protection of the laws.

"ASSIGNMENT ON NEIGHBORHOOD BASIS NOT A DENIAL OF EQUAL EDUCATIONAL OPPORTUNITY

"Sec. 906. Subject to the other provisions of this title, the assignment by an educational agency of a student to the school nearest his place of residence which provides the appropriate grade level and type of education for such student is not a denial of equal educational opportunity or of equal protection of the laws unless such assignment is for the purpose of segregating students on the basis of race, color, sex, or national origin, or the school to which such student is assigned was located on its site for the purpose of segregating students on such basis.

"PART C—ENFORCEMENT

"CIVIL ACTIONS

"Sec. 907. An individual denied an equal educational opportunity, as defined by this title, may constitute a civil action in an appropriate district court of the United States against such parties, and for such relief, as may be appropriate. The Attorney General of the United States (hereinafter in this title referred to as the 'Attorney General'), for or in the name of the United States, may also institute such a civil action on behalf of such an individual.

"EFFECT OF CERTAIN POPULATION CHANGES ON CIVIL ACTIONS

"Sec. 908. When a court of competent jurisdiction determines that a school system is desegregated, or that it meets the constitutional requirements, or that it is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population occur which result in school population changes in any school within such a desegregated school system, such school population changes so occurring shall not, per se, constitute a cause for civil action for a new plan of desegregation or for modification of the court approved plan.

"JURISDICTION BY THE ATTORNEY GENERAL

"Sec. 909. The appropriate district court of the United States shall have and exercise jurisdiction of proceedings instituted under section 807.

"INTERVENTION BY ATTORNEY GENERAL

"Sec. 910. Whenever a civil action is instituted under section 807 by an individual, the Attorney General may intervene in such action upon timely application.

"SUITS BY THE ATTORNEY GENERAL

"Sec. 911. The Attorney General shall not institute a civil action under section 807 before he—

"(a) gives to the appropriate educational agency notice of the condition or conditions which, in his judgment, constitute a violation of part B of this title; and

"(b) certifies to the appropriate district court of the United States that he is satisfied that such educational agency has not, within a reasonable time after such notice, undertaken appropriate action.

"ATTORNEYS' FEES

"Sec. 912. In any civil action instituted under this Act, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorneys' fee as part of the costs, and the United States shall be liable for costs to the same extent as a private person.

"PART D—REMEDIES

"FORMULATING REMEDIES; APPLICABILITY

"Sec. 913. In formulating a remedy for a denial of educational opportunity or a denial of the equal protection of the laws, a court, department, or agency of the United States shall seek or impose only such remedies as are essential to correct particular denials of equal educational opportunity or equal protection of the laws.

"PRIORITY OF REMEDIES

"Sec. 914. In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, which may involve directly or indirectly the transportation of students, a court, department, or agency of the United States shall consider and make specific findings on the efficacy in correcting such denial of the following remedies and shall require implementation of the first of the remedies set out below, or of the first combination thereof which would remedy such denial:

"(a) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account school capacities and natural physical barriers;

"(b) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account only school capacities;

"(c) permitting students to transfer from a school in which a majority of the students are of their race, color, or national origin to a school in which a minority of the students are of their race, color, or national origin;

"(d) the creation or revision of attendance zones or grades structures without requiring transportation beyond that described in section 815;

"(e) the construction of new schools or the closing of inferior schools;

"(f) the construction or establishment of magnet schools; or

"(g) the development and implementation of any other plan which is educationally sound and administratively feasible, subject to the provisions of sections 815 and 816 of this title.

"TRANSPORTATION OF STUDENTS

"SEC. 915. (a) No court, department, or agency of the United States shall, pursuant to section 814, order the implementation of a plan that would require the transportation of any student to a school other than the school closest or next closest to his place of residence which provides the appropriate grade level and type of education for such student.

"(b) No court, department, or agency of the United States shall require directly or indirectly the transportation of any student if such transportation poses a risk to the health of such student or constitutes a significant impingement on the educational process with respect to such student.

"(c) When a court of competent jurisdiction determines that a school system is desegregated, or that it meets the constitutional requirements, or that it is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population occur which result in school population changes in any school within such a desegregated school system, no educational agency because of such shifts shall be required by any court, department, or agency of the United States to formulate, or implement any new desegregation plan, or modify or implement any modification of the court approved desegregation plan, which would require transportation of students to compensate wholly or in part for such shifts in school population so occurring.

"DISTRICT LINES

"SEC. 916. In the formulation of remedies under section 813 or 814 of this title the lines drawn by a State, subdividing its territory into separate school districts, shall not be ignored or altered except where it is established that the lines were drawn for the purpose, and had the effect, of segregating children among public schools on the basis of race, color, sex, or national origin.

"VOLUNTARY ADOPTION OF REMEDIES

"SEC. 917. Nothing in this title prohibits an educational agency from proposing, adopting, requiring, or implementing any plan of desegregation, otherwise lawful, that is at variance with the standards set out in this title, nor shall any court, department, or agency of the United States be prohibited from approving implementation of a plan which goes beyond what can be required under this title, if such plan is voluntarily proposed by the appropriate educational agency.

"REOPENING PROCEEDINGS

"SEC. 918. On the application of an educational agency, court orders, or desegregation plans under title VI of the Civil Rights Act of 1964 in effect on the date of enactment of this title and intended to end segregation of students on the basis of race, color, or national origin, shall be reopened and modified to comply with the provisions of this title. The Attorney General shall assist such educational agency in such reopening proceedings and modifications.

"LIMITATION ON ORDERS

"SEC. 919. Any court order requiring, directly or indirectly, the transportation of students for the purpose of remedying a denial of the equal protection of the laws shall, to the extent of such transportation, be terminated if the court finds the defendant educational agency is not effectively excluding any person from any school because of race, color, or national origin, and this shall be so, whether or not the schools of such agency were in the past segregated de jure or de facto. No additional order requiring such educational agency to transport students for such purpose shall be entered unless such agency is found to be effectively excluding any person from any school because of race, color, or national origin, and this shall be so, whether or not the schools of such agency were in the past segregated de jure or de facto.

"TERMINATION OF COURT ORDER

"SEC. 920. Any court order requiring the desegregation of a school system shall be terminated, if the court finds the schools of the defendant educational agency are a unitary school system, one within which no person is to be effectively excluded from any school because of race, color, or national origin, and this shall be so, whether or not such school system was in the past segregated de jure or de facto. No additional order shall be entered against such agency for such purposes unless the schools of such agency are no longer a unitary school system.

"PART E—DEFINITIONS

"DEFINITIONS

"SEC. 921. For the purposes of this title—

"(a) the term 'educational agency' means a local educational agency or a 'State educational agency' as defined by section 801(k) of the Elementary and Secondary Education Act of 1965;

"(b) the term 'local educational agency' means a local educational agency as defined by section 801(f) of the Elementary and Secondary Education Act of 1965;

"(c) the term 'segregation' means the operation of a school system in which students are wholly or substantially separated among the schools of an educational agency on the basis of race, color, sex, or national origin or within a school on the basis of race, color, or national origin;

"(d) the term 'desegregation' means desegregation as defined by section 401(b) of the Civil Rights Act of 1964; and

"(e) an educational agency shall be deemed to transport a student if any part of the cost of such student's transportation is paid by such agency.

"PART F—MISCELLANEOUS PROVISIONS

"REPEALER

"SEC. 922. Section 709(a)(3) of the Emergency School Aid Act is hereby repealed.

"SEC. 923. This title shall be effective 90 days after enactment."

Amend the table of contents by striking out title VIII and items 901 through 906, and inserting in lieu thereof the following:

"TITLE IX—EQUAL EDUCATIONAL OPPORTUNITIES

"Sec. 901. Short title.

"PART A—POLICY AND PURPOSE

"Sec. 902. Declaration of policy.
"Sec. 903. Findings.

"PART B—UNLAWFUL PRACTICES

"Sec. 904. Denial of equal educational opportunity.
"Sec. 905. Balance not required.
"Sec. 906. Assignment on neighborhood basis not a denial of equal educational opportunity.

"PART C—ENFORCEMENT

"Sec. 907. Civil actions.
"Sec. 908. Effect of certain population changes on civil actions.
"Sec. 909. Jurisdiction by the Attorney General.
"Sec. 910. Intervention by Attorney General.
"Sec. 911. Suits by the Attorney General.
"Sec. 912. Attorneys' fees.

"PART D—REMEDIES

"Sec. 913. Formulating remedies; applicability.
"Sec. 914. Priority of remedies.
"Sec. 915. Transportation of students.
"Sec. 916. District lines.
"Sec. 917. Voluntary adoption of remedies.
"Sec. 918. Reopening proceedings.
"Sec. 919. Limitations on orders.
"Sec. 920. Termination of court orders.

"PART E—DEFINITIONS

"Sec. 921. Definitions.

"PART F—MISCELLANEOUS PROVISIONS

"Sec. 922. Repealer.
"Sec. 923. Effective date.".

Mr. GRIFFIN. Mr. President, this is essentially the Esch amendment which was adopted by an overwhelming vote in the House, and which was offered by the Senator from Florida (Mr. GURNEY) on yesterday. I have made only minimum changes in the language of the amendment, which have been made for the purpose of qualifying the amendment for reconsideration, in effect, today.

The changes made are these:

A section relating to separability has been stricken, and a new section making the provisions effective 90 days after enactment, has been added.

I believe that, after consultation with the Parliamentarian, that those changes would be considered substantial enough so that it will be in order to consider the amendment, even though the Senate did vote on a similar amendment yesterday.

I am glad to notice the presence of the distinguished Senator from New York (Mr. JAVITS), the ranking minority member of the Committee on Labor and Public Welfare, in the Chamber. I would like to say to him that, if we could get an up-and-down vote on the merits of this amendment today, it would not be necessary to go up the hill and down again next Tuesday by offering the House bill as a substitute. It will be recalled that such an option was reserved, admittedly, in order to be able to have a second opportunity to consider the Esch amendment on busing.

In view of the very close vote on yesterday—with a margin of only one vote—I am sure it is understandable that those of us who feel very strongly about the importance of this amendment would want to have the basic question reconsidered.

At this time, I would like to yield to the Senator from Kansas.

Mr. DOLE. Mr. President, I am pleased to join the Senator from Michigan in this effort to get what I think is essentially an up or down vote on the basic issue, not a motion to table it.

As the Senator from Michigan has indicated, some changes were made in the amendment. I hope that some agreement can be reached so that we can have a vote, win or lose, so that we might move on to other business.

As I said yesterday in support of the Gurney amendment, this matter is becoming an issue in more and more States. The votes are becoming closer and closer. I believe that only the passage of time will see some meaningful resolution of this problem by Congress.

I join the Senator from Michigan as a coauthor of the amendment. I hope that the managers of the bill might work out some arrangement or agreement whereby we could have an up or down vote at 10:30 or 11 o'clock. The matter has been debated. Everybody understands in essence what the amendment would do.

That is all I have to say at this time.

Mr. GRIFFIN. I thank the Senator for his contribution and for his cosponsorship of the amendment.

Mr. JAVITS. I yield myself 5 minutes in opposition to the amendment.

Mr. President, the difficulty with this procedure as outlined by the distinguished Senator from Michigan is that it changes materially the understanding of the Senate about how this matter was going to be handled. I am sure that he does not wish to lend himself to that without thinking it over very carefully.

As I see the situation, the Senate had a right to assume that, with the Gurney amendment having 6 hours yesterday, completely debated, explored, and then voted on, with an absolute right, which was reserved in the unanimous-consent agreement, to table, that was for this phase, which ends at 1 o'clock today—the end of that situation—and that on next Tuesday, when Senator GRIFFIN reserved the right—we understood it and we said it when the unanimous-consent agreement was discussed—to propose the whole House package, we would have a go at this again. But I do not believe that Members had any right to assume that on an hour's debate, which is all we have today on any amendment, including this amendment, this question would again be revisited.

Other amendments relating to busing were absolutely in order. As a matter of fact, we dealt with one last night, and it was actually adopted by the Senate. But I cannot—and I will not—give any undertaking not to move to table this amendment again, even if we reach it by 1 o'clock—and perhaps we will not—because I think that the Senate had a right to assume that that was it on the Gurney amendment and that we are not going to revisit it this morning at a time chosen by those who are dissatisfied with last night's vote. Senators had a right to assume that this matter would be reconsidered again on Tuesday or Monday, whenever the Senator had the reservation on the total House bill.

The Senator is completely within his rights in raising the matter again, but I do not yield any of mine, and I hope very much that the manager of the bill will not, either. We may lose it or win it, but I deeply believe that, in saying what I am saying, I am reading correctly what the Senate had in mind when this matter first occurred.

So I will not—I am very sorry, but I am very clear on this—relinquish any rights whatever respecting this amendment.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. GRIFFIN. I want to clear up one point and make sure there is no misunderstanding.

I am sure the Senator would agree that there was a clear understanding that amendments relating to busing could be offered and voted upon today until 1 o'clock.

Certainly, what we are doing now is not in conflict with that understanding we had. Indeed, I would say that the Senator from Kansas (Mr. DOLE) was planning to offer this amendment in substantially the same form today.

So, I do not want the Senator to be under the impression or that anything being done here this morning is in any way out of line or inconsistent with the earlier understanding. If the Senator wishes not to waive any of his rights, of course, I can understand that.

Mr. JAVITS. I was addressing myself—very clearly, I thought—to the fact that I was not in a position to give up nor would I give up any of my rights. That is what the Senator asked me. That is all I was answering—why I would not give up any rights. I am not critical of any Member's exercise of his rights. I never have been, and I am not starting today.

In explanation of why I cannot comply with the Senator's request, I stated what I have as to what I believe to be the general consideration of the Senate of this matter. Therefore, rather than giving up any rights, I would consider it my duty, as one of the managers of the bill, to protect what I consider to be the Senate's understanding of how this thing was shaping up—no agreements, but just the understanding. I am just explaining my attitude, nothing else.

Mr. GRIFFIN. I understand. I want to add the further point that, not only is there the opportunity today under the unanimous-consent agreement to reconsider, in effect, the amendment but, obviously, it can also be reconsidered again next week, in effect, if I should offer the House passed bill as a substitute.

It was my suggestion, however, that I might forgo the opportunity to offer the measure again next week if we could get a vote on it today.

That is what we would be giving up. In other words, both sides would be giving up a little, in a procedural sense, but we would be giving the Senate an opportunity to vote up or down on the merits of this amendment that would seem to be a reasonable kind of expectation: the Senate should have an opportunity to work its will on the merits, rather than having to vote on a tabling motion.

Mr. JAVITS. Mr. President, again on my time, I do not consider that the Senate passes any less on the merits when it votes to table than when it votes on the merits. That is its business. It decides that it wishes to cut off further consideration at that point. That is just as much a considered decision by the Senate as any other.

Second, knowing very well how this place works, when it is stated in the unanimous-consent agreement that a certain matter is going to be revisited, and we all knew it on Monday and Tuesday, it makes quite a difference as to whether it is revisited on Thursday, immediately after the previous vote.

I do not know what the absentee situation is, and I have not paused to find out, because it is immaterial. Members had a right, in my judgment, looking at it from our side, to read the situation as I am reading it. Therefore, for my action, I will do whatever I can to protect a reading of the situation which I would have made if I were other Members and which perhaps other Members have made. If they have not, it is not an undue precaution.

Now, Mr. President, on my own time I would like to ask the Chair if any rights are waived to points of order in connection with further debate on this amendment.

The PRESIDING OFFICER. The Chair suggests the absence of a quorum on the Chair's time.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

Mr. HELMS. Mr. President, can we withhold the quorum call for just a moment so that I may make a unanimous-consent request?

Mr. JAVITS. Yes, of course.

Mr. HELMS. Mr. President, I ask unanimous consent that James L. Lucier and Rom Parker, Jr., of my staff, be permitted on the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I modify my proposed amendment by deleting section 918, as it has been presented by the desk. Then, I ask as a parliamentary inquiry, having deleted that section which has to do with the reopening of lawsuits and thereby making the amendment prospective only in its operation, whether the amendment is in order.

Mr. JAVITS. Mr. President, may I ask the Senator to yield so that I may add to the inquiry, so that we will have one inquiry pending, and making both in one.

May I add to that question to the Chair the effect of the unanimous-consent agreement upon a point of order.

Mr. GRIFFIN. Mr. President, before the Chair rules, after checking with my staff and others, I modify the amendment by deleting sections 918, 919, and 920, in order to make clear the purpose that the operation of the amendment would be prospective only.

The PRESIDING OFFICER. The Chair would rule there has been a substantial change, and that the amendment is in order as it is now.

The amendment, as now modified, reads as follows:

At the end of the bill add a new title as follows:

"TITLE IX—EQUAL EDUCATIONAL OPPORTUNITIES

"SHORT TITLE

"SEC. 901. This title may be cited as the 'Equal Educational Opportunities Act of 1974'.

"Part A—Policy and Purpose

"DECLARATION OF POLICY

"Sec. 902. (a) The Congress declares it to be the policy of the United States that—

"(1) all children enrolled in public schools are entitled to equal educational opportunity without regard to race, color, sex, or national origin; and

"(2) the neighborhood is the appropriate basis for determining public school assignments.

"(b) In order to carry out this policy, it is the purpose of this Act to specify appropriate remedies for the orderly removal of the vestiges of the dual school system.

"FINDINGS

"Sec. 903. (a) The Congress finds that—

"(1) the maintenance of dual school systems in which students are assigned to schools solely on the basis of race, color, sex, or national origin denies to those students the equal protection of the laws guaranteed by the fourteenth amendment;

"(2) for the purpose of abolishing dual schools solely on the basis of race, color, sex, thereof, many local educational agencies have been required to reorganize their school systems, to reassign students, and to engage in the extensive transportation of students;

"(3) the implementation of desegregation plans that require extensive student transportation has, in many cases, required local educational agencies to expend large amounts of funds, thereby depleting their financial resources available for the maintenance or improvement of the quality of educational facilities and instruction provided;

"(4) transportation of students which creates serious risks to their health and safety, disrupts the educational process carried out with respect to such students, and impinges significantly on their educational opportunity, is excessive;

"(5) the risks and harms created by excessive transportation are particularly great for children enrolled in the first six grades; and

"(6) the guidelines provided by the courts for fashioning remedies to dismantle dual school systems have been, as the Supreme Court of the United States has said, 'incomplete and imperfect', and have not established a clear, rational, and uniform standard for determining the extent to which a local educational agency is required to reassign and transport its students in order to eliminate the vestiges of a dual school system.

(b) For the foregoing reasons, it is necessary and proper that the Congress, pursuant to the powers granted to it by the Constitution of the United States, specify appropriate remedies for the elimination of the vestiges of dual school systems.

"Part B—Unlawful Practices

"DENIAL OF EQUAL EDUCATIONAL OPPORTUNITY

"Sec. 904. No State shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin, by—

"(a) the deliberate segregation by an educational agency of students on the basis of race, color, or national origin among or within schools;

"(b) the failure of an educational agency which has formerly practiced such deliberate segregation to take affirmative steps, consistent with part D of this title, to remove the vestiges of a dual school system;

"(c) the assignment by an educational agency of a student to a school, other than the one closest to his or her place of residence within the school district in which he or she resides, if the assignment results in a greater degree of segregation of students on the basis of race, color, sex, or national origin among the schools of such agency than would result if such student were assigned to the school closest to his or her place of residence within the school district of such agency of providing the appropriate grade level and type of education for such student;

"(d) discrimination by an educational agency on the basis of race, color, or national origin in the employment, employment conditions, or assignment to schools of its faculty or staff, except to fulfill the purposes of subsection (f) below;

"(e) the transfer by an educational agency, whether voluntary or otherwise, of a student from one school to another if the purpose and effect of such transfer is to increase segregation of students on the basis of race, color, or national origin among the schools of such agency; or

"(f) the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instruction programs.

"BALANCE NOT REQUIRED

"Sec. 905. The failure of an educational agency to attain a balance, on the basis of race, color, sex, or national origin, of students among its schools shall not constitute a denial of equal educational opportunity, or equal protection of the laws.

"ASSIGNMENT ON NEIGHBORHOOD BASIS NOT A DENIAL OF EQUAL EDUCATIONAL OPPORTUNITY

"Sec. 906. Subject to the other provisions of this title, the assignment by an educational agency of a student to the school nearest his place of residence which provides the appropriate grade level and type of education for such student is not a denial of equal educational opportunity or of equal protection of the laws unless such assignment is for the purpose of segregating students on the basis of race, color, sex, or national origin, or the school to which such student is assigned was located on its site for the purpose of segregating students on such basis.

"Part C—Enforcement

"CIVIL ACTIONS

"Sec. 907. An individual denied an equal educational opportunity, as defined by this title, may constitute a civil action in an appropriate district court of the United States against such parties, and for such relief, as may be appropriate. The Attorney General of the United States (hereinafter in this title referred to as the 'Attorney General'), for or in the name of the United States, may also institute such a civil action on behalf of such an individual.

"EFFECT OF CERTAIN POPULATION CHANGES ON CIVIL ACTIONS

"Sec. 908. When a court of competent jurisdiction determines that a school system is desegregated, or that it meets the constitutional requirements, or that it is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population occur which result in school population changes in any school within such a desegregated school system, such school population changes so occurring shall not, per se, constitute a cause for civil action for a new plan of desegregation or for modification of the court approved plan.

"JURISDICTION BY THE ATTORNEY GENERAL

"Sec. 909. The appropriate district court of the United States shall have and exercise jurisdiction of proceedings instituted under section 907.

"INTERVENTION BY ATTORNEY GENERAL

"Sec. 910. Whenever a civil action is instituted under section 807 by an individual, the Attorney General may intervene in such action upon timely application.

"SUITS BY THE ATTORNEY GENERAL

"Sec. 911. The Attorney General shall not institute a civil action under section 807 before he—

"(a) gives to the appropriate educational agency notice of the condition or conditions which, in his judgment, constitute a violation of part B of this title; and

"(b) certifies to the appropriate district court of the United States that he is satisfied that such educational agency has not, within a reasonable time after such notice, undertaken appropriate action.

"ATTORNEYS' FEES

"Sec. 912. In any civil action instituted under this Act, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorneys' fee as part of the costs, and the United States shall be liable for costs to the same extent as a private person.

"Part D—Remedies

"FORMULATING REMEDIES; APPLICABILITY

"Sec. 913. In formulating a remedy for a denial of educational opportunity or a denial of the equal protection of the laws, a court, department, or agency of the United States shall seek or impose only such remedies as are essential to correct particular denials of equal educational opportunity or equal protection of the laws.

"PRIORITY OF REMEDIES

"Sec. 914. In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, which may involve directly or indirectly the transportation of students, a court, department, or agency of the United States shall consider and make specific findings on the efficacy in correcting such denial of the following remedies and shall require implementation of the first of the remedies set out below, or of the first combination thereof which would remedy such denial:

"(a) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account school capacities and natural physical barriers;

"(b) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account only school capacities;

"(c) permitting students to transfer from a school in which a majority of the students are of their race, color, or national origin to a school in which a minority of the students are of their race, color, or national origin;

"(d) the creation or revision of attendance zones or grade structures without requiring transportation beyond that described in section 815;

"(e) the construction of new schools or the closing of inferior schools;

"(f) the construction or establishment of magnet schools; or

"(g) the development and implementation of any other plan which is educationally sound and administratively feasible, subject to the provisions of sections 815 and 816 of this title.

"TRANSPORTATION OF STUDENTS

"Sec. 915. (a) No court, department, or agency of the United States shall, pursuant to section 814, order the implementation of a plan that would require the transportation of any student to a school other than the school closest or next closest to his place of residence which provides the appropriate grade level and type of education for such student.

"(b) No court, department, or agency of the United States shall require directly or indirectly the transportation of any student if such transportation poses a risk to the health of such student or constitutes a significant impingement on the educational process with respect to such student.

"(c) When a court of competent jurisdiction determines that a school system is desegregated, or that it meets the constitutional requirements, or that it is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population occur which result in school population changes in any school within such a desegregated school system, no educational agency because of such shifts shall be required by any court, department, or agency of the United States to formulate, or implement any new desegregation plan, or modify or implement any modification of the court approved desegregation plan, which would require transportation of students to compensate wholly or in part for such shifts in school population so occurring.

"DISTRICT LINES

"SEC. 916. In the formulation of remedies under section 913 or 914 of this title the lines drawn by a State subdividing its territory into separate school districts, shall not be ignored or altered except where it is established that the lines were drawn for the purpose, and had the effect, of segregating children among public schools on the basis of race, color, sex, or national origin.

"VOLUNTARY ADOPTION OF REMEDIES

"SEC. 917. Nothing in this title prohibits an educational agency from proposing, adopting, requiring, or implementing any plan of desegregation, otherwise lawful, that is at variance with the standards set out in this title, nor shall any court, department, or agency of the United States be prohibited from approving implementation of a plan which goes beyond what can be required under this title, if such plan is voluntarily proposed by the approriate educational agency.

"PART E—DEFINITIONS

"DEFINITIONS

"SEC. 918. For the purposes of this title—

"(a) the term 'educational agency' means a local educational agency or a 'State educational agency' as defined by section 801(k) of the Elementary and Secondary Education Act of 1965;

"(b) the term 'local educational agency' means a local educational agency as defined by section 801(f) of the Elementary and Secondary Education Act of 1965;

"(c) the term 'segregation' means the operation of a school system in which students are wholly or substantially separated among the schools of an educational agency on the basis of race, color, sex, or national origin or within a school on the basis of race, color, or national origin;

"(d) the term 'desegregation' means desegregation as defined by section 401(b) of the Civil Rights Act of 1964; and

"(e) an educational agency shall be deemed to transport a student if any part of the cost of such student's transportation is paid by such agency.

"PART F—MISCELLANEOUS PROVISIONS

"REPEALER

"SEC. 919. Section 709(a)(3) of the Emergency School Aid Act is hereby repealed.

SEC. 920. This title shall be effective 90 days after enactment.

Amend the table of contents by striking out title VIII and items 901 through 906, and inserting in lieu thereof the following:

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"Sec. 920. Effective date.

Mr. JAVITS. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Is it not necessary to withdraw the previous amendment and to get unanimous consent or in some other way to make the change?

The PRESIDING OFFICER. The Chair rules that this was a regular amendment, with a 1-hour limitation allowance on it, and therefore the Senator is allowed to modify his amendment without unanimous consent.

Mr. JAVITS. Mr. President, upon modification of the amendment, is not a new amendment submitted, so that a quorum call may be requested or any other proceeding taken before the time for the debate begins?

The PRESIDING OFFICER. The Chair rules that a modifying amendment does not give additional time, but there is time on the bill.

Mr. JAVITS. I do not think the question of time is my question, Mr. President. My question is: Is it not an original amendment open for debate, so that there is a break between the amendment as submitted and the amendment as now modified, and if I choose to, or any other Senator chooses to, he may ask for a quorum call? That is all I am asking.

Mr. GRIFFIN. Mr. President, if the Senator desires to have a quorum call, I will be glad to have it on my time.

Mr. JAVITS. Mr. President, I think we have solved the problem.

I ask unanimous consent that a quorum may be called for without the time being charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KENNEDY). Without objection, it is so ordered.

Who yields time?

UNANIMOUS-CONSENT REQUEST

Mr. GRIFFIN. Mr. President, the Senator from Maryland (Mr. BEALL) has an amendment to the bill. My suggestion was going to be that we ask unanimous consent to lay the pending amendment aside temoparily and have a time agreement of 30 minutes on the Beall amendment so that it could be considered and voted on, and then return to the pending amendment.

We will see whether that meets with any objection.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object——

Mr. PELL. Mr. President, reserving the right to object, I cannot agree with that request at this point until after I have cleared it with the ranking minority member of the committee.

Mr. GRIFFIN. All right.

Mr. BUCKLEY. Mr. President, without intending to object and reserving the right to object, would it be possible to add to this unanimous-consent request an additional request that following the consideration of the Beall amendment there be a time agreement of 10 minutes for the consideration of the Buckley amendment.

Mr. GRIFFIN. Mr. President, I will so modify my request, but for the time being the Senator from Rhode Island is constrained to object.

Mr. ERVIN. Mr. President, I have an amendment I want to present, and I understood that this morning was set aside for antibusing amendments. If other Senators are recognized, I might not get an opportunity to present my amendment, which I believe would effectively put an end to the busing of little children. Therefore, I would have to object.

Mr. BUCKLEY. Mr. President, will the Senator yield?

Mr. GRIFFIN. I yield.

Mr. BUCKLEY. The amendment I am speaking of is an antibusing amendment.

Mr. ERVIN. I understood that the amendment which the distinguished Senator from Maryland wants to call up is an amendment which has no relationship to busing.

Mr. BEALL. Mr. President, if the Senator will yield, my amendment is a busing amendment.

My reason for seeking to do this is that the hour of 1 o'clock approaches, we are in a holding action, and I did not want to be precluded the opportunity to offer it.

Several Senators addressed the Chair.

Mr. GRIFFIN. Mr. President, who has the floor?

Mr. ROBERT C. BYRD. Mr. President, objection has already been heard.

Mr. GRIFFIN. Mr. President, I think I can clarify the situation a bit by saying this: I believe the debate on this proposal was full and adequate on yesterday. At this time I would be willing to yield back all but 2 minutes of the time allotted to me if the other side will yield back its time, so that we can go to a vote on the pending amendment.

Mr. ROBERT C. BYRD. Mr. President, before the Senator yields his time back——

Mr. GRIFFIN. All but 2 minutes.

Mr. ROBERT C. BYRD. Well, before the Senator yields any of it back, would he not consider yielding time to the Senator from Maryland so that the time of the Senator would be used in a valuable way, and we could be utilizing the Senator's time and at the same time be moving along the debate on the amendment of the Senator from Maryland?

Mr. GRIFFIN. I would be glad to, if any Senator wishes to talk on another amendment. I am sure there would not be any objection. I will be glad to utilize my time in that manner.

Mr. BEALL. Mr. President, how much time does the Senator from Michigan have remaining?

Mr. GRIFFIN. How much time do I have remaining on my amendment?

The PRESIDING OFFICER. The Senator has 22 minutes.

Mr. GRIFFIN. Mr. President, I yield 10 minutes to the Senator from Maryland.

Mr. BEALL. I thank the Senator from Michigan for yielding.

Mr. President, whenever it is permissible under the rules, or whenever we can obtain unanimous consent to do it, I have sent to the desk an amendment.

This amendment merely prevents the implementation of busing orders during the school year. It applies to all orders not implemented at the beginning of the 1974–75 school year. It is a measure which I believe can, and should be, supported by all of my colleagues in the Senate.

Mr. President, in 1973 the U.S. district court in Maryland ordered Prince Georges County, the Nation's 10th largest school system, to move approximately one-fifth of its pupil population, effective January 29, in order to achieve racial balance.

In my judgment, this decision is educationally unsound and administratively indefensible. Busing is one of the most controversial issues facing the Nation. The majority of our citizens clearly oppose busing to achieve racial balance. Implementation of such orders is difficult at best and becomes even more controversial when commonsense is tossed out the window. The situation in Prince Georges County underscores the need for congressional action on the busing issue during this session of Congress.

Mr. President, personally, I oppose forced busing to achieve racial balance. Children should be allowed to attend their neighborhood school and neighborhoods should be open to all people regardless of race, creed, or color.

I have repeatedly supported efforts to prevent such busing. Unfortunately, the Senate has defeated the Gurney amendment which would have placed uniform limits on busing. Congress cannot continue to ignore this problem. It will not go away. The judicial and administrative excesses in this area must be restrained.

While the Prince George's County situation initially prompted the proposal I advance today, this is not the first occasion that I have encountered and opposed transfers and busing during the school year. I will relate to my colleagues two separate occasions, one of which had nothing to do with racial matters, involving such transfers which I successfully fought.

In the first example, I was contacted by a parochial school in Baltimore County, Md., which employed as a sixth grade teacher, a lady from the Philippines. I was advised that the Labor Department was refusing to extend this foreign teacher's Alien Employment Certification to permit her to complete the school year. In this instance, I agreed with the principle of the Labor Department's ruling; namely, that foreign citizens should not be allowed to continue to stay if there exists a surplus of qualified teachers in the United States. But, I was also concerned that the educational process of these elementary students would be harmed and that the special relationship and rapport, which everyone said existed between that teacher and her class, would be sacrificed to the detriment of the elementary children. I pleaded with the Labor Department to extend the foreign teacher's deportation. As a result of this meeting, HEW agreed to postpone the teacher's transfer and delayed the implementation order until September. The teacher thus was able to complete the school year and the education process of the students was uninterrupted. Upon the completion of the school year, the teacher departed for the Philippines.

The second contact I had with the problem of transfers during the school term involved Somerset County, Md. This case was unbelievable and, I think, indicative of the bureaucratic excesses just as the Prince Georges situation reflects judicial excesses. In the Somerset County case, the school system had achieved the integration of the student body but that was not enough, according to the Department of Health, Education, and Welfare officials. They demanded that the black-white teacher ratio in each of the county's schools equal the overall black-white teacher ratio that existed in the county, and what is more incredible, to achieve this ratio, HEW was requiring the complete transfer of teachers 9 weeks prior to the close of the school year. I immediately requested a meeting in my office with the HEW and Somerset officials. As a result of this meeting, HEW agreed to postpone the teacher transfers and delayed their implementation order until September.

As I have indicated, I personally do not favor forced busing to achieve racial balance. I have consistently voted against it in the Senate. Many of my colleagues feel otherwise. The Senate is almost evenly divided on the busing question in the last Congress. I am convinced, based on my discussions with some of the proponents of busing, that they would not support or condone decisions and the examples of the type I have cited. I also believe that Members of Congress, even if they believe in busing, want such orders to be educationally and administratively sound with a minimum of dislocation and disruption to the educational process of the students and the school system. The Supreme Court has declared there are obvious limits to busing. One such example was when busing significantly impinged on the education process of the students. I believe that massive mid-year busing is inimical to the educational process of all the students.

The PRESIDING OFFICER. The Senator's time is expired.

Mr. GRIFFIN. How much more time does the Senator require?

Mr. BEALL. About 2 minutes.

Mr. GRIFFIN. I yield the Senator 2 additional minutes.

Mr. BEALL. It causes disruption and harms the continuity of the education process and breaks the special relationship and rapport teachers develop with their pupils. This is true for all students, but particularly for elementary pupils. It causes serious scheduling problems for junior and senior high school students and it increases problems of reorganizing special compensatory education programs for disadvantaged children, as well as other real and practical problems such as a catastrophic effect on extracurricular activities. It should be pointed out that although academic considerations are primary, extracurricular activities are also very important not only to the development of a cohesive and unifier school spirit, but also to the development of the child as an individual and in his relationship to his classmates. Under midyear busing orders, the players of a basketball team would be dispersed among different schools and the spirit that took almost an entire season to develop would be lost. Yearbook and newspaper staffs and other club and class activities will be disrupted.

In addition, midterm busing orders could hamper the growth of the individual student who has established himself in an extracurricular activity and at this point in time has gained confidence as a member of a particular peer group and is suddenly uprooted from his social grouping to be placed in an alien atmosphere.

Not only is this harmful to the student, but it is also inconvenient to parents and pupils alike. Granted, some of these problems are presented when the order takes effect at the commencement of the school year; nevertheless, midterm orders to borrow an old expression are like "throwing salt on a wound." I believe that when courts rule they should attempt to minimize the inherent problems not magnify them, as would be the case with a midyear effective date.

Finally, as a member of the Education Subcommittee, I want to reiterate a concern that I share with respect to the busing issue. I am deeply bothered that the controversy over busing is preventing us from addressing the great educational deficiencies and needs that exist in many of the schools in this country. I believe that there would be public support for correcting such deficiencies and doing, in general, what is necessary to make certain that all of our schools are quality schools. Yet, too much of our energy and effort is being centered and dissipated on the busing issue rather than focusing on quality education. The debate on S. 1539 illustrates this.

I strongly urge my colleagues to join me to eliminate what I regard as a clear excess in this area and to make certain that all of our students might be able to have an education that is not disrupted in the middle of the school year.

Congress at the least should move to prevent the disruption of the education process by requiring that judicial and administrative orders commence at the beginning of a school year.

Mr. GRIFFIN. Mr. President, as I indicated earlier, I would be willing to yield back the time remaining on this side if the other side would do likewise, and go ahead and vote on the pending amendment so that other amendments can be considered. But such an agreement apparently cannot be reached at the moment.

So, I would like to suggest to the ranking minority member of the Committee on Labor and Public Welfare that since he would apparently like to vote on the pending amendment later, perhaps it would be possible to have time agreements on the Beall, the Buckley, and other amendments—and if the Senator from North Carolina has an amendment—and take those up one by one, and then vote on each, with the understanding that the pending amendment be temporarily laid aside.

For example, the Beall amendment has been explained and I assume that not much more time would be needed on that side of the argument.

So, could we take up that amendment, for example, and use a brief time limit, with the understanding that we have a vote and then return to the pending amendment?

Mr. JAVITS. Is that a unanimous-consent request?

Mr. GRIFFIN. No, I have not put it in the form of a unanimous-consent request yet.

Mr. JAVITS. I see no reason why that should not be done. Frankly, we are seeking to bring over, for example, the distinguished Senator from Massachusetts (Mr. BROOKE) who spoke so eloquently on the Gurney amendment yesterday, and he should have a chance again to address himself to this one.

Mr. GRIFFIN. May I ask the Senator from Maryland, what would be a reasonable time limit?

Mr. BEALL. So far as I am concerned, in answer to the question by the Senator from Michigan, I have completed my explanation of the amendment. I do not know how members or the chairman of the committee feel about the amendment, and I do not know how much time they would need to favor or oppose it. I would like to have a rollcall vote on the amendment, though; but so far as I am concerned, 5 minutes will be plenty of time for me. I do not believe I would need all that time.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside and that there be a 15-minute time limitation on the Beall amendment, 5 minutes to the Senator from Maryland and 10 minutes to the manager of the bill; and after disposition of the Beall amendment, the Senate would return to the consideration of the pending amendment.

I realize that the Senator from New York and other Senators would like their amendments also considered, but I would like to suggest that we take them one at a time and see if we cannot work out similar agreements at an appropriate time.

Mr. BEALL. I have no objection.

Mr. JAVITS. Mr. President, what is the unanimous-consent request?

The PRESIDING OFFICER (Mr. BAYH). The 15 minutes on the amendment of the Senator from Maryland, to be divided 5 minutes to the Senator from Maryland and 10 minutes to the manager of the bill.

Is there objection to the unanimous-consent request of the Senator from Michigan? The Chair hears none, and it is so ordered.

Will the Senator from Maryland please send his amendment to the desk

Mr. BEALL. Mr. President, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. BEALL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The text of the amendment is as follows:

At the end of the bill, add the following new section:

PROHIBITION OF FORCED BUSING DURING SCHOOL YEAR

SEC. (a) The Congress finds that—

(1) the forced transportation of elementary and secondary school students in implementation of the constitutional requirement for the desegregation of such schools is controversial and difficult under the best planning and administration; and

(2) the forced transportation of elementary and secondary school students after the commencement of an academic school year is educationally unsound and administratively inefficient.

(b) Notwithstanding any other provisions of law, no order of a court, department, or agency of the United States, requiring the transportation of any student incident to the transfer of that student from one elementary or secondary school to another such school in a local educational agency pursuant to a plan requiring such transportation for the racial desegregation of any school in that agency, shall be effective until the beginning of an academic school year.

(c) For the purpose of this section, the term "academic school year" means, pursuant to regulations promulgated by the Commissioner of Education, the customary beginning of classes for the school year at an elementary or secondary school of a local educational agency for a school year that occurs not more often than once in any twelve-month period.

(d) The provisions of this section apply to any order which was not implemented at the beginning of the 1974–1975 academic year.

Mr. BEALL. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BEALL. Mr. President, I have explained the amendment. It is not very complicated. It says that if a court decides that busing orders are to be implemented, they should not be implemented in the middle of a school year. They could only be ordered in a school district at the beginning of the school year, which is usually in September.

Mr. President, I reserve the remainder of my time.

Mr. JAVITS. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. JAVITS. Mr. President, today we are going to be faced with a whole series of amendments—we already have and we will have more—on this busing question which proposes, in an interesting way, to go precisely contrary to the arguments made by the antibusing Senators, that there should be rigidity instead of flexibility in the use of this remedy.

Generally speaking, the arguments made against busing are that it is a remedy to be employed very sparingly, if at all—and of course, its opponents do not want it employed at all—and where employed that it be employed only as it is absolutely and essentially required in a flexible way.

This is another amendment, well intentioned, by the Senator from Maryland (Mr. BEALL), dictated unquestionably by his home situation, of which he has spoken to me very feelingly, but is generally designed to restrict and make more rigid the decision by a court.

Interestingly enough, this question has already been decided by the Supreme Court in Alexander against Holmes. Prince Georges County was desegregated at a semester break in the fall of 1969, and the Court ruled in that particular case it would not accept a delay, that in some other case it may rule it would accept a delay. That ruling is subject to review. If it appeared in accordance with the criteria which the Senate sustains, that it was unwise from the educational point of view of the student who was being bused, or the school to which he was going to be bused, or unwise from the point of view of the health of the student, and so forth, not to delay the matter, the Court could do so.

Obviously, again, one would not be able to argue that this is some monumental, earth-shaking development akin to what we have been debating so arduously in respect of the Gurney amendment, and so forth. But it simply is another item in taking away and making more rigid the use of this one among many tools in order to effectuate the desegregation of schools.

For those reasons, Mr. President, the Senate, it seems to me, should be true to the principles it espouses, as laid down in the Scott-Mansfield compromise, so-called, a set of principles which it requires the Court to observe, and within the principles, which are broad, and allow for a particularized decision in given cases by the courts. Within those principles, there is ample latitude for the courts to operate in given factual situations.

I believe that this is one of a generic group of amendments which restrict that flexibility and which, therefore, run counter to the basic principles which the Senate has so far adhered to in respect of the very much debated issue of busing—to wit, that busing is to be one of a number of means by which desegregation, which is contrary to the Constitution and to the law, may be corrected, that it is to be a flexible instrument depending on the unique facts, and that it is to be used as sparingly as possible. These are all the criteria set by the Senate, but it is not to be confined in the sense of directions, as in this case, by the Senate as to exactly what judge is to give a given set of circumstances but within the general guidelines which the Senate has laid down, that the court may determine the applicability of the law within those principles to any given set of circumstances.

So, Mr. President, for all of those reasons, I would hope that the Senate would reject the amendment.

Mr. BEALL. Mr. President, I point out that at the time the district court in Maryland ordered the busing to be implemented in Prince Georges County, Scott-Mansfield had been adopted. It was of no help to Prince Georges system. It is interesting to note that the Federal district court in the Prince Georges case acknowledge the plea for a delay in the implementation of the order until the beginning of the school year.

It is my understanding that testimony from educators was strongly supportive of a delay. Educators, with whom I have spoken, feel quite strongly that midyear busing is educationally unsound. In my judgment, this is an area that cries out for congressional direction and guidelines. The court in the Prince Georges County case said it has no judicial discretion to postpone the guidelines in implementation of the order. We can and should provide the courts with such authority. Indeed, we should, as does this amendment, find forced busing during the course of the school year unsound and unwise.

It seems to me that in this case and in other cases, the court has been asking for some Congressional direction as to the implementation of these orders. I think it is not only logical but also desirable that Congress today suggest to the court that, above all, we should do things that are both educationally sound and administratively feasible. The implementation of a busing order in the middle of the school year is educationally unsound, undesirable, and administratively inefficient. Therefore, it is something that should be avoided. All we are doing in this amendment is giving that kind of assistance to the courts, so that they cannot use the excuse that Congress has not spoken on this matter.

Mr. President, I yield back the remainder of my time.

Mr. JAVITS. Mr. President, I yield myself 1 minute to state that I think the Senator has very accurately stated the point at issue, and I would like to join in that statement of the point at issue.

The question is, Should the Senate go beyond the general guidelines and should it add what I consider to be a highly specific direction which would limit the flexibility of the use of busing in respect of desegregation in the respect which the Senator states? I believe that we should leave that question, case by case, to the courts and that that is the best way for the student and the educational system.

Senator BEALL believes—and he will correct me if I am wrong—that this belongs as one of the ordered guidelines, even though it is more specific than the guidelines we have established heretofore. The Senate will be voting on that; and I hope the Senate will agree with me that the matter should be left to the courts, on a case-by-case basis, and will reject the amendment.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Maryland. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Iowa (Mr. HUGHES), and the Senator from Hawaii (Mr. INOUYE), are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH) is absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. HOLLINGS) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. BENNETT), and the Senator from New Jersey (Mr. CASE) are necessarily absent.

The result was announced—yeas 71, nays 20, as follows:

[No. 201 Leg.]

YEAS—71

Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bentsen
Bible
Biden
Brock
Buckley
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cook
Cotton
Cranston
Curtis
Dole
Domenici
Dominick
Eagleton
Eastland
Ervin
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Hartke
Haskell
Hatfield
Helms
Hruska
Huddleston
Johnston
Long
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pearson
Percy
Proxmire
Randolph
Roth
Schweiker
Scott,
  William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Symington
Talmadge
Thurmond
Tower
Tunney
Williams
Young

NAYS—20

Abourezk
Brooke
Clark
Hart
Hathaway
Humphrey
Jackson
Javits
Kennedy
Magnuson
McIntyre
Metcalf
Metzenbaum
Mondale
Pastore
Pell
Ribicoff
Scott, Hugh
Taft
Weicker

NOT VOTING—9

Bellmon
Bennett
Case
Church
Fulbright
Gravel
Hollings
Hughes
Inouye

So Mr. BEALL's amendment was agreed to.

Mr. BEALL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BROCK. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, I ask unanimous consent that Emily Berlin, of my staff, be given privileges of the floor during debate on the busing amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, on behalf of my colleague (Mr. TUNNEY), I ask unanimous consent that Bob Wilson, of his staff, be granted privileges of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The question now recurs on the Griffin amendment.

Mr. GRIFFIN. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Michigan has 15 minutes.

Mr. GRIFFIN. Mr. President, I yield to the Senator from Tennessee (Mr. BAKER).

Mr. BAKER. Mr. President, I ask unanimous consent that my staff member, Miss Lynne Davis, may have privileges of the floor during consideration of this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, after consulting with the distinguished ranking member (Mr. JAVITS), I am going to make a suggestion. There are several other so-called busing amendments to be considered. There is one by the Senator from North Carolina (Mr. HELMS), one by the Senator from New York (Mr. BUCKLEY), and one by the Senator from North Carolina (Mr. ERVIN), and we want to be sure, not only that there will be a vote on those amendments, which there will be, but also that time will be available for a discussion of them.

The suggestion is that we go now to the Buckley amendment, with a 10-minute limitation and a vote, and then vote on the pending Griffin amendment at 12:30, or the motion to table if that motion is made. Then, there would be 15 minutes before the 1 o'clock hour, which could be divided between Mr. ERVIN and Mr. HELMS.

Mr. ERVIN. Mr. President, I cannot discuss my amendment in 10 or 15 minutes. I would suggest that we allow the amendments to be presented and then vote on the amendments one after another at 1 o'clock.

Mr. GRIFFIN. I will say to the Senator from North Carolina that I am willing to do that. I am willing to vote on my amendment right now.

Mr. ERVIN. But a rollcall will take about 15 minutes' time.

Mr. JAVITS and Mr. BUCKLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, is there a unanimous-consent request pending, and if so, what is it?

The PRESIDING OFFICER. No, there is no unanimous-consent request pending.

Mr. GRIFFIN. No; I am merely trying to test the waters.

Mr. BUCKLEY. Mr. President——

Mr. ERVIN. Mr. President, I would suggest that we take the time that is left and divide it equally among the Members having amendments and then vote on all of them at 1 o'clock.

Mr. BUCKLEY. Mr. President, if the Senator will yield, under the current time agreement, a substitute amendment to be offered by the Senator from Idaho, the Senator from Nebraska, and me is scheduled at 1 o'clock. We have reduced the time on that from 6 hours to 4 hours. We would be glad to postpone taking up that amendment by an hour or 2 hours if it would suit the needs or desires of the Senate.

Mr. GRIFFIN. Mr. President, in order to allow time to the Senator from North Carolina (Mr. Ervin), I ask unanimous consent that the 1 o'clock agreement with respect to busing amendments today be extended to 2 o'clock.

Mr. MOSS. Mr. President, I would have to object to that. Based on a firm agreement on time, I have made commitments that just would make it impossible for me to be here at 2 o'clock.

Mr. GRIFFIN. I am ready to yield back my time and vote on my amendment now.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. GRIFFIN. I yield.

Mr. MANSFIELD. Why not take the suggestion of the Senator from North Carolina (Mr. Ervin), starting at 1 o'clock, and then vote one, two, three, and four?

Mr. JAVITS. Mr. President, if the Senator will yield, I believe we should accommodate Senators who counted on the 1 o'clock time. I approached the leadership myself in the effort to get an extra hour or two, and was turned down, for reasons which are now obvious.

I think the Senator from North Carolina's suggestion is the one that should be followed, in fairness to all Senators, but I believe with respect to the crucial amendment, what I call "Revisiting Gurney," or the Griffin amendment, as he calls it, that should be the first vote, so that Senators, like the Senator from Utah (Mr. Moss), who has to get away, may vote on it.

Mr. GRIFFIN. The time that will be required to vote is 15 minutes, whether the rollcall is called at one time or another, so we are taking the same amount of time that would be available for debate. I would agree if we could vote on the pending amendment at 12:30. Would that be possible?

Mr. JAVITS. That would be agreeable to me. It would be agreeable to me to vote on the pending amendment at 12:30.

Mr. GRIFFIN. And I will make the rest of the time available under my amendment to other Senators.

Mr. ERVIN. But that would leave me two and a half minutes.

Mr. GRIFFIN. We will make all the time left available.

Mr. ERVIN. I do not want all the time, but I want time to explain it. I think the amendment is crucial because it says there shall be no busing for the purpose of changing the racial composition of any school anywhere. I think we should face the issue and be done with it.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Michigan

Mr. GRIFFIN. Mr. President, I am willing to yield back the time on this side if the other side is willing to yield back its time, and we will go to a vote on it.

Mr. JAVITS. Mr. President, I am not willing to yield back the time. We need to explain it. It took all day yesterday, and all of a sudden we are going to deal with it in a minute now. It is not fair. I object if it is a unanimous-consent request.

Mr. HANSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HANSEN. How much time has been set aside for the discussion of the Griffin amendment?

The PRESIDING OFFICER. The Senator from Michigan now has about 5 minutes on the Griffin amendment, and the Senator from New York has about 22 minutes.

Mr. HANSEN. If the Senator from Michigan were to yield back his time, could we assume that we would vote in 22 minutes?

The PRESIDING OFFICER. That is a reasonable assumption—as reasonable as any assumption could be here.

Mr. JAVITS and Mr. ERVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, in order to accommodate all Senators—and I must say the answer of the Chair to the Senator from Wyoming is not absolutely correct——

The PRESIDING OFFICER. The Chair realizes that he had a little leeway in answering.

Mr. JAVITS. We have no desire to delay or play games with the 1 o'clock hour. I think the suggestion of the Senator from North Carolina (Mr. Ervin) was the best, and, as modified by the Senator from Michigan (Mr. Griffin), to vote on his amendment at 12:30, and then proceed to take up whatever additional time there may be in discussion, and then vote on the amendments of Senator Ervin, Senator Buckley, and Senator Helms at 1 o'clock. I think that would be the best solution; but if there is objection to that, of course, it cannot be done and we will have to take our chances.

Mr. GRIFFIN. Mr. President, I would agree to that. Is it in the form of a unanimous-consent request?

Mr. JAVITS. I would like to know if the Senator from North Carolina (Mr. Ervin) is agreeable to that.

Mr. GRIFFIN. Mr. President, I make that in the form of a unanimous-consent request.

Mr. ERVIN. Mr. President, if I could get a vote pretty quickly, I would agree to 5 minutes to a side on my amendment and be done with it, if I could have my amendment called up after the Buckley amendment. My amendment is very simple.

Mr. JAVITS. Mr. President, does the Senator from North Carolina (Mr. Ervin) desire his amendment to stand in the place of the amendment of the Senator from Michigan (Mr. Griffin) at this stage? Is that his desire?

Mr. ERVIN. Mr. President, I do not mean to displace his amendment.

Mr. JAVITS. Mr. President, that is what it would have to do.

Mr. GRIFFIN. Mr. President, I understand that the Senator from New York (Mr. Buckley) wanted to go ahead and present an amendment.

Mr. GRIFFIN. Mr. President, if the Senator will yield, will the Senator allow us to reach an agreement to vote on the amendment at 12:30? Once we got that agreement, the Senator could have all the time he wants.

Mr. ROBERT C. BYRD. Mr. President, we have only 15 minutes. Why not let the time continue to run on the Griffin amendment and let the vote occur on the Griffin amendment when the time expires? That would leave almost three-quarters of an hour in which to debate the other amendments prior to 1 o'clock.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. JAVITS. Mr. President, I think that we have heard enough now to know that this situation will work out and that we need not be concerned that any Senator will be shut out. We have no desire to do that. I will do everything that I can do to see that that does not happen.

The proposition we are faced with this morning is in regard to the reintroduction of the Gurney amendment with the so-called reopener clause excluded. That is the only difference between the Gurney amendment as it was last night when the Senate tabled it and as it is today.

The reopener clause was certainly one of the very serious matters which we opposed. However, the amendment is nonetheless a vitiating amendment to the whole concept of school desegregation in terms of the use of a particular way, one of many, in which school desegregation may be dealt with.

Mr. President, may I have order?

The PRESIDING OFFICER. The Chair advises Senators that we must have order, so that the Senator from New York can be granted the courtesy he is entitled to, and so that he may be heard.

Mr. JAVITS. Mr. President, as I had understood it, the vote of the Senate last night on the Gurney amendment was intended to sustain its previous position which, in my judgment, is most statesmanlike and sound. That was the view last night respecting the Scott-Mansfield compromise which gives clear guidelines to the court with respect to the health of the child, the educational ability of the child, and the educational situation in the school to which the child would be bused.

Then, we had added to that the Bayh amendment, which dealt with buses crossing from one educational district to another. Now we have the Beall amendment, which deals with the nonoperative character of an order during the school year.

If we adopt the Gurney amendment, even as amended, we would go far beyond that kind of restriction; as, for example, we would be dealing with the matter of the so-called next door school, the neighborhood school.

It was very interesting to me, as I listened to yesterday's discussion, that no Senator mentioned the fact that for years, ever since the end or toward the end of the 19th century, black children were bused right by the doors of their neighborhood schools. This was one of the worst features that brought about the Brown against the Board of Education decision. It was revolting to see, because it has been demonstrated and pointed out time and time again that 40 percent of the schoolchildren are being bused now. It goes on all the time.

Therefore, in summation, the striking out of the reopener clause is good. We do not oppose it. We welcome it. I certainly do not oppose it. However, the viciousness of the amendment persists, and that is it. This is no remedy. This is one possible tool. It is a concept. It is no remedy. In some cases, no remedy is possible. We have already cited it as a most reasonable ground.

In addition, I do not believe that the courts could possibly accept the Gurney amendment as being constitutional. Again, this makes for a bitter confrontation between the court and Congress, which we have successfully avoided in terms of the Scott-Mansfield compromise.

Finally, there is one other change which was made by the amendment of the Senator from Michigan (Mr. GRIFFIN), and that is to strike out the separability clause, so that the confrontation between the court and Congress is even more precisely pinpointed. The fact is that we now have good stated guidelines which the States can accept and work on. So we should not disturb that situation.

Mr. President, I now yield 10 minutes to the Senator from Massachusetts.

Mr. HUMPHREY. Mr. President, is the Senator from New York able to yield me 2 minutes at this time?

Mr. BROOKE. Mr. President, I shall be glad to yield 2 minutes to the Senator from Minnesota.

Mr. HUMPHREY. That will be all right. I will be glad to follow the Senator from Massachusetts.

Mr. JAVITS. Mr. President, I announce for the benefit of other Senators who are waiting with amendments that I yield 10 minutes to the Senator from Massachusetts and 2 minutes to the Senator from Minnesota; and that will close our debate.

Mr. BROOKE. Mr. President, I thank the distinguished Senator from New York for yielding to me at this time.

Mr. President, yesterday I spoke at great length on the Gurney amendment. The Senate took action on that amendment, and by a very close vote that amendment was rejected. We now have presented to us practically the same amendment we had yesterday with the exception of the reopener clause, which I must admit was a very important part of the Gurney amendment.

Mr. President, the Gurney amendment was objectionable for many reasons. Although the reopener clause has been deleted, the revised Gurney amendment now offered by the Senator from Michigan (Mr. GRIFFIN) remains objectionable. It is still what I believe to be a cynical attempt to circumvent the law of the country and to bring about a constitutional confrontation.

We are within a day of the 20th anniversary of the Brown decision. I shall read a statement which was issued by Mr. George Meany, the head of the AFL–CIO, relative to this anniversary. I think it is appropriate at this time.

I could continue to discuss the individual sections of this amendment, but I believe that my remarks yesterday covered them thoroughly. And I think that the Senate is well aware of the meaning and the import of the Griffin amendment which, as I have said, is the Gurney amendment with just one major exception.

I think it is important to show what Americans and the labor unions think about this amendment and about the progress which the Nation has made since the Brown decision was handed down in 1954.

Mr. Meany says:

> The benchmark of the struggle for equality of opportunity in the United States was the May 17, 1954 decision of the United States Supreme Court in the case of Brown v. the Board of Education of Topeka, Kansas.
>
> That decision, which discarded the infamous doctrine of separate but equal that had prevailed since 1897, was hailed by the American labor movement. Indeed both the AFL and the CIO, then separate organizations, had filed amicus briefs with the Court urging that it declare once and for all that segregation by race was inherently unequal.
>
> As we mark the 20th anniversary of that momentous decision, it is a time for a national assessment of its impact. Frankly, we are not happy with what we see.
>
> There has, of course, been tremendous progress in many fields, as evidenced by the achievement of Blacks and other minorities in the areas of housing, employment and in the political life of the country.
>
> Yet, many of our fellow Americans remain, to a large extent, in the vicious cycle of substandard housing, education and employment.
>
> The AFL–CIO, having recognized the serious problems inherent in closing the gap between majority and minority groups in American education has consistently fought for progressive legislation and adequate funds to do the job.
>
> There has been twenty years of acrimonious delay, haggling and distortion of fact in America's experience with school desegregation. Throughout it all, one fact is clear: children generally learn better when attending an integrated school—especially when school administrators, teachers and parents cooperate in the development of the proper environment conducive to learning.
>
> While we don't like it, we must recognize the fact that some schools will remain predominantly Black or White for some time to come. In those instances, there must be added effort and necessary funds to raise the standards and quality of education for those children who are denied an equal opportunity to a decent education.
>
> So we will remain in the fight until the job is completed. We will not retreat from the progressive steps enacted by the 89th Congress. We will not join those who attempt to stampede the American people into retrogressive steps surrounding the controversial issue of busing.
>
> It is sad to realize, on the 20th anniversary of the Brown decision, how much more remains to be done.
>
> But no matter how long the struggle, the AFL–CIO will continue its efforts to get this major American dilemma behind us. So long as one child is denied quality education because of race, the American labor movement cannot be satisfied.

Mr. President, that is American labor speaking to this Nation. And we here in the Senate of the United States are called upon, two decades after the Brown decision, to accept an amendment offered by the Senator from Michigan which would put us back practically 20 years to the time of the Brown decision in 1954.

Progress has been made in this country. It has been slow, and it has been painful, but certainly Members of the U.S. Senate can be no less concerned about the integration of public schools than is the head of the AFL–CIO.

Having understood its significance, I think it is incumbent upon us to reject this amendment. I think it is time that we stopped playing politics with the lives of black and white children in this country.

This amendment is nothing but raw political expediency, and we know it. There is not a man in this U.S. Senate who does not understand what is at stake here.

Look at what happened when the Bayh amendment was introduced yesterday. That amendment is wrong, morally as well as legally, but we saw how Members of the Senate flocked to get on that amendment—the same Members of the Senate who, just a few minutes before, had voted against it. If that is not political expediency at its worst, what is it?

And now the junior Senator from Michigan is again offering a politically expedient amendment, because he believes that some of our Members want to get in under the umbrella because of the emotional issue that has been presented to this country.

"How long?" I ask.

John Adams, in a similar state of exasperation, once asked, "Is anyone there? Is anyone listening?"

I ask today, May 16, 1974, "Is anyone there? Is anyone listening? Or is the U.S. Senate going to embarrass itself and this Nation by lacking political courage, by lacking the courage the people elected it to have?"

We talk about the executive branch usurping our powers. Perhaps they should usurp our powers, because we have given them up. We have abdicated. As Senators have not shown the backbone, the courage, and the strength expected and demanded of us.

Mr. President, it is a sad day if this Griffin amendment is adopted by the U.S. Senate, and I ask my colleagues to reject it.

Mr. JAVITS. Mr. President, I yield 3 minutes to the Senator from Minnesota.

Mr. HUMPHREY. I thank the Senator from New York.

Mr. President, the Senator from Massachusetts yesterday gave us a dissertation on the whole subject of civil rights laws as they relate to desegregation in our school systems. We are indebted to him. It was a masterful presentation, and it was a historic document.

I shall not take the time to go into the legal aspects or the court decisions. But 10 years ago, we were embattled, in this body, over the Civil Rights Act of 1964. I was privileged to be floor leader in that debate. The passage of that legislation was a historic landmark toward the achievement of equal opportunity in this country. We were years late in the accomplishment of this goal, but finally we were able, in the latter part of June of that year, to defeat a filibuster and break through and pass some of the most important legislation in the history of the American Congress.

What is needed by the Senate of the United States is not quibbling over a particular court decision or interpretation of the law, but the setting of a standard around which good people can rally.

We have made progress, as has been said, in the area of desegregation. We have made progress in schooling. We have made progress in educational opportunity. And we have made it by consistent, persistent efforts in desegregating schools and bringing together our young people.

To do anything that would permit us to take one step backward would be unforgivable. We have all this pontification about moral leadership; and then when the chips are down we run away from it. When it gets difficult, we have rationalizations. When there is a particular problem in our respective jurisdictions, we find ways to walk away.

Mr. President, we will not answer the problems of education easily. They may never all be answered. We will not answer the problems of desegregation of the American society strictly through the school system. The whole structure of America needs to be reexamined, including the housing patterns of this Nation, and the employment patterns of this Nation. But I want the Senate to know there are 22 million or more black citizens in America, and if we do not have their faith, trust, and confidence, if they cannot believe in this system, then we are through as a great power and as a nation worthy of being called a democracy.

All the money that we are going to appropriate here for national defense, all that we are going to do in terms of seeing whether something has been wrong in the executive branch—all of it will be nothing if we cannot restore or at least bring about faith and confidence on the part of people in America who have been here as long as any white man, and bring them fully into the system of our social order. I strongly oppose this amendment, and I opposed the other antibusing amendments, because every one of them is filled with political and legal trickery.

The PRESIDING OFFICER. The Senator's time has expired. Does the Senator from New York yield further to the Senator from Minnesota?

Mr. JAVITS. I yield him another minute.

Mr. HUMPHREY. Mr. President, I repeat, I oppose the amendments even when they look good, because they are open hunting ground for lawyers and others to try to stop the progress which we have been making.

Progress does not come easily. Progress is sometimes unruly. Progress at times causes great discomfort for some; but the degree of discomfort that the blacks of this country have had to survive and suffer for two centuries no white man can say he has equaled.

I have been in the front lines of civil rights battles all of my public life, and I am not ready, at this time of my life, to step backward 1 single inch.

The PRESIDING OFFICER. The Chair is advised that the Senator's 1 additional minute has expired.

Mr. HUMPHREY. I do not need any more.

Mr. JAVITS. I yield to the assistant majority leader.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a vote occur on the amendment by Mr. GRIFFIN at the hour of 12:15 p.m. today; that immediately following the vote on the amendment by Mr. GRIFFIN, Mr. ERVIN be recognized on his amendment, that there be a 10-minute limitation thereon to be equally divided; immediately after the running of the time on the Ervin amendment, that the Senator from North Carolina (Mr. HELMS) be recognized to call up his amendment on which there be a 10-minute limitation, to be equally divided; that immediately after that, the Senator from New York (Mr. BUCKLEY) be recognized to call up his amendment, which is a busing amendment, and that there be a 10-minute time limitation on that amendment, to be equally divided.

Furthermore, that at 1 p.m., according to the previous agreement, votes start running back to back on the Ervin, the Helms, and the Buckley amendments, with a 10-minute limitation on each of those back-to-back rollcall votes.

Mr. JAVITS. Mr. President, I have a little problem, since the Senator has asked me about this, and he has represented it exactly to the Senate, I have had word from the Senator from New Jersey (Mr. CASE) asking for an additional 15-minute indulgence. Therefore I make this suggestion in the hope that Senators can accommodate to it, to have the amendment of the Senator from North Carolina (Mr. ERVIN) discussed from 12:15 to 12:30 and then have the vote on the Griffin amendment and then the vote on the Ervin amendment immediately to follow the Griffin amendment. That will not disturb anything, as we go right on to the others. So, if that takes up a little more time, perhaps the distinguished Senator from North Carolina (Mr. ERVIN) would be kind enough to debate his amendment between 12:15 and 12:30 and then have a vote on it at 1 o'clock.

Mr. ERVIN. I appreciate the suggestion of the Senator from New York, but I have some people who want to be here at 1 o'clock who want to support my amendment and for that reason I will be willing if we could vote on my amendment now and just take 5 minutes. It is a very simple amendment.

Mr. JAVITS. Can we vote then, first, on Senator ERVIN's amendment? Say he started at 12:15 and finished at 12:25 and then vote on the Ervin amendment.

Mr. GRIFFIN. Mr. President, I could not accept that. I would be willing to allow us to vote now on the Ervin amendment but I certainly could not agree to go beyond 12:30 to have a vote on my amendment. I am ready now.

Mr. ERVIN. That would be satisfactory. Just give us 5 minutes to a side.

Mr. JAVITS. That would be agreeable to me, provided I can yield 2 minutes to the Senator from Michigan (Mr. HART).

Mr. BROOKE. Mr. President, I am going to object. The Senator from New Jersey (Mr. CASE) wants to be here for the votes on the Ervin and Griffin amendments, but unfortunately, his car has broken down and he will not be here until between 12:15 and 12:30. So if we cannot do any better than what has been proposed, I would want to stay as we are, rather than having the Ervin amendment voted on at this time, and having the Senator from New Jersey (Mr. CASE) unable to cast his votes on these important amendments.

Mr. ROBERT C. BYRD. Mr. President, was there any objection to my unanimous-consent request?

Mr. JAVITS. Mr. President, I will object unless it is modified to make the Griffin vote at 12:30.

Mr. ROBERT C. BYRD. Mr. President, then may I propose the following unanimous-consent request:

Mr. President, I ask unanimous consent that a vote occur on the amendment—I am going to have to have the attention of the Senator from North Carolina (Mr. ERVIN) now—I ask unanimous consent that at the hour of 12:15 p.m. today, the Senator from New York, Mr. ERVIN, be recognized to call up his amendment——

Mr. ERVIN. North Carolina, please. [Laughter.]

Mr. ROBERT C. BYRD (continuing). The Senator from North Carolina (Mr. ERVIN) be recognized to call up his amendment at 12:15 p.m. today; that there be a 15-minute time limitation allotted for debate on that amendment, 10 minutes to Senator ERVIN and 5 minutes to Senator PELL; that at 12:30 p.m. the vote occur on the amendment by the Senator from Michigan (Mr. GRIFFIN); that immediately after the vote on the Griffin amendment the vote occur on the amendment of the Senator from North Carolina (Mr. ERVIN); that there be a 10-minute rollcall vote on the Ervin amendment, with the warning bells to be sounded after the first 2½ minutes; that following disposition of the Ervin amendment, the Senator from North Carolina (Mr. HELMS) then be recognized to call up his amendment, and that he be allotted half the remaining time before 1 o'clock; and that upon disposition of half the remaining time, the Senator from New York (Mr. BUCKLEY) be recognized to call up his amendment; and that at 1 o'clock, votes occur, back to back, on the Helms amendment and the

Buckley amendment, with 10 minutes for each rollcall vote.

Mr. JAVITS. That is satisfactory to me, provided I do not waive the right to tabling motions, which I do not wish to do.

Mr. BAYH. Mr. President, reserving the right to object, I am presently trying to explore where the Helms amendment goes. I have not yet made up my mind whether to offer a substitute which will probably take only 2 or 3 minutes to discuss; but until I have a chance to make that decision, or unless the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) wants to give me 2 minutes to offer the substitute, in the event I feel that it is necessary, then I would have no objection.

Mr. ROBERT C. BYRD. Very well. I modify the request accordingly, and ask that if the Senator from Indiana (Mr. BAYH) wishes to offer a substitute to the Helms amendment, that he, Mr. BAYH, be allotted 2 minutes at that time.

Mr. JAVITS. We cannot give up the right to move to table or to move amendments to amendments without debate.

Mr. ROBERT C. BYRD. Mr. President, I modify my request to protect the Senator's right to move to table.

Mr. JAVITS. And also to amend without debate.

Mr. ROBERT C. BYRD. Yes.

The VICE PRESIDENT. Is there objection to the unanimous-consent request of the Senator from West Virginia (Mr. ROBERT C. BYRD)?

Mr. HANSEN. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator from Wyoming will state it.

Mr. HANSEN. In the event that amendments are made to amendments, or a motion to table is made and, assuming that rollcall votes are asked for on each of these procedures, what effect will that have on the time limitation on which earlier agreements have already been made?

Mr. ROBERT C. BYRD. It would have the effect of probably pushing the 1 o'clock time back a bit, but not a great deal.

Mr. GRIFFIN. Mr. President, I wonder whether I might ask the Senator from New York—of course reserving the right to move to table is understandable, but would not he agree that offering amendments to amendments without any advance indication whatsoever would be rather an awkward situation for the Senate?

Mr. JAVITS. No; because I have been asked by other Members to protect their rights and I must do so. Let us remember that we did not expect the Ervin amendment to be here.

Mr. GRIFFIN. We have been debating it all morning.

Mr. JAVITS. But we did not have it at 10 o'clock this morning, so I do not think we can be charged there.

Mr. GRIFFIN. Right.

The VICE PRESIDENT. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. JAVITS. Mr. President, I yield 2 minutes to the Senator from Michigan (Mr. HART).

The VICE PRESIDENT. The Senator from Michigan is recognized for 2 minutes.

Mr. HART. Mr. President, in the time that has elapsed where efforts were made to negotiate a unanimous-consent agreement, the spirit which had persuaded me, after listening to the eloquent remarks of the Senator from Massachusetts (Mr. BROOKE) and the Senator from Minnesota (Mr. HUMPHREY), to ask for these 2 minutes, has somewhat subsided.

However, I still rise to make my basic point, and that is that Senators BROOKE and HUMPHREY drew a clearer and more vivid picture than we normally paint with respect to the motivation behind votes and amendments.

I am glad that they did. Anyone from Michigan knows that this is not a politically easy set of votes, including the distinguished Vice President now in the chair. The reason we have a Constitution is to insure that not always must we do or even are we permitted to do that which at the moment may be popular. Each of us here took an oath to support that document. Some of these amendments, including the one offered by my colleague, are dead wrong in terms of what the Constitution says we may or may not do.

I am glad that the distinguished Senator from Massachusetts (Mr. BROOKE) made that clear. I am also glad that the distinguished Senator from Minnesota (Mr. HUMPHREY) made clear that if, after all these years of lecturing black Americans to stay within the system and play by the rules, and now that they have won within the rules, we are going to change the rules—again, that will mean real trouble. Worse, we do violence to the Constitution in making the new rules.

Finally, if all the people of America could be persuaded to another effort—to direct the energy we are giving to this effort to stop busing—to making it work a better America would result.

When a court concluded some busing is required to protect a constitutional right, I would hope the leaders in that community would direct their energy to "making it work"—not feeding fires of disruption. We in the Congress and the executive branch have that same obligation. It has no relation to whether or not it is popular.

Mr. JAVITS. I thank the Senator.

I yield the remaining 5 minutes to the Senator from Massachusetts.

Mr. BROOKE. I thank the Senator.

I thank the distinguished Senator from Michigan (Mr. HART) and the distinguished Senator from Minnesota (Mr. HUMPHREY), for never have either of them failed to take a stand on the moral issues of the day. I think that is important. That is why we are elected. I do not think we are elected merely to mouth the sentiments that we read in the polls that are taken.

I believe we have responsibility to lead and to inform and to educate the public. I certainly do not think my Senate seat is worth a compromise of my principles on any moral issue facing this Nation. I would rather give up my Senate seat than to compromise those principles.

We thought that we did not have time to get into all the issues involved in the amendment now before the Senate. We thought it best to appeal to the few Senators who are here listening to this debate—a very important debate, I should say—on the basis of constitutionality, legality, and morality. But I just want to discuss a matter that is still left in this amendment—most of the objectionable matters are still left in this amendment—and that pertains——

The PRESIDING OFFICER (Mr. HANSEN). All the time of the Senator from New York on the amendment has expired.

Mr. JAVITS. I yield 2 minutes on the bill to the Senator.

Mr. BROOKE. That has to do with the payment of attorneys' fees. It says:

> The prevailing party in any action under the act may, at the court's discretion, request a reasonable attorneys' fee as part of the cost.

That provision might seem very simple, but what does it mean? There is no doubt of the consequences of such a provision. It strikes at the very foundation of American justice by intimidating and deterring the poor from asserting the constitutional rights of their children. How many poor black mothers—or white mothers—could afford attorneys' fees in a case where they wanted to raise an objection to the segregation of their children?

The authors pulled out all stops in the proposed amendment. They tried to cover all areas, to make sure that busing could not be used as an effective, reasonable, and limited tool to desegregate public schools in this country. It is inconceivable to me that the Senate of the United States, in 1974, should be debating this issue.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. I yield myself 1 minute on the bill.

Mr. President, I yield myself this minute only to point out one thing that, it seems to me, has not been said.

It is interesting to me, and it should be interesting to the country, that so many of the antibusing Senators are themselves deep believers in conservative stability for this country. Yet, I know of no single act that could more jar that stability that reversing ourselves in this particular matter from the decent and wise principles of the Scott-Mansfield compromise. That is indicated by the passion that Senator BROOKE has thrown into this debate. I hope very much that my colleagues will think about that.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. HUMPHREY. Mr. Presdent, I can only repeat what a distinguished American general said at Bastogne when he was asked to surrender. He said, "Nuts." That is what I say.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. I wish to move to table the Griffin amendment. At what point will that be in order?

The PRESIDING OFFICER. The Senator may make the motion at this time. That is the pending question. However, we have an agreement to move to the consideration of the Ervin amendment. The Senator may ask unanimous consent to make his tabling motion at this time.

Mr. JAVITS. I am willing to make it now or at 12:30—whatever the Parliamentarian says.

The PRESIDING OFFICER. Whatever the Senator desires.

Mr. JAVITS. I will make it at 12:30.

The PRESIDING OFFICER. The amendment by the Senator from North Carolina (Mr. ERVIN) will be stated.

The assistant legislative clerk read as follows:

> At the end of the bill add an appropriately numbered new title and an appropriately numbered new section reading as follows:
>
> "No court of the United States shall have jurisdiction to make or enter any decree, judgment, or order requiring the public school authorities of any State or any political subdivision of any State to transport public school students from one school to another school, or from one district to another district, or from one place to another place for the purpose of altering the racial composition of the student body at any public school: *Provided, however,* That this provision shall not apply to the Supreme Court when acting within the scope of its original jurisdiction."

Mr. ERVIN. Mr. President, in view of the fact that the distinguished Senator from New York, in opposing the amendment I offered yesterday, stated that it was unconstitutional, I refer to the decision of the Supreme Court in the case of *United States* v. *Klein*, 80 U.S. 128. I ask unanimous consent that a portion of the discussion of this case in the 1972 edition of the "Constitution of the United States of America, Revised and Annotated," appearing on pages 758 and 759, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> Another Reconstruction Congress attempt to curb the judiciary failed in *United States* v. *Klein*, in which a statute couched in jurisdictional terms which attempted to set aside both the effect of a presidential pardon and the judicial effectuation of such a pardon was voided. The statute declared that no pardon was to be admissible in evidence in support of any claim against the United States in the Court of Claims for the return of confiscated property of Confederates nor, if already put in evidence in a pending case, should it be considered on behalf of the claimant by the Court of Claims or by the Supreme Court on appeal. Proof of loyalty was required to be made according to provisions of certain congressional enactments and when judgment had already been rendered on other proof of loyalty the Supreme Court on appeal should have no further jurisdiction and should dismiss for want of jurisdiction. Moreover, it was provided that the recitation in any pardon which had been received that the claimant had taken part in the rebellion was to be taken as conclusive evidence that the claimant had been disloyal and was not entitled to regain his property. The Court began by reaffirming that Congress controlled the existence of the inferior federal courts and the jurisdiction vested in them and the appellate jurisdiction of the Supreme Court. "But the language of this provision shows plainly that it does not intend to withhold appellate jurisdiction except as a means to an end. . . . It is evident . . . that the denial of jurisdiction to this court, as well as to the Court of Claims, is founded solely on the application of a rule of decision, in causes pending, prescribed by Congress. The Court has jurisdiction of the cause to a given point; but when it ascertains that a certain state of things exists, its jurisdiction is to cease and it is required to dismiss the cause for want of jurisdiction.
>
> "It seems to us that this is not an exercise of the acknowledged power of Congress to make exceptions and prescribe regulations to the appellate power." The statute was void for two reasons; it "infring[ed] the constitutional power of the Executive", and it "prescrib[ed] a rule for the decision of a cause in a particular way." *Klein* thus stands for the proposition that Congress may not violate the principle of separation of powers and that it may not accomplish certain forbidden substantive acts by casting them in jurisdictional terms.

Mr. ERVIN. I invite the attention of the Senate to this statement by the Supreme Court in this case:

> It seems to us that this is not an exercise of the acknowledged power of Congress to make exceptions and prescribe regulations to the appellate power.

In order to show that this amendment is constitutional insofar as it curtails the appellate jurisdiction of the U.S. Supreme Court, I read this portion of section 2 of article III of the Constitution:

> In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

In order to establish the constitutionality of the provisions of this amendment as it applies to courts of the United States inferior to the Supreme Court, I read this portion of the analysis of the decision of the Supreme Court of the United States in *Lockerty* v. *Phillips*, 319 U.S. 182, which also appears in the 1972 edition of the volume referred to above:

> A unanimous Court, speaking through Chief Justice Stone, declared that there "is nothing in the Constitution which requires Congress to confer equity jurisdiction on any particular inferior federal court." All federal courts, other than the Supreme Court, it was asserted, derive their jurisdiction solely from the exercise of the authority to ordain and establish inferior courts conferred on Congress by Article III, § 1, of the Constitution. This power, which Congress is left free to exercise or not, was held to include the power " 'of investing them with jurisdiction either limited, concurrent, or exclusive, and of withholding jurisdiction from them in the exact degrees and character which to Congress may seem proper for the public good.' "

Mr. President, forced busing, by any reasonable interpretation of the equal-protection clause, is unconstitutional.

The equal-protection clause says that no State shall deny any person within its jurisdiction the equal protection of the laws. That clause has been interpreted in literally hundreds upon hundreds of Federal judicial decisions. It requires every State to treat in like manner all persons in similar circumstances. When a Federal court enters a compulsory busing decree, it clearly violates that clause of the Constitution in two respects. First, it says to a school board—

> You are required to divide the children in your district into two groups. The first group you can permit to attend neighborhood schools, and the other group you must deny permission to attend neighborhood schools.

That is a clear violation of the equal protection clause under literally hundreds of decisions because it treats in a different manner two different groups of children similarly situated.

Furthermore, when a court enters a busing decree to force busing it says a second thing to the school board. It says:

> The reason that you cannot let the second group of these children attend their neighborhood schools is that you are required to bus them elsewhere to other schools, either to decrease the number of children of their race in their neighborhood schools or increase the number of children of their race in the schools elsewhere.

Oceans and oceans of judicial sophistry cannot wash out the fact that this is denying the children who are bused the right to attend neighborhood schools, solely on the basis of their race. That is precisely what Brown versus Board of Education, City of Topeka, said was unconstitutional.

This amendment merely requires that the Constitution be obeyed by recognizing it is wrong to make guinea pigs out of little children, black and white, and herd them like cattle to and fro, not for the purpose of enlightening their minds but for the purpose of mingling their bodies.

It is time to put an end to the tyranny practiced on these children, black and white. It is an insult to the black race to say to them that they cannot get an adequate education unless they are forced to associate with white children.

This amendment, as far as busing is concerned, would give liberty back to the little children of this country—black, white, yellow, and red. It would enforce the equal protection clause as it was designed to be enforced. Furthermore, it would leave all other methods of enforcing desegregation available to the courts but it would merely deny them the right to herd little children like cattle, bused to and fro, just to integrate their bodies rather than to enlighten their minds.

Mr. JAVITS. Mr. President, I wish to simply answer the Senator from North Carolina, as follows: As a lawyer, I understand how to make a blanket amendment and he has certainly made one here. This amendment would absolutely, positively, unquestionably, without any possible reasonable doubt outlaw busing for any purpose whatever in respect of altering the racial composition of the student body of any public school.

Indeed, if agreed to, it might go far beyond desegregation because normal busing in central school districts would alter the racial composition of any school.

If this is an effort to exorcise what the Senator from North Carolina considers to be the great evil, the remedy is more offensive than the evil could be. This would absolutely blanket prohibition without any risk or restraint whatever.

The other thing about the amendment which is troublesome is the scope of its original jurisdiction as to the jurisdiction of the Supreme Court. That raises a very fundamental question with respect to the Constitution of the United States. There has been for a long time a major debate in legal circles as to whether even in declaring acts unconstitutional the Supreme Court went beyond its original jurisdiction, which dates back to the time the Constitution was written. The rationale for many Supreme Court decisions, not only in connection with this bill, but in many other fields, is that when Congress created the lower courts, they were, as we all know, created by the Judiciary Act of 1789; they created lower courts and they gave them jurisdiction of various kinds. The Supreme Court was the ultimate court for appellate jurisdiction.

If we get into an argument on original jurisdiction, we are in an enormous constitutional crisis.

For those reasons, I believe, with all respect to the Senator from North Carolina, because he is one Senator, as we all know, who practices what he preaches—this is what he deeply believes—he has contrived an amendment which is copper riveted and locked in and goes far beyond its own purposes in saying that busing is used under no circumstances, certainly in desegregation cases, and indeed, respecting any other cases in public schools.

Mr. President, for all those reasons I hope the Senate will reject the amendment.

The unanimous-consent agreement, as I understand it, is to start the vote on the Griffin amendment at 12:30 p.m.

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. If the Senator from Michigan is willing, we can anticipate that time by 3 minutes, and I ask unanimous consent that the Griffin amendment may now be called up. I intend to move to table it at this time.

Mr. ROBERT C. BYRD. Mr. President, is it agreeable that the first vote also be a 10-minute rollcall vote?

Mr. JAVITS. Oh, yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I move to table the Griffin amendment, and I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second. The yeas and nays are ordered.

The question is on agreeing to the motion to lay on the table. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH) is absent on official business.

On this vote, the Senator from Idaho (Mr. CHURCH) is paired with the Senator from South Carolina (Mr. HOLLINGS).

If present and voting, the Senator from Idaho would vote "yea" and the Senator from South Carolina would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), and the Senator from Utah (Mr. BENNETT) are necessarily absent.

The result was announced—yeas 46, nays 47, as follows:

[No. 202 Leg.]

YEAS—46

Abourezk
Aiken
Bayh
Biden
Brooke
Burdick
Case
Clark
Cranston
Eagleton
Hart
Hatfield
Hathaway
Hughes
Humphrey
Jackson
Javits
Kennedy
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Randolph
Ribicoff
Scott, Hugh
Stafford
Stevenson
Symington
Taft
Tunney
Weicker
Williams

NAYS—47

Allen
Baker
Bartlett
Beall
Bentsen
Bible
Brock
Buckley
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cook
Cotton
Curtis
Dole
Domenici
Dominick
Eastland
Ervin
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Hartke
Haskell
Helms
Hruska
Huddleston
Johnston
Long
McClellan
McClure
Nunn
Proxmire
Roth
Schweiker
Scott, William L.
Sparkman
Stennis
Stevens
Talmadge
Thurmond
Tower
Young

NOT VOTING—7

Bellmon
Bennett
Church
Fulbright
Gravel
Hollings
Inouye

So the motion to lay on the table Mr. GRIFFIN's amendment was rejected.

Mr. HUGH SCOTT. Mr. President, on behalf of myself and the Senator from Montana (Mr. MANSFIELD), I send an amendment to the desk and ask that it be stated.

The VICE PRESIDENT. The clerk will report the amendment.

The assistant legislative clerk proceeded to read the amendment.

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with in view of the fact that I have a short one-page statement, which I have had placed on the desk of each Senator, explaining the amendment.

The VICE PRESIDENT. Without objection, it is so ordered.

The amendment reads as follows:

In lieu of the language proposed to be inserted by amendment numbered , insert the following:

"TITLE IX—EQUAL EDUCATIONAL OPPORTUNITIES

"SHORT TITLE

"SEC. 901. This title may be cited as the 'Equal Educational Opportunities Act of 1974'.

"PART A—POLICY AND PURPOSE

"DECLARATION OF POLICY

"SEC. 902. (a) The Congress declares it to be the policy of the United States that—

"(1) all children enrolled in public schools are entitled to equal educational opportunity without regard to race, color, sex, or national origin; and

"(2) the neighborhood is the appropriate basis for determining public school assignments.

"(b) In order to carry out this policy, it is the purpose of this Act to specify appropriate remedies for the orderly removal of the vestiges of the dual school system. The provisions of this Title and Title VIII are not intended to modify or diminish the authority of the courts of the United States to enforce fully the Fifth and Fourteenth Amendments to the United States Constitution.

"FINDINGS

"SEC. 903. (a) The Congress finds that—

"(1) the maintenance of dual school systems in which students are assigned to schools solely on the basis of race, color, sex, or national origin denies to those students the equal protection of the laws guaranteed by the fourteenth amendment;

"(2) for the purpose of abolishing dual schools solely on the basis of race, color, sex, thereof, many local educational agencies have been required to reorganize their school systems, to reassign students, and to engage in the extensive transportation of students;

"(3) the implementation of desegregation plans that require extensive student transportation has, in many cases, required local educational agencies to expend large amounts of funds, thereby depleting their financial resources available for the maintenance or improvement of the quality of educational facilities and instruction provided;

"(4) transportation of students which creates serious risks to their health and safety, disrupts the educational process carried out with respect to such students, and impinges significantly on their educational opportunity, is excessive;

"(5) the risks and harms created by excessive transportation are particularly great for children enrolled in the first six grades; and

"(6) the guidelines provided by the courts for fashioning remedies to dismantle dual school systems have been, as the Supreme Court of the United States has said, 'incomplete and imperfect', and have not established a clear, rational, and uniform standard for determining the extent to which a local educational agency is required to reassign and transport its students in order to eliminate the vestiges of a dual school system.

(b) For the foregoing reasons, it is necessary and proper that the Congress, pursuant to the powers granted to it by the Constitution of the United States, specify appropriate remedies for the elimination of the vestiges of dual school systems, except to the extent such specification is inconsistent with the requirements of the Fifth and Fourteenth Amendments to the United States Constitution regarding the elimination of such vestiges of dual school systems.

"PART B—UNLAWFUL PRACTICES

"DENIAL OF EQUAL EDUCATIONAL OPPORTUNITY

"SEC. 904. No State shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin, by—

"(a) the deliberate segregation by an educational agency of students on the basis of race, color, or national origin among or within schools;

"(b) the failure of an educational agency which has formerly practiced such deliberate segregation to take affirmative steps, consistent with part D of this title, to remove the vestiges of a dual school system;

"(c) the assignment by an educational agency of a student to a school, other than the one closest to his or her place of residence within the school district in which he or she resides, if the assignment results in a greater degree of segregation of students on the basis of race, color, sex, or national origin among the schools of such agency than would result if such student were assigned to the school closest to his or her place of residence within the school district of such agency providing the appropriate grade level and type of education for such student;

"(d) discrimination by an educational agency on the basis of race, color, or national origin in the employment, employment conditions, or assignment to schools of its faculty or staff, except to fulfill the purposes of subsection (f) below;

"(e) the transfer by an educational agency, whether voluntary or otherwise, of a student from one school to another if the purpose and effect of such transfer is to increase segregation of students on the basis of race, color, or national origin among the schools of such agency; or

"(f) the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instruction programs.

"BALANCE NOT REQUIRED

"SEC. 905. The failure of an educational agency to attain a balance, on the basis of race, color, sex, or national origin, of students among its schools shall not constitute a denial of equal educational opportunity, or equal protection of the laws.

"ASSIGNMENT ON NEIGHBORHOOD BASIS NOT A DENIAL OF EQUAL EDUCATIONAL OPPORTUNITY

"SEC. 906. Subject to the other provisions of this title, the assignment by an educational agency of a student to the school nearest his place of residence which provides the appropriate grade level and type of education for such student is not a denial of equal educational opportunity or of equal protection of the laws unless such assignment is for the purpose of segregating students on the basis of race, color, sex, or national origin, or the school to which such student is assigned was located on its site for the purpose of segregating students on such basis.

"PART C—ENFORCEMENT

"CIVIL ACTIONS

"SEC. 907. An individual denied an equal educational opportunity, as defined by this title, may constitute a civil action in an appropriate district court of the United States against such parties, and for such relief, as may be appropriate. The Attorney General of the United States (hereinafter in this title referred to as the 'Attorney General'), for or in the name of the United States, may also institute such a civil action on behalf of such an individual.

"EFFECT OF CERTAIN POPULATION CHANGES ON CIVIL ACTIONS

"SEC. 908. When a court of competent jurisdiction determines that a school system is desegregated, or that it meets the constitutional requirements, or that it is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population occur which result in school population changes in any school within such a desegregated school system, such school population changes so occurring shall not, per se, constitute a cause for civil action for a new plan of desegregation or for modification of the court approved plan.

"JURISDICTION BY THE ATTORNEY GENERAL

"SEC. 909. The appropriate district court of the United States shall have and exercise jurisdiction of proceedings instituted under section 807.

"INTERVENTION BY ATTORNEY GENERAL

"SEC. 910. Whenever a civil action is instituted under section 807 by an individual, the Attorney General may intervene in such action upon timely application.

"SUITS BY THE ATTORNEY GENERAL

"SEC. 911. The Attorney General shall not institute a civil action under section 807 before he—

"(a) gives to the appropriate educational agency notice of the condition or conditions which, in his judgment, constitute a violation of part B of this title; and

"(b) certifies to the appropriate district court of the United States that he is satisfied that such educational agency has not, within a reasonable time after such notice, undertaken appropriate action.

"ATTORNEYS' FEES

"SEC. 912. In any civil action instituted under this Act, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorneys' fee as part of the costs, and the United States shall be liable for costs to the same extent as a private person.

"PART D—REMEDIES

"FORMULATING REMEDIES; APPLICABILITY

"SEC. 913. In formulating a remedy for a denial of educational opportunity or a denial of the equal protection of the laws, a court, department, or agency of the United States shall seek or impose only such remedies as are essential to correct particular denials of equal educational opportunity or equal protection of the laws.

"PRIORITY OF REMEDIES

"SEC. 914. In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, which may involve directly or indirectly the transportation of students, a court, department, or agency of the United States shall consider and make specific findings on the efficacy in correcting such denial of the following remedies and shall require implementation of the first of the remedies set out below, or of the first combination thereof which would remedy such denial:

"(a) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account school capacities and natural physical barriers;

"(b) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account only school capacities;

"(c) permitting students to transfer from a school in which a majority of the students are of their race, color, or national origin to a school in which a minority of the students are of their race, color, or national origin;

"(d) the creation or revision of attendance zones or grade structures without requiring transportation beyond that described in section 815;

"(e) the construction of new schools or the closing of inferior schools;

"(f) the construction or establishment of magnet schools; or

"(g) the development and implementation of any other plan which is educationally sound and administratively feasible, subject to the provisions of sections 815 and 816 of this title.

"TRANSPORTATION OF STUDENTS

"SEC. 915. (a) No court, department, or agency of the United States shall, pursuant to section 814, order the implementation of a plan that would require the transportation of any student to a school other than the school closest or next closest to his place of residence which provides the appropriate grade level and type of education for such student.

"(b) No court, department, or agency of the United States shall require directly or indirectly the transportation of any student if such transportation poses a risk to the health of such student or constitutes a significant impingement on the educational process with respect to such student.

"(c) When a court of competent jurisdiction determines that a school system is desegregated, or that it meets the constitutional requirements, or that it is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population occur which result in school population changes in any school within such a desegregated school system, no educational agency because of such shifts shall be required by any court, department, or agency of the United States to formulate, or implement any new desegregation plan, or modify or implement any modification of the court approved desegregation plan, which would require transportation of students to compensate wholly or in part for such shifts in school population so occurring.

"DISTRICT LINES

"SEC 916. In the formulation of remedies under section 913 or 914 of this title the lines drawn by a State, subdividing its territory into separate school districts, shall not be ignored or altered except where it is established that the lines were drawn for the purpose, and had the effect of segregating children among public schools on the basis of race, color, sex, or national origin.

"VOLUNTARY ADOPTION OF REMEDIES

"SEC. 917. Nothing in this title prohibits an educational agency from proposing, adopting, requiring, or implementing any plan of desegregation, otherwise lawful, that is at variance with the standards set out in this title, nor shall any court, department, or agency of the United States be prohibited from approving implementation of a plan which goes beyond what can be required under this title, if such plan is voluntarily proposed by the appropriate educational agency.

"PART E—DEFINITIONS

"DEFINITIONS

"SEC. 918. For the purposes of this title—

"(a) the term 'educational agency' means a local educational agency or a 'State educational agency' as defined by section 801(k) of the Elementary and Secondary Education Act of 1965;

"(b) the term 'local educational agency' means a local educational agency as defined by section 801(f) of the Elementary and Secondary Education Act of 1965;

"(c) the term 'segregation' means the operation of a school system in which students are wholly or substantially separated among the schools of an education agency on the basis of race, color, sex, or national origin or within a school on the basis of race, color, or national origin;

"(d) the term 'desegregation' means desegregation as defined by section 401(b) of the Civil Rights Act of 1964; and

"(e) an educational agency shall be deemed to transport a student if any part of the cost of such student's transportation is paid by such agency.

"PART F—MISCELLANEOUS PROVISIONS

"REPEALER

"SEC. 918. Section 709(a)(3) of the Emergency School Aid Act is hereby repealed.

"SEPARABILITY OF POWERS

"SEC. 919. If any provision of this title or of any amendment made by this title, or the application of any such provision to any person or circumstance, is held invalid, the remainder of the provisions of this title and of the amendments made by this title and the application of such provision to other persons or circumstances shall not be affected."

Amend the table of contents by striking out title VIII and items 801 through 806, and inserting in lieu thereof the following:

"TITLE VIII—EQUAL EDUCATIONAL OPPORTUNITIES

"Sec. 801. Short title.

"Part A—Policy and Purpose

"Sec. 802. Declaration of policy.
"Sec. 803. Findings.

"Part B—Unlawful Practices

"Sec. 804. Denial of equal educational opportunity.
"Sec. 805. Balance not required.
"Sec. 806. Assignment on neighborhood basis not a denial of equal educational opportunity.

"Part C—Enforcement

"Sec. 807. Civil actions.
"Sec. 808. Effect of certain population changes on civil actions.
"Sec. 809. Jurisdiction by the Attorney General.
"Sec. 810. Intervention by Attorney General.
"Sec. 811. Suits by the Attorney General.
"Sec. 812. Attorneys' fees.

"Part D—Remedies

"Sec. 813. Formulating remedies; applicability.
"Sec. 814. Priority of remedies.
"Sec. 815. Transportation of students.
"Sec. 816. District lines.
"Sec. 817. Voluntary adoption of remedies.
"Sec. 818. Reopening proceedings.
"Sec. 819. Limitations on orders.
"Sec. 820. Termination of court orders.

"Part E—Definitions

"Sec. 821. Definitions.

"Part F—Miscellaneous Provisions

"Sec. 822. Repealer.
"Sec. 823. Separability of provisions.".

Mr. HUGH SCOTT. Mr. President, my statement reads as follows:

EXPLANATION OF PROPOSED SCOTT-MANSFIELD SUBSTITUTE FOR GRIFFIN AMENDMENT

1. This would be a *complete substitute* for the Griffin Amndt ("Esch")—*not merely a perfecting amendment.*

2. This Scott-Mansfield substitute is not a revision or modification of the 1972 Scott-Mansfield provision repeated in the present Senate Committee bill. Rather, this Scott-Mansfield substitute essentially accepts all the language of the Griffin (Esch) proposal, itself, with one exception:

(A) The original language of Griffin Amndt. is retained intact.

(B) Clarifying language has been added to the Policy and to the Findings sections of the Gurney Amendment to make clear that the bill is not intended to purport to prevent the courts from upholding the Constitution.

In Section 802(b), the following is added:

"The provisions of this title and title VIII are not intended to modify or diminish the authority of the courts of the United States to enforce fully the Fifth and Fourteenth amendments to the United States Constitution."

and in Section 803(b), the following is added:

"For the foregoing reasons, it is necessary and proper that the Congress, pursuant to the powers granted to it by the Constitution of the United States, specify appropriate remedies for the elimination of the vestiges of dual school systems, *except to the extent such specification is inconsistent with the requirements of the Fifth and Fourteenth Amendments to the United States Constitution with regard to the elimination of such vestiges of dual school systems.*" (Added language italicized.)

As for the added language regarding constitutionality, that puts the issue squarely to Senators who (a) insist Gurney is constitutional as is, or (b) say they are unsure but wish to leave it to the courts. This language does leave it to the courts, but makes clear that Senators will follow their oath to uphold the Constitution, too, and will not try to tell the Court that it cannot enforce the constitution.

To oppose this clarification would undermine the integrity of our system and respect for the Constitution as interpreted by the Courts. If a Senator votes "no" on this Scott-Mansfield substitute, he is saying "Yes, I am prepared to try to go beyond what the Constitution permits." It does not require Senators to decide if this or that provision is constitutional; it merely requires them to stand by the Constitution as interpreted by the judicial branch, as called for by our system short of Constitutional amendment. In the atmosphere of Watergate, that is a healthy and important posture for the Senate to take.

It will be noted that the statement refers to a substitute for the Gurney amendment, because we had anticipated the possibility of offering it yesterday to the amendment of the Senator from Florida.

However, it is essentially the same amendment except that we have further conformed our substitute to the amendment now being offered by the Senator from Michigan.

That means that our substitute now has deleted the "reopener" and also, sections 818, and 819 of the original Gurney amendment, as has the Senator from Michigan in his amendment.

Since the Senator from Michigan has also knocked out the "reopener," the only difference between our and his, apart from the effective date, is that statement of fidelity to the Constitution.

The only question the Senator will now be voting on is whether the Senate will add the language reprinted in the statement on your desk which simply states that the Senate does not intend to violate the Constitution of the United States.

Mr. PASTORE. Mr. President, may we have order?

The VICE PRESIDENT. The Senate will be in order. There is no debate on this amendment.

Mr. GRIFFIN. Mr. President, I move to table the amendment and ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. ABOUREZK. Mr. President, what are we voting on?

The VICE PRESIDENT. If the Senate will please be in order, the Chair will explain the parliamentary situation. There is a motion to table the amendment offered by the Senator from Pennsylvania and the Senator from Montana. On this motion the yeas and nays have been ordered, and the clerk will call the roll.

Mr. HUMPHREY. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. HUMPHREY. Mr. President, are the members of the staff circulating a description of that amendment?

The VICE PRESIDENT. The Chair will state that he is informed that the Senator from Pennsylvania (Mr. Hugh Scott) had instructed that such information be made available to all Members of the Senate.

Several Senators addressed the Chair.

[Cries of regular order.]

The VICE PRESIDENT. Regular order has been called for. The question is on agreeing to the motion of the Senator from Michigan (Mr. Griffin) to lay on the table the Scott-Mansfield amendment. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Fulbright), the Senator from Alaska (Mr. Gravel), the Senator from South Carolina (Mr. Hollings), and the Senator from Hawaii (Mr. Inouye) are necessarily absent.

I further announce that the Senator from Idaho (Mr. Church) is absent on official business.

On this vote, the Senator from South Carolina (Mr. Hollings) is paired with the Senator from Idaho (Mr. Church).

If present and voting, the Senator from South Carolina would vote "yea" and the Senator from Idaho would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. Bellmon) and the Senator from Utah (Mr. Bennett) are necessarily absent.

The result was announced—yeas 45, nays 48, as follows:

[No. 203 Leg.]

YEAS—45

Allen
Baker
Bartlett
Beall
Bentsen
Bible
Buckley
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cook
Cotton
Curtis
Dole
Domenici
Dominick
Eastland
Ervin
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Hartke
Haskell
Helms
Hruska
Huddleston
Johnston
Long
McClellan
McClure
Nunn
Proxmire
Roth
Schweiker
Scott, William L.
Sparkman
Stennis
Talmadge
Thurmond
Tower
Young

NAYS—48

Abourezk
Aiken
Bayh
Biden
Brock
Brooke
Burdick
Case
Clark
Cranston
Eagleton
Hart
Hatfield
Hathaway
Hughes
Humphrey
Jackson
Javits
Kennedy
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Randolph
Ribicoff
Scott, Hugh
Stafford
Stevens
Stevenson
Symington
Taft
Tunney
Weicker
Williams

NOT VOTING—7

Bellmon
Bennett
Church
Fulbright
Gravel
Hollings
Inouye

So Mr. GRIFFIN's motion to table the Scott-Mansfield amendment to the Griffin amendment was rejected.

The VICE PRESIDENT. The question recurs on agreeing to the amendment of the Senator from Pennsylvania.

Mr. GRIFFIN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BROCK. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. BROCK. Is not the Griffin amendment in order?

The VICE PRESIDENT. The question is on agreeing to the amendment to the Griffin amendment offered by the Senator from Pennsylvania (Mr. HUGH SCOTT).

Mr. GURNEY. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GURNEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

The question is on agreeing to the amendment offered by the Senator from Pennsylvania (Mr. HUGH SCOTT) as a substitute for the amendment of the Senator from Michigan (Mr. GRIFFIN). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH) is absent on official business.

On this vote, the Senator from Idaho (Mr. CHURCH) is paired with the Senator from South Carolina (Mr. HOLLINGS).

If present and voting, the Senator from Idaho would vote "yea" and the Senator from South Carolina would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), and Senator from Utah (Mr. BENNETT), are necessarily absent.

The result was announced—yeas 47, nays 46, as follows:

[No. 204 Leg.]

YEAS—47

Abourezk
Aiken
Bayh
Biden
Brooke
Burdick
Case
Clark
Cranston
Eagleton
Hart
Hatfield
Hathaway
Hughes
Humphrey
Jackson
Javits
Kennedy
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Randolph
Ribicoff
Scott, Hugh
Stafford
Stevens
Stevenson
Symington
Taft
Tunney
Weicker
Williams

NAYS—46

Allen
Baker
Bartlett
Beall
Bentsen
Bible
Brock
Buckley
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cook
Cotton
Curtis
Dole
Domenici
Dominick
Eastland
Ervin
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Hartke
Haskell
Helms
Hruska
Huddleston
Johnston
Long
McClellan
McClure
Nunn
Proxmire
Roth
Schweiker
Scott, William L.
Sparkman
Stennis
Talmadge
Thurmond
Tower
Young

NOT VOTING—7

Bellmon
Bennett
Church
Fulbright
Gravel
Hollings
Inouye

So the Scott-Mansfield amendment to the Griffin amendment was agreed to.

Mr. GRIFFIN. Mr. President, a parliamentary inquiry——

Mr. BROOKE. Mr. President, a parliamentary inquiry——

The VICE PRESIDENT. The Senator from Michigan is recognized.

Mr. GRIFFIN. Mr. President, is it in order now to offer an amendment to the Scott-Mansfield substitute or to the Griffin amendment?

The VICE PRESIDENT. No further amendments are in order on this amendment.

Mr. GRIFFIN. I thank the Chair.

The VICE PRESIDENT. The Senator from Massachusetts (Mr. BROOKE) is recognized.

Mr. BROOKE. Mr. President, is a motion to table the Griffin amendment as substituted by the Scott-Mansfield amendment in order?

The VICE PRESIDENT. In the opinion of the Chair, a motion to table at this point would be in order.

Mr. BROOKE. Mr. President, I move to table the Griffin amendment as substituted by the Scott-Mansfield amendment, and I ask for the yeas and nays.

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Massachusetts (Mr. BROOKE) to table the Griffin amendment as substituted by the Scott-Mansfield amendment.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH) is absent on official business.

On this vote, the Senator from Idaho (Mr. CHURCH) is paired with the Senator from South Carolina (Mr. HOLLINGS).

If present and voting, the Senator from Idaho would vote "yea" and the Senator from South Carolina would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. BENNETT), and the Senator from Nebraska (Mr. CURTIS) are necessarily absent.

The result was announced—yeas 45, nays 47, as follows:

[No. 205 Leg.]

YEAS—45

Abourezk
Bayh
Biden
Brooke
Burdick
Case
Clark
Cranston
Eagleton
Hart
Hatfield
Hathaway
Hughes
Humphrey
Jackson
Javits
Kennedy
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Randolph
Ribicoff
Scott, Hugh
Stafford
Stevenson
Symington
Taft
Tunney
Weicker
Williams

NAYS—47

Aiken
Allen
Baker
Bartlett
Beall
Bentsen
Bible
Brock
Buckley
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cook
Cotton
Dole
Domenici
Dominick
Eastland
Ervin
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Hartke
Haskell
Helms
Hruska
Huddleston
Johnston
Long
McClellan
McClure
Nunn
Proxmire
Roth
Schweiker
Scott, William L.
Sparkman
Stennis
Stevens
Talmadge
Thurmond
Tower
Young

NOT VOTING—8

Bellmon
Bennett
Church
Curtis
Fulbright
Gravel
Hollings
Inouye

So the motion to table was rejected.

The VICE PRESIDENT. The question now is on the amendment of the Senator from Michigan as amended by the Senator from Pennsylvania (Mr. HUGH SCOTT).

Mr. ROBERT C. BYRD. Mr. President, had not the yeas and nays been ordered previously on the Griffin amendment?

The VICE PRESIDENT. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the yeas and nays on the Griffin amendment be vacated.

The VICE PRESIDENT. Is there objection? Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Michigan as amended by the Senator from Pennsylvania (Mr. HUGH SCOTT). [Putting the question.]

The amendment, as amended, was agreed to.

The VICE PRESIDENT. The question now recurs on the amendment of the Senator from North Carolina (Mr. ERVIN).

Mr. HATHAWAY. Mr. President, I move to lay that motion on the table, and I ask for the yeas and nays.

Mr. BROCK. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. BROCK. Mr. President, the Senator from Tennessee was on his feet seeking recognition for a motion to reconsider the previous vote. Would that not be in order?

The VICE PRESIDENT. The Chair recognized the Senator from Maine.

Mr. GRIFFIN. Mr. President, what was the motion made by the Senator from Maine?

Mr. HATHAWAY. I moved to table.

Mr. BROCK. Mr. President, I move to reconsider the vote by which the motion to table the Griffin amendment, as amended, was rejected.

Mr. GRIFFIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATHAWAY. I renew my motion to lay on the table the Ervin amendment, and I ask for the yeas and nays.

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on agreeing to the motion to lay on the table the amendment of the Senator from North Carolina (Mr. Ervin). The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Fulbright), the Senator from Alaska (Mr. Gravel), the Senator from South Carolina (Mr. Hollings), and the Senator from Hawaii (Mr. Inouye) are necessarily absent.

I further announce that the Senator from Idaho (Mr. Church), is absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. Hollings) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from Utah (Mr. Bennett), and the Senator from Nebraska (Mr. Curtis) are necessarily absent.

I further announce that, if present and voting, the Senator from Nebraska (Mr. Curtis) would vote "nay."

The result was announced—yeas 51, nays 41, as follows:

[No. 206 Leg.]

YEAS—51

Abourezk
Aiken
Bayh
Biden
Brooke
Burdick
Case
Clark
Cranston
Domenici
Eagleton
Fong
Hart
Haskell
Hatfield
Hathaway
Hughes
Humphrey
Jackson
Javits
Kennedy
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Symington
Taft
Tunney
Weicker
Williams

NAYS—41

Allen
Baker
Bartlett
Beall
Bentsen
Bible
Brock
Buckley
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cook
Cotton
Dole
Dominick
Eastland
Ervin
Fannin
Goldwater
Griffin
Gurney
Hansen
Hartke
Helms
Hruska
Huddleston
Johnston
Long
McClellan
McClure
Nunn
Proxmire
Roth
Scott,
  William L.
Sparkman
Stennis
Talmadge
Thurmond
Tower
Young

NOT VOTING—8

Bellmon
Bennett
Church
Curtis
Fulbright
Gravel
Hollings
Inouye

So the motion to lay on the table the Ervin amendment was agreed to.

The PRESIDING OFFICER (Mr. Abourezk. Under the previous order the Senate will now proceed to a vote on the Helms amendment No. 1263, which the clerk will state.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the previous order for the recognition of Mr. Helms at this time to be followed by Mr. Buckley, be reversed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUCKLEY. Mr. President, I call up my amendment No. 1263.

The PRESIDING OFFICER. The clerk will state the amendment.

The second assistant legislative clerk proceeded to read the amendment.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. BUCKLEY. I am glad to yield.

The PRESIDING OFFICER. The Chair will advise that there is no time for debate on this amendment. The Senator from Louisiana can get unanimous consent to be recognized at this time.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that I be recognized for the purpose of calling up an amendment which will not receive any debate.

The PRESIDING OFFICER. Is there objection?

Mr. BUCKLEY and Mr. JAVITS addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. BUCKLEY. I am afraid I misunderstood when the Senator asked me to yield to him briefly. Apparently what he meant was to call up his amendment. Is this amendment agreeable?

Mr. JOHNSTON. We have an amendment which was agreed to by the Senator from New York and the Senator from Rhode Island and it should not have any rollcall or lengthy discussion.

Mr. JAVITS. Mr. President, whatever the Senator from New York wishes will be the way we are controlled. I was just rising to ask the purpose of the Senator's recognition. If it is to call up an amendment to make a base year in respect of adult education, it is an education amendment, and I think, with all respect, if we are going into that, unless the Senate demurs, it should wait until the busing amendments are disposed of.

Mr. JOHNSTON. Mr. President, I thought the Buckley amendment was a non-busing amendment. I will withhold my amendment until the busing amendment is disposed of.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from New York.

Mr. COTTON. Mr. President, I did not hear the reading of the amendment by the clerk. The reading was waived and there cannot be any debate. We ought to have the right to hear the amendment read.

The PRESIDING OFFICER. The Clerk will read the amendment in full.

The second assistant legislative clerk read amendment No. 1263 as follows:

On page 384, line 15 delete everything after the comma, through to and including the period on line 20, and insert the following: "except in cases involving children whose parents have made an express, written, voluntary request for, or have given their written, voluntary consent to such transportation, or teachers who have made an express, written, voluntary request for, or have given their written, voluntary consent to such transportation.".

Mr. BUCKLEY. Mr. President, I ask unanimous consent that I may give a one-sentence description of what my amendment would accomplish.

Mr. JAVITS. Mr. President, I must object unless we have equal time.

Mr. ROBERT C. BYRD. Mr President, I ask unanimous consent that each side may have 1 minute to debate the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUCKLEY. Mr. President, it may well be that my amendment (No. 1263) to alter the language of section 802(a) of title XVIII is the least complex of the many concerned with busing that will have been introduced during the course of this debate. That is not to say that it is not an effective as well as reasonable manner with which to confront the real problem which is the forced busing of children to achieve certain racial or ethnic quotas. The committee bill would permit the use of Federal funds for purposes of transportation of students to overcome racial imbalance if the local school authorities so request. The effect of my amendment is to substitute parental discretion for that of school authorities.

Mr. President, most Americans have come to the conclusion that forced busing of students without parental consent is inappropriate social policy. Those citizens are watching for congressional action to put an end to a problem which is dividing America, causing serious personal and familiar anguish and even exposing children to dangers which they would otherwise avoid. It is important that the law recognize the parents' fundamental role and responsibility in the schooling of their children. And there, Mr. President, is the central issue: Parental consent. The purpose of my amendment is to recognize the fundamental parental role and to insure that the parents are very much involved in the planning of any program which would involve the busing of their children.

The Senate does little, if anything, should it adopt the committee language. Reports are well known that school authorities can be "encouraged" by overly aggressive social planners employed by certain agencies of the Federal Government to concur that this or that busing plan to achieve a certain ethnic or racial mix must be implemented. Local school authorities under a sophisticated duress could, in effect, be required to comply and therefore "request," thus bringing them into the exception as provided for in the committee language.

But, Mr. President, the people who are deeply concerned and the persons most agonized are the parents. It is they who should give the permission. My amendment if adopted will prohibit the use of Federal funds for the busing of students unless the parents of the children involved consent to it.

Mr. JAVITS. Mr. President, our opposition to the amendment simply is that we would allow the whole Constitution of the United States to depend upon a few families. That proposition is simply self-defeating. The country cannot be run—or the Government or a school district, or anything else—on any such theory. For these reasons I believe the amendment should be defeated on the merits. We should not move to table the amendment. It is simply wrong on the merits. I object to it. I believe the Senate will reject it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York (Mr. Buckley).

Mr. BUCKLEY. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York. (Mr. Buckley). The yeas and nays have been ordered, and the clerk will call the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Fulbright), the Senator from Alaska (Mr. Gravel), the Senator from South Carolina (Mr. Hollings), and the Senator from Hawaii (Mr. Inouye) are necessarily absent.

I further announce that the Senator from Idaho (Mr. Church) is absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. Hollings) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from Utah (Mr. Bennett), and the Senator from Nebraska (Mr. Curtis) are necessarily absent.

I further announce that, if present and voting, the Senator from Nebraska (Mr. Curtis) would vote "yea."

The result was announced—yeas 35, nays 57, as follows:

[No. 207 Leg.]

YEAS—35

Allen
Bartlett
Bentsen
Bible
Brock
Buckley
Byrd, Harry F., Jr.
Chiles
Cotton
Dole
Dominick
Eastland
Ervin
Fannin
Goldwater
Griffin
Gurney
Hansen
Helms
Hruska
Huddleston
Johnston
Long
McClellan
McClure
Nunn
Proxmire
Roth
Schweiker
Scott, William L.
Sparkman
Stennis
Talmadge
Thurmond
Tower

NAYS—57

Abourezk
Aiken
Baker
Bayh
Beall
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Clark
Cook
Cranston
Domenici
Eagleton
Fong
Hart
Hartke
Haskell
Hatfield
Hathaway
Hughes
Humphrey
Jackson
Javits
Kennedy
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Randolph
Ribicoff
Scott, Hugh
Stafford
Stevens
Stevenson
Symington
Taft
Tunney
Weicker
Williams
Young

NOT VOTING—8

Bellmon
Bennett
Church
Curtis
Fulbright
Gravel
Hollings
Inouye

So Mr. Buckley's amendment (No. 1263) was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PASTORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, the amendment that I am offering is one that is not only important to public education in my State of North Carolina; it is equally important to public schools throughout the Nation.

As Senators are aware, the Federal courts throughout the country have, during the past 20 years, ordered various school systems to adopt and implement desegregation plans. In recent years, these school systems have complied with such court orders, and in my State all remnants of the former dual school system have in fact been abolished. The public schools of North Carolina are operated in compliance with the applicable court orders regarding desegregation.

Congress over the years has enacted legislation providing various forms of Federal financial assistance to public schools. This assistance money is generally distributed by the Department of Health, Education, and Welfare. In this legislation, Congress provided that no such financial assistance was to be given to school systems that operate in a racially discriminatory manner. These strings were attached because it was felt that they were necessary as a part of the general effort by the Federal Government to abolish all remnants of dual school systems. This is history, and it is well-known to everyone.

It happens that from time to time some programs and policies of Government continue to survive long after the reason for their existence has ceased to be a real consideration. The Federal Government is riddled with such programs. Often they are counterproductive and do not serve the real best interests of the American people.

It is to such an anachronism that I refer today: the needless "strings" that allow the Department of Health, Education, and Welfare to withhold assistance funds from public school systems that are operating under a court-ordered—and therefore, court-approved—desegregation plan, if that bureaucracy determines that a school system is maintaining discriminatory policies.

This provision is no longer needed because the Federal courts have already accomplished the abolition of dual school systems, racial discrimination, and the like. The court-ordered desegregation plans that accomplished this are still on the books. They survive as a deterrent to the reinstitution of discriminatory policies. Where the courts have already acted, there is no current reason for the existence of a power within the Department of Health, Education, and Welfare to make a determination as to whether a given school system is maintaining discriminatory policies. I therefore propose an amendment which provides that no officer or employee of the Department of Health, Education, and Welfare administering any federally assisted program may withhold funds from any State educational agency, local educational agency, institution of higher education, or other educational institution based upon a determination that such agency or institution is operating any such program in a racially discriminatory manner, if such agency or institution is operating under a desegregation plan ordered by any court of the United States.

It should be noted that this limitation on the power of the Department of Health, Education, and Welfare to withhold funds only applies in the situation where the school system is operating under a desegregation plan ordered by any court of the United States. Where the courts have acted, this amendment will remove the determination of whether a school system is maintaining discriminatory policies from HEW and leave this matter in the judiciary where it more properly belongs.

Now, one might well wonder why I choose to offer this amendment if the discrimination question has become solely academic. I offer this amendment because there currently exists within the Department of Health, Education, and Welfare a collection of bureaucrats who under the guise of racial equality are destroying the public schools of my State, and, I have no doubt, the schools of many other States. These individuals are guided solely by statistics. Under the threat of withholding Federal assistance funds from a school system, they extort large quantities of detailed information from school superintendents.

This information is primarily of a statistical nature. They inquire as to the numerical, racial balance of each classroom, and each educational program. If the numerical, racial balance in a given classroom or educational program is different from the racial balance in the community served by the school system, these bureaucrats conclude that racial discrimination exists, and that HEW should therefore withhold certain assistance funds.

Such a procedure has two detrimental effects upon the quality of education. First, the information that is extorted from the school officials is so detailed that it requires weeks to compile. School superintendents of necessity are forced to take time away from their primary duties and devote much valuable time to compiling and sending statistics to data-hungry bureaucrats in some distant region who are seeking a new means of justifying their existence. In many rural areas, school superintendents are, again, of necessity, forced to take teachers and other personnel away from their primary duties in order that they may assist with this compilation.

Mr. President, so there can be no question as to the magnitude and authenticity of this problem, I ask unanimous consent that a copy of a letter dated February 21, 1974, from Mr. W. Lamar Clements of the Office of Civil Rights of the Department of Health, Education, and Welfare to the superintendent of the Winston-Salem/Forsyth County schools together with a copy of the superintendent's reply be printed in the

RECORD at this point in my remarks. And, so no one can suppose that the aforementioned letter is a mere isolated example, I ask unanimous consent that copies of two letters from Mr. Cecil L. Yarbrough, Acting Regional Commissioner of the Office of Education of the Department of Health, Education, and Welfare, dated January 16, 1974, and March 27, 1974, respectively, be printed in the RECORD at this point in my remarks. The first letter is to the superintendent of the Bertie County schools and the second letter is to the superintendent of the Gates County schools.

The letter to the superintendent of the Winston-Salem/Forsyth County schools of February 21, 1974, contains a statement so preposterous that I feel compelled to direct special attention to it. On page 5 of that letter, the following paragraph appears:

> The April 14, 1973 letter from Mr. Sarbaugh reports that seventh grade Language Arts assignments are based on reading performance, recommendations of elementary teachers and the principal, and scores on the Metropolitan Achievement Test. You offered no evidence that would support the position that educational success in social studies is related to or dependent upon English language skills. Therefore, you do not meet the requirements of Section 185.43(c) (2).

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Atlanta, Ga., February 21, 1974.

Mr. MARVIN WARD,
Superintendent, Winston Salem/Forsyth Schools, Winston Salem, N.C.

Re Emergency School Aid Act Application.

DEAR SUPERINTENDENT WARD: We have received your district's application for assistance under the Emergency School Aid Act (ESAA) and have reviewed it to determine your district's eligibility under the Act and implementing regulations. To complete our review of your district's eligibility for funding, we must request information relative to disciplinary sanctions and student assignments.

The number of suspensions reported on your Fall Civil Rights Survey Forms indicates that 989 or 56 percent of the suspensions in 1972–73 were minority group members. Since your overall minority student enrollment is 31 percent, there were disproportionate minority suspensions. Please provide:

a. A data display for school years 1971 and 1972 by secondary school and grade level showing the reason disciplined and punishment received by race and/or ethnic group. (See Attachment C)

b. A district summary for all junior high schools and separately for all senior high schools. (See Attachment D)

c. A narrative description of the district's disciplinary practices, policies, and procedures including: expulsions, suspensions, corporal or other punishment; statement of general rules of conduct; who determines violations; how are the violations determined; what standards are used; how are the standards established, communicated, implemented; who metes out punishment; how; what options are available?

d. Same as (c) above for each school.

The above information is requested on your disciplinary practices and procedures to determine your compliance with Section 185.43(d)(4) of 45 CFR which states that:

(d) *Discrimination against children.* No educational agency shall be eligible for assistance under the Act if, . . . it has had or maintains in effect any practice, policy, or procedure which results or have resulted in. . . .

(4) Imposing disciplinary sanctions, including expulsions, suspensions, or corporal or other punishment, in a manner which discriminates against minority group children on the basis of race, color, or national origin.

A review of the information contained in your application in conjunction with a review of your Fall Civil Rights Survey Forms (OS/CR 102) revealed that of the 896 students assigned to your district's EMR classes 606 or 68 percent are minority group members. Since your overall minority student enrollment is 31 percent, your EMR classes are racially identifiable.

In addition, this review revealed that the district has moved the following number of students by race from the special education programs since the 1972–73 school term:

EMR

B, 32; W, 95; I, 4; Total, 131.

SPEECH IMPAIRED

B, 515; W, 104; I, 2; SS, 109; Total 730.

TMR

B, 29; W, 12; I, 1; Total, 42.

OTHER HEALTH IMPAIRED

B, 92; W, 52; I, 2; Total, 146.

Please provide the information listed below on your special education programs:

1. A copy of current district policy and practices for screening, referral, examination, placement, and post placement evaluation of students for the Special Education Program.

2. The number of students by school and race who during the 1973–74 school term were screened, referred for evaluation, tested with a full psychological and scored below the range of 50, between the 50–60 range, 61–70 range, 71–75 range and above the 75 range. Also indicate the number of students in each range by race who were:

a. placed in self-contained classes;

b. placed in a special education class for 50 percent or more of the school day;

c. placed in a special education class or section for less than 25 percent of the academic day;

d. assigned to a special teacher to assist the students in their normal classrooms;

e. placed on a waiting list of students who will not be assigned to a special education class at this time; and

f. whose parents or guardians refused to permit testing and or placement in the special education program.

3. The number of students by race and school who were previously assigned to the special education program and were evaluated by a psychologist since June 30, 1973. Please include the ability measure and adaptive behavior measure used. Also indicate the number by race and school who scored below 50, between 51 and 60, between 61 and 70, between 71 and 75, and above 75, with an indication of the number by race in each range who were removed from the special education program.

4. Describe in detail the special curricula developed for or supportive services being provided for any student shown in number 3 above who has been removed from the special education program.

5. A program-by-program explanation for the significant removal of students from the special education programs previously mentioned.

As you know, 45 CFR Section 185.43(d) provides:

No educational agency shall be eligible for assistance under the Act if, after June 23, 1972, it has had or maintained in effect any practice, policy, or procedure which results or has resulted in discrimination against children on the basis of race, color, or national origin, including but not limited to:

(5) Assigning students to ability groups, tracks, special education classes, classes for the mentally retarded, or other curricular or extracurricular activities on the basis of race, color, or national origin. Racially or ethnically identifiable groups, tracks, or classes which cannot be justified educationally under the criteria set out in paragraph (c) of this section shall be presumed to be assigned on the basis of race, color, or national origin.

In addition, 45 CFR 185.43(c) provides:

No educational agency shall be eligible for assistance under the Act if, after June 23, 1972 it has had or maintained in effect any procedure for the assignment of children to or within classes which results in any separation of minority group from nonminority group children for more than 25 percent of the school day classroom periods, in conjunction with desegregation or the conduct of any activity described in Section 706 of the Act. This paragraph shall not be construed to prohibit bona fide ability grouping as a standard pedagogical practice. Such grouping is that which is:

(1) Based upon nondiscriminatory, objective standards of measurement which are educationally relevant to the purposes of such grouping and which, in the case of national origin minority group children, do not essentially measure English language skills;

(2) Determined by the nondiscriminatory application of standards described in subparagraph (1) of this paragraph, and maintained for only such portion of the school day classroom periods as is necessary to achieve the purposes of such grouping;

(3) Designed to meet the special needs of the students in each group determined by the application of the standards described in subparagraph (1) of this paragraph and to improve the academic performance and achievement of students determined to be in the less academically advanced groups, by means of specially developed curricula, specially trained or certified instructional personnel, and periodic retesting to determine academic progress and eligibility for promotion; and

(4) Validated by test scores or other reliable objective evidence indicating the educational benefits of such grouping.

A review of the information available in our office reveals that your system groups children homogeneously for instructional purposes for parts of the day on the elementary level and has various levels of curriculum for grades 7–12.

Both of the grouping processes listed above result in a large number of racially isolated and racially identifiable classes. The current class level placement procedure, beginning at the seventh grade and continuing through the secondary grades, is the source of the numerous racially identifiable and racially isolated classes in your secondary schools.

On June 5, 1973, Mr. Palmer G. Friende signed an assurance in our office with regard to class assignments as follows:

On the authority of Superintendent Marvin Ward, I assure: during the school year 1973–74, students in the Junior High Schools of the Winston-Salem/Forsyth County system will be assigned to block classes in a manner not racially identifiable.

Also, a conscious effort will be made to place minority students in all curricula levels of the High and Senior High Schools of said system.

This assurance established your district's eligibility for ESAA funds for fiscal year 1974.

The class schedules submitted for the current school year revealed 817 racially identifiable classes in the required course in your grades 7–12 schools. In addition, there are 200 racially isolated in these same schools. These numbers reflect an increase in the number of racially isolated and racially identifiable classes than existed in the 1972–73 school term.

The information submitted to our office in an effort to justify the ability grouping being employed by the district has not been sufficient to fulfill the requirements pursuant to Section 185.43(d)(5) and (c)(1–4) of the ESSA regulations.

Section 185.43(c)(1) has not been met because you have not shown how the judgment of teachers and principals is objective or based on objective criteria when making class assignments. You have not shown how achievement scores are used for placement, nor have you shown that they are objective criteria or that they are educationally relevant.

The April 4, 1973 letter from Mr. Sarbaugh reports that seventh grade Language Arts assignments are based on reading performance, recommendation of elementary teachers and principal, and score on the Metropolitan Achievement Test. You offered no evidence that would support the position that educational success in social studies is related to or dependent upon English language skills. Therefore, you do not meet the requirements of Section 185.43(c)(2).

You have not provided this office with an explanation of how your ability grouping is designed to meet the special needs of the students in each group and therefore fail to meet the requirements of Section 185.43 (c)(3).

No evidence has been presented and Mr. Sarbaugh reports in his April 4, 1973 letter that no evidence is available to demonstrate the effectiveness of your grouping practices. The district does not meet the requirements of 185.43(c)(4), and in fact fails to provide any of the information required under section 185.43(c) from school systems where assignment by ability grouping or leveling results in racial isolation or racially identifiable classes which remain together for 25 percent of the school day.

If the above assignment practices continue to exist, your district is not meeting the requirements for continuing eligibility under 185.43(e). Please provide the following:

1. Current student assignments to classes by race for any schools where substantive changes have been made in student assignment since the October 1, 1973 report.

2. Copies of all information and/or materials used by students, student's parents, guidance counselors, teachers, and principals or other officials in selecting courses or the assignment of student to classes at all 6th grade and secondary schools in your district.

3. If factors other than student choice (e.g., grades teacher recommendation, prerequisites) considered when students are placed, please provide full details regarding these factors and how they are applied at each school. Please indicate fully who determines the course numbers and how the selection is made.

4. If changes in methods of assigning students to classes are planned for 1974–75 please provide full details regarding these changes.

We have attempted to outline above the areas where there is question regarding your eligibility for continued receipt of funds under your current ESAA grant, and regarding your eligibility for FY 1975 funds. In addition, we have listed the information required before a decision can be made regarding your eligibility. We will be unable to continue processing your application for funds until this information is provided. We request that this information be provided as soon as possible.

If you have any question, or if you are unable to provide any portion of the requested information within ten days of the date of this letter, please advise. You may reach us by phone at Area Code (404) 526–3307.

Sincerely yours,

W. Lamar Clements,

Chief Elementary and Secondary Education Branch, Office for Civil Rights.

Winston-Salem/Forsyth
County Schools,
Winston-Salem, N.C., March 4, 1974.

Mr. W. Lamar Clements,
Office for Civil Rights, Department of Health, Education, and Welfare, Atlanta, Ga.

Dear Mr. Clements: This letter and the accompanying materials and information are in response to your letter dated February 21, 1974, in which you advise us that we are not in compliance with certain provisions of the Emergency School Aid Act legislation. In the attached materials, we have attempted to respond to the questions you have raised.

In making this reply, I want to register my very strong objections to what clearly seem to be unwarranted and unreasonable requirements for the data called for in your letter. I say this for the following reasons:

1. The Winston-Salem/Forsyth County School System is a totally integrated school system, operating under a pupil assignment plan which has been approved by the Federal courts.

2. It is the written policy of the Board of Education that we shall operate a unitary school system in all respects.

3. Educators in this school system are working continuously and consistently to ensure that there is no discrimination against students or staff on the grounds of race, religion, sex, national origin or other reasons. We are achieving this objective as well as—if not better than—any other comparable school system in the nation.

This is the second year in which your review of our ESAA application has required untold hours of staff time in an effort to supply you with information which, in our opinion, is no test of the extent to which we operate a unitary and non-discriminatory school system. The test of that fact can be determined by observing our school system in action and not by counting suspensions or the makeup of school classes on a racial basis. On several occasions we have encouraged a visit from your office hoping that you would come and see for yourself. The invitation is still open.

We are alarmed not only at the amount of our staff time which these requirements waste but also the amount of time which obviously has been required of your staff to even prepare such a letter. Surely both you and we can further the cause of civil rights in more productive ways.

The enclosed information does not fully address all of the questions raised in your letter. It does represent considerable effort on our part, however, and is our best possible response. If, upon receipt of this information, you determine that we are not in compliance, we should like to be advised immediately of the appropriate steps which we may take to appeal your decision.

Please note that we are sending copies of this letter along with your letter of *February 21, 1974* to members of the North Carolina Congressional delegation.

Sincerely,

Marvin Ward, *Superintendent.*

Department of Health, Education, and Welfare,
Atlanta, Ga., January 16, 1974.

Re Emergency School Aid Act Grant No. 195.

Mr. Larry T. Ivey,
Superintendent, Bertie County Schools, Windsor, N.C.

Dear Mr. Ivey: Thank you for the cooperation extended to the staff of the Office for Civil Rights during their visit to your district October 9–12, 1973 to review your district's compliance with the civil rights related assurances of the Emergency School Aid Act.

Their report shows violations of Sections 185.43(d)(5), 185.43(c)(1–4) and 185.43(e) of the program regulations in the assignment of students to regular and special education classes in your district. These sections of the regulations read as follows:

Section 45 CFR 185.43(d)(5).

No educational agency shall be eligible for assistance under the Act if, after June 23, 1973, it has had or maintained in effect any practice, policy, or procedure which results or has resulted in discrimination against children on the basis of race, color, or national origin, including but not limited to . . .

(5) Assigning students to ability groups, tracks, special education classes, classes for the mentally retarded, or other curricular or extracurricular activities on the basis of race, color, or national origin. Racially or ethnically identifiable groups, tracks, or classes which cannot be justified educationally under the criteria set out in paragraph (c) of this section shall be presumed to be assigned on the basis of race, color, or national origin.

(Public Law 92–318, Section 706(d)(1)(D)).

Section 45 CFR 185.43(c).

No educational agency shall be eligible for assistance under the Act if, after June 23, 1972, it has had or maintained in effect any procedure for the assignment of children to or within classes which results in any separation of minority group from nonminority group children for more than 25 percent of the school day classroom periods, in conjunction with desegregation or the conduct of any activity described in Section 706 of the Act. This paragraph shall not be construed to prohibit bona fide ability grouping as a standard pedagogical practice. Such grouping is that which is:

(1) Based upon nondiscriminatory, objective standards of measurement which are educationally relevant to the purposes of such grouping and which, in the case of national origin minority group children, do not essentially measure English language skills;

(2) Determined by the nondiscriminatory application of the standards described in subparagraph (1) of this paragraph, and maintained for only such portion of the school day classroom periods as is necessary to achieve the purposes of such grouping;

(3) Designed to meet the special needs of the students in each group determined by the application of the standards described in subparagraph (1) of this paragraph and to improve the academic performance and achievement of students determined to be in the less academically advanced groups, by means of specially developed curricula, specially trained or certified instructional personnel, and periodic retesting to determine academic progress and eligibility for promotion; and

(4) Validated by test scores or other reliable objective evidence indicating the educational benefits of such grouping.

(Public Law 92–318, Section 706(d)(1)(C)).

Section 45 CFR 185.43.

(e) Continuing conditions of eligibility. The limitations on eligibility set forth in this section shall be continuing conditions of eligibility during the entire period for which assistance is made available to an educational agency under the Act, and such agency's failure to comply with such conditions after the award of such assistance shall be grounds for termination of assistance and for such other sanctions as the Assistant Secretary may determine.

(Public Law 92–318, Section 706(d)(1)).

The information you provided during the pre-grant review by the Office for Civil Rights indicated racially isolated or identifiable classes only at Bertie Junior High School. Your June 7, 1973 telegram reported, "Bertie Junior High School . . . students will be assigned to classes or transferred horizontally within comparable groups to achieve a racial composition comparable to racial make-up of school population."

The review team reported racially identifiable and racially isolated classes at Colerain, West Colerain, South Aulander, Ethridge, Windsor, Bertie Junior High and Bertie Senior High, which are a result of ability grouping practices. Your Fall 1973 HEW Civil Rights Survey Report shows that ten of the 14 schools of your district, including all of the above-mentioned schools, use some form of ability grouping practices to assign students to classes. The review team reports that no evidence has been provided to support a position that any of the Bertie County grouping practices meet the requirements of bona fide ability grouping as defined in 185.43(c)(1–4).

The standard of measurement for grouping children varies to some extent from school to school and from subject to subject in your district. At South Aulander, Colerain, West Colerain, Ethridge, and to some extent at Windsor, Bertie Junior and Bertie Senior, the student's composite grade equivalent score on the previous year's standardized achievement test is the basis for grouping. It was also confirmed that teacher judgment was used to move students from groups at Colerain, West Colerain, Ethridge, Windsor, and Bertie Junior. There is no evidence that this composite grade equivalent score on a standardized achievement test is relevant for the purpose of grouping students for specific instruction such as mathematics. One of the four Ethridge kindergarten classes is racially isolated as a result of assignment based on teacher judgment. These are examples observed and reported by the Office for Civil Rights of how the standards of measurement used to group students in your district fail to meet the requirements of 185.43(c)(1).

Students at South Aulander, Ethridge, and West Colerain are grouped for all instruction rather than just for the periods of the school necessary to achieve the purposes of the grouping. Students at Colerain and Windsor are grouped for all language arts instruction based on the student's composite grade equivalent score on standardized achievement test.

The language arts sections at these schools involve spelling, English, and reading but the composite scores used to group these students include test sections in mathematics and other areas. The students at Bertie Junior are grouped for math and science based on their mathematics skill attainment. These are examples of the ways observed by the Office for Civil Rights that your grouping practices fail to meet the requirements of 185.43(c)(2).

The same materials were used for some levels of instruction at Colerain and West Colerain, with the top group progressing at a more rapid rate through the materials. The same mathematics materials and reading materials are used for the groups at Ethridge and Windsor, with the top groups acquiring a significantly greater number of essential skills in these areas prior to being assigned to the levels of instruction at Bertie Junior.

The faculties at South Aulander, Colerain, and West Colerain reported no special training for teaching ability grouped children. There is no supervisor of curricula and instruction who coordinates the instructional program. The students generally are tested with a standardized achievement test each year and the results are the basis for the next year's groups. There is no evidence that the curricula are designed to meet the special needs of the students, or that teachers are specially trained, or that periodic retesting is made to determine academic progress. This is required in 185.43(c)(3).

No evidence has been provided to indicate educational benefit to the students grouped in the current racially identifiable or racially isolated classes that is equal to or greater than the educational benefit of the students assigned to classes in a manner which does not tend to separate minority and majority group children. This is required by Section 185.43(c)(4).

Your letter of November 14, 1973 confirms that students were moved from one class to another because of their race, with racially isolated classes resulting at both Colerain and West Colerain. These student reassignments violate the provisions of 185.43(c) and (d)(5).

During the pre-grant review, the Office for Civil Rights found that your EMR program significantly over-includes minority group students. In addition, these students at that time had been placed in the EMR program without the benefit of a psychological exam. You assured in your June 7, 1973 telegram that efforts were being undertaken to provide psychological services for each EMR student prior to January 1, 1974.

The Office for Civil Rights review report confirmed that few EMR students had received a psychological exam. They found EMR students placed in racially isolated or identifiable classes (separated from their peers) for one-third to one-half of the total school day at several of your elementary schools. Other schools, including the secondary schools, were using resource EMR classes. The class rolls of these teachers were not checked to determine if students are actually assigned to the resource class for more than one-fourth of the school day.

The placement of students in racially isolated or racially identifiable EMR classes for one-fourth or more of the school day without the benefit of a full psychological, and without meeting the other requirements of Section 185.43(c)(1–4) of the ESAA regulations constitutes a failure to meet the provisions of Section 185.43(e).

Another limitation on eligibility contained in the ESAA regulations concerns nondiscriminatory faculty assignment. Section 45 CFR 185.43(b)(2) states:

(2) No educational agency shall be eligible for assistance under the Act if, after June 23, 1972, it has had or maintained in effect any other practice, policy, or procedure which resulted in discrimination on the basis of race, color or national origin in the recruiting, hiring, promotion, payment, demotion, dismissal, or assignment of any of its employees (or other personnel for which such agency has any administrative responsibility), including the assignment of full-time classroom teachers to the schools of such schools as intended for students of a particular race, color, or national origin.

Your court order provides, "Teachers shall be assigned without regard to race." The review team reports that racially identifiable faculties continue at the secondary schools, as well as the Askewville and Roxobel-Kelford Elementary Schools. Prior to 1964, all faculties were one race faculties with each faculty reflecting the race of the student body.

When the two racially separate high schools with identical grade structures and approximately the same number of teachers, were reorganized for student assignment for the 1968–69 school year, the formerly minority group students school (Bertie Junior) had a faculty of 43 teachers, 28 (65%) of whom were minority; and the formerly majority group student school (Bertie Senior) had a faculty of 51 teachers, 20 (39%) of whom were minority. The principal at Bertie Junior has always been black, and the principal at Bertie Senior has always been white. For the current term, you report a faculty of 51 at Bertie Junior, 34 (67%) of whom are minority group teachers; and a faculty of 60 at Bertie Senior, 22 (37%) of whom are minority group teachers. This year the district employed 17 new secondary teachers, eight of whom were minority.

Similarily, Askewville formerly was an all majority group student school, and Roxobel-Kelford was an all minority group student school. There is no evidence that special training or certificates other than normal elementary certification are required before a teacher may teach in any of the district's elementary centers. The Askewville School which has seven percent minority group student population is the only school in your district with less than 60 percent minority group enrollment. The faculty at Askewville has never exceeded the current one minority group teacher. The six teacher faculty at Roxobel-Kelford (a school with 87 percent minority group students) has one majority group teacher this term. Review of records for 1972–73 and 1971–72 revealed that during these years even though the size of the faculty fluctuated from five to nine, only one majority group teacher was assigned to Roxobel-Kelford.

The obligation upon the local school district to eliminate the racially identifiable faculties by assignment and/or reassignment of faculty was defined in the *Singleton vs. Jackson Municipal Separate School District* case (419F. 2nd. 1211). This program regulation is based on the requirement as defined in that case.

Under Section 185.44(d)(3), the regulations provide that districts with no specific plan for assignment of faculty may correct discriminatory practices by assigning full-time classroom teachers to each school so that the proportion of minority group teachers at every school is between 75 per centum and 125 per centum of the proportion of the total district full-time classroom minoriy group teachers.

In order to establish your eligibility for continued assistance under the Act, your district must provide by no later than January 22, 1974:

1. Evidence (including the number of pupils by race to be assigned to each teacher for each period in each school) that current grouping practices and procedures will be revised by no later than the beginning of the second semester, with all classes reorganized in accordance with the plan which established your eligibility for ESAA funds, so that no class is racially isolated or racially identifiable for more than one-fourth of the school day. In addition, outline any programs of compensatory education for students who have been assigned to lower or slower classes or tracks.

2. Evidence (including the number of classroom teachers by race assigned to each school) that action has been or will be taken to eliminate the racial identifiability of all school faculties by the beginning of the second semester.

3. Evidence that all students currently placed in the district EMR program have had a full psychological or the date such an evaluation is scheduled. Also, outline the program of compensatory education that is or will be provided for any student who previously was improperly placed in the EMR program.

We appreciate your cooperation. If you need further assistance, please contact Mr. W. Lamar Clements, Chief, Elementary and Secondary Education Branch, Office for Civil Rights. He may be reached by phone at Area Code (404) 526–3307.

Sincerely yours,

Cecil L. Yarbrough,
Acting Regional Commissioner, Office of Education.

Department of Health,
Education, and Welfare,
Atlanta, Ga., March 27, 1974.

Re: ESSA application 503 TB.

Mr. George Stancil,
Superintendent, Gates County Board of Education, Gatesville, N.C.

Dear Mr. Stancil: We have received your district's application for assistance under the Emergency School Aid Act (ESAA) and it has been reviewed to determine the district's eligibility under the Act and implementing regulations.

We have determined that your district does not meet the eligibility requirements of the Act and the regulations for the reasons described below.

1. Assignment of Students to Classes. (45 CFR 185.43(d)(5) and 185.43(c) of the regulations; Sections 706(d)(1)(c) and (D) of the Act). The information contained in your district's application and in your subsequent letter of March 13, 1974 to the Office for Civil Rights above the following:

a. All schools in your district have racially identifiable clases for more than 25% of the day.

b. In the elementary schools and Central Junior High School, assignment to classes is based on Stanford Achievement Test scores in arithmetic and language arts. Students are ranked from high to low and the classes are formed in equal numbers homogenously from high to low.

c. The result of this achievement grouping practices is an over-inclusion of whites in the high groups and an over-inclusion of blacks in the lower groups, resulting in racially identifiable classes in language arts, math, social studies and other required courses.

d. High school classes are designed for categories of achievement ranging from "fair" through "below average" and "average" to "above average". This scheme is applied not only to required courses but also to elective courses such as speech and drama, French, algebra, general math, home economics, bricklaying and mechanical drawing. Racially identifiable classes are found to over-include white students in upper (above average) classes and over-include black students in the lower classes.

e. While your letter suggests that class assignment at the high school is due to student choice, the student handbook makes no mention of achievement oriented classes with the exception of advanced English and advanced biology classes.

f. Your district did not provide objective evidence indicating the benefits of the student assignment policy utilized in your schools.

g. The current student assignment practice (homogeneous grouping by achievement test scores and teacher judgment) was initiated by the school board within a month after desegregation at the Junior High School due to dissatisfaction of white parents with the then heterogeneous class structures. It was instituted at the elementary schools the following year. Initial implementation of this district policy was thus not brought about by academic considerations.

h. Students in your program for gifted and talented students in the seventh, eighth, and ninth grade language arts classes are evidently part of the grouping procedure, in that they are placed on the same basis as other groups, i.e., S.A.T. test scores alone. There are no written placement policies or placement committee as required by the N. C. State Department of Public Instruction regulations for Gifted and Talented Children.

2. Special Education Classes. (45 CFR 185.43(d)(5) and 185.43(c) of the regulations Sections 706(d)(1)(c) and (D) of the Act)).

a. Your special education program for the mentally retarded is racially identifiable in that while 65% of your total student enrollment is black, 95% of the students in this program are black (115 out of 122 total students).

b. There are no fully certified special education teachers serving the 122 FMR and TMR students, although all the teachers are studying toward certification.

c. Only 13 black and 2 white students have been administered either the Stanford Binet or Weschler Intelligence scale, as required by the N. C. Department of Public Instruction. The other 107 have been placed on the basis of the Peabody Picture Vocabulary Test. The Otis Lennon Mental Ability Test, The Otis Lennon Quick Scoring Test and The Slossen Screening Test. These are screening tests, and are not capable of determining placement in a class for the mentally retarded, nor are they acceptable by the N.C. State Department of Public Instruction for such purposes. While you state that students who have been screened are then referred to the Mental Health Clinic for psychological evaluation, only 15 students have apparently been so referred.

d. At least 19 students were found to have been placed in EMR classes who scored over 75 on the mental ability test given them, in violation of your stated policy and that of the N.C. Department of Public Instruction.

e. State Department of Instruction regulations require that TMR students have I.Q. scores ranging from 30 to 50. In the TMR class at Central Junior High, however, out of 11 black and one white students, 8 scored over 50 and two scored below 30.

f. Thirty-four students (32 black and 2 white) have not been retested in the past two years.

g. No hearing and vision screening or test of adaptive behavior is used in the process of determining placement in special education.

h. No evidence was offered which indicates the benefits of special education classes in your district.

i. The parental permission form used by the district makes reference only to the Exceptional Children Program" without further description. This inadequately describes the program for which parental permission is being granted.

j. In short the Gates County School District has a special education program including 115 black and seven white students classified as mentally retarded and 16 black and 45 white students classified as gifted. None of these students have been reliably evaluated for such placement, either in terms of ESAA regulations or those of the N.C. Department of Public Instruction. None of the teachers of these special classes are fully certified to teach the classes.

3. Administration of Discipline (45 CFR 185.43(d)(4) of the regulation; Section 706 (d)(1) of the Act))

a. At Central Junior High School and Gates County High School black students as a whole were suspended for longer periods of time than were white students during 1972–73 and the beginning of the 1973–74 school year. At the junior high school, for example, the most common punishment was three days suspension. Thirty (58%) of the 52 three day suspensions were administered to black students. On the other hand, for suspensions of 5 and 10 days, 27 (82%) of 33 such suspensions were administered to black students. In another example, 14 (78%) of the 18 suspensions for fighting were administered to black students; and while six black students received five and 10 day suspensions for fighting, none of the white students received more than three days suspension for fighting.

At the high school, during 1972–73, two white students were suspended 3 days each for coming to school "under influence." Two black students were expelled for "passed out from drinking." None of these had a record of previous offenses. During 1972–73 and 1st semester 1973, all while others suspended (13) were for "leaving school without permission" except the two mentioned above and one who used "obscene language". The 27 black students suspended or expelled during this period, were also disciplined for fighting, misbehavior, stealing and skipping classes, categories for which no white students were suspended.

b. The district has no written policy concerning disciplinary sanctions.

Because of the above practice, your district is ineligible for assistance under ESAA. Your district may apply to the Secretary of Health, Education and Welfare for a waiver of ineligibility following the procedures outlined under Section 185,44(a) and (f)(3) of the program regulations. Such an application for waiver should be mailed to Mr. Peter E. Holmes, Director, Office for Civil Rights, Office of the Secretary, Department of Health, Education and Welfare, 330 Independence Avenue, S. W., Washington D.C. 20201.

Information submitted with your application for waiver must include such information and assurances as will insure that any practice, policy, procedure or other activity resulting in ineligibility has ceased to exist or occur, and such provisions as are necessary to insure that such practice, policy, procedure or activity will not reoccur after the submission of such application. Specifically, you must include:

1. Special Education:

a. Evidence that your district has completely eliminated the special education classes and reassigned students to the regular curriculum on a non-discriminatory basis and that students so reassigned are being provided such compensatory educational assistance as is necessary to enable them to compete successfully in the regular classroom and to overcome the effect of any past discriminatory assignment, or

b. Evidence that such student currently assigned to special education classes has already been retested; reevaluated and reassigned to classes which satisfy the requirements of Section 185.43(c) of the program regulations.

Should you choose the second alternative, include the racial composition and duration of each class to which any student is reassigned or remains assigned; the standards used for each child in re-evaluation and reassignment (including hearing, vision and other medical assessment, measurement or adaptive behavior, any intelligence test administered, the effect of previous placement in a special education class, and the specific recommendation of a placement committee), the race and qualifications of persons who conducted the re-evaluations; a description of the specialized curicula for, and the special training of teachers of any special education classes to which students are assigned, a description of the compensatory or remedial assistance to be provided to any students not reassigned to special education classes; and specific plans for the regular re-evaluation of children in special education classes.

2. Student Assignment to Racially Identifiable Groups;

a. Evidence that the class grouping patterns resulting from your district's past assignment practices have been completely eliminated and the students so assigned have been reassigned to classes on a non-discriminatory basis, or;

b. Evidence that students not assigned have been re-tested, re-evaluated and reassigned to groups which satisfy the requirements of Section 185.43(c) of the program regulations.

3. Disciplinary Sanctions. The district must provide an assurance that:

a. In the future, disciplinary sanctions will be administered in Gates County on a non-discriminatory basis, and;

b. Before the beginning of the 1974–75 school year, the Gates County School District will have developed uniform discipline policies for its schools, including, at least: a list of rules of conduct with violations of such rules defines; criteria for determining when a rule has been violated; the specific punishment provided for such violation, including the administration of progressively severe measures of punishment for reported offenses; and provision for due process in appealing disciplinary sanctions. Copies of the discipline policies must be distributed to students, teachers and parents.

If you have any questions regarding this letter, please call Mr. W. Lamar Clements, Elementary and Secondary Education Branch Chief, Office for Civil Rights, Atlanta, Ga., at (404) 526-3307.

Sincerely yours,

CECIL L. YARBROUGH,
Acting Regional Commissioner.

Mr. HELMS. Mr. President, in this instance, school officials assigned students to a class based upon their reading performance, teacher's recommendation, and their score on an achievement test. The students were assigned on the basis of objective criteria and the judgment of professional educators, and the bureaucratic response was to invite the school officials to prove that "educational success in social studies is related to or dependent upon English language skills."

Now, I am not a professional educator, but in my view, it is too obvious to need citation that as long as schoolbooks continue to be printed in the English language, educational success in various courses will be related to a student's proficiency in that language. To ask a school superintendent to prove such a proposition is outrageous. It is harassment, plain and simple. It is destructive of the primary goals of public education, and it is counterproductive to meeting of the needs of the students.

Mr. President, there is a second reason that I am proposing this amendment. All educators with whom I have talked—and they are many—have uanimously agreed that it is desirable to group students according to their proficiency, or lack of proficiency, in certain educational skills. This is considered to be desirable because it enables teachers to be more responsive to the needs of the students. For example, suppose that in the ninth grade in a given school there are a number of students with a reading deficiency. Under the skills-grouping concept, these students could be placed in one class for a certain period of the day, and a teacher could provide instruction designed to remedy this deficiency. Such remedial classes have been widely advocated among educators.

However, if perchance it should happen that such a remedial class contained a disproportionate share of a minority race as compared with the racial balance in the community served by the school, the Department of Health, Education, and Welfare may very likely conclude that racial discrimination exists, and therefore, HEW may withhold assistance funds from the school system. Not only can this happen; it does happen, as evidenced by the letters that I have inserted in the RECORD. HEW bases its determination upon statistical data. Cold, hard numbers. HEW does not consider whether valid reasons exist for a disproportionately large number of a minority race being placed in a remedial class. Rather, HEW presumes that such statistics are prima facie evidence of discrimination and places the burden upon the school superintendent to rebut the presumption of discrimination. A superintendent in a rural county with limited funds has neither the staff nor the time to engage in such needless combat with an overpowering Federal bureaucracy.

The real tragedy of the situation then emerges. The school officials either redistribute the students in the various classes so that the required racial balance is achieved, or they simply give up trying to obtain assistance funds. In either event, the students are the losers, because on the one hand they are denied the remedial help they need, or on the other hand, their school is denied the assistance funds it needs to help them. Thus, the Department of Health, Education, and Welfare is operating in a manner that is counterproductive to the needs of the children of America. It is denying the benefit of assistance programs to the students who are said to need them most.

Under this amendment, if a school system is already operating under a court-ordered desegregation plan, HEW would no longer have the authority to withhold assistance funds based upon a determination that a school system is operating in a racially discriminatory manner. By approving this amendment, the Senate will be taking a constructive step toward saving our school children from the whims of overzealous bureaucrats. The Senate will be placing such a determination of discrimination in the hands of the courts where it more properly belongs.

The PRESIDING OFFICER (Mr. ABOUREZK). Under the previous order, the Senator from North Carolina (Mr. HELMS) is recognized to offer his amendment.

Mr. HELMS. Mr. President, I call up amendment No. 1290, and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The ASSISTANT LEGISLATIVE CLERK. The Senator from North Carolina (Mr. HELMS) offers an amendment numbered 1290.

Mr. JAVITS. Mr. President, I ask that the clerk read the amendment. There is no debate allowed.

The assistant legislative clerk read as follows:

On page 387, between lines 14 and 15, insert the following new section:

"LIMITATION ON THE WITHHOLDING OF FUNDS

"SEC. 806. Notwithstanding any other provision of law, no officer or employee of the Department of Health, Education, and Welfare administering any federally assisted program may withhold funds from any State educational agency, local educational agency, or institution of higher education, as the same are defined in section 801 of the Elementary and Secondary Education Act of 1965, or any other educational institution, based upon a determination that such agency or institution is operating any such program in a discriminatory manner with regard to race, color, or national origin, if such agency, or institution is operating under a desegregation plan ordered by any court of the United States.".

On page 387, line 17, strike out "SEC. 806." and insert in lieu thereof "SEC. 807.".

On page 124, in the table of contents, redesignate item "Sec. 806." as "Sec 807." and insert immediately after item "Sec. 805." the following:

"Sec. 806. Limitation on the withholding of funds.".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. HELMS. I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 1290) of the Senator from North Carolina (Mr. HELMS). On this question, the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Hawaii (Mr. INOUYE), are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH), is absent on official business.

I further announce that, if present and voting, the Senator from South Carolina (Mr. HOLLINGS), would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), and the Senator from Utah (Mr. BENNETT), are necessarily absent.

The result was announced—yeas 41, nays 52, as follows:

[No. 208 Leg.]

YEAS—41

Allen
Baker
Bartlett
Beall
Bentsen
Brock
Buckley
Byrd, Harry F., Jr.
Byrd, Robert C.
Chiles
Cook
Cotton
Curtis
Dole
Domenici
Dominick
Eastland
Ervin
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Hartke
Helms
Hruska
Huddleston
Johnston
Long
McClellan
McClure
Nunn
Roth
Scott, William L.
Sparkman
Stennis
Talmadge
Thurmond
Tower
Young

NAYS—52

Abourezk
Aiken
Bayh
Bible
Biden
Brooke
Burdick
Cannon
Case
Clark
Cranston
Eagleton
Hart
Haskell
Hatfield
Hathaway
Hughes
Humphrey
Jackson
Javits
Kennedy
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Symington
Taft
Tunney
Weicker
Williams

NOT VOTING—7

Bellmon
Bennett
Church
Fulbright
Gravel
Hollings
Inouye

So Mr. HELMS' amendment was rejected.

Mr. JAVITS. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. PELL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1325

The PRESIDING OFFICER (Mr. ABOUREZK). Under the previous order, the Senate will now proceed to consider Amendment No. 1325 of the Senator from New York (Mr. BUCKLEY), under which order there will be 6 hours for debate with 3 hours per side.

The amendment will be stated.

The assistant legislative clerk read as follows:

S. 1539

On page 126, line 1, strike out everything through page 130, line 24.

Beginning on page 154, line 21, strike out everything through page 383, line 23, and insert in lieu thereof the following:

"TITLE II—CONSOLIDATION OF STATE-ADMINISTERED EDUCATION PROGRAMS

"SEC. 201. This title may be cited as the 'Consolidated Educational Assistance Act'.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 202. There are authorized to be appropriated for each fiscal year ending prior to July 1, 1978, such sums as may be necessary for carrying out this title.

"ALLOTMENT AND USE OF APPROPRIATED FUNDS

"SEC. 203. (a) From the sums appropriated pursuant to section 3 for any fiscal year, the Secretary shall allot to each State an amount equal to 100 per centum of the average per pupil expenditure in the United States multiplied by the number of children in average daily attendance in the public elementary or secondary schools of such State during such year who resided on Federal property, which amount shall be available for any educational purpose.

"(b) From the remainder of such sums, the Secretary shall allot to each State an amount which bears the same ratio to such remainder as the sum of the products determined under paragraphs (1) and (2) of this subsection with respect to such State bears to the total of the sums of such products with respect to all States. Such products for any state shall be—

"(1) 0.6 multiplied by the number of children in average daily attendance in the public elementary or secondary schools of such State during such fiscal year who (A) resided on other than Federal property with a parent employed on Federal property, or (B) had a parent on active duty in the uniformed services (as defined in section 101 of title 37, United States Code); and

"(2) 0.1 multiplied by the number of children aged 5 to 17, inclusive, in the State.

"(C) (1) That portion of each State's allotment derived from application of the provisions of paragraph (1) of subsection (b) shall be available for any educational activity.

"(2) Except as provided in section 205—

"(A) one-sixth of that portion of each State's allotment derived from application of the provisions of paragraph (2) of subsection (b) shall be available only for programs and projects at the preschool or any other educational level designed to meet the special educational needs of handicapped children;

"(B) one-third of that portion of each State's allotment derived from application of the provisions of paragraph (2) of subsection (b) shall be available only for vocational education activities; and

"(C) one-half of that portion of each State's allotment derived from application of the provisions of paragraph (2) of subsection (b) shall be available only for supporting materials and services.

"(d) Programs, projects, or activities assisted under this Act may include construction.

"(e) In the event that any State is not eligible to receive funds under this title for any fiscal year, or notifies the Secretary that it does not desire to receive such funds, the allotment of such State for such fiscal year derived from any provision of subsection (b) shall be available for reallotment from time to time, on such date or dates during such year as the Secretary may fix, to other States in proportion to the original amount of the allotment to such other States which was derived from any such provision for that year. Any amount for a fiscal year so reallotted to a State under this subsection shall be deemed part of its allotment derived from the same provision of subsection (b) for such year.

"(f) The amounts appropriated and allocated pursuant to this Act shall be paid to the States at such intervals and in such installments as the Secretary may determine, taking account of the objective that the time elapsing between the transfer of funds from the United States Treasury and the disbursement thereof by States shall be minimized.

"(g) For purposes of this title, the Secretary shall determine average daily attendance, average per pupil expenditure, and numbers of children, and in doing so he shall use the most recent satisfactory data available to him, referrable with respect to data used for each purpose to the same time period for all jurisdictions. All determinations and computations by the Secretary under this section shall be final and conclusive.

"DISTRIBUTION OF FUNDS WITHIN EACH STATE

"SEC. 204. (a) Each State shall pay to each of its local educational agencies for a fiscal year an amount equal to the sum allotted to such State pursuant to section 203(a) for such year on account of the number of children in average daily attendance who resided on Federal property in the school district of such agency.

"(b) The remainder of each State's allotment shall be available—

"(1) for use, in accordance with the provisions of sections 203 and 205 and the plan developed pursuant to section 207(b), by the State agency designated pursuant to section 207(a); and

"(2) for distribution, for use by them in accordance with the provisions of sections 204 and 206 and such plan, among the local educational agencies of such State on a basis reflecting the relative needs of each of such agencies for the types of assistance for which appropriations under this title are available;

except that not more than 30 per centum of such allotment derived from application of the provisions of section 203(b)(1), relating to the presence within the State of children with a parent employed on Federal property or with a parent on active duty in the uniformed services, may be paid to local educational agencies not having any of such children in average daily attendance in their schools.

"TRANSFERS AMONG PURPOSES

"SEC. 205. (a) Thirty per centum of that portion of each State's allotment which is available for the purposes described in clause (A), (B), or (C) of section 203(c)(2) may be made available for any of the other purposes described in section 203(c).

"(b) The 30 per centum limitations in subsection (a) may be exceeded if the State demonstrates to the satisfaction of the Secretary that such action will achieve more effectively the purposes of this title.

"PARTICIPATION OF NONPUBLIC SCHOOL CHILDREN

"SEC. 206. (a) The State agency designated pursuant to section 207(a) shall provide that—

"(1) except as provided in subsection (b), children enrolled in nonprofit private elementary or secondary schools, will be given an opportunity to participate, on an equitable basis, in activities for which funds are made available under clause (A), (B), or (C) of paragraph (2) of section 203(c); and

"(2) title to and control of funds received under this title and other property derived therefrom will remain in one or more public agencies.

"(b) If the Secretary determines that provisions of State law prevent any State agency designated pursuant to section 207(a) from complying with subsection (a), the Secretary shall, if he finds that the State is otherwise eligible to participate in the program under this title, permit such State to participate, but in such case he shall—

"(1) arrange, by contract or otherwise, for children enrolled in the nonprofit private elementary or secondary schools within such State to receive, on an equitable basis, services similar to those provided from the funds made available under clause (A), (B), or (C) of paragraph (2) of section 203(c) to public school children within such State; and

"(2) pay the cost thereof out of that portion of the allotment to such State for carrying out each such paragraph or clause.

"STATE ADMINISTRATION

"SEC. 207. (a) The chief executive officer of each State which desires to participate in the program under this title shall designate a State agency which shall be the single State agency for administration (or supervision of the administration) of such program in such State, except that this requirement may be waived in accordance with the provisions of section 204 of the Intergovernmental Corporation Act of 1968 (42 U.S.C. 4214).

"(b) The State agency designated pursuant to subsection (a) shall, for each fiscal year, develop and publish a plan for the distribution and expenditure of funds available therefore under section 204(c). Such plan shall be developed after consultation with the advisory council appointed pursuant to section 208, shall not finally be adopted by such State agency until a reasonable opportunity has been given to interested persons for comment thereon, and shall be made available to the Secretary.

"(c) In administering the program under this title, the State shall comply with the provisions of this title and with regulations prescribed by the Secretary pursuant thereto.

"STATE ADVISORY COUNCIL

"SEC. 208. (a) The chief executive officer of each State which desires to participate in the program under this title shall appoint an advisory council which shall be broadly representative of the education community in the State and of the public, including at least one person representative of the public elementary or secondary schools of the State; at least one person representative of the nonprofit private elementary or secondary schools of the State; at least five parents of school age children in the State who will be affected by the activities authorized under section 203; and at least one person who has special competence in each of the educational areas described in sections 203(c)(2)(A) and 203(c)(2)(B).

"(b) The State advisory council shall—

"(1) advise the State agency designated pursuant to section 207(a) on the preparation of, and on matters of general policy arising in the administration of, the plan developed under section 207(b);

"(2) evaluate activities assisted under this title;

"(3) advise State or local officials who have responsibility for carrying out activities assisted under this title with respect to the planning, evaluation, administration, and assessment of such activities; and

"(4) prepare and submit to the Secretary not less often than annually a report of its activities, recommendations, and evaluations, together with such comments thereon as the State agency designated pursuant to section 207(a) and the chief executive officer of the State deem appropriate.

"TREATMENT OF FEDERALLY CONNECTED CHILDREN

"SEC. 209. The State agency designated pursuant to section 207(a) shall provide that children attending school within the State who reside with a parent on Federal property, who reside with a parent employed on Federal property, or have a parent who is a member of the uniformed services will receive public elementary or secondary education on a basis comparable to that provided to other children in the State.

"DEFINITIONS

SEC. 210. For purposes of this title—

"(1) the term 'adult education' means services or instruction below the college level for individuals (A) who have attained the age of 16, (B) who do not have a certificate of graduation from a school providing secondary education and who have not achieved an equivalent level of education, (C) who are not currently required to be enrolled in schools;

"(2) the term 'average per pupil expenditure in the United States' means the aggregate current expenditures of all local educational agencies in the United States for any fiscal year, plus any direct current expenditures by the States in which such agencies are located for the operation of such agencies during such year (without regard to the sources of funds from which either of such expenditures is made), divided by the aggregate number of children in average daily attendance to whom such agencies provided public education during such year;

"(3) the term 'construction' means the erection, acquisition, alteration, remodeling, or improvement of facilities, including the acquisition of land necessary therefor, and the cost of construction includes the cost of architect's fees;

"(4) the term 'current expenditures' means expenditures for public education, but not including expenditures for community services, capital outlay, and debt services, or any expenditures made from funds allotted under this Act;

"(5) the term 'elementary school' means a day or residential school which provides elementary education, as determined under State law;

"(6) the term 'Federal property' means real property which is owned by the United States or is leased by the United States, and which is not subject to taxation by any State or any political subdivision of a State or by the District of Columbia. Such term includes (A) real property held in trust by the United States for individual Indians or Indian tribes, and real property held by individual Indians or tribes which is subject to restrictions on alienation imposed by the United States, (B) for one year beyond the end of the fiscal year in which occurred the sale or transfer thereof by the United States, any property considered prior to such sale or transfer to be Federal property for the purposes of this title, and (C) any school which is providing flight training to members of the Air Force under contractual arrangements with the Department of the Air Force at an airport which is owned by a State or political subdivision of a State. Such term also includes any interest in Federal property (as defined in the foregoing provisions of this paragraph) under an easement, lease, license, permit, or other arrangement, as well as any improvements of any nature (other than pipelines or utility lines) on such property even though such interests or improvements are subject to taxation by a State or political subdivision of a State or by the District of Columbia. Notwithstanding the foregoing provisions of this paragraph, such term does not include (D) any real property used for a labor suppy center, labor home, or labor camp for migratory farmworkers, (E) any real property under the jurisdiction of the United States Postal Service and used primarily for the provision of postal services, or (F) any low-rent housing project held under title II of the National Industrial Recovery Act, the Emergency Relief Appropriation Act of 1935, the United States Housing Act of 1937, the Act of June 28, 1940 (Public Law 871 of the Seventy-sixth Congress), or any law amendatory of or supplementary to any of such Acts;

"(7) the term 'handicapped children' means mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special educational services;

"(8) the term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school;

"(9) the term 'nonprofit', as applied to a school, means a school owned and operated by one or more nonprofit corporations or associations no part of net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual;

"(10) the term 'secondary school' means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12;

"(11) the term 'Secretary' means the Secretary of Health, Education, and Welfare;

"(12) the term 'State' includes, in addition to the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands;

"(13) the term 'supporting materials and services' means such materials and services as the purchase of school textbooks, library resources, and educational equipment; the provision of supplementary educational centers and services, of school pupil personnel services, of adult education, and of school meals; the training or retraining of teachers, teacher aides, and other school personnel; the strengthening of State or local educational agency capabilities and of educational planning at the State or local level; the support of the advisory council appointed under section 208; and the administration at the State level of the program carried out under this Act; and

"(14) the term 'vocational education' includes vocational or technical training or retraining (including field or laboratory work and remedial or related academic and technical instruction incident thereto and work-study programs for students who need the earnings from work in order to commence or continue their education) conducted as part of a program designed to prepare individuals for gainful employment as semiskilled or skilled workers or technicians or subprofessionals in recognized occupations and in new and emerging occupations or to prepare individuals for enrollment in advanced technical education programs, but excluding any program to prepare individuals for employment in occupations generally considered professional or which require a baccalaureate or higher degree; and such term also includes vocational guidance and counseling in connection with such training or for the purpose of facilitating occupational choices; instruction related to the occupation or occupations for which the students are in training or instruction necessary for students to benefit from such training; job placement; and the training of persons engaged as, or preparing to become, teachers in a vocational education program or teachers, supervisors, or directors of such teachers.

"REPEAL OF PROGRAMS REPLACED BY THIS TITLE

"SEC. 211. (a) Effective with respect to appropriations for fiscal years beginning after June 30, 1974, the following statutes and parts of statutes are repealed:

"(1) title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 821–827);

"(2) title III of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 841–848);

"(3) title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 861–870);

"(4) part B of the Education of the Handicapped Act (20 U.S.C. 871–877);

"(5) the Smith-Hughes Act (20 U.S.C. 11–15, 16–28);

"(6) sections 3 and 4 and 7 of Public Law 81–874 (20 U.S.C. 238–239);

"(7) Public Law 81–815 (20 U.S.C. 631–647);

"(8) title III of the National Defense Education Act of 1958 (20 U.S.C. 441–455);

"(9) subpart 2 of part B of title V of the Higher Education Act of 1965 (20 U.S.C. 1108–1110c);

"(10) the Vocational Education Act of 1963 (20 U.S.C. 1241–1391); and

"(11) the Adult Education Act (20 U.S.C. 1201–1211a).

"TITLE III—SPECIAL PROJECTS

"SHORT TITLE

"SEC. 301. This title may be cited as the 'Special Projects Act'.

"PURPOSE

"S53. 302. It is the purpose of this title to provide financial assistance to the States to enable them to carry out special projects—

"(1) to experiment with new educational and administrative methods, techniques, and practices;

"(2) to meet special or unique education needs or problems; and

"(3) to place special emphasis on educational priorities of the State.

"AUTHORIZATION OF APPRORIATIONS

"SEC. 303. There are authorized to be appriated for the purpose of carrying out this title $1,700,000,000 for the fiscal year ending June 30, 1975, $1,800,000,000 for the fiscal year ending June 30, 1976, $1,900,000,000 for the fiscal year ending June 30, 1977, and $2,000,000,000 for the fiscal year ending June 30, 1978.

"ALLOTMENT OF FUNDS

"SEC. 304. (a) From the sums appropriated pursuant to section 303 for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to the total of such amounts as the number of children enrolled in the public and private elementary and secondary schools of that State bears to the total number of children so enrolled in such schools in all of the States.

"(b) There is hereby authorized to be appropriated for each fiscal year for the purposes of this subsection an amount equal to not more than 3 per centum of the amount appropriated for such year for payments to States under subsection (a). The Commissioner shall allot the amount appropriated pursuant to this subsection among the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this title. In addition, he shall allot from such amount to the Secretary of the Interior the amount necessary for such assistance for children and teachers in elementary and secondary schools operated for Indian children by the Department of the Interior. The terms upon which payments for such purpose shall be made to the Secretary of the Interior shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purpose of this title.

"(c) For the purposes of this section, the term "State" means the 50 States and the District of Columbia.

"USE OF FUNDS

"SEC. 305. The funds allotted to each State pursuant to section 304 may be used by such State for the purposes of this title set forth in section 302. Such purposes shall include the carrying out of programs and projects related to, but not necessarily limited to, any of the following:

"(1) education for the use of the metric system of measurement;
"(2) gifted and talented children;
"(3) community schools;
"(4) consumers education;
"(5) educational equity for women;
"(6) arts in education programs;
"(7) dropout prevention;
"(8) school nutrition and health services;
"(9) correction education services;
"(10) ethnic heritage studies;
"(11) reading improvement;
"(12) desegregation assistance;
"(13) drug abuse prevention;
"(14) bilingual education (including bilingual vocational education);
"(15) Indian education; and
"(16) education of the handicapped.

"REPEAL OF PROGRAMS REPLACED BY THIS ACT

"SEC. 306. Effective with respect to appropriations for fiscal years beginning after June 30, 1974, the following statutes and parts of statutes are repealed:

"(1) title VII of the Elementary and Secondary Education Act of 1965;
"(2) title VIII of the Elementary and Secondary Education Act of 1965;
"(3) the Drug Abuse Education Act of 1970;
"(4) the Cooperative Research Act;
"(5) the Emergency School Aid Act;
"(6) the Indian Education Act; and
"(7) parts A, C, D, E, F, and G of the Education of the Handicapped Act.".

Beginning on page 384, redesignate title VIII as title IV and renumber sections 801 through 806 as sections 401 through 406, respectively.

On page 384, line 15, delete everything after the comma, through and including the period in line 20, and insert in lieu thereof the following: "except in cases involving children whose parents have made an express, written, voluntary request for, or have given their written, voluntary consent to such transportation, or teachers who have made an express, written, voluntary request for, or have given their written, voluntary consent to such transportation."

At the end of the bill, add the following new title:

"TITLE IV—MISCELLANEOUS

"DISPOSITION OF ADMINISTRATIVE SAVINGS

"SEC. 401. (a) The amount of funds which, by reason of the enactment of this Act, are not required to be appropriated for salaries and expenses of the education division but which would have been required to be so appropriated had this Act not been enacted, is hereby authorized to be appropriated for the purpose of making grants to States for the purpose specified in subsection (c).

"(b) The funds appropriated for any fiscal year pursuant to subsection (a) shall be allotted by the Secretary to each State in an amount which bears the same ratio to the total of such sums as the number of children enrolled in the public and private elementary and secondary schools of that State bears to the total number of children so enrolled in such schools in all of the States. For the purpose of this section, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

"(c) Sums allotted to States in accordance with this section shall be available for any educational purpose.

"MINIMUM STATE ALLOTMENTS

"SEC. 402. The total amount of funds received by each State pursuant to titles II and III of this Act for any fiscal year shall in no case be less than the total amount of funds received by such State in the fiscal year ending June 30, 1974, under the statutes or parts of statutes repealed by those titles. The Secretary is authorized to modify any allocations required to be made pursuant to those titles as necessary to carry out this section.".

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for an inquiry?

Mr. BUCKLEY. I yield.

Mr. ROBERT C. BYRD. May I ask Senators whether or not it would be possible to shorten the time for debate on this substitute at this point, so that Senators may know what to expect for the rest of the afternoon?

Mr. BUCKLEY. Mr. President, it was the Senator from New York's understanding that the proponents of the bill were willing to reduce their time from 3 hours to 1.

Mr. JAVITS. Mr. President, the proponents of the bill—meaning the Senator from New York?

Mr. PELL. The proponents or the opponents?

Mr. BUCKLEY. The proponents of the bill; the opponents of the amendment.

Mr. JAVITS. That is different. We ought to have an hour and a half. We can get as much time as we need on the bill, but, in fairness to the Senate, we would like to keep the time reasonable. I suggest that they keep their 3 hours and we have an hour and a half.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that time on the substitute be limited to four and a half hours, rather than 6 hours, with 3 hours under the control of the movers of the amendment.

Mr. JAVITS. And an hour and a half to the opponents.

Mr. ROBERT C. BYRD. That is understood.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MONTOYA. Mr. President, with these amendments to the act, we reaffirm our commitment to the educational needs of the children of America. The Committee on Labor and Public Welfare has spent many long and difficult hours reexamining every part of the Federal law relating to elementary and secondary education programs and other related educational problems. The Education Amendments of 1974, S. 1539, is the result of that effort, and is now presented to us with the committee's approval. It deserves the full attention of every Member of this body, and I believe, our support.

I wish to address my remarks today to several urgently important sections of this bill.

I have spoken to the Senate many times concerning the need for educational equality for children who speak a language other than English. In 1967, we first attempted to provide Federal assistance to schools where minority-language children were, because of their culture and language differences, receiving less than a complete education. At that time we were looking at the specific needs of children who were educationally handicapped because of their inability to speak English, the language of the majority and the language in which classes were taught.

Since then we have become better educated ourselves—educated in facts about the amount and kind of need, the numbers of children involved, and the bilingual-bicultural education which would be most effective in solving the problems of these bicultural children.

We know, now, that there are millions of children who are being deprived of both academic and vocational education as a direct result of their special language problems.

The United States is the fifth largest Spanish-speaking nation in this hemisphere, and yet the Spanish-speaking children in this country are only now beginning to receive recognition as a cultural and linguistic group with distinct needs and special problems. The Census Bureau has now begun to provide statistics about the numbers, the economic problems, the educational limitations, and the sociological differences of this group, our second largest minority. These statistics, combined with reporting from schools, from local and State government groups, as well as from the Office of Education and the Civil Rights Commission, taught us that the problems of the bilingual-bicultural child will not solve themselves, will not go away, and instead grow steadily worse with each passing year.

We know, now, that there is a practical and valuable educational solution: bilingual and bicultural education, in which the child learns first in the language of his home, and then in English combined with his home language. When handled correctly this special kind of education produces young people who are truly bilingual, bicultural, and biliterate; they are able to read and write and function in two languages, and as a result have an increased ability to earn a living to become self-sufficient, and to share in the opportunities and advantages of their communities and their Nation. Research has been done, and is continuing, into the motivations for learning, into teacher preparation, into other educational resources which assist in teaching bilingually, and into the testing of bicultural children in order to evaluate educational success in these programs.

So, we know a great deal more than we did know 7 years ago, when we first began to look at this problem, about the need and the solution.

We know, too, that our most severe problem is no longer recognition, or acceptance of the idea of bilingual teaching and learning. Our most severe problem is providing the teachers and the textbooks for the numbers of classes which will have to be provided if we are to do the job. The hearings before the committee clearly show that educators recognize this as the most difficult problem facing them in this special educational area. The National Education Association reports that minority teachers are under-represented throughout our school systems—but that under-representation is most severe for the Spanish-speaking minority. With an average pupil/teacher ratio of 1 to 22 overall in the United States, the ratio is 1 to 107 for the Spanish speaking. In my own State of New Mexico it is 1 to 52. To correct that situation we would need more than 84,000 teachers from the Spanish-speaking minority groups. But even this, of course, would not provide the teachers who are specially trained to teach bilingually—that would require additional and specialized training which we are nowhere able to provide yet in sufficient amounts.

There is one more thing that we know, now, which we did not know when we first began to provide help to bilingual education programs throughout the country. That is perhaps the most important new knowledge, and the most difficult for us to assimilate: the Supreme Court ruling this year which said that schools must provide education in a language this child can understand. This decision may be as far-reaching as the 1954 decision which eliminated skin color as a barrier to equal opportunity in our schools. This decision said that a child whose language was different from that of the majority was still entitled to equal educational opportunity under our law—and that equality of opportunity meant being able to understand the teacher. So we know now, that the civil rights of these minority children are involved—and that we must assist the States to provide equality of education to these children. That will mean, in many States, radical changes in programs and policies and in funding.

This body of new knowledge about the problems of the bilingual and bicultural children in our schools has already resulted in efforts by local and State education agencies to change their laws and to increase their funding to provide better solutions. But we are nowhere close to being ready to serve the five to seven million children who should be receiving bilingual education. We are not yet beginning to prepare the teachers, texts, testing, counselors, and other educational material needed. We are not yet supporting the research, to any degree, which must be completed before we can go ahead.

For this reason Senators KENNEDY, CRANSTON, and I submitted the Bilingual Education Act amendments which have now been incorporated into S. 1539. This part of the Education Amendments of 1974 will increase the number and the quality of the demonstration projects which are supported with Federal moneys; will coordinate and upgrade these programs with other national educational programs; will provide teacher training and training for other bilingual education personnel, and will provide a thorough national survey of bilingual needs and programs so that our data will be sound and we progress along these pioneering educational avenues.

These amendments will provide the bare bones of Federal support for a national need which is now apparent and growing more severe and more important every day. I urge the support of my colleagues for this section of the bill.

There are two other parts of this legislation which relate to bilingual education and the problems of the Spanish-speaking minority. One of these is the provision for bilingual programs to be added to the Vocational Education Act. Of course, all of the information and knowledge which we have not acquired about bilingual education in primary and secondary schools applies with even more force and danger in vocational education. As young people learn to live and work in their own communities, it is essential that they learn both academically and vocationally—that is, it is essential that they be literate in both the language of the majority and in their own community language and culture. The coordination of bilingual programs in our vocational education programs is an essential part of the educational problems which face us today, and this bill addresses that problem with a beginning program in the vocational education amendment. I urge your support.

The third section of the amendments which I wish to comment on specifically, is section 522 of the amendments to the Higher Education Act.

In this section the Commissioner is authorized to waive 3 years of the required 5 years existence for a developing institution before it is eligible to receive assistance, in the case of institutions located in or near communities with large numbers of Spanish-speaking people. This requirement has handicapped many community and junior colleges which are developing to serve Spanish-speaking communities. The need for assistance to these new institutions is exemplified by the statistics given in my statement today concerning the underrepresentation of Spanish-speaking in the teaching profession. That same underrepresentation is present in many professions, in business, and in other career fields. However, the increasing demand by Spanish-speaking students for better schools and particularly for higher education facilities in or near their home communities, has resulted in the development of institutions in many States aimed at increasing postsecondary education opportunities for the Spanish-speaking student. These new and developing institutions are entitled to, and should receive, their fair share of assistance from Federal programs, and it is my hope that with the amendment proposed today the Commissioner will be able to see that these programs are distributed more equitably in the future. It will, of course, be important for Congress to oversee this new authority in order to insure full compliance by the Office of Education with the intent of this amendment.

In the past there has not been equal treatment for the Spanish-speaking students and schools under this program, and I believe it is essential that corrective action be taken quickly. The regulations will now make it easier for the Commissioner to provide equal opportunity to the Spanish-speaking minority. I had proposed an amendment which would have made this kind of waiver mandatory, but I am pleased that the committee has provided this modified version of my proposal.

There are, Mr. President, many other sections of this bill which I feel are important and which I believe it is essential we support. I have confined my remarks to these three areas because of the special concern which I have in providing increased equality of educational opportunity for the minority children whose language problems have compounded their other problems in the past.

As a national resource the dual language capability of our minority citizens should not be wasted. Our multicultural and multilingual heritage can be the basis for a renewed national unity and can help us to communicate better with one another and will the other peoples of the world. I believe that our educational goal should be the best possible education for every child and the corresponding vocational abilities which can begin to erase our welfare and poverty population statistics.

Continuing to improve our ability to provide for the full education of bicultural and bilingual children is essential, it seems to me. I especially urge the support of my colleagues for those parts of the Education Amendments of 1974 which address that problem.

SUBSTITUTION OF A CONFEREE

Mr. BAKER. Mr. President, will the Senator yield?

Mr. BUCKLEY. I yield.

Mr. BAKER. Mr. President, the Senate has appointed conferees on H.R. 14368. It has come to our attention that the distinguished junior Senator from New York (Mr. BUCKLEY) will not be able to be present for a conference on that bill.

I ask unanimous consent that Mr. STAFFORD be substituted in his place instead.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINING FORCES TO REPEAL PERCENTAGE DEPLETION

Mr. HUMPHREY. Mr. President, I am very pleased to observe that a powerful movement is developing in both Houses of Congress to repeal one of the most iniquitous loopholes of the present tax law—the percentage depletion allowance for oil and gas.

Yesterday the House Democratic caucus voted under the new House procedures to instruct the Rules Committee to permit floor consideration of an amendment sponsored by Representative GREEN of Pennsylvania to repeal percentage depletion as of the beginning of 1974, instead of drawing out its repeal over a 5-year period, as provided in the Energy

Tax Act of 1974 reported out by the Ways and Means Committee. This is a historic exercise of the new Democratic rules of the House, and it is undertaken for a good cause.

A corresponding move is gathering force in the Senate. Last week all Senators received a letter from seven of their colleagues, including myself, urging support for the Kennedy-Mondale tax reduction proposal in conjunction with a package of revenue-raising tax reforms, including the repeal of percentage depletion. This package is to be offered as an amendment to H.R. 8217, which should reach the floor soon. And yesterday Senator Ribicoff and Senator Magnuson introduced a virtually identical amendment to the same bill on the Senate floor.

This amendment is identical also to the version under consideration in the House.

Today I wish to announce that the eight cosponsors of the tax reduction-tax reform amendments announced last week wish to associate themselves with the Ribicoff-Magnuson amendment as cosponsors. The eight Senators involved are Senators Bayh, Clark, Hart, Kennedy, Mondale, Muskie, Metzenbaum, and myself. We invite other Members of the Senate to join us also. I ask unanimous consent that the names of these eight Senators be added as cosponsors of the Ribicoff-Magnuson amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. I am very pleased that so many of my influential colleagues are joining forces behind this urgent reform. Repeal of percentage depletion is the first and most obvious step needed to restore equity to our tax system and also to restrain the extraordinary profits garnered by the petroleum industry in the wake of the worldwide energy shortage and the fantastic increases in oil prices.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had passed the bill (S. 3398) to amend title 38, United States Code, to provide a 10-year delimiting period for the pursuit of educational programs by veterans, wives, and widows, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 14368) to provide for means of dealing with energy shortages by requiring reports with respect to energy resources, by providing for temporary suspension of certain air pollution requirements, by providing for coal conversion, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. Staggers, Mr. Macdonald, Mr. Moss, Mr. Dingell, Mr. Devine, Mr. Broyhill of North Carolina, and Mr. Hastings were appointed managers on the part of the House at the conference.

The message further announced that the House had passed a bill (H.R. 12000) to enable egg producers to establish, finance, and carry out a coordinated program of research, producer and consumer education, and promotion to improved, maintain, and develop markets for eggs, egg products, spent fowl, and products of spent fowl, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills:

S. 3062. An act entitled the "Disaster Relief Act Amendments of 1974"; and

H.R. 5621. An act to amend title 10, United States Code, to provide for the presentation of a flag of the United States for deceased members of the Ready Reserve and for deceased members of the Reserve who die after completing 20 years of service, but before becoming entitled to retired pay.

The enrolled bills were subsequently signed by the Vice President.

The message informed the Senate that, pursuant to the provisions of section 1, Public Law 86–420, the Speaker had appointed Mr. Derwinski as a member of the U.S. Delegation of the Mexico-United States Interparliamentary Group, vice Mr. Broomfield, resigned.

HOUSE BILL REFERRED

The bill (H.R. 12000) to enable egg producers to establish, finance, and carry out a coordinated program of research, producer, and consumer education, and promotion to improve, maintain, and develop markets for eggs, egg products, spent fowl, and products of spent fowl, was read twice by its title and referred to the Committee on Agriculture and Forestry.

EDUCATION AMENDMENTS OF 1974

The Senate continued with the consideration of the bill (S. 1539) to amend and extend certain acts, relating to elementary and secondary education programs and for other purposes.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. BUCKLEY. I yield.

Mr. McCLURE. Mr. President, I ask unanimous consent that James Streeter, a member of my staff, have the privilege of the floor during all stages of the proceedings on this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The junior Senator from New York has the floor.

Mr. JAVITS. Mr. President, will the Senator yield for a question on his substitute?

Mr. BUCKLEY. I yield.

Mr. JAVITS. We understood that the Senator was going to conform such provisions of the substitute as related to the issues which have just been considered and disposed of.

Mr. BUCKLEY. That I shall do.

Mr. JAVITS. To the Senate's final act.

Mr. BUCKLEY. That is correct.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. BUCKLEY. I yield.

Mr. DOLE. Mr. President, I ask unanimous consent that Ken Benjamin, a member of my staff, have the privilege of the floor during the consideration of this and other amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. BUCKLEY. I yield.

Mr. CRANSTON. Mr. President, I ask unanimous consent that John Steinberg, a member of my staff, may have the privilege of the floor during the consideration of this amendment and amendments I will call up this afternoon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. BUCKLEY. I yield.

Mr. JOHNSTON. Mr. President, I thank the Senator from New York for yielding to me so that I may call up a noncontroversial amendment that has been agreed to by both sides.

I ask unanimous consent that it be in order that I call up an amendment at this time, without the Senator from New York losing his right to the floor under the previous unanimous-consent agreement.

Mr. JAVITS. Mr. President, reserving the right to object—and I shall not object—will the Senator identify the amendment?

Mr. JOHNSTON. This is the amendment relating to the adult education program, which we previously discussed.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

What is the number of the amendment?

Mr. JOHNSTON. It is an unprinted amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 220, line 21, insert the following: after "1978,"

Provided, That grants to each State for this program shall not be less than grants made to such State agencies in fiscal year 1973.

Mr. JOHNSTON. Mr. President, today I offer a very important amendment to the adult education provisions of the Elementary and Secondary Education Act Amendments of 1974 that the Congress is now considering. This amendment will insure that the basic purpose of the adult education program, a most vital program to our country, will be realized. The major emphasis on this program in the past has been toward overcoming the illiteracy of our adult aged population and in focusing in on areas with high rates of illiteracy among adults.

As Senators know, in 1966, the Adult Education Act was passed to provide adult basic education opportunities for those persons whose inability to read, write, and speak the English language constituted a substantial impairment of their ability to obtain, retain, or improve their employment.

This program has more than proven its worth. In a report submitted to the Members of the House and Senate in January 1974, a recently completed study concluded that noticeable reading and mathematics achievement gains were achieved by those enrolled in adult basic education programs, that steady gains in employment occurred and the problem of participants on welfare decreased, that earnings of those who worked definite increases, and that job performance was enhanced.

The Adult Education Act of 1966 was amended in 1970. The amended act extended educational opportunities for adults and encouraged the development of programs which would enable all adults to continue their education to at least a level of completion of secondary school. These amendments enlarged the group of eligible adults from those *who had* received less than an 8th grade education to those who had received less than a 12th grade education, and provided for the allocation of funds to States on the basis of those adults in each State with less than 12 years of public education. However, no increase in appropriations was provided to fund this expanded program. The immediate effect was to redistribute significant amounts of funds committed to adult basic education in States with high rates of illiteracy to States with low levels of illiteracy but with higher incidences of dropouts at the secondary level.

Mr. President, Congress recognized the difficulty then and to avert it, a hold harmless clause was included in the appropriations language for each of the last 3 years.

Obviously, Mr. President, this is a mere stopgap measure, but it is absolutely essential under the circumstances. My State of Louisiana would lose an estimated 40 percent of their total State grant, without this provision. Our neighboring State of Texas would lose over $1,000,000 on 33 percent of their funds for their ongoing program. Arkansas would lose over $200,000 or 25 percent. In all, approximately 17 States throughout the Southwest, South, and Southeast would be affected in about the same proportion.

Simply stated, this amendment is important, because without a hold harmless provision and with the allocation of funds to States as provided under the expiring act and the new act, large sums of money will be shifted out of ongoing adult basic education programs in the South and Southwest into adult secondary programs in other parts of the country. These are areas from which these moneys should not be diverted. Where adults are deficient in basic educational requirements the incidence of unemployment and of upward job mobility is obviously the highest. It is in this area that adult education programs can do the most good for the most people. I urge the adoption of this amendment in order that we can hold on to our present level of programing in these areas of our country and others until sufficient funds can be pumped into our adult education effort to make it feasible to carry on both our basic education and secondary adult education program at sufficient levels. I certainly want to see our adult effort expanded and upgraded, but not at the expense of those who are deficient in the fundamental skills of reading, writing and simple mathematics.

Mr. President, the ultimate goal of the adult education section of this bill cannot be realized if we divert attention from assisting those adults in achieving the minimum performance levels required to make it on their own in our present technological society.

I believe the amendment is acceptable to the Senator from Rhode Island (Mr. Pell) and the Senator from New York (Mr. Javits).

Mr. JAVITS. Mr. President, the adult education program is especially dear to me, as it is a program I had the privilege of authoring.

I think the amendment which is proposed is very understandable. Indeed, that is the whole thrust of the formula we have hoped for and were rebuffed in by Senator McClellan's amendment in respect to the whole bill. It is really a great step forward that we have raised adult education support to the high-school level. For myself, I see no objection to the amendment.

I hope very much that Members will give equal consideration to the problems of the great metropolitan areas—and we will bring that up at a later point—which has been very seriously hurt by the McClellan amendment; and we are going to try to do a little something to repair that damage. It involves much the same principle. I find the amendment acceptable on this side.

Mr. CRANSTON. Mr. President, on behalf of the distinguished chairman of the subcommittee, Senator Pell, I am delighted to say that the amendment is deemed to be both commendable and acceptable, and I compliment the Senator from Louisiana for offering it.

Mr. JOHNSTON. I thank the Senator from New York (Mr. Javits), the Senator from Rhode Island (Mr. Pell), and particularly the junior Senators from New York, who yielded time to me.

Mr. JAVITS. Mr. President, I yield back the remainder of my time.

Mr. JOHNSTON. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BUCKLEY. Mr. President, as I indicated earlier to my distinguished senior colleague, we have agreed—the Senator from Nebraska and the Senator from Idaho and I—that we would make adjustments in our amendment No. 1325 so as to reflect business that has transpired on the floor of the Senate since the amendment was originally substituted.

The amendment is as follows:

On page 126, line 1, strike out everything through page 130, line 24.

Beginning on page 215, line 11, strike out everything through page 383, line 23, and insert in lieu thereof the following:

"TITLE III—CONSOLIDATION OF STATE-ADMINISTERED EDUCATION PROGRAMS

"Sec. 301. This title may be cited as the 'Consolidated Educational Assistance Act'.

"AUTHORIZATION OF APPROPRIATIONS

Sec. 302. There are authorized to be appropriated for fiscal year ending June 30, 1975, $1,250,000,000; for the fiscal year ending June 30, 1976, $1,425,000,000; for the fiscal year ending June 30, 1977, $1,800,000,000; and for the fiscal year ending June 30, 1978, $2,100,000,000.

Sec. 303. (a) From the sums appropriated pursuant to section 302 for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to the total of such amounts as the number of children enrolled in the public and private elementary and secondary schools of that State bears to the total number of children so enrolled in such schools in all of the States.

"(b)(1) That portion of each State's allotment derived from application of the provisions of paragraph (1) of subsection (b) shall be available for any educational activity.

"(2) Except as provided in section 205—

"(A) one-sixth of that portion of each State's allotment derived from application of the provisions of paragraph (2) of subsection (b) shall be available only for programs and projects at the preschool or any other educational level designed to meet the special educational needs of handicapped children;

"(B) one-third of that portion of each State's allotment derived from application of the provisions of paragraph (2) of subsection (b) shall be available only for vocational education activities; and

"(C) one-half of that portion of each State's allotment derived from application of the provisions of paragraph (2) of subsection (b) shall be available only for supporting materials and services.

"(c) Programs, projects, or activities assisted under this Act may include construction.

"(e) In the event that any State is not eligible to receive funds under this title for any fiscal year, or notifies the Secretary that it does not desire to receive such funds, the allotment of such State for such fiscal year derived from any provision of subsection (b) shall be available for reallotment from time to time, on such date or dates during such year as the Secretary may fix, to other States in proportion to the original amount of the allotment to such other States which was derived from any such provision for that year. Any amount for a fiscal year so reallotted to a State under this subsection shall be deemed part of its allotment derived from the same provision of subsection (b) for such year.

"(f) The amounts appropriated and allocated pursuant to this Act shall be paid to the States at such intervals and in such installments as the Secretary may determine, taking account of the objective that the time elapsing between the transfer of funds from the United States Treasury and the disbursement thereof by States shall be minimized.

"(g) For purposes of this title, the Secretary shall determine average daily attendance, average per pupil expenditure, and numbers of children, and in doing so he shall use the most recent satisfactory data available to him, referrable with respect to data used for each purpose to the same time period for all jurisdictions. All determinations and computations by the Secretary under this section shall be final and conclusive.

"DISTRIBUTION OF FUNDS WITHIN EACH STATE

"Sec. 304. Each State's allotment shall be available—

"(1) for use, in accordance with the provisions of sections 303 and 305 and the plan developed pursuant to section 307(b), by the State agency designated pursuant to section 307(a); and

"(2) for distribution, for use by them in accordance with the provisions of sections 204 and 206 and such plan, among the local educational agencies of such State on a basis reflecting the relative needs of each of such agencies for the types of assistance for which appropriations under this title are available;

"TRANSFERS AMONG PURPOSES

"SEC. 305. (a) Thirty per centum of that portion of each State's allotment which is available for the purposes described in clause (A), (B), or (C) of section 203(c)(2) may be made available for any of the other purposes described in section 203(c).

"(b) The 30 per centum limitations in subsection (a) may be exceeded if the State demonstrates to the satisfaction of the Secretary that such action will achieve more effectively the purposes of this title.

"PARTICIPATION OF NONPUBLIC SCHOOL CHILDREN

"SEC. 306. (a) The State agency designated pursuant to section 207(a) shall provide that—

"(1) except as provided in subsection (b), children enrolled in nonprofit private elementary or secondary schools will be given an opportunity to participate, on an equitable basis, in activities for which funds are made available under clause (A), (B), or (C) of paragraph (2) of section 203(c); and

"(2) title to and control of funds received under this title and other property derived therefrom will remain in one or more public agencies.

"(b) If the Secretary determines that provisions of State law prevent any State agency designated pursuant to section 207 (a) from complying with subsection (a), the Secretary shall, if he finds that the State is otherwise eligible to participate in the program under this title, permit such State to participate, but in such case he shall—

"(1) arrange, by contract or otherwise, for children enrolled in the nonprofit private elementary or secondary schools within such State to receive, on an equitable basis, services similar to those provided from the funds made available under clause (A), (B), or (C) of paragraph (2) of section 203(c) to public school children within such State; and

"(2) pay the cost thereof out of that portion of the allotment to such State for carrying out each such paragraph or clause.

"STATE ADMINISTRATION

"SEC. 307. (a) The chief executive officer of each State which desires to participate in the program under this title shall designate a State agency which shall be the single State agency for administration (or supervision of the administration) of such program in such State, except that this requirement may be waived in accordance with the provisions of section 204 of the Intergovernmental Corporation Act of 1968 (42 U.S.C. 4214).

"(b) The State agency designated pursuant to subsection (a) shall, for each fiscal year, develop and publish a plan for the distribution and expenditure of funds available therefor under section 204(c). Such plan shall be developed after consultation with the advisory council appointed pursuant to section 208, shall not finally be adopted by such State agency until a reasonable opportunity has been given to interested persons for comment thereon, and shall be made available to the Secretary.

"(c) In administering the program under this title, the State shall comply with the provisions of this title and with regulations prescribed by the Secretary pursuant thereto.

"STATE ADVISORY COUNCIL

"SEC. 208. (a) The chief executive officer of each State which desires to participate in the program under this title shall appoint an advisory council which shall be broadly representative of the education community in the State and of the public, including at least one person representative of the public elementary or secondary schools of the State; at least one person representative of the nonprofit private elementary or secondary schools of the State; at least five parents of school age children in the State who will be affected by the activities authorized under section 203; and at least one person who has special competence in each of the educational areas described in sections 203(c)(2)(A) and 203(c)(2)(B).

"(b) The State advisory council shall—

"(1) advise the State agency designated pursuant to section 207(a) on the preparation of, and on matters of general policy arising in the administration of, the plan developed under section 207(b);

"(2) evaluate activities assisted under this title;

"(3) advise State or local officials who have responsibility for carrying out activities assisted under this title with respect to the planning, evaluation, administration, and assessment of such activities; and

"(4) prepare and submit to the Secretary not less often than annually a report of its activities, recommendations, and evaluations, together with such comments thereon as the State agency designated pursuant to section 207(a) and the chief executive officer of the State deem appropriate.

DEFINITIONS

SEC. 310. For purposes of this title—

"(1) the term 'adult education' means services or instruction below the college level for individuals (A) who have attained the age of 16, (B) who do not have a certificate of graduation from a school providing secondary education and who have not achieved an equivalent level of education, (C) who are not currently required to be enrolled in schools;

"(2) the term 'average per pupil expenditure in the United States' means the aggregate current expenditures of all local educational agencies in the United States for any fiscal year, plus any direct current expenditures by the States in which such agencies are located for the operation of such agencies during such year (without regard to the sources of funds from which either of such expenditures is made), divided by the aggregate number of children in average daily attendance to whom such agencies provided public education during such year;

"(3) the term 'construction' means the erection, acquisition, alteration, remodeling, or improvement of facilities, including the acquisition of land necessary therefor, and the cost of construction includes the cost of architect's fees;

"(4) the term 'current expenditures' means expenditures for public education, but not including expenditures for community services, capital outlay, and debt services, or any expenditures made from funds allotted under this Act;

"(5) the term 'elementary school' means a day or residential school which provides elementary education, as determined under State law;

"(6) the term 'handicapped children' means mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special educational services;

"(7) the term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school;

"(8) the term 'nonprofit', as applied to a school, means a school owned and operated by one or more nonprofit corporations or associations no part of net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual;

"(9) the term 'secondary school' means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12;

"(10) the term 'Secretary' means the Secretary of Health, Education, and Welfare;

"(11) the term 'State' includes, in addition to the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands;

"(12) the term 'supporting materials and services' means such materials and services as the purchase of school textbooks, library resources, and educational equipment; the provision of supplementary educational centers and services, of school pupil personnel services, of adult education, and of school meals; the training or retraining of teachers, teacher aides, and other school personnel; the strengthening of State or local educational agency capabilities and of educational planning at the State or local level; the support of the advisory council appointed under section 208; and the administration at the State level of the program carried out under this Act; and

"(13) the term 'vocational education' includes vocational or technical training or retraining (including field or laboratory work and remedial or related academic and technical instruction incident thereto and work-study programs for students who need the earnings from work in order to commence or continue their education) conducted as part of a program designed to prepare individuals for gainful employment as semiskilled or skilled workers or technicians or subprofessionals in recognized occupations and in new and emerging occupations or to prepare individuals for enrollment in advanced technical education programs, but excluding any program to prepare individuals for employment in occupations generally considered professional of which require a baccalaureate or higher degree; and such term also includes vocational guidance and counseling in connection with such training or for the purpose of facilitating occupational choices; instruction related to the occupation or occupations for which the students are in training or instruction necessary for students to benefit from such training; job placement; and the training of persons engaged as, or preparing to become, teachers in a vocational education program or teachers, supervisors, or directors of such teachers.

"REPEAL OF PROGRAMS REPLACED BY THIS TITLE

"SEC. 311. (a) Effective with respect to appropriations for fiscal years beginning after June 30, 1974, the following statutes and parts of statutes are repealed:

"(1) title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 821–827);

"(2) title III of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 841–848);

"(3) title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 861–870);

"(4) part B of the Education of the Handicapped Act (20 U.S.C. 871–877);

"(5) the Smith-Hughes Act (20 U.S.C. 11–15, 16–28);

"(8) title III of the National Defense Education Act of 1958 (20 U.S.C. 441–455);

"(9) subpart 2 of part B of title V of the Higher Education Act of 1965 (20 U.S.C. 1108–1110c);

"(10) the Vocational Education Act of 1963 (20 U.S.C. 1241–1391); and

"(11) the Adult Education Act (20 U.S.C. 1201–1211a).

"TITLE III—SPECIAL PROJECTS

"SHORT TITLE

"SEC. 301. This title may be cited as the 'Special Projects Act'.

"PURPOSE

"SEC. 302. It is the purpose of this title to provide financial assistance to the States to enable them to carry out special projects—

"(1) to experiment with new educational and administrative methods, techniques, and practices;

"(2) to meet special or unique education needs or problems; and

"(3) to place special emphasis on educational priorities of the State.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 303. There are authorized to be appropriated for the purpose of carrying out this title $1,700,000,000 for the fiscal year ending June 30, 1975, $1,800,000,000 for the fiscal year ending June 30, 1976, $1,900,000,000 for the fiscal year ending June 30, 1977, and $2,000,000,000 for the fiscal year ending June 30, 1978.

"ALLOTMENT OF FUNDS

"SEC. 304. (a) From the sums appropriated pursuant to section 303 for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to the total of such amounts as the number of children enrolled in the public and private elementary and secondary schools of that State bears to the total number of children so enrolled in such schools in all of the States.

"(b) There is hereby authorized to be appropriated for each fiscal year for the purposes of this subsection an amount equal to not more than 3 per centum of the amount appropriated for such year for payments to States under subsection (a). The Commissioner shall allot the amount appropriated pursuant to this subsection among the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this title. In addition, he shall allot from such amount to the Secretary of the Interior the amount necessary for such assistance for children and teachers in elementary and secondary schools operated for Indian children by the Department of the Interior. The terms upon which payments for such purpose shall be made to the Secretary of the Interior shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purpose of this title.

"(c) For the purposes of this section, the term 'State' means the 50 States and the District of Columbia.

"USE OF FUNDS

"SEC. 405. The funds allotted to each State pursuant to section 304 may be used by such State for the purposes of this title set forth in section 302. Such purposes shall include the carrying out of programs and projects related to, but not necessarily limited to, any of the following:

"(1) education for the use of the metric system of measurement;

"(2) gifted and talented children;

"(3) community schools;

"(4) consumers education;

"(5) educational equity for women;

"(6) arts in education programs;

"(7) dropout prevention;

"(8) school nutrition and health services;

"(9) correction education services;

"(10) ethnic heritage studies;

"(11) reading improvement;

"(12) desegregation assistance;

"(13) drug abuse prevention;

"(14) bilingual education (including bilingual vocational education);

"(15) Indian education; and

"(16) education of the handicapped.

"REPEAL OF PROGRAMS REPLACED BY THIS ACT

"SEC. 406. Effective with respect to appropriations for fiscal years beginning after June 30, 1974, the following statutes and parts of statutes are repealed:

"(1) title VII of the Elementary and Secondary Education Act of 1965;

"(2) title VIII of the Elementary and Secondary Education Act of 1965;

"(3) the Drug Abuse Education Act of 1970;

"(4) the Cooperative Research Act;

"(5) the Emergency School Aid Act;

"(6) the Indian Education Act; and

"(7) parts A, C, D, E, F, and G of the Education of the Handicapped Act.".

At the end of the bill, add the following new title:

"TITLE V—MISCELLANEOUS

"DISPOSITION OF ADMINISTRATIVE SAVINGS

"SEC. 501. (a) The amount of funds which, by reason of the enactment of this Act, are not required to be appropriated for salaries and expenses of the education division but which would have been required to be so appropriated had this Act not been enacted, is hereby authorized to be appropriated for the purpose of making grants to States for the purpose specified in subsection (c).

"(b) The funds appropriated for any fiscal year pursuant to subsection (a) shall be allotted by the Secretary to each State in an amount which bears the same ratio to the total of such sums as the number of children enrolled in the public and private elementary nad secondary schools of that State bears to the total number of children so enrolled in such schools in all of the States. For the purpose of this section, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

"(c) Sums allotted to States in accordance with this section shall be available for any educational purpose.

"MINIMUM STATE ALLOTMENTS

"SEC. 502. The total amount of funds received by each State pursuant to titles II and III of this Act for any fiscal year shall in no case be less than the total amount of funds received by such State in the fiscal year ending June 30, 1974, under the statutes or parts of statutes repealed by those titles. The Secretary is authorized to modify any allocations required to be made pursuant to those titles as necessary to carry out this section.".

Mr. BUCKLEY. Also, in the interim, we have been able to secure necessary figures to outline the funds to be authorized to cover the consolidated programs. Accordingly, I have sent to the desk a modification of the amendment reflecting these changes. I ask unanimous consent that the modified amendment incorporate title II of S. 1539, the Federal impact aid title, as it has been modified on the floor, and that appropriate conforming changes be made in the language of the bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Will the Senator from New York indicate whether or not such changes are on the copy sent to the desk?

Mr. BUCKLEY. Yes, they are.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, may we know what the unanimous-consent request is?

The PRESIDING OFFICER. Will the junior Senator from New York please restate the unanimous-consent request?

Mr. BUCKLEY. Mr. President, I ask unanimous consent that the Federal impact aid title, title II of S. 1539, as modified on the floor, be incorporated as title II into our substitute amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator will please send it to the desk.

Title II is not at the desk.

Mr. BUCKLEY. Mr. President, I am referring the provisions of the law that already have been enacted. I do not have a separate title II. This is incorporation by reference.

The PRESIDING OFFICER. Do we understand the Senator is asking that title II as it exists at this stage is what the Senator is referring to?

Mr. BUCKLEY. That is correct.

The PRESIDING OFFICER. And it is to be included in the Senator's amendment as if printed therein?

Mr. BUCKLEY. That is correct.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New York is recognized.

Mr. BUCKLEY. Mr. President, I also ask unanimous consent that the busing provisions contained in my amendment be deleted, in accordance with the agreement of the Senate that no more busing amendments would be in order after 1 p.m. today. Therefore I ask unanimous consent to delete lines 15 through 29, page 20 of the original. We now have a blank there on page 19 of the modified amendment. I understand that this is the most economical way to deal with this question.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUCKLEY. Mr. President, Federal expenditures for elementary and secondary schooling in all categories have risen from less than $1 billion in fiscal year 1961 to nearly $6 billion in fiscal year 1974. With the nearly 500 percent increase in Federal aid to education have come a vast array of authorizations and agencies. Education grants are now available to schools under at least 38 separate authorizations for "instruction," at least 37 separate authorizations for low-income students, and at least 22 separate authorizations for reading instruction. Dozens of Federal offices, agencies, bureaus, et cetera, handle these programs. In fact, at least 26 Federal agencies other than the Office of Education administer Federal education programs.

What has been the educational result of all this Federal support for, involvement in, and direction to the Nation's elementary and secondary schools, and its children?

Some answer can perhaps be given. Results of the nationally administered Scholastic Aptitude Test indicate a serious decline in literacy among teenagers in the past decade. Scores have dropped every year, for a total decline of 35 points. The National Assessment of Educational Progress found recently that 15 to 20 percent of 9-year-olds cannot read at all, ranging from 7 percent in the affluent suburbs to more than 35 percent in the inner cities.

Virtually every long-term evaluation, most of them done by and for government agencies, of federally sponsored compensatory education programs has found little or no academic gain, and even some evidence of retrogression. And although more Americans go to school for more years than ever before, some 15 to 20 percent of all adults are now functionally illiterate.

The director of secondary education in Sioux Falls, S. Dak., recently wrote to one of his Senators that—

> Even though schools are in existence for one purpose—to educate young people to the limit of their potentials—one is hard-pressed (some say it is impossible) to demonstrate any lasing benefits to students because of federal funding of elementary and secondary education.

The American public by a large margin holds similar views. Earlier this year, the Senate Subcommittee on Intergovernmental Relations published the results of a survey on the state of citizen regard for and involvement in government. The report, entitled "Confidence and Concern: Citizens View American Government," contained many informative facts and statistics.

When asked which level of government can best improve public schools, those polled responded as follows: 50 percent thought that State and local government could best improve public education while only 14 percent thought the Federal Government could do that important job.

The survey also found that "the public underscores its belief in shared governmental responsibilities with an overwhelming endorsement of two policy propositions:

First. State and local governments should be strengthened; and

Second. The Federal Government should have power taken away from it.

The less-than-happy state of American education may in part be a result of the near monopoly control and direction the Federal Government exerts over educational research and innovation through its discretionary control of the great bulk of funds available for such activities. By selectively funding certain fields and certain approaches to teaching, the Federal Government has had a tremendous influence over the nature and goals of education in the past decade—whether for good or ill is hotly disputed. An article in the New York Times in 1972 described the role of the Federal Government in affecting course content in social studies as follows:

> A diffuse but massive and nationally based *curriculum development effort* was undertaken in the early '60s, by numerous teachers, academics and curriculum specialists. The federal government poured millions of dollars into literally dozens of such projects. The resulting new materials are only now bursting fully upon the educational scene as virtually every textbook publisher in the country adopts the concept-and-inquiry approach, at least in part.

Federal education agencies supported a great deal of experimentation and program development in the past decade. Yet, Dr. Frank Brown, chairman of the National Commission for Reform of Secondary Education, states:

> What has been proven by the decade of experimentation in the 1960s is that realignment of time in class, allowing children to "learn at their own pace," teaching by computers and knocking down walls will not make a major difference in the quality of American education.

Nonetheless, these are the kind of new programs the Federal education bureaucrats have continued to emphasize. And in the monopolistic pursuit of their own limited visions of innovation, they have stifled diversity and valuable educational progress and reform. If the present approach is demonstrated to be ineffective, one would logically expect that the approach would be changed. Why is it then, that in the face of such evidence, the cry goes out for still more bureaucratically administered Federal programs and more rigid Federal guidelines? Why is it that the education bill before us offers us essentially only more of the same?

One possible answer can be inferred from observations of the National Commission on Marijuana and Drug Abuse about the drug bureaucracy:

> To justify the ongoing programs, the drug bureaucracy must simultaneously demonstrate that the problem is being effectively attacked, and that it is not diminishing. Throughout this process fundamental assumptions are not questioned, programs are not evaluated and the problem is perpetuated from year to year.

Since the drug and education bureaucracies extensively overlap, I suspect that a very similar process occurs in the area of education.

The present system of Federal aid to education is a restrictive and cumbersome maze of bureaucratic requirements and redtape. As the President recently pointed out:

> To get Federal money—your tax money—for teachers or books or equipment, your school board has to sort out over 50 Federal educational programs to find the one that comes closest to matching its needs. Next your school board and officials have to check a stock of Office of Education publications to discover the right way to apply for the available money. And finally, they have to wait for a decision from Washington to find out whether they get any money. All of this can take from three to nine months, depending on the Washington timetable—not the timetable of the school year, which, of course, is the important one to you.

The excessive program fragmentation makes local educational planning difficult. States and communities have to make numerous separate applications to numerous different Federal officials for funds for the same basic program or purpose. The uncertainty of the success of these applications makes the preparation of a comprehensive coordinated program all but impossible.

The present system discourages local accountability. Complaints and failures can simply be bucked up to the Federal officials and Federal requirements controlling various programs. Local officials do not have to account to the voters from their district on these issues, and the Federal bureaucracy has demonstrated its inability or unwillingness to take effective action and make corrective changes.

For several reasons, the present system prevents States and localities from meeting their special and particular needs. The categorical and matching requirements of Federal aid force States and local agencies to spend their funds and use their resources in ways which they, in seeking the most desirable and effective use of resources, might not otherwise choose. The vast array of program and administrative requirements that the Federal Government demands in State plans and administration also tend to divert and waste resources that might be put to better use—not to mention the fact that this makes educational agencies litte more than administrative arms of the Federal Office of Education. Rigid qualifications and limitations on grants further limit flexibility in the use of resources and frequently stifle any creative change. Finally, outworn and discredited Federal programs never die, they just keep being funded—and therefore, deprive States and localities of funds for new and more appropriate educational activities.

The present system wastes time, money, and personnel. The intricacy and hodge-podge is so great that many States and local agencies have to hire larger staffs charged with the sole responsibility of cutting through the maze of applications, guidelines, regulations, and reporting requirements which are an intrinsic part of the present grant system. On the Federal side, an army of bureaucrats is required to process and review applications and grants to attempt to make sure that every petty regulation and requirement is complied with. All in all, these procedures require thousands of unnecessary scribblers and paper shufflers. As Secretary Weinberger has noted——

> At both the State and local levels, the paperwork involved in individual grant applications sometimes results in administrative costs that may almost match the amount of the eventual grant—if, indeed, a grant is received at all.

Under the present system, funds do not necessarily go to those States and localities whose needs are genuine and greatest, but to those who are most adept at the game of grantsmanship. Presently those States and districts which can afford to hire talented special staffs to thread their way through the thicket of Federal regulations and finesse their grant applications are able to get more than their fair share of Federal funds.

Former Congressman Roman Pucinski, one of the architects of Federal aid to education programs, has called them a monumental flop. And Congresswoman EDITH GREEN, a nationally recognized expert on education, wrote in an article in the New York Times on January 16, 1974, that—

> "Each new program spawns at least one new administrative unit within the Government. This involves new office space, new staff of many ranks, new organization charts, new regulations. Administrative growth is a galloping cancer. Many listed as new state or city employees are there solely because of Federal funds or Federal requirements . . . As a long-time supporter of Federal financial aid for education, I have come to realize with much pain that many billions of Federal tax dollars have not brought the significant improvement we anticipated.

Mr. President, we have here, it seems to me, one of those rare occasions in which the opinion of the public and the opinion of many experts are in total agreement. The high motives and obvious compassion for the needy that have been the hallmarks of our Federal education programs are too often thwarted by the clumsy and often impenetrable set of rules and regulations that accompany Federal aid. The States and localities need Federal aid; they most certainly do not need the bureaucratic redtape and regulatory shackles that by now are an integral part of the educational Federal aid to States.

I wish to again commend the able chairman, members, and staff of the Education Subcommittee for their sincere and hard work in producing S. 1539. But for all of their hard work, nothing has really changed. We are only given the opportunity to continue in the same deep and frustrating rut as before.

Not only does S. 1539 perpetuate the programs, the waste and ineffectiveness of current law and policy, it adds to them.

Instead of remedying many basic flaws and inadequacies in the current programs, it increases them. Instead of streamlining the inefficient and costly Federal bureaucracy, it enlarges it. The bill adds some 14 new bureaus, centers and offices to the Federal education bureaucracy, along with the attendant increase in personnel.

At a time when people everywhere are calling for increased economy and efficiency in government, this bill increases overhead costs and mandates additional unwieldy, inefficient administrative requirements and it restricts efforts toward regional administrative decentralization. HEW itself criticizes the administratively hamstringing provisions of the bill, and the President observed that these and other provisions of the bill would create "A bureaucratic nightmare, entwined in its own redtape, making it impossible for the Department of Health, Education, and Welfare to carry out its responsibilities."

As a result, children in educational need will stand to suffer from the bill we are now debating.

More fundamentally, the bill does not genuinely break new ground in the direction of flexibility. It does not provide adequate program consolidation needed to simplify the Federal funding process for elementary and secondary education—thus it continues to restrict the ability of States and local districts to set their own priorities and meet their special needs.

While the bill does propose some consolidated categorical funding, it is virtually in name only, inasmuch as it only allows consolidation for 50 percent of the funds above 100 percent of the amounts appropriated in prior years. The requirements that States must use funds appropriated under the new consolidation to continue particular categorical programs at designated previous year levels, and that State educational agencies must spend 50 percent of the funds appropriated in excess of these hold-harmless" levels for the same categorical programs, would hamstring the consolidation of State-administered formula grant programs and render it virtually meaningless.

For all the reasons mentioned, and more, the times cry out for a basic change in the very nature of Federal education programs. Tinkering with various programs will not remedy the waste, the abuses, and the ineffectiveness that plague so many of them. A more fundamental and far-reaching reform is necessary for the benefit of our children and our Nation. That is what our amendment proposes to do.

As Representative GREEN noted in her New York Times article:

> The enormous Federal influence has not yet really entrenched itself, either structurally or philosophically, in the American experience. It is by no means too late to cut discretionary funds to a justifiable and manageable amount, and to do away with the myriad categorical programs. To the extent that financial assistance is required for education programs, such assistance can be supplied through outright block grants with minimum restrictions on how or for what they are spent, once a basic overall need has been established. Decentralization and general aid are key concepts in the rehabilitation of our educational system; they and they alone permit each locality to determine its own priorities, plans and objectives—to focus on its own particular educational problems.

This is precisely what the Buckley-Curtis-McClure subcommittee amendment will accomplish. It proposes major changes in the way the Federal Government would use and distribute Federal tax dollars for elementary and secondary education.

The amendment is in several respects similar to the administration's education revenue sharing proposal of 1971. In introducing that measure, the late Senator Winston Prouty made some comments that apply equally well to our amendment. At the time, Senator Prouty said:

> The well-intentioned efforts of Congress in recent years have resulted in a maze of elementary and secondary education programs, which while noble in their intent are cumbersome in their implementation.
>
> Guidelines regulations, matching fund requirements ensnarl the educator in time-consuming trivia which is counter-productive to the educator's primary role—education.
>
> Clearly remedial action is necessary to make Federal aid to education more responsive and less cumbersome.
>
> Now that Federal support for elementary and secondary education is well established, it is time to move from categorization to consolidation in such a way that the goals of educational equality and opportunity are met.

As Prof. Daniel Moynihan noted some years ago, the Federal Government is good at some things—it is good at collecting money, for example. But it is not very good at effectively administering large scale programs to deal with broad and diversified social concerns and problems. The size and complexity of these problems, and the unwieldy size and complexity of the Federal bureaucracy rationally dictate that efforts to deal with these problems be decentralized and entrusted to smaller administrative units of government, closer to the people involved and more responsive to the diversities of the problems.

The Buckley-Curtis-McClure substitute is an educational revenue sharing alternative to the present system of Federal control over education. It is a small but important step on the road toward returning power, funds, and responsibility for local problems to locally elected officials. It responds to the mandate of the 1972 election, and it follows the desire of the American people, as expressed in the national survey done for the Senate Subcommittee on Intergovernmental Relations from which I quoted earlier. It offers a possible way out of the educational morass that seems to beset our country, by permitting State and local education agencies to be more responsive to the particular needs and problems of their students and communities. And it offers them more money to do so.

The National Association of School Boards supported this approach in hearings in 1971, as did the Council of Chief State School Officers, the National Chamber of Commerce, various State boards of education, and others.

Let me summarize the amendment briefly. When President Nixon first offered his educational revenue sharing proposal in 1971, he pointed out that it consolidated "more than 30 Federal aid categories." Our amendment does the same, reducing the categories to a basic six. It would make funds available to States and local education agencies in five areas of longstanding concern: Education of the disadvantaged, education of the handicapped, vocational education, education of children connected with the Federal Government, and supporting materials and services. In addition, there is a sixth category, reading and special projects, into which the authorizations of the special categorical programs authorized or extended by S. 1539 are consolidated.

Our amendment will retain the provisions of title I of the ESEA, as amended on the floor by the Senate. Title I already operates essentially as a revenue sharing program for districts with significant numbers of disadvantaged children. We have also now incorporated the committee impact aid title, as amended on the floor, into our amendment. This program is also in effect already a revenue sharing program.

Second, funds would flow to the States on the basis of an automatic formula, with the provision that no State would receive less money than it did in fiscal year 1974 from the programs being consolidated.

Third, each State would be required to prepare a plan for distribution of funds, in consultation with a State advisory council broadly representative of public and private education interests and members of the public, with an opportunity for interested persons to comment on the published plan. However, in a major change from present law, no Federal approval of the plan would be required. Thus, a State will be able to plan for its own needs and priorities, rather than having to adapt to some predetermined Federal plan and agenda.

Fourth, other education revenue sharing funds would be distributed among the local educational agencies by the State agency, on the basis of formula in the bill, in the areas of education of the handicapped, vocational education, supporting materials, and reading and special projects. The State education agency would have the flexibility to transfer up to 30 percent of the funds from any one category, with the exception of those funds passed through to local education agencies. Thus, additional funds could be made available for the education of the handicapped, if the State and local school districts felt that they were needed.

Fifth, in addition, any administrative savings realized as a result of the consolidation of Federal programs will be distributed back to the States. Savings created by a reduction in the Federal education bureaucracy and its activities should run into the tens of millions of dollars.

Sixth, under our special projects title, States will receive significant amounts of new funds, allocated on a per capita basis, in order to carry out programs in the areas enumerated on page 18 of our amendment, as modified, as well as other special projects. States will be able to make use of these funds in the areas where that State has special needs, as determined by those State and local officials. If this substitute were to become law, all States will receive at least as much additional aid in fiscal year 1975 as they would under the committee's S. 1539. In fact it can be said with some assurance that every State will receive more than they would have under the committee bill because of the administrative costs savings which are inherent in this approach. Support for my substitute constitutes support for more dollars to the States; opposition serves to keep a relative greater amount of money within the discretionary control of policy planners in Washington.

Is there any justification for continuing to permit the Federal education bureaucracy to exercise its cumbersome, costly and stultifying control over American education? Is there any justification for continuing to prevent State and local education officials from having far greater flexibility in making program decisions more responsive to the needs of their students and communities? I submit that the answer to these questions can only be "No," Mr. President.

It is time for the Congress to establish a new relationship between the Federal Government and State and local governments in the field of education, one which demonstrates confidence in the good sense and responsibility of State and local officials, one which will better deal with educational problems of the present, and better anticipate problems and needs of the future. As the President said:

> I believe we must recognize that the Federal Government cannot substitute its good intentions for the local understanding of local problems, for local energy in attacking these problems, and for local initiatives in improving the quality of education in America. We must also recognize that State and local authorities need Federal resources if they are to meet their obligations and if they are to use the peculiar advantages of state and local knowledge, responsibility and authority to their fullest potential. Education Revenue Sharing accommodates the federal role in national education to both these realities, and it lays the foundation for a new and more productive Federal-State relationship in this area of vital national concern.
>
> The time has now come in America to reverse the flow of power and resources from the States and communities to Washington, and start power and resources flowing back from Washington to the States and communities, and, more important, to the people all across America.
>
> The time has come for a new partnership between the Federal Government and the States and localities—a partnership in which we entrust the States and localities with a larger share of the nation's responsibilities, and in which we share our Federal revenues with them so that they can meet these responsibilities.

I believe, Mr. President, that the Senate at this time has a tremendous opportunity to move in the direction in which we must move if we are to restore quality and vitality to education in this country, if we are to encourage local schools to use those initiatives to exercise that responsibility which they are uniquely in a position to exercise.

If I may just summarize before yielding the floor, Mr. President, I would like to say that, contrary to the present system that is incorporated and expanded in S. 1539, the Curtis-Buckley-McClure substitute insures that a State has discretion to use funds where most needed, so school districts are better able to plan for their own needs—and actually have the funds needed.

Our amendment offers greater flexibility in making programs responsive to needs of students—

It is less cumbersome in implementation than the present maze of categorical grants;

It cuts redtape and paperwork;

It insures more equitable distribution of Federal funds;

It allows educators to return to primary responsibilty and concentrate on educating rather than searching for Federal aid;

It eliminates duplication and overlapping;

It will reach the schools which need aid rather than those who are knowledgeable about the available forms of Federal aid and where to find it;

It avoids the frequent delay and confusion now occurring because of the proliferation of grants; and

It assures that local money will not be drawn to purposes only because the Federal Government considers them important.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, I suggest the absence of a quorum, the time to be charged equally to both sides.

The PRESIDING OFFICER. Is there objection?

Mr. McCLURE. Mr. President, will the Senator withhold that?

Mr. PELL. I withdraw it.

Mr. McCLURE. Will the Senator from New York yield?

Mr. BUCKLEY. Mr. President, I yield the Senator from Idaho such time as he may require.

Mr. McCLURE. I thank the Senator for yielding.

Mr. President, I would like to commence by commending the Senator from New York not only for his leadership on this proposal, but for the clarity and forcefulness of the statement he has just concluded.

Mr. President, there is a gnawing irony in the fact that as we approach our Nation's 200th anniversary, the same terrible complaints that sparked our war of independence are with us again. The usurpation of power by a remote government, unjust taxation, and an intolerable arrogance in the exercise of that power. But this time, the villain is not a monarch. It is not a King George. It is the Federal Government. It is us.

There is a malaise throughout the country. People sense they have no control over the institutions that govern and shape their lives. It is a control they have lost. Institutions set up to serve people have become their masters. Our masters. The distances between England and her colonies then and Washington and its colonies today have become the same.

The answer to King George is the same as the answer to our Federal tyrant. Self-government.

One area where there is a common cry for the kind of self-government we are in danger of losing is in our schools. We hear it from all sides of the political spectrum. From the extremes to the middle. The desire for control over our schools, and access to and participation in individual school systems is a common bond between most American parents. People want a direct part in shaping the formal education of their children.

Some communities have already lost that kind of control. Some are losing it. And in Idaho, unfortunately, we seem to be losing it.

One reason is that our people have been oversold on the idea that money makes for better schools. Surely it takes money to run schools: To educate our children. But in our eagerness to get money, our communities have turned to the Federal Government. And through the Federal education-aid system which the Congress has created, our communities are inevitably losing their local control. If it is true for Idaho, it is true for other States. It does not have to be that way. Congress can change the system.

This is not to say that money from the Federal Government is a terrible evil. It is not. What is dangerous is the way the Congress has chosen to dole that money away. With strings and more strings. It is endless.

It does not have to be that way.

We in the Congress, with the best of intentions have created program after program with strings. All this money is contingent on something—and that something may well be exactly what an individual community does not want, or does not need.

Back in the postsputnik era, when anything in the name of science was good, and when you could get unlimited Federal money if it were for science, the Boise, Idaho, school district got a grant to build a planetarium. There is nothing wrong with a planetarium. It is good to have. But there was a critical need in the school systems of Idaho then—better salaries for our teachers. If we had been able to use that Federal money for teachers' salaries instead of building our planetarium, there is no question—none—that we would have provided better pay for our teachers. But there was no option. We could get that Federal money for something which did not have the highest priority, but for something that would have had far greater effect on the quality of education, money was not available.

It should not have been that way.

And the sad thing is—things have gotten worse. Sure there is more money and there are Federal programs.

But we have created a vast system that we really don't need—an expensive system. Bureaucracies within bureaucracies. We have built a system where grantsmanship is the key to getting Federal money, not need. We have programs in which the administrative costs here in Washington dwarf the real good accomplished and local communities that cannot hire these experts schooled in the new-speak that touches the right nerves in Washington, stay poor. Communities rich enough to hire droves of *these* grantsmen get richer, and, again, richer. Simply put, "Those that has, gets." It is tragic.

Program analysis. Audits. Systems research. Socioeconomic data.

For our poor communities, all this means nothing. At least two dozen Federal agencies other than the Office of Education have administered Federal aid to education programs. It is madness. Maybe not to bureaucrats. But to the average American, it is madness. It is infuriating. It is saddening.

But it does not have to be that way.

I remember a conversation with the superintendent of the schools in Lewiston, Idaho. He made a point that struck home. His school district is typical of many across the Nation in which the total amount of impact aid amounted to only a small percentage of his total budget—5 percent. But he said to me:

> Five percent of my budget is worth a lot more than just five percent. Because it's easy to qualify; it's simple to account for; and I don't have to justify the expenditure. All you have to do is certify the number of students you have. You get a check based on that certification. It goes into your general fund budget and you don't have to tell them how it was spent.

Now that makes sense.

But, sadly, most of the Federal aid to *education programs* we are dealing with are not that simple. They have strings that run all the way to Washington. And Washington pulls those strings.

For the most part, people can blame the Congress. They are right.

Just look at this bill. We have countless amendments, providing a still more confusing litany of categorical programs. It is a terrible mess. Sure, each of us is looking out for the best interest of his own State, but the problem is that from program to program, what might well be good for students in Washington, D.C. or Montgomery County, Md., just does not make sense for students in Garden Valley, Idaho.

But what does make sense, what is in the best interests of those students, is to replace those confusing, tangled and sometimes hard-to-get categorical grants with something simple—something they can all benefit from equally—revenue sharing.

It is simple. It fits everybody's needs. It will work. And for the people who need help, for communities that need help, funds are available and they can apply it themselves in the way they want, in ways to best serve their communities and their children.

We have recognized the value of revenue sharing in other areas of Federal participation. It is nothing new. And we know it works.

It will work here.

But I suspect that some of the inertia we see in the Federal education bureaucracy is that somebody over there—or many somebodies—think they know better. They think the children of Garden Valley need sensitivity training. These somebodies—the well-intentioned who make the rules, draft the criteria, attach the strings, and set the new funds for the grantsmen to follow—do not care about the real needs of Garden Valley. They do not care about how the parents of those children want their kids educated. That is the rub. If the parents in Garden Valley want sensitivity training, let them decide. If they want a planetarium, let them decide. If they want the three-R's, let them decide. It is their money. It is their kids. I believe in them. I believe the parents in New York City, in Montgomery County, in Garden Valley—all have that same thing in common. It is best that they decide on how they want their kids educated.

Our colleague from Arizona, Senator GOLDWATER, put it better than anybody else, To paraphrase his words :

> We're not losing power to the Presidency. We are losing it to the bureaucrats. And nobody elects bureaucrats. Bureaucrats are not accountable to anybody. We are giving away that power daily in this Congress.

And the terrible thing is— it is not ours to give. It belongs to people in our local communities. We are just custodians of that power. And nowhere is that give-away of power more clearly seen than in Federal aid to education.

Just look at what we are doing.

We are considering an education bill that runs 388 pages—without amendments.

The bill adds 14 new bureaus and offices to the Federal education bureaucracy. Its aid formulas are bewildering and complex. It is not necessary. It does not have to be that way.

In the past two Presidential elections, the American people have voted in overwhelming preponderance for candidates who pledged to reverse the flow of power. And still, out of sheer inertia, the leviathan grows.

This political hodge-podge of an education bill has very little support from anybody other than those who have a vested interest in the existing education establishment.

The dismaying conclusion of Arthur Rice, emeritus professor of education at Indiana University, was reported in a national school journal. He wrote:

> The leadership of the national organizations, particularly key officials and professional staff members, realize that if the flow of money for education goes back to the state and local organizations, it will lessen very much the importance, power and the prestige of the national groups.

Let us begin to recognize honestly that the push for Federal dominance of education is really an attempt to impose values or programs, which if left to local decisionmaking will not be chosen at all. Such advocates as there are of this Federal dominance claim that educational needs will not be met without control from the Federal education bureaucracy. When they initiated many of these programs, it was because they claimed the States did not have the resources to meet those specific needs.

That is not at issue today.

Revenue sharing provides more money than categorical grants by eliminating the bureaucracy. Financing of education is not the issue here. Neither is forced segregation. That is behind us. The key now is who makes the decision.

Is it not the belief of the coercive do-gooders that only they know what is best—that sensitivity training, consumerism, or ethnic studies will be passed over in favor of the three R's if parents in local communities are allowed to determine education policy? If local communities want those things, fine. But for heaven's sake, let them decide for themselves.

With this amendment we are considering now, we can change the picture. We can provide more funds to individual school systems without calling for more taxes. And we can return the power to control that money to the individual local communities.

Revenue sharing allows educators to devote their time to education. The categorical grant approach requires them to devote their time to the arcane act of grantsmanship.

Mr. President, in summation, the debate on the Elementary and Secondary Education Act has taken a different turn this year. In the past, our concern has been almost solely confined to dollar amounts. This year, our attention seems to be focusing on some of the underlying concepts upon which this massive Federal aid system has been built.

I think this is all to the good. For quite some time now, I have been fascinated by public opinion polls, and I have conducted several rather unscientific—but highly accurate, I think—surveys in my own State. Whenever an issue poll is taken, education always surfaces near the top as a major concern of the American people everywhere. It seems to me we have to credit this to a certain amount of dissatisfaction and frustration with educational problems. After all, nothing is more precious to Americans than the liberty guaranteed them by the Constitution—but "liberty" seldom is mentioned in an opinion poll. So, I am convinced that the American people are not entirely happy with education in America today.

The debate on this bill begins to show us why. We have heard it said that children have been the subject of experimental programs, some involving the use of behavioral drugs, without the consent of their families. We hear it said that the use of the busing device has been to achieve a social goal and has no bearing whatsoever on the quality of education itself. We hear it said that studies by the Office of Education itself show that massive Federal aid has had no real impact on educational programs. We hear that parents are not permitted to inspect the records of their children, and we have heard that very knowledgeable lady, Congresswoman EDITH GREEN, quoted as saying that Federal aid to education has been a total failure.

At the same time, every single one of us has also heard from the educators in our home States. They have become dependent upon Federal funding, of course. That is the inevitable price that must be paid for Government assistance. And Congress is seldom so considerable as to act on education bills in sufficient amount of time for the school districts to develop their budgets, hire their teachers, and begin the job for which they are there, educating our children.

Now it seems to me that a pattern is beginning to emerge through all of this. Whether the disenchantment surfaces in opinion polls or is expressed in a Senate speech, or contained in a letter from a school superintendent back home, it begins to boil down to this, quite simply: "Get the Government off our backs."

There is no little irony in the fact that the Congress has transformed most of the Nation's school districts into helpless entities which cannot exist without help from Washington, D.C. And at the same time, with the weight of the Government around their necks, those same districts have got to get rid of Federal control if the educational demands of the coming generations are to be met. Consequently, with no little sense of frustration and in the belief that there is no other alternative available, I have joined my two distinguished colleagues today in offering this substitute to the Elementary and Secondary Education Act. It is revenue-sharing, pure and simple, and it lets the States and local communities make decisions that should rightfully be theirs.

There is a better way.

Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time consumed be charged equally to both sides.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I strongly urge my colleagues to vote against the proposed amendment, No. 1325. Its passage would undo everything we have achieved in Federal aid to elementary and secondary education in the past decade. It would eliminate a number of highly popular and successful programs, programs in which I know my colleagues have a personal interest. It would negate all the work that we have put in on S. 1539, both in committee, over the past year, and on the floor, in the past several days.

The proposed substitute would strike the proposed White House Conference on Education, to be convened in 1977. This conference has enjoyed wide support from parents and education groups alike, since there has been no such high level national policy discussion on education since 1964. Obviously, there is a need for an overall examination of our educational system, at the Federal, State, and local levels. The conference provision, with satellite State conferences, would provide the mechanism for such a study.

The proposed substitute would keep the title I formula adopted by the Senate, but would replace the rest of S. 1539 with two revenue-sharing measures.

The first one, the substitute's proposed title III, is essentially the administration's so-called Better Schools Act of 1972. This proposal was, almost uniformly, opposed by every witness appearing before the Subcommittee on Education.

The National School Boards Association spokesman said:

> With respect to the Better Schools Act, I can say categorically we would oppose its passage, period.

The National Education Association similarly opposed the legislation, since it believed that its intent was primarily to reduce the amount of money flowing to education.

The American Federation of Teachers, while recognizing a need for some grant consolidation, felt that revenue sharing really amounted to "passing the buck on policy."

The proposed substitute would consolidate school library, equipment, and innovative programs into a single program, without any protection for the programs already in existence in all of our States. Many witnesses before my subcommittee discussed the need for some consolidation of existing categorical programs, in order to reduce the paperwork burden on State and local school officials. Their case was persuasive, as we saw the amount of paper necessary to apply for a single Federal program. For that reason, the committee bill contains three consolidations of existing programs—an administrative consolidation, to eliminate much of the unnecessary paperwork now entangling our Federal education programs; a consolidation of State formula grant programs, with protections for existing programs, but discretion in the States concerning how to spend additional appropriations; and a consolidation of discretionary grant programs into a Special Projects Act, with new categorical programs included under this consolidated authority. I ask unanimous consent to have printed in the RECORD at this point a chart describing the three consolidations contained in the committee bill.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

THREE CONSOLIDATIONS

I. ADMINISTRATIVE

A. Programs Whose Paperwork Is Consolidated (All Elementary and Secondary State Plan Programs)

1. ESEA Title I—Aid to Disadvantaged
2. ESEA Title II—Library Assistance
3. ESEA Title III—Innovative Programs
4. NDEA Title III—Equipment
5. Adult Education
6. Vocational Education

B. Changed From Many State Plans to One State Plan

1. Long-range Plan Filed
2. Single Program Plan Updated Yearly

C. No money Involved

II. CONSOLIDATION OF STATE FORMULA PROGRAMS

A. Consolidated Programs

1. Title II ESEA (Textbooks and Library Resources)
2. Title III ESEA, 85% State Share (Supplementary Centers and Services)
3. Title V ESEA (Strengthening State Educational Agencies)
4. Title III NDEA (Equipment)
5. Title V–B–2 EPDA (Attracting and Qualifying Teachers)

B. Consolidated Into a Single Program

1. Hold Harmless for Programs Consolidated at Most Recent Appropriations Level
2. When Appropriations Exceed Existing Levels, All of the New Money Could Be Used at the Discretion of the State Agency for Any of the Purposes Consolidated
3. 15% Set Aside of Title III ESEA for Handicapped Remains

C. New Eligibility Formula Applies to Funds Appropriated Over Existing Levels, Based on Three Factors:

1. Number of Children in the State, Multiplied by $20
2. State Average Per Pupil Expenditure, Multiplied By the Number of Children in Families with Incomes Below $3,000
3. The Relative Wealth of the State

D. Authorization: Existing Levels (Approximately $340 Million), Plus $600 Million for Additional Consolidated Programs Under the New Formula

III. COMMISSIONER'S DISCRETION—"SPECIAL PROJECTS ACT"

A. Consolidated Programs (Remaining OE Discretionary Programs)

1. Cooperative Rseearch Act
2. Dropout Prevention
3. Health and Nutrition
4. Consumer Education
5. Correction Education
6. 15% Set Aside of Title III ESEA (Innovative Programs)
7. Education Professions Development Act

B. New Discretionary Fund—"Special Projects Act"

1. Old Programs and Purposes Cease to Exist, But Are Given Priority in Funding

C. Congressional Oversight and Control

1. Authorizing Committee Approval of:

(a) Yearly Spending Plan, Including Report on All Contracts Over $100,000

(b) Commissioner's Proposal to End Priority Status for Old Programs Consolidated

D. Money to Be Determined by Programs Included

E. Set Aside of 50% of Funds for New Categorical Programs As Follows:

AUTHORIZATION OF FUNDS

[In millions]

Section and subject	Fiscal year 1974	Fiscal year 1975 through fiscal year 1978	
		Amount	Percent
404—Metric education		$10	5
405—Gifted and talented		12.25	6.125
406—Community schools (LEA)		15	7.5
(Higher Ed.)		2	1
407—Career education		15	7.5
408—Consumers' education	$15	15	7.5
409—Women's educational equity		30	15
410—Arts education		.75	.375
Total	15	100	50
Total authorization for Special Projects Act for each fiscal year		200	50

Mr. PELL. The proposed substitute

would do away with existing programs for the handicapped and for vocational education, substituting for each a single authority. There is nothing in the subcommittee record to support such a step.

Title VI of S. 1539 extends and amends existing programs of aid for the handicapped, and the committee report, in pages 106 to 124, outlines in extensive detail the reasons behind the committee's actions in extending the separate components of existing law. In addition, there is before the Subcommittee on the Handicapped, S. 6, which has major implication for the education of the handicapped. Programs for the handicapped should not be consolidated out of existence without detailed study of the potential impact.

Similarly, there is nothing in the committee's record to justify vocational education consolidation. Such consolidation will be one of the issues we will consider when we undertake oversight activities on vocational education later this session. This is an area which is long overdue for congressional inquiry, since no indepth look has been given to vocational education since 1968. It is possible that we will find that some measure of consolidation is advisable, but we should not make major program changes until we have had a chance to examine the facts.

Programs of education for the handicapped and of vocational education could be severely damaged under the proposed amendment, since it allows the State to divert up to 30 percent of the funds for these programs into the purchase of books and equipment or increasing the staff of its State department of education. My colleagues are all well aware of the needs of their school districts for too-scarce handicapped and vocational education funds. To cut these funds even further, as the proposed amendment would authorize, would severely damage existing efforts to educate the handicapped and to provide education for the world of work.

The proposed substitute would create a new Special Projects Act—a title borrowed from the committee bill—with an authorization of $1.7 billion for fiscal year 1975, rising to $2 billion for fiscal year 1978. The funds under this act would be distributed according to school age population, with no factor reflecting the ability of the State to spend money for education. We have seen no tables reflecting how these funds would be distributed, although I imagine that large States would gain money at the expense of small States like my own.

Funds under the act could be used for a long list of purposes, including those in the committee's proposed third consolidation, and additional categorical programs such as dropout prevention, bilingual education, reading improvement, Indian education, and education of the handicapped. However, the amendment does not require that any funds be devoted to these purposes. A State would be free to spend these funds on anything it pleased, without regard to the merits of these national priority areas.

The programs included in the amendment's list represent areas that the Congress felt are worthy of national attention and deserving of Federal funds. They are areas where the Congress felt that insufficient attention was being devoted at the State and local level and problems affecting regions or the entire country which one State alone cannot cope with. To consolidate these programs into a single mass and turn the money over without any string attached, as the amendment proposes, would seriously jeopardize many existing successful programs.

For example, bilingual education is of significant importance to a number of States with large bilingual populations. The committee bill vastly expands and improves the existing program of bilingual education, to make it more responsive to those needs. Yet the proposed substitute would merge special funds for bilingual education with other program funds, and would distribute the money on the basis of general school population, not on the basis of where the bilingual children are located. These children, less politically powerful than others, could suffer great educational loss if the separate bilingual education program is not maintained.

The argument holds true with the other programs the amendment would repeal. The reading improvement program, title VII of the committee bill, was a response to appalling statistics concerning the percentage of our Nation's population who are functionally illiterate. The bilingual vocational training program recognizes that vocational education cannot be effective unless it is understood. The special education of the handicapped programs were each a specific response to a problem which was otherwise not being dealt with. The Emergency School Aid Act recognizes that desegregation and the elimination and prevention of racial isolation can be expensive for a school district to achieve, and that there is a Federal interest in assisting such a district in meeting these goals.

Each of these programs is in existence in response to a specific need. They must not be repealed.

In essence, the proposed substitute is designed to get the Federal Government out of the business of making any educational policy or of responding to any educational needs, even if they are too big for a single State to handle. This is recognized in the substitute, which provides that reductions in salaries and expenses for the education division shall be distributed among the States.

I, for one, feel that we in the Congress have the responsibility to retain the Federal interest in education, rather than abandoning it to others. As I have noted, some problems are too much for one State or one school district to deal with; we can do so from the Federal level, but only if we have programs to do so. The committee bill retains and strengthens those programs; the proposed substitute wipes them out.

This amendment represents a tremendous step backward in Federal policy of aid to education. I would strongly urge my colleagues to oppose it.

Mr. DOMENICI. Mr. President, will the Senator yield for a question?

Mr. PELL. I yield.

Mr. DOMENICI. Do I understand that the manager of the bill is saying that in the hearings on this bill there was no suggestion on the part of national education leaders that we do away with substantial numbers of categories of grants and that there be a move in the direction of either pooling them or some aspect of revenue sharing, as being the desire of those educating our young people in this country?

Mr. PELL. There was a real desire to get away from red tape. For that reason, in the bill before us, over which we labored long and hard, we have three areas of consolidation. One is that the States could group together the various State formula grant programs. There is complete consolidation of new funds for this consolidated program. There is also a consolidation of discretionary project grant programs.

And there is a third consolidation. This we did in response to the desire to get away from redtape.

Mr. DOMENICI. I do not ask questions because I favor the specific substitute bill, but I would share with the manager of the bill these observations. I have traveled recently in my State and I think I can honestly say to the Senator that I have visited with every superintendent except one, and the unanimous complaint was that we have too many categorical grant programs—whether they were using the term revenue sharing loosely, or as it is now being developed, I do not know. But there was genuine praise for the concept and for the idea that the only way to rid redtape was to have fewer precise, specific programs rather than more, to have more flexibility at the local level rather than less. No one said he did not believe we needed policies, guidelines, and national goals, or that we should be able to take the $7 billion in this bill and turn it over to them with no objectives or audits.

But I can vividly remember one school board telling me that they had six different sets of books for eight programs and none of the bookkeeping was required to be the same. In fact, the Federal guidelines required that each of the six sets of books be kept differently, and they were audited not one time but six different times by six different auditors, none of whom knew that previous auditors within the auditing agency had been there.

I wish to ask the Senator from Rhode Island if we are making progress away from that in this bill or are we merely saying we are going to look at it in the next year. I would even accept the latter if that is what we intend to do. But it happens that some progress must be made in this direction. What we have done here in this bill is to move in this direction.

Mr. PELL. As I said earlier we have an administrative consolidation where various programs can be applied for in one unified application. They do not have to have all these different forms and bookkeeping procedures. In addition, we have a consolidation that says money over and above any funds for textbooks, library resources, State educational agencies, equipment, and qualifying teachers would be completely consolidated. Finally, we have what is a discretionary fund, the Special Projects Act which has consolidated programs dealing with health, nutrition, consumers' education, and education development. All these are now discretionary.

We have not gone as far as the administration would like, but we took a long step in that direction.

Mr. DOMENICI. The Senator would agree, would he not, that of all the programs we have, the one which really most complements, and the one they are most reluctant to lose, is title 874 funding.

Mr. PELL. That is correct. That is within the administration bill, but that is correct.

Mr. DOMENICI. It is not true that is not really a categorical grant? It receives the dollars and uses them along with all other dollars, presumably to supplement shortages of funds created by a certain kind of student.

Mr. PELL. That is correct. The problem that worried us in committee is the fact that these programs were set up with Federal tax dollars. We have a responsibility to raise these funds, so therefore do we not have an obligation to see how they are spent, whether on nutrition, special reading help, consumer education, whatever it may be? We believe we have an obligation to make sure the money is spent that way. Otherwise, I think we would be derelict in our responsibility. But this is a basic difference in view that I know we both share.

Mr. DOMENICI. I thank the distinguished Senator.

Mr. BUCKLEY. Mr. President, I yield such time as the Senator from Nebraska cares to use.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. CURTIS. I thank my distinguished colleague.

Mr. President, I am delighted to join with the very distinguished Senator from New York (Mr. BUCKLEY) and with the distinguished Senator from Idaho (Mr. MCCLURE) in presenting this alternative program.

I am thoroughly convinced that the more control over education that can be vested in the local community, to be exercised by the parents and other leading citizens, civic-minded persons in a community, the more it will result in the best education. If the parents of the children are not in a position to make wise choices and make good judgments with respect to education, who is to make such choices and judgments? Who has a motivation for the very best of schools that is greater than the motivation of parents?

Mr. President, Federal aid to education started out in a smaller way than we have today. We have added this program, we have added that program, and today we find that the Senate of the United States is sitting as a board of education for the whole United States of America.

We are more than that. We are making decisions that school administrators ordinarily would be making. We are making decisions that committees on curriculum should be making. We are, in fact, to a large degree, running the schools from Washington.

The Congress of the United States is not in a position to do that. We are not qualified. Even those who serve on the committee and give much dedicated time to writing the educational bills I am sure are not able to acquaint themselves with local conditions, local needs, local desires of parents, or observe the progress of the programs that we inaugurated, other than just a little sampling here and there.

Mr. President, education should never be centralized in any country. In pre-World War II Germany, the central government had the final authority in matters of education. The Hitler government rewrote the pages of history. If there was a page in there they did not like, they tore it out and wrote something to fit the desires and objectives of a dictator government.

Mr. President, I submit that if that country had had local control of education, where the local people within a school district, the parents, the other dedicated civic leaders, would have had the final authority, if the autonomy had been vested in them to run the schools, there would not have been very much chance of a national leader arising and using the educational system for an unworthy purpose such as was done in Germany.

We will have better education in the United States if in our localities the parents, the teachers, the school administrators, the boards of education are free to make the necessary decisions.

They will be creative. They will be inventive. They will make the dollars go farther. And here and there some of them will come up with some unusual ideas for progress and advancement, and other people will learn about it and it will be applied in other communities.

As long as we move toward central control of education in Washington, we move in the direction of putting all our eggs in one basket. We are putting our trust in an unnamed, faceless bureaucracy that administers education, comes before the committees and tells us what is good in education and what is bad, and then that same bureaucracy goes out into our States. With one hand they offer money; with the other hand they take the authority away from the local people.

I do not think that is going to be changed this year, although I am going to support this amendment and will vote for it, but I think it must be changed, not to retard education, but to advance education.

Who on Earth can you think of, Mr. President, who is more interested in having a child receive a good education, in having a child have the right kind of teachers, in having a child instructed in the things he ought to be instructed in, than parents? Yet we not only take away authority from parents; we take it away from our State and all of our local officials.

Mr. President, I did not support general revenue sharing. I could not buy the idea of just sending checks out to the States and the subdivisions when we had to do it with borrowed money. I think it was a mistake.

I think we took away from the States and localities more with Government-created inflation than we ever gave them in revenue sharing. But I do believe in the principle of special revenue sharing—in other words, if we say to the States, "If you take over the job of running the schools, we will, from the Federal Treasury, give you the same amount of money that you would get if it was controlled from Washington." That is my idea of special revenue sharing. I think of all the places where it would have a direct application and would be workable and would be in the interest of the country, it is in the field of education.

Mr. President, one of the obstacles that stands in the way of such a reform which I am convinced would lead to better education is the vested interest of people in the specific Federal programs. If there are administrators, instructors, and others that are getting Federal help to run a program, not asked for by parents necessarily, but arranged for in Washington and sent down here, they hate to give it up.

They say, "Well, how do we know the legislature will set forth a plan that will enable us to keep on doing these things?" Or if the legislature acts in a way that is not disappointing to them, they say, "Well, how do we know that the local school authorities will let us carry it on in this way?"

Mr. President, why do we run the schools? For all the administrators, teachers, and employees? Or is it for the pupils? Why do we have schools? Is it a job-producing activity?

I do not want anything I have said to reflect upon a good teacher or a good administrator, or to impugn their motives. I do say that people who are sharing in this Federal program might have an objective view on the question, Should we decentralize the control of education and give it back to the parents? Why are they concerned? If the Government is operating a really good program, why can they not sell it to the parents?

Mr. President, I have great faith in the people of the United States. I have great faith in the local leadership in our communities. I have great confidence in the educational leadership in our various communities. When they decide they want something, they go out and get it.

Not so many years ago, many of the high schools in my State did not have a high school band. Not so many years ago they did not have a first-class athletic system. But the local people decided, "We are going to have a band." Now there are so many bands in the State that it is not possible to get them all in one parade. But it is a wonderful thing. I am delighted.

I cite this for the fact that our people are intelligent. They know their children. They want their children to have a good education. They know their children. When they decide they want to have a band for the participation of their youngsters, or for boosting the community and having general entertainment, they get it.

Many of them decided they ought to have a better athletic program or physical education program. They carried out their plan. So there is no limit to what they can do.

There is not a school district in the

land which, when it decides it wants to do something, cannot do it. They can improve reading, if they want to. If they want to improve mathematics, they can do it. If they want a band, they can get it. I am glad. We are downgrading the leadership, intelligence, genius, and the capacity of our home communities when we adopt the view that a type of program and how it should be operated must be structured in Washington.

According to a simple rule of mathematics, everybody is wrong once in a while. If there is central control of education, and it goes off on a mistaken course, the whole country is carried on the mistaken course. If there is local control of education, we can rest assured that the vast majority of the communities will not only be on the proper course; they will be on a higher, better course than we could ever think of here in Washington.

I think that perhaps the Postal Service operated very well in the first few years it was in existence. I do not want to comment on how it operates now. If our endeavors to handle the details of education follow the same pattern as the success of a big, sprawling, bureaucratic government to deliver the mail, heaven help the children of the United States. As for myself, I prefer to put my trust in the people, in the fine stalwart citizens and civic leaders and the concerned parents of the land as to the details of our educational approach.

Mr. President, in 1965, amid its Great Society passion, Congress passed a well-intentioned piece of legislation entitled, "The Elementary and Secondary Education Act." Now we find ourselves, in 1974, attempting to "improve" it; a position I predict we will find ourselves in numerous times in the future unless this Congress faces up to the fact that Federal money resulting in more Federal intervention has never been, is not now, nor ever will be the answer to any attempts at bettering the lives of all Americans.

I believe that the 1972 election was a clear signal to the Congress that the American people want less—not more—Federal interference in their lives. The present structure of the Elementary and Secondary Education Act does just the opposite and the substitute amendment for revenue sharing would correct this. The fundamental question that each Senator must ask himself when he votes on this amendment is, "Who is better qualified to determine the best possible education for our children? The Federal Government, or State and local agencies?"

A brief glance at most Federal programs gives clear evidence and provides the answer. State and local people should be making the decisions affecting education—not Washington bureaucrats.

Mr. President, if there is anything our Nation's educational system does not need today, it is more bureaucratic redtape and increased unnecessary Federal complications in obtaining funds. Just as the Supreme Court was out of step with the Nation when it decided where children would attend school, Congress is today still out of step with the Nation when it tries to decide what and how children are to learn. The adoption of this revenue sharing amendment would be a signal that the Congress is moving toward being back in stride with the American people.

Many of the programs funded by the Elementary and Secondary Education Act moneys are in the nature of social experimentation using children without parental knowledge or consent.

Mr. President, I strongly suggest Congress does not have any mandate from the American people to use their tax moneys in such an experimental way.

Mr. President, what would the substitute amendment do? Quite simply it would:

One. Give State authorities needed discretion to use funds so school districts can be better able to plan and prepare themselves to meet their particular educational needs.

Second. Offer greater flexibility in making educational programs responsive to the needs of students—not the wishes of Washington bureaucrats or the hopes of some social experimentors.

Third. It would make funding less cumbersome in implementation than the present maze of categorical grants.

Fourth. It would cut redtape and paperwork and the tremendous and unnecessary overhead needed to get and then to justify each district's money.

Fifth. It would insure equitable distribution of Federal funds.

Sixth. It allows educators to return to their primary responsibility and concentrate on educating rather than searching for Federal aid.

I want to know how many of the personnel of our schools use a great portion of their time in searching for Federal aid, applying for it, receiving instructions about it, keeping the books, and making reports.

As it is now, Mr. President, ESEA is a game of "grantsmanship in education." The substitute amendment would eliminate needless duplication and overlapping. It will reach the schools which need aid rather than those who are knowledgeable about the available forms of Federal aid and where to find it. It avoids the frequent delay and confusion now occurring because of the proliferation of grants. Local money will not be drawn for unneeded purposes only because the Federal Government considers them important. Advance funding will allow time for better planning and structuring of programs. Schools and personnel can be held more accountable for their actions. And, finally, some pressure on property and sales taxes could be relieved.

Mr. President, there are numerous other reasons to support this amendment and thereby provide assistance to school districts instead of condemning them to increasing Federal interference and control. I urge all my colleagues to support the Buckley-Curtis-McClure substitute and thereby support better quality education and better strengthen the American educational system.

Mr. President, I yield the floor.

Mr. PELL. Mr. President, I suggest the absence of a quorum, the time to be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, the Senator from Rhode Island (Mr. PELL) has analyzed the details of the 6 months of labor—indeed, preceded by more than 6 months before that—which has gone into the fashioning of this particular bill, which was reported unanimously by rollcall vote out of the Committee on Labor and Public Welfare.

Mr. President, the concept of the bill was to do the best by educational opportunity, without overlapping into the special revenue sharing field and simply consolidating everything and leaving it to the States.

There are three points that I would like to leave with the Senate in this regard, which are critical.

First, even the proponents of the substitute recognize what I have just said with respect to providing essentially in respect of authorizations for appropriations without direct reference to the things you are appropriating for, globally. In a situation like this, at first impression in terms of what amounts are required, it seems to me, is more risky than any Member who feels himself responsible for Federal aid in many States as a major point would wish to undertake.

Second, Mr. President, we have written consolidation into S. 1539, and we are going to try out the consolidation concept. Again, in such a sensitive matter as this, we should not throw the whole thing to the States in terms of distribution of money until we see how it can work. We have enough here so that we can see how it can work over a test period of years.

Finally, Mr. President, we have tried a remarkably good experiment in terms of initiative and taking experimental programs and letting them be tried out for 5 years, in order to see whether they ripen and mature.

The PRESIDING OFFICER. The Senator will suspend to receive a message from the President of the United States.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had agreed to the concurrent resolution (S. Con. Res. 85) to proclaim October 14, 1974, a Day of National Observance for the 200th anniversary of the First Continental Congress, and for other purposes.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7824) to establish a Legal Services Corporation, and for other purposes.

EDUCATION AMENDMENTS OF 1974

The Senate continued with the consideration of the bill (S. 1539) to amend and extend certain acts, relating to elementary and secondary education programs and for other purposes.

Mr. JAVITS. And whether they deserve to be made permanent programs. Again I point out that the authors of this amendment, in one of the few changes they have made from simply the generic introduction of the administration's bill, have had to adopt a whole list of these categories in order to recognize the desirability of dealing with them on the basis which I have described; but, again, they have simply thrown them into the pot as something else to which to devote money—the very contrary of the highly specialized approach which we have made in order to give them their due as experimental programs, but without any all-encompassing responsibility as far as the total pot of money is concerned.

Finally, Mr. President, the 30 percent transfer proposition, which is put forward as an advantage to this bill, is, in respect to those who could suffer from the 30 percent transfer provisions, a disadvantage. Look, for example, at the handicapped, who could lose 30 percent, or vocational education, in which we have a burning interest, which could lose 30 percent.

For all those reasons, I hope the substitute will be rejected and the Senate will not simply throw onto the scrap heap the years of work which, in the educational aspects, resulted in the unanimous report of the Committee on Labor and Public Welfare.

Mr. McCLURE. Mr. President, will the Senator from New York yield?

Mr. BUCKLEY. I yield the Senator from Idaho such time as he may require.

Mr. McCLURE. Mr. President, I think it would be a mistake for us to let the record stand without some answers to some of the comments that have been made by the managers of the bill with respect to the possibility that some of the special programs could lose 30 percent of their money.

I think what is said by that comment is that those Senators have absolutely no faith at all in the wisdom or the judgment of the State legislatures or the local school boards, because, as a matter of fact, it can be said with equal truth that aid to the handicapped, to special education for the handicapped, or vocational education might well receive 30 percent more under this proposal than they do under the committee bill, and that therefore if you are in favor of vocational education or special education for the handicapped, you should vote for our substitute rather than the committee bill.

It can be argued with equal logic that if indeed you are opposed to the substitute, then you are as a matter of fact opposed to special education projects and you are opposed to vocational education and special education for the handicapped.

I think that either statement is equally false. I think it should be pointed out that the substitute simply gives the States and the local school boards the option to determine whether or not they want that money to go into those programs or into some other educational program of higher priority in their judgment—not in the judgment of those of us who sit here and not in the judgment of the bureaucrats downtown, but in the judgment of the people who know what the needs of their districts are, with the infinite variety of demands for educational services in all of the school districts in all of the 50 States.

It was suggested by the manager of the bill in his opening remarks that we should not adopt this substitute without giving the committee a chance to examine the facts.

How much chance do they need? How many years does it take? How many comments from how many educators are required before the committee has had a chance to examine the facts?

It seems to me they have had an adequate opportunity to examine facts. They have had years to examine facts. It is simply because they have had those years of examining facts and structuring rigid programs that educators across this land are asking us to make a change.

It does not have to be the way it is. It can be better. I think, just for instance, two or three examples of what can be done and what needs to be done under education can be brought by simply asking the opinions of the various people across this country.

What does the Governor of South Dakota say? He believes that revenue sharing would improve education for the children in their State.

What does the Governor of Nevada say? The same thing.

Why did I pick them? Because they happen to be of the other party, and I assume of a different philosophy from my own in regard to government generally. But, on this, we agree.

What does the Oregon Board of Education say? It believes that the present system is not working to bring the kind of education that the dollars should buy for the children of the State of Oregon, and it would like to see revenue sharing adopted.

These are just some examples. The examples could be multiplied with a great long list of people who have said that the present system can be improved.

In closing, Mr. President, I should like to comment only on the final sentence on the sheet of paper distributed to Senators' desks by the manager of the bill, "Funds could be used for any purpose in the discretion of the State."

I think that needs to be modified to say, ". . . for any of the educational purposes provided in this substitute."

I think that is an essential difference that should not be omitted from the RECORD at this point.

Mr. BUCKLEY. Mr. President, will the Senator from Idaho yield?

Mr. McCLURE. I yield.

Mr. BUCKLEY. That needs to be further modified, I think, by saying, "Within limits, there can be a variation of the application of funds because of the 30-percent limitation on the discretionary powers within the broad categories."

Mr. McCLURE. That is correct. There is also one further matter which needs to be stated for the RECORD. There is a provision in the substitute that provides no State shall lose money as a result of the passage of this bill. So when we talk about the possibility that some States who now are favored by a categorical aid program would lose money, that simply is not true. There is a floor, and that floor provides that they get as much money as they are now getting. They might not get as much money in a specific category as they otherwise would get.

Mr. BUCKLEY. I should like to point out that actually the States would be receiving more money, because the present bill as reported by the committee is talking about funds to support programs. A tremendous proportion of those funds are now absorbed in Washington. Now the entire amount would be distributed directly to the States.

Mr. McCLURE. Maybe it might be stated better, that the 50 States would benefit and the bureaucrats in the District of Columbia would be disadvantaged.

Mr. BUCKLEY. That is a correct statement.

Mr. McCLURE. Maybe that was inherent in what a great many people of this country applauded in the statements made by Governor Wallace in past years, that if he were elected, when he came to Washington he would throw all the bureaucrats into the Potomac, their attaché cases with them. The people cheered.

That is the kind of change we are asking to be made here. It is a change that I think is long overdue.

Mr. BUCKLEY. Mr. President, I yield myself such time as I may need, but I shall not be long.

I want to thank my colleague from Idaho and my colleague from Nebraska who are participating with me in bringing the need for educational change and real reform before the Senate.

To my mind, the most telling condemnation of the system that we have allowed to grow in the few years since the Federal Government first became involved in elementary and secondary education is the article in the New York Times to which I referred earlier this afternoon, an article written by Representative EDITH GREEN, who is recognized as one of the foremost authorities on education in Congress. Representative GREEN helped to pioneer Federal aid and she has come to the reluctant and sad conclusion, on the basis of her own expert observations of the impact and result of Federal programs, that they have been failures, that they have impeded rather than enhanced the cause of education.

I believe that we must take her testimony to heart. With all due respect to my friend from Rhode Island and my senior colleague from New York, I have heard nothing to rebut the growing evidence of the extent of the failure that has resulted from Federal intervention.

I believe that one simple fact states it all: When the States and localities had the entire responsibility for primary and secondary education in this country, we were achieving high levels of education in our young.

I have recited the figures showing a steady decline in literacy. We have witnessed the phenomenon today of people walking around with high school degrees who cannot functionally read.

If the Federal Government had some peculiar insight, some peculiar capacity to achieve educational ends that somehow is denied to citizens in New York or citizens in Rhode Island, then where is the evidence that that is so?

I should like to reemphasize what the Senator from Idaho has stated, that what we are proposing is that funds be distributed directly to the States for use in specific categories of educational help and that encompass the programs we are consolidating. This does not allow people to go wandering off all across the educational landscape but recognizes something that both experience and common sense understand and recognize, namely, that local and State officials have competence, and that we do not mean to live in a cocoon on the banks of the Potomac, nor draw special insights from the air, or whatever it is we say in this place. We have living flesh and blood Americans who are more directly concerned and more directly knowledgeable about what is required to educate our children than the people financed by the programs in Washington, D.C.

I believe that this is a program whose time came some years ago, and it now is reasserted in the substitute amendment we are offering. It is the kind of approach the American people want. It is the kind of approach the American people voted for in November 1972. It is the kind of approach reflected in the polls and study after poll after study. It is the kind of approach reflected in the understanding that the American people have now achieved; namely, that the Federal Government is not capable of delivering vast and complicated services, so that what we must do is to reestablish our confidence in the discretion, sensitivity, and responsibility of local government.

I believe that if we will adopt this measure, we will have taken a long step forward towards achieving true reform in this country, towards achieving economy, and towards restoring good sense with regard to the education of our children.

Mr. President, I am willing to turn back the time for our side if the proponents of the bill are willing to do likewise.

Mr. PELL. I appreciate the willingness of the Senator from New York to yield back his time, but prior to doing so, I wish to say that I thought the junior Senator from Idaho was correct in that we should have used the words "educational purposes" in that last line. We thought that was clear. That is obviously what we meant.

So far as the question of why we arrived at this conclusion and who shared it with us is concerned, we have had a formidable schedule of hearings, eight volumes of which I hold in one hand here. But so far as the predominance of the testimony of witness at the hearings is concerned, the witnesses opposed, the basic bill the administration offered. A few said there were some exceptions and some portions of it that they liked, but in general the predominant testimony of the witnesses seemed to indicate they wanted some way to get rid of the redtape, and as the Senator from Idaho mentioned earlier, some way to try to have some consolidation, but not to throw the baby out with the water.

It is for that reason we arrived at what we thought was a pretty good compromise, after a great many days of pretty hard work on the part of everyone on the committee.

I would thereby hope that my colleagues will support our measure.

Mr. President, I am prepared to yield back the remainder of my time at this point.

Mr. BUCKLEY. Mr. President, I yield back the remainder of my time.

I ask for the yeas and nays.

Mr. McCLURE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from New York. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SPARKMAN (when his name was called). On this vote I have a pair with the Senator from Utah (Mr. MOSS). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." I therefore withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Missouri (Mr. EAGLETON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Utah (Mr. MOSS), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH) is absent on official business.

I further announce that, if present and voting, the Senator from Missouri (Mr. SYMINGTON) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. BENNETT), the Senator from Hawaii (Mr. FONG), and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

I also announce that the Senator from Colorado (Mr. DOMINICK) is absent on official business.

I further announce that, if present and voting, the Senator from Colorado (Mr. DOMINICK) would vote "nay."

The result was announced—yeas 21, nays 64, as follows:

[No. 209 Leg.]

YEAS—21

Baker
Bartlett
Brock
Buckley
Byrd, Harry F., Jr.
Cook
Cotton
Curtis
Fannin
Goldwater
Griffin
Gurney
Hansen
Helms
Hruska
Long
McClure
Roth
Scott, William L.
Thurmond
Tower

NAYS—64

Abourezk
Aiken
Allen
Bayh
Beall
Bible
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Dole
Domenici
Eastland
Ervin
Hart
Hartke
Haskell
Hatfield
Hathaway
Huddleston
Hughes
Humphrey
Jackson
Javits
Johnston
Kennedy
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Metzenbaum
Mondale
Montoya
Muskie
Nelson
Nunn
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stennis
Stevens
Stevenson
Taft
Talmadge
Tunney
Weicker
Williams
Young

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Sparkman, for

NOT VOTING—14

Bellmon
Bennett
Bentsen
Church
Dominick
Eagleton
Fong
Fulbright
Gravel
Hollings
Inouye
Moss
Packwood
Symington

So Mr. BUCKLEY's amendment was rejected.

The PRESIDING OFFICER (Mr. DOMENICI). The bill is open to further amendment.

Mr. CRANSTON. Mr. President——

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, I yield to the Senator from South Dakota.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PELL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer (Mr. McCLURE) laid before the Senate a message from the President of the United States withdrawing the nomination of Col. Dana G. Meade, U.S. Army, for appointment to the position of Permanent Professor at the U.S. Military Academy, sent to the Senate on May 13, 1974, and nominating Col. Dana G. Mead, U.S. Army, for appointment to the position of Permanent Professor at the U.S. Military Academy, which nominating message was referred to the Committee on Armed Services.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, May 16, 1974, he presented to the President of the United States the enrolled bill (S. 3062), an act entitled "Disaster Relief Act Amendments of 1974."

EDUCATION AMENDMENTS OF 1974

The Senate continued with the consideration of the bill (S. 1539) to amend and extend certain acts, relating to elementary and secondary education programs and for other purposes.

UNANIMOUS-CONSENT REQUEST

Mr. ROBERT C. BYRD. Mr. President, I am directed by the distinguished majority leader to make the following unanimous consent request. It has been cleared with the distinguished assistant Republican leader and Mr. Javits, Mr. Pell, Mr. Hart, Mr. Kennedy, Mr. Humphrey, Mr. Ervin, and other Senators.

Under the agreement that was entered into last week, the final vote on the education bill would occur before the close of business next Tuesday.

On the condition that the House bill would not be called up and offered as a substitute on Monday or at any other time—as was permitted in the previous agreement which allowed Mr. Griffin to call up the House substitute on Monday—on condition that there would not be any more so-called busing amendments offered—and that was in accord with the previous agreement, which provided that they would be disposed of today—I ask unanimous consent that the following order be substituted for the previous agreement:

I ask unanimous consent that a final vote on passage of the education bill occur at no later than 6 p.m. on Monday next.

Mr. JAVITS. Mr. President, before the Chair rules, it is necessary also to add to that the fact that, assuming the education bill is passed at that hour or before, immediately thereafter the last paragraph of the previous unanimous-consent agreement would be operative; that is, that a vote occur immediately following on H.R. 69, with the text of the Senate bill substituted for the text of the House bill.

Mr. ROBERT C. BYRD. Yes, I include that in my proposed agreement.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN and several Senators reserved the right to object.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. GRIFFIN. Mr. President, reserving the right to object, did I hear the majority whip say the vote would be at 6 o'clock or 6:30?

Mr. ROBERT C. BYRD. At no later than 6, and we can make it precisely 6 if the Senator prefers. As a matter of fact, I think I would have to do that to get the agreement.

Mr. GRIFFIN. Earlier the hour of 6:30 was mentioned, but I take it that now would not be the agreement.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, as far as I am concerned, I do not want my convenience to govern the Senate, but if it is not as early as 6, it will not do me any good, but if it is 6, it is all right. Would the Senator reserve the agreement so it would be at 6?

Mr. ROBERT C. BYRD. Yes, I do.

Mr. MATHIAS. Mr. President, reserving the right to object, under the previous order I had 2 hours reserved for an amendment which I proposed to offer, with the cosponsorship of other Members of the Senate, on the subject of handicapped children. I would like to insure that we would have ample time to debate it. Whether it would take the full 2 hours or not, I am not sure, but I wonder if the distinguished majority whip would be willing to modify the request so that that amendment might be in order at the beginning of the day on Monday and that it might be in order for me at that time to call up that amendment or any substitute therefor which I might propose?

Mr. ROBERT C. BYRD. I would add to my unanimous-consent request that immediately following the conclusion of routine morning business on Monday next the distinguished Senator from Maryland (Mr. Mathias) be recognized to call up his amendment.

Mr. JAVITS. Mr. President, reserving that question, I was going to raise another problem for all of us, and that is that with so many hours on Monday and 1 hour for debate on every amendment, and now 2 hours on the Mathias amendment, and the possibility of a half hour on amendments to amendments, again we run into the very serious matter of amendments being shut down.

As a matter of fact, I was going to ask unanimous consent on an amendment which had already been debated in connection with the McClellan amendment the other day that was going to be proposed on behalf of Senators Kennedy, Brooke, Hart, myself, and other Senators, to have 1 hour, because it is an important matter to big cities. But this is a real problem for us, and I think it would be a good idea, if I may respectfully suggest to the leadership, to get some concept of what amendments can be offered tonight. I think this is an excellent time to try to do all we can and, since I understand the leadership might decide to go over until Monday, see what we have to look forward to on Monday before we latch it in, so we may best understand the total situation.

Mr. ROBERT C. BYRD. Mr. President, may I say, before we proceed further, the Senate is already coming in at 10 o'clock on Monday. That can be moved up to 9 o'clock, and I so request.

I would want to include in my unanimous-consent request, in accordance with promises that have been given, that no votes would occur on any amendment Monday until the hour of 3 o'clock, and at 3 o'clock, votes would occur on all amendments that had accumulated up to that time, and a final vote would occur at 6 p.m.

Mr. JAVITS. Mr. President, I would like to have added that 1 hour be allowed for the amendment which we would offer to part (c) (1), to follow the agreed-upon time on the Mathias amendment.

Mr. GRIFFIN. Mr. President, reserving the right to object, in view of the fact that we are now moving to be sure that particular Senators be recognized for their amendments and that that right is protected, Senator Scott of Virginia and Senator Helms of North Carolina want to be protected on amendments. Senator Scott of Virginia wants to be sure he is going to be recognized and have 1 hour on his amendment. Senator Helms is willing to agree to a limitation of 15 minutes on each of three amendments, provided he can be recognized. I would have to now ask that they be included in the unanimous consent request.

Mr. ROBERT C. BYRD. Very well. I might suggest that immediately following the disposition of the running of time by Mr. Mathias, the amendment referred to by the Senator from New York (Mr. Javits), inasmuch as that was brought up first, would be called up; and upon the disposition of that amendment, the amendment by Mr. Scott of Virginia be brought up with a time limitation of 1 hour thereon.

Mr. JAVITS. Mr. President, we will take a half-hour on that amendment on our side.

Mr. ROBERT C. BYRD. Very well. The hour will be equally divided. The other amendment on which there was to be a 30-minute limitation, by Mr. Helms——

Mr. GRIFFIN. Mr. President, the Senator from North Carolina has three amendments. He will be willing to accept a limitation of 15 minutes on each.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, further, that there be a limitation of 15 minutes on each of the three Helms amendments.

Mr. JAVITS. Mr. President, may we have time in opposition to those amendments?

Mr. GRIFFIN. Mr. President, I propose that there be a half-hour limitation, 15 minutes on each side.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent further that there be 30 minutes on each of the Helms amendments, to be equally divided; and that sometime after 3:30 p.m. on Monday the Senator from Texas (Mr. Bentsen) be recognized to call up an amendment on which there be a limitation of 20 minutes, the time to be equally divided.

Mr. JAVITS. Mr. President, can the Senator enlighten us—since many Senators are in the Chamber—as to how many amendments are contemplated?

Mr. ROBERT C. BYRD. Mr. President, before we get to that question, may I finish my request?

Mr. JAVITS. Yes. I was just going to ask whether we could agree on a time limitation or not.

Mr. ROBERT C. BYRD. Yes. However, let us proceed a bit further.

I think that in order to make the unanimous-consent agreement as workable, as possible, there ought to be a time for debate on the bill on Monday, to be under the control of the distinguished majority leader and the distinguished minority leader, or their designees, of, say——

Mr. JAVITS. One hour.

Mr. ROBERT C. BYRD. Say, 2 hours, and in accordance with the usual form. This would allow the leaders or their designees to allot time from the time for amendments, debatable motions, and appeals, and the time for such amendments, the tabling motions, debatable motions, or appeal be equally divided and limited to 20 minutes.

Mr. JAVITS. Mr. President, may we find out from the Parliamentarian, through a totaling up of all of these hours, whether, if we come in at 9 o'clock on Monday and work until 4, we will use up the time or whether we will have time remaining, because of the 2 hours that must begin to run at 4 o'clock?

Mr. ROBERT C. BYRD. Mr. President, may I complete my request?

The PRESIDING OFFICER. Yes.

Mr. DOMENICI. Mr. President, before the Senator from West Virginia does so, I may possibly have an amendment on which I would need not more than 15 minutes.

Mr. MANSFIELD. Mr. President, if the Senator will yield, I wonder whether some of the amendments we are talking about considering and voting on on Monday could not be offered tonight. It is fairly early yet. It would be most helpful if Senators would call up and dispose of their amendments tonight and not be offering them on Monday. It would be a service, I think, to the institution.

Mr. ROBERT C. BYRD. Yes. I did not say anything about tomorrow because I wanted the majority leader to make the announcement concerning tomorrow. That might help Senators to agree that we should remain in session until later tonight.

Mr. ERVIN. Mr. President, reserving the right to object—

Mr. MANSFIELD. Mr. President, if the Senator will yield further, I would hope that the Senate would be prepared to stay in session late tonight to get as many of these amendments out of the way as possible. Then we could come in at 8 o'clock on Monday, or 9 o'clock at the latest—perhaps 8 o'clock on Monday. However, I am disturbed by the number of amendments that are piling up here, to be offered on Monday, when they could just as well be offered and disposed of this afternoon.

I do not want to come in tomorrow. However, I would like to get as many of the amendments out of the way as possible, so that the Senate can go over until Monday. But if we get too many amendments that are to be offered on Monday, we will have to come in tomorrow.

The PRESIDING OFFICER (Mr. Cook). The Chair wishes to inquire of the Senator from West Virginia relative to the amendment of the Senator from Virginia (Mr. William L. Scott). Is that a total of 15 minutes, or is it 15 minutes to a side?

Mr. GRIFFIN. Mr. President, I would say 1 hour on the amendment of the Senator from Virginia (Mr. William L. Scott), 30 minutes to a side; and on the three Helms amendments, a total of 30 minutes, 15 minutes to a side.

I must report that the Senator from Connecticut (Mr. Weicker) has called in and wants 1½ hours on an amendment, or else we cannot have the agreement.

Mr. BROOKE. Mr. President, reserving the right to object, I intend to offer two amendments. One would delete the next-closest-school section from the bill. The other would delete the attorneys' fees section from the bill. Is it my understanding that the proposed unanimous-consent agreement would foreclose my right to offer those two amendments?

Mr. ROBERT C. BYRD. Mr. President, I am sorry, but I was distracted. I did not hear the able Senator.

Mr. BROOKE. Mr. President, I said that I intend to offer two amendments on Monday. One would delete the next-closest-school section of the bill. The other would delete the attorneys' fees section of the bill. Do I understand that the unanimous-consent agreement would foreclose my right to call up those two amendments?

Mr. ROBERT C. BYRD. Mr. President, this agreement would not foreclose the Senator's right to call up any amendment that was not considered to be a civil rights amendment, or a so-called civil rights amendment.

Mr. BROOKE. That would certainly be considered to be a civil rights amendment. That is the heart of the bill. I think it is very important. I certainly intend to offer the amendment. However, I would not enter into any unanimous-consent agreement that would foreclose my right to do so.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. BROOKE. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, the present agreement relates to busing amendments, the time for which ended at 1 p.m. today. Of course, that time has passed. It is up to the Chair to decide. However, that is the present unanimous-consent agreement.

I would say—and it is my own opinion—that I believe that the counsel fees problem could be dealt with generically so that it would not be a busing amendment. However, I do not believe that there is any way to deal with the next-closest-school section of the bill generically, so that would not come under the agreement. However, I do not know how the Chair would rule on that section of the unanimous-consent agreement that busing amendments would end at 1 p.m. today.

Mr. ROBERT C. BYRD. Mr. President, may I say to the distinguished Senator that this agreement, if entered into, would not deprive a Senator of any right he now has under the present agreement—which will continue to operate, of course, if we cannot get a new agreement.

In other words, all so-called busing amendments under the present agreement were to be disposed of by 1 o'clock today.

Mr. GRIFFIN. Mr. President, if the Senator will yield for this observation, it should be clearly understood by the Senator from Massachusetts, however, that under the existing agreement, any further amendments to the busing section of the bill would not be in order. The whole purpose of the previous unanimous-consent agreement that we entered into was that we were going to dispose of that section by 1 o'clock today.

There was a reservation about which we had quite a discussion, under which I would have an opportunity on Monday, with a vote on Tuesday, to offer the House bill as a substitute amendment. I am voluntarily withdrawing that option. I think that we have had enough discussions and votes on the whole subject. I am willing to go on and leave the busing issue in the hope that no one else will raise it again.

Mr. BROOKE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BROOKE. Mr. President, does the unanimous-consent agreement under which we are now operating foreclose my right to offer an amendment to the bill itself?

I understood that it would pertain only to the so-called Gurney amendment to the bill, which was before the Senate earlier today.

Now we have the bill itself. I had the intention of offering amendments to the bill.

Not to the Gurney amendment, but to the bill. Those two amendments had to do with provisions regarding the next closest school and attorneys' fees, matters which are now included in the bill.

May I have a ruling from the Chair as to whether the unanimous-consent agreement we are operating under now forecloses my offering an amendment to the bill such as I have described?

The PRESIDING OFFICER (Mr. Cook). May I say to the Senator from Massachusetts, in reading from the original order propounded to the Senate and agreed upon, it was:

> *Ordered further,* That all the so-called "busing" amendments be disposed of by the hour of 1:00 p.m. on Thursday, May 16, 1974, and then the Senate proceed to the consideration of the amendment to be offered by the Senator from Idaho (Mr. McClure), for himself and others, which amendment shall be disposed of before the close of business on that day.

So it would seem to me that all busing amendments to the bill or to any other amendments to be submitted to the bill would be precluded.

Mr. BROOKE. Any other amendment to the bill?

The PRESIDING OFFICER. That is correct, dealing with busing.

Mr. BROOKE. May I propound a further parliamentary inquiry?

The PRESIDING OFFICER. The Senator will state it.

Mr. BROOKE. Would an amendment addressed to the question of attorneys' fees be considered by the Chair to be a busing amendment?

Mr. JAVITS. Well, now, Mr. President, could I make a suggestion to the Senator? I really have been in the vitals of this agreement, and I would hope the Senator might phrase the question in terms of a generic amendment to the bill which would deal with counsel fees under any part of the bill, whatever it may be, whether related to busing or not.

Mr. BROOKE. That was the intent that I had.

The PRESIDING OFFICER. May I say to the Senator from Massachusetts, if the terms of the amendment were broader than its interpretation on the singular issue of busing, then I think the amendment would be appropriated and the amendment could be brought up.

Mr. BROOKE. It was my understanding that I could not amend the Griffin amendment as substituted by the Scott-Mansfield amendment pertaining to attorneys' fees, but that I could amend the bill. At what time will I have the opportunity to offer an amendment to the bill? Can I do it tonight? I can do it at any time prior to this unanimous consent agreement, can I not?

Mr. ROBERT C. BYRD. May I respond to the Senator's question? The Senator, under the present agreement, could offer that amendment tonight on the disposition of the Curtis substitute. Under the present agreement, he could offer it on Monday any time there is a lag in the action on the Griffin substitute, because under the agreement, on Monday the Griffin substitute will be called up immediately after the conclusion of morning business, and amendments offered to it that day, but no votes taken thereon until the next day.

That would not preclude the Senator from offering his amendment on Monday, if there was a lag in the action.

Mr. BROOKE. I understand the Griffin amendment is not going to be called up on Monday.

Mr. ROBERT C. BYRD. Under the present agreement. If we get a new agreement, the Griffin amendment would not be called up.

Mr. BROOKE. Then I would be foreclosed?

Mr. ROBERT C. BYRD. No, the Senator would not be foreclosed if he offered an amendment dealing with attorneys' fees, in accordance with the ruling of the Chair, either today after the Curtis amendment is disposed of or on Monday.

Mr. BROOKE. If it is broad enough.

Mr. ROBERT C. BYRD. If it is broad enough.

Mr. BROOKE. I can call it up today or Monday?

Mr. ROBERT C. BYRD. Yes.

Mr. BROOKE. But I am foreclosed from calling up my amendment having to do with the next closest school section at any time?

Mr. ROBERT C. BYRD. The Senator would be foreclosed either under the present agreement or the new agreement from calling up that amendment.

Mr. GRIFFIN. Mr. President, the Senator should understand that that agreement was reached primarily at the insistence of the Senator from New York, who insisted that if we were going to have busing amendments, they be at a certain time when all Senators could be here.

Mr. BROOKE. If the Senator from Michigan did call up his amendment, which I understand now he will not call up on Monday, is it the ruling of the Chair that I could then offer an amendment to the Senator's amendment?

Mr. GRIFFIN. Yes, amendments to that substitute would be in order if it were before the Senate.

Mr. BROOKE. Even if it is a busing amendment?

Mr. GRIFFIN. Yes, I think that was understood. But no votes until Tuesday.

Mr. JAVITS. If the Senator will yield, if that amendment went down, the amendment of Senator BROOKE would go down with it.

Mr. GRIFFIN. That is right.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. McCLELLAN. Mr. President, reserving the right to object, what is the unanimous-consent request? I just walked in.

The PRESIDING OFFICER. Would the Senator from West Virginia restate his unanimous-consent request?

Mr. McCLELLAN. I am sorry. I have been in conference.

The PRESIDING OFFICER. The Senator has the right to make that inquiry. Would the Senator from West Virginia review his unanimous-consent request?

Mr. McCLELLAN. What is the request?

Mr. ROBERT C. BYRD. Under the request that was propounded, the final vote would occur on the passage of the education bill on Monday at 6 p.m.—rather than on Tuesday before the close of business. Various amendments would be called up later today.

The Senate could run well into the evening of today. As the distinguished majority leader has indicated, there would be no session tomorrow, provided we can work out this agreement, and on Monday the Senate would come in early, perhaps as early as 8 or 9 o'clock, and work throughout the day, with no votes occurring on any amendments until the hour of 3 p.m. on Monday. There would be a time limitation on debatable motions and appeals, with the understanding that no busing amendments could be called up either today or on Monday, and with the further understanding that the House substitute, which had previously been programed, would not be called up.

Mr. McCLELLAN. All I want, still reserving the right to object, if an amendment is offered dealing with the subject matter that was involved in the amendment by the distinguished Senator from Massachusetts that was proposed or to be proposed by him pertaining to part C funds in the bill, then I would want an hour for debate. I do not want to be shortchanged on time for debate or that particular item. Other than that, I would have no objection to the unanimous-consent request.

I might say that the distinguished Senator from New York has spoken to me about this, and I understand he will present to me the amendment which he would propose before its being offered, and at that time I would be willing to undertake to reach some agreement as to time.

Mr. JAVITS. Mr. President, if the Senator will yield, I am not going to propose it alone; it will be proposed by Mr. KENNEDY, Mr. BROOKE, myself, and others; but I had in mind an hour on that amendment. I might tell the Senator right now what it is: It has been redrafted, with two critically important changes, one limiting the amount any State may receive under it to 15 percent—which means, for the information of the Senate, that, if it had been in effect last year, instead of getting $25 million, New York would get $11 million, the same amount as California. The second change is that there would be separate funding, the same way as with the incentive amendment.

Mr. McCLELLAN. If I may ask, what will it do for these rural areas like my counties?

Mr. JAVITS. I am submitting for the record, and I intend to give to Senator McCLELLAN before anyone else saw it, a complete list, which shows that every State but Delaware would participate.

Mr. McCLELLAN. Mr. President, without a chance to see that amendment and evaluate it further, I would say I would want at least 1 hour's time on any such amendment, and if that was agreeable, reserving 1 hour of time on that—and I would have to do that Monday, because I am tied up in this conference tonight, and I cannot do both or all three things at once. I have something else in my hand here now.

Mr. JAVITS. Mr. President, if the Senator will yield, I think we have read his mind. It is Monday, and we have provided a half hour on the side, but I know I can——

Mr. McCLELLAN. An hour on the side.

Mr. JAVITS. I know I can permit myself to yield the Senator an additional half hour on the bill, and take only a half hour for the proponents of the amendment.

Mr. McCLELLAN. With that understanding, that I get 1 hour on that amendment, I am willing to withdraw my objection to the unanimous-consent request.

Mr. BAYH. Mr. President, reserving the right to object, I think you can argue unanimous-consent agreements plus or minus. I have the greatest appreciation for the job that our leaders try to do to move business through the Senate. But I must say that when we have a unanimous-consent agreement that a measure such as this is going to be decided on one day, and Senators make plans in accordance with that agreement, and then the agreement is changed, I do not think that is exactly fair to all of us. It puts us in a very difficult position.

For that reason, I object.

The PRESIDING OFFICER (Mr. BIDEN). Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, may I proceed just for 5 minutes. I recognize the problems created for individual Senators by agreements such as the one we entered into last week under which a final vote would occur on this bill Tuesday next. This situation recurs from time to time. When the Senate enters into an agreement on a very difficult bill, things work along and we are sometimes able to reach a situation where we can later modify the agreement and save the time of the Senate and proceed on to other matters.

I put out on the hotline in the cloak room earlier this afternoon a notice to all Democratic Senators that if they had any objections to voting final passage at no later than a certain time on Monday, to let their objections be known. The same thing was done on the other side. We heard from Senator HUMPHREY. We heard from Senator ERVIN's office, and we heard from Senator KENNEDY, but from no other office. We were able to work out an agreement satisfactory to the three objections we received and, having alerted Senators in ample time, the leadership felt it should proceed.

Now, I know what the problems are with individual Senators. I have the same problems myself. But the leadership has the additional responsibility—and I say *this most* respectfully, and I am not arguing with the Senator as I recognize his problem—but the leadership has the additional responsibility of trying to move legislation along and where it can do so, to speed it up.

This agreement that we have offered here today would allow the Senate to complete action on the education bill on Monday rather than on Tuesday, and the Senate could then proceed on Tuesday to further consideration of the energy bill. That is the responsibility of the leadership. Any Senator has the right to object to the proposal. The Senator from Indiana is fully within his rights to object to that proposal. I would hope that he would not object to the proposal if I were to present it again so that the Senate could wind up its work on this bill on Monday rather than on Tuesday. Moreover, the Senate would not be in session tomorrow, which would allow Senators to work in their home States, or in their offices, and I would just plead with the Senator that he not object to the request.

Mr. BAYH. Mr. President, I have the greatest compassion for the distinguished Senator from West Virginia but somehow or other I did not get contacted on the *hotline*, but I did not expect to be necessarily.

May I propose an alternative unanimous-consent request——

Mr. ROBERT C. BYRD. Would the Senator propose it in the way of a suggestion?

Mr. BAYH. Yes. I would suggest that since all of us here are anxious to finish the business of the Senate and get this important piece of legislation passed, let us finish it tomorrow. I repeat, let us finish it tomorrow. If that is our goal, to move this bill, instead of to accommodate certain Senators, let us finish it tomorrow.

Mr. ROBERT C. BYRD. Mr. President, may I say this now, that the leadership tried that. It tried to get an agreement under which action on the bill would be completed tomorrow, but the leadership was unable to get such agreement. So we tried the next best, which was Monday.

Mr. GRIFFIN. Mr. President, I would add there were a number of objections on this side and perhaps there were on that side. There was plenty of agreement about tomorrow. Now apparently we have only one objection to the possibility of doing this on Monday, so far as I know.

The PRESIDING OFFICER. Does the Senator from West Virginia renew his unanimous-consent request

Mr. ROBERT C. BYRD. Mr. President, I am constrained to make the effort.

Mr. BAYH. I shall continue to object until I find out exactly what we are doing here.

Mr. ROBERT C. BYRD. Mr. President, let me restate the unanimous-consent request so that the distinguished Senator from Indiana (Mr. BAYH) will understand.

Mr. President, I ask unanimous consent, with the understanding there would be no session tomorrow, with the understanding that the House bill would not be offered as a substitute, and with the further condition that no additional busing amendments could be called up, that a final vote occur on the education bill at 6 p.m. on Monday next; that the Senate come in at the hour of 9 a.m. on Monday next, that no votes occur on any amendment, debatable motion or appeal, until the hour of 4 p.m.—rather than 3 p.m., as I earlier suggested—that there be a time limitation for debate on the bill on Monday next of 2 hours, to be equally divided between the distinguished majority leader and the distinguished minority leader or their designees; that immediately upon conclusion of routine morning business on Monday next, which would be no more than 10 minutes with statements therein limited to 5 minutes, the distinguished Senator from Maryland (Mr. MATHIAS) be recognized to call up his amendment on which there would be a 2-hour limitation; that immediately following the disposition of the time on the Mathias amendment, the other amendments which were to be offered, the identities of which were mentioned earlier, but which I cannot recall at this moment——

Mr. GRIFFIN. Mr. President, I should like to be sure that the Senator from Virginia (Mr. WILLIAM L. SCOTT) will have 1 hour, and the Senator from Connecticut (Mr. WEICKER) will have 1 hour. The Senator from North Carolina (Mr. HELMS) would use a shorter time——

Mr. ROBERT C. BYRD. Yes, the three amendments—30 minutes on each.

Mr. JAVITS. Mr. President, so far as our amendment is concerned, that will be an hour and a half—an hour to Senator MCCLELLAN and an hour to the proponent.

Mr. ROBERT C. BYRD. With the further understanding that at some point after 3:30 p.m. on Monday next, the Senator from Texas (Mr. BENTSEN) be recognized to call up an amendment on which there be a 20-minute limitation, to be equally divided; that the Senator from Florida (Mr. CHILES) be recognized at some point during the day to call up an amendment on which there is a 30-minute time limitation; with the further proviso that the House bill, at 6 p.m., after the Senate bill has been advanced to third reading, be called up and the text of the Senate language be substituted therefor automatically, and that the final vote occur on the House bill as amended by the Senate bill.

The PRESIDING OFFICER. Does the Senator include in his unanimous-consent request that rule XII be waived?

Mr. ROBERT C. BYRD. Yes, Mr. President, that paragraph 3 of rule XII be waived.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from West Virginia?

Mr. BROOKE. Mr. President, reserving the right to object—and I shall not object—I shall try to draft an amendment broad enough to apply, but I should like to have it voted on on Monday next in the event the Senate goes out of session tonight, or I do not get the opportunity to have a vote on it tonight, so that it might be accepted. Failing that, I should like to have at least 30 minutes, because a majority of Members of the Senate, I believe, would be in favor of the amendment, but I should like to be protected on Monday next in the event I do not get it in tonight.

Mr. ROBERT C. BYRD. Yes, with that further provision to be included in the unanimous-consent agreement.

The PRESIDING OFFICER. With 1 hour on the Brooke amendment, is that the request?

Mr. BROOKE. I do not believe I will need more than 30 minutes, 15 minutes to a side. That would be ample.

Mr. SPARKMAN. Mr. President——

Mr. BAYH. Mr. President, I object until I have a chance to see——

Mr. ROBERT C. BYRD. Would the Senator withhold his objection? I will not insist that——

Mr. BAYH. The Chair asked if there was objection, so——

Mr. ROBERT C. BYRD. I will not insist on the Chair's putting the question until the Senator from Indiana has had a chance to work this out.

Mr. SPARKMAN. Mr. President, reserving the right to object—first of all, if we are here tomorrow, why do we not work? I think——

Mr. ROBERT C. BYRD. I will work tomorrow.

Mr. SPARKMAN. That is a simple question which is just preliminary. It seems to me that many things could be gotten out of the way tomorrow. It also seems to me that we are piling up more work for Monday next than we can possibly hope to handle in any orderly fashion.

Furthermore, there is other business on the calendar that I would certainly like to see us working on. I have some bills there from the Committee on Foreign Relations which I would like to see taken care of. So I do not see why we do not stay here and work tomorrow.

In fact, I do not see why we cannot continue consideration of the education bill tomorrow. I am not trying to sidestep the unanimous-consent request in any way, but I believe that we should work tomorrow instead of putting amendments off until Monday next. Let us be here doing some work on them tomorrow and then take up other matters on the calendar and bring them up.

There is one bill, for instance, which I should like to mention, the International Development Agency—IDA. On

May 22 the World Bank organization will be in session, and I believe that all the other nations which are members of the International Development Agency will be there, with their pledges. That bill is on the calendar. It has been there. We should get action on it before the 22d. I hope very much that we do not delay working on tomorrow, that we do go on and work.

I realize some of the difficulties in getting a limitation of time and things of that kind. Nevertheless, those are barriers we will have to overcome. I certainly hope that we will work tomorrow and get as much of this out of the way as we can.

I know that some Senators go home on weekends, but many of us do not. I do not have the privilege of going home on weekends. I deplore the habit that has grown up here of working 4 days a week. I think we ought to work at least 5 days a week.

Mr. ROBERT C. BYRD. I think we ought to work 6½ days every week.

Mr. SPARKMAN. I am pleading with the leader to give us that kind of schedule.

Mr. ROBERT C. BYRD. The Senator knows very well that I have been trying hard to get an agreement worked out whereby the IDA bill can be brought to the floor. He knows the problem.

Mr. SPARKMAN. I know that is true.

Mr. ROBERT C. BYRD. He knows that if we come in tomorrow, we are not going to get that bill up tomorrow.

Mr. SPARKMAN. I am not saying that, but we can get some of the other stuff out.

Mr. ROBERT C. BYRD. The leadership is fully aware of everything that is on the calendar. If we come in tomorrow under the present agreement, I am quite sure that we will not get anything else on the calendar done, because we are going to be on the education bill. The Senator from Michigan or any other Senator can bring up the House bill and offer it as a substitute on Monday.

This is the best way the leadership has found to expedite the action on this bill, and the leadership will assure the distinguished Senator from Alabama that it will do everything it possibly can to get the IDA bill up before the 22d and disposed of.

As to Monday, I know all the questions that can appropriately be raised at this time—that it is going to be very difficult on Monday, if we are working under this new agreement, to dispose of all the amendments. We have seen that happen time and time again around here. But I am one Senator who feels that he has to be a little optimistic and count on a little luck. I think that if we get the agreement, things will work out.

Mr. SPARKMAN. I share the Senator's optimism all the time, and I admire his leadership. I know what he does on the floor of the Senate. But, as a general principle, I want to protest against our working 4 days a week and omitting Friday. That is what is proposed right now.

Mr. ROBERT C. BYRD. The leadership, I say again, has a responsibility, and where we can make progress on Friday, the leadership has a duty to come in on Fridays. Senators know that time and time again the leadership has brought us in here on Fridays when we did not accomplish much, and the leadership caught h-e-l-l for bringing Senators in on Friday.

If we can make progress on Friday, the leadership is going to come in on Friday. But this was one way we would accomplish just as much by not coming in on Friday and cut off Tuesday from the present agreement, and possibly be on IDA or the energy bill on Tuesday. When work can be accomplished, the leadership will come in on Fridays, and we can expect Friday sessions every week. My weekly whip notice has so stated for the past several weeks.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. ALLEN. The suggested or the presently requested unanimous-consent agreement would not in any way revoke or rescind the present agreement that all busing amendments must be disposed of by 1 o'clock today, the sole exception being the right to bring up the House bill as a substitute on Monday. Is that correct?

Mr. ROBERT C. BYRD. The Senator is preeminently correct.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. AIKEN. I have been watching the clock and have come to the conclusion that while this jockeying for position has been going on, this body could have taken care of these two amendments.

[Laughter.]

Mr. ROBERT C. BYRD. Mr. President, may we have order in the galleries?

Mr. AIKEN. I understand that much of the confusion and that jockeying has been caused by the desire of some of our Members to spend more time in their home States. As a bit of encouragement to them, I would like to say that if this Congress, and this Senate in particular, does not settle down to business and attend to business, a good many of our Members may have a lot of time to spend in their home States after January 3, 1975.

[Laughter.]

Mr. ROBERT C. BYRD. The Senate has a good record and has been doing its work.

Mr. BAKER. Mr. President, reserving the right to object, I think that the time has arrived when we ought to face one fact, with all due deference to the rather complex arrangement we have now worked ourselves into. I do not think this train will pull, and I do not think we can have a final vote on Monday at 6 p.m., and handle all these amendments. I think we are fooling ourselves.

Mr. ROBERT C. BYRD. Mr. President, I have not yet seen a train that would not pull around here.

Mr. BAKER. I think we are about to. What I am about to say has to do with the remarks of the distinguished Senator from Alabama.

Mr. ROBERT C. BYRD. Mr. President, I withdraw the request.

The PRESIDING OFFICER. The request is withdrawn.

RESOLUTION—EXPENSES OF INQUIRIES AND INVESTIGATIONS

Mr. McCLELLAN. Mr. President, I send to the desk a resolution and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER (Mr. BIDEN). The resolution will be stated.

The legislative clerk read as follows:

S. RES. 325

Resolved, That the Secretary of the Senate may utilize any fiscal year 1974 appropriation available for the purpose of paying expenses for May, 1974 from the appropriation "Expenses of Inquiries and Investigations, fiscal year 1974", any sum so utilized shall be restored from funds appropriated for said appropriation in the Second Supplemental Appropriation Act, 1974.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCLELLAN. Mr. President, this resolution will permit the Secretary of the Senate to utilize any fiscal year 1974 funds appropriated for the Senate to meet the May 1974 payroll and other obligations which are paid from the appropriation "Expenses of Inquiries and Investigations."

Since additional funds for this appropriation are included in the second supplemental appropriation for 1974, which is awaiting conference, action on this resolution is necessary if the staffs of the investigations subcommittees are to be paid on time. The current balance of this appropriation is insufficient to meet these obligations.

I would like to point out that the authority contained in this resolution is limited and mandates that any funds so utilized in meeting the payroll and other obligations for May 1974 shall be restored immediately upon enactment of the second supplemental bill.

For the information of the Senate, this is a stop-gap procedure that has been utilized in prior years when there has been a delay in a supplemental bill, and therefore this resolution does not establish a new precedent.

I ask unanimous consent to have printed in the RECORD a letter from Mr William A. Ridgely, the Financial Clerk of the Senate, addressed to me today, as chairman of the Committee on Appropriations.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
OFFICE OF THE SECRETARY,
Washington, D.C., May 15, 1974.

Hon. JOHN L. MCCLELLAN,
Chairman, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I enclose herewith a proposed resolution and respectfully request that you introduce it in the Senate for immediate consideration.

This resolution would enable the Disbursing Office to temporarily utilize any of the fiscal year 1974 unobligated funds appropriated for the Senate to pay salaries and expenses for the month of May, 1974 that are payable from the appropriation "Expenses of Inquiries and Investigations".

Your Committee has included in the Second Supplemental Appropriation bill for fiscal year 1974 the total amount of $3,067,975 for this appropriation. This amount is comprised of $1,067,975 for increased pay costs and an additional $2,000,000 for an estimated deficiency over and above the increased pay costs.

The current balance of this appropriation is insufficient to meet the current month payroll of the staffs of the Senate investigating subcommittees and unless this authority is granted by the Senate, I will be unable to pay any salaries from this appropriation until the Second Supplemental bill is enacted.

For your information, this stop-gap procedure has been authorized in prior years by the Senate when there has been a delay in an appropriation bill. I am enclosing copies of the most recent resolutions that authorized the same utilization of Senate funds when the circumstances were similar. Therefore, this resolution will not establish a new precedent.

Additionally, this resolution is limited in that it mandates that any funds so utilized must be restored immediately upon enactment of the Second Supplemental bill for 1974.

Inasmuch as the next payday for Senate employees is May 20th, I consider this an urgent matter and therefore seek your indulgence.

Respectfully,

William A. Ridgely,
Financial Clerk, U.S. Senate.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 325) was agreed to.

EDUCATION AMENDMENTS OF 1974

The Senate continued with the consideration of the bill (S. 1539) to amend and extend certain acts, relating to elementary and secondary education programs and for other purposes.

AMENDMENT NO. 1336

Mr. McGOVERN. Mr. President, I call up my amendment No. 1336.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. McGOVERN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record.

The amendment is as follows:

On page 125, after line 23, add the following:

POLICY WITH RESPECT TO ADVANCE FUNDING OF EDUCATION PROGRAMS

Sec. 4. The Congress declares it to be the policy of the United States to immediately and continually implement section 412 of the General Education Provisions Act, relating to advance funding for education programs, so as to afford responsible State, local and Federal officers adequate notice of available Federal financial assistance for education authorized under this and other acts of Congress.

On page 126, line 2, strike out "Sec. 4" and insert in lieu thereof "Sec. 5".

On page 130, line 11, strike out "Sec. 5" and insert in lieu thereof "Sec. 6."

On page 119, in the Table of Contents, after item "Sec. 3" add the following new item:

Sec. 4. Policy With Respect to Forward Funding of Education Programs.

On page 120, in the Table of Contents, strike out items "Sec. 4" and "Sec. 5", and insert "Sec. 5" and "Sec. 6" respectively.

Mr. McGOVERN. Mr. President, this is a bipartisan effort on behalf of myself, Senator Case, Senator Hansen, Senator Abourezk, Senator Biden, Senator Brock, Senator Cook, Senator Gravel, Senator Hansen, Senator Haskell, Senator Kennedy, Senator Montoya, and Senator Tunney to provide school officials with the notice of Federal assistance they need in order to plan their school budgets properly.

I ask unanimous consent that the names of the Senator from Kansas (Mr. Dole), the Senator from Minnesota (Mr. Humphrey), the Senator from New York (Mr. Javits), the Senator from Delaware (Mr. Roth), the Senator from North Dakota (Mr. Burdick), and the Senators from Maryland (Mr. Beall and Mr. Mathias) be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McGOVERN. Mr. President, this amendment would move up the appropriations process by 1 year so that our school administrators would know in ample time what funds are going to be available to meet teacher contracts and other school expenditures. It does not permit the obligation of funds a year in advance, but it does provide that it is the official policy of our government to provide appropriations a year in advance.

For example, the appropriations for schools for fiscal year 1976 would be passed in fiscal year 1975.

This amendment is in line with the practice that already has been followed with reference to higher education and for military appropriations. I think one of the most serious administrative problems our school districts have is not knowing what funds they are going to be able to work with until they get into the school year. They need that information no later than early spring when they are signing teacher contracts.

One of the principal problems school administrators face today is the delay in appropriating funds for education programs. Even if the administration acted quickly, the actual appropriations would not be made until late spring or early summer before the start of the new school year with notice of the individual school district entitlements some months later. For the school districts to plan the next school year properly and negotiate teacher contracts, they ought to know the amount of Federal funds they will receive the following year by early spring at the latest. So, even under the best of circumstances, the present fiscal year appropriations process does not meet school district administrative needs.

This problem has been compounded further in recent years by the dispute between the administration and the Congress regarding the proper level of funding for education programs. Fortunately, the Congress has consistently appropriated substantially higher sums than the administration requested. But this yearly duel on the amount of Federal aid to education has further delayed the commitment of funds to school districts. The President has twice vetoed education approproations, forcing the Congress to rely on continuing resolutions. And even then, the school districts have had difficulty in obtaining the funds the law entitles them to because of the administration's impoundment policy.

What this has meant is that the school administrator does not know what Federal funds to expect for the school year until 2 or 3 months after school has opened. Since an administrator cannot plan on dollars which may not come, this has meant less education for students and economic uncertainty for teachers.

During the last year of the Johnson administration, the Congress enacted section 412 of the General Education Provisions Act which would have avoided much of this chaos had it been followed.

This statute (20 U.S.C. 1223) authorizes appropriations for education programs administered by the Commissioner of Education in "the fiscal year preceding the fiscal year for which they are available for obligation." In other words, this statute would move the appropriations process ahead 1 year so that appropriations for fiscal year 1976 would be passed in fiscal year 1975 even though they would not be available for obligation until the following year. If this procedure were followed, school officials would know the amount of funds they would receive 1 year earlier than is presently the case. Further, this process would have no effect on the size of the Federal budget because the funds, although appropriated, would show up as "outlays" only for the year in which they were to be expended.

The statute also provides for a 2-year appropriation in the first year it is implemented in order to effectuate a transition to this method of appropriating educational funds.

The amendment we are offering today would establish as a policy of the U.S. Government that the forward funding authorization statute will be "immediately and continually implemented." This is consistent, not only with the action Congress took in 1968, but also with the recent adoption of an amendment I offered on the budget reform bill, S. 1541, which requires the President to submit budget requests pursuant to the forward funding statute. These two steps will, of course, have to be followed by the necessary appropriations.

The only argument which has been raised against forward funding is the technical point that the next Congress has the theoretical right to undo appropriations which we pass this year which would be expended next year. But the point is that existing law authorizes funds to be appropriated on that basis. Higher education has been forward funded since 1965. And military appropriations are routinely made on a multiyear basis.

Forward funding is a concept that everyone has endorsed. It has been studied for years. The Congress has authorized it. The last three Presidents have called for it, and educators have made a compelling case for it. So, I am hopeful that we can at last implement it.

Mr. President, I ask unanimous consent that certain articles recently published in the Education Daily on this subject be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

VARIOUS ARTICLES FROM EDUCATION DAILY

M'GOVERN GROUP TO OFFER "FORWARD FUNDING" AMENDMENT

With the administration offering forward funding of education programs in return for consolidation, Sen. George McGovern (D-S.D.) and a group of bipartisan cosponsors say they will offer an amendment to S. 1539 making it "a policy of the United States" to forward fund all programs administered by the U.S. Office of Education. This follows earlier action by McGovern who introduced a concurrent resolution (S. Con. Res. 74) in the Senate March 13, expressing the "sense of Congress" that a 1968 statute authorizing advance funding for educational programs "should be immediately and continually implemented."

McGovern is also the sponsor of an amendment added by the Senate to the Congressional Budget Act of 1974 (S. 1541), which passed the Senate March 22 and is now in joint conference, to require the President to include in his budget requests estimates for advanced funding of "programs authorized by law to be appropriated 1 year in advance of the year they are to be obligated, as for example certain educational programs administered by the Commissioner of Education." The Office of Management and Budget has expressed administration displeasure with the requirement and asked the conference committee to delete the provision from the budget reform bill.

OMB OPPOSES MAKING FORWARD FUNDING PERMANENT

Advance funding of education programs so that educators will know a year ahead of time how much Federal money they will receive is opposed by the Office of Management and Budget, an OMB spokesman confirmed Friday.

The administration has consistently stressed its intention to provide $2.875 billion advance funding of consolidated education programs this year, in the form of a supplemental 1974 budget request, once Congress enacts authorizing legislation. The supplemental would fund the programs for the 1974–75 school year, and the regular 1975 budget request would be for the 1975–76 school year.

OMB's position, however, is that advance funding expands the "uncontrollable" part of the Federal budget, which now runs to some 75 percent of the total. This would restrict not only the President's, but also Congress' ability to prepare a funding program, OMB believes. "Uncontrollable expenditures" in Federal budget usage are generally interpreted to mean such personal-benefit payments as Social Security.

OMB OPPOSES M'GOVERN AMENDMENT

The Office of Management and Budget has not expressed opposition to the President's advance funding proposal for consolidated programs this year, but the OMB viewpoint surfaced in connection with an amendment to the Congresional Budget Act (S. 1541—ED Apr. 18) sponsored by Sen. George McGovern (D-S.D.) and passed by the Senate. OMB told the joint conference committee now considering S. 1541 that it is opposed to the McGovern amendment, which would require the President to provide advance funding estimates as part of his annual budget request.

OMB spokesman declined comment on the apparent inconsistency in OMB's support of the current budget forward funding proposal and its opposition to future forward funding.

M'GOVERN SPOKESMAN SAYS UNCONTROLLABILITY IS NOT THE ISSUE

But a spokesman for Senator McGovern told *Education Daily* that the Office of Management and Budget is "dealing in non sequiturs." An appropriation is by definition not an "uncontrollable," the spokesman said, and OMB is in fact opposed to forward funding in general, not simply to "uncontrollability."

M'GOVERN LOOKS TO APPROPRIATIONS BILL

The McGovern amendment to the Budget Act and an earlier "sense of the Congress" resolution are intended to lay a foundation, the spokesman said, for a possible Senate amendment to the upcoming House appropriations bill to insure forward funding of education programs.

OMB FEARS "OPENING DOOR" TO FORWARD FUNDING EXPANSION

An Office of Management and Budget spokesman said Tuesday that while OMB favors forward funding of consolidated education programs as proposed by President Nixon in his 1975 budget message, it opposes a Senate-passed amendment to the Congressional Budget Act because OMB believes it would "open the door" to expansion of the forward funding concept in "many areas."

"The administration," said OMB Assistant Director for Budget Review Dale McOmber, "urges that the consolidated education grant program be funded in advance in order that schools may adequately plan their programs for the ensuing school year. OMB is opposed to the McGovern amendment because it would result in forward funding for many areas, undermining the basic purpose of the budget reform bill."

M'GOVERN AMENDMENT WOULD IMPLEMENT 1968 STATUTE

The McGovern amendment—cosponsored by Senators Biden, Brock, Case, Cook, Hansen, Kennedy, and Pastore—was added by the Senate to the Congressional Budget Act, passed by the House December 5 and by the Senate March 22 (H.R. 7130—S. 1541). That measure, intended to give Congress greater control of budget and fiscal policy, is now in joint conference.

The McGovern amendment reads: "(1) The President shall include in the Budget transmitted to the Congress . . . estimates for appropriations to be made during the fiscal year . . . which are by law authorized to be obligated in the immediately succeeding fiscal year . . ." This would include education programs, McGovern pointed out, since Sec. 412 (20 USC 1223) of the General Education Provisions Act—added by Congress in 1968—authorizes one-year forward funding of educational programs administered by the Commissioner of Education. His amendment would therefore have the effect, McGovern said, of implementing already existing legislation.

OMB SEES IMPLICATIONS

But the Office of Management and Budget points to language in the McGovern amendment which says that forward funding will apply to "any program for which such appropriations are *or may hereafter be*, authorized." (Emphasis added—ED.) This, OMB says, could extend forward funding beyond education programs, to legislation which has not yet been enacted. And that, OMB believes, would be contrary to the intent of the Congressional budget reform measure.

IN THE MEANTIME, HIGHER ED IS FORWARD FUNDED

Under the fiscal 1974 Federal budget, all student aid provisions of the higher education budget—which make up 90 percent of the total higher ed spending and 33 percent of the Office of Education's total budget—are forward funded.

In fact, forward funding of Federal student assistance programs is an old story in higher education, going back to 1965 in the case of Supplemental Educational Opportunity Grants, and to 1968 and later for College Work-Study, National Defense Student Loans, and the Basic Opportunity Grants.

BUT ELEMENTARY AND SECONDARY LAGS

In elementary and secondary Federal education programs, though, there has been only one attempt to implement the forward funding authorization in the General Education Provisions Act. That was in the 1969 appropriation, when the administration requested forward funding of Title I and the Congress appropriated 90 percent of the amount asked for. But the forward funding was allowed to lapse in the next year's budget and Title I reverted to an annual appropriation basis.

ADMINISTRATION FORWARD FUNDING HINGES ON "CONSOLIDATION"

This year, the picture is complicated by the fact that the administration has tied its offer of forward funding of certain elementary and secondary programs to Congressional enactment of "acceptable" program consolidations. In his budget message, President Nixon asked for consolidation of existing education programs into six categories, which were designated as disadvantaged, handicapped, innovation, support services, vocational education, and adult education.

HOUSE BILL SEEMS SATISFACTORY

Since that time, the House has passed H.R. 69, which amends and extends the Elementary and Secondary Education Act and provides some program consolidation. Although its consolidations differ somewhat from those asked by the President, the bill is spoken of with approval by the administration. Title I is viewed by HEW as an acceptable compensatory education "consolidation," and the adult education, support and innovation, and libraries and instructional resources titles are also apparently satisfactory. This leaves impact aid and handicapped and vocational education—for which the administration has not yet drafted consolidation legislation—outside the forward funding picture for this year.

AND NOW THE SENATE BILL

But if the administration is willing to forward fund the "acceptable" parts of H.R. 69, that is by no means the end of the story. The Senate has yet to act on its own education bill—S. 1539—in which consolidation is dependent on full funding of existing categorical programs. And when the Senate does pass a bill, there will be substantial problems about consolidation in the expected joint conference to iron out the differences between House and Senate versions.

Mr. McGOVERN. I have discussed this amendment with the Senator from Rhode Island (Mr. PELL), the manager of the bill, the Senator from New York (Mr. JAVITS), the ranking minority member on the other side of the aisle, both of whom approved what we are attempting to do with it. I hope the Senate will accept the amendment without opposition.

Mr. President, I ask unanimous consent that the name of the Senator from Delaware (Mr. ROTH) also be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, this amendment restates as a matter of policy what in my view is already a matter of law. It is a good idea and I recommend that Senators support it. I see the ranking minority member in the Chamber.

Mr. JAVITS. Mr. President, I would recommend it to the Senate, as well.

The PRESIDING OFFICER. Is all time yielded back?

Mr. McGOVERN. I yield back the remainder of my time.

Mr. PELL. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from South Dakota.

The amendment was agreed to.

Several Senators addressed the Chair.

Mr. MONDALE. Mr. President, I call up my amendment No. 1329.

Mr. CRANSTON. Mr. President, I claim that I had the floor and I wish to call up an amendment.

Mr. PELL. Mr. President, who has the floor? I thought the Chair recognized the Senator from Minnesota.

Mr. CRANSTON. He gave it back because I had yielded to the Senator from South Dakota. I had not yielded the floor.

The PRESIDING OFFICER. The time is under the control of the manager of the bill, the Senator from Rhode Island. The Chair is informed that the Senator from California could not have yielded the floor under those circumstances.

Mr. PELL. I gave my assurances earlier to the Senator from Minnesota.

Mr. CRANSTON. I am glad to wait.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. McGOVERN. Mr. President, will the Senator yield to me momentarily?

Mr. MONDALE. I yield.

Mr. McGOVERN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McGOVERN. Mr. President, is it appropriate for me to move to reconsider the vote by which the amendment was just agreed to?

The PRESIDING OFFICER. Yes, it is.

Mr. McGOVERN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McGOVERN. Mr. President, I ask unanimous consent that the name of the Senator from North Dakota (Mr. Burdick) and the Senators from Maryland (Mr. Mathias and Mr. Beall) be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Minnesota is recognized.

AMENDMENT NO. 1329

Mr. MONDALE. Mr. President, I call up my amendment No. 1329.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. MONDALE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record.

The amendment, ordered to be printed in the Record, is as follows:

AMENDMENT TO TITLE IX OF THE HIGHER EDUCATION ACT OF 1965 RESPECTING TRAINING IN THE LEGAL PROFESSION

Sec. 527. (a) Part D of title IX of the Higher Education Act of 1965 is amended by adding at the end thereof the following new section:

"ASSISTANCE FOR TRAINING IN THE LEGAL PROFESSION

"Sec. 966. (a) The Commissioner is authorized to make grants to, or enter into contracts with, public and private agencies and organizations other than institutions of higher education for the purpose of assisting individuals from disadvantaged backgrounds, as determined in accordance with criteria prescribed by the Commissioner, to undertake training for the legal profession.

"(b) Grants made, and contracts entered into, under subsection (a) may cover, in accordance with regulations of the Commissioner, all or part of the cost of—

"(1) selecting individuals from disadvantaged backgrounds for training for the legal profession,

"(2) facilitating the entry of such individuals into institutions of higher education for the purpose of pursuing such training,

"(3) providing counseling or other services designed to assist such individuals to complete successfully such training,

"(4) providing, for not more than three months prior to the entry of such individuals upon their courses of training for the legal profession, preliminary training for such individuals designed to assist them to complete successfully such training for the legal profession,

"(5) paying such stipends (including allowances for travel and for dependents) as the Commissioner may determine for such individuals for any such period of preliminary training or for any period of training for the legal profession during which such individuals maintain satisfactory academic proficiency, as determined by the Commissioner, and

"(6) paying for administrative activities of the agencies and organizations which receive such grants, or with which such contracts are entered into, to the extent such activities are for the purpose of furthering activities described in clauses (1) through (5).

"(c) The activities authorized under this section may be carried out without regard to the requirements and limitations set forth in sections 962 and 963 of this part.".

(b) Funds appropriated pursuant to part D of title IX of the Higher Education Act of 1965 by the Departments of Labor and Health, Education, and Welfare, and Related Agencies Appropriations Act for the fiscal year ending June 30, 1974 (Public Law 93–192) shall be available for activities authorized by the amendment made by subsection (a).

(c) The amendment made by subsection (a) shall be deemed to have been entered prior to July 1, 1974.

Mr. MONDALE. Mr. President, this amendment is supported by the administration and it is supported by the American Bar Association, as well as by the distinguished ranking minority member of the Committee on Labor and Public Welfare, Mr. Javits.

Mr. President, this is a minor amendment designed to continue Federal support for disadvantaged students studying law under the sponsorship of the Council on Legal Education Opportunities. This amendment simply would continue what is in effect now. It is necessary in order to continue what presently is being done under the 1972 amendments to the Higher Education Act.

I ask unanimous consent to have printed in the Record a letter from Mr. Chesterfield Smith, president of the American Bar Association, strongly supporting the measure, and also a letter from the Secretary of Health, Education, and Welfare, Mr. Caspar Weinberger, to the same effect.

There being no objection, the letters were ordered to be printed in the Record, as follows:

American Bar Association,
Washington, D.C., April 29, 1974.

Re proposed amendments to part D, title IX, Higher Education Act of 1965.

Hon. Walter Mondale,
Old Senate Office Building,
Washington, D.C.

Dear Senator Mondale: Since enactment of the Education Amendments of 1972 (P.L. 92–318), the American Bar Association has been cooperating with representatives of the Department of Health, Education, and Welfare and the Office of Economic Opportunity in an effort to perfect Part D of Title IX which established a new program of Federal Fellowships to support the training of disadvantaged students for the legal profession. I was, therefore, delighted to learn that Secretary Weinberger had transmitted the above-referenced draft legislation to the Congress and urged its "prompt and favorable consideration." On behalf of the Association, I urge that you and other members of the Special Subcommittee on Education support the early enactment of this important legislation.

Enactment of the proposed bill will simply allow the Department to continue the federal support of a unique and innovative program for increasing the number of persons from social backgrounds not now adequately represented in the legal profession. The Council on Legal Education Opportunity (CLEO) established in 1968 under the sponsorship of the Association and other professional groups has been responsible for the admission of more than 1,300 such students to law school. These students, from educationally and economically disadvantaged backgrounds, though having ability and aptitude for law study would normally have not ever become lawyers without the support provided by CLEO.

As I understand it, a decision was made by Director Rumsfeld of OEO in 1970 to seek the transfer of federal support from OEO to HEW following the precedent established in the delegation of Headstart and Upward Bound to HEW by OEO, a decision agreed to by then Secretary Finch. As noted in Secretary Weinberger's transmittal letter, funds have already been appropriated for fiscal 1974, and the proposed legislation merely perfects the authority to allow the continuation of the CLEO program.

The Association looks forward to cooperating with you in the advancement of this most important and necessary legislation.

Sincerely,

Chesterfield Smith.

March 29, 1974.

Hon. Gerald R. Ford,
President of the Senate,
Washington, D.C.

Dear Mr. President: Enclosed for the consideration of the Congress is a draft bill "To amend the Higher Education Act of 1965 in order to provide authority to assist training of disadvantaged students for the legal profession."

This draft bill would amend part D of title IX of the Higher Education Act of 1965 in order to permit the Department of Health, Education, and Welfare to continue supporting the training of disadvantaged students for the legal profession as previously assisted through the Office of Economic Opportunity.

Part D currently requires that each student receive a minimum of $2,800 for each academic year of study. It also requires that at least $4,200 be paid to the institution for each disadvantaged student who receives a stipend and studies there for a profession. Under the authority proposed by this draft bill, the Secretary would determine the stipend levels for law students from disadvantaged backgrounds. The bill would not provide for institutional allowances for this program, but would authorize the Secretary to make grants to or enter into contracts with public and nonprofit private agencies and organizations to assist the training of disadvantaged students for the legal profession. By so doing, it would permit HEW to operate the legal education opportunity program in the same manner as it has been run for OEO. Without these revisions, the number of disadvantaged students now studying with Federal assistance in the legal education opportunity program would be reduced from over 200 to 31.

The bill provides that funds already appropriated for fiscal year 1974 shall be available for the activities authorized by the proposed amendments to part D. Accordingly, we urge prompt and favorable consideration of this bill.

The Office of Management and Budget advises that enactment of this proposed legislation would be consistent with the objectives of the Administration.

Sincerely,

CASPAR W. WEINBERGER,
Secretary.

Mr. PELL. Mr. President, I have had an opportunity to study this amendment, which is a good amendment, and which fufills the purpose. The amendment is cosponsored by the ranking minority member of the committee. I recommend to my colleagues that it be accepted.

The PRESIDING OFFICER. Is all time yielded back?

Mr. MONDALE. I yield back the remainder of my time.

Mr. PELL. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 1330

Mr. MONDALE. Mr. President, I have one more amendment. I call up my amendment No. 1330.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. MONDALE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

Insert at the appropriate place in the bill the following:

SEC. . Section 708(a) of the Emergency School Aid Act is hereby amended by the addition of the following subparagraph (3):

"(3) The Assistant Secretary is authorized to make grants to, and contracts with one or more private, nonprofit agencies, institutions, or organizations, for the conduct, in cooperation with one or more local education agencies, of special programs for the teaching of standard mathematics to children eligible for services under this Act through instruction in advanced mathematics by qualified instructors with bachelors degrees in mathematics, or the mathematical sciences from colleges or other institutions of higher education, or equivalent experience."

Mr. MONDALE. Mr. President, this is a minor amendment that would permit the Secretary to make grants for special programs for teaching of standard mathematics to children eligible for services under the Emergency School Aid Act.

Our amendment enables the Assistant Secretary to do as he or she pleases, but identifies this program as one of special importance and hopefulness; and it is one of those programs designed to help disadvantaged children which, in my opinion, deserve special attention and support.

The State of California is a State in which this program has been designed and developed. I understand the Senator from California (Mr. CRANSTON) would like to be a cosponsor of the amendment. I ask unanimous consent that his name be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. MONDALE. I am glad to yield.

Mr. TAFT. I thank the Sentor for yielding. I am a referee of this program in my State. It is a very desirable program. If I am not a cosponsor of the amendment, which I think I am, I ask that the Senator include me as a cosponsor.

Mr. MONDALE. I thank the Senator.

Mr. President, I ask unanimous consent that the name of the Senator from Ohio (Mr. TAFT) may be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TAFT. Mr. President, I am happy to be a sponsor of this amendment to give the Assistant Secretary of Education the authority to make grants and contracts for the purpose of teaching advanced mathematics to elementary schoolchildren. My staff has been able to witness first-hand a demonstration of the techniques used to teach algebra to fifth graders under a program of special elementary education for the disadvantaged called Project SEED. Project SEED is an 11-year-old project in which professional mathematicians teach advanced mathematics to elementary schoolchildren from poverty and minority backgrounds.

The project started with one man, Bill Johntz, in Berkeley, Calif., but is now an international project, and for the past 2 years has been operating very successfully in my State of Ohio.

The Ohio program began in Columbus in 1972, and in Cincinnati in 1973. Over 1,000 children in these school districts have received SEED instruction to date. Mathematicians and scientists from numerous research corporations and universities have been involved with the project. For example, in Columbus, scientists from the Bell Telephone Laboratories, the Battelle Research Institute, Ohio State University and Industrial Nucleonics have been involved. In Cincinnati, the General Electric Co. has sponsored a major demonstration of the project together with Ford, WCET, and the Jurgens Foundation.

General Electric has recently indicated that it will both contribute mathematical scientists and engineers to the project, and take the lead in providing financial contributions to run a much enlarged, long-term program. I have received a letter from Mr. Gerald Klein, manager, community and urban affairs for the General Electric Co., in Cincinnati, expressing his support for Project SEED, and ask unanimous consent that it be inserted in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. TAFT. Other major public demonstrations of Project SEED in Ohio have been sponsored by Columbus Model Cities Agency, and the Ohio House and Senate Education Committees.

Project SEED's results to date have been most gratifying. Last year, in Columbus, the students in SEED classes gained approximately 2 months' growth for each month of exposure in standardized arithmetic basic skills testing alone.

I am extremely hopeful about the opportunities which Project SEED can provide for disadvantaged children to succeed in a vital subject area such as mathematics. To borrow from Plato:

> The direction in which education starts a man will determine his future.

EXHIBIT 1

GENERAL ELECTRIC CO.,
Cincinnati, Ohio, April 19, 1974.

Senator ROBERT TAFT, Jr.
U.S. Senate, Committee on Labor and Public Welfare, Washington, D.C.

DEAR SENATOR TAFT: William Johntz of Project SEED has mailed me a copy of the letter sent by you and Senators Kennedy and Mondale to Charles B. Saunders, Jr., Acting Assistant Secretary for Education, on April 11.

On behalf of all my associates here at General Electric, many thanks for your support of SEED. This program—in which professional mathematicians teach college-level math to full-sized classes of elementary school children—seems to me to offer real hope for improving the quality of elementary school instruction across the board, and especially for opening the door for thousands of minority youngsters to prepare for well-paying technical careers.

As you may have heard, GE recently teamed up with Ford, WCET and Jergens Foundation to sponsor a SEED demonstration in Lincoln Heights Elementary School. Written comments by attending business, university and media representatives were most gratifying. For myself, I regard SEED as the finest program of its kind ever developed, and dollar-for-dollar the best possible buy in supplemental educational programs. Nothing would please me more than to see it adopted and adequately funded by the Cincinnati and Princeton school systems.

Again, our sincerest thanks to you for your interest and for your letter to Mr. Saunders.

Sincerely,

GERALD KLEIN,
Manager, Community and Urban Affairs.

Mr. PELL. Mr. President, I think the amendment is a good amendment. I recommend that it be accepted. It has been cleared with the minority. I recommend acceptance of the amendment and I yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. MONDALE. I yield back the remainder of my time.

Mr. PELL. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MONDALE. I wish to engage in a colloquy with respect to section 403 of the bill, "Consolidation of Certain Federally Operated Education Programs." Subsection 2(b)(1)(A) of the bill deals with discretionary funds and directs the Commissioner of Education to "give priority to applications proposing projects meeting the requirements of the provisions of law repealed by paragraph (3) of subsection (c)."

Is it not the chairman's view that the committee intends OE funding in continuing support of the educational television programs, "Sesame Street" and "The Electric Co.," previously provided under the Cooperative Research Act, to be a priority project within the meaning of that subsection?

These programs of "The Children's Television Workshop" are both vital experimental educational tools.

"Sesame Street's" audience of 9 million children continues to be the largest of any educational program in TV's history. This audience includes a number of disadvantaged children who have consistently shown demonstrable gains in cognitive skills taught by the show, at a total cost of only about a penny per child per daily program.

The Electric Co. has also demonstrated through extensive evaluations that it can teach reading skills to large numbers of children—6 million as of last year, including nearly 3 million children in classroom settings. The cost of this series, too, is only a penny a day per viewer. Surely these dollars represent one of the best educational bargains our Federal education dollars buy.

Mr. PELL. The Senator is correct. These programs are among the most effective—if not the most effective *continuing* experiments funded by the Office of Education.

For fiscal year 1974, the Senate appropriated $5 million for OE funding of "Sesame Street" and "The Electric Co.," and by year's end they will have received a total of $4 million. I understand that for fiscal year 1975, they need $5.5 million.

Continued support of successful projects such as "Sesame Street" and "The Electric Co." is precisely the kind of priority we intend to be maintained. In future years they certainly should continue to receive the support they need from OE. It was to ensure continued attention to such priorities that the committee bill directs the Commissioner to provide a detailed plan each year of its proposed funding for oversight review by the committees.

I appreciate the Senator's contribution to clarifying the meaning of this provision. It will be an important piece of legislative history.

Mr. MONDALE. I thank the Chairman.

Mr. President, I would like to make one point to the distinguished manager of the bill. I have one final amendment that I will not bring up today dealing with the title I formula. I hope the unanimous consent agreement entered into will provide time that will be set aside to permit us to deal with that matter.

Mr. PELL. Is this the same amendment as the amendment on title C?

Mr. MONDALE. No; it does not have anything to do with C. The amendment has to do with B.

Mr. PELL. Why does not the Senator offer it now?

Mr. MONDALE. We are working on it now. I just wanted the floor manager to know I have an interest in an amendment to be offered.

I thank the distinguished floor manager.

Mr. ALLEN. Mr. President, I should like to ask a few questions of the distinguished Senator from Rhode Island. Would the effect of consolidating title V eliminate the provision for carrying out interstate programs similar to those presently carried out under section 505 of the present ESEA?

Mr. PELL. No. Those types of projects can be carried out under the Special Projects Act, and the Senator might wish to note on page 252, line 23 of the bill, that the first two purposes of the Special Projects Act are "to experiment with new educational and administrative methods, techniques, and practices" and "to meet special or unique educational needs or problems."

Mr. ALLEN. Would you expect that comparable amounts of money available for interstate projects, as provided in fiscal year 1974, could be included in the expenditure plan for special projects?

Mr. PELL. Yes. I would hope to see that the USOE, in the development of their plan, gives a high priority to this program of cooperation among States.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, I thank the Chair for being able to recognize me finally.

I call up my amendment No. 1328, as modified. I have a modified version which I send to the desk.

The PRESIDING OFFICER. The clerk will state the modified version of the amendment.

The legislative clerk proceeded to read the amendment, as modified.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Amendment No. 1328, as modified, is as follows:

On page 360, between lines 13 and 14, insert the following:

"STUDY AND PILOT PROJECTS REGARDING SCHOOL SAFETY

"SEC. 536. (a) The Commissioner shall carry out a continuing study during the period beginning upon the date of enactment of this Act and ending June 30, 1976, to determine—

"(1) the frequency, seriousness, and incidence of crime in elementary and secondary schools in the States;

"(2) the number and location of schools affected by crime;

"(2) Such interim report shall be followed by such succeeding interim reports to the Congress (not less often than every 180 days) on the progress of his activities under this section.

"(3) Not later than December 31, 1976, the Commissioner shall submit to the Congress a final report on his studies, surveys, research, and pilot project carried out under this section. Such final report shall include such recommendations as the Commissioner may deem appropriate to prevent crimes in elementary and secondary schools.

"(e) Funds available to the Commissioner under section 400 of the General Education Provisions Act shall be available to enable the Commissioner to carry out his functions under this section. In addition, not to exceed $375,000 is authorized to be appropriated, without fiscal year limitation, for grants and contracts under subsection (c).".

On page 123, in the Table of Contents, after item "Sec. 535." add the following: "Sec. 536. Study and pilot projects regarding school safety.".

Mr. CRANSTON. Mr. President, to explain what the modification does, it cuts in half the years and cuts in half the amount as stated in the printed amendment.

Mr. President, first let me thank the distinguished chairman of the Senate Education Subcommittee, Senator PELL, for his cooperation in this matter. I am proud to be a member of a subcommittee with such outstanding leadership as that offered by the Senator from Rhode Island. I thank him especially for his thoughtful consideration of the amendment I offer now, and the amendment I will call up shortly, and I am hopeful that he will find both acceptable.

I would also thank my distinguished colleagues on the minority side, Senators DOMINICK and JAVITS, along with their staffs and that of Senator PELL, for their sympathetic consideration of these amendments. I hope they will also find the two proposals worthy and acceptable ones.

I want to point out that amendment No. 1328 is drawn from a bill introduced by the distinguished Senator from Florida (Mr. GURNEY) in the first session of this Congress, which I had the pleasure of cosponsoring. Working together, Senator GURNEY and I were able to agree upon a modified approach to the issue that concerns us, which is embodied in this amendment. I pay tribute to Senator GURNEY's leadership on this issue.

Mr. President, amendment 1328 provides for "Study and Pilot Projects Regarding School Safety" and security.

It is a simple amendment, to do two things:

First, it authorizes the Secretary of Health, Education, and Welfare to undertake a comprehensive study, over the next 2 years, of incidents of vandalism and violence in elementary and secondary schools, and the probable causes for these incidents.

The Secretary would make periodic reports to the Congress on the progress of the study, and a final report by December 31, 1976.

Second, the amendment authorizes $375,000 to enable the Secretary to conduct limited pilot projects he finds necessary or desirable to carry out the purpose of the study. For example, the Secretary might wish to convene a consortium of school and community leaders, and students, to advise him on aspects of the problem. Or, he might wish to explore new designs for school facilities that reduce the possibilities for malicious vandalism or for security devices such as intrusion alarm systems.

Mr. President, California's Superintendent of Public Instruction, Dr. Wilson Riles, has called school vandalism and violence "one of the major problems in public schools that has to be dealt with." I could not agree more. Crime in schools is going up at a rate as fast or faster than overall crime nationally.

Listen to these grim statistics from Los Angeles alone: Dollar losses in the 1971–72 school year added up to $885,000 for burglary; $210,000 for burglary-related damage; $580,000 for arson; $65,000 for "miscellaneous mischief;" $650,000 for glass breakage; and $60,000 for "mysterious disappearance" of equipment.

Mr. President, that adds up to $2,400,000 for 1 school year in one school district. Since 1966, Los Angeles has spent more than $7 million out of the school budget. In 1972–73, Los Angeles schools will spend $2,021,000 for security agents and $1 million more for intrusion alarm systems.

That adds up to over $10 million that was spent on crime control, and not on the education of children.

Other statistics and incidents are just as alarming.

Nationally, assaults on teachers are up over 7,000 percent since 1964.

In San Francisco, a 17-year-old boy was stabbed to death after he teased a classmate about losing a game of dominoes to a girl.

Los Angeles school officials confiscated guns from some 40 students in 1 recent month. A recent high school shooting in Los Angeles left five students wounded.

In New York 1,200 security aides were added to the school staff just before Thanksgiving, in an effort to curb robberies, fighting, and racial confrontation.

Mr. President, perhaps it is not surprising to find crime—simmering at the center of American urban life—boiling over into city schools, then into suburban schools, and into rural America. Authorities conversant with the complex issue of school crime seem to agree that crimes in schools are rooted in the community. In the words of Los Angeles School Superintendent William Johnston:

> The schoolground eventually becomes the battlefield where a resolution of conflict is attempted.

In my view, we must win the battle of crime in our schools if we do not want to perpetuate, generation after generation, a society that is both violent and fearful.

Our school personnel have been remarkably patient. They have asked little of us, except our understanding and our help. It is time we do all we can to restore our classrooms to places where teachers can teach and children can learn, free of hostilities, distrust, and fear.

It is clear that school crime is costing us plenty.

In dollars, reliable estimates place national losses from school vandalism at close to a half billion dollars annually.

In terms of public confidence in the schools, crime's cost to the national spirit cannot be calculated. Dollar statistics say nothing of the blighted prospects of millions of American children, exposed daily to physical and emotional harm.

We have done much in Federal aid to education, and we must do more. But as we ponder the rising incidence of public school crime, we might well wonder if any program has a chance of survival in the "hallways of fear" described by California's Superintendent of Public Instruction Wilson Riles.

Moneys may be used for administrative and planning support, for equipment, supplies, and structural alterations in school facilities. Use of funds for firearms, weapons, or chemicals is expressly forbidden, and the bill specifically calls for proper attention to constitutional rights and civil liberties issues in the formulation of school security plans.

Parental and community involvement is an extremely important feature of the bill. In the process of holding hearings on the measure, we should also consider how students might be involved effectively in the formulation of security plans.

Mr. President, I believe the seriousness of the school security issue is worthy of Federal attention as quickly as possible. Americans have long viewed education of their children as a national priority. The right to an education, in an atmosphere free from threat of violence, must be reinforced, and I am convinced that the amendment I offer with Senator GURNEY is a step in the right direction.

California, under Dr. Riles' leadership, is taking steps to combat the problem through task forces, citizen involvement in planning and discussion, and careful surveys of school and community attitudes and climates that can be associated with a rise in school unrest.

I believe these efforts should be encouraged, and that the Federal Government has a responsibility to help. Our amendment will aid in that effort by providing a cohesive, short-term study that can help our States compare not just problems, but solutions.

Mr. President, that completes what I have to say, and I hope very much the distinguished chairman of the subcommittee will accept the amendment, except to ask unanimous consent that a statement by the distinguished Senator from Florida be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR GURNEY

I am pleased to join the distinguished Senator from California, Mr. Cranston, in offering this amendment.

Last year, I introduced S. 485, the Safe Schools Act, along with my colleague from California and other Members of the Senate.

The purpose of this bill is to provide assistance to school districts for carrying out locally approved school security plans—to reduce, in this way, crimes against students, faculty and employees of these schools.

In preparing this legislation, I became aware of the disturbing lack of reliable and current information on this problem.

With all of our vast and complex data retrieval systems—with the literally scientific status we have placed on research programs—it is inconceivable to me that we have so little information on school crime. In many cases, it is impossible to get any facts at all.

As I look through the various programs contained in S. 1539, it is apparent that we are making an effort to give special attention to those "problem" areas of education. In other words, we are trying to correct situations which hinder educational progress.

Now I believe that school crime is definitely one of these disruptive situations.

Crime and vandalism have caused senseless physical and material damage. There is no doubt about the other costs—to the education system and the community in general.

The amendment we propose will give us a healthy start toward correcting this situation. The amendment calls for a detailed study by HEW of the cause of school crime, its frequency, its costs, and means used to combat such activities.

Such a study will hopefully outline the extent of this problem and provide us with a better understanding as to how it can best be solved.

I hope this amendment can be accepted, particularly in view of the fact that the House bill contains similar language.

Mr. PELL. Mr. President, I have had an opportunity to study this amendment. It serves a good purpose. There is always this concern with unrest and violence in the Nation's schools. I think the study would go a long way in that direction.

To refresh my memory, it is for 2 years?

Mr. CRANSTON. Two years.

Mr. PELL. And the Senator modified it so it provides for $375,000?

Mr. CRANSTON. That is correct.

Mr. JAVITS. Mr. President, do I understand the figure is cut in half and it applies to the full study?

Mr. CRANSTON. Yes.

Mr. JAVITS. $375,000 for the full study?

Mr. CRANSTON. Yes.

Mr. JAVITS. I might say the administration opposes this amendment as it does not believe a Federal study of this character is necessary. I am reporting that to Senators so that anyone who might feel constrained to contest the amendment might do so on that basis.

For myself, I concur in the manager's wish to accept the amendment, because in my own experience and that of my own State this problem is a very serious one. Experience has taught me that when there is a serious problem, it takes some kind of high level study to zero in on it. This is an appropriate way to do it.

For myself, after having quoted that the administration does not favor it, I hope the Senate will approve the amendment.

Mr. PELL. Mr. President, I suggest that we yield back the remainder of our time.

Mr. CRANSTON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment of the Senator from California [putting the question].

Amendments No. 1328, as modified, were agreed to.

Mr. CRANSTON. Mr. President, I call

up my amendment No. 1338, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will read the amendment. Does the Senator have a copy?

Mr. CRANSTON. I have a printed copy which I send to the desk.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk proceeded to read the amendment.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Amendment No. 1338 is as follows:

On page 333, between lines 3 and 4, insert the following:

"(2) The first sentence of paragraph (2) of section 420(a) of such Act is amended by inserting before the period a comma and the following: 'or equals at least the minimum number of such persons necessary to establish eligibility to entitlement under paragraph (1) during the preceding academic year, whichever is lower'."

On page 333, line 4, strike out "(2)" and insert in lieu thereof "(3)".

On page 333, line 20, strike out "(3)" and insert in lieu thereof "(4)".

Mr. CRANSTON. Mr. President, I again thank the distinguished chairman of the subcommittee and the ranking Republican member (Mr. JAVITS) for their cooperation.

I want to call attention to the fact that this amendment is cosponsored by Senators STAFFORD and MATHIAS.

Mr. President, I call up my amendment No. 1338, submitted for printing yesterday, for myself, my colleague on the Labor and Public Welfare Committee (Mr. STAFFORD), and the Senator from Maryland (Mr. MATHIAS), to the pending measure, 1539, the proposed Elementary and Secondary Education Amendments of 1974. I would like to take this opportunity to extend my thanks to the distinguished chairman of the Subcommittee on Education (Mr. PELL) and the ranking minority member of the committe (Mr. JAVITS) for their able and dedicated leadership on this most complex and far-reaching measure.

Mr. President, the amendment I am submitting would add a new subsection to section 524 of the reported bill, which section I authored in committee with, as to various parts, Senators STAFFORD, JAVITS, and RANDOLPH, to make certain improvements in the veterans cost-of-instruction program—VCI.

Mr. President, the VCI program—a provision I authored in the Higher Education Amendments of 1972—Public Law 92–318—was designed to provide incentives and supporting funds for colleges and universities to recruit actively returning veterans and to establish the kinds of special programs and services necessary to assist many veterans in readjusting to an academic setting. Although some 1,000 VCI programs have been successfully implemented at many institutions of higher education across the country, the limited funds which the Office of Education has made available, and certain provisions of the law have made it particularly difficult for many colleges to establish programs which meet all the requirements of the law.

Consequently, during committee consideration of S. 1539, I joined with Senators RANDOLPH, JAVITS, and STAFFORD in offering various amendments to the VCI provision. Section 524 of S. 1539, as reported, amends the VCI program provision—section 420 of the Higher Education Act of 1965—in two basic respects: First, the amendment in the reported bill makes the first-year eligibility requirement slightly less restrictive by providing that in order to be eligible for VCI funds, a school must either have a 10-percent increase in its GI bill trainee enrollment—which is the present sole eligibility criterion in terms of veteran enrollment—or have at least 10 percent of its undergraduate student body composed of GI bill trainees—a new alternative criterion.

Second, the amendment in the reported bill would provide for a more equitable funding procedure for eligible schools to increase the amount many smaller qualifying institutions have been receiving, by limiting to $135,000 the maximum amount of payments in any fiscal year to any single institution. Funds which become available as a result of this provision would then be reapportioned to schools which would otherwise receive a payment of less than $9,000—the estimated minimum amount needed to open a full-time veterans affairs office on a campus. The reported amendment further establishes a minimum enrollment eligibility of 25 veterans in order to avoid the funding of VCI entitlements which are too small to provide effective services to campus veterans. Finally, the amendment, as reported, provides that not less than 75 percent of the amount of payments received by any institution shall be applied to setting up the special veterans offices, programs, and services required by the law. Current law requires that only 50 percent of the VCI award be applied to setting up these veteran's programs.

Mr. President, I ask unanimous consent that the appropriate pages from the committee report, pages 97–99—No. 93–763—be printed in the RECORD at this point:

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

SECTION 524. VETERANS COST OF INSTRUCTION PAYMENT AMENDMENTS

Section 524 of the Committee bill proposes a series of amendments to section 420 of the Higher Education Act of 1965, as amended—the Veterans-Cost-of-Instruction (VCI) Program provision. This program was designed to provide incentives and supporting funds for colleges and universities to recruit actively the returning veterans and to establish the kinds of special programs and services necessary to assist many veterans in readjusting to an academic setting. Paragraph (1) of subsection (a) of section 420 would be amended by adding an alternative prerequisite to institutional eligibility based on numbers of GI Bill enrollees. This amendment has already been adopted by the Senate as section 11 of S. 896, the Education for the Handicapped Amendments of 1973.

The law presently requires that a school, to be eligible for a VCI grant, must have increased the number of its GI Bill trainees (including veterans receiving vocational rehabilitation under chapter 31 of title 38, United States Code, and those receiving educational assistance under chapter 34 of that title) by 10 percent over the previous academic year. Under the amendment, a school could also become eligible if at least 10 percent of its current undergraduate student body is composed of such GI Bill trainees.

The new 10-percent requirement in the amendment would still impose a substantial requirement on an individual institution since the national average GI Bill trainee enrollment for universities, colleges, and community colleges is 8.7 percent. Preliminary figures indicate that this new clause will alleviate the inadvertent inequity of the present 10-percent-GI-Bill-trainee-increase requirement for a number of schools which have already made impressive achievements in enrolling returning veterans.

It should be noted that mere numbers of GI Bill trainees would still not be enough to qualify for a VCI grant; under the law, a school must also establish and carry out significant special veterans programs, including a veterans affairs office, a veterans tutorial program, a veterans PREP or college preparatory program, and a veterans work/study outreach program. These requirements would not be affected by the amendment.

A sample of schools in areas with about 25 percent of the Nation's population shows that of 1,296 schools surveyed, only 299, or 23 per cent, increased their GI Bill trainee enrollment in March 1973 by 10 percent over March 1972; 997 schools, or 76 percent, did not meet the 10-percent requirement, although of this 997, 134, or 13.4 percent, did show some increase in GI Bill trainee enrollment.

Section 420(d) would be amended by providing a more equitable funding procedure for *all* eligible schools. The law presently requires the Commissioner to pay to each institution of higher education which has had an application approved under subsection (c) of section 420, the amount to which it is entitled under this section. Any institution meeting the requirement of the law is entitled to payments of up to $450 for each of certain categories of veterans enrolled in an undergraduate program on a full-time basis or who have, in prior academic years, been enrolled in certain special veterans education programs under the GI Bill.

Although VCI programs have been successfully implemented at many institutions of higher education across the country, the limited funds which the Office of Education has made available and certain provisions of the law have made it particularly difficult for many smaller colleges to establish programs which meet all the requirements of the law. The funding procedure established by this amendment, which adds a second sentence in subsection (d), would limit to $135,000 the maximum amount of payments in any fiscal year to any institution, or any branch of such institution located in a community different from that in which its parent institution is located. Reports received from schools which received VCI funding for this year led to the conclusion that even large schools with large numbers of veterans would be able to establish, and had, in fact, successfully operated, VCI programs utilizing about $100,000 of their VCI grants. Only 14 schools across the country received initial grants for academic year 1973–1974 of more than $135,000.

Section 420(d) would be further amended by adding a new third sentence which would provide that, in making payments under section 420 in any fiscal year, the Commissioner is required to apportion the funds which become available as a result of the new $135,000 institutional payment limitation in such a manner as will result, first, in the receipt by each eligible institution of a total payment of at least $9,000 (or the amount of its entitlement for that fiscal year, whichever is less) and, then, additional amounts distributed to all eligible institutions up to the $135,000 maximum.

Thus, funds which become available as a result of the $135,000 maximum provision will be first reapportioned to schools which would otherwise receive a payment of less than $9,000. A payment of $9,000 is an amount which would allow $7,500 for a full-time veterans office coordinator and $1,500 for outreach and related expenses. In the event that funds are still available from the second tier of funds after all eligible schools are brought up to a level of funding of $9,000, the remaining monies would be distributed among all eligible schools up to the $135,000 maximum.

The amendment amends subsection (e) by providing that not less than 75 percent of the amount of payments received by any institution shall be applied to setting up the special veterans offices, programs, and services required by the law. Current law requires that only 50 percent of the VCI award be applied to setting up these veteran's programs. This new provision, together with the $135,000 maximum award limit also established by the amendment, would require a VCI school receiving the $135,000 maximum grant to expend about $100,000 on setting up the Office of Veterans Affairs and carrying out the required special veterans programs. Any school so desiring, could also make its non-earmarked 25 percent of the award available for use by the veterans' program.

Mr. CRANSTON. Mr. President, at the time this amendment adding section 524 to the bill was presented to the committee, the Office of Education had still not printed and sent out new applications for academic year 1974–75 VCI programs. Consequently, the particular problem to which the amendment we are offering today addresses itself was not brought home to schools seeking to demonstrate their second-year entitlement.

A school which has already been funded for this school year under the VCI provision, is required by existing law—for eligibility in a succeeding year—to enroll at least the same number of GI bill trainees who were in attendance when the school originally qualified for VCI funds in the first year. As a result of this maintenance-of-effort requirement, however, schools which increased their enrollment of veterans by more than 10 percent in the first year are actually penalized in the following year for having recruited more veterans. These schools must maintain the higher level of veteran enrollment. A number of schools, where substantial efforts were made to recruit veterans in the first year, would lose their eligibility for continued funding—regardless of the success of their program and even though they continue to maintain the 10-percent increase minimum requirement—as a result of this quirk of current law.

Mr. President, our amendment proposes to correct this inequitable situation, and the unintentional hardship being imposed upon many schools that are seeking to qualify for a second-year entitlement payment, by requiring such schools to maintain only the minimum number of veterans which would have been necessary to establish their original first-year entitlement—either enrollment of 10 percent more veteran students than in the year before, or, under the new alternative criterion in the reported bill, enrollment of a sufficient number of student veterans to make up 10 percent of a school's student body.

Mr. President, let me illustrate the effect of this amendment. Let us say, for example, that a school has a student body of 10,000. Let us further hypothesize that on the original base-year, counting date of April 16, 1972—under OE's VCI regulations—this school had 500 veteran students enrolled. In order to qualify for a VCI entitlement payment in academic year 1973–74, under the present 10-percent increase requirement in section 420, this school would have had to increase their GI bill trainee enrollment to at least 550—a 10-percent increase.

Now let us assume that this school, in fact, increases its enrollment to 600 in school year 1973–74, rather than the required 550, a 20-percent increase in veteran enrollment. Under the proposed amendment, this school would only have to have 550 GI bill trainees enrolled in 1974–75, rather than the 600 required by the maintenance-of-effort requirement in existing law, in order to qualify for its second-year entitlement.

Mr. President, let me further illustrate the effect of this amendment under the new first-year alternative entitlement criterion added in the reported bill—enrollment of a sufficient number of student veterans to make up 10 percent of a school's student body. Let us say, for example, another school has an undergraduate student body of 10,000 students. This particular school did not increase its GI bill trainee enrollment by 10 percent, in academic year 1973–74, but the school did have 1,100 student veterans, or 100 more than the 1,000 required to make up 10 percent of its total undergraduate student body. Under the alternative entitlement criterion added in the committee bill, this school would then qualify for a first-year VCI payment. Next year, this school—with a continuation of a 10,000-person student body—would remain eligible for a VCI entitlement if it maintains a veteran student enrollment of at least 1,100 under the present maintenance-of-effort provision; whereas, under our amendment, it would be entitled to a second-year VCI payment if it had 1,000 student veterans.

Mr. President, as with the rest of section 524, this amendment would be effective only with respect to VCI payments made on or after October 1, 1973, and thus would not affect those VCI payments already made last June.

Mr. President, there are a number of other matters pertaining to the VCI program that I would like to discuss at this time.

NEW VCI REGULATIONS FINALLY ISSUED

Mr. President, as was the case with the regulations issued on April 16, 1973 (38 Fed Reg. No. 72, p. 9472, 45 CFR pt. 189), the regulations released on May 3 (39 Fed. Reg. No. 87, p. 15481, 45 CFR pt. 189) despite the lengthy delay, correct a number of deficiencies in the original regulations issued last year. I am particularly pleased that a number of changes I suggested in my May 24, 1973, letter to Commissioner Ottina regarding last year's regulations, were finally incorporated in the May 3, 1974, regulations. Mr. President, I ask unanimous consent that my May 24 letter of last year be set forth in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON
LABOR AND PUBLIC WELFARE,
Washington, D.C., May 24, 1973.

DR. JOHN OTTINA,
Acting Commissioner of Education, Office of Education, Washington, D.C.

DEAR DR. OTTINA: I was delighted to learn that the $25 million which were appropriated in P.L. 92–607 last October for the Veterans Cost of Instruction (VCI) program, which I authored last year in the Education Amendments of 1972, were finally released on May 21. I am most disturbed, however, by matters related to this program that have just come to my attention.

It is my understanding that application procedures for the program are being seriously hampered as a result of the direct mailing of application materials to the Presidents of colleges and universities, rather than the Financial Aids Offices. These application materials could easily be overlooked, or at least held up, in the President's office. In fact, we have information that many potentially eligible schools are still totally unaware of the VCI program. As I indicated in my floor statement upon introduction of this amendment (S. 2740 on February 28, 1972), many colleges and universities have been slow in establishing special veterans' programs in the past because they were hindered by a lack of publicity about new programs. I believe such problems with the VCI program could be ameliorated by mailing all application materials directly to the Financial Aids Offices. In view of the proximity of the June 1st deadline for application, I urge you immediately to direct a new mailing of application materials to the Financial Aids Offices, and to extend the June 1st deadline—set forth in Acting Deputy Commissioner Muirhead's April 17th letter to college President's—by at least 10 days.

I recognize that the funds must be obligated by June 30, and that processing the applications in a 20-day period is a difficult task. Nevertheless, I believe that the far too widespread lack of understanding about the program and the recency of the decision to release the funds argues strongly for a new application mailing, and a modest time delay, and justifies any administrative inconveniences these steps might cause.

There are also several other matters regarding the failure of the April 16, 1973, Regulations (38 Fed. Reg. No. 72, page 9472, 45 C.F.R. Part 189) to carry out the law or clear Congressional intent in three major respects. Before discussing these points, I do wish to state very strongly that I believe the Regulations are generally excellent, and I am particularly gratified with the substance of the "Required Services and Uses of Funds" set forth in Subpart B, especially the O.E. adequacy assessment criteria and reporting requirements. These seem to me right in line with the basic purpose of the Congress (there is one point of clarification I suggest under item d. below).

I also wish to apologize for my delay in getting these comments to you after the 30-day comment period, but I am sure you will want to consider them carefully.

a. *Veterans eligible for $150 bonus payment.* Section 189.3(a)(2) defines educationally disadvantaged veteran students (subchapter V or subchapter VI of chapter 34 of title 38) who carry a $150 bonus, as those in attendance on April 16, 1973 "who have, *while attending such institution during the academic year in which such date occurred,* received educational assistance under . . . "those subchapters" (Emphasis added). The same language is set forth in your May 7, 1973, Administrative Bulletin No.

2, under *"Clarification of Category 2 Veterans (Item 11, Part I of the Application),"* which states the following:

"'Category 2' veterans (i.e., 'educationally disadvantaged') are those who are enrolled on a half-time or greater basis and who are receiving or have received *at some time during the current (1972–1973) academic year* educational assistance under one of the following three G.I. Bill programs authorized by Subchapters V and VI of title 38, United States Code . . ." (Italics added.)

I strongly object to the underlined language as inconsistent with the clear language of the law.

As I will attempt to demonstrate, the language of section 420(b)(1)(B) clearly requires that the bonus be paid on behalf of each veteran who has, *at any time*, received G.I. Bill assistance under subchapter V or VI. Subsection (b)(1)(B) of section 420 states:

"The amount of any payment to which any institution is entitled under this section for any fiscal year shall be—

* * * * *

in addition, $150, except in the case of persons on behalf of whom the institution has received a payment in excess of $150 under section 419, for each person *who has been the recipient of educational assistance under subchapter V or subchapter VI of chapter 34 of such title 38*, and who is in attendance at such institution as an undergraduate student during such year." (Italics added.)

This clause makes no reference to the receipt of such subchapter assistance in a particular academic year. The language is written entirely in the past tense in contrast to the present tense used in clause (A) to spell out the basic $300 per "veteran receiving" chapter 31 or 34 assistance. Furthermore, note the comma after "title 38" in clause (B) which totally separates the concluding language ". . . during such year" from the language defining which veterans shall be counted. In short, I find absolutely no basis in the law for the interpretation you have taken and the requirement you have imposed in the regulations. Moreover, as I shall discuss at the end of the letter, this added requirement is itself in violation of section 421 (c)(2)(A) of the General Education Provisions Act, as amended by section 302(a) of P.L. 92–318, which I also authored.

In addition to not comporting with the plain language of the law, your additional language violates the expressed Congressional intent. The section-by-section analysis of the amendment, adopted by the Senate on February 28, as set forth at S 2741, explains clause (B)—which was not changed in conference—by reducing it into two separate and distinct conditions of eligibility for the bonus. It states:

"each institution shall be paid $150 for each person who—

"(1) is in attendance at such institutions as an undergraduate student; and

"(2) has been the recipient of educational assistance under subchapter V or VI of chapter 34 of such title 38."

And in the Explanatory Statement of the Committee on Conference, it is stated on page 228 of the Conference Report (No. 92–798): "(2) in addition, $150 for each veteran who has participated in one of the special remedial veterans programs." Again, there is no indication of a specified period of time in which the veteran participation in such a remedial program was required to have occurred.

One of the principal purposes of the VCI Program is to encourage schools to recruit and enroll those educationally disadvantaged students who have participated in PREP or other remedial programs under the G.I. Bill *at any time*, rather than just those students who were enrolled during the current academic year. This philosophy pervades my February 28 floor statement. The intention was to provide a two-pronged incentive to schools with respect to educationally disadvantaged veterans: (1) to recruit and enroll them in pre-college or PREP programs under subchapters V or VI, for which a school would receive $300 per such veteran—and I note with great pleasure how carefully your regulations in the last two parentheticals in section 189.2(b) follow the Congressional intent expressed in the last two sentences of the Explanatory Statement (p. 228) so as to count these veterans for that purpose; and (2) to recruit and enroll in college curricula courses veterans who had received such remedial or preparatory courses and were eligible for admission. In other words, our plan was to try to make maximum use of the successes of PREP and section 1691 college preparatory programs by seeing to it that the veterans so trained had opportunities to pursue a higher education using the preparation they had received.

(I would note that I would not insist on this same analysis with respect to tutorial assistance student recipients under section 1692 of title 38, although the law makes no (and probably does not allow any) such distinction since section 1692 is included within subchapter V of chapter 34. I would not object to paying the bonus on behalf of such a tutorial assistance recipient veteran (who had *not* otherwise participated in a subchapter V or VI program) only if he had received such assistance in the academic year in question. I would be delighted to confer with you and your legislative people to change the law or otherwise clarify it with respect to bonus payments to schools on behalf of tutorial assistance recipients.)

Thus, I think the law and Congressional intent are unmistakeably clear that if a veteran student has, at *any time*, been a participant in a subchapter V or VI preparatory program, the school is to be eligible for the $150 bonus under section 420(b)(1)(B). I urge you to alter the regulations immediately in this respect.

b. *Payment of the full $300 or $450 entitlement per eligible veteran.* Section 420 is clearly written as an entitlement. See the use of "shall be entitled" in subsections (a)(1), (a)(2), and (b)(1), and the use of "entitled" in subsections (a)(2) (twice), (c)(1), and (d). Moreover, and I think this is absolutely conclusive, section 420 contains no pro rata reduction provision of the type contained in section 419(b)(2)(B)(ii) for the comparable "Payments to Institutions of Higher Education" program provisions. Thus, I take strong exception to any O.E. implication of pro rata reductions, such as is contained in regulation section 189.3(b) ("subject to the availability of funds") and in point 2 of Administrative Bulletin No. 2 ("On the basis of the limited appropriation likely to be available . . ." and "If first payments are substantially less . . .").

I think a law suit will clearly lie to compel full payment in installments over the academic year 1973–74, as I discuss in item c. below.

c. *Periodic progress payments.* I have been unable to find any reference in the regulations to the requirement in the second sentence of subsection (d) of section 420 which provides:

"Payments under this subsection shall be made in not less than three installments during each academic year and shall be based on the actual number of persons on behalf of whom such payments are made in attendance at the institution at the time of the payment."

Not only is this language explicit and mandatory in nature, but section 421(c)(2)(B) of the General Education Provisions Act clearly prohibits the distribution of funds appropriated to carry out any applicable program "in any manner or by any method different from that specified in the law authorizing the appropriation."

It seems clear to me that what you must do to follow the law with respect to this point and the entitlement aspect discussed under item b. above, is to pro-rate the *first* payment to each school on the basis of entitlements out of the $25 million appropriation now available and submit to Congress a request either for a Supplemental FY 1973 or for an FY 1974 appropriation necessary to make the remaining two (or more) progress payments, as required by section 420 (d), during academic 1973–74. In any event, I will seek such appropriations and ask that you immediately provide me with the information necessary once the first payments have gone forth.

d. *Clarifying language with respect to the $150 bonus and the use of Federal work/study funds to carry out outreach activities.* I suggest two minor clarifications in the regulations. First, in section 189.3(b)(2), strike out "For" and insert in lieu thereof "In addition to the payment under paragraph (a)(1) of this section, for". I trust there is no thought that the $150 is anything other than a bonus or add-on payment and not the full payment on behalf of qualifying educationally disadvantaged students. The law and all the legislative history is totally explicit on this, yet the regulations do not make this explicit.

Second, in section 189.13(b), insert after "programs" at the end of that clause the following: "(particular attention is directed to the new veteran-student services program established in the G.I. Bill by Public Law 92–540 in section 1685 of title 38; consult your VA Regional Office for details)". I think it is very important that schools be made aware of the existence of this new VA work/study entitlement program for which $4 million will be available in FY 1974 ($500,000 has been allocated from the FY 1973 VA readjustment benefits account), and I have urged the VA to target this money more extensively on G.I. Bill trainees carrying out outreach activities at schools and VA regional offices in organized programs.

Finally, I wish to point out that section 421(c)(2)(A) and (B) of the General Education Provisions Act, as added by section 302(a) of the Education Amendments of 1972 (P.L. 92–318), which I authored, provide:

"(2)(A) No requirement or condition imposed by a law authorized appropriations for carrying out any applicable program, or controlling the administration thereof, shall be waived or modified, unless such a waiver or modification is expressly authorized by such law or by a provision of this title or by a law expressly limiting the applicability of this paragraph.

"(B) There shall be no limitation on the use of funds appropriated to carry out any applicable program other than limitations imposed by the law authorizing the appropriation or a law controlling the administration of such program; nor shall any funds appropriated to carry out an applicable program be allotted, apportioned, allocated, or otherwise distributed in any manner or by any method different from that specified in the law authorizing the appropriation."

As I have indicated in part above, these provisions require that no requirements or condition imposed by law may be waived or modified, no limitation may be imposed on the use of funds appropriated, and no distribution of funds may be made in a manner or method different from that specified in the authorizing law, except as expressly authorized by law. This provision was written to deal specifically with numerous prior situations in which the Congress found that the provisions of laws it enacted were either not being carried out or were being nullified by additional administrative requirements not expressly authorized by law. Although I do not believe that the situations I have covered above in items a., b., and c. would turn out any differently without these section 421(c) provisions—because I think the command of the law in section 420 is very clear on these points—, these provisions of section 421(c) do, to say the least, strongly bolster my contentions.

I would appreciate your immediate attention to the points I have covered in this letter and look forward to your reply and to appropriate corrective actions vis-a-vis the VCI regulations.

Sincerely,

ALAN CRANSTON.

Mr. CRANSTON. Mr. President, specifically, I am delighted to note that section 189.3 (a)(2), referring to the calculation of cost-of-instruction payments, states—

> The number of undergraduate veteran students in attendance on the applicable dates specified in paragraph(b) of this section who have *ever* received educational assistance under subchapter V, or subchapter VI of chapter 34 of title 38, United States Code. . . .

Previously, Mr. President, the Office of Education had taken the position that any such assistance had to have been received in the previous academic year. I strongly objected to this interpretation as clearly not comporting with the plain language of the law, as well as violating expressed congressional intent. In his June 18, 1973, response to my May 24, 1973, letter, Commissioner Ottina differed from my interpretation. Although I would have hoped the Commissioner could have seen the light in less than 1 year, I am grateful the issue is now resolved.

Mr. President, the Office of Education has also belatedly decided to comply with the periodic-progress-payment requirement of the law which Office of Education had previously chosen to ignore. Section 420(d) requires that payments shall be made in not less than three installments during each academic year and shall be based in the actual number of persons on behalf of whom such payments are made in attendance at the institution at the time of the payment. Whereas last year's regulations evaded this statutory requirement, section 189.3 (c) of the new regulations does carry out this requirement of law.

I regret, however, that the Office of Education continues to fail to comply with a number of other specific mandates of the law.

Mr. President, I continue to be most concerned about the Office of Education's inclusion in the new regulations of language implying pro rata reductions of entitlement, as is contained once again in regulation section 189.3(b), "Subject to the Availability of Funds." Section 420 of Public Law 92–318 is clearly written as an entitlement, as is substantiated by the use of "shall be entitled" in subsections (a)(1), (a)(2), and (b)(1), and the use of "entitled" in subsections (a)(2)—twice—(c)(1), and (d). Moreover, and I think this is absolutely conclusive, section 420 contains no pro rata reduction provision of the type contained in section 419(b)(2)(B)(ii) for the comparable payments to institutions of higher education program provisions.

I also remain concerned with the Office of Education's failure to include clarifying language with respect to the use of Federal work-study funds to carry out outreach activities. Last year, I suggested that section 189.13(b) would be substantially improved if the following language was included after "programs": "Particular attention is directed to the new veteran-student services program established in the GI bill by Public Law 92–540 in section 1685 of title 38; consult your VA regional office for details." Once again I would stress the importance of schools being made aware of the existence of this VA work-study entitlement program. This is particularly so, since the VA issued special instructions concerning the use of VA work-study slots in VCI offices, in order to clear up earlier confusion I had called to the VA's attention about the availability of the program.

Mr. President, finally, I am unclear about the reason for the Office of Education's decision to require VCI offices to be staffed by at least one person who is employed by an institution on a full-time basis and whose sole institutional responsibility is that of coordinating the activities of the office—section 189.11(a)(1). Although the law in section 420(c)(1)(B)(i) requires a "full-time office of veterans' affairs," there is no language specifying the requirement as shown in the amended regulations. And while I appreciate what I assume to be the Office of Education's concern for the integrity of the program, I believe such a requirement may be unnecessarily restrictive, especially for smaller schools receiving limited funding. I believe that having two part-time people sharing the full-time staffing of the office, along with work-study outreach veteran students, especially under section 1685 of title 38, for example, is a perfectly viable alternative for a small school unable to afford the salary of one full-time coordinator.

Mr. President, I am transmitting the concerns I have spelled out above to the Office of Education, and I look forward to receiving further clarification, and hopefully achieving a resolution of the issues I have raised in the very near future.

HEW'S REFUSAL TO SPEND MONEY FOR VCI PROGRAM

Mr. President, there is one other aspect of the VCI program which continues to be most troublesome. That is the Commissioner's refusal to pay to eligible institutions their remaining two installments on their VCI entitlements for this school year 1973–74, using the $25 million appropriated already in this fiscal year for the VCI program.

The Appropriations Committee, in its May 3, 1974, report on the Second Supplemental Appropriations Act, fiscal year 1974, H.R. 14013, stated—

> That it "strongly disapproves of HEW's refusal to spend" this money appropriated for school year 1973–14 VCI payments, and "expects [the] . . . funds will be obligated without further delay.

The Labor, Health, Education, and Welfare, and related agencies fiscal year 1974 Appropriations Act, Public Law 93–192, enacted on December 18, 1973, appropriated $25 million for the VCI program. Under that act's anti-impoundment language—that not more than 5 percent of the amount specified in any appropriation provision contained in the act or any activity, program, or project within such appropriation may be withheld from obligation and expenditure for the fiscal year ending June 30, 1974—a minimum of $23.7 million must be obligated for the VCI program during this fiscal year.

Using the Office of Education's theory that the fiscal year 1973 funds, which were finally made available in June 1973, were for use in academic year 1973–74, the law in section 420(d) clearly requires two additional installment payments in this academic year. Thus, the Appropriations Committee has directed that the $23.7 million appropriated and required to be obligated in this fiscal year be "obligated without further delay" in order to make the required two remaining installment payments for this academic year.

POTENTIAL FOR STRONGER, MORE CREATIVE VCI PROGRAMS AS A RESULT OF VA'S NEW PLANS TO CLEAN UP THE LATE CHECK PROBLEM

Mr. President, VCI programs achieved a high level of success this first year of operation despite the fact that in many cases VCI coordinators were unable to plan and develop special programs because their time was—to a great extent—consumed with the task of assisting veterans with VA-related problems, especially late arrival of GI Bill checks. VCI coordinators were, in many cases, simply acting as a liaison between the veteran and the VA in the veteran's frustrating battle to receive VA educational benefits.

The Veterans' Administration has recently briefed congressional staff on its plans to implement a program to improve service relationships with veterans, their dependents, and veterans' service organizations. This program, which the VA says would be directed to the Vietnam era veteran and his or her education, would involve placing VA counselors on college and university campuses to identify and resolve VA educational assistance allowance problems.

In my home State of California, Mr. President, where there are approximately 350,000 Vietnam era veterans, and more than 166,000 are currently going to school under the GI bill, the VA plans to have 268 full and part-time of these new special representatives on the job by August 1.

Mr. President, considering the VA's past record of reluctance or inability to implement the GI bill educational assistance program in an imaginative and timely fashion, particularly in California, I am encouraged—although most cautiously encouraged—by this recent initiative to help Vietnam era veterans. Although it comes far too late, I hope it is not far too little. For too long, too many veterans have been forced to suffer unnecessary hardships because of checks being delayed, misdirected, or never sent out in the first place.

For the sake of the veterans going to school on the GI bill, I hope this program works. And, for the sake of the VCI coordinators, who have been shackled by routine VA paperwork, I hope the VA can succeed and relieve them of those responsibilities.

I intend to monitor closely the results of this program by surveying the 222 colleges where veterans are enrolled in California.

Mr. President, I do have a number of specific concerns regarding the VA's general plans for the Vet Rep program, which I would like to comment upon at this time.

Although I am aware of the VA's stated intention to have Vet Reps work in close cooperation with eixsting VCI programs, I, nevertheless, have heard numerous reports, from VCI coordinators in California and elsewhere, expressing grave reservations and fears that their programs are about to be taken over by the VA.

Mr. President, the VA representative, who briefed congressional staff on May 3 regarding the new program, stated specifically his understanding that the two programs would be complementary, and that there clearly would remain a significant need for VCI programs working in coordination with veterans representatives. I urge the VA to make their intentions especially clear to VCI coordinators and other campus veterans representatives. It is my hope that VCI coordinators and Vet Reps will be able to develop mutually supportive efforts and programs in order to provide student veterans with the best available services.

In order to achieve this end, I would like to suggest that it might be extremely important to the future success of the Vet Rep program for the VA to meet with VCI and other campus representatives regarding existing plans for implementing this program. I suspect that simple lack of information, and a justifiable concern about having no opportunity for input into a program which will have a direct effect on existing VCI programs is contributing greatly to the fears and hostility among VCI coordinators to the VA's plans.

Specifically, Mr. President, there is a great deal of concern about the logistics of where Vet Reps will be housed on the school campus, who they will report to, whether or not they will be permitted access to student files, and what their responsibilities will be beyond coordinating the VA's educational benefits program. VA regional directors, themselves, apparently are unclear about many aspects of the program, and do not even know whether or not they will have any discretion as to the use of Vet Reps in their regions.

It is also my understanding that the VA plans to hire primarily Vietnam era veterans to fill these Vet Rep positions. Two particular problems have been brought to my attention with regard to what would appear to be a commendable hiring plan. In the first place, many veterans are concerned that young Vietnam era veterans, having no advanced degree or special training, will not meet the requirements of these positions. Rumors that Vet Reps will fill only GS–9 positions, and the knowledge that a veteran without an advanced degree cannot hold a position above a GS–7, are clearly contributing to early disillusionment with the VA's intentions.

Further difficulties are being encountered by veterans wishing to take the civil service examination, a requirement for Federal employment. In California, for example, the next civil service exam is scheduled for May 25. Training for Veterans representatives, however, is already scheduled to begin at UCLA on July 9. It is unlikely that results of the exam will be available by that time, thereby excluding many more Vietnam era veterans from qualifying for these positions.

Mr. President, I hope that careful consideration will be given to these problems and concerns as the VA begins to develop and implement the Vet Rep program. I believe the VA will avert many future problems by listening to the ideas and suggestions made by those persons who have been operating the campus veterans programs this past year—the VCI coordinators.

I believe this amendment has been cleared with the minority side and with the distinguished floor manager of the bill, and I hope they will accept the amendment.

Mr. PELL. Mr. President, I think this amendment helps correct an injustice or an inequity to veterans. It is a good amendment, one that I personally have no objection to and would recommend that we accept, depending on the views of the ranking minority member of the committee.

Mr. JAVITS. Mr. President, this amendment, like the last one, is opposed by the administration. I would like to read to the Senate the reasons for that opposition:

> The Administration opposes this amendment. It is inconsistent with the Administration's basic postsecondary education policy of shifting financial support from institutional aid to direct student assistance, thus allowing the student flexibility and choice as to the institution he attends.
>
> In addition, the effect of the amendment would be to remove the requirement that institutions increase the number of veterans in attendance in order to be eligible for veterans' cost-of-instruction payments.

For myself, and speaking solely for myself, I do not oppose the amendment. I give this notice of the administration's opposition so that any Senator may, if he chooses, oppose it.

I believe in this particular case, dealing with institutions which represent parts of the VCI program, so-called, that the amendment does straighten out an inequity based upon practical experience with the operation of the law as it exists today.

Therefore I would hope, speaking as one Senator, that the Senate might accept this amendment.

The PRESIDING OFFICER. Is all time on the amendment yielded back?

Mr. CRANSTON. Mr. President, I concur wholly in the analysis of the Senator from New York, and I do not concur in the analysis of the administration.

Mr. President, I am prepared to yield back the remainder of my time.

Mr. PELL. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendments of the Senator from California.

The amendments were agreed to.

Mr. DOLE. Mr. President, I call up my amendment No. 1337.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. DOLE. Mr. President, I send to the desk a modification of my amendment.

The PRESIDING OFFICER. The modification will be stated.

The legislative clerk read as follows:

> On page 388, line 9, at the end of title VIII of the bill, insert the following new section: "Notwithstanding any other law or provision of law, no court or officer of the United States shall enter, as a remedy for a denial of equal educational opportunity or a denial of equal protection of the laws, any order for enforcement of a plan of desegregation or modification of a court-approved plan, until such time as the local educational agency to be affected by such order has been provided notice of the details of the violation and given a reasonable time, to be determined by the Secretary, to develop and implement a voluntary remedial plan. Such time shall permit the local educational agency sufficient opportunity for community participation in the development of a remedial plan.

Mr. DOLE. Mr. President, the purpose of the amendment, as modified, is to assure that local educational agencies whose school arrangements are found to violate equal opportunity, or equal protection provisions of the law, are given a reasonable opportunity to formulate and implement a corrective plan before an administrative or judicial plan is forced upon them by an agency of the Federal Government. The amendment is based upon the premise that a local community, which is in violation of the law, can best develop an alternative plan which not only brings the district into compliance with the law, but also takes into consideration the transportation, safety, and educational needs of the students and their families.

However, in order for a local educational agency to accomplish this difficult task, it must be given sufficient time to plan and implement a program tailored to the specific needs and circumstances of the local community. Unfortunately, adequate time is not always granted.

I make specific reference to Topeka, Kans., where the school officials were given less than 2 months to develop a plan which would comply with HEW directives. As a matter of fact, it worked out to be only about 48 days, and that hastily-devised plan has now been found to be unacceptable.

The school board made a sincere effort to comply with the Federal guidelines, and did come up with a plan. However, in so doing, they did not have time to consider the transportation problems the plan would create for parents; the safety hazards it would create for children; the classroom problems it would create for teachers; or the general impact it would have on the availability of learning opportunities for the student. The plan, assured merely that a racial balance would be established in Topeka schools, and nothing more. But Topeka residents, regardless of their ethnic background, are concerned with education, as well as social integration, and they overwhelmingly disapproved the redistricting plan. Now HEW threatens administrative action or, in the alternative, possible Justice Department suit to force upon all Topekans a school plan which is against their wishes and the students and community's best interests.

I feel that this represents unnecessary and untimely use of Federal force, and am therefore offering this amendment to insure that, in cases such as these, the Federal Government will allow adequate time for a local community to develop a solution which will take into consideration the needs of everyone.

I believe in community schools, just as I believe in integrated schools. And I feel I can safely say that the vast majority of Topekans are in favor of, and will work for, a balanced school system in their community. But a balancing of student ratios is only the first step in removing racial isolationism from our schools. A truly integrated school system is dependent upon the proper attitude of the people within that system and the appropriate action and reaction by its principal, student, and parent components. A truly integrated school system is one which fosters an environment permitting the education process to take place, and this requires community involvement with the schools.

To insure that any new Topeka school plan will have the necessary community involvement, the school board must go for suggestions to those affected by the plan. They must view all aspects of the education process—including parent-teacher relationships, transportation problems, and everyday social and environmental aspects of the students. From this information they can develop a school plan which will meet Federal guidelines, but which will also serve the community's interest in their children and their children's education.

To develop such a plan, time is required. That time in this case, however, has not been made available. On January 14, 1974, HEW notified the school district that they were not in compliance. The district requested more information from HEW on their findings, and received on March 12, 1974, a letter outlining in greater detail the reasons for the finding of noncompliance.

At that time the school district was given until May 1—which was less than 60 days—to develop a remedial plan. Such a plan was promulgated, but obviously it was not one which would take into consideration all the aspects of the education process. The plan was overwhelmingly disapproved, and the board, in a resolution which was adopted on May 7, and which I ask to be included in the RECORD at this time, voted for more time to "solicit the support, concern, and advice of all Topekans—to join together to improve and expand the equal educational opportunity of all students in the school district." This amendment seeks to guarantee that they have that time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESOLUTION ADOPTED BY THE BOARD OF EDUCATION U.S.D. No. 501

The Board of Education of United School District No. 501 met in Regular Session on Tuesday, May 7, 1974 at 7:30 p.m. at Quinton Heights Elementary School with the following present:

Board Members: Mr. Harry W. Craig, Jr., Vice-President; Mr. T. C. Anderson, Mr. Fred W. Rausch, Jr., Mr. Robert R. Schendel, Mr. Wayne T. Stratton, Dr. Gordon A. Summers.

Officers of the Board: Mr. W. W. Warner, Clerk; Mr. John H. Kelly, Treasurer.

Whereas, the Department of Health, Education and Welfare did, on the 14th day of January, 1974, advise this Board of Education of U.S.D. No. 501, that the system was not in compliance with the Civil Rights Act of 1964, in that certain grade schools had a disproportionate number of minority children and certain junior high schools attended by minority children were inadequate in facilities in comparison with those attended by white children, and

Whereas, U.S.D. No. 501 has, since 1954, been operated upon a neighborhood school concept, the method of education favored by the overwhelming majority of all residents of the City of Topeka, and

Whereas, the Board of Education, while denying that the Topeka Public Schools have not been in compliance with the Civil Rights Act of 1964, agreed that it would work towards a plan attempting to achieve a more perfect unitary school system, and

Whereas, the staff of the School District in response to the Board's request, has prepared and submitted to the Board at its meeting of April 30, 1974, a tentative plan which envisions the changing of the attendance areas of 22 schools and closing 7 schools, and

Whereas, since receipt of the tentative plan on April 30, 1974, the Board has considered the effect the plan will have upon the quality of education in the District and the Board believes and so finds that there is no way to meet the guidelines expressed by officials of the Department of Health, Education and Welfare as minimally necessary, without there being a concomitant inconvenience and hardship upon thousands of Topeka children and their families with the result that the quality of education is lowered.

Now therefore, be it resolved by the Board of Education, U.S.D. No. 501:

1. That the Department of Health, Education and Welfare be advised that the Board has found that the adoption of a possible plan as submitted to the Board on April 30, 1974, would not be in the best interest of the students of the School District for the reasons heretofore stated.

2. That the District determine if inequality of educational opportunities exist, and if so, take the remedial steps necessary to rectify the same, retaining the neighborhood school concept wherever possible.

3. That the Board solicit the support, concern and advice of all Topekans to join together to improve and expand the equal educational opportunity of all students in the School District.

Mr. DOLE. A recent WIBW-TV poll taken in Topeka relates some important points regarding the school integration question in Topeka, and I ask that a copy of that poll also be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WIBW POLL

Date: May 6, 1974.
Subject: School redistricting.
Survey area: Metro Topeka.
No. of interviews: 200.

WIBW News commissioned the Central Research Corporation to conduct a special telephone poll concerning the proposed school redistricting plan. Two hundred interviews were completed with parents of children attending U.S.D. 501 schools (Topeka Public Schools). Here are the questions and results as broadcast on WIBW newscasts on May 6:

	Percent
1. Do you presently have children attending a Topeka district 501 school? (Interviews were conducted only with individuals responding to this question).	
(a) Yes*	100
2. From what you know, do you feel that Topeka presently has a serious discrimination problem in the public educational system?	
(a) Yes	*29(42)
(b) No	63(49)
(c) No opinion	8(9)
3. Would you personally object to busing school children to more distant city schools in order to solve problems of racial imbalance?	
(a) Yes	75(69)
(b) No	23(31)
(c) No opinion	2
4. Do you feel it is important to have nearby neighborhood primary schools in all areas of the city?	
(a) Yes	93(80)
(b) No	6(16)
(c) No opinion	1(4)
5. Do you feel that the community (through teachers or parent groups) should participate with the school board in the formulation of any plans to rework school attendance boundaries and/or close older school buildings?	
(a) Yes	87(91)
(b) No	10 (7)
(c) No opinion	3 (2)
6. Would your own children attend a different school next year if the redistricting plan proposed Tuesday is implemented?	
(a) Yes	23
(b) No	70
(c) No opinion	7
7. From what you know of it . . . do you generally approve or disapprove of the redistricting plan proposed Tuesday by the school board?	
(a) Approve	19 (7)
(b) Disapprove	66(89)
(c) No opinion	15 (4)

*The percentages given in parentheses reflect the opinions of the 45 individuals whose children would attend a different school under the proposed plan. Although a base of 45 is very small, we thought the comparison between opinions of those whose children would be affected and the total interviewees interesting.

Mr. DOLE. As one can see from the poll, there are some basic points of strong agreement within the Topeka community. First of all, there is 93 percent support for the premise that it is important to have neighborhood primary schools in all areas of the city. The ironic fact about the HEW-directed plan, rejected by the community, was that while it met student ratio guidelines on a strictly mathematical basis, it placed the greatest hardship on minority students and families in terms of proximity to the school they would be attending. It was minority students, and their parents, whose schools would be closed down under the plan, and who would be required to accept a situation in which distance would make after school activities for the students, and after school conferences between parents and teachers, much less convenient. This illustrates clearly that more than just a racial balance must be sought if we are to improve the educational opportunities for all the schoolchildren in Topeka—and other cities in similar predicaments. For some of the strongest opposition to the HEW plan came from the predominantly minority-populated sectors of East Topeka.

Second, the poll illustrates 87 percent support for the premise that the community—through teachers and parent groups—should participate with the school board in the formulation of any plan to rework school attendance boundaries and/or close older school buildings. This, I feel, is the key to the development of any acceptable program, and I am hopeful my amendment will be passed so that the community has this opportunity to participate in the development of any new plan which is to be adopted.

Third, the poll indicates strong dissatisfaction with the tentative plan which was submitted by the school board. This illustrates that the community expects, and I feel deserves, a plan which takes into consideration factors other than mere student members and student ratios.

Finally, I would like to point out the strong opposition reflected in the poll to a plan which would involve the busing of schoolchildren to more distant city schools in order to solve problems of racial imbalance. This statistic reflects the general attitude of Topekans and Kansans in general: that the real issue in quality education for all students is an integrated program, and not the establishment of magical student ratios.

Mr. President, since the 1954 Brown against Topeka Board of Education case, Topekans and the Nation have been acutely aware of the school integration issue. Major progress has been made in these areas, and communities are taking the lead in assuring that a quality integrated educational program is available for their children. The amendment I am proposing merely provides that where this community initiative exists, it will have time to operate and develop a school plan which takes into consideration the comprehensive needs of the entire school system. Passage of this amendment will insure that on the 20th anniversary of the Brown case, we have moved beyond the concept of integrated schools to the concept of integrated community schools—where community involvement is given a chance to make quality education available to all students.

Mr. President, let me summarize my remarks by saying that I have discussed this amendment with the distinguished Senator from New York (Mr. JAVITS)—the senior minority member of the committee—and with the committee chairman—the distinguished Senator from Rhode Island (Mr. PELL).

Our objective is not to in any way thwart desegregation directions. And our objective is not to prevent an integrated, balanced school system in Topeka, Kans. Rather it is to provide a reasonable period of time for a community to draft its own plan of compliance which will be mutually acceptable to all its citizens, as well as to the Federal Government.

I want to point out again that the same 49 days provided in this case simply is not enough time in which to institute a balanced plan.

I think that the one real objective of the plan failed in that it placed a great hardship on the minority students in terms of proximity to the schools which they would be attending. It also placed a severe hardship on the minority students with respect to the possibility of participation in any after-school activities.

For it was the minority students whose schools would be closed down under the plan. And it would be they who, because of the distance involved, would have their after-school conferences with parents and teachers made much less convenient.

So I say again that time is the only motivation for, and the only issue for consideration in, this amendment. And we just do not believe that 49, or 60, or even 90 days is a reasonable time in which to work out an adequate plan. Perhaps as much as 6 months time would be fair for a community the size of Topeka, with the substantial number of students involved, but that is for the Secretary of HEW to decide.

I would only hope that with the adoption of this amendment, and with the statements made by the junior Senator from Kansas, he will be given a signal that the time allotted thus far in those situations has not been reasonable to allow for community participation in the development of a remedial plan.

Mr. JAVITS. Mr. President, I have discussed this matter with the Senator from Kansas. I do not, however, wish to associate myself with the time parameters or the reasons relating to Topeka which he has given for this amendment. Nor do I wish to agree with what he says about the amendment. I do not wish to waive my right to make points of order against any other amendment, on the ground that it may very well be out of order and considered as a so-called busing amendment.

So I shall not raise a point of order with respect to this amendment. However, I do feel that on an orderly basis we are not violating the spirit of the unanimous-consent agreement which is now in effect by accepting what seems to be a desire to give the community a reasonable opportunity to develop a reasonable plan.

That does not mean that it has to be accepted. It does not mean that assistance must be given by way of HEW, the Department of Justice, or individuals.

It simply means that we will have an opportunity to develop such a plan.

It is only on that basis that I would make no objection to the amendment, but I do believe, on rereading it—and the changes made were made at my request by Senator DOLE, so I wish immediately to assure him that I understand it—I would hope very much that on page 1, line 10, he would strike the words "and implement", so that it would read "to develop a voluntary remedial plan."

I think if we include the words "and implement," that might take years. I did not notice when he submitted it that those words differ from the words on page 2 which say "the development of a remedial plan."

With that change, and noting that the administration supports the amendment, I have no objection to the adoption of the amendment.

Mr. DOLE. Mr. President, I ask that my amendment be modified by striking the words "and implement" on line 10, page 1.

The PRESIDING OFFICER. The amendment is so modified.

Mr. Dole's amendment (No. 1337, as modified) is as follows:

On page 388, line 9, at the end of title VIII of the bill, insert the following new section: "Notwithstanding any other law or provision of law, no court or officer of the United States shall enter, as a remedy for a denial of equal educational opportunity or a denial of equal protection of the laws, any order for enforcement of a plan of desegregation or modification of a court-approved plan, until such time as the local educational agency to be affected by such order has been provided notice of the details of the violation and given a reasonable time, to be determined by the secretary, to develop a voluntary remedial plan. Such time shall permit the local educational agency sufficient opportunity for community participation in the development of a remedial plan.

Mr. JAVITS. I yield back the remainder of my time.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. PELL. I yield back the remainder of my time.

Mr. DOLE. Mr. President, I simply want to thank the distinguished Senator from New York and the distinguished Senator from Rhode Island. I can understand the reason for the further modification and agree that it is certainly appropriate. As the Senator from New York has indicated, we are not trying to preclude the proper exercise of authority by HEW, but I do believe that these communities should have a chance to develop a plan—and this amendment will provide them that opportunity.

The PRESIDING OFFICER (Mr. BIDEN). The question is on agreeing to the amendment (No. 1337, as modified) of the Senator from Kansas (Mr. DOLE).

The amendment was agreed to.

AMENDMENT NO. 1262

Mr. JAVITS. Mr. President, I call up my amendment No. 1262, and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 127, between lines 16 and 17, add the following:

"(I) Ways of developing and implementing expanded educational opportunities for adults at the basic and secondary education equivalency levels.".

Mr. JAVITS. Mr. President, I yield myself 5 minutes.

This amendment relates to that part of the bill which calls for a White House Conference on Education in 1977.

In view of the tremendous changes which are occurring in our educational system, it was our feeling in the committee that this conference should be convened. All that I do in my amendment is add to the matters for consideration of that White House conference this additional item respecting educational opportunities for adults—that is, adult education—which has been a particular care of mine.

Now, Mr. President, as to the attitude of the administration on this amendment: The administration opposes all of that section of our bill which deals with the White House Conference on Education. Therefore, I must assume, I state to the Senate, that it would oppose this amendment. It has not zeroed on this one particularly, but if it opposes the whole section, it would certainly oppose this amendment.

Nonetheless, Mr. President, I think so long as the section remains in—and I hope very much it will remain in—that this expansion of the terms of that conference to include adult education is highly warranted.

Mr. PELL. Mr. President, the amendment proposed by the senior Senator from New York would stress the need for adult education at the proposed White House Conference on Education. This is a lack that should have been included in any case. I think it is a good amendment, and I am glad to join with him in supporting it.

I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment (No. 1262) of the Senator from New York.

The amendment was agreed to.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

Mr. JAVITS. Without the time being charged to either side.

Mr. PELL. Mr. President, I withdraw my request.

Mr. TOWER. Mr. President, will the Senator from New York yield me some time on the bill?

Mr. JAVITS. I yield the Senator from Texas 5 minutes on the bill.

Mr. TOWER. Mr. President, I want to discuss two provisions in S. 1539 which are of great interest to me and a number of my constituents.

Section 531(j) of S. 1539 is essentially S. 3156 which I introduced along with Senator Dominick on March 12, 1974. This would establish a bilingual vocational training program. I envision this program as an extension to title VII of the Elementary and Secondary Education Act which provides funds to local education agencies for programs to benefit children with limited English-speaking ability. This program has been a major success and needs to be expanded both in terms of its scope and appropriations. It appears that the final version of this education bill will make these important changes.

The Bilingual Vocational Training Act will primarily benefit those individuals with limited English-speaking ability who are not in school and who wish to obtain additional skills. The objective is to remove barriers to limited English-speaking citizens as they strive to obtain better jobs in the private sector.

Mr. President, I explained the reasons for my proposal when I introduced S. 3156. I ask unanimous consent that the remarks I gave at that time be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Mr. Tower. Mr. President, I am today introducing a bill entitled the Bilingual Vocational Training Act of 1974. The distinguished Senator from Colorado (Mr. Dominick) has joined me in authoring this bill and presenting it to the Senate for its consideration. The bill represents a modification of S. 414, the Bilingual Job Training Act which we introduced last year with the cosponsorship of 18 other Senators. Since that time we have continued our efforts to promote Federal support to increase opportunities for Spanish-speaking peoples. Through these efforts we have determined that the Vocational Education Act offers a tremendous resource to achieve our goal of equal educational and employment opportunities for all of our citizens.

This is not to say that either Senator Dominick or myself are dissatisfied with the provisions relating to bilingual job training in the Concentrated Employment and Training Act that was recently enacted into law. That piece of legislation represented a progressive step forward in the field of manpower training. The bill contains a number of important provisions that will promote the goal of employment opportunities for Americans with limited English-speaking ability. I supported the legislation and am confident its implementation will result in more employment opportunities for bilingual citizens.

Nevertheless, vocational education represents another means at approaching the problem. While the Bilingual Education Act has proved to be successful in those areas where it has been funded it has not come close to eliminating the educational problems faced by Spanish-speaking Americans in a predominantly Anglo society. Education is the key to advancement in our society and if equal educational opportunity is to be a national goal, we cannot tolerate the high drop out rate that exists among our Spanish-speaking community and which is directly related to the fact that their average family median income is nearly $3,000 below that of the general population as a whole.

The legislation offered today is intended to build a bold new partnership between vocational education and bilingual education. It is primarily focused upon the disadvantaged bilingual person who, for variety of reasons, finds himself outside the confines of the traditional educational establishment. The bill provides for three primary types of funding: bilingual vocational training programs to be targeted at persons who are not currently enrolled in an elementary or secondary school and who may or may not have already entered the labor market but who desire additional vocational training; instructor vocational training programs which are desperately needed to fill the current void in this kind of educational endeavor; and instructional material programs which, as is in the case of instructional personnel, is currently in great need of development to meet the unique needs of bilingual persons in the United States.

Mr. President, as in the case of my previous proposal, there will no doubt be some questions raised about my proposing a federally directed categorical program. However, due to the enormous problems facing the bilingual community in achieving a position of equality of opportunity, some kind of Federal direction is needed to get the kind of program I am proposing off the ground.

Furthermore, Mr. President, I am confident that State and local communities and community based organizations will play the major role in the vocational job training program. A number of State vocational education agencies have already brought to my attention their interest in this kind of program. Naturally, such community based organizations as Operation SER, Jobs for Progress, will provide the needed expertise that would be required. It must be kept in mind that the purpose of this legislation is to provide equal opportunity for bilingual persons while allowing them and their communities the opportunity to thrive within their own cultural background and heritage. The Spanish-speaking American's culture is a rich one, and without its recognition this kind of program could not be successful.

Mr. President, this bill will soon be offered in the Senate Labor and Public Welfare Committee as an amendment to S. 1539, the Education Amendments of 1974. I am confident that the committee, which has worked tirelessly in developing a reform of our Federal education efforts last year and this year in conjunction with S. 1539, will approve the proposal.

Senator Dominick, a distinguished member of that committee, has done a great deal to advance this legislation in the committee. He was particularly helpful in developing the proper formula so that the necessary coordination between the Secretary of Labor, responsible for the Concentrated Employment and Training Act, and the Commissioner of Education is achieved.

I urge my colleagues to give this most important proposal their utmost consideration.

Mr. TOWER. Again, I would like to express my appreciation to the members of the Senate Labor and Public Welfare Committee for accepting this Tower-Dominick proposal. I would like to express particular thanks to Senator Pell, the chairman of the Education Subcommittee, Senator Javits, the ranking Republican, and Senator Cranston who was of great assistance during the committee's deliberations in having the amendment accepted.

The second topic I would like to discuss is section 522 of S. 1539. This section amends section 302(a)(2) of the Higher Education Act, allowing the Commissioner of Education to waive 3 years of the 5-year eligibility requirement for developing institutions "located in or near communities with large numbers of Spanish-speaking people if the Commissioner determines such action will increase higher education for spanish-speaking people."

Funds under this developing institutions section are intended to support 4-year and junior colleges in their struggle for survival. In order to obtain funds, an institution must be in operation for 5 years.

Mr. President, the Spanish-speaking community has expressed concern with regard to what they consider are inequities in the title III program. This concern has also been expressed by the title III Developing Institutions Advisory Council during its meeting on October 1 and October 2 of last year. That Council recommended legislation to make the funding more equitable by expanding the waiver provision for Indians to apply also to schools serving the Spanish-speaking community.

On March 12, 1974, I introduced along with Senator Dominick, S. 3157 which would have reduced the operational requirement for all schools to 3 years and to provide the same waiver for Spanish-speaking as applies to American Indians. The change now in S. 1539 represents a modification of my proposal and one introduced by the distinguished Senator from New Mexico (Mr. Montoya), and while I naturally prefer my language, I am satisfied with what the committee has done.

However, Mr. President, if I may have the attention of my good friends the Senator from New York and the Senator from Rhode Island, I would like the distinguished managers of the bill to address themselves to the entire question of funding for developing institutions. I fear that whatever legislative changes are made, the funding inequities will not be cured unless the attitude of the administrators in the Office of Education changes.

Quite frankly, the Office of Education considers the developing institutions program a "black program." It is natural that the majority of funds go to assist predominantly black schools. At the same time, many new 4-year and junior colleges, such as El Paso Community College in Texas, have become operational and predominantly serve the

Spanish-speaking community. Yet, since the program's inception only 4.1 percent of the funds have benefitted these schools. Taking nothing away from the black colleges, such statistics portend inequitable administration at the office of education.

Not only would I hope that the managers will express their strong intention to fight for the Bilingual Vocational Training Act and the developing institutions amendment in conference, but I urge them to join with me in stating that the amendment in the bill that I have just referred to represents a message from the Congress to the Office of Education that an equitable share of these funds should be granted to institutions serving Spanish-speaking students.

Mr. PELL. Mr. President, my understanding is that the Office of Education should fund these developing institutions and consider Spanish-speaking youngsters as among those who are minority students; and I hope that this omission on their part would be rectified.

Mr. TOWER. I thank my friend from Rhode Island. I would appreciate a comment from my distinguished friend from New York, who I know has a large Spanish-speaking constituency of his own.

Mr. JAVITS. Exactly. I think the Senator has put his finger on the main point when he said "fair share." There is always a big panic about the fact that somebody is going to be deprived as against somebody else.

It is a fact that the overwhelming number of minority-oriented colleges are so-called predominantly black colleges, which is something we understand to be the situation. So I would agree with the Senator that certainly the fair share basis should be observed.

I am sure the Senator will himself agree there should be no discrimination as to educational standards. In other words, the normal insistence by educational authorities on educational standards should be maintained but within the parameters of the legitimate demands of higher education, and certainly a fair share of it should flow to those institutions.

Mr. TOWER. I thank my friend from New York very much for his comments. I would note that perhaps it is not desirable to have ethnic-oriented colleges, but in fact where we have community colleges in this country predominant in the Spanish-speaking areas, it is inevitable that this would be the case because that is what the colleges with that kind of constituency are designed to do. I appreciate the comments of the Senator from New York.

Mr. JAVITS. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum without the time being charged to either side.

The PRESIDING OFFICER (Mr. HART). Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ELEMENTARY AND SECONDARY SCHOOL EDUCATION IN THE ARTS

Mr. PELL. Mr. President, on page 282 of the bill, S. 1539, one finds section 410 entitled "Elementary and Secondary School Education in the Arts." There is, however, no explanation of that section in the body of the report. I wish to explain to the Senate what section 410 is intended to accomplish.

Last year an innovative program was established at the John F. Kennedy Center for the Performing Arts in conjunction with the Office of Education which used a small amount of seed money to generate interest and support of art education in our schools. All too often the arts have been treated as a frill—something outside the necessary curricula of elementary and secondary education. Section 410 would, I believe, assist both educators and artists in changing this concept. It would give a solid legislative base for a meaningful program.

TITLE VII: NATIONAL READING IMPROVEMENT PROGRAM

Mr. BUCKLEY. Mr. President, reading instruction is generally recognized as the single most important discipline on which to concentrate in the primary grades because when students fail to learn to read or they do not read as well as they should, all other learning is severely blocked.

Also, since the failure during the past 4 years has been so massive, as reflected in the Louis Harris survey in 1970 indicating that nearly 20 million Americans over 16 are functionally illiterate, remedial reading instruction is required for students from age 10 and above so that they can get fullest possible benefit from their remaining time spent in school.

Evidence of the apparent inability of our schools and teachers to teach reading is particularly easy to find in urban areas. Minority and disadvantaged young people are simply not learning to read well enough to compete later in life. Recognizing this, former U.S. Commissioner of Education James Allen initiated the "Right to Read Program" back in 1969. At that time Commissioner Allen articulated as his goal the desire to see to it that every student in this country would be able to read well enough to survive and work by 1980.

Five years have already passed, and we have not yet even seen a model on which we might pattern a massive effort to solve this problem, so that one is forced to conclude that this program represents just one more example of governmental buck passing and public relations activities.

In 1969, Prof. Jean Schall of Harvard University published her massive 5-year Carnegie Foundation-sponsored study of reading instruction called Learning To Read: The Great Debate. Careful evaluation of the research in reading instruction up to that time led her to believe superior results were usually achieved through the so-called method of reading instruction as opposed to the traditional "look-say" method. She also recommended a strong dose of the traditional folk tales, fairy tales, fables, and simply good literature for children as early as possible.

Thus, in contrast to previous analysts' statements, including those working within the Office of Education, Professor Schall is telling us that methods of teaching reading are important, and that phonetics should play an important roll in all learning-to-read programs.

Accountability is a word much bandied about in education these days. When Dr. Leon Lessinger introduced the term a few years ago it made a lot of sense to laymen, the taxpayer, and the businessman because these people suddenly realized that until now educators had not been held accountable by an external agency. The taxpayers and parents of children in public schools suddenly became very interested in accountability as a way to get greater benefits from their educational tax dollars.

However, since 1969, accountability has remained little more than a mere word and a good idea. Educational expenses have doubled in the past 10 years and every year the quality of the end product of education seems to be deteriorating. This steady deterioration is illustrated by the fact that the College Entrance Examination Board recently announced that the median test results of the college boards has dropped steadily during the past decade.

Thus, although the Federal Government has invested more than $400 million in reading and reading-related research, we have not seen any measurably impressive results. Although there has been a great deal of educational research comparing various reading methods, techniques, and materials over a short period of time; although a large amount of time, energy, and money continues to be spent developing new methods, techniques, and materials; perhaps an obvious alternative has been overlooked: Among the dozens of commercially available reading programs, is it not possible—even probable—that some are better than others? Would it not be far more economical for the Federal Government to act to stimulate competition among advocates of differing approaches to the problem to see which are effective and which are not effective?

Under S. 1539, title VII, the national reading improvement program, the Congress is being asked to authorize more than $135,000,000 for fiscal year 1975 increasing to more than $150,000,000 by fiscal year 1978 to create a national reading program. There is no question that Americans have become increasingly concerned of late with the apparent retrogression being experienced by students in succeeding years in their ability to read. I have already cited some alarming trends which should cause all of us serious concern. However, it appears that we are moving once again to a massive Federal program when there may well be enough technology in the marketplace to accomplish what is desired: Better reading instruction programs.

Before we commit ourselves to almost $500,000,000 over the next 4 years might we consider how this could be done in such a way to get the job done more effectively, at a lower cost?

Mr. President, many private organizations have developed new reading instruction techniques and new programs which are available today. In fact there are several dozen reading programs which are presently marketed although many have not become well known in the education industry. The National Government should, if anything, be performing the function of catalyst by establishing a framework within which present reading technologies can be tested. It may be, Mr. President, that there is no need for even newer programs and techniques. However if the National Government is going to commit itself to a multimillion-dollar reading program then it makes sense that we should look to what is available before it does anything else.

The National Government can best serve as a catalyst by developing a series of controlled tests, administered perhaps on a regional basis, to compare available basal reading and remedial programs. Acceptable accountability standards must be part of any sound testing program. We may find that very acceptable systems have already been developed. If that is so, the Government might save hundreds of millions of dollars on research and development which is unneeded. Mr. President, I would suggest that these points be considered before we authorize the national government to spend another half billion reinventing the wheel.

Mr. BIDEN. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 187, between lines 9 and 10, insert the following new section:

OPEN MEETINGS OF EDUCATIONAL AGENCIES

Sec. 110. Title VIII of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new section:

OPEN MEETINGS OF EDUCATIONAL AGENCIES

"Sec. 812. No application for assistance under this act may be considered unless the local educational agency making such application certifies to the Commissioner that members of the public have been afforded the opportunity upon reasonable notice to testify or otherwise comment regarding the subject matter of the application. The Commissioner is authorized and directed to establish such regulations as necessary to implement this section.

On page 187, line 11, strike out "Sec. 110." and insert in lieu thereof "Sec. 111".

On page 120, in the table of contents, redesignate item "Sec. 110." as item "Sec. 111" and insert immediately after "Sec. 109" the following:

"Sec. 110. Open meetings of educational agencies."

Mr. BIDEN. Mr. President, I have sent an amendment to the desk which has as its basic thrust to open up consideration of various Federal programs which affect the high schools and the primary schools of this country. The amendment I have proposed will simply provide that the meetings in the local school districts which grant applications for Federal funds must be open to the public.

Further, the amendment requires that there be public notice of the holding of such meetings.

The whole thrust of the amendment—I will not take any more time to explain it—is to provide parents, the community, and the school district, with the fullest opportunity to obtain some knowledge and understanding of the various Federal programs funded to the school districts so as to give them the opportunity to comment on the programs.

My understanding is that both the majority and minority managers of the bill have no substantive objection to this amendment.

Mr. PELL. Mr. President, there are no substantive objections to this amendment. I think it is a good idea. It will enable parents, the communities, and the school districts, to take an active part at these meetings.

Mr. JAVITS. Mr. President, we have joined the distinguished Senator from Delaware (Mr. Biden) in working out the language with the administration. So we have no objection to his amendment.

Mr. BIDEN. Mr. President, I yield back the remainder of my time.

Mr. PELL. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time on this amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Delaware (Mr. Biden).

The amendment was agreed to.

Mr. JAVITS. Mr. President, I ask unanimous consent to suggest the absence of a quorum with the time to be charged to neither side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BROOKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

At the end of the bill add the following new title:

TITLE —PROVISION WITH RESPECT TO CERTAIN FEES LIMITATION ON ATTORNEY'S FEES

Sec. . Notwithstanding any other provision of this Act, the prevailing party in any civil action brought under this Act may not be allowed attorney's fees as part of the costs of any such action.

Mr. BROOKE. Mr. President, this is a very simple amendment to correct an inequity now present in the bill. It applies not to one section but to all sections of the bill. It is broad in scope, and I think it speaks for itself. It just says that, notwithstanding any other provision of this act, the prevailing party in any civil action brought under this act may not be allowed attorneys' fees as part of the costs of any such action.

This amendment would enable a person to seek relief under this act without having to worry about the possibility of paying attorneys' fees to the opposing party if such party prevails. Thus this amendment removes any possible chilling effect on the right of an individual to bring an action under this act.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. BROOKE. I yield.

Mr. JAVITS. Mr. President, I believe that this amendment is absolutely essential. I cannot help feel that its inclusion in the Scott-Mansfield substitute was inadvertent—that is, the inclusion of that provision. It is nowhere else in the bill.

It is really a form of punishment for anybody who has the temerity to bring a suit, and obviously it is dangerous to poor people. It is not a punishment for a municipality or a city or some organized group. It is a danger, however, for a poor person.

So I hope very much that, in basic fairness, the Senate will agree with this amendment. It certainly makes a necessary correction. I really do not think the most ardent supporter of the Gurney amendment could want anything else.

Mr. GRIFFIN. Mr. President, will the Senator yield to me?

Mr. BROOKE. I yield.

Mr. GRIFFIN. Mr. President, I want to indicate that I believe the amendment can be accepted. I must admit that I find that the provision with regard to attorney fees reached further than I had realized. I believe the amendment of the Senator from Massachusetts will correct what appears to me to have been an inequity.

Mr. PELL. Mr. President, I share the view of my colleagues that this amendment is a fair and just one. We hope it will be accepted.

Mr. BROOKE. Mr. President, I thank the distinguished Senator from New York, the distinguished Senator from Michigan, and the distinguished Senator from Rhode Island. It pleases me that the Senator from Michigan, who is the opponent of the measure, because it really is the Griffin amendment substituted by the Scott-Mansfield amendment, does want to clear up this inequity. I am very grateful that he will accept it.

I yield back the remainder of my time.

Mr. PELL. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum and I ask unanimous consent that the time be charged to neither side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT OF 1975

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 13999.

The PRESIDING OFFICER (Mr. Hart) laid before the Senate H.R. 13999, an act to authorize appropriations for activities of the National Science Foundation, and for other purposes, which was read twice by its title.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the bill.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, I move that all after the enacting clause of H.R. 13999 be stricken and that there be substituted therefor the text of S. 3344, as reported by the Committee on Labor and Public Welfare with an amendment in the nature of a substitute.

The motion was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that S. 3344 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, with the time to be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORT ON IMPLEMENTING PROVISIONS OF DEFENSE APPROPRIATION ACT, 1974—MESSAGE FROM THE PRESIDENT

The VICE PRESIDENT laid before the Senate a message from the President of the United States, which was referred to the Committee on Appropriations. The message is as follows:

To the Congress of the United States:

In accordance with Section 812(d) of the Department of Defense Appropriation Authorization Act, 1974 (Public Law 93–155), I am pleased to submit the following report to the Congress on the progress made since my last report on February 20, 1974 in implementing the provisions of Section 812 of the Act cited above.

On April 25, representatives of the United States and the Federal Republic of Germany signed a new offset agreement covering fiscal years 1974 and 1975. The offset to be provided during this two year period is larger in dollar terms and provides more substantial economic benefits to us than any previous offset agreement. At an exchange rate of $1=DM 2.669, the dollar value of the agreement is approximately $2.22 billion over the two year period.

The composition of the agreement is generally similar to that of previous offset agreements, but there are a number of features that significantly increase its value to the United States, including substantial budgetary relief. As before, German military procurement in the United States represents the largest single element. In the present agreement it amounts to $1.03 billion (at $1.00=DM 2.669). Other attractive features include German willingness to continue funding the rehabilitation of facilities used by American troops in the Federal Republic; to take over the payment of certain real estate taxes and airport charges in connection with US military activities in Germany; to purchase from the US Atomic Energy Commission enriched uranium, including enrichment services; and—for the first time in the framework of an offset agreement—to finance US-German cooperation in science and technology.

As in the case of previous offset agreements, the new agreement makes provision for German purchases of special U.S. Government securities on concessionary terms. The significant interest savings resulting from an $843 million loan over seven years at 2½ percent, together with the above-mentioned German contributions to our troop stationing costs such as troop facilities rehabilitation and absorption of taxes and airport fees, substantially cover the additional costs we bear by deploying our forces in the Federal Republic rather than in the United States.

Benefits contained in the agreement constitute the major element in the effort to meet the requirements of Section 812. The agreement is the product of many months of difficult negotiations, involving not only the negotiators appointed by our two governments, but also personal exchanges at the highest levels of the two governments.

In my last report to the Congress, I stated that U.S. expenditures entering the balance of payments as a result of the deployment of forces in NATO Europe in fulfillment of treaty commitments and obligations in FY 1974 are estimated to be approximately $2.1 billion. That estimate still holds.

I anticipate that the bilateral offset agreement with the Federal Republic of Germany, together with arrangements involving other Allies, will meet the requirements of Section 812. This will permit us to maintain our forces in NATO Europe at present levels. In this connection, I would like to point out that the NATO study on allied procurement plans, which I referred to in my last report to the Congress, indicates that allied military procurement from the U.S. in FY 1974 will be significant despite the fact that many of our Allies have suffered a worsening in their trade balance and face the possibility of even greater deterioration. I will provide the Congress with further information on satisfying the requirements of Section 812 in my August report.

Richard Nixon.

The White House, *May 16, 1974.*

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

Report of Secretary of Defense

A letter from the Deputy Secretary of Defense, reporting, pursuant to law, on disbursements made against the appropriation Contingencies, Defense, for current and prior years' obligations through March 31, 1974. Referred to the Committee on Appropriations.

Approval of Loan for Construction of Certain Transportation Facilities

A letter from the Administrator, Rural Electrification Administration, Department of Agriculture, reporting, pursuant to law, on the approval of a loan to Square Butte Electric Cooperative of Grand Forks, N. Dak., to finance the land, land rights and clearing required for the construction of certain transmission facilities (with accompanying papers). Referred to the Committee on Appropriations.

Report on Certain Projects Proposed for the Army Reserve

A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, on seven projects proposed to be undertaken for the Army Reserve (with accompanying papers). Referred to the Committee on Armed Services.

Facilities Project Proposed for the Army Reserve

A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, on a facilities project proposed to be undertaken for the Army Reserve, at Brockton, Mass., and of the cancellation of certain projects (with accompanying papers). Referred to the Committee on Armed Services.

Projects Proposed To Be Undertaken for the Army National Guard

A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, on eight projects proposed to be undertaken for the Army National Guard (with accompanying papers). Referred to the Committee on Armed Services.

Report on Federal Contributions Program Equipment and Facilities

A letter from the Director, Defense Civil Preparedness Agency, transmitting, pursuant to law, a report on Federal Contributions Program Equipment and Facilities, for the quarter ended March 31, 1972 (with an accompanying report). Referred to the Committee on Armed Services.

Report on Strategic and Critical Materials Stockpiling Program

A letter from the Acting Administrator, General Services Administration, transmitting, pursuant to law, a report on the strategic and critical materials stockpiling program, for the 6-months period ended December 31, 1973 (with an accompanying report). Referred to the Committee on Armed Services.

Report on Activities of the U.S. Travel Service

A letter from the Secretary of Commerce, transmitting, pursuant to law, a report of the U.S. Travel Service, for calendar year 1973 (with an accompanying report). Referred to the Committee on Commerce.

Proposed Legislation From Secretary of Commerce

A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend section 905(c) of the Merchant Marine Act, 1936 (with accompanying papers). Referred to the Committee on Commerce.

Report of District of Columbia Bail Agency

A letter from the Director, District of Columbia Bail Agency, Washington, D.C., transmitting, pursuant to law, a report of that Agency, for the calendar year 1973 (with an accompanying report). Referred to the Committee on the District of Columbia.

Proposed Legislation From Civil Service Commission

A letter from the Chairman, U.S. Civil Service Commission, transmitting a draft of proposed legislation to amend the Social Security Act to change the effective date of section 1862(c) to coincide with the effective date of a national health insurance law (with accompanying papers). Referred to the Committee on Finance.

Proposed Legislation From the Renegotiation Board

A letter from the Chairman, the Renegotiation Board, transmitting a draft of proposed legislation to extend and amend the Renegotiation Act of 1951 (with an accompanying paper). Referred to the Committee on Finance.

Report on Inventory of Nonpurchased Foreign Currencies

A letter from the Fiscal Assistant Secretary, Department of the Treasury, transmitting, pursuant to law, a report on inventory of nonpurchased foreign currencies, as of December 31, 1973 (with an accompanying report). Referred to the Committee on Foreign Relations.

International Agreements Entered Into by the United States

A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting certain documents relating to international agreements, other than treaties, entered into by the United States (with accompanying papers). Referred to the Committee on Foreign Relations.

Reports of Comptroller General

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Federally Supported Attempts To Solve State and Local Court Problems: More Needs To Be Done," Law Enforcement Assistance Administration, Department of Justice, dated May 8, 1974 (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "More Competition Needed in the Federal Procurement of Automatic Data Processing Equipment," General Services Administration, dated May 7, 1974 (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Need for Increased Use of Value Engineering, a Proven Cost Saving Technique, in Federal Construction," multiagency, dated May 6, 1974 (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Interim Report on the Commodiy Exchange Authority and on Commodity Futures Trading," Department of Agriculture, dated May 3, 1974 (with an accompanying report). Referred to the Committee on Government Operations.

Proposed Concession Contract Within the National Park System

A letter from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed concession contract under which Park Reservation System will be authorized to establish, maintain, and operate a computerized campsite reservation system for designated areas within the National Park System for designated areas within the National Park System (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

Proposed Contract for a Research Project

A letter from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed contract with W. A. Wahler & Associates, Palo Alto, Calif., for a research project entitled "Study of High Modulus Backfill Systems" (with an accompanying paper). Referred to the Committee on Interior and Insular Affairs.

Proposed Contract for a Research Project

A letter from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed contract with Cities Service Oil Co., Tulsa, Okla., for a research project entitled "Improved Oil Recovery by Micellar-Polymer Flooding" (with an accompanying paper). Referred to the Committee on Interior and Insular Affairs.

Audit Report of Future Farmers of America

A letter from the president, board of trustees, Future Farmers of America Foundation, Inc., transmitting, pursuant to law, a report of the audit of the accounts of that foundation, for fiscal year ended December 31, 1973 (with an accompanying report). Referred to the Committee on the Judiciary.

Temporary Admission Into the United States of Certain Aliens

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports on temporary admission into the United States of certain aliens (with accompanying papers). Referred to the Committee on the Judiciary.

Report on Certain Defector Aliens

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders relating to certain defector aliens (with accompanying papers). Referred to the Committee on the Judiciary.

Report on U.S. Commission on Civil Rights

A letter from the Chairman, U.S. Commission on Civil Rights, transmitting, pursuant to law, a report entitled "Counting the Forgotten, the 1970 Census Count of Persons of Spanish-Speaking Background in the United States" (with an accompanying report). Referred to the Committee on the Judiciary.

Report of Food and Drug Administration, Department of Health, Education, and Welfare

A letter from the Office of Legislative Service, transmitting, for the information of the Senate, a prepublication copy of the annual report of the Food and Drug Administration, for the fiscal year ended June 30, 1973 (with an accompanying report). Referred to the Committee on Labor and Public Welfare.

Report of Drug Abuse Council

A letter from the Chairman of the Board, Drug Abuse Council, transmitting, pursuant to law, a report of that Council, for the year 1973 (with an accompanying report). Referred to the Committee on Labor and Public Welfare.

Report of Federal Activities Under the Vocational Rehabilitation Act

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, the final annual report of Federal activities under the Vocational Rehabilitation Act, for July 1, 1972 through June 30, 1973 (with an accompanying report). Referred to the Committee on Labor and Public Welfare.

Proposed Legislation From Department of Health, Education, and Welfare

A letter from the Secretary of Health, Education, and Welfare transmitting a draft of proposed legislation to provide assistance to local educational agencies which are in the process of eliminating discrimination or minority group isolation among students or faculty in elementary and secondary schools, and for other purposes (with accompanying papers). Referred to the Committee on Labor and Public Welfare.

Proposed Legislation From Civil Service Commission

A letter from the Chairman, U.S. Civil Service Commission, transmitting a draft of proposed legislation to amend chapter 83 of title 5, United States Code, to establish time limitations in applying for civil service retirement benefits, and for other purposes (with an accompanying paper). Referred to the Committee on Post Office and Civil Service.

Prospectuses Proposing Acquisition of Space by General Services Administration

A letter from the Acting Administrator, General Services Administration, transmitting, pursuant to law, a prospectus proposing the acquisition of space in an office building to be constructed in Jackson, Miss. (with accompanying papers). Referred to the Committee on Public Works.

A letter from the Acting Administrator, General Services Administration, transmitting, pursuant to law, prospectuses proposing entering into leases for space presently occupied at certain locations (with accompanying papers). Referred to the Committee on Public Works.

Report of Building Project Survey for Sitka, Alaska

A letter from the Acting Administrator, General Services Administration, transmitting, pursuant to law, a report of Building Project Survey for Sitka, Alaska (with accompanying papers). Referred to the Committee on Public Works.

Amendments to Prospectuses for Public Building Projects

A letter from the Administrator, General Services Administration, transmitting, pursuant to law, amendments to the approved prospectuses for public building projects at Lukeville, Ariz., and Laredo, Tex. (with accompanying papers). Referred to the Committee on Public Works.

Report Entitled "The Economics of Clean Water—1973"

A letter from the Administrator, U.S. Environmental Protection Agency, transmitting, pursuant to law, a report entitled "The Economics of Clean Water—1973" (with an accompanying report). Referred to the Committee on Public Works.

Proposed Legislation From Atomic Energy Commission

A letter from the Acting Chairman, U.S. Atomic Energy Commission, transmitting a draft of proposed legislation to amend the Atomic Energy Act of 1954, as amended, and the Atomic Weapons Rewards Act of 1955, and for other purposes (with accompanying papers). Referred to the Joint Committee on Atomic Energy.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A letter, in the nature of a petition, from the University of Michigan Medical Center, University Hospital, Ann Arbor, Mich., relating to radiopharmaceuticals for diagnosis and treatment. Referred to the Joint Committee on Atomic Energy.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on the Judiciary, with an amendment:

S. 2543. A bill to amend section 552 of title 5, United States Code, commonly known as the Freedom of Information Act (Rept. No. 93-854).

FREEDOM OF INFORMATION ACT AMENDMENTS

Mr. KENNEDY. Mr. President, I am pleased to file today on behalf of the Senate Judiciary Committee a unanimous report recommending passage of S. 2543, as amended. The bill contains a series of amendments to the Freedom of Information Act, which are intended to facilitate greater and more expeditious public access to Government information and to strengthen the public's remedy against agencies and officials who violate the act.

Last year the Subcommittee on Administrative Practice and Procedure, in conjunction with two other subcommittees, held 11 days of hearings on freedom of information and Government secrecy. Following those hearings I introduced S. 2543, which contained a number of proposed changes to the FOIA designed to meet the problems with agency administration of the act that were brought out in our hearings. In February the subcommittee reported out my bill. I was pleased to have been able to work with the ranking minority member of the full committee, Senator HRUSKA, to develop a bill which was supported by every member of the committee when ordered reported last week. I want to commend the Senator from Nebraska and his able staff for their efforts in developing the committee bill which is being filed today.

When I introduced S. 2543 I observed that "If the people of a democratic nation do not know what decisions their government is making, do not know the basis on which those decisions are being made, then their rights as a free people may gradually slip away, silently stolen when decisions which affect their lives are made under the cover of secrecy."

Former Chief Justice Earl Warren later last year made an impassioned plea for compelling "our public officials to keep the avenues of information open so the public can know and evaluate the character of their work from day to day." "If we are to learn from the debacle we are in," said the Chief Justice, "we should first strike at secrecy in Government wherever it exists, because it is the incubator for corruption."

Mr. President, S. 2543 reflects a strong commitment to promoting an open and responsive Government for all Americans. It is designed to provide the people with a stronger mechanism for keeping informed about what decisions their Government is making and to require that public officials keep the avenues of information open to the public.

During our hearings last year witnesses outside the executive branch pointed out three major problems frequently encountered in obtaining information from the Government under the Freedom of Information Act. First, they complained of consistent, unreasonable delays on the part of Government agencies in responding to requests for information. Too often these delays are brought about because agency officials do not want to disclose embarrassing information, even though that information may clearly be required to be disclosed under the FOIA.

Second, they expressed concern over the inability of Federal courts—after the Supreme Court's decision in EPA against Mink—to review agency decisions to classify documents in the interest of national defense and foreign policy. Justice Potter Stewart, in a concurring opinion in the Mink case, had stated that Congress built "into the Freedom of Information Act an exemption that provides no means to question an executive decision to stamp a document 'secret', however cynical, myopic, or even corrupt that decision might have been." We were thus urged to build into the act a process that would allow judicial review of classification decisions.

Third, they urged that Government officials be made more sensitive to the mandates of and more accountable under the FOIA. Officials handling FOIA requests have had little to lose by delaying responses or withholding records without justification. Few members of the public have the resources to go to court. News stories go stale with time, so the press loses its incentive after unreasonable initial delays. And possible embarrassment to the agency or its constituency is always more likely to be avoided by withholding than by disclosure. Thus, there exists little incentive for an agency or official to follow strictly the letter or the spirit of the FOIA.

I am pleased, Mr. President, that S. 2543 as amended addresses each of these important issues. One provision set definite time limits for agencies to respond to an appeal of an initial denial. In very limited and extraordinary classes of cases, agencies may certify—with approval of the Attorney General and publication in the Federal Register—that 30 days are necessary for handling initial requests because of the large numbers of records and wide geographic distribution involved. And in unusual circumstances, narrowly defined by the bill, the agency may add 10 days to its response time for either the initial or the appeal period. This should give agencies sufficient time to handle FOIA requests, while not allowing them to be dilatory in their practices. Each year they will have to report to Congress on the time it takes to handle requests and appeals, so that there will be a regular monitoring of agency compliance with the time requirements of the Act.

Where agencies want to withhold documents under a statute or Executive order as being classified in the interest of national defense or foreign policy S. 2543 as amended provides that courts may examine the documents themselves in camera and must determine whether in fact the documents were properly classified. The bill sets out procedures to protect particularly sensitive information, and it provides that courts should utilize an in-camera examination only if they cannot resolve the matter on the basis of arguments and affidavits. But it firmly establishes the principle of judicial review of—and accountability outside the executive branch for—agency decisions to classify material.

Three provisions of the bill are directed at the problem of accountability and responsibility in the agencies for adherence to the requirements of the Freedom of Information Act. To begin with, the names and positions of persons responsible for agency denials of information must be conveyed to the requester at each stage, and cumulated and reported to the Congress annually. The objective of this provision is not merely to single out publicly officials who work on FOIA requests, but to let them know that they must bear actual responsibility for denials that go out over their signatures.

Another provision of the bill allows the imposition of attorneys' fees and court costs against the agency in many cases where the requester substantially prevails in litigation. The intention here is not to encourage unnecessary litigation, but to let the agencies know that these fees and costs will no longer be an effective barrier to judicial enforcement of the FOIA for a large number of persons requesting information. Stricter adherence to the Act by these agencies should ensue.

Finally, a new provision added to the FOIA puts teeth into its requirements; it allows courts to impose disciplinary sanctions against Federal officials who violate the act. An innovation in administrative procedure, this Government accountability section provides that if a court finds Government records to have been withheld without a reasonable basis in law, the court shall order disciplinary action—up to a 60-day suspension—against the responsible Government official. The inclusion of this sanction for violation of the act clearly indicates a congressional commitment to openness, not secrecy, on the part of every officer and employee of the Federal Government.

Mr. President, democracy is indeed a fragile commodity. In a government of, by, and for the people, the people must have a right to obtain information from their government. And the people must have available, as well, a mechanism for securing that information. The Freedom of Information Act embodies that right and that mechanism. Both are strengthened by the bill being reported today.

Mr. HRUSKA. Mr. President, the hallmark of a democracy is an informed citizenry. It is elementary that the people cannot govern themselves if they cannot know the actions of their government. It is for this reason that we must remain committed to the goal of implementing the public's right to know to the greatest extent consistent with good government.

To this end, Congress passed the Freedom of Information Act in 1966. That act imposed on the executive branch an affirmative obligation to provide access to official information that previously had been long shielded from public view. Under that act, an agency must comply with a citizen's request for information unless it can show that competing interests, such as the right to privacy or the national defense, require the information to remain confidential.

While the Freedom of Information Act has, by and large, worked successfully, experience with the administration of the act indicates that some changes are necessary. In considering this legislation, the Judiciary Committee found that the primary obstacles to the act's effective implementation have been procedural rather than substantive. S. 2543 is designed to remove these obstacles. Its basic purpose is to facilitate more free and expeditious public access to the information the act obligates the Government agencies to disclose.

Senator KENNEDY has already outlined the provisions of the bill. The basic features of the bill I consider worth emphasizing are the following:

First, the bill requires agencies to publish indexes of its records available to the public so that the citizen can know what information is held by the agency;

Second, it prohibits excessive charges for the information requested;

Third, it expedites public access to Government information by requiring Government agencies to respond to requests for information within specified time periods;

Fourth, the bill insures responsible responses to requests by holding accountable those officials who withhold information without a reasonable basis;

Finally, S. 2543 insures the integrity of the classification of a classified document by allowing the courts to review the document in camera.

Mr. President, it is my view that this bill, as amended, will secure the right of the individual to gain access to all the official information that good government and the rights of the individual will permit.

Since the close of the hearings held on the Freedom of Information Act, Senator KENNEDY and his fine staff have worked with me and my staff to draft a bill that, in the words of the Senate Judiciary Committee in considering the Freedom of Information Act in 1966, provides "a workable formula which encompasses, balances and protects all interests, yet places emphasis on the fullest responsible disclosure." I believe that S. 2543 does just that. It has my unvarying support.

By Mr. SPARKMAN, from the Committee on Banking, Housing and Urban Affairs:

S. 3511. An original bill to increase the availability of urgently needed mortgage credit for the financing of housing and other purpose (Rept. No. 93–853).

Mr. SPARKMAN. Mr. President, I am reporting to the Senate today a bill cited as "The Emergency Housing Finance Act of 1974." This bill would broaden existing law with respect to the use of mortgage credit for the financing of housing and would increase authorizations for the continuation of existing housing assistance and community development programs for fiscal year 1975. The bill is to provide temporary authority to update existing programs until the provisions of the Senate-passed omnibus bill, S. 3066, the Housing and Community Development Act of 1974, can be implemented.

The Senate passed the omnibus bill on March 11 and is waiting for the House of Representatives to mark up a companion version to complete congressional action on the measure. I am hopeful that the two Houses can agree in conference soon on a final version and have it signed into law by the President before the end of this fiscal year. If this is done, we would not need to pass the interim bill.

The dilemma we are facing is how to assure that needed legislation is passed to continue existing programs in case the omnibus bill establishing new programs is not passed by July 1, 1974, without prejudicing passage of the omnibus bill now wending its way through the House of Representatives. Our committee and the Senate worked hard and long on developing and passing S. 3066, which is one of the most comprehensive and effective housing bills ever before the Congress, and it is extremely important that nothing be done to jeopardize its final passage.

Mr. President, I have kept in touch with the House leaders on the omnibus legislation and have been assured that a bill, somewhat reduced from the Senate version, will be forthcoming within the next few weeks. With this assurance, I believe it is best to hold up Senate passage of the interim bill for a short while until a clearer picture emerges on the House action and the final approval by the Congress and the President of the omnibus legislation. If such approval is assured, no action is needed on the interim bill. If, however, we see no hope for an omnibus bill, we would move the interim bill for prompt consideration by the House and the President.

Mr. President, I should like to say a word or two about the President's message on housing which came to the Senate on Friday, May 10. The President's message was in two parts—one on immediate action and the other on pending legislative proposals. On the latter, he urged passage of housing provisions almost all of which are contained in the omnibus bill, S. 3066, already passed by the Senate.

The second and most significant part of his message authorizes immediate action to be taken by the Treasury, the Government National Mortgage Association, and the Federal Home Loan Bank System to increase financial support for the mortgage market. For the most part, the President implemented some obscure legislative authority already on the books. The results of such implementation may be helpful but the beneficiaries are unlikely to be the families most in need of assistance, and we will have to wait and see whether this action is enough to make any difference in the depressed state of home construction at this time.

With respect to GNMA, the President would continue the tandem plan authority given to GNMA last January to purchase mortgages at a below market interest rate. At that time, the President announced that GNMA would purchase 200,000 mortgages at a 7¾ percent interest rate but now, 5 months later, only about one-fourth of such mortgages has been purchased. On Friday, the President announced that he is authorizing GNMA to purchase 100,000 mortgages at an 8-percent interest rate. I do not understand why the January program is moving so slowly. One reason given is the terribly low production of the FHA offices based on what I hear is the frightfully low morale of local FHA staffs. If the lag in the earlier program is any criterion for the new program, I wonder how significant an impact we can expect from the new proposal at an even higher interest rate. Furthermore, I wonder how helpful such a program will be to the low- and moderate-income families where the greatest need exists. The statutory ceiling for GNMA mortgages is $33,000. The President announced a$3.3 billion program so he must expect practically all of the mortgages will be at the ceiling level. A $33,000 mortgage supports a $35,000 or even higher priced house so the question is how many moderate-income families can afford a $35,000 house at an interest rate of 8 percent

I would have the same comment with reference to the President's $4 billion mortgage program financed through the Federal Home Loan Bank System. The ceiling on these mortgages is $45,000 which could finance homes priced well above $50,000. A program at such prices will be of little help to the moderate-income American family.

The third program is even more questionable because Treasury funds would be committed to help support a $3 billion program of 8¾ percent mortgages with ceilings of $35,000 through the Federal Home Loan Mortgage Corporation. A 30-year, $35,000 mortgage with an 8¾ percent interest rate would require a monthly amortization payment of $275. Adding the typical taxes, insurance and utilities would call for a total monthly outlay of about $375. To afford such a payment would require incomes of around $20,000 or more, or somewhere in the upper 15 percent of the income scale for American families.

My concern is that the middle-income American family is not being helped by this program. Federal subsidies amounting to millions of taxpayer dollars will be used to benefit families at income levels well above the average, and nothing is being done for families at the middle or lower income levels. In fact, I wonder how much of this money might go to finance second homes for upper income families.

The President has frozen funds for programs of benefit to the lower-income families since January, 1973. One of the reasons given for the freeze was the excessive cost to the Treasury. If the President wanted to be helpful and spur construction and provide housing where it is needed most, all he would have had to do was to release the FHA section 235 or 236 funds already appropriated by the Congress. I suppose in today's political environment, it is too much to expect the President to take this route. Perhaps once new legislation is passed which will reaffirm Congressional intent that the Government's first priority should be to assist the needy low- and moderate-income family, we shall see a more balanced program coming forth from the Administration. In the meantime, I suppose we have no choice but to go along with the President's plan. It will help out some, but it is obvious that, until we get the omnibus bill passed and implemented, anything we do now is only a stop-gap-measure.

Mr. President, another area of concern where some of the worst housing exists is in the rural areas. The rural housing program, first approved as part of the Housing Act of 1949, is one of the best Federal programs of benefit to low- and moderate-income families. In January of 1973 it was caught up in the President's freeze of subsidy funds. Later in the year, the Courts forced the reinstatement of the program. The administration, however, only partially reinstated it and I ask unanimous consent to place in the RECORD at the conclusion of my remarks a letter to the President about this program.

Mr. President, it is obvious from my remarks that the Federal Government's housing programs are in a shambles at this time. I did not comment on it, but the public housing program is suffering the same way as the others with administration actions far out of line with the intent of the law as passed by Congress. The administration took upon itself the right to freeze funds duly appropriated by Congress and came forth with a scattering of questionable efforts to substitute its own ideas without clearing with Congress. Congress has been somewhat at fault in not acting more promptly in enacting new legislation in response to the administration's action undercutting the existing programs. It points to the urgency for the passage as early as possible of the omnibus bill passed in the Senate on March 11. I hope that we shall have final approval by the Congress of 1974 housing and community development legislation which can be sent to the President for his signature.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MAY 7, 1974.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I read with great interest your recent speech announcing that you will very shortly recommend new Federal programs to stimulate the ailing housing industry.

I am writing, out of concern for the ill-housed families in our rural areas, to urge you to take immediate steps to get our rural housing programs moving again, as part of any new Federal housing effort. It would take very little to get these programs back on the track. It could be done simply by shifting funds you have already authorized for Farmers Home Programs.

My concern for rural housing programs has been sharpened by recent reports I have received from the Congressional Research Service and from the Housing Assistance Council. These reports on the activities of the Farmers Home Programs during 1973–74 indicate that, despite the Federal Court ruling *of July,* 1973 these programs have not been restored, following their suspension, to the levels authorized by the Congress.

The statistics indicate that the slowdown in rural housing activity is a direct result of the new Farmers Home Administration policy emphasizing rehabilitation and repair of existing housing over the construction of new housing. They show that FHA has allocated its money where it cannot be used, since there are not either the houses or the industry to support a large-scale rehabilitation program in our rural areas at this time. This is exactly what housing experts predicted when the policy was first announced some months ago.

Our U.S. rural housing programs are lagging badly this year, and the situation is even worse in my own State of Alabama. Initial loans under the Section 502 farm housing program are down by almost 40% in the U.S. and by 66% in Alabama, compared with the same period last year. This drastic decline, has, moreover, hurt hardest those least able to afford it. Only 22,000 interest credit loans have been made this year to low income families in the U.S., compared to the 48,000 made during the same months last year. The cutback in aid to low income families in my own state has meant that 1,500 fewer low income families have received loan commitments this year. While Farmers Home has allocated the bulk of its funds for the repair and rehabilitation of existing houses, these programs have not gotten off the ground. The figures show for example, that only about $1 out of every $5 allocated for low income loans on existing houses has been used. It appears that projections for existing and rehabilitated units in the rural program are unrealistic.

The cutback in our rural housing programs this year is a tragedy for our rural population. It has cost jobs and homebuilding activity at a time when these are badly needed.

I urge you Mr. President to act immediately to restore rural housing programs by authorizing that unused funds earmarked by the Farmers Home Administration for other purposes may be used for new residential construction activity under the Section 502 Program.

With kindest regards, I am

Sincerely,

JOHN SPARKMAN.

By Mr. METCALF, from the Committee on Interior and Insular Affairs, without amendment:

H.R. 6541. An act to authorize the Secretary of the Interior to convey certain mineral interests of the United States to the owner or owners of record of certain lands in the State of South Carolina (Rept. No. 93–855);

H.R. 6542. An act to authorize the Secretary of the Interior to convey certain mineral interests of the United States to the owner or owners of record of certain lands in the State of South Carolina (Rept. No. 93–856);

H.R. 7087. An act to authorize the Secretary of the Interior to sell reserved mineral interests of the United States in certain land in Missouri to Grace F. Sisler, the record owner of the surface thereof (Rept. No. 93–857); and

H.R. 10284. An act to authorize the Secretary of the Interior to sell certain rights in the State of Florida (Rept. No. 93–858).

CORRECTION OF LANGUAGE OF REPORT—NO. 93–763

Mr. PERCY. Mr. President, there is one matter of importance that the committee agreed upon to include in its report. Difficulties in agreeing to specific language for the report, however, produced delays that made it impossible to be included in the draft report we sent to the printer. This language concerns the Ethnic Heritage Act and was developed by Senator MONDALE who has a special interest in the ethnic heritage and history of the Iron Range of Minnesota. It was agreed to by the committee but since it inadvertently missed the deadline for filing, I ask unanimous consent that it be inserted in the RECORD at this point in my remarks, considered as part of the report and included in any reprints of the report No. 93–763 of the Education Amendments of 1974.

There being no objection, the language was ordered to be printed in the RECORD, as follows:

The Committee is aware that funding under the Ethnic Heritage Act will begin shortly. We are also aware that the Office of Education has received a large number of excellent proposals for the limited amount of funds that will be available.

We are hopeful, nevertheless, that some part of the funding might be made available for work on the ethnic history and culture of the upper mid-West, particularly relating to the Iron Range area of Minnesota.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session,

The following favorable reports of nominations were submitted:

By Mr. MAGNUSON, from the Committee on Commerce:

Stephen A. Nye, of California, to be a Federal Trade Commissioner.

(The above nomination was reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

EXECUTIVE REPORTS OF A COMMITTEE

Mr. STENNIS. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the nominations of four lieutenant generals in the Army to be placed on the retired list in that grade—Collins, Knowles, Seneff and Walker—and 50 temporary appointments in the Army to the grade of brigadier general—Tuberty through Otis; and, in the Navy, Vice Adm. Harold E. Shear, USN, to the grade of admiral and Vice Adm. Jerome H. King, Jr., USN, for appointment to the grade of vice admiral, when retired. I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, in addition, there are 839 cadets for appointment in the Army in the grade of 2d lieutenant; in the Navy, 173 for permanent and temporary promotion in the grade of captain and below and in the Air Force, 42 Air National Guard officers for promotion in the Reserve of the Air Force to the grade of lieutenant colonel and 65 in the Air Force for appointment and reappointment in the grade of colonel and below. Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing on the Executive Calendar, I ask unanimous consent that they be placed on the Secretary's Desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, or reported read the first time and, by unanimous consent, the second time, and referred or placed on the calendar, as indicated:

By Mr. COOK:

S. 3501. A bill to provide assistance to encourage States to establish consumer claims courts and to provide for resolution by U.S. magistrate of certain consumer claims. Referred to the Committee on the Judiciary.

By Mr. MONTOYA:

S. 3502. A bill to amend the Atomic Energy Act of 1954, as amended, and for other purposes. Referred to the Joint Committee on Atomic Energy.

By Mr. PERCY (for himself, Mr. Moss, and Mr. CLARK):

S. 3503. A bill to amend title XIX of the Social Security Act to impose certain requirements relating to the discharge or transfer of medicaid patients from skilled nursing or intermediate care facilities, and for other purposes. Referred to the Committee on Finance.

By Mr. PERCY (for himself and Mr. Moss):

S. 3504. A bill to amend the Social Security Act to provide for the furnishing of rehabilitative services to inpatients of long-term care facilities. Referred to the Committee on Finance.

S. 3505. A bill to amend section 232 of the National Housing Act to provide insurance for loans to finance improvements to long-term care facilities required to correct deficiencies identified in State surveys and Federal certification procedures. Referred to the Committee on Banking, Housing, and Urban Affairs.

S. 3506. A bill to amend the Older Americans Act of 1965 to provide strengthened programs relating to long-term care facilities, and for other purposes. Referred to the Committee on Labor and Public Welfare.

S. 3507. A bill to amend the Social Security Act so as to make permanent certain temporary provisions relating to inspections of long-term care institutions, to provide for the publication of certain information regarding such institutions, and requiring that such institutions provide certain training for their nonprofessional employees as a condition of participation in the medicare and medicaid programs. Referred to the Committee on Finance.

By Mr. PERCY:

S. 3508. A bill to amend title XVIII of the Social Security Act to provide for the establishment of a Nursing Home Affairs Advisory Council. Referred to the Committee on Finance.

By Mr. McGEE:

S. 3509. A bill for the relief of Willard H. Allen, Jr. and Nicole J. Allen. Referred to the Committee on the Judiciary.

By Mr. CLARK:

S. 3510. A bill for the relief of Pham Van Kiet. Referred to the Committee on the Judiciary.

By Mr. SPARKMAN, from the Committee on Banking, Housing and Urban Affairs:

S. 3511. An original bill to increase the availability of urgently needed mortgage credit for the financing of housing and other purposes. Placed on the calendar.

By Mr. MONDALE:

S. 3512. A bill to amend the Federal Unemployment Tax Act so as to require States to extend to not more than 39 weeks the period for which an individual may receive regular unemployment compensation, to provide for Federal financing of one-half of the costs attributable to the extension of benefits so required, to provide minimum standards with respect to eligibility for such compensation, and to limit the use of waiting periods for the receipt of such compensation; and otherwise to extend and improve the Federal-State unemployment insurance system. Referred to the Committee on Finance.

THE STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COOK:

S. 3501. A bill to provide assistance to encourage States to establish consumer claims courts and to provide for resolution by U.S. magistrates of certain consumer claims. Referred to the Committee on the Judiciary.

SMALL CLAIMS LEGISLATION

Mr. COOK. Mr. President, today I am introducing a bill to provide assistance to the States to encourage them to establish small claims courts. The aim of these courts is to make it easier, as well as less expensive, for the average consumer to have his day in court when he encounters difficulty in settling a dispute with a merchant.

This bill would give the Attorney General the power to approve State systems for small claims courts, and, upon such approval, to make grants which could total 50 percent of the costs which a State would incur in the operation of such a system.

The merits of small claims courts have been discussed a great deal already, and the need for them is becoming recognized more and more every day. Several States have already established very successful systems, most notably New York and California.

My bill does not stop with establishing guidelines and criteria for State claims courts. I am also proposing machinery to establish a Federal forum for small claims. This Federal small claims court will have jurisdiction over the cases involving diversity of citizenship between the consumer and the merchant. Since it is easy for people to travel to bordering States to make purchases, I feel that a forum for disputes which would arise from transactions of this kind is necessary.

Such a forum can be established by increasing the existing powers of the Federal magistrates.

As you know, there is now before us a bill which attempts to establish a program of Federal aid to the States. While the intent of this bill is good, I feel that it falls short of the purpose it is trying to achieve. Therefore, today I am introducing this bill, which presents a more complete program of aid to the consumer by including provisions for a Federal system of small claims courts.

I think that the diversity question, as well as this entire bill, is very important, and that it merits the careful attention which I know my colleagues will give it.

By Mr. MONTOYA:

S. 3502. A bill to amend the Atomic Energy Act of 1954, as amended, and for other purposes. Referred to the Joint Committee on Atomic Energy.

Mr. MONTOYA. Mr. President the bill I am introducing today is an alternative to legislation proposed by the Atomic Energy Commission which I introduced by request as S. 3253. Chairman MELVIN PRICE of the Joint Committee on Atomic Energy introduced the legislation in the House as H.R. 13896. The Commission proposed to delete the requirement in section 54 of the Atomic Energy Act that Congress authorize amounts of special nuclear material to be distributed to groups of nations, such as Euratom and the International Atomic Energy Agency, or IAEA.

On April 30, 1974, I chaired hearings before the Subcommittee on Agreements for Cooperation of the Joint Committee on Atomic Energy to consider these bills. The AEC testified that action on this matter is required before June 30, 1974, to permit the supply of special nuclear material in time to meet the needs of certain foreign power reactors. The Commission proposed the legislation in order to permit consummation of arrangements through IAEA to fuel reactors sold by U.S. manufacturers to Mexico and Yugoslavia. The current statutory ceiling for IAEA—5,070 Kg of U^{235}—must be eliminated or increased to at least 42,000 Kg for these reactors.

Ceilings on the amounts to be distributed to groups of nations are established by law, whereas ceilings on distributions to individual nations under bilateral agreements for cooperation are established in those bilateral agreements, which are subject to a 30-day review by the JCAE. AEC did not propose to establish ceilings in the IAEA or Eurotom agreements, or any other formal limitations in place of the statutory ceilings, but rather to keep the JCAE fully and currently informed of proposed distributions, as the only means of congressional control over such actions.

The subcommittee determined that a relaxation of the requirement for an act of Congress to increase the ceilings was in order, but the Congress must retain some control over the distribution of our remaining margin of uranium enrichment capacity. This bill provides for an alternative means of resolving this problem without abandoning significant congressional control over these distributions. The statutory ceiling would be raised sufficiently to permit fueling for the Mexican and Yugoslavian reactors with enough margin to allow fueling of a few more reactors in the near future. A ceiling of 75,000 Kg is suggested.

The bill also provides that further increases in ceilings could be made by the Commission provided that any proproposed new ceiling is established in writing and lies before the Joint Committee for 30 days, unless the committee by resolution waives the condition of the waiting period or any portion of the period. This provides a formal means of congressional review which parallels the 30-day approval for changes in bilateral agreements for cooperation.

I hope that this bill will be given speedy consideration by the full committee and the Congress. I believe that it provides the necessary relief from the present restrictions without undermining congressional oversight of a potentially critical energy resource.

By Mr. PERCY:

S. 3503. A bill to amend title XIX of the Social Security Act to impose certain requirements relating to the discharge or transfer of medicaid patients from skilled nursing or intermediate care facilities, and for other purposes; and

S. 3504. A bill to amend the Social Security Act to provide for the furnishing of rehabilitative services to inpatients of long-term care facilities. Referred to the Committee on Finance.

S. 3505. A bill to amend section 232 of the National Housing Act to provide insurance for loans to finance improvements to long-term care facilities required to correct deficiencies identified in State surveys and Federal certification procedures. Referred to the Committee on Banking, Housing and Urban Affairs.

S. 3506. A bill to amend the Older Americans Act of 1965 to provide strengthened programs relating to long-term care facilities, and for other purposes. Referred to the Committee on Labor and Public Welfare.

S. 3507. A bill to amend the Social Security Act so as to make permanent certain temporary provisions relating to inspections of long-term care institutions, to provide for the publication of certain information regarding such institutions, and requiring that such institutions provide certain training for their nonprofessional employees as a condition of participation in the medicare and medicaid programs; and

S. 3508. A bill to amend title XVIII of the Social Security Act to provide for the establishment of a Nursing Home Affairs Advisory Council. Referred to the Committee on Finance.

Mr. PERCY. Yesterday, I had the honor of addressing the Governor's Conference of Aging in Des Moines, Iowa. In my address I announced my intention to introduce six bills designed to implement a program to provide the elderly with alternatives to nursing homes as well as to assure them of quality if nursing home admission becomes necessary. I am introducing those bills today.

My approach to developing alternatives to institutionalization is simple and direct. I believe the State and area agencies on aging authorized by last year's amendments to the Older Americans Act must become the focal point for this effort. I am introducing a bill which I call the Older American Act Amendments of 1974 which directs the area agencies on aging to give priority to developing and expanding home health services.

My bill also directs the Commissioner of the Administration on Aging to give special consideration to funding projects which demonstrate the effectiveness of geriatric day care centers as an alternative to institutionalization. I shall return in a moment to other provisions of this bill which strengthen the role of State and area agencies on aging in improving the quality of care in long-term care facilities.

My program for continuing our efforts to improve the quality of care in nursing homes has five parts. These parts are embodied in the bills I am introducing.

First, we must amend those provisions of existing law which were intended to benefit the long-term care patient but which in practice seem to work to his detriment. I have in mind here provisions of H.R. 1 dealing with the so-called "level of care" problem.

Certainly no patient should be receiving care at the taxpayer's expense which he does not need. We know that this sometimes happens. But at the same time there may be reasons beyond the strictly medical ones why some patients need a higher level of care than might at first glance seem necessary. Moreover, involuntary transfer and discharge can have a devastating effect on the physical and mental health of even those persons for whom these moves are thoroughly justified.

To remedy this problem I am proposing that no patient be transferred or discharged from a facility without a medical determination that his needs cannot be met in that facility. In addition, States will be required to notify a patient at least 14 days in advance of a pending transfer or discharge and to properly prepare him or her for the move. The patient or his representative may request a hearing on the impending move.

This bill also directs the Secretary to conduct continuing investigative and oversight activities with respect to State administration of the medicaid program. The Secretary is directed to hold hearings at which States will account for their administration.

Finally, my bill goes to the heart of the problem: the overly restrictive definition of skilled nursing care. The Secretary is directed to refine the definition to include recognition of factors other than strictly medical ones in determining the need for such care.

The second part of my strategy to improve the quality of care in long-term care facilities involves building on and expanding the truly innovative changes embodied in H.R. 1.

I am proposing that we extend indefinitely the provisions for Federal assumption of 100 percent of the costs of State surveys and inspections.

I am proposing that we require preservice and inservice training for all nonprofessional nursing home personnel.

I am proposing that we move beyond the requirement that inspection reports be available to the public by directing the Secretary to prepare and disseminate an intelligible summary or digest of these reports and that he develop a rating system for facilities based on the data found in the reports.

Third, we can improve the quality of care by vigorously enforcing all existing requirements. Enforcement has sometimes been absent in the past because of the fear that to enforce high standards meant closing homes and tossing elderly people out on the street.

To deal with this problem I am proposing a program of insured loans to nursing homes to help them correct deficiencies identified in surveys and inspections. Rather than closing homes or ignoring violations we must help homes correct deficiencies and achieve full compliance with standards.

Fourth, long-term care facilities must be provided with an incentive to maintain residences at their highest level of functioning and not to contribute to their decline through inadequate or nonexistent care. To provide this incentive I am introducing a bill to require the provision of rehabilitative services to all residents of long-term care facilities who may benefit from them and to provide 100 percent Federal reimbursement for the cost of these services.

Finally and perhaps most importantly we must make nursing homes more accessible to the communities they serve and thereby more accountable to these communities.

I think this can be accomplished in a number of ways. For example, States are likely to upgrade their surveillance of nursing homes if they are reimbursed for the cost and if they know that the Secretary of Health, Education, and Welfare may call them to a public hearing to account for their own performance. In addition, the publication of a booklet based on State surveys and inspection reports obviously make these facilities more open and accessible.

Beyond these measures I am proposing that the State agencies on aging be required to establish a nursing home ombudsman and that area agencies be directed to develop programs which will bring volunteers, especially youthful ones, into area nursing homes. Both of these activities have demonstrated their usefulness in improving the quality of care by making the institution more open and more accountable to the public.

Mr. President, the bills I am introducing today do not involve vast new public expenditures. Many provisions can be implemented without any increase in appropriations for a particular program or function. Others continue programs due to expire or now funded as demonstration programs.

The entire cost is difficult to estimate, however. This is true because no one really knows, on the basis of currently available information, how many patients may be able to benefit from rehabilitative services and how much these services will cost. But even if the cost were to exceed $100 million, as I estimate it might, this is a small amount in comparison to the $1 billion it would have taken to develop the SST. And the return on our investment is likely to be so great in terms of the quality of life for the elderly.

Mr. President, I ask unanimous consent that a detailed outline of the legislation I am introducing be printed in the Record together with the full text of the bills.

There being no objection, the bills and outline were ordered to be printed in the Record, as follows:

S. 3503

A bill to amend title XIX of the Social Security Act to impose certain requirements relating to the discharge or transfer of medicaid patients from skilled nursing or intermediate care facilities, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title XIX of the Social Security Act is amended by adding at the end thereof the following new section:

"STANDARDS FOR DETERMINING NEED FOR CONTINUED SKILLED NURSING SERVICES OR INTERMEDIATE CARE SERVICES

"SEC. 1911. (a) In addition to other requirements imposed by law as a condition of approval of a State plan under this title, there is hereby imposed (and each State plan approved under this title shall be deemed to contain) the requirement that—

"(1) in determining, for purposes of the administration of the State plan, the need for continued care in a particular skilled nursing facility or intermediate care facility (which provides services for which payment may be made under the State plan) of an individual who—

"(A) is entitled to medical assistance under the State plan, and

"(B) has, for a period of one hundred and twenty days or more, been an inpatient of such facility,

consultation with other appropriate professional personnel, such discharge or transfer would be in the best interest of such individual's physical and mental health, and

"(2) in making such judgment and such determination proper consideration shall be given, not only to the mental and physical condition of such individual, but also to the capability of the facility to meet his particular needs, and to the impact which discharge or transfer from the particular facility would, as a practical matter, have on his general well-being in light of his age, length of stay in the facility, family situation, mental attitude, and other relevant factors, and

"(3) whenever, in the administration of the State plan, it is determined that an individual, who meets the criteria specified in subparagraphs (A) and (B) of paragraph (1), should be discharged or transferred from such particular facility (because the care provided in such facility is in excess of the needs of such individual)—

"(A) notice shall (not less than fourteen days prior to the proposed discharge or transfer) be sent to such individual (and in appropriate cases to his legal representative or interested family members)—

"(i) indicating the date of the proposed discharge or transfer, and advising that such individual may (at any time prior to the date of the proposed discharge or transfer) demand a hearing by the State agency on the matter of such discharge or transfer,

"(ii) identifying and describing (in case of a determination that such individual should be transferred from such facility) the institution to which it is proposed that such individual be transferred, and

"(B) such discharge or transfer shall not become effective prior to the date specified in the notice (sent in accordance with subparagraph (a)(i)), or, if later, the date of a final determination on the matter made on the basis of evidence adduced at a hearing held pursuant to a demand made pursuant to such notice, and

"(4) the State agency shall take appropriate affirmative action to assure that any individual discharged or transferred from a facility shall have the benefit of a planned program of information and counselling concerning such discharge or transfer designed to assist him in adjusting to the change in his care and surroundings and to minimize the personal stress which may accompany such change.

For purposes of paragraph (3), a determination (made in the administration of the State plan) that payment should no longer be made to a facility in which an individual (referred to in such paragraph) is an inpatient shall be deemed to be a determination, made in the administration of the State plan, that such individual should be discharged or transferred from such facility.".

(b) Section 1904 of the Social Security Act is amended to read as follows:

"SEC. 1904. (a) The Secretary shall conduct, on a continuing basis in all States with plans approved under this title, investigative and oversight activities designed to determine whether there exists any basis to support a finding—

"(1) that the plan has been so changed that it no longer complies with the provisions of section 1902 and section 1911; or

"(2) that in the administration of the plan there is a failure to comply substantially with any such provision; and,

when such activities result in observations indicating that there does exist a reasonable basis for such a finding, he shall forthwith call upon the State agency to appear at a public hearing, scheduled so as to allow reasonable notice to the State agency, to give an accounting of its administration of the plan with respect to those matters in which the Secretary has found indications of noncompliance.

"(b) Where such a hearing results in a finding by the Secretary of failure to comply with any of the provisions of section 1902 and section 1911, the Secretary shall require compliance and may, to effect such compliance, notify the State agency that further payments will not be made to the State (or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such noncompliance), until the Secretary is satisfied that there will no longer be any such failure to comply.".

(c) Section 1905(f) of the Social Security Act is amended by adding at the end thereof the following new sentences: "An individual shall also be deemed to be in need of skilled nursing facility services if such individual is determined (in accordance with regulations of the Secretary promulgated pursuant to the following sentence) to need care in such a facility on a daily basis notwithstanding the criteria set forth in the preceding sentence. The Secretary shall (not later than six months after the date of enactment of this sentence) promulgate regulations establishing criteria under which individuals (not meeting the criteria imposed by the first sentence of this subsection) newly applying for admission to a skilled nursing facility shall be determined to be in need of care in such a facility on a daily basis; such regulations shall accord proper recognition to the interaction of personal, health, and social considerations which cause such care to be needed in particular instances.".

S. 3504

A bill to amend the Social Security Act to provide for the furnishing of rehabilitative services to inpatients of long-term care facilities

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part A of title XI of the Social Security Act is amended by adding after section 1123 thereof the following new section:

"REHABILITATIVE SERVICES FOR PATIENTS IN LONG-TERM CARE FACILITIES

"SEC. 1124. (a) The Secretary shall make grants to long-term care facilities to defray 100 per centum of the reasonable cost incurred by such facilities in establishing and carrying out a rehabilitative services program (as defined in subsection (b)) for the inpatients thereof.

"(b) The term 'rehabilitative services program' means a program which includes—

"(1) examination of each inpatient of the facility to determine if such inpatient may benefit from therapy,

"(2) with respect to each inpatient who (on the basis of such examination) is determined to be in need of therapy, preparation of plans which specify the type of therapy to be provided, the frequency with which it will be administered, and the measurable goals sought to be achieved as a result thereof, and

"(3) utilization of qualified therapists (who are certified as such under State or local laws) to provide or supervise the provision of all therapy services furnished under the program.

"(c) Grants under this section shall be made in such amounts, and subject to such conditions as the Secretary may deem appropriate to carry out the purposes of this section and to protect the public interest; and amounts payable under such grants shall be made in advance or by way of reimbursement, and in such installments as the Secretary may determine.

"(d) As used in this section, the term 'long-term care facility' includes a skilled nursing facility (as that term is employed in titles XVIII and XIX and an intermediate care facility (as that term is employed in title XIX).

"(e) There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this section.

"(f) Notwithstanding any provision of title XVIII or XIX, Federal funds available for the carrying out of either of such titles shall not be available for the provision, after June 30, 1975, of long-term care in any long-term care facility which does not have in effect a rehabilitative services program.".

S. 3505

A bill to amend section 232 of the National Housing Act to provide insurance for loans to finance improvements to long-term care facilities required to correct deficiencies identified in State surveys and Federal certification of procedures

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 232 of the National Housing Act is amended by adding at the end thereof the following new subsection:

"(j)(1) The Secretary, in consultation with the Secretary of Health, Education, and Welfare, is authorized upon such terms and conditions as he may prescribe, to make commitments to insure and to insure loans made by financial institutions to long-term care institutions approved by the Secretary of Health, Education, and Welfare, to make improvements in the physical structures of such facilities required to correct deficiencies identified in State surveys and certification procedures carried out in connection with the administration of any Federal program or of any State program in which there is Federal financial participation. The Secretary of Health, Education, and Welfare will approve for loans those facilities which show reasonable promise of meeting Federal standards and requirements in a reasonable length of time without endangering the health or safety of the residents in the interim.

"(2) To be eligible for insurance under this subsection, a loan shall—

"(A) not exceed the Secretary's estimate of the reasonable cost of the improvements to be made;

"(B) bear interest at not to exceed a rate prescribed by the Secretary;

"(C) have a maturity satisfactory to the Secretary, but not to exceed —— years from the beginning of amortization of the loan or three-quarters of the remaining economic life of the structure in which the improvements are to be made, whichever is the lesser; and

"(D) comply with such other terms, conditions, and restrictions as the Secretary may prescribe.

"(3) The provisions of paragraphs (5), (6), (7), (9), and (10) of section 220(h) shall be applicable to loans insured under this subsection, except that all references to 'home improvement loans' shall be construed to refer to loans under this subsection.

"(4) The provisions of subsections (c), (d), and (h) of section 2 shall apply to loans insured under this subsection, and for the purposes of this subsection references in such subsections to 'this section' or 'this title' shall be construed to refer to this subsection.".

S. 3506

A bill to amend the Older Americans Act of 1965 to provide strengthened programs relating to long-term care facilities, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Older Americans Amendments of 1974."

SEC. 2. Section 304(c)(2) of the Older Americans Act of 1965 is amended by—

(1) striking the semicolon at the end of the section and inserting in lieu thereof a comma; and

(2) adding the following: "with special emphasis on the establishment or expansion of home health services.".

SEC. 3. Section 304(c) of the Older Americans Act of 1965 is amended by redesignating clauses (3) and (4), and all references thereto, as clauses (4) and (5), respectively, and by inserting immediately after clause (2) the following new clause:

"(3) provide for the establishment and maintenance within the service area covered by the plan of a program designed to strengthen access by the community to long-term care facilities, including accountability to the community for the services provided by such facilities, and a program of voluntary visiting services to such facilities;".

SEC. 4. Section 305(a) of the Older Americans Act of 1965 is amended by—

(1) striking out the word "and" at the end of clause (8) of such section;

(2) striking out the period at the end of clause (9) of such section and inserting in lieu thereof a semicolon and the word "and"; and

(3) adding at the end thereof the following new paragraph:

"(10) provides that the State agency will establish and maintain an ombudsman office which will receive and investigate complaints from residents and patients, and the relatives and friends of residents and patients, in long-term care facilities.".

SEC. 5. Section 308(a)(4) of the Older Americans Act of 1965 is amended by inserting immediately after "shopping services" a comma and the following: "geriatric day care center services".

S. 3507

A bill to amend the Social Security Act so as to make permanent certain temporary provisions relating to inspections of long-term care institutions, to provide for the publication of certain information regarding such institutions, and requiring that such institutions provide certain training for their non-professional employees as a condition of participation in the medicare and medicaid programs

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 249B of the Social Security Amendments of 1972 (Public Law 92-603) is amended by striking out "and ending June 30, 1974,".

(b) Section 1106 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(f)(1) The Secretary shall publish, and make available to interested members of the public, information and data of public interest with respect to institutions which are skilled nursing facilities (providing services for which payment may be made under title XVIII or under a State plan approved under title XIX) or intermediate care facilities (providing services for which payment may be made under a State plan approved under title XIX). Such information and data shall be published in a convenient and readable form and shall contain a summary of survey reports on each such institution, and shall include data with respect to ownership of the institution and charges imposed for services in such institution. The matter required to be published under this subsection shall be published periodically and in separate documents so that each document pertains only to institutions in a particular area and the information and data contained therein is of current interest to individuals residing in the area.

"(2) The Secretary shall develop a simple and convenient system for rating such institutions on the basis of survey reports made to him, and, in any document published pursuant to paragraph (1) for any area there shall be included the rating of each such institution in such area, together with an explanation of the criteria employed for determining the rating of such institutions.".

(c)(1) Section 1861(j) of the Social Security Act is amended—

(A) by striking out "and" at the end of clause (14) thereof,

(B) by striking out the period at the end of clause (15) thereof and inserting in lieu of such period "; and ", and

(C) by adding after clause (15) thereof the following new clause:

"(16) provides (in accordance with standards which the Secretary shall establish) periodic in-service training for all nonprofessional employees of the institution, and preservice training for all new nonprofessional employees of such institution.".

(2) Section 1903 of such Act is amended by adding at the end thereof the following new subsection:

"(l) Notwithstanding the preceding provisions of this section, no payment shall be made to a State with respect to expenditures incurred by it for services provided by any institution, which is a skilled nursing facility or an intermediate care facility, if such facility does not provide (in accordance with standards which the Secretary shall prescribe) periodic in-service training for all nonprofessional employees of the institution and preservice training for all new nonprofessional employees of such institution.".

(3) The amendments made by this subsection shall take effect on the first day of the first calendar month which commences more than ninety days after the date of enactment of this Act.

S. 3508

A bill to amend title XVIII of the Social Security Act to provide for the establishment of a Nursing Home Affairs Advisory Council

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title XVIII of the Social Security Act is amended by inserting after section 1867 the following new section:

"NURSING HOME AFFAIRS ADVISORY COUNCIL

"SEC. 1868. (a) There is hereby created a Nursing Home Affairs Advisory Council (hereinafter in this section referred to as the 'Council') which shall consist of 11 persons, not otherwise in the employ of the United States, appointed by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive services. The Secretary shall from time to time appoint one of the members to serve as Chairman. At least 6 members of the Council shall be individuals who are representatives of the public and who are eligible for medical assistance under a State plan approved under title XIX, and at least one of whom is a resident in a long-term care facility. The remaining members of the Council shall include outstanding representatives of professional groups whose members perform services in long-term facilities. Each member of the Council shall hold office for a term of four years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. A member shall not be eligible to serve continuously for more than two terms. Members of the Council, while attending meetings or conferences thereof or otherwise serving on business of the Council, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently. The Council shall meet as the Secretary deems necessary, but not less than often than annually.

"(b) It shall be the function of the Council to provide advice and recommendations for the consideration of the Secretary on ways to improve the quality of care provided by skilled nursing facilites, intermediate care facilities, or other long-term care facilities, which provide services for which payment may be made under this title or under State plans approved under title XIX."

SENATOR PERCY'S LEGISLATIVE PROPOSALS TO IMPROVE LONG TERM CARE FOR THE ELDERLY

1. A bill to amend the Social Security Act to impose certain restrictions on the discharge or transfer of patients or residents of long-term care facilities.

a. Requires that no patient be transferred or discharged from a facility without a medical determination that his needs cannot be met in that facility.

b. Requires that steps be taken to assure that the patient or resident is properly prepared for discharge or transfer and will receive appropriate care in the future.

c. Requires that a patient or resident be informed of his pending discharge or transfer at least 14 days in advance and that he be given the right to a hearing on the transfer or discharge.

d. Directs the Secretary to exercise powers of investigation and oversight regarding the execution of state plans.

e. Directs the Secretary to refine the definition of skilled nursing care to include recognition of factors other than strictly medical ones in determining the need for such care.

2. A bill to require rehabilitative services in long-term care institutions.

a. Requires facilities to develop and execute rehabilitative programs for every resident who may benefit from them.

b. Authorizes 100 percent Federal reimbursement of the cost of rehabilitative services in long-term care facilities.

3. A bill to authorize government-insured loans to upgrade or correct marginal deficiencies in long-term care facilities.

a. Authorizes the Secretary of Health, Education and Welfare to certify eligible facilities to the Secretary of Housing and Urban Development.

b. Defines eligible facilities to be ones in which improvements in physical structure are required to correct deficiencies identified in state surveys and certification procedures.

c. Directs the Secretary of Health, Education and Welfare to certify only those facilities which can meet Federal standards in a reasonable length of time and without any danger to residents in the interim.

d. Authorizes the Secretary of Housing and Urban Development to insure low-interest, long-term loans issued by private lending institutions to facilities meeting these requirements.

4. A bill to amend the Older Americans Act to strengthen provisions dealing with various modes of long-term care

a. Requires state plans to provide for establishing and maintaining a nursing home ombudsman program.

b. Requires area plans to provide for establishing and maintaining voluntary visiting services in long-term care facilities as a means of insuring community access and accountability.

c. Authorizes the Commissioner of Aging to approve projects designed to test or demonstrate the effectiveness of geriatric day-care centers as an alternative to institutionalization for the elderly.

d. Requires area plans to provide for developing or expanding home health services in those areas in which they are now lacking.

5. A bill to refine and extend certain features of H.R. 1 (P.L. 92-603) with respect to long-term care facilities

a. Extends indefinitely 100 percent Federal reimbursement for the cost of state surveys and inspections of nursing homes.

b. Directs the Secretary of Health, Education and Welfare to publish a convenient and readable summary of reports of surveys of institutions, including data on current ownership and charges.

c. Directs the Secretary to develop a rating system for long-term care institutions as an aid to the consumer.

d. Requires that all new non-professional employees of long-term care institutions receive pre-service training and that all present and future non-professional employees receive periodic in-service training.

6. A bill to create a permanent Nursing Home Affairs Advisory Council

a. Creates an 11-member Council to advise the Secretary of Health, Education and Welfare on ways to improve the quality of care of residents of long-term care facilities.

b. Requires that a majority of the members shall be eligible for Medicare or Medicaid benefits and that at least one person be a resident of a long-term care facility.

By Mr. MONDALE:

S. 3512. A bill to amend the Federal Unemployment Tax Act so as to require States to extend to not more than 39 weeks the period for which an individual may receive regular unemployment compensation, to provide for Federal financing of one-half of the costs attributable to the extension of benefits so required, to provide minimum standards with respect to eligibility for such compensation, and to limit the use of waiting periods for the receipt of such compensation; and otherwise to extend and improve the Federal-State unemployment insurance system. Referred to the Committee on Finance.

Mr. MONDALE. Mr. President, I am today introducing legislation which provides for basic and comprehensive reform of the Federal-State unemployment insurance system. This legislation is cosponsored by the distinguished Senator from Michigan (Mr. HART). Specifically, this legislation makes six changes in present law.

First, the bill embodies a uniform, Federal standard providing for a maximum duration of unemployment compensation benefits of 39 weeks. The additional 13 weeks—weeks 27–39—which will be added to the 26 weeks now provided by most States, are financed through Federal-State cost sharing. The "trigger" for extended benefits is eliminated for weeks 27–39.

Second, the bill would enact Federal standards for eligibility for unemployment insurance benefits. A State may not require an employee to have in his base period for eligibility more than 20 weeks work for 39 weeks of unemployment insurance benefits.

Third, the bill embodies Federal standards for amounts of compensation. The weekly benefit amount of any eligible individual for a week of total unemployment must be an amount equal to a 66⅔ percent of such individual's average weekly wage or an amount equal to the maximum weekly benefit payable under State law, whichever is lesser. The State maximum weekly benefit amount must be no less than 100 percent of the statewide average weekly wage.

Fourth, the bill extends coverage to new categories of workers. Coverage is extended to agricultural workers, domestics, and State and local government employees.

Fifth, the waiting period, a noncompensable period of unemployment in which the worker must have been otherwise eligible for benefits, may be no longer than 1 week. If an eligible individual has received compensation for 3 or more weeks in his benefit year, compensation will be retroactively paid to such individual for the waiting period.

Sixth, the bill establishes a Special Advisory Commission on Unemployment Compensation.

Unemployment insurance is a Federal-State system, designed to provide temporary wage-loss compensation to workers as protection against the economic hazards of unemployment. Funds accumulated from taxes on wages during periods of employment permit payments of benefits to covered workers during periods of unemployment. At the same time as the unemployed worker is assisted financially while he is looking for work, the benefit payments help maintain purchasing power throughout the economy and cushion the shock of unemployment on the economy. In addition to helping the worker, the program is designed to help the entire economy by maintaining spendable income. By maintaining purchasing power, it acts as a stabilizing force in the economy, helping to prevent an economic downturn from gathering momentum and forcing further declines in consumer purchasing power. The benefits are countercyclical in effect and help to prevent unemployment from spreading and lasting a longer period.

As President Nixon noted in his address to Congress on April 12, 1973:

> A properly designed system of unemployment insurance should serve the dual purpose—of both helping to tide individual workers financially over the periods when they are without a job, and of stabilizing the economy as a whole by helping to make up for wage losses which would otherwise cut consumer purchasing power and accelerate business downturns.

Unfortunately, our present system, under which benefits were first payable in 1939, does not meet the criteria for an adequate design. The system has not kept pace with the dynamics of our economy and the growth in wage level. Too many people are still excluded from coverage. Of those who are covered, too many exhaust their right to benefits before they are able to find employment. Even when they are receiving benefits, too many workers receive benefit amounts which are inadequate when compared with rising wages.

Our unemployment compensation system came into effect as a result of congressional action in 1935. Just as Congress had a responsibility to develop a program and see that it was enacted into law, so too it has a responsibility for seeing that the program is modified to insure that its basic objectives continue to be met.

Considerable attention has recently been focused on the unemployment insurance system because of massive job losses due to the energy crisis. The Secretary of Labor recently estimated that more than one-half million jobs have been lost, directly or indirectly, as a result of energy shortages. This energy-crisis unemployment has lead to congressional efforts to provide for emergency unemployment benefits for workers who have lost their jobs as a result of this crisis. Also, general unemployment levels have already reached 5.2 percent this year, and, despite slight decreases in the overall level in the past 2 months, estimates of overall unemployment as high as 6 percent are still being made.

While I continue to support congressional efforts to deal with crisis unemployment, I believe that now is the time to take a long, hard look at the overall unemployment compensation system in this country. Comprehensive reform has long been needed, and now is the time to act.

DURATION

Maximum weeks of benefits vary from State to State. Most frequently, the maximum duration is 26 weeks. Only eight of the States entitle all claimants to the maximum; the rest vary the maximum duration with the amount of past earnings or employment. In 1969, these varying provisions resulted in 52 percent of all claimants exhausting benefits before receipt of 26 weeks of unemployment compensation. In 24 States, over 60 percent of all exhaustees had drawn benefits for less than 26 weeks. The average duration of benefits in some States is a mere 19 or 20 weeks, and, in other States, it is consistently 26 weeks or more. Experience under the temporary unemployment compensation programs of 1958 and 1961 and the Federal-State Extended Unemployment Compensation Act of 1970 (Public Law 91–373) indicate the need for a uniform standard for duration.

Our current unemployment insurance system provides a mechanism for paying benefits for up to 39 weeks. But the additional 13 weeks, above the basic 26-week period provided by most States, is contingent upon levels of unemployment throughout the entire State or the entire Nation. There is, however, no reason why an individual who is unable to find a job, or for whom an unemployment service is unable to find a job, should be penalized because most people around him have a job and, therefore, the trigger is not activated.

The Federal-State extended benefit program, established by Public Law 91–373, is designed to pay extended benefits to workers during periods of high unemployment. The program is financed equally from Federal and State funds and may become operative either in an individual State or in the entire country as the result of State or National "on" indicators. Unfortunately, the extended benefits program has proven a failure. The complicated separate National and State trigger mechanisms have denied extended benefits to hundreds of thousands of the long-term jobless. Under the triggers, the national extended benefits were shut off at the height of a recessionary period. Many of the State programs have triggered "off" with unemployment levels as high as 8, 10, or 12 percent in major labor market areas.

The triggers are also discriminatory. The triggers rule out of the extended benefits program those areas which may experience high levels of unemployment but which are not included in States which have a level of unemployment high enough to satisfy the "on" trigger. Similarly, individuals may have lost their jobs but do not receive extended benefits because they do not happen to live in an area where the aggregate level of unemployment has reached the specified level. And the 120 percent requirement, which requires not only the existence of an "on" trigger but also that unemployment be 20 percent greater than the corresponding period in the two prior years, has prevented the successful operation of the extended benefits program. Recently the Department of Labor revealed that 17 States had an insured rate of unemployment in excess of 4 percent but could not pay extended benefits because they did not meet the dual trigger requirement of 4.0 percent insured unemployment and 20 percent greater unemployment than the corresponding period in the two prior years.

My bill would provide for a uniform, national maximum duration of 39 weeks. Triggers would be eliminated. And the duration of unemployment compensation payments would be uniform.

It must be remembered that requiring a uniform, maximum duration of 39 weeks does not mean that all employed workers will draw benefits for 39 weeks. If a suitable job is available after 3 weeks, the worker must accept it, or, under all State laws, he will be disqualified from receiving benefits. What it does mean is that, if the labor market does not provide a job for the individual during the 39 week period, he will not be required to shoulder the entire, difficult burden of unemployment. Our unemployment compensation system will provide him with benefits for at least the required 39 week period. In addition, of course, all qualifying requirements must be met.

ELIGIBILITY

There are no Federal standards for qualifying requirements for benefits. Under all State unemployment insurance laws, a worker's benefit rights depend on his experience in covered employment in a past period of time, called the "base period". The period during which the weekly rate and the duration of the benefits determined for a given worker apply to him is called his "benefit year." The qualifying wage or employment provisions attempt to measure the worker's attachment to the labor force. To qualify for benefits as an insured worker, a claimant must have earned a specified amount of wages or must have worked a certain number of weeks or calendar quarters in covered employment within the base period, or must have met some combination of wage and employment requirements.

Under the present State laws, the amount of work needed to qualify for benefits, like the duration of benefits, vary widely. In an attempt to make such requirements uniform, my bill provides that, as a qualifying requirement, the States may not require more than 20 weeks of employment, or the equivalent, as a prerequisite to the receipt of the maximum duration of benefits.

In some States, too long a period is required before a worker can qualify for benefits. Although this bill accepts the requirement that a worker must have demonstrated a past attachment to the labor force in order to be eligible for benefits, it precludes overly stringent qualifying requirements.

BENEFIT AMOUNT

Under all State laws, a weekly benefit amount—the amount payable for a week of total unemployment—varies with the worker's past wages within certain minimum and maximum limits. The period of past wages used, and the formulas for computing benefits from these past wages, vary greatly among the States. Although many States have statutory provisions which provide that the worker will receive 50 percent of his average weekly wage, this provision is qualified by a maximum level of benefits which is often set so low that it effectively undercuts the 50-percent guarantee. In fact, more than two-fifths of all workers now covered by the unemployment insurance system, find their benefits limited by State ceilings at a level below the half-pay ostensibly guaranteed them.

President Nixon, in July 1969, recognized this problem when in a message to Congress, he said:

> Up to now, the responsibility for determining benefit amounts has been the responsibility of the States. There are advantages in States having that freedom. However, the overriding consideration is that the objective of adequate benefits be achieved. I call upon the States to act within the next two years to meet this goal, thereby averting the need for Federal action.

Unfortunately, State efforts to guarantee adequate benefit levels were not readily forthcoming. Thus, in his message to Congress in April 1973, the President recognized the need for Federal action.

The purpose of the benefit amount requirement is to assure that the unemployment insurance system provides adequate benefits to the worker and provides the Nation with reasonably full protection against reduction in consumer purchasing power resulting from wage losses attributable to unemployment. Accordingly, this legislation would amend the Federal Unemployment Tax Act by adding a provision requiring that every eligible insured worker, when unemployed, must be paid a benefit equal to at least 66⅔ percent of his average weekly wage up to a State maximum which shall be at least 100 percent of the average weekly wage of covered workers in the State.

Here, too, it must be understood that requiring a State to provide a maximum dollar benefit amount equal to the average wage in covered employment in that State only means that more workers will not be cut off by the maximum benefit amount. It does not mean that any worker will receive either 100 percent of the average wage in the State or even 100 percent of his own wage when he is unemployed. My bill would merely assure most workers two-thirds of his wage. He would still lose one-third of his wage during periods of unemployment.

COVERAGE

Many unemployed persons are not eligible for unemployment compensation. In March 1974, about 40 percent, or 2 million, of the unemployed were not covered by the unemployment insurance system or were not eligible for benefits under its provisions. Frequently, the workers who are not covered are the poorest and the most needy workers in the country. This bill would extend coverage to three broad categories of workers: Agricultural workers, domestics, and employees of State and local governments. The 1973 manpower report of the President revealed that more than 1.3 million workers are employed as farm laborers or foremen; 1.4 million workers are employed as private household workers; and more than 10.6 million workers are employed by State and local governments.

State laws generally exclude agricultural labor from coverage. Farmworkers were excluded from the definition of employment in the original 1935 law on the grounds that it was not administratively feasible to apply the statutory scheme to them. The extension to agricultural enterprises of income and social security taxes, and the extension to farmworkers of income tax withholding, have removed lack of administrative feasibility as an objection to eliminating the original exclusion.

This bill would apply the Federal unemployment tax and the unemployment compensation system to farm employers who, during the current or preceding calendar year, employed four or more workers in each of 20 weeks or paid $5,000 in wages in a calendar quarter.

For a large number of businesses engaged in agriculture, the proposed extension of coverage will not be their first experience with unemployment insurance. Many of these firms are already covered under the Federal Unemployment Tax Act and under State laws because of their substantial nonfarm employment.

In his April 1973 message to Congress, President Nixon noted:

> I consider it of urgent importance that we act at once to extend unemployment insur-

ance coverage to as many agricultural employees as can feasibly be accommodated in the system.

Almost all State unemployment insurance laws exclude those who perform domestic service from coverage. This legislation would cover those who perform domestic service for an employer who paid $225 in any calendar quarter for domestic service.

Although the Federal act requires that certain service for State hospitals and State institutions of higher learning be covered under State law, it continues to exclude from State coverage service performed for State and local governments or their instrumentalities. Most States provide some form of coverage for State and local workers. About one half of the States provide mandatory coverage for all State employees and permit election of coverage by municipalities or other local government units. This legislation would, with certain exclusions, mandate coverage of State and local government employees.

There is no reason why a worker who meets all other tests should be denied benefits because he happens to be a farmworker, a domestic worker, or an employee of a State or local government. These workers face the same insecurities as other workers. Their children are just as hungry as other children when their parents are unemployed. We now have the administrative know-how, the lack of which was long used as a basis for excluding these workers, to include such workers in our unemployment insurance system.

MISCELLANEOUS

The waiting period is a noncompensable period of unemployment in which the worker would have otherwise been eligible for benefits. Most States require a waiting period of total unemployment before the benefits are payable. This legislation would permit a waiting period of no longer than 1 week. If an eligible individual has received compensation for 3 or more weeks in a benefit year, compensation will be retroactively paid to such individual for the waiting period.

The rationale that the imposition of a waiting period permits administrative time to process and verify claims is questionable in light of modern procedures. If a waiting period is, in fact, necessary, such a waiting period is still permitted. However, because the first week of unemployment is as deserving of unemployment compensation benefits as any other week of unemployment, the period will be covered by benefits after the unemployed worker reaches his fourth week of unemployment. The retroactive payment for the waiting period will be particularly useful at this point, since many obligations will be coming due.

Finally, the legislation provides for the appointment of a Special Advisory Commission on Unemployment Compensation for the purpose of reviewing the Federal-State program of unemployment compensation and making recommendations for the improvement of the system. The Commission is to consider, among other things, the changes made by this legislation and make recommendations with respect to the relationship between unemployment compensation and other insurance programs. The Commission is to be appointed by the Secretary of Labor. It will consist of 12 persons who will be representatives of employers and employees in equal numbers, representatives of State and Federal agencies concerned with the administration of the unemployment compensation program, other persons with special knowledge, experience or qualifications with respect to such programs, and members of the public.

While this legislation does much to modernize our present unemployment insurance system, it is only a first step toward a comprehensive system which will provide every American who wants to work with employment and truly protect every American working man and woman who is unemployed through no fault of their own. Such a system might not deny benefits after 39 weeks, if the individual's unemployment is still not his own fault. It is interesting to note that Congress, in providing security for the railroad worker who becomes unemployed because of mergers or technological change, provided for benefits without limit. Similarly, there may be no good reason why an unemployment compensation system should not provide benefits to individuals who want to work even though they are unable to get the initial job which is now required as a prerequisite to the receipt of benefits.

What America needs above all is a system which will provide jobs for all people who want to work and give them economic security during periods when our system proves unable to provide employment. To accomplish this, a comprehensive system is needed which will provide incentives to private industry to provide jobs, expand programs for public service employment so that much of our needed public works can be accomplished, provide job training in needed job skills, and provide income maintenance based upon unemployment compensation when work is unavailable.

I ask unanimous consent that the text of the bill be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3512

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Unemployment Compensation Amendments of 1974".

COVERAGE OF AGRICULTURAL EMPLOYMENT

Sec. 2. (a) Section 3306(b) of the Internal Revenue Code of 1954 is amended by striking out the period at the end of paragraph (10) and inserting in lieu of such period "; or"; and by adding the following new paragraph (11):

"(11) remuneration paid in any medium other than cash for agricultural labor.".

(b) Section 3306(c)(1) of the Internal Revenue Code of 1954 is amended to read as follows:

"(1) agricultural labor (as defined in subsection (k)) unless performed for an employer who—

"(A) during any calendar quarter in the calendar year or the preceding calendar year paid remuneration in case of $5,000 or more to individuals employed in agricultural labor, or

"(B) on each of some 20 days during the calendar year or preceding calendar year, each day being in a different calendar week, employed in agricultural labor for some portion of the day (whether or not at the same moment of time) 4 or more individuals;

excluding, however, for the purpose of this paragraph agricultural labor performed by an individual who is an alien admitted to the United States to perform agricultural labor pursuant to sections 214(c) and 101 (a)(15)(H) of the Immigration and Nationality Act;".

(c) The amendment made by this section shall apply with respect to remuneration paid after December 31, 1975, for services performed after such date.

COVERAGE OF DOMESTIC SERVICE

Sec. 3. (a) Section 3306(c)(2) of the Internal Revenue Code of 1954 is amended to read as follows:

"(2) domestic service in a private home, local college club, or local chapter of a college fraternity or sorority unless performed for an employer who paid cash remuneration of $225 or more for such domestic service in any calendar quarter in the current or preceding calendar year;".

(b) The amendment made by subsection (a) shall apply with respect to remuneration paid after December 31, 1975, for services performed after such date.

COVERAGE OF CERTAIN SERVICE PERFORMED FOR NONPROFIT CORPORATIONS AND FOR STATE AND LOCAL GOVERNMENTS

Sec. 4. (a) Section 3304 (a)(6)(A) of the Internal Revenue Code of 1954 is amended by striking out the semicolon and all that follows, and by inserting in lieu of the matter stricken ", and".

(b)(1) Section 3309(a)(1)(B) of such Code is amended to read as follows:

"(B) service performed in the employ of the State, a political subdivision of the State, or any instrumentality of the State and one or more States, if such service is excluded from the term 'employment' solely by reason of paragraph (7) of section 3306(c); and".

(2) Section 3309(a)(2) of such Code is amended by adding at the end thereof the following new sentences: "The State law may also provide that an organization so electing may further elect to limit its payments in lieu of contributions to amounts which were (A) equal to the amount of that compensation attributable to service in its employ which would be considered for experience-rating purposes in computing its contribution rate if it were an employer that was liable for contributions and (B) did not exceed, in any calendar year, 10 percent of the wages (as the State law definies wages subject to contributions) paid by such organization. The State law which permits such further election shall require an organization which makes such further election to make a supplementary payment in addition to its limited payments in lieu of contributions. Such supplementary payment, in any calendar year, shall not exceed the lesser of (A) 1 percent of the wages (as the State law defines wages subject to contributions) paid by the organization during that year, or (B) that percentage of such wages which was equal to that portion, if any; of the contribution rate which is payable all of the State's experience-rated employers that are subject to contributions and which is computed without regard to their individual experience with unemployment or other factors bearing a direct relation to unemployment risk.".

(3) Section 3309(b) of such Code is amended by striking out paragraphs (3), (4), and (5) thereof and inserting in lieu of such paragraphs the following:

"(3) in a facility conducted for the purpose of carrying out a program of—

"(A) rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, or

"(B) providing remunerative work for individuals who because of their impaired physical or mental capacity cannot readily be absorbed in the competitive job market,

by an individual receiving such rehabilitative or remunerative work;

"(4) as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any Federal agency or any agency of a State or political subdivision thereof, by an individual receiving such work relief or work training; and

"(5) in the case of a State, a political subdivision of a State, or any instrumentality of a State, by elected officials, officials appointed for statutory or specified terms, members of legislative bodies, members and employees of the judiciary, national guardsmen, inmates of institutions, or part-time officials.".

(4) Section 3309 of such Code is further amended by striking out subsection (d) thereof.

(c) The amendments made by subsections (a) and (b) shall apply with respect to certifications of State laws for 1977 and subsequent years, but only with respect to services performed after December 31, 1975.

PROVISIONS REQUIRED TO BE INCLUDED IN STATE LAWS

SEC. 5. (a) Section 3304(a) of the Internal Revenue Code of 1954 is amended, effective January 1, 1976, by striking out paragraph (12) thereof and by inserting in lieu thereof the following new paragraph (12):

"(12) with respect to benefit years beginning on or after January 1, 1976—

"(A) compensation shall be paid to an otherwise eligible individual if he satisfies a qualifying requirement of not more than 20 weeks of base period employment or the equivalent in base period wages;

"(B) no waiting period in excess of 1 week of total or partial employment shall be required of any other individual otherwise eligible for compensation; and if an eligible individual has received compensation for 3 or more weeks in his benefit year, compensation shall be paid to such individual for such waiting period;

"(C) the weekly benefit amount of any eligible individual for a week of total unemployment shall be (i) an amount equal to at least two-thirds of such individual's average weekly wage (as determined by the State agency), or (ii) the maximum weekly benefit amount payable under such State law, whichever is the lesser;

"(D) the State maximum weekly benefit amount (exclusive of allowances with respect to dependents) shall be no less than the statewide average weekly wage most recently computed before the beginning of the individual's benefit year;

"(E) an otherwise eligible individual may receive for weeks of unemployment in his benefit year a total amount of compensation equal to at least 39 times his weekly benefit amount;

"(F) for the purpose of this paragraph—

"(i) 'benefit year' means a period as defined in State law except that it shall not exceed 1 year beginning subsequent to the end of an individual's base period;

"(ii) 'base period' means a period as defined in State law except that it shall be 52 consecutive weeks, 1 year, or 4 calendar quarters ending not earlier than 6 months prior to the beginning of an individual's benefit year;

"(iii) 'individual's average weekly wage' means (I) in a State which computes individual weekly benefit amounts on the basis of high quarter wages, an amount equal to one-thirteenth of an individual's high quarter wages; or (II) in any other State, an amount computed by dividing the total amount of wages (irrespective of the limitation on the amount of wages subject to contributions under the State law) in the individual's base period by the number of weeks in which he performed services in employment covered under such State law during such base period;

"(iv) 'high quarter wages' means the amount of wages for services performed in employment covered under the State law to an individual in that quarter of his base period in which such wages were highest, irrespective of the limitation on the amount of wages subject to contributions under such State law;

"(v) 'statewide average weekly wage' means the amount computed by the State agency at least once each year on the basis of the aggregate amount of wages, irrespective of the limitation on the amount of wages subject to contributions under such State law, reported by employers as paid for services covered under such State law, during the first 4 of the last 6 completed calendar quarters prior to the effective date of the computation, divided by a figure representing 52 times the 12-month average of the number of employees in the pay period containing the twelfth day of each month during the same 4 calendar quarters, as reported by such employers;

"(vi) the term 'regular compensation' means compensation, other than 'extended compensation' or 'additional compensation' payable to an individual under the State law, and the terms 'extended compensation' and 'additional compensation' shall have the meaning ascribed to them in section 205 of the Federal-State Extended Unemployment Compensation Act of 1970; and

"(vii) (I) the term 'week of base period employment', as used in subparagraph (A), shall have the meaning ascribed to such term by such State law but there shall be counted as a week of base period employment any week in which the individual earned an amount which equals or exceeds 25 percent of the statewide average weekly wage, and (II) the equivalent in base period wages of 20 weeks of base period employment shall, for purposes of subparagraph (A), be total base period wages equal to five times the statewide average weekly wage and either one and one-half times the individual's high quarter earnings or 40 times the weekly benefit amount, whichever is appropriate under State law.

Any weekly benefit amount payable under such State law may be rounded to an even dollar in accordance with the provisions of such State law.".

(b) The amendment made by subsection (a) shall take effect January 1, 1976, and shall apply to the taxable year 1976 and taxable years thereafter; except that the provisions of section 3304(a) (12) (E) of the Internal Revenue Code of 1954 (as amended by subsection (a)) shall not be a requirement for the State law of any State prior to January 1, 1977.

(c) Title IX of the Social Security Act is amended by adding at the end thereof the following new section:

"PAYMENTS INTO STATE ACCOUNTS WITH RESPECT TO EXPENDITURES REQUIRED TO MEET MINIMUM LENGTH-OF-ELIGIBILITY STANDARDS

"SEC. 909. (a) (1) Each State the State law of which has been approved by the Secretary of Labor under section 3304 of the Internal Revenue Code of 1954 shall be entitled to receive, with respect to regular compensation paid under such State law for any period after such law has been modified so as to comply with the requirement imposed by subsection (a) (12) (E) of such section, an amount equal to one-half of the excess of—

"(A) the aggregate of whichever of the following is less: (I) the regular compensation paid during such period, or (II) the regular compensation which would be paid during such period if the State law meets such requirement by providing regular compensation for not more than 39 weeks, over

"(B) the aggregate of regular compensation which would have been paid under such law during such period if such State law had provided for the payment of regular compensation for 26 weeks.

For purposes of this paragraph, the term 'regular compensation' shall have the meaning assigned to such term by section 3304 (a) (12) (F) (vi) of the Internal Revenue Code of 1954.

"(2) For purposes of paragraph (1), the provisions of section 3304(a) (12) (E) shall be deemed to impose the requirement prescribed thereby for the period beginning on the date of enactment of this section. In the case of any such State law which (on the date of enactment of this section) meets the requirement imposed by such section 3304(a) (12) (E), such law shall, for purposes of paragraph (1), be deemed to have been modified so as to meet such requirement on such date.

"(b) An amount payable to a State under this section shall be payable in the manner prescribed by subsections (d) and (e) of section 204 of the Federal-State Extended Unemployment Compensation Act of 1970 for the payment of amounts to which States are entitled under such Act, and shall be paid from the Extended Unemployment Compensation Account.".

(d) (1) Whenever the State law of a State is modified (or is deemed to be modified under section 909(a) of the Social Security Act) so as to comply with the requirement imposed by section 3304(a) (12) (E) of the Internal Revenue Code of 1954 (as added by subsection (a)), then for the period commencing with the first day of the first week with respect to which such modification (or deemed modification) is effective—

(A) section 3304(a) (11) of such Code shall no longer be a requirement in the case of the State law of such State, and

(B) no payment shall be made to such State, under the Federal-State Extended Unemployment Compensation Act of 1970, with respect to extended compensation or additional compensation paid to individuals for weeks of unemployment in such period.

(2) (A) Effective January 1, 1977, section 3304(a) (11) of such Code shall no longer be a requirement in the case of the State law of any State.

(B) No payment shall be made to any State, under the Federal-State Extended Unemployment Compensation Act of 1970, with respect to extended compensation or additional compensation paid to individuals for any day of unemployment which occurs after December 31, 1976.

PRORATION OF COSTS OF CLAIMS FILED JOINTLY UNDER STATE LAW AND SECTION 8505 OF TITLE 5, UNITED STATES CODE

SEC. 6. (a) Section 8505(a) of title 5, United States Code, is hereby amended to read as follows:

"(a) Each State is entitled to be paid by the United States with respect to each individual whose base period wages included Federal wages an amount which shall bear the same ratio to the total amount of benefits paid to such individual as the amount of his Federal wages in his base periods bears to the total amount of his base period wages computed to the nearest percentage point".

(b) The amendment made by subsection (a) shall apply with regard to compensation paid on the basis of claims for compensation filed on or after July 1, 1975.

REPEAL OF FINALTY CLAUSE

SEC. 7. (a) Section 8506(a) of title 5, United States Code, is amended—

(1) by striking out paragraph (4),

(2) by inserting "and" at the end of paragraph (2), and

(3) by striking out "; and" at the end of paragraph (3) and inserting in lieu thereof a period.

(b) The amendments made by subsection (a) shall take effect upon the date of enactment of this Act.

SPECIAL ADVISORY COMMISSION

SEC. 8. (a) The Secretary of Labor (hereinafter in this section referred to as the "Secretary") shall, three years after the date of enactment of this Act, appoint a Special Advisory Commission on Unemployment Compensation for the purpose of reviewing the Federal-State program of unemployment compensation and making recommendations for improvement of the system, with particular reference to (but not limited to) the changes made by this Act, and making recommendations with respect to the relationship between unemployment compensation and other social insurance programs, and any other matters bearing on the Federal-State unemployment compensation program.

(b) The Commission shall be appointed by the Secretary without regard to the civil service laws and shall consist of twelve persons who shall be representatives of employers and employees in equal number, representatives of State and Federal agencies concerned with the administration of the unemployment compensation program, other persons with special knowledge, experience, or qualifications with respect to such a program, and members of the public.

(c) The Commission is authorized to engage such technical assistance as may be required to carry out its functions, and the Secretary shall, in addition, make available to the Commission such secretarial, clerical, and other assistance, and such pertinent data prepared by the Department of Labor as it may require to carry out such functions.

(d) The Commission shall make a report of its findings and recommendations (including recommendations for changes in the provisions of the Social Security Act and the Federal Unemployment Tax Act) to the Secretary, such report to be submitted not later than two years after it commences its review, after which date such Commission shall cease to exist.

(e) Members of the Commission who are not regular full-time employees of the United States shall, while serving on business of the Commission, be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including travel time; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5703) for persons in government service employed intermittently.

ADDITIONAL COSPONSORS OF BILLS

S. 2008

At the request of Mr. WILLIAMS, the Senator from Rhode Island (Mr. PELL), and the Senator from Minnesota (Mr. MONDALE) were added as cosponsors of S. 2008, the National Workers' Compensation Standard Act of 1973.

S. 2665

At the request of Mr. SPARKMAN, the Senator from Washington (Mr. JACKSON) was added as a cosponsor of C. 2665, to authorize funds for participation in the International Development Association.

S. 2782

At the request of Mr. CRANSTON, for Mr. NELSON, the Senator from Connecticut (Mr. RIBICOFF) was added as a cosponsor of S. 2782, to establish a National Energy Information System, to authorize the Department of the Interior to undertake an inventory of U.S. energy resources on public lands and elsewhere, and for other purposes.

S. 3221

At the request of Mr. JACKSON, the Senator from Utah (Mr. MOSS) was added as a cosponsor of S. 3221, the Energy Supply Act of 1974.

S. 3311

At the request of Mr. CHILES, the Senator from Maine (Mr. HATHAWAY), the Senator from Illinois (Mr. PERCY), and the Senator from Maryland (Mr. BEALL), were added as cosponsors of S. 3311, a bill to provide for the use of simplified procedures in the procurement of property and services by the Government where the amount involved does not exceed $10,000.

S. 3485

At the request of Mr. WEICKER, the Senator from New Hampshire (Mr. McINTYRE) was added as a cosponsor of S. 3485, to amend the Rail Reorganization Act of 1973 to allow adequate time for citizen participation in public hearings, and for other purposes.

SENATE RESOLUTION 326—SUBMISSION OF A RESOLUTION TO CONSERVE ENERGY

(Referred to the Committee on Rules and Administration.)

Mr. BARTLETT (for himself, Mr. HANSEN, Mr. HELMS, and Mr. COOK) submitted the following resolution:

S. RES. 326

Whereas the United States continues to be in the midst of an energy crisis; and

Whereas we may experience actual shortages of energy this summer unless we continue our present conservation programs and emphasize the need for new conservation ideas; and

Whereas significant amounts of energy can be saved by maintaining our air conditioning at a higher terperature; and

Whereas the U.S. Senate should set an example of energy conservation for the rest of the nation; therefore be it

Resolved, that the temperature in building space occupied by the United States Senate be maintained at 78° during the summer months; and

That Senators, staff and visitors shall be encouraged to dress in a manner to minimize the discomfort of the higher temperature and accordingly that neither Senators nor staff shall be required to wear coats on the Senate floor during the summer months.

EDUCATION AMENDMENTS OF 1974—AMENDMENTS

AMENDMENT NO. 1340

(Ordered to be printed, and to lie on the table.)

Mr. PERCY. Mr. President, I introduce an amendment to S. 1539 and ask that it be printed in the RECORD and lie on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 238, line 22, after the word "amount" insert "(i)".

On page 238, line 24, insert the following: "and (ii) not less than 15 per centum shall be expended for programs or projects designed to meet the special educational needs of female children".

On page 240, between lines 3 and 4, insert the following new section:

"(d) Notwithstanding any other provisions in this section, no funds may be used for any purpose described in subsection (c) of this section which contributes to sex discrimination.".

On page 241, line 21, before the semicolon insert a comma and the following: "and to the extent that such materials and services are free from sex bias".

On page 358, between lines 22 and 23, insert the following new section:

"WOMEN'S EQUAL EDUCATIONAL OPPORTUNITY PROGRAM

"SEC. 535. (a) The Congress finds that sex discrimination in education is detrimental to the welfare of the Nation since it limits the potential of all citizens and that women in particular are prevented by the existence of such practice from realizing their full potential. The Congress therefore finds that the welfare of the United States would be promoted by the elimination of sex discrimination from public education and by the use of federally supported education programs to assist in the development of improved educational opportunities for women insuring women equal educational opportunity.

"(b)(1) Section 203(a)(4) of the Elementary and Secondary Education Act of 1965 is amended by inserting after the word 'used' a comma and the following: 'including criteria designed to preclude sex bias,'.

"(2) Section 203(a) of such Act is amended—

"(A) by striking out the word 'and' at the end of clause (6);

"(B) by redesigning clause '(7)', and all references thereto, as clause '(8)'; and

"(C) by inserting immediately after clause (6) the following new clause:

"'(7) provides assurances that Federal funds made available under this title for any fiscal year shall be used, on a priority basis and where possible, in the acquisition of non-sex-biased library resources, textbooks, and other instructional materials; and'.

"(3) Section 303(b)(3) of such Act is amended—

"(A) by striking out in subclause (J) the word 'and';

"(B) by redesignating subclause '(K)', and all references thereto, as subclause '(L)'; and

"(C) by inserting after subclause (J) the following new subclause:

"'(K) demonstration projects designed to promote new approaches to expand educational opportunities for women, including the provision of comprehensive physical education programs and sports activities for women; and'.

"(4) Section 306 of such Act is amended by inserting '(1)' immediately after the subsection designation '(b)' and by inserting after subsection (b) of such section the following new paragraph:

"'(2) Not less than 15 per centum of the funds granted pursuant to this section in any fiscal year shall be used for programs or projects designed to meet the special educational needs of female children.'.

"(5) Section 503 of such Act is amended—

"(A) by striking out the word 'and' at the end of clause (11);

"(B) by striking out the period at the end of clause (12) and inserting in lieu thereof a semicolon and the word 'and'; and

"(C) by adding at the end thereof the following new clause;

"'(13) programs and other activities to promote equal educational opportunities for women, including public information activities to increase the awareness of educational personnel and the public concerning problems incident to sex discrimination and the elimination, reduction, or prevention of sex discrimination in education.'.

"(6) Section 505 of such Act is amended by adding at the end thereof the following new sentence: 'In using the 5 per centum of the funds appropriated pursuant to section 501 for any fiscal year, for grants to State educational agencies to pay part of the cost of experimental projects for developing State leadership, the Commissioner shall give priority consideration to projects designed to increase the proportion of women serving in leadership positions and to promote equal educational opportunities for women.'.

"(7) Section 521(a) of such Act is amended by inserting after the word 'districts' the following: '(giving priority consideration to such agencies interested in increasing the proportion of women serving in leadership positions and in promoting equal educational opportunities for women)'.

"(C) (1) Section 404(a)(1) of the General Education Provisions Act is amended by inserting before the semicolon a comma and the following: 'including activities designed to improve the status of women in postsecondary education';

"(2) Section 404(a) of such Act is amended—

"(A) by striking out the semicolon at the end of clause (6); and

"(B) by adding at the end thereof the following: 'including the creation of innovative administrative and educational practices that respond to the special needs of persons who have or have had responsibilities of caring for dependents;'.

"(3) Section 405(b)(2) of such Act is amended by inserting after the phrase 'including career education' a comma and the following: 'and programs designed to meet the needs of women,'.

"(d) Section 105(a)(3)(A) of the Higher Education Act of 1965 is amended by inserting after the word 'programs' a comma and the following: 'including programs designed to improve the status of women'.

"(e)(1) Section 121 of the Vocational Education Act of 1963 is amended—

"(A) by striking out tne period at the end of the clause and inserting in lieu thereof a comma; and

"(B) by adding: 'and which are designed to encourage the training of students of both sexes for occupations dominated by the other sex.'.

"(2) Section 123(a)(6) of such Act is amended—

"(A) by inserting immediately after subclause (D) the following new subclause:

"'(E) due consideration will be given to the need to insure the training of students of both sexes for occupations traditionally dominated by the other sex,';

"(B) by redesignating subclauses '(E)', '(F)', and '(G)' as subclause '(F)', '(G)', and '(H)', respectively; and

"(C) by striking out 'and (D)' in subclause (F) (as redesignated by paragraph (2)) and inserting in lieu thereof '(D), and (E)'.

"(3) *Section 132* of such Act is amended—

"(A) by striking out the word 'and' at the end of clause (5);

"(B) by redesignating clause '(6)' as clause '(7)'; and

"(C) by inserting after clause (5) the following new clause:

"'(6) experimental, developmental, and pilot programs designed to encourage the participation of students of both sexes in fields traditionally dominated by the other sex and to insure the elimination of sex bias in vocational education; and'.

"(4) Section 143(a)(2) of such Act is amended by inserting after the word 'broaden' a comma and the following: 'including the elimination of barriers based on sex,'.

"(5) Section 161(b)(1) is amended—

"(A) by striking out subclause (E); and

"(B) by inserting in lieu thereof a new subclause:

"'(E) are designed for all persons, male and female, who may have use for skills relating to the establishment and the maintenance of the home, and'.

"(6)(A) Section 191(c)(1)(A) of such Act is amended by inserting after the word 'fields' the following: 'and for increasing awareness of the changing role of women in the world of work'.

"(B) Section 191(c)(2) of such Act is amended by inserting immediately before the word 'designed' the following: 'free of sex biases and'."

On page 358, line 24, strike out "Sec. 535." and insert in lieu thereof "Sec. 536.".

On page 123, in the table of contents, redesignate item "Sec. 535." as item "Sec. 536." and insert in lieu thereof the following:

"Sec. 535. Women's equal educational opportunity program.".

AMENDMENT NO. 1342

(Ordered to be printed, and to lie on the table.)

Mr. WEICKER. Mr. President, I submit an amendment, intended to be proposed by me, to the bill (S. 1539) to amend and extend certain acts relating to elementary and secondary education programs, and for other purposes. I ask unanimous consent that the amendment be printed in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

At the end of the bill, add the following new title:

"TITLE IX—QUALITY SCHOOL AID ASSISTANCE

"STATEMENT OF PURPOSE

"Sec. 901. In order to provide increased resources for the improvement of equality of educational opportunity in the public elementary and secondary schools of the States it is the purpose of this part to make unconditional grants to States.

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 902. (a) There are authorized to be appropriated for the purpose of carrying out this Act $2,500,000,000 for the fiscal year ending June 30, 1974, and for each of the four succeeding fiscal years. Funds appropriated pursuant to the preceding sentence shall remain available for obligation and expenditure during the fiscal year succeeding the fiscal year for which they are appropriated.

"(b) Funds appropriated pursuant to this part shall be in addition to any other authorization of appropriations for financial assistance to public elementary and secondary schools.

"ALLOTMENT

"Sec. 903. (a) From the funds appropriated pursuant to section 902, the Commissioner shall allot not less than 3 per centum among the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands and the Trust Territory of the Pacific Islands according to their respective needs. From the remainder of such sums the Commissioner shall allot to each State an amount which bears the same ratio to the number of children in each such State—

"(1) who are aged five to seventeen, inclusive; and

"(2) (A) who are enrolled in the public elementary and secondary schools of the local educational agencies, and

"(B) enrolled in such schools of the State educational agency of such State;

bears to the number of such children in all States. For the purposes of this subsection, the term 'State' does not include Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

"(b) The portion of any State's allotment under subsection (a) for a fiscal year which the Commissioner determines will not be required, for the period such allotment is available, for carrying out the purposes of this Act shall be available for reallotment from time to time, on such dates during such period as the Commissioner may fix, to other States in proportion to the original allotments to such States under subsection (a) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum which the Commissioner estimates will be needed in such State and will be used for such period for carrying out applications approved under this Act, and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts are not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for such year.

"USES OF FUNDS

"Sec. 904. Grants made under this part may be used in accordance with applications approved under section 905 to improve equality of educational opportunities in the public elementary and secondary schools of local educational agencies and of such schools operated by State educational agencies.

"APPLICATIONS

"Sec. 905. (a) A grant under this part may be made to any State educational agency upon application to the Commissioner at such time, in such manner, and containing and accompanied by such information as the Commissioner deems necessary. Each such application shall—

"(1) provide that the programs and activities for which assistance under this part is sought will be administered by or under the supervision of the applicant;

"(2) describe with particularity the programs and activities for which such assistance is sought;

"(3) provide procedures for submitting applications by local educational agencies within that State for grants under this part, for approval by the State educational agency, including appropriate procedures to assure that the State educational agency concerned will not disapprove an application of any such local educational agency without notice and an opportunity for a hearing;

"(4) provide for making such reasonable reports in such form and containing such information as the Commissioner may reasonably require to carry out his functions under this part, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

"(b) Applications for grants under this part may be approved by the Commissioner only if—

"(1) the application meets the requirements set forth in subsection (a); and

"(2) the application is consistent with objective criteria established by the Commissioner for the purpose of achieving an equitable distribution under this part within such State. Such criteria shall be based upon a consideration of—

"(A) the number of children aged 5 to 17, inclusive, who are enrolled in the public elementary and secondary schools of the local educational agencies within each such State; and

"(B) the relative need of the local educational agencies within the State for assistance under this part.

"(c) Amendments of applications shall, except as the Commissioner may otherwise provide, be subject to approval in the same manner as the original applications.

"PAYMENTS

"SEC. 906. (a) (1) From the amounts allotted to each State under section 903, the Commissioner shall pay to that State an amount equal to the cost of carrying out the application of that State.

"(2) From the funds paid to it pursuant to paragraph (1), each State educational agency shall distribute to each local educational agency of that State which has submitted an application approved pursuant to section 905(a)(3) the amount for which such application has been approved, except that this amount shall not exceed the maximum amount determined for that agency pursuant to section 905(b)(2).

"(b)(1) The Commissioner is authorized to pay to each State amounts equal to the amounts expended by it for the proper and efficient performance of its duties under this part (including technical assistance for the measurements and evaluations), except that the total of such payments in any fiscal year shall not exceed—

"(A) 1 per centum of the total maximum grants for State and local educational agencies of the State as determined for that year; or

"(B) $150,000 or $25,000 in the case of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands,

whichever is greater.

"(2) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

"WITHHOLDING

"SEC. 907. Whenever the Commissioner, after giving reasonable notice and opportunity for hearing to a grant recipient under this part, finds—

"(1) that the program or activity for which such grant was made has been so changed that it no longer complies with the provisions of this Act; or

"(2) that in the operation of the program or activity there is failure to comply substantially with any such provision;

the Commissioner shall notify such recipient of his findings and no further payments may be made to such recipient by the Commissioner until he is satisfied that such noncompliance has been, or will promptly be, corrected. The Commissioner may authorize the continuance of payments with payment to any programs or activities pursuant to this Act which are being carried out by such recipient and which are not involved in the noncompliance.

"JUDICIAL REVIEW

"SEC. 908. (a) If any State or local education agency is dissatisfied with the Commissioner's final action with respect to the approval of its application submitted under section 905, or with his final action under section 907, such State or local educational agency may within 60 days after notice of such action file with the United States courts of appeals for the circuit for which such agency is located a petition for review of that action. A copy of that petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner shall file promptly in the court the record of the proceedings on which he based his action, as provided for in section 2112 of title 28, United States Code.

"(b) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and if the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(c) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 26, United States Code.

"ADMINISTRATION

"SEC. 909. Unless otherwise inconsistent with the provisions of this part the provisions of the General Education Provisions Act shall apply to the program authorized by this Act."

On page 123, in the Table of Contents after title VIII add the following:

"TITLE IX—QUALITY SCHOOL AID ASSISTANCE

"Sec. 901. Statement of purpose.
"Sec. 902. Authorization of appropriations.
"Sec. 903. Allotment.
"Sec. 904. Uses of funds.
"Sec. 905. Applications.
"Sec. 906. Payments.
"Sec. 907. Withholding.
"Sec. 908. Judicial review.
"Sec. 909. Administration.".

AMENDMENT NO. 1343

(Ordered to be printed, and to lie on the table.)

Mr. TOWER submitted amendments, intended to be proposed by him, to Senate bill 1539, supra.

AMENDMENT NO. 1344

(Ordered to be printed, and to lie on the table.)

Mr. CHILES submitted an amendment, intended to be proposed by him, to Senate bill 1539, supra.

AMENDMENT NO. 1345

(Ordered to be printed, and to lie on the table.)

Mr. METCALF. Mr. President, after analyzing the effect of the McGovern amendment and the Beall amendment to S. 1539 there would appear to be a need for a slight adjustment to keep the category A children who are in districts with less than 25 percent impact in an equitable situation with those taken care of by the McGovern amendment.

Therefore I offer an amendment to clarify this situation.

My amendment would make some adjustments in the S. 1539 impact aid formula payment schedule which are consistent with amendments offered by Senator MCGOVERN and Senator BEALL. These amendments were approved earlier this week.

The amendment to line 15 would, in effect, restore to 90 percent the amount of local contribution payment for military A children and children living on Indian lands. According to the chart entered on page 14930 of the May 15 CONGRESSIONAL RECORD, these children are authorized to receive 100 percent of the local contribution rate.

But, the chart notes, appropriations acts have limited this category to 90 percent of the local contribution rate. Thus, my amendment schedule, would not change the language of the appropriations acts, but would restore the 90 percent payment for this class.

My amendment to line 21 would provide a percentage increase in the S. 1539 payment schedule for civilian A children. This increase is identical to the payment schedule increase accorded to all B children in the Beall amendment.

As Senator PELL explained yesterday, the S. 1539 payment schedule divides the impact aid payments into three parts. For the first part, each impact aid category would received a 25 percent payment of its entitlement. For the second part, each impact aid category would receive a 60 percent payment of its entitlement.

The effect of the Beall amendment was to raise this second part payment to 70 percent of the entitlement for the difference B categories. My amendment would extend this 70 percent second part payment to the civilian A children category.

Mr. President, on May 15, the Senate approved the McGovern amendment which aids school districts with enrollments of A children exceeding 25 percent. However, there are many school districts whose A child enrollments do not reach 25 percent.

In States such as Montana, where the amount of A payments is greater than the amount of B payments, a loss of these A funds would have a profound effect. This is particularly true in the less wealthy school districts in which Federal installations cause a loss in potential tax yields.

STANDBY ENERGY EMERGENCY AUTHORITIES ACT—AMENDMENT

AMENDMENT NO. 1341

(Ordered to be printed, and to lie on the table.)

AMENDMENT TO S. 3267—TO INCREASE FROM $5 MILLION TO $25 MILLION THE CARPOOL PROMOTION AUTHORIZATION

Mr. HUMPHREY. Mr. President, on November 19, 1973, the Senate passed my carpool promotion amendment to S. 2589—The Emergency Energy Act. It created an Office of Carpool Promotion in the Department of Transportation and authorized a vigorous 2-year and $25 million program to assist State and local government in this important and proven area of energy conservation.

Identical language to my amendment was adopted as a committee amendment, with the same $25 authorization, by the House Committee on Interstate and Foreign Commerce. After discussion of this amendment, the vote of the committee was nearly unanimous with strong bipartisan backing.

Regrettably, a floor amendment reducing the funding level to $1 million was offered and adopted by voice vote with no discussion near the very end of a marathon House session on S. 2589, that ended at about midnight. Obviously, the House was in no mood for debate and simply acted to bring this bill itself to a final vote.

However, because of the unfortunate floor action in the House, the final conference version of S. 2589, sent to the President, included a compromise authorization level of $5 million. As you know, the President vetoed the emergency energy bill and we must now repeat action on similar legislation.

The amendment I am offering would increase the authorized level of Federal support for carpool promotion from the $5 million in the bill before us, an unfortunate carryover of the conference compromise, to the full $25 million level approved by the Senate last November and by the House committee in December.

I believe this level, for a 2-year period, is very reasonable. Such support can, I believe, substantially reduce gasoline consumption, environmental pollution, and transportation congestion.

Without support from the Federal Government, the carpool promotion effort will remain largely a hit-or-miss approach, funded only where State and local governments have the expertise and funds available to do so on their own.

In many cases, this will not correspond to areas where the greatest need exists for carpooling.

Mr. President, our commitment to energy conservation must not be allowed to slacken as the lines at the gas pump are reduced. Indeed, now that we are all aware of our Nation's economic and political vulnerability to an energy squeeze, the priority on conservation should be increased.

Mr. Sawhill, the Director of the Federal Energy Office and his predecessor, Mr. Simon, have repeatedly warned us of the need to continue conserving energy or face the possibility of recurring shortages.

Mr. Sawhill has specifically testified before my Consumer Economics Subcommittee of the Joint Economic Committee that expanded carpooling could have an important impact on our Nation's energy demand and voiced his support for increased carpool promotion activities.

I believe that we have an obligation to act decisively in developing and promoting effective energy conservation measures, especially those which can be implemented quickly, such as carpooling.

There is an urgent need to conserve gasoline, and carpooling is the least painful way of doing so of which I am aware. It certainly is a good deal more desirable than forcing many of our citizens to forego vacations this summer. We can probably avoid this hardship, and the recurrence of gas lines, if we mount an expanded program to use commuter trips more effectively by filling more seats for each trip by each vehicle.

But to do so, information on who to carpool with must be easily available to commuters. When this information is available, the impact has been substantial. It has resulted in as much as a 30 percent drop in auto travel in some areas.

The 3M Co. in St. Paul, Minn., provides a good example of what ride sharing can accomplish, with sufficient know-how and financing.

During the past year, 3M initiated a pilot "commute-a-van" program with 6 vans. Recently this was expanded to 50 vans with another 25 on the way. The program was so well received by employees it is now considered permanent. Each van saves the fuel of 8 to 10 cars. In addition, carpooling has increased considerably to where approximately 40 percent of the 3M employees now share a ride. I understand this is nearly double the rate for the average organization.

This is just one of the many ride sharing programs that have been successfully mounted by private corporations in response to the energy crisis. These efforts have reduced auto travel at rush hour, from these sources, by from 5 to 30 percent.

While we all have been exposed to limited public service advertising on the merits of carpooling, most auto commuters have absolutely no viable matching services available to them. There is presently no effective way of putting potential carpoolers in touch with each other. Mass media promotion of carpools, without superb carpool locator services, which cost about 50 cents per auto commuter, has proven to be very inefficient.

An incomplete package will obtain only limited results. In fact, it may well, in the long run, do more harm than good to promote carpools before the supporting system for the program has been established.

Mr. President, I believe it would be negligent for Congress to underfund this opportunity to help our States and cities save billions of gallons of fuel, millions of consumer dollars in an inflated economy, millions of hours of valuable time and millions of tons of pollutants.

More specifically, a successful carpooling program, one that is adequately funded, can be expected to return the following benefits.

First. Annual saving of 5 billion gallons of gasoline and over 80 billion vehicle miles, by increasing auto occupancy from 1.6 to 2.0 persons per automobile, a 20 percent reduction in commuter travel.

Second. Annually save commuters $8.6 billion through a 20-percent drop in travel and operating costs, assuming they run 12 cents per mile.

Third. Up to a 50-percent drop in air pollution can result from a 20-percent reduction in commuter auto travel.

Fourth. Up to an 80-percent reduction in traffic delays experienced in Los Angeles in February, 1974, simply because of a 7-percent drop in commuter travel.

Fifth. Annually save a full 5 percent of total highway fuel consumption, double the 55-mile per hour limit savings, by 20 percent reduction in commuter travel.

Mr. President, given the tremendous potential of carpooling for accomplishing our energy saving and clean air goals, I recommend that we once again authorize the appropriation of $25 million for this program over the next 2 years.

Mr. President, $25 million over the next 2 years is far from complete Federal funding. In fact, if the money were to be used to cover the full operating costs of carpool programs it would not go very far at all. At $1 per commuter, less than 14 percent of the American work force could be handled.

However, the carpooling section of this bill is specifically designed to help communities initiate programs. Once operational, a 60-percent Federal share is available only in the first year. However, 100 percent of the initial planning and systems design phase can be federally financed.

Mr. President, I believe that $5 million for 2 years is unrealistic. The funds could be absorbed in a dozen planning grants or by half a dozen operating subsidies in major metropolitan areas.

If we are to stimulate expanded carpooling and derive the conservation benefits it provides, we must not starve the effort before it gets underway.

For this reason I am offering an amendment today to section 115 of S. 3267. My amendment simply changes the dollar amount authorized for carpool promotion from $5 million to $25 million. I believe we need this additional authority, and I urge Senators to support this amendment.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 1282

At the request of Mr. Biden, the Senator from Wisconsin (Mr. Nelson) was added as a cosponsor to amendment No. 1282, to S. 3000 the fiscal year 1975 Defense Department authorization bill.

AMENDMENT NO. 1305

At the request of Mr. Mathias, the Sentor from New Jersey (Mr. Case), the Senator from South Dakota (Mr. McGovern), and the Senator from Oregon (Mr. Hatfield) were added as cosponsors of amendment No. 1305 to S. 1539, the Education Amendments of 1974.

COMMODITY FUTURES TRADING HEARINGS

Mr. HUMPHREY. Mr. President, on May 15 I appeared before the Senate Committee on Agriculture and Forestry to testify on commodity futures trading legislation.

I pointed out in my statement that the House of Representatives has already spent a great deal of time on this subject, and we are in a good position to develop a sound bill.

I also attempted to highlight the main areas which remain to be resolved before a final bill can be developed.

In closing, I warned that, while legislation improving the regulation of the Commodity Futures Markets is desirable, we should not expect the prices of agriculture commodities to be stable as long as we lack stabilizing mechanisms such as a grain reserve and a stable dollar.

The commodity futures market reflects the market situation, and it cannot insure against violent price swings in commodity prices.

Mr. President, I ask unanimous consent that my statement be included in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Testimony of Senator Hubert H. Humphrey

Mr. Chairman, on September 26, 1973 I introduced S. 2485, my bill to improve and strengthen the regulation of our commodity market system in this country. I believe my bill was the first of those now under consideration that was introduced.

As I said at the time I introduced S. 2485, there is an obvious need not only to improve and strengthen the regulation of commodities now subject to regulation on the futures market, but also to extend such regulation to all trading, in all futures, on all markets.

The value of trading in all futures this year is estimated to approach 500 billion dollars. The value of trading for all regulated commodities combined has increased from about $45 billion in 1962–63 to $270 billion in 1972–73.

There is no question, in my judgment, that futures trading plays an important and worthwhile role in the economics of our U.S. marketplace. It is a mechanism that we must maintain and encourage ever greater use of in the future. However, because of the impact of its growing size, the amount of money invested in it, the increasing numbers of people investing in it, and the impact of prices arrived at on this market in terms of the well-being of American farmers, other producers and consumers, its operation must be diligently monitored and properly regulated in the interest of all the people.

S. 2485 was introduced not only to stimulate discussion and interest regarding needed improvements in the regulation of these markets, but also to identify some of the specific areas of that reform.

While my bill itself does not address certain areas or issues that have often been discussed as needing reform, I did call attention to many of those additional areas at the time I introduced S. 2485.

They included:

(1) tightening up on qualifications and checks on qualifications of individuals handling commodity customer accounts;

(2) strengthening the qualifications and capital requirements for establishing commodity exchanges and of member firms thereof;

(3) mandating the strengthening and improvement of the self-regulatory aspects of futures trading activities by the commodity exchanges;

(4) providing for more effective money penalties in regulatory administrative proceedings taken against violators of the trading laws or regulations;

(5) examining floor trader practices, margin rules, hedging, option trading and other trading practices;

(6) examining consolidation of some of the clearing houses now serving exchanges;

(7) providing the new agency with sufficient manpower and facilities to carry out adequately its functions and responsibilities, "an essential requirement if regulation of these markets is to be enforced properly in the future."

Many of the bills that were introduced either here in the Senate or in the House following my introduction of S. 2485 do address and deal with many of these important items. And in looking over these other bills, I believe our Committee now has before it all the relevant issues relating to this matter of reform.

The main features of my bill—which also have been included in most other bills now under consideration—include:

(1) the establishment of an independent full-time regulatory commission, outside of USDA;

(2) bringing all future contracts under government regulation;

(3) providing the new commission with injunctive power to stop or prevent violation of regulations of the law before they occur or cause major market disruptions; and

(4) require that establishment of a futures contract market must serve an economic purpose in other words, not permit the legalization of "crap game."

We have before us not only my bill, S. 2485, but also S. 2837 and S. 2578. The House passed bill H.R. 13113 reflects a great deal of hard work, and we can draw profitably from that effort.

We now also have the recommendations of the General Accounting Office's May 3 Interim Report on the Commodity Exchange Authority and on Commodity Futures Trading for guidance and focus on key issues.

At this point, we need to draw on this information and gather the testimony of the witnesses so that we can develop sound legislation.

There has already been a great deal of useful testimony from a variety of sources. Discussion to date has also reflected a fair degree of agreement on many points. In several instances there are only minor language differences on a particular point.

The discussion, I believe, should focus most attention on the issues which appear to remain in need of resolution. There are four main categories which the testimony has indicated as being in need of further work. They are: (1) Should the proposed agency be independent or part of the Department of Agriculture? (2) Shall the commissioners be full or part-time? (3) Shall dual trading by brokers be allowed? and (4) What kind of injunctive and emergency powers should the agency be given?

I believe that the new agency should be independent of the Department of Agriculture and have full-time commissioners. The GAO report supports this view as did Congressman Smith in his Monday testimony. I am open to compromise on the number of commissioners needed.

The size of the commodity trade itself would appear to warrant an independent agency. The Commodity Exchange now has a staff of 160 people with fourteen active commodity exchanges in operation. In 1973, as I indicated, $270 billion in regulated commodities were bought and sold. The expectation is that the volume will continue to grow by leaps and bounds.

There is also the inherent issue that the Secretary of Agriculture could otherwise be placed in a potential conflict of interest situation. The Secretary has a role and duty in trying to maintain the prices of many commodities traded on the futures markets, and the commodity futures markets need to be able to fluctuate freely with supply and demand. We need to face up to the fact also that the new agency will require adequate staffing to do the job. Maintaining it under the umbrella of the Department of Agriculture represents a false notion of achieving economies in personnel.

Full-time commissioners are needed because trading in futures is a complex subject having a significant impact on virtually everyone. Under the pending bills, the Commission would have significant powers under emergencies and where injunctions are warranted. These powers need to be exercised intelligently and carefully by people fully familiar with the intricacies of the market. Full-time commissioners would assure vigilant regulation and at the same time not be subject to domination by staff as could be the case under a part-time situation.

An independent agency would also answer the issue that many other non-agricultural commodities are likely to be included under the responsibility of that agency.

The various bills differ as to whether the Commission can seek injunctions directly or through the Attorney General. It is essential that the Commission have the power to obtain a court order without delay. I am concerned over the possibility of delays which could result from having to go through the Attorney General. Going through the Attorney General also risks political abuse.

I am prepared to be flexible on this point, but it is significant, in my judgment, that the Securities and Exchange Commission has the power to seek its own injunctions. I am not aware of any misuse of this authority by the SEC, although concern has been voiced as to the way in which the proposed new agency would exercise this authority.

A great amount of discussion has also centered on restricting brokers and others who handle customer accounts from trading for their own account. H.R. 13113 in principle allows the commission to decide this question, while S. 2578 and S. 2837 prohibit "dual" trading with minor exceptions.

The concern was raised in the House hearings that an outright prohibition would hurt small or new boards of trade. While we could do a better job of regulating brokers, it is almost impossible to secure evidence of abuses, and the most strict regulation would probably not meet the problem. The House Subcommittee on Special Small Business Problems and the Yale Legislative Service have both recommended the elimination of "dual" trading. It should be noted that the Securities and Exchange Commission prohibited such trading in 1964.

Some have argued that brokers trading for their own accounts are needed to provide liquidity in thin markets. This argument is unpersuasive because there is no requirement that a broker trade for his own account when the market is thin. We assume that he trades for his own account because of an interest in a profit, not liquidity for the market. Brokers more often trade in liquid markets rather than in the thin ones.

The Securities and Exchange Commission solved this problem by creating specialists who deal only for their own accounts, and they are required to do so whenever the market is thin.

Mr. Chairman, there are a lot more areas that we could discuss, but I will touch on only one. We need to enable the new agency to adopt the most modern systems of conducting business. With the volume envisioned, we must look into computerization in order to handle the volume of trade and also improve the oversight.

My main interest is in coming up with the broad framework for a good bill which makes an improvement over the present legislation. We can always make refinements in the future as experience dictates.

We must not expect this bill to provide us a plateau of regularly high prices. With the world market tight, we must continue to expect rather sharp fluctuations in prices.

Mr. Chairman, I spent a full day in Chicago last year visiting the Board of Trade and the Mercantile Exchange. This was an extremely educational and worthwhile visit. At that time I suggested that, in my opinion, new legislation to strengthen the regulation of Commodity Futures appeared likely.

With the work already completed, I feel that we will produce a sound bill.

NOTICE OF WITNESSES TO TESTIFY AT HEARINGS ON OPEN GOVERNMENT LEGISLATION

Mr. RIBICOFF. Mr. President, the Subcommittee on Reorganization, Research, and International Organizations of the Committee on Government Operations will hold hearings on S. 260, "Government in the Sunshine Act," which provides for open meetings of Government agencies and congressional committees. I have asked Senator CHILES, the chief sponsor of the "Sunshine" bill, to chair these hearings.

The hearings will begin at 10 a.m. next Tuesday and Wednesday on May 21, in room 1124, Dirksen Senate Office Building, and May 22, in room 3302, Dirksen Senate Office Building.

The witnesses are as follows:

May 21: Senator DICK CLARK, of Iowa; Senator WILLIAM ROTH, of Delaware; Hon. DANTE FASCELL, 15th Congressional District of Florida; Hon. BILL GUNTER, Fifth Congressional District of Florida;

Bill Mullen, Secretary and general counsel of the National Newspaper Association, Washington, D.C.; Charles S. Rowe, editor of the Free Lance-Star, Fredericksburg, Va., and member of the National Newspaper Association's Freedom of Information Committee.

May 22: Hon. Reubin O'D. Askew, Governor of Florida; John Gardner, Chairman of Common Cause, Washington, D.C.; Lou Harris, of Harris Associates, New York, N.Y.

ADDITIONAL STATEMENTS

ADMINISTRATION ACTION IN THE TRUCKING INDUSTRY

Mr. HUGH SCOTT. Mr. President, in April, the administration learned that the editor of Overdrive magazine, Michael Parkhurst was urging independent truck owner-drivers to shut down the Nation's highways to truck traffic on May 13. It appeared that he was advocating a rollback in diesel fuel prices and an increase in the 55-miles-per-hour national speeed limit.

Ever since the truckers disruption in January–February of 1974, the administration has been meeting continually with various independent truck groups to work on their legitimate grievances. Representatives from the U.S. Department of Transportation, Department of Labor, SBA, and other interested agencies have had virtually hundreds of meetings with truckers all over the country. A summary of action which has been taken and which is currently underway will be submitted for the Record.

It is clear that the truckers did have legitimate concerns largely because of the decrease in diesel supply and increase in prices due to the Arab oil boycott. All legitimate Federal action that could be taken by the Executive has, in fact, been accomplished and, in addition, there are several more complicated steps which will require legislation under consideration now by the Congress. Two examples of the latter are the legislation to increase the weights and lengths of trucks and to permit low-interest SBA loans to independent owner-operators.

The segment of the independent drivers which is currently least affected by the Federal actions are the exempt haulers. They have made the decision to operate outside the ICC rules and regulations by hauling exempt products. Because they have elected this course of action for business reasons, the 6 percent surcharge and passthrough provisions do not apply and, therefore, some of their costs have not been passed on to the consumer. However, the forces of the marketplace apply in their situation and this situation is correcting itself.

The administration has deliberately avoided overreacting to the threat of disruptions of the highways for Monday, May 13. Mr. William J. Usery, Special Assistant to the President and Director of the Federal Mediation and Conciliation Service, did meet with Michael Parkhurst at his request and considered his grievances and offered to explain all the administration's actions.

Although there was sporadic instances of violence—but generally not a great deal more than normal—on our Nation's highways on Sunday, Monday, and Monday night, in general, all our Nation's truckers avoided illegal acts and continued to drive in a normal fashion. In fact, Teamsters President Frank Fitzsimmons went on national television urging the drivers to stay on the job. In addition, William Hill of the steel haulers, representing a large portion of independent drivers, also urged his men to avoid illegal and violent acts and remain on the job.

As a result of the commendable action by the truck drivers, our Nation's commerce was not disrupted. Nevertheless, the administration continues to move forward in its desire to do everything reasonable and proper to address legitimate grievances of all our Nation's truck-drivers. The fact that the drivers acted in a responsible way has resulted in Federal officials redoubling their efforts to solve legitimate problems that they have.

The Justice Department will move resolutely to investigate any violations of Federal laws in connection with violence on the highways, and these investigations will go forward until the guilty parties are identified and prosecution is completed.

Mr. President, I ask unanimous consent to include in the Record a summary of Government actions for independent owner-operators.

There being no objection, the summary was ordered to be printed in the Record, as follows:

Summary of Government Actions for Independent Owner-Operators

ACTION

I. Interstate Commerce Commission

A 6 percent surcharge to compensate for increased fuel costs to truckers.

Revision of its leasing regulations to provide owner-operators with the revenue necessary to reimburse them for added fuel costs.

A recommendation that state regulatory agencies take similar steps in revising their tariffs.

To work with members of the industry and the truck operators in implementing rule changes.

STATUS

ICC implemented the surcharge. Several shippers sued ICC to set aside the surcharge ruling, but the Government filed a motion to dismiss the complaint. A hearing was held May 9, 1974. Also, on May 9, the ICC denied various petitions for reconsideration of this surcharge.

Revised leasing rules provide for cost pass throughs independent of the 6 percent fuel surcharge.

ICC continues to work closely with state regulatory agencies to review their tariffs and procedures.

ICC continues to work closely with industry and owner-operators in reviewing rate structure and has established its own toll-free telephone hot line for receiving complaints. From 100 calls a day in late February and early March, the number has declined to between 20 and 30.

Over 400 complaints received on energy orders and 50 warranted full field investigation. This has resulted in several enforcement actions one of which has been settled for a $5,000 civil forfeiture.

ACTION

II. Department of Transportation

A thorough review of the question of increasing permissible weights and sizes of trucks using the Interstate Highway System.

Would look into the differences in state laws on truck sizes and weights, and would study other aspects in which state laws and regulations impose undesirable burdens on interstate trucking.

Would ask shippers of exempt products, typically farm products, to recognize the impact of higher fuel prices on owner-operators and the need for higher shipping rates.

STATUS

The Department of Transportation conducted a review of the various Federal and State laws that concern the sizes and weights of trucks on Interstate highways. On March 20, Secretary Brinegar transmitted to both the Senate and the House of Representatives a draft of a bill which would provide relief from certain restrictions on sizes and weights of motor vehicles on the Interstate Highway System.

The Bill would increase existing Federal weight limits for vehicles on the Interstate Highway System and would allow a maximum overall length of 70 feet. The Bill would permit travel on the Interstate System of combinations of vehicles with 20,000 pound single axle loadings and 34,000 pound tandem axle loadings, within the 70-foot limitation. Allowable gross weights would be determined by the "bridge formula." In essence, passage of the legislation would allow operation on the Interstate Highway System of existing vehicles with weight payloads 10 to 15 percent greater than now allowed.

The Department of Transportation has undertaken extensive studies concerning disparate state trucking regulations. Procedures providing for owner-operator participation in these studies have been established. Because of the complexity of the issues, immediate relief in this area will be difficult to attain. Legislation will probably be needed.

Secretary Brinegar and his staff continue to press shippers of exempt products for higher shipping rates in order to permit owner-operators to pass through increased fuel and other costs.

During the last three weeks, has addressed three major groups of owner-operators to review administrative and legislative actions affecting their industry. This was in addition to the continuing contact and close relationship already established with the industry.

ACTION

III. *Small Business Administration*

Would begin a program to consider appropriate relief for owner-operators who have been so financially squeezed by increased fuel prices that they have not been able to recover.

STATUS

SBA is now able to guarantee certain loans for truckers at a 10½ percent interest rate. Bills are pending which would amend the SBA Act to include the energy shortage along with other disasters and make truckers, as well as other businesses, hit by the energy shortage eligible for long-term direct loans at a lower rate of interest. Hearings were held on April 30, 1974.

ACTION

IV. *Federal Energy Office*

Would freeze the price of diesel fuel at the pumps until Congress authorized the immediate enactment of the 6 percent surcharge.

Would give the trucking industry a higher priority for fuel allocations. This change would make an additional 76,000 barrels of diesel fuel a day available at truck stops.

Would establish a Nation-wide toll-free telephone number to receive complaints from Truckers regarding alleged price gouging or supply problems.

Would take regulatory action to prevent excessive inventories of diesel fuel by truck lines. This would include the monitoring of bulk facilities of truck lines.

Would encourage truck stops to sell diesel fuel on Sundays and to stop limiting sales.

STATUS

The Congress has adopted a resolution proposed by the Administration allowing the ICC to waive the 30-day waiting period before regulated carriers can pass through to shippers the costs resulting from increased fuel prices.

Regulations were changed giving a higher allocation priority to the trucking industry. This resulted in improved availability of diesel fuel and gasoline at the Nation's truck stops. The diesel situation was helped by the use of excess home heating oil. Admittedly, spot shortages still occur, but the FEO is continuing to work with suppliers and truck-stop operators to get the fuel delivered where needed.

A Nation-wide toll-free hot line has been established linked to a computerized system with the FEO Regional Offices for prompt response. Price investigation results through April 19 were:

Complaints, 4,258.
Violations uncovered, 583.
Roll-backs ordered, 558.
Totaled, $593,856.

Follow-up investigations resolved possible fuel-hoarding cases. Allegations of fuel hoarding have practically ceased, but are being investigated by IRS when received.

Most truck stops have agreed to Sunday openings. During late December and January, a sampling of numerous truck stops indicated that more than 40 percent were limiting sales of diesel fuel and about 15 percent were limiting sales of gasoline. The action by the FEO has resulted in a recent sampling indicating that approximately 1 percent of sampled truck stops are currently limiting No. 2 diesel fuel and approximately 4 percent are currently limiting gasoline. FEO is continuing to urge truck-stop operators to refrain from limiting sales.

TERRORIST ATROCITIES IN ISRAEL

Mr. BENTSEN. Mr. President, I rise to express my sense of personal outrage over the tragic events at Maalot, Israel, yesterday and to extend to the people of Israel—in particular to the families of the innocent victims—my deepest sympathy over their terrible loss. This is the latest but perhaps the most barbarous in a series of violent attacks on the nation of Israel by those who refuse to abide by the orderly rules of international legal and moral behavior. Making the lives of children an item for barter represents a new low in human decency for the radicals of the Middle East.

Mr. President, this despicable act and those who perpetrated it must be condemned by the world community and those nations harboring terrorist groups must make every effort to eliminate such elements from their soil. Certainly there will be no end to terrorist activities until nations giving refuge to these reprehensible international criminals take strong action against them. As a cosponsor of Senate Resolution 324, which passed the Senate unanimously yesterday, I join with my colleagues in urging the President and Secretary of State Kissinger, during the on-going Middle East negotiations, to press hard for appropriate action to eradicate the root of these terrorist activities once and for all.

Mr. President, the nation of Israel will survive these unconscionable attacks and it will survive with the support of the United States. I hope all nations will join in condemning terrorism as a brutal travesty of any nation's standard of justice.

THE GENTLEMAN IN S–208

Mr. HUGH SCOTT. Mr. President, the thoughtful consideration which our distinguished majority leader brings to all Senate matters is precisely and perceptively described by James Reston in yesterday's New York Times. It is his calm approach and conscientiousness, described by Reston, which makes the Senator from Montana the outstanding leader he is. In this time of national turmoil we all look to him for guidance and leadership and he unflinching provides it.

James Reston's article is excellent.

I ask unanimous consent that it be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times, May 15, 1974]

The Gentleman In S–208

(By James Reston)

Washington, May 14—Senator Mike Mansfield of Montana is a reminder that there are still a lot of steady decent folk around here watching the store. Everybody in Washington is not crazy; it just seems that way.

Room S–208 in the Capitol Building, Mike's hideaway, is as plain and calm as a country lawyer's office. The door is always open. Inside, no fancy elegant people or heroic portraits of the majority leader. Some old amiable cartoons, and a big picture of Jack Kennedy throwing out the first pitch on opening day, with Mike in the background as usual. An atmosphere of cheerful and relaxed efficiency, coffee perking on the shelf and cookies on the table.

Mike is sad but not pessimistic about the present mess in Washington. He thinks it is wrong to press the President to resign, but he understands why the Republican leader in the Senate, Hugh Scott of Pennsylvania, condemned the President's private Watergate conversations, and why the Republican leader in the House, John Rhodes, suggests that resignation has to be considered. That's Mike's way: He tries to understand everybody's problems.

But pressuring the President to resign, he insists, would be unfair, evading rather than resolving the moral and legal issues. Give the President not only the presumption of innocence, he says, but every opportunity to have his lawyers in the House and Senate to argue his case, cross-examine witnesses, and appear on the floor of the House and Senate, if he chooses, to defend himself personally.

Let the system work, says Mike. It is not only the President but the Congress and the Constitution that are on trial. But—and here he is very tough—let it work all the way, not half way. Take the President at his word. Give him every conceivable opportunity to state his case, all the lawyers he wants to challenge the evidence, and the time he needs to do so. But, he insists, "let's have the evidence."

Mansfield has a sense of pity about human folly and tragedy—and he sees it not in partisan terms. He is beyond all personal ambition now, even beyond his own party's battles. For example, he not only sees Watergate and Vietnam in moral terms, but also Chappaquiddick and Senator Kennedy, and admires Kennedy as a good Senator but is against him as the Presidential nominee of his party in 1976.

Mansfield, if I hear him right, is looking beyond the present turmoil in Washington. He fears the nation would be deeply divided for a long time if President Nixon were forced to resign by political or newspaper pressure.

He thinks the whole Watergate scandal could have been avoided if the President had been open and trusted the system, and had wondered about what was right or wrong and had said yes or no at the right time. But he is not worrying about the past now. He agrees with the President that resignation is a bad idea and that the impeachment process should go to the end but not in the way the President means it. The Constitution, the courts, the House and Senate must decide, and nothing else.

By which Mansfield means: no fiddling, no holding back, not just the transcripts but the tapes. Open all the way. Full and complete disclosure, as the President claimed. Defense lawyers for the President in the Judiciary Committee and on the floor of the House to cross-examine witnesses, and in the well of the Senate, if the House votes to impeach.

Put it all to the test, he says, and bring the people into it all the way. He wants televised hearings in the House and Senate. He wants not merely the evidence the President wants to give but the best evidence, including the tapes; and if necessary, he wants them played, when relevant, in the chambers of the Congress and on radio and television.

There are many arguments against this procedure, set out in this space before, but Mansfield thinks we've had enough secrecy and enough deception. The President has asked for a fair trial under the Constitution, so let it begin with all the relevant facts out plain and clear.

This simple approach carries great weight here, for the importance of Mansfield is that his colleagues in both parties and in both houses believe in him. They watch him in S–208 and on the floor of the Senate, struggling to be fair, opposing the President on troops in Europe, opposing his own party on many issues, arguing for the thing he thinks is right.

So he has the power, even though he doesn't want it, maybe because he doesn't want it. Others here are jumping to conclusions, calling for resignation, shifting around. But Mansfield waits. He is in no hurry. He goes on with the business of the Senate. He won't even talk about whether he has made any preparations for a trial of the President. "That's not before us yet," he says.

He may be right or wrong in this procedure, but he has the influence of integrity, and in the end, that may be what the controversy is all about.

DELAWARE'S COASTAL ZONE ACT

Mr. BIDEN. Mr. President, we in the Senate devote much of our time and energies to improving the quality of life for the citizens of our country. Sometimes I think we tend to forget the many good things being accomplished at the State and local levels of government. One example of this is Delaware's Coastal Zone Act which has become a model nationally as to how to protect our precious coastal areas. Therefore I am deeply concerned when I hear about proposals to amend the Coastal Zone Act.

The purpose of the act as originally adopted was to provide the protection so critically needed for areas adjacent to the Delaware River and Bay, and particularly some of our precious wetland areas. The stretches of our coastal zone are rich in a variety of natural, recreational, and esthetic resources which are both immediate and have long range value to the citizens of our State, and indeed of the whole Nation. In many States today the important ecological, cultural, and historic values of these areas are being irretrievably and unnecessarily lost. Fortunately, Delaware has moved ahead to prevent this.

In Washington, we have been working to strengthen rather than weaken coastal zone management. In 1972, the Congress passed the Coastal Zone Management Act in an effort to stimulate protection of coastal areas by the States. Since I came to the Senate I have been deeply involved in issues involving our Nation's coasts and waters. I have served on a Special Subcommittee on Deep Water Ports made up of representatives from the Public Works Committee, and Interior Committees of the Senate. More recently I have been appointed to a special Senate committee to study National Ocean Policy and we have already started to work. On both of these committees I have been grappling with the problems created by man's use of the oceans.

One thing is very clear from my work on these committees. The most dangerous impact of these ocean activities would be on the on-shore development related to the development of the ocean. Almost everyone predicts that there would arise on the shore new industries, new refineries, new petrochemical plants as well as the housing, roads, and public facilities to support them. Problems of air and water pollution would increase vastly.

In the case of deep water ports I have been pressing strongly for the right of affected States to veto such a port, to have a right to determine their own destiny. The bill that I introduced, however, would require a State to have planning protections not unlike those now in force in Delaware in order to exercise that veto. In the innumerable discussions that I have had with other Senators from all over the country, Delaware is always pointed to as a model of how to protect coastal areas.

You can see then why I am dismayed to learn that Delaware itself is considering retreating from its front-line position in the field of coastal management. I am particularly concerned about the proposal to eliminate the statutory prohibition against certain heavy industries such as refineries and steel mills. I know full well from my opposition to the refinery proposal when I was a county councilman, the kind of pressure that big corporations can bring. Any proposal that proposes to treat these major polluters just like every other industry can only be the opening wedge for more undesirable industrial development of our coast.

I want development. I want more jobs for our people. I want the opportunities that commercial and industrial development bring. I do not believe that the way to get them is to open our coastal area to heavy industry. In fact, I believe that most industries, looking at the efforts that Delaware has made to protect its environment, would feel that this law made Delaware a good place to locate, a place where they can be sure of decent living and working conditions.

There are other provisions being considered which I regard as efforts to make it more difficult for groups, including State agencies, trying to protect our State's environment to keep on top of what is happening in our coastal zone. I include suggestions that an industry that has been rejected could ask for reconsideration, thus triggering a 6-month period of delay, pressure and compromise which I could not favor. Another proposal to require acquisition by the State within 6 months of a court requirement to do so would probably be financially unworkable, resulting in a further breakdown, of the Coastal Zone Act.

I am not one to say that laws should never be changed. Quite the contrary. But I do not believe that the changes being proposed now to Delaware's Coastal Zone Act will be beneficial to our State. They certainly fly in the face of the increasing national concern over effective coastal zone management.

A WORLD FOOD PLAN

Mr. JAVITS. Mr. President, I wish to commend our colleague, Senator HUMPHREY, for his farsighted and humanitarian proposal for a world food plan. We must not turn away from the increasingly desperate plight of over half the world's people, while we increase our meat consumption, spend billions on pet food, and give more nourishment to our lawns than most of the world's people can give to their crops. I urge my colleagues to give these proposals the very serious attention they deserve. Mr. President, I ask unanimous consent that the article from the New York Times reporting Senator HUMPHREY's proposals and the editorial from today's New York Times, which warmly applauds Senator HUMPHREY's moral challenge to the best in the American spirit, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, May 10, 1974]

HUMPHREY GIVES WORLD FOOD PLAN—TELLS A PARLEY UNITED STATES SHOULD TAKE THE INITIATIVE ALONG FOUR BROAD FRONTS

(By Kathleen Teltsch)

UNITED NATIONS, N.Y., May 9.—Senator Hubert H. Humphrey proposed a world food action program today "to lead the world back from the precipice of famine."

Offering his program at the opening of an internationl conference on food and energy, the Minnesota Democrat urged that the United States take the initiative on the following broad fronts:

Expanded food aid, which he said could and should begin in the next few weeks to help the very poorest nations and those already suffering famine.

A program of food reserves.

An improved system of fertilizer distribution.

Increased emphasis on agricultural development.

SPONSORS OF CONFERENCE

The four-day conference is being held to examine how United Nations agencies can work to help combat food and energy scarcity. The parley is being sponsored jointly by the Aspen Institute for Humanistic Studies, the Overseas Development Council, the Kettering Foundation and the Institute of Man and Science, a private center that conducts seminars.

Secretary General Waldheim, another speaker, called on governments to help the countries most affected by steep rises in the prices of food, oil and other imports and to help them meet their balance-of-payments deficits over the next 12 months.

In complying with a new General Assembly decision, he sent out appeals for contributions today to 44 countries that are industrialized or rich from oil. China was omitted, because, it was explained here, she maintains she is a developing country.

Senator Humphrey's proposal today were presented to the conference as urgent measures that should be acted on before the World Food Conference in Rome in November.

The Senator's proposals were his own initiative. However, they had been informed of his proposals.

The program was directed in particular at the countries of Southern Asia and Africa, with a combined population of more than a billion.

Specifically, Senator Humphrey called for a three-year emergency food-aid effort under which countries with food surpluses would set aside a part of their exports for the poorest countries on terms they could afford.

As part of this effort, he proposed that the United States restore the drastically reduced Food for Peace assistance at least to its 1972 level of 9.5 million tons. The program now provides 3.5 million tons.

RESERVE PLAN

In proposing a food reserve program, he said he recently proposed legislation under which the United States, as the world's leading grain producer, would build up reserves to be used after droughts or crop failures. He argued that these measures could be taken in such a way as to protect American farmers and insure their receiving reasonable prices.

To expand fertilizer distribution he urged expansion of existing facilities—they are mainly in the United States and Japan—with Government credits or tax incentives offered as inducements. He also advocated curbing nonfarm use of fertilizers, objecting that the fertilizers used for lawns were needed desperately for crops in Asia, and said this could save three million tons.

Expansion of agricultural production in food-deficit countries would be increased significantly under the plan by providing financing, technical help and equipment and by expanding research in higher-yield seeds.

The food aid program, he argued, could be carried out by diverting some stocks now being sold on the commercial market.

[From the New York Times, May 14, 1974]

And to the Hungry

Senator Humphrey has posed a moral challenge to well-fed—and frequently overfed—Americans with his recent call for generous United States contributions to a broad new world food action program.

Responding to the threat of widespread starvation that has been sharply increased by worldwide shortages and soaring prices of basic commodities, the Senator proposes: Resumption of large-scale food aid by the United States and other food-exporting nations; establishment of national and international food reserves; expansion of fertilizer distribution and production, and stepped up aid to agricultural development, including the pending contribution to I.D.A.

Although Mr. Humphrey's plan for action merely elaborates on promises already advanced by Secretary of State Kissinger at the recent special United Nations session, it faces stiff resistance within the Nixon Administration and from a people who have just begun to see some hope for relief from soaring food prices. The day is gone when Americans had food to burn, when overseas aid was a convenient way to unload embarrassing surpluses. Even with record harvests due, a new giveaway program on the scale contemplated by the Senator would put fresh pressure on domestic prices and would compete with potential cash sales to more affluent foreign buyers.

There will be those who will seek refuge from responsibility in the heartless suggestion of Agriculture Secretary Earl L. Butz that "hunger is relative—if your larder is empty, you cut back some." For one billion already undernourished people in the thirty poorest countries, cutting back means sinking from acute malnutrition into starvation, or diverting to food purchases scarce resources that are desperately needed to help develop food self-sufficiency.

The cost to Americans of helping these nations through the current crisis would be trivial in comparison. For example, Senator Humphrey estimates that a decision by Americans to eat one less hamburger a week would make some 10 million tons of grain available for food assistance, twice India's expected import requirements for the coming year. The fertilizer Americans lavish on lawns and other non-agricultural luxuries would make up Asia's anticipated fertilizer deficit, helping Asians to feed themselves.

The primary responsibility for overcoming food shortages and for curbing the runaway population growth that vastly compounds the food problem lies with the stricken nations themselves. This does not mitigate the moral obligation of the more fortunate, including the newly-rich oil states, to extend emergency relief. Population control at best requires years to take effect; and while that is an essential element in the solution, the United States in the meanwhile cannot shirk the food-supply role to which it is committed by virtue of is vast resources and its tradition of humanitarian leadership.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, some people who oppose American ratification of the Genocide Treaty do so because they believe that the convention's definition of the word "genocide" dangerously twists the true meaning of the word. They maintain that article II of the convention requires each signatory to prosecute everyone who commits such an offense against any single member of the groups protected. They claim this definition is too broad.

This concern is unwarranted. The convention puts great emphasis on the fact that there must be intent to destroy the entire group, not just a single member of that group. As Dean Rusk pointed out in 1950, the principal difference between genocide and homicide, is that in genocide there is the intent to do violent damage to an entire ethnic, racial, religious, or national group, while in homicide, the damage is contemplated against an individual.

The convention is not concerned with the harm done to individuals within a society, for there exist laws to deal with these cases. Rather this treaty is concerned with mass violence and the destruction of entire populations.

Mr. President, I urge the Congress to act speedily on the ratification of this convention.

SPORTS AND CABLE TV

Mr. HUGH SCOTT. Mr. President, on June 6, 1974, the Senate Judiciary Committee is expected to consider the copyright revision bill, S. 1361.

Section 111(c) (2) (C) of the bill has caused some misunderstandings. This section places limitations on the right of cable television stations to carry some sports programs without the permission of the copyright owner.

I have received a letter frome Bowie K. Kuhn, commissioner of baseball. In his letter he outlines the position of professional baseball on the copyright bill and the carriage of baseball on cable television.

Commissioner Kuhn essentially states no matter what kind of sports provision the copyright bill contains that—

> Professional baseball is . . . most anxious that our nationally televised games be given the widest possible circulation. This would include carriage by cable.

He notes the nationally televised games like the World Series, All-Star Game, league championship series, and Saturday and Monday games-of-the-week will be available to cable stations under any circumstances.

I think it is excellent that professional baseball is willing to go on the public record favoring full exposure for its nationally televised games. This should be good news for all sports fans.

I commend Commissioner Kuhn's letter and accompanying memorandum on the sports provision of the copyright revision bill to each Senator's attention. I ask unanimous consent for insertion of the letter and memorandum into the Record.

There being no objection, the letter and memorandum were ordered to be printed in the Record, as follows:

Bowie K. Kuhn,
Commissioner,
May 8, 1974.

Hon. Hugh Scott,
Old Senate Office Building,
Washington, D.C.

Dear Senator Scott: Professional Baseball and other professional sports leagues strongly support the provisions of Section 111(c) (4) (C) of S. 1361, the Copyright Revision Bill, which was recently reported out of the Subcommittee on Patents, Trademarks and Copyrights. These provisions would, in effect, allow professional sports organizations like Baseball to determine when and where their sporting events will be distributed by cable TV, just as professional sports presently have control over the distribution of sports programming by over-the-air TV.

It has recently come to our attention that charges have been circulated to Members of Congress which seriously misconstrue Baseball's interest in the Copyright Revision Bill. The essence of these charges is that our nationally televised games (World Series, All Star, League Championship Series, and Saturday and Monday Games-of-the-Week) would no longer be available to cable subscribers if the Copyright Revision Bill were adopted. The purpose of my letter is to strongly assert that there is no such possibility. In professional Baseball we are most anxious that our nationally-televised games be given the widest possible circulation. This would include carriage by cable.

This is fundamental to our broadcasting policy. Just as fundamental is our policy of not diverting to any form of pay TV the games which are now carried by over-the-air TV. For instance, there is no prospect of the World Series or the All Star Game being diverted from over-the-air TV.

Our position is more fully stated in the attached memorandum. I appreciate your taking the time to consider these points.

Sincerely yours,

Bowie Kuhn,
Commissioner of Baseball.

Enclosure.

May 8, 1974.

Memorandum of Commissioner of Baseball in Support of Sports/Cable Provisions of Section 111(c) (2) (C) of the Copyright Revision Bill

Professional Baseball and other professional sports leagues strongly support the provisions of Section 111(c) (2) (C) of S. 1361, the Copyright Revision Bill, which was recently reported out of the Subcommittee on Patents, Trademarks and Copyrights. These provisions would, in effect, allow professional sports organizations like Baseball to determine when and where their sporting events will be distributed by cable TV, just as professional sports presently have control over the distribution of sports programming by over-the-air TV.

It has recently come to our attention that substantial portions of the cable television industry have seriously misconstrued Baseball's interests in Section 111(c) (2) (C) and have expressed concern that, under this provision, certain nationally distributed Baseball programs, such as the Saturday and Monday Games of the Week and the World

Series, would no longer be available to cable subscribers. Baseball wants to make it abundantly clear that there is no possibility that this will occur.

Baseball fully appreciates the potential public benefits inherent in the newly-emerging cable television technology. Cable offers an opportunity for extending more programming, and more programming choices, to the American viewing public, especially in rural and other underserved areas. As emphasized in Baseball's testimony before the Copyright Subcommittee last August, Baseball will be most aware in times ahead of opportunities to experiment with all forms of the new technology—as long as we can be assured that no fundamental damage is done to Baseball's existing television packages and the home gate.

It should be recognized, however, that Baseball's strong sports position has been considerably enhanced by the game's extensive exposure on network, regional, and local over-the-air telecasts. Today, about 60 percent of all Major League Baseball games are telecast. Revenues from this programming obviously constitute a crucial ingredient in the maintenance of Baseball's economic health; exposure by television is important not only in developing fan interest generally but also in enhancing the interest and support in a particular geographic region for a local team. Indiscriminate dispersion of multiple cable retransmission of Baseball games across the country would seriously undermine these essential practices. Nevertheless, cable can be quite useful in bringing Baseball to underserved areas. The problem is in striking the appropriate balance.

In assessing the equities of the situation, one must be mindful that Baseball has two distinct telecasting patterns: (1) The national package of about 60 games broadcast by the NBC Television Network; and (2) about 1100 games distributed over regional television networks which are set up by each individual club. The impact of cable television on the two patterns is totally different.

Nationally, over NBC, at least one game (the NBC Game of the Week) is carried over a nationwide network on 26 Saturdays during the season in 200 television markets. In addition, this NBC network also carries 15 Monday night games nationwide. These games are selected for maximum audience interest based upon the current state of the various pennant races. And, of course, the most significant events in Baseball—the World Series, and the All-Star Game—are also carried by NBC throughout the nation. The NBC contract is negotiated with the network by the Commissioner's office.

All told, NBC broadcasts nearly 60 prime games nationally each season. Contrary to the apparent belief of some in the cable industry, Baseball welcomes cable dissemination of these NBC games over the widest possible areas. Baseball would not exercise the authority granted under Section 111(c)(2)(C) to restrict cable carriage of these NBC games broadcast nationally in any manner whatsoever. The only exception would be the home cities of the clubs involved in the Games of the Week which receive a backup game under the NBC contract. Indeed, Baseball views cable carriage of its nationally-broadcast games as especially important in underserved rural areas or smaller television markets which may not have direct access to an NBC-affiliated station.

The 1100 games that individual teams telecast over regional networks present a far different, and more vexing, problem. Broadcast rights to these games are sold by individual teams; they are generally broadcast in the local team's trade territory, but not nationally. Often, teams broadcast few, if any, home games in order to protect their gate attendance. The indiscriminate importation of distant signals by cable systems will undermine important revenues Baseball currently receives from local and regional television packages and curtail the home gate for both Major and Minor League games.

For example, if cable television could bring in an important game in the Mets-Reds pennant race into a city with a weaker team, *e.g.*, Philadelphia, when the Phillies are playing at home, the effect on the Phillies' home gate attendance could be most substantial.

This same threat is posed to the 110 Minor League clubs which provide live professional sports contests in small and medium size cities across the country; last year more than 11 million persons attended minor league games. However, indiscriminate importation of cable signals could wreck home attendance.

Finally, distant cable signals can destroy the value of the local and regional telecasting packages of the 24 individual teams. If cable signals can be imported without control into Major League cities and into the areas served by team networks, this will immensely curtail the value of television contracts, depriving Baseball of revenues that are absolutely essential to its continued health.

Because cable is only in an embryonic stage of development, there may be other unforeseen hazards, beyond those mentioned, above, arising from the indiscriminate cable importation of distant Baseball signals. Hence, Baseball has urged that it have the authority to continue this distribution of the broadcast signals. This authority will be exercised in a responsible fashion in the public interest. As noted above, the authority granted under Section 111 will not be used to limit cable dissemination of games that Baseball has distributed nationwide—the Game of the Week, the World Series, and the All Star Game.

TRIBUTE TO DEAN CLARENCE MANION

Mr. ALLEN. Mr. President, last night the distinguished Senator from North Carolina (Mr. Helms) delivered an eloquent tribute to Dean Clarence Manion at a dinner in Dean Manion's honor in Washington, D.C.

Since this speech outlines much of the distinguished Senator's political philosophy, I believe it will be of interest to Members of the Senate, and I ask that a copy of the speech be printed at this point in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

ADDRESS BY SENATOR HELMS

Mr. Chairman, Dean Manion, dedicated Americans, ladies and gentlemen:

This evening will forever be for me a memorable event—the privilege of coming here, at your invitation, to join in your tribute to one of the great spirits of our time, a most remarkable defender of American freedom—Dean Clarence Manion.

Dean Manion deserves someone far more eloquent than I for the honor of delivering the testimonial address on this occasion. I can advance only the credentials that he has no friend who admires and respects him more, or who is more grateful for his inspiring career as one of the great teachers of our time.

When I describe Dean Manion as a teacher, I am not being metaphorical. He is, to borrow a phrase Ortega y Gasset used about himself, a "public pedagogue."

The word pedagogue has an unfortunate ring to it. But every American who has profited from Dean Manion's instruction—and everyone in this room tonight *has* profited from it—knows that Clarence Manion has been a teacher in a most remarkable and courageous way.

Not just a teacher in the classroom—though he was Professor of Constitutional law at Notre Dame for more than a quarter of a century, and Dean of the College of Law for more than eleven years.

He has been not just a teacher to people of a particular age, or a particular region, or a particular persuasion.

Rather, Clarence Manion has been a teacher to the Nation he loves so deeply.

As I contemplate the life of this great man who we honor tonight, I am reminded of the observation by Henry Adams that a teacher never knows where his influence ends, because a teacher affects eternity. It is obvious, then, that we cannot even begin to measure the dimensions of Dean Manion's influence. His life is a great, inspiring monument to the living traditions of the United States, indeed of the entire Western Civilization.

So, as "Teacher to the Nation," Dean Manion has helped keep alive the miracle of America. He has held high the truth that freedom's survival depends on man's willingness to live by principle, honesty, sacrifice, personal responsibility—and, most of all, with faith in our Creator.

He has given us hope, by constantly reminding us that we can, if we will, retrace our steps—and return to the sound ground of personal liberty and personal responsibility. For my part, I have long held the notion that the process would be neither complex nor particularly difficult.

But it will require a return to intellectual honesty, and it will absolutely require a spiritual rebirth across the land—a return to the faith of our fathers, and a confession that we have vainly tried to make a god of government, instead of recognizing that America was destined in the beginning to be a government of God.

Viewed in that frame of reference, it is not surprising that we see around us today scarcely any serious efforts to solve the great national man-made problems which threaten the very survival of our nation. The artful dodgers of politics and government are in absolute control. They continue to believe that government is god. They think not of the next generation—only of the next election.

Small wonder that the nation is being stifled by an inflation that refuses to be restrained by inept and unwise efforts to control it by artificial devices. The laws of economics, and simple arithmetic, are not subject to repeal. It is a fair observation to note that today we have a full-employment budget, a bloated bureaucracy, a mindless Congress—and an empty dollar.

The tentacles of Federal Government are reaching out to entwine our daily lives, our right to privacy, and our right to property.

Our Federal tax mechanisms of our country are proving with a vengeance the correctness of the adage, "the power to tax is the power to destroy." We see taxation destroying not only the fruits of the labor of our people, but destroying their morale, sapping their incentive, and leaving them befuddled even about the prerogatives of honesty.

Abroad not only our own great power, but the power of the West—the very will to survive—is in dangerous decline. Our strategic capability has deteriorated *vis-a-vis* the Soviet Union. Our diplomats think only in terms of retreat and giveaway. The Third World long ago turned its back on the American formula for success and creative technology, and is blaming us paradoxically for its economic and social failures. And across Europe the candles of liberty flicker uncertainly, and one by one, go out.

Is there any discussion of these problems in concrete terms in Washington? Is there any great debate about the restoration of stability and freedom? Does anyone express confidence that America has a valid answer, a sound answer to these problems of our country, and of the world?

No. In Washington we are obsessed with the tapes.

We are instructed in the lessons of the tapes every day by the Constitutional lawyers of the Washington Post and The New York Times. We are tutored every hour by the television networks in our role as aghast and humbled citizens. The monopoly media are solemnly warning us about the dangers of the concentration of power. (They do not, however, allude to the dangers of the concentration of the power of the major media.)

And so we have the tapes with Wheaties for breakfast, the tapes with lettuce and tomato for lunch, and the tapes with potatoes and gravy for dinner.

We are learning, for example, that the President was brutally frank and appallingly salty in his private evaluation of political opponents. His language is the scandal of the day. We haven't been so shocked since Rhett Butler's language in the last scene with Scarlett in *Gone With the Wind*.

In the broad view, however, I have the feeling that the whole affair of the tapes might well be summed up by Clark Gable's immortal line in that scene: "Frankly, my dear, I don't give a (expletive deleted)."

I do care about what happens to our Republic, and what happens to our people. I care about the things that really matter to them. And I think I know what they are. Let me explain.

Every once in a while, some inkling of what the American people are really thinking slips through the monopoly of the major media. The Gallup Poll published on May 6 gives us a powerful clue. I quote:

"The latest nationwide Gallup survey reveals that Republican Party affiliation is at an all-time low, but the number of voters who describe themselves as conservatives is at a record high."

Now isn't that interesting? The Republican candidate for President won the election in 1968 because he ran on a conservative platform. The American people long ago learned that party platforms are an uncertain foundation on which to build your hopes; but the same candidate who won in 1968 enjoyed the benefit of running for reelection in 1972 against someone whom the public recognized as a radical liberal. Mr. Nixon won overwhelmingly by basking in a reputation of relative conservatism. You and I know that this is the only reason why he won, all the volumes of the Watergate investigation to the contrary notwithstanding.

This emphatic rejection of liberalism in 1972 was a bitter pill for some to swallow. Through a process of selective indignation, Watergate became the lever to reverse the judgment of the people. The same pundits who swallowed the pragmatic self-enrichment of the Johnson Administration whole, who wolfed down the ideological corruption of the Kennedy Administration, who voiced no objection to the Pendergast politics of the Truman era, and who thought that Roosevelt provided a feast for empty bellies, suddenly gagged on Watergate.

So a year and half later, the Gallup Poll finds that only 24 percent of the voters classify themselves as Republicans, 42 percent describe themselves as Democrats, and 34 percent as Independents. But when Gallup asked the question whether these same people would describe themselves as conservatives or liberals, the figures show a startling change. Thirty-eight percent said they would choose a conservative party label, only 26 percent would choose a liberal party label, while 36 percent are undecided.

This means that the largest political bloc in the United States today is composed of conservatives.

It means that a large chunk of those 42 percent who are Democrats are conservatives, that the great majority of the 26 percent Republicans are conservatives, and that the independents, by and large, are people who don't perceive either party as matching their conservative philosophy.

This last fact is a point you won't discover in the major media monopoly. We are always told that the independents are so-called "moderates"—middle-of-the-roaders, who are repelled by those terrible extremists who belong to the two major political parties.

Actually, I have a hunch that they are conservatives, by and large, who may regard both major parties as too liberal.

The Gallup Poll goes on to prove this, I think. When Gallup asked those Undecideds to choose—forced them to choose, between conservative and liberal party labels, the over-all breakdown of all respondents rose to 59 percent Conservative, and 41 percent Liberal.

Imagine that: Fifty-nine percent of the people would choose to belong to a Conservative Party if offered that choice—even after one of the greatest campaigns of smear and slander against conservatives in the history of the nation. Not only that, the American people are more conservative because of Watergate. Even though the main object of the Watergate media campaign is to discredit President Nixon as being what you get when you elect a conservative, the people instead are rejecting liberalism in droves. Gallup has been asking the same question about conservatives and liberals since 1936. This year, 1974, the conservative percentage is the highest ever, at 50 percent! Even after Watergate—and I believe because of the anti-conservative campaign of the media—the people are more conservative than ever.

I think that this is the real political news story of the year, and as many of you know, I have been in the news business myself for most of my life.

But was this significant political news story on page one? Was it the subject of penetrating analysis by Joe Alsop, Scotty Reston, or even Eric Severeid?

No, I found it on page 20, next to a little item headlined "Smallpox Deaths Rise in India."

But let me tell you about yet another opinion survey that was released only a few days after the Gallup Poll I just mentioned. The University of Michigan Institute for Social Research conducted an elaborate in-depth study of the public's ranking of American institutions. Fifteen U.S. institutions were covered in the poll, and the public was asked what they thought of each one. Now which one do you think was ranked the highest?

It wasn't the President and the Administration—they were ranked last.

It wasn't the Federal Government generally—it was next to last.

It wasn't labor unions—they were third from the bottom.

The U.S. Congress ranked slightly behind large corporations.

This means that the largest political bloc in the United States today is composed of conservatives.

The news media were a shade above the Supreme Court.

I'll tell you what was in *first* place. First place, in the people's hearts, was won by the U.S. military!

Now imagine that! The U.S. military in *first place*—after ten years of being reviled, spat upon, and viciously attacked by the major monopoly of the news media and political opportunists who have been inflated by the news media as "public opinion leaders." In spite of all these attacks, the military is most admired as an institution by the American people. Perhaps as in the case of true conservatism, the military is most admired *because* of the media attack, not in spite of it.

For it shows once again that the American people are fundamentally conservative. The military was followed, in rank of esteem, by colleges and universities, churches and religious organizations, and small business, in that order. The fundamental verities of the defense of liberty, the attainment of knowledge, the worship of God, and the practice of private enterprise are *still* the American goals. I would say that the priorities of Americans are arranged in good order.

Ladies and Gentlemen, the time has come when the people of America must be given a true choice. Both of our major political parties today are in a state of confusion. Our party leaders are thrashing around without vision. The people have lost confidence in both parties, and in the news media. They have lost confidence in the Presidency, and in the Congress as well. Clearly, our major parties have failed to articulate the philosophy of our people and to give them a choice of leadership.

I venture to suggest that all of this may indicate a desire, on the part of the majority of the American people, for a realignment of our political parties.

I ask you the question: Could it be that it is time to forge new political parties, fashioned along the lines that the people are thinking, not along the existing lines of political power-seeking? If we are going to have honesty in government today, we must have honesty in the basic philosophies of our political parties. I do not in any sense downplay the need for personal honesty and personal integrity. But our basic political system must be made honest. It must give an honest choice, and it must furnish the mechanism for politicians to carry out honestly the principles they set before the people.

So, I would pose this question to you here tonight, and to all other Americans—Democrats, Republicans, Independents, and members of other political groups: Is it logical to assume that the great masses of Americans are yearning for someone to begin the task of realigning our existing political parties, so that the people, when they go to the polls, will know *what* they are voting for—instead of merely whom?

Ladies and Gentlemen, let me be plain. I am a Republican. I was a Democrat, by registration, until 1970, but I became a Republican because I thought that the Republican Party was the only party hospitable to those working for conservative principles. The Gallup Poll I have been quoting shows that most Republicans think the same way, since 57 percent of the Republicans identify themselves as conservative, and only 11 percent call themselves liberal. That is no sensational revelation. But the rank and file of the Democratic party is filled with conservatives too—as may be evidenced by my own election in 1972—and these are good people who have had their party taken away from them.

Moreover, I intend to remain a Republican, unless there is a general realignment into Conservative and Liberal Parties, by whatever names.

The problem is this: The majority of Americans are locked into two major political parties—by geography, by tradition, by sentiment, by other reasons which no doubt will come to mind when you think about it. In the Senate, for example, conservative Democrats look across the aisle and they count the faces of men who wear the label of Republicans and practice the philosophy of liberalism. Conservative Republicans, meanwhile, look across the same aisle and you know what they see.

Conservatives in both parties feel that they have no place to go. Meanwhile, businessmen throughout the country are being convinced, more and more with each passing day, that they must make peace with the liberals of both parties. So when election time rolls around, we have the spectacle of citizens who profess to believe in the free enterprise system nevertheless contributing to the campaigns of liberal candidates for public office.

To put it bluntly, they are trying to "buy in." They hope to court the favor of the very liberals who are dedicated to the destruction of the free enterprise system. It's the old story of feeding the crocodile, hoping that he'll eat you *last*.

But what do you suppose would happen, ladies and gentlemen, if a serious movement were launched to realign the political parties in our country—a movement that offered the majority of Americans, the conservative majority, an opportunity to unite, and to work together for the principles in which the majority of people, according to the polls, believe?

Someone has referred to this majority as the *"New American Majority."* I very much doubt that it's new. I think it's as old as 1776, and Bunker Hill; as old as Paul Revere and Tom Jefferson, and the Boston Tea Party, and Iwo Jima.

What is needed, is for someone to find the handle; to put it together, to work it out so that the majority of Americans can once again hope and dream, and work and sacrifice, so that there can once again be the reality of the Miracle of America.

Just suppose, here tonight, there could be a dedication to try. Could there be a finer tribute to the great patriot whom we have gathered to honor? Could it be, for example, that out of this occasion we should refuse merely to meet, eat and retreat—and instead, go back to our homes and give consideration to the mechanics of realignment?

What's the proper starting point? How about a Platform Convention, to which delegates would be selected by conservatives in every Congressional District in the land, plus two at-large delegates from each state?

Is that the proper starting mechanism—the drafting of a platform to restore to the American people their liberties and their responsibilities?

The more I think about it, I believe that at this crucial point in our history, the "New American Majority," if indeed it is "new," might just rally around such an idea. History supplies a fairly good precedent for it—at Philadelphia. And I would remind you that it was there that Ben Franklin admonished us all that we had a republic—if we could keep it.

Realignment is not a new idea. Senator Karl Mundt of South Dakota urged it for years. I ask you if it is not an idea whose time has come. Our domestic political system, the system of political parties, is now at a crisis stage. Confidence will not be restored until the people are given an honest choice of principles and philosophies—and a mechanism to prevent these principles and philosophies from being trampled underfoot.

I believe the people, if enough of us work hard enough, will choose a conservative party, one based on sound conservative principles and a solid conservative program for the solution of America's problems. They will choose a conservative party because of its platform, and how well its subsequent performance reflects an honest adherence to platform—but not merely because it *calls* itself the "Conservative Party."

A meaningful political realignment must be based on sound, honest political philosophy, and that calls for an honest and workable Conservative Platform.

What should be the Conservative Platform? I am not so presumptuous as to say that I can lay it out in all its details, its programs, its ramifications.

Surely we agree, first of all, that Jefferson spoke truth, not a mere cliche, when he counseled that the best government is the least government. Government was intended to restrain evil men, but not to shackle innocent men.

America became a giant in the world because men were left free to create, to produce, to earn, to invest, to compete—and, yes, to accumulate. It may sound harsh to say so, but America grew great because there were men and women who wanted to be *better* than average, to accomplish *more* than average, and to *be* more than average. Men forced to be equal are not free—and free men cannot be forced to be equal.

So the concept of government control of enterprise is a contradiction of the very meaning of freedom. Bureaucrats armed with the power of controls, edicts, guidelines are disrupting the genius of America.

Secondly, I presume that we agree that we have no hope of halting inflation, or of solving America's economic crisis, unless and until we stop deficit financing and balance the Federal budget. This is not something to consider next year, or next month. It is imperative today.

Thus, surely we believe that a healthy economy means a balanced budget, reduced Federal spending, and a simplified tax system. The existing folly is not only impoverishing the middle class—the vast majority of Americans—but it is distorting our investments, it is blurring our morality, it is directing funds to dubious priorities, and it is providing vast amounts of money for purposes that are subverting the values of America.

Fourth, I assume we agree that the American family must be preserved, to encourage the virtues of personal integrity, self-reliance, and faith in God. We must reverse the trend that insists the State is the only proper custodian and educator of children, and that Federal funding and Federal control is the only measure of educational success. We must reverse the trend that says that women must be liberated from the dignity of motherhood, and from the femininity of her natural development. We must reverse the Supreme Court decision that says that killing an unborn child is somehow different from killing a child that has been born. And we must desecularize our daily life, reminding ourselves that prayer is, after all, a Constitutional right and a moral duty, and understanding that man is fulfilled not in himself, not merely in his neighbor alone, but ultimately in God.

Finally, we believe that the United States must regain its dynamic posture as the leader of the West. We must stop apologizing for our leadership position. We must once again become convinced of the value of our culture and society, and we must work to convince other nations that our leadership is decisive, based on principles, and dedicated to the common good of all nations. And of course, that means that we must regain decisive control of the international strategic arms situation, superiority in technology, and a mix of strategic weapons best suited to our unique geography. For in the end, United States sovereignty revolves upon the power to defend it.

These are just a few of the principles that I believe the majority of Americans will support, regardless of present party affiliation.

I can't believe that most Americans want government spending so badly that they are ready to adapt to double-digit inflation ascending in a quantum leap.

I can't believe that most Americans believe that government regulation can ever take the place of healthy competition in a free market.

I can't believe that most Americans are ready to give away the Panama Canal, subdue our economic and strategic position to the heel of Communist Russia, or subordinate our sovereignty and dignity to a babel of foreign tongues and oppressive ideologies.

Nor can I believe that Americans are ready to abandon their historic understanding of the moral virtues, the obligations of patriotic duty, or the faith in a just and merciful God.

These things I hold to be unchanging, and no sociology of manipulation can persuade me otherwise.

So, as we pay tribute tonight to our splendid friend, let us consider whether we do not owe it to him, and to America's future, to try to set things straight again.

I cannot guarantee that we will succeed. But I can guarantee that we will fail if we do not try. I am convinced that by standing together, working together, and sacrificing together, we will be astonished at how far we can go, and how much we can achieve.

Many years have passed since that Easter morning when a young man and his wife, and their two small daughters, ages six and three, went to the mountains of western North Carolina to attend an Easter sunrise service.

In the pre-dawn chill, they made their way to the crest of a mountain, joining perhaps a hundred others who had also come to worship in quiet simplicity.

There were no seats, and the three-year old became impatient because she could see neither over the heads of the adults, nor around them. So she began to improvise.

She spotted a huge boulder off to one side. She scampered over to it, and attempted to climb it. But her slick-soled, black patent-leather shoes made it impossible. And besides, she had proper concern for her new Easter dress.

So she solicited—and received—the assistance of her Daddy, who—being younger and far more agile than he is today—easily climbed on top of the big rock.

By that time, the six-year old had been captivated by the idea also. So with a word of caution to his two little girls, making clear that they should "hold on tight," the Daddy pulled them, one by one, to that high vantage point atop the boulder.

It was at that precise moment, when the three of them had reached the top, that the rays of the morning sun seemed almost to burst above the mountain ridge across the valley, with a promise of light and warmth to push away the chill of the dark night.

It was then that the little three-year-old spoke some words of faith that I shall never forget. She looked up to her Daddy, with an expression of loving admiration that he could not possibly deserve, and said:

"Daddy, you know something? I bet, if we all held hands tight—we could go anywhere."

That child's words have remained in my consciousness all these years.

A simple expression of child-like faith, yes.

But truth, in a most profound sort of way.

That's the test. Shall we, ladies and gentlemen, hold hands tight with Clarence Manion, and with others who are willing to work and sacrifice for their country?

If so, I truly believe we can go anywhere.

God bless you, Dean Manion, for being my friend, and for the unselfish way you have given of yourself, and your time and immense talent, for the good of America. I am very proud of you.

GARBAGE AS A FUEL

Mr. MATHIAS. Mr. President, it has recently come to my attention that the people of the Netherlands have for some time converted their garbage into significant amounts of electric power. This is an undertaking of tremendous importance to all of us. Only the most tentative beginnings have been made in this country to produce energy in this fashion. Our increasing problems in disposing of solid waste and current energy shortages both dictate that increased efforts be made to convert waste to energy.

I ask unanimous consent that an article in the Baltimore News-American be included in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

Garbage: As a Fuel It's Plentiful, Cheap

Amsterdam.—As a fuel, it has no equal for being plentiful, cheap and always available. It is so cheap that the average Dutch family discards ten pounds a day, and so plentiful that it can be found in abundance anywhere in the world.

The fuel is garbage—ordinary household garbage—and the Dutch have been using it to produce steam heat and electricity for more than 50 years.

Only now is the idea of obtaining energy from garbage coming into its own in other parts of Europe and the United States, where experts estimate that enough solid waste exists in big cities to light every home and commercial establishment throughout the year.

Here in Amsterdam, virtually all trash—some 1,500 tons a day—generated by the city and surrounding suburbs is burned under pressure through high-temperature turbines to generate 5 per cent of the region's electricity, an amount sufficient for an American city the size of Santa Barbara, Calif., or Princeton, N.J.

The "garbage power" system is financially self-supporting. The municipal Garbage Department ("Stadsreiniging") collects the trash twice a week, hauling half of it by barge along Amsterdam's interconnecting canals and the other half by truck to the municipal incinerator, where the garbage is burned and converted into electricity at a cost of 10 dollars a day.

According to Tony Pingen, assistant director of Amsterdam's department, the system produced 150 million kilowatt hours of electricity last year—an output equivalent to 300,000 tons of residual fuel oil.

In addition, the burning of trash is accompanied by the recovery of metals for recycling. The value of scrap metal has more than tripled in the last year, and its sale to German steelmakers has become a major asset for Amsterdam's collection system.

Such resource recovery is solving a number of other critical problems, including the scarcity of land for dumps and the high cost of fuel for electric power plants. There are also clean air benefits, as trash is low in sulphur (0.1 per cent).

The Amsterdam system has been producing steam heat and electric power since 1917. Such other cities as Rotterdam, Copenhagen and Paris have been using similar systems almost as long; but it wasn't until recently that the skyrocketing cost of oil and coal made it economical for most cities to produce electricity from household garbage.

Most major West European cities are adopting garbage power for their electricity. By next year, West Germany expects 25 per cent of its total population to get electricity derived from garbage.

By 1977, the first major garbage-fueled system to produce power in the United States will reach full operation in St. Louis, where two coal-fired plants are being converted to burn 7,500 tons of trash a day.

Here in Amsterdam the Dutch have provided convincing evidence that a large, virtually untapped energy source—household garbage—can play a crucial role in meeting urban power demands at a time when other fuels are becoming increasingly scarce.

TERRORIST VIOLENCE RESULTING IN THE DEATHS OF 16 INNOCENT TEENAGE HOSTAGES

Mr. MONTOYA. Mr. President, yesterday, I joined over 45 of my colleagues in sponsoring Senate Resolution 324, Condemning Terrorist Actions. This resolution applies specifically to the recent terrorist attack on an Israeli school in which approximately 85 children were held hostage by Palestinian guerillas. When an attempt was made to rescue the hostages 16 of them were killed and 70 more were wounded.

No civilized nation or people can condone such actions in which innocent teenagers are held as hostages and ultimately killed. In the words of the resolution, "Such acts of violence are an affront to human decency and the standards of civilized conduct between nations."

It is the responsibility of all nations not only to vigorously condemn such terrorist acts but also to do everything possible to see that the terrorists are apprehended and brought to trial. Certainly no nation can legitimately justify giving aid and comfort to such terrorists regardless of the political aims espoused by the particular terrorist group in question. It is time for the world community to regard terrorists not as political revolutionaries but as what they are, namely perpetrators of crimes against humanity.

During this time of sorrow, our sympathy goes out to the family and friends of those innocent victims who were killed or wounded in this latest senseless episode. Perhaps the most fitting tribute which we can give to these victims and their survivors is our determination to prevent such terrorist acts in the future, to vigorously prosecute terrorists, and to make clear the fact that terrorism is not and will never be an effective means to accomplish political goals.

BILL HOLBROOK IN RECENT CROSS-COUNTRY DERBY

Mr. BEALL. Mr. President, a resident of my home county in western Maryland, Mr. William C. Holbrook of Cumberland, this week added another first in a list of notable accomplishments in soaring.

Mr. Holbrook finished first in the Smirnoff Crosscountry Sailplane Derby culminating a 12-day, 2,900-mile race from Los Angeles to Dulles Airport. He is also the holder of the world's "goal and return" distance record of 783 miles.

Bill Holbrook, who is the chief pilot for Kelly-Springfield Tire Co., is also the chairman of the Municipal Airport Commission in Cumberland, Md. He has long been active in community affairs and I am happy to have this opportunity to make my colleagues aware of this most recent achievement. Mr. President, I ask unanimous consent that articles from the Washington Post and the Cumberland News, pertaining to this recent cross-country derby, be printed in the Record at the conclusion of my remarks.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Fliers Big on Hot Air

By Nancy Scannell

Dick Schreder hadn't counted on landing in Boulder Canyon so he wasn't too surprised yesterday when he finished last in the Smirnoff cross-country sailplane derby. At least he did finish, he pointed out.

The 58-year-old engineer and part owner of an airport at Brian, Ohio, started off May 1 for a 12-day, 2,900-mile race from Los Angeles to Dulles Airport with six other sailplane pilots in the third annual derby.

"But on the leg between Las Vegas to Phoenix, I went down in the mountains, in a dry gulch, just south of the Hoover Dam," Schreder said. "I landed the plane near an old gold mine, with lots of boulders and bushes around.

"I wandered around the mountains for 10 to 12 hours. I wasn't sure I'd ever get back to civilization and then finally found a gas station around 1:30 a.m. My ground crew had already gone on to Phoenix, expecting me to have arrived before them.

"I called them and they had to come all the way back and we went up into the mountains with a car and a small trailer. The gas station attendant said we were crazy to do it. But we went on. I had put three stones together at all the forks on the trail so we could follow the right route back.

"We found the plane, loaded it up and drove on to Phoenix just in time to start the next leg of the race."

Schreder's misadventure is not common to many sailplane pilots, but this enthusiasm to get back into the race is. They describe an exhilaration and sense of serenity soaring through the skies in their engineless crafts also known as gliders.

But, when they're in competition, said William C. Holbrook of Cumberland, Md. "You've got to concentrate on keeping the airplane in the air. It's no time to wax lyrical about the thrills or you'll be down on the ground."

Holbrook, 54, the chief pilot for Kelly Springfield Tire Co., ought to know because he finished first in the derby yesterday and is the holder of the world's "goal and return" distance record—783 miles.

To win the contest, Holbrook had to accumulate more points than any of the other pilots. Points are based on distance flown and on amount of time, with the highest number of points being 1,000 for each leg of the derby.

Out of a possible 8,000 points for the Smirnoff derby, Holbrook won 7,881. He was followed by Hannes Linke at 7,836; Ken Briegleb, 7,775; Karl Striedieck, 6,933; Dan Pierson, 6,091; Ross Brieg, 4,819 and Schreder with 4,603.

In the Smirnoff derby, the sailplanes are towed by powered aircraft to an altitude of about 3,000 feet and let go. The sailplanes are powered mainly by solar energy, soaring on columns of rising air (thermals) caused by unequal heating of the earth's surface by the sun.

"Most of the time, it's relaxing, peaceful," said Striedieck, a pilot for the Pennsylvania Air National Guard. "I got interested in it as a child, going to Hawk Mountain and watching the soaring birds.

"I suppose it's like being a chess player. You think of it (the game) as being such a docile thing, but I'm sure there's a lot of wracking of brains in it. And there is in soaring when you're competing."

From a distance, sailplanes look like seagulls, landing gracefully on one tire although they weigh around 600 pounds. They are so delicately designed that costs range from $4,000 to $20,000.

Competitors in the derby receive no prize money, but Smirnoff does pay expenses up to $3,000 for the pilot and ground crew, plus a $6,000 donation to the U.S. World Team fund for the world gliding championship.

[From the Cumberland News, May 16, 1974]

Holbrook Gets Medal for Winning Derby

William C. Holbrook, Kelly-Springfield Tire Company's chief pilot, was presented a gold medal plus the challenger's certificate at Dulles International Airport yesterday afternoon in the final ceremony of the Smirnoff Sailplane Derby.

Mr. Holbrook, in his first attempt, won first place in the trans-continental soaring contest by a narrow 45-point margin over Hannes Linke, Los Angeles, Calif.

The local pilot had 7,881 out of a possible 10,000 points. Mr. Linke ended the race with 7,836 points, while Ken Briegleg of Adelanto, Calif. had 7,775 points.

Points totals of the other contestants were Karl Striediek, Port Matilda, Pa., 6,933; Dan Pierson, Compton, Calif., 6,091; Ross Briegleg, Las Vegas, Nev., 4,819, and Dick Schreder, Bryan, Ohio, 4,603.

The 2,900-mile derby for motorless gliders ended at Frederick Airport Monday. Contest leaders decided to skip the Latrobe, Pa., stop, and the gliders soared from Akron to Frederick on the final leg of the long race.

Only Dan Pierson was unable to complete the last competitive lap. He was grounded near Latrobe Monday with equipment problems.

Mr. Holbrook's crew consisted of his wife, Sophia, and daughter, Lisa, 19, who were three hours behind the pilot on the Akron-to-Frederick lap. Mr. Holbrook touched down in second place at 4 p.m. and had to wait three hours for his crew to arrive.

Throughout the race, Mr. Holbrook was often the second place finisher on a particular leg, but his overall consistency was good enough to win him the gold medal. His glider was named The Spirit of Cumberland.

Yesterday's final flight from Frederick to Dulles was largely ceremonial in nature.

Mr. Holbrook and his family returned to their home at 408 Washington Street last night.

AMENDMENT TO AGREEMENT FOR COOPERATION WITH SWEDEN

Mr. MONTOYA. Mr. President, on May 10, the Atomic Energy Commission forwarded to the Joint Committee on Atomic Energy pursuant to section 123c of the Atomic Energy Act of 1954, as amended, a proposed amendment to the Agreement for Cooperation with the Government of Sweden. The Agreement will become effective only after it has lain before the committee for 30 days, not including periods during which the Congress is in recess for more than 3 days. The 30-day period for the proposed agreement with Sweden will expire on June 14.

The new agreement makes the following changes, among others:

First. The section dealing with provision of uranium enrichment services no longer constitutes an assurance that such services will be provided. The agreement instead represents an enabling document to allow provision for such services up to a maximum amount;

Second. The agreement now allows transfer of special nuclear material other than U–235, such as U–233 or plutonium, to Sweden; and

Third. The ceiling on distribution is now expressed in terms of the amount necessary to fuel power reactors with a total electric capacity up to 21,000 megawatts. This is equivalent to about 420,000 kilograms of U–235. The previous ceiling was 50,000 kilograms.

Without objection, I would like to enter into the Record a copy of the Atomic Energy Commission's letter of May 10 forwarding the proposed agreement.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Atomic Energy Commission,
Washington, D.C., May 10, 1974.

Hon. Melvin Price,
Chairman, Joint Committee on Atomic Energy, Congress of the United States.

Dear Mr. Price: Pursuant to Section 123c of the Atomic Energy Act of 1954, as amended, copies of the following are submitted with this letter:

a. a proposed amendment to the "Agreement for Cooperation Between the Government of the United States of America and the Government of Sweden Concerning Civil Uses of Atomic Energy", together with a diplomatic note which is regarded as an integral part of the amendment;

b. a letter from the Commission to the President recommending approval of the amendment, including the note; and

c. a memorandum from the President containing his determination that the performance of the amendment (which includes the note) will promote and will not constitute an unreasonable risk to the common defense and security and authorizing execution of the amendment.

The amendment modifies the comprehensive thirty-year research and power agreement, which entered into force in 1966 and expires in 1996. The purpose of the amendment is to revise the provisions of the present agreement governing supply of special nuclear material, principally enriched uranium for fueling nuclear power reactors in Sweden. Sweden did not wish to extend the agreement's term. The purpose of the diplomatic note is to establish understandings with respect to the continued application of certain provisions of the present agreement.

The amendment reflects the Commission's revised policy governing the long-term provision of uranium enrichment services, which was adopted in 1971 and has been reflected in bilateral amendments and agreements negotiated since that time, for example, the Spanish agreement and the amendments to the Agreements for Cooperation with the Republic of China and Japan. Pursuant to this policy, the revised agreement with Sweden would be essentially an enabling document and would no longer represent any kind of supply assurance prior to execution of specific toll enrichment contracts covering reactor projects not contemplated by the present agreement. The amendment also is consistent with the modified Uranium Enrichment Services Criteria published by the Commission on May 9, 1973.

Article I of the amendment sets forth the basic, enabling framework for long-term supply of enriched uranium for fueling purposes. The Commission would be authorized to enter into toll enrichment contracts for supplying power reactor fuel, subject to the availability of capacity in Commission facilities and within the ceiling quantity established in Article III of the amendment. Once customers in Sweden are ready to contract for a particular quantity, they would compete on an equitable basis with the Commission's other customers. Such competition for access to available capacity will, in general, be on a "first come, first served" basis.

Article I continues provision for supply of U–235 to fuel research and experimental reactors. Further, as in the Chinese and Japanese amendments, for example, and in view of the expected commercial use of plutonium as reactor fuel, a new provision has been incorporated (paragraph D) to permit transfer of special nuclear material other than U-235 (i.e., plutonium and U-233) for fueling purposes. The Commission does not plan to be a world supplier of such material, particularly plutonium; rather, Swedish reactor operators would be expected to look to the commercial market to meet needs which arise. Further, paragraph E continues the provision of the current agreement permitting transfer of special nuclear material to Sweden for performance of conversion and fabrication services for third countries.

Article II sets forth conditions governing material supply from the U.S. and use within Sweden. These are similar to conditions in the current agreement and are common to other Agreements for Cooperation. For example, an economic or technical justification is required before the Commission will give consideration to the transfer of uranium enriched to more than 20% in U-235. Further, the Commission would participate in any decision as to where fuel reprocessing shall be performed. Regarding special nuclear material produced through the use of U.S. material acquired under the bilateral, such produced material may be transferred to third countries provided that such countries have an appropriate agreement for cooperation with the United States or guarantee the peaceful uses of such produced material under safeguards acceptable to the U.S. and Sweden.

Article III amends the current U-235 ceiling article of the agreement. Under the revised supply policy mentioned earlier, the U-235 ceiling becomes merely an upper limit on the amount which may be transferred for power applications and does not represent an advance allocation of U.S. diffusion plant capacity for power projects not covered by the present agreement. Following the approach adopted in other recent amendments, the ceiling in the Swedish amendment is based on the total megawatts of nuclear power anticipated to be supported, and it covers a program composed of existing reactor projects and those for which supply contracts are expected to be executed within the next five years. Since the Commission's policy pursuant to the Uranium Enrichment Services Criteria normally requires that initial deliveries of enriched uranium for first core loadings be contracted for at least eight years in advance of such need, the quantity limitation in the Swedish amendment contemplates the execution of contracts calling for initial first core deliveries up to thirteen years in the future. The Swedish power program which would be supported by the amendment totals 21,000 megawatts (electric).

The diplomatic note accompanying the Swedish amendment was requested by Sweden in connection with its acceptance of the new supply policy noted earlier. The note deals with two matters which were raised by Japan in connection with the 1973 amendment to the U.S.-Japan Agreement for Cooperation. The first of these involves the maintenance of the U–235 allocation for Swedish reactor projects identified in the present agreement. The second involves continuation of a U.S. commitment that charges for enrichment services supplied pursuant to contracts executed under the present agreement will be those in effect at the time of delivery for users in the United States. As in the Japanese case, it was recognized that, as a matter of equity, these earlier commitments should be continued. Accordingly, following the precedent of the 1973 Japanese note, the proposed Swedish note establishes the following understandings:

(1) The allocation of U-235 currently established for fueling the Swedish nuclear power program will be maintained for reactor projects identified in the appendix to the Agreement for Cooperation prior to entry into force of the amendment.

(2) With respect to contracts executed prior to entry into force of the amendment, charges for enrichment services applicable to Swedish customers would be those in effect for users in the United States at the time of delivery.

With respect to safeguards, in 1972 the United States, Sweden, and the International Atomic Energy Agency concluded a trilateral safeguards agreement respecting transfers under the Agreement for Cooperation. This trilateral arrangement would not be affected by the proposed amendment. The bilateral safeguards rights of the United States are suspended during the time and to the extent that Agency safeguards apply to transfers under the bilateral.

The amendment will enter into force on the date on which each Government shall have received from the other Government written notification that it has complied with all statutory and constitutional requirements for entry into force.

Sincerely,

——— ———,

Acting Chairman.

MRS. PHYLLIS BROWN MARRIOTT, NATIONAL MOTHER OF THE YEAR FOR 1974

Mr. MATHIAS. Mr. President, it is with some pride that I note that a Maryland woman, Mrs. Phyllis Brown Marriott of Kensington, has been named National American Mother of the Year for 1974 by the American Mothers Committee. To describe the long list of activities and accomplishments of Mrs. Marriott, I defer to a news account from the Associated Press, printed in the Cumberland, Md., Times, May 11, 1974. Her optimism and faith in this nation are still bright, and I am convinced that she represents not only American mothers but all the people of our Nation in this regard. I ask that unanimous consent be granted for the printing of this article in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Kensington, Md., Woman Named 1974 American Mother of Year

New York.—Phyllis Brown Marriott of Kensington, Md., was named the 1974 National American Mother of the Year on Friday by the American Mothers Committee.

Mrs. Marriott received the award at the committee's 59th award week luncheon at the Waldorf Astoria Hotel.

She was selected from among 52 contestants representing the 50 states, the District of Columbia and Puerto Rico.

Mrs. Marriott, who was the representative from the District of Columbia, was born in Ogden, Utah, and attended school there.

In 1939, she married Russell S. Marriott. They have three children—Russell S. Jr., 31, Douglas, 28; and Philip, 25.

Mrs. Marriott also has seven grandchildren.

She has been active in church and community affairs, working for nearly 30 years with young adults in the Church of Jesus Christ of Latter Day Saints—Young Women's Mutual Improvement Association.

Associated with the Boy Scout program for several years. Mrs. Marriott was a member of the executive board of the National Capital Area Council BSA.

She has also participated in Local PTA functions and is a member of the League of Republican Women.

"It's something I've never expected in my life," she said in winning. "When they first told me, I said they had the wrong Mrs. Marriott."

She remained optimistic about the future.

"I have a strong belief in God and I know that he will take care of us." she said. But she added, "There are so many more temptations in the world today" that make it more difficult to raise children.

Mrs. Marriott said she had worked on President Nixon's Inaugural Committee in 1972.

"I did the running errands," she said.

Asked whether she felt President Nixon should resign or be impeached, she responded: "I hope that someday we will all know the truth, but I'm sure everything will come out all right in the end."

ADDRESS BY DONALD C. ALEXANDER, COMMISSIONER OF THE INTERNAL REVENUE SERVICE

Mr. COOK. Mr. President, the Honorable Donald C. Alexander, Commissioner of the Internal Revenue Service, made an excellent speech before the American Newspaper Publishers Association in New York City on April 23, 1974. In the speech, Mr. Alexander presented a status report on the Presidential election campaign fund checkoff during the recently completed income tax filing period and discussed a number of responsibilities of IRS, including expanded service to taxpayers, and the requirement of the law regarding confidentiality of tax return information.

He also discussed the responsibility of the press in reporting recently repeated allegations about the integrity of the IRS, noting that they had been largely refuted months ago in a report by the staff of the Joint Committee on Internal Revenue Taxation.

Mr. President, because I believe that many of the points made by Commissioner Alexander are worthy of our consideration, I ask unanimous consent that the speech be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

Remarks by Donald C. Alexander

(Note.—This text is the basis of Commissioner Alexander's oral remarks. It should be used with the understanding that some material may be added or omitted during presentation.)

I am very pleased to have the opportunity to join this distinguished group of newspaper executives during the 88th annual meeting of ANPA. In the past several months I have appeared on national television as the object of intensive questioning by members of the press, I have been interviewed many times by print-media journalists, I have been telephoned late at night by reporters, and I was almost sued by one major newspaper over a little misunderstanding involving some telephone records.

In fact, during the relatively short period I have served as Commissioner of Internal Revenue, I think I have run the entire gamut of "press relations" as a government official. This is my first opportunity, however, to express my views to representatives of the American press without interruption for approximately half an hour. It is a government official's dream.

A moment ago, I may have sounded as though I disliked being queried by the press. Let me hasten to correct such an impression. I believe I understand as well as any government official the watchdog role that the press serves in our society, that the press is indeed an unofficial fourth branch of government.

I also recognize that in a free society there must be an adversary relationship between the press and the government. Such a relationship is healthy and essential to our form of government. The ultimate beneficiaries are the American people, who do indeed have a right to know—a need to know—what their government is doing if they are to govern themselves effectively. The press serves as their eyes and ears in this continual quest for information.

As Thomas Jefferson said: "Our citizens may be deceived for a while, and have been deceived; but as long as the presses can be protected, we may trust them for light."

The responsibility of the news media in this respect is clear, and certainly the government has a responsibility to be as open and candid as possible, for we as government officials also serve the people.

In recent years, the Internal Revenue Service has become increasingly conscious of its responsibility under our system of tax administration—which is one of self-assessment and voluntary compliance—to assist the taxpayer with the yearly chore of filing a tax return.

Each year, we help millions of taxpayers prepare their returns, answer the questions they have, and even figure out their tax for them in many cases. We now have a toll-free telephone service available to taxpayers in every state. We extend our hours during the tax filing period at the more than 800 offices we maintain throughout the country and we set up satellite offices in shopping centers, store front locations and in mobile vans. We also train volunteers to help elderly and low-income people prepare their own returns. We take great care to tell taxpayers about their rights as well as their obligations under the tax laws.

We have rewritten and have simplified and clarified the language of our form letters, our publications, and other communications we send taxpayers so that they will better understand what is expected of them and what deductions they can take under the law.

These direct efforts must be supplemented by assistance from the Nation's mass communications media. This past filing season, perhaps our most successful in history, was typical from the standpoint of help provided by the press. Our news releases, tax information columns, public service advertisements and other information were carried extensively and in a timely fashion in newspapers all over the country.

There is no doubt in my mind that the success of the Presidential Election Campaign Fund Check-off this year is due in large part to the news reports and editorials carried by the media. We project that more than $25 million will have been designated this year for the 1976 Presidential Election Campaign when all 81 million returns have been processed. When this amount is added to the almost $4 million designated last year, the campaign fund should have a balance of over $29 million by the end of this year.

With continued media help in publicizing the check-off option in the next two years, the balance in the fund should be more than enough to meet the amount required by law to permit public funding of the 1976 Presidential Campaign.

Thus far I have discussed the responsibility of the Internal Revenue Service to help the taxpayer know his rights and meet his obligations under the tax laws. Now let me turn to an equally important responsibility of the IRS, that of guarding the privacy of financial information which taxpayers have entrusted to us, a responsibility which we have often had difficulty explaining to the satisfaction of inquiring journalists.

The IRS is ever mindful that our voluntary compliance tax system depends upon public confidence—confidence that we administer the system fairly, justly and impartially and that the confidentiality of personal and financial information entrusted to us will be preserved.

We are bound by law to limit the disclosure of information from tax returns. Section 6103 of the Internal Revenue Code limits disclosure of tax return information to the States for tax administration purposes, to certain committees of Congress and, under certain conditions, to other Federal agencies.

Under existing law, the unauthorized disclosure of tax return information is a criminal act. Section 7213 of the Internal Revenue Code provides a penalty of one year in jail or $1,000 fine, or both, for the unlawful disclosure of tax returns or financial information related to these returns. I might add that while this provision of the Code governs our conduct at the IRS, the law does not limit the penalty sanctions just to government employees. The Code uses the words "any person." The question may then arise whether this provision might also apply to a newspaper, for example, which publishes information from a tax return without proper authorization. If so, would its application constitute an infringement on the First Amendment rights of the press? Is there a conflict between First Amendment rights of freedom of the press on the one hand, and on the other our duty to enforce the anti-disclosure law and perhaps the Fourth Amendment rights of privacy of American taxpayers?

Even if disclosure were not prohibited by law, the Internal Revenue Service would be bound by a moral obligation of confidentiality. In the process of filing an income tax return, a citizen lays bare to the scrutiny of IRS employees his financial affairs and much personal information. It seems clear to us that this citizen is entitled to a guarantee that his financial nakedness under the law will not be exploited.

This guarantee has not always prevailed under the various tax laws in our history. The Revenue Act of 1924 required Internal Revenue to make available for public inspection lists of individuals who filed returns and the amount of tax they paid. I understand that shortly after it was announced that tax lists were ready for inspection, Internal Revenue offices throughout the country were flooded with requests to see the lists by promoters, salesmen and advertisers.

Two years later, the provision was repealed by Congress. Then in 1934, in the belief that publicity would combat tax evasion Congress authorized the "pink slip" provision, requiring each taxpayer to enter basic income tax data from his return on an extra sheet which anyone could examine at an IRS office. The public terror over the Lindbergh kidnapping had so thoroughly gripped the country, however, that the kidnapping and ransom implications of disclosing taxpayer financial information apparently contribute to repeal of the pink slip scheme before it could ever be implemented.

I think these two experiences indicate the dangers that could arise in regard to publicity of tax return information.

Of course, some political office holders and office seekers have published their tax returns, net worth and other financial information. If they feel that such action is appropriate or advisable, that is their business. They are perfectly free to make such a disclosure. The IRS is *not*, unless the taxpayer has clearly disclosed such information, and even then we limit our comments to the four corners of what has already been disclosed by the taxpayer.

Thus, I am greatly concerned about the overblown rhetoric of recent weeks that the IRS has become a lending library of tax return information. Such an allegation simply isn't true. And I am surprised at the extent to which some of the press seem willing to repeat allegations which were refuted just a few months ago by an organization as highly respected as the staff of the Joint Committee on Internal Revenue Taxation.

For example, a newspaper which reported the findings of the Joint Committee staff last December apparently ignored its earlier story when the stale allegations were dredged up again in April. These allegations, previously discredited, were first treated as fact and then used as fact to supply the basis for an editorial lamenting abuse of the tax system. I would not be surprised to see certain politicians dust off these charges and bring them out each year at the peak of the annual filing season.

You have heard of the enemies lists and that attempts had been made to have the IRS use the lists as the basis of harassing certain people. This old story has been revived as if it were a new development and as if it were fact.

If those spreading this story had looked at the Joint Committee report on the enemies lists, they would have seen that in the case of list 1, the staff found "no evidence that this list ever went to the IRS." In the case of list 2, the Committee staff "found no evidence that any returns were screened as a result of White House pressure on the IRS." It further found "absolutely no evidence that audits of people on the political opponents list were on the average conducted more harshly than normal." The staff found no evidence to indicate that the IRS was "more vigorous in its attempts to collect unpaid taxes" or "in recommending prosecution for tax violations in the cases of political opponents of the White House."

The Joint Committee staff paid particular attention to the cases of individuals mentioned in the press as victims of politically motivated audits and concluded: "In none of these cases has the staff found any evidence that the taxpayer was unfairly treated by the Internal Revenue Service because of political views or activities. If the staff were freed from restraint as to disclosure of information, it believes the information it has would indicate that these taxpayers were treated in the same manner as taxpayers generally."

Regarding both friends and enemies, the Committee staff stated:

"In summary, there are cases on both the friends and enemies lists in which people who probably should have been audited were not audited, in which audits were not done adequately, or in which returns were not filed and no collection activity has been undertaken. Therefore, the Joint Committee staff does not conclude, although it cannot foreclose, that the instances of lenient audits of White House friends were the result of White House pressure on the IRS. As a result, the staff, with the approval of the Joint Committee, has requested further reports from the IRS with respect to certain friends' cases, as well as in the cases of certain enemies."

We are now doing the further work that was requested. And we may find that some mistakes were made; we lay no claims to perfection. But we are trying to do the best and fairest job that we can.

Let's turn to the IRS Special Service Staff, about which there has been a recently reactivated allegation. The Staff was originally formed in 1969 as a result of inquiries made of IRS by the Permanent Subcommittee on Investigations of the Senate Committee on Government Operations. At that time, in the wake of civil disruptions and demonstrations by "extremist" organizations, the Subcommittee raised questions about the financial resources of these organizations. Apparently some of the organizations which enjoyed tax exempt status were not complying with tax requirements. The Staff was to gather information on the sources of funding of these organizations and to check the income tax status of the organizations and their principals.

Just after I became Commissioner, I ordered a study of the Special Service Staff. I concluded that this group was unnecessary and I disbanded it. As I stated last August, the IRS will continue to pay close attention to tax rebels—tax resistance organizations and those individuals who publicly advocate noncompliance with the tax laws—but political or social views, "extremist" or otherwise, are irrelevant to taxation.

Although the Joint Committee staff has not completed its investigation of the disbanded Special Service Staff, the December 20 report provided interim information, stating that it "has found no evidence that individuals about whom referrals of information were made by the Special Service Staff to the Audit, Intelligence and Collection Divisions were treated any more harshly by these divisions than was normal. Indeed, in some cases the IRS seems to have been more lenient than normal with prominent extremists, perhaps in order to avoid the charge that radicals were being persecuted."

However, once, again, when the old charges about the Special Service Staff were repeated recently, a few journalists seemed to pay no attention to the Joint Committee report.

In the recent filing period there were stories quoting a few individuals who could read the minds of 81 million American taxpayers. These seers forecast a wave of noncompliance because of the President's tax situation.

To a few this might sound like a good story and some writers were quick to board the bandwagon. What happened? Our indicators show that the American taxpayer did the same thorough, conscientious job of self-assessment and voluntary compliance as before. There was no wave of noncompliance this year. Perhaps the American taxpayers read the oath they attest to when they sign their tax returns. Perhaps they have too much of a sense of responsibility to their fellow citizens.

Since over 75 percent of the American people receive tax refunds, refund statistics are good indicators of compliance trends. If people were taking all kinds of questionable deductions the average refund this year would have risen dramatically over what we projected. We release statistics every week of the filing period, and these show that the average tax refund, for example, is up only 5.2 percent over last year. We had predicted an increase of approximately 5 percent based on normal economic factors.

I know it is not my job to tell the media how to run their business—it is their job to tell me how to run mine. However, I don't believe it is unreasonable for me to urge even greater effort toward balanced reporting, objectivity and checking of facts. I am sure you agree that the media have a responsibility to be responsible in reporting, for you are the primary outlet for truth to the vast majority of the American people.

We also recognize your right and your responsibility to keep close watch on the government and to comment and criticize when a mistake is made. The IRS makes mistakes and we expect to hear from you when we do. That's your job. And when we hear from you we are probably inclined to move faster to correct our errors.

All of the 75,000 employees in IRS are human. If each of us made one mistake a year, that's 75,000 mistakes. But let's see if the mistake is simply a goof, a matter of poor judgment, or a lack of thoroughness on the part of an employee, and if it is, let's call it what it is.

All 75,000 employees of the IRS, with the exception of the Commissioner, are career civil servants. I know of no other Government agency which has such a high percentage of career employees. The IRS has spent the last 22 years—since its reorganization was approved by Congress—trying to insure a non-political, non-partisan, career service approach toward tax administration, and I believe it has achieved just that.

I believe the Nation has a great stake in better public understanding of how American tax administration works. Such understanding is essential to maintaining confidence in our voluntary compliance tax system.

I sincerely hope that you will give these matters your serious consideration and that you will let me and the IRS have the benefit or your suggestions and views.

YESTERDAY'S OUTRAGEOUS ATROCITY IN ISRAEL

Mr. TUNNEY. Mr. President, the barbarism in the schoolhouse in Maalot in Israel is an outrageous assault on all humanity. Clearly, this most heinous atrocity by Palestinian terrorists, should be repudiated and deplored in every capital, by every government around the globe, including those in Arab countries. Otherwise, the hideous slaughter may provoke the lightning stroke of revenge, and the Middle East again could explode in war.

Our hearts go out to the parents of the slain and wounded youngsters and to all Israel, which so courageously has faced the savagery of terrorist attack. Golda Meir, once again, is the stalwart voice of that nation's indomitable will and courage. Her impassioned cry that Israel will do everything in its power "to chop off the hands that intend to harm a child" reverberates in the conscience of parents around the world.

Hopefully, the massacre at Maalot will not unravel the few fragile threads that Secretary of State Kissinger so far has begun to weave into a tapestry of peace for the Middle East.

Hopefully, Syria and other Arab countries that have encouraged, if not supported outright, the Palestinian terrorists will now reject them and repudiate their bloodthirsty tactics.

Hopefully, they will proclaim their bond with mankind and declare their compassion for the riddled victims in that shattered school.

Hopefully, they will deny support and dispatch police to roundup the terrorists and breakup their murderous camps.

Hopefully, they will do so before Israel, in the heat of her understandable anger and heartbreak, retaliates militarily in order to protect her people and preserve her freedom and independence.

The response to yesterday's horror today lies with the Arab leaders in Damascus and throughout the Middle East.

U.S. SUPPORT TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

Mr. JAVITS. Mr. President, very soon the Senate will vote on S. 2665, a bill which will provide continuing U.S. support to the International Development Association, one of the most crucial components of our multilateral assistance effort. I cannot stress too strongly the importance of favorable action by the Senate, especially in view of the serious problems now being faced by the poorest of the developing countries, those to which the IDA program is directed. The editorial from today's New York Times states the case for IDA so well that I ask unanimous consent, Mr. President, that the editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Commitment to IDA . . .

The sincerity of American concern for the poorer peoples of the world will be put to the test this week, when the Senate votes on a four-year commitment of $1.5 billion to the World Bank's aid affiliate, the International Development Association.

Buffeted between disillusionment with foreign aid and President Nixon's dwindling influence on Capitol Hill, the House of Representatives unexpectedly defeated the Administration-backed I.D.A. authorization last January. It is no exaggeration to say that if the Senate fails to revive the measure now, and by an impressive majority, this effective international institution will be in danger of closing its doors to any new loans just as a time when the world economy is most in need of cooperative ventures.

I.D.A. is neither a "giveaway" nor a mere tool for the advancement of specific foreign policy goals. Two dozen nations contribute, alongside the United States; this country has always been the largest single contributor, but the American share has dropped from 40 per cent to one-third in the current funding. Japan, by contrast, has nearly doubled its share of the total; Germany's pledged contribution has more than doubled.

What makes the Senate's action so crucial is the nervousness with which these other donor countries are watching. Shaken by the adverse House vote, Germany, Japan, Canada and others have indicated that they will not be bound by their pledges if the United States reneges. I.D.A. cannot by itself solve the inflationary and balance-of-payments pressures bearing down across the world economy, hitting the poorest nations hardest of all. But without a strong United States commitment, the hope of inducing other countries to carry their share of the burden will be sorely dimmed.

MANSFIELD AMENDMENT TO FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS

Mr. PERCY. Mr. President, on April 11 of this year I vote against the Mansfield amendment to the Federal Election Campaign Act amendments. The Mansfield amendment would require the General Accounting Office to inspect and audit the tax returns of each employee or official of the executive, judicial, and legislative branch whose gross income for the most recent year exceeds $20,000. The audit would be for the 5 previous years.

On the floor that day I asked three questions. What is the manpower required by GAO to do this? How many employees would this involve? How many millions of dollars a year will this cost? There were no answers available to these questions during the floor debate and I voted against the amendment.

In a letter to me dated May 3, 1974, Mr. Elmer Staats, Comptroller General of the United States, answers these questions I asked. His answers make me feel even more secure in the vote I cast.

Mr. Staats estimates that there are 312,000 employees and officials of the Federal Government whose tax returns would have to be audited under terms of the amendment. The cost the first year would be $105 million for the auditing of the previous 5 years of tax returns and the annual cost thereafter would be $21 million.

Mr. Staats opposes the amendment and states:

> We do not think it is appropriate to require the GAO to perform the auditing work which is already the responsibility of the Internal Revenue Service, particularly in view of the substantial expense involved, and we are, therefore, opposed to the enactment of section 503 in its present form.

Mr. President, I ask unanimous consent that the letter from Mr. Staats outlining his objections to the amendment be printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Comptroller General
of the United States,
Washington, D.C., May 3, 1974.

Hon. Charles H. Percy,
U.S. Senate

Dear Senator Percy: We think you will be interested in the cost to the General Accounting Office to carry out section 503 of S. 3044, the "Federal Election Campaign Act Amendments of 1974," which was passed by the Senate on April 11, 1974.

Section 503 requires the Comptroller General on or before July 1 of each and every year hereafter to make an intensive inspection and audit of the income tax returns filed by each Member of Congress and each employee or official of the executive, judicial and legislative branch whose gross income for the most recent year exceeds $20,000, for the five previous years.

We estimate that at present there are approximately 312,000 employees and officials (including military personnel) of the Federal Government having a gross income in excess of $20,000 per year and therefore subject to the audit requirements of section 503.

We have had no experience in auditing income tax returns. However, we have consulted with the Internal Revenue Service and have found that its experience shows a cost of $66.64 for a detailed audit of a tax return with a gross income range of $10,000 to $50,000. Assuming the GAO could perform its work at the same cost as IRS, we estimate that an audit for one year of 312,000 returns would cost nearly $21 million. To that figure must be added space rental, equipment, travel, etc. We have not been able to make an estimate of the audit of the previous four years. It is conceivable that some economies could be brought about by auditing five years of returns at one time but we have no experience upon which to base an estimate of any economies that might be achieved. Therefore, we have to assume that our estimated cost for one year would have to be multiplied by five to arrive at a figure for auditing each return submitted during a five year period. This would raise the first year audit cost to $105 million plus space rental, equipment, travel, etc.

We do not think it is appropriate to require the GAO to perform the auditing work which is already the responsibility of the Internal Revenue Service, particularly in view of the substantial expense involved, and we are, therefore, opposed to the enactment of section 503 in its present form.

The GAO on its own initiatives has not been able to make any reviews of the audits performed by the IRS of taxpayers' returns. It is the position of the IRS, with which we do not agree, that no matter involving the administration of the Internal Revenue laws can be officially before the GAO and therefore *GAO* has no audit responsibility. The Commissioner of IRS in a letter to the Comptroller General dated June 6, 1968, stated:

"* * * I must note that the (chief counsel, IRS) opinion holds that the Commissioner of Internal Revenue is barred by Section 6406 and 8022 of the Internal Revenue Code from allowing any of your representatives to review any documents that pertain to the administration of the Internal Revenue laws. Thus, Federal tax returns and related records can be made available to you only where the matter officially before GAO does not involve administration of those laws."

We are making some reviews of IRS' operations for the Joint Committee on Internal Revenue Taxation which involve the administration of the tax laws. Under this arrangement the IRS has given us complete cooperation but we are considered as performing work as agents of the Joint Committee rather than performing work on our own initiative.

As an alternative to section 503, the Congress could make it clear that the GAO has the authority to audit the work performed by the IRS and the GAO could then make periodic reviews of the audit performed by the Service on individual income tax returns.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

THE MOST IMPORTANT DIPLOMATIC-MILITARY ISSUE

Mr. SYMINGTON. Mr. President, soon the Congress will consider by far the largest peacetime budget request in its history—and this some $100 billion request is being asked for at a time when it is generally agreed the economy of the United States—its fiscal and monetary position—is in unprecedentedly poor shape and steadily declining.

In this connection, I would hope that "Politics and the Nukes," an article by George Sherman in the Washington Star News of May 13, will be read by all those who later must vote on the military posture of the United States in this fast-changing world.

As ranking member of the Senate Armed Services Committee, as a long-time member of the Foreign Relations Committee, and as chairman of the Military Applications Subcommittee of the Joint Atomic Energy Committee, it is my considered opinion this article could be the most important presentation of the overall problem of just what is true national security that has come out in recent years.

Mr. President, I ask unanimous consent that this article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

POLITICS AND THE NUKES

(By George Sherman)

The beleaguered Atlantic alliance is facing still another challenge these days—growing controversy over the size of the American nuclear stockpile in Europe.

For the first time in more than ten years the pros and cons are being debated publicly over the need to station upwards of 7,000 tactical nuclear warheads on the territory of NATO allies. Whether the imperatives of defense or the chemistry of detente any longer demand such a large nuclear crutch is in dispute.

The spark has come from Sen. Stuart Symington and his Foreign Relations subcommittee on national security commitments. An array of critics, among them key advisers of former Defense Secretary Robert S. McNamara, have testified that NATO no longer needs a nuclear arsenal designed and built for the Cold War days of the 1950's and 1960's.

Alain C. Enthoven, a former "whiz kid" under McNamara at the Pentagon, stated that no more than a thousand warheads are needed in Europe for the limited task of deterring a sudden Soviet invasion of Europe. Both he and Paul C. Warnke, also a former top aide of McNamara, charged that strong conventional forces should be the real focus of Western defense in this age of nuclear equality between the superpowers.

Defense Secretary James R. Schlesinger is clearly on the defensive. He himself has spent much time and energy on both sides of the Atlantic arguing for greater efforts in conventional NATO defenses. He has also become the chief administration architect of turning the U.S. strategic deterrent of long-range missiles and bombers into a more efficient and accurate force for "limited strikes" against Soviet targets in case of an invasion of Europe.

Therefore, the critics can and do ask—why keep 7,000 warheads in Europe, and another—less publicized—8,000 or so tactical warheads in reserve in the continental United States, when no serious planner sees a long intermediate stage between a "conventional" and a "nuclear" war?

To the Symington subcommittee in early April, Schlesinger allowed that the number of U.S. tactical nuclear weapons overseas was "not immutable." It seemed a sharp blow at the status quo. But several weeks later, when visiting the troops in Germany the defense secretary reassured the NATO establishment. A number might not be "immutable," he said, but that meant also it might go either up or down.

The point is that the tactical nuclear problem is as much political and diplomatic, as military. The American stockpile actually visible in Europe—50 percent of it in West Germany—is a guarantee of the United States security commitment to Europe. Any talk of tampering with it, particularly at a moment when congressional pressure remains high for large U.S. troop reductions in Europe, sends tremors through the military and political high commands of NATO.

European officials acknowledge that they are caught in an enormous contradiction. On the one hand, they openly resist the thought that tactical nuclear weapons would actually be used in their homelands. They, like Enthoven, believe studies that show the use of "small-yield" tactical nuclear warheads in a limited nuclear war would cost between 2 million and 20 million lives and result in the virtual destruction of Europe.

On the other hand, the presence of these weapons in Europe gives strong political cement to the alliance. The numbers may be high—some 300 atomic ground mines; 3,000 short-range artillery shells; 500 longer-range surface-to-surface missiles; 2,200 bombs aboard Phantom, Starfighter and other supersonic jet aircraft; 700 surface-to-air missiles; and, 380 nuclear depth charges and torpedos aboard land-based planes for anti-submarine warfare.

Yet the knowledge they are there keeps the United States hostage to Europe. Since few European politicians think tactical nuclear weapons would keep a war limited for long, the weapons become a "bridge" to the big U.S. strategic deterrent against Soviet power.

Furthermore, this arsenal of "nukes" is obviously a bargaining chip in two highly delicate negotiations with Moscow—the talks in Vienna on mutual East-West force reductions in central Europe, and the Soviet-American strategic arms limitation talks in Geneva.

The Nixon administration so far has excluded tactical nuclear weapons from both negotiations. In the SALT talks with the Soviet Union, the United States insists these weapons involve the whole Western alliance, not just bilateral superpower relations. And because of the sensitivity of European allies to a lessening U.S. commitment to Europe, the NATO position in the Vienna talks on force reductions has given proposals to reduce tactical nuclear stockpiles on both sides a wide berth.

If Washington now were to make drastic one-sided cuts in these American weapons on European soil, goes the Schlesinger argument, the Russians would get a free dividend before negotiations are even completed, and disrupt the Western alliance in the process.

Therefore, Schlesinger—with the support of Secretary of State Henry A. Kissinger—has taken a more subtle tack. He is trying to shift the argument away from numbers, by focusing on discovering what tactical nuclear weapons best combine to make the most credible deterrent. The emphasis is on military utility, on efficiency, above all on modernization—of the arsenal—not on its size.

"There are certain classes of weapons in Europe that may have reached the stage in which they're obsolescent or quasi-obsolescent," the defense secretary told newsmen at the Grafenwohr training field last month in Germany.

But changes would be made in terms of "military effectiveness" and in consultation with allies, he continued. "Whether there's an adjustment of 100 weapons up or down should be looked at in terms of its military impact rather than in terms of symbolic and political sensitivities."

At the Pentagon, in the Military Planning Committee at SHAPE military headquarters of the alliance in Belgium, in the Nuclear Planning Group of NATO defense ministers, studies are underway to look at the nuclear force structure and aging weapons.

Ranking American sources insist that the thrust is not toward reduced numbers—although that may be a by product. It is toward fitting this stockpile into the Schlesinger thesis that nuclear weapons—strategic and tactical—only become credible as a deterrent if the Russians are convinced they can be used.

In fact, present Pentagon thinking strongly disputes the Enthoven thesis that the tactical nuclear stockpile in Europe is of largely symbolic importance, perhaps only for very limited use in one or two "demonstration blasts" to convince the Russians to stop an invasion before the war goes all-out nuclear. Top U.S. officials insist that nuclear technology has so improved since Enthoven left government—blasts can be refined and warheads made more accurate—that nuclear artillery and other weapons can be used on the battlefield without destroying Europe.

Furthermore, the argument goes, even if military planners foresee only a limited use of any nuclear weapon on the battlefield or behind the lines, the inventory must contain a large enough variety and in sufficient numbers to give the American president and his allies the widest possible options in a crisis. By this logic, larger numbers, efficiently controlled, guarantee flexibility in crisis management—regardless of how many may actually be used.

A whole array of more modern warheads is also being developed by the Atomic Energy Commission—which Schlesinger headed earlier—and the Pentagon. They range from "dial-a-yield" warheads, allowing a computer to set the strength of blast desired on any particular target, to new television-guided and laser-beam missiles giving far greater precision. Officials stress that "development" of these warheads is different from "deployment"—still years away, if at all, certainly not before the early 1980's.

But Paul Warnke and his fellow critics deplore this development of a new generation of tactical nuclear weapons. They argue not only that the cost would run into the billions, but also that such refinement and accuracy will make the escalation from conventional to nuclear war far easier.

"If the distinction between conventional and nuclear weapons were to be blurred by the introduction of a species of nuclear weapon which is not much morse than a conventional weapon," he told the Symington subcommittee, "then the consequences of breaching the nuclear barrier become less awesome." Once this lower nuclear threshold is crossed, he continued, the escalation to all-out nuclear war remains as certain as ever.

Schlesinger and his school respond that the critics cannot have it both ways. They cannot argue for keeping "some" tactical nuclear weapons in Europe to bolster alliance defenses, and still expect the Russians to take those weapons seriously as a deterrent if they are not programmed for use. More efficient warheads, more precisely targeted, says the official argument, also mean that fewer numbers may be needed—saving both money and a part of the estimated 30,000 U.S. troops now detailed to "guard" the 7,000 warheads scattered around Europe.

"It is simply nonsense to suggest that we are passing these nuclear weapons out to the allies like candy bars," said one well-placed source about the "black-box system" of electronic control for each warhead. "We are perfecting a command-and-control mechanism so that no nuclear weapon can be fired without the direct approval of the President of the United States."

There is also an economic argument for modernizing the stockpile. According to informed sources, plans are being developed at the Atomic Energy Commission to obtain up to $1 billion in enriched uranium for civilian nuclear reactors from outdated 7-inch and 155 millimeter artillery shells to be replaced in Europe. This valuable source of energy will come into the American economy in the early 1980's, when demand for uranium will be at its height.

Thanks to the Joint Committee on Atomic Energy, the AEC has also slowed down and changed design of the two artillery shells set as replacements. They will use smaller amounts of enriched plutonium and will have advanced guidance systems. For this fiscal year, the congressional committee cut $50 million which the AEC had intended to use for production facilities, before the design was completed.

But even the drive for careful modernization is being tuned to the political realities of the alliance. Military arguments are not supreme. Take, for instance, the most controversial of the tactical nuclear weapons, the so-called "Quick Reaction Alert" aircraft kept by the U.S., German, British and allied air forces, with U.S. nuclear bombs, around Europe. Two aircraft on each base, heavily guarded and always ready, are set to be on their way within 15 minutes to major Soviet and East European targets.

Protagonists for nuclear weapons in Europe themselves acknowledge that these "QRA" aircraft may have outlived their usefulness. Soviet intermediate missiles could knock out their bases before they even got off the ground. The short distances in Europe in this jet age, plus the knowledge of the vulnerability of the air bases, critics argue, could lead to premature use of the nuclear bombs in a sudden Soviet invasion.

These critics also find other weapons available to guarantee a nuclear response, if and when necessary—a change which would also release these hundreds of "QRA" jet fighter-bombers for conventional defense. It is argued that existing mobile Pershing tactical missiles (with range up to 600 miles) can be dispersed throughout Germany and fortified against Soviet nuclear attack. More important, perhaps, invulnerable U.S. Poseidon submarines, each with 16 long-range missiles carrying multiple warheads, are already available to hit the same targets as the Quick Reaction Alert aircraft.

Officials acknowledge that this "tactical" use of the Poseidon is perfectly practical, and is under study at SHAPE headquarters. But the QRA planes serve a political purpose which the American submarine can never equal. There they are, the Phantoms and Starfighters, highly visible on German and other allied airfields, being flown by Germans, Americans and others—tangible proof of the allied nuclear deterrent.

"It's good for political cohesion," said a European military planner here. "An American submarine at sea provides no such political demonstration. We will have to think long and hard about the impact of getting rid of the QRA."

So it is with attempts to alter the status quo in the nuclear business. It goes to the heart of the trans-Atlantic alliance. Whatever the arguments for military utility, sooner or later officials and critics alike have to grapple with the political role of keeping tactical nuclear weapons in Europe.

ST. JOHN THE EVANGELIST PARISH BICENTENNIAL

Mr. MATHIAS. Mr. President, 2 years ahead of our Nation's Bicentennial, a nearby parish is marking its own 200th anniversary. St. John the Evangelist Church in Silver Spring traces its founding back to colonial times, and its founder, Father John Carroll, became the first Catholic bishop and then the first archbishop in the United States of America. The Senate of Maryland in its recent session adopted a resolution marking the St. John the Evangelist Parish bicentennial. I ask unanimous consent that the resolution be printed in the Record.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

Senate Resolution No. 158

A Senate resolution concerning Saint John the Evangelist Parish of Silver Spring

For the purpose of congratulating Saint John the Evangelist Parish of Silver Spring upon the occasion of the 200th anniversary of its founding.

Whereas, Saint John the Evangelist Parish of Silver Spring has given two centuries of service to Montgomery County; and

Whereas, Father John Carroll, the founder of this parish, became the first Bishop and the first Archbishop in the United States; and

Whereas, This Parish has the cemetery where Eleanor Carroll is buried, who was the mother of both the Archbishop and of Commissioner Daniel Carroll, whose historical marker was placed on Rosensteel Avenue at Forest Glen Road by the Montgomery County Historical Society. Also buried in this cemetery is Washington's first Mayor, Robert Brent and his wife, Anne, sister of the Archbishop; and

Whereas, The Parish is celebrating this entire year with many affairs; now, therefore, be it

Resolved by the Senate of Maryland, That congratulations be extended to Saint John the Evangelist Parish of Silver Spring upon the occasion of the 200th anniversary of its founding by Father John Carroll; and be it further

Resolved, That copies of this Resolution be sent to Saint John the Evangelist Parish, 10103 Georgia Avenue, Silver Spring, Maryland; and to Mrs. John M. Falcao, 10109 Leder Road, Silver Spring, Maryland 20902.

THE MASSACRE AT MAALOT

Mr. STEVENSON. Mr. President, I was shocked and saddened by the barbaric and senseless massacre of Israeli schoolchildren at Maalot and extend my most heartfelt condolences to these families.

The Senate, by unanimous passage of a resolution which I cosponsored, has urged the President and the Secretary of State to call upon all governments to condemn such acts of inhumanity, and to urge all governments to take action against those who subvert the search for peace by means of terrorism.

The tragedy at Maalot gives new urgency to Secretary Kissinger's efforts to negotiate a peaceful settlement between Israel and her neighbors. But we cannot hope for lasting peace in the Middle East until the Arab nations join all other nations in putting an end to the acts of terrorism which affront human decency and the standards of civilized conduct.

NATIONAL HEALTH INSURANCE—FACT VERSUS FICTION

Mr. HANSEN. Mr. President, a number of us in the Congress look forward to the coming debate on national health insurance. It is important to have public participation in this debate. Every group interested in solving our health care problems has a right and a duty to offer its solutions to problems of health care delivery. These groups will help focus attention on the important issues to be resolved.

But if this discussion is to be of value to the public and to those of us who legislate national health issues, the information and the debate must be factual. It does us no good to appeal to emotionalism. Such a course of action does not help solve the problem.

Thus, no useful purpose is served by printed material which distorts misleads, and tells only part of the story. I have seldom seen or read as many misstatements in one document as there are in a pamphlet distributed by the Committee for National Health Insurance, a pamphlet designed to help promote the Health Security Act (S. 3).

This pamphlet is entitled, "Health Security Program Questions and Answers." It was prepared by the Committee for National Health Insurance and was evidently widely distributed as part of the committee's lobbying for the Health Security Act.

I would hope that in the future the Committee for National Health Insurance would be more accurate in its communications so that it contributes to the debate rather than to the confusion that misleads the public.

Let me cite some of the distortions and misstatements in this booklet:

First. The booklet says:

> If you checked it out, you'd find that in the past ten years, doctor and hospital bills have gone up 145% while the overall cost of living rose only 36%. In fact, the average American today works about one month just to pay his medical bills.

Fact: While hospital bills went up at this rate for the 10 years prior to 1971, physician bills did not. In fact, physicians' fees increased on the average about as much as other services recorded by the Consumer Price Index, and only slightly above the "all items" index listing.

In addition, under phases I, II, and III, and IV, the health sector has outperformed every other sector of the Consumer Price Index in holding down increases. Here are the facts:

From August 1971 through December 1973, the Consumer Price Index increased 13.3 percent. The "services" category increased 11.2 percent. The "medical care" category increased 8.7 percent. "Physicians' fees" increased only 7.3 percent.

Furthermore, according to the Statistical Abstract—1973, the average income of an American worker in 1971 was $6,195. This amounts to $516 per month. The U.S. Department of Health, Education, and Welfare and Social Security System cite the average American's health cost in 1971 to be $361.

Obviously in 1971 the average American actually worked only a little over one-half of a month—18 days—to pay for his health costs. It can be safely said that the average American now works 18 to 20 days a year for health costs—hardly the 1 *month* cited by the pamphlet.

Second. Booklet:

> Can those who manage private health insurance do something about controlling costs? No.

Fact: The ability of the private health insurance companies to hold down costs was demonstrated during the recent experience of wage and price controls. According to a survey of rate increases from January to July 1973, representing 55 percent of the group business in the United States, the weighted average rate increase was 3.2 percent. In comparison, during the phase II period surveyed a year previous, the average increase was 7.8 percent. If they did it once, they can do it again, and I hope and trust that they will.

The ability of the private health insurance industry to voluntarily control unnecessary costs was adeptly demonstrated by the Blue Shield's medical review plan in California. This utilization review plan has saved Blue Shield subscribers $100 million a year. It has resulted in $9.1 million in fee reductions.

Third. Booklet:

> Have private health insurance managers done anything to control rising costs?
>
> No. Insurance is actually driving up costs in several ways. For example: most people with private health insurance are covered only when hospitalized. So, the tendency is to put you in the hospital for treatment which often could be given at home or in the doctor's office. Because hospitalization is much more expensive than outpatient treatment, unnecessary hospital stays drive up the total cost of health care—including the premiums you pay for health insurance.

Fact: Not only has an increasing proportion of care been given on an outpatient basis, but health insurers have increasingly extended the coverage of health insurance policies to include payment for more outpatient care.

For every patient admitted to a hospital in 1972, there were nearly seven visits by outpatients. The ratio of outpatient visits to hospital admissions has been growing for some years and shows no signs of reducing.

A a result of the use of outpatient facilities and the decreased use of inpatient care, one out of four hospital beds stood vacant during 1972 in non-Federal short-term general hospitals. Even in long-term hospitals the occupancy rate was only 83 percent.

Five years ago Blue Cross paid more claims for outpatient services than for hospital admissions for the first time in its history. This trend has continued since then. Most member plans of the Blue Cross Association now provide coverage for preadmission hospital testing in order to reduce hospitalization and the cost to the patient. A study by Blue Cross at Baltimore's Sinai Hospital indicated that this preadmission testing resulted in an average savings of 1.4 days of bed care for each Blue Cross patient who used it.

Fourth. Booklet:

> We lag behind most industrial countries in the usual measurements of health care and we're worse off—by comparison—than we were 20 years ago. What are the facts of the lag?
>
> They are shown by statistics comparing such things as infant deaths and life expectancy on a country-by-country basis. The most recent statistics available show the United States ranks: 15th among industrial countries in the death of infants during the first year of life; 27th in life expectancy of males and 12th among females; 28th among industrial countries in the life expectancy of its males at 45.

Fact: First of all, what are legitimate measurements of health care? It is not fair to judge the health status of a nation on such factors as infant mortality and age expectancy.

It is true that the infant mortality rate is higher among blacks, but most health authorities agree that this is not due solely to medical care or the lack thereof. It is also due to problems common in the urban ghetto such as poor sanitation, absentee landlords, inadequate sanitation facilities, trash, rubbish and litter accumulation, poor education on health, inadequate transportation, and other socioeconomic reasons.

I quote from a study made recently by the American Medical Association:

> The infant mortality rate is not the best, or even a good indicator of the health status of a nation or the efficacy of a nation's health delivery system. *Infant mortality is, for the most part, a social rather than a medical problem.* Such factors as poverty, malnutrition, poor housing, low education levels, and racial or ethnic differences are surely much more highly correlated with infant mortality than such factors as the number of physicians or hospitals.

The study concludes:

> The infant mortality rate has been misused and misinterpreted for some years. It is time to dispel the idea that it is a valid indicator of the health status of the U.S. population. It is not. If we are to properly evaluate the health status of the population and the efficacy of the health delivery system, a broad set of data, probably summarized into a weighted index, should be used.

The important facts are that the infant mortality rate has been decreasing steadily and the life expectancy rate has been increasing steadily. This should give us reason for a minimum of concern.

Fifth. Booklet:

> What are some of the other elements of the health care crisis in the United States?
>
> We have health personnel shortages of nearly 500,000—including 50,000 doctors, 20,000 dentists, 150,000 nurses and 280,000 other health specialists and professionals. By 1980, the shortages are expected to climb to 725,000.

In contrast to the assertion is a statement made by Dr. Charles C. Edwards, Assistant Secretary for Health in the Department of Health, Education, and Welfare, that a $3.5 billion governmental program to alleviate the doctor shortage had eased the doctor shortage during the last 10 years and now threatens to create a doctor surplus. Accordingly the program may be cut. Another study issued by the Association of American Geographers of Washington, finds that the problem is more one of maldistribution that shortage. It traces many of the roots of the maldistribution problem to "Federal medical programs that are indirectly fostering a widening gap between doctor-poor inland States and doctor-rich coastal States."

Furthermore, according to a 1972 Gallup survey, 84 percent of the American people have at least a "fair amount" of confidence in their ability to obtain good health care. Only 3 percent expressed that they had no confidence at all. That represents a problem still, but not of the proportions purported in the pamphlet.

Sixth. Booklet.

> Why do we have a doctor shortage? Since 1950, the ration of physicians to patients has gone up slightly. But, many doctors have gone into vital areas of research and other pursuits. So, the actual number treating private patients has gone down by about 10 percent, compared to the total population. Today, the number of doctors providing family care is only about one for 2,000 people as compared to three for 2,000 in the 1930's. Part of the reason for this is so many new

doctors have gone into the specialties in recent years and not into family practice.

Fact. First of all the ration of physicians to patients has gone up more than "slightly." The ration of physicians (M.D.'s) to population shows progress as follows:

1960	146 per 100,000
1971	163 per 100,000
1980	180 per 100,000

The physician population has grown 28 percent since 1960 while overall population is up 14 percent. The physician increase rate has grown two times faster than the population growth rate.

The pamphlet uses the phrase "number of doctors providing family care." Apparently this is supposed to show that only one-third as many physicians are providing care to families now as in the 1930's. Not only is this a gross misstatement of fact as the figures above clearly show, but apparently it is an attempt to mislead the American people about the very real progress that is being made in producing physicians. By using the phrase "number of doctors providing family care" the pamphlet perhaps is trying to make some comparison between the number of general practitioners in the 1930's and now. It is true that many physicians in recent years have gone into specialties other than family medicine. As we learn more about treating various diseases and illnesses, physicians must specialize in order to provide the miracle cures which we are now fortunate enough to have. But to try to stretch the fact that there are fewer "generalists" and more specialists into a statement that fewer physicians are treating families is misleading in the worst way. Certainly the specialists treat families just as do the family physicians.

The fact is that there are more doctors taking care of patients today than ever before.

As for a geographical maldistribution of physicians, it is certainly true that there are more in the metropolitan areas and in the pleasant Southern and Southwestern climates. At the same time, this is a reflection of the growth of the country.

I do not mean to imply that there are not distribution problems. There are. This is why the Congress passed the National Health Service Corps. This is why there are a number of bills before the Congress sponsored by individual members—and in one case drafted by the AMA—to focus attention on the shortage of physicians in many rural areas.

Seventh. Booklet:

How would Health Security do this? (Answer the crisis)

It would:

Control costs by setting limits on fees and requiring approved budgeting for hospitals and other institutions, thus controlling overuse of hospitals and forcing greater efficiency.

Create alternative health care plans for people all over the country...

Increase our manpower and other resources.

Impose quality safeguards to eliminate unnecessary surgery and limit doctors to providing only those services they're qualified to provide.

Give the consumer an equal voice in arranging for better health care services.

Fact: H. L. Mencken said:

For every human problem there is a solution that is simple, neat, and wrong.

This could certainly be said of the pamphlet's description of how the Health Security Act would answer "the crises" which this pamphlet describes.

First of all it is unrealistic to think that costs can be controlled simply by setting limits on fees and hospital charges. While this may work in the short run, it is only commonsense that in the long run it will lead to poorer quality of care. Hospitals and physicians would naturally try to see or handle more patients in the same amount of time in order to stay abreast with rising price for everything they buy. This leads to impersonal, assembly-line medicine.

A committee of the Congress affirmed this in a recent report which stated that a fixed fee for prescription services provides no incentive to improve the quality of services provided, especially the extra services which a pharmacist tries to provide. The report says that a fixed fee drives out innovation.

It is obvious also that setting arbitrary limits on charges will have an adverse effect on the productivity and use of allied health personnel. For instance, if physicians cannot offer salary increases to their employees they will lose some of their employees and be forced to provide those services themselves, which is an inefficient use of highly trained and expensive manpower.

In other words, arbitrary cost ceilings are a disincentive manpower.

In other words, arbitrary cost ceilings are a disincentive to increase production.

And finally, historical precedent shows that such arbitrary cost controls have never worked. They did not work in Rome, nor in Nazi Germany, nor during the American Revolution.

As far as the claim that the Health Security Act would create "alternative health care plans" the Congress recently passed a multimillion dollar HMO bill to do just that. Many of us question whether such a bill was even necessary, since the private insurance industry and the Blue Cross/Blue Shield are moving vigorously into the prepaid field without Government subsidy. In addition, many medical schools, medical clinics, universities, consumer groups, and other institutions are also active in starting HMO's as are many major American corporations.

In regards to the claim that health security would increase our manpower, the Congress has provided aid to medical schools and other professional health schools for over a dozen years. Private efforts are underway which will greatly expand the medical personnel of the country. In fact, as noted earlier, surpluses are envisioned by some. It does not appear that we need the Health Security Act to duplicate present efforts.

The claim that the Health Security Act would impose quality safeguards is a duplication of the purpose of the professional standards review organizations. The organizations are being formed voluntarily around the country now, and it is their job to safeguard the quality of medicare and medicaid, and may ultimately extend beyond to all hospital and ambulatory care. Such organizations incorporate physician participation on a local level in the review process, something never envisioned by health security.

As for giving the consumer an equal voice, other national health insurance bills would probably give the consumer as much or more choice of the type of care he receives and the setting in which he receives it than the health security system. A voluntary pluralistic approach insures more consumer freedom and participation than a single, rigid, monolithic governmental system, run by bureaucrats.

Eighth. Booklet:

How would the program be financed?

The costs would be met by contributions—in the same way Social Security now operates—from you and your employer, from the self-employed and from the Federal Government.

The Health Security contribution for employees would be one percent on the first $15,000 a year in wages or non-earned income. . . . Your employer would pay 3.5 percent of his payroll toward Health Security. . . . Self-employed people would pay 2.5 percent of all yearly income to $15,000. The total amount paid by workers, employers and the self-employed would be matched by the Federal Government. . .

Fact: Nowhere is this booklet more deceiving than in its discussion of the financing of the Health Security Act.

May I point out that by the time the listed taxes are matched by the Federal Government, it will be costing the American worker a total 9 percent tax. That is $900 on an average family income of about $10,000 a year.

Again, what the booklet fails to tell you is that HEW has estimated that the new taxes called for under the Health Security Act would be woefully short of meeting the expenses. The study estimated that the new taxes would fall $24.6 billion short of paying the bills.

Comparable foreign health plans, such as the British National Health Service, have far outstripped even the most liberal expenditure estimates. The cost of the National Health Service in Britain today has risen 11 times the original estimated cost. This may be traced to administrative bungling and inefficiency and over-utilization inherent in any such plan.

The Health Security Act is not self-supporting; it is not social security; it is a mishmash of financing which would leave the program billions of dollars short of paying for medical care it promises Americans. It would require heavy new taxes and add many billions more to the national debt.

Ninth. Booklet:

It isn't necessary to tear down the present structure in the United States.

Fact: The Health Security Act would destroy an industry that provides jobs to hundreds of thousands of people—the health insurance industry. The Social Security Administration reported recently that health insurance is a better buy today than it has even been, because more of the premium dollars paid by the public are returned in benefits than ever before.

Most national health insurance plans offered in the Congress would build on this private insurance. Most would assure that benefits are improved and standardized and that the Federal dollar helps pay for the care for those who cannot afford it.

The Health Security Act would destroy this industry and all of the jobs that it provides. It would take from the States and cities all of the taxes that this industry provides. It would replace it with a mammoth bureaucracy supported by the taxpayers.

With 9 out of every 10 Americans covered in some way by private health insurance, and with 90 percent with hospital expense coverage, I see no reason why this coverage should be duplicated or replaced with a governmental insurance policy.

Ten. Booklet:

> The solution (to the health crisis) must *get at the* very roots of the crisis by attacking the inadequate service, the manpower and resources difficulties and the soaring costs.

Fact: I submit that the "roots" of our present-day health problems are not near as much organizational and administrative as they are social. It would seem logical to say that if the American people practiced better health care habits, many of our most serious health problems would be solved. The health care practices of individuals are related to social and moral values of human dignity, personal responsibility, and concern for others. These are the "root" problems, and national health system must deal basically with these aspects.

To say that the problem of health care in America today is the high cost of health care services, and then to propose a system of reform based solely on financial considerations is not realistic in the long-range and universal scope of health care. To propose measures to alleviate maldistribution of health care services without also considering the effect of such measures on other vital components that contribute to good health, will be at best a superficial and temporary relief. To proclaim that health care will be basic right henceforth gratuitously bestowed upon every individual regardless of merit, without considering the ramifications of this type of health care system upon other, more basic and vital considerations such as freedom, self-reliance, responsibility, and moral values, is reminiscent of treating symptoms and not the basic problem. Physicians today treat the symptoms of the common cold, but are unable to treat the root cause, as they are unfamiliar with the diagnostic methods to control viruses. Only an approach at the "roots" of our health care problems will be realistic and successful in curing the illness.

And these roots lie in the realm of encouraging people to be responsible for their own health, to work, to improve their condition, and to practice preventive health care habits. The way to help the poor is not to do it for them, but to help them do it themselves.

The idea of giving every American "free" health care benefits is fundamentally at cross-purposes to the larger goal of improving his life condition. To propose an approach that does not encourage traits of self-reliance is to defeat the intended purpose. Dependence upon the Government, the suppression of individuality, incentive and dignity—in short the ethic of getting-something-for-nothing—is encouraged by such sweeping promises.

We must not lead the American people into false expectations, which when not met, will only promote further disillusionment and discontent.

DEMOCRATIC GOVERNORS ENDORSE TAX CUT

Mr. HUMPHREY. Mr. President, I ask unanimous consent that a resolution in support of tax relief for those in low-, middle-, and fixed-income **brackets**, which was unanimously endorsed on April 22 by the Democratic Governors Caucus, be printed at this point in the Record.

I also request that a letter from Gov. Wendell H. Ford, of Kentucky, transmitting a copy of this resolution to me, be printed in the Record

Mr. President, I am very pleased to learn of the Democratic Governors support for this kind of a tax cut. I fully support such inflation relief for those who have been hardest hit by soaring prices.

There being no objection, the material was ordered to be printed in the Record, as follows:

Office of the Governor,
Frankfort, Ky., April 25, 1974.

Hon. Hubert H. Humphrey,
Old Senate Office Building,
Washington, D.C.

Dear Senator Humphrey: On Monday, April 22, Democratic Governors who met in Chicago unanimously endorsed the enclosed resolution which I proposed in support of tax relief for those in low, middle and fixed income brackets. We strongly urge your favorable consideration, especially at a time when the economic structure of this nation continues to be imperiled because of improper economic management by the national administration.

Attention to those already carrying an unfair tax burden is imperative. As Governors we can be the conduit which transmits the voices of those most adversely affected, and assure you of your full support of a program designed to achieve corrective results.

Sincerely,

Wendell Ford.

A Resolution

Whereas, the present national administration's domestic policies have led to the highest inflation rate since the early 1950s; and

Whereas, the country's rate of economic growth has now experienced its sharpest decline in sixteen years; and

Whereas, tax reform and relief have annually been the lowest priority of the present national Republican administration; and

Whereas, this country is now in a borderline recession with no foreseeable prospects of a reversal under the present Republican economic domestic policy, and

Whereas, this continuing and worsening economic stagnation has led to an unprecedented burden on those citizens of middle, low and fixed income,

Now, therefore, be it resolved, that the Democratic Governors' Caucus go on record as supporting the immediate action by the United States Congress to grant tax relief to those citizens adversely affected by this unprecedented inflation through selected tax credits or exemptions, thus relieving the burden on those most harmed by inflation; and thereby stimulating the national economy through job creation and a stronger flow of dollars into the national economic mainstream.

HAWAII SENATE SUPPORTS ARIZONA MEMORIAL MUSEUM

Mr. FONG. Mr. President, the Senate of the State of Hawaii has recognized the efforts of the Fleet Reserve Association, Hawaii Branch 46, to establish the Arizona Memorial Museum.

The Arizona Memorial was established earlier at Pearl Harbor in memory of Americans who gave their lives in the Pacific theater of war.

In a resolution adopted April 9, 1974, a copy of which I have just received, the Senate of Hawaii extends best wishes for success to the association on its museum project.

I ask unanimous consent to have the resolution printed in the Record.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

Senate Resolution

Extending best wishes to the Fleet Reserve Association, Hawaii Branch 46, on their efforts to establish the Arizona Memorial Museum

Whereas, the Fleet Reserve Association is a nationally organized nonprofit association of retired and active Navy, Marine Corps, and Coast Guard personnel, dedicated to the principles of loyalty, protection, and service to God, country, and shipmates and their families; and

Whereas, the Fleet Reserve Association has a membership of more than 92,000, and 296 branches located throughout the United States and abroad; and

Whereas, the local branch of the Fleet Reserve Association, Branch 46, chartered in March 1940, has pledged membership, manhours, and funds to assist in community projects in the Pearl Harbor area and in 1966 accepted as a continuing branch project the task of assisting in upkeep and improvement of the Arizona Memorial; and

Whereas, in 1967 the Branch solicited and received donations from all other Fleet Reserve Association branches the amount of $5,800 for the construction of a one-eighth scale model of the U.S.S. Arizona, which is now installed on the Memorial; and

Whereas, the Fleet Reserve Association, Branch 46, has recognized the need for a shoreside facility to accommodate the ever increasing numbers of persons desiring to visit the Arizona Memorial, a facility appropriate to the memory of those thousands of Americans, civilian and military, who gave their lives in the Pacific theater of war; and

Whereas, Branch 46 has established the Arizona Memorial Museum Foundation, an incorporated group dedicated to raise $6,000,000 through public solicitation to develop and construct such a shoreside facility consisting of a museum and observation tower within a park setting, and designed as a multi-purpose complex serving the needs of the general public; and

Whereas, every penny of the collected funds will be turned over to the Secretary of the Navy for construction of the facility on donated land (approximately 11.3 acres); now, therefore,

Be it resolved by the Senate of the Seventh Legislature of the State of Hawaii, Regular Session of 1974, that this body extend its best wishes for success to the Fleet Reserve Association, Hawaii Branch 46, on their efforts to establish the Arizona Memorial Museum; and

Be it further resolved that certified copies of this Resolution be transmitted to the Hawaii Congressional Delegation, the National Headquarters of the Fleet Reserve Association, and the Hawaii Branch 46 of the Fleet Reserve Association.

VETERANS AND EDUCATION

Mr. CLARK. Mr. President, in many States a veteran seeking a college education today faces severe financial obstacles. He certainly is at a serious disadvantage in comparison with his World War II counterpart. While every veteran of World War II could command a 4-year public education, today's veteran can do the same and still have enough money to live on—however marginally—only if he attends a public college with a tuition charge equal to or below the national average of $419.

On the $220 a month provided by the GI bill for the 9-month school year, today's veteran cannot even consider attending a private school, where tuition, books and fees average about $4,300 a year. By contrast, World War II veterans attended private colleges in great numbers.

Veterans in many States, including Iowa, even have problems financing their education if they attend State schools. At the University of Iowa, for example, where the 1973–74 tuition rate for State residents was $620 and the average cost for books was $216, the veteran would have a mere $127 a month left for living expenses. This adds up to $31.75—hardly a significant sum in these days of record inflation.

The higher unemployment rates for veterans also means that today's veteran has a much more difficult time making up the difference between GI bill benefits and a reasonable monthly earning to support him and his family. According to a recent Harris survey, commissioned by the Veterans' Administration, the number of unemployed veterans reached a level of 15 percent, with 21 percent of all black veterans unemployed and 31 percent of veterans with less than a high school education unemployed. By contrast, the post-World War II years were years of full employment.

Mr. President, Representative Neal Smith, Democrat of Iowa, recently addressed himself to these problems in testimony before the House Veterans' Affairs Committee. His comments appeared in a May 8 article of the Des Moines Register by George Anthan. I ask unanimous consent to have this article printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Des Moines Register, May 8, 1974]

Smith Charges GI Benefits Are Lacking for Iowans

(By George Anthan)

Washington, D.C.—Representative Neal Smith (Dem., Iowa) charged Tuesday that "all we have is a GI bill for those veterans who live in California" and he said relatively few former servicemen in Iowa are able to take advantage of federal education benefits.

Smith told the House Veterans' Affairs Committee that in Iowa, as in many other states, many Vietnam-era veterans are unable to utilize the GI bill's education aid because of high tuition costs and because schools are in small towns where job opportunities are limited.

Smith said 19.2 per cent of Iowa's Vietnam-era veterans are attending colleges or universities compared with some 38 per cent in California.

His argument before the committee touches on a basic complaint of Vietnam-era veterans—that their GI bill benefits are too meager and cover only a fraction of the cost of going to a college or university in most states.

Smith noted that the basic GI benefit of $220 a month for the nine-month school year probably is adequate in a state like California where public education is virtually free.

But he said the amount is inadequate to cover tuition and costs at Iowa's three state universities and falls far short of the amount needed at any private college.

The Veterans' Administration (VA) has emphasized that across the U.S. 24 per cent of Vietnam-era veterans are taking advantage of the GI bill and going to college compared with 15 per cent following World War II.

But Smith and other critics of the current veterans aid program content that college education is not so rare now as it was in the 1940s, when only about 7 per cent of Americans in the 20s had attended an institution of higher learning. They say a college education is now considered a virtual necessity for entry to many jobs.

Smith told the committee, "It is clear that institutions of higher education are going to depend more and more upon tuition to pay the cost of operating the institution and that tuition rates will rise on an annual basis at a considerably greater rate than the cost of other services in our society.

"The only way to be fair to these veterans and to provide the increases in the amounts that are needed at the time they are needed is to authorize payment of tuition in whatever amount an institution charges students, in addition to other veterans benefits designed to cover non-tuition items."

Smith actually advocates a return to the post-World War II GI bill.

At that time, the federal government provided that a veteran could go to school anywhere he chose—from Harvard University to a small stȧte college—and the government would pick up the entire tab for fees, books and tuition up to $500, which covered costs at most schools, including Harvard.

The single veteran also received $75 a month for living expenses and slightly more if he had a family. As result, veterans flocked to colleges and universities, especially the prestigious ones. For example, Harvard's enrollment in 1947 was almost 60 per cent veterans.

The system was changed in 1950 after it was found some schools were increasing their tuitions to the government maximum.

In any event, the $1,980 a veteran now receives for tuition, books, fees, rent, food and other expenses would hardly cover costs at Harvard, where the tuition, room and board will cost $5,700 a year this fall.

Smith said the U.S. education commissioner estimates it will cost $4,300 a year to attend the average private college, with expenses at public institutions averaging $1,600 less.

"Most veterans," said Smith, "are not able to attend a public institution for various reasons . . . including family relationships, the wife's place of employment, special school problems for the youngsters and other matters which are much different for adult veterans than they are for a young man or woman who just graduated from high school.

"Timidity, procrastination and plain lack of concern by the U.S. government on this matter is something for which the Congress must accept a share of the blame. Although the administration has been for even less than the Congress has been willing to provide, that is no excuse for not going forward with an adequate bill and at least trying to pass it, and if necessary, over a veto."

Smith, sponsor of a bill to pay full tuition and other education expenses of veterans, said, "Through the draft these young men were forced to serve at far less than they could have made in private employment . . .

"We don't really have a national GI bill. And we won't have until or unless we go back to the World War II approach."

HISTORIC PRESERVATION WEEK AND THE CHICAGO SCHOOL

Mr. PERCY. Mr. President, last week was Historic Preservation Week, sponsored by the National Trust for Historic Preservation and affirmed by the Senate. I was very pleased that Historic Preservation Week was observed nationally, for, having been reared in Chicago, I am particularly dedicated to the preservation of historic structures. Chicago can rightfully boast of one of the proudest architectural traditions in America, and I have had the good fortune to spend much of my life among many of the historic landmarks of the 19th and 20th centuries.

I know many Americans are familiar with Chicago's reputation as the home of a unique display of fine architecture, and many have heard the term "The Chicago School." I feel, however, that many people are unaware of the actual characteristics and landmarks that make up the Chicago School. I am pleased to have the opportunity to bring to public attention some information on this subject.

The Commission on Chicago Historical and Architectural Landmarks marked last week with the publications of first issue of its newsletter, the Landmark News, which contains an excellent brief analysis of the Chicago School. I ask that it be included at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Chicago School: What Is It?

In many ways, Chicago is the birthplace of modern architecture. Important new building techniques and styles were pioneered here in the late 19th century, thus the name Chicago School of Architecture. These innovations, as revolutionary as any in this history of architecture, led directly to the development of today's skyscraper.

After the 1871 fire, the people of Chicago quickly replaced their burned buildings; new office buildings sprang up one after another in the rapidly-growing business district. Most had walls of masonry (brick or stone) that bore the entire weight of the structure. As a result, buildings were rarely taller than eight or ten stories; their walls were thick and heavy, with small openings for windows.

The first major step in the development of a new structural technique was taken in 1879, when an architect-engineer named William LeBaron Jenney designed the first Leiter Building. The interior floor loads of the Leiter were supported by timber joists and girders. The joists in turn were supported by cast-iron columns. A brick facade rested in front of, but was not structurally integrated with, the load-bearing columns.

The real breakthrough—a true integration of the facade with the supporting beams—came in 1884 with Jenney's Home Insurance Building. It was the first to be constructed with an iron frame.

A skeletal framed building is built of iron or steel beams which form a three-dimensional, cellular grid of rectangles. The outer walls of such a building are formed by filling in the rectangles with glass or brick, forming a sort of curtain that has no supporting function of its own—thus the often-used term "curtain wall construction."

The framed, or skeletal construction, was to have two important results. With outer walls non-supporting, arhitects could build higher buildings than ever before. Second, the walls now could be opened up with large windows to allow more light inside the building. As the noted architectural historian Carl Condit explained:

"In a framed building the curtain wall has only a protective function. A finished building of *skeletal* construction can be reduced to nothing more than a framework covered with glass, as many today are."

The development of framed buildings saw a new type of window which was designed to fill the now-large spaces between exterior grids. Known as the "Chicago window," it is horizontally elongated and divided into three sections. The two outer sections are double-hung windows of much narrower dimension than the center pane, which is a wide solid sheet of fixed glass.

The giants of "Chicago School" architecture—Dankmar Adler, Louis Sullivan, John Wellborn Root, Daniel Hudson Burnham, William Holabird, Martin Roche—all trained in Jenney's office. By around 1890, these men began to recognize and develop the artistic possibilities inherent in the new functional architecture. The architectural design of a building could directly express the building's cellular steel frame. When construction and architecture were fused into a single expression, technology and art became one.

Prime illustrations of fully-developed "Chicago Style" buildings are among Chicago's most cherished structures. Examples are Jenney's 1889 Leiter II Building (now Sears, Roebuck & Co.); Holabird and Roche's 1893 Marquette Building and the 1895 Reliance Building of D. H. Burnham & Co. (both proposed to the City Council for landmark designation); and Louis Sullivan's Carson Pirie Scott Building of 1899 (a designated "Chicago Landmark").

MINNESOTA ORGANIZATION RECEIVES 1973 NATIONAL VOLUNTARY GROUP AWARD

Mr. HUMPHREY. Mr. President, the Town View Improvement Corp. of Duluth, Minn., was recently honored by the National Center for Voluntary Action with the 1973 National Volunteer Group Award.

This unique nonprofit organization has carried out an effective program of rehabilitation and construction of housing for low and moderate income families.

Mr. President, I have always been very proud of the community-mindedness of Minnesotans—of their interest in and deep concern for other people and for their environment. The Town View Improvement Corporation exemplifies the best of this community-minded tradition.

It is with great pride that I bring this organization and its achievements to the attention of my colleagues.

I ask unanimous consent that a brief summary of their accomplishments be printed at this point in the Record.

There being no objection, the summary was ordered to be printed in the Record, as follows:

1973 Group Winner—Town View Improvement Corp., Duluth, Minn.

The problems of a deteriorating central city are familiar. Disturbed by what they saw in Duluth, Minnesota—old houses, once elegant and now decaying, half empty schools and other facilities, a departure of all but the poorest to the suburbs—a group of women decided to do something about it.

From their determination developed the Town View Improvement Corporation, a nonprofit organization managed entirely by its 17-member Board of Directors, all women, and all unpaid. Their efforts resulted in an uniquely successful rehabilitation and new construction of housing for low and moderate income families.

Town View was organized in 1968. Its founders were motivated by an unwillingness to see a core city abandoned by all but the poorest of families. Impetus came with passage of the Federal Housing Act of 1968 for housing assistance to low and moderate income families.

Central city deterioration, a depressed economy and a high rate of unemployment had resulted in very little development, either commercial or residential, in Duluth's central city in the mid-sixties.

To correct this, Town View started with a $5,000 mortgage, privately raised, to finance rehabilitation of its first house. Since then, it has raised private capital and negotiated major loans from the Department of Housing and Urban Development and has completed more than 100 units of low cost housing. The combined value of housing constructed is $1.7 million and this provided tax income to the City of Duluth 500 percent greater than was formerly levied on unrenovated properties in the areas concerned.

HUD officials in the area have praised the results of the work of these women volunteers, and Mayor Ben Boo says that housing professionals have learned something from Town View's operations. He noted that in the corporation's first year of operation, it produced housing at a faster rate than did the city's own housing authority.

CONSERVATISM IN AMERICA

Mr. HANSEN. Mr. President, contrary to the interpretations of the press and news media in these difficult times, the conservative mandate of the people of November 1972 is as real and strong today as it ever was. My respected colleague, Senator Jesse Helms of North Carolina, affirmed this point in a recent speech before a group here in Washington. He quoted a May 6, 1974, Gallup survey:

> The latest nationwide Gallup survey reveals that Republican Party affiliation is at an all-time low, but the number of voters who describe themselves as conservatives is at a record high.

Senator Helm's speech is a reaffirmation of the spirit of America. I submit it to my colleagues for their study as a pertinent and inspirational commentary. With unanimous consent, I ask that it be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

The New American Majority: Time for a Political Realignment?

(Address by the Honorable Jesse Helms, of North Carolina, at Dean Manion Testimonial Dinner, Washington, D.C., May 15, 1974)

Mr. Chairman, Dean Manion, dedicated Americans, ladies and gentlemen:

This evening will forever be for me a memorable event—the privilege of coming here, at your invitation, to join in your tribute to one of the great spirits of our time, a most remarkable defender of American freedom—Dean Clarence Manion.

Dean Manion deserves someone far more eloquent than I for the honor of delivering the testimonial address on this occasion. I can advance only the credentials that he has no friend who admires and respects him more, or who is more grateful for his inspiring career as one of the great teachers of our time.

When I describe Dean Manion as a teacher, I am not being metaphorical. He is, to borrow a phrase Ortegay Gasset used about himself, a "public pedagogue."

The word pedagogue has an unfortunate ring to it. But every American who has profited from Dean Manion's instruction—and everyone in this room tonight has profited from it—knows that Clarence Manion has been a teacher in a most remarkable and courageous way.

Not just a teacher in the classroom—though he was Professor of Constitutional Law at Notre Dame for more than a quarter of a century, and Dean of the College of Law for more than eleven years.

He has been not just a teacher to people of a particular age, or a particular region, or a particular persuasion.

Rather, Clarence Manion has been a teacher to the Nation he loves so deeply.

As I contemplate the life of this great man who we honor tonight, I am reminded of the observation by Henry Adams that a teacher never knows where his influence ends, because a teacher affects eternity. It is obvious, then, that we cannot even begin to measure the dimensions of Dean Manion's influence. His life is a great, inspiring monument to the living traditions of the United States, indeed of the entire Western Civilization.

So, as "teacher to the Nation," Dean Manion has helped keep alive the miracle of America. He has held high the truth that freedom's survival depends on man's willingness to live by principle, honesty, sacrifice, personal responsibility—and, most of all, with faith in our Creator.

He has given us hope, by constantly reminding us that we can, if we will, retrace our steps—and return to the sound ground of personal liberty and personal responsibility. For my part, I have long held the notion that the process would be neither complex nor particularly difficult.

But it will require a return to intellectual honesty, and it will absolutely require a spiritual rebirth across the land—a return to the faith of our fathers, and a confession that we have vainly tried to make a god of government, instead of recognizing that America was destined in the beginning to be a government of God.

Viewed in that frame of reference, it is not surprising that we see around us today scarcely any serious efforts to solve the great national man-made problems which threaten the very survival of our nation. The artful dodgers of politics and government are in absolute control. They continue to believe that government is god. They think not of the next generation—only of the next election.

Small wonder that the nation is being stifled by an inflation that refuses to be restrained by inept and unwise efforts to control it by artificial devices. The laws of economics, and simple arithmetic, are not subject to repeal. It is a fair observation to note that today we have a full-employment budget, a bloated bureaucracy, a mindless Congress—and an empty dollar.

The tentacles of Federal Government are reaching out to entwine our daily lives, our right to privacy, and our right to property.

Our Federal tax mechanisms of our country are proving with a vengeance the correctness of the adage, "the power to tax is the power to destroy." We see taxation destroying not only the fruits of the labor of our people, but destroying their morale, sapping their incentive, and leaving them befuddled even about the prerogatives of honesty.

Abroad not only our own great power, but the power of the West—the very will to survive—is in dangerous decline. Our strategic capability has deteriorated vis-a-vis the Soviet Union. Our diplomats think only in terms of retreat and giveaway. The Third World long ago turned its back on the American formula for success and creative technology, and is blaming us paradoxically for its economic and social failures. And across Europe the candles of liberty flicker uncertainly, and one by one, go out.

Is there any discussion of these problems in concrete terms in Washington? Is there any great debate about the restoration of stability and freedom? Does anyone express confidence that America has a valid answer, a sound answer to these problems of our country, and of the world?

No. In Washington we are obsessed with the tapes.

We are instructed in the lessons of the tapes every day by the Constitutional lawyers of the Washington Post and the New York Times. We are tutored every hour by the television networks in our role as aghast and humbled citizens. The monopoly media are solemnly warning us about the dangers of the concentration of power. (They do not, however, allude to the dangers of the concentration of the power of the major media.)

And so we have the tapes with Wheaties for breakfast, the tapes with lettuce and tomato for lunch, and the tapes with potatoes and gravy for dinner.

We are learning, for example, that the President was brutally frank and appallingly salty in his private evaluation of political opponents. His language is the scandal of the day. We haven't been so shocked since Rhett Butler's language in the last scene with Scarlet in *Gone With the Wind*.

In the broad view, however, I have the feeling that the whole affair of the tapes might well be summed up by Clark Gable's immortal line in that scene: "Frankly, my dear, I don't give a (expletive deleted)."

I do care about what happens to our Republic, and what happens to our people. I care about the things that really matter to them. And I think I know what they are. Let me explain.

Every once in a while, some inkling of what the American people are really thinking slips through the monopoly of the major media. The Gallop Poll published on May 6 gives us a powerful clue. I quote:

'The latest nationwide Gallop survey reveals that Republican Party affiliation is at an all-time low, but the number of voters who describe themselves as conservatives is at a record high." Now isn't that interesting? The Republican candidate for President won the election in 1968 because he ran on a conservative platform. The American people long ago learned that party platforms are an uncertain foundation on which to build your hopes; but the same candidate who won in 1968 enjoyed the benefit of running for reelection in 1972 against someone whom the public recognized as a radical liberal. Mr. Nixon won overwhelmingly by basking in a reputation of relative conservatism. You and I know that this is the only reason why he won, all the volumes of the Watergate investigation to the contrary notwithstanding.

This emphatic rejection of liberalism in 1972 was a bitter pill for some to swallow. Through a process of selective indignation, Watergate became the lever to reverse the judgment of the people. The same pundits who swallowed the pragmatic self-enrichment of the Johnson Administration whole, who wolfed down the ideological corruption of the Kennedy Administration, who voiced no objection to the Pendergast politics of the Truman era, and who thought that Roosevelt provided a feast for empty bellies, suddenly gagged on Watergate.

So a year and half later, the Gallup Poll finds that only 24 percent of the voters classify themselves as Republicans, 42 percent describe themselves as Democrats, and 34 percent as Independents. But when Gallup asked the question whether these same people would describe themselves as conservatives or liberals, the figures show a startling change. 38 percent said they would choose a conservatve party label, only 26 percent would choose a liberal party laber, while 36 percent are undecided. This means that the largest political bloc in the United States today is composed of conservatives.

It means that a large chunk of those 42 percent who are Democrats are conservatives, that the great majority of the 26 percent Republicans are conservatives, and that the Independents, by and large, are people who don't perceive either party as matching their conservative philosophy.

This last fact is a point you won't discover in the major media monopoly. We are always told that the independents are so-called "moderates," — middle-of-the-roaders, who are repelled by those terrible extremists who belong to the two major political parties.

Actually, I have a hunch that they are conservatives, by and large, who may regard both major parties as too liberal.

The Gallup Poll goes on to prove this, I think. When Gallup asked that Undecideds to choose—forced them to choose, between conservative and liberal party labels, the over-all breakdown of all respondents rose to 59 percent Conservative, and 41 percent Liberal.

Imagine that: 59 percent of the people would choose to belong to a Conservative Party if offered that choice—even after one of the greatest campaigns of smear and slander against conservatives in the history of the nation. Not only that, the American people are more conservative because of Watergate. Even though the main object of the Watergate media campaign is to discredit President Nixon as being what you get when you elect a conservative, the people instead are rejecting liberalism in droves. Gallup has been asking the same question about conservatives and liberals since 1936. This year, 1974, the conservative percentage is the highest ever, at 59 percent! Even after Watergate—and I believe because of the anti-conservative campaign of the media—the people are more conservative than ever.

I think that this is the real political news story of the year, and as many of you know, I have been in the news business myself for most of my life.

But was this significant political news story on page one? Was it the subject of penetrating analysis by Joe Alsop, Scotty Reston, or even Eric Severeid?

No, I found it on page 20, next to a little item headlined "Smallpox Deaths Rise in India."

But let me tell you about yet another opinion survey that was released only a few days after the Gallup poll I just mentioned. The University of Michigan Institute for Social Research conducted an elaborate in-depth study of the public's ranking of American institutions. Fifteen U.S. institutions were covered in the poll, and the public was asked what they thought of each one. Now which one do you think was ranked the highest?

It wasn't the President and the Administration—they were ranked last.

It wasn't the Federal Government generally—it was next to last.

It wasn't labor unions—they were third from the bottom.

The U.S. Congress ranked slightly behind large corporations.

The news media were a shade above the Supreme Court.

I'll tell you what was in first place. First place in the people's hearts, was won by the U.S. military!

Now imagine that! The U.S. military in *first place*—after ten years of being reviled, spat upon, and viciously attacked by the major monopoly of the news media and political opportunists who have been inflated by the news media as "public opinion leaders." In spite of all these attacks, the military is most admired as an institution by the American people. Perhaps as in the case of true conservatism, the military is most admired *because* of the media attack, not in spite of it.

For it shows once again that the American people are fundamentally conservative. The military was followed, in rank of esteem, by colleges, and universities, churches and religious organizations, and small business, in that order. The fundamental verities of the defense of liberty, the attainment of knowledge, the worship of God, and the practice of private enterprise are still the American goals. I would say that the priorities of Americans are arranged in good order.

Ladies and Gentlemen, the time has come when the people of America must be given a true choice. Both of our major political parties today are in a state of confusion. Our party leaders are thrashing around without vision. The people have lost confidence in both parties, and in the news media. They have lost confidence in the Presidency, and in the Congress as well. Clearly, our major parties have failed to articulate the philosophy of our people and to give them a choice of leadership.

I venture to suggest that all of this may indicate a desire, on the part of the majority of the American people, for a realignment of our political parties.

I ask you the question: Could it be that it is time to forge new political parties, fashioned along the lines that the people are thinking, not along the existing lines of political power-seeking. If we are going to have honesty in government today, we must have honesty in the basic philosophies of our political parties. I do not in any sense downplay the need for personal honesty and personal integrity. But our basic political system must be made honest. It must give an honest choice, and it must furnish the mechanism for politicians to carry out honestly the principles they set before the people.

So, I would pose this question to you here tonight, and to all other Americans—Democrats, Republicans, Independents, and members of other political groups: Is it logical to assume that the great masses of Americans are yearning for someone to begin the task of realigning our existing politcal parties, so that the people, when they go to the polls, will know *what* they are voting for—instead of merely whom?

Ladies and Gentlemen, let me be plain. I am a Republican. I am a Democrat, by registration until 1970, but I became a Republican because I thought that the Republican Party was the only party hospitable to those working for conservative principles. The Gallup Poll I have been quoting shows that most Repubicans think the same way, since 57 percent of the Republicans identify themselves as conservative, and only 11 percent call themselves liberal. That is no sensational revelation. But the rank and file of the Democratic party is filled with conservatives too—as may be evidenced by my own election in 1972—and these are good people who have had their party taken away from them.

Moreover, I intend to remain a Republican, unless there is a general realignment into Conservative and Liberal Parties, by whatever names.

The problem is this: The majority of Americans are locked into two major political parties—by geography, by tradition, by sentiment, by other reasons which no doubt will come to mind when you think about it. In the Senate, for example, conservative Democrats look across the aisle and they count the faces of men who wear the label of Republicans and practice the philosophy of liberalism. Conservative Republicans, meanwhile, look across the same aisle and you know what they see.

Conservatives in both parties feel that they have no place to go. Meanwhile, businessmen throughout the country are being convinced, more and more with each passing day, that they must make peace with the liberals of both parties. So when election time rolls around, we have the spectacle of citizens who profess to believe in the free enterprise system nevertheless contributing to the campaigns of liberal candidates for public office.

To put it bluntly, they are trying to "buy in." They hope to court the favor of the very liberals who are dedicated to the destruction of the free enterprise system. It's the old story of feeding the crocodile, hoping that he'll eat you *last*.

But what do you suppose would happen, ladies and gentlemen, if a serious movement were launched to realign the political parties in our country—a movement that offered the majority of Americans, the conservative majority, an opportunity to unite, and to work together for the principles in which the majority of people, according to the polls, believe?

Someone has referred to this majority as the "New American Majority." I very much doubt that it's new. I think it's as old as 1776, and Bunker Hill; as old as Paul Revere and Tom Jefferson, and the Boston Tea Party, and Iwo Jima.

What is needed, is for someone to find the handle; to put it together, to work it out so that the majority of Americans can once again hope and dream, and work and sacrifice, so that there can once again be the reality of the Miracle of America.

Just suppose, here tonight, there could be a dedication to try. Could there be a finer tribute to the great patriot whom we have gathered to honor? Could it be, for example, that out of this occasion we should refuse *merely to* meet, eat and retreat—and instead, go back to our homes and give consideration to the mechanics of realignment?

What's the proper starting point? How about a Platform Convention, to which delegates would be selected by conservatives in every Congressional district in the land, plus two at-large delegates from each state?

Is that the proper starting mechanism—the drafting of a platform to restore to the American people their liberties and their responsibilities?

The more I think about it, I believe that at this crucial point in our history, the "New American Majority," if indeed it is "new," might just rally around such an idea. History supplies a fairly good precedent for it—at Philadelphia. And I would remind you that it was there that Ben Franklin admonished us all that we had a republic—if we could keep it.

Realignment is not a new idea. Senator Karl Mundt of South Dakota urged it for years. I ask you if it is not an idea whose time has come. Our domestic political system, the system of political parties, is now at a crisis stage. Confidence will not be restored until the people are given an honest choice of principles and philosophies—and a mechanism to prevent these principles and philosophies from being trampled underfoot.

I believe the people, if enough of us work hard enough, will choose a conservative party, one based on sound conservative principles and a solid conservative program for the solution of America's problems. They will choose a conservative party because of its platform, and how well its subsequent performance reflects an honest adherence to platform—but not merely because it calls itself the "Conservative Party."

A meaningful political realignment must be based on sound, honest political philosophy, and that calls for an honest and workable Conservative Platform.

What should be the Conservative Platform? I am not so presumptuous as to say that I can lay it out in all its details, its programs, its ramifications.

Surely we agree, first of all, that Jefferson spoke truth, not a mere cliche, when he counseled that the best government is the least government. Government was intended to restrain evil men, but not to shackle innocent men.

America became a giant in the world because men were left free to create, to produce, to earn, to invest, to compete—and, yes, to accumulate. It may sound harsh to say so, but America grew great because there were men and women who wanted to be better than average, to accomplish more than average, and to be more than average. Men forced to be equal are not free—and free men cannot be forced to be equal.

So the concept of government control of enterprise is a contradiction of the very meaning of freedom. Bureaucrats armed with the power of controls, edicts, guidelines are disrupting the genius of America.

Secondly, I presume that we agree that we have no hope of halting inflation, or of solving America's economic crisis, unless and until we stop deficit financing and balance the Federal budget. This is not something to consider next year, or next month. It is imperative today.

Thus, surely we believe that a healthy economy means a balanced budget, reduced Federal spending, and a simplified tax system. The existing folly is not only impoverishing the middle class—the vast majority of Americans—but it is distorting our investments, it is blurring our morality, it is directing funds to dubious priorities, and it is providing vast amounts of money for purposes that are subverting the values of America.

Fourth, I assume we agree that the American family must be preserved, to encourage the virtues of personal integrity, self-reliance, and faith in God. We must reverse the trend that insists the State is the only proper custodian and educator of children, and that Federal funding and Federal control is the only measure of educational success. We must reverse the trend that says that women must be liberated from the dignity of motherhood, and from the femininity of her natural development. We must reverse the Supreme Court decision that says that killing an unborn child is somehow different from killing a child that has been born. And we must desecularize our daily life, reminding ourselves that prayer is, after all, a Constitutional right and moral duty, and understanding that man is fulfilled not in himself, not merely in his neighbor alone, but ultimately in God.

Finally, we believe that the United States must regain its dynamic posture as the leader of the West. We must stop apologizing for our leadership position. We must once again become convinced of the value of our culture and society, and we must work to convince other nations that our leadership is decisive, based on principles, and dedicated to the common good of all nations. And of course, that means that we must regain decisive control of the international strategic arms situation, superiority in technology, and a mix of strategic weapons best suited to our unique geography. For in the end, United States sovereignty resolves upon the power to defend it.

These are just a few of the principles that I believe the majority of Americans will support, regardless of present party affiliation.

I can't believe that most Americans want government spending so badly that they are ready to adapt to double-digit inflation ascending in a quantum leap.

I can't believe that most Americans believe that government regulation can ever take the place of healthy competition in a free market.

I can't believe that most Americans are ready to give away the Panama Canal, subdue our economic and strategic position to the heel of Communist Russia, or subordinate our sovereignty and dignity to a babel of foreign tongues and oppressive ideologies.

Nor can I believe that Americans are ready to abandon their historic understanding of the moral virtues, the obligations of patriotic duty, or their faith in a just and merciful God.

These things I hold to be unchanging, and no sociology of manipulation can persuade me otherwise.

So, as we pay tribute tonight to our splendid friend, let us consider whether we do not owe it to him, and to America's future, to try to set things straight again.

I cannot guarantee that we will succeed. But I guarantee that we will fail if we do not try. I am convinced that by standing together, working together, and sacrificing together, we will be astonished at how far we can go, and how much we can achieve.

Many years have passed since that Easter morning when a young man and his wife, and their two small daughters, ages six and three, went to the mountains of western North Carolina to attend an Easter sunrise service.

In the pre-dawn chill, they made their way to the crest of a mountain, joining perhaps a hundred others who had also come to worship in quiet simplicity.

There were no seats, and the three-year-old became impatient because she could see neither over the heads of the adults, nor around them. So she began to improvise. She scampered over to it, and attempted to climb it. But her new slick-soled, black patent-leather shoes made it impossible. And besides, she had proper concern for her new Easter dress.

So she solicited—and received—the assistance of her Daddy, who—being younger and far more agile than he is today—easily climbed on top of the big rock.

By that time, the six-year-old had been captivated by the idea also. So with a word of caution to his two little girls, making clear that they should "hold on tight," the Daddy pulled them, one by one, to that high vantage point atop the bolder.

It was at that precise moment, when the three of them had reached the top, that the rays of the morning sun seemed almost to burst above the mountain ridge across the valley, with a promise of light and warmth to push away the chill of the dark night.

It was then that the little three-year-old spoke some words of faith that I shall never forget. She looked up to her Daddy, with an expression of loving admiration that he could not possibly deserve, and said:

"Daddy, you know something? I bet, if we all held hands tight—we could go anywhere."

That child's words have remained in my consciousness all these years.

A simple expression of child-like faith, yes.

But truth, in a most profound sort of way.

That's the test. Shall we, ladies and gentlemen, hold hands tight with Clarence Manion, and with others who are willing to work and sacrifice for their country?

If so, I truly believe we can go anywhere.

God bless you, Dean Manion, for being my friend, and for the unselfish way you have given of yourself, and your time and immense talent, for the good of America. I am very proud of you.

And I am grateful to you, ladies and gentlemen, for being such a wonderful, patient audience. Thank you, and God bless you.

COMMENCEMENT ADDRESS BY SENATOR BROOKE

Mr. PELL. Mr. President, at the recent graduation ceremony of Virginia Union College, the junior Senator from Massachusetts (Mr. BROOKE) made an excellent statement in which he discussed the role of black institutions of higher education; both their historic role and the function which they can perform in the future. All too often these schools have been shortchanged, but I am proud to say that recent education legislation has sought to reduce that imbalance. Senator BROOKE took a leading role in those efforts.

I commend this speech to my fellow Senators and ask unanimous consent that it be inserted in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

BLACK HIGHER EDUCATION—A TIME OF CHANGE AND CHALLENGE

In the words of Langston Hughes:

"O, let America be America again—
The land that never has been yet—
And yet must be."

It is an honor to speak to you, the 105th graduating class of Virginia Union University. You are a part of one of the proudest and most vital traditions in American education, its black colleges and universities.

From the beginning, black colleges and universities were forced to function outside the mainstream of American education and life. Though little noticed and poorly nurtured, they have survived. And their roster of graduates shows that they have survived with distinction in the midst of imposed adversity. Only now are white Americans beginning to realize the great role which black institutions of higher education have fulfilled. Black Americans have no need to be reminded.

Today, Blacks and their colleges and universities find themselves in a strange half-way world—no longer segregated by law, yet not truly integrated in fact.

Until now, black institutions of higher education have trained almost the entire black leadership and professional class in America. Even we Blacks who went on to white graduate schools in the main received our college education in black colleges.

Traditionally, black institutions have been the sole repository of black culture and history and almost the only institutions concerned with black interests, rights and well-being. Black studies and courses and programs in Afro-American history and culture are now widely appreciated and fashionable. But most black institutions traditionally had black history projects and maintained ties with African nations and culture long before black studies became popular in the 1960's.

For years, a college degree from one of the black educational institutions offered us Blacks virtually the only certainty of job security and economic improvement. But even here the limits of economic participation were controlled and circumscribed by the white community. Few professions were open to Blacks and even these were to be practiced in the isolated black community with its marginal economy.

Black colleges primarily trained teachers for black elementary and secondary schools and the small number of professors, ministers, lawyers, doctors and other professionals which the economically depressed black community could afford.

For over a century, black higher education has suffered from a lack of resources. Few Blacks could afford high tuitions. There has been no strong tradition of alumni giving—even in the area in which alumni are usually most active. An article in last Thursday's Washington Evening Star reported that the championship basketball coach at Maryland Eastern Shore College was resigning over the futility of trying to compete with white schools without alumni assistance. Contributions from foundations, state governments and even the federal government have been inadequate and far below those granted to white institutions. Endowments to aid students, establish teaching chairs, or expand and improve facilities have been insufficient. In the academic economy, black colleges and universities on the whole have been poorly equipped to compete.

Today, 20 years after the Brown v. Topeka Board of Education Supreme Court decision to end the doctrine of separate but equal, we find that integration in education has not yet proved to be a panacea and that growing black pride, as vital as it is, has raised questions as well as created opportunities.

Integration has intensified the economic problems of black higher education. Today, almost two-thirds of our black students now attend traditionally white institutions. And, with scarcer financial resources than white schools, black institutions must compete with their white counterparts for both black professors and students.

Often black pride, though commendable, does raise questions as to whether black colleges should prepare their graduates to share the risks and rewards of the national economy or prepare them primarily to build a separate black community and separate black economy. On the one hand, black institutions of higher learning are criticized for not paralleling their wealthier white counterparts. On the other hand, black institutions are criticized for not exclusively serving the black community.

The basic question is whether black institutions of higher education are still needed now that we have partial integration. But, integration is too often seen simply as a question of integrating white institutions, while leaving most black ones to struggle for survival. I submit that the need which black colleges and universities fill, makes a compelling case for the useful and essential existence of black colleges and universities.

Even though the majority of Blacks are now attending white institutions, the number of Blacks enrolled in black institutions has grown significantly. In 1900 only .3 per cent of college and university students were black. During the boom period of the 1960's, enrollment in higher education in general nearly doubled and black enrollments kept pace. By 1970, seven per cent of college enrollments were black—an encouraging growth even though the figure for black enrollment still fell considerably short of the 11 per cent which Blacks constitute in the population as a whole.

And despite the fact that some 400,000 Blacks are enrolled in white institutions as compared to some 185,000 in black institutions, more Blacks are receiving their degrees from black rather than white institutions, due to the higher attrition rates of Blacks in white schools. The 85 four-year black colleges enroll less than 40 per cent of all black students but award 70 per cent of the bachelor's degrees earned by all black students.

Thus, black institutions bear the brunt of providing those special educational services which enable many black college students to overcome the deficiencies in their primary and secondary education. Almost 50 per cent of Blacks are under the age of 21. They should not have to enter competitive adult life without the chance for a higher education or for the training they need in order to hold meaningful jobs.

To be sure, black students need black colleges and universities. But the nation also needs black colleges and universities.

These are days of great challenge for black institutions of higher education. Some would say of insurmountable challenge. But I disagree. Of course, there is much to be done. Black schools must meet the challenges of closing the proportionate gap between the number of Whites and Blacks with professional training. We must have twice as many young Blacks enrolled in graduate schools as we have at present if that gap is to be closed by 1990. In stark contrast to the fact that Blacks comprise 11 per cent of the American population is the fact that in medicine only two per cent of all physicians are black and less than three per cent of all medical school students are black.

In my field, the law, one out of every 750 white Americans is a lawyer, but only one out of every 5,000 black Americans is a lawyer. In doctoral and professional degree programs, only 1.75 per cent of the graduate enrollment in arts and sciences is black.

Many of the better jobs, professional and paraprofessional, in today's modern, post-industrial economy require at least some scientific and technical training.

The absence of black students in science-oriented courses reflects the historical lack of laboratories, science facilities, and curriculum from black grade schools through black graduate schools.

In addition to our goal of matching the resources of white schools, black colleges and universities must make the changes now demanded of all higher education. Traditionally, the duty of American higher education has been to provide a liberal arts background or at most to prepare the student to follow one of only a few occupations—teaching, the law, the ministry, or engineering. But, now we are increasingly aware that postsecondary education must be a more comprehensive education. It must provide more choice. In addition to a liberal arts background, junior colleges, colleges, and universities must also prepare a student for a career. We know there are now over 20,000 occupations. Students must be made aware of their alternatives and opportunities and must receive the career training they need to make the choices and take advantage of the opportunities.

By 1980, four out of every five jobs will not require the traditional four-year college degree, but will require extensive training and education beyond high school. Jobs will be available in fields which were unknown at the time your parents and I graduated from high school. Positions in urban planning, in mass transit design, in nuclear medicine, in bio-medicine, electromechanics, environmental science and many other new occupations are numerous and exciting.

And these opportunities are coming at a time when, at long last, Blacks are increasingly free to participate in the whole American economy. I am not a Pollyanna. I know too well the lingering economic injustices from which Blacks suffer. But I will not close my eyes to the opportunities which are now opening to our young black people.

And in considering career opportunities for young Blacks and the need for career education, we must not be paralyzed by a fear of past mistakes. No one can deny that in the past vocational education of young Blacks too often meant a preparation for marginal jobs, jobs in a rural agricultural economy at the very time that our country was becoming urban and industrialized.

Today we must prepare black students for jobs in our nation's total economy—not in a separate economy. Higher education must insure that Blacks are no longer faced with few occupational choices or with left-over jobs.

The American economy is changing in many ways which make further demands upon American higher education. With a rapidly changing technology and an ever expanding knowledge, a student graduating from college today must be prepared to fill several different jobs during the course of his lifetime.

Black colleges and universities must meet this need for intermittent continuing education through a person's adult life. The days are past when one might expect to hold only one job, or type of job, during the course of his lifetime—or his early years alone receive all his training.

It is long past time for the nation to give substance to this need for continuing education. Our tax policies, our employment laws, and especially our student aid policies are geared almost entirely to a lock-step educational process. To be more relevant and responsive, the federal government should grant each individual some form of financial education credit to which he would be entitled throughout his life at a time of his own choosing or need. All of American higher education should make increasing provisions for our nation's need for continuing and career education.

Many black colleges and universities also wish to fill a special role in the building of a strong and viable black community. The focus of black colleges on black culture and black studies is widely known. And this is good. It creates pride and an essential sense of identity. But we must not overlook other compelling interests. Compensatory education in inner-city elementary and secondary schools and assistance in establishing black community self-help organizations and black enterprises should be important areas of endeavor by black universities and colleges.

The greatest challenge to black higher education, however, has been and remains, the need for increased financial resources. While the nation expects more of black higher education, it has given it only a small fraction of the resources given to white institutions of higher education. The financial problems which beset all of American higher education are magnified in black higher education. And we must remember that the special tasks assigned to black higher education, remedial education in particular, are exceedingly costly.

There are few financial options open to black higher education. Tuition increases for most black students are unbearable. One recent survey showed that almost 40% of students in black colleges came from families with less than $4,000 annual income.

Many state governments in the South where most black colleges are located, are still reluctant to grant black institutions sufficient funds. Indeed, there are instances where state governments have chosen to locate a new competing college in a community rather than strengthening an already existing black college.

Until recently, foundations and corporations have seemed oblivious to the imbalance between gifts to black and to white institutions of higher education. Even with the help of *vigorous* fundraising drives such as yours here at Virginia Union, endowments at black institutions cannot alone acccomplish what is needed.

Thus, when we speak of the survival and growth of black institutions of higher education, we primarily mean assistance from the federal government, in terms of both student aid and aid to the institutions themselves.

For decades most of the massive federal aid to higher education has ignored the needs of black colleges—and of many small white colleges as well. Federal aid has given little attention to the fact that it costs more for a college to educate a student coming from an educationally deprived background. It has particularly ignored the great backlog of needs found in black colleges for faculty, modern facilities, good libraries, curriculum expansion, and for a greater amount of student aid than that needed in colleges serving students from more affluent families.

Most of all, federal aid to higher education has discriminated in funding research at the cost of funding teaching. Hundreds of millions of dollars have been poured into academic research with no comparable subsidies for the teaching of students.

Most federal money has been directed to the "hard" sciences, which are expensive academic disciplines in terms of faculty and facilities. Traditionally, they have been disciplines too expensive for black colleges to fully support. Thus, our black institutions have been denied one immense block of money which has been allocated to higher education.

Only in recent years has the federal government become more sensitive and responsive to the needs of black institutions of higher education. More money has been made available for student aid and student loans. Beginning with the Higher Education Act of 1965, the federal government provided money for undergraduate training. The Education Amendments of 1972 further increased the possibilities for student financial assistance creating the new Basic Education Opportunity Grants program to supplement existing student aid programs. Now the BEOG program assures every student who can gain admittance to college some financial support, if needed, but not enough.

Equally important to black colleges, the federal government program for strengthening developing institutions was established in 1965 to provide the much needed financial assistance to those institutions which have been left out of the mainstream of American higher education. Far over one-half of the Developing Institutions' funds have gone to black colleges and universities. In the current fiscal 1974 year the Senate Labor-Health, Education and Welfare Appropriations Subcommittee on which I serve, included $100 million for this essential program.

Other federal programs have made some grants to construct and develop college libraries and facilities. The National Science Foundation has made some money available for improved college science programs. Training grants have been made in the health professions.

Federal aid for black higher education more than doubled between 1969 and 1972.

Virginia Union alone received an increase in federal funds from $1 million in 1970 to three and one-quarter million dollars in the current school year. And as tribute to its potential and excellence, Virginia Union received one of the largest grants the Developing Institutions program made.

While black colleges enroll about 2.6 per cent of all college students in the nation, they now receive about 5.5 per cent of federal funds.

This trend in federal support for developing black institutions must continue. We must discourage any slackening of effort. Even middle class parents are now finding it difficult to send their children through college because of the escalating costs of education. But we cannot resolve this problem of middle class students at the expense of those students who most need federal student aid assistance.

In every instance, we must help most where help is most needed to insure each and every American an equal chance to aspire and achieve.

Thomas Wolfe wrote:

"To every man his chance, to every man, regardless of his birth, his shining golden opportunity—to every man the right to live, to work, to be himself, and to become whatever thing his manhood and his vision can combine to make him—this, seeker, is the promise of America."

You now enter the world for which your families and your university have diligently and devotedly tried to prepare you. You enter life with more hope than any generation of Blacks before you that at long last the promise of America is coming true for black Americans. May you find your shining golden opportunities, may you seize your chances to become whatever your vision and values combine to make. This is the wish we who gather here today have for you.

Thank you.

PROFILE OF A DISTINGUISHED OLDER AMERICAN

Mr. PERCY. Mr. President, May is Older Americans Month, a time when every American should consider the concerns of our Nation's 20 million citizens 65 years of age and older. Although we have made considerable progress over the few years toward improving the economic and social conditions of the elderly, much more remains to be done. This month I have proposed a number of legislative solutions to the problems facing our elderly citizens, and look forward to discussing and debating these measures with my colleagues.

The theme this year is "older Americans are a National Resource." No where is this more evident than in an excellent profile of Ray W. Smith, president of the Chicago chapter of the American Association of Retired Persons, which appeared in the Chicago Sun-Times edition of Monday, May 13, 1974. Mr. Smith is a most enthusiastic and dedicated leader of the 314,000 members of AARP in Illinois.

In the Sun-Times article, Mr. Smith discusses many of the concerns of his members, including the level of social security benefits and the earnings limitation. He also points out a number of the association's activities, among them the youth-age alliance, a program that brings together retired person with high school or college students to exchange ideas.

I commend the Sun-Times, and reporter David Anderson, for bringing Mr. Smith's story, and AARP's efforts, to the public's attention and request unanimous consent that the article be printed in the RECORD at this time.

There being no objection, the article was ordered to be printed in the RECORD. as follows:

OVER 55? HERE'S RECIPE FOR 'YOUTH'

(By David Anderson)

Ray W. Smith has a recipe for growing old which is shared by some 6 million other people over the age of 55.

"Retire from your job or business, if you must, but don't retire from life. To age successfully, you must be mature. To grow old and be reasonably happy, you need a cushion."

Smith, who is 66, short-haired and balding, has such a cushion. It is the Chicago chapter of the American Assn. of Retired Persons (AARP). As he puts it:

"AARP is the fastest-growing association in the United States. We are growing at the rate of 7,000 members a day. By the end of 1976, we should have between 11 and 12 million members."

Smith is president of the Chicago chapter, which has its headquarters in his home at 6528 N. Lakewood. There are some 314,000 AARP members in Illinois and about 150,000 of these live in the metropolitan Chicago area.

"Why are people over 55 flocking to AARP?" you ask. "What does it do for them?"

Smith has a no-nonsense answer:

"Because we do things that make aging and retirement fairly palatable. We lobby. We are nonpartisan, but not nonpolitical. Our aims are to increase Social Security payments, get better housing for the elderly—subsidized, when necessary, by the government. In short, open the door to a fuller, richer retirement life.

"It's a sad thing for people who have worked 40 and 50 years to retire on a pension and Social Security only to find that their standard of living they had when they were working to shrink," says Smith.

"And 'shrink' is the word," he tells you. "It's enough to drive you to a shrink. For example, if a retired person gets less than $160 month, or a couple gets less than $214, they can apply under Social Security for what is called Social Supplement income. That means Social Security will bring it up to $160 for a single person and to $214 for a couple. In other words, bring it up to a substandard level!"

Another thing that tees Smith off about Social Security is the rule that a person getting Social Security from age 65 to 72 may not have an outside income of more than $2,100 a year.

"After 72, the sky is the limit as far as your outside income is concerned," he says. "How ridiculous can you get? After 72, you can go out, theoretically, and get a big-paying job, make $100,000 a year or more. Now who is going to hire a 72-year-old? Why should you be penalized financially between the ages of 65 to 72? It's unjust. It's senseless."

This "senselessness" is one of the things AARP is working to change. Also, it's working, with its three paid lobbyists in Washington, to bring Congress to put the brakes on inflation, to establish a National Health Plan to "bring quality health care to all Americans, regardless of age or the ability to pay," the cutting of fares for the elderly on all railroads, buses and airlines and the stepping up of the war against water and air pollution.

Smith, who joined AARP in January, 1973, after retiring two years earlier as a personnel manager in the production department of Pullman-Standard Division of the Pullman Co., says members pay $2 a year in dues to AARP and another $2 a year to the Chicago chapter. He says members who buy medicine can save that much in a week by buying their drugs from AARP's own pharmacies.

Getting their medicines from AARP's drug stores by mail order—the pharmacy for its Chicago members is in Kansas City, Mo.—"we save 50 per cent, at least that," says Smith.

Smith likes to push AARP's AIM program (Action, Independent Maturity) which is part of its Youth-Age Alliance, a plan whereby AARP members get together with high school or college students to exchange ideas.

"I used to bristle when I saw the young kids with long hair," he says. "But I'm used to it now. These kids may lack experience and knowledge, but the thing I admire in them is their absolute honesty."

These seminars, held in high schools and universities, benefit both the young and the old, he believes.

As Smith sees it, the United States by 1976 will have taken "great strides toward a true democracy," because of this "honesty" in youth and because of senior-citizen organizations such as AARP. He bases this on his prediction that 100 million Americans will vote for a President that year.

"That will be a turnout of 80 per cent of those eligible to vote," says Smith. "In 1972, there was a turnout of 55.4 per cent of those eligible. Statistically, only 48 per cent of the young turned out. It was the older voters who brought this figure up to 55.4 per cent.

"In this last election in France, they had an 85 per cent turnout. If France can turn out 85 per cent, we certainly should be able to muster 80 per cent."

With its expected 11 to 12 million membership by 1976, says Smith, "AARP will be a decisive force in the next presidential election. And the significant fact to remember is that 93 per cent of our people register and vote."

The month of May is the most important one of the year to Smith because May has been officially proclaimed by the White House as Older Americans Month.

Its official theme, which fits what Smith has been thinking all the time, is "Older Americans—A National Resource."

GSA PROPOSES THE ULTIMATE COMPUTER

Mr. ERVIN. Mr. President, 2 weeks ago it came to my attention that GSA has been quietly moving to establish a data communications network which could eventually combine all Federal agency computer hardware procurements and link all "general purpose" computers in the Federal Government. This system, called FEDNET, has been described by M. Shy Meeker, Commissioner of GSA's Automatic Data and Telecommunications Service, as a network which ultimately will "make virtually every modern computer in the Government accessible anywhere in the Nation." Because of the obvious and immense implications for privacy which such a massive system of nationwide computer sharing pose, I have been working with Senators GOLDWATER and HRUSKA and Congressmen Moss and MOORHEAD to get a full explanation of the FEDNET system from GSA.

As I understand the proposal, the FEDNET concept was devised to prevent the proliferation of "incompatible" computer systems which now exist in the Federal Government. All participating Federal agencies would join in cooperative computer usage at selected automatic data processing centers on a time sharing basis. All automatic data processing centers and remote terminals would be interconnected and available to system users through a common data communications network. A "packet-switch" concept included in the proposal would provide "access capabilities to other agencies as well."

The current plans call for the consolidating of computer operations and the maintenance of information systems within GSA and the Department of Agriculture. GSA will move from 10 computer centers it now operates into 1 center; Agriculture's information systems will be housed at 4 sites instead of the 45 sites they now occupy. Included in the proposal is the option for four additional sites which are to be operated by GSA to provide computers and computer services for other Government agencies.

The performance specifications issued by GSA on the FEDNET project require that the design of the various components of the network and the method of interconnecting them provide for "modular expandability" so that other automatic data processing sites beyond the nine in the current proposal, can readily be accommodated. The proposal also references "separate procurement action" to provide support networks and interfacing between FEDNET and other Government systems. Some 3,000 remote terminals are being contemplated, but obviously the system is designed to add uncounted other as it expands.

That the hardware system contemplated for FEDNET poses a serious threat to individual rights cannot be denied. I am especially concerned about the hierarchial system for administrative control over access to and utilization of system facilities envisioned by GSA. One of its performance specifications, ostensibly designed to protect privacy, requires that such administrative controls "should permit the (FEDNET) system administrator to enforce who may use the system, what facilities each authorized user may access and how many resources he may consume. Only the system administrator shall be able to establish, modify, or delete account user or project identifiers."

In short GSA would create an "information czar" with absolute control over all Government information systems. I am not prepared to give that authority to any one individual, and it is curious that a GSA proposal for "economy and efficiency" should involve the creation of a centralized information authority.

Yet officials at GSA insist that "FEDNET" is an unfortunate misnomer which misrepresents the planned joint computer procurement of GSA and the Department of Agriculture. They assert that the proposal was "intended merely to recognize the economies inherent in a joint procurement and shared use of common facilities," involving only GSA and Agriculture. However, it is a fact that GSA has already approached the Veterans' Administration and the Social Security Administration about joining the system. I have also received information that the Advanced Research Project Agency of the Defense Department Research and Engineering Office has had some input into devising the FEDNET system. Discussions pertain to linking or building the potential to link DOD with the FEDNET system. Indeed, the foundation is being laid for a national data center.

When I first learned of this FEDNET project I was extremely concerned about its implications. The name suggests a great Federal net which may catch and imprison the privacy of all Americans.

The first reaction of GSA, when faced with criticism, was to change the project's name from FEDNET to CDN (computer data network), as though mere semantics would satisfy its critics. I am now informed that the project has a new name—NEP—new equipment project. Well, a rose by any other name still smells, and MEDNET does not strike me as a privacy rose.

I see little difference between this so-called FEDNET system, or "New Equipment Project" as GSA has now labeled it, and the national data bank concept expressly rejected by Congress during the 1960's. At that time a full public debate of the issue was held and Congress then directed that "no work be done to establish the national data bank until privacy protection is explored fully and guaranteed to the greatest extent possible to the citizens whose personal records would form its information base." Congress received explicit assurances that no such project would be undertaken without full public debate and congressional authorization. Today those assurances appear to be no longer "operative."

No congressional authorization has ever been given FEDNET. No explicit appropriation for such a massive information system has ever been sought. Not one congressional oversight committee had been briefed about the proposal before last week. No description of the project was ever made in GSA's appropriation request. GSA officials failed to mention the program when questioned in oversight hearings about advanced information techniques. And GSA has never made the project known in response to specific questions about computerized government information systems, such as Congressman Moorhead's survey by his Foreign Operations and Government Information Subcommittee last year, and my survey by the Constitutional Rights Subcommittee of data systems on individuals maintained by Federal agencies. If it is as innocuous as GSA claims, why all the secrecy?

Had Congressman John E. Moss not disclosed the proposal on April 25, Congress may never have known about the project until it was faced with a $100 million "fait accompli"—an operational FEDNET system. Fortunately, for the American people, Congress has learned about FEDNET, and in plenty of time to give the proposal full legislative scrutiny.

I have had a number of contacts with representatives of the GSA regarding FEDNET, and I am presently awaiting a written response from the Administrator. During our discussions it has become apparent that the GSA has not adequately considered the implications for privacy inherent in the FEDNET concept or the magnitude of the policy decision it unilaterally made without congressional direction or authorization. Furthermore, GSA apparently did not even have administration sanction to embark upon this program.

Within the past few days both the Office of Management and Budget and the Office of Telecommunications Policy have objected to the FEDNET program. Budget Director Ash wrote GSA that after carefully reviewing the extensive volume of material supplied by GSA, OMB has concluded that the "pending request for proposal (RFP CPDA 74–14) to acquire nine computer sites and a data communications network should be withdrawn."

After reciting a number of practical and budgetary reasons for abandoning the current concept of FEDNET, Mr. Ash concluded:

> The proposed acquisition of ADP and telecommunications capability for unspecified uses poses a serious potential threat to the right of privacy at a time when this issue is under intense review by the Executive Branch and the Congress.

Vice President Ford expressed similar concern to the National Computer Conference in Chicago on May 9, 1974:

> The contemplated system, known as FED NET, would link Federal agencies in a network that would allow GSA to obtain personal information from the files of many Federal Departments. . . . I am concerned that Federal protection of individual privacy is not yet developed to the degree necessary to prevent FEDNET from being used to probe into the lives of individuals.

In the face of all this criticism, GSA grudgingly conceded that the privacy concerns which have been raised are "legitimate concerns" and that GSA would review the project in this light. In testimony before the House Appropriations Subcommittee on Tuesday, May 14, Administrator Sampson informed the subcommittee that he had that morning ordered that the request for proposal be suspended until he personally could review the proposal. This token gesture by the administrator falls far short of the action which is required. Mr. Sampson did not revoke the proposal, he simply suspended it indefinitely. He refused to discuss what alternatives he was considering, and was adamantly opposed to congressional review of FEDNET or submitting the proposal for congressional authorization. All he would offer was a pledge to review the project.

Administrator Sampson, as his remarks indicate, still had not grasped the serious issues of privacy raised by FEDNET, as well as the role of Congress in policy decisions in this area. This is not a decision to be made on an admnistrative level. Much more is involved than a simple decision to purchase a computer, as depicted by GSA officials at the appropriation hearings. A fundamental philosophical decision affecting all our lives is at issue. Such a substantive decison ought to be made by legislative bodies only after extensive public debate on the subject.

Before attempting such a decision, it is encumbent upon Congress to consider carefully the desirability of such a large-scale computer network, the safeguards needed to ensure that fundamental human rights are protected, and the desirability of any national data center, be it FEDNET or any other system. What is needed is a national policy on computer data exchange in America, and Congress is now moving in that direction. Various proposals to control the manner in which personal information is maintained and disseminated in the Federal Government are receiving thorough consideration in both the Senate and House of Representatives at the present time. For GSA to proceed with the largest single nonmilitary government data communications procurement in American history, in the face of these congressional deliberations, is not only irresponsible but borders on contempt.

The economy argument advanced by GSA in support of this FEDNET system is always attractive. But, apparently, OMB is not convinced that the project is even justified on economic or practical grounds. Even if it were true that GSA would be saving the taxpayer some money, we should not be selling individual rights for 30 pieces of silver. In this as in so many other areas of our national life, mere expediency cannot be permitted to be the overriding factor in making decisions about the public good. When Congress charged the GSA with the responsibility to coordinate and provide for the economic and efficient use of automatic data processing equipment, it did not delegate its legislative responsibility with regard to a national data policy in that authorization. Such an assumption is a distortion of the spirit and intent of Public Law 89–306.

Mr. President, in my judgment, FEDNET truly contains the basis of a national data center. In this single massive system all the information Agriculture has on American farmers, all the information the Veterans' Administration has on veterans, and all the information Social Security Administration has on every American wage earner, employer, recipient of medicare benefits and social security pensions, might be easily accessible, subject only to GSA control. Eventually as more agencies join the system, information about every individual who has ever had any contact with the Federal Government, regardless of the nature of that contact, could be instantaneously retrievable from the FEDNET system. I cannot conceive of any individual who would be unaffected by FEDNET.

At a time when Congress and the Vice President's Privacy Committee and all Americans are concerned about threats to privacy, it is a shock to discover that GSA should be quietly proceeding with a computer network that would involve agencies like the VA, Agriculture, Social Security, and the Defense Department at the start, and eventually all the Federal Government in the future. There is much about FEDNET that is peculiar, and I fear even yet we do not have the full story. Certainly, I believe that all Americans would agree that nothing with a potential for a national data center should be built without full public debate and express statutory authority. Personally, it is hard for me to conceive of any reasons why such a fatal blow to privacy should ever be permitted.

I shall continue my efforts through the Constitutional Rights Subcommittee and the various other congressional offices to investigate the GSA plans. I hope that the GSA will recognize the need to halt permanently all FEDNET plans until Congress has given its express consent.

I ask unanimous consent that the text of my letter to GSA and the interim reply I received, as well as the letters from OMB and the Office of Telecommunications Policy to GSA, and newspaper articles by Seth Kantor describing FEDNET, be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

May 6, 1974.

Harold S. Trimmer, Esq.,
General Counsel, General Services Administration, Washington, D.C.

Dear Mr. Trimmer: On Friday, May 3, at your suggestion, you and other members of GSA met with members of the Constitutional Rights Subcommittee staff and those of Congressmen Moss and Moorhead. The subject of the meeting was the proposed FEDNET project which just recently came to our attention.

The FEDNET proposal raises serious issues of privacy and the role of Congress in policy decisions in this area. As now contemplated, the proposal is to combine procurement and systems design to be compatible with those of other government agencies, with a view to cooperative computer usage in the future. At present the plan envisages compatible systems for GSA and the Department of Agriculture, but with the capability of adding other departments in the future. Such a massive system poses the possibility of nationwide computer sharing, with obvious and immense implications for privacy. Indeed, a similar proposal in the 1960's for a National Data Center was rejected by Congress after much public outcry. Congress received an explicit commitment then that no such project would be undertaken without full public debate and express statutory authority. It is our understanding that GSA has proceeded with its project on the good faith belief that it has full statutory authority already and that the privacy implications were minor or nonexistent.

We understand that in the meeting you and your associates acknowledged that our privacy concerns are valid and agreed that GSA should review the project in this light. It is our strong belief that we must subject the FEDNET concept and similar major data systems proposals to full legislative scrutiny and to require explicit legislative authorization before any of them are undertaken. You expressed your personal views that these would be appropriated for FEDNET, and said you would urge that GSA take the position that the FEDNET concept should be the subject of express statutory authorization. You also agreed that a letter would be forthcoming from GSA to us and other interested legislators by May 10 containing GSA's decision on this point.

We cannot stress too much our insistence that this is the only way to proceed. Public and congressional concern with privacy makes it necessary that all such proposals receive public scrutiny of this kind. In this regard, you may be familiar with proposals we have introduced (S. 2963-Ervin, S. 2964-Hruska and S. 2810-Goldwater), and which have already been the subject of hearings before the Constitutional Rights Subcommittee. The President's Privacy Commission, headed by Vice-President Ford, was established for this purpose.

We appreciate the speed with which you acknowledged the validity of this concern, and the promise of full cooperation that you made. We look forward to Mr. Sampson's letter and we are confident that with this joint cooperation, both the legitimate needs of citizen privacy and government efficiency can be accommodated.

With kindest wishes,
Sincerely,

Sam J. Ervin, Jr.,
Roman L. Hruska,
Barry Goldwater.

General Services Administration,
Washington, D.C., May 14, 1974.

Hon. Sam J. Ervin, Jr.,
Chairman, Committee on Government Operations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Thank you for your letter of May 6, also signed by Senators Roman Hruska and Barry Goldwater, regarding the planned joint computer procurement of General Services Administration and the Department of Agriculture.

The May 3 meeting, to which you refer, occurred as a result of statements by Mr. Lawrence Baskir at a Federal Bar Association seminar characterizing the procurement, which had acquired the unfortunate journalistic identification of FEDNET, as an apparent effort at creating a National Data Center. Since I felt this represented a misunderstanding of what was intended merely to recognize the economies inherent in a joint procurement and shared use of common facilities, and where the data bases of users would remain separate and secure, I suggested a meeting might be mutually beneficial.

In the course of that meeting, to which Mr. Baskir invited the representatives of Congressmen Moss and Moorehead, it became apparent that strong concern existed with respect to the concept of shared use of common data facilities reflected in the statutory authority (P.L. 89–306) under which GSA was proceeding, and the increased potential for privacy abuse, compared to continued proliferation of separate facilities, which it may reflect. We agreed that these privacy concerns were valid and that GSA should review the project in this light. We also agreed that the accommodation of these two policy objectives, economy and privacy, was a proper matter for legislative determination, perhaps within the context of the consideration of your recently introduced privacy bill.

I expressed my personal view that any expansion of the facilities contemplated in the current procurement beyond the immediate needs of Agriculture and GSA, for other agency use, through the exercise of options, should be preceded by legislative review and determination. I agreed to communicate the full results of the meeting to GSA line officials, and to attempt to secure an agency determination by May 10 of how we might most appropriately recognize and accommodate the very valid concerns you express.

As you are aware, this matter has been a subject of continued public and Congressional interest, and we have been occupied this week with obtaining the views of all appropriate parties on the action we should take. In the absence of Administrator Sampson, no final decision has yet been made. I am sure, however, he will communicate with you directly upon his return to Washington this coming week.

With warm regards,
Sincerely,

Harold S. Trimmer, Jr.,
General Counsel.

Hon. Arthur F. Sampson,
Administrator, General Services Administration, Washington, D.C.

Dear Art: This is in regard to your April 2, 1974, letter concerning GSA's proposed acquisition of ADP and telecommunications equipment. We have carefully reviewed the extensive volume of material supplied by GSA and have discussed the matter with representatives of the Department of Agriculture and the Office of Telecommunications Policy.

We have concluded that your pending Request for Proposal (RFPCOPA 74–14) to acquire nine computer sites and a data communications network should be withdrawn. The proposed data communications network is not responsive to the Department of Agriculture requirements. Moreover, the pending procurement is inconsistent with guidance of the Office of Telecommunications Policy which has called for termination of the proposal.

There is no economic advantage to the proposed acquisition of the initial GSA site. More importantly, there are a number of viable alternatives which would satisfy GSA's internal processing requirements. Those include: Reutilization of Agriculture's IBM 370–168 computer which will be replaced by the new equipment now being procured, use of excess USDA capacity which will be available at the new sites, purchase of a smaller computer for GSA for use along with commercial ADP services.

With regard to the three optional GSA sites, there is no identifiable workload associated with these machines nor is there an assurance that this particular configuration will satisfy future needs. In addition, considering "single prime contractor" approach of the RFP, the relative inflexibility of the data communications requirements, and the potentially limited competition, the solicitation for these three options is not without inherent cost to the Government. Finally, the proposed acquisition of ADP and telecommunications capability for unspecified uses poses a serious potential threat to the right of privacy at a time when this issue is under intense review by the Executive Branch and the Congress.

In view of the above considerations, GSA should take the following actions:

1. Immediately withdraw the Request for Proposal (RFP).

2. Reissue a new RFP limited to four firm and two optional sites (one for USDA and one for GSA). The GSA option should only be exercised after a thorough review of available alternatives and the necessary budget approval has been obtained.

3. The communication requirements should be acquired separately in accordance with OTP guidance and should be restated in a manner acceptable to the users.

Any procurement of ADP and telecommunications equipment or services with funds available to GSA may be obligated only in accordance with guidance contained in this letter.

Sincerely,

Roy L. Ash,
Director.

Office of Telecommunications Policy,
Washington, D.C., April 30, 1974.

Hon. Arthur F. Sampson,
Administrator, General Services Administration, Washington, D.C.

Dear Mr. Sampson: I am quite concerned over the approach GSA is taking to obtain data processing and communications network services. Instead of obtaining the necessary services directly from the private sector, GSA has chosen instead to procure and operate a large amount of data processing and communications hardware itself.

Procurement of service rather than hardware allows the government to take maximum advantage of continuing improvements in technology while at the same time remaining sensitive to changes in user demands. New commercial offerings are constantly arising which offer an ever widening range of features to satisfy a great variety of user needs. Since it is the policy of the Federal

Government to encourage the private sector in continuing to offer new and innovative communications services on a fully competitive basis, the government should take advantage of this capability where possible to meet its own internal needs.

The cost of commercial data communications services has been declining at an annual rate of over 10% during the past few years. Even at today's rates, equivalent commercial services would cost about half as much as the proposed GSA data communications network.

It is my view that present GSA plans for an in-house government designed and operated data communications network should be terminated and at least the communications portion of the present solicitation should be reoriented toward procurement of commercial services. Further serious consideration should also be given to the advantages of obtaining the data processing service on a similar basis.

Moreover, a government-owned network of computers of such large capacity and with such widespread remote access, raises important questions about privacy: For example, how will access be controlled through use of the communications links, and what incentives will there be to fill the computers with unnecessary data on individuals and firms?

Please let me know what action you plan to take on this matter. Because the request for bids has already been released prompt action is necessary.

Sincerely,

Clay T. Whitehead.

[From the Detroit (Mich.) Sunday News, May 5, 1974]

Fight Is Mapped Against U.S. Computer "Snooping"

(By Seth Kantor)

Washington.—Vice President Gerald R. Ford heads a new Nixon administration group aimed at safeguarding the public from government snooping devices.

Now the Ford group is preparing to crack down on one federal agency's secretly drawn blueprint for a national computer network that ultimately could pry into private lives across the nation.

The action by the Ford group against FEDNET, the $100-million brainchild of the General Services Administration (GSA), underscores a major power struggle among Nixon forces over who is to set policy in the sprawling empire of federal computers.

Ford heads the recently started Domestic Council on the Right to Privacy, which this week will launch a special task force expected to make the GSA back off from its hard-and-fast plans to have FEDNET rolling by next year.

According to GSA plans, FEDNET eventually could tie all civilian agencies of the government into one time-sharing computer system under GSA control. But congressional investigators charge those plans fail to spell out protection for individual rights.

Critics fear the GSA plan could eventually result in the development of a federal "supersnoop" operation by computer.

Those investigators held a private meeting with three top GSA officials two days ago on Capitol Hill, and accused the GSA of intentionally failing to notify Congress of its plans to establish FEDNET.

Ford's right-to-privacy group was ignored by the GSA bureaucrats also as they proceeded in recent weeks with plans to award contracts to build FEDNET and to attract other federal agencies into the network.

Douglas W. Metz, deputy director of the Ford group, said a key aim of the task force is "to prevent surprises like this" from happening again.

Metz said it is vital that when a system such as FEDNET is conceived there be "a series of checkpoints" in the specifications to protect the files of individuals and organizations from government supersnoop.

Three volumes of specifications for FEDNET were quietly circulated to possible contractors in March by the GSA. In them there are no step-by-step safeguards for private rights of Americans, according to charges made behind scenes by officials of the Office of Management and Budget (OMB) and the Office of Telecommunications Policy (OTP in the Nixon administration.

Their views are of critical importance because experts from the OMB and OTP will be on the task force examining FEDNET.

Officials at GSA insist their plans for FEDNET would establish a massive system where only time—and never data—would be shared in the computer centers by federal agencies.

The GSA concept calls for a set of secret password codes to unlock information an agency would store in FEDNET. Each agency would be given its own passwords as protection against data raids by other government units.

But stepped-up federal research projects have failed so far to produce an information computer system that can't be tapped into through digital codes.

Also, in their meeting Friday on Capitol Hill, congressional investigators told GSA officials that someone would have to control the password codes envisioned in the FEDNET plan. If corrupted, or ordered by some future White House authority to activate the passwords, the controller could render the safeguards meaningless.

The GSA points out there is overlap, duplication and chaos in present government computer systems, which "cannot talk to each other."

"The incompatible systems we have now," said a staff member of the House Government Operations Committee, "create privacy by confusion. In this case, we opt for chaos."

House Government Operations probers and staff members of the Senate constitutional rights subcommittee, headed by Sen. Sam J. Ervin Jr., D–N.C., discussed FEDNET privately for several hours Friday with GSA officials.

In the meeting were GSA General Counsel Ted Trimmer and GSA telecommunications planning executives Sidney Weinstein and Michael Muntner.

They defended FEDNET largely in terms of the money the system would save.

Last year, a House Government Operations subcommittee held extensive hearings on "federal information systems and plans—implications and issues."

GSA officials testified at length at the hearings and never mentioned FEDNET, which is recognized as the biggest planned purchase of civilian data communications equipment in government history.

Technically, FEDNET is being set up as computer-pool arrangement between the Agriculture Department and GSA. But the GSA's Weinstein and Muntner have told the congressional investigators that FEDNET is to have a "building block concept" that would permit other agencies to hook on.

The GSA has been conducting unpublicized briefings for other agencies in an effort to bring them into the system.

Two of those agencies are the Social Security Administration and the Veterans Adminisration, both of which keep hundreds of millions of pieces of private information on people.

The Detroit News disclosed a week ago that Rep. John E. Mcss, D-Calif., has demanded a full report by the GSA on its secretive FEDNET operations.

The Moss action has triggered interest on Capitol Hill that could lead to House and Senate hearings.

Protests Force GSA Cutbacks in "Supersnoop"

(By Seth Kantor)

Washington.—Mounting opposition has forced the General Services Administration (GSA) to backtrack on its plan for a new controversial computer system known as FEDNET.

Plans for the $100-million computer network were revealed by The Detroit News two weeks ago. Since then many top government officials have said they were unaware of the project and expressed fears of a Washington-based "supersnoop" system capable of gathering private information on individuals and institutions.

Now the Nixon administration's Office and Management and Budget (OMB) has sent a strongly worded message to the GSA, virtually demanding that it revamp its plans for FEDNET, which had been scheduled to be in operation by next year.

This resulted in the GSA issuing a statement that it has decided to review its plans "because of concern raised in several quarters of government over various aspects of the procurement, including whether adequate safeguards would be provided to ensure the system does not increase the risk of invasion of individual privacy."

"The capability is there" for a system to invade the privacy of people across America, admits M. Shy Meeker. Meeker, a former "whiz kid' Ford Motor Co. executive, heads the GSA automated data and telecommunications service.

Meeker said in an interview with The News that he has been made aware of at least one missing safeguard to potential contractors.

This he described as a guarantee that each user of the computer would be recorded, as well as the nature of the information retrieved.

A new federal right-of-privacy committee, headed by Vice-President Gerald R. Ford, is raising questions about GSAs approach to FEDNET.

Sen. Sam J. Ervin Jr., D-N.C., chairman of a Judiciary subcommittee on constitutional rights, has expressed concern about FEDNET in a letter to the GSA, cosigned by a piar of Republican senators, Barry M. Goldwater of Arizona, and Roman L. Hruska of Nebraska.

Their concern developed after disclosures were made about the computer network's potential dangers by Rep. John E. Moss, D-Calif., who fathered the freedom of information act.

GSA plans call for five initial cross-country computer centers to be set up in a cooperative venture with the Agriculture Department.

But GSA officials already have held private talks with the Veterans Administration and Social Security Administration, to bring them into the FEDNET system, which would expand into additional centers and would include more federal agencies system."

Meeker, who holds three university degrees, including one in industrial psychology, describes FEDNET as a state of mind—"a philosophy and not a physical system."

"It's an attempt," he said, "to prevent the proliferation of incompatible federal computer systems, through intelligent planning on our part."

The GSA computer chief said "the whole thrust of what we're trying to do is to save money. We're replacing antiquated equipment, which is just cranking along."

Meeker said FEDNET eventually "would save the taxpayers tens of millions of dollars."

"To begin with," he said, "we're replacing 50 computers with five new ones."

Meeker said FEDNET would only represent about 1 percent of the nation's total federal computer capacity, once the system was fully into operation.

"You can't buy a secure box—a black box that guarantees privacy security," he said. "It's people who make the security. It will have to be done through the controls of law."

As an illustration, Meeker said "there will have to be tough rules drawn up, such as you can't use social security numbers in the data base of the system, as a means of prohibiting the cross-breeding of information" among agencies.

But Meeker said FEDNET has been drawn up without the GSA explaining how it would work before any congressional committee.

Last year, for instance, GSA experts testified before a House subcommittee looking into new federal computer plans, and never mentioned FEDNET, although Meeker says it has been in the planning stage for at least two years.

Meeker's move "to save money" for the taxpayers is not appreciated by the OMB. In a private communique to GSA Administrator Arthur Sampson, the OMB has questioned the whole GSA approach to FEDNET—raising the possibility that the specifications should be redrawn.

The OMB wants Meeker's office to issue separate bid proposals. One would cover the computer hardware. The other would govern communications rules and regulations.

The net effect would be to delay Meeker's plans so that both Congress and the Nixon administration could draw up a well-planned approach to see that FEDNET could not become a future tool to fold, mutilate or spindle private rights.

[From the Detroit Sunday News, Apr. 28, 1974]

WILL WASHINGTON BE A SUPERSNOOP?

(By Seth Kantor)

WASHINGTON.—In George Orwell's ominous novel, "1984," the government is Big Brother and no life is private. And now, 10 years ahead of the fictional schedule, a real-life federal agency is independently setting up a massive computer network, which has the potential of getting a personal readout on people all across America.

Known as FEDNET, the network is to be controlled entirely by the General Services Administration (GSA), which plans to have it under way by next year. The plan calls for other federal agency computers to hook into the network, which would create a potential for the GSA to gather personal information from the files of many government departments.

Some communications specialists express concern that FEDNET will develop into an intricate system that eventually could snoop into individual lives, despite federal protections set up to insure the right to privacy.

For instance, Rep. John E. Moss, D-Calif., said he is deeply troubled by the GSA plan because of "the significant danger" in years ahead when future generations of computers could store cradle-to-grave information on people in a government-run surveillance system.

Moss, who authored the freedom of information act on Capitol Hill, charged this weekend in a letter to GSA Administrator Arthur F. Sampson that "experts tell me cooperation among various federal agencies would allow assembly of dossiers on any individual or institution" with expansion of the computer system.

FEDNET also has touched off a power struggle in the upper reaches of the Nixon administration, where White House advisers are concerned over the what they see as the GSA's grab for power and the cost-heavy way the agency is going about it.

At stake in the struggle is who is going to set federal policy on the operation of the government's multi-billion-dollar computer business.

Estimated construction costs of FEDNET range up to $180 million. Qualified observers said it will be the biggest buy of civilian data communications equipment in government history.

Unlike other massive purchases, this one is being made without an appropriation from Congress. Instead, the GSA intends to use a $50 million kitty it controls for government-wide automatic data processing expenditures, as a starter.

Dr. H.R.J. Grosch, a nationally-known computer expert and former director of computer operations at the National Bureau of Standards, said the type of system GSA intends to install is not the most efficient "and sounds to me as if it were pushed by people out to make a fast buck."

Money watchers in the administration's Office of Management and Budget (OMB) are equally upset. They privately threaten to blow the whistle on what Rep. Moss calls the "extraordinary circumstances" surrounding the secretive GSA plan.

These are the circumstances. On the surface FEDNET is being set up by the GSA for its own needs and for the Agriculture Department as a leasing client. The GSA is the government's equipment and real estate supply agency.

Early last month the GSA began distributing thick volumes of specifications to potential bidders. Bids are due June 28. The contract is to be awarded Dec. 27, with the first of nine new computer centers to be installed by mid-1975.

Specifications call for five basic centers. There are to be four for the Agriculture Department—at New Orleans, Kansas City, Washington, D.C., and Fort Collins, Colo.—and another to handle GSA needs in Washington.

There are to be four optional sites, including one in the San Francisco area for Agriculture. The other three would be set up for the GSA at Chicago, Fort Worth, Tex., and Laguna Niguel, Calif.

Dennis Bracy, who is special assistant to the GSA's commissioner for Automated Data and Telecommunications, said his agency doesn't need to use more than one new center but the others would be established "so we can take advantage of the discounts" in equipment purchases.

Other agencies are certain to sign up for the network once the facilities are available. For instance, the GSA and the Veterans Administration began quiet negotiations on FEDNET several days ago.

GSA plans call for one of the option sites to provide a massive computer complex near President Nixon's home at San Clemente, Calif. It would be located on a $19.5-million piece of property at obscure Laguna Niguel, which the GSA acquired only last month in a trade with a defense contractors, Rockwell International Corp.

But there is growing unhappiness over the GSA plan at two important policy levels of the Nixon administration—the OMB and the White House Office of Telecommunications Policy (OTP)

Privately, OMB and OTP officials are upset because they are convinced the GSA didn't go about planning FEDNET in the most economical way, while at the same time making federal policy on its own by conceiving the network.

There is no doubt about GSA's policy aims, which are spelled out on Page 39 of the second book in the three-volume set of specifications for FEDNET. They call for "controls (to) permit the system administrator to enforce who may use the system" and specify what facilities can be used.

Moss is convinced that GSA officials are skirting the intent of Congress by establishing that kind of system.

"By its very conceptual size," said Moss in his letter to Sampson, "the plan guarantees that only the very largest contractors will be able to fulfill the requirements, in turn guaranteeing a huge system. "It would appear that not only would smaller contractors automatically be excluded from participation, but the government will have no option but to create the largest possible system."

Bracy, the GSA spokesman, denies that FEDNET is to be a single, tightly-controlled system.

"In no way are we planning for a monolithic network," he said. "I would assume agencies could lock up their own systems to keep any other federal agency from snooping through its computerized files."

Bracy admits the agencies "could willingly supply information" to each other through FEDNET in future years, "which is something agencies will have to be very careful about."

Asked if a Big Brother government 10 years from now could use FEDNET to pry into private lives, the GSA official laughed. "Not any more than with a telephone network," he said.

In Orwell's "1984," a time when the fictional government's motto was "Ignorance is Strength," every phone was tapped.

EXTENDED FUNDING FOR EOF

Mr. DOLE. Mr. President, within the next 45 days Congress will make an important decision which will affect the CAP agencies across the country. The decision relates to the question of what is to be done with legislation which will extend the authority of the economic opportunity program beyond its present expiration date of June 30, 1974.

There have been a variety of opinions expressed regarding the performance of CAP's and the future of the community action program. However, I observe an overall growing appreciation of the job CAP's are doing and swelling support for their continued support through some form of Federal legislation. This change in sentiment, I feel, is largely the result of the CAP's effort to better coordinate their programs with local government and involve local leaders in their programs. Through this effort, I feel there has developed a growing awareness of the unique ability of CAP's to help people to help themselves—to offer a hand up—not a hand out.

I have indicated my support of pending legislation to extend OEO funding to the ranking members of the Senate labor and public Welfare Committee and would like to call to the attention of my colleagues a significant event which recently occurred in Kansas City, Kans. The mayor of Kansas City, Kans., Richard F. Walsh, presented a key to Kansas City, Kans., to Uriel Owens, the managing director of the Economic Opportunity Foundation. EOF is the Federal community action program for Wyandotte County which includes Kansas City, Kans. This event is significant because it evidences a period of substantially increased communication, understanding, and cooperation between EOF and the local government.

CAP's, to be effective advocates for the poor, cannot be controlled by local government. However, a good working relationship between CAP's and local government is essential for an effective agency.

Mr. Owens joined EOF as managing director 1 year ago. His major goal was to increase community awareness of and participation in the ACTION agency programs and to make it clear that the purpose of community action is to help the disadvantaged to help themselves rather than to provide a financial crutch. In each aspect EOF is succeeding. The giving of the key to the city expresses support and appreciation for this progress which has come during the difficult time of uncertain funding for the agency.

In deciding whether to continue the Office of Economic Opportunity funding of CAP's beyond June 30, I hope my colleagues will note the progress which is being made by EOF in working with local government. Not only has EOF received support from Mayor Walsh, but also letters of support have been received from Wyandotte County, Bonner Springs, and Edwardsville, the other cities within the county. This progress and support is not new across Kansas, for the other CAP agencies have previously developed a good working relationship with local government.

It is my impression that what is happening at EOF is probably happening many times over around the Nation.

I ask unanimous consent to include in the Congressional Record coverage in the Kansas City Kansan of the presentation of the key to the city to Mr. Owens and a sample of the letters of support OEF has received.

I also ask that my letter to the ranking minority leader of the Labor and Public Welfare Committee, the distinguished Senator from New York (Mr. Javits), expressing my feelings on the extension of CAP programs, be printed immediately thereafter.

There being no objection, the material was ordered to be printed in the Record, as follows:

U.S. Senate,
May 13, 1974.

Hon. Jacob K. Javits,
Ranking Minority Member, Labor and Public Welfare Committee, U.S. Senate, Washington, D.C.

Dear Jack: Recently I had the opportunity to visit the annual meeting of SEK–CAP, the Community Action Agency for Southeast Kansas. The meeting was attended by approximately 600 residents of the area, and the program consisted of a review of the accomplishments of the agency over the past year.

The program was most impressive, and I feel illustrated the ability of CAPs to provide a flexible program able to meet the particular needs of a given area. I have also worked with other CAP agencies across the State, including EOF in Kansas City, ECKAN in Ottawa, MIDKAP in El Dorado, NEK–CAP in Horton, the CAP agencies in Wichita and Topeka, and the single purpose agency serving migrants in Western Kansas. I feel I can *safely* say Kansans generally believe that CAPs, after a few early year growing pais, have established a credible record in their communities.

I bring this to your attention at this time since I understand you will be introducing legislation to extend the CAP funding. Unless a bill can be passed in the next six weeks, the CAPs and the myriad of programs delivered through the CAPs are in grave danger.

I want to bring to your attention my concern regarding this legislation, especially as it relates to the placement of the poverty program within the federal administrative structure and the independence to be granted the agency once established. I agree it is important that CAP activities be coordinated and work in conjunction with local elected officials and local programs; yet, at the same time we must recognize that it is the independence of CAPs which has enabled them to cut through bureaucratic red tape and deliver a variety of grass roots programs tailored to the specific needs of each community.

I feel that a legislative middle ground is available which will assure community involvement outside the CAP agency with CAP delivered programs but which will also assure that the CAP has sufficient autonomy to function as it should. I, therefore, trust that your proposal would extend the CAP authority either as an independent agency or within ACTION. The agency must have sufficient autonomy to sustain its programs in their current form. In conjunction with this autonomy, it would also be necessary to maintain at some level of operation the regional OEO offices.

Arguments against extension of the CAP authority have been presented by the Administration on the basis of the concept's conflict with the general Administration policy of returning funds and decision making powers to the local level. I support this general direction in government programs, but feel also that in funding the local CAPs we are actually turning resources and decision making power over to the people at the grass roots level. So long as these programs are coordinated with local public officials and other community based programs, I feel they can play an important role in the new federalism concept.

Thanks for the time and consideration given this important matter.

Sincerely yours,

Bob Dole,
U.S. Senate.

Walsh Praises EOF

(By Marilyn Petterson)

Economic Opportunity Foundation Managing Director Uriel Owens was given a key to the city Friday—a key Mayor Richard F. Walsh said he hoped would open the door to much needed financing and office space in the old city hall.

Presentation of the key was made during a Community Action Day program at EOF headquarters, 1014 Armstrong. About 200 persons gathered for the observance, which included a brief talk by Walsh.

Walsh praised EOF programs, with special emphasis on the Handiman home repair and senior citizens programs, as vital in meeting human needs in Wyandotte County.

There have been, of course, good and bad programs in EOF, Walsh said. But the good programs have stayed around and these are the programs "we are celebrating today."

He said altho he hopes some revenue sharing dollars can be found to help fund such programs as Handiman, the city budget is not prepared to support the programs on a dollar for dollar basis. He urged citizens to write their congressmen to provide a broader basis of federal funding of at least a 60–40.

Bringing congratulation from U.S. Sen. Bob Dole, R-Kan., aide Bill Wohlford said the senator sees some support in Congress for not just the continuation of anti-poverty programs set up under the Office of Economic Opportuity umbrella, but for continuation also of the community action agencies themselves.

Speculation is that Congress will extend the Economic Opportunity Act at least one more year with an eye on placing many programs under other social service networks. Walsh also said Friday that, thru discussions with federal officials, he feels that even if OEO is discontinued, some type of social service legislation will transfer the on-going successful programs to other areas so they may continue.

With the key to the city around his neck, Owens said, "When you hear remarks like that you can start planning where you will be after June 30 (the date OEO legislation runs out)."

Board of County Commissioners,
Kansas City, Kans., April 15, 1974.

Mr. Uriel Owens,
Managing Director, Economic Opportunity Foundation, Kansas City, Kans.

Dear Uriel: I have enjoyed working with the Economic Opportunity Foundation over the years. Tackling the causes of poverty is a very difficult task in any community. However, it appears to me that EOF in Wyandotte County, through its variety of approaches and dedicated staff, is making headway in this direction. I certainly support you in this effort.

I join with you in hoping that legislation will soon be passed by the Congress in Washington, D.C., to continue the Office of Economic Opportunity funding for Community Action Agencies such as EOF. There is a demonstrated need in this county for continued community action to help meet human needs of the deprived and disadvantaged. EOF is proving itself remarkably capable of helping provide that action.

The best to you in your efforts to build an even stronger agency that will work toward a better county for us all.

Appreciate your feeling free to keep me informed about current events at the Foundation, and know you will call on me wherever I can help.

Sincerely yours,

James P. Davis,
Chairman, Board of County Commissioners, Wyandotte County, Kans.

Edwardsville, Kans., *March 15, 1974.*

Mrs. Robert L. Hadley,
Edwardsville, Kans.

Dear Mrs. Hadley: The City of Edwardsville and the undersigned personally have been interested in the community service program in the western Wyandotte County area with which you have been associated for some period of time.

We are aware of the extent of the program and particularly that service which is offered by your organization to the aged population throughout the area and especially those who have no transportation or are unable to get their doctors or grocers without your help.

This letter is written to you for any purpose for which it may be used to assure you of the interest and support of the undersigned and to further corroborate the integrity of your organization and the service which is rendered. If I can be of further assistance, please feel free to call upon me.

Very sincerely yours,

Blake A. Williamson,
City Attorney.

Bonner Springs, Kans., *March 12, 1974.*

Mrs. Connie Hadley,
Western Wyandotte County, Coordination & Development Center, Bonner Springs, Kans.

Dear Mrs. Hadley: I would like to take this time to commend the Western Wyandotte County Coordination & Development Center for a job well done. The many services provided our community and surrounding areas by the **C & D Center have** proved to be most beneficial to all concerned. Indeed, the timeless efforts have resulted in a very effective program.

It is our hope that in the future we can rely even more on the C & D Center's services to this community.

If I may be of any help to you or to the C & D Center, please do not hesitate to call upon me.

Sincerely,

RANDY GUSTAFSON,
City Manager.

KANSAS CITY, KANS., *March 22, 1974.*

Mr. URIEL OWENS,
Managing Director, Economic Opportunity Foundation, Inc., Kansas City, Kans.

DEAR URIEL: I wish to join with others in this community in expressing support and appreciation for the efforts of the Economic Opportunity Foundation in helping the deprived and disadvantaged of Kansas City, Kansas.

I came to know your Western Wyandotte Neighborhood Center well during my tenure as county commissioner and readily recognized the high quality of its operations and the many benefits it provided to the western part of Wyandotte County.

As Mayor, I have attempted to follow the activities of the three (3) neighborhood centers in Kansas City, Kansas, and the many other E.O.F. activities. Based on my personal knowledge, and from everything I've heard, I am pleased to say that E.O.F. is doing a good job in providing much needed services.

Also, I want to express my appreciation for the special efforts your agency has recently made in attempting to include the city in your planning process and to keep me informed about your program.

Please feel free to call on me or my staff whenever we may be of help.

Very truly yours,

RICHARD F. WALSH,
Mayor.

THE TERRORIST ATTACK AT MAALOT ISRAEL MAY 15, 1974

Mr. BROOKE. Mr. President, we have once again witnessed the cowardly brutality of the terrorist. The attack at the Israeli village of Maalot by Palestinian zealots, whose ends have been swallowed up and distorted by the inhumane means they have chosen to use, deserves condemnation by all individuals and nations truly desirous of peace in the Middle East.

We cannot, we must not pass over this incident as just a minor one as did the Syrian official who reportedly stated:

> . . . over-all peace in the region is more important than any incident. . . .

While I fervently pray that the efforts underway to achieve peace will ultimately prove successful, I reject the view that the massacre at Maalot is just "any incident." Rather it is the cold-blooded murder of innocent children by individuals whose passions have deadened, if not destroyed, the spark of humanity that maintains the distinction between a civilized existence and the violence of the jungle.

The Israeli death toll at Maalot stands at 30 and it may go higher. If this tragedy could only have been avoided. And yet, it is difficult to see how it could have been. As an editorial in the New York Times stated this morning:

> At Maalot, Israeli army action may have compounded the tragedy for some hapless innocent victims, and yet it succeeded in freeing the rest. There seems to be no humane way of countering the brute barbarity repeatedly demonstrated by one terrorist group after another.

Such "brute barbarity" will not be controlled until all governments recognize that the acts of the terrorists, no matter what their justification, are an affront to man's dignity and a threat to the orderly and peaceful functioning of any society. So long as states are willing to harbor and protect the terrorist, we are likely to see more incidents such as those that have occurred at Maalot and Quiryat Shemona.

Mr. President, it is important for us to understand the reasons why the Israeli Government felt compelled to order the army to move on the terrorists. Therefore, I ask unanimous consent that Premier Meir's official statement concerning the terrorist attack at Maalot be entered into the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

TEXT OF ISRAELI PREMIER'S STATEMENT ON THE TERRORIST ATTACK AT VILLAGE OF MAALOT

JERUSALEM, May 15.—Following is an unofficial translation of the statement by Premier Golda Meir today:

This has been a terrible day.

It began when at about 3 A.M. three terrorists attacked a house in Maalot and murdered the father, the mother and a child.

Afterward, just a little before 5 A.M., they arrived at the school. In the school there were children from the 8th, 9th, 10th and 11th grades from Safad and from Hatsor. They entered the school, planted explosive charges and distributed bombs, and it was absolutely clear that they intended to blow up the building.

They allowed a nurse to leave the school with their demands as well as instructions how to carry them out.

DEMANDED RELEASE OF 20

They demanded [the release of] 20 terrorists. They insisted on negotiating only with the Ambassadors of France and Rumania. The Cabinet met at 9 A.M. and sat until about 7 P.M., with a break of about an hour and a half.

We were faced with a most serious problem.

Everyone in the country knows the problems involved in releasing terrorists, but the Cabinet decided that one doesn't conduct wars on the backs of children.

We decided to meet the terrorists' terms and to release 20 terrorists as they demanded.

We announced this. On the scene were the Minister of Defense and the Chief of Staff, from 6 or 6:30 in the morning. Afterward the Minister of Police joined them. And they informed the terrorists who were in the building that we were prepared to release the terrorists.

NEEDED A CODE WORD

The French Ambassador informed us that, according to instructions from his Government, he could enter negotiations with the terrorists.

The terrorists were not prepared to accept the French Ambassador, to speak to him, negotiate with him, as long as he did not have the code word he was to receive.

I can tell you that up to this moment, the French do not have the code word.

He was ready to go to Maalot. He went to Maalot in the afternoon, toward evening, but they were not prepared to exchange a word with him and enter negotiations with him.

At about 3 or even before 3 P.M. the Rumanian Ambassador informed us that he was notified by his Government that a representative of the Hawatmeh organization, from Bucharest, had told the Rumanian Government that the Rumanian Ambassador was the only one with whom the terrorists would be prepared to negotiate.

IN TOUCH WITH RUMANIAN AMBASSADOR

And if the Israeli Government would announce that I was prepared to release the terrorists we hold imprisoned here, then the Rumanian Ambassador here would receive the code word from Bucharest.

From about 3 or just before 3 P.M. and until 5 P.M. we were in constant touch with the Rumanian Ambassador. Why wasn't anything being done? By 5 P.M. he had not yet received the code word. On the contrary, he came and told us their conditions.

Before that, we had told the terrorists on the spot and informed the French Ambassador and the Rumanian Ambassador that we had brought together the 20—later they raised that to 23—terrorists, that we had brought them together and they would be ready to leave.

The terrorists at Maalot demanded the following arrangements: We were to fly the released prisoners to either Damascus or Nicosia. When they arrived, for example, in Nicosia, then the Rumanian Ambassador would received the code word. Upon receiving it, this would mean that the terrorists had arrived, and then they would be prepared to release 50 per cent of the children.

The other 50 per cent of the children, they—the terrorists wanted to go to an airport together with the children, board a plane and fly the terrorists together with our children to an Arab country.

But, I want everybody to know, that was already at 5 P.M.

We contacted the French Government and the Rumanian Government. We saw that it was getting 4:30 and 5, and the time they had set to blow up the school was 6 P.M.

We realized we could not manage in time. Because at 5, the Rumanian Ambassador reached us with this plan. And even if we accepted it and even if we had agreed to fly the children to an Arab country, there was no possibility to do this, not even to fly the people to Nicosia, get the code word from them and afterwards fly the terrorists and our children to some place, and all this by 6. And we had no doubt whatsoever, as the terrorists insisted stubbornly and firmly that they would not budge a single minute after 6 P.M. And then it became 5:15, 5:20, and they were not prepared to extend the time, and there was no other possibility. And we knew that all the children were in danger.

At that moment there was no longer any doubt that they intended, in truth, to blow up the school. Then at 5:30 the army went into action.

RESULTS ARE GRIM

The results are grim because in the first assault, the immediate action, they did not kill the terrorists but only wounded them. They were hurt sufficiently so as to be unable to activate the explosives, but they had enough strength left to start shooting into the groups of children and throw hand grenades. It also enabled our unit to go upstairs to the second story, while grenades were being thrown at them. It was very hard to go upstairs. They weren't certain that the explosives would not go off at any moment. They operated with speed and the terrorists were killed. The results as we know them at present, from the hospitals—and I am not certain if these results are accurate—there are 16 killed, about 70 wounded, and we are informed by the hospitals that about nine are seriously wounded. I repeat, there may be changes in this number, I hope a change for the better.

This is the Hawatmeh organization. That is the organization whose leader, Hawatmeh, wants to lure us into living in a secular democratic state together with him. This is an organization that knows only blood and murder—and of children.

I know what this day means to every mother and father, brother and sister. But this has been a bitter day and a terrible one for each and every one of the people. Of that I am certain.

CUT OFF THE HANDS

I want to promise one thing:

I can't promise that they will let us live in peace. But I want to and can promise that the Government—any government of Israel—will do everything in its power in order to cut off the hands that want to harm a child, a grown-up, a settlement, a town or a village. And for all of us there is only one thing left: to guard in the most careful manner our strength and our spirit.

I want to take this opportunity to thank those who already now during the day have had time to identify with us in our trouble and to condemn the crime—the U.S. Secretary of State, Dr. Henry Kissinger, who is at present here with us; the Pope; great people from Italy and many other places.

I want to hope that the international community will finally recognize who they are who stand at the head of so-called liberation movements, to what they send their men and to what they educate their people.

Mr. BROOKE. In conclusion, the escalation of terrorism in the Middle East illustrates, as nothing else can, the need for peace in the area, peace based on an acceptance of the right of all the states to exist in a secure environment. The attack at Maalot cannot help but make the task of achieving peace much more difficult. It makes the importance of doing so much more apparent.

CONGRESSMEN RAILSBACK AND SARBANES ON FACE THE NATION

Mr. PERCY. Mr. President, on Sunday, May 5, my colleague from Illinois, Congressman Tom Railsback, and Congressman Paul Sarbanes from Maryland, were guests on the CBS show, Face the Nation.

Seeing these two lawyer-Congressmen, both members of the House Judiciary Committee, should have given considerable comfort to many Americans who fear the constitutional process of impeachment which is now in the first stage in the House.

These gentlemen, though members of different parties, exhibited the kind of unemotional, impersonal and yet inclusive logic that I trust will be representative of the other members of that important committee. They were thoughtful and judicious in their comments, in the best tradition of the Congress. I believe their appearance helped demonstrate that the constitutional process of impeachment is in the hands of good and wise men and women.

Mr. President, because of the timeliness of their responses, I ask unanimous consent that the transcript of that broadcast be printed in the Record at this point.

There being no objection, the transcript was ordered to be printed in the Record, as follows:

Transcript of Face the Nation, Sunday, May 5, 1974

George Herman. Representative Sarbanes, Representative Railsback, you are both members of the House Judiciary Committee which has received from President Nixon the transcripts of certain tapes, plus two briefs or arguments based on those transcripts. I'd like to ask you both whether this submission from the White House provides the material you need to fulfill your constitutional duties in exploring the question of impeachment. Mr. Sarbanes?

Representative Sarbanes. George, I don't think it does. I think it's an important beginning, but the subpoena that the committee sent to the White House asked for tapes and other matters, and we're entitled I think to the best evidence. If tapes are available, I think those should be provided to the committee. It's also important to note that the committee has also requested of the White House other material in other areas, which we are conducting our inquiry. Now that's been done by letter so far, but those are important matters as well, so that the reach of the matters that are being looked into is not solely of the Watergate matter, so we have both getting a full response to this subpoena and receiving a response with respect to the other matters that we are seeking.

Herman. Mr. Railsback?

Representative Railsback. I would basically agree. I think the White House made a very constructive first step which is certainly going to help us, but I think it's become pretty apparent from reading some of the transcripts that it would be much better for instance, if we had been able to use our own transcribing equipment, which is much more sophisticated than the White House equipment. I think, as Paul mentioned, that the people would be misled if they believed that we were only interested in the Watergate cover-up. And of course there are many other allegations that have been levelled. I think it is in the President's best interest that we really consider all of these allegations and do so with a degree of thoroughness so that we can say to the American people, we've examined this carefully, we've done our job, and we find whatever we do find.

Announcer. From CBS News, Washington, a spontaneous and unrehearsed news interview on FACE THE NATION with two members of the House Judiciary Committee, Representative Paul Sarbanes, Democrat of Maryland, and Representative Tom Railsback, Republican of Illinois. They will be questioned by CBS News Correspondent Bruce Morton, Helen Thomas, White House Correspondent for United Press International, and CBS News Correspondent George Herman.

Herman. In your answer to this first question, you talked a little bit about the superior—more sophisticated equipment, I guess was the word, possessed by the committee. I gather that some of the gaps called unintelligible in the White House transcripts have been pieced out now by staff of your committee. Have you seen them? Can you tell us anything about them? Are they substantial? Are they substantive? Either of you?

Representative Railsback. My information really comes from both counsel as well as the ranking minority member, Ed Hutchinson, and from my first response I don't mean to imply that there was anything purposely substantively omitted. In other words, that is not the information that has been given to us, but I personally think—going one step further—I think it's essential that insofar as either our two top members of the committee or counsel, if they finally are permitted to participate in the screening, that they be able to determine what may be relevant. And then I think the rest of the members of the committee in those cases ought to also have a right to at least hear the edited tapes, so that we would be in a position to judge the tone of the conversation, voice inflections, and so forth.

Representative Sarbanes. We haven't seen them yet, but we are informed that in a few instances in which we already had tapes, for which transcripts have now been provided, that the transcripts that our staff was able to develop from those tapes are more complete than the transcripts that were furnished us in terms of the inaudible portion of the transcripts. The other thing that I think is important about the tapes is that a sentence on a written page can have very different meanings, depending on how it is said. Those words can be said in two entirely different ways that carry with them a very different meaning, and that's another reason why in a very substantive sense it is important for the tapes to be furnished to the committee and be available to the members if it becomes necessary, is deemed pertinent to be able to actually hear them.

Thomas. I'd like to ask both our guests if either of you, in the reading of the transcripts, has found any impeachable offense so far?

Representative Railsback. If I could answer that, I would say that I think it would be very poor judgment on our part to make that kind of a finding at this particular stage when frankly we haven't even begun to hear all of the evidence, and I would guess too that we're going to have to call some live witnesses, and some of those live witnesses will be people that are on these tapes that we have.

Representative Sarbanes. I think it's important to appreciate the process that the committee is about to embark upon, beginning this week with the statement of information and its correlation to evidentiary material by the staff to us, and I think it's important that we go through that entire process, examining this material, examining the transcripts as they relate to other information which is in the files of the committee that bears upon what is said in the transcripts, that provides additional factual information, that provides the complete picture. At the end of that process, each member of the committee is going to be called upon to make a judgment—that's what we're engaged in—and we should move through a period in which all of the factual information that's available and what we are seeking is brought to us, and at the end of that period I think then we're in a posture to make a judgment.

Morton. Mr. Railsback, it seems clear from your opening remarks that you don't think the President has complied with the committee's subpoena, but you voted against sending him a letter that said that. Why?

Representative Railsback. I voted for the Cohn substitute which it seemed to me was much more meaningful than what I characterized as sending the President a declaration of non-compliance. What the Cohn sub——

Morton. But it's true that he didn't comply, isn't it?

Representative Railsback. I think that you could say that he was in what I would call partial compliance, but certainly not full compliance—there's no doubt about that. But I like the idea of doing something constructive, and it seemed to me—and Cohn's proposal would have gone a step further and said, Mr. President, we acknowledge receipt, we don't think you are in full compliance, we would like our counsel to be able to hear the tapes and—in other words, we'd like to get together and see if we couldn't pursue this, and hopefully we could work out something that would be mutually satisfactory.

Morton. Well, let me ask each of you then—you have this other request pending for evidence which deals with other areas, with ITT, with milk, and so on. Assuming—which I think is a fair assumption of White House comments this past week—that you don't get it, or at least you don't get all of it—would you support a subpoena for that evidence?

Representative Railsback. Yes, I think that what we have to do is have a presentation by our counsel, which we will have. They have sent us a detailed document that details the need for this additional material. To be quite honest, I haven't had a chance to really carefully review that. If I'm convinced, and I in all likelihood will be, that this material is essential for us to get to the truth of all of the allegations, then I'm certainly going to support a subpoena. Let me just add one thing—I've been also led to believe that this is a very substantial request, and it involves I think something like 46 hours of conversations. I hope, and I'm led to believe from something that was said to us by one of our staff, that this may be a final request, and I would hope that that would be the case. Otherwise, I don't think we're going to have any chance to meet our deadline of June 30.

Thomas. I'd like to ask both of you—do you think that the President has been hurt or helped by his release to the public of these transcripts?

Representative Sarbanes. Oh, I think he's been helped to the extent that he at least has come forth with something that the committee has been seeking. I think he may well have been hurt by the substance of what is contained in the transcripts. That is a judgment that——

Thomas. How do you mean?

Representative Sarbanes. That's a judgment that the people will have to make. Well, I think having an opportunity to see what's in these transcripts—they begin to appreciate the dimensions of the inquiry upon which the committee is engaged. I would think that with a careful reading of those transcripts, most people would have to conclude that this inquiry upon which the Judiciary Committee is engaged is a very serious matter indeed, that additional material ought to be furnished to the committee in order to provide the full factual picture with respect to this matter. If I could just go back to Bruce's question, I think that the additional requests for material are supported by a memoranda which clearly show why it's pertinent. That request was sent by Chairman Rodino and Mr. Hutchinson jointly, and it would seem to me that a failure to comply with that would require the committee then to consider issuing the subpoena. Now with response to the action which we took the other evening, I think it's important to recognize that there are very few if any members of the committee who really thought that there had been full compliance with the subpoena. There was a difference of opinion on what the response should be, essentially between a simple statement that there had been a failure to comply, as opposed to a letter that then went on and continued to negotiate. One of the problems with the negotiation was that we had been at that, I think, for two months and five days, beginning the 25th of February. We had extended the time for five days on the 25th of April, and it seemed to some of us that it was a need just to state what the fact was with respect to compliance.

Herman. Mr. Railsback wanted to get in on that one.

Representative Railsback. Yes, I just think that we ought to maybe point out that this business of either transcribing or listening to tapes is a very laborious process, and that's one of the reasons why some of us favor having our counsel go with our chairman and the ranking minority member. It's plain hard work, and that explains some of the reasons I think why it's taken so long.

Thomas. Why does the White House not want the counsel to go along?

Representative Railsback. You know, Helen, I really don't know. I think they would be well advised to let counsel—in other words, it seems to me that it's a rather arbitrary—and on that particular point, I think it's been kind of an arbitrary decision.

Thomas. You know that vote on the letter to the President was a very party line vote; do you think that that reflects an ultimate decision on the part of the committee, that that's the way they'll go on the impeachment question?

Representative Railsback. I really don't. I think that most members of the committee are genuinely determined and interested in getting to the truth. Now, we may disagree about procedures. I don't remember how Paul Sarbanes voted; I feel very strongly that the President's counsel—and the President himself, if he wants to—should have great leeway in participating so that when we finally are ready to make our judgment, we can say that we've acted judiciously, we've bent over backwards to see that they've been able to participate fully.

Representative Sarbanes. The committee was unanimous the following day in adopting rules of procedure that would govern how the evidentiary presentation would proceed, and what the role of the President's counsel will be in that matter, so I don't think that when we have these divisions as we move along, they should be taken as having any ultimate significance. I think every member of that committee is committed to the process of carrying through a fair, thorough, full inquiry in reaching a judgment.

Thomas. You don't think there's been an attempt to drive a wedge along party lines?

Representative Sabranes. By whom? Not by members of the committee, I don't think. I think the members of the committee are united in the purpose——

Herman. Wedge or no wedge, do you think eventually this is going to turn out to be a party line vote?

Representative Sarbanes. You can't answer that question until you've been through a review of the factual material. There seems to be an assumption that somehow the facts are not going to bear on the decision, and they're going to bear greatly on the decision.

Thomas. You know, the White House keeps complaining that—I'll put it another way—do you agree with the White House that an impeachable offense has to be a criminal offense?

Representative Sarbanes. No, I do not.

Herman. Mr. Railsback?

Representative Railsback. I don't either, but let me say that all likelihood, in this particular case, it will be. William Dobrovir, who managed to play a tape at a cocktail party, who also co-authored a manual on impeachment, had something like 28 allegations against the President and he was able to find indictability, or an indictable offense to match up with every one of those allegations, all of which have been duplicated in our inquiry. In other words, I think we're talking about a serious offense which in all likelihood will involve criminality.

Thomas. But you think that impropriety itself, in the office, of the presidency would be grounds?

Representative Railsback. To be quite candid, I don't think we're going to impute any—I'll speak for myself on this—I don't favor imputing criminal responsibility without some kind of direct involvement or evidence of direct involvement of the President himself, and I just—I think there are many other members, including many Democrats, at least in the House—the full House—that feel the same way.

Representative Sabanes. I think there's a view that a serious abuse of power or violation of the public trust would fall within the definition of impeachable conduct, according to the constitutional standard. Now, you have to make a very careful judgment on the facts that come before you. It may in fact be that those facts fall so clearly in the area of indictable crimes that you don't reach that question, but I do not think as a legal matter the definition can be narrowly limited in that way. I do not think—

Thomas. Is the committee going to make a definition?

Representative Sarbanes. I think each member in the end is going to have to make his own judgment on the facts and his view of the constitutional standard.

Representative Railsback. And I want to say, I think it's in the best interest of the President that we not come up with a formal definition, because what would probably happen, we would adopt the committee's staff report, which is much broader than many members want to support.

Morton. Miss Thomas asked you earlier if you had found anything impeachable in the transcripts and you said you didn't want to go into that because the committee really hasn't heard the evidence yet. Let me ask you a more general question about the transcripts which you've both read or read parts of. And that's about the tone—does it read like the way you always thought life was in the Oval Office?

Representative Sarbanes. Well, the tone is disturbing but the tone doesn't reach to the essential question that the committee is addressing itself to.

Morton. I understand that; I'm just asking for impressions.

Representative Sarbanes. Well, as regrettable as the tone of some of that may be, I mean our job is to press on with a different question and seek a response to that, but I find the tone of some of that quite disturbing, yes.

Representative Railsback. The President said in his speech to the nation that there were some things in there that were embarrassing, and I agree. I think it's—

Thomas. In what respect?

Representative Railsback. I think that he has laid bare his soul and I'm inclined to think that perhaps it will ultimately help him and it probably should have been done earlier. But I'm talking now about the implications by the—some of the language that was deleted and adjective deleted, expletive, expletive—

Thomas. How do you think that Dean looks in all this—the image of Dean as had been projected in the Senate Watergate Committee hearings versus the transcripts?

Representative Railsback. I really think that John Dean—I think if I was President of the United States, I would not want John Dean advising me.

Thomas. But he was.

Representative Sarbanes. That's why we have some serious questions in front of the Judiciary Committee today.

Herman. Let me just tie up one loose end here. I asked you much earlier on about the various parts that your staff has been able to interpret, which the White House found unintelligible. I'm not sure I nailed down whether there were any surprises in it, or anything which your staff considers to be important or significant?

Representative Sarbanes. Of course that

presentation hasn't been made, so we don't know the full answer to that question. The staff's point is that they have been able to develop transcripts sufficiently more complete, to argue for availablity of the tapes and the opportunity to develop those transcripts.

HERMAN. But they haven't let you know whether they are surprising or non-surprising?

Representative SARBANES. That's what we're going to start to look at, beginning this coming week.

HERMAN. Has Mr. Hutchinson informed you any further? Do you have any better grasp on that?

Representative RAILSBACK. No, I really don't. I would like to add one thing to what Paul said. I personally don't care if I see anything that concerns national security or any vulgar language or anything like that. What I want to be able to see is even an edited tape, not an edited transcript—an edited tape that would permit me to really have a better grasp of the actual conversations, and I hope the White House relents and decides to let us see at least edited tapes.

Representative SARBANES. Let me just add there, it's important—

THOMAS. Who does the editing?

Representative SARBANES. The committee must do the editing in the end. In the end, the ultimate control must be in the committee to determine relevancy. That's very important, because one of the objectives out of all of this is that the committee, when it completes its process, must be able to say to the American people that the judgment we are making was reached on the basis of the best evidence, it was all available to us, we examined it, we considered it, we thought about it, and we reached this judgment. Nothing that was pertinent was hidden from us or denied to us. Otherwise, unless we can say that, the judgment that we reach is subject to attack and criticisms, because—

THOMAS. Well, the White House claims you have eight tapes already and that this is the full story, and they seem to have drawn a line. Do you see a confrontation? You talk of subpoenas but you can't enforce them.

Representative SARBANES. Well, our job is to press on to get the material that is necessary for us to make a judgment. We would hope that they would respond to that.

HERMAN. Let me ask you an internal question about that, both of you gentlemen. How can you do this job that you've been outlining here so carefully, get all the evidence you need, if you go along with Mr. Hutchinson, the senior Republican, and refuse to grant immunity to important witnesses whose testimony you may require? Can you do that?

Representative RAILSBACK. Let me answer that by saying that I think Mr. Hutchinson made it very clear that he was speaking for himself, and I haven't had a chance to talk to other minority members. I've taken the position that this particular question, the impeachment or the possible impeachment of the President of the United States should be of preemptive importance—in other words, overriding importance, and if we decide that we need somebody's testimony to really clear it up so that we can make an intelligent decision, I personally think that we will probably—we may very well have to grant immunity and there are provisions for doing just that.

Representative SARBANES. I think the committee may well have to follow that course. You don't like to grant immunity, but it may become necessary if you are to obtain the full story. It all depends upon how fully you can put together the facts short of that, but it ought not to be—no matter how much reluctance one may have—it ought not to be precluded as a general rule ahead of time.

MORTON. If the committee can't get the best evidence, can't get the tapes, and there is no way to force the White House to hand over something it doesn't want to hand over, what do you do then? Does that turn into a ground for impeachment—refusal to furnish evidence?

Representative SARBANES. Well, I think failure of the White House to comply with a lawful subpoena seeking pertinent information in an impeachment inquiry, which after all is a very high constitutional responsibility of the House of Representatives, could become the basis for a charge in articles of impeachment.

Representative RAILSBACK. Let me disagree just to this extent. I think—I said all along that it may very well be that we're going to have to bring in the third branch of government to act as an arbiter. What that means is, and I don't know exactly who would do that—whether it would be the President—if the President persists in refusing to cooperate, and I don't mean to imply that he hasn't been somewhat cooperative, because I think he has—I think if the courts came in and upheld the congressional right to subpoena and the President still refused to turn over materials, then at that point the President has probably committed an impeachable offense.

THOMAS. Well, the White House argues, White House lawyers, that the President is not subject to the ultimate Supreme Court decision, and you are both lawyers, do you agree with that?

Representative RAILSBACK. Well, he's going to be in my opinion—the American public would be so outraged if the court ruled in favor of the congress—I think the American people feel that no man is above the law, and I don't think the White House would do that. I think the White House wants a definitive decision on the issue of executive privilege.

Representative SARBANES. Well, the White House is involved of course with the special prosecutor and the courts with respect to the furnishing of material which the special prosecutor has subpoenaed, and it's not only the House Judiciary Committee that is having this difficulty. The special prosecutor has encountered it as well, and in fact has gone through the courts and received a court decision previously that indicated he was entitled to the information, and they are now pursuing that matter again. I think it would greatly help the entire situation if the White House would be forthcoming with the material that is being sought. It is not accurate to state that the committee is on any sort of fishing expedition. What they are seeking has been well documented, they are making an effort to make the request as comprehensive as possible, and it would enable us to get on with the very important responsibility with which we've been charged.

HERMAN. You just have time to agree or disagree, Mr. Railsback.

Representative RAILSBACK. I would generally agree.

HERMAN. Thank you very much, Mr. Railsback and Mr. Sarbanes for being with us today on Face the Nation.

ANNOUNCER. Today on Face the Nation, Representative Paul Sarbanes, Democrat of Maryland, and Representative Tom Railsback, Republican of Illinois, were interviewed by CBS Correspondent Bruce Morton, Helen Thomas, White House Correspondent for United Press International, and CBS News Correspondent George Herman. Next week another prominent figure in the news will Face the Nation.

WIRETAP DECISIONS OF THE SUPREME COURT

Mr. KENNEDY. Mr. President, on May 13 the U.S. Supreme Court decided two cases that are of major importance in the area of wiretapping and electronic surveillance.

In United States against Giordano and United States against Chavez, the Court unanimously held that under the procedure used by former Attorney General Mitchell, where the Attorney Generals's executive assistant, rather than the Attorney General or a specially designated Assistant Attorney General, authorized a wiretap application to a court, title III of the Omnibus Crime Control and Safe Streets Act of 1968 was violated. As a result, the Court held all evidence derived from communications intercepted in those wiretaps must be suppressed.

Newspaper accounts have indicated that as a result of former Attorney General Mitchell's failure to follow the procedures specified in title III, indictments are likely to be dismissed or convictions overturned in at least 60 cases involving more than 600 criminal defendants.

It is distressing that in an administration which has advocated "law and order" so strongly, over 600 convictions may be reversed because of the failure of the Nation's highest law enforcement officer to abide by the law and adhere to congressionally mandated safeguards and procedures. Moreover, as the Court's opinion points out, the requirement that the Attorney General or a designated Assistant Attorney General authorize the wiretap application was originally included in the legislation at the urging of the Justice Department in 1961, in order to "give greater assurance of the need and justifiability of each interception." It is thus doubly unfortunate that these safeguards should not have been followed by the Attorney General.

The decisions of the Supreme Court point up more than ever the necessity for adhering to specific procedural guidelines before citizens of this country are subjected to court-ordered wiretaps. But such safeguards are even more important in the area of warrantless wiretaps and electronic surveillances. These wiretaps, installed and conducted without court supervision, pose the greatest dangers to the constitutional liberties of American citizens, since they are conducted secretly, without the shield of an impartial judge to stand between the executive branch of government and the citizen. Unchecked warrantless wiretapping has contributed to a crisis of confidence in our leaders and our governmental institutions that is unparalleled in recent times.

My Subcommittee on Administrative Practice and Procedure, together with two other Senate subcommittees, has been holding hearings on these warrantless surveillances. We are planning to propose new administrative and legislative guidelines to protect the rights of citizens and prevent future abuses in this critical area. The decisions in Giordano and Chavez underscore the importance of this inquiry and highlight the need for the development of more adequate procedures and safeguards to govern the conduct of "national security" electronic surveillances.

Mr. President, I ask unanimous consent that the text of the opinions in the Giordano and Chavez cases, together with articles from the New York Times, the Washington Post, and the Washington Star-News of May 14, 1974 and May 15, 1974 and a New York Times editorial be ordered to be printed in the Record, at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

[No. 72-1057]

United States, *Petitioner, versus* Dominic Nicholas Giordano, et al.

On Writ of Certiorari to the U.S. Court of Appeals for the Fourth Circuit, May 13, 1974.

White, J., delivered the opinion of the Court, in Parts I, II, and III of which all Members joined, and in Part IV of which Douglas, Brennan, Stewart, and Marshall, JJ., joined. Douglas, J., filed a concurring opinion, in which Brennan, Stewart, and Marshall, JJ., joined, see No. 72-1319. Powell, J., filed an opinion concurring in Parts I, II, and III of the Court's opinion and dissenting from Part IV, in which Burger, C. J., and Blackmun and Rehnquist, JJ., joined.

Mr. Justice White delivered the opinion of the Court.

Title III of the Omnibus Crime Control and Safe Streets Act of 1968, 82 Stat. 197, 211-225, 18 U.S.C. § § 2510-2520, prescribes the procedure for securing judicial authority to intercept wire communications in the investigation of specified serious offenses. The Court must here determine whether the Government sufficiently complied with the required application procedures in this case and whether, if not, evidence obtained as a result of such surveillance, under a court order based on the applications, is admissible at the criminal trial of those whose conversations were overheard. In particular, we must decide whether the provision of 18 U.S.C. § 2516(1) [1] conferring power on the "Attorney General, or any Assistant Attorney General specially designated by the Attorney General" to "authorize an application a Federal judge . . . for . . . an order authorizing or approving the interception of wire or oral communications" by federal investigative agencies seeking evidence of certain designated offenses permits the Attorney General's Executive Assistant to validly authorize a wiretap application to be made. We conclude that Congress did not intend the power to authorize wiretap applications to be exercised by any individuals other than the Attorney General or an Assistant Attorney General specially designated by him and that primary or derivative evidence secured by wire interceptions pursuant to a court order issued in response to an application which was, in fact, not authorized by one of the statutorily designated officials must be suppressed under 18 U.S.C. § 2515 upon a motion properly made under 18 U.S.C. § 2518(10) (a). Accordingly, we affirm the judgment of the Court of Appeals.

I

In the course of an initial investigation of suspected narcotics dealings on the part of respondent Giordano, it developed that Giordano himself sold narcotics to an undercover agent on October 5, 1970, and also told an informant to call a specified number when interested in transacting narcotics business. Based on this and other information, Francis Brocato, an Assistant United States Attorney, on October 16, 1970, submitted an application to the Chief Judge of the District of Maryland for an order permitting interception of the communications of Giordano, and of others as yet unknown, to or from Giordano's telephone. The application recited that Assistant Attorney General Will Wilson had been specially designated by the Attorney General to authorize the application. Attached to the application was a letter from Will Wilson to Brocato which stated that Wilson had reviewed Brocato's request for authorization and had made the necessary probable cause determinations and which then purported to authorize Brocato to proceed with the application to the court. Also attached were various affidavits of law enforcement officers stating the reasons and justification for the proposed interception. Upon reviewing the application, the Chief Judge issued an order on the same day authorizing the interception "pursuant to application authorized by the Assistant Attorney General . . . Will Wilson, who has been specially designated in this proceeding by the Attorney General . . . to exercise the powers conferred on him by [18 U.S.C. § 2516]." On November 6, the same judge extended the intercept authority based on an application similar in form to the original, but also including information obtained from the interception already authorized and carried out and extending the authority to conversations of additional named individuals calling from or to Giordano's telephone. The interception was terminated on November 18 when Giordano and the other respondents were arrested and charged with violations of the narcotics laws.

Suppression hearings followed pretrial notification by the Government, see § 2518 (9), that it intended to use in evidence the results of the court-authorized interceptions of communications on Giordano's telephone. It developed at the hearings that the applications for interception authority presented to the District Court had inaccurately described the official who had authorized the applications and that neither the initial application for the October 16 order nor the application for the November 6 extension order had been approved and authorized by Assistant Attorney General Will Wilson, as the applications had indicated.

An affidavit of the Executive Assistant to the Attorney General divulged that he, the Executive Assistant, had reviewed the request for authorization to apply for the initial order, had concluded from his "knowledge of the Attorney General's actions on previous cases that he would approve the request if submitted to him[.]" and, because the Attorney General was then on a trip away from Washington, D.C., and pursuant to authorization by the Attorney General for him to do so in such circumstances, had approved the request and caused the Attorney General's initials to be placed on a memorandum to Wilson instructing him to authorize Brocato to proceed. The affidavit also stated that the Attorney General himself had approved the November 6 request for extension and had initialed the memorandum to Wilson designating him to authorize Brocato to make application for an extension order. It was also revealed that although the applications recited that they had been authorized by Will Wilson, he had not himself reviewed Brocato's applications, and that his action was at best only formal authorization to Brocato. Furthermore, it became apparent that Wilson did not himself sign either of the letters bearing his name and accompanying the applications to the District Court. Instead, it appeared that someone in Wilson's office had affixed his signature after the signing of the letters had been authorized by a Deputy Assistant Attorney General in the Criminal Division who had, in turn, acted after the approval of the request for authorization had occurred in and had been received from the Office of the Attorney General.

The District Court sustained the motions to suppress on the ground that the officer in the Justice Department approving each application had been misidentified in the applications and intercept orders, in violation of 18 U.S.C. §§ 2518(1) (a) and (4) (d), *United States* v. *Focarile*, 340 F. Supp. 1043, 1060 (Md. 1972). On the Government's pretrial appeal under 18 U. S. C. § 3731, the Court of Appeals affirmed on the different ground that the authorization of the October 16 wiretap application by the Attorney General's Executive Assistant violated § 2516(1) of the statute and struck at "the very heart" of Title III, thereby requiring suppression of the wiretap and derivative evidence under §§ 2515 and 2518 (10) (a) (i) and (ii).[2] 469 F. 2d 522, 531. We granted certiorari to resolve the conflict with decisions of the Court of Appeals for the Second Circuit[3] with respect to the administration of the circumscribed authority Congress has granted in Title III for the use of wiretapping and wiretap evidence by law enforcement officers. 411 U.S. 905.

II

The United States contends that the authorization of intercept applications by the Attorney General's Executive Assistant was not inconsistent with the statute and that even if it were, there being no constitutional violation, the wiretap and derivative evidence should not have been ordered suppressed. We disagree with both contentions.[4]

Turning first to whether the statute permits the authorization of wiretap applications by the Attorney General's Executive Assistant, we begin with the language of § 2516 (1), which provides that "the Attorney General, or any Assistant Attorney General specially designated by the Attorney General, may authorize" an application for intercept authority. Plainly enough, the Executive Assistant is neither the Attorney General nor a specially designated Assistant Attorney General; but the United States argues that 28 U.S.C. § 509,[5] deriving from the Reorganization Acts of 1949 and 1950, vests all functions of the Department of Justice, with some exceptions, in the Attorney General, and that Congress characteristically assigns newly created duties to the Attorney General rather than to the Department of Justice, thus making essential the provision for delegation appearing in 28 U.S.C. § 510:

"The Attorney General may from time to time make such provisions as he considers appropriate authorizing the performance by any other officer, employee, or agency of the Department of Justice of any function of the Attorney General."

It is therefore argued that merely vesting a duty in the Attorney General, as it is said Congress did in § 2516(1), evinces no intention whatsoever to preclude delegation to other officers in the Department of Justice, including those on the Attorney General's own staff.

As a general proposition, the argument is unexceptionable. But here the matter of delegation is expressly addressed by § 2516 and the power of the Attorney General in this respect is specifically limited to delegating his authority to "any Assistant Attorney General specially designated by the Attorney General." Despite § 510, Congress does not always contemplate that the duties assigned to the Attorney General may be freely delegated. Under the Civil Rights Act of 1968, for

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Footnotes at end of article.

instance, certain prosecutions are authorized only on the certification of the Attorney General or the Deputy Attorney General "which function of certification may not be delegated." 18 U.S.C. § 245(a)(1). Equally precise language forbidding delegation was not employed in the legislation before us; but we think § 2516(1), fairly read, was intended to limit the power to authorize wiretap applications to the Attorney General himself and to any Assistant Attorney General he might designate. This interpretation of the statute is also strongly supported by its purpose and legislative history.

The purpose of the legislation, which was passed in 1968, was effectively to prohibit, on the pain of criminal and civil penalties,[6] all interceptions of oral and wire communications, except those specifically provided for in the Act, most notably those interceptions permitted to law enforcement officers when authorized by court order in connection with the investigation of the serious crimes listed in § 2516. Judicial wiretap orders must be *preceded* by applications containing prescribed information, § 2518(1). The judge must make certain findings before authorizing interceptions, including the existence of probable cause, § 2518(3). The orders themselves must particularize the extent and nature of the interceptions that they authorize, § 2518(4), and they expire within a specified time unless expressly extended by a judge based on further application by enforcement officials, § 2518(5). Judicial supervision of the progress of the interception is provided for, § 2518(6), as is official control of the custody of any recordings or tapes produced by the interceptions carried out pursuant to the order, § 2518(8). The Act also contains provisions specifying the circumstances and procedures under and by which aggrieved persons may seek and obtain orders for the suppression of intercepted wire or oral communications sought to be used in evidence by the Government. § 2518 (10)(a).

The Act is not as clear in some respects as it might be, but it is at once apparent that it not only limits the crimes for which intercept authority may be obtained but also imposes important preconditions to obtaining any intercept authority at all. Congress legislated in considerable detail in providing for applications and orders authorizing wiretapping and evinced the clear intent to make doubly sure that the statutory authority be used with restraint and only where the circumstances warrant the surreptitious interception of wire and oral communications. These procedures were not to be routinely *employed* as the initial step in criminal investigation. Rather, the applicant must state and the court must find that normal investigative procedures have been tried and failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous. §§ 2518 (1)(c) and (3)(c). The Act plainly calls for the prior, informed judgment of enforcement officers desiring court approval for intercept authority, and investigative personnel may not themselves ask a judge for authority to wiretap or eavesdrop. The mature judgment of a particular, responsible Department of Justice official is interposed as a critical precondition to any judicial order.

The legislative history of the Act supports this view. As we have indicated, the Act was passed in 1968, but the provision of § 2516 requiring approval of applications by the Attorney General or a designated Assistant Attorney General dates from 1961, when a predecessor bill was being considered in the 87th Congress. Section 4(b) of that bill, S. 1495, which was also aimed at prohibiting all but designated official interception, initially provided that the "Attorney General, or any officer of the Department of Justice or any United States Attorney specially designated by the Attorney General, may authorize any investigative or law enforcement officer of the United States or any Federal agency to apply to a judge" for a wire interception order. Hearings on S. 1495 before the Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary, 87th Congress, first session, May 9, 10, 11, 12, 1961, at 5. Under that phraseology, the authority was centered in the Attorney General but he could empower any officer of the Department of Justice, including United States Attorneys and the Executive Assistant, to authorize applications for intercept orders. At hearings on the bill, the Assistant Attorney General in charge of the Criminal Division stated the views of the Department of Justice, and the Department later officially proposed, that the authority to approve applications be substantially narrowed so that the Attorney General could delegate his authority only to an Assistant Attorney General. The testimony was:

"This is the approach of S. 1495, with which the Department of Justice is in general agreement. The bill makes wiretapping a crime unless specifically authorized by a Federal judge in situations involving specified crimes. As I understand the bill, the application for a court order could be made only by the authority of the Attorney General or an officer of the Department of Justice or U.S. Attorney authorized by him. I suggest that the bill should confine the power to authorize an application for a court order to the Attorney General and any assistant Attorney General whom he may designate. This would give greater assurance of a responsible executive determination of the need and justifiability of each interception." *Id.*, at 356.

The official proposal was that § 4(b) be changed to provide that the "Attorney General, or any Assistant Attorney General of the Department of Justice specially designated by the Attorney General, may authorize" a wiretap application. *Id.*, at 372.

S. 1495 was not enacted, but its provision limiting those who could approve applications for court orders survived and was included in almost identical form in later legislative proposals, including the bill that became Title III of the Act now before us.[7] In the course of testimony before a House Committee in 1967, the draftsman of the bill containing the basic outline of Title III engaged in the following colloquy:

"The CHAIRMAN. About the origin of the application, as I understand it, your bill provides it must be originated by the Attorney General or an Assistant Attorney General. Am I correct in that regard?

"Professor BLAKEY. Yes, you are, Mr. Chairman.

"The CHAIRMAN. The application must be made by the Attorney General or an Assistant Attorney General.

"Professor BLAKEY. If I am not mistaken, the present procedure is before any wiretapping or electronic equipment is used now it is generally approved at that level anyway, Mr. Chairman, and I would not want this equipment used without high level responsible officials passing on it. It may very well be that in some number of cases there will not be time to get the Attorney General to approve it. I think we are going to have just [*sic*] to let those cases go, and that if this equipment is to be used it ought to be approved by the highest level in the Department of Justice. If we cannot make certain cases, that is going to have to be the price we will have to pay." Hearings before a Subcomm. of the House Comm. on the Judiciary, Anti-Crime Program, 90th Cong., 1st Sess., March 15, 16, 22, 23; April 5, 7, 10, 12, 19, 20, 26, 27, 1967, at 1379.[8]

As it turned out, the House Judiciary Committee did not report out a wiretap bill, but the House did pass H.R. 5037, entitled the "Law Enforcement and Criminal Justice Assistance Act of 1967," 113 Cong. Rec. 21861 (August 8, 1967). The Senate amended that bill by adding to it Title III, which in turn essentially reflected the provisions of S. 917, which had been favorably reported by the Senate Judiciary Committee and which contained the Committee's own proposals with respect to the interception of oral and wire communications. The report on the bill stated:

"Section 2516 of the new chapter authorizes the interception of particular wire or oral communication under court order pursuant to the authorization of the appropriate Federal, State, or local prosecuting officer. Paragraph (1) . . . centralizes in a publicly responsible official subject to the political process the formulation of law enforcement policy on the use of electronic surveillance techniques. Centralization will avoid the possibility that divergent practices might develop. Should abuses occur, the lines of responsibility lead to an identifiable person. This provision in itself should go a long way toward guaranteeing that no abuses will happen." S. Rep. No. 1097, 90th Cong., 2d Sess., 96–97 (1968).

This report is particularly significant in that it not only recognizes that the authority to apply for court orders is to be narrowly confined but also declares that it is to be limited to those responsive to the political process, a category to which the Executive Assistant to the Attorney General obviously does not belong.[9]

The Senate passed H.R. 5037, with the amendments tracking the provisions of S. 917, on May 23, 1968, as the Omnibus Crime Control and Safe Streets Act of 1968, 114 Cong. Rec. 14798 and 14889. During the proceedings leading to the passage of the bill, emphasis was again placed on § 2516. That the Attorney General had the exclusive authority to approve or provide for the approval of wiretap applications was reiterated, and it was made clear that as the bill was drafted no United States Attorney would have or could be given the authority to apply for an intercept order without the advance approval of a senior officer in the Department.[10] There was no congressional attempt, however, to extend that authority beyond the Attorney General or his Assistant Attorney General designate.

The Government insists that because § 2516(2) provides for a wider dispersal of authority among state officers to approve wiretap applications and leaves the matter of delegation up to state law,[11] it is inappropriate to continue the authority so narrowly on the federal level. But it is apparent that Congress desired to centralize and limit this authority where it was feasible to do so, a desire easily implemented in the federal establishment by confining the authority to approve wiretap applications to the Attorney General or a designated Assistant Attorney General. To us, it appears wholly at odds with the scheme and history of the Act to construe § 2516 to permit the Attorney General to delegate his authority at will, whether it be to his Executive Assistant or to any officer in the Department other than an Assistant Attorney General.[12]

III

We also reject the Government's contention that even if the approval by the Attorney General's Executive Assistant of the October 16 application did not comply with the statutory requirements, the evidence obtained from the interceptions should not have been suppressed. The issue does not turn on the judicially fashioned exclusionary rule aimed at deterring violation of Fourth Amendment rights, but upon the provisions of Title III; and, in our view, the Court of

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Appeals correctly suppressed the challenged wiretap evidence.

Section 2515 provides that no part of the contents of any wire or oral communication, and no evidence derived therefrom, may be received at certain proceedings, including trials, "if the disclosure of that information would be in violation of this chapter." What disclosures are forbidden, and are subject to motions to suppress, is in turn governed by § 2518(10)(a), which provides for suppression of evidence on the following grounds:

"(i) the communication was unlawfully intercepted;

"(ii) the order of authorization or approval under which it was intercepted is insufficient on its face; or

"(iii) the interception was not made in conformity with the order of authorization or approval." [13]

The Court of Appeals held that the communications the Government desired to offer in evidence had been "unlawfully intercepted" within the meaning of paragraph (i), because the October application had been approved by the Executive Assistant to the Attorney General rather than by the Attorney General himself or a designated Assistant Attorney General.[14] We have already determined that delegation to the Executive Assistant was indeed contrary to the statute; but the Government contends that approval by the wrong official is a statutory violation only and that paragraph (i) must be construed to reach constitutional, but not statutory, violations.[15] The argument is a straightforward one based on the structure of § 2518 (10)(a). On the one hand, the unlawful interceptions referred to in paragraph (i) must include some constitutional violations, suppression for lack of probable cause, for example, is not provided for in so many words and must fall within paragraph (i) unless, as is most unlikely, the statutory suppression procedures were not intended to reach constitutional violations at all. On the other hand (ii) and (iii) plainly reach some purely statutory defaults without constitutional overtones, and these omissions cannot be deemed unlawful interceptions under paragraph (i), else there would have been no necessity for paragraphs (ii) and (iii)—or to put the matter another way, if unlawful interceptions under paragraph (i) include purely statutory issues, paragraphs (ii) and (iii) are drained of all meaning and surplusage. The conclusion of the argument is that if nonconstitutional omissions reached by paragraphs (ii) and (iii) are not unlawful interceptions under paragraph (i), then there is no basis for holding that "unlawful interceptions" include *any* such statutory matters; the *only* purely statutory transgressions warranting suppression are those falling within (ii) and (iii).

The position gains some support from the fact that precedessor bills specified a fourth ground for suppression—the lack of probable cause—which was omitted in subsequent bills, apparently on the ground that it was not needed because official interceptions without probable cause would be unlawful within the meaning of paragraph (i).[16] Arguably, the inference is that since (ii) and (iii) were retained, they must have been considered "necessary," that is, not covered by paragraph (i).

The argument of the United States has substance, and it does appear that paragraphs (ii) and (iii) must be deemed to provide suppression for failure to observe some statutory requirements that would not render interceptions unlawful under paragraph (i). But it does not necessarily follow, and we cannot believe, that no statutory infringements whatsoever are also unlawful interceptions within the meaning of paragraph (i). The words "unlawfully intercepted" are themselves not limited to constitutional violations, and we think Congress intended to require suppression where there is failure to satisfy any of those statutory requirements that directly and substantially implement the congressional intention to limit the use of intercept procedures to those situations clearly calling for the employment of this extraordinary investigative device. We have already determined that Congress intended not only to limit resort to wiretapping to certain crimes and situations where probable cause is present but also to condition the use of intercept procedures upon the judgment of a senior official in the Department of Justice that the situation is one of those warranting their use. It is reasonable to believe that such a precondition would inevitably foreclose resort to wiretapping in various situations where investigative personnel would otherwise seek intercept authority from the court and the court would very likely authorize its use. We are confident that the provision for pre-application approval was intended to play a central role in the statutory scheme and that suppression must follow when it is shown that this statutory requirement has been ignored.

The principal piece of legislative history relative to this question is S. Rep. No. 1097, 90th Cong., 2d Sess. (1968). The Government emphasizes that the report expressly states that § 2518(10)(a) "largely reflects existing law" and that there was no intention to "press the scope of the suppression role beyond present search and seizure law." *Id.*, at 96. But the report also states that the section provides for suppression of evidence directly or indirectly obtained "in violation of the chapter" and that the provision "should serve to guarantee that the standards of the new chapter will sharply curtail the unlawful interception of oral and wire communications." [17] Moreover, it would not extend existing search and seizure law for Congress to provide for the suppression of evidence obtained in violation of explicit statutory prohibitions. *Nardone* v. *United States*, 302 U. S. 379 (1937); *Nardone* v. *United States*, 308 U. S. 338 (1939).[18]

IV

Even though suppression of the wire communications intercepted under the October 16, 1970, order is required, the Government nevertheless contends that communications intercepted under the November 6 extension order are admissible because they are not "evidence derived" from the contents of communications intercepted under the October 16 order within the meaning of §§ 2515 and 2518(10)(a). This position is untenable.

Under § 2518, extension orders do not stand on the same footing as original authorizations but are provided for separately. "Extensions of an order may be granted, but only upon application for an extension made in accordance with subsection (1) of this section and the court making the findings required by subsection (3) of this section." § 2518(5). Under subsection (1)(e), applications for extensions must reveal previous applications and orders, and under (1)(f) must contain "a statement setting forth the results thus far obtained from the interception, or a reasonable explanation of the failure to obtain such results." Based on the application, the court is required to make the same findings that are required in connection with the original order; that is, it must be found not only that there is probable cause in the traditional sense and that normal investigative procedures are unlikely to succeed but also that there is probable cause for believing that particular communications concerning the offense will be obtained through the interception and for believing that the facilities or place from which the wire or oral communications are to be intercepted are used or will be used in connection with the commission of such offense or are under lease to the suspect or commonly used by him. § 2518(3).

In its November 6 application, the Government sought authority to intercept the conversations of not only Giordano, who alone was expressly named in the initial application and order, but of nine other named persons who were alleged to be involved with Giordano in narcotics violations. Based on the attached affidavit, it was alleged that there was probable cause to believe that communications concerning the offense involved would be intercepted, particularly those between Giordano and the other named individuals, as well as those with others as yet unnamed, and that the telephone listed in the name of Giordano and whose monitoring was sought to be continued "has been used, and is being used and will be used, in connection with the commission of the offenses described." App. 62.

In the affidavit supporting the application, the United States set out the previous applications and orders, incorporated by reference and reasserted the "facts, details and conclusions contained in [the] affidavits" supporting the prior wiretap application, and set down in detail the relevant communications overheard under the existing order, as well as the physical movements of Giordano observed as the result of an around-the-clock surveillance that had been conducted by the authorities. App. 65–81. The Government concluded "[a]fter analyzing the intercepted conversations to and from [Giordano's telephone] and the results of BNDD surveillance" that nine listed individuals, some identified only by aliases, were associated with Giordano as suppliers or buyers in illegal narcotics trafficking and that certain other persons were perhaps connected with the operation in an as yet undisclosed fashion. *Id.*, at 79–80. It was also said that the full scope of Giordano's organization was not yet known. *Id.*, at 80. Assertedly, Giordano was extremely guarded in his telephone conversations, "any specific narcotics conversations he makes are from pay phones" and "[c]onventional surveillance would be completely ineffective except as an adjunct to electronic interception." *Id.*, at 81. The United States accordingly requested an extension of the interception order for no longer than a 15-day period.

It is apparent from the foregoing that the communications intercepted pursuant to the extension order were evidence derived from the communications invalidly intercepted pursuant to the initial order. In the first place, the application sought and the order granted authority to intercept the communications of various named individuals not mentioned in the initial order. It is plain from the affidavit submitted that information about most of these persons was obtained through the initial illegal interceptions. It is equally plain that the telephone monitoring and accompanying surveillance were coordinated operations, necessarily intertwined. As the Government asserted, the surveillance and conventional investigative techniques "would be completely ineffective except as an adjunct to electronic interception." That the extension order and the interceptions under it were not in fact the product of the earlier electronic surveillance is incredible.

Second, an extension order could validly be granted *only* upon an application complying with subsection (1) of § 2518. Subsection (1)(e) requires that the fact of prior applications and orders be revealed, and (1)(f) directs that the application set out either

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Footnotes at end of article.

the results obtained under the prior order or an explanation for the absence of such results. Plainly the function of § 2518(1)(f) is to permit the court realistically to appraise the probability that relevant conversations will be overheard in the future. If during the initial period, no communications of the kind that had been anticipated had been overheard, the Act requires an adequate explanation for the failure before the necessary findings can be made as a predicate to an extension order. But here there were results, and they were set out in great detail. Had they been omitted no extension order at all could have been granted; but with them, there were sufficient facts to warrant the trial court's finding, in accordance with § 2518(3)(b), of probable cause to believe that wire communications concerning the offenses involved "will be obtained through the interception." App. 83, as well as the finding complying with § 2518(3)(d) that there was probable cause to believe that Giordano's telephone "has been used, is being used, and will be used, in connection with the commission of the offenses described above and is commonly used by Nicholas Giordano . . ." and nine other named persons. *Ibid.*

It is urged in dissent that the information obtained from the illegal October 16 interception order may be ignored and that the remaining evidence submitted in the extension application was sufficient to support the extension order. But whether or not the application, without the facts obtained from monitoring Giordano's telephone, would independently support original wiretap authority, the Act itself forbids extensions of prior authorizations without consideration of the results meanwhile obtained. Obviously, those results were presented, considered and relied on in this case. Moreover, as previously noted, the Government itself had stated that the wire interception was an indispensable factor in its investigation and that ordinary surveillance alone would have been insufficient. In our view, the results of the conversations overheard under the initial order were essential, both in fact and in law, to any extension of the intercept authority. Accordingly, communications intercepted under the extension order are derivative evidence and must be suppressed.[10] The judgment of the Court of Appeals is

Affirmed.

FOOTNOTES

[1] This and other relevant provisions of the statute are contained in the Appendix to this opinion.

[2] Evidence derived from the unlawful interceptions conducted pursuant to the October 16 wiretap order was held to include the evidence obtained under the November 6 wiretap extension order and also the evidence secured under court orders of October 22 and November 6 extending investigative authority to use a "pen register," *i.e.*, a device that records telephone numbers dialed from a particular phone, which had previously been used to monitor the numbers dialed from Giordano's phone pursuant to a court order of October 8. The applications presented to the District Court to extend wiretap and pen register authority each detailed at considerable length the contents of conversations intercepted pursuant to the October 16 order in support of the requests. We therefore agree with the Court of Appeals, for the reasons discussed in Part IV, *infra*, that evidence gathered under the wiretap and pen register extension orders is tainted by the use of unlawfully intercepted communications under the October 16 order to secure judicial approval for the extensions, and must be suppressed.

[3] The Second Circuit has held that approval of wiretap applications by the Attorney General's Executive Assistant complies with the dictates of § 2516(1). In *United States* v. *Pisacano*, 459 F. 2d 259 (CA2 1972), the court refused to permit withdrawal of guilty pleas on the basis of subsequent discovery that the Executive Assistant had authorized the first of three wiretap applications, declaring that it was "not at all convinced that if this case had gone to trail and the court had refused to suppress evidence obtained by the wiretaps, we would have reversed[,]" and that "the Justice Department's procedures were very likely consistent with the mandate of § 2516(1)." *Id.*, at 264 and n. 5. Shortly thereafter a different panel of that Circuit affirmed judgments of convictions in a case raising the same issue, out of "adherence to the law of the circuit" so recently decided and with the admonition that its decision should "not . . . be construed as an approval of the procedure followed by the Attorney General and his staff." *United States* v. *Becker*, 461 F. 2d 230, 236. In every other circuit which has considered the issue, suppression of evidence derived from court-approved wire interceptions based on an application authorized by the Attorney General's Executive Assistant has been held to be required by Title III. *United States* v. *Mantello*, 156 U.S. App. D.C. 2, 478 F. 2d 671 (1973); *United States* v. *Roberts*, 477 F. 2d 57 (CA7 1973); *United States* v. *King*, 478 F. 2d 494 (CA9 1973). See also *United States* v. *Robinson*, 468 F. 2d 189 (CA5 1972), remanded for an evidentiary heating to determine whether the applications were properly authorized under § 2516(1), 472 F. 2d 973 (en banc 1973).

[4] Because of our disposition of this case, we do not reach the grounds relied upon by the District Court. The issue resolved in the District Court, however, is the subject of the companion case, *United States* v. *Chavez*, *post*, p. —.

[5] In full, 28 U. S. C. § 509 provides:

"§ 509. Functions of the Attorney General.

"All functions of other officers of the Department of Justice and all functions of agencies and employees of the Department of Justice are vested in the Attorney General except the functions—

"(1) vested by subchapter II of chapter 5 of title 5 in hearing examiners employed by the Department of Justice;

"(2) of the Federal Prison Industries, Inc.;

"(3) of the Board of Directors and officers of the Federal Prison Industries, Inc.; and

"(4) of the Board of Parole."

[6] Criminal sanctions were provided in 18 U.S.C. § 2511, and a civil damage remedy was created by § 2520. See Appendix.

[7] In 1967, a draft statute prepared by Professor G. Robert Blakey of the University of Notre Dame Law School to regulate the interception of wire and oral communications was published in The President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Organized Crime, Appendix C, at 106–113. In part, it would have added a provision to Title 18, United States Code, which empowered the "Attorney General, or any Assistant Attorney General of the Department of Justice specially designated by the Attorney General" to authorize an application to a federal judge for an order to intercept wire or oral communications. *Id.*, at 108. Senator McClellan introduced a proposed "Federal Wire Interception Act," S. 675, on January 25, 1967, 113 Cong. Rec. 1491, containing, in § 5 (a), the same designations of which federal prosecuting officials could authorize a wiretap application. Hearings before the Subcomm. on Criminal Laws and Procedures of the S. Comm. on the Judiciary, Controlling Crime Through More Effective Law Enforcement, 90th Cong., 1st Sess., March 7, 8, 9; April 18, 19, 20; May 9; July 10, 11, 12, 1967, at 76. Senator Hruska later introduced S. 2050 on June 29, 1967, 113 Cong. Rec. 18007, which would have provided for regulated use of electronic surveillance, as well as wiretapping, and which again made provision, in a new § 2516 to be added to Title 18, United States Code, for the same system of approval of applications for the interception of wire or oral communications as was present in the Blakey bill. *Id.*, at 1005. In the House of Representatives, the Blakey bill was introduced on October 3, 1967, in the form of H.R. 13275, 113 Cong. Rec. 27718. Ultimately, the same operative language was enacted in Title III.

[8] In the hearings on the McClellan bill, S. 675, see n. 7, *supra*, the limitation on the application authorization power was frequently brought to the fore. Thus, Chief Judge Lumbard of the United States Court of Appeals for the Second Circuit, who had earlier been United States Attorney for the Southern District of New York, noted in testimony on March 8, 1967, that the "application would require approval of the Attorney General or a designated assistant . . . ," and he urged, in support of his recommendation that it was unnecessary to limit the use of wiretapping to the investigation of a narrow group of serious crimes, the fact that there were other factors which would greatly limit the use of wiretapping, beginning with the observation that "the proposed statute, section 5a, provides that only the Attorney General, or any Assistant Attorney General specifically designated by him, may authorize the necessary application to a Federal judge for approval to wiretap. Thus the application will be carefully screened." Hearings on Controlling Crime Through Effective Law Enforcement, *supra*, n. 7, at 171–172. A letter urging adoption of legislation to govern the area of wiretapping and electronic eavesdropping was sent to the subcommittee on March 7 by all living former United States Attorneys of the Southern District of New York, who recommended that interception be prohibited "unless authorized by a Federal judge on application of the Attorney General, or any Assistant Attorney General of the Department of Justice specially designated by the Attorney General, when such authorized interception may provide evidence of an offense against the laws of the United States." *Id.*, at 511–512. And Senator McClellan himself commented to a judge testifying before the subcommittee:

"This legislation, as you know, requires rather thorough court supervision through the application for a court order made by the Attorney General or officials designated in the bill. A court, of course, would have to weigh the probable cause or the reasonable cause in support of such an application. I do not know how to tighten it up any more than we have in the bill. . . . Can you tell us how to tighten it up any more?" *Id.*, at 894–895.

[9] The Attorney General is appointed by the President, by and with the advice and consent of the Senate, 28 U.S.C. § 503, as are the nine Assistant Attorneys General provided for in 28 U.S.C. § 506. The position of Executive Assistant, on the other hand, is established by regulation, to assist the Attorney General, *inter alia*, in the review of "matters submitted for the Attorney General's action" and to "[p]erform such other duties and functions as may be specially assigned from time to time by the Attorney General." 28 CFR § 0.6. It would appear from the Government's brief that the Executive Assistant involved in this case served as Executive Assistant to at least four Attorneys General.

[10] In debate on the Senate floor the day before Title III was adopted, Senator McClellan responded to an inquiry of Senator Lausche in the following matter:

"Mr. LAUSCHE. Does the bill as now written give absolute, unconditional power to stop searches or tapping, or to authorize tapping?

"Mr. McCLELLAN. No. We have to go first to the Attorney General in the case of the Federal Government, and to the chief law enforcement officers of a State . . . .

"Mr. LAUSCHE. There is, then, a prohibition against tapping unless the application is filed with the chief law enforcement official. He approves it and then the application is filed with the court, is that not correct?

"Mr. McClellan. The chief law enforcement officer, like the Attorney General of the United States, must authorize the application. . . . A prosecuting attorney or a U.S. district attorney cannot, on his own motion, do it. He has to get the authority from the Attorney General of the United States first to submit the application to the court." 114 Cong. Rec. 14469 (May 22, 1968).

During the same debate, Senator Long read from a report of the Association of the Bar of the City of New York, Committee on Federal Legislation, Committee on Civil Rights, "Proposed Legislation on Wiretapping and Eavesdropping after *Berger* v. *New York* and *Katz* v. *United States*," which commented on the application provisions of Title III in the following manner: "Who May Apply."

"The Blakey Bill provides that applications for wiretapping or eavesdropping orders may be made by only a limited number of persons. At the Federal level these are the Attorney General of the United States or an Assistant Attorney General and at the State level they are the State Attorney General or the principal prosecuting attorney of a political subdivision (such as a county or city District Attorney).

"We agree that responsibility should be focused on those public officials who will be principally accountable to the courts and the public for their actions. Police and investigative agencies should not have the power to make such application on their own. On the other hand, it seems anomalous to permit only very high Federal officials to apply, excluding such officials as United States Attorneys for entire States or districts like the Southern District of New York, while permitting county district attorneys with substantially less responsibiliy to make applications. . . .

"We also would seek to reduce the anomaly referred to above by providing that the Attorney General may delegate to the United States Attorneys the power to initiate applications." 114 Cong. Rec. 14473–14474.

[11] The following comments concerning § 2516(2) are found in S. Rep. No. 1097, *supra*, at 98:

"Paragraph (2) provides that the principal prosecuting attorney of any State or the principal prosecuting attorney of any political subdivision of a State may authorize an application to a State judge of competent jurisdiction . . . for an order authorizing the interception of wire or oral communications. The issue of delegation by that officer would be a question of State law. In most States, the principal prosecuting attorney of the State would be the attorney general. The important question, however, is not name but function. The intent of the proposed provision is to provide for the centralization of policy relating to statewide law enforcement in the area of the use of electronic surveillance in the chief prosecuting officer of the State. . . . Where no such office exists, policymaking would not be possible on a statewide basis; it would have to move down to the next level of government. In most States, the principal prosecuting attorney at the next level of a State, usually the county, would be the district attorney, State's attorney, or a county solicitor. The intent . . . is to centralize areawide law enforcement in him. . . . Where there are both an attorney general and a district attorney, either could authorize applications, the attorney general anywhere in the State and the district attorney anywhere in his county. The proposed provision does not envision a further breakdown. Although city attorneys may have in some places limited criminal prosecuting jurisdiction, the proposed provision is not intended to include them."

[12] We also deem it clear that the authority must be exercised *before* the application is presented to a federal judge. The suggestion that it is acceptable practice under § 2516(1) for the Attorney General's Executive Assistant to approve wiretap applications in the Attorney General's absence if the Attorney General subsequently, after a court order has issued, ratifies the giving of approval in the particular instance, either directly or by personally approving the submission of a further application for an extension order, as in this case, is wide of the mark. As the Fifth Circuit Court of Appeals noted in the panel decision in *United States* v. *Robinson, supra*, n. 3, 468 F. 2d, at 193, the Attorney General's "authority from Congress was to initiate wiretap applications, not to seek to have those terminated he found should never have been requested in the first place." It would ill serve the congressional policy of having the Attorney General or one of his Assistants screening the applications prior to their submission to court to have the screening process occur after the application is made and after investigative officials have already begun to intercept wire or oral communications under a court order predicated on the assumption that proper authorization to apply for intercept authority had been given.

[13] No question is raised in this case concerning the manner of conducting the court-approved interceptions of Giordano's telephone and thus § 2518(10)(a)(iii) is inapplicable to the present situation.

[14] The Court of Appeals also held that suppression was required under subdivision (ii) on the theory that the absence of any valid authorization of the wiretap application was the equivalent of failing to identify at all in the interception order the person who authorized the application, rendering the order "insufficient on its face." Manifestly, however, the order, on its face, clearly, though erroneously, identified Assistant Attorney General Wilson as the Justice Department officer authorizing the application, pursuant to special designation by the Attorney General. As it stood, the intercept order was facially sufficient under § 2516(1), and despite what was subsequently discovered, the Court of Appeals was in error in justifying suppression under § 2518(10)(a)(ii).

[15] The Government suggested at oral argument that, in addition to constitutional violations, willful statutory violations might also fit within the terms of § 2518(10)(a)(i). Tr. of Oral Arg. 33.

[16] The draft statute prepared by Professor Blakey provided this fourth ground warranting suppression in cases where there was no probable cause for believing the existence of the grounds on which the interception order was issued. Task Force Report: Organized Crime, *supra*, n. 7, at 111, § 3803(k)(1)(C). So did the McClellan bill, S. 675, which was introduced prior to *Berger* v. *New York*, 388 U.S. 41 (1967). Hearings on Controlling Crime Through More Effective Law Enforcement, *supra*, n. 7, at 78, § 8(g)(3). But the bill proposed by Senator Hruska after *Berger* (S. 2050) omitted this ground in a provision the language of which is identical to § 2518 (10)(a) as finally enacted. *Id.*. at 1008, § 2518 (k)(1). An explanation for the omission is provided in an appendix comparing S. 675 with S. 2050, which was published by Senatar Scott, a cosponsor of the latter bill, in an article in the Howard Law Journal, and which was reprinted in Senator Scott's remarks on the Senate floor concerning the Omnibus Crime Control and Safe Streets Act of 1968. 114 Cong. Rec. 13211 (May 14, 1968). It is there simply stated that "Senator Hruska's man says that the probable cause test is implied in (1)."

[17] In relevant part S. Rep. No. 1097, *supra*, at 96, 106, provides:

"Section 2515 of the new chapter imposes an evidentiary sanction to compel compliance with the other prohibitions of the chapter . . . The provision must, of course, be read in light of section 2518(10)(a) discussed below, which defines the class entitled to make a motion to suppress. It largely reflects existing law. It applies to suppress evidence directly (*Nardone* v. *United States*, 302 U.S. 379 (1937)) or indirectly obtained in violation of the chapter. (*Nardone* v. *United States*, 308 U.S. 338 (1939).) There is, however, no intention to change the attenuation rule. . . . Nor generally to press the scope of the suppression role beyond present search and seizure law. . . . But it does apply across the board in both Federal and State proceeding[s]. . . . And it is not limited to criminal proceedings. Such a suppression rule is necessary and proper to protect privacy. . . . The provision thus forms an integral part of the system of limitations designed to protect privacy. Along with the criminal and civil remedies, it should serve to guarantee that the standards of the new chapter will sharply curtail the unlawful interception of wire and oral communications.

"[Section 2518(10)(a)] must be read in connection with sections 2515 and 2517, discussed above, which it limits. It provides the remedy for the right created by section 2515. [Except for its inapplicability to grand jury proceedings and an absence of intent to grant jurisdiction to federal courts over Congress,] [o]therwise, the scope of the provision is intended to be comprehensive."

[18] We find without substance the Government's suggestion that since 18 U. S. C. § 2511(1)(c) makes criminal the "willful" disclosure of the contents of an intercepted communication, "knowing or having reason to know that the information was obtained through the interception of a wire or oral communication in violation of this subsection," and § 2515 ties the propriety of suppression of evidence to the impropriety of its "disclosure," to hold that statutory violations committed in the Justice Department's internal approval and submission procedures with respect to wiretap applications precludes disclosure in court would be to attribute to Congress an intent to impose substantial criminal penalties for "every defect in processing applications." Brief, p. 38. Apart from the fact that a majority of the Court in *United States* v. *Chavez, post*, p. —, has concluded that not every defect will warrant suppression, it is evident that § 2511 does not impose criminal liability unless disclosure is "willful" and unless the information was known to have been obtained in violation of § 2511(1). Clearly, the circumstances under which suppression of evidence would be required are not necessarily the same as those under which a criminal violation of Title III would be found.

[19] We are also of the view that the evidence obtained from the extended authorizations of October 23 and November 6 for the installation and use of the pen register device on Giordano's telephone was inadmissible because derived from the invalid wire interception that began on October 16. See n. 2, *supra*. The application for the October 23 extension attached the logs of telephone conversations monitored under the October 16 order and asserted that these logs revealed the "continued use of the telephone . . . for conversations regarding illegal trafficking in narcotics." App. 55. In these circumstances, it appears to us that the illegally monitored conversations should be considered a critical element in extending the pen register authority. We have been furnished with nothing to indicate that the pen register extension of November 6 should be accorded any different treatment.

Mr. Justice Powell, with whom The Chief Justice, Mr. Justice Blackmun, and Mr. Justice Rehnquist join, concurring in part and dissenting in part.

I agree with the majority that the authorization by the Executive Assistant to the Attorney General of the application for the October 16 interception order contravened 18 U.S.C. § 2516(1) and that the statutory remedy is suppression of all evidence derived from interceptions made under that order. I therefore join Parts I, II, and III of the opinion of the Court. For the reasons stated below, however, I dissent from the Court's conclusion, stated in Part IV of its opinion, that evidence obtained under the two "pen register"[1] extension orders and under the November 6 extension of the interception order must also be suppressed.

These are the pertinent facts. On October 8, 1970, the Chief Judge of the United States District Court for the District of Maryland authorized the use of a pen register device to monitor and record for a 14-day period all numbers dialed from a telephone listed to respondent Giordano. There is no dispute that the pen register order was based on probable cause and was therefore lawful under the Fourth Amendment. On October 16, 1970, the District Court issued an order authorizing the interception of wire communications to and from Giordano's telephone for a period not to exceed 21 days. There is likewise no dispute that the wiretap order was based on probable cause. The defect in the application for this order was not the strength of the Government's showing on the merits of its request but the authorization of the application by the Executive Assistant to the Attorney General rather than by one of the officials specifically designated in 18 U.S.C. § 2516(1). As a result of this procedural irregularity both the contents of communications intercepted under the October 16 wiretap order and any "evidence derived therefrom" must be suppressed. 18 U.S.C. §§ 2515 and 2518(10)(a).

The authorization for use of the pen register device was extended by orders dated October 22 and November 6, 1970. On the latter date the District Court also extended the intercept authority for a maximum additional period of 15 days. All three extension orders were based in part, *but only in part,* on evidence obtained under the invalid wiretap order of October 16. The wiretap extension order, unlike the original intercept order, was not marred by the defect of improper authorization.

The Government contends that, putting aside all evidence derived from the invalid original wiretap order, the independent and untainted evidence submitted to the District Court constituted probable cause for issuance of both pen register extension orders and the wiretap extension order, and in the latter case also satisfied the additional requirements imposed by 18 U.S.C. § 2518(3).[2] Preoccupied with the larger issues in the case, the District Court summarily dismissed this contention insofar as it related to the pen register extension orders:

> "The subsequent extension orders are not supported by sufficient showings of probable cause, however, for the reason that information was used to obtain those extension orders from a Title III wiretap which, for reasons appearing later in this opinion, was defective. The 'fruit of the poisonous tree' doctrine requires suppression of all pen register information obtained under the subsequent orders. *Nardone* v. *United States,* 308 U.S. 338, 60 S. Ct. 266, 84 L. Ed. 307 (1939); 18 U.S.C. § 2518 (10) (a)." 340 F. Supp. 1033, 1041 (Md. 1972).

The Court of Appeals did not mention the point. 469 F. 2d 522 (CA4 1972).

With respect to the wiretap extension, neither the District Court nor the Court of Appeals addressed the Government's contention that communications intercepted under the extension were not derivatively tainted by the improper authorization defect in the original wiretap order, and neither court made any finding on this contention. The District Court simply found the wiretap extension order invalid on a different ground applicable both to the extension and to the original order. Specifically, the court concluded that the original wiretap order was unlawful because the application for it misidentified the approving officer and therefore failed to comply strictly with the provisions of 18 U.S.C. §§ 2518(1)(a) and (4)(d). The misidentification problem occurred in the application for the wiretap extension. The District Court held the extension order invalid on that basis alone and ordered the evidence pursuant thereto suppressed for that reason.[3] The Court of Appeals affrmed on a different ground entirely. It held the original order invalid because the application for it had been approved by the Executive Assistant to the Attorney General rather than by one of the officials designated in 18 U.S.C. § 2516(1). The defect of improper authorization, unlike the misidentification problem, arose *only* in connection with the original wiretap order. Perhaps through simple oversight, the Court of Appeals failed to consider the fate of the evidence obtained under the extension. Thus neither of the lower courts ruled on the derivative evidence question.

Today we affirm the suppression of evidence obtained under the original wiretap order for the same reason adopted by the Court of Appeals—the defect of improper authorization. As noted above, this defect did not occur in the application for the wiretap extension order. Today we also hold that misidentification of the approving authority does not render inadmissible evidence obtained pursuant to a resulting interception order. *United States* v. *Chavez, post.* This decision removes the sole basis advanced by the District Court for suppressing the telephone conversations intercepted under the wiretap extension order and requires us to consider whether that evidence should be suppressed by reason of the improper authorization of the application for the original order. In doing so it is important to note that we are the first court to consider this aspect of the case.

The majority holds that the invalidity of the original wiretap order requires suppression of all evidence obtained under the three extension orders. In my view the application to this case of well-established principles, principles developed by the courts to effectuate constitutional guarantees and adopted by Congress to effectuate the statutory guarantees of Title III, demonstrates that the majority's conclusion is error. As will appear, the same analysis governs all three extension orders, but it may clarify my position to deal with the two pen register extension orders in Part I, below, and to reserve discussion of the November 6 extension of the wiretap for Part II.

I

The installation of a pen register device to monitor and record the numbers dialed from a particular telephone line is not governed by Title III. This was the conclusion of the District Court in the instant case and of the courts in *United States* v. *King,* 335 F. Supp. 523, 548–549 (SD Calif. 1971), and in *United States* v. *Vega,* 52 F. R. D. 503 (EDNY 1971). This conclusion rests on the fact that the device does not hear sound and therefore does not accomplish any "interception" of wire communications as that term is defined by 18 U. S. C. § 2510 (4)—"the *aural* acquisition of the *contents* of any wire or oral communication through the use of any electronic, mechanical, or other device" (emphasis added). Any doubt of the correctness of this interpretation is allayed by reference to the legislative history of Title III. The Report of the Senate Committee on the Judiciary in discussing the scope of the statute explicitly states "[t]he use of a 'pen register' for example, would be permissible." S. Rep. No. 1097, 90th Cong., 2d Sess., at 90 (1968).

Because a pen register device is not subject to the provisions of Title III, the permissibility of its use by law enforcement authorities depends entirely on compliance with the constitutional requirements of the Fourth Amendment.[4] In this case the Government secured a court order, the equivalent for this purpose of a search warrant, for each of the two extensions of its authorization to use a pen register. The District Court seemed to assume that because these extension orders were based in part on tainted evidence, information obtained pursuant thereto must necessarily be suppresed under the "fruit of the poisonous tree" doctrine, 340 F. Supp., at 1041. That is not the law.

The District Court relied on *Nardone* v. *United States,* 308 U.S. 338 (1939). In that decision the court held that a statutory prohibition of unlawfully obtained evidence encompassed derivative evidence as well. But the Court also reaffirmed that the connection between unlawful activity and evidence offered at trial may become "so attenuated as to dissipate the taint," *id.,* at 341, and that facts improperly obtained may nevertheless be proved if knowledge of them is based on an independent source. *Ibid.* In its constitutional aspect, the principle is illustrated by *Wong Sun* v. *United States,* 371 U.S. 471 (1963). It is, in essence, that the derivative taint of illegal activity does not extend to the ends of the earth but only until it is dissipated by an intervening event. Of course, the presence of an independent source would always suffice.

The independent source rule has as much vitality in the context of a search warrant as in any other. Thus, for example, unlawfully discovered facts may serve as the basis for a valid search warrant if knowledge of them is obtained from an independent and lawful source. See, *e.g., Anderson* v. *United States,* 344 F. 2d 792 (CA10 1965). The obvious and well-established corollary is that the inclusion in an affidavit of indisputably tainted allegations does not necessarily render the resulting warrant invalid. The ultimate inquiry on a motion to suppress evidence seized pursuant to a warrant is not whether the underlying affidavit contained allegations based on illegally obtained evidence, but whether, putting aside all tainted allegations, the independent and lawful information stated in the affidavit suffices to show probable cause. *James* v. *United States,* 135 U.S. App. D.C. 314, 315, 418 F. 2d 1150, 1151 (1969); *United States* v. *Sterling,* 369 F. 2d 799, 802 (CA3 1966); *United States* v. *Taggart,* 460 F. 2d 701, 703–704 (CA5 1972); *United States* v. *Koonce,* 485 F. 2d 374, 379 (CA8 1973); *Howell* v. *Cupp,* 427 F. 2d 36, 38 (CA9 1970); *Chin Kay* v. *United States,* 311 F. 2d 317, 321 (CA9 1962).[5] Judge Weinfield aptly stated the point in *United States* v. *Epstein,* 240 F. Supp. 80 (SDNY 1965):

> "There is authority, and none to the contrary, that when a warrant issues upon an affidavit containing both proper and improper grounds, and the proper grounds—considered alone—are more than sufficient to support a finding of probable cause, inclusion of the improper grounds does not vitiate the entire affidavit and invalidate the warrant." *Id.,* at 82.

I know of no precedent holding to the contrary.[6]

The application of this principle to the pen register extension orders is clear beyond doubt. The original pen register order was based on a showing of probable cause made prior to, and therefore undeniably independent of, the invalid wiretap. The affidavit supporting the first extension of the pen register order incorporated the allegations contained in the affidavit submitted for the original order and provided the additional untainted information that Giordano had

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Footnotes at end of article.

sold heroin to a narcotics agent on October 17, 1970. The affidavit for the second extension of the pen register order is not included in the record, but there is no reason to doubt that it made a similar incorporation by reference of the earlier, untainted allegations. I would hold the evidence obtained under the first pen register extension order admissible and remand the case for determination of whether evidence obtained under the second extension should be admitted as well.

The basis for the majority's conclusion to the contrary is far from apparent. In the final footnote to its opinion, the Court states that the evidence obtained under the defective original wiretap order "should be considered a critical element in extending the pen register authority fully incorporated the not suggest, however, that the original pen register order was based on anything less than probable cause. Nor does it deny that the affidavit supporting the extension of the pen register authority fully incoroprated the earlier untainted allegations. And, finally, the majority does not contradict the established principle that a warrant based on an affidavit containing tainted allegations may nevertheless be valid if the independent and lawful information stated in the affidavit shows probable cause. In light of these significant silences, the majority's bare assertion that the tainted evidence obtained under the original wiretap order was a "critical element" in the extension of the pen register authority is, to me, an unexplained conclusion—not a rationale.

II

Unlike the pen register extensions, the wiretap extension order of November 6 is governed by Title III. The provisions of that statute prescribe an elaborate procedure for the lawful interception of wire communications. To the extent that the statutory requirements for issuance of an intercept order are nonconstitutional in nature, the exclusionary rule adopted to effectuate the Fourth Amendment does not pertain to their violation. The statute, however, contains its own exclusionary rule, 18 U.S.C. § 2518(10)(a), and the scope of the suppression remedy is defined by 18 U.S.C. § 2515 to include derivative evidence:

"Whenever any wire or oral communication has been intercepted, no parts of the contents of such communication and no evidence derived therefrom may be received in evidence in any trial . . . ."

The obvious and familiar model for the statutory ban on the use of derivative evidence was the constitutional doctrine of the "fruit of the poisonous tree," and the legislative history confirms that Congress intended the phrase "no evidence derived therefrom to incorporate that doctrine and render it applicable to certain statutory violations of nonconstitutional dimensions. The Senate Report makes the point explicitly:

"[Section 2515] largely reflects existing law. It applies to suppress evidence directly (*Nardone* v. *United States,* 302 U.S. 379 (1937)), or indirectly obtained in violation of the chapter (*Nardone* v. *United States,* 308 U.S. 338 (1939)). There is, however, no intention to change the attenuation rule. See *Nardone* v. *United States.* 127 F. 2d 521 (2d), cert. denied, 316 U.S. 698 (1942). *Wong Sun* v. *United States,* 371 U.S. 471, (1963)." S. Rept. No. 1097, 90th Cong., 2d Sess., p. 96.

Thus, although the validity of a wiretap order depends on the satisfaction of certain statutory conditions in addition to the constitutional requirement of probable cause, the principle developed in Part I of this opinion is fully applicable to the November 6 wiretap extension order. The question is not whether the application for that order relied in part on communications intercepted under the invalid original order but whether, putting aside that tainted evidence, the independent and lawful information stated in the supporting affidavit suffices to show both probable cause and satisfaction of the various additional requirements of Title III[7] *United States* v. *Iannelli,* 339 F. Supp. 171 (WD Pa. 1972); *United States* v. *Ceraso,* 335 F. Supp. 126 (MD Pa. 1973).

The application for the wiretap extension order was supported by the affidavit of a group supervisor from the Bureau of Narcotics and Dangerous Drugs. The same office had sworn to one of two affidavits submitted in support of the application for the original wiretap order. The other had been filed by a narcotics agent acting under his supervision and stated facts within their joint knowledge. In the affidavit for the extension order, the supervisor swore that he had reviewed both of the earlier affidavits, and he "reassert[ed] the facts, details, and conclusions contained in those affidavits." Appendix 66. Those allegations not only established probable cause to believe that Giordano was engaged in the illegal sale and distribution of narcotics on a fairly substantial scale, 18 U.S.C. § 2518(3)(a); they also satisfied the additional statutory criteria for issuance of an intercept order. They showed, for example, that Giordano had made numerous telephone calls to numbers listed to well-known narcotics violators and hence that there was probable cause to believe that communications concerning the illegal drug traffic were taking place on Giordano's telephone line. See 18 U.S.C. § 2518(3) (b) and (d). The affidavits also established the inadequacy of alternative investigative means and demonstrated that without a wiretap of Giorando's telephone the narcotics agents would be unable to discover his source of supply or method of distribution. See 18 U.S.C. § 2518(3)(c). All this was shown on the basis of wholly untained evidence incorporated and reaffirmed in the affidavit supporting the Government's request for the wiretap extension order.

The affidavit also provided additional untainted information to support the application for the extension order. It set forth, for example, the circumstances of Giordano's sale of $3,800 worth of heroin to an undercover agent on the day following issuance of the original wiretap order. Moreover, it recounted in great detail highly suspicious conduct observed by federal agents keeping Giordano under physical surveillance.[8] Like the allegations incorporated by reference from the earlier affidavits, this additional untainted information was relevant both to the constitutional requirement of probable cause and to the various statutory criteria for issuance of an intercept order. 18 U.S.C. § 2518(3).

In light of the substantiality and detail of the untainted allegations offered in support of the application for the wiretap extension order, I find no basis for the majority's rather summary conclusion that the communications intercepted under that extension order were derivatively tainted by the improper authorization of the application for the original wiretap order. Because neither the District Court nor the Court of Appeals has considered this question, I would remand the case with instructions that the issue be settled in accord with the principles set forth in this opinion.

FOOTNOTES

[1] A pen register is a mechanical device attached to a given telephone line and usually installed at a central telephone facility. It records on a paper tape all numbers dialed from that line. It does not identify the telephone numbers from which incoming calls originated, nor does it reveal whether any call, either incoming or outgoing, was completed. Its use does not involve any monitoring of telephone conversations. The mechanical complexities of a pen register are explicated in the opinion of the District Court. 340 F. Supp. 1033, 1038–1041 (Md. 1972).

[2] Under 18 U.S.C. § 2518(3), the court is required to make the following determinations:

"(a) there is probable cause for belief than an individual is committing, has committed, or is about to commit a particular offense enumerated in section 2516 of this chapter;

"(b) there is probable cause for belief that particular communications concerning that offense will be obtained through that interception;

"(c) normal investigative procedures have been tried or have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous;

"(d) there is probable cause for belief that the facilities from which, or the place where, the wire or oral communications are to be intercepted are being used, or are about to be used, in connection with the commission of such offense, or are leased to, listed in the name of, or commonly used by such person."

[3] Immediately after stating its conclusion that the misidentification problem suppression, the District Court made its sole reference to the November 6 extension order:

"The application and order relating to the extension of the wiretap are defective for the same reasons as the original application and order." *Id.,* at 1060.

Plainly, this reference to the "same reasons" concerns the failure to comply literally with § 2518(1)(a) and (4)(d) identification requirements and has nothing to do with any derivative evidence rule.

[4] The Government suggests that the use of a pen register may not constitute a search within the meaning of the Fourth Amendment. I need not address this question, for in my view the constitutional guarantee, assuming its applicability, was satisfied in this case.

[5] All of the cases cited are directly on point. There are a few additional decisions that indirectly support the general proposition stated above. *United States* v. *Cantor,* 470 F. 2d 890 (CA 1972), involved a defendant's claim that the Government violated his Fourth Amendment rights by refusing to disclose to him certain evidence that had been used to establish probable cause for issuance of a warrant. The court rejected that claim on the ground that there was adequate independent justification to find probable cause. *Id.,* at 893. The cases of *United States* v. *Jones,* 435 F. 2d 723 (CA5 1973), and *United States* v. *Upshaw,* 448 F. 2d 657 (CA5 1973), stand for the proposition that the validity of a search warrant based in part on erroneous statement is determined by evaluating the sufficiency of the other allegations. Finally, *United States* v. *Lucarz,* 430 F. 2d 1057 (CA9 1970), involved a search warrant based on an affidavit containing two paragraphs that invited the magistrate to find probable cause by drawing a negative inference from the defendant's exercise of his constitutional right to the assistance of counsel. The court held the validity of the warrant was to be determined on the basis of the other allegation in the affidavit.

[6] In fact, there are only two cases lending even colorable support to a contrary view. Both are from the Sixth Circuit, and neither can be said to contradict the general proposition stated above. In *United States* v. *Langley,* 466 F. 2d 27 (CA6 1972), the court considered the validity of a warrant issued on the basis of information obtained in a previous warrantless search. The court held the prior search valid in large part and affirmed the validity of the warrant for the second search despite the inclusion in the affidavit of allegations based on the unlawful aspects

of the first search. Although the case therefore illustrates the principle stated above, the court added the following comment: "It must be emphasized that where such tainted information comprises more than a *very minor portion* of that found in an affidavit supporting a warrant to search, the warrant must be held invalid." *Id.*, at 35 (emphasis original). The other case is *United States* v. *Nelson*, 459 F. 2d 884 (CA6 1972), where the affidavit for a search warrant relied on information derived from two prior warrantless searches. Although the court suggested several reasons for suppressing the evidence seized pursuant to the warrant, the principal basis seems to have been the finding that the untainted allegations did not constitute probable cause. Thus neither case contradicts the decisions of the District of Columbia, Third, Fifth, Eighth, and Ninth Circuits cited in the text.

[7] The majority seems to believe that this principle, while fully applicable to original wire tap orders is wholly inapplicable to extension orders. This, at least, is the most reasonable construction of the majority's discussion of § 2518(1)(e) and (f). *Ante*, at 25–27. Those provisions require that an application for an extension order include "a full and complete statement of the facts concerning all previous applications" and "a statement setting forth the results thus far obtained from the interception . . . ." According to the majority, the fact that law enforcement authorities complied with § 2518 (1)(e) and (f) by including in the application for the extension order information regarding the earlier wire tap necessarily and automatically rendered the extension order invalid, *regardless* of whether the independent and untainted information in the application for the extension satisfied the requirements of the Fourth Amendment * * *.

With all respect, I find this a baffling interpretation of the statute. Basically there is nothing in the language or history of § 2518(1)(e) that suggests that Congress intended these provisions to except all extension orders from the independent source doctrine. Nor is there any suggestion in the language or history of § 2515, which is the statutory analogue to the constitutional doctrine of the fruit of the poisonous tree, that Congress intended to distinguish between original wiretap orders and extension orders in determining the extent of the suppression remedy. Finally, there is nothing in logic to indicate why Congress would have wanted to make such a distinction, and there is no basis in reason to suppose that Congress, if it had intended such a result, would have failed to leave any evidence of that intent.

[8] The detailed information lawfully obtained through surveillance and undercover work was aptly summarized in paragraph 77 of the affidavit supporting the extension order:

"Giordano exhibits the characteristics of a high-level narcotics trafficker—extreme caution. When travelling, he continually uses various counter-surveillance techniques. In his transactions, he limits his contacts to a small number of trusted individuals." App., et. 81.

UNITED STATES, PETITIONER, v. UMBERTO JOSE CHAVEZ ET AL.

[No. 72–1319—On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit.—May 13, 1974]

WHITE, J., delivered the opinion of the Court, in which BURGER, C. J., and BLACKMUN, POWELL, and REHNQUIST, JJ., joined. DOUGLAS, J., filed an opinion concurring in part and dissenting in part, in which BRENNAN, STEWART, and MARSHALL, JJ., joined.

Mr. JUSTICE WHITE delivered the opinion of the Court.

This case, like *United States* v. *Ciordano*, *ante*, p. —, concerns the validity of procedures followed by the Justice Department in obtaining judicial approval to intercept wire communications under Title III of the Omnibus Crime Control and Safe Streets Act of 1968, 82 Stat. 197, 211–225, 18 U.S.C. §§ 2510–2520, and the propriety of suppressing evidence gathered from court-authorized wiretaps where the statutory application procedures have not been fully satisfied. As is more fully described in *Giordano*, Title III limits who, among federal officials, may approve submission of a wiretap application to the appropriate District Court, to the Attorney General or an Assistant Attorney General he specially designates, 18 U.S.C. § 2516 (1), and delineates the information each application must contain, upon what findings an interception order may be granted, and what the order shall specify, 18 U.S.C. § 2518(1), (3), (4).[1] Within this general framework, two statutory requirements are of particular relevance to this case. Section 2518(1)(a) provides that each application for a court order authorizing or approving the interception of a wire or oral communication shall include, among other information, "the identity of the . . . officer authorizing the application." Similarly, § 2518(4)(d) provides that the order of authorization or approval itself shall specify, in part, "the identity of . . . the person authorizing the application." The specific question for adjudication here, which it was unnecessary to resolve in *Giordano*, is whether, when the Attorney General has in fact authorized the application to be made, but the application and the court order incorrectly identify an Assistant Attorney General as the authorizing official, evidence obtained under the order must be suppressed. We hold that Title III does not mandate suppression under these circumstances.

Respondents were all indicted for conspiracy to import and distribute heroin in violation of 21 U.S.C. §§ 173, 174. In addition, respondent Umberto Chavez was separately charged under 18 U.S.C. § 1952 with using and causing others to use a telephone between California and Mexico, and performing other acts, in order to facilitate unlawful narcotics activity, and respondent James Fernandez was charged under § 1952 with traveling between California and Mexico, and performing other acts, for the same purpose. Upon notification that the Government intended to introduce evidence obtained from wiretaps of Chavez' and Fernandez' phones at trial, respondents filed motions to suppress, challenging the legality of the Justice Department's application procedures leading to the issuance by the District Court of the two orders permitting the wire interceptions. Affidavits filed in opposition by the former Attorney General and his Executive Assistant represented that the application submitted for the February 18, 1971 order authorizing interception of wire communications to and from the Chavez phone had been personally approved by the Attorney General, whereas the application for the February 25, 1971 order to intercept communications to and from the Fernandez phone had been approved by his Executive Assistant at a time when the Attorney General was unavailable, and pursuant to an understanding that the Executive Assistant applying the Attorney General's standards as he understood them, could act for the Attorney General in such circumstances.

Each application to the court had recited, however, that the Attorney General, pursuant to 18 U.S.C. § 2516, had "specially designated" the Assistant Attorney General for the Criminal Division, Will Wilson, "to authorize [the applicant attorney] to make this application for an Order authorizing the interception of wire communications." Moreover, appended to each application was a form letter, addressed to the attorney making the application and purportedly signed by Will Wilson, stating that the signator had reviewed the attorney's request for authorization to apply for a wiretap order pursuant to 18 U.S.C. § 2518 and had made the requisite probable cause and other statutory determinations from the "facts and circumstances detailed" in the request, and that "you are hereby authorized under the power especially delegated to me in this proceeding by the Attorney General . . . , pursuant to the power conferred on him by Section 2516 . . . to make application" for a wire interception order. Correspondingly, the District Court's intercept order in each case declared that court approval was given "pursuant to the application authorized by . . . Will Wilson, who has been specially designated in this proceeding by the Attorney General . . . John N. Mitchell, to exercise the powers conferred on the Attorney General" by § 2516.

The discrepancy between who had actually authorized the respective applications to be made, and the information transmitted to the District Court clearly indicating that Assistant Attorney General Wilson was the authorizing official, was explained as the result of a standard procedure followed within the Justice Department. While the Attorney General had apparently refrained from designating any Assistant Attorney General to exercise the authorization power under § 2516(1), form memoranda were routinely sent from his office, over his initials, to Assistant Attorney General Wilson, stating that "with regard to your recommendation that authorization be given" to make application for a court order permitting wire interception, "you are hereby specially designated" to exercise the power conferred on the Attorney General by § 2516 "for the purpose of authorizing" the applicant attorney to apply for a wiretap order. Evidently, this form was intended to reflect notice of approval by the Attorney General, though on its face it suggested that the decision whether to authorize the particular wiretap application would be made by Assistant Attorney General Wilson. In fact, as revealed by the affidavits of Wilson's then Deputy Assistants filed in opposition to respondents suppression motions, "Wilson did not examine the files or expressly authorize the applications" for either the February 18 or February 25 interception orders, and they signed his name "in accordance with [his] authorization . . . and the standard procedures of the Criminal Division" to the respective letters of authorization to the applicant attorney, which were made exhibits to the applications. The signing of Wilson's name was regarded as a "ministerial act" because of Wilson's authorization to his Deputies "to sign his name to and dispatch such a letter of authorization in every instance in which the request had been favorably acted upon in the Office of the Attorney General."

The District Court held that the evidence secured through both wiretaps had to be suppressed for failure of either of the individuals who actually authorized the applications to be "identified to Chief Judge Carter, Congress or the public" in the application or orders, as mandated by §§ **2518**, (1)(a) and (4)(d), respectively. Moreover, evidence obtained under the February 25 wiretap order on the Fernandez phone was separately suppressed, because the Government admitted that "neither the Attorney General nor a specially designated Assistant Attorney General ever authorized the application[,]" as § 2516(1) requires.

The Court of Appeals affirmed in all respects. 478 F. 2d 512. With respect to the Chavez tap, the Court of Appeals assumed,

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Footnotes at end of article.

as had the District Court, that the Attorney General had personally approved the request for authority to apply for the interception order, as his affidavit stated. Nonetheless, the misidentification of Assistant Attorney General Wilson as the authorizing official was deemed to be a "misrepresentation" and an "apparently deliberate deception of the courts by the highest law officers in the land," *id.*, at 515, 517, which required suppression of evidence gathered from the tap for failure to comply with 18 U.S.C. §§ 2518 (1) (a) and (4) (d). Congress was held to have "intended to eliminate any possibility that the authorization of wiretap applications would be institutional decisions[.]" and the Court of Appeals was fearful that if the misidentification which occurred in this case were approved, "there would be nothing to prevent future Attorneys General from remaining silent, if a particular wiretap proved embarrassing." *Id.*, at 516.

We granted certiorari 412 U.S. 905, to resolve the conflict between the position taken by the Ninth Circuit in this case on the issue of suppression because of inaccurate identification of the officer authorizing the application and the position taken by every other circuit that has considered the question.[2] We agree with those other courts of appeals that misidentifying the Assistant Attorney General as the official authorizing the wiretap application to be made does not require suppression of wiretap evidence when the Attorney General himself has actually given the approval; hence, we reverse that portion of the judgment suppressing the Chavez wiretap evidence, and remand for further proceedings to permit the District Court to address other challenges to the Chavez wiretap evidence which respondents had made but the District Court did not find it necessary to consider.[3] Because the application for the interception order on the Fernandez phone was authorized by the Attorney General's Executive Assistant, rather than by the Attorney General or any specially designated Assistant Attorney General, on whom alone 18 U.S.C. § 2516(1) confers such power, evidence secured under that order was properly suppressed for the reasons stated in the opinion filed today in *United States* v. *Giordano, ante,* p. —. Accordingly, that portion of the judgment suppressing the Fernandez wiretap evidence is affirmed.

II

The application and order for the Chavez wiretap did not correctly identify the individual authorizing the application, as 18 U.S.C. §§ 2518(1) (a) and (4) (d) require. Of this there is no doubt. But it does not follow that because of this deficiency in reporting, evidence obtained pursuant to the order may not be used at a trial of respondents. There is no claim of any constitutional infirmity arising from this defect, nor would there be any merit to such a claim, and we must look to the statutory scheme to determine if Congress has provided that suppression is required for this particular procedural error.

Section 2515 of the Act provides that the contents of any intercepted wire or oral communication, and any derivative evidence, may not be used at a criminal trial, or in certain other proceedings, "if the disclosure of that information would be in violation of this chapter." Aggrieved persons may move, in a timely manner under § 2518(10) (a), to suppress the use of such evidence at trial on the grounds that:

"(i) the communication was unlawfully intercepted;

"(ii) the order of authorization or approval under which it was intercepted is insufficient on its face; or

"(iii) the interception was not made in conformity with the order of authorization or approval."

In *United States* v. *Giordano, supra,* we have concluded that Congress, in 18 U.S.C. § 2516(1), made preliminary approval of submission of wiretap applications a central safeguard in preventing abuse of this means of investigative surveillance, and intentionally restricted the category of federal officials who could give such approval to only the Attorney General himself or any Assistant Attorney General he might specially designate for that purpose. Hence, failure to secure approval of one of these specified individuals prior to making application for judicial authority to wiretap renders the court authority invalid and the interception of communications pursuant to that authority "unlawful" within the meaning of 18 U.S.C. § 2518(10(a) (i). Failure to correctly report the identity of the person authorizing the application, however, when in fact the Attorney General has given the required preliminary approval to submit the application, does not represent a similar failure to follow Title III's precautions against the unwarranted use of wiretapping or electronic surveillance and does not warrant the suppression of evidence gathered pursuant to a court order resting upon the application.

There is little question that §§ 2518 (1) (a) and (4) (d) were intended to make clear who bore the responsibility for approval of the submission of a particular wiretap application. Thus, the Senate Report accompanying the favorable recommendation of Title III states that § 2518(1) (a) "requires the identity of the person who makes, and the person who authorized the application[,] to be set out. This fixes responsibility." S. Rep. No. 1097, 90th Cong., 2d Sess., 101 (1968). And § 2518(4) (d) "requires that the order note the agency authorized to make the interception and the person who authorized the application so that responsibility will be fixed." *Id.*, at 103. Where it is established that responsibility for approval of the application is fixed in the Attorney General, however, compliance with the screening requirements of Title III is assured, and there is no justification for suppression.

Respondents suggest that the misidentification of Assistant Attorney General Wilson as the authorizing official was calculated to mislead the District Court in considering the wire interception applications, and certainly had the effect of misleading him, since the interception order also misidentified the authorizing official in reliance on the statements made in the application. We do not perceive any purpose to be served by deliberate misrepresentation by the Government in these circumstances. To the contrary, we think it cannot be seriously contended that had the Attorney General been identified as the person authorizing the application, rather than his subordinate, Assistant Attorney General Wilson, the district judge would have had any greater hesitation in issuing the interception order. The same could not be said, of course, if, as in *Giordano*, the correct information had revealed that none of the individuals in whom Congress reposed the responsibility for authorizing interception applications had satisfied this preliminary step. The District Court undoubtedly thought that Wilson had approved the Chavez and Fernandez wiretap applications, and we do not condone the Justice Department's failure to comply in full with the reporting procedures Congress has established to assure that its more substantive safeguards are followed.[4] But we cannot say that misidentification was in any sense the omission of a requirement that must be satisfied if wiretapping or electronic surveillance is to be lawful under Title III.

Neither the District Court nor the Court of Appeals made clear which of the grounds set forth in § 2518 (10) (a) was relied upon to suppress the Chavez wiretap evidence. Respondents rely on each of the first two grounds, *i.e.*, that the communications were "unlawfully intercepted" and that the Chavez interception order is "insufficient on its face." Support for the latter claim is drawn from the District Court decision in *United States* v. *Focarile,* 340 F. Supp. 1033, 1057–1060 (Md.), aff'd on other grounds *sub nom. United States* v. *Giordano,* 469 F. 2d 522 (CA4 1972), aff'd, *ante,* p.—(1974), which concluded that an order incorrectly identifying who authorized the application is equivalent to an order failing to identify anyone at all as the authorizing official. We find neither of these contentions persuasive.

Here, the interception order clearly identified "on its face" Assistant Attorney General Wilson as the person who authorized the application to be made. Under § 2516(1), he properly could give such approval had he been specially designated to do so by the Attorney General, as the order recited. That this has subsequently been shown to be incorrect does not detract from the facial sufficiency of the order.[5] Moreover, even if we were to look behind the order despite the clear "on its face" language of § 2518(10) (a) (ii), it appears that the Attorney General authorized the application, as he also had the power to do under § 2516(1). In no realistic sense, therefore, can it be said that the order failed to identify an authorizing official who possessed statutory power to approve the making of the application.

The claim that communications to and from the Chavez phone were "unlawfully intercepted" is more plausible, but does not persuade us, given the purposes to be served by the identification requirements and their place in the statutory scheme of regulation. Though we rejected, in *Giordano,* the Government's claim that Congress intended "unlawfully intercepted" communications to mean only those intercepted in violation of constitutional requirements, we did not go so far as to suggest that every failure to comply fully with any requirement provided in Title III would render the interception of wire or oral communications "unlawful." To establish such a rule would be at odds with the statute itself. Under § 2515, suppression is not mandated for every violation of Title III, but only if "disclosure" of the contents of intercepted communications, or derivative evidence, would be in violation of Title III. Moreover, as we suggested in *Giordano,* it is apparent from the scheme of the section that paragraph (i) was not intended to reach every failure to follow statutory procedures, else paragraphs (ii) and (iii) would be drained of meaning. *Giordano* holds that paragraph (i) does include any "failure to satisfy any of those statutory requirements that directly and substantially implement the congressional intention to limit the use of intercept procedures to those situations clearly calling for the employment of this extraordinary investigative device." *Ante,* p. —.

In the present case, the misidentification of the officer authorizing the wiretap application did not affect the fulfillment of any of the reviewing or approval functions required by Congress and is not within the reach of paragraphs (ii) and (iii). Requiring identification of the authorizing official in the application facilitates the court's ability to conclude that the application has been properly approved under § 2516; requiring identification in the court's order also serves to "fix responsibility" for the source of preliminary approval. This information contained in the application and order further aids the judge in making reports required under 18 U.S.C. § 2519.[6] That section requires the judge who issues or denies an interception order to report his action and certain information about the application, including the "identity of . . . the person authorizing the application," within 30 days, to the Administrative Office of the United States Courts, § 2519(1). An annual report of the

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Footnotes at end of article.

authorizing officials designated in § 2516 must also be filed with that body, and is to contain the same information with respect to each application made as is required of the issuing or denying judge, § 2519(2)(a). Finally, a summary of the information filed by the judges acting on applications and the prosecutors approving their submission is to be filed with Congress in April of each year by the Administrative Office, § 2519(3). The purpose of these reports is "to form the basis for a public evaluation" of the operation of Title III and to "assure the community that the system of court-order [sic] electronic surveillance . . . is properly administered . . . ." S. Rep. No. 1097, 90th Cong., 2d Sess., at 107. While adherence to the identification reporting requirements of §§ 2518(1)(a) and (4)(d) thus can simplify the assurance that those who Title III makes responsible for determining when and how wiretapping and electronic surveillance should be conducted have fulfilled their roles in each case, they do not estabilsh a substantive role to be played in the regulatory system.

Nor is there any legislative history concerning these sections, as there is, for example, concerning § 2516(1), see *United States* v. *Giordano, supra,* at ——, to suggest that they were meant, by themselves, to occupy a central, or even functional, role in guarding against unwarranted use of wiretapping or electronic surveillance. Though legislation to regulate the interception of wire and oral communications had been considered by Congress earlier, the proposed statute drafted for the President's Commission on Law Enforcement and Administration of Justice appears to have been the first published proposal to contain a requirement that the application for interception authority should specify "who authorized the application." Task-Force Report: Organized Crime, Appendix C. at 109, § 3803(a)(1) (1967). That proposed bill, which was substantially followed in Title III, also provided for reports like those now required by 18 U.S.C. § 2519, including information on "the identity of . . . who authorized the application." *Id.,* at 111, §§ 3804(a)(6) and (b)(1). It did not, however, require the order to contain this information. *Id.,* at 110, § 3803(e). S. 675, a bill introduced by Senator McClellan on January 25, 1967, as the "Federal Wire Interception Act," 113 Cong. Rec. 1491, did not contain any of these identification requirements. Hearings before the Subcomm. on Criminal Laws and Procedures of the S. Comm. on the Judiciary. Controlling Crime Through More Effective Law Enforcement, 90th Cong., 1st Sess., March 7, 8, 9; April 18, 19, 20; May 9; July 10, 11, 12, 1967, at 77–78, §§ 8(a), (d), 8(a). S. 2050, however, a proposal by Senator Hruska to regulate both wiretapping and electronic surveillance, did. Section 2518(a)(1) required an interception application to include "the identity of the person who authorized the application," and §§ 2519(a)(6) and (b)(1) provided that judges and authorizing prosecutors report "the identity of . . . who authorized the application," but did not require that the order contain this information, § 2518(e). *Id.,* at 1006–1008. The requirement that this information be contained in the order, as well as in the application and required reports, first appeared in § 2518(e)(4) of H.R. 13482, 90th Cong., 2d Sess. (1967). Though the House never reported out of committee any wiretapping bill, it was retained in S. 917, a combination of S. 675 and S. 2050, whose provisions ultimately were enacted as Title III. Despite the appearance and modification of the identification requirements during the legislative process, however, no real debate surrounded their adoption, and only the statements in S. Rep. No. 1097, *supra,* that they were designed to fix responsibility, give any indication of their purpose in the overall scheme of Title III. No role more significant than a reporting function designed to establish on paper that one of the major procedural protections of Title III had been properly accomplished is apparent.

When it is clearly established, therefore, that authorization of submission of a wiretap or electronic surveillance application has been given by the Attorney General himself, but the application, and, as a result, the interception order, incorrectly state that approval has instead been given by a specially designated Assistant Attorney General, the misidentification, by itself, will not render interceptions conducted under the order "unlawful" within the meaning of § 2518 (10)(a)(i) or the disclosure of the contents of intercepted communications, or derivative evidence, otherwise "in violation of" Title III within the meaning of § 2515. Hence, the suppression of the Chavez wiretap evidence on the basis of the misidentification of Assistant Attorney General Wilson as the authorizing official was in error. Though we deem this result to be the correct one under the suppression provisions of Title III, we also deem it appropriate to suggest that strict adherence by the Government to the provisions of Title III would nonetheless be more in keeping with the responsibilities Congress has imposed upon it when authority to engage in wiretapping or electronic surveillance is sought.

The judgment of the Court of Appeals is affirmed in part, reversed in part, and remanded for further proceedings consistent with this opinion.

It is so ordered.

FOOTNOTES

[1] The relevant statutory provisions are set forth in the Appendix to *United States* v. *Giordano, supra.*

[2] In other instances where the Attorney General had personally authorized the application, but the application and order erroneously recited approval by Assistant Attorney General Wilson, suppression of wiretap evidence has been denied on the ground of substantial compliance with Title III requirements. *United States* v. *James,* —— U.S. App. D.C. ——, —— F. 2d —— (1974) (Slip op., at 15–16) ("immaterial variance"); *United States* v. *Pisacano,* 459 F. 2d 259, 264 n. 5 (CA2 1972) ("discrepancy did not meaningfully subvert the congressional scheme"); *United States* v. *Becker,* 461 F. 2d 230, 235 (CA2 1972) ("harmless error"); *United States* v. *Ceraso,* 467 F. 2d 647, 652 (CA3 1972) ("subsequent identification of the authorizing officer is satisfactory"), *United States* v. *Bobo,* 477 F. 2d 974, 985 (CA4 1973) ("sufficient compliance"), *United States* v. *Cox,* 462 F. 2d 1293, 1300 (CA8 1972) ("it is irrelevant that the application and order recited the authorizing officer as Mr. Wilson rather than Mr. Mitchell"). See also *United States* v. *Roberts,* 477 F. 2d 57, 59 (CA7 1973), holding the authorization improper because given by the Executive Assistant, not the Attorney General, but suggesting that with respect to the misidentification of Assistant Attorney General Wilson "we would not be inclined to elevate form over substance to find a violation of 18 U.S.C. § 2518(1)(a) and (4)(d). . . ."

[3] The record discloses that respondents also based their motions to suppress the Chavez wiretap evidence on the failure of the Government's affidavits in support of the wiretap application to demonstrate a need for wiretapping as opposed to less intrusive means of investigation, 18 U.S.C. § 2518 (1)(c), to particularly describe the communications sought to be intercepted, § 2518 (1)(b)(iii), to allege facts sufficient to justify the uncertainty of the termination date for the interception, § 2518(1)(d), or to adequately show probable cause to support the order, § 2518(3); moreover, the sufficiency of the order's directive to minimize the interception of innocent conversations and compliance by the agents who conducted the wiretap with the order of minimization, § 2518(5), were also challenged. R. 159–197. None of these questions is before us now, as neither the District Court nor the Court of Appeals passed on any of them.

[4] The Government advises that in the spring of 1972 it revised the form memoranda by which the Attorney General had approved applications for wiretapping or electronic surveillance authority, and the form language in the letters sent to the applying attorneys, which are appended to the applications filed in the district courts, to accurately reflect that approval was obtained from the Attorney General, rather than a specially designated Assistant, unless the latter happens to be the case. Brief for the United States in *United States* v. *Giordano, ante,* p. —, at 9.

[5] Respondents' attempt to analogize the facial insufficiency of a search warrant supported by an affidavit submitted under a false name of the affiant, a deficiency which has been held by some courts to require suppression under Fed. Rule Crim. Proc. 41, *King* v. *United States,* 282 F. 2d 398 (CA4 1960), or under the Fourth Amendment, *United States ex rel. Pugh* v. *Pate,* 401 F. 2d 6 (CA7 1968), cert. denied, 394 U.S. 999 (1969), the asserted facial insufficiency of a wire interception order which incorrectly identifies who authorized the application for the order, must fail. Without passing on the soundness of these cases, it must be recalled that the misidentification of the officer authorizing a wiretap application is irrelevant to the issue of probable cause, which is supported by the separate affidavits of investigative officials. See 18 U.S.C. §§ 2518 (1) and (3). Moreover, no basis is provided in Title III for challenging the validity of the interception order depending on whether the application was approved by the Attorney General rather than a specially designated Assistant.

[6] Section 2519 provides in full:

"§ 2519. Reports concerning intercepted wire or oral communications.

"(1) Within thirty days after the expiration of an order (or each extension thereof) entered under section 2518, or the denial of an order approving an interception, the issuing or denying judge shall report to the Administrative Office of the United States Courts—

"(a) the fact that an order or extension was applied for;

"(b) the kind of order or extension applied for;

"(c) the fact that the order or extension was granted as applied for, was modified, or was denied;

"(d) the period of interceptions authorized by the order, and the number and duration of any extensions of the order;

"(e) the offense specified in the order or application, or extension of an order;

"(f) the identity of the applying investigative or law enforcement officer and agency making the application and the person authorizing the application; and

"(g) the nature of the facilities from which or the place where communications were to be intercepted.

"(2) In January of each year the Attorney General, an Assistant Attorney General specially designated by the Attorney General, or the principal prosecuting attorney of a State, or the principal prosecuting attorney for any political subdivision of a State, shall report to the Administrative Office of the United States Courts—

"(a) the information required by paragraphs (a) through (g) of subsection (1) of this section with respect to each application for an order or extension made during the preceding calendar year;

"(b) a general description of the interceptions made under such order or extension, including (i) the approximate nature and frequency of incriminating communications intercepted, (ii) the approximate nature and frequency of other communications intercepted, (iii) the approximate number of persons whose communications were intercepted, and (iv) the approximate nature, amount, and cost of the manpower and other resources used in the interceptions;

"(c) the number of arrests resulting from interceptions made under such order or extension, and the offenses for which arrests were made;

"(d) the number of trials resulting from such interceptions,

"(e) the number of motions to suppress made with respect to such interceptions, and the number granted or denied;

"(f) the number of convictions resulting from such interceptions and the offenses for which the convictions were obtained and a general assessment of the importance of the interceptions; and

"(g) the information required by paragraphs (b) through (f) of this subsection with respect to orders or extensions obtained in a preceding calendar year.

"(3) In April of each year the Director of the Administrative Office of the United States Court shall transmit to the Congress a full and complete report concerning the number of applications for orders authorizing or approving the interception of wire or oral communications and the number of orders and extensions granted or denied during the preceding calendar year. Such reports shall include a summary and analysis of the data required to be filed with the Administrative Office by subsections (1) and (2) of this section. The Director of the Administrative Office of the United States Courts is authorized to issue binding regulations dealing with the content and form of the reports required to be filed by subsections (1) and (2) of this section."

Mr. Justice Douglas, with whom Mr. Justice Brennan, Mr. Justice Stewart, and Mr. Justice Marshall concur, concurring in part and dissenting in part in 72–1319, *United States* v. *Chavez*, and joining in 72–1057, *United States* v. *Giordano*.

The Court deals with two different Justice Department violations of Title III of the Omnibus Crime Control and Safe Streets Act of 1968, which imposes express limitations on the use of electronic surveillance. In *United States* v. *Giordano*, 72–1057, the Court correctly finds that the violation of 18 U.S.C. § 2516(1) is a violation of a statutory requirement which "directly and substantially implement[s] the congressional intention to limit the use of intercept procedures to those situations clearly calling for the employment of this extraordinary investigative device." The Court also properly finds that a violation of such a statutory requirement mandates suppression of the evidence seized by the unlawful interception. I join the opinion of the Court in *Giordano*. The same violation of § 2516(1) is also involved in the Fernandez wiretap in *United States* v. *Chavez*, 72–1319, and I therefore concur in the Court's suppression of the evidence seized in that wiretap. In *Chavez*, however, the Court finds that suppression is not warranted for the violations of 18 U.S.C. §§ 2518(1)(a) and 2518(4)(d) which the Court admits occurred in the Chavez wiretap itself. I dissent from this conclusion, hereinafter referred to as the holding of *Chavez*.

I

Title III permits electronic surveillance to be employed only pursuant to a court order. It requires, *inter alia,* that a federal trial attorney desiring to apply to the District Court for such a wiretap order must first secure authorization from one of a group of specified officials in the Justice Department. *Giordano* represents a class of cases in which authorization for electronic surveillance was given by Sol Lindenbaum, the Executive Assistant to Attorney General John Mitchell, in violation of the "authorization requirement" of § 2516(1) of Title III. This section provides that a wiretap order may be applied for only after authorization by "[t]he Attorney General, or any Assistant Attorney General specially designated by the Attorney General." 18 U.S.C. § 2516(1). *Chavez*, on the other hand, represents a class of cases where the Justice Department violated the "identification requirement" of § 2518(1)(a) of Title III, which requires that each application made to the District Court for a wiretap order "shall include . . . the identity of . . . the officer authorizing the application." *Id.*, § 2518(1)(a). Because the District Courts in this class of cases were supplied with misinformation as to the identity of the person who authorized the applications made to them, the orders they entered approving the use of electronic surveillance violated § 2518(4)(d) of Title III, which provides that *such orders "shall specify . . . the identity of . . . the person authorizing the application."*

In the Justice Department between 1969 and 1972, a request from a federal trial attorney for authorization to apply for a wiretap order was reviewed in the Criminal Division before being sent to Attorney General Mitchell. According to the Solicitor General, in *Chavez* Attorney General Mitchell made the operative decision to authorize the wiretap application and signified this by sending a memorandum to Assistant Attorney General Will Wilson directing Wilson to authorize the trial attorney to submit the application to the District Court. The memorandum,[1] the Solicitor General admits, does not make clear that the operative decision was made in the Attorney General's Office; rather, it indicates that Wilson himself was designated to review and authorize the application.

At this point, a letter of authorization was sent to the trial attorney, which clearly identified Assistant Attorney General Wilson, and not Mitchell, as the person who had made the operative decision to authorize the wiretap.[2] Wilson, however, neither saw nor authorized the Chavez wiretap application or any others; his signature was affixed to the authorization letters by a Deputy Assistant Attorney General, either Harold P. Shapiro or Henry E. Petersen.[3]

When the trial attorney applied for a wiretap order in the District Court, he attached the letter of authorization purportedly signed by Wilson, and naturally misidentified Wilson as the person who had authorized the application to be made,[4] in violation of the identification requirement of § 2518(1)(a), *supra*. As a result, the District Court's order identified Wilson, and not Mitchell, as the Justice Department official who had authorized the trial attorney to apply for the Chavez wiretap order,[5] in violation of the identification requirement of § 2518(4)(d), *supra*.

In *Chavez*, Mitchell first acknowledged responsibility for authorizing the wiretap application in an affidavit filed with the District Court only after respondents had made a motion to suppress the evidence in the tap. Similar affidavits stating that Mitchell had authorized the application, rather than Wilson, were filed by Lindenbaum and Petersen. The courts below, on the strength of these affidavits, have held that Mitchell did in fact authorize the application to be made. Both, however, ordered the evidence which was seized by the surveillance to be suppressed, since the application misidentified Wilson as the responsible official. This Court reverses the Court of Appeals.

Deciding a question not reached in *Giordano*, the Court in *Chavez* holds that suppression is not dictated when there has been a violation of a provision of Title III which does not, in the view of the courts, "directly and substantially implement the congressional intention to limit the use of intercept procedures" to cases clearly calling for electronic surveillance. I cannot agree that Title III, fairly read, authorizes the courts to pick and choose among various statutory provisions, suppressing evidence only when they determine that a provision is "substantive," "central," or "directly and substantially" related to the congressional scheme.

Section 2515 of Title III unambiguously provides that no evidence derived from any intercepted communication may be received "in any trial . . . in or before any court . . . if the disclosure of that information would be in violation of this chapter." The Court acknowledges this provision in *Chavez, ante*, at 12, but disregards two sections of Title III explicitly dealing with disclosure in determining when disclosure is in fact "in violation of" Title III. Section 2511(1), which provides criminal penalties for willful violations of Title III, prohibits in § 2511(1)(c) knowing disclosure of communications intercepted in violation of the subsection, and the subsection prohibits interception "[e]xcept as otherwise specifically provided in this chapter." 18 U.S.C. § 2511(1)(a). Section 2517(3) authorizes the disclosure in a criminal proceeding of information received "by any means authorized by this chapter" or of evidence derived from a communication "intercepted in accordance with the provisions of this chapter." The statute does not distinguish between the various provisions of the Title, and it seems evident that disclosure is "in violation of" Title III when there has not been compliance with any of its requirements.

The Court fixes on § 2518(10)(a), which defines the class of persons who may move to suppress the admission of evidence. This section provides that any aggrieved person may move to suppress evidence on the grounds that:

"(i) the communication was unlawfully intercepted;

"(ii) the order of authorization or approval under which it was intercepted is insufficient on its face;

"(iii) the interception was not made in conformity with the order of authorization or approval."

Since (ii) and (iii) reach some statutory violations, reasons the Court, (i) cannot reach all statutory violations or else (ii) and (iii) would be "drained of meaning."

The choice seems to be between attributing to Congress a degree of excessive cautiousness which led to some redundancy in drafting the protective provisions of § 2518(10)(a), or foolishness which led Congress to enact statutory provisions for law enforcement officials to scurry about satisfying when it did not consider the provisions significant enough to enforce by suppression. In view of the express prohibition by § 2515 of disclosure of information "in violation of" the chapter, I would opt for the conclusion that Congress was excessively cautious, and that "unlawfully intercepted" means what it says.

Congress could easily have given the judiciary discretion to apply the suppression remedy only for violations of "central" statutory provisions by using language such as "unlawfully intercepted in violation of important requirements of this chapter" in § 2518(10)(a). But no such limitation appears. Further, the legislative history of Title III emphasizes Congress' intent to en-

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force every provisions of the Title with the remedy provided in §§ 2515 and 2518(10)(a). The Senate Report which accompanied Title III to the Congress states that "Section 2515 . . . imposes an evidentiary sanction to compel compliance with the other prohibitions of the chapter," and that § 2518 (10)(a) together with § 2515 "applies to suppress evidence directly . . . or indirectly obtained in violation of the chapter." S. Rep. No. 1097, 90th Cong., 1st Sess., 96 (1968).

Again, no distinction supports the conclusion that Congress considered any provision of Title III more important than any other in the applications of the suppression remedy. Congress at no point indicated that it intended to give the courts the discretion to distinguish various provisions of Title III, never suppressing evidence for violations of some—such as §§ 2518(1)(a) and (4)(d)—deemed not "directly and substantially" related to the congressional intent to limit the use of electronic surveillance. No matter how egregious or willful the violation of these provisions, it seems that suppression will not follow, and the Court opens the door to the creation of other non-"central" statutory requirements. This breadth of discretion is not part of the congressional scheme, and the Court oversteps its judicial role when it arrogates such discretion to itself.

III

Moreover, even under the test the Court defines in *Chavez*, that violations of only those statutory provisions "directly and substantially" limiting the use of electronic surveillance will warrant suppression, the violation of the identification requirements of §§ 2518(1)(a) and (4)(d) mandates suppression in *Chavez*. For the requirement of § 2518(1)(a) that the application for a wiretap "shall include . . . the identity of . . . the officer authorizing the application" together with that of § 2518(4)(d) that the wiretap order contain the same information sigificantly implement the congressional intention to limit the use of electronic surveillance procedures.

In support of its conclusion that suppression is not mandated by the §§ 2518(1)(a) and 2518(4)(d) violations in *Chavez*, the Court states that while Congress expressed the intent that these provisions "fix responsibility" on the person who authorized the enployment of electronic surveillance, "[w]here it is established that responsibility for approval of the application is fixed in the Attorney General, however, compliance with the screening requirements of Title III [§ 2516] is assured, and there is no justification for suppression." *Ante*, p. 9. To the Court, the provisions "do not establish a substantive role to be played in the regulatory system. . . . No role more significant than a reporting function designed to establish on paper that one of the major procedural protections of Title III [the authorization requirement of § 2516] had been properly accomplished is apparent." *Ante*, pp. 15, 16.

The Court reduces the statement of Congress that the identification provisions were created to "fix responsibility" for a wiretap authorization to meaning only that the provisions were drafted to assure the courts that there had been compliance with the authorization requirement of § 2516. And the Court finds it satisfactory that this responsibility is established by an *ex post facto* affidavit of the Attorney General, stating that he in fact authorized the Chavez surveillance.

It seems to me a complete misreading of Congress' attempt to "fix responsibility" in the application and order to reach these conclusions. Sections 2518(1)(a) and 2518(4)(d) are not part of the detailed and stringent guidelines of Title III through legislative inadvertence. They were not present in early proposals to regulate wiretapping, but were carefully inserted in later proposals, culminating in the draft which became Title III. A 1961 proposal to allow wiretapping under regulated conditions did not contain any identification requirement, although it contained provisions designating those who could authorze surveillance.[6] S. 675, introduced to the 90th Congress by Senator McClellan on January 25, 1967, 113 Cong. Rec. 1491, did not require either the application or the court order to identify the person who authorized the surveillance application.[7] S. 2050, introduced five months later by Senator Hruska, 113 Cong. Rec. 18007, expressly required that the application to the court set forth "the identity of the person who authorized the application," but did not require the court order to contain this information.[8] H.R. 13482, introduced in the House on October 12, 1967, 113 Cong. Rec. 28792, not only required that the application identify the person authorizing it, but also that the court order contain this information. Six months later on April 29, 1968, the Senate Judiciary Committee reported S. 917, whose provisions ultimately were enacted as Title III, accompanying the bill with an extended report explaining every provision.[9] Though it noted that Title III is "essentially a combination" of S. 675 and S. 2050,[10] the Judiciary Committee went beyond either of those bills as to the identification requirements, mandating that both the application and the order identify the person who authorized the application.

In its discussion of the authorization requirement of § 2516, the Senate Report states:

"This provision centralizes in a publicly responsible official subject to the political process the formulation of law enforcement policy on the use of electronic surveillance techniques. Centralization will avoid the possibility that divergent practices might develop. Should abuses occur, the lines of responsibility lead to an identifiable person. This provision in itself should go a long way toward guaranteeing that no abuses will happen." S. Rep. No. 1097, 90th Cong., 1st Sess., 97.

But this alone was not sufficient. The Report continues:

"The application must be made to a Federal judge of competent jurisdiction, as defined in section 2510 (9), discussed above. *The application must conform to section 2518, discussed below.*" *Ibid.* (Emphasis added).

The Committee's discussion of § 2518 states:

"Section 2518 of the new chapter sets out in detail the procedure to be followed in the interception of wire or oral communications.

"Subparagraph [2518(1)(a)] *requires* the identity of the person who makes, and the person who authorized the application to be set out. *This fixes responsibility.*

". . . Subparagraph [2518(4)(d)] *requires* that the order note the agency authorized to make the interception and the person who authorized the application *so that responsibility will be fixed.*" *Id.*, at 100, 101, 103. (Emphasis added.)

The crucial concept is Congress' expression of intention that §§ 2518(1)(a) and (4)(d) should be complied with, so that the application and order would fix responsibility.

Clearly, no such responsibility was fixed on Mitchell, the authorizing figure, in *Chavez*. As the Court of Appeals noted, *United States* v. *Chavez*, 478 F.2d 512, 515, 516, there

"was a misrepresentation, in circumstantial and carefully phrased detail, all pointing to Wilson as the official authorizing the application, when in fact he did no such thing. . . . The Wilson letter and the Mitchell memorandum . . . create the illusion of compliance with the Act. Without Mitchell's affidavit, the lines of responsibility lead to Wilson, not to Mitchell."

Yet Wilson never saw the application for which Mitchell now accepts responsibility. Before the affidavits submitted to the District Court in response to the motion to suppress, about one year after the application was initially authorized, responsibility pointed directly at Wilson, and no document implicated Mitchell.

It is simply not enough that Mitchell's responsibility is established only after a prosecution is underway and a motion to suppress filed. After-the-fact acceptance for the Chavez surveillance was made at no cost. The surveillance was productive and was directed against an alleged drug trafficker, a pariah of society. Accepting responsibility at this point, further, helped Mitchell and the Justice Department avoid the acute embarrasment of losing this prosecution. But this was not the scheme created by the Congress. By creating the identification provisions, which required the authorizing official to be made known at the time of an application, it established a mechanism by which a person's responsibility was to be acknowledged immediately, not a device by which the identity of the person authorizing the application would remain hidden until it was discovered that an instance of electronic surveillance had been productive and not offensive to public sensibilities.

Immediate acknowledgment of responsibility for authorizing electronic surveillance is not an idle gesture. It lessens or eliminates the ability of officials to later disavow their responsibility for surveillance. By adding the identification provisions of § 2518, Congress took a step toward stripping from responsible officials the ability to choose after the fact whether to accept or deny that responsibility by coming forward and filing an affidavit. "Fixing" of responsibility in the application and order can have no other meaning; it simply does not comprehend a situation where responsibility is concealed or unsettled. Had Congress been content with compliance with § 2516 being proven and responsibility for surveillance being established by later testimony and affidavits, it could easily have left the legislation in its early form without adding the express requirements of § 2518(1)(a) and (4)(d) to the Act.[11]

The Court's treatment of the identification requirements trivializes Congress' efforts in adding them to Title III. In *Giordano*, the Court relies on Congress' clearly expressed desire that an official, responsible to the political process, should make the decision authorizing electronic surveillance and bear the scrutiny of Congress and the public for that decision. As noted, the Senate Report which accompanied Title III to Congress stated that § 2516 "centrallizes in a publicly responsible official subject to the political process" the formulation of electronic surveillance policy so that "[s]hould abuses occur, the lines of responsibility lead to an identifiable person. This provision in itself should go a long way toward guaranteeing that no abuses will happen." S. Rept. No. 1097 90th Cong., 1st Sess., 97 (1968). Similarly, Senator Long, in support of the bill read from a report which stated "We agree that responsibility should be focused on those public officials who will be principally accountable to the courts and the public for their actions."[12] Speaking to a related provision requiring that politically responsible state prosecuting officials authorize state applications, Professor Blakely of Notre Dame, instrumental in the drafting of Title III, stated:

"Now, the reason [for this requirement] is that unless we involve someone in the process of using this equipment who is politically responsible, that is, someone who must return to the people periodically and be reelected, it seems to me we miss a significant check on possible abuse. As a practical matter, if there is police abouse, the remedies we can take against them are limited. If we involve the responsible judgment of a political official in the use of this equipment, and

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Footnotes at end of article.

it is then abused, the people have a very quick and effective remedy at the next election."[13]

But it is clear that this personal responsibility and political accountability, relied on by Congress to check the reckless use of electronic surveillance, is rendered a mere chimera when the official actually authorizing a wiretap application is not identified until years after the tap has occurred, when he might already be out of office, when the usefulness of the tap is already established, when it is celar that the surveillance was not abusive, and then only through voluntary admissions or the sifting of potentially contradictory affidavits. Responsibility is hardly "focused," and the "lines of responsibility" are gossamer at best. This is why Congress added the demand that responsibility be immediately *fixed*. The procedures which the Court sanctions in *Chavez* stretch the unequivocally expressed desire of Congress to *fix responsibility* in the application and order well beyond the breaking point.

In eviscerating Congress' intent to fix responsibility in the application and order, the Court destroys a significant deterrent to reckless or needless electronic surveillance. It allows the official authorizing a wiretap to remain out of the harsh light of public scrutiny at the crucial beginning of the wiretap process, only to emerge later when he chooses to identify himself. Knowledge that personal responsibility would be immediately focused and immutably fixed, whatever the outcome of surveillance, be it profitable or profligate, successful or embarrassing, forces an official to be circumspect in initally authorizing an electronic invasion of privacy. This is why Title III requires more than a judicial determination of probable cause; it also requires an accountable political official to exercise political judgment, and it requires that the political official be immediately identified and his responsibility fixed when an application is filed. The identification procedures, by fixing responsibility, obviously serve to "limit the use of intercept procedures to those situations clearly calling for the employment of this extraordinary investigative device," thereby requiring suppression even under the test the Court adopts in *Chavez*.

IV

The Court mentions in passing the reporting requirements of Title III, noting the information furnished the judge pursuant to § 2518(1)(a) is useful in making the reports required of him under § 2519. This section requires the judge to report, *inter alia*, the name of the party who authorized each wiretap application made to him to the Administrative Office of the United States Courts within 30 days after surveillance has been completed. 18 U.S.C. § 2519(1)(f). At the same time, 18 U.S.C. 2519(2) requires the authorizing prosecuting officials designated in § 2516 to file a report in January of each year, which also must include the name of the person who authorized applications made during the previous calendar year. In reliance on this information, the Administrative Office is to report such information to the Congress for public scrutiny. *Id.*, § 2519(3). Like the applications and wiretap orders themselves, this report is to include the names of those persons responsible for authorizing electronic surveillance.

In the set of cases represented by *Chavez*, of course, the person actually authorizing the applications, Mitchell, was not made known to the courts which approved them, and so the reports filed with the Administrative Office by the judiciary did not identify him as the responsible official. The potential for public accountability through this channel was foreclosed by the misinformation given the courts. While the report filed by the office of the Attorney General in January 1970 did state that the 1969 applications filed in Wilson's name had been personally approved by Mitchell, the Solicitor General informs us that the reports filed by the Attorney General regarding instances of electronic surveillance for 1970 and after, including the Giordano wiretap (1970) and the Chavez tap (1971), did not acknowledge that Mitchell had personally authorized the surveillance attributed to his subordinates.[14] The failure of the Attorney General's office to document the actual personal responsibility of Mitchell for surveillance authorizations occurred as those authorizations proliferated: there were only 34 instances of federal surveillance reported under Title III for 1969, but that number rose to 183 in 1970 and 238 in 1971.[15] *Ex post facto* acknowledgment of responsibility by Mitchell in the annual reports filed pursuant to § 2519(2) could not of course cure the violation of the express congressional mandate of § 2518(1)(a), any more than did Mitchell's filing of an affidavit. Nevertheless, not even these reports for years after 1969 provided documentation that Mitchell was the Justice Department official actually responsible for authorizing electronic surveillance. While Congress demanded the openness of political accountability, Justice Department documents drew a veil of secrecy, and no personal responsibility was attributed in any documents to Mitchell, the person actually responsible for atuhorizing the electronic surveillance.

As the Court recognized in *Gelbard* v. *United States*, 408 U.S. 41, 48, the protection of privacy was an overriding concern of Congress when it established the requirements of Title III in 1968:

"The need for comprehensive, fair, and effective reform setting uniform standards is obvious. New protections for privacy must be enacted." S. Rep. No. 1097, 90th Cong., 1st Sess., 69.

Electronic surveillance was a serious political issue, and these detailed and comprehensive requirements are not portions of a hastily conceived piece of legislation. As noted above, electronic surveillance legislation was introduced long before 1968, and the provisions of Title III are the culmination of a long evolutionary process. The Title was accompanied by an exhaustive and studied report in which the Senate Judiciary Committee offered an explanation and justification for each clause of the bill. I cannot believe that Congress perversely required law enforcement officials to jump through statutory hoops it considered unnecessary to the goal of protecting individual privacy from unwarranted electronic invasions.

On the contrary, the history of Title III reflects a desire that its provisions be strictly construed. Senator McClellan, sponsor of S. 675, one of the bases for Title III, and chairman of the committee which reported Title III to Congress, stated during hearings on his bill:

". . . I would not want any loose administration of this law.

* * *

"But have it very strictly observed. It is not to become a catchall for promiscuous use. I want to see this law strictly observed with the courts adhering to the spirit and intent of it in granting the orders.

* * *

"I think it ought to be tight, very definitely as free from loopholes as it can possibly be made . . ."[16]

Subsequently, McClellan's committee closed yet another loophole in the law by inserting the identification requirements of Title III, attempting thereby to fix responsibility at the time of the application for a wiretap order, requirements which this Court now nullifies.

Mr. Justice Holmes observed in dissent 70 years ago that:

"Great cases like hard cases make bad law. For great cases are called great, not by reason of their real importance in shaping the law of the future, but because of some accident of immediate overwhelming interest which appeals to the feelings and distorts the judgment. These immediate interests exert a kind of hydraulic pressure which makes what previously was clear seem doubtful, and before which even well settled principles of law will bend." *Northern Securities Co.* v. *United States*, 193 U.S. 197, 400–401.

The Solicitor General reminds us that substantial effort on the part of the Organized Crime Section of the Criminal Division of the Department of Justice is implicated, for the violations of Title III reflected in these two cases are not isolated occurrences. The failure of Attorney General Mitchell properly to authorize applications involves 60 cases and 626 defendants. The failure of surveillance applications to fix responsibility on Mitchell, when he did in fact authorize the applications, involves an additional 99 cases and 807 defendants. Yet the magnitude of the effect of suppression of unlawfully obtained evidence for these violations of Title III does not vitiate our duty to enforce the congressional scheme as written. The failure of a prosecution in a particular case pales in comparison with the duty of this Court to nourish and enhance respect for the even-handed application of the law. I accordingly dissent in part in *Chavez*.

FOOTNOTES

[1] The form memorandum employed by Mitchell stated in part:

"This is with regard to your recommendation that authorization be given to [the particular trial attorney] to make application for an Order of the Court under Title 18, United States Code, Section 2518 permitting the interception of wire communications for a [particular] period to and from telephone number [the listed telephone numbers of the particular criminal investigation]. . . .

"Pursuant to the powers conferred on me by Section 2516 of Title 18, United States Code, *you are hereby specially designated to exercise those powers for the purpose of authorizing* [the particular trial attorney] to make the above-described application." (Emphasis added.)

[2] The letter sent over Wilson's signature in *Chavez* read:

"This is with regard to your request for authorization to make application pursuant to the provisions of Section 2518 of Title 18, United States Code, for an Order of the Court authorizing the Bureau of Narcotics and Dangerous Drugs and the Bureau of Customs [to intercept wire communications at the particular number involved]. . . .

"I have reviewed your request and the facts and circumstances detailed therein and have determined that there exists probable cause to believe that [named individuals were committing certain offenses] . . . *I have further determined* that there exists probable cause to believe that the above persons make use of the described facility in connection with those offenses, that wire communications concerning the offenses will be intercepted, and that normal investigative procedures reasonably appear unlikely to succeed if tried.

"Accordingly, *you are hereby authorized under the power specially delegated to me* in this proceeding by the Attorney General of the United States, the Honorable John N. Mitchell, pursuant to the power conferred on him by Section 2516 of Title 18, United States Code, to make application to a judge of competent jurisdiction for an Order of the Court pursuant to Section 2518 of Title 18, United States Code [to intercept the described wire communications] . . ." (Emphasis added.)

[3] In *Chavez*, the letter was signed by Petersen.

[4] The application stated:

". . . [T]he Honorable John N. Mitchell, has specially designated in the proceeding the Assistant Attorney General for the Criminal Division of the United States Department of Justice, The Honorable Will Wilson, to authorize affiant to make this application for an Order authorizing the interception of wire communications. This letter of authorization signed by the Assistant Attorney General is attached to this application as Exhibit A."

[5] The order read in part:

"Special Agents . . . are authorized, pursuant to the application authorized by the Assistant Attorney General for the Criminal Division of the United States Department of Justice, the Honorable Will Wilson, [to intercept wire communications] . . ."

[6] S. 1495, 87th Cong., 1st Sess., § 4(b), printed in Hearings on Wiretapping and Eavesdropping Legislation before the Subcomm. on Constitutional Rights of the Senate Comm. on the Judiciary, 87th Cong., 1st Sess., 4, 5 (1961).

[7] Printed in Hearings on Controlling Crime Through More Effective Law Enforcement before the Subcomm. on Criminal Laws and Procedures of the Senate Comm. on the Judiciary, 90th Cong., 1st Sess., 75 (1967).

[8] Printed in *id.*, 1006.

[9] S. Rep. No. 1097, 90th Cong., 1st Sess. (1968).

[10] *Id.*, at 66.

[11] The Court in *Chavez* finds some guidance in the fact that "no real debate surrounded" the adoption of the identification requirements. This is not surprising, in that the provisions were added to wiretapping legislation in committee, and justified in the Judiciary Committee's report.

[12] 113 Cong. Rec. 14474. The Report was by the Association of the Bar of the City of New York, Committee on Federal Legislation, Committee on Civil Rights, entitled "Proposed Legislation on Wiretapping and Eavesdropping after *Berger* v. *New York* and *Katz v. United States.*"

[13] Hearings on the Anti-Crime Program before Subcomm. No. 5 of the House Committee on the Judiciary, 90th Cong., 1st. Sess., 1380 (1967).

[14] The Administrative Office, nonetheless, repeated the statement made for 1969 that Mitchell had "personally" authorized the applications.

[15] See Administrative Office of the United States Courts, Report on Applications for Orders Authorizing or Approving the Interception of Wire or Oral Communications, 1969, 1970, 1971.

[16] Hearings on Controlling Crime Through More Effective Law Enforcement, before the Subcomm. on Criminal Laws and Procedures of the Senate Comm. on the Judiciary, 90th Cong. 1st Sess., 508, 869. In addition, in reporting to the Senate in 1969 on the operation of Title III during its first year, Senator McClellan stated:

"I do, however, want to admonish every law enforcement officer, prosecutor, and judge involved in this area that the only way this legislation will be effective in combatting crime is by strict adherence to the standards it contains.

". . . This is an invaluable and powerful tool that must not be subjected to abuse. Those who violate the standards can and must either be punished and if they cannot learn to follow the law they must face loss of this enforcement tool. . . .

* * * * *

"Mr. President, my purpose in making these remarks has been to help assure that this legislation will be, in fact, followed to the strictest letter of the law—both bringing criminals to book and protecting citizens' privacy. That is the only way in which it can be utilized as an effective tool in reducing crime . . . . Let us make sure that none of those who may be convicted can ask for a reversal because the law was not strictly followed." 115 Cong. Rec. 23241–23242.

[From the New York Times, May 14, 1974]

HIGH COURT VOIDS DRUG WIRETAPS; 600 MAY BE FREED

(By Warren Weaver, Jr.)

WASHINGTON, May 13.—The Supreme Court ruled today that a group of narcotics sellers were illegally convicted in 1970 because the Department of Justice had obtained evidence against them with invalid wiretapping orders.

Although the decision directly involved only one case and a few defendants, it appeared almost certain to wipe out convictions of more than 600 other Federal offenders against whom the same kind of evidence was used.

The high court agreed unanimously that evidence could not be used against a Federal suspect if it was obtained through a wiretap based on an application signed by the Attorney General's executive assistant rather than by the Attorney General himself, then John N. Mitchell.

SOME TAPS SUPPORTED

In a parallel case, however, the Court voted 5 to 4 in support of wiretap applications that were in fact authorized by the Attorney General but appeared to be signed by an Assistant Attorney General who had actually not played any part in their preparation.

The effect of this ruling will be to preserve the convictions of 807 Federal convicts for whom Mr. Mitchell authorized surveillance but whose papers incorrectly indicated that the authorization had come from Assistant Attorney General Will R. Wilson.

In the first case, all nine justices agreed that an initial authorization signed by Sol Lindenbaum, executive assistant to Mr. Mitchell had not met the requirements for a wiretap order set by the Organized Crime Control Act of 1968.

Four Justices, however, did not agree with the majority that an extension of this order and two related orders to record numbers dialed from a given telephone were also improper. They were Chief Justice Warren E. Burger and Associate Justices Lewis F. Powell Jr., Harry A. Blackmun and William H. Rehnquist.

DISSENTERS IN 2D CASE

Dissenting from the decision that the Wilson-signed authorizations did not result in tainted evidence were Associate Justices William O. Douglas, William J. Brennan, Jr., Potter Stewart and Thurgood Marshall.

The decision may cost the Justice Department a substantial amount of money, as well as embarrassment at having mishandled 60 cases. Federal law provides that anyone whose telephone is illegally tapped can recover $100 a day in damages plus unspecified punitive damages and legal expenses.

The principal case involved Dominic N. Giordiano, whose telephone was tapped for a month in the fall of 1970 after he had sold narcotics to an undercover agent. The application for the wiretap order was signed by Mr. Lindenbaum rather than by Mr. Mitchell or an Assistant Attorney General designated by Mr. Mitchell.

Writing for the majority, Associate Justice Byron R. White rejected the Government's argument that the Attorney General has broad power to delegate his authority. Justice White maintained instead that Congress had clearly specified that wiretap requests could be signed only by the Attorney General or a designated Assistant Attorney General.

In the second case, Mr. White wrote for the narrow majority that in misidentifying Assistant Attorney General Wilson as the official who authorized the wiretaps, when it was actually Mr. Mitchell, the Justice Department had not made the seizure of evidence unlawful.

[From the Washington Post, May 14, 1974]

COURT VOIDS WIRETAP DATA ON HUNDREDS

(By John P. MacKenzie)

The Supreme Court ruled unanimously yesterday that evidence against several hundred defendants cannot be used because of the way former Attorney General John N. Mitchell administered the 1968 federal wiretapping law.

Mitchell's failure to approve dozens of wire tap requests personally or to designate a high-ranking Justice Department official for the task, was a serious violation of the legal rights safeguarded by the law, the high court held.

The decision brushed aside government arguments that the defective procedures were mere technicalities.

The 9-to-0 ruling upheld the dismissal of a narcotics indictment against Dominic N. Giordano of Baltimore, and it is expected to have the same result in at least 60 cases involving 626 defendants.

In a companion case involving a somewhat different Justice Department procedure, a 5-to-4 majority said it did not "condone" Mitchell's practices but declared their defects were more of a bookkeeping nature. This ruling kept alive prosecutions in 99 cases involving 807 defendants.

Even in declining to suppress evidence in the 99 cases, however, the court said it is "appropriate to suggest that strict adherence by the government to the provisions of [the 1968 law] would nonetheless be more in keeping with the responsibilities Congress has imposed upon it when authority to engage in wiretapping or electronic surveillance is sought."

The two decisions were expected to bring further embarrassment to the Nixon administration, which suffered numerous similar reversals in lower courts on the same issues.

Both during and after the 1968 campaign, Mr. Nixon and Mitchell frequently criticized former Attorney General Ramsey Clark for failing to use the court-ordered wiretap authority Congress provided over Clark's protest. Mr. Nixon and Mitchell pledged a vigorous wiretapping program that would bring drug peddlers, gamblers and organized crime figures to justice.

The wiretap law provides for criminal and civil penalties for violations. But the court noted that the criminal sanctions apply only to the use of a wiretap order knowing that it was unlawful—a hard charge to prove.

Nor are courts expected to award civil damages to the wiretap targets, most of whom were charged with serious crimes.

Yesterday's action enforced a section of the controversial wiretap law that was little noticed in the debates that preceded its passage. It called for suppression of evidence obtained during an "unlawful" wiretap and spelled out procedures for seeking a lawful tap order.

The law said that a judge must be satisfied that there was probable cause to suspect that a specific telephone tap would help solve a crime. It also provided that requests for such orders at the federal level must be approved by the Attorney General or a specially designated assistant attorney general.

Justice Byron R. White, writing for the unanimous court, traced the history of the provision and found that it was not a formality. It was designed, he said, "to make doubly sure that the statutory authority be used with restraint," adding an executive branch check to the judicial safeguard.

"The mature judgment of a particular, responsible Department of Justice official is interposed as a critical precondition to any judicial order," White said.

White, a deputy attorney general under the late Attorney General Robert F. Kennedy, said Justice Department supporters of wiretap laws began asking Congress in 1961 to impose this special safeguard in any wiretap law that might pass. Congress agreed that the authorizing official should be one who was "responsive to the political process" and not merely a staff prosecutor.

Rather than designate a specific assistant attorney general as his alternate, Mitchell delegated to his executive assistant the power to approve wiretap requests from the criminal division in accordance with the aide's understanding of Mitchell's policies.

This "alter ego" theory was specifically rejected by the court as violating the law.

The 5-to-4 decision preserving the prosecutions against 807 defendants was based on affidavits filed by Mitchell that in those cases he did authorize the wiretap requests in person.

The wiretap warrants incorrectly identified former Assistant Attorney General Will Wilson as the requesting official, the court said.

Dissenting Justices William O. Douglas, William J. Brennan Jr., Potter Stewart and Thurgood Marshall argued that the court should not accept at face value Mitchell's version of how these orders were handled. They said Mitchell's version was offered belatedly and was not borne out by the Justice Department's own documentation.

[From the New York Times, May 15, 1974]

WIRETAP RULING DISMAYS PROSECUTORS

WASHINGTON, May 14.—Federal Prosecutors throughout the country reacted with dismay—and, in some cases, anger—to yesterday's Supreme Court decision that could result in the dismissal of hundreds of cases based on illegal wiretaps.

"It's just too bad," one Prosecutor said in a telephone survey. "Someone up there must like them."

The Court ruled that 60 cases, involving 626 persons, were based on wiretaps that were illegal because they were not authorized by Attorney General John N. Mitchell but by Sol Lindenbaum, his executive assistant.

The ruling will probably have its greatest impact in Detroit. Lawrence Less, head of the organized crime and racketeering strike force there, said the high court decision might affect 20 indictments covering 234 persons.

CASE HELD IN ABEYANCE

The principal Detroit case affected by the decision is one in which 16 policemen and 18 alleged gamblers are accused of obstruction of justice. Mr. Less said that case, and others in which they thought a problem involving wiretap might be raised, had been held in abeyance awaiting the Supreme Court decision.

Gerard T. McGuire, head of the strike force in Newark, said the Court's decision was "just bad news." He added that he and other prosecutors would probably spend the next several weeks studying cases to see how they would be affected by the decision.

In some cases, he said, a properly authorized wiretap was followed by an improper extension. In other cases, the reverse occurred. In each case, he said, a decision will have to be made on whether the improper tap "tainted" the rest of the case.

RELEASE PREDICTED

In Chicago, Douglas Roller, assistant to the head of the strike force, said six cases involving about 40 persons were being reviewed.

Thomas E. Kotoske, head of the strike force in San Francisco, said he had asked that the Court's complex opinion be sent to him by air freight. While awaiting the decision, he said, he has pulled out about eight cases involving about 50 persons for study.

Mr. Lindenbaum, who has served in the Justice Department since 1946 and has been executive assistant to the Attorney General since 1967, when he served under Ramsey Clark, predicted that many of the cases built on wiretap authorizations he signed for Mr. Mitchell would be dropped.

Ironically, the practice at the Justice Department that led to the invalidation of many of the wiretaps apparently resulted from Mr. Mitchell's desire to give the impression that he was personally responsible for each wiretap order.

In the last year of the Johnson Administration, Mr. Clark refused to use the wiretap authority granted by the Omnibus Crime Control and Safe Streets Act of 1968. That was one of the issues in the 1968 campaign.

When Mr. Mitchell assumed office as President Nixon's first Attorney General, the law permitted him to designate one of his assistants as a person responsible for authorizing wiretaps. But Mr. Mitchell, apparently intent on giving the impression that he was personally passing on each decision, never designated anyone else to issue wiretap authority. Instead, he fell into a habit where Mr. Lindenbaum did the paper work and asked for his initials, and later initialed them for Mr. Mitchell when the Attorney General was out of town.

[From the Washington Star-News, May 15, 1974]

WIRETAP RULING KILLS GAMING CASE

(By Winston Groom)

The U.S. Attorney's Office here says that because of Monday's Supreme Court wiretap ruling it will have to drop charges in what has been described as the largest gambling case ever brought in the District.

The wiretap, used to gather evidence in the gambling arrests here, ultimately led to the arrest of more than 1,000 other persons in at least seven states and those cases, too, may have to be dropped or re-tried.

The High Court held Monday that many government wiretaps during 1970 and 1971 were illegal because they were not authorized by then U.S. Att. Gen. John Mitchell, but by his executive assistant, Sol Lindenbaum.

According to law, all government wiretaps must be authorized by the attorney general or by an assistant attorney general. Lindenbaum was Mitchell's assistant but was not an assistant attorney general.

It was Lindenbaum who signed the request for a wiretap on the Northwest Washington home of Louis Mantello in the fall of 1970.

FBI agents, who monitored the tap for more than six months, staged raids on alleged gambling premises here, in New York, in Florida, Oregon, New Jersey, Maryland, Virginia and Pennsylvania on Feb. 6, 1971.

Twenty-seven persons, including Mantello, were arrested here. The government charged that the Mantello operation "laid off" some $60,000 in football, horse racing and basketball bets to bookies in New York during a single hour.

In terms of money handled, it was the largest operation ever cracked in the District and the then director of the FBI, J. Edgar Hoover, estimated the combined raided gambling operations handled more than $60 million in bets annually.

Numbers and lottery books also were involved, Hoover said.

Those arrested were charged either with violations of the Interstate Transportation in Aid of Racketeering Statute, the Illegal Gambling Business Statute, the Interstate Transportation of Wagering Information Statute or conspiracy to violate those laws.

Possible penalties ranged to $20,000 in fines and up to 5 years in jail.

The major operation, according to government sources, was the connection between the Washington bookmakers and so-called "big guys" in New York.

Mantello, the government alleged, had connections with New York organized crime and was financing the Washington operation with money from the Mafia in the New York-New Jersey area.

But at pre-trial hearings, lawyers for Mantello and the other defendants raised the issue of the Lindenbaum wiretaps, saying they were improperly signed.

In April 1972 U.S. District Court Judge Howard Corcoran agreed, ruling that the U.S. Attorney's Office could not use evidence gained by the wiretaps.

The government immediately appealed, but Corcoran was upheld by the U.S. Court of Appeals here and the case joined some 60 others in the Supreme Court.

None of the 27 charged in the case here has been tried pending the decision on the wiretap evidence.

Meanwhile, U.S. District Judge Albert V. Bryan of the federal court in Alexandria had held that a wiretap placed on Mantello's phone in Norfolk was legal, even though Lindenbaum had signed that order. Mantello was subsequently convicted of violating federal gambling laws.

Using information spawned by the Mantello wiretap, FBI agents continued a nationwide gambling crackdown for nearly a year, rounding up more than 1,000 defendants both here and in seven other states.

It is not clear at this point what will happen in those cases, but there is a legal doctrine sometimes referred to as "fruit of the poisonous tree" which holds in effect that if the original information was gained illegally a conviction cannot stand.

But it is clear that the original Mantello arrests will not hold up.

"That's it. There is no more case," Asst. U.S. Att. Donald Campbell said yesterday.

"Everything we had was from the wiretap—except the stuff that was seized. There is no way we can proceed with Mantello now."

[From New York Times, May 15, 1974]

LAW, ORDER, AND JUSTICE

President Nixon came to office promising "law and order" and a new Attorney General who would put to aggressive use the wiretap authority contained in the 1968 Omnibus Crime Control Act. This week the Supreme Court overturned a conviction obtained on the basis of wiretap information which the Government had gathered illegally because of Mr. Mitchell's carelessness with the law. The Court's ruling makes it virtually certain that convictions obtained in at least sixty similar cases, involving over 600 defendants, will also be overturned.

The statute provided that a Federal wiretap application had to be approved by the Attorney General or by a designated Assistant Attorney General—also a senior political official—before its presentation to a court. Instead of approving the applications himself or having an Assistant Attorney General do it for him, Mr. Mitchell in the cases at issue left the task to a senior career civil servant on whom approval authority had not been conferred by the statute. It might be argued that the overturn of some 600 convictions for such a technical misfeasance by the Attorney General is a high price to pay for legal niceties.

Such a conclusion is wrong. The simple fact is that in pursuing lawbreakers, the Attorney General failed to observe the law. Such official looseness with the law concerning wiretape is of a piece with Mr. Mitchell's now discredited assertion that the Government had authority to wiretap suspected domestic radicals with no authorization from a court whatsoever. The prevailing view in the Mitchell "law and order" Justice Department seemed to be that laws could be bent or broken by those in authority so long as they were pursuing their own vision of justice.

The Supreme Court quite appropriately rejected actions based on that philosophy. Official lawlessness in pursuit of order ultimately produces tyranny, not justice.

SENATE PROCEDURE—DR. RIDDICK'S FINE WORK

Mr. JAVITS. Mr. President, I recently received my edition of Dr. Floyd Riddick's work "Senate Procedure" which updates and revises the previous edition published in 1964.

As one who is interested in our parliamentary procedure and fully realizes its value to all Senators as we pursue our work, I would like to highly commend Dr. Riddick for his outstanding work in preparation of the new edition. It is extremely important that the Senate has a clear and precise listing of the applicable precedents which have been gathered through the years. Dr. Riddick's work makes this available and is a handy guide for all who wish to use it.

Dr. Riddick's work as Parliamentarian has always been characterized by a fair and helpful attitude and his prodigious knowledge of our rules and precedents is of indispensable help to the Senate. This new work carries on his fine tradition and I feel is much appreciated by all of us.

MRS. BONNIE L. GENTRY—DISTINGUISHED EDUCATOR

Mr. TOWER. Mr. President, I would like at this time to bring to the attention of my colleagues in the Senate the distinguished record of educational achievement of Mrs. Bonnie Lucille Gentry of Mesquite, Tex. Mrs. Gentry is presently the principal of B. F. Tisinger Elementary School in Mesquite, culminating a teaching career in the Texas school system which has spanned over half a century. Mrs. Gentry is retiring this month and is being honored by the citizens of Mesquite, and I think it fitting that we recognize her here.

Mrs. Gentry's dedication to children and young people has been quite evident since her career began over 54 years ago in a two-teacher school in Prairie View, Tex., in a position which no one else would take. She, like so many teachers of the day, arose before dawn, rode to school on horseback, and lit the old wood stove. From Prairie View, Mrs. Gentry became the only teacher in a school elsewhere in Rockwall County. She later went to three other rural schools in the area, finally joining the Mesquite Independent School District in 1951. In 1957 Mrs. Gentry became the first principal of the Ben F. Tisinger Elementary School.

Education has always been close to the heart of Mrs. Bonnie L. Gentry. Her dedicated work in the field of education is evidence of her great concern for children and their intellectual growth. Through her service and her dedication Mrs. Gentry has rendered an outstanding and long-lasting contribution to education, to her State, and to the Nation as a whole.

The Senate is now considering a very important education bill, and I think it important, therefore, that we pay tribute to individual educators such as Mrs. Gentry. Without this kind of individual leadership and personal attention given to the Nation's schoolchildren, education in the United States would not be the success it is, regardless of the quality and quantity of programs which have been undertaken. As a U.S. Senator from Texas and a former college professor, I congratulate Mrs. Gentry on her successes, and I am exceedingly proud of her good efforts.

THE ATROCITIES AT MAALOT

Mr. WILLIAMS. Mr. President, every human being with even a modicum of compassion in his character could not possibly feel anything but deep shock and overwhelming revulsion at the atrocities committed yesterday in Maalot, Israel. My own feelings of anger and disgust are so overwhelming that they are difficult to put into words.

The acts of the three Arab gunmen cannot be pictured as anything but brutal, premeditated murder of innocent children. They should certainly not be dignified as any kind of political or quasi-military actions. They were atrocities conceived, directed, and carried out by cold-blooded murderers.

The U.S. Government has rightly condemned these murders, and those who would seek political gain through such tactics. Every government in the world that claims to be guided by principles of justice and humanity must join in such condemnations, or else prove itself to be no more than a hypocritical sham.

Also to be condemned and made to take responsibility for these murders is any nation that allows such plots to be made and launched from its soil. Those who, through inaction, would allow such acts to occur, are not much better than the murderers themselves.

Mr. President, it is the obligation of the world community to make clear to those whose warped minds would seize on such tactics, that the murder of innocents will never advance a political cause. Individual governments must do so, and our world organization, the United Nations, must certaily do so.

If the United Nations is to maintain its credibility as a world organization committed to the search for peace, it must quickly and strongly condemn these murders, those individuals who directed them and carried them out, and any nation that would harbor such criminals.

COMPUTER BIDDING

Mr. ROTH. Mr. President, for purposes of the Record I am enclosing a copy of the release issued by the General Services Administration on amending the joint computer and data communications procurement underway for the GSA and the Department of Agriculture.

There being no objection, the news release was ordered to be printed in the Record, as follows:

GSA/USDA Amend Computer Bidding

The head of the U.S. General Services Administration said today that GSA and the U.S. Department of Agriculture are amending the joint computer and data communications procurement underway for the two agencies. The Request for Proposals for the procurement was issued on February 28.

Arthur F. Sampson, GSA Administrator, noted that the most important change will be to delete the data communications network from this solicitation and procure it separately.

"In our original Request for Proposals," Sampson said, "we specified a data network to support only a portion of the USDA/GSA communications requirements. Since we did not at that time have enough detail on the remaining communications requirements, we planned to meet them by separate action when they became better defined."

Sampson continued, "Recently, however, it has become apparent that the remaining communications needs will be better defined in the near future, so the decision has been made to delete the data communications requirements specified in the RFP from this particular solicitation, and meet the total communications requirement by separate actions."

Sampson also noted that this approach would allow GSA time to study the feasibility of contracting for full service data communications support, and ensure that security/privacy safeguards associated with the network reflect the results of the studies currently underway by the Domestic Council Committee on the Right to Privacy and several Congressional committees.

GSA sent notices to all prospective bidders today, also noting that three of the four optional systems called for in the original solicitation, would be dropped, and that one of the five firm systems would become optional.

The GSA notice to bidders cautioned that "These modifications will have only minimum impact on the ADP systems mandatory requirements presently stated in the RFP (Request for Proposals)." Bidders, therefore, Sampson urged, should continue working on the preparation of the computer portion of the procurement.

ARAB TERRORIST ATTACKS

Mr. GURNEY. Mr. President: I rise today in a state of shock and outrage over the inhumane, brutal, and senseless actions of Arab terrorists who have taken the lives of more than 20 Israeli students, and wounded some 70 others, at least 9 of them seriously.

What a sickening birthday present for the State of Israel. Yesterday's action, one of the bloodiest terrorist incidents in the long-troubled history of that area, came on the 26th anniversary of Israel's independence.

In the 26 years of that nation's independence, a proud and resourceful people have turned a wilderness and a wasteland into a green growing and productive nation. Out of the bloody carnage of Hitler's Germany and the evil war that it spawned. Jews the world over turned to their historic homeland in a reaffirmation of faith and determination. As if to emphasize the hostility which would shroud its early years of growth, the Arab States which surround Israel greeted its birth as an independent nation by attacking before it was even hours old. And now, 26 years later, terrorists from those same Arab States have given the Israelis, as a birthday present, a war against her children. Almost like candles on a macabre birthday cake, these terrorists have snuffed out the lives of almost 26 children; as if to symbolize one child for each year of its independence. This is a price that no nation should have to pay.

I believe that it was the noted poetess and pacifist Edna St. Vincent Millay who said that "peace is only the time between, it takes the unhorsed rider to remount." But today, the nation of Israel is faced with the stark reality that as a result of terrorist attacks, while there is no war, there is correspondingly no peace.

As I indicated yesterday, in cosponsoring the resolution by the Senator from Minnesota condemning the acts of terrorism in the Middle East, the Senate Internal Securities Subcommittee is actively pursuing the question of terrorism. This fall, with the permission of the distinguished chairman of the committee, I will be holding hearings into the question of terrorism. It will be the general aim of those hearings to explore the overall question of terrorist activities; activities in the Far East, South America, and here in our own Nation, as well as in the Middle East.

I think it would be appropriate at this point to turn our attention to those acts of terrorism which have taken place in our recent memory in and against the nation of Israel. At this point, I would like to submit a list of major Arab terrorist activities which have taken place since February 10, 1970, when an attack by an Egyptian and two Jordanian terrorists occurred against an El Al Airlines plane at the Munich Airport. At that time, one passenger was killed and eight injured. The attackers were arrested but they were later set free.

There being no objection, the list was ordered to be printed in the Record, as follows:

Arab Terrorist Attacks

July 22, 1970—Six Palestinians hijacked an Olympic Airways plane. None was brought to justice.

Sept. 6, 1970—Pan American, Trans World Airlines and Swissair planes were hijacked by Arabs. All were eventually blown up. None of the terrorists was arrested.

Sept. 6, 1970—A woman terrorist was wounded and her male companion killed in an attempt to hijack an El Al plane. The woman was later released.

July 28, 1971—An attempt to blow up an El Al plane with booby-trapped luggage given to a woman by a male Arab friend did not succeed.

Sept. 20, 1970—A similar attempt to blow up another El Al plane failed.

Nov. 29, 1971—Wasfi Tal, Premier of Jordan, was assassinated by four Palestinian guerrillas while entering his hotel in Cairo. Suspects were taken into custody but no prosecutions have been reported.

Feb. 22, 1972—A Lifthansa airliner was hijacked to Aden where hijackers were paid $5 million for its release. The hijackers went free.

May 8, 1972—Terrorists hijacked a Belgian Sabena airliner to Lydda, where two men were killed by Israeli security guards. Two women were subsequently sentenced to life imprisonment.

May 30, 1972—Three Japanese gunmen belonging to the Popular Front for the Liberation of Palestine killed 26 persons at Lydda Airport.

August 16, 1972—A booby-trapped tape-recorder exploded in the luggage compartment of an El Al plane, causing slight damage. Two Arabs were released by Italian authorities after a short detention.

Sept. 5, 1972—Members of an Arab guerrilla organization attacked the quarters of Israeli athletes in the Olympic Village in Munich. Eleven members of the Israeli Olympic Team were slain. Five of the terrorists were killed. Three others were later freed.

Oct. 29, 1972—A Lufthansa plane was hijacked to Zagreb, Yugoslavia, where it was released after Arab terrorists responsible for the attack on the Israeli athletes at Munich had been set free. The hijackers were never brought to justice.

March 2, 1973—Eight guerrillas invaded the Saudi Arabian Embassy in Khartoum, the Sudan, and killed three diplomats. The terrorists were taken into custody and are reportedly awaiting trial.

April 4, 1973—Two Arabs made an unsuccessful attempt to attack passengers of an El Al plane in Rome. They were arrested but later released and sent to Lebanon.

April 9, 1973—Arab terrorists attempted to attack an Israeli plane at Nicosia, Cyprus. Eight were arrested and sentenced to seven years' imprisonment. They were quickly released later.

April 27, 1973—An Italian was killed in the Rome office of El Al by a Palestinian Arab who was later placed under psychiatric observation.

July 24, 1973—A Japan Air Lines jumbo jet was hijacked and blown up in Tripoli, Libya. None of the five terrorists was brought to trial.

Aug. 4, 1973—Two Arab terrorists killed five persons and wounded 45 in a machine-gun attack on passengers in the Athens airport lounge. Last week the terrorists were freed by the Greek government and given safe passage to Libya.

Sept. 28, 1973—Three Jewish immigrants from the Soviet Union were taken hostage aboard a train for Vienna. Austrian authorities arrested two Palestinians who were then freed and flown to an Arab country.

Nov. 25, 1973—Three Arabs hijacked a KLM jumbo jet and flew it to Abu Dhabi. There is no record of an arrest by Abu Dhabi authorities.

April 11, 1974—Three Arab guerrillas killed a total of 18 men, women and children in the northern Israeli border town of Qiryat Shemona before dying themselves in the explosion of their dynamite charges while under siege by Israeli security forces.

Mr. GURNEY. Mr. President, how long can these activities continue to go on? How long can these terrorists continue to function with the sanctions of the Governments of that area? I deplore the situation, and suggest to this Chamber that it should be aware of the possibility of taking action against terrorism within the near future. I further suggest that in spite of the fact that I plan to hold hearings this fall, we must be prepared for the possible necessity of taking immediate, decisive action at an earlier date.

I might suggest, that when this Chamber examines our foreign aid program, we should examine it in light of the situation in the Middle East. Let me present some statistics which I think would be beneficial to consider. These figures deal with aid to the Arab nations of Algeria, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, Saudi Arabia, South Yemen, Sudan, Syria, Tunisia, and Yemen. This aid covers the period from 1946 through 1972.

Outright economic grants: $2,332,700,000.

Outright military grants: $318,300,000.

To this add $125,300,000 in outright grants during fiscal year 1973.

On the other hand, during the corresponding period, Israel has received:

Economic grants: $420,600,000.

Military grants: No funds whatsoever.

In analyzing the requests for the current year's foreign assistance, I am shocked to discover that this administration has requested absolute giveaways of $430 million in military and economic grants, to Arab nations, including Lebanon and Morocco, and, in addition to this $430 million giveaway, there may be an additional $100 million in supporting assistance to Syria. On the other hand, it proposed that Israel will only get $50 million worth of grants this year.

I would suggest, that when the legislation for the giveaway program comes before this body, the Senate should take a keen and discerning look at what Arab nations are receiving what amounts.

I have requested that my staff contact the appropriate agencies of our Government and prepare a full study of the situation in the Middle East, giving particular emphasis to the question of terrorist activities. This report will have a careful analysis of the aid we give to those nations which harbor, and by so harboring, protect and promote terrorist actions such as those which took place yesterday in Maalot. There is absolutely no excuse for giving foreign aid to these nations.

Mr. President, while we are discussing incidents against helples people, I think it would be well to mention the recent harassment of American tourists within the Soviet Union. I would only hope that these actions are not indicative of a spreading disregard for the rights of Jews worldwide.

From a report by Dr. Lawrence Brant, a Floridian, confirmed by the Department of State, I understand that Dr. Brant had arranged, along with the Broward County Dental Society, for a trip to the Soviet Union. It was their intention to visit Moscow and Leningrad for a period of 8 days and while there, to meet with Russian dental groups to discuss problems with their industry. While on this trip, Dr. Brant and several of his colleagues, members of the South Florida Council on Soviety Jewry, attempted to meet with several Soviet Jews who had requested exit visas to Israel but had had their requests denied.

Mr. Vladmir Slepak, a Soviet Jewish leader, who had applied for permission to emigrate to Israel, met with Dr. Brant. Mr. Slepak, a former electronic engineer and architect, had lost his job after requesting an exit visa. For the past 4 or 5 years, he has not only not been permitted to work, but has been constantly harassed by Soviet officials. At the meeting, Mr. Slepak invited Dr. Brant and his party to join with about 75 Soviet Jews and celebate the festival of Lag Baomer. It is a Jewish holiday commemorating the spring.

To celebrate this religious occasion, a picnic was organized for a place within the area around Moscow where foreign visitors are permitted to travel. The group was on a public Moscow city bus bound for a picnic site near the city. The bus was stopped by Soviet militia on the outskirts of Moscow, and all the passengers were asked to produce their identity documents. Militiamen reportedly told the Americans and their Soviet guests that the bus was headed for an area off limits to foreigners, but allowed them to continue. The group started walking toward the picnic area but was again stopped by military men who repeated the request for their identity documents. The group then went to a nearby field and held a picnic of celebration for their religious holiday.

Dr. Brant tells me that the group was then surrounded by plainclothes policemen, some of whom took photographs. In addition, residents of the area suddenly appeared and began cursing the group using anti-Semitic epitaphs. The group departed peacefully after finishing their meeting and there were no arrests at that time.

What troubles me about this entire incident is that in an age where we seek a form of détente with the Soviet Union, while they represent theirselves to be peaceful, they are in fact, aggressively hostile to those ideas which they cannot understand and refuse to tolerate.

Mr. President, I bring this matter to your attention at this time to reiterate my support for the Jewish people and free men everywhere. I further wish to remind you that it is my hope that when the Trade Reform Act of 1973 (H.R. 10710), is reported out of the Finance Committee, the amendment by the Senator from Washington (Mr. Jackson) calling for free emigration for all citizens is still attached to that measure.

Mr. President, I ask unanimous consent that at the end of my statement, the editorial from today's New York Times entitled "Crime Against Peace," dealing with the massacre at Maalot, be inserted in the Record and that a complete listing of my position with respect to the state of Israel be inserted to demonstrate for all who care to examine it, my long history of support for those people. I call upon my colleagues to prepare and insert similar statements of support.

There being no objection, the material was ordered to be printed in the Record, as follows:

Crime Against Peace

The Palestinian lunatic fringe has committed the most abominable yet of its long series of cowardly murderous outrages. The purpose of yesterday's attack at Maalot, the holding of scores of schoolchildren as hostages, was as obvious as it was heinous: so to inflame passions and suspicions that the negotiations for disengagement between Israel and Syria would collapse.

Now, more than ever, such an accord is vital to the peoples of the Middle East. The criminal fanatics guilty of this unspeakable atrocity committed against children would only receive a posthumous reward if the dialogue, progressing through Secretary of State Kissinger's mediation, were now allowed totally to lapse.

The weapon of terror is a heavy burden upon the Middle East and the world. Beyond the specific terrorist organizations themselves, which proudly proclaim their inhuman tactics, various Arab governments—including Syria—cannot avoid a large share of responsibility. Arab capitals have consistently provided financial, political, military and moral support for the guerrillas. If authorities in Damascus may claim that frustrated Palestinians are beyond their control, they still have to answer for the open encouragement these extremists have received in the Arab world.

Just sixteen days after last month's terrorist attack at the Israeli town of Qiryat Shemona, President Assad of Syria formally received the commander of the Palestinian group that launched the raid. The leader of another Palestinian faction heralded Qiryat Shemona as "marking the beginning of a new era for the Palestinian Revolution"—and this group, the Saiqa, operates under open Syrian sponsorship.

Nor can other, non-Arab, governments point with pride to their record of dealing with the scourge of terrorism. Just last week the Government of Greece pardoned two guerillas who had been sentenced to death for the machine-gun attack at Athens airport last August. More than 150 Arab terrorists have been arrested in Europe over the past five years and *all but nine* have been quietly set free, with or without trials.

Against this dismal and self-defeating record, the Israeli responses of self-defense cannot be faulted. At Maalot, Israeli army action may have compounded the tragedy for some hapless innocent victims, and yet it succeeded in freeing the rest. There seems to be no humane way of countering the brute barbarity as repeatedly demonstrated by one terrorist group after another.

Amid the anger of the moment it was hardly surprising that Secretary Kissinger chose to delay his scheduled return to Damascus in pursuit of the still-elusive accord. But it is in no one's interests—neither the Governments' nor the Maalot victims'—that his meditation, on which the prospects for peaceful co-existence in the Middle East still hang, be suspended for long.

If disengagement between Israel and Syria was in the two Governments' interests before the Maalot raid, as both sides indicated it was, it is even more so now. The essence of an accord, similar in concept to the disengagement already achieved between Israel and Egypt, is the nurturing of mutual confidence between long-time belligerents.

If that process is to make any headway, it is up to the Government of Syria to make a conciliatory move, to give Israel some signal now that the subhuman raid on Maalot does not reflect Arab government purpose or designs. If Syria's leaders have any interest at all in reaching an accommodation, in making their professions of peaceful intent convincing, this is the moment for them to show it.

List of Position With Respect to the State of Israel

REPRESENTATIVE GURNEY: 1963–68

October 10, 1967.—Opposes resumption of aid to Jordan because of its aggression against Israel, refusal to negotiate direct peace talks with Israel, and its "flirtations with Moscow." (C.R. H. 13159)

October 24, 1967.—Regarding the sinking of Elath, "It greatly disturbs me . . . it is inconceivable that the Johnson administration, with evidence of Arab-Soviet ties of the strongest kind, is reneging on its commitment to Israel." (CR H 13903)

January 18, 1968.—Press Release. Pleased to see announcement by State Department that cash aid to Jordan has been cut off. "I am definitely opposed to rearming a nation (Jordan) which has helped start this war against Israel . . . When will the Johnson Administration learn who is its friend and who is its foe? Warns against sending arms to Jordan and cites terrorism and Soviet buildup in Arab states. Calls for suspension of arms shipments to Jordan and sale of Phantoms to Israel."

March 1968.—News Release. Criticizes resumption of United States arms to Jordan. Reviews Jordan's participation in June war and his earlier warning to President Johnson concerning terrorist attacks from Jordan into Israel. "Why is President Johnson deferring action on sale of Phantom Jets needed by Israel to meet Communist military buildup?"

March 21, 1968.—Statement concerning Arab terrorism: "I can see no real distinction between the Viet Cong tactics and those of . . . El Fatah. It seems to me that Israel has a basic right to protect the integrity of her citizens." Notes that it had been determined prior to Israel operations that Arab terrorists were planning a massive escalation of commando squad penetration throughout Israel." After citing acts of terrorism he adds, "I again urge that the administration respond to the new situation by suspending any U.S. arms shipments destined for Jordan. It is obvious that the government of King Hussein has failed to restrain terrorist activities against Israel."

February 25, 1968.—Introduces sense of House Resolution (H. Res. 1227) urging U.S. to sell Phantom jet fighters to Israel. (C.R. H. 5605)

SENATOR GURNEY

April 1969.—Signs Scott-Ribicoff statement on Israel's 21st birthday which calls for direct Arab-Israel negotiations and opposes "any attempt to impose halfway measures not conducive to a permanent peace." Statement condemns Arab terrorism and deplores U.N. resolutions censuring Israel for counter-action.

November 20, 1969.—Inserts *New York Times* article concerning Soviet Jewry. (C.R. S 14751)

January 26, 1970.—Signs Case-Tydings resolution calling for direct negotiations between Arab states and Israel and arms for Israel. "We adhere to the principle that the deterrent strength of Israel must not be impaired." (C.R. S 529)

January 31, 1970.—In remarks to United Jewish Appeal dinner in Orlando Florida states that the Nixon administration will focus attention on the issue of persecution of Soviet Jews at the next meeting of the U.N. Commission on Human Rights, Feb. 23rd–March 27th 1970. Continues that our policy should be to encourage face to face negotiations without territorial preconditions. Would like to see "area neutralized with a multi-lateral agreement to enforce peace, that means to assure that the new boundaries are honored by all states."

February 1, 1970.—In *Orlando Florida Sentinel* states that Israel should not give up any territory as a pre-condition to negotiations. The Soviet Union "is playing on the Arab's mindless and homicidal hatred of Jews to further its own stated and long-standing goal of world wide domination." The United States "should work towards direct negotiations . . . and should not become a party to any Big Power imposed settlement in the Middle East."

May 1970.—One of 79 senators to sign letter to Secretary of State Rogers calling for jets for Israel.

August 7, 1970.—One of the original signers of bipartisan letter to Nixon, signed by 72 senators, supporting his July 1st TV statement with respect to the Middle East, which noted Israel's need for jets and the need to maintain balance to avoid all out war. The letter endorsed U.S. peace efforts "so that the integrity of every country in the area within mutually recognized and secure borders may be realized." Letter strongly supports clear expression of U.S. policy to "protect and defend its interests in the Middle East and Southern Europe as the best deterrent to direct U.S.–U.S.S.R. confrontation. (C.R. S 12950)

May 1971.—Speech in Miami for Federation and Emergency Fund stated that Israel should not rely on guarantees because of past experience. U.S. political and military commitment to Israel—supplying Israel with arms to maintain balance—must be continued. "It is in the interest of the United States to see that Israel remains a viable force for democracy. . ."

October 15, 1971.—Cosponsored resolution urging "affirmative action" on Israel's request for Phantom jets "without further delay." Resolution also called for assistance "to maintain Israel's deterrent capability and appealed for U.S. reaffirmation of the "importance of secure and defensible borders as a vital element in a peace settlement to be negotiated by the parties themselves." (CR S 16289)

November 23, 1971.—Voted for Jackson Amendment to Defense Appropriations Bill for military sales credits for Israel (CR S 19490)

February 1972.—Cosponsors Soviet Jewish Refugee Assistance Act—$85 million to aid in their resettlement.

September 6, 1972.—In speech on the Senate floor, mourns the Munich 11 and condemns terrorism stating, ". . . eight Arab lunatics have shown themselves to be no less barbaric. . . than those who gave the orders at places like Dachau." He concludes, "Peace between Arabs and Israelis can only come when such tactics are discarded and both parties sit down and negotiate face to face. . ." (CR S 14119)

October 1972.—Cosponsors amendment introduced by Senator Jackson which would deny most-favored-nation treatment, credits or investment guarantees to a nation which, like the Soviet Union, denies its citizens the right or opportunity to emigrate and which imposes more than nominal exist fees.

March 15, 1973.—Principal cosponsor of Jackson amendment and cites cases of several imprisoned Soviet Jews to illustrate the need to support and pass the Jackson amendment. Inserts open letter from friends of the Soviet Kerbel family to the Government of the USSR in support of efforts to aid in their emigration from the Soviet Union (CR S 4829–30)

March 1973.—Cosponsors the Jackson amendment, which like the original, would deny most-favored-nation treatment, credits or investment guarantees to a nation which denies its citizens the right or opportunity to emigrate and which imposes more than nominal exit fees.

May 7, 1973.—At Miami celebration of Israel's 25th birthday delivers speech. Discusses Israel's history, cites need for secure borders, and perceives crucial U.S. role in keeping Israel alive. States that Congress will not bow to Arab attempts to use oil to change U.S. outlook. Advocates continued delivery of planes to Israel and strongly supports efforts on behalf of Soviet Jewry."

May 26, 1973.—Voted "Yea" on the Jackson-Allen amendment to the 1973 Military Sales Act to restore the Administration's request for an authorization of $525 million for military credit sales with a credit ceiling of $700 million.

June 8, 1973.—Inserts Dr. Korey's AIPAC speech on Soviet Jewry. (CR S 10712)

June 8, 1973.—Inserts statement of Synagogue Council of America endorsing Jackson-Mills-Vanik amendment. (CR S 10712)

October 17, 1973.—Signs "Dear Colleague letter" sent to all senators urging their cosponsorship of the Humphrey-Jackson Phantom Jet Resolution (Sen. Res 189)

October 1973.—Cosponsors Humphrey-Jackson Phantom jet resolution.

December 1973.—Voted "Yea" on the Fong amendment restoring $36.5 million for Soviet Refugee Assistance to the Foreign Aid Bill of 1973.

December 1973.—Voted Yea on the Foreign Assistance Appropriations Bill of 1973 which included the $2.2 billion emergency security assistance for Israel.

December 1973.—Voted Yea on the Emergency Security Assistance Act of 1973 authorizing $2.2 billion in military grants and credits for Israel.

ECONOMIC FREEDOM

Mr. FANNIN. Mr. President, political liberty can be maintained only as long as we have economic freedom. Government dictatorship over the economy is detrimental not only to business and industry, but to everyone in the Nation.

This point was made very dramatically recently in a speech by Walter B. Wriston, chairman of the First National City Corporation and First National City Bank. Excerpts from the speech were reprinted this morning in the New York Times.

In the article, Mr. Wriston notes that some newspapers such as the New York Times are strongly advocating more and more Government control of American business and industry. He very appropriately suggests that the ultimate course of this argument is Government control of the news media itself.

Mr. President, this article makes a number of excellent points and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NO ONE HOLDS A MONOPOLY ON AMERICA

(By Walter B. Wriston)

You do not have to pay too much attention to the din in the media to gain the impression that all of our American institutions are in jeopardy. If you are tempted to reflect on the fact that America is at peace with its neighbors, and that never in history have more people been employed at higher wages in a free society, a poll can be produced to show you how wrong you are. Armed with multiple-choice questions, pollsters knock on doors to inquire about the timetable to doomsday. According to the pollsters, very little about American life has our approval. Congress, the Presidency, business, the media, universities are all held in low esteem.

What we somehow fail to perceive is that all these institutions, which are said to be in trouble, are made up of people like you and me. The American system has been built not upon the worship of institutions but upon a belief in the worth of the individual.

A long time ago Walt Whitman put it this way:

O I see flashing that this America is only
you and me,
Its power, weapons, testimony, are you and
me,
Its crimes, lies, thefts, defections, are you
and me,
Its Congress is you and me, the officers,
capitols, armies, ships, are you and me.

Whitman did not say that America was a collection of groups or institutions. He said it was you and me. We do not educate groups; we educate individuals. Part of our education must be that you and I have an obligation to pass on to our children our hard-won individual liberty, which must be reasserted if our freedom is to endure.

Still, there is an idea abroad in the land that a businessman does not enjoy the protection of the First Amendment and if he wishes to make his views known to a congressman, or a senator, or a governor, or a mayor or the President of the United States, he is somehow doing something evil. But a reading of the Constitution shows that freedom of speech precedes even freedom of the press in the wording of the First Amendment.

Increasingly, small groups of men and women, elected by no one, announce that they alone are privy to the secret of what constitutes the public interest. The men who drafted our Constitution were unaware that such wisdom resided in any group. Rather, they were at pains to see that no one sector arrogated too much power to itself. They rejected the view that a man's occupation made him either wise or foolish, for they came from all kinds of backgrounds. The business of publishing a newspaper or running a TV station does not in and of itself make one either more or less discerning about the public interest than any other business. Walt Whitman made no exceptions when he said America was "you and me."

No matter what business we are in, we should speak out on issues as we perceive them with all the clarity at our command. If, for example, you believe in free markets, it is a formidable task to be heard in our town because The New York Times editorials almost daily advance the thesis in one way or another that all of our economic activity should be regulated by the Government except, of course, those corporations which own the press or the media.

After three years of price and wage controls and 2,000 years of history which recorded only their failure, one would think that experience would have overwhelmed the editors' theory. Instead, only recently The Times called for "a more sensible price control policy" for what it characterized as an "inflation-racked, monopoly-dominated economy." It seems unable to grasp one of the central lessons of history which is that you cannot preserve political liberty, which includes a free press, if the economic system is run by a government dictatorship.

A former Italian journalist writing in 1932 explained it with great clarity: "The Fascist State has drawn into itself even the economic activities of the nation . . . its influence reaches every aspect of the national life . . . all the political, economic and spiritual forces of the nation." The journalist's name was Mussolini who, you recall, went on to prove his point. Surely, that was not so long ago that we have forgotten the lesson that freedom is indivisible.

And so we return to Whitman's "you and me" and the obligation to preserve a governmental system based on a belief in the worth of the individual. This means that you and I, not somebody else, must speak out and say that if we wish to preserve our political liberty, we must also preserve our economic freedom.

FLORIDA DENTISTS HARASSED IN THE SOVIET UNION

Mr. CHILES. Mr. President, I have just received word that a group of dentists from south Florida visiting the Soviet Union in a group of 100 dentists from the United States were harassed while going on a picnic with Russian Jews outside Moscow. This was not only a frightening experience for those involved, but also a profoundly disagreeable incident at a time when there is so much concern for the plight of Jewish people in the Soviet Union. I am shocked and disappointed that such an incident would occur not only for the threat that it obviously reveals to Soviet Jews celebrating the Lag Baomer festival, but also for impact on Americans going to the Soviet Union.

Tourists are a vital link between concerned Americans and Soviet Jews. I only hope that this incident will strengthen the determination of Americans traveling to the Soviet Union to make contact with Soviet Jews which can only deepen the bonds of friendship and concern which are necessary to sustain human rights.

I call this incident to the attention of my colleagues and ask unanimous consent that the article from the Miami Herald be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RUSSIANS HARASS MIAMIANS—ORDERED OFF BUS BY POLICE

Soviet police turned a holiday picnic excursion into an ordeal in mud Friday for a party of Southeast Florida dentists and Russian Jews, the Americans told newsmen in Moscow.

They said the security men—eventually numbering more than 100—not only forced the 10 Americans off a bus bound for a picnic site but physically barred the Russian-American group from continuing its trip on foot.

"We went down some side roads covered with mud and forced our way through," said Dr. Michael M. Krop of 2001 NE 195th Dr. "The police surrounded us and kept asking for our papers. I saw them grab a woman by the arm and pull her off the bus. It was really unbelievable."

"They were very forceful," said Dr. Lawrence I. Brant of 1971 NE 191st Dr. "One of them grabbed my wife's arm and forced her to show her passport. They made it very unpleasant. We were kind of frightened."

The dentists and their wives, most of them Greater Miamians, were part of a group of 100 U.S. dentists who went to a Moscow convention Monday in a Soviet Aeroflot jet airliner that flew to the Soviet Union from Miami via New York.

The Russian Jews said police told the Americans they could not proceed on the public bus because it was going to an area barred to foreigners. They said police stopped the bus 18 miles down the Kalgua Highway. The off-limits area starts 25 miles from Moscow.

Brant said the group held its picnic anyway, in a field near where the security force blocked their way with vehicles and men.

The Americans said they had gotten in touch with Soviet Jews whose names had been given by Jews in the Miami area.

The Russians invited them to go on a picnic, they said. The Americans and Russians took a public bus to the picnic site.

"We all brought food for the (Lag Baomer) festival," he said. "People had children and were carrying guitars. It was supposed to have been a happy occasion and no one was planning to have a demonstration. When we were having our picnic, police took pictures of us all."

The Americans said that, despite the harassment, they picnicked, sang and danced for more than two hours.

Mrs. Robert Blank, wife of a Hollywood dentist, said the Americans were followed all over Moscow as they prepared for the picnic.

"We expected that," she said, "but when our bus got out of town we were stopped. Police came aboard and looked at our passports, then told us to get off the bus. The Russian Jews got off with us.

"No matter which way we turned (the police) said we couldn't go there. We finally went down a muddy road to a field and had our picnic. The police kept stopping us to look at our passports and tried to take our cameras. It was frightening."

One of the Russian Jews said that villagers in the area came out of their houses and shouted insults, including "Hitler should have killed you all."

Aeroflot recently began Miami-to-Moscow charter service, using four-engine Ilyushin 62 jets that are in the luxury class compared to airliners used in the Soviet Union.

The first flight, April 28, took off under a cover of secrecy at Miami International Airport. The operation was kept quiet to avoid antagonizing Miami's Cuban refugees, who have picketed visiting Soviet ships in the past.

INCOME TAX PAYMENTS, NET WORTH DISCLOSURE, AND 1974 INCOME PROJECTION OF SENATOR BOB DOLE

Mr. DOLE. Mr. President, I have indicated to inquiring reporters that I would disclose the amount of taxes I have paid since coming to the Senate, as well as my overall financial status. To some, this information may be meaningful. To others, it may satisfy a curiosity. In any event, those of us in public office expect close scrutiny, perhaps now more than at any previous time. I submit the following information in the hope that it is responsive to the legitimate concerns of Kansas residents.

A brief word of additional explanation may be helpful. I entered Congress in 1961. Since then, I have not engaged in any private law practice, nor have I been associated with any law firm. I have no interest in any other private business.

Since becoming a Member of the U.S. Senate in January 1969, my principal source of income has been my Senate salary—$42,500 annually. This salary has been supplemented by lecture fees, which have averaged $24,318 in the 5 years I have served in the Senate. Fees received for lectures or speeches delivered on college campuses have, in part, been returned to those colleges to establish scholarships for handicapped students. In each of these years, I have also fully complied with the rules of the Senate requiring confidential disclosure of personal finances and public reporting of the amounts and sources of my fees for public speaking engagements. This information is on the public record and has been available to the press and interested citizens.

Concerning my net worth, I wish it were possible to provide an accurate and detailed accounting of my finances when I came to Washington in 1961. Unfortunately, my records for that period are incomplete, so only a rough estimate can be constructed. After 9 years of practice following graduation from law school, my principal asset was equity in a residence in Russell, Kans. The home was secured by a mortgage; and although I had no other major debts or obligations, a generous estimate of my net worth at that time would not exceed $20,000. A comparison of this estimate with the calculation of my present net worth will, I believe, provide a sufficiently clear indication of my financial position.

I would also point out that each year while serving in the Senate my tax returns have been prepared in consultation either with one of the Internal Revenue Service professionals who provide this assistance to Members and employees of the Senate, or with an individual who had previously served in this capacity and is now a Senate committee staff member.

Mr. President, I ask unanimous consent that the material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CURRENT NET WORTH OF SENATOR DOLE, MAY 16, 1974

Assets:	
Equity in residence, Watergate South Apartment, Washington, D.C.[1]	$58,206.32
Contributions to Civil Service Retirement Fund[2]	33,502.00
Automobile (1973 Chevrolet)[3]	2,688.74
Household furnishings (approximate value)	10,000.00
Balance in checking accounts (Russell, Kansas, and Washington, D.C	16,395.56
Miscellaneous office equipment political memorabilia and personal effects	10,000.00
Income-producing securities	None
Interests in land or real property (other than residence)	None
Interests in oil and gas leases	None
Other income-producing property[4]	None
Total	130,792.62
LIABILITIES	
Mortgage on residence, Washington, D.C.	$44,488.68
Current obligations owed and payable	2,226.00
Tax obligations outstanding	None
Other	None
Total	46,714.68
Net worth	84,077.94

[1] Includes proceeds from 1973 sale of previous residence in Falls Church, Va.

[2] As of Apr. 30, 1974.

[3] Value as of Dec. 31, 1973.

[4] Four life insurance policies of which the Senator's daughter is the sole beneficiary are in force (face value, $84,259.00).

INCOME TAXES PAID BY SENATOR BOB DOLE

1969:	
Paid to State of Kansas	$1,115.80
Paid to United States	10,614.95
1970:	
Paid to State of Kansas	1,324.95
Paid to United States	11,892.32
1971:	
Paid to State of Kansas	2,652.70
Paid to United States	20,044.91
1972:	
Paid to State of Kansas	1,386.00
Paid to United States	18,526.09
1973:	
Paid to State of Kansas	1,767.67
Paid to United States	20,367.56
1969–73:	
Total paid to State of Kansas	8,247.12
Total paid to United States	81,445.83
Total—all incomes taxes paid	89,692.95

THE 1969 TAX SUMMARY

U.S. taxes:	
Total income	$47,010.55
Employee business expense	3,837.37
Itemized deductions*	7,672.56
Table incomes	33,700.62
U.S. taxes paid	10,614.95
*Itemized deductions:	
Medical and dental expenses	150.00
Taxes	2,410.61

THE 1969 TAX SUMMARY

U.S. taxes—Continued	
Interest expense (home mortgage)	$1,824.50
Contributions	912.85
Casualty or theft losses	0
Miscellaneous deductions—these include entertainment of constituents, depreciation of office equipment, dues and office expenses	2,374.60

Kansas taxes paid, $1,115.80.

THE 1970 TAX SUMMARY

U.S. taxes:	
Total income	$52,476.05
Employee business expense	3,217.72
Itemized deductions*	9,073.09
Taxable income	38,310.24
U.S. taxes paid	11,892.32
*Itemized deductions:	
Medical and dental expenses	150.00
Taxes	2,714.73
Interest expense (home mortgage)	1,773.68
Contributions	1,339.75
Casualty or theft losses	0
Miscelleanous deductions—these include entertainment of constituents, depreciation of office equipment, dues and office expenses	3,094.93

Kansas taxes paid $1,324.95.

THE 1971 TAX SUMMARY

U.S. taxes:	
Total income	$79,935.10
Employee business expense	9,411.73
Itemized deductions*	11,453.15
Taxable income	57,045.22
U.S. taxes paid	20,044.91
*Itemized deductions:	
Medical and dental expenses	150.00
Taxes	3,337.45
Interest expense (home mortgage)	2,019.81
Contributions	3,054.63
Casualty or theft losses	0
Miscellaneous deductions—these include entertainment of constituents, dues and subscriptions, office expenses and depreciation of office equipment	2,891.26

Kansas taxes paid, $2,652.70.

THE 1972 TAX SUMMARY

U.S. taxes:	
Total income	$82,927,26
Employee business expense	2,678.25
Itemized deductions*	33,397.19
Taxable income	46,101.82
U.S. taxes paid	18,526.09
* Itemized deductions:	
Medical and dental expenses	150.00
Taxes	4,637.56
Interest expense (home mortgage)	1,789.11
Contributions	2,268.00
Casualty or theft losses	0
Miscellaneous deductions—these include entertainment of constituents, office expenses, alimony and insurance premiums paid and depreciation of office equipment	24,552.52

Kansas taxes paid, $1,386.

THE 1973 TAX SUMMARY

U.S. taxes:	
Total income	$88,713.58
Employee business expense	6,987.34
Itemized deductions*	30,120.31
Taxable income	48,855.93
U.S. taxes paid	20,367.56
*Itemized deductions:	
Medical and dental expenses	150.00
Taxes	2,407.60
Interest expense (home mortgage)	1,779.50
Contributions	3,195.44
Casualty or theft losses	0
Miscellaneous deductions—these include entertainment of constituents, office expenses, alimony paid, legal fees, political contributions and depreciation of office equipment	$22,587.77

Kansas taxes paid, $1,767.67.

PROJECTED SOURCES OF INCOME FOR 1974

Senate salary. $42,500.

Lecture fees: Vary annually.

Retirement pay (disability retirement for wounds received in World War II): $5,435.72 per year—not subject to tax.

Veterans' Administration insurance dividend: $148.00—not subject to tax.

DISCRIMINATION IN THE MIDDLE AND UPPER LEVELS OF MANAGEMENT

Mr. MONDALE. Mr. President. More than a year ago the Department of Labor's Office of Federal Contract Compliance issued the following guidelines:

> Members of various religious and ethnic groups, primarily but not exclusively of Eastern, Middle and Southern European ancestry, such as Jews, Catholics, Italians, Greeks, and Slavic groups, continue to be excluded from executive, middle-management, and other job levels because of discrimination based upon their religion and/or national origin. These guidelines are intended to remedy such unfair treatment.

In this country today, there are precious few women and minority group members at the middle and upper levels of management—the executive suite—in business and industry. Less obvious but no less true, there are discouragingly few representatives of these Southern and Eastern European ethnic groups at these same management levels.

Polish, Italian and other Slavic ethnic groups are beginning to take a hard look at their own participation in the American dream. They are finding that they are a long way from "having made it." They are asking questions and looking for data relating to their condition.

The Federal policy toward their condition consists only of the Department of Labor guidelines. But the guidelines are merely guidelines. They are not a regulation in the sense that specific requirements are spelled out with sanctions for violations. The guidelines exhort business and industry to look at their executive suite personnel practices. They apply to those doing business as contractors or subcontractors with the Federal Government. No affirmative action plans are required.

Issued more than a year ago (41 C.F.R. part 60–50), the guidelines require "affirmative action" in areas dealing with upgrading, layoff, termination training, recruitment, transfer, and demotion of all ethnic employees. Special attention is to be given job opportunities at the middle and executive management job levels.

I have not made a formal inquiry of the Department of Labor to inquire what progress its Office of Federal Contract Compliance has made in implementing the guidelines. Informally, I have learned that OFCC has no statistical data for evaluative purposes, notwithstanding the fact that more than a year has passed since the guidelines were promulgated. I have been told that OFCC is asking the various Federal compliance agencies to report on activities under 60–50. Mr. President, I would very much be interested in the results of this survey. I have also made inquiries that suggest there is some evidence to doubt the sincerity of the Government in carrying out this policy—a policy which, by the way, I heartily endorse.

Evidence also is mounting that the record of America's business and industry in sharing internally positions of power with all groups is a sorry one. An ethnic-sponsored study recently documented ethnic participation—or lack of it—in some of Chicago's large corporations. The study looked at the executive suites of 106 of Chicago's largest corporations to see how many Italians, Poles, blacks, and Latins were members of the boards of directors or corporation officers. These 4 groups represent nearly 34 percent of the 7 million Greater Chicago Metropolitan area. Less than 3 percent—36 directors of a total of 1,341—and less than 4 percent—52 officers of a total of 1,355—were black, Latin, Polish or Italian. Indeed, more than half—55—of the corporations had no one from these groups as directors or officers.

The study was undertaken by the Institute of Urban Life, a Chicago firm headed by Edward Marciniak. It was prepared for the National Center for Urban Ethnic Affairs, a Washington-based nonprofit organization founded and headed by Msgr. Geno Baroni.

A journalist, Charles N. Conconi, heard about the results and decided to take a look behind the statistics. He interviewed a number of people including Anthony J. Fornelli, a well-known and successful Chicago attorney, son of Italian immigrant parents. Said Fornelli when he saw the study results:

> If we are such a large percentage of the national population, why do we have such a small percentage of the top jobs. Either we are a minority in numbers or a minority in thought. Either business is ignoring an untapped vast resource or there is a conscious effort to exclude. The statistics say something is wrong. I think the decision is conscious. I feel there is a consious effort to exclude at hiring. Can you believe that the four groups have been excluded without a conscious effort? . . .

Conconi looked behind the Italian representation figures, for they were the greatest. He found that one Italian was a member of nine boards, thus skewing the figures. Also the Admiral Corp. is owned by Italian Americans.

Conconi's article appeared in an excellent Italian-American newspaper, Fra Noi, published in Chicago and edited by Rev. Paul Asciolla, S.C.

Mr. President, I ask permission that the executive suite study and the Conconi article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits 1 and 2.)

Mr. MONDALE. Mr. President, generally, this pattern of exclusion exists and persists. But there are bright spots. William Carmell, manager of equal employment opportunities programs for Union Carbide Corp., has written a magazine article on the executive suite. Carmell's perception of the rising aspirations of ethnic groups is surely on target. Writing in the winter issue of Business and Society Review (No. 8), he titles his article "White Ethnics: Here Comes the New Minority."

Carmell says ethnics have been satisfied in the past at the lower echelons of corporate management. Today, however, they are insisting that the corporate world must "recognize that ethnics too have experienced some difficult problems in adjusting to life and business in the United States," and the discrimination they have suffered must also be rectified. If they are ignored, ethnics will go on believing—

> That their past and present difficulties have been totally neglected while the problems of others have at least begun to be addressed. This resentment and frustration can well lead to the same kinds of confrontations that minorities and women have sometimes felt compelled to initiate in order to gain equal employment opportunity.

Carmell wonders if the Federal Government is really very serious about enforcing its own guidelines. At the corporate end of Federal compliance, he detects little emphasis on the guidelines from Washington. But, then, he believes that many corporate managers also do not perceive the problem with regard to ethnics. Some are hostile, determined to accept no responsibility, particularly equal opportunity managers. The irony, he says, is that the success of programs for women and minorities depends in part on the cooperation of the ethnics already on the work force of business organizations. The article details some positive actions that corporations can pursue in making way for the upward mobility of ethnics in their organizations.

Mr. President, I ask permission that the article be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. MONDALE. Mr. President, there are in America today more than 40 million people who identify themselves as ethnic—people of southern, middle and eastern European ancestry and cultural heritage. They are integral to the fabric of American life and culture. They are good citizens. They are hard working, frugal, patriotic, and the representatives of rich and varied cultures and lifeways that add so much to our pluralistic national life. But they have been long suffering too.

They are asking today with increasing frequency and articulateness what their stake in the American dream is. The promise of equal opportunity for all is the heart of the American dream. The pursuit of equal justice for every American—black, brown, Indian, or ethnic—is essential to the preservation of our national character.

That is why I am intensely interested in sharing the information I have gathered. I know that management positions in this country are largely determined at two points: recruitment or selection and promotion. Who gets recruited? Who gets promoted? Corporate America hopefully will begin reviewing its practices in this regard.

I intend to return again to this subject, and to watch carefully Federal efforts in carrying out stated policies. Perhaps, tougher regulations may be in order.

I ask permission that the guidelines be printed at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 4.)

EXHIBIT 1

MINORITY REPORT: THE REPRESENTATION OF POLES, ITALIANS, LATINS AND BLACKS IN THE EXECUTIVE SUITES OF CHICAGO'S LARGEST CORPORATIONS

The question "How many are there?" has become one of the most provocative and unsettling questions being raised on all levels of American society. It reflects the national preoccupation with evaluating the success or failure of various ethnic groups in gaining their share in the American system for distributing income and power. Thus, in just a matter of a few years questions regarding a person's race or ethnic background, once felt to have no public relevance and even considered illegitimate, now not only are being asked but even require answers by law. Companies with government contracts are now required to file reports indicating their utilization rate of Blacks, Latins, American Indians, Eskimos, and women. In January, 1973, the U.S. Department of Labor, Office of Federal Contract Compliance, issued new guidelines to cover discrimination against persons because of religion or ethnic origin. These guidelines said:

"Members of varous religious and ethnic groups, primarily but not exclusively of Eastern, Middle, and Southern European ancestry, such as Jews, Catholics, Italians, Greeks, and Slavic groups continue to be excluded from executive middle management, and other job levels because of discrimination based upon their religion and/or national origin. These guidelines are intended to remedy such unfair treatment.[1]

What the guidelines in effect recognize is that, despite the powerful American rhetoric which emphasizes individual achievement, power and affluence in reality still flow along group lines, and that an individual's religious or ethnic affiliation may in fact still be an obstacle to his advancement.

The purpose of this study was to investigate the extent to which members of the Polish, Italian, Latin, and Black communities have penetrated the centers of power and influence in Chicago-based corporations. This was done by determining how many Poles, Italians, Latins, and Blacks either serve on the board of directors or occupy the highest executive positions in Chicago's largest corporations.

In focusing on Poles, Italians, Latins, and Blacks, this study selected a combination of minority groups which at this point in time is historically signficant. The 1960's saw the rise of group consciousness among Blacks and Latins, and their relentless pursuit of parity with other groups in the U.S. This process released the latent consciousness of other groups, such as Poles and Italians, who are becoming increasingly aware that like Blacks and Latins, they may not be sharing equally in the affluence of American society.

Thus, although this study originated at the request of leaders of the Polish American Congress, Illinois Division, and the Joint Civic Committee of Italian-Americans in Chicago, they were more than willing to see the study expanded to include Blacks and Latins. In the Chicago metropolitan area, where nearly 35 percent of the seven million population is either Polish, Italian, Latin, or Black, such a perception of mutual concerns could have a positive influence on the future of group relations and thus on the very shape and tone of life in the city and suburbs.

The corporations reviewed in this study were identified by combining the *Chicago Daily News* and *Chicago Tribune* lists of the Chicago area's largest corporations in 1972. Among the thousands of corporations based in the Chicago area, 106 were identified as the largest industrial firms, retailers, utilities, transportation companies, banks, and savings and loan institutions. More than half of them (66 per cent) were included in *Fortune* magazine's 1972 list of the largest 500 industrial corporations or *Fortune's* lists of the largest non-industrial firms in the U.S. These 106 corporations, therefore, comprise the top layers of the economic and financial power structure of Chicago and of the nation. It was the top management of these corporate giants and their boards of directors who were scrutinized in order to determine the representation of Poles, Italians, Latins, and Blacks.

Information about directors and officers was taken directly from the 1972 annual report of each corporation. The number of directors of all 106 corporations totaled 1341; the number of officers, 1355. For the purposes of this study, honorary board members were not included, nor were officers of less than vice-presidential rank such as assistant vice-presidents, assistant secretaries, or assistant treasurers. Where a firm was controlled by a holding company, only the directors and officers of the holding company were counted. An officer who also was a member of the board of directors of the same firm was counted twice, once as a director, again as officer.

FINDINGS AND CONCLUSIONS

Thirty-six, or less than three per cent, of the 1341 directors were Polish,[2] Italian, Latin, or Black. Fifty-two, or less than four per cent, of the 1355 officers were Polish, Italian, Latin, or Black. These four groups make up approximately 34 per cent of the metropolitan area's population. When translated into individual percentages, the findings indicate that 0.3 per cent of all directors were Polish, 1.9 per cent Italian,[3] 0.1 per cent Latin, and 0.4 per cent Black. Out of all officers, 0.1 per cent were Polish, 2.9 per cent Italian, 0.1 per cent Latin, and 0.1 per cent Black. (See Table I.)

TABLE I.—REPRESENTATION OF SELECT ETHNIC GROUPS IN THE CHICAGO METROPOLITAN AREA[1] POPULATION AND ON THE BOARDS OF DIRECTORS AND AMONG THE OFFICERS OF THE 106 LARGEST CHICAGO AREA CORPORATIONS.

	Percent of area population[2]	Directors		Officers	
		Number	Percent	Number	Percent
Poles	6.9	4	0.3	10	0.7
Italians	4.8	26	1.9	39	2.9
Latins	4.4	1	.1	2	.1
Blacks[3]	17.6	5	.4	1	.1
All other	66.3	1,305	97.3	1,303	96.2
Total	100.0	1,341	100.0	1,355	100.0

[1] The "area population" refers to the Chicago metropolitan area: the 6 counties of Cook, Kane, Will, DuPage, Lake and McHenry, whose population in 1970 was 6,979,000.

[2] The percentages of area population was prepared by Michael E. Schiltz, director of Loyola University's Graduate Program in Urban Studies. For Poles, Italians, and Latins, the estimates include 1st, 2d, and 3d generations, based on U.S. Bureau of Census data.

[3] The black population is based on 1970 data from the U.S. Census Bureau.

How does one make a judgment about such information? How can it be used to

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Footnotes at end of article.

evaluate the extent to which Poles, Italians, Latins, and Blacks have entered the executive suites of Chicago's major corporations? Are Poles, Italians, Latins and Blacks equitably represented there?

To answer such questions the executive suite data was compared to the population of each of the four groups in the Chicago metropolitan area. This comparison provides a rough but fair guide for determining whether each group has achieved parity or whether it is underrepresented.[4]

If one compares (Table I) the percentage of officers and directors whose backgrounds are Polish, Italian, Latin, or Black to the percentage distribution of these four groups in the population, it becomes clear that all four groups were grossly underrepresented on the boards of directors and in the executive positions of Chicago's major corporations. Thus, although Poles make up 6.9 per cent of the metropolitan population, only 0.3 per cent of the directors are Polish. Italians make up 4.8 per cent of the population, but only 1.9 percent of the directors are Italian. Blacks comprise 17.6 per cent of the population yet only 0.4 per cent of the directors are Black. Latins are 4.4 per cent of the population yet only 0.1 per cent of the directors are Latin. The same general pattern holds if one compares the percentages of officers who are Polish, Italian, Latin, or Black to the percentage distribution of these four groups in the population.

As a matter of fact, Poles, Latins, and Blacks were virtually absent from the upper echelons of Chicago's largest corporations. 102 out of the 106 corporations had no directors who were Polish; 97 had no officers who were Polish. Only one corporation had a Black officer and only two had Latin officers. While the Italians were more numerous in the executive suite than the other three groups, 84 corporations out of 106 still had no directors who were Italian and 75 had no officers who were Italian. Finally, 55 out of the 106 corporations had no Poles, Italians, Latins, or Blacks, either as directors or as officers. (See Table II).

TABLE II.—NUMBER OF CORPORATIONS, OF THE 106 EXAMINED, WHICH HAD NO DIRECTORS OR OFFICERS WHO WERE POLES, ITALIANS, LATINS, OR BLACKS[1]

	Number of corporations without director	Number of corporations without officer
Poles	102	97
Italians	84	75
Latins	105	104
Blacks	101	105

[1] 55 of the 106 corporations had no Poles, Italians, Latins, or blacks either as directors or as officers.

Other significant patterns emerge from the data. Poles and Italians do better in their representation in executive positions than they do as board members. The opposite is true of Blacks, whose major source of representation comes from appointments to boards of directors rather than from holding top executive positions. No Poles were located among the public utilities and banks reviewed in this study, either as directors or as officers. As for Italians, 16 were associated with banks or savings and loan institutions. However, there were no Italians in the executive suites of the utilities.[5] On the other hand, three out of the five corporations with Black directors were public utilities. The number of Latins was not large enough to yield any significant pattern.

Hopefully, this study of four ethnic groups in the corporate structure of metropolitan Chicago will be extended to include their representation in major civic groups such as public boards and commissions, influential private agencies and associations, foundations, and social clubs. Similar studies of other ethnic groups such as Czechs, Greeks, Lithuanians, etc, should be conducted in the Chicago area. Given the lack of adequate research on American ethnic groups, similar surveys should be undertaken in other large cities.

As such studies accumulate, the result may be a national profile for each of America's ethnic groups showing precisely the extent to which each of them share in the power and affluence of the nation. In the process the nation will learn to what extent the American corporation is a "truly public institution bound to the same criteria of selection that today affect government service—freedom from bias, and the requirement at the same time to represent and reflect all parts of the American population."[6]

A NOTE ON METHOD

Trying to determine ethnic origin is a hazardous enterprise. In order to make this study as accurate as possible, knowledgeable leaders from the Polish, Italian, and Latin communities were asked to identify ethnic names by studying the lists of directors and officers in each annual report. In cases of doubtful ethnic origin the individual's office was contacted directly. Each corporation having no apparent representation from any of the four ethnic communities was informally contacted to double check the preliminary findings. In regard to Blacks, all available studies were utilized and persons familiar with the Black community were consulted. Also helpful were several lawyers and business leaders who were generally knowledgeable about many of the corporations studied. If there are any errors in the final tally for each group, the margin of error would not be sufficiently great to invalidate the findings of this study.

A manual describing in full the method used is being prepared by the author and will be distributed through the National Center for Urban Ethnic Affairs in Washington and the Institute of Urban Life in Chicago.

FOOTNOTES

[1] 60-50.1 of Chapter 60, Title 41, Code of Federal Regulations.

[2] In referring to Poles, Italians, Latins, or Blacks, the author means Americans who are of Polish, Italian, Latin (Spanish-speaking background), or Black ancestry.

[3] One person of Italian background serves on nine different boards. If he were to be counted only once, the percentage of directors who are Italian would be reduced from 1.9 per cent to 1.3 per cent.

[4] What should serve as an equitable norm, and how to apply it, is, of course, open to discussion. One can anticipate increasing public discussion of the matter as more groups pursue group gains.

[5] An Italian, however, does serve as an officer of the two subsidiaries of one of the utilities.

[6] Nathan Glazer and Daniel P. Moynihan, *Beyond the Melting Pot*, 1963, p. 208.

THE 106 CHICAGO-BASED CORPORATIONS

Abbott Laboratories, Admiral, Allied Mills, Allied Van Lines, American Bakeries, American Hospital Supply, American National, Amsted Industries, Baxter Laboratories, Beatrice Foods, Bell Federal, Bell & Howell.

Borg-Warner, Brunswick, Bunker Ramo, Carson Pirie Scott, CECO, CENCO, Central National Bank, CFS Continental, Chemetron, Citizens Bank Park Ridge, Chicago Bridge and Iron, Chicago-Milwaukee.

Chicago and North Western, Chicago, Rock Island and Pacific, Combined Insurance, Commonwealth Edison, Consolidated Foods, Continental Illinois Corporation, CNA Financial, De Soto, Donnelley (R.R.) & Sons, Drovers National Bank, Exchange National Bank.

First Chicago, First Federal, FMC, General American Transportation, Goldblatt Brothers, Gould, Harris Bankcorp, Hart, Schaffner & Marx, Heller (Walter E.) International, Hilton Hotels.

Home Federal, Household Finance, Illinois Bell Telephone, Illinois Central Industries, Illinois Tool Works, Interlake, Inland Steel, International Harvester, International Minerals & Chemical, Jewel, Kemperco.

Kraftco, Lakeview Trust, LaSalle National Bank, Libby, McNeill and Libby, Marcor, Maremont, Marleman, Marshall Field, Masonite, McDonald's, McGraw-Edison, Morton-Norwich Products, Motorola, Nalco Chemical.

National Boulevard Bank, National Can, National Tea, Northern Illinois Gas, Northern Indiana Public Service, Nortrust, Northwest Industries, Northwestern National Bank, Outboard Marine, People's Gas.

Pioneer Trust, Pullman, Quaker Oats, St. Paul Federal, Santa Fe Industries, Searle (G. D.), Sears Bank & Trust, Sears, Roebuck, Signode, Spector Industries, Square D, Standard Oil (Indiana).

Sunbeam, Swift, Talman Federal, Trans Union, UAL, U.S. Gypsum, UNICOA, Universal Oil Products, Walgreen, Ward Foods, Washington National, Wieboldt Stores, Wrigley (William) Jr., Zenith Radio.

EXHIBIT 2

[From Fra Noi, January 1974]

ETHNIC MINORITIES STILL HAVEN'T MADE IT!

(By C. N. Conconi)

Little did the black militants of the 1960s realize that their calls for "Black Power" and "Black Is Beautiful" would awaken the more established ethnic groups into wistful thoughts of "Italian Power" or "Polish Is Beautiful."

But no one but campaigning politicians paid much attention to the white urban ethnic minorities and only then to call up fears about "crime in the streets" or "busing."

When Martin Luther King Jr. brought the Civil Rights Movement to always-volatile Chicago in 1966 to march for open housing, he walked into a white ethnic wall of rage that staggered his previously steady momentum.

Blacks faced an unexpected new enemy. It wasn't the racist "Mississippi Rednick" or the "Georgia Cracker."

It was, instead, the Northern Urban Ethnic who couldn't understand why they weren't leaving him and his neighborhoods alone.

While the Chicago ethnics sounded the first angry protest, their frustration and rage was soon echoed in other northern cities. Real or imagined, it was the urban white ethnic who was feeling the brunt of social change—it was his neighborhoods that were being threatened and his children who were being bussed.

"It was these urban ethnics," argued Msgr. Geno Baroni, president of the National Center for Urban Ethnic Affairs in Washington, "who became the whipping boys. The ethnics objected and were unfairly labeled the enemy, the racist."

Baroni said the "ethnics were objecting that 'you liberals are beating up on us, but your kid isn't in a lousy school like ours is. You help the blacks and call us racists, but we need help too!' "

With all the programs for social change in the 1960s, Baroni points out, there wasn't one program for urban ethnics, who "are still a significant percentage of the cities. They live the problems of the city every day and are still there and don't go home to the suburbs when the demonstrations are over."

The answer to depolarization, Baroni said, is not asking the white ethnic:

"What's wrong with you, you dumb racist hard hat?" but in the convergent issues and common concerns that all minorities share. Many ethnics believe that blacks are being moved ahead at their expense. The truth is that neither are in the power structure."

While neither Baroni nor any of the Chicago white urban leaders would ever argue that the ethnics are worse off than blacks, the Polish and Italian groups in Chicago have presented evidence that they believe will shatter the myth that they have made it.

An alliance of Poles and Italians, two large Chicago ethnic minorities, financed a study of the executive suites of 106 of the major corporations headquartered in the city and found, in essence, that any black or ethnic one meets in the executive suite is probably there as part of the clerical or cleaning crews.

What he isn't likely to be is a member of the Board of Directors or a corporate officer. The executive suite is clearly still the domain of the WASP.

In Chicago, where the political parties often ethnically balance the election slates, the impact of the Executive Suite Study—conducted by a Mundelein College of Chicago professor for the Institute of Urban Life—is expected to fall on corporate desks with a menacing thud.

The study, conducted by Dr. Russell Barta, looked into the executive suites of 106 of Chicago's largest corporations to see how many Italians, Poles, Blacks and Latins were members of the boards of directors or corporation officers.

More than half of the firms, or 66 per cent, had been included in Fortune Magazine's 1972 list of the 500 largest firms in the United States.

Although the study was financed by a Polish Italian coalition and was designed for only those groups, Barta requested that Latins and Blacks be included.

"If this country is going to hold together it is because of some understanding between black and ethnic groups that make up the bulk of the city's population," Barta explained. "It is more necessary now than ever before to bring blacks and ethnics together. There was no argument when I suggested including Blacks and Spanish."

An intense, concerned man who talks with the carefulness of a professor accustomed to lecturing to note-taking students, Barta said the results of his study were far worse than he expected.

Barta found that while the four groups studied represented nearly 34 per cent of the seven million Greater Chicago Metropolitan Area population, only 36 directors—less than three per cent of the total of 1,341 directors—and 52 officers—less than 4 per cent of the total of 1,355 officers—were Polish, Italian, Black, or Latin.

A more dramatic fact was that 55 of the 106 corporations had no Poles, Italians, Latins or Blacks as either directors or officers.

In fact, Poles, Latins, and Blacks were virtually absent from the upper echelons of Chicago's largest corporations—102 of the 106 firms had no Polish director and 97 had no Polish *officers*. Only one corporation had a black officer and two had Latin officers.

While Italians had better representation in the executive suite, 84 corporations had no directors and 75 had no officers. The Italian statistics were misleading because the Admiral Corporation, one of the firms studied, is Italian American owned and operated; and because of Dr. John Rettaliata, the former president of the Illinois Institute of Technology, who is a member of 9 of the 103 boards.

Barta pointed out that if Rettaliata were to be counted once, the percentage of Italian directors would be reduced from 1.9 per cent to 1.3 per cent.

"On the average, of course," Barta adds, "ethnics are better off than blacks, but they still haven't made it. These figures are hard to accept. The top layers of society are still closed."

A careful man, Barta frets over the probabilities. He explains how he double checked firms with no representation by calling directly to ask.

He is aware that he may have missed a few ethnics hiding behind innocuous Anglo-Saxon names, but feels they wouldn't change the percentages enough to make any difference.

The question of what is an ethnic and how many generations are required before an ethnic is no longer a hyphenated American bothers some of the people involved with the study and some corporate executives. The question also is raised about the ethnic Italian or Pole who does not consider himself an ethnic.

Barta realizes those questions will cause some controversy, but counters:

"We are tracing the mobility of groups. It makes no difference if they are third or fourth generation or have given up their ethnic identity. The measure of the progress they have made is still valid.

"What we have is a de facto class system where young people perceive that the top is closed to them and don't go into industry looking to go to the top."

Barta argues that it is good to be aware of imbalances and that ethnics, like blacks, have to go through the counting stage and ask: "How come?"

He believes the Executive Suite Study will raise hell because it emphasizes that "white" is a false, misleading category. "Who are the whites? Where in the hell are the Poles?" Barta asks. "We know more about tribes in Nigeria than we know about American ethnic groups and their economic patterns."

Why the ethnics are not better represented at the top brings responses that range from conscious discrimination to company tradition and the clubbishness of the executive suite where, boards especially, look for people with the same backgrounds.

It is generally agreed that Latins are too recent immigrants to have any impact yet and quietly admitted that some boards simply are not ready for blacks. When asked about the Poles and the Italians, the answers are more confused.

Barta's study went after the executive suite because it was felt the results would be significant, and for the obvious reason that it is easier to get such information since it is published in annual reports.

The tougher questions about hiring and promotion practices or learning how many blacks and ethnics are on the second management levels haven't been attempted because—while it is felt the key to the problem is there—no corporation is expected to cooperate with such an investigation.

That minority groups tend to go into the professions rather than into the corporate structure has been generally documented and even offered as an excuse as to why more blacks and ethnics are not seen at higher levels.

David Roth, Midwest director of the American Jewish Committee, said the Executive Suite Study didn't surprise him at all. The Jews in Chicago have conducted earlier studies with results showing that Jews are also not in the executive suite.

"The Poles and the Italians are groups that attempted to homogenize into the 'society," Roth said, "but the second and third generations are discovering that it takes more than time to become part of the mainstream."

Roth explained that the studies of the American Jewish Committee were prototypes for the Executive Suite Study and welcomed the decision of the ethnic minorities to publicly begin recognizing their ethnicity and demanding their share.

"Any pressure on the corporate structure to open up new jobs for ethnics, which may not be new jobs for seventh generation Presbyterians, helps everyone," Roth added.

"Jews and Blacks complaining are not enough alone. It is hard for government and the corporations to resist if a lot of groups are yelling for the jobs we have to have to survive—we are in the process of building a big enough umbrella that is tolerant of differences so no one has to change his name or join the same club."

Roth's arguments were echoed by Anthony J. Fornelli and Mitchell P. Kobelinski, the leaders of Chicago Polish Italian Conference who, after conducting studies of their own, decided to work together and finance an independent study that would have a broader impact.

Fornelli, a successful Chicago lawyer and the son of Italian immigrants, talks rapidly and in the style of a man who likes speech rhetoric:

"If we are such a large percentage of the national population, why do we have such a small percentage of the top jobs? Either we are a minority in numbers or a minority in thought. Either business is ignoring an untapped vast resource or there is a conscious effort to exclude. The statistics say something is wrong. I think the decision is conscious. I feel there is a conscious effort to exclude at hiring. Can you believe the four groups have been excluded without a conscious effort?"

Fornelli argues Italians need representation in the executive suites as examples for younger ethnics. "I am on my own because of a deep-rooted feeling I'd never make it in one of the corporations," he added.

The same problem, he said, continues over to politics. "With more than one million Italians in Illinois, Italians have never held a state executive elected position, never even had a candidate nominated by a major political party. With more than 600,000 Italians in the Chicago area, an Italian has never been elected to a county-wide office and never mayor.

"Chicago Democratic Congressman Frank Annunzio," he pointed out, "is the only Italian congressman between the Appalachians and the Rockies."

Mitchell P. Kobelinski, who had been president of the Illinois Polish National Alliance before President Nixon recently appointed him to become one of the three directors of the Export-Import Bank in Washington, added the dimension of religious prejudice to the problems facing Poles and Italians.

Kobelinski, in his subcabinet post, has the highest job any Polish American holds in this Administration.

A vice chairman and a president of a Chicago community bank he helped organize Kobelinski, also the son of immigrants, is aware he received his present appointment because he is an ethnic.

Sitting in his spacious government-issue furnished office across Lafayette Square from the White House, Kobelinski pointed out that if someone has an Italian or Polish name it is obvious that he "is one of those Roman collar boys."

He said that religious prejudices against Catholics are more deeply seated than most people realize. "If I were a Presbyterian or Baptist or a Shriner with the same name it wouldn't bother them (corporate executives) nearly as much."

Poles are also very heavy in the professions, Kobelinski added, because there hasn't been much reason to go into the corporations. "Young Poles who don't change their names know that the name makes them somehow not quite American," he said.

Although Kobelinski believes the old prejudices are breaking down, he feels that a Polish American working in the corporate structure is in an unfair competitve position.

"Before he can get a break, he must not be just better, he must be outstanding," he said.

Kobelinski said the Executive Suite Study speaks for itself and shifts the burden of proof to the corporations. With the existing population percentages of the four minority groups represented in the study, he added, "It couldn't be coincidence. It must be design. You (corporations) prove to us you haven't been discriminating."

He believes his children will have the opportunity to reach the executive suite, but feels they are already aware that it won't be as easy for them as for someone with a non-ethnic name.

Most corporation executives, while surprised that the figures for Poles and Italians are so low, contend that situation is more the result of tradition rather than discrimination.

They point to firms like the Johnson Wax Corporation in Racine, Wisconsin, which at one time was made up primarily of Yale University alumni, or the Gillette Corporation, which was known in the 1950s as a corporation where most officers and board members were Shriners.

John M. Coulter, an official with the Chicago Association of Commerce and Industry, said that the boards and executives of Chicago-based corporations represent a significant number of members who are from outside the area, the bulk from the East.

Quite often, he added, they come from Ivy League and other Eastern schools.

Coulter, who is director of Merit Employment, Manpower and Development Training and Commercial Development for the Association, with a 5,000 firm membership, making it the largest Chamber of Commerce in the country and second largest in the world, said he doesn't believe there has been any conscious decision to keep ethnic minorities off any of the corporate boards in the city.

The Chicago Association of Commerce and Industry, ironically, with an 85 man board, has four blacks and no Poles, Italians or Latins; of the 16 officers, none are from the four groups.

"Most major corporations had some fairly rigid and strict identification in the past—a lodge, university, specific denomination, possibly an ethnic group," he said. "Boards tend to seek out people with like backgrounds even while trying to find the best men they can."

John Rettaliata, the successful exception, who is most frequently cited as an example of an ethnic who has made it, is one such man who gets around. The former president of the Illinois Institute of Technology is a member of 16 boards of directors, 9 of which were in the Executive Suite Study.

A third generation Italian from Baltimore with degrees from Johns Hopkins University, the 62-year-old Rettaliata was appointed to the first board in 1952.

"I have been on more boards than most people and longer than most people," Rettaliata argued. "I have never heard any discussions that 'we don't want him because of his ethnic background.' There is also no conscious effort to place minorities. We simply try to get the best man we can. There is no reason to get any other kind."

Sitting in his ultra-modern Banco di Roma office, where every item is decorator designed, purchased and positioned. Rettaliata said he was appointed to the boards on which he sits because he was qualified—ethnicity had nothing to do with it.

"I am an American. I don't look at myself as an American with an Italian name. My mother was Irish," Rettaliata explained. "It just happens that I carry my father's name."

Although Rettaliata reluctantly admitted that he found the number of ethnics on boards and as officers surprisingly low, he believes that anyone who is qualified "and is no crusader who will embarrass the company can become an officer or a board member. There is no reason why an ethnic can't go as far as anyone else."

On the Far South Side of the City of Chicago, Millard Robbins, a black owner of an insurance and mortgage business and the first and only black board member of People's Gas, points out that all the utilities now have a black board member.

"I was appointed to that board because they needed a black face somewhere," he explained. "I was fourth or fifth choice for the board job. They were scrambling looking for a black. I was fortunate to be standing in the right place when the others weren't available."

Expressing surprise that "Nixon's silent majority"—the Poles and Italians weren't better represented, Robbins said that everyone else's problem is still a little different from the black who has had zero quota.

"Poles or Italians can change their names and assimilate," he added.

Like most other ethnics, Robbins believes that the absence of ethnics in the executive suite discourages young people who don't believe they can make it to the top because they don't see anyone there.

Walter H. Clark, the only black officer in the 106 corporations studied, is a vice president of the First Federal Savings and Loan Association of Chicago and is the first member of his race ever to advance so high in the firm. In fact, he was the first black hired in 1955.

Clark believes he earned his vice presidency even though he is aware being black may have helped. He does believe that being black held him back.

"There was never any complaint about my work here, but it was 10 years before I ever became an officer," he explained. "I am sure I was held back because of race. We had a change in top management in 1962 or 1963 that developed a different viewpoint. The new president was looking for people who could do the job and race didn't matter."

The results of the Executive Suite Study, Clark said, show that minority groups haven't been given the opportunity to advance. "It doesn't surprise me," he added. "We are seeing the results of years of discrimination."

Talking about his son, Clark said that because of his success at the bank his 15-year-old son doesn't have the attitude that he won't go to the top. "For the average black kid," he added, "the statistics don't show any bright spots."

In the expensive western suburb of Oak Brook, where many of the major corporations are building offices, Frank C. Casillas, a Mexican immigrant who couldn't speak English when his family moved to Gary, Indiana, is a vice president of the Bunker Ramo Corporation—with ambitions to someday become the president of a major firm.

He doesn't believe his ethnic background worked against him and feels that his engineering and computer programming and analyst skills and the successes he had with such major corporations as Standard Oil of Indiana, the Rand Corporation and General Electric prove that he earned his vice presidency.

The 47-year-old Casillas, whose mother couldn't speak English and whose father was a railroad laborer, won a scholarship to Purdue University and became a citizen during the Korean War, when he served as an Army Corps of Engineers Officer.

Every one of his six children, he explains, will go to college because that is the atmosphere that has been established in his home. Other young Latins, he fears, believe it is not possible to get to the top and are not trying. He feels the alternative is for young Latins to become successful in their own businesses.

As vice chairman of the executive committee of the President's Advisory Council for Minority business and through his work with the National Economic Development Corporation, Casillas works to help get minority members started in small businesses.

At the other end of the success picture is the hidden ethnic with the Americanized name.

Thirty-year-old Anthony Winfield Summers, whose Italian great grandfather changed the name from Summa upon coming to this country, believes that ethnicity is amusing but useful at times.

"I am a very practical guy," he explained. "I like to live well and make a good living. I see no reason to consider myself Italian. I never use it except for effect. If I am dealing with someone Italian like a clerk of court or some businessman and it is useful to me, I tell them I am Italian."

As a lawyer with the Chicago, Milwaukee Company, Summers believes that a name like Summers is helpful in front of a jury who can't guess what he is. "It's better not sticking out in front of a jury. It is the same as I never wear a vest, a flashy ring or watch when going before a jury. I like an innocuous name for the same reason."

Summers reflects an attitude that most ethnics oppose. They argue there should be no reason to either exploit or hide a foreign name.

The Executive Suite Study, which promises to spread to other cities and to take in other groups, is expected to offer blacks and other ethnic minorities a converging issue that will break the key economic barriers in an ethnic power movement that respects differences while recognizing mutual problems and goals.

EXHIBIT 3

[From the Business and Society Review/ Innovation, Winter 1973–74]

WHITE ETHNICS: HERE COMES THE NEW MINORITY

(By William A. Carmell, Jr.)

(NOTE.—William Carmell is the Manager, Equal Employment Opportunity Programs for Union Carbide Corporation. He is a former staff associate of the late Robert Kennedy and is presently on the Advisory Committee of the New York Center for Ethnic Affairs.)

Much has been written in the last few years regarding equal employment opportunity as it pertains to minority groups and women. Federal statutes and regulations, particularly Title VII of the Civil Rights Act and Revised Order No. 4 issued by the Office of Federal Contract Compliance, Department of Labor, have done much to bring this issue to the forefront in the corporate community by enabling the government to both intervene in and monitor employment activities.

However, there is another side to this issue which has been little understood and gone relatively unnoticed while conscientious efforts on behalf of minority groups and women have been made. That is, equal employment opportunity (EEO) for ethnics has remained until now largely quiescent. It is unlikely that this will continue. Based on past experience with minority groups and women, it can be expected that during the 1970s this whole question will gain in importance as the result of pressure brought to bear by ethnics themselves on both government and business.

Some rumblings have already begun. The Office of Federal Contract Compliance (OFCC) has issued a new regulation effective February 20, 1973 entitled "Guidelines on Discrimination Because of Religion or National Origin." (Part 60–50, Title 41, Code of Federal Regulations.) These guidelines are applicable to government contractors and subcontractors and to contractors and subcontractors performing under federally assisted construction contracts. As a practical matter, most major corporations are affected, since almost all do business in one form or another with the federal government.

The guidelines cover "members of various religious and ethnic groups, primarily but not exclusively of Eastern, Middle and Southern European ancestry, such as Jews, Catholics, Italians, Greeks, and Slavik groups." In this article, the term "ethnics" refers to all of these groups.

To analyze the potential impact of these particular guidelines, it is important to study them in terms of what is required and what is not required. They do require that employers take affirmative action to insure that applicants are employed and that existing employees are treated without regard to religion or national origin. This affirmative action encompasses all aspects of the employment relationship including upgrading, demotion, transfer, recruitment, layoff or termination, compensation, and selection for training.

Further, employers must review their employment practices to determine whether members of various ethnic groups are receiving fair consideration for job opportunities. Special attention must be paid to executive and middle management jobs, although all job levels are within the scope of the guidelines. Based upon the findings of these employment practice reviews, employers also required to undertake some positive steps to remedy deficiencies. Finally, an employer must allow for the religious observances and practices of an employee or prospective employee unless the employer can show that it is unable to "reasonably accommodate" without "undue hardship in the conduct of the employer's business."

Those employers who do not comply with these requirements could be precluded from bidding on future government contracts and could have their present government contracts terminated or cancelled. This, then, is the first overt step by the federal government to potentially affect the profits of a corporation which discriminates on the basis of religion or national origin.

However, it is noteworthy that these guidelines omit certain features contained in earlier EEO regulations. Unlike Revised Order No. 4 covering minority groups and women, these guidelines do not require that ethnics be mentioned in current affirmative action plans. More importantly, they do not require the establishment of goals and timetables to remedy any underutilization of ethnics. The use of such goals with regard to minority people and women is, of course, a key requisite of Revised Order No. 4 and it has been this goal system which has gotten results.

There is then some confusion. On the one hand, the federal government appears finally to have recognized the problem of ethnics in employment, but on the other, it raises some doubts about the seriousness with which it intends to enforce its guidelines. At present, enforcement is occurring only within the context of individual complaints brought before the courts or with the Equal Employment Opportunity Commission. Although it is still early to make a definitive judgment, the OFCC, through the various federal compliance agencies, does not yet seem to be placing any great emphasis on the guidelines. That situation, of course, can change.

It should be mentioned in passing that enforcement of state and municipal statutes banning discrimination on the basis of religion or national origin also appears to be negligible outside the context of individual complaints. Nonetheless, the New York State Division of Human Rights has privately and informally expressed some greater interest in the problem of the ethnic and equal employment opportunity. As of this writing, however, nothing formal has yet crystallized.

AN ETHNIC REVOLT?

While the mere publication of these new guidelines has begun to stir some interest inside the corporations, this has been and will likely continue to be a slow process for several reasons.

First, corporate managements generally do not perceive that there is a problem. In fact, they seem to feel that ethnics clearly have been given job opportunities in this country and that their overall success is evidence of America's greatness and the fulfillment of her promise.

Unfortunately, some corporate urban affairs and EEO officers are themselves either oblivious to the problems of ethnics or hostile to the idea of including these groups as part of their job responsibility. While this is understandable in some cases, it retards the opening up of EEO to ethnics, since it deprives ethnics of a spokesman who can sensitize management to their plight.

Also, it is ironic because the success of "traditional" EEO programs on behalf of minorities and women depends in part on the cooperation of ethnics already in the work force. In many instances, these ethnics are able to advance or hinder this traditional EEO effort. The chances of their supporting it will obviously increase if they feel their own needs are being simultaneously recognized. Thus, these two separate but related EEO efforts become intertwined. Success on behalf of minorities and women will be greater and will occur more quickly where ethnics are also afforded an equal opportunity.

Having said this, the issue then becomes deciding what the emerging ethnic wants. I am limiting this article to a strictly business context. While not presuming to be a spokesman for ethnic people, my conversations with ethnic leaders over the last two years have given me a good idea of their position.

When they immigrated into the United States, many ethnics did not understand the language, customs, laws, or mores of their new country. Frequently, there was no one to help them. While they generally were able to find jobs, and through hard work could earn a respectable livelihood, they did not easily rise above the lower echelons of corporate management. Of those who did, many changed their names and/or life styles in order to accomplish this objective.

Generally, most ethnics accepted this situation, and having heard of or experienced worse situations in the "old country," were initially quite satisfied with their lot. The recent social "revolution" initiated by minority groups and subsequently joined by women began to change this acceptance. This revolution created and then accelerated an emerging awareness in the ethnic communities of their own plight and their own need to develop an identity and to gain acceptance from other Americans on that basis.

With regard to business, ethnics are beginning to raise two major issues. First, the corporate world must recognize that ethnics too have experienced some difficult problems in adjusting to life and business in the United States. Second, ethnics too have suffered discrimination, though perhaps in more subtle and milder ways than minorities and women, and this must be rectified.

If no action is forthcoming, ethnics will continue to believe that their past and present difficulties have been totally neglected while the problems of others have at least begun to be addressed. This resentment and frustration can well lead to the same kinds of confrontations that minorities and women have sometimes felt compelled to initiate in order to gain equal employment opportunity.

Because of the new OFCC guidelines, because discrimination on the basis of religion and national origin may produce the kind of frustration which will result in confrontation, and because ethnic support is important for implementing a positive EEO program for minorities and women (something which is a "now" problem for companies), the business community is well advised to take some EEO action soon on behalf of ethnics.

LEARNING FROM PAST MISTAKES

There are a number of actions which corporations can undertake to ameliorate the frustrations of ethnics and help insure that they receive an equal opportunity in both employment and upward mobility.

First, corporations should identify and develop contacts with national ethnic leaders. In this way, a dialogue can begin which can hopefully lead to a better understanding between these two groups. It is important, of course, for corporations to learn firsthand of the everyday difficulties which still afflict ethnic communities. However, it is equally important that the ethnic communities understand some of the very real problems confronting the business community which affect its ability to act. Without this kind of understanding, unrealistic expectations can develop in terms of what business can accomplish and how quickly. This has been a pervasive problem where minorities and women have been involved.

I hasten to add that the identification of responsible national ethnic leadership is not a simple task. The ethnic movement is just becoming organized and is less developed than that of most minority groups and women's organizations.

The next step is the identification and development of contacts with local ethnic leaders in communities where the corporation has a business facility and where there are significant numbers of ethnics. In some cases national ethnic leadership may provide guidance in this regard. However, because the ethnic movement is in an early stage, this may not be satisfactory. In that case, community leaders, local clergymen, or ethnic employees themselves may identify those with whom to begin a dialogue. It is best to contact both national and local leadership whenever possible and to work on both levels. National ethnic leadership will be helpful in providing an overall view, while local ethnic leadership will have a better understanding of specific problems, aspirations, and frustrations of particular local ethnic communities, all of which might vary according to geography.

In order to facilitate equal employment opportunity for ethnics, corporations should develop and implement a formal program aimed at raising management awareness of the problems and frustrations existing in ethnic communities generally. This approach has been successful for OEO programs designed to aid minorities and women. Minorities and women, however, have often drawn attention to their problems through demonstrations and similar tactics—ethnics have not. Thus, the need to heighten management awareness, in terms of ethnic problems, makes a formal awareness program even more vital.

The budget for furthering equal employment opportunity for minorities and women must at least remain constant, if not be increased, at the same time that funding for ethnic programs occurs. The ethnic EEO program must be financed separately and not at the expense of other EEO programs. Corporate management must not inadvertently cause a confrontation between these groups over available corporate funds. In most instances, the discrimination problems of minorities and women have been greater than those of ethnics. This must be taken into account when corporations allocate funds to the various EEO programs.

A thorough analysis should be made of both the workforce of each corporate plant and the surrounding area in terms of ethnic mix. This is necessary to determine whether a reasonable proportion of the plant workforce is in fact made up of ethnics. Further, such an analysis should be made at all job levels. If there is a disproportionately small number of ethnics at middle- and upper-management levels, the company should identify those who are either presently promotable or who have the potential for promotion when openings do occur. Those who have the potential for promotion should be counselled and trained accordingly.

This presents the business community with a difficult problem: No records are kept about the ethnicity of an employee. Frequently, names have been changed, and direct inquiry to an employee about his or her ethnic background might be misunderstood and result in serious employee relations problems. Still, the use of names as indicators is the only practical, if incomplete, way to identify ethnics. As ethnics themselves see the advantages of an accurate survey, it is conceivable that they may make such information available themselves.

Special in-house training programs for English, especially business English, should be developed and introduced in plants located in heavily ethnic communities. This may help some of those already employed whose job progress has been limited by their inability to read or communicate effectively as well as potential employees.

Finally, the corporation should clearly communicate its EEO goals to all employees. It should be emphasized that the EEO effort on behalf of ethnics is not going to be at the expense of EEO programs for minorities and women. Corporate priorities should be indicated, and the serious problem of discrimination against minorities and women reacknowledged. The ethnic EEO program should be characterized as an edition, not a change in direction, to the overall corporate EEO effort.

EXHIBIT 4

CUEANJ—CENTER FOR URBAN ETHNIC AFFAIRS OF NEW JERSEY

NWECC—NORTH WARD EDUCATIONAL AND CULTURAL CENTER, INC.

Did you hear the latest joke about the ethnic worker who was denied a job?

The Government did . . . and it's not laughing.

Federal guidelines for equal employment opportunity now apply to white ethnics: Italians, Poles, Greeks, Slavic groups.

Discrimination against white ethnic minorities in recruitment, hiring, training, and promotion is no laughing matter; its illegal. To comply with EEO affirmative action guidelines, an employer must:

Analyze the ethnic composition of employee groups in all areas and at all levels of the company to determine the degree of white ethnic underutilization;

Design and implement specific and result-oriented goals, timetables, and affirmative action commitments to remedy any identifiable deficiencies in the company's equal employment opportunity objectives;

Communicate and make available to all employees and applicants the company's written affirmative action program; and

Comply in good faith with affirmative action requirements by applying every effort to recruit, hire, train, and promote qualified white ethnic and other minority group members.

[From the Federal Register, Jan. 19, 1973]

U.S. DEPARTMENT OF LABOR, OFFICE OF FEDERAL CONTRACT COMPLIANCE, WASHINGTON, D.C. (CHAPTER 60, OFFICE OF FEDERAL CONTRACT COMPLIANCE, EQUAL EMPLOYMENT OPPORTUNITY, DEPARTMENT OF LABOR)

PART 60-50—GUIDELINES ON DISCRIMINATION BECAUSE OF RELIGION OR NATIONAL ORIGIN

On December 29, 1971, notice of proposed rule making was published in the FEDERAL REGISTER (36 FR 25165) with regard to amending Chapter 60 of Title 41 of the Code of Federal Regulations by adding a new Part 60-30, establishing guidelines and interpretations of the Office of Federal Contract Compliance as to the requirements of Executive Order 11246, as amended, for promoting and insuring equal employment opportunity for members of various religious and ethnic groups who continue to encounter employment discrimination because of their religion and/or national origin. Interested persons were given 30 days in which to submit written comments regarding the proposal.

After consideration of all comments received, Chapter 60 of Title 41 of the Code of Federal Regulations is amended by adding a new Part 60-50, set forth below. The final version of the Office of Federal Contract Compliance's guidelines regarding religious and national origin discrimination is now issued as 41 CFR Part 60-50, rather than as 41 CFR Part 60-30, as formerly proposed, since the latter part has been reserved for other regulations.

Sec.
60-50.1 Purpose and scope.
60-50.2 Equal employment policy.
60-50.3 Accommodations to religious observance and practice.
60-50.4 Enforcement.
60-50.5 Nondiscrimination.

AUTHORITY: Sec. 201, E.O. 11246, 30 FR 12319, and E.O. 11375, 32 FR 14303.

§ 60-50.1 Purpose and scope.

(a) The purpose of the provisions in this part is to set forth the interpretations and guidelines of the Office of Federal Contract Compliance regarding the implementation of Executive Order 11246, as amended, for promoting and insuring equal employment opportunities for all persons employed or seeking employment with Government contractors and subcontractors or with contractors and subcontractors performing under federally assisted construction contracts, without regard to religion or national origin.

(b) Members of various religious and ethnic groups, primarily but not exclusively of Eastern, Middle, and Southern European ancestry, such as Jews, Catholics, Italians, Greeks, and Slavic groups, continue to be excluded from executive, middle-management, and other job levels because of discrimination based upon their religion and/or national origin. These guidelines are intended to remedy such unfair treatment.

(c) These guidelines are also intended to clarify the obligations of employers with respect to accommodating to the religious observances and practices of employees and prospective employees.

(d) The employment problems of blacks, Spanish-surnamed Americans, orientals, and American Indians are treated under Part 60-2 of this chapter and under other regulations and procedures implementing the requirements of Executive Order 11246, as amended. Accordingly, the remedial provisions of § 60-50.2(b) shall not be applicable to the employment problems of these groups.

§ 60-50.2 Equal employment policy.

(a) *General requirements.* Under the equal opportunity clause contained in section 202 of Executive Order 11246, as amended, employers are prohibited from discriminating against employees or applicants for employment because of religion or national origin, and must take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their religion or national origin. Such action includes, but is not limited to the following: Employment, upgrading, demotion, or transfer: recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

(b) *Outreach and positive recruitment.* Employers shall review their employment practices to determine whether members of the various religious and/or ethnic groups are receiving fair consideration for job opportunities. Special attention shall be directed toward executive and middle-management levels, where employment problems relating to religion and national origin are most likely to occur. Based upon the findings of such reviews, employers shall undertake appropriate outreach and positive recruitment activities, such as those listed below, in order to remedy existing deficiencies. It is not contemplated that employers necessarily will undertake all of the listed activities. The scope of the employer's efforts shall depend upon all the circumstances, including the nature and extent of the employer's deficiencies and the employer's size and resources.

(1) Internal communication of the employer's obligation to provide equal employment opportunity without regard to religion or national origin in such a manner as to foster understanding, acceptance, and support among the employer's executive, management, supervisory, and all other employees and to encourage such persons to take the necessary action to aid the employer in meeting this obligation.

(2) Development of reasonable internal procedures to insure that the employer's obligation to provide equal employment opportunity without regard to religion or national origin is being fully implemented.

(3) Periodically informing all employees of the employer's commitment to equal employment opportunity for all persons, without regard to religion or national origin.

(4) Enlisting the assistance and support of all recruitment sources (including employment agencies, college placement directors, and business associates) for the employer's commitment to provide equal employment opportunity without regard to religion or national origin.

(5) Reviewing employment records to determine the availability of promotable and transferable members of various religious and ethnic groups.

(6) Establishment of meaningful contacts with religious and ethnic organizations and leaders for such purposes as advice, education, technical assistance, and referral of potential employees.

(7) Engaging in significant recruitment activities at educational institutions with substantial enrollments of students from various religious and ethnic groups.

(8) Use of the religious and ethnic media for institutional and employment advertising.

§ 60-50.3 Accommodations to religious observance and practice.

An employer must accommodate to the religious observances and practices of an employee or prospective employee unless the employer demonstrates that it is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business. As part of this obligation, an employer must make reasonable accommodations to the religious observances and practices of an employee or prospective employee who regularly observes Friday evening and Saturday, or some other day of the week, as his Sabbath and/or who observes certain religious holidays during the year and who is conscientiously opposed to performing work or engaging in similar activity on such days, when such accommodations can be made without undue hardship on the conduct of the employer's business. In determining the extent of an employer's obligations under this section, at least the following factors shall be considered: (a) Business necessity, (b) financial costs and expenses, and (c) resulting personnel problems.

§ 60–50.4 Enforcement.

The provisions of this part are subject to the general enforcement, compliance review, and complaint procedures set forth in Subpart B of Part 60–1 of this chapter.

§ 60–50.5 Nondiscrimination.

The provisions of this part are not intended and shall not be used to discriminate against any qualified employee or applicant for employment because of race, color, religion, sex, or national origin.

Effective date. This part shall become effective on February 20, 1973.

Signed at Washington, D.C., this 17th day of January 1973.

J. D. HODGSON,
Secretary of Labor.
R. J. GRUNEWALD,
Assistant Secretary for Employment Standards.
PHILIP J. DAVIS,
Acting Director, Office of Federal Contract Compliance.

[FR Doc.73–1288 Filed 1–18–73;8:45 am]

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I am authorized by the distinguished majority leader to propound the following unanimous-consent request:

I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9 o'clock a.m. on Monday;

That a vote occur on the final passage of the education bill at 6 o'clock p.m. on Monday, with paragraph 3 of rule XII being waived; that there be a time limitation of 2 hours for debate on the education bill on Monday, to be equally divided between the distinguished majority and minority leaders or their designees; that the House substitute not be in order; that no so-called busing amendments be in order; that immediately after the two leaders or their designees have been recognized under the standing order on Monday, the Senate resume the consideration of the unfinished business, and that at that time the Senator from Maryland (Mr. MATHIAS) be recognized to call up his amendment with a time limitation thereon of 1½ hours; that upon the running of the time, the distinguished Senators KENNEDY, JAVITS, BROOKE, and HART be recognized to call up their amendment, and that there be a time limitation thereon of 1½ hours, with 1 hour under the control of the Senator from Arkansas (Mr. MCCLELLAN); that the Senator from New Mexico (Mr. DOMENICI) then be recognized to call up his amendment on which there be a time limitation of 15 minutes; that the Senator from Illinois (Mr. PERCY) be recognized to call up his amendment on which there be a time limitation of 20 minutes; that the Senator from Virginia (Mr. WILLIAM L. SCOTT) be recognized at that time to call up his amendment on which there be a time limitation of 1 hour; that the Senator from Connecticut (Mr. WEICKER) then be recognized to call up his amendment on which there be a time limitation of 1 hour; that the Senator from North Carolina (Mr. HELMS) then be recognized to call up three amendments on which there be a total time limitation of 1 hour, to be utilized as Senator HELMS would seek to utilize his time; that the Senator from Florida (Mr. CHILES) then be recognized to call up his amendment on which there be a 30-minute time limitation; that at some point following the hour of 3:30 p.m., the Senator from Texas (Mr. BENTSEN) be recognized to call up his amendment with a time limitation on it of 20 minutes; that time on any other amendment, debatable motion, or appeal be limited to 20 minutes; that the remainder of the agreement be in the usual form with respect to germaneness and the control of the division of time; provided further that no rollcall votes occur before the hour of 4:15 p.m.; provided further that at the hour of 6 p.m., unless pending accumulated amendments are awaiting rollcall votes and with no debate thereon, the Senate bill be advanced to third reading, the House bill automatically be called up and the Senate bill substituted in lieu of the text of the House bill; and that a vote then occur on the House bill as amended by the Senate bill.

Mr. JAVITS. Mr. President——

The PRESIDING OFFICER (Mr. BURDICK). The Chair would inquire, is that without further amendments being in order at that point?

Mr. JAVITS. Mr. President, this time on S. 1539—when the text is substituted for H.R. 69—within H.R. 69—there will be no further amendments; is that not correct?

The PRESIDING OFFICER. That is what the Chair is asking.

Mr. ROBERT C. BYRD. That is correct, with this further understanding, and I am sure the Senator from New York will agree, that even though the accumulation of the rollcall votes will begin at 4:15 p.m. and the votes on that accumulation of amendments has not been completed at 6 p.m., the Senate would complete the rollcall votes which had accumulated at that point, even though such votes went beyond 6 o'clock.

Mr. JAVITS. The Chair was asking about one matter, that is, when we came to third reading and the text of the substitute that at that point there would be no further amendments.

Mr. ROBERT C. BYRD. Exactly.

The PRESIDING OFFICER. To H.R. 69.

Mr. ROBERT C. BYRD. Precisely.

Mr. JAVITS. I just want to clarify one other point, because at one point the Senator from West Virginia might not have mentioned it specifically, and I apologize if I am wrong, but the Senator mentioned how the various times were to be divided except in the case of the Kennedy-Brooke-Javits-Hart amendment where the Senator set an hour and a half and 1 hour to Senator MCCLELLAN.

I gather it is understood that on all the other amendments the time will be divided.

Mr. ROBERT C. BYRD. Yes, in accordance with the usual form.

Mr. JAVITS. Right. I understand also there is provisio for other amendments of 20 minutes, and provision for amendments to amendments?

Mr. ROBERT C. BYRD. Yes, on other amendments in the first and second degrees. Other Senators may have amendments, that have not been specified here and we do not want them to be shut out, simply because they were not specified.

Mr. JAVITS. That is very sensible. Lastly, as to the germaneness rule, that applies, as the other one did, that is, to either the bill or the amendment pending. Finally, there is no waiver of the right to table except as to the final vote on the bill.

Mr. ROBERT C. BYRD. As the agreement was presented, the right to table would be in order with the exception of the final vote on the bill, as the Senator has stated.

Mr. JAVITS. One other thing, which I am sure the Senator has in mind. We had 20 hours on the bill and I do not think that has been used but that is, I gather, displaced by the new provisions.

Mr. ROBERT C. BYRD. It is displaced, yes.

Mr. BAYH. Mr. President, reserving the right to object, I want to express my gratitude to the distinguished Senator from West Virginia for his patience and his perseverance in pursuing this unanimous-consent request.

For the purposes of clarification, I would like to ask, as to the total impact of the amendments, so far as the time of action is concerned, no votes shall start prior to 4:15 p.m., but that at 4:15 all business but voting will be disposed of and we will start voting at 4:15 at 10-minute intervals, and we will dispose of all business until we are through.

Mr. ROBERT C. BYRD. I am glad the Senator reminded me of that. I ask unanimous consent that time on all rollcall votes on Monday next be limited to 10 minutes, or less, with the warning bells to be sounded after the first 2½ minutes.

The PRESIDING OFFICER. Is this part of the unanimous-consent request?

Mr. ROBERT C. BYRD. Yes.

Mr. PELL. Mr. President, I have been doing a little arithmetic, and its does not work out if we divide the 10 minutes into that period of time. I wonder could not the rollcall votes be 5-minute votes?

Mr. ROBERT C. BYRD. No. I have checked with the desk, and I am told that if Senators stay in their seats after the first vote, it is possible to call the roll perhaps in 7 or 8 minutes. So that is why I worded my request to be 10 minutes or less, so that if all Senators on both sides answer the rollcall, a rollcall vote would be finished in under 10 minutes.

Mr. BAYH. Continuing my reservation, did the Senator from Indiana correctly understand that the proposal—was my interpretation correct that voting shall start at 4:15 p.m.?

Mr. ROBERT C. BYRD. The Senator from Indiana is correct. He is also correct in indicating that once the votes have started, they may continue until 6 p.m. I believe he interrogated me as to whether any other amendments could be called in. Only under this situation. We would anticipate probably, and very likely, there would be enough rollcall votes to consume the entire 1 hour and 45 minutes, beginning at 4:15 p.m. But on the supposition—that, for example, one rollcall vote had been ordered up until the hour of 4:15 p.m. Then in that unlikely situation, Senators could call up other amendemnts if they had them, before 6 p.m.

Mr. BROOKE. Mr. President, I have never heard of a 10-minute or less rollcall vote. I wonder whether this would be a precedent. I think we do not want to start that, with some Senators who may be coming in at the last minutes. So that I think we should say at least 10 minutes and hold it at 10 minutes and not say 10 minutes or less, because someone may come in for a particular vote and they will not know about the "or less."

I believe this would be bad precedent unless the distinguished majority whip has a precedent in mind.

Mr. ROBERT C. BYRD. I thank the Senator from Massachusetts. I think it would be better if I left out the words "or less." If it works out that we have completed a rollcall vote in 8 or 9 minutes, say, and all Senators are accounted for, the Chair can announce the vote, save the time, and go on to the next vote.

Mr. BAKER. Mr. President, I reserve the right to object but will not object. I, too, commend the distinguished assistant majority whip for his perseverance and note that we have, as I counted it, 11 amendments, not accounting for those which may be offered by Senators who have not made their views known to the leadership. The time allocation, as I gather it from quick addition, is some 7½ hours, not taking count of the other amendment that may be offered, and roughly 2 hours for 11 rollcall votes, if in fact there are 11 rollcall votes. That would make 9½ hours.

I think we ought to go forward with this unanimous-consent request, and I will not object to it. But I think that we are going to have to be very careful or we are going to run in a pattern where there is the opportunity for many, many amendments of consequence to be offered at the last minute, on which rollcall votes could be requested and about which we know nothing.

I do not object to this order, and I commend the leadership for making the request; but I caution that in future situations we are asking for trouble, so to speak.

Mr. ROBERT C. BYRD. The distinguished majority leader has suggested that I revise the request to provide for convening at 8 a.m. on Monday, and I now do so.

The Senator from Tennessee is correct. I am fearful that once we reach the voting stage, we may not be able to get all the votes in by 6 o'clock, and we may overlap beyond 6 o'clock a little. But some Senators may be willing during the day to have voice votes, rather than rollcalls and thus save time. I am sure that the leadership will be working throughout the day to encourage Senators, where they can be encouraged to do so, to cut the time on the amendments.

I think we will be able to handle everything up to 4:15. I believe that at that point is where we may have the time crunch in getting all the amendments voted on by 6 p.m.

Mr. BAKER. In any event, for one point of clarification, if amendments are pending that have not been voted on, the 6 o'clock hour would advance as required in order to dispose of all the amendments.

Mr. ROBERT C. BYRD. Yes. The able Senator is correct.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. HART. Mr. President, reserving the right to object—and I shall not object—I express the hope that we will not dedicate ourselves to finding reasons for rollcall votes on Monday. The agreement is fine. I speak as one who agreed to it even though I knew I could not be here on Monday. But as I listened to the talk about 11 rollcall votes, at a minimum, my hair curled, and I will not enjoy my day on Monday.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I wish to express appreciation to the distinguished Senator from Michigan (Mr. HART). He had indicated earlier today that if this agreement were adopted, he would miss a great number of rollcall votes, but that he would not interpose an objection. I am sure that I express to him the gratitude on the part of the joint leadership for his consideration and cooperation. It is typical of him.

Second, I want to say for the RECORD—and I will say it again tomorrow in the whip notice—that there is every likelihood that an accumulation of rollcall votes beginning at 4:15 p.m. will be such that we will not be able to start on the vote on final passage at 6 o'clock.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. JAVITS. I just wanted to commend the Senator from West Virginia. I think he has shown extraordinary patience. I know how tired he is and how tired I am. I am pleased that he was able to work this out.

Mr. ROBERT C. BYRD. I thank the Senator from New York, and I thank all Senators.

Mr. MANSFIELD. The Senator from West Virginia has done a superb job once again, and I want to thank him.

Mr. ROBERT C. BYRD. I thank the distinguished majority leader.

The text of the unanimous-consent agreement is as follows:

Ordered, That on Monday, May 20, 1974, during the further consideration of S. 1539, a bill to amend and extend certain acts relating to elementary and secondary education programs, and for other purposes, debate on any amendment, debatable motion or appeal (except those amendments listed in tabular form below) shall be limited to 20 minutes, to be equally divided and controlled by the mover of any such amendment (including those listed below) or motion and the manager of the bill. *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the Minority Leader or his designee. *Provided further*, That amendments must be germane to the question pending before the Senate at the time it is offered.

When the bill, S. 1539, is laid down on Monday, May 20, 1974, the following Senators are to be recognized in the order listed for the purpose of calling up their amendments which shall have the debate limitation specified:

1. Mathias—90 minutes
2. Kennedy et al.—90 minutes (60 McClellan, 30 Kennedy)
3. Domenici—15 minutes
4. Percy—20 minutes
5. Scott (Va.)—60 minutes
6. Weicker—60 minutes
7. Helms—3 amendments—60 minutes total—time to be used on the amendments as Sen. Helms desires
8. Chiles—30 minutes
9. Bentsen—20 minutes—sometime after 3:30 P.M.

Ordered further, That it will not be in order to offer the text of H.R. 69 as an amendment in the nature of a substitute for S. 1539 and that it will not be in order to offer further "busing" amendments.

Ordered further, That no roll call vote shall occur before 4:15 P.M., and that at 6:00 P.M. the bill have it's third reading, at which time the Senate shall then proceed to vote on the question of substituting the text of S. 1539 for H.R. 69 without further amendment of the substitute or H.R. 69 being in order.

Ordered further, That on the question of the final passage of the said bill debate shall be limited to 2 hours, to be equally divided and controlled, respectively, by the majority and minority Leaders or their designees: *Provided*, That the said leaders, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, motion, or appeal. (May 16, 1974)

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 8 A.M. MONDAY, MAY 20, 1974

Mr. ROBERT C. BYRD. Mr. President, in accordance with the previous order, I move that the Senate stand in adjournment until 8 a.m. on Monday next.

The motion was agreed to; and at 7:20 p.m., the Senate adjourned until Monday, May 20, 1974, at 8 a.m.

WITHDRAWAL

Executive nomination withdrawn from the Senate May 16, 1974:

IN THE ARMY

The nomination of Col. Dana G. Meade, [redacted] U.S. Army, for appointment to the position of permanent professor at the U.S. Military Academy under the provisions of title 10, United States Code, section 4333, which was sent to the Senate on May 13, 1974.

NOMINATION

Executive nomination received by the Senate May 16, 1974:

IN THE ARMY

Col. Dana G. Mead, [redacted] U.S. Army, for appointment to the position of permanent professor at the U.S. Military Academy under the provisions of title 10, United States Code, section 4333.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 16, 1974:

BOARD FOR INTERNATIONAL BROADCASTING

Foy D. Kohler, of Florida, to be a member of the Board for International Broadcasting for a term of 3 years.

DEPARTMENT OF JUSTICE

James L. Browning, Jr., of California, to be U.S. attorney for the northern district of California for the term of 4 years.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

THE JUDICIARY

D. Dortch Warriner, of Virginia, to be U.S. district judge for the eastern district of Virginia.

IN THE DEPARTMENT OF STATE

Diplomatic and Foreign Service nominations beginning Helen J. Terranova, to be a Foreign Service officer of class 3, a consular officer, and a secretary in the Diplomatic Service of the United States of America, and ending John E. Witt, to be a consular officer of the United States of America, which nominations were received by the Senate and appeared in the Congressional Record on April 11, 1974.

EXTENSIONS OF REMARKS

ARABS MAKE WAR ON CHILDREN

HON. ANGELO D. RONCALLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. RONCALLO of New York. Mr. Speaker, under leave to extend my remarks in the RECORD, I must express my shock, dismay, and utter revulsion at yesterday's killing of 18 Israeli schoolchildren and 12 others at the hands of Arab terrorists. The incident at Maalot will go down in history as one of the most barbaric and cowardly that the world has known.

I question whether the Arab fanatics ever had any intention of releasing their hostages unharmed. As I piece together news reports, the Israelis had agreed to accede to demands of the terrorist organization and negotiate with the guerrillas through the French and then the Romanian ambassadors as requested. The password which would have set the negotiations into motion was never transmitted, and the bloodbath ensued. I can only surmise that the parent organization intended from the start to throw their own operatives and the innocent children to the wolves.

The terrorists had set a deadline of 6 p.m. after which they would blow up the schoolhouse in which they barricaded. When only a few minutes remained, the decision was made to attempt to rescue the children. The brutality of the Arabs is revealed by eyewitness reports that the terrorists began shooting their captives even before the Israeli army charged. There appears to be no doubt that the original guerrilla threat was genuine, as an explosion occurred within the building during the battle.

Tragically, the United States must bear at least part of the shame for the deaths of these children. There is no doubt in my mind that the terrorists were emboldened by our recent vote in the United Nations to condemn Israel for retaliatory raids into areas of Lebanon containing guerrilla sanctuaries without likewise condemning the Arab terrorist attacks which prompted the Israel actions. I have today joined a majority of my colleagues in the House in cosponsoring a resolution urging the President to instruct our Ambassador to the U.N. to introduce a Security Council resolution condemning the Arab terrorism at Maalot. The incident further points out the need for Secretary of State Kissinger to bring the full weight of U.S. pressure to bear for the swift completion of a settlement in the Middle East.

As Prime Minister Golda Meir declared:

> You don't conduct wars on the backs of children.

CAMPAIGN REFORM AND "BIG LABOR"

HON. DAVID W. DENNIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. DENNIS. Mr. Speaker, campaign reform is in the air. I am for it. A little noticed need in this regard is the need for some attention to and control of contributions in kind by big labor especially. Let us have even-handed reform. I refer my colleagues to a recent letter to the Washington Post:

CAMPAIGN REFORM AND "BIG LABOR"

The campaign "reform" bill recently enacted by the Senate supposedly is designed to eliminate the corrupting influence of special interests during and after election campaigns. Unfortunately, the bill in its present form would leave untouched, the partisan political activities of one of our biggest spending special interest groups—Big Labor.

The fact is that both the plan adopted by the Senate and the plan now being considered in the House, would give union officials even more political clout than they enjoy today—and that, according to the vast majority of Americans, is already too much. It would do this by tipping the political balance in favor of candidates who can attract cash-equivalent support from the special interests who supply "in kind" support. In short, Big Labor and its political favorites. Washington Post columnist David Broder is one of the few serious political analysts to recognize this point. "If access to large sums (of cash) is eliminated as a potential advantage for one candidate or party by the provision of equal public subsidies for all," he wrote, "then the election outcome will likely be determined by the ability to mobilize other forces. The most important of these factors are probably manpower and publicity. Legislation that eliminates the dollar influence on politics automatically enhances the influence of those who can provide manpower or publicity for the campaign."

Paid "volunteer" manpower, telephone banks, printing, paid advertisements, propaganda, these are all specialties of top union officials. And they're all paid for with union funds which are taken from American citizens as a condition of employment under compulsory "union shop" and "agency shop" arrangements.

We're not surprised that few people have questioned Common Cause's objectivity in insisting on the Senate plan, since few people know that the chief staff executive of the self-proclaimed "People's Lobby" is Jack Conway, long-time top aide to the late Walter Reuther. We are astounded, however, that with very few exceptions, nobody is asking why top AFL-CIO officials, including George Meany and lobbyist Andrew Beimiller, are feverishly lobbying for the Senate's so-called "public financing" bill.

It is still not too late for meaningful campaign reform legislation. But this means Congress will have to face up to the fact that elections often are bought, not with direct cash donations to a candidate, but with cash-equivalent services provided by union officials and paid for, unwillingly, by forced members.

We urge all Americans who share our belief that money forced from workers as a condition of employment should not be used for political purposes to ask their congressmen to support an amendment to the campaign "reform" bill to end this abuse.

REED LARSON,
Executive Vice President, National Right to Work Committee.
WASHINGTON.

THE ENERGY CRISIS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. STARK. Mr. Speaker, as the summer months are now upon us, I would like to take this opportunity to include in the RECORD some thoughts about the energy crisis.

The lifting of the Arab oil embargo, as many of us know, did not by any means signal the end of our difficulties. In fact, the embargo was really only a symptom of much more serious problems. Perhaps a backhanded resulting benefit, however, was the attention that was forced to be focused on these problems. For this reason, I hope we will not forget the debate stimulated by the embargo. If attention wanders from the problems, they will become that much more critical.

The dilemma we face is twofold: We are confronted by dwindling supply of petroleum, which is the fossil fuel producing most of our energy. At the same time, demand for energy is increasing at an unprecedented rate. To adequately solve the long-term problem, we are, therefore, forced to work on these two distinct levels.

The first level, the matter of supply, must be solved technologically. We in Congress, and scientists and researchers throughout the country, will be called on to develop a feasible program of energy production. But the second level—the question of increasing consumption levels—must be dealt with by everyone. Conservation will be the key.

Many months ago, one of our most eminent authorities in the energy field delivered an address on energy consumption levels. Dr. Paul E. Gray, chancellor of MIT, made these remarks nearly a year ago, but they hold true today. For the interest of my colleagues, I would like to paraphrase his remarks, as they reflect my own views.

Present energy consumption in this Nation is prodigious. Energy sales constitute approximately 10 percent of the GNP. The per capita rate of consumption is 10 kilowatts or 13 horsepower hourly. In other terms, each U.S. resident uses for personal needs in light, heat, and transportation and in the provisions of services we depend on, energy totaling 80 times the average daily caloric input. This is markedly more than consumption in any other country. The United States, with 6 percent of the world population, consumes 35 percent of the energy used throughout the world.

This rate of consumption is not merely a reflection of our level of industrialization in all sectors of our economy. In addition, it is the most conclusive indication of the American habit of luxury items. We drive larger cars that consume more gas than any other people; we are accustomed to central heating and air conditioning; and we have a national love for TV, dishwashers, and washing machines. Every home that can afford such appliances possesses them.

In the last century the use of energy in the United States has doubled, on the average, every 22 years. The rate of energy use today grows at 4.3 percent annually, or, it doubles in 16 years. When further broken down, it appears that electricity consumption is growing nearly twice as fast—at a rate of 10 percent per year, or a doubling time of 7 years.

Certain "ecological" standards, such as those for automotive emissions, tend to increase the rate growth of consumption. For example, the cost of removal of lead from gasoline equals a 12 percent increase in gasoline use for the same power output. Reduction of carbon monoxide and other exhaust to meet the 1975 standards will also be accompanied by a 20- to 30-percent increase in gas consumption. The day of the 6-mile-per-gallon automobile is no longer in the distant future.

Similar growth rates can be cited for the use of air conditioning in private homes, in industry, and in transportation.

It must be noted that energy consumption and growth of the economy are closely related factors. A book entitled "Energy in the World Economy," by Darmstadter, Teitelbaum and Polach, documents the interdependence. This universal relationship, found in countries as diverse as the United States and Thailand, leads to the conclusion that economic growth is inevitably dependent on energy supply.

However, data leads us to the inescapable conclusion that our reserves are dwindling. If the demand for energy continues to grow at its historic rate we will exhaust our fossil fuel reserves, proven and anticipated, in less than a century, and possibly in 50 years. Such an accomplishment will mean that we will have used up in less than 200 years a resource that was made over hundreds of millions of years.

We do have several alternatives. The first choice, and perhaps the least wise, will be to turn increasingly to foreign sources of energy—Mideast oil or Russian liquified gas. There are large reserves in these areas but such dependence would be a blow to our diplomatic integrity. And the strain on our balance of payments would have serious ramifications to the world economy.

A second course of action is the development of alternative non-fossil-fuel energy sources. Solar energy, geothermal energy, and nuclear energy are some possibilities.

Solar energy is in abundant supply but the capital costs associated with conversion to a more useful form are prohibitive. The matter of energy storage also presents many problems.

Similar objections are raised about geothermal energy—that energy associated with the hot, radioactive core of the earth. We are still many years away from an accurate assessment of costs and impacts of its use on a large scale.

Nuclear energy is, of course, our primary non-fossil-fuel energy; resources for the relatively inexpensive isotope of uranium as a fuel, can provide unlimited supply of energy. However, there are still problems associated with nuclear powerplants. For example, such plants emit small amounts of ionizing radiation into the environment. The risk associated with this emission is still undetermined. The possibility of an accident cannot be dismissed and memories of Hiroshima and Nagasaki still linger. And nuclear fission generates poisonous radioactive waste that is long-lived and potent. We have not yet adequately prepared for the management of this waste.

These problems can undoubtedly be solved, but it is difficult to predict how far in the future such resolution is. Thus, fusion power, while still a feasible long-range alternative, will not be a factor in meeting our energy appetite this century.

Clearly the most viable course of action involves reducing the rate of growth of energy demand. It would reduce future demand for energy and would buy us valuable time to develop non-fossil-fuel alternatives. This is not an impossible proposition. Full insulation of homes, and proper siting, could reduce home heating and air-conditioning energy demand by 30 percent Smaller automobiles and efficient mass transit systems would result in tremendous gasoline savings. Home appliances could be manufactured with energy utilization as a prime consideration. Many industrial processes could be redesigned. For example, Alcoa has a new process for smelting aluminum that requires 40 percent less energy. Adoption of this process by the aluminum refining industry could have a significant effect in reducing energy consumption. Finally, office building designs could be altered so that the dependence on energy for comfortable air is not so great. Tremendous economies are feasible in all areas of our society.

POULTRY INDEMNITY PAYMENTS ACT

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. FRENZEL. Mr. Speaker, I oppose the bill, S. 3231, the Poultry Indemnity Payments Act, which would provide $10 million to Mississippi poultry companies. The bill was taken off the schedule today and I hope it is never brought back. One objection to this legislation is the manner in which until today it had been rammed down the Congress' throat before we know what the facts are. The supporters of the bill claim that immediate relief is required for poultry growers who suffered losses due to a Federal ban on the drug, Dieldrin. I can understand the Members' concern over the economic situation in Mississippi, but since this event occurred only a few weeks ago. I do not think the Congress is in any position yet to be judging whether it should bear the costs involved. The FDA has barely begun its investigation of this entire matter, but, through quick maneuvering in the Senate, we already have a bill authorizing $10 million before us on the brink of a vote. No hearings were held in the Senate, and only 1 day of hearings was held here in the House. That is rather skimpy consideration, in my judgment.

Another objection to this legislation is the precedent it sets for Federal indemnification of any such incident. The legislation shows good political judgment on the part of its sponsors, but poor fiscal judgments. I do not think the Congress should be in such a hurry to spend funds when the facts of the situation are not even available. Nor should it be willing to extend the principle of Federal blank-check assistance without more careful study of the incident.

Two years ago, I voted against the legislation to provide payments to firms which had suffered losses due to the Federal ban on cyclamates. Companies using cyclamates had a better claim than the poultry companies. However, I felt then, as I do now, that it is bad policy for Congress to be making such payments, and even worse policy to make them without careful study. If the bill ever comes up, I intend to vote against it, and I would urge my colleagues to do likewise.

STATEMENT OF REPRESENTATIVE JOEL T. BROYHILL OF VIRGINIA ON A BILL TO GRANT THE CONSENT OF CONGRESS FOR THE STATE OF MARYLAND, THE COMMONWEALTH OF VIRGINIA, AND THE DISTRICT OF COLUMBIA TO AMEND THE WASHINGTON METROPOLITAN AREA TRANSIT REGULATION COMPACT TO PERMIT THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY TO ELIMINATE ANY REQUIREMENT OF ADDITIONAL AUTHENTICATION OR MANUAL SIGNATURE OF BONDS GUARANTEED BY THE UNITED STATES, AND FOR OTHER PURPOSES

HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. BROYHILL of Virginia. Mr. Speaker, I am today introducing legislation to permit the Washington Metropolitan Transit Authority to eliminate any requirement of additional authentication or manual signature of bonds guaranteed by the United States of America, and to enact said amendment of behalf of the District of Columbia.

The bill will enable the authority to effect economies both directly and indirectly into the operation surrounding the issuance and re-issuance of authority bonds. The change, made at the request of the Federal Reserve Bank of New York, the fiscal agency of the authority, will eliminate the expense associated with the additional manual signature of each bond. This function is currently handled by a separate contractor in New York. There will also be an indirect cost saving to the authority resulting from efficiencies at the Federal Reserve Bank of New York.

A secondary benefit, according to the Federal Reserve Bank of New York, will be improved security associated with the handling and delivery of the bonds between the signature company and the Federal Reserve Bank of New York.

THE UNIVERSITY AT BAY

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. SYMMS. Mr. Speaker, I should like to take this opportunity to call to the attention of our colleagues a most timely, and I believe, important book on the problem of higher education in our Nation today: "Continuity in Crisis: The University at Bay." This worthwhile collection of essays on education is edited by Prof. Charles Moser of the George Washington University and includes a foreword by my distinguished friend and colleague, Representative Philip M. Crane of Illinois. Dr. Crane is himself a former professor of American history and I believe his comments on the current state of the American university to be of value to us all.

I should like to submit Representative Crane's foreword for inclusion in the Record at this time:

Foreword By Congressman Philip M. Crane

In recent years the American university has been under serious attack from those who disparage its traditional role and function.

The criticism which has come from the New Left is not essentially the same as that of the academician, who sees increasing bureaucratization and "training" rather than "education" and who fears that we may, in fact, be presiding over the end of liberal education in America.

In his important volume about the American university, former Columbia University Dean and Provost Jacques Barzun says this:

"The American University has upheaved itself to 'catch up' and 'modernize,' words that mean: has ceased to be a sheltered spot for study only; has come into the market place and answered the cries for help uttered by government, industry, and the general public; has busily pursued the enthusiasm of our utopian leaders of thought, both patrons and big foundations; has served the country by carrying on research for national goals; has finally recognized social needs by undertaking to teach the quite young, the middle-aged, the disabled, the deprived, the misdirected, and the maladjusted."

Dr. Barzun notes that every new field cultivated within the academy creates a new claim by the community. Thus the school of social work aids the poor, the school of architecture aids the slums, the school of business advises the small tradesman, the school of dentistry runs a free clinic, the school of law gives legal aid, and the undergraduate college supplies volunteers to hospitals, recreation centers, and remedial schools.

Thus occupied with social service, the university has often slighted its primary functions of teaching, research, and thinking. Woodrow Wilson's concept of the university—now seventy-six years in the past—seems to have disappeared:

A little world; but not perplexed, living with a singleness of purpose not found without; the home of sagacious men, debaters of the world's questions every day . . . and yet a place removed—calm science seated there, recluse, ascetic like a nun; not knowing that the world passes, not caring, if the truth come in answer to her prayer.

Truth, however, has now often been replaced by an active involvement in the affairs of the day. Many young people believe that the university is responsible for everything, and capable of all things. They expect the university to end war, eliminate racism, and decontaminate the cities. As Professor Henry Steele Commager has said, they want "the university to be contemporary—to deal with every issue as it arises, plunge into every controversy, offer courses in every problem, be involved in everything."

Dr. Commager contrasts the activists' attitude with the more traditional idea of the academic community: "They are unable to understand—and many presidents and professors are unable to understand—that the university is the one institution whose conspicuous duty is not to be involved in everything, and above all not to be so involved in contemporary problems that it cannot deal with, problems that are not merely contemporary. The solution of contemporary problems is the business of politics and government. The business of the university is to preserve the heritage of the past, to anticipate the problems of the future, and to train students able to solve the problems of the present."

During the past decade, as we have witnessed student strikes, university closings, the bombing of buildings, and the virtual elimination of free speech on many campuses, we have been forced to confront the challenge of those who have, in effect, called for a university diametrically opposed to our traditional ideas of what higher education is meant to accomplish.

The United States and the entire English speaking world have seen the campus as a sanctuary where ideas are studied, debated, analyzed and readied for future action. The activists want a political university. According to Fred Hechinger of *The New York Times* "The American scheme views faculty and administration as the permanent arbiters of goals and ground rules, with the students cast in the role of transient participants. The other scheme involves students in alliance with compatible faculty members, in command of political and ideological goals."

At the present time, freedom of speech is under serious attack at our leading colleges and universities. Those engaged in this attack do so on the basis of a philosophical hostility to free speech. In his volume *A Critique Of Pure Tolerance,* Professor Herbert Marcuse, one of the major influences upon both student and faculty activists, states that people who are confused about politics really do not know how to use freedom of speech correctly. They turn it into "an instrument for absolving servitude," so that "that which is radically evil now appears as good." Having established this premise, Marcuse recommends "the withdrawal of toleration of speech and assembly from groups which promote aggressive policies, armament, chauvinism, racial and religious discrimination or which oppose the extension of public services." For him, the correct political attitude is one of "intolerance against movements from the right and toleration of movements from the left."

The result of this, as we observed through the nineteen sixties, was Secretary of Defense McNamara entering a police wagon to avoid crowds at Harvard, General Lewis Hershey being forced from the stage at Howard University, students charging the podium at Brown University as General Earle Wheeler spoke, a professor pinioned and clubbed across the face at Cornell.

In discussing these events Professor Charles Susskind of the University of California remarked: "I don't know why they think of themselves as the New Left. Their methods look to me much more like those of the Nazi students I saw in the 1930's harassing deans, hounding professors, and their families, making public disturbances and interfering with lectures, until only professors sympathetic with the Nazi cause remained."

Professors not sympathetic with the New Left have been forced to leave many universities. Dr. Lewis S. Feuer, who after nine years of teaching philosophy and social science at Berkeley left for the University of Toronto, stated that "freedom of discussion presupposes that the chief sides in any national debate will be presented. In Berkeley, the supporters of President Johnson's foreign policy are, in effect, denied a forum on the Berkeley campus. The New Left has made it nearly impossible for the national administration's standpoint to be presented to Berkeley students."

In recent days we have heard it said that the campuses are now quiet, that student activism has given way to a return to serious studies, and that the politicization of the university is no longer a serious threat. Unfortunately, this does not seem to be the case. An event at Harvard University in October of 1973 indicates that free speech is in as much danger today as at the height of student protests several years ago.

At that time, pressure from the Harvard Black Law Students Association resulted in the cancellation of a scheduled debate between Roy Innis, national director of the Congress on Racial Equality, and Dr. William Shockley, the Nobel Laureate who has espoused the controversial genetic theory that intelligence is linked with race.

Howard Brownstein, president of the Harvard Law School Forum, cited "expressions of displeasure within segments of the Harvard community" and a fear of disruptions as reasons for the cancellation. He added that the Forum "regrets that conditions are such at Harvard that a free and open debate cannot be held on any subject, no matter how irrational and pernicious that subject appears to some members of the community."

It was not only student militants who opposed the Harvard debate. Discussing the circumstances under which the debate was cancelled, Professor Martin Kilson, a leading black academician at Harvard, noted that "a disturbing feature of the cancellation . . . was that besides the emotional opposition of militant Negro law students—a form of intellectual infantilism not uncommon in the past six years among both black and white militants—faculty members and the Law School Administration also discouraged the debate."

Professor Kilson reported that Derrick Bell, a black professor of law, argued that the "Harvard Law School shouldn't be open to any view," because "it isn't open to every view anyway." Dean Albert Sacks informed the officers of the Forum that the Shockley-Innis debate "would in all likelihood be a circus" and counseled the Forum's officers to "give careful consideration to the question whether it wished to proceed with the planned program." He even provided an incentive for cancellation, offering to reimburse the Forum for any financial deficit incurred from the cancellation.

These actions by faculty members, states Dr. Kilson, "suggest the unfortunate spread of insensitivity toward unfettered discussion at a great institution of higher learning like Harvard. We can now expect more actions of this sort around a number of emotionally charged issues. . . . The most distressing feature of this whole dreadful affair are the few signs within the Harvard community of the kind of outrage that is necessary to reverse the spread of insensitivity toward free speech and public life."

The *New York Times* editorially lamented the decline of free speech at Harvard. It referred to this incident as "a sad commentary on the state of intellectual tolerance in the academic community." Professor Kilson concluded that "something very awful is happening to American intellectual life."

What has happened to American intellectual life, in large measure, is its politicization. This thesis was set forth at a conference held in Vienna in October 1973 on "The Crisis Of The University." At that time Professor Alexander Bickel of the Yale Law School warned educators against active political commitments.

Pluralism disappeared from universities, Professor Bickel said, when they put their resources to work to attack practical problems of society rather than engaging in the objective pursuit of knowledge. A consequence of this, he contended, was the death not only of diversity but even of free inquiry alogether.

Throughout this period—when the attacks upon academic freedom were mounting—University Professors For Academic Order has been a beacon light, continuing to fight for a free and open university, and continuing to believe that the function of the university was something other than political partisanship and sloganeering.

It has been my great privilege to participate in this organization and to witness the impact it has had upon the academic scene. It has resisted the attacks not only of the New Left, but also of government agencies which, in the name of "nondiscrimination," have sought to impose upon universities a racial and sexual quota system of faculty hiring. Each assault upon academic freedom and the integrity of the university has been met with a vigorous response by University Professors for Academic Order.

This anthology of articles which has been gathered together from *Universitas*, the journal of UPAO, represents the best thinking of some of the nation's leading academicians on the current questions being faced in the whole field of higher education.

With men and women such as these joining together in defense of the traditional university, there is every reason to believe that the current assaults upon it will be defeated. At a later time the entire academic community will acknowledge the debt which it owes to the members of UPAO. Men may never be prophets in their own time and place, but those who have fought the lonely fight for the integrity of intellectual pursuits know that they fight not only for themselves and for today, but for the generations which follow. It is because of those who have had the courage to make this fight that there is a real hope for the future.

THE UNSPEAKABLE MURDER OF INNOCENT CHILDREN

HON. RICHARD H. FULTON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. FULTON. Mr. Speaker, there are no adequate words to describe the wanton, heinous, mad-dog murder by Palestinian terrorists yesterday of those Israeli children. Every decent human being on Earth is sickened and saddened by this act.

If this act had been committed 50 years ago we would have quickly seen the formation of an expeditionary force to root out and eliminate permanently those responsible. Hopefully we have left this type of reprisal to the pages of history.

Nonetheless, though the terriorists committed this unspeakable act, the responsibility and guilt for it must also be born by those nations which provide these fanatics with comfort and sanctuary.

Therefore, I welcome the opportunity to join in cosponsorship of the resolution of condemnation being offered today and to urge our President to seek not only similar actions be taken by other nations but that efforts be undertaken to move any nation to rid themselves of these groups and individuals from within their borders by whatever humanitarian means is appropriate and available.

Mr. Speaker, passage of this resolution is little enough to do in the face of this terrible crime but whatever little is available to us to do we simply must do.

FATE OF TWO UKRAINIAN INTELLECTUALS

HON. MARK ANDREWS

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. ANDREWS of North Dakota. Mr. Speaker, a constituent of mine, Dr. Anthony Zukowsky, president of the Ukrainian Congress Committee of America, Inc., has called my attention to the plight of two young Ukrainian intellectuals. At this time I ask for unanimous consent to include these two cases in the RECORD for your interest:

THE CASE OF LEONID PLYUSHCH

On February 18, 1974, Dr. Andrei O. Sakharov, noted Russian human rights advocate, made a telephone appeal to John Carey, past Chairman of the International League for the Rights of Man in New York, asking for all possible steps to be taken to save the life of Leonid Plyushch, now in a mental hospital in Dnipropetrovsk, Ukraine.

Dr. Sakharov also sent an "Appeal to the West," signed by himself, his wife, Dr. Elena Bonner, Tetyana Velikanova (mathematician), Sergei Kovalev (biologist), Andrei Tverdokhlebov (physicist), and Tetyana Khodorovich (linguist).

Leonid Plyushch was a member of the Initiative Group for the Defense of Human Rights in the USSR. Up to 1968 he was a research officer at the Institute of Cybernetics of the Ukrainian Academy of Sciences in Kiev; in that year he was dismissed from his position and arrested for dissident activities. In January, 1972, by a decision of the Supreme Court of the Ukrainian Republic he was sent to the Dnipropetrovsk psychiatric hospital-prison for an indefinite period.

Dr. Sakharov's appeal reads as follows:

"He is being held in a ward where there are more than 25 persons confined with him in appalling conditions of humiliations, persecution and physical suffering. The unregulated and senseless administration of large doses of haloperiodol has caused a sharp deterioration in his health, extreme exhaustion and continuous shivering, weakness, swellings, spasms, and loss of appetite. Plyushch can no longer read, write letters or take advantage of the one-hour exercise period allowed to the prisoners.

"Every request by his wife to be informed of her husband's diagnosis and of his condition and treatment has been rejected by the hospital administration. His wife saw him last on January 4. Since then no letters have been received from him. We fear that his condition is now even worse.

"Leonid Plyushch is near death. We appeal to you to campaign: a) for an international inspection of the Dnipropetrovsk special psychiatric hospital and also of other hospitals of the same type; b) for an international commission of psychiatrists to examine the health of Leonid Plyushch, and c) for his transfer to a hospital abroad, where his broken health could be restored.

THE CASE OF VALENTYN MOROZ

Valentyn Moroz was born on April 15, 1936 in the Volhynia oblast of the Ukrainian SSR; he attended the University of Lviv, from which he graduated in 1958 and was instructor of history and geography in Lutsk and Ivano-Frankivsk. In August, 1965, he was arrested and charged with "anti-Soviet propaganda and agitation" and in January, 1966, he was sentenced to four years at hard labor. He served his sentence in Camps No. 1 and No. 11 in Yavas in the Mordovian ASSR.

While in the penal camp, Moroz was tried by a camp court, and committed to solitary confinement. In the camp he wrote "A Report From the Beria Preserve" exposing the brutal system of concentration camps. Released on September 1, 1969, he could not find a job; even his wife dismissed from her job because of her husband's "criminal record." In that he wrote "A Chronicle of Resistance in Ukraine, Amidst the Snows" and "Moses" and "Dathan."

On June 1, 1970, Moroz was again arrested by the KGB, evoking large-scale protests in his defense throughout Ukraine. Despite these protests, Moroz was sentenced on November 17, 1970 to nine years imprisonment and five years of exile from Ukraine.

In November, 1972, Amnesty International, in its Newsletter (Vol. II, No. 11, London), reported that Moroz was severely beaten by some criminal inmates in Vladimir Prison, whereafter he was transferred to a prison hospital in Kiev, Ukraine. When his health improved, he was again transferred to Vladimir Prison, one of the most notorious in the whole of the USSR. According to reliable reports, in January, 1974, Moroz was again cruelly beaten by common criminals, apparently with the full knowledge, if not, instigation, of the prison authorities. Instead of being sent to a hospital, he was placed in solitary confinement.

A RESOLUTION OF OUTRAGE AND CONDEMNATION OF MAALOT MASSACRE

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. WALDIE. Mr. Speaker, I am introducing a resolution expressing the horror, outrage, and sorrow of the House of Representatives for the tragic murder of schoolchildren at Maalot Moshav.

The pain and anguish of this senseless act must be indescribable for those who survive. Anger and sympathy are shared equally by the rest of the world.

How many more such outrages will there be? How can we contend with mad men bent on disruption of diplomacy and seemingly motivated by the sight of children's blood?

I for one am tired of it all.

Mr. Speaker, though I put this resolution before the House of Representatives today, I cannot put on paper the sorrow I feel for those in Maalot, in Israel, and wherever the effects of this ugly atrocity are felt.

One further thing, Mr. Speaker, I deeply hope our own State Department and our representatives in the United Nations lead the way to the adoption of the strongest possible resolution of condemnation in the U.N.

I am weary of the U.N.'s seemingly one-way street of condemnation of Israel and not the brutal slayers of children.

Mr. Speaker, the leadership of the Arab nations have taken more conciliatory stances of late with regard to oil and to peace. Let us pray they will take immediate action to police the terrorists and rid the world of these awful crimes and criminals.

The resolution follows:

CONCURRENT RESOLUTION

Expressing the condemnation of the Congress with respect to the killings of Israeli children by Palestinian guerrillas on May 15 in Maalot, Israel

Resolved by the House of Representatives (the Senate concurring), That the Congress strongly condemns and deplores the killings of Israeli children by Palestinian guerrillas in Maalot, Israel, on May 15, 1974.

1974 LEGISLATIVE QUESTIONNAIRE

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. PATTEN. Mr. Speaker, each year I mail a legislative questionnaire on domestic and foreign matters to every postal stop in the congressional district I represent.

I do this because being familiar with the legislative views of constituents is important to me. The response has always been good and I am looking forward to another shortly after I mail the present questionnaire during the week of May 20, 1974.

The six questions follow:

CONGRESSMAN EDWARD J. PATTEN WOULD APPRECIATE YOUR VIEWS ON:

Impeachment: The House Judiciary Committee is investigating the possible impeachment of President Nixon. Please check only *one* of the following which may reflect your opinion: (a) The President has not committed treason, bribery, or other high crimes and misdemeanors; (b) Need more information to decide; (c) Favor the President's resignation; and (d) Impeach the President.

Campaign Reform: Should Federal election campaigns (Presidential, senatorial and congressional) be financed by U.S. tax dollars in order to minimize the chances of contributors exercising political influence? Yes; No; Undecided.

Abortion: How do you feel about abortion? (Check only *one*). (a) Let the U.S. Supreme Court decision stand (Allow an abortion within 90 days after conception); (b) Disagree with court decision and favor a Constitutional Amendment that would forbid all abortions; (c) Disagree with court decision and favor prohibiting abortions except under special medical circumstances (danger to the mother's life, victims of rape, etc.); (d) Let each state decide the matter itself.

Inflation: Direct controls over prices and wages ended on April 30th. Because of the serious problem of inflation, would you like to see such controls reinstated? Yes; No; Undecided.

World Food Plan: Legislation has been introduced in Congress for a world food action program "to lead the world back from the precipice of famine, with the U.S. participating. Do you favor such a plan? Yes; No; Undecided.

Fishing Rights: Do you support legislation that would increase the present 12-mile limit for foreign fishing fleets to prevent the depletion of U.S. commercial fish stock? Yes; No; Undecided.

SMALL BUSINESS: MAINSPRING OF AMERICAN LIFE AND SOCIETY

HON. J. EDWARD ROUSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. ROUSH. Mr. Speaker, there are several items of interest concerning small businesses which the Congress is working on at this time that merit our attention.

I have personally received a number of letters from individuals supporting the Bolling committee's recommendation—House Resolution 988—for replacing the present nonlegislative Select Committee on Small Business with a new standing legislative Committee on Small Business which would combine the present small business jurisdiction of the Banking and Currency Committee with the select committee's oversight responsibilities.

In making their report on House Resolution 988 the Select Committee on Committees explained that the reason for creating this standing, legislative committee for small business interests "reflects a concern that small businesses have what they can perceive as an entity in the House which will focus on their problems." The committee went on to explain that while the present Select Committee on Small Business was performing a useful function, it had "no legislative jurisdiction" and the "addition of legislative power will render some force to the committee's oversight investigation." The creation of this new Small Business Committee, then, is of major importance.

The Bolling proposal has been temporarily sidetracked by a vote taken by secret ballot in Democratic caucus to order the Democratic Committee on Organization, Study, and Review to give the plan further study. I opposed the secret ballot method of voting and I opposed further study of a proposal that had been carefully constructed after almost a year of intensive work by a select committee established for this purpose. I am hopeful and optimistic that many of the recommendations will survive, particularly that of elevating the status of the Select Committee on Small Business. I certainly will support every effort to see that this proposal does survive.

There is another matter that has been of some interest to the small businesses in my district, namely the Small Business Tax Reform Act. I have been a supporter and a cosponsor of this joint effort by Senator BIBLE and Representative EVINS to bring some equity into taxes for small businesses. The tax laws of 1969 and 1971 may have been a reform in some cases, but they simply increased the advantages of large businesses over small businesses. I know that the Ways and Means Committee is once again considering tax reform and that among the 26 items on the agenda is the small business tax reform proposal. I hope that their final bill will rectify this situation whereby small businesses, like middle-income individuals, bear the heaviest burden of taxation.

I have said before and I would repeat, that this country cannot afford to lose small business enterprise. Small business has been a mainspring of American life and society. It is the small business owner who is an integral part of the community; who knows the people there; who shares their interests and hardships; who is committed to the community where he works and is a neighbor; who is responsible for and accepts responsibility for the products he sells to people he knows, who is self-reliant, hard-working and industrious. I think this country dare not lose these people and this way of life.

MR. LEONARD H. CARTER

Hon. Yvonne Brathwaite Burke

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mrs. BURKE of California. Mr. Speaker, with the kind indulgence of other Members of the House, I would like to say a few words about Mr. Leonard H. Carter, regional director, west coast, National Association for the Advancement of Colored People, who died in San Mateo, Calif., on April 12, 1974.

Mr. Carter had been with the NAACP since January 1, 1960, the last 9 years of which were in San Francisco as West coast regional director. In that capacity he supervised the activities of the NAACP in Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Utah, and Washington.

Mr. Carter gave distinguished service to the civil rights movement, and he was credited with being a leading strategist in successful campaigns for FEPC, fair housing, and antidiscrimination status in the Midwest. He was known for his fair but firm approach in gaining equal rights for minority workers. His life was dedicated to the betterment of mankind and the elevation of minorities to participation in the mainstream of American life.

In his work with the NAACP he guided lawsuits and subsequent negotiations which resulted in affirmative action policies in the San Francisco police and fire departments and in the nine largest banks and savings and loan associations in California.

Just before his death he was involved with hiring practices regarding women and ethnic minorities by the University of California.

Mr. Carter was born in Minneapolis in 1926 and attended schools in that city. His pursuit of higher learning began at the University of Minnesota and continued at UCLA before returning to Minneapolis.

Early in his career he became involved in politics and the labor movement. He served as secretary-treasurer of the Dining Car Employees Union, Local 516, St. Paul, Minn., and as president of the St. Paul branch, NAACP.

He became field director of the NAACP in 1960 and was appointed regional director in 1964, with headquarters in Kansas City, Mo. In 1965, he moved to his position in San Francisco.

Mr. Carter was a member of numerous San Francisco Bay Area organizations and was a trustee of the St. James AME Zion Church, San Mateo.

Mr. Carter received the John Brown Image Award from the Hollywood branch of the NAACP for his work in civil rights. In January 1974, just a few months ago, he was cited for his outstanding leadership by the national NAACP.

He was a devoted husband and father to his wife Virginia and their five children.

I had the pleasure of knowing Mr. Carter during his life time. I always found him a warm and sympathetic person, a man with a genuine love for people, and a depth of understanding of human probems. He earned the respect of those with whom he worked by his patience, persistence, and sincerity. I believe that the cause of civil rights suffered a great loss with Mr. Carter's passing.

Mr. Carter never gave up in his struggle, even in his last days when he suffered considerable pain. His life should be an example for all of us.

INSTABILITY IN AFRICA

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. ASHBROOK. Mr. Speaker, instability in governments seems to be the order of the day. The recent coup in Portugal will be felt throughout the continent of Africa. The exact impact is yet unknown but several things are known.

Both Communist China and the Soviet Union have done their best to fan the flames of discontent in that continent. Arms, ammunition, and training have been provided to a large number of guerrillas. In the words of a recent San Diego Union editorial:

> Russia and China have little to export to Africa except guns and communism. Neither can do the people of Africa any good. It is tragic that new African nations with so much ground to cover in economic progress are expending so much energy and treasure in power struggles and racist warfare which only plays into the hands of the true imperialists who threaten them—the Communist powers.

Our diplomats—with a few exceptions—seem loath to admit that the Communists—be they of the Soviet or Chinese variety—are still bent on flaming racial strife and creating disorders which are causing great loss of life in Africa. It has been the United States which has given bountiful foreign aid to numerous African states. It has been the Soviet Union and Communist China who seem to be making the inroads.

At this point I include in the RECORD the text of the editorial "Trouble Astir in Africa" from the San Diego Union of May 6, 1974:

TROUBLE ASTIR IN AFRICA

The coup in Lisbon may bring some measure of independence to the Portuguese territories in Africa. Ordinarily, any move toward self-government for people emerging from colonialism could be hailed as progress. In Africa today, however, it is hard to tell whether the retreat of European influence has paved the way for orderly political change—or created arenas for strife and revolution which the Soviet Union and Communist China are willing and able to exploit.

Russian and Chinese weapons have been the mainstay of guerrillla warfare in the Portuguese territories and elsewhere. Moscow and Peking frequently compete with aid programs for native governments, with the usual accompaniment of "technicians." Their professed concern for helping the African people does not conceal the fact they are rivals seeking to marshal Third World support for their contrasting brands of Marxism. They thrive on discontent, whether it springs from racial conflict, struggles between native groups or the specter of hunger which haunts much of Africa.

Instability has been moving like a tide through Africa in recent months. The government of Upper Volta changed hands in a military coup in February. The armed forces of Niger seized their government last month in an attempt to prevent a "catastrophe" from famine and drought. Russian and Czech weapons, passed along by Syria, are feeding a separatist movement in the Ethiopian province of Eritrea while Emperor Haile Selassie tries to reorganize his government. The dictatorial Idi Amin of Uganda is ruling by a reign of terror.

The government of Rhodesia, its legitimacy not recognized by many nations, is putting more men under arms to deal with a guerrilla movement supported by neighboring countries. The recent election in South Africa promises a continuation of the "apartheid" policies of racial separation which are anathema to black Africans elsewhere.

The United States of America has minimal influence with the course of events in Africa. Political pressures in our own country cloud our relations with African governments which deny full political participation by black citizens. Most of the black-governed states line up consistently in the United Nations to denounce U.S. foreign policy as "imperialist." Yet we have been sending economic aid to Africa at the rate of about $350 million a year, and millions of Africans are turning to international food agencies—supported largely by U.S. money and grain—to stay alive.

Russia and China have little to export to Africa except guns and communism. Neither can do the people of Africa any good. It is tragic that new African nations with so much ground to cover in economic progress are expending so much energy and treasure in power struggles and racist warfare which only plays into the hands of the true imperialists who threaten them—the Communist powers.

THE SERIOUS ENERGY SHORTAGE

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. SYMMS. Mr. Speaker, now that this country is in the throes of a serious energy shortage, it is becoming painfully apparent that Congress has shirked its responsibility to the American people by failing to keep closer tabs on the Federal bureaucracy. The Environmental Protection Agency should certainly be included among these superagencies whose actions beg closer scrutiny and more constraint by this body. A recent constituent letter I received brought this to light very well by offering some timely observations regarding EPA's ill-advised air quality standards of 1973. Those remarks and their implications deserve the thoughtful attention of my colleagues. The letter follows:

GEM FUEL CO.,
Nampa, Idaho, April 29, 1974.

Hon. STEVEN D. SYMMS,
House of Representatives,
Washington, D.C.

DEAR STEVE: I am writing you regarding the Environmental Protection Agency's air quality standards, which were issued in January 1973. I wish to point out several factors that would be injurious to health and safety and to the present energy situation as well as those businesses involved.

1. First of all these regulations were issued in January 1973 because EPA believed the catalytic muffler was the only way to meet the proposed air quality standards. Since that time better methods have been available such as the stratified charge engine. Detroit concedes that these devices may replace the converters in two years, and they won't need no-lead gasoline. Therefore, small business gasoline marketers must make huge investments with no hope of recovering their money.

2. EPA's tests show that the catalytic muffler produces sulfates—pollutants perhaps as serious as those the catalyst eliminates. The most current medical and scientific data, even within EPA, clearly indicates serious potential health hazards will result from the use of catalytic converters as compared with the use of existing control systems. In fact we are informed that the sulfates could be fatal to asthmatics and heart patients.

3. *No* lead gasoline is only required to protect the catalytic muffler. Any alleged lead emission problem can be resolved with lead traps.

4. Although most 1975 cars will have a fill pipe which only accepts no lead gasoline, only some of these cars will actually have catalysts that require that gasoline.

5. Refining no lead gasoline requires more crude oil per gallon than the production of leaded gasoline. In the face of our critical continuing energy shortage this will place an additional burden on the industry and will require more product to be tied up in distribution, storage, and marketing.

6. Small businesmen cannot monitor the lead levels accurately but are liable for exorbitant fines if levels are too high.

I am enclosing the recent resolution passed by the National Oil Jobbers Council spelling out our stand on the air quality standards, and strongly urge that the Congress or the Environmental Protection Agency delay for two years the enforcement of this act and allow sufficient time to develop existing technology which will meet standards without this burden.

Sincerely,

A. H. SCHADE,
Idaho State Chairman, Intermountain Oil Marketers Association.

GASOLINE AND MOTOR FUELS RESOLUTION No. 2

Whereas NOJC is committed to the protection and enhancement of the environment and the preservation of our natural resources, and,

Whereas, the Environmental Protection Agency regulations require the availability of unleaded gasoline by July 1, 1974, solely for use in cars equipped with catalytic converters, and

Whereas, the most current medical and scientific data, even within EPA, clearly indicates serious potential health hazards will result from the use of catalytic converters as compared with the use of other existing control systems, and

Whereas the National Academy of Sciences urges a delay in the emission standards and advises a comprehensive review of the standards themselves and urges that an alternate technology be explored as a means of getting cleaner air without catalytic converters, and

Whereas our nation faces a critical continuing energy shortage which will be greatly aggravated by this requirement for lead free gasoline because much more crude oil will be used in production, and more product will be tied up in distribution, storage and marketing, and

Whereas this requirement will impose a tremendous financial burden on the small independent marketers of this nation to provide the equipment necessary to supply unleaded gasoline when most current information from the automobile manufacturers indicates that this catalytic converter may well not be in use for more than two years,

Be it therefore resolved that Congress or the Environmental Protection Agency must immediately postpone for two years the air quality standards which require the availability of no lead gasoline so that the nation can develop existing technology which will meet standards without this burden, and

Be it further resolved that NOJC shall pursue this two year delay by:

(1) arranging a jobber meeting with EPA officials to explain the requirements problems,

(2) seeking an immediate Congressional investigation of the dangers to public health, the long range need for the availability of no lead gasoline, and the disastrous economic impact of these regulations on small business gasoline marketers.

(3) seeking immediate introduction of corrective legislation,

(4) organizing jobber, consumer, industry and Congressional pressure to be coordinated by the Government Affairs Committee, and

(5) undertaking all other appropriate actions including those legal actions recommended by counsel.

LATE INCOME TAX FILING ACKNOWLEDGED BY MR. FRENZEL

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. FRENZEL. Mr. Speaker, 3 weeks ago I announced that I had filed my 1972 State and Federal income tax reports about 1 year late. Due to earlier payments of withholding and estimates, my taxes for that year had been overpaid, and I was owed refunds by the governments.

Insofar as I am aware, I was under no legal obligation to make this announcement. The privacy statutes would, I think, prevent disclosure. I did so voluntarily, because I think it important, especially this year, for the constituency to know. I acknowledge the error and have tried neither to whitewash it nor exaggerate it.

Since then, I have been editorially asked for a more complete disclosure. Therefore, today I present herewith the taxes paid for the last 3 years. Page 1 of the 1972 State and Federal returns will also be made available to my local press on May 17.

I have always done my own tax work. Because this has become a public matter, I have now engaged the services of a CPA firm. I think these figures are reasonably correct, but they are subject to audit. I did discuss the 1972 and 1973 reports with State and Federal authorities prior to filing the 1972 forms. My 1971 Federal report was audited in November of 1972, and a small refund was paid to me.

	1971	1972	1973
Adjusted gross income	[1] $40, 830	[2] $38, 837	[3] $47, 100
Federal tax	6, 092	4, 928	10, 148
State tax	1, 981	1, 665	3, 819
Total tax	8, 073	6, 593	13, 967

[1] Line 18.
[2] Line 17.
[3] Line 15.

On April 22, I published a listing of my assets and liabilities in the CONGRESSIONAL RECORD. Since, I find I should add three assets: A tax refund due, contributions to the State retirement fund, and contributions to the Federal retirement fund.

I made those asset disclosures with reluctance. I believe any Representative owes his constituency information which relates to potential conflict, but I also believe the principle of personal privacy should apply to every person.

I make today's disclosures with equal reluctance, but feel that the late filing requires them. Under normal circumstances, I would not reveal this information, and I would not expect to make further financial disclosures. Nor would I request anyone else to do so.

It is hard to find much in the financial unveiling of political candidates that makes them better candidates than their opponents. Most people would prefer to judge candidates on capability, performance, and issue positions than on skill or good fortune in acquiring assets.

During my congressional service, I have tried to set rules of conduct for myself and my staff that would be beyond reasonable suspicions. Nobody's perfect, but I think those rules are more stringent than most Members of Congress set. These are some of them:

First. I resigned my business affiliation on election day of 1970 and maintain none today;

Second. I resigned outside directorships on election day including the board of a bank;

Third. I sold equity holdings on election day in regulated companies, including banks;

Fourth. I restricted my personal investments to unregulated companies whose business is not affected by any of my committees;

Fifth. I have not invested since the election in local Minnesota companies which might come to me for assistance, but I have retained ownership in some Minnesota firms—and have revealed that owership—acquired prior to my election to Congress;

Sixth. I do not travel on corporate aircraft. I did once in 1971, along with a Democrat Congressman, to make a presentation to a corporate meeting where no regular air service was available;

Seventh. I accept no honorariums, but instead invite those who wish to pay them to contribute to local charities, educational or other do-gooder institutions. I did accept and make public an honorarium in 1971, but have not since;

Eighth. I get no income from services of any kind except the congressional salary; and

Ninth. Before each election, I terminate my newsletter, which goes to everybody who wants it, on the date I file for reelection. Last election there was neither law nor rule. This year the law says 28 days before any election. I shall mail the last issue about 60 days before that.

A BILL FAVORING THE PEOPLE

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. ERLENBORN. Mr. Speaker, in the name of reforming the financing of political campaigns, the Senate has approved legislation which will pass all or most of the cost of Federal election campaigns along to the Treasury of the United States. The short name is public financing; and it has the support of several groups which are usually identified with the cause of reform and good government.

Those who favor some form of public financing make lofty-sounding statements, extolling its virtuous intent. I do not question that intent, but I believe such a measure would be more fraught with danger than with benefits. It would be expensive, discourage the involvement of people, and fracture basic principles of taxation.

There is a better way to achieve the goal of election reform. The bill the gentleman from New York (Mr. CONABLE) and I are introducing today would get at the roots of abuse by permitting contributions to political candidates only by individuals and regularly organized political party committees. Donations by special interest groups, whether they be big labor, business associations, or lobbying organizations, would be prohibited.

Many such associations have been formed in recent years with one primary objective: to influence our National Legislature by contributing to the campaigns of individual candidates. I believe it is a major factor in the soaring costs of electioneering.

If we no longer allow these kinds of contributions, and if we set a limit on the amount anyone can contribute, and if we set stiff penalties for violations of these existing limits and prohibitions, then we can get rid of most of the abuses. As a side benefit, we will effectively limit campaign spending, but without giving an advantage to incumbents.

I emphasize that this bill would give us the campaign reform we want without using our tax dollars. In one way or another, most of the 14th district people who communicate with me complain about unnecessary Government spending and their mounting tax bills. I expect the majority of the people of this Nation feel the same way.

I doubt that they will want their tax money spent for perennial candidates, such as we in Illinois have enjoyed in the person of Lar (America First) Daly. For 30 years, he has been a candidate in every election—for President, for Senator, for mayor, for Governor. He must hold some kind of a record for unsuccessful candidates.

He campaigns in a red, white, and blue Uncle Sam suit, complete with a stovepipe hat. He has not appeared as a serious candidate, but his investments in outfits alone must have put a sizeable dent in his campaign expense account.

One Lar Daly, self-financed, is a good thing for democracy. Five—or 25—Lar Dalys, running at your expense and mine because they enjoy the personal publicity, would be obnoxious, and wasteful of tax money.

Additionally, I doubt the constitutionality of public financing. Just as we Americans should not be taxed to support a religious belief to which we do not subscribe, so also we should not be taxed to support an alien political belief.

Besides stopping business associations and special interest groups from funneling large sums into the campaigns of friendly candidates, our proposal includes the following reform:

Limits on the size of individual contributions—$2,500 to a Presidential candidate, $1,000 to a senatorial candidate, $1,000 to a congressional candidate;

A prohibition against a company's or a union's political action committee paying anyone to work in a political campaign;

Improved monitoring of campaign financing by creation of a Federal Elections Commission. The Commission would assume the election campaign responsibilities now assigned to the Comptroller General, the Secretary of the Senate, and the Clerk of the House;

A limit of one campaign committee per candidate;

A ban on cash contributions in excess of $100; and

Stiff penalties for violations of these reforms and increased penalties for violations of prohibitions and limitations already law.

We can cure the ills of the present campaign system, but we need not sever the lifeline of that system: People. Public financing will eliminate that necessary ingredient; one bill depends upon it.

MORE MURDERED JEWISH CHILDREN

HON. FRANK J. BRASCO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. BRASCO. Mr. Speaker, the other day some Arab terrorists sneaked across Israel's borders from one of their protected sanctuaries and seized a school building with a large number of children in it. They came not to fight Israeli troops in open combat, but to murder, extort, and terrorize. Once in the building and with the children under their control, they made a series of demands upon the Israeli Government, seeking release of a number of incarcerated terrorists, among them the Japanese national who participated in the slaughter at Lodi Airport.

Israel is not prone to yielding to butchers like this, but with the lives of her children at stake, negotiations were considered. Not materializing, however, Israel ordered troops to storm the building, which was done. In the process a number of the children were killed. Israel will mourn and bury her dead, and then will inevitably retaliate against the country which gave sanctuary to the terrorists who perpetrated the atrocity.

The United Nations will look the other way while the children and other victims of the guerilla attack are laid to rest, and then its Security Council will condemn Israel for retaliating by blowing up some buildings across the border. That will be the scenario. That was the scenario last time.

We can wring our hands and deplore all this, and it will change nothing. Actions speak louder than words and senseless U.N. resolutions.

Will anyone in the world, save for an isolated handful, stand up and speak out against these unspeakable atrocities, committed consistently against this tiny state? Has anyone a scintilla of compassion and love of justice remaining that will motivate them to stand up for the Israelis?

Will the United Nations, in such international disrepute, for once grasp the nettle and speak out on behalf of this embattled people? Or will we view the spectacle of international hypocrisy in action once again?

The human tragedy is of course sickening and grievous. The murder of any human being is to be deplored. But the butchery of more than 15 children is to me a special kind of human disaster that speaks volumes about the bankruptcy of morality in today's world.

Worst of all, it is obvious that these people have been hounded, persecuted, and killed because they are Jews. After 2,000 years, the world is still killing Jews because of the accident of their birth, and that is probably the greatest tragedy of all. For if we have not learned that lesson, then we cannot progress ahead in any other area.

If this country cut off more of its financial support to the U.N., I believe the overwhelming majority of our people would applaud. Certainly I would support such a move.

WASTEFUL, ENERGY-CONSUMING HABITS ARE RETURNING

HON. SAMUEL H. YOUNG

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. YOUNG of Illinois. Mr. Speaker, I have become quite concerned over recent reports that Americans are returning to their wasteful, energy-consuming habits. A recent nationwide survey has revealed that automobile traffic in most areas of the country is approaching preenergy crisis levels. The survey also shows that toll road receipts are increasing, mass transit use is slipping, and the rate of electricity conservation is falling.

We cannot allow ourselves to revert to our preenergy crisis way of thinking and living. The end of the Arab oil embargo on March 18 did not signal the end of our energy problems. The problems may be less severe, but they still exist. Federal Energy Administrator, John Sawhill, has repeatedly warned that we must continue to conserve energy or we will face spot shortages this summer.

Americans should continue to use those energy conservation measures that we imposed upon ourselves at the height of the energy crisis. Car pools must be utilized, the 55 miles per hour speed limit must be respected, and people must try to use existing mass transit facilities. This summer, air conditioning should be used selectively.

The United States is seeking to free itself from any dependency on other countries for its energy needs. In an effort to make that goal a reality, the House recently voted a $2.26 billion appropriation for energy research and development. I think it is of critical importance for all Americans to remember that it will do no good to spend billions of dollars to help increase our energy supply if, at the same time, we are simply wasting what is produced.

RESEARCH ON DYSAUTONOMIA

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. KOCH. Mr. Speaker, last year I introduced in the House Interstate and Foreign Commerce Committee a bill to establish an institute for research on dysautonomia. The disease, a disfunction of the autonomic nervous system, is found primarily among Jews of Eastern European ancestry.

Dysautonomia is carried by a recessive gene. A child inherits it only if both parents are carriers, and even then the chances are only one in four. Less than 1,000 cases are known to exist, but many probably go unreported. Because of the rarity of the disease and the variety of its symptoms, doctors often fail to recognize it.

Victims of dysautonomia suffer from impaired sensory perception and automatic functions involving such vital body processes as heart and lung action, digestion, blood pressure, and body temperature. Dysautonomic children cannot distinguish between hot and cold, have no taste buds, and their reflexes such as tearing, perspiration, and salivating are affected. Insensitive to pain, the child may not draw back from a hot stove or scalding water.

For children both with the disease, deleterious effects result from the lack of an enzyme necessary for the proper functioning of the nervous system. Research must be undertaken to discover replacement substances ordinarily produced by the missing enzyme. Another goal is to enable the detection of the disease in a fetus. The sponsorship and financial support of the Federal Government for such research offers not only the possibility of curing dysautonomia. Discovering the mechanisms by which it functions could bring answers for more widespread diseases such as multiple sclerosis, Parkinson's disease and emphysema.

Mr. Speaker, the House Interstate and Foreign Commerce Committee has not yet taken action on this bill for research on dysautonomia. I urge our colleagues concerned about this disease to let Representative PAUL G. ROGERS, chairman of the Subcommittee on Public Health and Environment, know that they support its passage and encourage him to take action on the measure.

MORE AND BETTER CHOICES FOR THE USE OF AMERICA'S LAND

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. UDALL. Mr. Speaker, on February 13, the Land Use Planning Act of 1974, H.R. 10294, was reported out of the Interior and Insular Affairs Committee. This week the Rules Committee granted an open rule for this bill, and it is expected to be on the floor for debate within the next 2 weeks.

It should be stressed that this bill is not a hastily prepared product but is instead the result of 3 years of careful development. It is a measure that has received the full benefit of our committee process.

In the past 3 years, there have been 17 days of hearings on this bill and other similar proposals involving close to 300 witnesses and statements. There were 19 markup sessions in this session alone.

More importantly, this bill has consistently received broad bipartisan support in the committee. As introduced, it had 15 sponsors and it was reported out by more than a 2-to-1 margin. A similar measure passed the Senate nearly a year ago by a vote of 63 to 20.

Throughout the development of this legislation there have been important contributions and support from Secretary of Interior Rogers Morton and other administration officials. As an example of this, I include here for the Members' attention a recent address in Chicago on land use planning by the Honorable Russell E. Train, Administrator of the Environmental Protection Agency:

LAND USE: MORE AND BETTER CHOICES FOR AMERICA

(By Hon. Russell E. Train)

Four years ago, in the first Presidential Message on the Environment ever sent to a United States Congress, President Nixon said that: "The time has come when we must accept the idea that none of us has the right to abuse the land, and that on the contrary society as a whole has a legitimate interest in proper land use." The President went on to underscore the need for "comprehensive approaches which take into account the widest range of social, economic, and ecological concerns," and for the "development of a National Land Use Policy to be carried out by an effective partnership of Federal, State and local governments together, and, where appropriate, with new regional institutional arrangements."

That same year, 1970, Senator Henry Jackson introduced legislation calling for comprehensive land use planning on the part of the states. The next year, the President proposed a national land use policy bill which would encourage and assist the states in regulating areas of critical environmental concern. Senator Jackson's bill was based largely on recommendations of the Public Land Review Commission; the President's proposal drew principally upon the model land use legislation developed by the American Law Institute.

Over the past four years, the Administration has worked closely with Senator Jackson and other members of Congress to help fashion a bill that is both acceptable and effective.

Twice, the United States Senate has passed such a bill—most recently by a 3 to 1 vote. Twice, the House Interior Committee has approved such a bill—most recently by a margin of more than 2 to 1. Yet, several weeks ago, on February 26, the House Rules Committee voted to send the bill back to the House Interior Committee.

There is, in my judgment, no more important legislation before the Congress than that land use bill. Its importance does not lie in the fact that it would have any immediate or earthshaking impact upon land use patterns or practices in this country. The bill reported by the House Interior Committee is a thoroughly modest measure whose importance lies in the fact that it would give new force and focus to efforts already underway in a number of states and communities to give the citizens of this country a real say in determining the course and quality of our physical growth. It is a bill that would help us build upon these efforts and that, by making it harder for isolated groups and individuals to make so many of the critical decisions that shape our human environment, would go a long way toward restoring the rule of democracy in this land.

There are those—I am sure you have heard them—who would tell you this bill would give federal and state governments the power to take private property without compensation; who would tell you that it would put the Federal government into the business of zoning the country; who would tell you that the bill is just another device to enable "ecologists" to stop all development and growth; who would tell you that the bill would take away local zoning and other land use powers.

The bill would, of course, do none of these things.

It would not, and cannot, do anything to erode the rights of property owners under the federal or state constitutions.

It would not involve federal zoning or deprive local governments of the power to make purely local land use decisions. The American Law Institute has estimated that at least 90 percent of local decisions are of local significance only, and these would remain entirely within local hands. The bill, moreover, encourages the states to develop their programs by reasserting the range of local land use authority and providing guidelines for the exercise of that authority.

It would not stop growth. On the contrary, by encouraging the right kind of growth in the right places, it would offer a way out of the present maze of proliferating court cases and community-by-community efforts to stop growth.

No bill that did any of these things could continue to retain—as this bill does—the strong support of the National Governor's Conference, the National Association of Counties, the League of Cities/Conference of Mayors and the National Legislative Conference. One week after the Rules Committee prevented the House of Representatives from voting on this measure, representatives from these organizations—whose membership includes the nation's governors, mayors, county officials and state legislators—came together to urge the Rules Committee to immediately reconsider its vote and to reaffirm their support for early enactment of this legislation by Congress.

In my view, there is hardly a social, economic, environmental issue before this country that is not somehow deeply and directly bound up with questions of land use—with questions of how and where we organize our activities in space. And we cannot hope to really come to grips with these other issues—of housing, of transportation, of air and water pollution, of equality of opportunity as well as quality of life—until we begin to devise effective and democratic ways of dealing with our patterns of growth and development.

To develop that point with any adequacy would require that I talk at greater length than this occasion will allow.

But I do, in the brief time I have, want to underscore several points concerning the importance of land use to some of the more urgent and insistent issues before us.

First, there is no question about whether or not we will have land use planning. The question is: what kind, and who will make the decisions. We already have land use planning of an ad hoc, accidental sort that, while it has made some people rich, has made most of us far poorer in terms of the kinds of choices we have and the quality of life we are offered. For far too many Americans, the choice of a place to live comes down to a choice between the lesser of evils—the choice, for example, of living in a suburb, not so much because it offers the kind of life we really want, but rather because it offers us an escape from the bad schools, the crime and the ugliness that have come to characterize so much of city life.

Second, whether we are trying to stimulate growth or stop it, we simply cannot expect to resolve the problems associated with growth on a case-by-case, community-by-community basis. The patterns of development that result from this approach must inevitably be both socially unfair and environmentally unsound. There is, to begin with, simply no such thing in any American metropolis as a contained, self-supporting community in terms of the overall relationship among the elements of daily life—housing, jobs, schools, transportation, stores and other services, recreation, open space, medical facilities. With very few exceptions, we all cross metropolitan jurisdictional boundaries to fulfill some of our basic needs, frequently if not every day. Yet these relationships and interdependencies are governed and guided by a process that is thoroughly random and chaotic. The convenience and quality of life in metropolitan America is increasingly determined by area-wide forces and relationships that nobody—especially the people who live in that metropolis—has a handle on. We cannot seek to save the metropolis through the same fragmented approach that is largely responsible for its problems in the first place.

Courts across the country have stressed the fact that no community has the right to make, by itself, decisions that adversely affect other communities. There is no more basic tenet of the democratic faith than the principle that those who are deeply and directly affected by a decision should have a say in that decision. As the Supreme Court of Pennsylvania put it, in a footnote to one of its meetings: "Perhaps in an ideal world, planning and zoning would be done on a regional basis, so that a given community would have apartments, while an adjoining community would not. But as long as we allow zoning to be done community-by-community, it is intolerable to allow one municipality (or many municipalities) to close its doors at the expense of surrounding communities and the central city."

It has been estimated that there are in the United States some 10,000 local governments with independent, autonomous authority over land use decisions. Over half of these are in metropolitan areas. In the New York metropolitan area, more than 500 separate jurisdictions control the use of land. According to the latest figures I have seen, Chicago's Cook County has almost 130 separate zoning authorities. Under these circumstances, it is not surprising that we have been unable to grow and develop in ways that are both socially equitable and environmentally sound.

I want, at this point, to express my dismay over the fact that environment and ecological values have at times been invoked as excuses for blocking the construction of low and moderate income housing. Communities who have never displayed much concern for sewage capacity or open space needs—as long as the "right" kind of development for the "right" kind of people was involved—have suddenly "got religion" when somebody proposed to build within their boundaries some low or moderate income housing. I can think of few greater tragedies than to allow "environment" and "ecology" to become code words for economic and racial exclusion—for efforts that in intention or in effect, deny or diminish housing opportunities to Americans of modest means.

There is, in fact, no inherent conflict between the goals of full opportunity and environmental quality. The apparent conflicts that do arise under current conditions could be resolved far more readily under a land use approach that can comprehend both the needs of localities and the needs of a region as a whole, that is concerned with the advancement of social goals as well as with the protection and preservation of natural resources, with the reduction of poverty as well as pollution, with the provision of equal housing opportunities as well as open space, with the creation of a fully open and attractive human environment as well as the conservation of critical environmental areas—in other words, a land use approach that embraces the broad range of social, economic and ecological concerns within an entire area or region.

Third, there can be no question about "stopping" growth and development. Even at the so-called "zero-population birth rate" that we have recently achieved, there will be some 50 million more Americans by the end of this century. Most of those Americans will live in our urban regions. Moreover, unless we change past patterns of development and settlement these Americans will occupy increasing amounts of land. Despite all the talk about our metropolitan areas being congested and overcrowded, the fact is that density in this country—the number of people per given area of land—has been steadily declining since early in this century. In our urbanized areas, population per square mile has declined from 6,580 in 1920 to 4,230—and is expected to decline to 3,732 by the end of the century. It has been estimated that, in the year 2000, urban regions in this country will occupy *one and a half times* as much land as they did in 1960.

Fourth, if this prospect alone is not enough to convince us that we need to grow in far more compact and conservative ways, then our energy and environmental concerns must increasingly move us in this direction. Those concerns have combined with gathering force to make us understand that we do not have unlimited room or resources, and that our energy and environmental ills stem, essentially, from the same source: from patterns of growth and development that waste our energy resources just as liberally as they lay waste our natural environment.

The Council on Environmental Quality has commissioned a study, scheduled for release around the end of this month, of the various costs of urban sprawl—the costs in terms of energy, environment, money, and so on. Preliminary findings show that, compared to a typical low density, sprawling suburban community, a planned high density community entails 44 percent less in total capital costs, 43 percent less in land costs, 43 percent less in energy consumption, 50 percent less in auto emissions, 35 percent less in water consumption, and so on. This study is confined to essentially residential communities and neighborhoods, and does not consider the relative costs imposed—mostly, but not entirely, upon our central cities—by the relatively vast distances we put between our homes and our jobs. If it did, I have no doubt that the cost differentials between the two kinds of development would be even greater

I do not, by any means, suggest that planned high density development is the answer to all our ills, or the only kind of development we can and should have. But I do suggest that we need to do a far better job of shaping the metropolitan areas that three-fourths of the American people live in—and that an estimated 85 percent of the American people will live in by the end of the century.

Fifth, let me repeat here what I said earlier this year to the American Farm Bureau Federation: nobody has a greater stake than rural America in efforts to develop more compact and conservative patterns of growth in our urban areas, and to build attractive and effective mass transit systems to serve them. When we urgently need energy for such basic activities as the production of food and fiber, we can hardly afford to waste such huge quantities of it on the urban automobile. Nobody has a greater stake than rural America in protecting one of our most economically, environmentally and socially essential resources—our arable land and our rural landscape and way of life—from being rapidly swallowed up by urban sprawl.

It was the distinguished Senator from Vermont, George Aiken, who during Senate debate on the land use bill declared that: "the time has come for land use planners and conservationists to add farmland—arable land, that is—to the list of scarce natural resources that should be protected as a matter of policy in the United States." This, he went on to add, is an effort that "might actually unite the farmers and the city people"—and that "more of our States should think in terms of statewide zoning and land use plans with the dual objective of containing urban sprawl and conserving farmland." This objective, he emphasized, "cannot be served by individual cities and counties acting on their own."

In this connection, I notice that, of the seven leading soybean producing states in the country, four of them—Illinois, Iowa, Indiana, and Ohio—are represented at this Conference. From a great many points of view—energy, environment, our world trade position—the increasing production and use of soybeans as a meat substitute might make a great deal of sense for the United States. To the degree that it does, then I should think the preservation of arable land for such production should be a matter of high priority.

I have said, on several occasions, that the energy crisis may be the best thing that ever happened to us if it makes us realize that our energy and environmental goals are essentially the same. It should, in the process, make us aware of something else as well: that we can't go it alone. The environmentalists can't. The people can't. The suburbanites can't. The farmers can't. Nobody can.

That's *basically* what I come to say and what the land use effort is all about: we need each other—the farmers, the environmentalists, the developers, the suburbanites, the city dwellers, all of us. We need to get together to take far better care of all the things we share in common—our earth, our air and water; our cities and our towns; our urban and our rural landscapes. And we need to develop far more open, democratic and effective ways of resolving the sometimes very different, but still deeply interdependent, needs and desires that we may not share.

I was asked recently what kind of country I wanted to see America become by the year 2000.

I said that I wanted to see a healthy environment in which the human body and the human spirit could live and thrive. But I also wanted to see a diverse environment that would offer Americans far more and better choices. Some people want to live in the city. Some people want to live in a small town. Some people want to live out in remote and isolated areas.

If we can begin to come to grips with the problems of land use, then I think that we can build by the year 2000 an America in which far more people have these choices open to them, and in which these choices are really worth making.

MASSACRE AT MAALOT

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. EILBERG. Mr. Speaker, the massacre at Maalot, in Israel, is a crime which can only be compared to the worst atrocities committed by the Nazis and it is vital that the United States react properly.

There can be no recognition of these people as the legitimate representatives of any group other than a gang of murderers. Their actions represent nothing but killing for the sake of killing and their only objective can be to cause more death.

The United States must take every possible action to force the governments *which* provide havens for these criminals to change their policies. This must include the use of economic sanctions if nothing else works.

Finally, it is clear that the United Nations resolution of April 24 which condemned only Israel without even mentioning the murders at Qiryat Shmona was taken as a sign of weakness on the part of the United States by the terrorists. I am supporting the resolution introduced by the majority leader and the minority leader which calls upon the President to have our ambassador to the United Nations introduce a Security Council resolution condemning the massacre in Maalot. But, Ambassador Scali's instructions must also include an order to veto any resolution concerning this situation which does not indict the terrorists for their acts.

The United States must never again even appear to be in the position of supporting the actions of the Arab terrorists.

CONGRESSMAN McCLORY URGES ACTION ON METRIC CONVERSION

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. ANDERSON of Illinois. Mr. Speaker, our colleague from Illinois, Congressman Bob McClory, has long been a proponent of programs designed to convert our system of weights and measures to the international metric system. Recently, Mr. McClory participated as the luncheon speaker at a metric seminar in New York City sponsored and chaired by my constituent, Kenyon Y. Taylor, president of the Regal-Beloit Corp. of South Beloit, Ill.—which is also in my 16th Illinois Congressional District.

Mr. Speaker, American industry is converting rapidly to the metric system, and our Nation alone among the industrial nations of the world has yet to establish an official program of comprehensive and coordinated conversion to a system of metric measurements.

Congressman Bob McClory, who took an active part in the recent debates on the floor of this Chamber, in which the House unfortunately refused to suspend the rules and pass the Metric Conversion Act of 1973, summarized the legislative situation at the recent metric seminar in New York City.

Mr. Speaker, some 200 business and financial representatives were in attendance at the metric seminar held last Friday, May 10, at the Downtown Athletic Club in New York City.

I am anxious for our colleagues to have the benefit of Congressman Bob McClory's timely and pertinent remarks which follow:

Remarks by Congressman Robert McClory Regarding Current Metric Legislation

In coming to you today to report on the status of metric conversion legislation, I probably don't have much better news than is being received in the White House these days regarding the status of Congressional action affecting the President. It is entirely possible that we have underestimated the general opposition to metric legislation. On the other hand, it may be that we—in the Congress of the U.S.—have failed to serve the interests of the people of the Nation by neglecting to provide a practical and workable program for a comprehensive and essentially voluntary conversion of most segments of our society to the metric system of weights and measures. I am sure you are all aware of the three-year study conducted by the National Bureau of Standards, under legislation passed by the Congress in 1968. It is quite inaccurate to suggest that this study was slanted or in any way deficient in its analysis of the current situation in the world and in our nation regarding the impact of the metric system on our economy and our society. The report suggests the urgent need for adopting some reasonable means for a changeover to the International Metric System. Indeed, the first recommendation was the simple and straightforward statement that "the U.S. change to the International Metric System deliberately and carefully."

Now, along with other recommendations, the report recommended that any changeover costs shall "lie where they fall." Indeed, it was stated flatly that this would encourage efficiency and minimize the overall cost to society. The report called for a coordinated national program.

As many of you know, I have endeavored to carry out these recommendations consistent with the conversion to metric measurements, which is occurring in this country—steadily and rapidly, even—without any legislative mechanism whatever.

The great volume of literature on the issue takes account of the rapid movement toward the metric system in our schools, in our industry, and in our daily lives. When street signs report automobile speeds and distances in terms of kilometers, when skis, cameras, film, eyeglasses, pharmaceuticals, sporting events, and contents of packages on grocery store shelves are labeled in terms of metric weights and measures, we are well on the road toward a comprehensive changeover to metric measurements. What is truly astounding is that voices that purport to speak in behalf of millions of Americans in business and labor have made grossly exaggerated estimates of costs and have asserted their special interests in seeking to defeat legislation intended to aid all Americans.

It has never been my view that the Federal government should compel conversion to the metric system. On the other hand, it would seem to be one of the most appropriate functions of the Federal government to provide either the mechanism or the vehicle by which the private and public sectors of our nation might voluntarily—and in an orderly and coordinated and deliberate way—proceed with a comprehensive metric conversion program.

My individual position and that of some 25 or so of my colleagues as embodied in H.R. 10720, would have established a metric conversion board small in number with rather broad authority to work with advisory groups and private trade associations and others to help coordinate their individual conversion programs. But from the outset—and particularly in some parts of the 1972 legislative proposal—there were provisions for large-scale Federal subsidies, grants and loans and other provisions quite inconsistent with a voluntary program in which the costs are supposed to "lie where they fall."

It may be that a certain amount of the momentum, which developed after the metric study report was issued in July, 1971, was lost during the period—between then and now. During the intervening period, organized labor interests—and private interests involving some industry—have developed their own ideas in connection with the *form* and scope of Federal Government involvement in the changeover to metric standards.

The size of the proposed metric conversion board has been expanded, delays involving development of some kind of comprehensive plan have been embraced by a great many proponents of this legislation, and provisions have been added to require future legislative, as well as executive action in order to implement any program whatever.

It would be very easy today to lay the entire blame on organized labor for the disastrous result which occurred on Tuesday, May 7, 1974, when the House of Representatives, by a vote of 153 ayes to 240 nays rejected a modest measure which would do little more than provide a Federal mechanism for voluntary conversion to the metric system. First of all, let me explain the vote, because I do not believe it reflects with any degree of accuracy the attitude in the House of Representatives on the issue of metric conversion legislation. The measure was brought to the House of Representatives on the suspension calendar. This means that the bill was subject to debate for a total of only 40 minutes—with the further proviso that no amendments to the measure would be in order. Let me explain further the purpose of this strategy. It was simply this. The rule adopted by the House Rules Committee authorizing debate on the Metric Conversion Bill made it in order for non-germane amendments to be offered. It would, in effect, permit a violation of the rules of the House of Representatives. The amendments would have authorized a new subsidy or grant program in favor of every man and woman in the country who works with tools so that the Federal government would reimburse any and all such workers to the extent of 90 percent of the first $500 which was spent for metric tools, and would pay 80 percent of all amounts over $500. In addition, the amendments would provide for a special loan program to be administered by the Small Business Administration to help finance businesses engaged in retooling and other steps in connection with converting their operations to the metric system.

Clearly, these amendments go far beyond the purpose of the simple bill to establish a Federal mechanism to assist in voluntary conversion. The amendments, indeed, would impinge on the jurisdiction of other Committees of the House of Representatives; particularly the Banking and Currency Committee and the Select Committee on Small Business. The cost of these two amendments, if included in the measure, would total hundreds of millions of dollars—and would cast a measure that involved relatively no Federal expense into a huge Federal boondoggle, and call for the establishment of a massive new Federal bureaucracy.

Under the rules of the House of Representatives, it would be entirely out of order for us to consider these amendments as a part of our debate on the Metric Conversion Bill. The only manner in which this could be accomplished would be through the device of a special rule such as that which Congressman Matsunaga developed in behalf of the representatives of organized labor—compelling the waiving of House rules for the purpose of considering these so-called non-germane amendments.

The influence of organized Labor in the House of Representatives is substantial, and the effect of placing the Metric Conversion Bill on the suspension calendar was to bar these so-called organized Labor amendments from consideration by the House. Accordingly, the desire to secure passage of metric conversion legislation was directly coupled with a confrontation with the organized Labor interests—as well as the smaller group which is opposed to any and all metric conversion legislation—with the disastrous results of which I have already made reference.

I stood at the entrance to the House of Representatives on the Democratic side during part of the time the vote was being taken, and time after time, I heard the Members repeat "Labor is against it—vote 'no.'" For many Members of the House—primarily Democrats—a direction from the leaders of organized labor is sufficient to determine the manner in which the Member will vote. Such was clearly the case in a great majority of instances on May 7, 1974, and the labor union lobybists can plant another scrubby inch-long feather in their cap, as metric conversion legislation fades into the background, for at least a matter of several months.

What makes the organized labor amendments so unreal and so outrageous is that automobile repairmen throughout the country, who have by far the largest investment in individually-owned tools, have already provided themselves—at their own expense—with all of the tools necessary to repair the automobiles and equipment being manufactured according to metric measurements.

Some published labor estimates of a carpenter's tool costs have indicated sums from $500 to $5,000. In contrast to these seemingly exaggerated figures, it appears clear that hammers and chisels, screw drivers, and other tools of carpenters would be useable regardless of the system of weights and measures employed. Squares, tapes, and other measuring devices would probably be needed over a period of 10 or 12 years, but this would hardly seem to be the basis for a massive Federal grant and subsidy program. Such "measurement sensitive" tools would cost something like $50.00—I'm told.

Despite the massive and perhaps overwhelming opposition of the organized labor lobby, it should not be concluded that there are not other forces working to prevent the kind of Federal legislative program, which is essential if the Nation is to avoid an uncoordinated and disorganized drift to Metric. Testimony in behalf of the International Fasteners Institute expressed opposition to the original metric study legislation. Subsequently, when the conversion legislation was advanced in 1973, this same organization urged postponement and delays for further studies—another way of effectively blocking a legislative program.

Large segments of our society today are undertaking their own private metric conversion programs. In addition, many of the same objections that have been expressed since the very founding of our nation are being repeated today. If you are unaware of this, then I call your attention to the report of proceedings as set forth in the Congressional Record on Tuesday, May 7, 1974.

Ultimately, let me say that not nearly enough of the Members of the House of Representatives have heard from their constituents back home regarding the urgent need for a federally constituted mechanism for helping to coordinate a private and voluntary conversion to the metric system of weights and measures over a 10-year or 12-year period. Public and business interests, educators, scientists, technicians and others, all of whom recognize the rapid changeover taking place, have been too silent in commending to us in the Congress the need for coordinating their private actions. It is entirely possible that until these individual interests are aroused sufficiently to communicate their views and support, a measure to effect a comprehensive program may be delayed. In the final analysis, I guess what I am saying is that the problem remains with you and with me and all who recognize the need for an expeditious and coordinated program of conversion to the metric system to exert our influence among our friends and associates, and with the governmental leaders in the executive and legislative branches of our government in Washington. To say that I am discouraged is to put it mildly, but to concede that I am disheartened or defeated would be most incorrect. The challenge is perhaps far greater today than at any earlier time in our Nation's history. But I am confident—at least hopeful, that we can meet this challenge, too.

I congratulate Ken Taylor on his leadership in the Metric Conversion program.

LET'S GET MORE FOR OUR TRANSIT DOLLAR

HON. JOHN J. McFALL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. McFALL. Mr. Speaker, as chairman of the Appropriations Committee's Subcommittee on Transportation, I am very much interested in developing Federal mass transit legislation which builds on minimum national objectives.

Our colleague WILLIAM MOORHEAD, in his capacity as chairman of the Joint Economic Committee's Subcommittee on Urban Affairs, which has been conducting hearings on mass transit expenditures, yesterday delivered a thought provoking speech at the Washington Journalism Center's Transportation Conference.

In his remarks, the gentleman from Pennsylvania argues not only for minimum Federal mass transit objectives but suggests a unique funds distribution formula based not only on the number of riders carried, but on the percentage of total transit trips carried by a mass transit system.

I urge every Member in the House, and those in the other body, concerned over the need for effective mass transit legislation to read WILLIAM MOORHEAD's remarks.

LET'S GET MORE FOR OUR TRANSIT DOLLAR

(Remarks of Representative WILLIAM S. MOORHEAD)

I would like to thank The Washington Journalism Center for giving me an opportunity to speak here today. As a long time transit advocate I am particularly pleased at the tremendous interest in public transportation that now exists in the press, in the Congress and certainly in each of the cities that you represent. Two years ago, discussion of the topics we are considering today might have succeeded in putting all of you to sleep. While I may do that today too, I at least have the opportunity to begin speaking to open eyes.

I am a transit advocate for a mixture of both selfish and unselfish reasons.

I like to breathe unpolluted air—good transit will limit pollution.

I dislike traffic jams—good transit will limit congestion.

I believe we should conserve energy, and good transit means fuel savings.

Further, as a taxpayer, I object to paying for urban highways that are many times the cost of good mass transit and I deplore the price we must pay in lives displaced and distorted when multi-lane highways uproot families.

I believe that society has an obligation to provide transportation for those too young, too old, too poor, or too handicapped to transport themselves.

Finally, as a city man, representing a city area in the Congress, I am deeply concerned about improving the quality of urban life.

Good mass transit can realize all of these and I think the American public is beginning to recognize this fact.

Over the past five years we have slowly come to realize that our transportation programs have been tremendously unbalanced, strengthening our highway systems while our public transportation services have suffered (until 1970 mass transit accounted for less than 2 percent of Federal surface transportation outlays each year).

The energy shortage last fall accelerated this realization to the point where the need for increased aid to mass transportation is acknowledged now by a number of my colleagues who opposed such aid in the past. Few can deny the need to initiate efforts of considerable size to meet both capital and operating needs of mass transit.

However, at the same time that we need expanded programs, we must evaluate program performance more carefully, so that we are assured of getting the most for our Federal transit dollars. For example, since 1965 the Federal government has spent almost $3 billion on programs of assistance to urban transportation. State and local governments have also made considerable contributions in recent years for both operating and capital assistance. Unfortunately, during this same period, the total number of annual revenue passengers riding urban public transportation has declined by 1.5 billion riders, or 22 percent. While it is certainly ridiculous to suggest that the Federal government has paid $2 to chase each of these riders away from public transportation, the figures do give you some idea of the lack of success of our programs in the past and the magnitude of the problem that we face in the future. Of course if we had not acted at all, the situation would undoubtedly be worse.

As Chairman of the Urban Affairs Subcommittee of the Joint Economic Committee, I am in the process of conducting a series of hearings designed to examine ways in which we might improve the effectiveness of our urban transportation expenditures. Today, I will discuss some preliminary hypotheses which developed from these hearings and attempt to present their implications for national transportation legislation.

The first thing that has become abundantly clear at our hearings is that it is going to be very difficult to induce individuals to leave their private automobiles for public transportation systems. The door-to-door convenience and privacy and comfort of the automobile is most difficult to match. A rail rapid transit system carries people much faster from one station to another, but total travel time due to problems of gaining access to the fixed system, is often quite similar to bus or automobile transportation. Bus systems usually provide service which is closer to door-to-door, but they are often delayed by traffic congestion problems. Exclusive bus lanes can deal with this problem on expressways, but traffic signals and traffic are still encountered in the central city where the congestion problems are the worst. Finally, dial-a-bus, which provides a level of service comparable to a shared taxi, is prohibitively expensive for the job of moving millions of poeple around a city during the day.

There is also considerable debate over the impact of changes in transit service on attracting new riders to public transportation. Some cities claim great success resulting from fare reductions while others will point to various improvements in service as being far more effective. It is most difficult to separate the impact of service improvements and fare reductions. In Atlanta, for instance, the fare reduction is often given credit for the ridership increase, when, in fact, the Metropolitan Atlanta Regional Transit Authority also improved the transportation services considerably during the same period.

Finally, testimony before the Subcommittee has suggested that each city's transportation problems, and thus potential solutions, are unique. Certainly no one can argue with the conclusion that New York's transportation needs are quite distinct from those of St. Louis, Los Angeles or New Orleans.

However, these arguments have been used by some to conclude that urban transportation problems are too complex to formulate a national transportation policy. In my opinion, this thinking is erroneous and has contributed to ineffective transportation expenditures. We can adopt the concept of New Federalist for mass transit expenditures without abdicating the responsibility for establishing specific federal transportation standards.

It must be recognized that, while each city may have different needs and require different transportation services, they all are trying to accomplish similar objectives. All are trying to shift more people to public transportation, reduce energy consumption, lessen environmental damage, and reduce the human and financial toll resulting from total reliance on automobiles and highways. They also want to provide quality transportation services to their low income, elderly and handicapped residents.

What I am suggesting is that the Congress establish specific quantifiable targets in our national transportation legislation which reflect these common objectives. These standards would operate in much the same way as the pollution standards in the Clean Air Act. By establishing these minimum objectives, Congress would substitute measurable standards for the well meaning platitudes that were the essence of past transit legislation. Only if we begin to identify specifically the objectives we hope to achieve with our transportation legislation will we begin to be able to measure the effectiveness of our expenditures.

Once the national targets are established each city would construct its own substantive plan, with the assistance of the Department of Transportation, stating how that city would implement the national targets. The Department of Transportation would not replace local decision-making, but would insure that each region was making progress toward achieving the stated national objectives. In this way we can achieve both local discretion in administration and national formulation of specific goals and priorities.

The adoption of specific national objectives would also provide impetus for more effective program evaluation. Since national targets would be specifically identified, each action by a city would be evaluated on its ability to accomplish these objectives. Actions which proved to be most effective could be recommended to other cities by the Department of Transportation. This would increase the positive participation of the Department in implementing national objectives. Federal transportation programs would be evaluated on the basis of their contribution to achieving national objectives rather than on the number of buses bought. It is important that we not lose sight of what our programs are actually attempting to accomplish.

Under the scheme I am suggesting, each metropolitan area would receive a percentage of the funds required to achieve the national objectives. If the per capita costs of achieving these objectives vary by region, the distribution formula should reflect these differences. The total level of funding would be determined by the amount needed to meet the national targets.

While I feel very strongly that the format I am proposing should be adopted for our national transportation legislation, the data and information presently available is insufficient for immediate development and incorporation of specific objectives. In the interim it is necessary that we provide a significant federal effort, distributed in a manner which will reward those cities most successful in attracting riders to their systems. In my opinion, population and ridership formulas are not the most effective method to achieve this objective.

What I propose as a substitute is a simple formula which would provide sufficient aid to existing cities and yet provide incentives for attracting more riders to public transportation services. The formula would have as its key the market share of total weekday passenger trips carried by public transit. That is, the percentage of total trips carried by the public transportation system on a normal weekday. This figure is, of course, highest in New York City (32 percent) yet transit carries as much as 25 percent of total trips in cities like New Orleans, Chicago and Philadelphia.

If a second factor is added, percentage change in the market share, the cities which now carry a small percentage of the market would be greatly rewarded for increases in the percentage of the market attracted to transit. For instance, if New York attracted three more percentage points of the market it would represent only a 10 percent change in its market share. However, if Atlanta (now attracting about 10 percent of the market) were to gain these percentage points, it would be a thirty percent gain in the market share. Thus the formula would reward cities that increase their share of the market as well as those already serving a large percentage of the market. The percentage change factor would not be dominated by sheer numerical size, thus rewarding change in the market share and providing funds to cities who presently have small market shares but are working hard to attract new riders.

While it might be argued that such a percentage change factor could also be used on a ridership formula, I feel the market share idea has one major advantage over ridership formula, and this advantage is essential. By rewarding market share there is an incentive to attract trips from the automobile, whereas the ridership formula just provides incentives to increase transit body counts. Let me illustrate this point. Under a ridership formula which rewards numbers of bodies only, a city which had one million total trips and 100 thousand transit trips a year would receive the same amount of funding as a city with two million total trips and 100 thousand transit trips. Thus a city which had worked hard to attract ten percent of the trips in its region would receive the same amount of money as a city which only attracted 5 percent of the total trips. However, under a ridership formula, auto trips could soar indicating a relative decline in transit effectiveness without a city suffering from providing poorer service. Under the market share concept, the city that aggressively sought to maintain its position in the market and attract new riders would be rewarded. Since our major objective is not just to increase transit ridership, but to divert people from the automobile, the market share idea is far superior. In my opinion, a market share formula would be a most effective first step toward incorporating national objectives and positive incentives into transportation legislation.

I started out on a rather negative note concerning our lack of success in attracting people to public transportation in the past, but I feel very strongly that the future of urban mass transit holds many success stories. If I'm correct, we can all look forward to the day when our air will be cleaner, our energy resources will be used more efficiently, our neighborhoods and communities will be improved not destroyed, and everyone will be able to move around the city without regard to income or disability. Effective mass transit can contribute greatly to the accomplishment of all of these most important objectives. I hope that we in the Congress will be able to make our contribution by producing the best piece of transit legislation that this country has ever produced.

OUR COUNTRY'S 200TH ANNIVERSARY

HON. SAMUEL H. YOUNG

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. YOUNG of Illinois. Mr. Speaker, in less than 2 years, this country will mark its 200th anniversary. While I am hopeful that our bicentennial celebration will be fitting and worthy of our great Nation, it is doubtful that we have spent sufficient time and effort to have this truly momentous anniversary properly observed and celebrated. Therefore, it becomes necessary for many individuals and organizations to take the initiative and to begin to organize and plan programs to assist in bringing about a renewed dedication to the principles for which our country stands.

As part of the effort to stimulate interest in our country's 200th anniversary, I am sponsoring a "Spirit of 1976" essay contest for all high school students in each high school in the 10th Congressional District of Illinois. Student contestants are asked to write a 500- to 750-word essay on goals which they feel the United States should pursue between now and the end of the 20th century.

Each high school will select the best two essays for final judging. A Spirit of 1976 Essay Contest Committee composed of 10th Congressional District educators and community leaders will then elect a grand finalist and runner up from among the individual high school winners. The grand finalist and runnerup will receive an all-expense paid trip to Washington, D.C. In order to historically preserve the winning essays, they will be submitted to the National Committee on Critical Choices and they will be reprinted in the CONGRESSIONAL RECORD.

I believe this essay contest will stimulate student interest in our rich national heritage and at the same time spur some serious thinking about the critical choices which the United States must make in the crucial years ahead. I urge my colleagues to consider the use of a similar essay contest on the Spirit of 1976. I think it is a unique and particularly appropriate way to enable high school students to understand and appreciate their heritage and to broaden their horizens.

STATEMENT OF REPRESENTATIVE JOEL T. BROYHILL OF VIRGINIA ON A BILL TO GRANT THE CONSENT OF CONGRESS FOR THE STATE OF MARYLAND, THE COMMONWEALTH OF VIRGINIA, AND THE DISTRICT OF COLUMBIA TO AMEND THE WASHINGTON METROPOLITAN AREA TRANSIT REGULATION COMPACT TO AUTHORIZE THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY TO ESTABLISH AND MAINTAIN A METRO TRANSIT POLICE FORCE, TO AUTHORIZE THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY TO ENTER INTO MUTUAL AID AGREEMENTS WITH THE VARIOUS JURISDICTIONS WITHIN THE TRANSIT ZONE, AND FOR OTHER PURPOSES

HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. BROYHILL of Virginia. Mr. Speaker, I am today introducing legislation to establish and maintain a Metropolitan Transit Police Force and to authorize the Washington Metropolitan Area Transit Authority to enter into mutual-aid agreements with the various jurisdictions within the transit zone. Metro security has been a subject of great interest and some discussion in the Washington metropolitan area for the past 3 years. It was universally felt that Metro must be a safe and secure environment for the citizens of the region. The discussion centered around how best to accomplish that purpose.

An exhaustive study of Metro's security needs by the Arthur Young Co. of Washington, D.C., was completed in December of 1972. The basic conclusion of the study was that there was a need for an interjurisdictional Metro police force to work in cooperation with local police, to protect Metro's passengers, employees, and property. In addition, it was recommended that the Washington Metropolitan Area Transit Authority be vested with limited authority to adopt rules and regulations related to transit facilities and operations.

Briefly stated, the joint policing policy calls for both Metro and local police to have full police powers on all Metro transit facilities. In addition, Metro police will have primary law enforcement responsibility in the trains and tunnels, while the local police organizations will have primary responsibility in the stations and parking lots. Both Metro and local police will lend support to each other as needed.

This legislation will empower the Washington Metropolitan Area Transit Authority to implement the Metro security program. Other features of the Metro system will help in the implementation as well. Architecturally, the system has been designed to have spacious, well-lighted stations with attendants to assist the passengers. The attendants will have closed circuit television at their disposal to monitor all station areas. There will also be an attendant on each train, who will have direct telephone contact with all cars under his control. In addition, the Metro system will be equipped with a highly efficient communications and intrusion detection system.

The program and legislation to implement it have been endorsed by the Washington Metropolitan Area Transit Authority's Board of Directors, the Metropolitan Washington Council of Government, the individual prosecutors and police chiefs of the region, and the governing bodies of all eight local jurisdictions in the Washington Metropolitan Area Transit zone. Additionally, the legislation has been enacted by the State of Virginia and has been passed by the Maryland General Assembly. The Maryland bill is awaiting Governor Mandel's signature which in all likelihood will be forthcoming before the end of May.

Mr. Speaker, it is necessary that the bill be passed by Congress on behalf of the District of Columbia and approved by Congress as soon as possible so that the compact will be amended and Metro may begin its program of organization, recruitment, and training to assure the availability of an adequate and competent security force in time for the beginning of rail operation in July 1975.

NEVER AGAIN

HON. BILL GUNTER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. GUNTER. Mr. Speaker, no words are adequate to express the full measure of revulsion and sorrow the world experiences in the aftermath of the sunrise slaughter at Maalot in western Galilee of 16 innocent young teenagers, just at the threshold of life and at the beginning of their promise, and the chance to fulfill their highest hopes for the future.

We cannot know fully what the individual hopes and dreams might have been for each of these 16 young people. But surely they included the dream of a different world, and of a future where the past butcheries and slaughters of human beings simply because of their acceptance of a faith, and devotion to a creed of religious conduct is sharing this planet with others, might mercifully fade into forgotten nightmares from a horrible but buried past.

Surely they dreamed of an end to wandering, an end to all forms of persecution of the human body and spiritual belief. And surely they believed in the day when love reigns and all live as neighbors.

I do not know that from this act which brings such feeling of revulsion that the world today can say with any honesty or assurance that their young hopes are any closer to realization today than in the darkest persecutions of the past. I hope they are. But I also know that the world keeps turning through the centuries and that yet in the year 1974, 16 innocent young people were butchered and slaughtered for the simple reason, in the end, that they belonged to a certain group and worshipped peacefully in a hopeful faith.

They, and we, perhaps have sought too much comfort in the wishful notion that the monstrous inhumanities to which they have been victim over the centuries died with monsters loose in the world three decades ago.

On a scale of horror, there is perhaps hope that this assumption with time will be proved correct. But the atrocity yesterday at Maalot, Mr. Speaker, reminds us painfully that in the world at this hour in the year of 1974 there are still ovens of the mind and men so poisoned with hatred and devoted to the destruction of the human heart and decency itself that only God knows what unimagined spark might yet again enflame the worst passions of others and engulf other young people like those 16 innocent young in the fires and ovens of even greater and darker slaughter once again.

Mr. Speaker, I cannot say that I understand or fully comprehend what U.S. policy in the Middle East may be at this time. In the midst of all of our preoccupations and worries at home, still another casualty appears to be the absence of scrutiny we might ordinarily exercise with respect to the nature, purpose, and implementation of U.S. foreign policy in the Middle East and elsewhere abroad.

If our policy now, whatever else it may be, is insufficient to respond to the atrocity that so shocks and confounds us at this moment, surely we at least can do no less than to avoid the baser sin committed by the peoples of the civilized world of the past when they pretended either that atrocities were not their concern or that there was nothing to be done. We perhaps can do little at this moment.

The sense of futility I feel, as a Member of the Congress of the United States, the monstrous inadequacy of simply adding one's name to yet another resolution, well intentioned as it was and to which I added my name yesterday, is symbolic of the larger futility that engulfs us all as we witness the shocked aftermath of the terror. Perhaps, in truth, we can do little at the moment. But we can, and must, in response to this act of total revulsion, at least not ourselves look away.

Perhaps there is some rational purpose for the United States served, Mr. Speaker, in some way I do not comprehend, by this country's furnishing in such abundance small arms, for example, to all the mutually antagonistic nations of the Middle East, both to Israel and to its surrounding neighbors so steeped in enmity and so unwilling or unable to control the darker, more extreme elements of their own people.

Perhaps there is even some humanitarian purpose sought in pursuing such an ambivalent and ambiguous American foreign policy in the Middle East. Perhaps it is thought that by maintaining some sort of mutual small-arms or large-arms balance of terror that the hope for ultimate peace can best be served.

But that Middle East balance of terror tipped yesterday morning at sunrise, Mr. Speaker, against 16 innocent young teenagers in a school in western Galilee.

And the least we must do is not look away.

At this point, Mr. Speaker, I would like to submit the following statement issued by the Embassy of Israel:

Murderers Not Liberators

Today's attack by the Popular Front for the Liberation of Palestine (PFLP)—General Command—in Maalot is an additional link in a virtual chain of murder and carnage carried out recently both in Israel and abroad.

This most recent act of barbarism proves once again that the terrorists are not brave soldiers fighting against enemy troops, nor are they guerilla commandos engaged in harassing enemy military units. They are merely gangs of murderers, whose victims are defenseless civilians and children.

The activities of these gangs would be impossible without the material and moral support of various Arab governments, who are financing the terrorist organizations and providing training and operational facilities on their territories.

Outwardly this support by Arab states is camouflaged by the ambiguous slogan expressing support for "fulfilling the rights of the Palestinian people," but among themselves the Arab leaders hardly bother to conceal their support for the terrorist organizations and for these organizations' self-proclaimed aim of destroying an independent Israel and her people.

On March 5, 1974, Lebanon's Prime Minister Taki-Adin el-Sulh declared, "Lebanon is firmly committed to continue cooperation with the guerrilla command". Indeed, it is now clear to everyone exactly what are the results of this cooperation and this tight bond between the Lebanese leadership and these murderers.

On February 14, Lebanese Minister Nasri al-Maaluf said that "the Lebanese army will not engage in a policy of force to prevent some fedayeen groups from carrying out actions from Lebanese territory".

The government of Syria is providing financial military and intelligence support to the terrorists—especially to As-Saiqa and to the PFLP—General Command, which claimed credit for the killings at Kiryat Shmone as well as the attack at Maalot. PFLP—General Command leader Ahmed Jabril was in Damascus during the Kiryat Shmone attack and met with President Assad soon after.

The statements and reactions of Arab spokesmen concerning the murders in Kiryat Shmone praised "the heroic and daring action" and "the heroes that carried out the Kiryat Shmone exploit". (Official Syrian radio commentator, April 12, 1974).

A commentator for the Palestinian radio program in Cairo declared that in Kiryat Shmone the terrorists carried out one of their most glorious and daring actions:

"The operation in Kiryat Shmone emphasized the Palestinians' attachment to the land of Palestine" and "has moved the struggle of the Palestinians to a new stage characterized by revolutionary violence against Zionist barbarism."—Cairo Radio, April 12, 1974.

Syria's active support of the PFLP—General Command and Lebanon's responsibility for permitting the existence of terrorist bases and the launching of terrorist attacks from its territory receive encouragement from the international community, as evidenced in the U.N. Security Council resolution following the Kiryat Shmone attack. Instead of condemning such horrible crimes, the U.N. Security Council passed a resolution condemning Israel for her reprisal without even mentioning the mass murder which necessitated it.

The silence of the international community, as well as the surrender to previous terrorist demands by various Western governments and the failure of the U.N. to adopt sanctions against those nations which harbor and support terrorists, has only encouraged Arab governments and terrorist organizations to continue their murderous actions.

FORMER OLYMPIC CHAMPION, PAUL ANDERSON, SETS NEW RECORDS

HON. DAWSON MATHIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. MATHIS of Georgia. Mr. Speaker, a Georgian won worldwide fame 18 years ago by winning the world and Olympic weightlifting titles. Paul Anderson has done other great things and continues to be very much in demand for public appearances throughout the country.

He is the undisputed "World's Strongest Man," having lifted more weight in one single attempt than anyone in the history of the world, 6,270 pounds in the backlift. In public appearances, Anderson demonstrates several feats of strength—driving a nail through a 2-inch board with his bare hands and lifting a table on which six or eight big men are seated.

Paul Anderson's travel and appearances are aimed toward the realization of his lifelong goal of helping unfortunate young people, and for sustaining the Paul Anderson Youth Homes, Inc., of Vidalia, Ga. and Dallas, Tex.

Paul and his wife, Glenda, and daughter Paula, reside in Vidalia—devoting their inspiration and energies toward developing good citizens through spiritual guidance, education, and physical fitness.

Paul Anderson is a constituent of Georgia's Congressman Bo Ginn, but I count him as a close friend and I am following his activities with a great deal of interest and pride.

He recently launched a new program, called SAFE and I wish to submit for review of his friends throughout the country, an article which describes this new endeavor:

Paul Anderson Heads SAFE, Formed To Boost Free Enterprize

Paul Anderson, unchallenged for the title of "World's Strongest Man", is also one of the country's biggest boosters of the free enterprise system. Anderson, who gained worldwide fame following his record breaking weight-lifting in the 1956 Olympics, has never been one to rest on his laurels—he has established two Anderson Youth Homes for boys and he travels the country constantly speaking to youngsters about patriotism, physical fitness and the free enterprise system.

Recently, he and several other concerned citizens who believe the free enterprise system is in great danger decided to do something about it. They have formed S.A.F.E. Inc., Save American Free Enterprise, a nonprofit organization dedicated to reversing the present downward trend of belief in the free enterprise system. S.A.F.E. is not trying to alarm people, but the group is seeking to inform the American people of the facts.

According to Anderson, some of these facts are startling. He says polls have recently shown that over 40 percent of high school students polled do not believe in business making a profit. A Harvard survey found that 50 percent of children over 10 who were questioned said that they do not believe that men who run large companies are honest. A National Review report cited a poll showing that 76 percent of 39,705 college students questioned were anti-free market. Harris polls also show that in the past 5 years the public's confidence in the integrity of business leadership has dropped from 57 percent to nearly 22 percent.

Paul Anderson believes that concerned citizens must stand up and speak out for the free enterprise system or will it die from a lack of understanding. To overcome the many reasons for the low national image of free enterprise, S.A.F.E. was created—dedicated to educating our future citizens and leaders in the challenges and fascinations of the free enterprise system.

The non-profit group, headquartered in Dallas, Texas, along with one of the Anderson Youth Homes, plans to send speakers to talk to schools and to the general public. They will also provide tapes and reading material to inform people of the nature of a free economy. "For if everyone understands what our proven method of doing business really means to us," says Anderson, "no one can tear it down. . . ."

CRIME: A COMMUNITY PROBLEM THAT REQUIRES COMMUNITY SOLUTION

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. RANGEL. Mr. Speaker, representing a district that considers crime in the street its most pressing problem, I am keenly interested in effective measures that could alleviate this menace in our communities. Over the years I have strongly advocated community involvement as a viable approach to this community issue. Therefore I am pleased to share with you and my colleagues this article from the Westsider which describes the success we are having in the upper West Side of Manhattan in our fight against crime. Community awareness and involvement were significant contributors to this success. I believe that these results can be duplicated throughout the country when we begin to emphasize community support and cooperation in our crime programs, as opposed to community suppression.

CRIME IS DOWN BUT STILL POSES PROBLEMS

(By Betsy Haggerty and Tom Rosenthal)

No doubt about it. The West Side is safer than it was two years ago. Reported crime in 1973 dropped roughly 20 percent from the 1972 figures in the three West Side precincts. The drop has continued into 1974, but it has levelled somewhat. And people are asking is the trend about to reverse.

The residents of 70th Street weren't thinking much about statistics last month. They were scared. One of their neighbors, Park Wing Lem, had been robbed and murdered on their street.

20TH PRECINCT

				January, February, and March		
	1972	1973	Percent change	1973	1974	Percent change
Murder	26	22	−15.4	4	5	+25.0
Rape	55	55	--------	7	14	+100.0
Robbery	1,640	1,203	−26.6	279	264	−6.0
Assault	319	293	−8.2	62	57	−8.0
Burglary	2,971	2,252	−24.2	547	586	+7.0
Grand larceny	1,101	1,011	−8.2	246	244	−.8
Auto theft	657	639	−2.7	154	120	−22.0

Source: Statistics furnished by 20th precinct.

A special meeting of the block association was called to discuss security. According to chairwoman Diane Booth, 60 people came, one of the largest turnouts ever. "They came out of horror, shock, disbelief and fear," Ms. Booth said, "and they left with a stronger awareness of what they could do for themselves and a feeling of unity."

One observer called the response to Lem's murder a vigilante reaction. Ms. Booth disagreed. She saw the response as positive and practical, as block members agreed to start a whistle campaign to alert one another when help is needed.

It is clear that good statistics don't mean a lot when one is a victim or even the neighbor of a victim. Crime remains an issue.

Over the next several weeks, The Westsider will take an indepth look at safety on the West Side. This week we will chart the crime picture—what it looks like, and how it is changing.

Next week we will focus on crime prevention—what the community has done and can do. In subsequent articles, we will spend time with the police—uniform, anti-crime and the strategists. We will also highlight West Side trouble spots and talk to some experts in the field of criminal justice.

METHOD

In compiling statistics for the 20th (59th to 86th Streets, Central Park West to the Hudson River) and 24th (86th to 110th Streets, park to river) Precincts, we used figures supplied by the Police Department in seven categories—murder, forcible rape, robbery, assault, burglary, grand larceny and auto theft.

For Morningside Heights, a different method was used. Since the Heights represents only a small portion of the 26th precinct, figures for the entire precinct would be misleading. Therefore we have used figures compiled by Morningside Heights, Inc., a service organization funded by the religious and educational institutions of the area.

The figures were taken from daily police reports of reported crime from 17 selected posts in the Morningside area—from Morningside Drive to the River, Cathedral Parkway to Tiemann Place. They have been verified by the 26th Precinct.

The Morningside report lists crimes of "fear and outrage" and differs slightly from the FBI required listing furnished by the other precincts. Listed crimes are: murder, rape and sodomy, robbery, auto theft, larceny from an automobile, burglary, possession of dangerous drugs, and purse snatch.

THE PICTURE

Two crimes: robbery—theft involving confrontation and violence—and burglary—theft through forced entry into a home or place of business—represent the crimes Westsiders are most concerned about. They pose the threat of violence and personal loss.

SELECTED CRIMES IN MORNINGSIDE HEIGHTS

	1972	1973	Percent change
Murder	6	6	−16.6
Rape, sodomy	17	31	+82.3
Robbery	543	418	−23.0
Auto theft	265	235	−11.3
Larceny from an auto	403	310	−23.0
Burglary	605	500	−17.3
Possession of dangerous drugs	41	21	−48.7
Purse snatch	194	73	−62.3

Source: Figures compiled by Morningside Heights, Inc. No statistics available for 1974.

They are the most numerous crimes reported on the West Side and the crimes that have dropped most significantly over the last year.

During 1973, there was a substantial drop in the number of reported robberies and burglaries in all areas of the West Side.

In the 20th Precinct, the number of robberies dropped from 1,640 in 1972 to 1,203 in 1973, a drop of 26.6 percent. While the 24th precinct had more reported crime in each year, the percentage drop was even greater. Robberies declined 27.8 percent from 2,259 in 1972 to 1,630 in 1973. In the smaller Morningside Heights community, robbery went from 543 in 1972 to 418 in 1973, a decline of 23 percent.

Burglary, the fearsome crime that occurs most often on the West Side, also dropped in 1973. In the 20th Precinct, the drop was 24.2 percent as the number of reported burglaries went from 2,971 to 2,252. In the 24th, the figures went from 3,548 to 2,501, a decline of 29.5 percent. And in Morningside reported burglaries went from 605 in 1972 to 500 in 1973, a drop of 17.3 percent.

The trend is not as bright for the first three months of 1974. While figures are not available for the Morningside area, both the 20th and the 24th precincts have experienced a slight but worrisome increase in crime.

24TH PRECINCT

				January, February, and March		
	1972	1973	Percent change	1973	1974	Percent change
Murder	44	23	−47.7	6	7	+16.7
Rape	78	76	−2.6	10	18	+80.0
Robbery	2,259	1,630	−27.8	385	394	+2.3
Assault	429	532	+24	121	115	−5.0
Burglary	3,548	2,501	−29.5	673	545	−19.0
Grand larceny	1,033	1,055	+2.1	219	253	+15.5
Auto theft	693	720	+3.9	147	124	−15.6

Source: Statistics furnished by 24th Precinct.

In the 20th Precinct the problem is burglaries, which show a rise of seven percent over January, February and March of the previous year. According to Deputy Inspector Pluchino, commanding officer of the 20th, the precinct has "held its own" in terms of robberies by maintaining a decline of six percent during this period.

But Pluchino is obviously concerned about the burglary figure. "Burglary is one of the most difficult crimes to make arrests in," he said. "Usually there is no confrontation and the perpetrator cannot be identified. But we watch every pattern. We hold conferences and find out everything we can about the crimes—where, when and who was likely to have done it. Then we try to figure out, when, where and how it will happen again. And we send our anticrime and uniformed personnel to that area."

Such analysis was responsible for helping to break up a burglary team that Pluchino believes was responsible for making over 100 window burglaries in the precinct.

For example, Pluchino said, the number of burglaries during January and February of this year had actually increased by approximately 23 percent. Then several key arrests were made and the March figures showed a decline of 24 percent in burglary over the previous March.

The 24th Precinct has had great success in keeping burglary totals down during January, February and March. Captain Peter Prezioso reports a decrease of 19 per cent over the same months in 1973 but Prezioso is worried about robberies.

"In the first three months of 74, there has been a leveling off on robberies," he said. Robberies in the precinct increased to 394 from 385 during the previous year, a change of 2.3 percent—minimal but nonetheless a cause for concern.

Prezioso is at a loss to explain the reversal, but says that the precinct was in a state of internal flux during this quarter due to change in assignments—a cut back in the anti-crime unit and a change in Neighborhood Police Teams which caused a certain disillusionment among his officers. "So," he said, "it is difficult to look at that period and say what happened. We'll have to look at what happens now that the precinct is back to normal."

The captain said that April has been a fantastic month for robbery arrests and he said he expects that this will show up as a decrease in the number of robberies in the month of May.

Police point to a number of reasons for the initial decrease in crime. The precise weight of each cannot be determined, but they point to a new awareness on the part of the public of safety techniques, numerous crime prevention efforts, more effective police work through anticrime units and concentrated planning, and some lessening of drug-related problems.

All three precincts have more manpower than they did a year ago and they are putting their additional personnel in "visible" positions, where they will work as deterrents. It will be difficult to measure the real effect of visibility patrols, but the police are certain they will be of some help, and Lt. Peter Mulreany of the 26th Precinct pointed out that more uniforms on the street will make the community feel more secure and, he said, "That is important."

Can the decrease continue? The police admit they don't know.

Captain Prezioso shied away from speculation and Deputy Inspector Pluchino said, "It is difficult to keep up with last year's decrease of over 20 percent."

"My crystal ball is going to crack on that question," said Captain Robert Harris of the 26th Precinct, where Morningside Heights is located. "I would like to say it would continue to go down, but there are so many variables. Have we reached the point of diminishing returns? I don't know."

CUYAHOGA VALLEY: A PARK FOR PEOPLE

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. SEIBERLING. Mr. Speaker, although the idea of conserving open space had its roots in the Middle Ages, the concept of creating a "national park" for the use and enjoyment of the public is new. It began in the United States just a little over 100 years ago with the creation of Yellowstone National Park.

The early parks of our country were born during an era when the country's resources were being rampantly exploited. These parks were created by a handful of idealists who fought many battles, both in and out of Congress, to find support for their cause. It was not an easy task. That they eventually won is something of a miracle.

In establishing the first parks, Congress never contemplated an organized system of national parks. In the beginning there was little coordination of policy and no continuity of personnel. Yellowstone, for example, was controlled for 30 years by the U.S. Army.

It was not until 1916 that Congress created the National Park Service to manage its Federal parks. Today the service manages 298 acres, including national parks and monuments, national historical sites and battlefields, and national recreation areas.

What most people do not realize is that only a small fraction of these areas are usable for recreation. Almost half of them are in the historical category and generally are not available for recreation.

Furthermore, most of the national parks are far removed from the cities where 75 percent of our Nation's people live. The main function of these national parks is not recreation but conservation of natural resources. Public use is limited to such activities as hiking, camping, and backpacking. Because of the outdoor nature of these activities, and the long distances of the parks from cities, most people visit these parks only during their summer vacations.

The National Park Service has only 15 officially designated national recreation areas—17 other areas, such as national seashores, are managed for recreation. Only two national recreation areas, the new Gateway Parks in New York and San Francisco, are mainly urban in nature.

These recreation areas, particularly the two gateways, offer an important alternative for American people. Places where people can enjoy an outdoor experience that is close to home and readily accessible to them. Large areas where people can enjoy the outdoors without feeling overcrowded and without damaging the resources. Open areas where city people can learn about country life and how to appreciate an outdoor experience.

The proposed Cuyahoga Valley Natoinal Historical Park and Recreation Area, between Akron and Cleveland, Ohio, would be this kind of park. Like Yellowstone, the Cuyahoga Valley Park would be created out of urgent necessity. Like Yellowstone the valley is being threatened by development that would exploit its resources. Like Yellowstone, the Cuyahoga Valley Park will become a reality only by the zealous efforts of those who recognize its potential. And like Yellowstone, the Cuyahoga Valley Park would be landmark legislation that could lead the way to a new Federal commitment to parks for people—for people who live in the cities.

The Cuyahoga Valley is not being preserved solely for its beauty or its natural or historical resources, although these are important and significant in themselves. It is being preserved because it is one of the last hopes to create significant recreation space for the people of northeast Ohio—the last large expanse of green space between Akron and Cleveland. It would be within easy access of over 4 million people. It would offer them a place where they can refresh their spirits away from the concrete sidewalks of the city and the jangling pressures of urban life.

Support for the Cuyahoga Valley Park numbers in the thousands and is growing rapidly among people and organizations throughout our country. The Cuyahoga Valley Park proposal has become a symbol of the kind of Federal commitment that is vital if we are to save precious open space in and around our Nation's cities.

I am not suggesting that every urban area have a Federal recreation area such as the proposed Cuyahoga Valley Park. Not every city has such a unique and well-preserved large open space available for that purpose. And the Federal Government cannot afford to make itself the sole custodian of all our natural resources or to become the manager of small neighborhood parks and playgrounds. But the Federal Government also cannot afford to ignore the recreation needs of people who live in and around our major urban centers where the need is greatest, and where the land is still available.

Some people have compared the Cuyahoga Valley Park proposal to the new Gateway National Recreational Areas in New York City and San Francisco. I can understand the comparison, as the Cuyahoga Valley would also serve a large metropolitan area. Yet the Cuyahoga Valley is significantly different from the two gateways, and represents a landmark of another kind. Unlike the two gateways, the Cuyahoga Valley does not consist of fractured parcels of land. It is a large, relatively undeveloped, contiguous open space. Strategically located in the heart of our country, it could ultimately serve many people in the East and Midwest who may never be able to visit our great coastal cities.

Furthermore, the Cuyahoga Valley Park proposal would not require complete Federal ownership of all land within its Federal boundaries. The bill provides for some of the land to be controlled under scenic easements, thus allowing continued production of rich farmlands while maintaining the scenic integrity of the area and protecting the local tax base. Cooperative programs could be developed with neighboring public, quasi-public and private park lands, which would enhance the Federal park and significantly increase its historical, cultural, and recreational base.

Mr. Speaker, I would like to insert in the Record at this time an article by Mr. James Jackson that appeared in the March issue of the Sierra Club bulletin. Mr. Jackson points out some of the outstanding features of the Cuyahoga Valley, and why action is urgently needed now on the bill to establish the Cuyahoga Valley National Historical Park and Recreation Area. The article follows:

The Cuyahoga River: Jewel of the Western Reserve

(By James Jackson)

No one would claim that the Cuyahoga River Valley in northern Ohio has the grandeur of Yosemite, the splendor of Yellowstone or the mystic allure of the Great Smoky Mountains. Yet here in a 20-mile stretch between the edges of Cleveland and Akron is open space with forest-covered hillsides, meadows on the floodplain, and a winding river that was a thoroughfare for the Indians long before the white man came.

Congress is being asked to make it a national historical and recreation park, a designation for non-wilderness areas of special historical and recreational value. Hearings before the parks subcommittee of the House Interior Committee are expected to be held in February. Representatives Seiberling, Vanik, and Regula of Ohio, with 45 cosponsors, have introduced H.R. 7077, which would authorize establishment of the park. A companion measure has been introduced in the Senate by Senators Saxbe and Taft of Ohio. The proposal's backers, including the Sierra Club, say that this is a perfect opportunity to have a national park closely accessible to people. The Cuyahoga Valley is within only an hour's drive of four million persons. Even more significant in these days of gasoline shortages, at least half that number could cycle to it and home again on a Sunday afternoon.

The concept of a national park in the valley is relatively new, but appreciation of the natural attractiveness of the area goes back a long, long way. "The land I live on is as good as any man can wish for," wrote Jonathan Hale in 1810 toward the end of his first year as a settler in the Connecticut Western Reserve. Today, the fine brick home he erected in 1827 is a living museum, surrounded by a growing replica of a

Western Reserve village. School children from throughout northern Ohio come to the 160-acre farm to see what life was like during the 1800's. The farm is but one of several of the public and quasi-public facilities already available in the 20,000-acre valley area. The Cleveland Metropolitan Park District's famous Emerald Necklace encompasses several miles of the valley just to the south of the city. It has been said that a national park stretching on southward could be the jeweled pendant hanging from the necklace. In addition, Akron Metropolitan Park District has five separate parks, totaling more than 3,000 acres, in or immediately adjacent to the valley. Nestled in a woodland on the eastern rim is the Blossom Music Center, summer home of the famous Cleveland Orchestra. Boy Scouts and Girl Scouts each have several hundred acres of woodland for year-round camps and hiking trails. There are three smaller summer camps.

Despite proximity to two major metropolitan areas, the valley retains much of the flora and fauna of centuries past. It has been described as a crossroads for plant life of the East, West, North, and South. One botanist wrote of the region: "Northeast Ohio is one of the richest, if not the richest, natural history areas on the North American continent." Flora characteristic of Canada, and representatives of the post-glacial plant successions thrive here, alongside plants more common to the South. The steep hillsides support a thick growth of timber. Beech and sugar maples dominate, but there are also stands of oak, hickory and ash. On the flood plain are sycamores, cottonwoods, box elder, and black walnut. Ohio buckeye is native in the valley, but is close to its northern and eastern limits of distribution.

Accessible only by footpath is Stumpy Basin, with an amazing array of botanical specimens in a 30-acre swamp owned by Kent State University. Once, it was a turning basin on the old Ohio and Erie Canal. Nearby is Lonesome Lock, overgrown with poison ivy. One of the hopes of park backers is to restore a few miles of the old canal, opened in 1827 and washed out by a great flood in 1913. It would be exciting to have a replica of an old canal boat drawn by mules in tandem so that visitors could experience an earlier form of transportation. Several miles of the old towpath are now traversed frequently by hikers on the lake-to-river Buckeye Trail.

The historic village of Peninsula (pop. 682), once a bustling canal town, lies midway in the proposed park area. Otherwise, houses are scattered. A few farmers raise sweet corn and cattle. Suburban dwellers are moving in. Because of steep hillsides and water-supply deficiencies, development has fortunately been slower than on the plateaus at either side, where there is an almost continuous urban sprawl from Celeveland to Akron. But developers now have their eyes on the valley. One tract for 60 homes was bulldozed out of the forest a year ago. Its promoter wants to go further. On the western rim looms the steel frame of the Midwest Sports Coliseum, which will greatly increase local traffic, not to mention the probable mushrooming of motels, taverns, and gasoline stations. If the remaining valley acres are to be saved as a precious suburban green belt, action must come soon. Only the federal government has the resources.

The two metropolitan park systems have been acquiring land in the valley for almost 50 years, but only a nibble at a time is permitted by limited budgets. The state of Ohio has recently become interested and, with 50–50 matching funds from the Bureau of Outdoor Recreation, now has $8 million available for land purchases. That's a good beginning, but not enough because prices are rising fast. The best guess now is that $40 to $50 million will be needed if the park is to become a reality within the next few years. Beyond that, it would cost more to get less because developers would have made irreversible inroads.

While the Cuyahoga Valley park would no doubt be used mostly by Ohioans, it could also be a welcome haven of rest and relaxation for transcontinental travelers. It is crossed by the twin bridges of the Ohio Turnpike (I-80) and also by I-271, a nortneast-southwest thoroughfare which links central New York state and northwest Pennsylvania with southern Ohio.

Seirra Club members who staged a canoe trip last year through the surprisingly wild Pinery Narrows found the river water a little too smelly for pleasant boating. But with federal and state EPAs insisting on a cleaner effluent from the many sewage plants which dump into the river and its tributaries, it is even possible that the river itself may offer recreational possibilities before 1980. Meanwhile, this is a great open space worth saving for its historic and esthetic values.

REPUBLICANS BLAST DEMOCRATS FOR SECRETLY KILLING BOLLING REPORT

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. FRENZEL. Mr. Speaker, today 22 Republican Members participated in the following statement to the people of this country:

WASHINGTON.—22 Republican Congressmen today issued the following statement calling on their Democratic colleagues to abandon their secretive, obstructive tactics and to allow open debate on the reforms proposed by the Select Committee on Committees (the Bolling Committee).

Sponsors of the statement are: Mark Andrews (N.D.), Alphonzo Bell (Calif.), Edward Biester (Pa.), Silvio Conte (Mass.), Lawrence Coughlin (Pa.), John Dellenback (Oreg.), Pierre duPont (Del.), Marvin Esch (Mich.), Hamilton Fish (N.Y.), William Frenzel (Minn.), H. John Heinz (Pa.), Frank Horton (N.Y.), Jim Johnson (Colo.), Paul McCloskey (Calif.), Joseph McDade (Pa.), Stewart McKinney (Conn.), Richard Mallary (Vt.), Joel Pritchard (Wash.), Howard Robison (N.Y.), Philip Ruppe (Mich.), Garner Shriver (Kansas), J. William Stanton (Ohio).

STATEMENT

Hiding behind the secrecy of the closed doors of the Democratic Caucus and the anonymity of the secret ballot, House Democrats last week threw away the most significant Congressional reform effort in 30 years. Ironically, the very nature of the vote demonstrated why the reform measure is necessary and why many Democrats are so opposed to it.

The Select Committee on Committees under the able and truly bipartisan leadership of Congressmen Bolling (D-Missouri) and Martin (R-Neb.) developed a reform proposal which would make Congress more effective by:

Eliminating proxy voting.

Creating a single track committee system.

Modernizing committee jurisdiction.

Guaranteeing minority staffing.

Early organization of the Congress.

Despite some expressions of discomfort with the report's impact on them as individuals, the Republican Policy Committee voted to support the Bolling Committee and urged open debate of its provisions on the House floor.

Meanwhile Democrats wrangled for weeks over whether they would even permit consideration of the Bolling report. Belatedly, the Democratic leadership appealed for support of the measure by asking opponents to stay away from the vote. In the end, those that were present behind those closed doors acceded to advice by some of their members to kill the measure.

At a time when Democrats are sanctimoniously asking for more openness in government, they have directed the reform measure to another closed door committee from which it is unlikely ever to emerge.

The only way for reform to succeed will be by the mobilization of public pressure on the Democrats to abandon the stultifying unit rule and accept progressive proposals for the reform of House procedures.

INDEPENDENCE FOR PORTUGAL'S AFRICAN "TERRITORIES"

HON. CHARLES C. DIGGS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. DIGGS. Mr. Speaker, I would like to insert for the thoughtful attention of my colleagues the following statement and attachment regarding the impact of the recent coup in Portugal:

STATEMENT BY CONGRESSMAN CHARLES C. DIGGS, JR., URGING INDEPENDENCE FOR PORTUGAL'S AFRICAN "TERRITORIES"

In my capacity as Chairman of the House Subcommittee on Africa, I have long been concerned with Portuguese colonialism in Africa. In view of the recent coup in Portugal, it is vital that the United States carefully reexamine its foreign policy toward Portugal and Africa.

It is particularly important that the United States should, at least, refrain from any actions that would hamper the attainment of "real" independence for Portugal's so-called African territories, and, optimally, urge Portugal to take immediate steps which would lead to full independence. In the interests of world peace, it is imperative that the United States also attempt to assure that South Africa and Rhodesia maintain a "hands-off" position regarding Angola, Mozambique, Cape Verde, and Guinea-Bissau.

Although Portugal's internal liberalization policies are noteworthy—as are increased freedoms for any peoples throughout the world—it is, at the same time hoped that the junta will take concrete steps towards full independence for Angola, Mozambique, and Cape Verde and towards recognition of Guinea-Bissau's independence. It is essential that Portugal's offers to negotiate with the liberation movements include specific reference to independence as a goal, while assuring that hopes for a Lisbon-controlled federation have been abandoned.

The United States Government has an opportunity to play a major part in this process—thereby indicating to independent, majority-ruled Africa that it does not intend to stand for the continuation of colonialism in Africa. In failing to support complete independence and majority-rule for Portugal's African territories, and in supporting a military solution in Africa, the United States would find itself in a highly untenable position supporting the last vestiges of colonialism in Africa, while ignoring the inevitability of popularly-based, independent governments in Angola, Mozambique, Cape Verde and Guinea-Bissau.

In this connection, on May 9, 1974, the Chairmen of the United Nations Decolonization Committee, Apartheid Committee, and Council for Namibia, jointly issued a statement in which they asserted:

"We believe that the evolving situation in Portugal provides the opportunity for the new regime to abandon wholly and completely the misguided policy of its predecessors. They must not only recognize the legitimate right of the peoples of Angola, Mozambique and Cape Verde to self-determination and independence, but must forthwith take decisive and concrete measures toward the realization of that right."

In addition, it is essential that Portugal indicate its willingness to negotiate a timetable leading to *independence* with the liberation movements recognized by the OAU (Organization of African Unit) noting that such a timetable could be negotiated within a period of one to three years. However, it is important that it be based on the unique circumstances in each of the so-called territories.

Of further interest is the particular type solution offered by Portugal. Would Portugal offer to work cooperatively with the African majority or would it simply pull out of the territories, taking with it such assets as it may now control?

INTERNATIONAL IMPLICATIONS

It is unthinkable that the current situation in Angola, Mozambique, Cape Verde, and Guinea-Bissau be viewed in a vacuum. On the contrary, the future of these areas has wide-reaching consequences, not only for the rest of southern Africa, but for the world.

In southern Africa, the geopolitics of South Africa and Rhodesia are major considerations. What would be the consequences if South Africa attempts to protect what it perceives to be its own security interests in Mozambique and Angola? Mozambique's southern boundary borders on South Africa, as does Angola's southern bounadry on Namibia—the international territory which is illegally occupied by the South African Government.

Rhodesia, governed by a minority of white settlers which unilaterally declared its independence from Great Britain in 1965, has only one access to the sea through Beira in Mozambique.

Any attempts by South Africa or Rhodesia to protect these interests, either through military assistance or through support for white settler regimes in the Portuguese territories, surely cannot be condoned by the United States—or by the international community. The possible threat to international peace posed by such actions is clear—in light of the forthright commitment to complete independence made by the popularly-supported liberation movements in the territories and in Guinea-Bissau.

Any nation which has extensive relations with and interests in South Africa and Rhodesia would be detrimentally affected by any outbreak of war in southern Africa. In particular, Great Britain, West Germany, France, Japan, and Israel would be adversely affected. It is time for all these countries to speak out in support of full independence and majority-rule in the Portuguese territories.

Surely, Brazil as the principal Portuguese-speaking country in the world, cannot afford to permit the situation in Africa to deteriorate, while knowing Portugal's colonial policy to be wrong. Brazil also must exert its tremendous influence in support of immediate steps towards full independence.

It is time for the United States and the international community to speak out. Waiting could postpone, if not thwart, a constructive resolution of the situation in Angola, Mozambique, Cape Verde, and Guinea-Bissau.

How long can Portugal continue to maintain its colonial wars—in light of the disillusionment with these wars in metropolitan Portugal and in Africa? How long will Portugal's conscripts continue to fight in Africa, particularly in view of General Antonio de Spinola's own interpretations that a military solution in Africa is not possible? How long can Portugal continue to hold on to territories in Africa, even as part of a federation, in view of the liberation movement's determination to fight for complete independence? Surely, full independence in the territories is more than ever inevitable now.

Have Gulf Oil and other U.S. corporations which are exploring for oil in Angola and Mozambique begun to reassess the implications of their involvement? Failure to recognize these realities is a shortsighted error, which neither Portugal nor the United States nor the myriad of countries and corporations with extensive interests in southern Africa can safely ignore.

BACKGROUND

On Thursday, April 25, 1974, Portuguese Premier Marcello Caetano yielded power to a junta headed by General Antonio de Spinola, former commander-in-chief of Portuguese forces in Guinea-Bissau. Spinola, in his recent book, *Portugal and the Future,* criticized Portugal's participation in its African wars as being too costly for the country and unwinnable, and advocated the establishment of a federation, consisting of Angola, Mozambique, Guinea-Bissau, and Portugal under the leadership of one central government in Lisbon.

Internal disillusionment with Portugal's 13-year colonial wars in Angola, Mozambique and Guinea-Bissau was inevitable. That country, one of the poorest in Europe, has been faced with a multitude of economic problems. In 1973, Portugal had the second lower per capita income ($539) of all NATO countries. Emigration is high, as workers emigrate to other countries, contributing significantly to a population decrease from 10 million to 3.5 million in the last decade. This emigration, coupled with the annual conscription of approximately 150,000 men into the military, has caused a labor shortage that is quite damaging to an already weak economy. Reminiscent of Vietnam, Portuguese troops in Africa, about 40 percent of whom are African, are reported to have been fighting an increasingly defensive war for some time now, rarely, if ever actually seeking out the enemy and usually fighting only when attacked. Nearly 100,000 draft resisters have taken refuge abroad to escape the draft, and the country's military academy has less than 25 percent of its positions for officer candidates filled.

At the same time that a military solution becomes difficult for Portugal, liberation forces in Guinea-Bissau, Mozambique, and Angola have indicated that they intend to continue to wage a military war as long as these territories are not fully independent—federation is not an acceptable alternative.

U.S. RELATIONS WITH PORTUGAL

As a result of the current situation in Portugal, Chairman Diggs, on April 26, 1974, sent a telegram to Secretary of State Henry Kissinger urging an extensive reevaluation of U.S. foreign policy with respect to Portugal and Africa. More specifically, the telegram urged a reassessment with respect to:

(1) the current renegotiations of the Azores agreement;

(2) U.S. NATO relations with Portugal;

(3) independence of Portugal's African territories;

(4) the implications for U.S. policy and Brazilian interests re: Portugal, its African colonies, and Africa, generally.

First of all, it is vital that the current Azores renegotiations be held in abeyance while the situation with regard to Portugal is still in a state of flux. It is important that the United States Government realize that any reciprocity for the Azores base furthers the capacity of Portugal to maintain control over its so-called African territories.

U.S. support for Portugal was substantially enhanced by the conclusion of the Azores agreement in December 1971. This agreement allowed the use of the Azores base by the United States in return for an unprecedented quid pro quo to Portugal which included: $400 million in grants and loans from the U.S. Export-Import Bank, $15 million per year in P.L. 480 grain shipments, $5 million worth of drawing rights from U.S. Government lists of surplus "non-military" equipment, the loan of a hydrographic survey vessel, $1 million in educational assistance from the Pentagon budget, and the waiver of Portuguese support payment for the U.S. military advisory assistance group (MAAG) in Lisbon.

It was this deplorable announcement of a U.S. political alliance with Portugal and its enormous economic commitment which compelled Chairman Diggs to take the unprecedented step of submitting to the President his resignation from the U.S. Delegation to the 26th Session of the General Assembly.

Ths U.S. stand with Portgual is both flagrant and unnecessary—unneccessary in terms of the substantial impact of the Azores base on the local economy. This was borne out by Chairman Diggs' April 1974 visit to Lajes Base, Azores which revealed extensive base-sponsored agricultural, medical and humanitarian projects, including deep-water drilling, and poultry and animal breeding programs. In addition, the U.S. presence in the Azores vitally affects the Azorean economy through local housing rentals and off-base purchases by Americans, as well as the training and employment of Portuguese nationals by the United States with its highly competitive salaries and benefits.

Secondly, it is essential that any other U.S. assistance to Portugal (either bilateral or multilateral) which could be used directly or indirectly for military purposes be reconsidered. In this light, U.S. military assistance to Portugal through their joint membership in NATO is particularly noteworthy. It is also vital that the U.S. Government make known all assistance (indirectly or directly useful for military purposes) which it authorizes for use by Portugal. Furthermore, any participation by the U.S. Government in "secret contingency plans" for the defense of southern Africa should be revealed. The May 2, 1974 article by Tad Szulc in the Washington Post indicates that the full extent of such U.S.-NATO support for Portugal is only beginning to be realized, since much of this assistance is actually a result of "secret contingency plans":

"As long as a year ago, when it became obvious that the rebels were gaining in strength in Mozambique, the U.S. and NATO began to draw up secret contingency plans for air and naval defense of South Africa. In June 1973, NATO's Defense Planning Committee (DPC) instructed SACLANT (Supreme Allied Commander, Atlantic) headquarters in Norfolk, Va., to draw up plans for an allied air-naval task force to stand ready to assist South Africa, should the need arise.

"Following a December 1969 National Security Council Decision to preserve a "balance" in southern Africa, the U.S. has been quietly selling Portugal "non-lethal" military end items such as jeeps, radio systems and spotter planes as well as defoliants. It has trained Portuguese officers in counter-insurgency at the jungle warfare army in Ft. Gulick in the Panama Canal Zone and helped in training Portuguese pilots at bases in Western Germany."

The reporting of secret contingency plans for the defense of southern Africa is particularly worrisome in view of the recent visit of Admiral Hugo Biermann, head of South Africa's defense forces to the United States. Although Admiral Biermann, prior to his visit, assured the State Department that he would have no official contacts of any kind, he is known to have visited Acting Secretary of the Navy, J. William Middendorft, as well as Admiral Thomas Moorer, Chairman of the Joint Chiefs of Staff.

This past January, Connie Mulder, the South African Interior and Information Minister also visited the United States and saw a number of high-level government officials including Vice Admiral Ray Peet, Deputy Assistant Secretary of Defense for International Affairs.

In light of these visits, coincidentally concurrent with the changing situation in Portugal, serious questions can be raised, despite Defense Department denials, regarding U.S. consideration of (and even participation in) any secret contingency planning for the defense of southern Africa.

Thirdly, and most significantly, is the issue of U.S. foreign policy with regard to the independence of Portugal's African territories. It is important that the United States fully support complete independence and majority rule for the colonies, and that it recognize the independence of Guinea-Bissau. Real independence, it should be noted, does *not* mean participation in a Lisbon-governed federation. Real independence does *not* mean control by white settler regime in Africa. Real independence does *not* mean governance by regimes controlled by Lisbon.

Since the early 1960's, Portugal has stubbornly failed to heed its international legal obligations under the U.N. Charter to recognize the right of the peoples of Angola, Mozambique, Guinea-Bissau and Cape Verde to real self-determination. Of course, Portugal's definition of allowable self-determination consists solely of option to become part of a greater Portugal—a federated Portuguese community. The United Nations, joined by the United States, has maintained that (1) Portugal is legally obligated to grant self-determination to its African territories; (2) that self-determination must include the choice of being an independent state and (3) that Portugal's definition of self-determination is not acceptable to the United States, to African nations, or to the international community.

It is clear from recent statements by General Spinola that his view of self-determination and unification of African territories and Portugal into a commonwealth with a Lisbon-based government also does not mean independence. In fact, Spinola is quoted as recently stating that "self-determination should not be confused with independence. It is essential then that the U.S. Government be aware of 'ficticious independence.'" As Chairman Diggs stated in his opening statement before his Subcommittee on Africa's March 14 hearing entitled "The Complex of U.S.-Portuguese Relations":

"We are . . . concerned that the United States not support any movement that would lead to a white colonial, i.e., white settler, regime there (in Portugal's African territories) and, thus, towards developments as in Rhodesia, where a white settler group is trying to maintain controls."

Further caution should be exercised that Lisbon-controlled governments are not imposed in the territories under the guise of independence and majority-rule.

Finally, the United States should certainly reassess the implications for American foreign policy of Brazil's relations with Portugal. If even such a close friend of Portugal's as Brazil comes to the conclusion that Portugal cannot continue to hold its African, what does this imply for continued U.S. support for Portugal?

LAND-USE BILL

HON. ABRAHAM KAZEN, JR.

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. KAZEN. Mr. Speaker, when the Rules Committee yesterday granted a rule for floor consideration on H.R. 10294, on land use planning, I had hoped to testify against the rule. The committee had control of the bill, having voted to postpone indefinitely the granting of a rule in February, and yesterday it acted after a few questions to the principal sponsor, Mr. UDALL. Because the argument which I had hoped to make is pertinent to consideration of the measure when Members vote on it, I offer the statement which I had hoped to make to the Rules Committee. I said that we face a basic question of whether the Federal Government should be involved in land use planning for private property, and it was my contention that this is exactly the sort of decisionmaking that should be left to the States and communities. I return from a primary campaign in my district more convinced that ever that this bill should not be granted a rule.

I have taken this matter to the people in my district. It is an issue of great concern in a south Texas area that has no public lands, but instead has a host of farmers and ranchers who love their land, recognize its essential importance to them and their country, and are actually insulted that the Congress should consider them unwilling to protect it.

The distinguished Governor of Texas, Hon. Dolph Briscoe, has written me and I quote:

> I can recall few measures before the Congress which have been greeted with such alarm and opposition.

Governor Briscoe, who incidentally has also just won approval of our voters in a primary election, went on to say that and again I quote:

> It is my very sincere opinion that land use legislation must not be approved by the Congress until the concepts are explained to and perhaps altered by the public.

Governor Briscoe went on to say:

> One of my major goals as Governor of Texas has been to aid in strengthening the role of the states in the state-federal partnership, and the potential threat posed by one of the major authors of land use legislation—that sanctions would be brought against states that did not conform to Federal guidelines on planning—is one of the clearest threats to strong state government that I can recall during my term as Governor.

The same message comes from large organizations that are national in character, from local citizen groups such as soil conservation districts, and from many individual constituents. I have had scores of letters which I could offer here today. They share a common view that should concern this committee: They resent and reject dictatorship from Washington.

They are not accepting the argument that under the terms of this bill, States are merely offered financial help to develop their own land use plans. The proposal is transparent. It is sugar-coating for government by blackmail. It would say to the States that if you play ball our way we will help, but if you do not, Uncle Sam will take over the ball park.

We in the Congress should not think that we have all the wisdom needed to solve land use planning. In opposing this bill, I certainly am not against planning, but I want any planning to be the best we can get. The experience and wisdom exists in this country, as our production of food and fiber demonstrates. I urge this committee to see the wisdom of leaving such planning to our States, counties, and communities. Let us trust the people.

It was here, to this House, that Alexander Hamilton once brought a foreign visitor and told him our function when he said "Here the people govern." The saying is old, but the truth stands. I submit that when we face a major decision, we should not shrink from hearing the views of the people—and I have had many requests that this proposed legislation not be considered until field hearings across the Nation give the people a chance to be heard.

As I said in my previous appearance here, I have high regard for the principal author of this bill, but I am concerned over his statement that he would propose strengthening amendments on the floor. Those amendments, which I see as sanctions against those States which do not conform to the author's proposals, could haunt this House. If there are amendments, I firmly believe they should be known here, weighed by the Rules Committee, and given the thorough consideration of this committee. The bill has not been changed since this committee considered it in February. Therefore, I urge that the committee decision remain unchanged until the whole proposal is not only considered in field hearings but detailed to this committee.

I respectfully urge that this bill not be granted a rule. I repeat that this is a statement that I had hoped to make to the Rules Committee, but its argument is just as valid when we consider this bill on the floor.

FURTHER NEED FOR SAFE SCHOOL LEGISLATION

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. BINGHAM. Mr. Speaker, the March 31 edition of the New York Sunday News carried an article on the problem of school security which is dramatic evidence of the need to take immediate corrective action. While in some respects the article is overly sensational, there is no doubt that incidents of assault, vandalism, and robbery plague the New York City school system and create an atmosphere of fear and violence which in many cases hamper the educational process.

Such problems are not confined to New York City, or even to large metropolitan school systems. Cries for help to stop the erosion of our public educational institutions caused by unchecked and often unadmitted crime and violence have reached me from more than a dozen States and from numerous cities in those States. Educators and administrators from such varied areas as Clearwater, Fla.; Flint, Mich.; Bellevue, Wash.; Pittsburgh, San Diego, and Baltimore have all voiced urgent appeals for help in addressing the devastating problem of crime in their schools. The Memphis Board of Education has indicated that in the last 4 years vandalism has cost it almost $2.4 million. It is estimated that $500 million a year in equipment, supplies, and facilities are lost by the Nation's schools from vandalism alone.

School officials in New York have undertaken a wide variety of programs designed to curb crime and violence in the schools. Some of these programs are preventive, some protective, while others are aimed at increasing the effectiveness of law enforcement in dealing with school crime. As the News article points out, these programs are of varying effectiveness, although every school and security program seems to be equally hampered by a shortage of funds. It is also clear that there is no systematic school security program which has been carefully designed and evaluated; thus, each school is forced to improvise. This underlines the importance of provisions in the Elementary and Secondary Education Act which Representative Bell and I introduced to initiate a nationwide study of school security problems and programs. This study will enable the Office of Education to recommend model school security programs for dealing with crime and violence in the Nation's schools. The goal is achievable, as the News article points out:

> In schools where students, faculty and guards work together to sort out tensions and where security is tight to flush out intruders, the atmosphere of fear and violence does not hang heavy.

I am hopeful that the Senate will also adopt the House-passed safe schools study proposal, which can give schools across the country invaluable guidance in making our schools places where "the atmosphere of fear and violence does not hang heavy" and the learning process can go on unimpeded.

The News article follows:

The Easiest Ripoff in Town

(By Joanna Mermey)

In the old days, teachers were given information to help them teach their classes. Now they are handed self-defense handbooks, and told to use Bic pens to protect themselves against possible assailants. "A Bic pen can open a beer can or a kidney or an eye," says Ed Muir, chairman of the Chancellor's School Stability Team as he talks about the teachers' union's school survival booklet which instructs teachers how to fight off attackers.

Police department statistics show why teachers are buying Bic pens. During 1973, there were almost 10,000 reported crimes committed in schools or on school property in New York City, including three murders and 26 forcible rapes.

The schools have become the easiest places in town to rip off. "In any high crime area, the local grocery store has some heat (a gun) or an attack dog," says Muir. "Liquor stores have sophisticated burglar alarms and some of them enclose their clerks with bulletproof glass. But the junkies know where to get the bread for their next fix. The school is like a box of candy, easy to open with a lot of goodies inside."

"We see every type of crime in and around the schools," says Patrolman Irwin Lautenberg who walks the halls of South Shore High School in Brooklyn, "murder, rape, assaults with weapons and a great deal of extortion."

"In fact, extortion in the public schools is one of the best recruiting arguments for private schools," says one parent whose child attends Intermediate School 70 in Manhattan. "My son came home from school and said a kid threatened to beat hell out of him if he didn't give him 50 cents. I figured it was cheaper than private school, so I gave him the money. The next day the kid demanded a dollar, so I gave my son a dollar. The following day, it went up to two dollars. On the fourth day, when he asked for 10 dollars, I decided private school was cheaper."

The problem of violence in the schools is divided into three categories: assaults by intruders; assaults by students (both on teachers and other students); vandalism of school property. Last year, broken windows alone cost the city nearly $2 million. And the Bureau of Plant Operations discovered that teenagers were emptying out school storerooms and refrigerators by the carload and selling the food to unscrupulous grocers, leaving the school children without lunch.

Not all the intruders are addicts, hungry for a fix. Some are kids playing hooky. The Bureau of Attendance reports that from 60,000 to 80,000 of the school system's one million children are unlawfully absent from school every day. Many of them roam the streets, looking for trouble. "We pick them up with guns, knives, razors and chuka sticks, which are two long sticks connected by a chain and used for strangling," Acting Chief Attendance Officer Arthur Fast says. Some hang around subway stations and department stores threatening and robbing people. Others loiter around schoolyards or sneak into the school hallways to beat up or steal from teachers and students. Last year, the bureau apprehended 11,000 youngsters during school hours.

Crime reports show that kids are as adept at crime as their elders. In 1972, over 145,000 young people were in trouble with the law in New York City. For youngsters under 16, there were 70,965 youth division reports and 21,553 arrests. Nationwide, more crime is being committed by children under 15 than by adults over 25.

Overcrowding contributes to the violence. A recent study showed that 200,000 pupils are affected by overcrowding in schools which are on multiple sessions and 40,000 have makeshift classroom accommodations. With so many students coming and going on split sessions, it is often difficult to recognize a criminal intruder if he marches in with a group of students. In hallways jammed with kids, pushing and shoving can easily break into a large-scale fight. Because there are a limited number of alternative facilities for the disruptive student, a troublemaker never gets the necessary guidance, and merely gets shuffled from one school to another.

Racial tensions are adding to the crime problem. Attempts at integration have not been too successful. Since white middle-class parents in Greenwich Village, Chelsea and the West Side of Manhattan refuse to send their kids to Charles Evans Hughes High School, the school remains 90% black and Puerto Rican. Some white students who attend the school say they are afraid to eat in the school cafeteria.

Black students, who commute from all of the boroughs to attend predominantly white New Utrecht High School in Brooklyn, have been brutally attacked by neighborhood whites who don't want them in their community. "It may be their neighborhood," said Yolanda Wooley, a black student at New Utrecht, "but it's my school. My parents pay taxes, too." Tension is also growing between black American students and West Indian blacks who are forming gangs to settle their difference.

Chancellor Irving Anker, head of the New York City schools, attributes the higher incidence of violence to the higher percentage of weapons. "I was born and brought up in a fairly poor section of Brooklyn," he says. "I saw violence and was abused by kids from other ethnic groups, but we used our fists. You rarely saw anybody wielding a knife."

Things have changed since the chancellor was a schoolboy. Last year, parents and teachers terrorized in the schools came from all over the city to testify at City Council hearings. Queens Councilman Matthew Troy assured them that no one was immune. His 15-year-old daughter Maureen was attacked by three girls at Martin Van Buren High School.

"She was so frightened she refused to go back to school for nine days," Troy said. "She also wouldn't tell me who hurt her, because she was scared that they would start up with her again."

In August 1972, the Board of Education set up the Office of School Security which oversees the guards in the city's high schools and collects reports on incidents of violence in all of the city's schools. A sampling of incidents reported during the week of Jan. 11 in the office of School Security's confidential log included:

Midwood High School—Two male students were involved in a fight with each other. One student was cut with a knife. Injured student was taken to Kings County Hospital where he received 30 stitches. Student perpetrator was suspended and arrested.

Charles Evans Hughes High School—While trying to break up a fight between male students, teacher Lance Geschwind was assaulted by a student bystander. Teacher was taken to hospital. Student perpetrator was suspended and arrested.

JHS 43 Brooklyn—Male student on suspension, entered the building without permission, went to room 223, approached a male student, pushed him onto teacher's desk and proceeded to hit student with his fist. A chain was wrapped around his fist. Student perpetrator then left the building.

Franklin K. Lane High School—Male student was found in possession of air gun hidden under his shirt. Student arrested.

South Shore High School—Male student was in possession of a zip gun. The weapon was found to be loaded with a .22-caliber bullet. Student arrested.

A controversy surrounds the issue of school violence. While some school administrators think crime in the schools is not much of a problem, others charge that the violence is reaching epidemic proportions. Although the latest statistics compiled by the Office of School Security report that assaults against students are up 36.4% and against teachers 13.1%, Chief Eldridge Waithe of the Office of School Security contends that the majority of incidents are isolated and involve a minor assault or stolen bus pass.

Many parents charge that Waithe's statistics are not accurate. One Greenwich Village parent remarked: "If a known killer is lurking in the schoolyard, it is classified as a minor disruption. We reported an attempted kidnaping of a youngster to the Office of School Security and the office said it had no record of it."

The United Federation of Teachers also disputes Waithe. President Albert Shanker claims that many incidents go unreported because principals don't want to stigmatize their schools, and kids are afraid to report crime because of the threat of retaliation. On the other hand, Paul Balser, chairman of the High School Principals Association, says principals do report crime, so they can get better security since the allocation of guards is partly based on incidents reported.

The number of security guards raises many tempers, especially in the decentralized elementary and junior high schools some of which have no guards at all. Parents at PS 41 in Greenwich Village collected money and hired their own guard, while parents at PS 229 in Queens volunteered as guards themselves. Earlier, 200 angry parents from Manhattan's Community School District 2, armed with petitions with 8,000 signatures, marched on the Board of Education demanding protection for their children. "My child is afraid to go to the bathroom," said one mother. "Is the Board of Education waiting for another murder before we get our guards back?"

The response from the Board of Education was that no further money would be allocated this year. But Councilman Troy, remembering his daughter's trauma, promised that the City Council would give the School Board additional money if it asked for it.

Unfortunately, some of the school guards have caused trouble instead of alleviating it. The low pay, temporary hours and lack of minimum qualifications attached to the job do not always attract the type of people that should be in the schools.

Nick Cifune, who represents the guards for the Teamsters Union, has received complaints from schools that some guards are pushing drugs, inciting trouble, and have criminal records. Cifune himself maintains that 25% of the guards he represents should not be in the schools. "If a guy isn't trained, he might panic and hit a kid," he adds.

Larry Amato, who has worked as a guard at Francis Lewis in Springfield Gardens, and Bayside High School, agrees with Cifune: "A lot of the guards don't care about the kids. Some smoke marijuana and drink on the job. Being a school security guard is a big responsibility. We're supposed to be policemen, liaisons to the administration and buddies to the kids.

"You rarely see fights of one against one anymore. Gangs of four or five will jump one kid. At Bayside, which is supposed to be a 'good school,' members of a white gang tried to run down black kids in the parking lot. When we stopped the car, a rifle fell out. That's the type of problem we have to deal with."

Many guards feel the need for more intensive training to handle outbreaks of violence. In the high schools, the guards go through a two-week training program. In the junior highs and elementary schools most of the guards have no training at all.

Because the guards are not paid during the summer months, there is a huge turnover. John Tumminia, a former truck driver, readily identifiable at New Utrecht High by his green windbreaker with the words "Utrecht Security" set in big letters, says he will stay in the school as long as he can because he believes it will be a good job soon. Tumminia, who has a natural rapport with the students (the kids say "John's our man"), also gets involved with after-school sports and activities. He hopes that the job will become a year-round one so he won't have to be dependent in the summer months on his wife's salary. But Chancellor Anker maintains that other school employes have learned to organize their lives around part-time jobs and so should security guards.

To beef up security, the Board of Education is spending $5 million on sophisticated electronic equipment and the chancellor plans to ask for an additional $6 million next year. In fact, some schools, like South Shore High—with two cops, 15 security guards and the electronic SCAN system—are beginning to resemble maximum security prisons.

At South Shore, every teacher is equipped with a pen alarm. In case of attack, the teacher aims the alarm at the public address system, shoots the device like a gun and a light goes on in the main office. In less than a minute, security guards arrive at the scene. The SCAN system is being used in two other high schools and will be expanded to 20 schools next year. Electronic equipment utilized for rapid communication at other schools includes walkie-talkies, closed circuit television systems, electronic door alarms which transmit emergency messages from the principal's office to the guards.

Every school is required to submit its own school security program to the Board of Education. PUS 221 in Brooklyn has instituted a color-coded visitor system similar to the ones used by many large corporations, and it works to keep out intruders.

George Washington High School has organized a "cool it" squad to deal with tension before it erupts. The squad is made up of students, teachers and administrators and serves as an auxiliary force to guards carrying walkie-talkies. George Washington, which was the scene of many racial battles several years ago, is now quiet.

Parents are also taking an active role. Some in Manhattan have formed a citizens' patrol to help children go to and from school safely. Members of the Parents' League, which has over 400 volunteers, station themselves on strategic street corners. They wear brightly colored orange ponchos so the kids can immediately find them in case of trouble. The league also recruits neighborhood merchants to provide refuge, phone and emergency aid. Police records slow a significant decline in street crimes against children in areas served by these patrols.

There is also a Police-School Liaison Program designed to prevent crime before it happens. Police officers provide extra security in the schools when needed, make classroom presentations and visit parents and pupils at home. The program which has been operating in 24 schools has been successful and if money can be found will be tried in other schools next year.

Still, for the foreseeable future, security guards and electronic surveillance equipment will be as much a part of going to school as arithmetic and basketball games. In schools where students, faculty and guards work together to sort out tensions and where security is tight to flush out intruders, the atmosphere of fear and violence does not hang heavy. And one day, perhaps, students and teachers will be able to forget about roving gangs and flying furniture—and once again use their Bic pens for writing.

GUAM TERRITORIAL HISTORIC WEEK

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. WON PAT. Mr. Speaker, the history of a people is always the major source of pride to the people concerned. The same is certainly true for the native population of the Marianas Islands, and in particular for the inhabitants of the American Territory of Guam.

To preserve the memory of our past and to install in our young people a desire to learn more of their ancestral history, the 12th Guam Legislature has adopted a resolution which designated the week of May 6 as "Territorial Historic Preservation Week."

As one whose veins flow with the blood of the many nations who left their impact on Guam during the centuries, I am naturally proud of our island's diversified history and congratulate the membership of the Guam Legislature for acting thusly.

I additionally congratulate the legislature for the recent adoption of resolution 595 which creates a Guam Institute of Spanish-Chamorro Culture. For the enlightenment of my colleagues, I would at this time like to insert in the Record an abbreviated version entitled "Guam at a Glance":

Guam at a Glance

A. *Location*. Guam today is an organized, unincorporated territory of the United States, the largest and most populated island between Hawaii and the Philippines. It is 30 miles long, ranges from 4 to 8½ miles in width, has an area of about 209 square miles, and a population over 100,000. In area, it is nearly the size of Singapore and about one-third the size of Oahu, Hawaii. Guam is strategically located in the Western Pacific as a gateway and crossroad to the Far East and Micronesia (See map, back cover). (Map not printed in Record.) In statute miles, it is 1,550 miles from Tokyo, 1,600 miles from Manila, 2,100 miles from Hong Kong, 3,100 miles from Sydney, and 3,700 miles from Honolulu. It is closer to several major Asian cities and markets than Honolulu is to San Francisco. Guam is also a distribution center for the nearby U.S. Trust Territory of the Pacific Islands (Micronesia) and is a major link between these islands and the rest of the world.

B. *Climate*. The climate is tropical, with a mean annual temperature of 81 degrees, an all-time temperature range of 66 to 94 degrees, and average minimum-maximum temperatures of 75 to 86 degrees. With this small variation in temperatures, the island abounds with exotic flowers, tropical fruits, and good beaches in use the year around. The average yearly rainfall is about 85 inches, varying from 2 inches average in March to 14 inches average in September. Most of the rainfall occurs during the months of July to December. Mean relative humidity varies from 72 percent at noon to 86 percent in early morning. Guam lies within the Pacific typhoon belt, and is infrequently subject to these violent storms. (Guam's building law requires typhoon resistance design in all new construction). The island enjoys cooling trade winds throughout most of the year, so the climate is generally healthful and pleasant.

C. *Topography*. Guam is of volcanic origin, surrounded by a coral reef in most areas. Shaped somewhat like a footprint, its narrow middle waist divides the island into roughly two parts (See map, insert). (Maps not printed in Record.) The northern part is a high plateau of 200 to 600 feet elevation, with no permanent rivers or streams, and with several spectacular steep cliffs abruptly forming the coast line. The southern part is high and rough, with a ridge of hills 700 to 1300 feet in altitude, including the high point at Mt. Lamlam of 1,334 feet. This part contains several streams emptying into the sea, colorful villages on the south coast, and excellent boating and fishing areas. Agana, the business center of Guam, is in the flat middle "waist" area, with low scenic hills in the background.

D. *History*. For unknown generations, the independent ancient Chamorros of uncertain origin were the only inhabitants of Guam. In 1521, Guam was discovered by Ferdinand Magellan, formally claimed by Spain in 1565, and remained a part of the Spanish colonial system until 1898. During the intermittent Spanish-Chamorros Wars from 1668 to 1695, many of the Chamorro males were exterminated. This warfare, plus disease epidemics, reduced the native population from an estimated 50,000 to 100,000 before 1668 to below 5,000 by 1695. Spanish law, Catholic religion, and the Spanish pattern of government became a part of the life of Guam over the next two centuries. Intermarriage between remaining Chamorro women and men of Spanish and other nationalities gave rise to the present day mixed-blood Guamanians.

At the conclusion of the Spanish-American War in 1898, Guam was ceded to the United States, and was placed under Naval Government by Executive Order of the President. In 1941, Guam was occupied by the Japanese, but was liberated by American troops in 1944. In 1949, administration of the island was transferred from the Secretary of the Navy to the Secretary of the Interior, and the first civilian governor was appointed. In 1950, the Organic Act of Guam was passed by the U.S. Congress and signed by President Truman. This Act made the people of Guam U.S. citizens, established the present day civil government, and paved the way for development of modern Guam as an American Territory in the Western Pacific.

E. *People.* Guam's people and customs are a composite of the three basic historical influences—the ancient Chamorro, the Spanish colonial system, and American government. The Guamanian of today is wholly American, with a cultural background derived from his American, Spanish, Filipino, Mexican, Japanese and other forebears. The Chamorro language has been preserved and is widely spoken, although almost everyone is fluent in English, the official language. Guamanians are a proud, friendly, and highly patriotic people. The Spanish Catholic heritage has resulted in closely knit family ties, active religious devotion, and frequent family and village participation in fiestas, weddings, and wakes. Modern American practices are predominant, varying from color TV to the latest clothing styles, dancing, and entertainment. Food tastes reflect the cultural heritage, with a wide variety of the favorites of many nationalities readily available. Guam is modernizing at a rapid pace and is becoming America's showplace in the Orient.

The 1970 official census placed Guam's population at 84,996, of which approximately 66,000 (78 percent) were civilians and 19,000 (22 percent) were military. The civilian population has grown about 60 percent since 1960, while the military population has declined. This reflects the emerging importance of the private sector in the economy. The civilian population has been estimated to be about 77 percent Guamanian, 9 percent Stateside, 9 percent Filipino, and 5 percent "others." At present, due to the economic boom, in-migration of U.S. citizens and foreigners (Filipinos, Japanese, Chinese, Koreans, etc.) is increasing rapidly. The total population is projected to reach 100,000 by 1975 but may be past that point now.

F. *Government.* The territory is administered under the Organic Act of Guam of 1950, as amended, providing for civil government, citizenship, bill of rights, and other features. Guam's relations with the Federal Government in matters not under the jurisdiction of another Federal department comes under the general administrative supervision of the Secretary of the Interior. Guamanians, although they are American citizens, do not vote in national elections and have had no representation in Congress until 1973. During the November 1972 elections, Guam was authorized to elect a non-voting delegate to the U.S. Congress (House of Representatives) with the Honorable Antonio B. Won Pat assuming this seat in January, 1973. The local government consists of three branches—executive, legislative, and judicial.

The Executive Branch is headed by the Governor of Guam. Until 1970, the Governor was appointed by the President. As authorized by the Elective Governorship Bill, the first election for Governor and Lieutenant Governor for a four-year term was held in November 1970. In January 1971, the Honorable Carlos G. Camacho was inaugurated as Guam's first elected Governor, with the Honorable Kurt S. Moylan as Lieutenant Governor. The Governor is the Chief Executive and Administrator of the affairs of Guam, delegated with the responsibility of executing the laws of Guam and the U.S. laws applicable in Guam.

The Legislature of Guam is unicameral, with 21 Senators elected at large every two years. The Legislative power encompasses all matters of legislation of local application, subject only to the Organic Act and the laws of the U.S. applicable to Guam. This includes matters of vital interest to businessmen, such as taxes, assessments on property, sales license fees, etc. The laws passed by the Legislature are subject to the approval of the Governor and are codified into convenient volumes, which include the governments, civil, civil procedures, penal, and probate codes.

The Organic Act created the District Court of Guam, with the Judge appointed by the President for a term of eight years. It has the jurisdiction of a district court of the United States in all cases arising under the Constitution, treaties and laws of the U.S. regardless of the sum or value. This court has jurisdiction in all other cases wherein the amount of the controversy exceeds $5,000 and also has jurisdiction in all territorial matters wherein a felony has been committed. The Island Court consists of a Chief Judge, three island court judges, and a police court judge.

Island Court Judges are appointed by the Legislature for a term of eight years from nominations submitted by the Judicial Council. The jurisdiction of the Island Court extends to civil cases wherein the amount in controversy does not exceed $5,000. It also has original jurisdiction over matters pertaining to domestic relations, probate cases, and all tax cases, excluding cases involving personal income tax.

G. *Social Facilities.* Guam has placed particular emphasis on improvement through education. School attendance is compulsory for all children between the ages of 5 and 16. There are 35 public and 18 private schools operating on the Island, including seven senior high schools (4 private, 3 public). Total enrollment was nearly 32,000 as of September 1972. The University of Guam is the only American institution of higher learning in the Western Pacific, and is accredited by the Western Association of Schools and Colleges. It is a public institution presently consisting of the College of Arts and Sciences, the College of Education, the College of Business and Applied Technology, and the Graduate School. The University offers associate, baccalaureate, and master's degree programs and various certificate curricula. It has two major research components: The Micronesian Area Research Center and the Marine Laboratory. Total enrollment was 3,350 as of September 1972 (2,050 full-time, 1,300 part-time).

Medical facilities include the fully staffed public 253-bed Guam Memorial Hospital, accredited by the Joint Commission on Accreditation of Hospitals. Construction on a new 400-bed hospital is scheduled to begin in 1973. There are 2 large public health centers and 15 small health centers in the various districts, emphasizing preventive procedures, including dental care. There are several excellent privately-run clinics operating throughout the island, offering modern medical and dental care.

Religion receives serious attention in Guam, with numerous churches representing all faiths. Although the Catholic religion and Catholic churches predominate, businessmen in Guam can readily find the church of their choice. Guam is well represented by the various business, civic, fraternal, service, and young people's organizations normally found in Stateside communities. These include Rotary, Elks, Lions, Shriners, Knights of Columbus, Boy Scouts, Girl Scouts, Guam Women's Club, Red Cross, Cancer Society, etc.

H. *Living.* A favorite local saying is "Guam is Good!" For most people, living in Guam is indeed good, and it is getting better. Life in this tropical island is casual, informal, friendly, with a frontier-like small town atmosphere. Recreation and entertainment opportunities are numerous, with year-round outdoor sports and activities. Social activities are plentiful, cosmopolitan, and hospitable. Cultural activities such as education, music, threatre, dance, art, etc., are available and improving. Political activity on Guam is lively.

For example, 75 percent of the voters turned out in the November 1972 elections, much higher than the national average. The democratic process of government is a working reality in Guam. From the environmental viewpoint, serious attention is paid to clear air, and clean water standards. Another local saying sums it up best: "No fog, no smog, cheap grog!" However, Guam does have problems that should be recognized. There is a shortage of adequate housing. Since most items are imported, the cost of living is higher than in the U.S. mainland, mainly due to higher costs for housing, food, and automobiles. (Guam Consumer Price Index is now available starting with First Quarter, FY 1973, See Section IX). Automobile traffic is becoming a problem. There is no public transportation, except for taxi service, therefore a car is a necessity. The rapid growth of the economy has placed a burden on the infrastructure (roads, utilities, sewers, schools, etc.) to keep pace. Plans to meet future expansion needs have been made, but will require large capital expenditures.

WHY I OPPOSE THE SUPREME COURT DECISION ON ABORTION

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. HOGAN. Mr. Speaker, the movement to reverse the Supreme Court decision legalizing abortion is gaining strength and following throughout the country.

I would like to request that the following article, "Why I Oppose the Supreme Court Decision on Abortion" by Dr. Dennis Cavanagh be inserted in the Record. I am sure it will better inform those Members who have not yet joined this movement on the effects of abortion.

Dr. Cavanagh is professor and chairman, department of gynecology and obstetrics, St. Louis University School of Medicine. In addition, he is a former director of obstetrics and gynecology at the St. Louis City Hospital, a fellow of the American College of Obstetricians and Gynecologists, a fellow of the Royal College of Obstetricians and Gynecologists—England—a fellow of the American College of Surgeons and a fellow of the American Gynecological Society.

Dr. Cavanagh is opposed to the majority decision of the Supreme Court and sees it as a milestone on the way to dehumanization.

The article follows:

Why I Oppose the Supreme Court Decision on Abortion

(By Denis Cavanagh, M.D.)

On January 22, 1973, The United States Supreme Court handed down a decision which means in effect that the abortion laws of all 50 States are considered unconstitutional. The Court decision has been somewhat inaccurately reported by the media and the press so perhaps we should consider exactly what the Court has done.

The facts, as analyzed by John T. Noonan, Professor of Law at the University of California, appear to be as follows:

First, the Court held that the right to terminate a pregnancy at any time during the pregnancy was a right protected by the United States Constitution, a fundamental right, implicit in the concept of ordered liberty (Roe v. Wade p. 37–38).

Second, the Court held that a state had no power to regulate abortion in any way to protect the fetus in the first six months of fetal existence (Roe v. Wade p. 48).

Third, the Court held that in the final three months of fetal existence, a state had no power to prefer the life of the fetus to the health of the mother (Roe v. Wade p. 48).

Fourth, the Court held that the "health" of the mother was to be determined by a medical judgement "exercised in the light of all the factors—physical, emotional, psychological, familial, and the woman's age—relevant to the well-being of the patient" (Doe v. Bolton pp. 11–12).

Fifth, the Court held that a state does not have the power to require an abortion to be performed in a hospital accredited by the Joint Commission on Accreditation or in any hospital (Doe v. Bolton p. 15); does not have power to require review of an abortion decision by a hospital committee (Doe v. Bolton p. 17); does not have the power to require that the mother be a resident of the state (Doe v. Bolton p. 20).

Sixth, the Court held that a state does have the power to require that only a licensed physician perform or sanction an abortion (Roe v. Wade p. 49) and that a licensed facility house the operation after the fetus is three months old (Doe v. Bolton p. 15).

Now let us consider some of the arguments on the basis of which this sweeping decision was handed down. The majority and minority opinions together cover approximately 80 pages, but I will pick out a few of the arguments used. In developing the majority opinion of the Court in the case of Roe v. Wade, Mr. Justice Blackmun made the following points: "one's philosophy, one's experience etc. . . . In addition, population growth, pollution, poverty and racial overtones tend to complicate and not simplify the problem"—Thus, social problems in our society apparently played some part in reaching the decision (Roe v. Wade p. 1). This opens the door for the practice of situational ethics in the solving of social problems, and could have far reaching implications.

"Greek and Roman Law afforded little protection to the unborn" etc. This is used to support the Court's decision on abortion. But, if this is used to support the argument for abortion, it might also be used as an argument for slavery, which was also upheld by Greek and Roman Law.

Justice Blackmun mentions the *Hippocratic Oath*, but then dismisses this argument against abortion and perhaps by implication against suicide by stating that "The Oath was not uncontested even in Hippocrates' day, only the Pythagorean school of philosophers frowned upon the related act of suicide. (Roe v. Wade p. 16). Justice Blackmun points out that, in The Common Law, abortion performed before "quickening" (16th to 18th week of pregnancy) was not an indictable offense (Roe v. Wade p. 17). He thus prepared the way for the justification of abortion prior to the 16th week. He does this, without pointing out that before modern technology was available there was no way of appreciating that the fetus was alive, except through the report of fetal movements by the mother, so it was reasonable to write abortion laws on the basis of the information available. But let's face it, whereas "quickening" as the indication of life reported by the mother was acceptable in the past, we now know that fetal movements occur much earlier than this time. In fact the fetal brain waves have been recorded as early as 43 days by electroencephalography and the fetal heart activity has been recorded by ultrasonic methods at 8 weeks. But Blackmun does not use this information in developing the majority opinion, instead he uses outdated information because it is more supportive of the conclusion which he apparently wants to reach.

Justice Blackmun pulls in the old idea of "mediate animation" with the statement "Canon law came to fix the point of animation at 40 days for a male and 80 days for a female" perhaps in an attempt to create a credibility gap as far as Christian teaching on abortion is concerned (Roe v. Wade p. 19). The fact is that there was little knowledge of embryology at that time and even intellectuals like Thomas Aquinas came to conclusions, now quite ridiculous, because of lack of scientific information—After all at the time when Aquinas lived (13th century) many people thought that the sun rotated around the earth. This type of balancing information is omitted by Blackmun and so the biased argument is maintained.

Justice Blackmun mentions the case of Rex v. Bourne (Roe v. Wade p. 22) to support the view that an abortion may be done if there is "a serious and permanent threat to the mother's health"—But he does not mention that Dr. Alec Bourne, the British obstetrician-gynecologist who originally established this view, is now so disgusted at the abuse of the "mother's health" indication that he is a member of "The Society for the Protection of the Unborn", and is violently opposed to elective abortion.—Again this very pertinent information was either unknown to the majority of Supreme Court Justices, or it was deliberately omitted in the development of their legal opinion.

Justice Blackmun in an apparent effort to establish that social abortion can be countenanced as a contribution to reducing maternal mortality states:— "Mortality rates for women undergoing early abortions, where the procedure is legal, appear to be as low as or lower than the rates for normal childbirth".—In justfication of this he quotes Potts and Tietze who are well known for their endorsement of elective abortion (Roe v. Wade p. 34) and ignores other reports such as that of Peel on "The British Abortion Act" which appeared in "The Obstetrics and Gynecology Year Book" of 1970. This latter report showed that, in Britain, where the standard of medicine is higher than in Hungary and Czechoslovakia, having an abortion is not safer than having a baby. Blackmun also omitted to consider the fact that maternal deaths from abortion are also included in the maternal mortality statistics by definition.

Justice Blackmun writes of "high mortality rates at illegal abortion mills" and gives no reference. It is now well established that instead of the 10,000 illegal abortion deaths per year which proabortionists claimed to be occurring in the absence of liberalized abortion, there were less than 100 deaths from all types of abortion in the entire United States in 1967. This was before any of the State laws were liberalized except Colorado, and the total number of deaths is less than half the number of homicides in St. Louis in the same year.

Justice Blackmun used a great deal of data which could be analyzed and shown wanting, but I will finish with a comment on the crux of the matter. This is the fact that Blackmun states that there is disagreement about when human life begins, and that "We need not resolve the difficult question of when life begins" (Roe v. Wade p. 44). Yet in the same section, Blackmun supports the argument that life begins at birth.

I suggest that by considering a few fundamental facts with regard to reproductive physiology and fetal growth, the Supreme Court could have decided when human life began, and then they could not possibly have reached the conclusion that a woman's right to privacy was more fundamental than a baby's right to life.

It is clear from the scientific facts that there is no disagreement about when human life begins. It is clear that the fetus is human because its parents are human. It is clear that it is alive from conception. There is no real disagreement as to the scientific facts but only as to the ethics of the situation. In support of this statement, I would like to quote the following excerpt from an editorial entitled "A New Ethic for Medicine and Society" from California Medicine, September 1970.

This is the official journal of the California Medical Society, and the article was written by a proabortionist, with reference to the move from liberalized abortion to "abortion on demand."

"Since the old ethic has not yet been fully displaced it has been necessary to separate the idea of abortion from the idea of killing, which continues to be socially abhorrent. The result has been a curious avoidance of the scientific fact, which everyone really knows, that human life begins at conception and is continuous, whether intra or extra-uterine, until death. The very considerable semantic gymnastics, which are required to rationalize abortion as anything but taking a human life, would be ludicrous if they were not often put forth under socially impeccable auspices."

Sir John Peel, President of the International Federation of Gynecologists and Obstetricians, put the subject of elective abortion in perspective as follows:

"Let us be quite clear in our minds. The deliberate termination of a pregnancy, at whatever stage in pregnancy it is undertaken before viability, is the same procedure. Attempts to determine an artificial dividing line before which a pregnancy may be terminated for nonmedical reasons is pure sophistry. A fetus of 10 weeks is not essentially different from one of 20 weeks, or one of 20 weeks from one of 30 weeks. It may be safer medically to terminate pregnancies at 8 rather than 16 weeks, but one is no more or less justified than the other if the alleged indication is a nonmedical one."

"If society gives sanction to the destruction of life for one set of circumstances for what it claims to be the good of society, why should it not sanction the killing of the abnormal neonate, the mental defective, the delinquent, the incurable, the senile?—The mind recoils from such suggestion, but let us face it, society in the past has sanctioned all of these.

Is it fanciful to think that we may be moving toward a situation in which the sanctity of human life is no longer recognized—where life can be created artificially at will, and equally at will expunged?"

For those of you who think that Peel was being fanciful, let me remind you that the very liberal British Abortion Act was passed in 1967, and in 1969, a Euthanasia Bill ("mercy killing") was only defeated in the House of Lords by 61 votes to 40.

In the United States, the same "anti-life" trend is seen.

In the State of Florida, a Euthanasia Bill, euphemistically described as the "Death with Dignity Bill" was defeated by fewer votes than the bill to liberalize abortion. In the State of Colorado, the bill to liberalize abortion was passed in 1967 and in 1970 the Colorado Nursing Association voted 173–109 in favor of euthanasia (R.N. Magazine July, 1970).

And why not? Because, when we sanction elective (social) abortion we adopt a new ethic, the implications of which were obviously not appreciated by the 7 concurring Supreme Court Justices. It is inconceivable that they could have realized that their ruling would make it legal for one obstretrician to be performing a cesarean section to save a mother and baby in one operating room, while in the operating room next door another doctor was performing essentially the same operation (which he calls a hysterotomy) for the specific purpose of killing the baby.

(Hysterotomy can be done at 27 weeks without a medical reason but at 37 weeks a "mental health" reason would be all that is necessary.) This is surely the ethic of Aldous Huxley's "Brave New World", or of Adolf Hitler's old world. Yet it is being embraced by many of the intelligentsia. Francis Crick the British Nobel Laureate has said that a baby should not be declared alive until 48 hours after birth, and there should be compulsory death at the age of 80 years. This will obviously open the door to infanticide, and euthanasia would be the ultimate reward for our senior citizens. Is this the course that we want to follow? You may say it is not, but if we kill the fetus for nonmedical reasons we abandon the old ethic and then where do we stop? Already it has been reported from Yale-New Haven Hospital, that 43 infants were allowed to die over the period January 1, 1970–June 30, 1972, after "parents and physicians in a group decision concluded that prognosis for meaningful life was extremely poor or hopeless". (New England Journal of Medicine, 289:890, 1973).

Senator Bartlett (R. Oklahoma) recently made a statement before the U.S. Senate which brings the whole anti-life trend into perspective—"As soon as one questions the value of human life, there is nothing in principle that prevents him from expanding the circumstances under which human beings may be exterminated. It is only a matter of degree to shift from the extermination of the fetus to the extermination of the elderly, the sick, the crippled and others who are less than whole persons."

I have no doubt that many of the proabortionists, inside and outside the Supreme Court, feel genuinely that they are building a better world for all of us. These well meaning people could be classified as the "seduced idealists" of the 1970's. I believe that they are wrong, and like their counterparts who were tried at Nuremberg, they must be opposed before it is too late.

The informed proabortionists know that life is a biological continuum from conception to death. Obviously they also know that the fetus is innocent of any crime, but they feel that a new ethic is called for to bring quick solutions for the problems of society. As I see it, this is the type of "quality control" thinking that led to the horrors of Belsen and Dachau. At a time when all reasonable people are concerned about the underprivileged surely the fetus is the most underprivileged of all. In the final analysis, inconvenient as the fact might be for you, for me, for the unfortunate woman with the "unwanted" pregnancy, or for the United States Supreme Court, the fetus is not "a potential human being"—the fetus is a human being with potential.

Now what can we do about this situation?—I feel we are absolutely right in opposing the Supreme Court decision. At the present time the Human Rights Amendments to the Constitution, as proposed by Congressman Hogan and Senator Buckley, must be supported. This type of amendment is commonly known as "The Human Life Amendment". With its adoption not only the fetus, but the abnormal infant, the mentally retarded and the senile elderly are protected.—Surely, the main thing that differentiates us from the animals is that we do feel the responsibility to be our brother's keeper.

INTRODUCTION OF H.R. 14856 TO PROHIBIT DISCRIMINATION IN EXTENSIONS OF CREDIT BY REASON OF RACE, COLOR, RELIGION, NATIONAL ORIGIN, AGE, SEX, OR MARITAL STATUS

HON. LEONOR K. SULLIVAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mrs. SULLIVAN. Mr. Speaker, as chairman of the Subcommittee on Consumer Affairs of the House Committee on Banking and Currency, I have today introduced on behalf of myself and 12 additional members of the subcommittee a far-reaching bill to tear down barriers to the extension of credit based not on a person's creditworthiness but on such factors as race, color, religion, national origin, age, sex, or marital status. It is H.R. 14856.

This bipartisan measure is cosponsored by the following members of the subcommittee, listed in order of subcommittee seniority and by party: Representatives Walter E. Fauntroy of the District of Columbia, Parren J. Mitchell of Maryland, William A. Barrett of Pennsylvania, Henry B. Gonzalez of Texas, Andrew Young of Georgia, Fortney H. (Pete) Stark, Jr., of California, John Joseph Moakley of Massachusetts, and Edward I. Koch of New York, Democrats; and Margaret M. Heckler of Massachusetts, Stewart B. McKinney of Connecticut, Matthew J. Rinaldo of New Jersey, and Angelo D. Roncallo of New York, Republicans.

While there are scores of bills in the House dealing with the subject of discrimination in credit by reason of sex or marital status, and a number of others dealing with age discrimination denying applications for credit crads, H.R. 14856 is the first one introduced in either House of Congress which covers such a wide spectrum of discriminatory practices in the credit industry. It represents an almost unanimuos decision among subcommittee members to strike at the existence of unfair credit selection practices victimizing millions of Americans because of their status as members of a particular group or category of people rather than as individuals seeking credit on the basis of their own ability and willingness to repay.

ORIGIN OF THE LEGISLATION

This legislation had its main origin in hearings conducted almost exactly 2 years ago—on May 22 and 23, 1972—by the National Commission on Consumer Finance, an agency created by title IV of the Consumer Credit Protection Act of 1968 to investigate and report on the entire field of consumer credit in the United States. The May 1972, hearings were devoted to the subject of discrimination in credit extensions by reason of sex and marital status.

As the principal author of the legislation which created the Commission, and as the only House Member who served continuously on that nine-member bipartisan Commission during its entire 3-year existence, I am proud to have initiated the move within the Commission to hold hearings on sex and marital status discrimination. The hearings 2 years ago brought to dramatic national attention, through widespread press and television coverage, the ridiculous and uneconomic policies followed by many major creditors in denying credit to creditworthy women in their own right—particularly married, separated, divorced or widowed women but also, in numerous instances in the real estate field, to single women, too—without regard to their ability to repay or to the creditor's ability to compel repayment through legal process.

As a result of those hearings and the Commission's subsequent discussion of this issue in its final report in December 1972, major national creditors whose unsupportable discriminatory practices had been mercilessly exposed by witnesses appearing before the Commission immediately undertook a soul-searching look at their internal policies on credit granting criteria and wisely ordered a change in those policies. In addition, under effective prodding from women's groups throughout the country, at least 14 States and the District of Columbia have enacted laws within the past 2 years to prohibit discrimination in credit by reason of sex, or by reason of sex or marital status.

Two years ago today there was not a single bill pending in either the House or Senate to deal with this problem by national legislation. Now there are dozens of such bills in the House, sponsored by scores of Members; the Senate, meanwhile, without legislative hearings, added to S. 2101—a bill dealing with credit billing practices and with technical amendments to the Truth in Lending Act—a third title prohibiting discrimination by reason of sex or marital status, and passed it last July by a vote of 90 to 0. Since then, there have been intense pressures on my subcommittee by women's groups to act separately on discrimination legislation without tying it into an omnibus consumer credit bill which we are preparing and which will cover not only all of the issues in titles I and II of S. 2101 but many additional areas of consumer credit concern outlined by the National Commission on Consumer Finance.

I had been fearful that action by the House on a separate bill dealing only with discrimination could force us into conference with the Senate on its omnibus bill, S. 2101, before we have had an opportunity to pass our own omnibus bill. S. 2101 contains features which consumerists, the Federal Reserve, and FTC all maintain would seriously undermine truth-in-lending compliance and effectiveness, and would make it worse than passing no bill at all.

Congressman Koch, who has been extremely interested in the discrimination issue, initiated a move within the subcommittee to have all of the members interested in passing separate antidiscrimination legislation agree to fight any attempts to make it a vehicle for conference with the Senate on any provisions of S. 2101 other than title III of that bill dealing with discrimination. Congresswoman HECKLER, who has also been a leading proponent within the subcommittee for separate legislation, and all other cosponsors of H.R. 14856 agreed to this strategy. An effort meanwhile is to be made in the Senate to pass separate antidiscrimination legislation.

Thus, I was happy to proceed with separate antidiscrimination legislation, providing that it covered all major areas of discrimination. We will expedite this bill and consider later in the session an omnibus consumer credit bill of our own as a vehicle to go to conference with the Senate on the truth-in-lending amendments contained in titles I and II of S. 2101.

DEVELOPMENT OF THE NEW ANTIDISCRIMINATION BILL

Beginning last July, the Subcommittee on Consumer Affairs launched a series of oversight hearings on the Fair Credit Reporting Act, on all of the truth-in-lending issues covered in S. 2101, and also on all of the additional areas and recommendations in the consumer credit field of the National Commission on Consumer Finance. We took voluminous testimony, hearing first from the FTC on the Fair Credit Reporting Act, and then from officials of the nine Federal agencies enforcing the Truth in Lending Act—the Federal Reserve Board, the Federal Trade Commission, the Comptroller of the Currency, the Home Loan Bank Board, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Federal Aviation Agency, the Interstate Commerce Commission, and the Packers and Stockyard Administration. In addition, we heard from the heads of the FHA, the Farmers Home Administration, and the Farm Credit Administation.

We then heard from representatives of bankers, major credit card issuers, retail merchants, credit unions, mortgage lenders, automobile finance companies, and the small loan industry. Other witnesses were the former Chairman of the National Commission on Consumer Finance, spokeswomen for most of the national women's organizations interested in credit issues, and a group of outstanding consumer lawyers.

In all of our hearings, we went deeply into the issue of unfair credit discrimination, and there was almost universal agreement among our witnesses that discrimination was a problem susceptible to solution through carefully drawn national legislation. But title III of S. 2101, although generally supported as to objectives, was also generally rejected as unworkable, because of its failure to come to grips with a vast array of State laws which could affect a creditor's ability to assure repayment of credit extended to married women in their own names, or which, in many instances, prohibit separate credit accounts for husbands and wives, or, in the field of real property, restrict the freedom of action of a husband or wife to dispose of property without the other's consent.

The National Commission on Consumer Finance, as one of its foremost recommendations on the subject of discrimination by reason of marital status, had called for a thorough study by the individual States of any laws on their books which inhibit the granting of credit to creditworthy women. The American Law Section of the Congressional Research Service undertook a comprehensive study of these laws at my request many months ago, and has nearly completed a State-by-State analysis of such laws which will be available to the subcommittee when we begin hearings shortly on the bill we are introducing today.

SCOPE OF THE NEW BILL

In the meantime, and based on the information and suggestions we received in our oversight hearings, 13 of the members of the subcommittee have now joined in refining from many sources what we believe is an effective national approach to the elimination of discrimination (defined in the bill as "any invidious distinction"—a term with a long history of court application in civil rights cases involving discrimination) in the granting of credit, not only by reason of sex or marital status but also because of race, color, religion, national origin, or age.

Our objective is to require creditors—all creditors, not just those in the consumer, agricultural, and residential real estate credit fields covered in the Truth-in-Lending Act—to make their decisions on the granting or withholding of credit on the basis of the individual applicant's creditworthiness rather than on extraneous factors of group identification.

However, when a State law clearly places a creditor in a position where his legal remedies to enforce repayment in event of default are absent or seriously curtailed because of the applicant's marital status or age, for instance, his decision to withhold or limit credit, or to charge a higher finance rate, would not constitute a violation of the Equal Credit Opportunity Act. H.R. 14856 also takes into account a creditor's right in credit transactions to request signatures of both parties to a marriage in order to create a valid lien, pass clear title, or waive inchoate rights to property.

On the other hand, in those States where separate accounts for husband and wife with the same creditor are prohibited in order to prevent both parties from having to pay a higher finance charge or rate of interest than they would pay under one account, H.R. 14856 expressly provides that such a State law shall not apply in any case where a party to a marriage voluntarily applies for separate credit despite the added cost this might entail. This carries out a specific recommendation of the National Commission on Consumer Finance.

Basically, our antidiscrimination bill would require creditors to consider applications for credit on an individual basis, taking into account the individual's ability to repay and the creditor's rights to recover in case of default. The only issue to be considered is creditworthiness.

Although H.R. 14856 does not amend the Truth-in-Lending Act, as would title III of S. 2101 and many of the House bills on sex and marital status credit discrimination, the administrative enforcement provisions in this bill are generally similar to those of the Truth-in-Lending Act. All of the agencies which now enforce truth in lending would also enforce the Equal Credit Opportunity Act among creditors under their supervision or jurisdiction. In addition, the Farm Credit Administration has been assigned responsibility under this bill for compliance by agricultural lenders under its jurisdiction, rather than having this responsibility lie with the Federal Trade Commission as it does for truth-in-lending compliance by lenders affiliated with the Farm Credit Administration.

As is the case in truth in lending, the Federal Reserve Board would be responsible under H.R. 14856 for promulgating all regulations for enforcement of the Equal Credit Opportunity Act. The regulations would have to be issued no later than 6 months after enactment of the law, which is when the Equal Credit Opportunity Act would go into effect.

No criminal penalties are provided in the bill. Civil penalties provided for in H.R. 14856 call for recovery of actual damages plus reasonable attorney's fees and up to $10,000 in punitive damages in an individual action. In a class action, neither a minimum nor a maximum amount of punitive damages is specified; the amount of punitive damages would be left to the discretion of the court, based on such factors as the amount of actual damages awarded, the frequency and persistence of failures of compliance by the defendant, the resources of the creditor, the number of persons adversely affected, and the extent to which the violation was intentional.

An added feature of the bill, as suggested by the Department of Justice, provides for civil actions by the Justice Department in cases of failure by the appropriate enforcement agency to achieve compliance, or when the Attorney General has reason to believe that one or more creditors are engaged in a pattern or practice in violation of the act. The Attorney General can also seek injunctive relief, as can individuals who are discriminated against or who have cause to believe they are about to be discriminated against.

Some of the women's groups supporting antidiscrimination legislation based on sex or marital status have urged the subcommittee to prohibit a creditor even from inquiring as to an applicant's sex or marital status. For reasons I have outlined, involving the creditor's rights and remedies under State laws in the event of default, H.R. 14856 does not adopt that position.

Two other provisions of the bill are of interest. Any action taken by a creditor in good faith in conformance with an official regulation of the Federal Reserve Board, or an official interpretation issued by the Board itself (rather than a staff advisory) could not be considered a violation of the act. Furthermore, while an aggrieved applicant could sue for damages under either the Federal law or any State law on the same subject, or both, he or she could not collect damages in a Federal court action if recovery has been had under a State law based on the same transaction.

NEED FOR REVISIONS OF STATE LAWS

The bill we have introduced can eliminate invidious distinctions in the granting of credit but it cannot make creditworthy a woman who is rendered not creditworthy by a provision of her own State's laws dealing with community property, or husband-wife relationships generally. It can do nothing for a young person not legally qualified to make binding contracts. On the other hand, it can strike down unfair and arbitrary creditor practices based on custom or on long since repealed State laws.

But enactment of H.R. 14856 would still require action in the State legislatures to deal with State laws which reflect obsolete concepts of the role of women in the family and in the economy. Some of the States have addressed themselves to this problem; many have not, even while passing laws purporting to prohibit discrimination in extensions of credit.

In our forthcoming hearings and in the committee report on H.R. 14856—if approved by the subcommittee and the full committee, as I have every expectation will occur—we will endeavor to document the problems involved in State laws dealing with women's credit worthiness, so as to provide some guidance in bringing obsolete State laws into conformance with modern realities. I do not foresee any serious attempt to amend this bill, however, to preempt State laws dealing with dower, courtesy, support or other protections for either party to a marriage. As I mentioned previously, H.R. 14856 intervenes, in those instances where the purpose of a State law is to limit finance charges when there are graduated State usury ceilings in effect. But instead of preempting such a law under all circumstances, our bill merely sets it aside in those specific situations where a party to a marriage expressly desires separate credit with full knowledge of the fact that this could result in higher finance charges to both husband and wife on their separate accounts than would be true of a single account with the same creditor for both husband and wife.

In the 22 years I have served in the Congress, I have seldom seen an issue take fire as quickly as this issue of discrimination in extensions of credit by reason of sex or marital status and lead to so many new State laws in a period of only 2 years since the national Commission held its hearings in May, 1972. The Commission in its final report made many recommendations in other areas of consumer credit protection which I hope will also win wide public approval when we offer them in our subsequent omnibus bill.

TEXT OF H.R. 14856

Mr. Speaker, because of the widespread interest among Members of the House in equal credit opportunity legislation, many of whom have introduced or cosponsored bills on this subject, and because of the importance of this legislation to creditors, women's organizations, consumer groups, civil rights and civil liberties organizations, and many, many individual citizens, I submit for inclusion in the RECORD, under unanimous consent, the text of H.R. 14856, as follows:

H.R. 14856

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Equal Credit Opportunity Act".

FINDINGS AND PURPOSE

SEC. 2. The Congress finds that there is a need to insure that the various financial institutions and other firms engaged in the extensions of credit exercise their responsibility to make credit available with fairness, impartiality, and without discrimination on the basis of race, color, religion, national origin, age, sex, or marital status. Economic stabilization would be enhanced and competition among the various financial institutions and other firms engaged in the extension of credit would be strengthened by an absence of discrimination on the basis of race, color, religion, national origin, age, sex, or marital status, as well as by the informed use of credit which Congress has heretofore sought to promote. It is the purpose of this Act to require that financial institutions and other firms engaged in the extension of credit make that credit equally available to all creditworthy customers without regard to race, color, religion, national origin, age, sex, or marital status.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) the term "applicant" means any person who applies to a creditor directly for an extension, renewal, or continuation of credit, or applies to a creditor indirectly by use of an existing credit plan for an amount exceeding a previously established credit limit.

(2) the term "Board" means the Board of Governors of the Federal Reserve System.

(3) the term "credit" means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment or to purchase property or services and defer payment therefor, whether or not a finance charge or late payment charge is imposed.

(4) the term "creditor" means any person who regularly extends, renews, or continues credit; any person who regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who participates in the decision to extend, renew or continue credit.

(5) the term "discriminate" means to make any invidious distinction.

(6) the term "person" means a natural person, a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative or association.

EQUAL RIGHTS UNDER THE LAW TO OBTAIN CREDIT

SEC. 4. It shall be unlawful for any creditor to discriminate against any applicant on the basis of race, color, religion, national origin, age, sex, or marital status with respect to any aspect of a credit transaction.

REGULATIONS

SEC. 5 (a) The Board shall prescribe such regulations which in its judgment are necessary or proper to carry out this Act.

(b) In prescribing regulations under subsection (a), the Board shall provide—

(1) that an inquiry by or on behalf of a creditor of the race, color, religion, national origin, age, sex, or marital status of any applicant is not a violation of section 4 if the inquiry is to ascertain the creditor's rights and remedies in the event of default by the applicant; and

(2) that a request by or on behalf of a creditor for the signature of both parties to a marriage to create a valid lien, pass clear title, or waive inchoate rights to property is not a violation of section 4.

(c) The Board shall prescribe its regulations as soon as possible after the date of enactment of this Act, but in no event later than its effective date.

ADMINISTRATIVE ENFORCEMENT

SEC. 6. (a) Compliance with the requirements imposed under this Act shall be enforced under:

(1) section 8 of the Federal Deposit Insurance Act, in the case of

(A) national banks, by the Comptroller of the Currency,

(B) member banks of the Federal Reserve System (other than national banks), by the Board, and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation.

(2) section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions,

(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal Credit Union,

(4) the Acts to regulate commerce, by the Interstate Commerce Commission with respect to any common carrier subject to those Acts,

(5) the Federal Aviation Act of 1958, by the Civil Aeronautics Board with respect to any air carrier or foreign air carrier subject to that Act,

(6) the Packers and Stockyards Act, 1921 (except as provided in section 406 of that Act), by the Secretary of Agriculture with respect to any activities subject to that Act, and

(7) the Farm Credit Act of 1971, by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal Intermediate credit bank, and production credit association.

(b) For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this Act shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise for the purpose of enforcing compliance with any requirement imposed under this Act any other authority conferred on it by law. The exercise of the authorities of any of the agencies referred to in subsection (a) for the purpose of enforcing compliance with any requirement imposed under this Act shall in no way preclude the exercise of such authorities for the purpose of enforcing compliance with any other provision of law not relating to the prohibition of discrimination on the basis of race, color, religion, national origin, age, sex, or marital status with respect to any aspect of a credit transaction.

(c) Except to the extent that enforcement of the requirements imposed under this Act is specifically committed to some other Government agency under subsection (a), the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this Act shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with the requirements imposed under this Act, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act.

(d) The authority of the Board to issue regulations under this Act does not impair the authority of any other agency designated in this section to make rules respecting its own procedures in enforcing compliance with requirements imposed under this Act.

CIVIL LIABILITY

SEC. 7. (a) Any creditor who violates section 4 or any regulation prescribed under section 5 shall be liable to the aggrieved applicant in an amount equal to the sum of any actual damages sustained by such applicant acting either in an individual capacity or as a member of a class.

(b) Any creditor who violates section 4 or any regulation prescribed under section 5 shall be liable to the aggrieved applicant for punitive damages in an amount not greater than $10,000, in addition to any actual damages provided in subsection (a), except in the case of a class action the liability for punitive damages shall be for such amount as the court may allow. In determining the amount of award in any class action, the court shall consider, among other relevant factors, the amount of any actual damages awarded, the frequency and persistence of failures of compliance by the creditor, the resources of the creditor, the number of persons adversely affected, and the extent to which the creditor's failure of compliance was intentional.

(c) Upon application by an aggrieved applicant, the appropriate United States district court may grant such equitable and declaratory relief as is necessary to enforce section 4 or any regulation prescribed under section 5.

(d) In the case of any successful action under subsection (a), (b), or (c), the costs of the action, together with a reasonable attorney's fee as determined by the court shall be added to any damages awarded by the court under such subsection.

(e) No provision of this Act imposing any liability shall apply to any act done or omitted in good faith in conformity with any official regulation or interpretation thereof by the Board, notwithstanding that after such act or omission has occurred, such rule or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(f) Any action under this section may be brought in the appropriate United States district court without regard to the amount in controversy. No such action shall be brought later than three years from the date of the occurrence of the violation.

(g) The agencies having responsibility for administrative enforcement under section 6, if unable to obtain compliance with section 4, are authorized to refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted.

(h) When a matter is referred to the Attorney General pursuant to subsection (g), or whenever he has reason to believe that one or more creditors are engaged in a pattern or practice in violation of this Act, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

(i) No person aggrieved by a violation of this Act shall recover under this Act on any transaction for which recovery is had under the laws of any State relating to the prohibition of discrimination on the basis of race, color, religion, national origin, age, sex, or marital status.

MISCELLANEOUS PROVISIONS

SEC. 8. (a) Consideration or application by a creditor of any State law which relates to the creditor's rights and remedies against the applicant in the event of default is not a violation of section 4.

(b) Any provision of State law which, for the purpose of protecting both parties to a marriage from paying a higher finance charge or rate of interest than they would otherwise pay to obtain the same amount of credit under one account, prohibits the separate extension of consumer credit to either party, shall not apply in any case where a party to a marriage voluntarily applies for separate credit.

EFFECTIVE DATE

SEC. 9. This Act shall take effect six months after the date of its enactment, except section 5 shall take effect on the date of its enactment.

BAN THE HANDGUN—XLVIII

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. BINGHAM. Mr. Speaker, included herewith is another installment of the "New York City Handgun Study" conducted by Deputy Chief Howard Metzdorff of the New York City Police Department. At the suggestion of former Mayor John V. Lindsay, Mr. Metzdorff in cooperation with the Federal Bureau of Alcohol, Tobacco, and Firearms, undertook to trace back to the original point of sale all handguns seized in robbery, murder, and assault arrests during the first 6 months of 1973. He found that a mere 3 percent of the 1,802 traceable handguns had originally been procured in New York State. In other words, we now have positive proof that the overwhelming number of gun-related crimes are accomplished with the use of weapons secured from outside States. What more convincing proof could there be of the need for strong Federal legislation restricting the manufacture, sale, and possession of handguns?

The installment follows:

"NEW YORK CITY HANDGUN STUDY"

It was decided in August 1973, to review all handgun cases recorded between January 1, 1973 and July 31, 1973, and to trace those handguns to their last retail outlet. The cooperation and assistance of the Federal Bureau of Alcohol, Tobacco and Firearms (hereafter ATF) was requested and obtained. A task force, comprised of members of various units of the New York City Police Department, was assembled and assigned to assist Ballistics Section personnel in reviewing the case files of that section and in selecting those handgun cases where tracing seemed feasible. ATF prepared instructions detailing the information they require for successful tracings. Thereafter, it was agreed that a suitable data base would result from:

1. The review of the 8,887 Ballistics cases received during subject period, and the elimination of those which did not involve handguns.

2. The study of each handgun case and the elimination of any which obviously fell into any of these general categories:

a. Handguns whose serial numbers or model designations were obliterated and could not be raised.

b. Military handguns, both American and foreign.

c. Starter pistols, where identified as such.

d. Handguns whose date of manufacture or country of origin precluded tracing.

e. Homemade handguns.

f. Legal handguns not involved in the commission of a crime.

(For the sake of clarity, it should be understood that in New York City all handguns are illegally owned unless they are registered to specified law enforcement personnel, permit holders and government agencies.)

The assigned personnel were instructed to request traces in even those instances where traceability was questionable. After applying the above criteria, 3,328 handguns, became the nucleus of this study. Every case selected for tracing was assigned a control number, in addition to the Ballistics Section case number. A description of each handgun was forwarded to ATF for tracing.

RESULTS OF TRACINGS

In order to fully appreciate the results of this study it was necessary to adjust the data base of 3,328 handgun cases by removing from the study those cases, as indicated, where ATF was unable to complete the trace:

1. Companies concerned no longer in business, or did not keep records at the time of sale (prior to the Gun Control Act of 1968) or lost their records, 781.

2. Weapons, identified as Starter Pistols, both converted to fire projectiles and nonconverted, could not be traced, 111.

3. Military handguns, 31.

4. Duplicate requests forwarded on same weapon, 97.

5. Guns involved in routine testings, or surrendered by the holders of permits, 184.

Subtotal: 1,204.

The date base is further reduced by tracings not yet received from ATF, 322.

Total: 1,526.

After removing 1,526 cases from the study, 1,802 handguns remained for consideration.

Following is a breakdown of the results of these tracings: Categories; tracings.

Traced to states outside of New York (included in this figure are 109 handguns, the sales of which are the subjects of ATF investigation or arrests.), 1,343.

Traced to New York State (not New York City), 1.

Traced to foreign countries, 13.

Stolen, 365.

New York City permit holders (arrested—46), 48.

Permit holders arrested (not New York City), 10.

Legal handguns not reported stolen, 22.

Total: 1,802.

Let us now, by category, examine the results of this study. Traced to States (other than New York):

A total of 1,343 handguns were traced to 39 states outside of New York and the District of Columbia. (For a breakdown of these tracings by state and country, see Appendix A.) Significantly, 69% of the guns traced to states came from four (4) states, South Carolina, Florida, Virginia and Georgia (935 of 1,343). Approximately 72% of those traced to these four (4) states were classified as "Saturday Night Specials."

An examination of the 1,343 cases revealed that the handguns had been used in a wide variety of crimes. Approximately 49% of the persons arrested were charged with possession of a dangerous weapon, as an only charge (622 of 1,343). In an effort to obtain some insight into the backgrounds of the persons arrested, one-hundred (100) of these cases were randomly selected for review. Criminal records were obtained, and after examination, revealed that 58% of those arrested for "simple possession" had been arrested before. Indeed, prior to their most recent arrests, the 58 persons accounted for a total of 297 arrests. The crimes ran the gamut from murder to loitering and included rape, kidnapping, arson and assault.

Approximately 20% had been previously charged with violations of the drug laws.

Two (2) who had been arrested for murder were released from prison in 1972 and arrested for gun possession in 1973.

Certainly, in these 58 cases at least, we cannot say that the persons arrested were armed to protect home or loved ones.

A survey was made of the 1,343 tracings to determine how many of those persons arrested had actually purchased the guns.

Records revealed that only 3% of the handguns were originally purchased by persons ultimately arrested with them.

TRACED TO NEW YORK STATE

This study revealed that one (1) handgun was purchased illegally in New York State (outside of New York City) by an individual who furnished fraudulent credentials and posed as a law enforcement official. (This matter is currently under active investigation.)

STOLEN (VARIOUS STATES)

It was not difficult to determine that 365 handguns, slightly more than one-fifth (1/5) of all handguns traced, were stolen. It was, however, extremely difficult to determine the exact location of the thefts, since the weapons were stolen from both within and without the state, from factories, in transit and during robberies and burglaries. Following is a general breakdown of the 365 handgun cases:

Stolen, number:
From autos (outside New York State), 4.
Burglaries and Robberies (Outside New York State), 27.
From dealers (outside New York State), 58.
From manufacturers (outside New York State), 20.
Burglaries and Robberies (In New York City), 91.
In New York State (outside New York City), 6.
In transit, 96.
Unknown, 63.
Total: 365.

In the course of the investigation into stolen handguns, New York City Police Department personnel notified over one-hundred (100) gun owners, including federal, state, and local law enforcement officials throughout the country and members of the United States Military that their handguns had been recovered. Information concerning arrests of persons found to be in possession of these weapons was forwarded to appropriate agencies to assist in investigating the gun thefts and related crimes.

NEW YORK CITY PERMIT HOLDERS ARRESTED

Forty-eight (48) handguns belonging to forty-six (46) New York City permit holders were included in this study, although they were legal weapons. In New York City, at the present time, there are approximately 28,000 permit holders. The forty-six (46) who were arrested represent less than two-tenths of one percent of all the permit holders in New York City.

During the course of this study, a separate survey was made of the crimes and circumstances surrounding the arrests of forty-three (43) New York City permit holders.

(For an enumeration of the crimes for which they were arrested, see Appendix B.)

An analysis of accumulated data compiled from this survey reveals the following:

1. Handguns were used in 58% of the crimes for which the permit holders were arrested (25 of 43)

2. Pistol License Bureau hearings were held in 56% of these cases (14 of 25)

3. Following hearings, licenses were restored to 78% of the licensees (11 of 14)

4. Handguns were not used in 42% of the crimes for which the permit holders were arrested (18 of 43)

5. Hearings were held in 27% of these cases (5 of 18)

6. Following hearings, licenses were restored to 20% of the licensees (1 of 5).

PERMIT HOLDERS ARRESTED (NOT NEW YORK CITY)

The ten (10) permit holders licensed by New York State (outside New York City) were in violation of law when they entered New York City with handguns. All were charged with possession of dangerous weapons (guns). Additionally, three (3) were charged with other crimes, Menacing, Grand Larceny, and Violation of the Gambling Laws.

LEGAL HANDGUNS NOT REPORTED STOLEN

Twenty-two (22) legally owned handguns (property of permit holders and law enforcement personnel within New York State) were apparently stolen from their rightful owners who failed to report the thefts of their firearms. These matters are currently under investigation to determine if, in fact, the guns were actually stolen.

SIMON FAVORS ENDING GOLD OWNING BAN

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. CRANE. Mr. Speaker, legislation which I sponsored to allow American citizens to buy, sell, and hold gold, and which was enacted into law in modified form last year, remains of real importance at the present time.

As time has gone by, more and more of my colleagues are coming to understand the importance of this right for the American people, particularly at this time of mounting inflation.

I asked the Congressional Research Service to provide me with figures to indicate what would have happened to $1,000 between the time I first introduced this legislation and the present time if a person had the option of—investing the $1,000 in gold;—putting it in a normal passbook savings account;—buying government savings bonds; or—keeping the cash in his wallet.

The figures are very dramatic. Had the average citizen been able to invest in gold, his $1,000 would now be worth $3,293. But if he put it in a savings account, it would be worth $1,162.91 and U.S. savings bonds would be worth only $1,133.67.

Saddest of all, if he had kept the $1,000 in his wallet, it would now be worth only $853.17, which more than adequately shows what the spending policies of the present Congress has done to our purchasing power.

Now, as this important legislation is being reintroduced, it is good to learn that our new Treasury Secretary, William Simon, is favorably inclined toward an early removal of the legal ban on ownership of gold by private U.S. citizens.

According to the Wall Street Journal of May 9, 1974—

> Sources familiar with Mr. Simon's views disclosed that he "looks favorably" on an ending of the gold ownership ban and is already considering whether to recommend soon that President Nixon issue an executive order permitting Americans to buy, sell and hold gold. . . .

I wish to share with my colleagues this Wall Street Journal report, and insert it into the RECORD at this time.

The report follows:

SIMON IS SAID TO FAVOR ENDING GOLD OWNING BAN

(By James P. Gannon)

WASHINGTON.—The new Treasury Secretary, William Simon, is favorably inclined toward an early removal of the legal ban on ownership of gold by private U.S. citizens.

Sources familiar with Mr. Simon's views disclosed that he "looks favorably" on an ending of the gold-ownership ban and already is considering whether to recommend soon that President Nixon issue an executive order permitting Americans to buy, sell and hold gold. But, the sources added, Mr. Simon feels any such change must be tied to broader international understandings on the role of gold in the future monetary system.

The earliest date for a change in the U.S. gold-ownership provision would be sometime after the next top-level round of International Monetary Fund discussions on overall monetary matters, scheduled June 12 and 13 in Washington. The question of such a change may be raised at that meeting, it's understood.

Americans have been prohibited from owning gold as private citizens since 1933. But Congress last year passed legislation authorizing the President to end the prohibition by executive action at such time as he deems appropriate. Thus Mr. Nixon could legalize gold ownership by American citizens overnight.

The new Treasury Secretary, who officially assumed his Cabinet post only yesterday, has informally discussed the ending of the gold-ownership ban with members of his inner circle of aides.

Mr. Simon wants to study the question very carefully before deciding whether to recommend that President Nixon take action legalizing gold ownership. It's understood that while Mr. Simon's instinct is to favor the change, he knows that an action with such widespread ramifications for the private gold markets can't be done without considering broader questions about gold as a monetary asset.

The disclosure that the new Treasury chief is thinking about the question is likely to further roil the waters of the foreign gold markets. Such a change in U.S. policy would raise the prospect of a demand for gold from American citizens looking for a new, previously unreachable hedge against accelerating inflation.

Another gold question also faces the new Treasury secretary, but his likely reaction isn't known. Next week, a representative of the Common Market is expected to visit Washington to discuss with Mr. Simon the question of intergovernmental trading of gold at market-related prices.

Last month, at a meeting in the Netherlands, finance ministers and central bankers of the nine European Community nations agreed that they should be free to trade gold among themselves at a market-related price, rather than the artificially low official price of $42.22 an ounce. Governments are reluctant to settle debts in gold at that price because it is so much below what gold is worth as measured by market transactions.

Mr. Simon expects to meet with Dutch finance minister William Duisenberg to discuss the European desire to use government gold holdings to settle debts at market-related value. The U.S. has been against any moves that might entrench gold as a monetary asset and Mr. Duisenberg presumably will sound out Mr. Simon's inclinations on that issue.

Separately, a Treasury spokesman denied foreign rumors that the U.S. had begun selling gold on the private market. "We aren't selling gold and it isn't imminent," a spokesman said. The U.S. is free to sell gold, following last year's elimination of a ban on government gold sales.

FEDERAL ASSISTANCE TO COLLEGE STUDENTS

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. LEHMAN. Mr. Speaker, the Special Education Subcommittee has been holding hearings over the past several months on student financial assistance.

As a member of that subcommittee, I was impressed with a short, concise article in the New York Times of September 4, 1973, that provides a layout of those Federal programs that are available to assist those who are contending with the spiraling costs of higher education.

Since this article was written, the guaranteed student loan program has been modified so that a student whose adjusted family income is less than $15,000, and who is applying for a loan no greater than $2,000, no longer has to submit to a needs analysis in order to receive an interest subsidy on the loan.

Knowing this information would be helpful to the high school students in my district as well as their parents, I am inserting the article in the RECORD:

[From the New York Times, Sept. 4, 1973]

PROGRAMS HELPING COLLEGE STUDENTS

(Following are the five major programs administered through the United States Office of Education for aiding postsecondary school students and the major state-operated programs in the metropolitan area. In addition to these programs there are other specialized forms of Federal assistance, private loans and a wide variety of scholarships offered by foundations, agencies and the educational institutions themselves.)

BASIC EDUCATIONAL OPPORTUNITY GRANTS

Eligibility: Open to full-time freshmen at colleges, universities and vocational and technical schools who did not attend a post-secondary education institution prior to July 1, 1973.

How to apply: Applications are available from postsecondary institutions, high schools, post offices, state employment offices, county agricultural extension agencies and Box G, Iowa City, Iowa, 52240.

When to apply: As soon as possible for the academic year now beginning.

Criteria: Family income and assets determine who gets a grant, academic achievement having no bearing. Applicant must complete a detailed financial statement that is subject to comparison with the Federal income tax return that parents have filed with the Internal Revenue Service. In general, a student from a family of four with an income of $11,000 or more would not qualify for a grant. However, factors that can offset a higher income and enable a student to get a grant are a large family, brothers and sisters in college, both parents working and unusually large medical expenses.

Size of grant: Ranging from $50 to $452—the top grant going to a student from a family that according to its income and assets cannot afford to contribute anything toward the student's education.

Terms of repayment: This is a grant and there is no repayment involved.

Comments: No eligible student whose certifiable need meets the established criteria will be turned down by this program. Also, the grant will be awarded regardless of any other Federal grants or loans the student may receive. If a sufficient level of funding is authorized by Congress, the program is to be expanded to include all needy undergraduates, full-time and part-time. The top grant would be $1,400.

GUARANTEED STUDENT LOANS

Eligibility: Anyone enrolled as an undergraduate or graduate student in any of 8,200 participating colleges, universities and nursing, vocational, technical, trade, business or home study schools.

How to apply: Applications may be obtained from participating educational institutions, banks, savings and loans, credit unions and the United States Office of Education.

When to apply: At any time.

Criteria: All students are eligible, regardless of how high the family income. Those with established need, however, can qualify to have the Federal Government pay the interest on the loan; others must pay their own interest. Those seeking interest-subsidized loans must fill out a needs analysis divulging income and assets. Such factors as a large family, brothers and sisters in college, both parents working and unusually large medical expenses are taken into consideration. The financial aid office of the educational institution processes the application, applying a mandated formula, and recommends to the potential lender the amount of the interest-subsidized loan (including a possible zero dollar recommendation) for which the student qualifies. Prior to March 1, a student from a family with an adjusted income of less than $15,000 could qualify for an interest-subsidized loan, but under new regulations many students who formerly qualified are finding themselves ineligible.

Size of loan: In general, loans may be for up to $2,500 a year—not to exceed $7,500 during an entire undergraduate career and $10,000 during the course of undergraduate and graduate education. The annual amounts and cumulative totals vary, though, in some states, including Connecticut and New York.

Terms of repayment: No payment on principal is required until nine to 12 months after the student leaves school or until after service in the military, Peace Corps or VISTA. Once repayment begins, it is to be completed over a period of not more than 10 years and not less than five years, or sooner if the loan can be paid off at a rate of $360 a year. In the event of default, the Federal or State guarantee agency will compensate the private lender and attempt to recover the money from the student.

Comments: While this program appears to be open to all applicants it has not worked out that way. All of the money being loaned belongs to private lenders who participate voluntarily and retain the ultimate decision about who gets a loan. The new needs analysis formula has had the effect of disqualifying many of the students who would have gotten interest-subsidized loans under the old rules. The lending institutions could go ahead and give loans through the program that are not interest-subsidized, but are reluctant to do so. Not only is this a time of tight money, but apparently the lenders do not want to get too much of their money tied up in loans on which payment on the principal is delayed until after the student leaves school.

Moreover, while a lender can bill the Federal Government in one lump sum for the interest on all the subsidized loans, students must be billed individually for interest on unsubsidized loans—making such loans unattractive to the lender because of the greater servicing costs. The March 1 regulations were ostensibly to make it easier for the middle-class to get the guaranteed loans, but the change has had the opposite effect. Congress has had hearings on the problems that have developed and there is a widespread opinion among authorities on the program that the law needs further changes if it is actually meant to be of use to students from a wide range of income groups.

SUPPLEMENTARY EDUCATIONAL OPPORTUNITY GRANTS

Eligibility: For undergraduates in colleges and universities and students in other approved post-secondary schools. Half-time as well as full-time students.

How to apply: Through the financial aid office of the institution in which enrolled.

When to apply: As soon as possible for this year and upon acceptance for next year.

Criteria: For students of "exceptional need," who without the grant would be unable to continue their education. Final determination of need is up to the College's financial aid office. This grant is often given in combination with National Direct Student Loan and College Work-Study aid to form a single assistance package.

Size of grant: Not less than 200 or more than $1,500 a year. Normally, renewed for up to four years—or five years when course of study requires extra time. The total that may be awarded is $4,000 for a four-year course of study and $5,000 for a five-year course.

Terms of repayment: This is a grant and there is no repayment involved.

Comment: In the past, 72.7 per cent of these grants have gone to students whose family income is below $6,000; students from families with incomes in excess of $9,000 have received 4.2 per cent of the grants.

COLLEGE WORK-STUDY

Eligibility: For undergraduates and graduate students in colleges, universities and approved post-secondary schools. Half-time as well as full-time students.

How to apply: Through the financial aid office of the institution in which enrolled.

When to apply: As soon as possible for this year and upon acceptance for next year.

Criteria: The offer of a job is based on need, as determined by the college's financial aid office. The Federal money is used to pay the wages. The job may be for as many as 40 hours a week at a nonprofit on-campus (cafeteria, library, laboratory) or off-campus (hospital, school, government agency) site. Usually awarded as a package in combination with Supplementary Educational Opportunity Grant and National Direct Student Loan.

Amount of pay: From $1.60 to $3.60 an hour. Average annual compensation being $600.

Terms of repayment: These are wages for hours worked and there is no repayment.

Comments: In the past, 56.7 per cent of the work-study jobs have gone to students whose family income is less than $6,000; students from families with incomes in excess of $9,000 have received 17.3 per cent of the jobs.

NATIONAL DIRECT STUDENT LOANS

Eligibility: For undergraduates and graduate students in colleges and universities and approved post-secondary schools. Half-time as well as full-time.

How to apply: Through the financial aid office of the institution in which enrolled.

When to apply: As soon as possible for this year and upon acceptance for next year.

Criteria: The loan is based entirely on need, as determined by the college's financial aid office. Usually awarded as a package in combination with College Work-Study and Supplementary Educational Opportunity Grant.

Size of loan: Up to a total of $2,500 while enrolled in a vocational school or during the first two years of a degree program. Up to a total of $5,000 while studying toward a bachelor's degree and up to $10,000 during the entire undergraduate and graduate career.

Terms of repayment: Begins after leaving school or service in military. Peace Corps or VISTA. Interest of 3 per cent on unpaid balance of loan is charged when repayment period begins. Maximum length of repayment period is 10 years. Loan is canceled and no repayment necessary for teachers of the handicapped and teachers in inner-city schools and servicemen who spend one year in a combat zone.

Comments: This is the original of the Federal assistance programs for students, which began as the National Defense Student Loans in the late nineteen-fifties in the wake of the panic over the launching of the Soviet Union's first satellite. It was awarded on the basis of academic achievement, largely to students in the sciences and education. Academic achievement no longer figures in the loan and major field of any study makes little difference. Students from families with incomes in excess of $12,000 get 10.6 per cent of the loans.

THE MAN WHO MADE DELMARVALOUS CHICKEN FAMOUS

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. BAUMAN. Mr. Speaker, one of the most distinguished men of commerce in the First Congressional District of Maryland is my friend, Frank Perdue, of Salisbury. He has become one of the most successful leaders in the broiler industry not only in the northeastern United States, but across the Nation as well. This is largely due to is own native Eastern Shore intelligence, but also to his ability to grasp the economics of the present-day market and to grow with them.

I include at this point in my remarks an article from the Wall Street Journal of May 13, 1974, which gives a fuller picture of a man who has made chicken famous, Frank Perdue:

It Is Not Chicken Feed To Put Your Brand on 78 Million Birds—Frank Perdue, of Maryland, Makes Own TV Pitch; Is His Strategy Foul Play?

(By Bill Paul)

Salisbury, Md.—"It takes a tough man," says the Chesapeake-accented voice of Frank Perdue on television, "to make a tender chicken. . . . If you want to eat as good as my chickens, eat my chickens."

Millions of people—in New York, Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New Jersey, Pennsylvania, Ohio, Delaware, Maryland, Virginia and Washington, D.C.—are doing just that. For the several hundred years up until 1971, most Americans ate their 41 pounds or so of chicken each year knowing only that it came from an uninteresting and ungainly barnyard bird of obscure origin. Then Mr. Perdue managed his improbable feat. He turned a seemingly homogenous agricultural product into a brand-name delicacy and, in the process, turned his family's chicken and soybean ventures into a business with sales of $120 million a year.

How did he do it? Experts say by working hard, by feeding his birds stuff that turns them yellow and by putting his own name on the line. In an age when suspicious consumers are subjected to a steady diet of TV commercials showing dubious charts, cutesy man-on-the-street testimonials and staged tests, Mr. Perdue simply and openly sells himself. It's the head of the company in those commercials, asking for your gripes, promising your money back if you don't like his chickens. "Add to that a face that's so plain it's got to be honest and," an ad executive says, "you can't help but believe in the guy and his product."

CRYING FOUL

Privately held, Perdue Inc. ranks among the top 15 chicken packers in the country. More Perdue chickens than any others are sold in the big New York market. And, because Mr. Perdue advertises his chicken as a top-of-the-line product sold only in the highest-quality markets, he gets a better price than most of his competitors.

Now other big regional chicken packers, including Holly Farms of North Carolina, probably the biggest, are branding their products. Not all chicken men like this trend, and some of them are crying foul. "All broilers are produced in the same way," says an official of the National Broiler Council, an industry group based in Washington. "But Frank's got them convinced in New York that his are better because they're more yellow." Perdue chickens are yellower, he says, because of the volume of xanthophyll, a chemical naturally occurring in corn, egg yolk and marigold petals, that goes into their feed. "In the South," he says, "people actually prefer a much whiter bird than a Perdue chicken."

That makes Mr. Perdue see red. "It costs me $1 million a year to give my chicken their healthy yellow color," he says. "If I'm going to spend to get a bird that looks healthy, you know I'm going to bust my butt to make it healthy, too."

Indeed, many shoppers sing high praises to Perdue quality. "I always have to poke a hole in the package of another brand of chicken to make sure it doesn't smell bad," says Mrs. Helen Nabstedt, of Montvale, N.J. Mrs. John Dorsett of nearby Park Ridge says: "I once cooked a couple of chickens with another brand and, boy, did they smell and taste bad! I've never had a problem with Perdue."

FROM CESSPOOLS TO COMPUTERS

Perdue's two processing plants in Maryland and Virginia, employing most of the company's 1,800 workers, can pluck and pack more than 300,000 birds a day, or 78 million a year. (A third plant is going up in North Carolina.) In a good year, Perdue can earn a nickel or so profit a pound from chickens. In a bad year, which 1974 so far has been, the firm could lose a few cents on every bird.

Though Mr. Perdue won't tell his firm's profit, he says he never has finished a year in the red since he joined his father, Arthur Perdue, in the chicken business in 1939. Now 88, Arthur Perdue, who tools around Salisbury in a Mercedes-Benz, started the business in 1920 with 50 hens that cost him $5 and a chicken coop that he built himself.

Frank Perdue made the business scientific. He used computers to figure the cheapest way to turn the least feed into the most meat. He hired geneticists to breed bigger breasted birds and veterinarians to produce healthier ones. Still, he says, "This is the kind of business where a Harvard MBA is out in left field. My advantage is that I grew up having to know my business in every detail. I dug cesspools, made coops and cleaned them out. I know I'm not very smart, at least from the standpoint of pure I.Q., and that gave me one prime ingredient of success—fear. I mean, a man should have enough fear so that he's always second-guessing himself.

Perdue Inc. prospered modestly for years. Then in 1968, Frank Perdue started branding his chickens instead of merely wholesaling them anonymously. By July 1971, he took the big plunge and started consumer advertising in New York. Since then, his yearly ad budget has grown to about $1 million from a few hundred thousand dollars.

Perdue normally earns about 75% of its profit from dressed broilers; the rest comes from ancillary services and byproducts, such as hatching eggs for other chicken producers, and sales of soybean meal, soybean oil and pine-bark mulch, which Mr. Perdue acquires from his chicken-litter supplier and then packages and distributes for gardening use.

Mr. Perdue spends a good part of his time in friendly persuasion. His targets aren't just the consumers who see him on television, but everybody else involved in the production and marketing of his chickens—including the growers who raise Perdue-hatched and Perdue-processed birds, the distributors who wholesale them and the retailers to whom Perdue sells directly.

One recent morning finds Mr. Perdue in the office of Harold Tarr, executive general manager of Pioneer Food Stores Cooperative Inc., Carlstadt, N.J. Mr. Perdue welcomes complaints—"I cannot make better chickens if I don't get some beef," one of his commercials says—and this morning he is getting a beef from Mr. Tarr. A Perdue salesman had persuaded Mr. Tarr to feature Perdue chickens in a sale in the 35 Pioneer retail stores that carry meat. So Mr. Tarr revised his scheduled newspaper ads at the last minute to shoehorn the chicken sale in.

But Perdue, Mr. Tarr gripes, couldn't supply enough chickens for the sale. "I had one woman who tore an apron right off our butcher," he says heatedly. "We were the first chain you hooked on with, Frank. I think we deserve better treatment than that."

Mr. Perdue picks up a telephone and calls the salesman. "We're naked on this," he says. "Harold has done us a favor" (by complaining). Later, Mr. Perdue directs his sales force never to commit chickens for a big sale on shorter notice than a week.

"Frank Perdue is the antithesis of the company president," says Donald McCabe, an executive of the Perdue advertising agency, Scali, McCabe, Sloves Inc. "Most guys talk a lot, but who do they talk to? Frank talks to butchers in a Boston ghetto at 5:30 in the morning. He knows the territory and he fights like hell to keep it.

Right now, Mr. Perdue is slugging it out in the New York market with Pearl Bailey, who pushes, on commercials, the Paramount-brand chicken marketed by Cargill Inc., a big, privately held Midwestern firm. Last year, Mr. Perdue won the "Battle of Boston" for chicken leadership, whipping the Buddy Boy brand of Maryland Chicken Processors. He spent months in Boston lining up major distributors and prestigious retailers. Otherwise, his efforts go mainly toward preventing any defections from his corps of distributors and retailers.

Chicken economics—including shipping costs, and the proximity of feed supplies like soybeans—make it a regional business. Perdue has no plan for going national. And at Mr. Perdue's age, 53, there's no immediate reason to sell out to the public, either.

Married, with four children, Mr. Perdue lives in a comfortable lakeside home in Salisbury. Outside chickens, his only major interests are tennis, which he rarely has time for, and journalism, which he thinks is biased. On the wall in his office hangs a picture of him playing tennis with former Vice President Spiro Agnew. He employs a cook, hired from his own company kitchen because of her expertise in preparing—yes, that's right.

REINSTATEMENT OF THE DRAFT AUTHORITY

HON. CHARLES WILSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. CHARLES WILSON of Texas. Mr. Speaker, the basic purpose of a U.S. military force is to insure the security of this

Nation. In addition there is a need for a military capability to allow the United States to meet its treaty obligations with other countries of the world.

In order to fulfill our defense requirements we need trained and trainable personnel, sufficiently motivated and dedicated to perform effectively in combat situations, where the risk of bodily harm or loss of life could be extremely high.

I do not wish to trace in detail the development of this great Nation, nor of the laws and procedures followed in order to provide the necessary military forces for defense. However, conscription began with the Original Colonies and involved intermittent and generally part-time service. The Constitution was implemented by the Militia Act of 1792, which prescribed militia enrollment. We had a Selective Service Act in 1917, the Selective Training and Service Act 1940, the Selective Service Act of 1948, a Universal Military Training and Service Act in 1951, a Military Selective Service Act of 1967 and the Military Selective Service Act of 1971.

We now have the Volunteer Force, which frankly, I do not consider a proper approach.

I believe that defense of one's country is everyone's responsibility, and I reject the prospect of placing this responsibility in the hands of a force manned principally by semimercenaries.

If a Volunteer Force is to be maintained by providing incentives only to a marginally sufficient level, it will tend to attract those who are most susceptible to marginal economic motivation from the lack of opportunity as the result of prejudice or inadequate education.

On the other hand, just how far can we reasonably go in increasing incentives? We must be concerned not only with providing a sufficient number of trained and trainable personnel for the Armed Forces, but we must also insure that the required ships, aircraft, tanks, weapons systems, and ammunition are available. Personnel costs have already reached the point of being over 60 percent of the total defense budget, and even with this expenditure, we do not get the number of personnel required in the Armed Forces—nor do we get the quality we need.

The composition of the All-Volunteer Force is steadily moving toward a higher percentage of the culturally deprived. This means that the obligation for the defense of the Nation will be largely imposed on those who have benefited least. This, in effect results in preselection through economic and social factors which is just as discriminatory and probably less democratic than the Selective Service System.

I believe we should examine very closely the effect the All-Volunteer Force will have on our capability to mobilize. With little or no turnover in the All-Volunteer Force, it will not require much passage of time before our source of prior military service personnel will disappear. No matter how difficult rapid mobilization is in a situation where we have a large number of inactive Reserve and other exmilitary personnel, starting at a point with only the relatively small voluntary force could be disastrous.

In contrast to our personnel situation and future capability in mobilizing personnel to meet emergency requirements after an extended period under the all-volunteer system, the Soviet Union with its universal military service has a relatively unlimited supply of personnel with military training and experience. Although the exact situation would be difficult to determine in the case of Soviet forces, I have seen estimates indicating that there are more than 10 million male reservists under 30 years of age who have had military training. We just cannot ignore the potential force available to the Soviet Union through their universal military service.

I do not believe that we can afford to wait much longer before taking action to insure that the personnel requirements for defense purposes are met.

Further reductions in the size of our armed services should be approached very cautiously. The weaker we become, the greater the risk of aggressive action by a foreign power, and the fewer options that we have in decisions affecting the safety of our country and our capability in meeting our international obligations.

Lower enlistment standards would mean a willingness to accept a lower caliber of men and women in our Armed Forces. This is not only significant in dealing with equipment which is more and more sophisticated, but in the event of armed conflict, will be subject to bearing criticism that only the poor and minority groups are exposed to the dangers inherent in combat.

The Army and Marine Corps are falling below their enlistment objectives despite the heavy emphasis on advertising and recruiting. Pressures on individual recruiters to "produce" have yielded evidence of irregularities in recruiting methods which are a great source of concern to me. There is also evidence that the military may be adjusting its manpower goals to meet its recruiting capabilities, rather than establishing and meeting national defense objectives.

The most equitable, economical, and surest way to meet our defense personnel requirements is through the draft.

In considering reinstatement of the draft, I recognize that it has faults and inequities. It is not my intent to excuse these problems. Instead, I propose to progress from the point of renewing the draft authority to elimination of these inequities. If funds were available, I would even go so far as to ask for Universal Military Training.

I realize that there are those who believe we should wait and give the all-volunteer system more time to prove itself. I believe if we continue much longer with the present enlistment pattern, we will be subjecting our people and our country to risks we cannot afford. Therefore, I am introducing a bill to provide for the induction of individuals, during the period beginning July 1, 1975, and ending June 30, 1977.

FREDERICK H. SHUNK RECEIVES TEACHERS AWARD

HON. FRED B. ROONEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. ROONEY of Pennsylvania. Mr. Speaker, it is with sincere pleasure that I bring to the attention of my colleagues an honor which has recently been bestowed upon one of my constituents, Frederick H. Shunk.

Mr. Shunk, a history teacher at Freedom High School in Bethlehem, Pa., and a lieutenant commander in the Naval Reserve, has been selected by the distinguished National Awards Jury of Freedoms Foundation at Valley Forge to receive the Valley Forge Teachers Medal Award and to accept the award on behalf of about 25 teachers throughout the country who were also selected to receive this honor.

The Valley Forge Teachers Medal Award is granted in recognition of teachers who have rendered exceptional service in the cause of patriotism, responsible citizenship, and a better understanding of America. Nominated for this award were over 400 teachers whose anonymous sponsors believed possessed outstanding classroom and personal records and whose exemplary leadership contributed mightily to the growth of morally sound, intellectually capable, courageous, and patriotic young citizens. To have been selected to receive this award from among such outstanding competitors was a great honor, indeed.

At a time when it is particularly important for young people to have responsible adults as models for their behavior, I find Fred's evaluation of the responsibilities of the teaching profession to be especially meaningful:

> Teachers must instill in the minds of the students the extreme importance and supreme value of the fundamental freedoms that have been granted to each individual under the Constitution of the United States, freedoms that are the birthright of every human being. Additionally, it is the responsibility of the teacher to convey and encourage concern for others and to encourage the recognition of the basic dignity and worth of every individual, as well as of the rights of others. A teacher successfully satisfies this obligation by what he is and by what he does rather than merely by what he says.

Fred Shunk has exhibited, both in and out of the classroom, the kind of dynamic and effective leadership which makes the whole community grateful to have been benefited by his efforts.

In his service as a dedicated newsman, in his acceptance of the responsibility of a Naval Reserve command, and in his fostering of pride in the past and future of this great country in his students he has lived the ideals of the award which he so richly deserves.

To borrow again from his words, I believe the excellence he expects from teachers should be expected of all of us:

> THE TEACHER'S RESPONSIBILITY FOR SUPPORTING OUR FUNDAMENTAL FREEDOMS
>
> Teachers in the schools of the United States must be completely knowledgeable

of and deeply committed to our fundamental freedoms. They must exemplify our rights both within and outside the classroom. As practitioners of our fundamental freedoms teachers should reveal effectively and completely the value and importance of our precious freedoms. Implicitly, then, teachers would convey and encourage concern for others, recognition of the dignity and worth of each individual, and a sincere sense of responsibility for the rights of others. Teachers must provide opportunities for each student's personal growth and development both as an individual and as a member of a free society. Support of our fundamental freedoms will give us the greatest strength to guide us in the days ahead, no matter how uncertain those days are.

CHURCH CELEBRATING 250TH ANNIVERSARY

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mrs. GRASSO. Mr. Speaker, the First Congregational Church of Southington is observing its 250th anniversary this year. It is truly an auspicious milestone in the history of an active and concerned congregation of people.

For two and a half centuries, members of the First Congregational Church have made lasting contributions to the welfare of Southington and its people. The church has provided its members with a vehicle for effective social action as well as with a comradeship—a brother and sisterhood—in the beliefs and moral teachings of Christ. These Southington residents understand and follow the commandments of love of God and one's neighbors.

Since the church's founding in 1724, the actual building has been changed three times in order to provide expanded and improved places of worship. The congregation today reflects a solid commitment to solving modern problems and spreading the "good news" of the gospels to all God's people. In this commitment and in other ways its members exhibit a deep appreciation for and adherence to time-proven ideals that have been so much a part of the distinguished history of the First Congregational Church.

Mr. Speaker, for the interest of my colleagues I include below an article on the First Congregational Church from the New Britain Herald:

FIRST CONGREGATIONAL CHURCH CELEBRATING 250TH ANNIVERSARY

(By Jean Nichols)

SOUTHINGTON.—Two hundred and fifty years ago, the people of Southington who were of the Congregational faith got tired of travelling the 11 miles to Farmington every Sunday to go to church. They decided to have their own church.

A petition was presented to the Farmington Church by the "South Farmers," as residents of Southington were referred to, and also to the Legislature, asking for permission to build a church of their own. The petition was finally granted, and the farmers began cutting down trees and preparing the lumber for their church.

It was a plain building, 26 by 16 feet, with no cellar, no steeple, and no heat. But it was their church. It was on a hill about a mile north of the center of town on what is now known as "Oak Hill Cemetery." This was thought then to be the center of town. While the church was being built, members met for Sunday services in homes in winter and under the oak tree in summer.

The First Congregational Church of Southington was organized May 30, 1724.

On April 28, the congregation will begin the events to commemorate this 250th anniversary. A public musicale will be held at 7 p.m.

The Rev. William Gober of the Galloway Memorial Methodist Church, Jackson, Miss., will fly here to present a performance of religious music about the life of Christ.

On April 30 at 6 p.m., a reception will be held at the church preceding the 250th anniversary dinner. This will be an opportunity to meet old friends and greet a former pastor, the Rev. Dr. Millard Stevens, who is planning to travel up from the south for this celebration.

A catered dinner will be served at 7 p.m. Ralph Mann, Mr. and Mrs. Clayton Earle, Carl Ulbrich are in charge of dinner tickets. The dinner program will feature the Rev. Nathanial M. Guptill. Hostesses will conduct tours of the church.

The present church building was erected Dec. 15, 1828, but this was the third church for the congregation.

In 1757, the congregation decided that its little church on the hill was not large enough. Since the center of town had developed about a mile away from the church, the congregation decided to build a new church on the town green. This church eventually had a steeple and a bell.

Seventy-one years later, this church building showed signs of wear and was not so convenient, and so it was decided to build a new church. On Dec. 15, 1828, the cornerstone of the present building was laid.

The basement room was built with the idea of its being used for town meetings. In 1831 it was voted to permit a stove and fuel for the basement room in the meeting house.

For seven years, Sunday services were held in this basement room during the winter as up to this time it was the custom not to heat churches. Not until 1838 were stoves put into the audience room of the church. Horse sheds were built back of the church where the parish house and parking lot are now located.

A building was moved to the back of the church in 1873 and was used for kitchen, parlor and Sunday-school rooms. This was replaced about 1900 with a new and larger addition. In 1961 more Sunday-school rooms and a chapel were built and dedicated June 4, 1961.

The original building of the present church was constructed by Levi Newel and Selah Lewis. The contract signed for the project is displayed in the church and shows the cost of construction as $5,900. The Rev. John Hosmer, present pastor of the church, estimates the replacement value of this portion of the church to be about $400,000 today.

The Rev. David Ogden was pastor of the church on the green. He was also the first pastor to preach in the present church. A portrait of the Rev. Mr. Ogden is on display in the church office.

On loan to the church for the anniversary celebration is a portion of the pulpit saved from the church on the green when the building was razed. Also saved was the weather vane on top of that church. The Rev. Mr. Hosmer said these articles have been in the possession of the public library for many years. They are on display in the church during this celebration.

History provides the information that several young people who grew up in the First Congregational Church answered the call and became ministers or missionaries in faraway places.

Between 1724 and 1870, the first 146 years of the church, 30 young men of the parish studied for the ministry at Yale.

Martha Barnes Goodrich, born in 1801, went with her husband, the Rev. Charles Goodrich, to the Sandwich Islands, now Hawaii, with the first missionaries who were sent there in the early 1800's.

The Rev. George Williams went as a missionary to China and was killed there at the time of the Boxer Rebellion.

The Rev. Robert F. Black was the first missionary sent by the Congregational churches to the Philippines in 1902.

Mrs. Charlotte Frisbie Webb has been a teacher at Mt. Silinda and Chikore in Southern Rhodesia since 1944.

The Rev. Mr. Hosmer has been pastor here at First Congregational Church for the past nine years. He succeeded the Rev. Mr. Stevens, who retired.

BLACK LUNG RESEARCH BY LAWRENCE POWELL II

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. BYRON. Mr. Speaker, since January 1974 Lawrence Powell II has worked as an intern in my office doing basic research on the background of black lung and the implementation of the black lung program in the sixth district

Mr. Powell has completed his research. Based on personal interviews and his own intensive research, his paper outlines some important conclusions with regard to the black lung program. I want to commend him for his outstanding achievement. I would also like to share his conclusions with my colleagues since black lung exists in many of the congressional districts throughout the country.

The material follows:

CONCLUSIONS AND INTERPRETATIONS

Black lung benefits are not administered as fairly and judiciously as possible in the 6th Congressional District of Maryland. There is room for improvement upon the existing law, and the various methods used to determine the presence of black lung. Although nearly two billion dollars in benefit money has been paid by the federal government since the start of the program in 1969, there are many more eligible miners and widows who cannot get benefit money simply because the 1972 act was too general where it needed to be specific, no consideration was given to inaccessible records and personal references, and the medical testing used presently is not extensive or accurate.[1]

However, several recommendations were made which would improve the administration of black lung benefits. They are as follows: (1) Miners or miners' widows should be made aware of the fact that they will receive benefits much faster if they include all of the information that could possibly be of use when they file their claims. Information such as the years the miner worked in underground mines, and, in the case of a deceased miner, signed affidavits from former employers and employees who knew he was short of breath, coughed often, etc., and a doctor's signed certificate stating specifically that the miner is or was suffering from pneumoconiosis. (2) The biggest stumbling block for black lung benefits still is the type of medical testing used. Hospitals in the 6th Congressional District are just not equipped well enough or do not have the trained doctors necessary to recognize pneumoconiosis consistently. Memorial Hospital in

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[1] Letter to Honorable Goodloe E. Byron, from James B. Cardwell, Commissioner of Social Security. Washington, D.C., 8 November 1973.

Cumberland only uses two out of the six types of tests as required by the 1972 Black Lung Benefits Act to determine the presence of pneumoconiosis.

As Dr. Mock said, arterial blood gas studies should be used to identify pneumoconiosis because this type of testing is always accurate. Finally, as was advocated by Mr. Tomko, maybe Congressional interest should be toned down in black lung cases. But another type of problem could arise here for the Congressman. Congressman Byron is expected to be accountable to the people. If he does not sometimes intervene in a constituent's behalf, he could be held responsible on election day.

It is the author's opinion that some of the procedures used in Great Britain for black lung benefits should be incorporated into the United States program for black lung benefits. One is to have miners who apply for benefits in the United States go before a panel of specially qualified physicians. This is done in some areas of the country where doctors have treated pneumoconiosis for many years. However, new doctors assigned to black lung diagnoses and treatment are not always experts on pneumoconiosis. Secondly, as it stands in Great Britain, a miner's total disablement is not one of the determining factors as to whether or not he will receive benefits. In Great Britain, the amount of benefit a miner receives is dependent upon his amount of disablement. A miner is not "penalized" for having insufficient pneumoconiosis to qualify for benefits. Until the above improvements are acted upon by the United States Congress and state governments, many miners and their widows will not be receiving the benefits due them.

BOWIE METHODIST CHURCH CELEBRATES CENTENNIAL

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. HOGAN. Mr. Speaker, on May 5, I was honored to attend the centennial celebration of the Bowie Methodist Church. The centennial services were given by Rev. Patrick E. Wadsworth. The morning prayer was offered by Dr. James D. Foy, Superintendent, Washington East District and the meditation was offered by Dr. James K. Mathews, Resident Bishop of the Washington area. The choir director was Mr. Perry Gilbert and the guest organist was Mrs. Ray Strawser.

The history of this church has been compiled by Elizabeth Trott and I would like to request that it be inserted in the RECORD at this point.

HISTORY OF THE BOWIE METHODIST CHURCH—1874–1974

It was the year 1874 that the Sansbury family, along with that of J. B. Ridgeway, J. M. Carrick, and a Mr. Hadlow, were no doubt the underlying cause for the beginning of organized Methodism in Bowie.

At this time, there were no churches in Huntington, now known as Bowie. There were only obout nine or ten Methodists who attended Perkins Chapel at Springfield; a few Episcopalians who attended Trinity Church at Collington; and the Catholics who attended Whitemarsh. These people had been attracted to the town of Huntington by the railroad junction of the main line and the Popes Creek branch of the Pennsylvania Railroad.

The Methodists, along with certain Episcopal people, began to hold meetings in various homes. When an old store near the Popes Creek Line was sold out, this became the first definite meeting place. Both denominations used this building as a place of worship. Soon a brick building was constructed across from the present church on 7th Street and regular services were held there by the Methodists. This building was later owned by the Straining family and now by the Barry family. The meetings were conducted by a circuit preacher, and there were many Sundays when the members were without the leadership of a minister. However, there were men of God in the group who did everything for the members but baptize and marry.

Bowie was then on what was known as the Bladensburg Circuit. Other churches were Whitfield, Perkins, and Bladensburg. The minister was Rev. Charles O. Cook. Other pastors following Rev. Cook were H. S. France in 1876, James McLaren in 1877, W. H. Laner in 1878, and E. H. Smith in the year 1880.

It was probably in the year 1880 that J. B. Ridgeway, who had acquired the land adjoining the Popes Creek tracks, deeded to the Methodist Society the land where the first church was erected in 1884. Rev. Cross was the minister. Prominent on the list of subscribers were the names of Governor Oden Bowie, Richard Sansbury, Jim Knowles, J. B. Ridgeway, John Zug, Charles Brown, J. W. Ryan, E. E. Perkins, and Mr. Hadlow, who ran the post office in Bowie. Mr. J. M. Carrick hauled the lumber from which the church was built. The Rev. Norris preached and called for donations and the church was built by a Mr. Hunt at probable cost of $1,000.

The first persons buried in the church grounds were Mr. Charles Brown about the year 1882 and Miss Martha Sansbury in 1884.

Ministers following Rev. Cross were Rev. W. McKinley Hammock, 1885 and Rev. J. C. Starr, 1886 to 1888. Rev. R. M. Black and Dr. Menges filled in when there was no minister in 1889. Then Rev. J. L. Hayghe was put in charge. The parsonage at Lanham was built during the pastorate of Rev. W. T. Dice in the year 1891. Revs. Daniel Haskell, J. W. Steel, W. F. Dell and Spielman served the church from 1893 to 1906, when Rev. M. F. Lowe was appointed. The pastorate of J. R. Pardew, G. W. Rice, and J. I. Winger occupied the years from 1911 to 1919 when Rev. J. R. Cavileer came to the charge which then consisted of Bowie, Lanham, and Perkins Chapel.

Mrs. Mabel Nichols was the organist at this time and continued to serve faithfully for 20 years. Mr. William L. Trott became the Church Treasurer about this time and kept the position for about 23 years.

It was during Rev. Cavileer's ministry that agitation for a new church was begun. The present site, originally belonging to the Swartz family, was considered one of the most beautiful in town. There was a stone house on the property and a spring which is under the basement floor of the present church. It was purchased from Mr. Willis Johnson in 1920 for the sum of $900, which was largely raised by the Ladies Aid Society.

The cornerstone of the new church, built by Millard Schafer, was laid at an all-day meeting in the early summer of 1924. The finished church was dedicated May 26, 1925. The cost of the finished church was $12,900 including the ground. Mr. Willis Johnson contributed $1,000. The lights in the church were donated and installed by Rev. Cavileer, who had moved before the cornerstone had been laid. Rev. Milburn was pastor at this time. Rev. Sadofsky was pastor at the time the church was completed. The workmen who built the church very generously gave the money for the church bell. Those contributing were Messrs. Millard Schafer, Norman Clark, Ira Phelps, Clifford Lanham, Jesse Schafer, and Wilbur Anderson.

In 1925, Rev. H. H. Roland, a missionary returning from service in China, filled the pulpit followed by Rev. W. E. Nelson in 1930, also a missionary returning from China. During this time, the minister lived in Lanham. He rode the train to Springfield Station and walked or hitched a ride to Perkins Chapel for the 11 o'clock service, then hitched a ride to Bowie for the 2 o'clock service and rode the train back to Lanham for the evening service.

Mr. E. T. Johnson was the Sunday School Superintendent followed by Mr. William L. Trott, Sr. in 1934. Rev. M. T. Tabler was the minister in 1934 followed by Thomas M. Dickey in 1938. Mr. Millard Schafer became Sunday School Superintendent in 1942 and faithfully served in this position until 1948.

The Epworth League had a large membership at this point in time. Mrs. Molly Martin, Mrs. Emma Knowles, and Mr. H. B. Kelbaugh were faithful in their leadership of this very active group.

Mrs. Louise Kelbaugh Presley organized the choir in 1938 and Dorothy Baldwin Kelbaugh became the organist after Mrs. Nichols. Dorothy was followed by Ellen Preston Blair and then her mother, Mildred Preston, was organist for about 30 years. Opal Cowan became our choir director and when she moved to Florida, Roberta Hoffman served in this position for 3 or 4 years until Opal returned to Bowie and resumed as Choir Director until 1958.

Naomi Anderson took over the job of Church Treasurer in 1943 and continued until 1968.

Rev. Alvin T. Perkins filled the pulpit in 1944 and Rev. J. H. Tackett in 1945. Rev. Tackett lived in a rented parsonage on 10th Street while a new parsonage was being built by Millard Schafer, next to the church. Perkins Chapel shared the expenses.

Rev. C. J. Craig was the first minister to live in the new parsonage in 1946. Arthur Kelbaugh became the chairman of the Official Board and he also served as Sunday School Superintendent from 1949 to 1959. Others following him in this position were Opal Cowan, Lena Botts Kelbaugh, Marguerite Eastep, Alma Delpy, Elsie Wild, and now Mary Lou Billings.

Many Oyster and Ham Dinners helped with the expenses of the church and parsonage. The Ladies Aid, whose presidents had been Mamie Schafer, Cora Kelbaugh, and Margaret Baldwin, had become the Women's Society of Christian Service and continued to be a very active force in the church. Presidents of this Society through the years have been Louise Kelbaugh Presley, Delsie Kelbaugh, Lena Botts Kelbaugh, Elizabeth Lammers, Helen Hay, Myra Porter, Alma Delpy, Dorothy Lawson Fitzgerald, Mildred Jones, Carol Bischoff, and Elizabeth Trott.

Rev. Rufus B. Fink came in 1956 and Rev. Marvin Bonner in 1958. On April 13, 1958, the Perkins Chapel congregation voted to become a station, and their new parsonage was built in 1959. Bowie was then on their own even though the congregation felt that they could not support a minister.

Rev. Eldon C. Watts was our minister from 1959–1962. Alma Delpy was Chairman of the Official Board from 1960 to 1962. The minister who was appointed after Rev. Watts decided he didn't want to come to Bowie. Rev. Marion Michael was the District Superintendent at this time and asked his father, the retired Dr. Walter Michael to fill the pulpit until another minister could be appointed. Everyone liked Dr. and Mrs. Michael so very much that they were persuaded to stay on. Mrs. Kitty Michael played the organ on many occasions. Our membership expanded and we had a very good year. The piano in the sanctuary is dedicated to the memory of Dr. Michael.

Rev. William E. Polk, a retired Navy Commander, filled the pulpit from November

1963 to June 1973. His wife, Carol, organized the Youth and Junior choirs in which their daughters Marcia and Laura and son Timmy fully participated. Rev. Polk worked closely with the students at Bowie State College, organized and held chapel services on Sunday afternoons. He administered the Campus Ministry Funds for the college and advised Methodist students of the availability of the Student Loan Fund of the United Methodist Church for those with financial needs.

Chaplain Ray Strawser filled the pulpit on many occasions during the tenure of Rev. Polk. He and his wife, Elva Jean, were very active with the youth group along with the Polks. Elva Jean was our organist frequently and still plays when needed.

Mildred Jones filled in as organist many times until Martha Sallet took over after Mrs. Preston was unable to play because of ill health. Mildred was always very generous with her time and money and at her death left a sizable amount in her will to the Bowie church. A file cabinet, purchased from memorial funds contributed by many of her friends, has been dedicated in her memory.

During this time, the Ross Methodist Church, established in 1913 and located on 11th Street in Bowie, was having problems. The Ross Church was part of the Lanham-Glenn Dale-Bowie Circuit, and had a parsonage next to their church which had been built in 1930, using lumber which had been reclaimed from the old Bowie Methodist Church. The congregation did the construction led by the minister, Rev. C. C. Martin, who also was a carpenter.

Increasing need for the services of the church led the congregation in 1957, under Rev. R. W. Hall, to decide upon the purchase of five acres of land on the Duckettown Road for future erection of a community hall and sanctuary. Through considerable sweat, sacrifice and loss of rest which involved many dinners, fish fries, and other fund-raising activities, the property was totally paid for. This acquisition also involved participation of friends in the community other than the congregation and plans moved forward for expansion.

In the spring of 1966 the pastor, Rev. McCants, together with the District Superintendent, advanced the idea of a merger with the Ebenezer Church in Lanham. The congregation was opposed to this but was led to believe that if the merger was later found not to be desirable, the Ross Church could be reopened and the property returned to them.

In June 1966, the merger was accomplished but was only consummated under heavy pressure and never really desired by the Ross congregation. An honest attempt was made to merge with the Lanham congregation, seven miles away, but with the reception at the Ebenezer Church less than enthusiastic, the Ross members began attending the Bowie Methodist Church. The Bowie and Ross congregations merged in 1969. The Ross Church has been utilized for operation of a Thrift Store for the community with laudable success.

Rev. James N. Caldwell filled the pulpit many times and was very active in the work of the church. He retired from his job as Dean of Men at Bowie State College in 1973 and has rejoined his church in Baltimore, but still serves our church when needed.

In 1968 James "Slim" Stanier became our Church Treasurer and Dottie Mayr became Financial Secretary.

The church belfry was rebuilt in 1972 as a memorial to Mr. and Mrs. Millard Schafer, through the generous contributions of their many friends.

The choir continues to be outstanding under the leadership of Perry Gilbert, Choir Director since 1958. The choir members are Elva Hall, Mildred Thompson, Elaine Willis, Debbie Durst, Brenda Edelen, Theresa Gilbert, Clyde Durst, Slim Stanier, Joe Trimmer (our oldest church member), and Rev. Patrick Wadsworth. New choir robes are to be ordered and will be dedicated to the memory of Mildred Preston.

Mrs. Mildred Thompson places flowers on the altar each Sunday to beautify our sanctuary and many of the flowers are from the garden of Mr. and Mrs. Harry Anderson.

In 1968 we became the Bowie United Methodist Church and in 1973 the WSCS became the United Methodist Women. In preparation for our Centennial Celebration, a 95th year fete was held at which Bishop John Wesley Lord delivered the morning message. Former pastor David L. C. Wright was also present.

Rev. Patrick E. Wadsworth became our minister in 1973. His wife Donna took over the job of organist from Martha Sallet who is temporarily residing in Germany.

Mr. Harry Yeich is currently the Chairman of the Administrative Board-Council of Ministries. He was preceded by Jack Bischoff who held this position for many years.

Dr. James D. Foy has been our District Superintendent for 6 years and will retire this year. He has been most helpful and encouraging with the changes in our church.

Bishop James K. Mathews has consented to be our guest speaker at the morning worship service of our 100th Anniversary Celebration on May 5, 1974.

Our own beautiful house of worship can be traced back 100 years to the efforts of that small group of sincere and determined people who felt the need of a place to meet and praise God and who had the courage and will to put that which they felt into action. Our church on the hill stands ready to serve the community for another 100 years.

Compiled by Elizabeth Trott.

Part of this history was taken from a document written by Mr. and Mrs. H. Burton Kelbaugh and son Edwin in 1934. The Ross history was written by Alice Hall in 1969.

PORTRAIT OF A TEACHER

HON. RON DE LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. DE LUGO. Mr. Speaker, at this time, I wish to acknowledge the contributions of Mrs. Eulalie Castella Rohlsen Rivera, who after an illustrious career of 44 years, retired from teaching on January 31, 1974.

Mrs. Rivera began, at the early age of 19, to teach at the Diamond School on St. Croix, U.S. Virgin Islands. Since that time she has helped to educate our youngsters at both La Grande Princesse School and Claude O. Markoe School. But her contributions to the community did not end at the classroom door. Eulalie was active in a number of civic organizations, among them the League of Women Voters and the Committee on Aging. In 1967, Mrs. Rivera received two honors for her activities: the Woman of the Year Award from the Business and Professional Women's League, and the Teacher of the Year Award at Claude O. Markoe School.

But to comment only on Mrs. Rivera's public life would form an incomplete picture of her great ability and commitments. After an early divorce, she single-handedly raised her two children. When her daughter died in 1969, Eulalie took on the added responsibility of caring for two grandchildren.

Mrs. Rivera has truly dedicated her life to the future, the education of the young people of the Virgin Islands. We all look with sadness at the immense gap caused by her retirement. Her ideals, kindness, inspiration, and commitment are qualities that cannot easily be replaced.

I would like to add the following article from the April 25, 1974, issue of the Daily News of the Virgin Islands; it details the life of this wonderful lady:

Portrait of a Teacher

Christiansted.—Her name is Eulalie Castella Rohlsen Rivera, and she was born August 2, 1909 on St. Croix. Because of her mother's early death, her childhood was spent at Ebenezer Orphanage where she had her first taste of teaching when she was little more than a child herself. Her first class was a kindergarten at the Orphanage, and that experience sparked the flame that has burned brightly for more than forty-four years.

In those days, the St. Croix schools went only as far as ninth grade, and when Eulalie had her ninth grade diploma in hand she began her teaching career. For a short time she taught at a Christiansted kindergarten—a long way from home for a young Frederiksted girl in the days when there was no public transportation and you either walked or hoped for a ride in someone's horse or donkey cart. When she heard there was an opening for a teacher at Diamond School, she called from the neighborhood pharmacy and was told to be at the school the following morning at ten o'clock. She walked most of the way, caught a ride in a horse-and-buggy part of the way, and arrived at 9:45.

"Go and play with those children over there," said the supervisor.

Eulalie did as she was told. She began teaching the children some games; they responded with eager interest. "That's all. You can go home now," she was told. The next day, the call came to the pharmacy, asking her to report for work at Diamond School. "You passed the test very well," commented the supervisor. "We will start you at twenty dollars a month."

Eulalie was 19 years old. It didn't take her long to discover that teachers in those days were required to do more than give academic guidance to a class. The children's health needs and lunch program were her responsibilities. She was called upon to plan menus, give instruction in handicrafts and teach domestic science. Even some of the kitchen clean-up chores were allotted to her, and she was assigned to supervise the gardening.

In 1932, she earned her Assistant Graded Teacher's License, and in 1934, her Principal's License. For 25 years she continued teaching at Diamond School, and says she doesn't think she missed a single day, although she was raising her own two children at the same time, and raising them without help, because she and her husband divorced while their children were small.

When Diamond School closed, she spent five years teaching at La Grand Princesse School, then in 1960 came to Claude O. Markoe School where she taught until her retirement on Jan. 31, 1974.

During most of her early years as a teacher, Eulalie Rivera walked back and forth between her home and the school. It took her a long time to save up the money to buy a bicycle, but when she finally did, it seemed the most luxurious possession she had ever had. She would ride grandly on that bike, every inch the dignified teacher, pedaling along the familiar streets and feeling pleased with herself and her world. One unlucky day, her bicycle was stolen and for some years that was the end of luxury travel for Eulalie. It was back to walking.

She's been driving a car for some years now, but in talking with her one suspects she has never owned a car that meant as much to her as that long-ago bicycle.

Eulalie Rivera has been active over the years in a number of civic, religious and social organizations, and time has not diminished her interest and participation in community projects. She is a member of the Women's League and served as president of that organization for five years. She is a charter member of the Business and Professional Women's Club, and she is supervisor of the Lutheran Sunday School. She belongs to the League of Women Voters, the Committee on the Aging, the Lutheran Welfare Society, and the Friends of Denmark. In 1967 she was named Woman of the Year by the BPW Club of Frederiksted, and that same year she was designated Teacher of the Year at Claude O. Markoe School.

Mrs. Rivera has five grandchildren, two of whom she has raised to young manhood. They were the children of her daughter who died in 1960, and they still reside with her. Her son is now 38 and makes his home in Puerto Rico where he is manager of the local Emerson Manufacturing branch. He is the father of three daughters, one in college, the other two in high school.

Behind Mrs. Rivera's small, pretty house in Frederikstead, a large backyard stretches out. Retirement, she says, will give her a chance to work on it and get it to look the way she'd like to see it. She's also looking forward to spending more time on music. She plays the piano and wants to learn to play the guitar. She'll spend some time with her son in Puerto Rico and, if possible, she'll do a little traveling. But if she is needed, she will teach now and then as a substitute.

The Legislature has passed a bill calling for the Grove Place School to be renamed the Eulalie R. Rivera School, and although she never taught at Grove Place, the designation is appropriate, for many of her students were residents of that area of St. Croix. It is their children and grandchildren who will be attending the school bearing her name.

Eulalie Rivera's contributions to the community have gone far beyond her role as educator. She cared deeply for the children she taught, and gave them something more than formal learning. She helped them find standards to live by. Their classroom work was not her sole concern; she wanted them to be productive human beings. She gave them love and understanding; she gave them a worthy example to follow. And she was their friend, as well as their teacher.

When she retired on Jan. 31, after more than 44 years of teaching, she left behind something more than a vacancy to be filled by another teacher. She left an empty place that no one else will ever quite fill.

TWENTY YEARS AFTER BROWN, KENNETH CLARK CONTINUES THE FIGHT FOR DESEGREGATION

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. RANGEL. Mr. Speaker, the Supreme Court, in reaching its historic decision 20 years ago in Brown against Board of Education, was guided by the pioneer research into the self-perception of black and white children of Doctors Kenneth and Mamie Clark. In the two decades that have passed since the Brown decision, the Doctors Clark have continued to provide the intellectual framework for the movement toward the integration of educational facilities as called for by the Supreme Court in Brown.

Dr. Kenneth Clark, now the director of the Metropolitan Applied Research Center in New York City and a member of the New York State Board of Regents, has always taken seriously the Supreme Court's command in Brown that segregated educational facilities should be desegregated "with all deliberate speed." While others have wavered from the goal of integrated education or found great difficulties in applying the decision to the de facto segregation of northern school systems, Dr. Kenneth Clark has insisted that the law of the Brown decision is clear, unequivocal and relevant to all situations which present a segregated learning environment.

He has insisted that the Brown decision is the law despite impatience with the pace of progress that has led to frustration in the black community which has caused many to reject integration as a first priority in the continuing struggle for freedom and self-determination for minorities in America. He has insisted that Brown remains the law in the face of the wavering of the white liberal community on the question of integration. And he has been proven right in court decision after court decision that have upheld the law of the Brown case and directed the desegregation of both de jure segregated Southern and de facto segregated Northern school systems.

Dr. Clark is presently involved in a battle with the New York City Board of Education and the Board of Regents over his insistence that the integration of the New York City school system be treated as a serious goal. It is clear that the City Board of Education and the Regents regard the failure of the New York City Board of Education to achieve the integration of our school system in the last two decades as excusable—they spend a great deal of time and effort explaining why integration has not, and by implication could not, be achieved. Dr. Clark, however, has exposed these excuses for what they are: misrepresentations and evasions of responsibility.

The One Hundred Black Men, a group representative of the leadership of the black community in New York City, has issued a statement in support of Dr. Clark's contention that integration remains a possibility for the New York school system if the State Board of Regents, the New York City Board of Education, and the professional administrators of the system find the moral courage necessary to exercise leadership toward this goal. I place the analysis of Dr. Clark's position prepared by the Educational Committee of the One Hundred Black Men, which appeared in the May 11, 1974, edition of the Amsterdam News, in the CONGRESSIONAL RECORD for the information of my colleagues. As we approach the celebration of the 20th anniversary of the decision in Brown against Board of Education, I pay tribute to the continuing contributions of Dr. Kenneth B. Clark and his wife Mamie to the achievement of an integrated society and the attainment of equal educational opportunity for all our children.

ONE HUNDRED BLACK MEN BACK DR. CLARK'S SCHOOL PLAN

[Prepared by Educational Committee, One Hundred Black Men]

We of the One Hundred Black Men strongly support Dr. Clark's proposal that the design and implementation of a plan for desegrating N.Y.C.'s public schools should be invested in a 3 man commission to be appointed by the Board of Regents and removed from the N.Y.C., Board of Education which has proven by its performance over the past 20 years, and right up to the present, that it has a vested interest in maintaining as much of a segregated school system in N.Y.C., as possible, rather than an interest in desegregation of the school system.

Whether one supports integration of schools as the best method to attain quality education for Black children, or whether one supports community control as the best method to attain that goal, it is essential to become acquainted with Dr. Kenneth Clark's reputation of Board of Education's Chancellor Anker's "Report on Programs and Problems Affecting Integration of the N.Y.C., Public Schools, February, 1974."

HARD TO BELIEVE

It reinforces what we know from past experiences in dealing with the N.Y.C., Board of Education, namely that one must be most cautious about believing anything that comes from the Board. It is selfserving and serving the needs of the white community. It throws crumbs our way in the hope of keeping us fighting among ourselves so we don't have time to see their deceitful actions.

As demonstrated in Dr. Clark's analysis of that report, the Chancellor's arguments that the Board of Education has tried to establish integration in N.Y.C.'s public schools is a deliberate distortion of the truth.

Dr. Clark follows the report, point by point, putting what the Chancellor has said next to the facts that Dr. Clark's staff at MARC has carefully searched out.

Rather than trying to integrate, according to the Board of Education's official policy, the facts show that the exact opposite is what has actually been done in response to pressures from, and identification with, the mood and interests of the white community.

LAW BREAKERS

The law about using all deliberate speed in integrating the public schools has been flouted with almost no challenge and certainly no prosecution. This means that all the Boards for the past 20 years have been lawbreakers, but not brought to account for breaking the law.

The following are some excerpts from Dr. Clark's response Mr. Anker's report:

"Mr. Anker's assertion: . . . 'Whenever possible sites for new school buildings have been selected in predominantly middle class areas or in "fringe areas" in order to obtain . . . an acceptable level of racial balance by drawing on adjacent communities of disparate ethnic characteristics." . . .

THE FACTS

"The fact is the successive Boards of Education of New York City have selected sites and have built elementary and junior high schools precisely in those sections which would increase the chances of their becoming segregated schools. I.S. 201 is probably the most publicized example of a public school erected in a ghetto area during recent years. 'The community control' controversy surrounding this school stemmed directly out of the unwillingness of the Board of Education and its officials to desegregate this school at the time of its opening.

"In its comments about site selection of high schools, Mr. Anker's report is even more misleading. Of the 95 high schools in N.Y.C. there now exist 40 segregated, predominantly Black and Puerto Rican high schools and 16 segregated predominantly white high schools . . . a total of 56 segregated high schools.

"Andrew Jackson High School which is now predominantly Black high school, is an example which clearly refutes Mr. Anker's assertion that 'For some 20 years virtually every high school has been situated so as to make it more feasible to integrate its student body'!

In early 1960, the high school population reached a point where another high school Springfield Gardens, was built in the predominantly white community of Springfield Gardens and opened its doors in 1965.

Until 1965, the student body of Andrew Jackson High School was drawn from the predominantly Black communities of St. Albans and Cambria Heights and the predominantly white communities of Rosedale, Springfield Gardens and Laurelton.

As late as October, 1966 the ethnic composition of Andrew Jackson High School was 44.7 per cent Black, 8.4 per cent Puerto Rican, and 46.7 per cent others. However, the site selection of the new Springfield Gardens High School drew the white students from Andrew Jackson so that as could have been predicted, it is now a segregated, predominantly Black high school.

"Mr. Ankers discussion of zoning as an integration program is even more unclear and misleading than his discussion of site selection as an 'integration' program. In spite of his insistence that zoning for the purpose of integration was introduced in the N.Y.C. public school system, the following facts remain uncontradicted:

"—35 per cent of all the public schools in N.Y.C. are segregated schools with a 90 per cent or more minority students population.

"—17 per cent of the N.Y.C. public schools have 80 per cent or more white students."

Dr. Clark makes a most interesting speculation which is receiving support from other sources also. This speculation is that "white flight" to suburbs and the resulting accelerated percentage of minority students in the public schools "have not been due to too much desegregation of the New York public schools but to too little."

He says that "a system wide comprehensive desegregation plan, enforced and implemented without vacillation and equivocation "(as was done successfully in many parts of the South)" is the most effective safeguard against massive white flight and therefore the best insurance of ethnic stabilization in urban public schools."

In other words, when most of the white population is faced with no alternative but integration, they will accept the integration of the public schools, albeit reluctantly. As in the South, they soon adjust to the change. A small minority of them moves out, but most remain and adjust.

Dr. Clark is to be congratulated on his persistence in exposing the hypocrisy, the deceit and unfortunately, the basic contempt for law of the leaders of the education system of our city.

MURDER OF CHILDREN MUST BE CONDEMNED

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. EDWARDS of California. Mr. Speaker, the murder of 19 Israeli children and the wounding of 70 others at Maalot by Arab terrorists is another grim and horrifying entry in the catalog of Middle East tragedies. Again, the Palestinian guerrillas have employed the weapons of blackmail, violence, and treachery to manipulate political affairs, this time seeking to disrupt peace negotiations in Geneva. The lives of innocent people have been pointlessly threatened and sacrificed, affronting universally recognized standards of humanitarianism. Civilized nations, decent citizens and peace-loving people throughout the world are outraged by these heartless acts. The use of terrorism can only perpetrate the distrust, retaliation and constant state or war that have marked relations between Arabs and Israelis for decades.

The United States must immediately and without qualification condemn what has happened at Maalot. It is our responsibility as Members of Congress, as peace-loving citizens and as decent human beings to call upon every nation, individually and as members of the United Nations, to join us in protesting this brutality. While hearts continue to be wrenched, minds appalled and voices raised against such indignities, there is hope that such atrocities will finally be ended. We can certainly do no less, even while we wish that more effective action were possible.

I urge every Member to join me and over 250 colleagues in sponsoring a resolution enunciating these objectives.

TAXPAYERS REVOLTING ON CONGRESS

HON. JOHN B. CONLAN

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. CONLAN. Mr. Speaker, the following letter received from one of my constituents is typical of the growing indignation toward the Congress being shown by American working men and women.

This letter writer, like many others, is fed up with congressional dalliance, and the "dirty tax" of inflation through deficit spending and lack of budget reform and a balanced budget.

APRIL 20, 1974.

Representative JOHN B. CONLAN,
Cannon Building,
Washington, D.C.

DEAR CONGRESSMAN CONLAN: I have never sent a letter to a Congressman before, but I find I must do so now. I am sending identical letters to each of the Arizona Congressmen regardless if I am in their district or not.

Starting this year and continuing then each year, I am going to delay paying my income tax until Congress balances its budget and starts paying our national debt.

I feel very strongly about this, and I can no longer in good conscience continue supporting Congress's ridiculous spending policy. The budget has been balanced about three times, if I recall correctly, in the last 40 years, and those times it surely must have been accidental.

I am, after all, only asking Congress to do what Congress demands that I do. If I spent year after year more than my income, the laws that Congress has passed would be invoked and I would be forced into bankruptcy by my creditors.

When it came time for a quartely payment to IRS, I deposited the money, and when Congress becomes "financially responsible" I will withdraw the money and interest and send it in.

I have no doubt that the government (IRS) will be able to force payment from me. I am, after all, "just a little pebble on the beach." But it will be the ultimate in hypocrisy for the government to force me to be "responsible" in the face of the irresponsibility it has displayed during the past 40 years.

I believe every Congressman should know how close the taxpayers are to a revolt, so I suggest—in fact, I dare—one of Arizona's Congressmen to read this letter on the floor of Congress so it goes into the Congressional Record, and to make copies of this letter and see that every Congressman receives one. Perhaps it will wake up a few of them so we can start back to the idea of Government by the people and for the people.

Sincerely yours,

(S) PAUL STICKLER.

COMMENTARY

HON. BILL GUNTER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. GUNTER. Mr. Speaker, Mr. Robert F. Hurleigh, former president of Mutual Broadcasting System, is now a commentator on a nightly basis on Mutual national radio network. From time to time he brings to the attention of the people of this country many different ideas.

Recently, in two broadcasts, he spoke about the problems of insurance coverage for labor union leaders as opposed to corporate executives. I believe that Mr. Hurleigh has once again mentioned a topical item and I call upon my colleagues to give his comments their attention:

COMMENTARY

The New York Times has reported that Martha Mitchell in preparing to sue John Mitchell for divorce has said she receives very little money from her husband. The Times also reports Mr. Mitchell still receives an income from his old law firm, which is buying back his partnership, but that most of the money goes for legal fees. We set forth this information, not to suggest sympathy for the former Attorney General or his wife, but rather to establish this point: A man of considerable means and earning capacity can be brought to his financial knees by legal entanglements and the high cost of defending himself. The courts are full of cases where charges are brought against organizations and individuals because someone believes he or she has been wronged and brings suit. It has reached such a state that many organizations have insurance for themselves and their officers and directors. The logic behind this liability insurance is sound, because charges are made against officers and directors by disgruntled stockholders or customers who believe, and believe sincerely, that they have been wronged. There are many instances of individuals losing their savings, sometimes their homes in paying the bills for legal services to defend themselves. Win or lose, the bills are still there. This liability insurance now has been extended to Labor Unions, which in the past have never been able to enjoy these same privileges and yet sorely need such protection because, like banks or corporations, they can be sued by other officers, members of the union or the government. Under the Landrum-Griffin act, a union or union official who is sued on a charge of violating his fiduciary responsibility to the union cannot use union funds or union counsel in his defense, although in

90% of the cases, the union officer wins. And though it may not be generally known, most union officers do not make much money, if his income is compared to another with similar responsibilities in the private sector, or even the government's top supervisory grade of $36,000. In the unions there are no stock options or incentive payments, and if voted out of office there is nothing left but his pension or a return to his trade. Very, very few officers of unions can move from one organization to another as executives in the private or government sector can move from company to company or, in government, transfer horizontally from one agency to another. Thus, the importance of this liability insurance for union officers is apparent and has been long needed to give them equality in this area. I'll have additional details tomorrow, about this new liability insurance which should be of extreme importance to all union officials and their members. Perhaps you will find time tomorrow to be with me, again. So goes the world today.

COMMENTARY—II

Liability insurance is a way of life in the United States. Most of us are aware of the liability insurance needed for our cars and homes, as well as in other forms for personal protection. We have mentioned that industry; corporations, banks, et cetera, have long since had liability insurance for protection against lawsuits for the business as well as officers and directors. The need is obvious: Disgruntled stockholders or customers, with what they believe to be legitimate complaints, often sue the officials as well as the corporations. The high cost of legal defense can wipe out an individual's assets, win or lose the case. So, industry has been able to obtain liability insurance for the specific purpose of paying the cost of such lawsuits. This same protection, however, has been denied unions because of an interpretation of the Landrum-Griffin Act. Recently, however the Professional Administrators Corporation, which is a group of nine independent administrators who do the professional management of union pension and welfare plans have come up with a new insurance package to give unions and their officers the same kind of protection that has been available to management. The President of PAC is Russell Tolley, who is President of his own firm, Tolley International Corporation. The Vice President is Alfred M. Bell, President of Alfred M. Bell and Associates. These two, and other members of PAC have been working for two years with attorneys and insurance executives to put the package together. Now, with the underwriting by Lloyds of London, the Professional Administrators Corporation is able to provide through its members, such as Tolley International and Alfred M. Bell, the same kind of legal expense protection for unions and union officials as has long been available to corporate officers and directors. Under the Landrum-Griffin Act, a union official can be sued by another officer or union member on a charge of violating his fiduciary responsibility and is prohibited from using union funds or union counsel in his defense. And though statistics prove that the union officials wins the case over 90% of the time, the fact remains that the high cost of defense has created an intimidating and sometimes disastrous personal situation. This reporter has viewed the labor scene for many years and is well aware that too many people have pre-set ideas about the incomes of Labor Leaders. There are no more than a handful of these officials making more than $50,000 a year. And the average of approximately 125 international unions' top paid officers is around $35,000. When you consider the 60,000 local unions, the average drops considerably, somewhere around $20,000 a year. Thus, it is only fair that these unions and officers should be allowed the same protection in liability insurance as industry and its officers. So goes the world today.

SCHOOL INTEGRATION 20 YEARS LATER

Hon. Yvonne Brathwaite Burke

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mrs. BURKE of California. Mr. Speaker, May 17 marks the 20th anniversary of the landmark decision by the Supreme Court in Brown against Board of Education. This decision rejected the fallacy of "separate but equal" and revitalized the 14th amendment as guarantor of the civil rights of all Americans irrespective of race.

I note with pleasure that this anniversary is to be appropriately celebrated in Los Angeles. At a gathering that evening sponsored by the American Civil Liberties Union, the distinguished attorney A. L. Wirin will pay tribute to Chief Justice Earl Warren, who delivered the unanimous decision. Mayor Tom Bradley will congratulate Judge Alfred Gitelson on his contribution toward bringing the findings and ruling of that decision into effect locally. Other southern Californians will receive citations for what they have done to promote equal opportunity as called for by the Supreme Court. Principal speaker will be Ramsey Clark, former Attorney General of the United States.

With gratification in the era of equal opportunity based on equal protection as the law of the land, I hereby salute this noble and humanitarian decision and send my greetings to the celebrants of the 20th anniversary.

I insert into the CONGRESSIONAL RECORD two items from Open Forum, Los Angeles, May 1974: "School Integration 20 Years Later," by John and LaRee Caughey, and "Where Were You on May 17, 1954?" by John Caughey.

The articles follow:

SCHOOL INTEGRATION 20 YEARS LATER

(By John and LaRee Caughey)

"To separate children in grade and high schools from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone."

—*Brown* v. *Board of Education* (1954)

For more than a hundred years, according to Los Angeles' distinguished jurist Loren Miller, "the Negro has been the ward of the Supreme Court." Repeatedly he had to ask "the intercession of his guardian when he sought to exercise the rights and privileges enjoyed as a matter of course by white citizens. He had to get Supreme Court decrees in order to buy and rent homes, vote, ride in Pullmans, read in public libraries, picnic in public parks, eat in bus stations, or swim in the ocean."

Relief for blacks has come piecemeal and slowly. There were decisions striking down the grandfather clause as a denial of the right to vote, ending the Jaybird private primary, and outlawing the poll tax. Restrictive convenants fell in 1948, by court decree.

But after *Plessy* in 1896 the pernicious doctrine of "separate but equal" was in the saddle. In *Plessy* the Court considered a complaint by a black passenger that he was forced to vacate what became "white" accommodations when his train crossed the Mason/Dixon line. Plessy lost, and the railroads were free to continue their charade of "separate but equal."

The catch-phrase spread far beyond transportation. It was applied to drinking fountains, toilets, elevators, hotels, restaurants, soda fountains, parks, playgrounds, graveyards and schools.

In the early fifties the NAACP brought suit in a number of southern and border States challenging the doctrine of "separate but equal" as applied in the public grade and high schools. The Supreme Court accepted a cluster of these cases for review, heard arguments, accepted briefs from both sides and some others from friends of the court, and took all under advisement.

On May 17, 1954, the Supreme Court emerged from months of silence on the subject with an epoch-making decision in *Brown* v. *Board of Education of Topeka*. The essence of the decision was succinctly put:

"Separate educational facilities are inherently unequal; . . . such segregation is a denial of the equal protection of the laws."

Aside from what this decision has meant to American education, it has produced a most gratifying "browning" of America. Jim Crow discriminations have been tumbling all over the place. There has been a sweeping knockdown of segregation in almost all its contexts.

SPORTS BECOME ALL-AMERICAN

Some progress toward expunging "separate but equal" came earlier. After Henry Aaron struck homers 714 and 715, he was asked if Babe Ruth was his boyhood hero. No, he said, he didn't believe he had ever heard of the Babe. His boyhood hero and the hero of all his chums in Mobile was Jackie Robinson, who in 1947 broke the color barrier and led his brothers out of the Negro leagues which had been their only and very limited opportunity. Aaron started his major league career in 1954, a month before the decision in *Brown*.

What the Dodger owners proved, beginning with Jackie Robinson, was that it was good business as well as idealism to employ talented black along with talented white players and that our whole society would be healthier with this integration. What *Brown* added in 1954 was backed up with legal clout. The Constitutional requirement of "equal protection of the laws" would stand against a league rule or a conspiracy of owners to exclude blacks.

With less commotion other sports integranted, among them football and basketball, track in particular, tennis and golf more grudgingly; but integration came almost across the playing fields, boards, rinks, and rings of the nation. The level of uncertainty now is when will a black be invited to golf's Masters tournament and when will baseball see a black manager.

OTHER GAINS

In Montgomery in 1956, Mrs. Rosa Parks refused to move to the back of the bus. The reason, as she recalled, was "just that she was tired." Her arrest galvanized the blacks to boycott the city buses. A year of passive pedestrian resistance made the point. This particular racist insult was abolished and bus seating was integrated.

Meanwhile, college students at Greenville, North Carolina, sat in at the Woolworth sandwich counter and Freedom Riders from the North and West soon were integrating airport and bus depot facilities and going to prison in the process. That was carrying the message of *Brown* to counteract *Plessy* on the transportation front.

The Montgomery bus boycott catapulted

Martin Luther King to prominence. He emphasized nonviolent protest against discrimination by the police, jailers, and others. The legal foundation for almost everything he sought was the equal protection clause.

The march on Washington stimulated federal support in the Voting Act of 1965, a new Civil Rights Act, and other measures. States also joined in as with California's Rumford Act, its Fair Employment Practices Act, and a measure facilitating voting for Spanish-speaking citizens.

LAST HOLDOUT FOR SEGREGATION

In the twenty years since the decision in *Brown*, the precepts of that decision have swept government at all levels out of the business of imposing segregation; all, that is, with one exception.

That exception—and this is the saddest of ironies—is the very field that gave rise to the decision by the Supreme Court: the field of public school education. The Supreme Court had ruled that "separate *educational* facilities are inherently unequal," (emphasis added).

On agents of government all across the land, that key phrase minus the word "educational" has registered convincingly and effectively. The precepts of *Brown* really have application.

But many school boards and superintendents and those who elect them act as though *educational* facilities of the public schools are excluded from the application of *Brown*.

Thus in Los Angeles the school board has a unique distinction. It is the only governmental agency in town, whether state, local, or federal, that imposes segregation. The same is true in Santa Monica, San Diego, and many other cities. Characteristically these school boards knowingly maintain and perpetuate minority segregated schools and assign pupils to them. Can such a glaring violation of the equal protection guarantee in the Fourteenth Amendment long endure? One would think not, though it has for twenty years.

SEGREGATION EXPANDS IN LOS ANGELES

Four years have passed since Judge Gitelson ordered elimination of school segregation in Los Angeles. Enforcement of the decision was stayed when the Board of Education appealed. But neither segregation nor the growth of segregation was stayed.

Over the four-year interval some 34 schools have passed over into segregation. Here is the sad roll call:

Annandale, Atwater, Buchanan, Cahuenga, Catskill, Del Amo, 15th, Fishburn, Garvanza, Grant, Heliotrope, Morningside, 186th, Park Western, Playa del Rey, Ramona, Richland, Roscoe, Santa Monica, Shenandoah, Stanford, Sylvan Park, Towne, Van Nuys, Vine, and Yorkdale Elementary; Burbank, Burroughs, Marina del Rey, South Gate, and Webster Junior High; Marshall High; McAlister and Pacific Special Education.

With these 34, the Los Angeles school census for 1973–74 reveals 297 minority segregated schools out of 587. Now for the first time, more than half of the schools in the district have this handicap. Now for the first time, the typical Los Angeles school is minority segregated.

On March 4 the Board debated a motion to set up a program to prepare parents, staff, and communities as well as pupils and teachers for integration. The motion also ordered development of an operational procedure for integrating as many as 50 or 100 schools located in proximity to predominately white schools. They could be integrated with a minimum of adidtional transportation. This motion failed, four votes to three.

SOUTHERN RESISTANCE

Some Southerners accepted the validity of *Brown*. The prevailing attitude of those in power was hostile, as shown in a manifesto by 96 Congressmen denouncing it as an encroachment on states rights. They pledged to use all lawful means to bring about a reversal. In 1955 when the Supreme Court tacked on the phrase "with deliberate speed," opponents seized on that as license for delay.

State and local officials in the South by laws and regulations interfered with black enrolling in white schools. Every southern state except two authorized shut-down of the public schools. Virginia actually closed its schools. State after state voted to cut off funds to districts that integrated. They also gave aid to private and parochial schools to which white pupils fled. They did it by tuition grants, known as the voucher system. They gave tax credits for what parents paid. They extended state benefits to private school teachers. They even paid for busing to white-flight schools.

Every state but one enacted laws designed to cripple the NAACP. There were laws to penalize those who stirred up suits for integration. Another favorite device was to attempt to require publication of the NAACP membership list.

Angry demonstrators and mobs threatened the first black children who attempted to enroll in white schools. Often the mobs succeeded. President Eisenhower never uttered a word of commendation for the *Brown* decision. But when federal court orders were defied, as at Little Rock, he did muster the National Gaurd.

In half a dozen states along the northern edge of the South there was progress in integrating. The figures published overstate the gains because if one black is in a white school, or vice versa, that school is counted as integrated, which is tokenism at its ultimate. Even so, Alabama, Arkansas, Georgia, Louisiana, Mississippi, and North and South Carolina arrived at the tenth anniversary of *Brown* with from none to not more than one percent of their black pupils enrolled in schools which had any white pupils.

NORTHERN APATHY AND RESISTANCE

All across the North and West *Brown* was greeted with a strange mixture of applause and apathy. The applause was for the blowing away of that unctuous smokescreen of "separate but equal."

But there was a widespread delusion that school segregation existed only in the South. Over great stretches of the rural and small-town North and West there were very few blacks. And in the cities, life was so compartmentalized that many residents very seldom had other than white contacts. To this day there are residents who are not aware that Los Angeles has segregated schools. Well into the sixties the Los Angeles school board prided itself on operating colorblind. That in some respects admirable stance spared most citizens real awareness of the problem.

Even ACLU shared that apathy. Not until 1962 was it alerted to the gravity of the problem and only then did it press for integration.

In the course of the second ten years after Brown, the South and the North reversed roles. Under pressure of court orders, HEW directives and civil rights legislation, the deep South did an about-face. Many leaders, among them Governor Wallace, say now that they accept integrated schools as legally required.

Although school integration in the South is by no means complete, according to the latest figures the eleven southernmost states now have 44.4 percent of their black pupils enrolled in predominantly white schools.

In the North and West in these same ten years a sprinkling of school systems integrated. Among them are Riverside, Berkeley, San Mateo, San Francisco, Monrovia, Inglewood, and Oxnard. Several of these are showcase performances, inspiring examples.

They, however, are overshadowed by sinister fighting back against school integration in the North and West. A poll of white parents blocked integration in Santa Monica. Three times the people of Los Angeles County voted what could be construed as mandates against school integration. Using euphemisms such as open transfers, alternative schools, parental choice, or anti-busing, politicians all the way from local school boards to the White House rallied militant resistance to school integration. The Establishment as personified in the school board is on record too in the pleadings in court against integration orders in Denver, Detroit and numerous other cities including Pasadena and Los Angeles. In court the Los Angeles Board explicitly and laboriously attacked the validity of the findings and decision in *Brown*.

The regional score on black students actually enrolled in Northern schools in which they are not an outright majority is 29.1 percent—poor as compared to the deep South figure of 44.4 percent.

Focusing on the big cities, which is where most blacks live, reveals a far greater intensity of segregation. In Washington, D.C., 99.7 percent of the blacks are in segregated schools. In St. Louis, Chicago, Newark, Gary, Cleveland, and Detroit, the range is from 97.9 to 93.7 percent. These cities can rationalize the excuse that from 55 to 95 percent of their students are black. Los Angeles, with only a quarter of its students black, has 93.2 percent of them in black segregated schools.

WHERE WERE YOU ON MAY 17, 1954?

(By John Caughey)

The decision in *Brown* may well go down in history as the noblest of the century. It restored the Fourteenth Amendment as a safeguard against discrimination based on race.

Certainly it was a dramatic moment when Chief Justice Earl Warren, speaking for a unanimous court, read the decision. The setting was the august courtroom of the Supreme Court. There had been little buildup. The cases had been under submission for months, but speculation had been mostly on how the Court would divide.

I vividly remember where and how I heard about Pearl Harbor, the assassination of President Kennedy, the atomic bombing of Hiroshima, and, on the joyful side, Lindbergh's landing at Paris and the election of Tom Bradley. Where was I on May 17, 1954, and what passed through my mind? To my chagrin as a civil libertarian and an integrationist, for the life of me, I cannot remember.

Incredulous about my inattention, I checked back in *Frontier* and *Open Forum*. Where were they? In *Frontier* for 1954 I find two letters to the editor and that is all. *Open Forum* for July had one oblique reference to the decision and back in February a story on the cases that had been taken under review.

The fifties were the heyday of McCarthyism. McCarthy and many lesser inquisitors were noisily exposing Communists and fellow travelers in a witch hunt that shamelessly undermined the Constitution. ACLU and *Frontier* had their hands full trying to defend on these issues. Though not really a witch, I had been fired as one and was still trying to get myself rehabilitated. That experience sharpened my awareness of the menace to the Constitutional protections. I wrote an elegy on The Decline and Fall of the Fifth Amendment.

In May, 1954, my thoughts were trained on Washington because two extraordinary examples of McCarthyism were coming to a head.

President Eisenhower had "put a wall" between J. Robert Oppenheimer and the nation's atomic secrets. Oppenheimer insisted on a hearing, and on May 17 that hearing was in progress in Washington, though behind closed doors. The chilling outcome would be announced ten days later. I remember it as though it were yesterday.

Meanwhile, in the Senate Caucus Room, under the constant eye of the television cameras, the epic Army-McCarthy hearings were in full blast. The Senator had charged that certain generals and the Secretary of the Army had interfered with and hampered his anti-Communist efforts. Pushed into a corner, the administration was fighting back. Before the strange tribunal of his own committee, McCarthy won some damaging admissions. Counsel Joseph Welch was scoring points against the Senator but, as of May 17, the outcome of this brawl was far from being decided.

The showdowns impending on these two alleged Communist threats to the national security had a burning immediacy that eclipsed what the Court said on *Brown*. It would be years before I appreciated the full meaning of this decision.

THOSE HIGH FOOD PRICES—WHO GETS THE PROFITS?

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. BINGHAM. Mr. Speaker, in a recent issue of the RECORD I inserted data pertaining to the sizable profits earned by American business in general and the food retailing and processing industries in particular.

Further indication of the food middleman's fiscal well-being is revealed in an article appearing in the May 20 edition of U.S. News & World Report. The article elaborates on a rather simple and disturbing proposition: while food prices are down on the farm, they are continuing to rise for the consumer. I am convinced that without concerted Government action the American food shopper will suffer through a period of continuing price increases straining the limits of even the most liberal budgets. I recently introduced legislation calling for a new equitably administered system of price controls to protect the consumer from this price onslaught, and I am of the opinion that the Congress must act expeditiously if we are to avoid the catastrophic consequences of double-digit inflation.

THOSE HIGH FOOD PRICES—WHO GETS THE PROFITS

At a time when farmers are getting less for their crops, shoppers are wondering why they aren't getting a break at the supermarket.

It turns out that a larger part of the food dollar is going to the middlemen—and that they are trying to recover increases in costs other than raw farm commodities in order to protect their profits. The latest official figures indicate they are doing this quite successfully.

The result is that the consumer cannot be at all sure that he is going to get much if any—relief from the high cost of foods and fibers this year.

On the farm, prices have been going down fairly sharply for about two months, following last year's unprecedented rise.

The Government's report on wholesale prices for April showed farm prices down 4.3 per cent on a seasonally adjusted basis from March. It also showed consumer food prices—at the wholesale level—up slightly. The Bureau of Labor Statistics explained that lower prices for meats, processed poultry, flours and vegetable-oil products were not enough to offset increases for fresh and dried fruits and vegetables, fish, miscellaneous processed foods and dairy products.

An earlier report from the U.S. Department of Agriculture said that prices paid to farmers for their produce declined 4 per cent in March and 6 per cent in April.

Some commodities, such as wheat, rye, poultry and eggs, tumbled 18 per cent from March to April and livestock prices dropped 6 per cent.

UPWARD SURGE

In the retail stores, shoppers have seen meat prices dip a bit in recent weeks—but not much else. So far in 1974, grocery prices as a whole have advanced at an annual rate of 25 per cent, almost without historic equal.

With farm prices falling and retail food prices still rising, the Agriculture Department figures that the consumer's food dollar is rapidly being redistributed. A larger share is going to the middlemen—companies that assemble raw materials, process them, haul them around the nation by railroad and truck and distribute them to the public.

A chart on page 43 shows that the average American family is now paying $289 more per year for a market basket of food than a year ago. Two thirds of the increase is going to middlemen, the figures indicate.

The middleman is responsible for most of the cost to the consumer in a number of instances, as indicated by another chart on page 43. Processors and distributors get about 88 cents out of every dollar spent for canned tomatoes or boxes of corn flakes. They take 78 per cent of the price of fresh oranges, 66 per cent of what you pay for sugar, 55 per cent of your outlay for margarine.

What do middlemen have to say about all this?

George W. Koch, president of the Grocery Manufacturers of America which represents such companies as General Mills, Pillsbury and Quaker Oats, explains:

"We are just passing on the huge increases in raw materials and energy to consumers that we can't absorb internally. Processors are in the same boat as the consumer because both our costs are rising."

Another food processor declares, "We couldn't pass on to retailers a 60 per cent increase in corn prices and a 40 per cent jump in wheat prices last year and expect to remain in business."

Grocery merchandisers point out that farmers in 1973 got 38 cents out of the consumer's farm-food dollar, the highest proportion since 1953. Now, they say, it is the middleman's turn to recapture a somewhat larger share.

Meat processors in particular insist that their current gains are long overdue. In the third quarter of 1973, meat-packers got only 2 per cent of the retail dollar spent on meat. But now they are making about 8 per cent, compared with an average of 5.8 in the period from the second quarter of 1971 through the first quarter of 1974.

PLAYING CATCH-UP

A banker who specializes in loans to agribusiness at the First National Bank of Chicago puts the case for the middleman this way:

"When raw-food costs are high," he says, "the middleman is squeezed. He can't add his costs on top of the higher prices he is paying the farmer, because the consumer just wouldn't accept it. So when farm prices go down, the middleman has to play catch-up to get back the share he has lost."

Figures compiled by the Federal Trade Commission, however, throw a somewhat different light on the experience of the food companies during last year's run-up in farm prices. According to the FTC, the food companies' return on investment—a standard method of measuring profits—averaged 12.8 per cent in 1973, compared with an average of 10.9 per cent in 1968–72.

In the fourth quarter of last year, the Commission's data indicates, the profits of these companies rose 40 per cent from the level a year earlier.

CONSUMER OUTLOOK

The trend of costs and profits of the processors and distributors is only one of the factors that make it uncertain how the consumer will fare during the balance of this year.

Administration economists have predicted that retail food prices will average about 12 per cent higher this year than last—a comforting estimate only by comparison with the much steeper rate of increase already experienced. The official line is still optimistic.

Agriculture Secretary Earl L. Butz said on May 7 that the giant flood of higher grocery costs has crested. He indicated that he expects food prices to dip in the next few months but then increase slightly.

"The primary things that will affect food costs now are such factors as labor costs, transportation and fuel for food processors," Mr. Butz explained.

Experts in Mr. Butz's Department were somewhat more specific in a report entitled "National Food Situation," which was issued on May 8.

The report said that if crops fall short of predictions and domestic demand for food increases, prices could jump upward another 5 or 6 per cent before stabilizing in autumn. That would push the 1974 average to 16 per cent above last year, the study indicated.

On the other hand, it continued, bigger crops and smaller demand than now forecast could send food prices down 1 to 2 per cent in each quarter for the rest of this year and hold the annual increase to 8 per cent above 1973.

WHEAT SUPPLY

Another report, issued on May 8, held forth the prospect of a bumper crop of winter wheat. The Department said this harvest seems likely to total 1.6 billion bushels, an increase of 27 percent over last year's record and 7 per cent more than forecast by the Department in its December crop report.

Fears of a shortage of wheat and flour, voiced early in the year, have now evaporated. Wheat which had been selling in Kansas City for more than $6 per bushel was trading on May 8 at $3.60. Flour which brought $16 per hundred pounds in New York at one point is now being traded at about $10.50.

Economists say the outlook for meat supplies and prices is a big question. Because of the relatively high prices of feed grains, such as corn and oats, livestock producers are holding their herds on the range, shipping fewer into the feed lots. If bumper crops are harvested and feed prices decline still more than they have, farmers are expected to resume fattening more cattle. Then more meat will become available, and prices, presumably, will drop.

Other problems of unknown dimensions are also mentioned by the food processors: the rising trend in freight rates, higher prices being paid by farmers for fuel and fertilizer, shortages of paper products and tinplate for food containers, labor negotiations that are pointing toward higher costs in stores and factories, and the higher cost of energy used in processing foodstuffs.

On one point, most industry observers seem agreed: It will take an even greater decline in farm prices to overcome increases in the middleman costs that account for so much of the food dollar. As one executive says:

"When you consider that about 65 per cent of the food dollar goes into bringing groceries from the farm to the consumer's table, a 10 per cent drop in the raw-product price amounts to only about 3½ cents in the total food dollar."

WHEN FOOD COSTS RISE—WHERE DOES THE MONEY GO?

[Cost at retail of a market basket of foods produced on U.S. farms—a year's supply for the average urban household.]

	Year ago	At today's prices	Change (up)
Total	$1,458	$1,747	$289
To middlemen	796	985	189
To farmers	662	762	100

Note: Comparison is based on latest available prices, March 1974, against March 1973. "Middlemen" include meatpackers, millers, bakers, bottlers, canners, grocers, railroads, truckers, others.

Source: U.S. Department of Agriculture.

FARMERS' SHARE OF THE PRICE OF SOME FOODS

[In cents unless otherwise indicated]

	Homemaker pays	Farmer gets	Middlemen get[1]
Beef, pound (average of all cuts)	$1.45	92	53
Pork, choice, pound (average of all cuts)	$1.12	60	52
Butter, pound	95.4	64.1	31.3
Cheese, American, 8 oz	74.3	39.6	34.7
Eggs, dozen, grade A large	85.6	58.7	26.9
Frying chicken, pound	57.5	33	24.5
Bread, pound loaf	34	7.8	26.2
White flour, 5 lb	$1.06	49	57
Corn flakes, 12 oz	37	4.5	32.5
Oranges, dozen	$1.04	23	81
Apples, pound	32.7	11.1	21.6
Potatoes, 10 lb	$1.91	76	$1.15
Tomatoes, can	27.6	3.2	24.4
Peaches, can	47.3	7.3	40
Margarine, pound	51.3	23.1	28.2
Sugar, 5 lb	$1.04	35	69
Peanut butter, 12 ounces	56.7	20	36.7

[1] Processors, wholesalers, grocers, transportation firms.

Source: U.S. Department of Agriculture data on average prices in March 1974.

DIVVYING UP THE FOOD DOLLAR

In 1973, U.S. consumers spent 134 billion dollars for food produced on American farms. Here's how each food dollar was divided:

37.9¢ to farmers.

32.2¢ to stores and restaurants.

19.2¢ to processors.

5.9¢ to wholesalers.

4.8¢ to transportation firms.

Nonfarm workers get a big share of each dollar spent for food. Of the total cost of processing and moving food from farm to supermarket, labor gets an estimated 48 per cent.

Source: estimates by USN&WR Economic Unit, based on official data.

WOMEN OF THE YEAR AWARDS

Hon. Yvonne Brathwaite Burke

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mrs. BURKE of California. Mr. Speaker, it was my pleasure recently to participate in the second annual Clairol Television Special to honor the winners of the Ladies' Home Journal Women of the Year Awards. This program brings well-deserved recognition to women who have reached the top in their fields, sometimes in spite of being women, but always because they had the intelligence, energy, and ability to do the job. It also brings to women everywhere the realization that their goals are attainable, and the knowledge that there are wider worlds to conquer, that a "woman's role" can be anything she makes it.

The winners of the awards are selected by ballots submitted by the readers of Ladies' Home Journal and a panel of judges. Each recipient has made an outstanding contribution to her profession. I was particularly pleased to introduce one of our own Members, Congresswoman MARTHA W. GRIFFITHS, as Woman of the Year in the field of public affairs. The other winners were Patricia Roberts Harris for business and the professions; Dixy Lee Ray, science and research; Barbara Walters, communications; Katharine Hepburn, creative arts; Dorothy Height, human rights; Billie Jean King, sports; and Barbara McDonald, community service.

These hard-working, creative women have been honored for their contributions in their chosen fields. Their contributions are the talent, dedication and humanity with which they have enriched all our lives.

Thanks to Clairol and Ladies' Home Journal, a program has been established providing the opportunity for widespread public recognition to women in all walks of life. The overwhelming expression of support from women throughout the country is indicative of its success.

NORWEGIAN INDEPENDENCE DAY, MAY 17, 1974

HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. ROONEY of New York. Mr. Speaker, 160 years ago the people of Norway were jubilant over the adoption of their new constitution. For a proud and independent people this was indeed an event of unsurpassed importance. At long last they had been admitted to the ranks of the elite democratic nations of the world such as America and France.

The Norwegian constitution itself was a telling demonstration of keen and penetrating statesmanship as well as rugged tenacity. The most astute and proficient legal minds drew upon our Constitution for the most salient provisions which assure personal freedom. These same gifted statesmen analyzed the basic documents of the French revolution and selected choicest statements and principles which guaranteed the rights of free men. Thus from these great manifestos the Norwegian draftsmen took what they most needed and wove it into their own historically sound legal structure. So careful and so selective were they that practically no amendments have been required over the ensuing years.

The Norwegian constitution is so respected today that statesmen and savants the world over join the Norwegian people with great enthusiasm in celebrating Norwegian Independence Day and in commemorating the adoption of the magnificent Norse "Magna Carta."

American citizens of all ethnic and racial backgrounds are proud to share in this Norwegian holiday, because all Americans have a deep kinship with the people of Norway and their fellow Americans of Norwegian birth or descent. This kinship derives not only from the similar or even identical principles under which we govern ourselves but from the same well established standards of maximum personal freedom which flourishes within a well-formed pattern of community living and sharing which is basic to both our ways of life.

All Americans are proud of the magnificent contributions which Norsemen have made to the growth and enrichment of this country. They were in the forefront of the intrepid explorers who first visited and mapped our coastal areas. They were in the vanguard of the courageous settlers who fought their way ever westward to carve out new frontiers to allow this country to expand and to flourish. No ethnic group in America is entitled to take more pride in its accomplishments to make America what it is today than those brave sons and daughters of Norway. These stalwart people brought to this land of ours a brand of integrity and industry not surpassed by any other group. They formed the backbone of a great religious movement. They were the conscience of our wild and sometimes undisciplined frontiers. They gave us a heritage of family awareness and loyalty. They mixed fun and pleasure with solemn observance of high moral decency and behavior. These people were a great asset to our early communities just as they are today in our modern America.

Mr. Speaker, it is small wonder that we join so wholeheartedly with that large segment of our population through whose veins so proudly flows the blood of Norway in the celebration of Norway's Independence Day.

G. DONALD STEELE APPOINTED AS STATE FIRE COORDINATOR OF CONNECTICUT

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. SARASIN. Mr. Speaker, I wish to bring to the attention of my colleagues the well-deserved appointment of Mr. G. Donald Steele, of Cheshire, Conn., to the post of State fire coordinator for Connecticut. His selection for this highly important position recognizes his continuing interest and expertise in the field of fire safety. His qualifications, as described by the State civil preparedness office, are impressive.

An active volunteer fireman for more than 25 years, Mr. Steele is a member of the West Ridge Volunteer Fire Association, North Haven; and the Mount Carmel Volunteer Fire Co., Hamden. In the latter organization, he served multiple terms as foreman, lieutenant, and captain. He is currently president of Box 22 Associates of New Haven, a member of the International Fire Buffs, Connecticut Firemen's Historical Society, the Society for the Preservation and Appreciation of Antique Motor Fire Apparatus in America and is radio chairman of the New Haven County Fire Chief's Emergency Plan. He owns a serviceable 1,000-gallon-per-minute pumping engine.

Mr. Steele has organized and conducted training courses for new volunteer firemen.

In the area of civil preparedness, Mr. Steele served the town of Hamden as communications and radio officer for almost 20 years. He organized and established the base station and local nets, RACES Plan. He also trained and supervised operators, maintained equipment, and coordinated special events communications with other town agencies. Mr. Steele was also active in operations at area II, civil preparedness headquarters in Bethany.

Prior to joining the State staff, Mr. Steele was power consultant, Bell Detroit Diesel, Inc., North Haven.

Mr. Steele's record of exemplary citizenship is an inspiration to others, his recent appointment to this crucial State office is richly deserved, and I am proud to number him among my constituents.

FREEDOM AND FRUSTRATION

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mrs. **HECKLER** of Massachusetts. Mr. Speaker, constructive change in today's fast-paced world is an all too rare commodity. Freedom House in Roxbury, Mass., is an effective force for such change. Recently, Freedom House and its founders, Otto and Muriel Snowden, celebrated the 25th anniversary of their commendable work as a "bridge to understanding." The Boston Globe has published a most praiseworthy editorial on the Snowdens and Freedom House. I would like to enter it in the RECORD for the benefit of my colleagues.

The editorial follows:

FREEDOM AND FRUSTRATION

The only trouble, we think, with 25th year anniversaries is their inherent tendency to make one look back upon the past instead of into the future. Fortunately this is not the case with Freedom House in Roxbury, which is celebrating its first quarter-century this week and next, and is more forward-looking than ever.

Otto and Muriel Snowden, the founders of Freedom House, were young social workers when they began it, and they had a dream. For years they have been chipping away at the walls which divide people—black from white, young from old, rich from poor, urban from suburban.

It has been slow and often frustrating work. Freedom House sponsored the first minority employment recruitment plan here, and through the years this and other innovative programs have helped find jobs and housing, opening the doors of opportunity for the underprivileged and displaced.

Despite these great efforts there is still much frustration in the community, but it would be all the greater were it not for what Freedom House has done and—far more important—has every promise of doing in the future.

Institutions like Freedom House are of the very bone and marrow of what America has to be all about—the improvement of living conditions for the minority, and the peace and well-being that can come to all over the bridge of understanding. We wish Freedom House and the Snowdens many more years of this singularly fruitful work.

TODAY: VIEWS OF AN EMBATTLED OILMAN

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. **HARRINGTON**. Mr. Speaker, a basic lesson in economics, one covered in the first few weeks of any course in the "dismal science," is supply and demand. It is a lesson that applies to the energy crisis.

For several years, American consumers have assumed that there would be plenty of energy available at reasonable rates. No longer can Americans make that assumption, because America's energy supply has diminished while demand has continued to grow unchecked.

William K. Tell, vice president and assistant to the chairman of the board of Texaco, in a recent edition of the Dartmouth Alumni magazine pointed out that as energy demands outran our domestic capability to meet them, we began to increase our dependence on foreign fuel. This policy, of course, created its own set of formidable problems.

I would like to bring the Congress' attention to Mr. Tell's article:

TODAY: VIEWS OF AN EMBATTLED OILMAN

(By William K. Tell, Jr.)

There is an intense debate in Congress today that the energy crisis is a contrived hoax, motivated by a quest for unabashed profit-taking, and leading us down a road marked with environmental and economic disaster.

We have all seen numerous news accounts alleging that the major oil companies conspired to create the energy shortage. We have heard accusations that there are millions of barrels of oil hidden away in capped-off wells, and even in tankers sequestered off our coasts, waiting only for the next price increase. Concrete factual substantiation for these charges, however, has never been produced. There is so much rhetorical shrapnel in the air that many of us may be in danger of losing sight of one fact—the energy crisis is here and it has not contrived.

The fact that our energy demand has been growing at the rate of four to five per cent a year for the past 20 years and at an even greater rate outside the United States is not contrived. The fact that domestic exploration for oil and gas peaked in 1956, and that domestic production has been decreasing since 1970 is not contrived. And, most important today, the fact that we were dependent upon foreign sources for seven million barrels a day of petroleum imports before the Arab embargo is not contrived.

The United States and the other industrialized nations are crossing the threshold into an era where energy and many other critical mineral and raw materials will be more difficult and costly to obtain. And when they are available, we will be facing soaring world prices. No matter how much documentation, litigation, and legislation there is, we still face severe energy shortages in the years ahead. How did a problem of this scope and magnitude suddenly spring upon the consciousness of a people accustomed to a veritable cornucopia of energy, as well as all other material goods?

Certainly, the Arab embargo brought home to most of the public what many people, almost as voices in the wilderness, had been trying for months and even years to convey. This action unveiled a situation which had been progressively worsening since about 1967; our energy demands were outstripping our domestic capability to supply them. The veil which had successfully concealed this widening gap was the rapid expansion of imported crude oil and products into the United States. Many had argued these imports would always be available and would always be cheap. Now they are neither. Most imported crude is at least twice the current price of previously discovered domestic oil, and its reliability is under permanent question.

Even before the October embargo, we were projecting shortages for this winter in distillate heating oil and expecting them next summer for gasoline as we realized refinery capacity in the world was insufficient to cover the shortfall between our domestic refining capabilities and our demand for petroleum products. This, obviously, was not a situation which developed overnight, nor will it be cured overnight.

The roots of our current difficulties extend back to our energy policy which has been at least an implicit part of our national actions for 40 years. While many critics have contended that our troubles lay in the absence of an energy policy, for four decades we have lived under the guiding principle that American consumers shall be furnished their total demands for energy at the lowest reasonable cost.

While we were laboring to assure current customers of low prices for all they could use—whether wisely or not—little consideration was given to the customer of the future. Suddenly, tomorrow became today, and two decades of unrealistically low prices for natural gas didn't seem nearly as important as the inability of potential customers to buy natural gas at any price. Twenty years of controlled wellhead prices resulting from the Supreme Court's Phillips decision have done more to create energy shortages than any other single factor. Not only has the demand for this product exploded during the 1960s, but simultaneously drilling rates plummeted, so that we have produced twice as much as we have added in new reserves over the past five years. The artifically low prices have undercut coal, weakening that industry and driving it out of many markets it could have better served. When natural gas production finally peaked, the resulting shortages cascaded into shortages of propane and distillate and residual fuel oil as these potential substitutes were incapable of immediate expansion of the magnitude needed to fill the high demand we had stimulated for natural gas.

The energy joyride is over. We must dampen the tremendous growth in energy consumption. In the century since coal replaced wood as our major fuel, global energy consumption has risen 18-fold—almost four times faster than world population.

Both energy production and energy efficiency are tied to price. However, I am just as opposed to the American consumer paying a dollar for a gallon of gasoline as I am to seeing us in a world market where oil is posted at $12 a barrel. Unless we develop our own energy resources, we can expect both.

Just a year ago, energy costs in the United States accounted for only four percent of our total gross national product, compared with from eight to 12 percent for most Western European nations. Even at current prices, petroleum products are less expensive than any other liquid commodity, including bottled water.

Fortunately, the United States has vast untapped energy resources. Our coal and oil shale reserves are equivalent to ten times the known total petroleum reserves, and could serve our needs for hundreds of years.

And we have significant undeveloped deposits of oil and natural gas reserves on the outer continental shelf. To date, however, only about two per cent of the outer continental shelf has been leased on the 20-odd years since the federal leasing program was established.

We have the technology to convert coal into gas, crude oil, petrochemicals, and even gasoline, and must now bring this technology into the marketplace. The time has come to take oil shale research out of the laboratory and press these new-found techniques into production, thus creating another alternative to oil imports.

For the necessary action I have been outlining, massive capital investment will be required. Therefore, it is essential that petroleum prices be established in a free market, and at adequate levels, in order to provide the means for much needed expansion. Sufficient capital resources can only be generated through adequate revenues.

The oil industry is not making exorbitant profits. Let me quote from an advertisement which my company recently ran in major newspapers throughout the country:

"Yes, Texaco earned more than a billion dollars in 1973 (specifically 1.3 billion dollars)—up 45.4% from 1972. And this is important news for the energy consumers—because in 1973, including our share in affiliated companies, we invested 1.6 billion dollars in developing worldwide energy supplies. . . ."

Our earnings in 1973 only averaged about 1.7 cents a gallon. Yet there is a clamor today to roll back petroleum prices and remove existing tax incentives. What this talk ignores is the direct relationship between the capital available to energy companies for investment and the energy available to the public for use.

MEATPACKING INDUSTRY PIRATES PRICES

HON. FRANK E. DENHOLM

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. DENHOLM. Mr. Speaker, the meatpacking industry is pirating prices on both ends of the economic spectrum of supply and demand.

An investigation that I have conducted shows a record high of meat and poultry in cold storage warehouses across the country.

Beef is piled to the roofs of cold storage warehouses at a record high of 476 million pounds—33 percent above a year ago. Pork stocks, at 342 million pounds, are 43 percent more than a year earlier. The problem of large storage stocks of red meats is compounded by unusually large holdings of poultry in excess of 87 percent of last year at this same time.

The cold storage of record high level tonnage of red meat and poultry by the packers and processors clearly "pirates the prices" of consumers and producers alike.

First, it decreases the normal supply in the retail market and that causes consumer prices to remain at high levels in relationship to the decreased price levels received by farmers, feeders, and ranchers, and

Second, with cold storage warehouse supplies at record high levels the decreased industry demand for supply is reflected in lower and lower prices received by producers.

I have urged Earl L. Butz, Secretary of the U.S. Department of Agriculture to verify my findings at once because the "price pirating" of consumers and producers is not in the national interest.

Further, I have asked the Secretary of Agriculture to determine if any conspiracy exists within the industry to widen profit margins by simultaneously influencing up the price levels paid by consumers and forcing prices down received by producers.

The consumers can scarcely pay more and certainly producers can not take less. The abnormalities of present circumstances are intolerable. The Secretary of Agriculture must do more to represent the interests of both the consumers and producers. The facts must be known by all and the concept of supply and demand must not be thwarted in the public interest.

It is shameful that facts readily available to the U.S. Department of Agriculture are not fully and repeatedly reported to consumers and producers. An effort must be urged to preserve the free flow of the supply of red meats and poultry that consumer demand may more equitably reflect price at each end of the economic spectrum.

The alternative of a do-nothing policy will ultimately dry-up supply by economically forcing producers out of business and then consumers will pay more for the millions of tons of cold storage meat with windfall profits to the packers, processors, and purveyors that have created an artificial price situation disadvantageous to all.

THE DEFUNIS RULING

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. EDWARDS of California. Mr. Speaker, I would like to share the perspective of Clarence Mitchell, director, Washington bureau of the NAACP, on the recent DeFunis decision by the U.S. Supreme Court. In a recent letter to the editor of the Washington Post, Mr. Mitchell placed special emphasis on the Douglas dissent:

> THE DEFUNIS RULING
>
> After reading your editorial of April 26, titled "The DeFunis Ruling," I find that The Post, like many other publications, has failed to grasp the real significance of the controversy. In the Douglas dissent one finds this observation concerning tests—"The proponent's own data shows that, for example, most of those scoring in the bottom 20 per cent on the test do better than that in law school. Indeed, six of every 100 of them will be in the top 20 per cent of their law school class. And, no one knows how many of those who were not admitted because of their test score would in fact have done well were they given the chance." Justice Douglas also observes that, "Some tests at least in the past have been aimed at eliminating Jews."
>
> With or without an intention to discriminate, the present testing system for admission to law schools and indeed many other kinds of tests are not fair measures of the ability of many individuals to perform a job or meet the admission requirements of a school. The important point of the DeFunis case is that the law school officials at the University of Washington made a good faith effort to eliminate some of the artificial barriers that prevent blacks and other minorities from getting into law school. Testing, clearly, is one of these barriers.
>
> Those who have attacked the effort of the law school seem mainly interested in postponing the admission of black students until such times as we can correct various handicaps caused by inferior education in grade schools, high schools and possibly in some colleges. In plain words, this would mean that most blacks who have been handicapped by racial discrimination in their education would never be admitted to law school presumably, the black children now in kindergarten would be able to look forward to admission into law schools if existing inadequacies in their education are corrected before they finish college. This is indeed absurd and anyone who assumes that blacks in the United States will tolerate this kind of injustice makes a very serious error.
>
> The Washington Law School sought to give remedies to the victims of discrimination in the immediate present. This is realistic and those responsible should be commended. Instead of attacking the Washington Law School, as some have done, there should be an effort to try other ways of meeting the problem in areas where those who say they want to help blacks now have power and/or influence. Although it would have been helpful if the majority of the court had been able to settle the issue in a way that would expand the number of blacks admitted to law schools, it would have been a disaster if the court had reversed the Washington Supreme Court's decision. Such a result would have caused a chilling effect on the good faith efforts of law schools and other institutions of learning that are now trying to find ways of increasing the number of blacks in various professions and occupations. It is surplusage to include the portion of Justice Douglas' opinion cited by you in which he states that, "The purpose of the University of Washington cannot be to produce black lawyers for blacks, Polish lawyers for Poles, etc." So far as I know, thoughtful and concerned people of all races have always wanted to see produced the kind of professional people in law and medicine who would be able to service or treat anyone without regard to race.
>
> CLARENCE MITCHELL,
> *Director, Washington Bureau, NAACP.*
> WASHINGTON.

THE CASE FOR A FEDERAL OIL AND GAS CORPORATION—NO. 34

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. HARRINGTON. Mr. Speaker, in the past few months, the Federal Oil and Gas Corporation has attracted support from many sources. No longer is it the idea considered "futuristic" by pragmatists.

The Corporation, now part of the Consumer Energy Bill of 1974, recently received the endorsement of United Automobile Workers President Leonard Woodcock.

Testifying before the Senate Commerce Committee, Woodcock charged the major oil companies with anticipating and unjustly profiting from the recent energy crisis. Woodcock added that he wished to see energy decisions shifted "away from private profit and back toward the public interest."

I would like to bring the Congress' attention to Sandra Cannon's recent article in the Oil Daily explaining Mr. Woodcock's stand.

The article follows:

THE CASE FOR A FEDERAL OIL AND GAS CORPORATION

(By Sandra Cannon)

WASHINGTON.—After months of opposition from industry and the Administration, the Consumer Energy Act of 1974 found a friend in labor yesterday.

UAW President Leonard Woodcock told the Senate Commerce Committee that his labor union "supports the effort of this committee to step in to fill a gaping void, namely, the past absence of a real national energy policy."

The proposed legislation would regulate the price of oil and gas at the wellhead and establish a Federal Oil and Gas Corporation (FOGCO). The bill is sponsored by Commerce Committee Chairman Warren O. Magnuson (D.-Wash.) and Sen. Adlai Stevenson III (D.-Ill.)

In his remarks, Woodcock charged that there is "good reason to believe" that the energy crisis "was anticipated and used for private benefit by those who have been responsible for energy decision-making up to now—namely the multinational energy corporations.

"For this reason, if no other, we want to see energy decision-making shifted away from private profit and back toward the public interest."

FIFTY-EIGHT NOTED ECONOMISTS CALL FOR THE ELIMINATION OF THE DEPLETION ALLOWANCE FOR OIL AND GAS PRODUCTION

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. VANIK. Mr. Speaker, for the past 13 weeks, the Ways and Means Committee has been considering legislation to tax windfall profits in the oil industry. A simple and direct approach to this problem would have been to eliminate the complex of special tax benefits that are now available to the oil industry. Instead, the committee meandered—aimlessly, at times—through a convoluted course charted by the administration's windfall profits tax proposal.

In an appeal submitted to Congress by the Public Interest Economics Center, 58 distinguished economists—including Nobel Laureate Paul Samuelson—call for the elimination of special tax treatment for oil and gas as a way to meet the challenge of windfall profits. I call the attention of my colleagues to this petition —it is valuable background for consideration during the upcoming debate on windfall profits in the oil industry.

The petition follows:

PETITION

To the Congress of the United States:

For many years the Federal government has lightened the tax burden of the petroleum and other extractive industries by special provisions of the tax code. These indirect subsidies have been one of the causes of our long-run energy problem. They have stimulated production and consumption, draining the U.S. of our oil and increasing our dependence on foreign sources. And they have inhibited the development of substitute sources of energy, such as geothermal and solar, which do not benefit from these special provisions.

One alternative—to keep the present provisions intact and add on a "temporary" excess profits tax and a special investment tax credit—seems likely to be a mistake. The excess profits tax may indeed prove temporary while the special investment tax credit proves permanent, which has been the history of minerals taxation. This would further complicate an already too complicated tax code, creating new inequities and distortions, further lightening the oil industry's tax burden and worsening our long-run energy problem. On the contrary, the remedy is to simplify the tax code and move toward greater tax neutrality by eliminating the special privileges.

We should eliminate the percentage depletion allowance and treat capital expenditures in the extractive industries on the same basis as those in other industries. In the past, petroleum companies have been permitted to treat what are essentially royalty payments and excise taxes as foreign income taxes subject to the foreign tax credit. This practice should be reformed. If we eliminate the special provisions for the extractive industries, then it is doubtful that we would need an excess profits tax for petroleum. Incentives for exploration and development should not be made in the tax code. If such incentives are needed, they should be made explicitly on the expenditure side of the budget.

Respectfully submitted.

LIST OF DISTINGUISHED ECONOMISTS

Allen R. Ferguson, President, Public Interest Economics Center.

Dr. Armen A. Alchian, Los Angeles, California.

Professor Kenneth J. Arrow, Department of Economics, Harvard University.*

Professor Robert T. Averitt, Department of Economics, Smith College.

Carolyn Shaw Bell, Katharine Coman Professor of Economics, Wellesley College.

Professor Charles A. Berry, Department of Economics, University of Cincinnati.

Professor Bradley B. Billings, Department of Economics, Georgetown University.

Professor Stanley W. Black, Department of Economics, Vanderbilt University.*

Dr. Gerard M. Brannon, Research Professor of Economics, Georgetown University.

Professor Charles J. Cicchetti, Department of Economics, University of Wisconsin.

Professor James Crutchfield, Department of Economics, Graduate School of Public Affairs, University of Washington.

Professor John H. Cumberland, College of Business and Public Administration, University of Maryland.

Professor Paul Davidson, Department of Economics, Rutgers University.

Professor Robert K. Davis, Department of Geography and Environmental Engineering, Johns Hopkins University.

Professor Fred C. Doolittle, Joint Program in Law and Economics, University of California at Berkeley.

Professor Thomas D. Duchesnau, Department of Economics, University of Maine.

Professor Robert Eisner, Department of Economics, Northwestern University.

Professor Arthur M. Freedman, Finance Department, Wharton School, University of Pennsylvania.

Professor A. Myrick Freeman III, Department of Economics, Bowdoin College.

Dr. John W. Fuller, Wisconsin Department of Transportation.

Professor Daniel R. Fusfeld, Department of Economics, University of Michigan.

Professor J. K. S. Ghandhi, Finance Department, Wharton School, University of Pennsylvania.

Professor Arnold C. Harberger, Department of Economics, University of Chicago, and Visiting Professor of Economics, Princeton University.

Professor Steve H. Hanke, Department of Geography and Environmental Engineering. Johns Hopkins University.

Professor Robert Haveman, Department of Economics, University of Wisconsin.

Professor Edward S. Herman, Finance Department, Wharton School, University of Pennsylvania.

Dr. Allen V. Kneese, Washington, D.C.

Professor Edwin Kuh, Department of Economics, Massachusetts Institute of Technology.

Dr. Jack L. Knetsch, Environmental Defense Fund.

Dr. John V. Krutilla, Washington, D.C.

Professor Wassily Leontiev, Department of Economics, Harvard University.

Professor Ervin Miller, Finance Department, Wharton School, University of Pennsylvania.

Professor James R. Nelson, Department of Economics, Amherst College.

Professor Roger G. Noll, Department of Economics, Division of the Humanities and Social Sciences, California Institute of Technology.*

Dr. Benjamin A. Okner, Washington, D.C.

Professor Charles E. Olson, College of Business and Management, University of Maryland.

Dr. Talbot Page, Washington, D.C.

Dr. Joseph Pechman, Washington, D.C.

Professor Giulio Pontecorvo, Graduate School of Business, Columbia University.

Dr. Ronald G. Ridker, Washington, D.C.

Professor Stefan H. Robock, Graduate School of Business, Columbia University.

Professor Paul A. Samuelson, Department of Economics, Massachusetts Institute of Technology.

Professor James D. Smith, Department of Economics, Penn State University.

Professor V. Kerry Smith, Department of Economics, State University of New York at Binghamton.

Professor Robert M. Solow, Department of Economics, Massachusetts Institute of Technology.

William Vickrey, McVickar Professor of Political Economy, Columbia University.

Professor Charles Waldauer, Department of Economics, Widener College.

Professor Harvey E. Brazer, Department of Economics, University of Michigan.

Professor Duane Chapman, Department of Economics, Cornell University.

Professor George M. Eastham, Department of Economics, California Polytechnic State University.

Professor Robert J. Gordon, Department of Economics, Northwestern University.

Professor Byron Johnson, Department of Economics, University of Colorado, Member, 86th Congress.

Professor Warren J. Samuels, Department of Economics, Michigan State University.

Professor Carlos Stern, Department of Environmental Economics, University of Connecticut.

G. L. Stevenson, Temporary New York State Charter Commission for New York City.

Professor Lester C. Thurow, Department of Economics, Massachusetts Institute of Technology.

Professor T. Nicolaus Tideman, Department of Economics, Virginia Polytechnic Institute and State University.

Professor James Tobin, Department of Economics, Yale University.

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*Affiliations are indicated for purposes of identification only.

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NIXON REMOVAL AND INFLATION LEAD POLL RESULTS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. BROWN of California. Mr. Speaker, we are all aware that the time is rapidly approaching when we may be asked to vote on the serious question of impeachment of the President of the United States. To determine the mood and sentiment of my constituents on this and other issues of national concern; that is, inflation, energy crisis, tax reform, campaign reform, et cetera, I sent out a questionnaire to my district for the purpose of eliciting their responses. Knowing that the responses I received would be of interest to my colleagues, I am inserting the results of the questionnaire into the RECORD:

QUESTIONNAIRE RESULTS

Question 1: Based on information available today, do you believe President Nixon should serve out the remainder of his term in office? Yes: 40.1%; No: 52.2%; No Response: 7.6%.

Question 2: The long-term goal of U.S. energy independence will require massive research and development of new power sources. To finance such programs, do you support:

	Percent
(a) Reliance on the private sector for funds?	10.2
(b) All-out Federally funded efforts like that used to develop our space program?	22.4
(c) Joint Government-industry financed programs, with federal administrative oversight?	23.5
(d) Federal programs financed through trust funds from an excess profits tax on the petroleum industry?	36.7
No response	7.2

Question 3: Unless Congress acts, the Economic Stabilization Program will expire in April. Do you favor extending the Administration's authority to impose controls on wages, prices and other economic factors? Yes: 39.5%; No: 37.9%; No Response: 22.5%.

Question 5: Campaign Financing Reforms will be enacted this year. Which of the following proposals being considered do you support?

	Percent
(a) Public financing of all Federal campaigns?	13.2
(b) Limiting the total amount of contributions and expenditures a candidate may receive or expend per election, and requiring full financial disclosure?	41.5
(c) Limiting the amount an individual can contribute per candidate, per election, and requiring full financial disclosure of all contributions and expenditures?	25.2
(d) Requiring full financial disclosure, but without limitations on either expenditures or contributions?	10.1
No response	9.9

Question 6: Federal tax reforms will be considered this year. Please rank the following proposals in the order of importance to you:

	Percent
(a) Impose excess profits tax on business and industry	15.1
(b) Eliminate tax loopholes beneficial only to high income individuals	48.3
(c) Establish Federal property tax credits for the elderly	7.7
(d) Simplify tax laws and tax return forms	10.1
No response	11.5

Question 4: Please number (1-12) the following national issues in order of importance to you:

Rank order of response in parenthesis and percentage of responses numbered 1, 2, or 3:

Inflation (1)	70.6
Energy crisis (2)	44.3
Pollution (3)	29.1
Tax reform (4)	28.7
National security (5)	25.5
Crime and lawlessness (6)	21.0
Watergate (7)	15.4
Campaign reform (8)	13.8
National health insurance (9)	9.8
Welfare reform (10)	9.7
Housing (11)	6.0
Other (12)	5.6

A majority—52.2 percent—of those responding to the questionnaire felt that the President should not serve out the remainder of his term in office, while 40.1 percent felt that he should, and 7.6 percent had no response.

To finance research and development of new power sources, the first priority, by a substantial percentage, advocated that the problem be approached by Federal programs financed through trust funds from an excess profits tax on the petroleum industry. This concern that big business and industry, especially the oil industry, is reaping excess profits at the expense of the consumer is also clearly reflected in question 6 concerning tax reform proposals. On this question, a strong percentage indicated that an excess profits tax on business and industry should be imposed, second only to the elimination of tax loopholes beneficial only to high income individuals.

On the question of extending the administration's authority to impose wage and price controls, the responses were almost equally divided between the "yes" and "no" answers. The significant factor in this question is the extremely high percentage—22.5 percent—of "no response." I would like to add parenthetically that many of the individuals in the "no response" category, as well as some answering "no," indicated that they favored wage-price controls, but not in this administration.

Question 5, pertaining to campaign financing reform, clearly indicates that a vast majority feel that limits on contributions and/or expenditures is required during elections, as well as full financial disclosure; 41 percent favored limiting the amount that candidates can receive and expend during an election; and 25 percent favored limiting the amount that an individual can contribute per candidate. Added to those who favor public financing of elections, a total of almost 80 percent favor limits of some sort, while only 10 percent believe that there should be no limitations.

I have already indicated that the first preference for tax reform—48.3 percent—is to eliminate tax loopholes beneficial only to wealthy individuals, with the imposition of an excess profits on business and industry in second place with 15.1 percent.

Question 4 asked the constituents to rate—1 to 12—various national issues in order of importance to them. Overwhelmingly, inflation was the No. 1 priority, followed by the energy crisis and pollution. Interestingly, although a majority favored Mr. Nixon's removal from office, the category of "Watergate" ranks only seventh in priority of importance.

I hope this questionnaire will be useful to my colleagues in better understanding the mood and sentiments of the country.

NATIONAL PROTECTION ACT

HON. ROGER H. ZION

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. ZION. Mr. Speaker, I intend to cosponsor the legislation to be introduced by our distinguished colleague, BEN BLACKBURN of Georgia, under the title of National Protection Act. The National Protection Act will be directly related to the Export Administration Act of 1969 currently pending before the International Trade Subcommittee of the House Committee on Banking and Currency.

The purpose of this act is to prevent the exportation of American technology, scientific accomplishment, capital equipment, and agricultural commodities, or reexporting of the same, to any country which takes actions to harm the U.S. economy or endanger the security of the United States.

It is becoming increasingly clear that, were it not for "trade" with the West, the Soviet economic system would collapse beneath the burden of gross mismanagement inherent in their economic system.

It is obvious, also, that under the thin guise of "détente," such "trade" is the Soviet leaders' strategy for furthering their determined drive for world domination.

Many serious observers of the Soviet Union and the facts of international life have been pointing:

That the exportation to the Soviet Union of U.S. technology and industrial equipment, including highly sophisticated electronic machines and apparatus, have reached such proportions that our security is in jeopardy.

For example:

Our distinguished colleague from Georgia, BEN BLACKBURN, relying on highly competent U.S. Governmental sources, has been, over the past year, calling attention to the fact that the U.S. technology and U.S. electronic systems and instrumentation have expedited the development of Soviet MIRV's by at least 2 to 4 years.

In 1972, the U.S. Departments of State and Commerce have permitted the export of 164 Centalign-B machines which are of critical importance in the process of manufacture of precision miniature ball bearings which, in turn, are imperative for any guidance mechanism used in intercontinental ballistic missiles—ICBM's—MIRV's and, the latest in rocketry, MARV's—maneuverable reentry vehicle.

Recently, Dr. Malcolm R. Currie, the Pentagon's third-ranking civilian, Director of Defense Research and Engineering, expressed similar concerns about the transfer of high technology to the Soviet Union. Dr. Currie has stated:

> The Soviets have become critically aware that their great deficiency is not in scientific knowledge but rather in production technology. They apparently feel that they can neither close pivotal gaps in their military capability nor gaps in their general economic growth, both domestically and world-wide, until they acquire a manufacturing technology comparable to ours. This applies particularly to high technology areas having both military and civilian application, such as integrating circuits, software, aircraft, engines, avionics and specialized instruments to name a few.

Dr. Currie observes what appears to be "a carefully designed Soviet approach to acquire production technology increasingly in the form of complete turnkey plant operations in these critical areas."

Secretary of Defense James R. Schlesinger in his remarks before the Overseas Writers Association in Washington, D.C., on January 10, 1974, has expressed his concern that if the Soviets marry the technologies they are now emerging in their R. & D. program to the throw-weight and the numbers of ICBM's that they have been allowed under SALT I, that—

> They would develop a capability that was preponderant relative to that of the United States.
>
> If the Soviets were able to develop these improved technologies presently available to the United States in the forms of guidance, MIRV's, warhead technology, at some point around 1980 or beyond they would be in a position in which they had a major counterforce option against the United States, and we would lack a similar option. Consequently, . . . we cannot allow the Soviets unilaterally to obtain a counter-force option which we ourselves lack.

In his speech on the floor on Tuesday, April 9, 1974, our distinguished colleague from Georgia, BEN BLACKBURN, has called our attention to the reports which, in our intelligence community, has been named "the new Brezhnev doctrine." According to these highly reliable reports, the Soviet Communist Party Chairman has spoken to the Soviet Politburo as well as to Eastern European Communist Party leaderships.

As summarized by Defense and State Department officials, after careful study of intelligence reports, Brezhnev's paraphrased statement goes as follows:

> To the Soviet Union, the policy of accommodation does represent a tactical policy shift. Over the next 15 or so years, the Soviet Union intends to pursue accords with the West and at the same time build up its own economic and military strength.
>
> At the end of this period, in about the middle 1980s, the strength of the Soviet bloc will have increased to the point at which the Soviet Union, instead of relying on accords, could establish an independent superior position in its dealings with the West.

In view of this summary, and in view of the statements by the Secretary of Defense, James Schlesinger, Dr. Malcolm Currie of DOD, and our distinguished colleague from Georgia, designed to separate "détente" fact from euphoria, I call attention of my colleagues to a most enlightening study by Prof. Stefan T. Possiny, of Hoover Institution in Stanford University, which appeared in the Defense and Foreign Affairs Digest for March and May, 1974:

THE COMPUTER BALANCE

(By Dr. Stefan D. Possony)

Computers are at the core of today's and tomorrow's strategies, for without them there are no modern weapons systems. All of the new technologies have ties to the computer, and even the current computer is built with the aid of computers. It is now in the fabric of things, and the "balance of computer capacity" is the very essence of the balance of power.

It is also true that the USSR lags years behind the US in the development of computers, has admitted this and has sought to buy US and British equipment on the open market. Essentially, the accuracy of the Multiple Independently-Targetable Re-entry Vehicle (MIRV) is dependent upon the most modern computing capacity as will be the MARV (MAnoeuverable Re-Entry Vehicle) to an even larger extent. The capacity can be discussed in the number of operations, or the number of "bits", which can be done each second, especially in the large computers.

It is the advance in computer technology, carried out by US private enterprise, which has enabled the US ballistic missile refinements which in turn guarantee accuracy. These refinements are graphed on the pages accompanying this article, and noted alongside the various US submarine-launched ballistic missile (SLBM) programs over the years, from the old A-1 *Polaris* to the upcoming C-4 *Trident*.

Naturally, in a Western society, the computer is used in a commercial sense more than as a purely military tool. This has not been the case in the USSR where by 1971 there were about 6,000 computers, virtually all of which were allocated to the military and arms/aerospace industry. Another estimate has the Soviet computer count at 8,000 by 1972 when the US had some 80,000 in use in commerce, industry and the military.

Thus the trade by the United States and UK in computer hardware and software to the Soviet Union is actually a move which allows the USSR to build up its strategic capacity against the West, with the West's own help. Paraphrasing Lenin: when the time comes to hang the capitalist nations, it will be they who bid for the hemp. Today's hemp is the computer.

US Congressman, Ben B. Blackburn, a Georgia Republican, is campaigning solidly against further US trade in strategic materials with the USSR. "US and British computer technology, and other US technology, is being used to build a massive, sophisticated Soviet war machine against us," he told a Senate committee, at the same time citing current examples of what he termed as "implacable hostility" towards the US.

He went on: "Precision machines for manufacturing ball bearings, purchased [by the USSR from the US] ostensibly for peaceful purposes have direct military application. Note, please, that, here in the United States, 90% of the same type of these machines which the Soviet Union has been able to purchase from us are used for the guidance systems for ballistic missiles."

This relates directly to research done by Congressman Blackburn's Special Assistant on International Affairs and Trade, Miles Costick, who recently said: "The USSR is particularly interested in precision-built ball bearings for use in its MIRV missiles. The only machines capable of making the ball bearings required are produced by the Bryant-Chucking Grinding Company in Connecticut. So until the Soviets were able to get hold of these machines, they were unable to produce the guidance mechanisms essential to 'MIRV' their missile force. Obviously, then, the USSR had no choice but to do business with us if they wanted the equipment. For twelve years the Soviets tried to purchase the ball bearing machinery, but were turned down because the US government considered the equipment as 'strategic' and would not allow its sale to the Kremlin. However, in 1972, with the dawning of 'detente', the State Department changed its tune and the Soviets got an item they desperately wanted."

Blackburn, in his April 1, 1974, testimony, said that US and UK computer technology has enabled the USSR to advance development of its MIRVs from two to four years. This, of course, allowed it to take advantage of the loosely-worded SALT (Strategic Arms Limitation Treaty) One, and advance the Soviet strategic posture in a time-span officially unanticipated in Washington.

Blackburn also traced Western computer sales to the USSR, from the earliest Model 802 National-Elliott, sold in 1959 by Elliott Automation Ltd., of the UK. National-Elliott is a General Electric subsidiary. He quoted a *Science* magazine report of February 8, 1974, in which Mr. Wade B. Holland, editor of Rand Corporation's *Soviet sybernetics Review*, said, with regard to getting an export license in the US for the USSR: "There are no rigid standards. Getting a license to export depends on how much weight you can throw or whether your timing is right, like if Nixon has just made a visit to Moscow."

Said Blackburn himself: "Even as I am worried about the export of computer technology to the Soviet war machine, I am worried about export of precision grinding machines for the manufacture of precision minature ball bearings. Ball bearings are an integral part of many weapons systems; there is no substitute. The entire Soviet ball bearing production capability is of Western origin. All Soviet tanks, all Soviet military vehicles, run on ball bearings manufactured on Western equipment—or on copies of Western equipment."

Blackburn's testimony goes on to decry the agreements signed by the USSR with General Dynamics of the US, and by Fairchild Corporation with Poland, for sales which covered integrated circuit technology, aid in shipbuilding, telecommunications, microfilm and navigation devices, etc.

Congressman Blackburn said earlier that the Soviet attempt to create a manufacturing base for third-generation computers had failed completely. "Consequently, the Kremlin leaders are asking our electronic and computer firms to create a Soviet productive base in which to manufacture third-generation and advanced scientific computer systems," he said.

"In October 1973, Control Data Corporation announced the signing with the USSR Council of Ministers for Science and Technology of a 10-year agreement leading to 'possible development' of an 'advanced computer', plus operation of an extensive computer communications network. Reliable sources estimated the venture's ultimate worth at $500 million.

"Through the official Soviet news agency, Tass, the Kremlin leaders boasted that Control Data and Soviet tracking organizations had maintained 'commercial ties . . . for over five years'.

"The Tass announcement added: 'Talks are underway on the sale of high-speed Capital Cyber electronic computers.'

"Cyber is a sensitive topic. It is a very high-speed, large volume, third generation scientific computer. It processes a phenomenal 94 million bits of information per second. Only eight to 10 such installations exist today. Typical installations belong to the Atomic Energy Commission and the National

Security Agency," Blackburn said on March 27, 1974.

There is no question that the computer is the key to whatever lead the US holds in nuclear efficiency—the delivery of ballistic missile warheads onto their target with the greatest possible accuracy—as well as to intelligence gathering and processing, to antisubmarine warfare and the like. The sale of the Cyber to the USSR would allow that nation to think in terms of quantum advances in its nuclear and intelligence programs, thereby cutting still further the ground out from under the West.

Key Computer Equipment Sales by the West to the U.S.S.R.

Until recently, direct export of U.S. computers was restricted by export control regulations. Even so, the origin of today's Soviet systems can be traced to the United States. Following World War Two, the Soviet Union received computers almost entirely from West European plants of IBM.

The earliest American computer sale to the Soviet Union that can be traced was a Model 802 National-Elliott sold in 1959 by Elliott Automation, Ltd., of the United Kingdom. National-Elliott is a General Electric subsidiary.

In 1966, Standard Cables and Telegraph, Ltd. installed a Standard 7x8 instrument landing system at Moscow's D. Sheremetyeva Airport. Standard Cables was then a subsidiary of ITT.

In 1968, a second-generation Control Data Corporation 1604 System was installed at the Dubna Soviet Nuclear Facility near Moscow.

In 1972, Control Data sold the Soviet Union a third-generation CDC 6200 system computer.

For these systems, Control Data's operating statement has improved by about $3-million in sales over the past three years. And the Soviet Union has gained 15 years in computer technology.

As 1969 ended, it was estimated that Western computer sales to all of Communist Europe and the USSR were running at $40-million per annum. In great part, three came from American subsidiaries.

In 18 months during 1964–65, Elliott Automation delivered five Model 503 computers to the USSR. The Elliott 503 ranged in price from $179,000 to more than $1-million, depending on its size.

By the end of 1969, General Electric-Elliott Automation sales to Communist countries were four times greater than in 1968.

This market accounted for one-third of General Electric-Elliott's computer exports. Other G.E. machines, including a Model 400 made in France by Compagnie des Machines Bull, were also sold to the USSR.

Olivetti-General Electric of Milan, Italy, also has been a major USSR supplier of G.E. computers.

In 1967, Olivetti delivered $2.4-million worth of data processing systems to the USSR. This was in addition to Model 400 and Model 115 machines already sold.

In 1967, English Electric sold the USSR its System Four Machine with microcircuits. This machine incorporated RCA patents. It was similar to the RCA Spectra 70 series.

Over the years, the USSR's largest single supplier of computers has been International Computers and Tabulation, Ltd. of the United Kingdom. The latter also licenses RCA technology. It has supplied at least 27 of 33 large computers to the Soviet Union.

In November, 1969, five of the firm's 1900 series computers valued at $12-million, went to the USSR: These were large, high-speed units with integrated circuits. Without question, they were well in advance of anything the Soviets were able to manufacture in the computer field; even by copying previously-imported technology.

These machines are capable of solving military and space problems. But, being machines, they cannot distinguish between military and civilian problems. There is no way that a Western firm or government can prevent Soviet use of computers for military work.

The Soviets in 1970–71 indicated that if International Computers, Ltd., of Great Britain, was allowed to sell two big, fast, highly-sophisticated 1906A computers, American scientists would be allowed to participate in further research at the Serpukhov Institute of High Energy Physics. The key equipment at Serpukhov, including the bubble chamber, had come from the West.

The Soviets gave "ironclad" guarantees not to use these new British (RCA) 1906A computers for military research. Personal intervention by President Nixon forced a relaxation of U.S. opposition to the British sale.

Business Week of April 28, 1973, published word that the Soviet Union had contracted for an IBM third-generation 370 computer system. The price: A reported $10-million.

According to the *Washington Post* of July 6, 1973, and the *Wall Street Journal* of August 8, 1973, James Binger, Chairman, Honeywell Incorporated, Minneapolis, told a Moscow news conference his firm had begun negotiation with the Soviet government on two contracts involving several million dollars.

During a recent aviation-space industries exhibition, Soviet interests were noted. U.S. companies at the exhibition included: Westinghouse Electric Corporation, Bendix Corporation, Collins Radio Company, Texas Instruments, Inc., Boeing Corporation, United Aircraft Corporation, Lockheed Aircraft Corporation, and Raytheon Corporation.

U.S. News and World Report of January 28, 1974, said International Business Machines and the Univac Division of Sperry-Rand were competing in two areas for contracts for two data systems for Soviet aviation.

Red Star, the official organ of the Soviet Army, used the Remington-Rand Univac computer to illustrate an article on Soviet computers.

WELCOME TO SOVIET VISITORS

HON. JAMES V. STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. JAMES V. STANTON. Mr. Speaker, I am very pleased to be informed that we will be welcoming here next week, as guests of the United States, a delegation from the Supreme Soviet of the Union of Soviet Socialist Republics. This fact is especially heartening because, I am told, our visitors will be the first ever to arrive here representing this organ of the Soviet Government.

It seems to me, Mr. Speaker, that we and our friends from this truly great nation, with whom we were allied only a generation ago in a struggle for survival, have a great deal to learn from each other, not only professionally but also as persons. We have here further evidence of the détente between our two countries. This relaxation of tensions means a great deal to our respective peoples and, no less, to the peoples of all the world.

I wish our guests an enjoyable and informative stay, and I am certain that our Government as an institution, and that we as persons, will do all in our power to make this trip worthwhile. Even at this point, Mr. Speaker, I look forward to continued and frequent visits from members of the Supreme Soviet.

SETTING THE RECORD STRAIGHT ON SCHOOL DESEGREGATION

HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Ms. CHISHOLM. Mr. Speaker, Tuesday of this week, I had the honor of testifying before the city of New York Commission on Human Rights. My testimony was focused on school desegregation in the North since the Supreme Court's Brown decision in 1954. When I returned to Washington the following day, several of my colleagues expressed surprise at remarks attributed to me in an article in the New York Times. The Times article quoted exerpts from my speech out of context, giving the impression that my commitment to school desegregation has weakened. I am introducing into the Record the entire testimony so that my position on school desegregation will be crystal clear:

School Desegregation in the North

[Testimony before the New York City Commission on Human Rights by Representative Shirley Chisholm, May 14, 1974]

It was two decades ago . . . a full 20 long and difficult years . . . that the Supreme Court in what seemed at the time to be one of its most compelling and momentous decisions, found that racially separate schools were unconstitutional.

As I take stock and look around me today and ask, "what is the actual progress we have made in achieving the specific mandate of the *Brown* decision?" I am saddened and shocked by the answer. The answer is that in spite of courageous efforts—heroic efforts by attorneys in the litigation of desegregation suits and of black children facing mobs of angry white bigots and their parents brave enough to send those children out to become the psychological and sometimes physical victims of those bigots—in spite of all this, the U.S. Department of Health, Education and Welfare can still report to us that two-thirds of the nation's black students are still attending schools that are overwhelmingly black. And this does not include the large numbers of minority children from other non-white backgrounds who remain isolated from their white counterparts.

The latest Federal Government figures show that in 1972 in the 32 northern and western States, 72% of non-white pupils attended public schools having a majority of non-whites. For the nation as a whole, the picture is somewhat brighter, for the south has made some progress. Only 54 percent of the non-white children in southern States are in non-white majority schools. But the national figure for non-white children attending what might be called integrated schools—that is, schools whose enrollment is half white—is still only 36 percent.

But one cannot fault the Supreme Court for the fact that more black children are not attending desegregated schools. Various social factors such as housing and employment, as well as the 10 years that elapsed before Congress passed the Civil Rights Act of 1964 played a part. Nor is that to say that *Brown* has had small impact. But the impact of that decision cannot be measured in terms of how many black children now attend desegregated schools. *Brown* forced the desegregation of schools throughout the South, but it also served as the first symbol and the impelling force for the civil rights movement which was to make a broad and sweeping attack across the Nation on segregation in public transportation, public accommodations, voting and employment.

In the South there was massive resistance to *Brown*. Children experienced terrorist actions of defiant white officials, school staff, and parents. Violence was commonplace in school districts the courts ordered to desegregate. There were bombings, murders and burnings. Entire school districts were closed down for years. "2-4-6-8 we don't want to integrate" and "Niggers stay back!" were heard from the taut white lips of children and parents across the South in the years following *Brown*.

Today, a different picture of resistance to desegregation is drawn. Today, southern white parents quietly remove their children from desegregated public schools and enroll them in the segregated private academies that advertise "A student body of high quality" which have sprung up across the South. White flight is also depleting cities and towns, in both the South and the North, of white students with whom blacks can desegregate. Although other factors, such as crime, pollution, and congestion, play a major role, many people believe school desegregation is the primary cause of the exodus to the suburbs.

Brown did not have much impact on the school districts of the North where segregation of the *de facto* variety is largely a result of segregated housing patterns, and other social injustices resulting from generations of discrimination as the custom rather than the law. One-race neighborhood schools are common and are becoming more prevalent throughout the North and West. In the early sixties, sociologists found that the social isolation of northern urban blacks and whites was far more complete than it ever was in the rural South. This is still true today, but there are new indications that the urban-suburban racial divisions of the North are being duplicated in the South.

The new frontier in school desegregation is in the North. Several recent cases are of great import and interest to both advocates and foes of integrated public schools. I will not describe these cases in great detail. I will leave that for others testifying at these hearings who have actually been involved in them, such as Nathaniel Jones of the NAACP who argued the Detroit case before the Supreme Court.

The Denver, Colorado, school system was recently ordered to desegregate its public schools in the first major northern desegregation case to be heard by the Supreme Court. The court found that although the school district had no statutory provision that mandated or permitted *de jure* segregation, official action had resulted in segregated conditions in one section of the city. As a result, the court ordered the school system to show that other schools in the system were not segregated also by official action. The court skirted the issue of the constitutionality of *de facto* segregation, but made clear the deliberate official actions resulting in segregated conditions are just as unconstitutional as dual schools required by statute.

Another northern case, argued before the Supreme Court in March, may establish a new kind of remedy for large urban centers characterized by a heavily non-white inner city population with surrounding suburban areas populated by relatively few minority group families.

The issue in the Detroit case is whether a State can be required to integrate its schools across district lines in order to achieve desegregation. The metropolitan plan, as this is called, is being proposed for numerous urban-suburban areas across the country and litigators are awaiting the outcome of the crucial Detroit decision with anticipation.

In the first school desegregation case to reach a Federal court, Judge Jack B. Weinstein has taken us another step further in the march toward integrated education. He decided that the only way to undo what he called "deliberate" segregation in one junior high school in Brooklyn was to involve Federal, State and municipal housing authorities in the desegregation efforts. Judge Weinstein ruled that the Mark Twain Junior High School "can be characterized as reflecting neither *de facto* nor *de jure* segregation. Rather it reflects both these characteristics. Demographic trends have been extenuated by Government choices . . . failure to take available steps to reverse segregative tendencies has made a bad situation worse."

While the Federal courts, beginning with the *Brown* decision twenty years ago, followed by the many clarifying decisions since then, have continued to be the most effective force in the struggle to bring white and non-white children together in the classroom, the administrative and congressional branches of government have made only a few attempts to relieve segregated schools.

Ten years after *Brown*, in the Civil Rights Act of 1964, however, the Congress enacted provisions designed to speed up the process. Title IV required HEW to monitor the progress of desegregation and to provide financial and technical assistance to school districts undergoing desegregation. Title IV also authorized the Attorney General to bring suit to desegregate public schools.

Title VI of the Civil Rights Act provided that no program of activity receiving Federal financial assistance could discriminate against anyone on the basis of race, color, or national origin.

During the late sixties, HEW enforcement of Title VI accomplished desegregation in many school districts which were forced to comply under threat of withholding Federal funds. Since that period, however, HEW has shown little or no interest in school desegregation. Ferndale, Michigan, is the first and only school district to have had all Federal funds withdrawn. Many other districts have been reviewed but no action taken. The Denver decision, as clear as it is, will have to be enforced by HEW.

At a recent meeting of the leadership conference on civil rights, Stanley Pottinger, director of the Justice Department's civil rights division, said that northern cities can expect in coming years to receive the same attention once lavished on the south, however, he emphasized that only *de jure* segregation would be pursued. He was also quoted as saying, "where busing is the only remedy, then so be it."

At the same meeting, HEW's director of the Office of Civil Rights cited the major issues facing OCR as going beyond "the narrow and superficial issues" of student assignment to such "general and subtle issues" as discriminatory labelling of children, and integrating newly-required efforts against sex discrimination into the on-going program.

What about school desegregation? One asks that question in light of the *Adams* decision of last year which placed HEW under court order to bring 197 school districts into compliance with Title VI—many of which were maintaining segregated schools—in order to continue receiving Federal funds.

This week in the Congress we witness the latest attempt to reverse the hard-won progress we have made in school desegregation. The Senate will vote on amendments to the Elementary Education Act that would be much more than a mere restraint on busing. One provision would prohibit Federal courts from ordering the transportation of students to any but the "closest or next closest" school, even if busing beyond such schools were the only way to eliminate a denial of equal educational opportunity. Another provision would authorize the reopening of school desegregation cases long since decided by the courts, and carried out by school districts. This amendment has already been adopted by the House.

Constitutional authorities including the conservative Yale Law School Professor, Alexander Bickel, have declared the amendment unconstitutional. It is highly unlikely, they say, for the Supreme Court to change its mind on this important issue to accommodate the political needs of the congressmen who have sponsored or supported the amendment. It is ironic that this anti-busing amendment is being considered in Congress almost exactly on the anniversary of the *Brown* decision.

Along with the struggle by lawyers, judges, Supreme Court justices and occasionally, government officials, to come closer to the goal of equal educational opportunity through school desegregation, there is an undercurrent of resistance among blacks in areas of concentrated poverty and discrimination such as my own congressional district in Bedford-Stuyvesant. In the mid-sixties, blacks who saw no possibility for achieving equal educational opportunity in desegregated schools, began to embrace the concept of community control as a means of achieving their goals. Parents who were spokesmen for the new movement talked about electing local school boards and hiring administrators and teachers genuinely concerned with educating their children. Mutual respect and pride would be conducive to learning and staffs' sensitivity to the life styles and special needs of inner city children would help to improve academic achievement.

In spite of overwhelming obstacles, community control has had impressive results in some places. Parents in my district report improvement in their children's attitudes toward school, and their reading levels. They tell me the teachers, who are mostly black and Puerto Rican, are concerned and committed to educating their children. These parents are not interested in desegregation and believe that we should use our energy trying to achieve equal educational opportunity within the context of the community controlled school districts. They have their own priorities now and our theories and our rhetoric have little impact.

Furthermore, there is a growing sense of political involvement among community parents. The skills learned at this sub-local level can be used to influence the political process at higher levels of government.

I find it difficult to argue with parents who for the first time have some faith in the educational process. But as Kenneth Clark said, "the goals of integration and quality education are interdependent. One is not possible without the other."

The quotation from Martin Luther King sums it up very simply. This is all that needs to be said in support of the desegregation of America's public schools:

"Men often hate each other because they fear each other; they fear each other because they do not know each other; they do not know each other because they cannot communicate; they cannot communicate because they are separated."

In a speech earlier this month at Harvard University, Judge Skelly Wright of the court of appeals for the District of Columbia said, "The issue of race today has nearly everywhere lost its sense of moral urgency. It is not so much as a replacement of virtue by vice as a fading of awareness into indifference." Daniel Moynihan's suggestion to President Nixon that the issue of race could benefit from a period of "benign neglect" has taken hold. In fact, this has been the central theme of the civil rights effort at the national level, reflecting and reflected in the attitudes of the mainstream of the American people. But today the President is leading his administration beyond "benign neglect", in a pathetic and desperate attempt to hold on to the 34 Senate votes that will prevent his removal from office by that body after his inevitable impeachment by the House of Representatives, the President has refueled the anti-busing movement across the country and has taken positions on legislation now in Congress that advocate a cut-back or halt to programs designed to aid the poor, and minority citizens of this nation.

I was asked to make recommendations for approaches to solving the problems of segregated schools, and of desegregated schools, that would be politically feasible, given the current administration and the make-up of the Congress today.

First, I must say that the root cause of the problems between blacks and whites in housing, schools, employment, and all other areas of discrimination, is the racism that seems to pervade even the air around us and which cannot be exorcised from the people of this nation. We are forced to accept that. The new brotherhood of the civil rights movement of the sixties has largely disappeared. We realize now that the seeds of racism are still firmly implanted in the heart of white America. The difference is that the fertile atmosphere of the seventies allows those ugly seeds to germinate and flourish. But, we blacks are more sophisticated now. We realize that we won the fight against Jim Crow but institutional racism thrives and true brotherhood is generations away. We have won a seat at the table, but someone else makes the rules. No power has been relinquished.

We are not deceived by the courtship of a George Wallace. His tactics may have changed, but his goal is the same. He wants to win an election, and there are lots of black voters in Alabama. And, this takes me to my next point which is really my main recommendation. It concerns political action. Our strength lies in our people and in the ballot. One of the greatest achievements of the civil rights movement was the registration of large numbers of previously disenfranchised black voters in the South. Now the North must move forward. There are a higher percentage of registered blacks in Mississippi than there are in New York City, and the North has witnessed a decline in the number of registered blacks who vote.

These are shocking facts that must be changed. For it is through the election of national leaders, not only with a commitment to social and economic justice, but who *depend on* the minority vote for their trip to Washington—it is through such elected representatives that goals such as desegregation of schools can be effected. We must be able to influence the legislative process through non-minority representatives—for although there are thousands of black elected officials in jurisdictions in all States, and the number is steadily increasing, blacks hold only one-half of one percent of all elected offices.

CONSUMER SUPPORT FOR STANDBY ENERGY EMERGENCY AUTHORITIES ACT

HON. BOB ECKHARDT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. ECKHARDT. Mr. Speaker, on Tuesday, May 21, the House is scheduled to consider H.R. 13834, the Standby Energy Emergency Authorities Act. Today I received a letter from Mr. Lee C. White, chairman of the Energy Policy Task Force of the Consumer Federation of America endorsing the legislation. I know my colleagues will find Mr. White's comments of great interest, and I am including his letter to me in the RECORD at this time:

CONSUMER FEDERATION OF AMERICA,
Washington, D.C., May 16, 1974.

DEAR CONGRESSMAN: As the House prepares to consider the Standby Energy Emergency Authority Act (H.R. 13834) on Tuesday, May 21, the Energy Policy Task Force of the Consumer Federation of America is anxious to advise you of its strong support for the bill. Our Task Force, which came into being last year with the avowed purpose of expressing consumer viewpoints on energy policy issues is comprised of 30 organizations (see list on back) whose members number in the millions.

Last January, in formal testimony before the Congress, we supported a price rollback for crude oil. Everything that has occurred since that time has only reinforced our belief that the consumers are bearing an unnecessary and unfair burden in the prices they pay today for gasoline and other petroleum products. We accept the principle that prices should be adequate to provide incentives for finding additional petroleum, but all of the evidence we have seen demonstrates that current prices for both "old" and "new" crude are far greater than required to provide incentives equal to the industry's ability to increase exploration and production.

Record increases in oil company profits should also enter into Congressional consideration. As noted in a *Business Week* editorial (May 11, 1974), a survey conducted by the magazine of 890 major corporations showed a 16% profit increase over the first quarter of 1973. But, continued the editorial, ". . . that figure is deceptive. Take out the oil industry, which recorded an earnings increase of 82%, and the remaining companies—which include virtually every major U.S. corporation—show a gain of only 4%."

There is an obligation on the part of Government to protect consumers during periods of shortages where what's at stake are commodities as essential as petroleum products. Taking these factors into account, we believe the vote on H.R. 13834 is critical insofar as consumers are concerned and we hope it will have your support.

Sincerely,

LEE C. WHITE,
Chairman, Energy Policy Task Force.

MEMBERSHIP OF THE ENERGY POLICY TASK FORCE

Adams Electric Cooperative, Inc.
Allegheny Electric Cooperative, Inc.
American Federation of State, County and Municipal Employees, AFL–CIO.
American Federation of Teachers, AFL–CIO.
American Public Gas Association.
American Public Power Association.
Consumers Education and Protective Association International.
Consumers Union.
Cooperative League of the USA.
Industrial Union Department, AFL–CIO.
International Association of Machinists and Aerospace Workers, AFL–CIO.
International Brotherhood of Electrical Workers, AFL–CIO.
Kansas Municipal Utilities.
Lincoln, Nebraska, City of.
Maritime Trades Department, AFL–CIO.
Minnesota Farmers Union.
National Farmers Organization.
National Farmers Union.
National League of Cities.
National Rural Electric Cooperative Association.
New Populist Action.
Northeast Public Power Association.
Northwest Public Power Association.
Oil, Chemical and Atomic Workers International Union, AFL–CIO.
Service Employees International Union, AFL–CIO.
Tennessee Valley Public Power Association.
Textile Workers Union of America, AFL–CIO.
United Auto Workers.
United States Conference of Mayors.
Wisconsin State AFL–CIO.

SUPPORT FOR H.R. 7077, THE CUYAHOGA VALLEY NATIONAL PARK, CONTINUES

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. VANIK. Mr. Speaker, on June 8, the House Subcommittee on Parks and Recreation, led by its distinguished chairman (Mr. TAYLOR) will hold field hearings on H.R. 7077. The bill, with 48 Member cosponsors, would create a Cuyahoga Valley National Historical Park and Recreation Area out of approximately 15,000 acres of unspoiled lands along the Cuyahoga River and the historic Ohio canal.

This will be the second House hearing on this bill; the other body has also held one hearing. We very much look forward to welcoming the committee to the proposed parklands area.

Support for the park, Mr. Speaker, has been excellent. There has been an overwhelming endorsement response from every facet of the Northeastern Ohio community: environmental groups, League of Women Voters, garden clubs, newspapers, city councils, labor and business groups—over 75 formal endorsements in all.

The Cleveland Plain Dealer, Ohio's largest newspaper, has already wholeheartedly endorsed the park, and on May 12, their editorialists addressed the park idea again. I insert that editorial in the CONGRESSIONAL RECORD:

THE VALLEY IS ITS BEST WITNESS

The June 8 hearing at Blossom Music Center on the proposed Cuyahoga Valley national park is an opportunity for local supporters of the park to put their strongest case before Congress.

The beauty of the land itself probably is the best argument for its preservation through national park status. But it is a subtle beauty, a combination of landscape and atmosphere best appreciated at first hand. Therefore, we welcome this hearing as an opportunity for members of the House Interior subcommittee on parks and recreation to see the proposed parklands at their fragrant, summery best.

One argument against a Cuyahoga Valley national park is that the valley doesn't compare scenically with other national parks such as Yellowstone and Rocky Mountain.

To that we say that some sights take a person's breath away and some elicit a deep sigh of contentment and pleasure. The Cuyahoga Valley is the second kind and one of the few such undeveloped, unexploited spots left in this part of the country. One of the strengths of the national park system is its diversity, and we believe that the Cuyahoga Valley would be an excellent addition to its spectrum of scenic pleasures. In fact, "green-shrouded miracle" was the way the National Park Service described the area in its initial survey.

The Nixon administration has backed away from its earlier enthusiasm for national park sites in urban areas. We believe that this is a mistake, not just because it imperils the Cuyahoga Valley plan, but because the need for open space around congested cities is undeniable, especially if people face a period of decreased mobility because of energy shortages.

The proposed park in the Cuyahoga Valley has significant scientific and historic values as well as possibilities for recreation that would be compatible with the character of the land. All its advantages should be demonstrated at the hearing in June in hopes of speeding congressional action.

AMENDMENTS TO THE ANTI-DEFICIENCY ACT

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. BRECKINRIDGE. Mr. Speaker, in a report prepared by the House Appropriations Committee to accompany the 1950 amendments to the Antideficiency Act, the following discussion stemmed from consideration of President Truman's decision to impound Air Force funds:

> It is perfectly justifiable and proper for all possible economies to be effected and savings to be made, but there is no warrant or justification for the thwarting of a major policy of Congress by the impounding of funds. If this principle of thwarting the will of Congress by the impounding of funds should be accepted as correct, then Congress would be totally incapable of carrying out its constitutional mandate of providing for the defense of the Nation.

Since that time, the power of the executive branch of government has increased dramatically—mostly at the expense of the Congress.

In all fairness, it must be stated that the Congress handed this power to the executive in the belief that the executive branch would be better staffed and better equipped to handle the problems of today. Now, however, the Congress recognizes its error and is determined to reestablish its responsibility over these matters relinquished to the Presidency.

During the past 18 months, the President has used his substantial powers to impound funds both authorized and appropriated by the Congress and signed into law by the President. He has done this in a selective manner, thus permitting him to frustrate and deny the will and intent of Congress. In effect, his impoundments have become "item vetoes"—neither contemplated by the Founding Fathers or authorized by the Constitution.

The House, in an effort to reassert itself, passed major budget and impoundment legislation, particularly H.R. 7130, the Budget and Impoundment Control Act of 1973. The basic thrust of this legislation requires the President to notify Congress of each impoundment before it occurs; it being provided that if either House passes a simple resolution of disapproval, the impoundment must then immediately cease. With passage of similar type legislation in the Senate, the bill is now in conference.

Although the Congress is now acting to prevent future impoundments, as conceived by this administration, some 70 suits have been filed in the courts across the land in attempts to free some $20 billion impounded and crippling dozens of programs, mostly domestic, which the Congress has approved and the President has signed into law. Patently absent amongst the voluminous litigations now before the courts is any concerted effort on the part of Congress to free the moneys now being improperly withheld.

Appreciating the fact that impoundment has been employed by Presidents in a variety of instances and for differing purposes beginning with Thomas Jefferson, I think it appropriate to outline briefly the history of impoundment in order to illustrate how its present use differs from past practice and policy.

In 1803, declining to spend an appropriation for gunboats, Jefferson stated in his annual message to the Congress:

> The favorable and peaceful turn of affairs on the Mississippi rendered an immediate execution of that law unnecessary, and time was desirable in order that the institution of that branch of our force might begin models the most approved by experience.

In 1876, in signing a river and harbor bill, President Grant expressed his objections to particular projects:

> If it was obligatory upon the Executive to expend all the money appropriated by Congress, I should return the river and harbor bill with my objections notwithstanding the great inconvenience to the public interests resulting therefrom and the loss of expenditures from previous Congresses upon completed works. Without enumerating, many appropriations are made for works of purely private or local interest, in no sense national. I can not give my sanction to these, and will take care that during my term of office no public money shall be expended upon them.

In 1905 the first general statutory basis for impounding was included in the Antideficiency Act of that year. It was not until the Harding administration and the enactment of the Budget and Accounting Act of 1921, however, that formal administrative procedures with regard to impoundment were established.

The first President to make extensive use of impoundment was Franklin D. Roosevelt. During World War II Roosevelt shelved a number of programs using the device of impoundment, particularly depression-oriented public works projects unrelated to the war effort, for the duration of the hostilities. Impoundments pursuant to this authority before, during, and after World War II sparked objections from some Members of Congress but without creating a major crisis.

In the years immediately following the war impoundment was used selectively in the demobilization program, and was used more extensively to curtail spending by the Armed Forces during the period in which conversion to a peacetime military establishment coincided with the emergence of the cold war.

In 1949 Congress appropriated funds for a 50-group Air Force, over the opposition of the Truman administration which had requested funds for a 48-group force, and the President impounded more than $700 million for the announced purpose of easing the strain on the domestic economy.

In the latter years of the Eisenhower administration the President impounded funds for Nike-Zeus missile development, and in the same period the Senate Armed Services Committee's Preparedness Investigating Subcommittee held hearings inquiring into the failure of the administration to use funds appropriated for such purposes as the support of the Marine Corps at a given strength and the construction of Polaris submarines.

Disputes continued to arise between the Congress and the executive branch in the 1960's. In 1962 President Kennedy took sharp exception to a fiscal 1963 appropriations bill for aircraft, missiles, and naval vessels in which the Secretary of the Air Force was directed to utilize authorizations in an amount not less than $491 million during the 1963 fiscal year for planning and procurement in connection with development of the B–7 bomber. The word "directed" was deleted before final passage, however, and the constitutional issue of whether or not the legislative branch can so bind the executive was not put to the test. The Kennedy administration subsequently impounded those funds appropriated in excess of original administration requests.

Impoundments during the Johnson years included some made at the general direction of the Congress and others initiated by the executive. In 1966 the administration reduced the obligations available under the highway trust funds, and sizable cutbacks were made in programs for Housing and Urban Development; Health, Education, and Welfare; Agriculture; and Interior.

From this brief historical outline it is readily apparent that impoundments, when made, have generally occurred on a selective basis. As provided by Congress in the 1905 antideficiency legislation the executive branch of government need not spend all that Congress appropriates. The Antideficiency Act as amended in 1950, authorizes and directs the President to establish budgetary reserves to—

> Provide for contingencies, or to effect savings whenever savings are made possible by or through changes in requirements, greater efficiency of operations, or other developments subsequent to the date on which such appropriations were made available.

As the act stipulates, administrators are required to operate their respective programs as efficiently as possible and to the extent possible, savings are to be affected to the extent that the purposes of the programs established by Congress remain unaltered.

The Bureau of the Budget and the General Accounting Office were instrumental in the improvement of the 1950 Antideficiency Act Amendments, jointly issuing a report in which they warned that the authority to set aside reserves "must be exercised with considerable care in order to avoid usurping the powers of Congress." The identical position was taken 2 years later by the Hoover commission when it recommended that the President "should have the authority to reduce expenditures under appropriations, if the purposes intended by Congress are still carried out."

The present administration has in effectuating its own policies seen fit to ignore the legislative history of the Antideficiency Act. Many of the "policy impoundments" which it has undertaken have been placed under the "other developments" clause, which the administration has subverted to its own ends. Mr. Roy L. Ash, the present Director of the Office of Management and Budget, argues that inflationary pressures can be considered "other developments" within the meaning of the Antideficiency Act, and thus an authority for withholding funds. The argument is a fraudulent one, dreamed up out of the whole cloth of an arrogant usurpation of the powers of Congress. There is nothing in either the language or history of the Antideficiency Act to support Mr. Ash's proposition.

Studies conducted by the McIntosh Foundation of the Holland Law Center of Gainsville, Fla., in a report published on November 6, 1973, concluded that if all the impounded moneys were released, it would result in less than a 0.5 percent rise in inflation. One can only imagine how significant an impact these funds might have on our current economy.

Although the administration has chosen to obfuscate the issue, I would like to make the congressional intent clear that no one, least of all myself, either wants or anticipates more inflation. I do not want the administration to release all the moneys presently impounded, but rather only those impoundments which are deliberately aimed at thwarting the will of the people, as enacted into law by the Congress. Specifically, I am speaking about the following programs:

1. Water Bank Program—impounded as of November 23, 1973, $11,645,000.
2. Farmers Home Administration: Rural Water and Waste Disposal Grants—impounded as of November 28, 1973, $120,304,000.
3. Model Cities Program—impounded as of November 30, 1973, $75,012,000.
4. Grants for Neighborhood Facilities—impounded as of November 27, 1973, $48,000.
5. Open Space Land Program—impounded as of November 9, 1973, $55,161,000.
6. Grants for Basic Water and Sewer Facilities—impounded as of November 27, 1973, $401,734,000.
7. Urban Renewal Fund—impounded as of November 30, 1973, $281,314,000.
8. New Community Assistance Grants—impounded as of November 6, 1973, $1,799,000.
9. Federal Aid Highway/1974 Programs, $3,414,619,000.

The total for the above programs amount to almost: $4,500,000,000.

The constitutionally and statutorily sanctioned device of impoundment affords a necessary and proper equilibrium between the executive and legislative branches of Government; while the Congress should not impinge upon the Administrator's statutorily mandated responsibility to effectuate programs with the greatest economy and efficiency, consonant with the purposes thereof, neither should the executive branch of government undertake to so impose its will on the Congress as to render the legislative body virtually nonfunctional.

Our country has, through its 200 years of constitutional history, functioned on the basic assumption that although the separate branches of government side differently on the various issues, all have the same goals—the improvement of the material resources and quality of life of as many people as possible.

For example, on January 5, 1973, the Nixon administration placed an 18-month moratorium on subsidized housing programs. These included low-rent public housing, rent supplements, homeownership assistance, and rental housing assistance. Kenneth R. Cole, Jr., present Director of the Domestic Council in the White House, argued that—

> The program structure we have cannot possibly yield effective results even with the most professional management. There is mounting evidence that the present programs, for the most part, have proven inequitable, wasteful, and ineffective in meeting housing needs.

When Members of Congress pressed the administration for analyses and studies supporting such evidence, none were forthcoming. In fact, William Lilley III, HUD's Deputy Assistant Secretary for Policy Development stated that he was "distressed to find that no sophisticated analytical work" had been done prior to the moratorium. Dr. Anthony Downs, in a study dated October 1972, described the homeownership and rental housing program as "effective instruments for meeting the key objectives of housing subsidies."

On July 23, 1973, Judge Charles R. Richey of the U.S. District Court for the District of Columbia called the housing moratorium unlawful. He ordered Secretary Lynn to accept applications for subsidies, to process existing and new applications in accordance with HUD regulations, and to approve and complete the processing of projects found to be qualified under HUD regulations. Judge Richey concluded by stating that it was not within the discretion of the executive "to refuse to execute laws passed by Congress, but with which the executive presently disagrees."

The administration's answer to this judiciary rebuff was simply to terminate the program.

Another example worth noting is the termination of Federal Disaster Loans in December 1972. After heavy rainfall in parts of Minnesota during the fall of 1971 and spring of 1972, fertile croplands became severely damaged. Secretary of Agriculture Butz declared that a number of counties in western and central Minnesota had experienced natural disasters and designated the counties "emergency loan areas." Subsequent bulletins from the Farmers Home Administration stated that applications for assistance would be received through June 30, 1973, although it was anticipated that most applications would be submitted after the harvest season. The large number of applicants forced the FHA officials to schedule appointments in January, February, and March 1973. On December 27, 1972, the Secretary of Agriculture terminated the FHA disaster loan program without warning, thus leaving the farmers who were to file for loans after this date without means of redress.

On March 20, 1973, Judge Miles Lord of the U.S. District Court in Minnesota decided that once a designation was made, as Secretary Butz had done, it was the duty of the Secretary to accept loan applications and consider them.

Judge Lord ruled that the refusal to accept and consider applications, and the subsequent termination of the program, was "accomplished in excess of the Secretary's authority and is unlawful." Failure by Secretary Butz to give advance notice of the termination of the program also was ruled in violation of the Administrative Procedure Act.

As individual Members of Congress, we must voice our objections to such flagrant abuses of power; as a legislative body, we must take all appropriate action to insure that it does not happen in the future.

Dr. Louis Fisher, a leading scholar on the issue of impoundment has stated most aptly the nature of the controversy we find ourselves in. He writes:

> For all its trappings of conservatism and strict constructionism, the Nixon Administration has never demonstrated an understanding of what lies at the heart of our political system: a respect for procedure, a sense of comity and trust between the branches, an appreciation of limits and boundaries. Used with restraint and circumspection, impoundment is a viable instrument, capable of being used without precipitating a crisis. But restraint was replaced with abandon, precedent stretched past the breaking point, and statutory authority pushed beyond legislative intent. Basic courtesies were neglected, and OMB's reputation for objectivity and professionalism damaged.
>
> Without good-faith efforts and integrity on the part of the executive officials, the system of delegation, discretion, and nonstatutory controls will not last. Under such conditions Congress is forced to act.

CONTINUED ARAB TERRORISM

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. BINGHAM. Mr. Speaker, the barbaric murder of 22 Israeli schoolchildren by a small band of Arab guerillas yesterday is just one more of the many outrageous and inhumane acts against defenseless Israeli civilians that have been perpetrated with, at the very least, the tacit approval of Arab governments. In the face of these attacks, the international community has remained silent, thus encouraging the terrorists and the governments that support them. Even when the guerillas have been apprehended, they have often been dealt with leniently, or set free.

Appended herewith, are two items dealing with Arab terrorism: the first, from the May 16 edition of the New York Times, is a chronicle of earlier acts of terrorism and the lack of punitive action by the international community; the second, is a statement by the Israeli Embassy asserting Arab government support for terrorist acts.

The articles follow:

[From the New York Times, May 16, 1974]

EARLIER ACTS OF TERRORISM

A list follows of major Arab terrorists activities since Feb. 10, 1970, when an attack on an El Al Israel Airlines plane at Munich killed one passenger and wounded eight. An Egyptian and two Jordanians were arrested but they were later set free.

July 22, 1970—Six Palestinians hijacked an Olympic Airways plane. None was brought to justice.

Sept. 6, 1970—Pan American, Trans World Airlines and Swissair planes were hijacked by Arabs. All were eventually blown up. None of the terrorists was arrested.

Sept. 6, 1970—A woman terrorist was wounded and her male companion killed in an attempt to hijack an El Al plane. The woman was later released.

July 28, 1971—An attempt to blow up an El Al plane with booby-trapped luggage given to a woman by a male Arab friend did not succeed.

Sept. 20, 1971—A similar attempt to blow up another El Al plane failed.

Nov. 29, 1971—Wasfi Tal, Premier of Jordan, was assassinated by four Palestinian guerrillas while entering his hotel in Cairo. Suspects were taken into custody but no prosecutions have been reported.

Feb. 22, 1972—A Lufthansa airliner was hijacked to Aden where the hijackers were paid $5-million for its release. The hijackers went free.

May 8, 1972—Terrorists hijacked a Belgian Sabena airliner to Lydda, where two men were killed by Israel security guards. Two women were subsequently sentenced to life imprisonment.

May 30, 1972—Three Japanese gunmen belonging to the Popular Front for the Liberation of Palestine killed 26 persons at Lydda Airport.

August 16, 1972—A booby-trapped tape-recorder exploded in the luggage compartment of an El Al plane, causing slight damage. Two Arabs were released by Italian authorities after a short detention.

Sept. 5, 1972—Members of an Arab guerrilla organization attacked the quarters of Israeli athletes in the Olympic Village in Munich. Eleven members of the Israeli Olympic Team were slain. Five of the terrorists were killed. Three others were later freed.

Oct. 29, 1972—A Lufthansa plane was hijacked to Zagreb, Yugoslavia, where it was released after Arab terrorists responsible for the attack on the Israeli athletes at Munich had been set free. The hijackers were never brought to justice.

March 2, 1973—Eight guerrillas invaded the Saudi Arabian Embassy in Khartoum, the Sudan, and killed three diplomats. The terrorists were taken into custody and are reportedly awaiting trial.

April 4, 1973—Two Arabs made an unsuccessful attempt to attack passengers of an El Al plane in Rome. They were arrested but later released and sent to Lebanon.

April 9, 1973—Arab terrorists attempted to attack an Israeli plane at Nicosia, Cyprus. Eight were arrested and sentenced to seven years' imprisonment. They were quietly released later.

April 27, 1973—An Italian was killed in the Rome office of El Al by a Palestinian Arab who was later placed under psychiatric observation.

July 24, 1973—A Japan Air Lines jumbo jet was hijacked and blown up in Tripoli, Libya. None of the five terrorists was brought to trial.

Aug. 4, 1973—Two Arab terrorists killed five persons and wounded 45 in a machine-gun attack on passengers in the Athens airport lounge. Last week the terrorists were freed by the Greek government and given safe passage to Libya.

Sept. 28, 1973—Three Jewish immigrants from the Soviet Union were taken hostage aboard a train for Vienna. Austrian authorities arrested two Palestinians who were then freed and flown to an Arab country.

Nov. 25, 1973—Three Arabs hijacked a KLM jumbo jet and flew it to Abu Dhabi. There is no record of an arrest by Abu Dhabi authorities.

April 11, 1974—Three Arab guerrillas killed a total of men, women and children in the northern Israeli border town of Qiryat Shemona before dying themselves in the explosion of their dynamite charges while under siege by Israeli security forces.

MURDERERS NOT LIBERATORS

Today's attack by the Popular Front for the Liberation of Palestine (PFLP)—General Command—in Maalot is an additional link in a virtual chain of murder and carnage carried out recently both in Israel and abroad.

This most recent act of barbarism proves once again that the terrorists are not brave soldiers fighting against enemy troops, nor are they guerilla commandos engaged in harrassing enemy military units. They are merely gangs of murderers, whose victims are defenseless civilians and children.

The activities of these gangs would be impossible without the material and moral support of various Arab governments, who are financing the terrorist organizations and providing training and operational facilities on their territories.

Outwardly this support by Arab states is camouflaged by the ambiguous slogan expressing support for "fulfilling the rights of the Palestinian people," but among themselves the Arab leaders hardly bother to conceal their support for the terrorist organizations and for these organizations' self-proclaimed aim of destroying an independent Israel and her people.

On March 5, 1974, Lebanon's Prime Minister Taki-Adin al-Sulh declared, "Lebanon is firmly committed to continue cooperation with the guerilla command". Indeed, it is now clear to everyone exactly what are the results of this cooperation and this tight bond between the Lebanese leadership and these murderers.

On February 14, Lebanese Minister Nasri al-Maauf said that "the Lebanese army will not engage in a policy of force to prevent some fedayeen groups from carrying out actions from Lebanese territory".

The government of Syria is providing financial military and intelligence support to the terrorists—especially to As-Saiqa and to the PFLP—General Command, which claimed credit for the killings at Kiryat Shmone as well as the attack at Maalot. PFLP-General Command leader Ahmad Jabril was in Damascus during the Kiryat Shmone attack and met with President Assad soon after.

The statements and reactions of Arab spokesmen concerning the murders in Kiryat Shmone praised "the heroic and daring action" and "the heroes that carried out the Kiryat Shmone exploit". (Official Syrian radio commentator, April 12, 1974).

A commentator for the Palestinian radio program in Cairo declared that in Kiryat Shmone the terrorists carried out one of their most glorious and daring actions:

"The operation in Kiryat Shmone emphasized the Palestinians' attachment to the land of Palestine" and "has moved the struggle of the Palestinians to a new stage characterized by revolutionary violence against Zionist barbarism".—Cairo Radio, April 12, 1974.

Syria's active support of the PFLP-General Command and Lebanon's responsibility for permitting the existence of terrorist bases and the launching of terrorist attacks from its territory receive encouragement from the international community, as evidenced in the U.S. Security Council resolution following the Kiryat Shmone attack. Instead of condemning such horrible crimes, the U.S. Security Council passed a resolution condemning Israel for her reprisal without even mentioning the mass murder which necessitated it.

The silence of the international community, as well as the surrender to previous terrorist demands by various Western governments and the failure of the U.N. to adopt sanctions against those nations which harbor and support terrorists, has only encouraged Arab governments and terrorist organizations to continue their murderous actions.

THE MANHATTAN HOUSE OF DETENTION

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. RANGEL. Mr. Speaker, the city of New York has been holding extensive hearings on what action it should take to bring about much needed reforms to the Manhattan House of Detention. At the heart of this debate is a concern to protect the rights of pretrial detainees, rights which have heretofore been totally ignored.

The Honorable Percy Sutton, borough president of Manhattan, in a speech delivered before the New York City Board of Corrections made some excellent suggestions toward resolving the intolerable conditions which exist at the Manhattan House of Detention. I was deeply impressed by his remarks and am taking the liberty of placing them in the RECORD for the benefit of my colleagues in the House and Senate:

STATEMENT BY MANHATTAN BOROUGH PRESIDENT PERCY E. SUTTON

A prison is not a building. It is an environment. You can take an old warehouse with its obvious problems of comfort and security, and make it into an effective detention center, as the federal government and Warden Louis Gengler have done on West Street, or you can spend $70 million, as some have proposed this City do, on a new detention center for one thousand prisoners and still end up with a place called the Tombs.

In my opinion, the City of New York should be grateful for Judge Morris Lasker's landmark decision that has forced these hearings. We should not appeal it, but rather the Mayor should accept its essential conclusions and appoint a committee to negotiate an operating agreement for the detention center with Judge Lasker. The money we would save by avoiding an unproductive, protracted legal battle would be enough to accomplish some of the major improvements suggested by the *Rhem* decision.

We are here today to talk about more than real estate. The Tombs, 125 White Street, was a medieval fortress when it was opened 33 years ago. It has come to symbolize inhumanity and injustice and the riots there in 1970 triggered an explosion that at least forced the City government to face the reality of a bankrupt system of criminal justice. For several years a proposal has been made to spend $70 million to build a new detention center for 1,000 detainees.

I opposed the expenditure of this extravagant amount of money for a new Tombs, and my opposition continues. For much less we can get much better results in terms of protecting our citizens and making the criminal law meaningful. For example, the pre-trial diversion program administered by the Vera Institute on a pilot project basis in Brooklyn should be expanded to Manhattan, and the entire City of New York. Its objective is to assure the community that those who should be held in detention pending trial are so held securely and humanely; and at the same time those who can be properly released under programs which assure the court that the defendants will be available for judicial process are so released under supervised and controlled conditions. This type of program responsibly reduces the detention population, permits many of those arrested to continue their employment and family obligations pending the resolution of the charges against them, and also allows the intervention of community agencies who can substitute their moral responsibility for the money otherwise required by the bail system of the poor.

Courts clearly require responsible data in making their judgments regarding release or detention of a defendant. Frequently this data cannot be made available to the court at the time of arraignment because personnel are not available to validate the facts. It makes sense, therefore, to help the courts by establishing a back-up program working with the detention facility so that release on recognizance or other pre-trial release programs can be utilized by the courts on a responsible basis.

Manhattan needs a detention facility securely operated and humanely administered. I would rather keep the Tombs and use the money that others would spend for a new prison to expand the Manhattan employment project, to reform the bail system, and to assure speedy trials. This can be accomplished in the context of Judge Lasker's decision by limiting the amount of time that any person could be held in the present structure of the Manhattan House of Detention. I recommend, therefore, that the Tombs be reorganized as a classification center for detainees; that no person be held there for more than three weeks, at which time the detainee would have been released by the court in accordance with the law or would be assigned to other facilities in the New York City Department of Correction. The only other persons who would be housed in the Tombs would be those defendants on trial in Manhattan whose lodging there would facilitate the work of the courts, as well as the preparation of their own defense. Past experience clearly indicates that the total number of persons represented by these categories would be significantly less than the 941 population figure for which the Tombs was originally built. This proposal takes into account the terrible financial burdens facing the City. It forces us to resolve the obvious injustices of the present detention system. It honors both the spirit and substance of Judge Lasker's decision, and it makes the best use of the City's resources.

Nothing that I have said should be construed to delay the internal remodeling work that would permit a sense of humanity to be a dimension of the Tombs living environment. Self-respect is a crucial factor in both the acceptance of justice and the possibilities of rehabilitation. The endless steel and concrete of the Tombs, its honeycomb of cages, its incredible noise level, the needless pitiful quality of the food served there, all of these are factors which make self-respect impossible for the detainees and frequently for the correctional staff which is forced to share the same environment. Security can be accomplished without denying self-respect. There is no constitutional prohibition that I know of, nor any court decision anywhere, that would have forbidden a correction officer from asking what the "visitors" to the Tombs had in their suitcase last week. It is ridiculous to think that it is an invasion of the dignity of either detainees or their visitors to oblige correction officers to ask what someone is doing carrying an acetylene torch and canisters of propane gas into the building. But it would be equally ridiculous to use this instance of gross negligence to impose new regulations that will add nothing to security and serve only the purpose of harassment.

No one wants to keep the Tombs, but a new building will not erase its symbolism. The challenge is for the Department of Correction and the rest of us to make the present building into the Manhattan House of Detention—a place of confinement for those legitimately detained by court order, where the presumption of innocence for all citizens is respected, where everyone's sense of self-respect is honored, and where the road to rehabilitation can truly begin.

HARVARD ECONOMIST SUPPORTS REPEAL OF FOREIGN TAX PREFERENCES

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1974

Mr. VANIK. Mr. Speaker, yesterday, the Democratic Caucus accepted a resolution to make in order my amendment to H.R. 14462, the Oil and Gas Energy Tax Act. This amendment seeks to terminate two of the existing tax preferences the oil companies receive on their foreign operations—the foreign tax credit and the untangible drilling expense. Taxation of the foreign income of U.S. multinational oil companies is a complex area of the tax code. Unfortunately, the bill reported out of the Ways and Means Committee does little to simplify or clarify these provisions. In fact, the committee bill seeks to create a second level of complexity by providing convoluted formulas for the determination of these tax preferences.

The important question the House must decide is not how these tax subsidies should be computed, but whether they should be allowed at all. I have been unable to uncover any rationale which convinces me that allowing a dollar-for-dollar tax credit on what are essentially royalty payments to foreign governments is a wise expenditure of the taxpayer's money. An excellent explanation of the tax preferences accorded the foreign operations of the oil companies is provided by Prof. Glenn P. Jenkins of Harvard University. Mr. Jenkins provided his analysis in testimony recently before the Subcommittee on Multinational Corporations of the Senate Foreign Relations Committee.

Although his entire testimony is worth careful review, Professor Jenkins' conclusion is particularly noteworthy:

> Elimination of these foreign tax provisions, from which the United States petroleum industry has been able to benefit to a much greater extent than have other industries, would not significantly decrease the supply of crude petroleum to the world. The principle effects would be to make downstream investment in the United States relatively more attractive than abroad, to bring about a decrease in revenues to foreign governments that are now obtained at the expense of the United States Treasury, and to eliminate some of the economic waste that arises from subsidizing inefficient foreign investments.

Mr. Jenkins' testimony follows:

TAX PREFERENCE AND THE FOREIGN OPERATIONS OF THE U.S. PETROLEUM INDUSTRY

(By Glenn P. Jenkins)

1. The foreign tax credit is the most important provision for reducing United States taxes paid by the American petroleum companies on their foreign earnings. In every year since at least 1962, the aggregate value of the foreign tax credits available to these companies has been greater than their United States tax liability on foreign income.

2. The production taxes levied by foreign producing countries are not proper income taxes but the payments for the purchase of crude oil which should be treated as a deduction from revenues, not as tax credits.

3. Elimination of the foreign depletion allowance, without treating the foreign production taxes as deductions, will make little or no change in the taxes paid by the petroleum companies.

4. By transferring income out of the foreign consuming countries, where 58 percent of the foreign investments of American petroleum companies are located, to the producing areas and tax havens, the income taxes of the foreign consuming countries are avoided. The loss in taxes by the foreign consuming countries in 1968 was approximately $300 million. The surplus to tax credits from the producing areas eliminates any United States tax liability on this income.

5. The provision for the deduction of branch losses should be eliminated as its primary effects are to create revenue transfers to foreign governments and to generate economic waste by subsidizing foreign exploration in marginal areas.

TAX PREFERENCES AND THE FOREIGN OPERATIONS OF THE U.S. PETROLEUM INDUSTRY

In this statement I will outline some of the economic effects of the present system for the taxation of the foreign activities of United States petroleum corporations. The four principal features of this system are the foreign tax credit, the foreign percentage depletion allowance, the deduction of foreign branch losses from United States domestic income, and the special tax treatment of income from tankers. These four tax provisions, in combination, have allowed the petroleum corporations to largely avoid paying any United States tax on their foreign earned income since at least 1962.

Not only have these provisions enabled the major petroleum companies to avoid paying United States taxes, but they have also increased the incentive for these corporations to transfer income between affiliates to decrease foreign income taxes on earnings from investments located in the major foreign petroleum consuming countries.

Foreign tax credit

The most important feature of the taxation of foreign income is the foreign tax credit. A United States taxpayer operating abroad is generally subject to income taxes in the country where the income is earned. In recognition of this fact, the taxpayer is allowed to credit many of these foreign taxes against his United States tax liability, rather than have them treated as a deduction.

This foreign tax credit is limited to the amount of the United States tax liability on the foreign income. Therefore, the taxpayer theoretically should pay in total foreign and domestic income taxes a rate of tax at least equal to the normal United States tax rate.

There are two ways of calculating the limitation to the amount of foreign tax credits that can be used to offset the United States tax liability on this foreign earned income. First, there is the per-country limitation where a separate computation is made of the United States tax liability and the available tax credits for each country where income is earned. Alternatively, the taxpayer may make an irreversible election to the overall limitation under which United States taxable income (and losses) from all foreign sources are pooled, as are all foreign taxes. One aggregate computation of the United States tax liabilities is then performed using this pooled data. Under both types of limitation, creditable foreign taxes in excess of the limitation may be carried back two years or forward up to five years and added to creditable taxes in a year in which there is a shortage.

Although the foreign tax credit is a provision which applies to foreign earned income from many types of foreign investments, its impact in reducing United States tax liabilities is greatest in the cases of the petroleum and mining sectors. The petroleum industry has particularly benefited by the United States Treasury's acceptance as creditable foreign taxes the artificially constructed income taxes which have been levied by major petroleum exporting countries.

Instead of levying a large royalty or bonus payment to extract the economic rent from low-cost oil reserves, as would a domestic land owner in the United States, these countries have levied a tax as a percentage of the difference between a non-market posted price and a fixed per unit cost of production. These taxes are essentially a tax per barrel of oil produced and have little relationship to the profits generated by investments made in the production process. Yet they are allowed to be credited against United States tax liabilities. If instead a royalty or bonus payment had been levied, these payments could only be deducted from gross revenue as expenses.

In every year since at least 1962, the aggregate value of the foreign tax credits available to the United States petroleum industry has been greater than the United States tax liability on its foreign income. In 1968 the *excess* foreign tax credits were equal to 32 percent of the total creditable foreign taxes and by 1971 the excess foreign tax credits equaled approximately 55 percent of the total foreign taxes paid.[1] It is important to note that in 1968 over 88 percent of the total foreign tax credits available to American petroleum corporations came from these quasi-income taxes levied by the petroleum producing countries, yet only 28 percent of the net book value of the United States petroleum investments abroad were located in these areas. These taxes are now several times greater than the true corporation income that is generated by the investments located in these countries.

The existence of large amounts of excess foreign tax credits, combined with the way in which the taxes are levied in the producing countries, provides an incentive for the American petroleum companies to shift income for tax purposes out of the consuming countries by transfer pricing to either the producing area or tax haven countries. By doing this, they avoid paying the substantial income taxes that would be levied by the foreign consuming countries on the earnings of the investments located within their tax jurisdictions. This income can then be brought back to the United States along with some of the excess foreign tax credits from the producing countries to cancel out the United States income tax liability. By this procedure, investments made by the American petroleum companies in the foreign consuming countries, will often face a lower total tax bill (United States plus foreign tax) than would the identical investment if it were made in the United States. This has, in recent years, been one factor in making the construction of refineries and petrochemical plants in the United States relatively less attractive than in foreign countries.

By 1971 approximately 70 percent of the net foreign aspects of the American petroleum companies were associated with nonproduction activities such as refining, petrochemicals, tankers, marketing, and pipelines. During the five years from 1966 to 1971, these corporations have increased their net capital stocks in refineries and petrochemical plants located in foreign consuming countries by 83 percent and 93 percent respectively. In comparison, over this period the United States domestic net capital stocks in refining and petrochemicals have increased by only 44 percent and 25 percent.[2] In both cases, the absolute amounts of investment carried out by American companies in the foreign consuming countries were greater than that made in the United States.

The treatment of the production taxes levied by the petroleum exporting countries as a deduction rather than as a credit would largely eliminate the implicit tax shelter presently given to the refining and other downstream investments that have been growing so rapidly outside of the United States. However, this change in United States tax policy will have no effect on the supply of crude petroleum coming from these countries. The world shortage of crude oil is not a result of any lack of production capacity. Instead, it is a consequence of the deliberate policies of the producing countries.

In the period 1966 to 1972, the growth in the net investment of American petroleum companies in areas such as Venezuela and the Middle East has been negative or very small.[3] It appears that the goal of the countries in OPEC is to restrict output so as to maximize their revenues while taking into consideration the world demand for petroleum products and the supply of substitutes. If this is the case, then the long term result of an increase in United States income taxes levied on the major American petroleum companies would be a smaller revenue take by the OPEC countries.

II. Percentage depletion

The percentage depletion allowance take the same form for both foreign and domestic producers. It is calculated as the lesser of 22 percent of the gross value of production or 50 percent of the taxable income (including foreign income taxes) from a property. This allowance is then deducted from revenues in the calculation of taxable income for the corporation.

While this provision is an important device for decreasing the tax liability on domestic petroleum production, we find that at the present time it is relatively worthless to the American corporations producing abroad. This is the case because each year there exist very large amounts of excess foreign tax credits. Since at least 1966, the annual excess of foreign tax credits has been greater than the increase in the United States tax liability that would be created by the complete elimination of the percentage depletion allowance for foreign petroleum production.

Using data for 1971, I find that over forty percent of the foreign tax credits would have to be eliminated before the percentage depletion allowance would *begin* to be effective. With the current level of taxation in the producing countries, it would require a much larger reduction in the amount of production taxes that are creditable before the depletion allowance would become effective.

In the event that these production taxes for crude oil were eliminated as a basis for generating foreign tax credits, then the percentage depletion allowance would be effective in decreasing by about 50 percent the United States taxable income reported in the producing areas. As large amounts of profits from downstream activities, such as refining, are recorded as profits in producing countries, the depletion allowance would also serve to eliminate a large part of these earnings from United States taxable income. Thus, if a reduction in creditable foreign taxes is to be effective, the percentage depletion allowance must be eliminated. On the other hand, removal of the percentage depletion allowance by itself will have little or no effect.

III. Deduction of foreign branch losses from U.S. domestic income

A major advantage of operating abroad as a branch is that its losses may be deducted from United States domestic taxable income. As most petroleum corporations have positive profits when all their foreign operations are aggregated, these loss deductions can usually only be gained if a corporation calculates its United States tax return on the basis of the per-country limitation. In this case, the deduction of branch losses is one tax preference which is not "swamped" by the excess tax credits held by the international oil industry, provided that the company records some *domestic* taxable income.

The loss deduction is particularly suited to foreign oil producers in that the typical time stream of income from a new area of operation is negative for the first few years and then becomes positive.

This typical income pattern reflects the fact that the liberal expensing provisions, designed for domestic petroleum production, have also been applied to foreign branch activities. Intangible drilling costs, lease rentals, dry holes and some general exploration costs can be expensed as incurred instead of being treated as investment. When these provisions produce an accounting loss for a branch under the per-country-limitation, this loss can be deducted from United States domestic taxable income even when its affiliates in other foreign countries are earning profits. Because nearly all new foreign operations have excess foreign tax credits very soon after beginning production, this provision is only effective in new areas where a company is just starting up operations.

At the present time, there is a complete absence of current data on the amount of foreign branch losses that are being written off against United States domestic income. The only data available are for the years from 1958 to 1960, where we have values for the current expensing of exploration, development, and abandonment losses for both the United States domestic and foreign petroleum operations.[5] From these data and with some knowledge of the characteristics of the foreign petroleum industry, an evaluation can be made as to the relative importance of the provision for branch loss deductions in securing foreign petroleum supplies.

In a situation such as the North Sea exploration, substantial branch losses have been written off against the United States domestic income. As is often the case, the host countries auctioned the permits for exploration to the petroleum companies. For some companies, exploration costs could be written off against domestic taxable income and therefore this enabled them to increase the size of their bids for the exploration permits. The net result has not been a greater amount of exploration. What has happened is that the United States Treasury has financed, through tax reductions, part of the higher revenues received by the European treasuries for their exploration permits.

The foreign branch loss deduction has only provided an added incentive for foreign exploration to some companies making investments in marginal areas. In these cases, exploration is usually being carried out in situations where the cost of finding oil is relatively expensive and which show little promise of substantially increasing the world

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Footnotes at end of article.

supply of petroleum, let alone the supply to the United States.

In conclusion, this provision for the deduction of branch losses should be eliminated as its primary effects are to create revenue transfers to foreign governments and to generate economic waste by subsidizing foreign exploration in marginal areas.

IV. Tax provisions for tanker income

By 1971 tankers represented the third largest type of foreign asset held by American companies. They are a logical investment from the point of view of an integrated petroleum company as tankers are the principal means of international transport of its products. However, there are also two additional reasons for their ownership that are related to the taxation of these corporations. First, income can be easily transferred from either the producing or consuming country to the tanker affiliate through the internal pricing of freight rates. Secondly, the United States, for taxation purposes, does not require income gained by controlled foreign corporations that are tanker subsidiaries to be included in the taxable income of the year in which it is earned.

These tanker subsidiaries can reside in a foreign country with a very low tax rate, without having their earnings included in United States taxable income. The normal tax treatment of a subsidiary of this type is to include the American owner's share in current taxable income.

Liberia and Panama are the corporate homes of a considerable number of tanker subsidiaries. In 1968 Liberia had an effective income tax rate of approximately 3 percent of income, while Panama's income tax rate was 0.4 of one percent. From these locations, the tanker subsidiaries of petroleum companies can choose whether to repatriate dividends to their corporate parents, using the excess tax credits from the producing countries to offset United States taxes due, or they can use their accumulated income to make loans to other foreign affiliates of the parent corporation.

The special privilege allowing controlled foreign tanker affiliates deferral of earnings from United States taxable income should be eliminated. However, doing away with this tax provision will do little or nothing to bring about a more neutral tax system unless the foreign production taxes are treated as deductions rather than as tax credits.

Elimination of these foreign tax provisions, from which the United States petroleum industry has been able to benefit to a much greater extent than have other industries, would not significantly decrease the supply of crude petroleum to the world. The principal effects would be to make downstream investment in the United States relatively more attractive than abroad, to bring about a decrease in revenues to foreign governments that are now obtained at the expense of the United States Treasury, and to eliminate some of the economic waste that arises from subsidizing inefficient foreign investments.

FOOTNOTES

[1] U.S. Department of Treasury, *Statistics of Income Supplemental Report, Foreign Tax Credit, 1968*, table 5.

Price Waterhouse and Co., *Statistical Data Compiled for Use in Analysis of Federal Income Taxes and Effective Income Tax Rates Year 1971*, Jan. 15, 1973.

[2] The Chase Manhattan Bank, *Capital Investments of the World Petroleum Industry*, 1966 and 1971.

[3] U.S. Department of Commerce, "U.S. Direct Investment Abroad," *Survey of Current Business*, September 1967 and September 1973.

[4] Price Waterhouse and Co., *op. cit.*

[5] U.S. House of Representatives, Assembly on Ways and Means, *President's 1963 Tax Message, Depletion Survey 1958–1960*, Washington, 1963, tables 8 and 9.